ARKANSAS CLAIMS COMMISSION

(501)682-1619
(501)682-2823 FAX

Questions? Send an email to
ascc.new.claims@arkansas.go

101 EAST CAPITOL AVENUE, SUITE 410
LITTLE ROCK, ARKANSAS 72201-3823

CLAIM FORM

1. Claimant. If a claim involves more than one claimant, additional pages may be attached with the other claimant name(s) and contact information.

Haley Hudson, as special administratrix of the Estate of Jac

(title last name/compan first name (email)

[redacted]

(address)

[redacted]

(city) (state) (zip) (primary phone)

2. Claimant's Legal Counsel. An individual claimant may act as his or her own attorney (which is known as proceeding pro se). Please review Ark. Code Ann. § 19-10-222 for information about when a business entity may file a pro se claim. If a claimant is proceeding pro se, this section may be left blank.

Jackson Jim Jim@JimJacksonatty.com

(title) (last name) (first name) (email)

700 W. Broadway Street, Suite 200

(address) AR bar number

North Little Rock AR 72114 (501) 823-3610

(city) (state) (zip) (primary phone)

3. State Agency Involved. The Commission can only receive claims against agencies of the State of Arkansas. Please review the Commission's jurisdictional statutes, including Ark. Code Ann. § 19-10-204 and Ark. Code Ann. § 21-5-701, for more information. This information is required for any claim filed at the Commission.

Arkansas Department of Human Services

4. Incident Date 6/11/2021

5. Location of Incident

6. CHECK HERE if this claim involves damage to a motor vehicle. ☑

7. CHECK HERE if this claim involves damage to property other than a motor vehicle. ☐

8. Explanation of Incident Please provide an explanation of your claim, including why you believe the above-listed state agency is liable for your damages under Arkansas law. You may attach additional pages to this form.

This family's claim includes two minor children who lost their mom in a wreck caused by a DHS Employee. This action arises out of a motor vehicle accident which occurred on June 11, 2021 on Arkansas Highway 22 in Logan County between Paris and Subiaco Academy. Jacqueline Lynn Ashcraft was driving a 2005 Hyundai Sonata eastbound on Highway 22 near Hwy 5033. Ashcraft was attempting a left-hand turn. She had her two youngest children in car seats in the back seat of the car. KLJ is a minor who was 14 years old & CRJ is a Minor child who was 10 years old. Ms. Ashcraft had on her seatbelt and was using the left turn signal. \
Jennifer Wilkerson was driving a 2009 Hyundai Elantra which was owned by the Arkansas Department of Human Services. Ms. Wilkerson was eastbound behind Ashcraft's car. Ms. Wilkerson negligently struck the rear of Ashcraft's 2005 Hyundai Sonata knocking her car into a ditch. The collision caused Jacqueline Ashcraft to sustain an intracranial hemorrhage which led to her death 13 hours after the wreck at Mercy Hospital in Fort Smith. The two minor children who were in the backseat were also injured. The accident was investigated by Ark. State Police Trooper James Ray, who prepared Accident Report #249. Ms. Ashcraft was survived by five children (3 adult & 2 minor children). Haley Hudson is the daughter and Administratrix of the Estate of Jacqueline Ashcraft. Ms. Hudson is also the legal guardian of the two minor children who survived the car wreck. \

9. Insurance Coverage. For a claim involving damage to a vehicle or other property, you must submit a copy of your insurance declarations in effect at the time of the incident. This is not the same as an insurance card. You can obtain a copy of your insurance declarations from your insurer or insurance agent. Please review Ark. Code Ann. § 19-10-302 for more information.

****If you did NOT have insurance covering the damaged property or motor vehicle at the time of incident, CHECK HERE** ☐

10. Additional Required Documents for Property Damage Claim

You must submit (1) invoice(s) documenting the repair costs, (2) three estimates for repair, OR (3) an explanation why this documentation cannot be provided.

11. If a state vehicle was involved, please provide the following information

Hyundai - Elantra	Unknown	Jennifer Wilkerson
(type of state vehicle involved)	(license number)	(driver)

12. If your claim involves personal injuries, please CHECK HERE ☐

13. Health insurance coverage. All personal injury claims require a copy of your health insurance information in place at the time of the incident. Please review Ark. Code Ann. § 19-10-302 for more information.

****If you did NOT have health insurance on the date of the incident, CLICK HERE** ☐

14. Amount of Damages, if known: $4,000,000.00

IMPORTANT!

A claim filed at the Commission is a lawsuit against a state agency. The Commission is the courthouse for these lawsuits. Please note that Commission staff can answer general questions about the claim process but cannot give legal advice. The Commission rules and a non-exhaustive list of statutes that relate to the Commission can be found on the Commission website (arclaimscommission.arkansas.gov). The Arkansas Rules of Civil Procedure can be found online (arcourts.gov) under “Info Resources.”

STOP!

This signature page must be completed in the presence of a Notary Public. Do not sign until you are directed to do so by the Notary Public. If there is more than one claimant involved in this claim, each claimant must complete a separate signature page.

If you are an ARKANSAS-LICENSED ATTORNEY submitting a claim on behalf of your client, there is a different signature page that must be used. Please call (501)682-1619 and ask for an attorney signature page.

If a BUSINESS OR CORPORATE ENTITY is filing a claim without an attorney (and meets the requirements of Ark. Code Ann. § 19-10-222 for doing so), there is a different signature page that must be used. Please call (501)682-1619 and ask for a corporate signature page.

The undersigned certifies that to the best of my knowledge, information, and belief, this claim is not being presented for any improper purpose; this claim is warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law or for establishing new law; and the factual contentions have evidentiary support of, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

_____

Claimant Signature

ACKNOWLEDGEMENT

State of _____

County of _____

On this the __ day of _____, 20___, before me, the undersigned notary, personally appeared _____ known to me (or satisfactorily proven) to be the person whose name is subscribed to this instrument and acknowledged that he/she executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

_____

Signature of Notary Public [seal of office]

My Commission Expires: _____

Arkansas
State Claims Commission
NOV 09 2022
RECEIVED

JACKSON
LAW FIRM

November 6, 2022

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue; Suite 410
Little Rock, AR 72201

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased v. The Arkansas Department of Human Services*
Incident Date: 6/11/2021

Dear Kathryn:

Please find enclosed a Claim Submission Signature Page for the wrongful death claim being filed by Ms. Hudson on behalf of her family against the Arkansas Department of Human Services. Also enclosed is a copy of the Death Certificate, funeral program and the Arkansas Department of Public Safety fatal crash information.

Cincinnati Insurance had a single limits policy of liability coverage of $250,000. The estate received a net total of $150,000. There is no other coverage.

The two minor children in did not receive anything for their bodily injury claims.

Please call me at (501) 823-3610 with any questions or suggestions. My e-mail address is *Jim@JimJacksonatty.com*

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosure
cc:w/enc. Sean Strode, Esq.

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528
501.823.3610
Fax: 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823

KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

Arkansas
State Claims Commission
NOV 09 2022
RECEIVED

CLAIM SUBMISSION SIGNATURE PAGE

The undersigned attorney certifies that to the best of my knowledge, information, and belief, this claim is not being presented for any improper purpose; this claim is warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; and the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

Jim Jackson, Attorney for Haley Hudson
Claimant Name (must be printed legibly)

Jim Jackson
Claimant Signature

Acknowledgement

State of ARKANSAS

County of PULASKI

On this the 7th day of November, 2022, before me, the undersigned notary, personally appeared Jim Jackson known to me (or satisfactorily proven) to be the person whose name is subscribed to this instrument and acknowledged that he/she executed the same for the purposes therein contained.

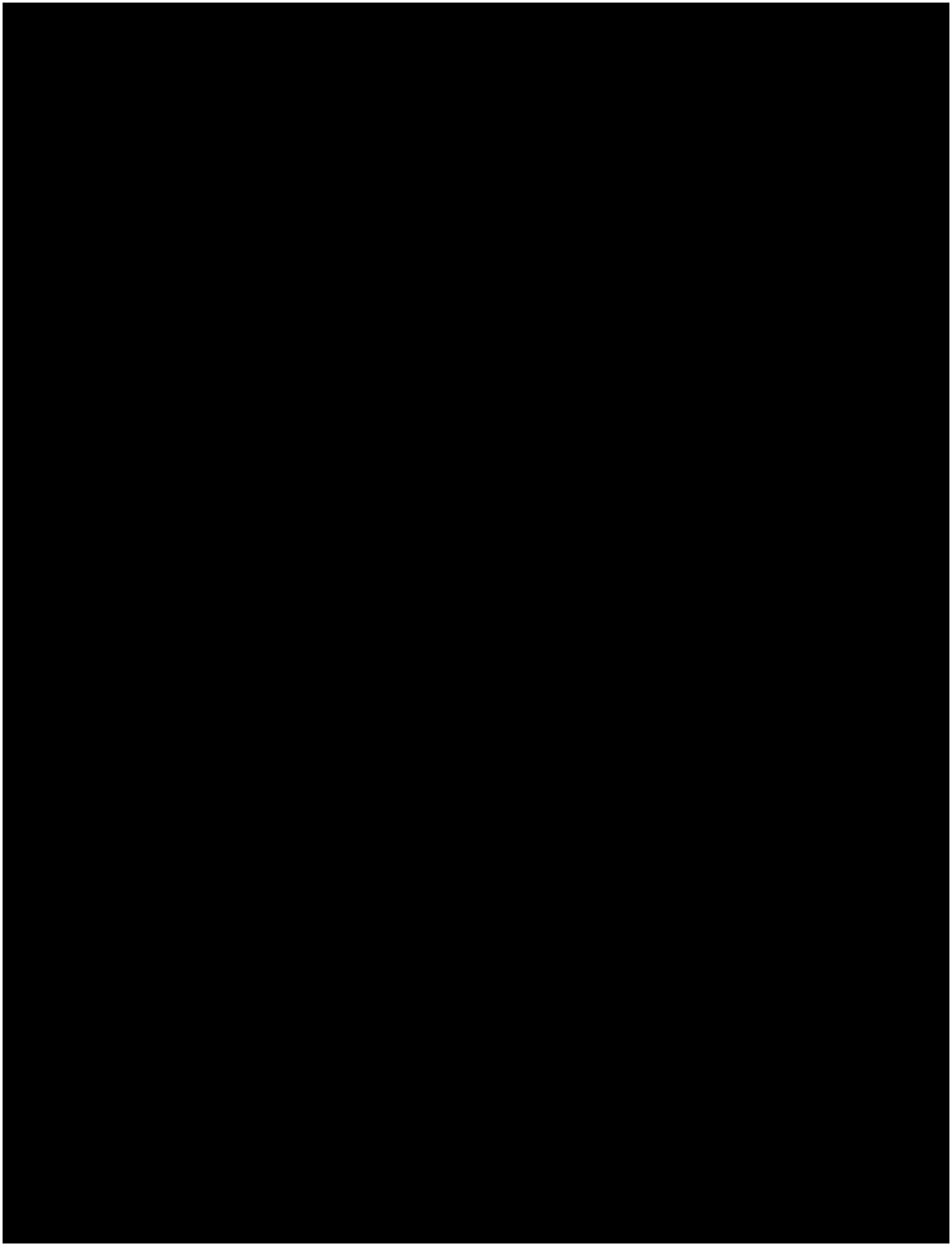
In witness whereof I hereunto set my hand and official seal.

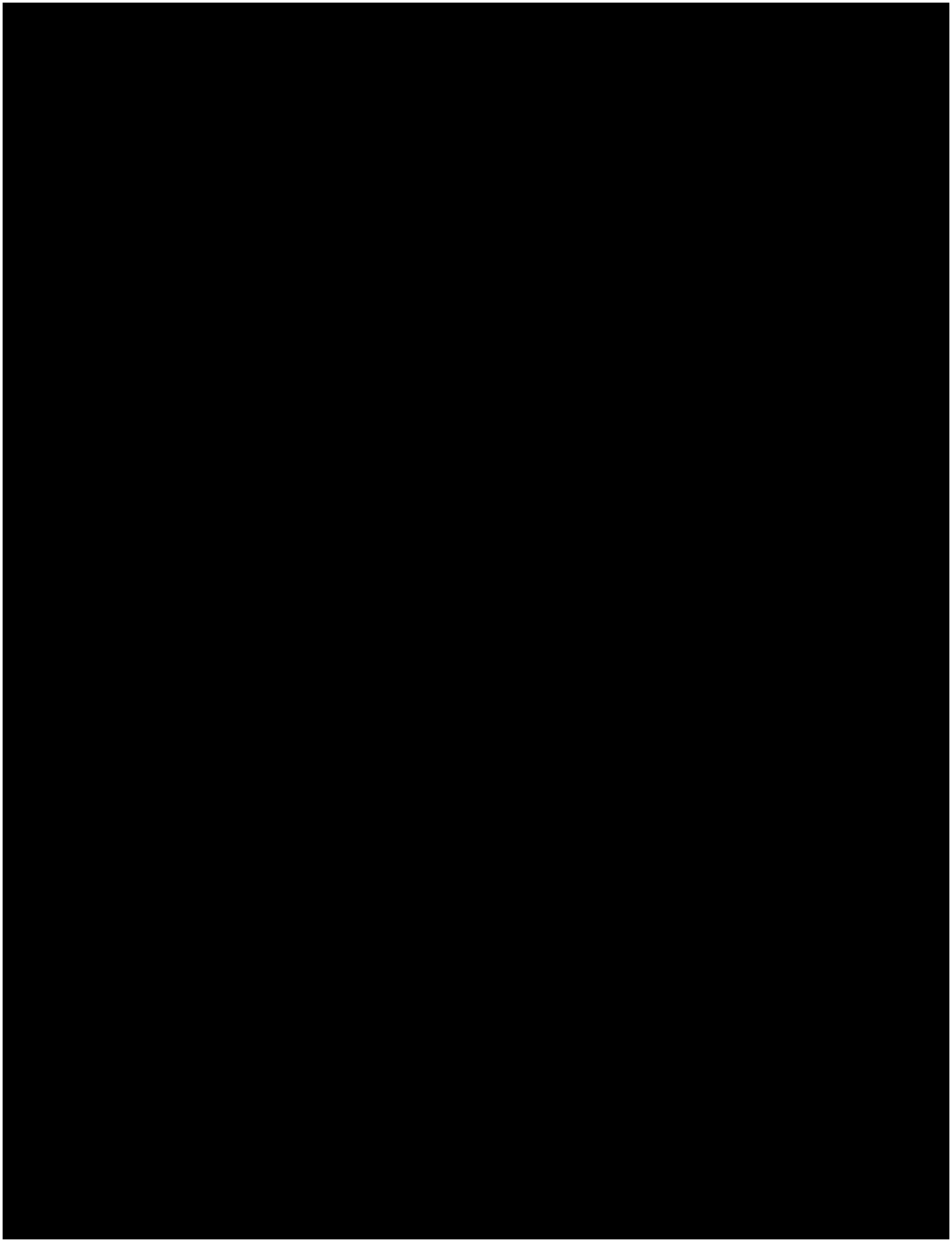
MARTHA COX
NOTARY PUBLIC - STATE OF ARKANSAS
SALINE COUNTY
My Commission Expires 8-19-2031
Commission # 12383466

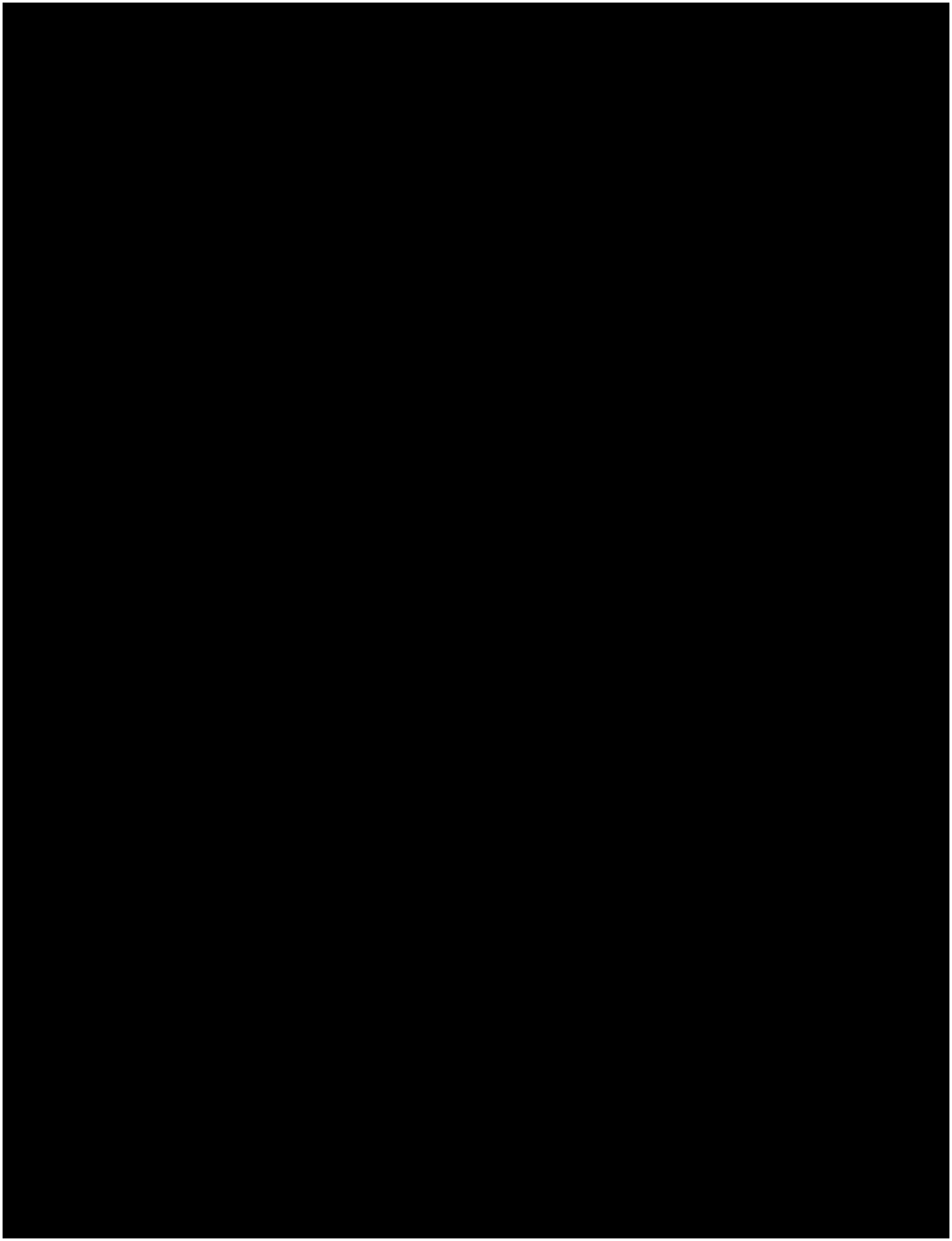
[Seal of Office]

Martha Cox
Signature of Notary Public - Martha Cox

My Commission expires: 8-19-2031







Arkansas
State Claims Commission
NOV 12 2022
RECEIVED

JACKSON
LAW FIRM

November 10, 2022

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue; Suite 410
Little Rock, AR 72201

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Guardian of two minor children v. The Arkansas Department of Human Services*
Incident Date: 6/11/2021

Dear Kathryn:

[redacted]

Please call me at (501) 823-3610 with any questions or suggestions. My e-mail address is *Jim@JimJacksonatty.com.*

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosure
cc:w/enc. Sean Strode, *Esq.*

JIM JACKSON //Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528 • 501.823.3610 • Fax: 501.823.3611 • Jim@JimJacksonAtty.com • www.JimJacksonAtty.com

Arkansas
State Claims Commission

NOV 12 2022

RECEIVED

IN THE CIRCUIT COURT OF LOGAN COUNTY, ARKANSAS
CIVIL DIVISION

CINCINNATI INSURANCE COMPANY — PLAINTIFF

v. CASE NO. 42PCV-21-116

HALEY HUDSON, ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, [redacted]
GUARDIAN OF THE ESTATES OF [redacted]
And [redacted]
JENNIFER WILKERSON;
ARKANSAS DEPARTMENT OF HUMAN SERVICES;
BOBBY DALE WILSON;
JOE ASHLEY TRUCKING, LLC;
GKD MANAGEMENT, LP D/B/A A&G COMMERCIAL TRUCKING, INC.;
TRU HOMES, LLC;
JOHN DOES 1-3 — DEFENDANTS

COMPLAINT IN INTERPLEADER

COMES Plaintiff, the Cincinnati Insurance Company, by and through its counsel, Barber Law Firm, PLLC, and for its Complaint in Interpleader, states as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Cincinnati Insurance Company ("Plaintiff") is a foreign corporation authorized to do business in the State of Arkansas.

2. Defendant Haley Hudson, Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and also Guardian of the Estates of [redacted] is an individual residing in Logan County, Arkansas, who may be served through her attorney, Michael Easley, 510 E Cross Ave, Forrest City, AR 72335.

3. Defendant Jennifer Wilkerson is an individual residing at [redacted]

FILED
Date 12/6/21 Time 910
Kim Ruloph
Circuit Clerk, Logan County, AR
Sam Smith DC

4. Defendant Arkansas Department of Human Services is an agency of the State of Arkansas which may be served through its Director, Cindy Gillespie, 700 Main St., Donaghey Plaza, Little Rock, AR 72203.

5. Defendant Bobby Dale Wilson is an individual residing at [redacted]

[redacted]

6. Defendant Joe Ashley Trucking, LLC, is an Alabama limited liability company which may be served through its registered agent, Legalinc Corporate Services, Inc., 600 Boulevard South SW, Suite 104A, Huntsville, AL 35802.

7. Upon information and belief, Joe Ashley is the sole member of Joe Ashley Trucking, LLC, and Mr. Ashley is a resident of Alabama.

8. Defendant GKD Trucking d/b/a A&G Commercial Trucking, Inc. is a Tennessee corporation which may be served through its registered agent, Tim Stanfill, 4092 US Highway 64, Crump, TN 38327.

9. Defendant Tru Homes, LLC, is an Alabama limited liability company which may be served through its registered agent, Anthony B. Green, 2730 29th Avenue N., Birmingham, AL 35207.

10. Upon information and belief, the members of Tru Homes, LLC, are residents of Alabama.

11. John Does 1-3 are parties who may have an interest in the insurance proceeds, but whose identities are unknown. More specifically, Plaintiff names these Defendants in the event additional individuals or entities have an ownership interest in the mobile home. Upon information and believe, these John Does 1-3 have an ownership interest in the mobile home. These Defendants

are named pursuant to the John Doe statute, Ark. Code Ann. § 16-56-125. Pursuant to the statute, attached hereto as Exhibit 1 is the Affidavit of Rachel E. Hildebrand.

12. All acts and events occurred within Logan County, Arkansas.

13. This Court has jurisdiction over the parties pursuant to Ark. Code Ann. § 16-13-201.

14. Venue is proper in this Court pursuant to Ark. Code Ann. § 16-60-101.

STATEMENT OF THE CONTROVERSY

15. This interpleader action arises out of a motor vehicle accident which occurred on June 11, 2021, on Arkansas Highway 22, rural Logan County, Arkansas.

16. Defendants include drivers and owners of the vehicles involved in the accident.

17. Jennifer Wilkerson, driving a 2009 Hyundai Elantra owned by the Department of Human Services, struck the rear of the 2005 Hyundai Sonata driven by Jacqueline Lynn Ashcraft.

18. The vehicle driven by Ms. Wilkerson also struck the truck and trailer of a 2001 Peterbilt Tractor driven by Bobby Dale Wilson.

19. The 2001 Peterbilt Tractor was owned by Joe Ashley Trucking, LLC.

20. The 2001 Peterbilt Tractor was hauling a mobile home manufactured by TruHomes, LLC.

21. At the time of the accident, GKD Trucking d/b/a/ A&G Commercial Trucking was leasing the Peterbilt from Joe Ashley Trucking, LLC, in order to transport the mobile home from TruHomes, LLC's facility in Lynne, Alabama, to a dealership in Arkansas.

22. At the time of the accident, the mobile home was owned by GKD Trucking d/b/a A&G Commercial Trucking.

23. The Defendants in this action are believed to have incurred property damage and/or personal injury as a result of the accident.

24. At the time of the accident, Arkansas Department of Human Services owned the vehicle driven by Jennifer Wilkerson. At the time of the accident, the Arkansas Department of Human Services, through Arkansas Insurance Department—Risk Management Division, held an insurance policy with Plaintiff. That policy has a coverage limit of $250,000.00. A redacted copy of the Policy is attached hereto as Exhibit 2.

25. This $250,000 in available coverage has been reduced by $6,692.40 in payments relating to transferring the insured vehicle from the tow yard to Copart.[1] Therefore, the total amount of coverage benefits available is now $243,307.60.

26. The potential damages incurred and claimed by all Defendants will likely exceed available coverage. Plaintiff seeks to avoid multiple lawsuits and the potential for inconsistent and duplicative liability as Defendants make claims for all or part of the policy proceeds.

27. Plaintiff concedes it owes these Defendants the amount of $243,307.60, but is unable to allocate those available funds amongst the Defendants.

28. This Interpleader is limited solely to Plaintiff's coverage in the amount of $243,307.60.

29. While there may be claims to be litigated among the Defendants as to the proper allocation of proceeds, Plaintiff, as a mere stakeholder, has no interest (except to recover its attorneys' fees and costs of this action) in the proceeds payable under the Policy. Therefore, Plaintiff should be discharged from any further participation in this action and, upon interpleading the policy sums, requests that it be discharged from any further liability to any of the Defendants.

[1] The insured vehicle has not yet sold for salvage. Therefore, at this time, Plaintiff does not know the amount of the final bill from Copart.

30. Plaintiff is ready, willing, and able to pay the insurance proceeds of $243,307.60 in accordance with the terms of the Policy.

31. Plaintiff has not brought this Complaint in Interpleader at the request of any or all of the claimants; there is no fraud or collusion between Plaintiff and any or all of the claimants; and Plaintiff brings this Complaint in Interpleader of its own free will and to avoid being vexed and harassed by conflicting and multiple claims.

32. Plaintiff seeks to interplead into the Registry of the Court the insurance proceeds of the Policy until such time as the Court determines the proper beneficiary.

33. Plaintiff also seeks to be discharged from all liability and released from this matter, once the funds are interpleaded, as it will have no rights or claims against the remaining parties to this action.

34. Further, Plaintiff seeks an award of attorneys' fees and costs in interpleading these funds into the Registry of the Court from the proceeds of the policy, pursuant to applicable law.

CONCLUSION

WHEREFORE, Plaintiff, Cincinnati Insurance Company, requests judgment as follows:

i. Requiring the Defendants to answer this Complaint in Interpleader and litigate between themselves their rights to the proceeds due under the Policy;

ii. Declaring and adjudging that upon Plaintiff's payment of the proceeds due under the Policy to the registry of the court, Plaintiff and its past, present, and future parents, subsidiaries, affiliates, successors, assignees, agents, producers, servants, employees, officers, directors, principals, representatives, attorneys, and insurers be and hereby shall be wholly and completely discharged and absolved from any further liability of any nature to each of the defendants and/or any other claimant for the proceeds arising

under the Policy as the result of the above-described accident, and that Plaintiff be dismissed from this interpleader action with prejudice;

iii. Enjoining all of the defendants, and all persons or parties claiming through them or through some other right, from instituting or prosecuting any proceeding in any state or federal court against Plaintiff based upon the subject matter of this interpleader action;

iv. Awarding Plaintiff its reasonable attorneys' fees plus the costs of adjudicating this interpleader action, to be paid out of the proceeds at issue;

v. Declaring that $243,307.60 is the available coverage amount;

vi. Dismissing Plaintiff from the case once the funds have been deposited; and

vii. Ordering any other and further relief that this Court deems just and proper.

Respectfully submitted,

BARBER LAW FIRM PLLC
Attorneys for Plaintiff
425 West Capitol Avenue
Suite 3400
Little Rock, AR 72201-3414
(501) 687-1412 (ph) (888) 412-3288 (fax)
sstrauss@barberlawfirm.com
rhildebrand@barberlawfirm.com

By: */s/ Rachel E. Hildebrand*
Scott M. Strauss AR BIN 92009
Rachel E. Hildebrand AR BIN2017134

IN THE CIRCUIT COURT OF LOGAN COUNTY, ARKANSAS
CIVIL DIVISION

CINCINNATI INSURANCE COMPANY PLAINTIFF

v. Case No. _____

HALEY HUDSON, ADMINISTRATRIX OF THE ESTATE OF
JACQUELINE LYNN ASHCRAFT, DECEASED, and also
GUARDIAN OF THE ESTATES OF [redacted]
And [redacted]
JENNIFER WILKERSON;
ARKANSAS DEPARTMENT OF HUMAN SERVICES;
BOBBY DALE WILSON
JOE ASHLEY TRUCKING, LLC;
GKD MANAGEMENT, LP D/B/A A&G COMMERCIAL TRUCKING, INC.;
and TRU HOMES, LLC. DEFENDANTS

AFFIDAVIT

STATE OF ARKANSAS)
) SS.
COUNTY OF PULASKI)

I, Rachel E. Hildebrand, being duly sworn and under oath state:

1. I am the attorney representing Plaintiff, Cincinnati Insurance Company, in the above-captioned action.

2. I have attempted to learn the identities of all parties which may have an interest in the insurance proceeds described more fully in the Complaint.

3. After diligent inquiry, the identities of additional parties who may have an ownership interest in the mobile home involved in the accident remain unknown.

4. This affidavit is intended to comply with Ark. Code Ann. § 16-56-125, and all other applicable law, concerning the filing of a complaint against unknown parties—in this case, parties that may have an interest in the mobile home involved in the accident.

EXHIBIT
tabbies
"A"

Respectfully submitted,

BARBER LAW FIRM, PLLC
Attorneys for Third-Party Plaintiffs
425 West Capitol Avenue, Suite 3400
Little Rock, Arkansas 72201
Telephone: (501) 372-6175
Facsimile: (501) 375-2802

By: */s/ Rachel E. Hildebrand*
Rachel Hildebrand, ABN 2017134

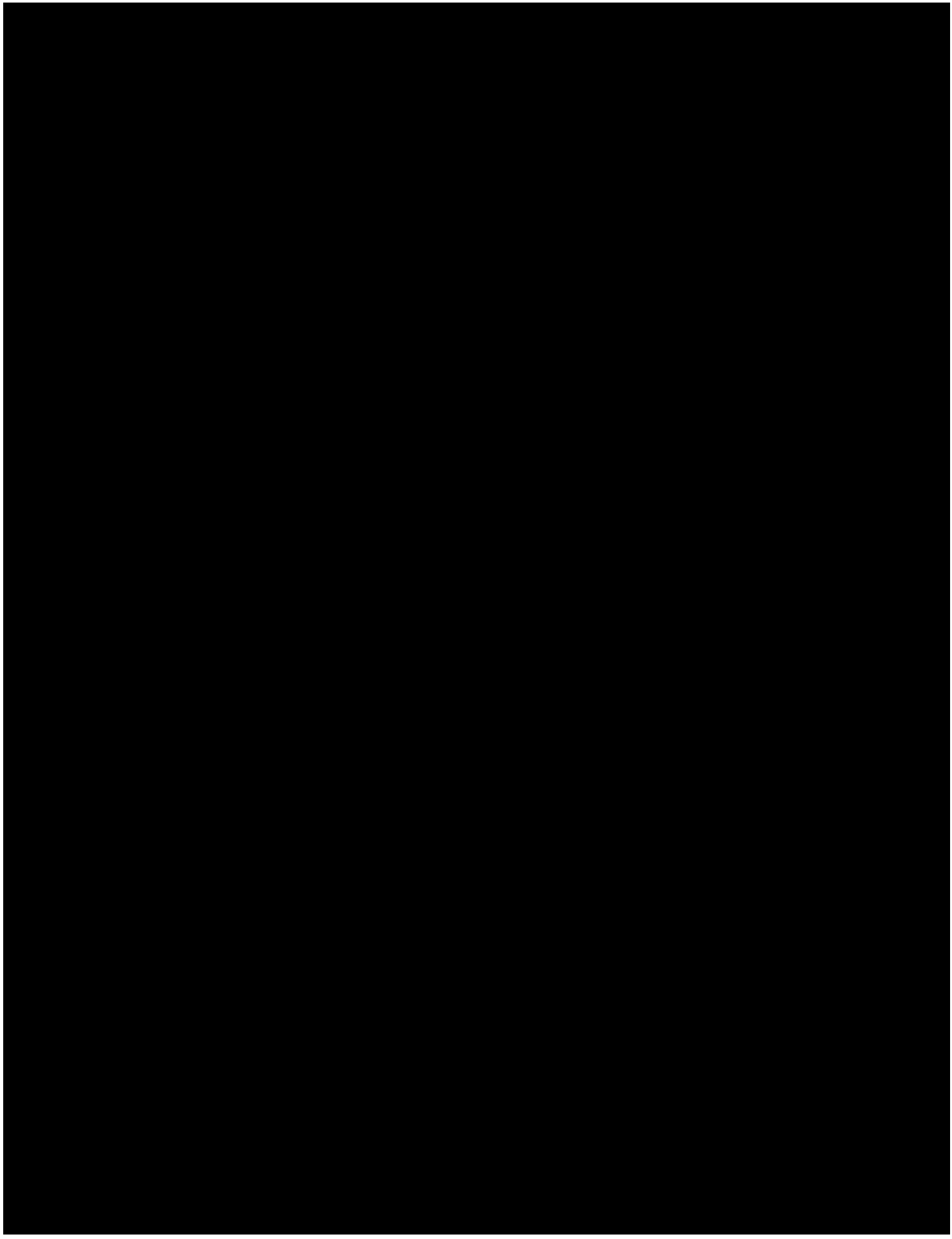
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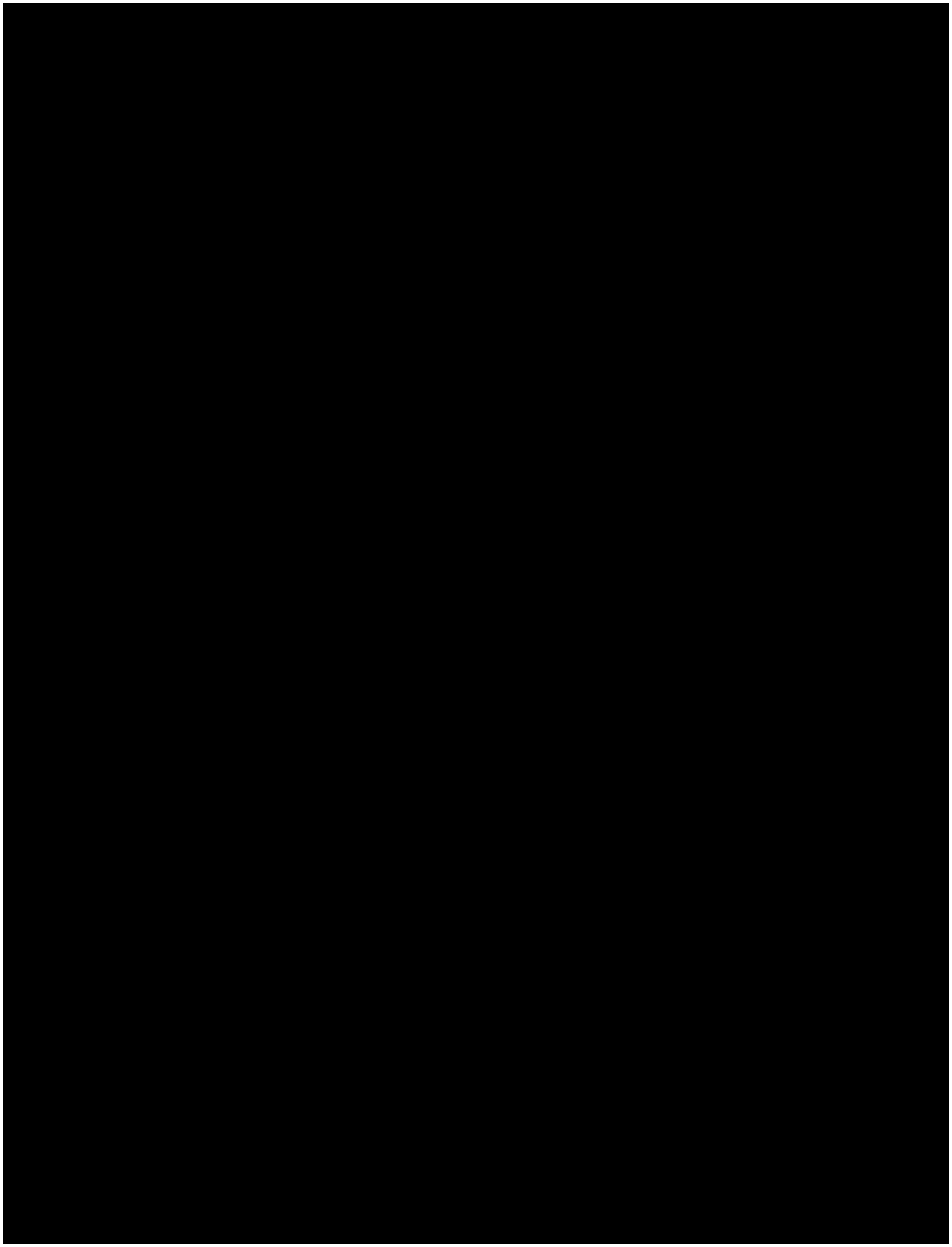
SUBSCRIBED and sworn to before me on this 24 day of November, 2021.

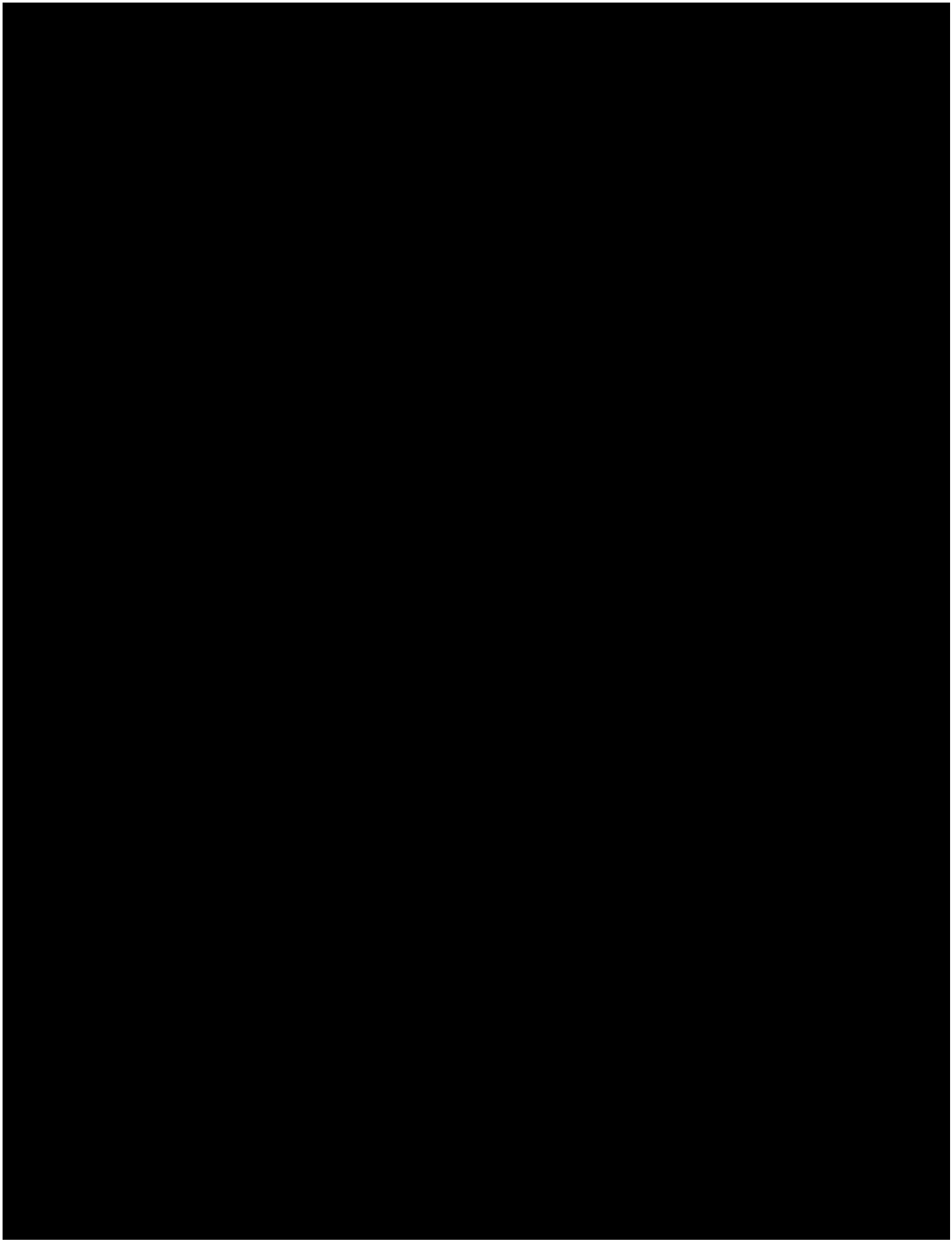
TRACY KING
PULASKI COUNTY
NOTARY PUBLIC – ARKANSAS
My Commission Expires April 16, 2031
Commission No. 12714230

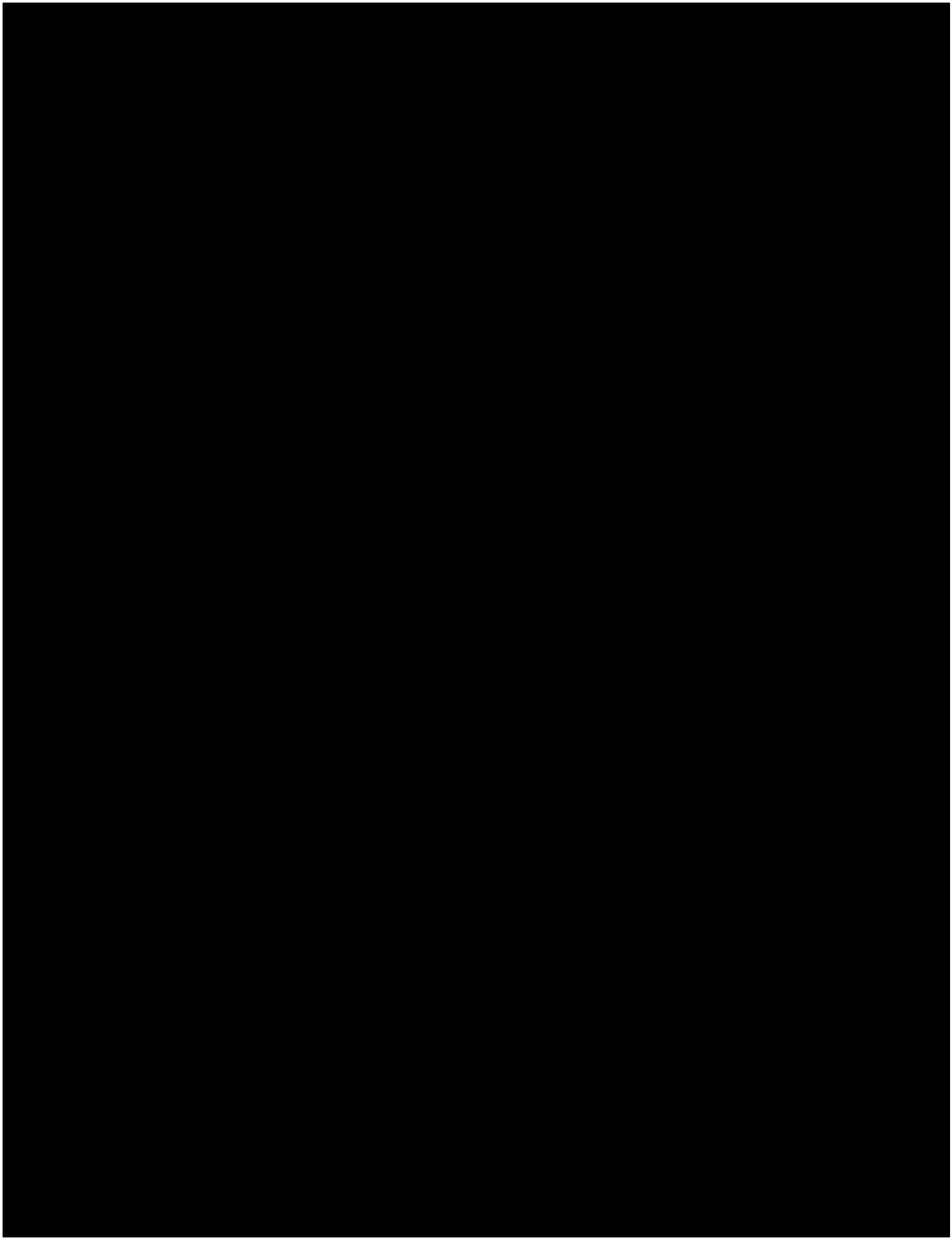
NOTARY PUBLIC

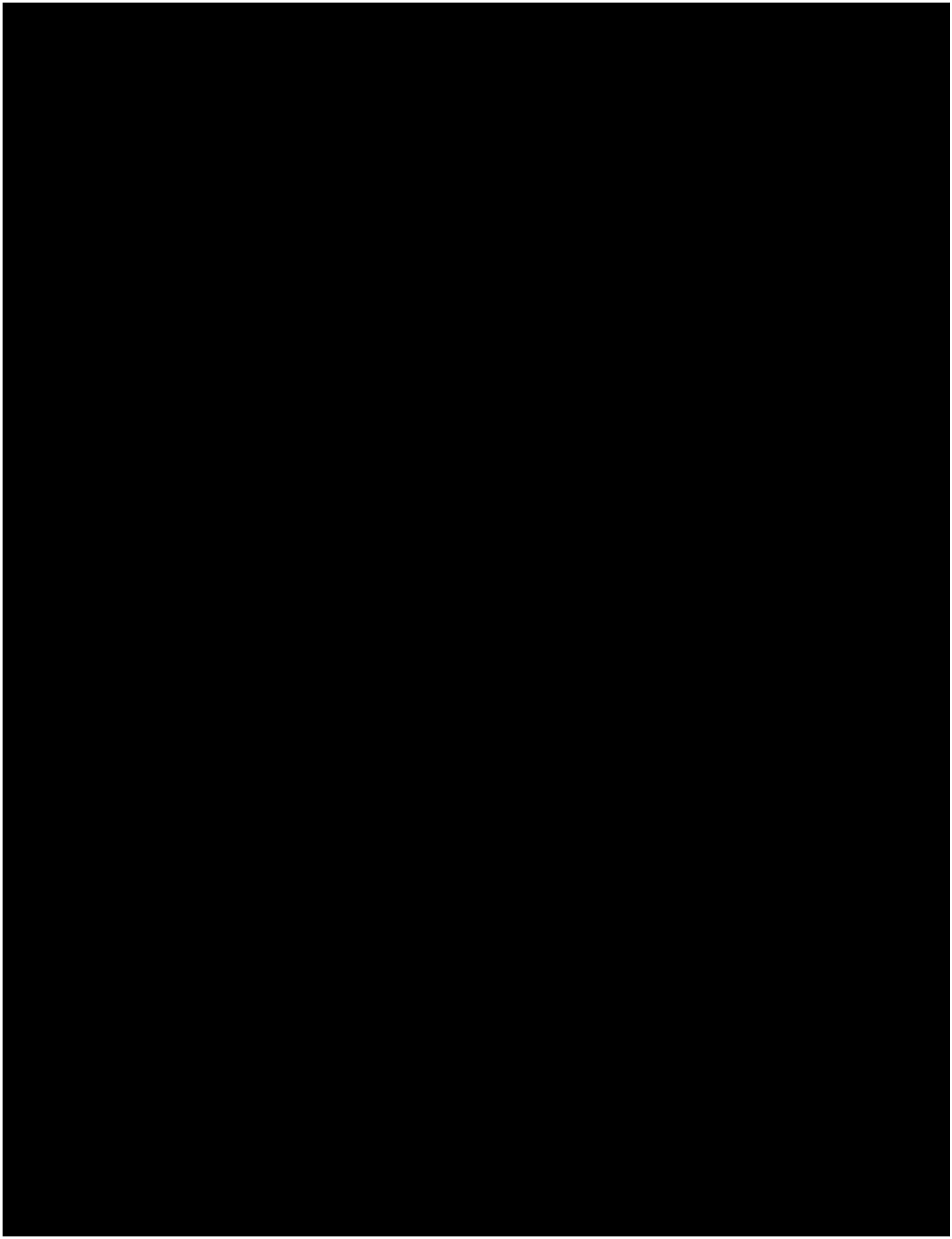
My Commission Expires: 4-16-31











IN THE CIRCUIT COURT OF LOGAN COUNTY, ARKANSAS
CIVIL DIVISION

ELECTRONICALLY FILED
Logan County Circuit Court in Paris District
Kim Ruloph, Circuit Clerk
2022-Mar-21 15:25:57
42PCV-21-116
C15D02 : 3 Pages

CINCINNATI INSURANCE COMPANY PLAINTIFF

v. CASE NO. 42PCV-21-116

HALEY HUDSON, ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, and also GUARDIAN OF THE ESTATES OF [redacted]
And [redacted]
JENNIFER WILKERSON;
ARKANSAS DEPARTMENT OF HUMAN SERVICES;
BOBBY DALE WILSON;
JOE ASHLEY TRUCKING, LLC;
GKD MANAGEMENT, LP D/B/A A&G COMMERCIAL TRUCKING, INC.;
TRU HOMES, LLC;
JOHN DOES 1-3 DEFENDANTS

ORDER

The Court, upon motions of the parties, and being well and sufficiently advised, hereby orders as follows:

1. This Court grants the unopposed Motion to Deposit Funds of Plaintiff, the Cincinnati Insurance Company ("Cincinnati"). The Logan County Circuit Clerk is hereby authorized to accept from Cincinnati a check or draft in the sum of the adjusted policy proceeds, and to deposit the adjusted proceeds into an interest-bearing account.

2. Once Cincinnati has deposited the funds, Cincinnati shall be dismissed from the instant action and be discharged from all further liability.

3. Only two Defendants, Haley Hudson, Administratrix of the Estate of Jacqueline Lynn Ashcraft, Deceased, and also Guardian of the [redacted] ("Hudson") and GKD Management d/b/a A&G Commercial Trucking, Inc. ("GKD") have made claims to the funds to be deposited into the Registry of the Court.

4. Hudson and GKD have amicably resolved their competing claims to the funds, with GKD to received $12,500.00 from the funds to be deposited, and with Hudson to receive the remainder of the funds to be deposited.

5. Once Cincinnati has deposited the funds into the Registry of the Court, the Logan County Circuit Clerk is hereby directed to issue two checks distributing the funds in the above-described amounts to Hudson and GKD, respectively.

6. Once the funds have been distributed accordingly, the instant action shall be dismissed with prejudice.

IT IS SO ORDERED this ___ day of March, 2022.

Honorable David McCormick
Circuit Court Judge

APPROVED:

B. Michael Easley, Attorney for the Ashcraft Estate

Mary Buckley, Attorney for GKD

Arkansas Judiciary

Case Title: CINCINNATI INSURANCE COMPANY V HALEY HUDSON ET AL

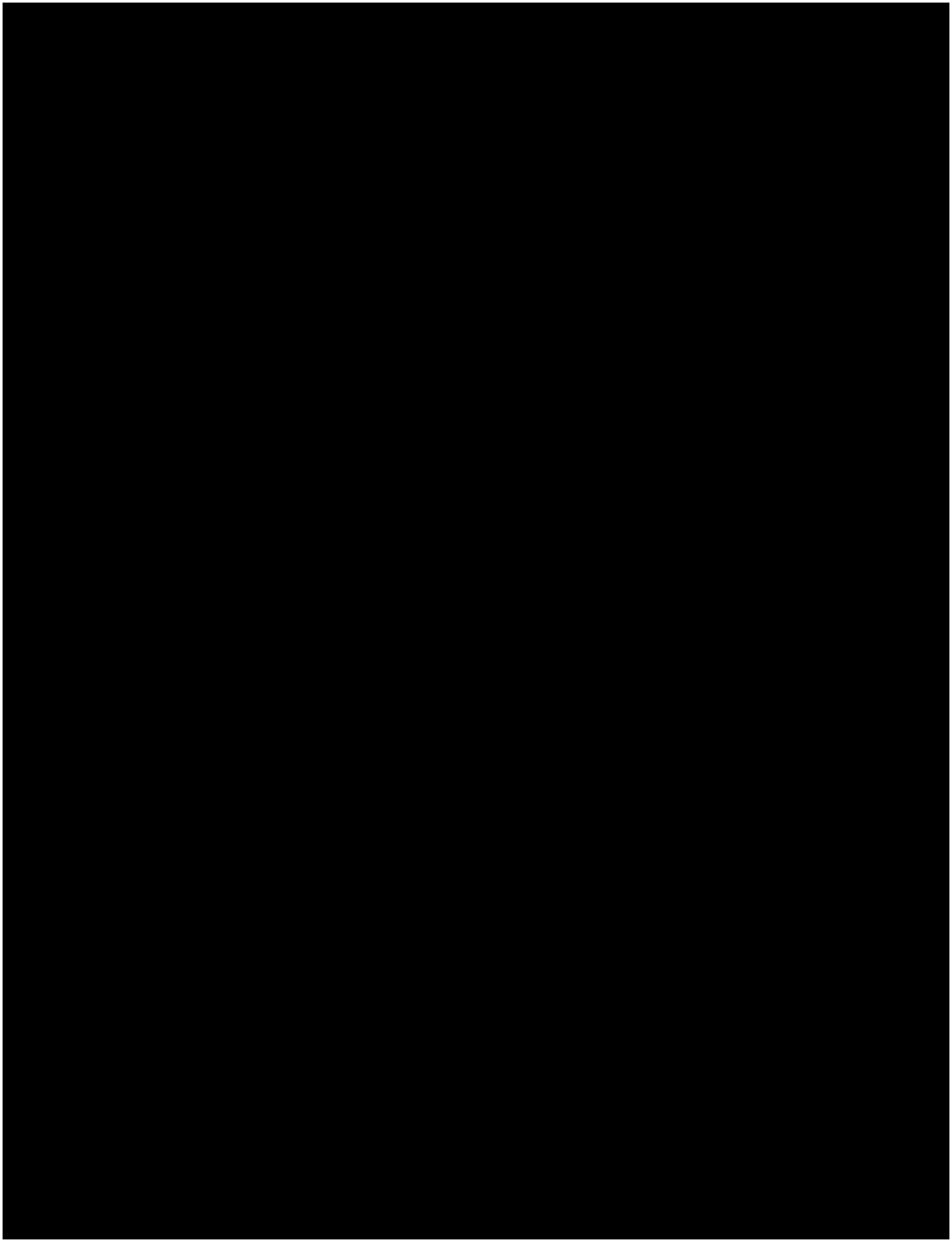
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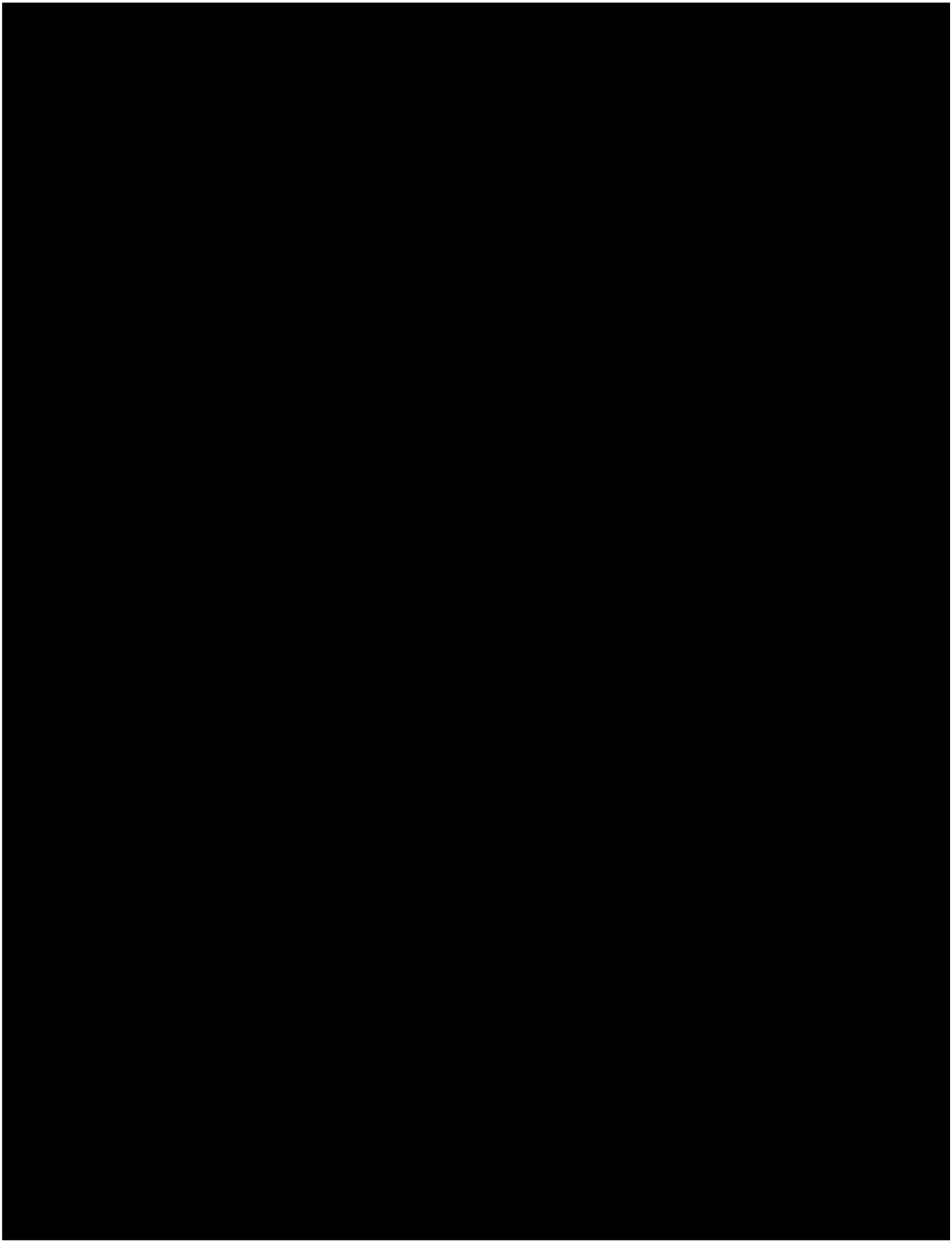
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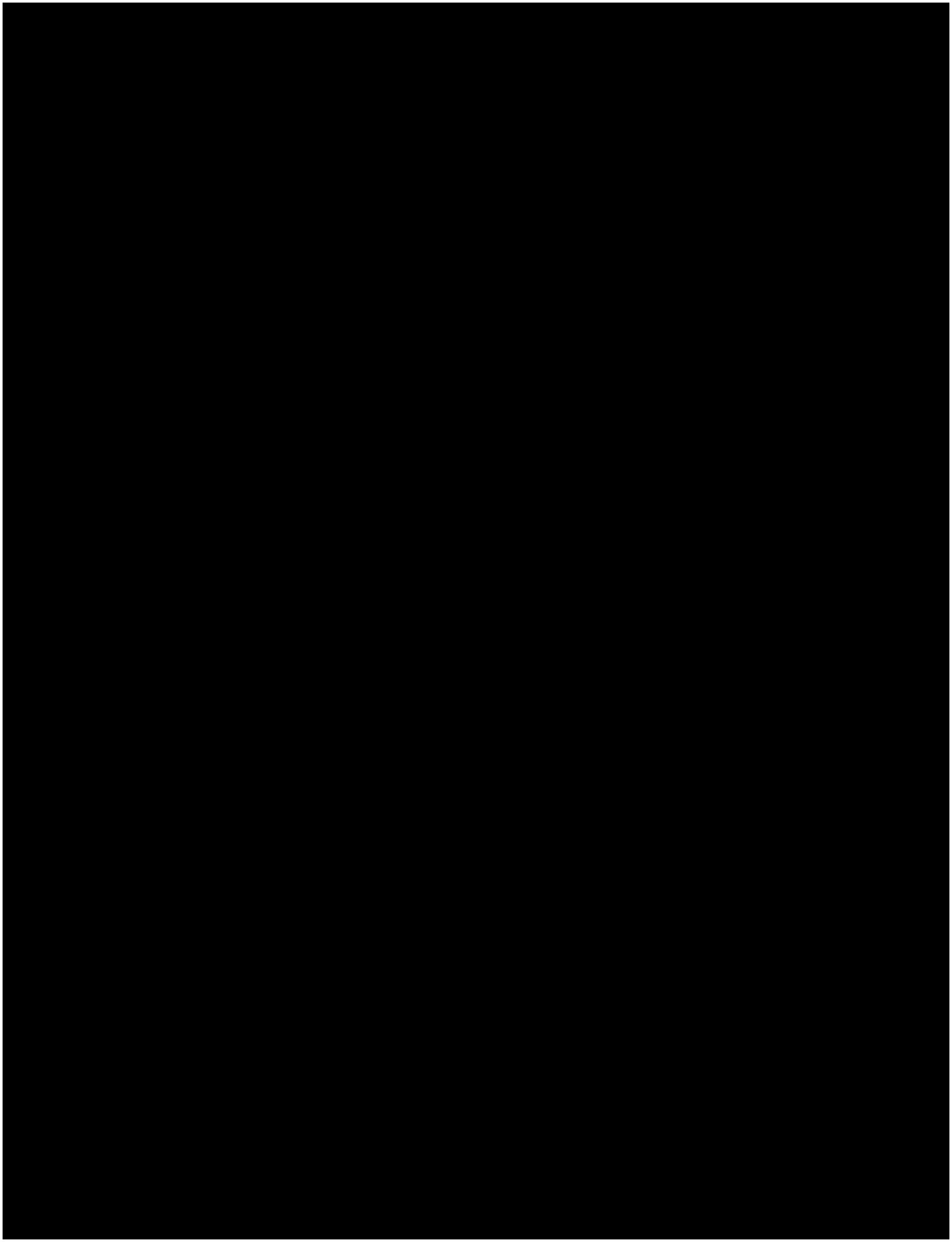
So Ordered

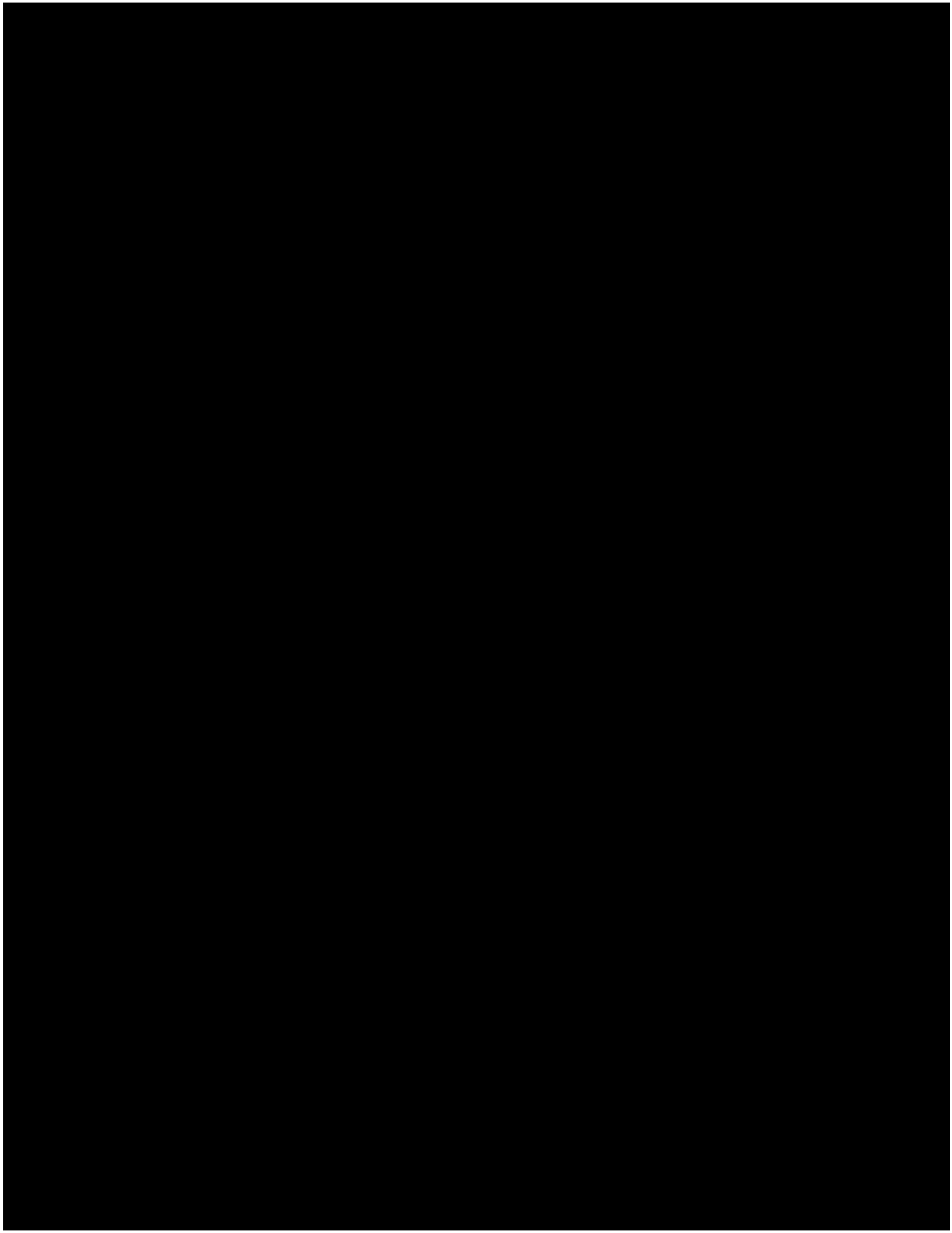
David H. McCormick

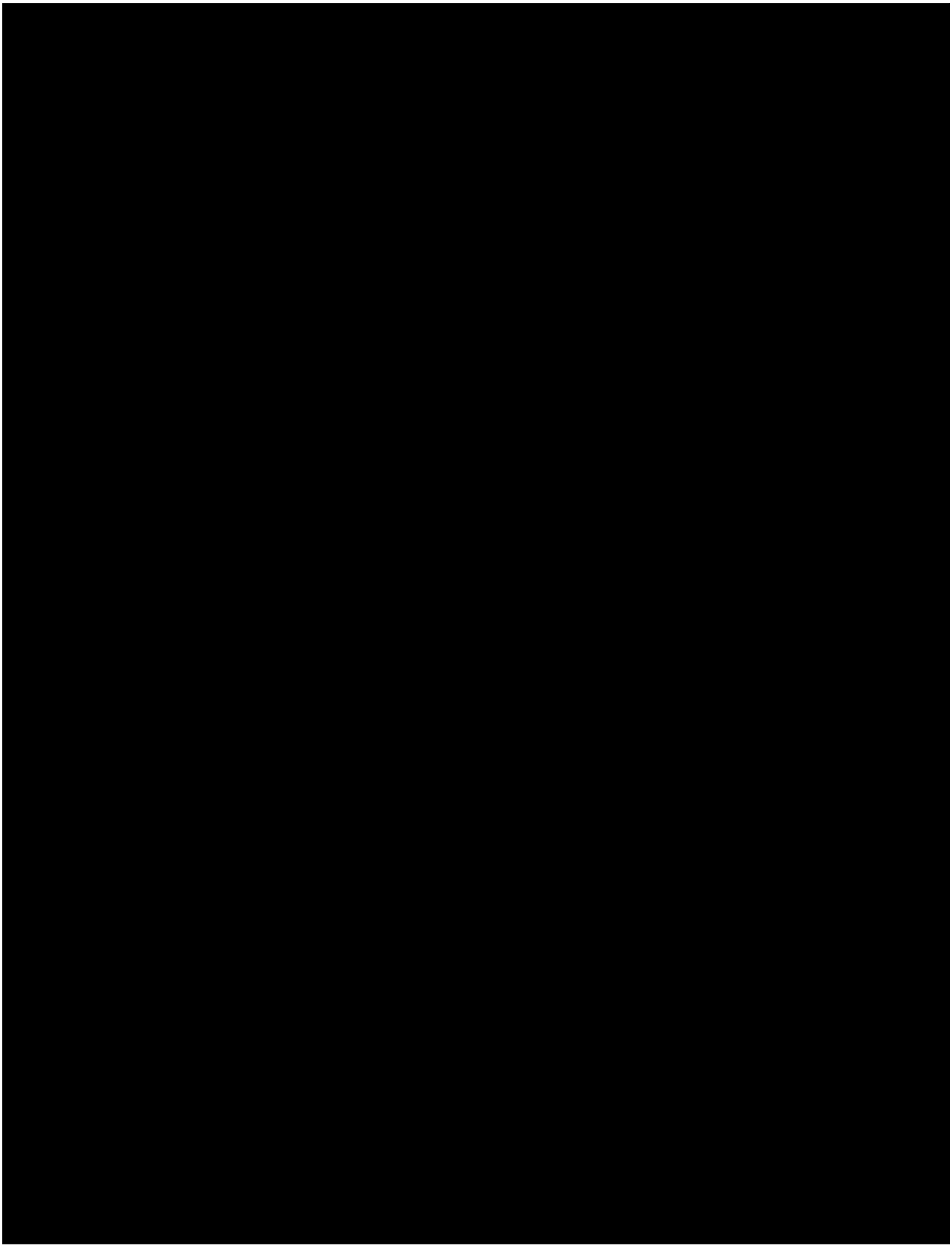
David H. McCormick, 15th Circuit
Division 2 Judge











From: ASCC New Claims
To: OCC Claims Commission Cases
Cc: Kathryn Irby
Subject: CLAIM: Haley Hudson v. DHS, Claim No. 230641
Date: Thursday, November 17, 2022 10:09:00 AM
Attachments: Haley Hudson vs DHS agency ltr.pdf
Haley Hudson Elct Claim.pdf
Haley Hudson Sig and Supp.pdf
Haley Hudson_CL additional documentation.pdf

Please see attached. Contact Kathryn Irby with any questions.

Thank you,
Caitlin

Caitlin McDaniel
Administrative Specialist II
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-1619

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, AR 72201-3823

November 17, 2022

Mr. Sarah Linam *(via email)*
Arkansas Department of Human Services
700 Main Street, Slot S260
Little Rock, Arkansas 72203

RE: ***Haley Hudson v. Arkansas Department of Human Services***
Claim No. 230641

Dear Ms. Linam,

Enclosed please find a copy of the above-styled claim filed against the Arkansas Department of Human Services. Pursuant to the Arkansas Rules of Civil Procedure, as well as Claims Commission Rule 2.2, you have **thirty days from the date of service** in which to file a responsive pleading.

Your responsive pleading should include your agency number, fund code, appropriation code, and activity/section/unit/element that this claim should be charged against, if liability is admitted, or if the Claims Commission approves this claim for payment. This information is necessary even if your agency denies liability.

Sincerely,

Kathryn Irby

ES: cmcdaniel

cc: Jim Jackson, *counsel for Claimant* (w/o encl.) (*via email*)

From: ASCC New Claims
To: Jim@JimJacksonatty.com
Bcc: Kathryn Irby
Subject: Haley Hudson v. DHS, Claim No. 230641
Date: Thursday, November 17, 2022 10:09:00 AM
Attachments: Haley Hudson vs DHS agency ltr.pdf

Dear Mr. Jackson,

Attached please find a copy of the letter sent with Haley Hudsons' claim to the Arkansas Department of Human Services.

Thank you,
Caitlin

Caitlin McDaniel
Administrative Specialist II
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-1619

From: Jim Jackson
To: ASCC New Claims
Subject: RE: Haley Hudson v. DHS, Claim No. 230641
Date: Thursday, November 17, 2022 10:18:35 AM
Attachments: Letter to Director Irby with med records 11-16-2022.pdf

Thank you for sending.

Please find attached a PDF with a cover letter and copy of medical records related to Ms. Ashcraft's treatment and death of a brain hemorrhage from the collision.
Please add this to this Claim.
Thank you,
Jim

From: ASCC New Claims <ASCC.New.Claims@arkansas.gov>
Sent: Thursday, November 17, 2022 10:10 AM
To: Jim Jackson <jim@jimjacksonatty.com>
Subject: Haley Hudson v. DHS, Claim No. 230641

Dear Mr. Jackson,

Attached please find a copy of the letter sent with Haley Hudsons' claim to the Arkansas Department of Human Services.

Thank you,
Caitlin

Caitlin McDaniel
Administrative Specialist II
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-1619

JACKSON
LAW FIRM

November 15, 2022

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue; Suite 410
Little Rock, AR 72201

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Guardian of Two Minor Children v. The Arkansas Department of Human Services*
Incident Date: 6/11/2021 - Logan County

Dear Kathryn:

Please find enclosed a copy of the relevant medical records received from Mercy Hospital in Fort Smith that the plaintiff will introduce at trial. These records prove that the impact from the wreck was the direct and proximate cause of Ms. Ashcraft's subarachnoid brain hemorrhage which led to her death.

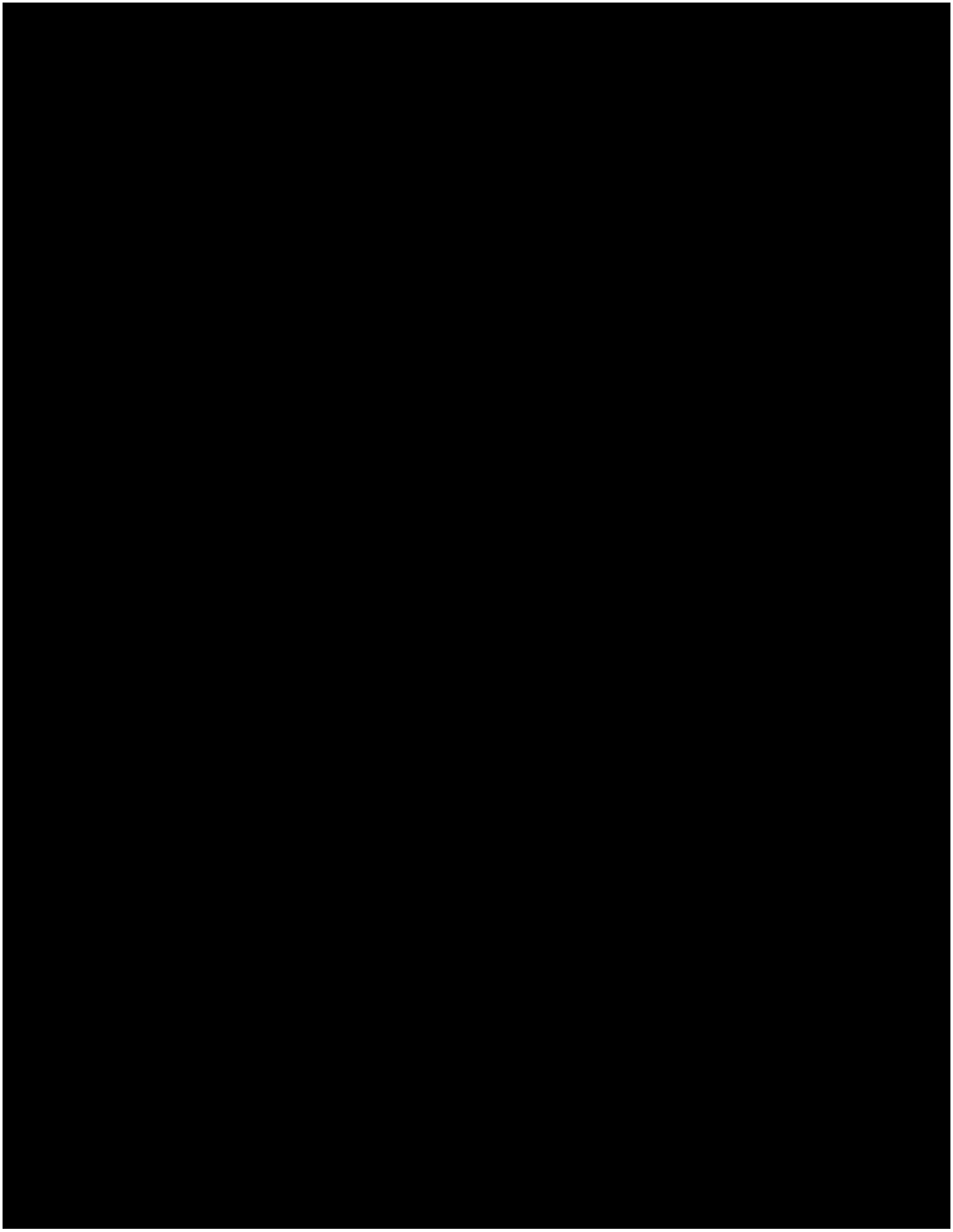
Please call me at (501) 823-3610 with any questions or suggestions. My e-mail address is *Jim@JimJacksonatty.com*.

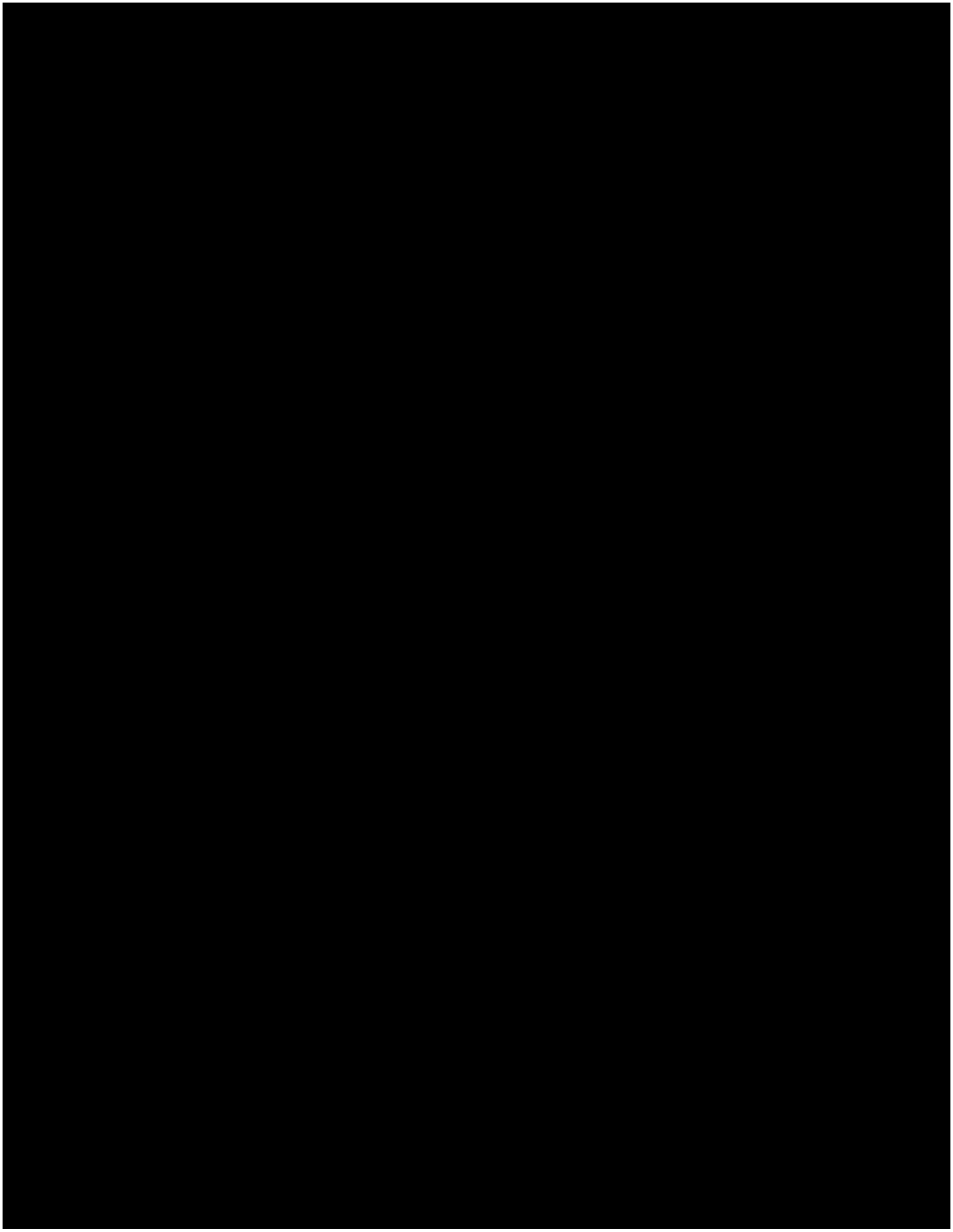
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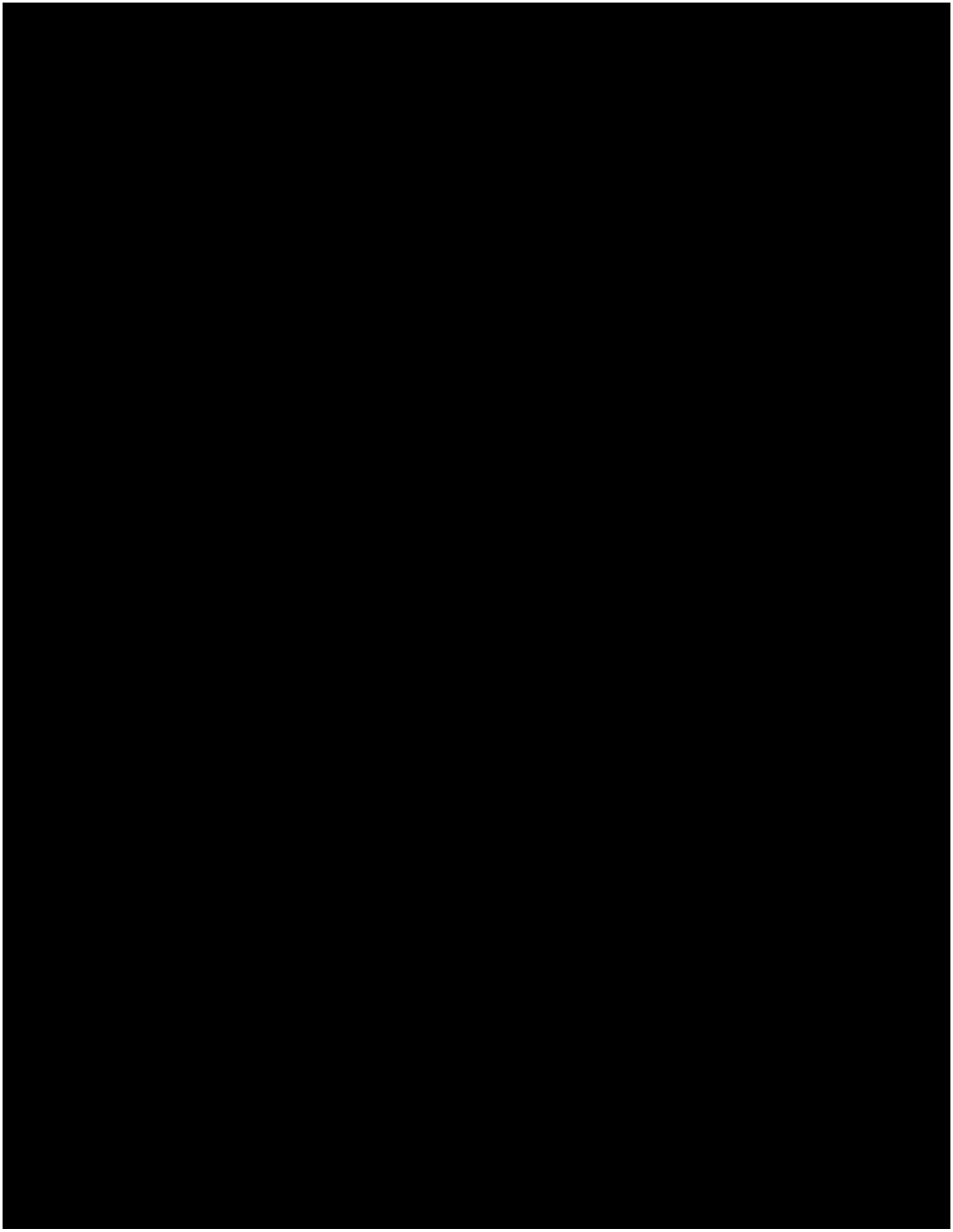
Jim R. Jackson

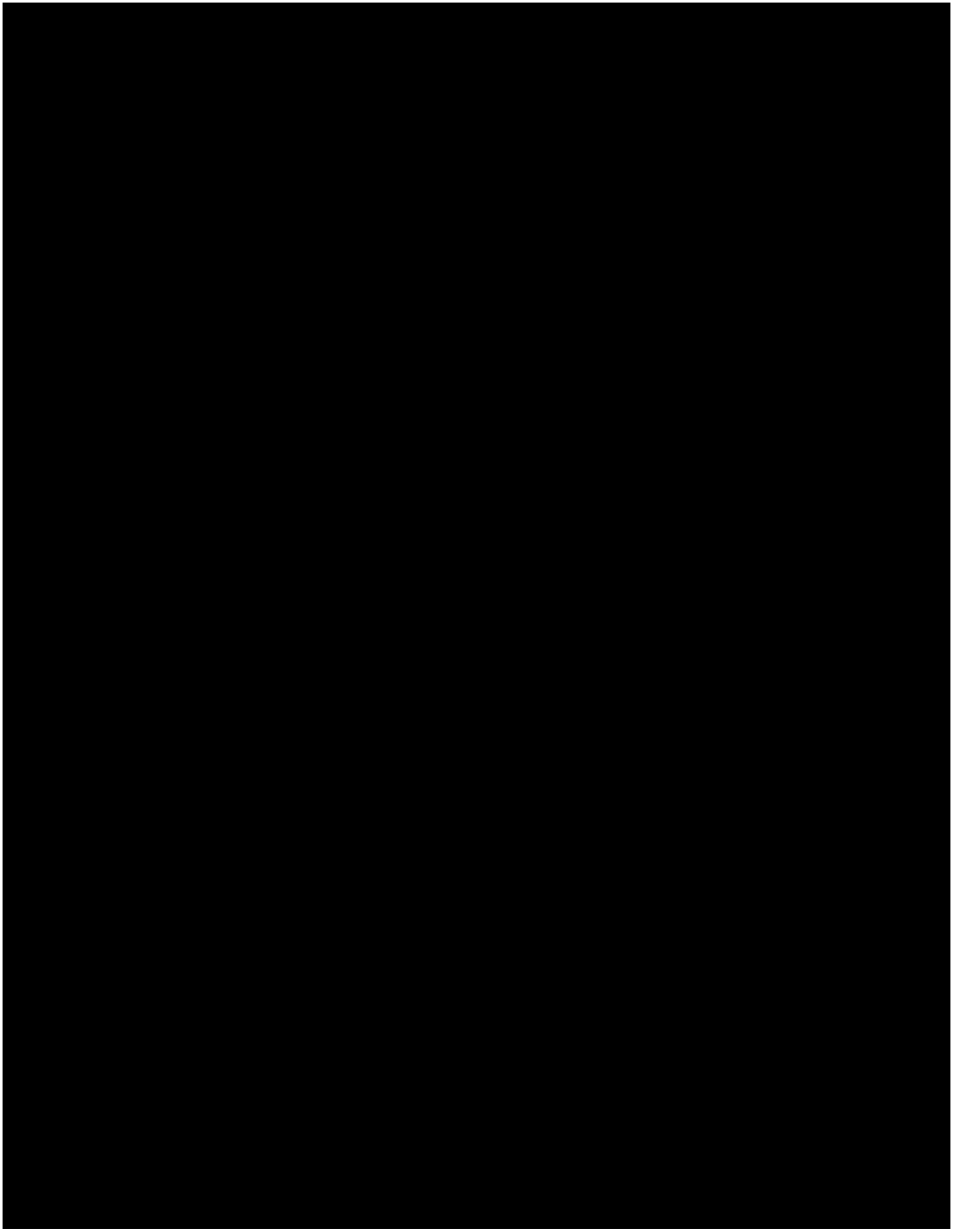
JRJ/mc
Enclosure
cc:w/enc. Sean Strode, Esq.

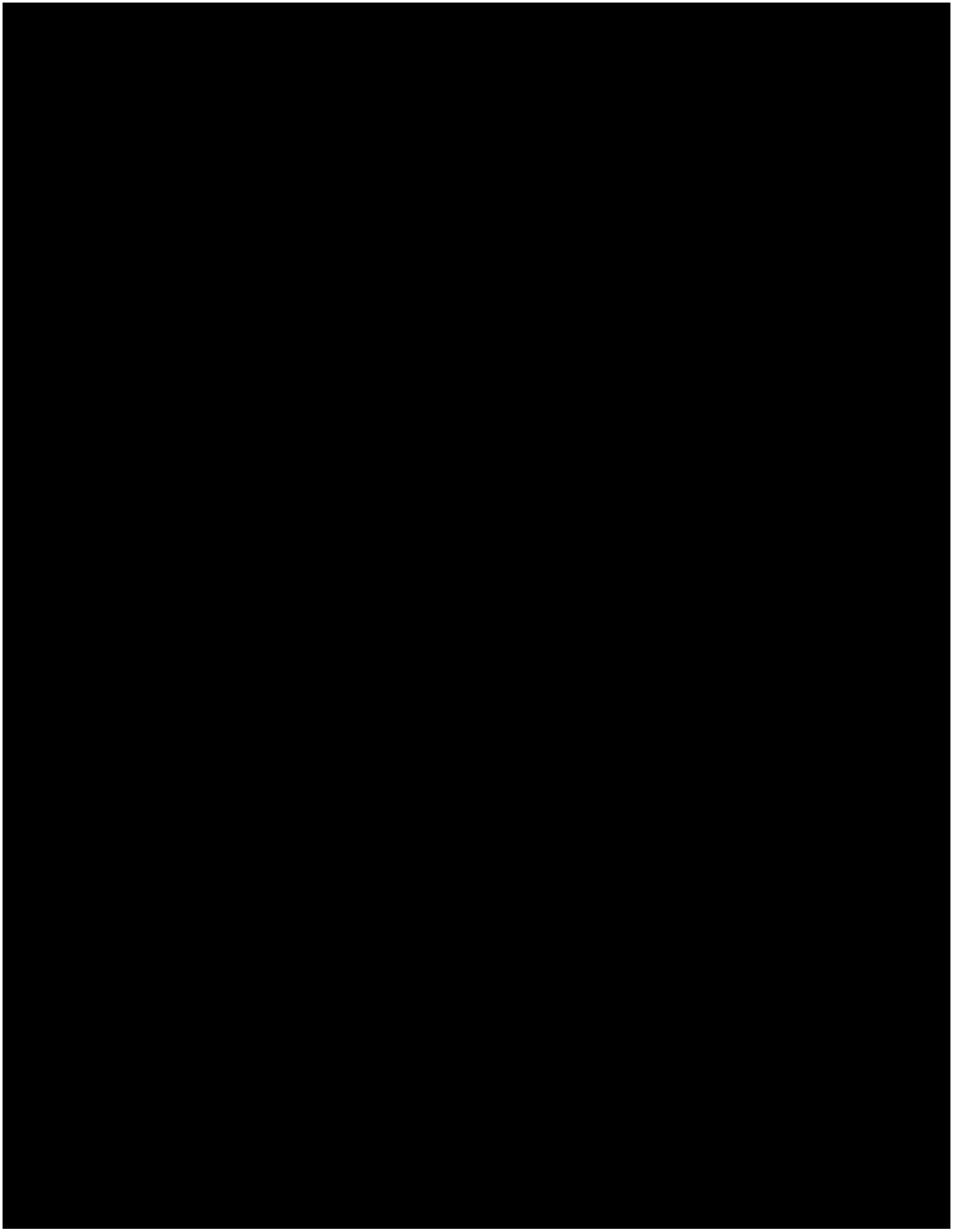
JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528
501.823.3610
Fax: 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

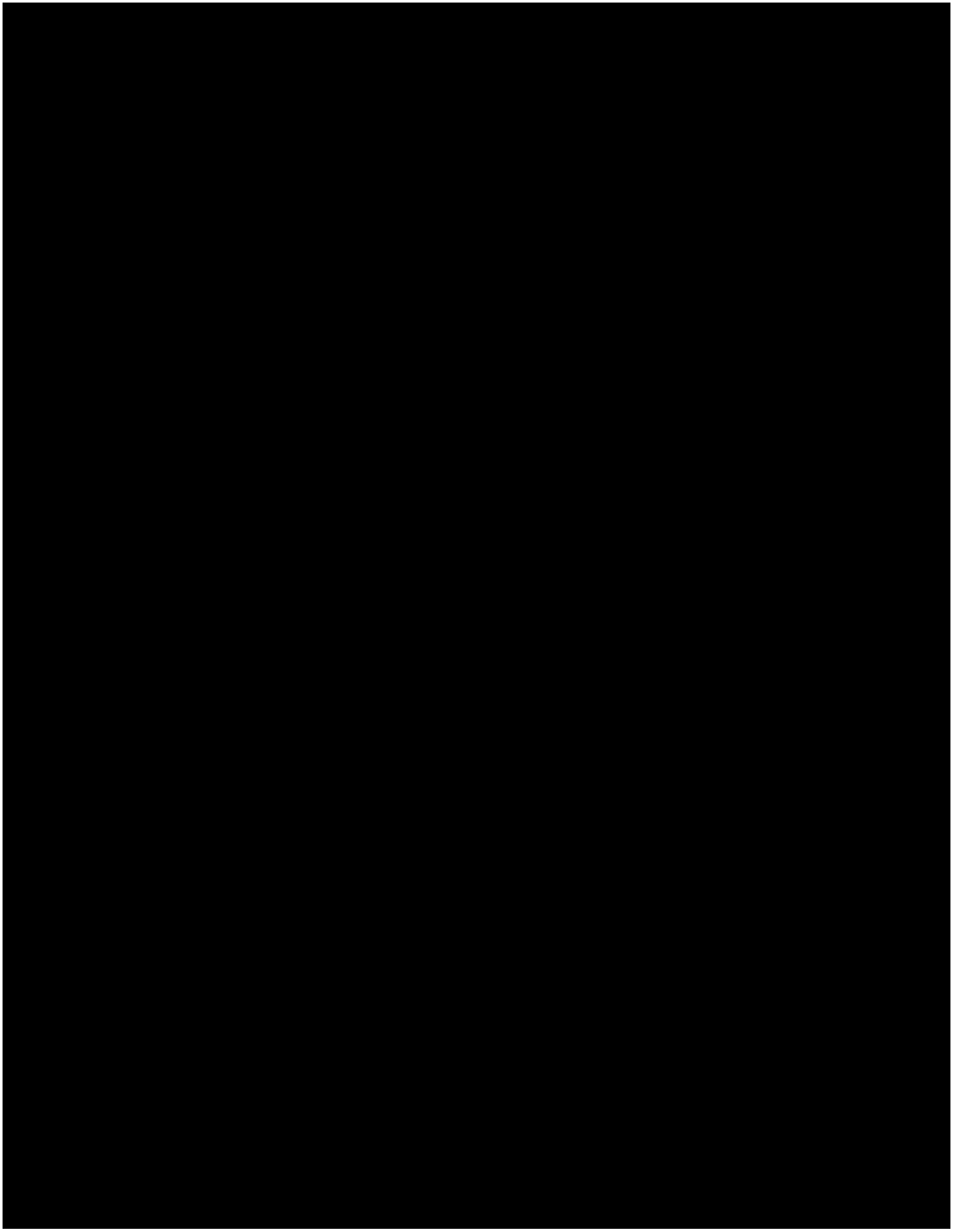


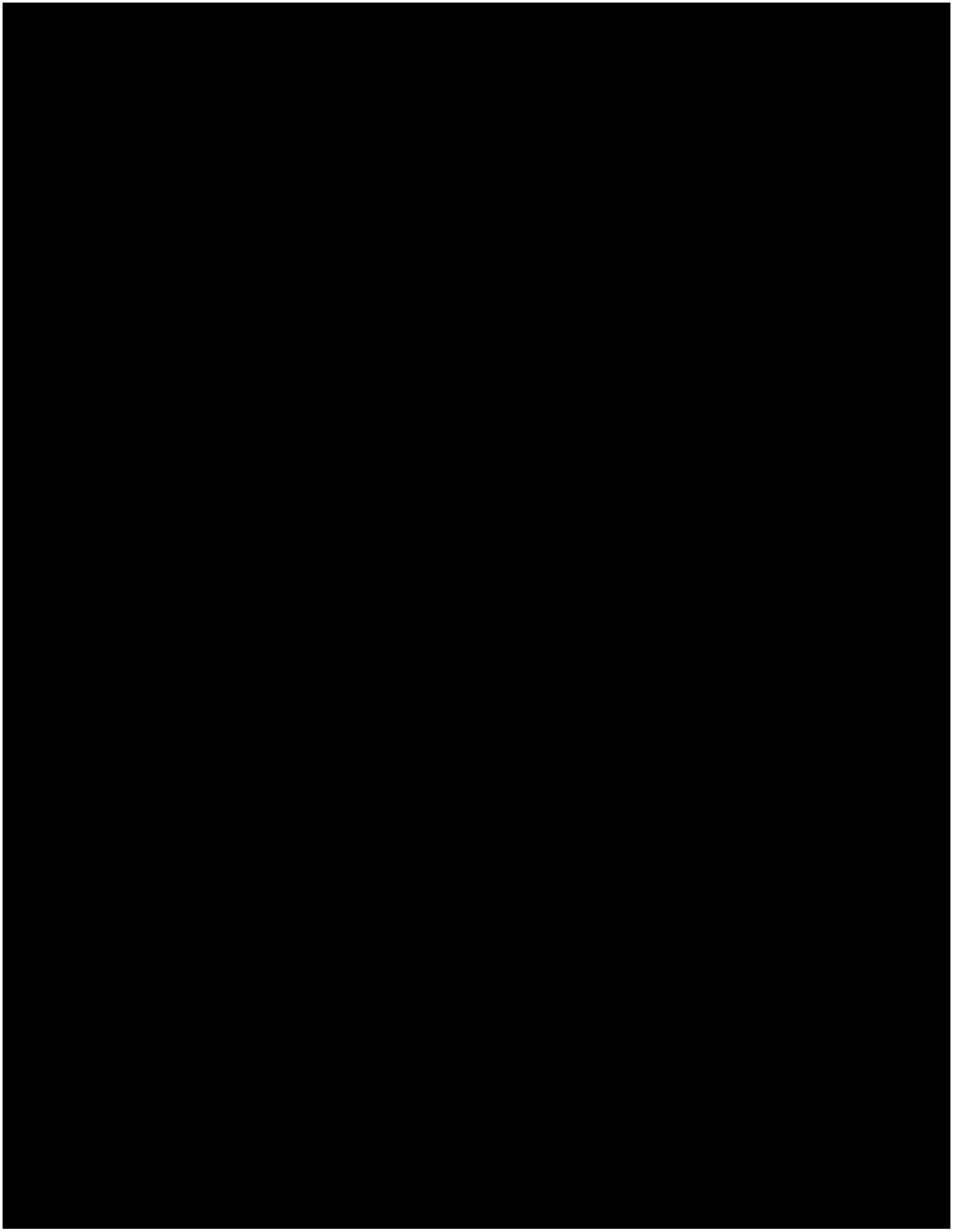


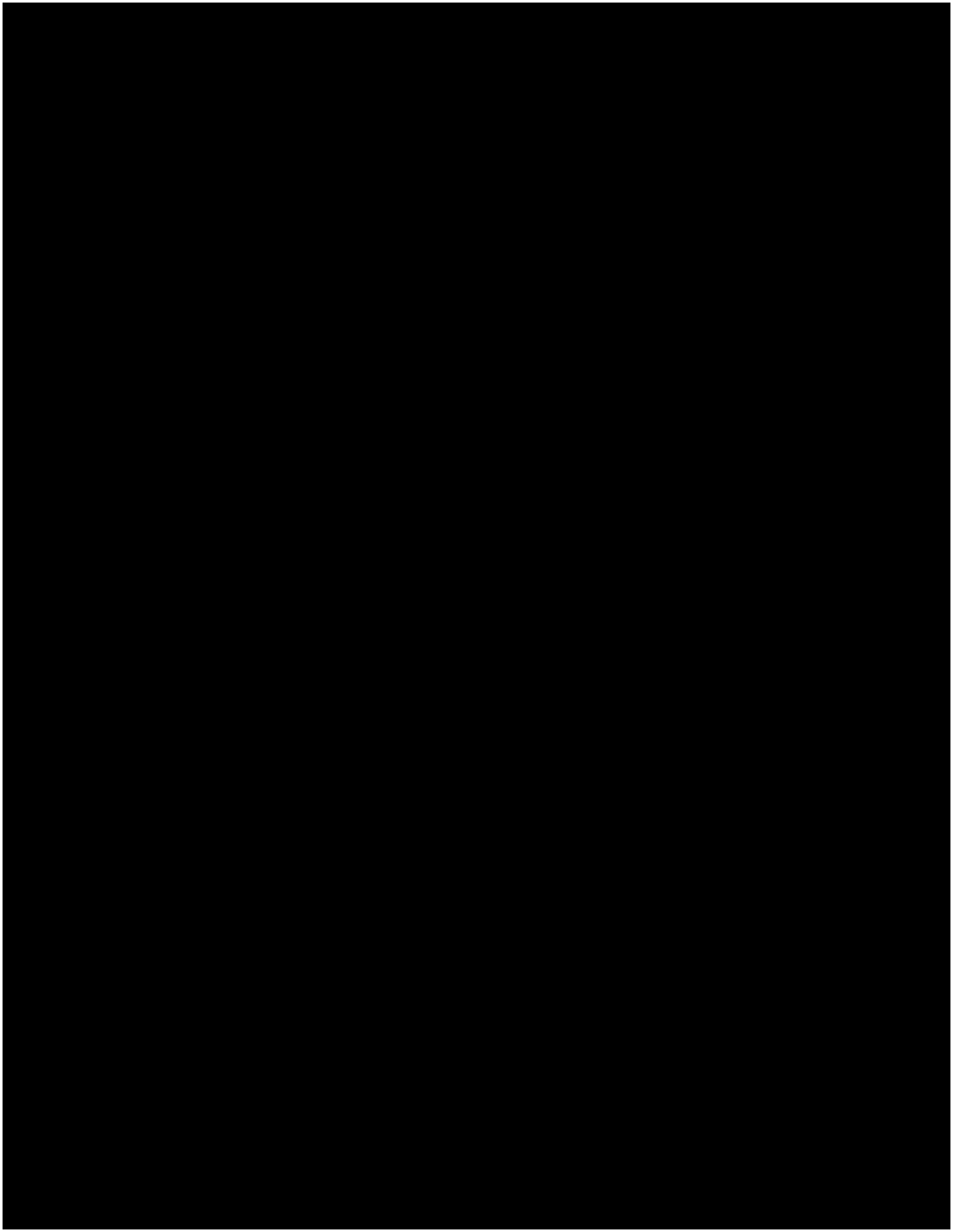


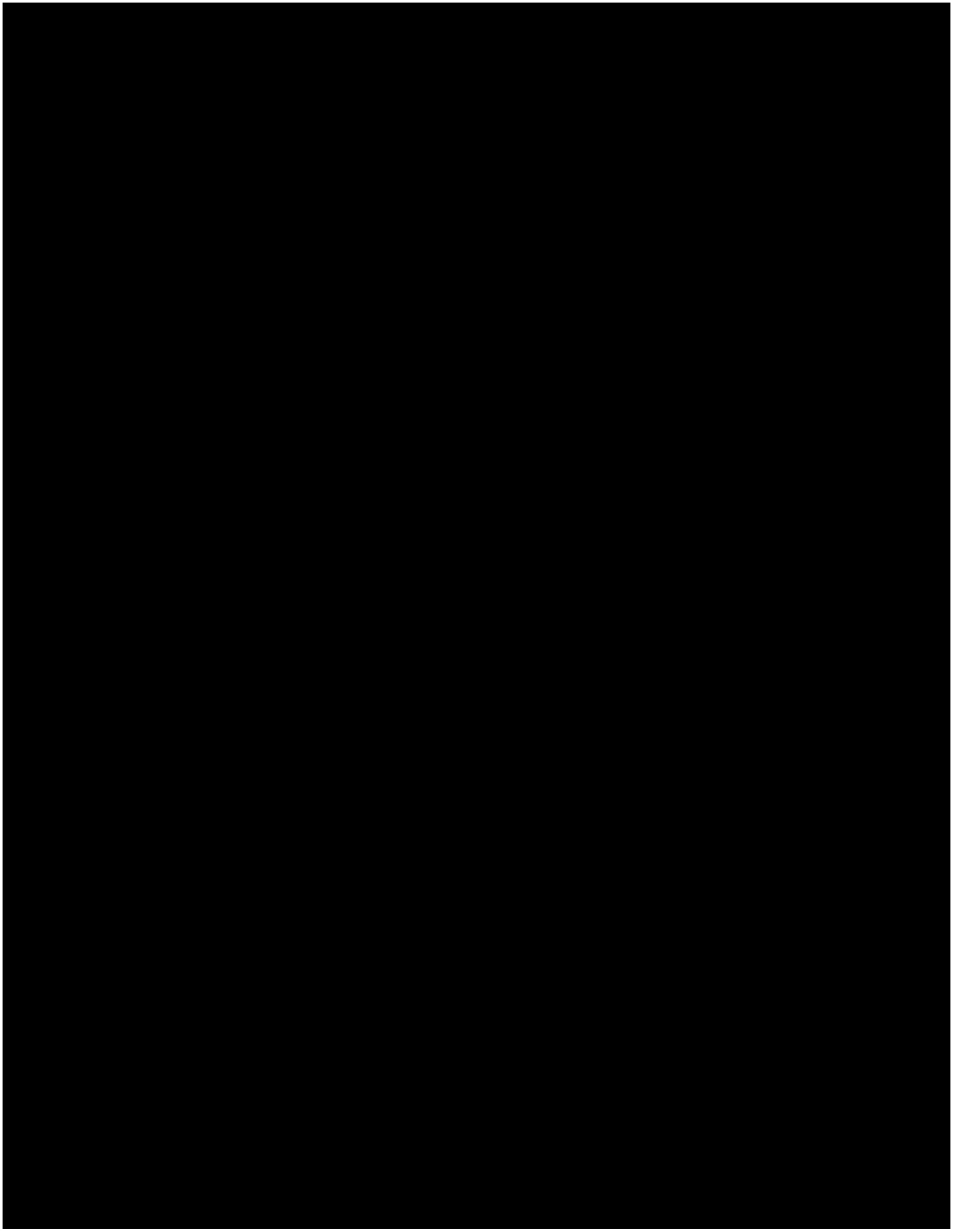


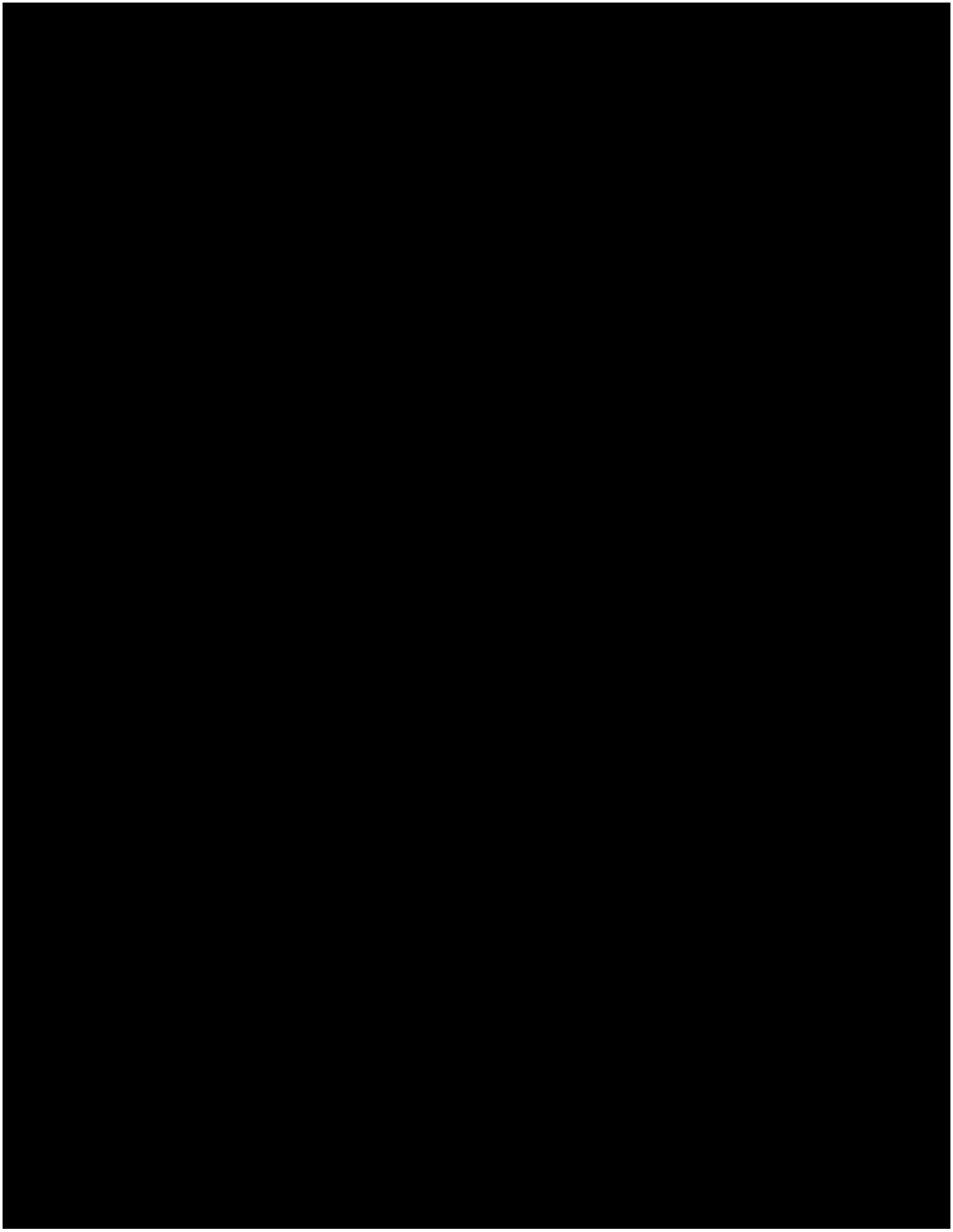


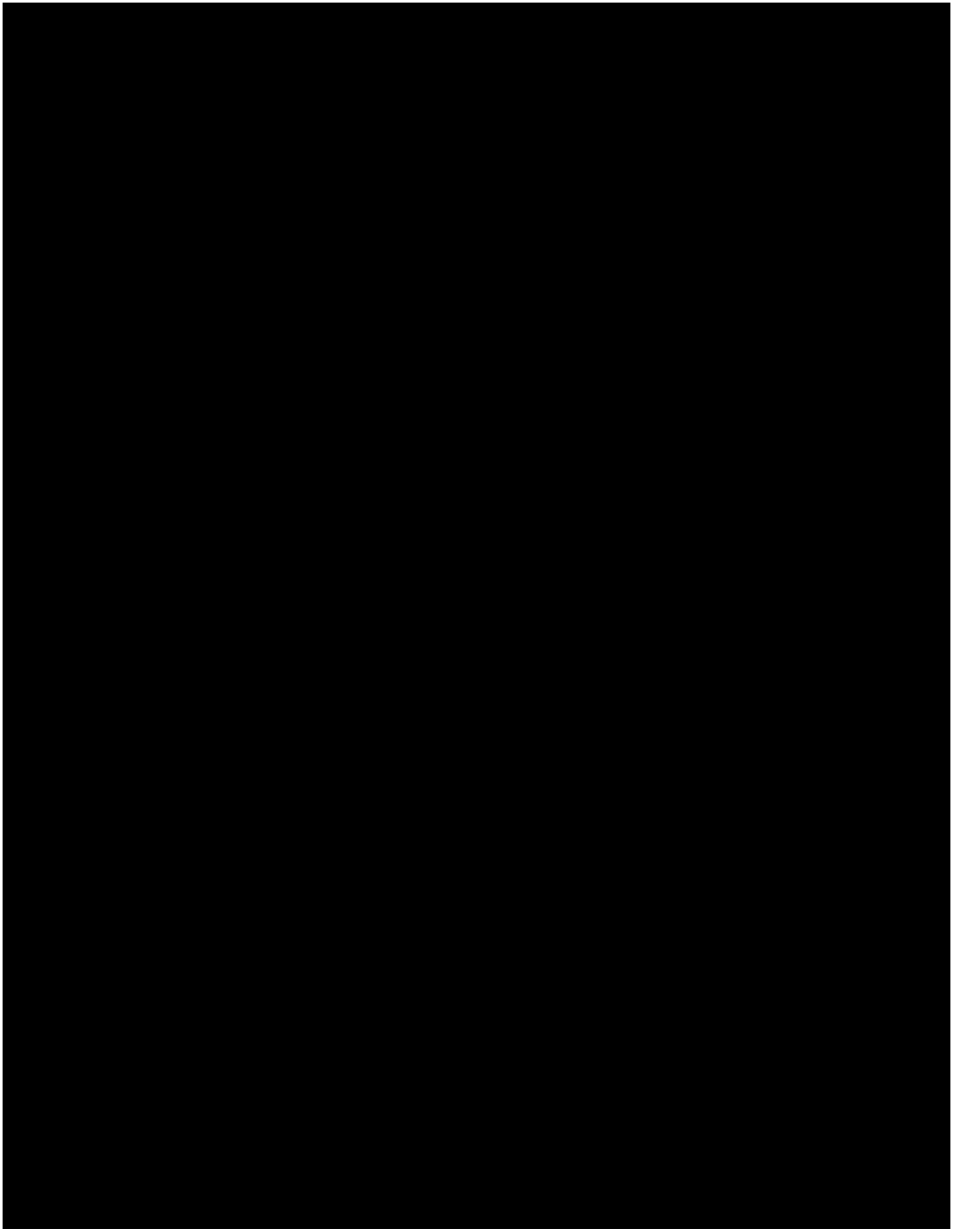


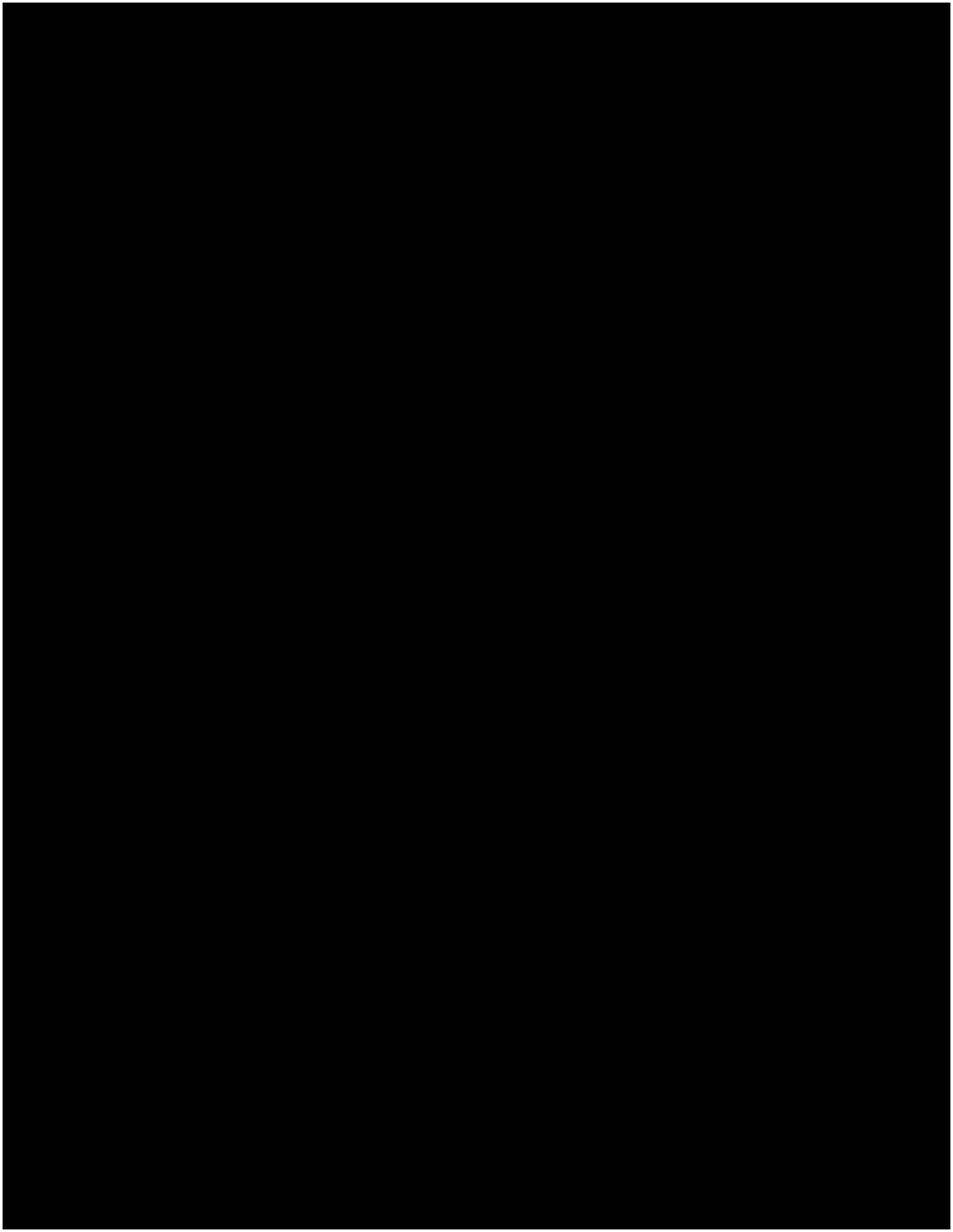


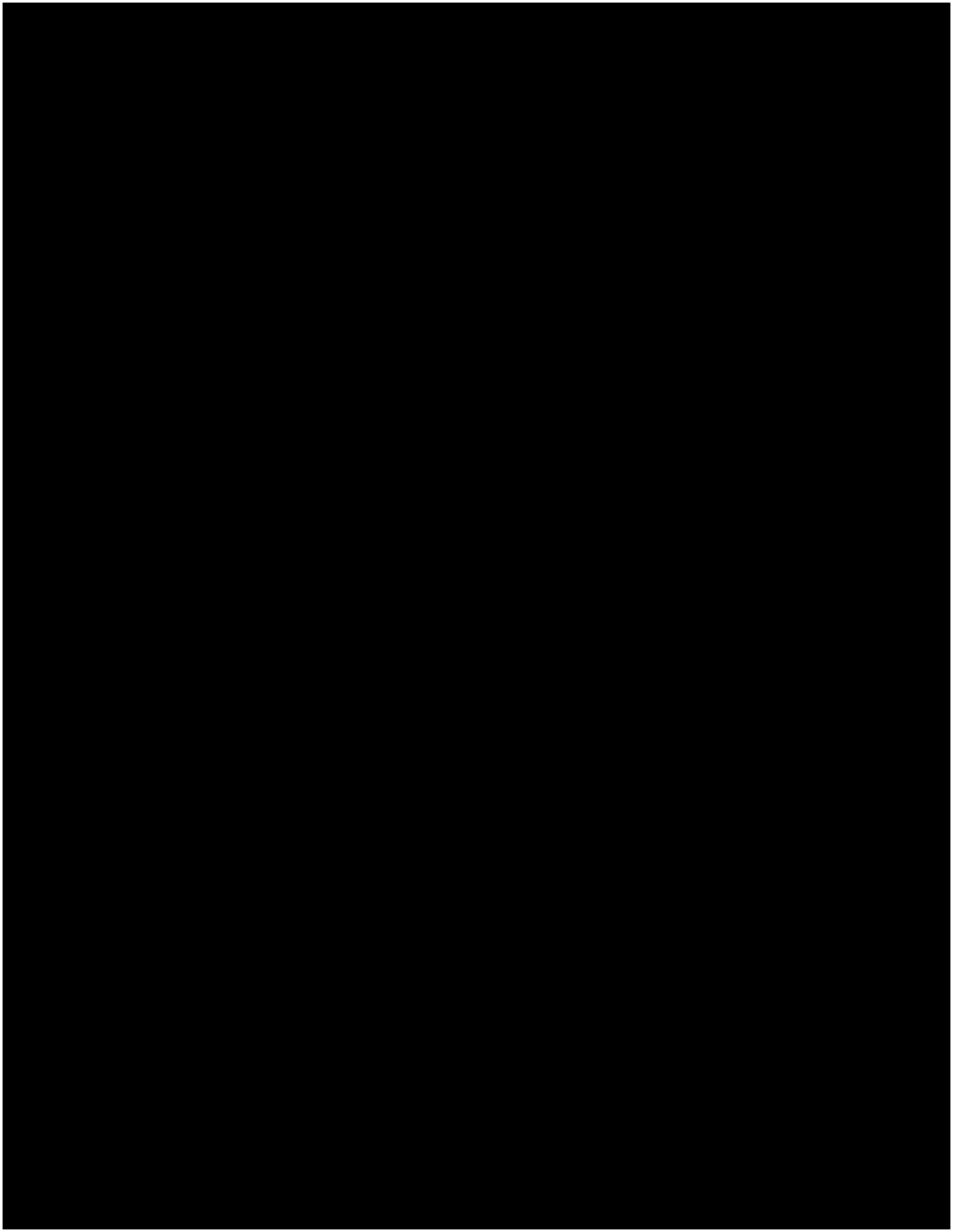


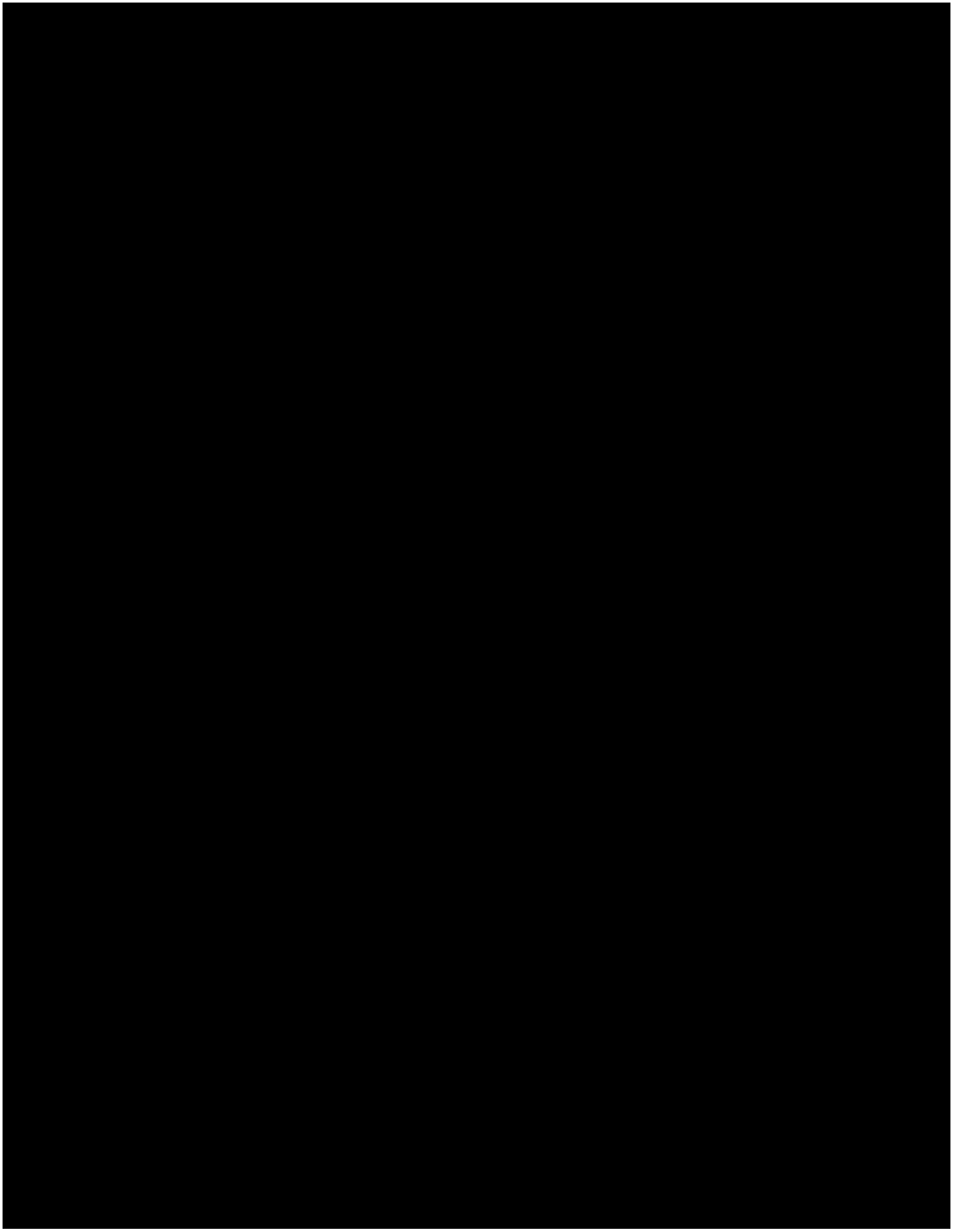


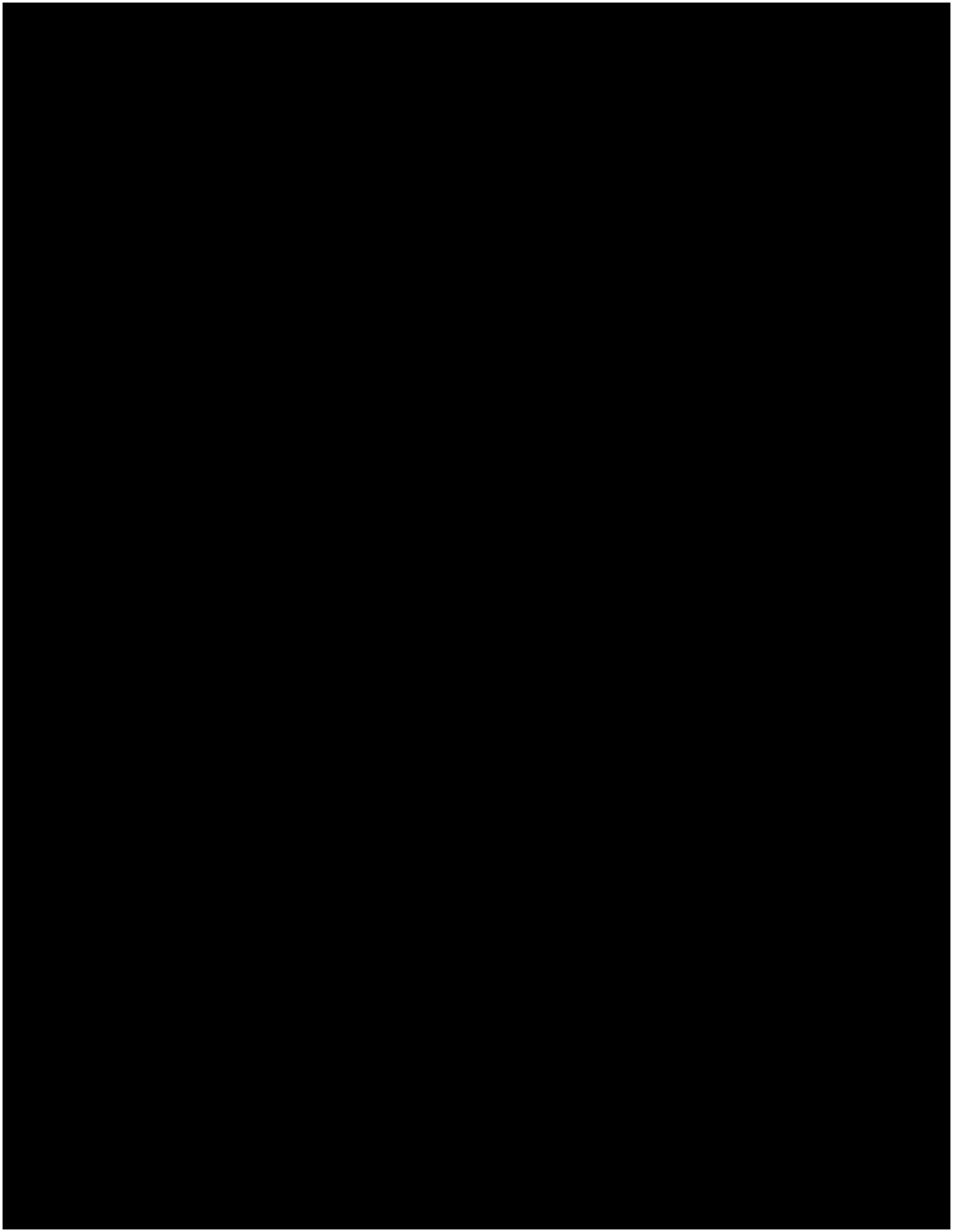


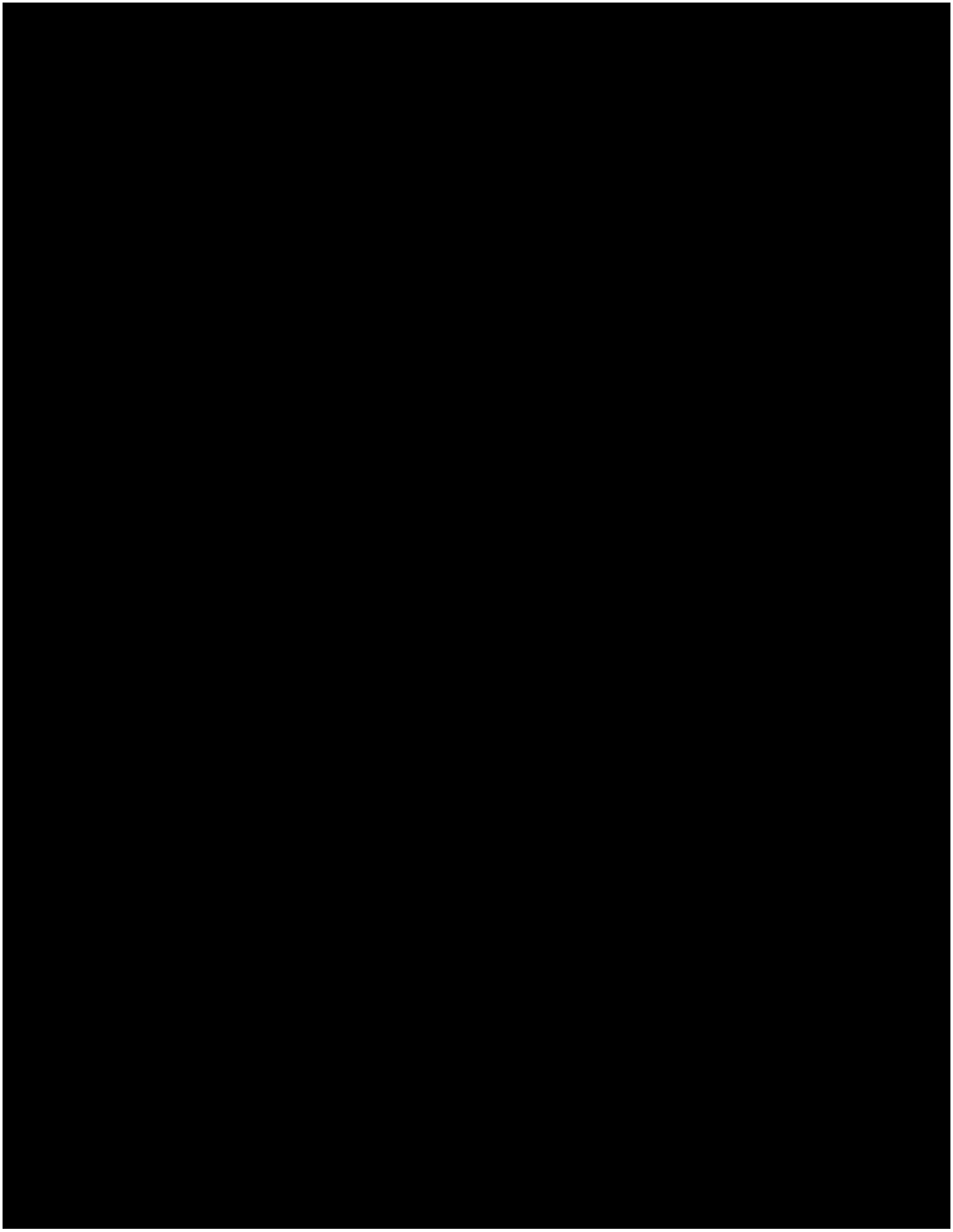


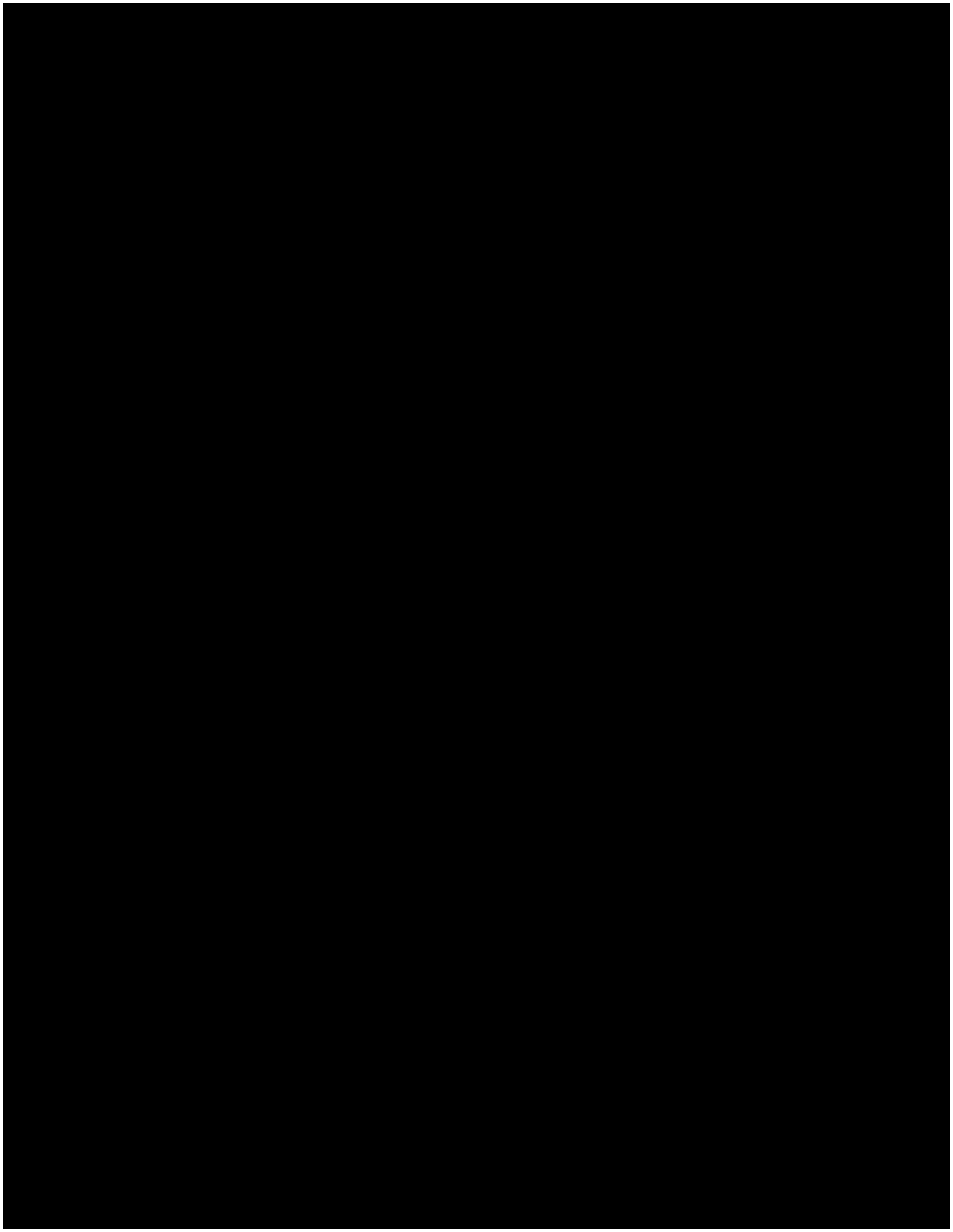


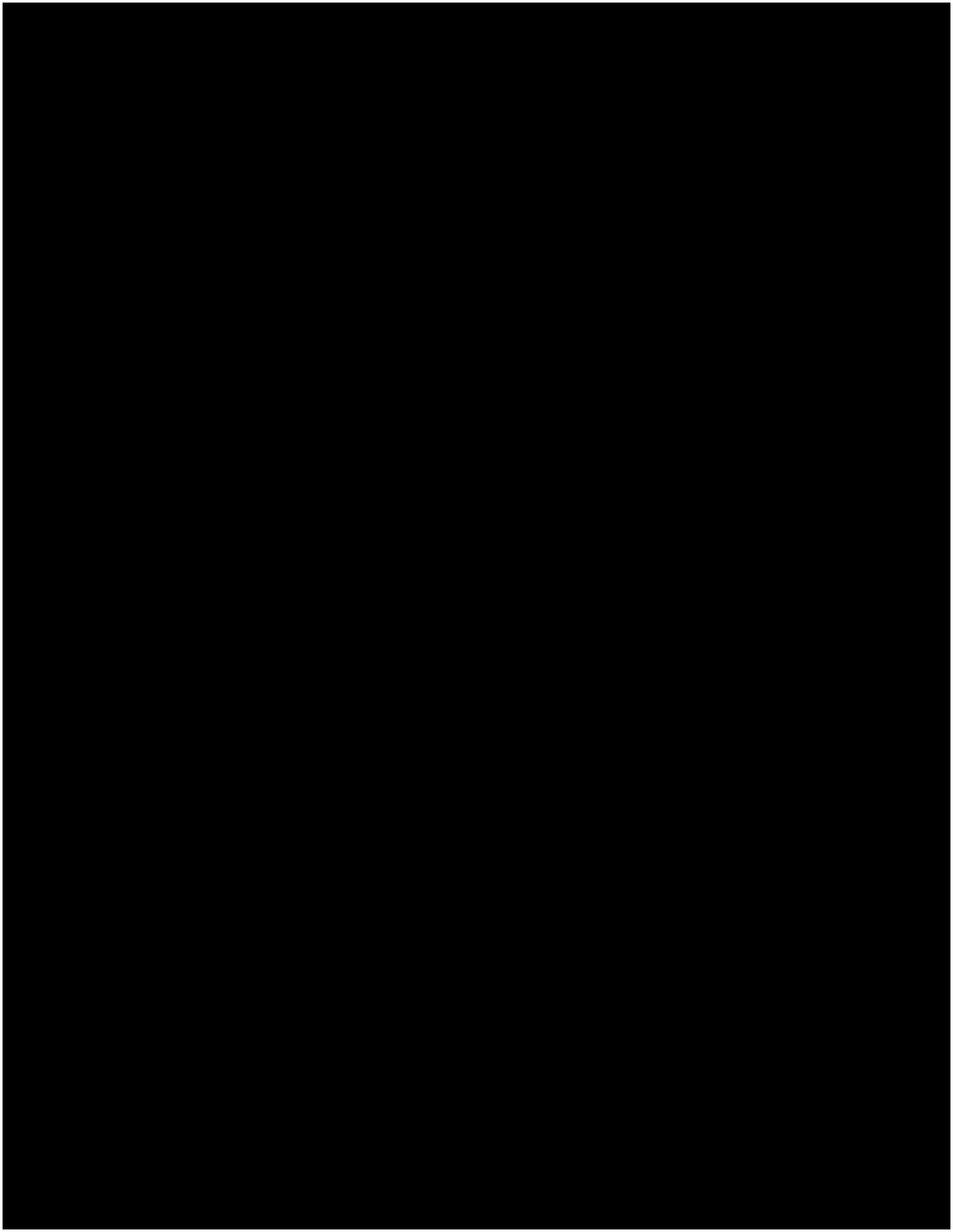


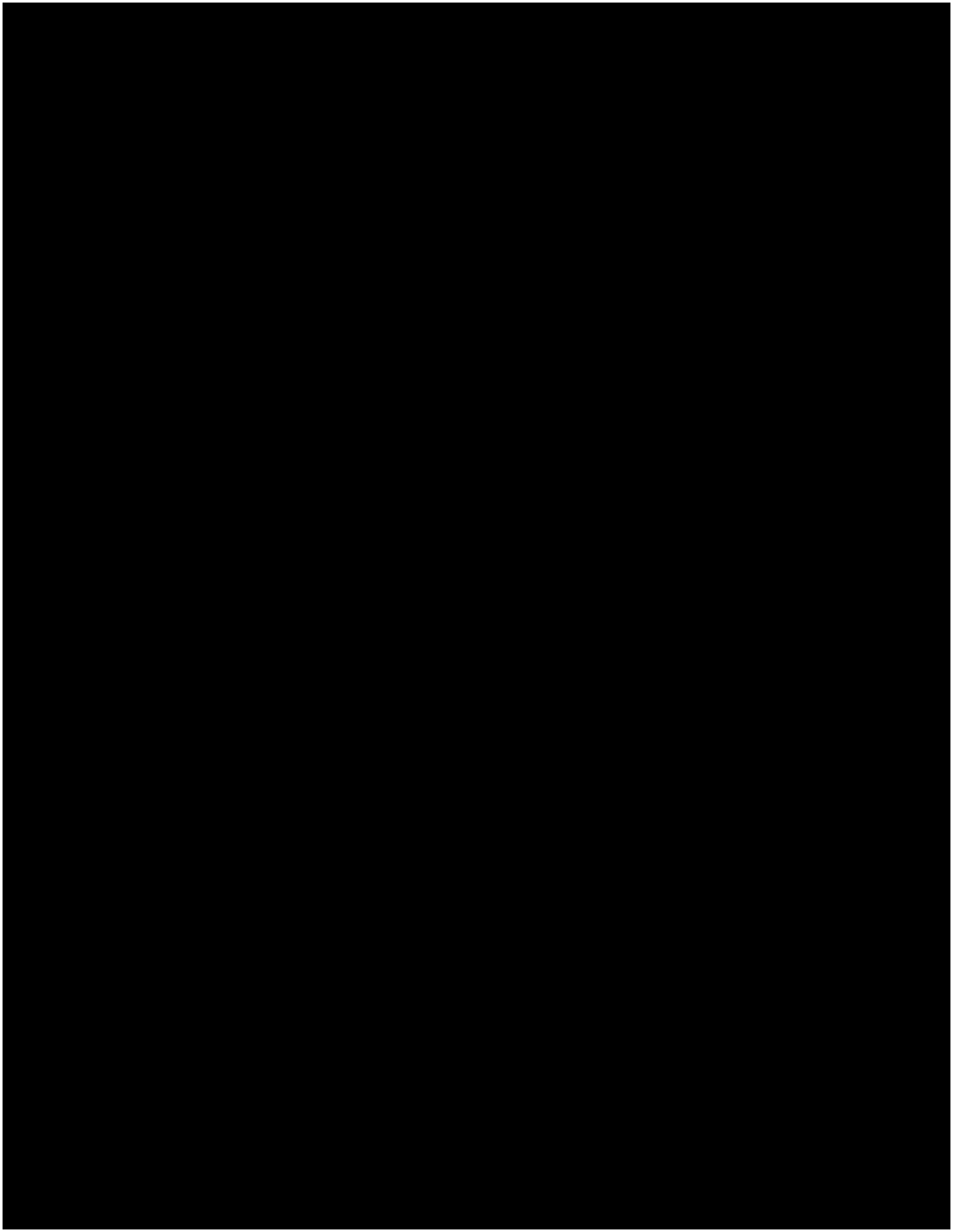


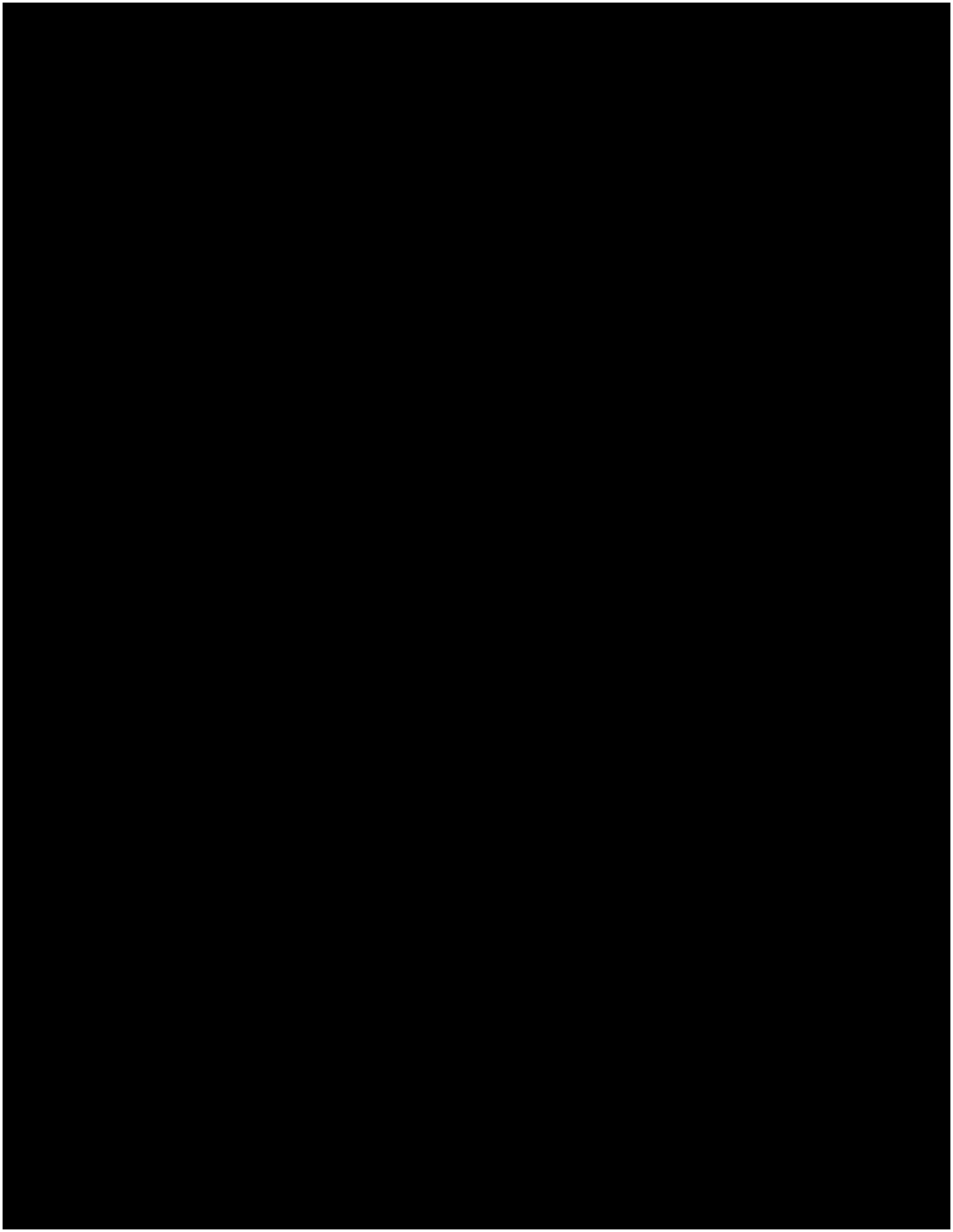


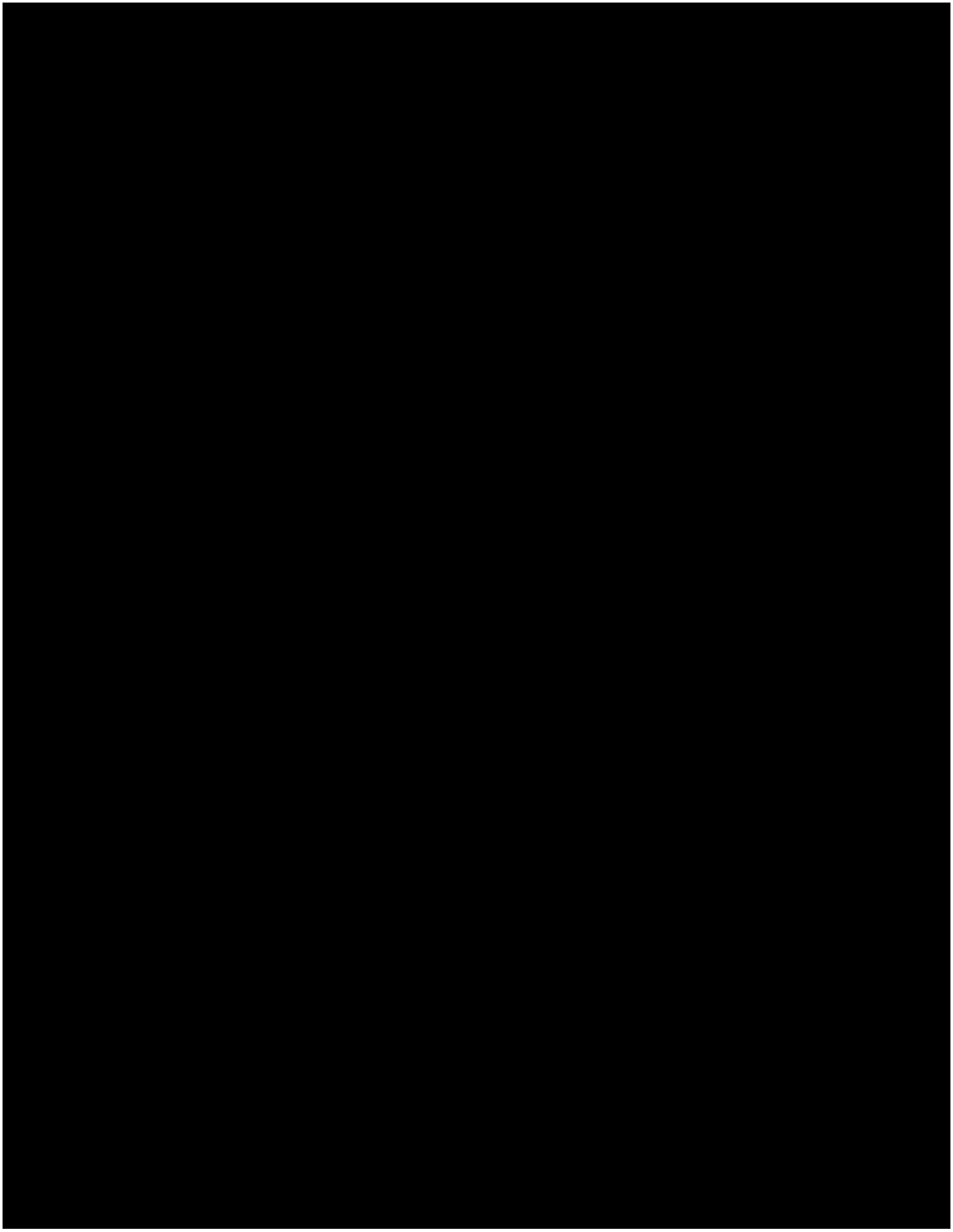












From: ASCC New Claims
To: OCC Claims Commission Cases
Cc: Kathryn Irby
Subject: ADD"L DOCS REC"D: Haley Hudson v. DHS, Claim No. 230641
Date: Thursday, November 17, 2022 1:34:00 PM
Attachments: RE Haley Hudson v. DHS Claim No. 230641.msg

Please see attached additional claim documents, which were sent to the Claims Commission by the claimant's attorney after the claim was transmitted to ArDOT.

Thank you,
Caitlin

Caitlin McDaniel
Administrative Specialist II
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-1619

Arkansas
State Claims Commission
NOV 22 2022
RECEIVED

JACKSON
LAW FIRM

November 15, 2022

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue; Suite 410
Little Rock, AR 72201

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Guardian of Two Minor Children v. The Arkansas Department of Human Services*
Incident Date: 6/11/2021 - Logan County

Dear Kathryn:

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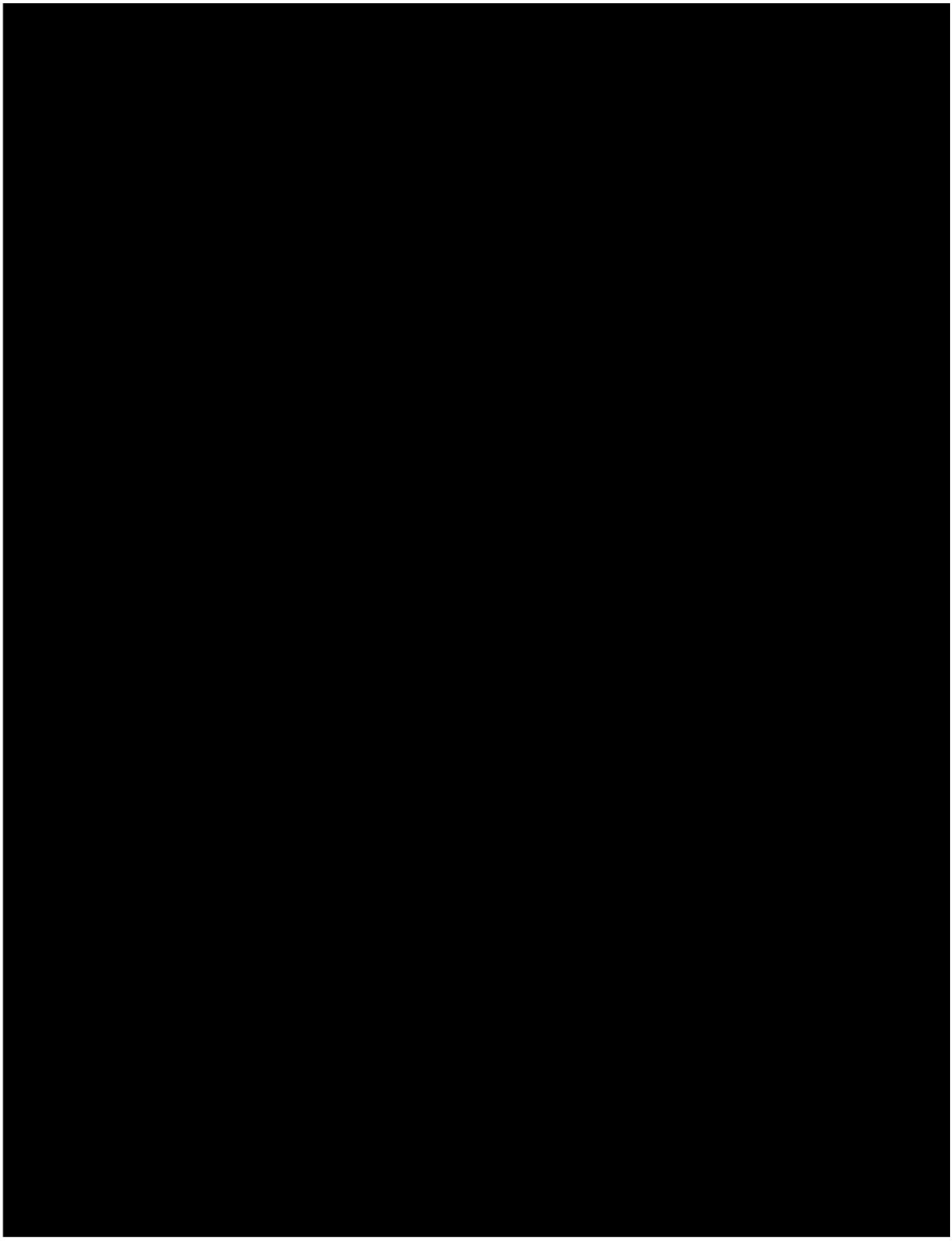
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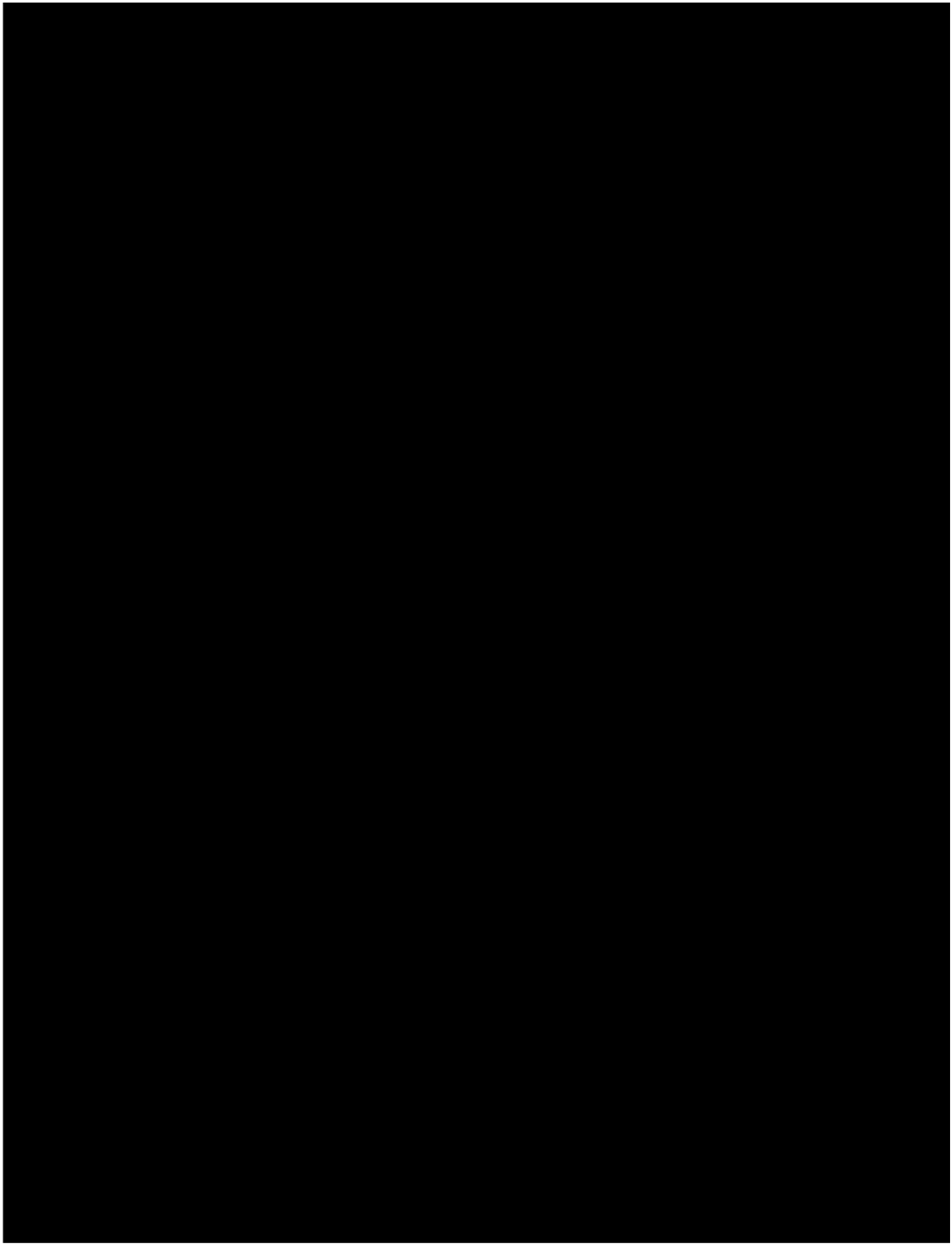
Sincerely,

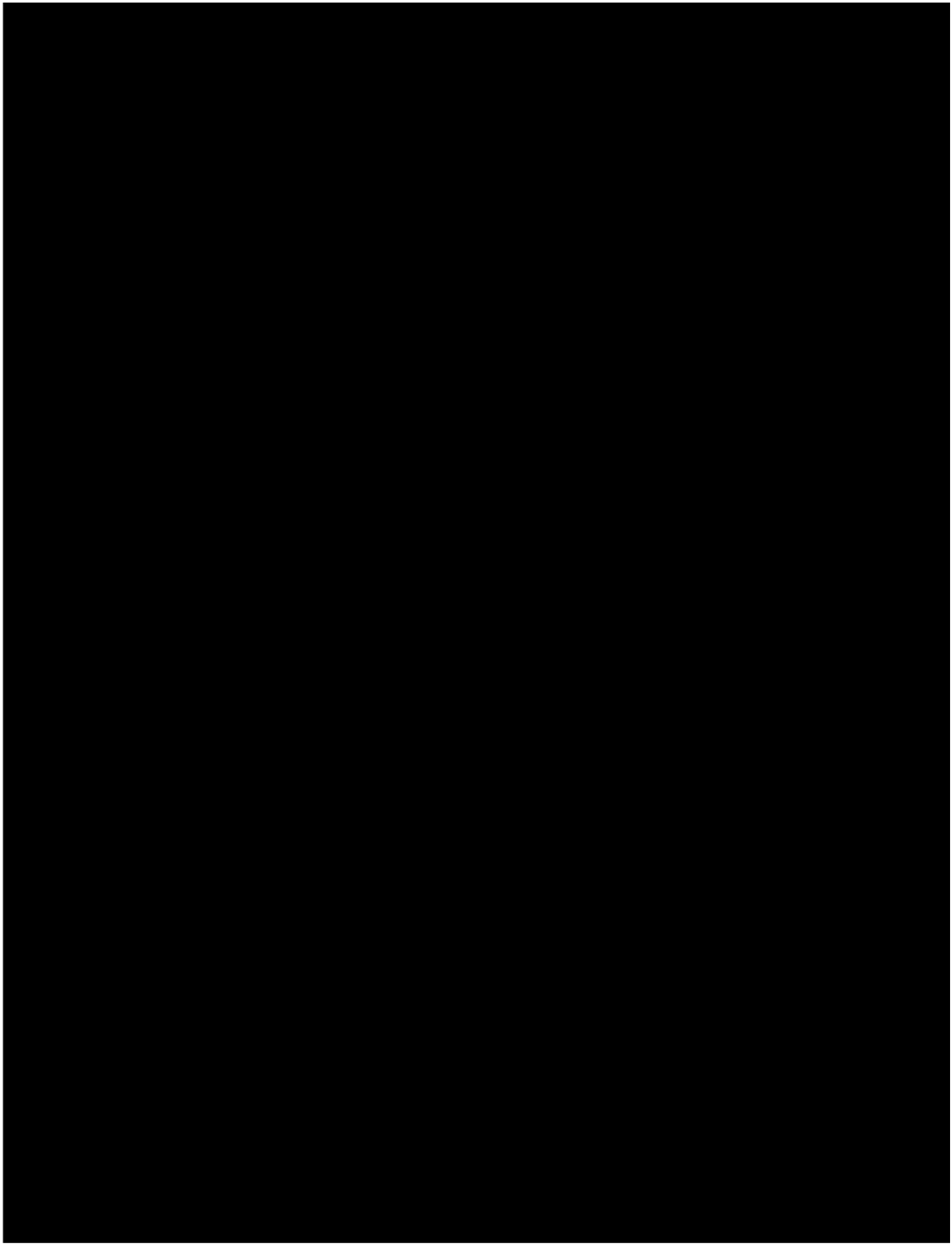
Jim R. Jackson

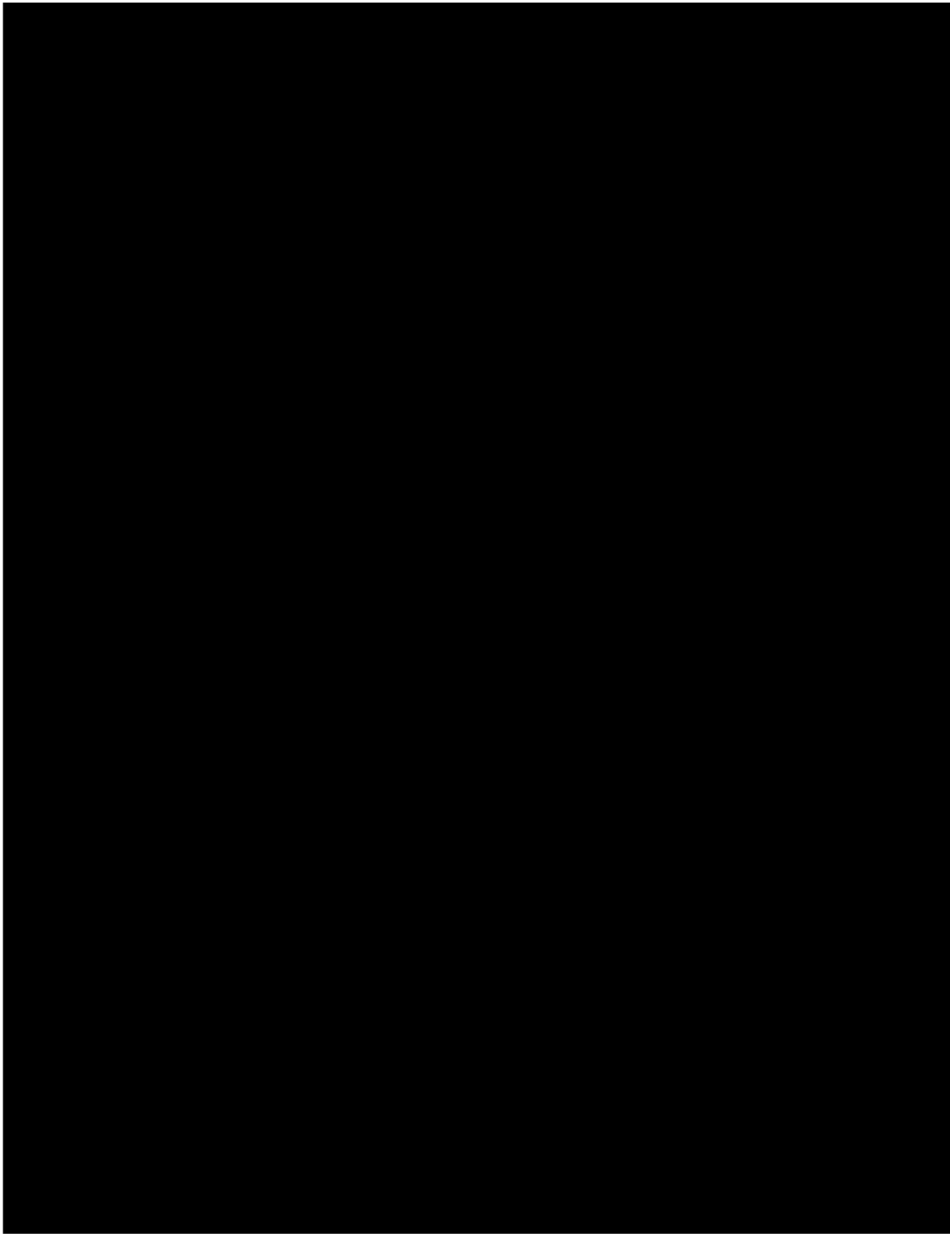
JRJ/mc
Enclosure
cc:w/enc. Sean Strode, Esq.

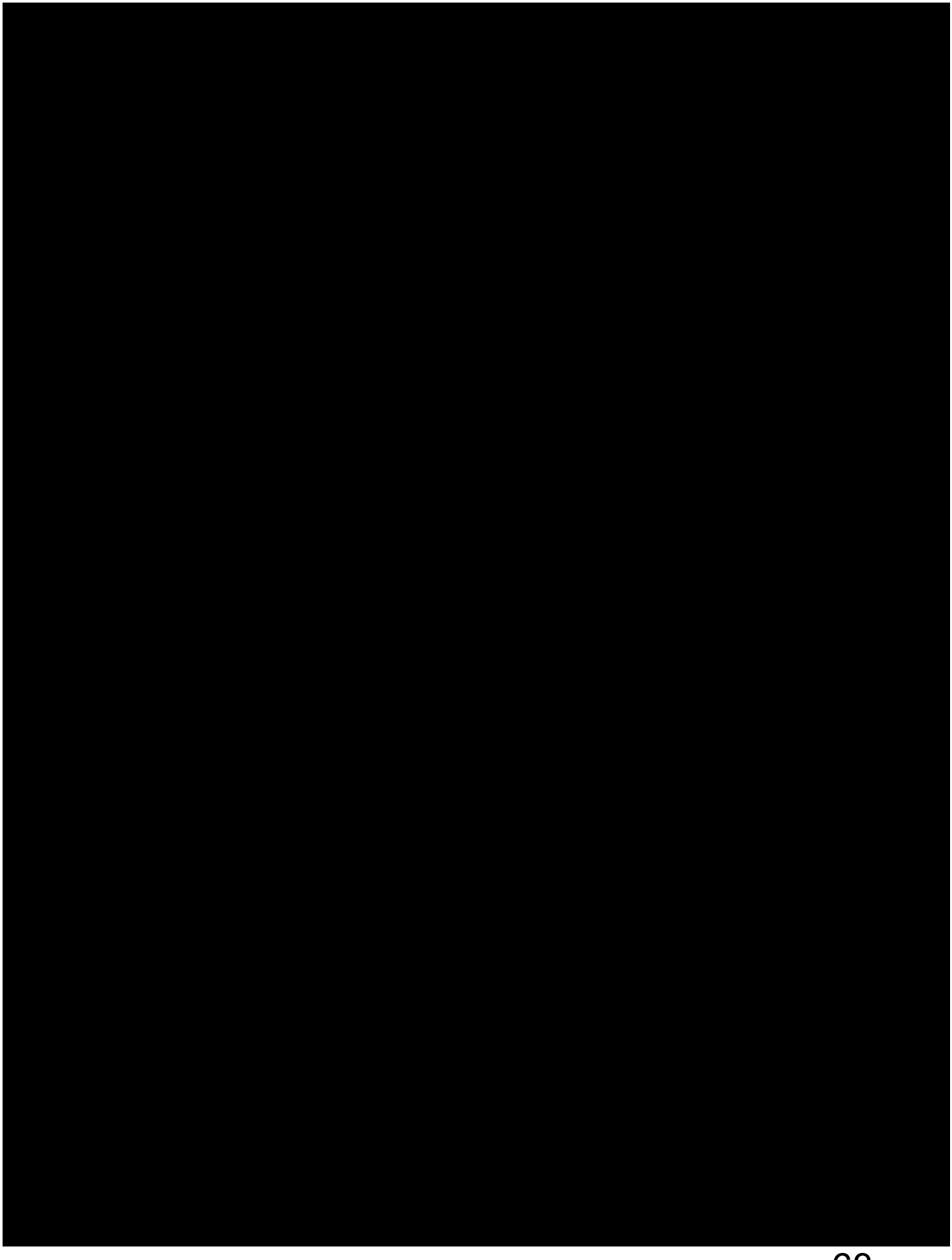
JIM JACKSON //Attorney at Law
700 W. Broadway Street; Suite 200
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Fax: 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

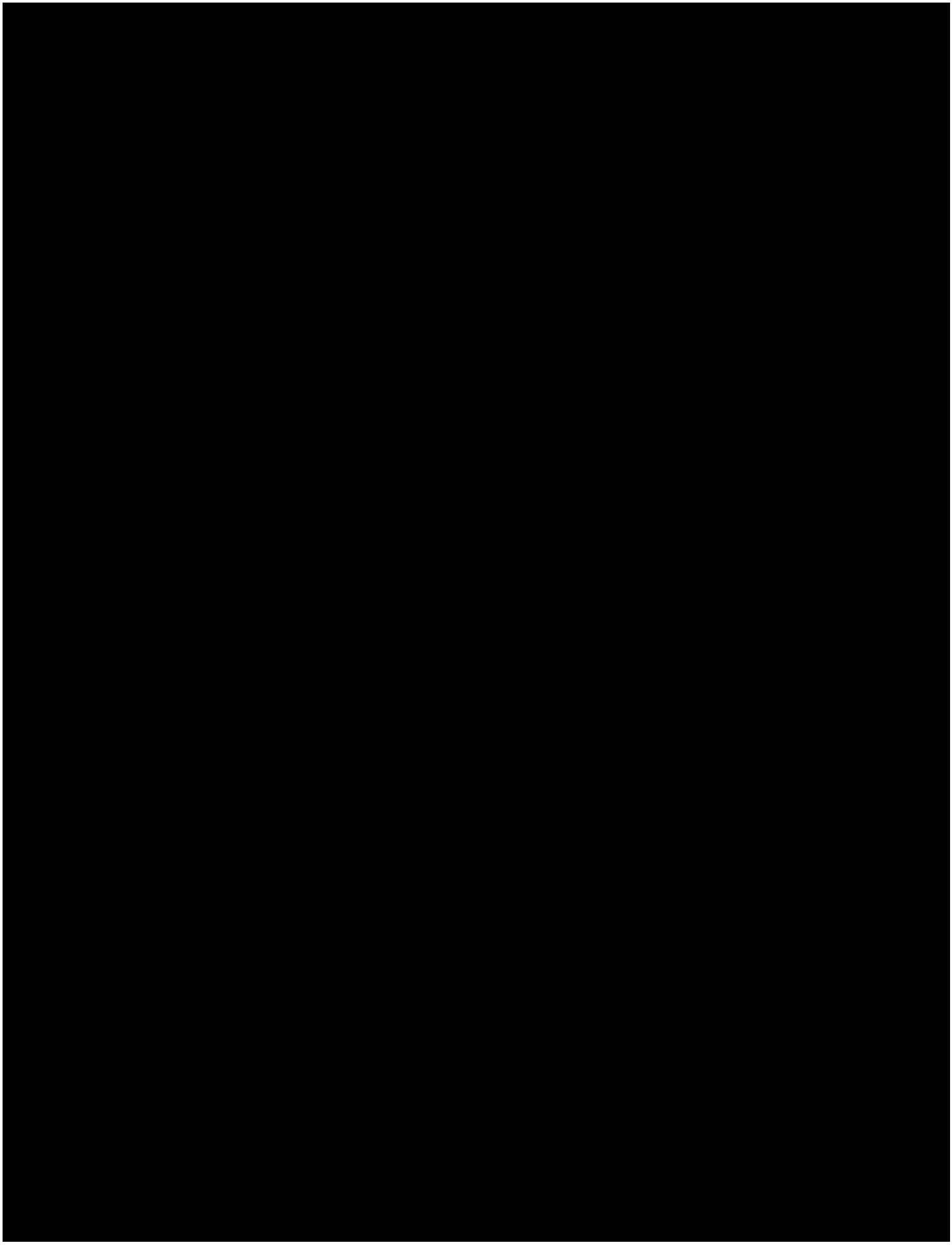


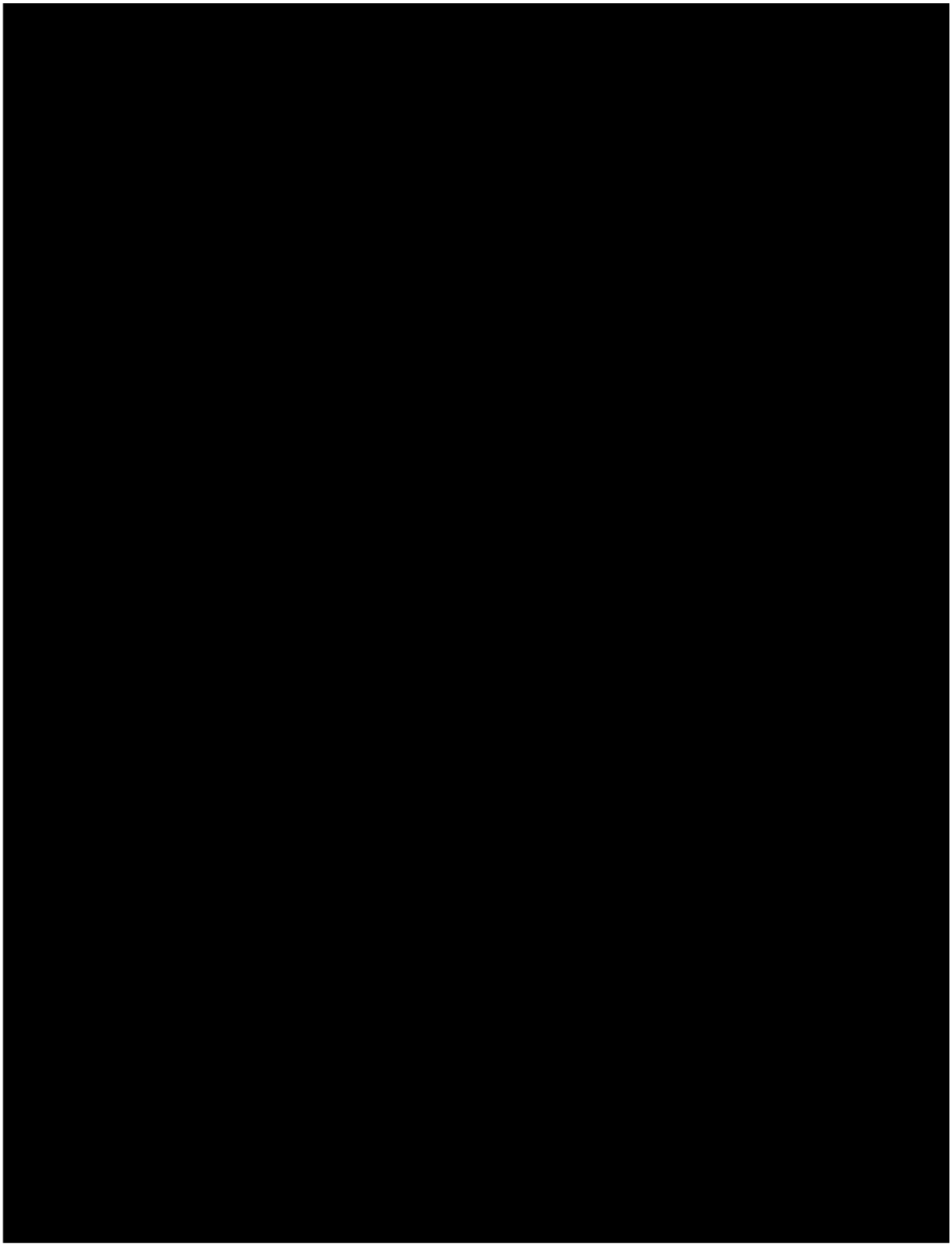


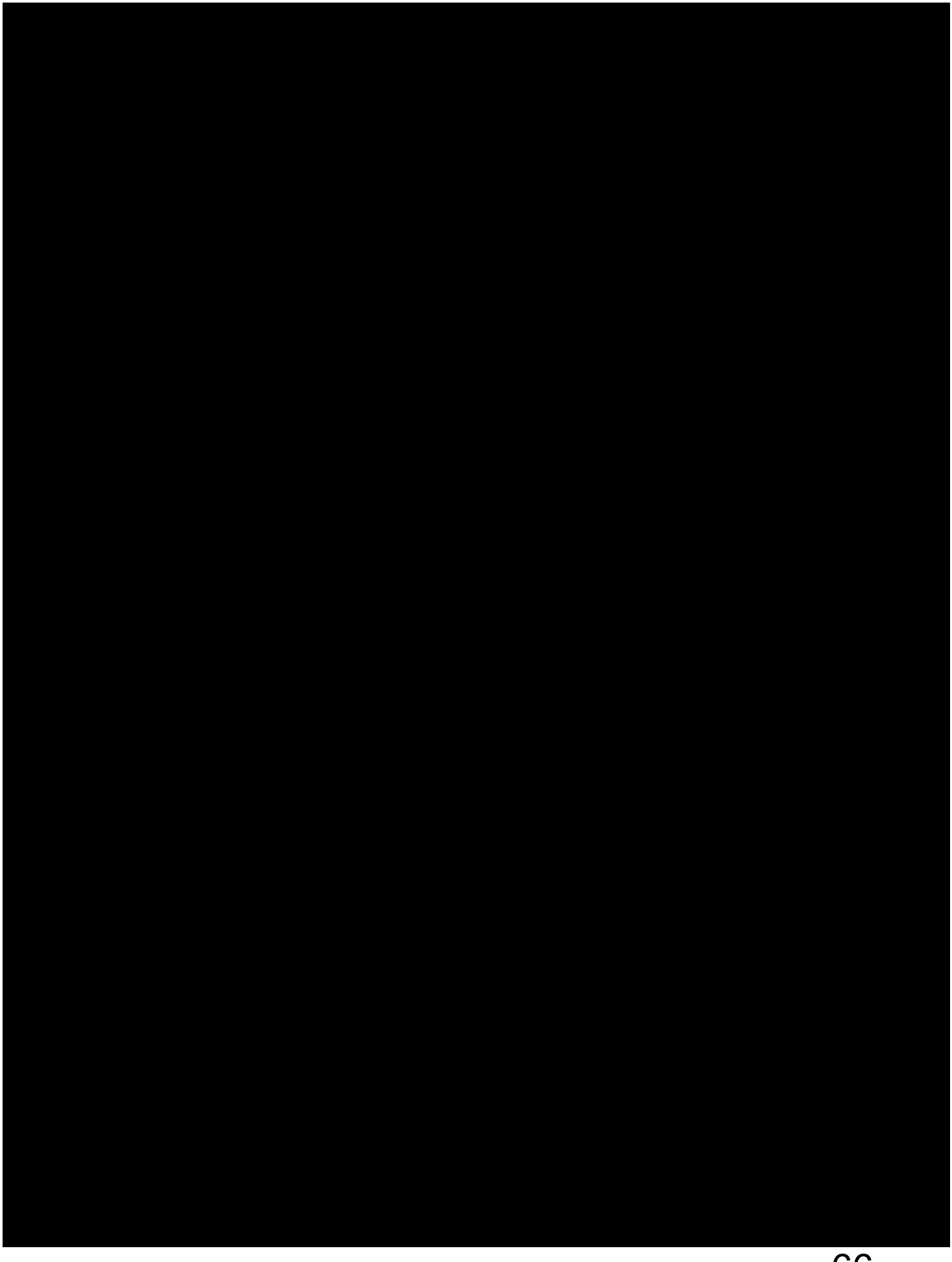


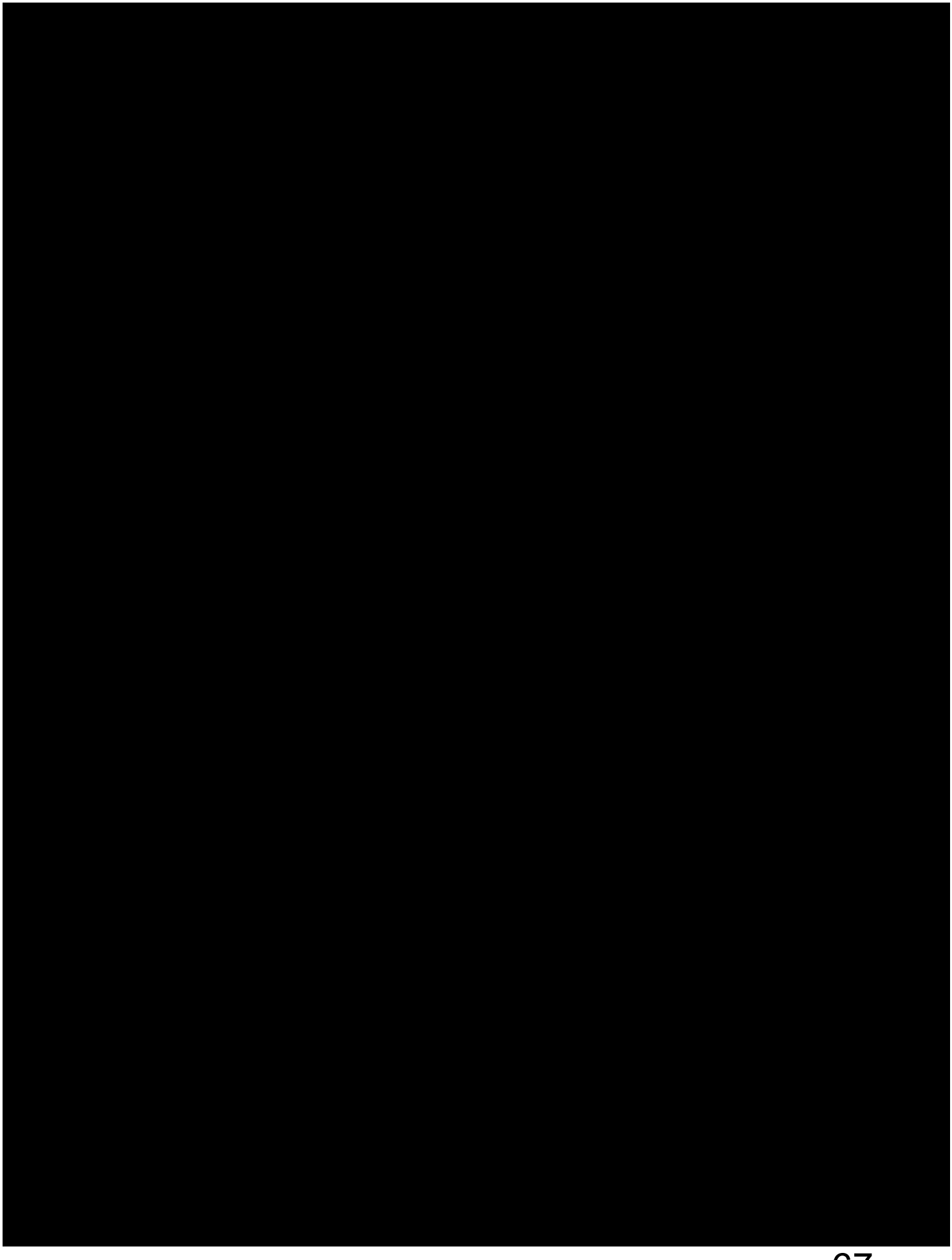


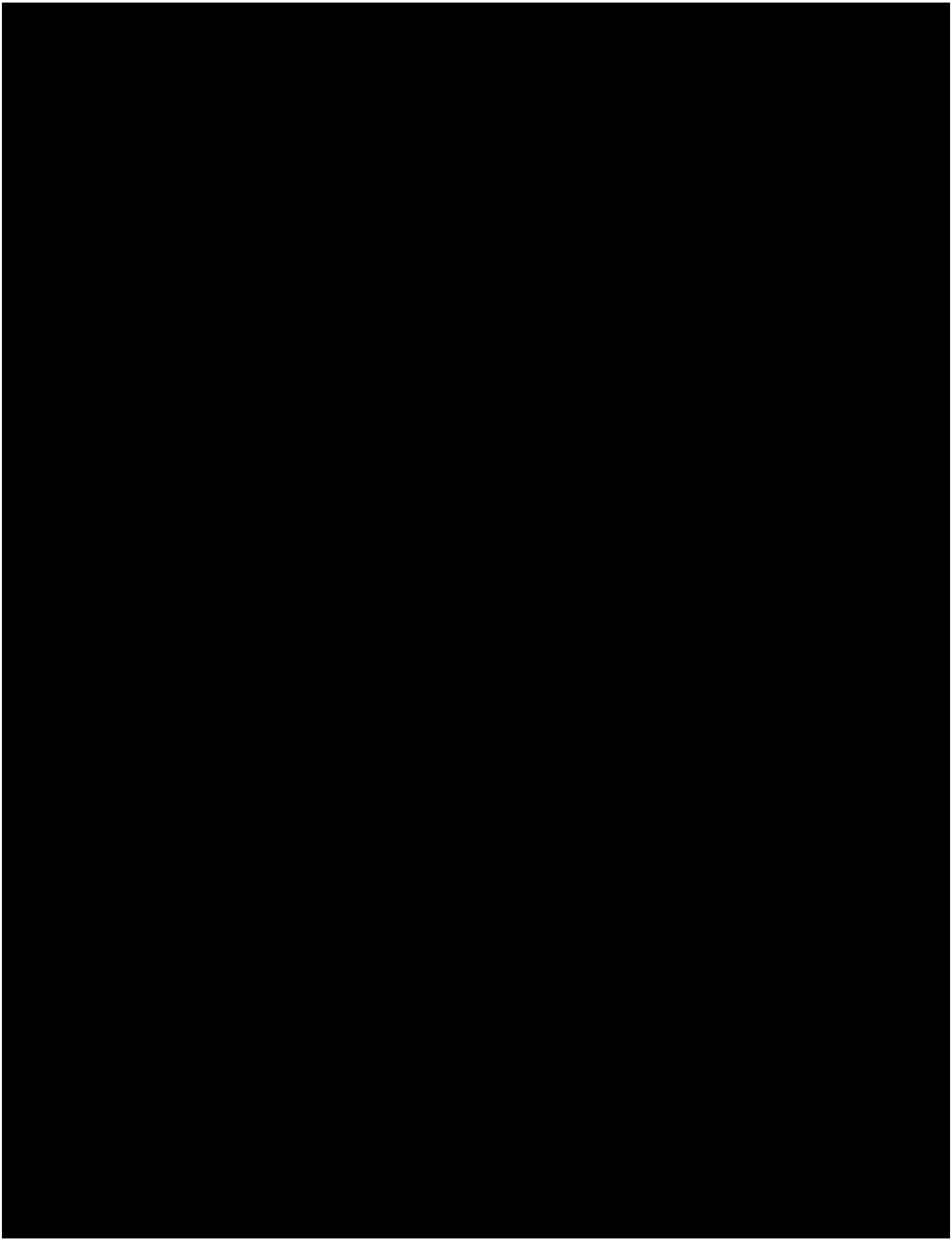


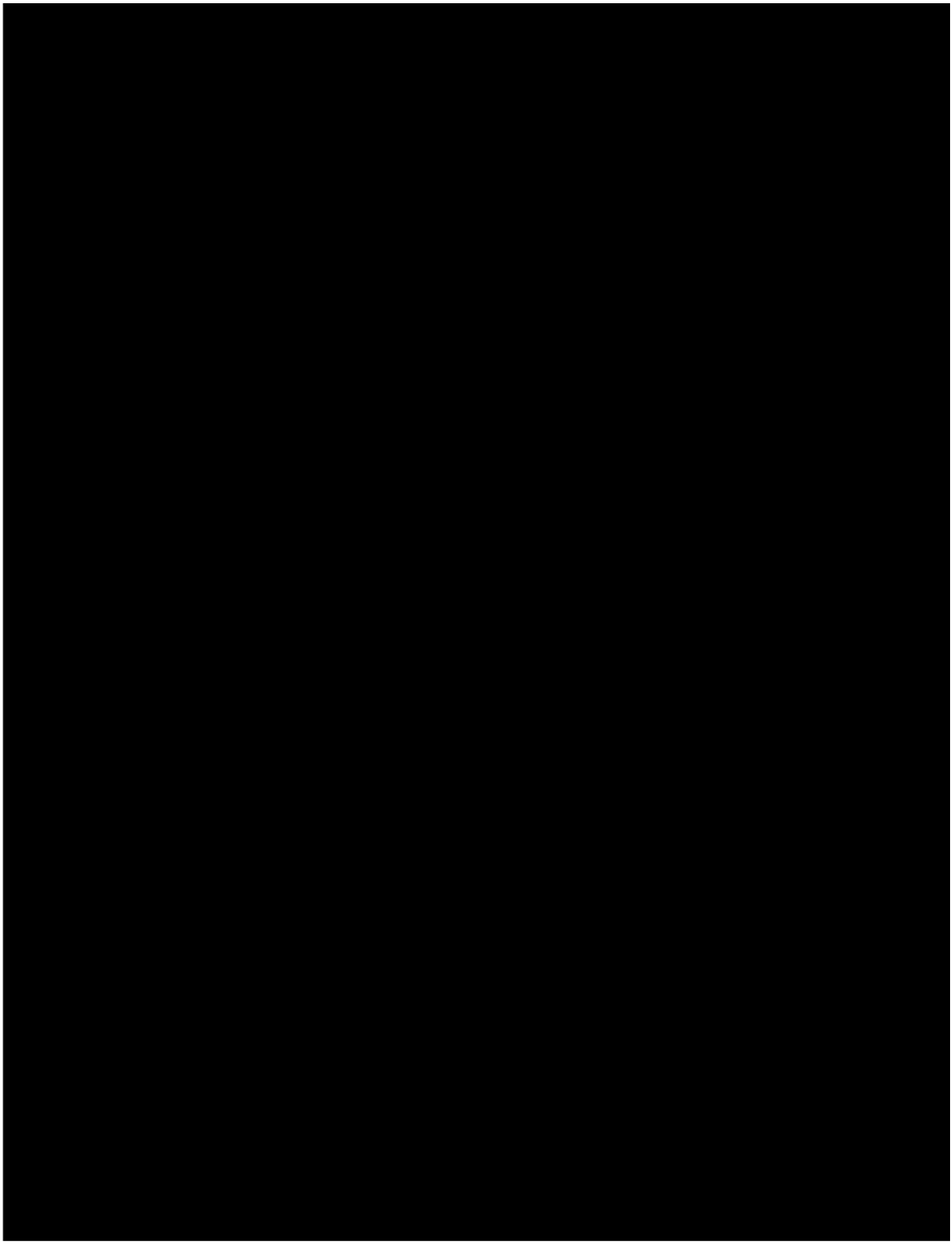


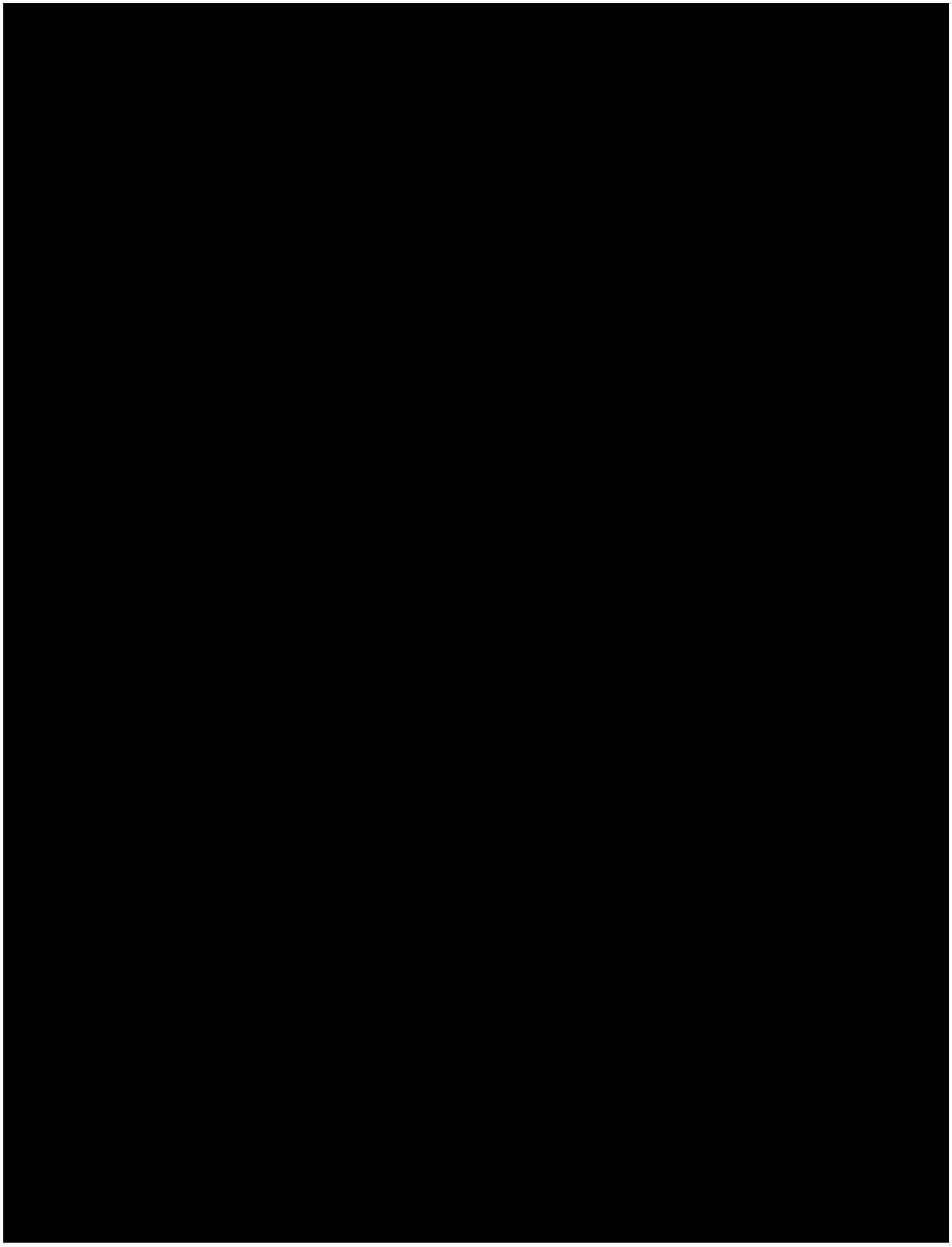


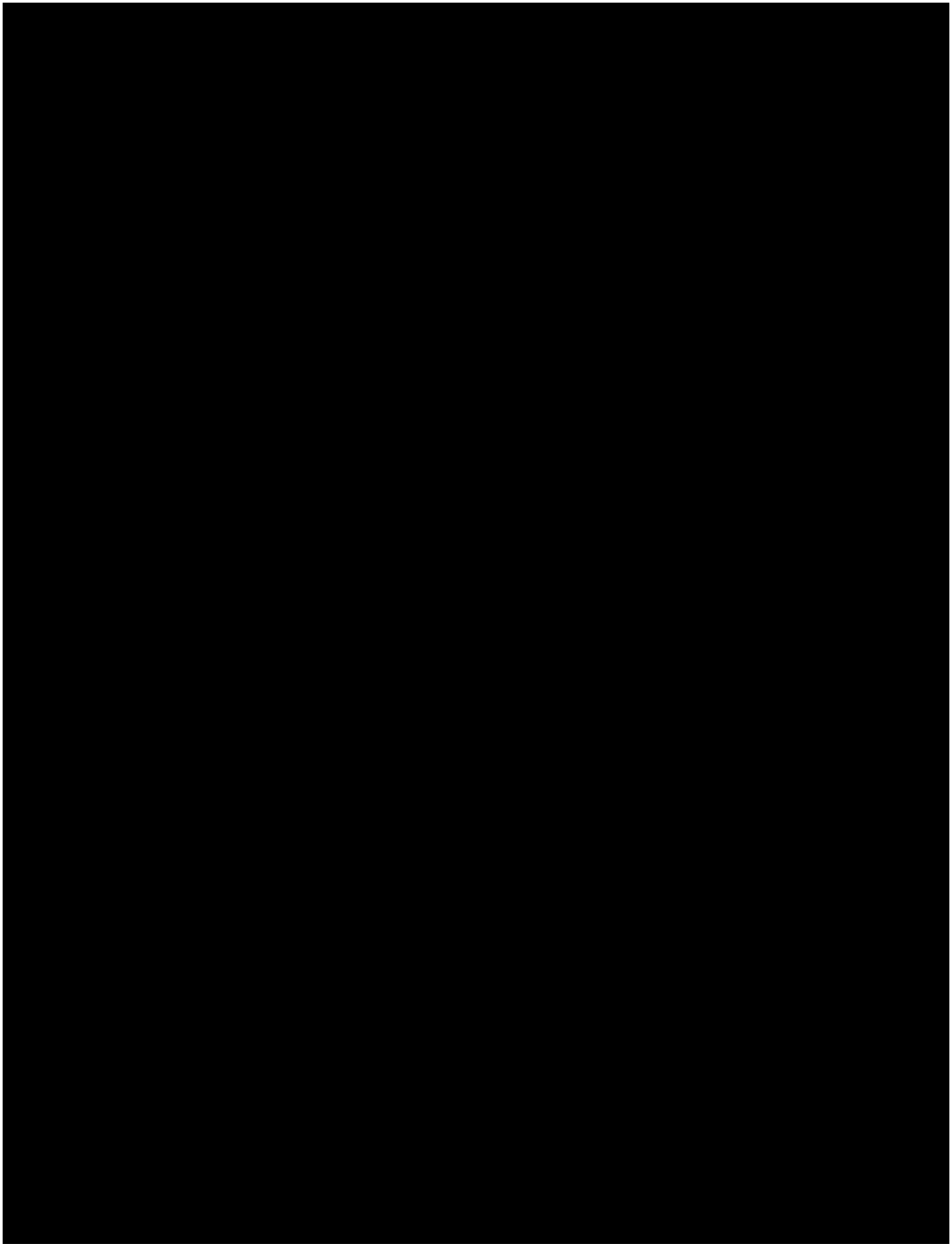


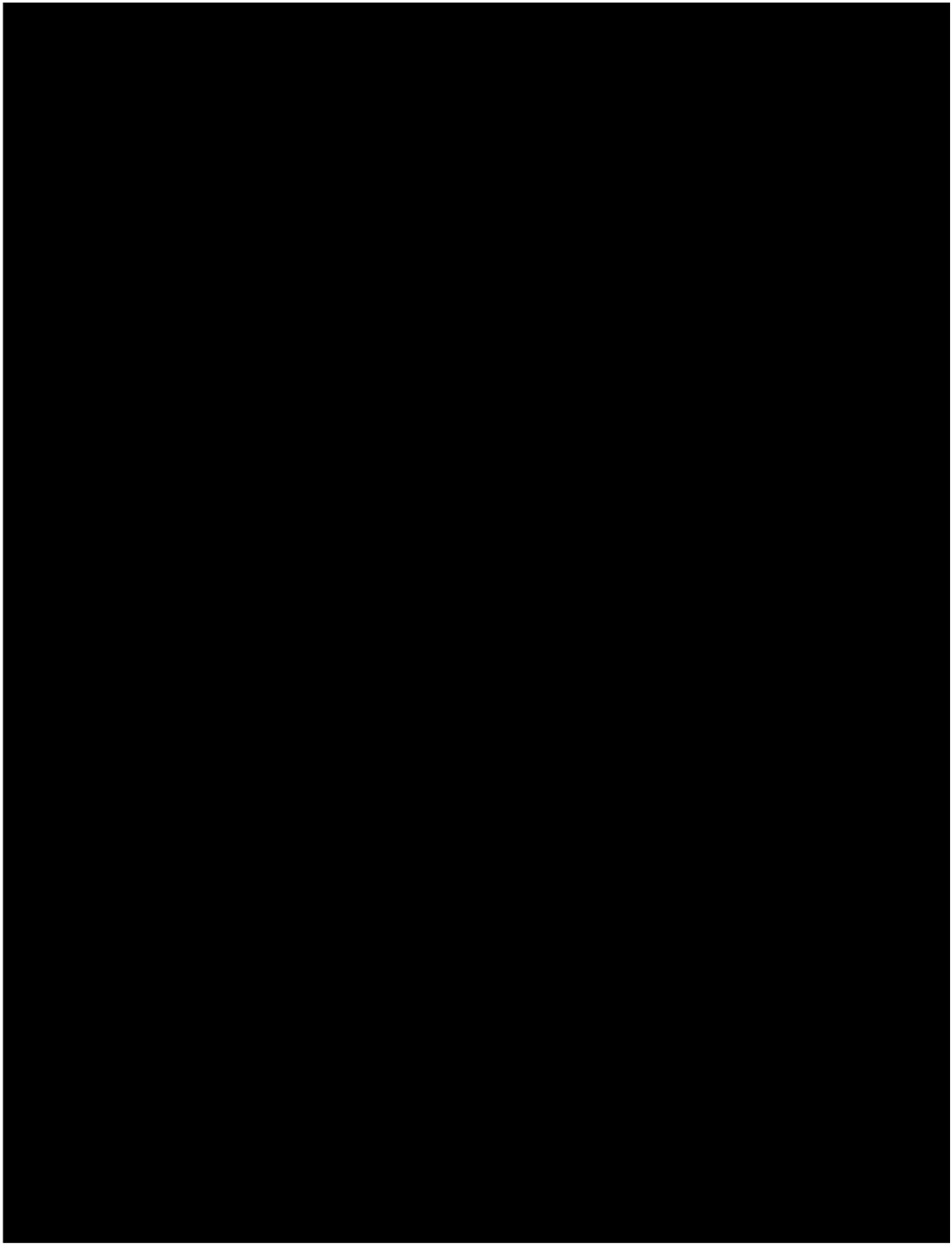


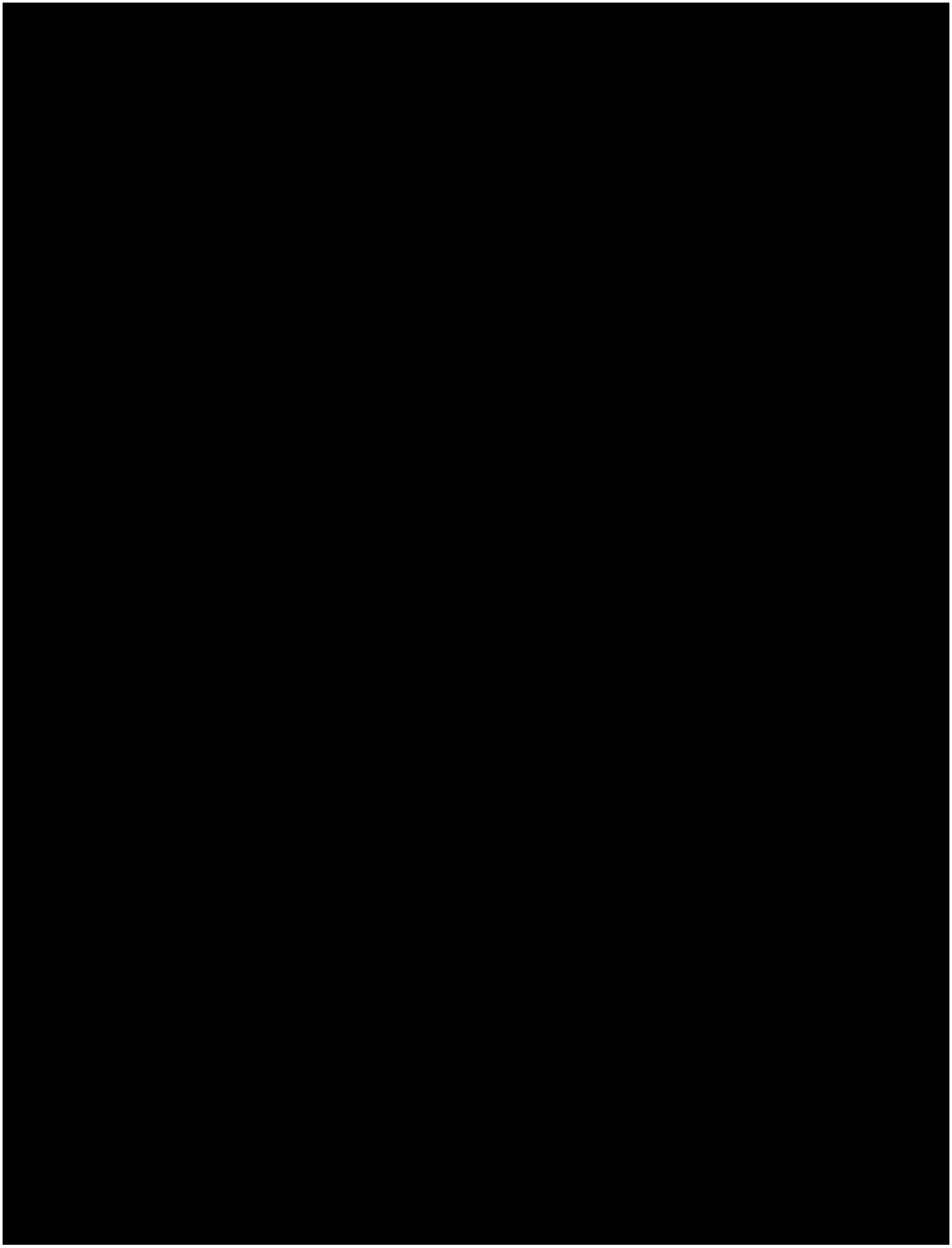


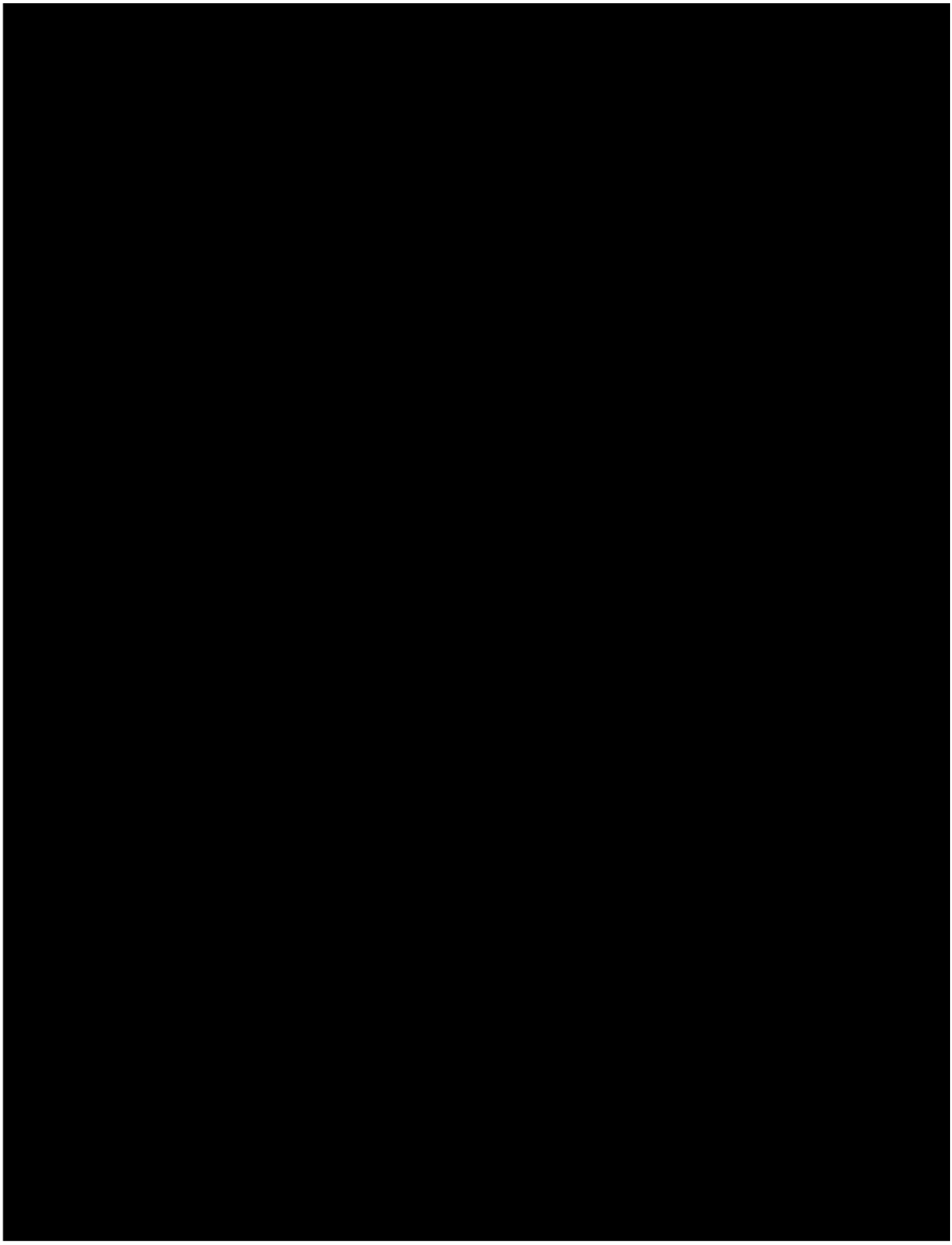


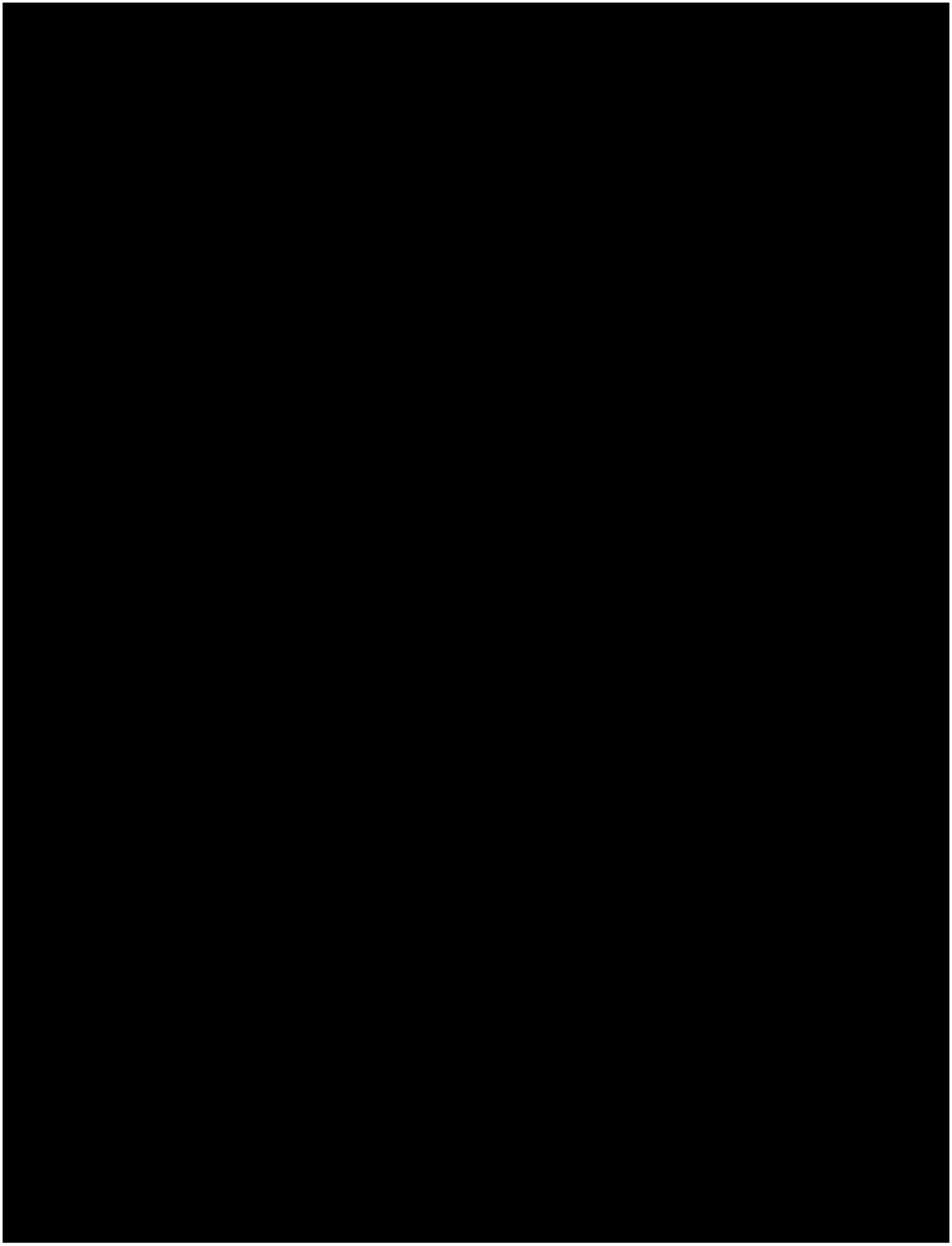


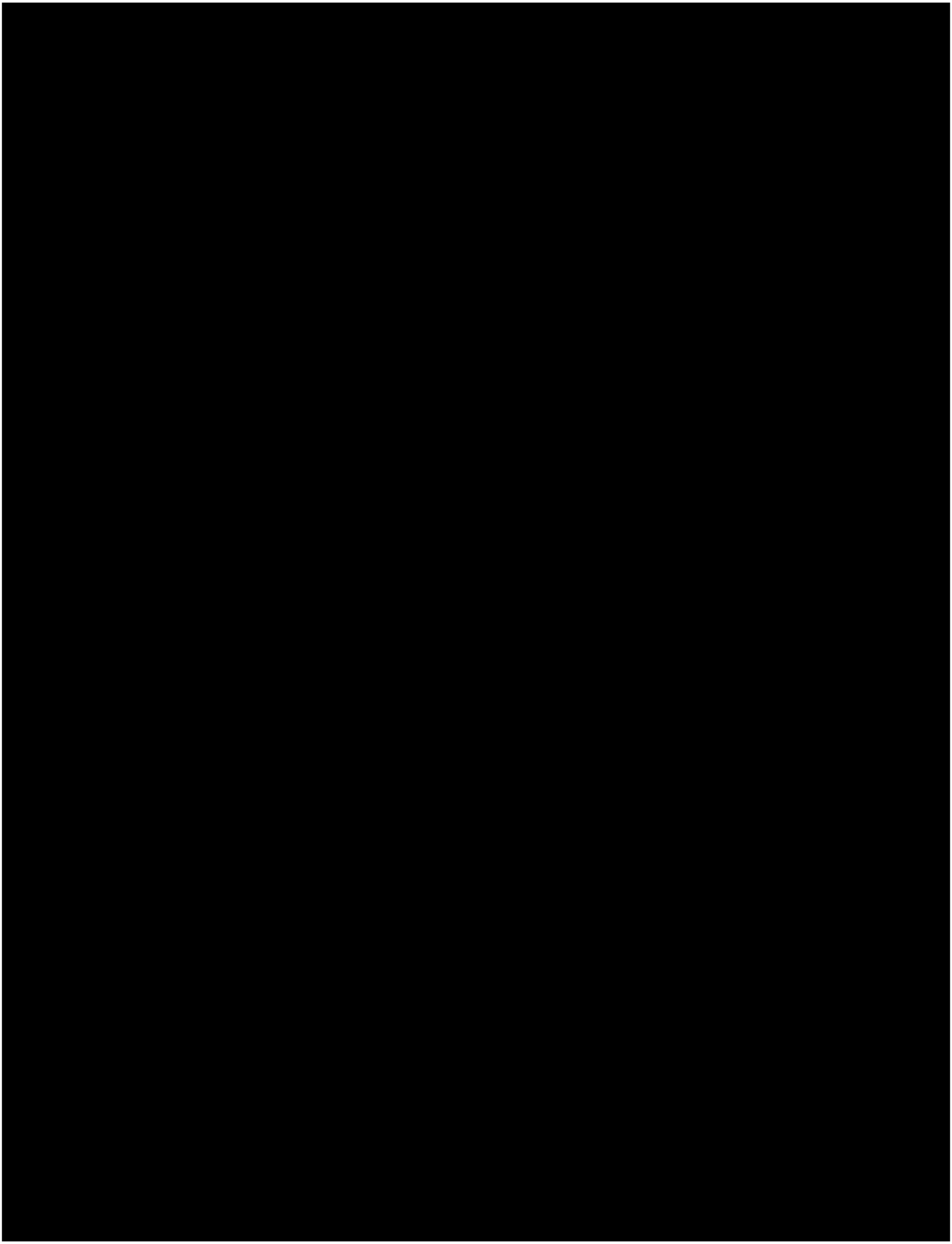


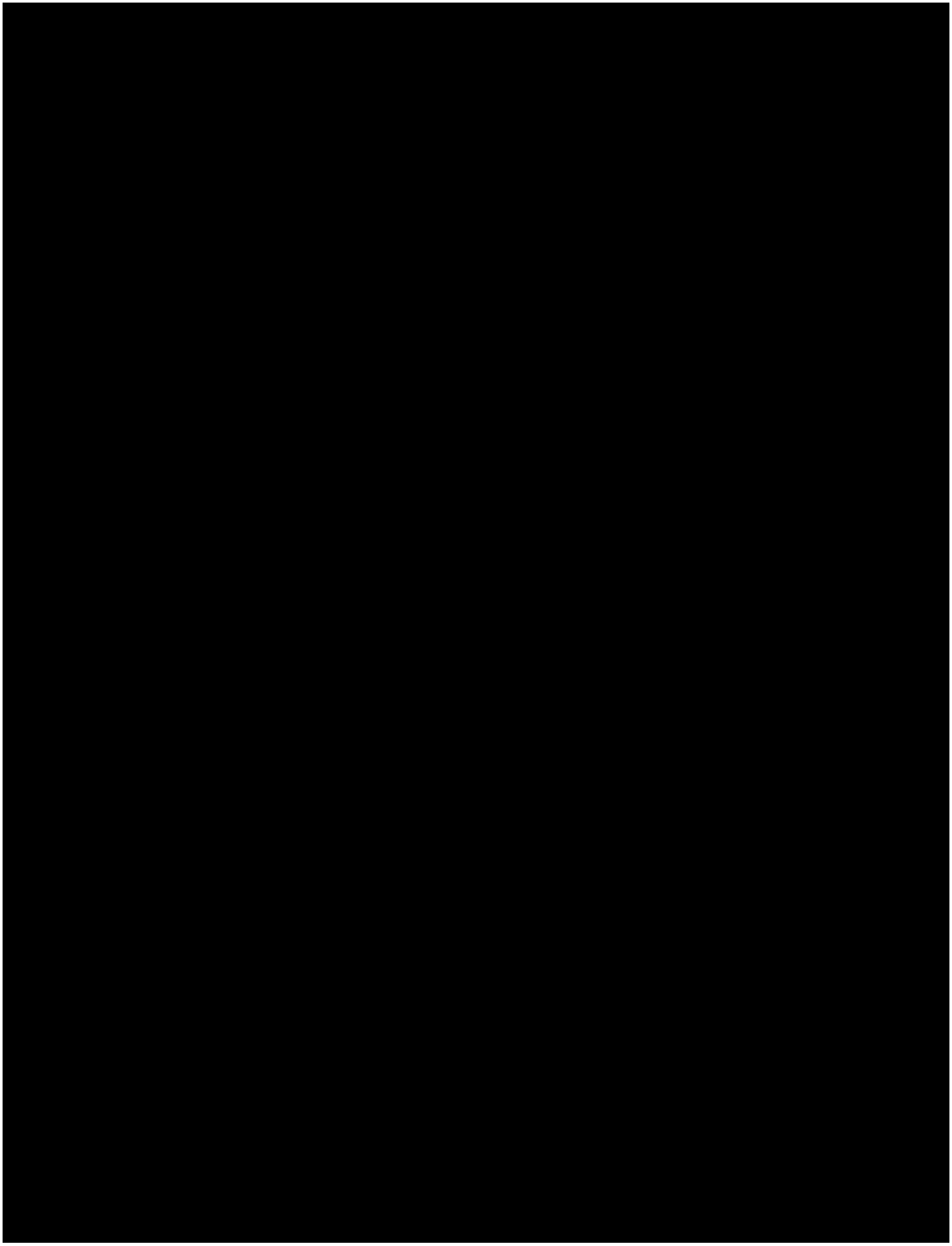


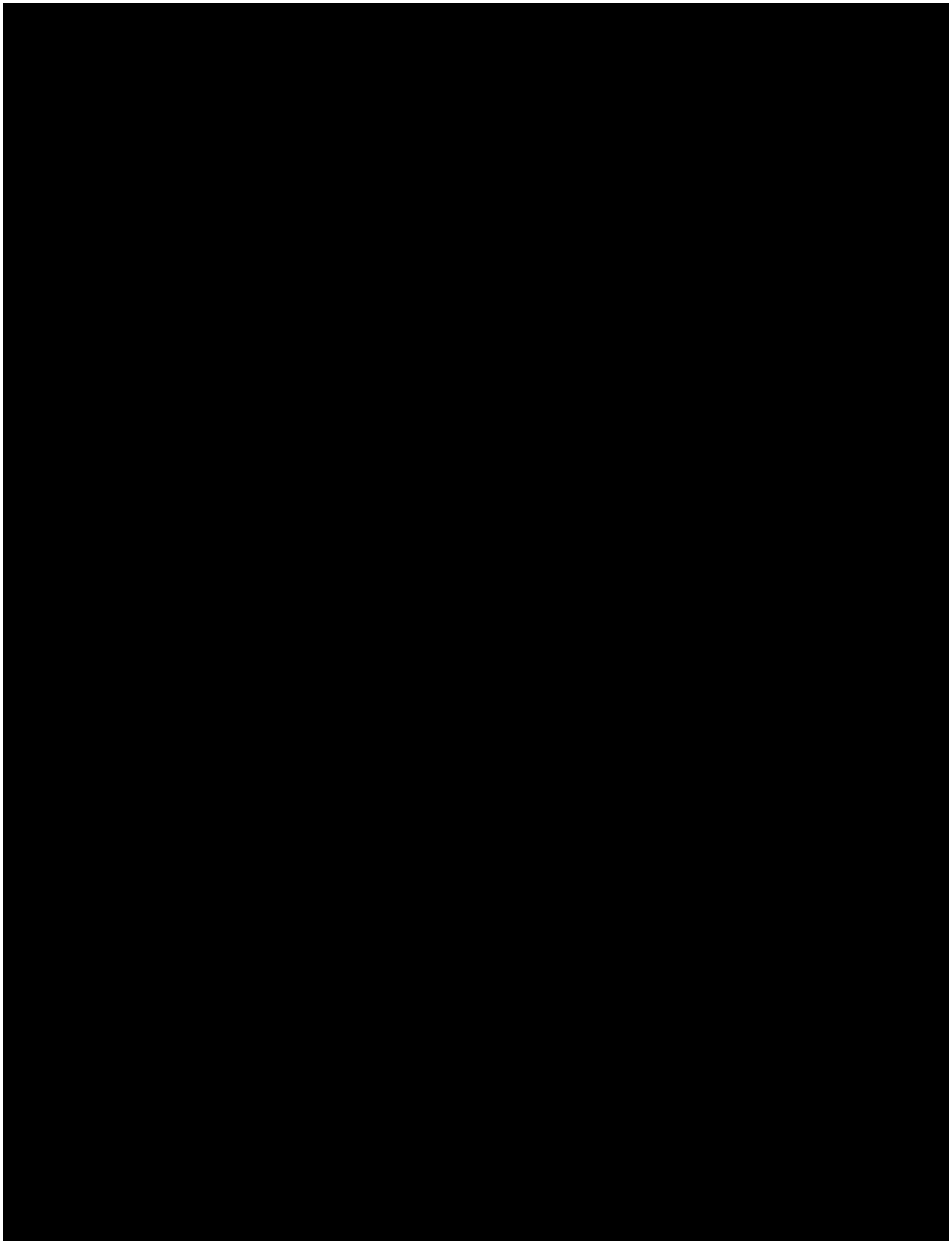


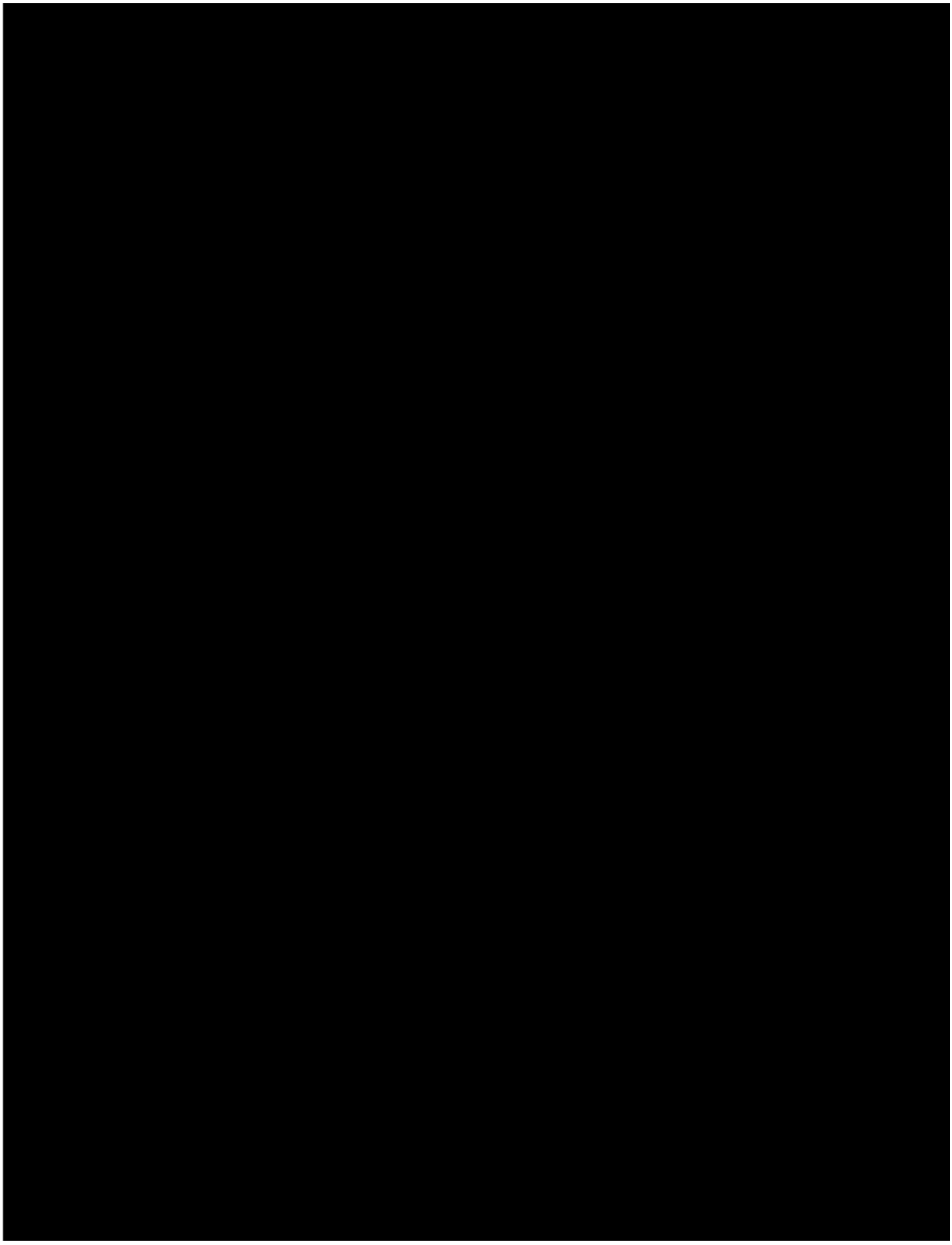












From: Jim Jackson
To: Brent Gasper; Rich Rosen; Sean Strode
Cc: Martha Cox; ASCC New Claims
Subject: RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, deceased and Guardian of Two Minor Children v. The Arkansas Department of Human Services Incident Date: 6/11/2021 - Logan County
Date: Monday, November 28, 2022 2:43:59 PM
Attachments: image001.png
image002.jpg
image003.jpg
image004.jpg
image005.jpg
Accident Report_Ashcraft.pdf

You don't often get email from jim@jimjacksonatty.com. Learn why this is important

Brent,
Attached is a copy of the Accident Report prepared by the Arkansas State Police.
My understanding is that the two minor children will testify that their Mom was taking them to a relative's house for a visit.
Ms. Ashcraft was attempting to turn left and was waiting for the tractor trailer rig to clear which is why she was at a stop when she was rear-ended by Ms. Wilkerson.
The two children remember the events very well if you want to depose them about any issue with liability.
Thank you,
Jim

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Thursday, November 17, 2022 3:25 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Rich Rosen <Rich.Rosen@dhs.arkansas.gov>; Sean Strode <Sean.Strode@dhs.arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Guardian of Two Minor Children v. The Arkansas Department of Human Services Incident Date: 6/11/2021 - Logan County

Thanks Jim, I look forward to working with you on this case. We will be in touch. In the meantime, please do not hesitate to call if you have any questions.

Brent

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260

Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

This email may contain sensitive or confidential information.

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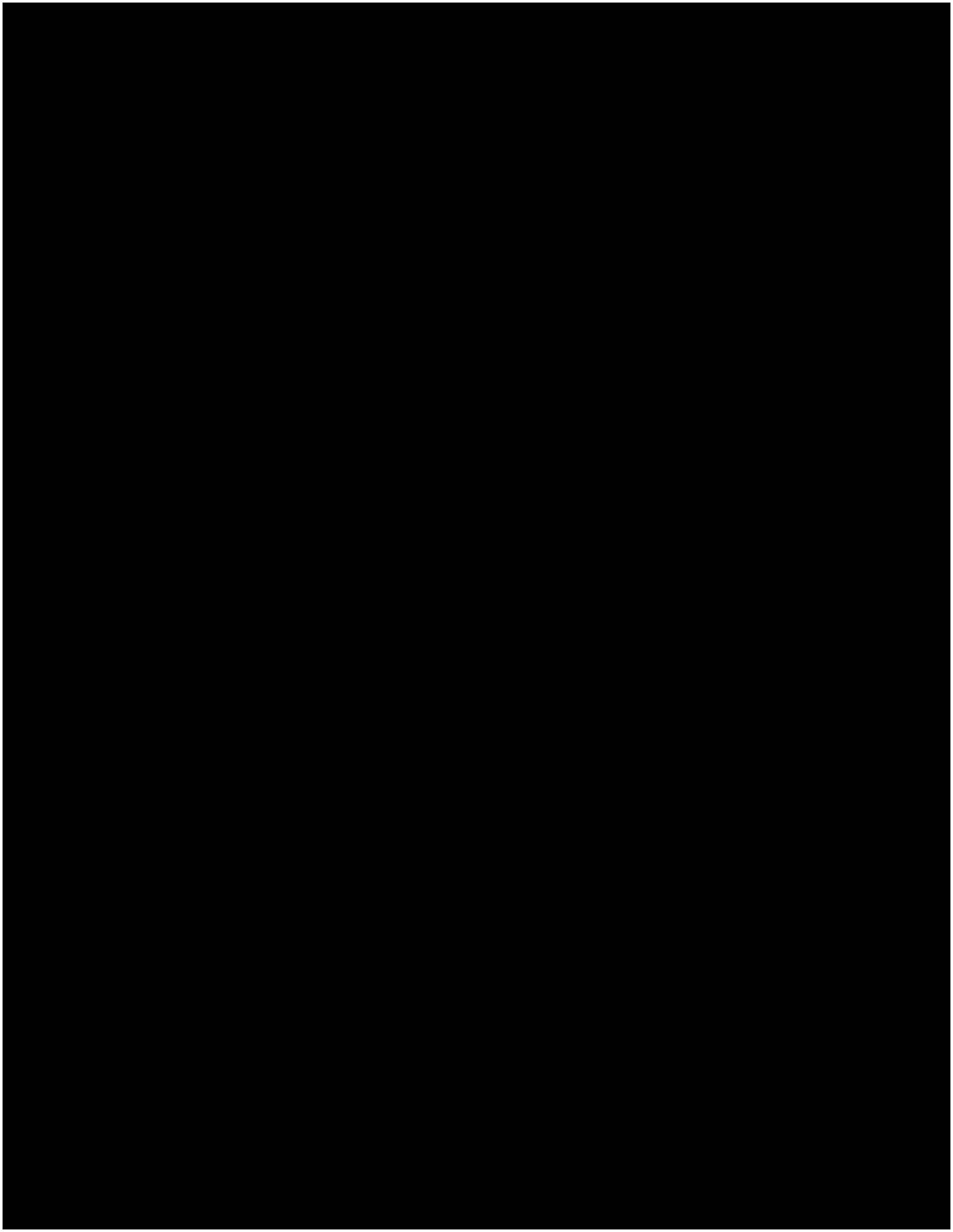
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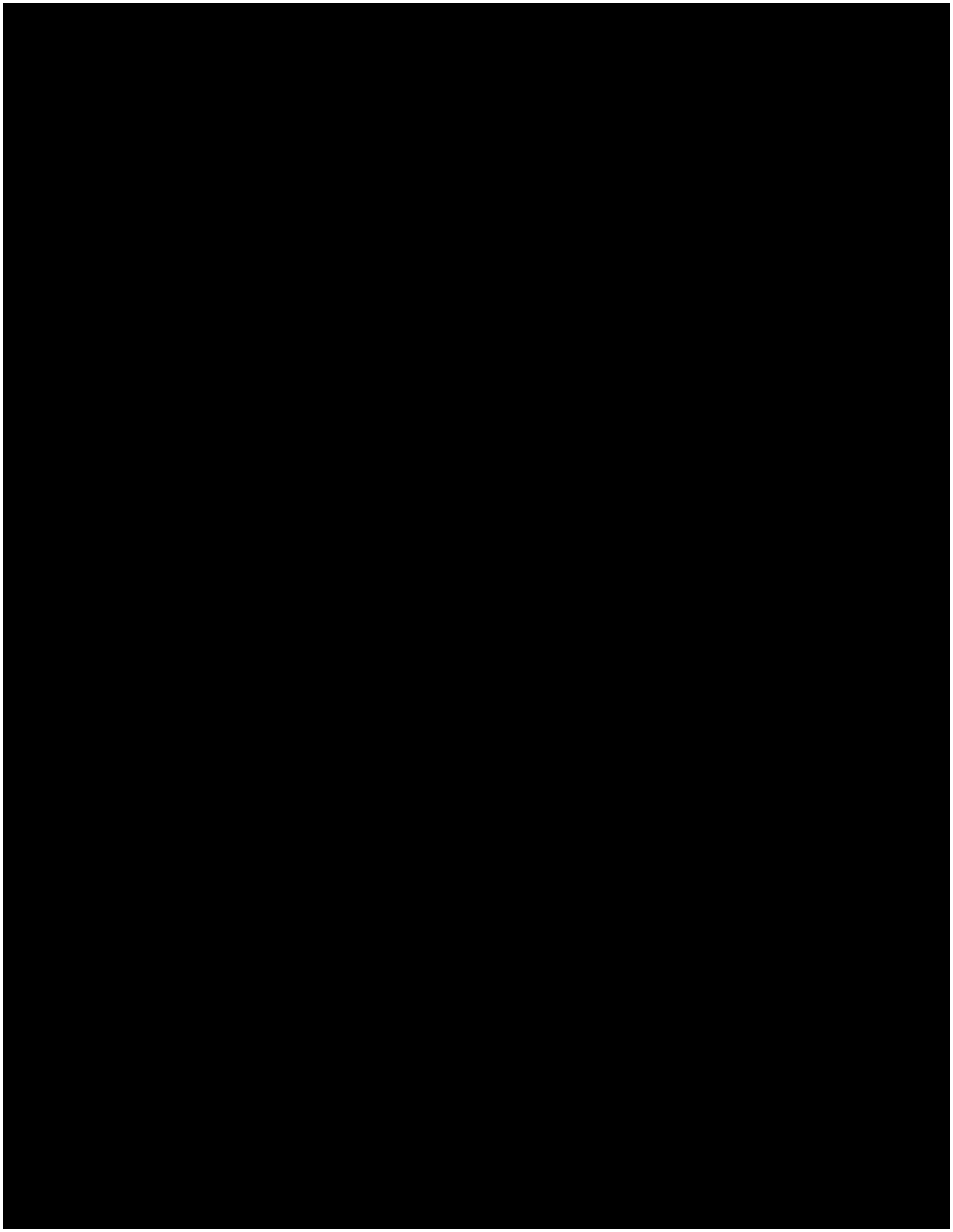
From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Thursday, November 17, 2022 3:17 PM
To: Rich Rosen <rich.rosen@dhs.arkansas.gov>; Brent Gasper <brent.gasper@dhs.arkansas.gov>; Sean Strode <sean.strode@dhs.arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>
Subject: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Guardian of Two Minor Children v. The Arkansas Department of Human Services Incident Date: 6/11/2021 - Logan County

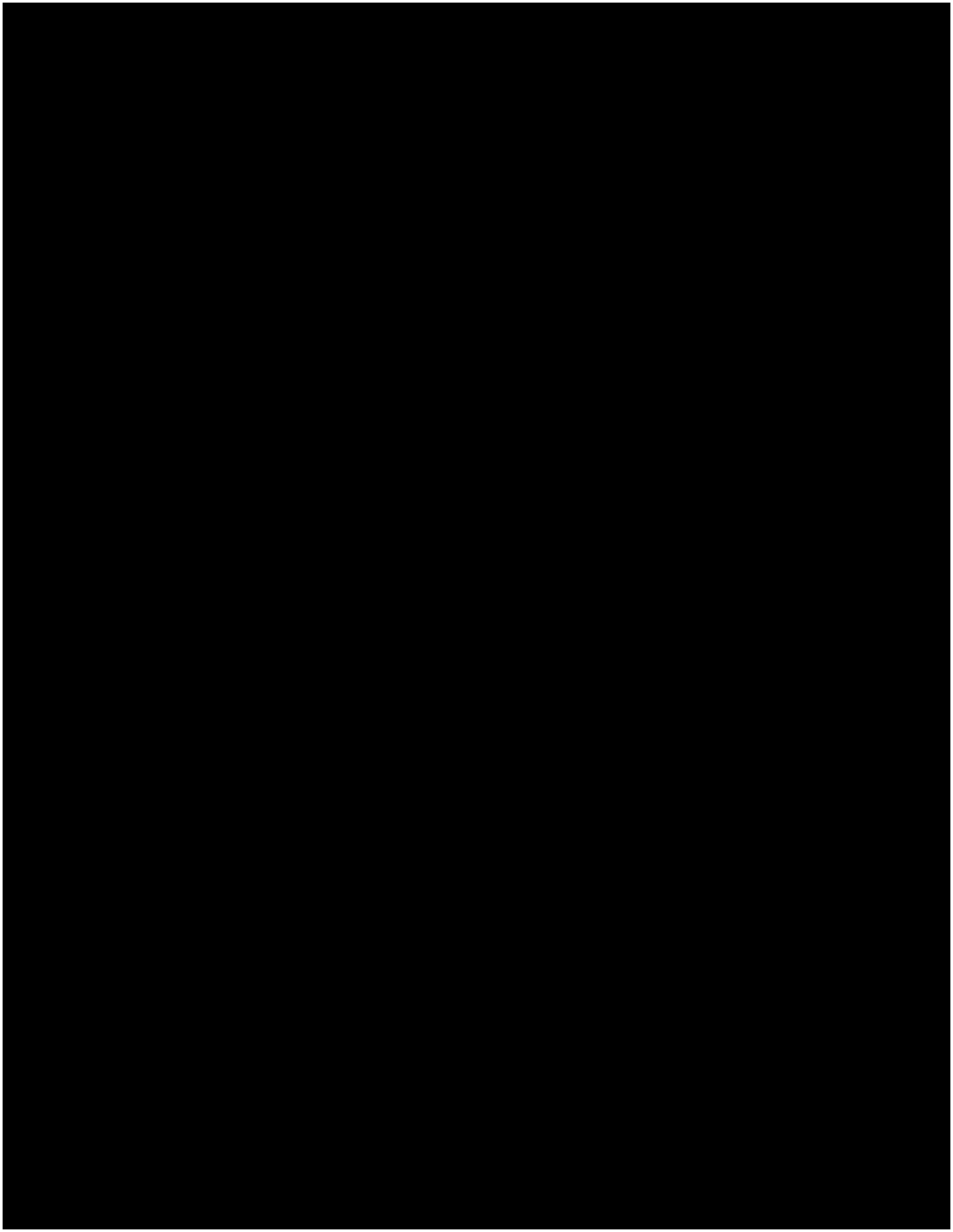
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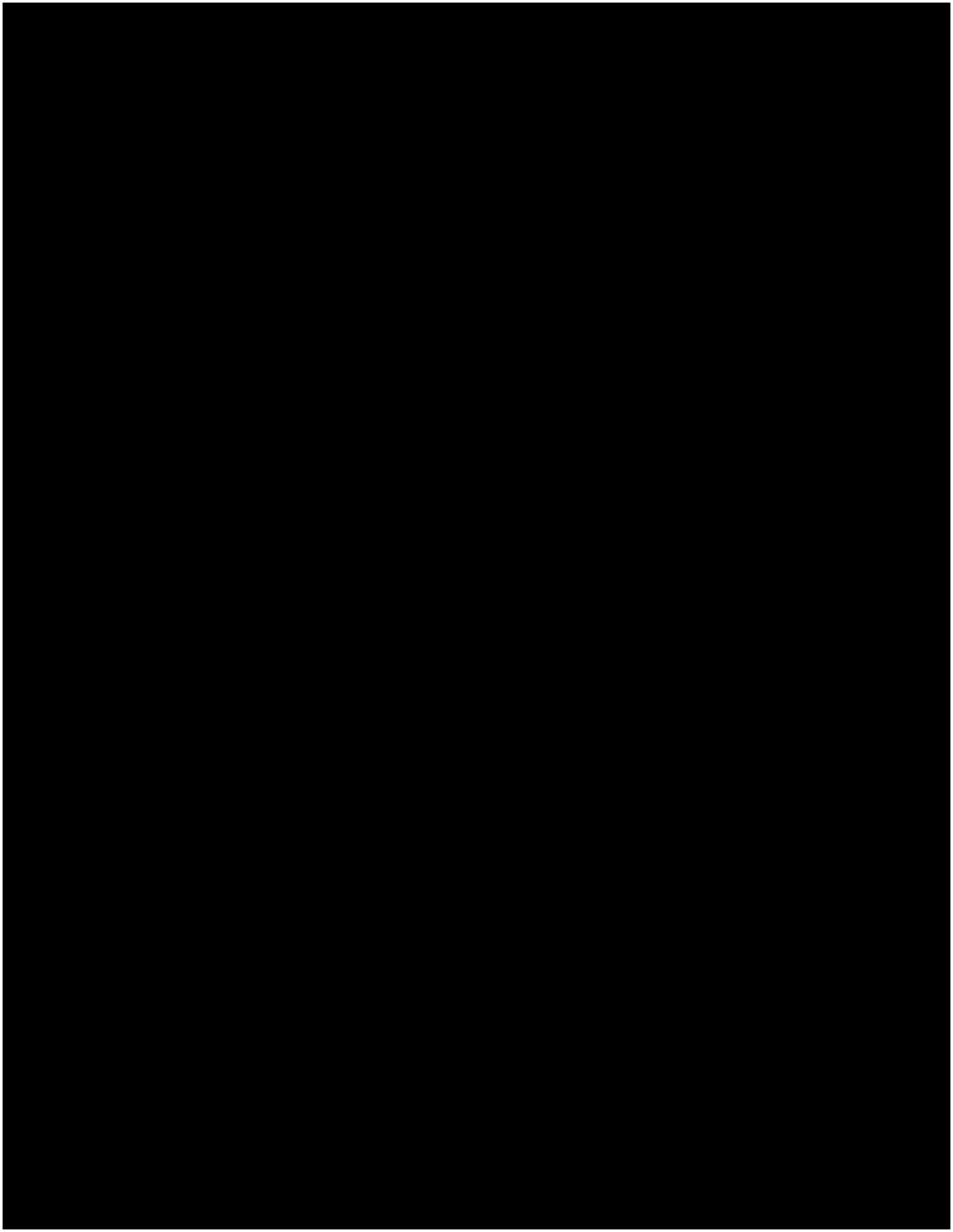
Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

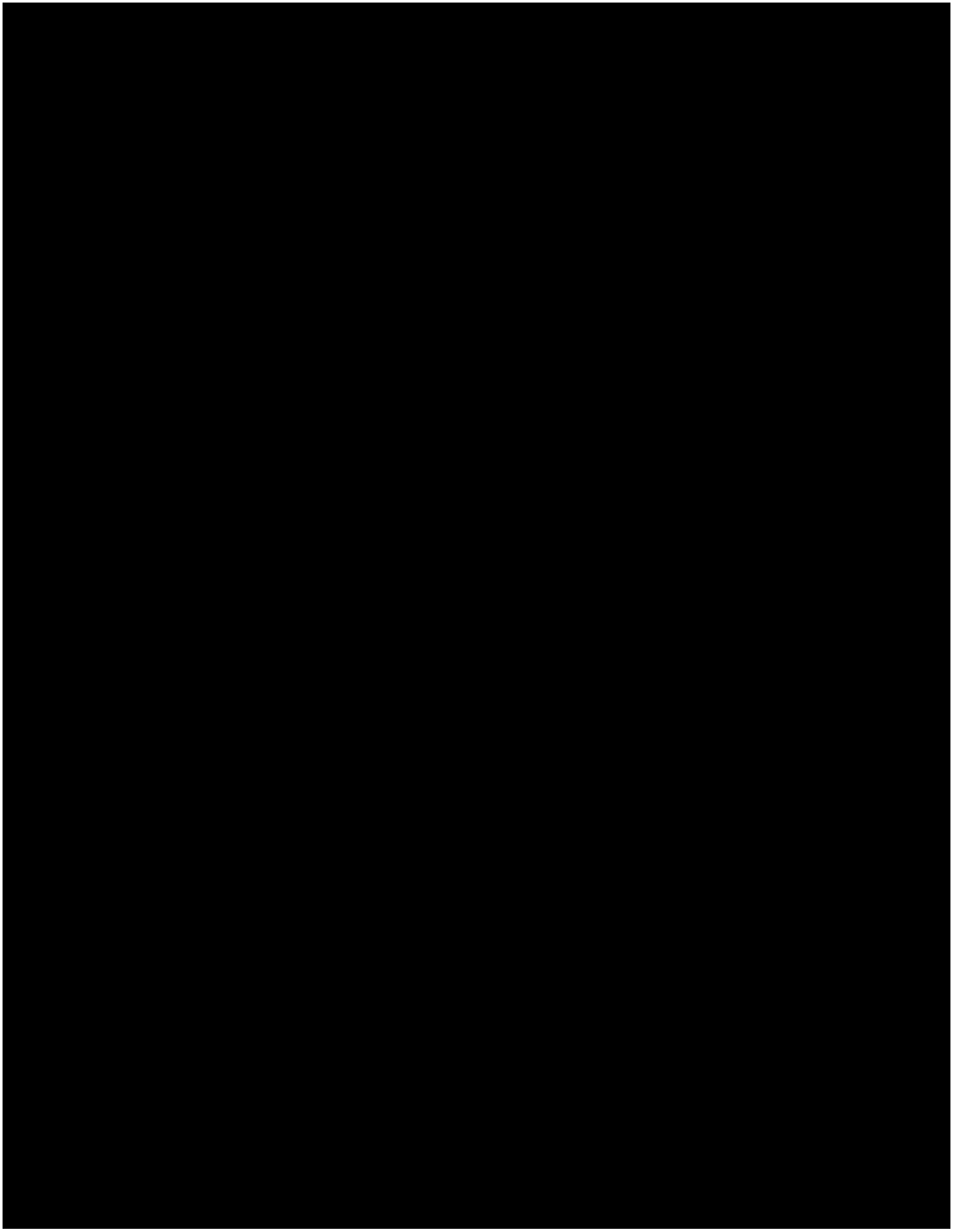
700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

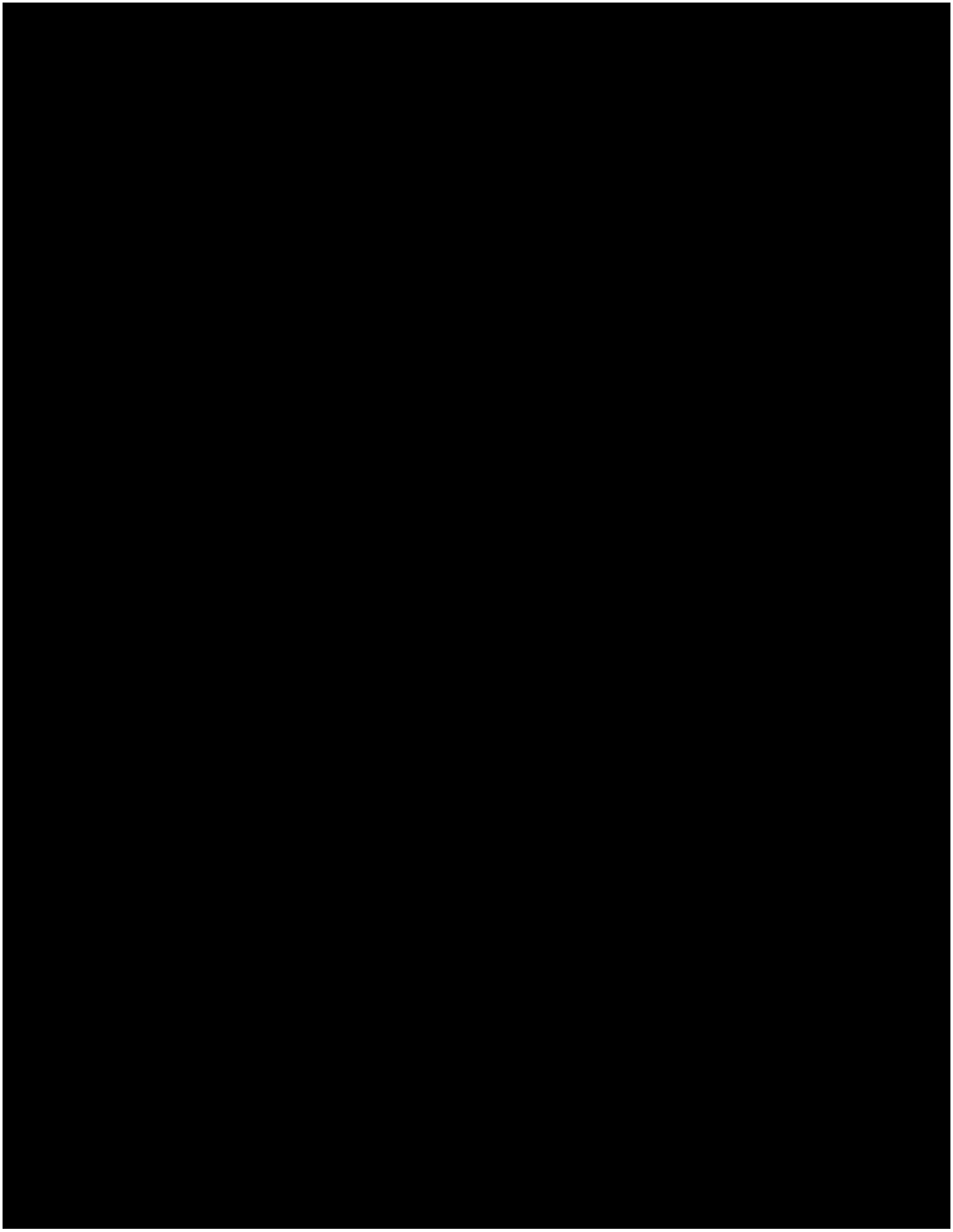


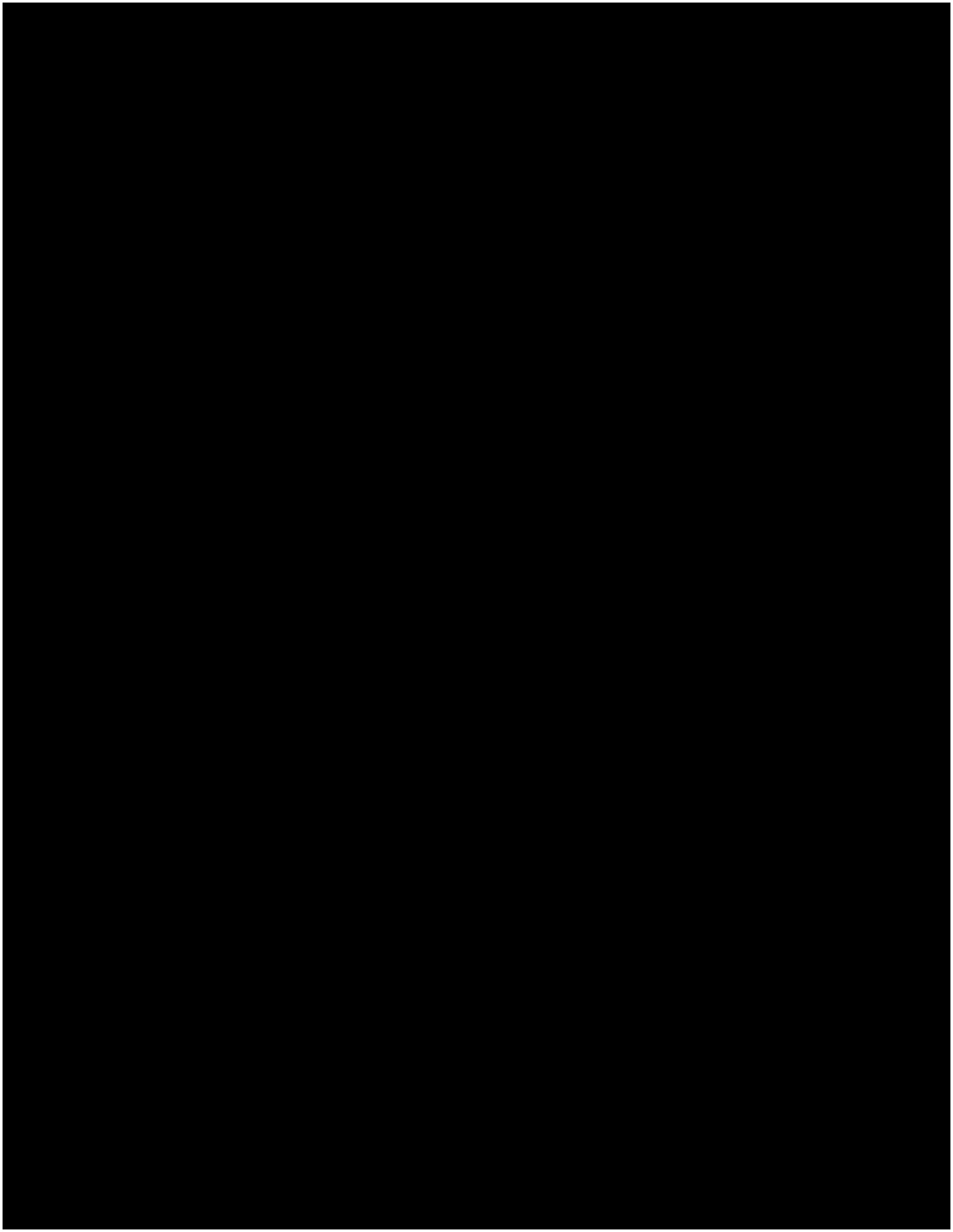


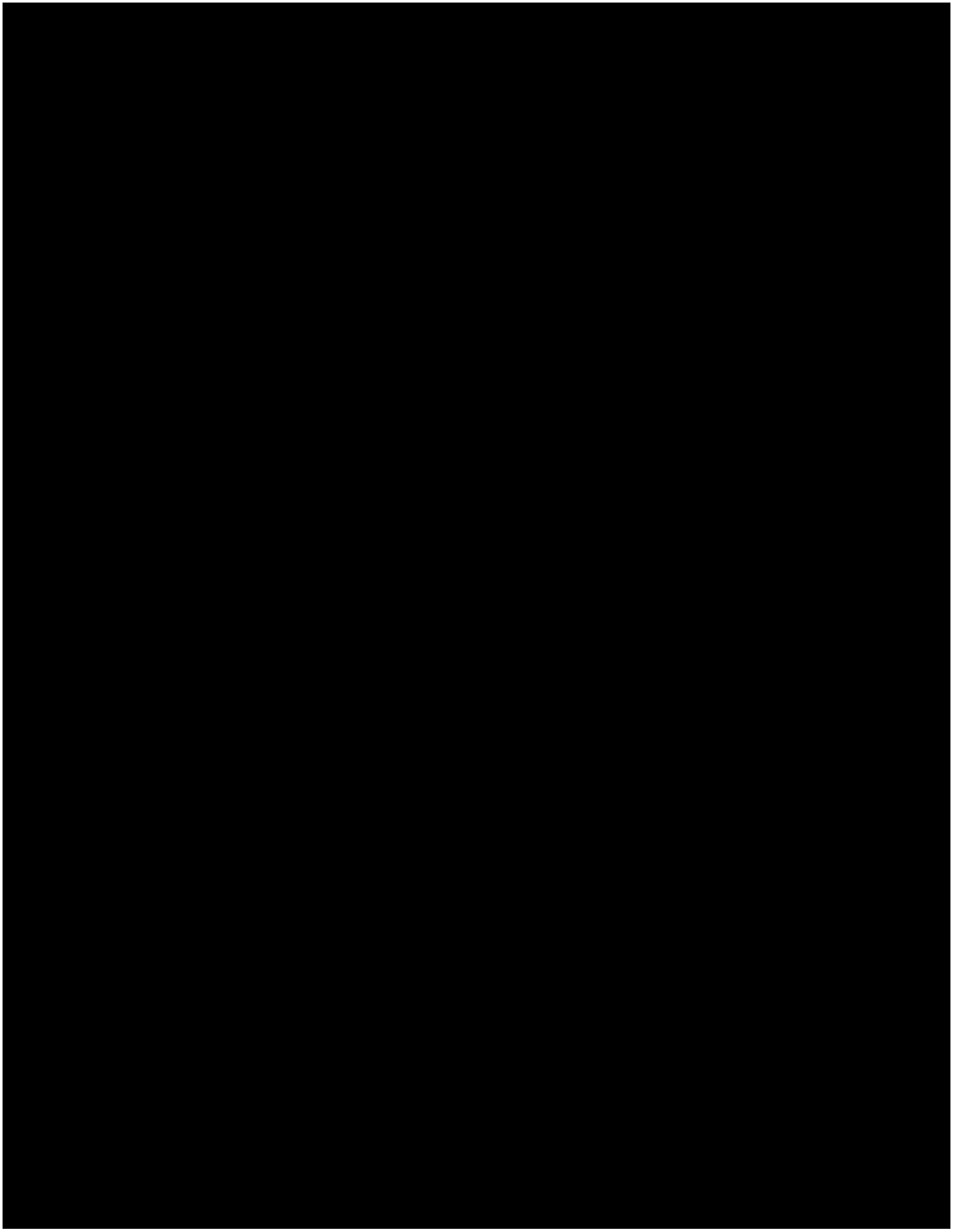


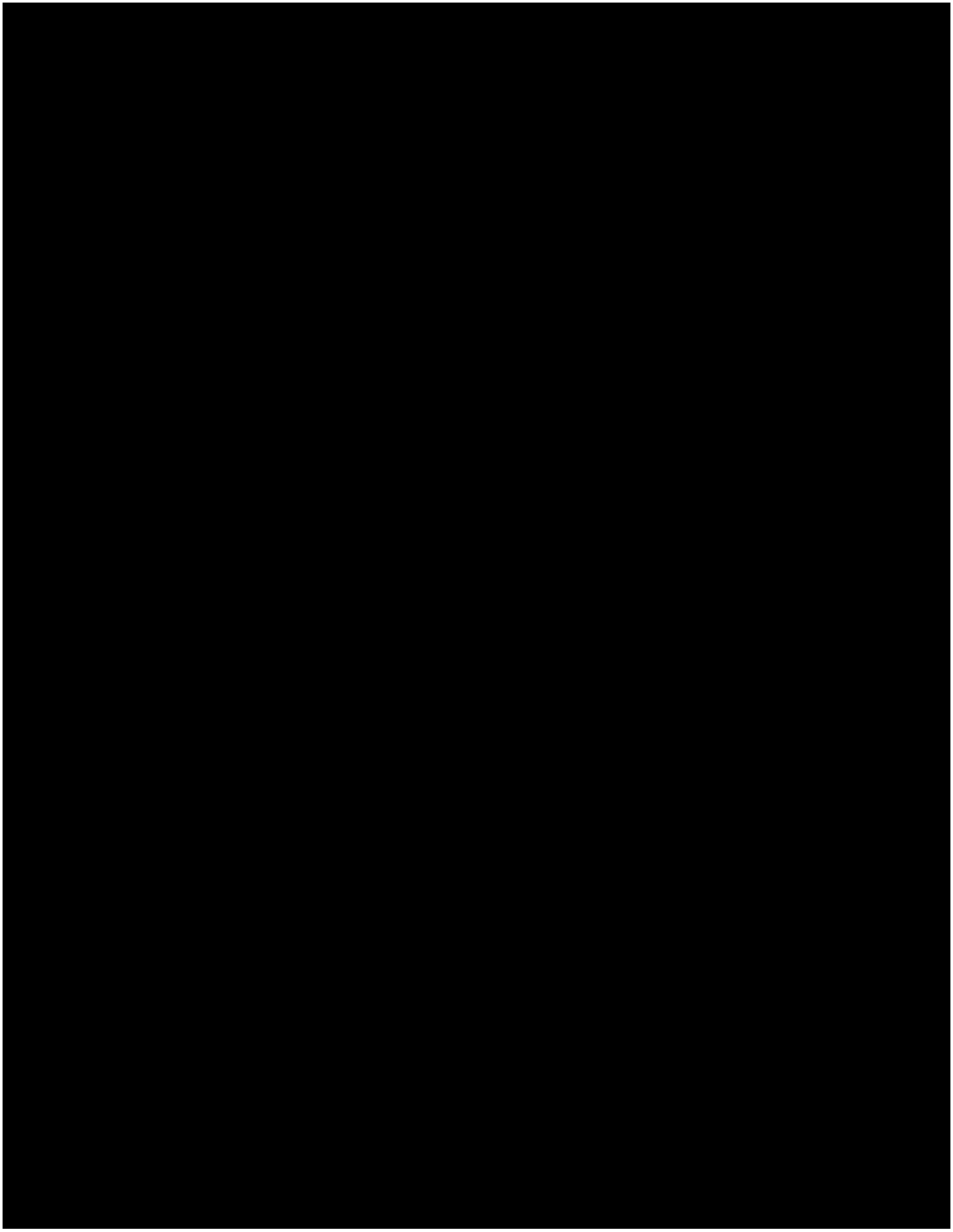


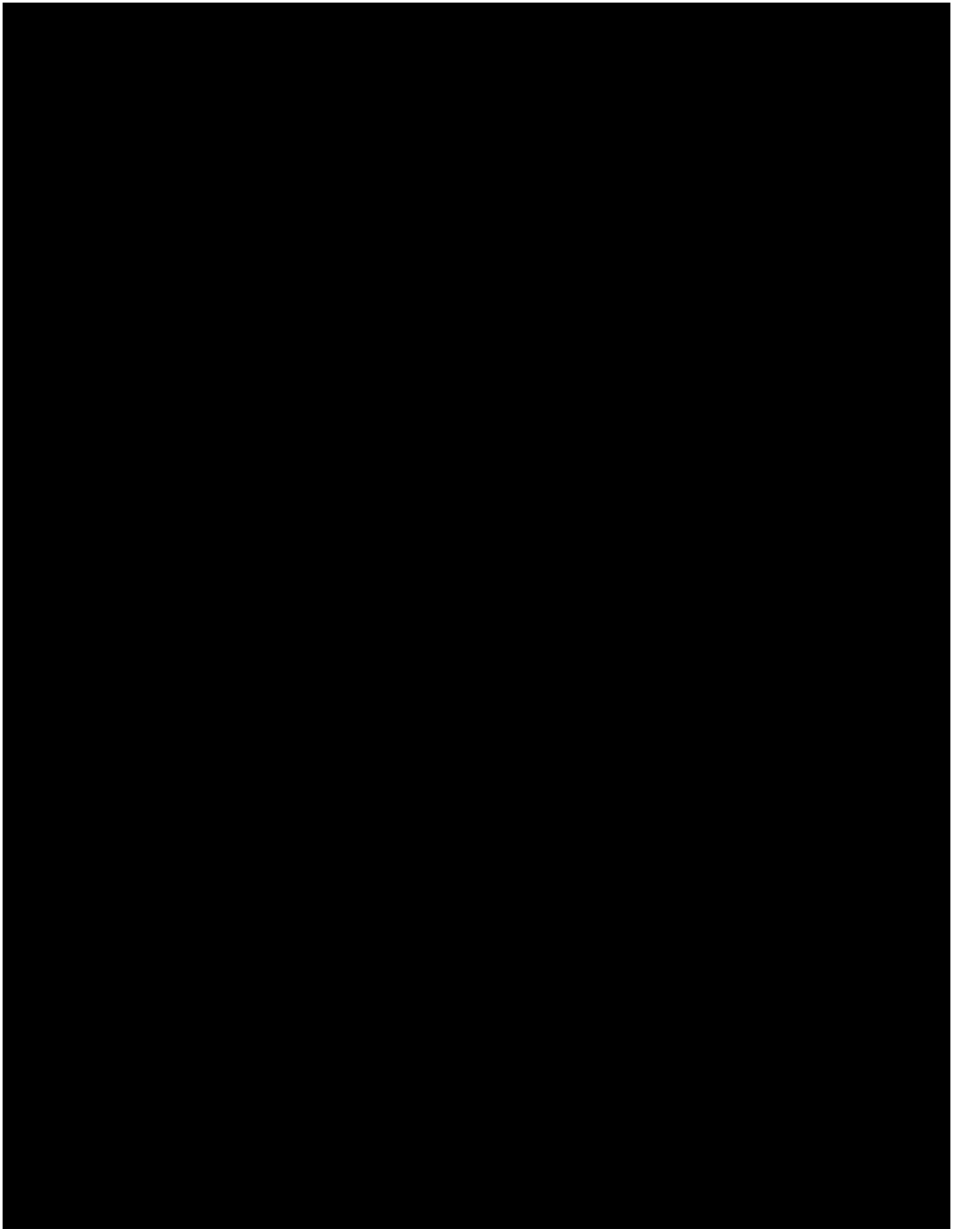


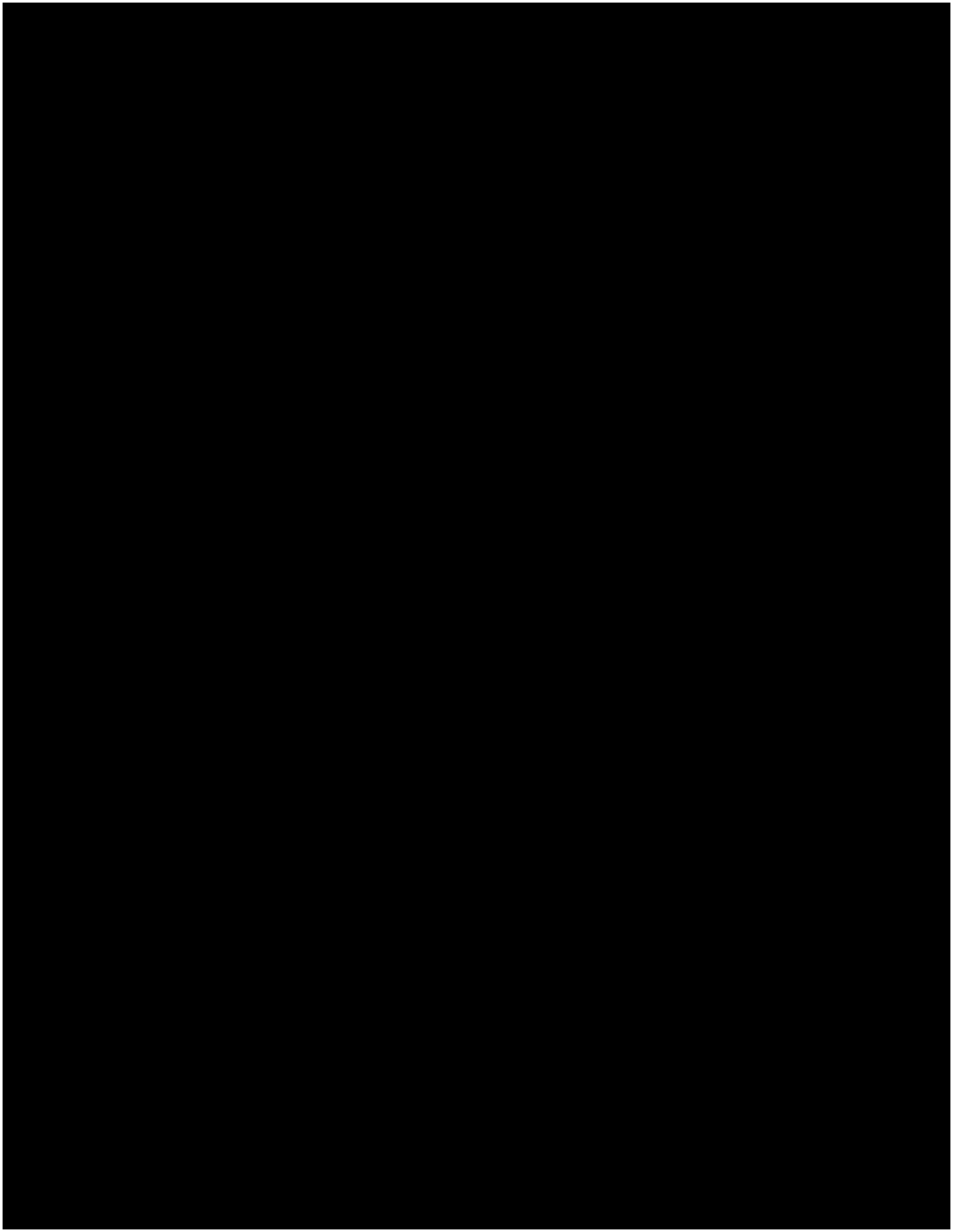


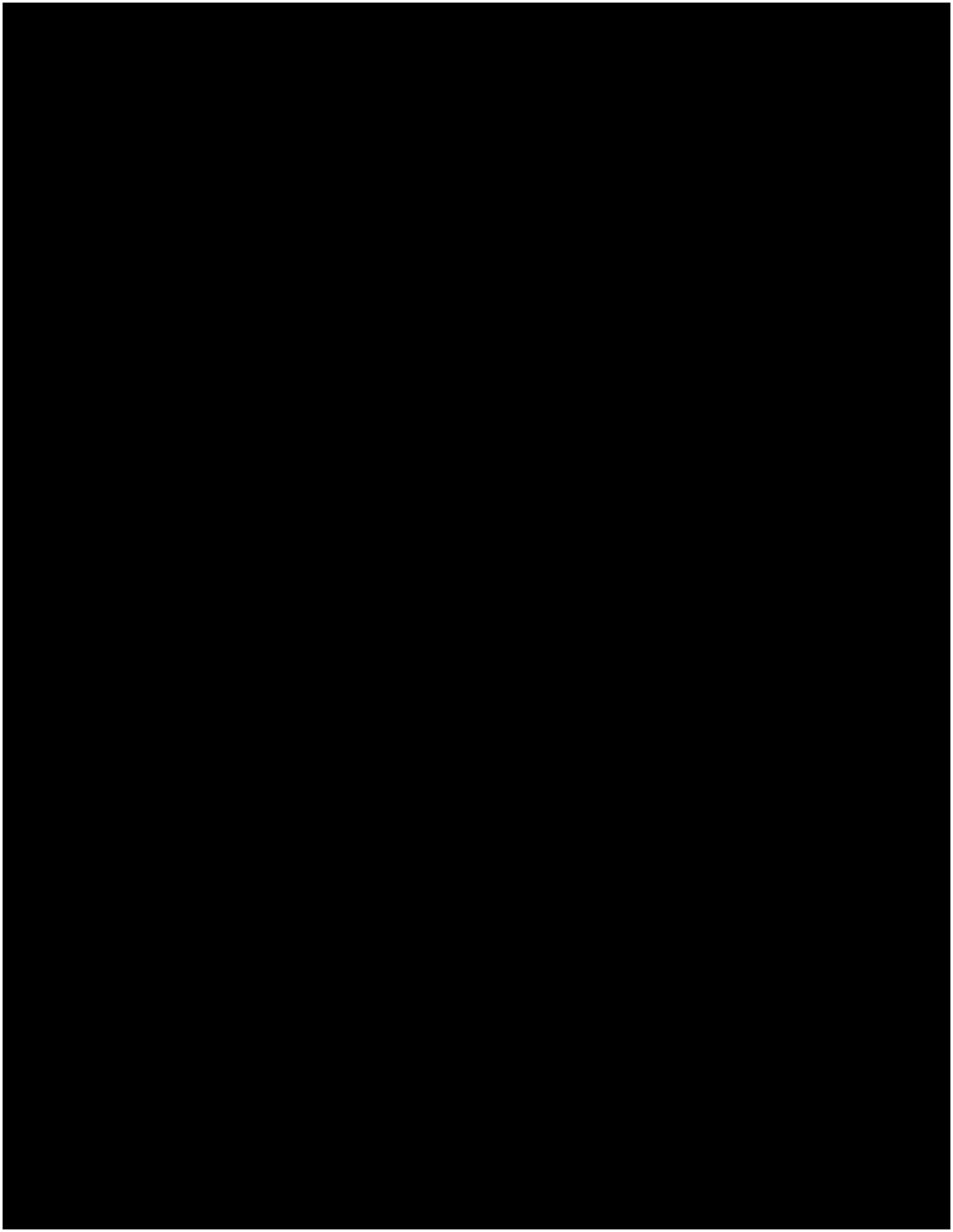


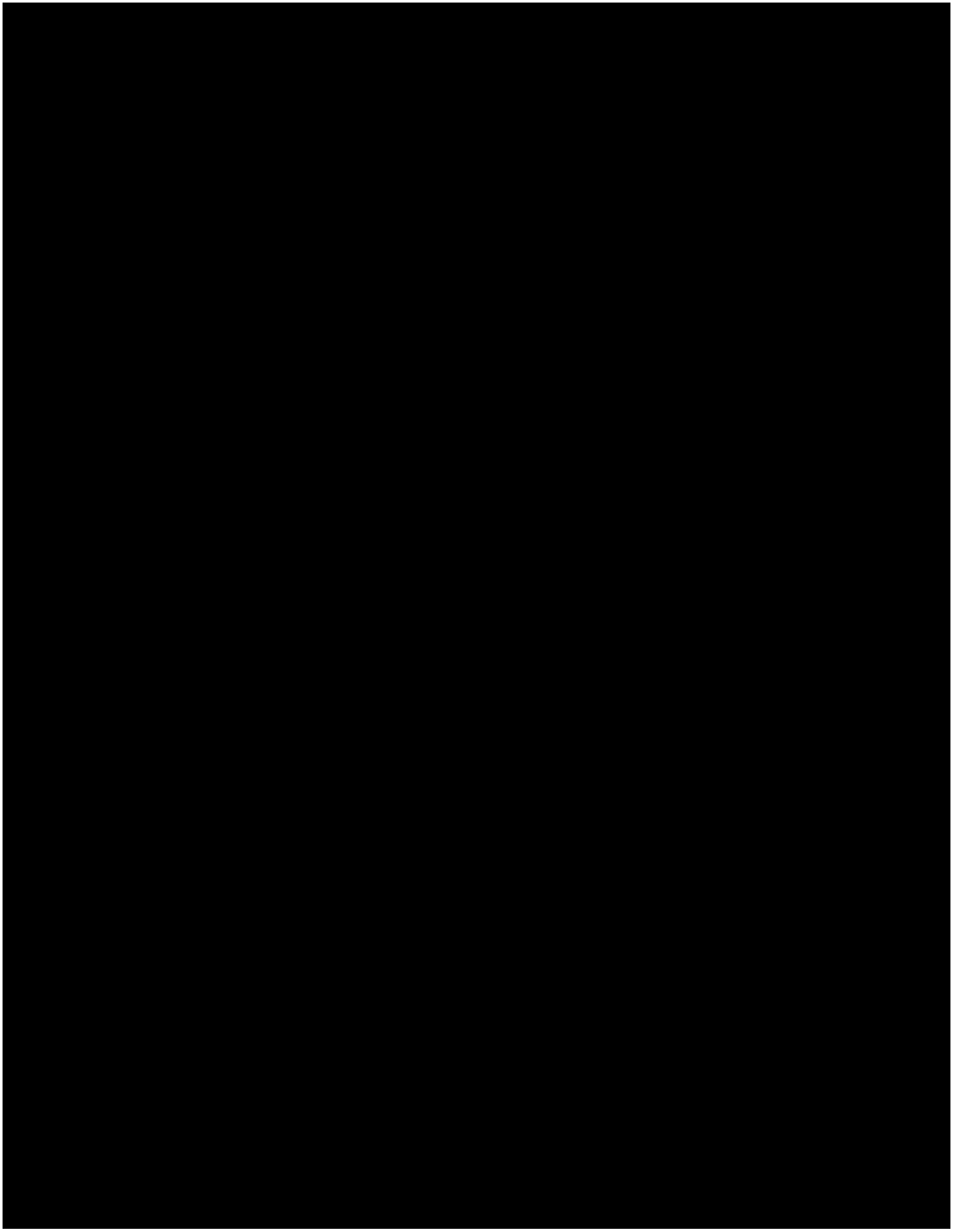


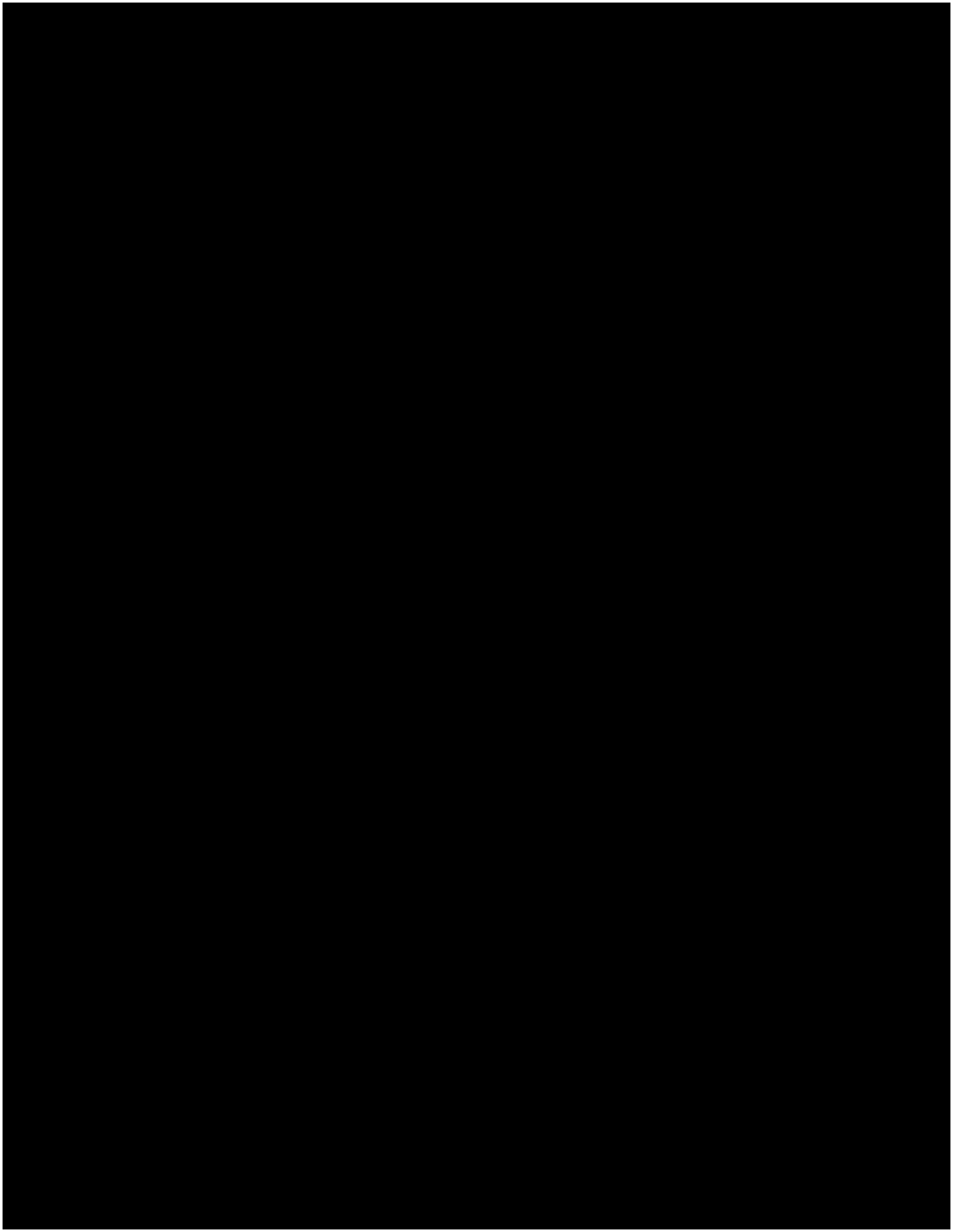


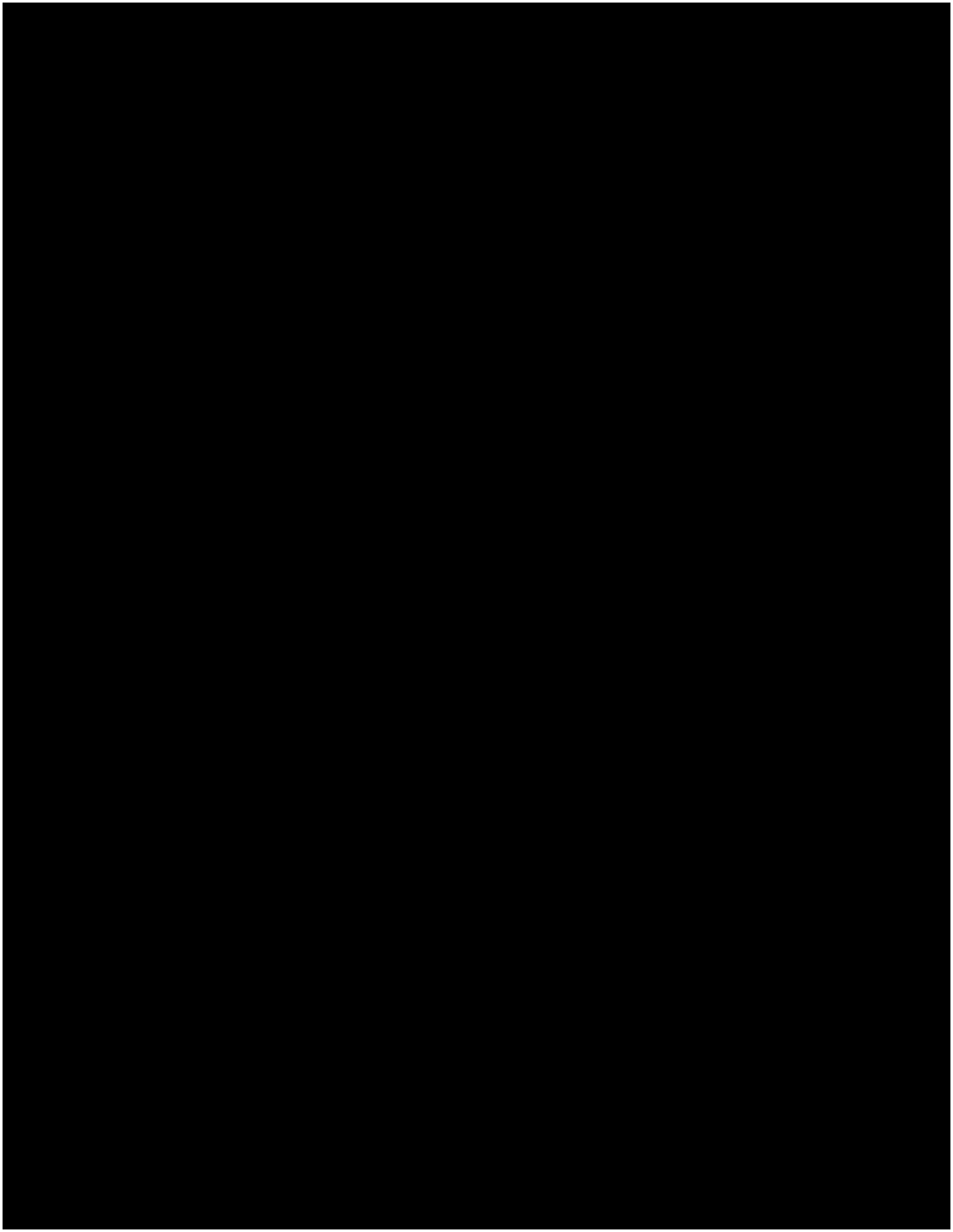


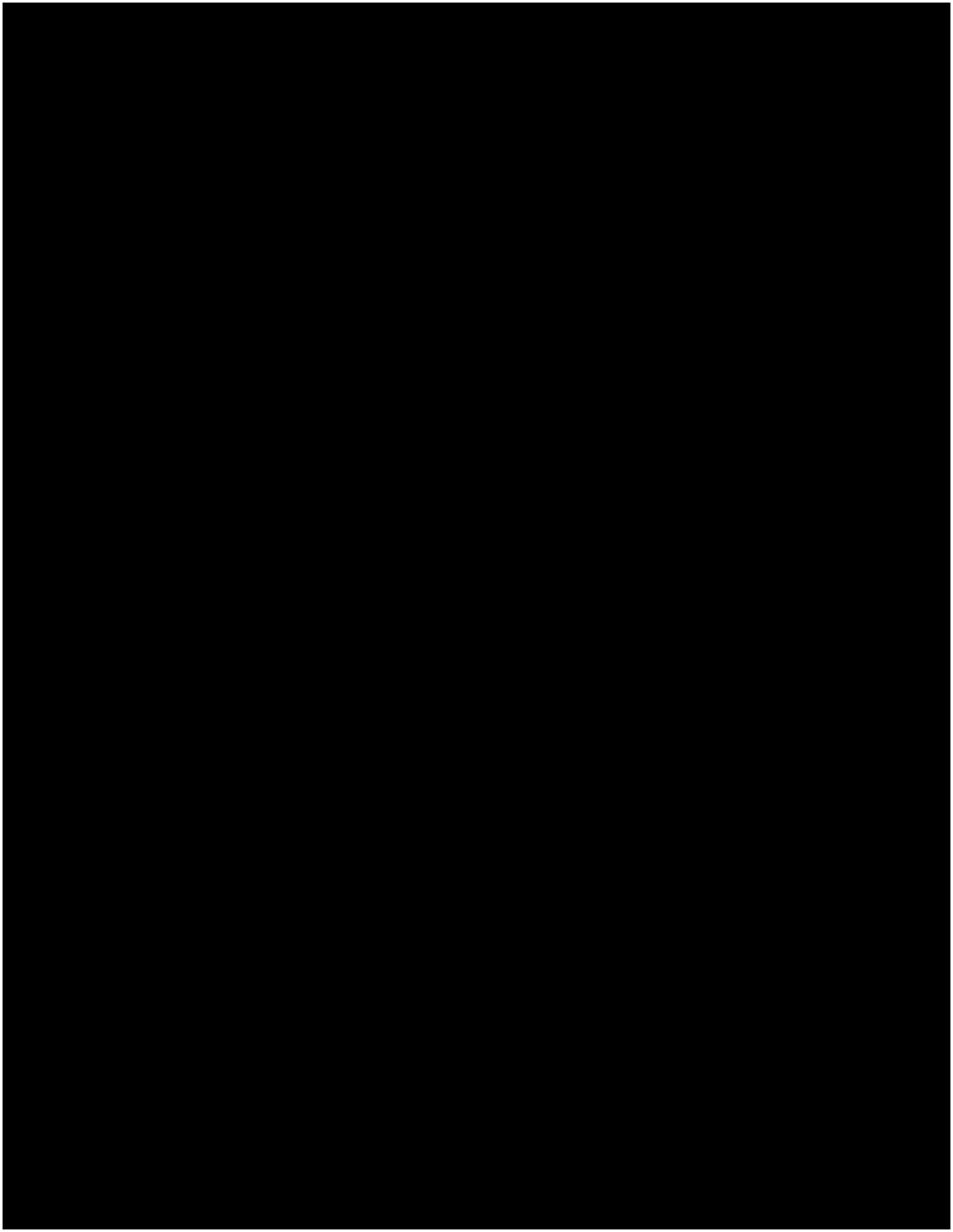


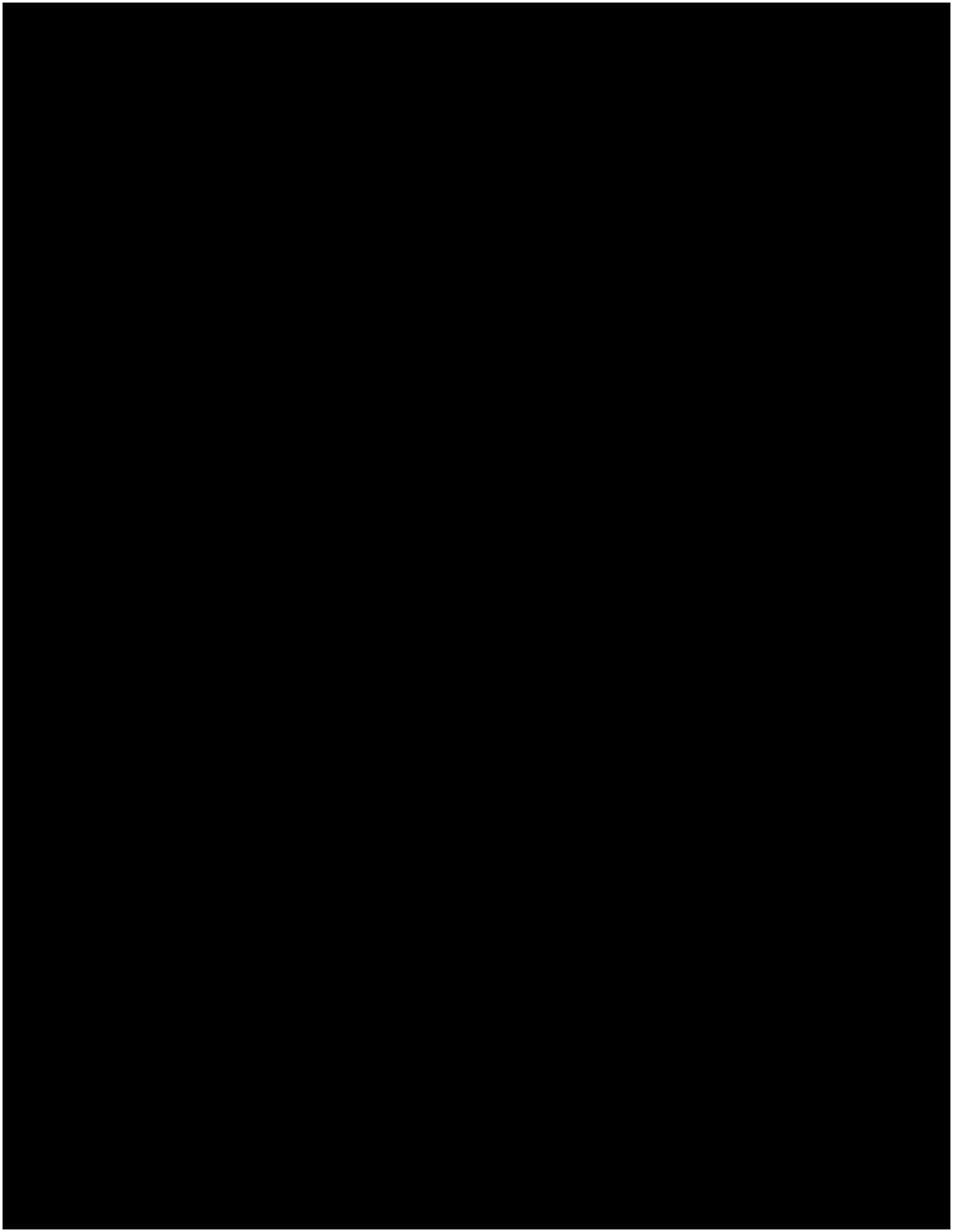


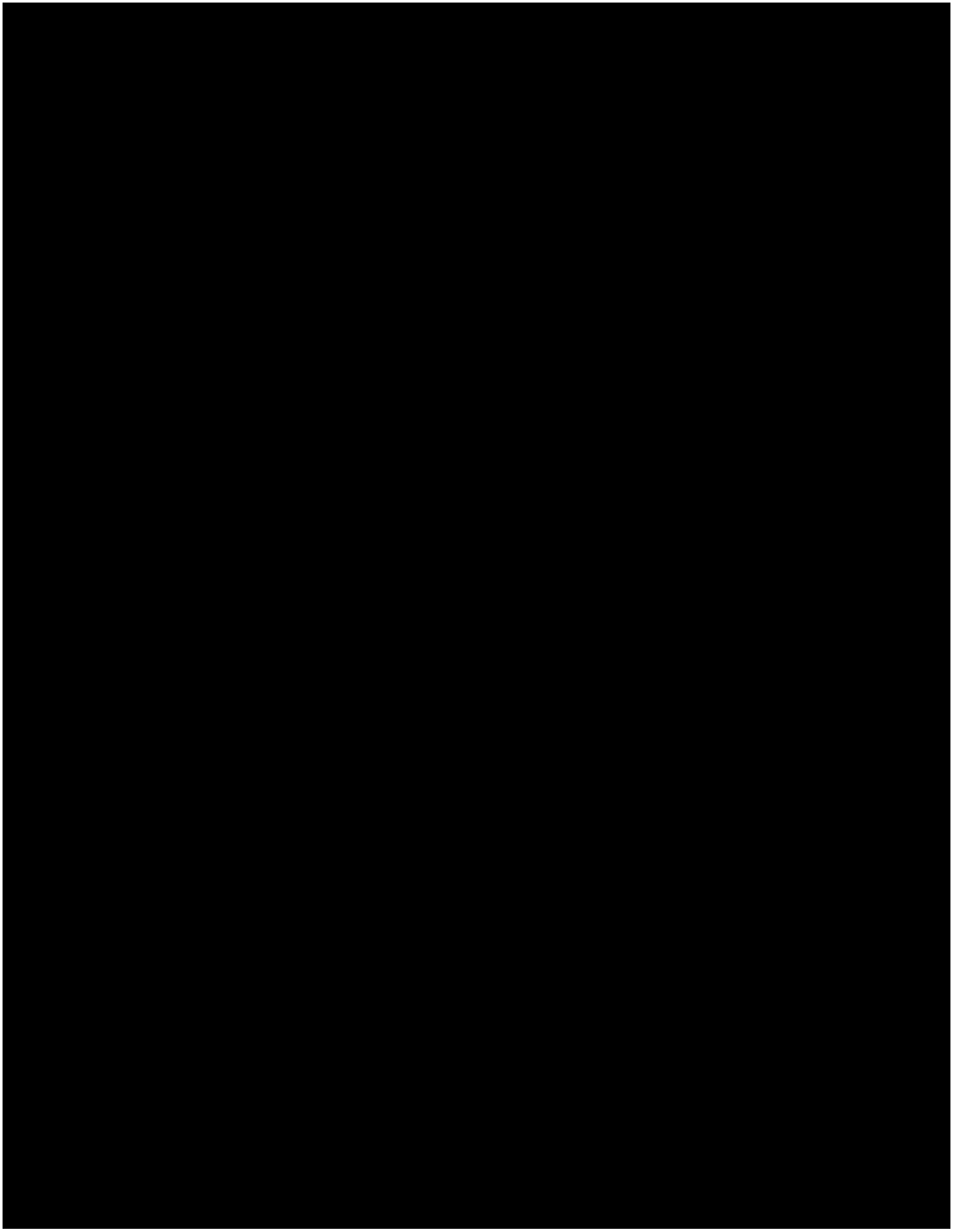












From: Jim Jackson
To: Brent Gasper; Rich Rosen
Cc: Daiquiri Carter; ASCC New Claims
Subject: RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, deceased and Guardian of Two Minor Children v. The Arkansas Department of Human Services Incident Date: 6/11/2021 - Logan County
Date: Monday, November 28, 2022 4:08:50 PM
Attachments: image001.png
image002.jpg
image003.jpg
image004.jpg
image005.jpg
35°17"40.6 N 93°39"43.5 W - Google Maps.pdf

You don't often get email from jim@jimjacksonatty.com. Learn why this is important

Brent,
Attached is a Google Map view that might help.
Ms. Ashcraft was taking her great nephew, [redacted], to his mother's home at [redacted]
Kimmy Corley is the mother of [redacted].
[redacted] was in a car seat in the rear middle of the Hyundai Sonata driven by Ms. Ashcraft.
He was one of three passengers in the back seat of the car.
He is now in pre-school in Paris.
I do not have a date of birth for [redacted].
[redacted] were seated on either side of him in the back seat and were all belted when the wreck occurred.
[redacted] are Ms. Ashcraft's daughters who now live with Haley Hudson in Cross County.
Ms. Ashcraft was attempting a left hand turn.
She had to come to a stop to allow the oncoming tractor trailer rig to clear so she could safely turn left when Ms. Wilkerson rear-ended her car.
I have requested a copy of the photos taken by the ASP and will send them to you when received.
Thank you,
Jim

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Monday, November 28, 2022 2:55 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Rich Rosen <Rich.Rosen@dhs.arkansas.gov>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Guardian of Two Minor Children v. The Arkansas Department of Human Services Incident Date: 6/11/2021 - Logan County

Thanks Jim. I'm sure we will want to speak to the minor children and I'll be in touch with you about scheduling a time for that when we are at that point. Also, I note that the police report references pictures having been taken. Do you have those by any chance? If not I'm sure I can procure copies. Also, do you have any other pictures of the accident or of the damage to the vehicle in your

possession? If so I'd love to have copies if that's possible. Last, you reference a relative's house as the destination below, do you know the address of that house?

Thx!

Brent

Cc: Rich

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Monday, November 28, 2022 2:44 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Rich Rosen <Rich.Rosen@dhs.arkansas.gov>; Sean Strode <sean.strode@dhs.arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; ASCC New Claims <ascc.new.claims@arkansas.gov>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Guardian of Two Minor Children v. The Arkansas Department of Human Services Incident Date: 6/11/2021 - Logan County

[EXTERNAL SENDER]
Brent,
Attached is a copy of the Accident Report prepared by the Arkansas State Police.
My understanding is that the two minor children will testify that their Mom was taking them to a relative's house for a visit.
Ms. Ashcraft was attempting to turn left and was waiting for the tractor trailer rig to clear which is why she was at a stop when she was rear-ended by Ms. Wilkerson.
The two children remember the events very well if you want to depose them about any issue with liability.
Thank you,
Jim

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Thursday, November 17, 2022 3:25 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Rich Rosen <Rich.Rosen@dhs.arkansas.gov>; Sean Strode <Sean.Strode@dhs.arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Guardian of Two Minor Children v. The Arkansas Department of Human Services Incident Date: 6/11/2021 - Logan County

Thanks Jim, I look forward to working with you on this case. We will be in touch. In the meantime, please do not hesitate to call if you have any questions.

Brent

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

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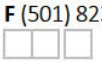
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F (501) 823-3611



Google Maps 35°17'40.6"N 93°39'43.5"W

Jacqueline Ashcraft was attempting to Turn Left into [redacted] to drop off [redacted] was a in a car seat in the



Imagery ©2022 Maxar Technologies, Map data ©2022 Google 50 ft



35°17'40.6"N 93°39'43.5"W

35.294605, -93.662085

Directions Save Nearby Send to phone Share

[redacted]

78VQ+R5V Subiaco, Arkansas

Photos

Live traffic	*Fast*	*Slow*

From: ASCC New Claims
To: OCC Claims Commission Cases
Cc: Kathryn Irby
Subject: ADD"L DOCS REC"D: Haley Hudson v. DHS, Claim No. 230641
Date: Tuesday, November 29, 2022 10:20:00 AM
Attachments: E650FC30DFB64B39B4F4358200C99D7A_20221123_CL Medical Records.pdf

Please see attached additional claim documents, which were sent to the Claims Commission by the claimant's attorney after the claim was transmitted to DHS.

Thank you,
Caitlin

Caitlin McDaniel
Administrative Specialist II
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-1619

From: Daiquiri Carter
To: ASCC Pleadings; jim@jimjacksonatty.com; Sarah Debusk; Brent Gasper
Cc: Daiquiri Carter
Subject: CC # 230641
Date: Wednesday, December 7, 2022 2:32:17 PM
Attachments: Motion to Cure_001.pdf
image001.png
image002.png

Please find attached DHS' Motion to Cure to be filed in the above mentioned case. I have copied Claimant's counsel on this email.

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov

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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON **CLAIMANT**

v. **CC #230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

MOTION TO CURE A DEFECTIVE COMPLAINT UNDER RULE 1.5(j) OF THE RULES OF THE ARKANSAS STATE CLAIMS COMMISSION AND MOTION FOR MORE DEFINITE STATEMENT UNDER RULE 12(e) OF THE ARKANSAS RULES OF CIVIL PROCEDURE

COMES NOW, the Respondent, The State of Arkansas, Department of Human Services ("DHS"), Office of Chief Counsel, by its attorneys, Brent P. Gasper, Assistant Deputy Chief Counsel, and Sarah DeBusk, General Counsel, and for its Motion to Cure a Defective Complaint Under Rule 1.5(j) of the Rules of the Arkansas State Claims Commission and Motion for a More Definite Statement under Rule 12(e) of the Arkansas Rules of Civil Procedure, states:

1. The Arkansas State Claims Commission ("Commission") was established by the General Assembly to "*have exclusive jurisdiction over all claims against the State of Arkansas and its several agencies, departments, and institutions*"[1]. *See* Ark. Code Ann. § 19-10-204(a).

2. Being a statutory creation, the rules and requirements of the Commission are governed by statute and by rules promulgated pursuant to statutory authority[2]. These include rules

[1] As the Commission knows, this is only a general statement, as there are a number of exceptions to this rule.

[2] Authority to promulgate rules is authorized under Ark. Code Ann. § 19-10-205 ("*The Arkansas State Claims Commission shall have the power to make and alter or amend all rules and regulations governing the procedure before it which may be deemed necessary and expedient for the orderly discharge of its duties and which shall not be inconsistent with any of the provisions of this subchapter or other laws.*")

governing practice and procedure, including requirements for complaints and claims filed with the Commission.

3. Requirements for complaints and claims filed with the Commission can be found at Ark. Code Ann. § 19-10-208(b), which states:

> *(b) The complaint shall state concisely the facts upon which the claim is based and shall set forth:*
> *(1) The address of the claimant and the claimant's attorney, if any;*
> *(2) The time and place of the circumstances giving rise to the claim;*
> *(3) The state department, agency, or institution in which the claim originated;*
> *(4) The amount claimed; and*
> *(5) All averments of fact necessary to state a cause of action against a private person or corporation.*

4. Requirements for complaints and claims filed in the Commission can also be found under Rules 1.5(d), 1.5(e), and 2.1 of the Commission's rules[3]:

> *1.5(d) Cause of Action to be Stated. Each complaint filed with the Commission must state a cause of action against the State in ordinary and concise language.*
>
> *1.5(e) Monetary Damages Stated. A demand for monetary damages must be perfected in the complaint, if known. An itemized outline of the damages sought and the overall total claimed in monetary figures is required prior to a hearing on the merits of a claim.*
>
> *2.1 Each claim shall have a statement of facts sufficiently clear to identify the Claimant, the Respondent state agency or agencies, the circumstances giving rise to the claim and the amount of monetary damages sought. The Commission reserves the right to require further information before hearing the claim when, in its judgment, justice and equity may require additional information. The original copy of each claim form must be filed with the Commission.*

5. In addition to the requirements found in statute and in the Commissions' rules, the Arkansas Rules of Civil Procedure also govern so long as they are not contrary to the statutory or

[3] www.arclaimscommission.arkansas.gov/rules/

rules-based requirements concerning complaints and claims. Specifically, Rule 8.1 of the Rules of the Commission states, in part:

> *The Rules of Civil Procedure as adopted by the Circuit Courts of the State of Arkansas will apply in the Arkansas Claims Commission unless the Rules of Practice and Procedure of the Arkansas State Claims Commission are to the contrary in which cases these rules shall take priority. ...*

6. To that end, Rule 12(e) of the Arkansas Rules of Civil Procedure reads as follows:

> *(e) Motion for More Definite Statement. If a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, he may move for a more definite statement before interposing his responsive pleading. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within 10 days after notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion is directed or make such order as it deems just.*

7. Given the foregoing, Respondent contends that the complaint that was filed and the claims that were raised fail to comply with the requirements as required by statute, Commission Rule, or by the Arkansas Rules of Civil Procedure for several reasons, each set out below. As such, this complaint should be refused and rejected as a defective complaint

8. Rule 1.5(j) of the Commission's rules provide the Commission with its requirements and duties when a defective complaint is filed.

> *(j) Defective Complaints. In any complaint when, upon inspection, the Commission is of the opinion that the complaint, document or pleading tendered for filing does not comply with these rules, does not sufficiently set forth required information or is otherwise insufficient, the Commission may decline to accept the complaint, document or paper and may return it unfiled, or the Commission may accept it for filing and advise the person tendering it of the deficiency and require the deficiency be corrected. Simple "receipt" in the Commission office in no way implies an attempted claim as been "filed" with the Commission. The decision to accept or decline for filing an attempted, but deficient, claim is solely that of the Commission.*

9. Turning to the defective portions of the complaint, the most immediate concerns the identity and legal capacity of the named Claimant. Claimant is identified on the complaint as Haley Hudson.[4] It is only in the factual predicate under section 5b of the complaint where she is identified as the daughter of Jacqueline Lynn Ashcraft, a deceased person. Respondent believes, based on the facts set forth in the complaint, that Ms. Hudson likely intended to bring the claim in the name of the Estate of Jacqueline Lynn Ashcraft as Administratrix of the Estate. However, Claimant has not set this out explicitly and, if this is intended to be a claim for wrongful death, she has done so incorrectly[5].

10. Arkansas's wrongful death statute at Ark. Code Ann. § 16-62-102(b) states that:

> "*[e]very [wrongful death] action shall be brought by and in the name of the personal representative of the deceased person. If there is no personal representative, then the action shall be brought by the heirs at law of the deceased person.*"

The Arkansas Supreme Court held that this is because a trustee or personal representative is not acting for himself [or herself] and in connection with his [or her] own affairs, but to the contrary is acting for others who would ordinarily be the beneficiaries. *See Davenport v. Lee*, 348 Ark. 148, 72 S.W.3d 85 (2002). This is further reflected in the fact that, if proceeds are awarded to the estate of a deceased person in a wrongful death claim, "*a personal representative acts only as a 'trustee of conduit,' and any proceeds recovered are held in trust for the benefit of the beneficiaries and not the estate.*" *See id.*

---

[4] Actually, the complaint reads "Ms. Hudson Haley," but Respondent believes this on to be a scrivener's error.

[5] Ark. Code Ann. § 19-10-208(e) has explicit requirements for filing a claim as a personal representative:

> *(e) If the claimant is an executor, administrator, guardian, or other representative acting under judicial appointment, a duly certified copy of the record of appointment shall be filed with the complaint.*

11. As Respondent reads the complaint, there is conceivably more than one (1) potential claimant stemming from the incident described in the complaint. However, as noted, the complaint currently before the Commission simply lists Ms. Hudson as the Claimant. If this were the case and Ms. Hudson were bringing this claim simply in her own personal capacity, that is one thing. If, however, she intended to bring the claim as the Administratrix of the Estate of Jacqueline Ashcraft, that is a different matter entirely and she has done so improperly. Moreover, if there *is no* personal representative appointed, a wrongful-death suit must be filed with all of the statutory beneficiaries joined as parties to a suit.[6] *See id.* If that were the intent or simply the result, Respondent contends that this was not done either.

12. Ultimately, as Commission Rule 2.1 states right at the outset, "[e]*ach claim shall have a statement of facts sufficiently clear to identify the Claimant* …". Here, the named claimant is Ms. Hudson, not the Estate of Jacqueline Ashcraft. This alone constitutes a defective complaint.

13. Respondent's second contention that the complaint in this case is defective concerns the factual predicate as pled in the complaint. Claimant has filed the instant action asking for approximately four million dollars ($4,000,000) in damages stemming from a death allegedly caused by a DHS employee while the DHS employee was driving a state-owned vehicle. While the complaint does include numerous medical bills and ancillary documentation for the settlement with a third-party insurer, the factual predicate of the complaint itself is lacking in required and necessary specificity for a negligence claim of this type.

14. It is well established by case law and Rule 8 of the Arkansas Rules of Civil Procedure that Arkansas is a "fact pleading" state. *See i.e. Harvey v. Eastman Kodak Company*,

[6] While Respondent does not question that Ms. Hudson was at one time the named Administratrix of the Estate of Jacqueline Ashcraft, that fact has not been pled with particularity, as is required by statute and Commission Rule.

271 Ark. 783, 610 S.W.2d 582 (1981); *The Ballard Group v. BP Lubricants USA, Inc.*, 2014 Ark. 276, 436 S.W.3d 445 (2014) ("*This court's rules require fact pleading, and a complaint must state facts, not mere conclusions, in order to entitle the pleader to relief.*")

15. The Arkansas Supreme Court has held that:

> *In order to establish a prima facie case of negligence, [plaintiff] must show that he sustained damages, that [defendant] was negligent, and that such negligence was a proximate cause of his damages. Negligence is the failure to do something that a reasonably careful person would do, or the doing of something that a reasonably careful person would not do. Proximate cause means a cause, which, in a natural and continuous sequence, produces damage and without which the damage would not have occurred. A plaintiff cannot rely on inference based on conjecture to establish a claim of negligence, and the mere fact that an accident occurred is not evidence of negligence. In other words, negligence is not imposed in the absence of proof. Moreover, conjecture and speculation, however plausible, cannot be permitted to supply the place of proof. The fact that an accident occurred with nothing more is not evidence of negligence on the part of anyone.*

See Schubert v. Target Stores, Inc., 2010 Ark. 466, 369 S.W.3d 717 (2010) (internal citations omitted). A negligence claim in Arkansas can only be upheld if the required elements of the claim are proven by a preponderance of the evidence. Generally, those elements are that the respondent owed the plaintiff a duty of care, that the respondent breached the duty of care owed to the plaintiff, that the respondent's breach of duty of care caused the plaintiff's injuries, and that the respondent suffered real damages. If the claimant cannot prove each element by a preponderance of the evidence, she cannot prove that DHS was negligent. Moreover, this means that the claimant cannot by law recover compensatory damages, economic or non-economic, without proving that DHS was negligent.

16. When it comes to what is included in the complaint itself as to the allegations of negligence, Claimant states only that "*[the DHS employee] negligently struck the rear of [the*

victim's car] knocking her into a ditch." *See* complaint at 1, 2.[7] Simply, other than a conclusory statement that the DHS employee acted negligent, there is nothing else in the complaint that actually *supports that allegation.* Just because a person was involved in an accident that caused injuries to another person does not mean that they acted negligently or contributed to another person's damages in any way.[8] While the complaint does include several documents and other records, those are not incorporated by reference into the factual predicate of the complaint itself nor are they given any explanation by the claimant as to their connection to the case, even if that connection appears to be self-evident. And, upon a review of those documents, nothing in the documents suggests that the DHS employee was negligent. Simply attaching the documents and records to the complaint absent any other indication as to what they portend to allege or be as important to the instant case is insufficient for the purposes properly responding to the claim. If the Respondent is going to truly be afforded an opportunity to not only defend this case but to even begin an investigation into the veracity of the claims, it should be afforded a detailed factual allegation of the alleged negligent acts. Specifically, Respondent should be afforded detailed notice of the duty of care allegedly owed Claimant, a detailed explanation of how Respondent allegedly breached the duty of care owed to the Claimant, a detailed allegation showing how the Respondent's breach of duty of care caused Claimant's injuries, and what type of damages are being sought and a justification why those damages should be awarded.

17. More to the point concerning damages, Claimant has cited the sum of four million dollars ($4,000,000) as her sought after remedy. However, in a negligence case, damages must be

---

[7] While Respondent believes it was likely just an oversight, Respondent feels it should note that entry No. 7 of the complaint requires Claimant to note by checking a box whether the claims involved a personal injury. The box was unchecked while the box indicting that the claim involved damages to a motor vehicle under entry 5c *was* checked.

[8] *See Schubert, supra.*

proven by the claimant and the complaint is devoid of any accounting of how this damage amount was derived as required. *See* Rule 1.5(e).

18. Respondent's third contention that the complaint at issue is defective concerns the statutory requirement to set out exactly how much has already been paid out to the estate from any other person or entity associated with the factual predicate of this claim, including without limitation any insurance proceeds and to who those proceeds were paid or otherwise distributed:

> *(d) (1) In the complaint the claimant shall state whether his or her claim has been presented to any state department, or officer thereof, and if so, when presented, to whom, and what action was taken thereon.*
>
> *(2) The director shall further state whether he or she has received any payment on account of such claim and, if so, the amount received.*
>
> *(3) (A) The director shall also state whether any other person or corporation has any absolute or contingent interest in his or her claim.*
>
> *(B) If any person or corporation is interested in the claim, the claimant shall state the name and address of that person or corporation having the interest, the nature of the interest, and how and when it was acquired.*

See Ark. Code Ann. § 19-10-208(d). Claimant has attached documentation to the complaint concerning insurance payouts stemming from this same factual predicate. However, they are not thoroughly described, incorporated by reference, or otherwise explained in a manner sufficient to permit Respondent to properly ascertain their significance, especially if mitigation of damages were to come into play.

19. Respondent's fourth contention that the complaint at issue is defective concerns the Claimant's failure to provide a copy of any "health insurance information in place at the time of the incident" as required under entry 7 of the complaint if the Claimant is claiming personal injury. Claimant has not done so, nor has Claimant indicated whether the Claimant did not have health insurance at that time.

20. Due to the foregoing, Respondent respectfully requests the Commission to require Claimant to correct her defective complaint under Rule 1.5(j), to grant Respondent's motion for a more definite statement under Ark. R. Civ. Pro. 12(e), and to otherwise order Claimant to supplement her initial complaint and ensure that it is in every respect compliant with the requirements of Ark. Code Ann. § 19-10-208(b), Ark. Code Ann. § 19-10-208(d) Ark. Code Ann. § 19-10-208(e), Rules 1.5(d), 1.5(e), and 2.1 of the Commission, Ark. R. Civ. Pro. 8.1, and any other statute, rule, or common law basis as would be otherwise applicable.

21. Respondent also respectfully prays that it not be subject to filing an Answer in the instant case until and after enough time to review and consider any new pleading that Claimant may file subject to the order of this Commission. Further, Respondent respectfully prays that this case and Respondent's requirement to file a timely answer to the Claimant's initial complaint be held in abeyance pending the ruling on Respondent's motion set forth herein, as permitted by Rule 12(a)(2)(B), which reads:

> *(2) The filing of a motion permitted under this rule alters these periods of time as follows, unless a different time is fixed by order of the court:*
> ...
> *(B) if the court grants a motion for a more definite statement, the responsive pleading shall be filed within 10 days after service of the more definite statement. Provided, that nothing herein contained shall prevent a defendant summoned in accordance with Rule 4(f) from being allowed, at any time before judgment, to appear and defend the action; and, upon a substantial defense being disclosed, from being allowed a reasonable time to prepare for trial.*

23. For the foregoing reasons, Respondent respectfully prays for any and all relief to which it may show itself entitled.

Respectfully submitted,

By:

Brent P. Gasper
Assistant Deputy Chief Counsel
Ark. Bar No. 98240

Sarah DeBusk
General Counsel
Ark. Bar No. 2019308

Arkansas Department of Human Services
Office of Chief Counsel
P.O. Box 1437
Little Rock, AR 72203
Phone (501) 320-8950
Brent.Gasper@dhs.arkansas.gov
Sarah.DeBusk@dhs.arkansas.gov

CERTIFICATE OF SERVICE

I, Brent Gasper, hereby certify that on December 7th, 2022, I electronically filed the foregoing with the Claims Commission and copied Claimant's attorney Jim Jackson via email.

Brent P. Gasper

From:	Martha Cox
To:	Brent Gasper; Sarah Debusk; ASCC New Claims
Cc:	Jim Jackson
Subject:	Claims Comm. #230641; Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, deceased and Guardian of Two Minor Children v. The Arkansas Department of Human Services; Incident Date: 6/11/2021
Date:	Friday, December 16, 2022 11:18:32 AM
Attachments:	Claimant"s Complaint.pdf Claimant"s Response to Motion to Cure.pdf Letter to Kathryn Irby with Response & Complaint 12-16-2022.pdf

You don't often get email from mcox@jimjacksonatty.com. Learn why this is important

Please see attached a letter from Attorney Jim Jackson to Ms. Kathryn Irby, with attached Claimant's Response to the respondent's Motion to Cure a Defective Complaint and Claimant's Complaint, to be filed in the above-referenced matter. The originals of these documents are being mailed today to Ms. Irby by first-class mail.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] **CLAIMANT**

VS. **CC NO.** 230641

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES **RESPONDENT**

COMPLAINT

Comes now the claimant, Haley Hudson, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Guardian of [redacted] a minor child, and as Guardian of [redacted] minor child, by and through her attorney, Jim R. Jackson, and for her cause of action against the respondent, states:

BACKGROUND

The Ashcraft family has been ripped apart by the consequences of this wreck. Jacqueline Ashcraft was a 50-year-old mother of five children who lived in Paris, Arkansas, with two of her minor children. [redacted] was her 10-year-old daughter. [redacted] was her 14-year-old daughter. The three lived a[redacted] The two girls were enrolled in the Paris School District and were thriving at the time of the wreck. Ms. Ashcraft's two adult sons lived in Paris and Ozark and are beginning their career and family. Ms. Ashcraft's oldest daughter, Haley Hudson, lived and worked in Wynne, Arkansas. Haley was 29 years old at the time of her mother's death. Haley has two children of her own that live with her and her fiancé a[redacted]

As a result of Jacqueline Ashcraft's sudden and tragic death, the two minor children did not have a parent. They had to move from Paris, Arkansas, to Wynne to live with Haley Hudson. Haley adopted her two baby sisters. Haley is doing the best job she can to raise her two baby sisters. Haley is now both mom and big sister to [redacted]

I. STATEMENT OF JURISDICTION

1. This claim is brought pursuant to the Commission's authority of jurisdiction of "all claims against the State of Arkansas and its several agencies, departments, and institutions" pursuant to the authority granted by the General Assembly found in Arkansas Code Annotated §19-10-204, *et seq*.

2. The claimant has exhausted all liability insurance coverage for this incident. There is no UIM or other liability insurance coverage for these claims.

II. PARTIES TO THE CLAIM

3. The claimant is the duly appointed Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, pursuant to an Order dated August 6, 2021, entered by The Honorable Terry Sullivan in a matter styled, *In The Matter Of The Estate Of Jacqueline Lynn Ashcraft, deceased*, in the Circuit Court of Logan County, Arkansas, Probate Division No. 42PR-2021-63.

4. Haley Hudson was appointed Permanent Guardian of the Person and Estate of [redacted] by Order of Cross County Probate Judge Christopher Morledge dated July 20, 2021, in a matter styled: *In the Matter of the Guardianship of the Person and Estate of* [redacted] *Minors*, Cross County Probate Number 19PR-2021-57-3. Attached as Exhibit 1 is a file-marked copy of the Order filed with the Cross County Probate Clerk on July 20, 2021.

5. The respondent, Arkansas Department of Health and Human Services, is an agency of the State of Arkansas. Jennifer Wilkerson was an employee of the Arkansas

Department of Health and Human Services and was engaged in the course and scope of her employment at all times relevant to this cause of action.

III. STATEMENT OF THE CASE

6. On Friday, June 11, 2021, at approximately 12:50 p.m., Jacqueline Ashcraft was driving her 2005 Hyundai Sonata eastbound on State Highway 22 in Logan County near Subiaco Academy. She had three passengers in the back seat of her car: her daughters, [redacted] and her great nephew, [redacted] who was in a baby seat between [redacted] Ms. Ashcraft was taking the baby to his home a [redacted] Ms. Ashcraft slowed to make a left-hand turn into a driveway for [redacted] she used her left-hand blinker to indicate to traffic she was attempting a left-hand turn. Ms. Ashcraft had to come to a full stop prior to commencing the left-hand turn to avoid oncoming westbound traffic.

7. Jennifer Wilkerson was operating a 2009 Hyundai Elantra owned and maintained by the Arkansas Department of Health and Human Services. She was traveling eastbound on Highway 22 immediately behind Ms. Ashcraft's 2005 Hyundai Sonata. Ms. Wilkerson negligently failed to recognize that Ms. Ashcraft's vehicle was slowing down to make a left-hand turn. Ms. Wilkerson negligently drove her car into the rear end of Ms. Ashcraft's car. The collision knocked Ms. Ashcraft's car onto the eastbound shoulder. Ms. Wilkerson's vehicle then entered a counterclockwise spin, causing her vehicle to strike the truck and trailer that was traveling westbound on Highway 22.

IV. NEGLIGENCE

8. Jennifer Wilkerson was employed by the respondent and was operating within the scope of her employment at all relevant times to this cause of action.

9. The Arkansas Department of Health and Human Services is liable for all damages caused by Jennifer Wilkerson under the *respondeat superior* doctrine.

10. The respondent's employee, Jennifer Wilkerson, is guilty of negligence, which was the proximate cause of the above-described vehicle collision in the following particulars:

(a) in failing to keep the vehicle she was driving under proper control;

(b) in failing to yield the right-of-way to the superior traffic which is a violation of Arkansas statutes and common law;

(c) in failing to exercise ordinary care for her own safety and for the safety of others using the highway; and

(d) in driving in a careless and reckless manner which is a violation of Arkansas statutory and common law.

11. State Trooper James Ray investigated the accident. He found that Jennifer Wilkerson's actions were "inattentive, careless, negligent, or erratic operation" at the time of the crash.

12. State Trooper James Ray found that Jacqueline Ashcraft had "no contributing action" at the time of the crash. Attached as Exhibit 2 is a copy of crash report #20621051F prepared by Trooper Ray.

V. *RESPONDEAT SUPERIOR*

13. All acts of negligence of the respondent's employee, Jennifer Wilkerson, are imputed to the respondent, Arkansas Department of Health and Human Services, as a matter of law.

VI. CAUSATION

14. The negligent acts on the part of the respondent's employee, Jennifer Wilkerson, were the sole and proximate cause of the wrongful death, injuries, and damages sustained by Jacqueline Lynn Ashcraft [redacted] as more specifically described herein.

VII. DAMAGES

15. Jacqueline Lynn Ashcraft initially survived the collision and was able to speak with her children and witnesses/bystanders. Unfortunately, the collision from the wreck caused Ms. Ashcraft to develop an intracerebral hemorrhage[1] which led to a rapid neurological decline. Ms. Ashcraft was transported by ambulance to the emergency room at Booneville where a CT scan revealed she had sustained a massive right basal ganglia hemorrhage in the collision leading to severe brain compression and uncal herniation[2]. Ms. Ashcraft was emergently transported to Mercy Medical Center in Fort Smith. Her adult children were notified of the severity of her injuries. Haley Hudson immediately traveled from her job in Wynne to Fort Smith, Arkansas. Upon arrival, Haley was informed by the neurosurgeon that her mother's condition was terminal and there was nothing further that could be done to save her mother's life. Haley and her two adult brothers, Dalton and Mark, made the decision to follow the doctor's advice and allow the medical providers to compassionately extubate life-support.

16. The claimant, Haley Hudson, is asserting a claim for damages for the wrongful death of Jacqueline Lynn Ashcraft, and for the bodily injury claims of [redacted] and [redacted] all of which were proximately caused by the negligence of the respondent's employee, Jennifer Wilkerson.

WRONGFUL DEATH CLAIM

17. Haley Hudson, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, claims she is entitled to recover for the following damages, all of which were proximately caused by the negligence of Jennifer Wilkerson, said

---

[1] "Bleeding on the brain"
[2] Uncal herniation occurs when rising intracranial pressure causes portions of the brain to move from one intracranial compartment to another. It is a life-threatening neurological emergency and indicates the failure of all adaptive mechanisms for intracranial compliance.

negligence being imputed to the respondent, Arkansas Department of Health and Human Services:

(a) Compensatory damages for the severe pain, suffering, and mental anguish sustained by Jacqueline Lynn Ashcraft after the impact until her death;

(b) Compensatory damages for the damage to Ms. Ashcraft's Hyundai Sonata;

(c) Compensatory damages for the mental anguish sustained by the statutory beneficiaries who are listed below:

Name	Relationship	Address
[redacted]	Minor Daughter	[redacted]
	Minor Daughter	
Dalton Cody Ashcraft	Adult Son	
Mark Hudson	Adult Son	
Haley Nicole Hudson	Adult Daughter	
LaDonna Jackson	Mother	
Jeffrey Ashcraft	Brother	
Bobby Ashcraft	Brother	
Jennifer Howard	Half-Sister	
Joshua Jackson	Half-Brother	

(d) Compensatory damages for the Estate's Loss of Life claim;

(e) The reasonable funeral expenses; and

(f) Any medical bills incurred by the estate.

BODILY INJURY CLAIMS

18. [redacted] each sustained bodily injuries in the wreck. Haley Hudson, as Guardian of [redacted] seeks:

(a) Compensatory damages for the reasonable expense of any necessary medical care and other out-of-pocket expenses sustained by [redacted] and the present value of such expenses reasonably certain to be required in the future;

(b) Compensatory damages for the nature, extent, duration, and permanency of any injury sustained by [redacted] and

(c) Compensatory damages for any pain and suffering experienced in the past and reasonably certain to be experienced in the future.

19. The claimant's total compensatory damages, as shall be proven by the evidence, is Four Million Dollars ($4,000,000.00).

REQUIREMENT OF A.C.A. §19-10-208(d)

20. The claimant has not presented this claim to any other state department or officer thereof prior to the original online filing of the complaint to open this matter.

21. The respondent did have a liability insurance policy with Cincinnati Insurance Company. Cincinnati Insurance Company filed an Interpleader naming the respondent and the claimant in a matter styled: *Cincinnati Insurance Company vs. Haley Hudson, Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, et al., and Guardian of the Estates o* [redacted] *oth minors, Jennifer Wilkerson, Arkansas Department of Human Services, Bobby Dale Wilson, Joe Ashley Trucking, LLC,*

GKD Management, LP DBA Commercial Trucking, Inc. and Tru Homes, LLC, Logan County Circuit Court No. 42PCV-21-116.

22. The respondent's legal counsel, Sean Strode, filed an Entry of Appearance on January 10, 2022, in the above-referenced Interpleader. The respondent should be intimately familiar with all filings since its legal counsel received these filing contemporaneously through the CM/ECF filing system and had access to them.

23. Cincinnati Insurance Company deposited the limits of its policy of $250,000 with the clerk of the court on or around March 21, 2022. Haley Hudson, as Special Administratrix of the Estate of Jacqueline Ashcraft, deceased, received $150,000 after attorney fees and case expenses for the wrongful death claim.

24. $12,500 of the $250,000 went to GKD Management, which was the third vehicle involved in this collision. It appears that this was to pay the property damage from that claim.

25. Haley Hudson, as Permanent Guardian of the Estates o[redacted] and [redacted]inor children, has received nothing for their bodily injury claims.

UNDERINSURED MOTORIST CLAIM

26. Ms. Ashcraft did not have any uninsured or underinsured motorist coverage for the collision which is the subject of this claim.

WHEREFORE, the claimant, Haley Hudson, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and Haley Hudson, as Permanent Guardian of [redacted]inor children, prays

that she have a judgment against the respondent for a sum of Four Million Dollars ($4,000,000.00), and for all other necessary and proper relief to which she is entitled.

Respectfully Submitted,

Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
Phone: 501-823-3610
Fax: 501-823-3611
Jim@JimJacksonatty.com

By: 

Jim R. Jackson
Arkansas Bar No. 93209

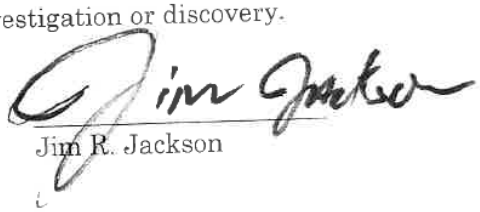
CERTIFICATE OF SERVICE

I, Jim Jackson, certify that on this date, consistent with the requirements of Ark. R. Civ. Pro. 5, and Commission Rule 1.5(b) a complete copy of the foregoing was electronically submitted with the Clerk of the Arkansas Claims Commission and electronically served on counsel for the Arkansas Department of Health and Human Services and three copies of each exhibit were deposited in the mail to the Director of the Arkansas State Claims Commission.

/s/ Jim R. Jackson
Jim R. Jackson

CLAIM SUBMISSION SIGNATURE PAGE

The undersigned attorney, Jim Jackson, certifies that to the best of his knowledge, information, and belief, this claim is not being presented for any improper purpose; this claim is warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; and the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.



Jim R. Jackson

ACKNOWLEDGMENT

STATE OF ARKANSAS)

COUNTY OF PULASKI)

On this day before the undersigned, Martha Cox, a Notary Public duly qualified and acting in and for the county and state aforesaid, personally appeared Jim Jackson, to me well known and satisfactorily proven to be the person whose name appears in the foregoing instrument, and stated that he has executed the same for the consideration, uses and purposes therein stated and stated that he had executed the foregoing instrument of his own free will, for the purposes and consideration therein stated.

In witness whereof, I hereunto set my hand and Notary Seal on this 16th day of December, 2022.

Martha Cox

Martha Cox
Notary Public

My commission expires:

[SEAL]

MARTHA COX
NOTARY PUBLIC - STATE OF ARKANSAS
SALINE COUNTY
My Commission Expires 8-19-2031
Commission # 12383466

FILED - MELANIE WINKLER
COUNTY & PROBATE CLERK

JUL 20 2021

CROSS COUNTY ARKANSAS
BY Mary Beth Eaton D.C.

IN THE CIRCUIT COURT OF CROSS COUNTY, ARKANSAS
PROBATE DIVISION

IN THE MATTER OF THE GUARDIANSHIP OF THE PERSON AND ESTATE OF
[redacted]

19PR-2021-57-3

ORDER FOR PERMANENT GUARDIANSHIP

NOW on this ____ day JUL 20 2021 ____, 2021, is presented to the Court the Emergency Petition of Haley Nicole Hudson of Cross County, Arkansas, for her appointment as Permanent Guardian of the person and estate of [redacted] Upon consideration of such Petition, the evidence in support thereof, arguments of counsel, and the facts, the Court finds:

1. [redacted] re incompetent by reason of their minority.

2. This court has jurisdiction and venue properly lies in this county.

3. That the Petitioner, Haley Nicole Hudson, appeared in the Cross County Circuit Court today, July 20, 2021 at 9:00 a.m. That the courtroom and hallway of the Cross County Courthouse were sounded three (3) times on July 20, 2021 at 9:00 a.m., and the Respondent, Steven Allen Jones, failed to appear despite being served with notice of the hearing on the 27th day of June , 2021, by Tim McMahon, Process Server.

4. That this court deems the contents of the Verified Emergency Petition for Guardianship filed by the Petitioner, Haley Nicole Hudson, to be admitted and hereby accepts

EXHIBIT
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1

the affidavits as evidence in support of the grant of a permanent guardianship in this cause.

5. The minor child, [redacted] being fourteen years of age or older has consented to the entry of the permanent guardianship in this cause.

6. That it is in the best interest of the minor children that Haley Nicole Hudson be given full guardianship and control of the minor children for any and all purposed endowed to their natural parents, including but not limited to medical and education needs.

7. That it is hereby ordered that Haley Nicole Hudson is granted permanent guardianship of [redacted]

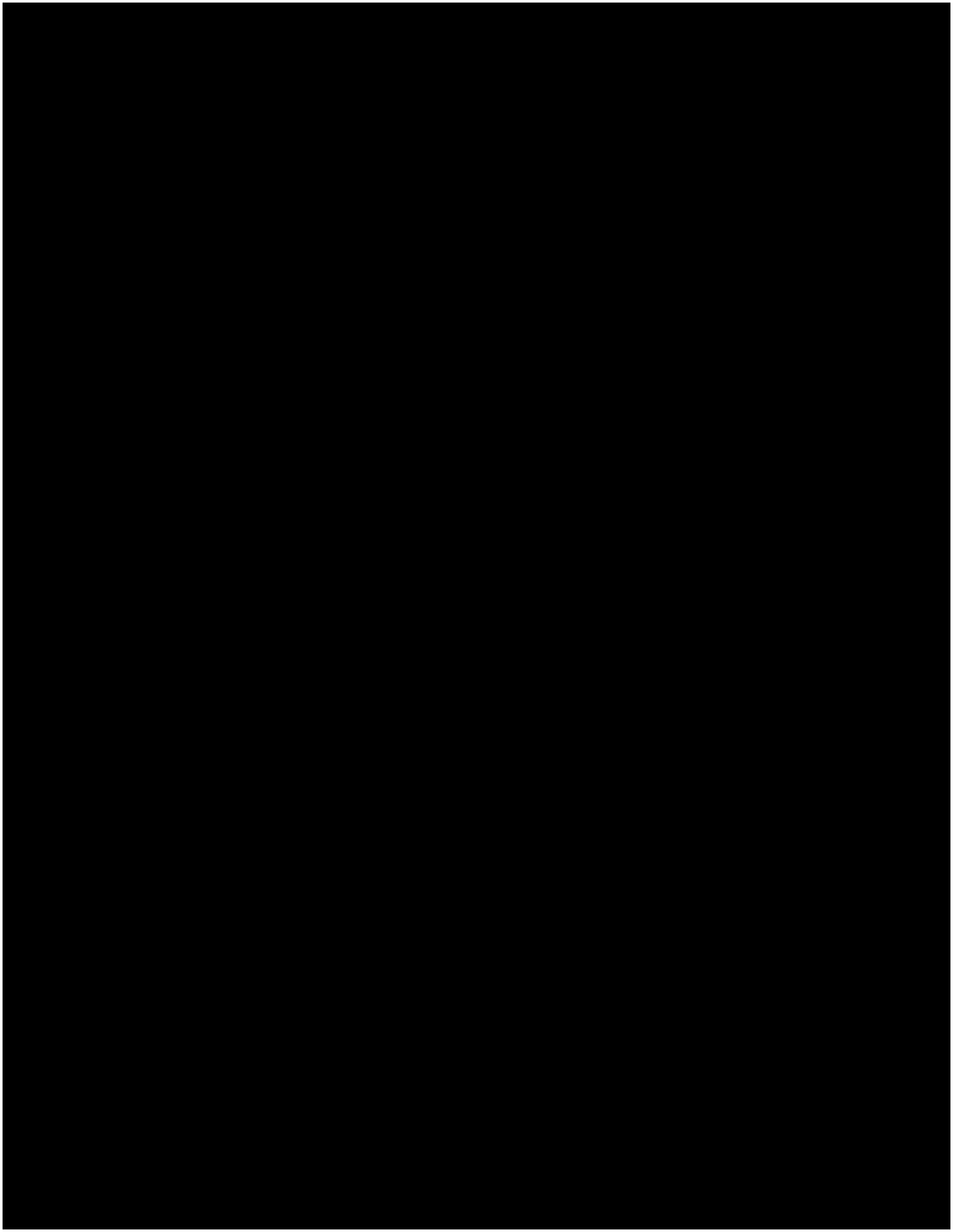
8. That letters of permanent guardianship shall be issued by the Probate Court Clerk of Cross County, Arkansas.

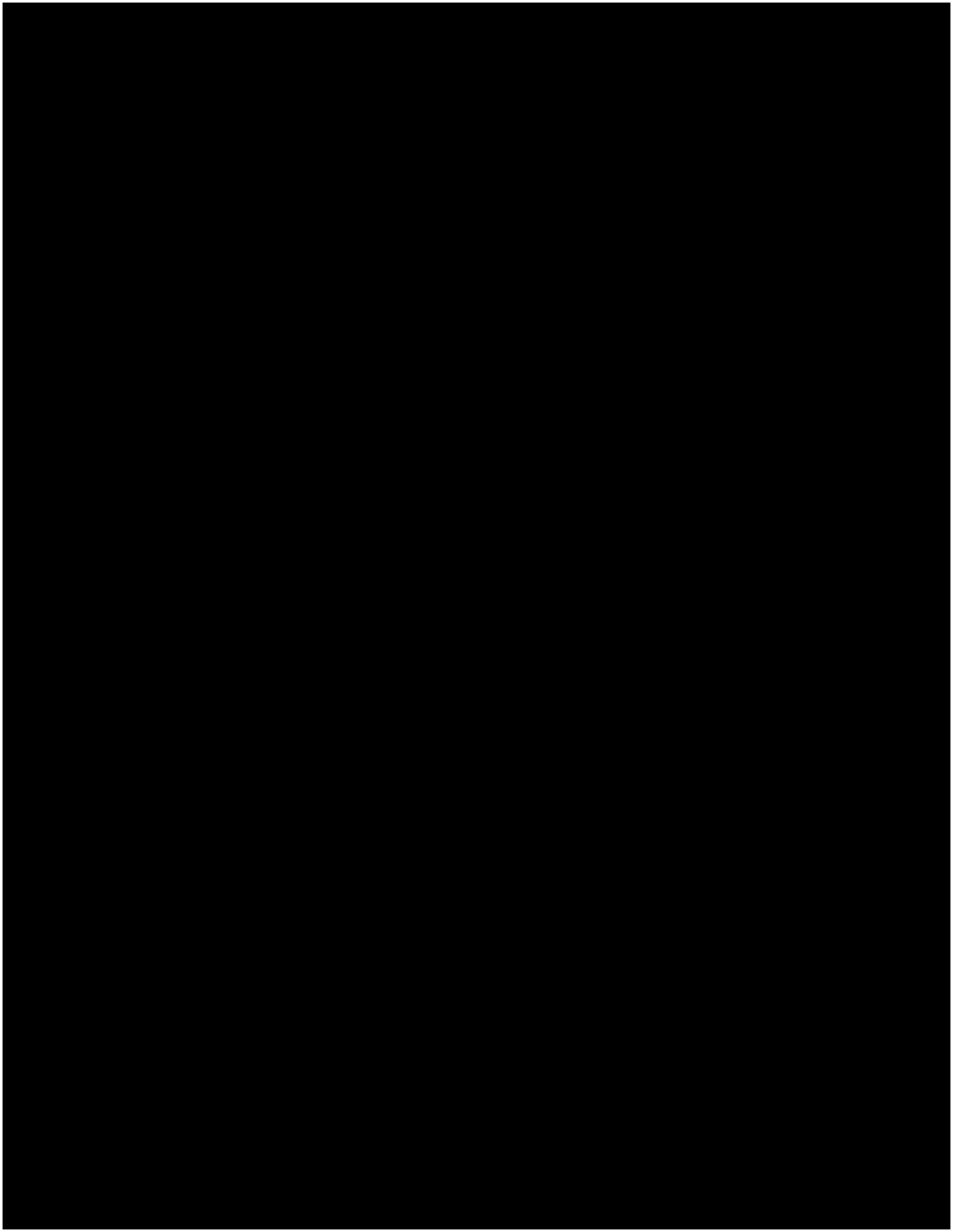
IT IS THEREFORE, CONSIDERED, ORDERED AND ADJUDGED, that Haley Nicole Hudson, is hereby appointed as permanent guardian of the person and estate of [redacted] that letters of permanent guardianship shall be issued by the Probate Court Clerk of Cross County, Arkansas; no bond is required because the minor children have no assets in their estate.

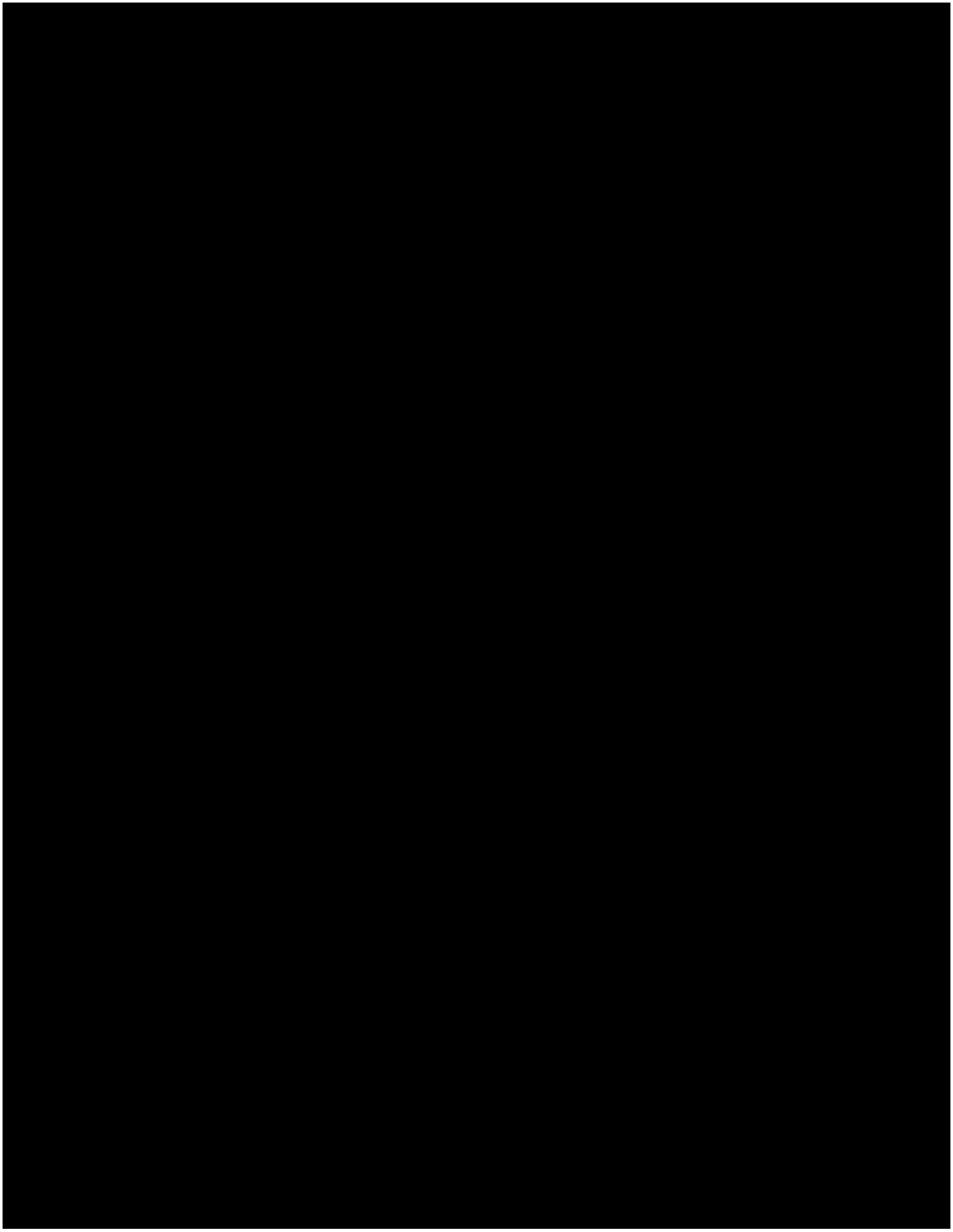
IT IS SO ORDERED.

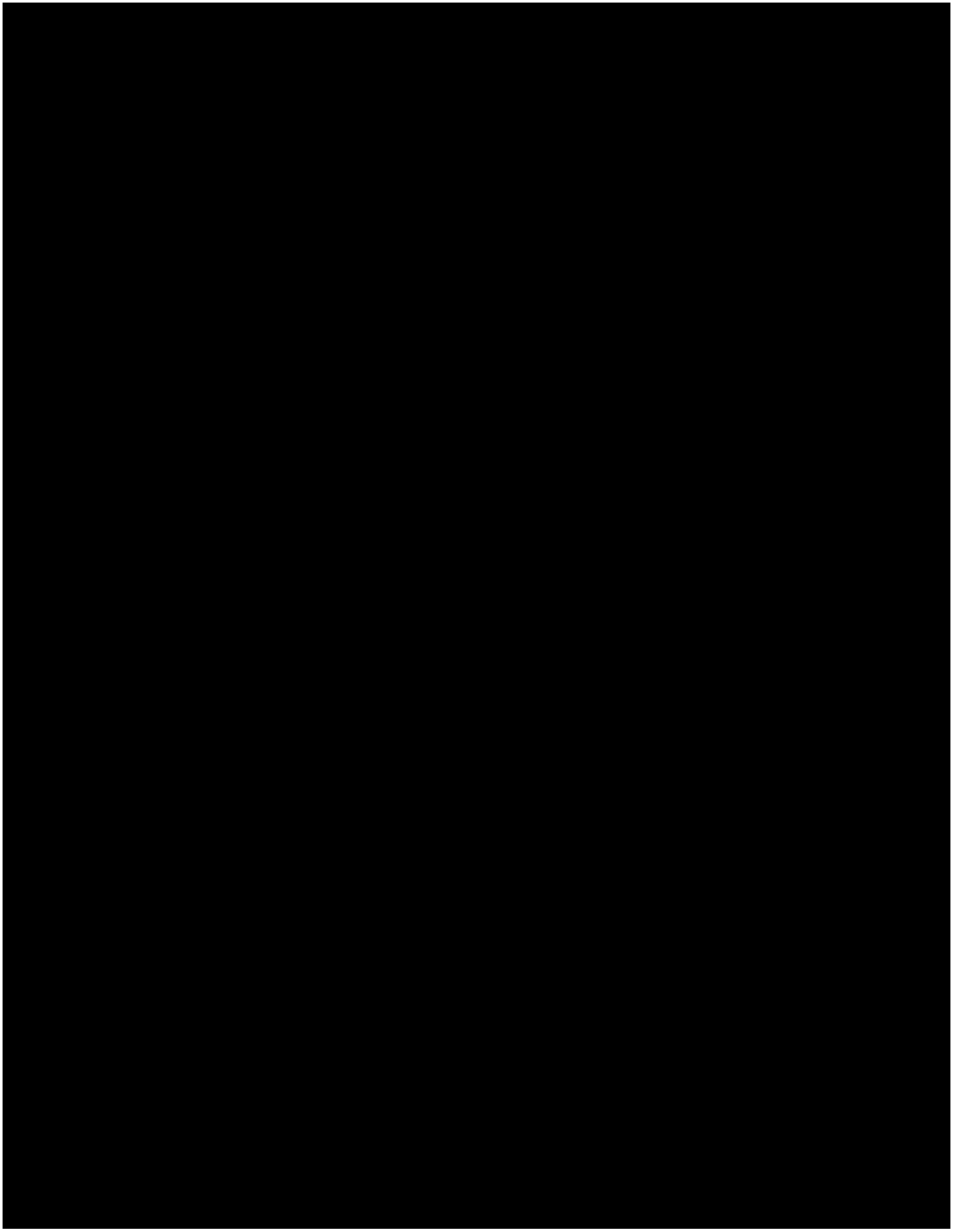
Christopher J Medley
CIRCUIT JUDGE

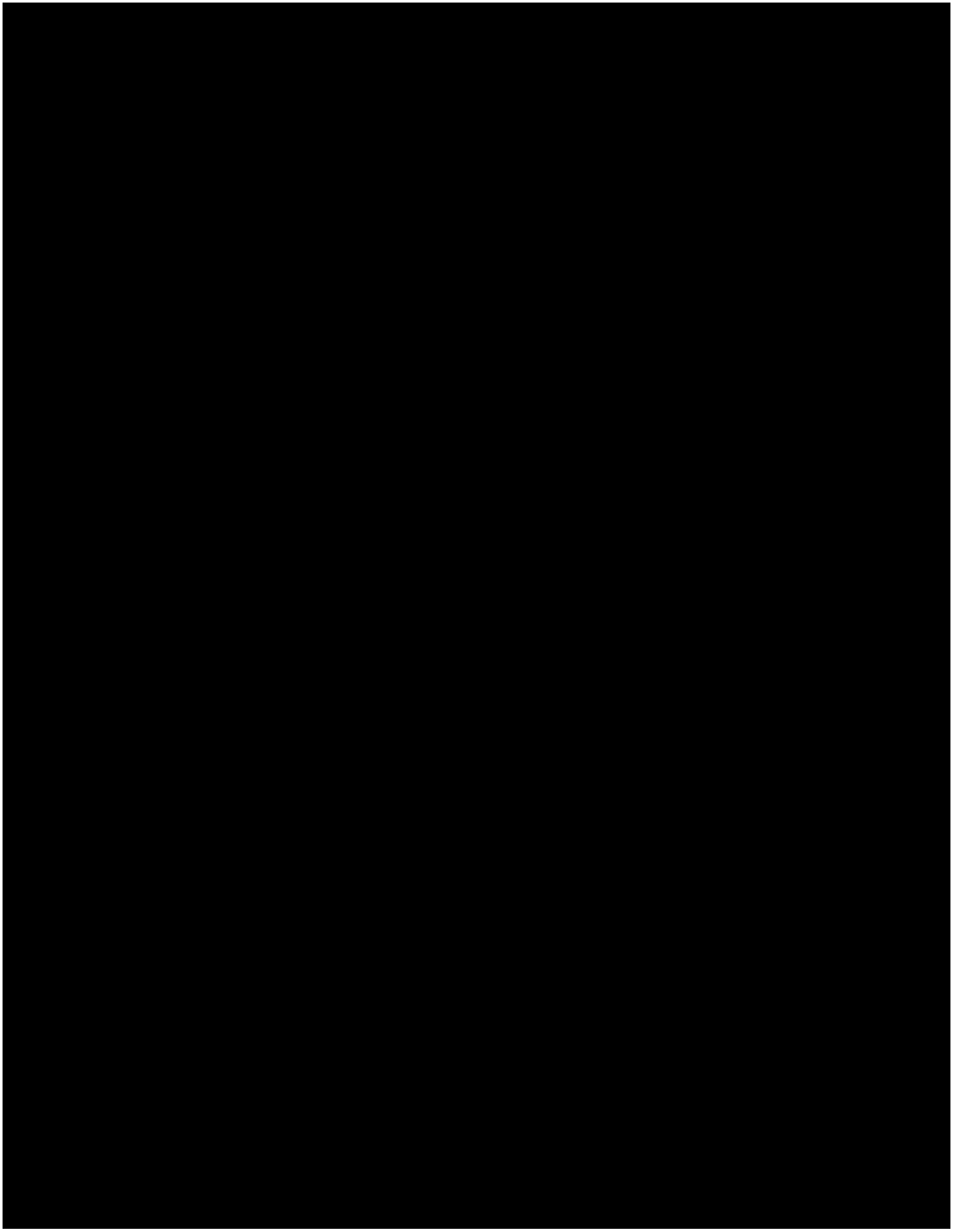
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DATE ENTERED

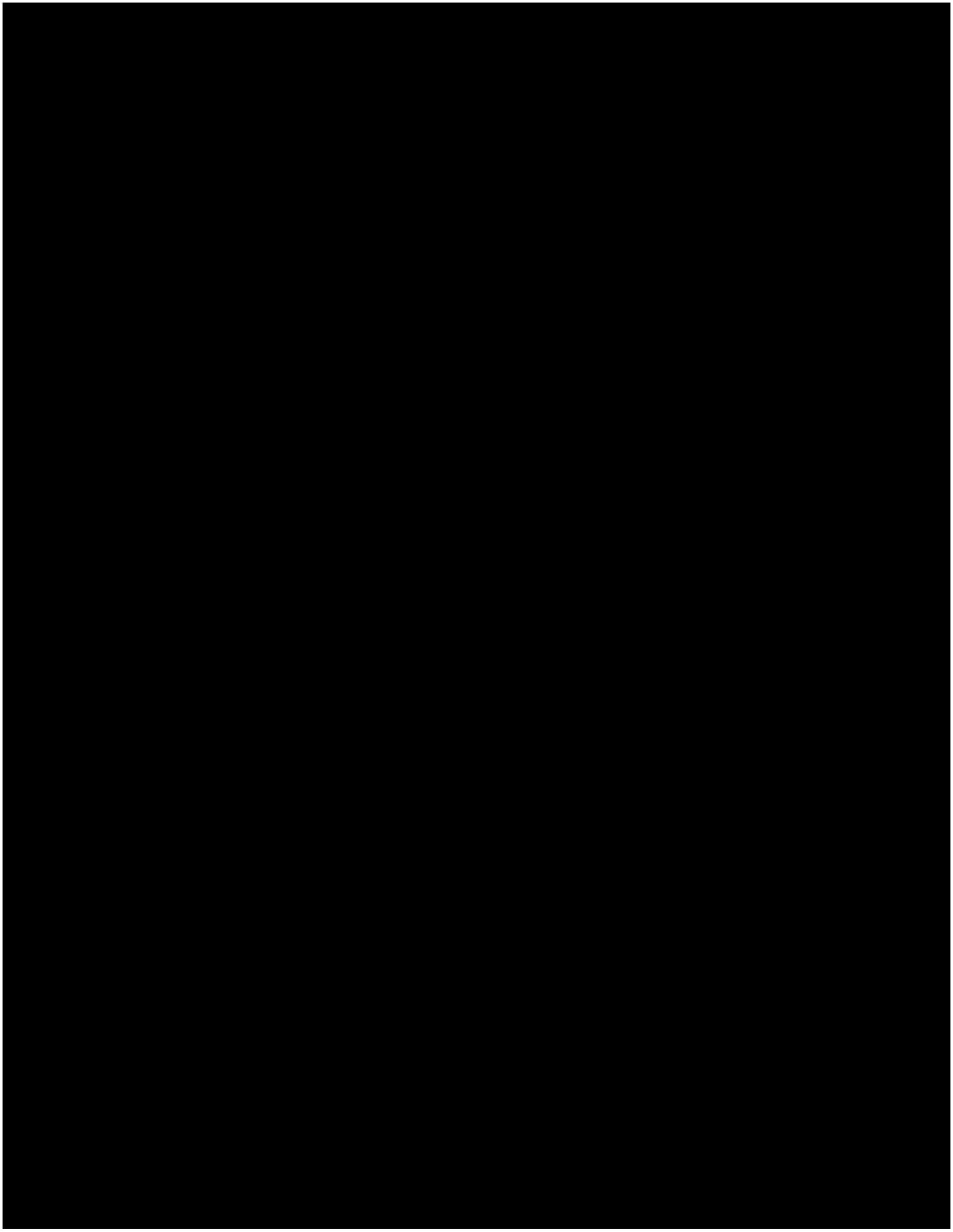


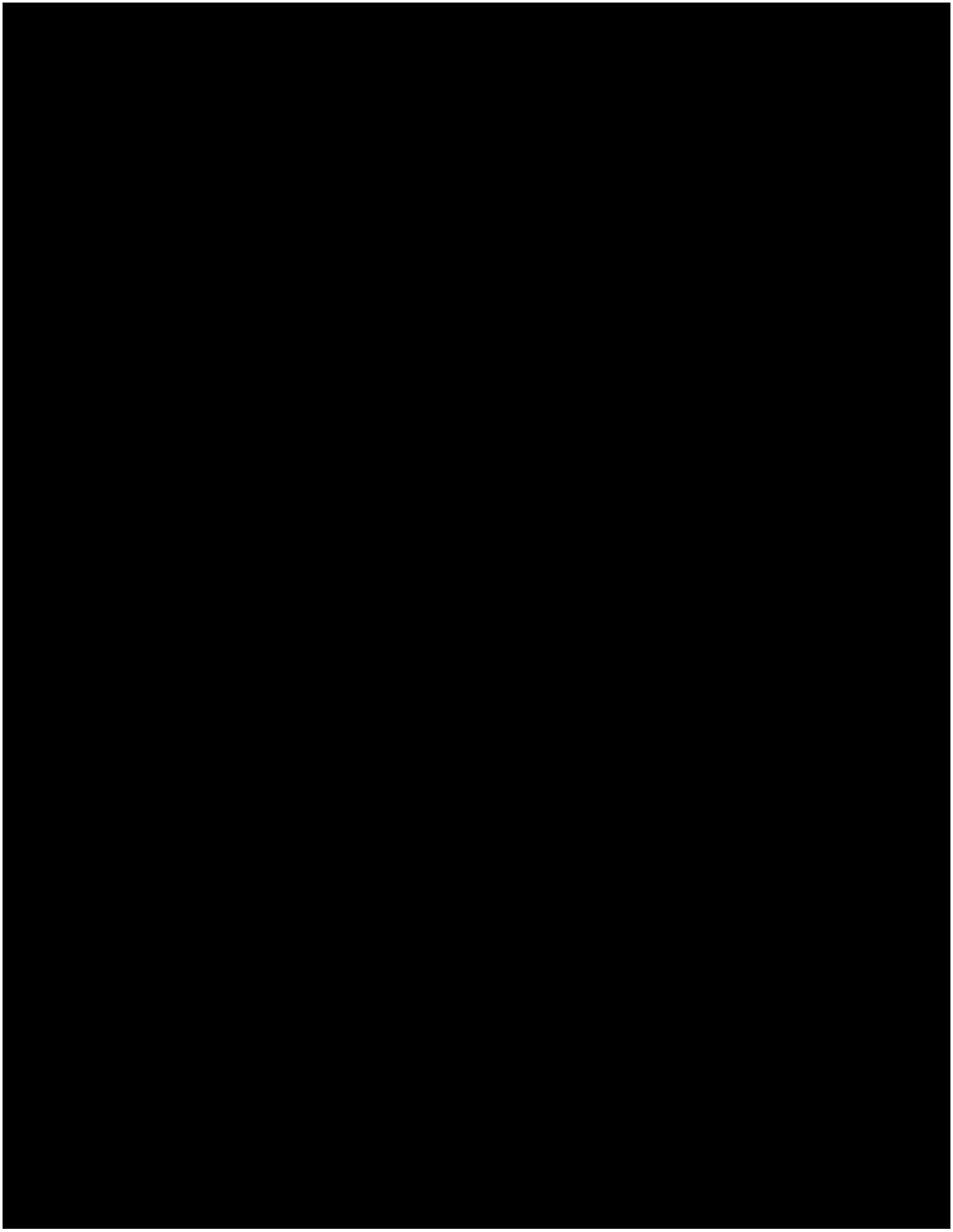


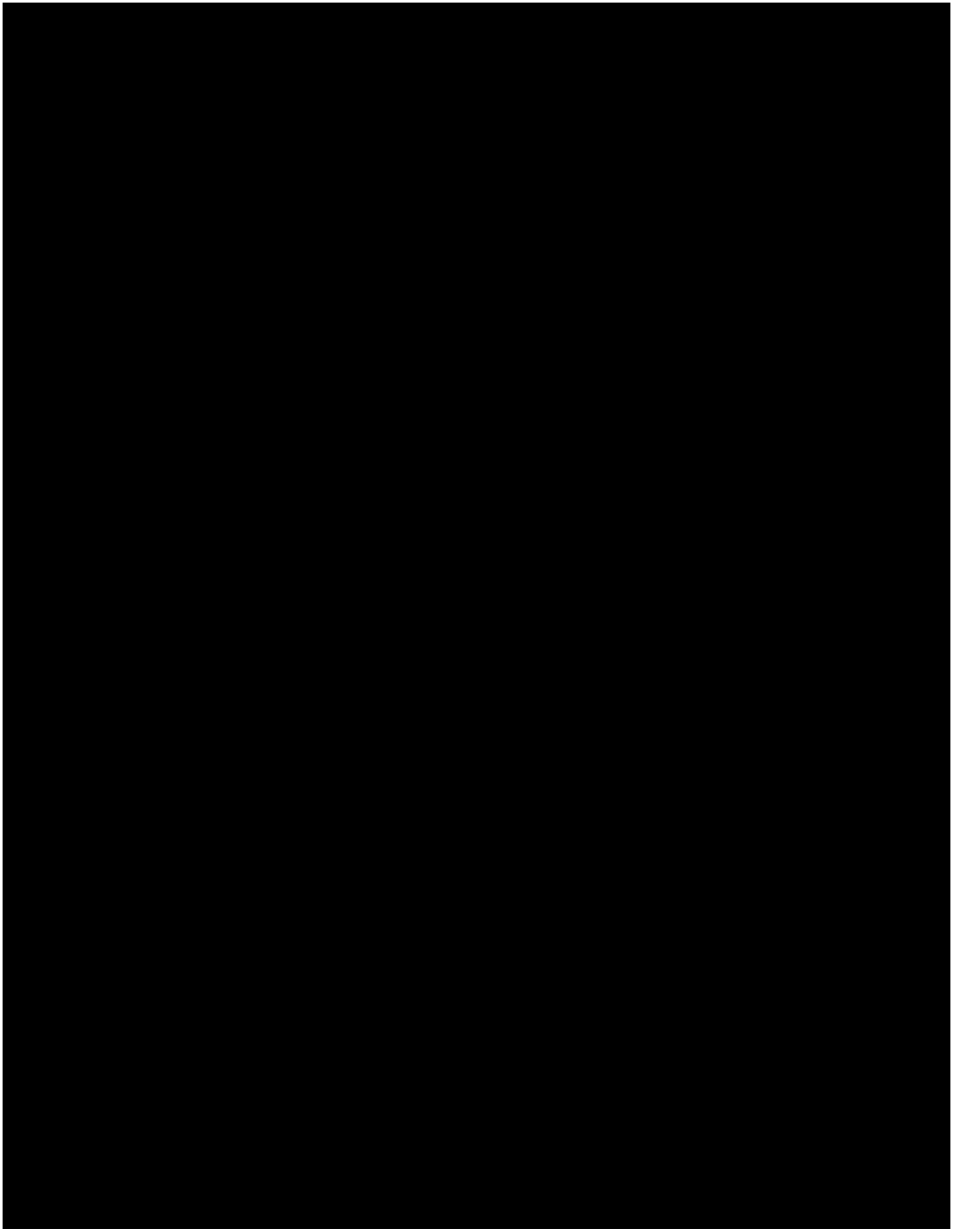


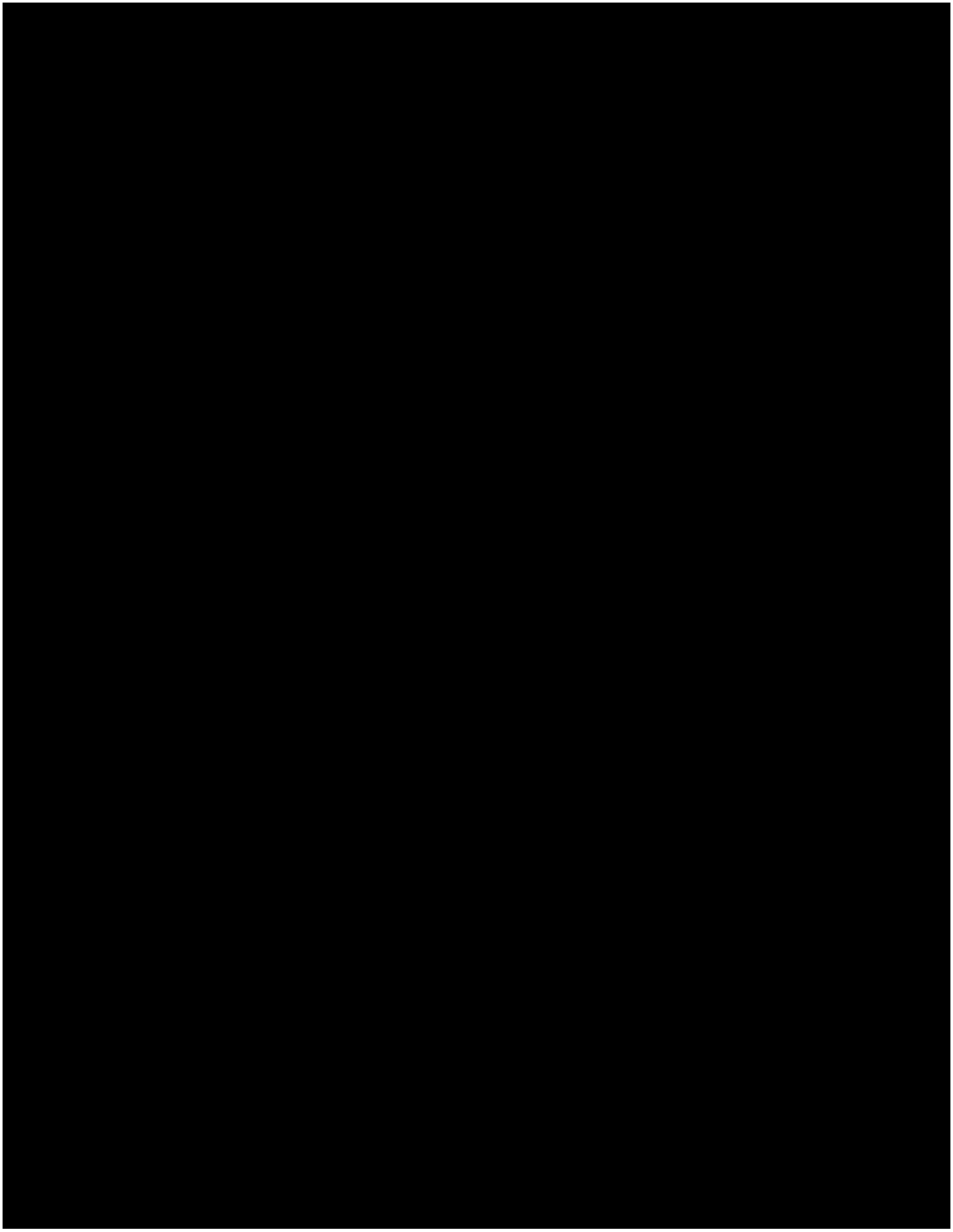


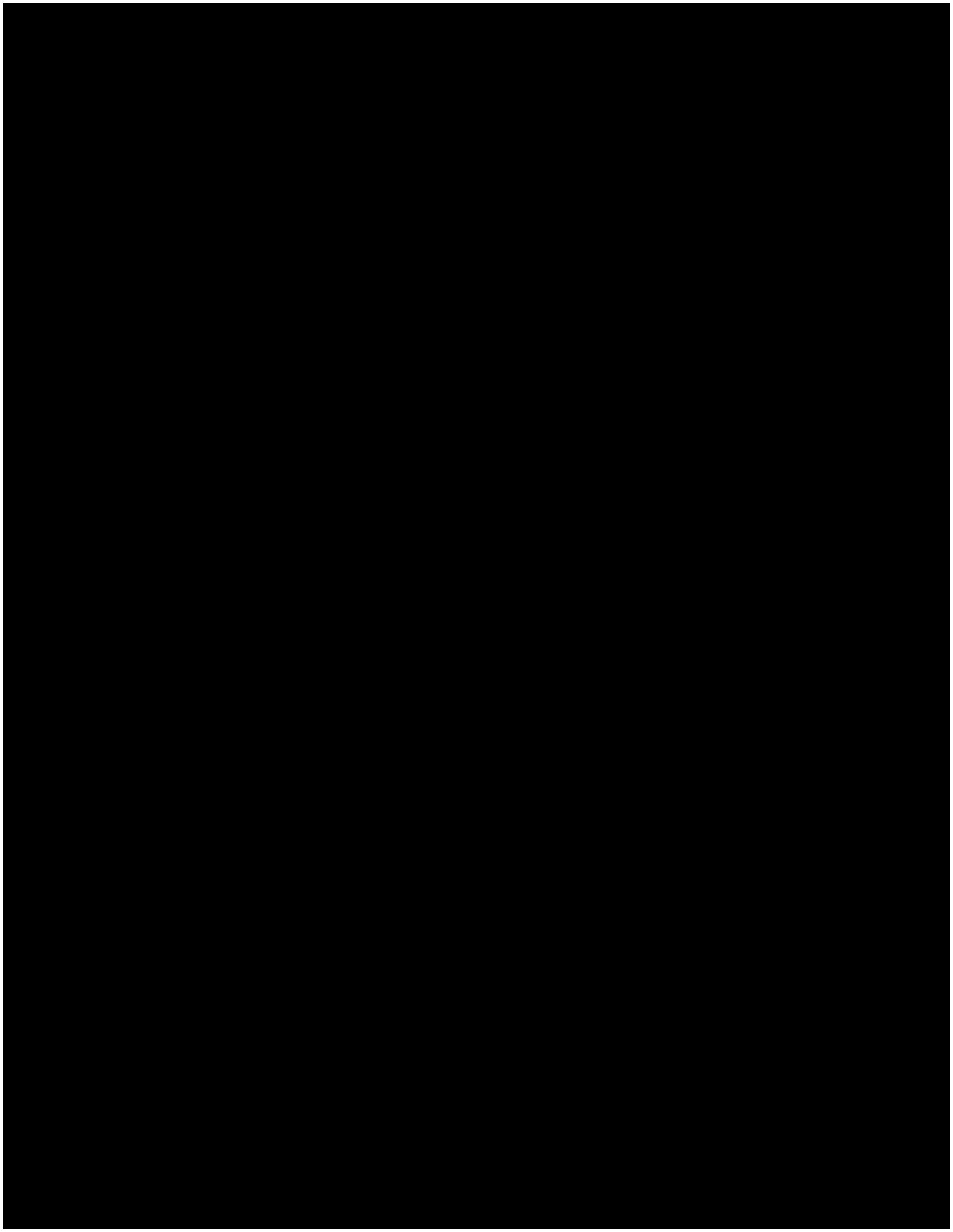


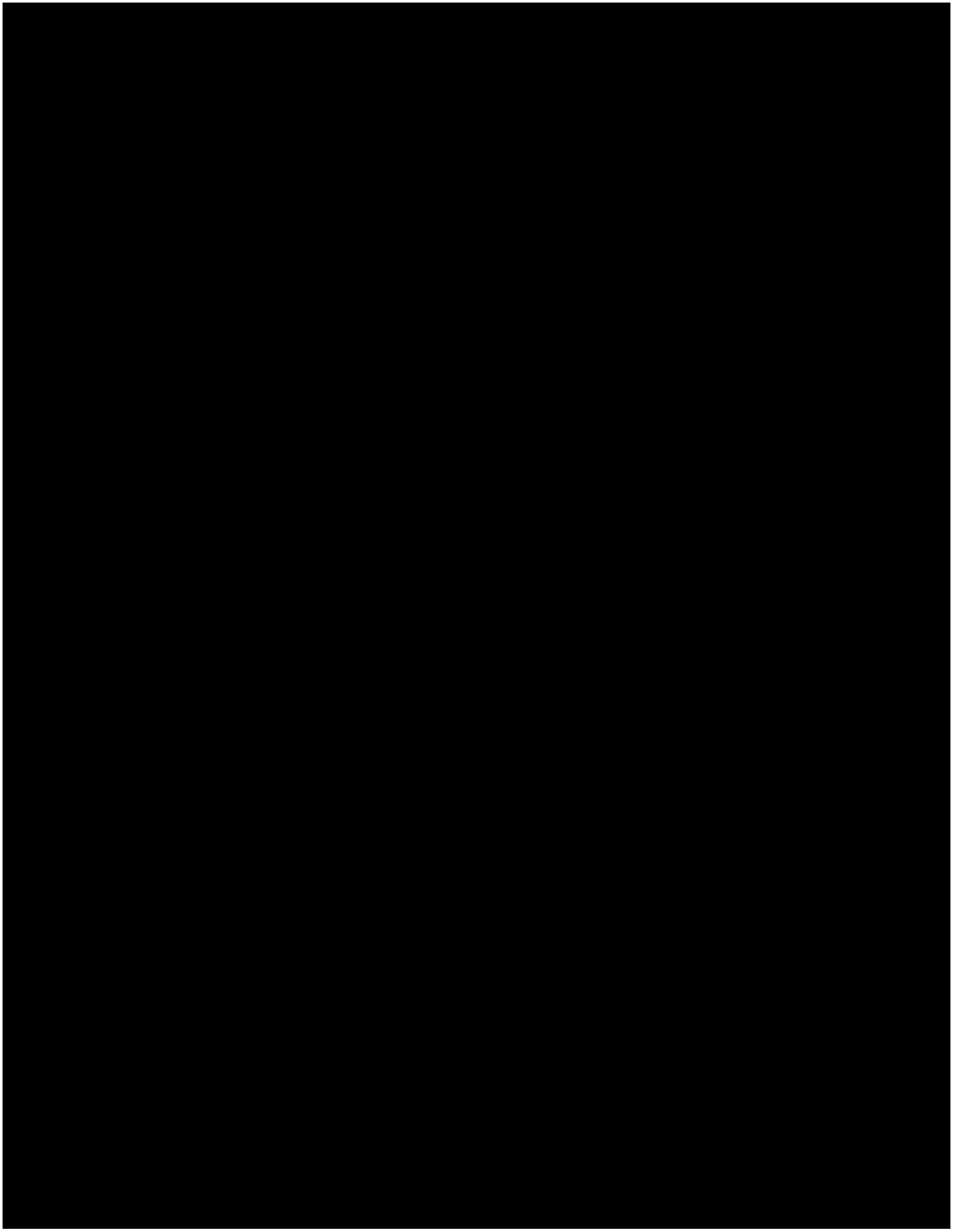


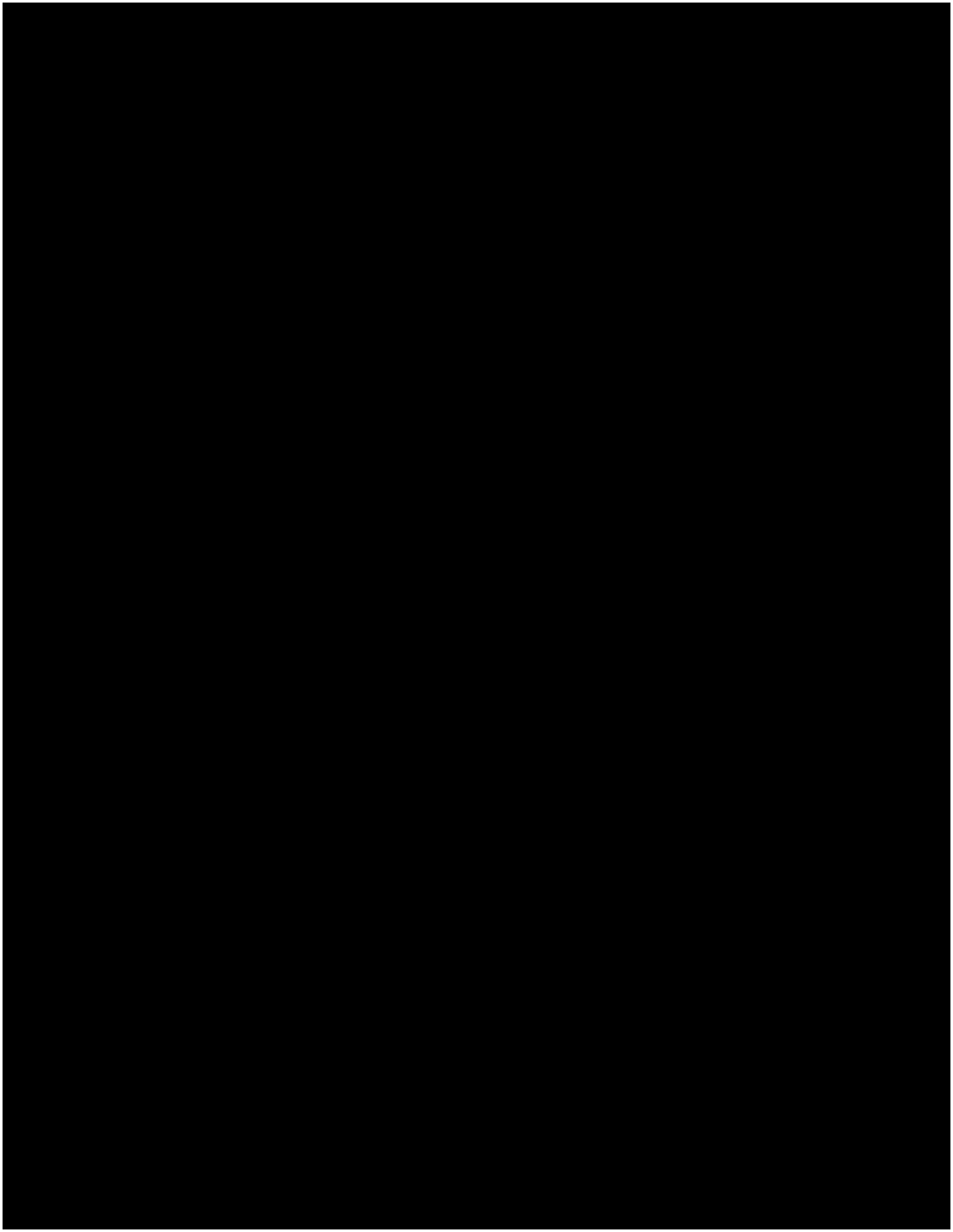


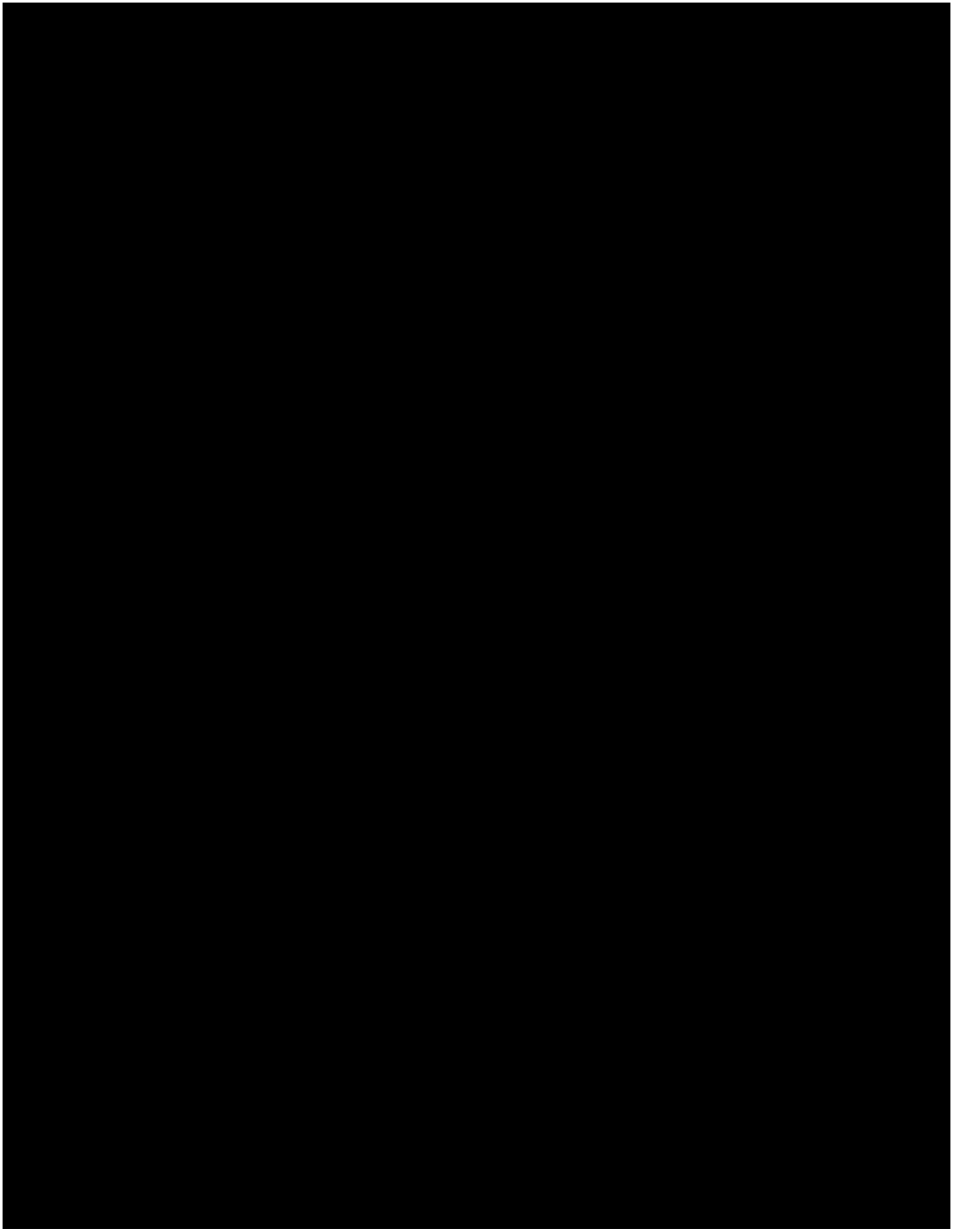


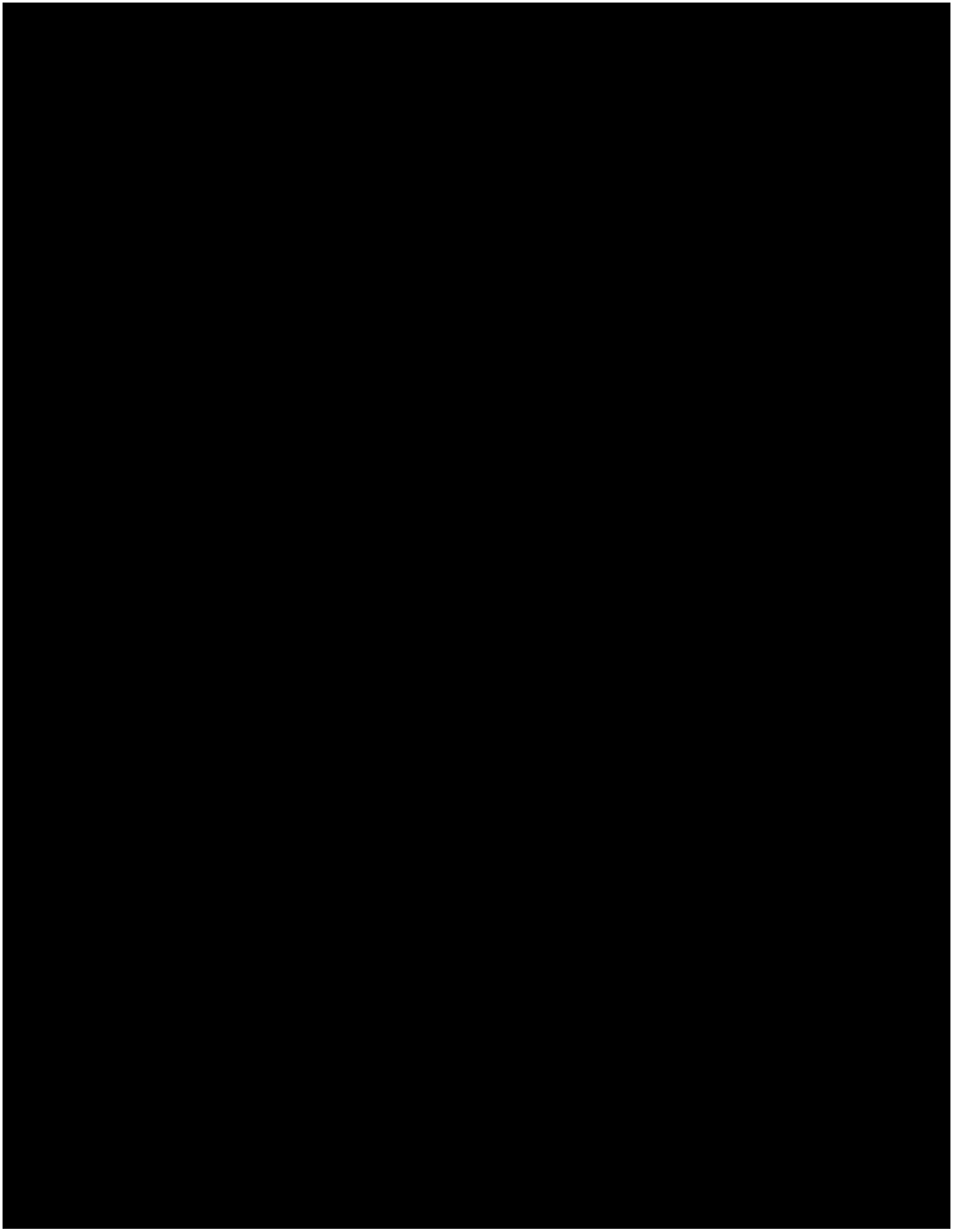


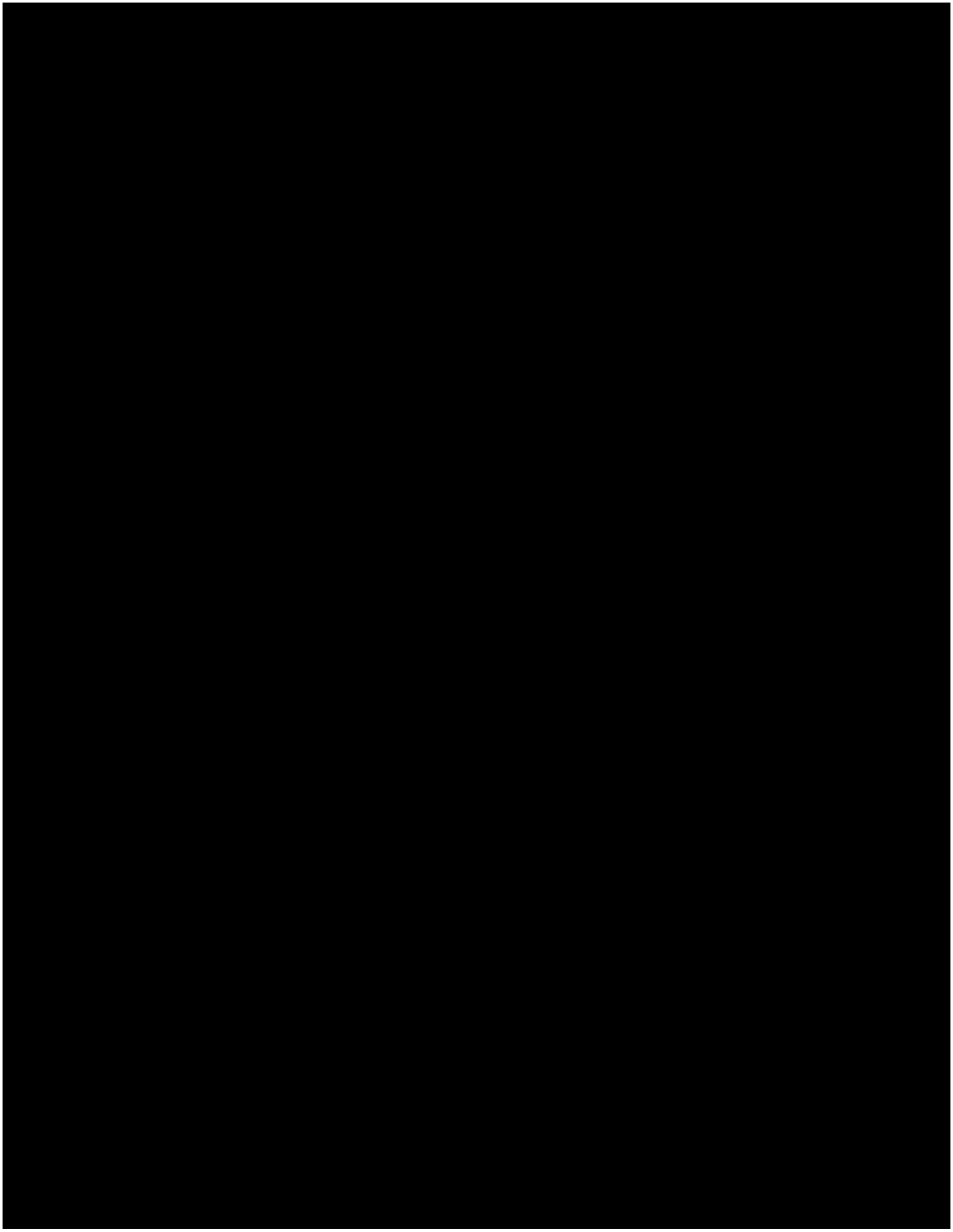


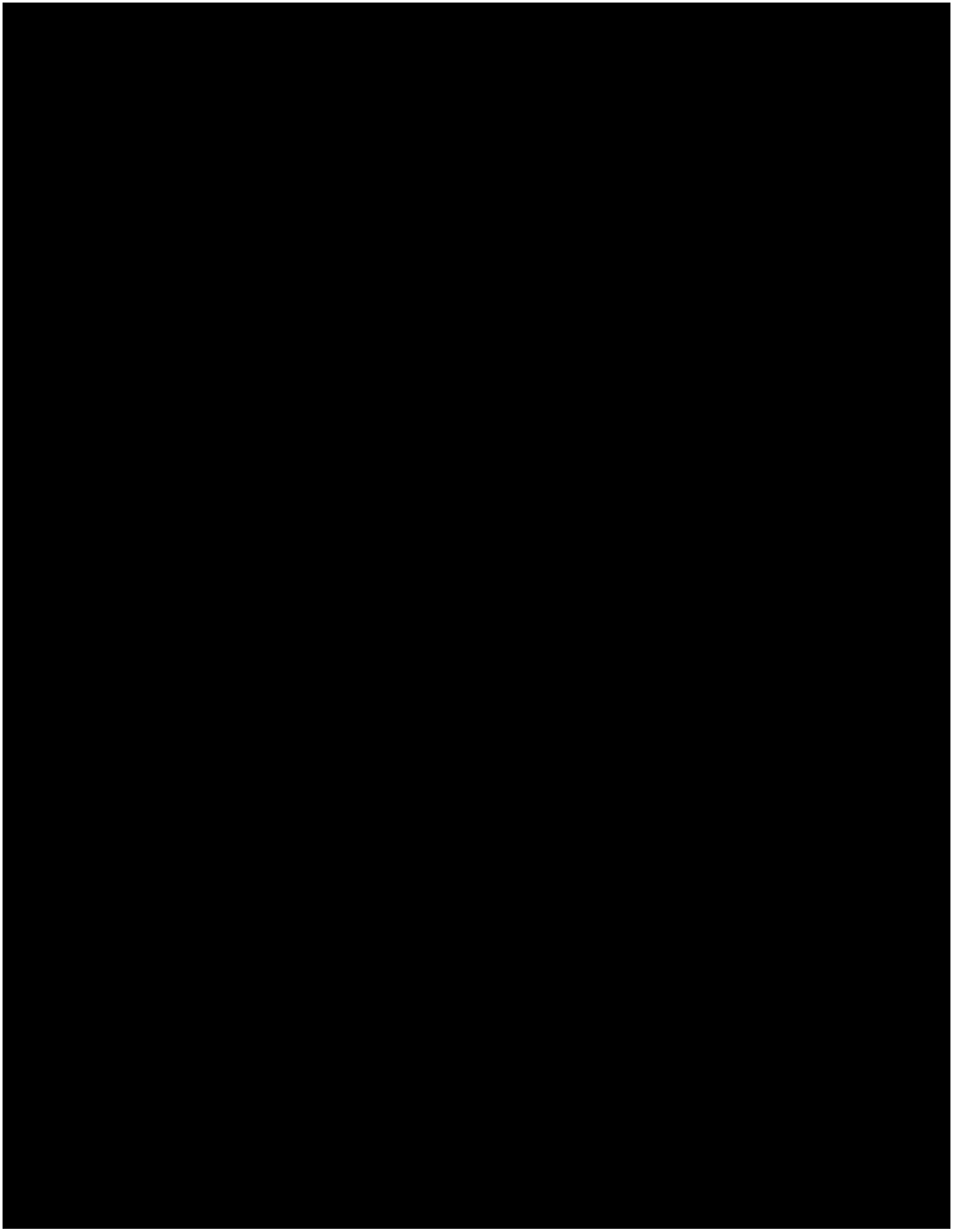


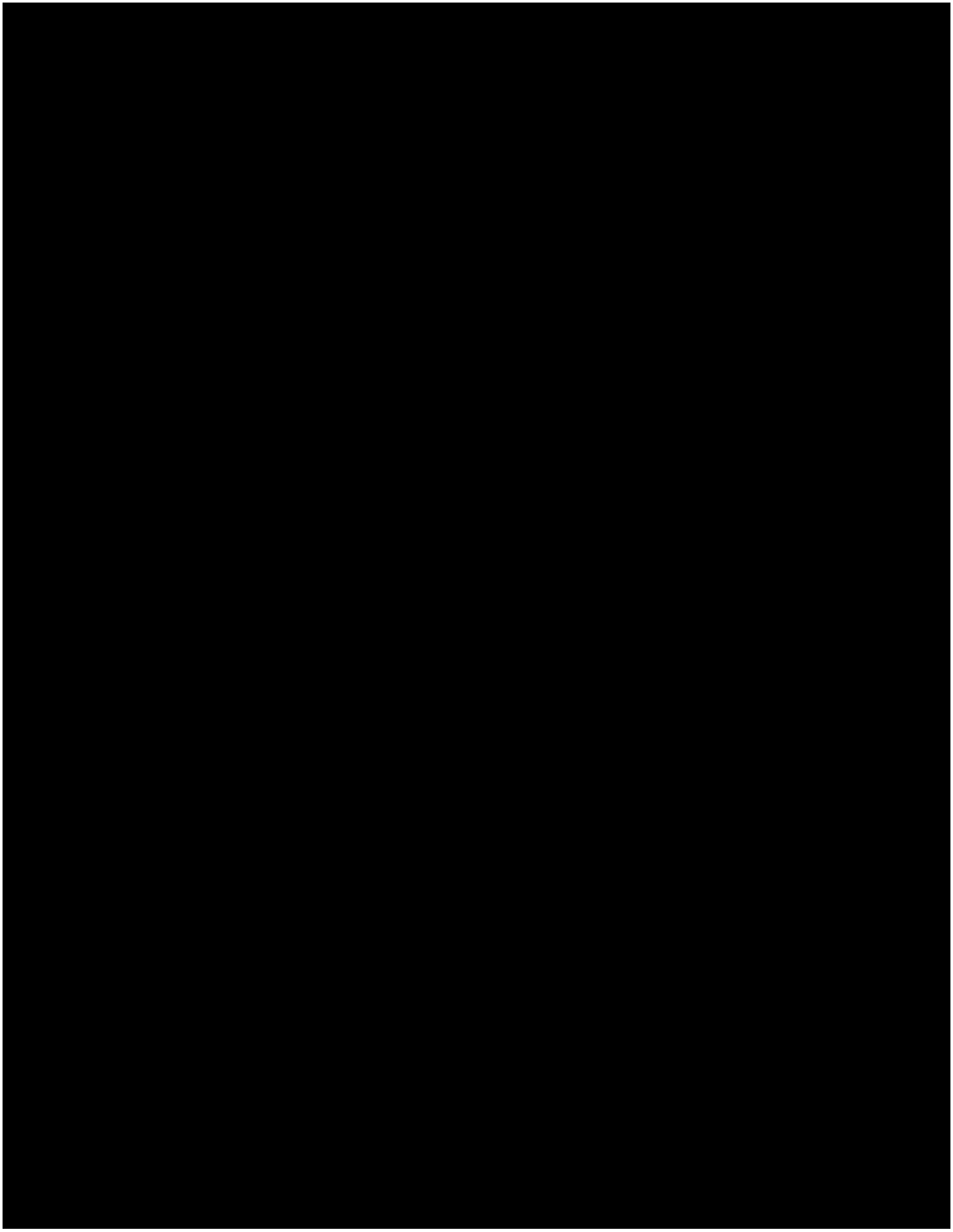


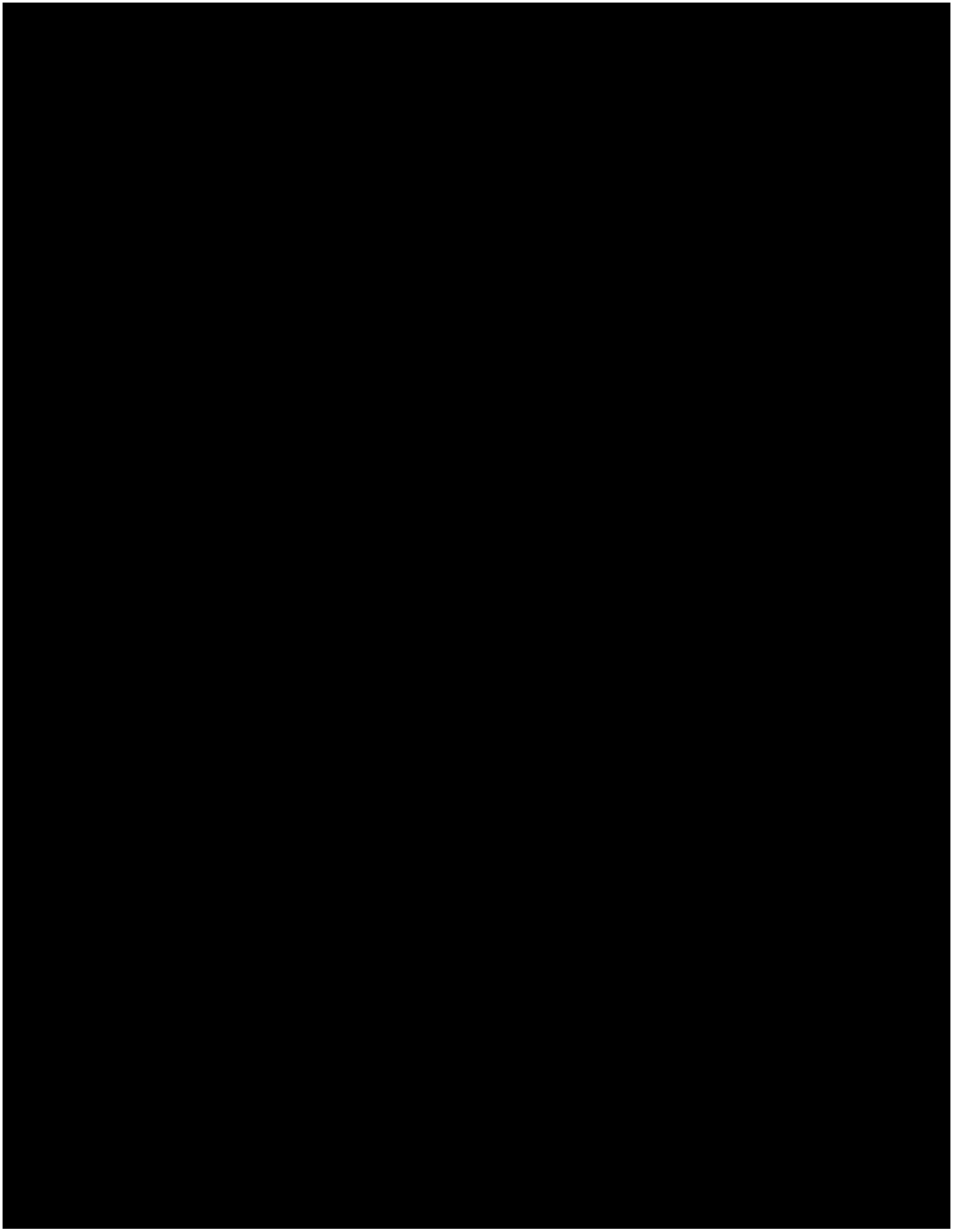












ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES — RESPONDENT

CLAIMANT'S RESPONSE TO MOTION TO CURE A DEFECTIVE COMPLAINT AND FOR A MORE DEFINITIVE STATEMENT

Comes now the claimant, Haley Hudson, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Permanent Guardian of [redacted] a minor child, and as Guardian of [redacted] a minor child, by and through her attorney, Jim R. Jackson, and for her Response to the respondent's Motion to Cure a Defective Complaint and For More Definitive Statement, states:

1. Counsel for the claimant initiated this cause of action with the online form found at the Arkansas State Claims Commission's website. The online form is not adequate for a claim involving a wrongful death and bodily injury claims. Attached as Exhibit 1 is a Complaint setting forth a wrongful death claim and bodily injury claims for the two minor children involved in the wreck that the claimant requests permission to file, which resolves most, if not all, of the issues raised by the respondent in its Motion to Cure.

2. The attached Complaint establishes the identity of Haley Hudson and sets out the facts which allow her to bring this claim in her capacity as the Special Administratrix of the Estate of Jacqueline Lynn Aschraft, deceased, and as Permanent Guardian of [redacted] minor children.

3. Paragraph 17 of the respondent's Motion is misplaced. The respondent asserts that the claimant is required to provide an accounting of her damages and cites Rule 1.5. That is not correct. This matter is not a breach of contract where the damages are liquidated. This is a wrongful death claim and two bodily injury claims where the damages include mental anguish of the statutory beneficiaries, the Loss of Life of the Estate, and the pain and suffering for the bodily injury claims. These are damages that are not liquid, and a precise accounting cannot be provided at this point in time. Rule 1.5 contemplates this scenario, because the rule contains the caveat "if known" in subsection 1.5(e). Discovery in this matter is just beginning, and the overall monetary figures sought will be quantified prior to the hearing on the merits, which is the requirement of Rule 1.5(e).

4. Claimant's counsel has reviewed the Claims Commission's rules and cannot find a requirement that health insurance information be provided at the time of the filing of a Complaint. If the respondent would cite the rule number of the section from the Arkansas Code requiring health insurance information to be provided at the time of filing, the claimant will respond. Otherwise, the claimant will respond to health insurance information during the normal course and scope of discovery. In any event, the health insurance information is a matter of paperwork and should not prevent the respondent from filing an Answer and for discovery to commence.

WHEREFORE, the claimant requests that the Director permit the claimant to file the attached Complaint and exhibits and serve it on the respondent. Furthermore, the claimant requests that the Director deny the respondent's request for the claimant to provide an accounting of the wrongful death damages and the mental anguish claims of the bodily injury claims until discovery can be conducted as permitted by Commission Rule 1.5, and for the response on damages to be provided when known prior to the final adjudication; and for all other relief to which the claimant is entitled.

Respectfully Submitted,

Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
Phone: 501-823-3610
Fax: 501-823-3611
Jim@JimJacksonatty.com

By: 

Jim R. Jackson
Arkansas Bar No. 93209

CERTIFICATE OF SERVICE

I, Jim Jackson, certify that on this date, consistent with the requirements of Ark. R. Civ. Pro. 5, a complete copy of the foregoing was electronically submitted to the Clerk of the Arkansas Claims Commission and electronically served on counsel for the Arkansas Department of Health and Human Services.

/s/ Jim Jackson
Jim R. Jackson

JACKSON
LAW FIRM

December 15, 2022

VIA Email and US Mail

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue; Suite 410
Little Rock, AR 72201

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of* [redacted] *minor children vs. The Arkansas Department of Health and Human Services*
Incident Date: 6/11/2021 - Logan County

Dear Kathryn:

Please find enclosed an original and three copies of the claimant's Response to the respondent's Motion to Cure a Defective Complaint. I am serving these via Email and am including three copies of the pleadings and exhibits as required by Rule 1.5(b). The claimant is requesting that the attached Complaint and two exhibits be served on the defendant which will cure the alleged defects raised in the respondent's filing.

Please call me at (501) 823-3610 with any questions or suggestions. My e-mail address is *Jim@JimJacksonatty.com.*

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosure
cc:w/enc. Brent Gasper, Esq. (via Email)
Sarah DeBusk, Esq. (via Email)

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528
501.823.3610
Fax: 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

From: Kathryn Irby
To: Brent Gasper; Jim Jackson
Cc: Sarah Debusk
Subject: RE: Hudson (Estate of Ashcraft) v. DHS, Claim No. 230641
Date: Monday, December 19, 2022 12:00:00 PM

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Jim, I am not seeing your response in our database or in the asccpleadings@arkansas.gov email folder. If you have submitted via mail, no worries. It should be processed in the next few days. If you submitted electronically, will you forward me the email, so I can figure out why it's not showing up in our database?

Thanks,
Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Monday, December 19, 2022 8:18 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>
Subject: Estate of Ashcraft v. DHS

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Brent

Cc: Jim Jackson, Sarah DeBusk

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South

PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

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To: Kathryn Irby; Brent Gasper
Cc: Sarah Debusk; Martha Cox
Subject: RE: Hudson (Estate of Ashcraft) v. DHS, Claim No. 230641
Date: Monday, December 19, 2022 2:48:50 PM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg
Letter to Kathryn Irby with Response & Complaint 12-16-2022.pdf
Claimant"s Complaint 12-16-2022.pdf
Claimant"s Response to Motion to Cure.pdf

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Thank you,
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To: Jim Jackson; Brent Gasper
Cc: Sarah Debusk; Martha Cox
Subject: RE: Hudson (Estate of Ashcraft) v. DHS, Claim No. 230641
Date: Monday, December 19, 2022 3:32:00 PM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg

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To: Jim Jackson; Kathryn Irby
Cc: Sarah Debusk
Subject: RE: Hudson (Estate of Ashcraft) v. DHS, Claim No. 230641
Date: Tuesday, December 20, 2022 8:18:00 AM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg

Jim: I certainly do not think failure to provide the health information is fatal, just as I have not asked the Commission to dismiss your action in my motion, only to require you to "cure" it. I just want to make sure that all information and documentation is provided that is required to be provided on the front end before I am required to answer so I can answer as accurately as possible.

Thanks and I hope you have a happy holiday!

Brent

Cc: Kathryn, Sarah

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Monday, December 19, 2022 4:36 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>
Subject: RE: Hudson (Estate of Ashcraft) v. DHS, Claim No. 230641

[EXTERNAL SENDER]
Brent,
I will take that information as meaning that failure to not provide it with the filing is not "fatal" or "defective" but it will certainly be something that the claimant can respond to during written discovery.
Please let me know if I need to brief this issue further.
Thank you,
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All:

The health insurance request was not based on statute but instead on page 2, No. 7, of the initial claim form. I assumed it was either statutory or based on rule. I asked about this since I was not sure if there were going to be individual claims based on the any injuries to the passengers to the car.

I hope this is helpful.

Thanks!

Brent

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From:	Jim Jackson
To:	ASCC Pleadings; ASCC New Claims
Cc:	Kathryn Irby; Brent Gasper
Subject:	Arkansas State Claims Commission No. 230641
Date:	Wednesday, December 28, 2022 5:18:07 PM
Attachments:	image001.jpg image002.jpg image003.jpg image004.jpg Amended Complaint Filed on December 28, 2022.pdf Letter to Kathryn Irby Filing Amended Complaint.pdf

---

Please find attached a cover letter to Ms. Irby and an Amended Complaint to be filed in the above referenced matter.
Please let me know if you have any questions regarding the letter of the Amended Complaint that is being filed.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

JACKSON
LAW FIRM

December 28, 2022

VIA Email and US Mail

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue; Suite 410
Little Rock, AR 72201

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of* [redacted] *minor children vs. The Arkansas Department of Human Services*
Incident Date: 6/11/2021 - Logan County

Dear Kathryn:

Brent and I just had a telephone conference where we discussed the status of this matter. For procedural purposes, I am filing a document that is titled "Amended Complaint" and request that it be served on the Arkansas Department of Human Services by copy of this e-mail transmission. I am serving these via Email and US Mail. I am including three copies of the pleadings as required by Rule 1.5(b).

Brent and I would like to request a short conference call with you to determine the status of a ruling on his Motion to Cure a Defective Complaint. We want to discuss if his pending motion will be ruled upon by you or by the Commissioners.

Thank you for your attention to this matter.

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosure
cc:w/enc. Brent Gasper, Esq. (via Email)
Sarah DeBusk, Esq. (via Email)

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528
501.823.3610
Fax: 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES — RESPONDENT

AMENDED COMPLAINT

Comes now the claimant, Haley Hudson, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Guardian of [redacted] a minor child, and as Guardian of [redacted] a minor child, by and through her attorney, Jim Jackson, Jackson Law Firm, and for her cause of action against the respondent, states:

BACKGROUND

The Ashcraft family has been ripped apart by the consequences of this wreck. Jacqueline Ashcraft was a 50-year-old mother of five children who lived in Paris, Arkansas, with two of her minor children. [redacted] was her 10-year-old daughter. [redacted] was her 14-year-old daughter. The three lived at [redacted] The two girls were enrolled in the Paris School District and were thriving at the time of the wreck. Ms. Ashcraft's two adult sons lived in Paris and Ozark and are beginning their career and family. Ms. Ashcraft's oldest daughter, Haley Hudson, lived and worked in Wynne, Arkansas. Haley was 29 years old at the time of her mother's death. Haley has two children of her own that live with her and her fiancé at [redacted]

As a result of Jacqueline Ashcraft's sudden and tragic death, the two minor children did not have a parent. They had to move from Paris, Arkansas, to Wynne to live with Haley Hudson. Haley adopted her two baby sisters. Haley is doing the best job she can to raise her two baby sisters. Haley is now both mom and big sister to [redacted]

I. STATEMENT OF JURISDICTION

1. This claim is brought pursuant to the Commission's authority of jurisdiction of "all claims against the State of Arkansas and its several agencies, departments, and institutions" pursuant to the authority granted by the General Assembly found in Arkansas Code Annotated §19-10-204, *et seq.*

2. The claimant has exhausted all liability insurance coverage for this incident. There is no UIM or other liability insurance coverage for these claims.

II. PARTIES TO THE CLAIM

3. The claimant is the duly appointed Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, pursuant to an Order dated August 6, 2021, entered by The Honorable Terry Sullivan in a matter styled, *In The Matter Of The Estate Of Jacqueline Lynn Ashcraft, deceased*, in the Circuit Court of Logan County, Arkansas, Probate Division No. 42PR-2021-63.

4. Haley Hudson was appointed Permanent Guardian of the Person and Estate of Carley Raye Jones and Kadey Lynn Jones by Order of Cross County Probate Judge Christopher Morledge dated July 20, 2021, in a matter styled: *In the Matter of the Guardianship of the Person and Estate of* [redacted] *Minors*, Cross County Probate Number 19PR-2021-57-3. Attached as Exhibit 1 is a file-marked copy of the Order filed with the Cross County Probate Clerk on July 20, 2021.

5. The respondent, Arkansas Department of Human Services, is an agency of the State of Arkansas. Jennifer Wilkerson was an employee of the Arkansas Department of

Human Services and was engaged in the course and scope of her employment at all times relevant to this cause of action.

III. STATEMENT OF THE CASE

6. On Friday, June 11, 2021, at approximately 12:50 p.m., Jacqueline Ashcraft was driving her 2005 Hyundai Sonata eastbound on State Highway 22 in Logan County near Subiaco Academy. She had three passengers in the back seat of her car: her daughters, [redacted] and her great nephew [redacted], who was in a baby seat between [redacted] Ms. Ashcraft was taking the baby to his home at [redacted] Ms. Ashcraft slowed to make a left-hand turn into a driveway for [redacted] She used her left-hand blinker to indicate to traffic she was attempting a left-hand turn. Ms. Ashcraft had to come to a full stop prior to commencing the left-hand turn to avoid oncoming westbound traffic.

7. Jennifer Wilkerson was operating a 2009 Hyundai Elantra owned and maintained by the Arkansas Department of Human Services. She was traveling eastbound on Highway 22 immediately behind Ms. Ashcraft's 2005 Hyundai Sonata. Ms. Wilkerson negligently failed to recognize that Ms. Ashcraft's vehicle was slowing down to make a left-hand turn. Ms. Wilkerson negligently drove her car into the rear end of Ms. Ashcraft's car. The collision knocked Ms. Ashcraft's car onto the eastbound shoulder. Ms. Wilkerson's vehicle then entered a counterclockwise spin, causing her vehicle to strike the truck and trailer that was traveling westbound on Highway 22.

IV. NEGLIGENCE

8. Jennifer Wilkerson was employed by the respondent and was operating within the scope of her employment at all relevant times to this cause of action.

9. The Arkansas Department of Human Services is liable for all damages caused by Jennifer Wilkerson under the *respondeat superior* doctrine.

10. The respondent's employee, Jennifer Wilkerson, is guilty of negligence, which was the proximate cause of the above-described vehicle collision in the following particulars:

(a) in failing to keep the vehicle she was driving under proper control;

(b) in failing to yield the right-of-way to the superior traffic which is a violation of Arkansas statutes and common law;

(c) in failing to exercise ordinary care for her own safety and for the safety of others using the highway; and

(d) in driving in a careless and reckless manner which is a violation of Arkansas statutory and common law.

11. State Trooper James Ray investigated the accident. He found that Jennifer Wilkerson's actions were "inattentive, careless, negligent, or erratic operation" at the time of the crash.

12. State Trooper James Ray found that Jacqueline Ashcraft had "no contributing action" at the time of the crash. Attached as Exhibit 2 is a copy of crash report #20621051F prepared by Trooper Ray.

V. *RESPONDEAT SUPERIOR*

13. All acts of negligence of the respondent's employee, Jennifer Wilkerson, are imputed to the respondent, Arkansas Department of Human Services, as a matter of law.

VI. CAUSATION

14. The negligent acts on the part of the respondent's employee, Jennifer Wilkerson, were the sole and proximate cause of the wrongful death, injuries, and damages sustained by Jacqueline Lynn Ashcraft, [redacted] as more specifically described herein.

VII. DAMAGES

15. Jacqueline Lynn Ashcraft initially survived the collision and was able to speak with her children and witnesses/bystanders. Unfortunately, the collision from the wreck caused Ms. Ashcraft to develop an intracerebral hemorrhage[1] which led to a rapid neurological decline. Ms. Ashcraft was transported by ambulance to the emergency room at Booneville where a CT scan revealed she had sustained a massive right basal ganglia hemorrhage in the collision leading to severe brain compression and uncal herniation[2]. Ms. Ashcraft was emergently transported to Mercy Medical Center in Fort Smith. Her adult children were notified of the severity of her injuries. Haley Hudson immediately traveled from her job in Wynne to Fort Smith, Arkansas. Upon arrival, Haley was informed by the neurosurgeon that her mother's condition was terminal and there was nothing further that could be done to save her mother's life. Haley and her two adult brothers, Dalton and Mark, made the decision to follow the doctor's advice and allow the medical providers to compassionately extubate life-support.

16. The claimant, Haley Hudson, is asserting a claim for damages for the wrongful death of Jacqueline Lynn Ashcraft, and for the bodily injury claims of [redacted] and [redacted]ll of which were proximately caused by the negligence of the respondent's employee, Jennifer Wilkerson.

WRONGFUL DEATH CLAIM

17. Haley Hudson, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, claims she is entitled to recover for the following

[1] "Bleeding on the brain"
[2] Uncal herniation occurs when rising intracranial pressure causes portions of the brain to move from one intracranial compartment to another. It is a life-threatening neurological emergency and indicates the failure of all adaptive mechanisms for intracranial compliance.

damages, all of which were proximately caused by the negligence of Jennifer Wilkerson, said negligence being imputed to the respondent, Arkansas Department of Human Services:

(a) Compensatory damages for the severe pain, suffering, and mental anguish sustained by Jacqueline Lynn Ashcraft after the impact until her death;

(b) Compensatory damages for the damage to Ms. Ashcraft's Hyundai Sonata;

(c) Compensatory damages for the mental anguish sustained by the statutory beneficiaries who are listed below:

Name	Relationship	Address
[redacted]	Minor Daughter	[redacted]
	Minor Daughter	
Dalton Cody Ashcraft	Adult Son	
Mark Hudson	Adult Son	
Haley Nicole Hudson	Adult Daughter	
LaDonna Jackson	Mother	
Jeffrey Ashcraft	Brother	
Bobby Ashcraft	Brother	
Jennifer Howard	Half-Sister	
Joshua Jackson	Half-Brother	

(d) Compensatory damages for the Estate's Loss of Life claim;

(e) The reasonable funeral expenses; and

(f) Any medical bills incurred by the estate.

BODILY INJURY CLAIMS

18. [redacted] each sustained bodily injuries in the wreck. Haley Hudson, as Guardian of [redacted] and [redacted] seeks:

(a) Compensatory damages for the reasonable expense of any necessary medical care and other out-of-pocket expenses sustained by [redacted] and [redacted] and the present value of such expenses reasonably certain to be required in the future;

(b) Compensatory damages for the nature, extent, duration, and permanency of any injury sustained by [redacted] and

(c) Compensatory damages for any pain and suffering experienced in the past and reasonably certain to be experienced in the future.

19. The claimant's total compensatory damages, as shall be proven by the evidence, is Four Million Dollars ($4,000,000.00).

REQUIREMENT OF A.C.A. §19-10-208(d)

20. The claimant has not presented this claim to any other state department or officer thereof prior to the original online filing of the complaint to open this matter.

21. The respondent did have a liability insurance policy with Cincinnati Insurance Company. Cincinnati Insurance Company filed an Interpleader naming the respondent and the claimant in a matter styled: *Cincinnati Insurance Company vs. Haley Hudson, Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, et al., and Guardian of the Estates of* [redacted] *both minors, Jennifer Wilkerson, Arkansas Department of Human Services, Bobby Dale Wilson, Joe Ashley Trucking, LLC,*

GKD Management, LP DBA Commercial Trucking, Inc. and Tru Homes, LLC, Logan County Circuit Court No. 42PCV-21-116.

22. The respondent's legal counsel, Sean Strode, filed an Entry of Appearance on January 10, 2022, in the above-referenced Interpleader. The respondent should be intimately familiar with all filings since its legal counsel received these filing contemporaneously through the CM/ECF filing system and had access to them.

23. Cincinnati Insurance Company deposited the limits of its policy of $250,000 with the clerk of the court on or around March 21, 2022. Haley Hudson, as Special Administratrix of the Estate of Jacqueline Ashcraft, deceased, received $150,000 after attorney fees and case expenses for the wrongful death claim.

24. $12,500 of the $250,000 went to GKD Management, which was the third vehicle involved in this collision. It appears that this was to pay the property damage from that claim.

25. Haley Hudson, as Permanent Guardian of the Estates of [redacted] minor children, has received nothing for their bodily injury claims.

UNDERINSURED MOTORIST CLAIM

26. Ms. Ashcraft did not have any uninsured or underinsured motorist coverage for the collision which is the subject of this claim.

WHEREFORE, the claimant, Haley Hudson, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and Haley Hudson, as Permanent Guardian of [redacted] minor children, prays

that she have a judgment against the respondent for a sum of Four Million Dollars ($4,000,000.00), and for all other necessary and proper relief to which she is entitled.

Respectfully Submitted,

Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
Phone: 501-823-3610
Fax: 501-823-3611
Jim@JimJacksonatty.com

By: _____
Jim R. Jackson
Arkansas Bar No. 93209

CERTIFICATE OF SERVICE

I, Jim Jackson, certify that on this date, consistent with the requirements of Ark. R. Civ. Pro. 5, and Commission Rule 1.5(b) a complete copy of the foregoing was electronically submitted with the Clerk of the Arkansas Claims Commission and electronically served on counsel for the Arkansas Department of Human Services and three copies of each exhibit were deposited in the mail to the Director of the Arkansas State Claims Commission.

/s/ Jim R. Jackson
Jim R. Jackson

CLAIM SUBMISSION SIGNATURE PAGE

The undersigned attorney, Jim Jackson, certifies that to the best of his knowledge, information, and belief, this claim is not being presented for any improper purpose; this claim is warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; and the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

Jim R. Jackson

ACKNOWLEDGMENT

STATE OF ARKANSAS)

COUNTY OF PULASKI)

On this day before the undersigned, Martha Cox, a Notary Public duly qualified and acting in and for the county and state aforesaid, personally appeared Jim Jackson, to me well known and satisfactorily proven to be the person whose name appears in the foregoing instrument, and stated that he has executed the same for the consideration, uses and purposes therein stated and stated that he had executed the foregoing instrument of his own free will, for the purposes and consideration therein stated.

In witness whereof, I hereunto set my hand and Notary Seal on this 28th day of December, 2022.

Martha Cox

Martha Cox
Notary Public

My commission expires:
8-19-2031
[SEAL]

MARTHA COX
NOTARY PUBLIC - STATE OF ARKANSAS
SALINE COUNTY
My Commission Expires 8-19-2031
Commission # 12383466

From: Jim Jackson
To: Brent Gasper; Kathryn Irby
Cc: Sarah Debusk; Daiquiri Carter; Martha Cox
Subject: RE: Ashley Hudson v. DHS
Date: Tuesday, January 3, 2023 7:28:46 AM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg

I am in agreement with the need for a call.
I am attending a funeral for my former paralegal on Wednesday at 2:00 p.m. in Alexander.
I am available Wednesday morning, Thursday & Friday.
I do not see any legal reason that the time to respond to Interrogatories should be held in abeyance. They are routine discovery that was properly served on the respondent and will have to be answered.
The claimant has filed both an initial claim and a more formal claim which clearly states the allegation of liability of DHS and has submitted a copy of the accident report prepared by the Arkansas State Police.
I am not aware of any legal reason why the respondent's request to respond to written discovery should be held in abeyance.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Thursday, December 29, 2022 1:16 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: Hudson v. DHS

Thank for sending those pleadings, Jim.

Kathryn, I'm with Jim that it would be great to set up a short call next week (I'm off work tomorrow) sometime concerning how the commission wishes us to proceed at this point. We are not intending to withdraw our motion and would like to have a ruling on it before being ordered to answer the complaint and amended complaint. Further, I'm going to ask/move to hold the interrogatories (or, specifically, the requirement to answer them within a certain time period) in abeyance until the commission decides on the motion. Please let me know if I need to file a pleading to memorialize that or whether the commission will simply consider it when ruling on the existing outstanding motion.

I'm pretty flexible next week so just let me know when you find an agreeable time.

Thanks!

Brent

Cc: Sarah DeBusk

>>

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950
Brent.Gasper@dhs.arkansas.gov

This email may contain sensitive or confidential information.

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From: Kathryn Irby
To: Jim Jackson; Brent Gasper
Cc: Sarah Debusk; Daiquiri Carter; Martha Cox
Subject: HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641
Date: Tuesday, January 3, 2023 4:16:00 PM
Attachments: Hudson v. DHS -- 230641 -- hearing ltr (motions).pdf
image001.jpg
image002.jpg
image003.jpg
image004.jpg

Jim and Brent, attached is a hearing letter for all pending motions. If the parties are unable to agree on what to do with discovery, a motion can be filed, which can be considered by the Commission at the February 10 hearing, as well.

Let me know if there are still any unanswered questions.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Tuesday, January 3, 2023 7:29 AM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: Ashley Hudson v. DHS

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Thanks!

Brent

Cc: Sarah DeBusk

>>
Brent P. Gasper

Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950
Brent.Gasper@dhs.arkansas.gov

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ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823

KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

January 3, 2023

Mr. Jim Jackson (*via email*)
Jackson Law Firm
700 W. Broadway Street, Suite 200
North Little Rock, Arkansas 72114

Mr. Brent P. Gasper (*via email*)
Ms. Sarah DeBusk
Arkansas Department of Human Services
Post Office Box 1437
Little Rock, Arkansas 72203

RE: ***Haley Hudson, individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Guardian of [redacted] v. Arkansas Department of Human Services***
Claim No. 230641

Dear Mr. Jackson, Mr. Gasper, and Ms. DeBusk,

The Claims Commission has scheduled a hearing on all pending motions for **Friday, February 10, 2023**, beginning at 9:00 a.m. All parties will attend via Zoom. The Zoom invitation is enclosed.

As this is a motions hearing, no prehearing materials are requested.

Sincerely,

Kathryn Irby

ES: kmirby

The Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings
Time: Feb 10, 2023 09:00 AM Central Time (US and Canada)

Join Zoom Meeting
https://us06web.zoom.us/j/87579091104?pwd=bkRDL2lFUnZUclhSUE8wS2ZLOGVpZz09

Meeting ID: 875 7909 1104
Passcode: 6EPTmJ
One tap mobile
+13017158592,,87579091104#,,,,*124942# US (Washington DC)
+13052241968,,87579091104#,,,,*124942# US

Dial by your location
- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US
- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
- +1 646 931 3860 US
- +1 929 436 2866 US (New York)
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 360 209 5623 US
- +1 386 347 5053 US
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 669 444 9171 US
- +1 669 900 6833 US (San Jose)
- +1 689 278 1000 US
- +1 719 359 4580 US
- +1 253 205 0468 US

Meeting ID: 875 7909 1104
Passcode: 124942
Find your local number: https://us06web.zoom.us/u/kd3oe4TIYF

From: Kathryn Irby
To: Jim Jackson; Brent Gasper
Cc: Sarah Debusk; Daiquiri Carter; Martha Cox
Subject: SUBPOENA: Hudson v. DHS, Claim No. 230641
Date: Thursday, January 12, 2023 2:07:00 PM
Attachments: Hudson -- 230641 -- subpoena.pdf
image001.jpg
image002.jpg
image003.jpg
image004.jpg

Jim, please see attached.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

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Cc: Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641

Kathryn,
The claimant would like to request a *subpoena duces tecum* to the Arkansas Crime Laboratory for the BAC Test and Drug Test results from page two (2) of the attached accident report.
These claimant would like to request a copy of all of these results referenced on page two.

Their address is:

Mr. Kermit B. Channell, II
Crime Lab Director
Arkansas State Crime Laboratory
3 Natural Resources Drive
Little Rock, AR 72205
(501) 683-6190

Thank you,

Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
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F (501) 823-3611

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Kathryn

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Sent: Thursday, December 29, 2022 1:16 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: Hudson v. DHS

Thank for sending those pleadings, Jim.

Kathryn, I'm with Jim that it would be great to set up a short call next week (I'm off work tomorrow) sometime concerning how the commission wishes us to proceed at this point. We are not intending to withdraw our motion and would like to have a ruling on it before being ordered to answer the complaint and amended complaint. Further, I'm going to ask/move to hold the interrogatories (or, specifically, the requirement to answer them within a certain time period) in abeyance until the

commission decides on the motion. Please let me know if I need to file a pleading to memorialize that or whether the commission will simply consider it when ruling on the existing outstanding motion.

I'm pretty flexible next week so just let me know when you find an agreeable time.

Thanks!

Brent

Cc: Sarah DeBusk

>>

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950
Brent.Gasper@dhs.arkansas.gov

This email may contain sensitive or confidential information.

CONFIDENTIALITY NOTICE: The information contained in this email message and any attachment are the property of the State of Arkansas and may be protected by state and federal laws governing disclosure of private information. It is intended solely for the use of the entity to whom this email is addressed. If you are not the intended recipient, you are hereby notified that reading, copying, or distributing this transmission is STRICTLY PROHIBITED.

The sender has not waived any applicable privilege by sending the accompanying transmission. If you have received this transmission in error, please notify the sender by return email and delete the message and attachment(s) from your system.

Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted], Minor Children, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO: **Kermit B. Channell, II**
Crime Lab Director
Arkansas State Crime Laboratory
3 Natural Resources Drive
Little Rock, AR 72205

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

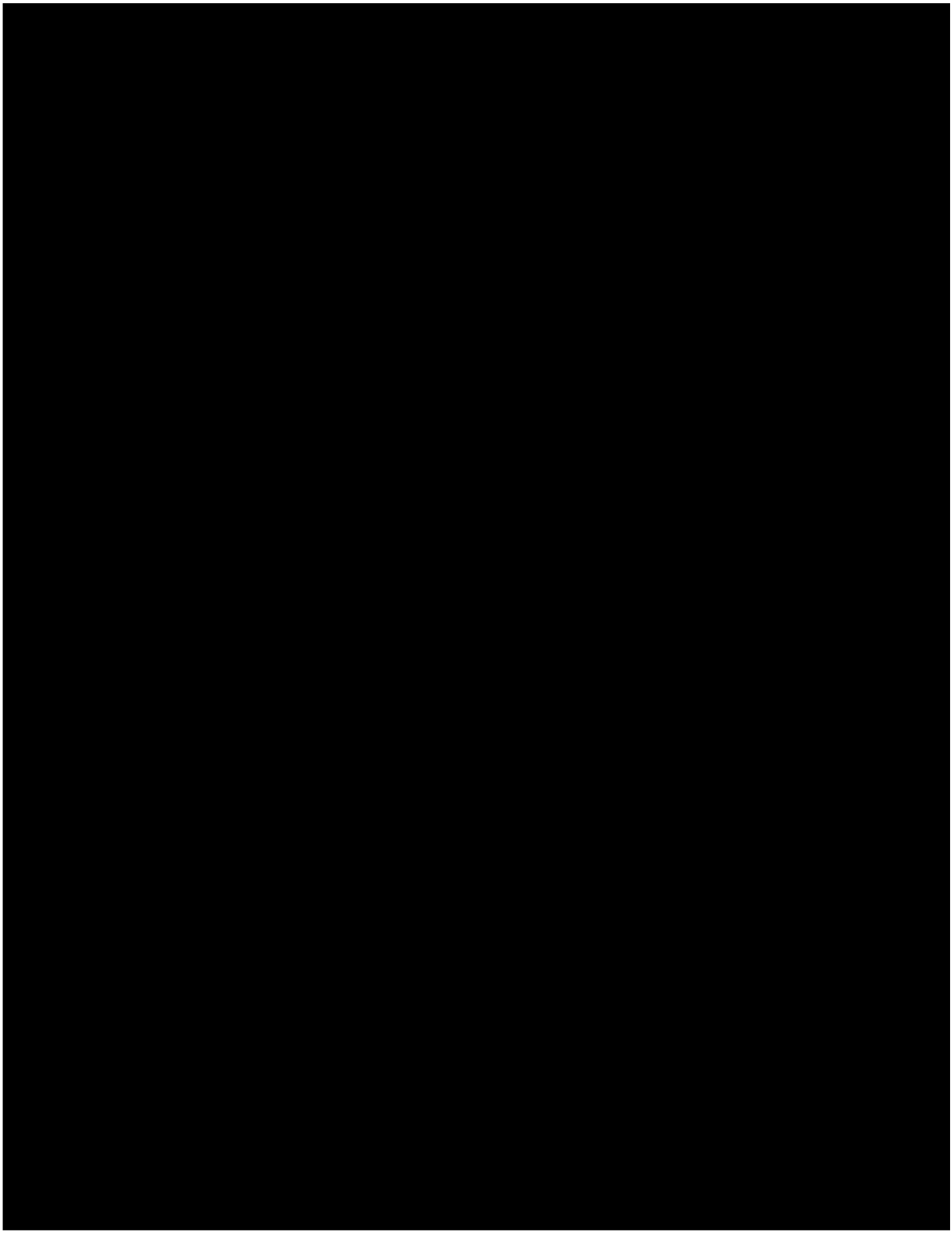
__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

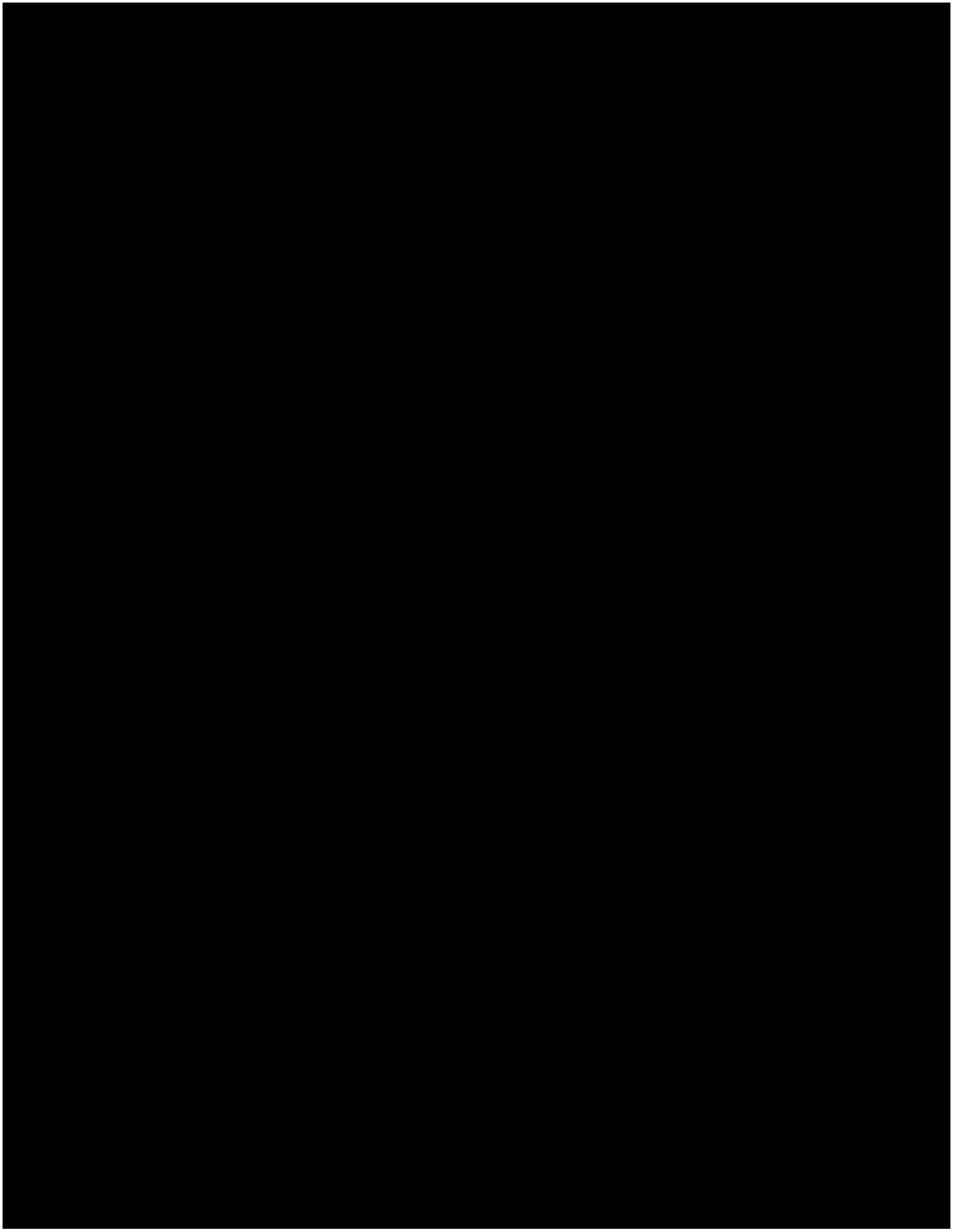
BAC test and drug test results from p. 2 of the attached accident report.

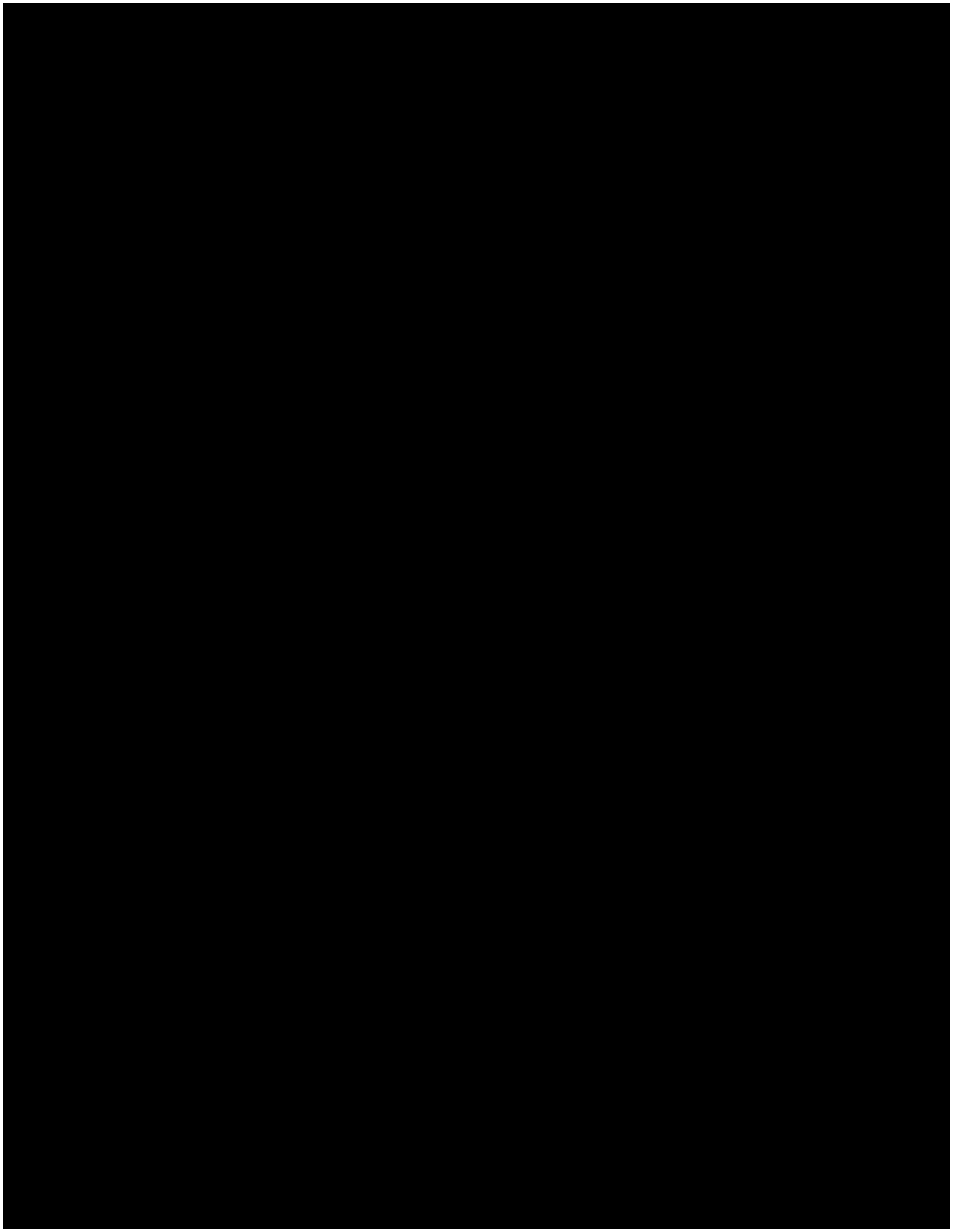
January 12, 2023

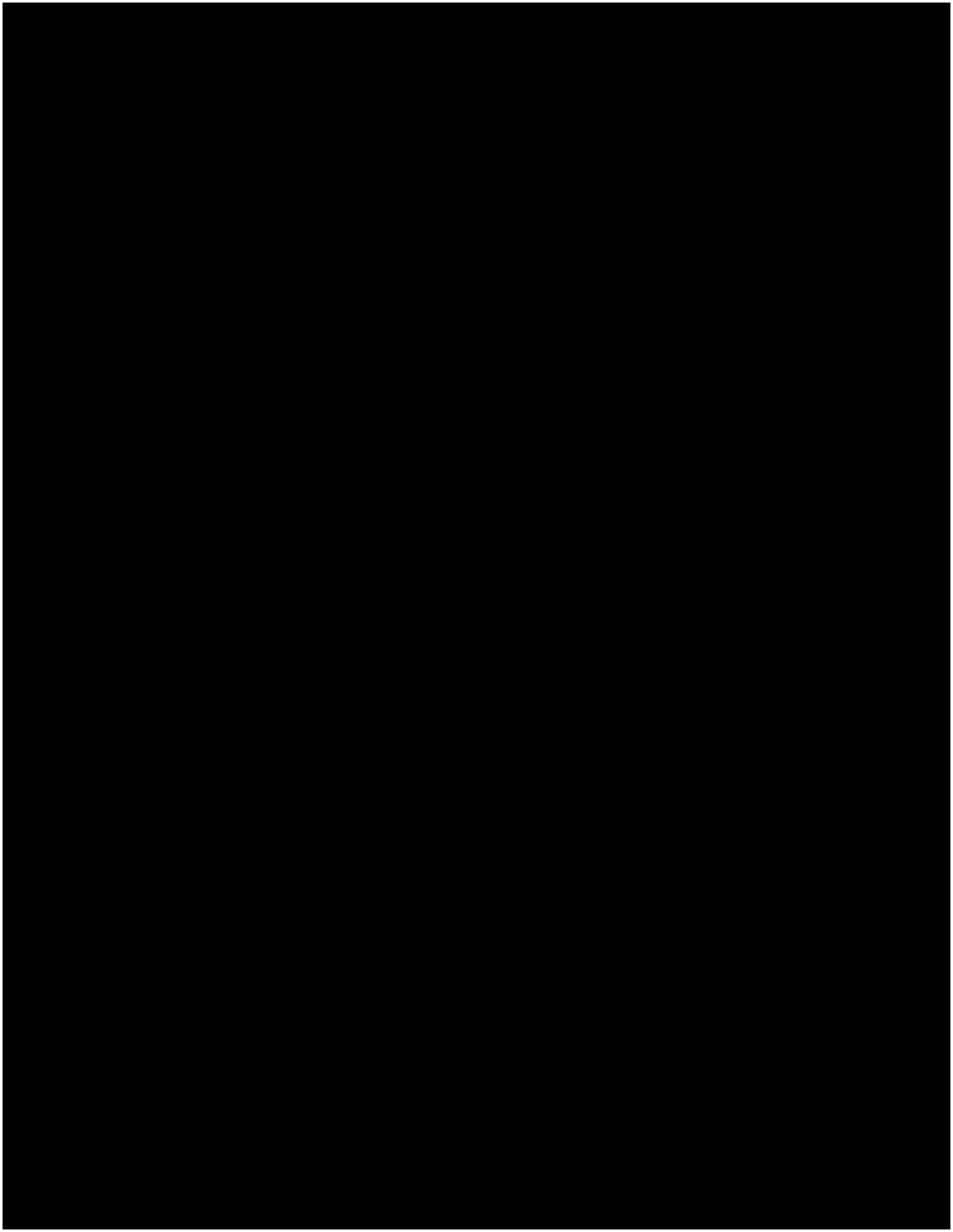
Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

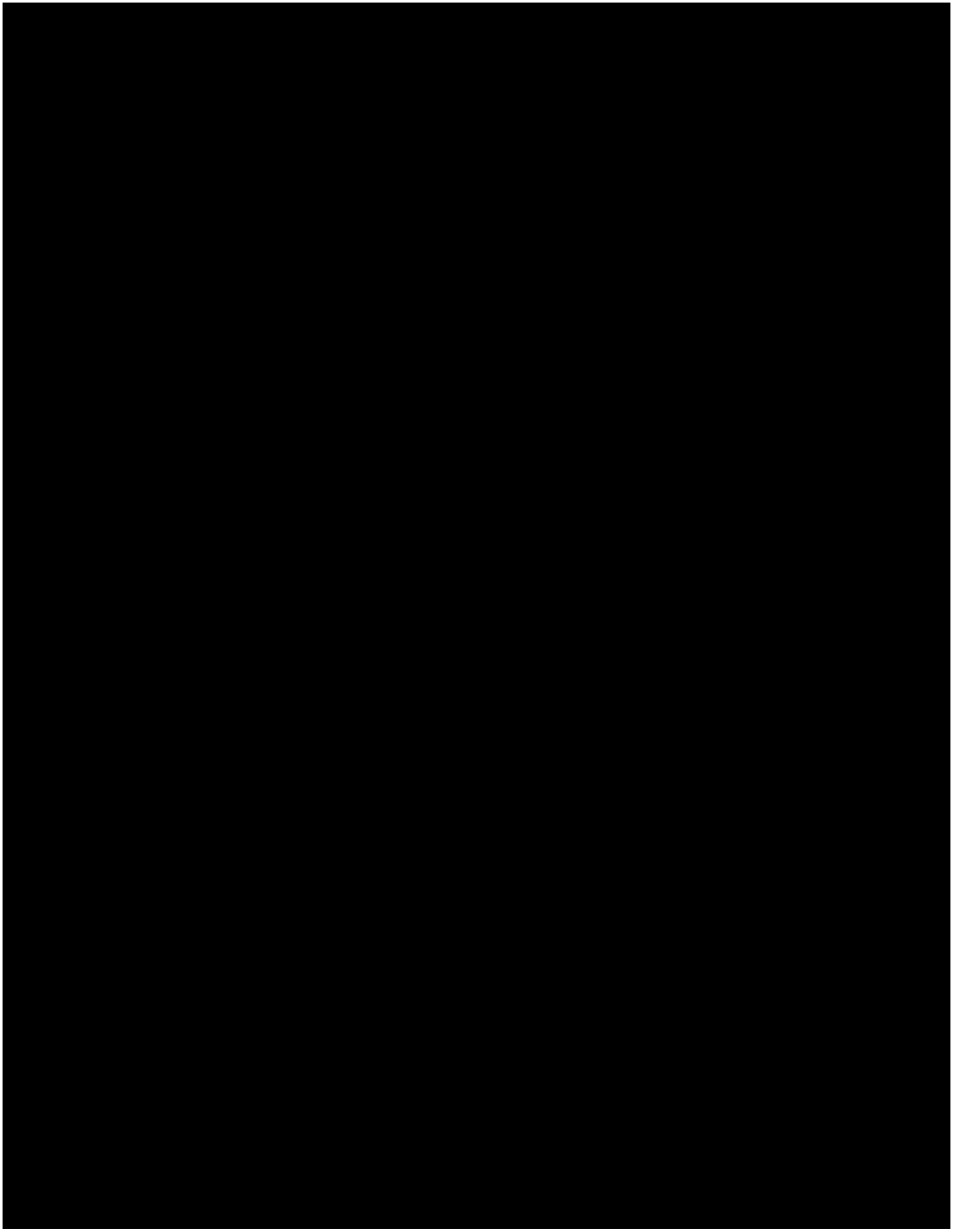
Date

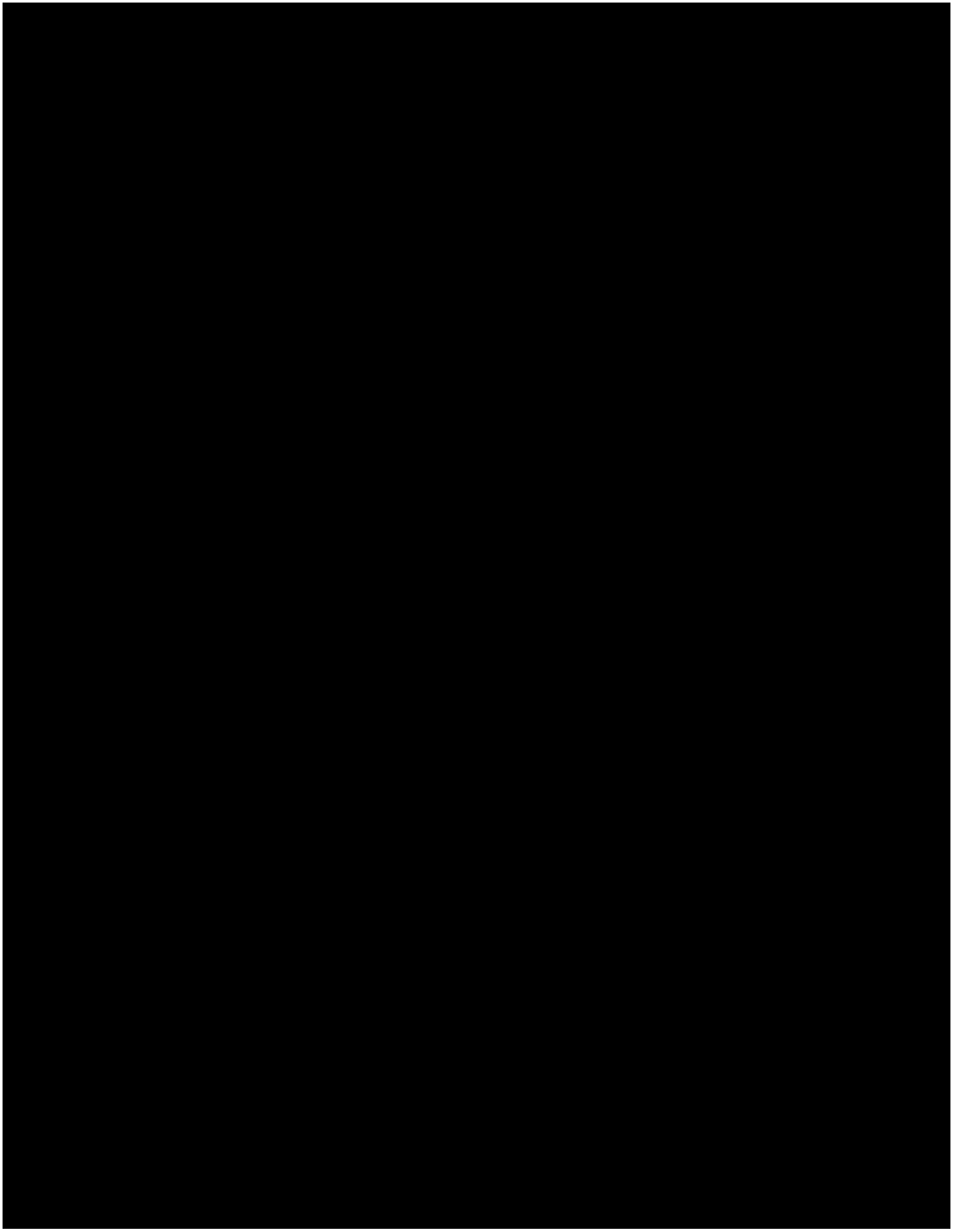


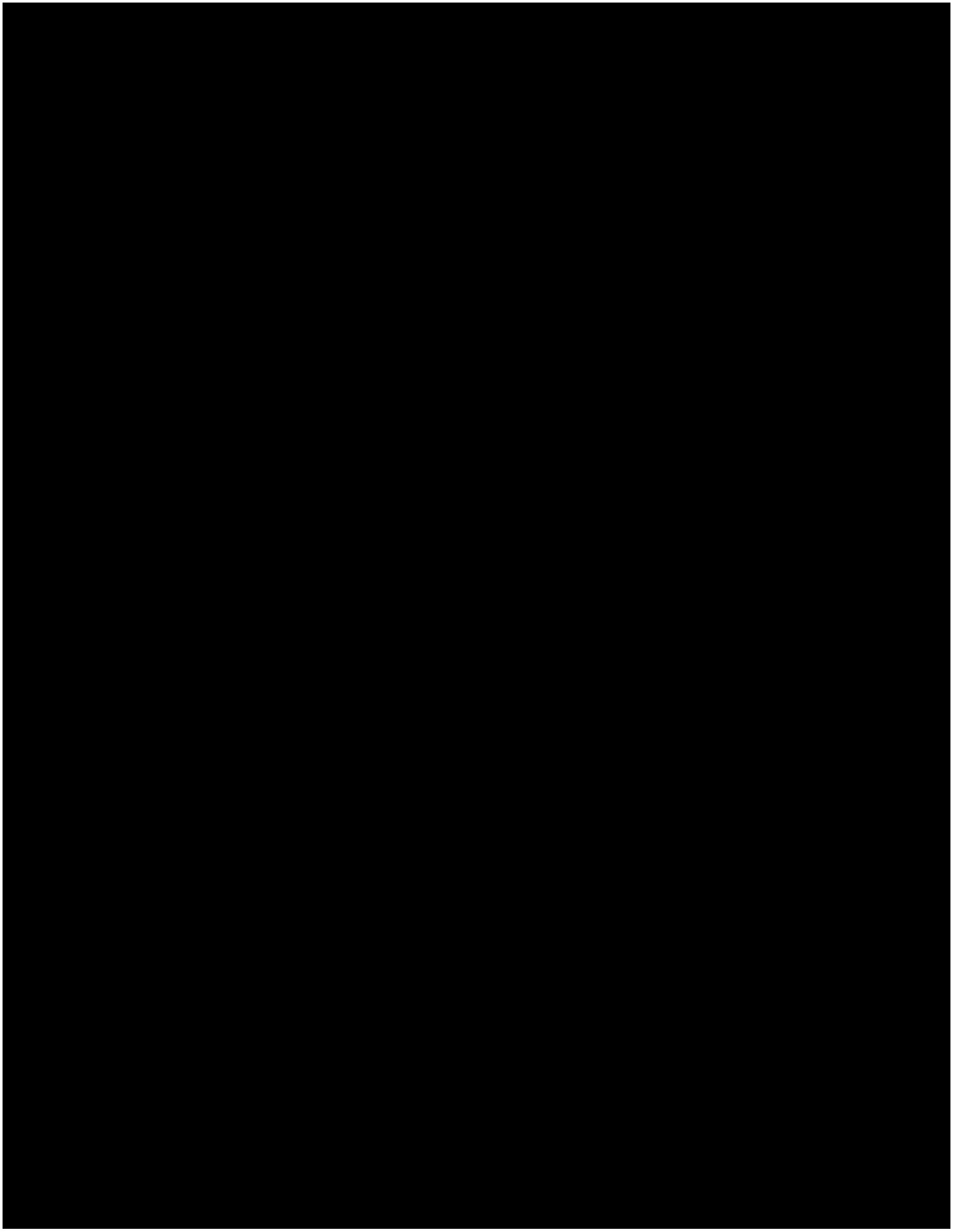


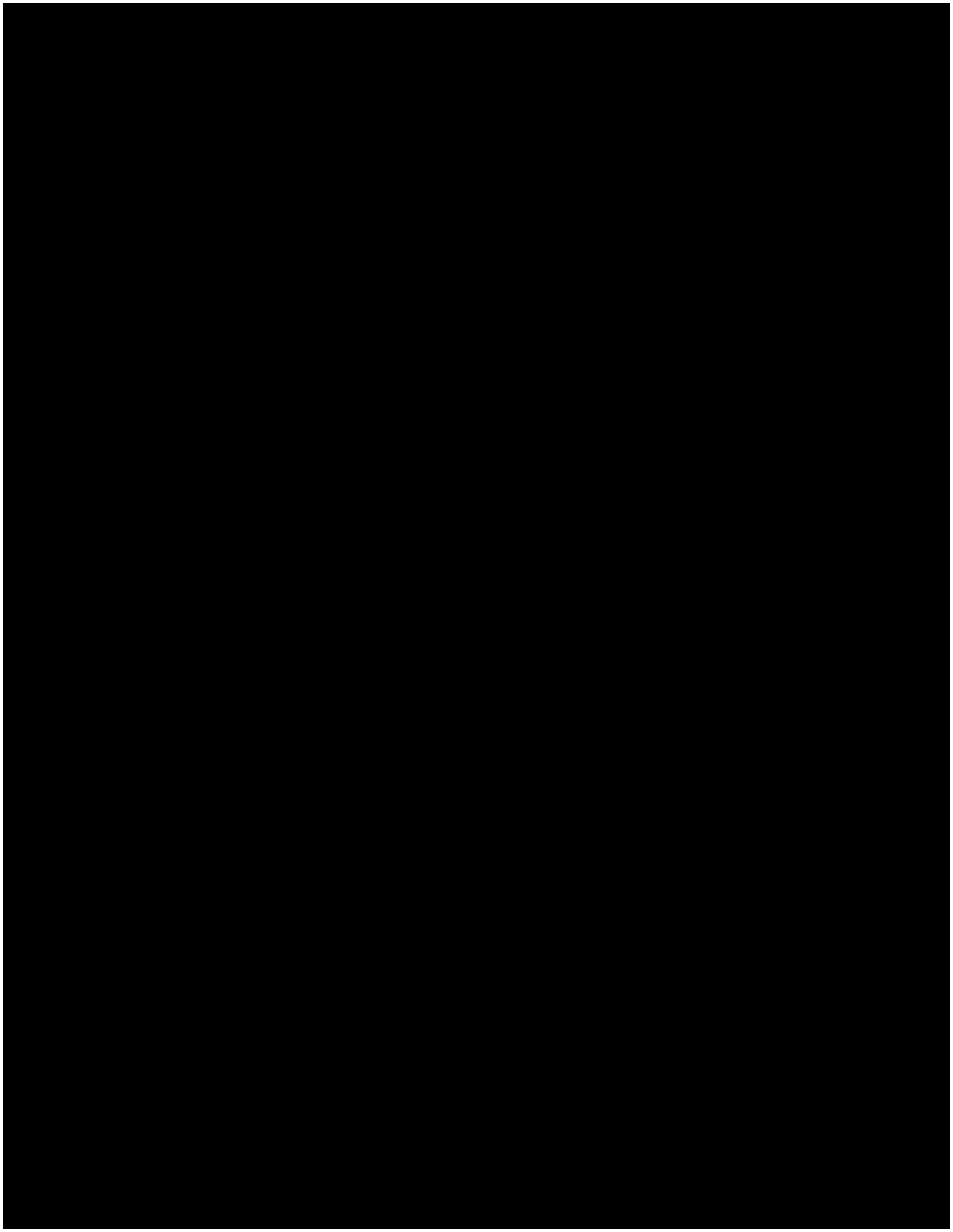


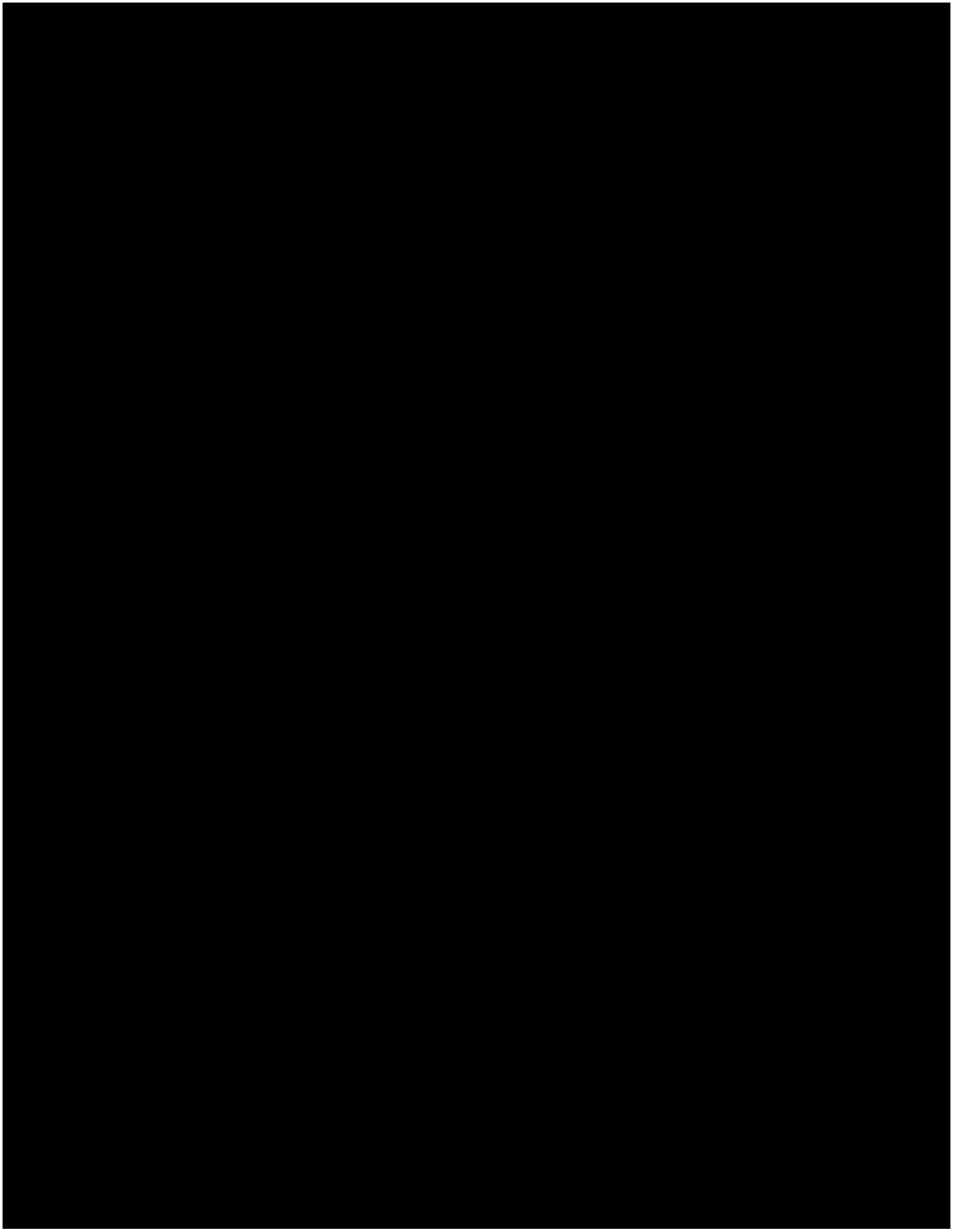


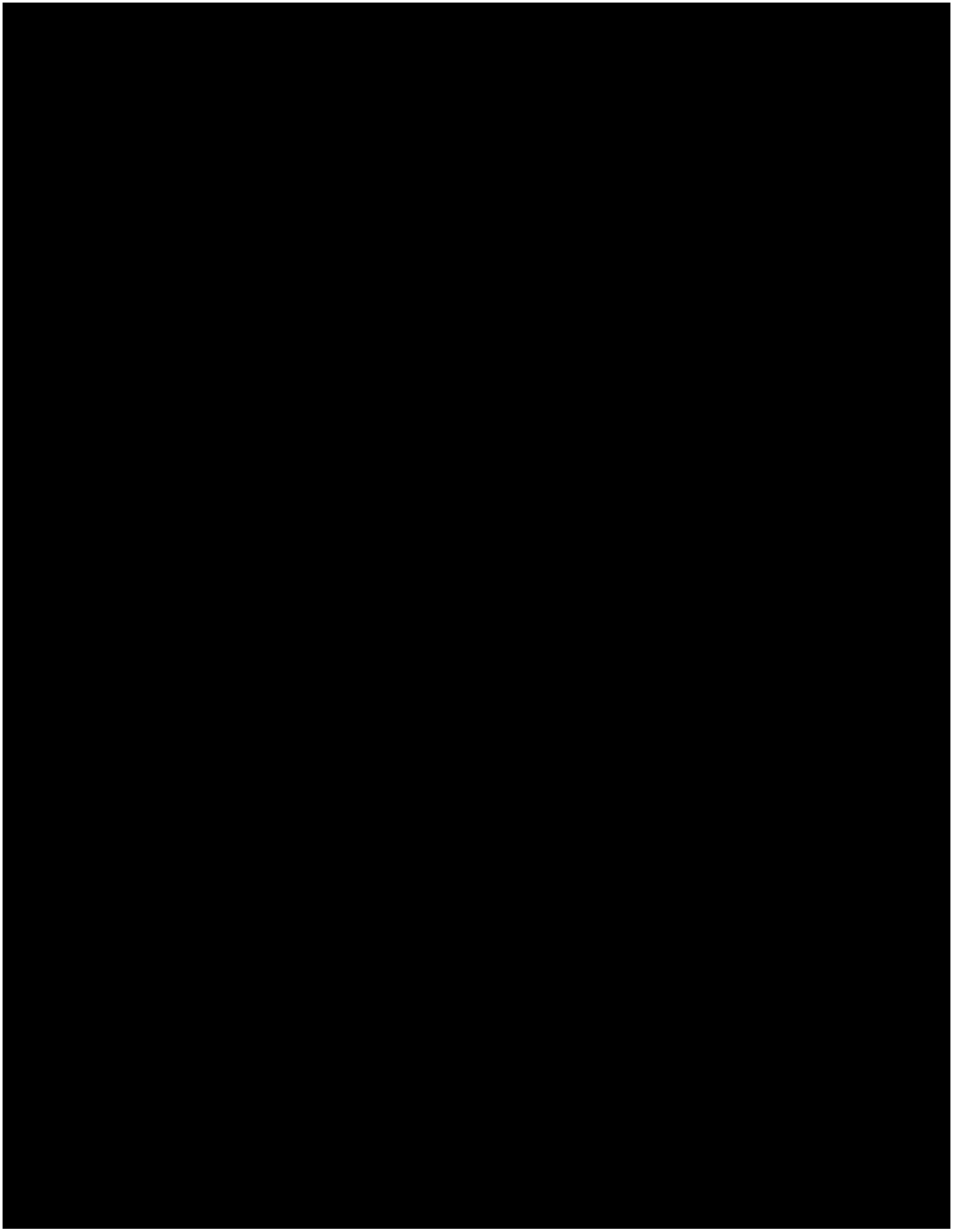


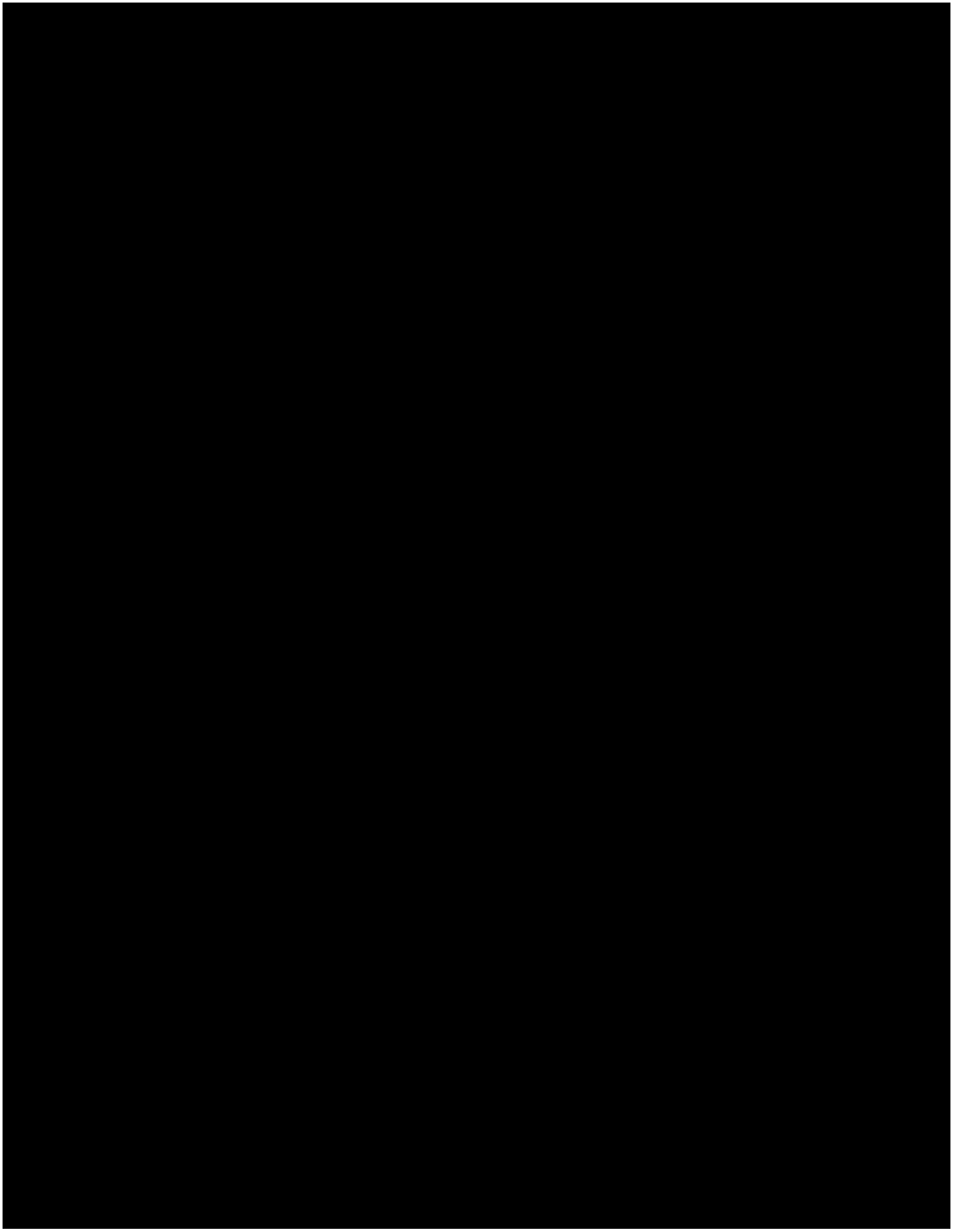


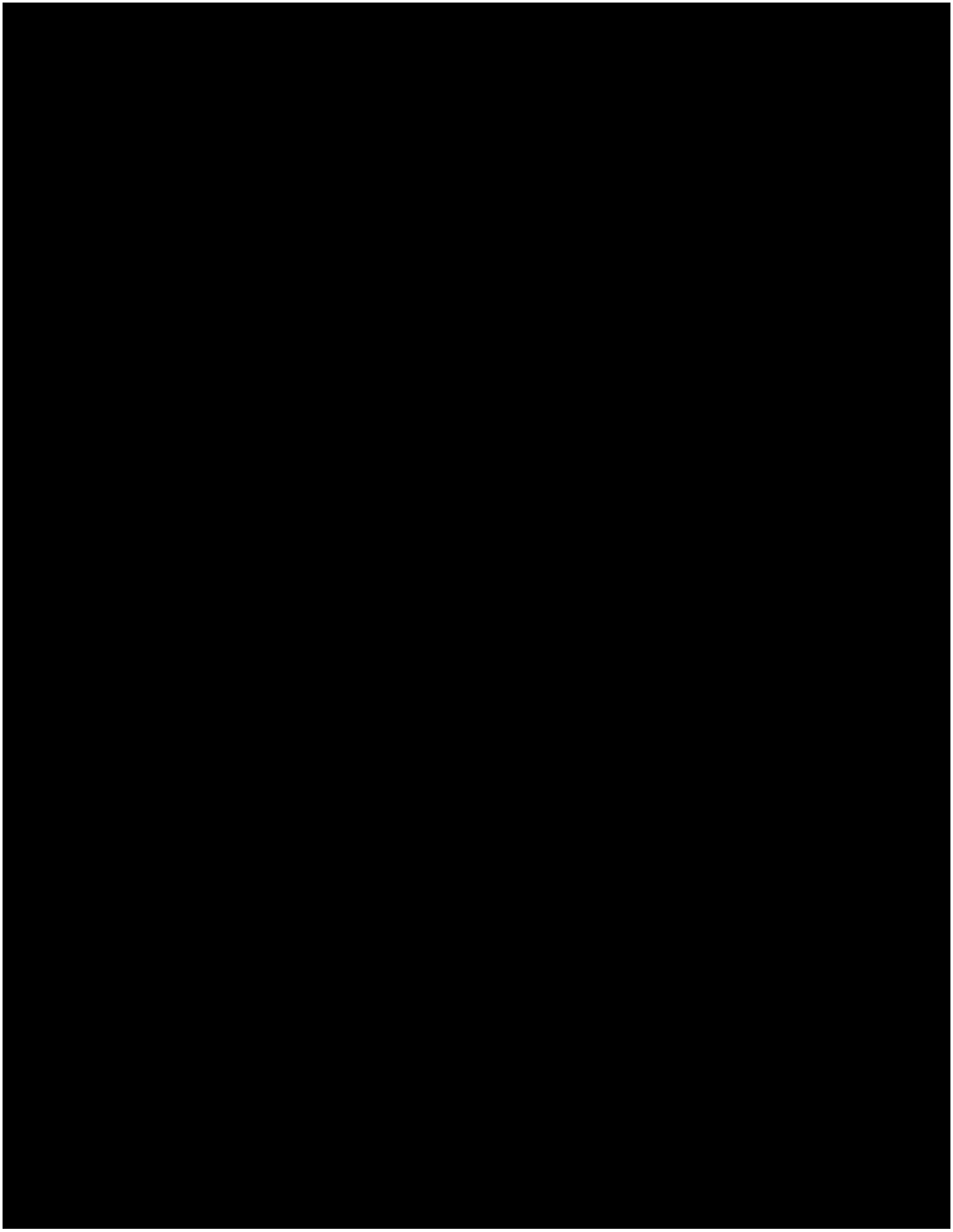


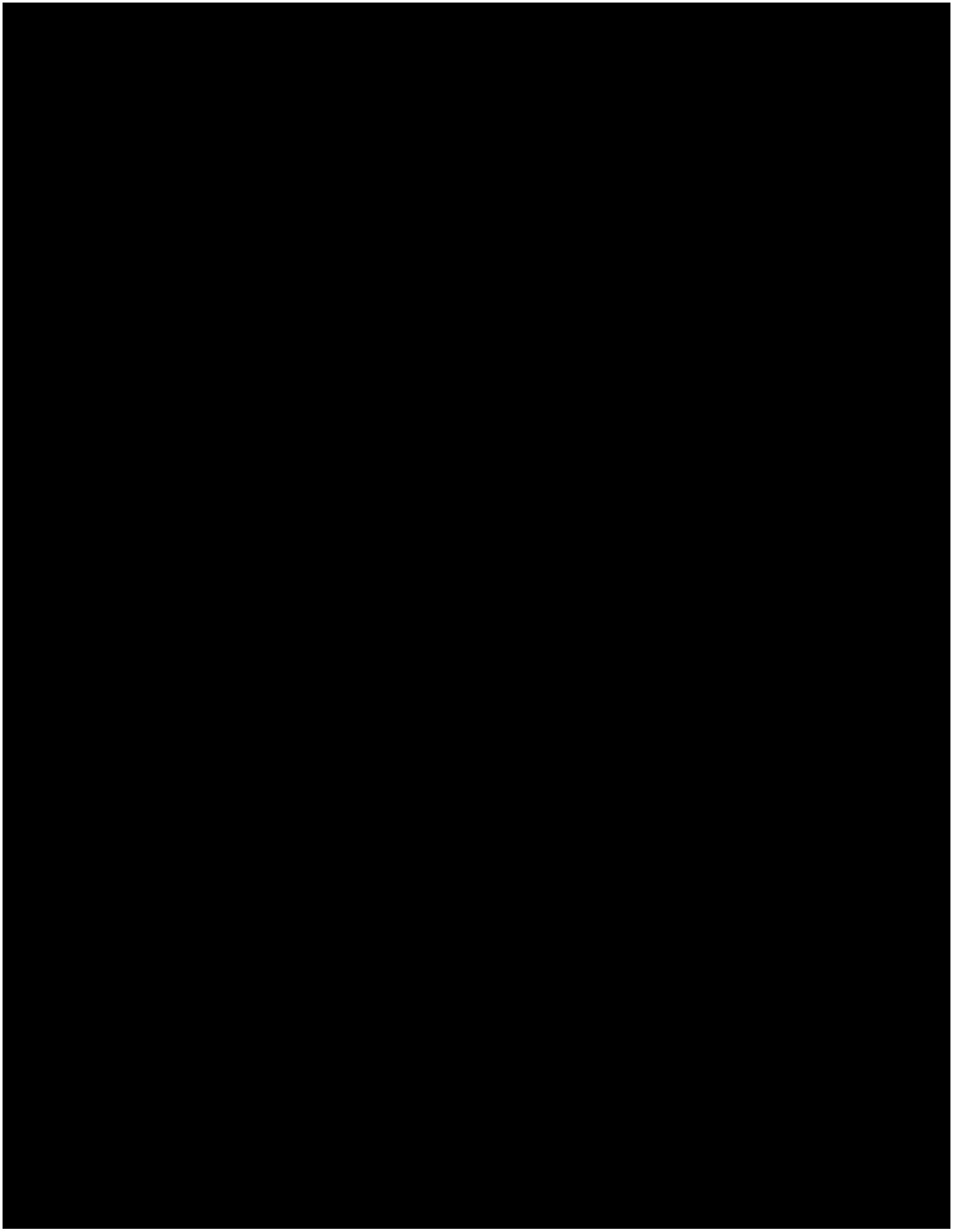


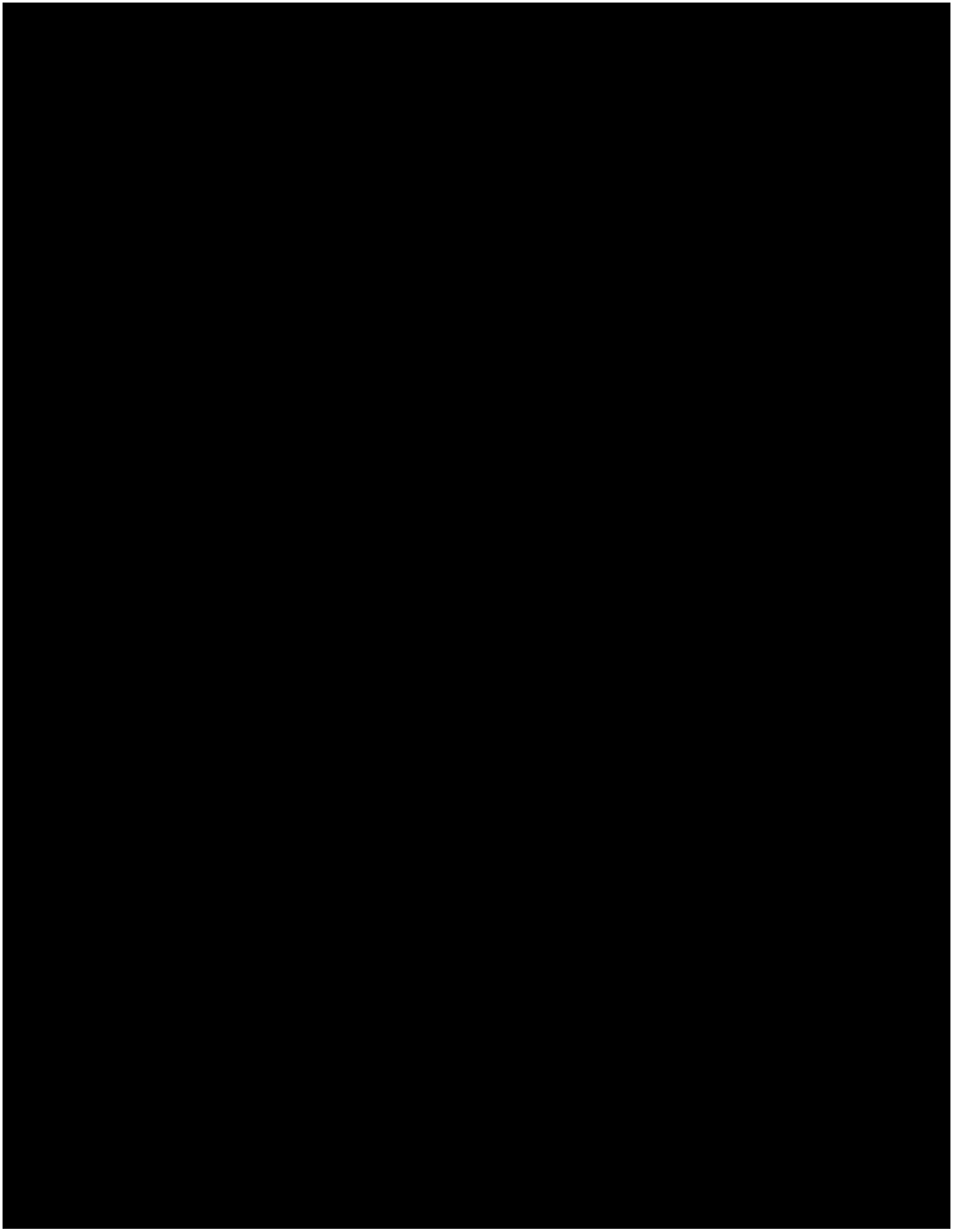


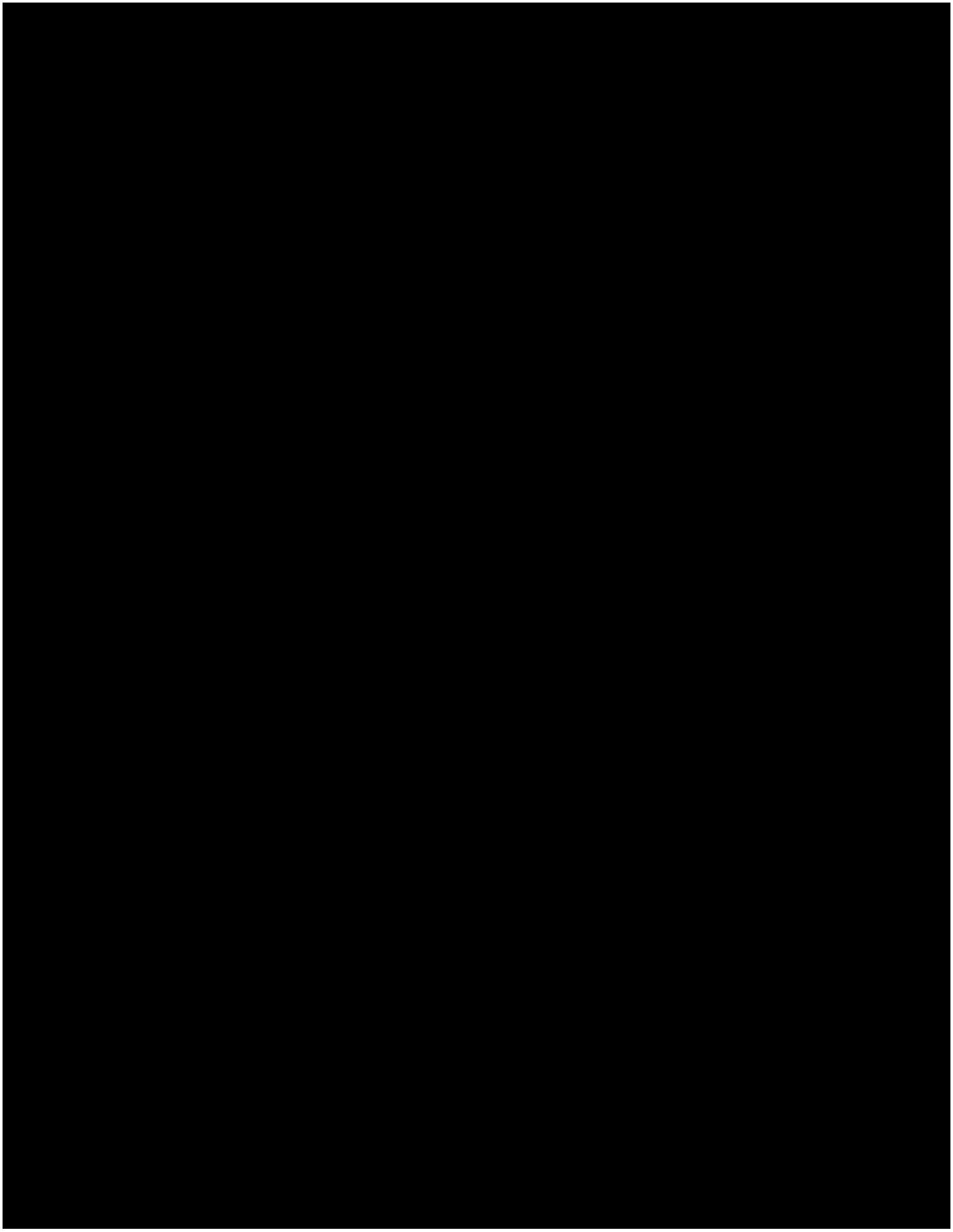


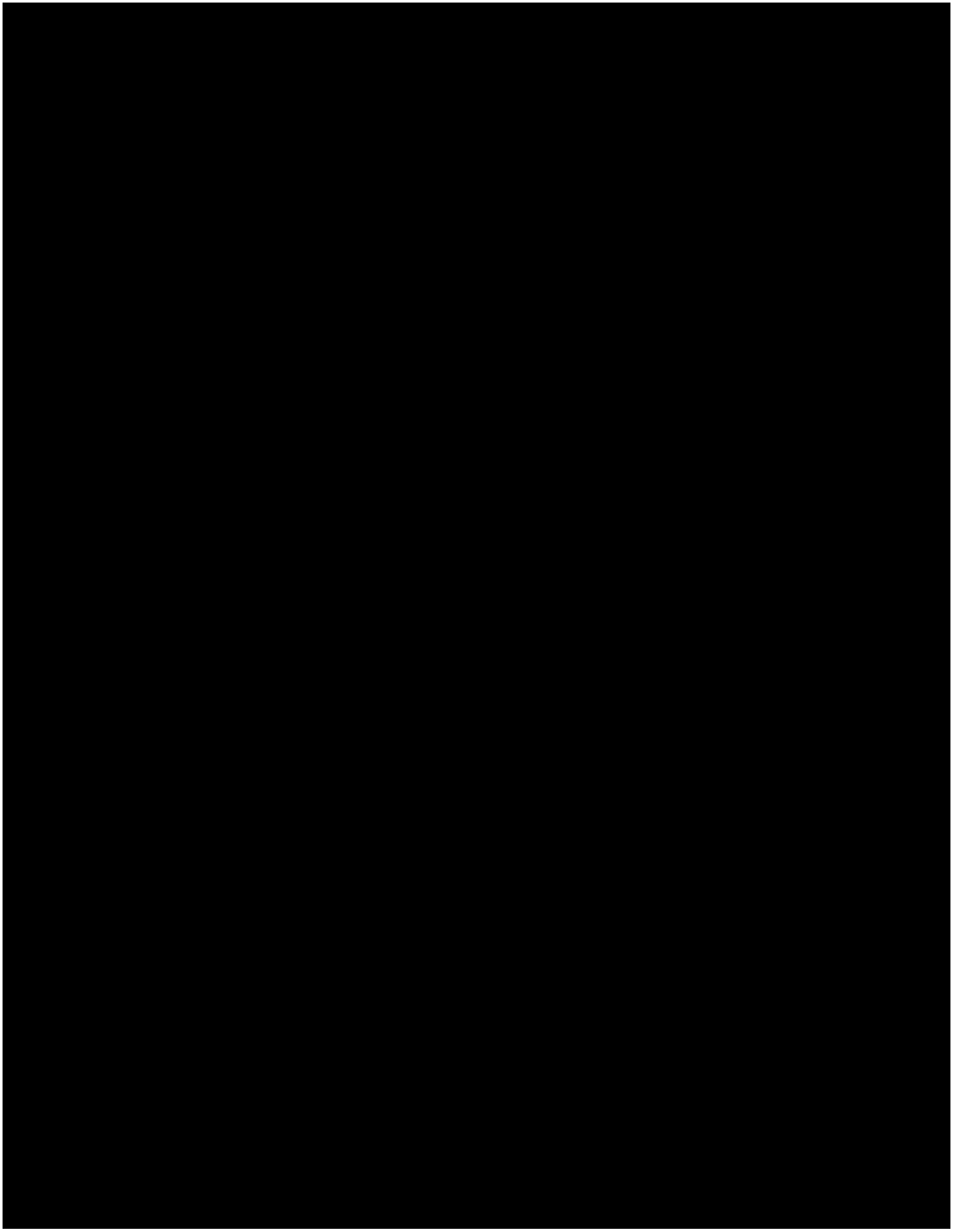


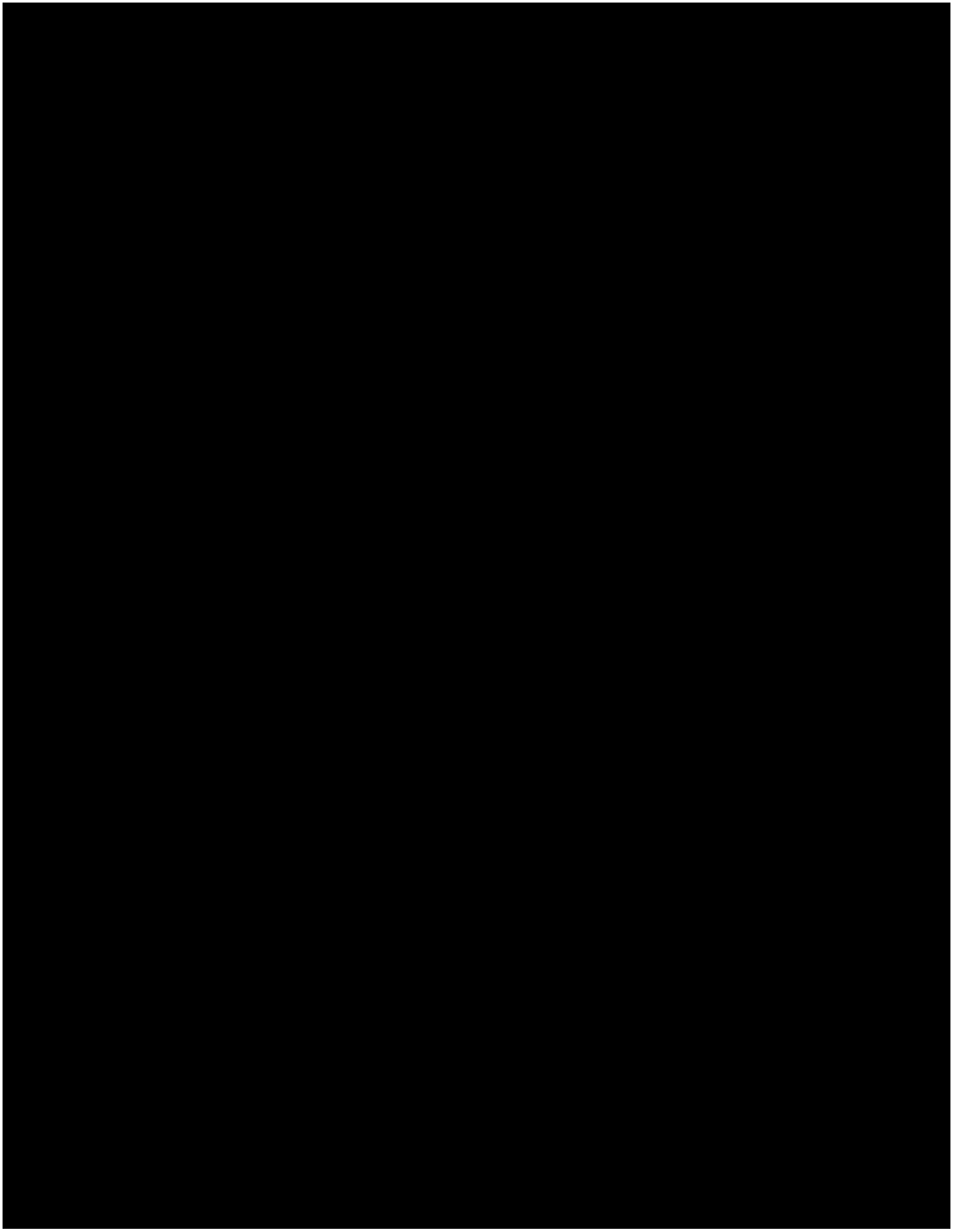


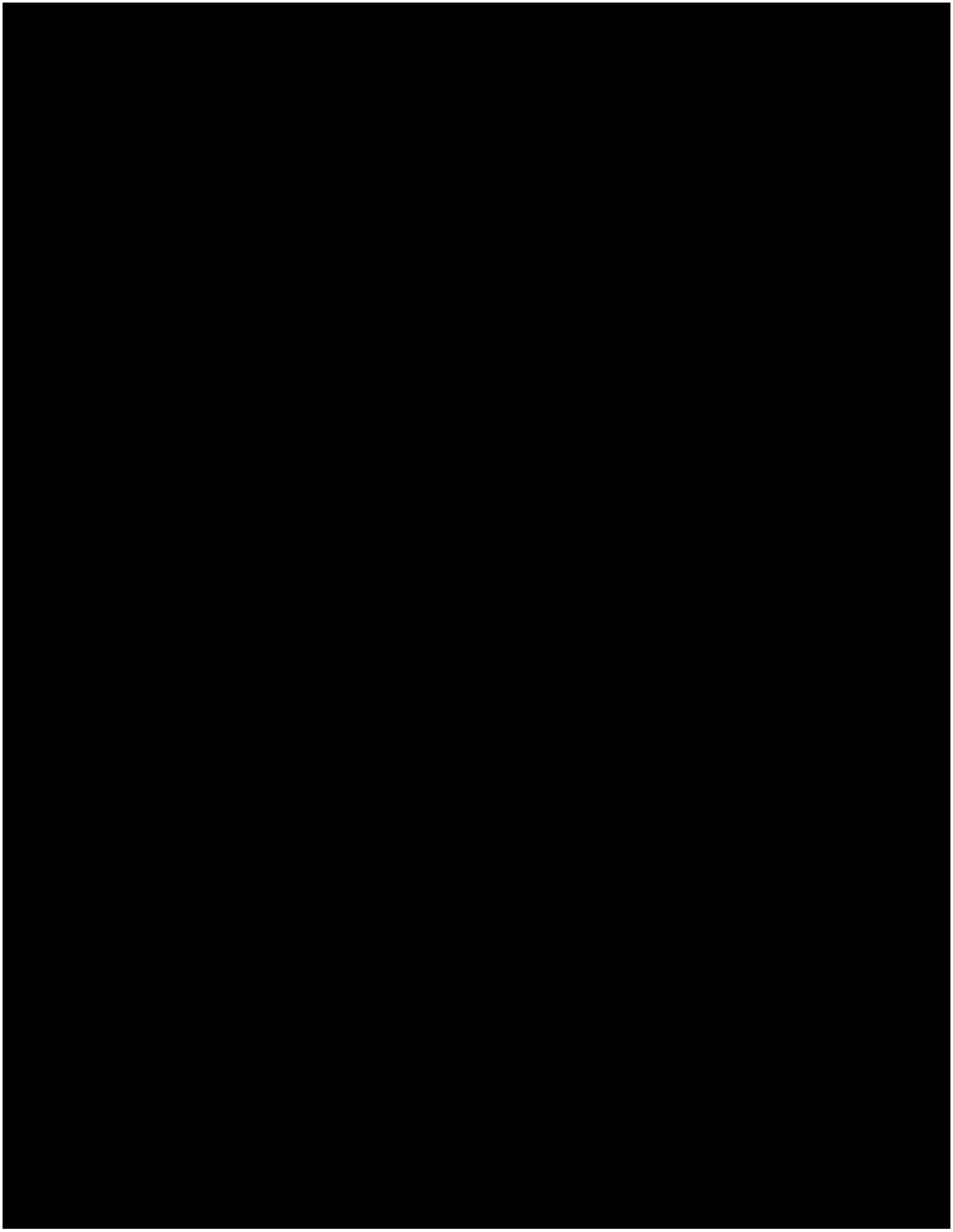












PROOF OF SERVICE

_____

SERVED ON (Print Name)

_____ _____

DATE PLACE

_____

MANNER OF SERVICE

_____ _____

SERVED BY (Print Name) TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ _____

DATE SIGNATURE OF SERVER

_____

ADDRESS OF SERVER

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d).

A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

From:	Jim Jackson
To:	ASCC Pleadings
Cc:	Brent Gasper; Sarah Debusk; Martha Cox
Subject:	Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incident
Date:	Thursday, January 19, 2023 9:14:29 AM
Attachments:	image001.jpg image002.jpg image003.jpg image004.jpg Requests for Admissions.pdf

You don't often get email from jim@jimjacksonatty.com. Learn why this is important

Misty,

Please find attached a cover letter and Requests for Admissions from the Respondent to be filed in this matter.

Thank you,

Jim

Jim Jackson

Jackson Law Firm

JimJacksonAtty.com

700 W. Broadway

North Little Rock, AR 72114

P (501) 823-3610

F (501) 823-3611

JACKSON
LAW FIRM

January 19, 2023

VIA EMAIL & US MAIL

Mr. Brent Gasper
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
Third Party Liability Unit
P.O. Box 1437
Little Rock, AR 72203-1437

Ms. Sarah DeBusk
General Counsel
Arkansas Department of Human Services
Third Party Liability Unit
P.O. Box 1437
Little Rock, AR 72203-1437

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased, and Permanent Guardian of* [redacted] *Minor Children v. The Arkansas Department of Human Services*
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Brent & Sarah:

Please find enclosed the claimant's First Requests for Admissions propounded to the respondent, Arkansas Department of Health and Human Services, in the above-referenced claim.

Please call me at (501) 823-3610 with any questions or suggestions. My e-mail address is *Jim@JimJacksonatty.com*.

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosure
cc:w/enclosure Ms. Kathryn Irby

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528 • 501.823.3610 Fax: 501.823.3611 • Jim@JimJacksonAtty.com • www.JimJacksonAtty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES — RESPONDENT

PLAINTIFF'S FIRST SET OF REQUESTS FOR ADMISSIONS

Come now the Claimant, Haley Hudson, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased and Haley Hudson as Permanent Legal Guardian of [redacted] by and through her attorney, Jim Jackson, and propounds the following Requests for Admissions to the respondent, pursuant to Rule 36 of the Arkansas Rules of Civil Procedure, to be answered in writing, under oath, within thirty (30) days from the receipt of this request, admit the truth of each of the following requests for purposes of this action only. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny.

REQUEST FOR ADMISSION NO. 1: Admit that Jennifer Wilkerson was employed by the Arkansas Department of Human Services on June 12, 2021.

REQUEST FOR ADMISSION NO. 2: Admit that you provided Jennifer Wilkerson with a 2009 Hyundai Elantra with [redacted] to drive as part of her job duties on July 12, 2021.

REQUEST FOR ADMISSION NO. 3: Admit that Jennifer Wilkerson was authorized by the Arkansas Department of Human Services to drive a 2009 Hyundai Elantra with [redacted]

[redacted] in the course and scope of her job duties with the Arkansas Department of Human Services.

REQUEST FOR ADMISSION NO. 4: Admit that on June 12, 2021, at the time the collision which is the subject of this claim, Jennifer Wilkerson was working within the course and scope of her employment with the Arkansas Department of Human Services.

Respectfully submitted,

JACKSON LAW FIRM
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611

By: Jim Jackson
Jim Jackson
Arkansas Bar No. 93209

CERTIFICATE OF SERVICE

I, Jim Jackson, do hereby certify that a true and correct copy of the above and foregoing has been served upon the following counsel of record by U.S. Mail on this, the 19th day of January, 2023.

Mr. Brent Gasper
Assistant Deputy Chief Counsel
Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

Ms. Sarah DeBusk
General Counsel
Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

Jim Jackson
Jim Jackson

Arkansas
State Claims Commission
JAN 19 2023
RECEIVED

JACKSON
LAW FIRM

January 14, 2023

COPY

VIA CERTIFIED MAIL,

Ms. Sandra Bargiel
Arkansas State Crime Laboratory
3 Natural Resources Drive
Little Rock, AR 72205

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of* [redacted] *Minor Children v. The Arkansas Department of Human Services*
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Ms. Bargiel:

I represent the Claimant in the above referenced matter pending before the Arkansas State Claims Commission. This is a wrongful death claim arising from a motor vehicle accident.

Please find enclosed a Toxicology Report Request Form for Jennifer Wilkerson and Jacqueline Ashcraft, deceased along with a Subpoena issued by the Arkansas State Claims Commission's Executive Director, Kathryn Irby, *Esq.* Also enclosed is a check from my law firm in the amount of $50.00 made payable to the Arkansas State Crime Laboratory.

Can you send a PDF of the toxicology results to my office at: *Jim@JimJacksonatty.com* or fax it to my attention at (501) 823-3611?

Please call me at (501) 823-3610 with any questions or suggestions. Enclosed is a copy of Trooper Ray's accident report which references the toxicology tests.

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosure
cc: Brent Gasper, *Esq.*
Kathryn Irby, *Esq.*

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528
501.823.3610
Fax: 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

Issued by the
ARKANSAS STATE CLAIMS COMMISSION

Arkansas
State Claims Commission
JAN 19 2023
RECEIVED

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted] Minor Children, Claimant

V.

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

SUBPOENA

CLAIM NO. 230641

TO: **Kermit B. Channell, II**
Crime Lab Director
Arkansas State Crime Laboratory
3 Natural Resources Drive
Little Rock, AR 72205

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

BAC test and drug test results from p. 2 of the attached accident report.

January 12, 2023
Date

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Arkansas State Crime Laboratory

Toxicology Report Request Form

A copy of the toxicology report can be requested by submitting the following required items:

1) Written authorization from one of the following:
   a) the prosecuting attorney of the county where the incident occurred, or
   b) a court of competent jurisdiction, and
2) A cashier's check or money order for $50, made payable to the Arkansas State Crime Laboratory.
   Please do not send cash.

Name of tested individual: Jennifer Leann Wilkerson

Date of incident: June 11, 2021

Requester Information

Requester's name: Jim Jackson

Relationship to tested individual: Attorney at Law - See Attached Subpoeana Duces Tecum

Street address: 700 W. Broadway Street, Suite 200

City, state, ZIP: North Little Rock, AR 72114

Email address: Jim@JimJacksonatty.com

Telephone number: 501-823-3610

Signature of requester: Jim Jackson

Please mail request to: Arkansas State Crime Laboratory
ATTN: Sandra Bargiel, (501) 683-6223
3 Natural Resources Drive
Little Rock AR 72205

Arkansas State Crime Laboratory

Toxicology Report Request Form

A copy of the toxicology report can be requested by submitting the following required items:

1) Written authorization from one of the following:
   a) the prosecuting attorney of the county where the incident occurred, or
   b) a court of competent jurisdiction, and
2) A cashier's check or money order for $50, made payable to the Arkansas State Crime Laboratory.
   Please do not send cash.

Name of tested individual: Jacqueline Lynn Ashcraft

Date of incident: June 11, 2021

Requester Information

Requester's name: Jim Jackson

Relationship to tested individual: Attorney at Law - See Attached Subpoeana Duces Tecum

Street address: 700 W. Broadway Street, Suite 200

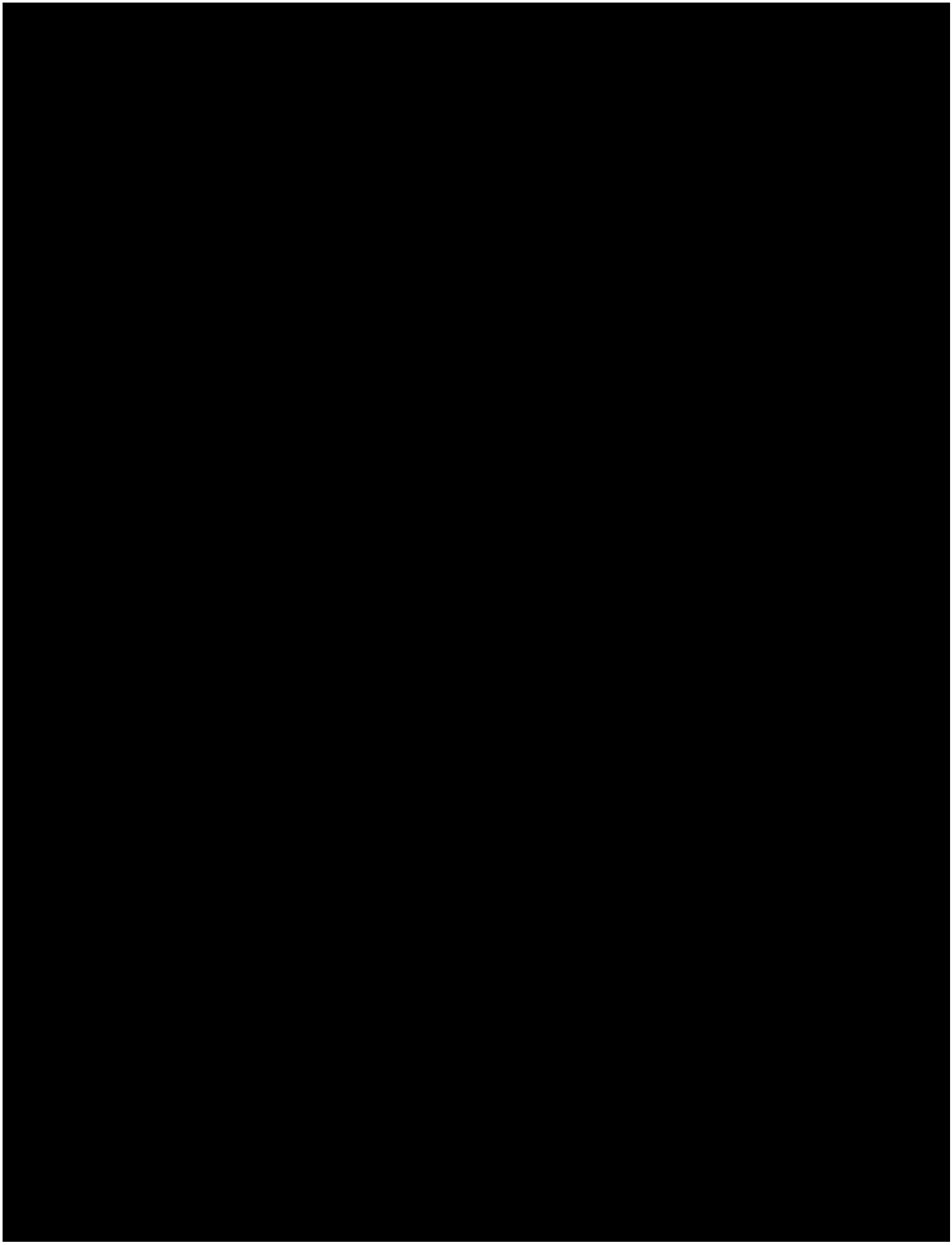
City, state, ZIP: North Little Rock, AR 72114

Email address: Jim@JimJacksonatty.com

Telephone number: 501-823-3610

Signature of requester: Jim Jackson

Please mail request to: Arkansas State Crime Laboratory
ATTN: Sandra Bargiel, (501) 683-6223
3 Natural Resources Drive
Little Rock AR 72205



From: Jim Jackson
To: ASCC Pleadings
Cc: Brent Gasper; Sarah Debusk; Martha Cox; Marks, John; Joan Shipley; TiffanyMathenyCCR@Gmail.com
Subject: RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incid
Date: Friday, January 27, 2023 9:55:47 AM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg
Notice of Deposition for Trooper James Ray for 2-15-2023.pdf

You don't often get email from jim@jimjacksonatty.com. Learn why this is important

All,
Please find attached the Notice of Deposition for Trooper/Warden James Ray for Wednesday February 15 at 9:00 a.m. in Fort Smith.
I will confirm the exact location as we approach the date.
The best option may be at the Arkansas Game & Fish Conference room but I need to visit with John Marks further about that.
Also, my office needs to know the process for the witness fee check for Trooper Ray.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Misty Scott <Misty.Scott@arkansas.gov> **On Behalf Of** ASCC Pleadings
Sent: Thursday, January 19, 2023 9:31 AM
To: Jim Jackson <jim@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>
Cc: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and

Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incid

Received on 1-19-23.

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Thursday, January 19, 2023 9:14 AM
To: ASCC Pleadings <asccpleadings@arkansas.gov>
Cc: Brent Gasper <brent.gasper@dhs.arkansas.gov>; Sarah Debusk <sarah.debusk@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incident

> You don't often get email from jim@jimjacksonatty.com. Learn why this is important

Misty,
Please find attached a cover letter and Requests for Admissions from the Respondent to be filed in this matter.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Jim Jackson
To: ASCC Pleadings
Cc: Brent Gasper; Sarah Debusk; Martha Cox; Marks, John; Joan Shipley; TiffanyMathenyCCR@Gmail.com
Subject: RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incid
Date: Friday, January 27, 2023 2:21:58 PM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg
Amended Notice of Deposition for Trooper Ray on Tuesday, Feb 21, 2023.pdf

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You don't often get email from jim@jimjacksonatty.com. Learn why this is important

All,
I understand that Mr. Ray is not available on February 15.
He is available on Tuesday, February 21 at 1:00 p.m.
He does have the photographs referenced in the accident report.
Please see the attached Amended Notice.
Please let me know if you have any conflicts with this date and time.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Jim Jackson
Sent: Friday, January 27, 2023 9:56 AM
To: 'ASCC Pleadings' <ASCCPleadings@arkansas.gov>
Cc: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>; Marks, John <john.marks@agfc.ar.gov>; joan.shipley@asp.arkansas.gov; 'TiffanyMathenyCCR@Gmail.com' <TiffanyMathenyCCR@Gmail.com>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incid

All,
Please find attached the Notice of Deposition for Trooper/Warden James Ray for Wednesday February 15 at 9:00 a.m. in Fort Smith.
I will confirm the exact location as we approach the date.
The best option may be at the Arkansas Game & Fish Conference room but I need to visit with John Marks further about that.
Also, my office needs to know the process for the witness fee check for Trooper Ray.
Thank you,
Jim



Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Misty Scott <Misty.Scott@arkansas.gov> **On Behalf Of** ASCC Pleadings
Sent: Thursday, January 19, 2023 9:31 AM
To: Jim Jackson <jim@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>
Cc: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incid

Received on 1-19-23.

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Thursday, January 19, 2023 9:14 AM
To: ASCC Pleadings <asccpleadings@arkansas.gov>
Cc: Brent Gasper <brent.gasper@dhs.arkansas.gov>; Sarah Debusk <sarah.debusk@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>

Subject: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incident

You don't often get email from jim@jimjacksonatty.com. Learn why this is important

Misty,
Please find attached a cover letter and Requests for Admissions from the Respondent to be filed in this matter.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES — **RESPONDENT**

NOTICE OF DEPOSITION

TO: Arkansas Department of Health and Human Services
c/o Mr. Brent Gasper
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

NOTICE is hereby given that the plaintiff will take the deposition of Trooper James Ray on Tuesday February 21, 2023, beginning at 1:00 p.m. at the Arkansas Game & Fish Commission's Regional Office, 8401 Massard Road, Fort Smith, Arkansas 72916, for all purposes, upon oral examination, before a Certified Court Reporter, duly authorized to administer oath, and recorded by stenographic means. The deposition will continue until completed.

Respectfully submitted,

BY: /s/ Jim R. Jackson

Jim R. Jackson, AR Bar #93-209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
(501) 823-3610 phone
(501) 823-3611 facsimile
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Notice of Deposition was served on the following counsel of record by either U.S. Mail, postage prepaid, or by electronic service to:

Mr. Brent Gasper
Ms. Sarah DeBusk
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

/s/ Jim R. Jackson .
Jim R. Jackson

From: Kathryn Irby
To: Jim Jackson; Brent Gasper
Cc: Sarah Debusk; Daiquiri Carter; Martha Cox
Subject: HEARING DATE CHANGE: Hudson v. DHS, Claim No. 230641
Date: Tuesday, January 31, 2023 1:09:00 PM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg

Jim and Brent, due to a scheduling issue, this hearing has been moved from February 10 to February 9. Still at 9 a.m. There are a number of motions scheduled in various claims for February 9. The new Zoom invitation is below.

If the February 9 date is unworkable for any party, please let me know, and I'll move this hearing to the next available docket slot.

Thanks,
Kathryn

Kathryn Irby -- Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings
Time: Feb 9, 2023 09:00 AM Central Time (US and Canada)

Join Zoom Meeting
https://us06web.zoom.us/j/83991263511?pwd=RVpRbjRwWHI3UnRUZXJTbk9vZUtNUT09

Meeting ID: 839 9126 3511
Passcode: x9RGig
One tap mobile
+13126266799,,83991263511#,,,,*974920# US (Chicago)
+16469313860,,83991263511#,,,,*974920# US

Dial by your location
+1 312 626 6799 US (Chicago)
+1 646 931 3860 US
+1 929 436 2866 US (New York)
+1 301 715 8592 US (Washington DC)
+1 305 224 1968 US
+1 309 205 3325 US
+1 719 359 4580 US
+1 253 205 0468 US
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 360 209 5623 US
+1 386 347 5053 US

+1 507 473 4847 US
+1 564 217 2000 US
+1 669 444 9171 US
+1 669 900 6833 US (San Jose)
+1 689 278 1000 US
Meeting ID: 839 9126 3511
Passcode: 974920
Find your local number: https://us06web.zoom.us/u/kbKzYxItX7

From: Kathryn Irby
Sent: Tuesday, January 3, 2023 4:17 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Cc: Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641

Jim and Brent, attached is a hearing letter for all pending motions. If the parties are unable to agree on what to do with discovery, a motion can be filed, which can be considered by the Commission at the February 10 hearing, as well.

Let me know if there are still any unanswered questions.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Tuesday, January 3, 2023 7:29 AM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: Ashley Hudson v. DHS

I am in agreement with the need for a call.
I am attending a funeral for my former paralegal on Wednesday at 2:00 p.m. in Alexander.
I am available Wednesday morning, Thursday & Friday.

I do not see any legal reason that the time to respond to Interrogatories should be held in abeyance. They are routine discovery that was properly served on the respondent and will have to be answered.
The claimant has filed both an initial claim and a more formal claim which clearly states the allegation of liability of DHS and has submitted a copy of the accident report prepared by the Arkansas State Police.
I am not aware of any legal reason why the respondent's request to respond to written discovery should be held in abeyance.
Thank you,
Jim



Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Thursday, December 29, 2022 1:16 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: Hudson v. DHS

Thank for sending those pleadings, Jim.

Kathryn, I'm with Jim that it would be great to set up a short call next week (I'm off work tomorrow) sometime concerning how the commission wishes us to proceed at this point. We are not intending to withdraw our motion and would like to have a ruling on it before being ordered to answer the complaint and amended complaint. Further, I'm going to ask/move to hold the interrogatories (or, specifically, the requirement to answer them within a certain time period) in abeyance until the commission decides on the motion. Please let me know if I need to file a pleading to memorialize that or whether the commission will simply consider it when ruling on the existing outstanding motion.

I'm pretty flexible next week so just let me know when you find an agreeable time.

Thanks!

Brent

Cc: Sarah DeBusk

>>

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950
Brent.Gasper@dhs.arkansas.gov

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The sender has not waived any applicable privilege by sending the accompanying transmission. If you have received this transmission in error, please notify the sender by return email and delete the message and attachment(s) from your system.

From: Jim Jackson
To: Kathryn Irby
Cc: Brent Gasper; Sarah Debusk; Daiquiri Carter; Martha Cox
Subject: Re: HEARING DATE CHANGE: Hudson v. DHS, Claim No. 230641
Date: Tuesday, January 31, 2023 1:30:14 PM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg

I've added it to my calendar.
Thank you
Jim

Jim Jackson
Attorney at Law
700 West Broadway St: Suite 2
North Little Rock, AR 72114
(501) 823-3610

On Jan 31, 2023, at 1:10 PM, Kathryn Irby <Kathryn.Irby@arkansas.gov> wrote:

Jim and Brent, due to a scheduling issue, this hearing has been moved from February 10 to February 9. Still at 9 a.m. There are a number of motions scheduled in various claims for February 9. The new Zoom invitation is below.

If the February 9 date is unworkable for any party, please let me know, and I'll move this hearing to the next available docket slot.

Thanks,
Kathryn

Kathryn Irby -- Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings
Time: Feb 9, 2023 09:00 AM Central Time (US and Canada)

Join Zoom Meeting
https://us06web.zoom.us/j/83991263511?pwd=RVpRbjRwWHI3UnRUZXJTbk9vZUtNUT09

Meeting ID: 839 9126 3511
Passcode: x9RGig
One tap mobile
+13126266799,,83991263511#,,,,*974920# US (Chicago)

+16469313860,,83991263511#,,,,*974920# US

Dial by your location
+1 312 626 6799 US (Chicago)
+1 646 931 3860 US
+1 929 436 2866 US (New York)
+1 301 715 8592 US (Washington DC)
+1 305 224 1968 US
+1 309 205 3325 US
+1 719 359 4580 US
+1 253 205 0468 US
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 360 209 5623 US
+1 386 347 5053 US
+1 507 473 4847 US
+1 564 217 2000 US
+1 669 444 9171 US
+1 669 900 6833 US (San Jose)
+1 689 278 1000 US
Meeting ID: 839 9126 3511
Passcode: 974920
Find your local number: https://us06web.zoom.us/u/kbKzYxItX7

From: Kathryn Irby
Sent: Tuesday, January 3, 2023 4:17 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Cc: Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641

Jim and Brent, attached is a hearing letter for all pending motions. If the parties are unable to agree on what to do with discovery, a motion can be filed, which can be considered by the Commission at the February 10 hearing, as well.

Let me know if there are still any unanswered questions.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission

101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Tuesday, January 3, 2023 7:29 AM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: Ashley Hudson v. DHS

I am in agreement with the need for a call.
I am attending a funeral for my former paralegal on Wednesday at 2:00 p.m. in Alexander.
I am available Wednesday morning, Thursday & Friday.
I do not see any legal reason that the time to respond to Interrogatories should be held in abeyance.
They are routine discovery that was properly served on the respondent and will have to be answered.
The claimant has filed both an initial claim and a more formal claim which clearly states the allegation of liability of DHS and has submitted a copy of the accident report prepared by the Arkansas State Police.
I am not aware of any legal reason why the respondent's request to respond to written discovery should be held in abeyance.
Thank you,
Jim

<image001.jpg>

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611
<image002.jpg>
<image003.jpg>



From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Thursday, December 29, 2022 1:16 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: Hudson v. DHS

Thank for sending those pleadings, Jim.

Kathryn, I'm with Jim that it would be great to set up a short call next week (I'm off work tomorrow) sometime concerning how the commission wishes us to proceed at this point. We are not intending to withdraw our motion and would like to have a ruling on it before being ordered to answer the complaint and amended complaint. Further, I'm going to ask/move to hold the interrogatories (or, specifically, the requirement to answer them within a certain time period) in abeyance until the commission decides on the motion. Please let me know if I need to file a pleading to memorialize that or whether the commission will simply consider it when ruling on the existing outstanding motion.

I'm pretty flexible next week so just let me know when you find an agreeable time.

Thanks!

Brent

Cc: Sarah DeBusk

>>

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950
Brent.Gasper@dhs.arkansas.gov

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From: Kathryn Irby
To: Jim Jackson; Brent Gasper; Sarah Debusk
Cc: Martha Cox
Subject: RE: Hudson v. DHS hearing, Feb. 9 @ 9:00
Date: Wednesday, February 8, 2023 12:16:00 PM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg

Jim and Brent, I have transmitted these emails to the commissioners, and they will be able to address the questions/requests tomorrow. However, I am keeping the hearing on the docket, and both parties should plan to attend. I expect it to be fairly brief, although I do not know which order the Commission will take up the matters on the docket.

Thanks,
Kathryn

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Wednesday, February 8, 2023 11:55 AM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>; Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: Hudson v. DHS hearing, Feb. 9 @ 9:00

Director Irby,
I am in total agreement with Brent's analysis.
I do not want or need an Answer to the original complaint that I filed via the online portal by filling in the blanks as best as I could.
I would think that the Claimant's filing of the Amended Complaint on December 28 supersedes the online filing and cured the defects in the original Complaint.
Since it seems that we are in agreement, I would like to join Brent in requesting a scheduling order for the Respondent to file an Answer to the Amended Complaint.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114

P (501) 823-3610
F (501) 823-3611

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Wednesday, February 8, 2023 11:28 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>; Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>
Subject: Hudson v. DHS hearing, Feb. 9 @ 9:00

Kathryn:

Currently we have a hearing scheduled for tomorrow, February 9, on my motion to cure. While the docket mentions "motions" plural, I was not aware of another actual motion to be heard. I understand that Jim has filed a response attaching an amended complaint as well as an amended complaint in response to my motion to cure and perhaps that is the other matter to be considered. In any event, I believe we can probably expedite matters without the necessity of a hearing in that the purpose of my motion was to compel a more complete complaint than the one Jim originally filed. Because Jim filed an amended complaint while the 12(e) motion is still pending, I believe what that leaves us with are the following matters to settle:

First, a ruling from the Commission on my 12(e) motion. As per the motion, I asked on for the Commission to compel the Claimant to file a satisfactory complaint. Notably, I did *not* ask for a dismissal. Because I have made the motion to the Commission, I simply need a ruling as to whether that has been subsequently accomplished. I do not intend to make an argument that the amended complaint is *not* satisfactory, but I cannot unilaterally concede the point that it was not at the time it was filed. So, basically, if the Commission believes the Amended Complaint is satisfactory, it will get no argument from me to the contrary in that regard.

Second, assuming the Commission rules that the Amended Complaint is satisfactory, I would only then ask for a revised scheduling order as to when an answer to the Complaint and/or Amended Complaint is due. I believe it would be much cleaner so-to-speak if the Commission ordered us only to respond to the Amended Complaint as it is far more comprehensive than the original complaint filed. If Jim would agree to waive any formal Answer to the original Complaint and instead accept an Answer to only the Amended Complaint that may be a much easier way forward for simplicity of the pleadings.

To that end, if the Commission were to GRANT my 12(e) motion and then ACCEPT the Claimant's Amended Complaint as satisfactory and then ORDER an Answer to the Amended Complaint only, with the Answer being due thirty (30) days from the date of the order, I believe we could dispense with an actual hearing and go ahead and move forward. Indeed, we are already in the beginning stages of discovery so dispensing this matter without the necessity of hearing would certainly be much more efficient.

I would note that I have not discussed this matter with Jim, so he may have an objection to this

proposal. If so, we can certainly go forward with the hearing. If not, though, I'm happy to submit a proposed order in collaboration with Jim to memorialize my proposed ruling. I also would not object to any continuance of the hearing if the continuance is to have more time to consider my proposed way forward.

Please let me know what you think,

Thanks!

Brent

Cc: Jim Jackson, Sarah DeBusk

>>>>

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

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From:	Daiquiri Carter
To:	ASCC Pleadings; Brent Gasper; Sarah Debusk; jim@jimjacksonatty.com
Cc:	Daiquiri Carter
Subject:	CC #230641
Date:	Thursday, February 9, 2023 10:05:09 AM
Attachments:	Haley Hudson Respondent"s Responses to First Set of Admissions_001.pdf image001.png image002.png

---

Please find attached Respondent's Responses to Claimant's First Set of Requests for Admissions. I have copied Claimant's attorney on this email

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov





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IN THE ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINELYNN ASHCRAFT, deceased, and HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], MINOR CHILDREN **CLAIMANT**

V. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

RESPONDENT'S RESPONSES TO CLAIMANT'S FIRST SET OF REQUESTS FOR ADMISSIONS

Comes now, the Respondent, The State of Arkansas, Department of Human Services ("DHS"), Office of Chief Counsel, by its attorneys, Brent P. Gasper, Assistant Deputy Chief Counsel, and Sarah DeBusk, General Counsel, and for its Responses to Claimant's First Set of Requests for Admissions, states:

REQUEST FOR ADMISSION NO. 1: Admit that Jennifer Wilkerson was employed by the Arkansas Department of Human Services on June 12, 2021.

RESPONSE: Admitted.

REQUEST FOR ADMISSION NO. 2: Admit that you provided Jennifer Wilkerson with a 2009 Hyundai Elantra with [redacted] to drive as part of her job duties on July 12, 2021.

RESPONSE: Denied.

REQUEST FOR ADMISSION NO. 3: Admit that Jennifer Wilkerson was authorized by the Arkansas Department of Human Services to drive a 2009 Hyundai Elantra with [redacted] in the course and scope of her job duties with the Arkansas Department of Human Services.

RESPONSE: Admitted.

REQUEST FOR ADMISSION NO. 4: Admit that on June 12, 2021, at the time of the collision, which is the subject of this claim, Jennifer Wilkerson was working within the course and scope of her employment with the Arkansas Department of Human Services.

RESPONSE: Denied.

Respectfully Submitted,

By: _____

Brent P. Gasper
Assistant Deputy Chief Counsel
AR Bar No. 98240

Sarah DeBusk
General Counsel
AR Bar No. 2019308

Arkansas Department of Human Services
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203
Phone (501) 320-8950
Brent.gasper@dhs.arkansas.gov
Sarah.debusk@dhs.arkansas.gov

CERTIFICATE OF SERVICE

I, Brent Gasper, hereby certify that on February 9, 2023, I electronically file the foregoing with the Arkansas Claims Commission and copied Claimant's attorney, Jim Jackson, via email.

_____

Brent P. Gasper

From: Martha Cox
To: ASCC Pleadings
Cc: Brent Gasper; Sarah Debusk; Kathryn Irby; Jim Jackson
Subject: CC#230641; Claimant: Haley Hudson; Respondent: Arkansas Department of Human Services
Date: Friday, February 10, 2023 12:36:50 PM
Attachments: Requests for Admissions to ADHS, Second Set to clarify Date.pdf

Please find enclosed the claimant's Amended Second Set of Requests for Admissions for filing in the above-referenced matter.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

PLAINTIFF'S AMENDED SECOND SET OF REQUESTS FOR ADMISSIONS

Come now the Claimant, Haley Hudson, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and Haley Hudson, as Permanent Legal Guardian of [redacted], by and through her attorney, Jim Jackson, and propounds the following Amended Second Set of Requests for Admissions to the respondent, pursuant to Rule 36 of the Arkansas Rules of Civil Procedure, to be answered in writing, under oath, within thirty (30) days from the receipt of this request, admit the truth of each of the following requests for purposes of this action only. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny.

REQUEST FOR ADMISSION NO. 1: Admit that Jennifer Wilkerson was employed by the Arkansas Department of Human Services on Friday, June 11, 2021.

REQUEST FOR ADMISSION NO. 2: Admit that the respondent provided Jennifer Wilkerson with a Hyundai Elantra to drive as part of her job duties on Friday, June 11, 2021.

REQUEST FOR ADMISSION NO. 3: Admit that Jennifer Wilkerson was authorized by the Arkansas Department of Human Services to drive a 2009 Hyundai Elantra in the course and scope of her job duties with the Arkansas Department of Human Services on Friday, June 11, 2021.

REQUEST FOR ADMISSION NO. 4: Admit that on Friday, June 11, 2021, at the time of the collision which is the subject of this claim, Jennifer Wilkerson was working within the course and scope of her employment with the Arkansas Department of Human Services.

Respectfully submitted,

JACKSON LAW FIRM
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
Email: *Jim@JimJacksonAtty.com*

By: /s/ Jim Jackson
Jim Jackson
Arkansas Bar No. 93209

CERTIFICATE OF SERVICE

I, Jim Jackson, do hereby certify that a true and correct copy of the above and foregoing has been served upon the following counsel of record on the 10th day of February, 2023.

Mr. Brent Gasper
Assistant Deputy Chief Counsel
Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

Ms. Sarah DeBusk
General Counsel
Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

Jim Jackson

Jim Jackson

From:	Daiquiri Carter
To:	ASCC Pleadings; Brent Gasper; jim@jimjacksonatty.com
Cc:	Sarah Debusk; Daiquiri Carter
Subject:	CC 230641
Date:	Friday, February 10, 2023 12:17:47 PM
Attachments:	Hudson Answers to Interrogatories_001.pdf image001.png image002.png

Please find attached Respondent's Answer to Claimant's First set of Interrogatories and Requests for Production. I have copied Claimant's attorney on this email.

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov





NOTE - This email may contain sensitive or confidential information.

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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], MINOR CHILDREN — **CLAIMANT**

v. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES — **RESPONDENT**

RESPONDENT'S RESPONSE TO CLAIMANT'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

COMES NOW, the Respondent, the State of Arkansas, Department of Human Services ("DHS"), Office of Chief Counsel, by its attorneys, Brent P. Gasper, Assistant Deputy Chief Counsel, and Sarah DeBusk, General Counsel, and for its Responses to Claimant's First Set of Interrogatories and for Production of Documents, states:

INTERROGATORY NO. 1: Please state the names and complete present or last known addresses and telephone numbers of all persons known to you, your attorneys, or other representatives who have knowledge of the facts relating to the accident as alleged or described in the Complaint (the "accident").

ANSWER: This claim is still being investigated and persons with knowledge are still being ascertained. Respondent will update and supplement this response when this information becomes available. At this point, Respondent can state that the following persons have information regarding the accident:

1. Jennifer Wilkerson, [redacted]
2. Kristen Shelton, Office phone 479 647-7171, Office address is 900 Rogers Ave., Clarksville, AR 72830.
3. Brandy Ezell, Office phone 479 963-2783, Office address, #17 W. McKeen St., Paris, AR 72855
4. Pam Feemster, Office phone 479 963-2783, Office address, #17 W. McKeen St., Paris, AR 72855
5. James Ray, Game and Fish Commission, james.ray@agfc.ar.gov
6. Bobby Dale Wilson, GKD Management, [redacted]

INTERROGATORY NO. 2: Please state the names and complete present or last known addresses and telephone numbers of all persons who will or may be called as witnesses on your behalf at the trial of this lawsuit.

ANSWER: This claim is still being investigated and this information is still being ascertained. Further, Respondent has not ascertained which, if any, persons will be called at the trial of this matter. Respondent will update and supplement this response when this information becomes available.

INTERROGATORY NO. 3: Please state briefly the facts or the nature of the subject matter known to each of the persons listed in response to Interrogatory Nos. 1 and 2 above.

ANSWER: Please see responses to Interrogatories Nos 1 and 2. Respondent would at this point state that Jennifer Wilkerson stated she was driving the DHS vehicle and that Bobby Dale Wilson was the driver of the truck that was also involved in the accident. Further, James Ray was at the time an Arkansas State Trooper who responded to and investigated the accident. Kristen Shelton was at the time a DHS employee that investigated the accident and the

circumstances surrounding it for the agency. Brandy Ezell mapped out the route with Jennifer Wilkerson that Jennifer Wilkerson was to travel for DHS business on that day. Pam Feemster and Brandy Ezell arrived at the scene of the accident and spoke to Ms. Wilkerson about the accident. Pam Feemster and Brandy Ezell also assisted with the agency investigation of the accident.

INTERROGATORY NO. 4: If you contend that any person who may be called as a witness on your behalf at the trial of this lawsuit is an expert witness, then, with respect to each such person, please provide:

(a) the name, address, and telephone number of each such person;

(b) the qualifications of such person to testify with respect to the subject matter investigated;

(c) the subject matter on which the expert is expected to testify;

(d) the substance of the facts and the opinion(s) to which the expert is expected to testify;

(e) a summary of the grounds for each such opinion; and

(f) a list of all tests, treatises, reports, depositions, records, and other documents reviewed by said expert in formulating his opinion(s).

ANSWER: This claim is still being investigated and this information is still being ascertained. Respondent has not stated trial preparation and likewise has not decided on what witnesses, if any, will be called at the trial. Respondent will update and supplement this response when this information becomes available.

REQUEST FOR PRODUCTION NO. 1: Please attach to your answer copies of all reports and other documents prepared or furnished by said expert(s) relating to this lawsuit.

RESPONSE: Please see response to Interrogatory No. 4.

INTERROGATORY NO. 5: With respect to each exhibit which you will or may introduce at the trial of this lawsuit, please:

(a) give a brief description of each such exhibit;

(b) state what such exhibit purports to show or represent;

(c) give the names and addresses of all persons who have copies of each such exhibit in their possession;

(d) state when and by whom each such exhibit was designed or prepared; and

(e) attach a copy of each such exhibit.

ANSWER: This claim is still being investigated and this information is still being ascertained. Respondent has not stated trial preparation and likewise has not decided on what witness, if any, will be called at the trial. Respondent will update and supplement this response when this information becomes available.

INTERROGATORY NO. 6: Do you, your attorneys, or other representatives have knowledge of any other documents (other than exhibits described in Interrogatory No. 5) which regard or relate to the matters with which this lawsuit is concerned, and if so, please state with respect to each such document or item:

(a) what it purports to show or represent;

(b) the names and addresses of all persons who have copies; and

(c) when and by whom it was designed or prepared.

ANSWER: This claim is still being investigated and this information is still being ascertained and documentation is still being compiled. Respondent will update and supplement this response when this information becomes available and compiled. At this time Respondent is aware of an internal investigative file concerning the agency's investigation into the

accident and the circumstances surrounding it. This file was compiled and prepared by Kristen Shelton. A copy of this file will be submitted to Claimant once it is received and all personal confidential information that is required by law to be redacted has been redacted.

REQUEST FOR PRODUCTION NO. 2: Please attach to your answers a copy of each document identified in your answer to the preceding interrogatory.

RESPONSE: Please see response to Interrogatory No. 6.

REQUEST FOR PRODUCTION NO. 3: Please provide a copy of any chart, graph, drawing, presentation, reconstruction, demonstration, or other visual aid or item of demonstrative evidence that you or your attorney intend to utilize at the trial in this case for any purpose.

RESPONSE: Please see response to interrogatory No. 5.

INTERROGATORY NO. 7: Do you, your attorneys, your other representatives, or anyone acting on your or their behalf have knowledge of any photographs or video recordings taken at any time relating to the matters with which this lawsuit is concerned; and if so, please state with respect to each such photograph and recording:

(a) what it purports to show or represent;

(b) the date it was taken;

(c) the name and address of the person who made or took it;

(d) the names and addresses of all persons who have copies; and,

(e) if you claim a privilege, please produce a log of the items for which you are claiming a privilege.

ANSWER: Please see answer to Interrogatory No. 6.

REQUEST FOR PRODUCTION NO. 4: Please attach prints or photocopies of each photograph or video recording identified in your answer to Interrogatory No. 7; or, in the alternative, furnish jpg or pdf files to the undersigned so that prints may be made therefrom.

RESPONSE: Please see response to Interrogatory No. 7.

INTERROGATORY NO. 8: Was Jennifer Wilkerson an employee of the respondent at the time of the collision that is the subject of this claim?

ANSWER: Yes.

INTERROGATORY NO. 9: State the name and job title of Jennifer Wilkerson's supervisor on June 11, 2021.

ANSWER: Pamela Feemster, Family Service Worker Supervisor.

INTERROGATORY NO. 10: State the job title and job duties of Jennifer Wilkerson on June 11, 2021.

ANSWER: DHS Program Assistant. In this capacity, Jennifer Wilkerson provided assistance to a Family Service Worker. At the time of the accident, due to her only having been employed with DHS for a very short time, Jennifer Wilkerson was assigned to observe operations of the agency and to provide transportation to minor children and families in the foster car program.

REQUEST FOR PRODUCTION NO. 5: Produce for inspection and copying the appraisal of the property damage to respondent's 2009 Hyundai Elantra that was driven by Jennifer Wilkerson at the time of the collision which is the subject of this claim.

RESPONSE: This claim is still being investigated and this information is still being ascertained. Respondent will update and supplement this response when this information becomes available.

REQUEST FOR PRODUCTION NO. 6: Produce for inspection and copying the photographs of the respondent's 2009 Hyundai Elantra that was driven by Jennifer Wilkerson at the time of the collision which is the subject of this claim.

RESPONSE: This claim is still being investigated and this information is still being ascertained. Respondent will update and supplement this response when this information becomes available.

INTERROGATORY NO. 11: If you contend any other party was responsible for causing the collision which is the subject of this claim, please state the name of the party and all facts with which support your contention.

ANSWER: This claim is still being investigated and this information is still being ascertained. Respondent will update and supplement this response when this information becomes available.

INTERROGATORY NO. 12: Were Jennifer Wilkerson's actions the sole cause of the collision which is the subject of this claim?

ANSWER: Respondent objects to the form of this question as it is asking for a legal conclusion. One of the legal issues at hand is the extent of DHS's liability, if any, and whether or not there was any contributory negligence on the part of any other person. Not waiving the aforementioned objection, this claim is still being investigated and this information is still being ascertained. Respondent will update and supplement this response when this information becomes available.

INTERROGATORY NO. 13: Did any employee of the respondent perform an investigation of the collision which is the subject of this litigation?

ANSWER: No.

INTERROGATORY NO. 14: If the preceding interrogatory is affirmative, please identify the name and title of the respondent's employee who performed the investigation.

ANSWER: See previous answer.

INTERROGATORY NO. 15: Was the respondent's 2009 Hyundai Elantra returned to service after the collision?

ANSWER: No.

INTERROGATORY NO. 16: With respect to this claim, do you contend that any act or omission on the part of Jacqueline Ashcraft contributed, in whole or in part, to Jacqueline Ashcraft's injuries? If your answer is anything other than an unqualified "No," please set forth your contention of the specific act or omission on the part of Jacqueline Ashcraft and indicate the percentage of fault that you contend should be ascribed to Jacqueline Ashcraft. Also, please set forth each fact and method by which you computed the percentage.

ANSWER: Please see answer to Interrogatory No. 12.

INTERROGATORY NO. 17: State whether or not you possess any information, facts, writings, or evidence whatsoever that supports your claim that the Jacqueline Ashcraft contributed, in whole or in part, to her own injuries. If so, identify and describe each item of information, fact, writing, or evidence, and state the name, address, and relationship to the parties of each person who possesses the information.

ANSWER: Please see answer to Interrogatory No. 16.

INTERROGATORY NO. 18: State whether or not you are you aware of any information, facts, writings, or evidence whatsoever relating to this litigation that contradicts your claim that the Jacqueline Ashcraft contributed, in whole or in part, to her own injuries.

ANSWER: Please see answer to Interrogatory No. 16.

INTERROGATORY NO. 19: Identify and describe each item of information, fact, writing, or evidence, and state the name, address, and relationship to the parties of each person who possesses the information.

ANSWER: Please see answer to Interrogatory No. 16.

INTERROGATORY NO. 20: State the name, address, and occupation of each person or entity to whom you reported the act or omission on the part of Jacqueline Ashcraft and the date and time that you made such report; these persons and entities include, but are not limited to, police officers, investigators, health care providers, and insurance carriers. Your attorney is not included.

ANSWER: Please see answer to Interrogatory No. 16.

INTERROGATORY NO. 21: With respect to this lawsuit, do you contend that an act or omission on the part of any third party contributed, in whole or in part, to Jacqueline Ashcraft's injuries? If your answer is anything other than an unqualified "No," please set forth the following information specifically and in detail for each such act or omission:

(a) Set forth the name, address, and occupation of each individual who you claim contributed, in whole or in part, to Jacqueline Ashcraft's injuries.

(b) Identify the specific acts or omissions on the part of each third party that you claim contributed, in whole or in part, to Jacqueline Ashcraft's injuries. Indicate the percentage of fault that you contend should be ascribed to each such third party. Also, please set forth each fact and method by which you computed the percentage.

(c) State whether or not you possess any information, facts, writings, or evidence whatsoever that either supports or contradicts your claim that a third party contributed, in

whole or in part, to Jacqueline Ashcraft's injuries. Identify and describe each item of information, fact, writing, or evidence.

(d) State the name, address, and occupation of each person or entity to whom you reported the act or omission on the part of any third party and the date and time that you made such report; these persons and entities include, but are not limited to, police officers, investigators, health care providers, and insurance carriers. Your attorney is not included.

ANSWER: Please see answer to Interrogatory No. 12.

INTERROGATORY NO. 22: Did you authorize or ratify the conduct of your employee, Jennifer Wilkerson, on June 11, 2021? If your answer is anything other than an unqualified "Yes," please set forth the following information specifically and in detail:

(a) Set forth precisely the job duties and assignments of Jennifer Wilkerson on the date in question.

(b) At the time of the incident, which is the subject of this lawsuit, describe in detail what task or assignment was Jennifer Wilkerson performing.

(c) State whether or not you possess any information, facts, writings, or evidence whatsoever that either supports or contradicts your claim that you did not authorize or ratify the conduct of your employee, Jennifer Wilkerson, on the date of the subject incident.

(d) State whether or not you are you aware of any information, facts, writings, or evidence whatsoever relating to this litigation that either supports or contradicts your claim that you did not authorize or ratify the conduct of your employee, Jennifer Wilkerson, on the date of the subject incident. Identify and describe each such item of information, fact, writing, or evidence, and please state the name, address, and relationship to the parties of each person who possesses the information.

ANSWER: Respondent objects to the form of this Interrogatory and the phrase "authorize or ratify conduct" of Jennifer Wilkerson. Respondent admits that Jennifer Wilkerson was in its employ at the time of the accident. Respondent certainly did not ask or want Jennifer Wilkerson to be in an accident on June 11, 2021, and it certainly was not part of her job duties. As for Jennifer Wilkerson's job duties, please see answer to Interrogatory No. 10. At the time of the accident Jennifer Wilkerson was authorized to drive the DHS vehicle for employment purposes.

INTERROGATORY NO. 23: Do you contend that Jennifer Wilkerson was not an employee or agent acting on your behalf at the time of the incident, which is the subject of this lawsuit? If your RESPONSE is anything other than an unqualified "No," please set forth the following:

(a) Set forth precisely the reason Jennifer Wilkerson was driving a vehicle owned by the respondent on the date in question.

(b) State the name and address of Jennifer Wilkerson's employer at the time of the incident, which is the subject of this lawsuit.

(c) State the name, address, and name of employer of the person who authorized Jennifer Wilkerson to drive the respondent's vehicle at the time of the incident, which is the subject of this lawsuit.

(d) State where Jennifer Wilkerson had been for one hour preceding the time of the accident, which is the subject of this lawsuit, and her intended destination.

(e) State whether or not you possess any information, facts, writings, or evidence whatsoever that either supports or contradicts your claim that you did not authorize or ratify the conduct of your employee, Jennifer Wilkerson, on the date of the subject incident.

(f) State whether or not you are you aware of any information, facts, writings, or evidence whatsoever relating to this litigation that either supports or contradicts your claim that you did not authorize or ratify the conduct of your employee, Jennifer Wilkerson, on the date of the subject incident. Identify and describe each such item of information, fact, writing, or evidence, and please state the name, address, and relationship to the parties of each person who possesses the information.

ANSWER: Jennifer Wilkerson was at the time of the accident an employee of DHS engaging her job duties as assigned.

REQUEST FOR PRODUCTION NO. 7: Please produce a copy of any and all statements made by Jennifer Wilkerson regarding the accident which is the subject of this claim.

RESPONSE: This claim is still being investigated and this information is still being ascertained. Respondent will update and supplement this response when this information becomes available. Further, Respondent admits that there is a statement or statements by Jennifer Wilkerson in its possession that will be tendered to Claimant once the redaction process is complete as indicated in the answer to Interrogatory No. 6.

INTERROGATORY NO. 24: These interrogatories and requests for production are considered to be continuing in nature, to be supplemented by the respondent upon receipt of additional information after the interrogatories and requests for production have been answered. Will you do so?

ANSWER: Yes.

Respectfully submitted,

By: _____
Brent P. Gasper
Assistant Deputy Chief Counsel

Ark. Bar No. 98240

Sarah DeBusk
General Counsel
Ark. Bar No. 2019308

Arkansas Department of Human Services
Office of Chief Counsel
P.O. Box 1437
Little Rock, AR 72203
Phone (501) 320-8950
Brent.Gasper@dhs.arkansas.gov
Sarah.DeBusk@dhs.arkansas.gov

CERTIFICATE OF SERVICE

I, Brent Gasper, hereby certify that on 10 January, 2023, I electronically filed the foregoing with the Claims Commission and copied Claimant's attorney Jim Jackson via email.

Brent P. Gasper

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND AS PERMANENT LEGAL GUARDIAN OF [redacted], MINOR CHILDREN **CLAIMANT**

V. **CLAIM NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

ORDER

Now before the Arkansas State Claims Commission (the "Claims Commission") is the motion filed by the Arkansas Department of Human Services (the "Respondent") to cure a defective complaint and for a more definite statement as to the claim filed by Haley Hudson, individually and as special administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as permanent legal guardian of [redacted], minor children (collectively referred to as the "Claimant"). Claimant subsequently filed an amended complaint.

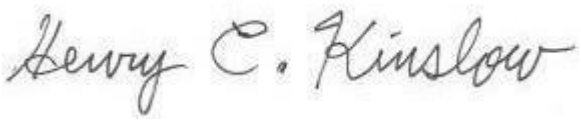
At the hearing, Respondent confirmed that its motion to cure was directed toward the original complaint.

The Claims Commission unanimously DENIED Respondent's motion as moot, in light of the filing of the amended complaint, and directed Respondent to answer the amended complaint within 30 days of the date of the hearing.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Dexter Booth



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair

DATE: February 13, 2023

Notice(s) which may apply to your claim

(1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).

(2) If a Claimant is awarded less than $15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.

(3) Awards or negotiated settlement agreements of $15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

From: Kathryn Irby
To: Jim Jackson; Brent Gasper; Sarah Debusk
Cc: Martha Cox
Subject: ORDER: Hudson v. DHS, Claim No. 230641
Date: Monday, February 13, 2023 5:10:00 PM
Attachments: Hudson -- 230641 -- hearing -- order.pdf

Jim and Brent, please see attached.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Martha Cox
To: ASCC Pleadings
Cc: Brent Gasper; Daiquiri Carter; Sarah Debusk; Kathryn Irby; Jim Jackson
Subject: Haley Hudson, etc. v. Arkansas DHS; Arkansas Claims Commission No. 230641
Date: Monday, February 27, 2023 2:31:12 PM
Attachments: Motion to Withdraw First and Second Requests for Admissions 2-27-2023.pdf

Please find attached the claimant's Motion to Withdraw First and Second Sets of Requests for Admission, which I would appreciate your filing in the above-referenced claim.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] AND [redacted] MINOR CHILDREN — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

PLAINTIFF'S MOTION TO WITHDRAW FIRST AND SECOND SETS OF REQUESTS FOR ADMISSIONS

Come now the Claimant, Haley Hudson, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and Haley Hudson, as Permanent Legal Guardian of [redacted] by and through her attorney, Jim Jackson, and for her Motion states:

1. The Claimant wanted to confirm through discovery that Jennifer Wilkerson was operating within the course and scope of her employment with the Arkansas Department of Human Services. The claimant served Interrogatories along with two sets of Requests for Admissions[1] upon the respondent seeking confirmation that Ms. Wilkerson was within the course and scope of employment at the time of the motor vehicle crash. (Attached as Exhibits 1 & 2 are the Requests). Based upon the respondent's Answers to Interrogatories, it has become clear that the respondent is not going to contest that Jennifer Wilkerson was operating within the course and scope of her employment at the time of the crash.

[1] The First Requests for Admissions inadvertently used the wrong date when asking for information about the crash.

2. The claimant files this Motion to Withdraw First and Second Requests for Admissions in an effort to streamline discovery and preserve judicial resources so that the respondent's attorney does not have to provide the same information in multiple pleadings.

3. It appears that damages are going to be the sole issue contested in this litigation based upon the deposition of Officer James Ray.

Wherefore, the claimant respectfully requests that the Commission grant her Motion to Withdraw the First and Second Sets of Requests for Admissions.

Respectfully submitted,

JACKSON LAW FIRM
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
Email: *Jim@JimJacksonAtty.com*

By: _____
Jim Jackson
Arkansas Bar No. 93209

CERTIFICATE OF SERVICE

I, Jim Jackson, do hereby certify that a true and correct copy of the above and foregoing has been served upon the following counsel of record on the 27th day of February, 2023.

Mr. Brent Gasper
Assistant Deputy Chief Counsel
Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

Ms. Sarah DeBusk
General Counsel
Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

_____
Jim Jackson

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] AND [redacted] MINOR CHILDREN — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES — RESPONDENT

PLAINTIFF'S FIRST SET OF REQUESTS FOR ADMISSIONS

Come now the Claimant, Haley Hudson, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased and Haley Hudson as Permanent Legal Guardian of [redacted] by and through her attorney, Jim Jackson, and propounds the following Requests for Admissions to the respondent, pursuant to Rule 36 of the Arkansas Rules of Civil Procedure, to be answered in writing, under oath, within thirty (30) days from the receipt of this request, admit the truth of each of the following requests for purposes of this action only. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny.

REQUEST FOR ADMISSION NO. 1: Admit that Jennifer Wilkerson was employed by the Arkansas Department of Human Services on June 12, 2021.

REQUEST FOR ADMISSION NO. 2: Admit that you provided Jennifer Wilkerson with a 2009 Hyundai Elantra with [redacted] to drive as part of her job duties on July 12, 2021.

REQUEST FOR ADMISSION NO. 3: Admit that Jennifer Wilkerson was authorized by the Arkansas Department of Human Services to drive a 2009 Hyundai Elantra with [redacted]



[redacted] in the course and scope of her job duties with the Arkansas Department of Human Services.

REQUEST FOR ADMISSION NO. 4: Admit that on June 12, 2021, at the time the collision which is the subject of this claim, Jennifer Wilkerson was working within the course and scope of her employment with the Arkansas Department of Human Services.

Respectfully submitted,

JACKSON LAW FIRM
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611

By: Jim Jackson
Jim Jackson
Arkansas Bar No. 93209

CERTIFICATE OF SERVICE

I, Jim Jackson, do hereby certify that a true and correct copy of the above and foregoing has been served upon the following counsel of record by U.S. Mail on this, the 19th day of January, 2023.

Mr. Brent Gasper
Assistant Deputy Chief Counsel
Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

Ms. Sarah DeBusk
General Counsel
Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

Jim Jackson
Jim Jackson

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF CARLEY RAYE JONES AND KADEY LYNN JONES, MINOR CHILDREN — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

PLAINTIFF'S AMENDED SECOND SET OF REQUESTS FOR ADMISSIONS

Come now the Claimant, Haley Hudson, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and Haley Hudson, as Permanent Legal Guardian of [redacted] by and through her attorney, Jim Jackson, and propounds the following Amended Second Set of Requests for Admissions to the respondent, pursuant to Rule 36 of the Arkansas Rules of Civil Procedure, to be answered in writing, under oath, within thirty (30) days from the receipt of this request, admit the truth of each of the following requests for purposes of this action only. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny.

REQUEST FOR ADMISSION NO. 1: Admit that Jennifer Wilkerson was employed by the Arkansas Department of Human Services on Friday, June 11, 2021.

REQUEST FOR ADMISSION NO. 2: Admit that the respondent provided Jennifer Wilkerson with a Hyundai Elantra to drive as part of her job duties on Friday, June 11, 2021.



REQUEST FOR ADMISSION NO. 3: Admit that Jennifer Wilkerson was authorized by the Arkansas Department of Human Services to drive a 2009 Hyundai Elantra in the course and scope of her job duties with the Arkansas Department of Human Services on Friday, June 11, 2021.

REQUEST FOR ADMISSION NO. 4: Admit that on Friday, June 11, 2021, at the time of the collision which is the subject of this claim, Jennifer Wilkerson was working within the course and scope of her employment with the Arkansas Department of Human Services.

Respectfully submitted,

JACKSON LAW FIRM
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
Email: *Jim@JimJacksonAtty.com*

By: /s/ Jim Jackson
Jim Jackson
Arkansas Bar No. 93209

CERTIFICATE OF SERVICE

I, Jim Jackson, do hereby certify that a true and correct copy of the above and foregoing has been served upon the following counsel of record on the 10th day of February, 2023.

Mr. Brent Gasper
Assistant Deputy Chief Counsel
Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

Ms. Sarah DeBusk
General Counsel
Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

Jim Jackson

Jim Jackson

From: Daiquiri Carter
To: ASCC Pleadings; jim@jimjacksonatty.com; Brent Gasper; Sarah Debusk
Cc: Daiquiri Carter
Subject: CC # 230641
Date: Wednesday, March 1, 2023 2:11:48 PM
Attachments: Hudson Answer_001.pdf
image001.png
image002.png

Please find attached DHS' Answer to Complaint. I have copied Claimant's attorney on this email.

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov





NOTE - This email may contain sensitive or confidential information.

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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], MINOR CHILDREN — **CLAIMANT**

v. **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

ANSWER

COMES NOW, the Respondent, the State of Arkansas, Department of Human Services, Office of Chief Counsel, by its attorneys, Brent P. Gasper, Assistant Deputy Chief Counsel, and Sarah DeBusk, General Counsel, and for its Answer, states:

1. The account information for the above-captioned claim is:

[redacted]

2. Respondent denies liability for all claims arising from this case. If an allegation in the Complaint is not specifically admitted in its Answer, the Respondent denies said allegation. Respondent further disputes the issues of negligence, proximate cause, liability, foreseeability, and damages concerning the death of Ms. Jacqueline Ashcraft.

3. Respondent reserves the right to plead further pending discovery.

4. Unless specifically admitted herein, Respondent denies Petitioner's recitation and explanation of the factual predicate set forth by Petitioner as well as any specific allegation concerning this claim. Respondent further raises any and all available defenses, including

comparative fault, *see* Ark. Code Ann. § 16-64-122, contributory negligence, statute of limitations, qualified immunity, immunity from punitive damages, *see* Ark. Code Ann. § 21-9-203, laches, lack of jurisdiction over subject matter, *see* Ark. R. Civ. Pro. 12(b)(1), failure to state facts upon which relief may be granted, *see* Ark. R. Civ. Pro. 12(b)(6), insufficiency of process, *see* Ark. R. Civ. Pro. 12(b)(4), insufficiency of service of process, *see* Ark. R. Civ. Pro. 12(b)(4), and failure to join a party under Rule 19, *see* Ark. R. Civ. Pro. 12(b)(7). Further, in any instance were Respondent states that it does not have any specific knowledge as to a certain fact or allegation, for the purposes of pleading matters in this case, please consider that response a denial.

5. In response to the initial background section in Claimant's Complaint, Respondent does not have enough information to admit or deny these claims, so they are denied.

6. Respondent admits paragraph No. 1 of the Complaint.

7. In response to Paragraph No. 2 of the Complaint, Respondent does not have enough information to admit or deny these claims, so they are denied.

8. In response to Paragraph No. 3 of the Complaint, Respondent does not have enough information to admit or deny this claim, so it is denied.

9. In response to Paragraph No. 4 of the Complaint, Respondent does not have enough information to admit or deny this claim, so it is denied.

10. Respondent admits Paragraph No. 5 of the Complaint.

11. In response to Paragraph No. 6 of the Complaint, Respondent admits that on Friday, June 11, 2021, at approximately 12:50 p.m., Jacqueline Ashcraft was driving her 2005 Hyundai Sonata eastbound on State Highway 22 in Logan County near Subiaco Academy. As for the remaining claims in Paragraph No. 6, Respondent does not have enough information to

admit or deny those claims, so they are denied.

12. In response to Paragraph No. 7 of the Complaint, Respondent admits that Jennifer Wilkerson was operating a 2009 Hyundai Elantra provided to her by the Department of Human Services. Respondent denies that Ms. Wilkerson negligently failed to recognize that Ms. Ashcraft's vehicle was slowing down to make a left-hand turn. Concerning the other claims, Respondent does not have enough information to admit or deny those claims, so they are denied.

13. Respondent admits Paragraph No. 8 of the Complaint.

14. Respondent denies Paragraph No. 9 of the Complaint.

15. Respondent denies Paragraph 10 of the Complaint and all subparts of Paragraph No. 10 of the Complaint.

16. In response to Paragraph No. 11 of the Complaint, Respondent admits that State Trooper James Ray investigated the accident. Respondent denies all other claims of Paragraph No. 11.

17. Respondent admits Paragraph No. 13 of the Complaint.

18. Respondent denies Paragraph No. 14 of the Complaint.

19. In response to Paragraph No. 15 of the Complaint, Respondent admits that Jacqueline Lynn Ashcraft survived the collision. Respondent admits that Ms. Ashcraft was transported by ambulance to the emergency room at Booneville. Respondent admits that Ms. Ashcraft was emergently transported to Mercy Medical Center in Fort Smith. Concerning the other claims in Paragraph No. 15, Respondent does not have enough information to admit or deny those claims, so they are denied.

20. Respondent denies Paragraph No. 16 of the Complaint.

21. Respondent denies Paragraph No. 17 of the Complaint and all subparts of Paragraph No. 17 of the Complaint.

22. Respondent denies Paragraph No. 18 of the Complaint and all subparts of Paragraph No. 18 of the Complaint.

23. Respondent denies Paragraph No. 19 of the Complaint.

24. In response to Paragraph No. 20 of the Complaint, Respondent does not have enough information to admit or deny this claim, so it is denied.

25. Respondent admits Paragraph No. 21 of the Complaint.

26. Respondent admits Paragraph No. 22 of the Complaint, although Respondent notes that a different attorney is assigned to the instant case than was assigned to the previous insurance-related case.

27. Respondent admits Paragraph No. 23 of the Complaint.

28. Respondent admits Paragraph No. 24 of the Complaint.

29. Concerning Paragraph No. 25 of the Complaint, Respondent does not have enough information to admit or deny this claim, so it is denied.

30. Concerning Paragraph No. 26 of the Complaint, Respondent does not have enough information to admit or deny this claim, so it is denied.

Respectfully submitted,

By: _____
Brent P. Gasper
Assistant Deputy Chief Counsel
Ark. Bar No. 98240

_____
Sarah DeBusk
General Counsel
Ark. Bar No. 2019308

Arkansas Department of Human Services
Office of Chief Counsel
P.O. Box 1437
Little Rock, AR 72203
Phone (501) 320-8950
Brent.Gasper@dhs.arkansas.gov
Sarah.DeBusk@dhs.arkansas.gov

CERTIFICATE OF SERVICE

I, Brent Gasper, hereby certify that on 1 March, 2023, I electronically filed the foregoing with the Claims Commission and copied Claimant's attorney Jim Jackson via email.

Brent P. Gasper

From: Daiquiri Carter
To: ASCC Pleadings; Brent Gasper; Sarah Debusk; jim@jimjacksonatty.com
Cc: Daiquiri Carter
Subject: CC # 230641
Date: Tuesday, March 7, 2023 9:49:30 AM
Attachments: Respondent"s Interr and Requests to Claimant_001.pdf
image001.png
image002.png

Please find attached Respondent's First Set of Interrogatories and Requests for Production to Claimant. I have copied Claimant's attorney on this email.

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov





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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — **CLAIMANT**

v. — **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

RESPONDENT'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO CLAIMANT HOLLY HUDSON, INDIVIDUALLY, AS SPECIAL ADMINISTRATRIX, AND AS LEGAL GUARDIAN

INTERROGATORY NO. 1: Please identify each person who may have knowledge or discoverable information relating to the claims or defenses to this claim and state briefly the nature of the knowledge or discoverable information had by each person identified.

INTERROGATORY NO. 2: Please state the last known address, phone number, email address, and social media account identification for each person identified in the response to Interrogatory No. 1. Social media includes without limitation Facebook, Instagram, Twitter, Truth Social, Tik Tok, SnapChat, YouTube, and WhatsApp,

INTERROGATORY NO. 3: Please identify each person from whom information or documents were obtained to respond to Respondent's written discovery requests, and who assisted in preparing the responses and objections to said discovery requests.

INTERROGATORY NO. 4: Please identify all methods and devices Claimant used to exchange electronic communications referring or relating to this claim and with whom those exchanges were made, exclusive of communication with counsel in the instant action. Devices means a smartphone, laptop computer, or other electronic methods of communication.

INTERROGATORY NO. 5: Please identify all persons with whom Claimant has communicated concerning the allegations in the Claimant's Complaint or Respondent's Answer thereto, exclusive of communications with counsel in the instant action.

INTERROGATORY NO. 6: Please identify each person who was a passenger in the vehicle driven by Jacqueline Ashcraft at the time of the accident on June 11, 2021.

INTERROGATORY NO. 7: Please provide the names, addresses, and phone numbers for all medical professionals including without limitation physicians, nurses, therapists, counselors, physical therapists, optometrists, osteopaths, or homeopaths, that treated Jacqueline Ashcraft for any reason for the five (5) year period prior to June 11, 2021.

INTERROGATORY NO. 8: Does Claimant contend that any person or entity negligently or intentionally committed an act or omission which caused or contributed to Jacqueline Ashcraft's death, and if so, state the nature of the act or omission, and identify the person or entity in question.

INTERROGATORY NO. 9: Was Jacqueline Ashcraft employed at the time of her death? If the answer is yes, please identify her former employer, how long she had been employed, her job duties, and her last applicable hourly wage or annual salary, as applicable.

INTERROGATORY NO. 10: Please describe with particularity the employment history for Jacqueline Ashcraft for the five (5) year period prior to June 11, 2021, including dates of employment and compensation.

INTERROGATORY NO. 11: Please provide the name, address, email address, and telephone number of each expert who may be called as a witness, and for each such expert provide:

1. The subject matter concerning which the witness is expected to testify;

2. The material reviewed by each expert;
3. The facts known to the expert which relate to or form the basis of the mental impressions and opinions held by the expert;
4. The dates of all reports rendered by such experts, and the names and addresses of the persons having custody of same; and
5. The facts, opinions, and a summary of the findings upon which the expert witnesses concludes or generates.

INTERROGATORY NO. 12: Please provide the name, address, email address, and telephone number of all lay witnesses whom Claimant may call at trial of this matter and for those persons identified, please state the anticipated subject matter of their testimony.

INTERROGATORY NO. 13: Please identify by title, author, editor, edition, publisher, date of publication and section, portion, page or pages of each book, treatise, periodical and/or pamphlet:

1. Established, or to be established, as a reliable authority by the testimony of all expert witnesses Claimant has identified or will identify; and
2. To be referred to during the trial testimony of all expert witnesses Claimant has identified or will identify.

INTERROGATORY NO. 14: Please describe any and all monetary benefit or other payment of funds received by the Estate of Jacqueline Ashcraft resulting from her death, including without limitation insurance proceeds or other claims made payable to the Estate of Jacqueline Ashcraft.

INTERROGATORY NO. 15: Please describe, if any, any other investigation into the accident at issue of which Claimant is aware exclusive of the investigation performed by the Arkansas State Police.

INTERROGATORY NO. 16: Was Jacqueline Ashcraft at fault, even in the slightest, for the accident at issue on June 11, 2021?

INTERROGATORY NO. 17: Please describe with specificity why Jacqueline Ashcraft was at the location where her vehicle was involved in the accident at issue and her ultimate destination prior to the accident on June 11, 2021.

INTERROGATORY NO. 18: Did the vehicle driven by Jacqueline Ashcraft on June 11, 2021, have installed an Event Data Recorder (known as a "black box") or other device or computer program that collects and stores data concerning the operation of the vehicle?

INTERROGATORY NO 19: Please list all persons or entities currently having a claim or that Claimant anticipates will have a claim to a monetary judgment awarded to the Estate of Jacqueline Ashcraft and that person's or entity's relation to Jacqueline Ashcraft.

INTERROGATORY NO. 20: Please state the current location of the vehicle driven by Jacqueline Ashcraft at the time of the accident.

INTERROGATORY NO. 22: Please identify the liability insurance carrier insuring the vehicle driven by Jacqueline Ashcraft on June 11, 2021, as well as the policy number.

INTERROGATORY NO. 23: Please describe with particularity all injuries physical, mental, or emotional injury sustained by the minor children who were passengers in the vehicle at the time of the accident.

INTERROGATORY NO. 24: Please provide the names, addresses, and phone numbers for all medical professionals, including without limitation physicians, nurses, therapists, counselors, physical therapists, consulting healthcare providers, and homeopaths, that treated, in whole or in part, the minor children for injuries sustained due to the accident at issue.

REQUEST FOR PROCUCTION NO. 1: Please produce all documents Claimant consulted and/or reviewed in responding to these interrogatories.

REQUEST FOR PRODUCTION NO. 2: Please produce all documents written, signed, or recorded by any party and witness relating to the allegations of Claimant's Complaint and/or Respondent's Answer and defenses thereto.

REQUEST FOR PRODUCTION NO. 3: Please produce a complete copy of the insurance policy described in Interrogatory No. 23 that was in effect on June 11, 2021.

REQUEST FOR PRODUCTION NO. 4: Please produce a complete copy of the driving record of Jacqueline Ashcraft for the five (5) year period prior to June 11, 2021.

REQUEST FOR PRODUCTION NO. 5: Please produce all documents, including communications to or from the Claimant, aside from privileged communications, related to the death of Jacqueline Ashcraft.

REQUEST FOR PRODUCTION NO. 6: Please produce copies of all claims for insurance proceeds made by or against Jacqueline Ashcraft that resulted from Jacqueline Ashcraft's operation of a motor vehicle for the five (5) year period prior to June 11, 2021.

REQUEST FOR PRODUCTION NO. 7: Please produce a copy of all insurance policies covering Jacqueline Ashcraft at the time of her death, including without limitation, motor vehicle insurance, liability insurance, medical insurance, or life insurance.

REQUEST FOR PRODUCTION NO. 8: Please produce a copy of each and every audio, photographic, and video footage that concerns the occurrences identified in Claimant's Complaint.

REQUEST FOR PRODUCTION NO. 9: Please produce a copy of all letters, documents, reports, and medical opinions which have been written by experts, treating physicians, and by consulting physicians, or medical professionals whom Claimant or Claimant's attorney plan on calling as expert witnesses to offer testimony at the trial of this case.

REQUEST FOR PRODUCTION NO. 10: Please produce a copy of all letters, documents, reports, and opinions which have been written by persons concerning the claim for monetary damages made in the Complaint.

REQUEST FOR PRODUCTION NO. 11: Please produce the following materials with respect to each expert witness Claimant may call at the trial of this case:

1. A copy of the witness's most recent curriculum vitae;
2. A copy of all pertinent sections or excerpts of books, texts, treatises, articles, statutes, rules, regulations, guidelines, or any material which has been or may be referred to or relied upon by any expert witness in forming or explaining his or her opinions in connection with this case, together with citations to specific passages or sections relied upon (a list of the items above with specific citations to the relied-upon material will suffice as an alternative);
3. A copy of any computer programs, spreadsheets, analytical programs, statistical programs of any other computer-based tool utilized by any expert witness in any manner with regard to his/her opinions in this case (a list of the items above with specific citations to the relied-upon material will suffice as an alternative);
4. Copies of each spreadsheet, program, algorithm, statistical model, macro program, or other computer-based files created by or at the direction of any expert witness which has been utilized in any manner regarding his or her opinions in this case;
5. Copies of reports, correspondence, notes, documents, writings, diagrams, charts, records, photographs, video or audio recordings of any type,

computer files, emails or tangible items of any kind that have been supplied to any expert witness by Claimant, attorneys for Claimant, and/or any representative of the Claimant or Claimant's attorney.

6. Copies of reports, correspondence, notes, documents, writings, diagrams, charts, records, photographs, video, or audio recordings of any type, computer files, emails, or tangible items of any kind that any expert witness has provided to the Claimant, attorneys for Claimant, and/or any representative of Claimant's attorney;
7. Copies of reports, correspondence, notes, documents, writings, diagrams, charts, records, photographs, video or audio recordings of any type, computer files, emails, or tangible items of any kind made or prepared by any expert witness in connection with this case regardless of whether such materials were provided to any other person; and
8. All billing records, bills, invoices, and fee schedule an expert witness has prepared or provided in connection with this case.

REQUEST FOR PRODUCTION NO. 12: Please produce all documents or exhibits which Claimant plans to use at the trial of this case, including without limitation documents or exhibits which Claimant plans on introducing into evidence and documents or exhibits which Claimant plans to or will use in the direct examination and cross-examination of witnesses at the trial of this case.

REQUEST FOR PRODUCTION NO. 13: Please produce all geolocation data, including data taken from a smartphone, GPS tracker, or other device that would indicate the exact whereabouts of Jacqueline Ashcraft on June 11, 2021.

REQUEST FOR PRODUCTION NO. 14: Please produce a complete call log containing a record of phone calls to or from Jacqueline Ashcraft between the hours of 10:00 a.m. and 1:00 p.m.,

on June 11, 2021 (a copy of the cell phone invoice or bill prepared by the third-party carrier for the time period including June 21, 2021, that has a list of all calls and the timer period of each call will suffice).

REQUEST FOR PRODUCTION NO. 15: Please produce a complete list of all text messages, including the text of the messages themselves, made to or from a device or smartphone possessed by Jacqueline Ashcraft on June 11, 2021.

INTERROGATORY NO. 25: Please list all legal claims or lawsuits to which Haley Hudson has been either a plaintiff, claimant, defendant, or respondent for the last ten (10) years.

INTERROGATORY NO. 26: Has Haley Hudson ever been charged with or convicted of a felony, a Class A misdemeanor, and/or an offense involving dishonesty or moral turpitude? If so, please describe the circumstances and the ultimate outcome of the charge or case.

INTERROGATORY NO. 27: Please state whether Social Security payments have been or are currently being made to any person as a result of the death of Jacqueline Ashcraft, the amount of those payments if applicable, and the recipient of those payments.

INTERROGATORY NO. 28: Please state whether survivor benefit payments exclusive of Social Security benefits have been or are currently being made to any person as a result of the death of Jacqueline Ashcraft, the amount of those payments if applicable, and the recipient of those payments.

INTERROGATORY NO. 29: Please provide the name, address, and phone number for each person Jacqueline Ashcraft spoke to after the accident on June 11, 2021.

INTERROGATORY NO. 30: Please state whether Jacqueline Ashcraft was prescribed corrective eyewear such as prescription glasses or contact lenses to correct her vision. If the answer is yes, please state her most recent vision prescription.

INTERROGATORY NO. 31: Did Jacqueline Ashcraft at the time of the accident at issue have any requirements by the state to wear corrective lenses while she was operating a motor vehicle?

INTERROGATORY NO. 32: Please state whether Claimant will treat the foregoing interrogatories as continuing and furnish to Respondent, in writing, any additional information received by Claimant subsequent to the date of Claimant's answers hereto that would modify or supplement Claimant's answers, such additional information to be furnished as soon as reasonably possible after receipt by Claimant and within a reasonable time prior to the assigned trial date in order to permit appropriate discovery procedure.

Respectfully Submitted,

By:

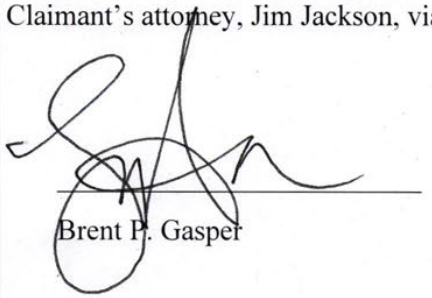
Brent P. Gasper
Assistant Deputy Chief Counsel
AR Bar No. 98240

Sarah DeBusk
General Counsel
AR Bar No. 2019308

Arkansas Department of Human Services
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203
Phone (501) 320-8950
Brent.gasper@dhs.arkanas.gov
Sarah.debusk@dhs.arkansas.gov

CERTIFICATE OF SERVICE

I, Brent P. Gasper, hereby certify that on 7 March, 2023, I electronically file the foregoing with the Arkansas Claims Commission and copied Claimant's attorney, Jim Jackson, via email.



Brent P. Gasper

From:	Jim Jackson
To:	ASCC Pleadings; Kathryn Irby
Cc:	Brent Gasper; Martha Cox; Sarah Debusk; Daiquiri Carter
Subject:	Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incident
Date:	Friday, March 24, 2023 10:40:06 AM
Attachments:	image001.jpg image002.jpg image003.jpg image004.jpg Claimant"s Letter toDirector Irby, ASCC, Requesitng a Hearing Date.pdf

Director Irby,

Please see attached a letter requesting a hearing date be scheduled for this matter.

Thank you,

Jim

Jim Jackson

Jackson Law Firm

JimJacksonAtty.com

700 W. Broadway

North Little Rock, AR 72114

P (501) 823-3610

F (501) 823-3611

JACKSON
LAW FIRM

March 24, 2023

Ms. Kathryn Irby
Executive Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, AR 72201

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of* [redacted], *Minor Children v. Arkansas Department of Human Services*
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Director Irby,

I would like to request that this wrongful death and bodily injury claims be set for a hearing. I anticipate that it will take both parties a half day (4 hours) to hear the testimony. I also anticipate that much of the testimony will be presented via written deposition or summary of deposition transcripts.

Thank you for your attention to this request. I am notifying all counsel of record of my communication with the Claims Commission.

Please call me at (501) 823-3610 with any questions or suggestions.

Sincerely,

/s/ Jim Jackson

Jim R. Jackson

JRJ/mc
cc: Brent Gasper, Esq.
Sarah DeBusk, Esq.

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 2
North Little Rock, AR 72114-5528 • 501.823.3610 • Jim@JimJacksonAtty.com • www.JimJacksonAtty.com

From:	Kathryn Irby
To:	Jim Jackson; Brent Gasper; ASCC Pleadings
Cc:	Martha Cox; Sarah Debusk; Daiquiri Carter
Subject:	RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...
Date:	Monday, March 27, 2023 9:34:00 AM
Attachments:	image001.jpg image002.jpg image003.jpg image004.jpg

Jim and Brent, it will be several months before I have my 2024 hearing dates set. I have this claim on the list to be added to the 2024 calendar. I will follow up with a hearing letter this summer.

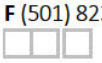
Thanks,
Kathryn

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Monday, March 27, 2023 9:29 AM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; ASCC Pleadings <asccpleadings@arkansas.gov>; Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; Sarah Debusk <sarah.debusk@dhs.arkansas.gov>; Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...

All,
I am fine with it being set in early 2024.
We have sent the executed HIPAA authorizations along with a list of medical providers for the two minor girls and Ms. Ashcraft.
Unless some new information comes out, I am not aware of any reason it should take more than 4 hours to present testimony and arguments.
Thank you,
JIm

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114

P (501) 823-3610
F (501) 823-3611


From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Monday, March 27, 2023 7:33 AM
To: Jim Jackson <jim@jimjacksonatty.com>; ASCC Pleadings <asccpleadings@arkansas.gov>; Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; Sarah Debusk <sarah.debusk@dhs.arkansas.gov>; Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>
Subject: Re: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...

Hello all. I was out last week so I am just now going through my email inbox. I would respectfully suggest that it is far too premature to set a hearing date for this matter. The issues here have become more and more complex and while initially it appeared that liability would not need to be explored, recent information has come to light that perhaps liability will be at issue. I do not feel it is prudent to say more at this time but any hearing set this calendar year will be opposed by DHS. Further, I would note that we have still yet to receive Claimant's responses to discovery, for which Jim still has time. I highlight this fact simply to illustrate that there is still much to do on this case from our end.

If after having the opportunity to review all pertinent and relevant facts it appears that we can go to a hearing sooner than 2024 I will make the Commission aware.

thanks,

brent

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Friday, March 24, 2023 10:39 AM
To: ASCC Pleadings <asccpleadings@arkansas.gov>; Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Brent Gasper <brent.gasper@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>; Sarah Debusk <sarah.debusk@dhs.arkansas.gov>; Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>
Subject: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incident

[EXTERNAL SENDER]
Director Irby,

Please see attached a letter requesting a hearing date be scheduled for this matter.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From:	Jim Jackson
To:	Brent Gasper; ASCC Pleadings; Sarah Debusk
Cc:	Martha Cox; Sarah Debusk; Daiquiri Carter
Subject:	RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...
Date:	Tuesday, April 4, 2023 4:11:11 PM
Attachments:	image001.jpg image002.jpg image003.jpg image004.jpg Claimant"s answer to Respondent"s Int & RFP propounded 3-7-2023.pdf

Brent & Sarah,
Please find attached the Claimant's response to discovery.
I tried to separate the hyperlinks so that you have one with Ms. Ashcraft's Medical Records and one with Miss Kadey Lynn Jones records and one with a general documents that are responsive to your client's Requests for Production of Documents.
Please let me know if you have any issue opening these four hyperlinks that are inserted in the document.
You will need to wait a few minutes for them to open before they download.
I do not know how long the hyperlink will grant you access to the documents so please save them to your computer when you have a moment.
Please let me know if you have any questions about this document.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Monday, March 27, 2023 7:33 AM
To: Jim Jackson <jim@jimjacksonatty.com>; ASCC Pleadings <asccpleadings@arkansas.gov>; Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; Sarah Debusk <sarah.debusk@dhs.arkansas.gov>; Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>

Subject: Re: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted] Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...

Hello all. I was out last week so I am just now going through my email inbox. I would respectfully suggest that it is far too premature to set a hearing date for this matter. The issues here have become more and more complex and while initially it appeared that liability would not need to be explored, recent information has come to light that perhaps liability will be at issue. I do not feel it is prudent to say more at this time but any hearing set this calendar year will be opposed by DHS. Further, I would note that we have still yet to receive Claimant's responses to discovery, for which Jim still has time. I highlight this fact simply to illustrate that there is still much to do on this case from our end.

If after having the opportunity to review all pertinent and relevant facts it appears that we can go to a hearing sooner than 2024 I will make the Commission aware.

thanks,

brent

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Friday, March 24, 2023 10:39 AM
To: ASCC Pleadings <asccpleadings@arkansas.gov>; Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Brent Gasper <brent.gasper@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>; Sarah Debusk <sarah.debusk@dhs.arkansas.gov>; Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>
Subject: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incident

[EXTERNAL SENDER]
Director Irby,
Please see attached a letter requesting a hearing date be scheduled for this matter.
Thank you,
Jim

Jim Jackson

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North Little Rock, AR 72114
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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN	**CLAIMANT**
v.	**CC No. 230641**
ARKANSAS DEPARTMENT OF HUMAN SERVICES	**RESPONDENT**

ANSWERS TO RESPONDENT'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO CLAIMANT HALEY HUDSON, INDIVIDUALLY, AS SPECIAL ADMINISTRATRIX, AND AS LEGAL GUARDIAN

Comes now the Claimant, Haley Hudson, and for her Answers to the respondent's First Set of Interrogatories and Requests for Production of Documents, states:

INTERROGATORY NO. 1: Please identify each person who may have knowledge or discoverable information relating to the claims or defenses to this claim and state briefly the nature of the knowledge or discoverable information had by each person identified.

RESPONSE: Haley Hudson is aware of the persons listed by Arkansas State Police Trooper James Ray in the accident report who have information regarding how the accident occurred in addition to the information that [redacted] possess. Kimmy Corley is the mother of the minor child who was in the back seat. Ms. Corley lived at [redacted], at the time of the wreck. Bobby Dale Wilson, [redacted] is the name and address listed in the accident report. Mr. Wilson was the driver of the tractor trailer rig that was approaching Ms. Ashcraft's vehicle at the time it was rear-ended by Jennifer Wilkerson. Jennifer Wilkerson was the respondent's employee, and her contact information is presumed to be in your possession. [redacted] live with Haley Hudson at [redacted].

The statutory beneficiaries' names and addresses are listed in the claimant's response to Interrogatory No. 12.

The medical providers listed in the medical records previously provided have information regarding the injury sustained. The billing manager at Brotherton Brothers Funeral Homes, P.O. Box 192, Charleston, AR, and P.O. Box 482, Paris, AR 72855, has information regarding the statement for the funeral and services for Ms. Ashcraft. Attached is a copy of the invoice from Brotherton Brothers Funeral Homes for the amount of $1,195.95.

INTERROGATORY NO. 2: Please state the last known address, phone number, email address, and social media account identification for each person identified in the response to Interrogatory No. 1. Social media includes without limitation Facebook, Instagram, Twitter, Truth Social, Tik Tok, SnapChat, YouTube, and WhatsApp,

RESPONSE: Objection. The respondent's request for social media account identification is overly broad and not reasonably tailored to lead to the discovery of relevant evidence. Facebook contains information of who are my "friends." It knows every "chat" since 2005. It knows every "like" that has been given. It knows the I.P. addresses that have been logged in from and the device(s) the logins are associated with. Facebook also contains a very large number of photographs – not all of which belong to the witness. This request could lead to the discovery of a massive volume of data. This data is simply not relevant to the claims in this case. This request casts too wide of a net and would result into an inquiry of quasi-personal information that is not relevant. One court has denied this type of request reasoning that a "[d]efendant is no more entitled to such unfettered access to plaintiff's personal email and social networking communications that it is to rummage through the desk drawers and closets in plaintiff's home." *Tucker v. Momentive Performance Materials USA, Inc, Civil Action No. 2:13-cv-04480, 2016 U.S. District Lexis 187413 at *21 (S.D. W.Va. Nov. 23, 2016).*

The respondent has presented no logical reason that a witness's Facebook page or Snapchat page contains any information that will reasonably lead to the discovery of admissible evidence. Courts have held that absent a logical reason, the plaintiff did not have to provide this information. *Potts v. Dollar Tree Stores, Inc.*, No. 3:11-cv-01180, 2013 U.S. Dist. LEXIS 38795, at *7 (M.D. Tenn. Mar. 20, 2013).

Without waiving said Objection, the names and address are contained in the claimant's answers to Interrogatory Nos. 1 and 12.

INTERROGATORY NO. 3: Please identify each person from whom information or documents were obtained to respond to Respondent's written discovery requests, and who assisted in preparing the responses and objections to said discovery requests.

RESPONSE: Objection. The claimant objects to providing information responsive to this interrogatory to the extent that this interrogatory seeks attorney work product. Without waiving said objection, Haley Hudson did not obtain any information or documents from any third party.

INTERROGATORY NO. 4: Please identify all methods and devices Claimant used to exchange electronic communications referring or relating to this claim and with whom those exchanges were made, exclusive of communication with counsel in the instant action. Devices means a smartphone, laptop computer, or other electronic methods of communication.

RESPONSE: Objection. The claimant objects to this interrogatory to the extent that it calls for any communication with her legal counsel. Without waiving said objection, Haley Hudson communicated with her brothers about their mother's car wreck on the date of the accident and communicated to make funeral arrangements for Ms. Ashcraft. They used their

personal cell phones to make these arrangements and discuss the severity of their mother's injury.

INTERROGATORY NO. 5: Please identify all persons with whom Claimant has communicated concerning the allegations in the Claimant's Complaint or Respondent's Answer thereto, exclusive of communications with counsel in the instant action.

RESPONSE: No one outside of the claimant's immediate home.

INTERROGATORY NO. 6: Please identify each person who was a passenger in the vehicle driven by Jacqueline Ashcraft at the time of the accident on June 11, 2021.

RESPONSE: Please see the interrogatory response to Interrogatory No. 1. There was a total of four people in the 2005 Hyundai Sonata. Jacqueline Ashcraft was the driver. Three children were passengers in the back seat.

INTERROGATORY NO. 7: Please provide the names, addresses, and phone numbers for all medical professionals including without limitation physicians, nurses, therapists, counselors, physical therapists, optometrists, osteopaths, or homeopaths, that treated Jacqueline Ashcraft for any reason for the five (5) year period prior to June 11, 2021.

RESPONSE: Haley Hudson does not possess this information.

INTERROGATORY NO. 8: Does Claimant contend that any person or entity negligently or intentionally committed an act or omission which caused or contributed to Jacqueline Ashcraft's death, and if so, state the nature of the act or omission, and identify the person or entity in question.

RESPONSE: Objection. The claimant does not understand this interrogatory. The claimant filed an Amended Complaint on December 28, 2022, which contains the allegation that the respondent's employee committed acts which caused the death of Jacqueline Ashcraft. The claimant does not understand what information this interrogatory is seeking

to obtain in addition to the allegations contained in the Amended Complaint. If counsel will clarify this interrogatory, the claimant will attempt to respond. The claimant stands by the allegations contained in the Amended Complaint and the information contained in Trooper Ray's deposition.

INTERROGATORY NO. 9: Was Jacqueline Ashcraft employed at the time of her death? If the answer is yes, please identify her former employer, how long she had been employed, her job duties, and her last applicable hourly wage or annual salary, as applicable.

RESPONSE: No.

INTERROGATORY NO. 10: Please describe with particularity the employment history for Jacqueline Ashcraft for the five (5) year period prior to June 11, 2021, including dates of employment and compensation.

RESPONSE: Ms. Ashcraft worked at CV's Family Foods, 1004 E. Walnut St., Paris, AR 72855; Family Dollar, 1800 Falls Blvd., Wynne, AR 72396; Dollar General, 1911 Falls Blvd., Wynne, AR 72396; Johnson's Fish House & Diner, 329 US-64, Wynne, AR 72396. Haley Hudson is not certain of the dates or years of employment by Ms. Ashcraft.

INTERROGATORY NO. 11: Please provide the name, address, email address, and telephone number of each expert who may be called as a witness, and for each such expert provide:

1. The subject matter concerning which the witness is expected to testify;
2. The material reviewed by each expert;
3. The facts known to the expert which relate to or form the basis of the mental impressions and opinions held by the expert;
4. The dates of all reports rendered by such experts, and the names and addresses of the persons having custody of same; and

5. The facts, opinions, and a summary of the findings upon which the expert witnesses concludes or generates.

RESPONSE TO INTERROGATORY NO 11: The claimant will call one of the medical doctors who provided palliative care at Mercy Hospital in Fort Smith to Ms. Ashcraft before she was pronounced dead. This witness will be deposed. A copy of Ms. Ashcraft's medical records from Mercy Hospital in Fort Smith, containing the names and contact information for these providers are contained therein, is attached in the following hyperlink. Ashcraft Mercy Records Bates Stamped.pdf

These records contain the EMS records and Mercy Booneville Medical Records.

The claimant will call Ralph Scott, Ph.D., [redacted], to testify on economic loss and loss of life. A copy of Dr. Scott's report is contained in a hyperlink which contains the facts, opinions, and a summary of his findings. Also attached is information regarding loss of life which will be presented to the Claims Commissioners with Dr. Scott's testimony. Also attached is a copy of his billing record. Below is a summary of the economic damages: Ashcraft Response to Discovery.pdf

LOSS OF EARNING CAPACITY

i. Past potential lifetime earnings: $40,494.47

ii. Future potential income earnings: $103,465.39 to $285,597.80

iii. Past potential Fringe benefits: $43,187

Total for projected income and & fringe benefits range: $187,147.82 to $423,919.95.

COST OF RAISING [redacted]

iv. Present Value Cost $161,866.43

v. Tuition of four-year college $113,300[1]

COST OF RAISING [redacted]

vi. Present Value Cost $28,971.49

vii. Tuition of four-year college $113,300

LOSS OF LIFE CLAIM FOR ESTATE OF JACQUELINE ASHCRAFT, DEC.

viii. Annual Value of $278,711[2] x 33.6 years = $9,364,689.60

INTERROGATORY NO. 12: Please provide the name, address, email address, and telephone number of all lay witnesses whom Claimant may call at trial of this matter and for those persons identified, please state the anticipated subject matter of their testimony.

RESPONSE: Jennifer Wilkerson, Bobby Wilson, Trooper James Ray, [redacted] will testify on liability. Haley Hudson, [redacted], Mark Hudson, [redacted] (adult son), Dalton Cody Ashcraft, [redacted] (adult son), and LaDonna Jackson, [redacted] (mother), will testify regarding damages and their respective mental anguish claims.

INTERROGATORY NO. 13: Please identify by title, author, editor, edition, publisher, date of publication and section, portion, page or pages of each book, treatise, periodical and/or pamphlet:

1. Established, or to be established, as a reliable authority by the testimony of all expert witnesses Claimant has identified or will identify; and

[1] Attached is a paper titled "Estimated Expenses" which has the current costs for a student attending college at the University of Arkansas at Fayetteville.
[2] Claimant will utilize the Department of Transportation valuation of $278,711 in their case in chief.

2. To be referred to during the trial testimony of all expert witnesses Claimant has identified or will identify.

RESPONSE: The claimant does not possess this information at this time. The claimant will supplement this response as discovery proceeds.

INTERROGATORY NO. 14: Please describe any and all monetary benefit or other payment of funds received by the Estate of Jacqueline Ashcraft resulting from her death, including without limitation insurance proceeds or other claims made payable to the Estate of Jacqueline Ashcraft.

RESPONSE: The estate received funds from Cincinnati Insurance, which were deposited into the registry of the court. Haley Hudson received a check in the amount of approximately $150,000 from the interpleader action in Logan County.

INTERROGATORY NO. 15: Please describe, if any, any other investigation into the accident at issue of which Claimant is aware exclusive of the investigation performed by the Arkansas State Police.

RESPONSE: Haley Hudson is not aware of any other agency investigating this wreck.

INTERROGATORY NO. 16: Was Jacqueline Ashcraft at fault, even in the slightest, for the accident at issue on June 11, 2021?

RESPONSE: Haley Hudson only has the information contained in Trooper Ray's report, which indicates that the respondent's employee is solely responsible for the rear-end collision. Ashcraft Response to Discovery.pdf

INTERROGATORY NO. 17: Please describe with specificity why Jacqueline Ashcraft was at the location where her vehicle was involved in the accident at issue and her ultimate destination prior to the accident on June 11, 2021.

RESPONSE: Ms. Jacqueline Ashcraft and her two children had cared for her infant nephew, [redacted], during the morning of June 11, 2021. They were having a family day together. [redacted] lived with his mother, Kimmy Corley, at [redacted]. The three were returning the nephew to his mother's home. Ms. Ashcraft was attempting to make a left-hand turn while a tractor trailer rig was approaching. Their vehicle was at a complete stop until the oncoming tractor trailer rig cleared the lane. Their vehicle was rear-ended while at a complete stop by a vehicle owned and operated by the respondent.

INTERROGATORY NO. 18: Did the vehicle driven by Jacqueline Ashcraft on June 11, 2021, have installed an Event Data Recorder (known as a "black box") or other device or computer program that collects and stores data concerning the operation of the vehicle?

RESPONSE: Haley Hudson does not know if the 2005 Hyundai Sonata driven by her mother had such a device or not. Records indicate that Hyundai began installing EDR devices in Sonatas in 2013.

INTERROGATORY NO 19: Please list all persons or entities currently having a claim or that Claimant anticipates will have a claim to a monetary judgment awarded to the Estate of Jacqueline Ashcraft and that person's or entity's relation to Jacqueline Ashcraft.

RESPONSE: See paragraph 17 of the claimant's Amended Complaint filed on December 28, 2022.

INTERROGATORY NO. 20: Please state the current location of the vehicle driven by Jacqueline Ashcraft at the time of the accident.

RESPONSE: Haley Hudson has no information on the current location of her mother's 2005 Hyundai Sonata. The Arkansas State Police report indicated it was towed to Frederick's at 20715 West Walnut St., Paris, AR 72855.

INTERROGATORY NO. 22: Please identify the liability insurance carrier insuring the vehicle driven by Jacqueline Ashcraft on June 11, 2021, as well as the policy number.

RESPONSE: American Underwriters Insurance Company, policy #[redacted] insured Jacqueline Ashcraft's 2005 Hyundai Sonata on the date of the accident. Please see the attached letter dated November 8, 2022, from Crum & Forster sent on behalf of American Underwriters Insurance Company which explains the coverage available on this vehicle and a copy of the automobile insurance application. This letter is in this hyperlink.

Ashcraft Response to Discovery.pdf

INTERROGATORY NO. 23: Please describe with particularity all injuries physical, mental, or emotional injury sustained by the minor children who were passengers in the vehicle at the time of the accident.

RESPONSE: [redacted] were taken by their grandfather to the emergency room at Mercy Hospital in Paris shortly after the wreck.

[redacted] was knocked unconscious during the wreck and continues to have a one-hour amnesia period regarding the wreck. [redacted] experienced a concussion that has led to headaches and vision problems requiring the expertise of a neurologist and neuropsychiatry specialist. Attached is a hyperlink containing the medical records for [redacted] from Mercy Hospital – Paris, Mercy Clinic – Paris, Scarbrough Clinic, Belinga Clinic, and Wynne Medical Clinic.

[redacted] has not had a follow-up with a doctor since she was released from the emergency room at Paris. [redacted] remembers the events from the wreck.

INTERROGATORY NO. 24: Please provide the names, addresses, and phone numbers for all medical professionals, including without limitation physicians, nurses, therapists, counselors, physical therapists, consulting healthcare providers, and homeopaths,

that treated, in whole or in part, the minor children for injuries sustained due to the accident at issue.

RESPONSE:

1.	Mercy Hospital Emergency Room 500 E. Academy St. Paris, AR 72855	June 11, 2021
2.	Mercy Clinic – Paris Kimberly L. Hertlein, ANP 303 South 5th Street Paris, AR 72855	June 17 & 24, 2021
3.	Scarbrough Clinic Tad R. Scarbrough, D.C. 191 N. Killough Road Wynne, AR 72396	July 12, 2021
4.	The Belinga Clinic Steve-Felix Belinga, M.D. 10929 Old Hwy. 71 Fort Smith, AR 72916	September 14 & 30, 2021
5.	Wynne Medical Clinic 710 South Falls Blvd. Wynne, AR 72396	August 26, 2021 - January 25, 2023

REQUEST FOR PRODUCTION NO. 1: Please produce all documents Claimant consulted and/or reviewed in responding to these interrogatories.

RESPONSE: Haley Hudson did not review any documents in responding to these interrogatories.

REQUEST FOR PRODUCTION NO. 2: Please produce all documents written, signed, or recorded by any party and witness relating to the allegations of Claimant's Complaint and/or Respondent's Answer and defenses thereto.

RESPONSE: The claimant does not understand what this request is seeking. The claimant will respond if the respondent clarifies what document it is attempting to obtain.

The claimant is aware of the accident report which contains information about witnesses and parties.

REQUEST FOR PRODUCTION NO. 3: Please produce a complete copy of the insurance policy described in Interrogatory No. 23 (sic) that was in effect on June 11, 2021.

RESPONSE: Haley Hudson does not have the complete copy of the policy. Attached is a hyperlink a copy of every document that American Underwriters has produced.

REQUEST FOR PRODUCTION NO. 4: Please produce a complete copy of the driving record of Jacqueline Ashcraft for the five (5) year period prior to June 11, 2021.

RESPONSE: Objection. The driving record of Jacqueline Ashcraft for the five years prior to June 11, 2021, is not relevant nor is it reasonably calculated to lead to the discovery of relevant evidence. Ms. Ashcraft's prior driving history is not relevant in the case where the respondent's vehicle rear-ended Ms. Ashcraft's car while she was properly attempting a left-hand turn off a state highway.

REQUEST FOR PRODUCTION NO. 5: Please produce all documents, including communications to or from the Claimant, aside from privileged communications, related to the death of Jacqueline Ashcraft.

RESPONSE: Objection. The request is overly broad and not specifically tailored to lead to the discovery of admissible evidence. Without waiving the objection, the claimant has previously submitted the medical records from the ambulance company, the emergency room hospital at Booneville, the air transportation from Booneville to Fort Smith, and the hospital records from Mercy Hospital. These are contained in the following hyperlink:

Ashcraft Mercy Records Bates Stamped.pdf

Also attached is the funeral bill from Brotherton Brothers Funeral Home, along with a copy of Ms. Ashcraft's obituary in the following hyperlink:

Ashcraft Response to Discovery.pdf

REQUEST FOR PRODUCTION NO. 6: Please produce copies of all claims for insurance proceeds made by or against Jacqueline Ashcraft that resulted from Jacqueline Ashcraft's operation of a motor vehicle for the five (5) year period prior to June 11, 2021.

RESPONSE: Objection. The prior claims by Jacqueline Ashcraft for the five years prior to June 11, 2021, is not relevant nor is it reasonably calculated to lead to the discovery of relevant evidence. Ms. Ashcraft's prior driving history is not relevant in the case where the respondent's vehicle rear-ended Ms. Ashcraft's car while she was properly attempting a left-hand turn off a state highway. Without waiving said objection, Haley Hudson is not aware of any claims for insurance proceeds made by or against Jacqueline Ashcraft in the last five years.

REQUEST FOR PRODUCTION NO. 7: Please produce a copy of all insurance policies covering Jacqueline Ashcraft at the time of her death, including without limitation, motor vehicle insurance, liability insurance, medical insurance, or life insurance.

RESPONSE: Haley Hudson is only aware of the insurance policy by American Underwriters Insurance Company who issued Policy Number [redacted] the 2005 Hyundai Sonata owned by Jacqueline Ashcraft. This information was previously provided in response to Interrogatory No. 22.

REQUEST FOR PRODUCTION NO. 8: Please produce a copy of each and every audio, photographic, and video footage that concerns the occurrences identified in Claimant's Complaint.

RESPONSE: Haley Hudson is only aware of the photographs attached as exhibits to Trooper James Ray's deposition. Attached is a hyperlink containing the photographs

attached to the thumb drive which was identified as Exhibit 28 to Trooper Ray's deposition.

Crash Scene Photos by Trooper James Ray.pdf

REQUEST FOR PRODUCTION NO. 9: Please produce a copy of all letters, documents, reports, and medical opinions which have been written by experts, treating physicians, and by consulting physicians, or medical professionals whom Claimant or Claimant's attorney plan on calling as expert witnesses to offer testimony at the trial of this case.

RESPONSE: The claimant anticipates that one of the emergency doctors who provided palliative care will provide a deposition regarding the medical diagnosis and treatment of Ms. Ashcraft. Attached is a copy of the report authored by Ralph Scott, Ph.D.

REQUEST FOR PRODUCTION NO. 10: Please produce a copy of all letters, documents, reports, and opinions which have been written by persons concerning the claim for monetary damages made in the Complaint.

RESPONSE: Please find attached a report prepared by Ralph Scott PhD. Dr. Scott's report addresses economic loss sustained by the Ashcraft family. In addition, attached is the cost to attend the University of Arkansas which is approximately $28,300 per annum.

Ashcraft Response to Discovery.pdf

REQUEST FOR PRODUCTION NO. 11: Please produce the following materials with respect to each expert witness Claimant may call at the trial of this case:

1. A copy of the witness's most recent curriculum vitae;
2. A copy of all pertinent sections or excerpts of books, texts, treatises, articles, statutes, rules, regulations, guidelines, or any material which has been or may be referred to or relied upon by any expert witness in forming or explaining his or her opinions in connection with this case, together with citations to specific passages or sections relied upon (a list of the items above with specific citations to the relied-upon material will suffice as an alternative);

3. A copy of any computer programs, spreadsheets, analytical programs, statistical programs of any other computer-based tool utilized by any expert witness in any manner with regard to his/her opinions in this case (a list of the items above with specific citations to the relied-upon material will suffice as an alternative);
4. Copies of each spreadsheet, program, algorithm, statistical model, macro program, or other computer-based files created by or at the direction of any expert witness which has been utilized in any manner regarding his or her opinions in this case;
5. Copies of reports, correspondence, notes, documents, writings, diagrams, charts, records, photographs, video or audio recordings of any type, computer files, emails or tangible items of any kind that have been supplied to any expert witness by Claimant, attorneys for Claimant, and/or any representative of the Claimant or Claimant's attorney.
6. Copies of reports, correspondence, notes, documents, writings, diagrams, charts, records, photographs, video, or audio recordings of any type, computer files, emails, or tangible items of any kind that any expert witness has provided to the Claimant, attorneys for Claimant, and/or any representative of Claimant's attorney;
7. Copies of reports, correspondence, notes, documents, writings, diagrams, charts, records, photographs, video or audio recordings of any type, computer files, emails, or tangible items of any kind made or prepared by any expert witness in connection with this case regardless of whether such materials were provided to any other person; and
8. All billing records, bills, invoices, and fee schedule an expert witness has prepared or provided in connection with this case.

RESPONSE: The claimant will provide this information as it becomes available.

REQUEST FOR PRODUCTION NO. 12: Please produce all documents or exhibits which Claimant plans to use at the trial of this case, including without limitation documents or exhibits which Claimant plans on introducing into evidence and documents or exhibits

which Claimant plans to or will use in the direct examination and cross-examination of witnesses at the trial of this case.

RESPONSE: Please see the exhibits attached to Trooper James Ray's deposition taken on February 21, 2023. The claimant has previously provided a copy of the medical records of Jacqueline Ashcraft and [redacted]. The report of Dr. Scott will also be introduced as an exhibit. These items can be found in the following four hyperlinks:

Ashcraft Response to Discovery.pdf Crash Scene Photos by Trooper James Ray.pdf

Ashcraft Mercy Records Bates Stamped.pdf [redacted] Medical Records.pdf

REQUEST FOR PRODUCTION NO. 13: Please produce all geolocation data, including data taken from a smartphone, GPS tracker, or other device that would indicate the exact whereabouts of Jacqueline Ashcraft on June 11, 2021.

RESPONSE: The claimant does not possess this data. Trooper James Ray's accident report indicates that Ms. Ashcraft was at a latitude of 35.294605° North and a longitude of 93.662085° West at 12:50 p.m. on June 11, 2021. Ashcraft Response to Discovery.pdf

REQUEST FOR PRODUCTION NO. 14: Please produce a complete call log containing a record of phone calls to or from Jacqueline Ashcraft between the hours of 10:00 a.m. and 1:00 p.m., on June 11, 2021 (a copy of the cell phone invoice or bill prepared by the third-party carrier for the time period including June 21, 2021, that has a list of all calls and the timer period of each call will suffice).

RESPONSE: Haley Hudson does not possess this information.

REQUEST FOR PRODUCTION NO. 15: Please produce a complete list of all text messages, including the text of the messages themselves, made to or from a device or smartphone possessed by Jacqueline Ashcraft on June 11, 2021.

RESPONSE: Haley Hudson does not possess this information.

INTERROGATORY NO. 25: Please list all legal claims or lawsuits to which Haley Hudson has been either a plaintiff, claimant, defendant, or respondent for the last ten (10) years.

RESPONSE: None outside of the litigation arising from the wreck on June 11, 2021.

INTERROGATORY NO. 26: Has Haley Hudson ever been charged with or convicted of a felony, a Class A misdemeanor, and/or an offense involving dishonesty or moral turpitude? If so, please describe the circumstances and the ultimate outcome of the charge or case.

RESPONSE: No. Not applicable.

INTERROGATORY NO. 27: Please state whether Social Security payments have been or are currently being made to any person as a result of the death of Jacqueline Ashcraft, the amount of those payments if applicable, and the recipient of those payments.

RESPONSE: Yes. Social Security death benefits are being paid to Haley Hudson as the Guardian of [redacted].

INTERROGATORY NO. 28: Please state whether survivor benefit payments exclusive of Social Security benefits have been or are currently being made to any person as a result of the death of Jacqueline Ashcraft, the amount of those payments if applicable, and the recipient of those payments.

RESPONSE: Haley Hudson is not aware of any survivor benefit payments being made as result of Jacqueline Ashcraft's death other than the payments from Social Security.

INTERROGATORY NO. 29: Please provide the name, address, and phone number for each person Jacqueline Ashcraft spoke to after the accident on June 11, 2021.

RESPONSE: Please see Arkansas State Trooper James Ray's deposition on February 21, 2023, for this information. Haley Hudson does not know what persons

Jacqueline Ashcraft spoke to after the wreck. Haley Hudson was in Wynne, Arkansas, when this accident occurred. Haley Hudson was called to rush to Fort Smith to join the family and help make the decision to end life support for her mother.

INTERROGATORY NO. 30: Please state whether Jacqueline Ashcraft was prescribed corrective eyewear such as prescription glasses or contact lenses to correct her vision. If the answer is yes, please state her most recent vision prescription.

RESPONSE: Haley Hudson is not aware of any prescription for glasses or contact lenses for Jacqueline Ashcraft.

INTERROGATORY NO. 31: Did Jacqueline Ashcraft at the time of the accident at issue have any requirements by the state to wear corrective lenses while she was operating a motor vehicle?

RESPONSE: The accident report prepared by State Trooper James Ray indicates there were no restrictions on Jacqueline Ashcraft's license.

INTERROGATORY NO. 32: Please state whether Claimant will treat the foregoing interrogatories as continuing and furnish to Respondent, in writing, any additional information received by Claimant subsequent to the date of Claimant's answers hereto that would modify or supplement Claimant's answers, such additional information to be furnished as soon as reasonably possible after receipt by Claimant and within a reasonable time prior to the assigned trial date in order to permit appropriate discovery procedure.

RESPONSE: The claimant will abide by the Arkansas Rules of Civil Procedure.

Respectfully Submitted,

Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
Phone: 501-823-3610
Fax: 501-823-3611
Jim@JimJacksonatty.com

By: /s/ Jim Jackson
Jim R. Jackson
Arkansas Bar No. 93209

CERTIFICATE OF SERVICE

I, Jim R. Jackson, hereby certify that I have electronically filed the foregoing with the Arkansas Claims Commission and copied the respondent's attorneys, Brent P. Gasper and Sarah DeBusk, via email.

/s/ Jim Jackson
Jim R. Jackson

From:	Jim Jackson
To:	ASCC Pleadings; Brent Gasper; Sarah Debusk
Cc:	Martha Cox; Sarah Debusk; Daiquiri Carter
Subject:	RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...
Date:	Thursday, April 20, 2023 3:26:15 PM
Attachments:	image001.jpg image002.jpg image003.jpg image004.jpg Notice of Filing of Medical Records for Filing pursuant to Ark Code Ann §16-46-108.pdf

Please find attached the Claimant's Notice of Filing of Medical Records.
Please let my office know if you have any issue opening the hyperlink.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Misty Scott <Misty.Scott@arkansas.gov> **On Behalf Of** ASCC Pleadings
Sent: Monday, April 10, 2023 11:02 AM
To: Jim Jackson <jim@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...

Received on 4-4-23.

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Cc: Martha Cox <mcox@jimjacksonatty.com>; Sarah Debusk <sarah.debusk@dhs.arkansas.gov>; Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...

Brent & Sarah,
Please find attached the Claimant's response to discovery.
I tried to separate the hyperlinks so that you have one with Ms. Ashcraft's Medical Records and one with Miss Kadey Lynn Jones records and one with a general documents that are responsive to your client's Requests for Production of Documents.
Please let me know if you have any issue opening these four hyperlinks that are inserted in the document.
You will need to wait a few minutes for them to open before they download.
I do not know how long the hyperlink will grant you access to the documents so please save them to your computer when you have a moment.
Please let me know if you have any questions about this document.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Monday, March 27, 2023 7:33 AM
To: Jim Jackson <jim@jimjacksonatty.com>; ASCC Pleadings <asccpleadings@arkansas.gov>; Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; Sarah Debusk <sarah.debusk@dhs.arkansas.gov>; Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>
Subject: Re: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...

Hello all. I was out last week so I am just now going through my email inbox. I would respectfully suggest that it is far too premature to set a hearing date for this matter. The issues here have become more and more complex and while initially it appeared that liability would not need to be explored, recent information has come to light that perhaps liability will be at issue. I do not feel it is prudent to say more at this time but any hearing set this calendar year will be opposed by DHS. Further, I would note that we have still yet to receive Claimant's responses to discovery, for which Jim still has time. I highlight this fact simply to illustrate that there is still much to do on this case from our end.

If after having the opportunity to review all pertinent and relevant facts it appears that we can go to a hearing sooner than 2024 I will make the Commission aware.

thanks,

brent

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Sent: Friday, March 24, 2023 10:39 AM
To: ASCC Pleadings <asccpleadings@arkansas.gov>; Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Brent Gasper <brent.gasper@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>; Sarah Debusk <sarah.debusk@dhs.arkansas.gov>; Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>
Subject: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incident

[EXTERNAL SENDER]
Director Irby,
Please see attached a letter requesting a hearing date be scheduled for this matter.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — **CLAIMANT**

VS. **CC NO.** 230641

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES — **RESPONDENT**

NOTICE OF FILING OF MEDICAL RECORDS

To: Arkansas Department of Human Services
c/o Brent Gasper Esq. & Sarah DeBusk
Brent.Gasper@DHS.Arkansas.gov
Sarah.DeBusk@dhs.arkansas.gov

Pursuant to Ark. Code Ann. §16-46-108, you are hereby notified that the Claimant is filing 202 pages of Jacqueline Lynn Ashcraft's medical records from Mercy Health Care accompanied by an Affidavit executed by Brenda Bourg, Registered Health Information Administrator, as Custodian of Medical Records for Mercy Hospital Fort Smith, (Insert name of Medical provider) with the Clerk of this Court for inclusion with the papers in this cause of action. The claimant intends to introduce the medical records attached to the Affidavit into evidence at the trial of this case. Copies of the affidavit and attached medical records are being provided to your attorney by regular E-mail on this 20th day of April, 2023. The Affidavit and records are contained in the hyperlink below.

Ashcraft records w Affidavit.pdf[1]

[1] Contact Claimant's Counsel if you encounter difficulty opening. This hyperlink will expire on May 20, 2023 (Thirty days) but can be refreshed by request.

Respectfully submitted;

/s/ Jim R. Jackson

Jim Jackson
Attorney for Claimant
Jackson Law Firm
700 W. Broadway Street, Suite 200
North Little Rock, AR 72114

CERTIFICATE OF SERVICE

I hereby certify that on this date I electronically filed the attached document with the Clerk of the Arkansas Claims Court using e-mail and sending a true copy of such filing to all attorneys of record via e-mail.

/s/ Jim R. Jackson

Jim R. Jackson

From: Daiquiri Carter
To: ASCC Pleadings; Brent Gasper; Sarah Debusk
Cc: jim@jimjacksonatty.com; Martha Cox; Daiquiri Carter
Subject: CC # 230641
Date: Wednesday, April 26, 2023 9:22:27 AM
Attachments: Motion to Dismiss_001.pdf
image001.png
image002.png

Please find attached Respondent's Motion to Dismiss claimant Haley Hudson, Individually. I have copied Claimant's attorney on this email.

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov





NOTE - This email may contain sensitive or confidential information.

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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — **CLAIMANT**

v. **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

MOTION TO DISMISS CLAIMANT HALEY HUDSON, INDIVIDUALLY

COMES NOW, Respondent, the State of Arkansas, Department of Human Services, Office of Chief Counsel, by its attorneys, Brent P. Gasper, Assistant Deputy Chief Counsel, and Sarah DeBusk, General Counsel, and for its Motion to Dismiss Claimant Haley Hudson, Individually, states:

1. The instant action has been brought by and is currently captioned as having three separate claimants. Those claimants are:

   A. Haley Hudson, individually;
   B. Haley Hudson, as special administratrix of the estate of Jacqueline Ashcraft; and
   C. Haley Hudson, as permanent legal guardian of [redacted] minor children.

2. The wrongful death claims in the complaint are premised on allegations of negligence by Respondent that led to Jacqueline Ashcraft's death. The minor children [redacted] have also alleged separate individual actions claiming personal injury from the accident at issue.

3. In Arkansas, only a real party in interest may bring a cause of action. This is because the real party in interest is considered to be the person who can discharge the claim on which the

allegation is based, not necessarily the person ultimately entitled to the benefit of any recovery. *See* Ark. R. Civ. Pro. 17(a); *Recinos v. Zelk*, 369 Ark. 7, 250 S.W.3d 221 (2007).

4. In Arkansas, a claim of wrongful death is a statutory claim, with specific requirements about who may bring this type of claim.

5. Specifically, the wrongful death statute at Ark. Code Ann. 16-62-102(b) states that:

> *Every action shall be brought by and in the name of the personal representative of the deceased person. If there is no personal representative, then the action shall be brought by the heirs at law of the deceased person.*

6. It is clear this statute requires that if a personal representative has been appointed to an estate, *only* the personal representative may bring a wrongful death claim. Further, the heirs at law – such as are present here by the named claimants Haley Hudson, individually, and Haley Hudson, as permanent legal guardian of [redacted] minor children – may *only* be a party to a wrongful death claim if there is no personal representative appointed to the estate of Jacqueline Ashcraft. *See Recinos, supra* ("[a] decedent's heirs at law may not file a wrongful-death suit where a personal representative has been appointed.") Therefore, when a personal representative has filed a claim of wrongful death, such as has occurred here, that person shall be the sole claimant in the action for wrongful death and is considered the sole real party in interest.

7. Due to the foregoing, Haley Hudson, individually, is required to be dismissed from this case. This is because Haley Hudson as an individual lacks standing to bring a wrongful death claim when a personal representative has been appointed. *See Rhuland v. Fahr*, 365 Ark. 382, 155 S.W.3d 2 (2004).

WHEREFORE, Respondents move this Commission to DISMISS claimant Haley Hudson, individually, due to a lack of standing to bring the instant claim of wrongful death. Further,

Respondent prays that this Commission ORDER the recaptioning of the instant case to read "*Estate of Jacqueline Ashcraft, by Haley Hudson, special administratrix, and* [redacted] *by Haley Hudson as permanent legal guardian v. Department of Human Services*," and for all other relief to which it may show itself entitled.

Respectfully Submitted,

By: _____

Brent P. Gasper
Assistant Deputy Chief Counsel
AR Bar No. 98240

Sarah DeBusk
General Counsel
AR Bar No. 2019308

Arkansas Department of Human Services
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203
Phone (501) 320-8950
Brent.Gasper@dhs.arkanas.gov
Sarah.Debusk@dhs.arkansas.gov

CERTIFICATE OF SERVICE

I, Brent P. Gasper, hereby certify that on 26 April 2023, I electronically filed the foregoing with the Arkansas Claims Commission and copied Claimant's attorney, Jim Jackson, via email.

Brent P. Gasper

From: Martha Cox
To: Jim Jackson; ASCC Pleadings; Brent Gasper; Sarah Debusk
Cc: Daiquiri Carter
Subject: RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted] Minor Children v. Arkansas Department of Human Services; Claims Commission No. 230641
Date: Monday, May 1, 2023 10:03:45 AM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg
Notice of Deposition - Dr Christopher Bell.pdf

You don't often get email from mcox@jimjacksonatty.com. Learn why this is important

Please file the attached Notice of Deposition for Dr. Christopher Bell in the above claim.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

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Sent: Thursday, April 20, 2023 3:26 PM
To: 'ASCC Pleadings' <ASCCPleadings@arkansas.gov>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>
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Please find attached the Claimant's Notice of Filing of Medical Records.
Please let my office know if you have any issue opening the hyperlink.
Thank you,
Jim

Jim Jackson
Jackson Law Firm

JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Misty Scott <Misty.Scott@arkansas.gov> **On Behalf Of** ASCC Pleadings
Sent: Monday, April 10, 2023 11:02 AM
To: Jim Jackson <jim@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>
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Subject: Re: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...

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If after having the opportunity to review all pertinent and relevant facts it appears that we can go to a hearing sooner than 2024 I will make the Commission aware.

thanks,

brent

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Cc: Brent Gasper <brent.gasper@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>; Sarah Debusk <sarah.debusk@dhs.arkansas.gov>; Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>
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[EXTERNAL SENDER]
Director Irby,
Please see attached a letter requesting a hearing date be scheduled for this matter.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] AND [redacted] MINOR CHILDREN — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES — **RESPONDENT**

NOTICE OF DEPOSITION

TO: Arkansas Department of Health and Human Services
c/o Mr. Brent Gasper
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

NOTICE is hereby given that the plaintiff will take the deposition of Dr. Christopher Bell on Monday, May 22, 2023, beginning at 1:00 p.m. at the offices of Attorney Kirkman T. Dougherty, Hardin, Jesson & Terry, PLC, 5000 Rogers Avenue, Suite 500, Fort Smith, Arkansas, for all purposes, upon oral examination, before a Certified Court Reporter, duly authorized to administer oath, and recorded by stenographic means. The deposition will be videotaped. The deposition will continue until completed.

Respectfully submitted,

BY: _____

Jim R. Jackson, AR Bar #93-209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
(501) 823-3610 phone
(501) 823-3611 facsimile
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Notice of Deposition was served on the following counsel of record by either U.S. Mail, postage prepaid, or by electronic service to:

Mr. Brent Gasper
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

/s/ Jim R. Jackson .
Jim R. Jackson

From: Daiquiri Carter
To: ASCC Pleadings; Brent Gasper; Martha Cox; jim@jimjacksonatty.com
Cc: Sarah Debusk; Daiquiri Carter
Subject: CC # 230641
Date: Tuesday, May 2, 2023 9:38:17 AM
Attachments: Hudson Motion to Compel_001.pdf
image001.png
image002.png

Please find attached Respondent's Motion to Compel. I have included Claimant's attorney on this email. Hudson v. DHS

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov





NOTE - This email may contain sensitive or confidential information.

CONFIDENTIALITY NOTICE: The information contained in this email message and any attachment(s) is the property of the State of Arkansas and may be protected by state and federal laws governing disclosure of private information. It is intended solely for the use of the entity to which this email is addressed. If you are not the intended recipient, you are hereby notified that reading, copying or distribution this transmission is STRICTLY PROHIBITED. The sender has not waived any applicable privilege by sending the accompanying transmission. If you have received this transmission in error, please notify the sender by return and delete the message and attachment(s) from your system.

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — **CLAIMANT**

v. — **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

MOTION TO COMPEL DISCOVERY FROM THE ESTATE OF JACQUELINE ASHCRAFT, HALEY HUDSON AS SPECIAL ADMINISTRATRIX

COMES NOW, Respondent, the State of Arkansas, Department of Human Services, Office of Chief Counsel, by its attorneys, Brent P. Gasper, Assistant Deputy Chief Counsel, and Sarah DeBusk, General Counsel, and for its Motion to Compel Discovery from the Estate of Jacqueline Ashcraft, Haley Hudson as special administratrix, states:

1. Discovery has begun in this case and Respondent has propounded a first set of interrogatories and requests for production to the Claimant, Haley Hudson, as the special administratrix of the estate of Jacqueline Ashcraft.[1] Because Haley Hudson has been appointed special administratrix of the Estate of Jacqueline Ashcraft, this means that she is "*empower[ed] ... to act for the estate*" and also means that she is the *only* person who can "*discharge the claim on which the allegation is based*". *See* Ark. Code Ann. 28-48-102(d)(2). As such, Haley Hudson, in her capacity as special administratrix of the estate of Jacqueline Ashcraft, is the real party in

[1] Respondent has filed a motion to dismiss Claimant Haley Hudson, individually, from this claim as she does not have legal standing to bring an individual claim when an administrator has been appointed to represent the estate. Ms. Hudson also represents the named minor children named in the Complaint, although those minor children are bringing their own individual claims and are not the subject of this instant discovery issue.

interest and *the only person or entity that may lawfully be the claimant in this case*, aside from the two minor children who have separate and individual claims as to their respective personal injuries. All discovery requests propounded to the estate of Jacqueline Ashcraft shall be directed to Haley Hudson, *not individually*, but *in her capacity as the special administratrix of the estate of Jacqueline Ashcraft*. It is the *estate* that is required to respond to the discovery requests and no other entity or person. The nature of the estate of a deceased person necessarily means that information that would have been known by or available to Jacqueline Ashcraft prior to her death is imputed to the estate and its personal representative.

2. Claimant's response to Interrogatory No. 7 was not fully or properly answered by the estate of Jacqueline Ashcraft, as represented by Haley Hudson. The response was insufficient and requires complete supplementation.

3. Respondent's Interrogatory No. 7 was propounded as follows:

> **INTERROGATORY NO. 7:** Please provide the names, addresses, and phone numbers for all medical professionals including without limitation physicians, nurses, therapists, counselors, physical therapists, optometrists, osteopaths, or homeopaths, that treated Jacqueline Ashcraft for any reason for the five (5) year period prior to June 11, 2021.

4. Claimant's response to this interrogatory was as follows:

> **RESPONSE**: Haley Hudson does not possess this information.

5. Through email correspondence on April 6, 2023, Respondent requested Claimant supplement the response to Interrogatory No. 7. In a letter dated April 10, 2023, Claimant did address, but did not supplement, this request by stating that the estate of Jacqueline Ashcraft "does not know the name or identity of any of Ms. Ashcraft's medical providers from June 11, 2016, through June 11, 2021." This is a non-responsive and factually incorrect statement that is not made in good faith.

6. Ms. Ashcraft's medical condition at the time of her death has been placed at issue as Claimant asserts that the injuries from the accident itself caused her death.[2] However, by refusing to provide the information requested by Respondent, Claimant seeks to now force *Respondent* to assess Ms. Ashcraft's medical condition prior to the accident without the benefit of her previous medical records, in light of the Claimant's noted illness and weakness for the two (2) days prior to the accident.

7. Jacqueline Ashcraft's personal medical records could lead to the discovery of acute, chronic, and/or terminal conditions that would have impacted her possible life expectancy. This is directly relevant to Claimant's claims for lost earning capacity and any other measure of damages that depend on how long Ms. Ashcraft may have lived and under what conditions had it not been for her death.

8. The medical records could also lead to admissible information concerning Ms. Ashcraft's physical and mental ability to operate a motor vehicle, such as her vision, how she was generally aware of her surroundings, whether she was prescribed or otherwise used prescription or controlled substances, or any other physical or mental limitation that may have affected her ability to safely drive her vehicle.

9. To this end Claimant attempts to use this claim and the attendant discovery process as both a sword and a shield – first by making allegations that the *sole cause* of Ms. Ashcraft's

[2] Indeed, the EMT records introduced at the deposition of Officer James Ray, marked as "Plaintiff's Exhibit 20" states itself that [redacted] However, Claimant contends that this information is "irrelevant" to the case at hand.

death were the injuries she sustained in an accident but then simultaneously refusing to comply with very reasonable requests to discover information that go *right to the heart of the claim itself.*

10. Respondent has not at any point in time admitted liability or suggested that liability and proximate cause were *not* at issue. Indeed, Respondent has raised comparative fault as a defense. If there were medical or physical issues that resulted in Ms. Ashcraft contributing to the accident or any injuries sustained by the two minor children, who are also making individual personal injury claims, Respondent has a right to explore and evaluate those medical or physical issues. By suggesting that Claimant has *no obligation* to tender this information – *apparently not even making an* ***attempt*** *at procuring it* – to Respondent is absurd and contrary to the rules of discovery

11. As previously stated, Ms. Ashcraft's estate *represents her as her legal representative entity in her death.* To say that *her own estate* does not know information that Ms. Ashcraft knew or should have known had she been alive to respond to discovery is an argument that lacks any sense and the fact that Claimant has apparently not even *attempted* to obtain this information shows either a lack of good faith or a lack of understanding of what her legal responsibilities as special administratrix of the estate entail, or both.[3]

12. The suggestion that this information should be actively sought out by Respondent by sending letters to all doctors in the region in order to discover the identities of Ms. Ashcraft's treating physicians is contrary to the purpose of discovery. As the Arkansas Supreme Court has held, "[t]he goal of all discovery is to permit a litigant to obtain whatever information he may need

[3] Additionally, the fact that Ms. Ashcraft's own daughter apparently does not know or does not have the ability to find out who her mother's medical providers were would be evidence in and of itself that would go to the evaluation of her loss of consortium claim.

to prepare adequately for issues that may develop without imposing an onerous burden on his adversary." *Marrow v. State Farm Ins. Co.*, 264 Ark. 227 (1978). Yet this is exactly what Claimant contends should be the case here. Aside from being an onerous and unnecessary burden on Respondent and one that would put Respondent at a distinct disadvantage – if, for instance, Ms. Ashcraft had non-local or out-of-state medical treatment, unknown to her local medical providers – it simply is not Respondent's responsibility when Ms. Ashcraft's health prior to her death is at the very center of this legal controversy.

13. Claimant has brought this claim for millions of dollars and has the burden of proof to show Respondent is both negligent and to show the proper measure of damages. Comparative fault has been raised and Respondent is still evaluating those grounds. Further, Claimant is seeking damages premised on potential lost wages and the presumed longevity of Ms. Ashcraft's life had she not died. It should be incumbent on the Claimant to provide *all* relevant discoverable information when asked in a reasonable manner. In fact, the Arkansas Rules of Civil Procedure require it. *See* Ark. R. Civ. Pro. 26. If Haley Hudson, as special administratrix of the estate of Jacqueline Ashcraft, does not know who Ms. Ashcraft's medical providers were in life, it should be *her* responsibility to take the affirmative steps that she currently believes *Respondent* should undertake. This argument has no legal basis and violates the spirit, if not the letter, of our state's rules of discovery.

14. "A discovery motion must be considered in light of the particular circumstances which give rise to the request and the need of the movant for the information requested." *Wilson v. Neal*, 332 Ark. 148 (196). Very clearly, Ms. Ashcraft's medical history is of utmost importance to Respondent's ability to determine her medical condition or conditions prior to the accident. As

such, Respondent MOVES that this Commission ORDER Claimant to provide a complete, thorough, and good faith response to Respondent's Interrogatory No. 7.

WHEREFORE, Respondents move this Commission to GRANT its Motion to Compel and ORDER Claimant to comply with the specific discovery requests as set forth in this motion and for all other relief to which it may show itself entitled.

Respectfully Submitted,

By: _____
Brent P. Gasper
Assistant Deputy Chief Counsel
AR Bar No. 98240

_____
Sarah DeBusk
General Counsel
AR Bar No. 2019308

Arkansas Department of Human Services
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203
Phone (501) 320-8950
Brent.gasper@dhs.arkansas.gov
Sarah.debusk@dhs.arkansas.gov

CERTIFICATE OF SERVICE

I, Brent P. Gasper, hereby certify that on 2nd May, 2023, I electronically file the foregoing with the Arkansas Claims Commission and copied Claimant's attorney, Jim Jackson, via email.

_____
Brent P. Gasper

From: Daiquiri Carter
To: ASCC Pleadings; Brent Gasper; jim@jimjacksonatty.com
Cc: Sarah Debusk; Martha Cox; Daiquiri Carter
Subject: CC # 230641
Date: Wednesday, May 3, 2023 2:01:41 PM
Attachments: Hudson Motion to Quash_001.pdf
image001.png
image002.png

Please find attached Respondent's Motion to Quash Notice of Deposition. I have copied Claimant's attorney on this email.

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov





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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — **CLAIMANT**

v. **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

MOTION TO QUASH NOTICE OF DEPOSITION OF DR. CHRISTOPHER BELL AND MOTION FOR PROTECTIVE ORDER

COMES NOW, Respondent, the State of Arkansas, Department of Human Services, Office of Chief Counsel, by its attorneys, Brent P. Gasper, Assistant Deputy Chief Counsel, and Sarah DeBusk, General Counsel, and for its Motion to Quash Notice of Deposition of Dr. Christopher Bell and Motion for Protective Order, states:

1. Claimant has filed a Notice of Deposition of Dr. Christopher Bell, which is to be held on May 22, 2023, in Fort Smith, Arkansas.

2. As ascertained from the medical records filed in this case, Dr. Bell appears to have been an attending physician at Mercy Hospital in Fort Smith on the day that Jaqueline Ashcraft died.

3. Respondent can only guess from the medical records as to what actions Dr. Bell took with Ms. Ashcraft or what his thoughts were while she was at the hospital as Respondent has not spoken with Dr. Bell. However, Respondent suspects that Dr. Bell may testify as to the medical condition of Ms. Ashcraft when she died, the nature and potential cause of her injuries, possibly give an expert opinion in his role as a physician, as well as testify as to any other medical issue addressed on June 11 and 12, 2021.

4. While Respondent believes that Dr. Bell likely will be a witness in this case and will likely have his deposition taken at some point, the pretrial posture of this claim has not yet reached that point.

5. Respondent has filed a Motion to Compel Discovery concerning the lack of a sufficient response to a discovery request concerning the identities[1] of Jacqueline Ashcraft's medical providers leading up to June 11, 2021. While Dr. Bell may not have treated Ms. Ashcraft before June 11, 2021, having her medical records and other medical information preceding Dr. Bell's deposition is vital to Respondent's ability to question him, especially if Dr. Bell testifies to the manner and ultimate cause of her death or offers an expert opinion. Without Ms. Ashcraft's medical records, Respondent's ability to question Dr. Bell in light of Ms. Ashcraft's prior mental and physical medical condition as potential contributing factors to the circumstances surrounding her death would be drastically curtailed. A full and proper examination of Dr. Bell will be impossible and Respondent's case will suffer for it, which is compounded by the fact that it is the Claimant's lack of cooperation that is making it so.

6. Rule 26(c) of the Arkansas Rules of Civil Procedure reads as follows:

> (c) Protective Orders. Upon motion by a party or by the person from whom discovery is sought, stating that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action, and for good cause shown, the court in which the action is pending may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:
>
> (1) that the discovery not be had;

[1] Respondent again notes that is simply looking for the *identities* of the medical providers, not copies of the medical records kept by those medical records themselves. Claimant, however, contends that it does not have this information and is in any event "irrelevant".

> (2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place;
>
> (3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;
>
> (4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;
>
> (5) that discovery be conducted with no one present except persons designated by the court;
>
> (6) that a deposition after being sealed be opened only by order of the court;
>
> (7) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way;
>
> (8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

7. As Rule 26(c) states, this Commission may "make any order which justice requires", such as quashing or otherwise staying Dr. Bell's deposition, "for good cause shown". The fact that Respondent will currently be required to question Dr. Bell without the benefit of Ms. Ashcraft's prior medical records would certainly be good cause. Respondent realizes that Dr. Bell will likely still be deposed in this case as a fact witness and as such Respondent has no quarrel with setting up a deposition for Dr. Bell. However, doing so without first having the chance to review Ms. Ashcraft's medical history would be premature. The Commission should first rule on Respondent's Motion to Compel and settle the question of whether Claimant is bound to properly respond to discovery before any deposition of a medical professional or witness be scheduled.

8. Respondent has contacted Claimant's attorney through email requesting that Dr. Bell's deposition be canceled or otherwise postponed due to Respondent's Motion to Compel. This was done in compliance with Respondent's responsibilities under Rule 26(c), *supra*. Claimant's attorney responded but did not appear to be agreeable to this request.

9. Because of this, Respondent MOVES this Commission to QUASH the notice of deposition of Dr. Christopher Bell as untimely and to ISSUE a Protective Order quashing or otherwise holding in abeyance Dr. Bell's deposition until such time as it has ruled on Respondent's Motion to Compel, and for all other relief to which it may show itself entitled.

Respectfully Submitted,

By: _____
Brent P. Gasper
Assistant Deputy Chief Counsel
AR Bar No. 98240

_____
Sarah DeBusk
General Counsel
AR Bar No. 2019308

Arkansas Department of Human Services
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203
Phone (501) 320-8950
Brent.Gasper@dhs.arkanas.gov
Sarah.Debusk@dhs.arkansas.gov

CERTIFICATE OF SERVICE

I, Brent P. Gasper, hereby certify that on 3 May, 2023, I electronically filed the foregoing with the Arkansas Claims Commission and copied Claimant's attorney, Jim Jackson, via email.

_____
Brent P. Gasper

From: Brent Gasper
To: Jim Jackson; Kathryn Irby
Cc: Sarah Debusk; Martha Cox
Subject: RE: INFO NEEDED: Hudson v. DHS - Motion to Quash
Date: Thursday, May 4, 2023 10:44:10 AM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg

Thank you for your prompt response, Jim.

Kathryn, you are welcome to advise the Commission that we will be filing motions to quash any deposition of a medical professional that Claimant attempts to set until the Motion to Compel is ruled on. This would include a rescheduled deposition of Dr. Bell in that July 17-27 timeframe. The reason will be the same as set out in our current Motion to Quash – that Claimant has failed to abide by its discovery obligations regarding Ms. Ashcraft's medical history information and until it does so any deposition of a medical professional is premature and untimely. Moreover, we would also object to keeping Dr. Bell's deposition "open" as that gives a distinct advantage to Claimant and would result in an uneven playing field with regards to Dr. Bell's testimony.

Concerning the Motion to Compel, Claimant has an obligation to supply Ms. Ashcraft's medical history information. I'm still trying to wrap my head around the fact that Claimant does not feel it has an obligation to supply the medical history of a person while at the same time the Claimant asks for damages for future lost earning capacity (projected through 2029) and loss of household services (also projected through 2029). Claimant even attached to its discovery responses an article on "mortality risk valuation," which references to a "cancer differential" – articles relied up on by Dr. Scott in his economic report that Claimant intends to use at trial. But even now Claimant still believes it has no obligation to provide a recent medical history.

The only thing that appears to stand in Claimant's way from fulfilling its discovery obligation is Claimant's unwillingness to do what it suggests *Respondent* do. If Claimant still refuses to undertake what is necessary to fulfill what is essentially its baseline discovery obligation please expect a Motion to Strike certain portions of Claimant's Complaint that I suspect the Commission may want to take up at the same time as the other motions.

Thank you for your consideration and time,

Brent

Cc: Sarah DeBusk, Jim Jackson

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Thursday, May 4, 2023 10:11 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Cc: Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>

Subject: RE: INFO NEEDED: Hudson v. DHS - Motion to Quash

[EXTERNAL SENDER]
Ms. Irby,
I confirmed with counsel that May 22 was good for them prior to serving the Notice of Deposition for Dr. Bell.
I was surprised to find out that they had an objection after we agreed on a date and the Notice was circulated.
Hoping to accommodate Brent and Sarah, I sent an email this morning to Dr. Bell's attorney, Kirk Dougherty, to see if Dr. Bell is available July 17-27.
I hope to hear back from Kirk soon.
It has been very difficult to locate Dr. Bell because he is an ER physician and does not have a "clinic" or an office telephone number.
ER physicians are often transitory and frequently move to different hospitals/locations.
Since I now have Dr. Bell's legal counsel's contact information, I am hoping that it will be easier to communicate with him.
I want to make sure Dr. Bell is available at a later date and not in the process of moving out of state before agreeing to move the deposition date.
I have also told Brent that I am agreeable to leaving Dr. Bell's deposition "open" and if he obtains medical information later, that he can continue the deposition.
But as soon as I hear from Kirk, I will let Brent and Sarah know his response.
I want to make sure that the delay of a medical deposition into the summer does not delay the setting of this matter.

Motion to Compel
I am in the process of drafting a response to the Motion to Compel asking Ms. Hudson to provide the identity of Ms. Ashcraft's medical providers for the five years prior her death from the car wreck.
I have the response date calendared for May 16.
The gist of the response to the Motion to Compel is that Ms. Hudson does not know the names or identity of Ms. Ashcraft's medical providers for the five years prior to her death.
The Claimant has signed a HIPPA authorization which allows the Respondent to send blanket requests for medical records to any medical provider they choose.
I do not see any way that Ms. Hudson will be able to more fully answer the Interrogatory regarding the prior medical history of her mom.
I will more fully set out the claimant's position in the response but I want to let everyone know that I do not foresee Ms. Hudson being able to provide the information to the respondent beyond the information provided in the medical records from the day of the wreck.
Thank you for time on this matter.
Jim



Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Thursday, May 4, 2023 9:36 AM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Cc: Jim Jackson <jim@jimjacksonatty.com>; Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>
Subject: INFO NEEDED: Hudson v. DHS - Motion to Quash

Mr. Jackson, from Paragraph 8 of the motion to quash, it is not clear if Claimant is, in fact, amenable to postponing the deposition. Can you please advise? Thanks!

Kathryn Irby

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Thursday, May 4, 2023 8:23 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Jim Jackson <jim@jimjacksonatty.com>; Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>
Subject: Hudson v. DHS - Motion to Quash

Kathryn:

Good morning! I hope you are well. I wanted to make a request of the Commission concerning the Motion to Quash I filed yesterday in Hudson v. DHS. At issue is a deposition currently notice and scheduled for May 22, which means we are less than three (3) weeks out. Our position is that this deposition is premature and untimely given the discovery impasse we are at and with our Motion to Compel pending.

Is the Commission able to decide on the Motion to Quash prior to the May 22 date? I know Jim has

scheduled a court reporter and videographer for the deposition and allowing him to cancel those people and to let the witness know that the deposition is canceled ahead of time would be optimal.

I was not sure of the Commission's ability to decide or policy concerning decisions on motions where time is of the essence. Nevertheless I feel it is warranted to give you the heads-up as early as possible that this is our request.

Thank you!

Brent

Cc: Sarah DeBusk, Jim Jackson

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

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From:	Martha Cox
To:	Jim Jackson; ASCC Pleadings; Brent Gasper; Sarah Debusk
Cc:	Daiquiri Carter
Subject:	RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, dec"d & Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services; Arkansas Claims Commission #230641
Date:	Thursday, May 4, 2023 11:53:23 AM
Attachments:	image001.jpg image002.jpg image003.jpg image004.jpg Notice of Deposition for Kristen Shelton.pdf

You don't often get email from mcox@jimjacksonatty.com. Learn why this is important

Please find attached a Notice of Deposition for Kristen Shelton for filing in the above-referenced claim.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

From: Jim Jackson
Sent: Thursday, April 20, 2023 3:26 PM
To: 'ASCC Pleadings' <ASCCPleadings@arkansas.gov>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...

Please find attached the Claimant's Notice of Filing of Medical Records.
Please let my office know if you have any issue opening the hyperlink.
Thank you,
Jim

Jim Jackson

Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Misty Scott <Misty.Scott@arkansas.gov> **On Behalf Of** ASCC Pleadings
Sent: Monday, April 10, 2023 11:02 AM
To: Jim Jackson <jim@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...

Received on 4-4-23.

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Tuesday, April 4, 2023 4:11 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; ASCC Pleadings <asccpleadings@arkansas.gov>; Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; Sarah Debusk <sarah.debusk@dhs.arkansas.gov>; Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...

Brent & Sarah,
Please find attached the Claimant's response to discovery.
I tried to separate the hyperlinks so that you have one with Ms. Ashcraft's Medical Records and one with Miss Kadey Lynn Jones records and one with a general documents that are responsive to your client's Requests for Production of Documents.
Please let me know if you have any issue opening these four hyperlinks that are inserted in the document.
You will need to wait a few minutes for them to open before they download.
I do not know how long the hyperlink will grant you access to the documents so please save them to your computer when you have a moment.
Please let me know if you have any questions about this document.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Monday, March 27, 2023 7:33 AM
To: Jim Jackson <jim@jimjacksonatty.com>; ASCC Pleadings <asccpleadings@arkansas.gov>; Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; Sarah Debusk <sarah.debusk@dhs.arkansas.gov>; Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>
Subject: Re: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...

Hello all. I was out last week so I am just now going through my email inbox. I would respectfully suggest that it is far too premature to set a hearing date for this matter. The issues here have become more and more complex and while initially it appeared that liability would not need to be explored, recent information has come to light that perhaps liability will be at issue. I do not feel it is prudent to say more at this time but any hearing set this calendar year will be opposed by DHS. Further, I would note that we have still yet to receive Claimant's responses to discovery, for which Jim still has time. I highlight this fact simply to illustrate that there is still much to do on this case from our end.

If after having the opportunity to review all pertinent and relevant facts it appears that we can go to a hearing sooner than 2024 I will make the Commission aware.

thanks,

brent

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Friday, March 24, 2023 10:39 AM
To: ASCC Pleadings <asccpleadings@arkansas.gov>; Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Brent Gasper <brent.gasper@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>; Sarah Debusk <sarah.debusk@dhs.arkansas.gov>; Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>
Subject: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incident

[EXTERNAL SENDER]
Director Irby,
Please see attached a letter requesting a hearing date be scheduled for this matter.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] AND [redacted] MINOR CHILDREN — **CLAIMANT**

VS. — **CC NO. 230641**

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES — **RESPONDENT**

NOTICE OF DEPOSITION

TO: Arkansas Department of Health and Human Services
c/o Mr. Brent Gasper
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

NOTICE is hereby given that the claimant will take the deposition of Kristen Shelton on Tuesday, May 16, 2023, beginning at 1:00 p.m. at the offices of the Arkansas Department of Human Services, 900 South Rogers Avenue, Clarksville, Arkansas, for all purposes, upon oral examination, before a Certified Court Reporter, duly authorized to administer oath, and recorded by stenographic means. The deposition will be videotaped. The deposition will continue until completed.

Respectfully submitted,

BY: _____

Jim R. Jackson, AR Bar #93-209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
(501) 823-3610 phone
(501) 823-3611 facsimile
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Notice of Deposition was served on the following counsel of record by either U.S. Mail, postage prepaid, or by electronic service to:

Mr. Brent Gasper
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

/s/ Jim R. Jackson
Jim R. Jackson

From: Sarah Debusk
To: Kathryn Irby; jim@jimjacksonatty.com; Brent Gasper
Cc: Daiquiri Carter
Subject: Hudson vs. DHS
Date: Tuesday, May 9, 2023 10:45:47 AM
Attachments: image001.png
image002.png

Good Morning, Kathryn

I was on this case with Brent as co-counsel for the Department.
However, I will no longer be on the case as counsel, it will just be Brent.
Do I need to submit anything formal indicating that, or will this email be sufficient?

I have copied Mr. Jackson on this email.

Thank you!

Sarah J. DeBusk
Arkansas Department of Human Services
Office of Chief Counsel
Attorney Specialist

P: (501) 320-6337
F: (501) 682-1390

P.O. Box 1437, Slot S260
Little Rock, AR 72203-1437
Sarah.debusk@dhs.arkansas.gov

humanservices.arkansas.gov

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From: Martha Cox
To: ASCC Pleadings; Kathryn Irby
Cc: Brent Gasper; Daiquiri Carter; Sarah Debusk; Jim Jackson
Subject: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, dec"d, & Permanent Guardian of [redacted] Minor Children v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641
Date: Wednesday, May 10, 2023 11:59:54 AM
Attachments: Response to Motion to Dismiss.pdf
Second Amended Complaint.pdf

Please find attached the claimant's Response to Motion to Dismiss and claimant's Second Amended Complaint, which we would appreciate being filed in the above-referenced claim.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
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North Little Rock, AR 72114
Phone: (501) 823-3610
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mcox@jimjacksonatty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] AND [redacted] MINOR CHILDREN — **CLAIMANT**

VS. — **CC NO. 230641**

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S RESPONSE TO THE MOTION TO DISMISS

Comes now the claimant, Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Permanent Legal Guardian of [redacted] minor children, and for her Response to the respondent's Motion to Dismiss, states:

1. The respondent's Motion to Dismiss Haley Hudson "individually" is a matter of style over substance.

2. Haley Hudson did not aver to have an "individual" claim in the First Amended Complaint. The style of the First Amended Complaint included the word "individually" and as Special Administratrix, which is a commonly-used style in wrongful death pleadings.

3. The substance of the claim for wrongful death damages is found in paragraph 17 of the First Amended Complaint. Nowhere in paragraph 17 does Haley Hudson pray or

assert an "individual" claim for damages. All of Haley Hudson's claims are derivative from her appointment as Special Administratrix of the Estate of her mother and as Permanent Guardian of her two minor sisters.

4. The claimant is filing contemporaneously with this response a Second Amended Complaint which should assuage the respondent's concern of the style of the claimant's pleadings.

WHEREFORE, the respondent's Motion to Dismiss Haley Hudson "individually" should be rendered moot upon the filing of the claimant's Second Amended Complaint.

Respectfully submitted,

BY: Jim Jackson

Jim R. Jackson, AR Bar #93-209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
(501) 823-3610 phone
(501) 823-3611 facsimile
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Response to Motion to Dismiss was served on the following counsel of record by either U.S. Mail, postage prepaid, or by electronic service to:

Mr. Brent Gasper
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

/s/ Jim R. Jackson
Jim R. Jackson

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — **CLAIMANT**

VS. **CC NO.** 230641

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES — **RESPONDENT**

SECOND AMENDED COMPLAINT

Comes now the claimant, Haley Hudson, as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Guardian of [redacted] a minor child, and as Guardian of [redacted] a minor child, by and through her attorney, Jim R. Jackson, and for her causes of action against the respondent, states:

BACKGROUND

The Ashcraft family has been ripped apart by the consequences of this wreck. Jacqueline Ashcraft was a 50-year-old mother of five children who lived in Paris, Arkansas, with two of her minor children. [redacted] was her 10-year-old daughter. [redacted] was her 14-year-old daughter. The three lived at [redacted] The two girls were enrolled in the Paris School District and were thriving at the time of the wreck. Ms. Ashcraft's two adult sons lived in Paris and Ozark and were beginning their career and family. Ms. Ashcraft's oldest daughter, Haley Hudson, lived and worked in Wynne, Arkansas. Haley was 29 years old at the time of her mother's death. Haley has two children of her own that live with her and her fiancé at [redacted]

As a result of Jacqueline Ashcraft's sudden and tragic death, the two minor children did not have a parent. They had to relocate from Paris, Arkansas, to Wynne to live with Haley Hudson. Haley adopted her two baby sisters by filing a Petition to be Permanent Legal Guardian of [redacted] Haley is doing the best job she can to raise her two baby sisters. Haley is now both a mom and big sister to [redacted]

I. STATEMENT OF JURISDICTION

1. This claim is brought pursuant to the Commission's authority of jurisdiction of "all claims against the State of Arkansas and its several agencies, departments, and institutions" pursuant to the authority granted by the General Assembly found in Arkansas Code Annotated §19-10-204, *et seq*.

2. The claimant has exhausted all liability insurance coverage for this incident. There is no UIM or other liability insurance coverage for these claims.

II. PARTIES TO THE CLAIM

3. The claimant is the duly appointed Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, pursuant to an Order dated August 6, 2021, entered by The Honorable Terry Sullivan in a matter styled, *In The Matter Of The Estate Of Jacqueline Lynn Ashcraft, deceased*, in the Circuit Court of Logan County, Arkansas, Probate Division No. 42PR-2021-63.

4. Haley Hudson was appointed Permanent Guardian of the Person and Estate of [redacted] by Order of Cross County Probate Judge Christopher Morledge dated July 20, 2021, in a matter styled: *In the Matter of the Guardianship of the Person and Estate of* [redacted] *Minors*, Cross County Probate Number 19PR-2021-57-3. Attached as Exhibit 1 is a file-marked copy of the Order filed with the Cross County Probate Clerk on July 20, 2021.

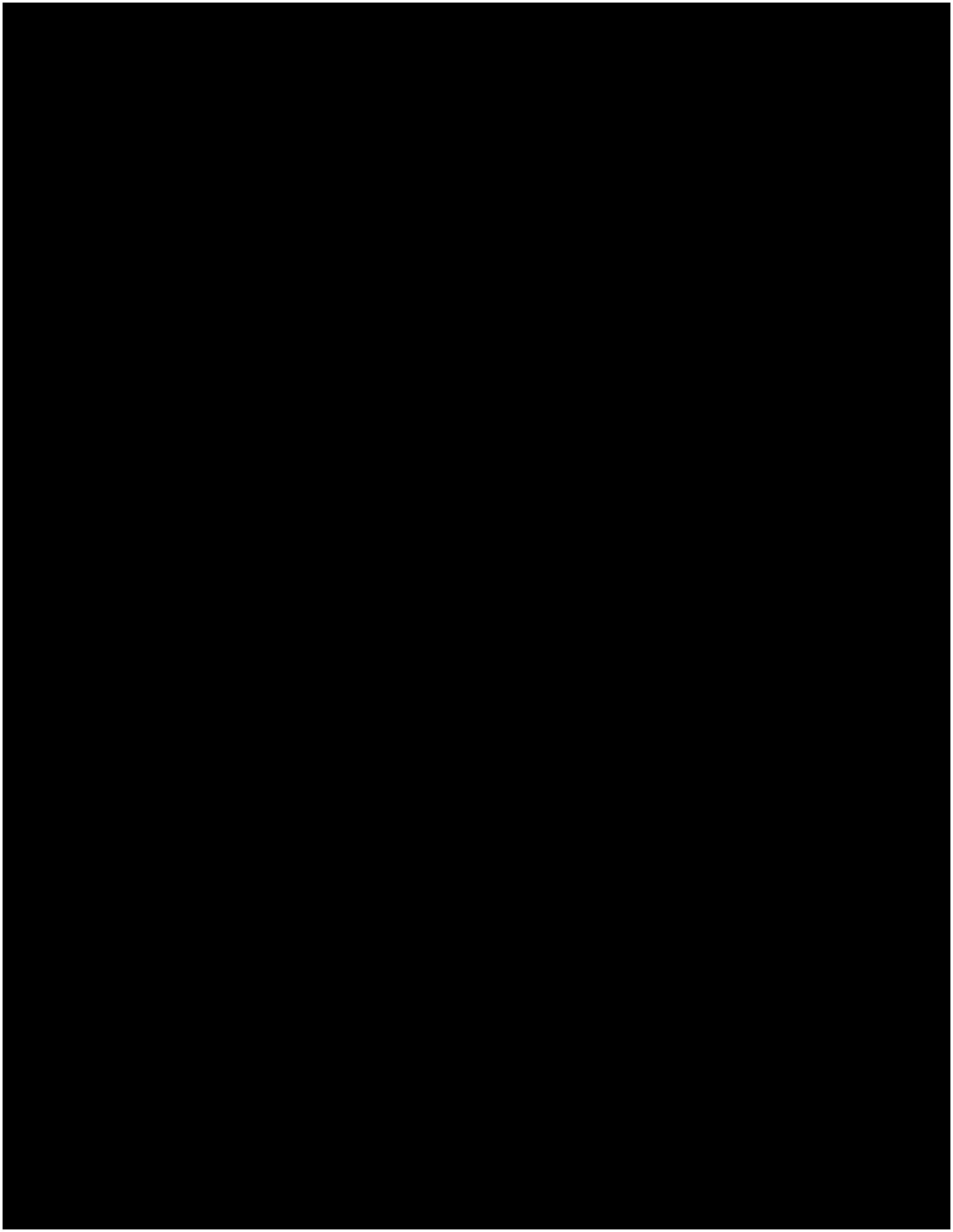
5. The respondent, Arkansas Department of Health and Human Services, is an agency of the State of Arkansas. Jennifer Wilkerson was an employee of the Arkansas Department of Health and Human Services and was engaged in the course and scope of her employment at all times relevant to this cause of action.

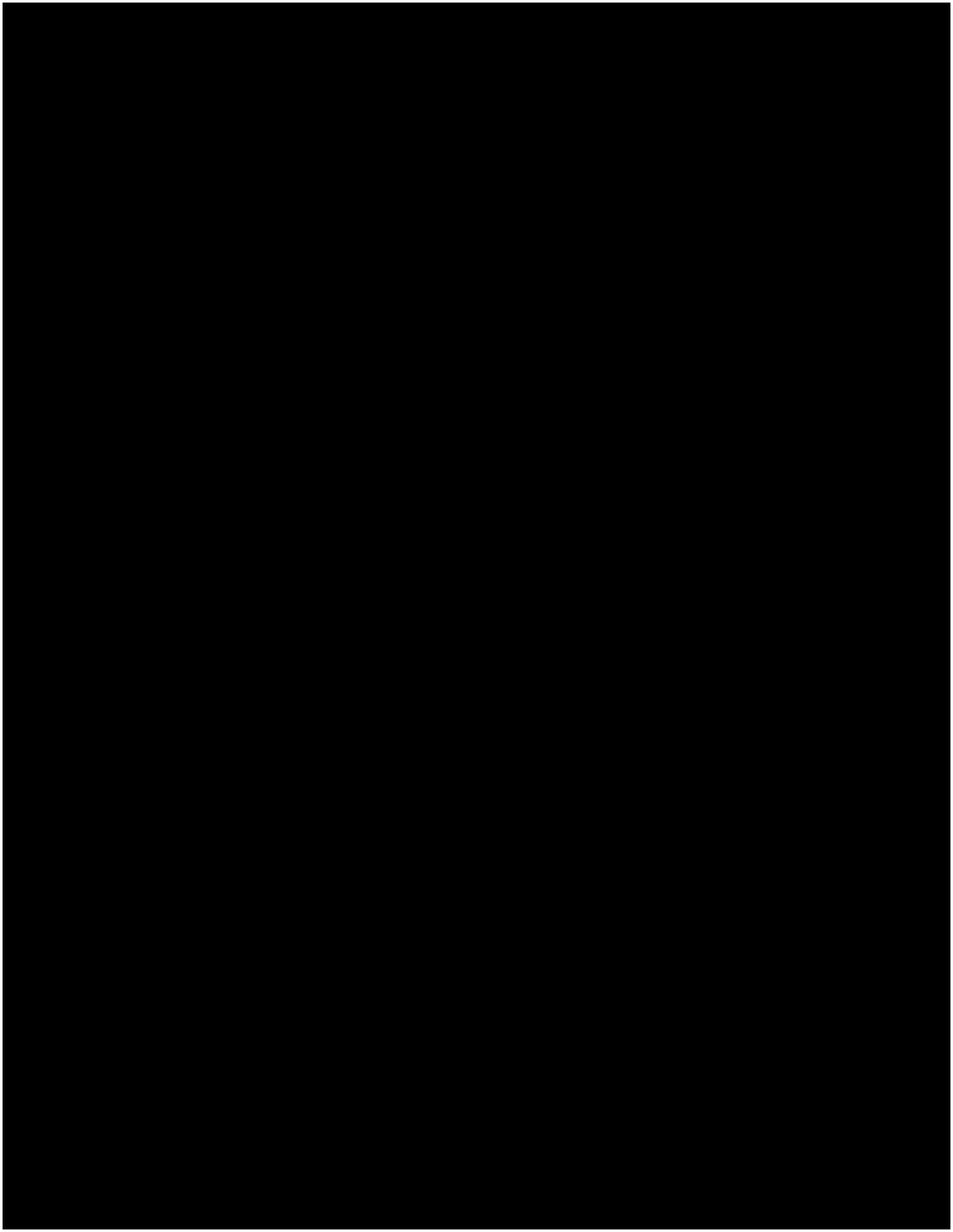
III. STATEMENT OF THE CASE

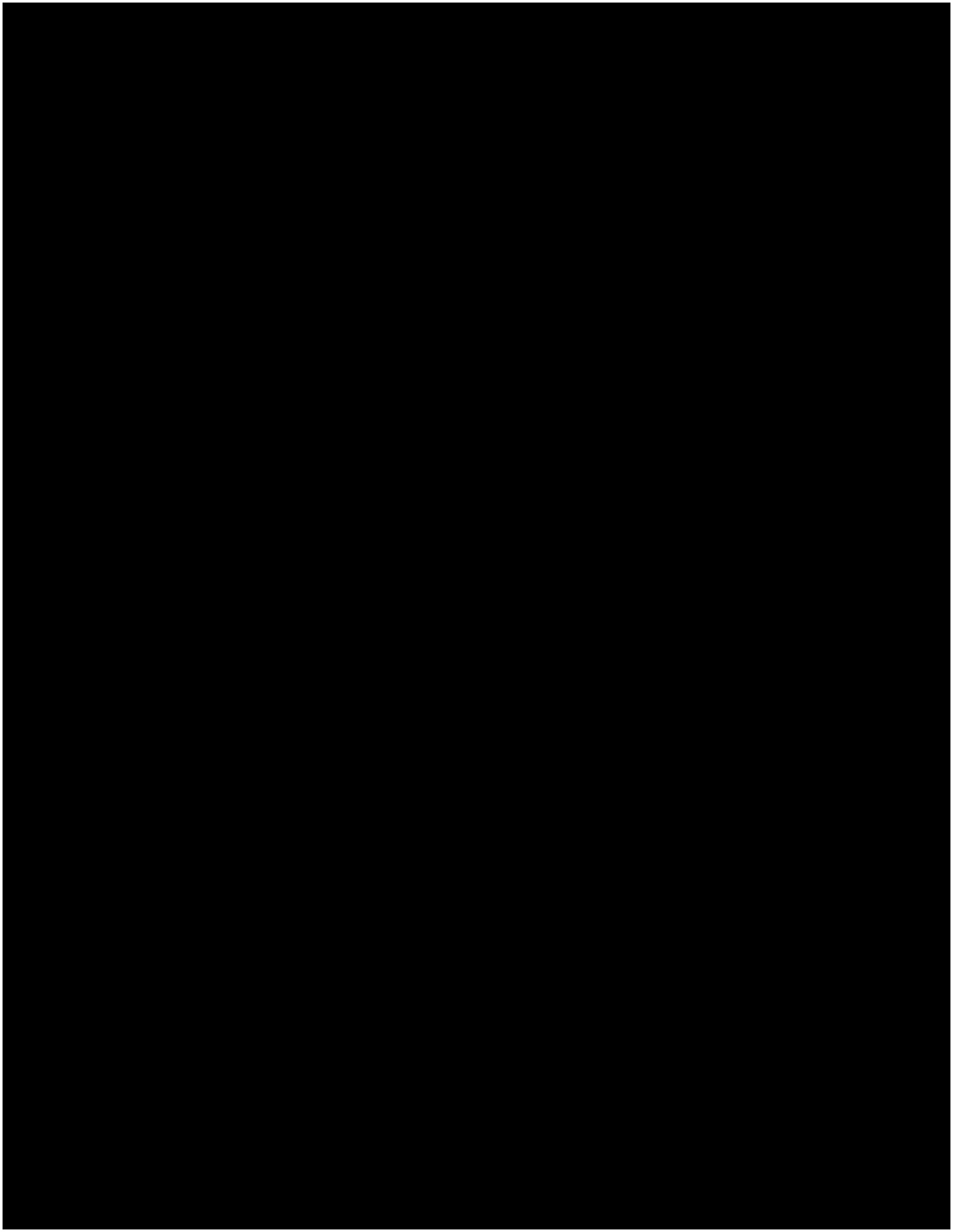
6. On Friday, June 11, 2021, at approximately 12:50 p.m., Jacqueline Ashcraft was driving her 2005 Hyundai Sonata eastbound on State Highway 22 in Logan County near Subiaco Academy. She had three passengers in the back seat of her car: her daughters [redacted] and her great nephew, [redacted], who was in a baby seat between [redacted] Ms. Ashcraft was taking the baby to his home at [redacted] Ms. Ashcraft slowed to make a left-hand turn into a driveway for [redacted] She used her left-hand blinker to indicate to traffic she was attempting a left-hand turn. Ms. Ashcraft had to come to a full stop prior to commencing the left-hand turn to avoid oncoming westbound traffic.

7. Jennifer Wilkerson was operating a 2009 Hyundai Elantra owned and maintained by the Arkansas Department of Health and Human Services. She was traveling eastbound on Highway 22 immediately behind Ms. Ashcraft's 2005 Hyundai Sonata. Ms. Wilkerson negligently failed to recognize that Ms. Ashcraft's vehicle was slowing down to make a left-hand turn. Ms. Wilkerson negligently drove her car into the rear end of Ms. Ashcraft's car. The collision knocked Ms. Ashcraft's car onto the eastbound shoulder. Ms. Wilkerson's vehicle then entered a counterclockwise spin, causing her vehicle to strike a truck and trailer that was traveling westbound on Highway 22.

8. Trooper Ray's three diagrams are below.







IV. NEGLIGENCE

9. Jennifer Wilkerson was employed by the respondent and was operating within the scope of her employment at all relevant times to this cause of action.

10. The Arkansas Department of Health and Human Services is liable for all damages caused by Jennifer Wilkerson under the *respondeat superior* doctrine.

11. The respondent's employee, Jennifer Wilkerson, is guilty of negligence, which was the proximate cause of the above-described vehicle collision in the following particulars:

(a) In following a vehicle more closely than was reasonable and prudent which is a violation of Ark. Code Ann. §27-51-305.

(b) in failing to keep the vehicle she was driving under proper control;

(c) in failing to yield the right-of-way to the superior traffic which is a violation of Arkansas statutes and common law;

(d) in failing to exercise ordinary care for her own safety and for the safety of others using the highway;

(e) in driving in a careless and reckless manner which is a violation of Ark. Code Ann. § 27-51-104 and common law; and

(f) in driving in excess of the posted highway speed in violation of Ark. Code Ann. §27-51-204.

12. State Trooper James Ray investigated the accident. He found that Jennifer Wilkerson's actions were "inattentive, careless, negligent, or erratic operation" at the time of the crash.



13. Conversely, State Trooper James Ray found that Jacqueline Ashcraft had "no contributing action" at the time of the collision. Attached as Exhibit 2 is a copy of Trooper Ray's Accident Report.

14. Below is a true copy of the section from Trooper Ray's accident report in which he checked the box next to "No contributing action" for the section that applied to Jacqueline Ashcraft.

[redacted]

V. *RESPONDEAT SUPERIOR*

15. All acts of negligence of the respondent's employee, Jennifer Wilkerson, are imputed to the respondent, Arkansas Department of Health and Human Services, as a matter of law.

VI. CAUSATION

16. The negligent acts on the part of the respondent's employee, Jennifer Wilkerson, were the sole and proximate cause of the wrongful death, injuries, and damages sustained by Jacqueline Lynn Ashcraft, [redacted], as more specifically described herein.

VII. DAMAGES

17. The impact from the collision knocked Jacqueline Ashcraft's car more than 93 feet. The impact caused the DHS employee's car to ricochet into the oncoming tractor-trailer rig and spin counterclockwise approximately 270° to its final resting place. The magnitude of the property damage cannot be fully described in words. The Ashcraft vehicle is below in the left frame and the DHS vehicle is in the right frame.



18. Jacqueline Lynn Ashcraft initially survived the collision and was able to speak with her children and witnesses/bystanders. Unfortunately, the collision from the wreck caused Ms. Ashcraft to develop a traumatic brain bleed injury which led to her death. The force of the collision caused her to suffer an intracerebral hemorrhage[1] which led to a rapid neurological decline.

19. Ms. Ashcraft was transported by Logan County EMS to the emergency room at Booneville, Arkansas, where a CT scan revealed she had sustained a Massive Right Basal Ganglia Hemorrhage in the collision leading to severe brain compression and Uncal

[1] "Bleeding on the brain"

Herniation.[2] Ms. Ashcraft was emergently transported via med-flight to Mercy Medical Center in Fort Smith.

20. Ms. Ashcraft's three adult children were notified of the severity of her injuries. Haley Hudson immediately traveled from her job in Wynne to Fort Smith, Arkansas. Upon arrival, Haley was informed by the neurosurgeon that her mother's condition was terminal and there was nothing further that could be done to save her mother's life. Haley and her two adult brothers, Dalton and Mark, made the decision to follow the doctor's advice and allow the medical providers to compassionately extubate life support.

21. The claimant, Haley Hudson, as Special Administratrix of the estate of Jacqueline Lynn Ashcraft, deceased, is asserting a claim for damages for the survival injuries and subsequent wrongful death of Jacqueline Lynn Ashcraft, and for the bodily injury claims of [redacted] all of which were proximately caused by the negligence of the respondent's employee, Jennifer Wilkerson.

WRONGFUL DEATH CLAIM

22. Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, claims she is entitled to recover for the following damages, all of which were proximately caused by the negligence of Jennifer Wilkerson, said negligence being imputed to the respondent, Arkansas Department of Health and Human Services:

(a) Compensatory damages for the severe pain, suffering, and mental anguish sustained by Jacqueline Lynn Ashcraft after the impact until her death;

[2] Uncal herniation occurs when rising intracranial pressure causes portions of the brain to move from one intracranial compartment to another. It is a life-threatening neurological emergency and indicates the failure of all adaptive mechanisms for intracranial compliance.

(b) Compensatory damages for the mental anguish sustained, and reasonably probable to be suffered in the future, by the statutory beneficiaries who are listed below:

Name	Relationship	Address
[redacted]	Minor Daughter	[redacted]
	Minor Daughter	
Dalton Cody Ashcraft	Adult Son	
Mark Hudson	Adult Son	
Haley Nicole Hudson	Adult Daughter	
LaDonna Jackson	Mother	
Jeffrey Ashcraft	Brother	
Bobby Ashcraft	Brother	
Jennifer Howard	Half-Sister	
Joshua Jackson	Half-Brother	

(c) Pecuniary injuries sustained by [redacted]

(d) Pecuniary injuries sustained by [redacted]

(e) Compensatory damages for Jacqueline Lynn Ashcraft's Loss of Life;

(f) Reimbursement of reasonable funeral expenses; and

(g) Any medical bills incurred by the estate related to the fatal injuries.

BODILY INJURY CLAIMS

23. [redacted] sustained bodily injuries in the wreck. Haley Hudson, as Permanent Guardian of [redacted] seeks:

(a) Compensatory damages for the reasonable expense of any necessary medical care and other out-of-pocket expenses sustained by [redacted] and the present value of such expenses reasonably certain to be required in the future;

(b) Compensatory damages for the nature, extent, duration, and permanency of any injury sustained by [redacted] and

(c) Compensatory damages for any pain and suffering experienced in the past and reasonably certain to be experienced in the future.

24. [redacted] sustained bodily injuries in the wreck. Haley Hudson, as Permanent Guardian of [redacted] seeks:

(a) Compensatory damages for the reasonable expense of any necessary medical care and other out-of-pocket expenses sustained by [redacted] and the present value of such expenses reasonably certain to be required in the future;

(b) Compensatory damages for the nature, extent, duration, and permanency of any injury sustained by [redacted] and

(c) Compensatory damages for any pain and suffering experienced in the past and reasonably certain to be experienced in the future by [redacted]

25. The claimant's total compensatory damages, as shall be proven by the evidence, is Five Million Dollars ($5,000,000.00).

REQUIREMENT OF ARK. CODE ANN. §19-10-208(d)

26. The claimant has not presented this claim to any other state department or officer thereof prior to the original online filing of the Complaint to open this matter.

27. The respondent did have a liability insurance policy with Cincinnati Insurance Company. Cincinnati Insurance Company filed an Interpleader naming the respondent and the claimant in a matter styled: *Cincinnati Insurance Company vs. Haley Hudson, Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, et al., and Guardian of the Estates of* [redacted] *both minors, Jennifer Wilkerson, Arkansas Department of Human Services, Bobby Dale Wilson, Joe Ashley Trucking, LLC, GKD Management, LP DBA Commercial Trucking, Inc. and Tru Homes, LLC*, Logan County Circuit Court No. 42PCV-21-116.

28. The respondent's legal counsel, Sean Strode, filed an Entry of Appearance on January 10, 2022, in the above-referenced Interpleader. The respondent should be intimately familiar with all filings since its legal counsel received these filing contemporaneously through the CM/ECF filing system and had access to them.

29. Cincinnati Insurance Company deposited the limits of its policy of $250,000 with the clerk of the court on or around March 21, 2022. Haley Hudson, as Special Administratrix of the Estate of Jacqueline Ashcraft, deceased, received $150,000 after attorney fees and case expenses for the wrongful death claim.

30. GKD Management, which was the third vehicle involved in this collision, received $12,500 of the $250,000. It appears that this was to pay the property damage from that claim.

31. Haley Hudson, as Permanent Guardian of the Estates of [redacted] and [redacted] minor children, has received nothing for their bodily injury claims.

UNDERINSURED MOTORIST CLAIM

32. Ms. Ashcraft did not have any uninsured or underinsured motorist coverage for the collision which is the subject of this claim.

WHEREFORE, the claimant, Haley Hudson, as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and Haley Hudson, as Permanent Guardian of [redacted] minor children, prays that she have a judgment against the respondent for a sum of Five Million Dollars ($5,000,000.00), and for all other necessary and proper relief to which she is entitled as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Permanent Guardian of the two minor children.

Respectfully Submitted,

Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
Phone: 501-823-3610
Fax: 501-823-3611
Jim@JimJacksonatty.com

By: _____
Jim R. Jackson
Arkansas Bar No. 93209

CERTIFICATE OF SERVICE

I, Jim Jackson, certify that on this date, consistent with the requirements of Ark. R. Civ. Pro. 5, and Commission Rule 1.5(b), a complete copy of the foregoing was electronically submitted with the Clerk of the Arkansas Claims Commission and electronically served on counsel for the Arkansas Department of Health and Human Services and three copies of each exhibit were deposited in the mail to the Director of the Arkansas State Claims Commission.

/s/ Jim R. Jackson
Jim R. Jackson

CLAIM SUBMISSION SIGNATURE PAGE

The undersigned attorney, Jim Jackson, certifies that to the best of his knowledge, information, and belief, this claim is not being presented for any improper purpose; this claim is warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; and the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

Jim R. Jackson
Jim R. Jackson

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF PULASKI)

On this day before the undersigned, Martha Cox, a Notary Public duly qualified and acting in and for the county and state aforesaid, personally appeared Jim Jackson, to me well known and satisfactorily proven to be the person whose name appears in the foregoing instrument, and stated that he has executed the same for the consideration, uses, and purposes therein stated and stated that he had executed the foregoing instrument of his own free will, for the purposes and consideration therein stated.

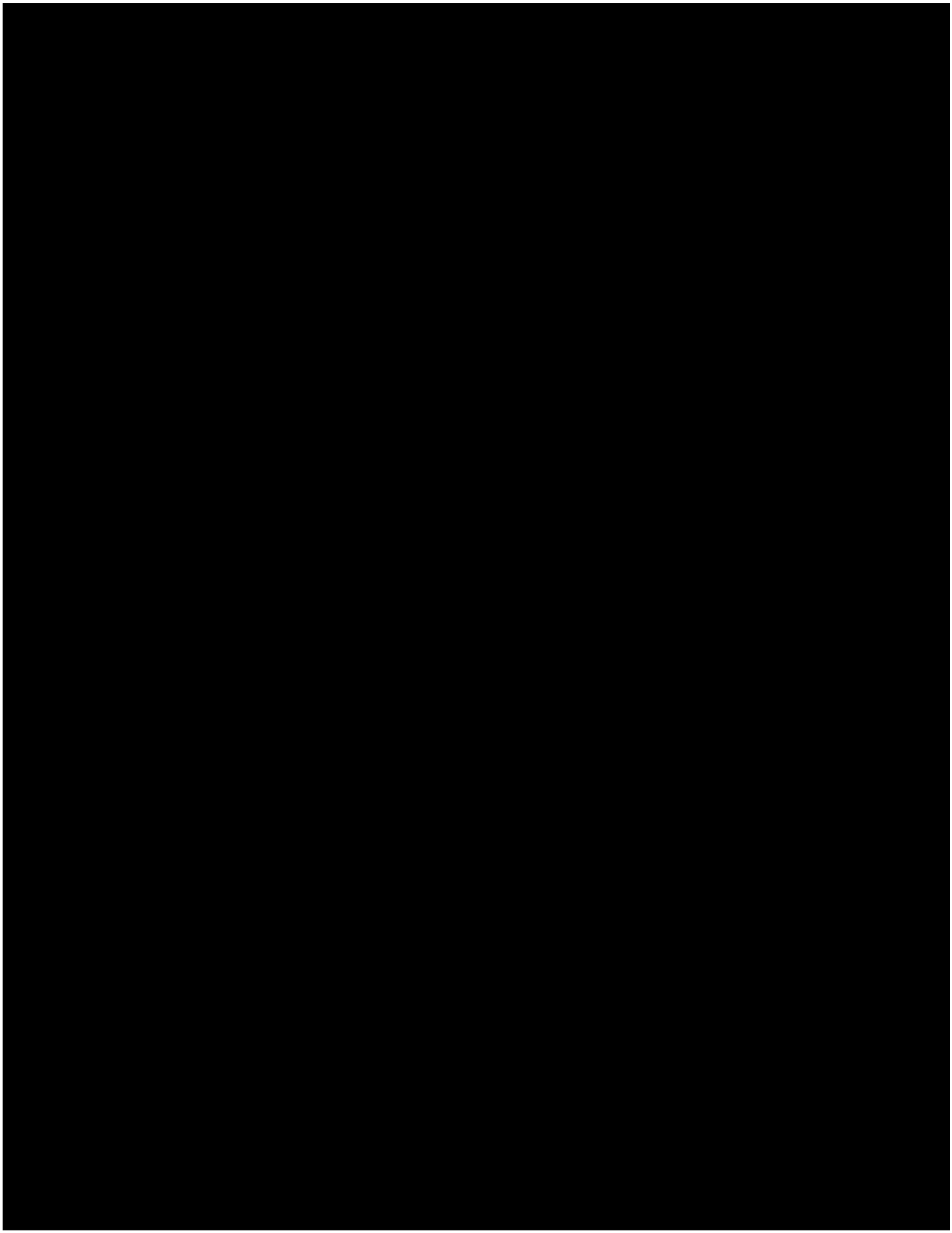
In witness whereof, I hereunto set my hand and Notary Seal on this 10th day of May, 2023.

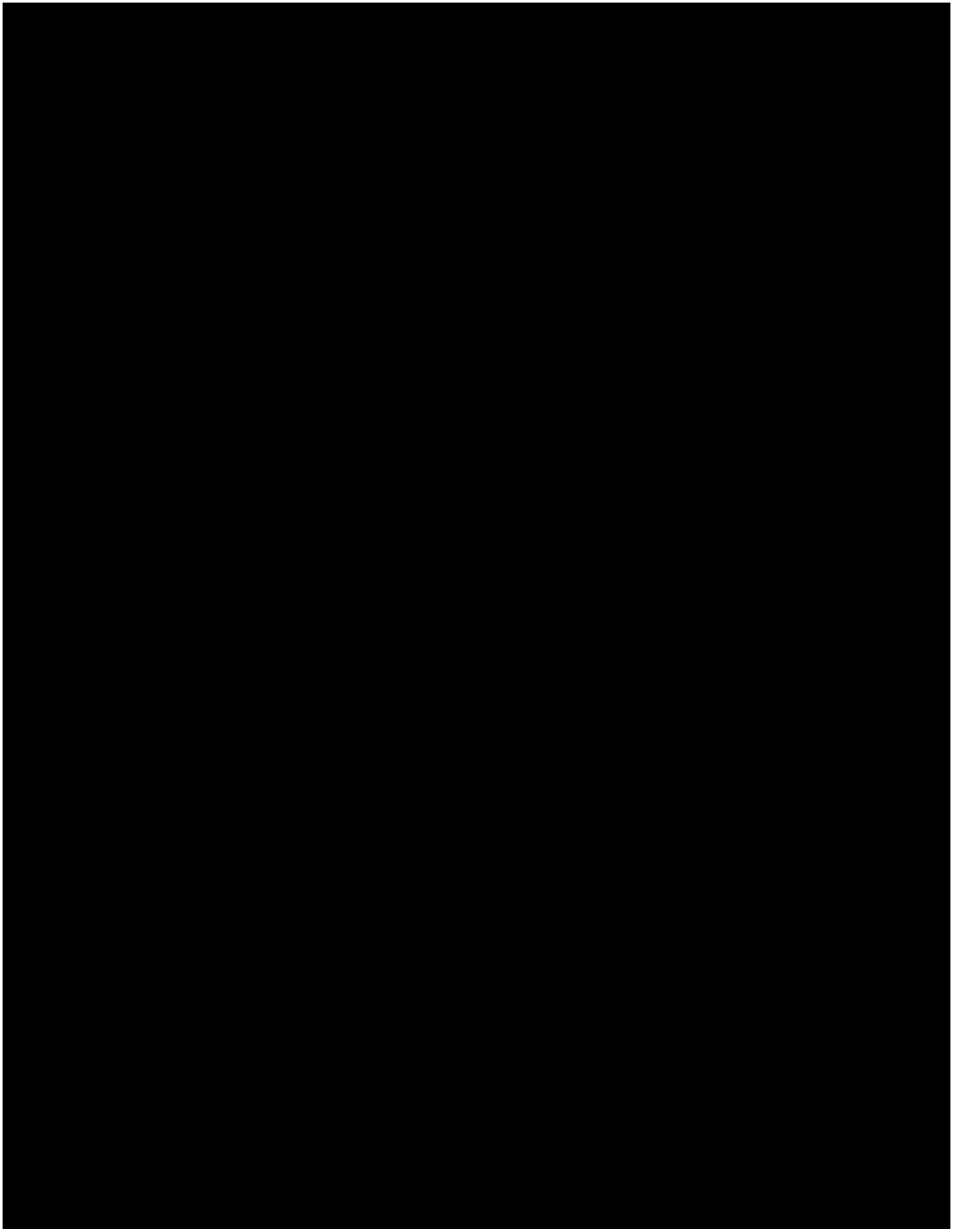
Martha Cox
Notary Public

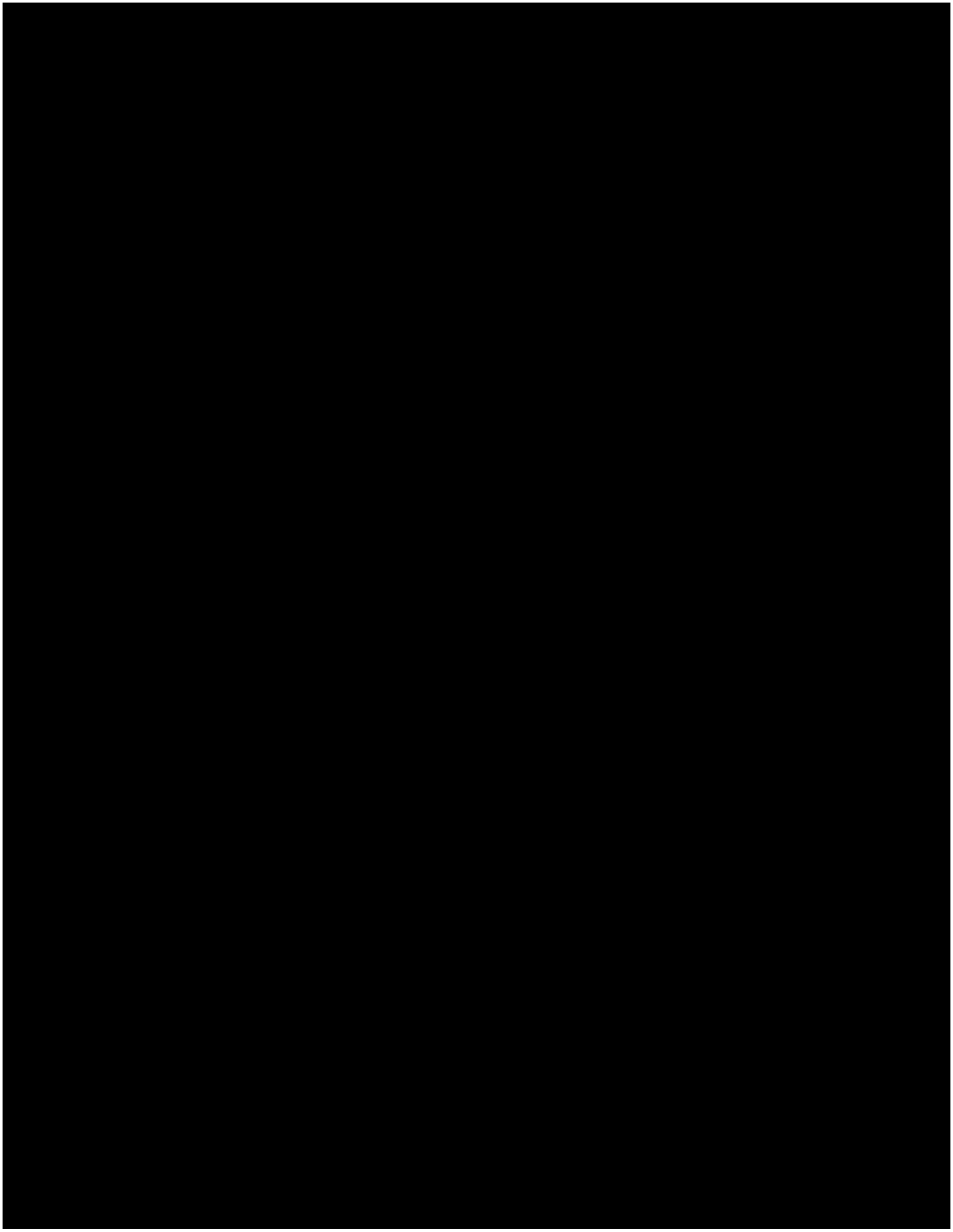
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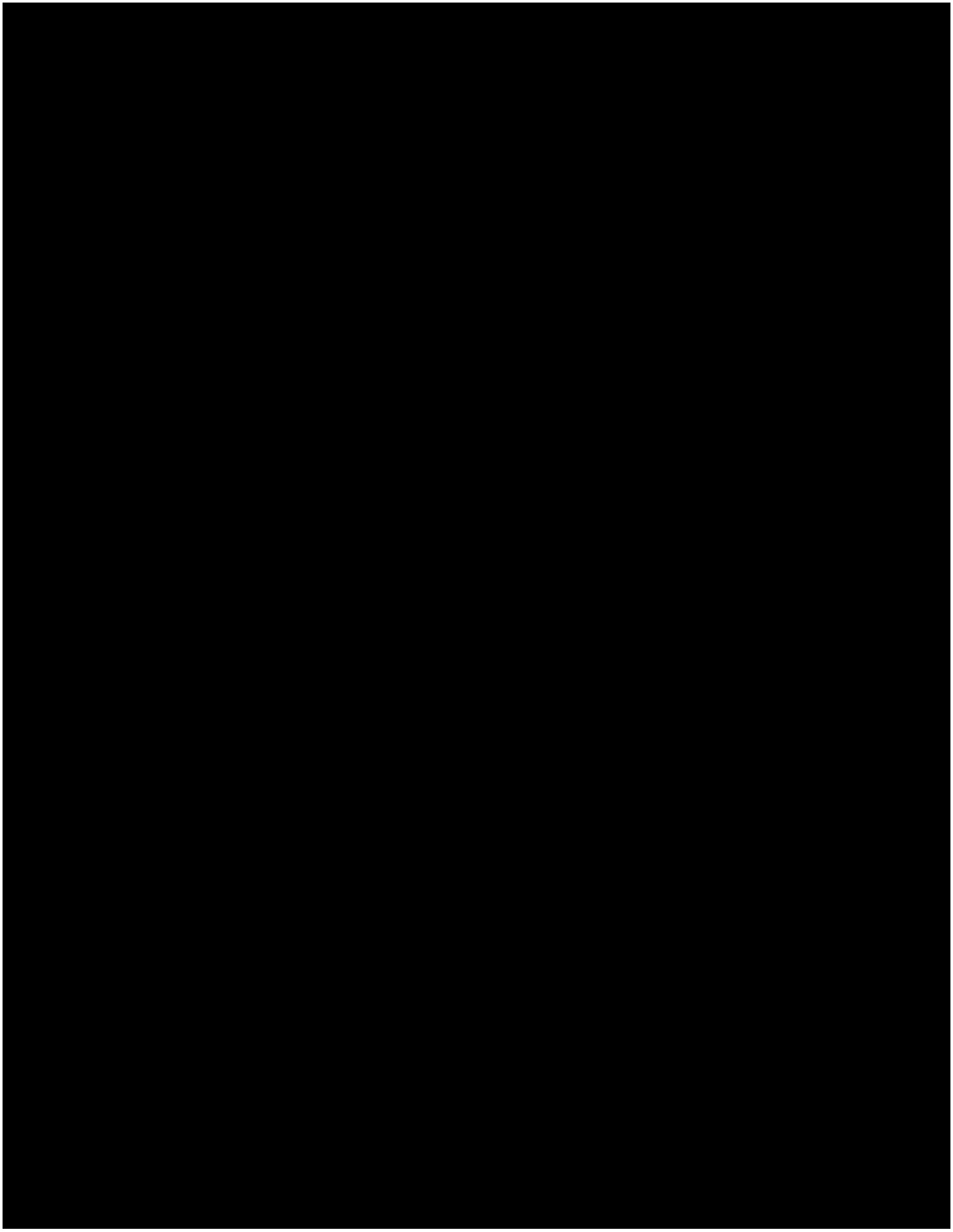
[SEAL]

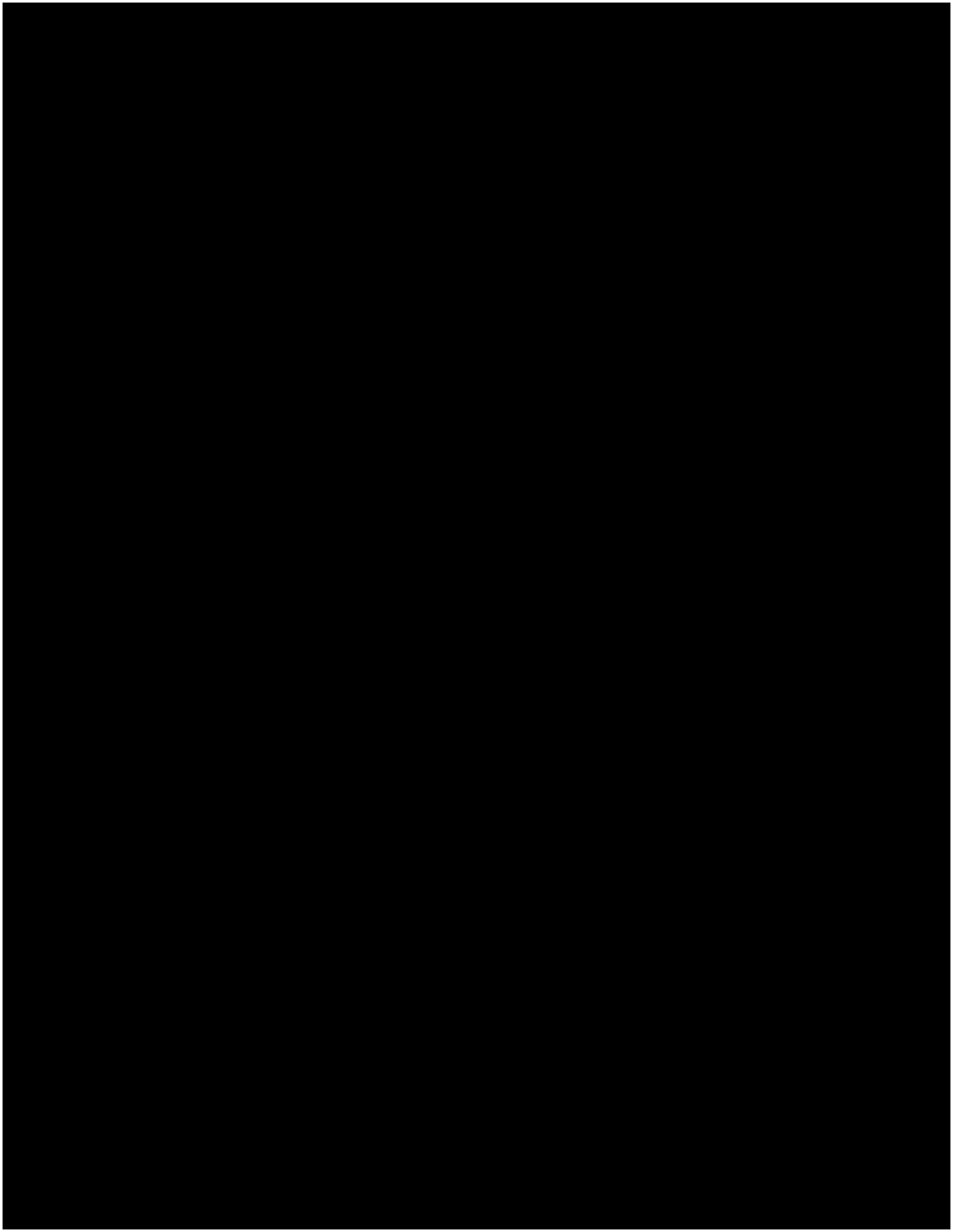
MARTHA COX
NOTARY PUBLIC - STATE OF ARKANSAS
SALINE COUNTY
My Commission Expires 8-19-2031
Commission # 12383466

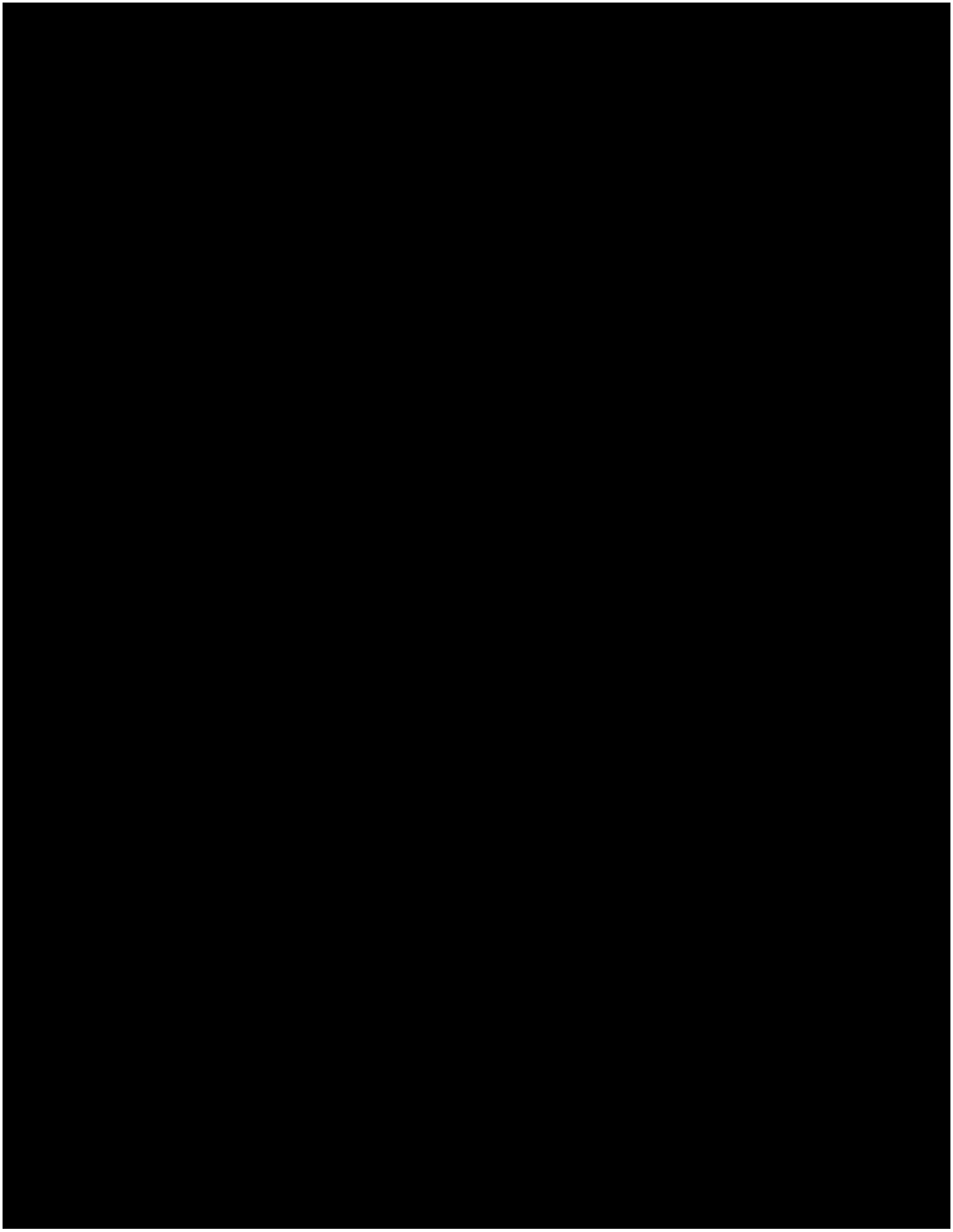


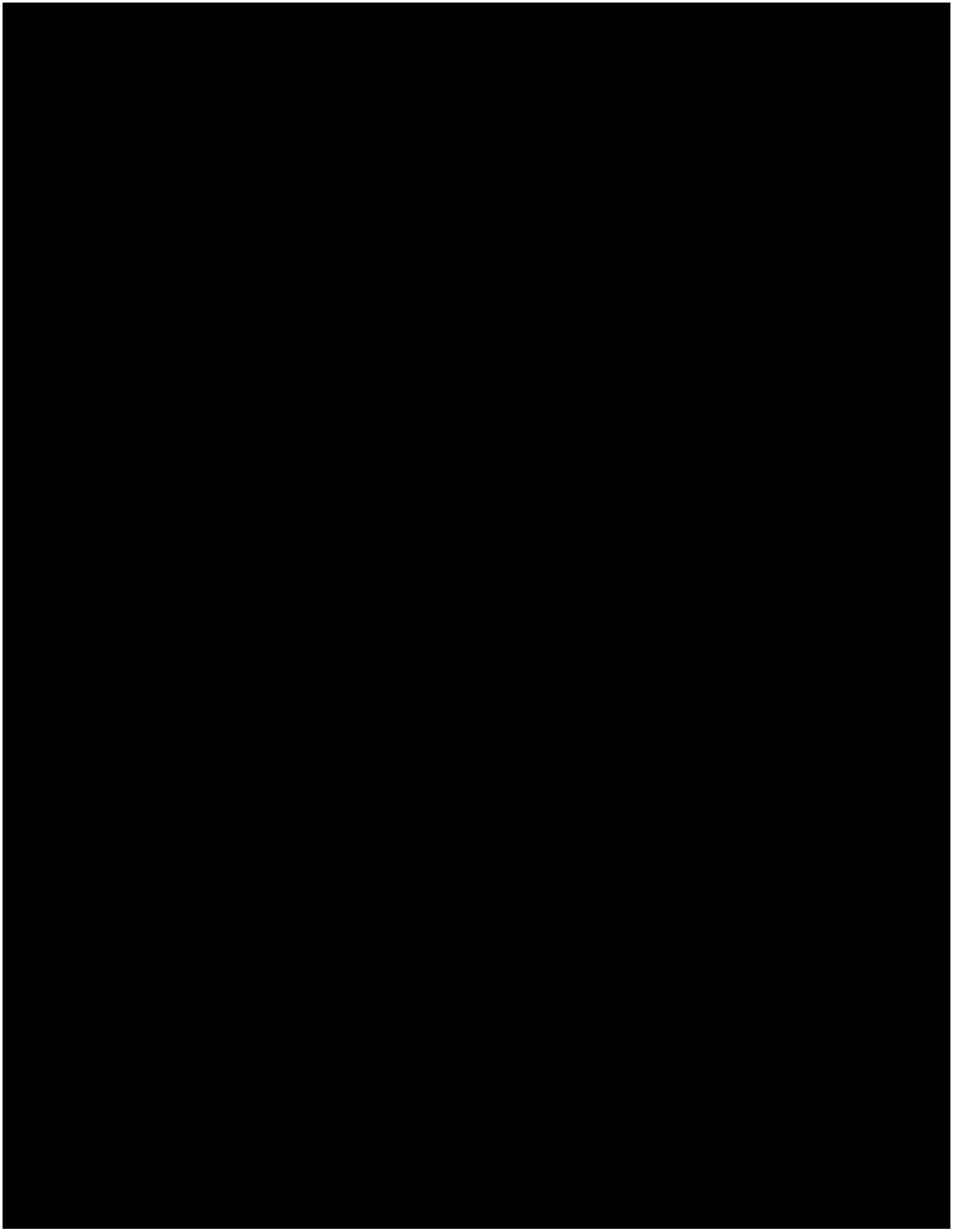


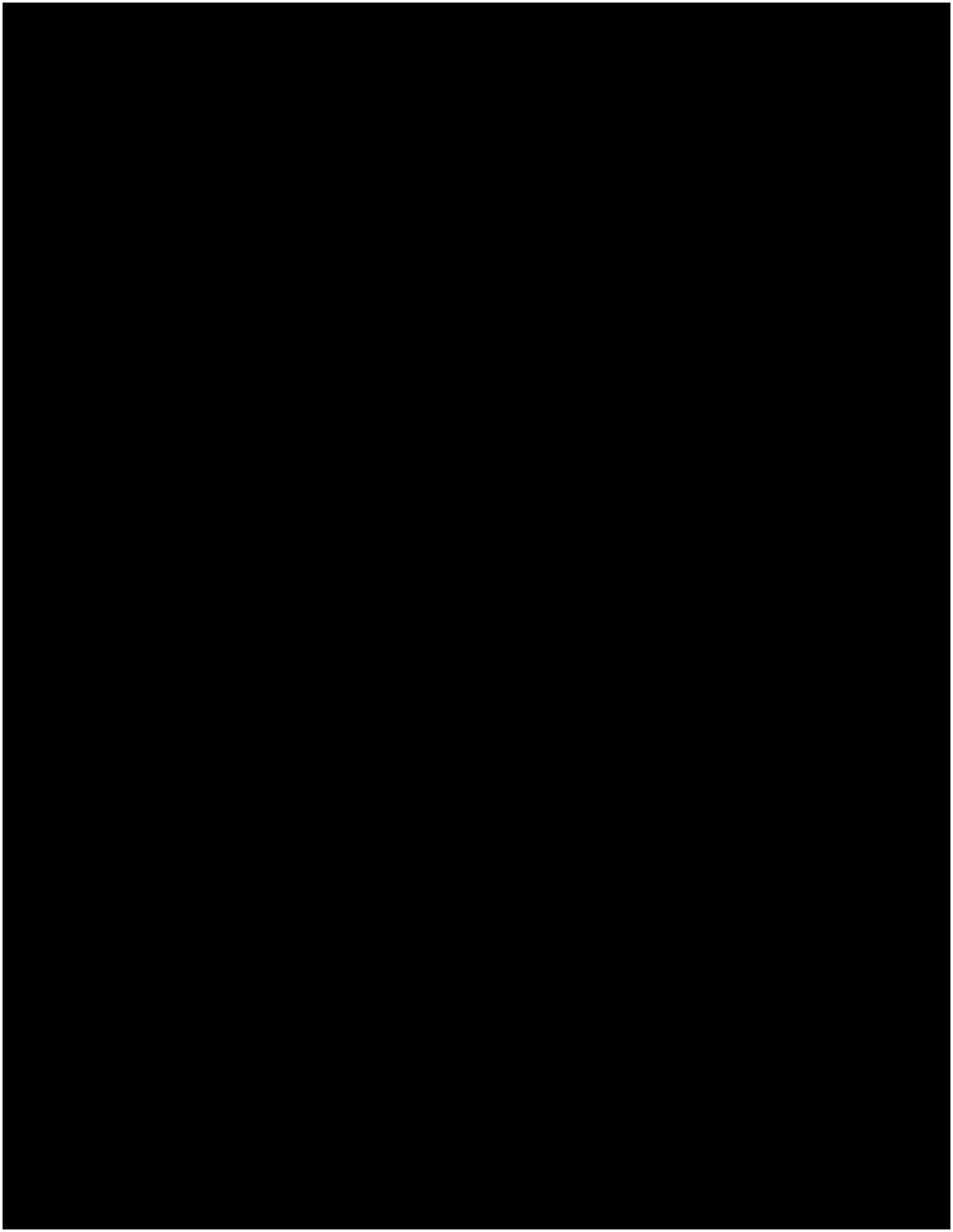


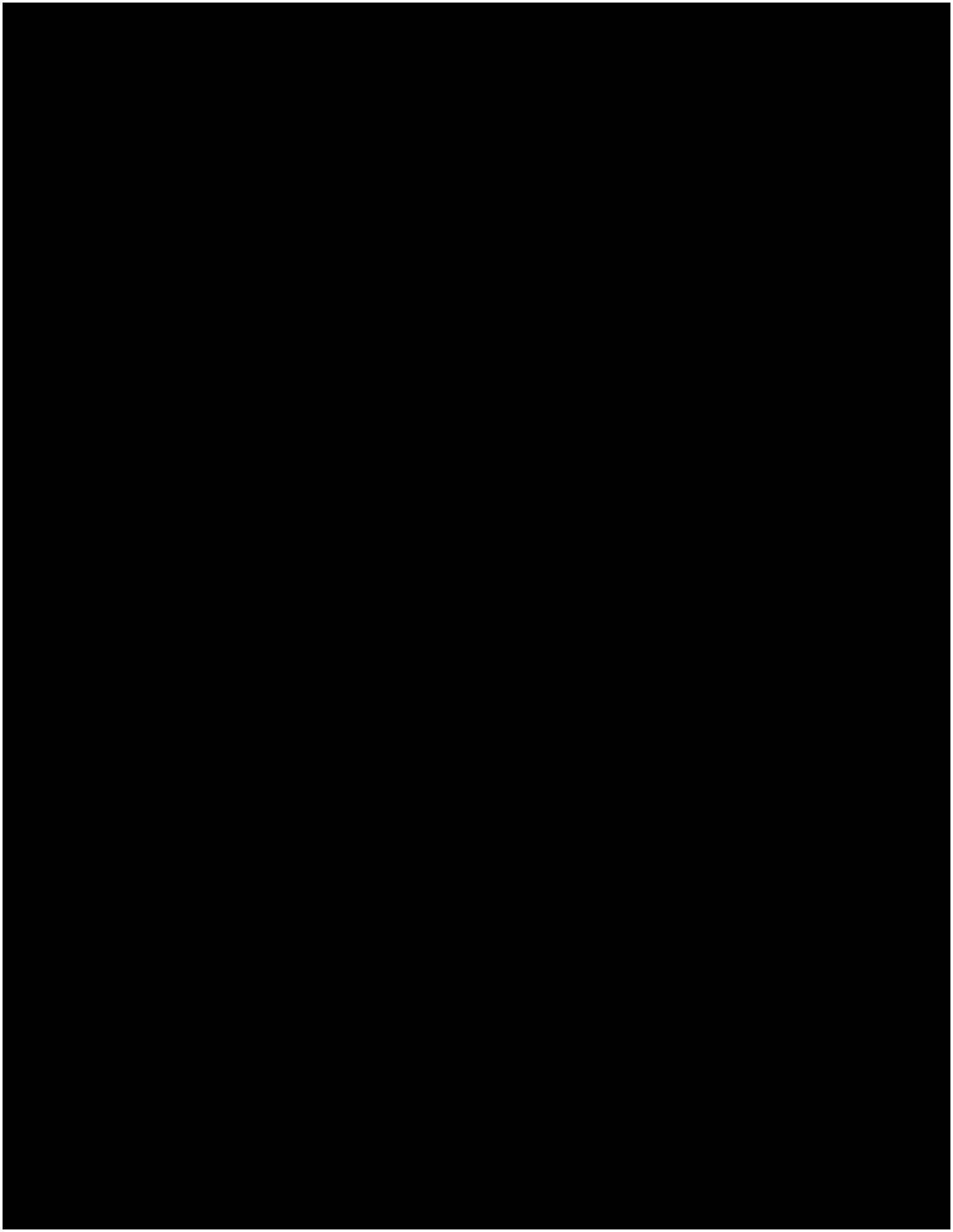


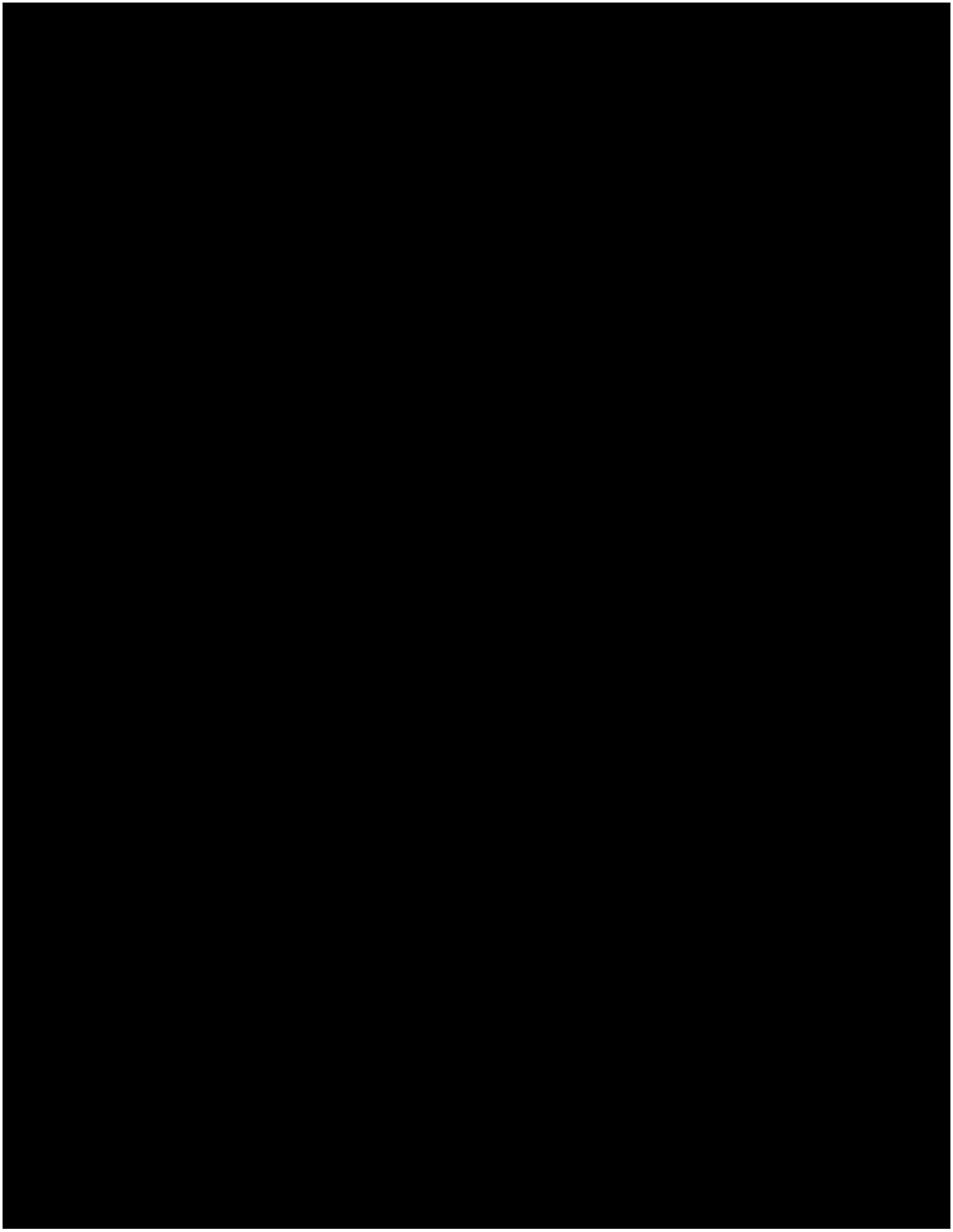


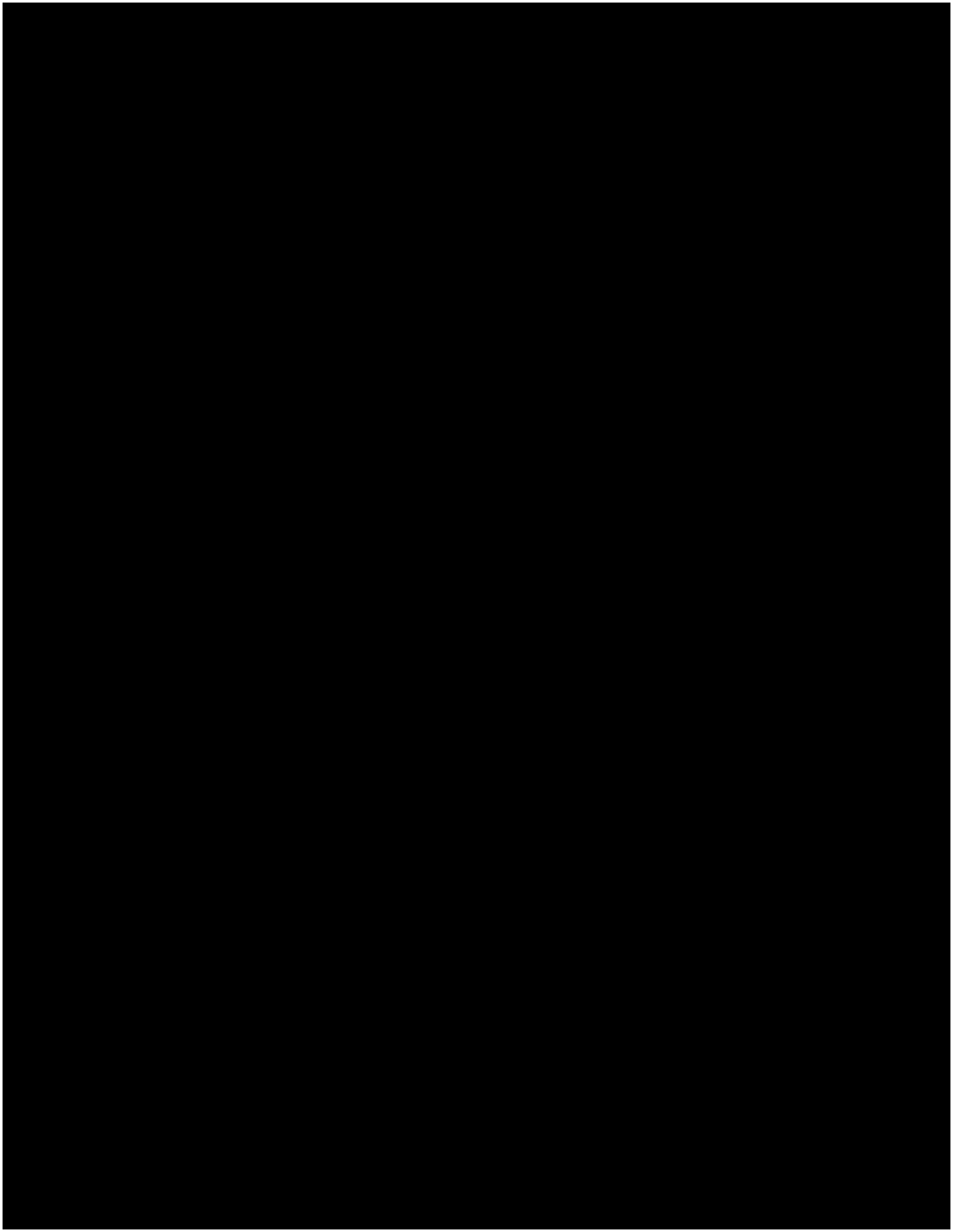


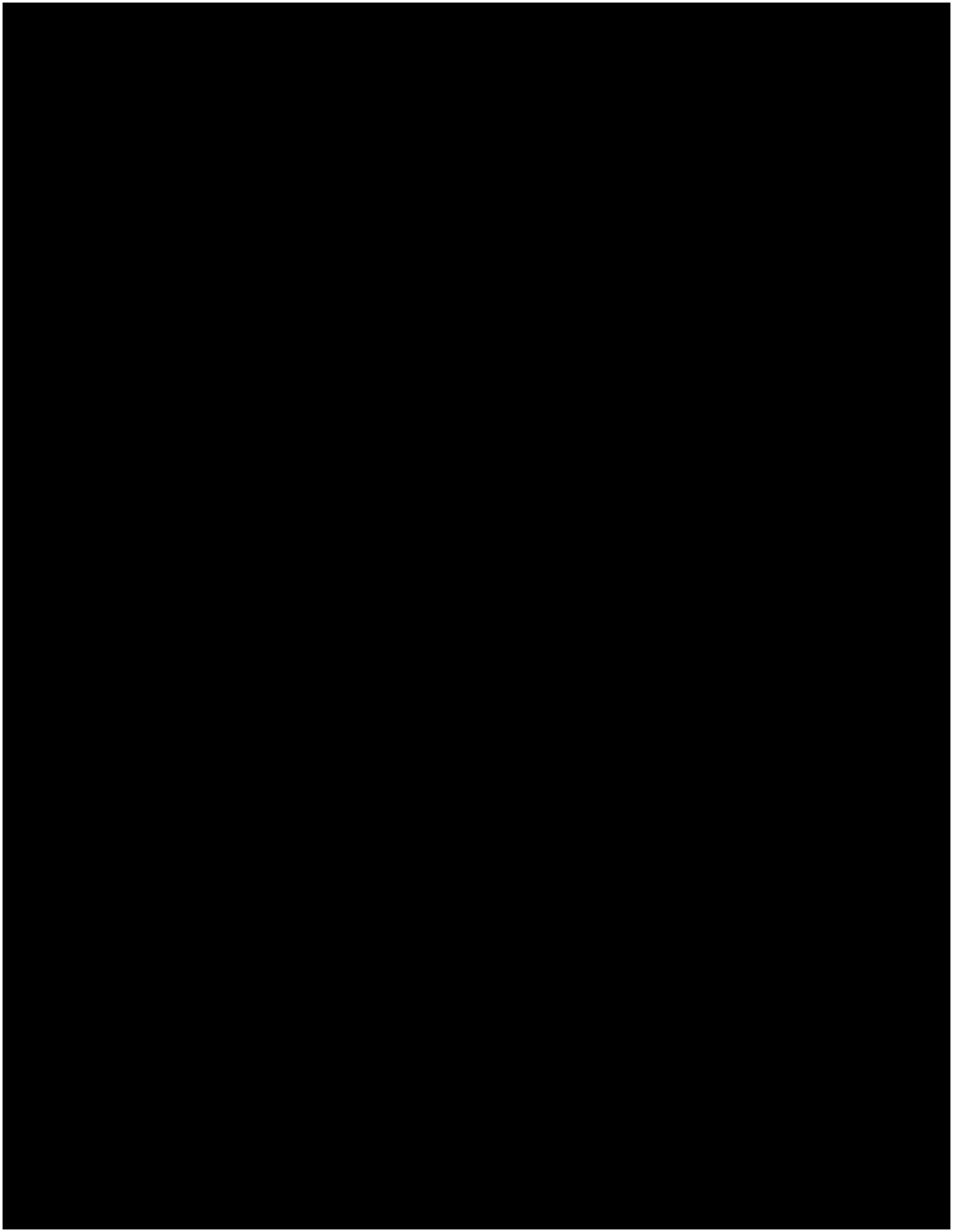


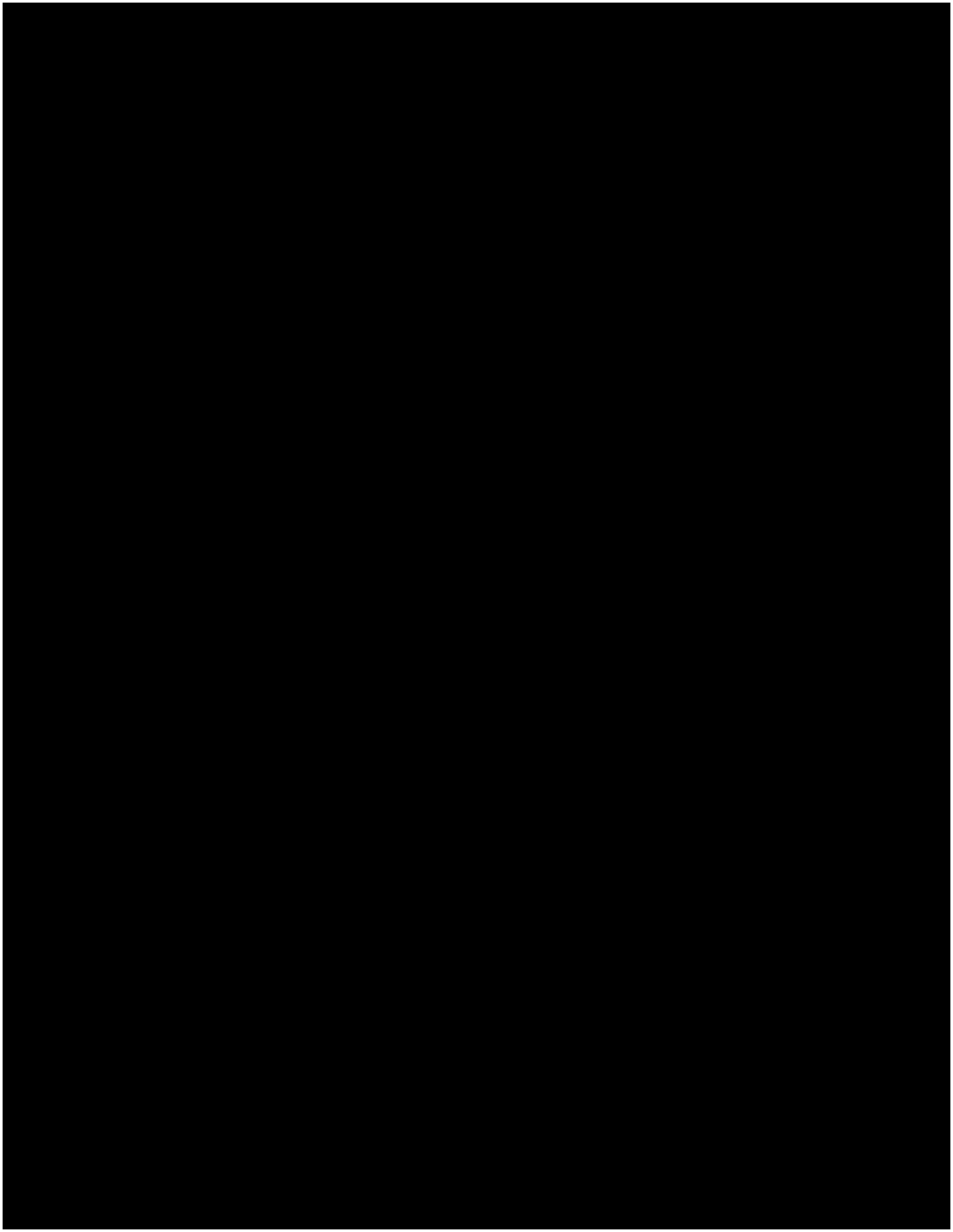


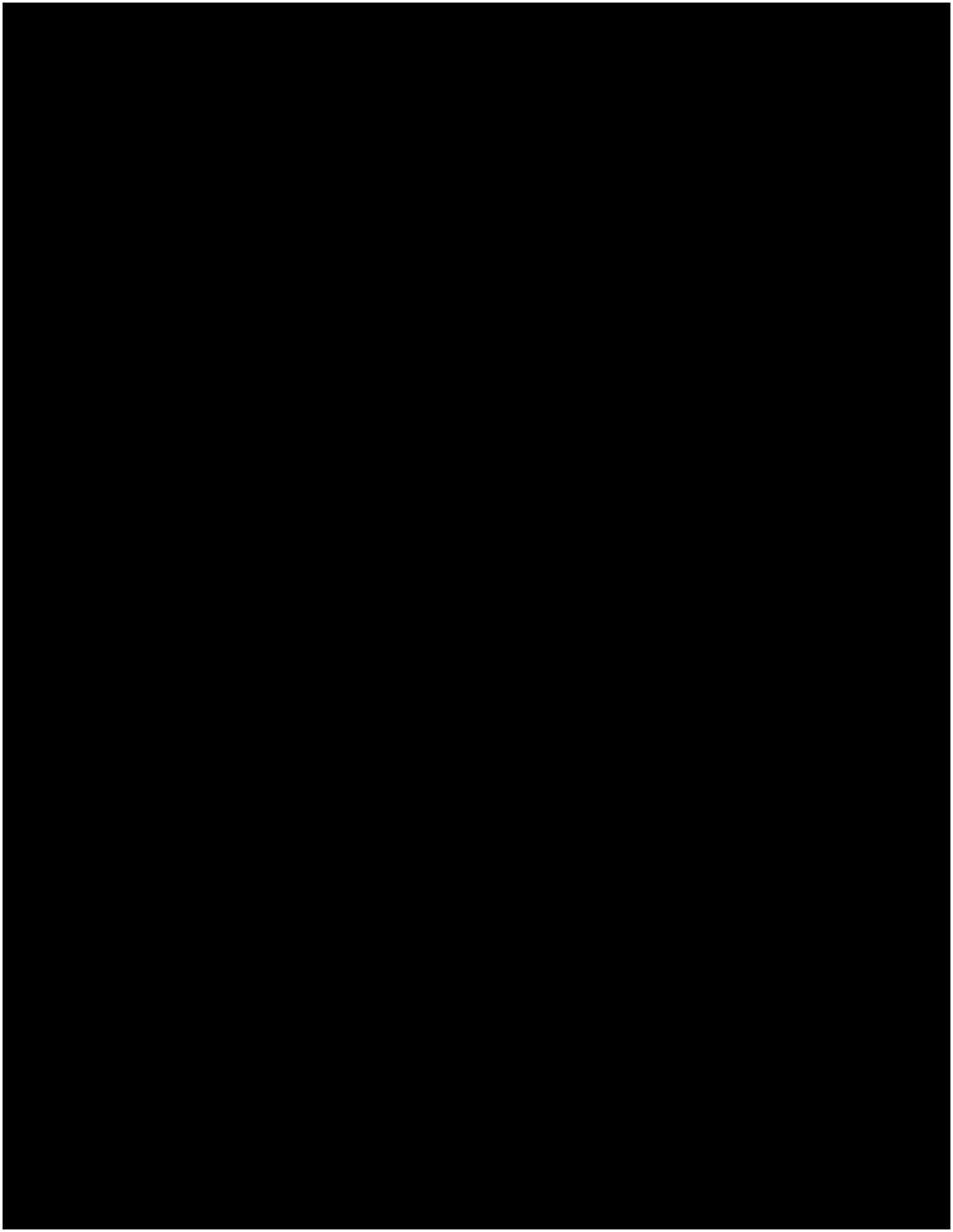


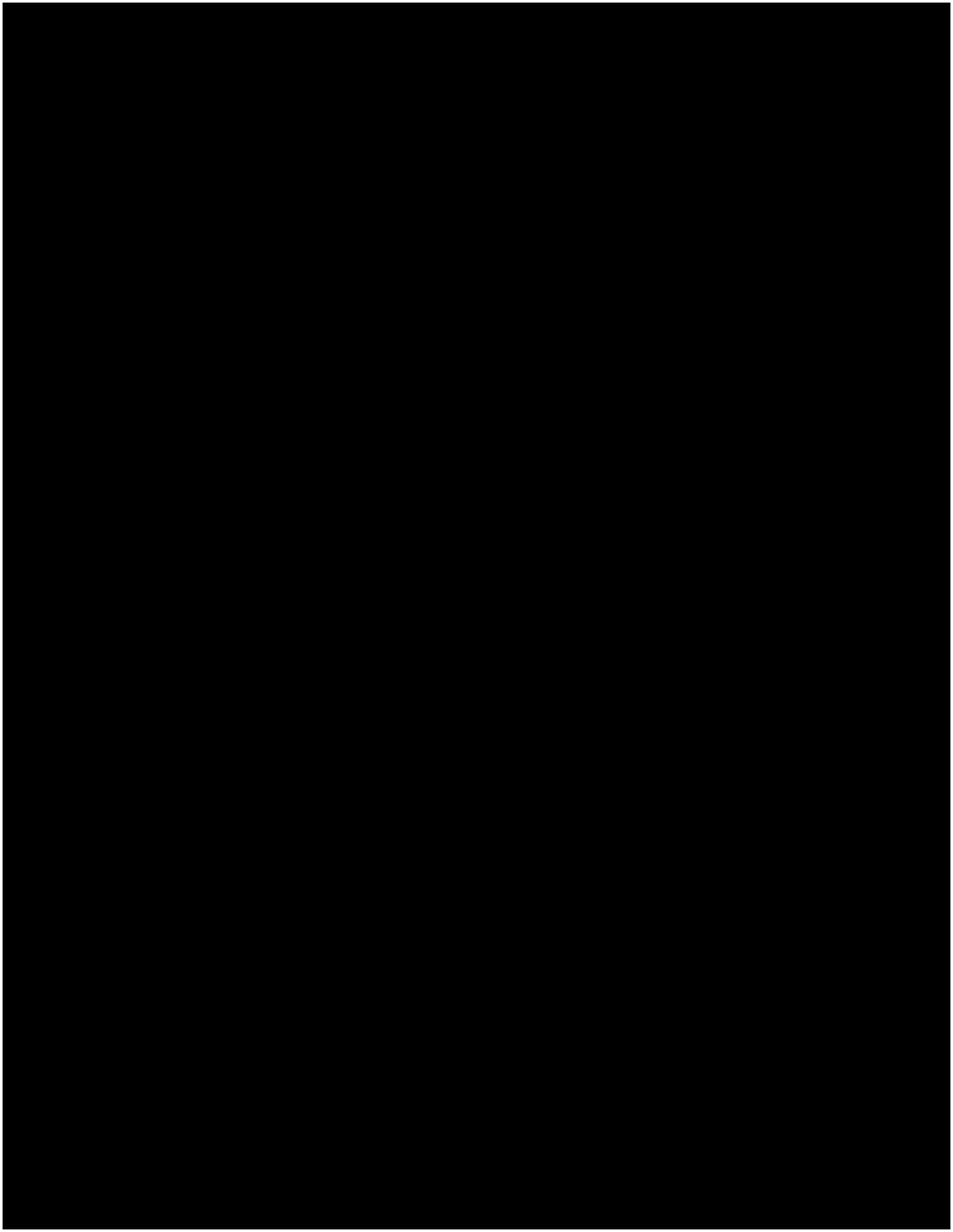


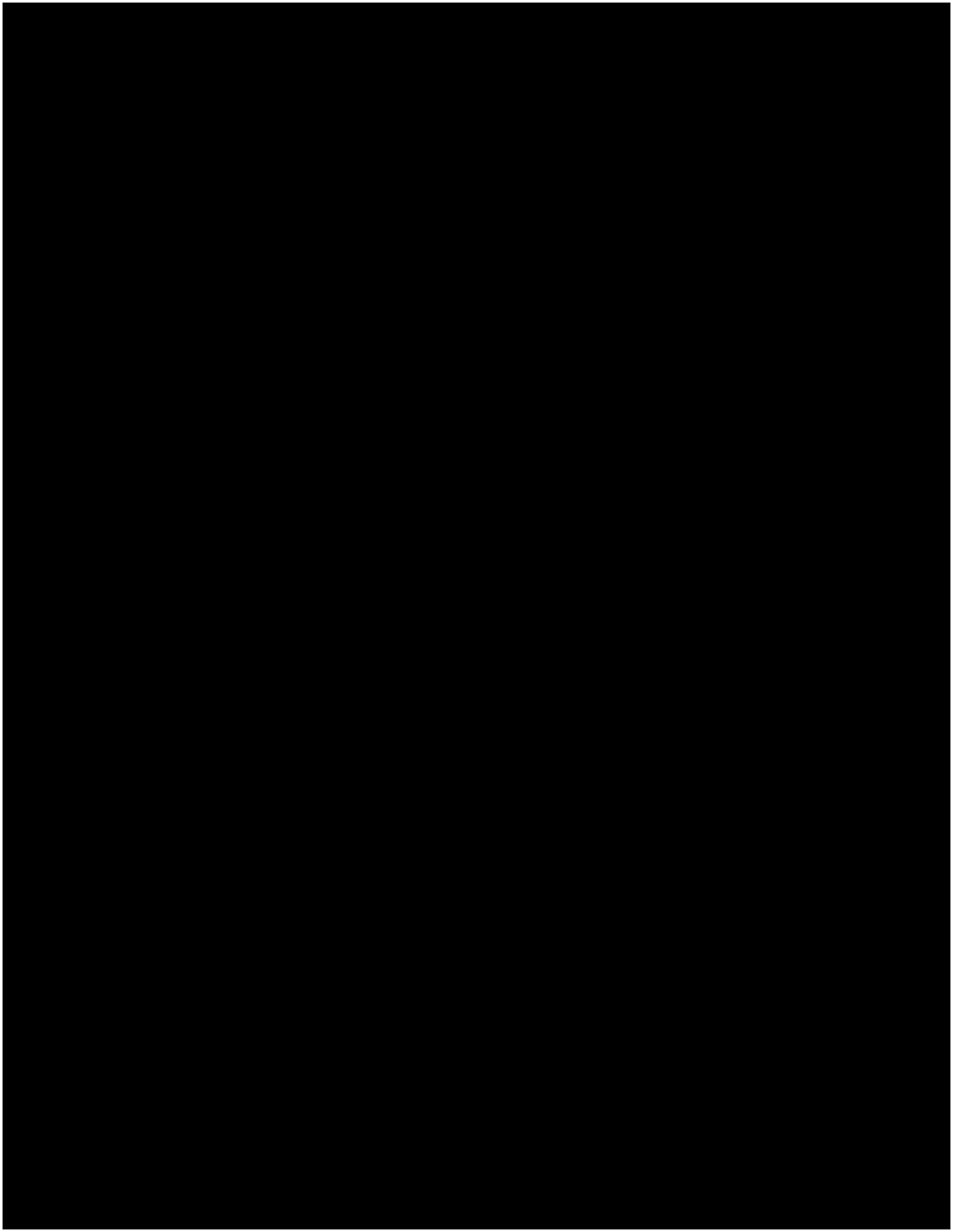


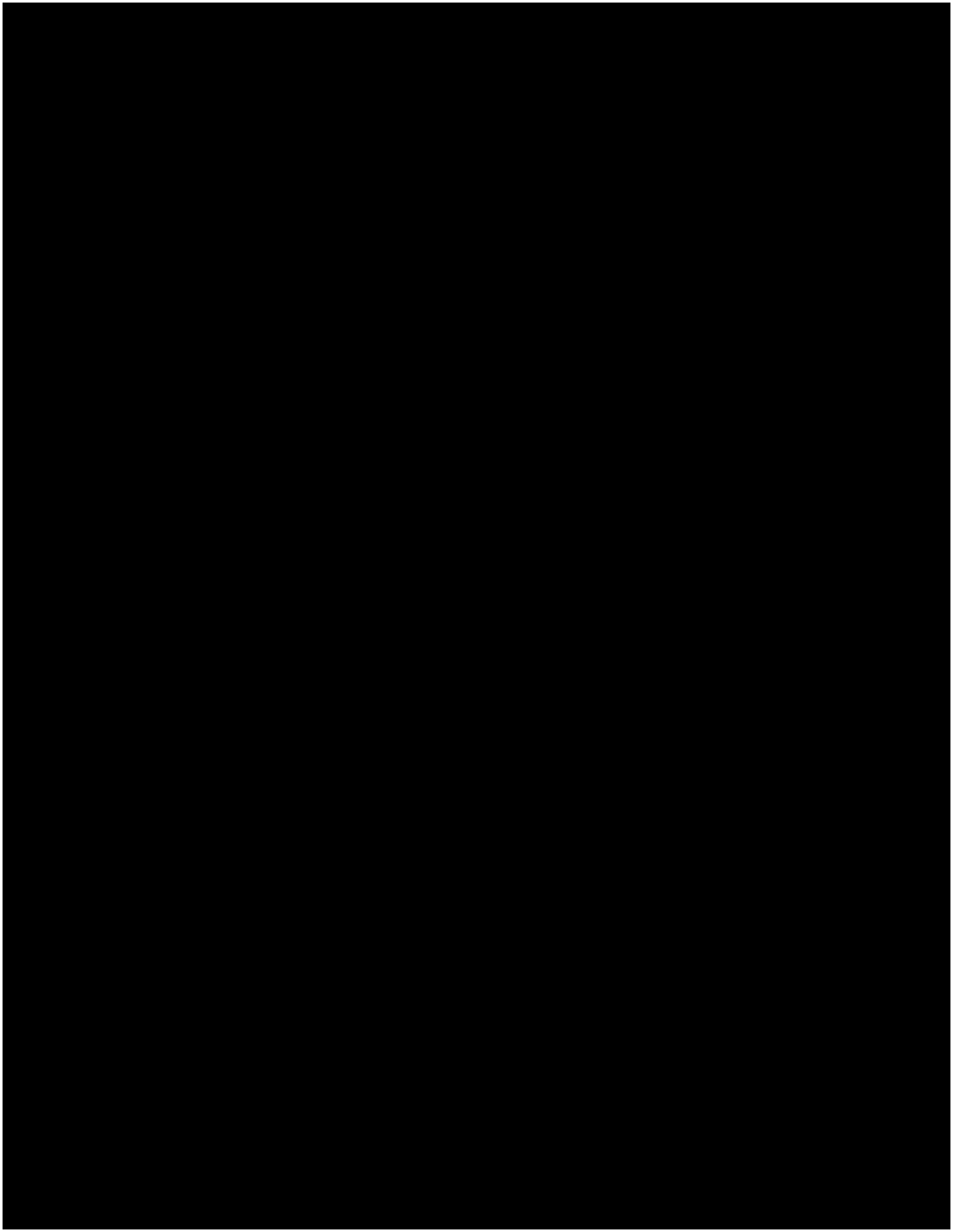


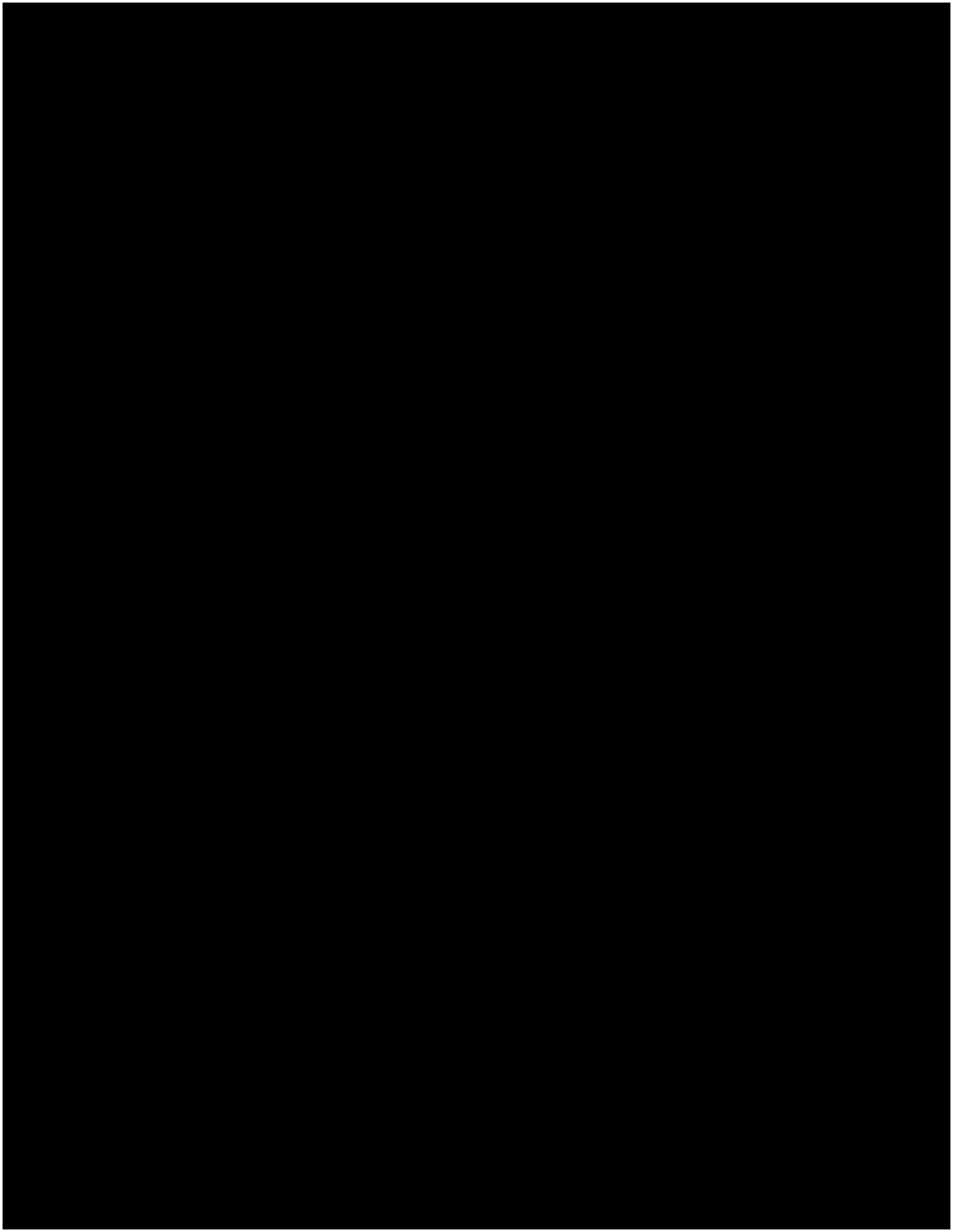


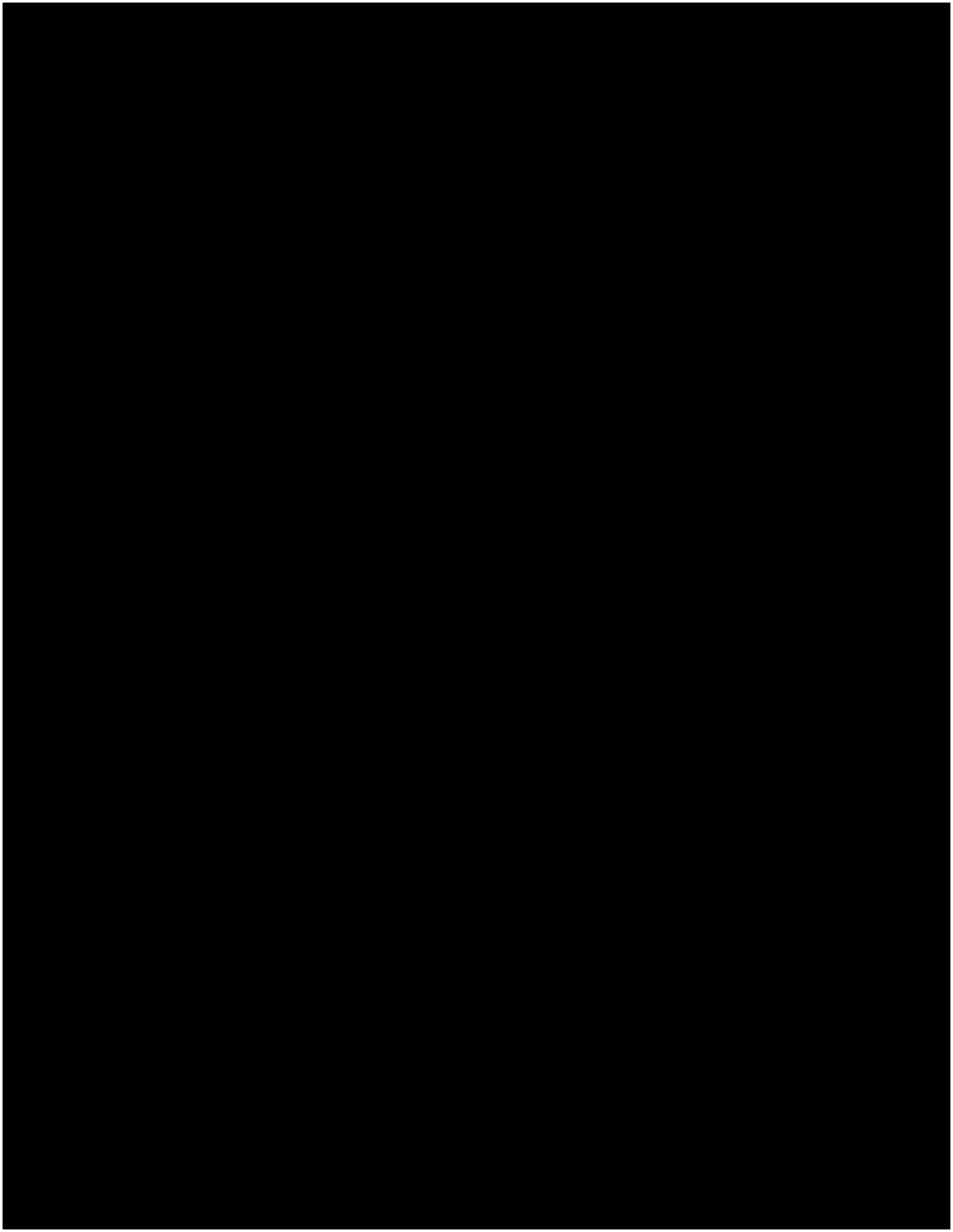


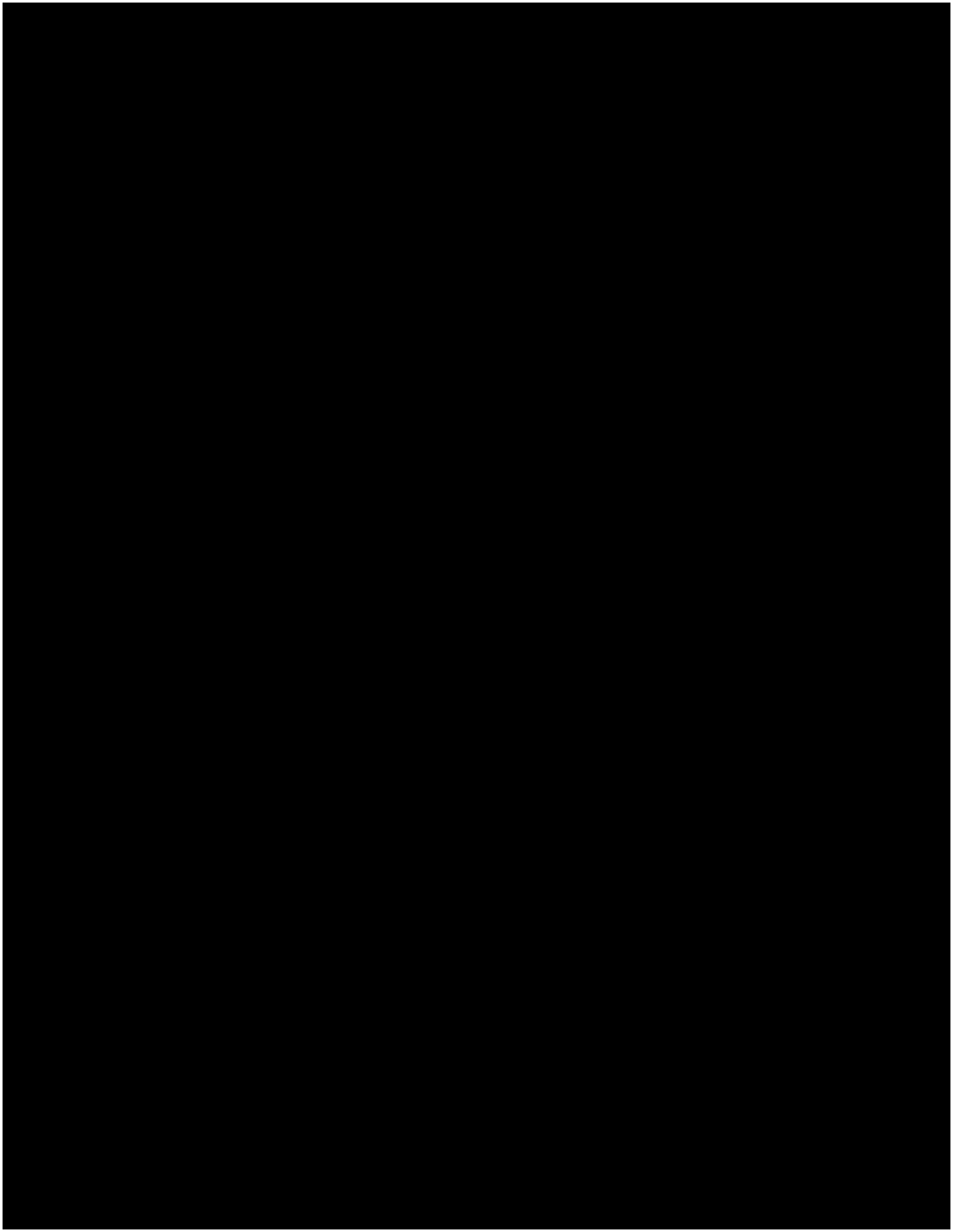












From: Kathryn Irby
To: Brent Gasper
Cc: Jim Jackson
Subject: RE: Hudson v. DHS
Date: Wednesday, May 10, 2023 12:35:00 PM

Brent and Jim, my commissioners are part-time and have no meetings scheduled until May 18-19. As soon as I have something for you, I will send it your way.

Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Wednesday, May 10, 2023 12:32 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Jim Jackson <jim@jimjacksonatty.com>
Subject: Hudson v. DHS

Kathryn, given the Claimant's filing of an amended complaint today I would again request of the Commission to consider our motion to quash the notice of deposition of Dr. Bell, which is currently set for May 22. Claimant has supplemented its complaint with additional factual details as well as increased its damage claim from $4 million to $5 million. As such, the agency needs time to review the amended complaint and prepare its Answer. Further, we are still without Ms. Ashcraft's prior medical records, which we will certainly still need as her injuries remain at the front and center of Claimant's amended complaint.

I would note that Claimant has asked to depose our employee Kristen Shelton next week in Clarksville. We will agree to keep this deposition scheduled even in light of the amended complaint as Ms. Shelton's expected testimony does not involve Ms. Ashcraft's injuries or medical condition.

Thank you for your consideration in this matter.

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

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From: Kathryn Irby
To: Brent Gasper
Cc: Daiquiri Carter; Jim Jackson
Subject: SUBPOENAS: Hudson v. DHS, Claim No. 230641
Date: Wednesday, May 10, 2023 1:30:00 PM
Attachments: Hudson -- 230641 -- CV"s Family Foods subpoena.pdf
Hudson -- 230641 -- Family Dollar subpoena.pdf
Hudson -- 230641 -- Dollar General subpoena.pdf
Hudson -- 230641 -- Johnson"s Fish House subpoena.pdf
Hudson -- 230641 -- TMobile subpoena.pdf
Hudson -- 230641 -- ATT subpoena.pdf
Hudson -- 230641 -- Sprint Nextel subpoena.pdf
Hudson -- 230641 -- Sheriff Massey subpoena.pdf
Hudson -- 230641 -- Ark Crime Lab subpoena.pdf

Brent, please see attached subpoenas. I was not able to issue the Verizon subpoena because you did not give me a physical address. If you'll send me the address for Verizon, I can get that subpoena to you, as well.

Please doublecheck the addresses and requested information. If you see anything in error, please let me know.

Thanks,
Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Tuesday, May 2, 2023 11:21 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: Hudson v. DHS, Claim No. 230641

Good morning Kathryn! I hope you are well. I would like to request the Claims Commission issue several subpoenas duces tecum for the above captioned case.

1. A subpoena duces tecum for all employee and personnel files for Jacqueline Ashcraft, [redacted], for the following commercial entities where Ms. Ashcraft was a former employee. The specific branches where Ms. Ashcraft worked, according to Claimant, are as follows. Subpoenas may be sent to these places, respectively:

    - CV's Family Foods, 1004 E. Walnut St., Paris, AR 72855;
    - Family Dollar, 1800 Falls Blvd., Wynne, AR 72396;
    - Dollar General, 1911 Falls Blvd., Wynne, AR 72396; and
    - Johnson's Fish House & Diner, 329 US-64, Wynne, AR 72396.

2. A subpoena duces tecum for each of the following wireless companies for any account owned or otherwise used by Jacqueline Ashcraft, [redacted], Paris, Arkansas, or Wynne, Arkansas. Because Claimant demurred from providing the information concerning Ms. Ashcraft's wireless phone service in its response to Respondent's discovery request,

Respondent has no other option than to ask all known major wireless carriers in an attempt to locate Ms. Ashcraft's account. According to the medical records filed by Claimant, Ms. Ashcraft had in her possession at the time of her death a Motorola cell phone. As such, subpoenas can be sent to:

- Verizon, ATTN: VSAT. Subpoena may be faxed to 1.888.667.0028. Court Orders can be faxed to 1.888.667.0026.
- T-Mobile. Legal requests can be emailed to subpoenas@metropcs.com, faxed to (972) 292-9697, or mailed to T-Mobile Subpoena Compliance, 4 Sylvan Way, Parsippany, NJ 07054
- AT&T Wireless. Legal requests can be emailed to compcent@att.com, faxed to (888) 938-4715, or mailed to 11760 US Highway 1, Suite 600, North Palm Beach, FL 33408
- Sprint/Nextel. Legal requests can be sent via fax to (816) 600-3111 or via mail to Custodian of Records, Sprint Corporate Security, 64800 Sprint Parkway, Overland Park, KS 66251

Specifically, information sought from each wireless provider is as follows:

- The wireless device location for all times if known on June 11, 2021;
- The number of text messages sent and received on June 11, 2021;
- The number of phone calls made and received on June 11, 2021;
- The length of any phone calls made and received on June 11, 2021;
- The telephone numbers of all calls made or received between June 7, 2021, and June 11, 2021;
- All other calling and texting records kept between June 7, 2021, and June 11, 2021, not otherwise already requested;
- The IP addresses used on June 11, 2021;
- Copies of billing statements for the one (1) month period prior to June 11, 2021; and
- Internet browsing and searching history for the time period between June 7, 2021, and June 11, 2021, made from the wireless device.

3. A subpoena duces tecum for a complete investigative file and/or any other record, including dispatch logs and recordings of any 911 or other emergency calls, kept by the Logan County Sheriff's Office or other entity resulting from the June 11, 2021, accident on Highway 22, in Logan County, involving Jacqueline Ashcraft, [redacted]. The subpoena for this information can be sent to:

   Sheriff Jason Massey
   201 South Lowder Street
   Paris, Arkansas 72855
   (479) 963-3271

4. A subpoena duces tecum to the Arkansas State Crime Lab, for all autopsy reports, lab reports,

toxicology reports, or other reports and findings, including the complete case file for decedent Jacqueline Ashcraft, [redacted], resulting from the accident on June 11, 2021. The subpoena can be sent to:

Mr. Kermit B. Channell, II
Crime Lab Director
Arkansas State Crime Laboratory
3 Natural Resources Drive
Little Rock, AR 72205
(501) 683-6190

Please let me know if you have any questions or need any more information concerning these requests.

Thanks!

Brent

Cc: Sarah DeBusk, Jim Jackson

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

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Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted] Minor Children, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO: **CV's Family Foods**
1004 East Walnut Street
Paris, Arkansas 72855

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

All employee and personnel files for Jacqueline Ashcraft, [redacted]

May 10, 2023

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Date

PROOF OF SERVICE

_____

SERVED ON (Print Name)

_____ _____

DATE PLACE

_____

MANNER OF SERVICE

_____ _____

SERVED BY (Print Name) TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ _____

DATE SIGNATURE OF SERVER

_____

ADDRESS OF SERVER

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d).

A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted] Minor Children, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO: **Family Dollar**
1800 Falls Boulevard
Wynne, Arkansas 72396

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

All employee and personnel files for Jacqueline Ashcraft, [redacted]

May 10, 2023

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Date

PROOF OF SERVICE

_____

SERVED ON (Print Name)

_____ _____

DATE PLACE

_____

MANNER OF SERVICE

_____ _____

SERVED BY (Print Name) TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ _____

DATE SIGNATURE OF SERVER

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ADDRESS OF SERVER

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Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted] Minor Children, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO: **Dollar General**
1911 Falls Boulevard
Wynne, Arkansas 72396

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

All employee and personnel files for Jacqueline Ashcraft, [redacted]

May 10, 2023

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Date

PROOF OF SERVICE

_____

SERVED ON (Print Name)

_____ _____

DATE PLACE

_____

MANNER OF SERVICE

_____ _____

SERVED BY (Print Name) TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ _____

DATE SIGNATURE OF SERVER

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ADDRESS OF SERVER

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Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted] Minor Children, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO: **Johnson's Fish House & Diner**
329 US 64
Wynne, Arkansas 72396

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

All employee and personnel files for Jacqueline Ashcraft, [redacted]

May 10, 2023

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Date

PROOF OF SERVICE

_____

SERVED ON (Print Name)

_____ _____

DATE PLACE

_____

MANNER OF SERVICE

_____ _____

SERVED BY (Print Name) TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ _____

DATE SIGNATURE OF SERVER

_____

ADDRESS OF SERVER

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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted] Minor Children, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO**:** **T-Mobile**
4 Sylvan Way
Parsippany, New Jersey 07054

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

- Any account owned or otherwise used by Jacqueline Ashcraft, [redacted]
- The wireless device location for all times if known on 6/11/2021;
- The number of text messages sent and received on 6/11/202;
- The number of phone calls made and received on 6/11/2021;
- The length of any phone calls made and received on 6/11/2021;
- The telephone numbers of all calls made or received between 6/7–11/2021;
- All other calling and texting records kept between 6/7–11/2021, not otherwise already requested;
- The IP addresses used on 6/11/2021;
- Copies of billing statements for the one (1) month period prior to 6/11/2021; and
- Internet browsing and searching history for the time period between 6/7–11/2021 made from the wireless device.



May 10, 2023

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Date

PROOF OF SERVICE

_____
SERVED ON (Print Name)

_____ _____
DATE PLACE

_____
MANNER OF SERVICE

_____ _____
SERVED BY (Print Name) TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ _____
DATE SIGNATURE OF SERVER

_____
ADDRESS OF SERVER

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

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Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted] Minor Children, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO**:** **AT&T Wireless**
11760 US Highway 1, Suite 600
North Palm Beach, Florida 33408

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

- Any account owned or otherwise used by Jacqueline Ashcraft, [redacted]
- The wireless device location for all times if known on 6/11/2021;
- The number of text messages sent and received on 6/11/202;
- The number of phone calls made and received on 6/11/2021;
- The length of any phone calls made and received on 6/11/2021;
- The telephone numbers of all calls made or received between 6/7–11/2021;
- All other calling and texting records kept between 6/7–11/2021, not otherwise already requested;
- The IP addresses used on 6/11/2021;
- Copies of billing statements for the one (1) month period prior to 6/11/2021; and
- Internet browsing and searching history for the time period between 6/7–11/2021 made from the wireless device.



May 10, 2023

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Date

PROOF OF SERVICE

_____

SERVED ON (Print Name)

_____ _____

DATE PLACE

_____

MANNER OF SERVICE

_____ _____

SERVED BY (Print Name) TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

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Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d).

A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted] Minor Children, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO: **Sprint/Nextel**
64800 Sprint Parkway
Overland Park, Kansas 66251

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

- Any account owned or otherwise used by Jacqueline Ashcraft, [redacted];
- The wireless device location for all times if known on 6/11/2021;
- The number of text messages sent and received on 6/11/202;
- The number of phone calls made and received on 6/11/2021;
- The length of any phone calls made and received on 6/11/2021;
- The telephone numbers of all calls made or received between 6/7–11/2021;
- All other calling and texting records kept between 6/7–11/2021, not otherwise already requested;
- The IP addresses used on 6/11/2021;
- Copies of billing statements for the one (1) month period prior to 6/11/2021; and
- Internet browsing and searching history for the time period between 6/7–11/2021 made from the wireless device.



May 10, 2023

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Date

PROOF OF SERVICE

_____

SERVED ON (Print Name)

_____ _____

DATE PLACE

_____

MANNER OF SERVICE

_____ _____

SERVED BY (Print Name) TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ _____

DATE SIGNATURE OF SERVER

_____

ADDRESS OF SERVER

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d).

A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted] Minor Children, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO: **Sheriff Jason Massey**
201 South Lowder Street
Paris, Arkansas 72855

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

A complete investigative file and/or any other record, including dispatch logs and recordings of any 911 or other emergency calls, kept by the Logan County Sheriff's Office or other entity resulting from the 6/11/2021 accident on Highway 22 in Logan County involving Jacqueline Ashcraft[redacted]

May 10, 2023

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Date

PROOF OF SERVICE

_____

SERVED ON (Print Name)

_____ _____

DATE PLACE

_____

MANNER OF SERVICE

_____ _____

SERVED BY (Print Name) TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ _____

DATE SIGNATURE OF SERVER

_____

ADDRESS OF SERVER

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d).

A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted] Minor Children, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO: **Mr. Kermit B. Channell, II**
Crime Lab Director
Arkansas State Crime Laboratory
3 Natural Resources Drive
Little Rock, Arkansas 72205

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

All autopsy reports, lab reports, toxicology reports, or other reports and findings, including the complete case file for decedent Jacqueline Ashcraft, [redacted], resulting from the accident on 6/11/2021

May 10, 2023

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Date

PROOF OF SERVICE

_____

SERVED ON (Print Name)

_____ _____

DATE PLACE

_____

MANNER OF SERVICE

_____ _____

SERVED BY (Print Name) TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ _____

DATE SIGNATURE OF SERVER

_____

ADDRESS OF SERVER

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d).

A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

From: Brent Gasper
To: Kathryn Irby
Cc: Daiquiri Carter; Jim Jackson
Subject: RE: SUBPOENAS: Hudson v. DHS, Claim No. 230641
Date: Wednesday, May 10, 2023 1:45:14 PM

Thank you so much, Kathryn! I'll see if I can track down the right person at Verizon. If so I'll let you know,

brent

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Wednesday, May 10, 2023 1:30 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: SUBPOENAS: Hudson v. DHS, Claim No. 230641

Brent, please see attached subpoenas. I was not able to issue the Verizon subpoena because you did not give me a physical address. If you'll send me the address for Verizon, I can get that subpoena to you, as well.

Please doublecheck the addresses and requested information. If you see anything in error, please let me know.

Thanks,
Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Tuesday, May 2, 2023 11:21 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: Hudson v. DHS, Claim No. 230641

Good morning Kathryn! I hope you are well. I would like to request the Claims Commission issue several subpoenas duces tecum for the above captioned case.

1. A subpoena duces tecum for all employee and personnel files for Jacqueline Ashcraft, DOB [redacted] for the following commercial entities where Ms. Ashcraft was a former employee. The specific branches where Ms. Ashcraft worked, according to Claimant, are as follows. Subpoenas may be sent to these places, respectively:

    - CV's Family Foods, 1004 E. Walnut St., Paris, AR 72855;
    - Family Dollar, 1800 Falls Blvd., Wynne, AR 72396;
    - Dollar General, 1911 Falls Blvd., Wynne, AR 72396; and
    - Johnson's Fish House & Diner, 329 US-64, Wynne, AR 72396.

2. A subpoena duces tecum for each of the following wireless companies for any account owned or otherwise used by Jacqueline Ashcraft, [redacted] Paris, Arkansas, or Wynne, Arkansas. Because Claimant demurred from providing the information concerning Ms. Ashcraft's wireless phone service in its response to Respondent's discovery request, Respondent has no other option than to ask all known major wireless carriers in an attempt to locate Ms. Ashcraft's account. According to the medical records filed by Claimant, Ms. Ashcraft had in her possession at the time of her death a Motorola cell phone. As such, subpoenas can be sent to:

    - Verizon, ATTN: VSAT. Subpoena may be faxed to 1.888.667.0028. Court Orders can be faxed to 1.888.667.0026.
    - T-Mobile. Legal requests can be emailed to subpoenas@metropcs.com, faxed to (972) 292-9697, or mailed to T-Mobile Subpoena Compliance, 4 Sylvan Way, Parsippany, NJ 07054
    - AT&T Wireless. Legal requests can be emailed to compcent@att.com, faxed to (888) 938-4715, or mailed to 11760 US Highway 1, Suite 600, North Palm Beach, FL 33408
    - Sprint/Nextel. Legal requests can be sent via fax to (816) 600-3111 or via mail to Custodian of Records, Sprint Corporate Security, 64800 Sprint Parkway, Overland Park, KS 66251

    Specifically, information sought from each wireless provider is as follows:

    - The wireless device location for all times if known on June 11, 2021;
    - The number of text messages sent and received on June 11, 2021;
    - The number of phone calls made and received on June 11, 2021;
    - The length of any phone calls made and received on June 11, 2021;
    - The telephone numbers of all calls made or received between June 7, 2021, and June 11, 2021;
    - All other calling and texting records kept between June 7, 2021, and June 11, 2021, not otherwise already requested;
    - The IP addresses used on June 11, 2021;
    - Copies of billing statements for the one (1) month period prior to June 11, 2021; and
    - Internet browsing and searching history for the time period between June 7, 2021, and June 11, 2021, made from the wireless device.

3. A subpoena duces tecum for a complete investigative file and/or any other record, including dispatch logs and recordings of any 911 or other emergency calls, kept by the Logan County Sheriff's Office or other entity resulting from the June 11, 2021, accident on Highway 22, in Logan County, involving Jacqueline Ashcraft, [redacted] The subpoena for this information can be sent to:

    Sheriff Jason Massey

201 South Lowder Street
Paris, Arkansas 72855
(479) 963-3271

4. A subpoena duces tecum to the Arkansas State Crime Lab, for all autopsy reports, lab reports, toxicology reports, or other reports and findings, including the complete case file for decedent Jacqueline Ashcraft, [redacted] resulting from the accident on June 11, 2021. The subpoena can be sent to:

   Mr. Kermit B. Channell, II
   Crime Lab Director
   Arkansas State Crime Laboratory
   3 Natural Resources Drive
   Little Rock, AR 72205
   (501) 683-6190

Please let me know if you have any questions or need any more information concerning these requests.

Thanks!

Brent

Cc: Sarah DeBusk, Jim Jackson

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

This email may contain sensitive or confidential information.

CONFIDENTIALITY NOTICE: The information contained in this email message and any attachment are the property of the State of Arkansas and may be protected by state and federal laws governing disclosure of private information. It is intended solely for the use of the entity to whom this email is addressed. If you are not the intended recipient, you are hereby notified that reading, copying, or distributing this transmission is STRICTLY PROHIBITED.

The sender has not waived any applicable privilege by sending the accompanying transmission. If you have

received this transmission in error, please notify the sender by return email and delete the message and attachment(s) from your system.

From: Kathryn Irby
To: Brent Gasper; Jim Jackson
Cc: Martha Cox; Daiquiri Carter
Subject: RE: Hudson v. DHS
Date: Wednesday, May 10, 2023 2:14:00 PM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg

Brent, your email is sufficient to withdraw the motion to quash.

Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Wednesday, May 10, 2023 2:03 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Hudson v. DHS

Thank you Jim.

Kathryn, given that Jim has cancelled the May 22 deposition, we would withdrawn our motion to quash. Please advise whether you need a formal pleading to withdrawn the motion or if this email will suffice.

Thanks!

brent

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Wednesday, May 10, 2023 2:00 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>
Subject: RE: Hudson v. DHS

[EXTERNAL SENDER]
Kathryn & Brent,
I just checked with Kirk Dougherty who is the attorney for Dr. Bell/Mercy.
Kirk is in trial this week which is why I have not heard back from him.
I believe that Kirk will be able to get Dr. Bell's deposition scheduled in Fort Smith for this summer.
With that being said, please allow this to serve as a postponement of the Notice of Deposition for Dr. Bell.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Wednesday, May 10, 2023 12:32 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Jim Jackson <jim@jimjacksonatty.com>
Subject: Hudson v. DHS

Kathryn, given the Claimant's filing of an amended complaint today I would again request of the Commission to consider our motion to quash the notice of deposition of Dr. Bell, which is currently set for May 22. Claimant has supplemented its complaint with additional factual details as well as increased its damage claim from $4 million to $5 million. As such, the agency needs time to review the amended complaint and prepare its Answer. Further, we are still without Ms. Ashcraft's prior medical records, which we will certainly still need as her injuries remain at the front and center of Claimant's amended complaint.

I would note that Claimant has asked to depose our employee Kristen Shelton next week in Clarksville. We will agree to keep this deposition scheduled even in light of the amended complaint as Ms. Shelton's expected testimony does not involve Ms. Ashcraft's injuries or medical condition.

Thank you for your consideration in this matter.

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

This email may contain sensitive or confidential information.

CONFIDENTIALITY NOTICE: The information contained in this email message and any attachment are the property of the State of Arkansas and may be protected by state and federal laws governing disclosure of private information. It is intended solely for the use of the entity to whom this email is addressed. If you are not the intended recipient, you are hereby notified that reading, copying, or distributing this transmission is STRICTLY PROHIBITED.

The sender has not waived any applicable privilege by sending the accompanying transmission. If you have received this transmission in error, please notify the sender by return email and delete the message and attachment(s) from your system.

From:	Kathryn Irby
To:	Brent Gasper; Jim Jackson
Cc:	Martha Cox; Daiquiri Carter
Subject:	HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641
Date:	Wednesday, May 10, 2023 2:17:00 PM
Attachments:	Hudson v. DHS -- 230641 -- hearing ltr (motions -- Aug 2023).pdf

Jim and Brent, please see attached hearing letter related to the other pending motions.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823

KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

May 10, 2023

Mr. Jim Jackson (*via email*)
Jackson Law Firm
700 W. Broadway Street, Suite 200
North Little Rock, Arkansas 72114

Mr. Brent P. Gasper (*via email*)
Arkansas Department of Human Services
Post Office Box 1437
Little Rock, Arkansas 72203

RE: ***Haley Hudson, individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Guardian of*** [redacted] ***v. Arkansas Department of Human Services***
Claim No. 230641

Dear Mr. Jackson and Mr. Gasper,

The Claims Commission has scheduled a hearing on all pending motions for **Friday, August 11, 2023**, beginning at 9:00 a.m. All parties will attend via Zoom. The Zoom invitation is enclosed.

As this is a motions hearing, no prehearing materials are requested, although the parties are free to brief the motions as permitted by the Arkansas Rules of Civil Procedure.

Sincerely,

Kathryn Irby

ES: kmirby

The Claims Commission is inviting you to a scheduled Zoom meeting.
Time: Aug 11, 2023 09:00 AM Central Time (US and Canada)

Join Zoom Meeting
https://us06web.zoom.us/j/84688689286?pwd=b3RmN01jcTJzV1hwZW1YVHFtLzdLUT09

Meeting ID: 846 8868 9286
Passcode: W9Vm8g
One tap mobile
+13092053325,,84688689286#,,,,*144460# US
+13126266799,,84688689286#,,,,*144460# US (Chicago)

Dial by your location
- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
- +1 646 931 3860 US
- +1 929 436 2866 US (New York)
- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US
- +1 669 900 6833 US (San Jose)
- +1 689 278 1000 US
- +1 719 359 4580 US
- +1 253 205 0468 US
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 360 209 5623 US
- +1 386 347 5053 US
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 669 444 9171 US

Meeting ID: 846 8868 9286
Passcode: 144460
Find your local number: https://us06web.zoom.us/u/kbDuMt8KJj

From: Kathryn Irby
To: Brent Gasper; Jim Jackson
Cc: Martha Cox; Daiquiri Carter
Subject: RE: HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641
Date: Wednesday, May 10, 2023 2:24:00 PM

That may depend on what motions are filed, but I anticipate that all pending motions that have been fully briefed by the end of July will be part of the August 11 hearing. As any other motions are filed, though, I would ask the parties to confirm the scope of the hearing so we can make sure everyone is on the same page.

Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Wednesday, May 10, 2023 2:22 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Martha Cox <mcox@jimjacksonatty.com>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641

Thank you Kathryn. In the event that additional motions are forthcoming in this case between now and then would they be added to this hearing or would they need to be heard at a different time?

brent

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Wednesday, May 10, 2023 2:17 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Martha Cox <mcox@jimjacksonatty.com>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641

Jim and Brent, please see attached hearing letter related to the other pending motions.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From:	Kathryn Irby
To:	Brent Gasper
Cc:	Jim Jackson; Martha Cox; Daiquiri Carter
Subject:	SUBPOENA: Verizon
Date:	Wednesday, May 10, 2023 2:37:00 PM
Attachments:	Hudson -- 230641 -- Verizon subpoena.pdf image001.png image002.png

Brent, that works. Please see attached.

Thanks,
Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Wednesday, May 10, 2023 2:23 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Subject: FW: Verizon

Kathryn, this comes from Verizon's website. Is it sufficient?

brent

From: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Sent: Wednesday, May 10, 2023 2:00 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Subject: RE: Verizon

- Verizon
- Attn: VSAT
- 180 Washington Valley Road
- Bedminster, NJ 07921

VSAT is Verizon Security Assessment Team.

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov



□□□

NOTE - This email may contain sensitive or confidential information.

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From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Wednesday, May 10, 2023 1:46 PM
To: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: Verizon

Daiquiri, can you see if you can find the person to subpoena at Verizon? It may be as easy as googling it? We don't need the actual name of the person, just his or her title.

Thx!

brent

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

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Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted] Minor Children, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO: **Verizon**
ATTN: VSAT (Verizon Security Assessment Team)
180 Washington Valley Road
Bedminster, New Jersey 07921

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

- Any account owned or otherwise used by Jacqueline Ashcraft, [redacted]
- The wireless device location for all times if known on 6/11/2021;
- The number of text messages sent and received on 6/11/202;
- The number of phone calls made and received on 6/11/2021;
- The length of any phone calls made and received on 6/11/2021;
- The telephone numbers of all calls made or received between 6/7–11/2021;
- All other calling and texting records kept between 6/7–11/2021, not otherwise already requested;
- The IP addresses used on 6/11/2021;
- Copies of billing statements for the one (1) month period prior to 6/11/2021; and
- Internet browsing and searching history for the time period between 6/7–11/2021 made from the wireless device.



May 10, 2023

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Date

PROOF OF SERVICE

_____

SERVED ON (Print Name)

_____ _____

DATE PLACE

_____

MANNER OF SERVICE

_____ _____

SERVED BY (Print Name) TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ _____

DATE SIGNATURE OF SERVER

_____

ADDRESS OF SERVER

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d).

A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

From: Daiquiri Carter
To: ASCC Pleadings; jim@jimjacksonatty.com; Martha Cox
Cc: Brent Gasper; Daiquiri Carter
Subject: CC # 230641
Date: Thursday, May 11, 2023 12:44:01 PM
Attachments: Interrogatories [redacted] 001.pdf
image001.png
image002.png
Interrogatories [redacted] 001.pdf

Please find attached Interrogatories and Requests for Production propounded to [redacted] and Interrogatories and Requests for Production propounded to [redacted]

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov

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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — **CLAIMANT**

v. — **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS FOR [redacted]

INTERROGATORY NO. 1: Do you have a social media account? If so, please identify all social media accounts you have and the screen name for each.

INTERROGATORY NO. 2: Do you have a cell phone account? If so, please identify the cell phone carrier and the phone number associated with the account.

INTERROGATORY NO. 3: Please list the names and contact information, if known, for all persons you spoke to at the scene of the accident on June 11, 2021.

INTERROGATORY NO. 4: Please identify and supply the contact information for the person or persons who transported you from the accident scene on June 11, 2021.

INTERROGATORY NO. 5: Please identify and supply the last known address and phone number for your father.

INTERROGATORY NO. 6: Please identify and list the applicable dates of all the places where you lived, and with whom, for the years 2019, 2020, and 2021.

INTERROGATORY NO. 7: Please identify all persons who resided in the residences listed in response to Interrogatory No. 6 at any point in time for the years 2019, 2020, and 2021.

INTERROGATORY NO. 8: Do you know any person who owned or drove a red truck during 2021? If so, please identify that person.

INTERROGATORY NO. 9: Please identify and describe all the places you visited or any other place you were on June 11, 2021, prior to the accident at issue. Further, please give the approximate time of day and length of time you were at these places.

INTERROGATORY NO. 10: Was your mother wearing a seatbelt at the time of the accident on June 11, 2021?

INTERROGATORY NO. 11: Did your mother smoke cigarettes or use tobacco products to the best of your knowledge? If so, approximately how long had she smoked cigarettes or used tobacco products, to the best of your knowledge?

INTERROGATORY NO. 12: Do you know if your mother was ill or sick at the time of the accident on June 11, 2021? If so, do you know what that illness or sickness was? What were her symptoms, if applicable?

INTERROGATORY NO. 13: Had you ever been to [redacted] house before the accident on June 11, 2021? If so, when and for what reason?

INTERROGATORY NO. 14: Had you ever been inside [redacted] house before the accident on June 11, 2021? If so, when and for what reason?

INTERROGATORY NO. 15: To the best of your knowledge, was Kimberly Corley – [redacted] mother – related to your mother or father by blood or marriage? If so, please describe the nature of the familial relationship.

INTERROGATORY NO. 16: How often do you visit your father?

INTERROGATORY NO. 17: Were your father and mother ever married? If so, when and for how long?

INTERROGATORY NO. 18: Is there a custodial arrangement in place governing visitation by your father?

INTERROGATORY NO. 19: Does your father pay court-ordered child support? If so, how often and how much?

INTERROGATORY NO. 20: Please list all schools you have attended starting with Kindergarten. Also, please state for how long you attended these schools and the names of your teachers at those schools.

INTERROGATORY NO. 21: Were you physically injured as a result of the accident on June 11, 2021? If so, please describe the type of injury and how soon you noticed symptoms or felt the injury after the accident. Please be as precise as possible concerning timing.

INTERROGATORY NO. 22: What was the phone number at your residence in June of 2021?

INTERROGATORY NO. 23: What was your mother's cell phone number in June 2021?

INTERROGATORY NO. 24: Do you know what type of cell phone your mother had at the time of the accident in question? If you do not know the type of cell phone your mother had, can you describe what it looked like?

INTERROGATORY NO. 25: Did your mother have an e-mail address? If so, what was it?

INTERROGATORY NO. 26: Did your mother have a Facebook account? If so, what was her screen name?

INTERROGATORY NO. 27: Did you at any time in May or June of 2021 ever receive a text message from your mother's cell phone? If so, please describes those instances.

INTERROGATORY NO. 28: Have you ever been prescribed prescription medication? If so, what was it, how long did you take it, if you still are taking it, who prescribed it, and the name of the pharmacies that filled the prescriptions.

INTERROGATORY NO. 29: You have filed a claim for four million dollars ($4,000,000) in the instant action. There are also two other claimants – your sister and your mother's estate. However, that claim of four million dollars ($4,000,000) is not apportioned among the claimants Complaint. Please describe what percentage of the overall claim amount you seek and describe the underlying details and computations that you feel entitle you to that portion of the claim.

INTERROGATORY NO. 30: Did your mother ever go to the doctor? If so, please describe when, how often, and the name or names of her doctors.

INTERROGATORY NO. 31: Please list the names and contact information for your grandparents.

REQUEST FOR PRODUCTION NO 1: Please have Haley Hudson, as your legal guardian, sign the attached authorization allowing DHS to obtain a copy of your child support case file.

REQUEST FOR PRODUCTION NO. 2: Please produce a copy of your birth certificate.

REQUEST FOR PRODUCTION NO. 3: Please have Haley Hudson, as your legal guardian, sign the attached authorization allowing DHS to obtain a copy of your school records.

INTERROGATORY NO. 32: Please state whether Claimant will treat the foregoing interrogatories as continuing and furnish to Respondent, in writing, any additional information received by Claimant subsequent to the date of Claimant's answers hereto that would modify or supplement Claimant's answers, such additional information to be furnished as soon as reasonably possible after receipt by Claimant and within a reasonable time prior to the assigned trial date in order to permit appropriate discovery procedure.

Respectfully Submitted,

By: _____
Brent P. Gasper
Assistant Deputy Chief Counsel
AR Bar No. 98240

Arkansas Department of Human Services
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203
Phone (501) 320-8950
Brent.gasper@dhs.arkanas.gov
Sarah.debusk@dhs.arkansas.gov

CERTIFICATE OF SERVICE

I, Brent P. Gasper, hereby certify that on the 11th day or May, 2023, I electronically filed the foregoing with the Arkansas Claims Commission and copied Claimant's attorney, Jim Jackson, via email.

_____
Brent P. Gasper

ARKANSAS DEPARTMENT OF HUMAN SERVICES

Office of Chief Counsel
Brent P. Gasper

P.O. Box 1437, Slot S-260 Little Rock, AR 72203-1437
501-320-8950 · Fax: 501-682-6720
brent.gasper@dhs.arkansas.gov

Kadey Jones' Child Support Records Release Authorization

I, HALEY HUDSON, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE ASHCRAFT AND LEGAL GUARDIAN OF [redacted] AND [redacted] HEREBY GIVE CONSENT TO THE OFFICE OF CHILD SUPPORT ENFORCEMENT TO PROVIDE THE FULL AND COMPLETE FILE OF CASE No. 42PDR-21-17, LOGAN COUNTY CIRCUIT COURT, PARIS DISTRICT, STYLED JACQUELINE ASHCRAFT/OSCE v. STEVEN JONES TO;

Brent P. Gasper
Assistant Deputy Chief Counsel, Office of Chief Counsel
Arkansas Department of Human Services

Please provide a true and complete copy of Jacqueline Ashcraft's child support case file. Please include without limitation:

- The full and complete file of the above-captioned case, including attorney's notes and work product.
- Records of communication between any parties concerning this case, including emails, phone calls, or text messages for the calendar years 2021 and 2022.

Please return the information to:

Name:	Daiquiri Carter
Agency:	Arkansas Department of Human Services, Office of Chief Counsel
Address:	PO Box 1437, Slot S260, Little Rock, Arkansas 72203-1437
Phone/Fax:	501-320-8950 phone; 501-682-6720 fax

This consent is valid for a period of twelve (12) months from the date indicated below.

Signature: _____ Date: _____
Haley Hudson, as special administratrix
Of the Estate of Jacqueline Ashcraft

_____ _____
Printed Name of Representative providing information Date

_____
Signature

We Care. We Act. We Change Lives.
humanservices.arkansas.gov

ARKANSAS DEPARTMENT OF HUMAN SERVICES

Office of Chief Counsel
Brent P. Gasper

P.O. Box 1437, Slot S-260 Little Rock, AR 72203-1437
501-320-8950 · Fax: 501-682-6720
brent.gasper@dhs.arkansas.gov

[redacted] **School Records Release Authorization**

Name: [redacted]_____ Date of Birth: _____

Student ID #_____

I, _____do hereby authorize the release of any and all school records, counselor records, behavior records, discipline records, grades and all other data maintained in the normal course of business of the Paris School District for [redacted]

This release will expire upon conclusion of litigation or one (1) year after execution.

Please send records to: Daiquiri Carter
Office of Chief Counsel
Department of Human Services
PO Box 1437, Slot S260
Little Rock, AR 72203

Name:_____ Date:_____
Parent or Guardian

Signature:_____
Parent or Guardian

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] AND [redacted] MINOR CHILDREN — **CLAIMANT**

v. — **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS FOR [redacted]

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REQUEST FOR PRODUCTION NO. 2: Please produce a copy of your birth certificate.

REQUEST FOR PRODUCTION NO. 3: Please have Haley Hudson, as your legal guardian, sign the attached authorization allowing DHS to obtain a copy of your school records.

INTERROGATORY NO. 32: Please state whether Claimant will treat the foregoing interrogatories as continuing and furnish to Respondent, in writing, any additional information received by Claimant subsequent to the date of Claimant's answers hereto that would modify or supplement Claimant's answers, such additional information to be furnished as soon as reasonably possible after receipt by Claimant and within a reasonable time prior to the assigned trial date in order to permit appropriate discovery procedure.

Respectfully Submitted,

By: _____

Brent P. Gasper
Assistant Deputy Chief Counsel
AR Bar No. 98240

Arkansas Department of Human Services
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203
Phone (501) 320-8950
Brent.gasper@dhs.arkanas.gov
Sarah.debusk@dhs.arkansas.gov

CERTIFICATE OF SERVICE

I, Brent P. Gasper, hereby certify that on the 11th day or May, 2023, I electronically filed the foregoing with the Arkansas Claims Commission and copied Claimant's attorney, Jim Jackson, via email.

_____

Brent P. Gasper

ARKANSAS DEPARTMENT OF HUMAN SERVICES

Office of Chief Counsel
Brent P. Gasper

P.O. Box 1437, Slot S-260 Little Rock, AR 72203-1437
501-320-8950 · Fax: 501-682-6720
brent.gasper@dhs.arkansas.gov

Carley Jones' Child Support Records Release Authorization

I, HALEY HUDSON, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE ASHCRAFT AND LEGAL GUARDIAN OF [redacted] AND [redacted] HEREBY GIVE CONSENT TO THE OFFICE OF CHILD SUPPORT ENFORCEMENT TO PROVIDE THE FULL AND COMPLETE FILE OF CASE No. 42PDR-21-17, LOGAN COUNTY CIRCUIT COURT, PARIS DISTRICT, STYLED JACQUELINE ASHCRAFT/OSCE v. STEVEN JONES TO;

Brent P. Gasper
Assistant Deputy Chief Counsel, Office of Chief Counsel
Arkansas Department of Human Services

Please provide a true and complete copy of Jacqueline Ashcraft's child support case file. Please include without limitation:

- The full and complete file of the above-captioned case, including attorney's notes and work product.
- Records of communication between any parties concerning this case, including emails, phone calls, or text messages for the calendar years 2021 and 2022.

Please return the information to:

Name:	Daiquiri Carter
Agency:	Arkansas Department of Human Services, Office of Chief Counsel
Address:	PO Box 1437, Slot S260, Little Rock, Arkansas 72203-1437
Phone/Fax:	501-320-8950 phone; 501-682-6720 fax

This consent is valid for a period of twelve (12) months from the date indicated below.

Signature: _____ Date: _____
Haley Hudson, as special administratrix
Of the Estate of Jacqueline Ashcraft

_____ _____
Printed Name of Representative providing information Date

_____
Signature

ARKANSAS DEPARTMENT OF HUMAN SERVICES

Office of Chief Counsel
Brent P. Gasper

P.O. Box 1437, Slot S-260 Little Rock, AR 72203-1437
501-320-8950 · Fax: 501-682-6720
brent.gasper@dhs.arkansas.gov

[redacted]Child Support Records Release Authorization

Name: [redacted]_____ Date of Birth: _____

Student ID #_____

I, _____do hereby authorize the release of any and all school records, counselor records, behavior records, discipline records, grades and all other data maintained in the normal course of business of the Paris School District for [redacted]

This release will expire upon conclusion of litigation or one (1) year after execution.

Please send records to: Daiquiri Carter
Department of Human Services
PO Box 1437, Slot S260
Little Rock, AR 72203

Name:_____ Date:_____
Parent or Guardian

Signature:_____
Parent or Guardian

From:	Martha Cox
To:	ASCC Pleadings; Kathryn Irby
Cc:	Brent Gasper; Daiquiri Carter; Jim Jackson
Subject:	RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, dec"d, & Permanent Guardian of [redacted], Minor Children v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641
Date:	Tuesday, May 16, 2023 3:12:09 PM
Attachments:	Claimant"s Brief in Support of Response to Motion to Compel.pdf Claimant"s Response to Motion to Compel.pdf

Please find attached the claimant's Response to Motion to Compel and claimant's Brief in Support of Response to Motion to Compel, which we would appreciate being filed in the above-referenced claim.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S RESPONSE TO THE RESPONDENT'S MOTION TO COMPEL

Comes the claimant, Haley Hudson, as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Permanent Legal Guardian of [redacted] minor children, by and through her attorney, Jim R. Jackson, and for her Response to the respondent's Motion to Compel, states:

1. For the reasons set forth in the accompanying Brief in Support of Response to the respondent's Motion to Compel filed contemporaneously herein, the respondent's Motion to Compel should be denied.

WHEREFORE, the respondent's Motion to Compel Haley Hudson to have knowledge of the decedent's prior medical providers "imputed" should be denied.

Respectfully submitted,

BY: _____

Jim R. Jackson, AR Bar #93-209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
(501) 823-3610 phone
(501) 823-3611 facsimile
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Response to Motion to Dismiss was served on the following counsel of record by either U.S. Mail, postage prepaid, or by electronic service to:

Mr. Brent Gasper
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

/s/ Jim R. Jackson
Jim R. Jackson

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S BRIEF IN SUPPORT OF THE RESPONSE TO THE RESPONDENT'S MOTION TO COMPEL

I. BACKGROUND

This wrongful death and two bodily injury claims arise from a motor vehicle accident that occurred when a DHS employee driving a DHS fleet car rear-ended the Ashcraft car at a high rate of speed. The impact caused Jacqueline Ashcraft to sustain an intracerebral hemorrhage[1] which led to her being pronounced dead approximately twelve hours after the wreck from an intracranial hemorrhage. The impact also caused injuries to Jacqueline Ashcraft's two minor children who were in the back seat of her car.

The impact from the collision knocked Jacqueline Ashcraft's car more than 93 feet. The impact caused the DHS employee's car to ricochet into an oncoming tractor-trailer rig and spin counterclockwise approximately 270° to its final resting place. The magnitude of the property damage cannot be fully described in words. The Ashcraft vehicle is below in the left frame and the DHS vehicle is in the right frame. The accident photo depicts the direction of travel the DHS employee was traveling when she rear-ended Ashcraft's car.

[1] "Bleeding on the brain"

ASHCRAFT VEHICLE ↓ **DHS VEHICLE** ↓



ACCIDENT SCENE



II. LEGAL ISSUE

The respondent's Motion to Compel alleges that Haley Hudson's response to one of its thirty-two (32) Interrogatories was insufficient. The Interrogatory and response at issue are below.

> INTERROGATORY NO. 7: Please provide the names, addresses, and phone numbers for all medical professionals including without limitation physicians, nurses, therapists, counselors, physical therapists, optometrists, osteopaths, or homeopaths, that treated Jacqueline Ashcraft for any reason for the five (5) year period prior to June 11, 2021.
>
> RESPONSE: Haley Hudson does not possess this information.

The respondent's Motion to Compel contains an overreaching allegation that is not grounded in law. The thrust of the respondent's argument is contained in the highlighted text below from its Motion to Compel:

> All discovery requests propounded to the estate of Jacqueline Ashcraft shall be directed to Haley Hudson, *not individually*, but *in her capacity as the special administratrix of the estate of Jacqueline Ashcraft*. It is the *estate* that is required to respond to the discovery requests and no other entity or person. The nature of the estate of a deceased person necessarily means that information that would have been known by or available to Jacqueline Ashcraft prior to her death is imputed to the estate and its personal representative.

The respondent's claim that information from the decedent is somehow "imputed" to a Special Administratrix/Personal Representative of an estate is not a correct statement of law or reality. One would have to suspend disbelief to conclude that upon being appointed "Special Administrator" a person suddenly gains information known by the decedent. There is nothing magical about a person being named "Special Administrator." The probate court can appoint a CPA, attorney, physician, friend, or relative as "Special Administrator" of an

estate. No one can imagine that upon accepting the appointment, the person named suddenly has information "imputed" to them.

It is important to note that the respondent has cited no case law to support its theory that prior medical information is "imputed" to a Special Administratrix" upon the appointment by a probate judge. It simply does not exist.

Haley Hudson has answered Interrogatory No. 7 to the best of her ability. Haley was 29 years old at the time of her mother's death. Her mother lived in Paris, Arkansas, while Haley lived near Wynne, Arkansas. Haley simply does not know if her mother saw any medical providers during the five years prior to her death caused by the car wreck.

III. SOLUTION

The claimant recognizes that this Commission seeks solutions to discovery disputes. The claimant fully executed a HIPAA-compliant authorization and provided a file-marked Order from the probate judge which allows the respondent to obtain Jacqueline Ashcraft's medical records from any medical provider. The claimant also provided the complete set of medical records from the moment the paramedics arrived at the wreck until Ms. Ashcraft was pronounced dead from an intracranial hemorrhage by Dr. Christopher Bell.

Neither the probate code nor the wrongful death statute requires the representative of an estate to have first-hand knowledge or "imputed" knowledge of the decedent's pre-existing medical condition. The situation at hand is not uncommon. Attorneys frequently send "blanket" requests to all medical providers in an area. Clients who are alive often forget where they have gone for medical treatment. The solution for an attorney defending such a claim is to send blanket requests to the medical providers in the region where the deceased resided.

Haley Hudson has fully answered all thirty-two (32) Interrogatories and fifteen (15) Requests for Production of Documents by providing 407 pages of documents, exhibits, and

photographs. Attached as Exhibit 1 is a copy of the Table of Contents listing 205 pages of documents produced by Haley Hudson. Additionally, Haley Hudson has produced 202 pages of medical records upon Jacqueline Ashcraft's medical records from the following medical providers:

i. Logan County EMS/Ambulance;
ii. Mercy Hospital – Booneville;
iii. Life Flight Network; and,
iv. Mercy Hospital – Fort Smith.

The respondent has the ability to obtain numerous records belonging to Jacqueline Ashcraft. Haley Hudson has executed every authorization that has been sent by the respondent. This includes:

i. General HIPAA Medical Authorization for Jacqueline Ashcraft;
ii. Employment Records Authorization for Jacqueline Ashcraft;
iii. Criminal History Authorization for Jacqueline Ashcraft;
iv. Walmart Pharmacy Authorization for Jacqueline Ashcraft;
v. Specific Authorization to obtain medical records of Jacqueline Ashcraft, [redacted] from the Arkansas Department of Human Services;
vi. General HIPAA Medical Authorization for [redacted]
vii. General HIPAA Medical Authorization for [redacted]

Haley Hudson has cooperated and answered the respondent's discovery to the best of her ability. Haley Hudson has followed the Arkansas Rules of Civil Procedure by executing authorizations that allow the respondent to obtain records from any medical provider and pharmacist.

WHEREFORE, the respondent's Motion to Compel Haley Hudson to have "imputed" knowledge of the decedent's prior medical providers should be denied.

Respectfully submitted,

BY: 

Jim R. Jackson, AR Bar #93-209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
(501) 823-3610 phone
(501) 823-3611 facsimile
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Brief in Support of Response to Respondent's Motion to Compel was served on the following counsel of record by either U.S. Mail, postage prepaid, or by electronic service to:

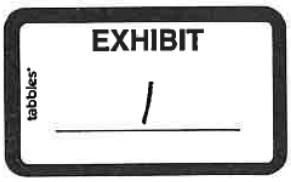
Mr. Brent Gasper
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437



Jim R. Jackson

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From:	Kathryn Irby
To:	"Jim Jackson"; Brent Gasper
Cc:	Martha Cox
Subject:	RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incid
Date:	Wednesday, May 17, 2023 12:02:00 PM
Attachments:	image001.jpg image002.jpg image003.jpg image004.jpg

I have noted this in the file. Thanks for this information.

Kathryn

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Wednesday, May 17, 2023 11:53 AM
To: Kathryn Irby <kathryn.irby@arkansas.gov>; Brent Gasper <brent.gasper@dhs.arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>
Subject: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incident

Kathryn,
We had a deposition yesterday afternoon in this matter.
Brent reminded me that I have incorrectly named his client in the complaints.
I also learned that the decedent's mother passed away last Thursday which means that her mental anguish claim is extinguished.
With that information, I would like to withdraw the "Second Amended Complaint" so I can properly amend it.
The Respondent has not filed an Answer so I do not believe there would be any prejudice to any party by being allowed to withdraw it and make the corrections.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114

P (501) 823-3610
F (501) 823-3611

From:	Kathryn Irby
To:	Brent Gasper; Jim Jackson
Cc:	Martha Cox
Subject:	RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incid
Date:	Thursday, May 18, 2023 8:52:00 AM
Attachments:	image001.jpg image002.jpg image003.jpg image004.jpg

Brent, the second amended complaint was filed on May 10. If the Commission returns a filing to the filing party to correct an issue, I will let both parties know, as it can impact response time. Unless you hear about such a return, though, you can assume that the filing has been accepted by the Commission.

I would also point the parties to Commission Rule 1.2, which directs that the rules "shall be liberally construed to secure a simple, just, and expeditious method for the consideration of claims against the State . . . ."

Thanks,
Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Wednesday, May 17, 2023 12:51 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incid

Thank you Jim and Kathryn.

I would add though that under the Rules, the Second Amended Complaint tendered by Jim last week needed to be formally accepted by the Commission. I know that I sent an email to that regard but I never heard whether or not the Second Amended Complaint was accepted officially so I would like to also bring that issue up again if Jim decides to Amend the Complaint. To that end it would be necessary to discern whether or not the Amended Complaint Jim indicates he is going to file would be either the Second or Third Amended Complaint, depending on the Commission's posture towards the filing a week or so ago.

I certainly don't want to be a pest, but I do request that the Rules of the Commission be properly observed.

Please let me know if I can of any help to you!

Thanks,

brent

From: Kathryn Irby <kathryn.irby@arkansas.gov>
Sent: Wednesday, May 17, 2023 12:02 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>
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Thank you,
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700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From:	Kathryn Irby
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Cc:	Martha Cox
Subject:	RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incid
Date:	Thursday, May 18, 2023 9:07:00 AM
Attachments:	image001.jpg image002.jpg image003.jpg image004.jpg

My understanding is that Jim withdrew his second amended complaint via email on May 17. I confirmed receipt of his email and noted in our database that the second amended complaint was withdrawn by Claimant.

Let me know if this does not answer your question.

Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Thursday, May 18, 2023 8:56 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incid

Thank you Kathryn. I am proceeding then with the understanding that the Second Amended Complaint is operative and requires an Answer. What then to Jim's request to withdraw the Second Amended Complaint as he set out in his email yesterday? Again, as you noted, there are response times involved so I just want to make doubly sure that I know how much time I have to respond to what Amended Complaint.

Thank you!

Brent

Cc: Jim Jackson

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Thursday, May 18, 2023 8:52 AM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
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From: Kathryn Irby <kathryn.irby@arkansas.gov>
Sent: Wednesday, May 17, 2023 12:02 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas

Department of Human Services Arkansas State Claims Commission No. 230641 Incid

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Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Martha Cox
To: ASCC Pleadings; Kathryn Irby
Cc: Brent Gasper; Daiquiri Carter; Jim Jackson
Subject: RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, dec"d & Permanent Guardian of [redacted], Minor Children v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641
Date: Thursday, May 18, 2023 10:49:39 AM
Attachments: Letter to Kathryn Irby with Second Amended Complaint 5-18-2023.pdf
Second Amended Complaint - 5-18-2023.pdf

Please see attached letter from Attorney Jim Jackson to Kathryn Irby and attached Second Amended Complaint for filing in the above-referenced claim.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

From: Misty Scott <Misty.Scott@arkansas.gov> **On Behalf Of** ASCC Pleadings
Sent: Tuesday, May 16, 2023 3:14 PM
To: Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, dec'd, & Permanent Guardian of [redacted], Minor Children v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641

Received.

From: Martha Cox <mcox@jimjacksonatty.com>
Sent: Tuesday, May 16, 2023 3:12 PM
To: ASCC Pleadings <asccpleadings@arkansas.gov>; Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Brent Gasper <brent.gasper@dhs.arkansas.gov>; Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, dec'd, & Permanent Guardian of [redacted], Minor Children v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641

Please find attached the claimant's Response to Motion to Compel and claimant's Brief in Support of Response to Motion to Compel, which we would appreciate being filed in the above-referenced claim.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

JACKSON
LAW FIRM

May 18, 2023

VIA E-MAIL & US MAIL

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, AR 72201

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of* [redacted] *Minor Children v. Arkansas Department of Human Services*
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Kathryn:

Please find enclosed the Claimant's Second Amended Complaint to be filed in this matter with two exhibits attached. By copy of this e-mail, I am serving this Second Amended Complaint on counsel for the Arkansas Department of Human Services.

Please call me at (501) 823-3610 with any questions or suggestions. My e-mail address is *Jim@JimJacksonatty.com.*

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosures

cc/enc.: Mr. Brent Gasper (via email)

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528 • 501.823.3610 Fax: 501.823.3611 • Jim@JimJacksonAtty.com • www.JimJacksonAtty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — **CLAIMANT**

VS. **CC NO.** 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

SECOND AMENDED COMPLAINT

Comes now the claimant, Haley Hudson, as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Guardian of [redacted] a minor child, and as Guardian of [redacted] a minor child, by and through her attorney, Jim R. Jackson, and for her causes of action against the respondent, states:

BACKGROUND

The Ashcraft family has been ripped apart by the consequences of this wreck. Jacqueline Ashcraft was a 50-year-old mother of five children who lived in Paris, Arkansas, with two of her minor children. [redacted] was her 10-year-old daughter. [redacted] was her 14-year-old daughter. The three lived at [redacted] The two girls were enrolled in the Paris School District and were thriving at the time of the wreck. Ms. Ashcraft's two adult sons lived in Paris and Ozark and were beginning their career and family. Ms. Ashcraft's oldest daughter, Haley Hudson, lived and worked in Wynne, Arkansas. Haley was 29 years old at the time of her mother's death. Haley has two children of her own that live with her and her fiancé at [redacted]

As a result of Jacqueline Ashcraft's sudden and tragic death, the two minor children no longer have a mother. The children had to relocate from Paris to Wynne to live with Haley Hudson and her family. Haley adopted her two baby sisters by filing a Petition to be Permanent Legal Guardian of [redacted] Haley is doing the best job she can to raise her two baby sisters. Haley is now both a mom and big sister to [redacted]

I. STATEMENT OF JURISDICTION

1. This claim is brought pursuant to the Commission's authority of jurisdiction of "all claims against the State of Arkansas and its several agencies, departments, and institutions" pursuant to the authority granted by the General Assembly found in Ark. Code Ann. §19-10-204, *et seq*.

2. The claimant has exhausted all liability insurance coverage for this incident. There is no UIM or other liability insurance coverage for these claims.

II. PARTIES TO THE CLAIM

3. The claimant is the duly appointed Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, pursuant to an Order dated August 6, 2021, entered by The Honorable Terry Sullivan in a matter styled, *In The Matter Of The Estate Of Jacqueline Lynn Ashcraft, deceased*, in the Circuit Court of Logan County, Arkansas, Probate Division No. 42PR-2021-63.

4. Haley Hudson was appointed Permanent Guardian of the Person and Estate of [redacted] by Order of Cross County Probate Judge Christopher Morledge dated July 20, 2021, in a matter styled: *In the Matter of the Guardianship of the Person and Estate of* [redacted] *Minors*, Cross County Probate Number 19PR-2021-57-3.

5. The respondent, Arkansas Department of Human Services, is an agency of the State of Arkansas.

6. Jennifer Wilkerson was an employee of the Arkansas Department of Human Services and was engaged in the course and scope of her employment at all times relevant to this cause of action.

III. STATEMENT OF THE CASE

7. On Friday, June 11, 2021, at approximately 12:50 p.m., Jacqueline Ashcraft was driving her 2005 Hyundai Sonata eastbound on State Highway 22 in Logan County. She was just a few miles outside of Paris driving toward Subiaco Academy. She had three passengers in the back seat of her car: her daughters, [redacted] and her great nephew, [redacted] who was in a baby seat. Ms. Ashcraft was taking the baby to his home at [redacted] Ms. Ashcraft slowed to make a left-hand turn into a driveway for [redacted] She used her left-hand blinker to indicate to traffic she was attempting a left-hand turn. Ms. Ashcraft had to come to a full stop prior to commencing the left-hand turn to avoid oncoming westbound traffic which consisted of a tractor trailer rig transporting a modular home.

8. Jennifer Wilkerson was operating a 2009 Hyundai Elantra maintained by the Arkansas Department of Human Services. She was traveling eastbound on State Highway 22 immediately behind Ms. Ashcraft's 2005 Hyundai Sonata.

9. Jennifer Wilkerson was tasked by the respondent with picking up a child in Beebe at 2:00 p.m. and transporting the child to Clarksville. Jennifer Wilkerson was supposed to leave directly from the Logan County DHS office in Paris at noon and drive to Beebe. Instead, Jennifer Wilkerson went on a personal errand in Paris. She did not leave Paris until approximately 12:45 p.m., Jennifer Wilkerson was approximately one hour late to pick up the child when the wreck occurred.

10. Jennifer Wilkerson negligently failed to recognize that Ms. Ashcraft's vehicle was slowing down and stopping to make a left-hand turn into the driveway of the residence at [redacted]

11. Jennifer Wilkerson negligently drove the respondent's car into the rear end of Ms. Ashcraft's car.

12. The collision knocked Ms. Ashcraft's car onto the eastbound shoulder. Ms. Wilkerson's vehicle then entered a counterclockwise spin, causing her vehicle to strike the aforementioned truck and trailer that was traveling westbound on Highway 22.

13. Trooper James Ray of the Arkansas State Police was dispatched to investigate this wreck. Trooper Ray received notification of the incident at approximately 12:54 p.m. Trooper Ray arrived at the accident site at 1:26 p.m.

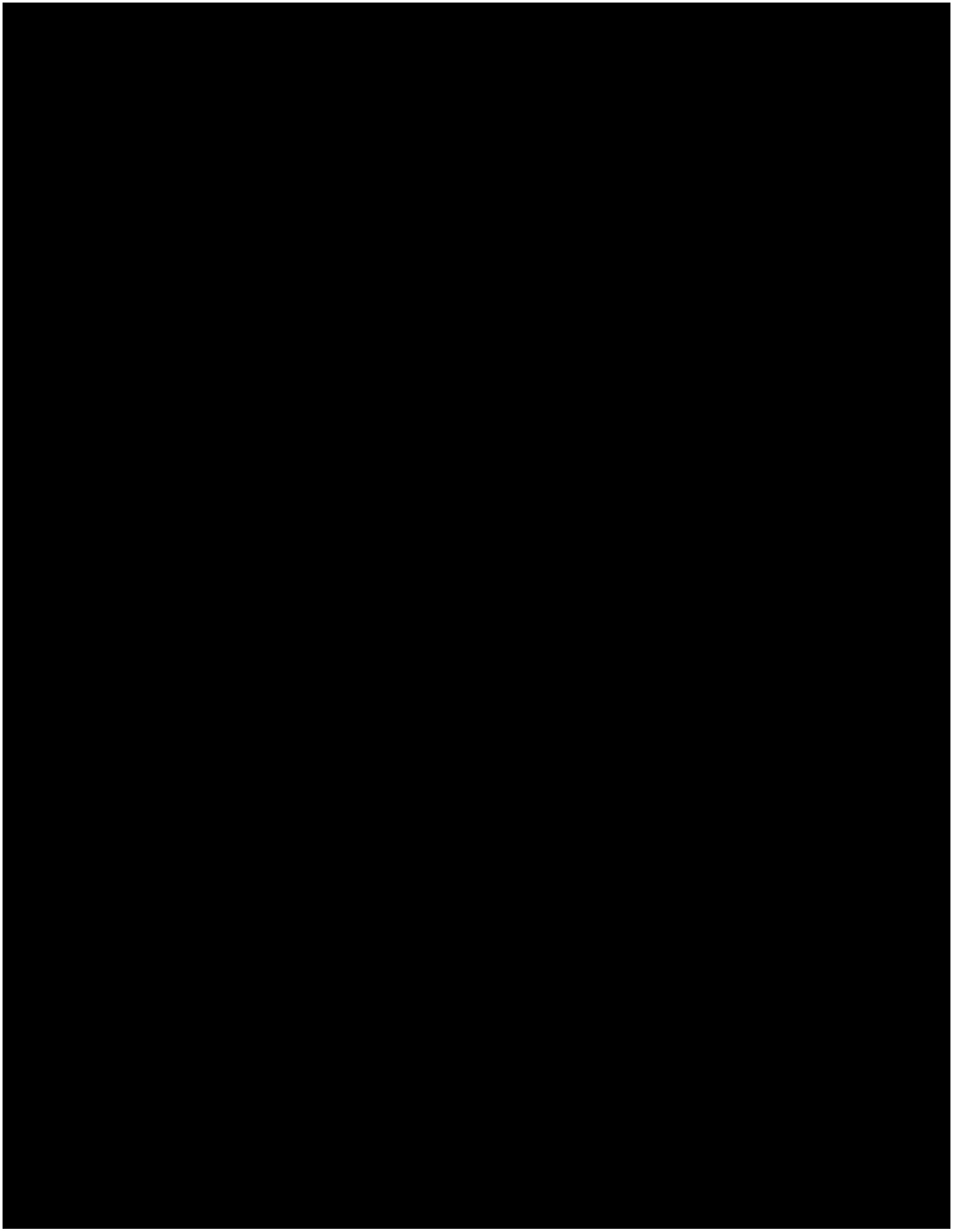
14. Jacqueline Ashcraft was pronounced dead at 01:07 a.m. The Death Certificate lists the cause of death as Intracranial Hemorrhage with the underlying cause as an "Automobile Accident." Attached as Exhibit 1 is a copy of the Death Certificate issued by the Arkansas Department of Health.

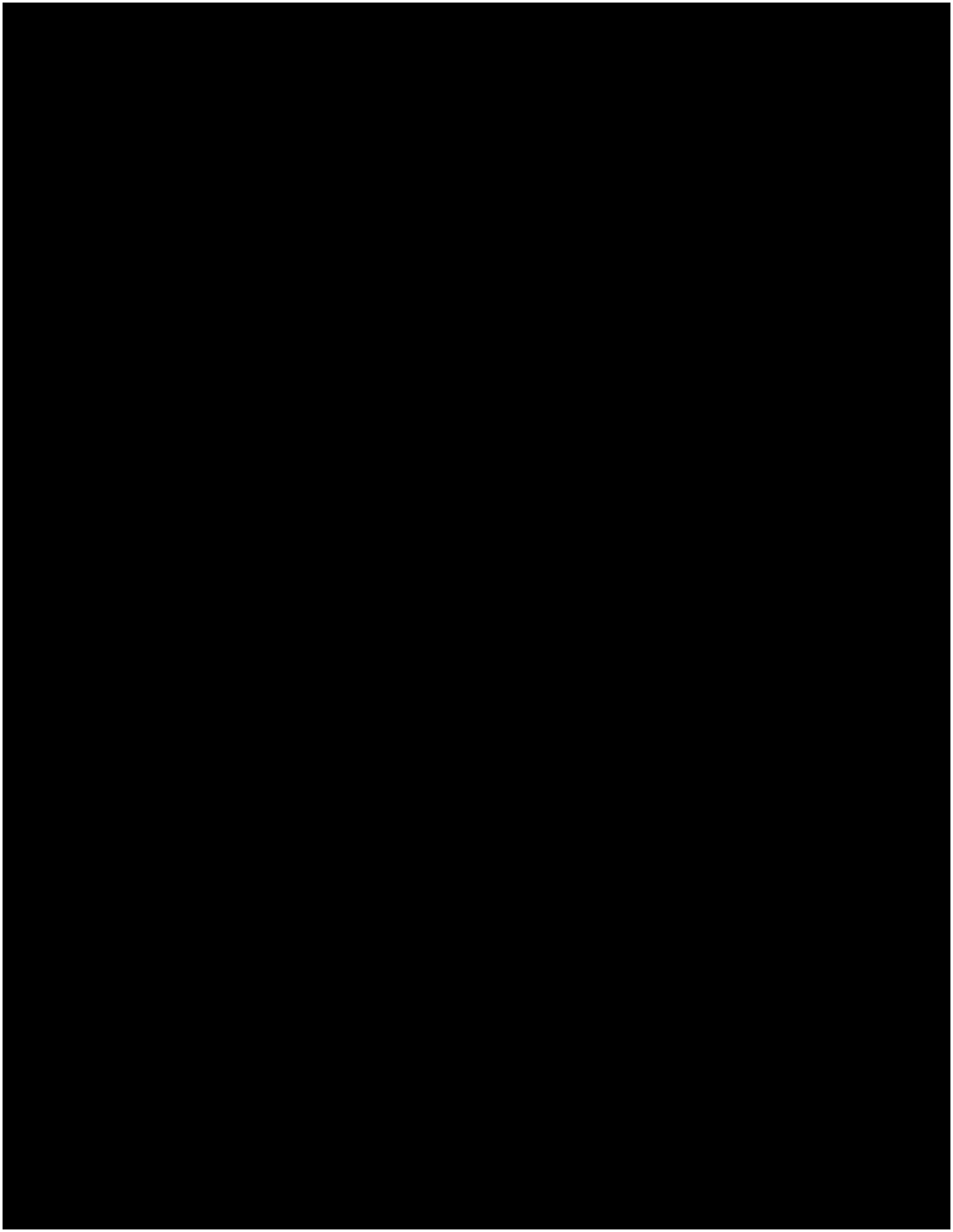
15. Trooper Ray went to the residence at [redacted] where he found Jacqueline Ashcraft seated in the front room of the home.

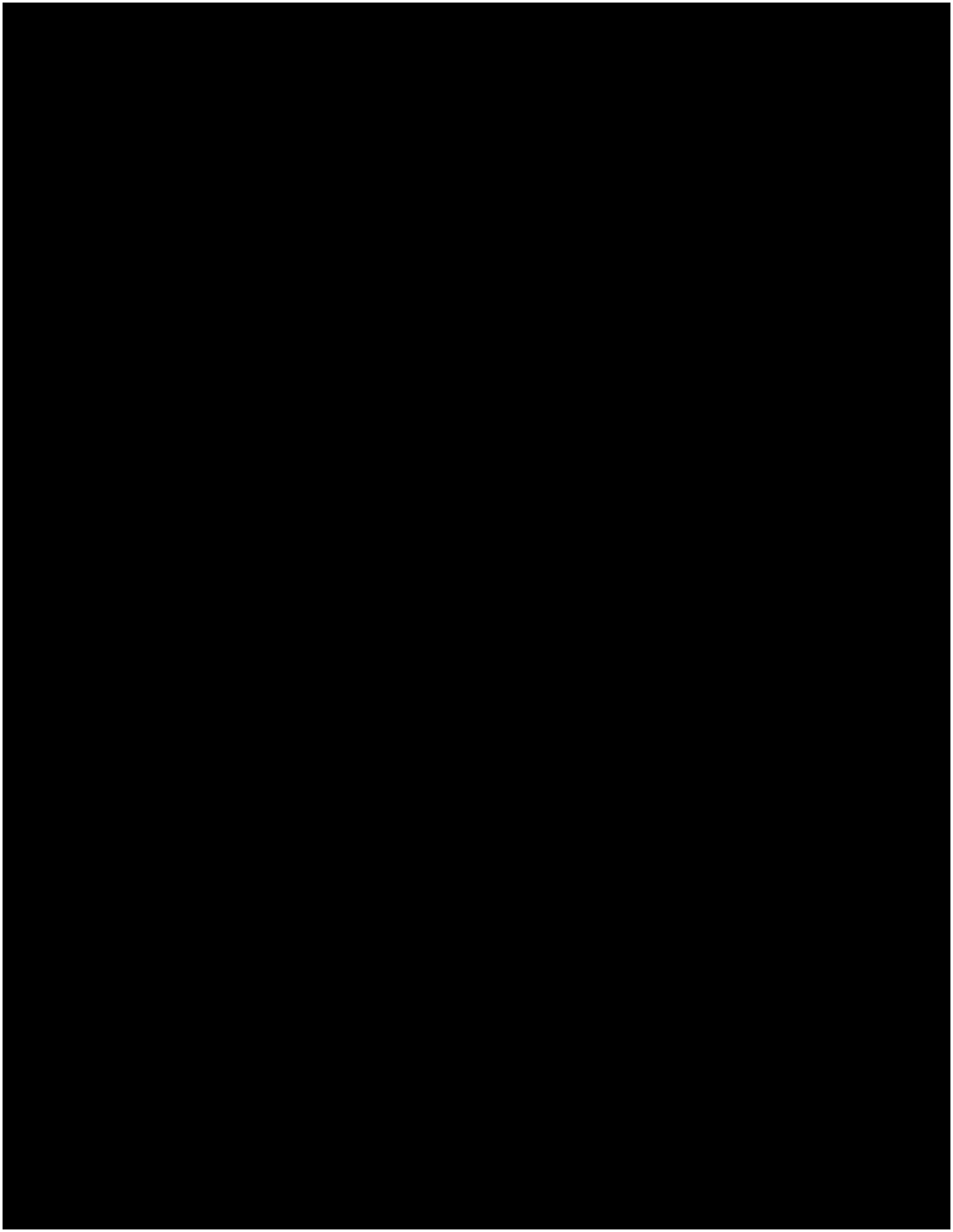
16. When Trooper Ray began speaking with Jacqueline Ashcraft, he recognized that she needed immediate medical attention, and he called the paramedics to come into the house to transfer her immediately to a hospital.

17. Trooper Ray prepared Arkansas Motor Vehicle Crash Report [redacted] which is filed of record with the Arkansas State Police.

18. Trooper Ray prepared three diagrams depicting his findings and measurements. These three diagrams are attached to Arkansas Motor Vehicle Crash Report [redacted] Trooper Ray's three diagrams are below and speak for themselves:







IV. NEGLIGENCE

19. Jennifer Wilkerson was employed by the respondent and was operating within the scope of her employment at all relevant times to this cause of action.

20. The Arkansas Department of Human Services is liable for all damages caused by Jennifer Wilkerson under the *respondeat superior* doctrine.

21. The respondent's employee, Jennifer Wilkerson, is guilty of negligence, which was the proximate cause of the above-described vehicle collision in the following particulars:

(a) in following a vehicle more closely than was reasonable and prudent which is a violation of Ark. Code Ann. §27-51-305;

(b) in failing to keep the vehicle she was driving under proper control;

(c) in failing to yield the right-of-way to the superior traffic which is a violation of Arkansas statutes and common law;

(d) in failing to exercise ordinary care for her own safety and for the safety of others using the highway;

(e) in driving in a careless and reckless manner which is a violation of Ark. Code Ann. § 27-51-104 and common law; and

(f) in driving in excess of the posted highway speed in violation of Ark. Code Ann. §27-51-204.

22. State Trooper James Ray investigated the accident. He found that Jennifer Wilkerson's actions were "inattentive, careless, negligent, or erratic operation" at the time of the crash.

Trooper James Ray's finding of the DHS' Driver Actions at Time of Crash



23. Conversely, State Trooper James Ray found that Jacqueline Ashcraft had "no contributing action" at the time of the collision. Attached as Exhibit 2 is a copy of Trooper Ray's Accident Report.

24. Below is a true copy of the section from Trooper Ray's accident report in which he checked the box next to "No contributing action" for the section that applied to Jacqueline Ashcraft.



V. *RESPONDEAT SUPERIOR*

25. All acts of negligence of the respondent's employee, Jennifer Wilkerson, are imputed to the respondent, Arkansas Department of Human Services, as a matter of law.

VI. CAUSATION

26. The negligent acts on the part of the respondent's employee, Jennifer Wilkerson, were the sole and proximate cause of the wrongful death, injuries, and damages sustained by Jacqueline Lynn Ashcraft, [redacted] as more specifically described herein.

VII. DAMAGES

27. The impact from the collision knocked Jacqueline Ashcraft's car more than 93 feet. The impact caused the DHS employee's car to ricochet into the oncoming tractor-trailer rig and spin counterclockwise approximately 270° to its final resting place. The magnitude of the property damage cannot be fully described in words. The Ashcraft vehicle is below in the left frame and the DHS vehicle is in the right frame.



28. Jacqueline Lynn Ashcraft initially survived the collision and was able to speak with her children and witnesses/bystanders. She was able to walk across the street from the wrecked car and go to the front room of the home at [redacted] This is where Trooper Ray found her when he arrived at the scene.

29. Unfortunately, the collision from the wreck caused Jacqueline Ashcraft to develop a traumatic brain bleed injury which led to her death. The force of the collision caused her to suffer an intracerebral hemorrhage[1] which led to a rapid neurological decline.

30. Jacqueline Ashcraft was transported by Logan County EMS to the emergency room at Booneville, Arkansas.

[1] "Bleeding on the brain"

31. The paramedics noted that her Glasgow coma scale was deteriorating while en route to the hospital in Booneville.

32. The emergency room physician ordered a CT scan stat. The CT scan revealed Jacqueline Ashcraft sustained a Massive Right Basal Ganglia Hemorrhage in the collision leading to severe brain compression and Uncal Herniation.[2] Ms. Ashcraft was emergently transported from Booneville via med-flight to Mercy Medical Center in Fort Smith.

33. Ms. Ashcraft's three adult children were notified of the severity of their mother's injuries.

34. Haley Hudson immediately traveled from her job in Wynne to Mercy Hospital in Fort Smith, Arkansas. Upon arrival, Haley was informed by the neurosurgeon and/or emergency room physician that her mother's condition was terminal and there was nothing further that could be done to save her mother's life.

35. Haley and her two adult brothers, Dalton and Mark, consulted with one another and jointly made the decision to follow the doctor's advice and allow the medical providers to compassionately extubate life support.

36. Dr. Christopher Bell pronounced Jacqueline Ashcraft "dead" at 1:07 a.m. on June 8, 2021, approximately twelve (12) hours after the wreck occurred.

37. The claimant, Haley Hudson, as Special Administratrix of the estate of Jacqueline Lynn Ashcraft, deceased, is asserting a claim for damages for the survival injuries and subsequent wrongful death of Jacqueline Lynn Ashcraft, and for the bodily injury claims o[redacted]all of which were proximately caused by the negligence of the respondent's employee, Jennifer Wilkerson.

[2] Uncal herniation occurs when rising intracranial pressure causes portions of the brain to move from one intracranial compartment to another. It is a life-threatening neurological emergency and indicates the failure of all adaptive mechanisms for intracranial compliance.

WRONGFUL DEATH CLAIM

38. Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, claims she is entitled to recover for the following damages, all of which were proximately caused by the negligence of Jennifer Wilkerson, said negligence being imputed to the respondent, Arkansas Department of Human Services:

(a) Compensatory damages for the severe pain, suffering, and mental anguish sustained by Jacqueline Lynn Ashcraft after the impact until her death;

(b) Compensatory damages for the mental anguish sustained, and reasonably probable to be suffered in the future, by the statutory beneficiaries who are listed below:

STATUTORY BENEFICIARIES

Name	**Relationship**	**Address**
[redacted]	Minor Daughter	[redacted]
	Minor Daughter	
Dalton Cody Ashcraft	Adult Son	
Mark Hudson	Adult Son	
Haley Nicole Hudson	Adult Daughter	
Jeffrey Ashcraft	Brother	
Bobby Ashcraft	Brother	
Jennifer Howard	Half-Sister	

Joshua Jackson Half-Brother [redacted]

(c) Pecuniary injuries sustained by [redacted]

(d) Pecuniary injuries sustained by [redacted]

(e) Compensatory damages for Jacqueline Lynn Ashcraft's Loss of Life;

(f) Reimbursement of reasonable funeral expenses; and

(g) Any medical bills incurred by the estate related to the fatal injuries.

BODILY INJURY CLAIMS

39. [redacted] ustained bodily injuries in the wreck. Haley Hudson, as Permanent Guardian of [redacted] seeks:

(a) Compensatory damages for the reasonable expense of any necessary medical care and other out-of-pocket expenses sustained by [redacted] nd the present value of such expenses reasonably certain to be required in the future;

(b) Compensatory damages for the nature, extent, duration, and permanency of any injury sustained by [redacted] and

(c) Compensatory damages for any pain and suffering experienced in the past and reasonably certain to be experienced in the future.

38. [redacted] sustained bodily injuries in the wreck. Haley Hudson, as Permanent Guardian of [redacted] seeks:

(a) Compensatory damages for the reasonable expense of any necessary medical care and other out-of-pocket expenses sustained by [redacted] nd the present value of such expenses reasonably certain to be required in the future;

(b) Compensatory damages for the nature, extent, duration, and permanency of any injury sustained by [redacted] and

(c) Compensatory damages for any pain and suffering experienced in the past and reasonably certain to be experienced in the future by [redacted]

40. The claimant's total compensatory damages, as shall be proven by the evidence, is Five Million Dollars ($5,000,000.00).

REQUIREMENT OF ARK. CODE ANN. §19-10-208(d)

41. The claimant has not presented this claim to any other state department or officer thereof prior to the original online filing of the Complaint to open this matter.

42. The respondent did have a liability insurance policy with Cincinnati Insurance Company. Cincinnati Insurance Company filed an Interpleader naming the respondent and the claimant in a matter styled: *Cincinnati Insurance Company vs. Haley Hudson, Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, et al., and Guardian of the Estates of* [redacted] *both minors, Jennifer Wilkerson, Arkansas Department of Human Services, Bobby Dale Wilson, Joe Ashley Trucking, LLC, GKD Management, LP DBA Commercial Trucking, Inc. and Tru Homes, LLC*, Logan County Circuit Court No. 42PCV-21-116.

43. The respondent's legal counsel, Sean Strode, filed an Entry of Appearance on January 10, 2022, in the above-referenced Interpleader. The respondent should be intimately familiar with all filings since its legal counsel received these filings contemporaneously through the CM/ECF filing system and had access to these filings.

44. Cincinnati Insurance Company deposited the limits of its policy of $250,000 with the clerk of the court on or around March 21, 2022. Haley Hudson, as Special Administratrix of the Estate of Jacqueline Ashcraft, deceased, received $150,000 after attorney fees and case expenses for the wrongful death claim.

45. GKD Management, which was the owner/operator of the third vehicle involved in this collision, received $12,500 of the $250,000. It appears that this sum was to pay GKD Management for the property damage to the trailer and/or modular home.

46. Haley Hudson, as Permanent Guardian of the Estates o[redacted] and [redacted] minor children, has received nothing for their bodily injury claims.

UNDERINSURED MOTORIST CLAIM

47. Ms. Ashcraft did not have any uninsured or underinsured motorist coverage for the collision which is the subject of this claim.

WHEREFORE, the claimant, Haley Hudson, as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and Haley Hudson, as Permanent Guardian o[redacted] minor children, prays that she have a judgment against the respondent for a sum of Five Million Dollars ($5,000,000.00), and for all other necessary and proper relief to which she is entitled as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Permanent Guardian of the two minor children.

Respectfully Submitted,

Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
Phone: 501-823-3610
Fax: 501-823-3611
Jim@JimJacksonatty.com

By: Jim Jackson
Jim R. Jackson
Arkansas Bar No. 93209

CERTIFICATE OF SERVICE

I, Jim Jackson, certify that on this date, consistent with the requirements of Ark. R. Civ. Pro. 5, and Commission Rule 1.5(b), a complete copy of the foregoing was electronically submitted with the Clerk of the Arkansas Claims Commission and electronically served on counsel for the Arkansas Department of Human Services and three copies of each exhibit were deposited in the mail to the Director of the Arkansas State Claims Commission.

Jim Jackson

Jim R. Jackson

CLAIM SUBMISSION SIGNATURE PAGE

The undersigned attorney, Jim Jackson, certifies that to the best of his knowledge, information, and belief, this claim is not being presented for any improper purpose; this claim is warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; and the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

Jim R. Jackson

Jim R. Jackson

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF PULASKI)

On this day before the undersigned, Martha Cox, a Notary Public duly qualified and acting in and for the county and state aforesaid, personally appeared Jim Jackson, to me well known and satisfactorily proven to be the person whose name appears in the foregoing instrument, and stated that he has executed the same for the consideration, uses, and purposes therein stated and stated that he had executed the foregoing instrument of his own free will, for the purposes and consideration therein stated.

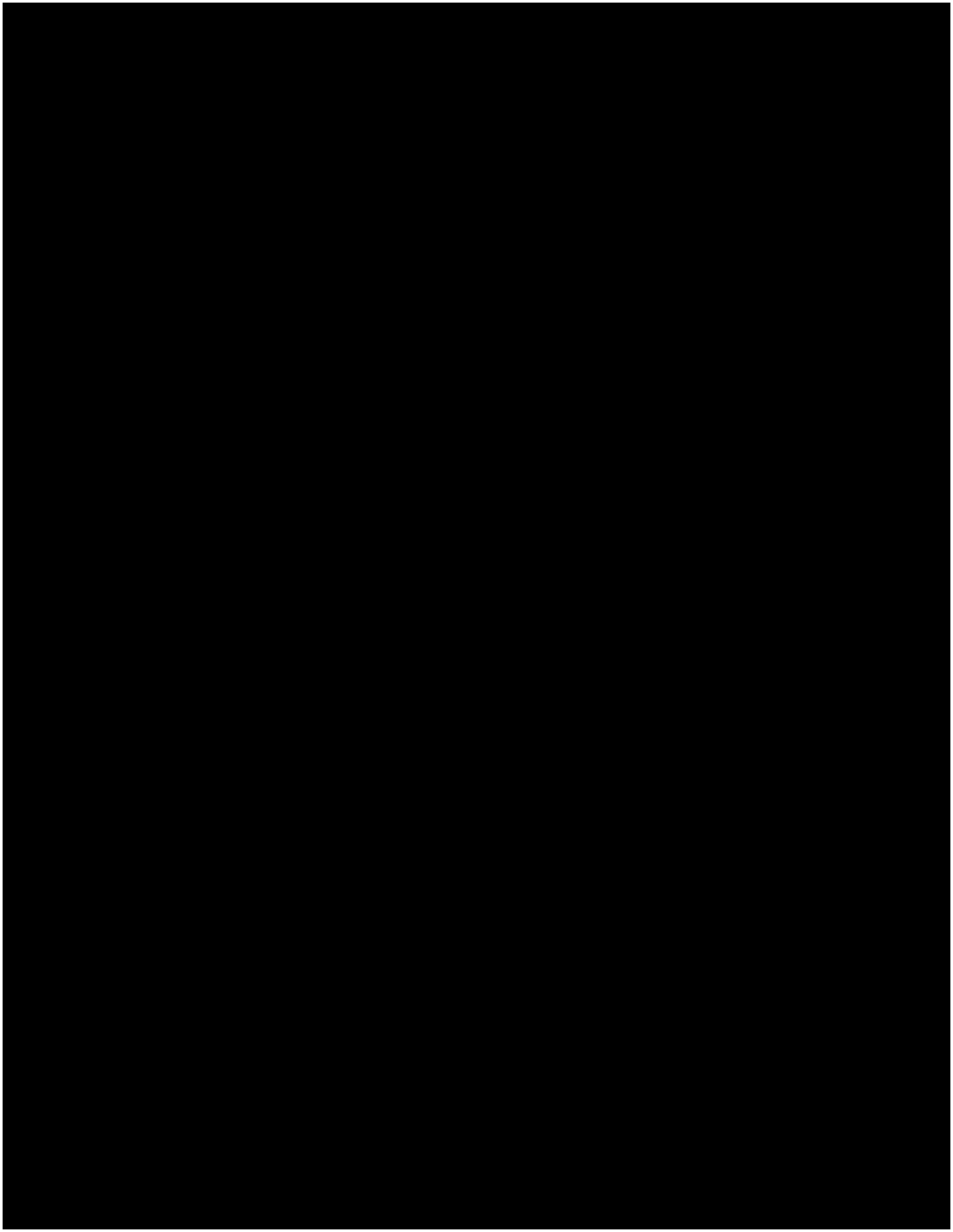
In witness whereof, I hereunto set my hand and Notary Seal on this 18th day of May, 2023.

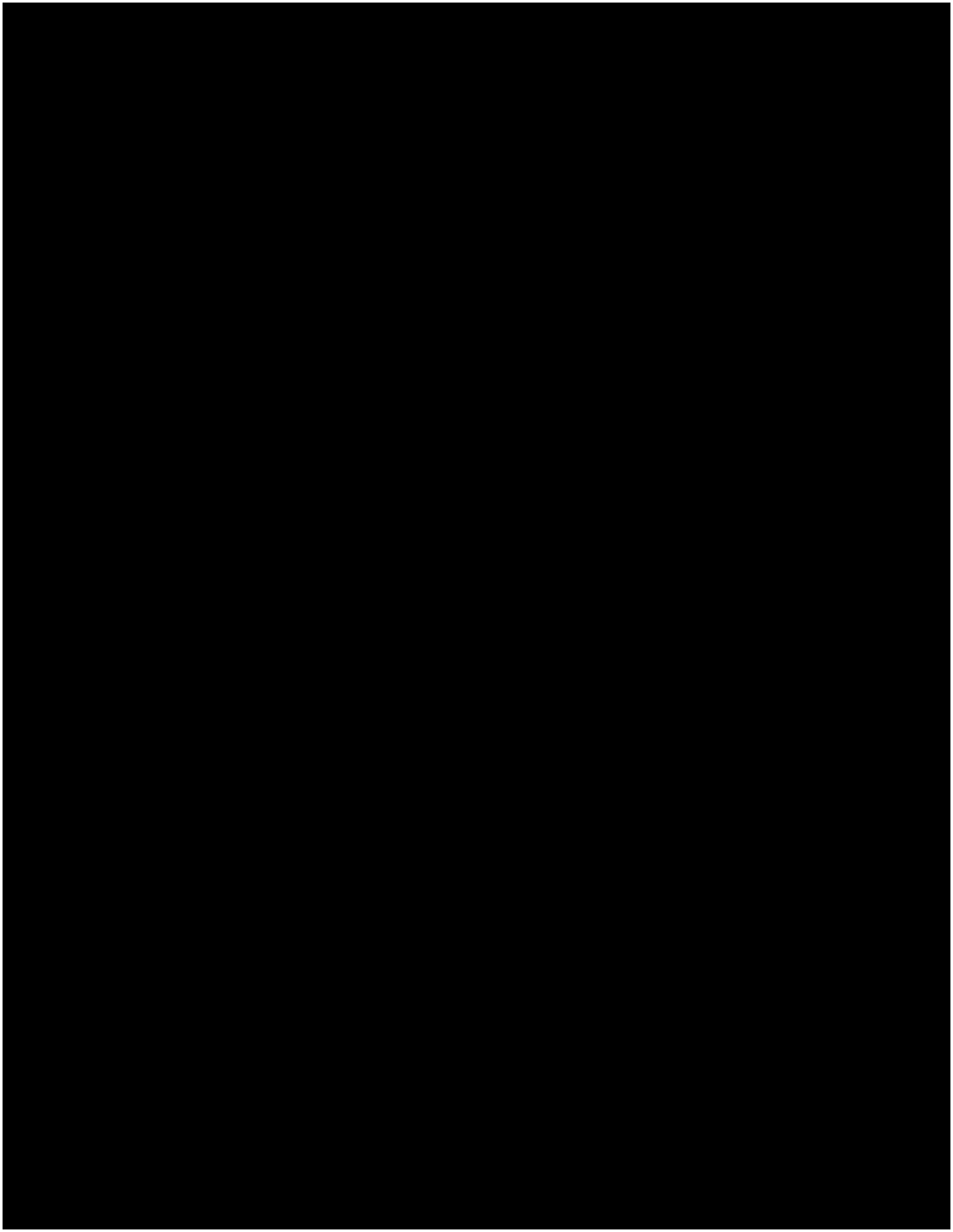
Martha Cox
Notary Public

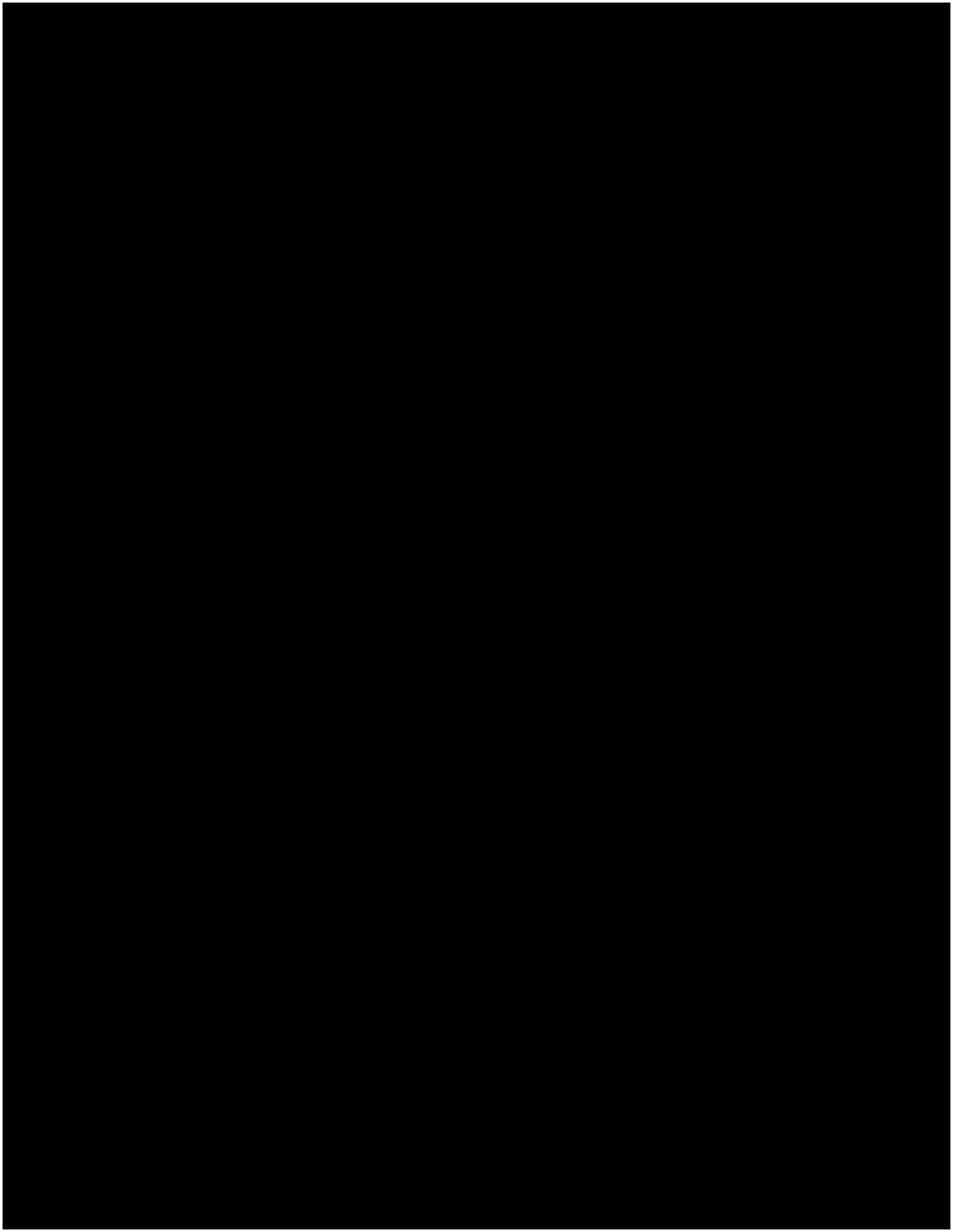
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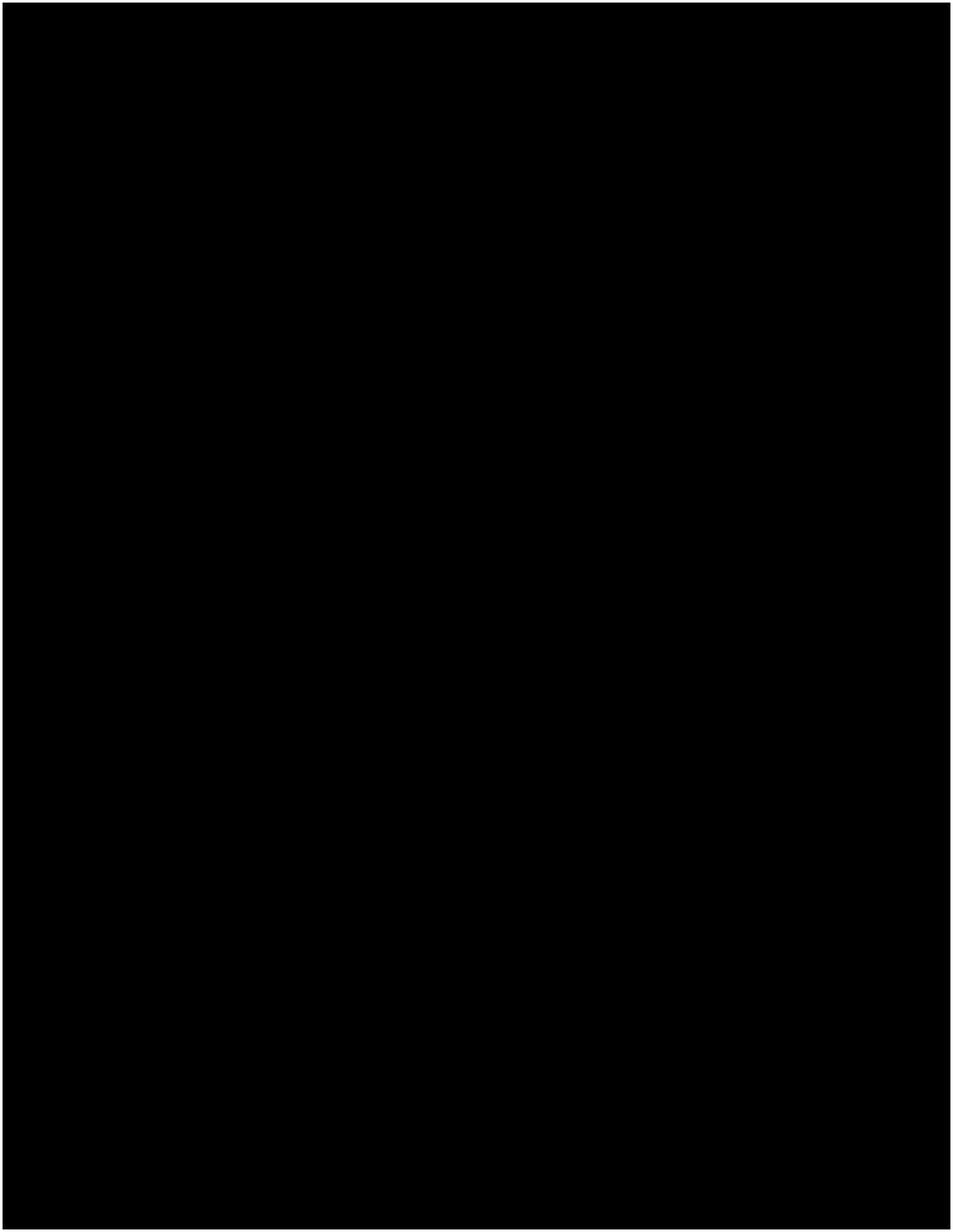
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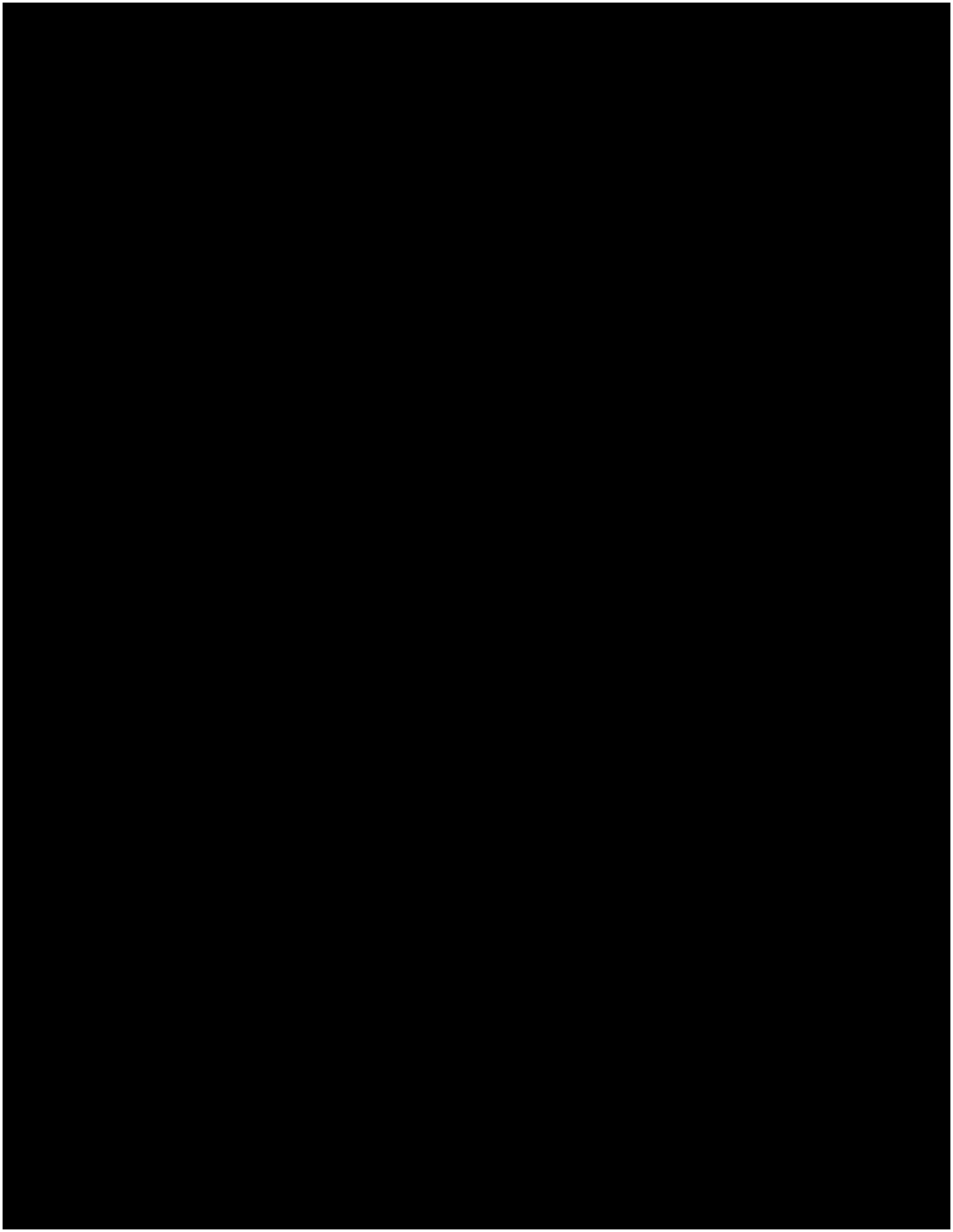
MARTHA COX
NOTARY PUBLIC - STATE OF ARKANSAS
SALINE COUNTY
My Commission Expires 8-19-2031
Commission # 12383466

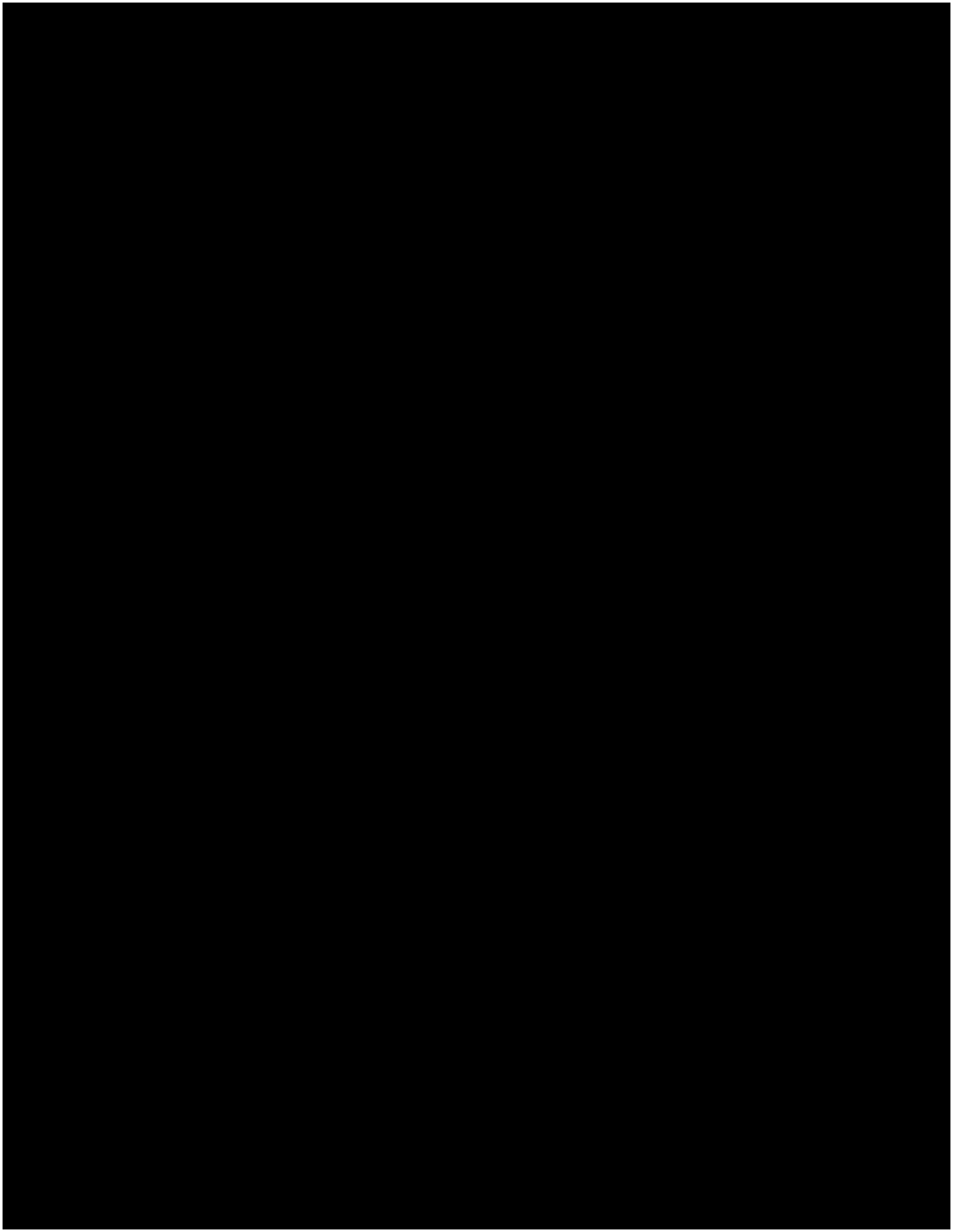


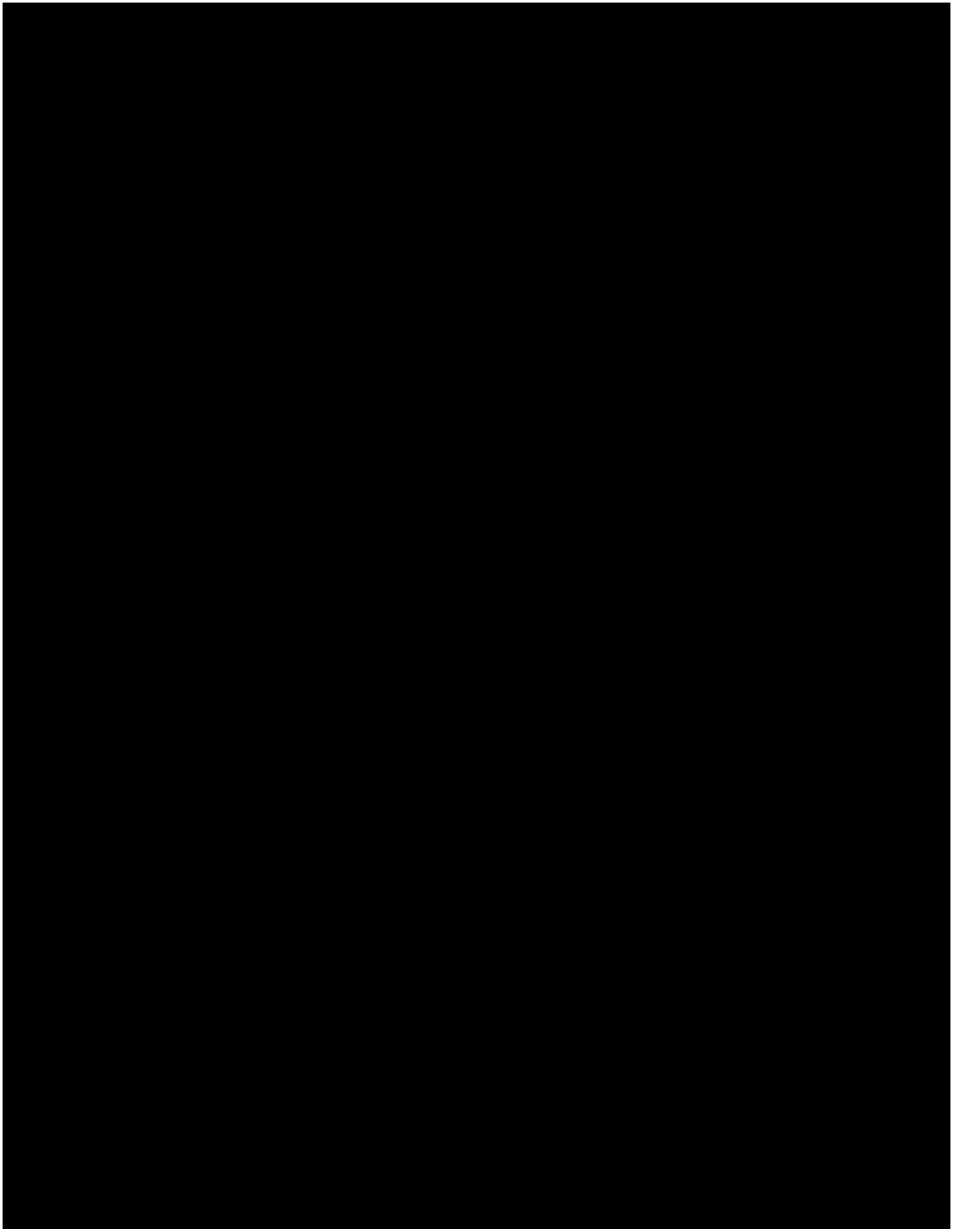


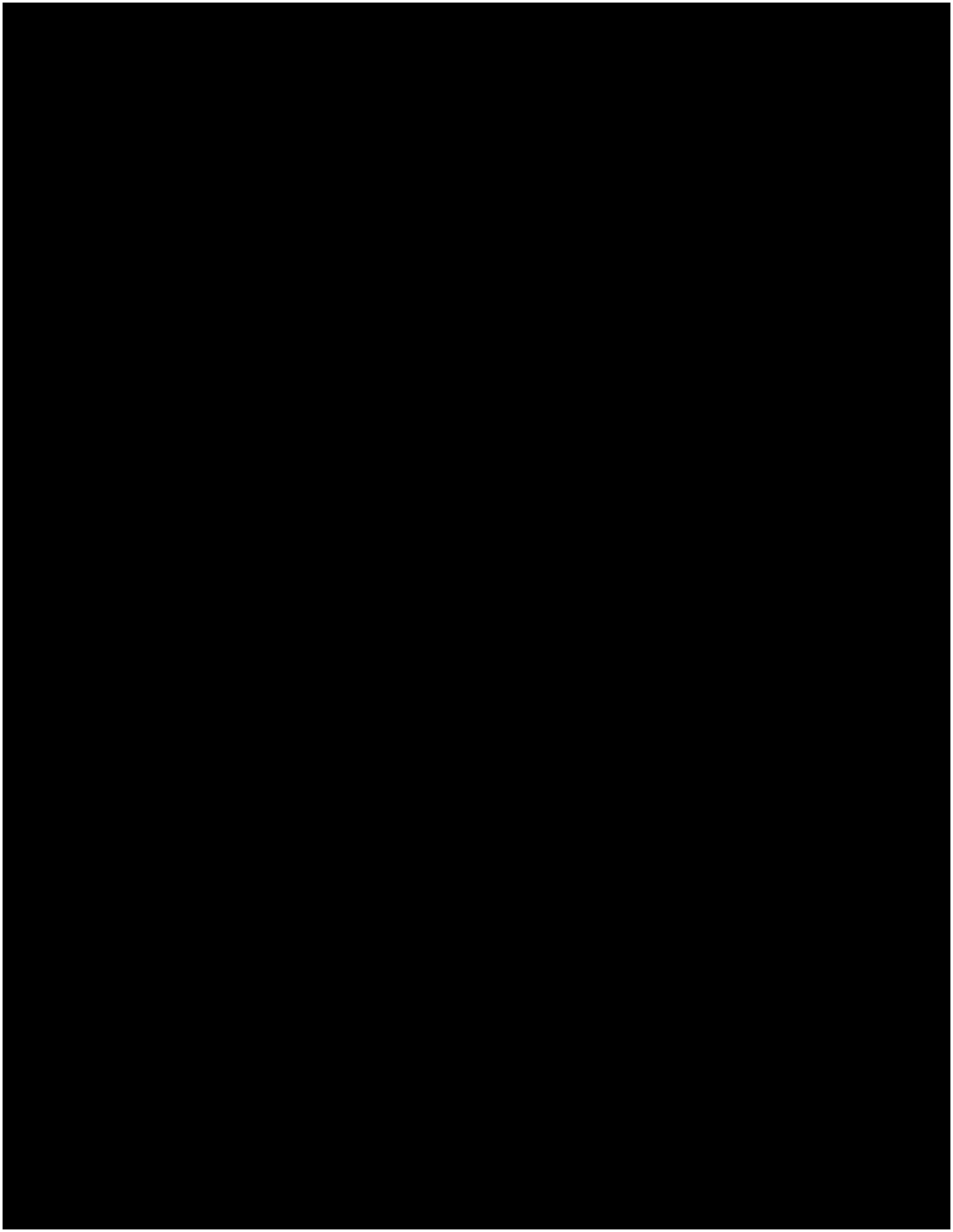


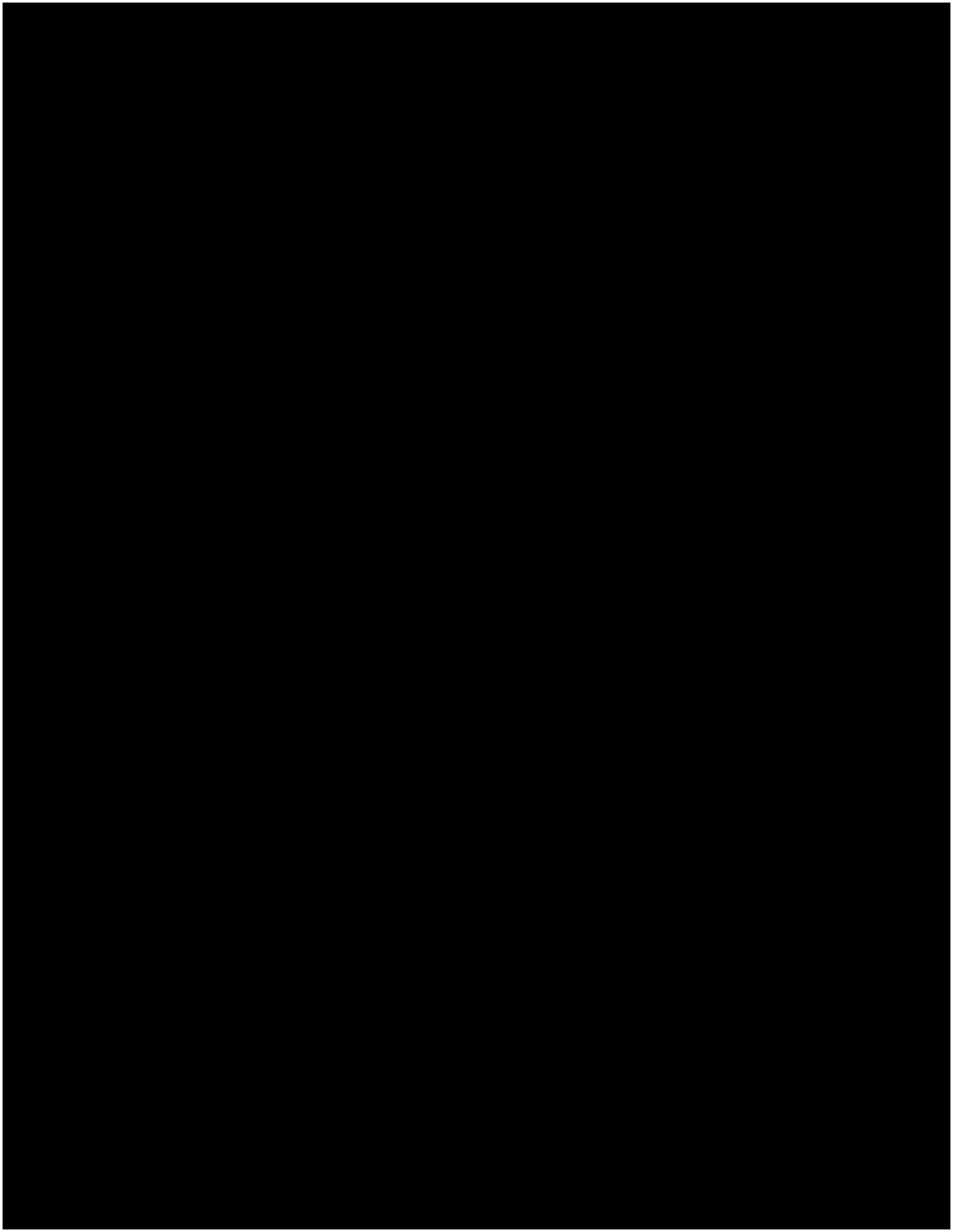


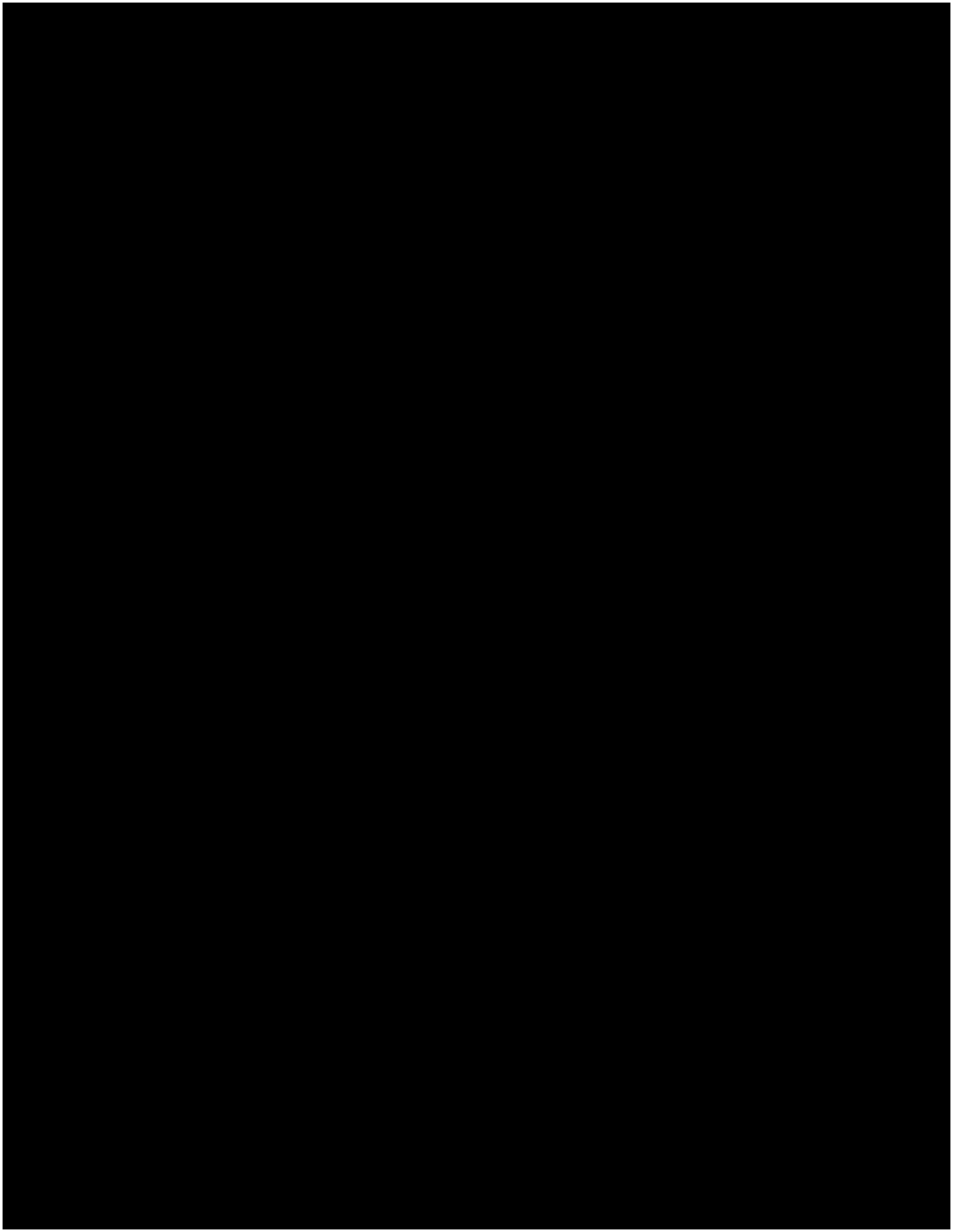


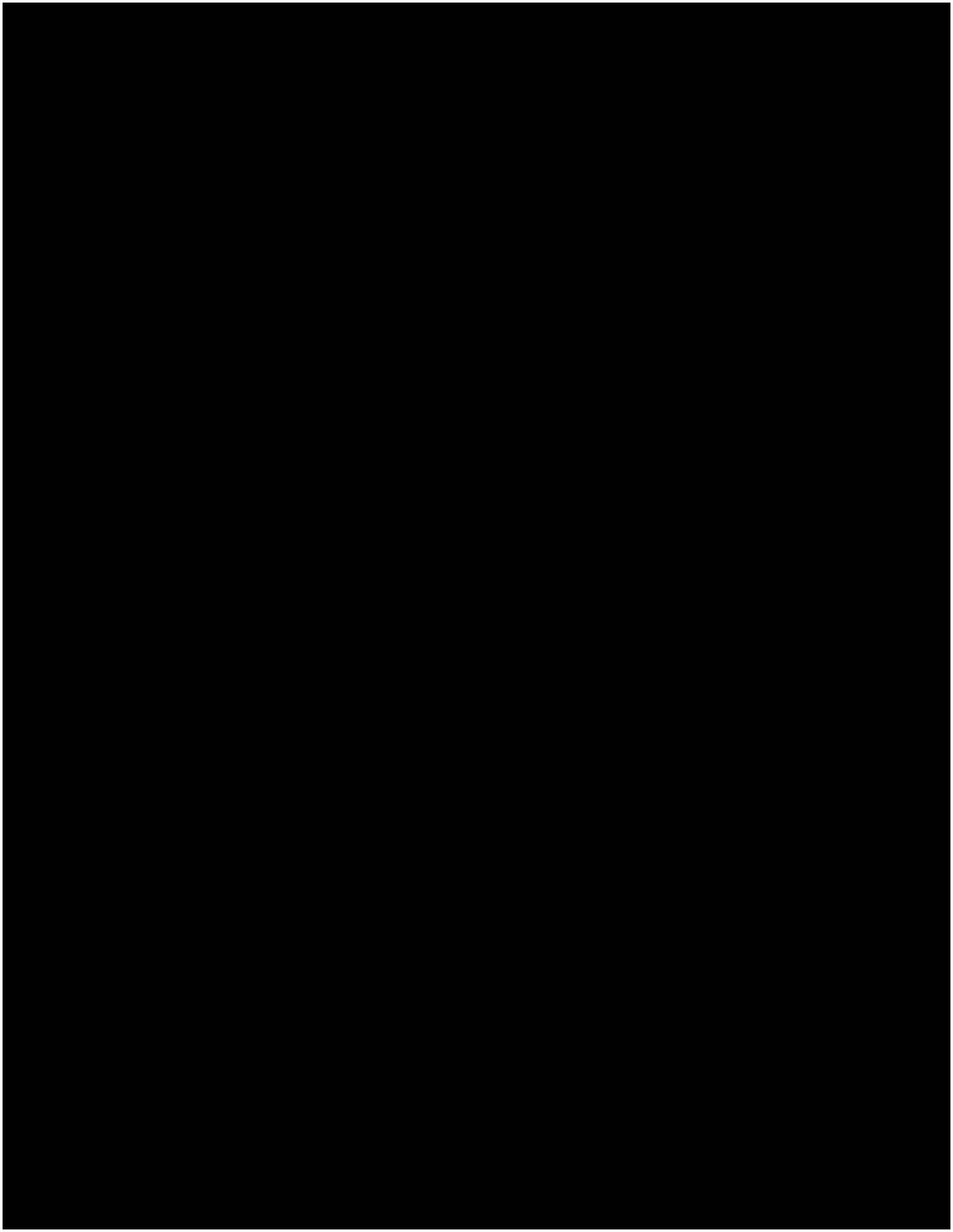


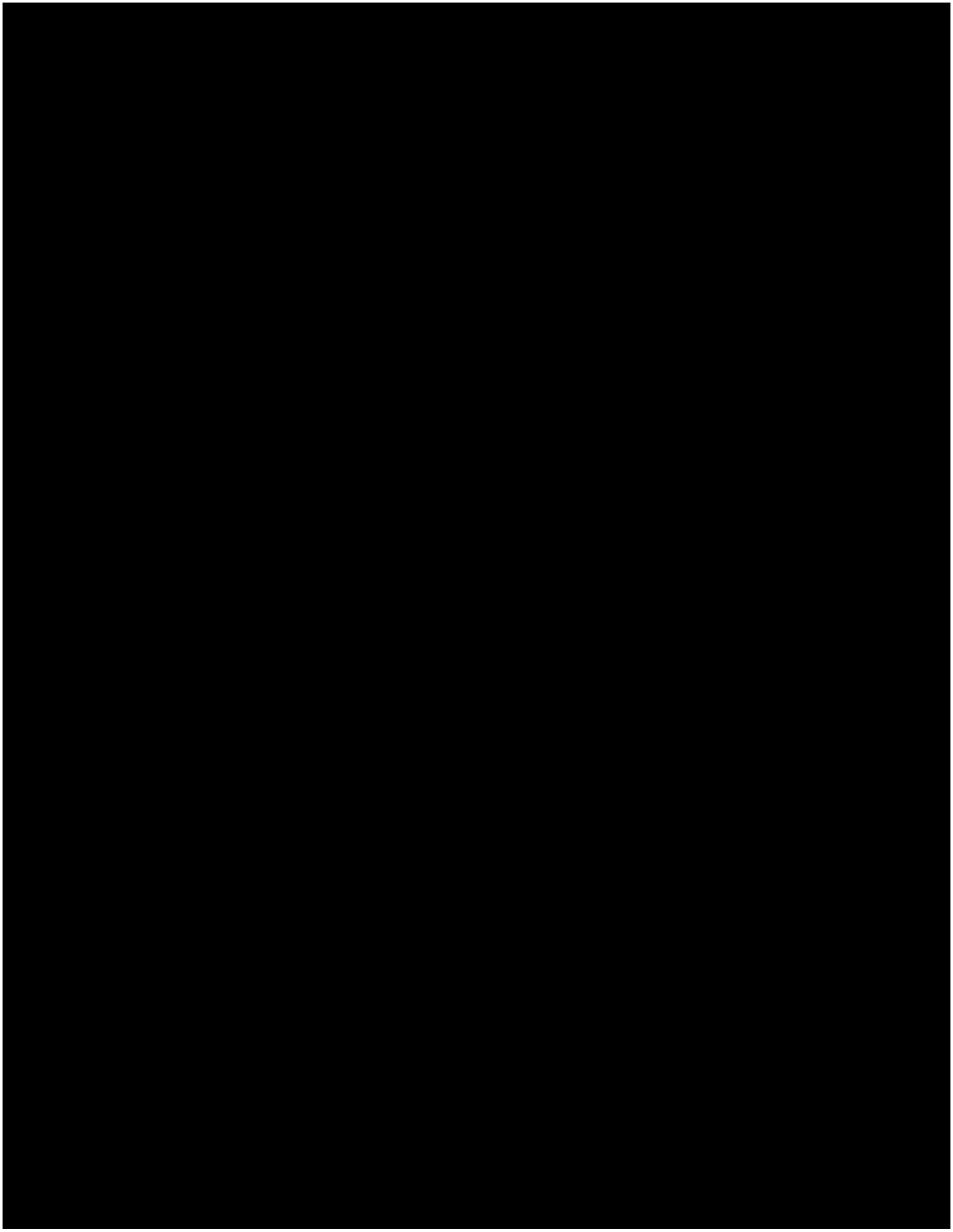


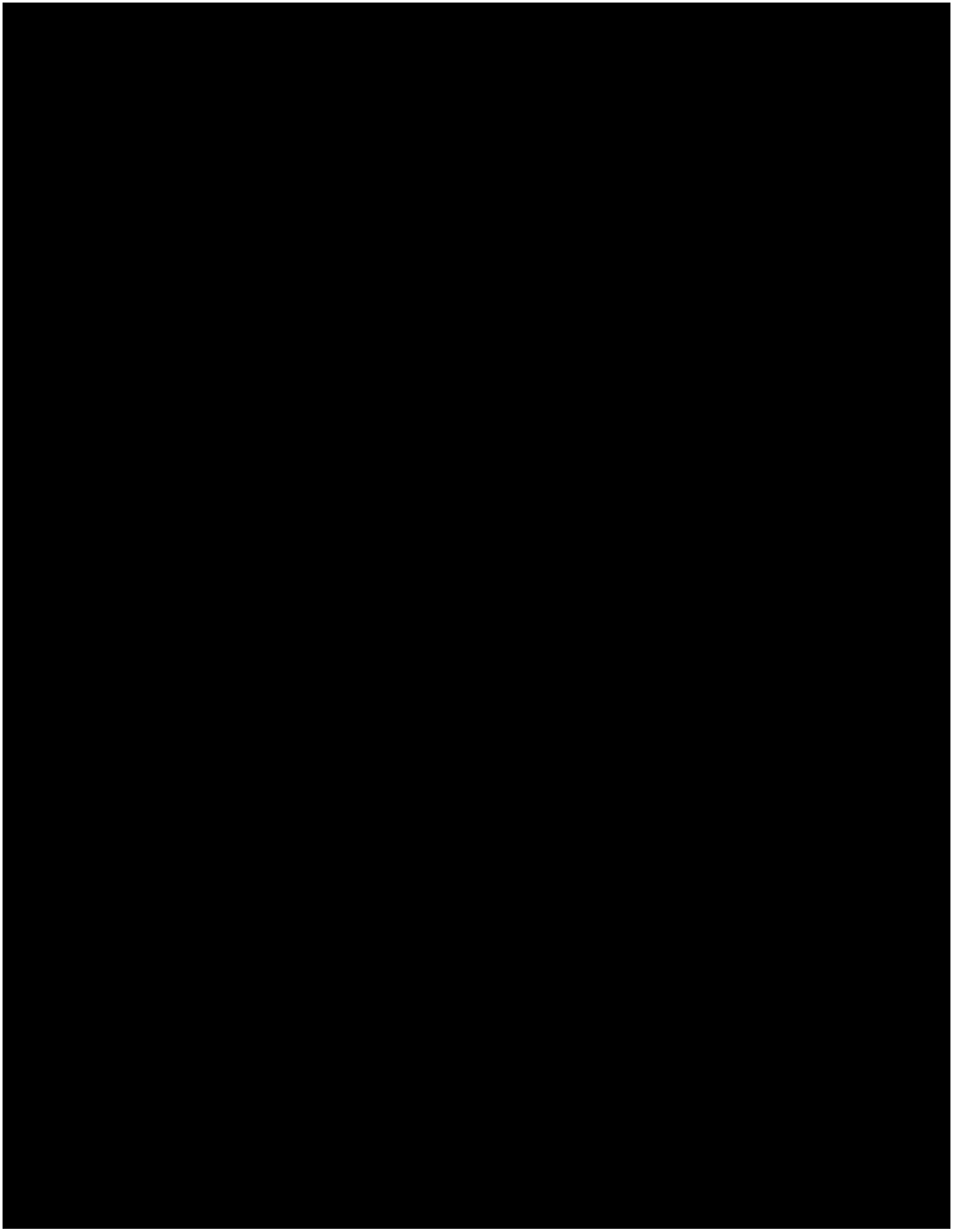


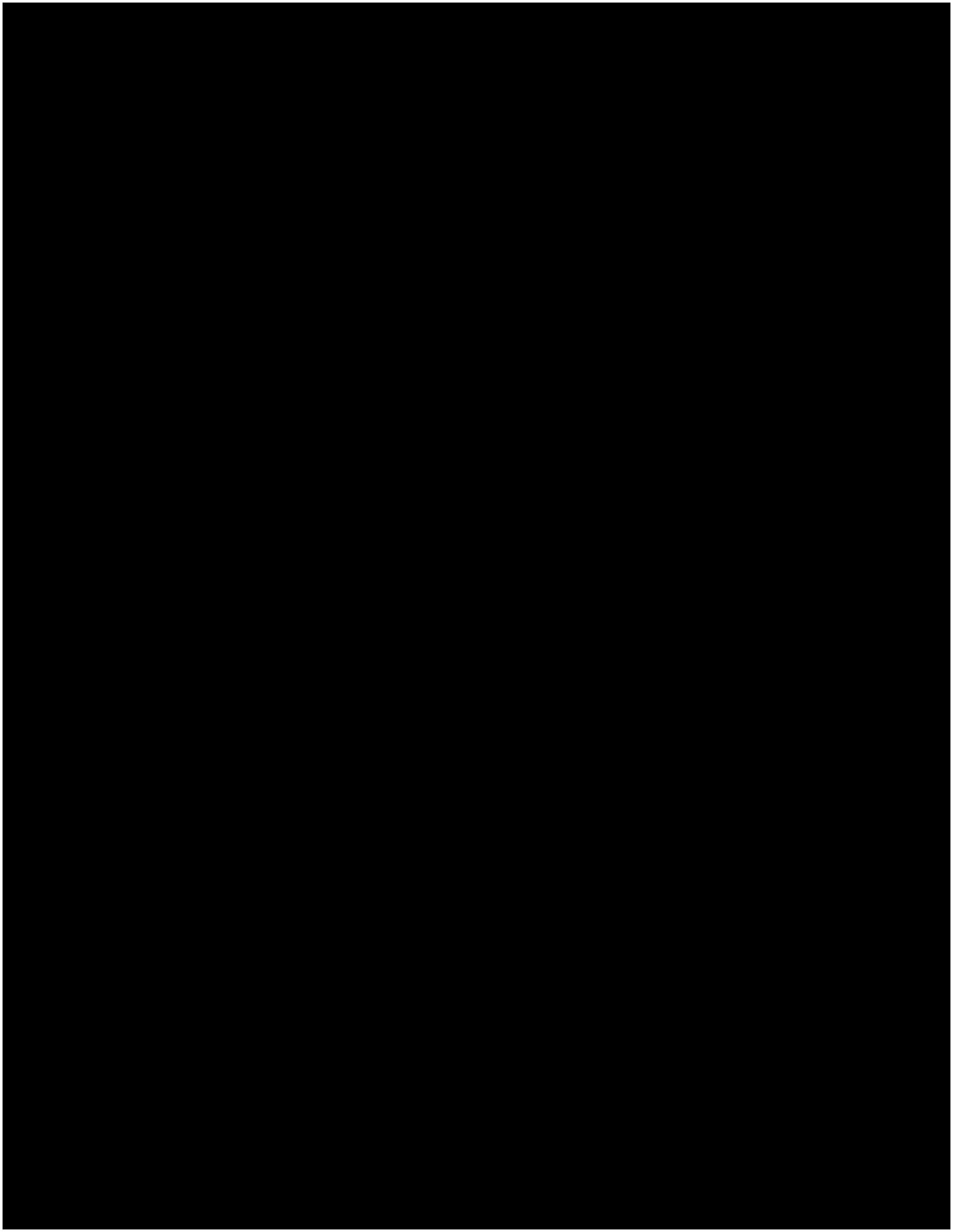


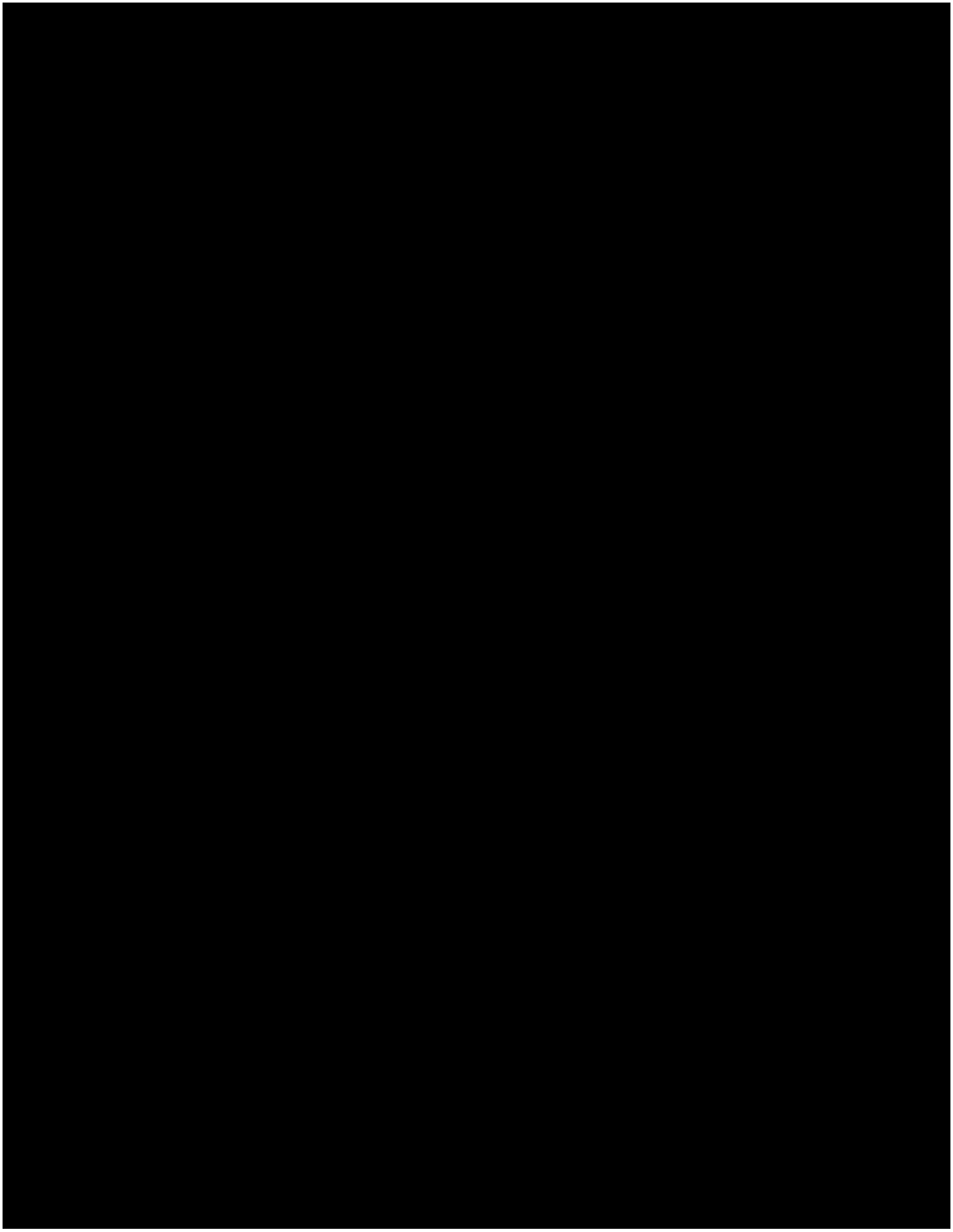


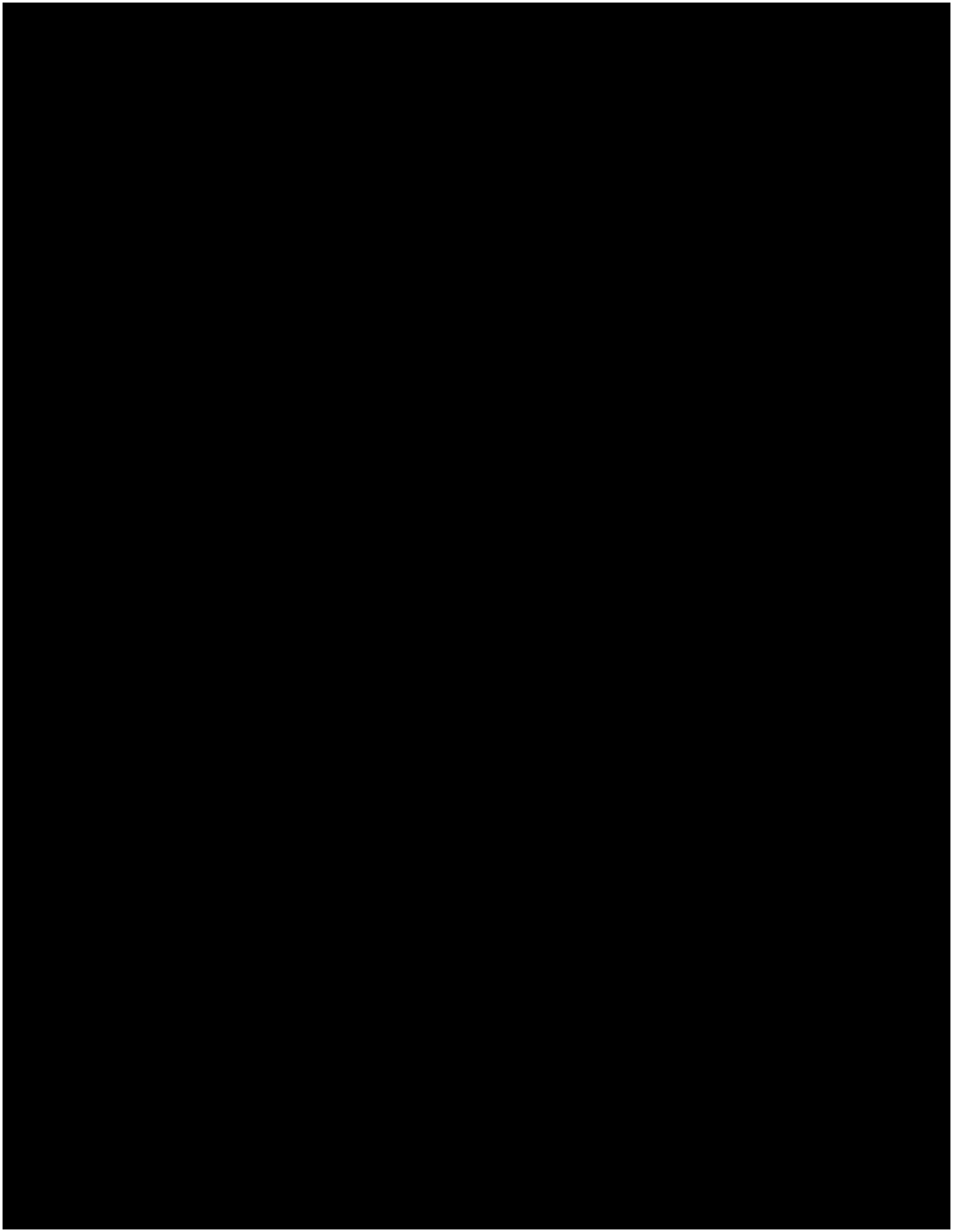


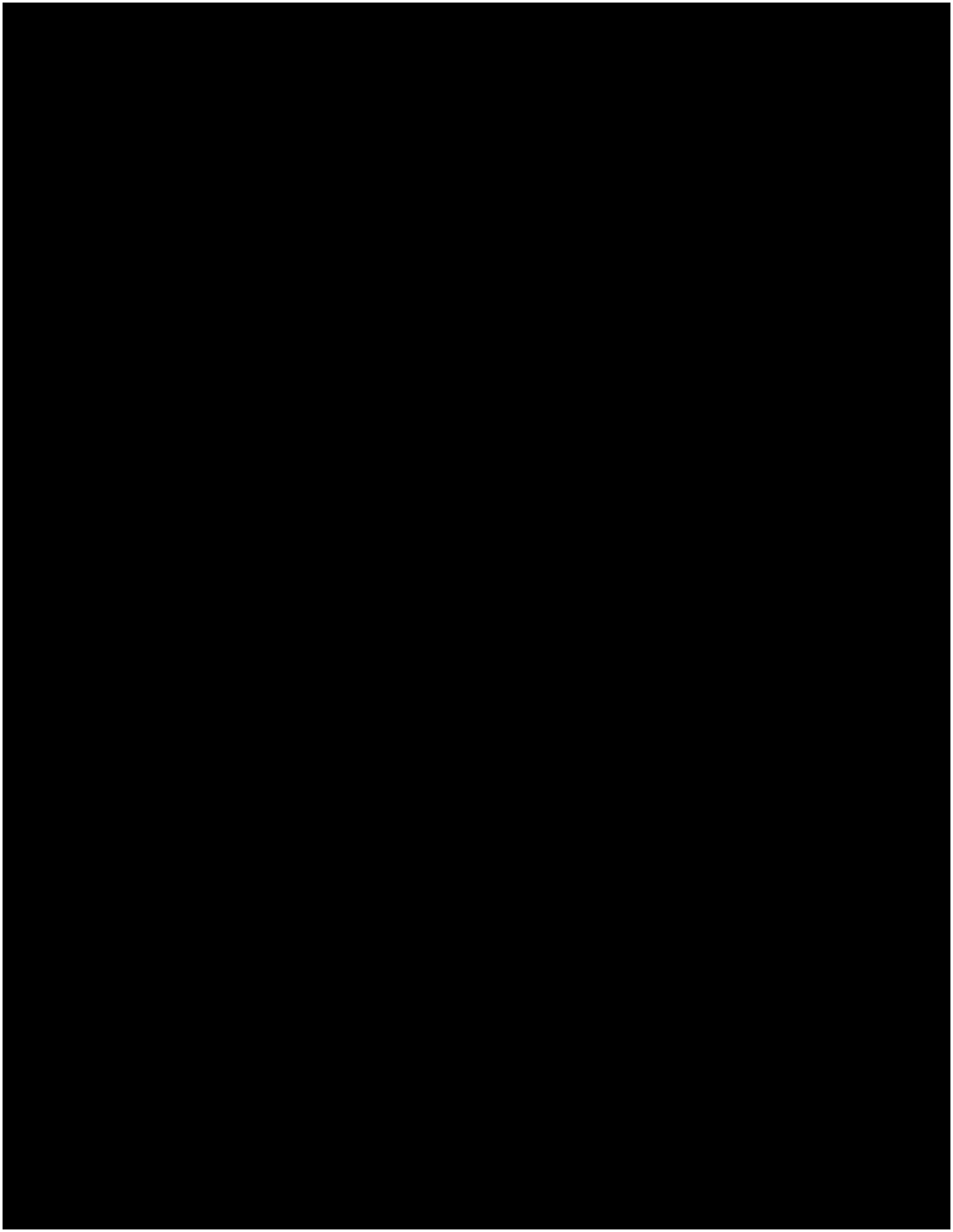


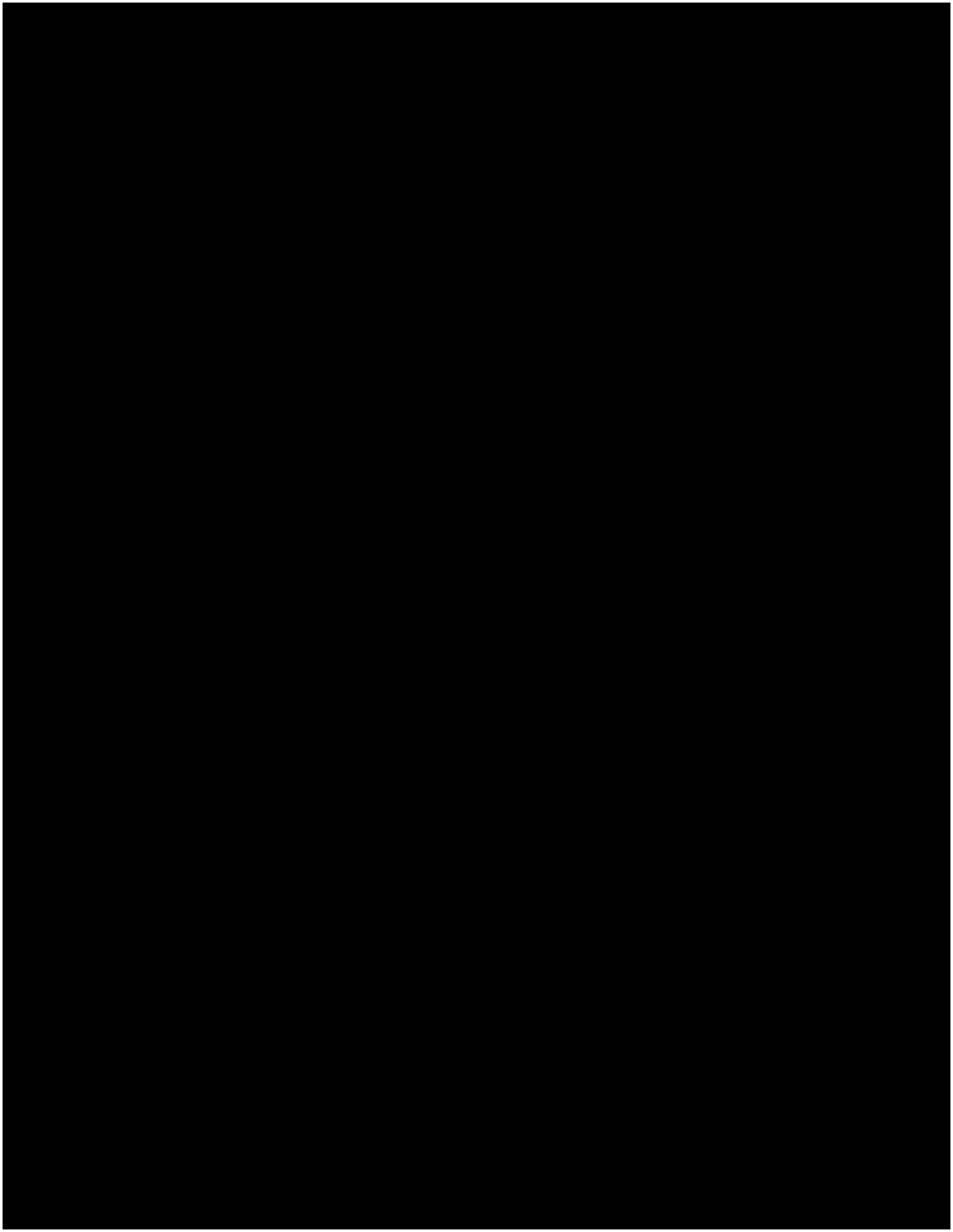


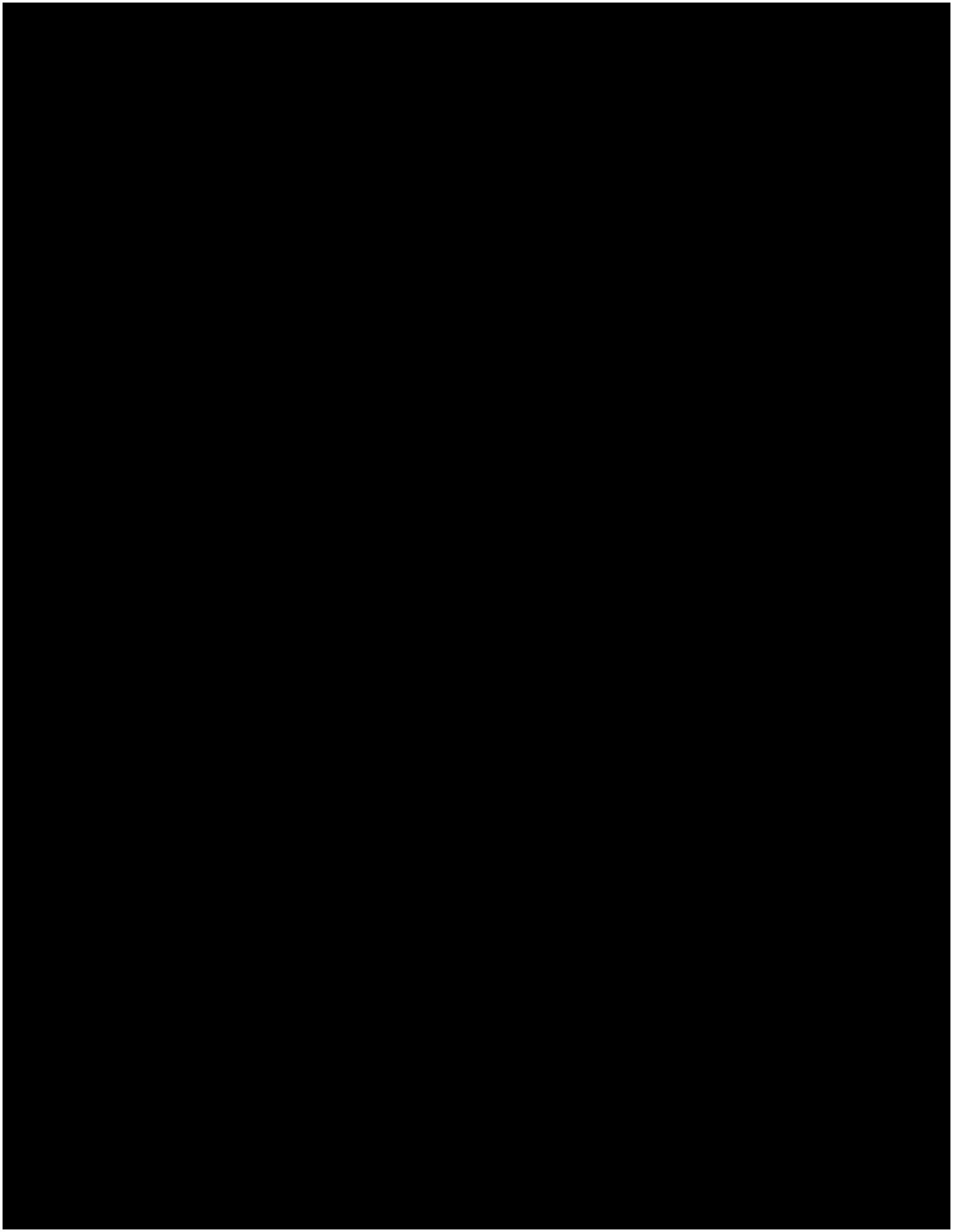












ARKANSAS STATE CLAIMS COMMISSION

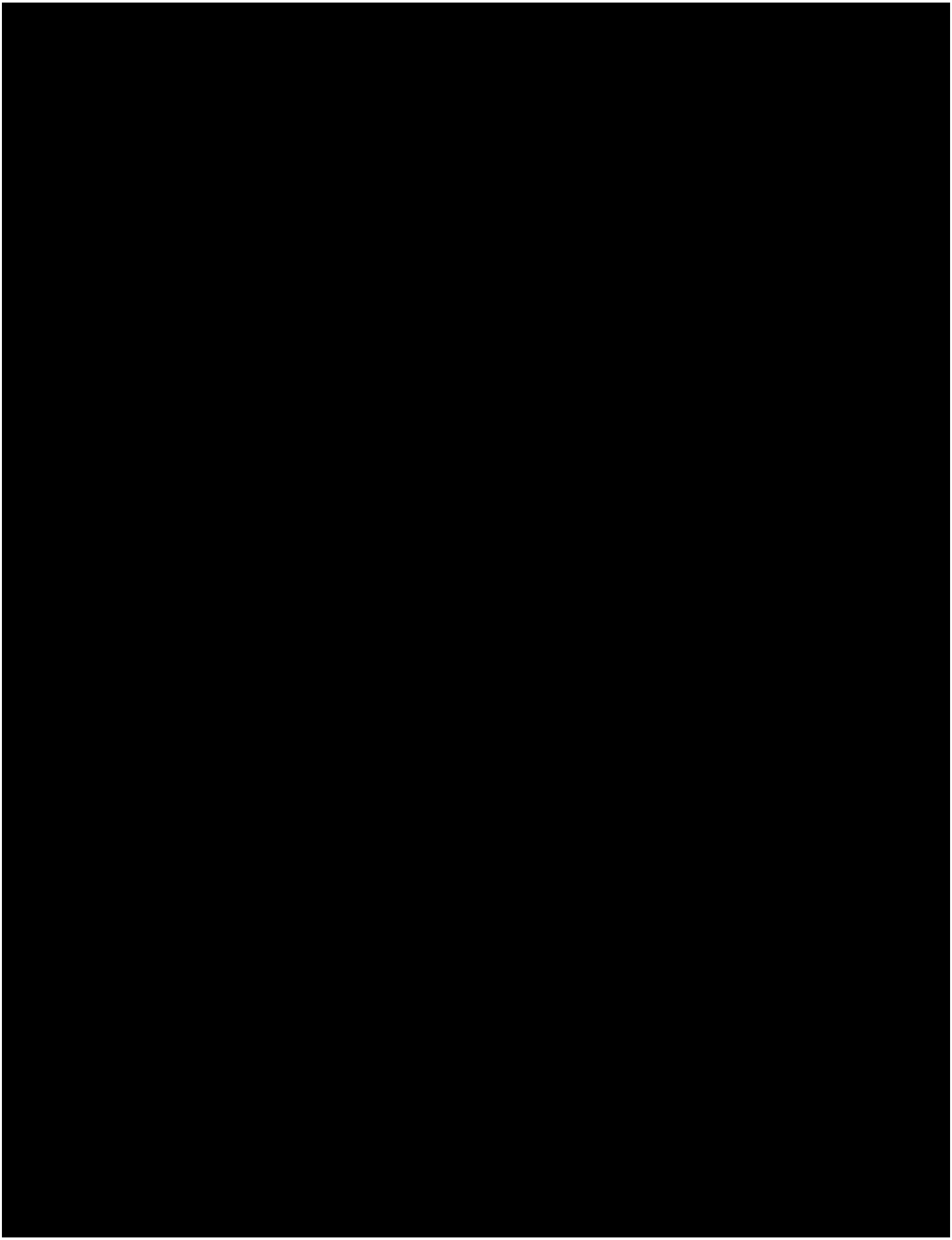
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — **CLAIMANT**

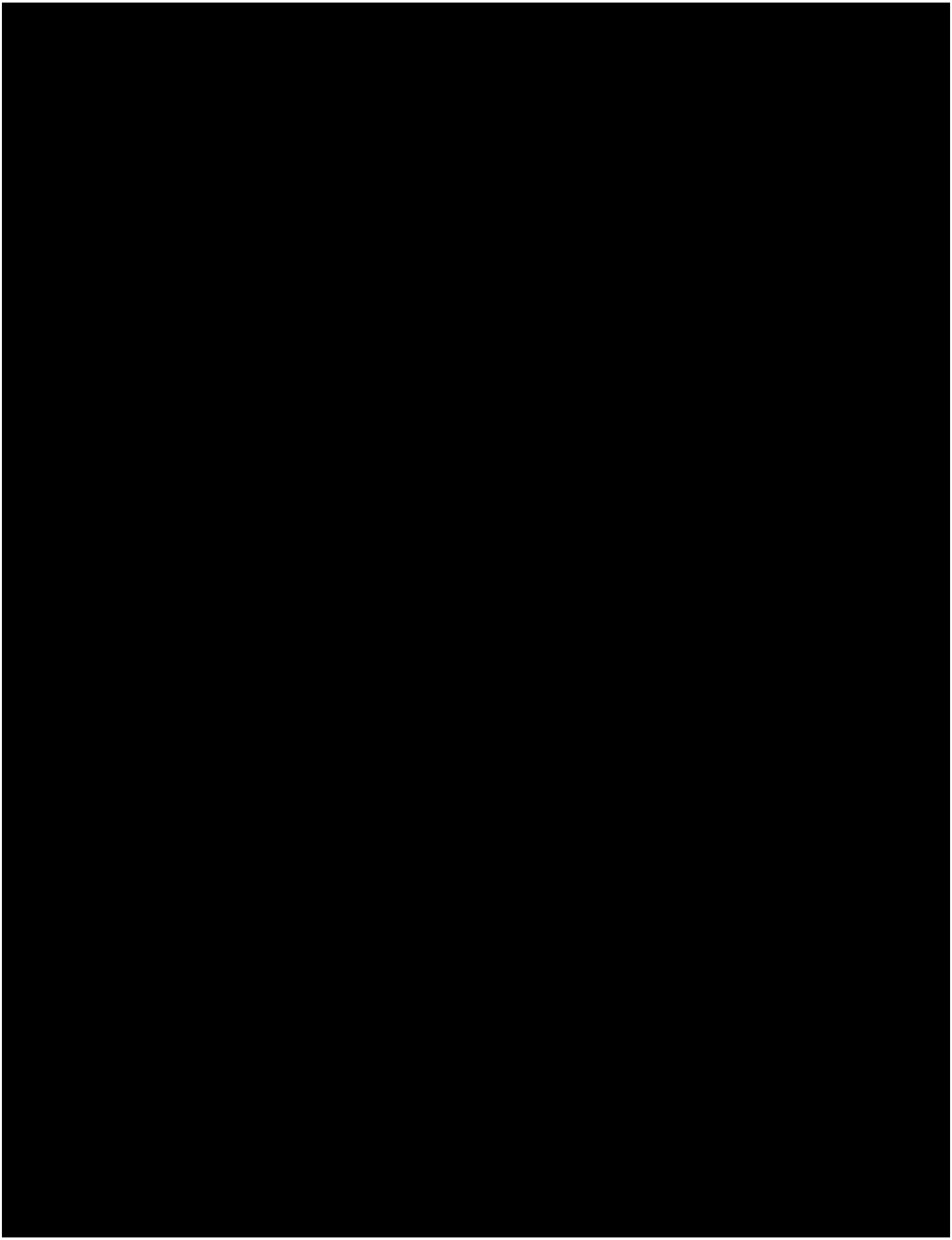
VS. **CC NO.** 230641

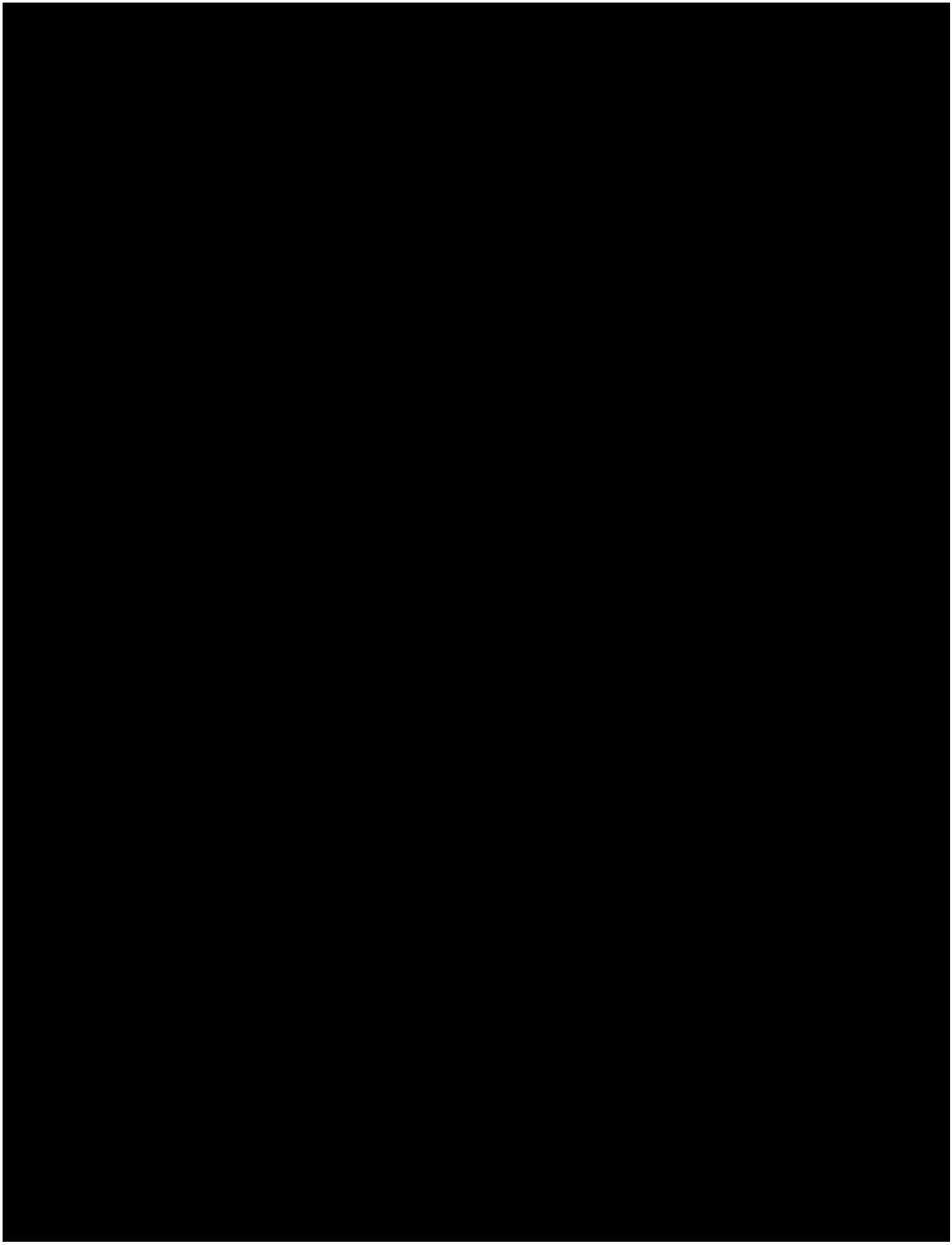
ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

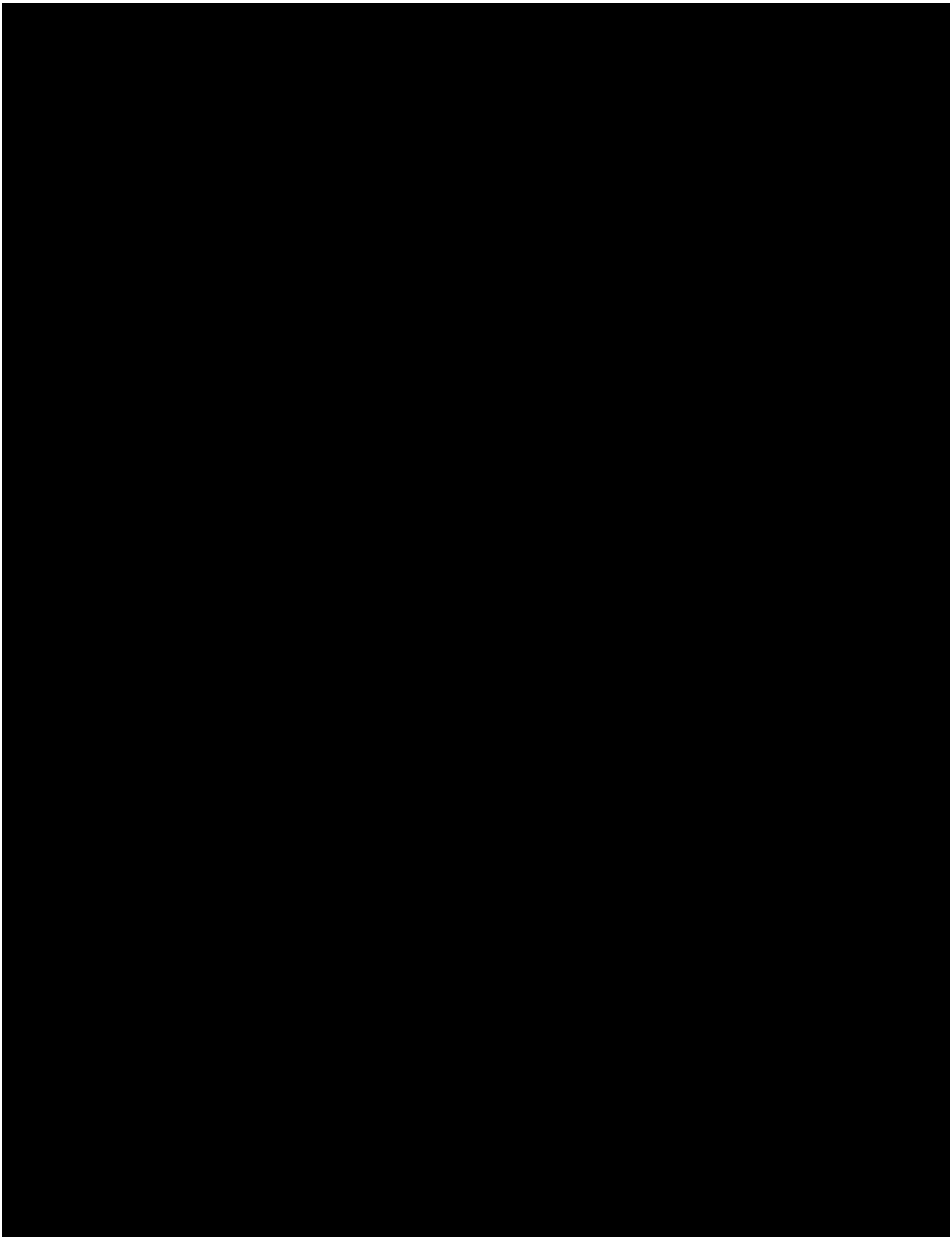
EXHIBITS TO
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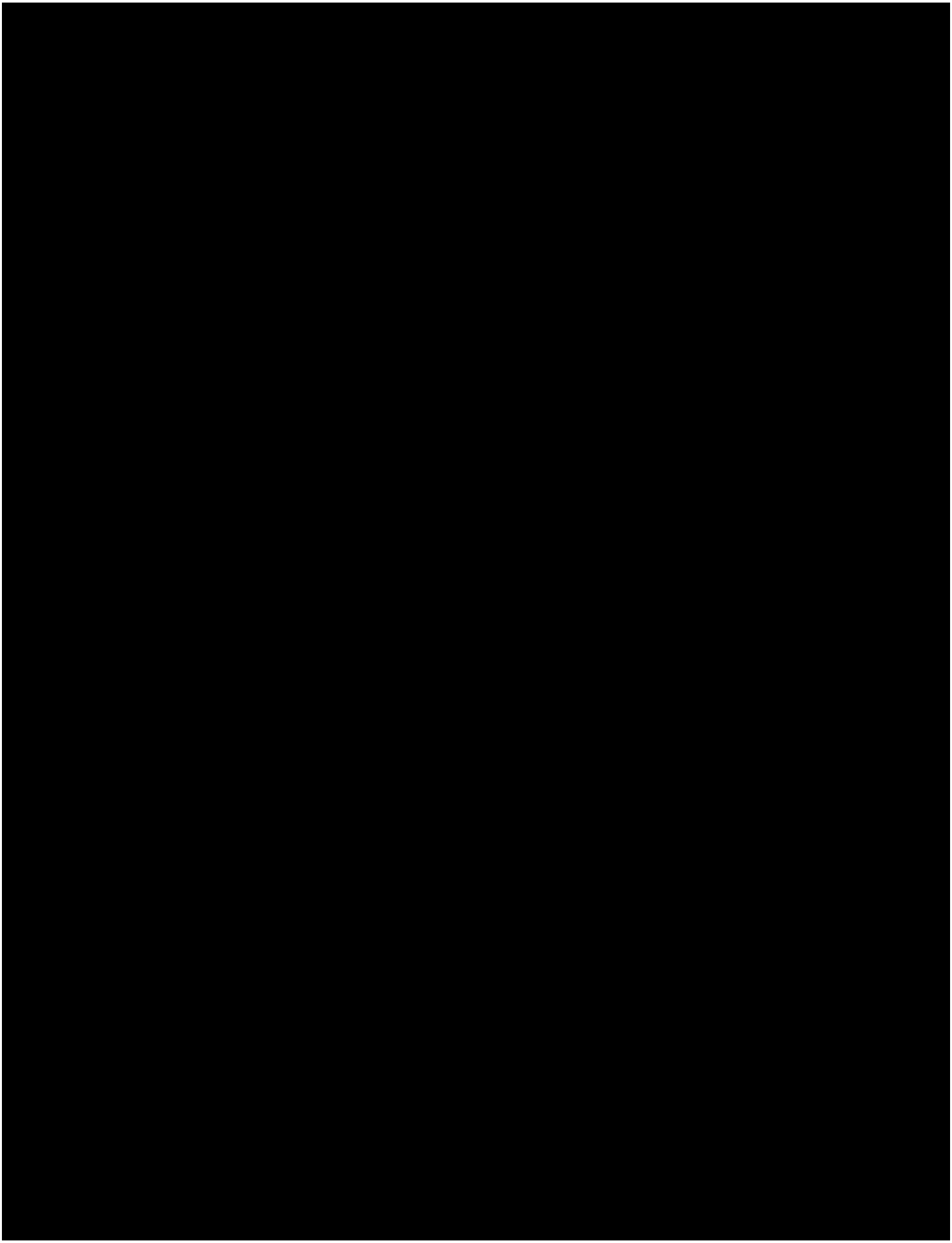
Exhibit 1	Death Certificate of Jacqueline Lynn Ashcraft
Exhibit 2	Arkansas Motor Vehicle Crash Report [redacted] prepared by Arkansas State Trooper James Ray

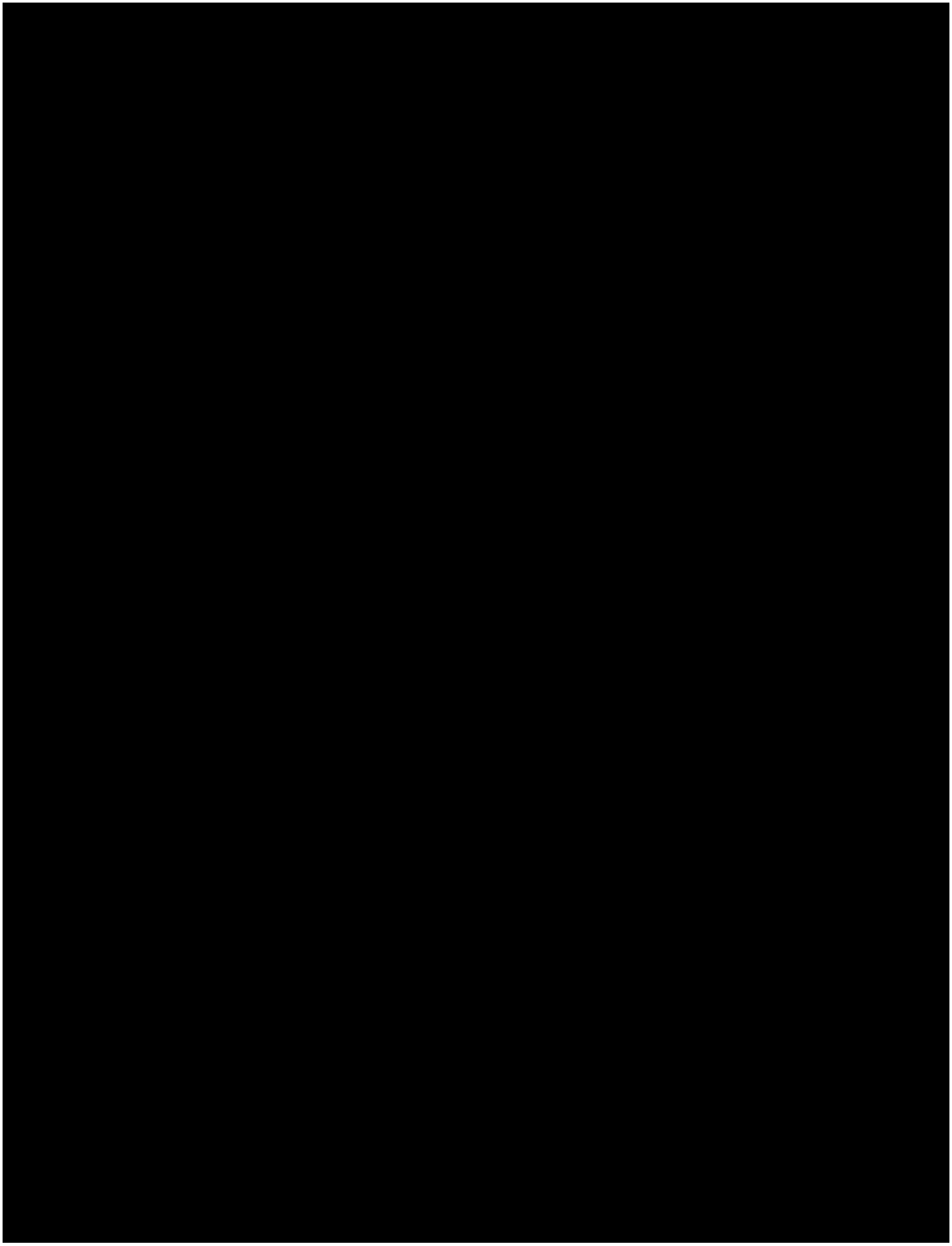


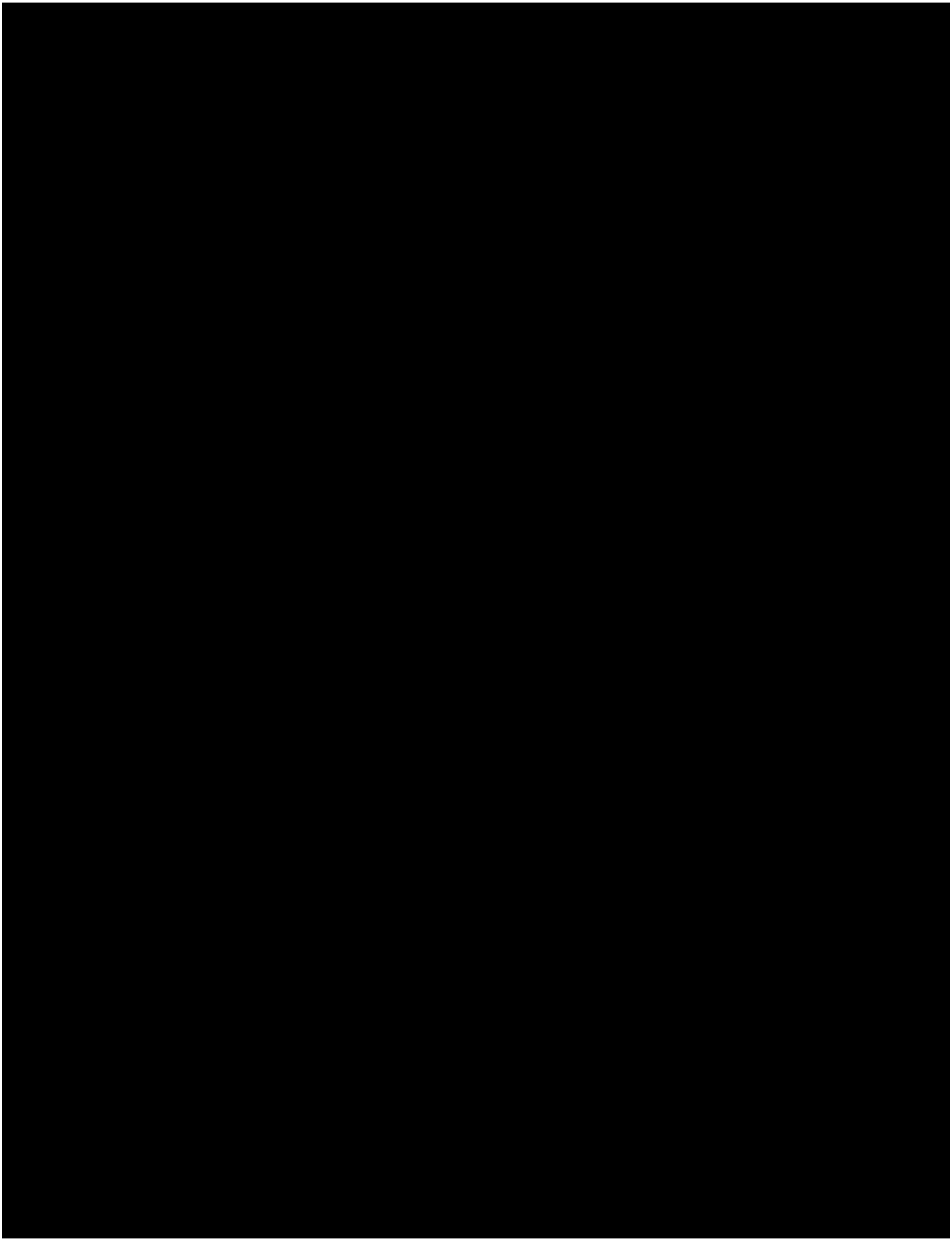


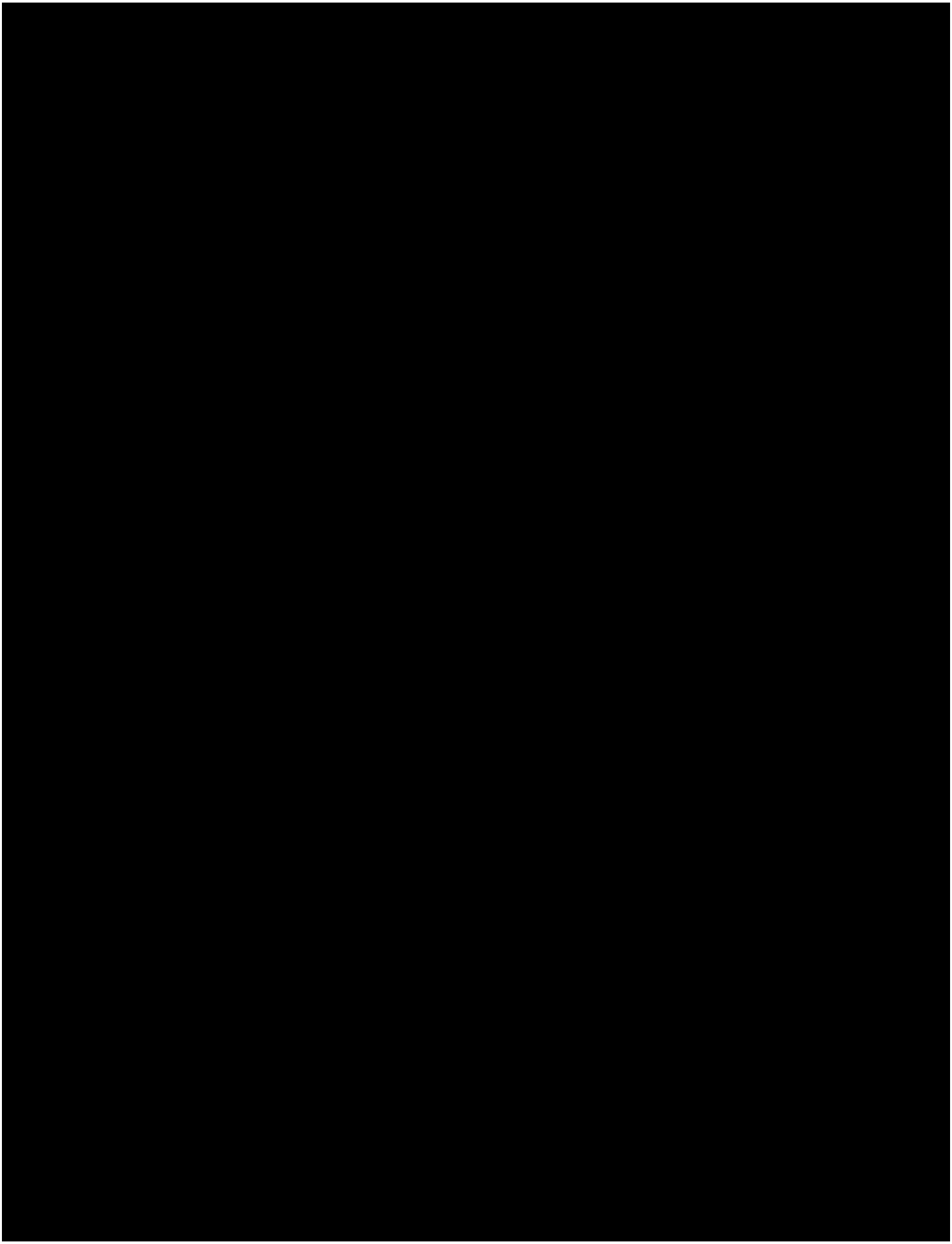


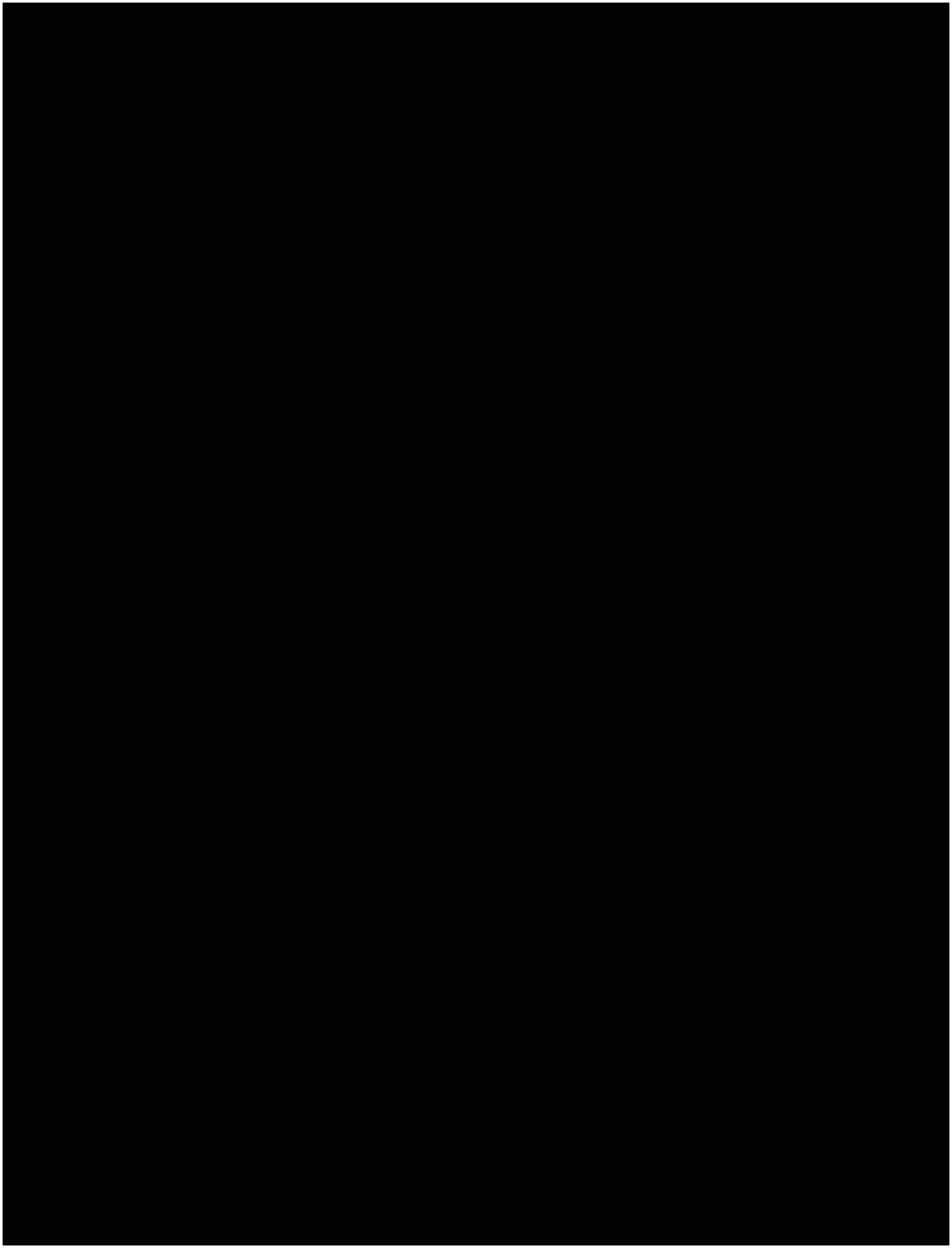


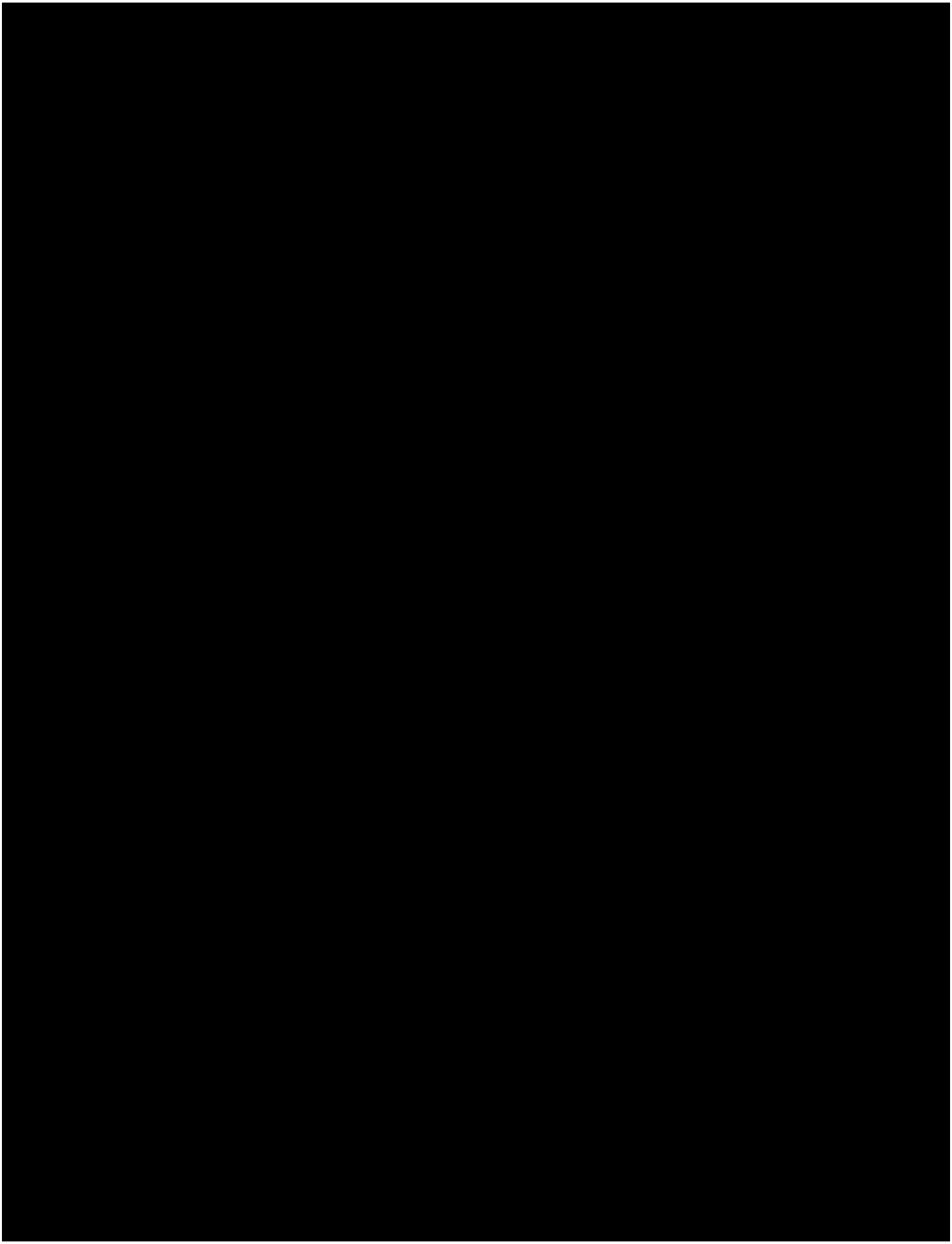


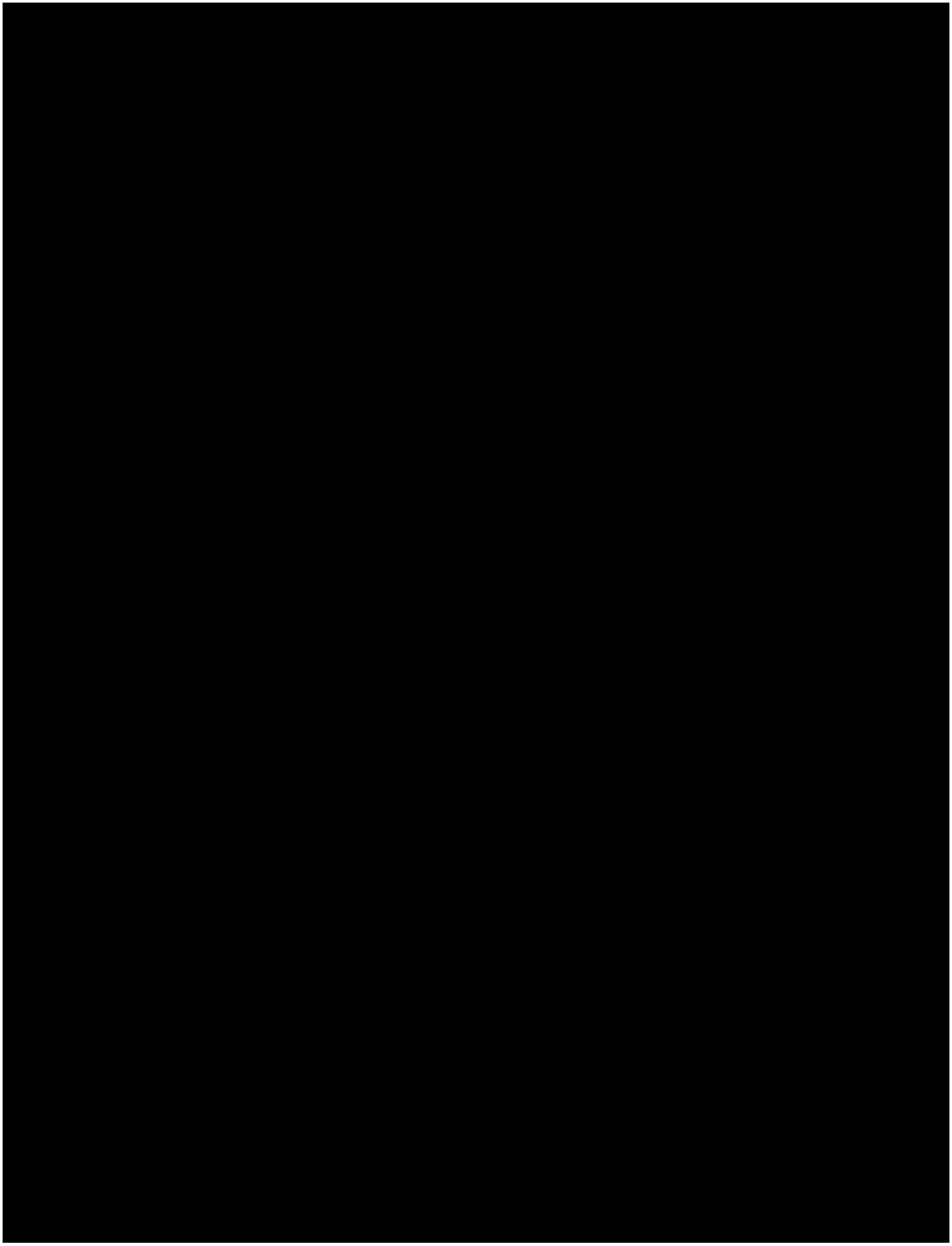


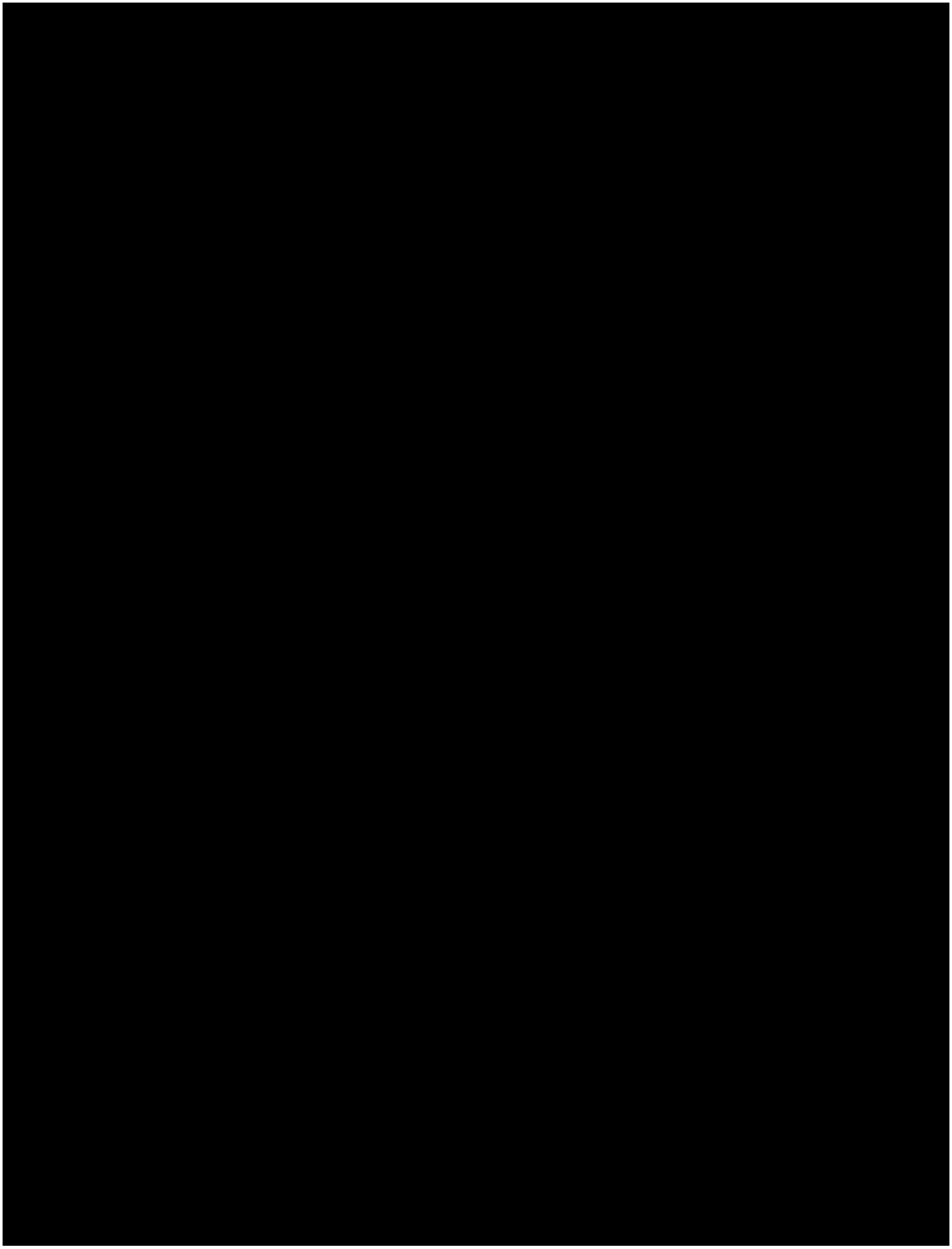


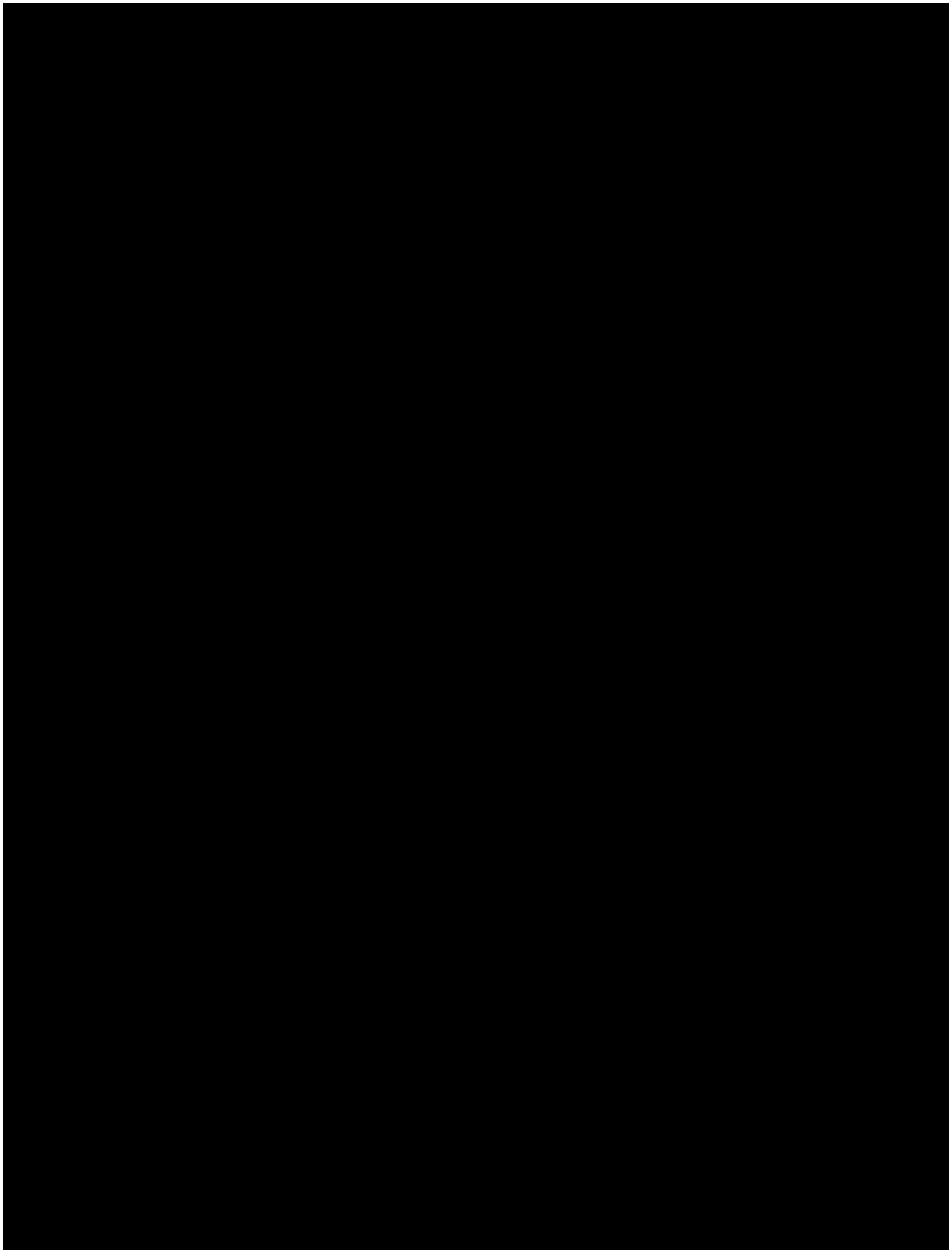


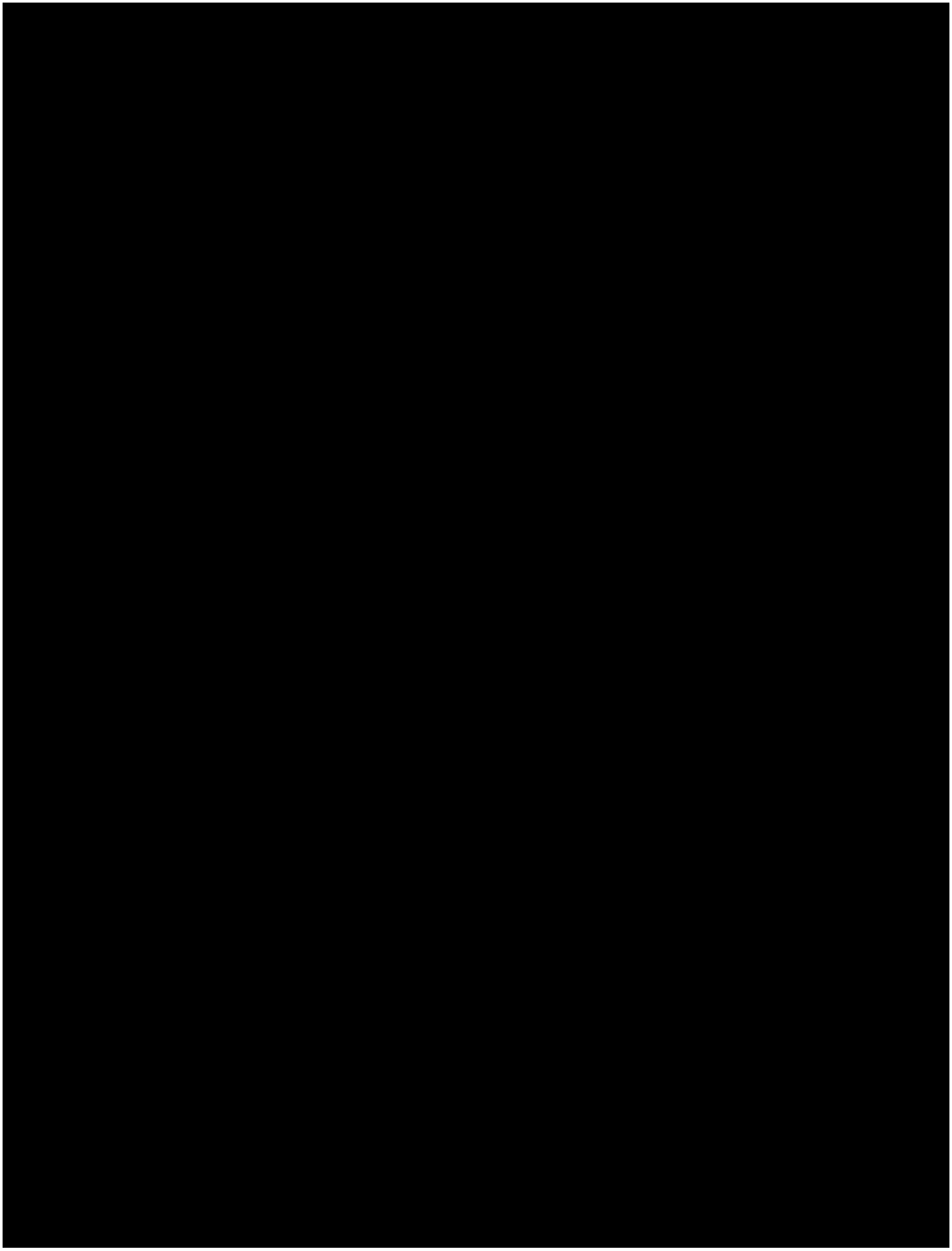


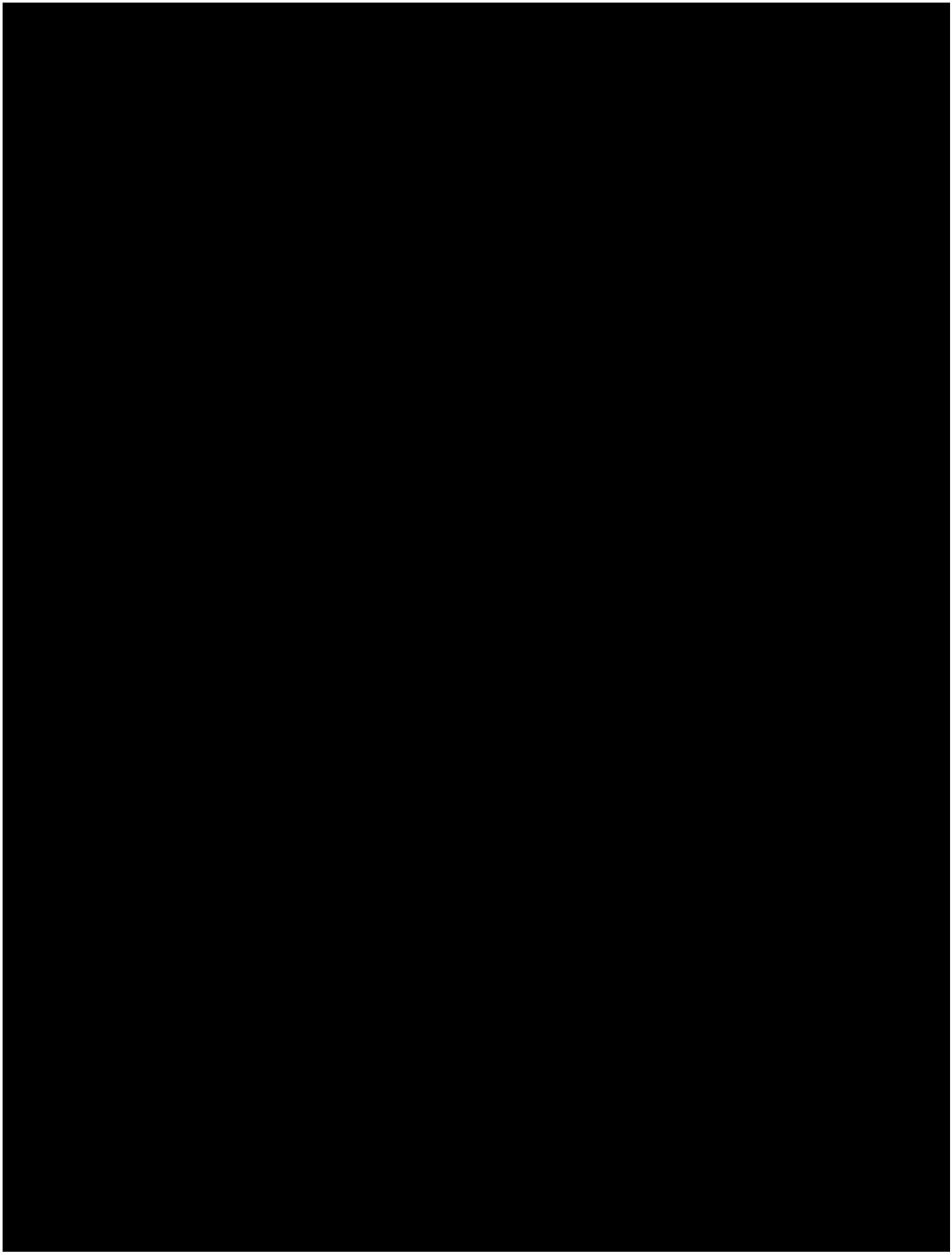


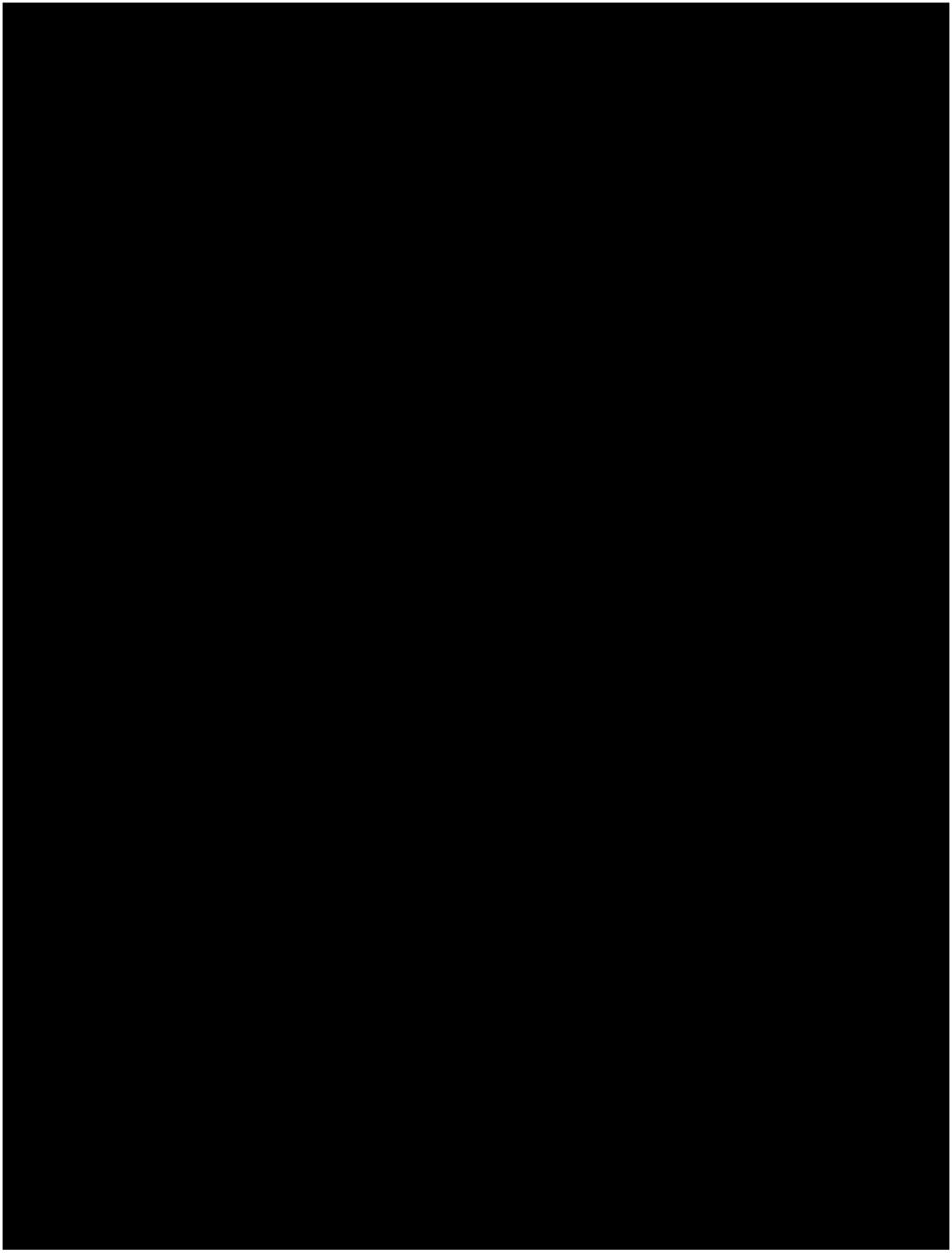


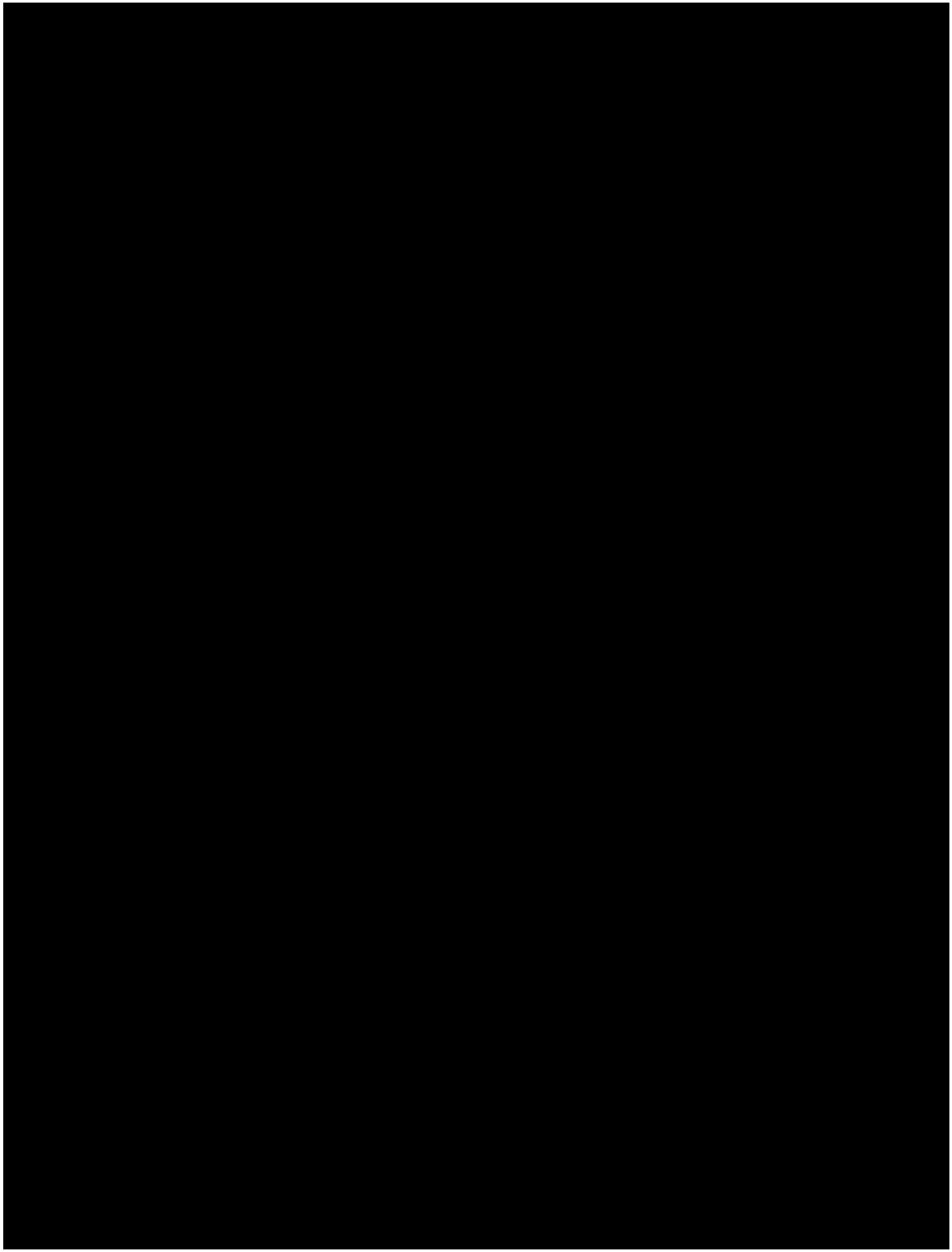


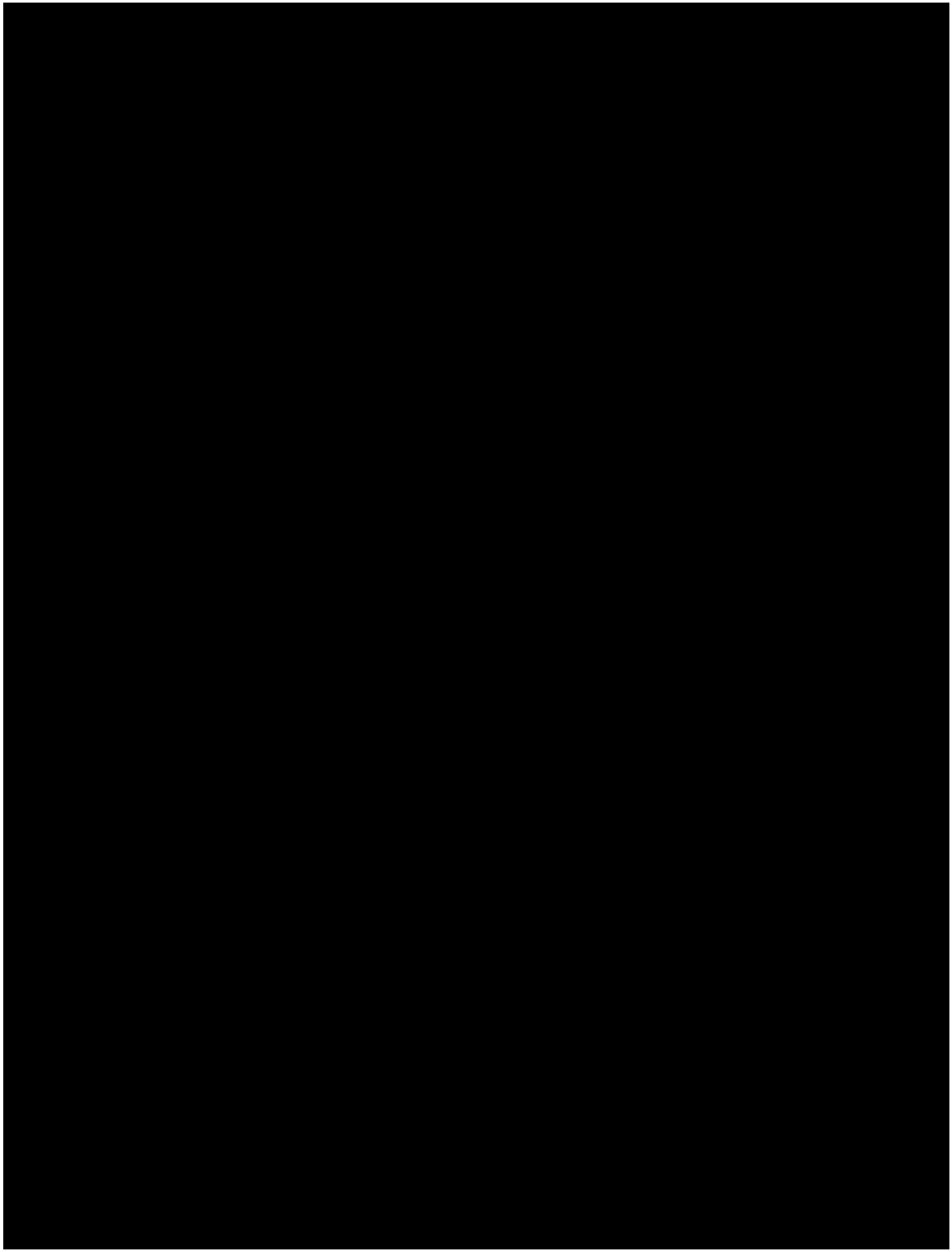


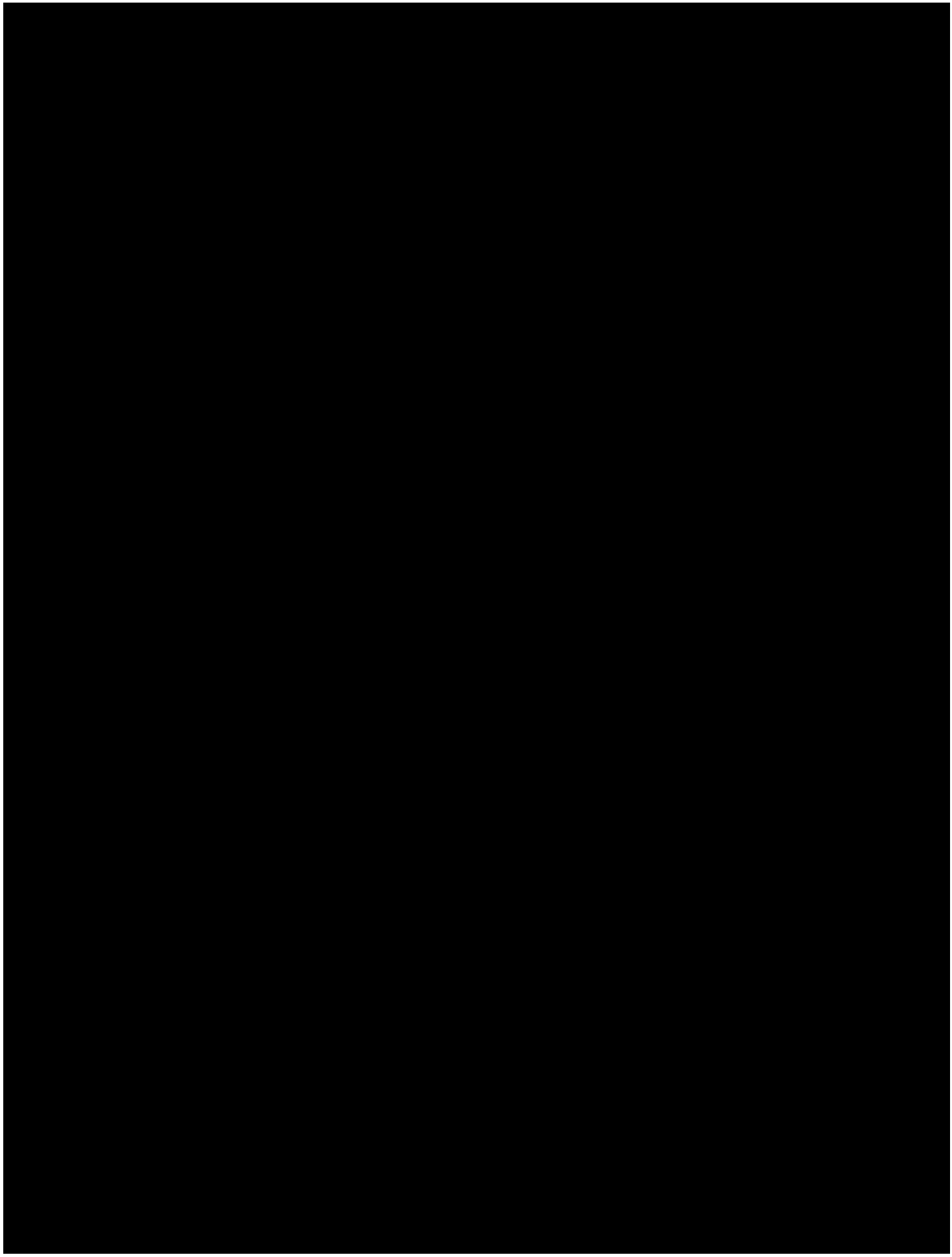












From: Kathryn Irby
To: Daiquiri Carter
Subject: RE: Subpoenas
Date: Thursday, May 25, 2023 8:12:00 AM
Attachments: SUBPOENAS Hudson v. DHS Claim No. 230641.msg
image001.png
image002.png

I sent those to DHS on May 10. Please see attached email.

Kathryn Irby

From: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Sent: Wednesday, May 24, 2023 3:34 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Subject: Subpoenas

Ms. Irby,

On the Haley Hudson case 230641, the subpoenas Brent Gasper asked to be sent out, what date were those sent?

Thanks,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov





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From: Brent Gasper
To: ASCC Pleadings; Jim Jackson
Cc: Martha Cox; Daiquiri Carter
Subject: CC # 230641
Date: Thursday, May 25, 2023 12:35:04 PM
Attachments: Hudson Reply to Response to Mtn to Compel.pdf

Please find attached Respondent's Reply to Claimant's Response to Motion to Compel Discovery from the Estate of Jacqueline Ashcraft, Haley Hudson as Special Administratrix. I am copying Jim Jackson, attorney for the Claimant, on this email.

Thanks,

brent

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] AND [redacted], MINOR CHILDREN — **CLAIMANT**

v. — **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

REPLY TO CLAIMANT'S REPONSE TO MOTION TO COMPEL DISCOVERY FROM THE ESTATE OF JACQUELINE ASHCRAFT, HALEY HUDSON AS SPECIAL ADMINISTRATRIX

COMES NOW, Respondent, the State of Arkansas, Department of Human Services, Office of Chief Counsel, by its attorney, Brent P. Gasper, Assistant Deputy Chief Counsel, and for its Reply to Claimant's Response to a Motion to Compel Discovery from the Estate of Jacqueline Ashcraft, Haley Hudson as special administratrix, states:

1. Claimant has filed a response to Respondent's Motion to Compel Discovery. Before responding to the Claimant's argument, Respondent again would like to point out that the question at hand may more or less be decided within the confines of Rule 26(b)(1) of the Arkansas Rules of Civil Procedure, which reads, in part, as follows:

> Parties may obtain discovery regarding any matter, not privileged, which is relevant to the issues in the pending actions, whether it relates to *the claim or defense* of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition, identity and location of any books, documents, or other tangible things and the *identity* and location of persons who have knowledge of any

> discoverable matter or who will or may be called as a witness at the trial of any cause.[1]

(emphasis added).

2. However, Claimant has decided not to address its black-and-white discovery obligations and is apparently instead treating its response as a Motion for Summary Judgment by arguing the merits of the case, making legal arguments, and inserting pictures into the body of the response, only addressing the Motion to Compel some three (3) pages in.

3. Claimant's attempts to distract this Commission from the legal issue at hand – Claimant's own lack of Discovery compliance – by essentially offering an opening statement as if this were a hearing on the merits of the case is highly inappropriate. In Respondent's eyes Claimant is already trying to taint the impartiality of the Commission by laying out an unrebutted version of events that he hopes the Commission will be swayed into adopting, essentially hoping the Commission will go into the hearings on this matter with an inclination to already believe Claimant's version of events. In sports terms, Claimant is trying to "work the refs".

4. Respondent certainly understands that the Commission will eventually hear Claimant set out its factual assertions and present its legal arguments, as well as see and rule on evidence concerning the case, but Claimant attempting to sway or influence the Commission now *while at the same time evading its own discovery responsibilities* is a bit beyond the pale.

---

[1] Respondent reminds the Commission that it has raised and will continue to litigate the defense of comparative fault and contributory negligence, as necessary.

Respondent asks that this Commission remind Claimant that there is a time and a place to argue the merits of the case and to introduce evidence, and this is not it.[2]

5. Looking beyond Claimant's inappropriate and untimely insertion of its version of the facts herein, the Claimant's arguments responding to the instant motion are flimsy at best. The named special administratrix Haley Hudson seems to believe that the responsibilities of a special administratrix of an estate begin and end at the probate court's doors. She now contends that time and distance constraints preclude her from engaging in the litigation at hand and therefore she should somehow be freed from her responsibilities representing the estate. Unfortunately for Haley Hudson, this is not the case. Ms. Hudson asked for and willingly accepted the role of special administratrix of Jacqueline Ashcraft's estate, a choice she made and a task for which she had and still has no responsibility to assume. After all, Ms. Ashcraft has two (2) other adult children – Ms. Hudson's brothers – still in the Logan County area. Even to this day Ms. Hudson may ask to be released from her court-appointed role in favor of another family member or even a non-family member if the job – which notably includes prosecuting the litigation at hand – has become too burdensome. Doing so would relieve her of the responsibilities that currently squarely rest with her if she does not wish to be an active participant in the claim the estate has brought. It is, after all, the sole decision of the personal representative of the estate to decide to pursue the instant litigation. No one else may legally do so. *See* Ark. Code Ann. 16-2-102. If the simple act of

[2] Indeed, Respondent has been able to and is currently refraining from introducing its own relevant and highly probative evidence until the proper time, as it still being developed. If Respondent can do it, then Claimant should be able to as well.

merely compiling the names of Ms. Ashcraft's in-life medical providers by making phone calls, writing letters, or sending emails is too demanding, perhaps she should pass on the job of representing her mother's estate to someone else with more available time on his or her hands.

6. However, Ms. Hudson does not appear to be interested in relinquishing her current role. Because of this she bears complete responsibility for the actions taken or not taken by the estate in this case. Ms. Hudson has had many opportunities now to inform this Commission how she took possession of Ms. Ashcraft's belongings and all her records and possessions upon her death.[3] This would be, after all, the responsibility of the special administratrix, to dispose of or otherwise distribute the physical remainder of Jacqueline Ashcraft's estate. Her personal belongings and any records or documents she may have kept did not simply disappear in a puff of smoke. Either they were disposed of or they still exist in some form in Ms. Ashcraft's possessions. Ms. Hudson has had the opportunity to describe to the Commission how she went through boxes or computer files, looking for responsive documents, electronic files, or other potential evidence that would be discoverable. She still has not done so. She has not even documented any attempt at doing so or offered any excuse as to why she has not done so. She has likewise not offered any tangible explanation as to why reaching out to her fellow siblings or other family members to inquire about Ms. Ashcraft's medical history has not occurred, or why she has apparently not had

[3] Respondent suggests that these would be the likeliest places to locate relevant information.

the time or inclination to make one (1) phone call or otherwise attempt to contact a local medical provider in the search for her mother's medical history.[4]

7. Ms. Hudson seems perfectly happy and willing to file a claim against the state for five million dollars ($5,000,000.00) but does not seem at all interested in engaging in the responsibilities of a litigant. Unfortunately, that is not how the system is designed or how it works. A claimant must not only have to be able to make its case before the Commission, but it must also allow the defense the ability to make theirs as well. This is the *essential purpose* of Discovery. Due process of law demands this. *Stonewalling the Respondent or this Commission by simply refusing to take any action toward your discovery responsibilities is an abject rejection of both the rules and the spirit of Discovery.* To permit Respondent to move forward on a wrongful death claim where the Claimant itself has placed Ms. Ashcraft's health and medical condition squarely into the center of controversy without allowing Respondent the benefits of the Rules of Discovery to use in its defense – in this case simply being *told* the identities of Ms. Ashcraft's medical providers prior to her death – would be a denial of due process and a miscarriage of justice.

WHEREFORE, Respondents move this Commission to GRANT its Motion to Compel and ORDER Claimant to comply with their Discovery responsibilities for all other relief to which it may show itself entitled.

Respectfully Submitted,

[4] The same measures she contends *Respondent* should undertake on its own to acquire the requested information.

By: _____
Brent P. Gasper
Assistant Deputy Chief Counsel
AR Bar No. 98240

Arkansas Department of Human Services
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203
Phone (501) 320-8950
Brent.gasper@dhs.arkanas.gov

CERTIFICATE OF SERVICE

I, Brent P. Gasper, hereby certify that on the 25th day of May, 2023, I electronically filed the foregoing with the Arkansas Claims Commission and copied Claimant's attorney, Jim Jackson, via email.

_____
Brent P. Gasper

From: Martha Cox
To: ASCC Pleadings; Kathryn Irby
Cc: Brent Gasper; Daiquiri Carter; Jim Jackson
Subject: RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, dec"d & Permanent Guardian of [redacted], Minor Children v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641
Date: Friday, June 2, 2023 3:55:48 PM
Attachments: Claimanat"s Sur-Response to Respondent"s Motion to Compel.pdf

---

Please find attached the claimant's Sur-Response to the respondent's Motion to Compel for filing in the above-referenced case.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] AND [redacted] MINOR CHILDREN — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES — RESPONDENT

CLAIMANT'S SUR-RESPONSE TO THE RESPONDENT'S MOTION TO COMPEL

Comes the claimant, Haley Hudson, as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Permanent Legal Guardian of [redacted] minor children, by and through her attorney, Jim Jackson, and for her Sur-Response to the respondent's Motion to Compel, states:

1. The respondent still has not cited one single statute or case that requires a personal representative of an estate to have knowledge of the names and addresses of a decedent's medical providers "imputed" to them upon acceptance of the appointment.

2. The claimant has executed HIPAA authorizations and provided probate pleadings which authorizes the respondent to obtain Jacqueline Ashcraft's medical records.

3. There is no statute or case law that supports the respondent's contention that Haley Hudson is compelled to have the names of her mother's medical providers for the last five years of her life, if any, "imputed" to her.

4. The respondent's contention that Haley Hudson is not competent strains credulity. Haley Hudson has answered numerous interrogatories and requests for production of documents propounded by the respondent. Haley has executed multiple authorizations that allows the respondent to have access to medical, financial, employment information about her mother. Haley simply does not have information about her mother's medical history for the last five years prior to the wreck.

WHEREFORE, the respondent's Motion to Compel Haley Hudson to have knowledge of the decedent's prior medical providers "imputed" should be denied and for all other relief to which she may be entitled.

Respectfully submitted,

BY: Jim Jackson

Jim R. Jackson, AR Bar #93209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
(501) 823-3610 phone
(501) 823-3611 facsimile
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Sur-Response to Motion to Compel was served on the following counsel of record by either U.S. Mail, postage prepaid, or by electronic service to:

Mr. Brent Gasper
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

/s/ Jim R. Jackson
Jim R. Jackson

From: Daiquiri Carter
To: ASCC Pleadings; jim@jimjacksonatty.com; Martha Cox; Brent Gasper
Cc: Daiquiri Carter
Subject: CC# 230641
Date: Wednesday, June 7, 2023 3:35:39 PM
Attachments: Answer to Second Amended Complaint_001.pdf
image001.png
image002.png

Please find attached Respondent's Answer to Second Amended Complaint, Motion to Sever, and Motion to Hold in Abeyance. I have copied Claimant's attorney on this email.

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov





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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY, HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JAQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — **CLAIMANT**

v. **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

ANSWER TO SECOND AMENDED COMPLAINT, MOTION TO SEVER, AND MOTION TO HOLD IN ABEYANCE

COMES NOW, the Respondent, the State of Arkansas, Department of Human Services, Office of Chief Counsel, by its attorney, Brent P. Gasper, Assistant Deputy Chief Counsel, and for its Answer, its Motion to Sever, and its Motion to Hold in Abeyance states:

1. Respondent hereby incorporates by reference its previously filed Answer in full as if it were set out herein word-for-word;

2. The account information for the above-captioned claim is:

[redacted]

3. Respondent denies liability for all claims arising from this case. If an allegation in the Complaint is not specifically admitted in its Answer, the Respondent denies said allegation. Respondent further disputes the issues of negligence, proximate cause, liability, foreseeability, and damages concerning the death of Ms. Jacqueline Ashcraft.

4. Respondent reserves the right to plead further pending discovery.

5. Unless specifically admitted herein, Respondent denies Claimant's recitation and explanation of the factual predicate set forth by Claimant as well as any specific allegation concerning this claim. Respondent further raises any and all available defenses, including comparative fault, *see* Ark. Code Ann. § 16-64-122, contributory negligence, statute of limitations, qualified immunity, immunity from punitive damages, *see* Ark. Code Ann. § 21-9-203, laches, lack of jurisdiction over subject matter, *see* Ark. R. Civ. Pro. 12(b)(1), failure to state facts upon which relief may be granted, *see* Ark. R. Civ. Pro. 12(b)(6), insufficiency of process, *see* Ark. R. Civ. Pro. 12(b)(4), insufficiency of service of process, *see* Ark. R. Civ. Pro. 12(b)(4), and failure to join a party under Rule 19, *see* Ark. R. Civ. Pro. 12(b)(7). Further, in any instance where Respondent states that it does not have any specific knowledge as to a certain fact or allegation, for the purposes of pleading matters in this case, please consider that response a denial.

6. In response to the initial background section in Claimant's Complaint, Respondent does not have enough information to admit or deny these claims, so they are denied.

7. Respondent admits paragraph No. 1 of the Complaint.

8. In response to Paragraph No. 2 of the Complaint, Respondent does not have enough information to admit or deny these claims, so they are denied.

9. In response to Paragraph No. 3 of the Complaint, Respondent does not have enough information to admit or deny this claim, so it is denied.

10. In response to Paragraph No. 4 of the Complaint, Respondent does not have enough information to admit or deny this claim, so it is denied.

11. Respondent admits Paragraph No. 5 of the Complaint.

12. Respondent admits Paragraph No. 6 of the Complaint.

13. In response to Paragraph No. 7 of the Complaint, Respondent admits that Jennifer Wilkerson was operating a 2009 Hyundai Elantra provided to her by the Department of Human Services. Respondent denies that Ms. Wilkerson negligently failed to recognize that Ms. Ashcraft's vehicle was slowing down to make a left-hand turn. Concerning the other claims, Respondent does not have enough information to admit or deny those claims, so they are denied.

14. Respondent admits Paragraph No. 8 of the Complaint.

15. Respondent denies Paragraph No. 9 of the Complaint.

16. Respondent denies Paragraph 10 of the Complaint.

17. Respondent denies Paragraph 11 of the Complaint.

18. Respondent denies Paragraph 12 of the Complaint.

19. In response to Paragraph No. 13 of the Complaint, Respondent admits that State Trooper James Ray responded to the accident. Respondent denies all other claims in Paragraph No. 13.

20. Respondent admits Paragraph No. 14 of the Complaint.

21. Respondent admits that Trooper James Ray was present at the house as stated in Paragraph No. 15 of the Complaint, but denies all other factual allegations.

22. Respondent does not have enough knowledge to either admit or deny Paragraph No. 16 of the Complaint, so it is denied.

23. Respondent admits Paragraph No. 17 of the Complaint.

24. Respondent admits Paragraph No. 18 of the Complaint in that there were diagrams attached to the referenced crash report but is without specific knowledge as to who prepared the diagrams.

25. Respondent admits Paragraph No. 19 of the Complaint.

26. Respondent denies Paragraph No. 20 of the Complaint.

27. Respondent denies Paragraph No. 21 of the Complaint, including all subparts of Paragraph 21.

28. Respondent admits that Trooper James Ray responded to the accident as set out in Paragraph 22 of the Complaint, but denies all other factual allegations.

29. Respondent admits that Trooper James Ray responded to the accident as set out in Paragraph 23 of the Complaint, but denies Trooper Ray's findings. Further, Respondent intends to introduce evidence at the hearing on this matter that Ms. Ashcraft's own actions or omissions were the cause of the accident due to her physical and/or mental limitations and that the limitations were directly attributable to causing the accident.

30. Respondent admits that Trooper James Ray responded to the accident as set out in Paragraph 24 of the Complaint, but denies Trooper Ray's findings.

31. Respondent denies Paragraph No. 25 of the Complaint.

32. Respondent denies Paragraph No. 26 of the Complaint. Further, Respondent intends to introduce evidence at the hearing on this matter that Ms. Ashcraft's own actions or omissions were the cause of the accident due to her physical and/or mental limitations and that the limitations were directly attributable to her part in causing the accident that led to injuries sustained by Kadey Lynn Jones and Carley Rae Jones.

33. Respondent denies Paragraph No. 27 of the Complaint.

34. Respondent admits that Ms. Ashcraft was alive immediately after the collision as set out in Paragraph No. 28 of the Complaint. All other material allegations in this Paragraph are denied.

35. Respondent denies Paragraph No. 29 of the Complaint.

36. Respondent admits Paragraph No. 30 of the Complaint.

37. Respondent does not have sufficient knowledge to admit or deny Paragraph 31 of the Complaint, so it is denied.

38. Respondent admits that Ms. Ashcraft was transported to Mercy Medical Center in Fort Smith but does not have sufficient knowledge to admit or deny the other factual allegations in Paragraph 32, so they are denied.

39. Respondent does not have sufficient knowledge to admit or deny the factual allegations in Paragraph 33, so they are denied.

40. Respondent does not have sufficient knowledge to admit or deny the factual allegations in Paragraph 34, so they are denied.

41. Respondent does not have sufficient knowledge to admit or deny the factual allegations in Paragraph 35, so they are denied.

42. Respondent admits in Paragraph No. 36 that Ms. Ashcraft died but denies all other factual allegations.

43. Respondent admits Paragraph 37 insofar as Claimant is making substantially the same allegations she is now making in the Second Amended Complaint, but all other factual allegations are denied.

44. Respondent denies Paragraph No. 38 of the Complaint, and all of its subparts.

45. Respondent denies Paragraph No. 39 of the Complaint, and all of its subparts.

46. Respondent denies Paragraph No. 40 (mistakenly referred to as Paragraph 38) of the Complaint, and all of its subparts.

47. Respondent denies Paragraph No. 41 (mistakenly referred to as Paragraph 40) of the Complaint.

48. Respondent does not have sufficient knowledge to admit or deny the factual allegation in Paragraph 42 (mistakenly referred to as Paragraph 41), so it is denied.

49. Respondent admits Paragraph 43 (mistakenly referred to as Paragraph 42).

50. Respondent admits Paragraph No. 44 (mistakenly referred to as Paragraph 43) of the Complaint, although Respondent notes that a different attorney is assigned to the instant case than was assigned to the previous insurance-related case.

51. Respondent admits in Paragraph No. 45 (mistakenly referred to as Paragraph 44) that Cincinnati Insurance Company received an insurance distribution but denies all other factual allegations.

52. Respondent admits in Paragraph No. 46 (mistakenly referred to as Paragraph 45) that GKD Trucking received an insurance distribution but denies all other factual allegations.

53. Concerning Paragraph No. 47 (mistakenly referred to as Paragraph 46) of the Complaint, Respondent does not have enough information to admit or deny this claim, so it is denied.

54. Concerning Paragraph No. 48 (mistakenly referred to as Paragraph 47) of the Complaint, Respondent does not have enough information to admit or deny this claim, so it is denied.

55. In addition to the foregoing, Respondent summarily raises the following defenses and asserts the following factual claims that it will show and prove beyond a preponderance of the evidence at a hearing on the matter:

a. Respondent denies any and all liability and states categorically that it was not negligent or responsible for the accident described in the Second Amended Complaint nor any subsequent bodily injury or death alleged in the complaint;

b. Respondent was not a proximate cause of the accident described in the Second Amended Complaint nor a proximate cause of any subsequent bodily injury or death alleged in the complaint;

c. Claimant Jacqueline Ashcraft's own actions caused the accident described in the Second Amended Complaint. These actions include operating her vehicle while under the influence of one (1) or more controlled substances at the time of the accident. Those controlled substances, as identified in a toxicology screen conducted by the Arkansas State Crime Lab from a sample taken from Ms. Ashcraft after the accident, were identified as amphetamines, methamphetamine, a benzodiazapine, and cannabis. Being under the influence of these controlled substances at the time of the accident impaired Ms. Ashcraft's judgment, vision, reaction time, depth perception, perspective, attentiveness, as well as other possible mental or physical issues that would have directly and negatively affected her ability to drive safely. Additionally, Jacqueline Ashcraft was not physically in good health on the day the accident occurred, stating to the EMTs after the accident that she was weak and had been vomiting for the previous (2) days. She was also noted in the medical records to appear "frail" and having "diaphoretic skin". Simply, Jacqueline Ashcraft was in no condition to be operating a vehicle on the roads of this state, much less to drive safely with three (3) minor children in the car;

d. Further, Jacqueline Ashcraft violated the traffic laws of the state and the Rules of the Road by negligently operating her vehicle, pulling off the shoulder of the road directly in front of Jennifer Wilkerson. This sudden entry onto Highway 22 caught Ms. Wilkerson by

surprise and did not leave her with sufficient distance or reaction time to avoid the collision. Because Ms. Ashcraft was on the shoulder of the road, it was her responsibility to yield to oncoming traffic, which she failed to do. Ultimately, it was Ms. Ashcraft's own negligent driving that caused the accident.

e. Jacqueline Ashcraft's adamant refusal to seek medical attention for herself and her two (2) daughters when offered by the EMTs at the scene was not only a significant contributing factor leading to her death and to the injuries sustained by her daughters, but likely ***the most important and vital decision in this case***. Had Ms. Ashcraft accepted medical aid when first offered by the trained medical professionals responding to the accident scene she might very well be alive today. Instead, she refused. The delay in treating her, which was compounded by the length of time it took the ambulance to transport her to a hospital in Booneville and a subsequent helicopter transport to a hospital in Fort Smith, was a ***far greater*** factor in her death than the accident itself. Indeed, it was ***this choice*** Ms. Ashcraft made after the accident that led to her death, not the accident itself. That twenty-six (26) minute delay may have been the difference between her life and her death.

f. Ultimately, Respondent is not liable for any injuries sustained by any of the claimants as Respondent was not negligent for the acts attributed to it in the Second Amended Complaint. Respondent's actions did not cause or contribute to Ms. Ashcraft's injuries or death, nor were Respondent's actions the cause of the injuries alleged by the two minor children herein.

EXISTENCE OF CROSS-CLAIM

56. Based on the facts alleged and defenses asserted, Respondent now raises the existence of a potential cross-claim concerning liability for the damages allegedly sustained by Claimants [redacted] who were passengers in the car driven by Ms.

Ashcraft. Specifically, Claimant Ms. Jacqueline Ashcraft was at fault and caused of the accident described in the Second Amended Complaint.

57. As previously described herein, Ms. Ashcraft had physical and/or mental limitations that led to her negligently operating her vehicle, resulting in the accident described in the Second Amended Complaint. Specifically, at the time of the accident, Claimant Jacqueline Ashcraft was operating her motor vehicle under the influence of amphetamines, methamphetamines, benzodiazepines, and cannabinoids in violation of Ark. Code Ann. § 5-65-103. Ms. Ashcraft was also not physically fit at the time to drive her vehicle, having spent the prior days being weak and constantly vomiting. *See* exhibit "A", attached. The EMTs also noted that Ms. Ashcraft displayed an "altered mental status" when they arrived at the scene. See exhibit "B", attached. Notably, this observation was made as a secondary impression by the EMTs when Ms. Ashcraft was still up walking around and talking after the accident and before signing a form where she refused medical care. See exhibit "B". This "altered mental status" is direct evidence of Ms. Ashcraft being under the influence of one (1) or more controlled substances. Simply, being under the influence of narcotics and being physically unable to safely operate her vehicle were negligent acts that led to the collision described in the Second Amended Complaint.

58. Further, Ms. Ashcraft violated the state's traffic laws and Rules of the Road and these violations were a direct cause of the accident described in the Second Amended Complaint.

59. Additionally, Ms. Ashcraft was in fact not fully stopped in the roadway and instead was on the shoulder of the roadway shortly before the accident and illegally and suddenly drove her vehicle back into the lane of traffic giving Jennifer Wilkerson no time to react and avoid the collision.

60. A vehicle entering the roadway from the shoulder of the road is required to yield to oncoming traffic, which Ms. Ashcraft failed to do.

61. The combination of Ms. Ashcraft's being under the influence of one (1) or more controlled substances combined with her negligent operation of her own motor vehicle was the direct cause of the accident described in Claimants' Second Amended Complaint.

62. Under Rule 13(f) of the Arkansas Rules of Civil Procedure, "[a] cross-claim may include a claim that the party against whom it is asserted is or may be liable to the cross-claimant for all or part of a claim asserted in the action against the cross-claimant." In this case Claimant Jacqueline Ashcraft's own actions led in whole or in part to the injuries sustained by Claimants [redacted] and she is therefore liable in whole or in part to the Claimants [redacted] nd is likewise responsible for the damages the Claimants alleged they are owed in the Second Amended Complaint.

63. Further, to the extent that Respondent is found to be wholly or partially liable – a claim that Respondent categorically denies – Claimant Jacqueline Ashcraft is jointly and severally liable as to the accident as well and therefore would be jointly and severally liable as to any damage award awarded Claimant [redacted] stemming from this accident.

JURISDICTION OF THE CLAIMS COMMISSION

64. Because the Arkansas State Claims Commission does not have jurisdiction over private individuals, *see* Ark. Code Ann. § 19-10-204, the existence of a potential cross-claim between Claimant Jacqueline Ashcraft and Claimants [redacted] is problematic in this venue.

65. As previously stated, Claimant Jacqueline Ashcraft was responsible for injuries sustained by Claimants [redacted]. That claim by law cannot be

litigated in the Arkansas State Claims Commission so cannot be part of the instant litigation even through the facts as to all cases would be the same.

MOTION TO SEVER

66. Because this Respondent moves that the claims raised in the Second Amended Complaint by Claimants Jacqueline Ashcraft and Claimants [redacted] be severed herein as the limited jurisdiction of the Claims Commission cannot accommodate all of the claims against Respondent and the potential cross-claim between the Claimants in this forum simultaneously.

67. The Commission *would still* be able to hear separate, severed cases – one between the Estate of Jacqueline Ashcraft versus Respondent and another between Claimants [redacted] versus Respondent. Under this scenario, the Estate's claim could proceed as it currently is against Respondent. The newly severed claims raised by Claimants [redacted] against Respondent would then become its own litigation. Further, Respondent would be able to raise a defense in the case involving the minor children that another third party – Ms. Ashcraft – was responsible for the accident. It would *also* allow Claimants [redacted] to pursue separate litigation against the Estate of Jacqueline Ashcraft (and, presumably, Ms. Ashcraft's liability insurance carrier) in the state courts. Ultimately, severing the cases would solve any potential problems moving forward with the claimants potentially having divergent interests without prejudicing any claimant as all claims against Respondent will still be active.

MOTION TO HOLD IN ABEYANCE

68. Any award Claimants [redacted] may receive resulting from litigations stemming from the facts alleged here with the Estate of Jacqueline

Ashcraft and Ms. Ashcraft's insurance company would potentially offset any award herein Respondent might be found to owe concerning Claimants [redacted]

69. Because of this, Respondent moves this Commission to hold the case (or cases, if they are severed) in abeyance until any potential action between Claimants Estate of Jacqueline Ashcraft and Ms. Ashcraft's insurance company and Claimants [redacted] is resolved, either through settlement or in the state courts.

70. Moreover, as a part of its motion Respondent asks that this Commission require a resolution of the potential cross-claim between Claimants Estate of Jacqueline Ashcraft and Ms. Ashcraft's insurance company and Claimants [redacted] This is because factual findings in that case as well as any damage award would have a ***direct impact*** on the pending litigation herein. Specifically, a finding by a state court of negligence committed by Ms. Ashcraft would have immediate relevance herein. Moreover, potential testimony under oath and other evidence in that case could be used and considered by the Commission in the resolution here. If the Claimants Estate of Jacqueline Ashcraft and Ms. Ashcraft's insurance company and Claimants [redacted] refuse or fail to resolve the potential cross-claim prior to engaging in the instant litigation, this would irreparably prejudice Respondent.

71. Further, holding the pending litigation in abeyance does not prejudice the claimants as time is not of the essence and all evidence will be fully realized and established in the very near future without the possibility of it being lost or memories fading. In short, the facts of this case will not be "going anywhere" and therefore claimants are not prejudiced in waiting a short time longer before the potential cross-claim is resolved.

72. Respondent MOVES this Commission to grant its motions raised herein and for all other relief to which it may show itself entitled.

Respectfully submitted,

By: _____

Brent P. Gasper
Assistant Deputy Chief Counsel
Ark. Bar No. 98240

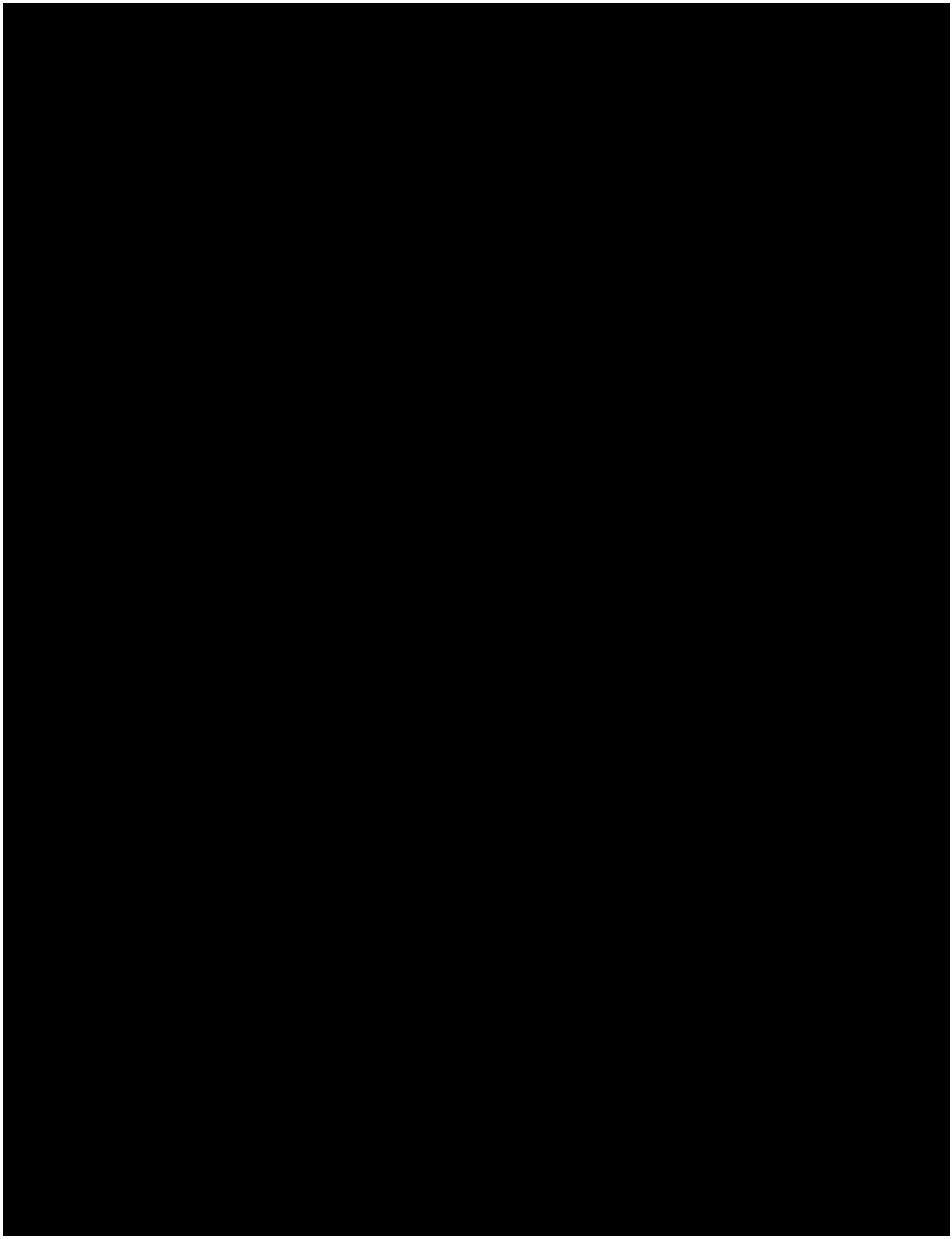
Arkansas Department of Human Services
Office of Chief Counsel
P.O. Box 1437
Little Rock, AR 72203
Phone (501) 320-8950
Brent.Gasper@dhs.arkansas.gov

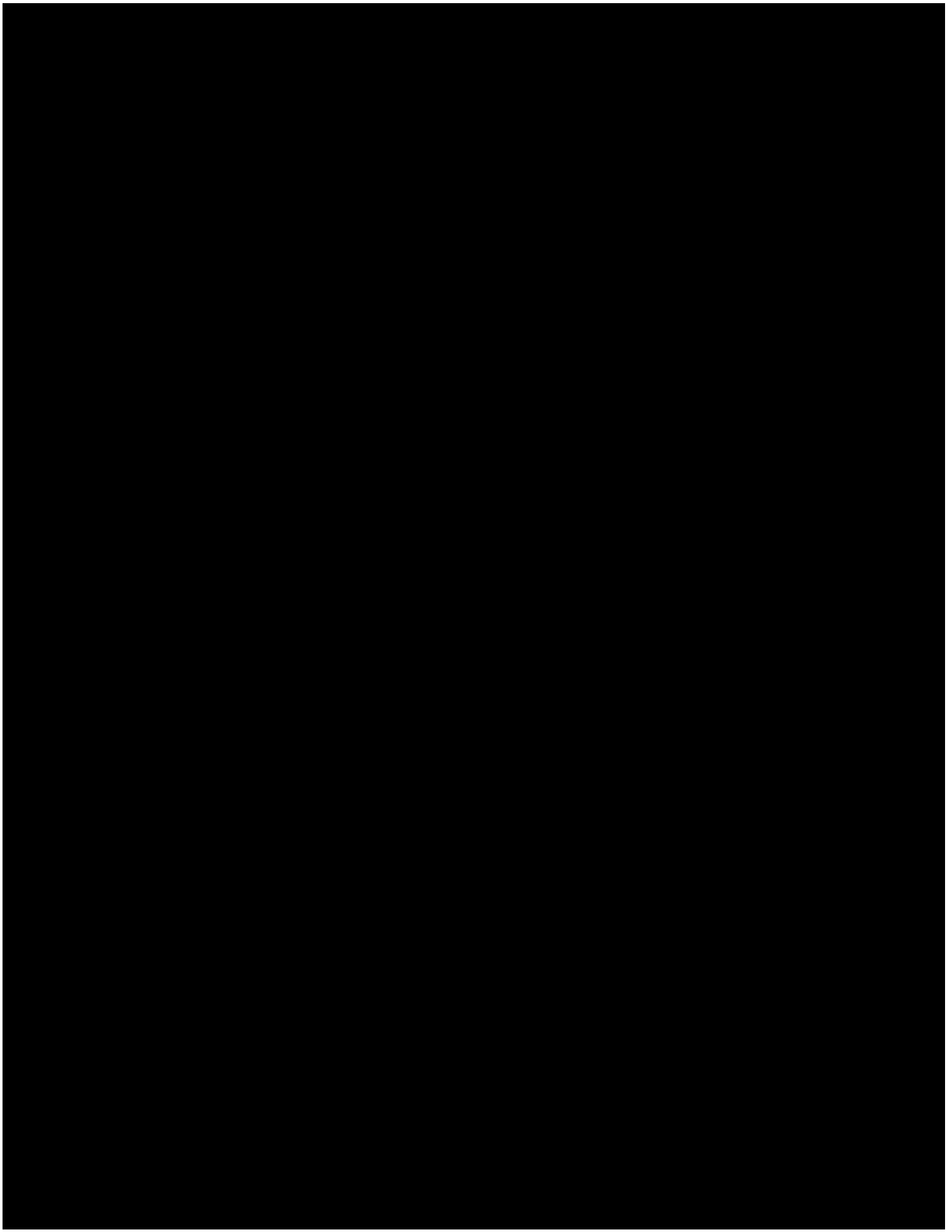
CERTIFICATE OF SERVICE

I, Brent Gasper, hereby certify that on 7 June, 2023, I electronically filed the foregoing with the Claims Commission and copied Claimant's attorney Jim Jackson via email.

_____

Brent P. Gasper





From:	Jim Jackson
To:	Brent Gasper; Kathryn Irby
Cc:	Martha Cox
Subject:	RE: Hudson v. DHS
Date:	Wednesday, June 7, 2023 8:09:42 AM
Attachments:	image001.jpg image002.jpg image003.jpg image004.jpg

That is fine with me.
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Wednesday, June 7, 2023 8:05 AM
To: Jim Jackson <jim@jimjacksonatty.com>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: Hudson v. DHS

Thank you for the clarification. However, since I will be filing my Answer to the Second Amended Complaint today I will still caption it in its original styling as the motion for non-suit has not been filed.

Thanks again,

brent

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Tuesday, June 6, 2023 5:41 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: Hudson v. DHS

[EXTERNAL SENDER]
Kathryn,
To clarify this issue, I will file a Non-Suit.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Tuesday, June 6, 2023 5:37 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: Re: Hudson v. DHS

Brent, Haley Hudson is listed as an individual claimant for this claim in the Commission database. Barring a motion by Jim to nonsuit Haley Hudson's individual claim, she will remain as a claimant at least until the August hearing when the Commission takes up your motion to dismiss, along with the other pending motions.

Thanks,
Kathryn

Get Outlook for iOS

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Tuesday, June 6, 2023 1:33:19 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: Hudson v. DHS

Hello Kathryn, I have a process question about the Hudson v. DHS case. Jim Jackson, opposing counsel, is copied here.

Specifically, it relates to the real parties currently in the litigation. As you know, I filed a motion to remove Haley Hudson as an individual claimant in the case. Jim then filed a response to that motion along with an Amended Complaint that appears to remove Ms. Haley Hudson from the litigation in her individual capacity. Jim has likewise filed the Second Amended Complaint listing the Claimants as only the Estate of Jacqueline Ashcraft and the two minor children, all of whom are represented in a legal capacity by Haley Hudson. However, the case does not list Haley Hudson as an individual claimant.

That being said, it certainly appears that Haley Hudson, through her pleadings, has abandoned her status as a named Claimant in the case. However, Ms. Hudson has not filed a formal motion to nonsuit or to withdraw as a named claimant. Jim did assert in his response to my motion to dismiss Ms. Hudson, individually, that Ms. Hudson was never intended to be a named claimant, although this differs from the actual caption and initial allegations of the case when it was originally filed. Further, the Commission has not yet addressed my motion to dismiss Ms. Hudson as an individual claimant.

This may be, as Jim stated in his response, a case of "style over substance". However, given the high monetary stakes in this case, I believe an abundance of caution is entirely warranted.

As such, I intend to file an Answer to the Second Amended Complaint in the coming days and want to be able to both caption it in the correct manner as well as properly respond to the claimants' allegation. Not knowing who the "official" claimants are at this point has made that difficult, so I was hoping to get some type of ruling or clarification as to exactly who the named claimants are at this point. If the Commission verifies to me that Ms. Hudson has abandoned her status as a named claimant I will proceed accordingly addressing only claims raised by the Estate and the minor children, relying on the Commission's decision on this issue that Ms. Hudson has been categorically removed as a named individual claimant while doing so. Further, I'm happy to withdraw my motion to dismiss Haley Hudson individually if this is indeed the case.

Thank you as always for your timely consideration of this matter.

Brent

Cc: Jim Jackson

Brent P. Gasper
Assistant Deputy Chief Counsel

Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950
Brent.Gasper@dhs.arkansas.gov

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From: Kathryn Irby
To: Jim Jackson
Subject: Re: Message from JACKSON JIM ATT [redacted]
Date: Friday, June 9, 2023 4:23:56 PM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg

Jim, I do think that clarity on the particular parties involved is helpful in any legal proceeding, although the issue of Ms Hudson's individual claim is already set to be taken up by the Commission at the upcoming motions hearing. Regardless of whether you file a nonsuit motion, you can inquire of the Commission at the hearing whether it intends to modify the style of the claim moving forward. I'm not sure how the Commission will handle that.

Kathryn

Get Outlook for iOS

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Thursday, June 8, 2023 4:51:53 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Subject: RE: Message from JACKSON JIM ATT [redacted]

Am I missing something on the importance of the style of claims?
I've never had anyone raise an issue like this previously.
I just want to make sure there is not something unique about the Claims Procedure process that I am overlooking versus an attorney being persnickety.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Thursday, June 8, 2023 3:26 PM
To: Jim Jackson <jim@jimjacksonatty.com>

Subject: FW: Message from JACKSON JIM ATT ([redacted]

Jim, I just returned your call. I'm out of the office this week and the first part of next week, but I can email pretty easily.

Kathryn Irby

From: Cisco Unity Connection Messaging System <unityconnection@arkansas.gov>
Sent: Wednesday, June 7, 2023 1:17 PM
To: kathryn.irby_arkansas.gov@arkansas.gov
Subject: Message from JACKSON JIM ATT ([redacted]

From: Martha Cox
To: ASCC Pleadings; Kathryn Irby
Cc: Brent Gasper; Daiquiri Carter; Jim Jackson
Subject: RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, dec"d & Permanent Guardian of [redacted], Minor Children v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641
Date: Monday, June 12, 2023 12:25:40 PM
Attachments: Claimant"s Rule 41 Motion to Nonsuit Certain Claims.pdf

---

Please find attached the claimant's Rule 41 Motion to Nonsuit Certain Individual Claims for filing in the above-referenced case.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] AND [redacted] MINOR CHILDREN — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES — RESPONDENT

CLAIMANT'S RULE 41 MOTION
TO NONSUIT CERTAIN INDIVIDUAL CLAIMS

Comes now the claimant, Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Guardian of [redacted] a minor child, and as Guardian of [redacted] a minor child, by and through her attorney, Jim Jackson, and for her Rule 41 Motion to Nonsuit, states:

1. The claimant seeks to clarify any misunderstanding or miscommunication in this cause of action. Haley Hudson is not asserting an individual claim. To the extent that any prior pleading asserted that Haley Hudson was seeking an individual bodily injury claim, Haley Hudson moves for a voluntary dismissal of any such claim pursuant to Rule 41 of the Arkansas Rules of Civil Procedure.

2. Rule 41 allows a claimant to voluntarily dismiss as a matter of right.

3. Haley Hudson also seeks to dismiss the bodily injury claim of Carley Raye Jones pursuant to Rule 41 of the Arkansas Rules of Civil Procedure.

4. All future pleadings in this matter should be styled: *Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased and Haley Hudson,*

Permanent Legal Guardian of [redacted] *a Minor Child v. Arkansas Department of Human Services.*

WHEREFORE, the claimant, Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and Haley Hudson, as Permanent Guardian of [redacted] minor children, prays that this Motion be granted.

Respectfully Submitted,

Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
Phone: 501-823-3610
Fax: 501-823-3611
Jim@JimJacksonatty.com

By: Jim Jackson
Jim R. Jackson
Arkansas Bar No. 93209

CERTIFICATE OF SERVICE

I, Jim Jackson, certify that on this date, consistent with the requirements of Ark. R. Civ. Pro. 5, and Commission Rule 1.5(b) a complete copy of the foregoing was electronically submitted with the Clerk of the Arkansas Claims Commission and electronically served on counsel for the Arkansas Department of Human Services.

Jim Jackson
Jim R. Jackson

From:	Kathryn Irby
To:	Brent Gasper
Cc:	Jim Jackson; Daiquiri Carter
Subject:	RE: Haley Hudson v. DHS; No. 230641; DHS motion to dismiss
Date:	Monday, June 12, 2023 1:49:00 PM

Brent and Jim, I will submit the nonsuit motion to the Commission for an order prior to the August hearing.

Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Monday, June 12, 2023 12:36 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Jim Jackson <jim@jimjacksonatty.com>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: Haley Hudson v. DHS; No. 230641; DHS motion to dismiss

Kathryn,

If the Commission sees fit to grant the motion filed today by Claimant Haley Hudson, individually, to nonsuit her case, DHS would respectfully withdraw its Motion to Dismiss Haley Hudson, individually. However, I want to verify that DHS does not withdraw its own motion until the Commission grants Ms. Hudson's motion for nonsuit.

If you have any questions please don't hesitate to ask.

Thanks!

Brent

Cc: Jim Jackson, Daiquiri

Brent P. Gasper
Assistant Deputy Chief Counsel

Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950
Brent.Gasper@dhs.arkansas.gov

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From: Kathryn Irby
To: Brent Gasper
Cc: Daiquiri Carter; Jim Jackson
Subject: RE: Hudson v. DHS, Claim No. 230641; Sub DT request
Date: Monday, June 12, 2023 1:54:00 PM
Attachments: Hudson -- 230641 -- ASP subpoena.pdf

Brent, please see attached.

Thanks,
Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Monday, June 12, 2023 12:06 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: Hudson v. DHS, Claim No. 230641; Sub DT request

Good morning Kathryn! I hope you are well. I would like to request the Claims Commission issue a subpoena duces tecum for the above captioned case to the Department of Arkansas State Police for certain documents, as follows:

1. A subpoena duces tecum for any and all documents, both printed and in electronic form, and other information concerning the Arkansas State Police's involvement in the accident on Highway 22 in Logan County on June 11, 2021, between Jennifer Wilkerson and Jacqueline Ashcraft, including without limitation audio recordings, video recordings, cruiser dash camera recordings, body or wearable camera recordings, and dispatch records and recordings. Also requested is the complete personnel file of former Trooper James Ray, the responding Trooper to the accident on June 11, 2021, including without limitation any and all documents concerning and kept pursuant to his employment with the ASP, excluding all privileged documents or other information.

This subpoena can be served on:

Captain Chris Goodman
Arkansas State Police – Troop H
5728 Kelley Highway
Fort Smith, AR 72914
479-783-5195

Thanks in advance!

Brent

Cc: Jim Jackson, Daiquiri

Brent P. Gasper
Assistant Deputy Chief Counsel

Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950
Brent.Gasper@dhs.arkansas.gov

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Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted] Minor Children, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO**:** Captain Chris Goodman, Arkansas State Police – Troop H
5728 Kelley Highway
Fort Smith, Arkansas 72914

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

Any and all documents, both printed and in electronic form, and other information concerning the Arkansas State Police's involvement in the accident on Highway 22 in Logan County on June 11, 2021, between Jennifer Wilkerson and Jacqueline Ashcraft, including without limitation audio recordings, video recordings, cruiser dash camera recordings, body or wearable camera recordings, and dispatch records and recordings. Also requested is the complete personnel file of former Trooper James Ray, the responding Trooper to the accident on June 11, 2021, including without limitation any and all documents concerning and kept pursuant to his employment with the ASP, excluding all privileged documents or other information.

May 10, 2023

_____ _____

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Date

PROOF OF SERVICE

_____

SERVED ON (Print Name)

_____ _____

DATE PLACE

_____

MANNER OF SERVICE

_____ _____

SERVED BY (Print Name) TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ _____

DATE SIGNATURE OF SERVER

_____

ADDRESS OF SERVER

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d).

A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

From: Martha Cox
To: ASCC Pleadings; Kathryn Irby
Cc: Brent Gasper; Daiquiri Carter; Jim Jackson
Subject: RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, dec"d & Permanent Guardian of [redacted] Minor Children v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641
Date: Monday, June 12, 2023 4:14:36 PM
Attachments: [redacted]"s Answers to respondent"s Int & RFP.pdf
[redacted]"s Answers to respondent"s Int & RFP.pdf

Please find attached the claimant's Responses to Interrogatories and Requests for Production of Documents on behalf of [redacted] and the claimant's Responses to Interrogatories and Requests for Production of Documents on behalf of [redacted] for filing in the above-referenced case.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — **CLAIMANT**

v. **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

HALEY HUDSON, PERMANENT GUARDIAN OF [redacted] RESPONSES TO INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

Comes now Haley Hudson, Permanent Guardian of [redacted] by and through her attorney, Jim R. Jackson, and for her Responses to Interrogatories and Requests for Production of Documents propounded to [redacted] states:

INTERROGATORY NO. 1: Do you have a social media account? If so, please identify all social media accounts you have and the screen name for each.

RESPONSE TO INTERROGATORY NO. 1: [redacted] is a 12-year-old child with a date of birth o[redacted] does not have a social media account.

INTERROGATORY NO. 2: Do you have a cell phone account? If so, please identify the cell phone carrier and the phone number associated with the account.

RESPONSE TO INTERROGATORY NO. 2: [redacted] is a 12-year-old child. [redacted] cellular phone account and the cellular telephone number are not relevant to the wreck or damages that are the subject of this claim before the Arkansas Claims Commission. This discovery request is overly broad and not reasonably tailored to lead to the discovery of relevant evidence. This request for the cell phone account of a 12-year-old casts

too wide of a net and would result in an inquiry of personal information that is not relevant. Without waiving the objection, [redacted] did not have a cell phone account on June 11, 2021.

INTERROGATORY NO. 3: Please list the names and contact information, if known, for all persons you spoke to at the scene of the accident on June 11, 2021.

RESPONSE TO INTERROGATORY NO. 3: [redacted] poke with the same persons as [redacted] Please see [redacted] response to this interrogatory.

INTERROGATORY NO. 4: Please identify and supply the contact information for the person or persons who transported you from the accident scene on June 11, 2021.

RESPONSE TO INTERROGATORY NO. 4: Roy Jackson transported me from the accident scene on June 11, 2021. Mr. Jackson is dead.

INTERROGATORY NO. 5: Please identify and supply the last known address and phone number for your father.

RESPONSE TO INTERROGATORY NO. 5: Please see [redacted] response to this interrogatory.

INTERROGATORY NO. 6: Please identify and list the applicable dates of all the places where you lived, and with whom, for the years 2019, 2020, and 2021.

RESPONSE TO INTERROGATORY NO. 6: Please see [redacted] response to this same interrogatory.

INTERROGATORY NO. 7: Please identify all persons who resided in the residences listed in response to Interrogatory No. 6 at any point in time for the years 2019, 2020, and 2021.

RESPONSE TO INTERROGATORY NO. 7: Please see [redacted] response to this same interrogatory.

INTERROGATORY NO. 8: Do you know any person who owned or drove a red truck during 2021? If so, please identify that person.

RESPONSE TO INTERROGATORY NO. 8: Yes. I knew the same person as [redacted] Please see [redacted] response to this interrogatory.

INTERROGATORY NO. 9: Please identify and describe all the places you visited or any other place you were on June 11, 2021, prior to the accident at issue. Further, please give the approximate time of day and length of time you were at these places.

RESPONSE TO INTERROGATORY NO. 9: [redacted] was with [redacted] and Jacqueline Ashcraft at all times on June 11, 2021. Please see [redacted] esponse to this interrogatory.

INTERROGATORY NO. 10: Was your mother wearing a seatbelt at the time of the accident on June 11, 2021?

RESPONSE TO INTERROGATORY NO. 10: Yes. Jacqueline Lynn Ashcraft was wearing a seatbelt at the time of the collision on June 11, 2021.

INTERROGATORY NO. 11: Did your mother smoke cigarettes or use tobacco products to the best of your knowledge? If so, approximately how long had she smoked cigarettes or used tobacco products, to the best of your knowledge?

RESPONSE TO INTERROGATORY NO. 11: Yes. Please se [redacted] response to this same interrogatory.

INTERROGATORY NO. 12: Do you know if your mother was ill or sick at the time of the accident on June 11, 2021? If so, do you know what that illness or sickness was? What were her symptoms, if applicable?

RESPONSE TO INTERROGATORY NO. 12: Jacqueline Ashcraft had an upset stomach a day or two prior to the wreck. She appeared normal on June 11, 2021.

INTERROGATORY NO. 13: Had you ever been to [redacted] house before the accident on June 11, 2021? If so, when and for what reason?

RESPONSE TO INTERROGATORY NO. 13: Yes. To play.

INTERROGATORY NO. 14: Had you ever been inside [redacted] house before the accident on June 11, 2021? If so, when and for what reason?

RESPONSE TO INTERROGATORY NO. 14: Yes. To play.

INTERROGATORY NO. 15: To the best of your knowledge, was Kimberly Corley – [redacted] mother – related to your mother or father by blood or marriage? If so, please describe the nature of the familial relationship.

RESPONSE TO INTERROGATORY NO. 14: Please see [redacted] response to this interrogatory.

INTERROGATORY NO. 16: How often do you visit your father?

RESPONSE TO INTERROGATORY NO. 16: Very rarely.

INTERROGATORY NO. 17: Were your father and mother ever married? If so, when and for how long?

RESPONSE TO INTERROGATORY NO. 17: No. Please see [redacted] response to this interrogatory.

INTERROGATORY NO. 18: Is there a custodial arrangement in place governing visitation by your father?

RESPONSE TO INTERROGATORY NO. 18: Please see [redacted] response to this interrogatory.

INTERROGATORY NO. 19: Does your father pay court-ordered child support? If so, how often and how much?

RESPONSE TO INTERROGATORY NO. 19: Please see [redacted] esponse to this interrogatory.

INTERROGATORY NO. 20: Please list all schools you have attended starting with Kindergarten. Also, please state for how long you attended these schools and the names of your teachers at those schools.

RESPONSE TO INTERROGATORY NO. 20: Objection. The interrogatory question is compound and seeks multiple subsets of information. The claimant objects to the subset question. The length of time at a school and the names of all of the schoolteachers are not relevant nor will they lead to the discovery of admissible evidence. Without waiving the objection [redacted]

INTERROGATORY NO. 21: Were you physically injured as a result of the accident on June 11, 2021? If so, please describe the type of injury and how soon you noticed symptoms or felt the injury after the accident. Please be as precise as possible concerning timing.

RESPONSE TO INTERROGATORY NO. 21: Yes. [redacted] was shook up at the accident scene. [redacted] accompanied her sister, [redacted] to the local emergency room at Mercy Hospital in Paris for a checkup. No medical records were generated upon [redacted] has not had any physical issues related to the wreck since June 2021.

INTERROGATORY NO. 22: What was the phone number at your residence in June of 2021?

RESPONSE TO INTERROGATORY NO. 22: We did not have a land line.

INTERROGATORY NO. 23: What was your mother's cell phone number in June 2021?

RESPONSE TO INTERROGATORY NO. 23: [redacted]

INTERROGATORY NO. 24: Do you know what type of cell phone your mother had at the time of the accident in question? If you do not know the type of cell phone your mother had, can you describe what it looked like?

RESPONSE TO INTERROGATORY NO. 24: My mother had a telephone from Walmart. I believe it was provided by "Straight Talk." The plan had a certain number of prepaid minutes per month.

INTERROGATORY NO. 25: Did your mother have an e-mail address? If so, what was it?

RESPONSE TO INTERROGATORY NO. 25: Please see [redacted] response to this interrogatory.

INTERROGATORY NO. 26: Did your mother have a Facebook account? If so, what was her screen name?

RESPONSE TO INTERROGATORY NO. 26: Yes. See [redacted] response to this interrogatory.

INTERROGATORY NO. 27: Did you at any time in May or June of 2021 ever receive a text message from your mother's cell phone? If so, please describe those instances.

RESPONSE TO INTERROGATORY NO. 27: No. See response to Interrogatory No. 2.

INTERROGATORY NO. 28: Have you ever been prescribed prescription medication? If so, what was it, how long did you take it, if you still are taking it, who prescribed it, and the name of the pharmacies that filled the prescriptions.

RESPONSE TO INTERROGATORY NO. 28: Objection. [redacted] was ten years old at the time of the wreck. [redacted] is not claiming any damages from prescription medication or reimbursement for being prescribed prescription medication.

INTERROGATORY NO. 29: You have filed a claim for four million dollars ($4,000,000) in the instant action. There are also two other claimants – your sister and your mother's estate. However, that claim of four million dollars ($4,000,000) is not apportioned among the claimants Complaint. Please describe what percentage of the overall claim amount you seek and describe the underlying details and computations that you feel entitle you to that portion of the claim.

RESPONSE TO INTERROGATORY NO. 29: The amount of damages being sought is based upon the various elements of the wrongful death claim and the bodily injury claim. These claims are not liquidated damages that can be ascertained with mathematical precision. Rather, the Commissioners of the Arkansas Claims Commission will be asked to return a verdict fully compensating each claimant for the damages that the evidence presented at trial justifies. The Commission members will be provided with a verdict form to provide an answer. The claimant has the right to adjust the amount sought during the hearing. The change can be based upon the evidence that is provided during the trial.

INTERROGATORY NO. 30: Did your mother ever go to the doctor? If so, please describe when, how often, and the name or names of her doctors.

RESPONSE TO INTERROGATORY NO. 30: [redacted] does not recall her mother going to see a doctor prior to being in a rear-end wreck caused by the Arkansas Department of Human Services' employee which led to her sustaining a massive brain bleed.

INTERROGATORY NO. 31: Please list the names and contact information for your grandparents.

RESPONSE TO INTERROGATORY NO. 31: Please see [redacted] response to this interrogatory.

REQUEST FOR PRODUCTION NO 1: Please have Haley Hudson, as your legal guardian, sign the attached authorization allowing DHS to obtain a copy of your child support case file.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: An executed authorization allowing the Arkansas Department of Human Services to obtain [redacted] Child Support Case will be provided upon receipt.

REQUEST FOR PRODUCTION NO. 2: Please produce a copy of your birth certificate.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: Objection. [redacted] birth certificate is not relevant, nor will it lead to the discovery of relevant evidence. The guardian has executed every authorization that the respondent may need to obtain information. The birth certificate does not contain any evidence that is material to the damages or liability issues in this matter.

REQUEST FOR PRODUCTION NO. 3: Please have Haley Hudson, as your legal guardian, sign the attached authorization allowing DHS to obtain a copy of your school records.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: An executed authorization allowing the Arkansas Department of Human Services to obtain [redacted] school records will be provided upon receipt.

INTERROGATORY NO. 32: Please state whether Claimant will treat the foregoing interrogatories as continuing and furnish to Respondent, in writing, any additional information received by Claimant subsequent to the date of Claimant's answers hereto that would modify or supplement Claimant's answers, such additional information to be furnished as soon as reasonably possible after receipt by Claimant and within a reasonable time prior to the assigned trial date in order to permit appropriate discovery procedure.

RESPONSE TO INTERROGATORY NO. 32: The claimant will abide by the Arkansas Rules of Civil Procedure.

Respectfully Submitted,

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Fax: 501-823-3611
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I, Jim R. Jackson, hereby certify that I have electronically served the respondent's attorney, Brent P. Gasper, via email with The Claimant's Response to Interrogatories and Requests for Production Of Documents.

/s/ Jim R. Jackson.
Jim R. Jackson

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — CLAIMANT

v. CC No. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES — RESPONDENT

HALEY HUDSON, PERMANENT GUARDIAN OF [redacted]
RESPONSES TO INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS

Comes the claimant, Haley Hudson, as Permanent Guardian of [redacted] by and through her attorney, Jim R. Jackson, and for her Responses to the respondent's Interrogatories and Requests for Production of Documents propounded to [redacted] states:

INTERROGATORY NO. 1: Do you have a social media account? If so, please identify all social media accounts you have and the screen name for each.

ANSWER TO INTERROGATORY NO. 1: Objection. [redacted]s 16-year-old minor child. [redacted] social media account(s), if any, are not relevant nor reasonably tailored to lead to the discovery of relevant evidence. The information sought in this interrogatory is overly broad and beyond the scope of discovery. Seeking the information of any social media app a 16-year-old child has used has no discernable relationship to the issue of liability or damages in this tort claim. Asking a claimant to reveal their social media account information would give the Department of Human Services access to personal information that is not within the scope of discovery. This request could lead to the discovery of a massive volume of data. This data is simply not relevant to the claims in this case. This request casts

too wide of a net and would result in an inquiry of personal information that is not relevant. One court has denied this type of request reasoning that a "[d]efendant is no more entitled to such unfettered access to plaintiff's personal email and social networking communications than it is to rummage through the desk drawers and closets in plaintiff's home." *Tucker v. Momentive Performance Materials USA, Inc, Civil Action No. 2:13-cv-04480, 2016 U.S. District Lexis 187413 at *21 (S.D. W.Va. Nov. 23, 2016).*

INTERROGATORY NO. 2: Do you have a cell phone account? If so, please identify the cell phone carrier and the phone number associated with the account.

ANSWER TO INTERROGATORY NO. 2: Objection. [redacted]s 16 years old. Her cellular phone account and the cellular telephone number are not relevant to the wreck or damages that are the subject of this claim before the Arkansas Claims Commission. This discovery request is overly broad and not reasonably tailored to lead to the discovery of relevant evidence. This request for the cell phone account of a 16-year-old casts too wide of a net and would result in an inquiry of personal information that is not relevant. Without waiving the objection, [redacted]has a Walmart Straight Talk Prepaid Phone.

INTERROGATORY NO. 3: Please list the names and contact information, if known, for all persons you spoke to at the scene of the accident on June 11, 2021.

ANSWER TO INTERROGATORY NO. 3: [redacted]was knocked unconscious during the impact[redacted]sustained amnesia due to the traumatic brain injury "TBI" she incurred as a result of the wreck. [redacted]is aware that the following were either at the accident scene or arrived shortly after the wreck occurred.

i. Jacqueline Lynn Ashcraft;

ii. [redacted]

iii. Holly Newman, paramedic with Logan County EMS;

iv. Roy Lee Jackson, (husband of LaDonna Jackson); Mr. Jackson died on [redacted]

v. Kimberley Corley, (Mother of [redacted]

vi. Jessica Capo; [redacted] and,

vii. Medical providers at Mercy Paris Medical Center; (names contained in the medical records).

INTERROGATORY NO. 4: Please identify and supply the contact information for the person or persons who transported you from the accident scene on June 11, 2021.

ANSWER TO INTERROGATORY NO. 4: [redacted] has been told that Roy Lee Jackson transferred [redacted] to the emergency room at Mercy Hospital in Paris. Lisa Chambers transported [redacted] from the hospital when she was discharged. Roy Jackson, [redacted] Mr. Jackson's date of birth was [redacted] He died on [redacted] in Paris, Arkansas.

INTERROGATORY NO. 5: Please identify and supply the last known address and phone number for your father.

ANSWER TO INTERROGATORY NO. 5: Steven Allen Jones is the biological father of [redacted] Mr. Jones lives in [redacted] [redacted] does not know the address of Steven Jones. However, Steven A. Jones did inform [redacted] recently that a representative from the Arkansas Department of Human Services called him to discuss this litigation. Therefore, we assume the respondent has the telephone number for Steven Allen Jones.

INTERROGATORY NO. 6: Please identify and list the applicable dates of all the places where you lived, and with whom, for the years 2019, 2020, and 2021.

ANSWER TO INTERROGATORY NO. 6: [redacted] lived with Jacqueline Ashcraft and [redacted] in 2019, 2020, and 2021 in Paris, Arkansas. We initially lived in a trailer next to Roy Jackson's home at [redacted] The three of us moved to the apartment on [redacted] which is where they were living on the date of the wreck. No other person lived with us in 2019, 2020, and 2021. My sister and I were enrolled in the Paris School District for the two school years prior to the wreck. We transferred back to [redacted]

INTERROGATORY NO. 7: Please identify all persons who resided in the residences listed in response to Interrogatory No. 6 at any point in time for the years 2019, 2020, and 2021.

ANSWER TO INTERROGATORY NO. 7: Jacqueline Lynn Ashcraft, [redacted] and [redacted] lived together in Paris, Arkansas.

INTERROGATORY NO. 8: Do you know any person who owned or drove a red truck during 2021? If so, please identify that person.

ANSWER TO INTERROGATORY NO. 8: Yes. Roy Lee Jackson drove a red Chevrolet pickup truck. Roy Jackson lived at [redacted] Roy Lee Jackson was in a mechanic shop across the street from the Paris Municipal Airport on June 11, 2021. Roy Jackson drove his red pickup truck to the accident site shortly after the wreck. He was checking on Jackie and the children. A paramedic advised him to take the girls to the hospital if they needed medical attention. Roy Jackson transported [redacted] to the hospital after [redacted] became ill at the home located at [redacted] knows other people who drove a red pickup truck. Please let counsel know if this is the information you are seeking or if you want more information on the owners of other red pickup trucks.

INTERROGATORY NO. 9: Please identify and describe all the places you visited or any other place you were on June 11, 2021, prior to the accident at issue. Further, please give the approximate time of day and length of time you were at these places.

ANSWER TO INTERROGATORY NO. 9: My mother, sister, and I visited with Roy Jackson, Lisa Chambers, and Joshua Jackson on the evening of June 10, 2021, at approximately 6:00 p.m. We visited them at their home a [redacted] On June 11, 2021, we drove from our home on [redacted] to return [redacted] to his mother, Kimberly Corley. [redacted] spent the night of June 10 and morning of June 11 at our apartment. Kimberly Corley is [redacted] mother. She lived with her mother, Jessica Capo, at [redacted] on June 11, 2021. Kimberly Corley now lives at [redacted]

We spent the morning of June 11 at our apartment. We left our apartment on [redacted] and went to McDonalds for lunch. After lunch, we were driving to [redacted] home on Highway 22 when the wreck occurred.

INTERROGATORY NO. 10: Was your mother wearing a seatbelt at the time of the accident on June 11, 2021?

ANSWER TO INTERROGATORY NO. 10: Yes. My mother always wore her seatbelt.

INTERROGATORY NO. 11: Did your mother smoke cigarettes or use tobacco products to the best of your knowledge? If so, approximately how long had she smoked cigarettes or used tobacco products, to the best of your knowledge?

ANSWER TO INTERROGATORY NO. 11: Yes. Jacqueline Ashcraft smoked cigarettes most of her adult life.

INTERROGATORY NO. 12: Do you know if your mother was ill or sick at the time of the accident on June 11, 2021? If so, do you know what that illness or sickness was? What were her symptoms, if applicable?

ANSWER TO INTERROGATORY NO. 12: All three of us had a stomach bug the week leading up to Saturday June 11. The bug passed from one to another to another. None of us felt bad enough to require medical attention. We just felt sick that week. My mother was feeling better on Friday afternoon which is why she picked up [redacted] to spend the night with us.

INTERROGATORY NO. 13: Had you ever been to [redacted] house before the accident on June 11, 2021? If so, when and for what reason?

ANSWER TO INTERROGATORY NO. 13: Yes. We are related to [redacted] He would frequently spend the night with us. We did family activities with him.

INTERROGATORY NO. 14: Had you ever been inside [redacted] house before the accident on June 11, 2021? If so, when and for what reason?

ANSWER TO INTERROGATORY NO. 14: I had been to [redacted] home several times prior to June 11, 2021. The reason was to visit. [redacted] was Jacqueline Lynn Ashcraft's great nephew and my cousin.

INTERROGATORY NO. 15: To the best of your knowledge, was Kimberly Corley – [redacted] mother – related to your mother or father by blood or marriage? If so, please describe the nature of the familial relationship.

ANSWER TO INTERROGATORY NO. 15: Kimberly Corley is not related by blood or marriage to my mother or father. [redacted] father is Joshua Braden Jackson. Joshua Bryan Jackson is the father of Joshua Braden Jackson. Joshua Bryan Jackson and Jacqueline Lynn Ashcraft are brother and sister. Joshua Bryan Jackson's address is: [redacted] Roy Lee Jackson lived next to Joshua Bryan Jackson and Lisa Chambers. This is the same address that we lived at when we initially moved to Paris from Cross County. [redacted] was my mother's great-nephew.

[1] [redacted]

INTERROGATORY NO. 16: How often do you visit your father?

ANSWER TO INTERROGATORY NO. 16: Steven Jones and [redacted] visit occasionally via telephone. [redacted] received a telephone call from Steven Jones sometime during the week of May 15, 2023. Mr. Jones informed [redacted] that a representative of the Arkansas Department of Human Services had contacted him about [redacted] and asked him numerous questions related to this litigation.

INTERROGATORY NO. 17: Were your father and mother ever married? If so, when and for how long?

ANSWER TO INTERROGATORY NO. 17: Jacqueline Lynn Ashcraft was only married one time. This marriage and divorce occurred prior to [redacted] birth. Steven Jones and Jacqueline Lynn Ashcraft were never wed.

INTERROGATORY NO. 18: Is there a custodial arrangement in place governing visitation by your father?

ANSWER TO INTERROGATORY NO. 18: [redacted] is not aware of a custodial arrangement in place governing visitation by Steven Jones.

INTERROGATORY NO. 19: Does your father pay court-ordered child support? If so, how often and how much?

ANSWER TO INTERROGATORY NO. 19: Steven A. Jones was ordered to pay child support in a matter styled: *State of Arkansas, Office of Child Support Enforcement Case Number: 228979461 vs. Steven A. Jones*; Logan County Circuit Court, Domestic Relations Division, Northern District, Case N. 42DR-21-17. Mr. Jones was ordered to pay monthly child support of $641 beginning on March 1, 2021 pursuant to Order of Support entered by the Circuit Judge on June 14, 2021. [redacted] is not aware of Mr. Jones making any payments.

INTERROGATORY NO. 20: Please list all schools you have attended starting with Kindergarten. Also, please state for how long you attended these schools and the names of your teachers at those schools.

ANSWER TO INTERROGATORY NO. 20: Objection. The interrogatory question is compound and seeks multiple subsets of information. The claimant objects to the subset question asking for the name of *every school teacher*. This interrogatory is overly broad and not reasonably tailored to lead to the discovery of relevant evidence. Furthermore, Haley Hudson will provide an executed school records authorization that authorizes the respondent to obtain her school records.

[redacted]

INTERROGATORY NO. 21: Were you physically injured as a result of the accident on June 11, 2021? If so, please describe the type of injury and how soon you noticed symptoms or felt the injury after the accident. Please be as precise as possible concerning timing.

ANSWER TO INTERROGATORY NO. 21: Yes. [redacted] was knocked unconscious as a result of the impact. [redacted] was taken by Roy Jackson to the emergency room at Mercy Hospital in Paris, Arkansas. The medical records from Mercy contain the exact time of admission. [redacted] continues to experience headaches and dizziness from the wreck. Please see [redacted] medical records which were provided at the beginning of this litigation from: Mercy Hospital, Mercy Clinic, Scarbrough Clinic, Belinga Clinic, and Wynne

Medical Clinic. Also attached is the medical report from Arkansas Neuropsychology & Behavioral Health.

INTERROGATORY NO. 22: What was the phone number at your residence in June of 2021?

ANSWER TO INTERROGATORY NO. 22: We did not have a land line in our home in June of 2021.

INTERROGATORY NO. 23: What was your mother's cell phone number in June 2021?

ANSWER TO INTERROGATORY NO. 23: [redacted]

INTERROGATORY NO. 24: Do you know what type of cell phone your mother had at the time of the accident in question? If you do not know the type of cell phone your mother had, can you describe what it looked like?

ANSWER TO INTERROGATORY NO. 24: My mother had a cellular telephone from Walmart. I believe it was provided by "Straight Talk." It had a certain number of prepaid minutes per month.

INTERROGATORY NO. 25: Did your mother have an e-mail address? If so, what was it?

ANSWER TO INTERROGATORY NO. 25: Yes. [redacted]

INTERROGATORY NO. 26: Did your mother have a Facebook account? If so, what was her screen name?

ANSWER TO INTERROGATORY NO. 26: Yes. [redacted]

INTERROGATORY NO. 27: Did you at any time in May or June of 2021 ever receive a text message from your mother's cell phone? If so, please describe those instances.

ANSWER TO INTERROGATORY NO. 27: Jacqueline Ashcraft did send text messages. [redacted]had a straight talk phone from Walmart in May and June 2021. This phone

had a very limited number of minutes on it. The messages would be normal mother to daughter text messages.

INTERROGATORY NO. 28: Have you ever been prescribed prescription medication? If so, what was it, how long did you take it, if you still are taking it, who prescribed it, and the name of the pharmacies that filled the prescriptions.

ANSWER TO INTERROGATORY NO. 28: Yes. I was given [redacted]hich is a [redacted]upon discharge from the emergency room at Mercy Medical in Paris. The Belinga Neurology Clinic prescribed [redacted]Walmart or Wynne Medical Pharmacy would have filled the prescription.

INTERROGATORY NO. 29: You have filed a claim for four million dollars ($4,000,000) in the instant action. There are also two other claimants – your sister and your mother's estate. However, that claim of four million dollars ($4,000,000) is not apportioned among the claimants Complaint. Please describe what percentage of the overall claim amount you seek and describe the underlying details and computations that you feel entitle you to that portion of the claim.

ANSWER TO INTERROGATORY NO. 29: The amount of damages being sought is based upon the various elements of the wrongful death claim and the bodily injury claim. These claims are not liquidated damages that can be ascertained with mathematical precision. Rather, the Commissioners of the Arkansas Claims Commission will be asked to return a verdict fully compensating each claimant for the damages that the evidence presented at trial justifies. The Commission members will be provided with a verdict form to provide an answer. The claimant has the right to adjust the amount sought during the hearing. The amount of damages sought will be based upon the evidence that is provided during the trial.

The claimant is requesting that the members of the Arkansas Claims Commission determine the amount of damages and the allocation of the damages.

INTERROGATORY NO. 30: Did your mother ever go to the doctor? If so, please describe when, how often, and the name or names of her doctors.

ANSWER TO INTERROGATORY NO. 30: [redacted] does not recall her mother seeing a medical doctor.

INTERROGATORY NO. 31: Please list the names and contact information for your grandparents.

ANSWER TO INTERROGATORY NO. 31: Bobby Ashcraft was my maternal grandfather. Bobby Ashcraft predeceased Jacqueline Lynn Ashcraft. LaDonna Jackson died on [redacted] Roy Lee Jackson died on [redacted] Both of my paternal grandparents are deceased. Velma Jones died last year. Wayne Jones died years ago.

REQUEST FOR PRODUCTION NO 1: Please have Haley Hudson, as your legal guardian, sign the attached authorization allowing DHS to obtain a copy of your child support case file.

ANSWER TO REQUEST FOR PRODUCTION NO. 1: An executed authorization allowing the Arkansas Department of Human Services to obtain [redacted] Child Support Case will be provided upon receipt.

REQUEST FOR PRODUCTION NO. 2: Please produce a copy of your birth certificate.

ANSWER TO REQUEST FOR PRODUCTION NO. 2: Objection. [redacted] birth certificate is not relevant, nor will it lead to the discovery of relevant evidence. The guardian has executed every authorization that the respondent may need to obtain information. The birth certificate does not contain any evidence that is material to the damages or liability issues in this matter.

REQUEST FOR PRODUCTION NO. 3: Please have Haley Hudson, as your legal guardian, sign the authorization allowing DHS to obtain a copy of your school records.

ANSWER TO REQUEST FOR PRODUCTION NO. 4: An executed authorization allowing the Arkansas Department of Human Services to obtain [redacted] school records will be provided upon receipt.

INTERROGATORY NO. 32: Please state whether Claimant will treat the foregoing interrogatories as continuing and furnish to Respondent, in writing, any additional information received by Claimant subsequent to the date of Claimant's answers hereto that would modify or supplement Claimant's answers, such additional information to be furnished as soon as reasonably possible after receipt by Claimant and within a reasonable time prior to the assigned trial date in order to permit appropriate discovery procedure.

ANSWER TO INTERROGATORY NO. 32: The claimant will abide by the Arkansas Rules of Civil Procedure.

Respectfully Submitted,

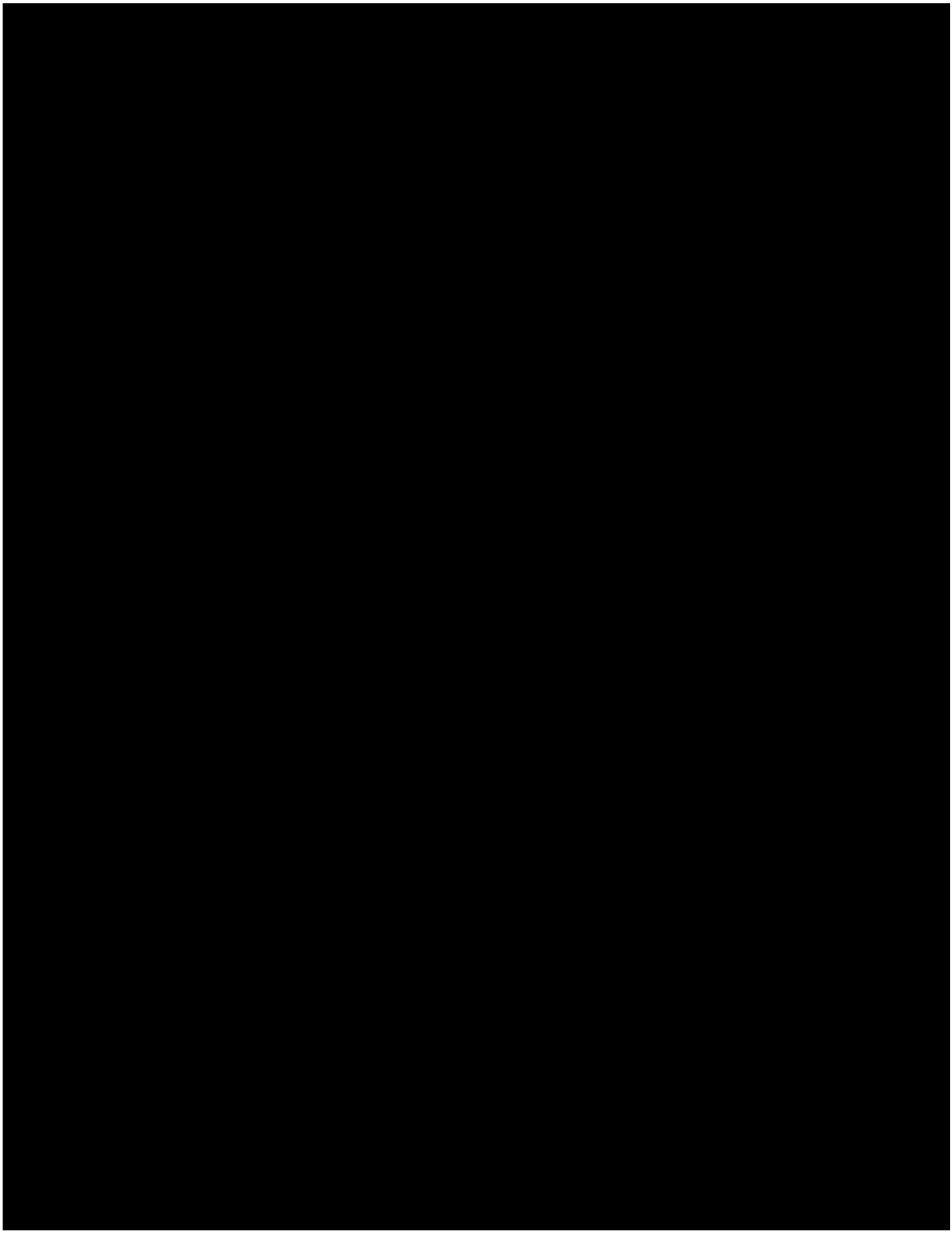
Jim Jackson

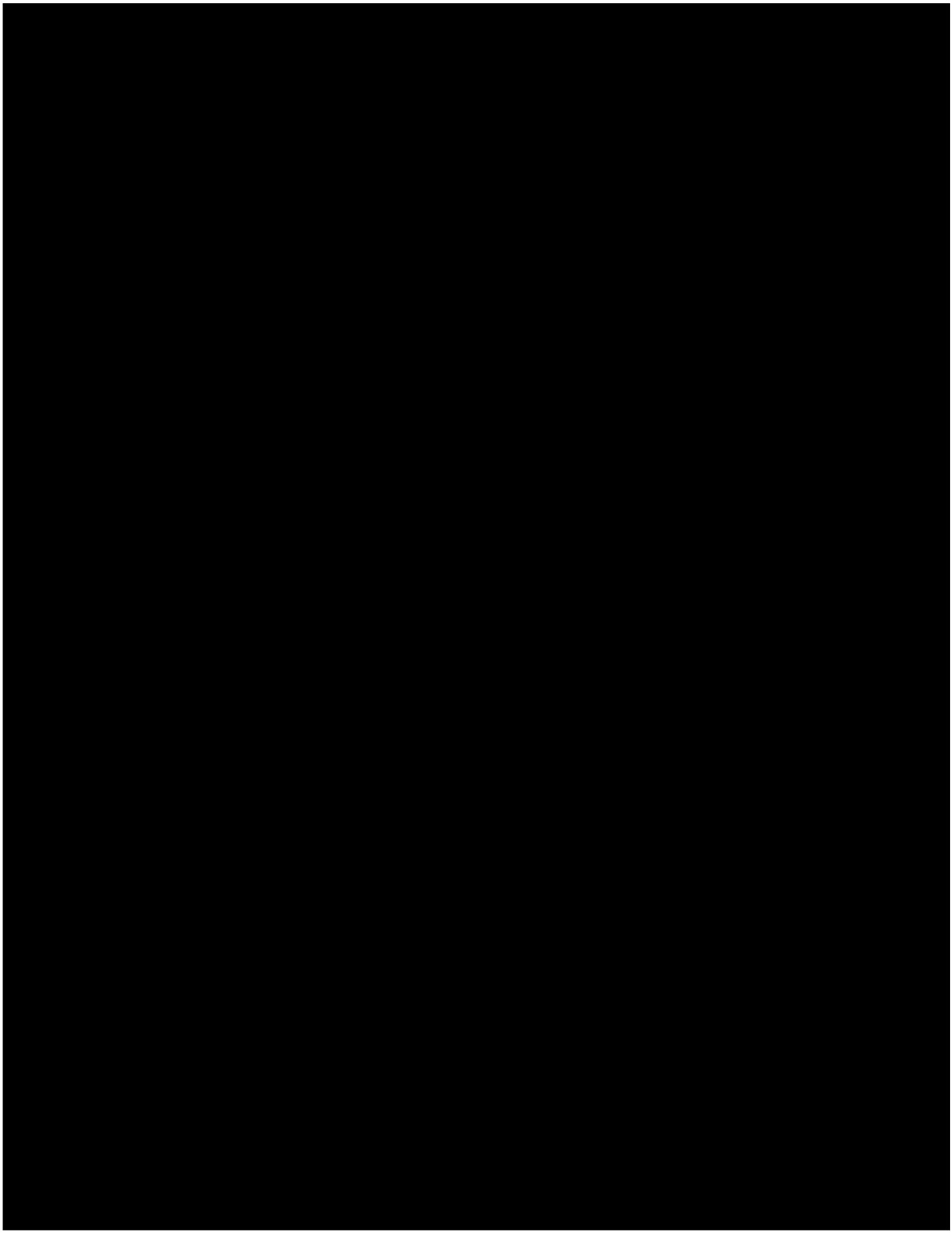
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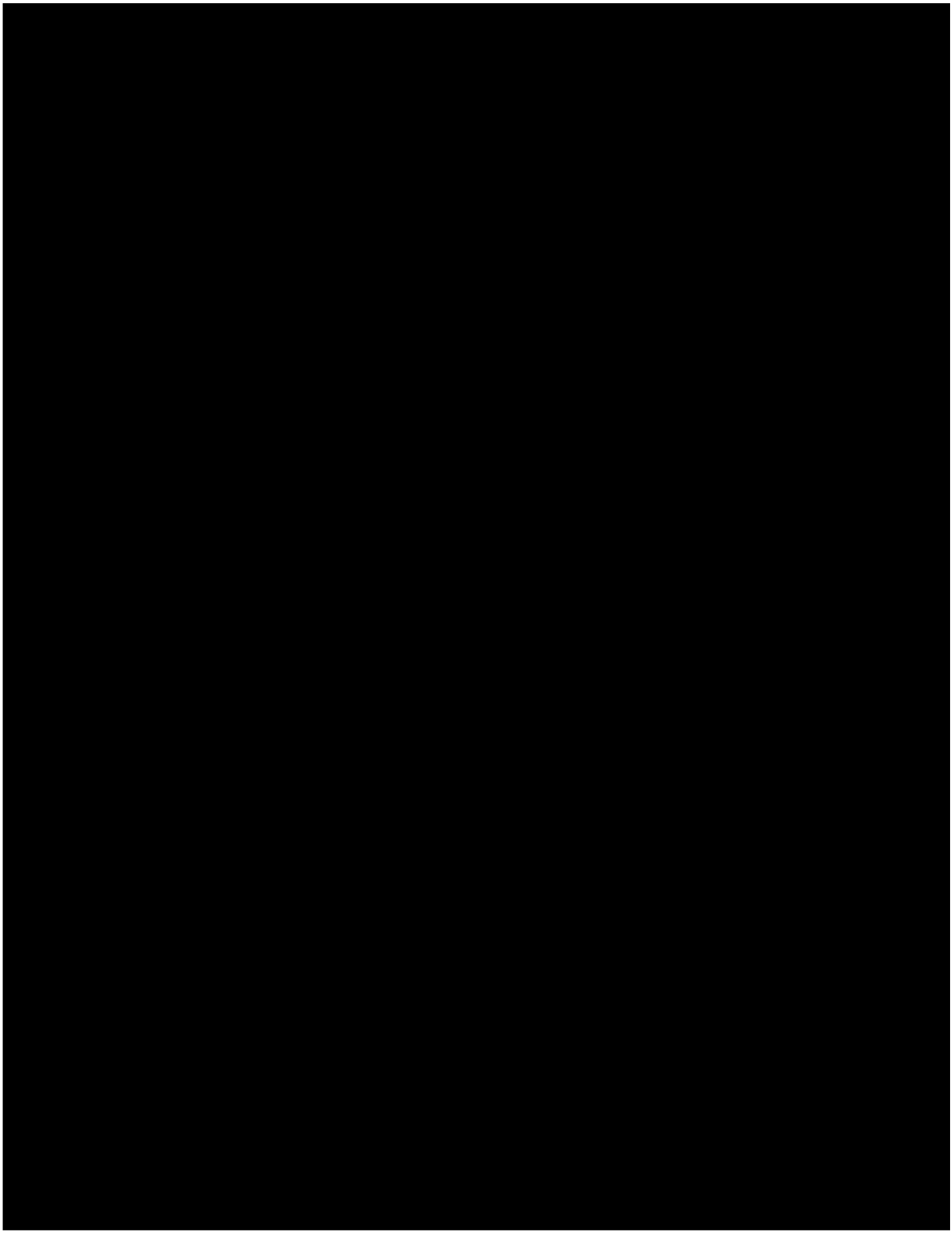
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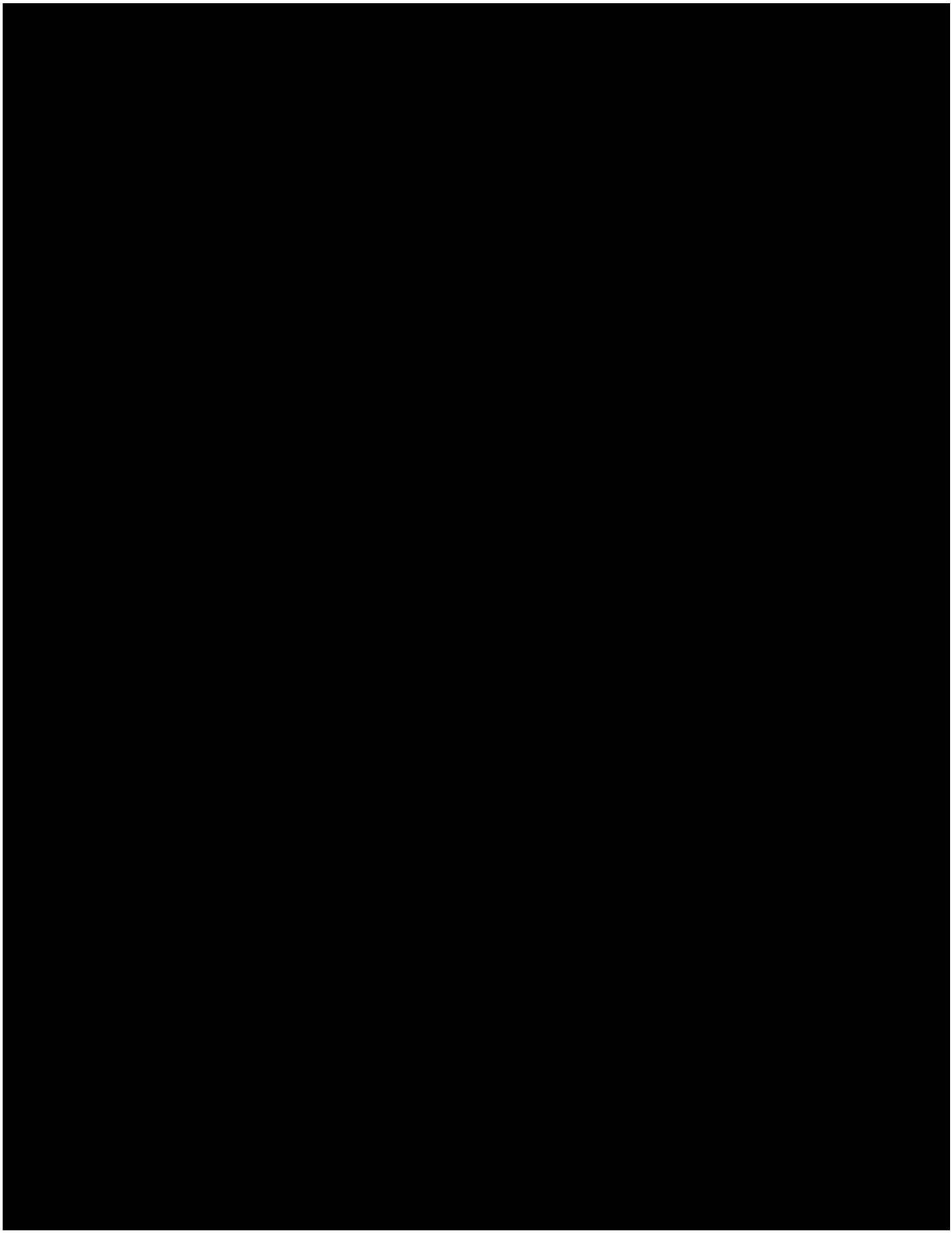
I, Jim R. Jackson, hereby certify that I have electronically served the respondent's attorney, Brent P. Gasper, via email, with Kadey Jones' Response to Interrogatories and Requests for Production of Documents on June 12, 2023.

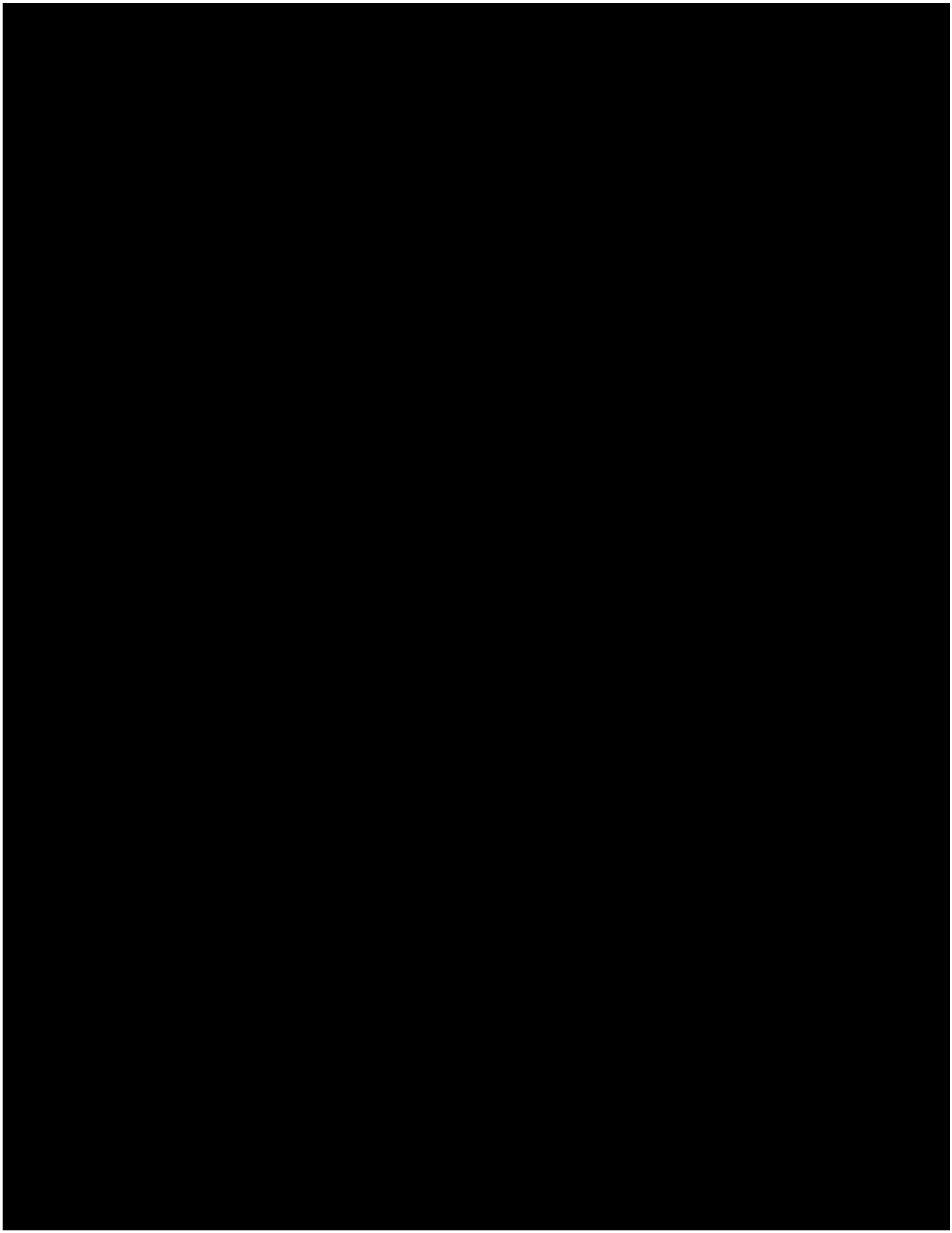
/s/ Jim R. Jackson
Jim R. Jackson

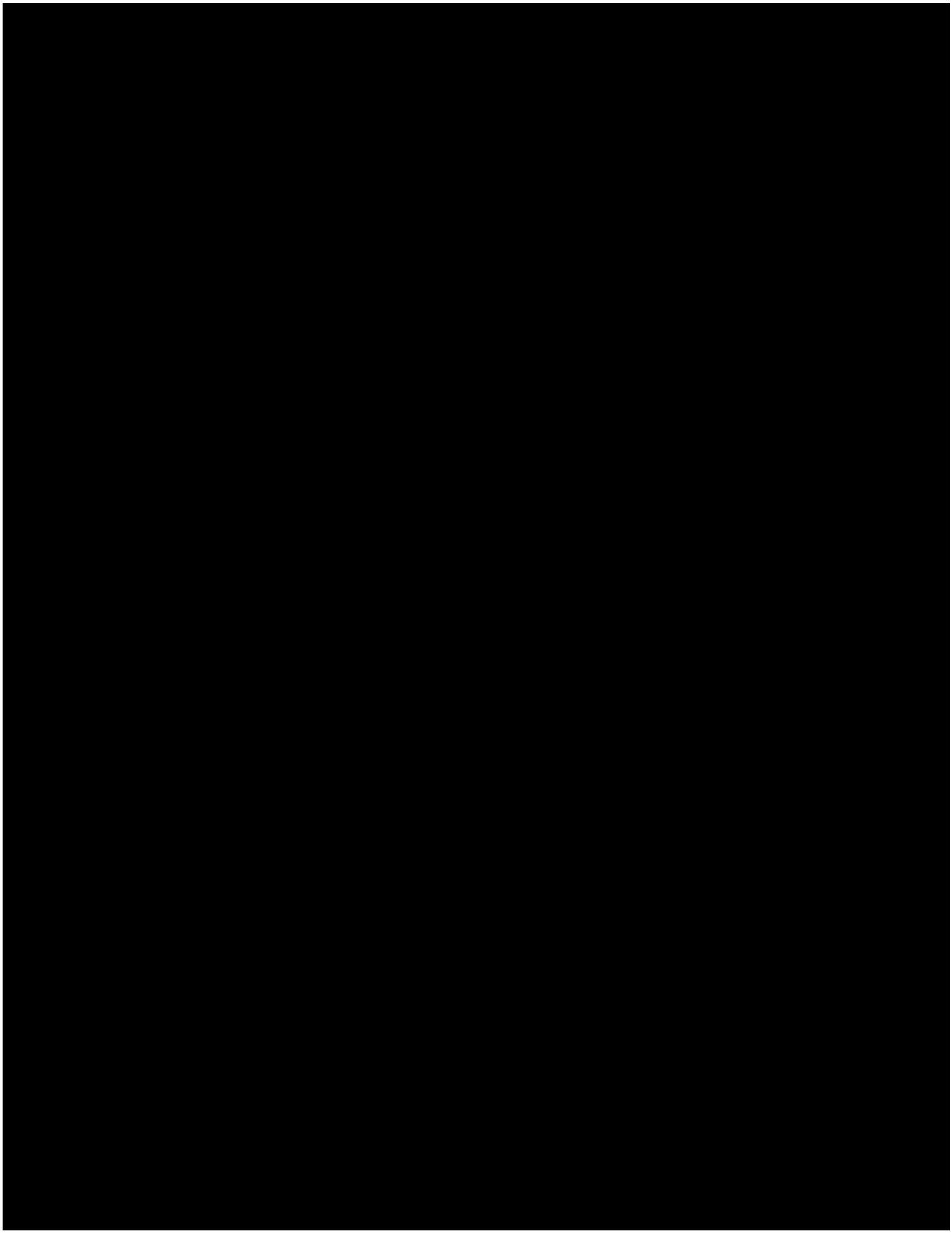


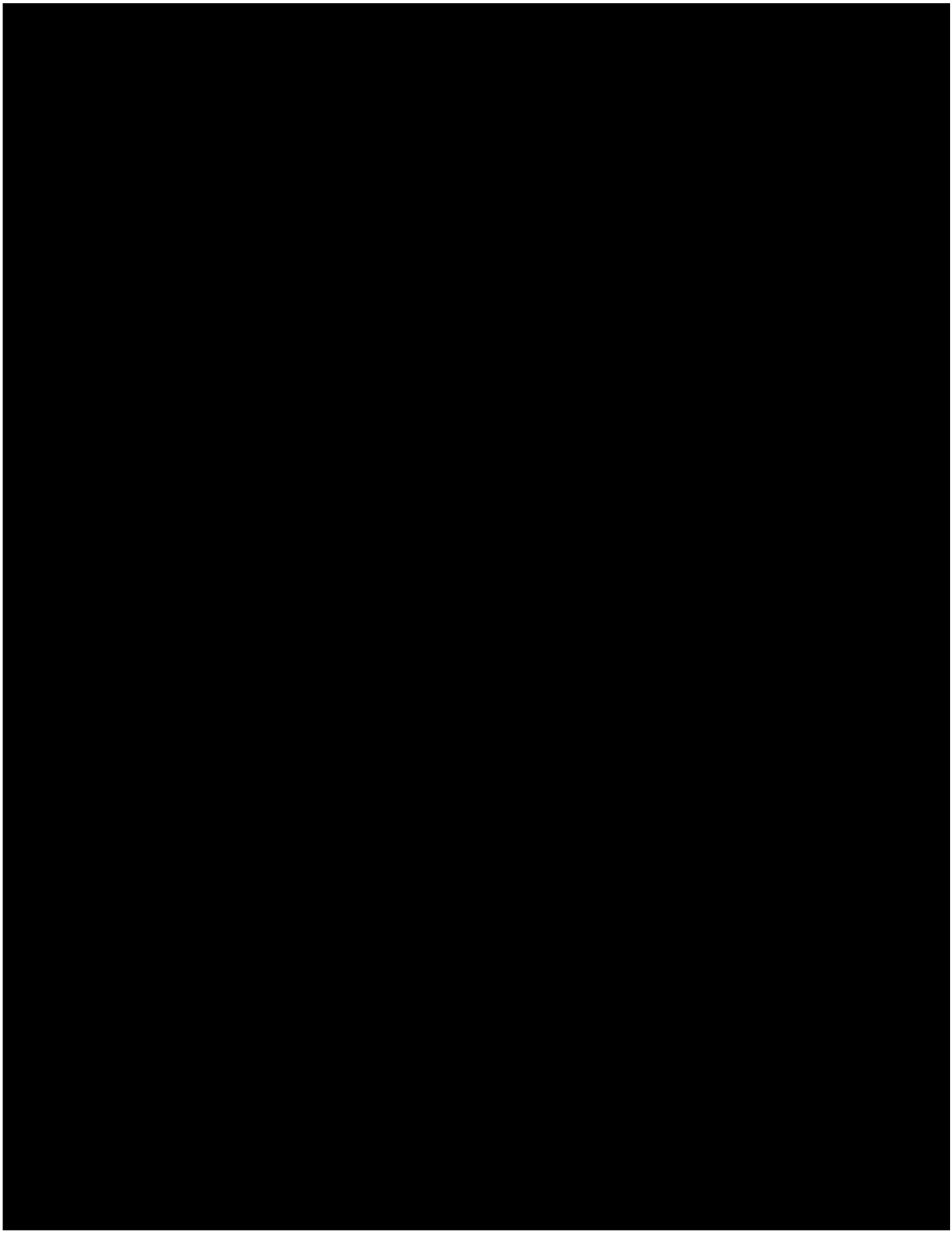


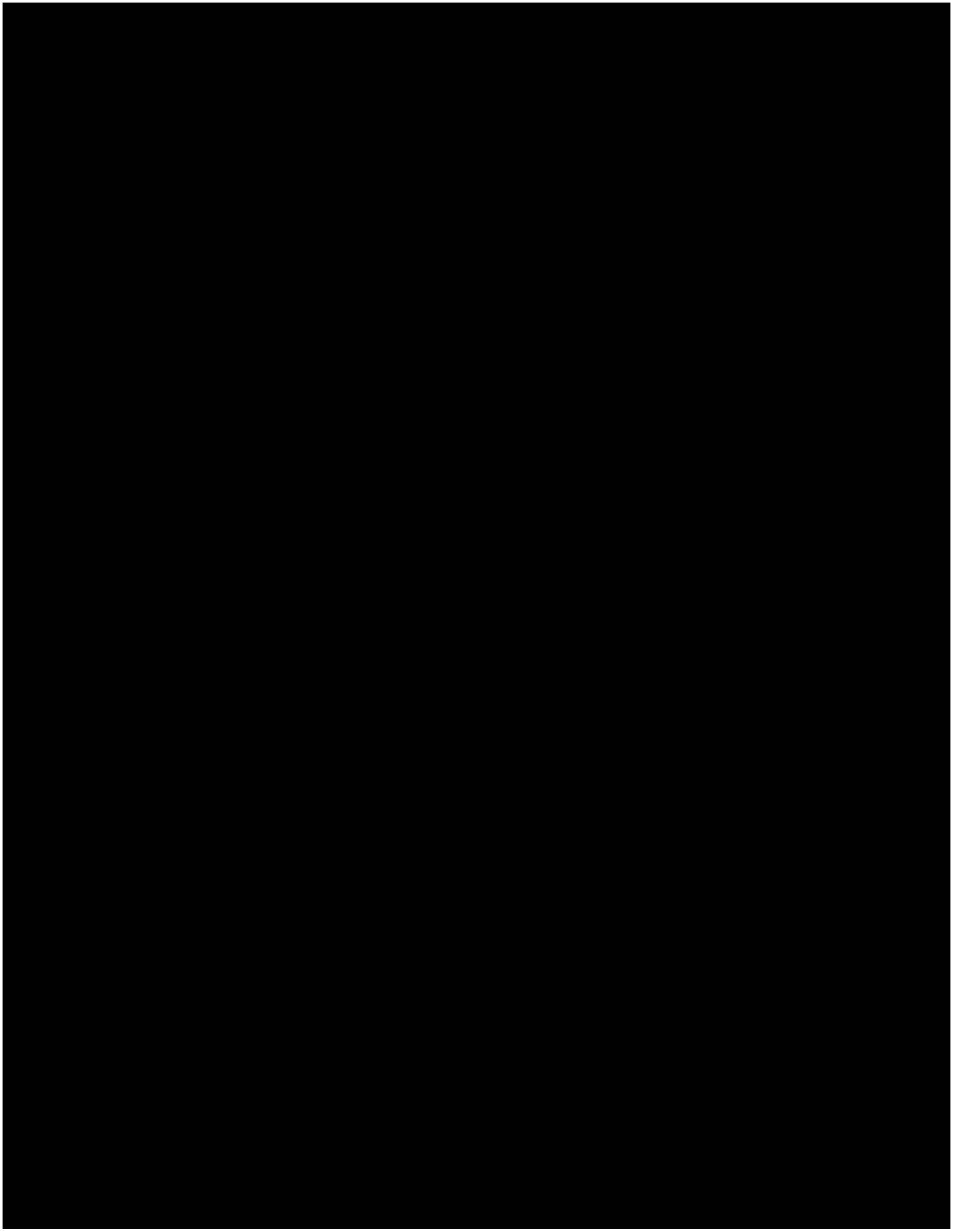












From: Martha Cox
To: ASCC Pleadings; Kathryn Irby
Cc: Brent Gasper; Daiquiri Carter; Jim Jackson
Subject: RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, dec"d & Permanent Guardian of [redacted], Minor Children v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641
Date: Wednesday, June 14, 2023 3:36:18 PM
Attachments: Brief in support of Motion for Partial Summary Judgment on Issue of Liability.pdf
Letter to Kathryn Irby with MSJ.pdf
Motion for Partial Summary Judgment on Issue of Liability w 7 Exhibits Attached.pdf

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Please find attached a letter to Kathryn Irby from Attorney Jim Jackson, the claimant's Motion for Partial Summary Judgment on the Issue of Liability, and the claimant's Brief in Support of Motion for Partial Summary Judgment on the Issue of Liability for filing in the above-referenced case.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

JACKSON
LAW FIRM

June 14, 2023

VIA E-Mail & US Mail

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, AR 72201

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of* [redacted] *Minor Child v. Arkansas Department of Human Services*
Arkansas State Claims Commission No. 230641

Dear Ms. Irby,

Please find enclosed an original and copies of the Claimant's Motion for Partial Summary Judgment and Brief in Support.

Please call me at (501) 823-3610 with any questions or suggestions. My e-mail address is *Jim@JimJacksonAtty.com.*

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosure
cc:w/enc. Brent Gasper, *Esq.*
(email only)

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528
501.823.3610
Fax: 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON ISSUE OF LIABILITY

Comes now the claimant, Haley Hudson. by and through her attorney, and for her Motion for Partial Summary Judgment on the Issue of Liability, states:

1. Pursuant to Rule 56 of the Arkansas Rules of Civil Procedure, the claimant is entitled to judgment on the issue of liability as a matter of law for the reasons set forth herein and in her Brief in Support, which is filed contemporaneously herewith.

2. There is no genuine issue of material fact that Jennifer Wilkerson was solely responsible for causing the collision at issue while operating within the course and scope of her employment with the respondent.

3. The standard for Summary Judgment is well-established in Arkansas. *Collins v. Morgan*, 92 Ark. App. 95, 101 (Ark. Ct. 2005) (*citing Ginsburg v. Ginsburg*, 353 Ark. 816, 820-821, 120 S.W.3d 567, 569-70 (2003)). Summary Judgment should be granted when it is clear there are no genuine issues of material fact to be litigated and the moving party is entitled to Judgment as a matter of law. *Id.* The purpose of Summary Judgment is not to try the issues, but to determine whether there are any issues to be tried. *Id.* Even if there are disputed facts, if reasonable minds will not differ as to the conclusion to be reached, then a

grant of Summary Judgment is proper. *Chalmers v. Toyota Motor Sales,* 326 Ark. 895, 935 S.W.2d 258 (1996).

3. Once the moving party has established a *prima facie* entitlement to Summary Judgment, the opposing party must meet proof with proof and demonstrate the existence of a material issue of fact to defeat same. *Smith v. Roberts Group, Inc.*, 348 Ark. 241, 72 S.W.3d 450 (2002). If a respondent to a Motion for Summary Judgment cannot present proof of an essential element of the claim, the movant is entitled to Summary Judgment as a matter of law. *Short v. Little Rock Dodge, Inc.*, 297 104, 759 S.W.2d 553 (1988). Summary Judgment should be granted when a review of the pleadings, depositions, and other filings reveal there is no genuine issue as to any material fact, and the moving party is entitled to Summary Judgment as a matter of law. *Colonial Underwriters Ins. Co. v. Worthen National Bank*, 53 Ark. App. 106, 919 S.W. 2d 515 (1996).

4. The claimant must prove that Jennifer Wilkerson was negligent and that her negligence was the proximate cause of the collision. AMI 302.

5. The respondent has not, and cannot, prove that any other party was the cause of the collision that is the subject of this litigation.

6. Attached hereto and incorporated herein are the following exhibits:

A. Exhibit 1 – Photographs by Trooper James Ray & Logan County Sheriff's Facebook page;

B. Exhibit 2 – Excerpts from Trooper James Ray's Deposition;

C. Exhibit 3 – Trooper James Ray's Accident Report;

D. Exhibit 4 – Excerpts from Kristin Shelton's Deposition;

E. Exhibit 5 – Jennifer Wilkerson's handwritten statement;

F. Exhibit 6 – Jennifer Wilkerson's email statement;

F. Exhibit 7 – Brandy Ezell's statement.

WHEREFORE, the claimant prays that this Commission enter an Order granting the Motion for Summary Judgment on the Issue of Liability.

Respectfully submitted,



Jim Jackson, AR Bar #93209
Jackson Law Firm
700 W. Broadway Street, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that on this date, June 14, 2023, I electronically transmitted the attached document via e-mail to the Clerk of the Arkansas State Claims Commission and to:

Brent Gasper, Esq.
Assistant Deputy Chief Counsel
Attorney for the Respondent
P.O. Box 1437
Little Rock, AR 72203-1437
Brent.Gasper@dhs.Arkansas.gov

/s/ Jim Jackson
Jim Jackson

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

INDEX OF CLAIMANT'S EXHIBITS

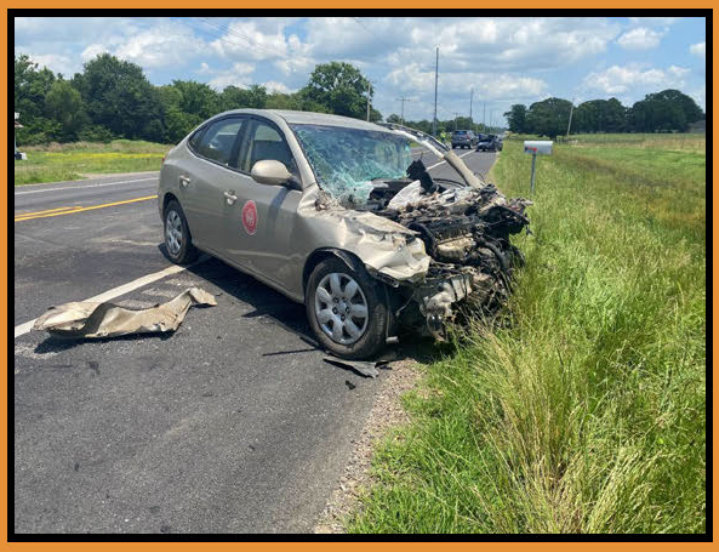
1. Photographs of Accident Site, Vehicles and Trooper's Notes
2. Trooper James Ray's Deposition Excerpts
3. Trooper James Ray's Accident Report with Diagrams & Witness Statements
4. Kristen Shelton's Deposition excerpts
5. Jennifer Wilkerson's Hand Written Answers to DHS Questions
6. Jennifer Wilkerson's Email Statement to DHS
7. Brandy Ezell's Statement of Events on June 11, 2021

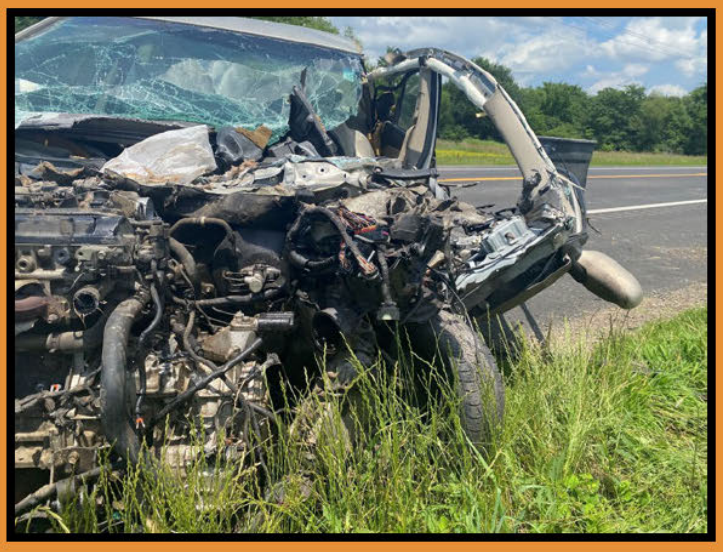
Logan County Sheriff's Facebook page

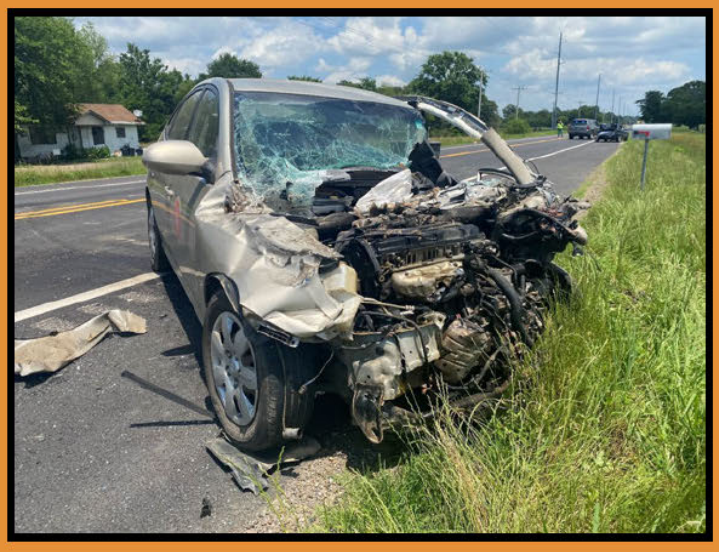


DHS Vehicle

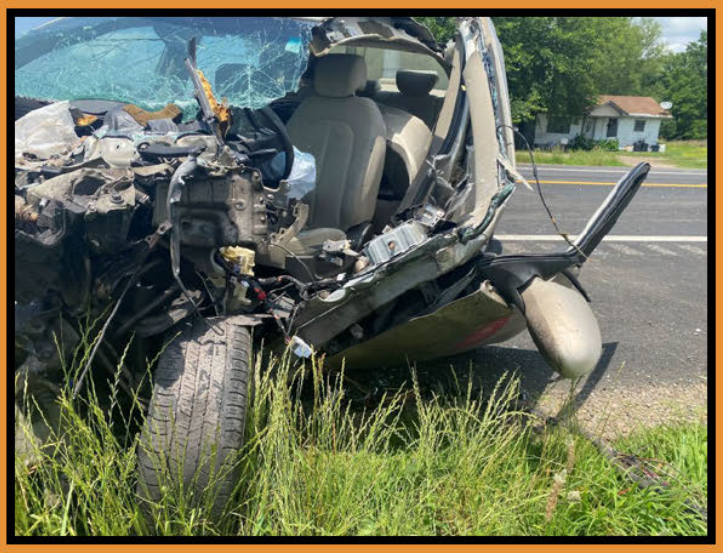




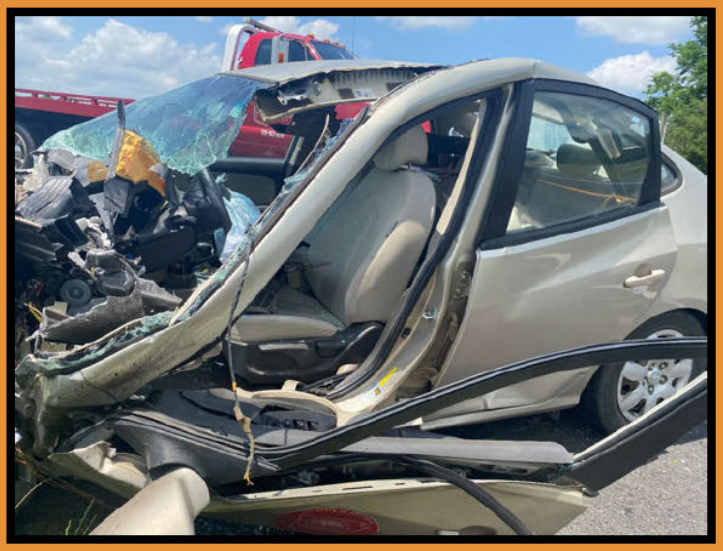




Claimant's Exhibits MSJ 003









Claimant's Exhibits MSJ 004

Ashcraft Vehicle

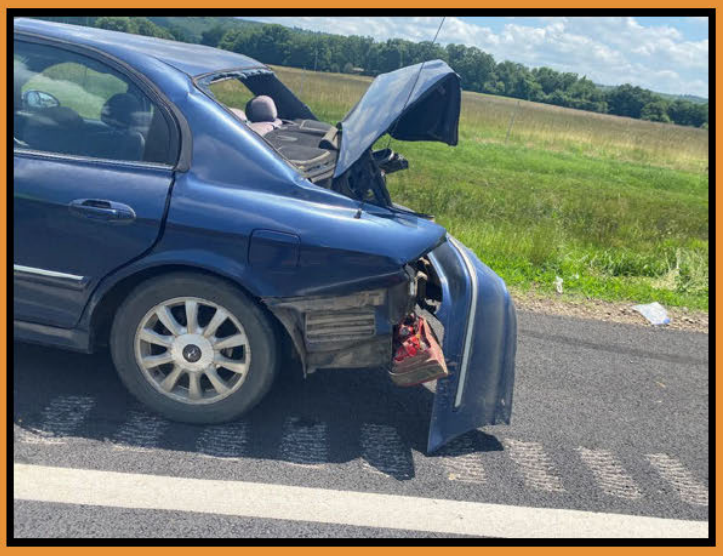








Claimant's Exhibits MSJ 005



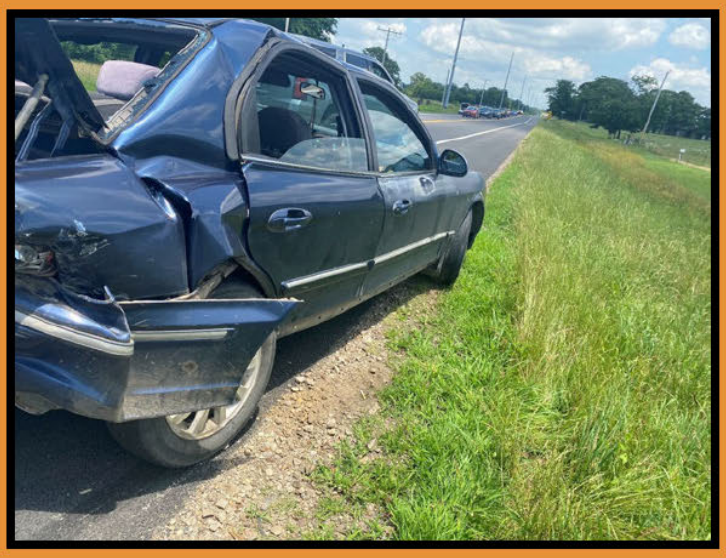






Claimant's Exhibits MSJ 006

Bobby Wilson's Peterbilt









Claimant's Exhibits MSJ 007







Claimant's Exhibits MSJ 008





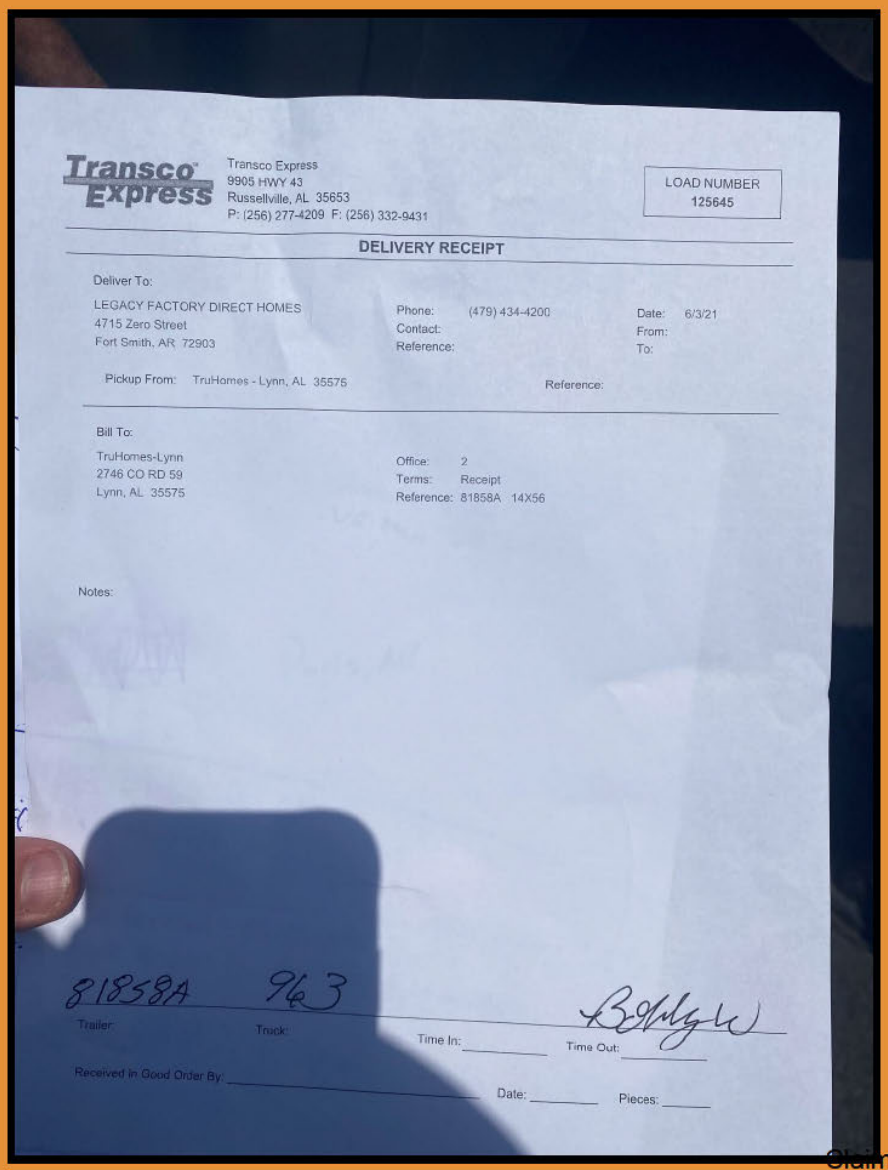




Claimant's Exhibits MSJ 009

[redacted]

Manifest



Transco Express
9905 HWY 43
Russellville, AL 35653
P: (256) 277-4209 F: (256) 332-9431

LOAD NUMBER
125645

DELIVERY RECEIPT

Deliver To:

LEGACY FACTORY DIRECT HOMES
4715 Zero Street
Fort Smith, AR 72903

Phone: (479) 434-4200
Contact:
Reference:

Date: 6/3/21
From:
To:

Pickup From: TruHomes - Lynn, AL 35575

Reference:

Bill To:

TruHomes-Lynn
2746 CO RD 59
Lynn, AL 35575

Office: 2
Terms: Receipt
Reference: 81858A 14X56

Notes:

81858A 963

Trailer: Truck: Time In: Time Out:

Received in Good Order By: Date: Pieces:

Claimant's Exhibits MSJ 010

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] AND [redacted] MINOR CHILDREN — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES — RESPONDENT

VIDEOTAPED DEPOSITION

OF

JAMES RAY

Taken February 21st, 2023, at 1:03 P.M.



A Yes.
Q And I'm going to attach as Exhibit 7-13 those photos.
MR. GASPER: No objection.
(WHEREUPON, the documents were marked for identification as Exhibit No. 7-13 and are attached hereto.)
BY MR. JACKSON:
Q And what was the significance of those photos to you when you're performing your investigation and determining what happened?
A When you see, obviously, it's going to be a front-to-rear collision whenever you see a rear impact like that.
Q And it's stating the obvious, but Ms. Ashcraft's vehicle was the one being rear ended in this --
A Yes.
Q -- collision?
A Yes.
Q Okay. And I'm going to show you a series of photos from the -- of the Respondent's vehicle and this is one of the ones I pulled off of the thumb drive that you just brought to us. It's going to be a little bit clearer.
A Yes, sir.

BY MR. JACKSON:
Q And what is the significance of -- sorry --
A Yes, okay. Yeah, that is -- my apologies, yes. V2 Hyundai Elantra.
Q In looking at the Hyundai Elantra's photos, what is the significance? What -- what information does that reveal to you as somebody who has investigated a number of accidents, and has been trained in accident reconstruction by Arkansas State Police?
A That is a significant front-to-rear collision.
Q And are you -- were you able to determine what the speed of that vehicle was at the point of impact?
A I am not. We are -- we are considered advanced accident investigators. However, we have our own accident investigation team, or accident reconstruction team, that would be responsible for calculating drag factor speeds and things of that nature.
Q But you would agree with the assertion that it was a significant impact?
A Significant impact, yes.
Q And then I want to show you two photos of the tractor-trailer rigs. The tractor part of the tractor-trailer rig that was involved in the accident. Do those photos show -- tell us what those photos

Q I'm going to hand it to you.
A Thank you.
Q Does that appear to be the same statement that he gave you?
A Yes.
Q And is that your name on the bottom right-hand side of the report?
A It is.
Q And if you could, read the narrative of what Mr. Wilson told you -- wrote in that narrative?
A "I was traveling west on Highway 22 when I passed a car stopped in eastbound lane. Another car going east hit the stopped car and then came across the road and hit my truck and house trailer."
Q And was Mr. Wilson's statement consistent with what you found at the accident scene?
A Yes.
Q And was your investigation of the accident scene, would it be consistent with -- if the allegations on, a hypothetical, if Ms. Ashcraft was attempting to make a left-hand turn into the private drive, and waiting on that tractor-trailer rig to pass when this accident occurred when she was rear ended. Would that be consistent with your findings?
A It would explain why she was stopped, yes.

which it is pulled off to the western shoulder of the roadway.

Q And then going to diagram three, which we'll mark it as Exhibit 19 to your deposition.

(WHEREUPON, the document was marked for identification as Exhibit No. 19 and is attached hereto.)

BY MR. JACKSON:

Q It's got a lot of measurements. Would you explain the measurements of the roadway starting from the top to the bottom with the 7 1/2 foot shoulder.

A Okay. So that's just -- that's just dictating your shoulder and lane lets. So your western-most shoulder is 7 1/2 feet. The west lane of State Highway 22 is, I believe, that's 12.8 feet. Eastern lane is 11.5 feet, and your eastern shoulder is 7.10 feet of State Highway 22.

Q And when you -- the shoulder in this area, is it paved?

A Yes.

Q Okay. And based upon what you observed, did you see anything that would have prevented Ms. Wilkerson from seeing the vehicle in front of her at a stop?

A It is a very, very straight roadway.

Q Okay. And then the total distance traveled. We

A According to my accident, it would be page five. I show restraints systems used under driving -- driver's seating and safety information to be none used, motor vehicle occupant.
Q And is that something you independently recollect or is that something that --
A This is --
Q -- you were relying upon from -- from the report?
A -- relying upon from the report.
Q Is there a chance, I mean, I know there's a chance for anything, but how -- I don't want to ask you how reliable is your -- your part of that. We have -- we have two conflicting reports here. How -- do you have any information that could help us shed some insight as to which one is correct?
A I do not recall.
Q Okay. By the time you got to the accident scene there were no occupants in vehicle one, the blue --
A Correct.
Q -- Hyundai? And did anybody tell you there were three children in the back of vehicle one?
A I do not recall.
Q Okay. Was there any indication from your investigation of the report that Jacqueline Ashcraft's was not -- vehicle was anywhere but in her lane of

travel at the time of this wreck?
A Ask me that one more time. You're advising that -- was there any indicators that she was not in her correct lane of travel; correct?
Q That's correct.
A No, there was not.
Q Okay. Was there anything that you saw that indicated that Mr. Wilson did anything to contribute to this wreck?
A No, there was not.
Q Okay. That is all of the questions I have. I'll pass the witness.

MR. GASPER: Okay, thank you.

BY MR. GASPER:
Q It's officer; correct?
A Correct.
Q Officer not trooper; correct? Okay.
A Yes, sir.
Q All right. You said you did some accident reconstruction work back at the academy?
A Very -- very briefly accident reconstruction. As far as advanced accident investigation, yes.
Q But you did not do the -- I'm sorry, you couldn't testify as to, I guess, the scientific basis for what occurred at the collision. Is that what you said?

was stopped, and that V2 hit V1 from the rear. I'm trying to get -- trying to figure out whether or not he had time to ascertain whether V1 was actually stoped at the time. Considering that the -- the impact occurred immediately,, and then involved his vehicle.

A I can't.

Q Did he actually see -- I guess --

A I can't speak on his behalf.

Q Okay. Okay. On the diagram it shows that there is a shoulder on the right-hand side. It says, what about 7 1/2 feet? Or 7 feet wide, 7.10 foot shoulder; is that correct?

A The eastbound shoulder?

Q Yes.

A Yes. 7.10.

Q Yes. This is a -- a hypothetical here. If V1 had been on the shoulder, on the right-hand shoulder, and pulled into the lane, at which point V2 hit, you know, would you see anything in your report that would make that inconsistent? That statement inconsistent or that possibility in consistent?

A Yes. The point of impact.

Q Okay. Is it possible that V1 could have pulled into the lane, been fully situated where the point of

impact occurred, but had just moved off the shoulder into the lane and stopped?
A I do not recall.
Q Was it possible -- is there any inconsistent with your report --
A The point -- the point of impact is, and the fact that the V3 witness advised he saw the vehicle stopped in the roadway indicates to me that the vehicle was stopped in the roadway.
Q Okay. But the speed limit was 55 miles an hour; correct?
A Correct.
Q So assuming that Mr. Wilson was traveling 55 miles an hour this direction toward the impact, the collision occurred to the extent -- at the point to where it actually affected his vehicle.
A Correct.
Q Okay. Is it possible that the car was not in fact stopped, but perhaps was slightly moving? Is there anything that -- is there anything in your -- in your report that would -- that would discount that -- that scenario?
A If it were moving it was very slow.
Q Okay. But it's possible? It may be likely, you may not believe it, but it's possible?

A Approximately, yes.
Q 50 feet, okay. So the car was allegedly stopped at the time, and was going to turn left into a private drive, but it was still 50 feet away from the private drive?
A According to measurements, yes.
Q Okay. Generally, when a person drives and stops and turns into a private drive, there -- is the -- is the drive not just, kind of, immediately to your left?
A Typically, yes.
Q Yes. Is there any reason that you can think of that a person would have stopped 50 feet prior to turn left into what was not a private drive?
A An approaching oversized load.
Q Pardon me?
A An approaching oversized load.
Q I don't understand.
A The V3 is an oversized load.
Q Right.
A It would explain, you know, a potential that she was slowing for that, prior to she got to the turn, she was stopped waiting on it to pass, couldn't see the driveway, there's a number of things that could have caused her to stop that soon.
Q Okay. But the data shows that she did, in fact,

either stop, or was very slowly moving 50 feet prior to the private drive?
A According to my report, yes. That would be correct.
Q And she might -- there might have been a good reason for that, but that what the -- that's what the report shows --
A Correct.
Q -- correct?
A Correct.
Q Okay. There was another structure on that road.
MR. GASPER: Jim, do you have that overhead picture?
BY MR. GASPER:
Q There was -- there was the house and then prior to that, there was another structure. Yeah, okay, that white -- big white building there. What -- do we --
A This one --
Q -- that one.
A That one.
Q Do we know what that is?
A I do not.
Q Okay. So while you've got that up there, okay. So that's a picture of the house with the private

Q Okay. Did Jennifer Wilkerson -- you did not talk to her directly; correct?
A I do not recall if I did or not.
Q Did you see her at all?
A I do not recall if I did or not.
Q Okay. Are you familiar with false positives in regards to controlled substance testing?
A These are from the Arkansas State Crime Lab so they are assumed to be correct.
Q Okay. Maybe false positives is the wrong word? Are you familiar with substances that can cause a positive test for amphetamines that are -- are not in fact amphetamines?
A I'm not aware of them, no.
Q Okay. I think that's all I've got.
BY MR. JACKSON:
Q I've got a couple of follow-up questions.
On this, and I apologize for belaboring this point, but as far as Ms. Wilkerson traveling east on Highway 22, there is nothing to prevent her from seeing an oversized tractor-trailer rig coming -- traveling west or Ms. Ashcraft's vehicle stopping to make a left-hand turn --
A Correct.
Q -- is that correct?

And on page -- I want to ask you to turn to page six of your report. And that's on -- regarding motor vehicle number one, which was driven by Ms. Ashcraft. At the bottom, you -- there's a section that says driver actions at the time of the crash. What box did you check?

A You're referring to the very bottom of the page? Driver -- driver's action at the time of the crash?

Q Yes.

A No contributing action.

Q And I want to turn -- ask you to turn to page 11. I'm sorry, page 10. And that's the report on the driver of vehicle two, which is the Respondent's vehicle. On the driver actions at the time of the crash, what box did you check?

A Page 11?

Q Page 10.

A 10 --

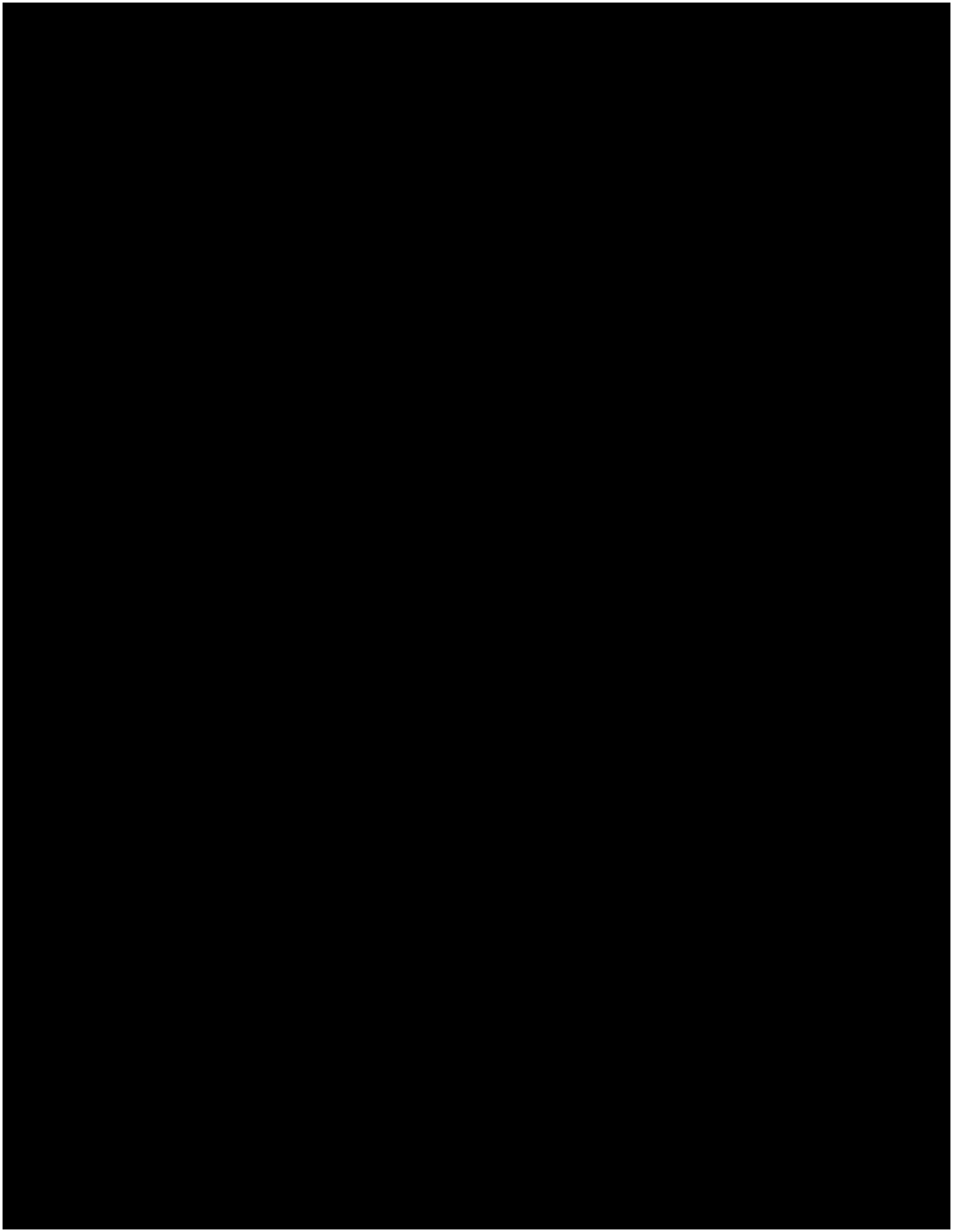
Q 10 of 18.

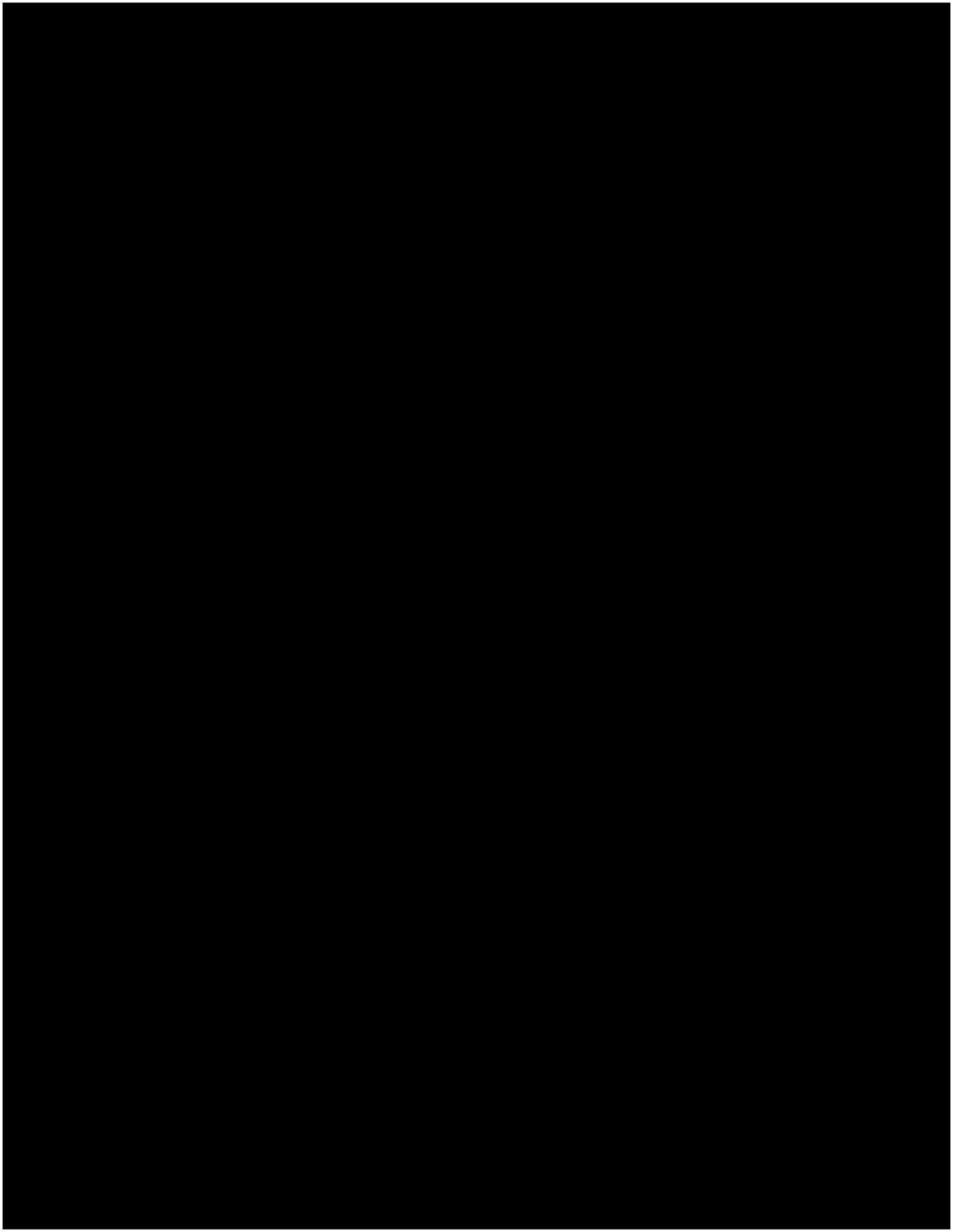
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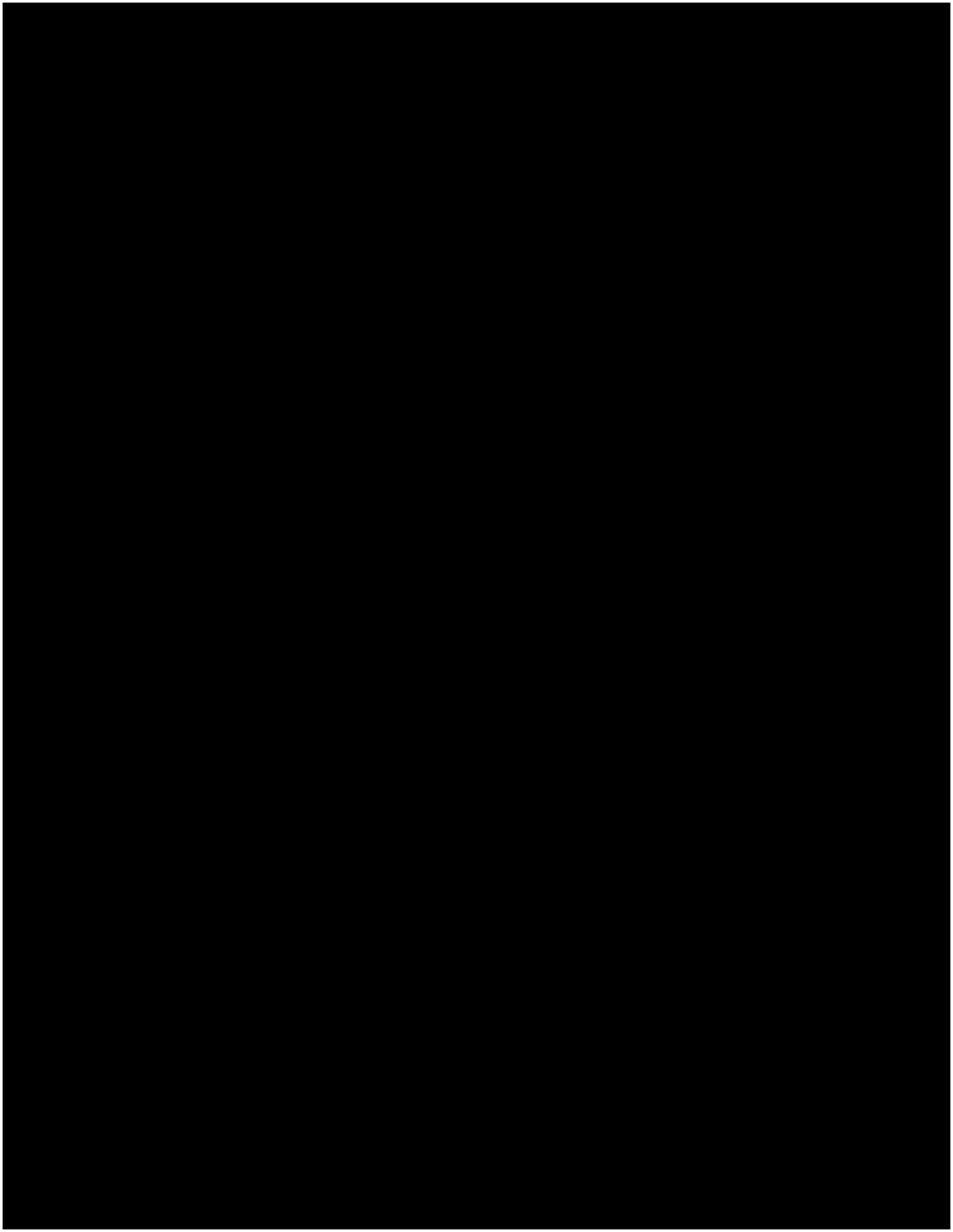
Q But if you could, I know, I may have cut you off with my speaking. Can you say that -- answer that question again?

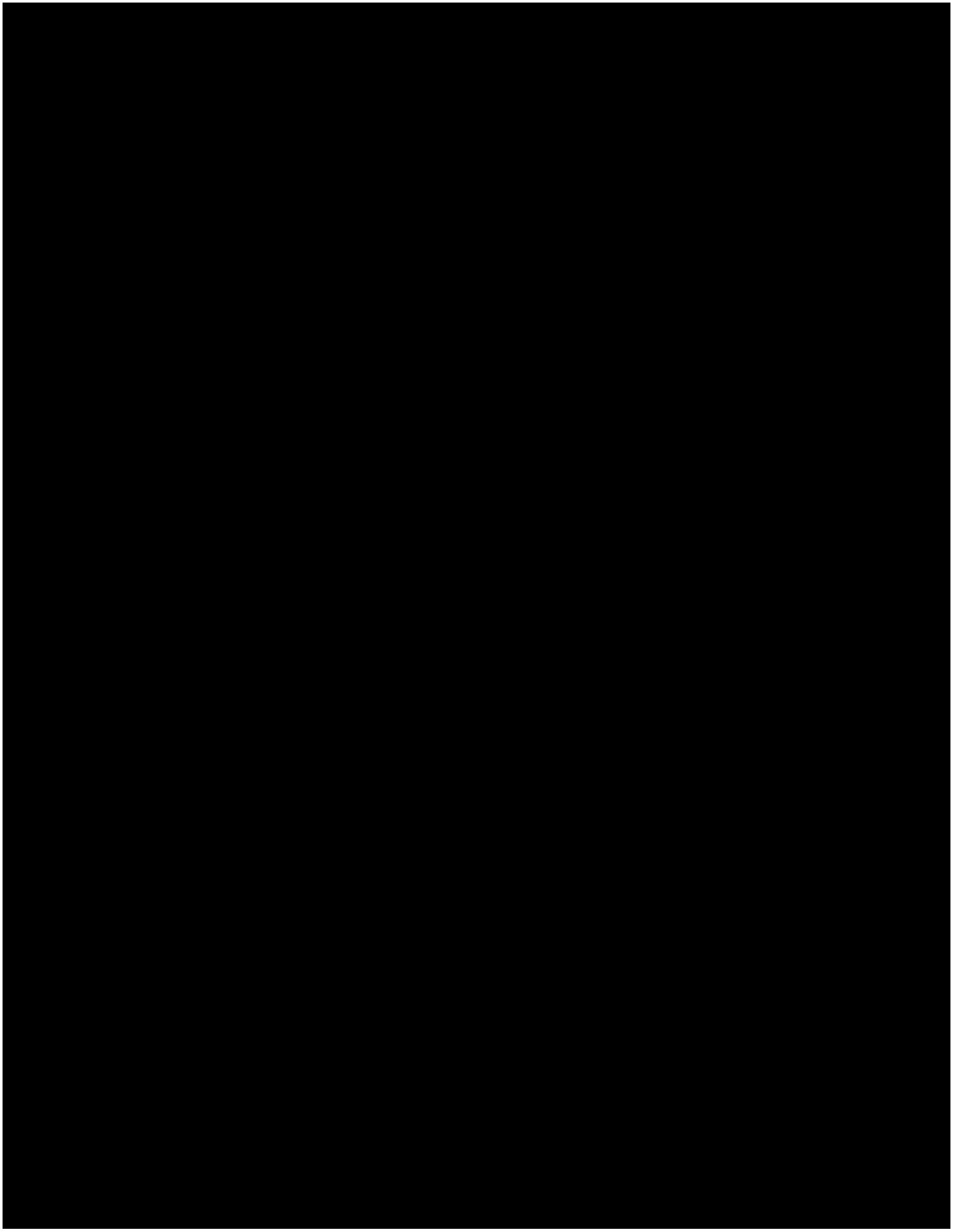
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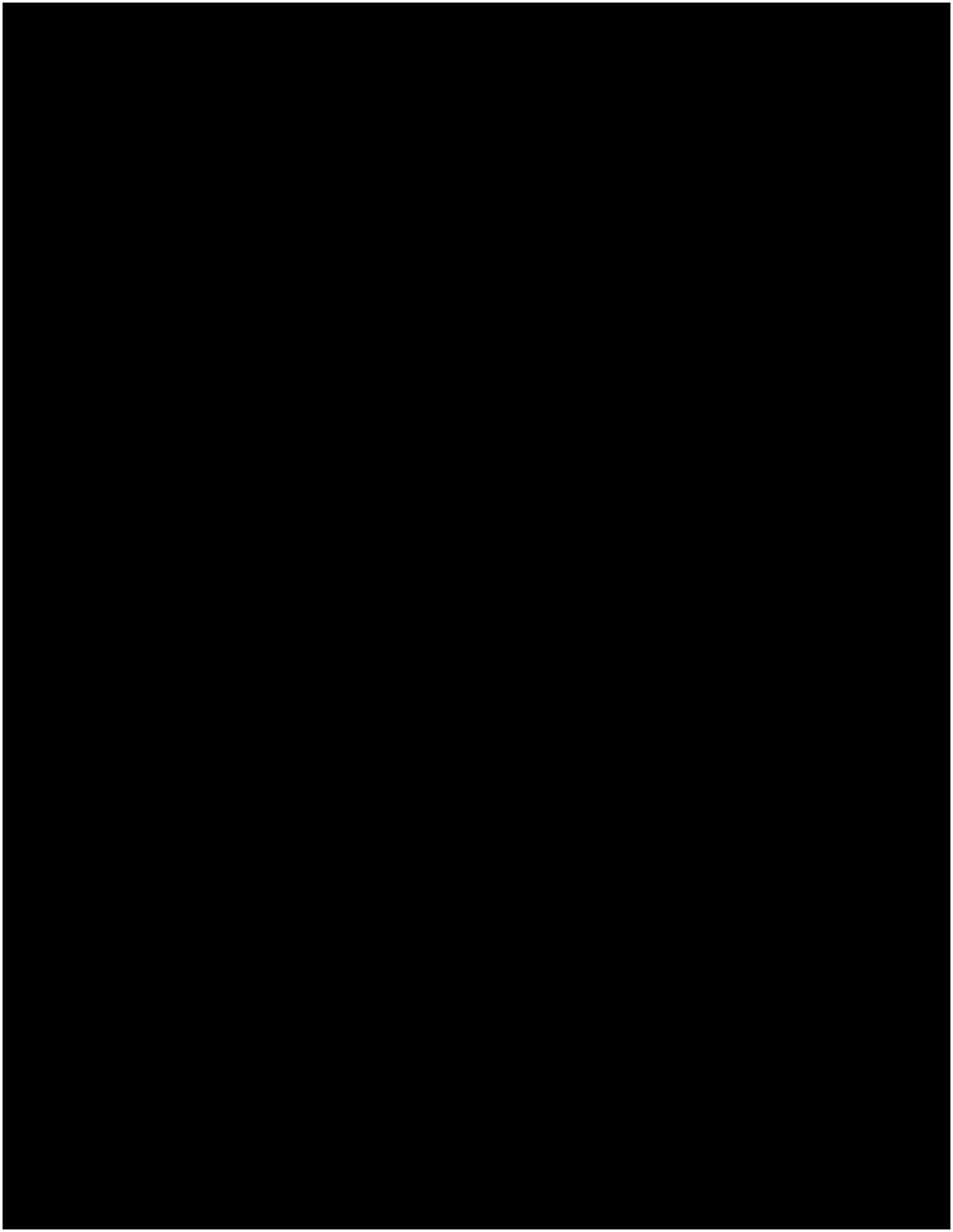
operation.
Q And for vehicle three, the same question is going to be on page 14. And what did you -- what was your finding on the vehicle -- on that driver's contributory actions?
A No contributing action.
Q And one bit of housekeeping matters.
MR. JACKSON: What's our last Exhibit number? 20? I'm going to mark as Exhibits 21-27, and represent to you that those are the photos that I've shown you previously in the slide as the Respondent's vehicle.
(WHEREUPON, the documents were marked for identification as Exhibit No. 21-27 and are attached hereto.)
BY MR. JACKSON:
Q And if you could look through that stack and verify that those are correct, I'll ask to attach them to your deposition.
A Correct.
Q And today you've brought a thumb drive with you to the -- to the deposition and tell us what is on that thumb drive.
A My photographs from the accident.
MR. JACKSON: And let's go off the

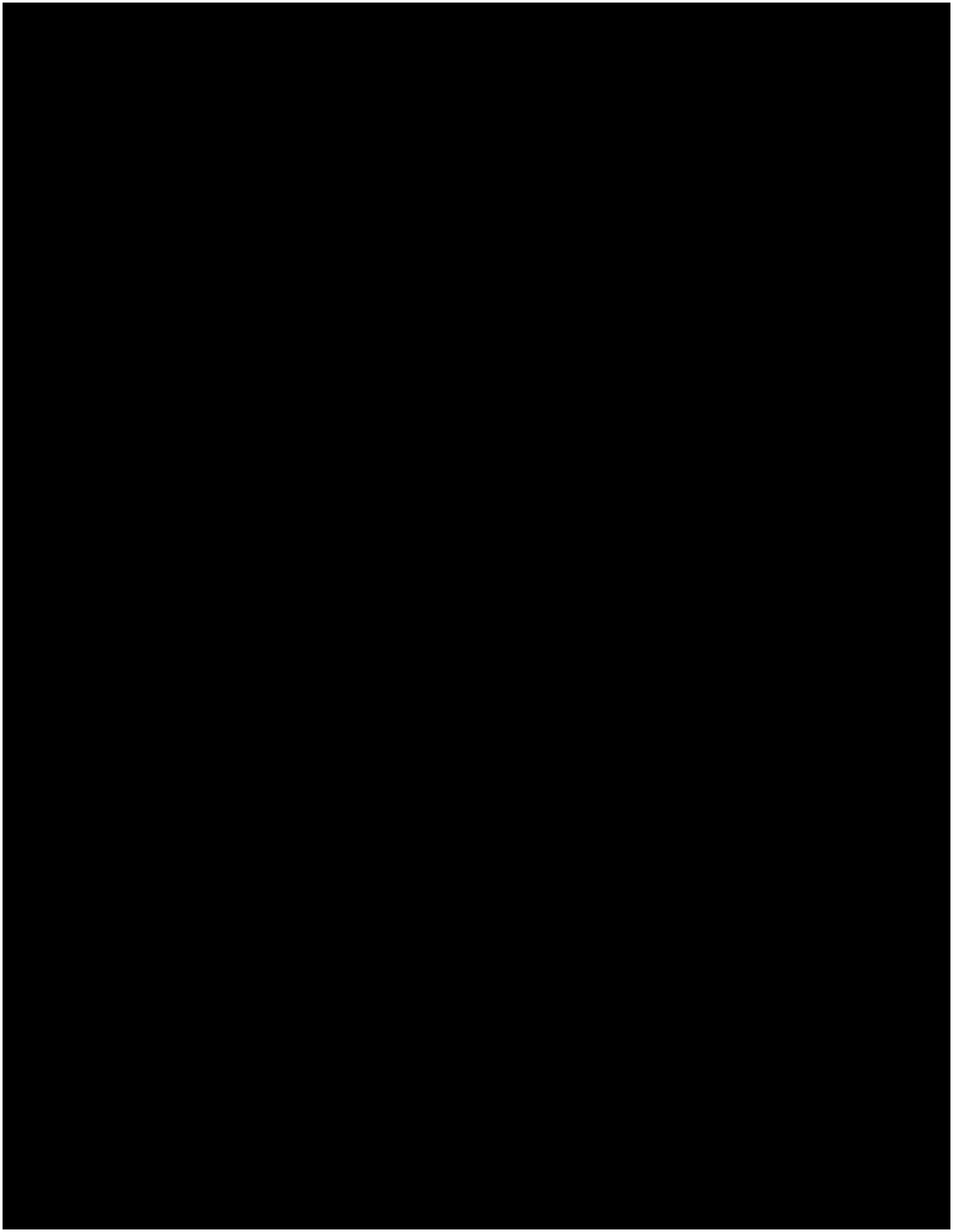


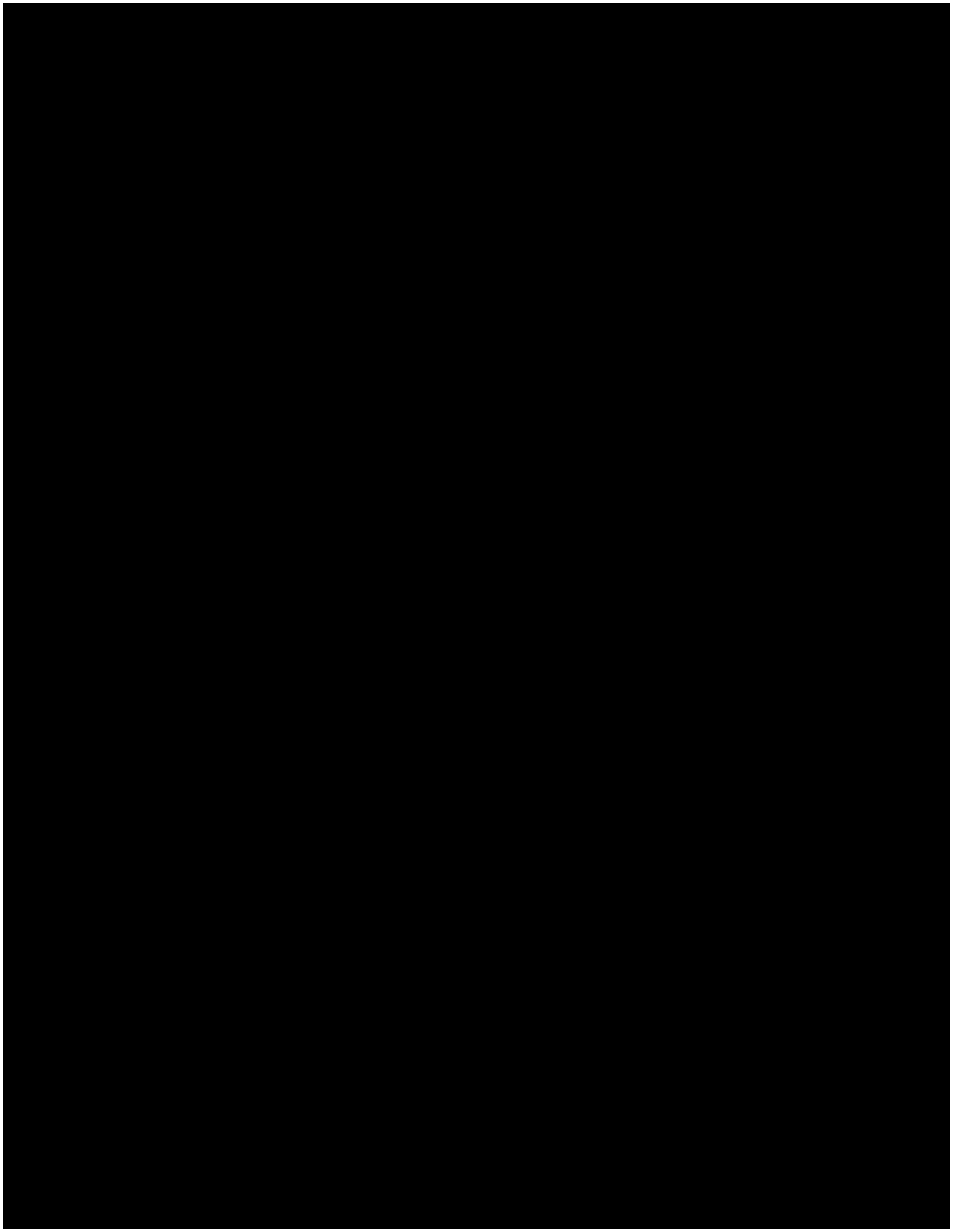


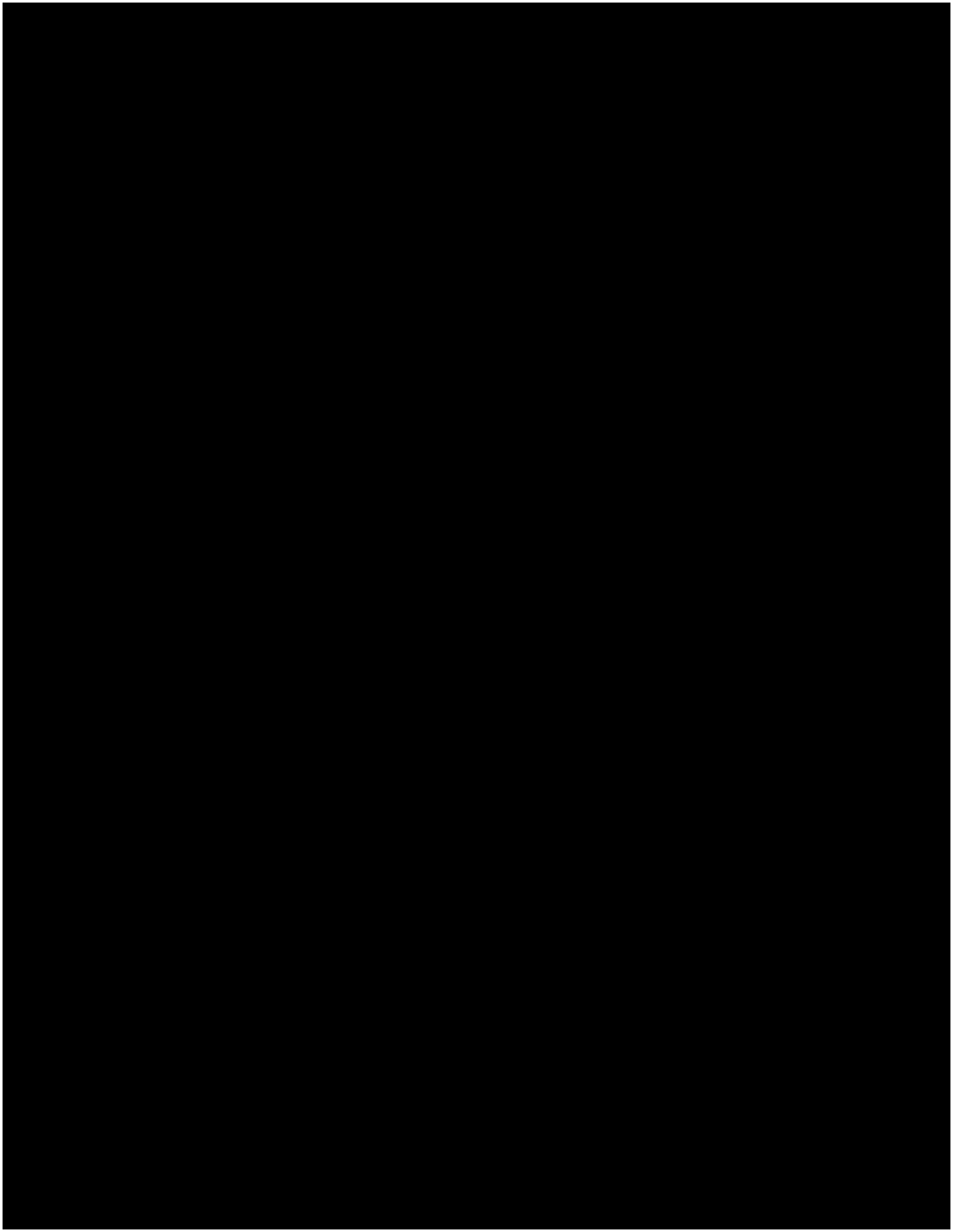


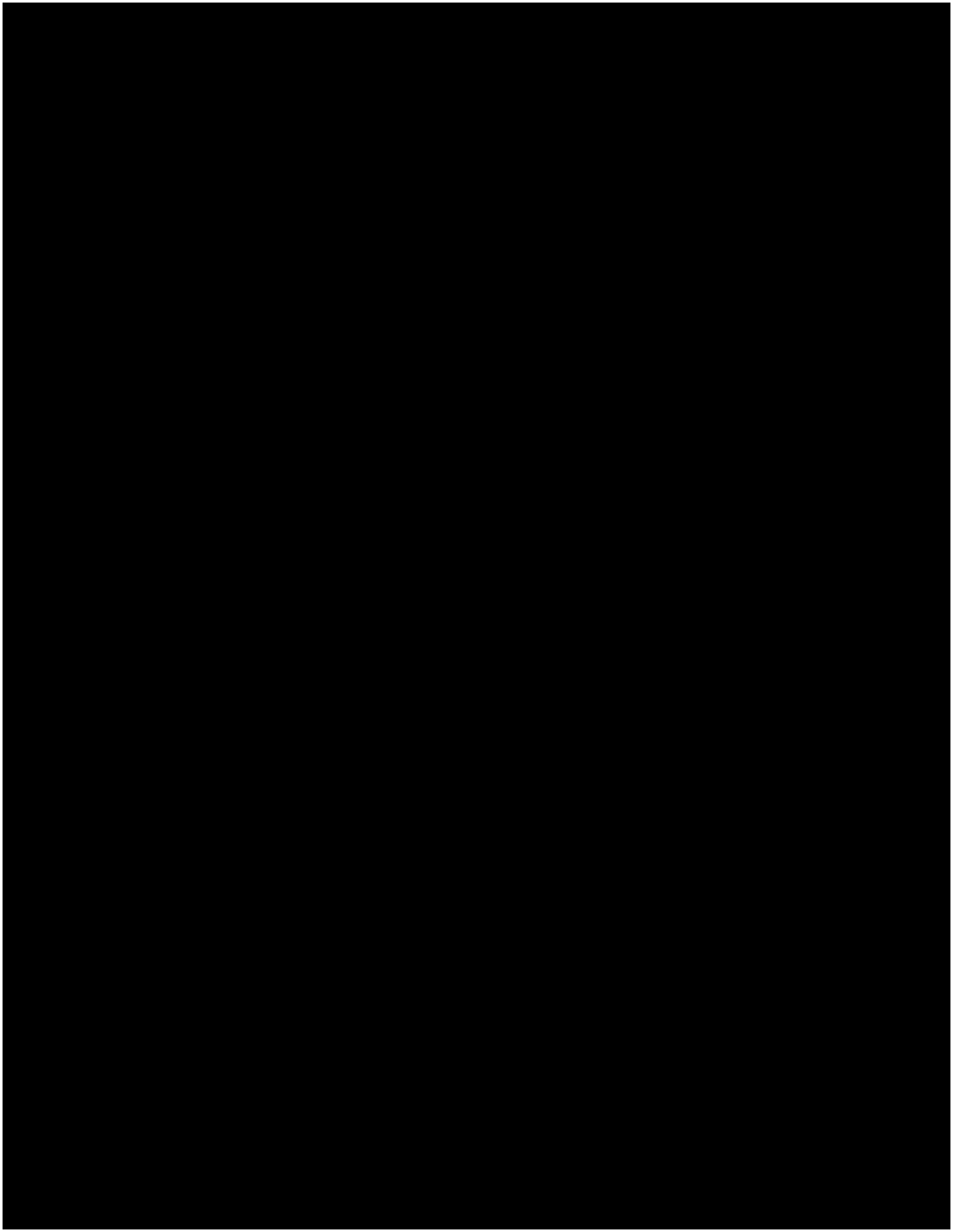


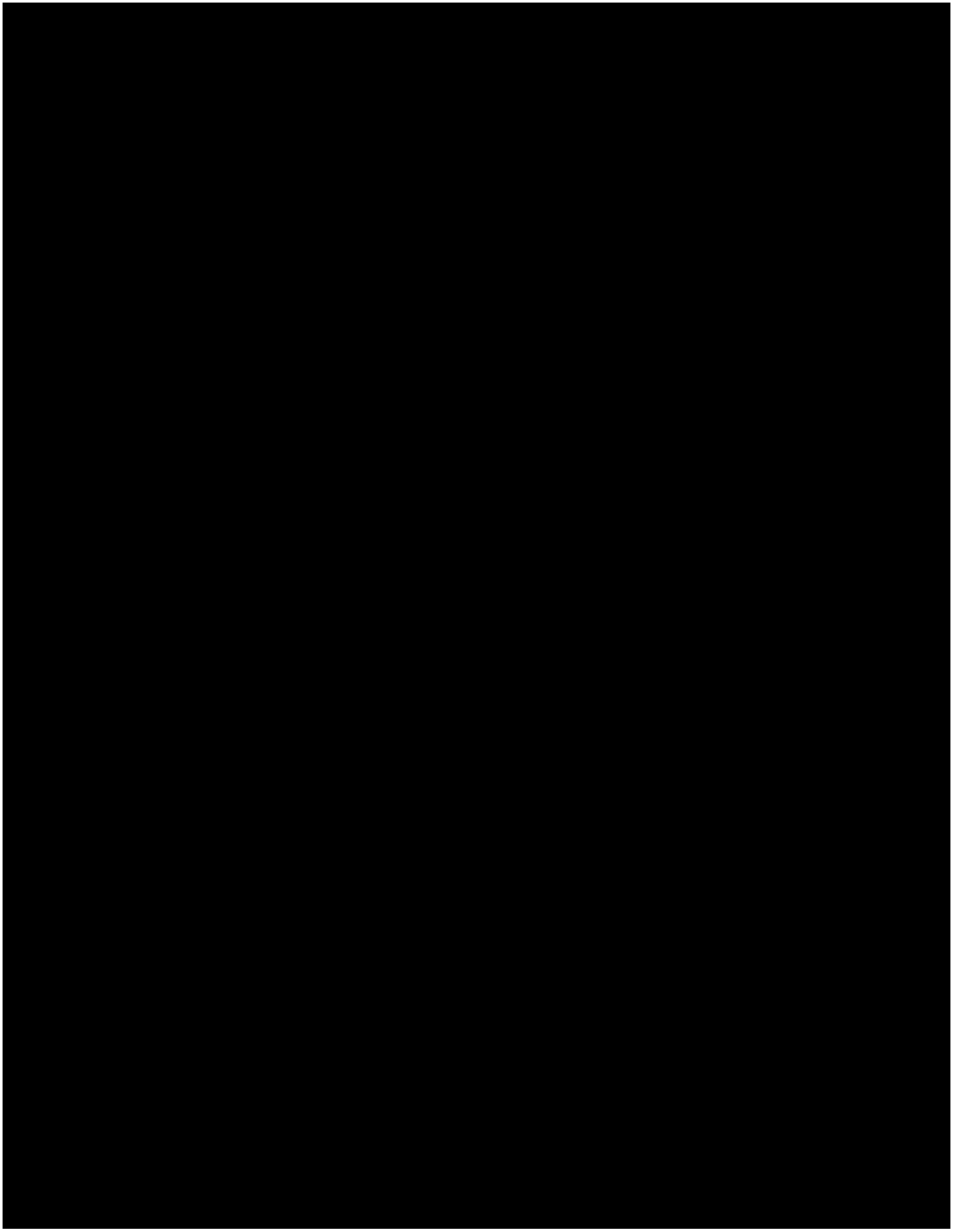


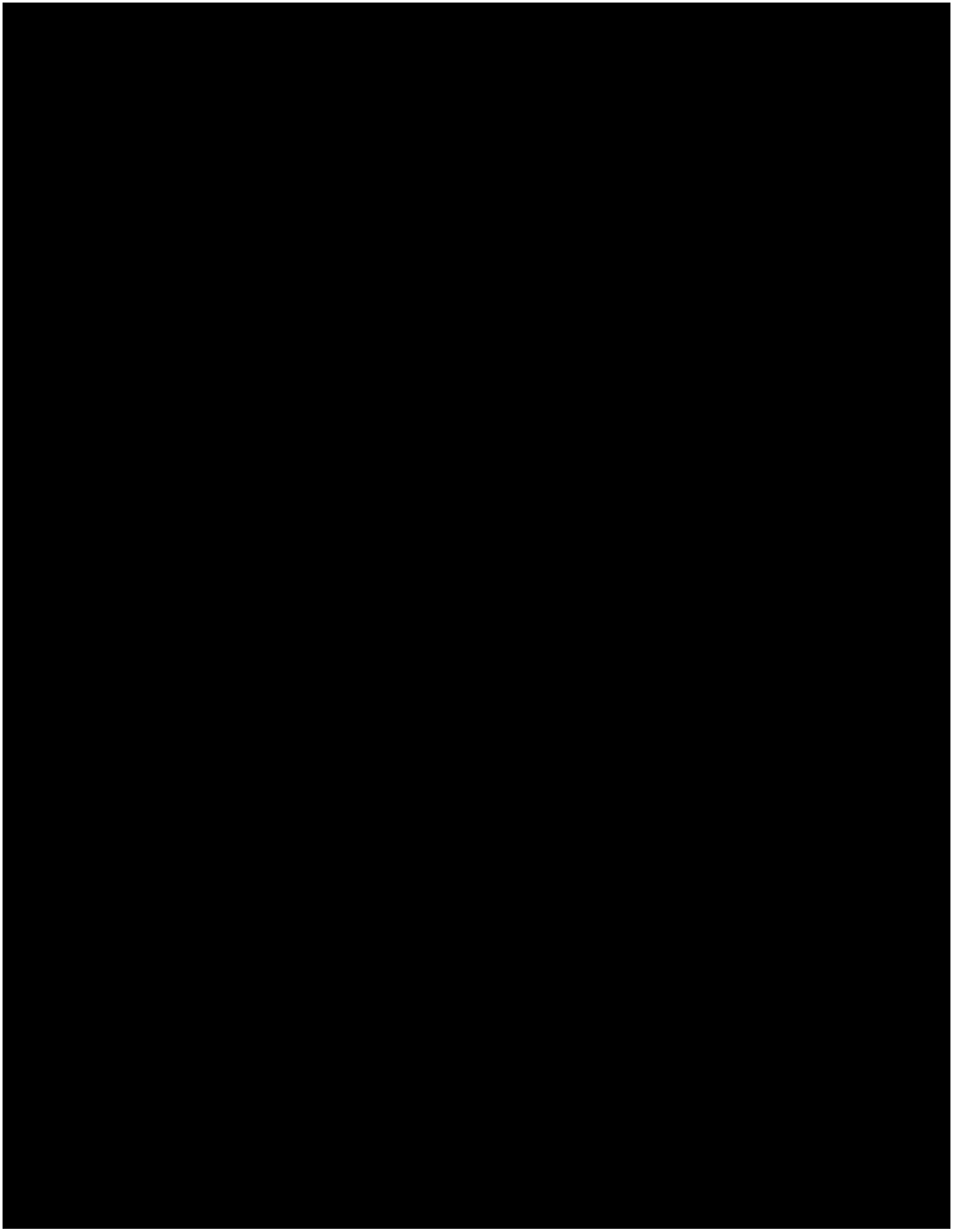


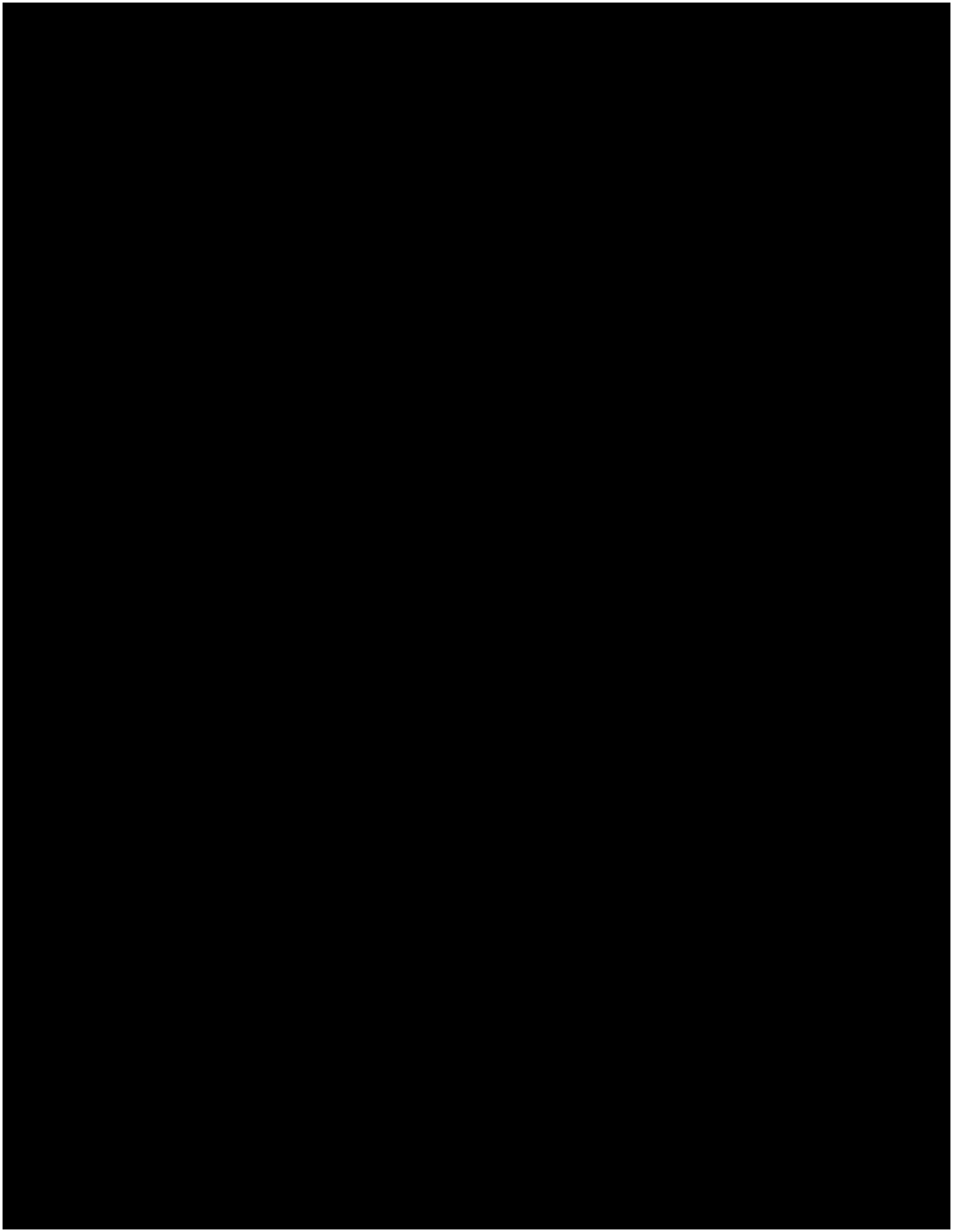


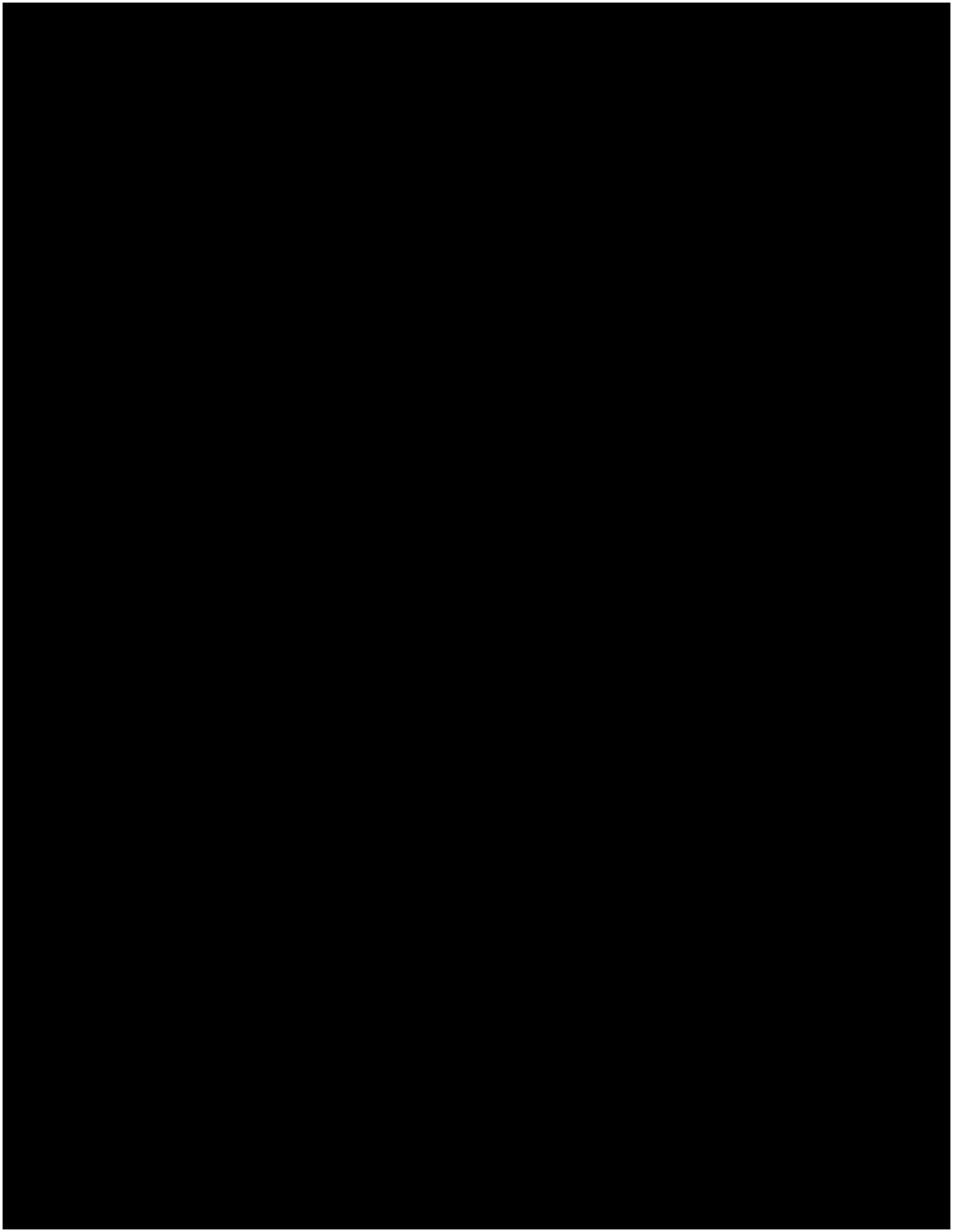


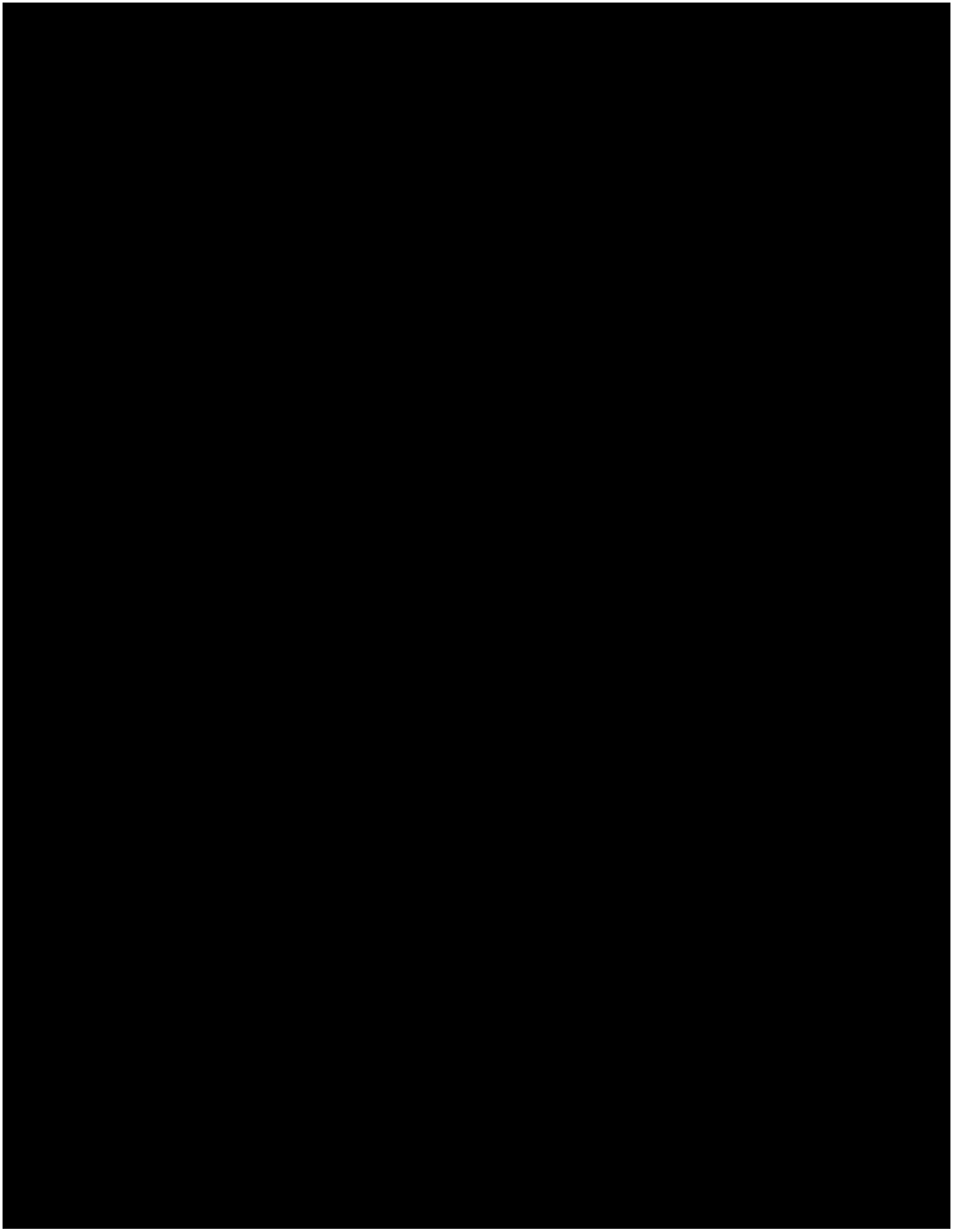


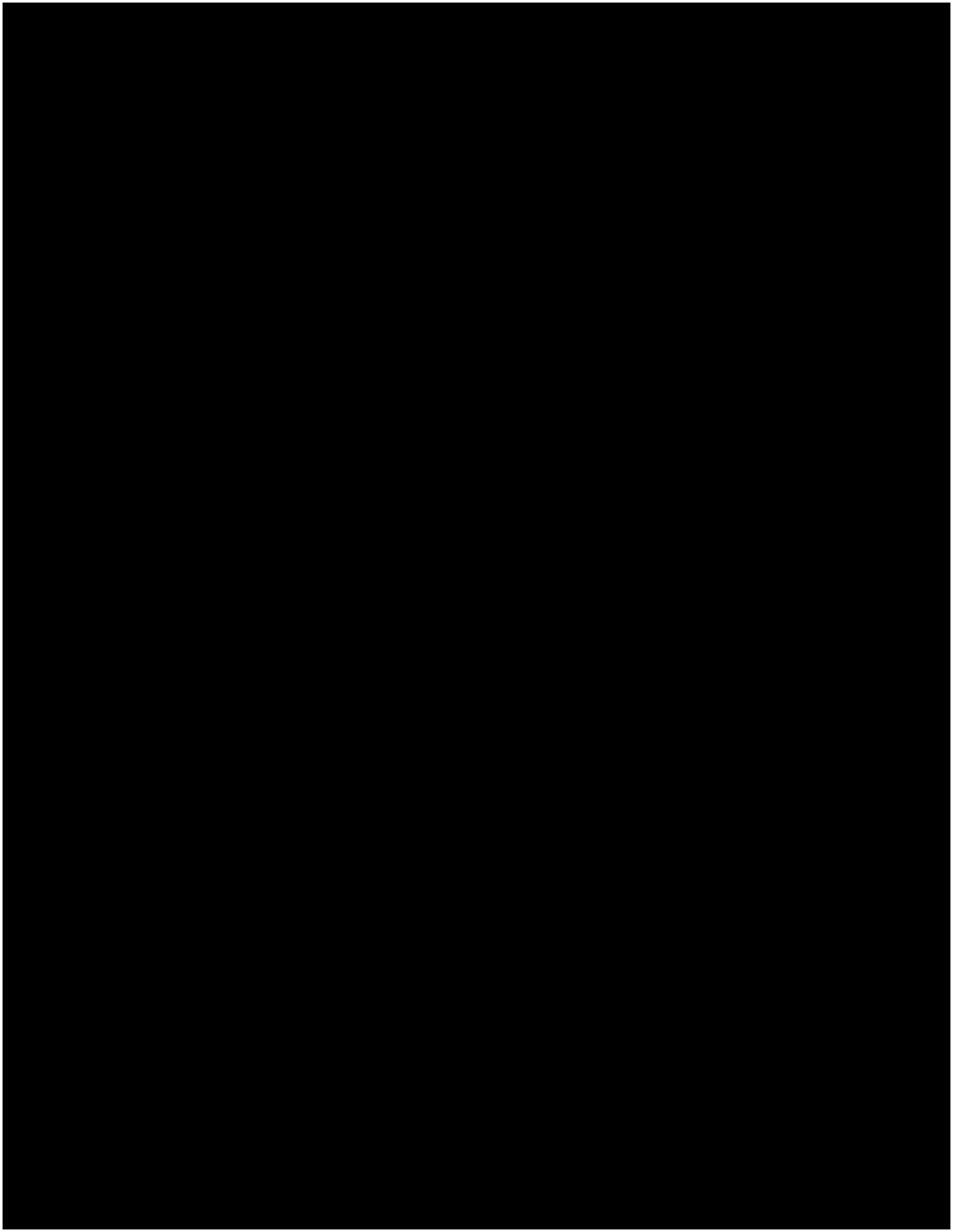


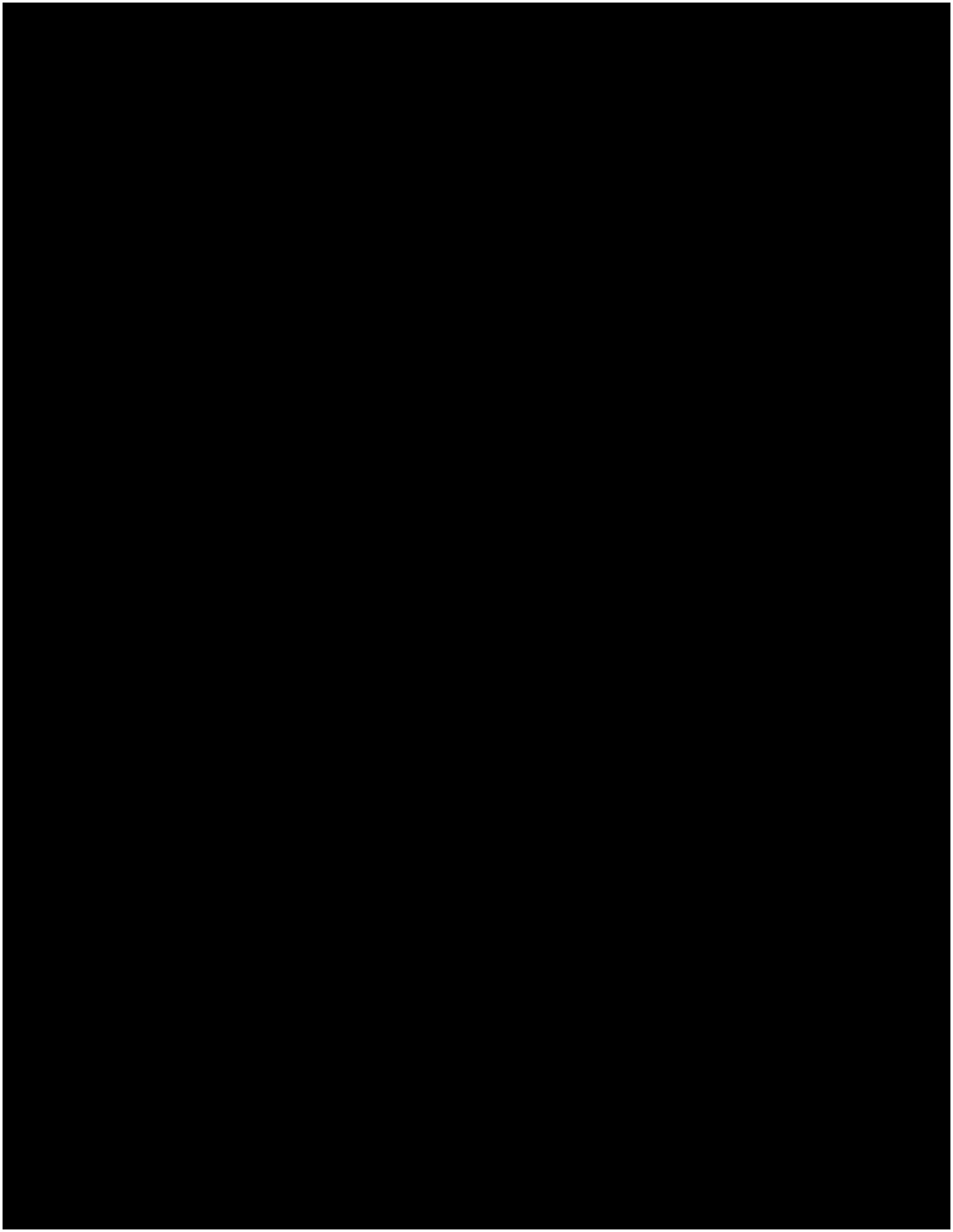


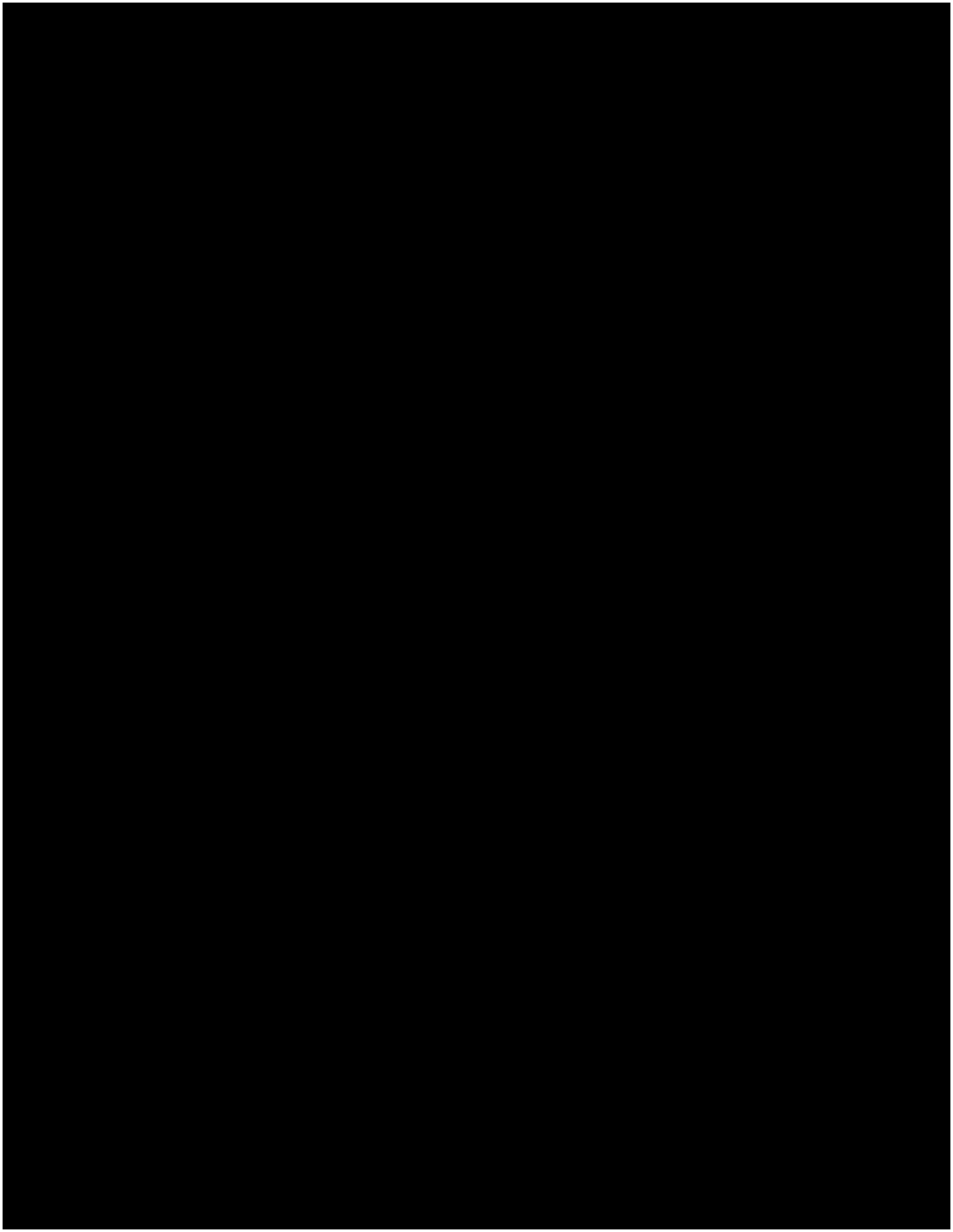


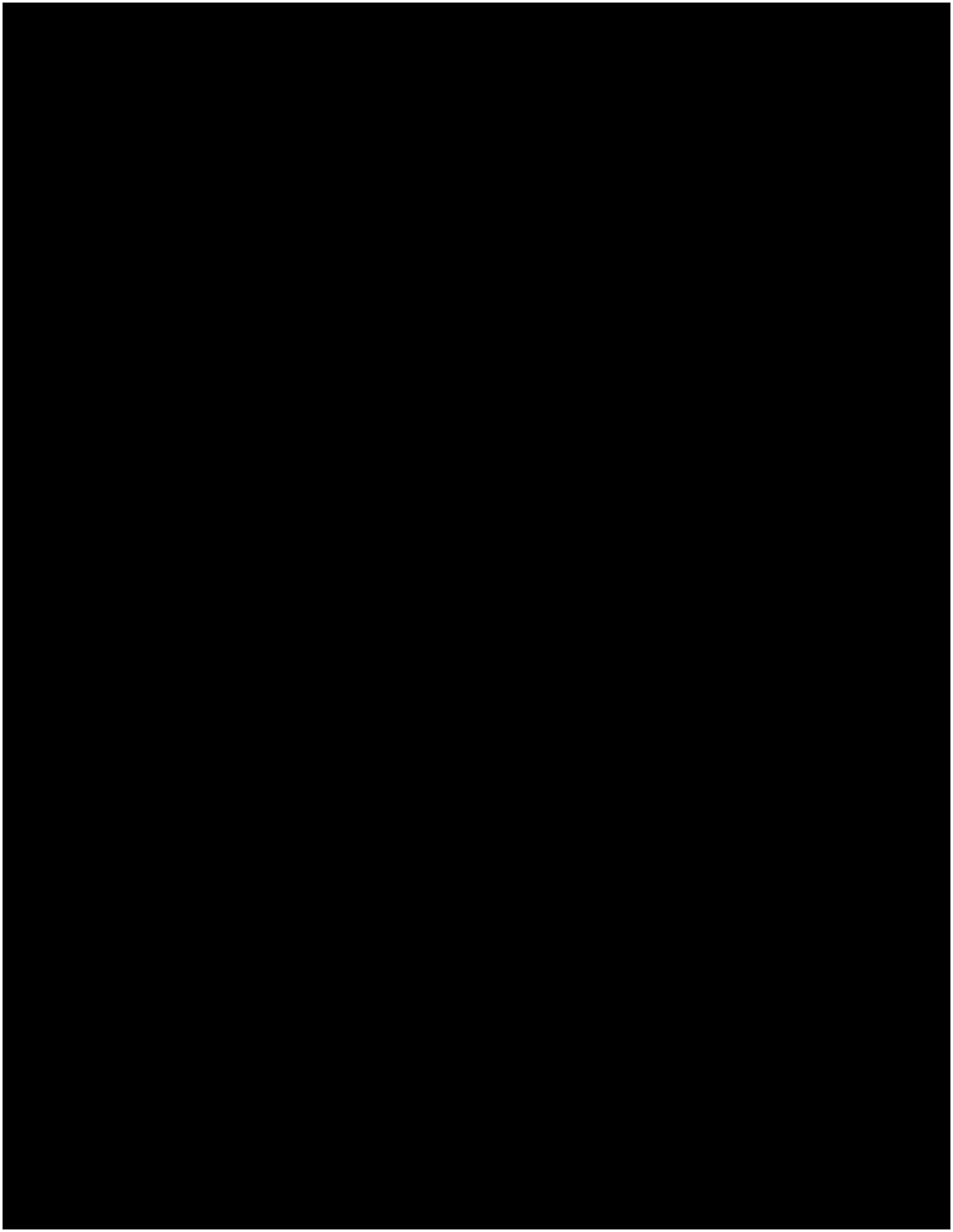


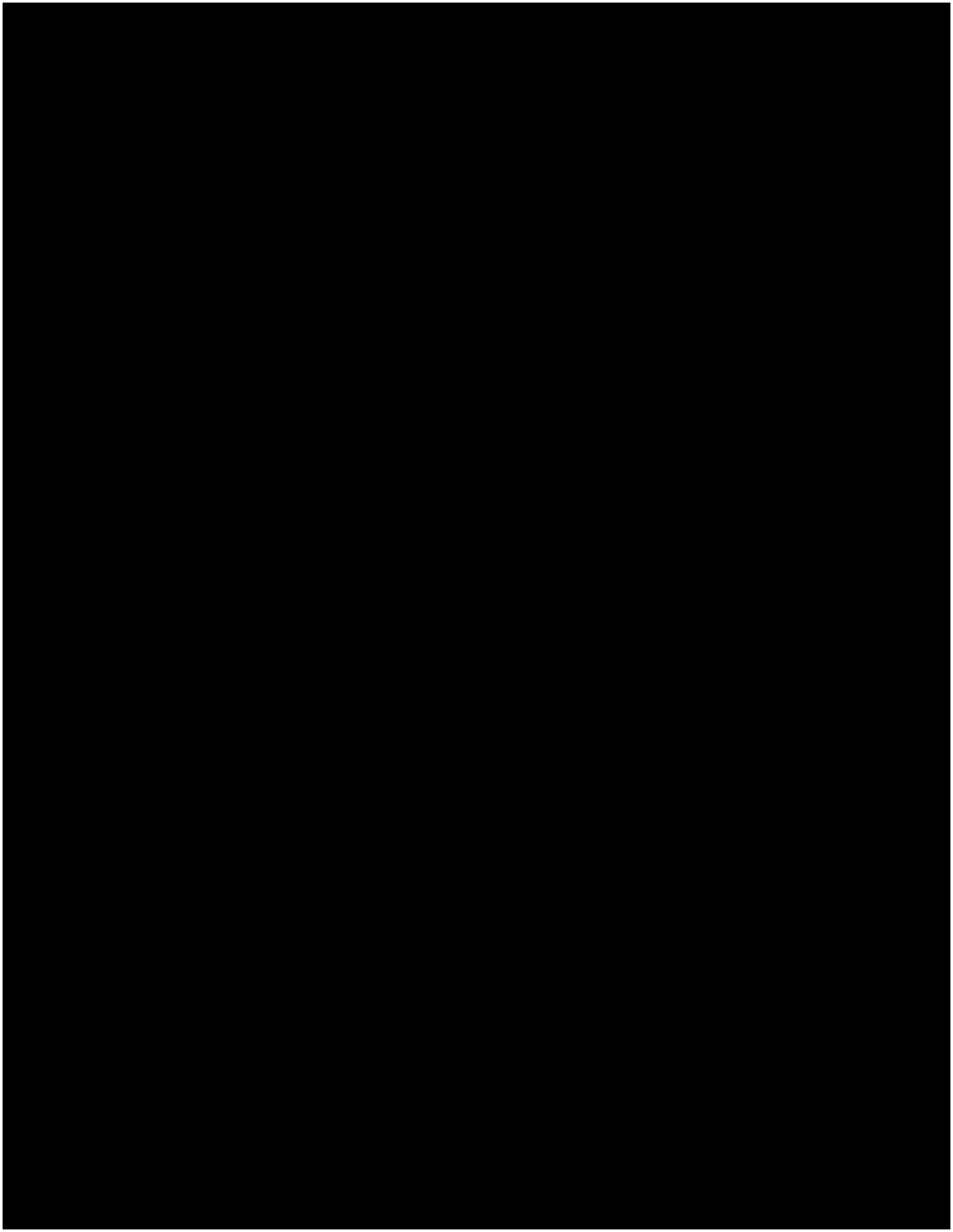


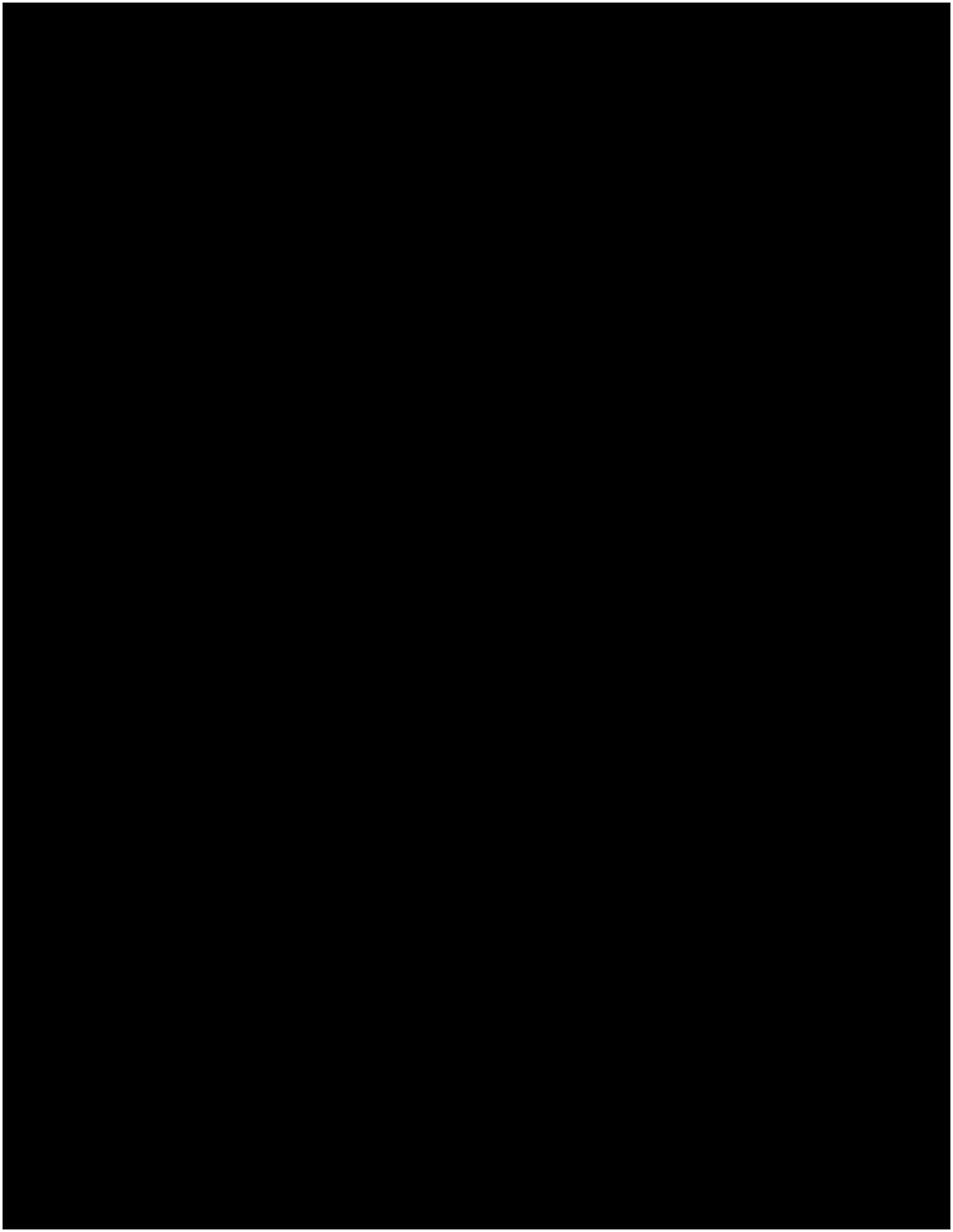












ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] AND [redacted] MINOR CHILDREN,

CLAIMANT,

VS.

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES,

RESPONDENT.

CC NO. 230641

ORAL AND VIDEOTAPED DEPOSITION OF

KRISTEN SHELTON

May 16, 2023

ORAL AND VIDEOTAPED DEPOSITION OF KRISTEN SHELTON, produced as a witness at the instance of the CLAIMANT, and duly sworn, was taken in the above-styled and numbered cause on the 16th day of May, 2023, from 1:02 p.m. to 1:55 p.m., before Dana Hayden, CCR in and for the State of Arkansas, RMR, CRR, CRC, reported by machine shorthand, at the Arkansas Department of Human Services, 900 South Rogers Avenue, Clarksville, Arkansas, pursuant to the Arkansas Rules of Civil Procedure.

PLAINTIFF'S EXHIBIT 4

Q. And what is the gist of that policy?
A. I mean, I honestly can't get into the specifics about it. There are a couple of different pages that employees have to sign off on acknowledging that they understand it.
Q. What is your understanding about where Jennifer Wilkerson's, what the mission of her route on June 11th, '21 was?
A. My understanding is that she was going to travel from Paris to Beebe to pick up a foster child and transport that child back to Clarksville to meet another worker.
Q. And when you say "Clarksville," would the transfer to the other worker have occurred here at this office?
A. Yes.
Q. Okay.
A. Well, no, I don't know that it would have occurred at this office. It was set to occur in this town.
Q. Okay.
A. But I don't know where.
Q. Okay. Thank you for clarifying.
As part of your internal fact-finding, tell me what steps you took to investigate

Ms. Wilkerson's actions.
A. I notified her of the fact-finding and sent her a list of questions and then I also asked for statements from Ms. Feemster and Ms. Ezell that I know for sure.
Q. And the questions that you sent to Ms. Wilkerson are on an email dated June 16, 2021, at 10:47 a.m.; is that correct?
A. Yes.
Q. And whose handwriting is that?
A. Ms. Wilkerson's.
Q. And then it looks like you had a follow-up email right after that; is that -- with Ms. Wilkerson; is that correct?
A. Yes, I believe so.
Q. And did you ever -- do you recall having a telephone call with Ms. Wilkerson as part of the fact-finding?
A. I would not have had a telephone call with Ms. Wilkerson. We are specifically instructed to conduct our fact-findings in writing.
Q. You indicated you also obtained information from Randy Ezell?
A. Yes.
Q. And is that information contained in Exhibit 1?

A. Yes.
Q. And where is the -- and it looks like that would have been the email sent to you from Brandy Ezell on June 16th of '21 at 2:03 p.m.?
A. Yes.
Q. Okay. And then the same question for Pamela Feemster. Was the information you received from her via email at 1:41 p.m.?
A. Yes.
Q. Okay. And the same would be true with getting information from Ms. Ezell and Ms. Feemster: Everything you would get from them would be in writing?
A. Everything that I used during the fact-finding is in writing.
Q. Okay.
A. I'm not saying I didn't have a phone conversation with Ms. Feemster. She was directly under me. I was her direct supervisor. But all of the information that I used for the fact-finding is in writing.
Q. Gotcha. That makes sense.
Do you recall anything that Ms. Feemster may have told you that's outside of what's in the email about the accident?

screen.
Q. Okay.
A. That we -- that we requested.
Q. Okay. Did you see any results of a drug screen at all --
A. No.
Q. -- for Ms. Wilkerson?
A. No, I have not.
Q. What -- so walk me through how Ms. Wilkerson is told that there's an internal fact-finding going to occur and she's going to have to answer these questions. What's the procedure for that?
A. It's in that email attached to the questions. That's how she was notified of the fact-finding. It's the one where she wrote out the answers, that page.
Q. Was there anything else beforehand that her supervisors told, or somebody tells Ms. Shelton [sic], hey, you need to look for this email; it's going to be coming from --
A. No.
Q. -- from Clarksville and you need to be ready for it, or it's just --
A. Not to my knowledge, no.
Q. Okay. I want to ask you. Ms. Wilkerson's answers to question number 5 is -- the question is:

"While you were driving, what happened to cause the accident?"

Can you read what Ms. Wilkerson's answer is?

A. "I remember seeing a car up ahead but no brake lights or signal lights. That's all I remember until I came to."

Q. Do you know anything else about -- whether Ms. Wilkerson had said anything else about what happened to cause the wreck other than that statement?

A. No.

Q. Okay. And then the same for question number 10: "Is there anything else you would like -- that you would like for me to know about" -- let me start over.

Question number 10: "Is there anything else that you would like for me to know regarding this incident?"

What was her answer?

A. "I am devastated over what happened, but I really don't know what happened because I don't remember, it happened so fast."

Q. And then it looks like you had two emails from Pamela Feemster and one from Brandy -- I'm sorry, three emails from Pamela Feemster and one from Brandy Ezell. Did those three emails and Ms. Wilkerson's

answers and Ms. Wilkerson's subsequent email, is that what made up your fact-finding?
A. Yes. And the fact that she had only been employed for ten days and was still in probationary status.
Q. And then how was Ms. Wilkerson notified that she was terminated? Is that something you do, or do you have Ms. Feemster do that?
A. Normally the supervisor would do that. I may have done that myself, and we normally would do that in person, but I honestly don't recall how we notified her.
Q. Do you recall ever meeting Ms. Wilkerson in person?
A. I don't recall that, no. I don't know if I did or not.
Q. Did you ever go to the accident site?
A. No.
Q. Do you know -- I mean, at any point have you ever driven by and said, you know, that's where the accident occurred?
A. I mean, I drive that road all the time.
Q. Highway 22?
A. I don't have any firsthand knowledge, though, of where that accident occurred.

Q. Okay. Was -- at the time of the accident, the state trooper reports it being called in at 12:50 p.m., and it's my understanding that Ms. Wilkerson was supposed to be at Beebe at 2:00 p.m. to pick up the child?
A. That's --
Q. Does that sound correct?
A. That's my understanding.
Q. So if that's correct, she would have been about an hour behind schedule when the wreck occurred; is that right?
A. Yes.
Q. And you don't have any reason to dispute that?
A. No.
Q. Okay. There is an email from Jennifer Wilkerson to Pamela Feemster in that package, and it's got the name of a client blacked out. Do you see that email?
A. Yes.
Q. And what is that Bates stamp number of that one? Is it 419?
A. Yes.
Q. Can you read what Ms. Wilkerson's email stated?
A. "On 6/11/21, I was going to Beebe, Arkansas to pick up," blank, "for a sibling visit in Clarksville, Arkansas. I left Paris about 12:30 p.m. and was

supposed to be there around 2:00 p.m. in Midday" -- I think she meant Midway -- "Arkansas. There was a car stopped in the road. I didn't see a turn signal, and the -- I remember the air back deploying and nothing else until the car was stopped. When I was able to get out of the car, there were already several people on the scene. I was there until I went to the ambulance -- or went to in the ambulance to the emergency room in Booneville, Arkansas. I had minor cuts and bruises."

Q. Okay. Are -- have we gone over all of the statements that you're aware of that Jennifer Wilkerson has made to anyone at DHS regarding what happened in the accident?

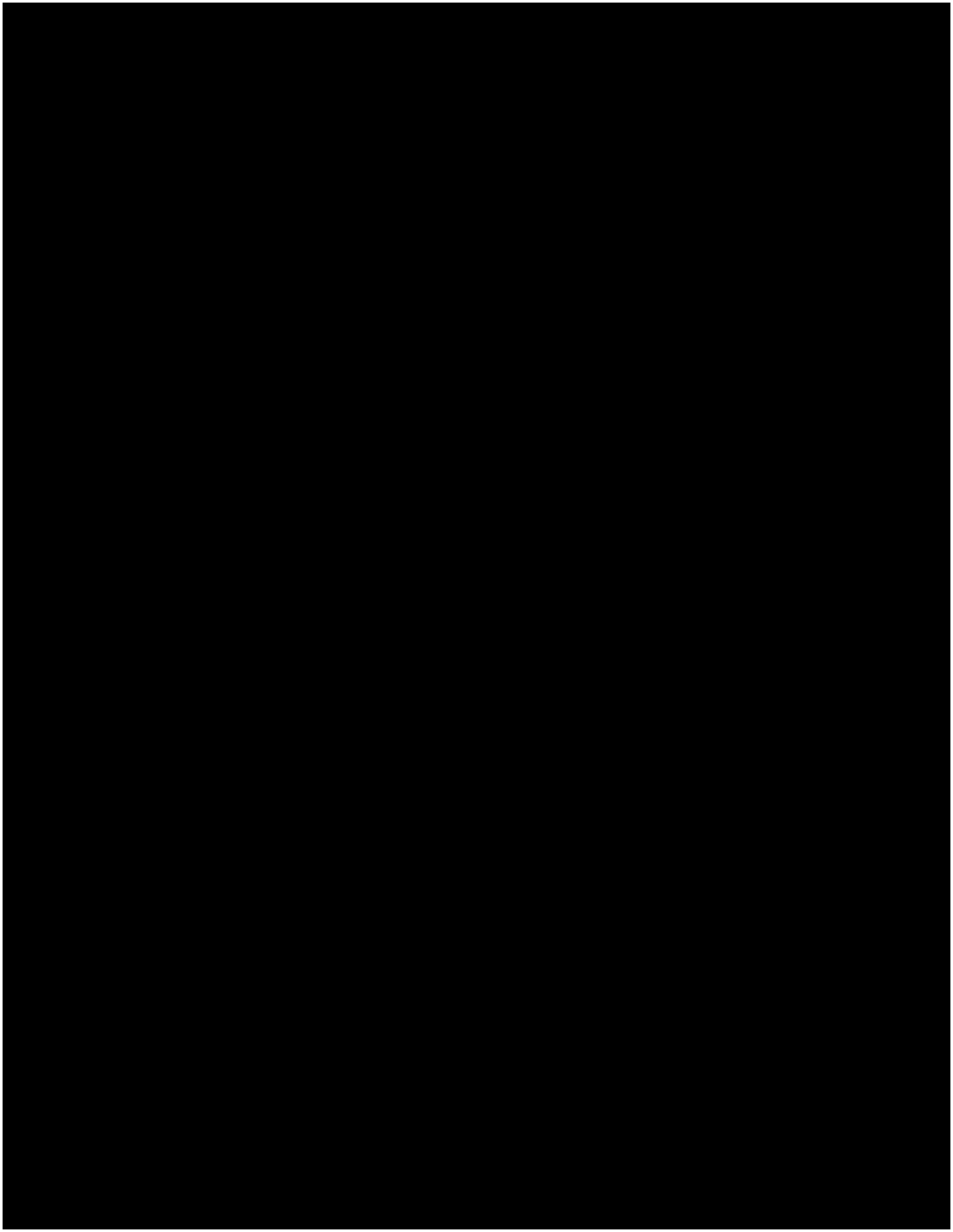
A. I believe there might be one other follow-up email that she sent me. It's stamped 423.

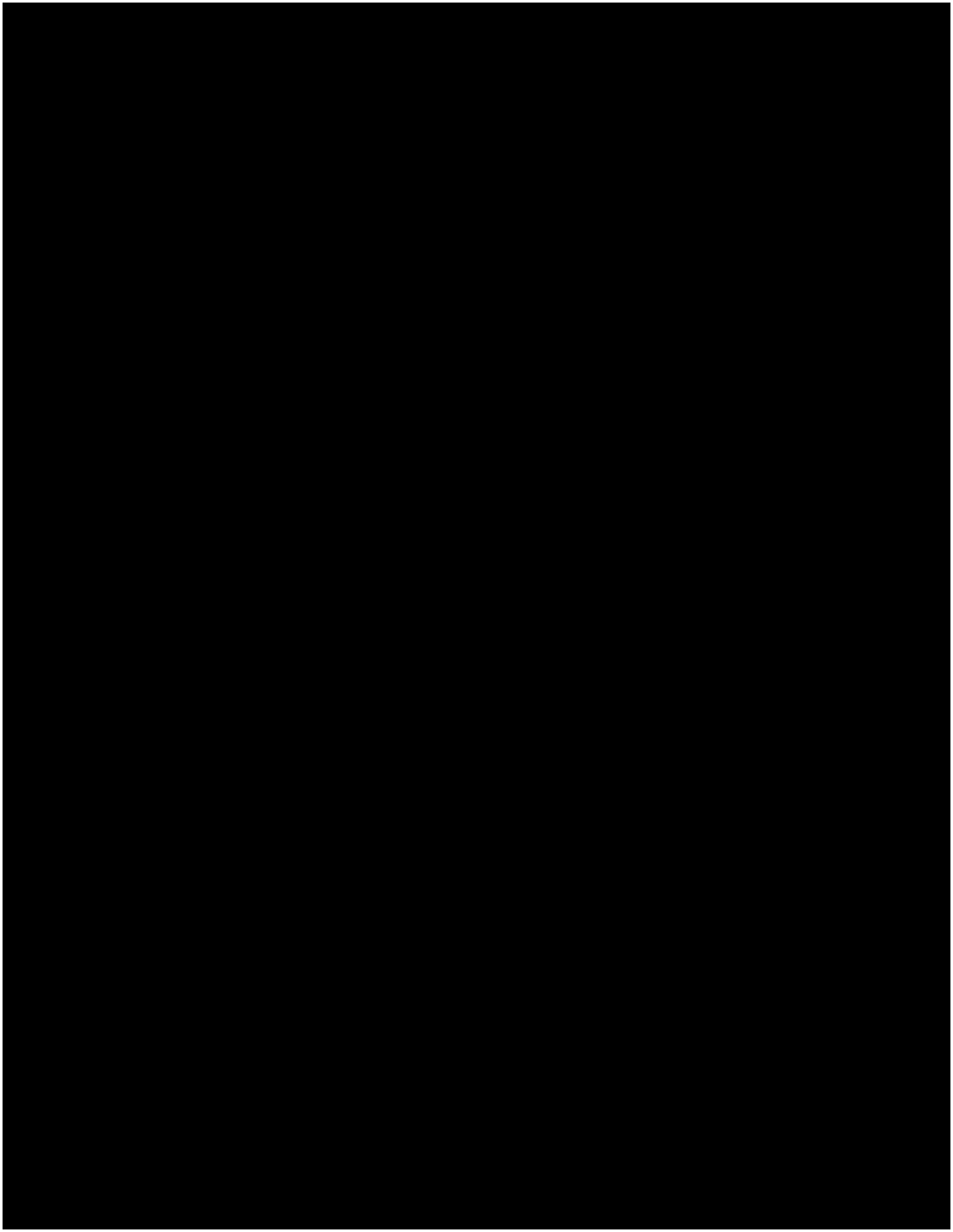
Q. Okay.

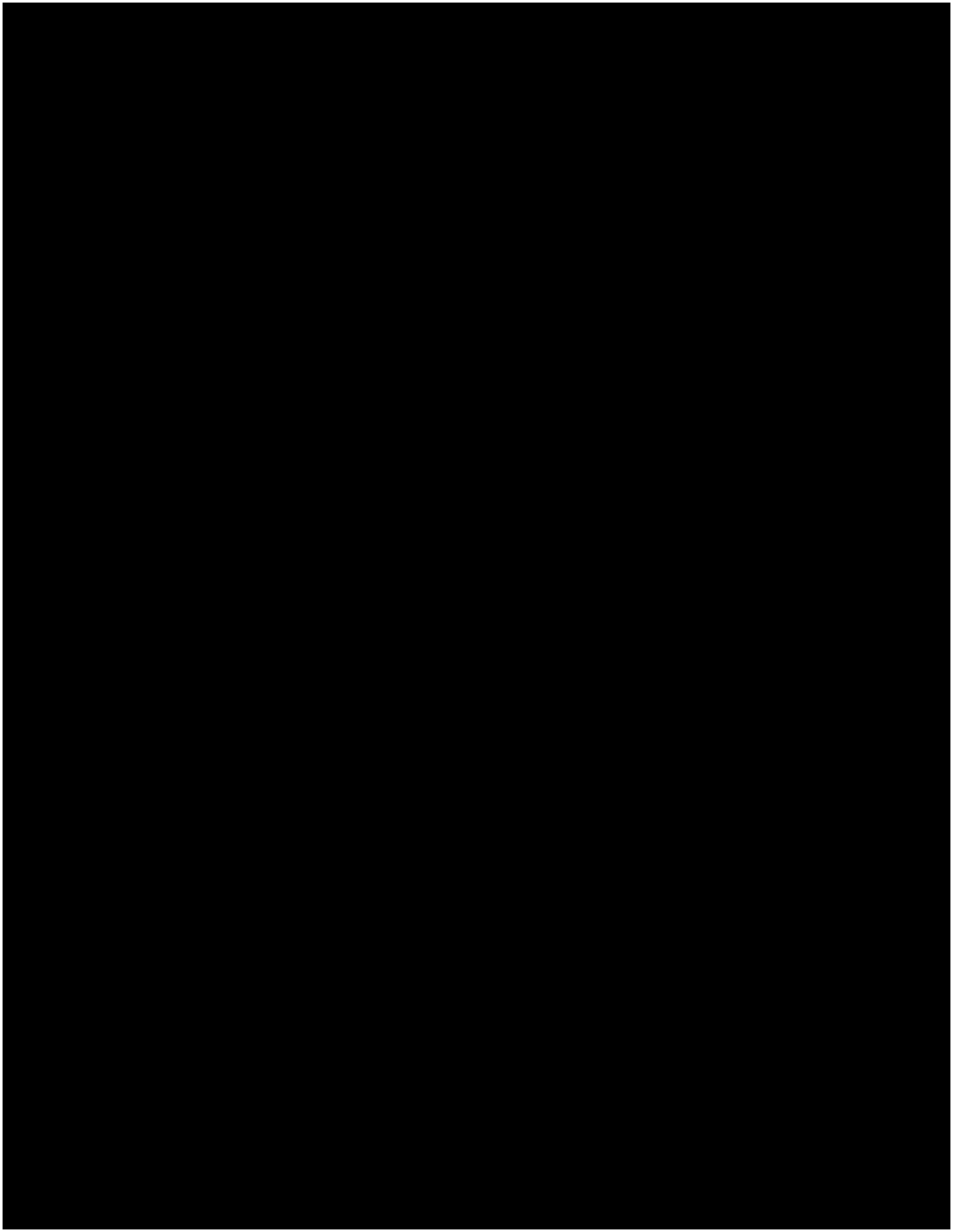
A. Where she emailed me following the initial questions, and I, in possibly even my follow-up questions, she said -- she sent me an additional email.

Q. Can you read what that email, what she says in that email?

A. "I wanted to mention that it was prescribed to be for ADHD but was used for people with narcolepsy







ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD — **CLAIMANT**

VS. — **CC NO.** 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

BRIEF IN SUPPORT OF CLAIMANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON ISSUE OF LIABILITY

Comes now the claimant, Haley Hudson, in her capacity as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and Permanent Legal Guardian of [redacted] a minor child, by and through her attorney, Jim Jackson, and for her Brief in Support of her Motion for Partial Summary Judgment on the Issue of Liability, states:

I. INTRODUCTION

This tort claim arises from a fatal rear-end collision that occurred in Logan County, Arkansas, on June 11, 2021. The claimant seeks damages for the wrongful death of Jacqueline Ashcraft and the bodily injury claim of [redacted], a minor child.

There is no genuine issue of material fact that the respondent is legally liable for the collision, leaving the determination of damages as the sole issue to be determined by the Arkansas State Claims Commission. The claimant is entitled to judgment as a matter of law on the issue of liability.

II. UNDISPUTED FACTS

The wreck occurred on a straight stretch of Arkansas State Highway 22 on the outskirts of Paris in Logan County, Arkansas. It involved three vehicles:

i. A blue 2005 Hyundai Sonata driven by Jacqueline Ashcraft;

ii. A brown 2009 Hyundai Elantra driven by Jennifer Wilkerson; and

iii. A 2001 Peterbilt tractor/trailer rig driven by Bobby Wilson, who was transporting an oversized load.

Jennifer Wilkerson's Elantra was owned by the State of Arkansas. She was traveling from the DHS office in Paris to Beebe to pick up a foster child. Wilkerson was scheduled to meet the child in Beebe at 2:00 p.m. and drive it to Clarksville for a family visit. Wilkerson was approximately one hour behind schedule at the time of the collision. The respondent admitted in its Answer that Wilkerson was within the scope and authority of her employment at all times relevant to this cause of action.

Jacqueline Ashcraft was returning her two-year-old great-nephew to his mother's home at [redacted]. Ashcraft's two minor children were in the back seat with the two-year-old. Ashcraft stopped at McDonald's in Paris for lunch with the three children. She then proceeded to drive east on State Highway 22 to the toddler's home. The toddler had spent the night with Ashcraft and her two daughters.

Bobby Wilson was transporting a modular home west on State Highway 22. His destination was Legacy Factory Direct Homes in Fort Smith. Mr. Wilson is a resident of Alabama and has a Commercial Driver's License.

State Highway 22 was freshly paved with two lanes of travel and paved shoulders. The yellow striping and white fog lines were bright and clear.

The wreck occurred at 12:50 p.m. The police were notified that a wreck had occurred at 12:54 p.m. State Trooper James Ray received the call from dispatch at 12:54 p.m. Trooper Ray was in Ozark when he received the call. Trooper Ray arrived at the accident scene at 1:26 p.m. The weather conditions were clear and very hot.

III. CLAIMANT'S ALLEGATIONS

Jacqueline Ashcraft was traveling east on State Highway 22 from Paris towards Subiaco to take the toddler home. The toddler's house was on the north side of the highway, which required Ashcraft to make a left-hand turn into the driveway when she arrived at 3022 Highway 22.

As Jacqueline Ashcraft's vehicle was approaching the driveway to make a left-hand turn, Bobby Wilson's oversized load with a modular home was traveling west approaching Ashcraft's vehicle. Ashcraft slowed her car to give the oversized load room to clear the lane of travel so she could safely make the left-hand turn into the driveway. Ashcraft was either at a stop or moving very slowly at the time of impact.

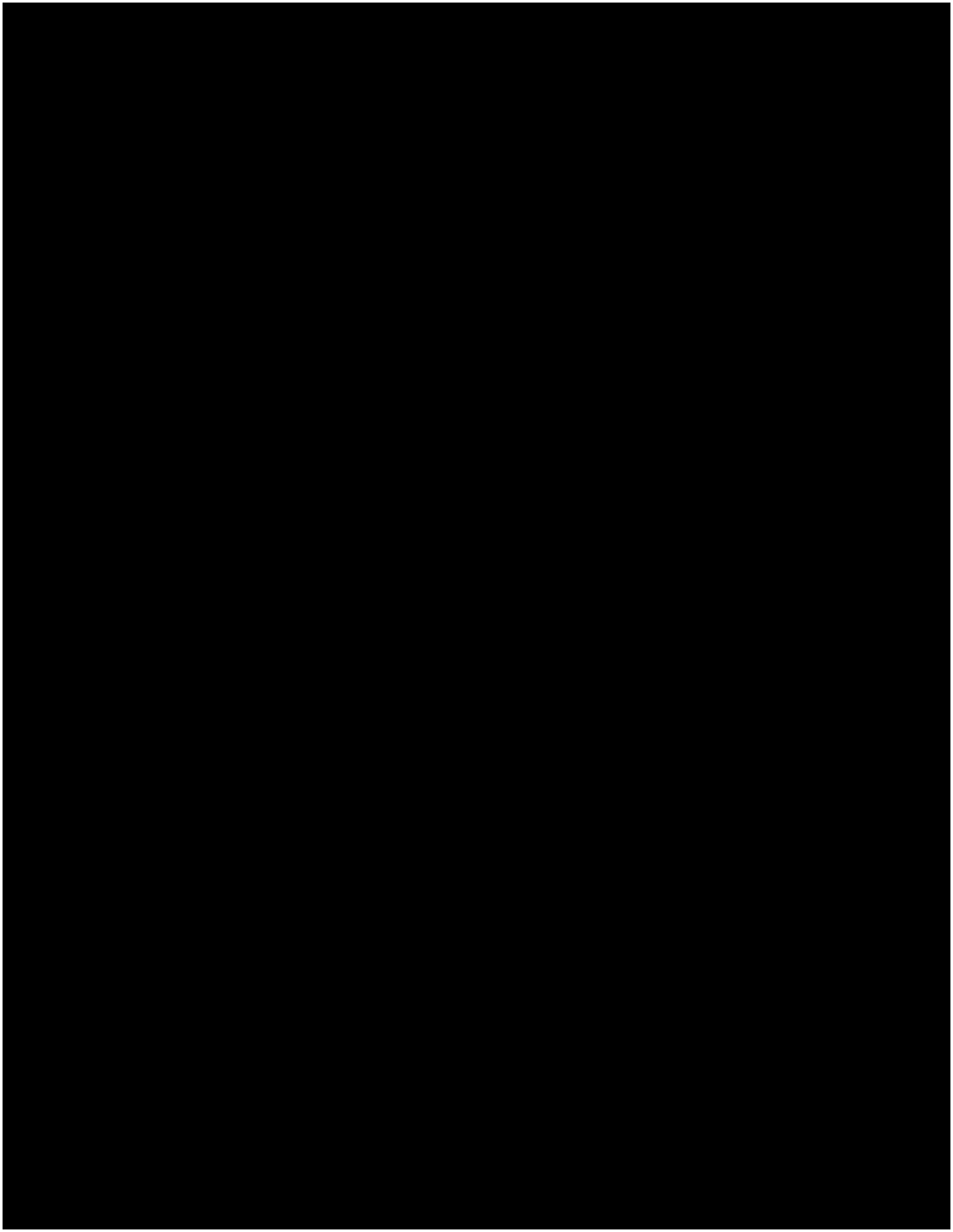
The collision occurred when Jennifer Wilkerson's rear-ended Jacqueline Ashcraft's blue car. The impact knocked Ashcraft's blue car forward onto the right shoulder.

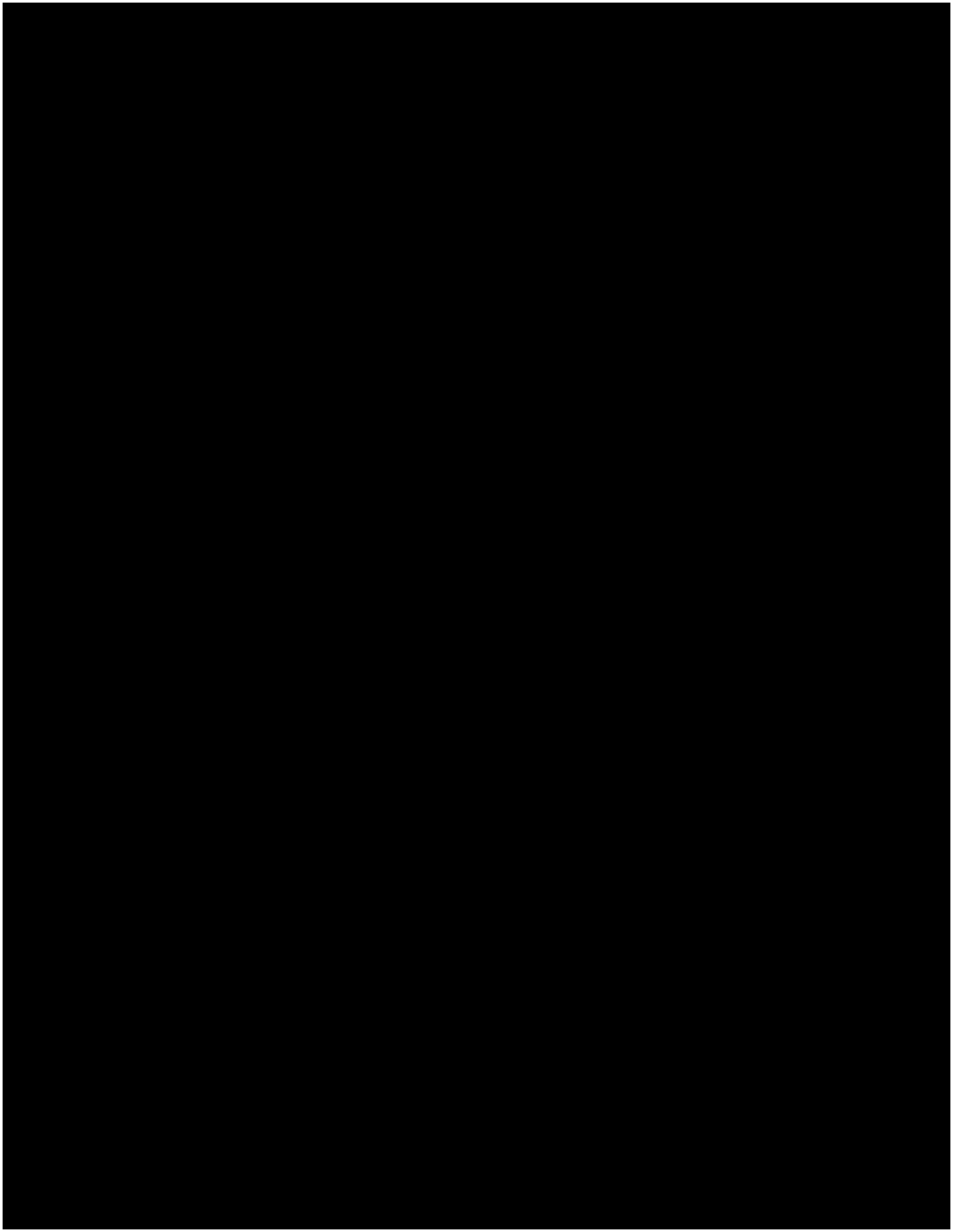
Wilkerson's vehicle spun counterclockwise and traveled into the westbound lane of travel where it struck the rear tires/front trailer of the tractor-trailer rig driven by Bobby Wilson. This knocked Wilkerson's car back across the eastbound lane of travel.

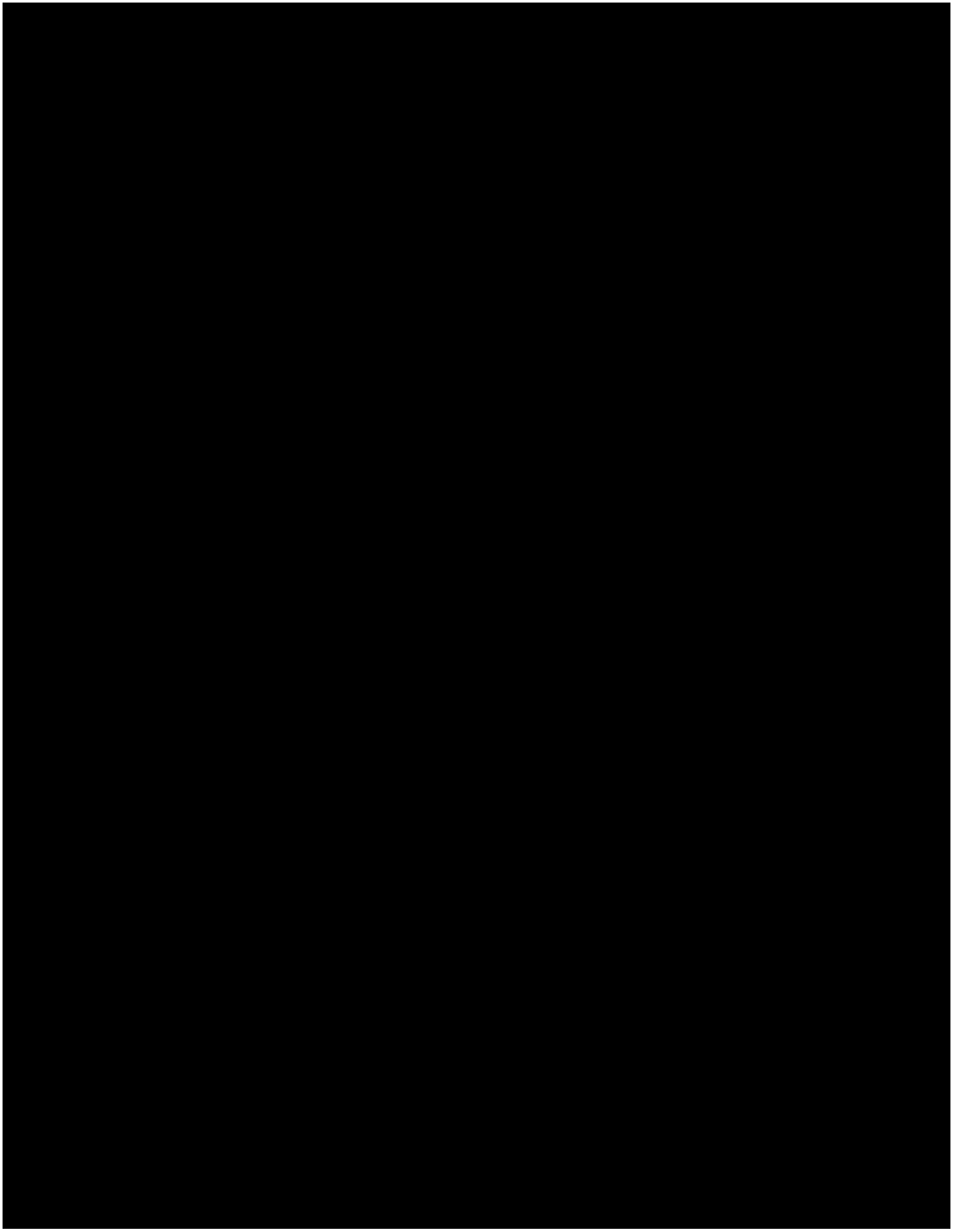
Bobby Wilson pulled his tractor-trailer rig to the right side of the roadway.

Trooper James Ray of the Arkansas State Police was dispatched to investigate this wreck. Trooper Ray prepared Crash Report [redacted] which is attached to the Motion for Partial Summary Judgment as Exhibit 3. Several first responders, paramedics, and law enforcement officers were on the scene when he arrived. Trooper Ray prepared three (3) diagrams based on what he observed and his measurements. Inserted below are the three diagrams attached to his report which illustrate the direction of travel of the vehicles and the location of their resting point after the collision.

Trooper Ray's illustration labels V1 as the Ashcraft car and V2 as Wilkerson's car.







IV. STANDARD

The standard for Summary Judgment is well-established in Arkansas. *Collins v. Morgan*, 92 Ark. App. 95, 101 (Ark. Ct. 2005) (*citing Ginsburg v. Ginsburg*, 353 Ark. 816, 820-821, 120 S.W.3d 567, 569-70 (2003)). Summary Judgment should be granted when it is clear there are no genuine issues of material fact to be litigated and the moving party is entitled to Judgment as a matter of law. *Id*. The purpose of Summary Judgment is not to try the issues, but to determine whether there are any issues to be tried. *Id.* Even if there are disputed facts, if reasonable minds will not differ as to the conclusion to be reached, then a grant of Summary Judgment is proper. *Chalmers v. Toyota Motor Sales,* 326 Ark. 895, 935 S.W.2d 258 (1996).

Once the moving party has established a *prima facie* entitlement to Summary Judgment, the opposing party must meet proof with proof and demonstrate the existence of a material issue of fact to defeat same. *Smith v. Roberts Group, Inc.*, 348 Ark. 241, 72 S.W.3d 450 (2002). If a respondent to a Motion for Partial Summary Judgment cannot present proof of an essential element of the claim, the movant is entitled to Summary Judgment as a matter of law. *Short v. Little Rock Dodge, Inc.*, 297 104, 759 S.W.2d 553 (1988). Summary Judgment should be granted when a review of the pleadings, depositions, and other filings reveal there is no genuine issue as to any material fact, and the moving party is entitled to Summary Judgment as a matter of law. *Colonial Underwriters Ins. Co. v. Worthen Nat'l Bank*, 53 Ark. App. 106, 919 S.W. 2d 515 (1996).

V. NEGLIGENCE STANDARD FOR A TORT CLAIM

The tort law of negligence applies to these claims. The claimant must prove that the respondent's employee was negligent, and the negligence was the proximate cause of the collision.

Arkansas courts have adopted the definition of negligence found in the *Arkansas Model Jury Instructions,* which states:

> When I use the word "negligence" in these instructions, I mean the failure to do something which a reasonably careful person would do, or the doing of something which a reasonably careful person would not do, under circumstances similar to those shown by the evidence in this case. It is for you to decide how a reasonably careful person would act under those circumstances.
>
> *AMI 302*

The General Assembly enacted the rules of the road which apply to a rear-end collision. The rule is codified at Ark. Code Ann. § 27-51-305, Following Too Closely, which reads as follows:

> § 27-51-305. Following too closely - Definition
> (a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having regard for the speed of vehicles and the traffic upon and the condition of the highway.

The question for this Commission to decide is whether or not Jennifer Wilkerson negligently rear-ended Jacqueline Ashcraft's car. If so, the claimant's Motion for Partial Summary Judgment on the Issue of Liability should be granted, and this matter should be set for a hearing on the remaining issue of causation and damages.

VI. ANALYSIS

The evidence is overwhelming that Jennifer Wilkerson's actions were the sole cause of the accident. The claimant bases this allegation upon the following three sources:

1. Photographs of the accident scene;
2. Trooper/Officer James Ray deposition testimony and diagram of the accident; and,
3. Jennifer Wilkerson's statements immediately after the wreck.

An analysis of the evidence leads to only one conclusion - - Jennifer Wilkerson committed acts of "inattentive careless, negligent or erratic operation" and drove into the rear-end of Jacqueline Ashcraft's car at a high rate of speed.

A. PHOTOGRAPHIC EVIDENCE

Trooper James Ray took approximately 30 photographs at the scene of the accident. The 30 photographs and a photograph from the Logan County Sheriff's Facebook page are attached as Exhibit 1 to the Motion for Partial Summary Judgment.

An analysis of these photographs confirms that Jacqueline Ashcraft's car was rear-ended. The damage across the rear bumper of her blue car is practically symmetrical. There is slightly more crush damage on the passenger side of the rear bumper.

The photos also show that the front end of Jennifer Wilkerson's car was demolished. This photographic evidence is consistent with the allegation that Wilkerson's car rear-ended the Ashcraft car at a high rate of speed.

The photos show slight damage to the rear tires on the Peterbilt tractor and property damage to the front of the modular home. These photos are consistent with the allegation that Wilkerson's car impacted Ashcraft's car, then spun counterclockwise into the westbound lane of travel, making contact with the tires and trailer of Bobby Wilson's rig.

It is often said that a photograph tells a story of a thousand words. These photographs depict a well-maintained state highway with very visible yellow striping and white fog lines. There is a sight distance of thousands of feet for Jennifer Wilkerson as she approached Ashcraft's car and Bobby Wilson's oversized load. The photographs tell a reasonable person that the only way this rear-end collision could have occurred is if Wilkerson was inattentive while negligently following too closely behind Ashcraft's car.

B. TROOPER JAMES RAY

State Trooper James Ray's deposition testimony buttresses the findings in the that the wreck was caused by Wilkerson's negligence. Trooper Ray prepared Crash Report [redacted] based upon his investigation of the wreck which is attached as Exhibit #3 to the Motion for Partial Summary Judgment.

Trooper Ray drove from Ozark to the accident scene. He arrived at 1:26 p.m. which is approximately 32 minutes after the initial 911 call was received. Trooper Ray testified that this was a rear-end collision caused by "Inattentive, Careless, Negligent Or Erratic Operation" by Jennifer Wilkerson.

Trooper Ray's testimony first focuses on the photographs. Trooper Ray agreed that the photos "obviously" show a rear-end wreck.

> Q. What was the significance of those photos to you when you are performing your investigation and determining what happened?
>
> A. When you see, obviously, it is going to be at front-to-rear collision whenever you see a rear impact like that.
>
> Q. And it is stating the obvious, but Ms. Ashcraft's vehicle was the one being rear ended in this - -
>
> A. Yes.
>
> Q. Collision?

Trooper Ray Deposition p.17, lines 9-17; Motion for Partial Summary Judgment, Exhibit 2.

Trooper Ray was asked to explain the importance of the property damage to the DHS car. The trooper testified that this was a serious impact.

> Q. In looking at the Hyundai Elantra's photos, what is the significance? What - - what information does that reveal to you as somebody who has investigated a number of accidents, and has been trained in accident reconstruction by Arkansas State police?
>
> A. That is a significant front-to-rear collision.

Trooper Ray Deposition p. 19, lines 5-10; Motion for Partial Summary Judgment, Exhibit 2.

The Trooper addressed the issue of Ashcraft slowing to make a left-hand turn into the private drive for the home at [redacted]. His findings were consistent with the allegation that Ms. Ashcraft was slowing down to turn into the private driveway.

> Q. And was your investigation of the accident scene, would it be consistent with - - if the allegations on, a hypothetical, if Ms. Ashcraft was attempting to make a left-hand turn into the private drive, and waiting on that tractor-trailer rig to pass when this accident occurred when she was rear-ended. Would that be consistent with your findings?
>
> A. It would explain why she was stopped, yes.

Trooper Ray Deposition p. 21, lines 18-25; Motion for Partial Summary Judgment, Exhibit 2.

The claimant has contended that there was nothing to prevent Jennifer Wilkerson from seeing the Ashcraft car slowing while preparing to make a left-hand turn. Trooper Ray's testimony confirmed that visibility was not an issue for this wreck.

> Q. And based upon what you observed, did you see anything that would have prevented Ms. Wilkerson from seeing the vehicle in front of her at a stop?
>
> A. It is a very, very straight roadway.

Trooper Ray Deposition p. 26, lines 21-25; Motion for Partial Summary Judgment, Exhibit 2.

Trooper Ray confirmed that Ashcraft was in her eastbound lane of travel. The respondent has no proof that Ashcraft's car was anywhere but in the eastbound lane of travel at all times relevant to this cause of action.

> Q. Was there any indication from your investigation of the report that Jacqueline Ashcraft's was not—vehicle was anywhere but in her lane of travel at the time of the wreck?
>
> A. Ask me that one more time. You're advising that - - was there any indicators that she was not in her correct lane of travel; correct?
>
> Q. That is correct.

A. *No, there was not.* [Emphasis added.]

Trooper Ray Deposition pp. 30-31, lines 23-6; Motion for Partial Summary Judgment, Exhibit 2.

Trooper Ray was cross-examined by the respondent's counsel on the issue of whether or not Ashcraft may have been parked on the shoulder and then pulled into the lane of travel. Again, Trooper Ray pointed out that the physical evidence simply does not support that hypothesis.

Q. This is a hypothetical here. If V1 had been on the shoulder, on the right-hand shoulder, and pulled into the lane, at which point V2 hit, you know, would you see anything in your report that would make that inconsistent? That statement inconsistent or that possibility inconsistent?

A. Yes. The point of impact.

Q. Okay. Is it possible that the one could have pulled into the lane, been fully situated where the point of impact occurred, but had just moved off the shoulder into the lane and stopped?

A. I do not recall.

Q. Was it possible - is there any inconsistent with your report- -

A. The point—the point of impact is, in the fact that the V3 witness advised he saw the vehicle stopped in the roadway indicates to me that the vehicle was stopped in the roadway.

Trooper Ray Deposition pp. 38-39, lines 17-9; Motion for Partial Summary Judgment, Exhibit 2.

Trooper Ray also confirmed that Bobby Wilson, the driver of the Peterbilt with the oversized load, did nothing to contribute to or cause this wreck.

Q. Okay. Was there anything that you saw that indicated that Mr. Wilson did anything to contribute to this wreck?

A. No, there was not.

Trooper Ray Deposition pg. 31, lines 7-10; Motion for Partial Summary Judgment, Exhibit 2.

Trooper Ray addressed the fact that the point of impact was approximately 50 feet west of the driveway. Jacqueline Ashcraft recognized that Bobby Wilson's oncoming oversized load was traveling towards her. Ashcraft began slowing down to allow Wilson's rig to clear the roadway before attempting a left-hand turn.

Q. The contention is that vehicle one was turning left into the private drive is that--that correct, I believe. That is what the—

A. It's - - it's possible, yes.

Q. Okay.

A. It--it would explain why it was stopped in the roadway.

Trooper Ray Deposition p. 48, lines 4-10; Motion for Partial Summary Judgment, Exhibit 2.

Q. Okay. Generally, when a person drives and stops and turns into a private drive, there is the--is the drive not just, kind of, immediately to your left?

A. Typically, yes.

Q. Yes. Is there any reason that you can think of that a person would have stopped 50 feet prior to turn left into what was not a private drive?

A. An approaching oversized load.

Q. Pardon me?

A. An approaching oversized load.

Q. I do not understand.

A. The V3 is an oversized load.

Q. Right.

A. It would explain, you know, a potential that she was slowing for that, prior to she got to the turn, she was stopped waiting on it to pass, could not see the driveway, there is a number of things that could have caused her to stop that soon.

Q. Okay. But the data shows that she did, in fact either stop, or was very slowly moving 50 feet prior to the private drive?

A. According to my report, yes. That would be correct.

Q. And she might - - there might have been a good reason for that, but that what the - - that is what the report shows - -

A. Correct.

Trooper Ray Deposition pp. 50-51, lines 7-25, 1-8; Motion for Partial Summary Judgment, Exhibit 2.

Trooper Ray confirmed that there was nothing to prevent the DHS employee from seeing either the oversized load or Jacqueline Ashcraft's car.

Q. On this, and I apologize for belaboring this point, but as far as Ms. Wilkerson traveling east on Highway 22, there is nothing to prevent her from seeing an oversized tractor-trailer rig coming - traveling west for Ms. Ashcraft's vehicle stopping to make a left-hand turn—

A. Correct.

Trooper Ray Deposition p. 55, lines 18-24; Motion for Partial Summary Judgment, Exhibit 2.

Arkansas State Police accident reports contain a "DRIVER ACTIONS AT TIME OF CRASH" section which permits an investigating officer to check a box next to the description of what the driver was doing at the time of a wreck. Trooper Ray provided testimony concerning his findings of the contributing actions of the three drivers.

Trooper Ray found "No Contributing Action" for Ashcraft and Wilson as compared to his finding of "Inattentive, Careless, Negligent Or Erratic Operation" by Jennifer Wilkerson at the time of the crash.

Q. I want to ask you to turn to page six of your report. And that's on - - regarding motor vehicle number one, which was driven by Ms. Ashcraft. At the bottom you - - there is a section that says driver actions at the time of the crash. What box did you check?

A. You are referring to the very bottom of the page? Driver-driver's action at the time of the crash?

Q. Yes.

A. No contributing action.

Q. And I want to turn - ask you to turn to page 11. I am sorry, page 10. And that is the report on the driver of vehicle two, which is the Respondent's vehicle. On the driver actions at the time of the crash, what box did you check?

. . . . .

A. Inattentive, careless, negligent or erratic operation.

Trooper Ray Deposition p. 56, lines 1-21; Motion for Partial Summary Judgment, Exhibit 2.

Below is a copy of Trooper Ray's report for Jennifer Wilkerson with his analysis of her contributing actions. This is from page 10 of his 18-page report, which is attached to the Motion for Partial Summary Judgment as Exhibit 3.



Q. And for vehicle three, the same question. . . . And what did you, what was your finding on the vehicle - - on that driver's contributary actions?

A. No contributing action.

Trooper Ray deposition p. 57, lines 1-6; Motion for Partial Summary Judgment, Exhibit 2.

The deposition testimony of Trooper Ray is unequivocal that the sole fault of the wreck was the "inattentive, careless, negligent or erratic operation" action of Jennifer Wilkerson.

C. JENNIFER WILKERSON

Now, we can examine the four statements made by Jennifer Wilkerson after the wreck. There is nothing contained in these four statements that will lead a person to any

reasonable conclusion other than Jennifer Wilkerson was inattentive and negligently drove into the rear of the Ashcraft vehicle.

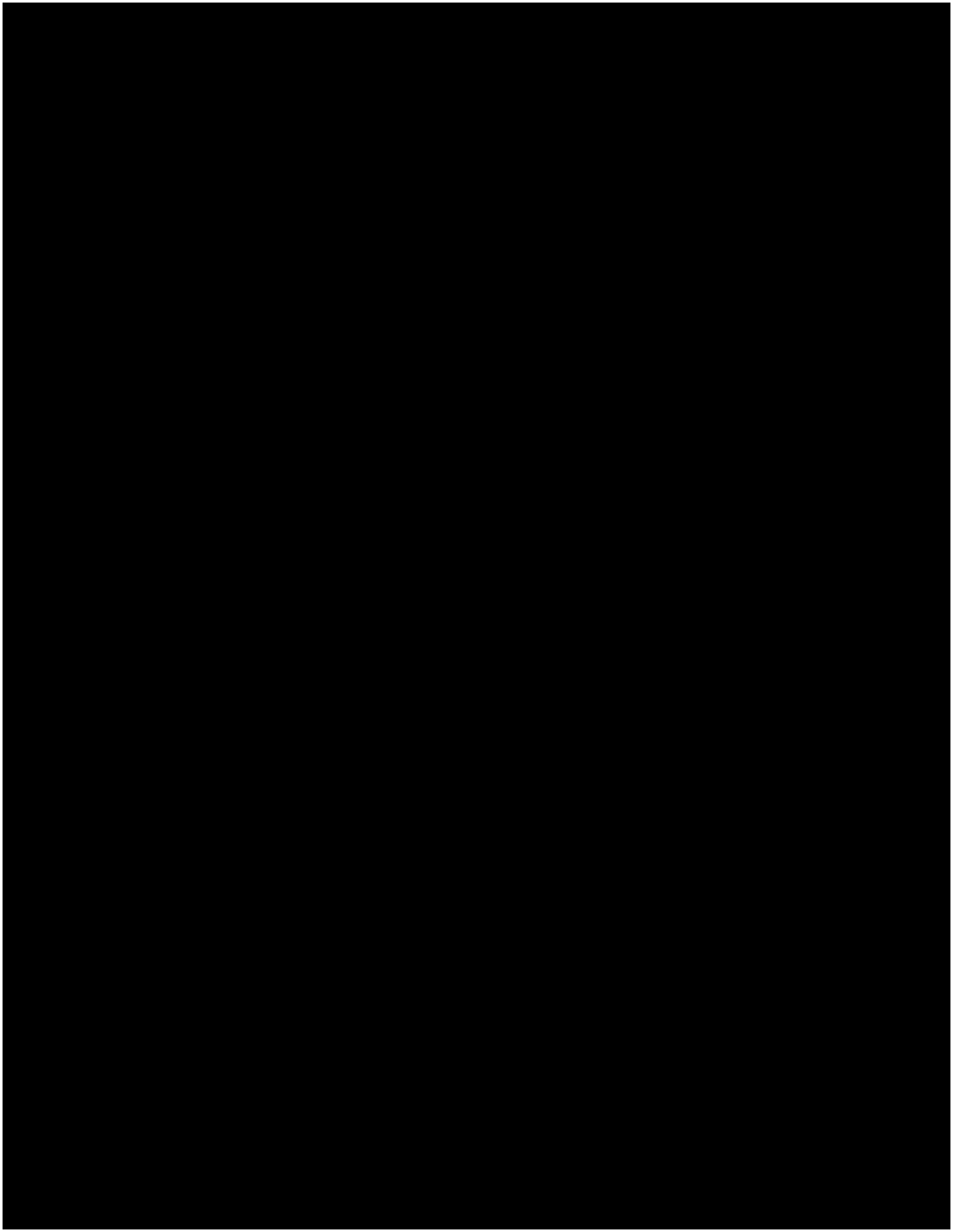
Ms. Wilkerson provided a statement immediately after the wreck to the investigating officers and then provided three separate statements to employees of the respondent. (See Exhibit 1, last page of photos; Exhibit 3, page 20; Exhibit 5; and Exhibit 6 to the Motion for Partial Summary Judgment.) These four statements confirm that Wilkerson drove into the rear of Ashcraft's car. These four statements are reliable because they were provided both to her employer and to the officers assisting Trooper Ray. The thrust of Wilkerson's statements is that she does not know what happened.

Trooper Ray transcribed Jennifer Wilkerson's statement that she provided to officers assisting him with his report. The time of the transcribed statement is 1:45 p.m. Wilkerson's statement reads:

> "**Hit car that stopped in front. All that I remember."**
> (emphasis added)

Wilkerson made this statement immediately after a catastrophic event. Trooper Ray transcribed the statement at 1:45 p.m. which is just minutes after he arrived. He even took a photograph of the statement at the accident scene which is contained in the last page of the series of photos attached to the Motion for Partial Summary Judgment as Exhibit 1.

The statement made by Jennifer Wilkerson is attached incorporated in Trooper Ray's accident report on page 20. The accident report is attached as Exhibit 3 to the Motion for Partial Summary Judgment.



Wilkerson's statement is reliable because she made it to law enforcement officials assisting Trooper Ray immediately after a catastrophic wreck. The timing of the statement along with the excitement and stress of a catastrophic reveal exactly what Wilkerson knew about the collision.

Jennifer Wilkerson reiterated her statement that she did not know what happened three more times with fellow Department of Human Services employees.

The Department of Human Services conducted an investigation into this incident. Kristin Shelton is a DHS Program Administrator in Clarksville. Ms. Shelton oversees the supervisors for a six-county area of the Division of Children & Family Services.

Kristin Shelton performed an internal fact-finding investigation for DHS. Ms. Wilkerson obtained written statements from Jennifer Wilkerson and Brandy Ezell as part of this fact-finding effort.

Kristin Shelton testified that she submitted a set of ten questions via email to Jennifer Wilkerson asking her about the accident as part of DHS' internal fact-finding. Shelton deposition, p. 20; Motion for Partial Summary Judgment, Exhibit 4. Jennifer Wilkerson responded with a handwritten response to the ten questions. The questions relevant to the issue of liability are question numbers five and ten.

Kristen Shelton's testimony confirms that Wilkerson has no information to rebut the photographs or Trooper Ray's finding that she was inattentive. Shelton was examined about the fact finding and Wilkerson's hand written response to the ten questions.

Q. Okay. I want to ask you. Ms. Wilkerson's answer to question number five is—the question is: "While you were driving, what happened to cause the accident?" Can you read what Ms. Wilkerson's answer is?

A. "I remember seeing a car up ahead but no brake lights or signal lights. That is all I remember until I came to."

Q. Do you know anything else about - whether Ms. Wilkerson had said anything else about what happened to cause the wreck other than that statement?

A. No.

Q. Okay. And then the same for question number ten: "Is there anything else that you would like for me to know regarding this incident?" What was her answer?

A. "I am devastated over what happened but I really don't know what happened bc I don't remember it happened so fast."

Kristin Shelton Deposition pp. 24-25, lines 24-21; Motion for Partial Summary Judgment, Exhibit 4.

Wilkerson's statement to the Arkansas Department of Human Services is unequivocal. Wilkerson does not attempt to blame anyone else for the wreck. Her testimony does not refute any of Trooper Ray's findings. Wilkerson was driving while inattentive is the only reasonable conclusion from her hand written statement which is inserted below.

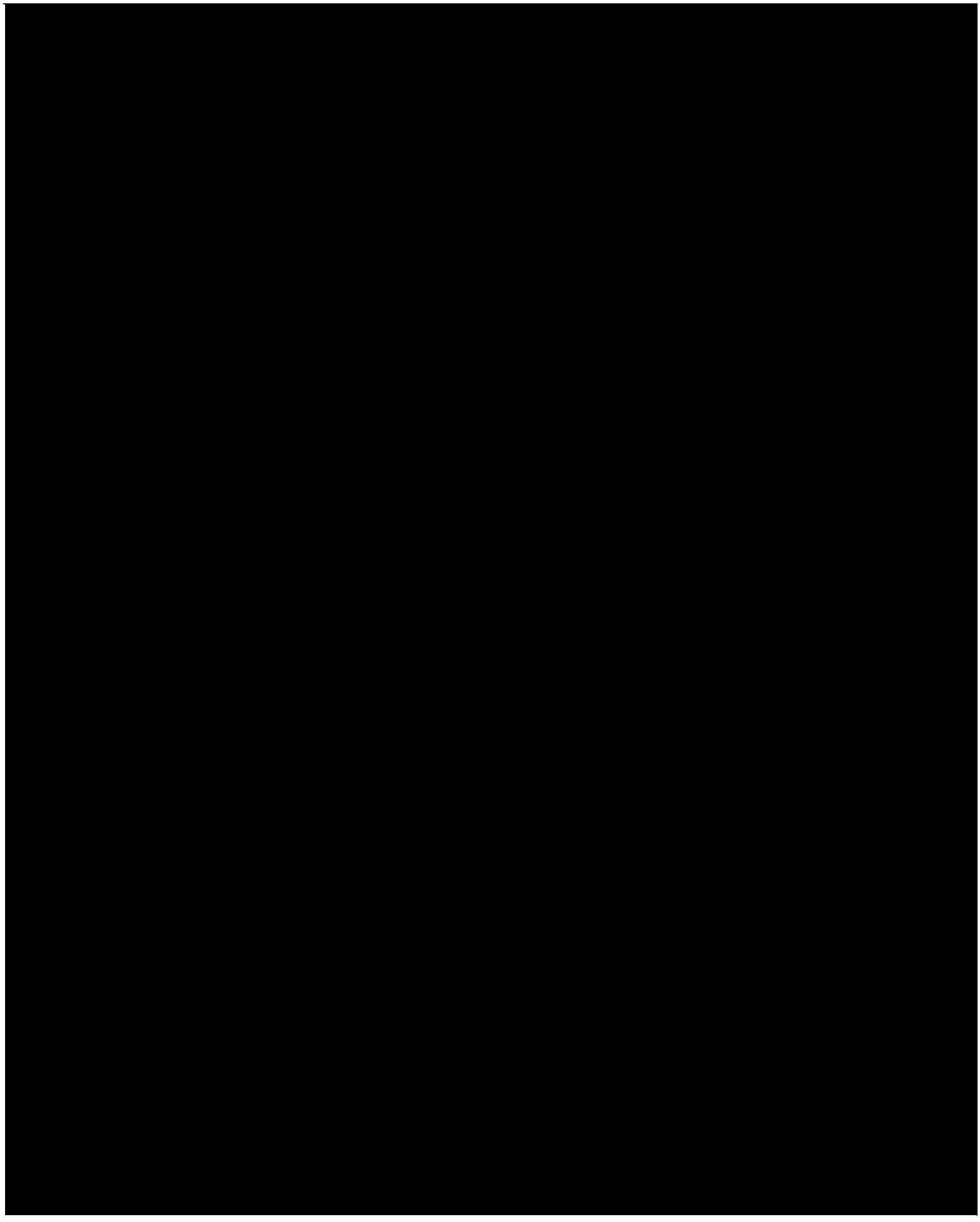


Exhibit 5 – Jennifer Wilkerson's Handwritten Answers to Department of Human Services.

Jennifer Wilkerson provided a second statement to Pamela Feemster, her direct supervisor in Paris. This statement was incorporated into Kristen Shelton's fact-finding investigation. Wilkerson's email statement is below and is attached as Exhibit 6 to the Motion for Partial Summary Judgment:

> On 6/11/21 I was going to Beebe, AR to pick up [redacted] for a sibling visit in Clarksville, AR. I left Paris about 12:30 p.m. and was supposed to be there around 2:00. In Midway, AR there was a car stopped in the road, I didn't see a turn signal and the I remember the air back (sic) deploying and nothing else until the car was stopped. When I was able to get out of the car there were already several people on the scene. I was there until I went in the ambulance to the emergency room in Booneville, AR. I had minor cuts and bruises.

Kristin Shelton also obtained a written statement from Brandy Ezell. Ms. Ezell is a Program Assistant in Paris. She assisted Ms. Wilkerson with her travel schedule to Beebe.

Ezell prepared a written statement for Kristin Shelton explaining what happened on June 11. Ezell noted that she helped Jennifer Wilkerson create a MapQuest route for directions from Paris to Beebe. Wilkerson knew it would take two hours of travel time. Ezell noted that Wilkerson left the Paris DHS office around noon. Ezell received a call from Wilkerson notifying her about the wreck 55 minutes later. Ezell went to the scene of the wreck. Wilkerson told Ezell at the accident site that she did not remember what happened. Below is the relevant portion of Ezell's statement to Kristen Shelton as part of the Department of Human Services fact-finding investigation.

> She called me at 1255 and told me that she had got in a bad wreck. When I got to the wreck site, she stated she does not remember what happened but that she stopped through Dari Delite to get a drink and a car suddenly stopped in front of her!!!

Attached to the Motion for Partial Summary Judgment as Exhibit 7 is Brandy Ezell's complete report to Kristen Shelton.

The reason Wilkerson was inattentive can be gleaned from the time the collision occurred. Wilkerson was an hour late for her DHS work assignment to pick up a child in Beebe at 2:00 p.m. Kristin Shelton confirmed that Jennifer Wilkerson was approximately one hour behind schedule when the wreck occurred.

Q. Okay. Was - at the time of the accident, the state trooper reports it being called in at 12:50 PM, and it is my understanding that Ms. Wilkerson was supposed to be at Beebe at 2 PM to pick up the child?

A. That is-

Q. Does that sound correct?

A. That is my understanding.

Q. So if that is correct, she would have been about an hour behind schedule when the wreck occurred, is that right?

A. Yes.

Q. And you do not have any reason to dispute that?

A. No.

Kristin Shelton Deposition p. 27, lines 1-14; Motion for Partial Summary Judgment, Ex. 4.

Jennifer Wilkerson's four statements confirm that she did not see the vehicle in front of her in time to come to a stop to avoid the wreck. She was an hour behind schedule. She did not have her vehicle under proper control. Wilkerson violated Ark. Code Ann. § 27-51-305 - - Following too Closely. She violated common law and rules of the road by not paying attention. Or, in the words of the State Trooper, she was guilty of "Inattentive, Careless, Negligent or Erratic Operation."

VII. LEGAL STANDARD

To prove negligence, a claimant must show a failure to exercise proper care in the performance of a legal duty which was owed to the claimant under the circumstances. *Central Oklahoma Pipeline Inc. v. Hawk Field Services, LLC*, 2012 Ark. 157, 400 S.W.3d 701. Jennifer Wilkerson had a duty to obey the rules of the road. Her failure to obey commonly accepted rules of the road led to a fatal rear-end collision on June 11, 2021.

The evidence presented by the claimant can only be described as substantial. "Substantial Evidence is that which is of sufficient force in character that it will compel a conclusion one way or another. It must force or induce demand to pass beyond a suspicion or conjecture." *Young v. Johnson*, 311 Ark. 551, 555, 845 S.W.2d 510, 513 (Ark. 1993), *citing Farm Bureau Mut. Ins. Co. v. Henley*, 275 Ark. 122, 628 S.W.2d 301 (1982).

The claimant has substantially proven the allegations in the Complaint on the issue of liability. The proof is overwhelming that Jennifer Wilkerson, while in the course and scope of her employment with the Arkansas DHS, negligently rear-ended Jacqueline Ashcraft's car. There is no material fact in dispute as to the cause of the accident. Jennifer Wilkerson owed a duty to Jacqueline Ashcraft and others on the highway to keep her vehicle under control and obey the rules of the road. Jennifer Wilkerson negligently breached this duty. Jennifer Wilkerson's negligence was the sole cause of the wreck.

Trooper Ray is correct in labeling Ms. Wilkerson's driving as "inattentive, careless, negligent or erratic operation." No reasonable person could arrive at any different opinion.

CONCLUSION

For the foregoing reasons, the claimant is entitled to judgment as a matter of law pursuant to Rule 56 of the Arkansas Rules of Civil Procedure on the issue of liability, as there are no material facts in dispute. Reasonable minds can only conclude that Jennifer Wilkerson

was negligent, and her negligence was the sole cause of the fatal crash. The claimant respectfully requests that this Commission grant her Motion for Partial Summary Judgment on the Issue of Liability.

Respectfully submitted,

Jim Jackson

Jim Jackson, AR Bar #93209
Jackson Law Firm
700 W. Broadway Street, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that on this date, June 14, 2023, I electronically transmitted the attached document via e-mail to the Clerk of the Arkansas State Claims Commission and via e-mail to:

Brent Gasper, Esq.
Assistant Deputy Chief Counsel
Attorney for the Respondent
P.O. Box 1437
Little Rock, AR 72203-1437
Brent.Gasper@dhs.Arkansas.gov

/s/Jim Jackson
Jim Jackson

From:	Kathryn Irby
To:	Brent Gasper; Jim Jackson
Cc:	Martha Cox; ASCC Pleadings; Daiquiri Carter
Subject:	RE: Hudson v. DHS, # 230641; Claimant"s Motion for SJ
Date:	Thursday, June 15, 2023 5:29:00 PM

Brent and Jim, the hearing letter specified that the scope is on all pending motions. The parties should be ready to argue the motion for partial summary judgment on August 11, but a party can raise the issue then as to whether the hearing on the MPSJ is premature or not for the Commission to consider.

If the Commission decides that the motion is premature, then I will have a spot on the November 8 docket set aside for a motions hearing.

Thanks,
Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Thursday, June 15, 2023 2:03 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Kathryn:

For reasons that will be evident upon the filling of my next responsive pleading, I believe the Motion for Summary Judgment itself will be moot and the question of liability will absolutely be one that will be in dispute, so I would respectfully ask that you hold off on scheduling a hearing on the Summary Judgment motion until I submit my response.

Thanks,

Brent

Cc: Jim Jackson, Daiquiri

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Thursday, June 15, 2023 1:17 PM
To: Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Subject: Re: Hudson v. DHS, # 230641; Claimant's Motion for SJ

[EXTERNAL SENDER]

Kathryn,
I think it would make sense & save time to have the MSJ on Liability heard on August 11.
This is a simple rear end collision.
The motion to compel relates to the decedent's medical treatment prior to the accident, which is relevant to the issue of damages not liability.
The motion for severance, abeyance, et al., will become moot if the Commission finds that no genuine issue of material fact exists regarding the cause of the accident.
I think the Commission should hear & rule on the MSJ on Liability on August 11 which will clarify these issues.
Thank you,

Jim

Jim Jackson
Attorney at Law
700 West Broadway St: Suite 2
North Little Rock, AR 72114
(501) 823-3610

> On Jun 15, 2023, at 12:23 PM, Brent Gasper <brent.gasper@dhs.arkansas.gov> wrote:
>
> I would agree on that date.
>
> Thanks, Kathryn!
>
> brent
>
> ---
>
> **From:** Kathryn Irby <Kathryn.Irby@arkansas.gov>
> **Sent:** Thursday, June 15, 2023 11:19 AM
> **To:** Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>
> **Cc:** Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
> **Subject:** RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ
>
> Brent and Jim, if the parties are in agreement, I can schedule a hearing on the motion for partial summary judgment for November 8.
>
> Kathryn
>
> ---
>
> **From:** Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
> **Sent:** Thursday, June 15, 2023 10:57 AM
> **To:** Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings

<ASCCPleadings@arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Kathryn:

We are in receipt of Claimant's Motion for Summary judgment.

From a logistical and procedural standpoint, DHS requests that any hearing the Commission may set on the Motion for Summary Judgment be set ***after*** the August 11 date already set for the several pending motions before the Commission. The motions being decided will have a direct effect on the Summary Judgment motion filed by Claimants as well as the response that will be forthcoming from DHS – including, for instance, whether the claims should be severed and held in abeyance, as well as the motion to compel discovery. It is Respondent's belief that it will prevail on its motion to compel and that the sought after discovery will directly impact the question of liability that Claimants argue is already established (it very much is not).

If the Commission would like a formal motion for this request I'm happy to draft and file one. However, if Jim were to agree to a subsequent and separate date for the Summary Judgment motion that may be the most efficient way to resolve this scheduling request. I believe a date in late October or early November would give DHS enough time to both initially respond to the motion as well as supplement that response should a favorable ruling on its motion to compel result after the August 11 hearing and the sought after Discovery is finally made available to DHS.

DHS will be responding directly to the Motion for Summary Judgment in a timely manner as is required but to attempt to hear that motion on the same day as several other matters that would have a direct impact on that very motion would substantially prejudice Respondent.

I look forward to hearing back from you.

Brent

Cc: Jim Jackson, Daiquiri

Brent P. Gasper
Assistant Deputy Chief Counsel

Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260

Little Rock, AR 72203
(501) 320-8950
Brent.Gasper@dhs.arkansas.gov

This email may contain sensitive or confidential information.

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From: Martha Cox <mcox@jimjacksonatty.com>
Sent: Wednesday, June 14, 2023 3:36 PM
To: ASCC Pleadings <ASCCPleadings@arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, dec'd & Permanent Guardian of [redacted], Minor Children v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641

[EXTERNAL SENDER]
Please find attached a letter to Kathryn Irby from Attorney Jim Jackson, the claimant's Motion for Partial Summary Judgment on the Issue of Liability, and the claimant's Brief in Support of Motion for Partial Summary Judgment on the Issue of Liability for filing in the above-referenced case.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611

mcox@jimjacksonatty.com

From: Kathryn Irby
To: Brent Gasper; Jim Jackson
Cc: Martha Cox; ASCC Pleadings; Daiquiri Carter
Subject: RE: Hudson v. DHS, # 230641; Claimant"s Motion for SJ
Date: Tuesday, June 20, 2023 2:11:00 PM

Brent, if a motion is filed, then I will submit it to the Commission for consideration. I do not know whether it would be decided within the 21-day period. My commissioners are all part-time state employees, and the Commission only has two hearing days per month – while the Commission operates like a court in many ways, the staffing set-up is very different.

Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Friday, June 16, 2023 8:13 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Thank you, Kathryn.

I have one other procedural question. Rule 56 provides that the Commission may enlarge the time period for a defending party to respond to a SJ motion. Obviously if I were to file that I would be asking for relief from the SJ motion response timeline. Am I to understand that if I were to file such a motion that it would be heard on the *same day* as the actual motion for SJ? I ask because that seems to abrogate the purpose of the rule if I am forced to also file a protective motion for SJ in order to not violate the 21-day rule. I believe the grounds I would raise in a motion for an expansion of time would more than satisfy the Commission that an expansion of time would be permitted.

Can you tell me if the Commission would decide on my motion for an expanded response time within the upcoming 21-day period? I believe in all matters of fairness I should be able to use Rule 56 to obtain a decision on an expansion for time before also being required to file my response to SJ.

Thank you in advance!

Brent

Cc: Jim Jackson, Daiquiri

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Thursday, June 15, 2023 5:29 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

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Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

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Subject: Re: Hudson v. DHS, # 230641; Claimant's Motion for SJ

[EXTERNAL SENDER]
Kathryn,
I think it would make sense & save time to have the MSJ on Liability heard on August 11.
This is a simple rear end collision.
The motion to compel relates to the decedent's medical treatment prior to the accident, which is

relevant to the issue of damages not liability.
The motion for severance, abeyance, et al., will become moot if the Commission finds that no genuine issue of material fact exists regarding the cause of the accident.
I think the Commission should hear & rule on the MSJ on Liability on August 11 which will clarify these issues.
Thank you,

Jim

Jim Jackson
Attorney at Law
700 West Broadway St: Suite 2
North Little Rock, AR 72114
(501) 823-3610

> On Jun 15, 2023, at 12:23 PM, Brent Gasper <brent.gasper@dhs.arkansas.gov> wrote:
>
> I would agree on that date.
>
> Thanks, Kathryn!
>
> brent
>
> ---
>
> **From:** Kathryn Irby <Kathryn.Irby@arkansas.gov>
> **Sent:** Thursday, June 15, 2023 11:19 AM
> **To:** Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>
> **Cc:** Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
> **Subject:** RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ
>
> Brent and Jim, if the parties are in agreement, I can schedule a hearing on the motion for partial summary judgment for November 8.
>
> Kathryn
>
> ---
>
> **From:** Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
> **Sent:** Thursday, June 15, 2023 10:57 AM
> **To:** Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
> **Cc:** Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
> **Subject:** Hudson v. DHS, # 230641; Claimant's Motion for SJ

Kathryn:

We are in receipt of Claimant's Motion for Summary judgment.

From a logistical and procedural standpoint, DHS requests that any hearing the Commission may set on the Motion for Summary Judgment be set ***after*** the August 11 date already set for the several pending motions before the Commission. The motions being decided will have a direct effect on the Summary Judgment motion filed by Claimants as well as the response that will be forthcoming from DHS – including, for instance, whether the claims should be severed and held in abeyance, as well as the motion to compel discovery. It is Respondent's belief that it will prevail on its motion to compel and that the sought after discovery will directly impact the question of liability that Claimants argue is already established (it very much is not).

If the Commission would like a formal motion for this request I'm happy to draft and file one. However, if Jim were to agree to a subsequent and separate date for the Summary Judgment motion that may be the most efficient way to resolve this scheduling request. I believe a date in late October or early November would give DHS enough time to both initially respond to the motion as well as supplement that response should a favorable ruling on its motion to compel result after the August 11 hearing and the sought after Discovery is finally made available to DHS.

DHS will be responding directly to the Motion for Summary Judgment in a timely manner as is required but to attempt to hear that motion on the same day as several other matters that would have a direct impact on that very motion would substantially prejudice Respondent.

I look forward to hearing back from you.

Brent

Cc: Jim Jackson, Daiquiri

Brent P. Gasper
Assistant Deputy Chief Counsel

Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950
Brent.Gasper@dhs.arkansas.gov

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From: Martha Cox <mcox@jimjacksonatty.com>
Sent: Wednesday, June 14, 2023 3:36 PM
To: ASCC Pleadings <ASCCPleadings@arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, dec'd & Permanent Guardian of [redacted], Minor Children v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641

[EXTERNAL SENDER]
Please find attached a letter to Kathryn Irby from Attorney Jim Jackson, the claimant's Motion for Partial Summary Judgment on the Issue of Liability, and the claimant's Brief in Support of Motion for Partial Summary Judgment on the Issue of Liability for filing in the above-referenced case.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

From: Kathryn Irby
To: Jim Jackson; Brent Gasper
Cc: Daiquiri Carter
Subject: RE: Subpoena duces tecum request
Date: Tuesday, June 20, 2023 2:12:00 PM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg

Brent, in light of Jim's agreement to the 5 days, will you please revise this to specify the days you're looking for?

"Any and all records, documentation, and other information associated with the phone number [redacted] for the user/account holder Jacqueline (Jackie) Ashcraft ([redacted]; deceased) for the calendar year 2021. Information and documentation should contain and include without limitation a complete call log, call detail records, text message records, and the text of the messages themselves. Upon information and belief this phone number and account owned by Jacqueline (Jackie) Ashcraft ([redacted]; deceased) is currently inactive".

Thanks,
Kathryn

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Monday, June 19, 2023 7:50 AM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Subpoena duces tecum request

I was at the Bar meeting in Hot Springs last week and I overlooked this e-mail.
I have no objection to the 5 day period.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Thursday, June 15, 2023 8:15 AM
To: Jim Jackson <jim@jimjacksonatty.com>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Subpoena duces tecum request

Kathryn:

I would agree to the five (5) days prior if Jim is agreeable. There will be testimony that Ms. Ashcraft was ill several days prior to the accident and those records may lead to discoverable evidence as to whom she may have called and talked to about her illness, including potential medical providers.

Thanks,

brent

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Wednesday, June 14, 2023 2:11 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Subpoena duces tecum request

[EXTERNAL SENDER]
Kathryn,
I would like to request that you not issue this subpoena for Ms. Ashcraft's phone at this time.
I am going to file a Motion to Quash based upon the scope of the time requested which is all of 2021.
If Brent will agree to limit the scope of the data requested in the Subpoena to June 10 & 11, 2021, I will not file a Motion to Quash.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Tuesday, June 13, 2023 10:29 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Jim Jackson <jim@jimjacksonatty.com>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: Subpoena duces tecum request

Kathryn:

I have another subpoena duces tecum I would request the Commission prepare in light of the discovery answers filed yesterday by two of the claimants. I may have a couple more later as I go through what was provided but for now I am requesting

"Any and all records, documentation, and other information associated with the phone number [redacted] for the user/account holder Jacqueline (Jackie) Ashcraft ([redacted] deceased) for the calendar year 2021. Information and documentation should contain and include without limitation a complete call log, call detail records, text message records, and the text of the messages themselves. Upon information and belief this phone number and account owned by Jacqueline (Jackie) Ashcraft ([redacted] deceased) is currently inactive".

The subpoena should be sent to:

TracFone Wireless, Inc.
Subpoena Compliance Attn: Executive Resolution Dept.
P.O. Box 160340 Hialeah, FL 33016
Fax number: 1-866-809-7134

Thank you in advance!

Brent

Cc: Jim Jackson, Daiquiri

Brent P. Gasper
Assistant Deputy Chief Counsel

Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950
Brent.Gasper@dhs.arkansas.gov

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From: Kathryn Irby
To: Brent Gasper; Jim Jackson
Cc: Daiquiri Carter
Subject: RE: Subpoena duces tecum request
Date: Tuesday, June 20, 2023 2:20:00 PM
Attachments: Hudson -- 230641 -- TracFone subpoena form.pdf
image001.jpg
image002.jpg
image003.jpg
image004.jpg

Please see attached subpoena. Please doublecheck and let me know if you see any issues.

Thanks,
Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Tuesday, June 20, 2023 2:16 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Subpoena duces tecum request

Kathryn:

Thank you for the email. Please find revised language below. Thanks!

"Any and all records, documentation, and other information associated with the phone number [redacted] for the user/account holder Jacqueline (Jackie) Ashcraft [redacted]; deceased) for the dates June 6, 2021, through June 11, 2021. Information and documentation should contain and include without limitation a complete call log, call detail records, text message records, and the text of the messages themselves. Upon information and belief this phone number and account owned by Jacqueline (Jackie) Ashcraft ([redacted] deceased) is currently inactive".

Brent

Cc: Jim, Daiquiri

Brent P. Gasper
Assistant Deputy Chief Counsel

Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
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Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Subpoena duces tecum request

Brent, in light of Jim's agreement to the 5 days, will you please revise this to specify the days you're looking for?

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Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Subpoena duces tecum request

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I have no objection to the 5 day period.
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Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

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Subject: RE: Subpoena duces tecum request

Kathryn:

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Thanks,

brent

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Wednesday, June 14, 2023 2:11 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Subpoena duces tecum request

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Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

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North Little Rock, AR 72114
P (501) 823-3610
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Sent: Tuesday, June 13, 2023 10:29 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Jim Jackson <jim@jimjacksonatty.com>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: Subpoena duces tecum request

Kathryn:

I have another subpoena duces tecum I would request the Commission prepare in light of the discovery answers filed yesterday by two of the claimants. I may have a couple more later as I go through what was provided but for now I am requesting

"Any and all records, documentation, and other information associated with the phone number [redacted] or the user/account holder Jacqueline (Jackie) Ashcraft [redacted] deceased) for the calendar year 2021. Information and documentation should contain and include without limitation a complete call log, call detail records, text message records, and the text of the messages themselves. Upon information and belief this phone number and account owned by Jacqueline (Jackie) Ashcraft ([redacted] deceased) is currently inactive".

The subpoena should be sent to:

TracFone Wireless, Inc.
Subpoena Compliance Attn: Executive Resolution Dept.
P.O. Box 160340 Hialeah, FL 33016
Fax number: 1-866-809-7134

Thank you in advance!

Brent

Cc: Jim Jackson, Daiquiri

Brent P. Gasper
Assistant Deputy Chief Counsel

Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950
Brent.Gasper@dhs.arkansas.gov

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Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted], Minor Children, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO: TracFone Wireless, Inc.
Subpoena Compliance Attn: Executive Resolution Dept.
P.O. Box 160340 Hialeah, FL 33016
Fax number: 1-866-809-7134

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

Any and all records, documentation, and other information associated with the phone number [redacted] for the user/account holder Jacqueline (Jackie) Ashcraft ([redacted]; deceased) for the calendar year 2021. Information and documentation should contain and include without limitation a complete call log, call detail records, text message records, and the text of the messages themselves. Upon information and belief this phone number and account owned by Jacqueline (Jackie) Ashcraft ([redacted] deceased) is currently inactive.

June 20, 2023

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Date

PROOF OF SERVICE

_____
SERVED ON (Print Name)

_____ _____
DATE PLACE

_____
MANNER OF SERVICE

_____ _____
SERVED BY (Print Name) TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ _____
DATE SIGNATURE OF SERVER

_____
ADDRESS OF SERVER

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d).

A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

From: Brent Gasper
To: Kathryn Irby; Jim Jackson
Cc: Martha Cox; ASCC Pleadings; Daiquiri Carter
Subject: RE: Hudson v. DHS, # 230641; Claimant"s Motion for SJ
Date: Tuesday, June 20, 2023 2:24:41 PM

Okay, thank you!

brent

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Tuesday, June 20, 2023 2:23 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Brent, the Commission met last Thursday and Friday. There are no other scheduled meetings between now and July 5.

Thanks,
Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Tuesday, June 20, 2023 2:18 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Kathryn:

Thank you for your email. I understand. Can you advise what day(s) the Commissioners will be meeting between now and July 5? I would like to be able to file a response before they meet again for their consideration if at all possible.

Thank you in advance!

Brent

Cc: Jim Jackson, Martha, Daquiri

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Tuesday, June 20, 2023 2:11 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>

Cc: Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Brent, if a motion is filed, then I will submit it to the Commission for consideration. I do not know whether it would be decided within the 21-day period. My commissioners are all part-time state employees, and the Commission only has two hearing days per month – while the Commission operates like a court in many ways, the staffing set-up is very different.

Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Friday, June 16, 2023 8:13 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Thank you, Kathryn.

I have one other procedural question. Rule 56 provides that the Commission may enlarge the time period for a defending party to respond to a SJ motion. Obviously if I were to file that I would be asking for relief from the SJ motion response timeline. Am I to understand that if I were to file such a motion that it would be heard on the *same day* as the actual motion for SJ? I ask because that seems to abrogate the purpose of the rule if I am forced to also file a protective motion for SJ in order to not violate the 21-day rule. I believe the grounds I would raise in a motion for an expansion of time would more than satisfy the Commission that an expansion of time would be permitted.

Can you tell me if the Commission would decide on my motion for an expanded response time within the upcoming 21-day period? I believe in all matters of fairness I should be able to use Rule 56 to obtain a decision on an expansion for time before also being required to file my response to SJ.

Thank you in advance!

Brent

Cc: Jim Jackson, Daiquiri

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Thursday, June 15, 2023 5:29 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Brent and Jim, the hearing letter specified that the scope is on all pending motions. The parties should be ready to argue the motion for partial summary judgment on August 11, but a party can raise the issue then as to whether the hearing on the MPSJ is premature or not for the Commission to consider.

If the Commission decides that the motion is premature, then I will have a spot on the November 8 docket set aside for a motions hearing.

Thanks,
Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Thursday, June 15, 2023 2:03 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Kathryn:

For reasons that will be evident upon the filling of my next responsive pleading, I believe the Motion for Summary Judgment itself will be moot and the question of liability will absolutely be one that will be in dispute, so I would respectfully ask that you hold off on scheduling a hearing on the Summary Judgment motion until I submit my response.

Thanks,

Brent

Cc: Jim Jackson, Daiquiri

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Thursday, June 15, 2023 1:17 PM
To: Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Subject: Re: Hudson v. DHS, # 230641; Claimant's Motion for SJ

[EXTERNAL SENDER]
Kathryn,
I think it would make sense & save time to have the MSJ on Liability heard on August 11.
This is a simple rear end collision.
The motion to compel relates to the decedent's medical treatment prior to the accident, which is relevant to the issue of damages not liability.

The motion for severance, abeyance, et al., will become moot if the Commission finds that no genuine issue of material fact exists regarding the cause of the accident.
I think the Commission should hear & rule on the MSJ on Liability on August 11 which will clarify these issues.
Thank you,

Jim

Jim Jackson
Attorney at Law
700 West Broadway St: Suite 2
North Little Rock, AR 72114
(501) 823-3610

On Jun 15, 2023, at 12:23 PM, Brent Gasper <brent.gasper@dhs.arkansas.gov> wrote:

I would agree on that date.

Thanks, Kathryn!

brent

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Thursday, June 15, 2023 11:19 AM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Brent and Jim, if the parties are in agreement, I can schedule a hearing on the motion for partial summary judgment for November 8.

Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Thursday, June 15, 2023 10:57 AM
To: Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Kathryn:

We are in receipt of Claimant's Motion for Summary judgment.

From a logistical and procedural standpoint, DHS requests that any hearing the Commission may set on the Motion for Summary Judgment be set ***after*** the August 11 date already set for the several pending motions before the Commission. The motions being decided will have a direct effect on the Summary Judgment motion filed by Claimants as well as the response that will be forthcoming from DHS – including, for instance, whether the claims should be severed and held in abeyance, as well as the motion to compel discovery. It is Respondent's belief that it will prevail on its motion to compel and that the sought after discovery will directly impact the question of liability that Claimants argue is already established (it very much is not).

If the Commission would like a formal motion for this request I'm happy to draft and file one. However, if Jim were to agree to a subsequent and separate date for the Summary Judgment motion that may be the most efficient way to resolve this scheduling request. I believe a date in late October or early November would give DHS enough time to both initially respond to the motion as well as supplement that response should a favorable ruling on its motion to compel result after the August 11 hearing and the sought after Discovery is finally made available to DHS.

DHS will be responding directly to the Motion for Summary Judgment in a timely manner as is required but to attempt to hear that motion on the same day as several other matters that would have a direct impact on that very motion would substantially prejudice Respondent.

I look forward to hearing back from you.

Brent

Cc: Jim Jackson, Daiquiri

Brent P. Gasper
Assistant Deputy Chief Counsel

Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950
Brent.Gasper@dhs.arkansas.gov

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From: Martha Cox <mcox@jimjacksonatty.com>
Sent: Wednesday, June 14, 2023 3:36 PM
To: ASCC Pleadings <ASCCPleadings@arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, dec'd & Permanent Guardian of [redacted], Minor Children v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641

[EXTERNAL SENDER]
Please find attached a letter to Kathryn Irby from Attorney Jim Jackson, the claimant's Motion for Partial Summary Judgment on the Issue of Liability, and the claimant's Brief in Support of Motion for Partial Summary Judgment on the Issue of Liability for filing in the above-referenced case.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

From: Kathryn Irby
To: Brent Gasper; Jim Jackson
Cc: Daiquiri Carter
Subject: RE: Subpoena duces tecum request
Date: Tuesday, June 20, 2023 2:26:00 PM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg

You can use that pdf. If you had seen any typos or anything, then I would send a revised subpoena to you before you served it on TracFone. I try to cut and paste to avoid any typos, but you never know! Appreciate the second set of eyes on the subpoena.

Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Tuesday, June 20, 2023 2:24 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Subpoena duces tecum request

I think that looks great. Is this the PDF we should used then? Or do you need to send a final copy?

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Tuesday, June 20, 2023 2:21 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Subpoena duces tecum request

Please see attached subpoena. Please doublecheck and let me know if you see any issues.

Thanks,
Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Tuesday, June 20, 2023 2:16 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Subpoena duces tecum request

Kathryn:

Thank you for the email. Please find revised language below. Thanks!

"Any and all records, documentation, and other information associated with the phone number [redacted] for the user/account holder Jacqueline (Jackie) Ashcraft (DOB [redacted] deceased) for

the dates June 6, 2021, through June 11, 2021. Information and documentation should contain and include without limitation a complete call log, call detail records, text message records, and the text of the messages themselves. Upon information and belief this phone number and account owned by Jacqueline (Jackie) Ashcraft (DOB [redacted]; deceased) is currently inactive".

Brent

Cc: Jim, Daiquiri

Brent P. Gasper
Assistant Deputy Chief Counsel

Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950
Brent.Gasper@dhs.arkansas.gov

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From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Tuesday, June 20, 2023 2:13 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Subpoena duces tecum request

Brent, in light of Jim's agreement to the 5 days, will you please revise this to specify the days you're looking for?

"Any and all records, documentation, and other information associated with the phone number [redacted] for the user/account holder Jacqueline (Jackie) Ashcraft (DOB [redacted]; deceased) for the calendar year 2021. Information and documentation should contain and include without

limitation a complete call log, call detail records, text message records, and the text of the messages themselves. Upon information and belief this phone number and account owned by Jacqueline (Jackie) Ashcraft (DOB [redacted]; deceased) is currently inactive".

Thanks,
Kathryn

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Monday, June 19, 2023 7:50 AM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Subpoena duces tecum request

I was at the Bar meeting in Hot Springs last week and I overlooked this e-mail.
I have no objection to the 5 day period.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Thursday, June 15, 2023 8:15 AM
To: Jim Jackson <jim@jimjacksonatty.com>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Subpoena duces tecum request

Kathryn:

I would agree to the five (5) days prior if Jim is agreeable. There will be testimony that Ms. Ashcraft was ill several days prior to the accident and those records may lead to discoverable evidence as to whom she may have called and talked to about her illness, including potential medical providers.

Thanks,

brent

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Wednesday, June 14, 2023 2:11 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Subpoena duces tecum request

[EXTERNAL SENDER]
Kathryn,
I would like to request that you not issue this subpoena for Ms. Ashcraft's phone at this time.
I am going to file a Motion to Quash based upon the scope of the time requested which is all of 2021.
If Brent will agree to limit the scope of the data requested in the Subpoena to June 10 & 11, 2021, I will not file a Motion to Quash.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Tuesday, June 13, 2023 10:29 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Jim Jackson <jim@jimjacksonatty.com>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: Subpoena duces tecum request

Kathryn:

I have another subpoena duces tecum I would request the Commission prepare in light of the discovery answers filed yesterday by two of the claimants. I may have a couple more later as I go through what was provided but for now I am requesting

"Any and all records, documentation, and other information associated with the phone number [redacted] for the user/account holder Jacqueline (Jackie) Ashcraft (DOB [redacted] deceased) for the calendar year 2021. Information and documentation should contain and include without limitation a complete call log, call detail records, text message records, and the text of the messages themselves. Upon information and belief this phone number and account owned by Jacqueline (Jackie) Ashcraft (DOB [redacted] deceased) is currently inactive".

The subpoena should be sent to:

TracFone Wireless, Inc.
Subpoena Compliance Attn: Executive Resolution Dept.
P.O. Box 160340 Hialeah, FL 33016
Fax number: 1-866-809-7134

Thank you in advance!

Brent

Cc: Jim Jackson, Daiquiri

Brent P. Gasper
Assistant Deputy Chief Counsel

Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950
Brent.Gasper@dhs.arkansas.gov

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From: Kathryn Irby
To: Brent Gasper
Subject: RE: Hudson v. DHS; Subpoenas Duces Tecum
Date: Tuesday, June 20, 2023 8:01:00 PM
Attachments: Hudson -- 230641 -- Google subpoena form.pdf
Hudson -- 230641 -- Paris PD subpoena form.pdf

Please see attached. Let me know if you see any issues.

Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Tuesday, June 13, 2023 2:22 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Subject: Hudson v. DHS; Subpoenas Duces Tecum

Kathryn:

Please find two more entities whom I'd like to get a subpoena duces tecum prepared by the Commission. Specifically, we are requesting:

1, Copies of any and all emails sent to received by the gmail address [redacted] for the month of June 2021.

- The corporation is Google North America Inc. A subpoena duces tecum for a complete investigative file and/or any other record, including dispatch logs and recordings of any 911 or other emergency calls, kept by the Logan County Sheriff's Office or other entity resulting from the June 11, 2021, accident on Highway 22, in Logan County, involving Jacqueline Ashcraft, [redacted].
- The subpoena for this information can be sent to:
    a. Corporation Service Company, 300 SPRING BUILDING, STE 900 300 S. SPRING ST LITTLE ROCK, AR 72201

2. The complete investigative file and/or any other record, including dispatch logs and recordings of any 911 or other emergency calls, kept by the Logan County Sheriff's Office or other entity resulting from the June 11, 2021, accident on Highway 22, in Logan County, involving Jacqueline Ashcraft, [redacted]

- The subpoena for this information can be sent to:
    a. Robin Ellington, Chief, Paris Police Department, 1810 E Walnut St., Paris AR 72855

Thank you in advance!

Brent

Cc: Jim Jackson, Daiquiri

Brent P. Gasper
Assistant Deputy Chief Counsel

Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950
Brent.Gasper@dhs.arkansas.gov

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Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted], Minor Children, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO: Google North America Inc.
c/o Corporation Service Company
300 South Spring Street, Suite 900
Little Rock, Arkansas 72201

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

Copies of any and all emails sent to received by the gmail address [redacted] for the month of June 2021.



June 20, 2023

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Date

PROOF OF SERVICE

_____

SERVED ON (Print Name)

_____ _____

DATE PLACE

_____

MANNER OF SERVICE

_____ _____

SERVED BY (Print Name) TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ _____

DATE SIGNATURE OF SERVER

_____

ADDRESS OF SERVER

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d).

A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted], Minor Children, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO: Chief Robin Ellington
Paris Police Department
1810 East Walnut Street
Paris, Arkansas 72855

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

The complete investigative file and/or any other record, including dispatch logs and recordings of any 911 or other emergency calls, kept by the Logan County Sheriff's Office or other entity resulting from the June 11, 2021, accident on Highway 22, in Logan County, involving Jacqueline Ashcraft, DOB [redacted].



June 20, 2023

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Date

PROOF OF SERVICE

_____

SERVED ON (Print Name)

_____ _____

DATE PLACE

_____

MANNER OF SERVICE

_____ _____

SERVED BY (Print Name) TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ _____

DATE SIGNATURE OF SERVER

_____

ADDRESS OF SERVER

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d).

A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

From: Kathryn Irby
To: Jim Jackson; Brent Gasper
Subject: RE: Hudson v. DHS, # 230641; Claimant"s Motion for SJ
Date: Wednesday, June 21, 2023 11:03:00 AM

Brent, I cannot give legal advice – if you decide to file something under the Commission's rules (which can be found on our website) and/or the Arkansas Rules of Civil Procedure, then the Commission will take it up in due course after Jim has had an opportunity to respond.

Thanks,
Kathryn

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Wednesday, June 21, 2023 8:34 AM
To: Brent Gasper <brent.gasper@dhs.arkansas.gov>; Kathryn Irby <kathryn.irby@arkansas.gov>
Subject: Re: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Kathryn,
I understand Brent sent his email to you asking for your response.
I would like to share my thoughts.
If Brent is wanting to file something "under seal" that prevents the public from seeing the document, I do not have an issue with signing a protective order that would prevent the public from access to the document.
However, if Brent is requesting to file a pleading that opposing counsel is not allowed to see, then I would certainly object to that.
I am not aware of any section in the Arkansas Rules of Civil Procedure that would permit such a filing.
It is my opinion that such a filing would violate my client's right to due process.
Thank you for allowing me to share my thoughts.
Jim

Jim Jackson
Attorney at Law
700 West Broadway St: Suite 2
North Little Rock, AR 72114
(501) 823-3610

> On Jun 20, 2023, at 2:41 PM, Brent Gasper <brent.gasper@dhs.arkansas.gov> wrote:
>
> Kathryn, I'm copying Jim here so as to not violate any rules on ex parte communications even though it risks exposing my legal strategy.
>
> That being said, I need to know if the Commission has in place any method for me to file a pleading under seal. Specifically, I intend to file a motion to strike the summary

judgment motion as untimely and premature as well as an alternative motion for enlargement of time to respond.

However, it does not appear that the Commission will be in any position to take up either of these motions prior to July 5 when my time to respond to the SJ motion runs out. As such, I would like to be able to file a formal response to the SJ motion under seal and/or under a protective order so that if the Commission grants either my motion to strike or my motion for enlarged period of time I can withdraw my formal response without having to divulge its contents – which I contend will have to contain impeachment evidence and other evidence that I am still developing. This evidence will easily defeat the SJ motion but I should not have to divulge it at this time if the SJ motion is ultimately struck or if I'm ultimately granted more time to formally respond.

If, however, the Commission does not grant either of my motions, by filing under seal or protective order I will have filed my formal response within the required period of time and it can then be given to the defense for a formal replay, if any.

Does this make sense?

I appreciated your time on this issue in advance!

Brent

Cc: Jim Jackson, Daiquiri

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Tuesday, June 20, 2023 2:23 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Brent, the Commission met last Thursday and Friday. There are no other scheduled meetings between now and July 5.

Thanks,
Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Tuesday, June 20, 2023 2:18 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>

Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Kathryn:

Thank you for your email. I understand. Can you advise what day(s) the Commissioners will be meeting between now and July 5? I would like to be able to file a response before they meet again for their consideration if at all possible.

Thank you in advance!

Brent

Cc: Jim Jackson, Martha, Daquiri

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Tuesday, June 20, 2023 2:11 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Brent, if a motion is filed, then I will submit it to the Commission for consideration. I do not know whether it would be decided within the 21-day period. My commissioners are all part-time state employees, and the Commission only has two hearing days per month – while the Commission operates like a court in many ways, the staffing set-up is very different.

Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Friday, June 16, 2023 8:13 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Thank you, Kathryn.

I have one other procedural question. Rule 56 provides that the Commission may enlarge the time period for a defending party to respond to a SJ motion. Obviously if I were to file that I would be asking for relief from the SJ motion response timeline. Am I to understand that if I were to file such a motion that it would be heard on the *same day* as the actual motion for SJ? I ask because that seems to abrogate the purpose of the rule if I am forced to also file a protective motion for SJ in order to not violate the

21-day rule. I believe the grounds I would raise in a motion for an expansion of time would more than satisfy the Commission that an expansion of time would be permitted.

Can you tell me if the Commission would decide on my motion for an expanded response time within the upcoming 21-day period? I believe in all matters of fairness I should be able to use Rule 56 to obtain a decision on an expansion for time before also being required to file my response to SJ.

Thank you in advance!

Brent

Cc: Jim Jackson, Daiquiri

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Thursday, June 15, 2023 5:29 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Brent and Jim, the hearing letter specified that the scope is on all pending motions. The parties should be ready to argue the motion for partial summary judgment on August 11, but a party can raise the issue then as to whether the hearing on the MPSJ is premature or not for the Commission to consider.

If the Commission decides that the motion is premature, then I will have a spot on the November 8 docket set aside for a motions hearing.

Thanks,
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From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Thursday, June 15, 2023 2:03 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
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Kathryn:

For reasons that will be evident upon the filling of my next responsive pleading, I believe the Motion for Summary Judgment itself will be moot and the question of

liability will absolutely be one that will be in dispute, so I would respectfully ask that you hold off on scheduling a hearing on the Summary Judgment motion until I submit my response.

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[EXTERNAL SENDER]
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I think it would make sense & save time to have the MSJ on Liability heard on August 11.
This is a simple rear end collision.
The motion to compel relates to the decedent's medical treatment prior to the accident, which is relevant to the issue of damages not liability.
The motion for severance, abeyance, et al., will become moot if the Commission finds that no genuine issue of material fact exists regarding the cause of the accident.
I think the Commission should hear & rule on the MSJ on Liability on August 11 which will clarify these issues.
Thank you,

Jim

Jim Jackson
Attorney at Law
700 West Broadway St: Suite 2
North Little Rock, AR 72114
(501) 823-3610

> On Jun 15, 2023, at 12:23 PM, Brent Gasper <brent.gasper@dhs.arkansas.gov> wrote:
>
> I would agree on that date.

Thanks, Kathryn!

brent

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Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Brent and Jim, if the parties are in agreement, I can schedule a hearing on the motion for partial summary judgment for November 8.

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Kathryn:

We are in receipt of Claimant's Motion for Summary judgment.

From a logistical and procedural standpoint, DHS requests that any hearing the Commission may set on the Motion for Summary Judgment be set ***after*** the August 11 date already set for the several pending motions before the Commission. The motions being decided will have a direct effect on the Summary Judgment motion filed by Claimants as well as the response that will be forthcoming from DHS – including, for instance, whether the claims should be severed and held in abeyance, as well as the motion to compel discovery. It is Respondent's belief that it will prevail on its motion to compel and that the sought after discovery will directly impact the question of liability that Claimants argue is already established (it very much is not).

If the Commission would like a formal motion for this request I'm happy

to draft and file one. However, if Jim were to agree to a subsequent and separate date for the Summary Judgment motion that may be the most efficient way to resolve this scheduling request. I believe a date in late October or early November would give DHS enough time to both initially respond to the motion as well as supplement that response should a favorable ruling on its motion to compel result after the August 11 hearing and the sought after Discovery is finally made available to DHS.

DHS will be responding directly to the Motion for Summary Judgment in a timely manner as is required but to attempt to hear that motion on the same day as several other matters that would have a direct impact on that very motion would substantially prejudice Respondent.

I look forward to hearing back from you.

Brent

Cc: Jim Jackson, Daiquiri

Brent P. Gasper
Assistant Deputy Chief Counsel

Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950
Brent.Gasper@dhs.arkansas.gov

This email may contain sensitive or confidential information.

CONFIDENTIALITY NOTICE: The information contained in this email message and any attachment are the property of the State of Arkansas and may be protected by state and federal laws governing disclosure of private information. It is intended solely for the use of the entity to whom this email is addressed. If you are not the intended recipient, you are hereby notified that reading, copying, or distributing this transmission is STRICTLY PROHIBITED. The sender has not waived any applicable privilege by sending the accompanying transmission. If you have received this transmission in error, please notify the sender by return email and delete the message and attachment(s) from your system.

From: Martha Cox <mcox@jimjacksonatty.com>
Sent: Wednesday, June 14, 2023 3:36 PM
To: ASCC Pleadings <ASCCPleadings@arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, dec'd & Permanent Guardian of [redacted] Minor Children v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641

[EXTERNAL SENDER]
Please find attached a letter to Kathryn Irby from Attorney Jim Jackson, the claimant's Motion for Partial Summary Judgment on the Issue of Liability, and the claimant's Brief in Support of Motion for Partial Summary Judgment on the Issue of Liability for filing in the above-referenced case.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

From: Kathryn Irby
To: Brent Gasper
Subject: RE: Hudson v. DHS; Subpoenas Duces Tecum
Date: Wednesday, June 21, 2023 11:07:00 AM
Attachments: Hudson -- 230641 -- Paris PD subpoena form.pdf

No worries – see attached.

Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Wednesday, June 21, 2023 8:22 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Subject: RE: Hudson v. DHS; Subpoenas Duces Tecum

I think its probably my error but the police one is to paris PD and in the text it says Logan County SO. Can you change that to Paris Police Dept?

Thx

brent

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Tuesday, June 20, 2023 8:01 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Subject: RE: Hudson v. DHS; Subpoenas Duces Tecum

Please see attached. Let me know if you see any issues.

Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Tuesday, June 13, 2023 2:22 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Subject: Hudson v. DHS; Subpoenas Duces Tecum

Kathryn:

Please find two more entities whom I'd like to get a subpoena duces tecum prepared by the Commission. Specifically, we are requesting:

1, Copies of any and all emails sent to received by the gmail address [redacted] for the month of June 2021.

- The corporation is Google North America Inc. A subpoena duces tecum for a complete investigative file and/or any other record, including dispatch logs and recordings of any

911 or other emergency calls, kept by the Logan County Sheriff's Office or other entity resulting from the June 11, 2021, accident on Highway 22, in Logan County, involving Jacqueline Ashcraft, [redacted]

- The subpoena for this information can be sent to:
    a. Corporation Service Company, 300 SPRING BUILDING, STE 900 300 S. SPRING ST LITTLE ROCK, AR 72201

2. The complete investigative file and/or any other record, including dispatch logs and recordings of any 911 or other emergency calls, kept by the Logan County Sheriff's Office or other entity resulting from the June 11, 2021, accident on Highway 22, in Logan County, involving Jacqueline Ashcraft, [redacted]

- The subpoena for this information can be sent to:
    a. Robin Ellington, Chief, Paris Police Department, 1810 E Walnut St., Paris AR 72855

Thank you in advance!

Brent

Cc: Jim Jackson, Daiquiri

Brent P. Gasper
Assistant Deputy Chief Counsel

Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950
Brent.Gasper@dhs.arkansas.gov

This email may contain sensitive or confidential information.

CONFIDENTIALITY NOTICE: The information contained in this email message and any attachment are the property of the State of Arkansas and may be protected by state and federal laws governing disclosure of private information. It is intended solely for the use of the entity to whom this email is addressed. If you are not the intended recipient, you are hereby notified that reading, copying, or distributing this transmission is STRICTLY PROHIBITED. The sender has not waived any applicable privilege by sending the accompanying transmission. If you have received this transmission in error, please notify the sender by return email and delete the message and attachment(s) from your system.

Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted] Minor Children, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO: Chief Robin Ellington
Paris Police Department
1810 East Walnut Street
Paris, Arkansas 72855

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

The complete investigative file and/or any other record, including dispatch logs and recordings of any 911 or other emergency calls, kept by the Paris Police Department or other entity resulting from the June 11, 2021, accident on Highway 22, in Logan County, involving Jacqueline Ashcraft, DOB [redacted]

June 20, 2023

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Date

PROOF OF SERVICE

_____

SERVED ON (Print Name)

_____ _____

DATE PLACE

_____

MANNER OF SERVICE

_____ _____

SERVED BY (Print Name) TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ _____

DATE SIGNATURE OF SERVER

_____

ADDRESS OF SERVER

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d).

A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

From: Kathryn Irby
To: Brent Gasper; Jim Jackson
Subject: RE: Hudson v. DHS, # 230641; Claimant"s Motion for SJ
Date: Wednesday, June 21, 2023 1:14:00 PM

Brent, the Commission does not generally meet outside of its normal schedule, but you can request whatever relief you are wanting in a motion, including expedited review, and the Commission will consider it in due course.

Thanks,
Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Wednesday, June 21, 2023 12:05 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Kathryn:

Yes, I understand you cannot offer legal advice. I was only wanting to know if the Commission had a procedure in place for such requests.

Similarly, does the Commission have in place a method for a litigant to request immediate consideration of a motion? I understand their part-time nature as you explained previously but, again, is there a current method for a litigant to get something in front of the Commission before their next meeting?

Thanks in advance,

Brent

Cc: Jim

From: Kathryn Irby <kathryn.irby@arkansas.gov>
Sent: Wednesday, June 21, 2023 11:04 AM
To: Jim Jackson <jim@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Brent, I cannot give legal advice – if you decide to file something under the Commission's rules (which can be found on our website) and/or the Arkansas Rules of Civil Procedure, then the Commission will take it up in due course after Jim has had an opportunity to respond.

Thanks,
Kathryn

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Wednesday, June 21, 2023 8:34 AM
To: Brent Gasper <brent.gasper@dhs.arkansas.gov>; Kathryn Irby <kathryn.irby@arkansas.gov>
Subject: Re: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Kathryn,
I understand Brent sent his email to you asking for your response.
I would like to share my thoughts.
If Brent is wanting to file something "under seal" that prevents the public from seeing the document, I do not have an issue with signing a protective order that would prevent the public from access to the document.
However, if Brent is requesting to file a pleading that opposing counsel is not allowed to see, then I would certainly object to that.
I am not aware of any section in the Arkansas Rules of Civil Procedure that would permit such a filing.
It is my opinion that such a filing would violate my client's right to due process.
Thank you for allowing me to share my thoughts.
Jim

Jim Jackson
Attorney at Law
700 West Broadway St: Suite 2
North Little Rock, AR 72114
(501) 823-3610

> On Jun 20, 2023, at 2:41 PM, Brent Gasper <brent.gasper@dhs.arkansas.gov> wrote:
>
> Kathryn, I'm copying Jim here so as to not violate any rules on ex parte communications even though it risks exposing my legal strategy.
>
> That being said, I need to know if the Commission has in place any method for me to file a pleading under seal. Specifically, I intend to file a motion to strike the summary judgment motion as untimely and premature as well as an alternative motion for enlargement of time to respond.
>
> However, it does not appear that the Commission will be in any position to take up either of these motions prior to July 5 when my time to respond to the SJ motion runs out. As such, I would like to be able to file a formal response to the SJ motion under seal and/or under a protective order so that if the Commission grants either my motion to strike or my motion for enlarged period of time I can withdraw my formal response without having to divulge its contents – which I contend will have to contain impeachment evidence and other evidence that I am still developing. This evidence will easily defeat the SJ motion but I should not have to divulge it at this time if the SJ motion is ultimately struck or if I'm ultimately granted more time to formally respond.

If, however, the Commission does not grant either of my motions, by filing under seal or protective order I will have filed my formal response within the required period of time and it can then be given to the defense for a formal replay, if any.

Does this make sense?

I appreciated your time on this issue in advance!

Brent

Cc: Jim Jackson, Daiquiri

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Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Brent, the Commission met last Thursday and Friday. There are no other scheduled meetings between now and July 5.

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Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Kathryn:

Thank you for your email. I understand. Can you advise what day(s) the Commissioners will be meeting between now and July 5? I would like to be able to file a response before they meet again for their consideration if at all possible.

Thank you in advance!

Brent

Cc: Jim Jackson, Martha, Daquiri

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Tuesday, June 20, 2023 2:11 PM
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Subject: RE: Hudson v. DHS, # 230641; Claimant's Motion for SJ

Brent, if a motion is filed, then I will submit it to the Commission for consideration. I do not know whether it would be decided within the 21-day period. My commissioners are all part-time state employees, and the Commission only has two hearing days per month – while the Commission operates like a court in many ways, the staffing set-up is very different.

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Attorney at Law
700 West Broadway St: Suite 2
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(501) 823-3610

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<jim@jimjacksonatty.com>
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We are in receipt of Claimant's Motion for Summary judgment.

From a logistical and procedural standpoint, DHS requests that any hearing the Commission may set on the Motion for Summary Judgment be set ***after*** the August 11 date already set for the several pending motions before the Commission. The motions being decided will have a direct effect on the Summary Judgment motion filed by Claimants as well as the response that will be forthcoming from DHS – including, for instance, whether the claims should be severed and held in abeyance, as well as the motion to compel discovery. It is Respondent's belief that it will prevail on its motion to compel and that the sought after discovery will directly impact the question of liability that Claimants argue is already established (it very much is not).

If the Commission would like a formal motion for this request I'm happy to draft and file one. However, if Jim were to agree to a subsequent and separate date for the Summary Judgment motion that may be the most efficient way to resolve this scheduling request. I believe a date in late October or early November would give DHS enough time to both initially respond to the motion as well as supplement that response should a favorable ruling on its motion to compel result after the August 11 hearing and the sought after Discovery is finally made available to DHS.

DHS will be responding directly to the Motion for Summary Judgment in a timely manner as is required but to attempt to hear that motion on the same day as several other matters that would have a direct impact on

that very motion would substantially prejudice Respondent.

I look forward to hearing back from you.

Brent

Cc: Jim Jackson, Daiquiri

Brent P. Gasper
Assistant Deputy Chief Counsel

Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950
Brent.Gasper@dhs.arkansas.gov

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From: Martha Cox <mcox@jimjacksonatty.com>
Sent: Wednesday, June 14, 2023 3:36 PM
To: ASCC Pleadings <ASCCPleadings@arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>

Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, dec'd & Permanent Guardian of [redacted] Minor Children v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641

[EXTERNAL SENDER]
Please find attached a letter to Kathryn Irby from Attorney Jim Jackson, the claimant's Motion for Partial Summary Judgment on the Issue of Liability, and the claimant's Brief in Support of Motion for Partial Summary Judgment on the Issue of Liability for filing in the above-referenced case.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

From: Martha Cox
To: ASCC Pleadings; Kathryn Irby
Cc: Brent Gasper; Daiquiri Carter; Jim Jackson
Subject: RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, dec"d & Permanent Guardian of [redacted] a Minor v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641
Date: Wednesday, June 21, 2023 4:07:31 PM
Attachments: Claimant"s Response to Respondent"s Motion to Sever & Motion to Hold in Abeyance 6-21-2023.pdf

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Please find attached the claimant's Response to Respondent's Motion to Sever and Motion to Hold in Abeyance for filing in the above-referenced case.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] a minor — **CLAIMANT**

v. **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S RESPONSE TO RESPONDENT'S MOTION TO SEVER AND MOTION TO HOLD IN ABEYANCE

Comes now Haley Hudson, as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Permanent Legal Guardian of [redacted] a minor, by and through her attorney, Jim Jackson, and for her Response to the Respondent's Motion to Sever and Motion to Hold in Abeyance, states:

BACKGROUND

1. Jacqueline Ashcraft ("Ashcraft") was a 50-year-old mother who died as the result of a rear-end collision caused by the respondent's employee. Ashcraft's two minor daughters, [redacted] ages 14 and 10 at the time of the wreck, were passengers in the back seat of Ashcraft's car. Haley Hudson ("Hudson") is Ashcraft's oldest child. Hudson is now the Permanent Guardian of her two younger sisters and the Special Administratrix of Ashcraft's estate.

2. There are two claims being asserted from this wreck. One is a wrongful death claim for the Estate of Jacqueline Ashcraft, deceased. The second is a bodily injury claim for [redacted] based on a traumatic brain injury/concussion injury.

ARGUMENT

3. The Respondent's Motions are based upon a hypothetical that has no basis in fact or law. The hypothetical is that Haley Hudson, in her capacity as Permanent Guardian, will bring a lawsuit against Haley Hudson, in her capacity as Special Administratrix. The respondent has presented no facts that can be considered evidence, no Affidavits, no deposition testimony, not even the name of an eyewitness, to support the allegation that Jacqueline Ashcraft was negligent in operating her motor vehicle. The respondent has only made speculative statements with no basis of any proof that Ashcraft was "parked on the shoulder" or otherwise driving negligently.

4. The Respondent's argument that this case should be "Severed" and "Held in Abeyance" while the minor child brings a separate tort claim against her mother's estate has no legal basis. Even if there was a single iota of a fact that would allow any passenger in the Ashcraft vehicle to bring a bodily injury claim against Ashcraft, the Ashcraft children are legally precluded from bringing a tort claim against their mother by the long-standing "Parental Immunity" doctrine.

5. The "Parental Immunity" doctrine bars a child from bringing a lawsuit for a tort claim against their parent. Arkansas courts have long recognized that one cannot imagine what folly would occur if minor children were permitted to bring a tort claim against their mother and father. The Parental Immunity doctrine was first discussed in 1938 in *Rambo v. Rambo*, 114 S.W.2d 468, 195 Ark. 832 (Ark. 1938). The *Rambo* court held that a child and his mother were legally barred from bringing a tort claim sounding in negligence against the father based on this doctrine. More recently, the Arkansas Supreme Court upheld the Parental Immunity doctrine in a car accident case. The Court held:

> In *Carpenter v. Bishop*, 290 Ark. 424, 720 S.W.2d 299 (1986), we repeated that a parent . . . is immune from suit for an unintentional injury to his child, but not for an intentional injury to his child."

Spears v. Spears, 3 S.W.3d 691, 339 Ark. 162 (Ark. 1999)

The Supreme Court further clarified this holding ten years later in another car accident case:

> Parental immunity was created judicially in Arkansas in *Rambo v. Rambo*, 195 Ark. 832, 114 S.W.2d 468 (1938), and proscribes an unemancipated minor from maintaining an action for an involuntary tort against his parent. Under current Arkansas law, two recognized exceptions to the parental immunity exist: (1) when the parent has committed an intentional or willful tort, *see Attwood v. Estate of Attwood*, 276 Ark. 230, 633 S.W.2d 366 (1982); (2) when the suit is a direct action against an insurer and the damages sought are uninsured motorist benefits, *see Fields v. Southern Farm Bureau Cas. Ins. Co.*, 350 Ark. 75, 87 S.W.3d 224 (2002).

Greenwood v. Anderson, 2009 Ark. 360, 324 S.W.3d 324 (Ark. 2009).

6. Ashcraft's automobile insurance policy did not carry "uninsured motorist" UM coverage. Attached as Exhibit 1 is a letter from her insurance agent confirming that Ashcraft's vehicle only had liability coverage.

7. The Ashcraft children are legally and factually barred from bringing a claim against their mother's estate.

WHEREFORE, the Claimant requests that the Respondent's Motion to Sever and Motion to Hold in Abeyance be denied, as the Parental Immunity doctrine is a bar to the Respondent's novel theory that Haley Hudson, in her capacity as Permanent Guardian, will bring a lawsuit against Haley Hudson, in her capacity as Special Administratrix.

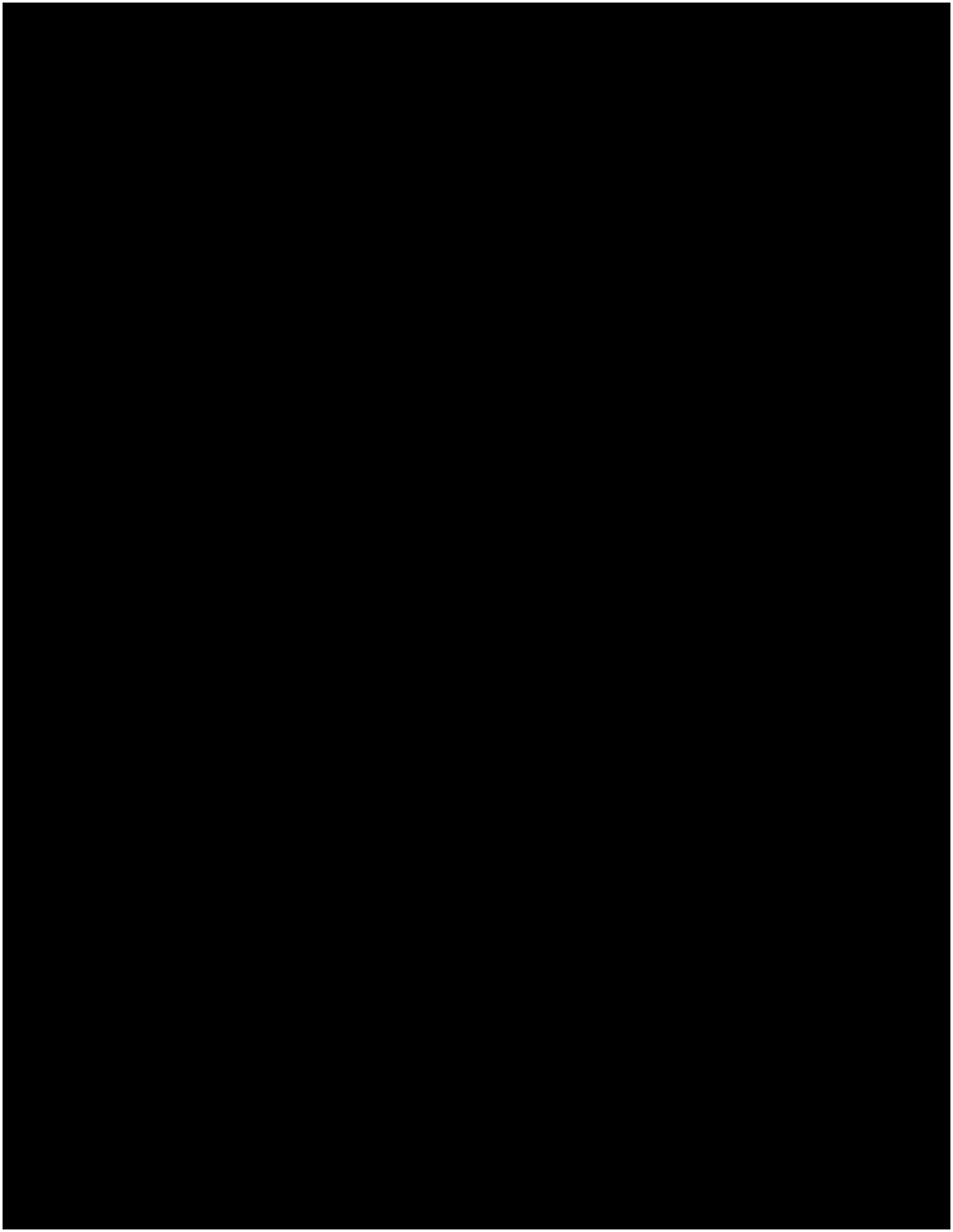
Respectfully Submitted,

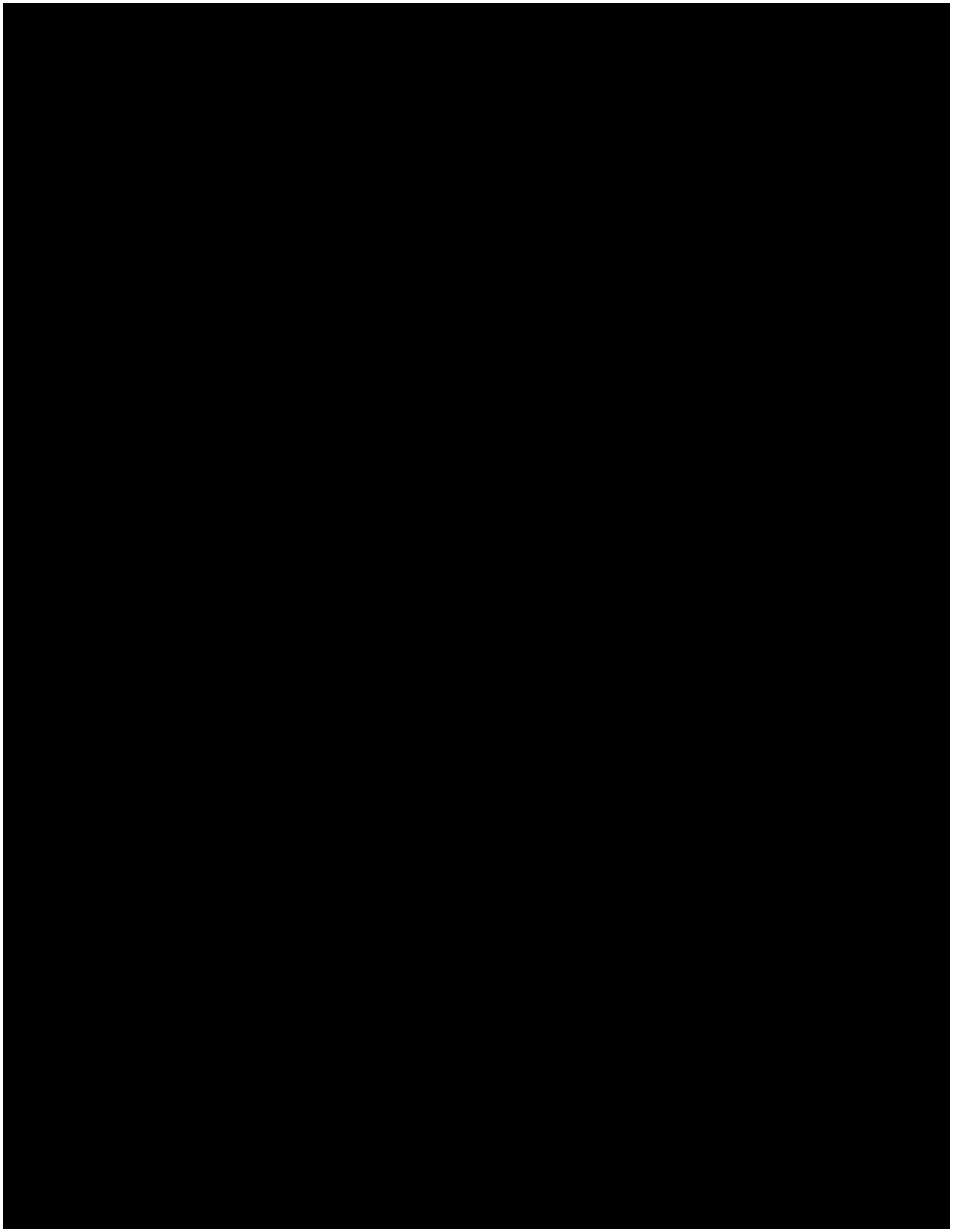
Jim R. Jackson, AR Bar #93209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
Phone: 501-823-3610
Fax: 501-823-3611
Jim@JimJacksonatty.com

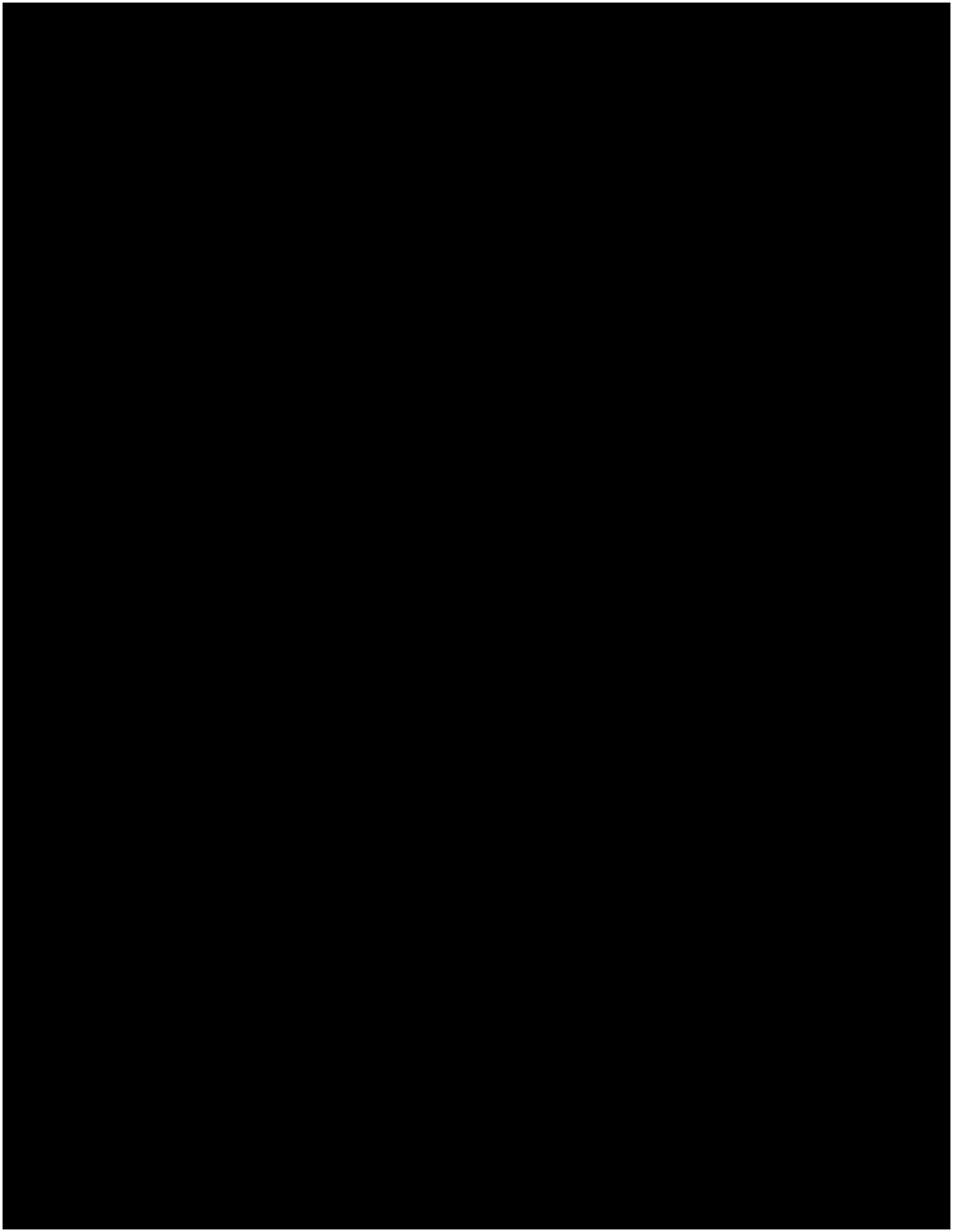
CERTIFICATE OF SERVICE

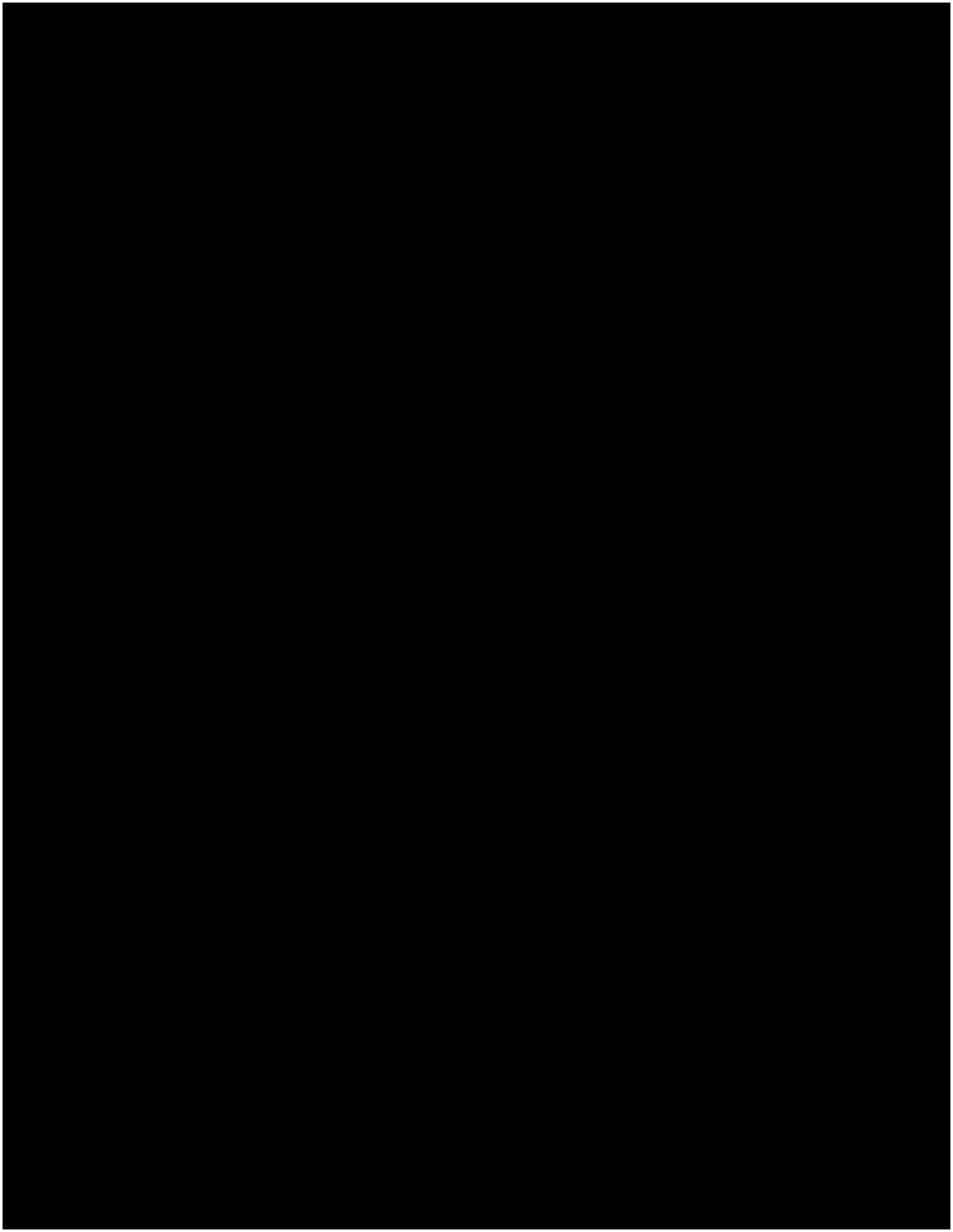
I, Jim R. Jackson, hereby certify that I have electronically filed this pleading with the Clerk of the Arkansas Claims Commission and served the Respondent's attorney, Brent P. Gasper, via email, with the Claimant's Response to Motion to Sever and Motion to Hold in Abeyance on June 21, 2023.

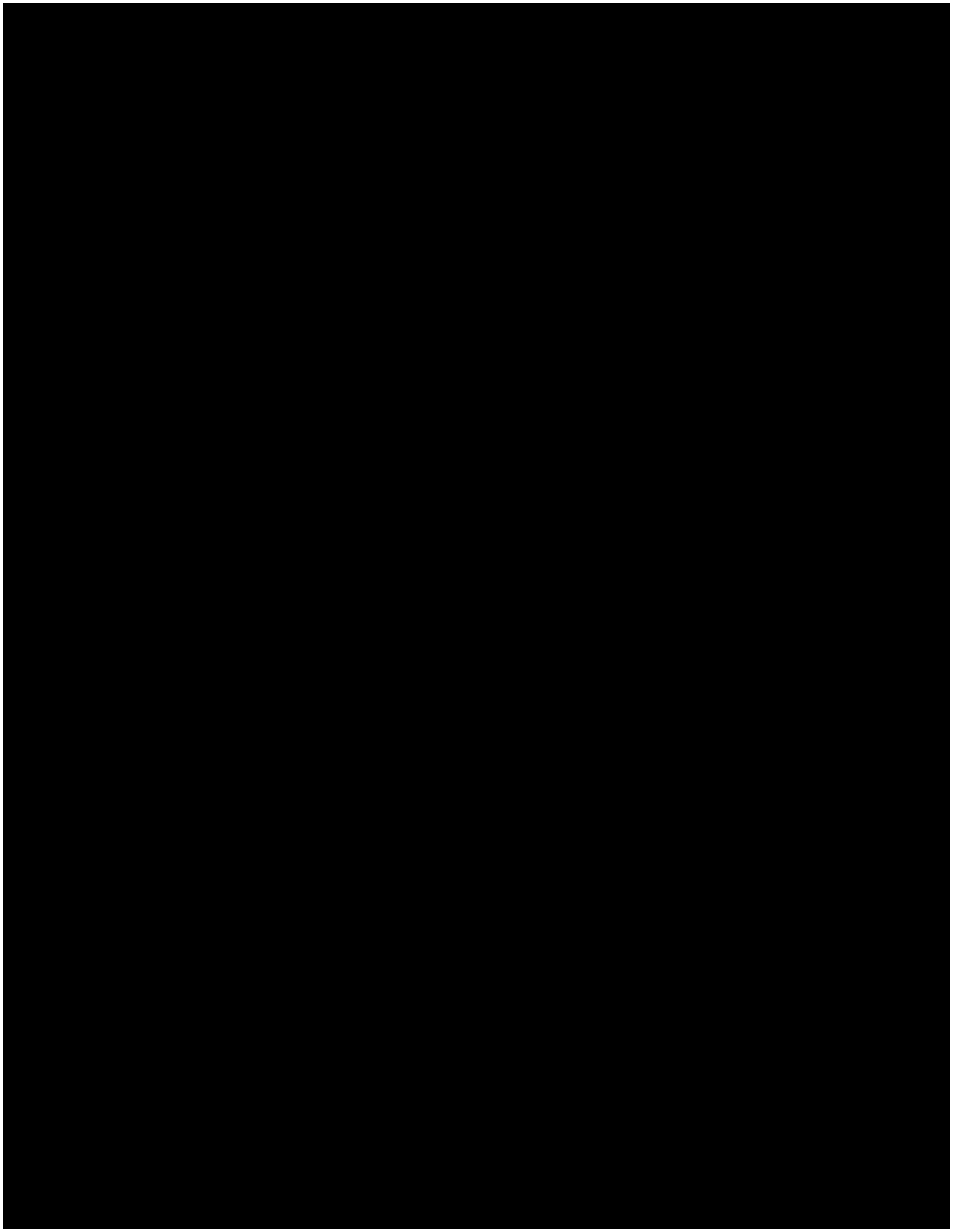
Jim R. Jackson











From: Brent Gasper
To: Jim Jackson
Cc: Kathryn Irby; ASCC Pleadings; Daiquiri Carter
Subject: Hudson v. DHS; Respondent"s Supplemental Discovery
Date: Friday, June 23, 2023 11:24:02 AM
Attachments: Respondent"s Supplemental Documents to Request for Production Bate Stamped.pdf
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Jim:

In keeping with Respondent's ongoing discovery obligation, please find attached in a PDF the following documents:

1. Call for Service log from Logan County Sheriff's Department on June 21, 2021, concerning the accident at issue;
2. Radio transmission log form from Arkansas State Police Troop H for June 11, 2021;
3. Fatal Crash Preliminary Reporting Form from Arkansas State Police concerning the accident at issue;
4. Photographs of the accident provided by the Arkansas State Police in response to a subpoena duces tecum;
5. Permit for GKD Trucking covering the transportation of the oversize load driven by Bobby Dale Wilson on June 11, 2021;

6. Sworn affidavit of Bobby Dale Wilson;
7. Logan County EMS records obtained through a subpoena duces tecum;
8. Criminal information filed against Adam Capo, Case [redacted] in Logan County on July 31, 2019;
9. Sentencing Order for Adam Capo for the above-referenced case;
10. Petition for Order of Protection filed by Jessica Capo against Adam Capo in Logan County Circuit Court on September 20, 2022;
11. Printout of the accident report prepared by the Arkansas Department of Public Safety;
12. Several publicly available print-outs from Google Maps and Google Earth that show the correct accident site at 5033 State Highway 22;
13. A publicly available print-out concerning the residence at [redacted]
14. A complete copy of the Toxicology reports for Jacqueline Ashcraft and Jennifer Wilkerson obtained as a result of a subpoena duces tecum;
15. A publicly available print-out of the Louisiana EMT license of attending EMT and witness Holly Lyn Newman; and
16. A publicly available print-out of the last known address of eyewitness Latasha Lewis from Hamilton, Alabama.

Further, please find attached certain audio clips that were provided by the Logan County Sheriff's Department 911 dispatch in response to a subpoena duces tecum.

Please let me know if you have any questions.

Thanks,

Brent

Cc: Kathryn Irby, Daiquiri Carter

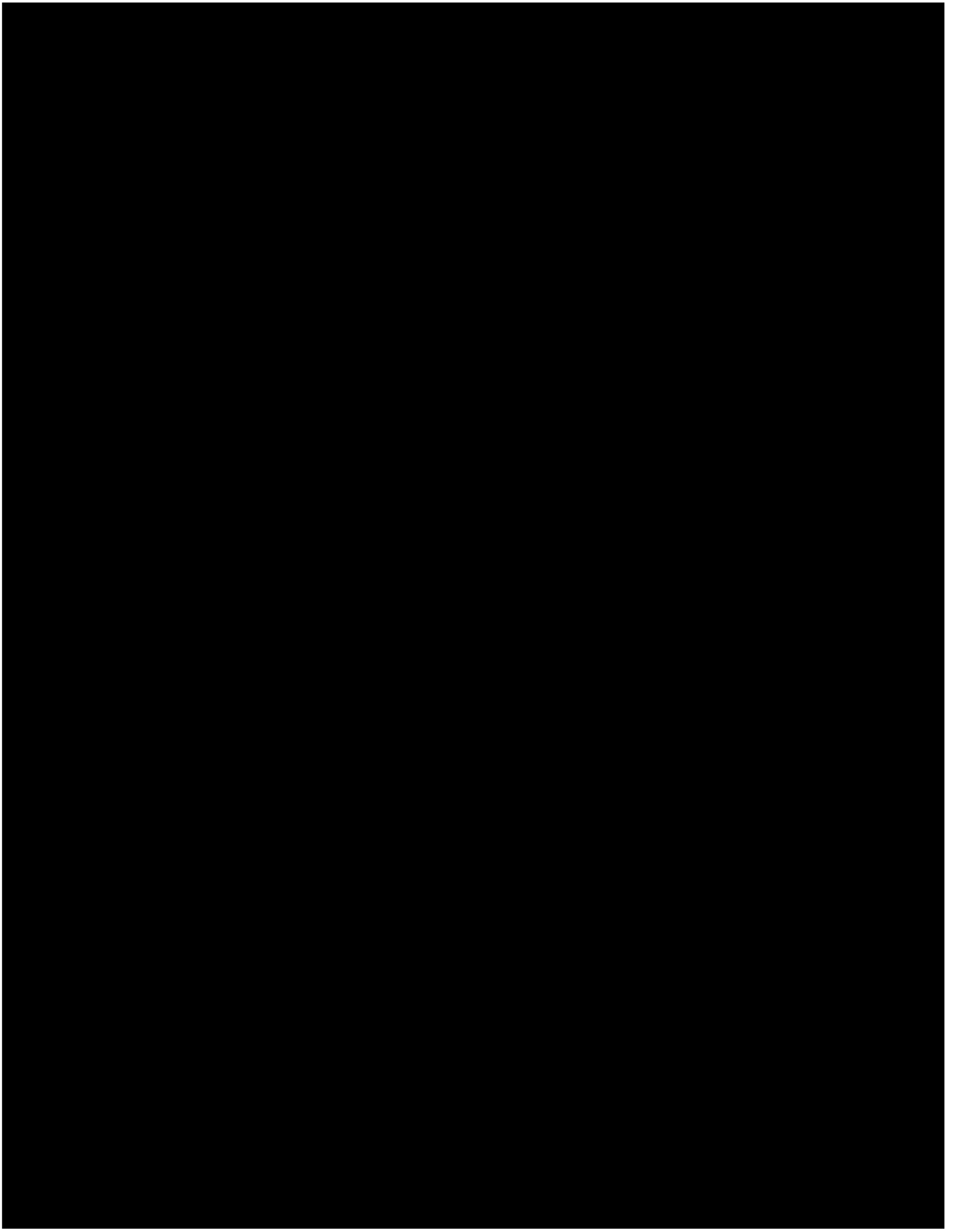
Brent P. Gasper
Assistant Deputy Chief Counsel

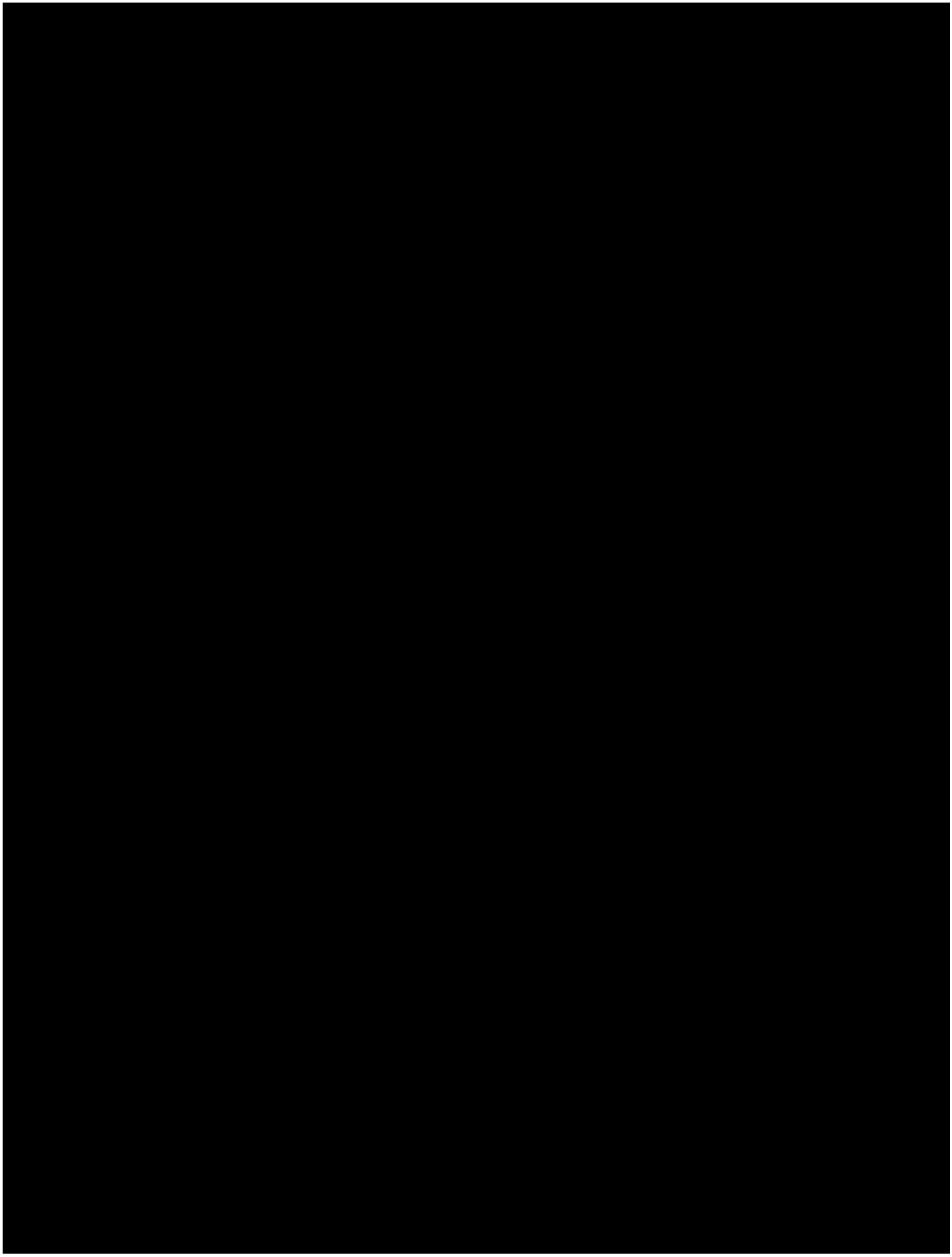
Department of Human Services, Office of Chief Counsel
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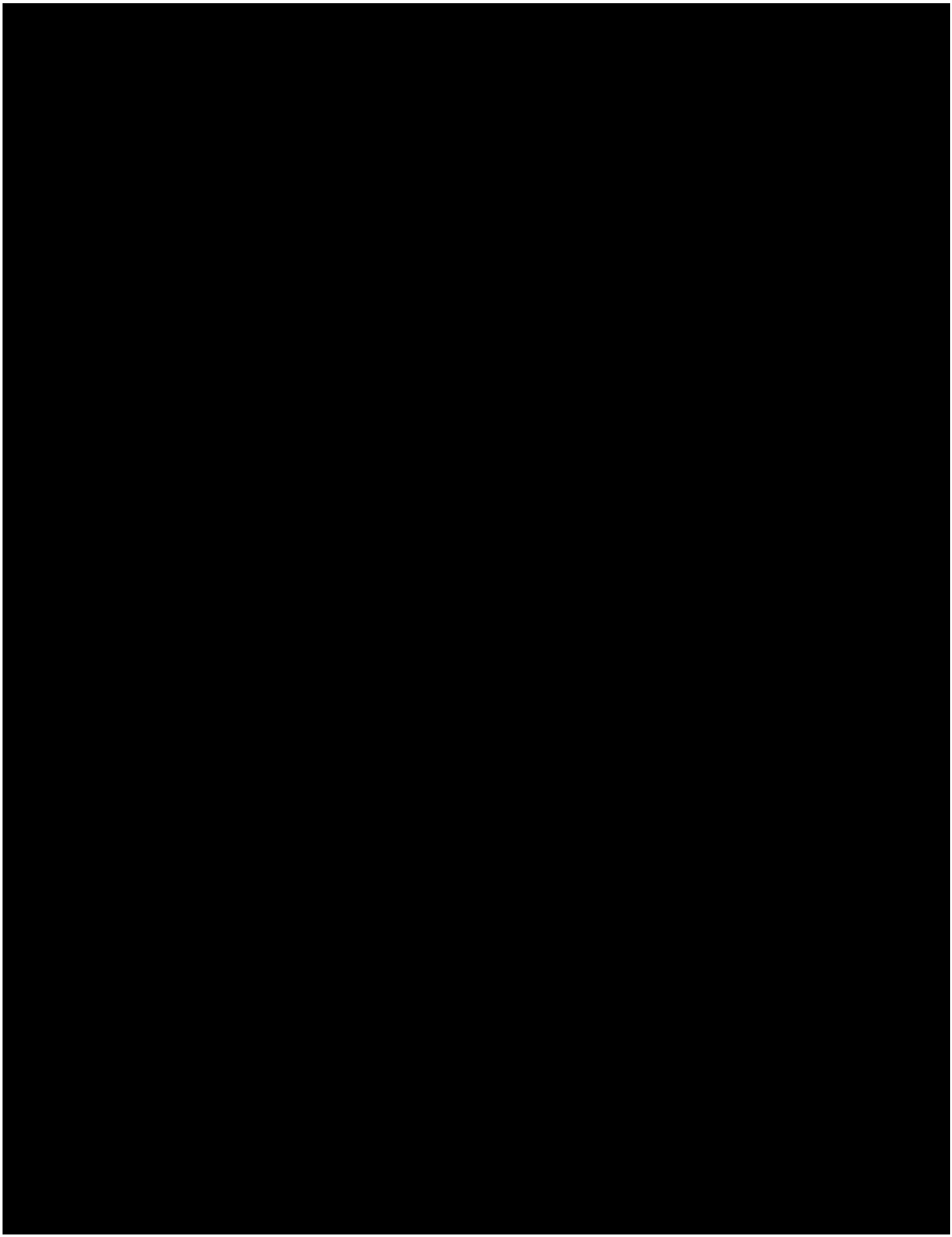
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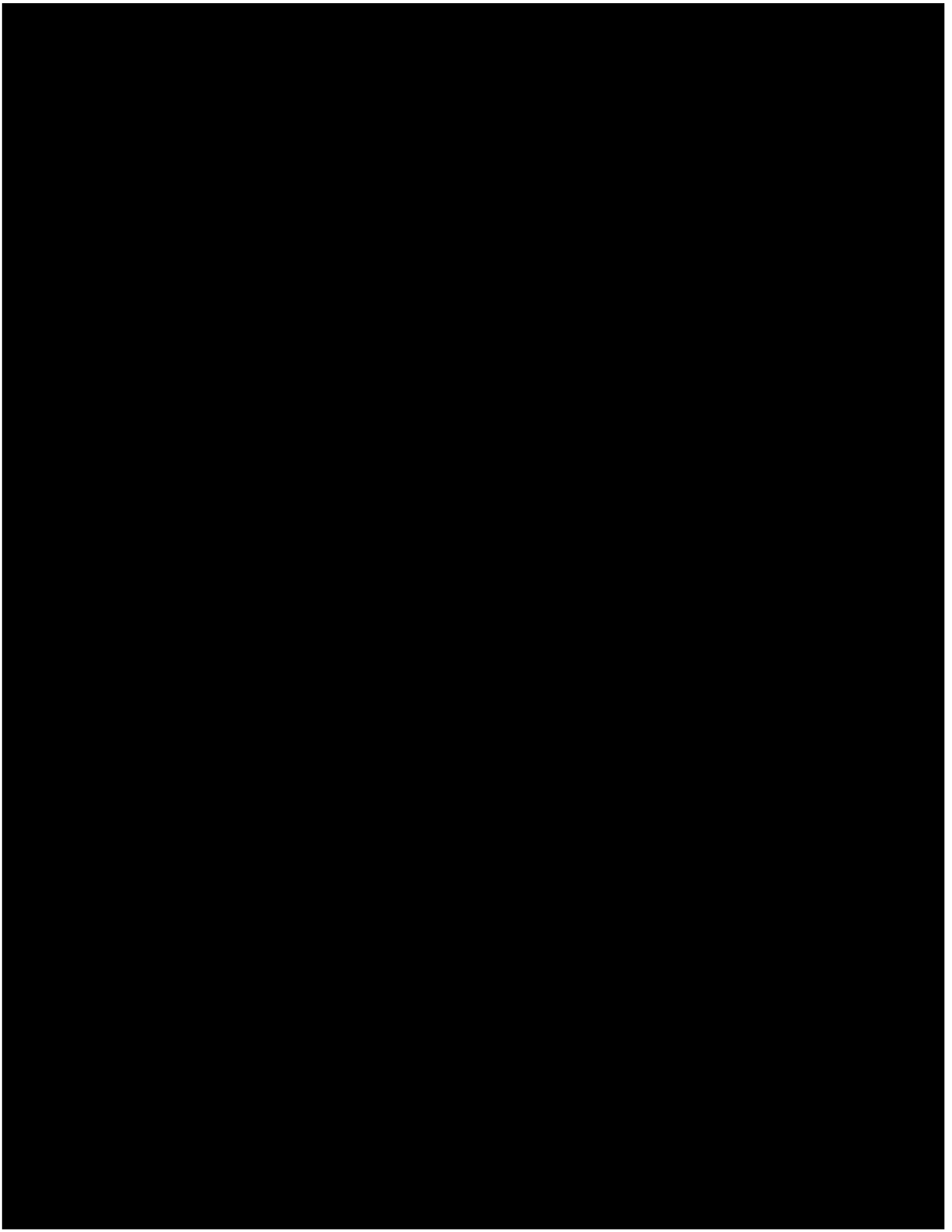
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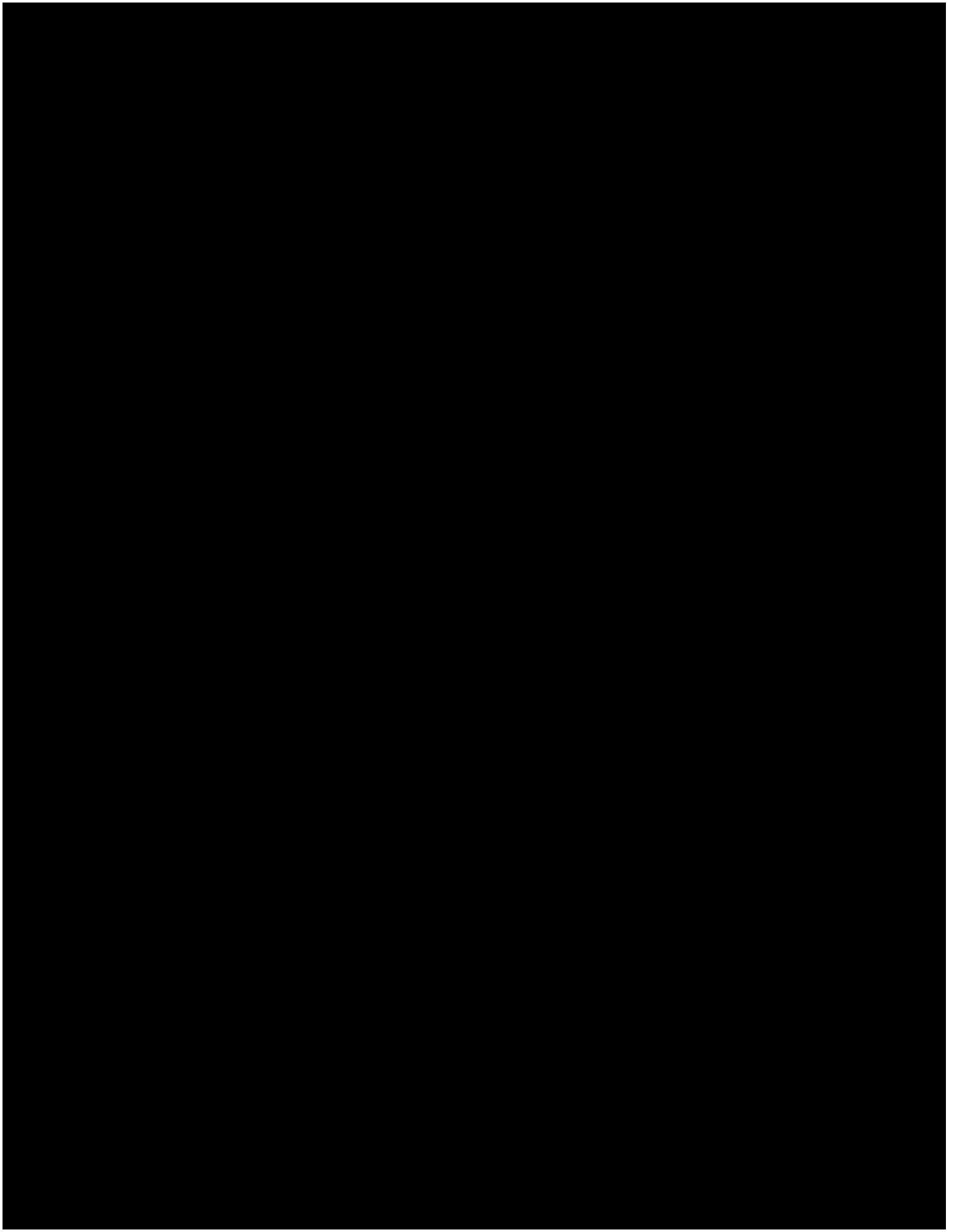
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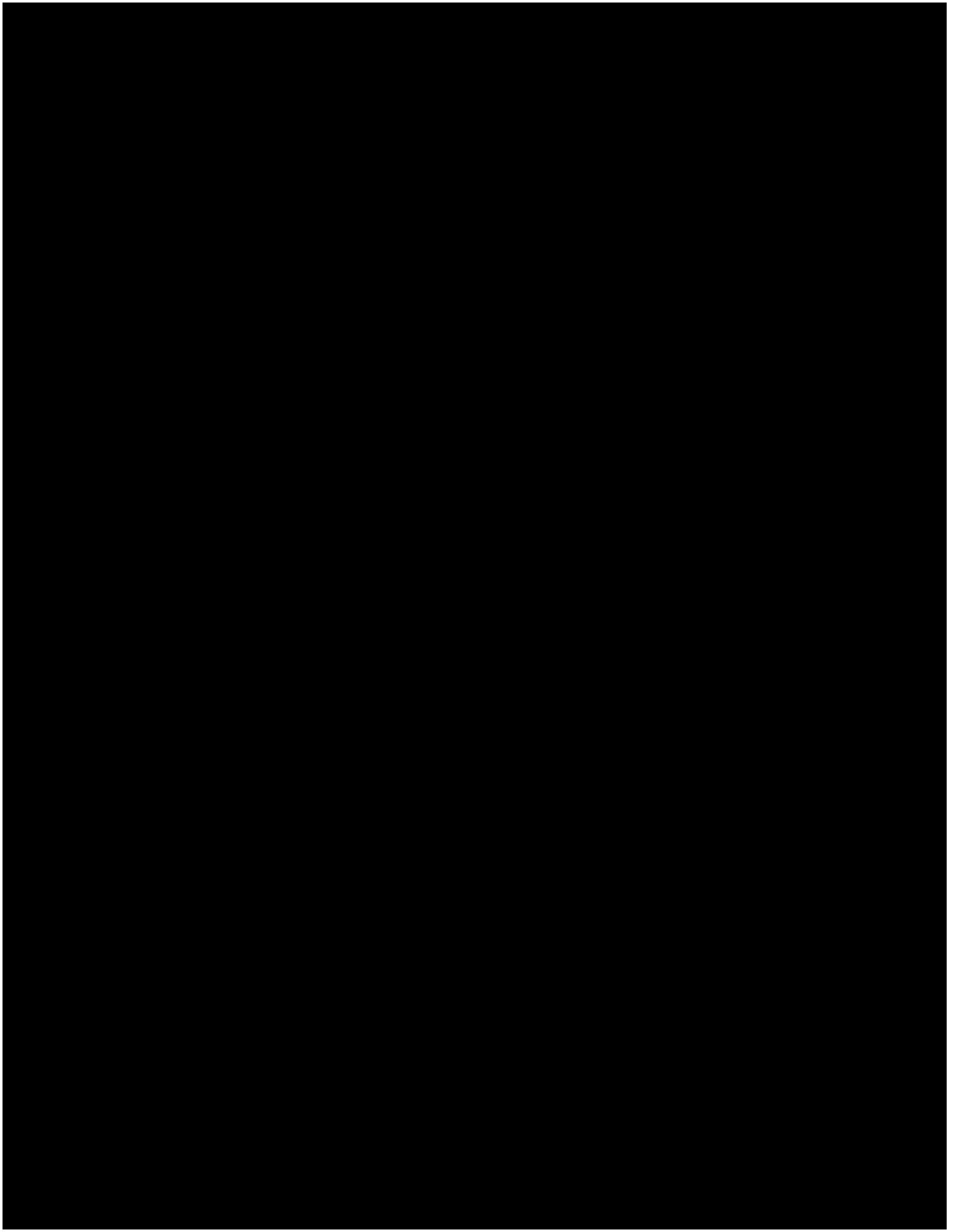


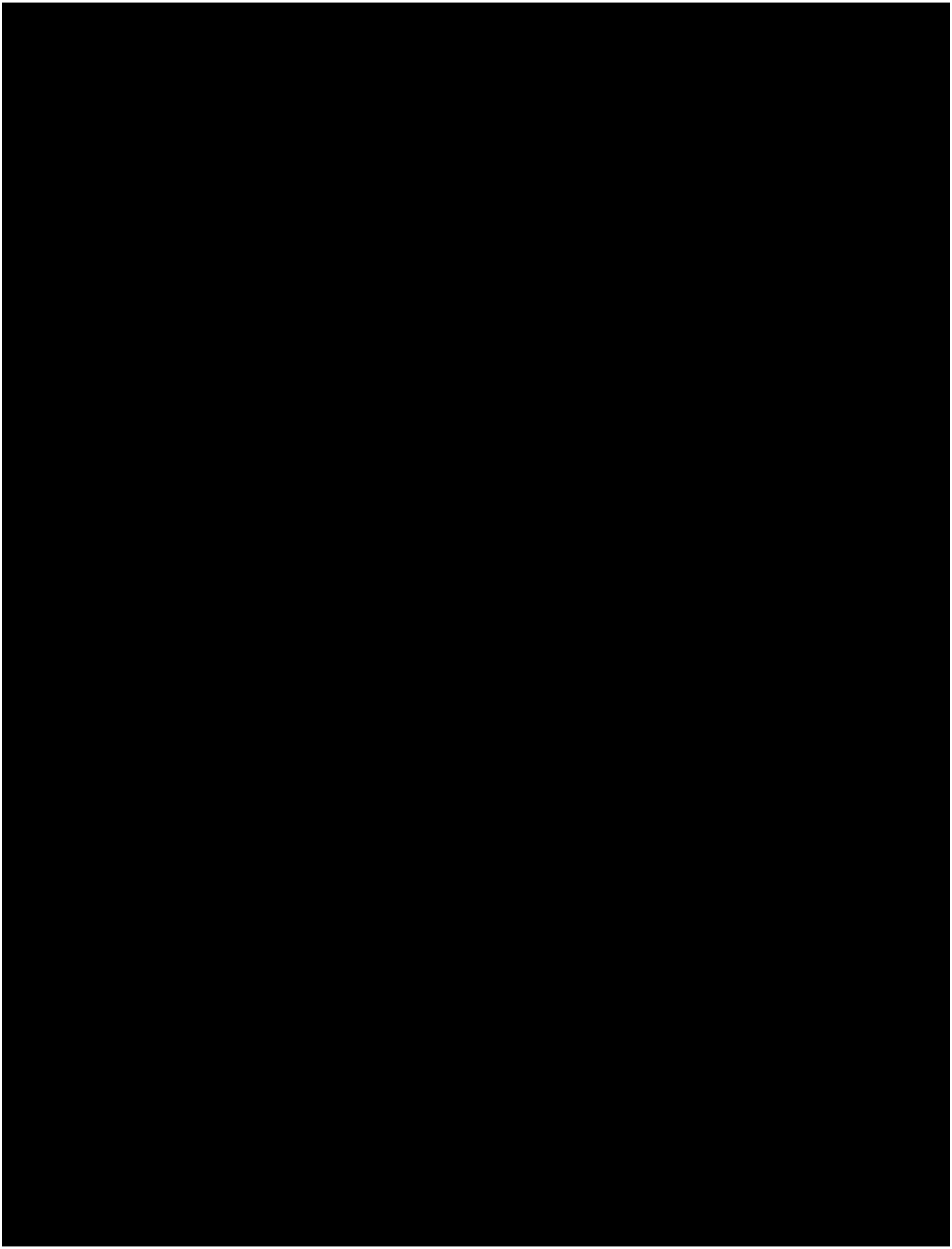


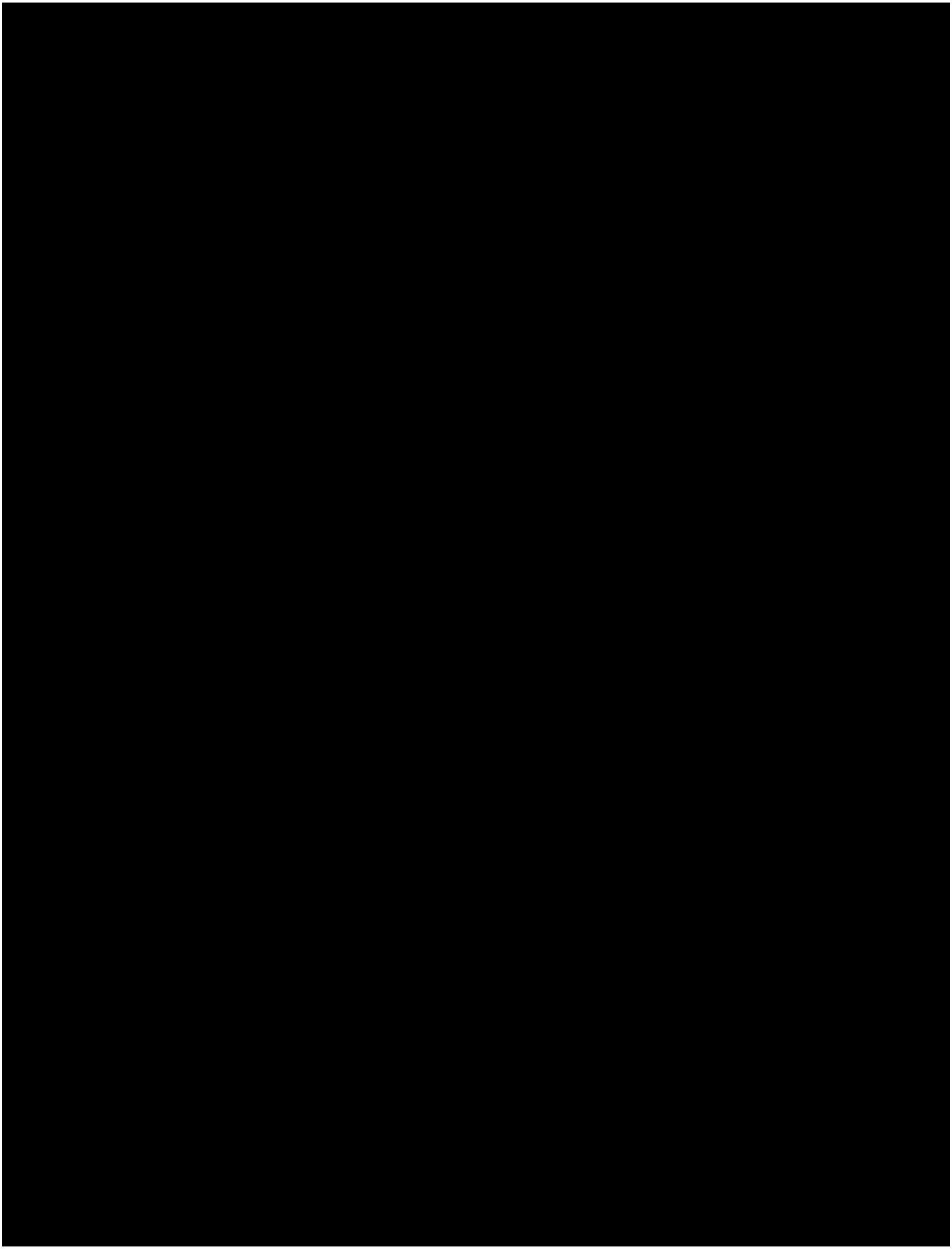


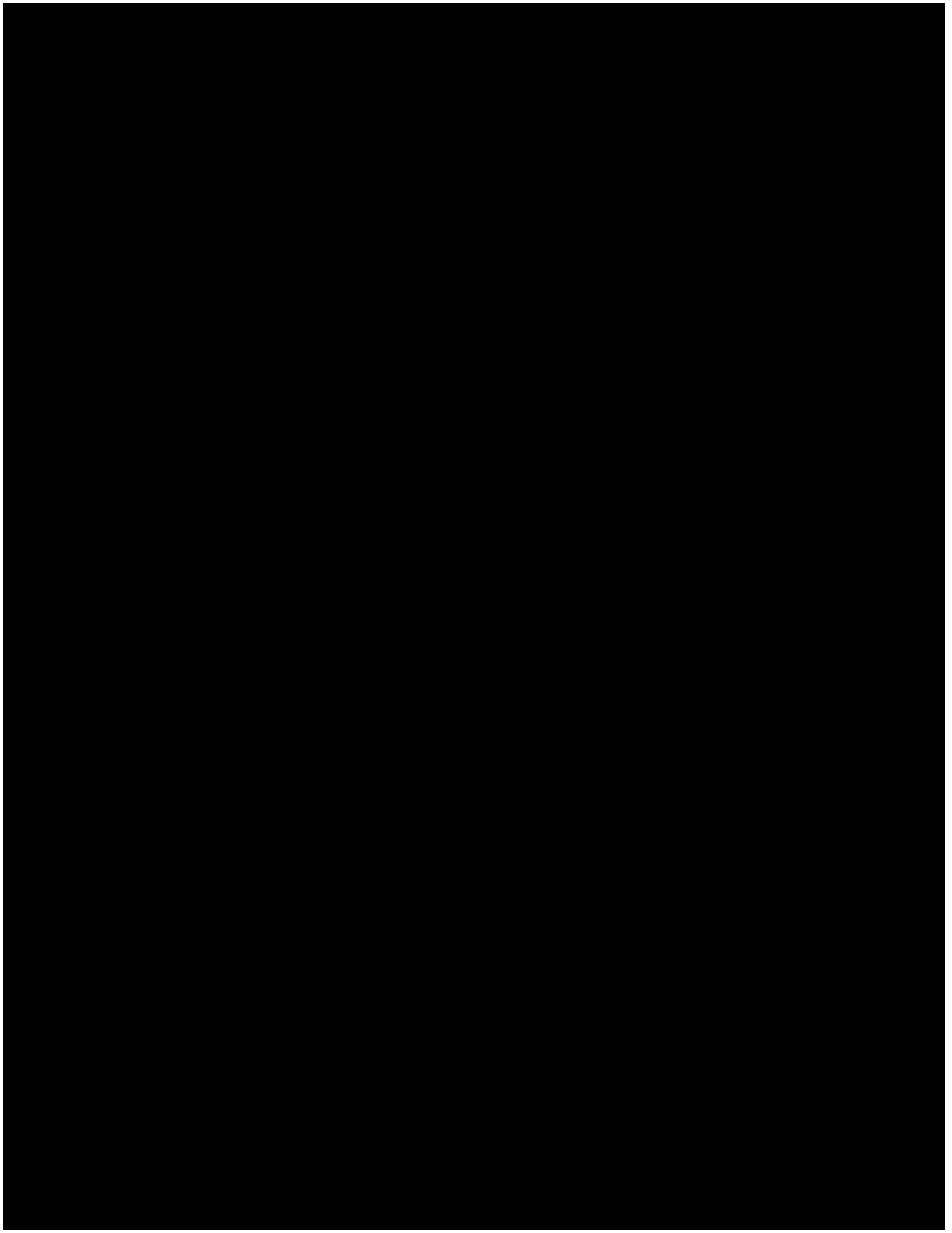


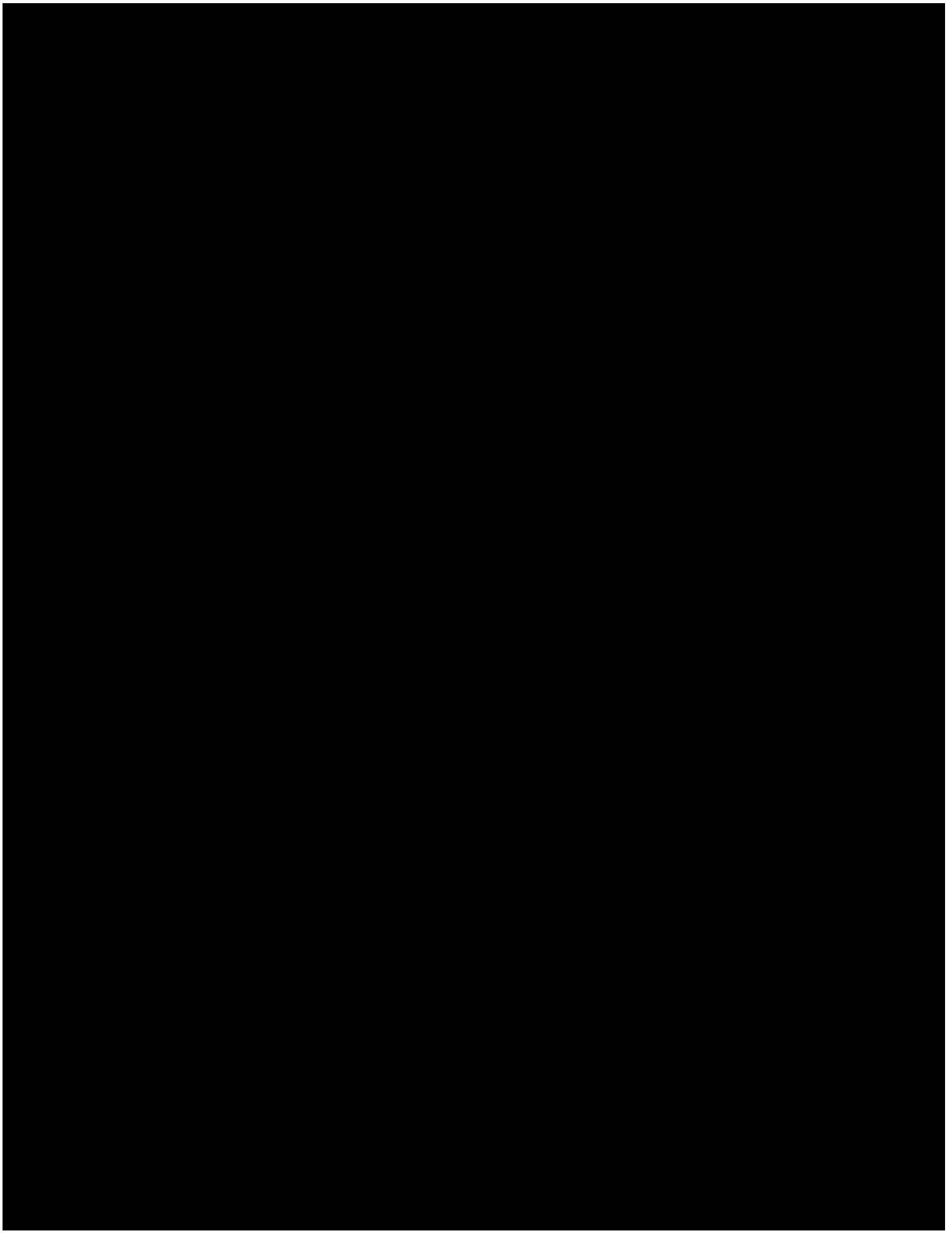


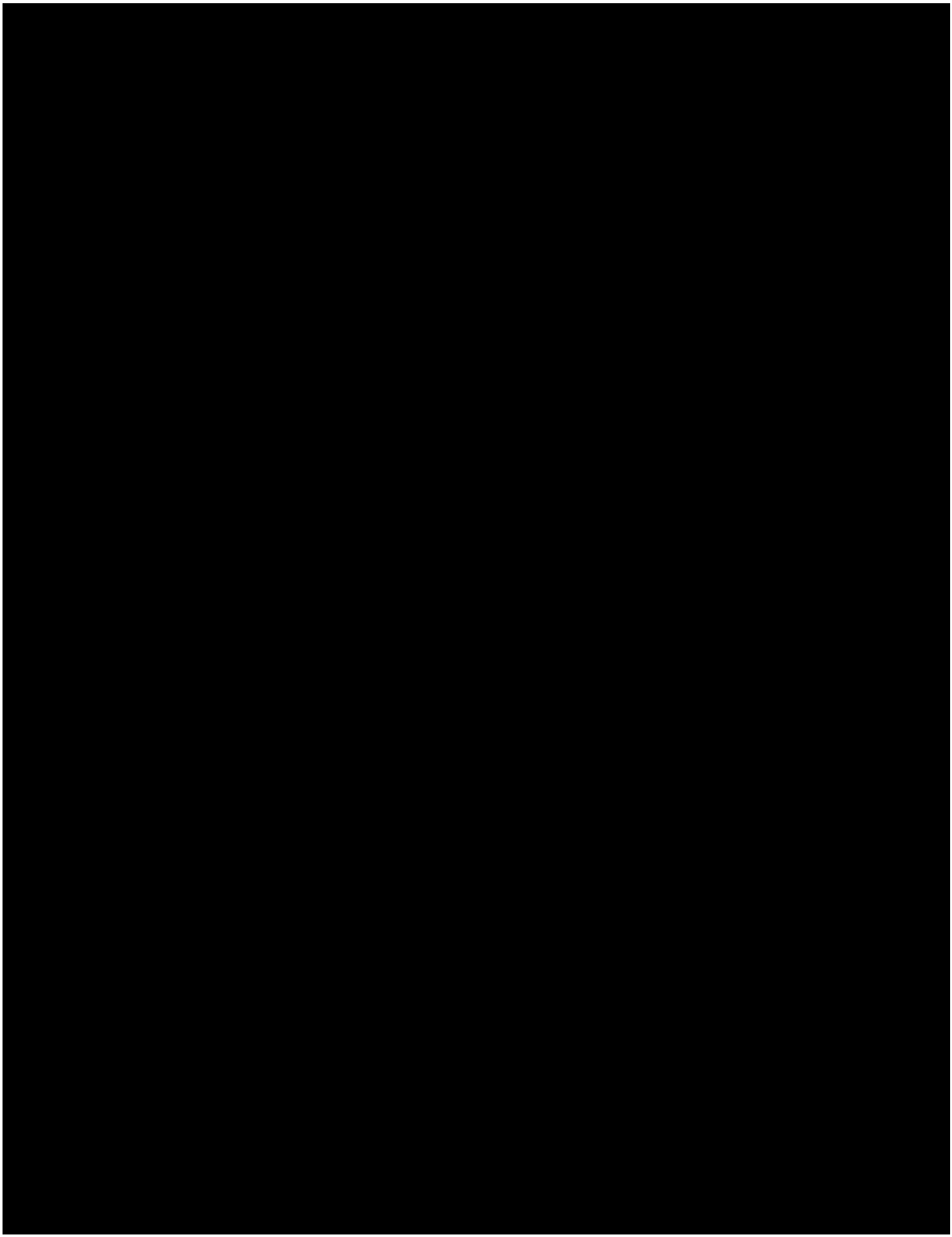


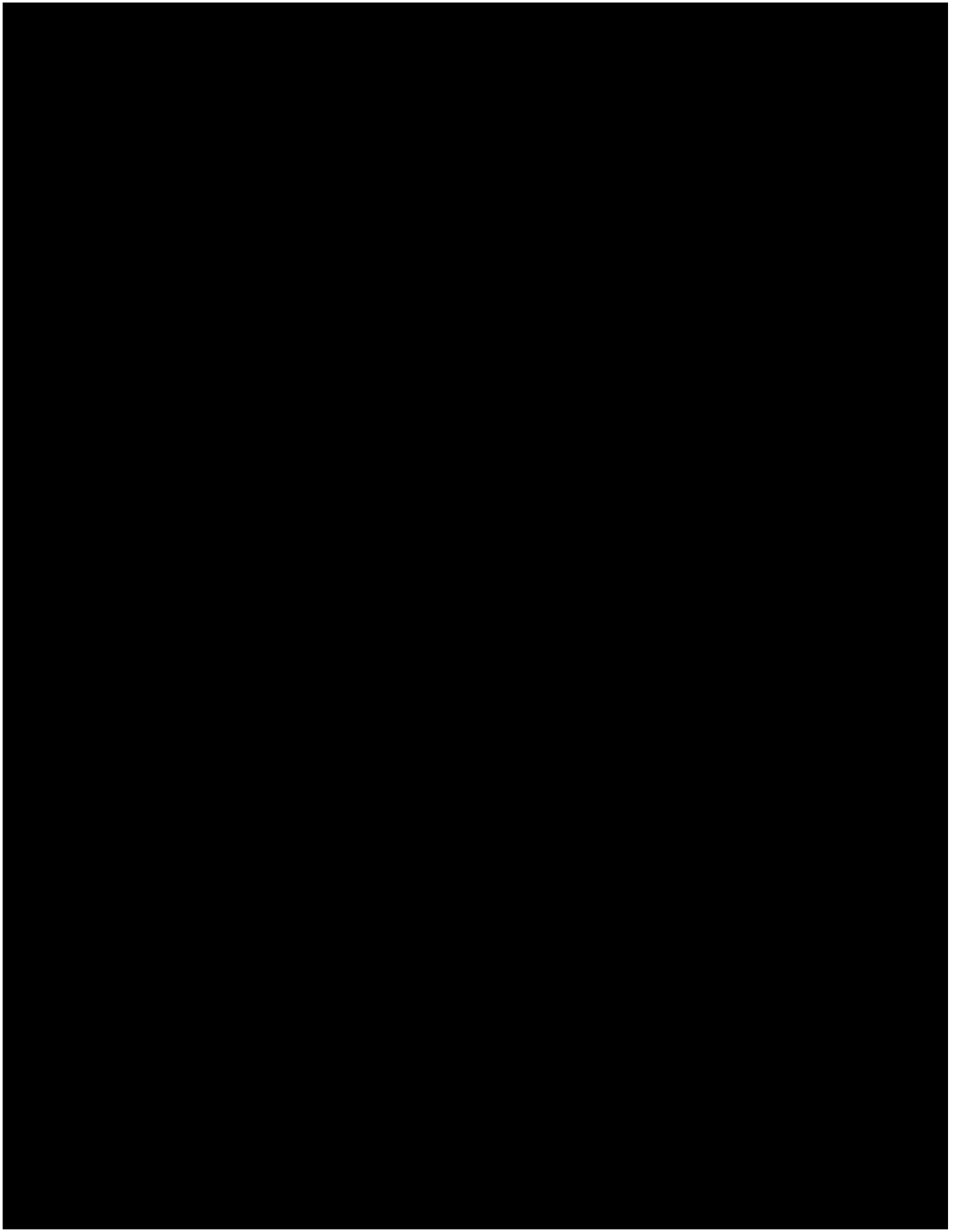


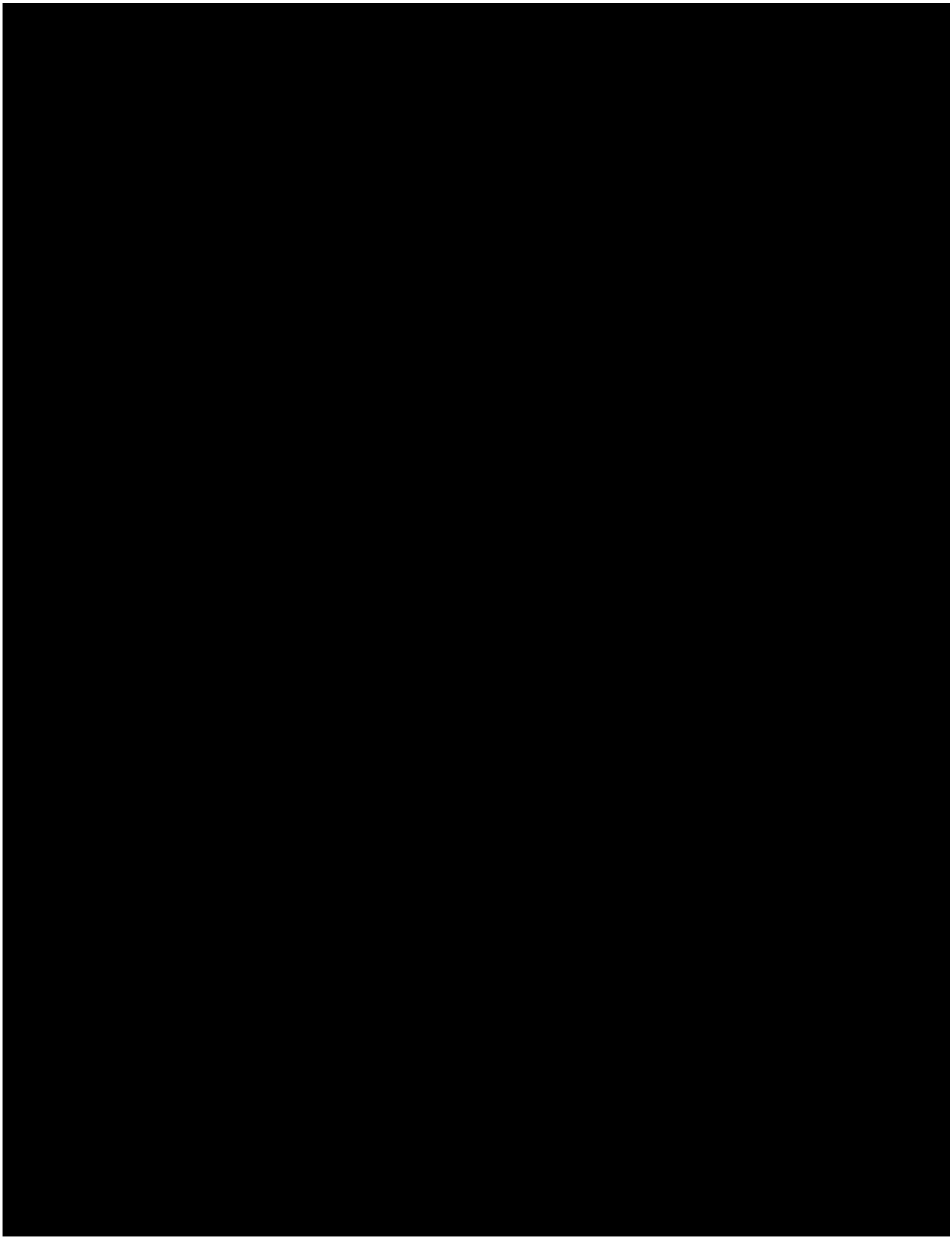


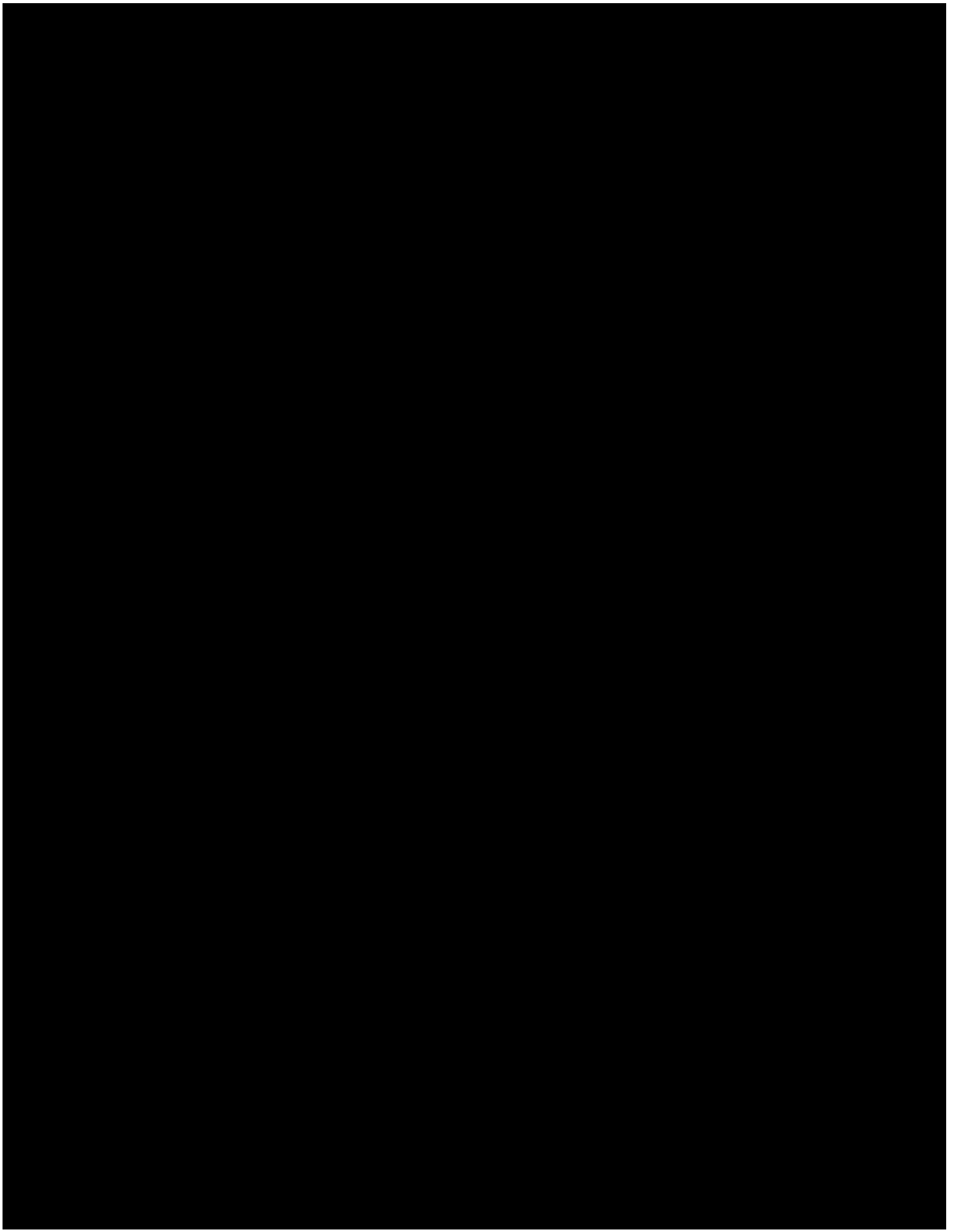


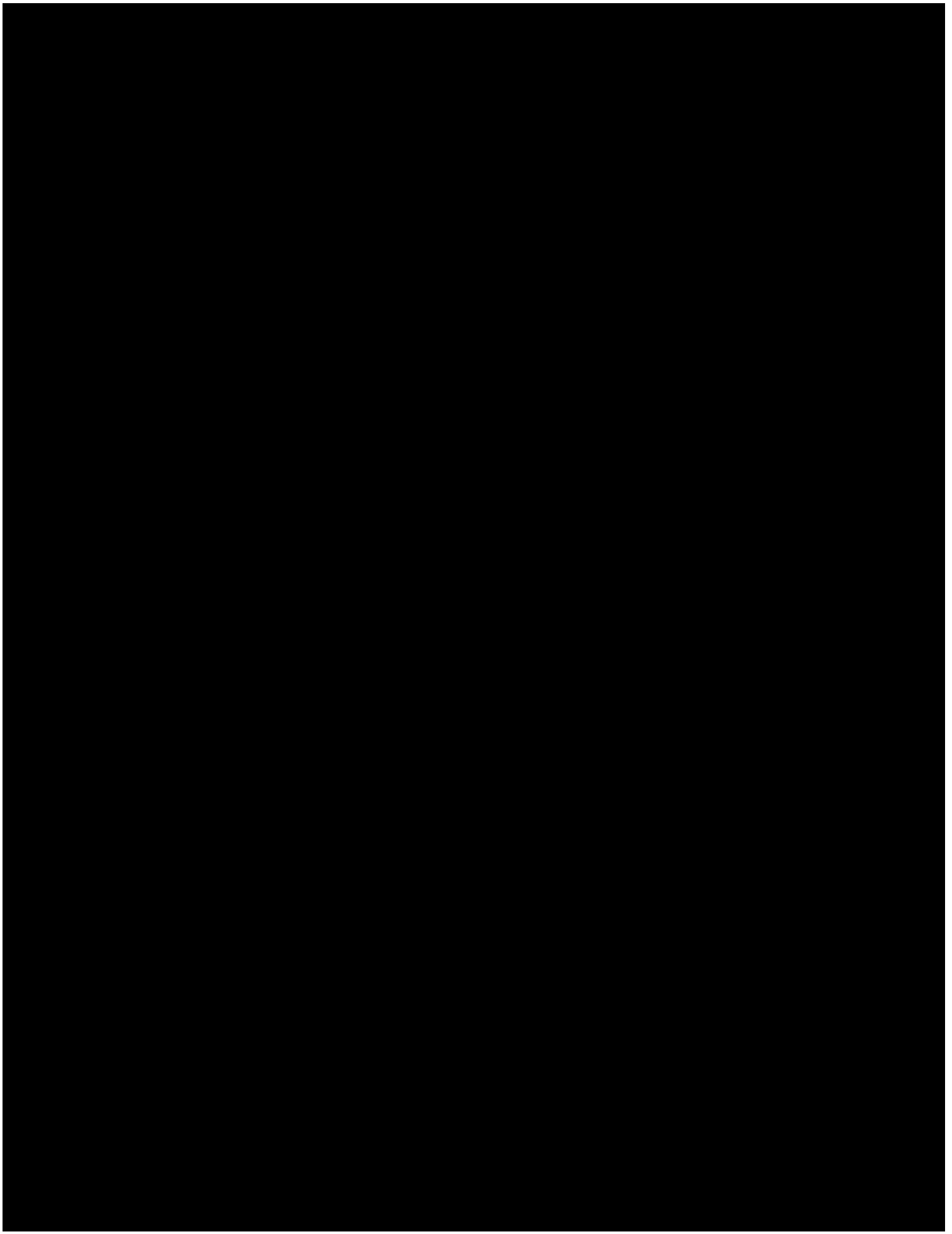


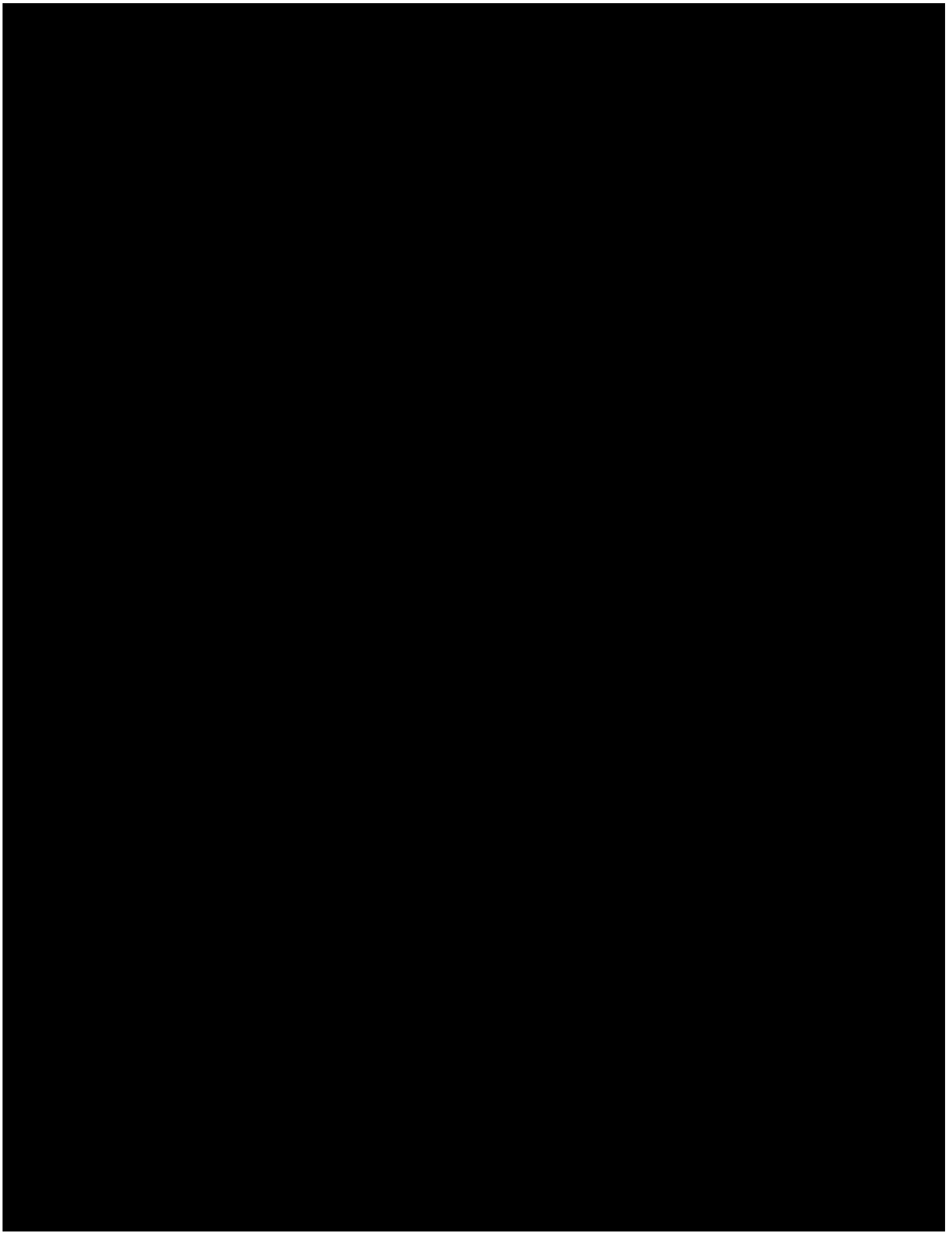






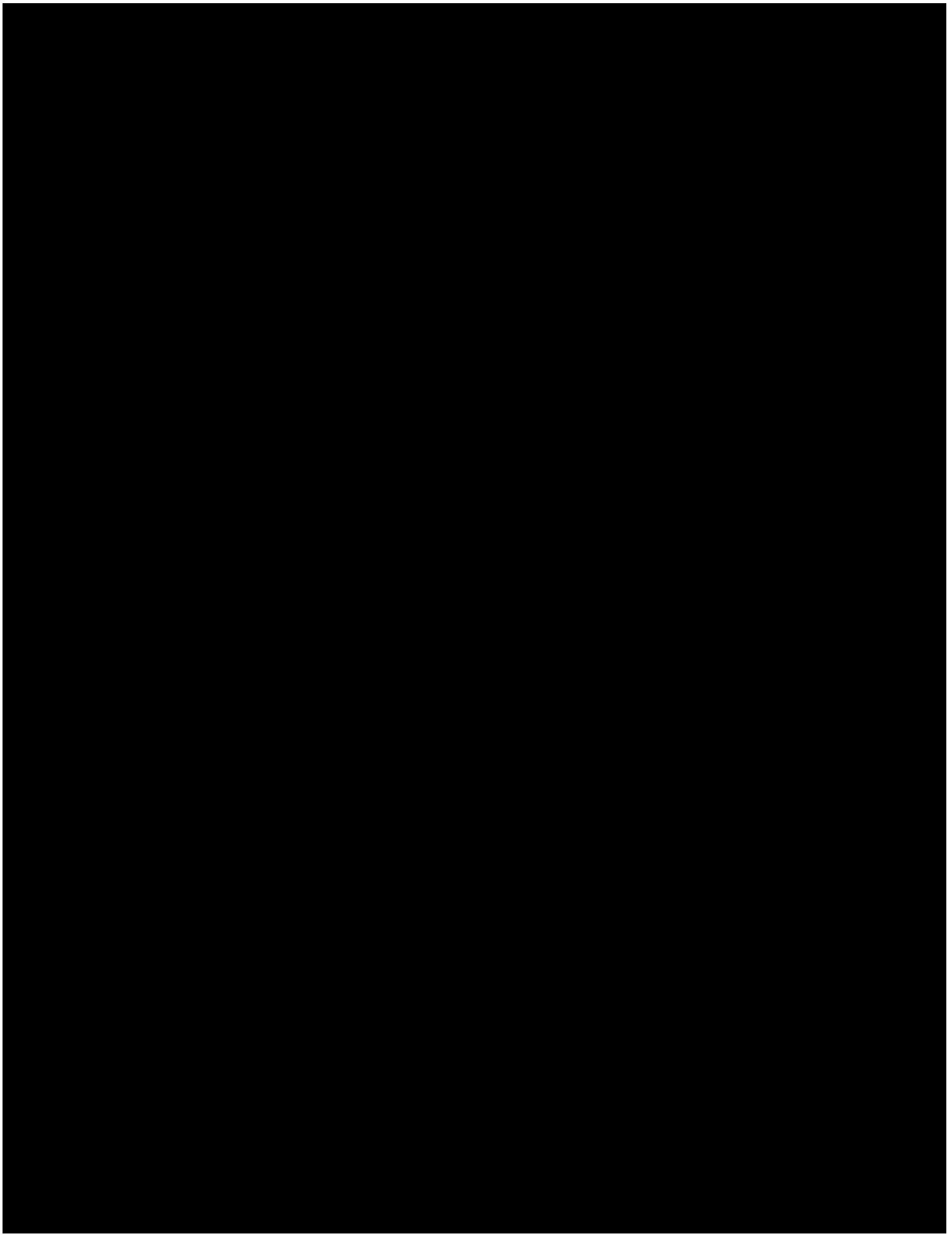


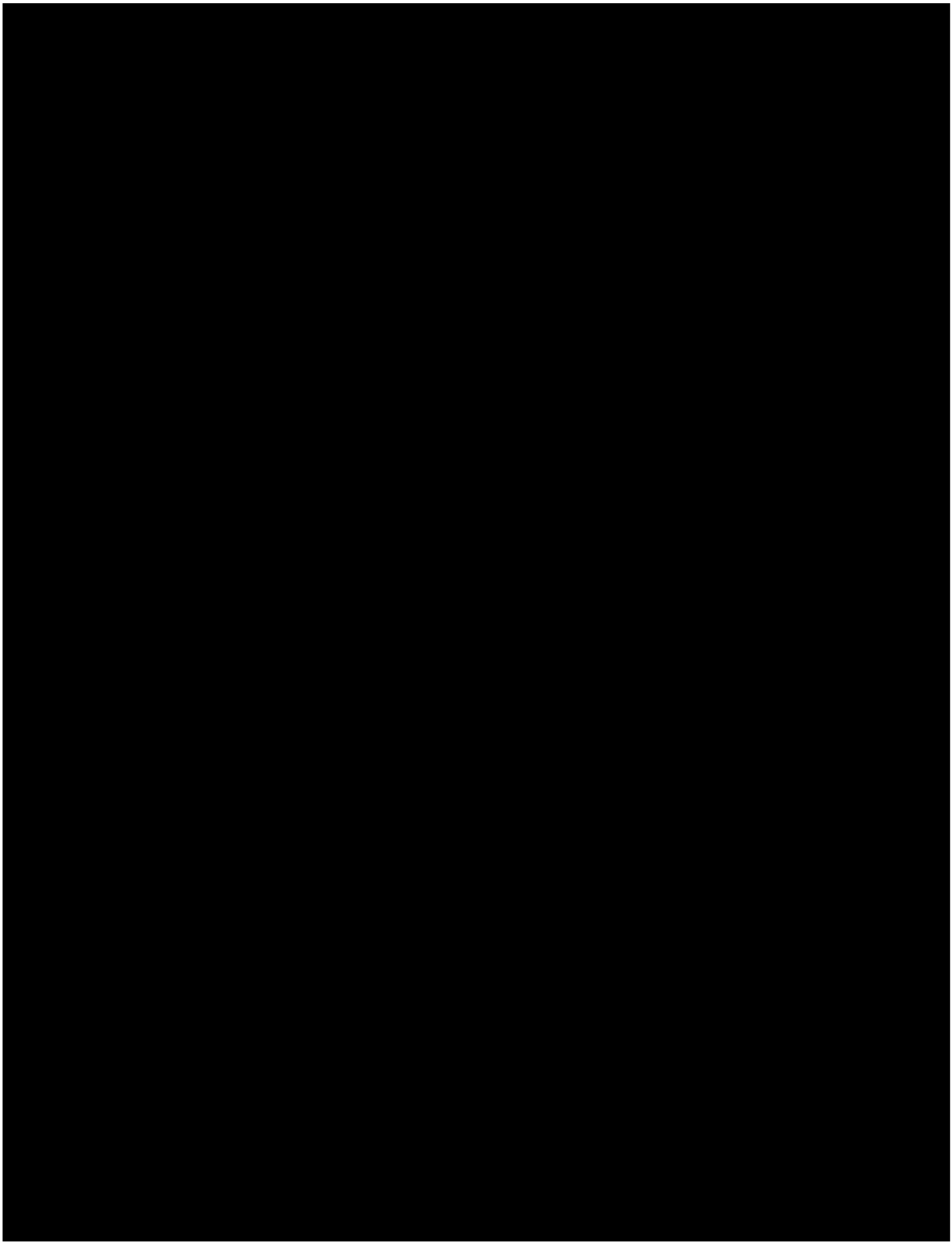


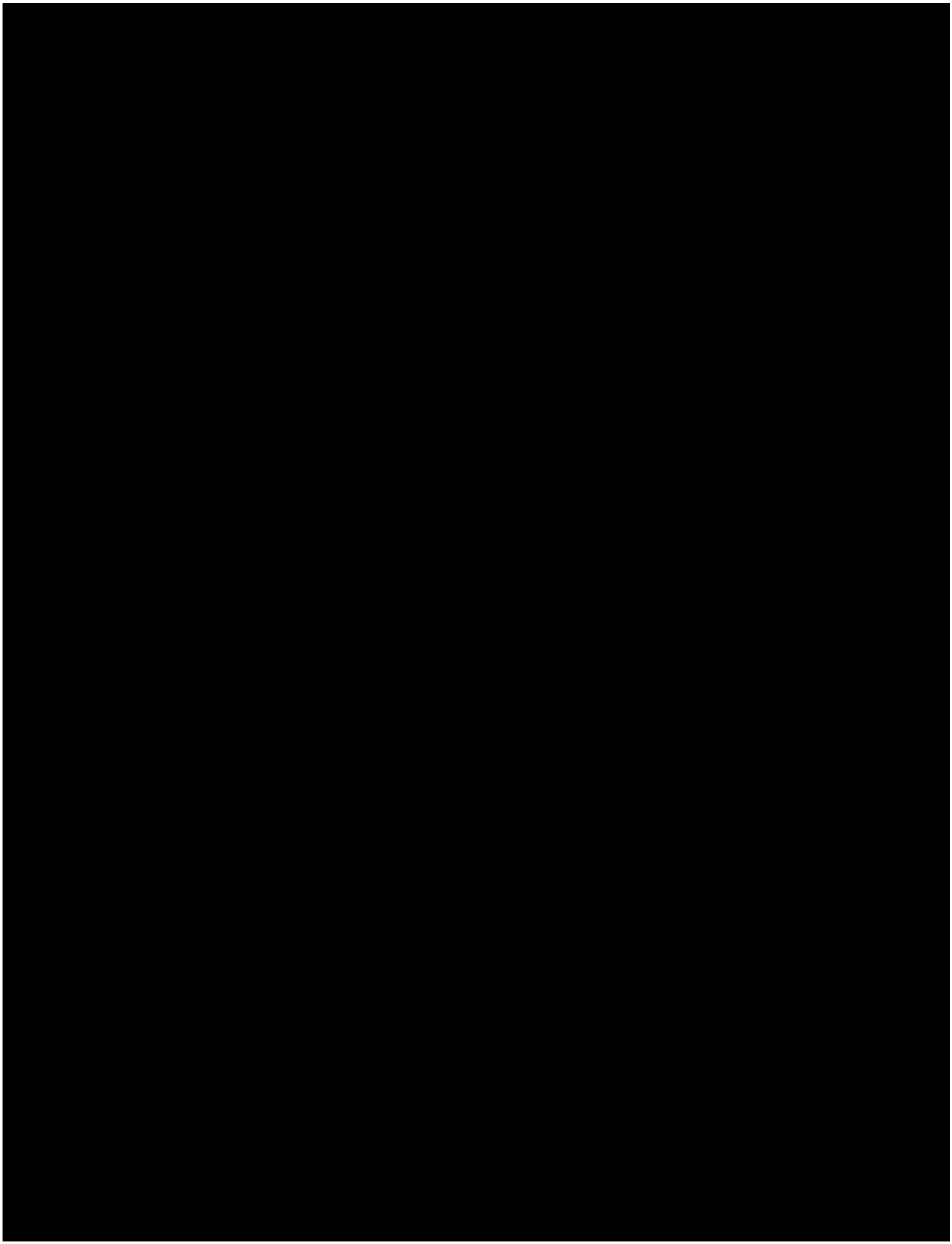


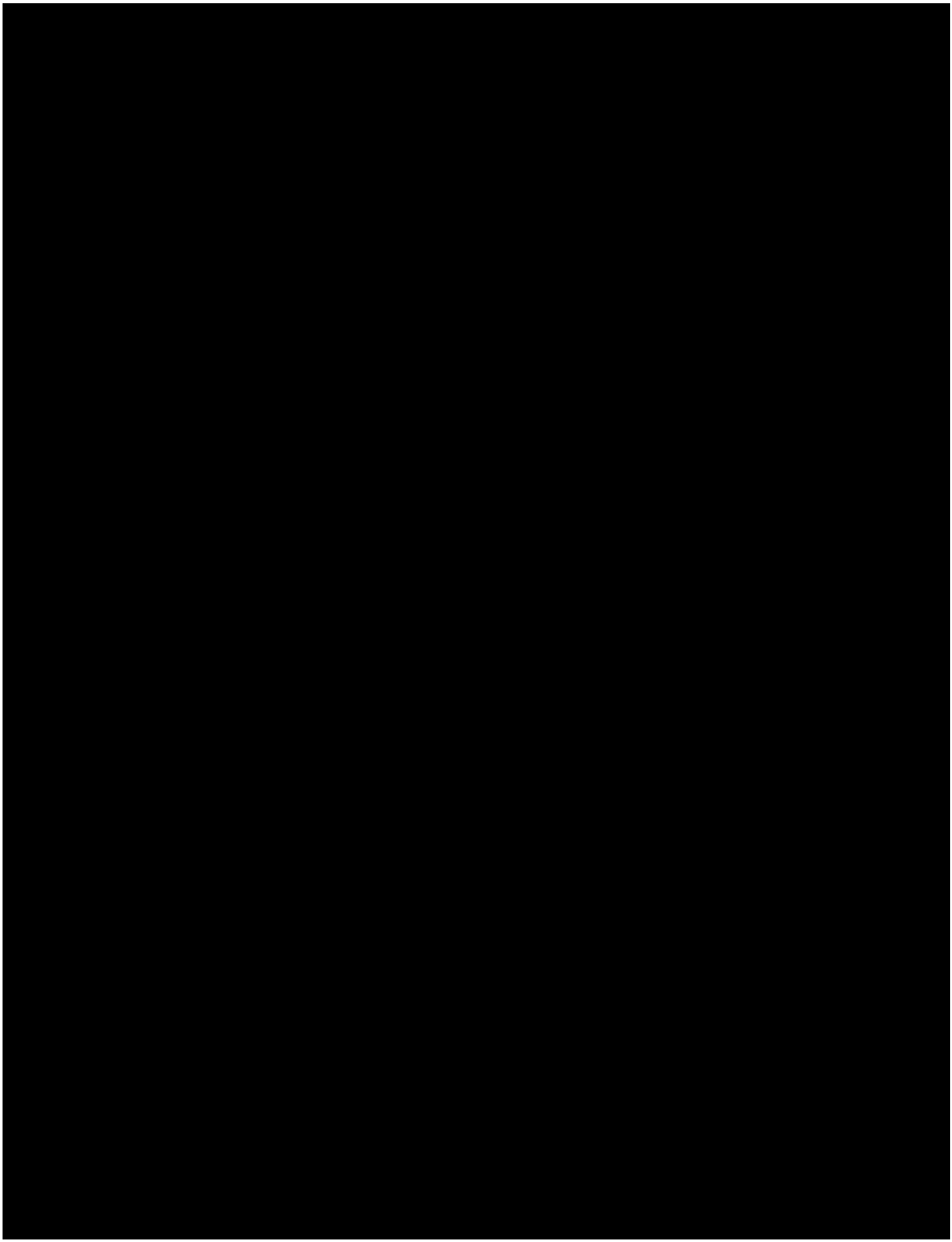


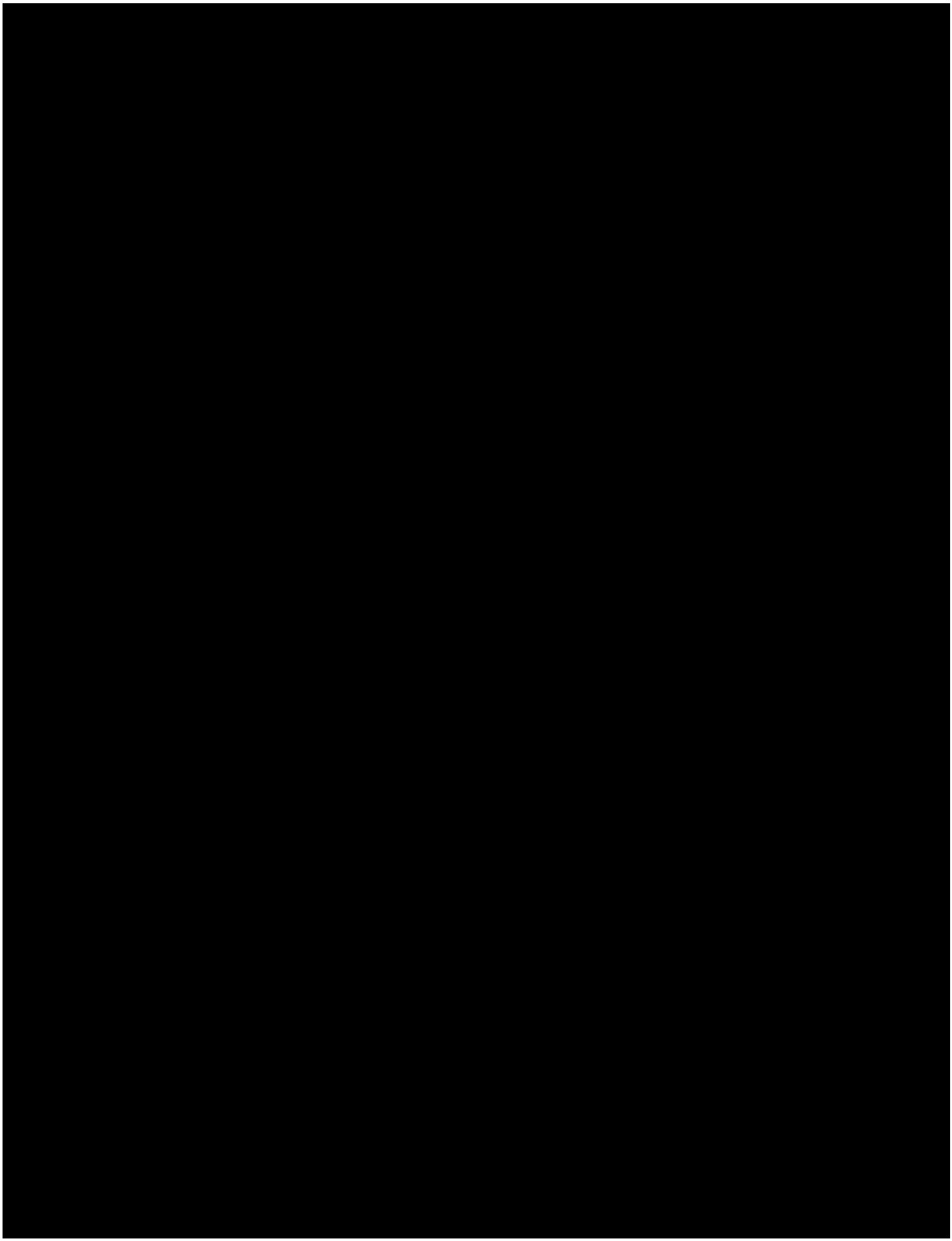


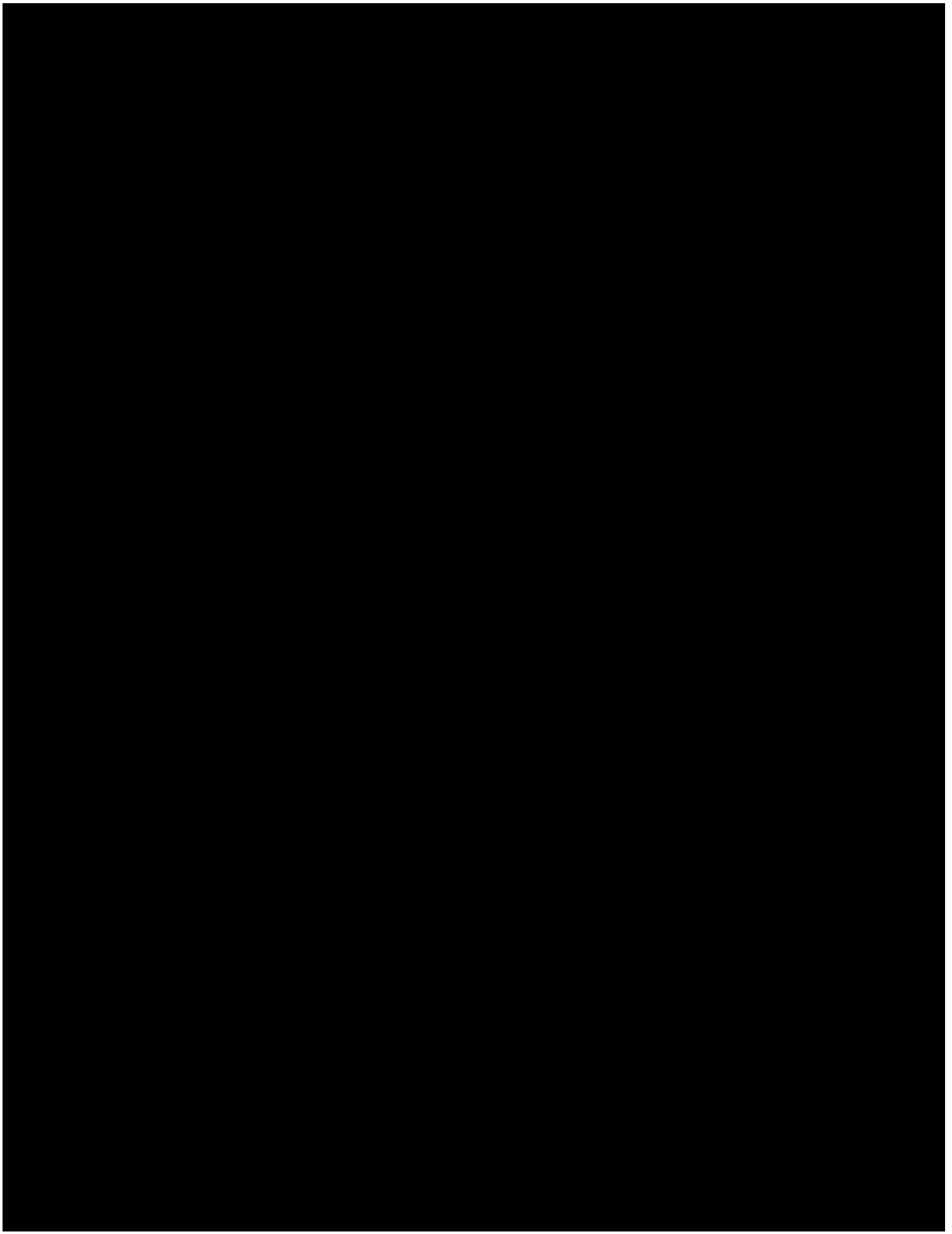


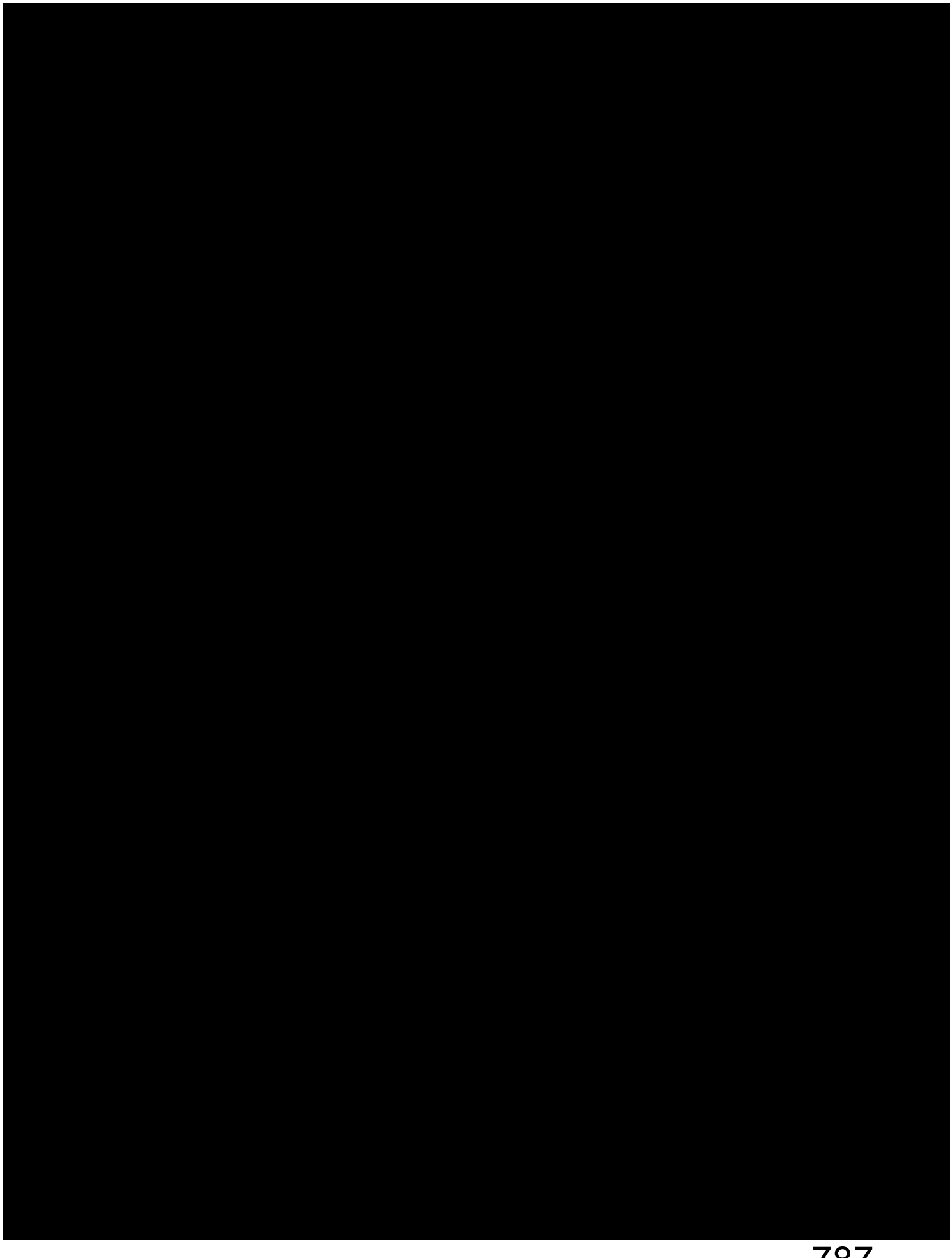


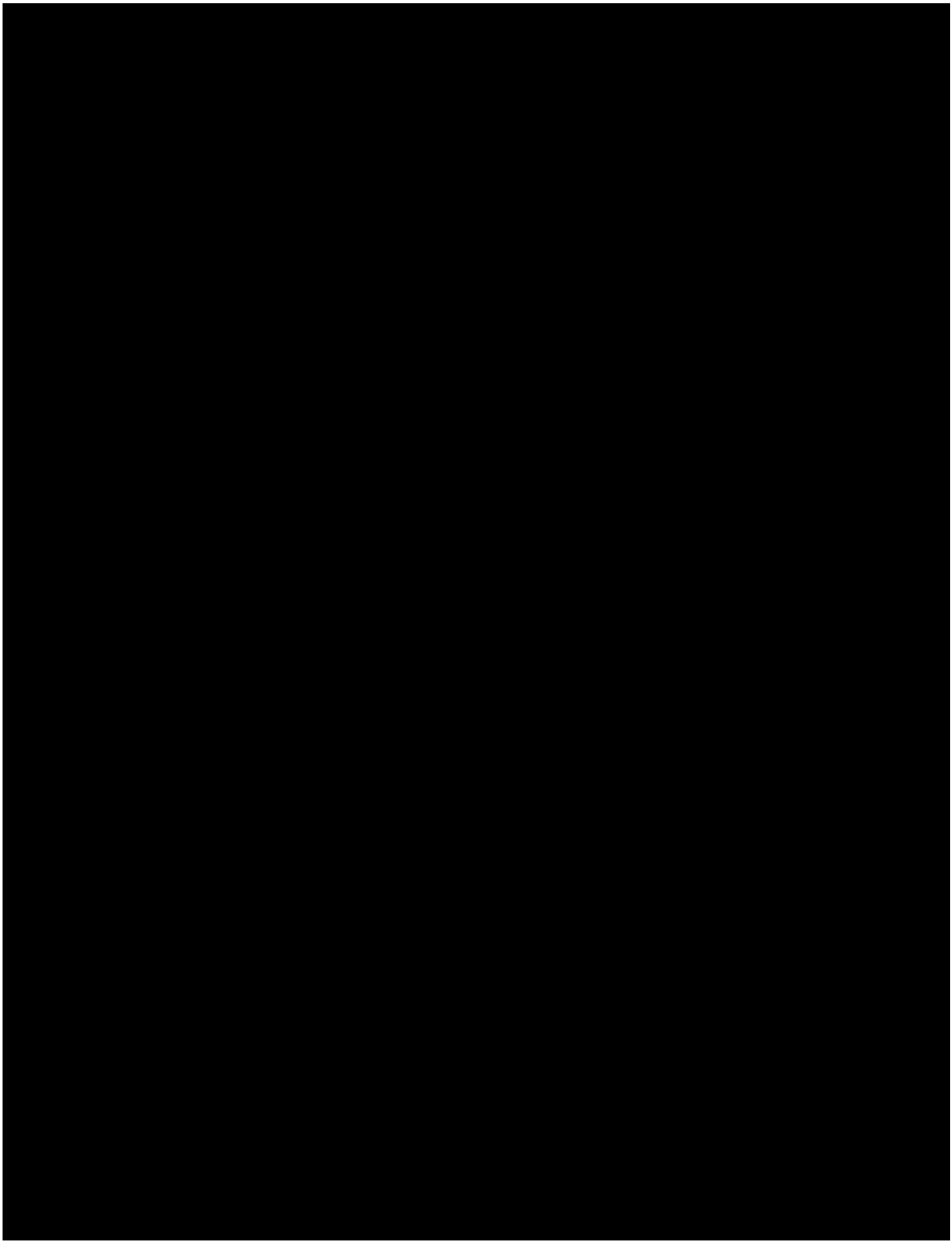


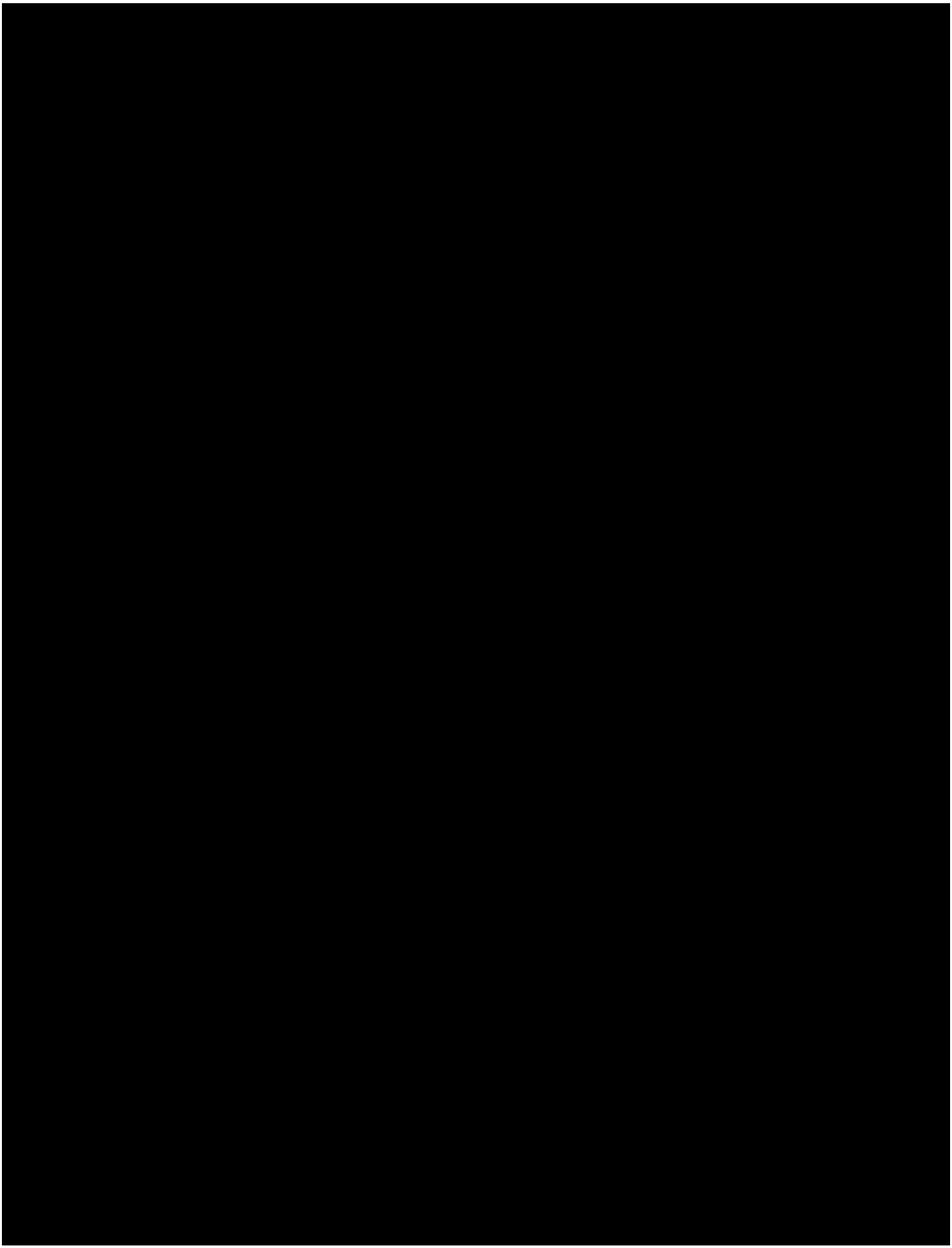


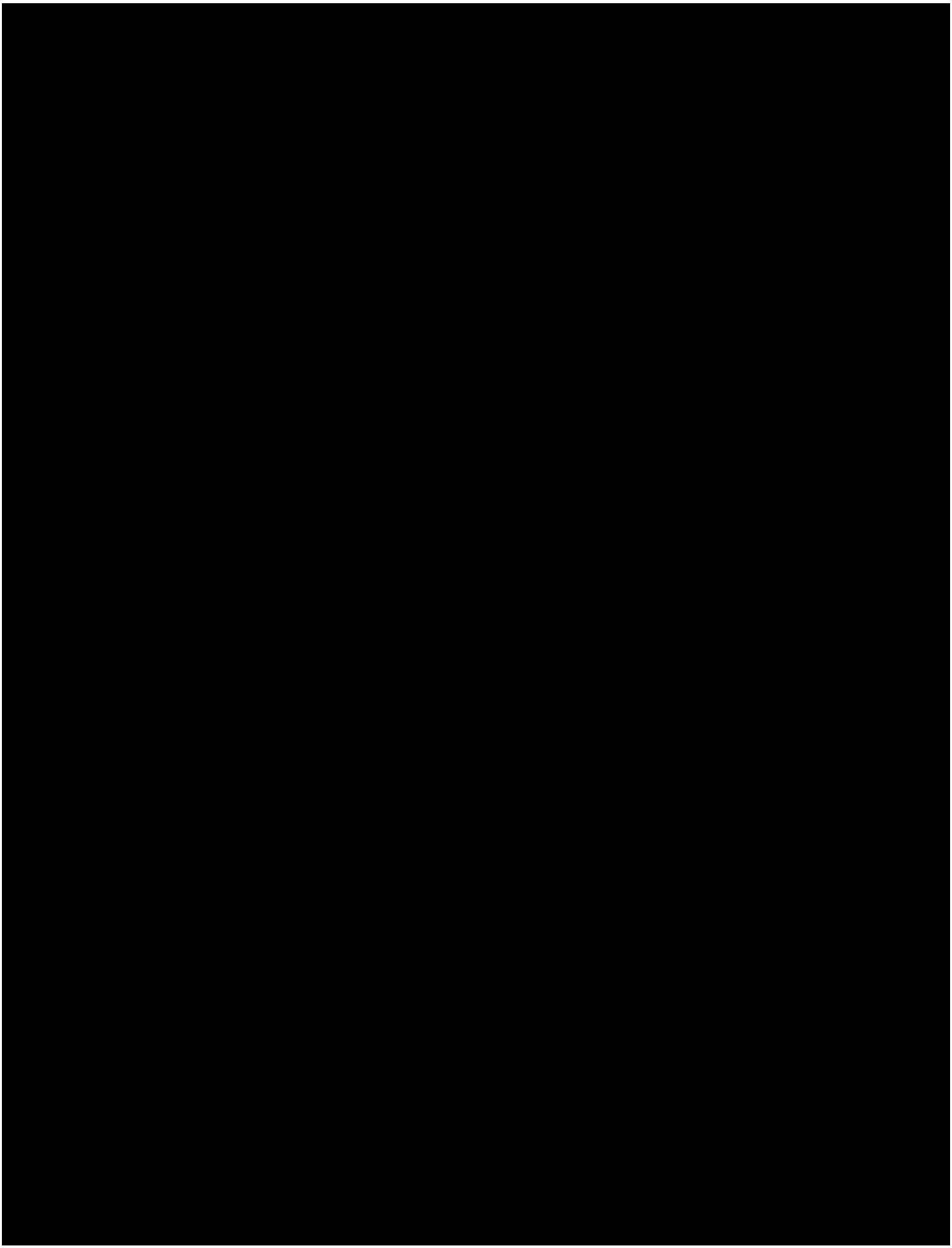


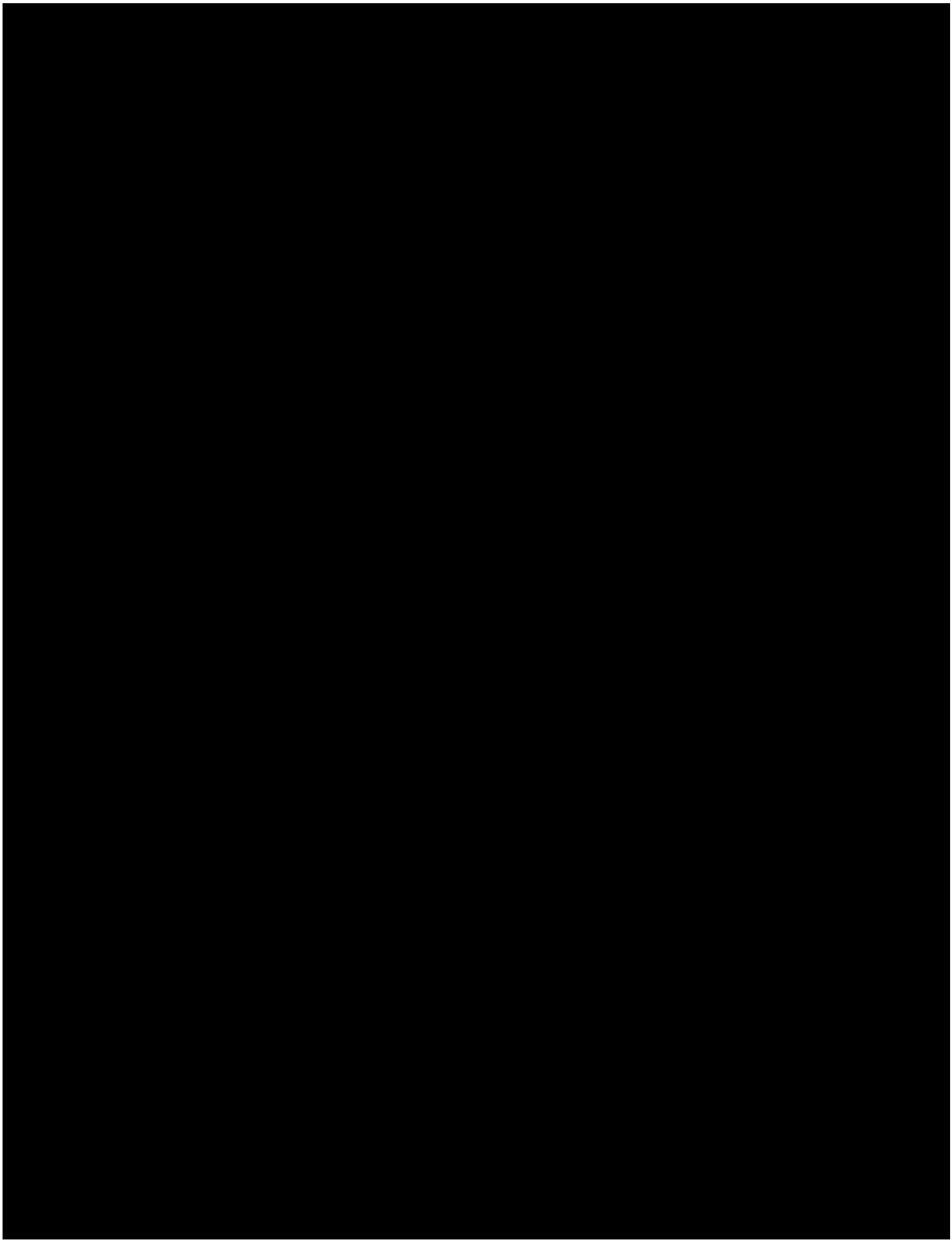


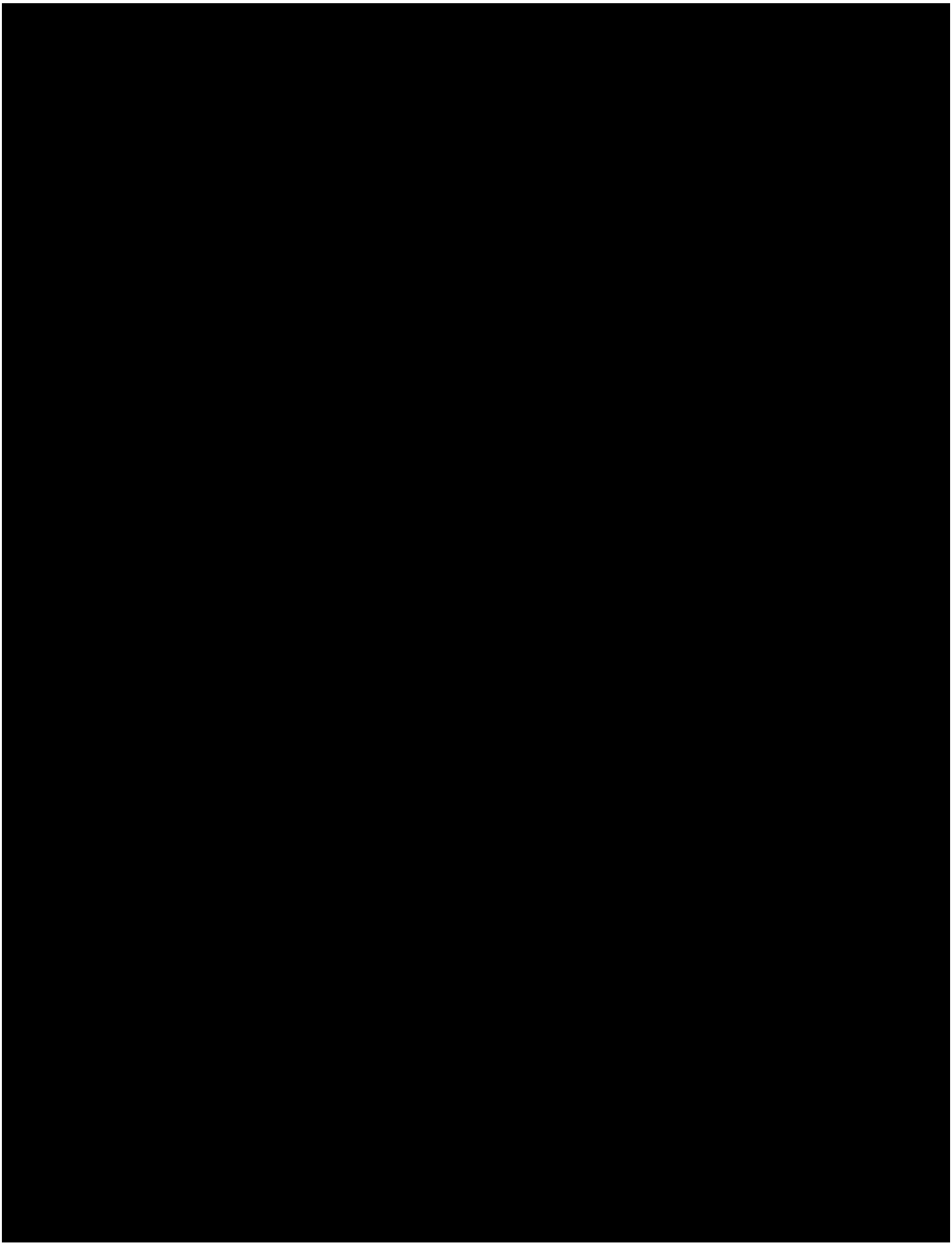


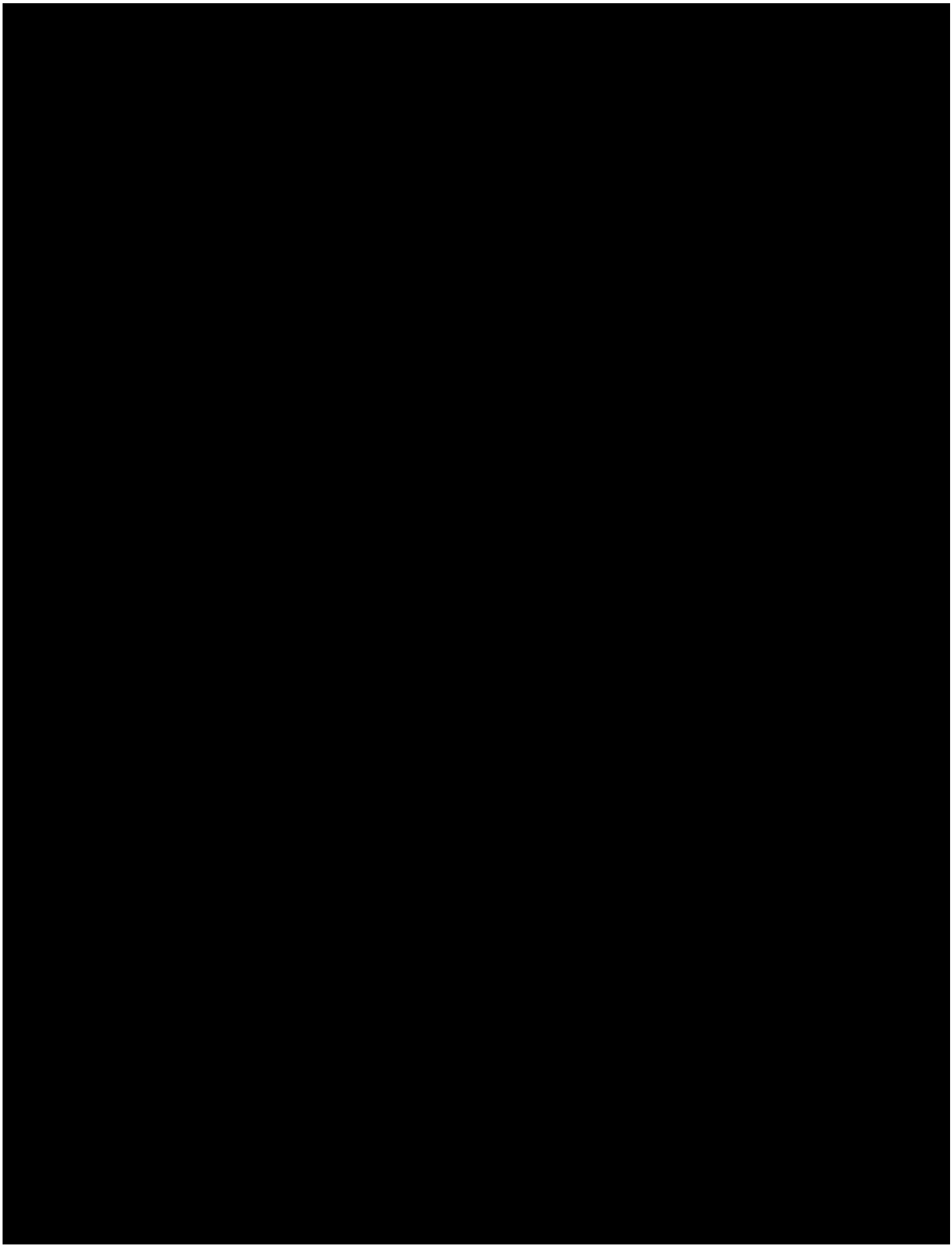


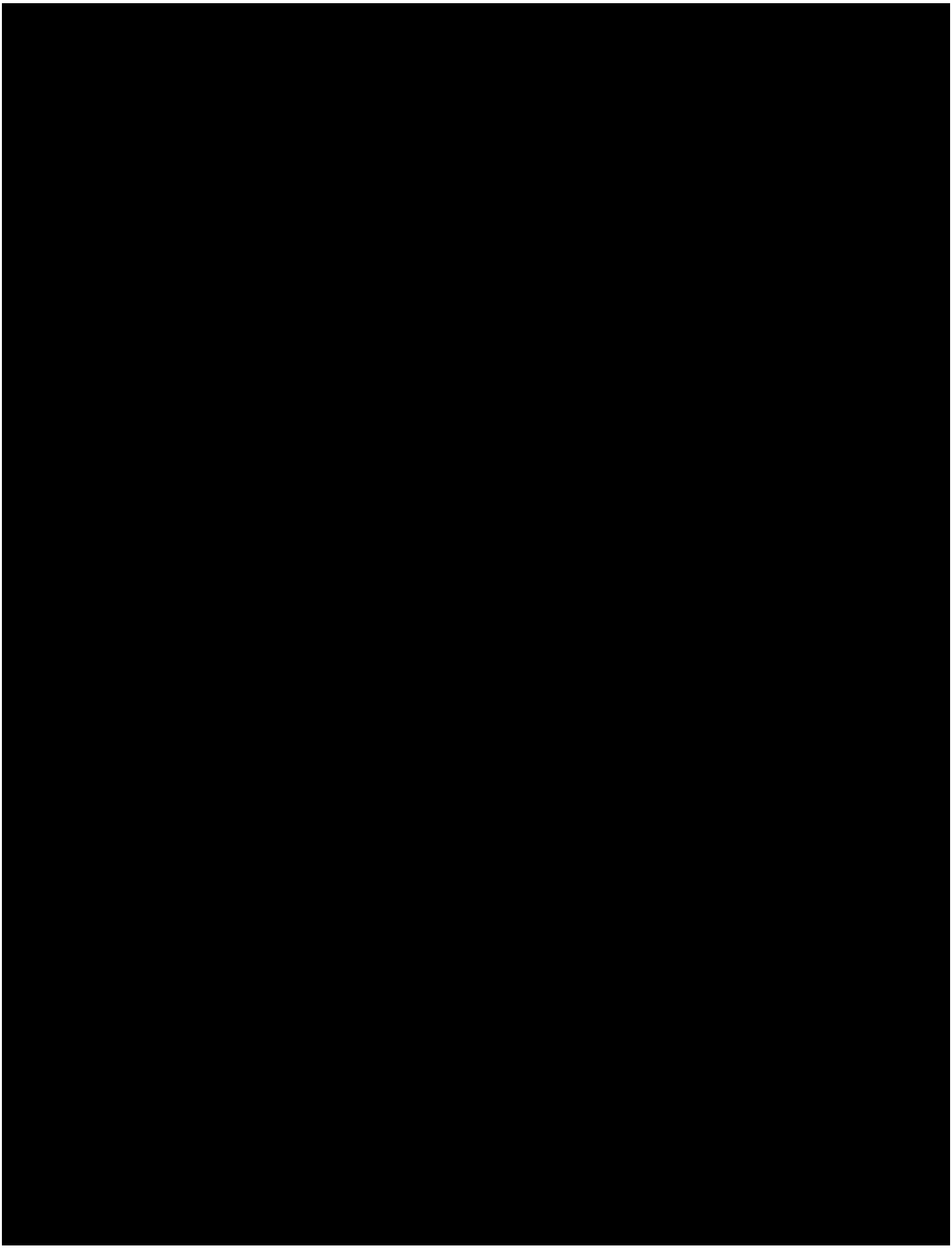


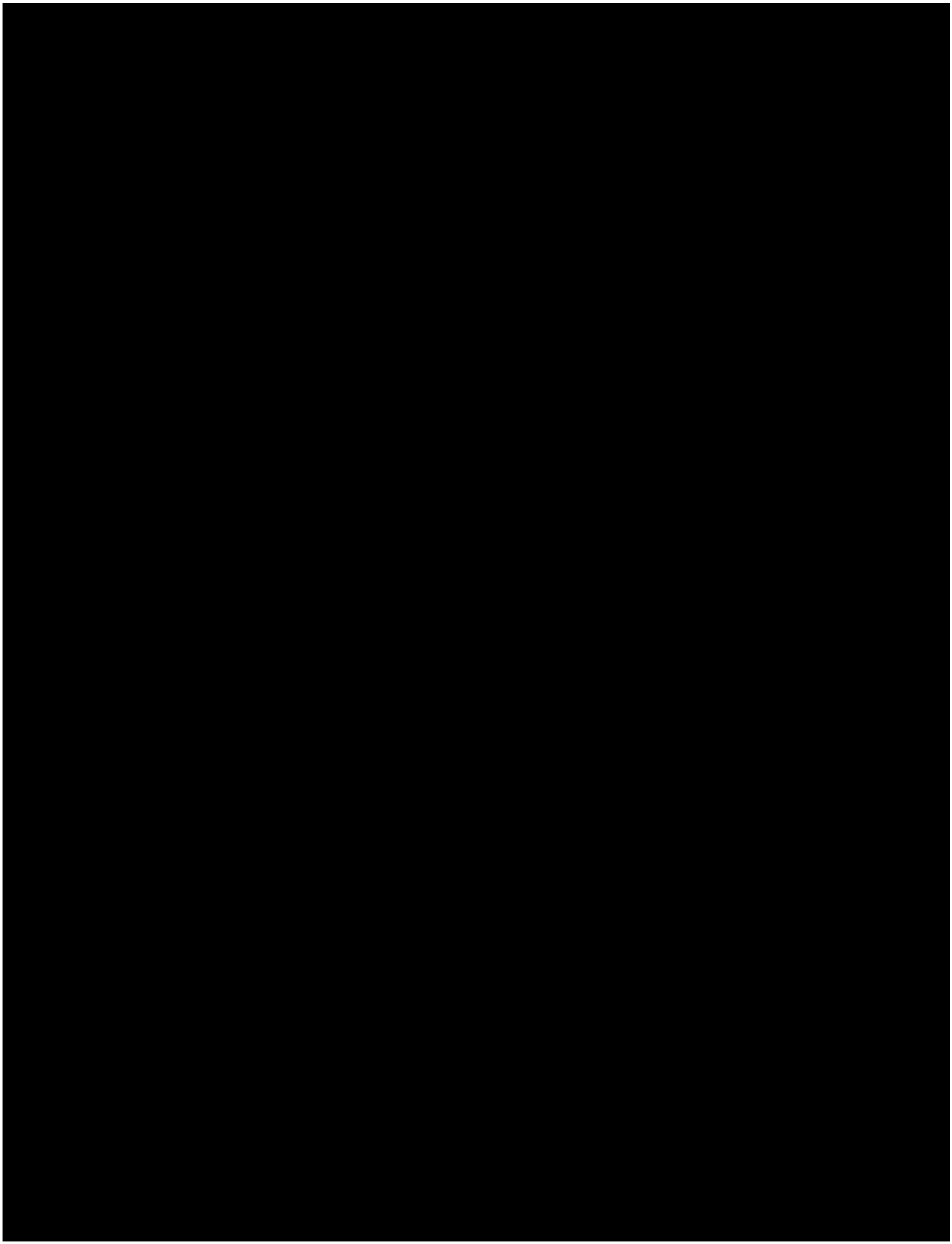


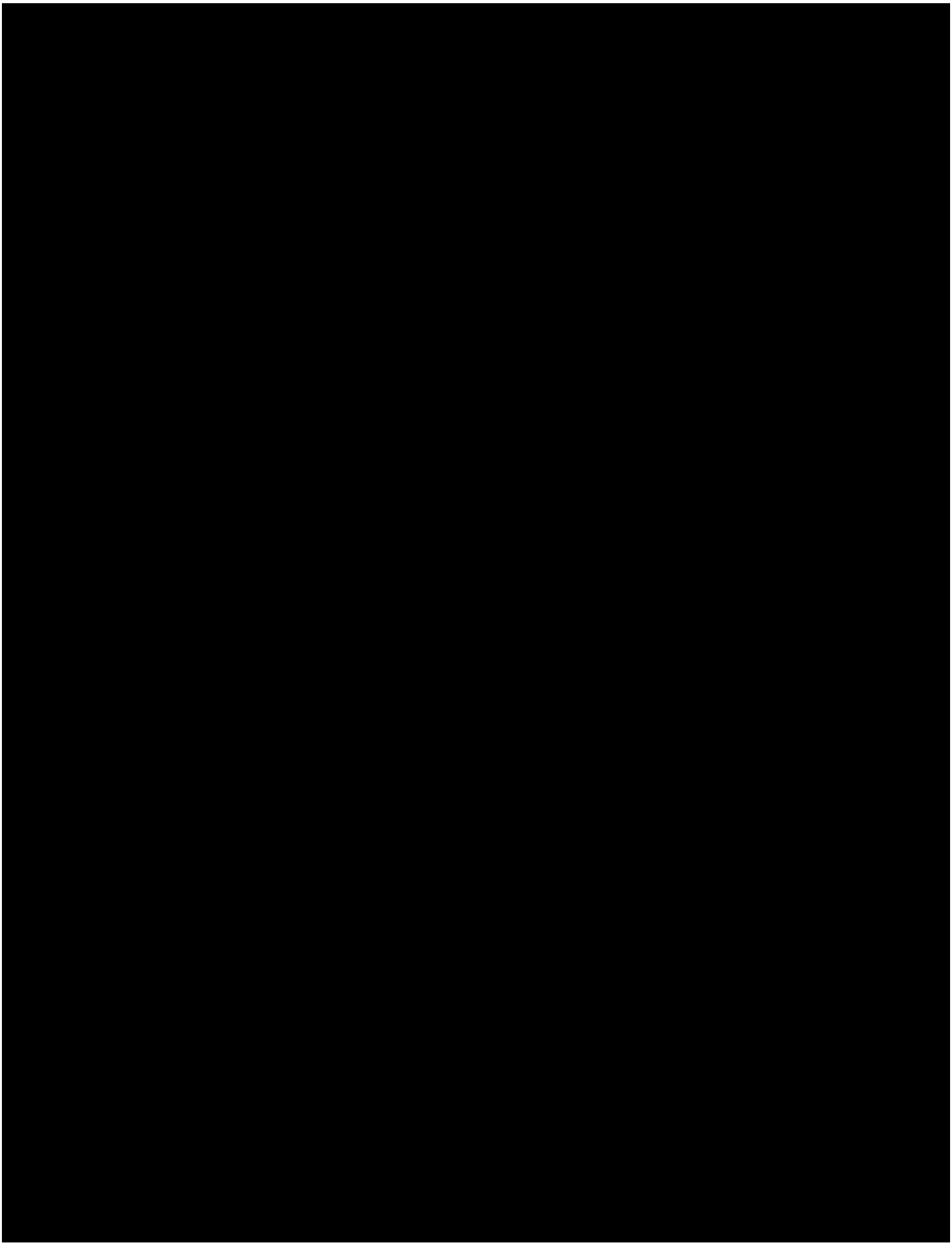


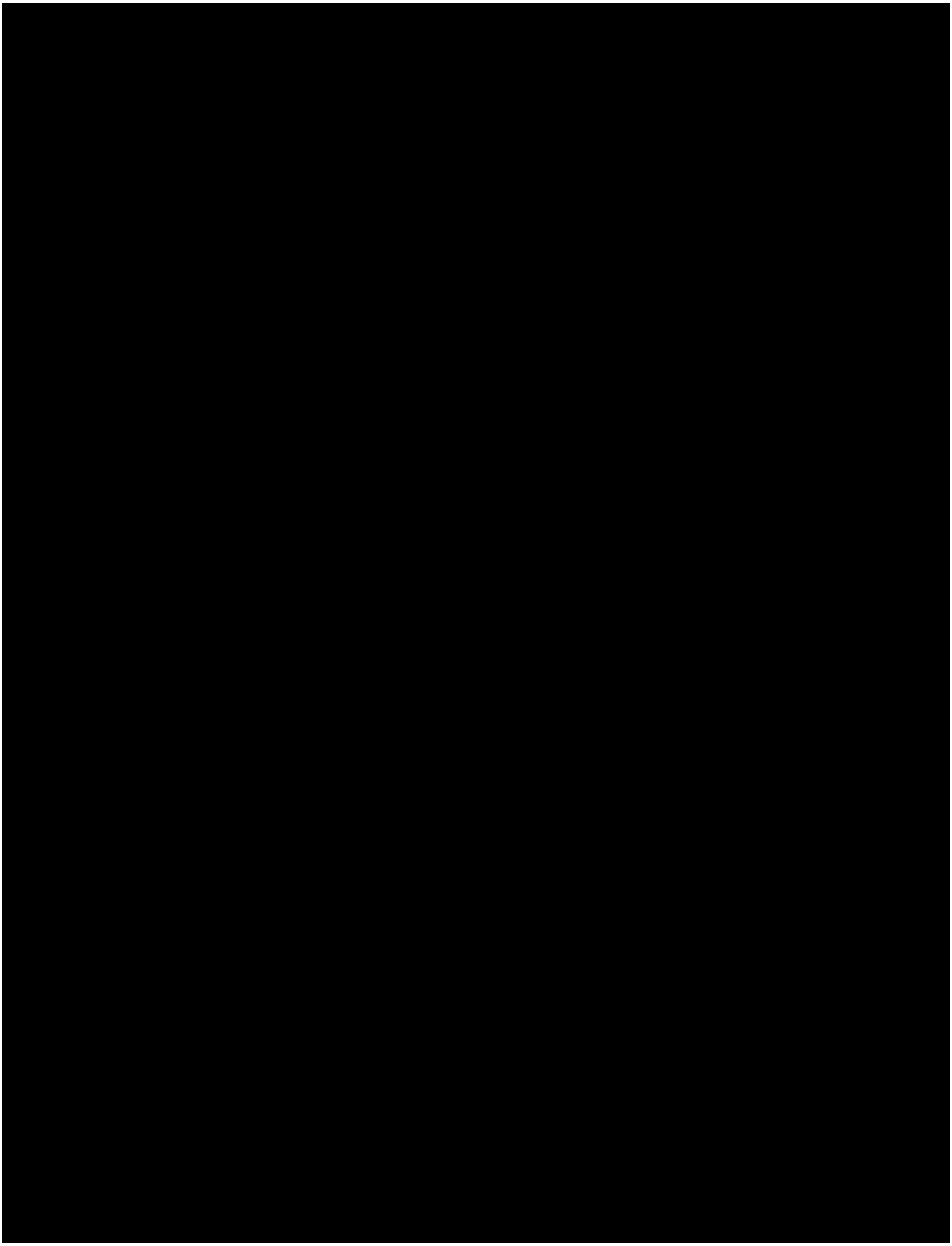


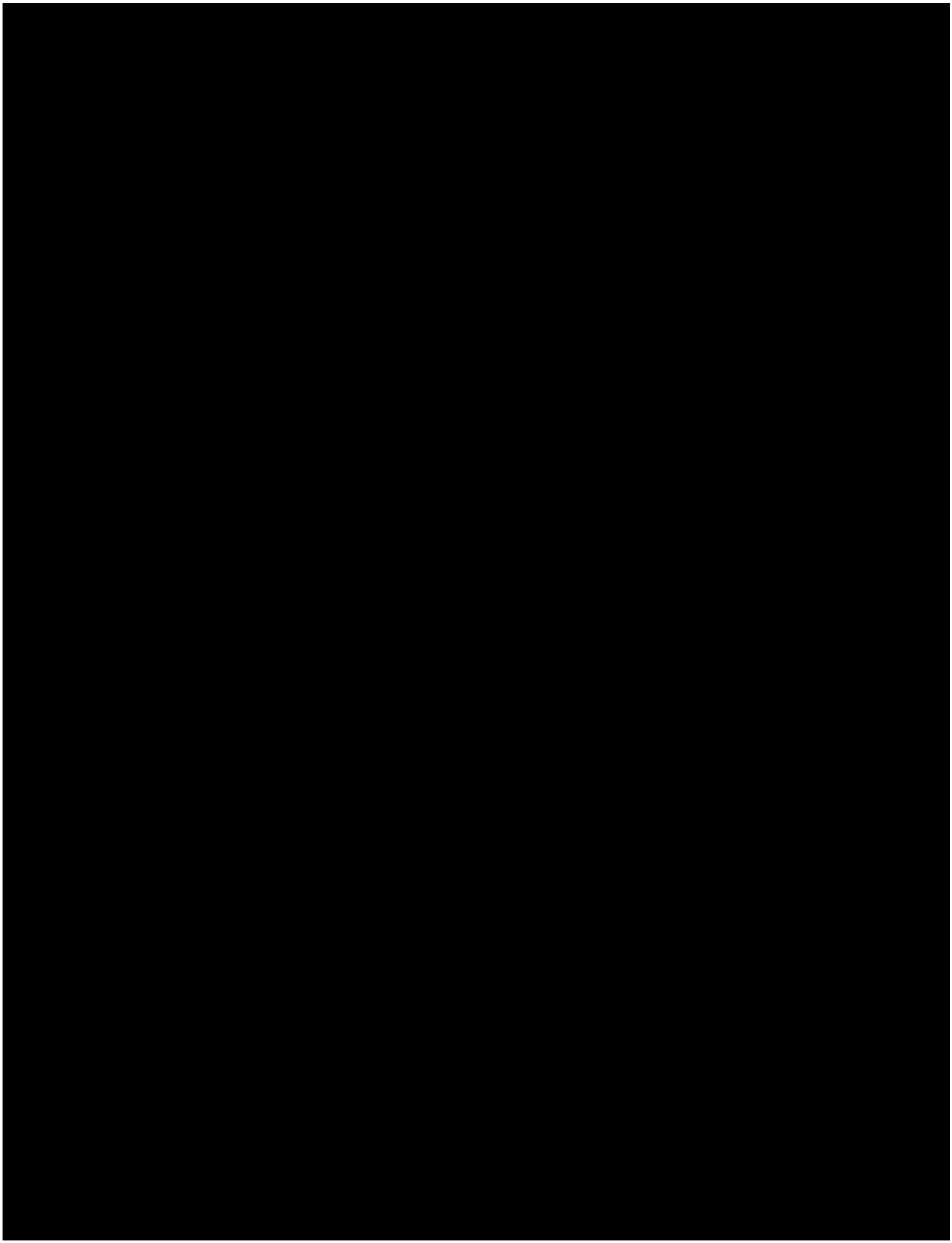


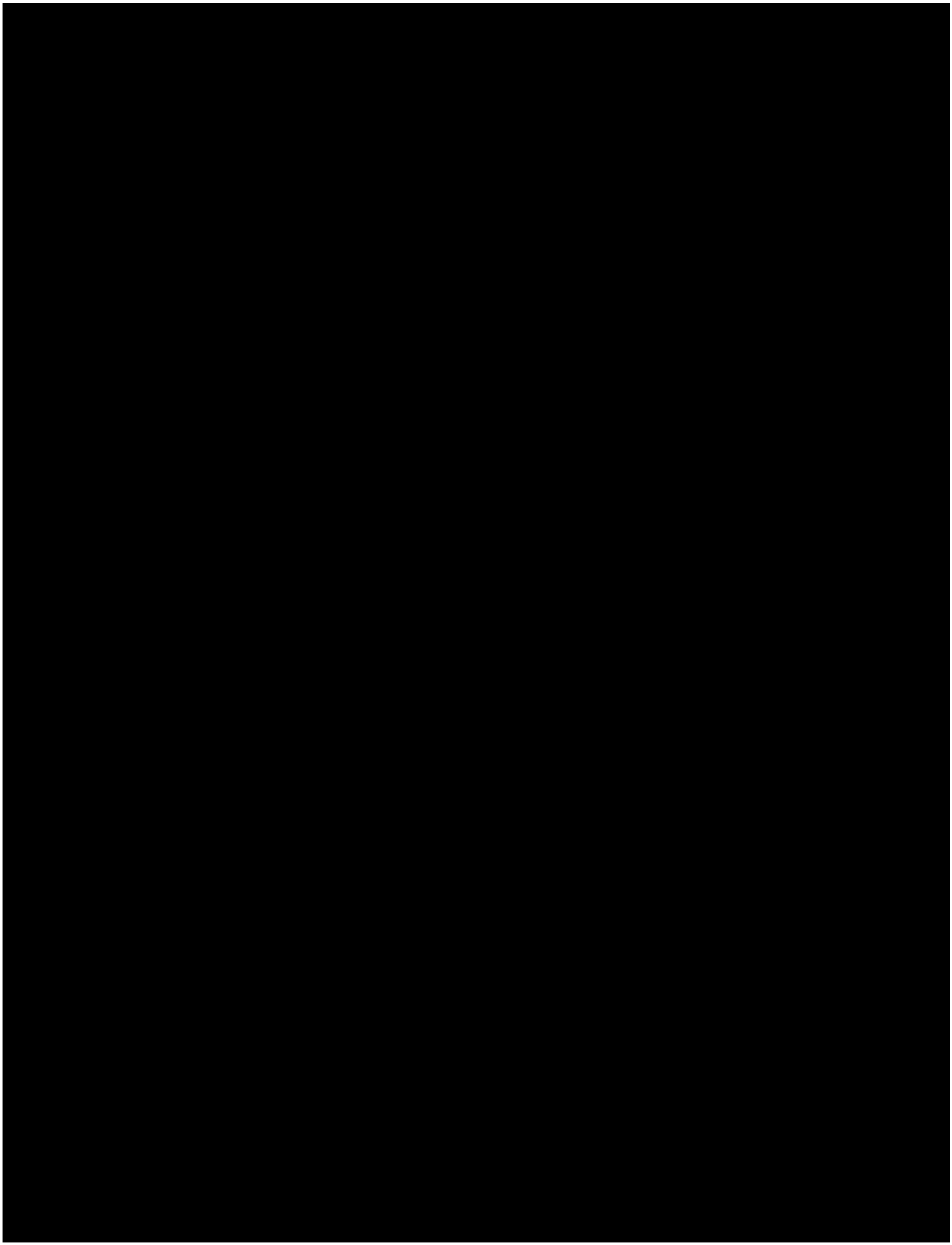


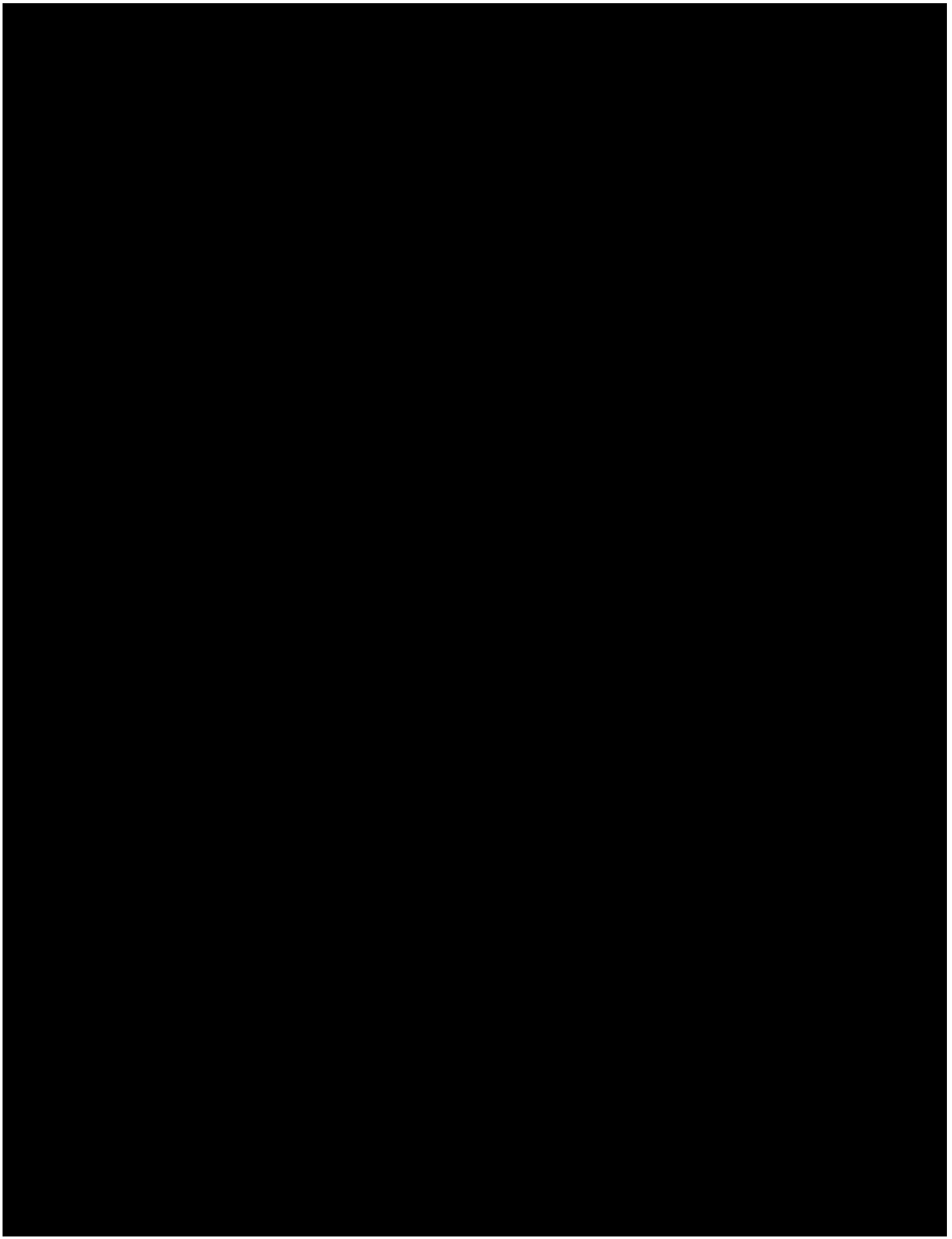


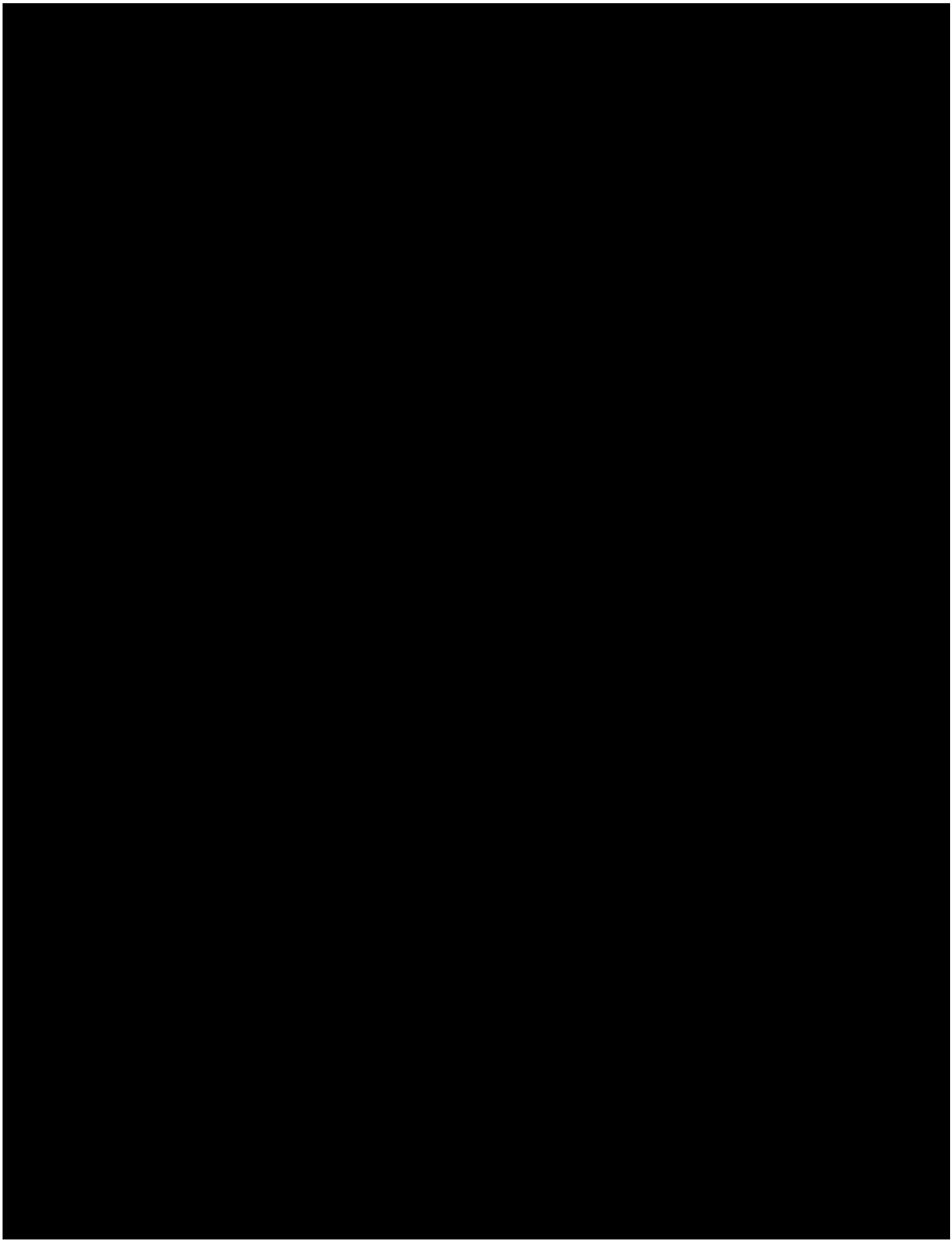


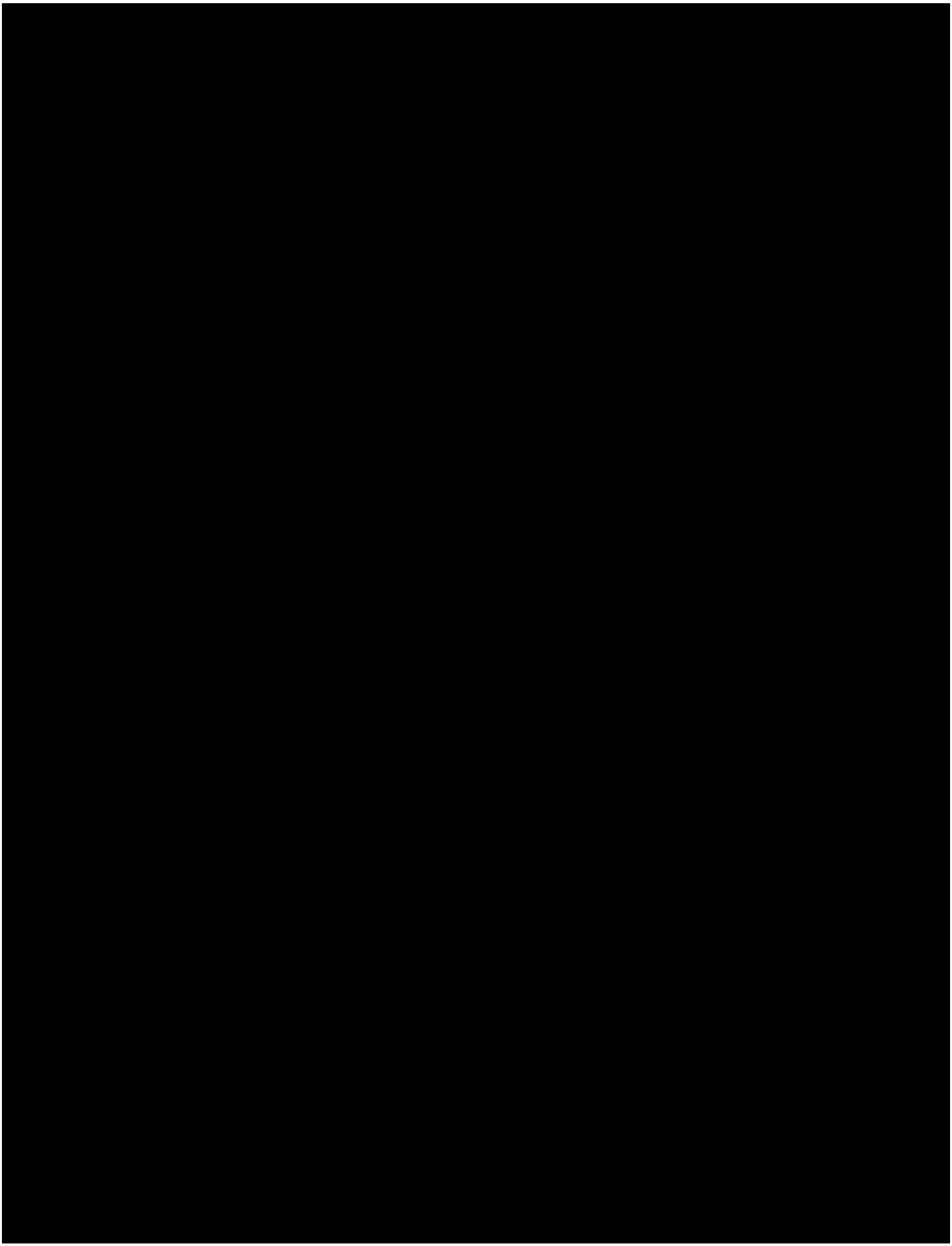


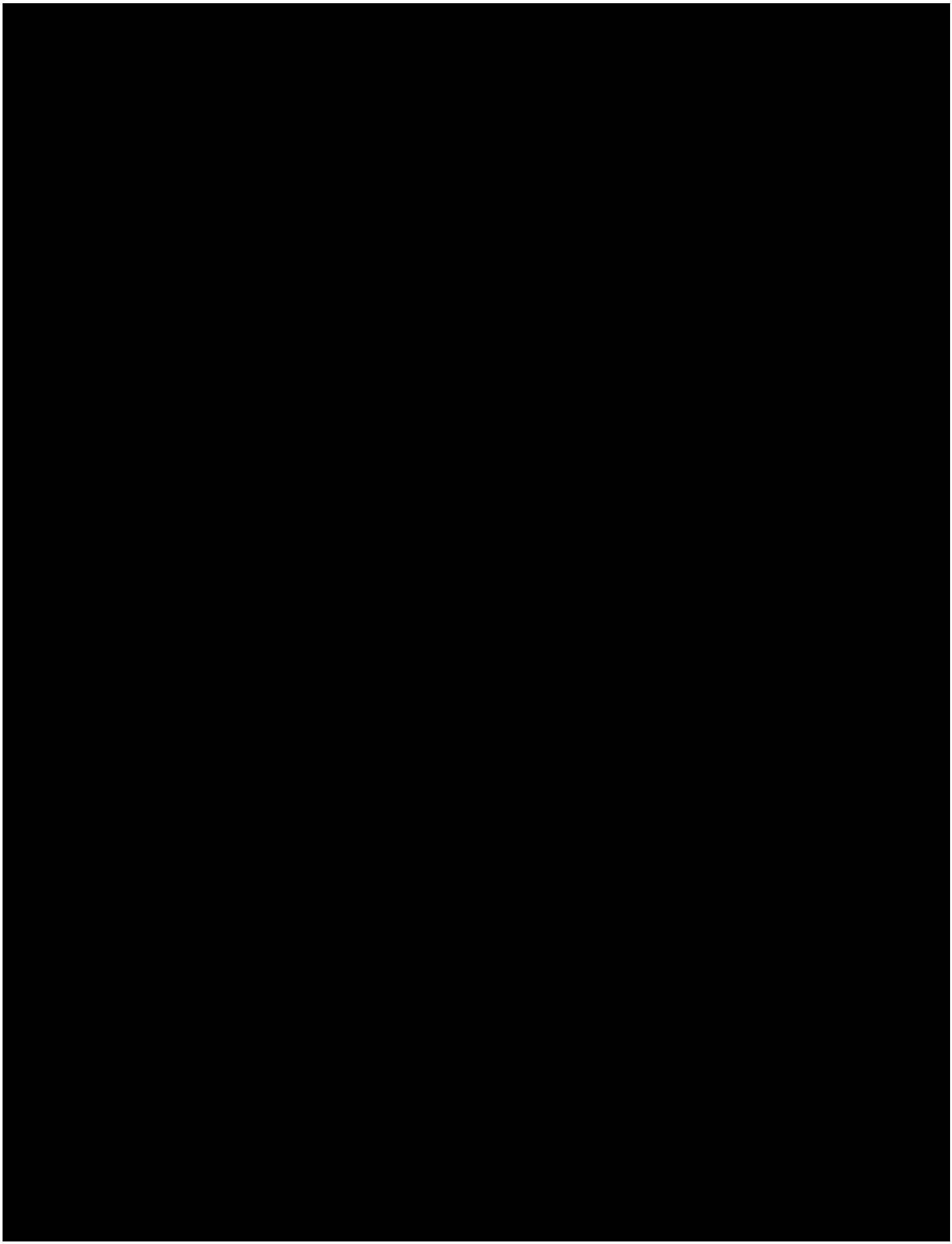


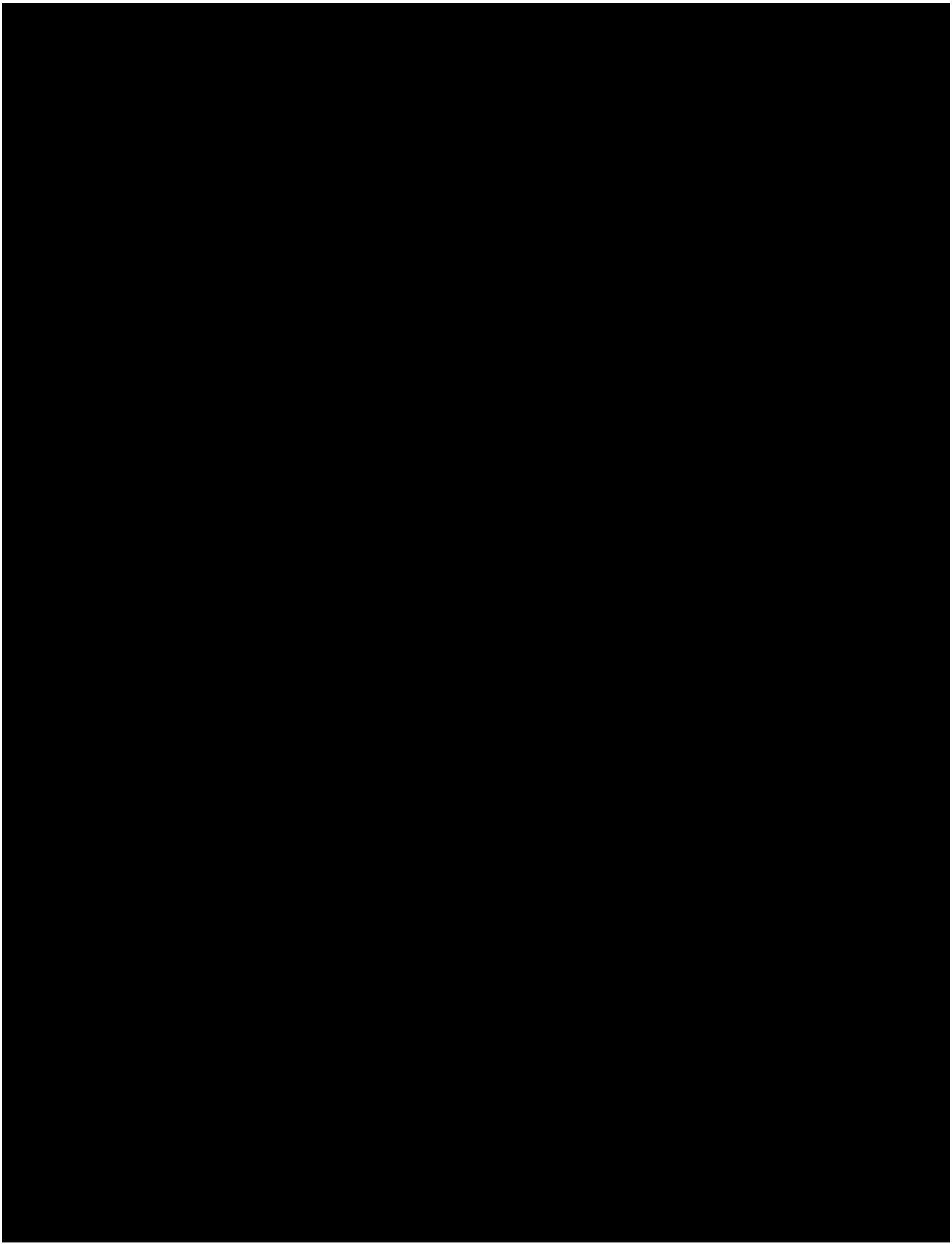


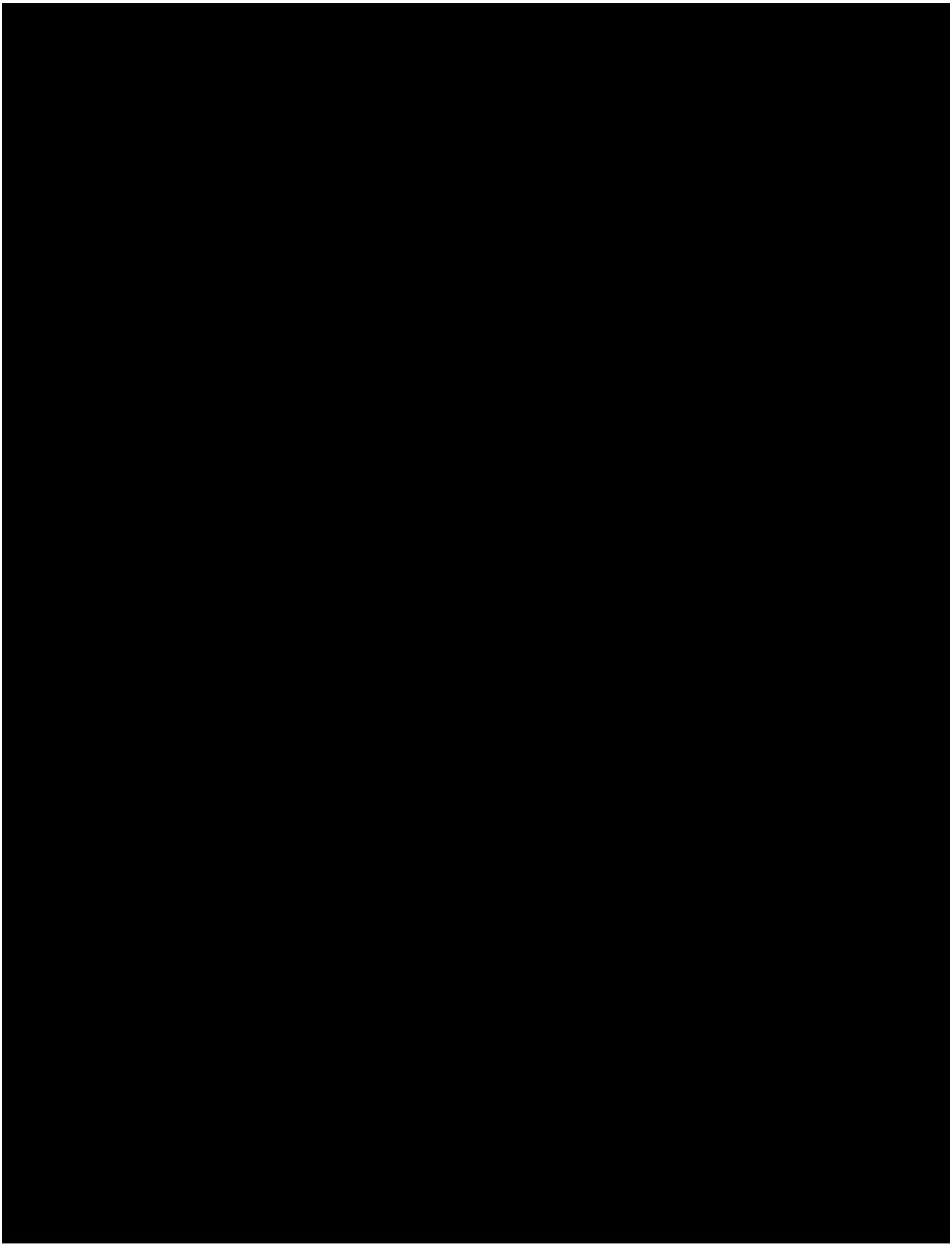


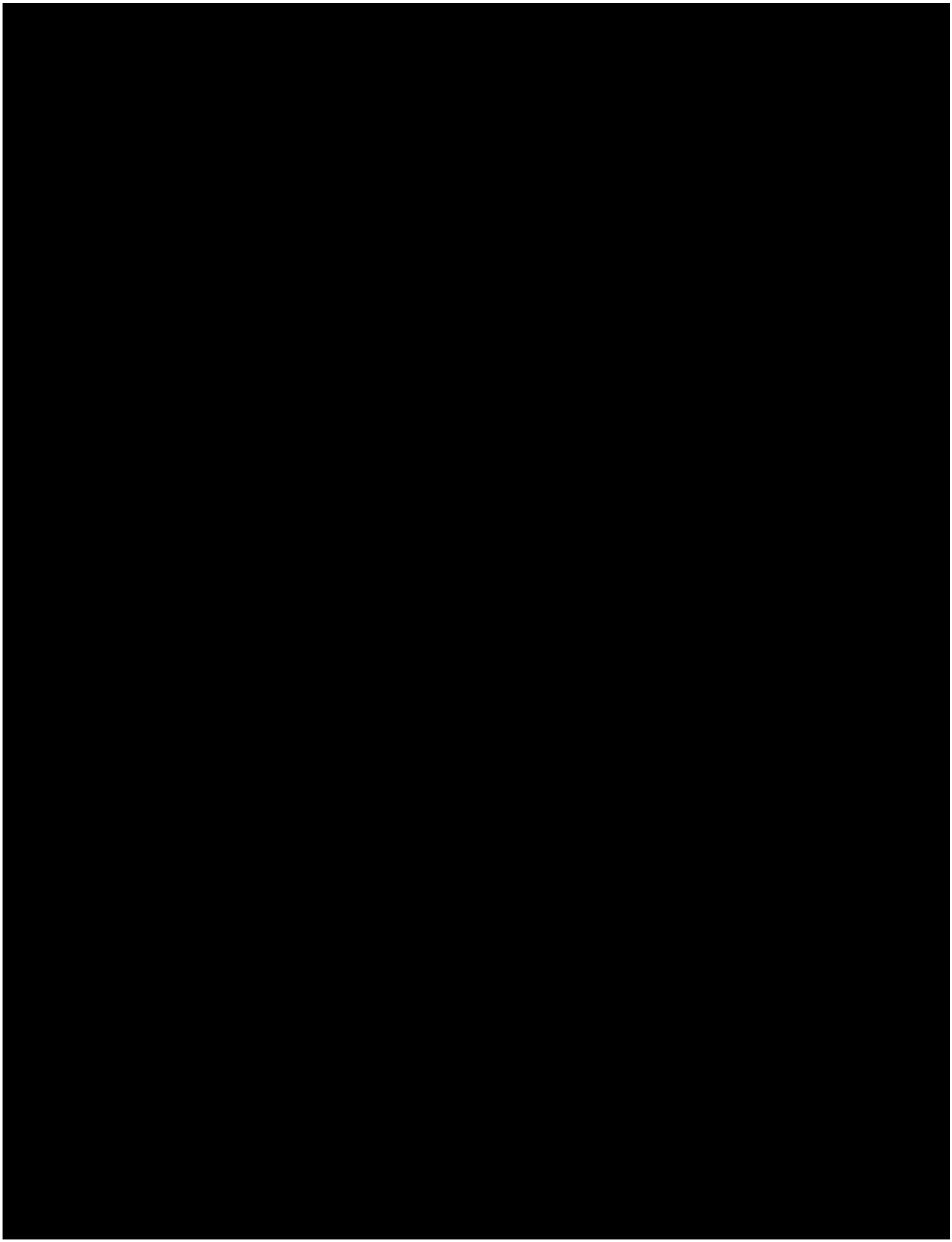


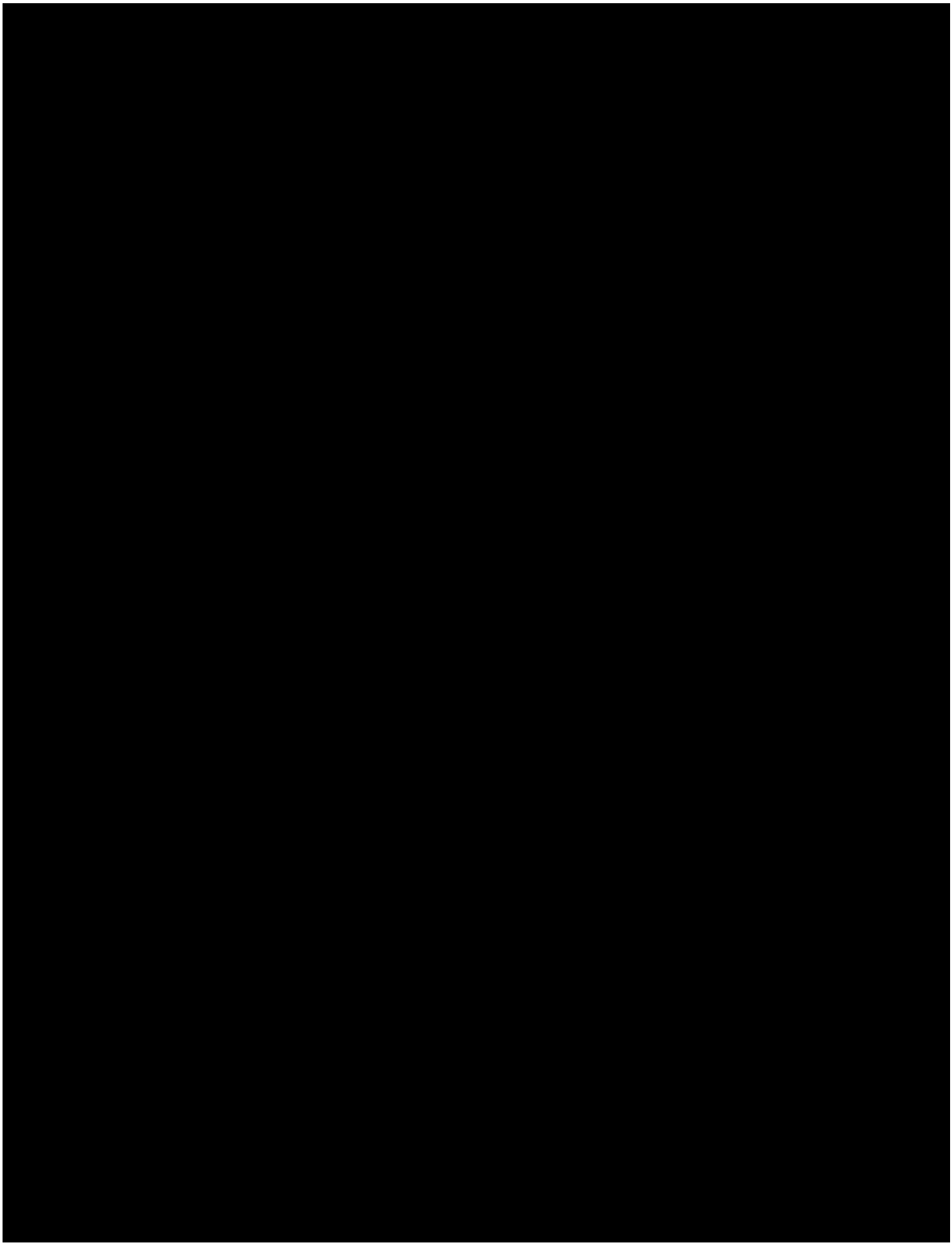


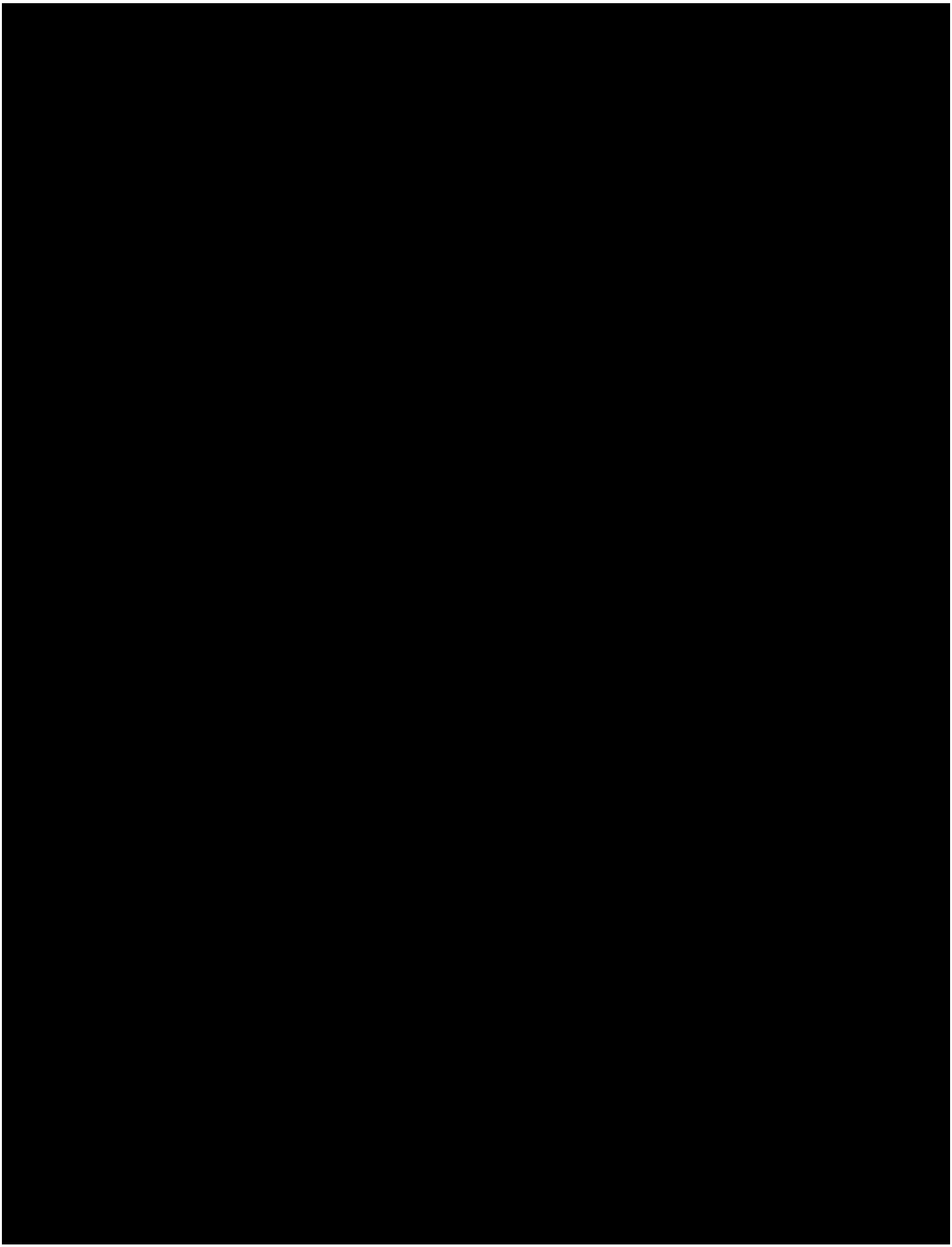


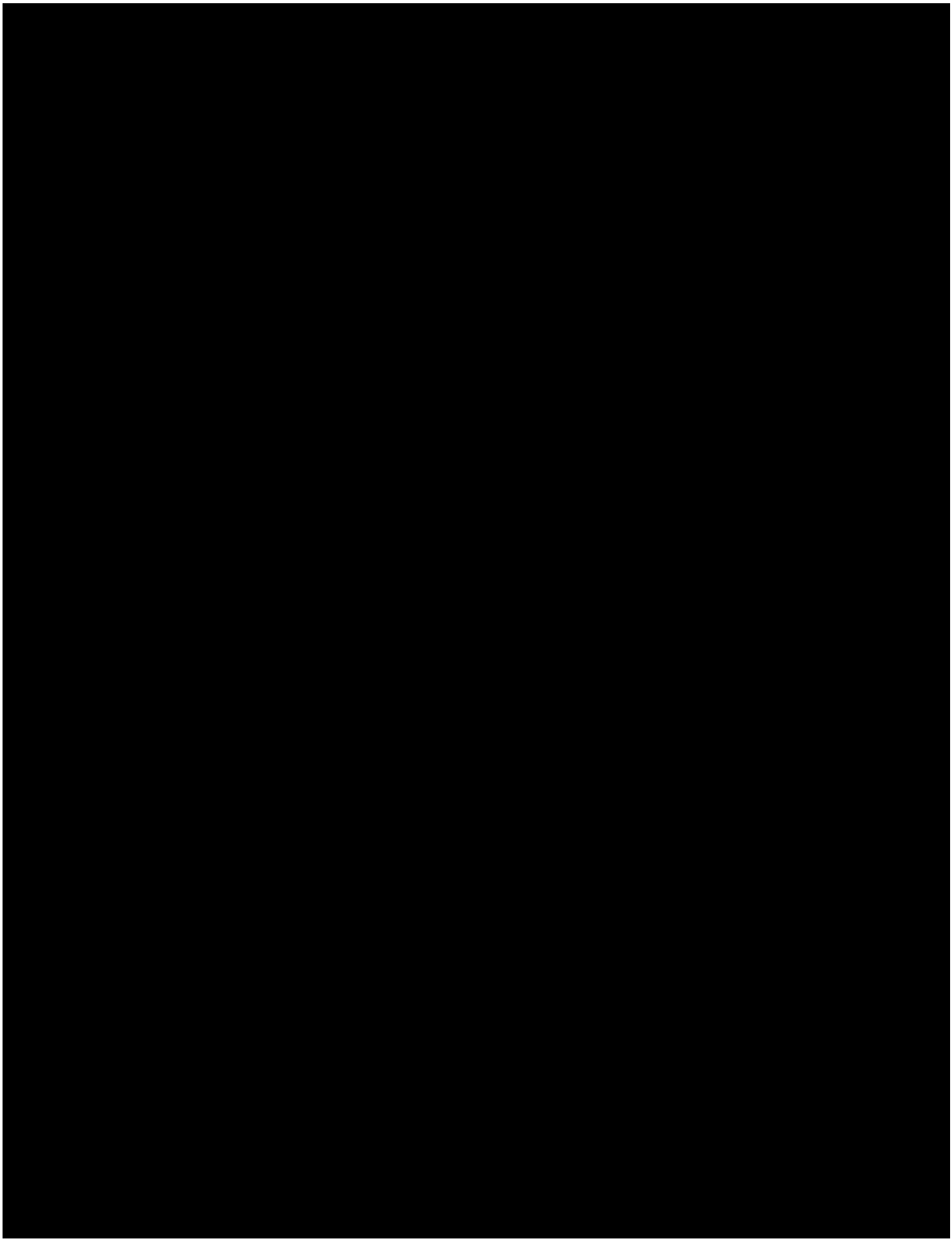


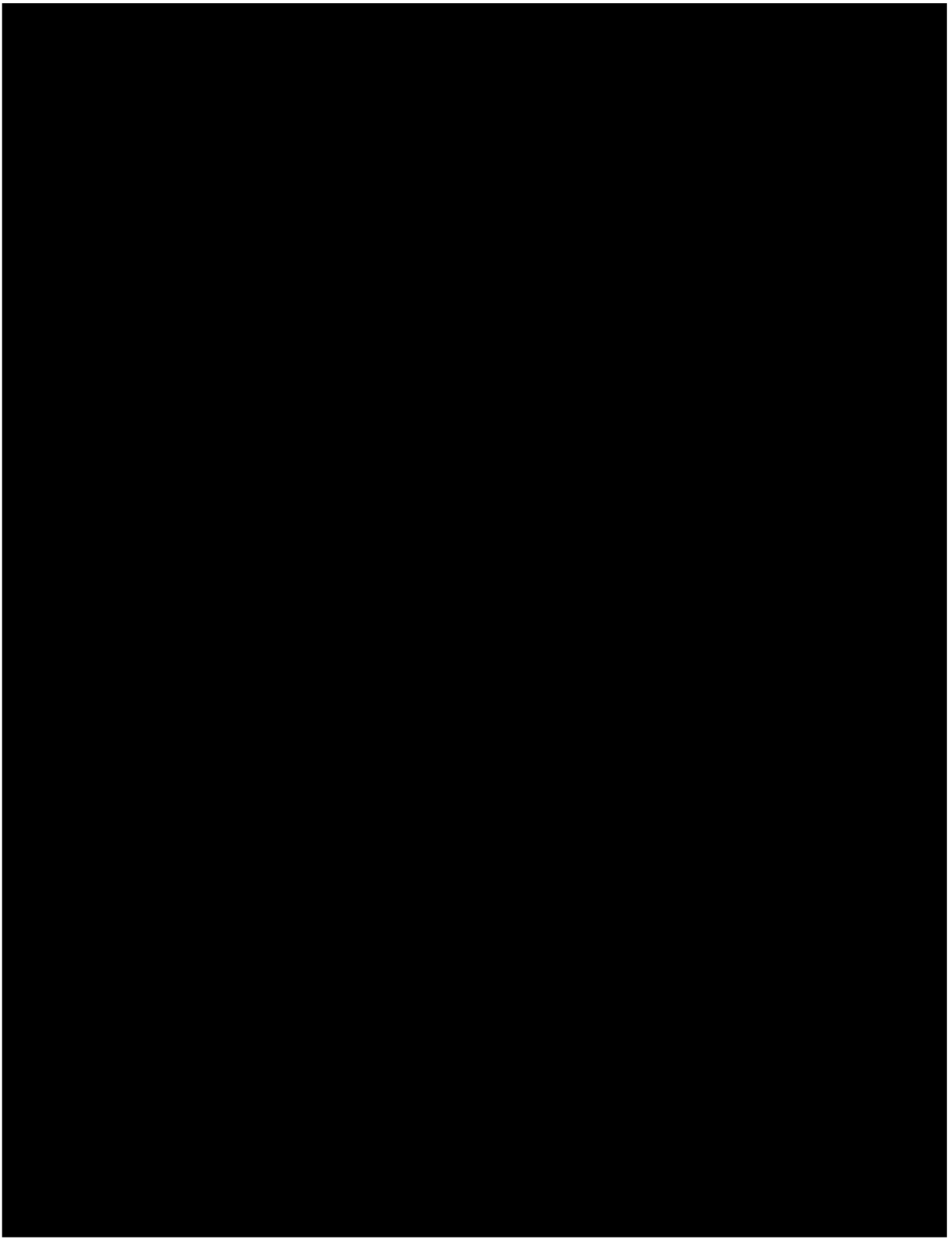


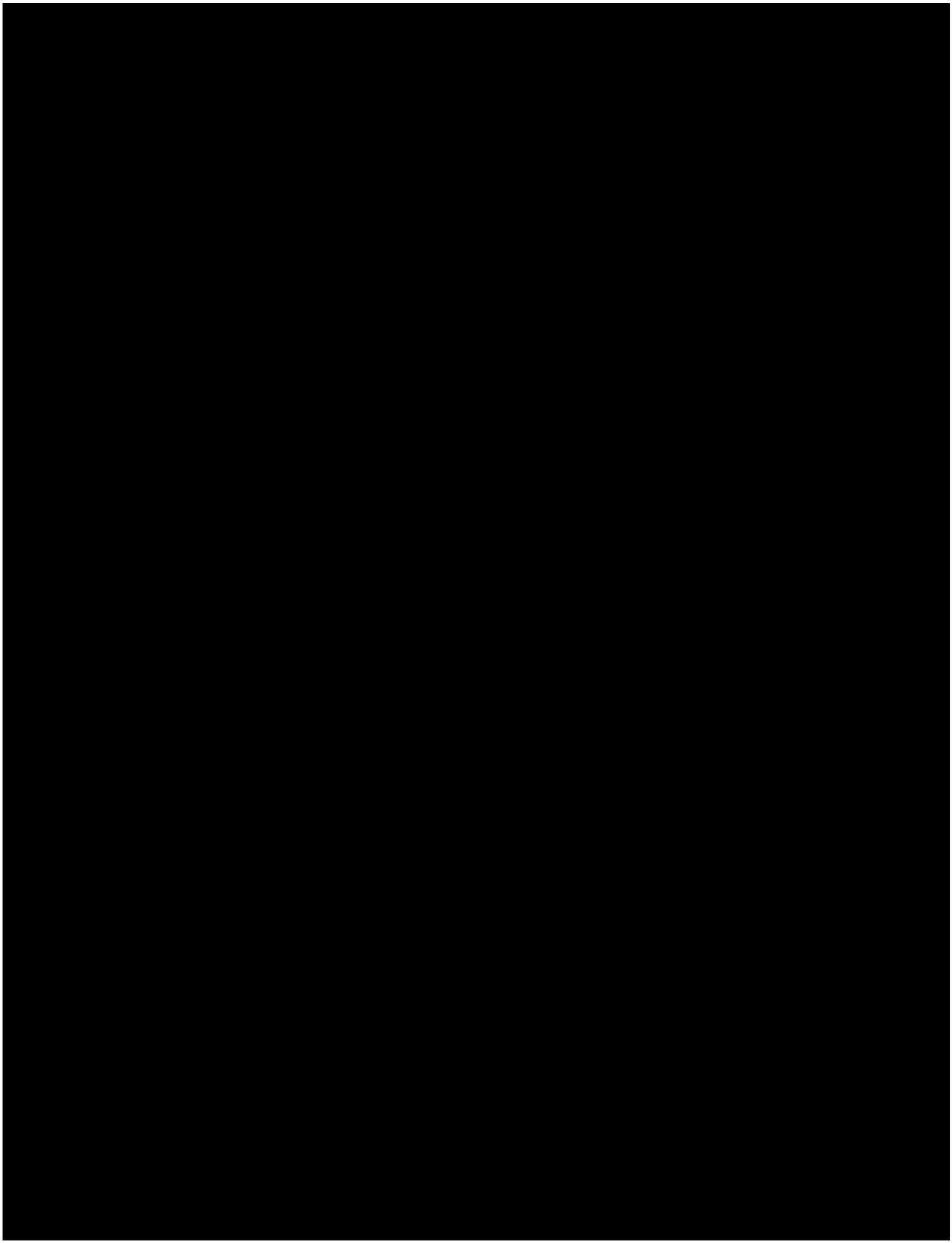


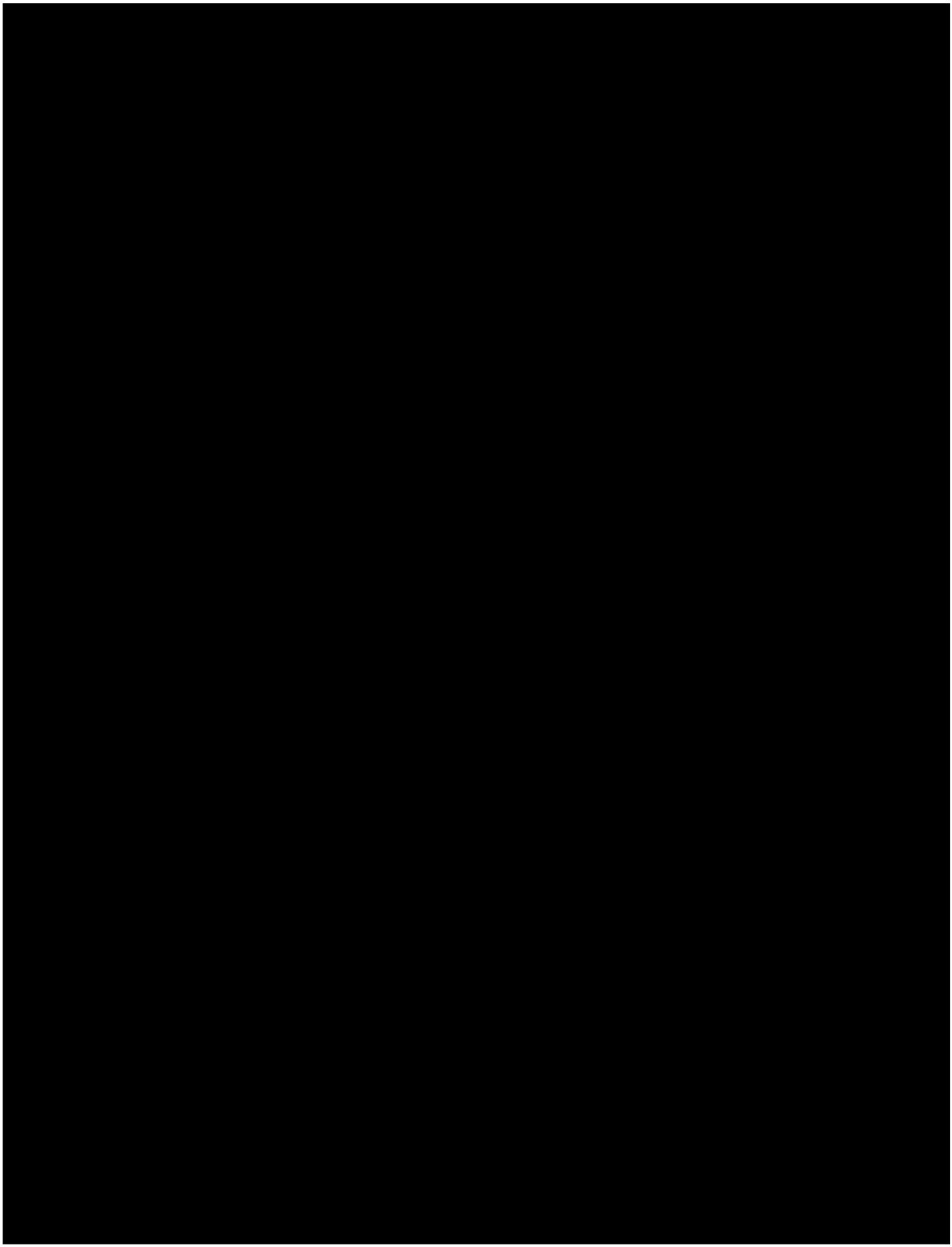












AFFIDAVIT OF STATEMENT OF BOBBY DALE WILSON

I, Bobby Dale Wilson of Sulligent, Alabama, do hereby certify that under penalty of perjury, that I communicated this statement to Brent Gasper on May 12, 2023, during a phone call. Mr. Gasper put the statement on paper and I looked at it for accuracy. This written statement is what I said to Mr. Gasper on that phone call. Also, the statement attached to this one is the statement I gave to the Trooper on June 11, 2021.

1. My name is Bobby Dale Wilson and I drove the Peterbilt that was in the wreck on Highway 22. I was working for GKD Trucking which also goes by A&G and Transco.

2. I was driving west on Highway 22. It was two-lane. A few seconds before the accident, I saw the car and the car must've seen me because it pulled over halfway into the shoulder. It looked like it was stopped and was going to turn left.

3. I told the Trooper in my statement that that car was stopped in the east bound lane. But the car was not completely in the lane. It was part on the shoulder.

4. Right after that there was the collision in the other lane and the car that hit the car that had just been on the shoulder then came over and hit my truck.

5. This is basically what I remember.

06/07/23
Date

Bobby Dale Wilson

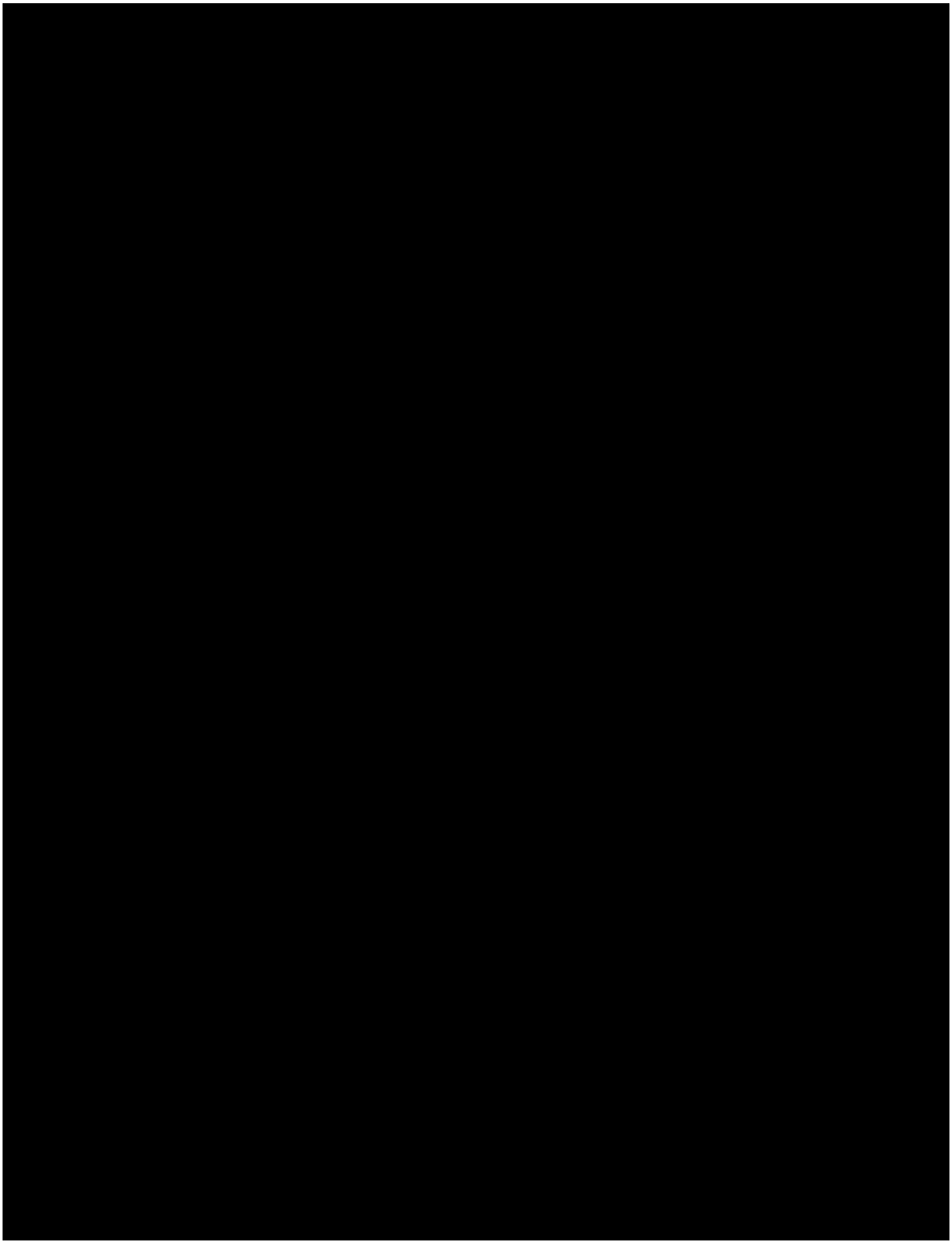
Subscribed and sworn to before me on this 7th day of May, 2023.

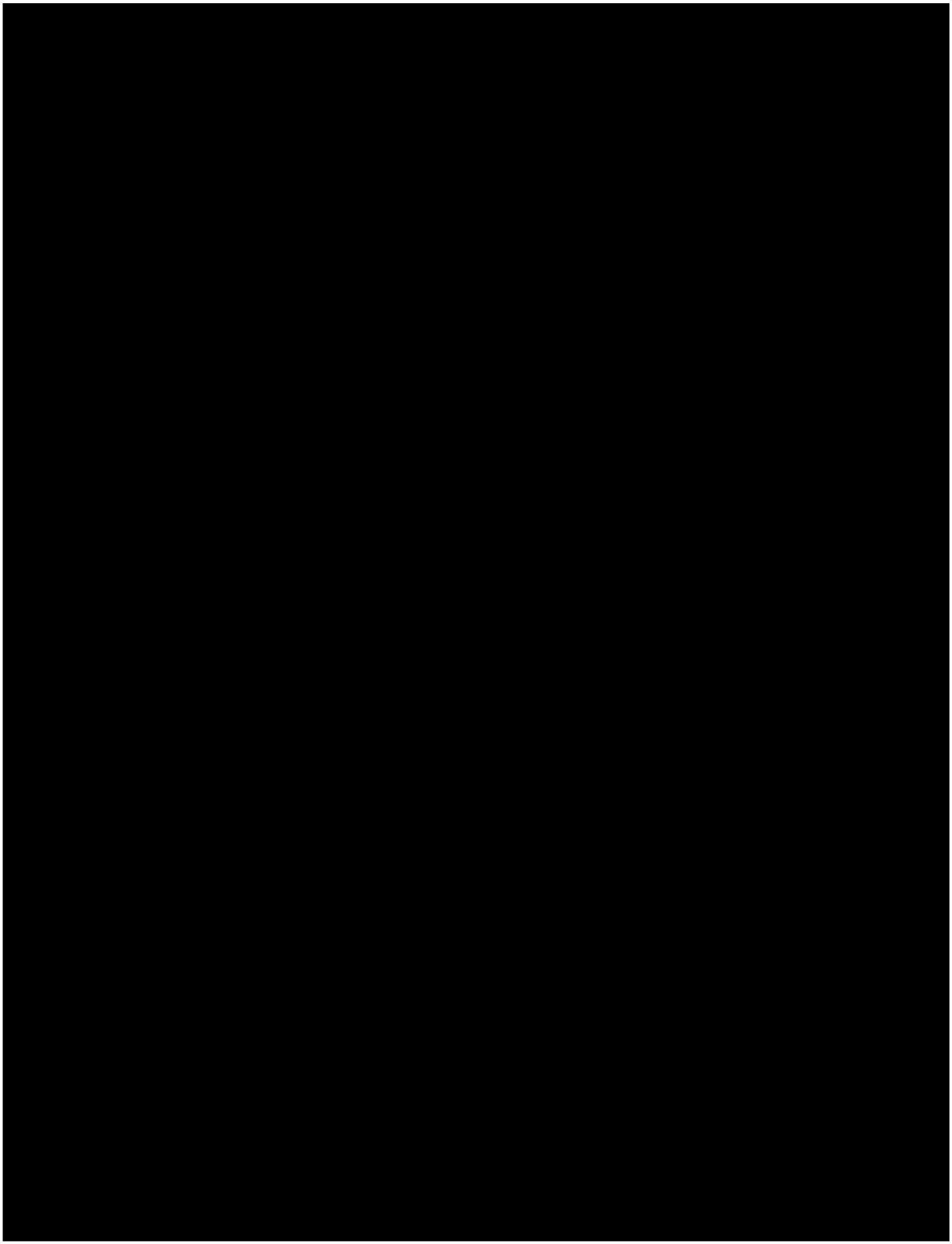
Notary Public
My commission expires: 01/15/2029

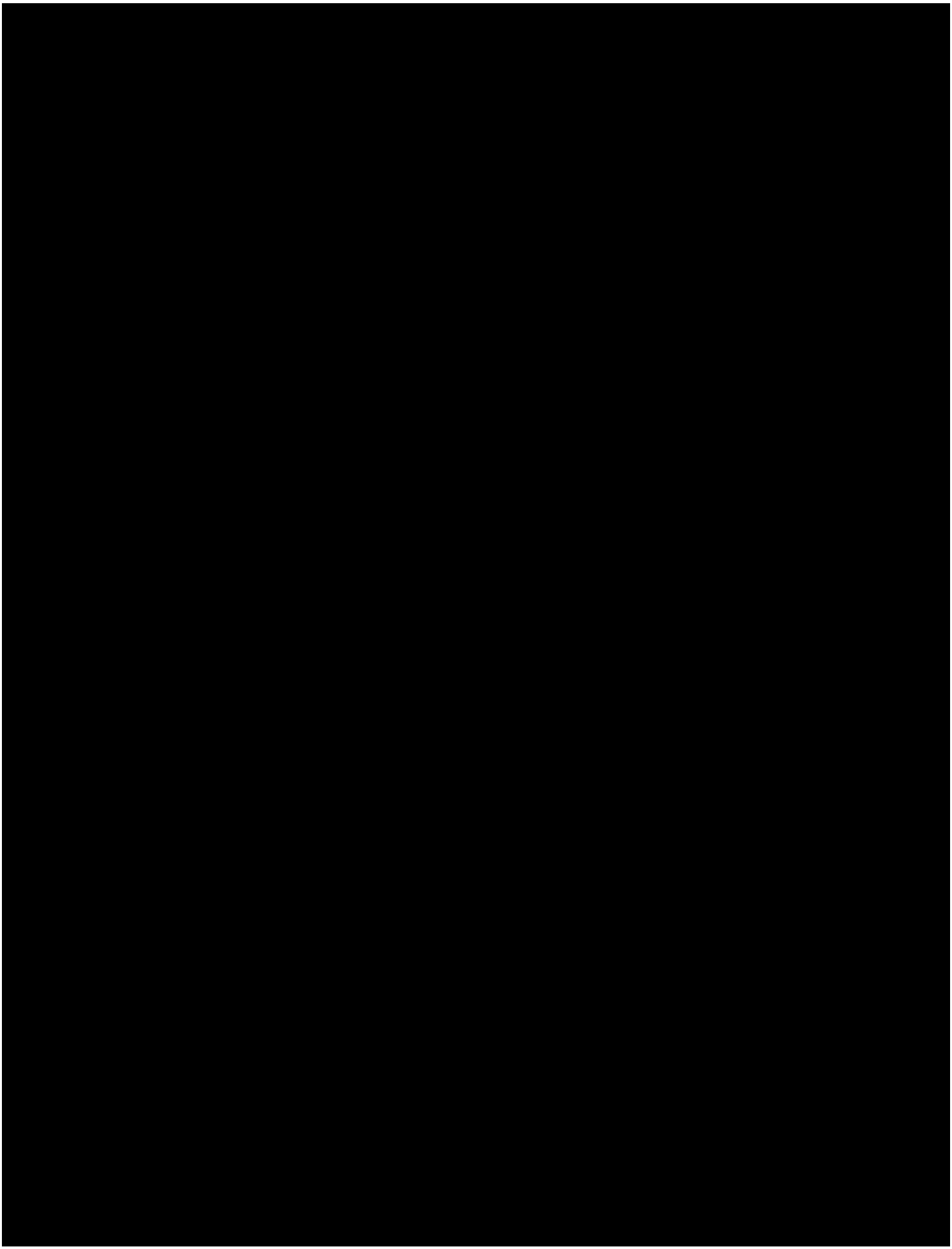
GREGORY SEAB STATON NOTARY PUBLIC #12370255 PULASKI COUNTY, AR

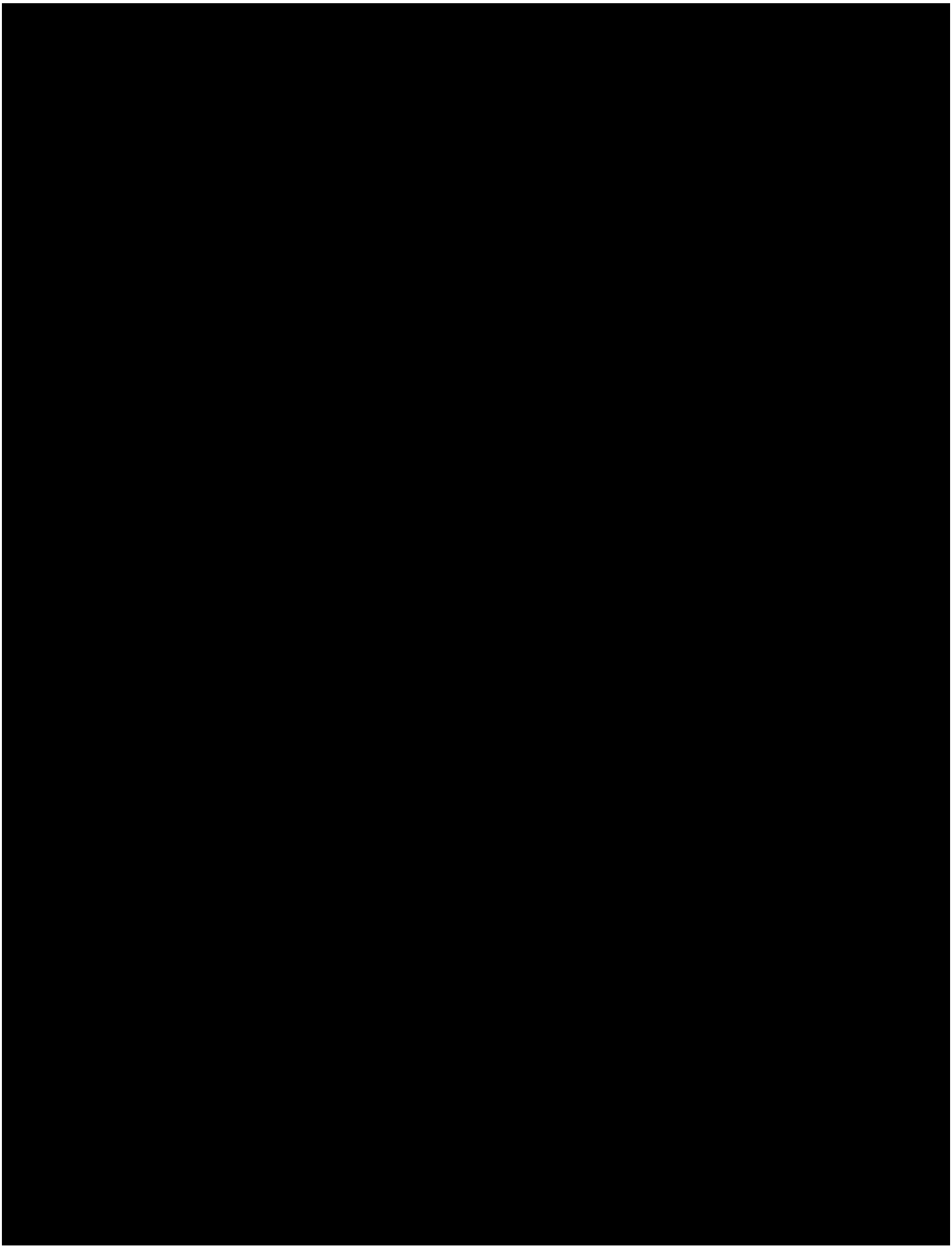
Signature:

This Notarization was conducted using audio/video technology provided by eNotaryLog, LLC
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Effective Date: 2/10/2023

ESIGN Consent to Use Electronic Records and Signatures

You have indicated that you wish to receive and sign the documents relating to your transactions with us electronically using the eNotaryLog platform, which includes electronic signature software (the "Platform"). We are required by law to give you certain information "in writing" - which means that you are entitled to receive it on paper. However, with your consent, we may instead provide this information to you electronically. We also need your general consent to use electronic records and signatures in our relationship with you. If you do not consent to the use of electronic records and signatures, you will be unable to proceed electronically. You will need to arrange with the person who sent you materials to sign electronically to complete the transaction using paper documents, or you may not be able to proceed with the transaction at all.

In this ESIGN Consent to Use Electronic Records and Signatures (this "Consent"), the words "we," "us," and "our" refer to the entity whose representative invited you to electronically review and sign documents using the Platform. The words "you" and "your" means the person giving consent. "Communications" means each disclosure, notice, agreement, undertaking, fee schedule, record, document, or other information we provide to you or that you sign, submit, or agree to at our request through the Platform.

Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to the terms and conditions of this Consent, please confirm your agreement and providing your consent by clicking the appropriate checkboxes, if warranted, and subsequently clicking "Submit" or "I Agree."

1. Your Consent

This Consent and your agreement apply to all of the Communications we provide to you, or that you sign, submit or agree to at our request, using the Platform. You agree that the Communications may be in electronic form. We may also use electronic signatures and initials and obtain them from you on any Communication, as well as use other functionality to obtain information from you for any Communication. You agree that all actions taken and information provided by you with respect to Communications displayed on the Platform will constitute your agreement, acceptance or acknowledgement of the applicable terms of the Communication to which such actions are applied.

Actions taken by you on the Platform may consist of, for example, the application of your electronic signature or initials, or selections made or information provided by you through use of electronic functionality (such as a checkbox, dropdown menu, textbox or radio button). All such actions have the same legal effect as if you had taken such actions and provided such information using pen and ink on paper.

All Communications that we deliver to you in electronic form will be delivered either (1) via e-mail; (2) via the Platform; or (3) by your accessing a Platform website link that we will designate in an e-mail, text message, or other electronic notice we send to you at the time the information is available. We will establish security procedures that you will have to follow to access the Platform and the Platform website.

We may always, in our sole discretion, provide you with any Communications on paper, even if you have authorized electronic delivery. Sometimes the law, or our agreement with you, requires you to give us a written notice. You must still provide these notices to us on paper, unless we tell you how to deliver the notice to us electronically.

2. How to Withdraw Consent

You can withdraw your consent to receive Communications electronically at any time by closing your browser to exit the Platform interface before completing the Platform signing session. Withdrawing your consent may delay your transactions with us. If you withdraw your consent before all Communications are reviewed and/or signed, you will be unable to proceed electronically using the Platform. You may be required to review and/or execute Communications via paper, or you may be unable to complete the transaction at all.

You may also withdraw your consent to receive electronic Communications at any time after completion of your Platform signing session by contacting us using our contact information set forth in the Communications. Your withdrawal of consent with respect to the electronic Communications does not affect any other consent you have given us at any other time to use electronic records and signatures. A withdrawal of your consent to receive electronic Communications will be effective only after we have had a reasonable period of time to process your withdrawal.

3. Your Contact Information

It is your responsibility to provide an accurate and complete e-mail address and other contact information, and to maintain and update promptly any changes in this information.

4. Hardware and Software Requirements

To receive electronic Communications using the Platform, you must have access to:

- A Current Version (defined below) of a web browser the Platform supports;
- A connection to the internet;
- A Current Version of a program that accurately reads and displays PDF files;
- A Current Version of an email management program; and
- A device (e.g., a computer, tablet, mobile phone, etc.) and an operating system capable of supporting all of the above.

You will also need a printer if you wish to print out and retain records on paper, and electronic storage if you wish to retain records in electronic form.

You must also have an active email address and a cellphone number for SMS messaging.

By "Current Version," we mean a version of the software that is stable and is currently supported by its publisher. From time to time, we may offer services or features that require your web browser be configured in a particular way, such as permitting the use of JavaScript or cookies. If we detect that your internet browser is not properly configured, we may provide you with a notice and advice

on how to update your configuration. We reserve the right to discontinue support of a Current Version of software if, in our sole opinion, it suffers from a security flaw or other flaw that makes it unsuitable for use with the Platform.

If the hardware or software requirements for the Platform change, and that change would create a material risk that you would not be able to access or retain electronic Communications, the changes will be described in an updated version of this Consent which will be made available to you at the start of your next Platform signing session. You may then elect to consent to such updated Consent and the revised requirements specified therein before viewing and executing any other Communications using the Platform.

5. Requesting Paper Copies

You will have the opportunity to print out and retain a copy of all electronic Communications you review and/or sign using the Platform. At the close of your Platform signing session, you will be provided the opportunity to print and/or download a copy of the Communications you reviewed and/or signed during that session, Also, when you sign the electronic Communications using the Platform, we will send to you, at the email address you previously provided to us, a secure link that will enable you to access a copy of the fully executed Communications and this Consent.

Except as described above, we will not send you a paper copy of electronic Communications unless you request it. You can obtain a paper copy of any Communication we provide to you electronically, including this Consent, by printing it yourself or by requesting that we mail you a paper copy. Request for paper copies must be made within a reasonable time after we first provided the electronic Communication to you. We reserve the right to charge a reasonable fee for such paper copies. The fee may be indicated in the Communications.

If you are a notary using the Platform to notarize Communications signed by others, this section 5 shall not apply to you.

6. Retain Copies

We encourage you to print or download for your records a copy of all electronic Communications, as well as this Consent disclosure and any other document that is important to you.

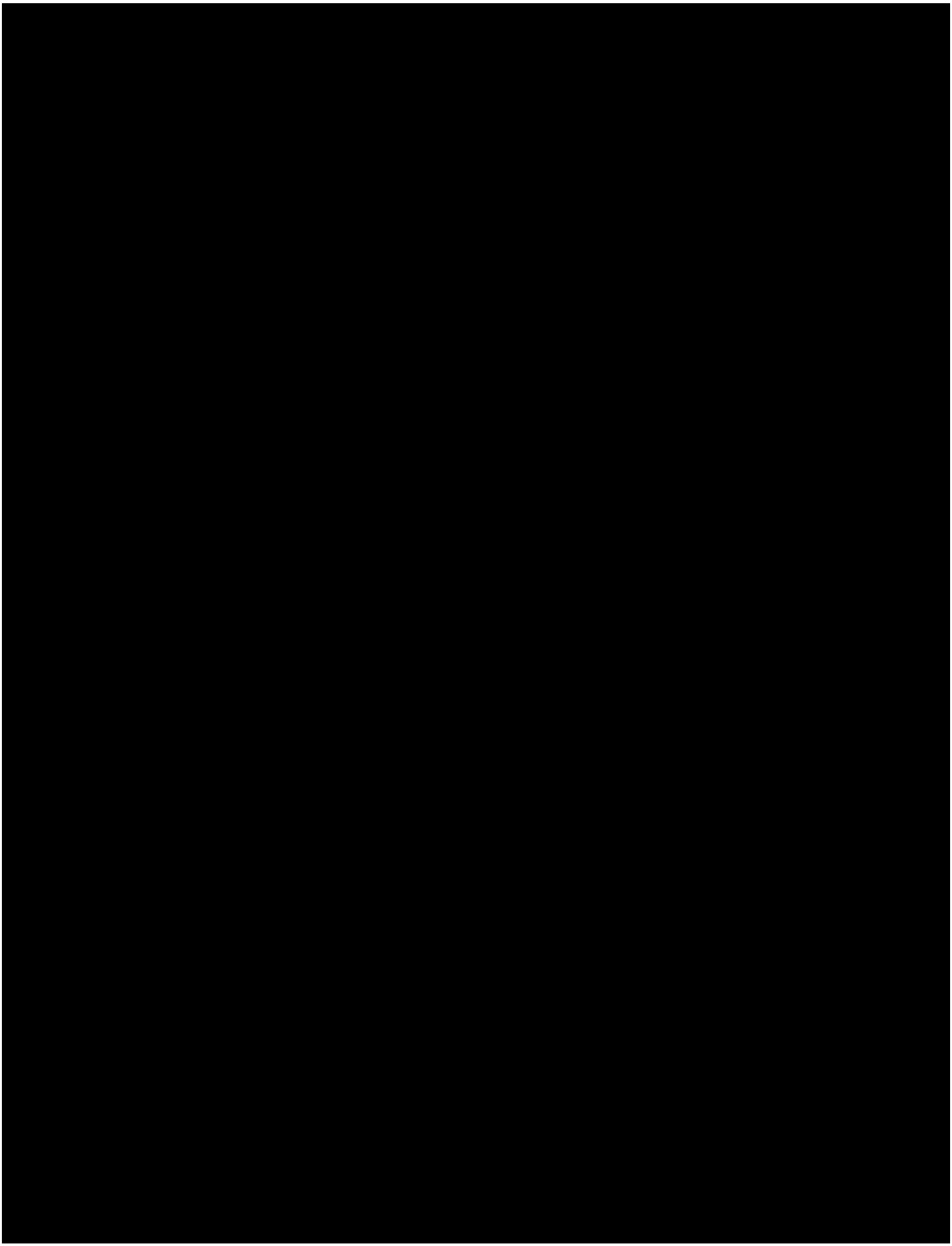
7. Termination/Changes

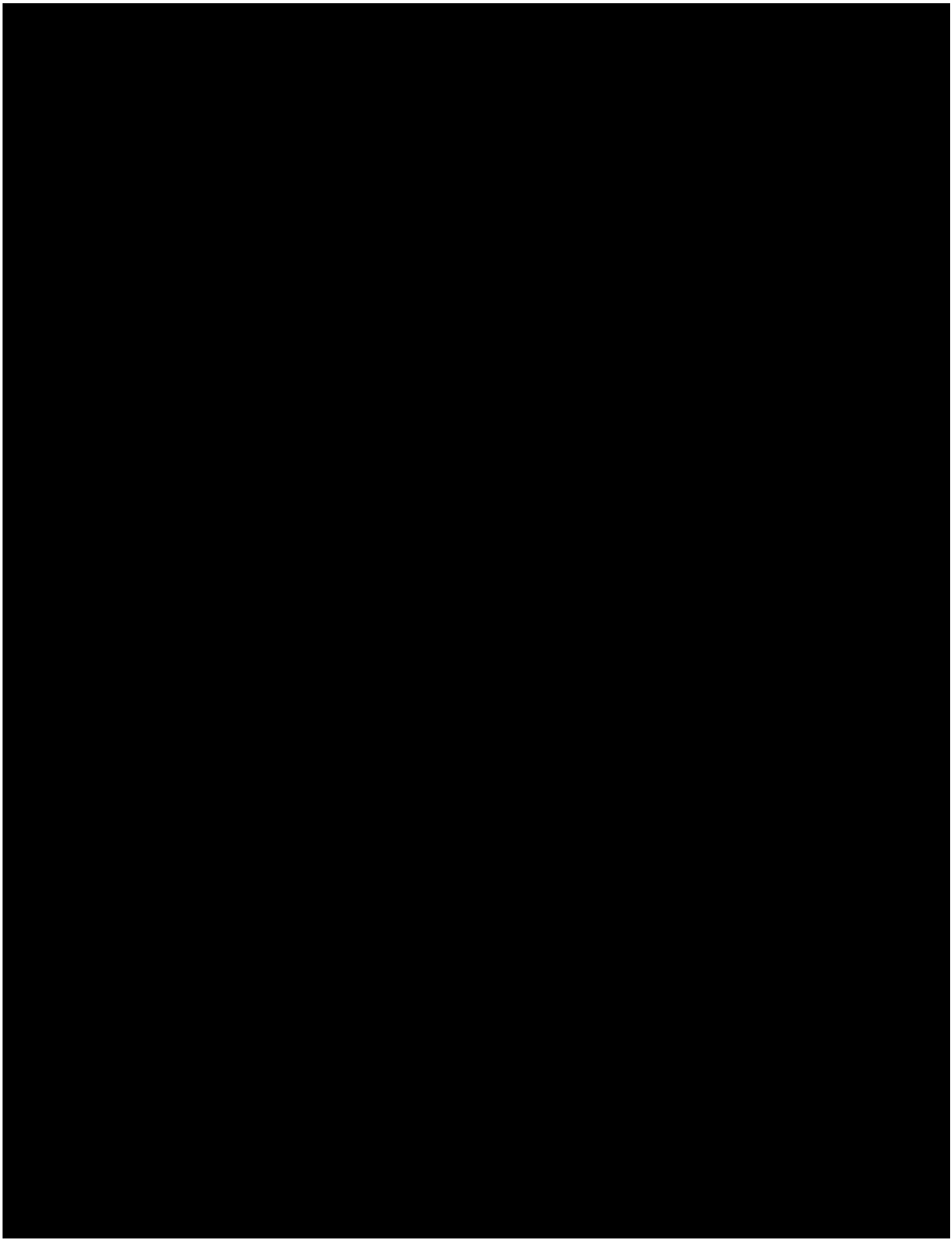
We reserve the right, in our sole discretion, to discontinue the provision of electronic Communications, or to terminate or change the terms and conditions on which we provide electronic Communications. We will provide you with notice of any such termination or change as required by law.

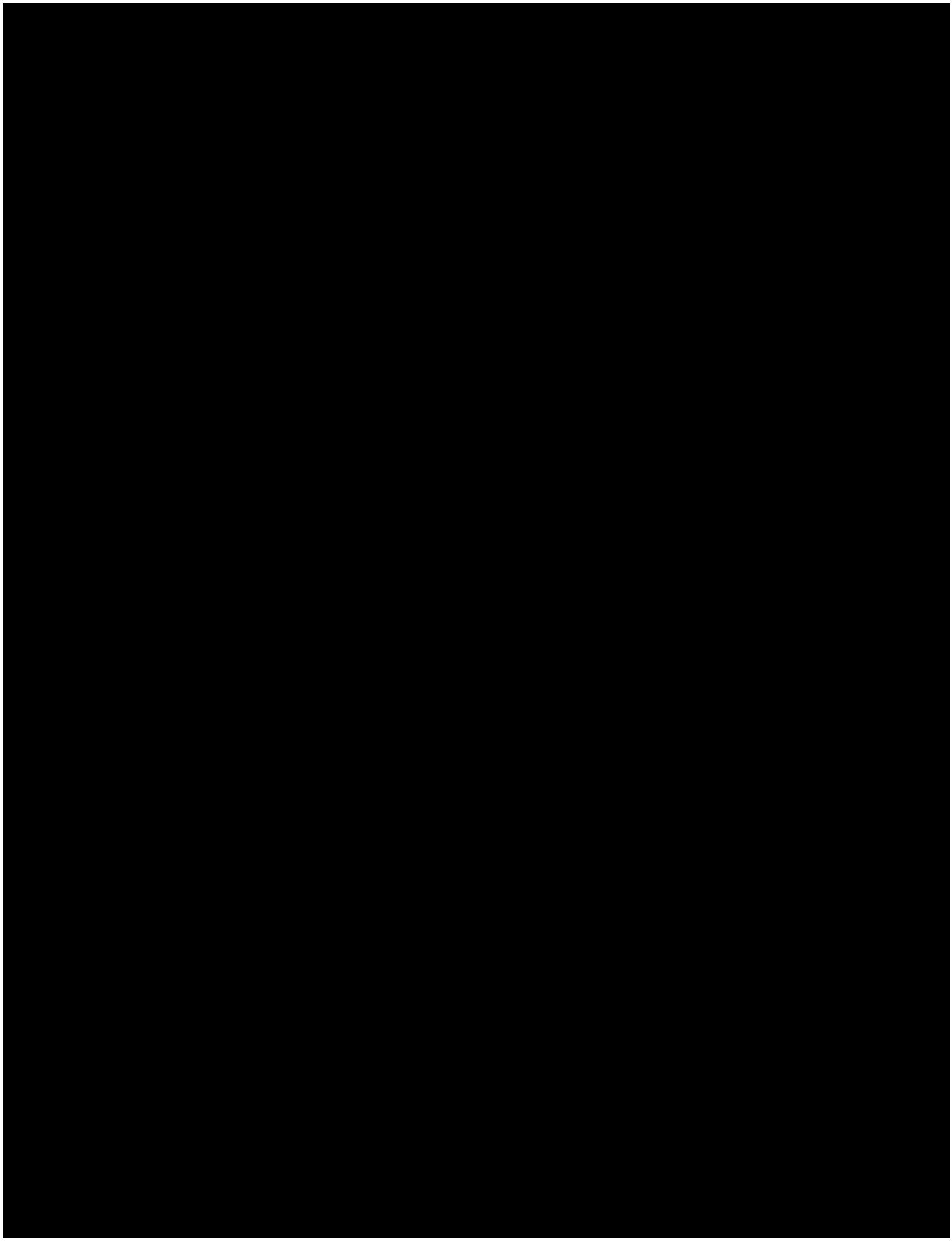
By clicking "Submit" or "I Agree" you are consenting to the use of electronic records and signatures in connection with the Communications and your use of the Platform, and you are also confirming that:

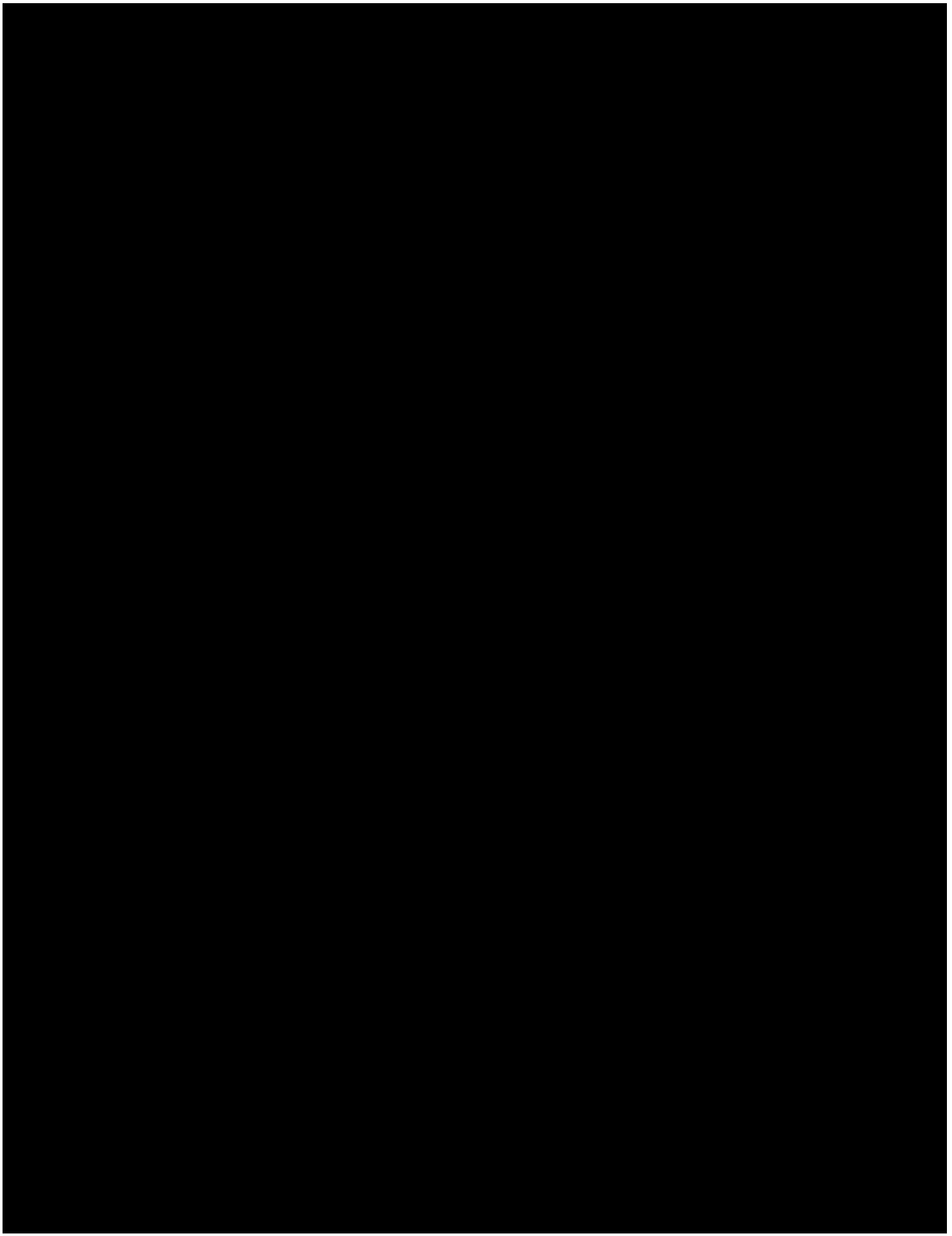
- you can access and read this Consent and you understand this Consent;

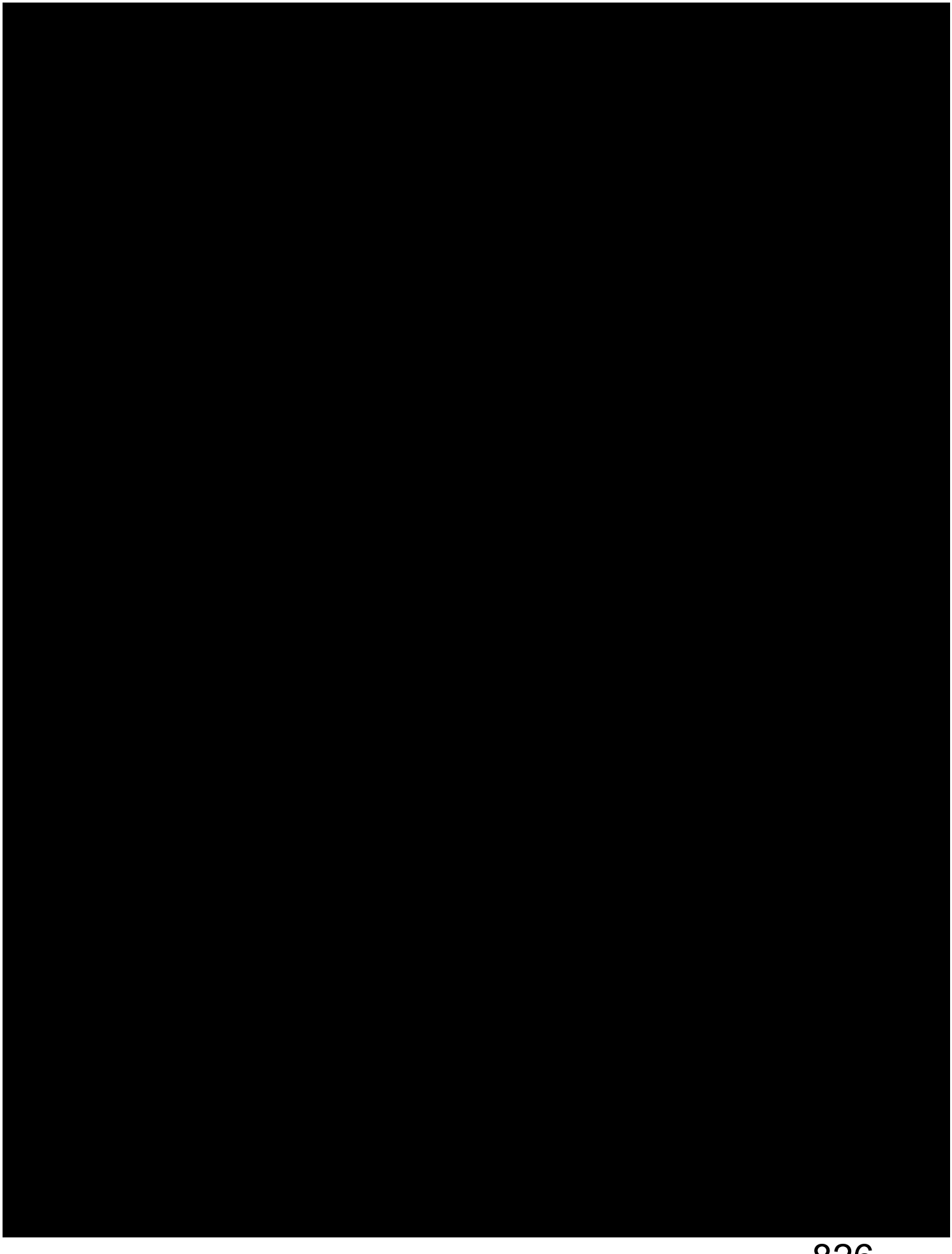
- you have the hardware and software described above;
- you are able to receive and review electronic records;
- you have an active email account and a cellphone number for SMS messaging, each of which you have disclosed to us;
- you have the ability to access and view PDF files; and
- you acknowledge that electronic signatures and records will be used in place of written documents and handwritten signatures with respect to the electronic Communications and your use of the Platform.

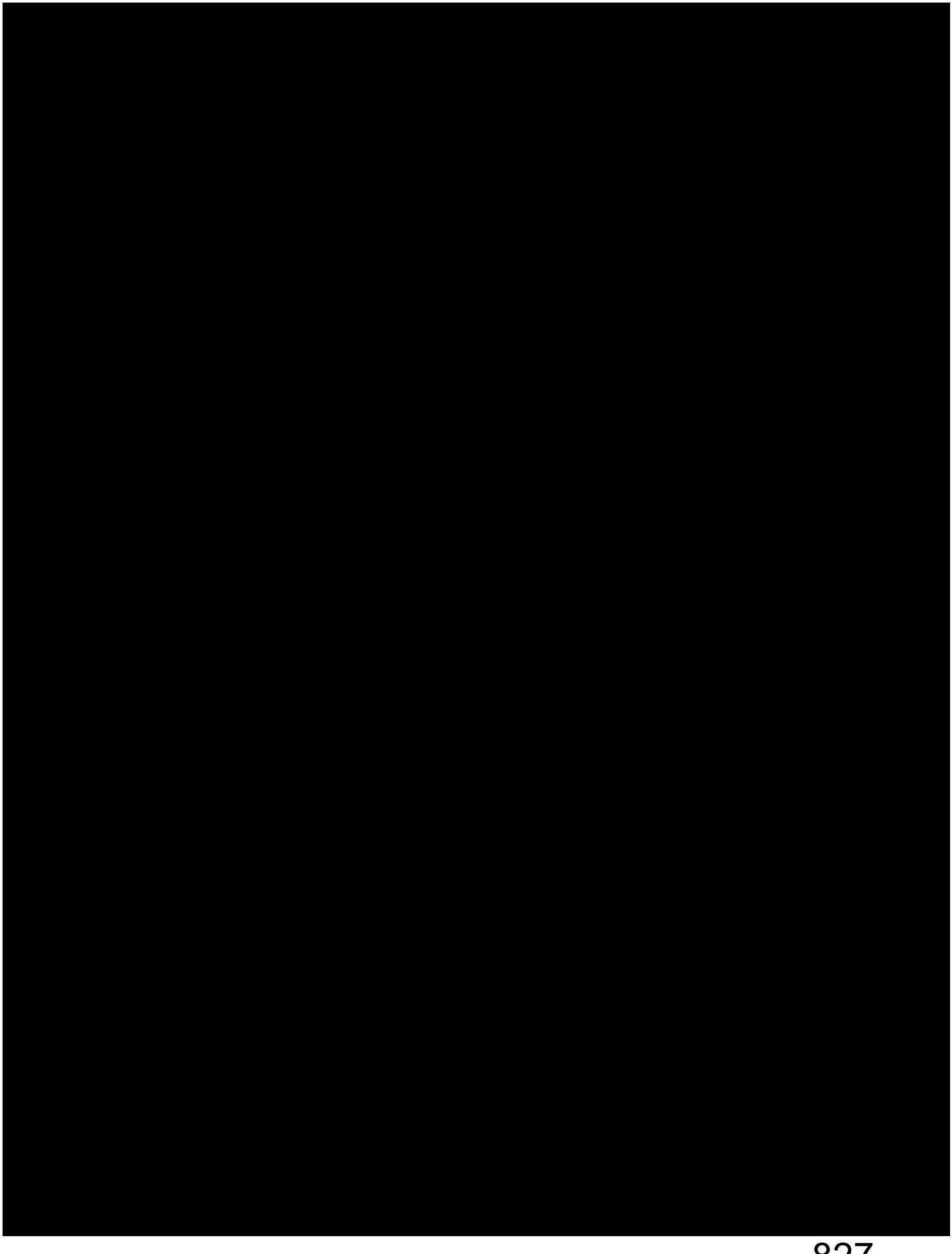


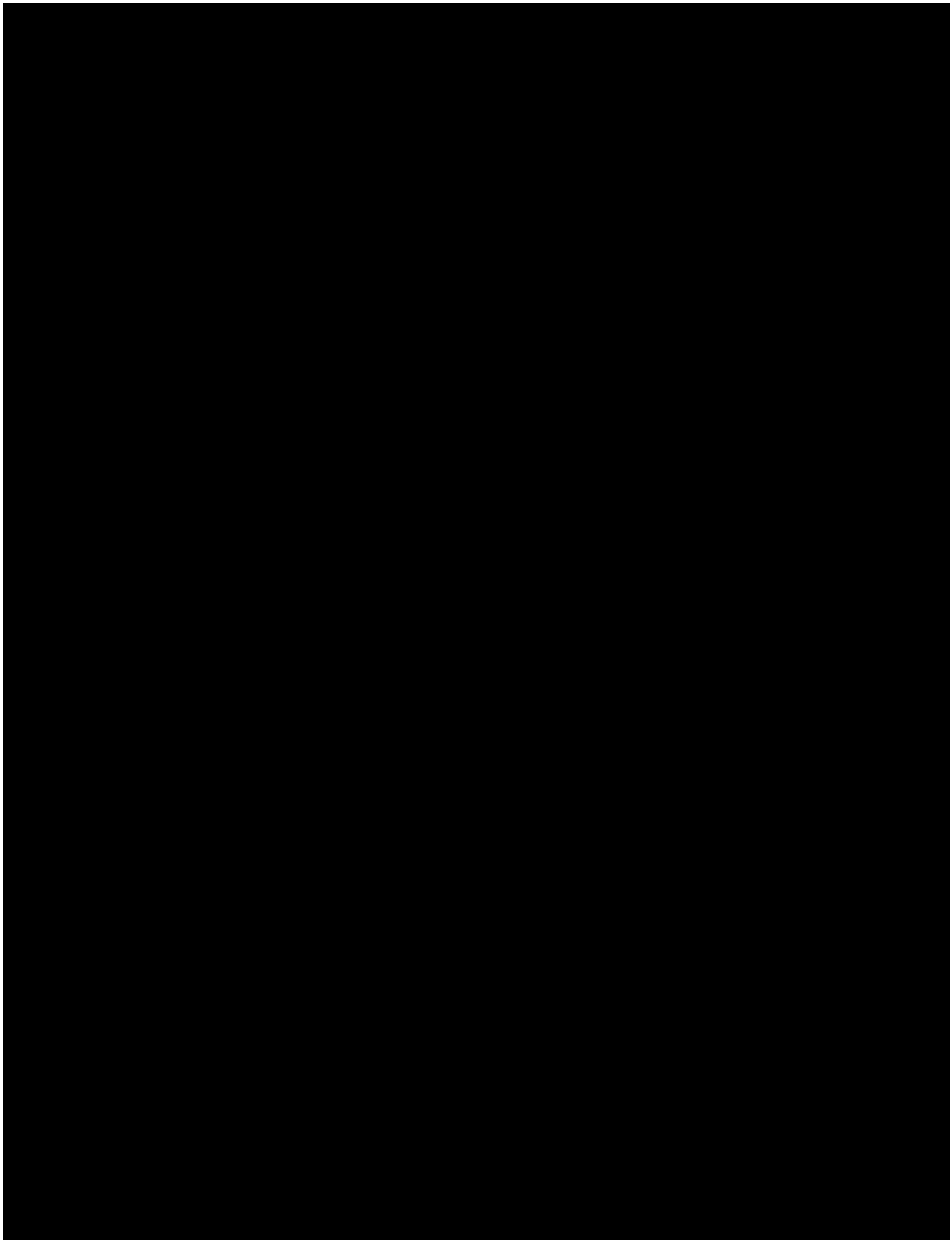


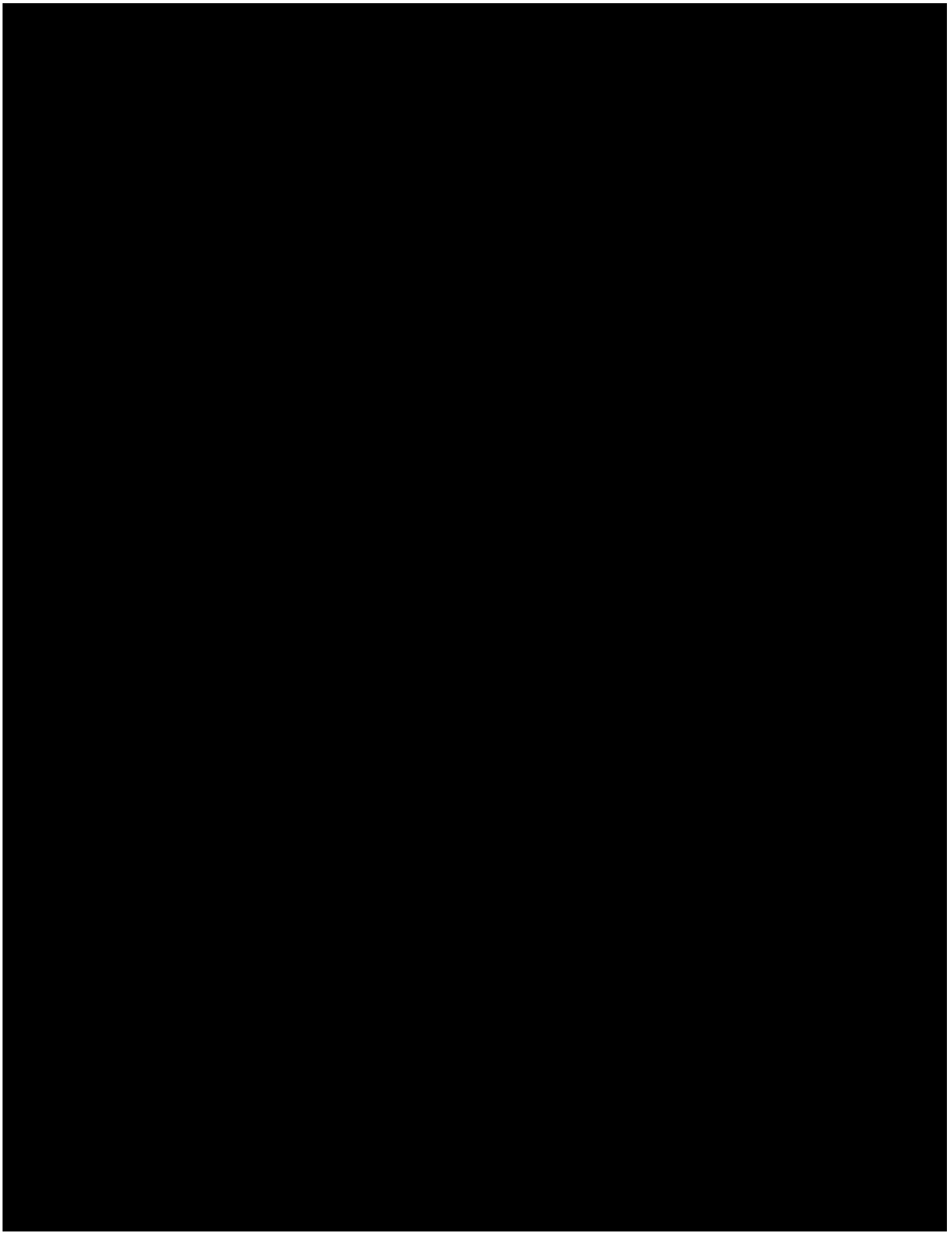


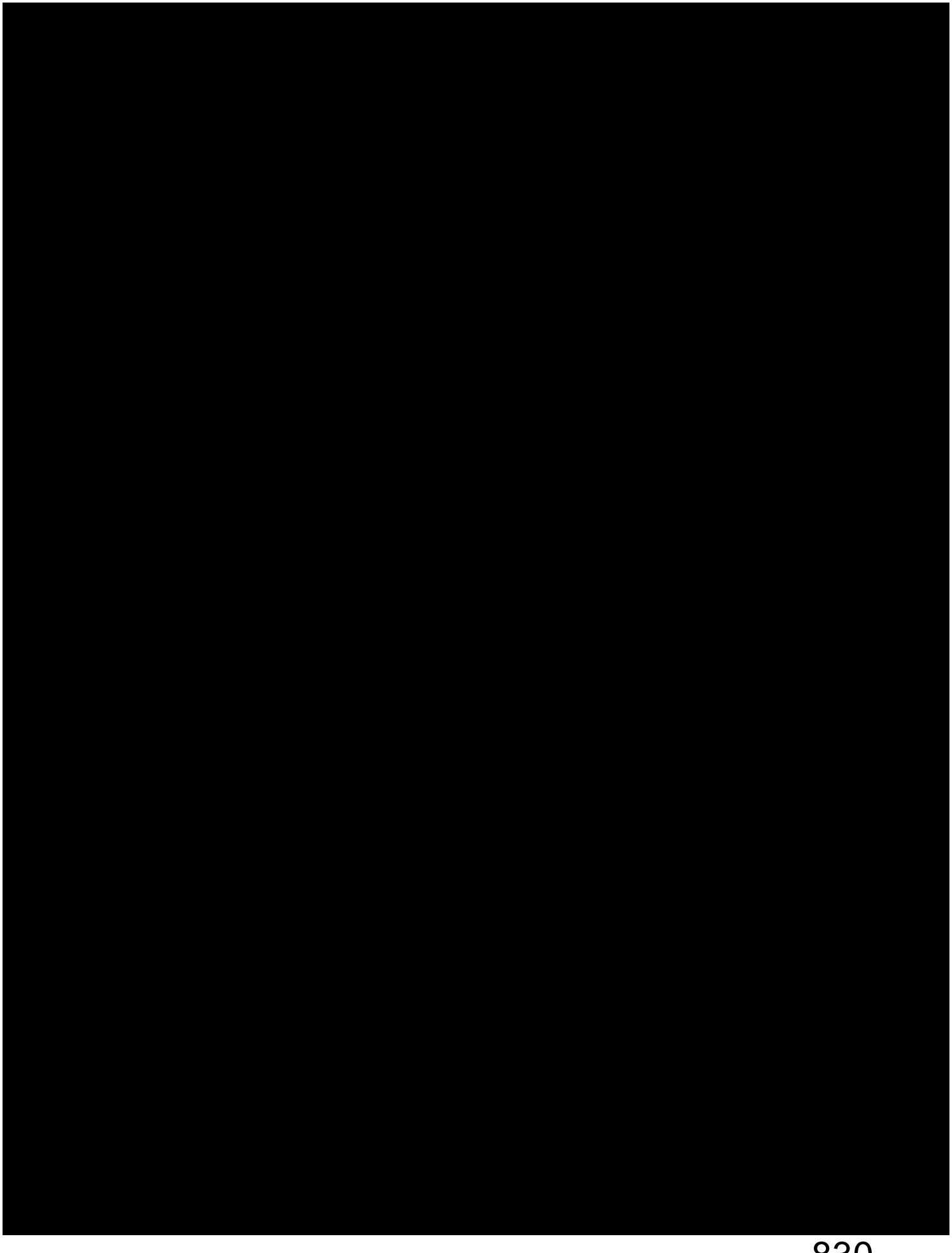


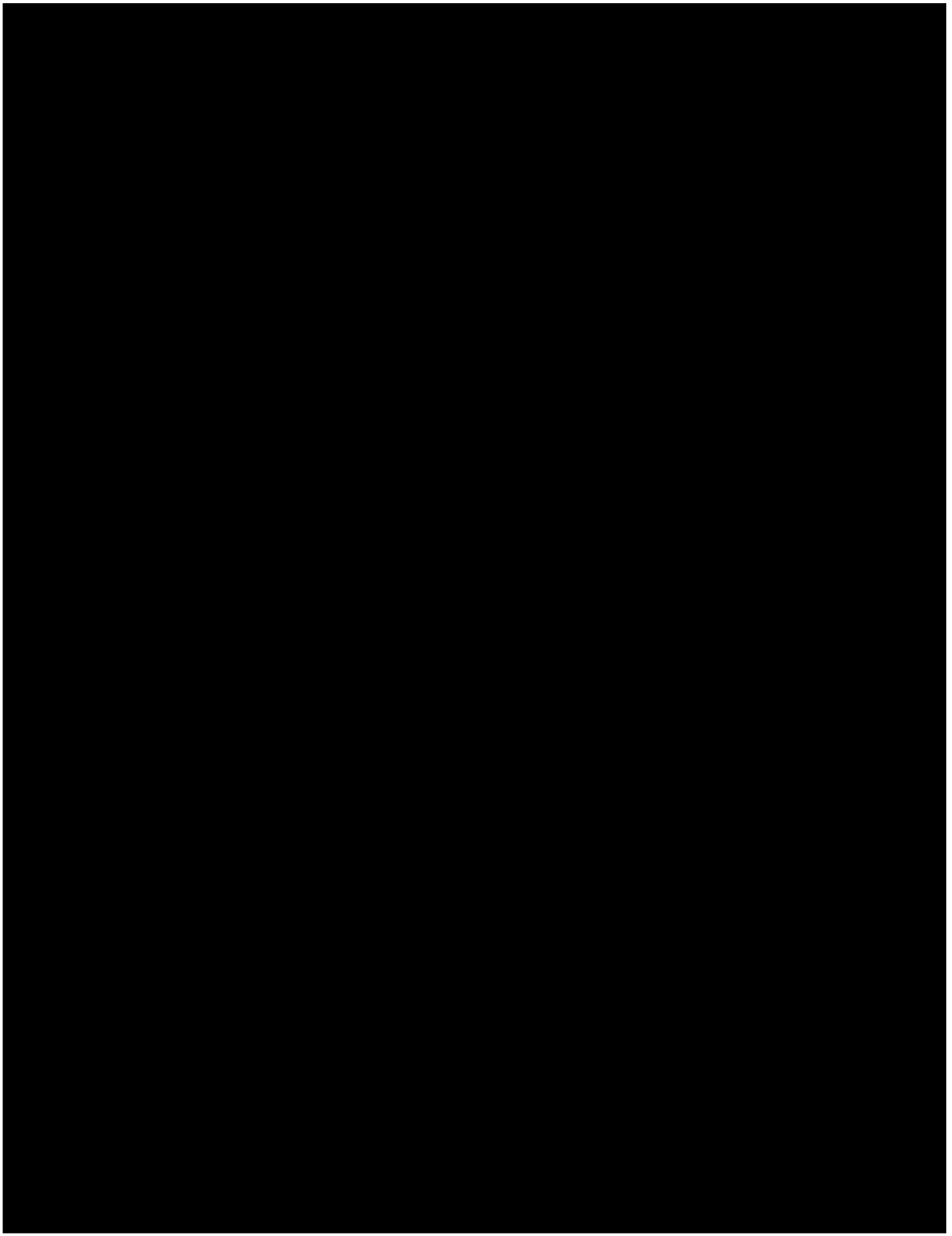


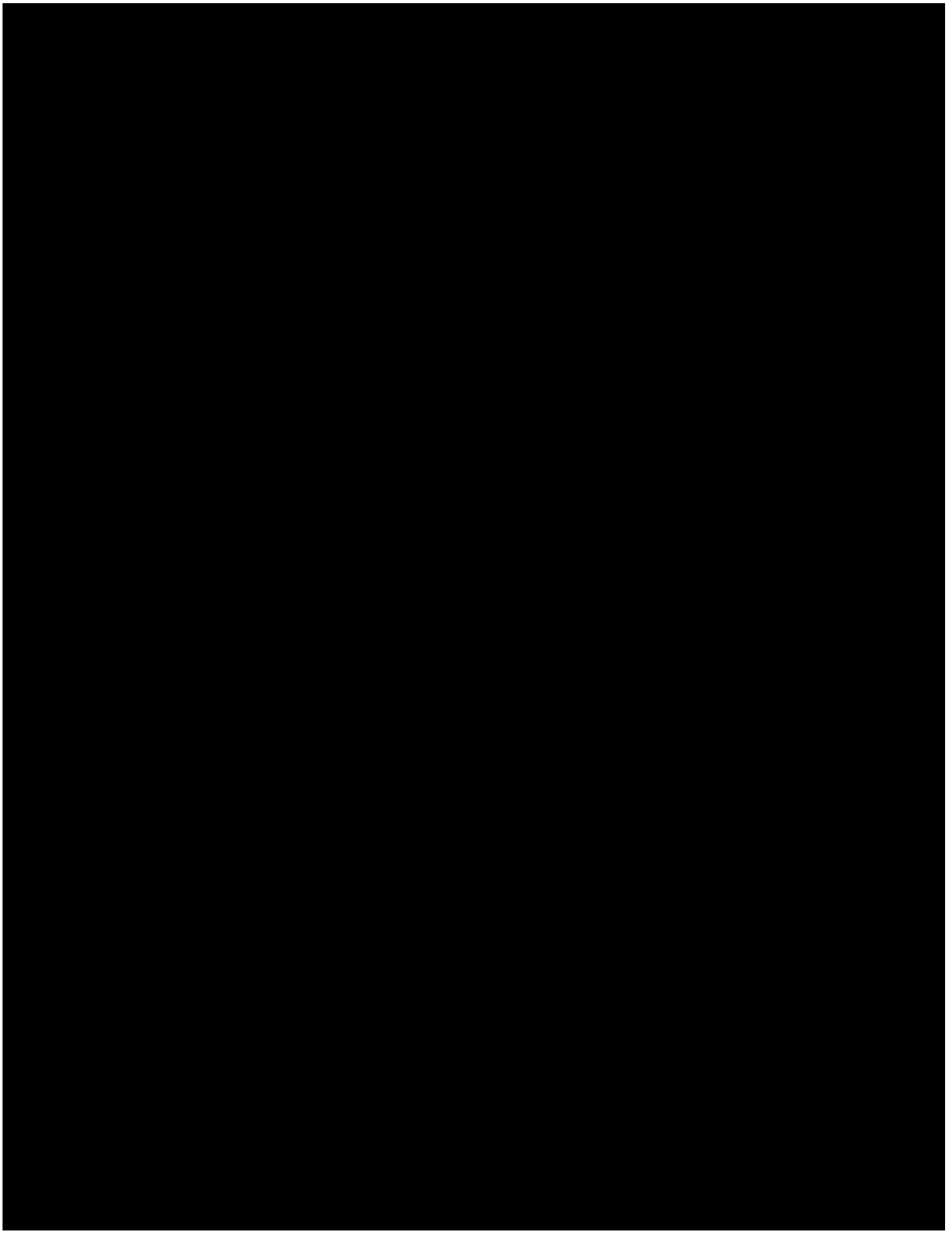


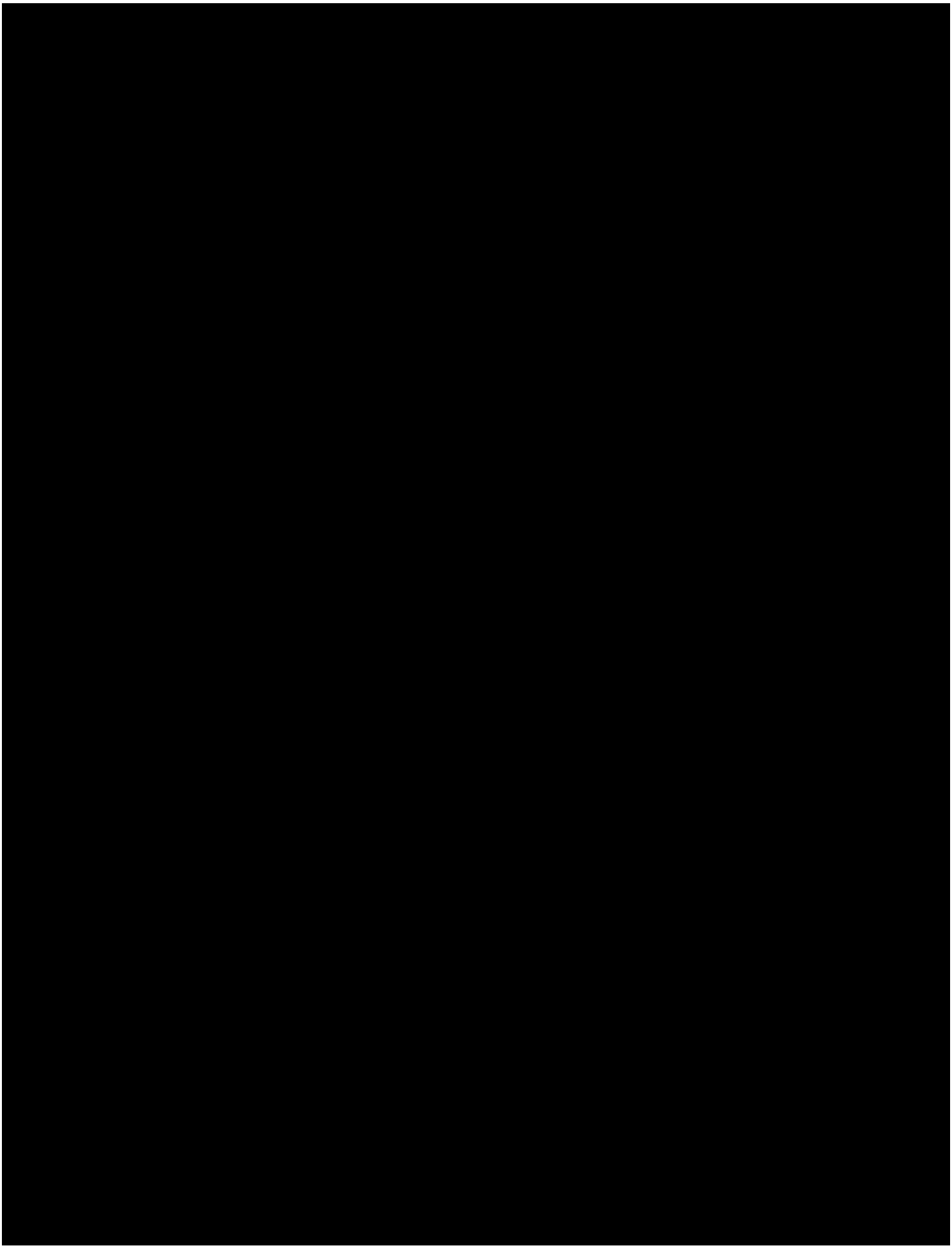


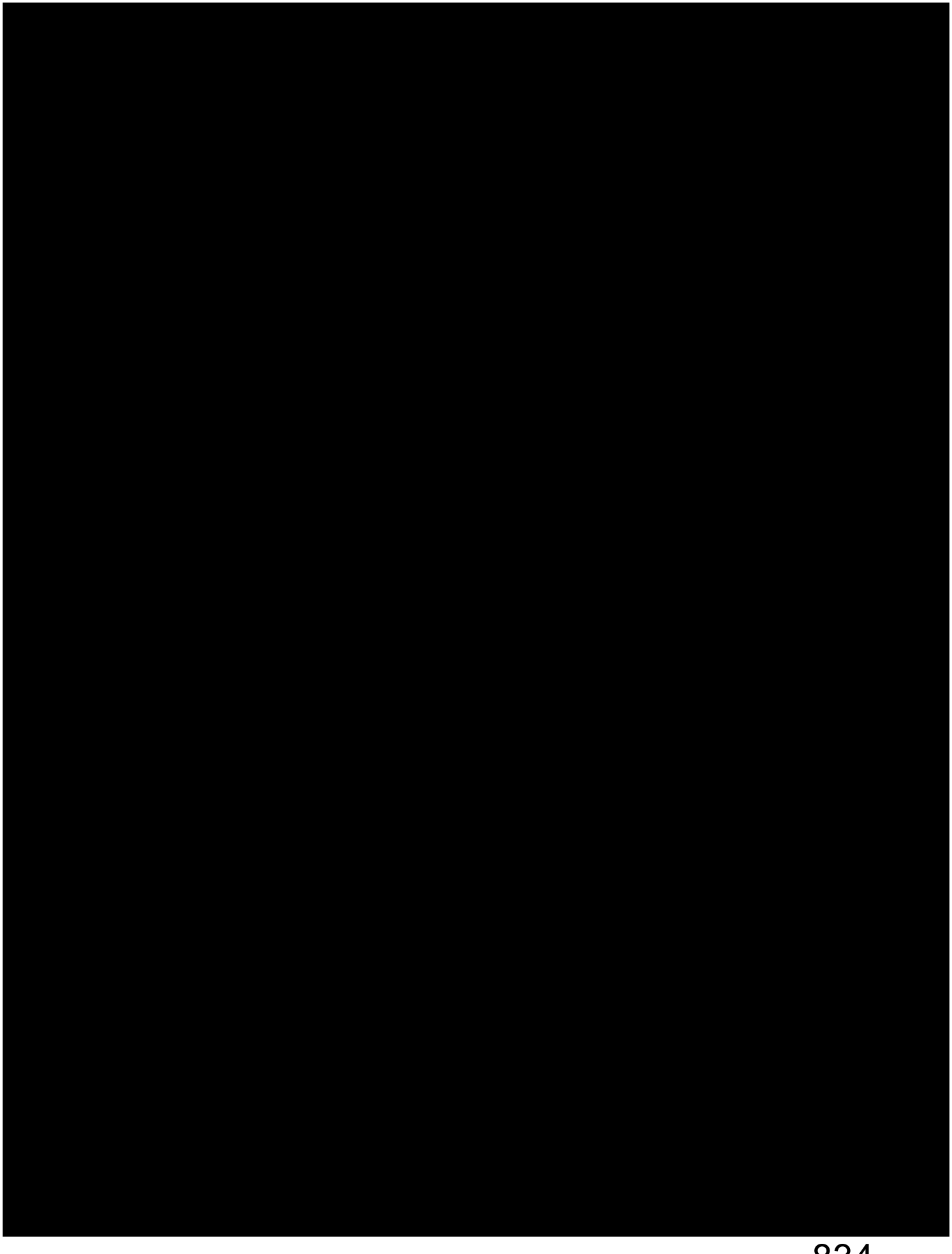


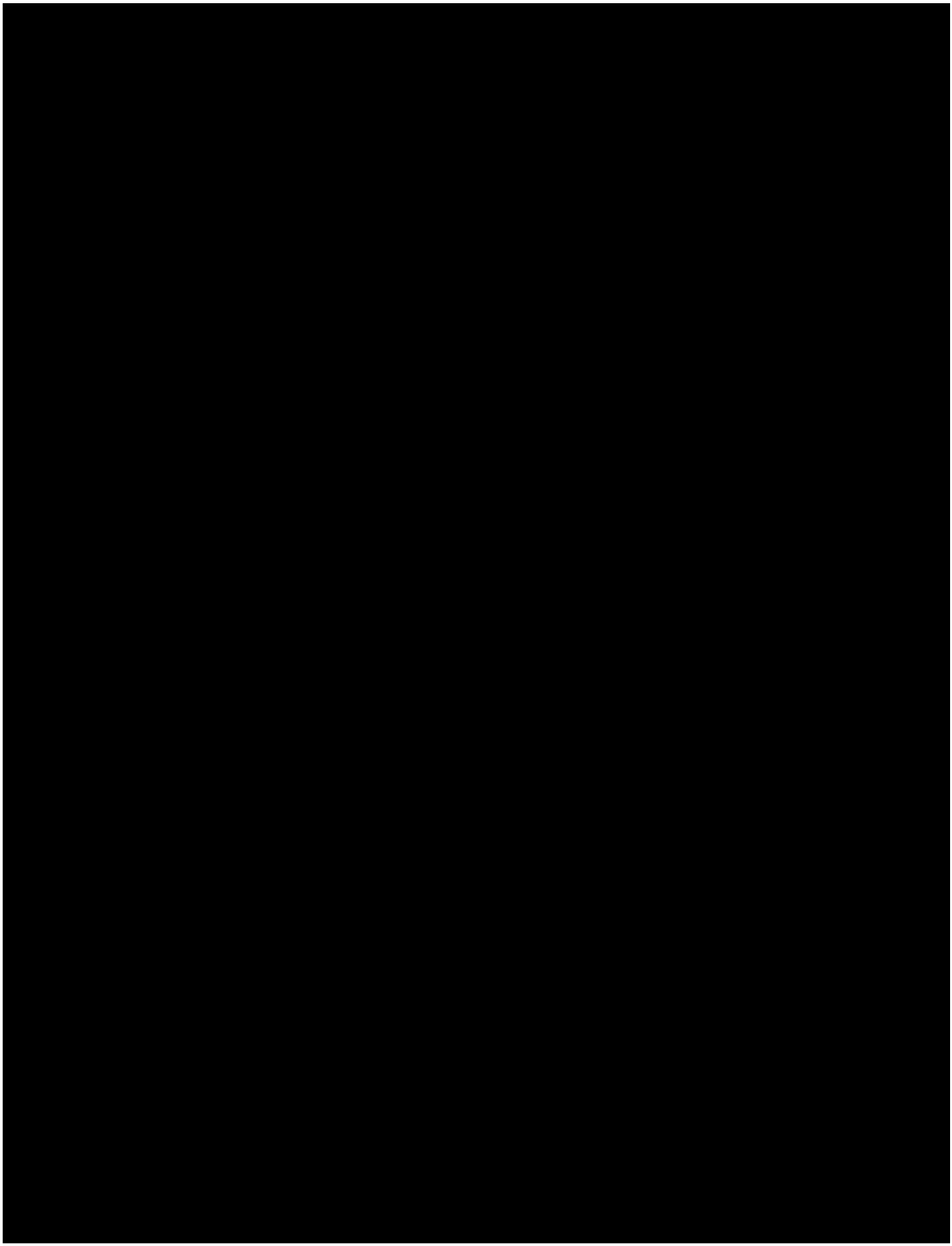


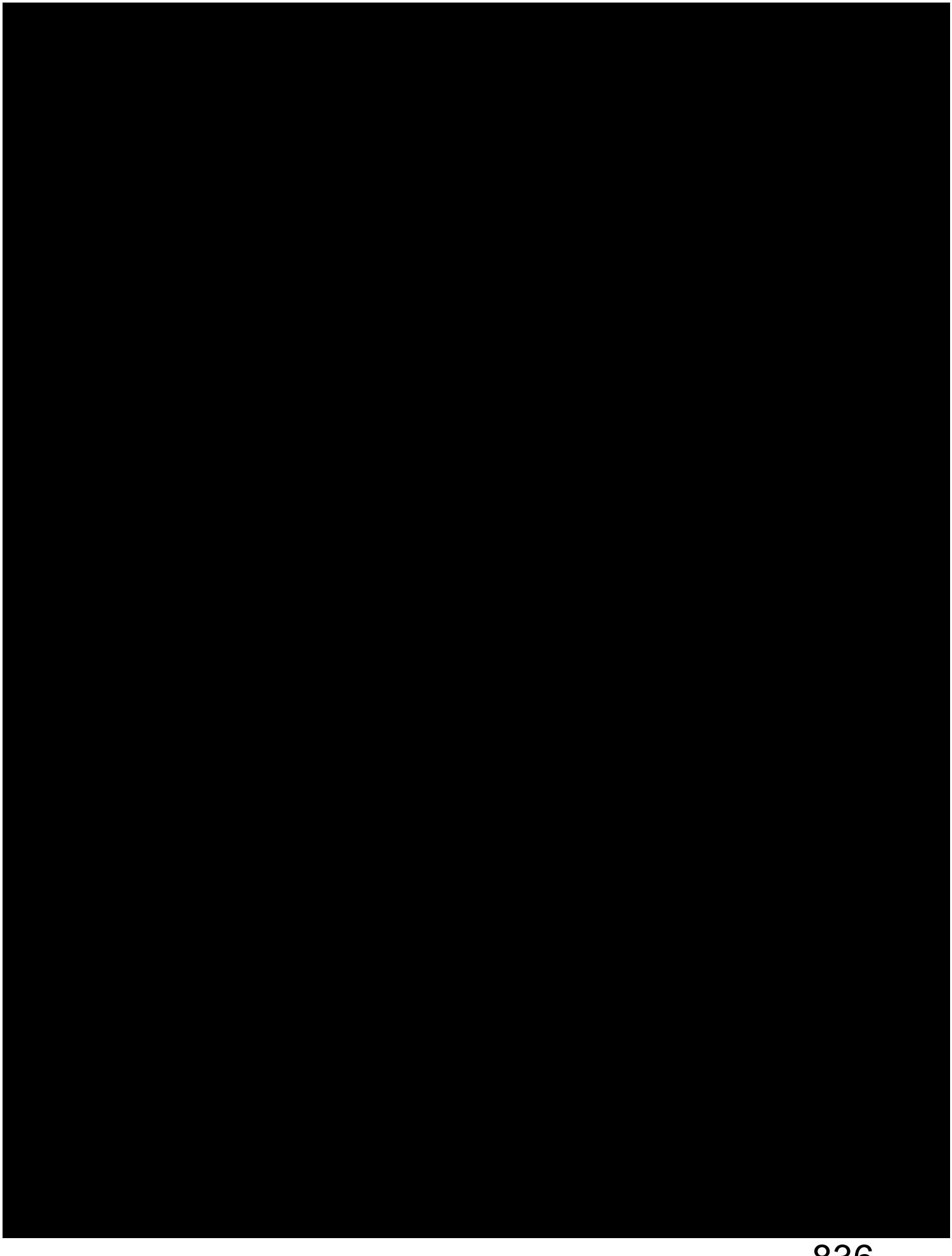


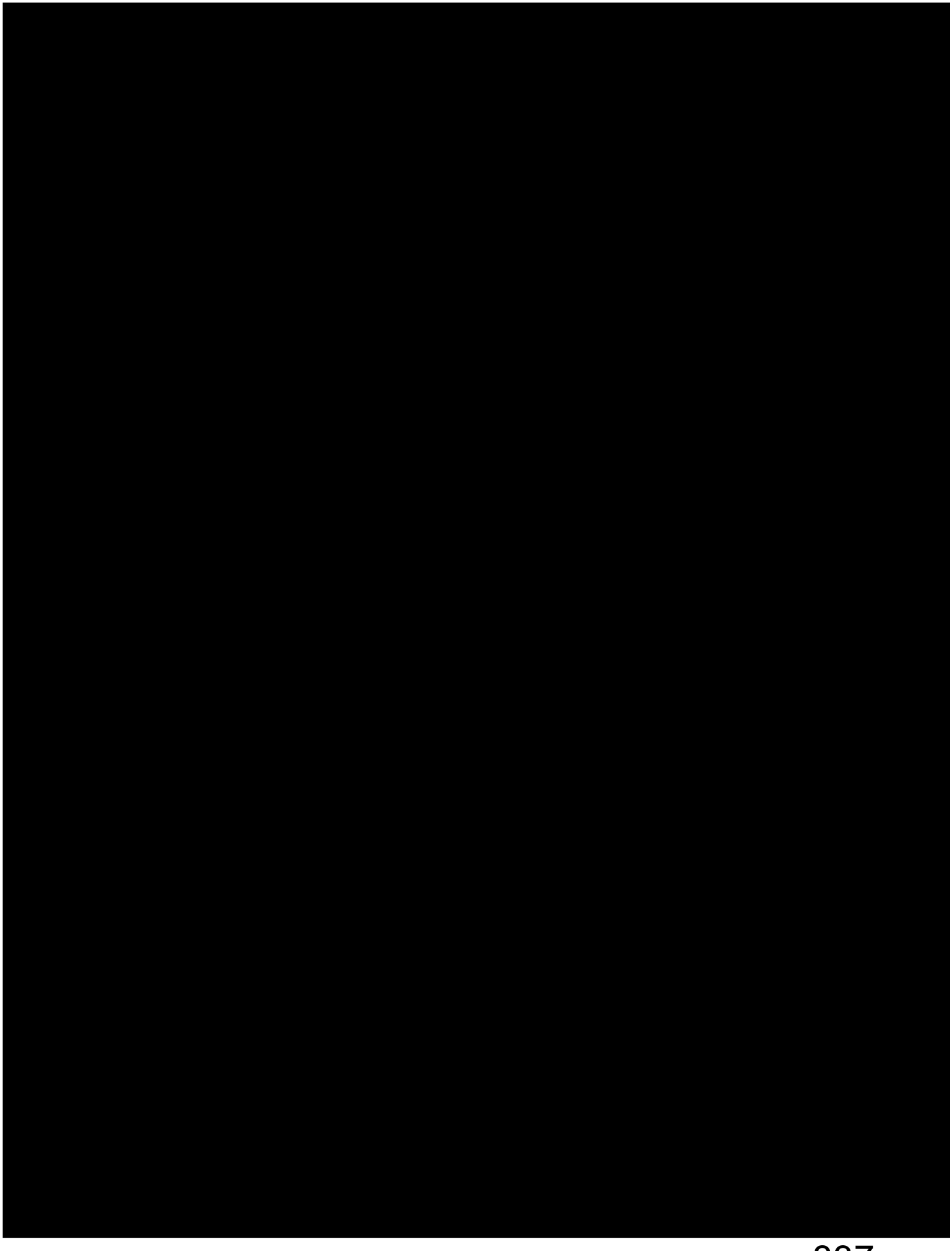


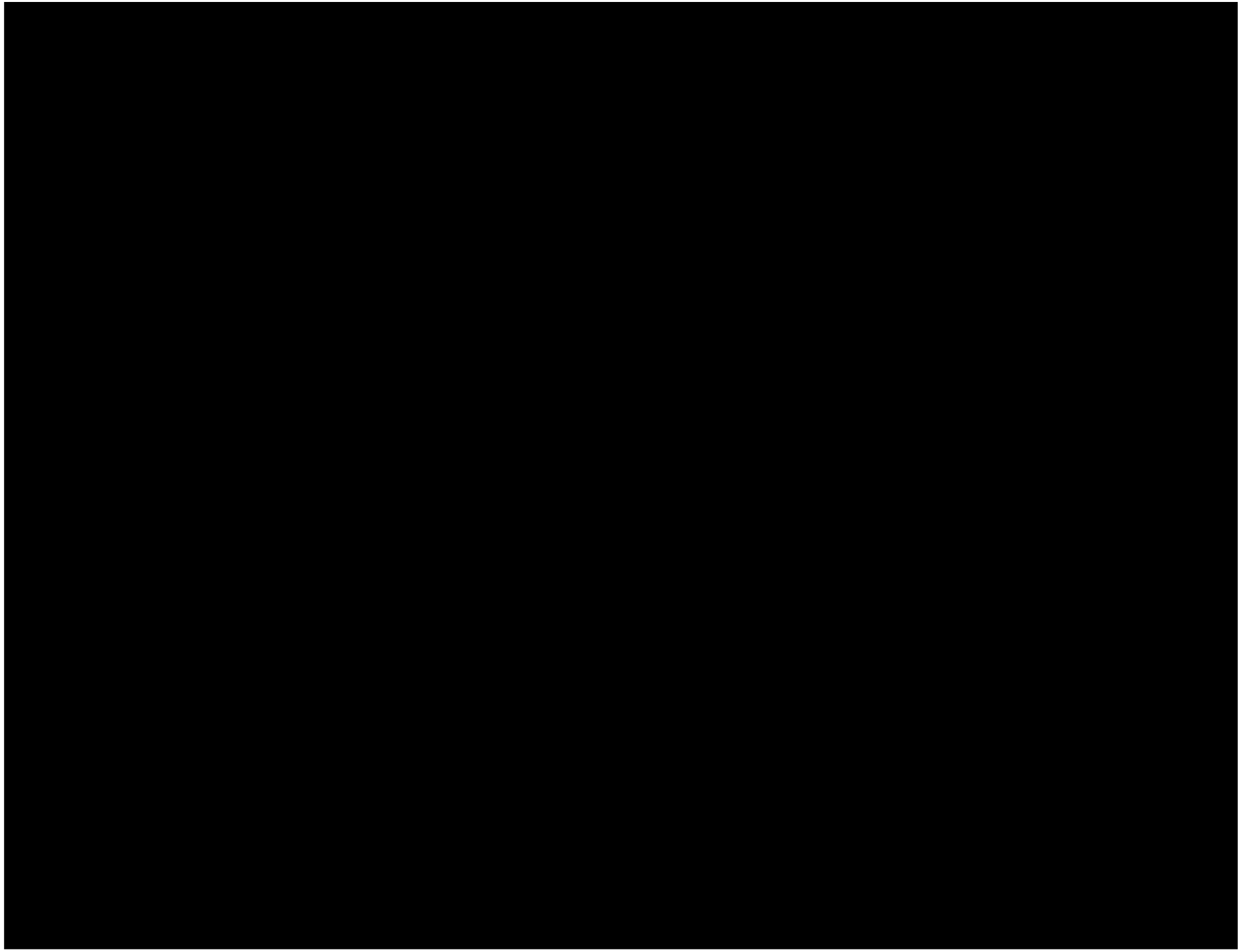


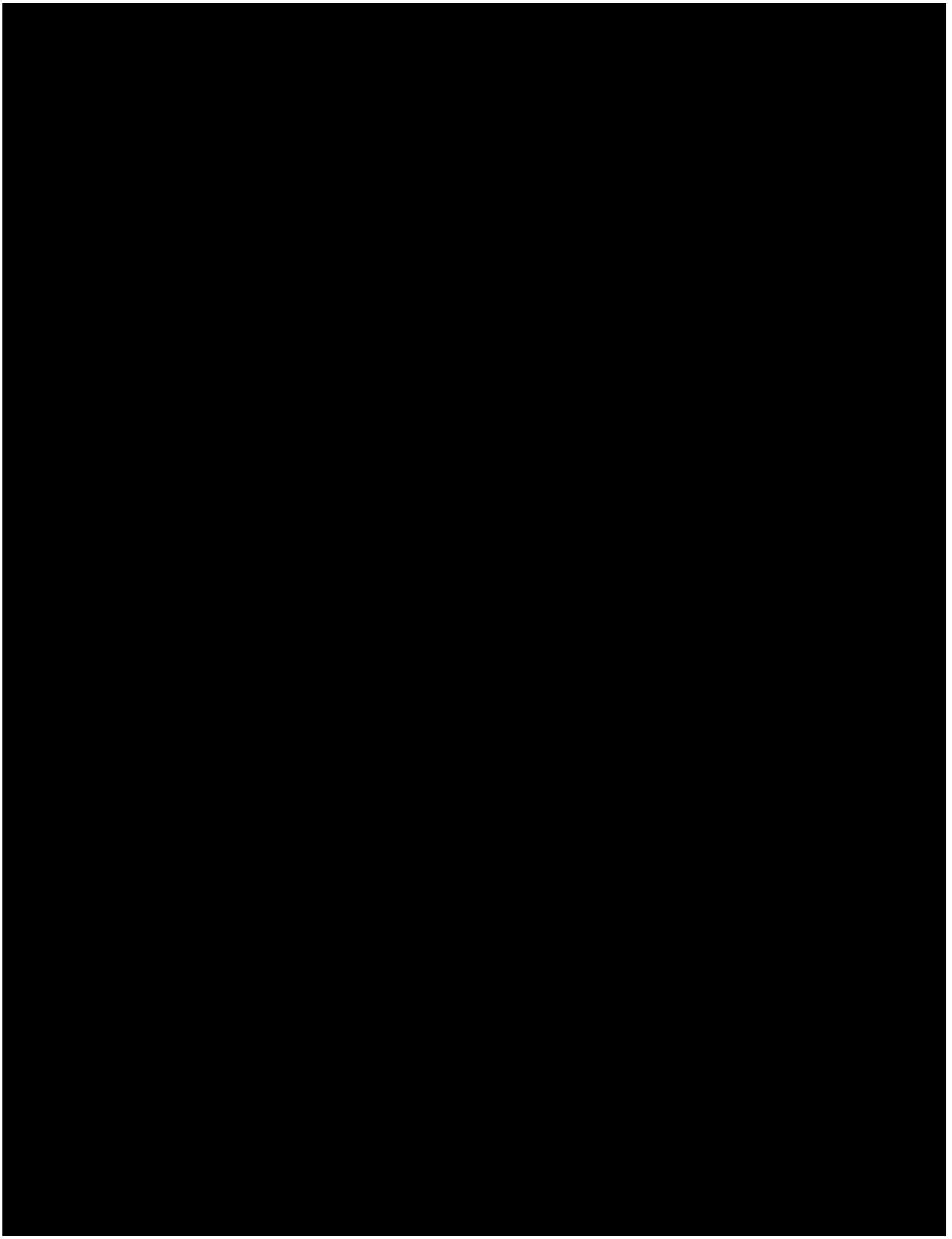


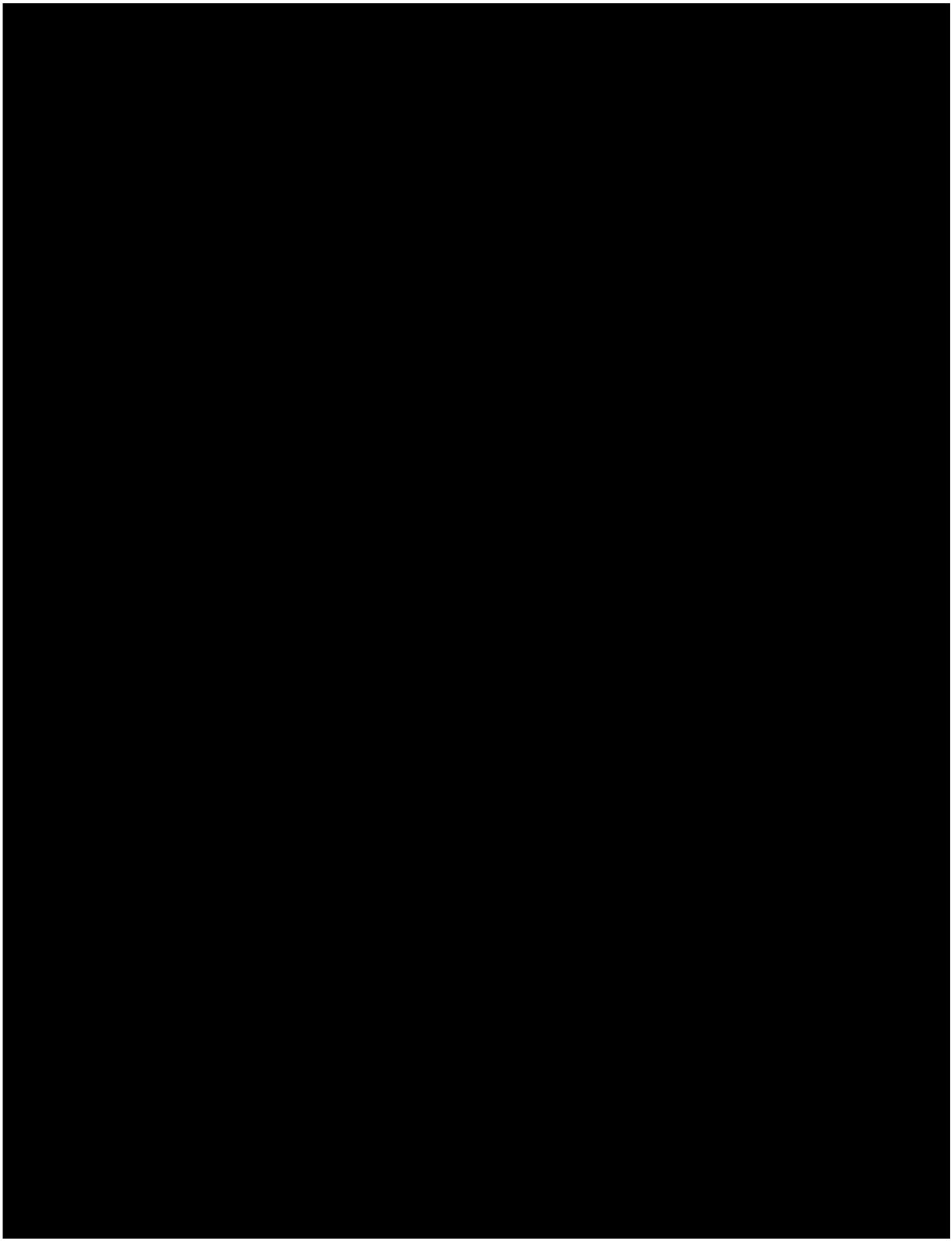


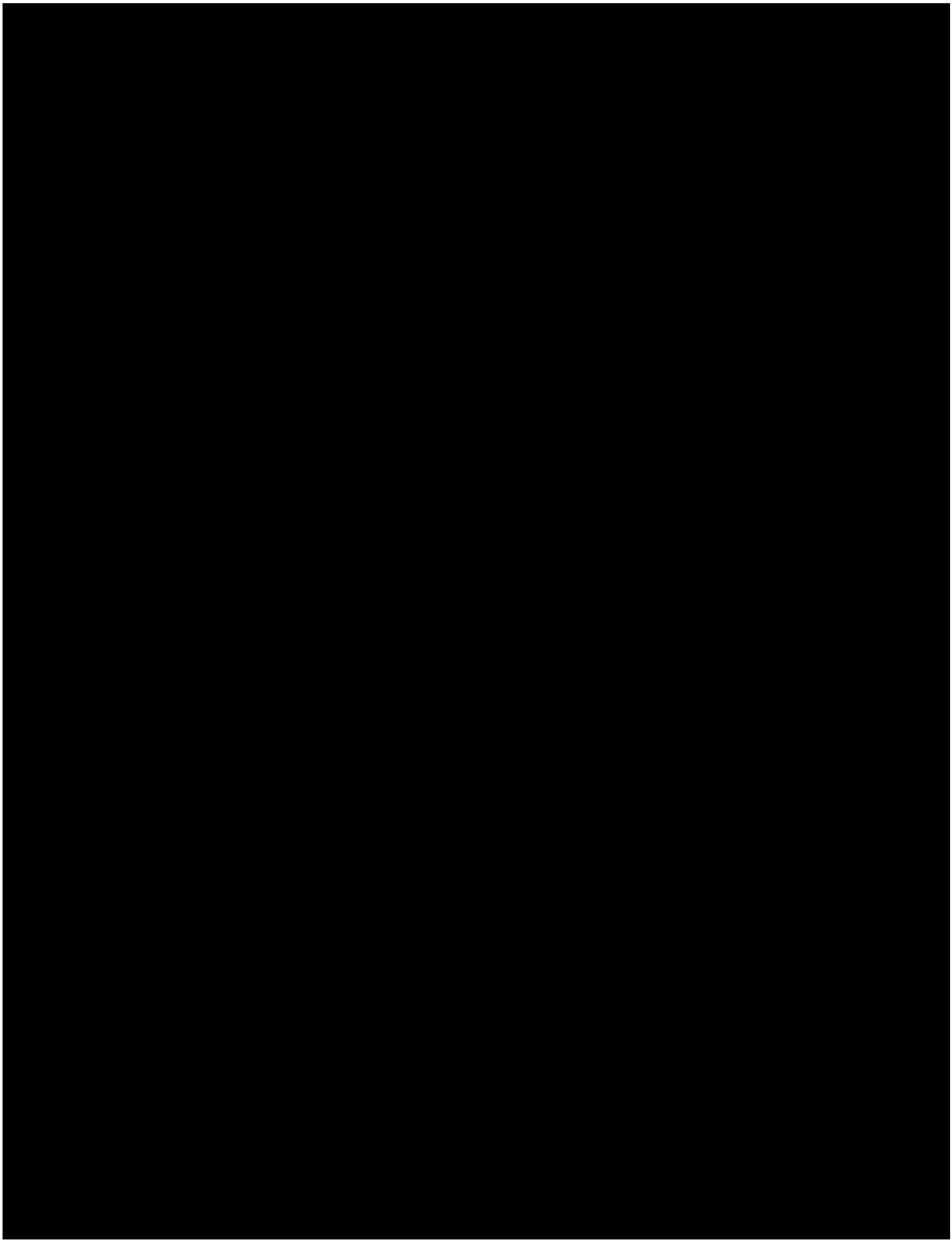


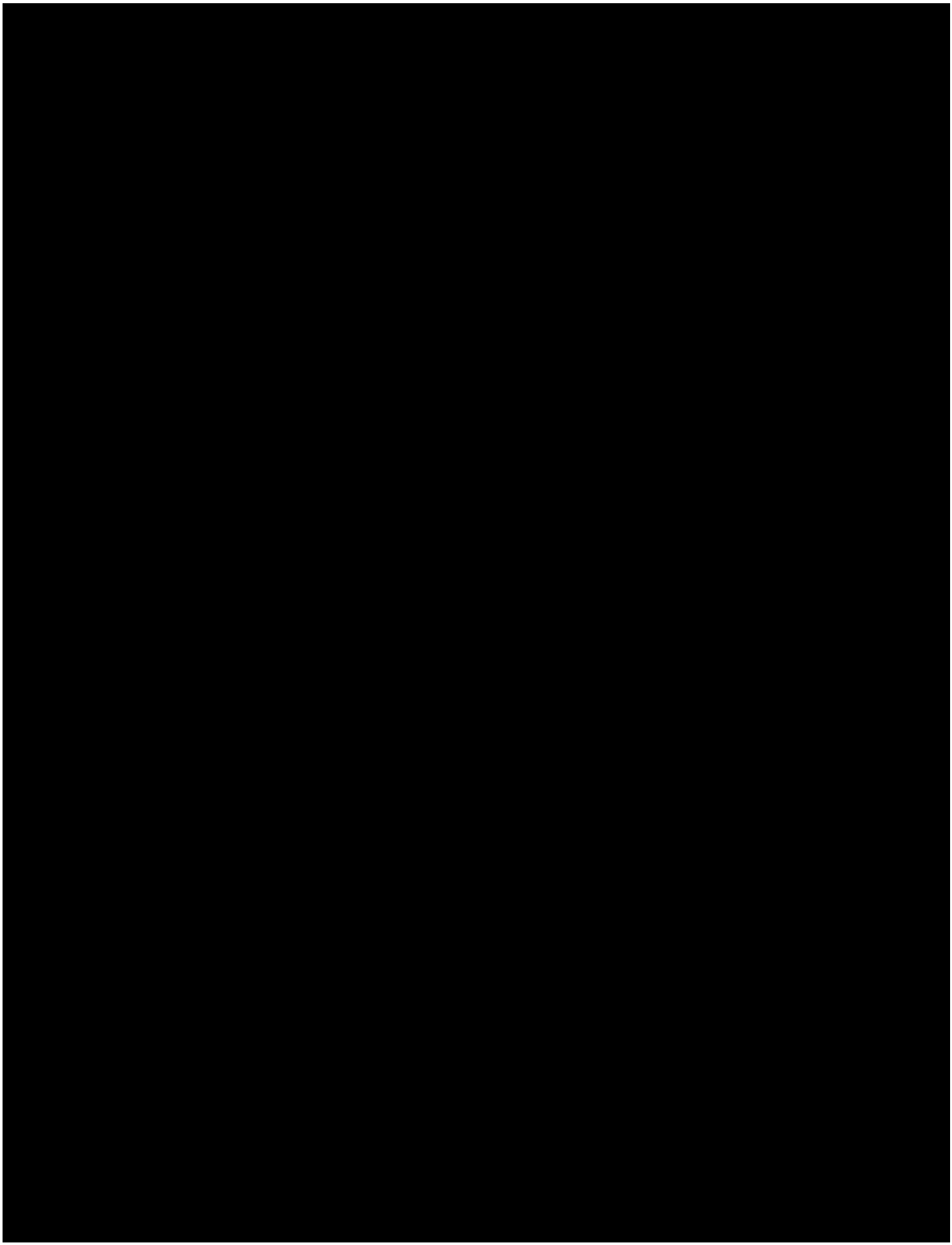


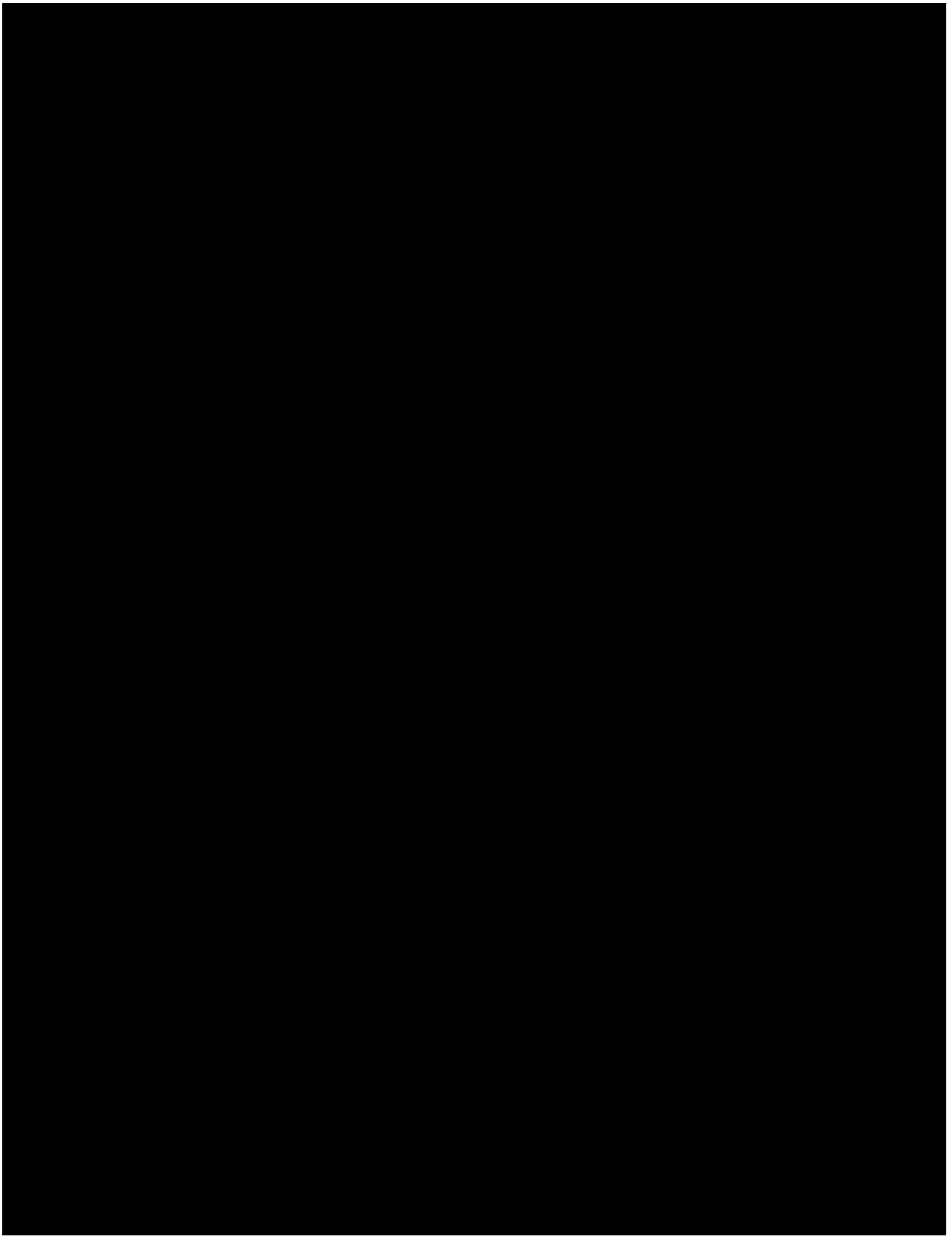


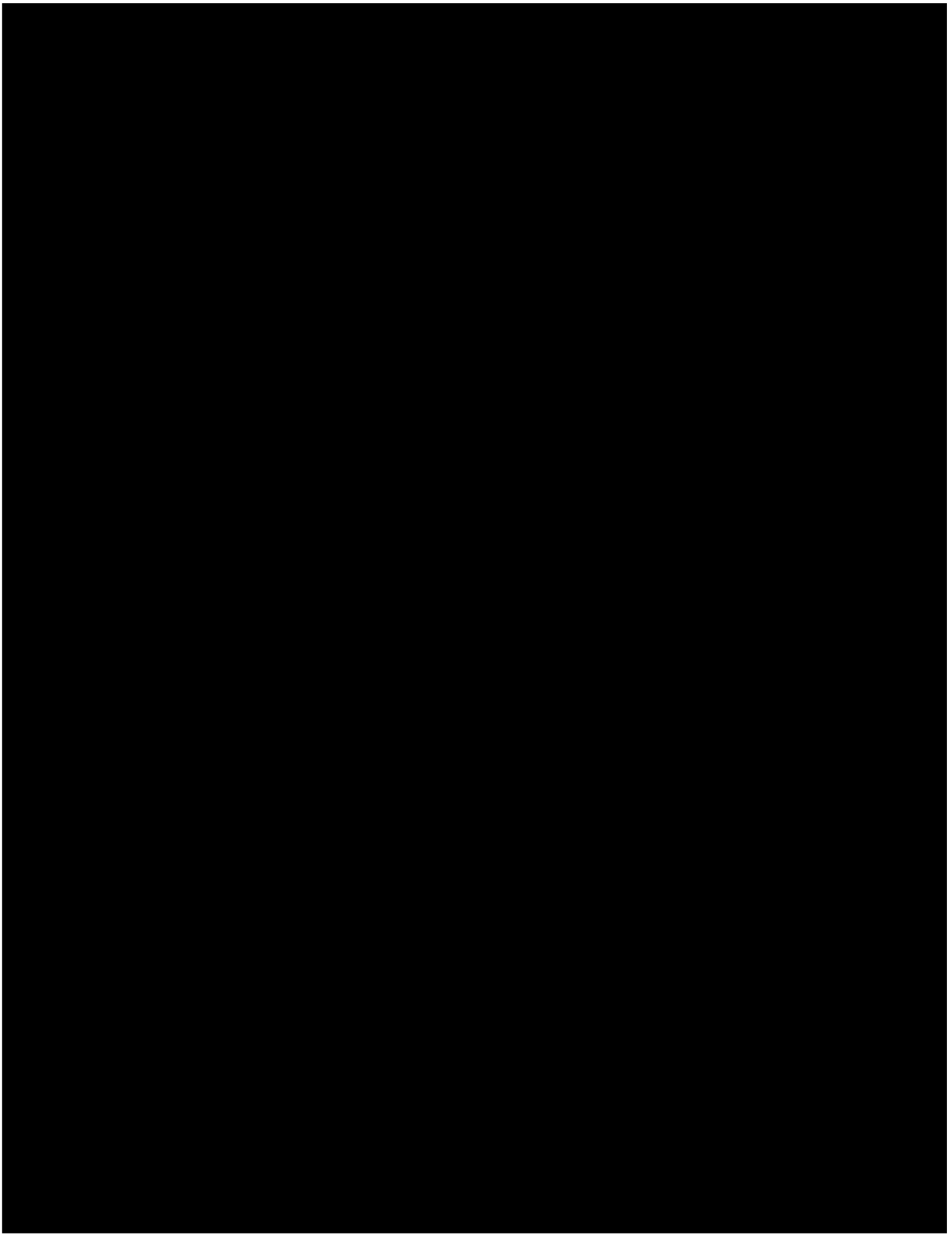


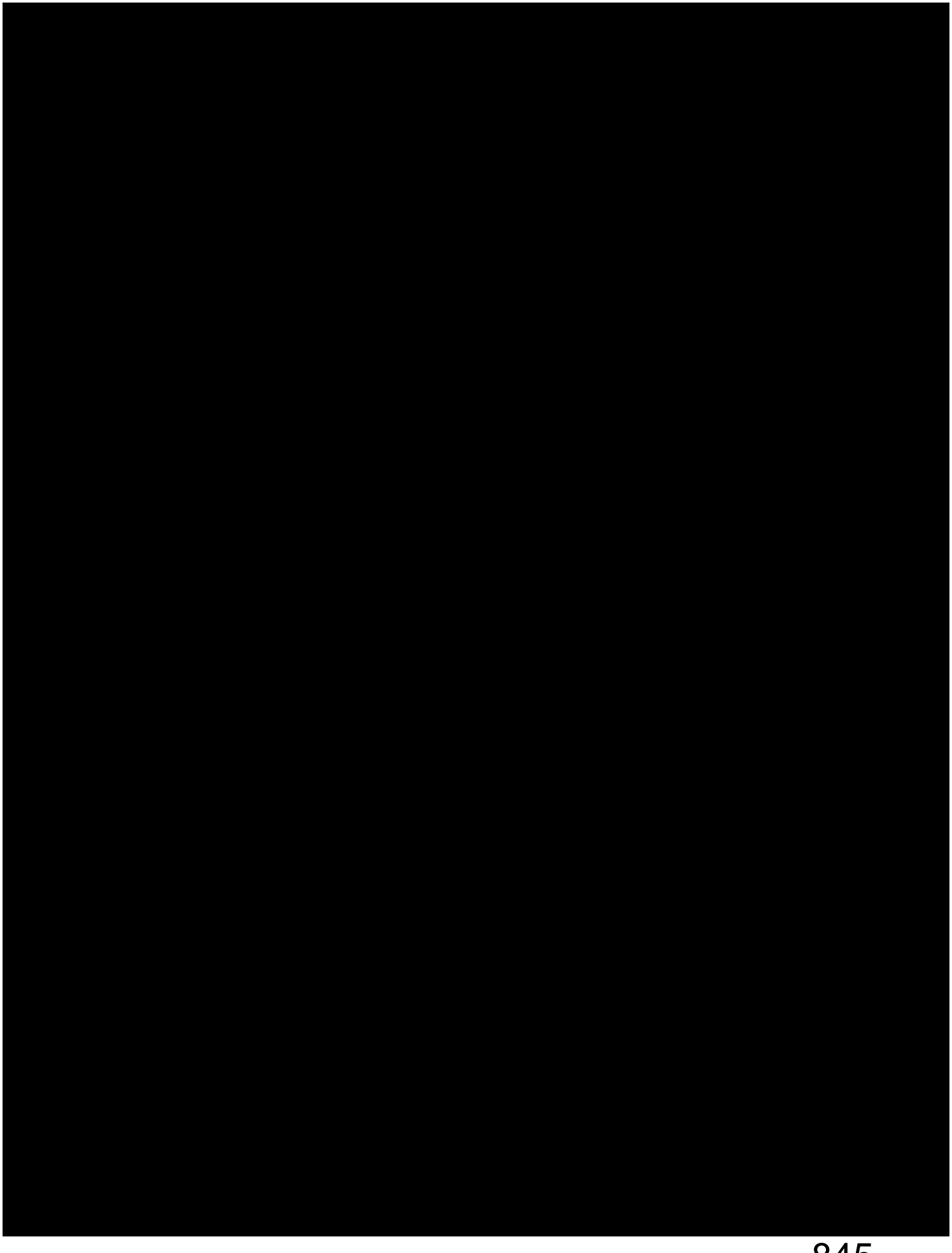


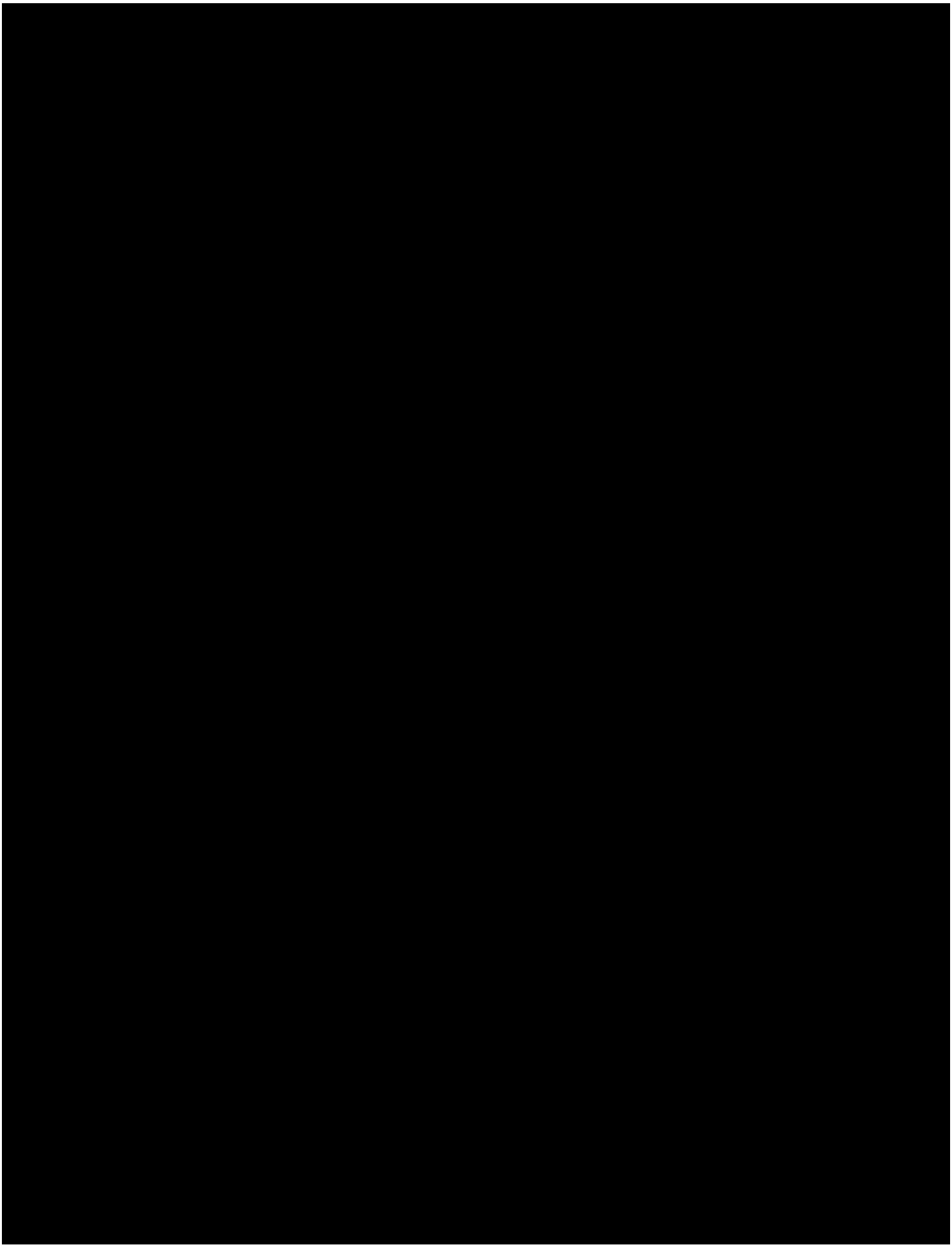


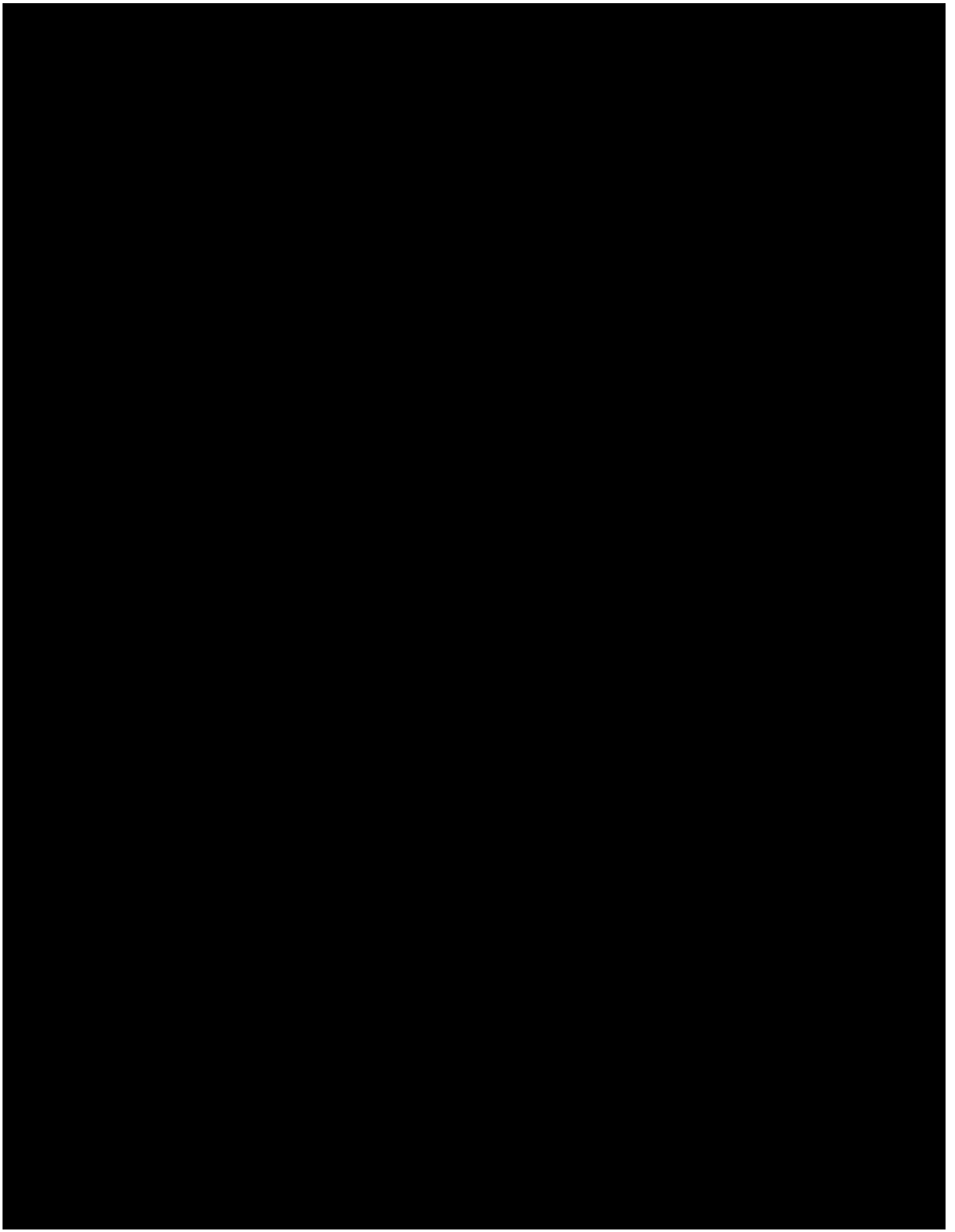


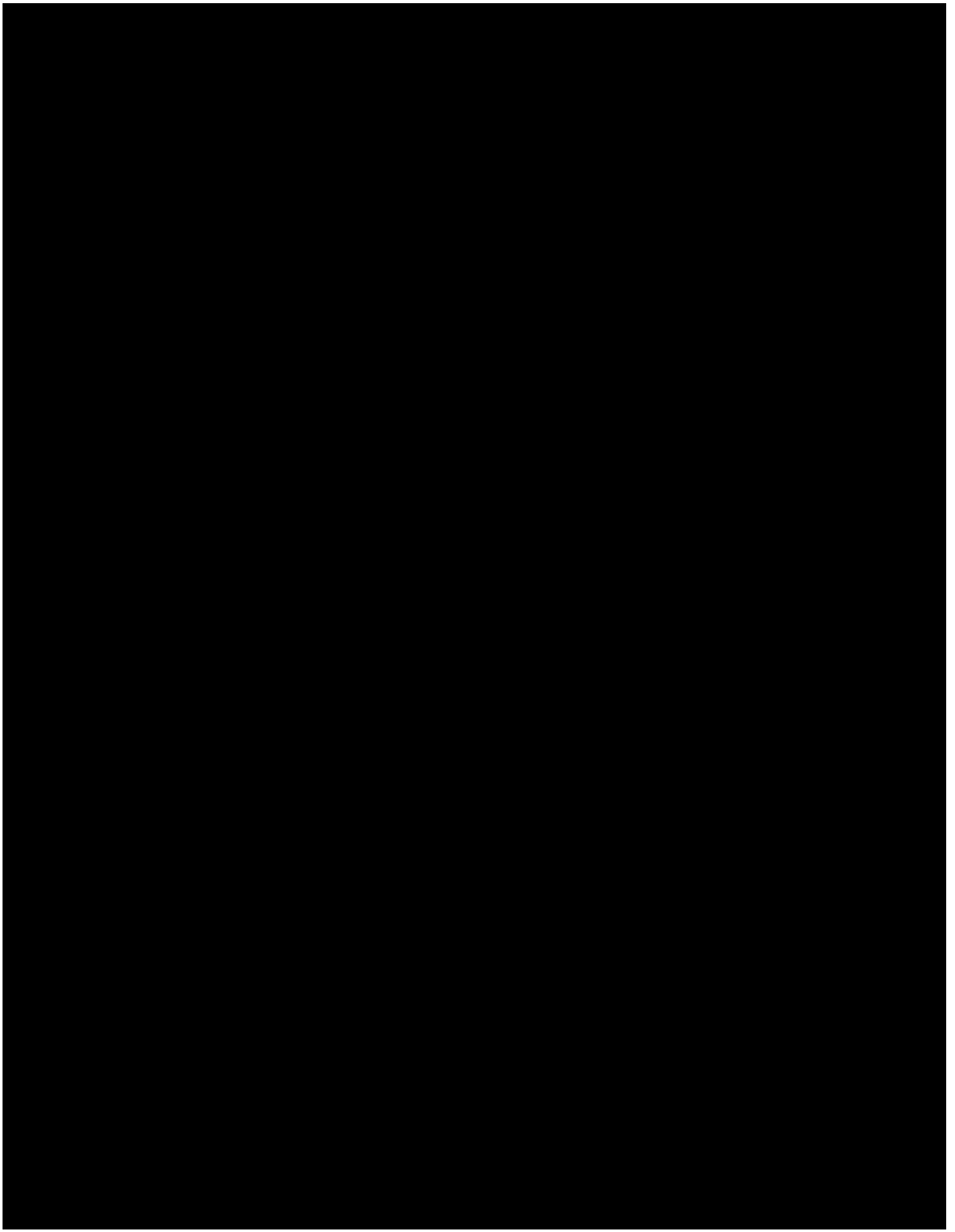


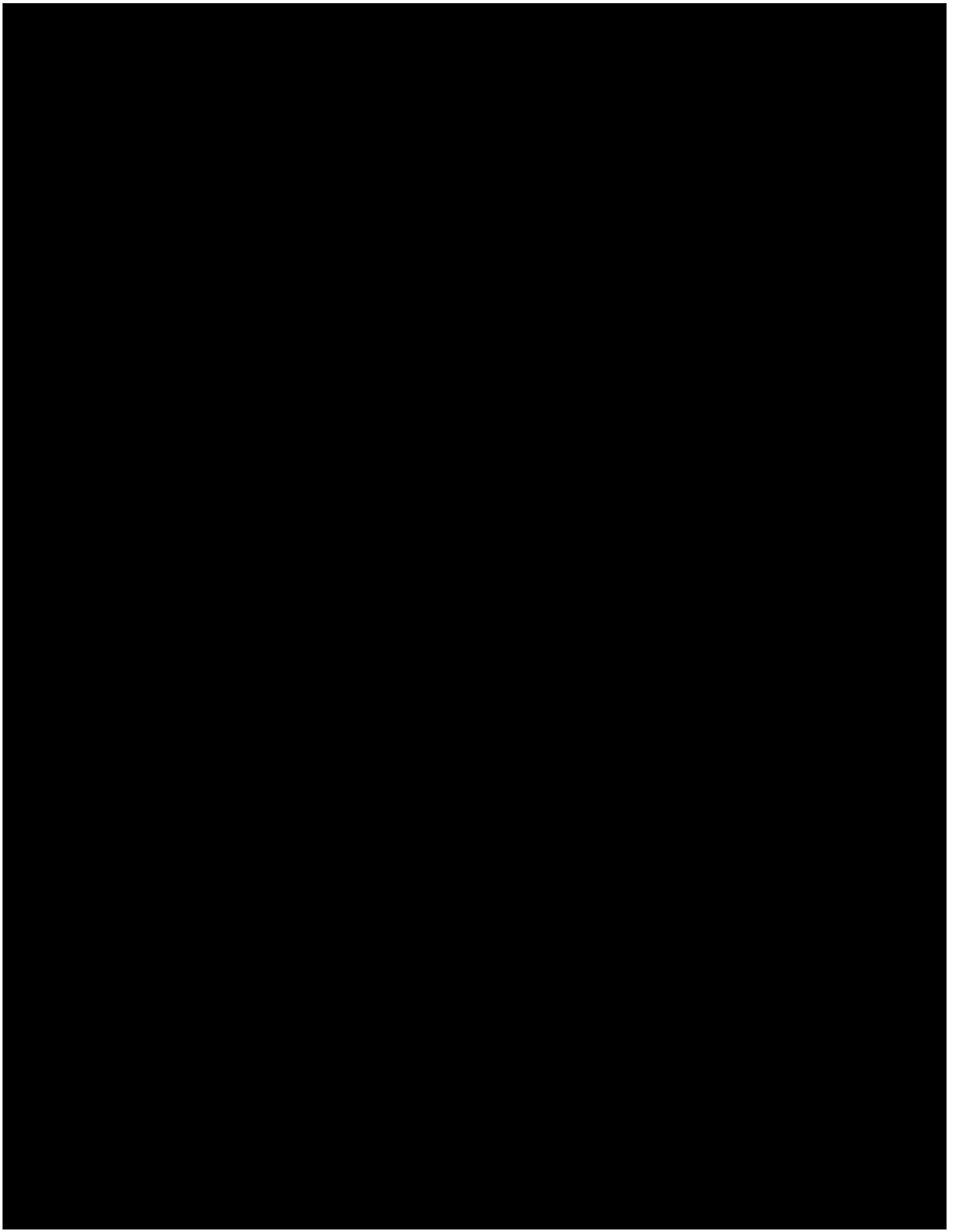


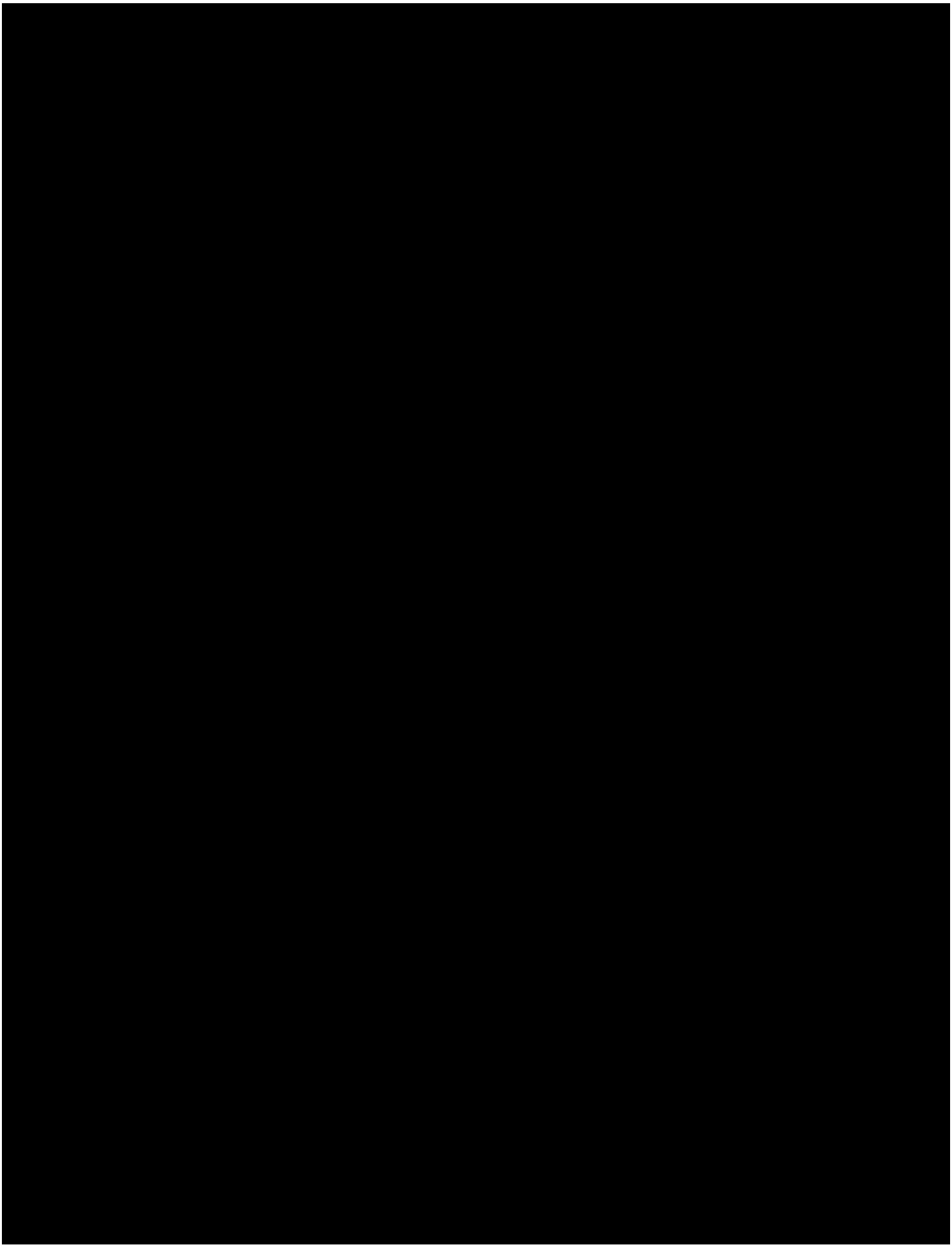


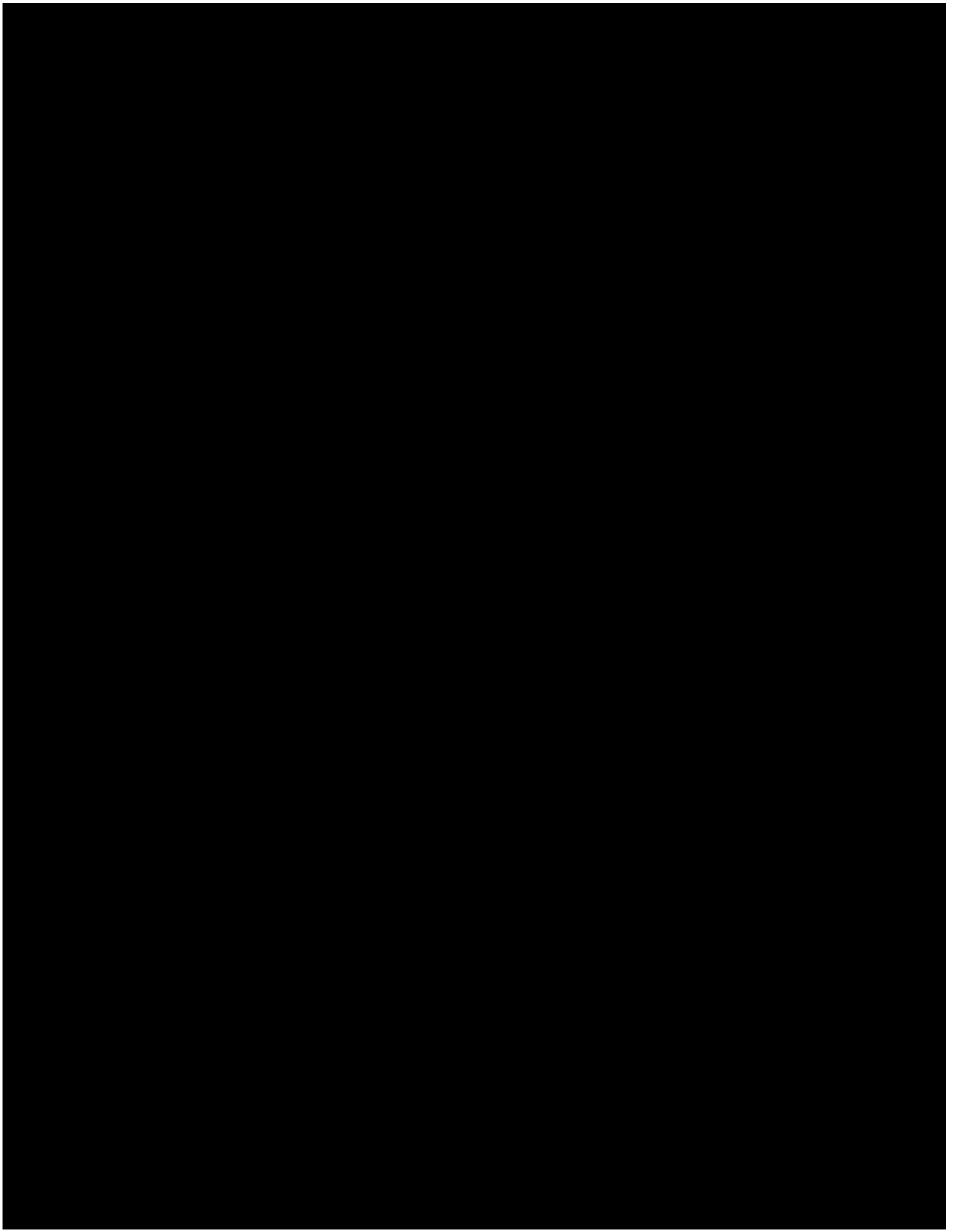


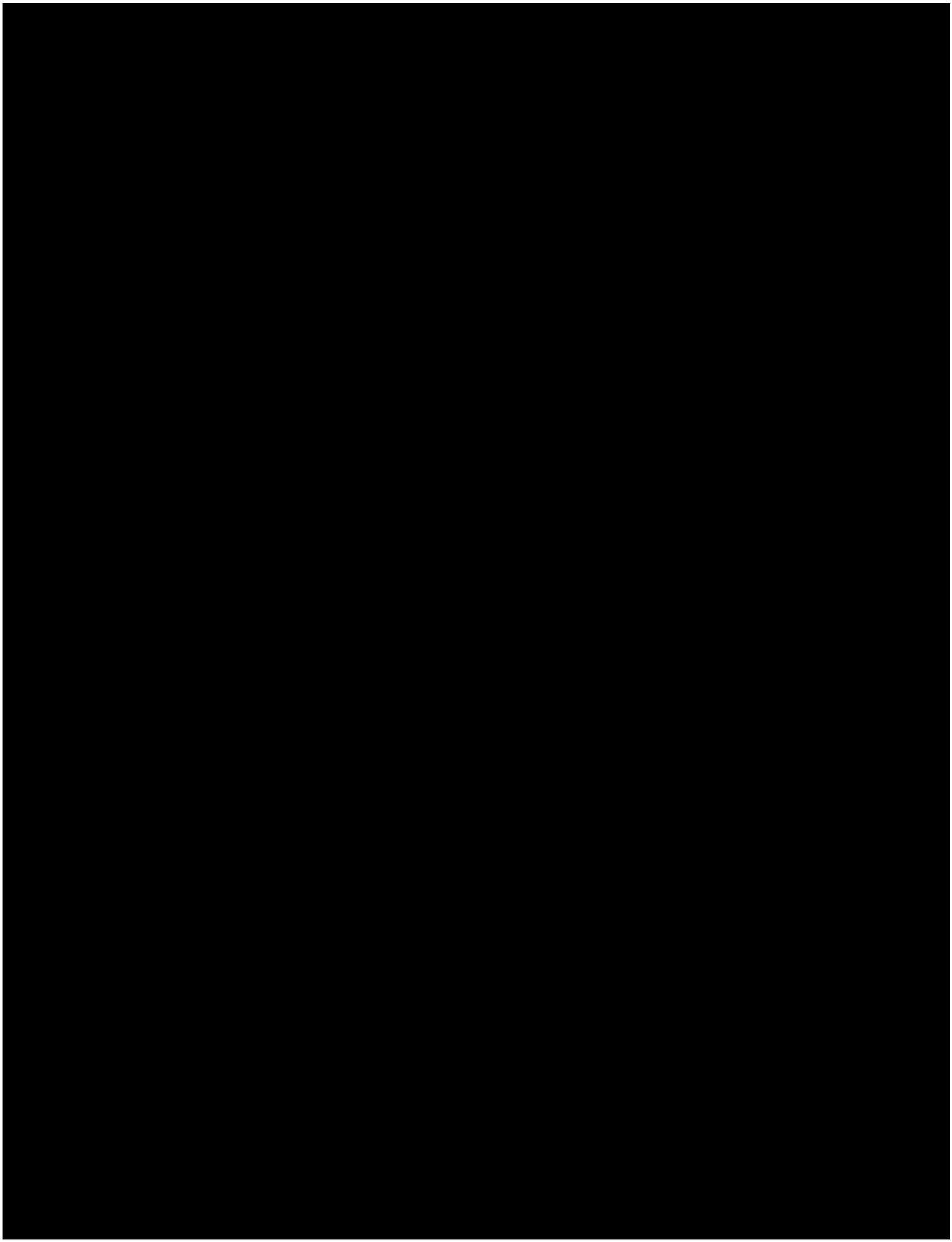


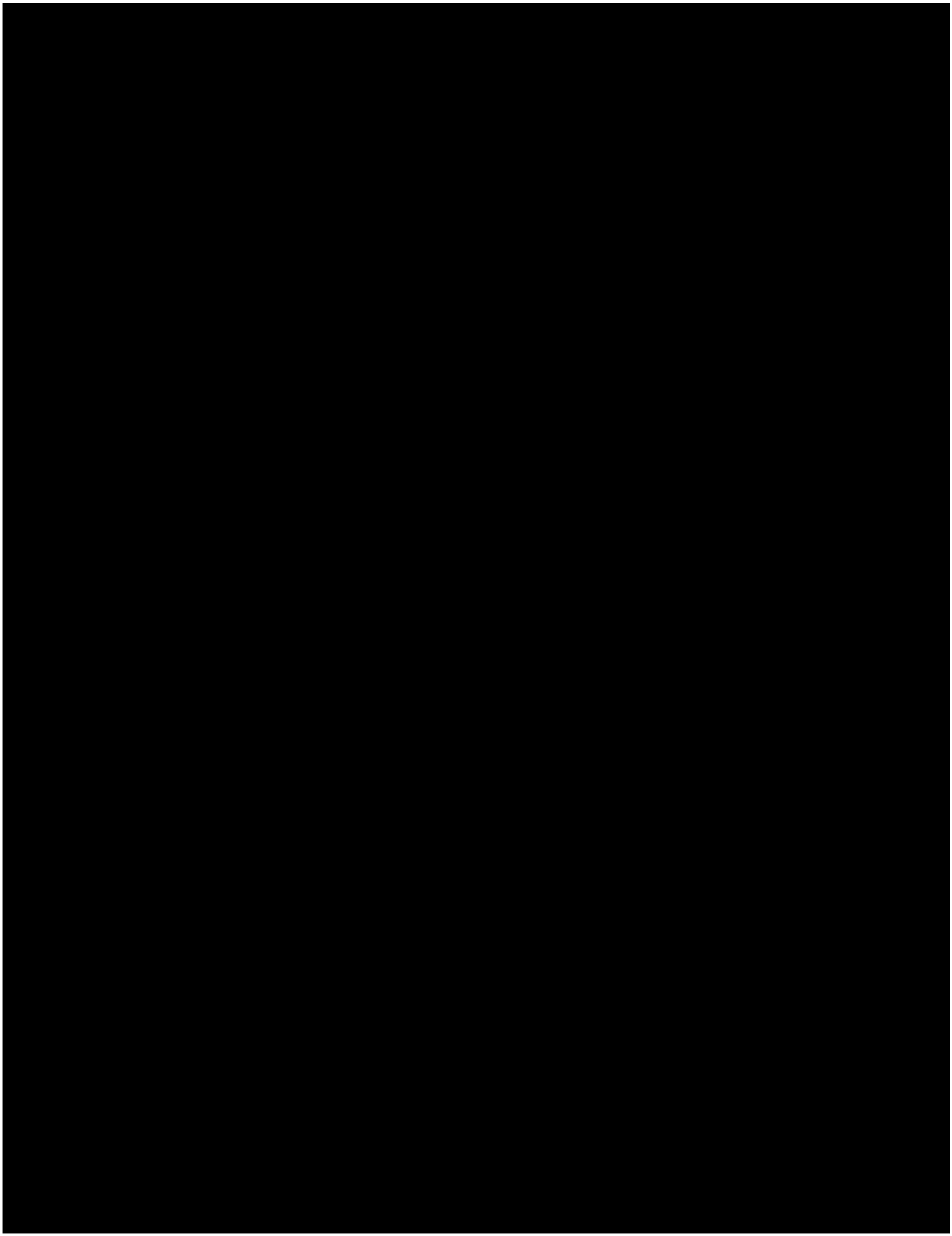


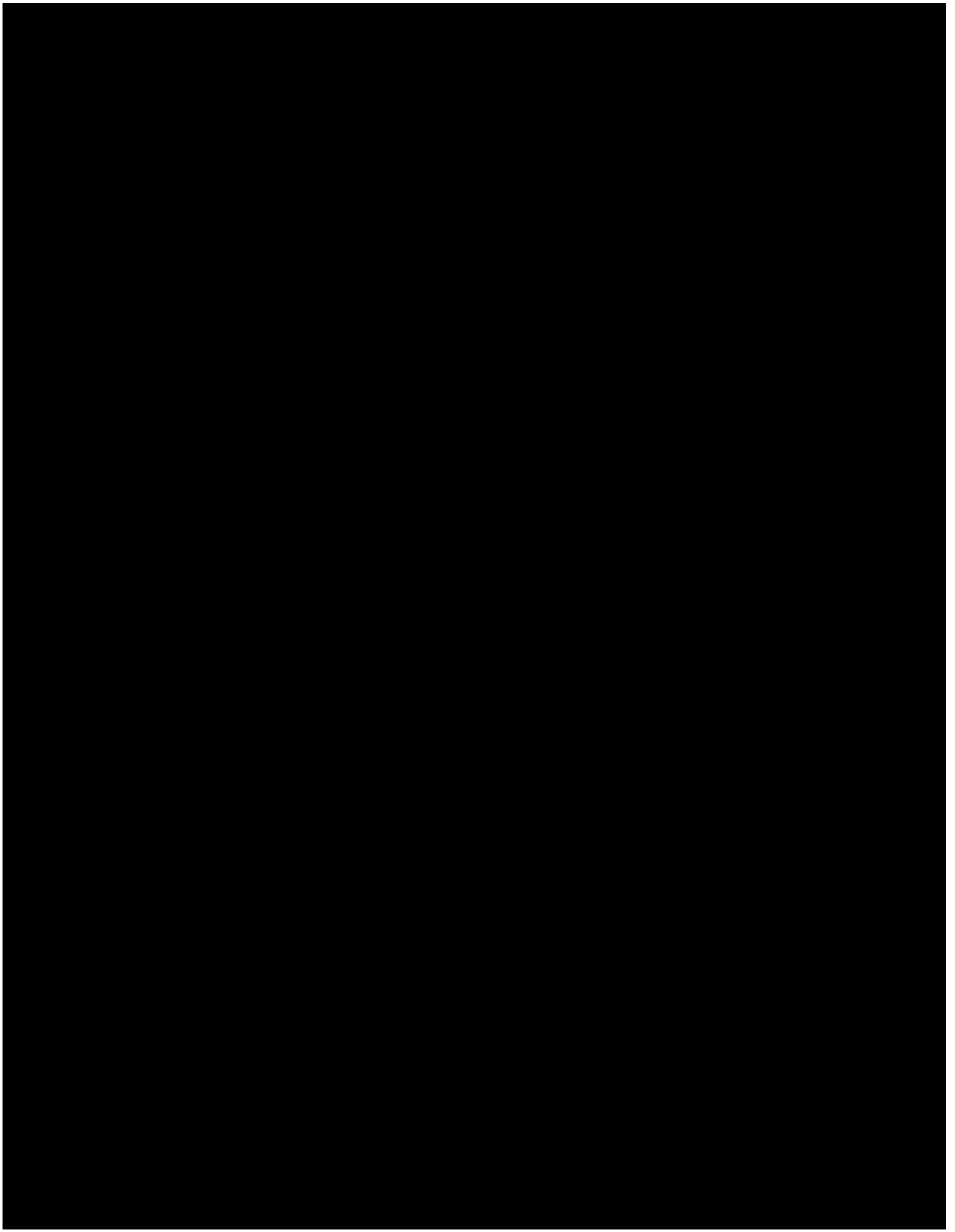








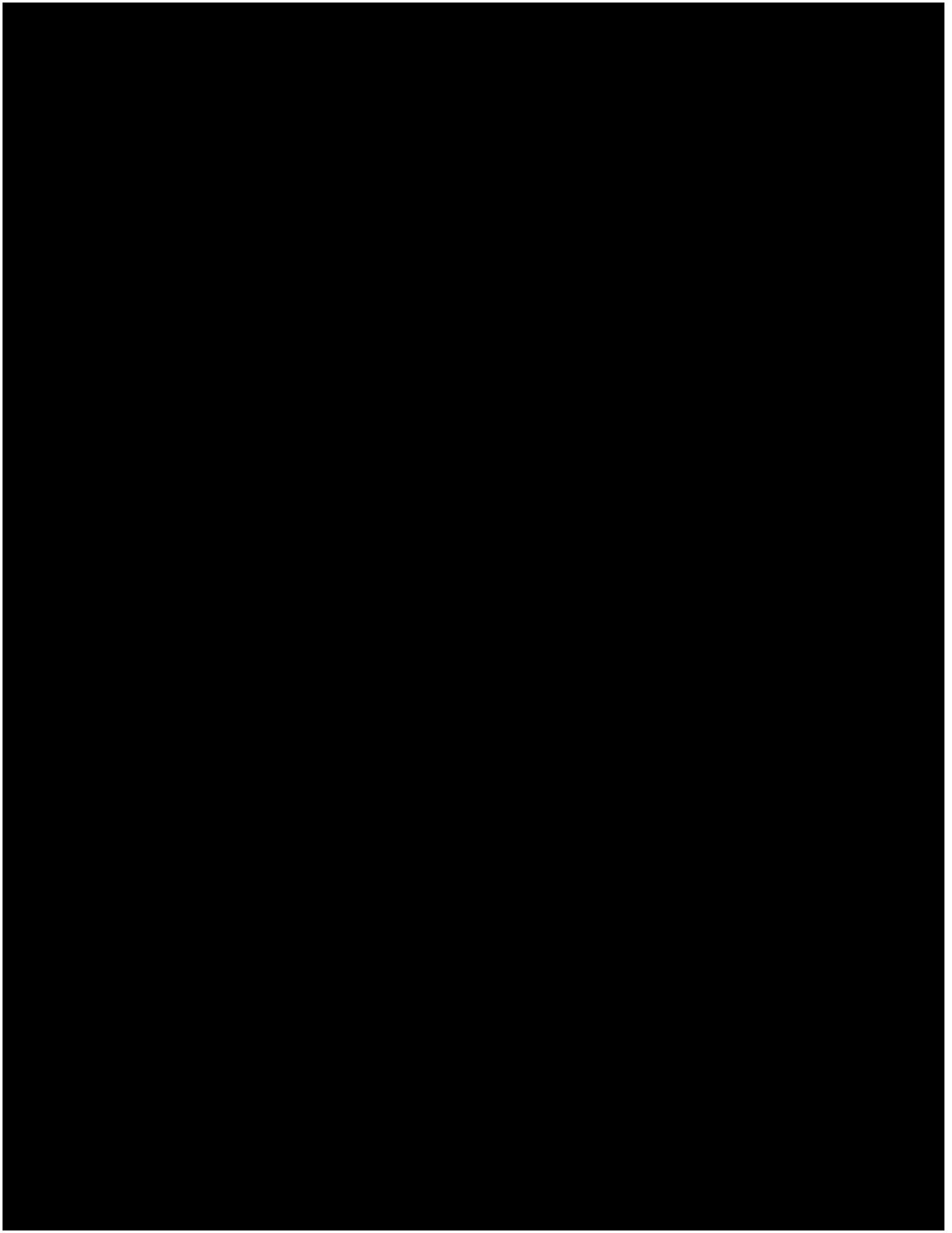


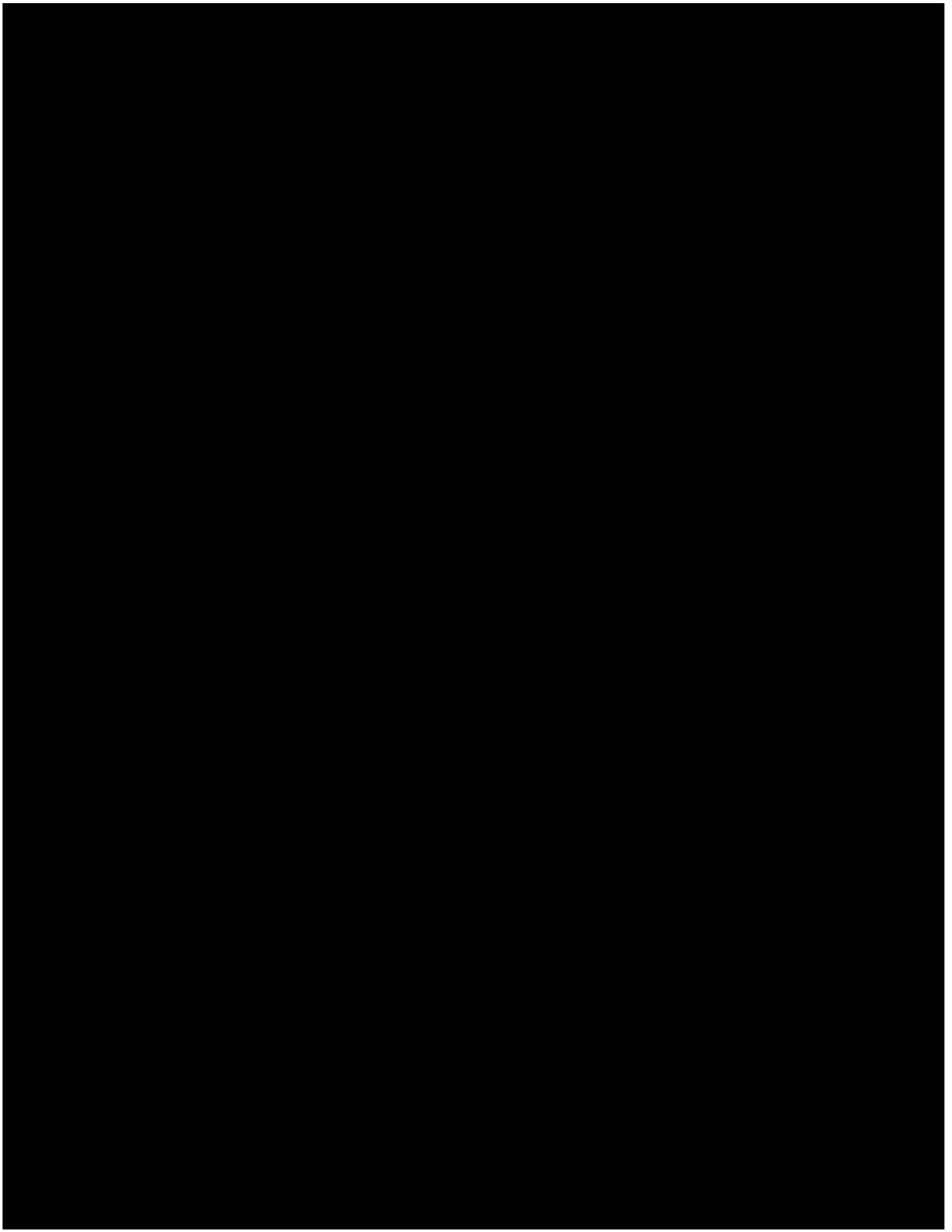


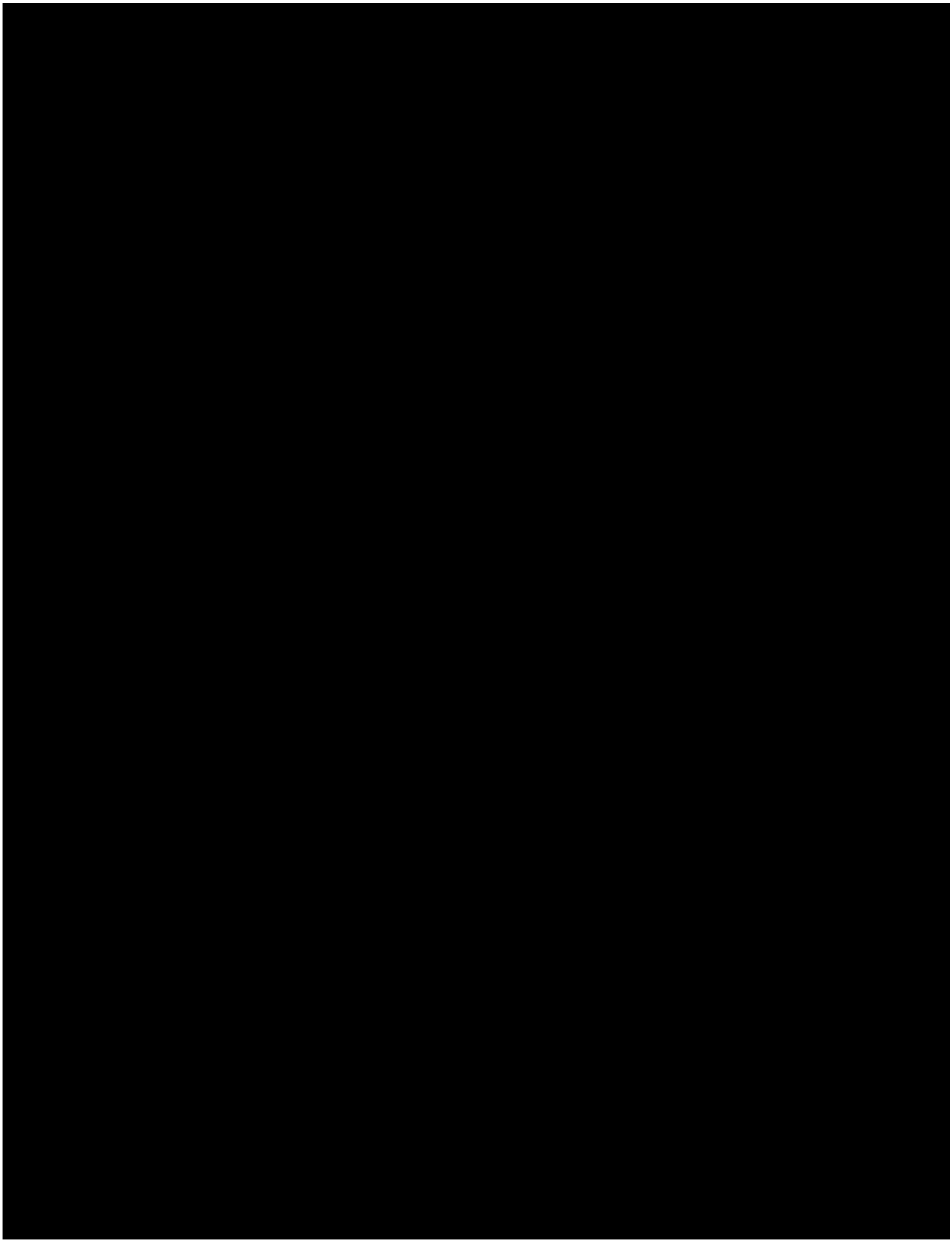


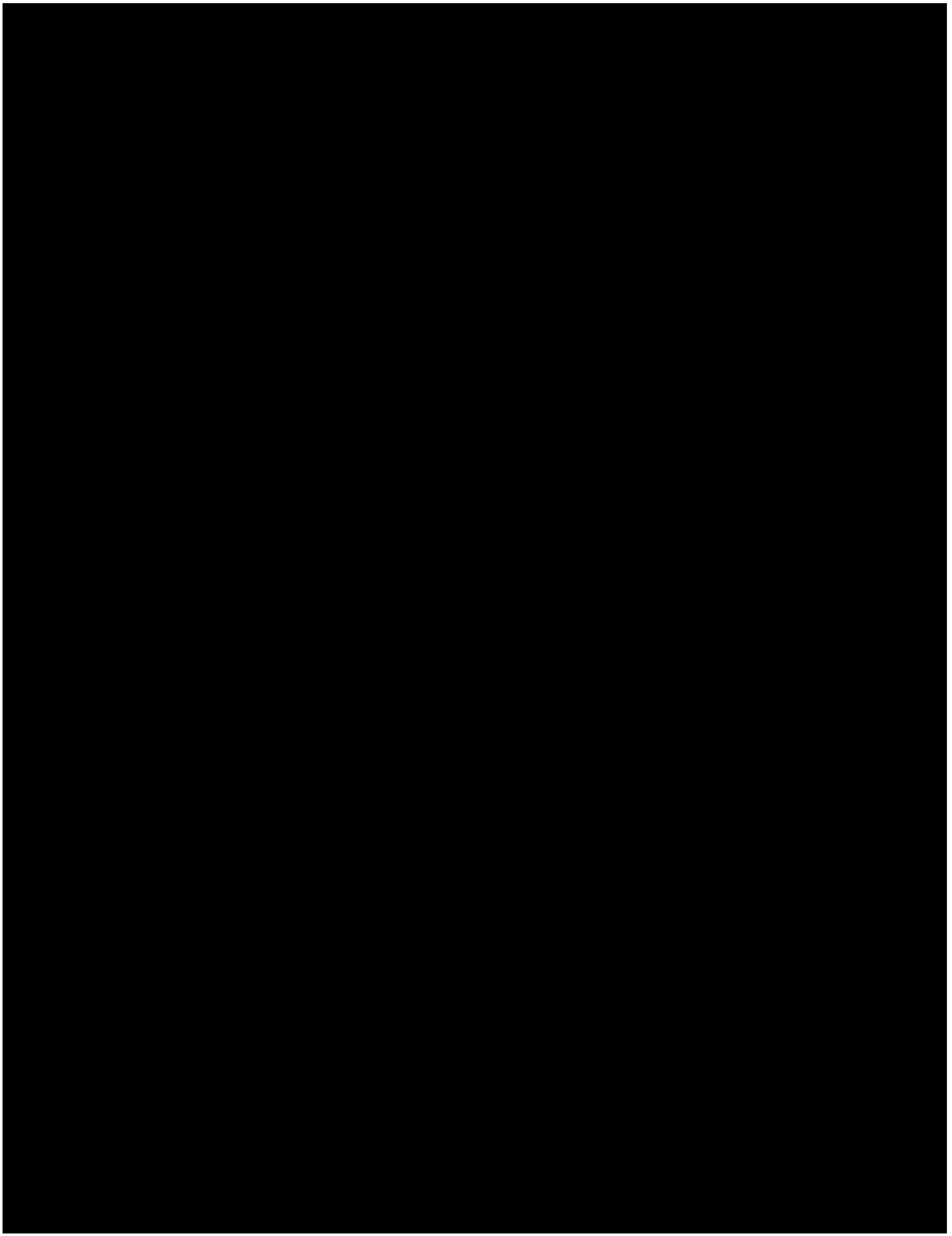


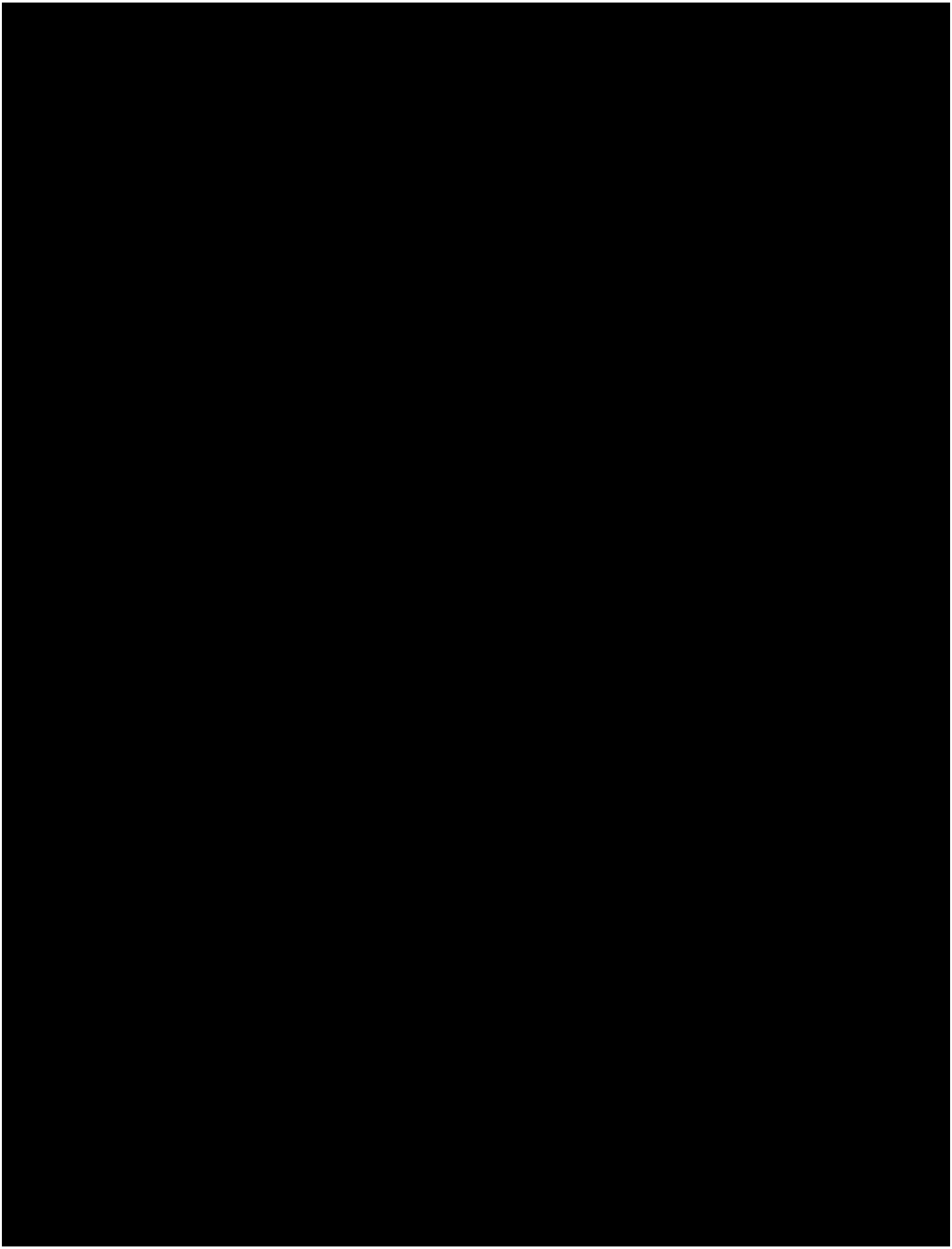


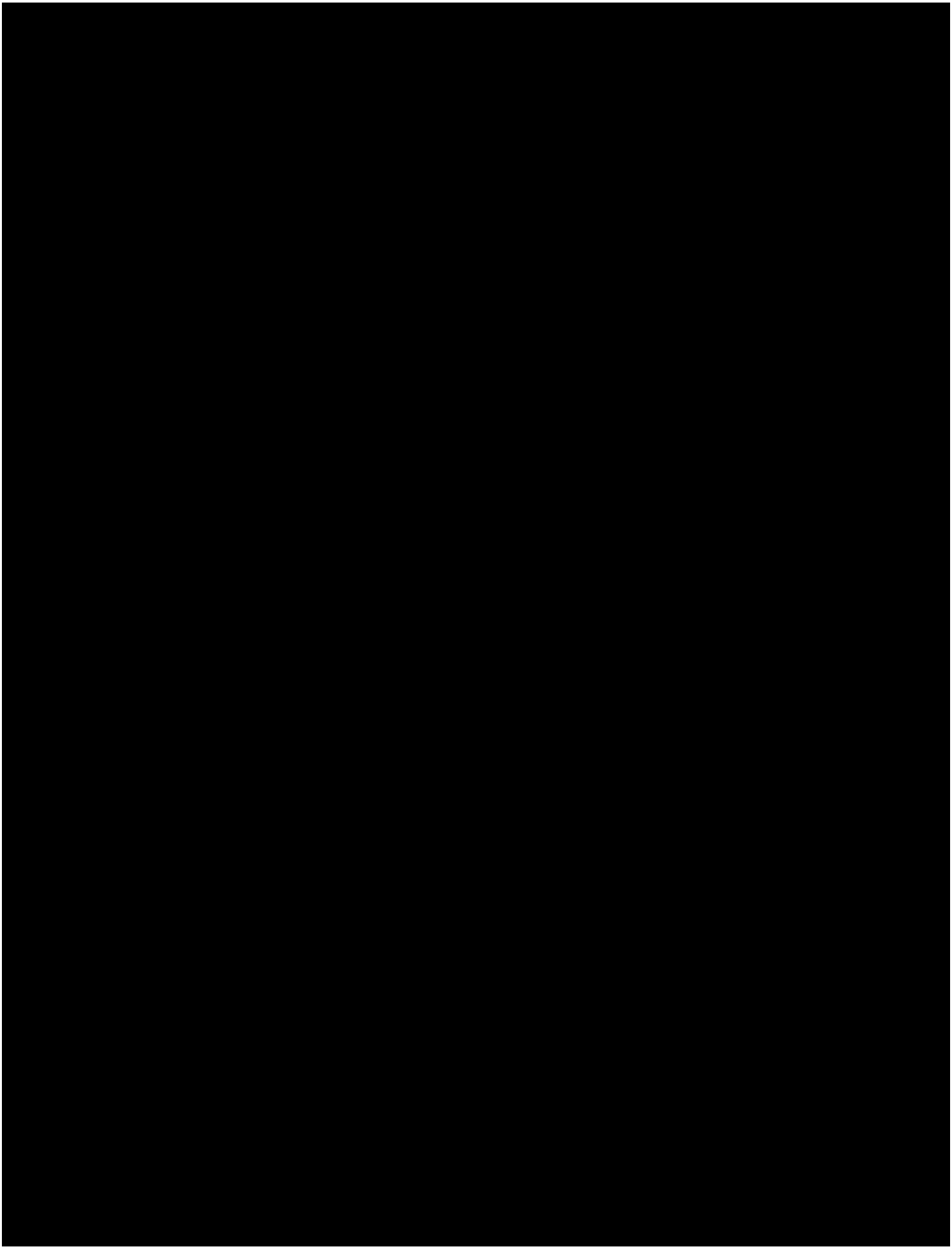


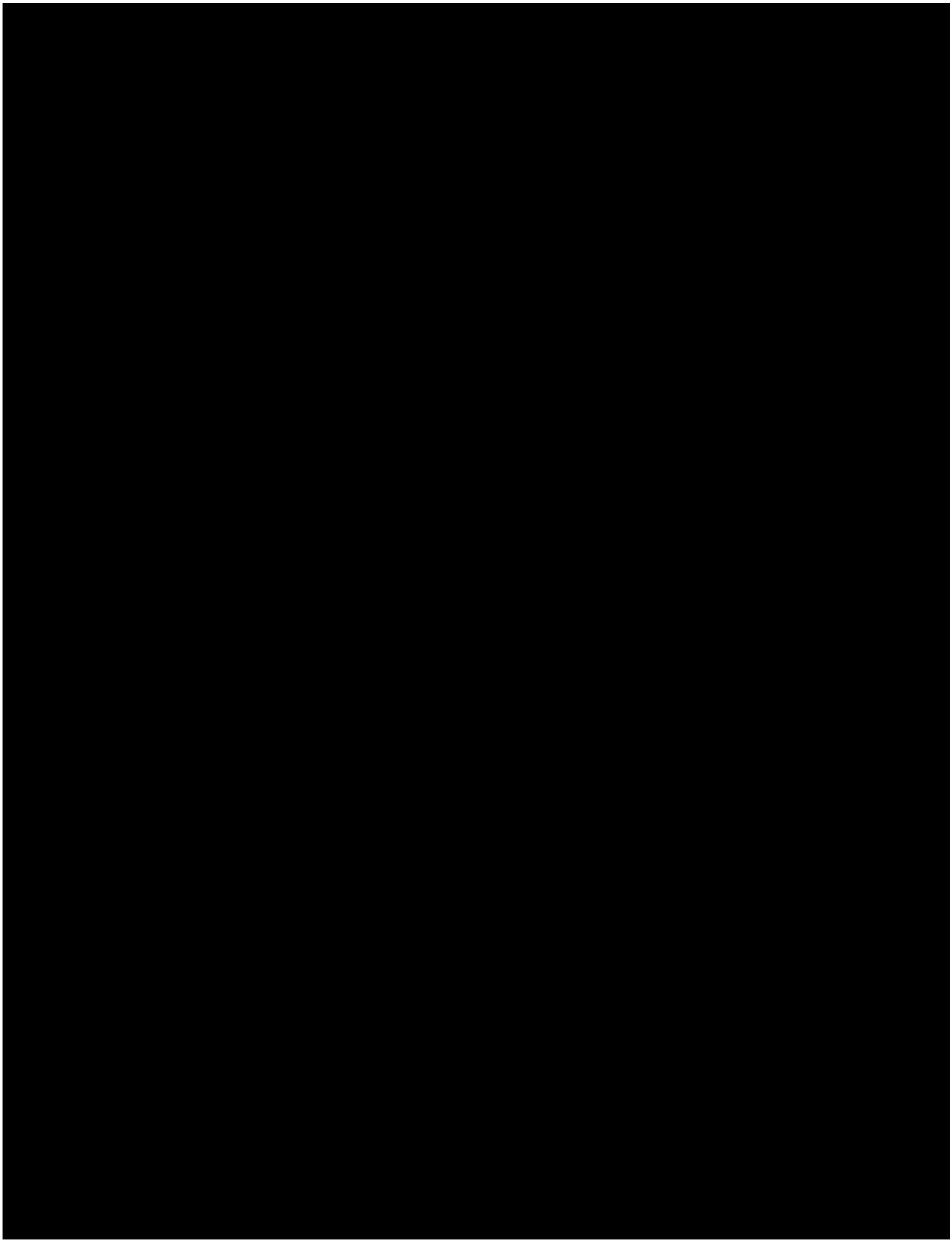


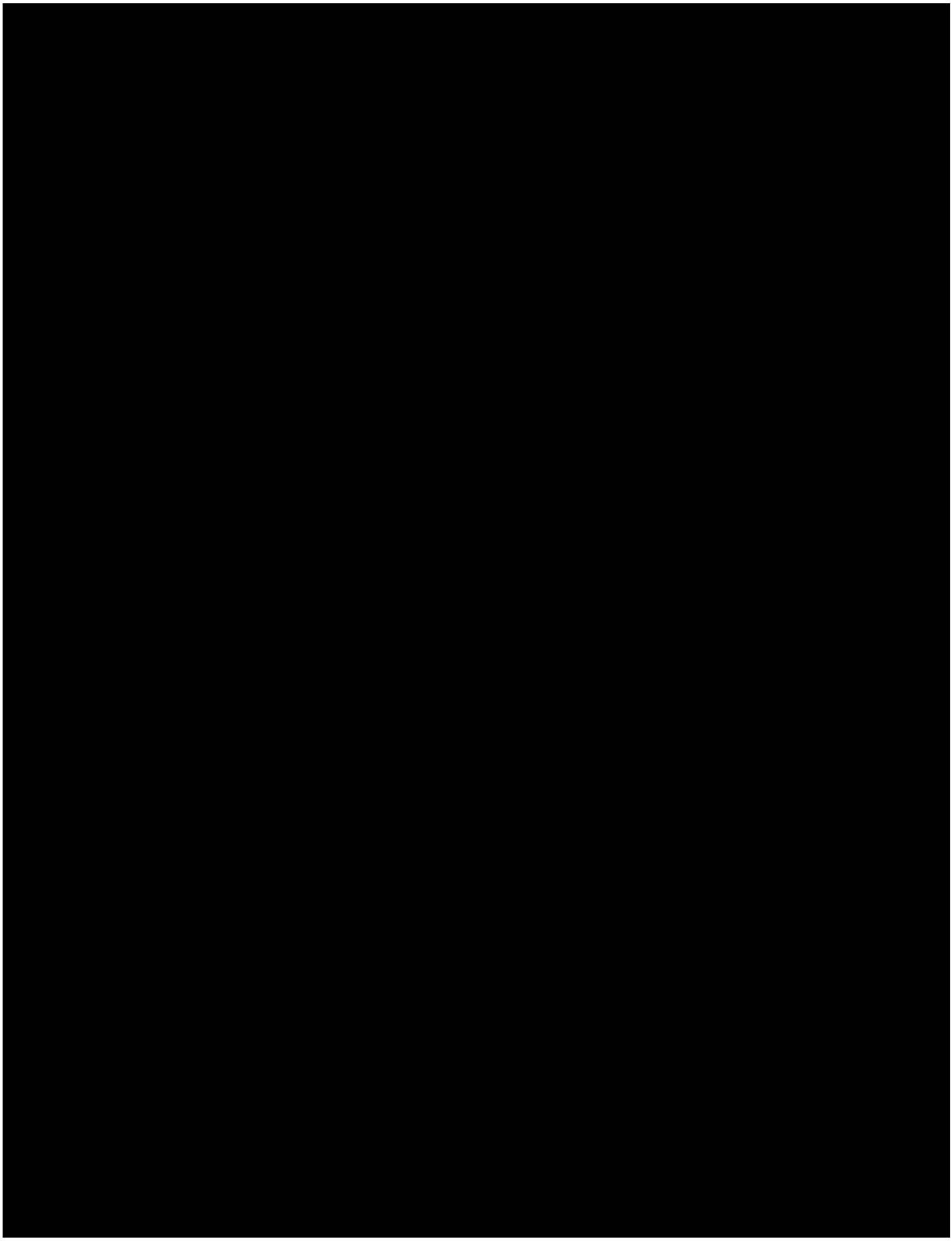


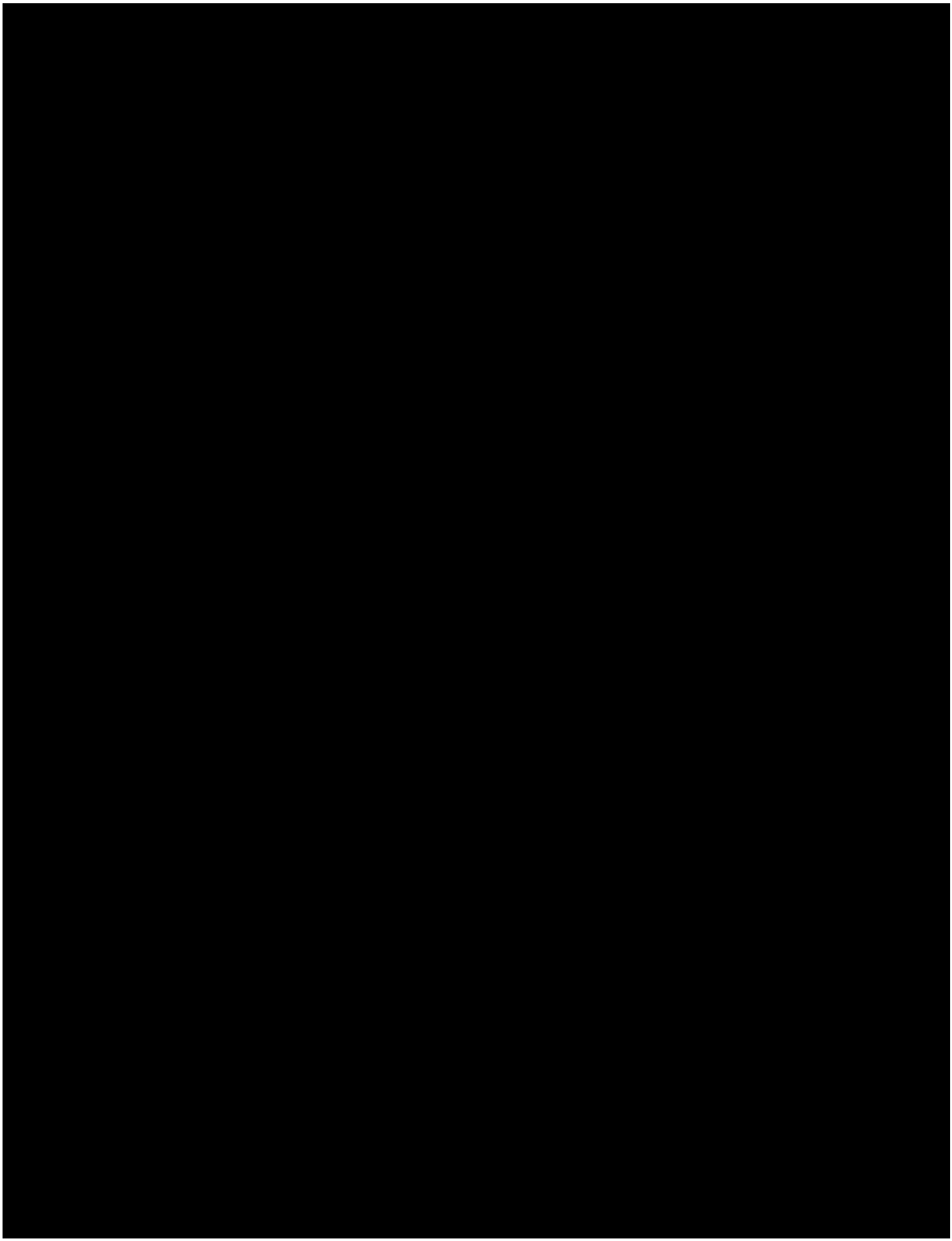


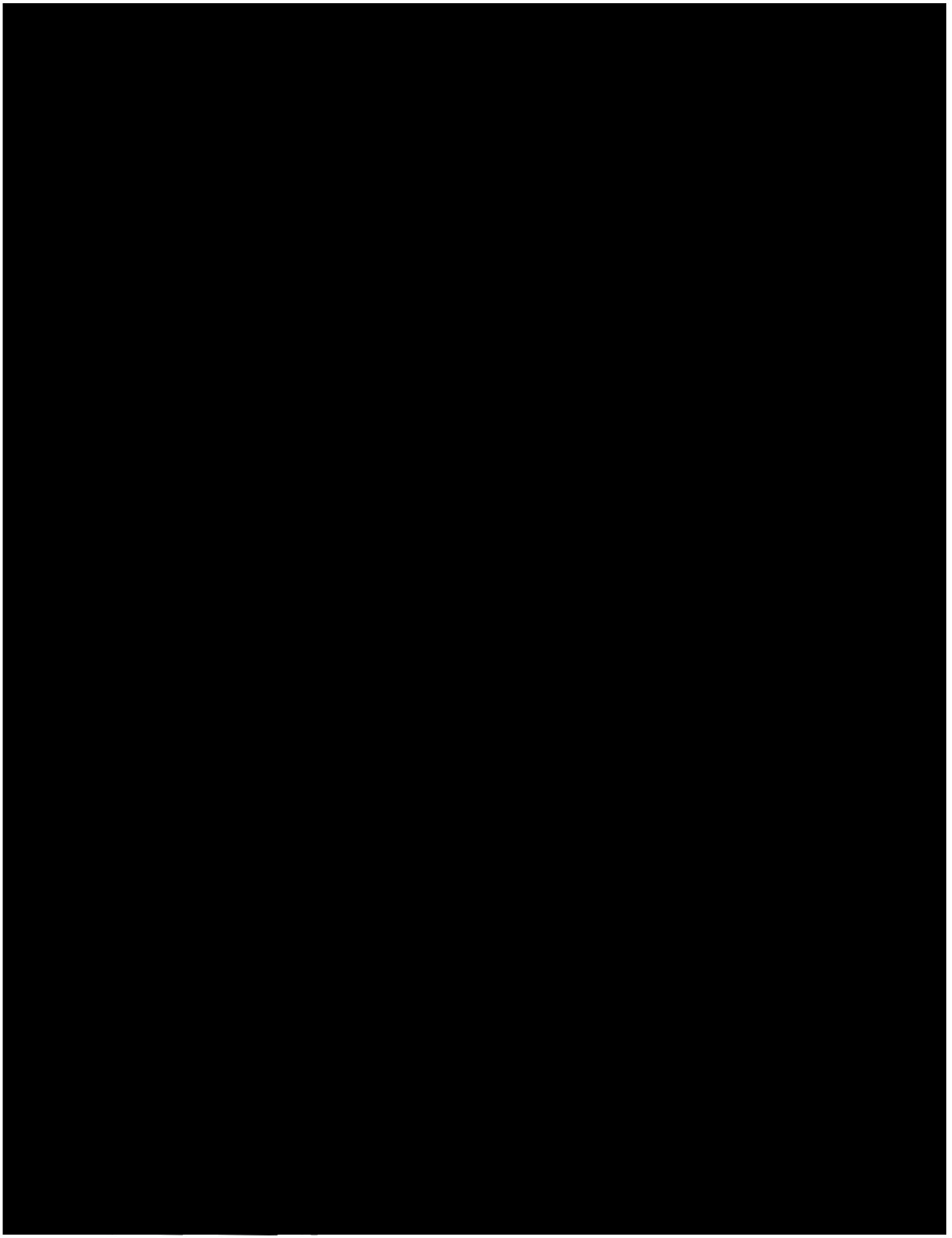


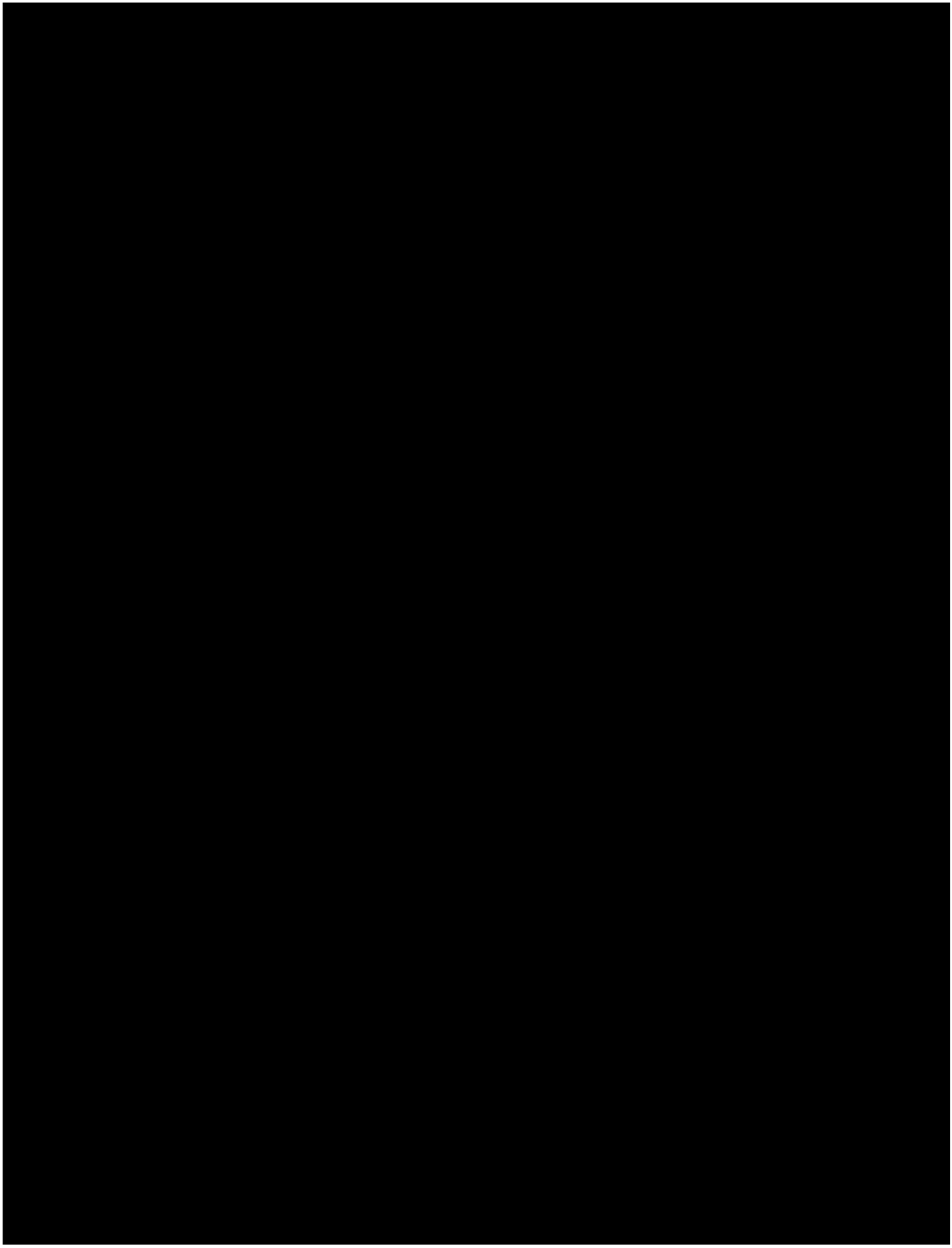


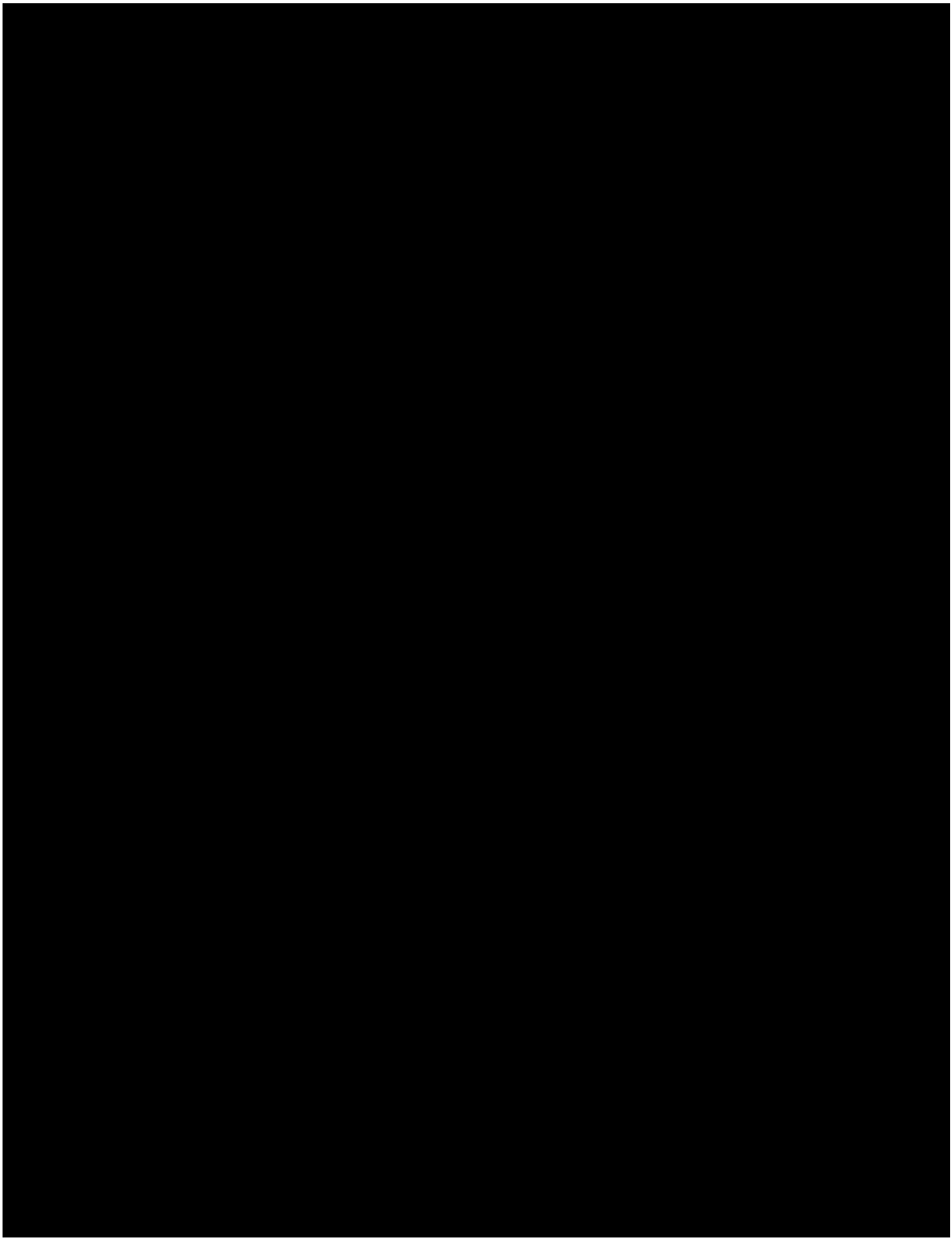




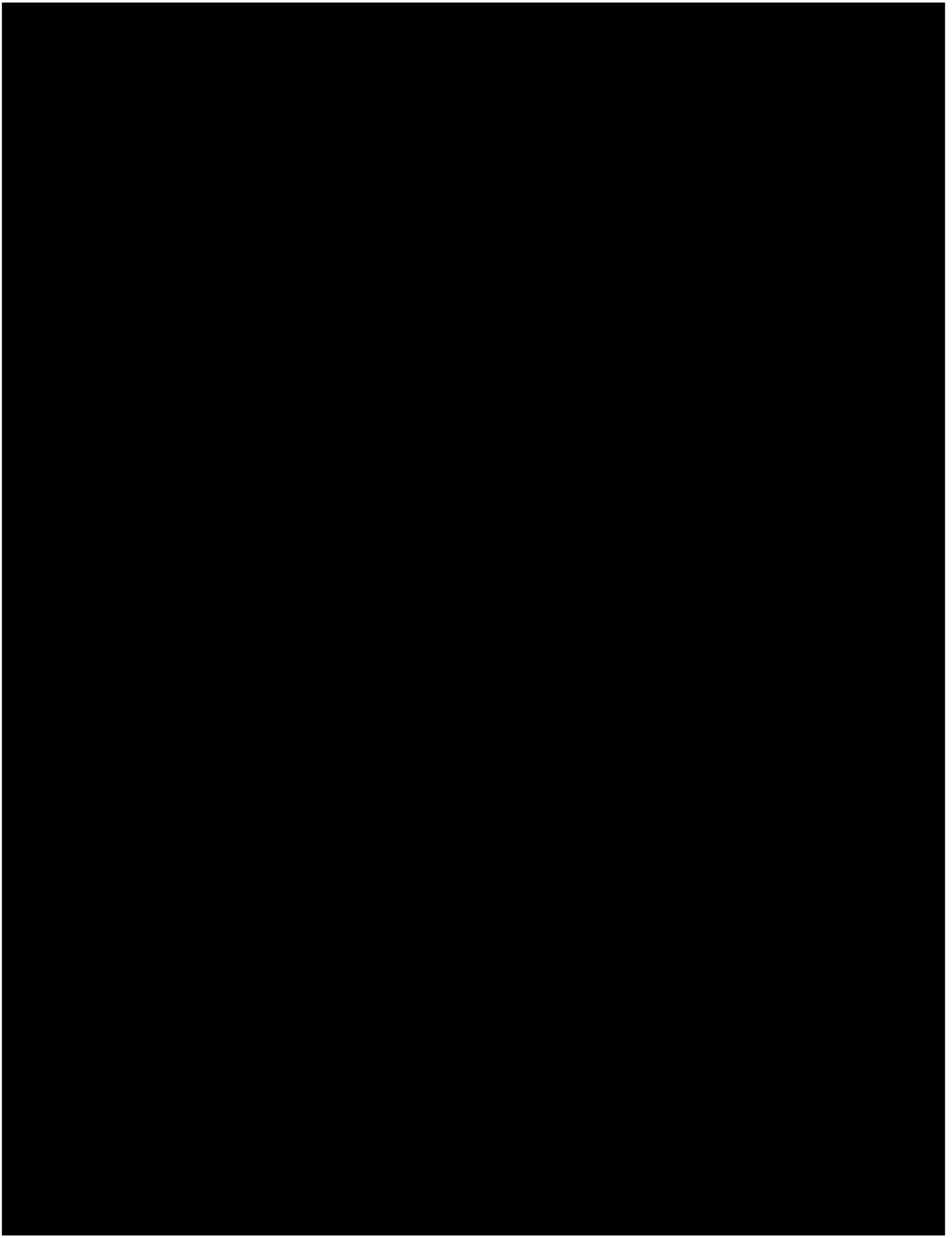












2021-015030 : Channell, Kermit - (06-05-2023)

ARKANSAS DEPARTMENT OF HUMAN SERVICES

Office of Chief Counsel
Brent Gasper
P.O. Box 1437, Slot S-260 Little Rock, AR 72203-1437
501-320-8250 - Fax: 501-682-6720
brent.gasper@dhs.arkansas.gov

May 31, 2023

Mr. Kermit B. Channell, II
Crime Lab Director
Arkansas State Crime Laboratory
3 Natural Resources Drive
Little Rock, AR 72205

RE: Jacqueline Asheraft, DOB: 5 27 1971

To Whom It May Concern:

Please find attached a subpoena issued by the Arkansas State Claims Commission concerning Jacqueline Asheraft.

I have enclosed a self-addressed stamped envelope for your convenience. If you do not have any records concerning Ms. Asheraft, please contact Ms. Carter at 501-320-6338.

I appreciate your cooperation in this matter.

Sincerely,

Brent Gasper

Brent Gasper
Deputy Director of OCC

ddc
Enclosure

2021-015030 : Channell, Kermit - (06-05-2023)

Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted] and [redacted] Minor Children, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO: **Mr. Kermit B. Channell, II**
Crime Lab Director
Arkansas State Crime Laboratory
3 Natural Resources Drive
Little Rock, Arkansas 72205

____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

All autopsy reports, lab reports, toxicology reports, or other reports and findings, including the complete case file for decedent Jacqueline Ashcraft, DOB [redacted] resulting from the accident on 6/11/2021

May 10, 2023
Date

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

2021-015030 : Channell, Kermit - (06-05-2023)

PROOF OF SERVICE

SERVED ON (Print Name)

DATE PLACE

MANNER OF SERVICE

SERVED BY (Print Name) TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d).

A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

2021-015030 : Bargiel, Sandra - (01-18-2023)

JACKSON
LAW FIRM

January 14, 2023

VIA CERTIFIED MAIL,

Ms. Sandra Bargiel
Arkansas State Crime Laboratory
3 Natural Resources Drive
Little Rock, AR 72205

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of* [redacted] *Minor Children v. The Arkansas Department of Human Services*
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Ms. Bargiel:

I represent the Claimant in the above referenced matter pending before the Arkansas State Claims Commission. This is a wrongful death claim arising from a motor vehicle accident.

Please find enclosed a Toxicology Report Request Form for Jennifer Wilkerson and Jacqueline Ashcraft, deceased along with a Subpoena issued by the Arkansas State Claims Commission's Executive Director, Kathryn Irby, *Esq.* Also enclosed is a check from my law firm in the amount of $50.00 made payable to the Arkansas State Crime Laboratory.

Can you send a PDF of the toxicology results to my office at: *Jim@JimJacksonatty.com* or fax it to my attention at (501) 823-3611?

Please call me at (501) 823-3610 with any questions or suggestions. Enclosed is a copy of Trooper Ray's accident report which references the toxicology tests.

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosure
cc: Brent Gasper, *Esq.*
Kathryn Irby, *Esq.*

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528 • 501.823.3610 • Fax: 501.823.3611 • Jim@JimJacksonAtty.com • www.JimJacksonAtty.com

2021-015030 : Bargiel, Sandra - (01-18-2023)

Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted] Minor Children, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO: **Kermit B. Channell, II**
Crime Lab Director
Arkansas State Crime Laboratory
3 Natural Resources Drive
Little Rock, AR 72205

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

BAC test and drug test results from p. 2 of the attached accident report.

January 12, 2023

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Date

HH 000117

2021-015030 : Bargiel, Sandra - (01-18-2023)

Arkansas State Crime Laboratory

Toxicology Report Request Form

A copy of the toxicology report can be requested by submitting the following required items:

1) Written authorization from one of the following:
   a) the prosecuting attorney of the county where the incident occurred, or
   b) a court of competent jurisdiction, and
2) A cashier's check or money order for $50, made payable to the Arkansas State Crime Laboratory.
   Please do not send cash.

Name of tested individual: Jennifer Leann Wilkerson

Date of incident: June 11, 2021

Requester Information

Requester's name: Jim Jackson

Relationship to tested individual: Attorney at Law - See Attached Subpoena Duces Tecum

Street address: 700 W. Broadway Street, Suite 200

City, state, ZIP: North Little Rock, AR 72114

Email address: Jim@JimJacksonatty.com

Telephone number: 501-823-3610

Signature of requester: Jim Jackson

Please mail request to: Arkansas State Crime Laboratory
ATTN: Sandra Bargiel, (501) 683-6223
3 Natural Resources Drive
Little Rock AR 72205

2021-015030 : Bargiel, Sandra - (01-18-2023)

Arkansas State Crime Laboratory

Toxicology Report Request Form

A copy of the toxicology report can be requested by submitting the following required items:

1) Written authorization from one of the following:
   a) the prosecuting attorney of the county where the incident occurred, or
   b) a court of competent jurisdiction, and
2) A cashier's check or money order for $50, made payable to the Arkansas State Crime Laboratory.
   Please do not send cash.

Name of tested individual: Jacqueline Lynn Ashcraft

Date of incident: June 11, 2021

Requester Information

Requester's name: Jim Jackson

Relationship to tested individual: Attorney at Law - See Attached Subpoeana Duces Tecum

Street address: 700 W. Broadway Street, Suite 200

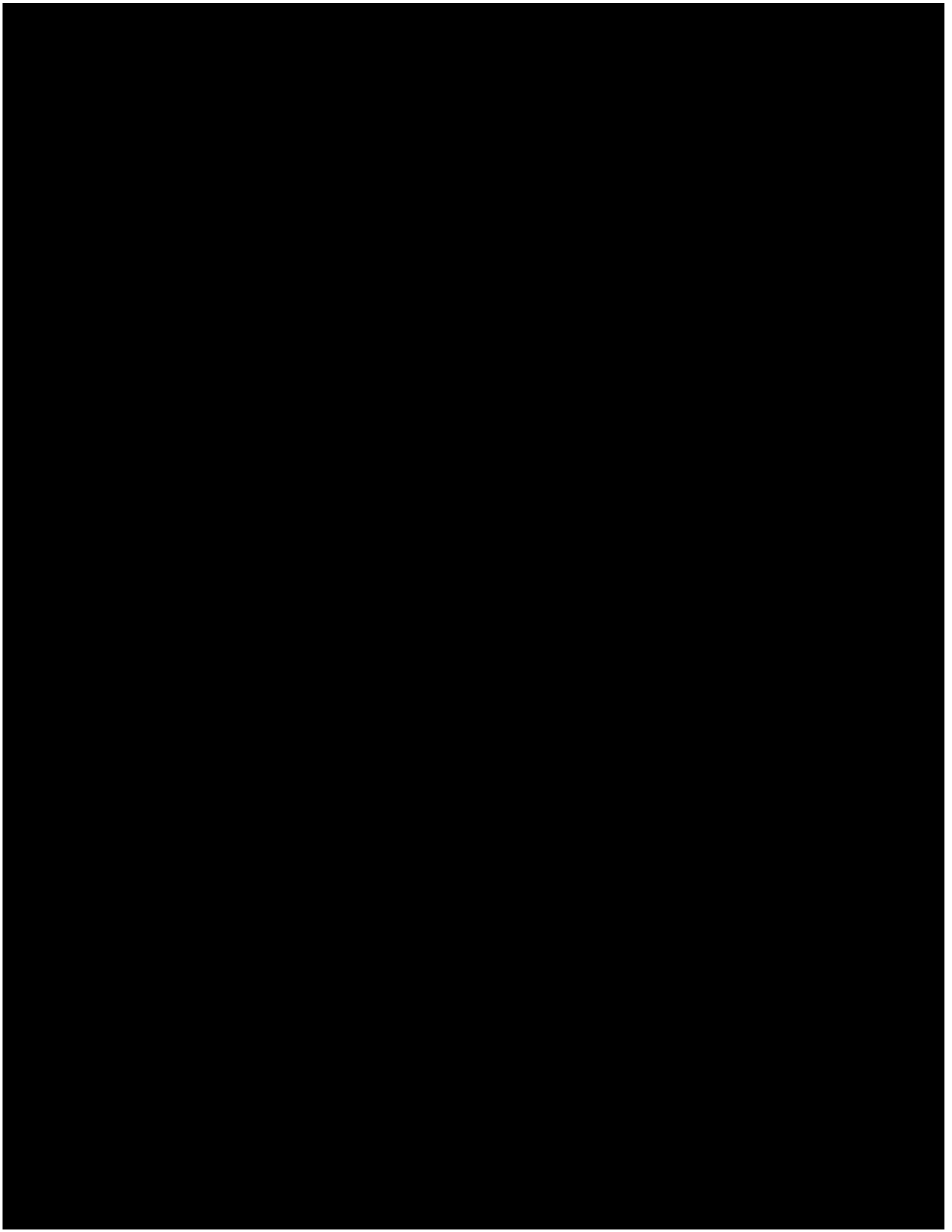
City, state, ZIP: North Little Rock, AR 72114

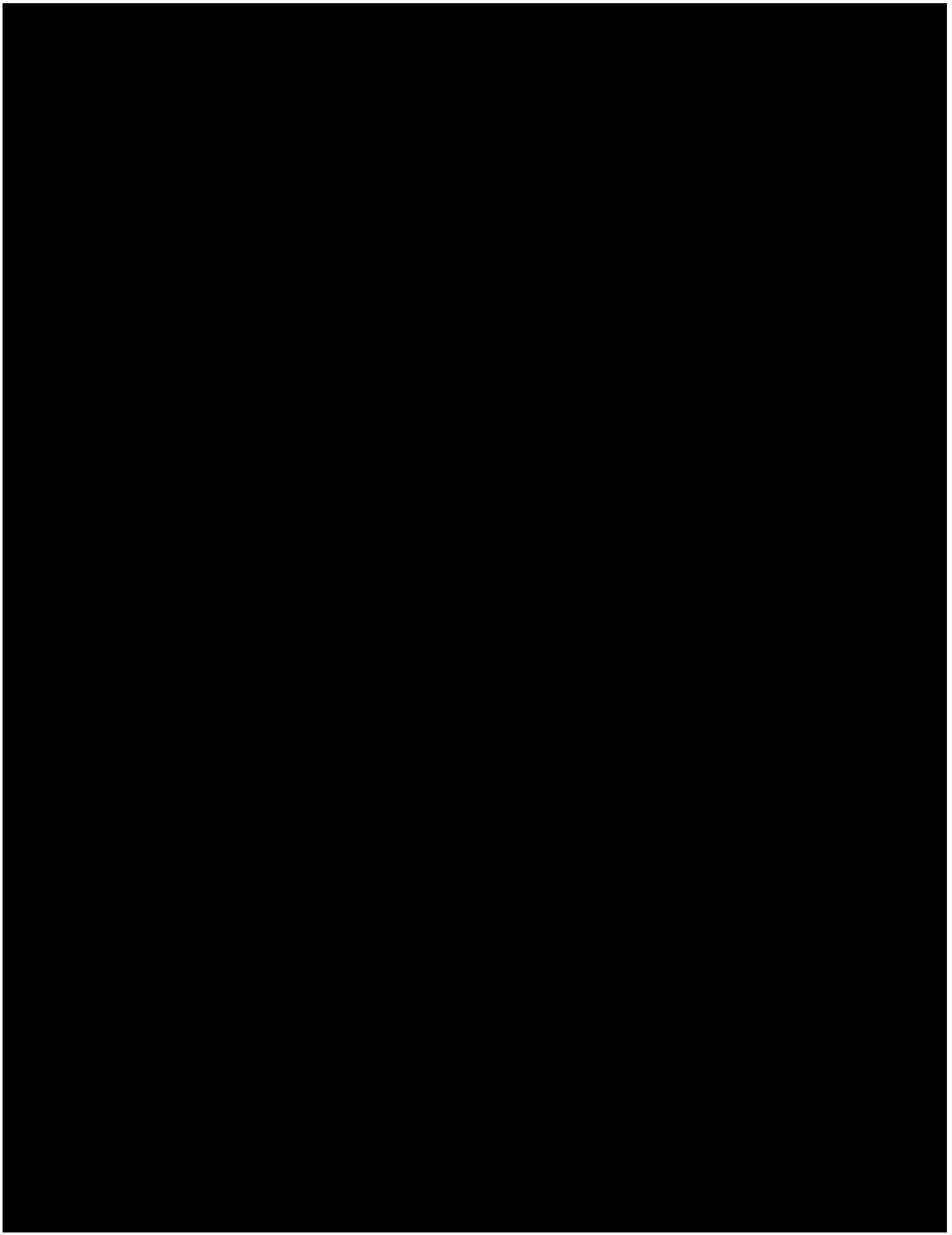
Email address: Jim@JimJacksonatty.com

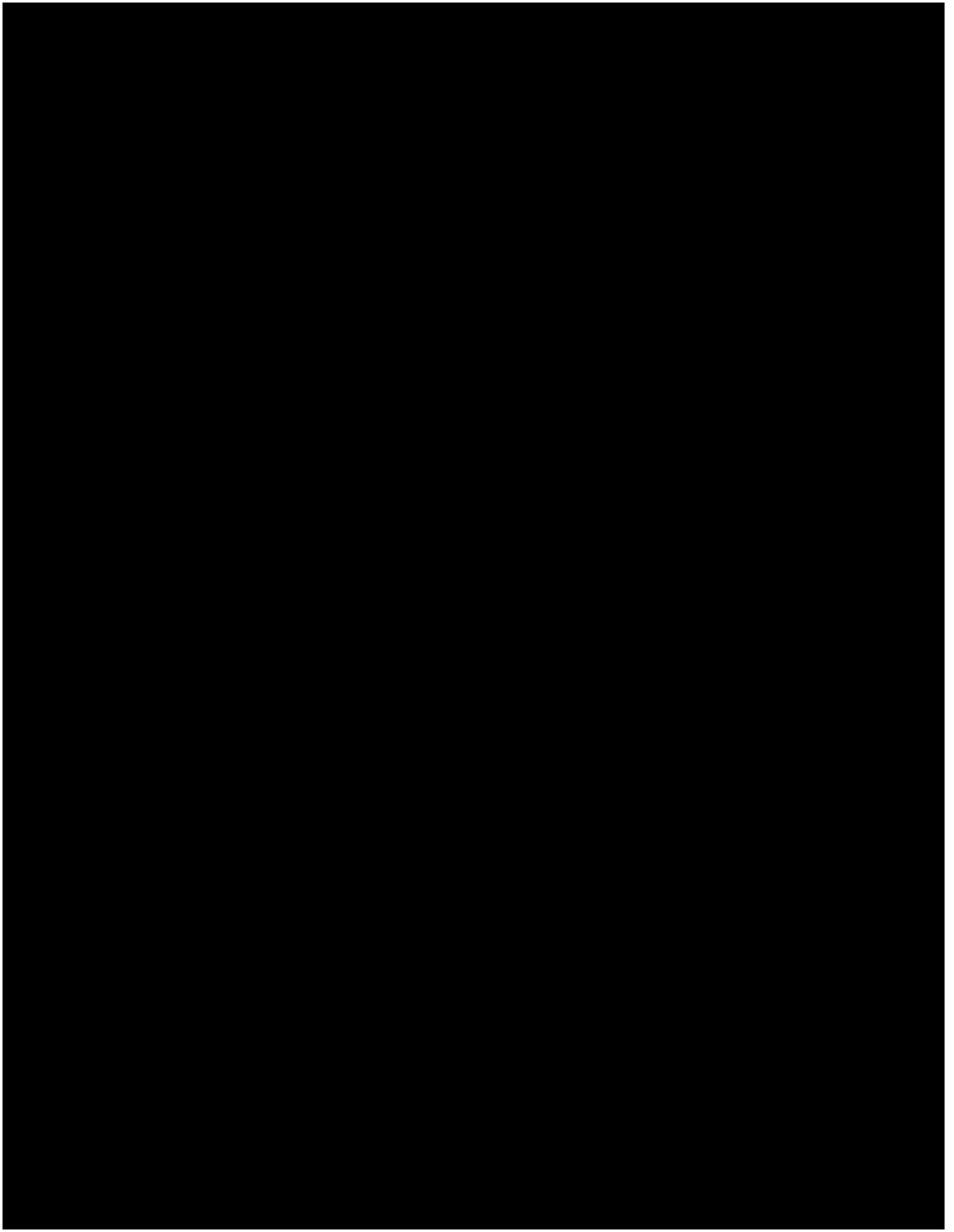
Telephone number: 501-823-3610

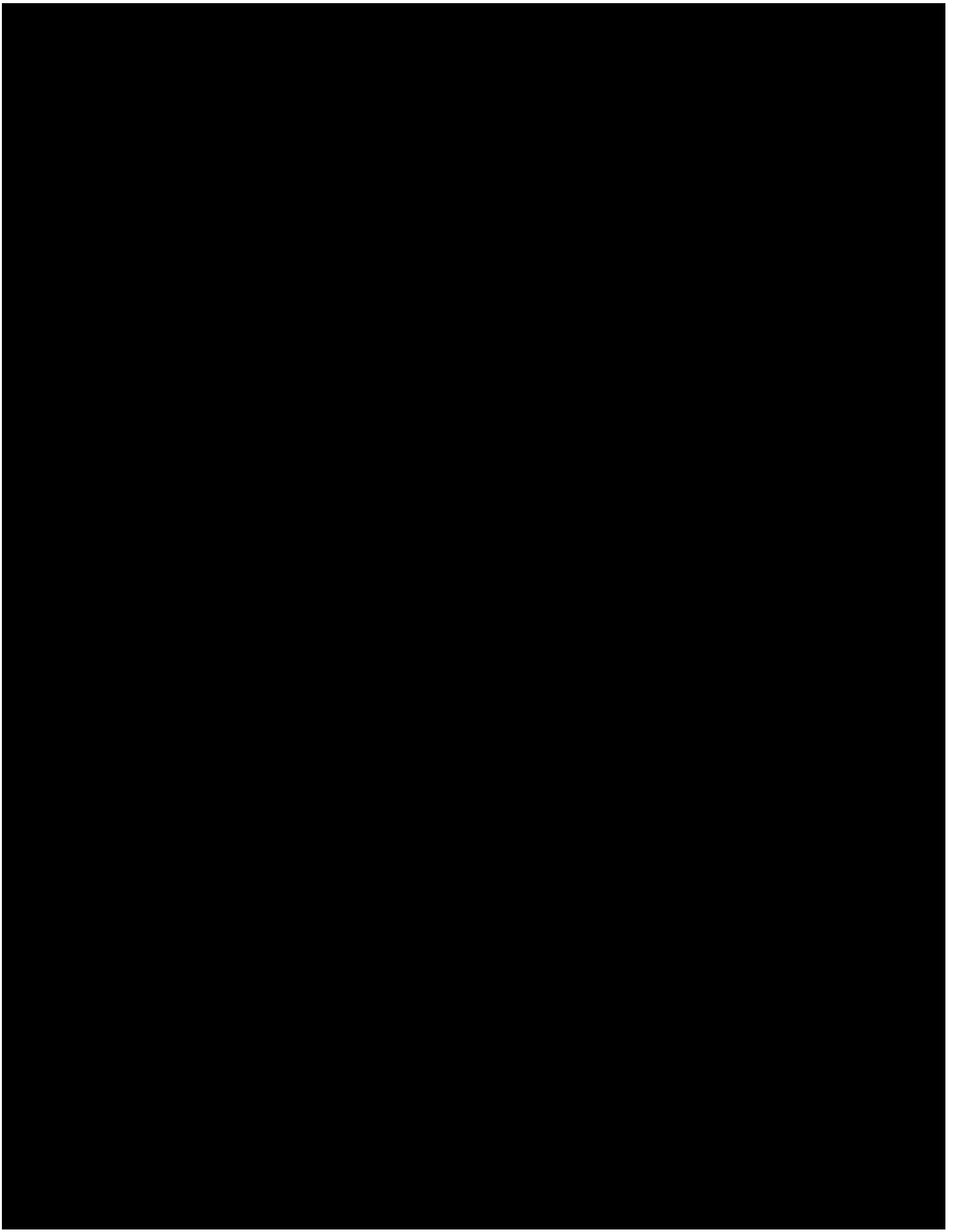
Signature of requester: Jim Jackson

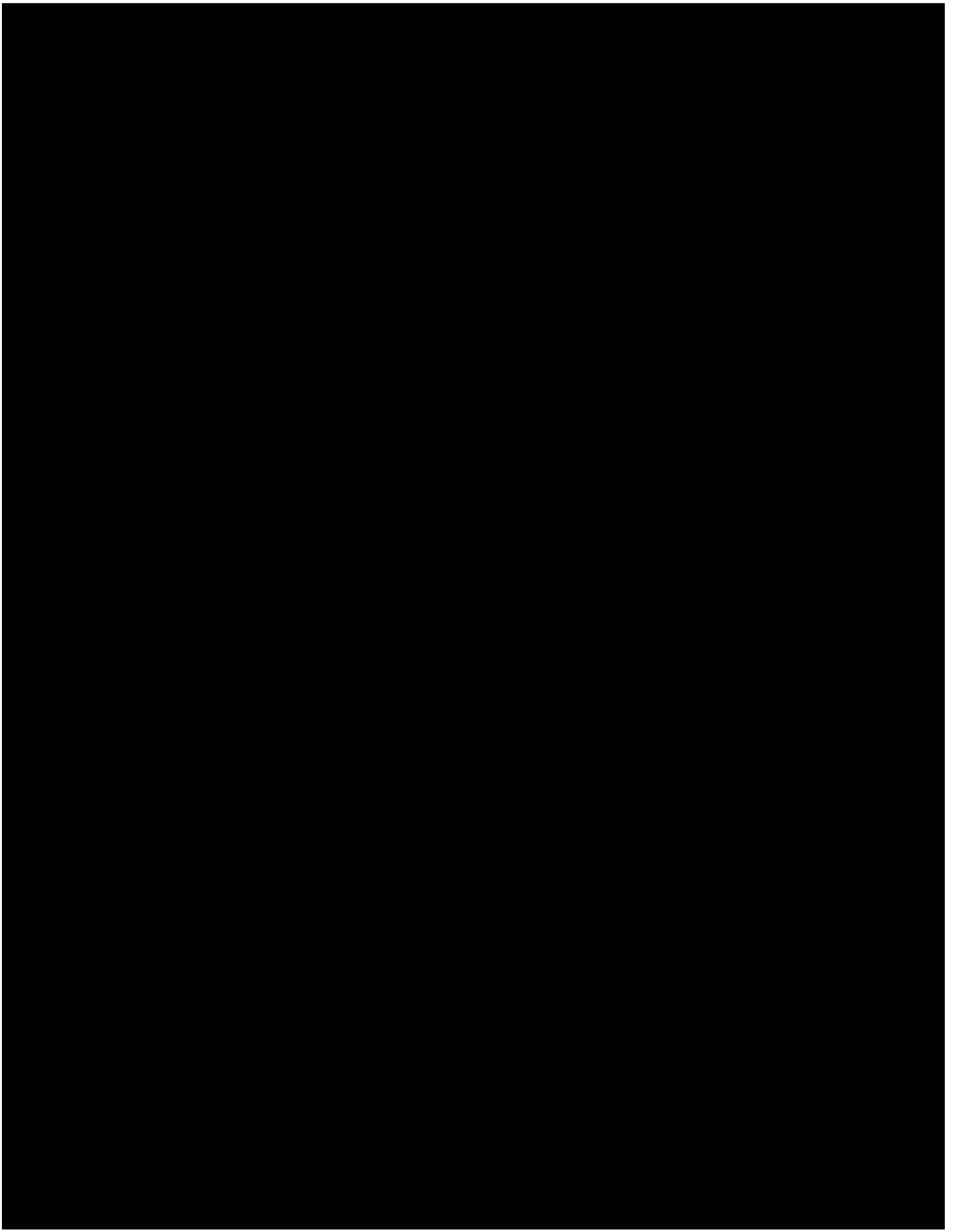
Please mail request to: Arkansas State Crime Laboratory
ATTN: Sandra Bargiel, (501) 683-6223
3 Natural Resources Drive
Little Rock AR 72205

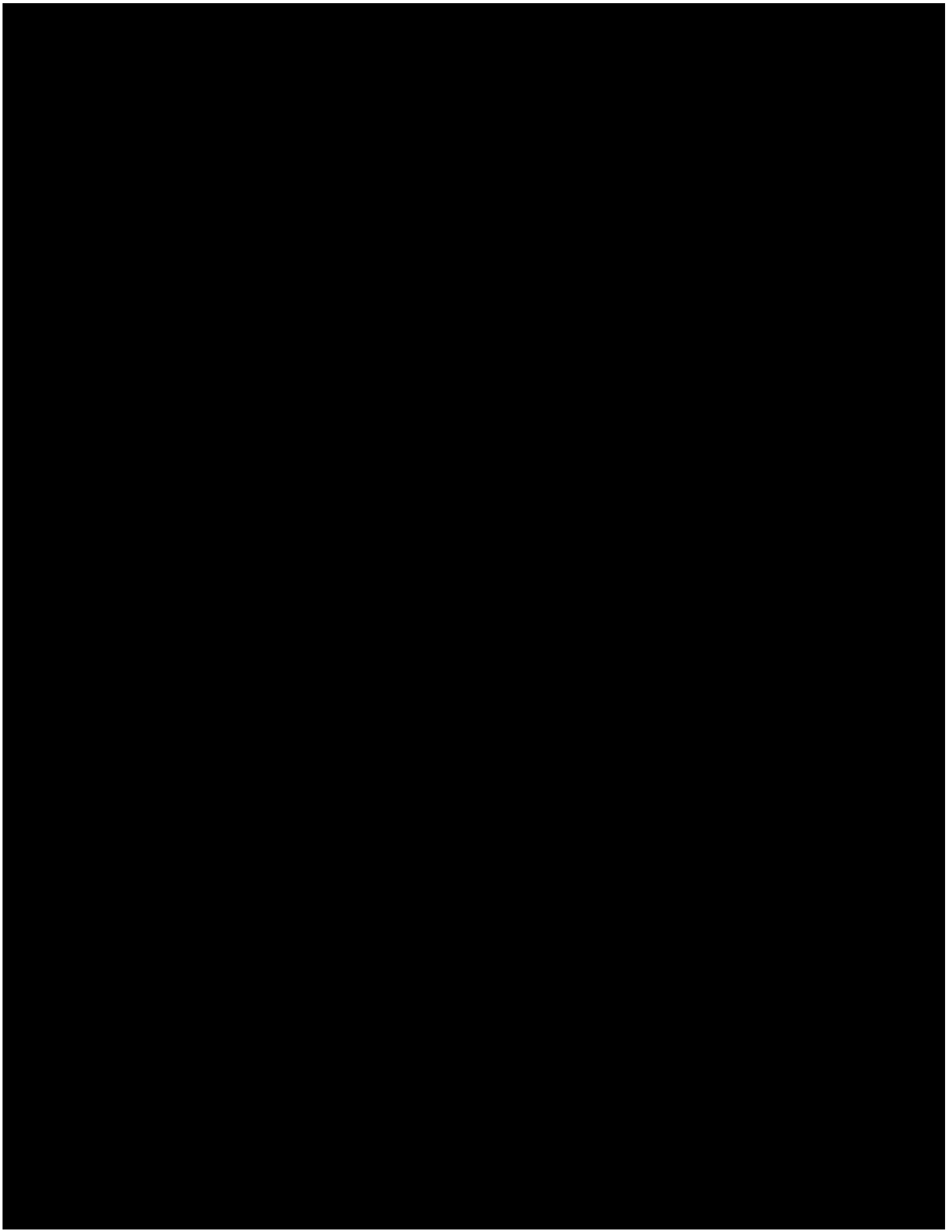


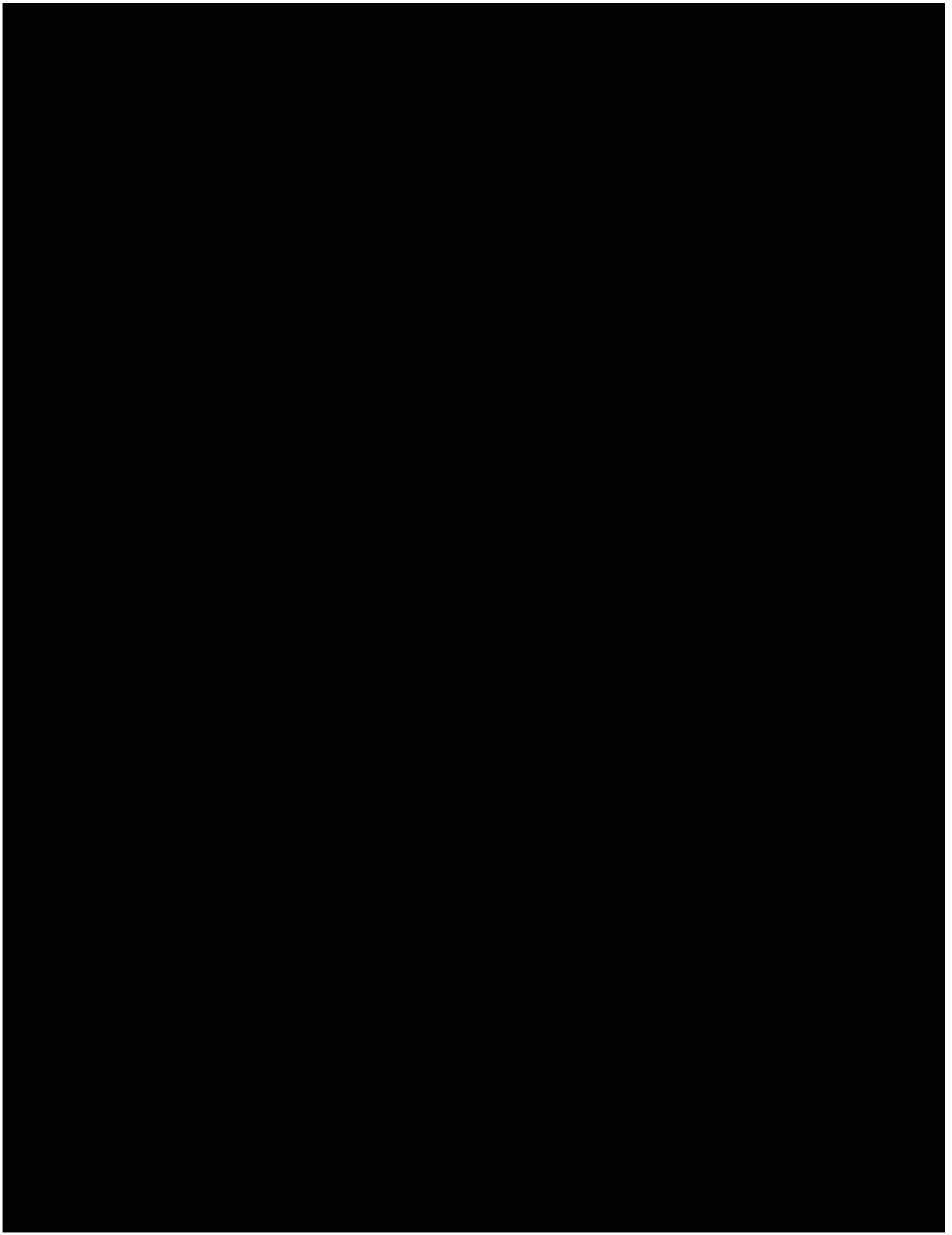


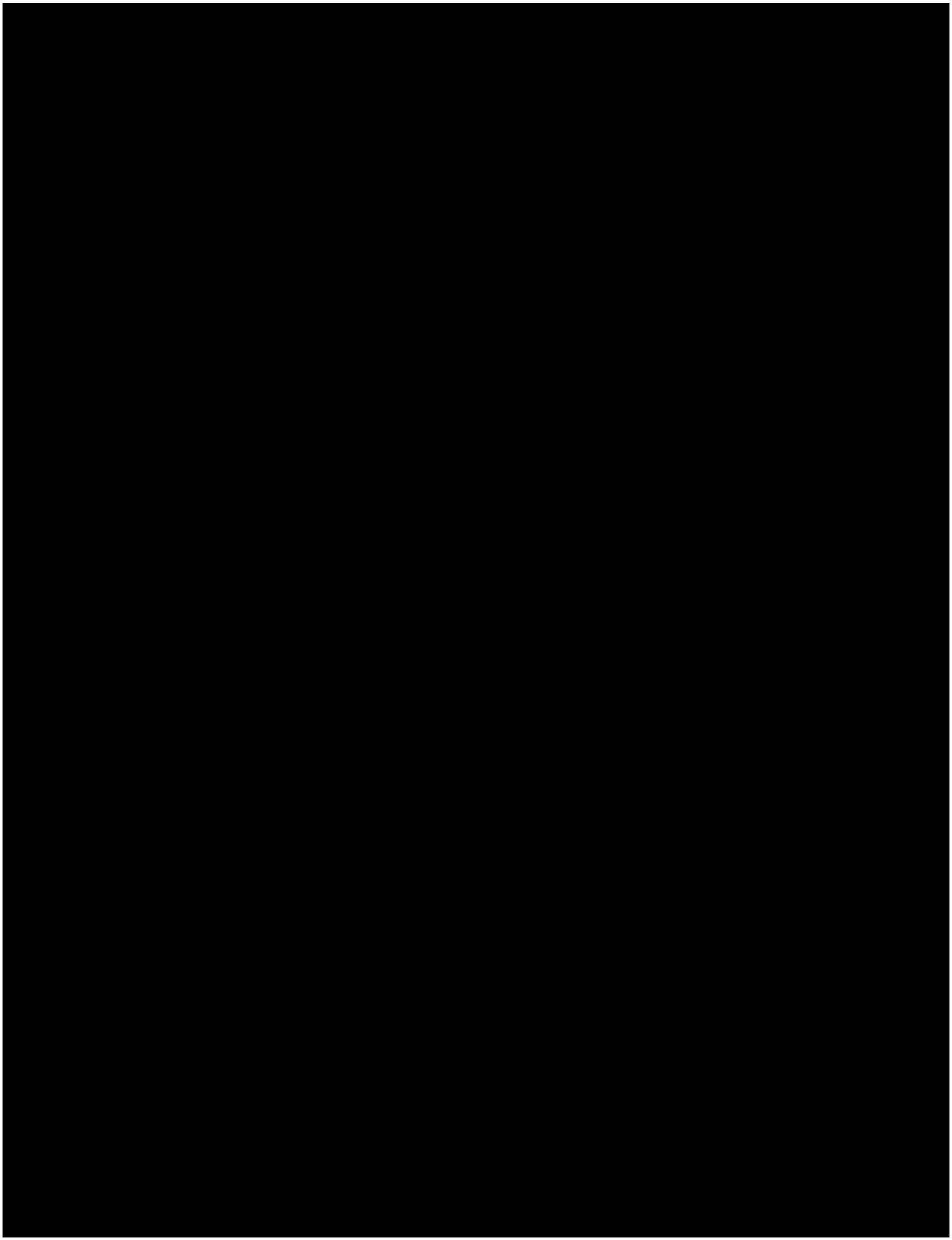


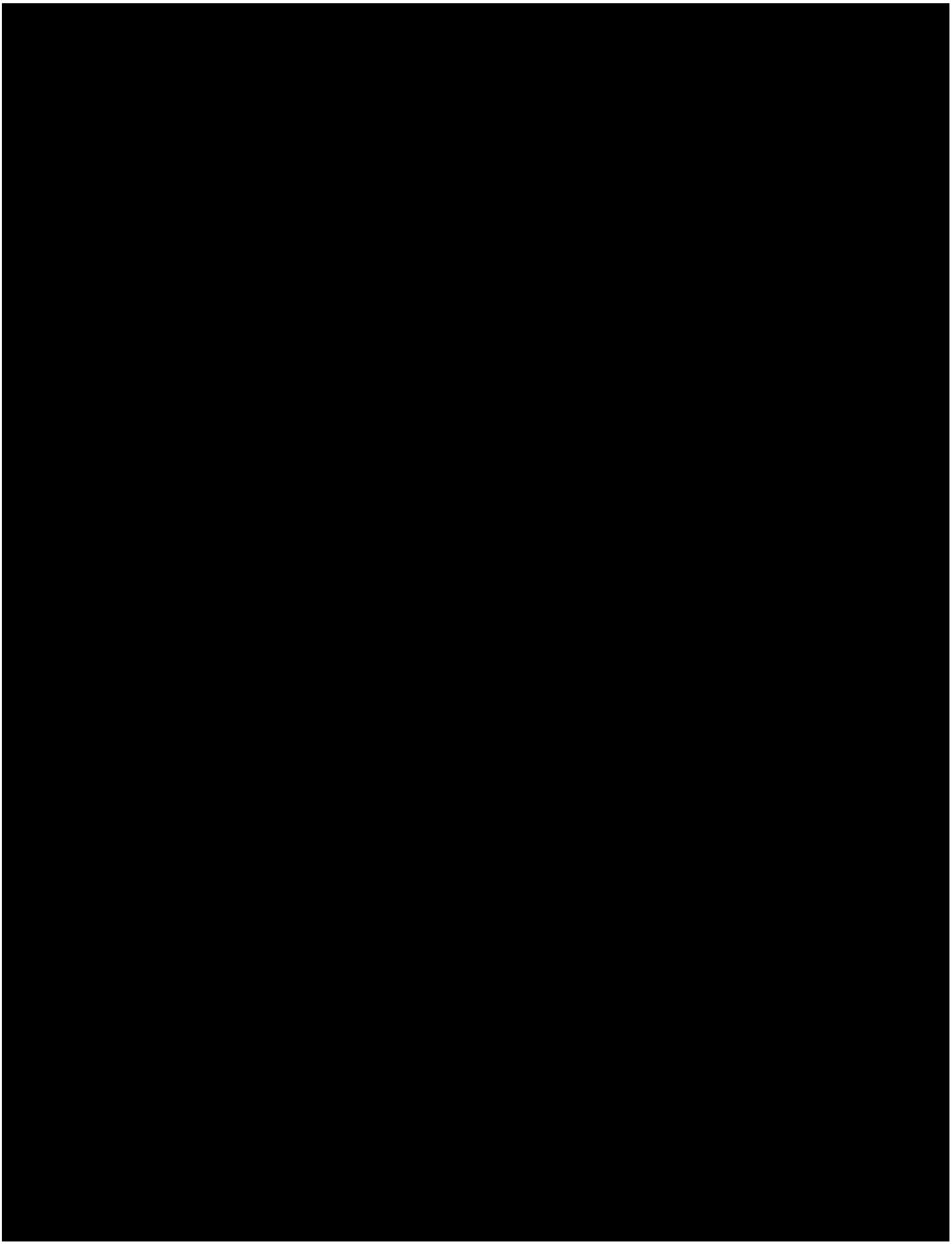


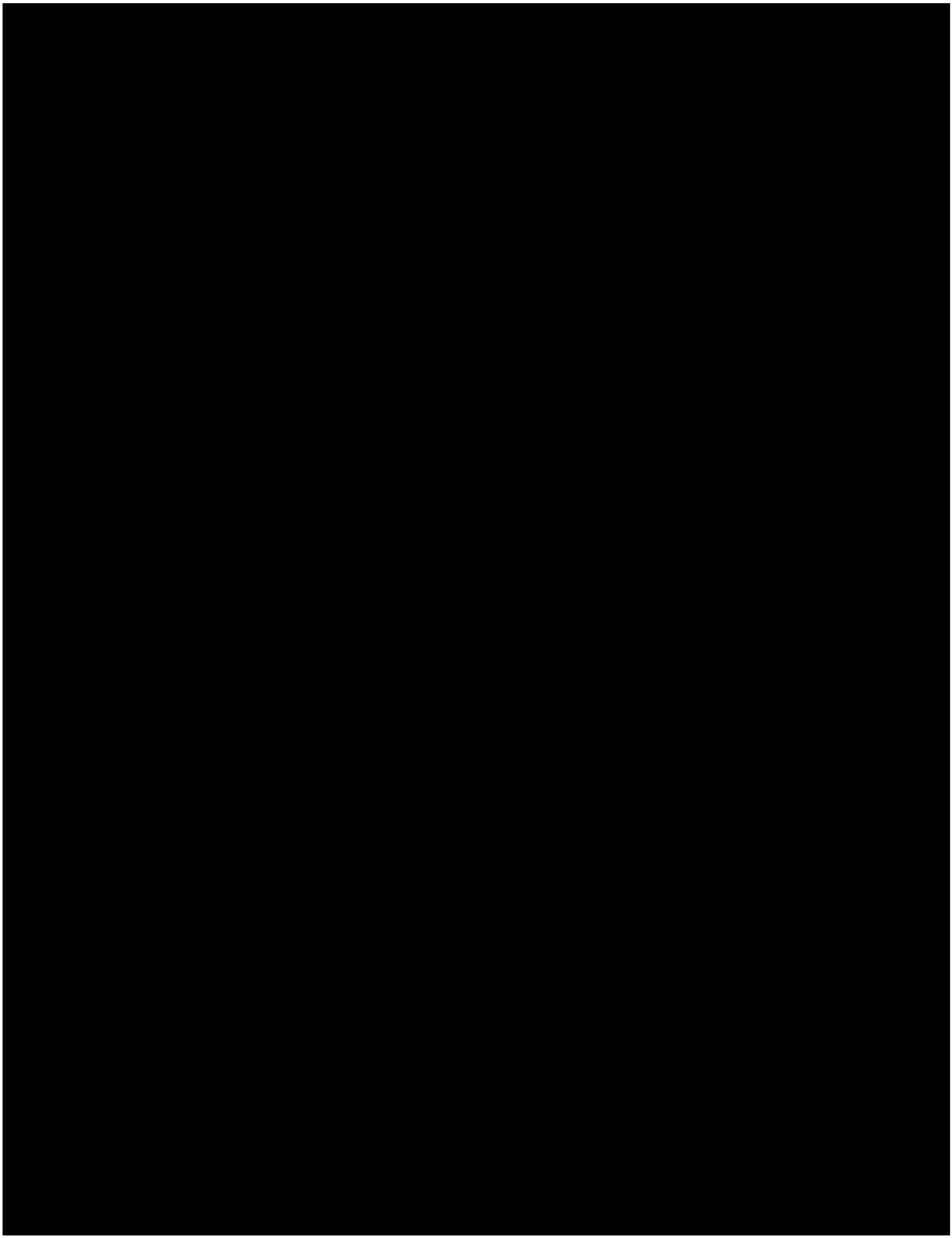


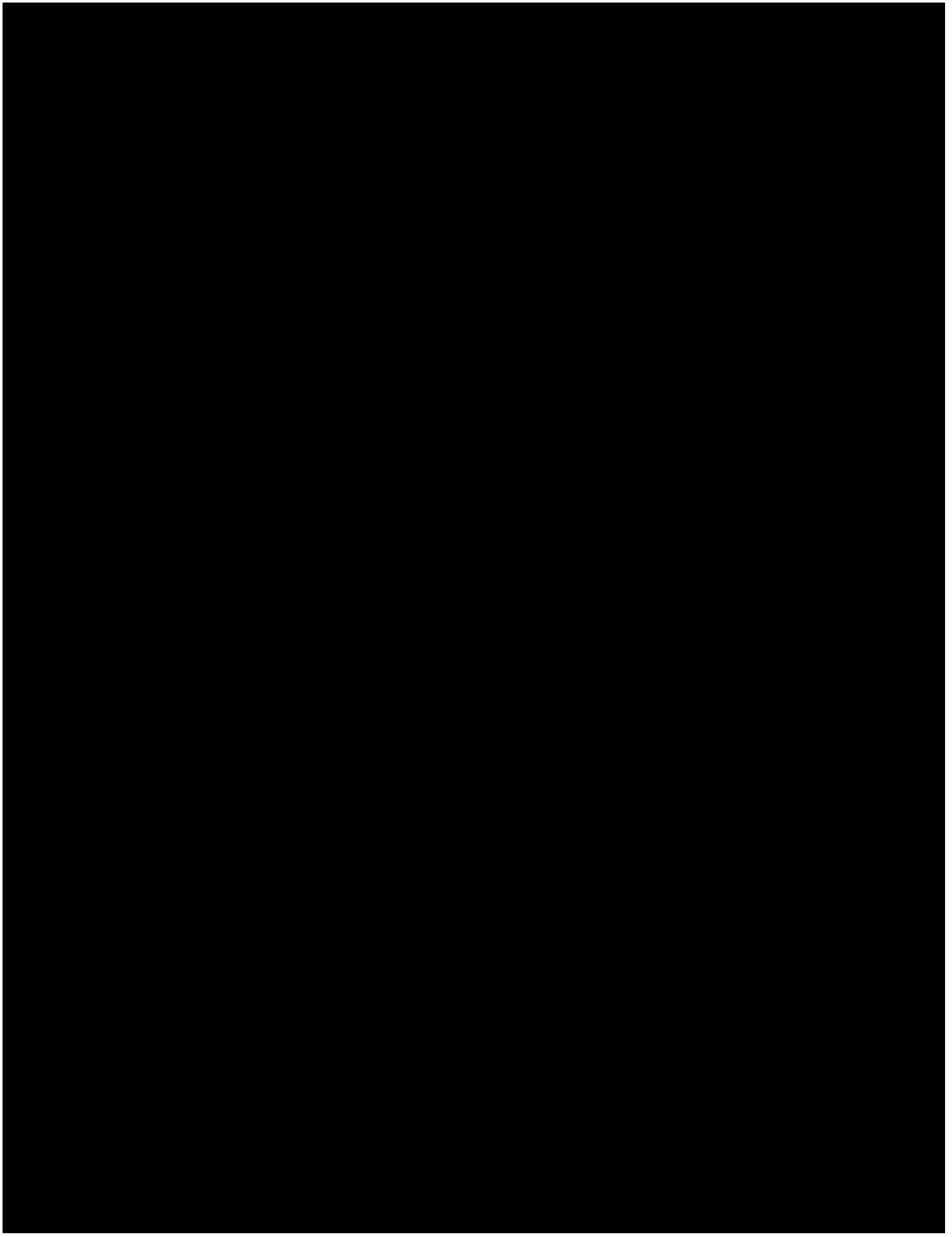


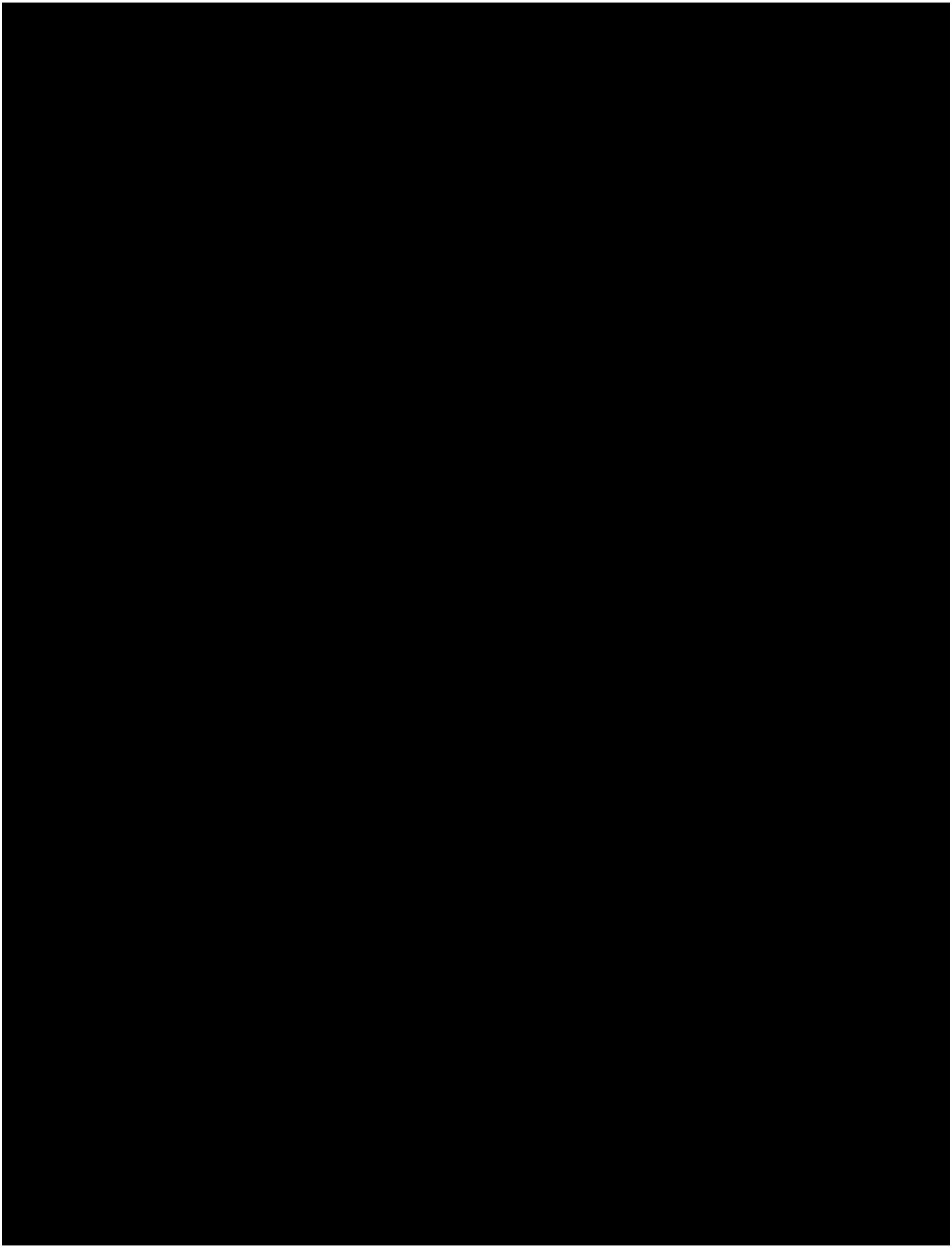


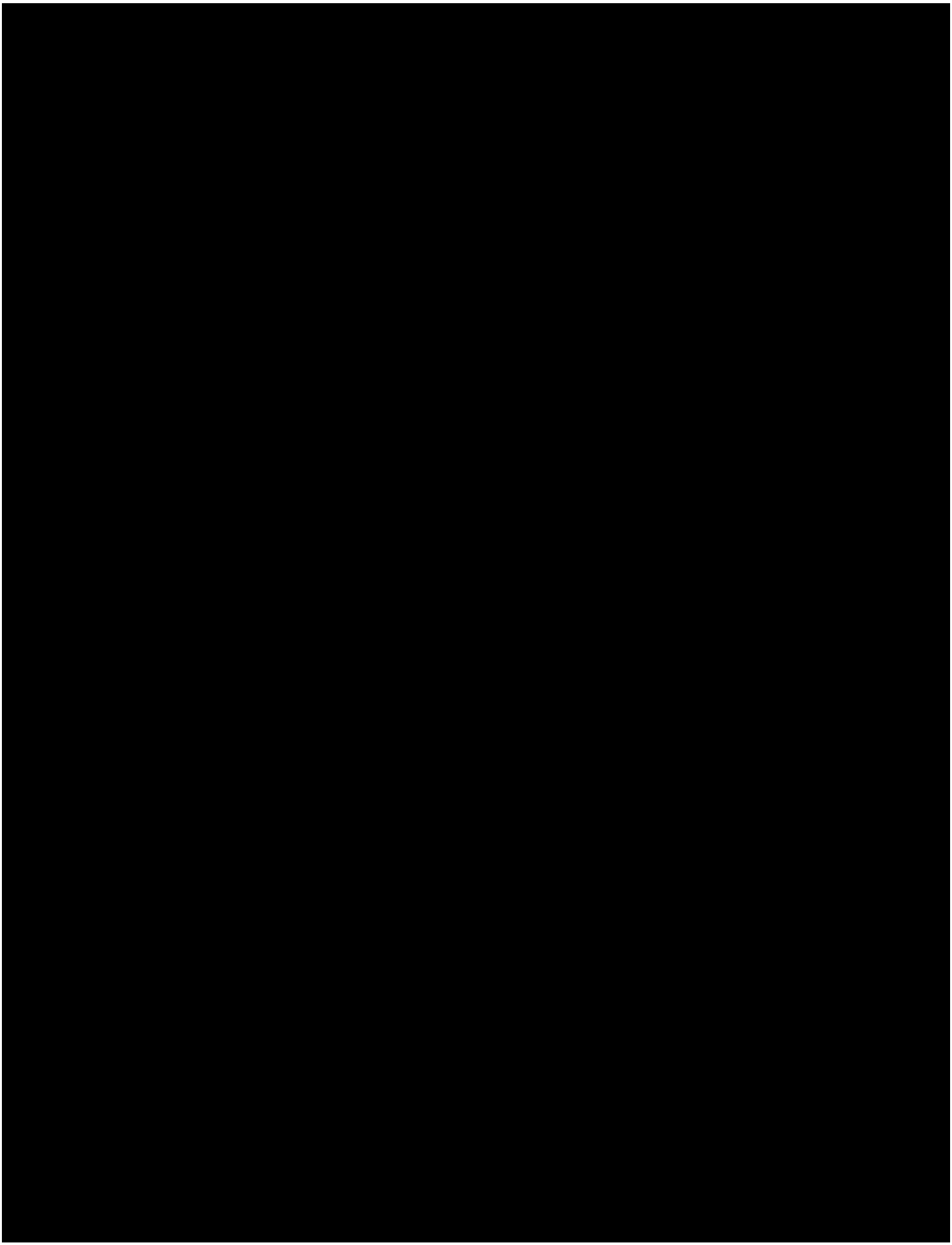


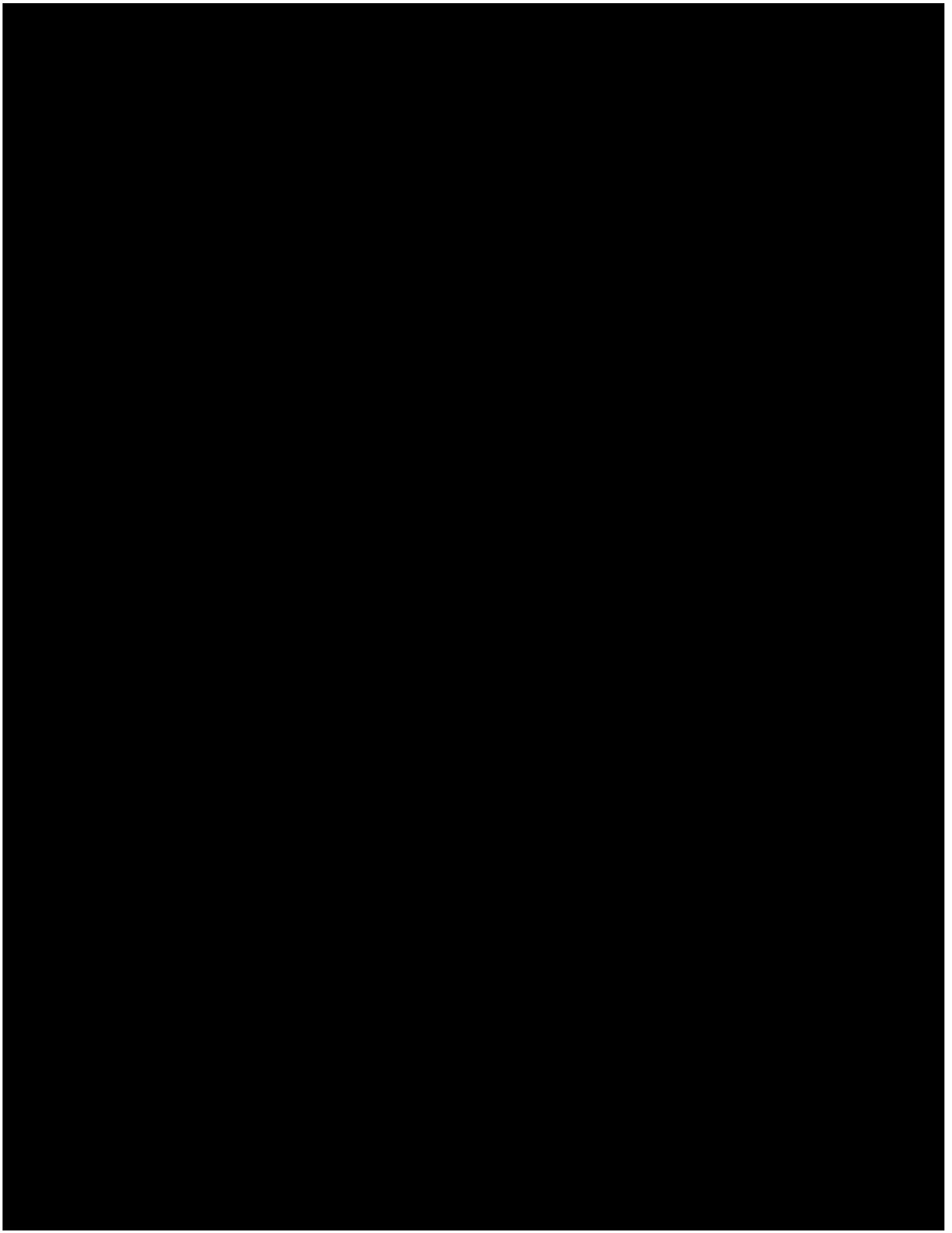


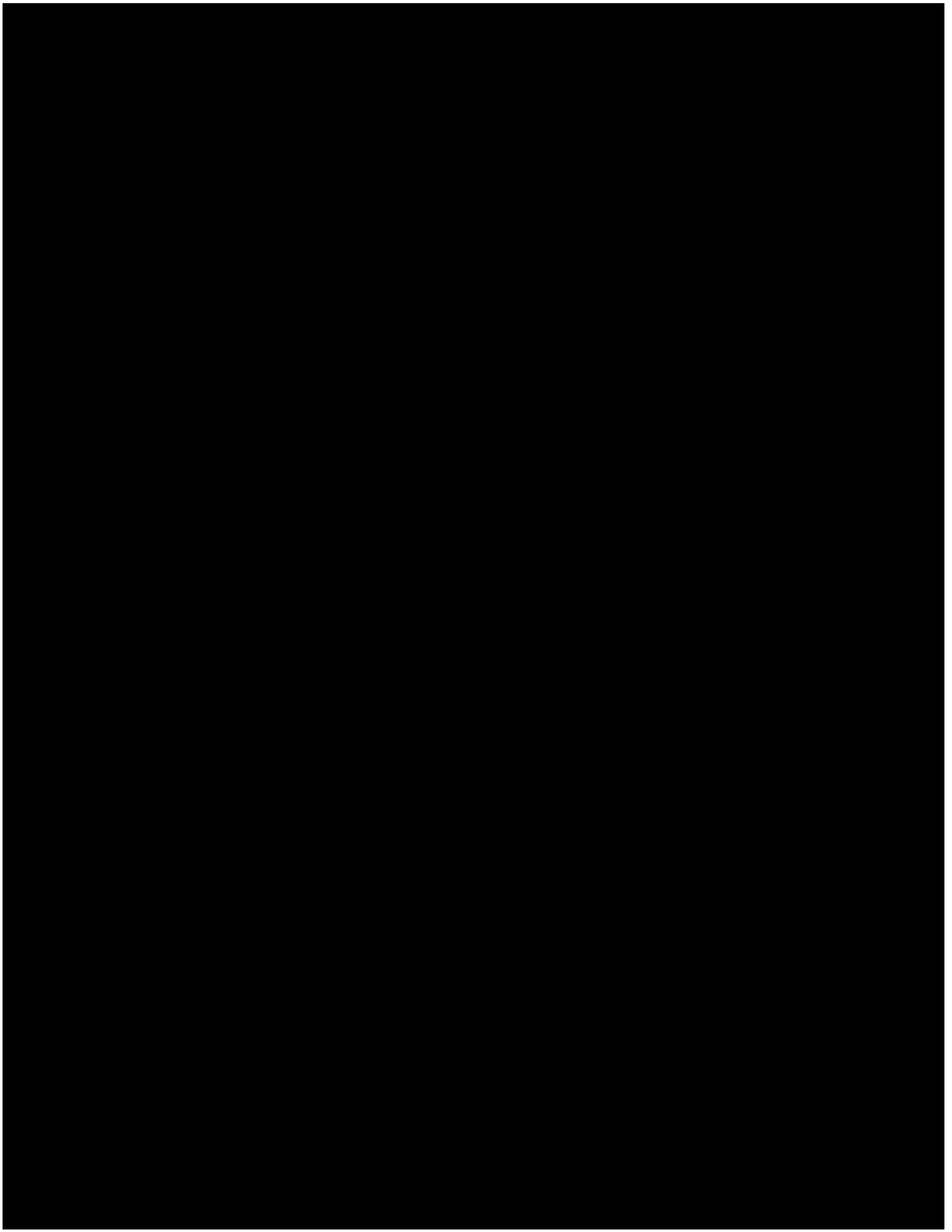


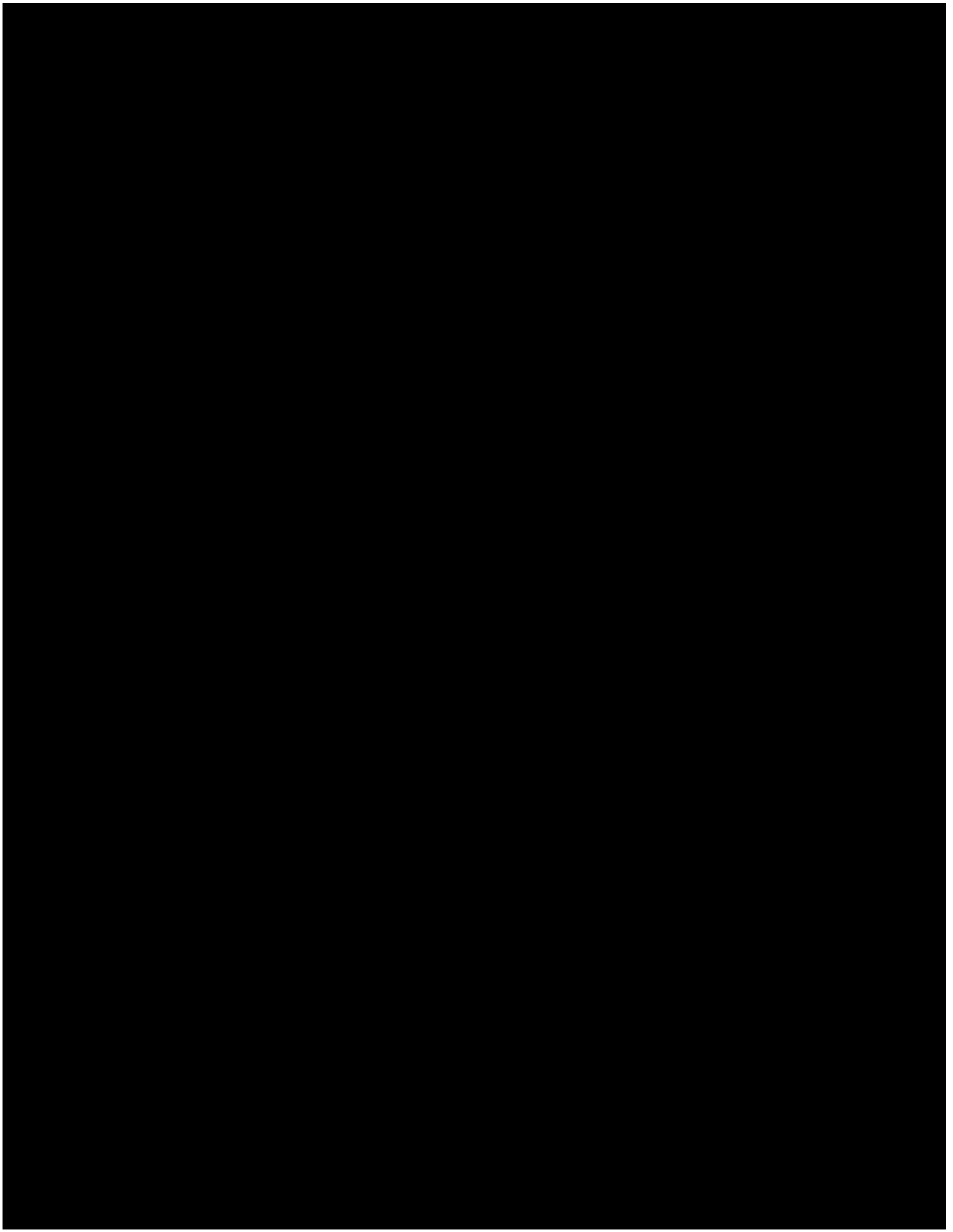


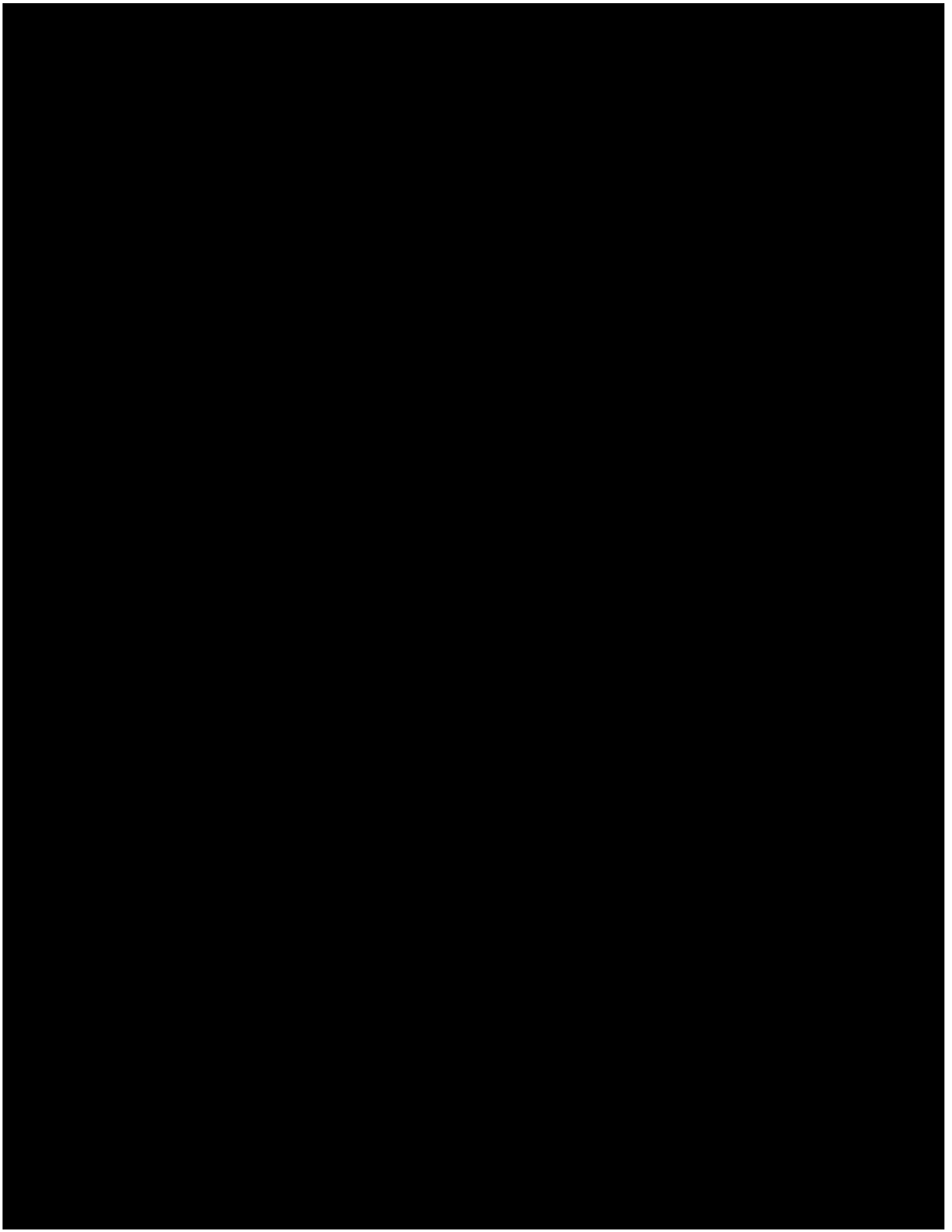


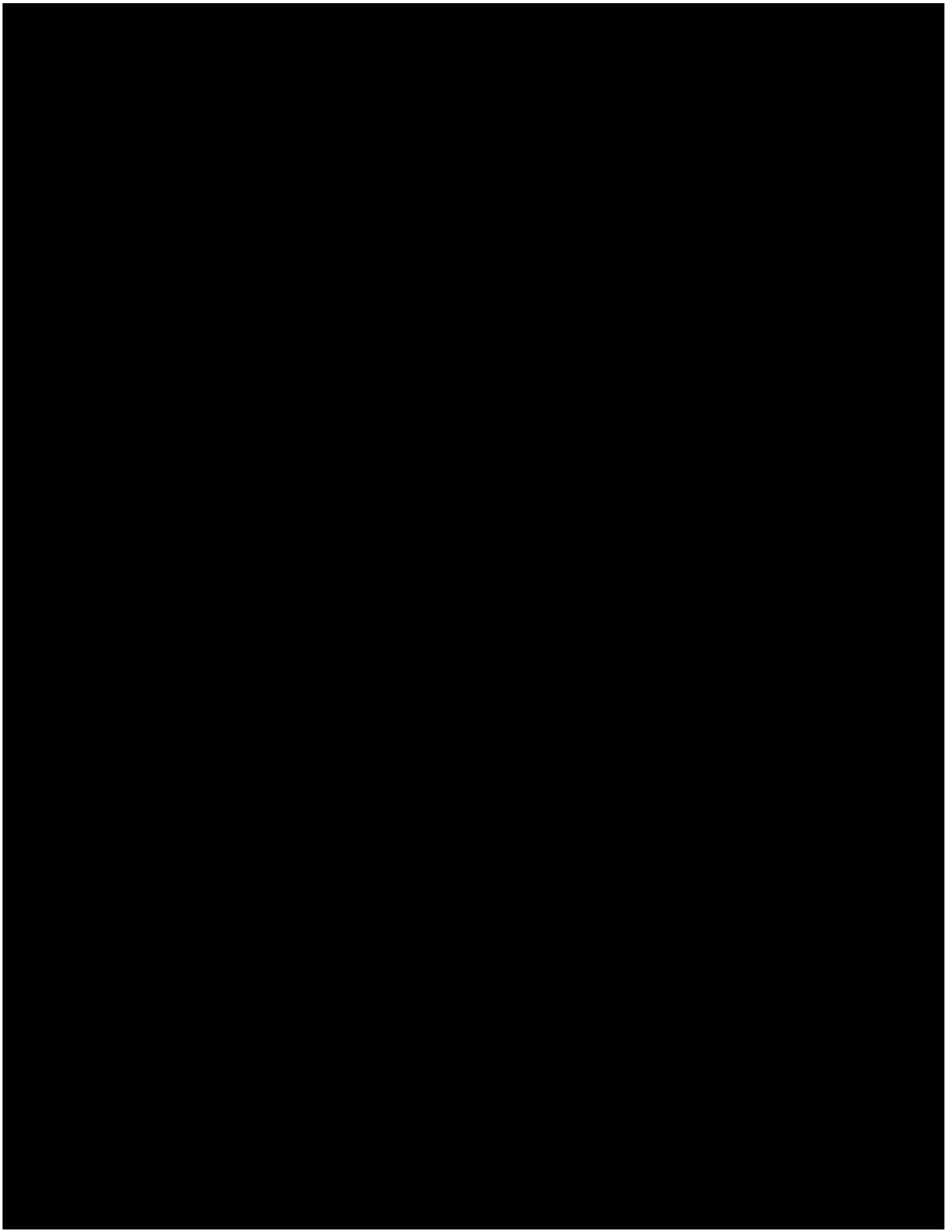


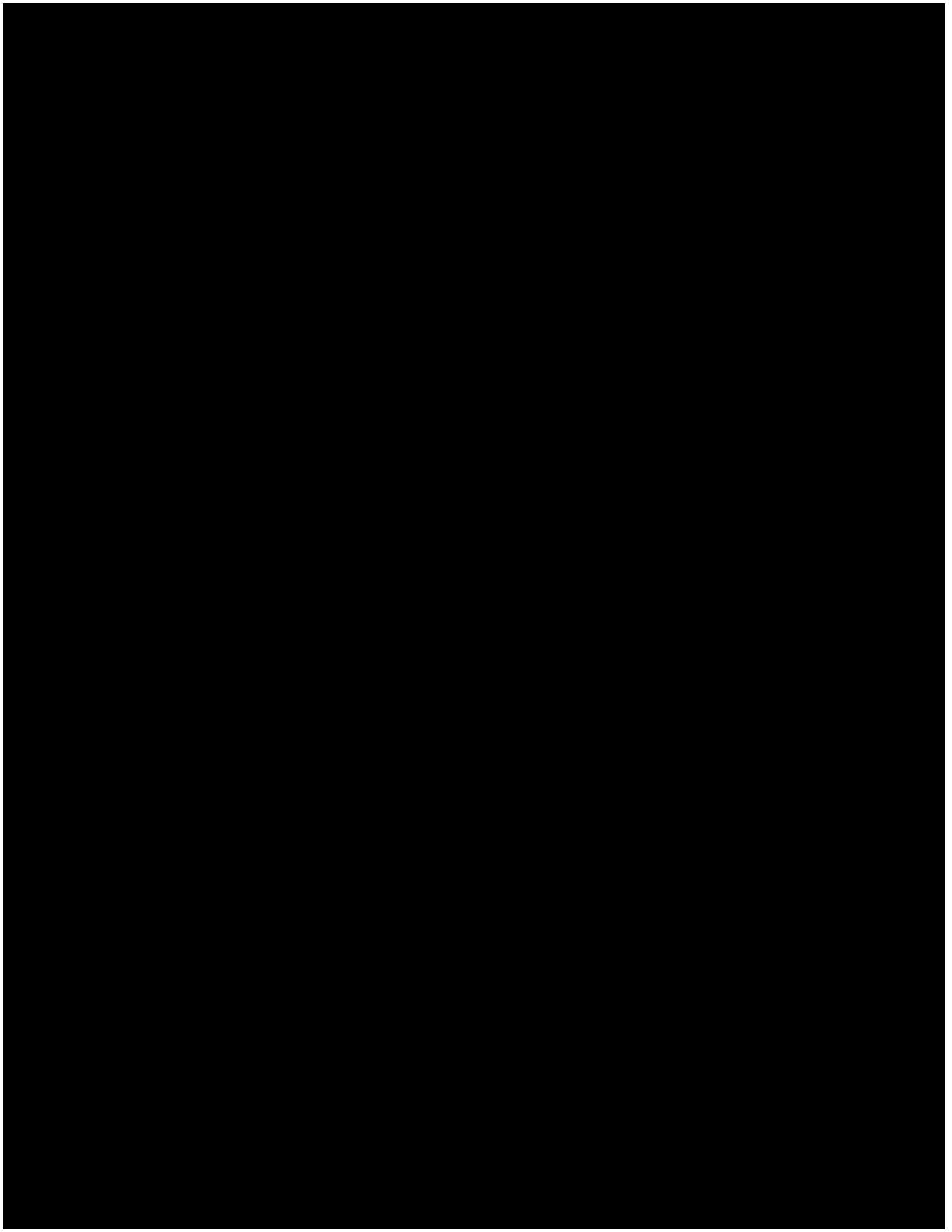


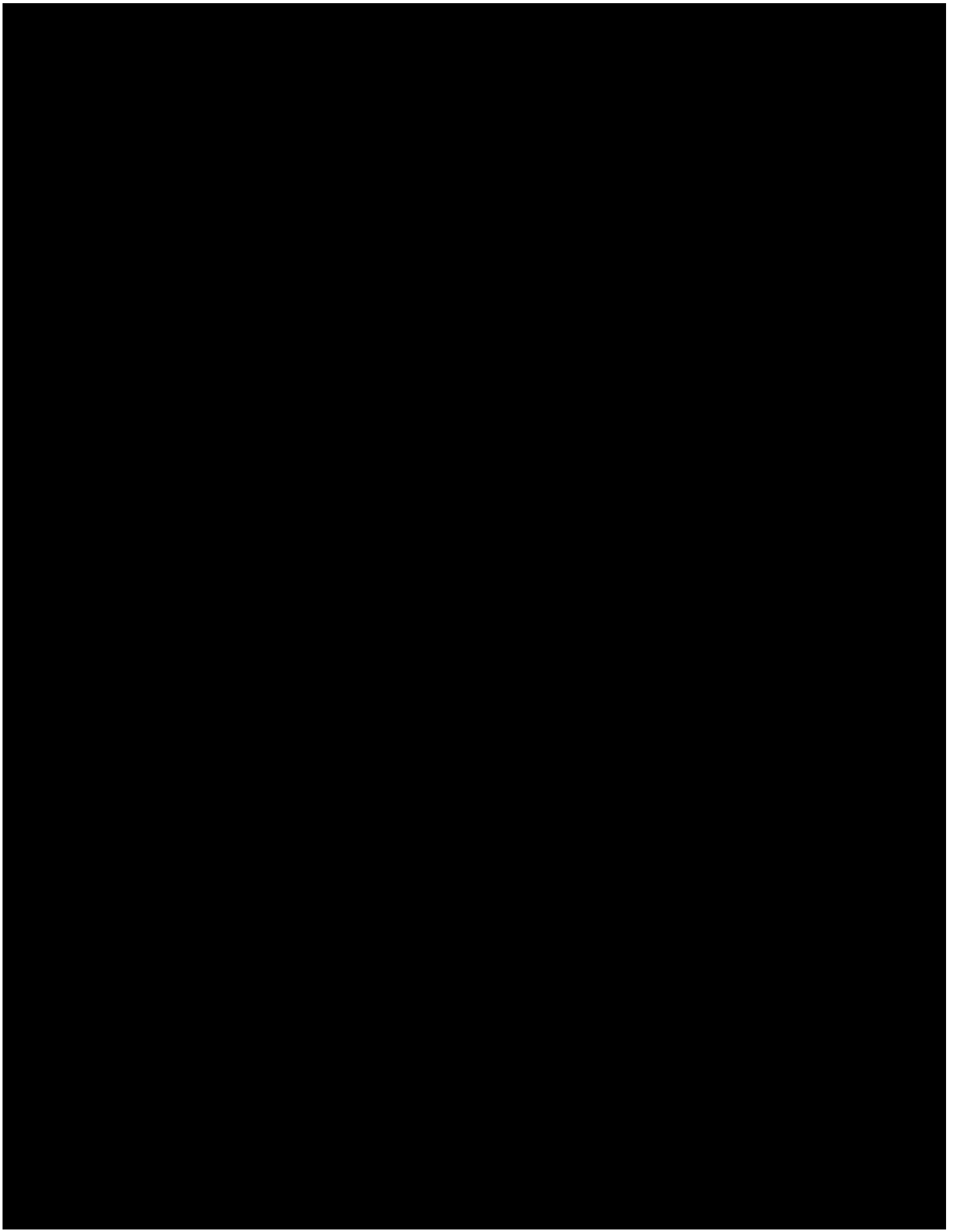


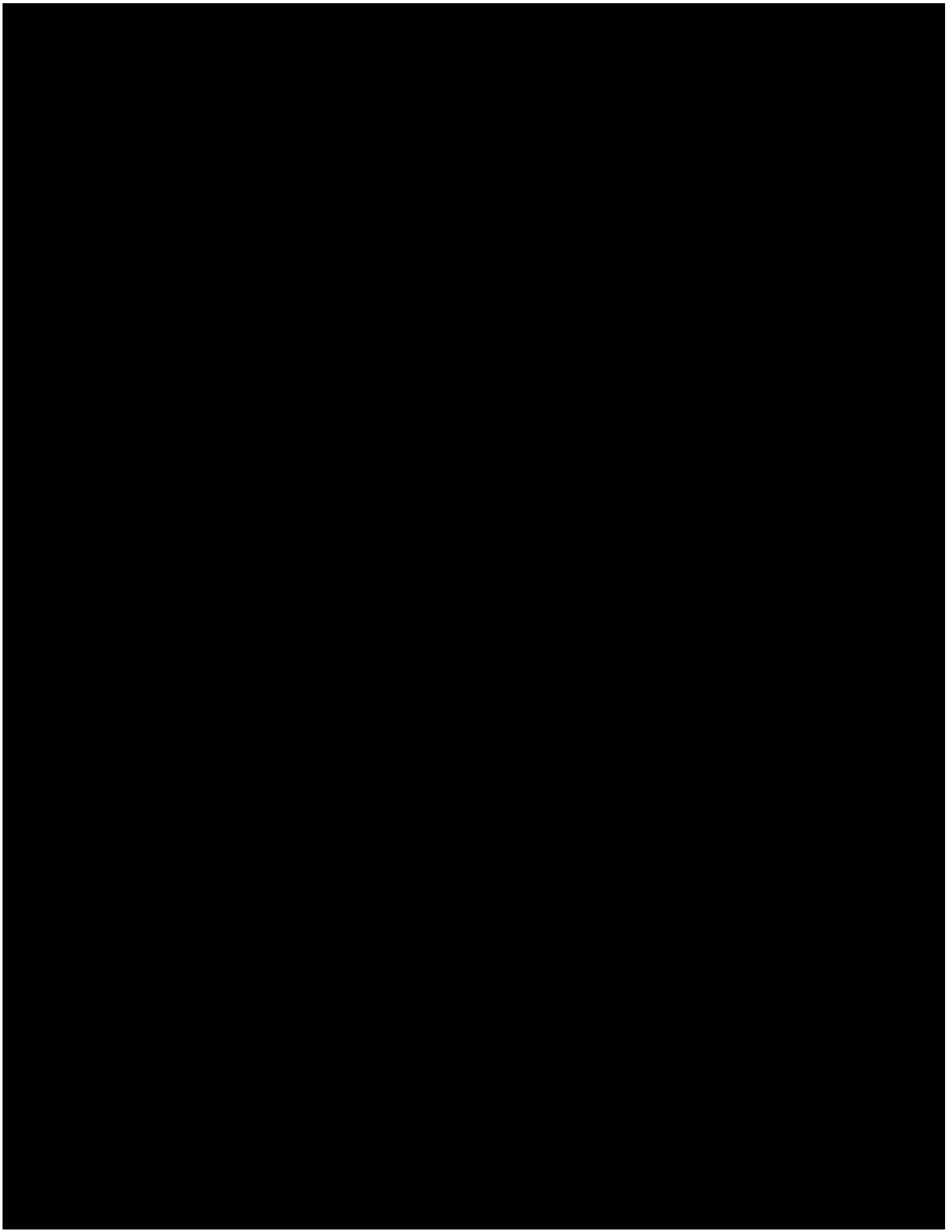


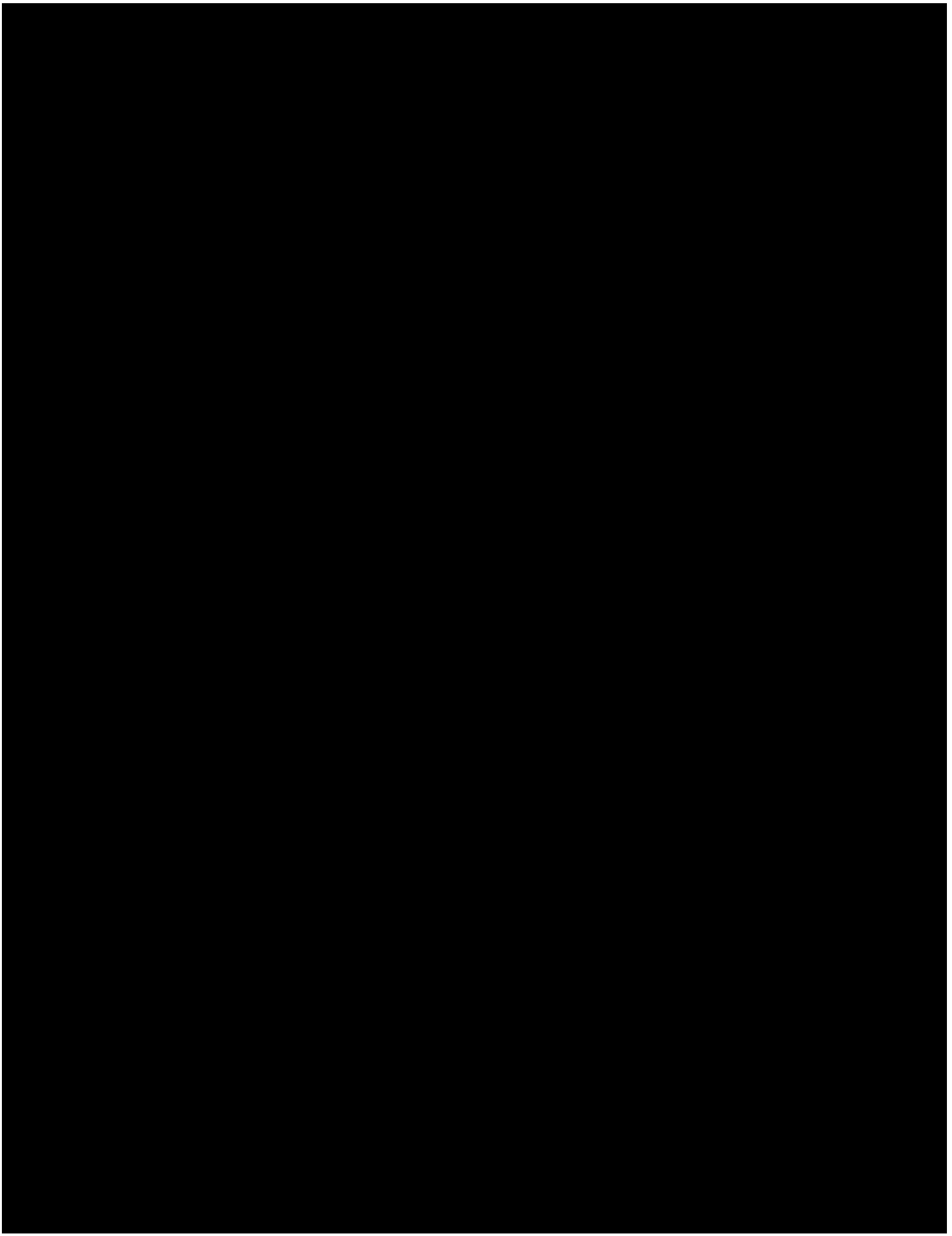


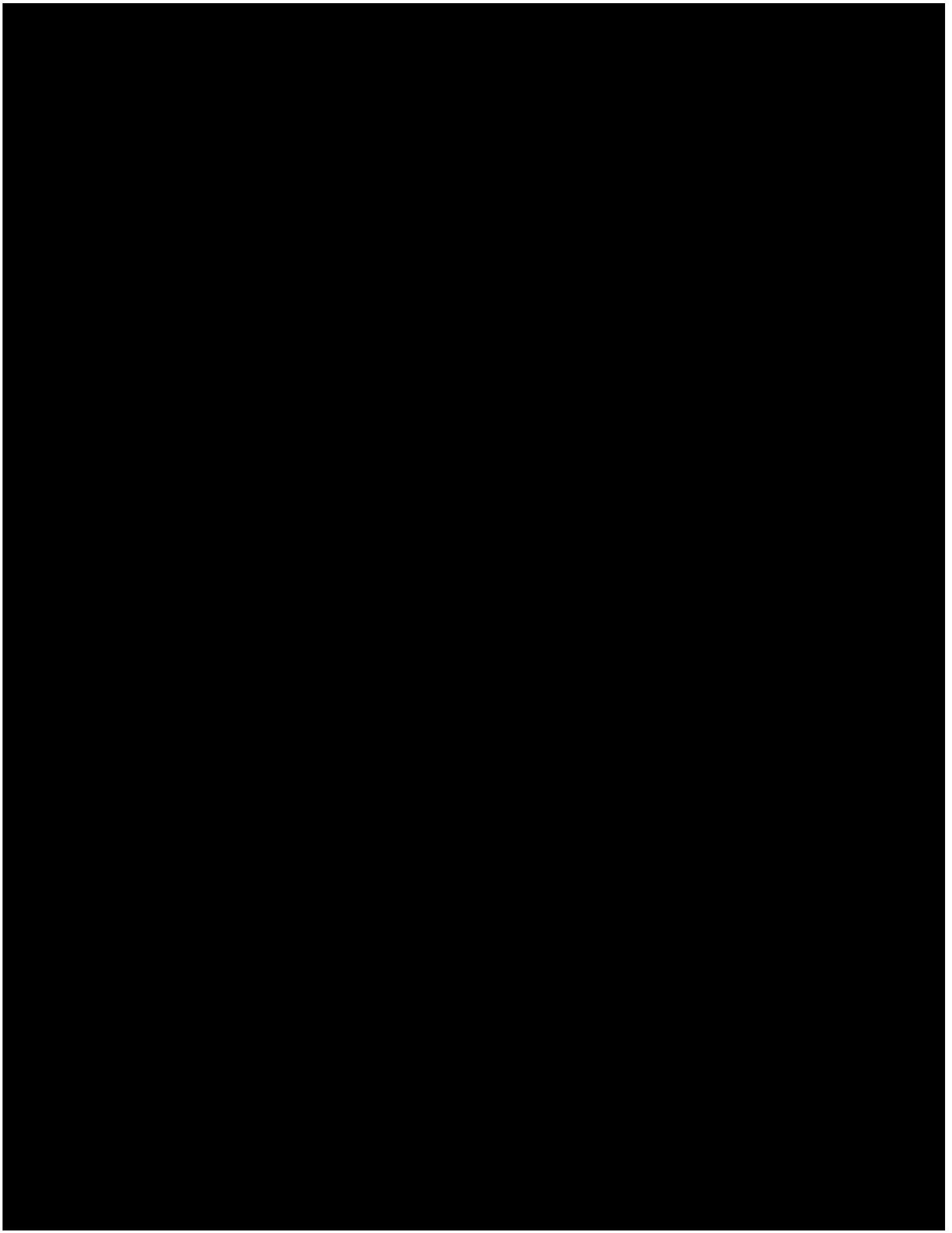


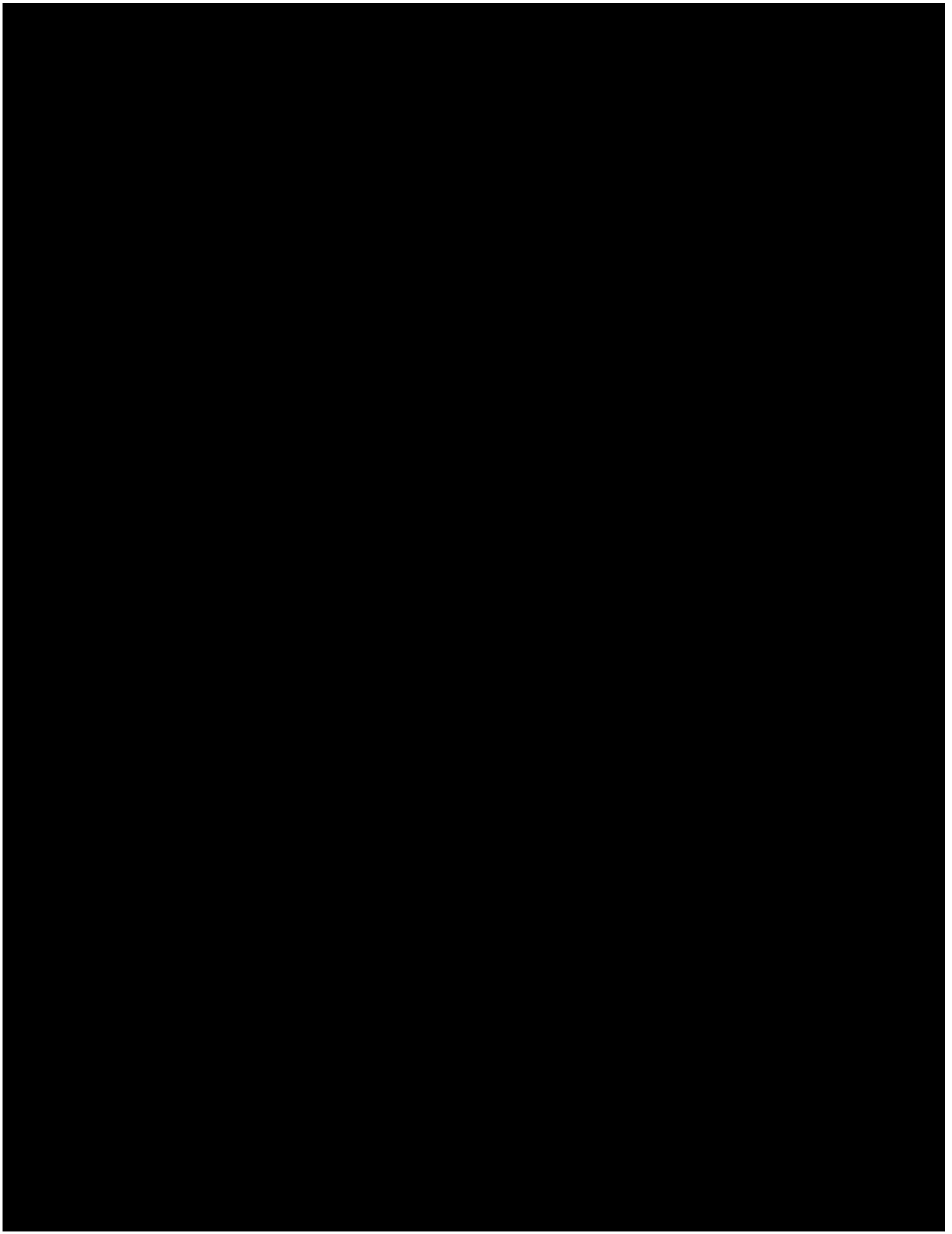


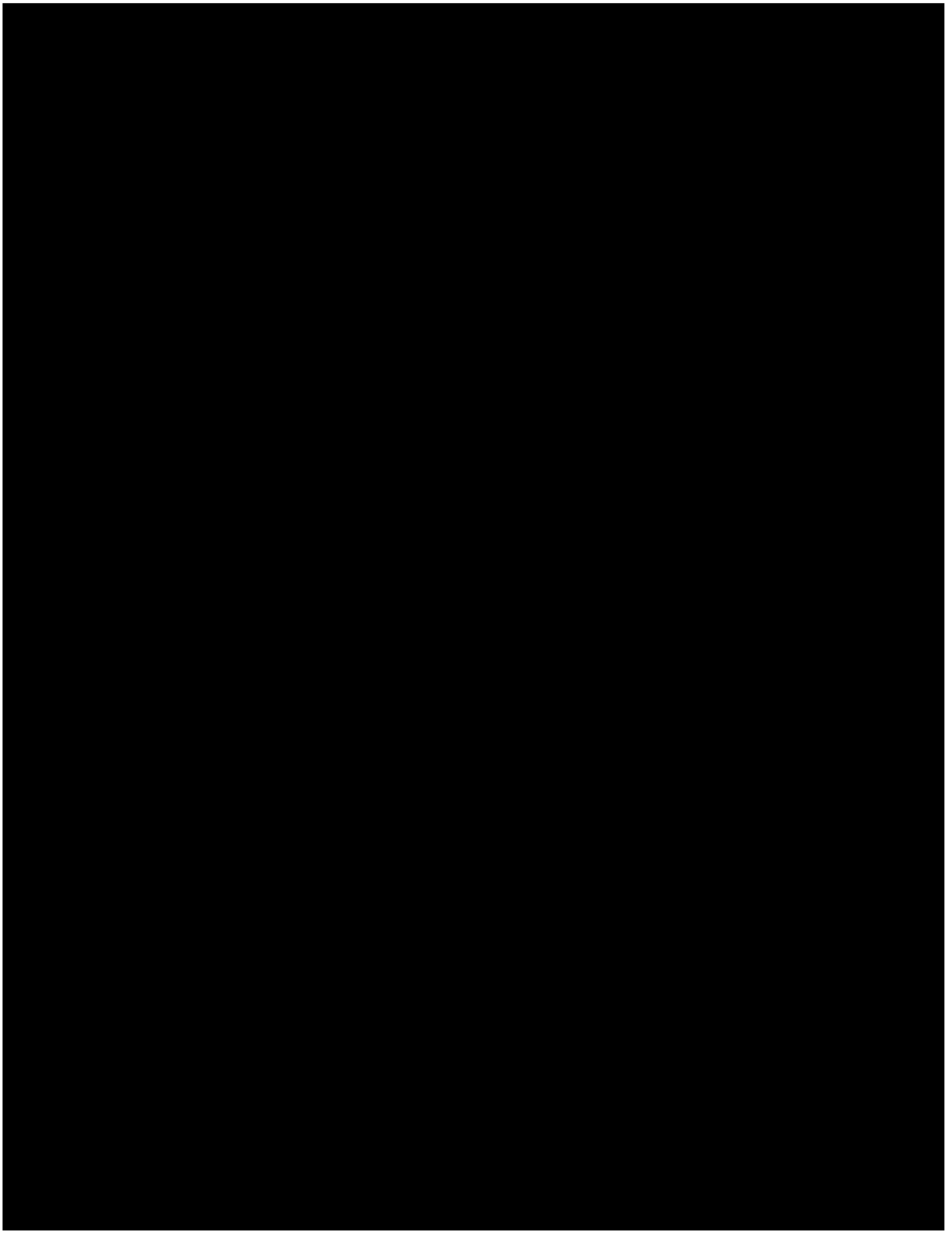


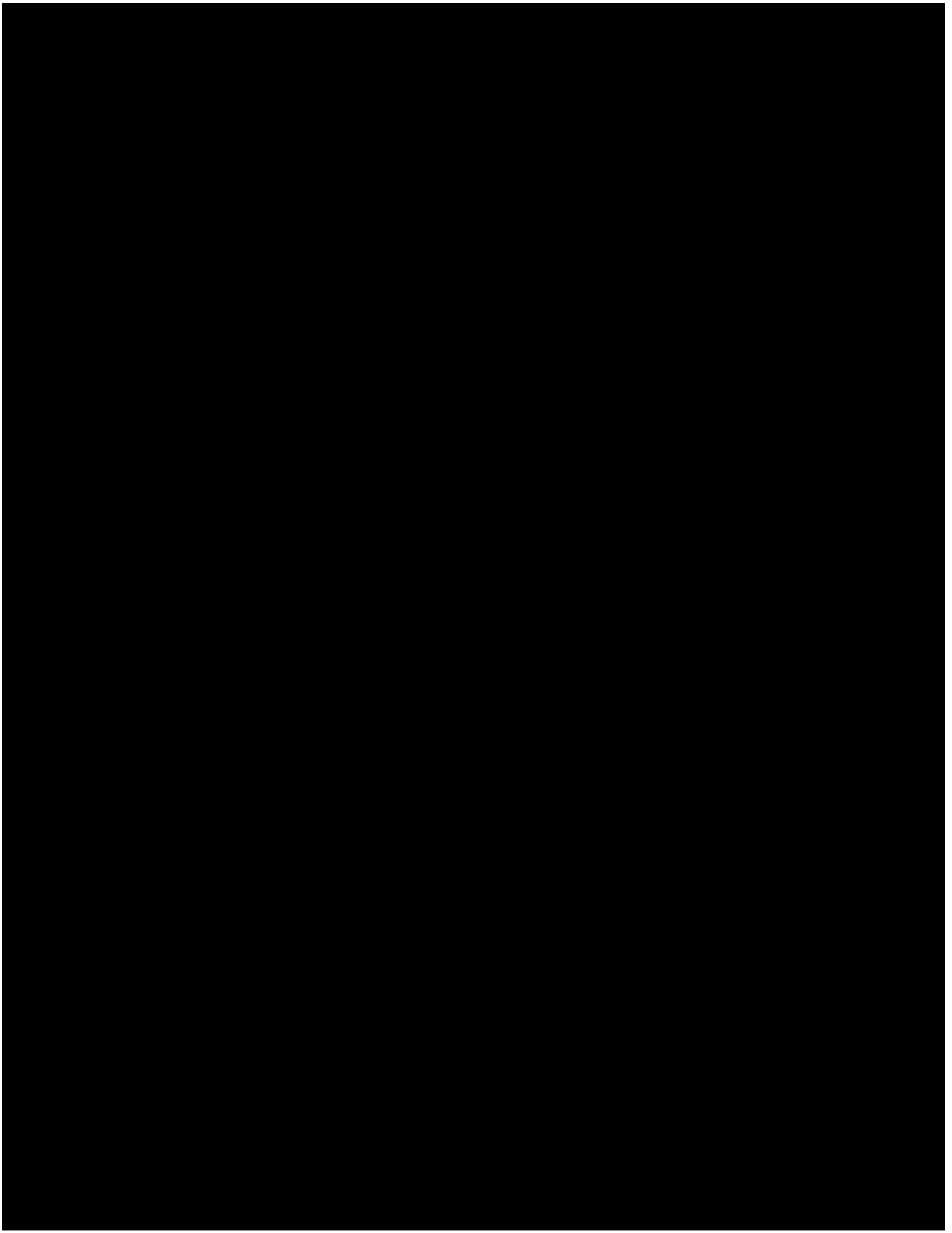


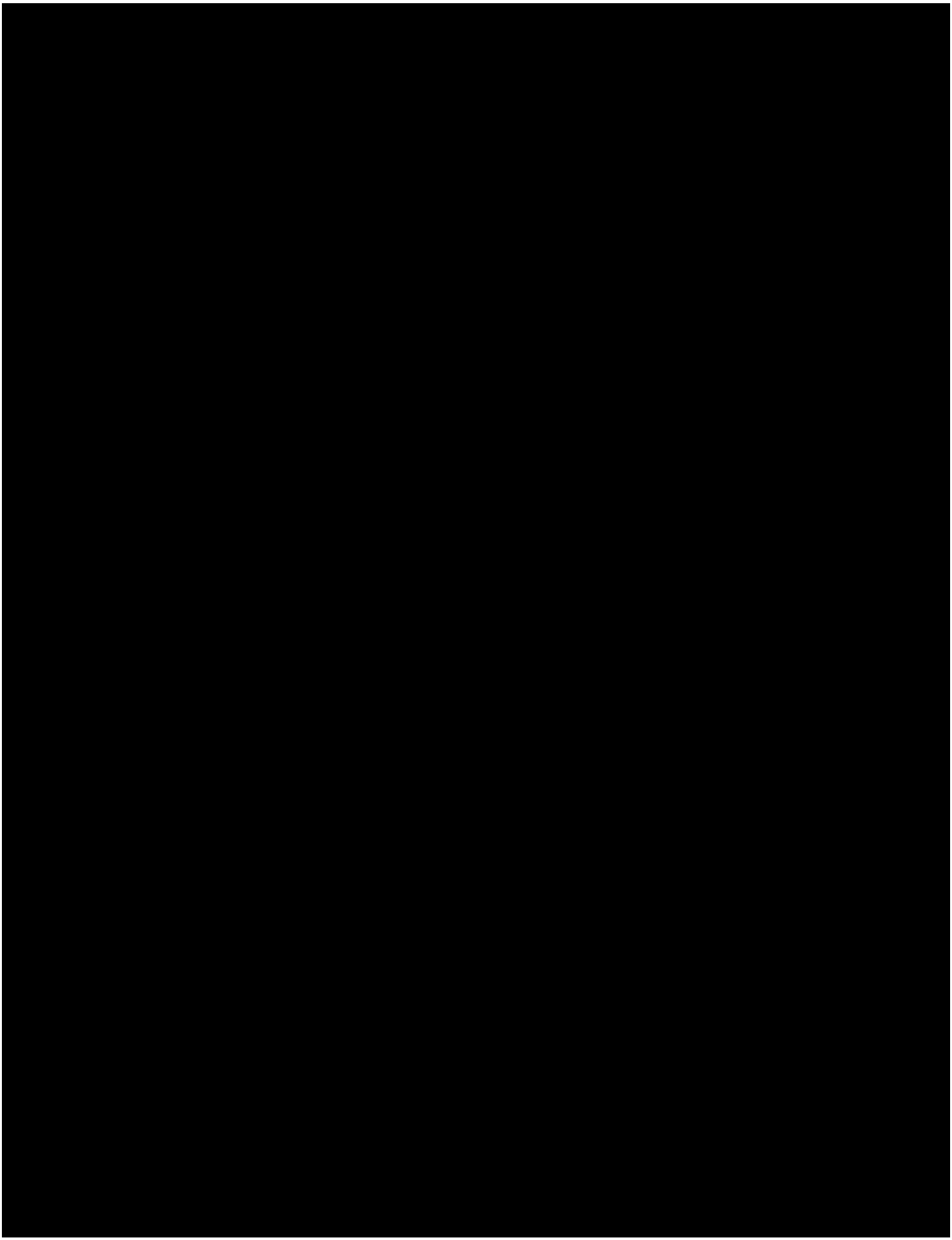


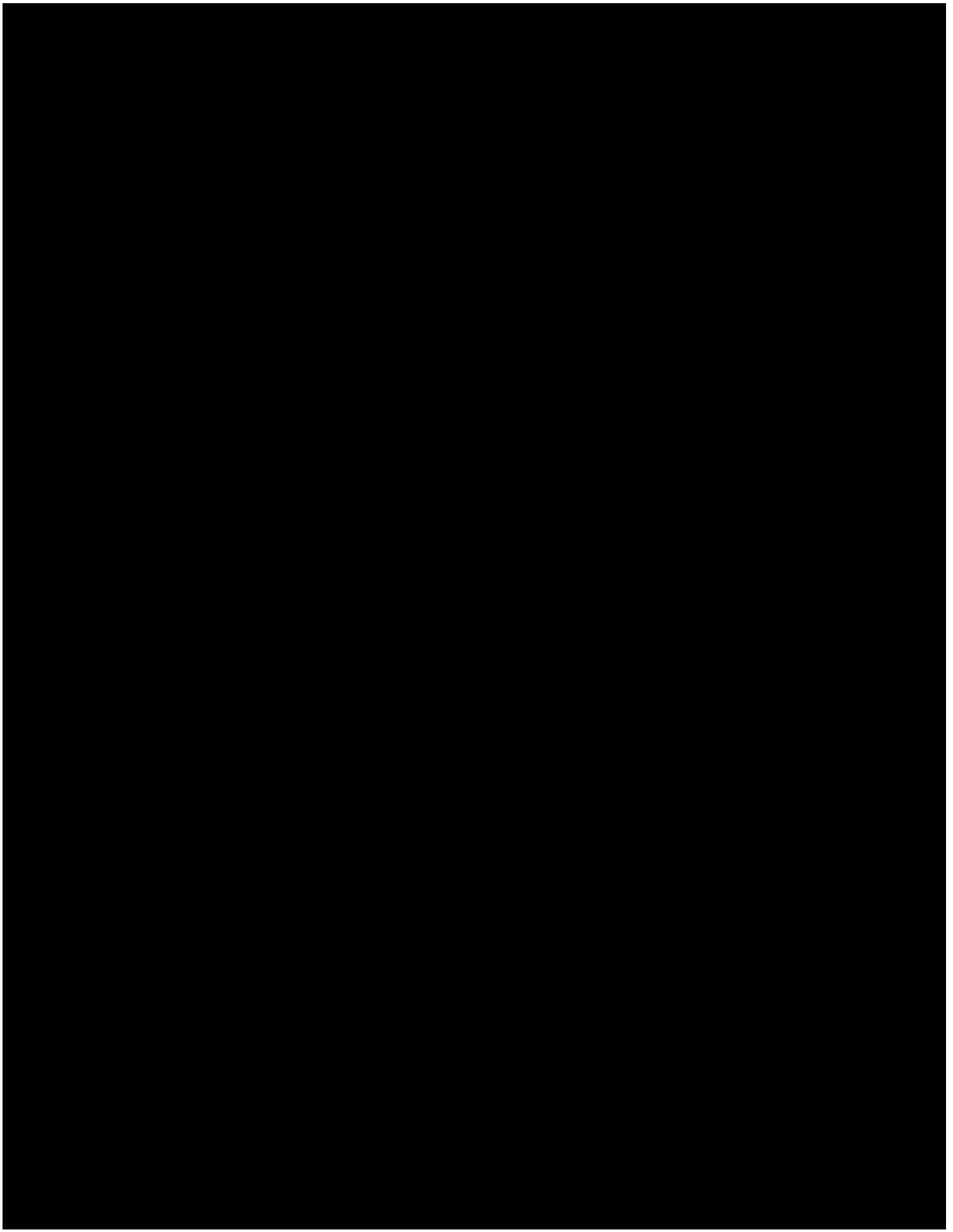


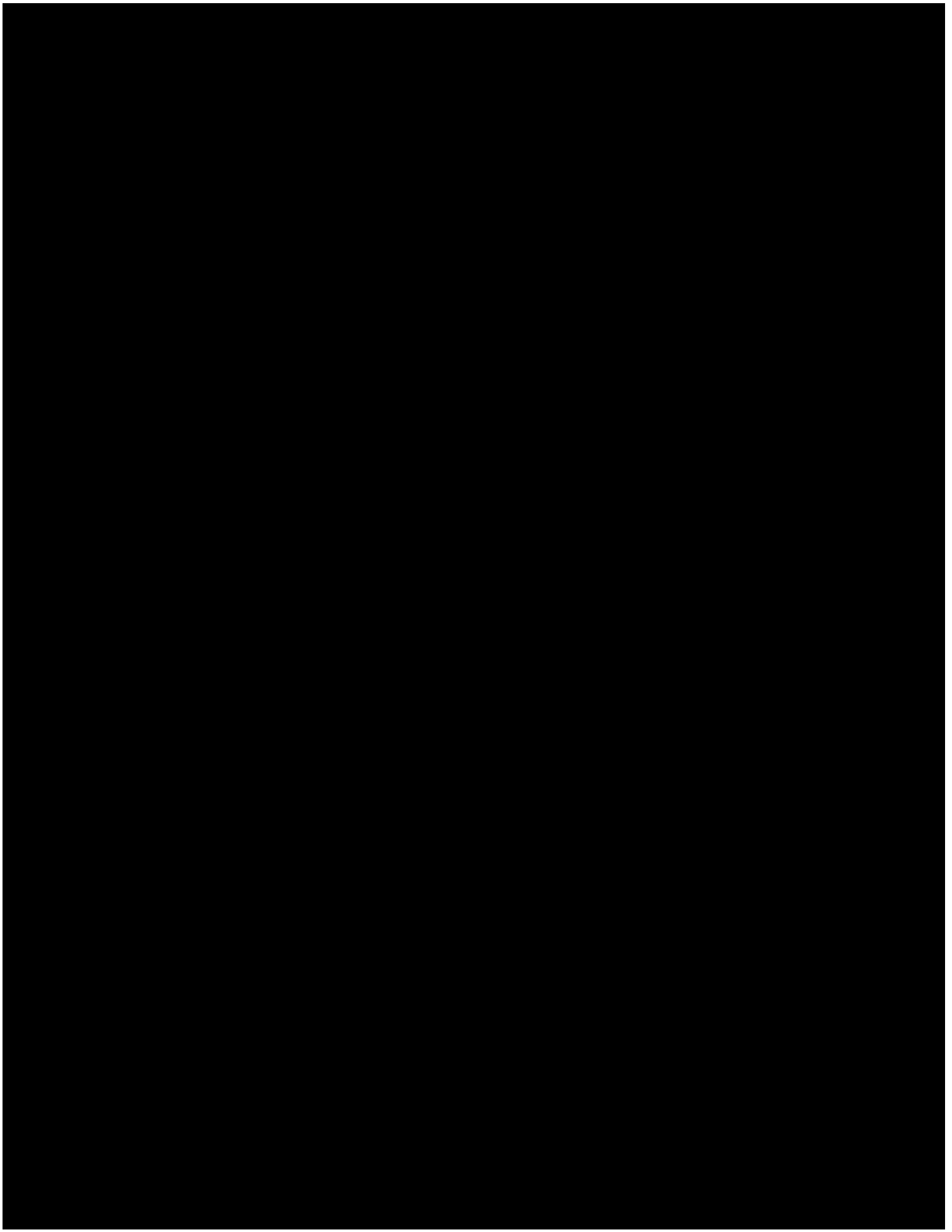


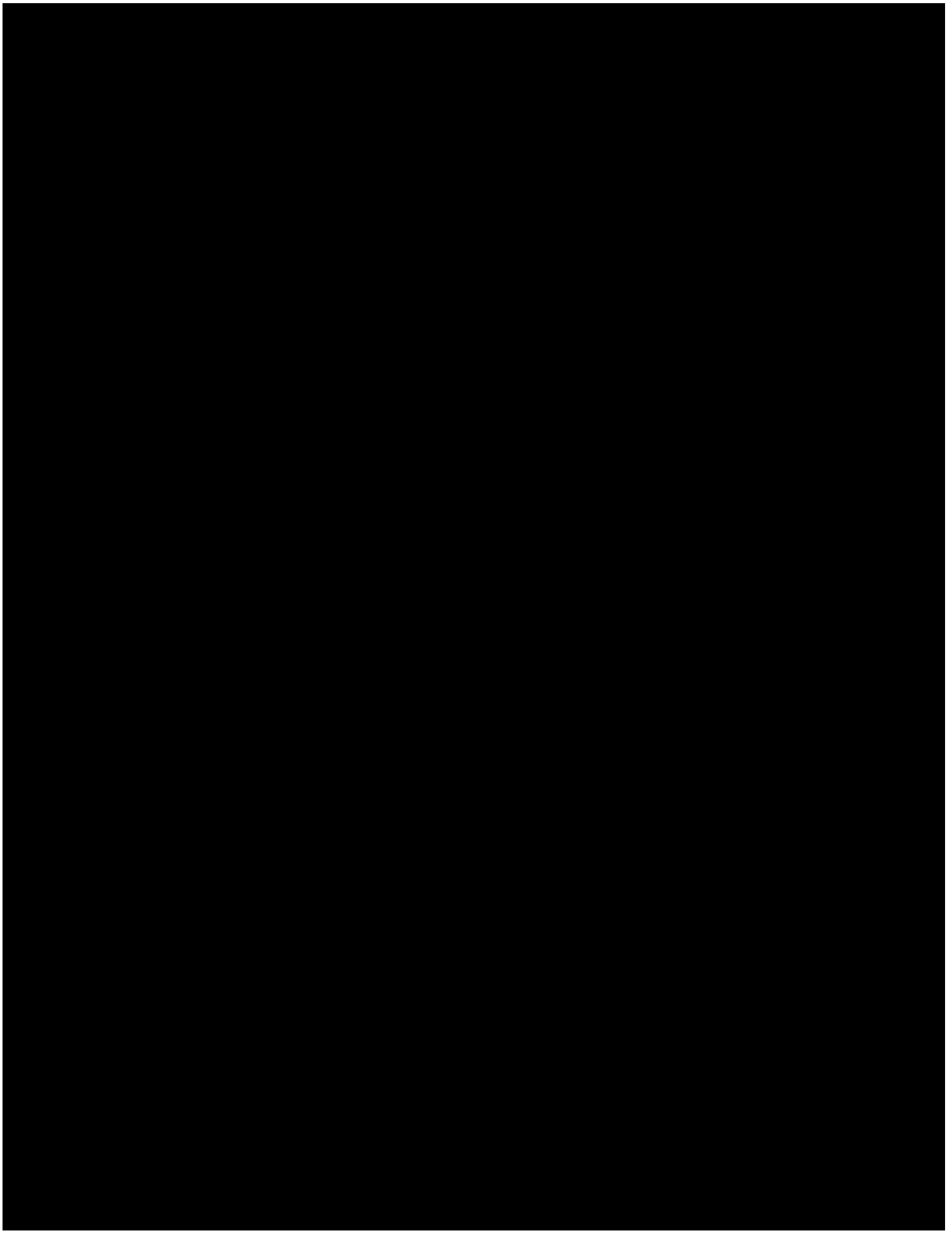


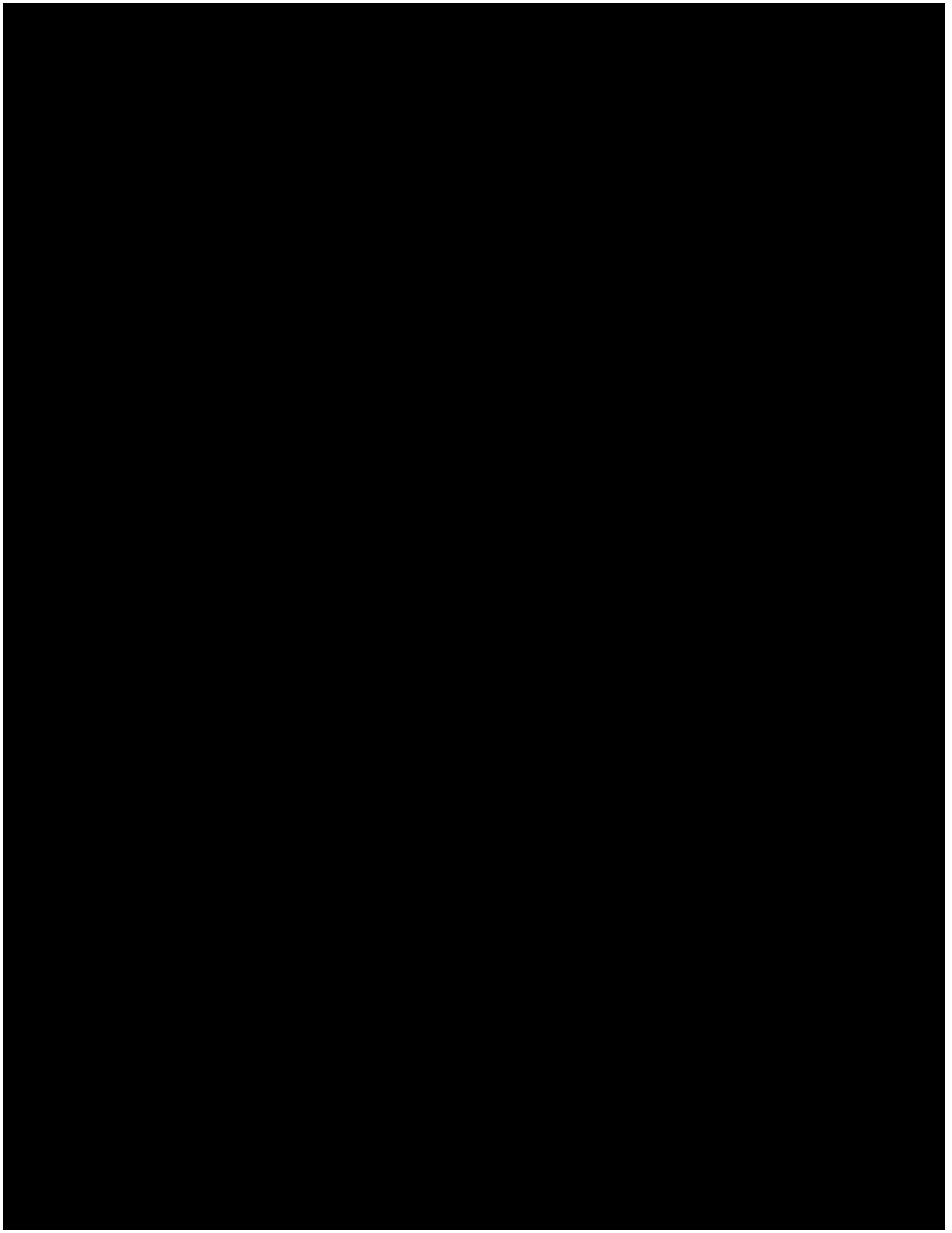


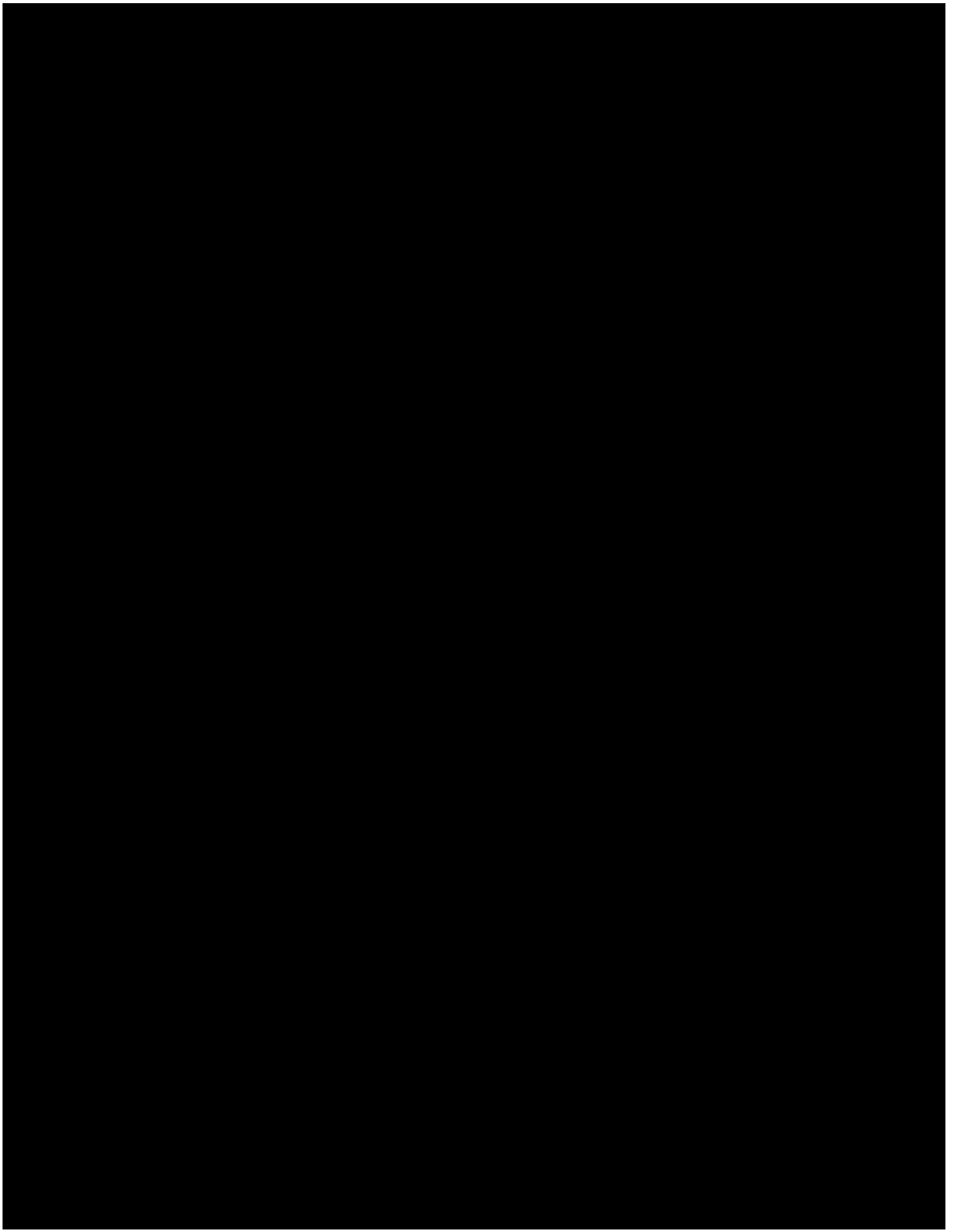


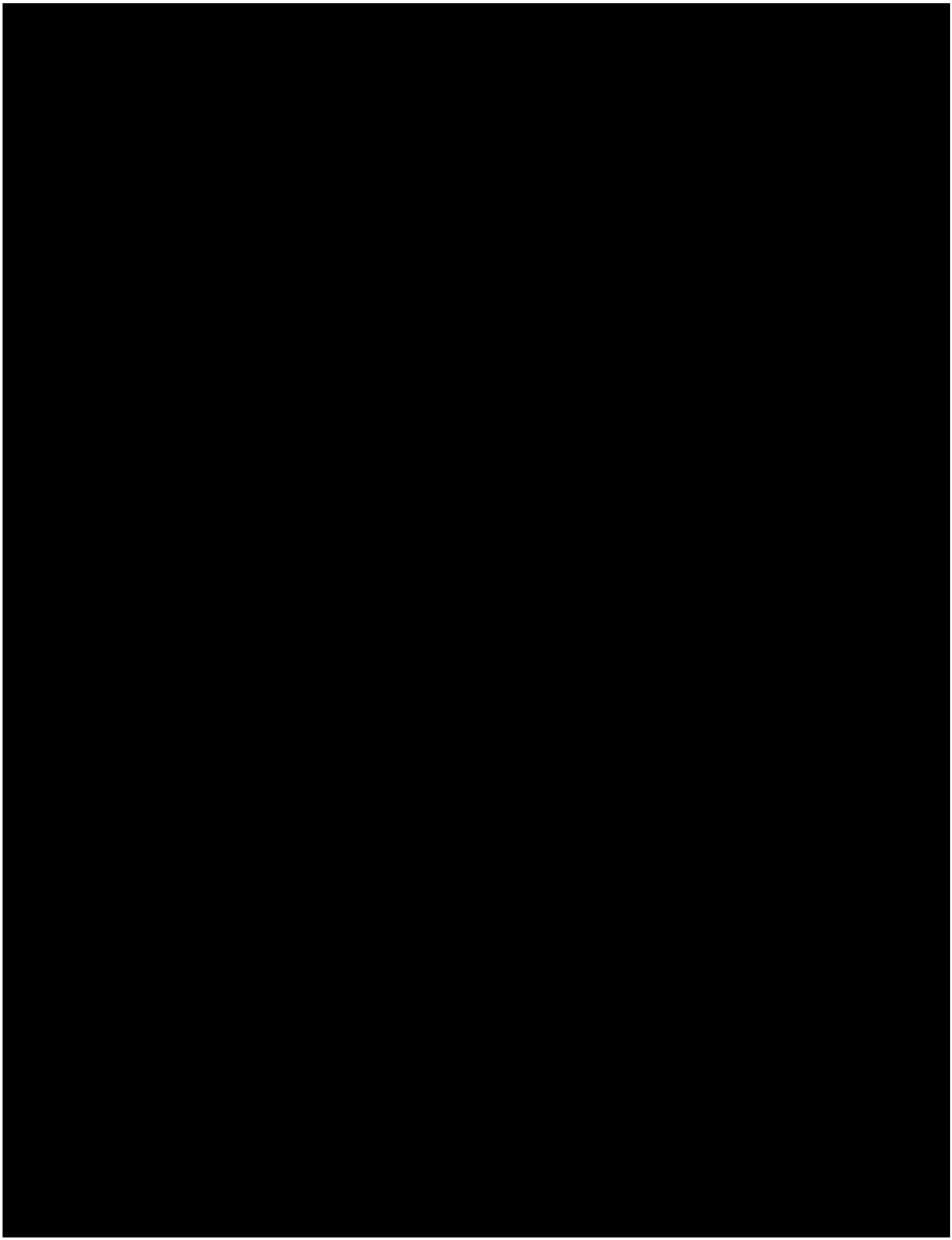


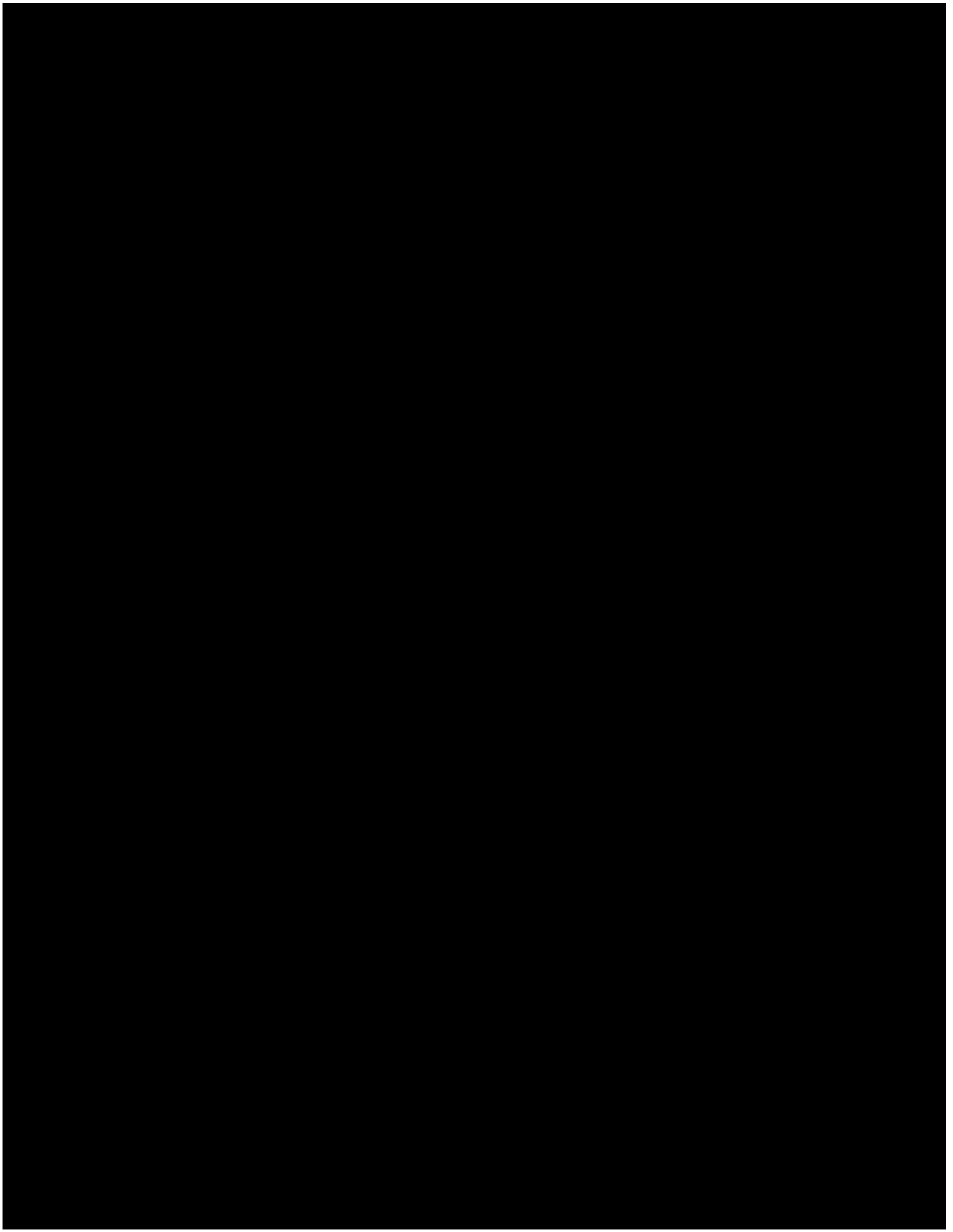


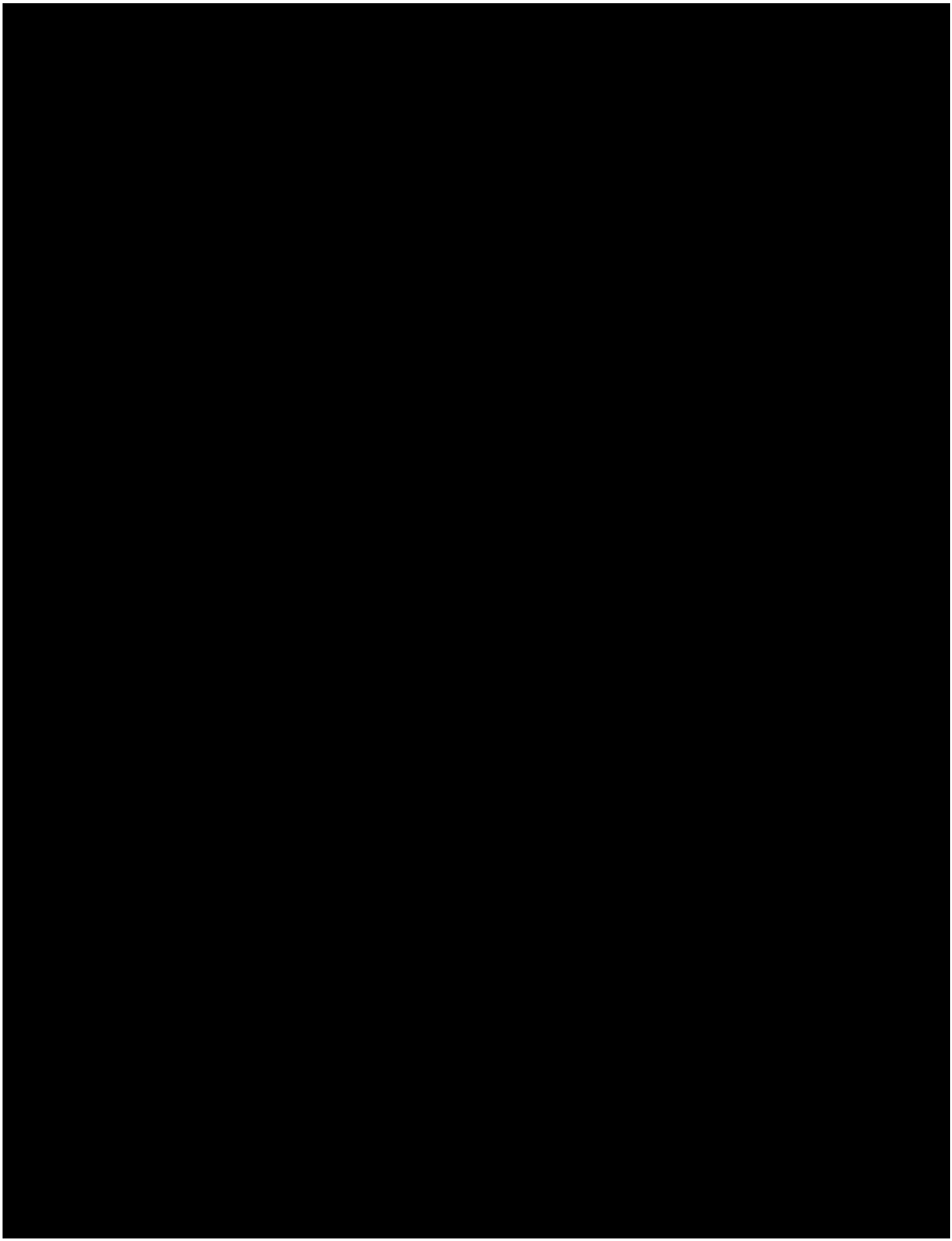


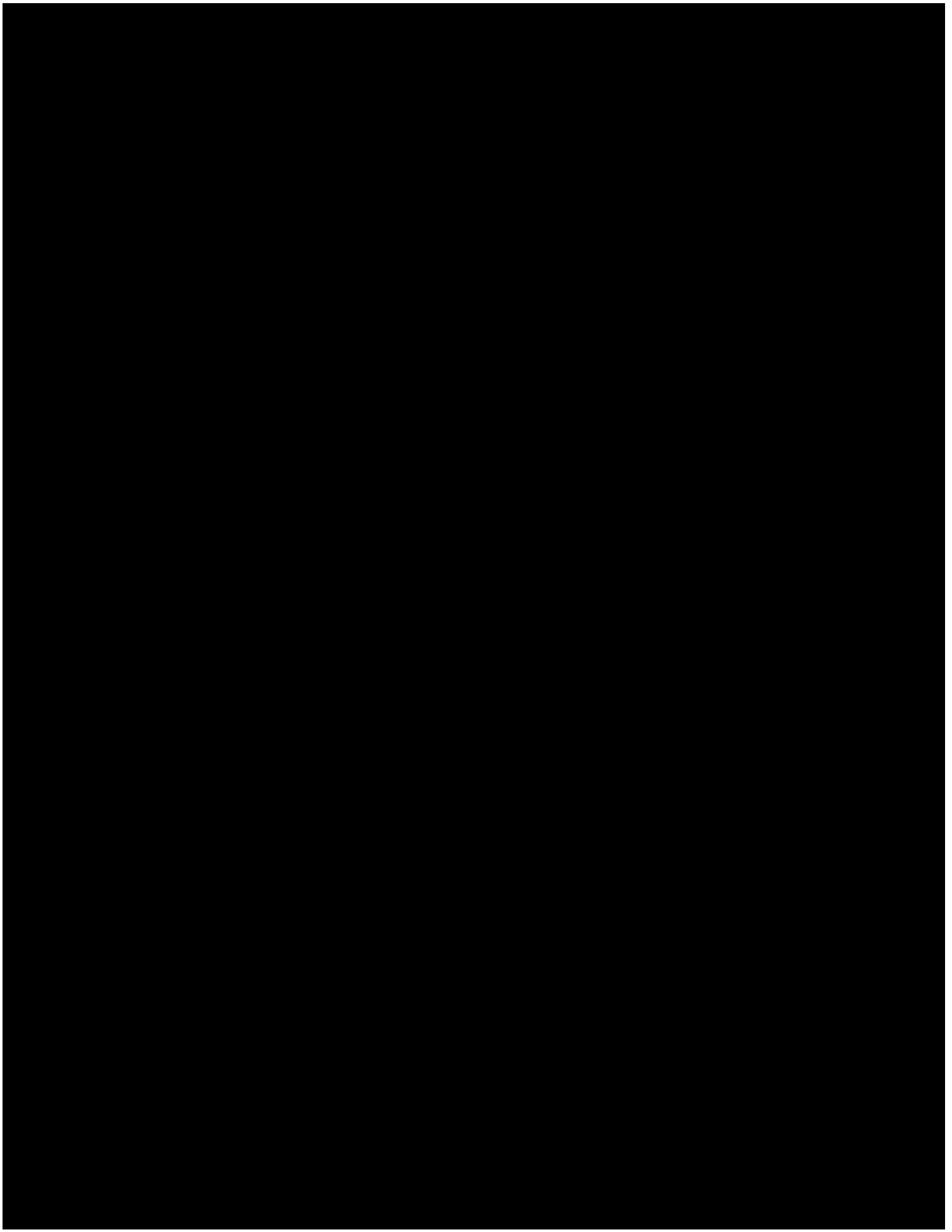


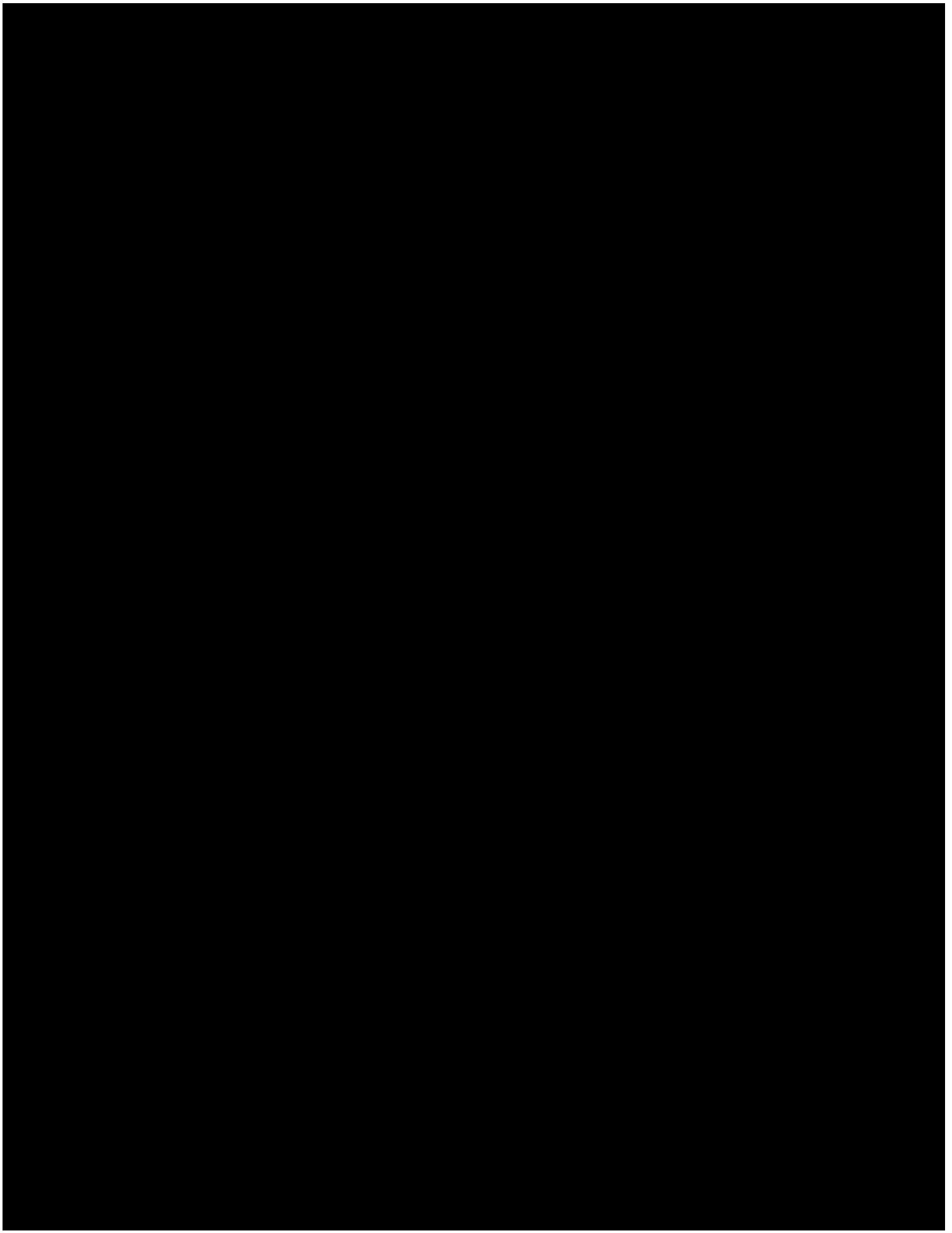


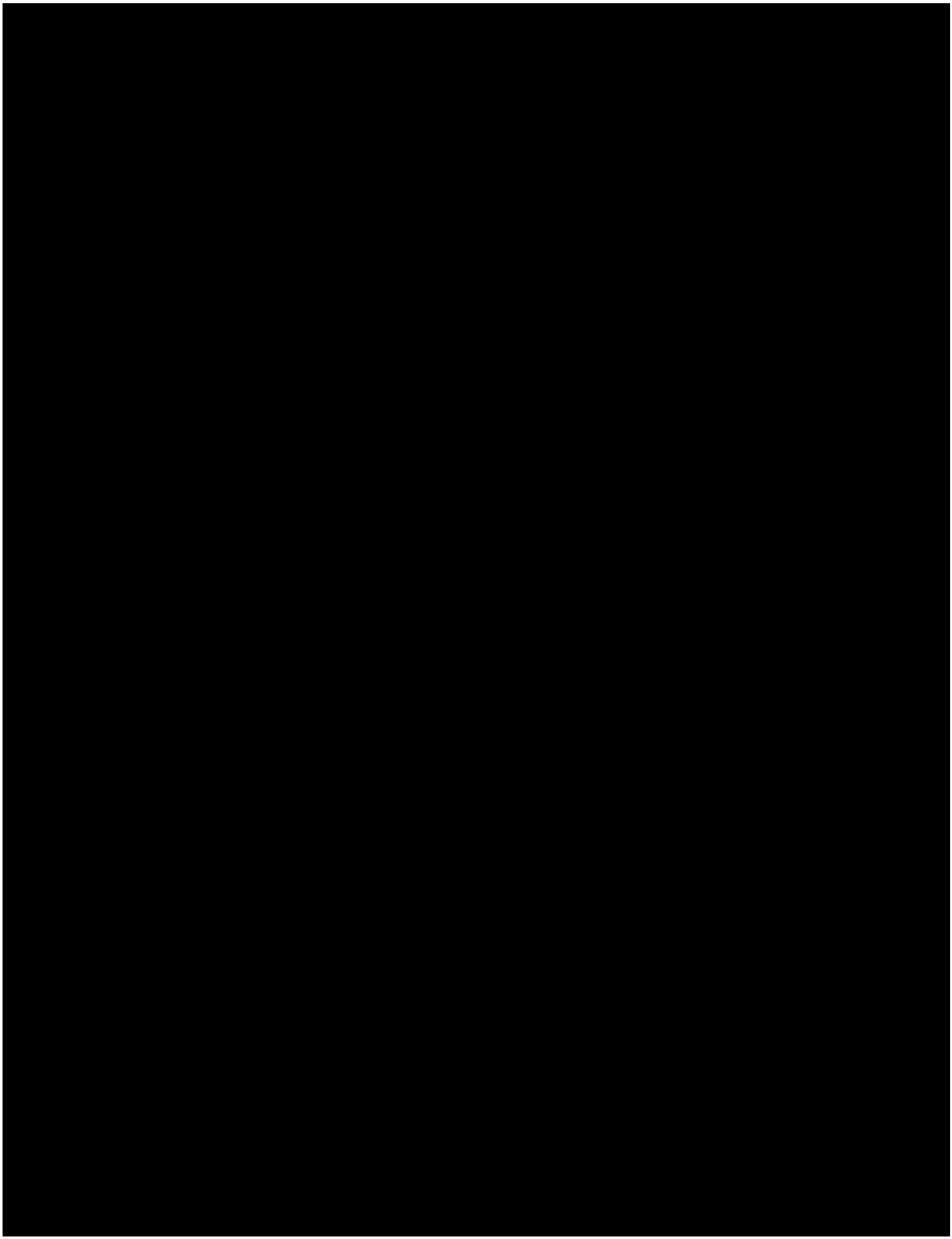


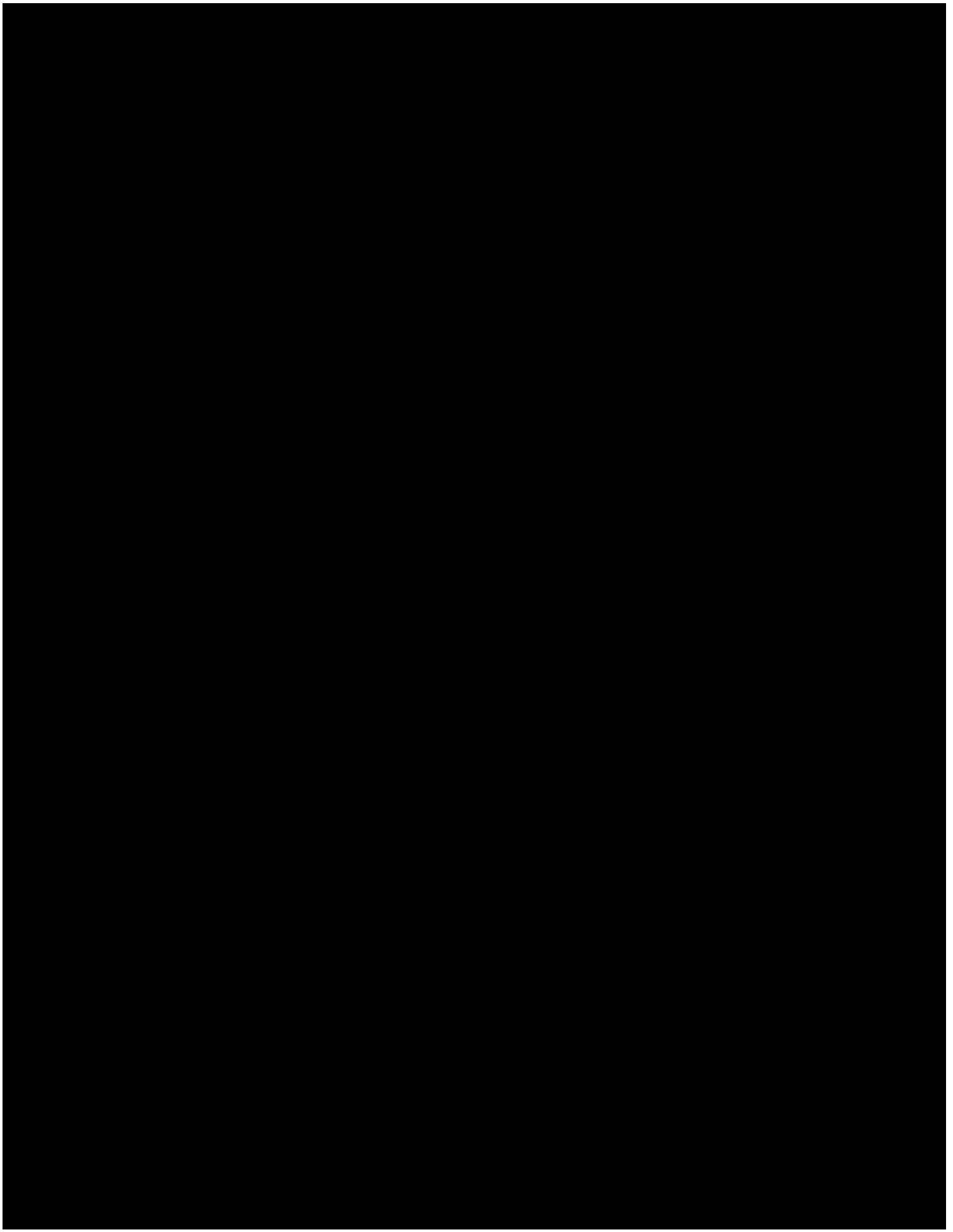


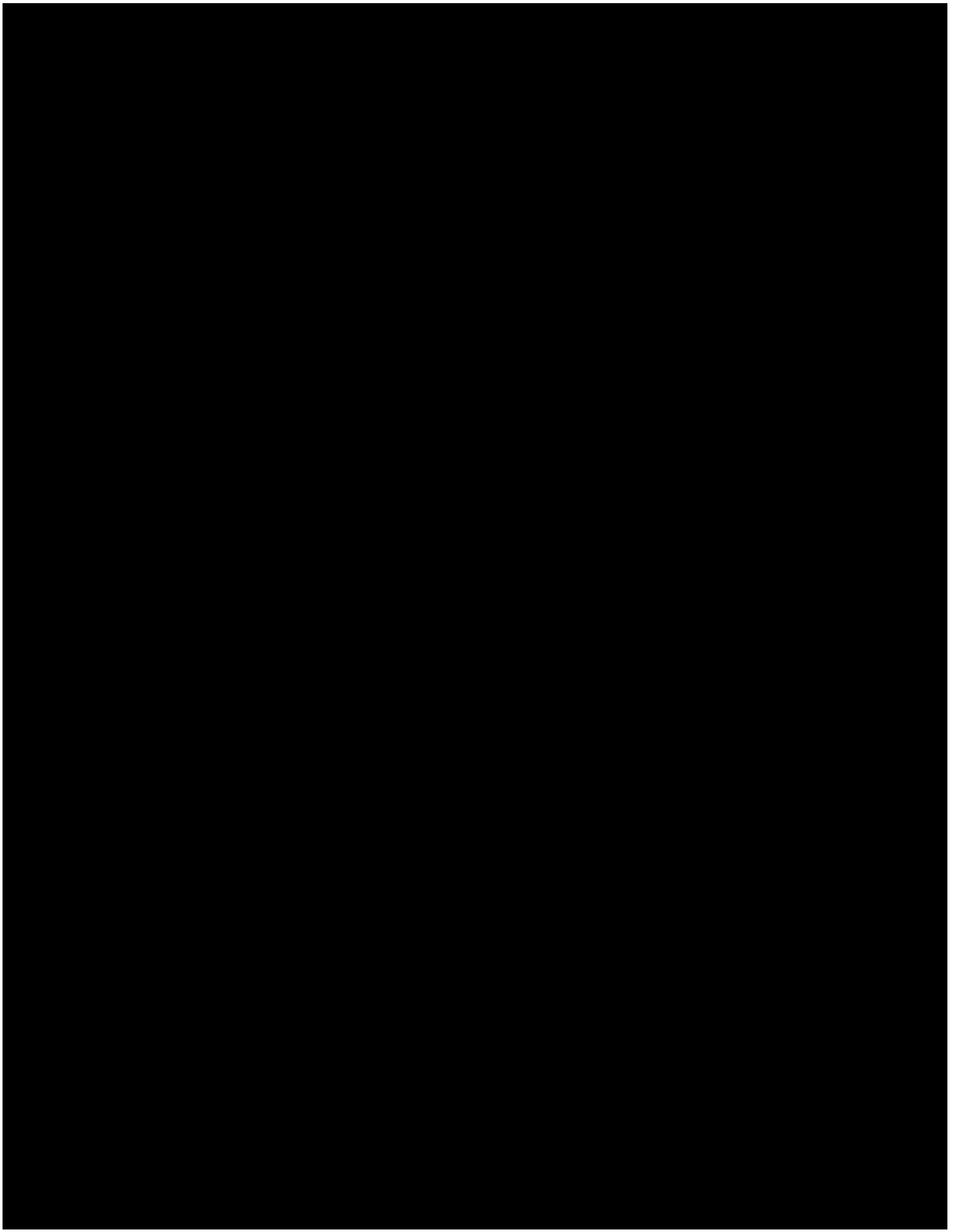


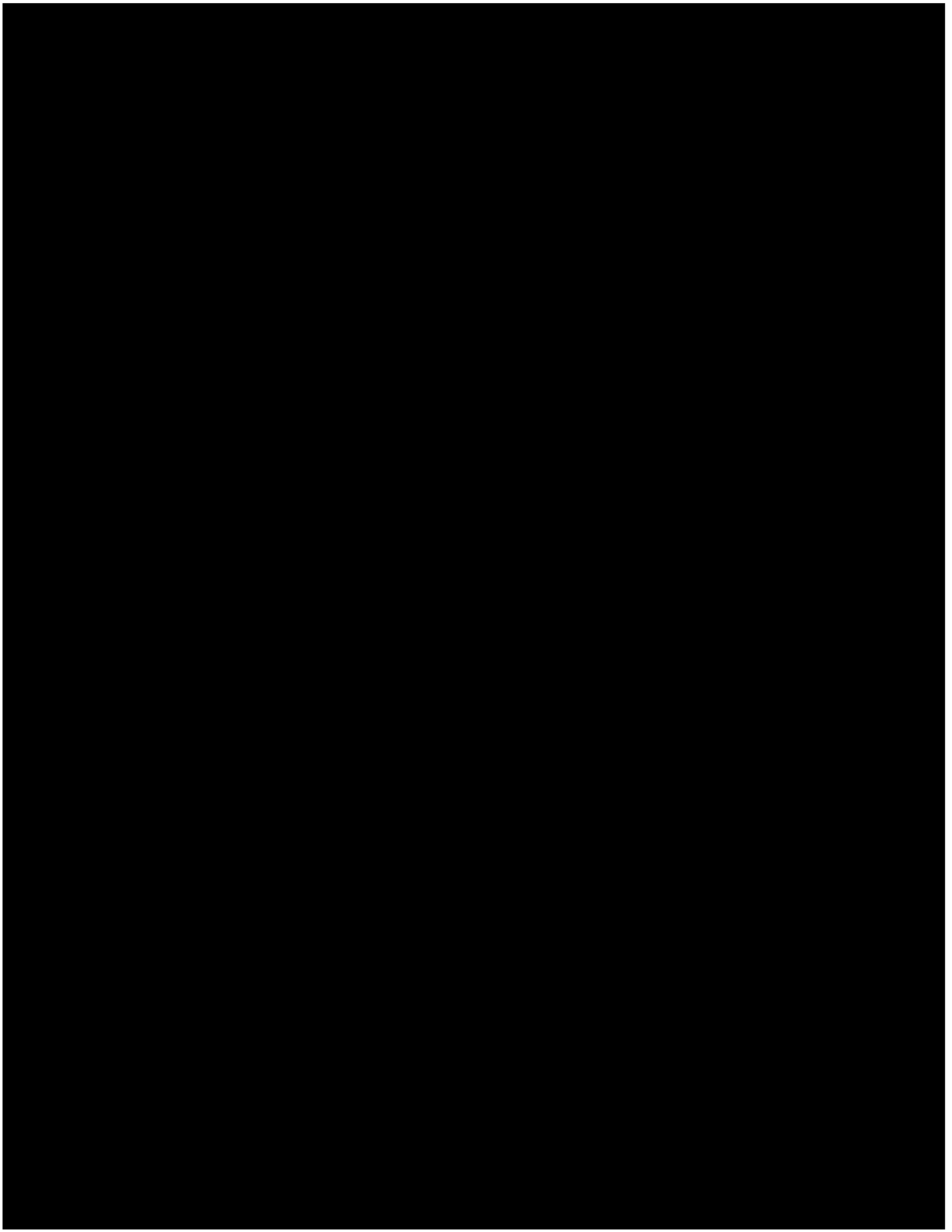


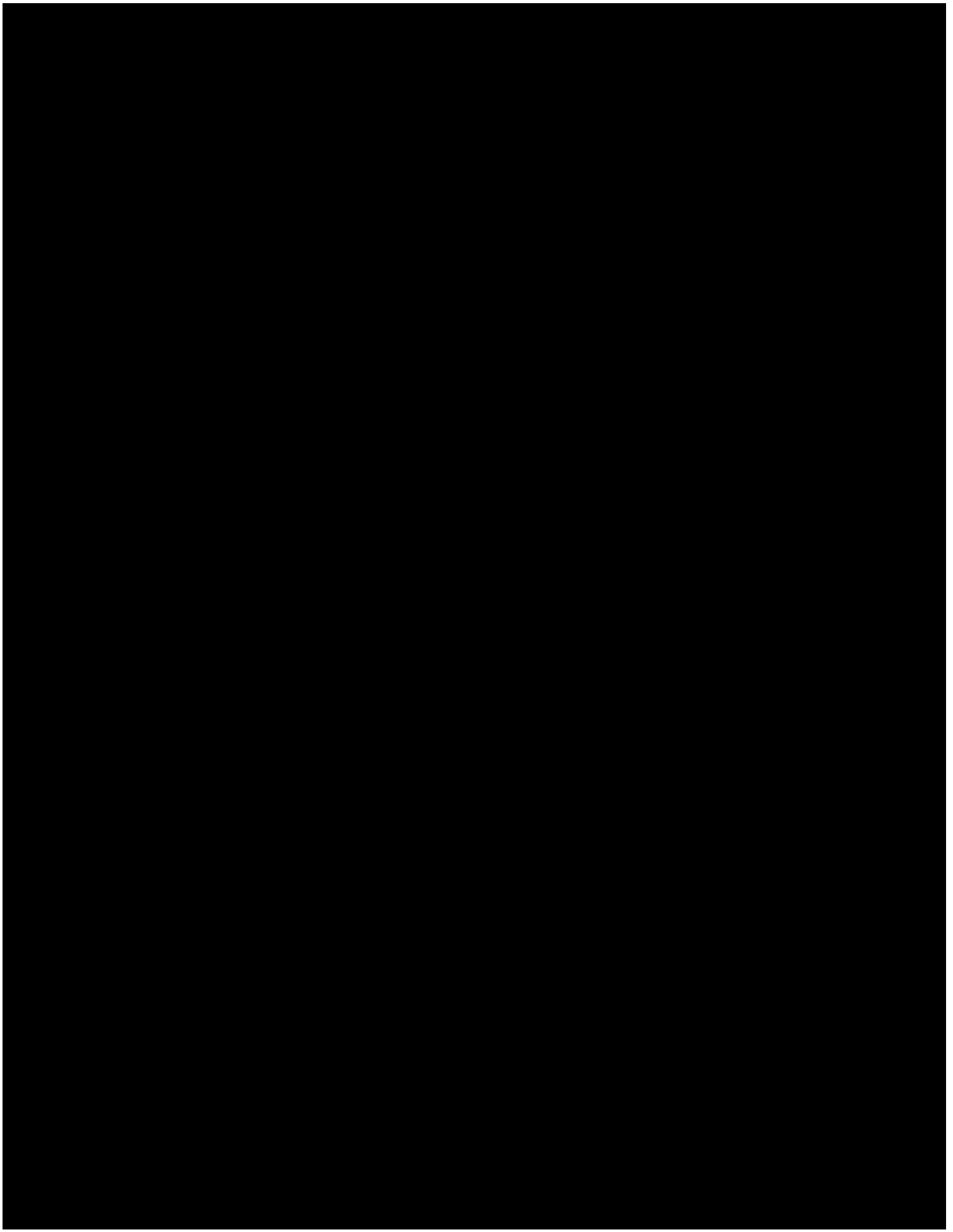


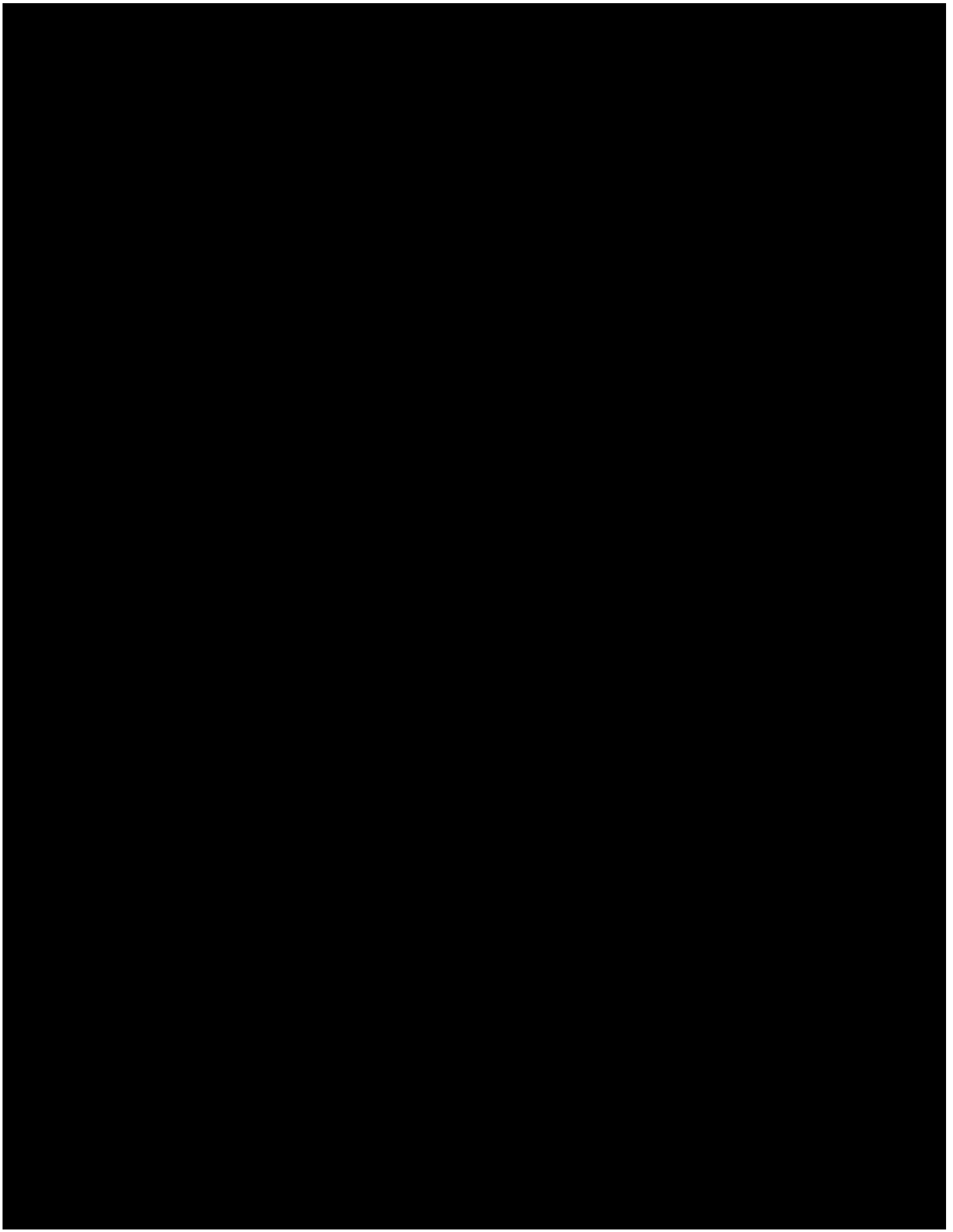


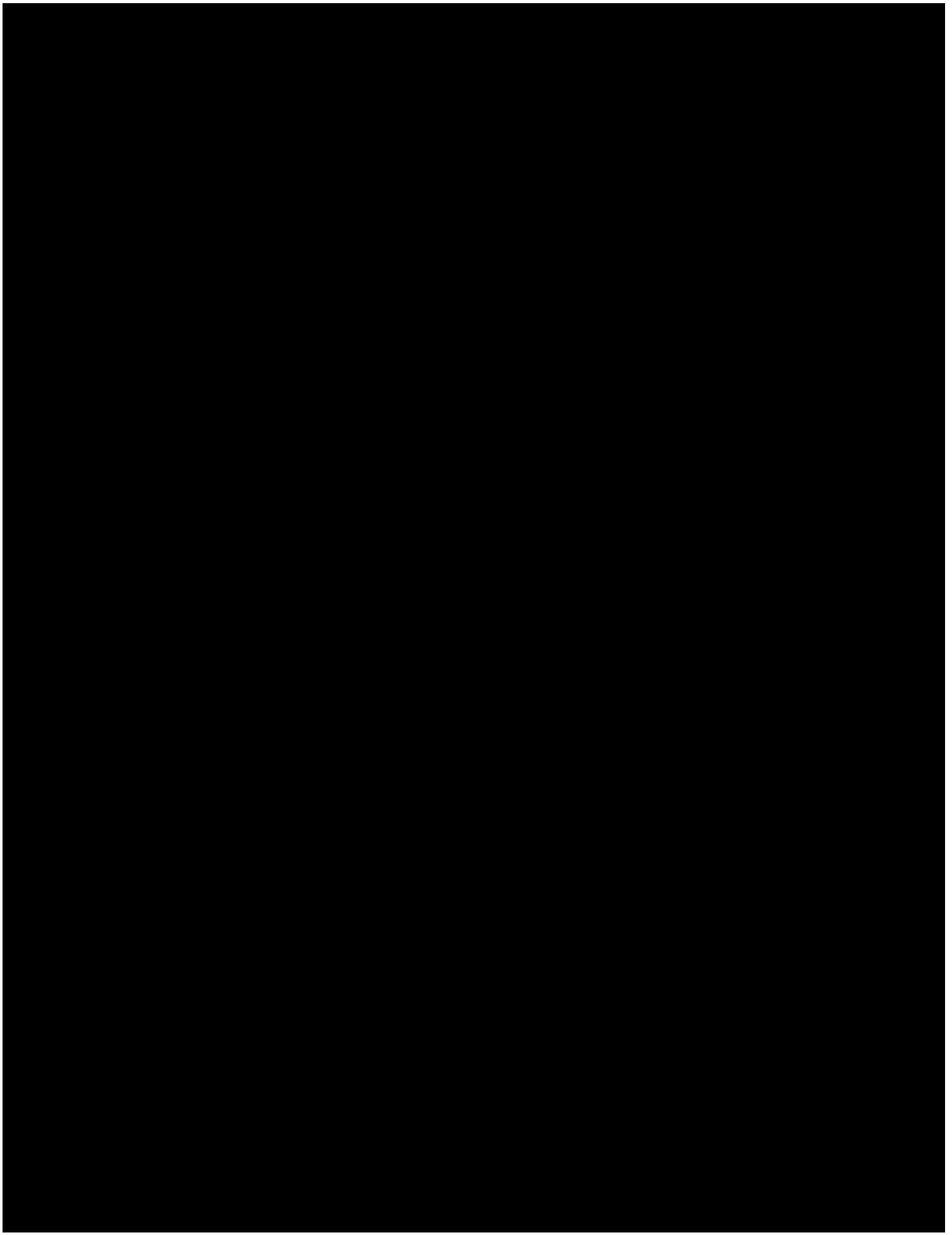


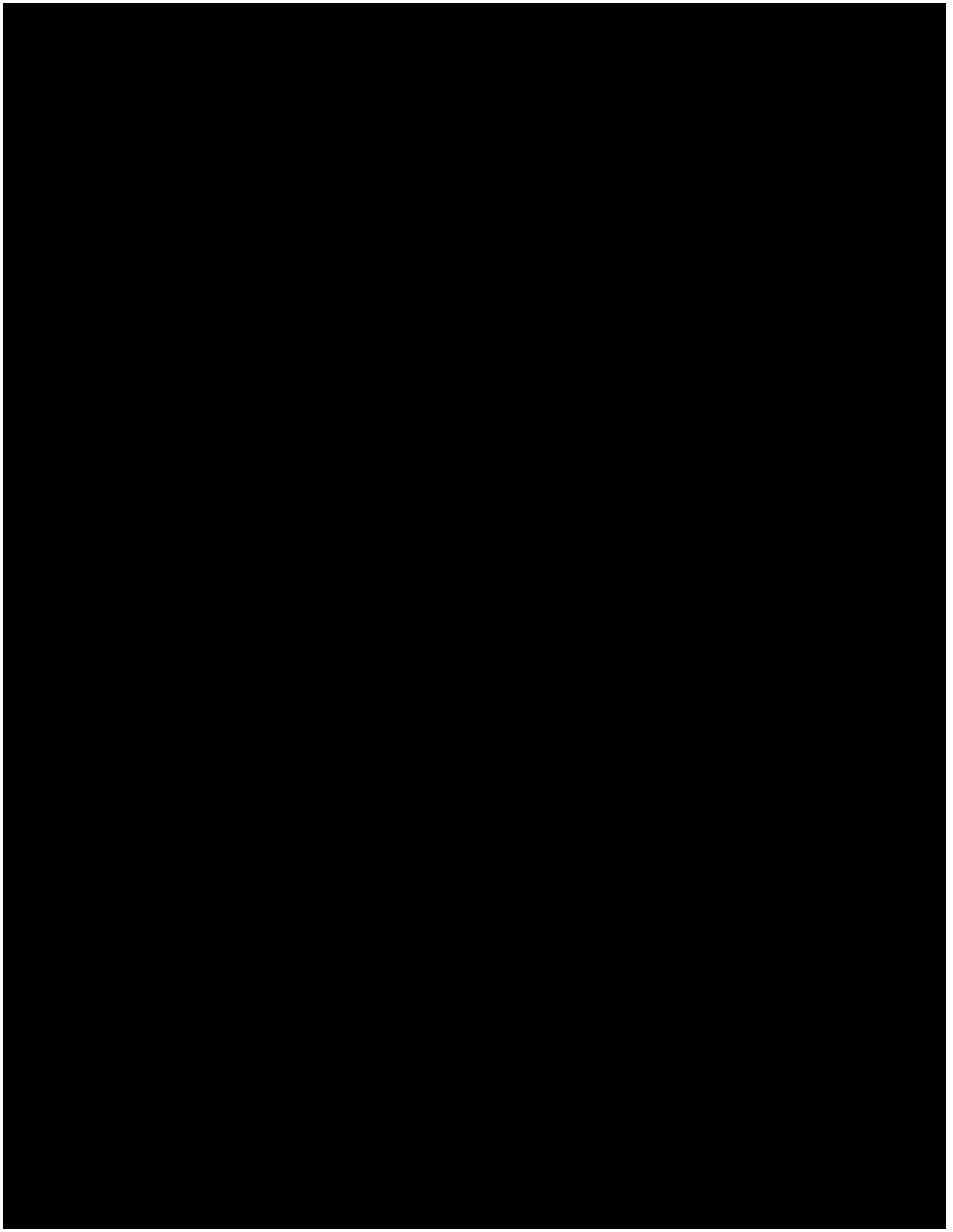


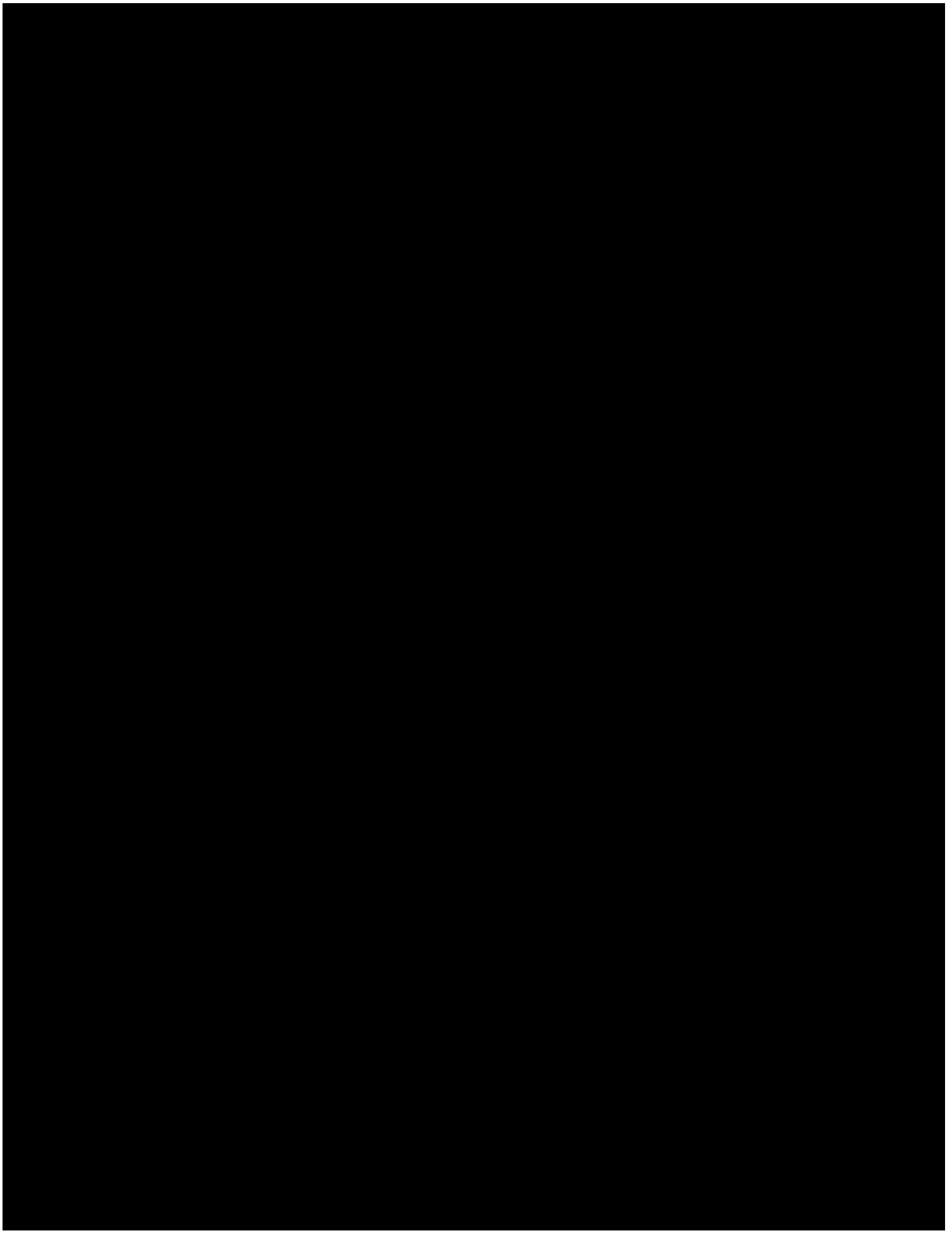


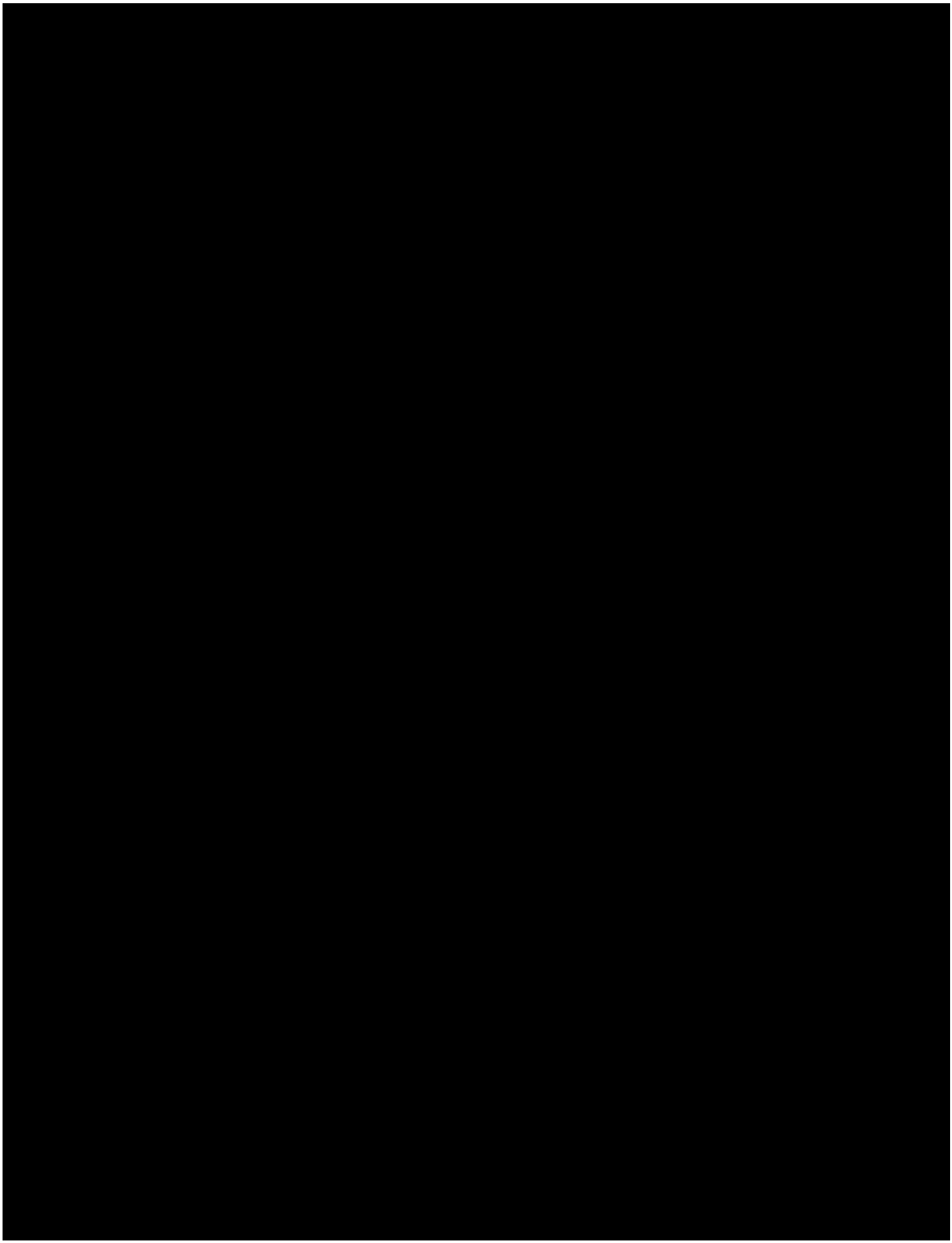


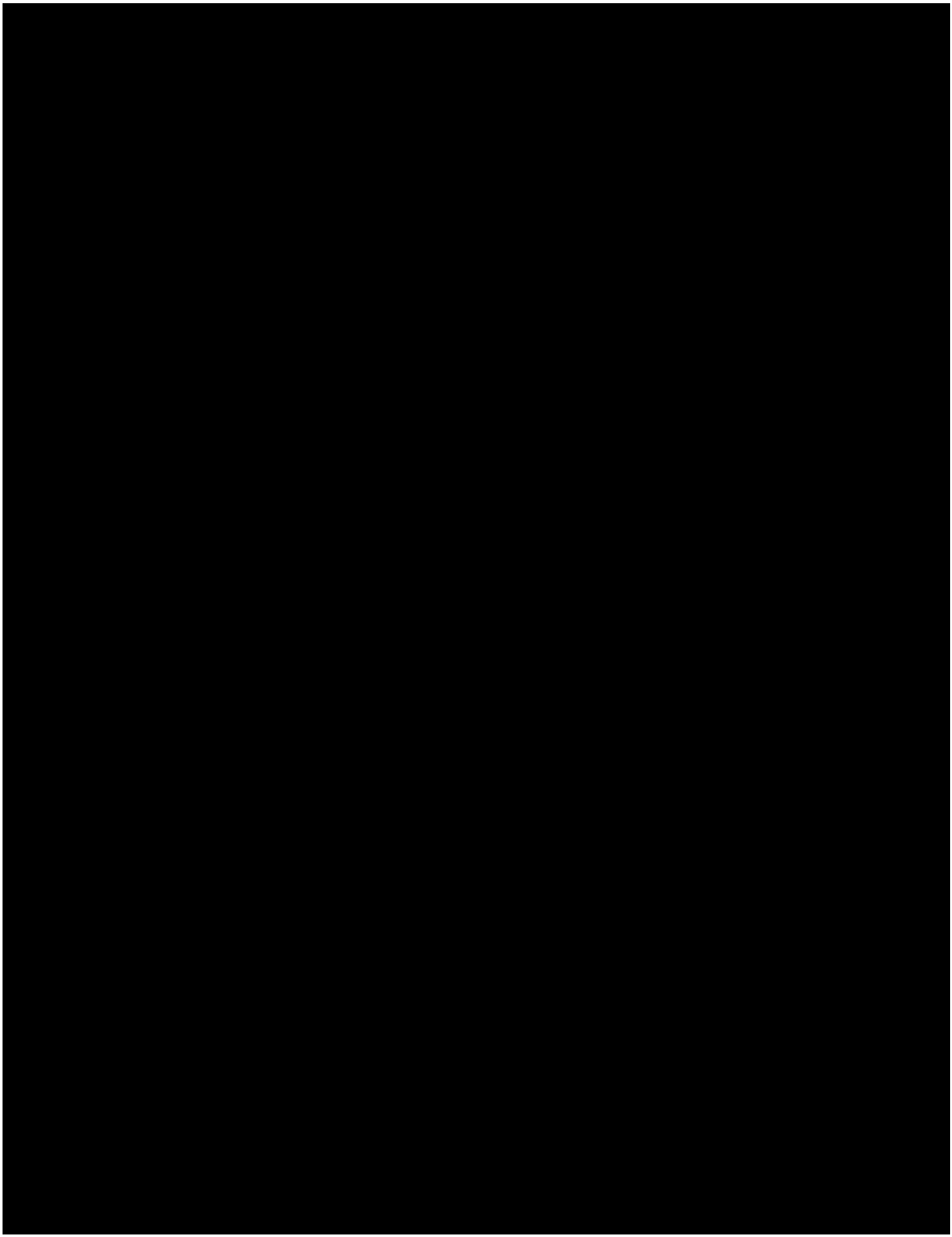


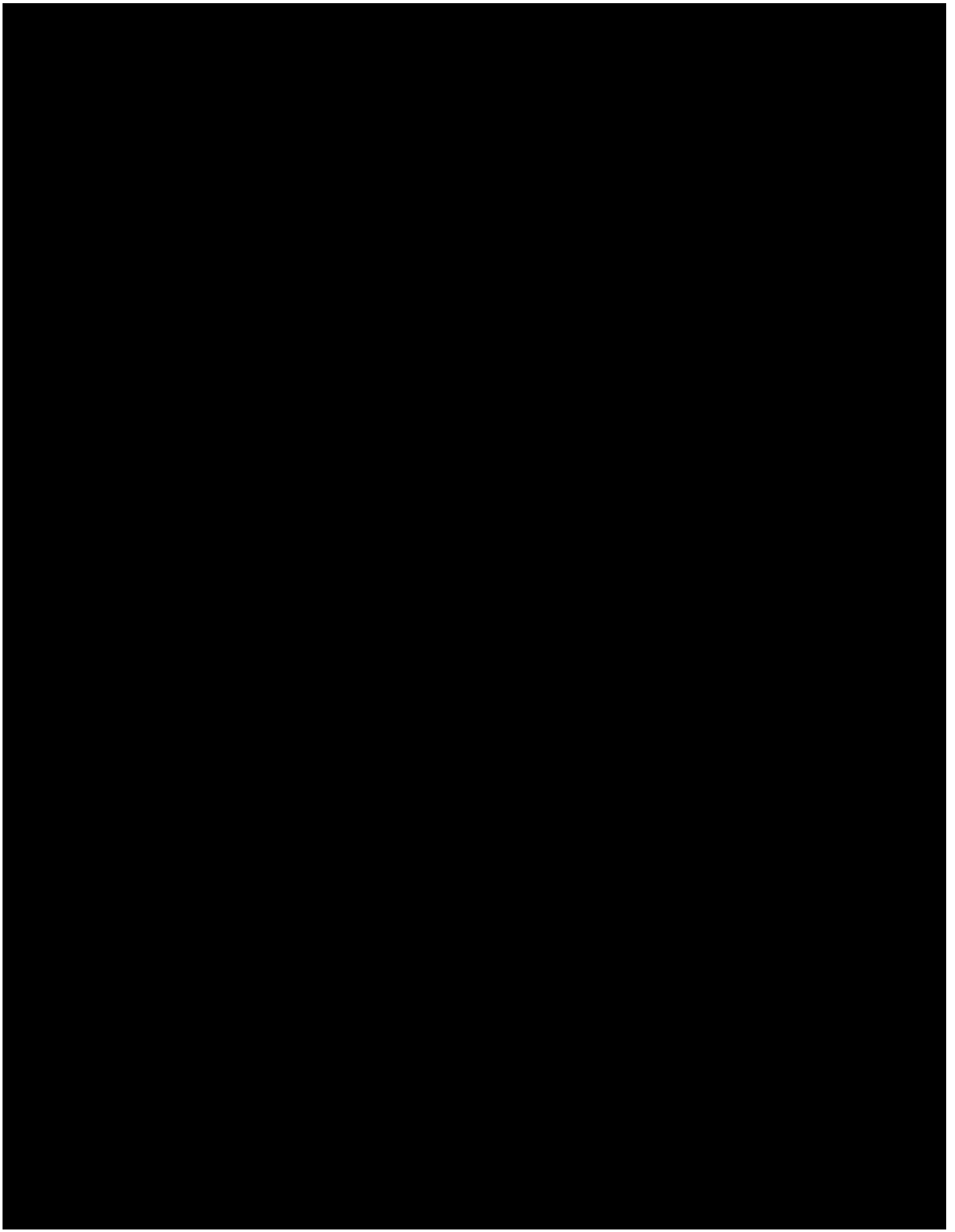


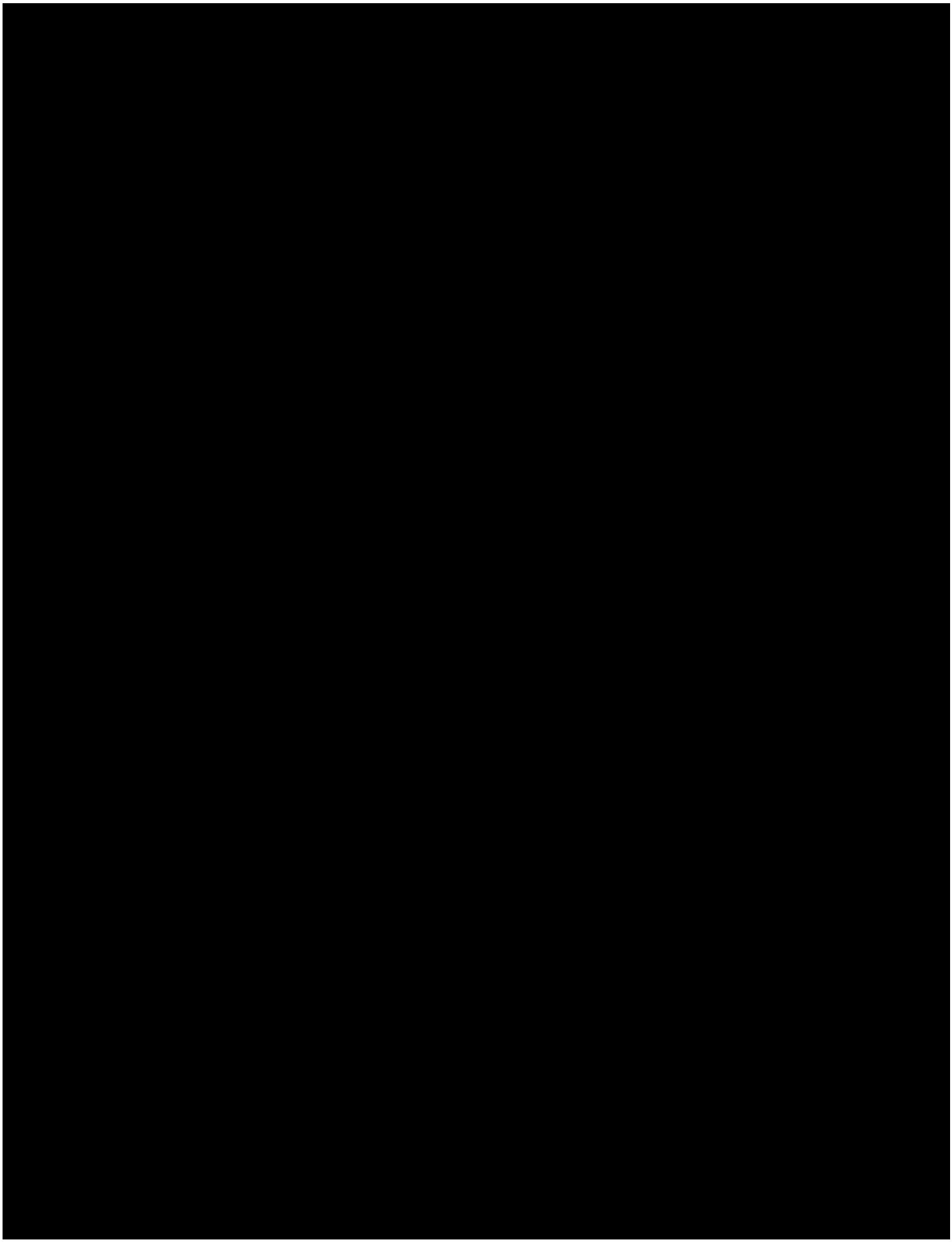


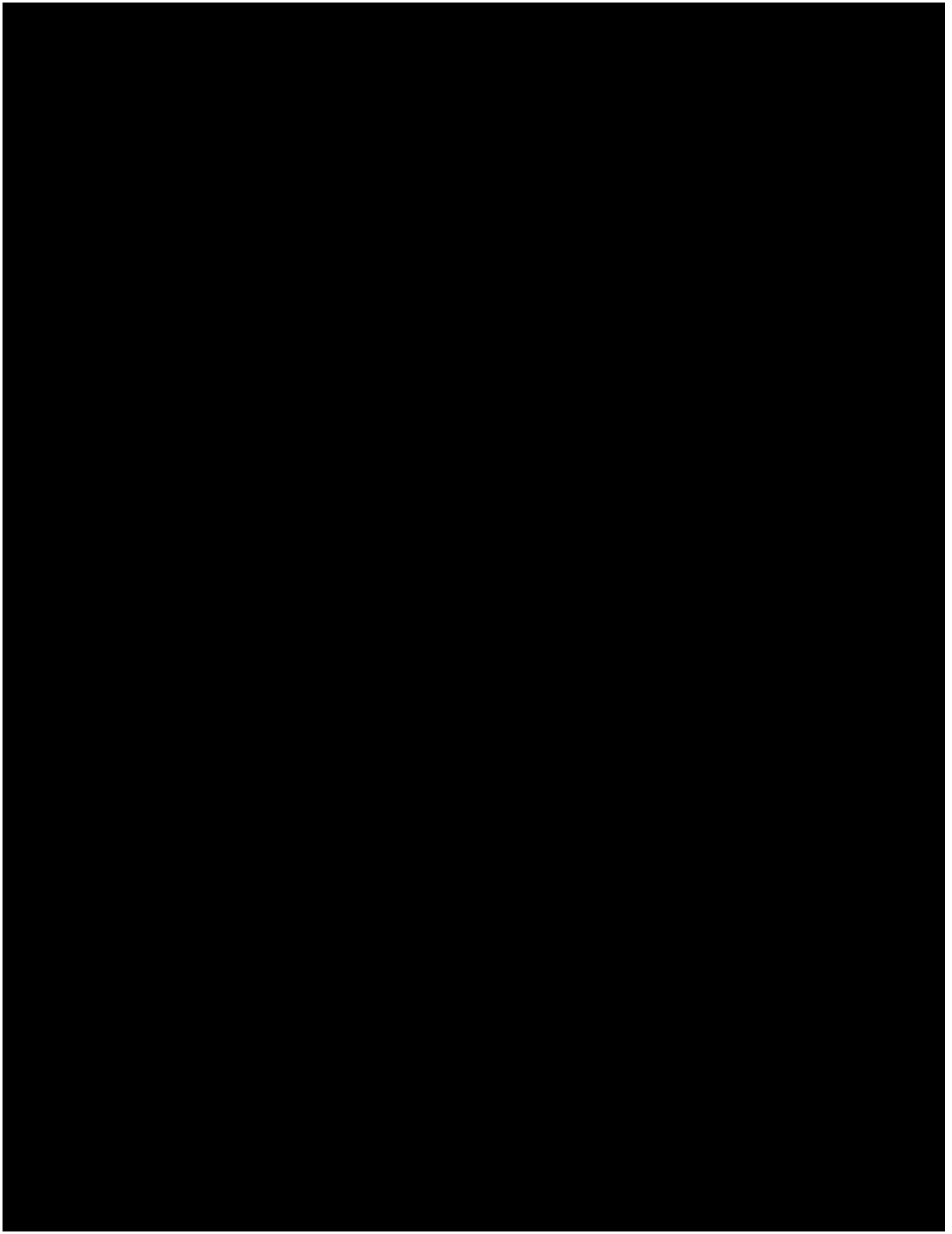


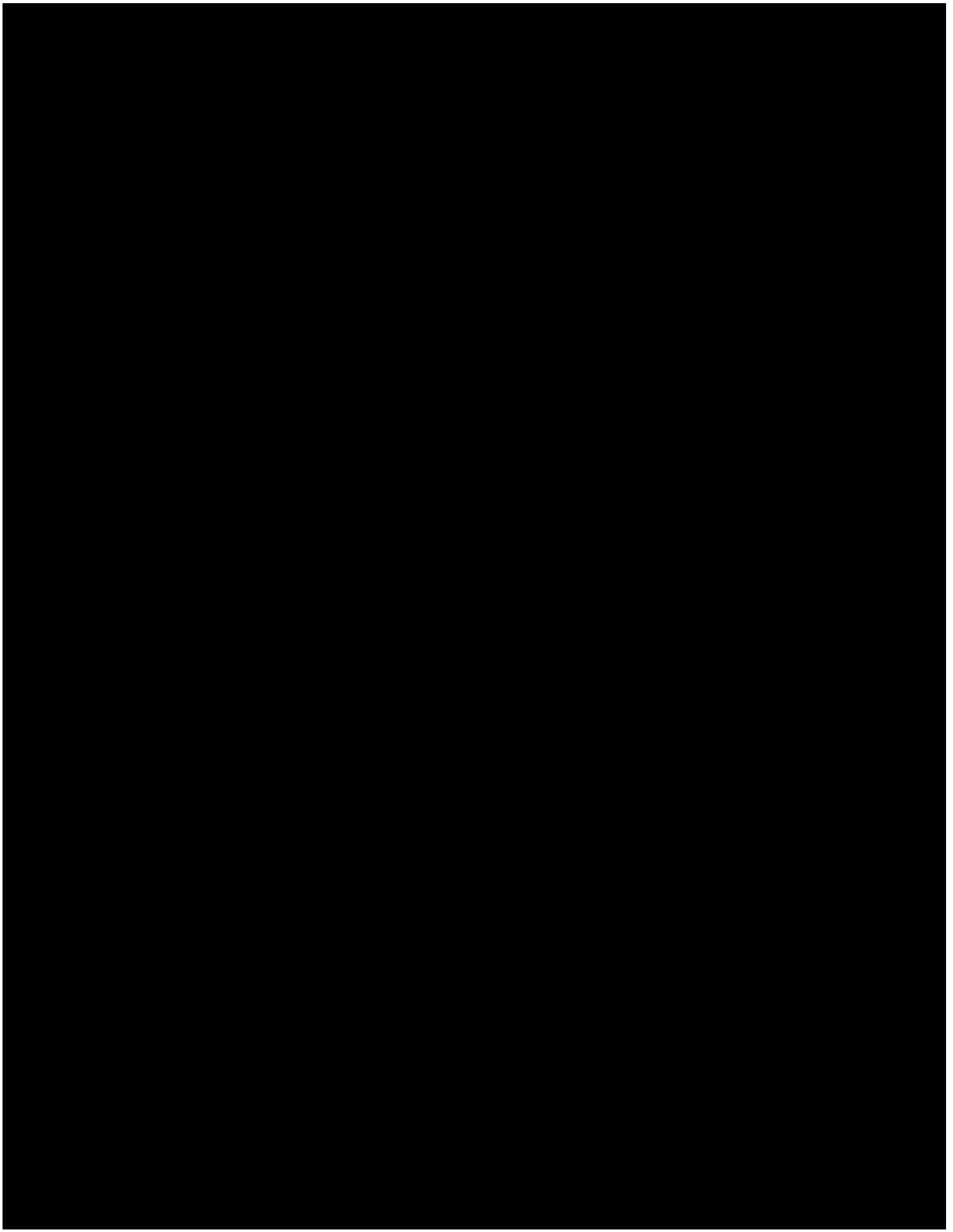


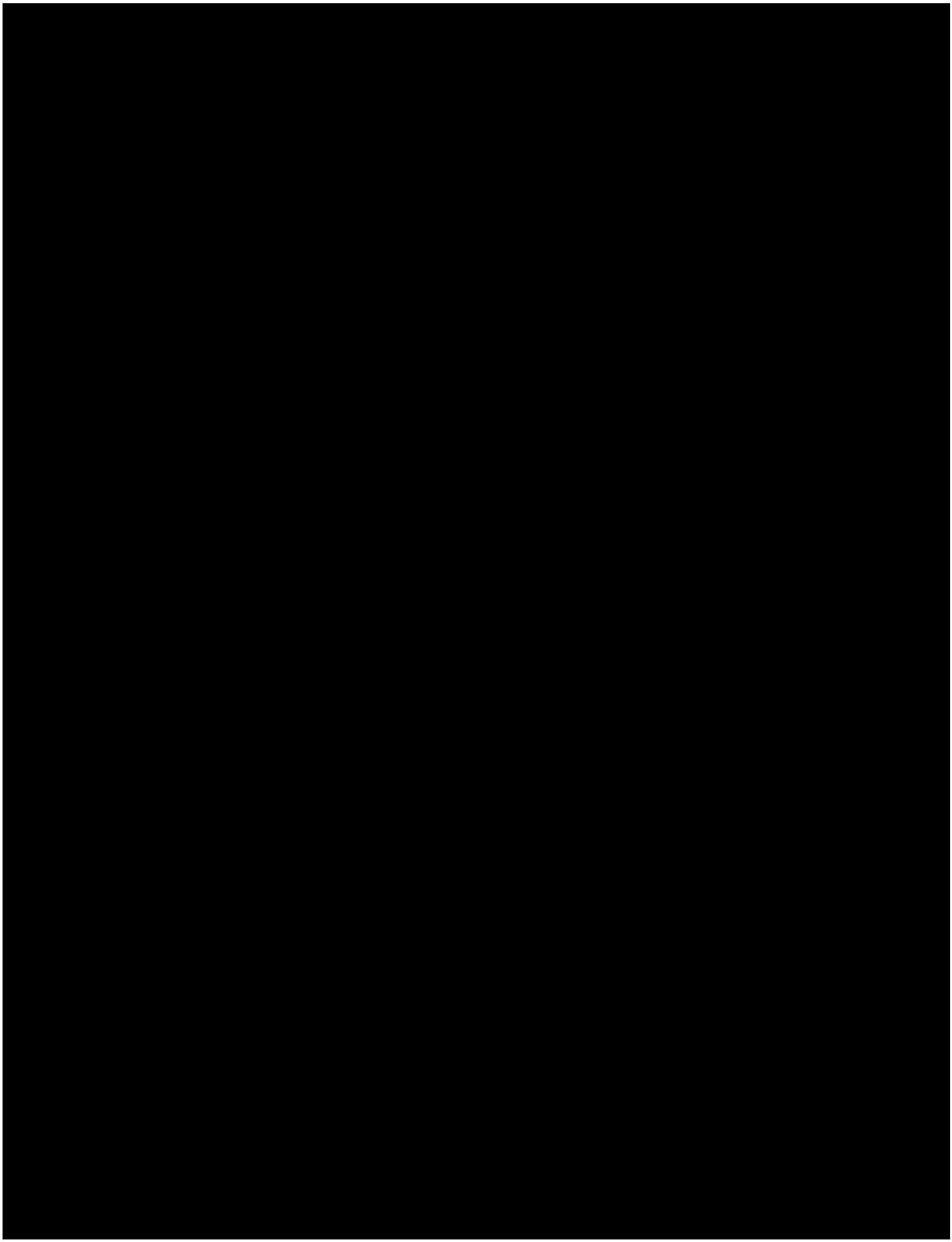


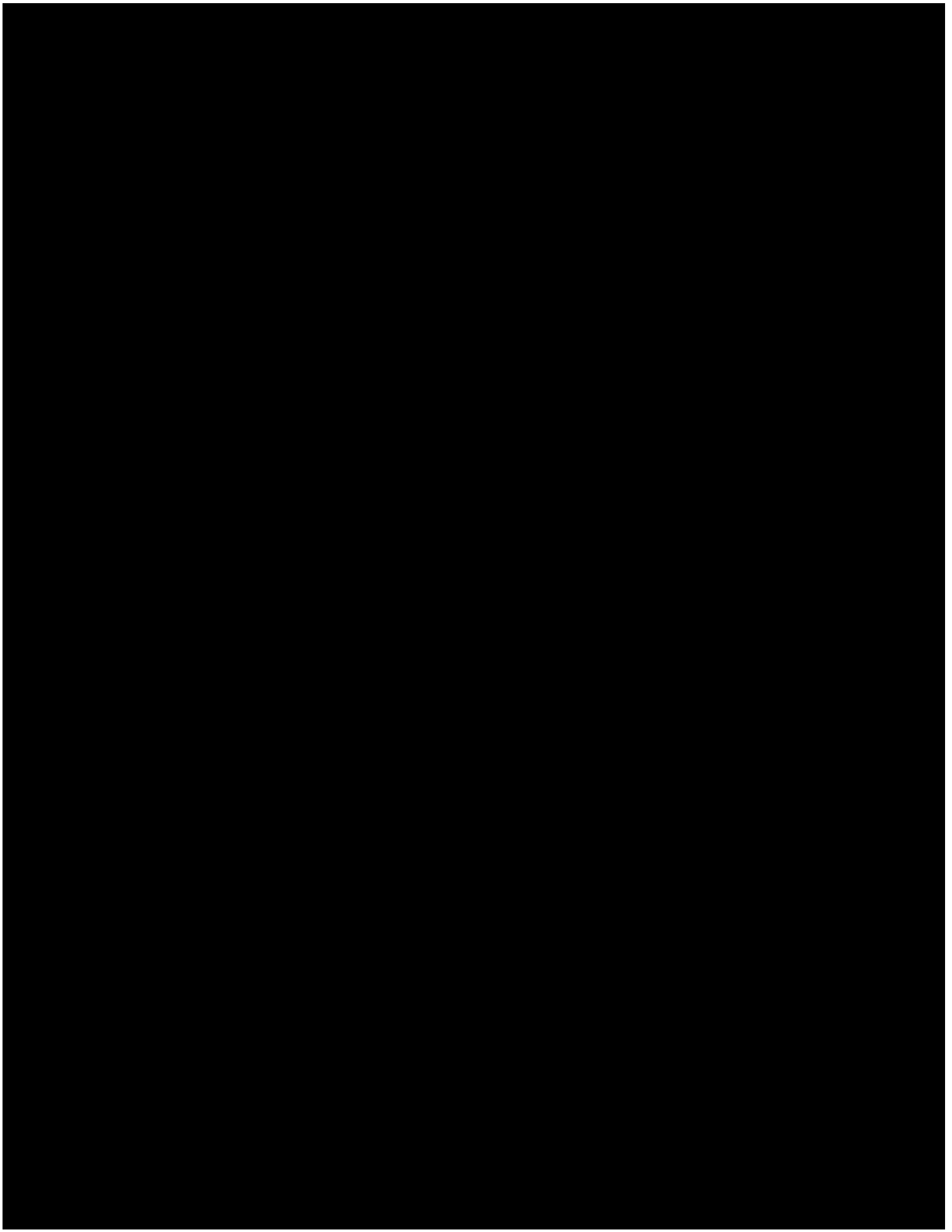


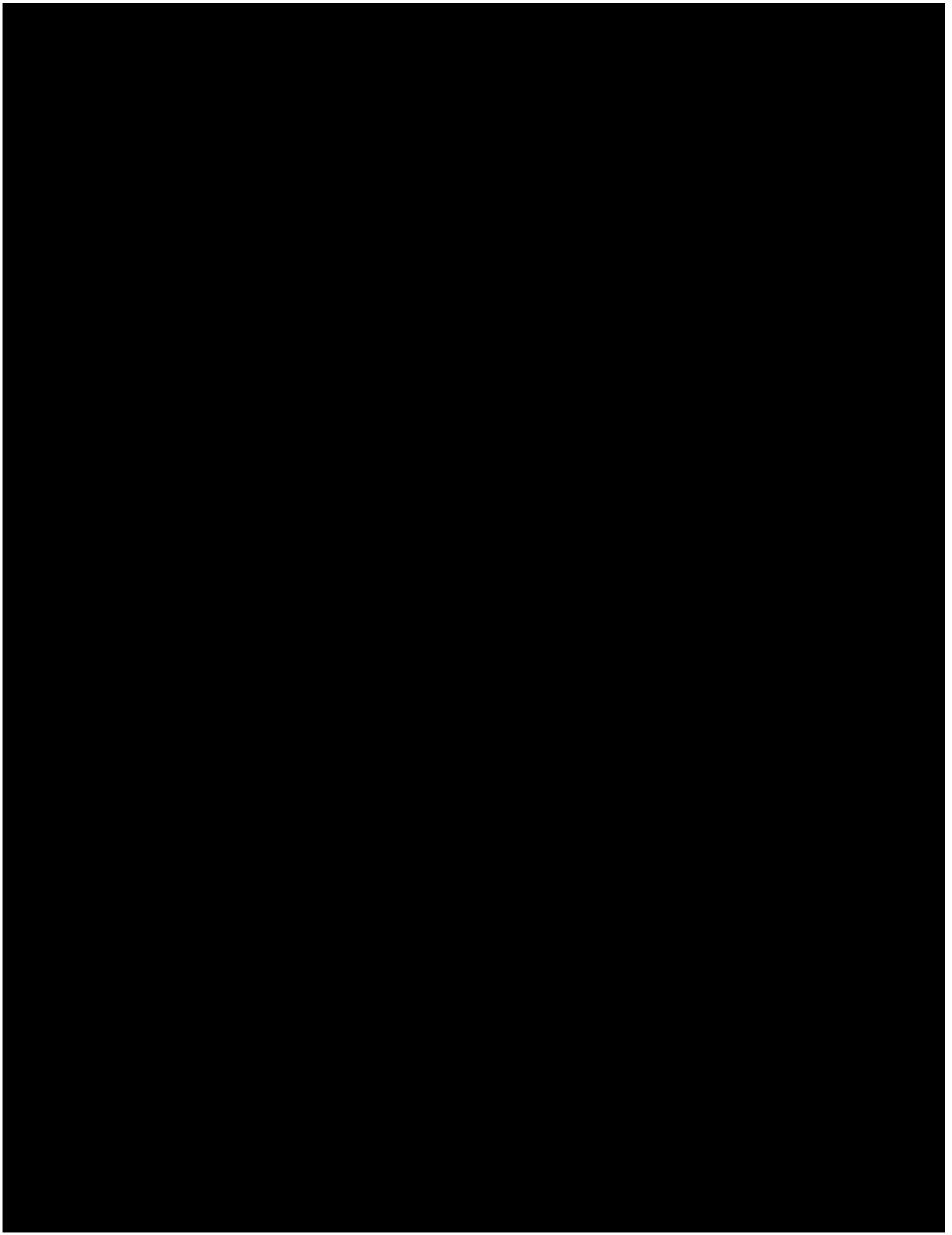


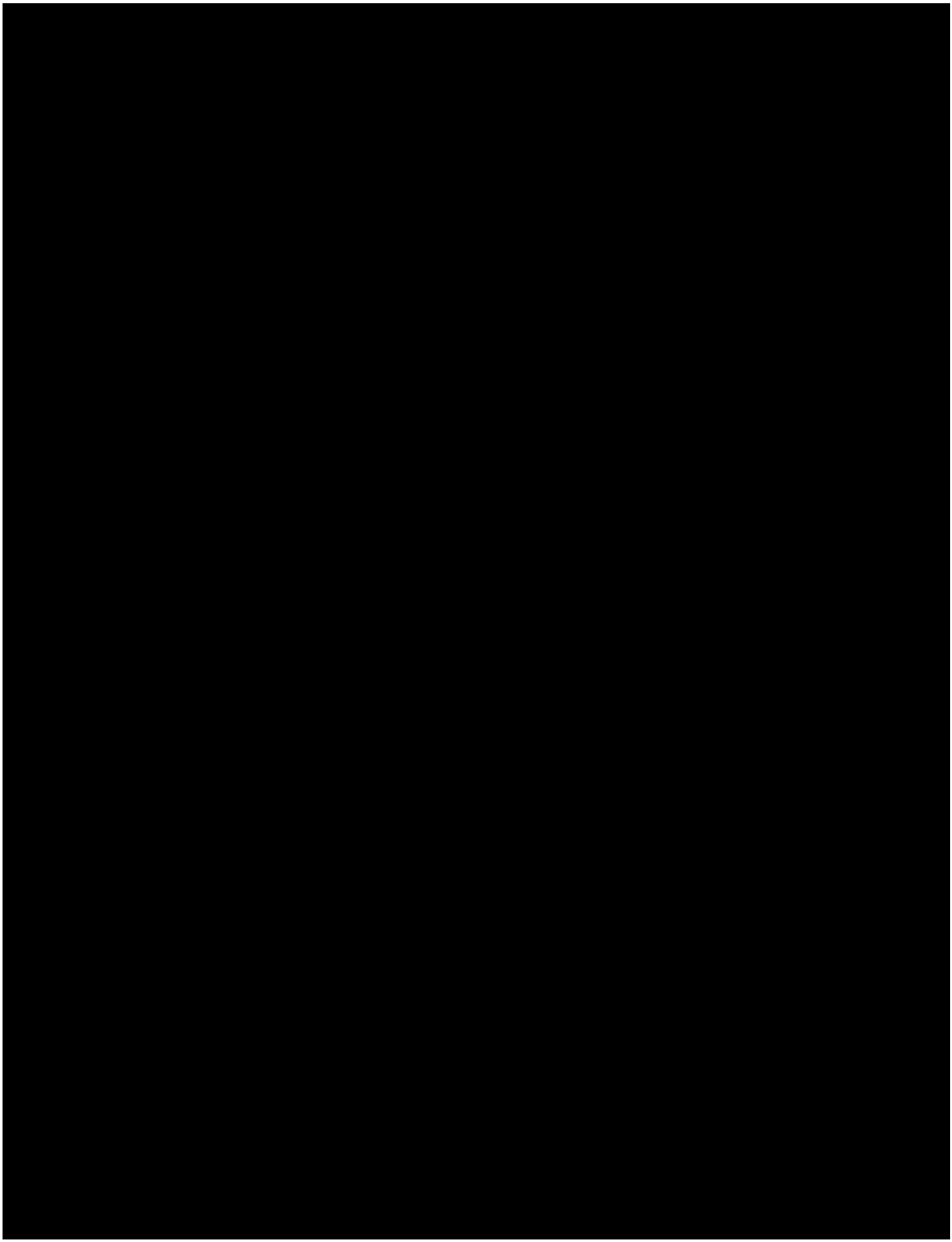


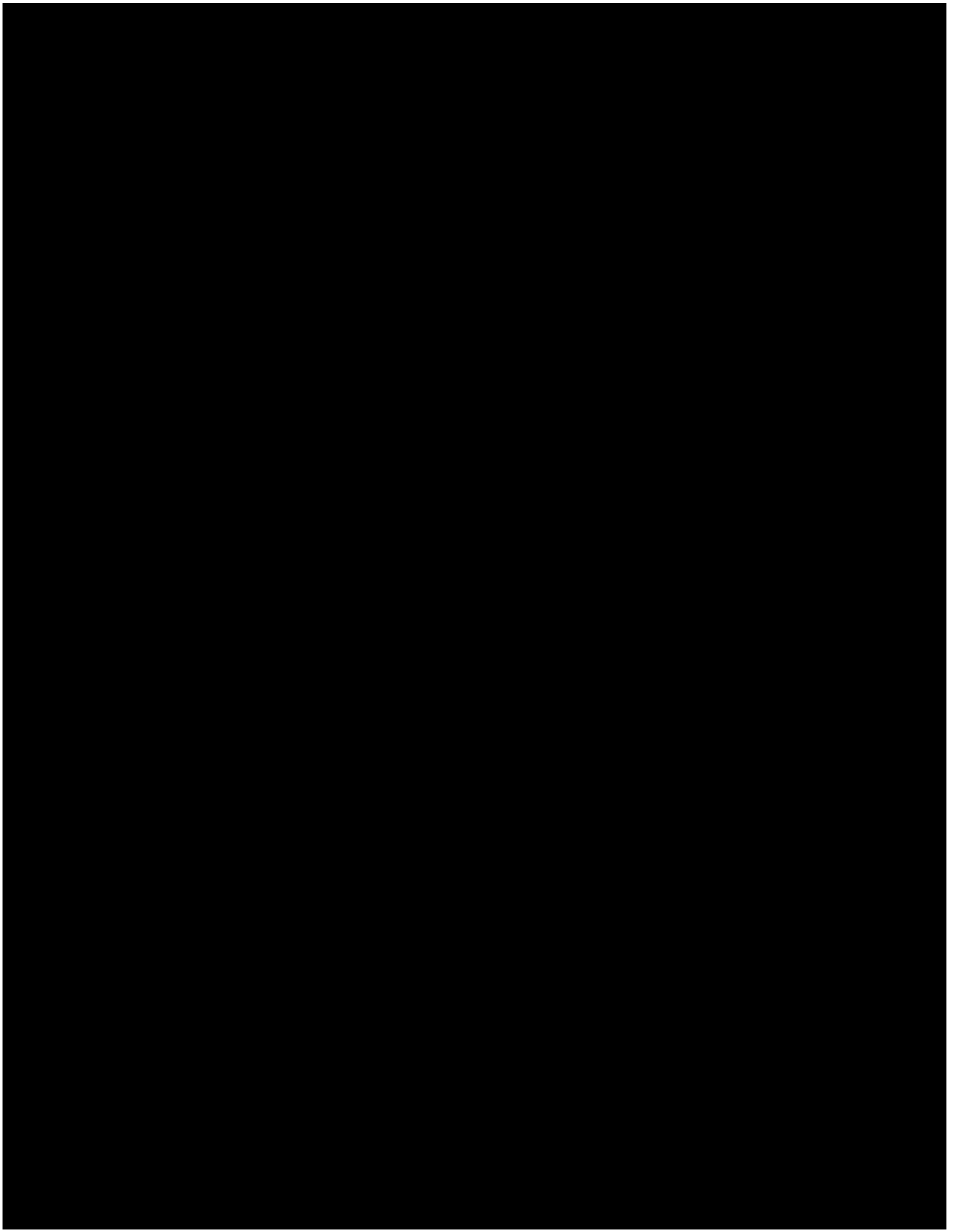


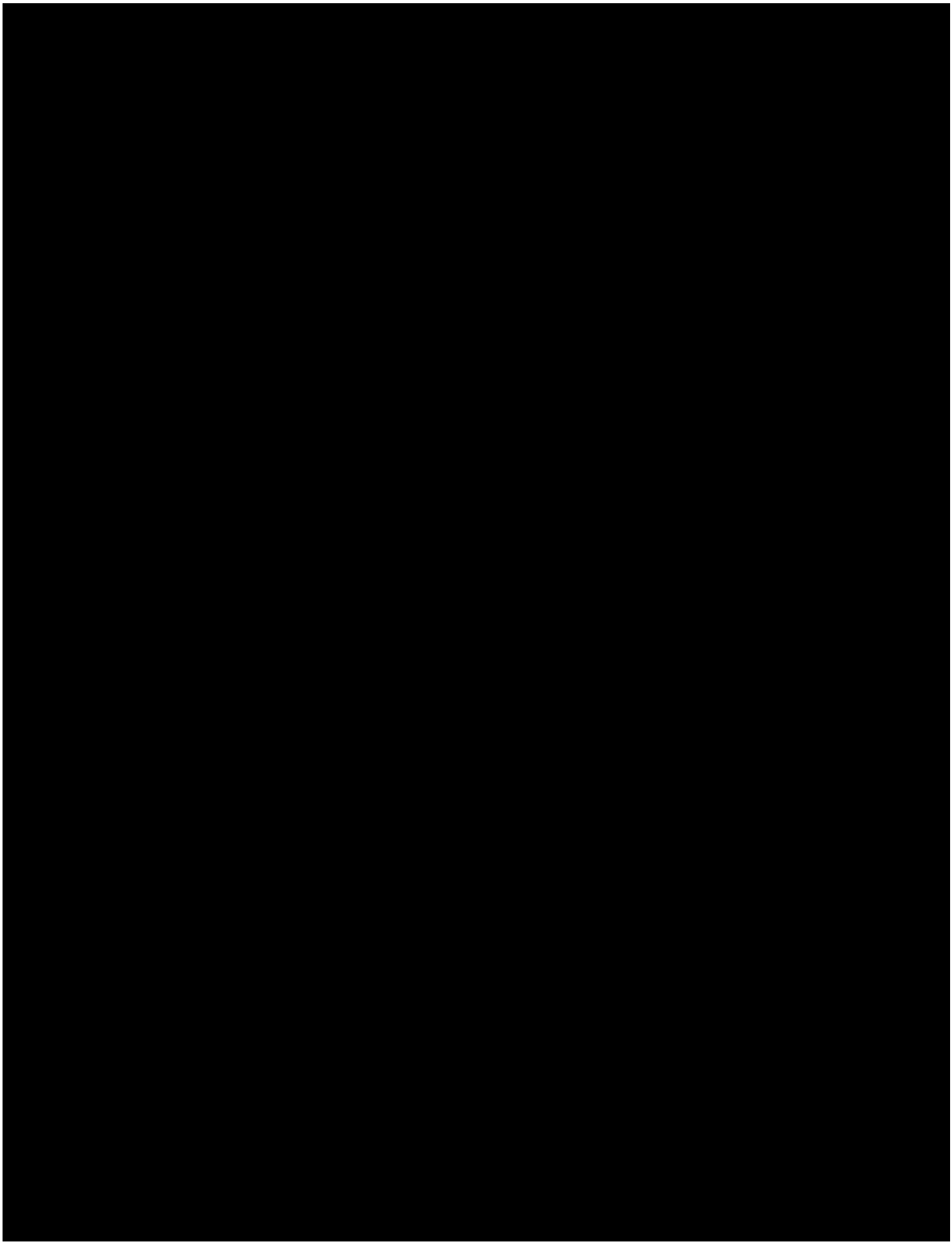


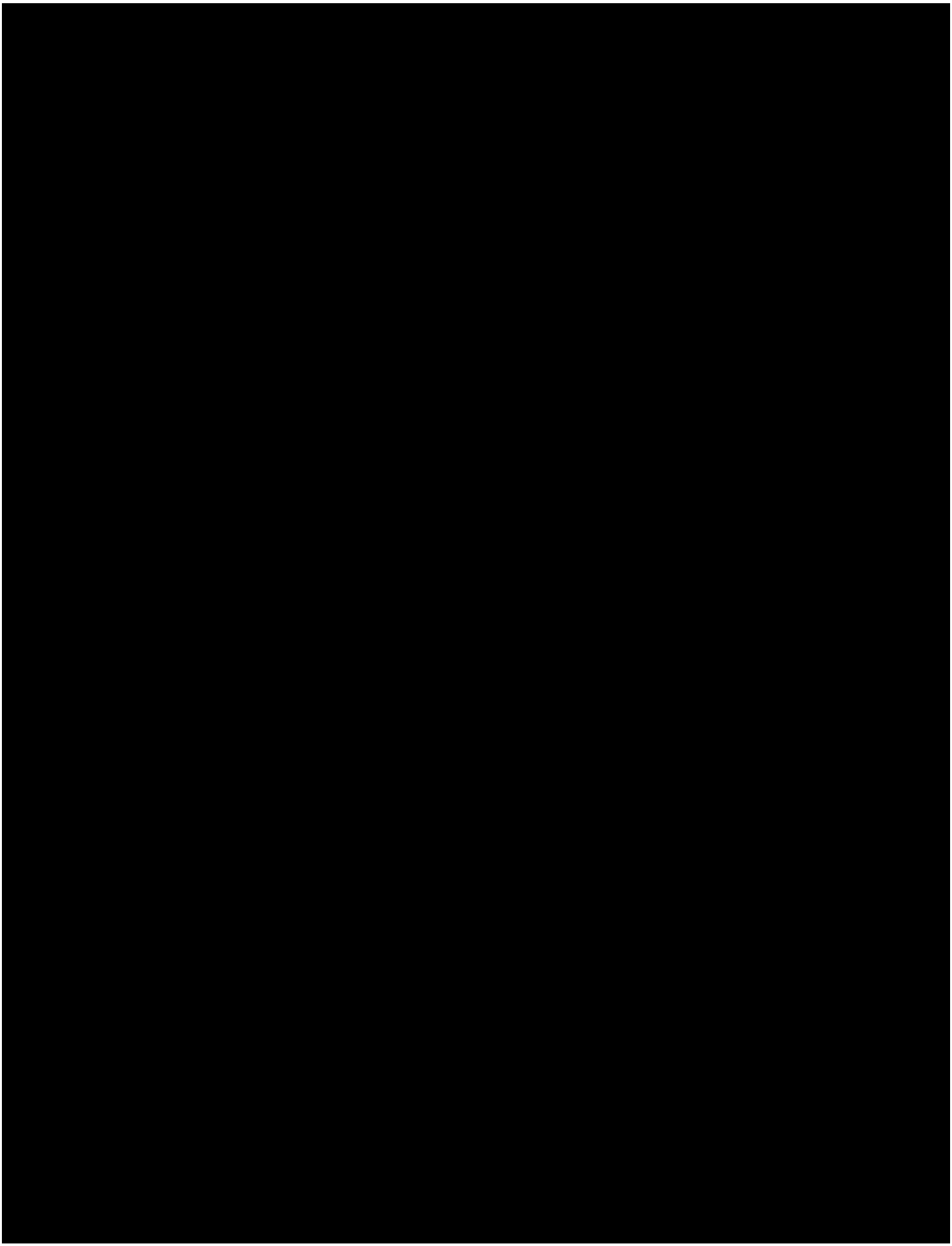


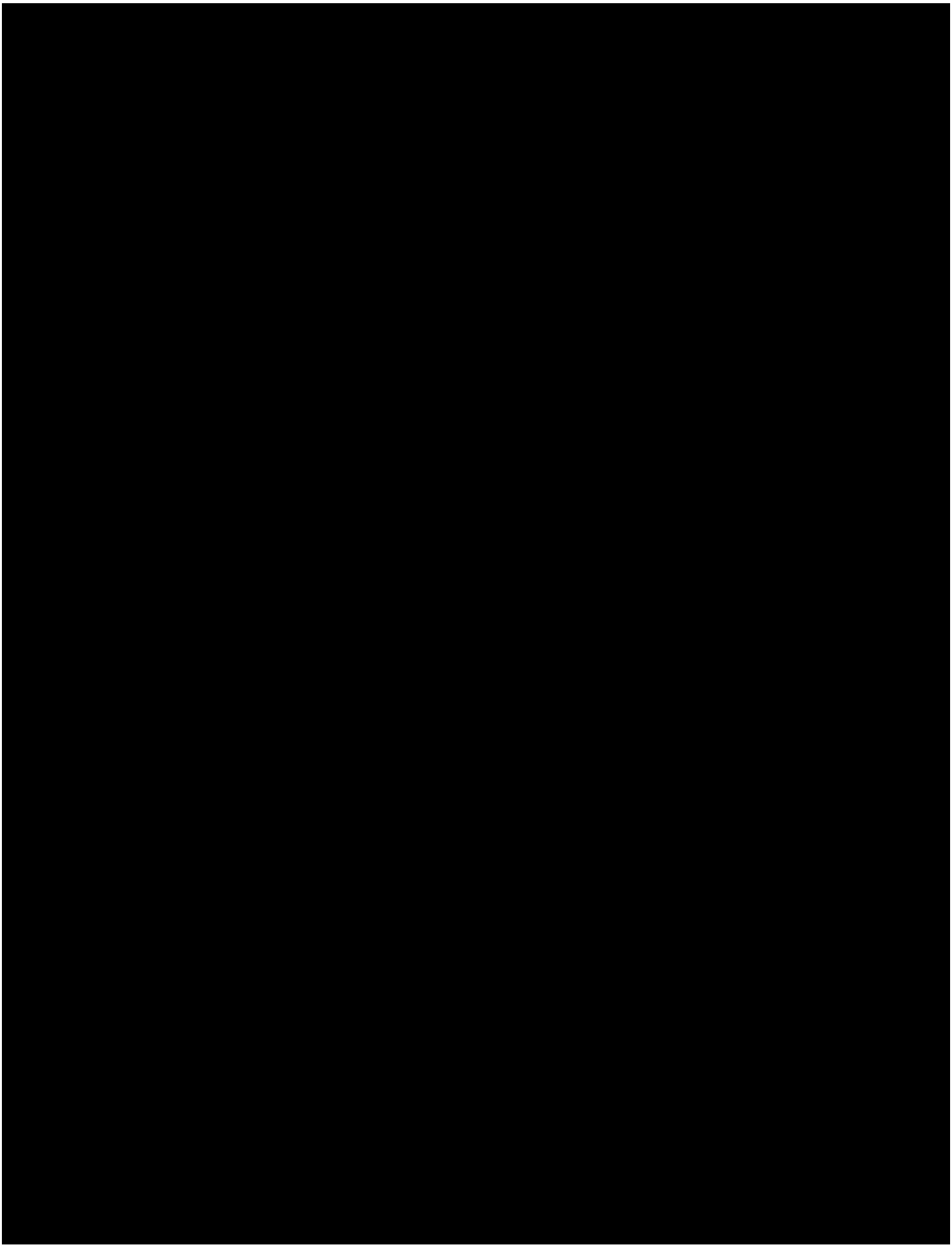


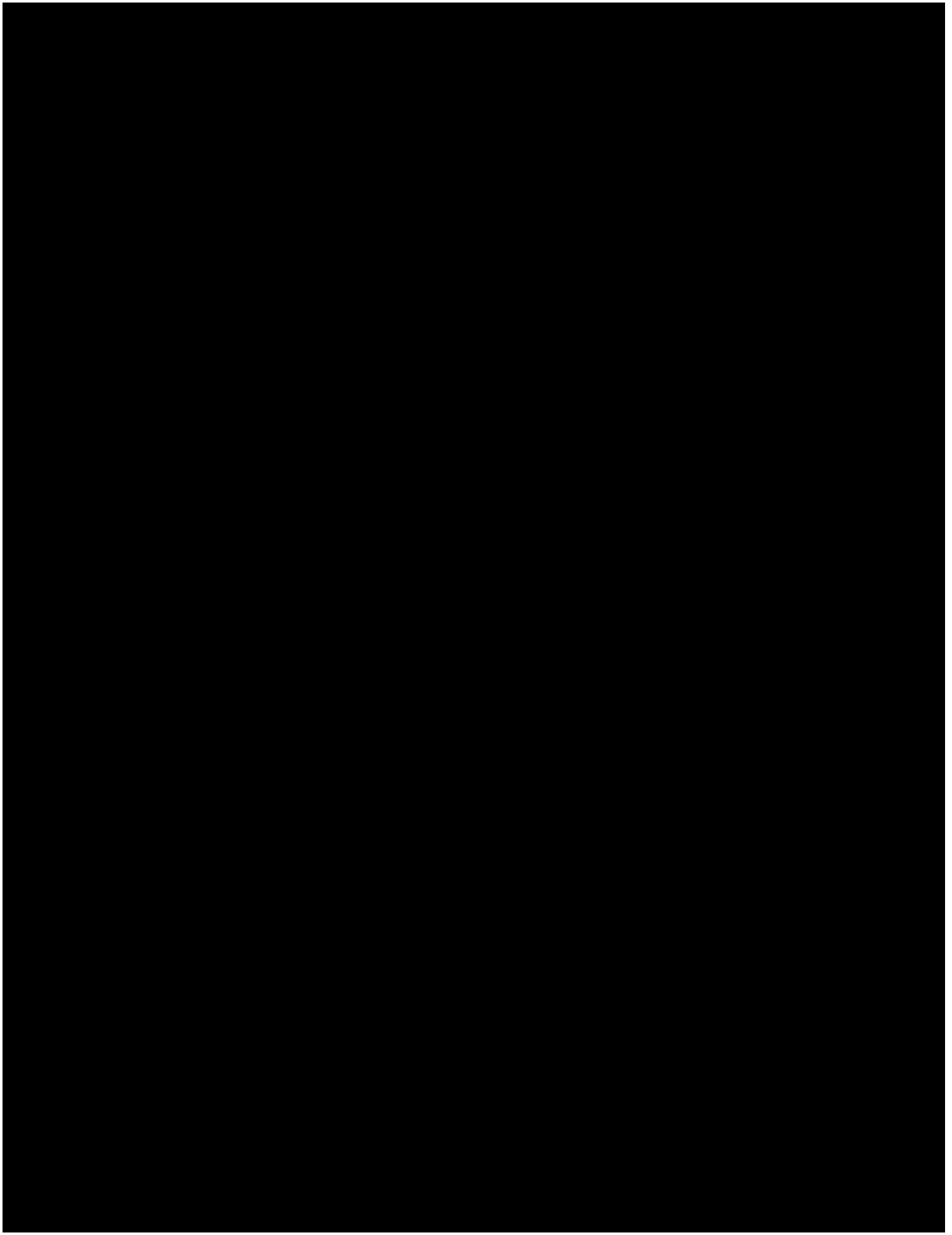


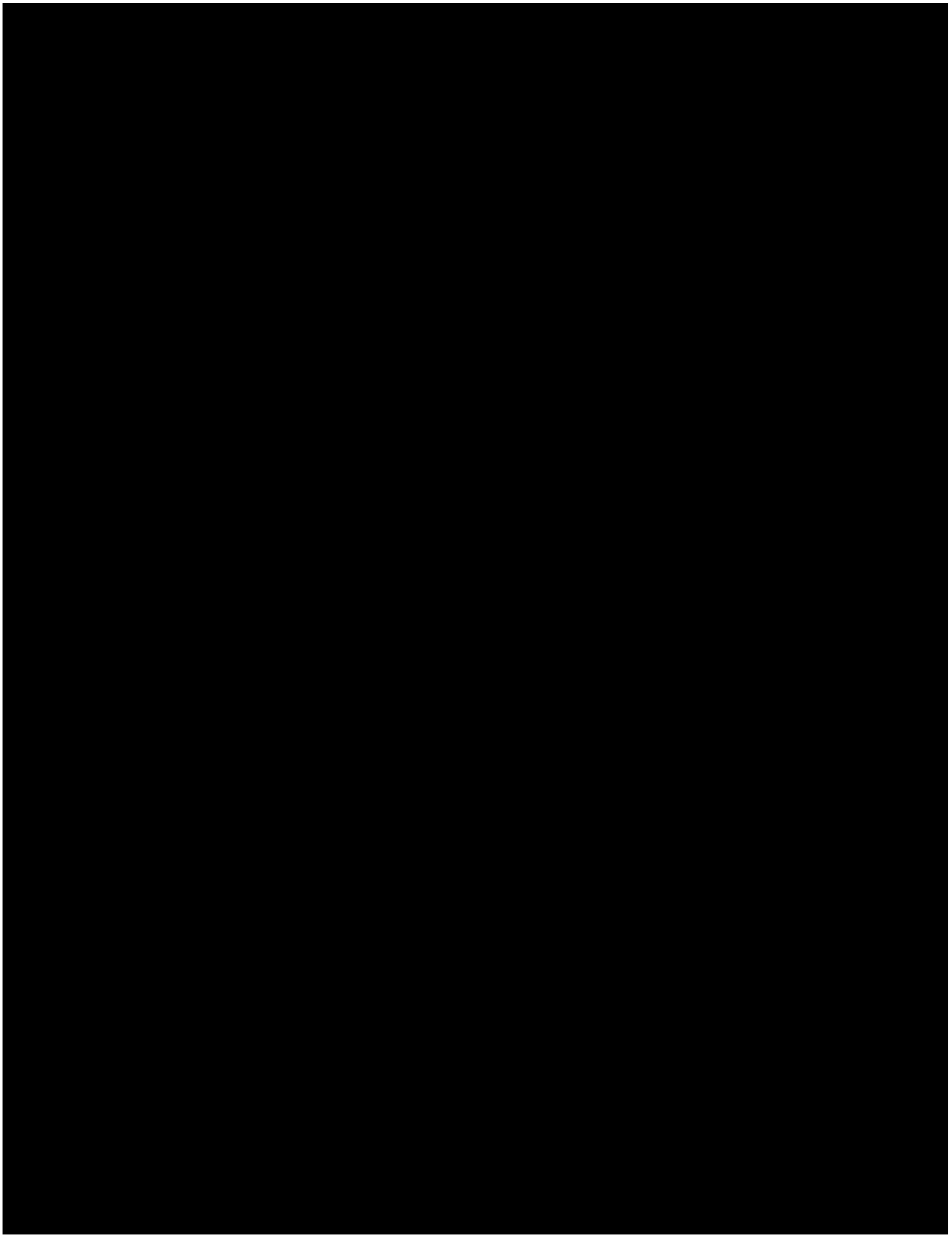


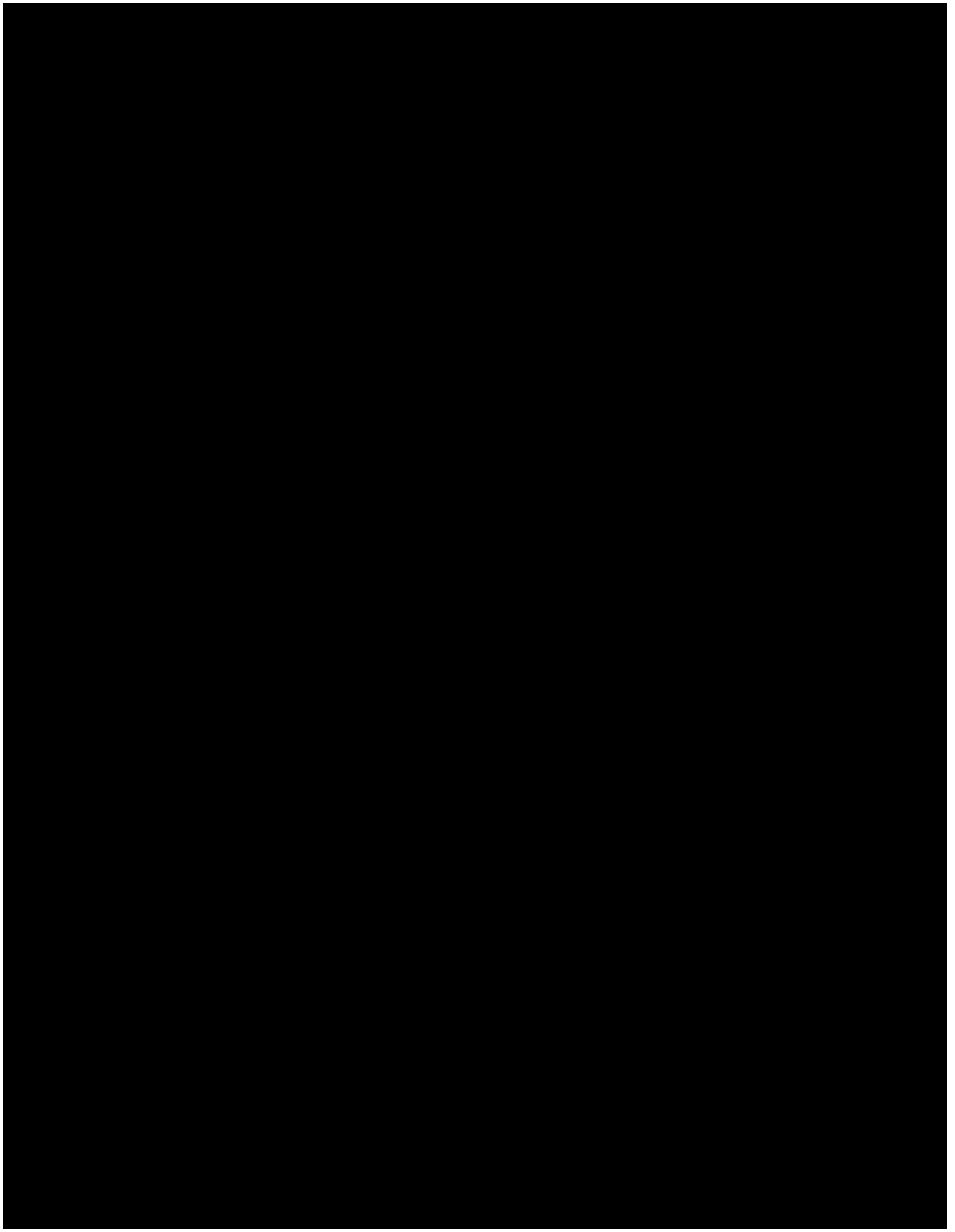


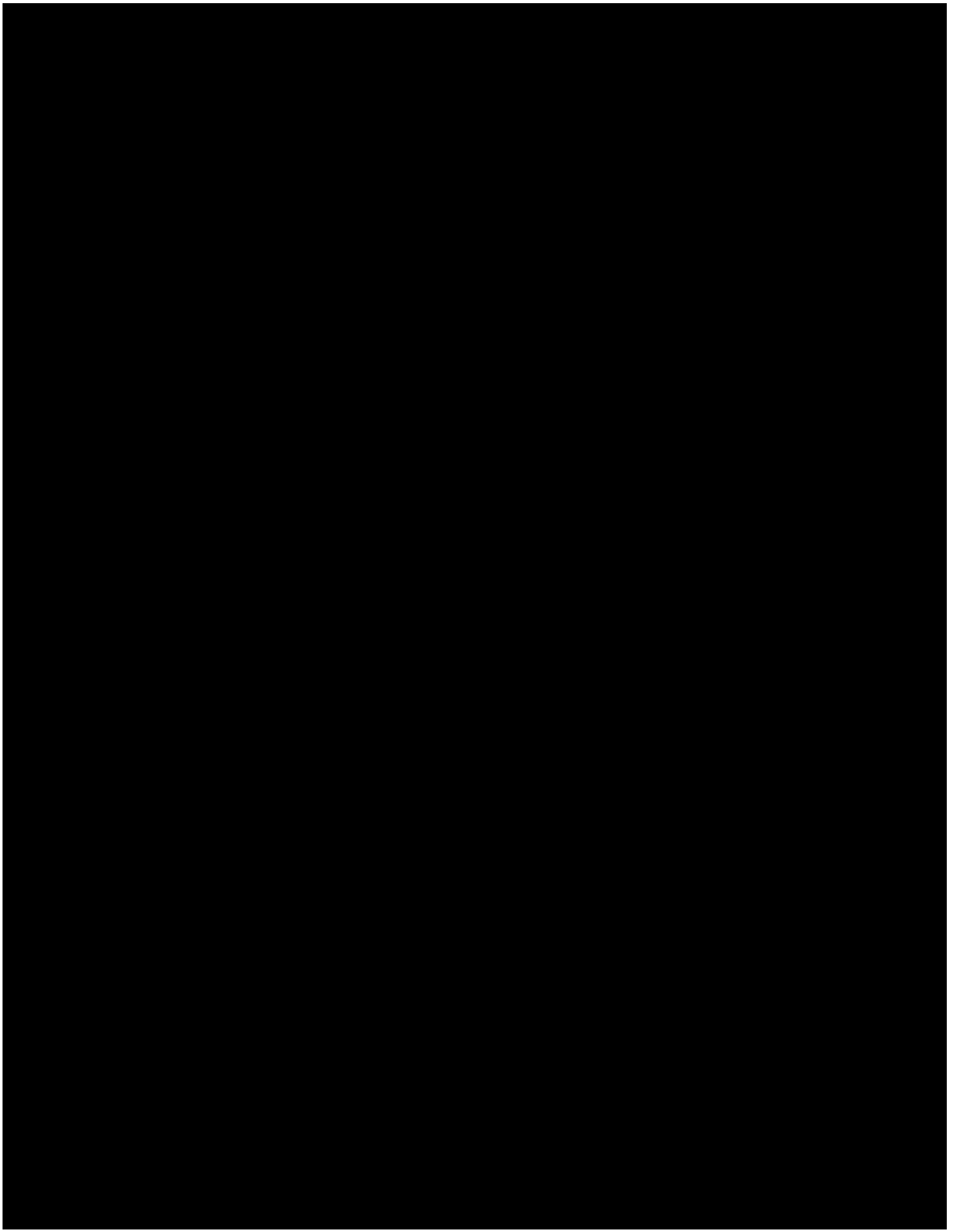


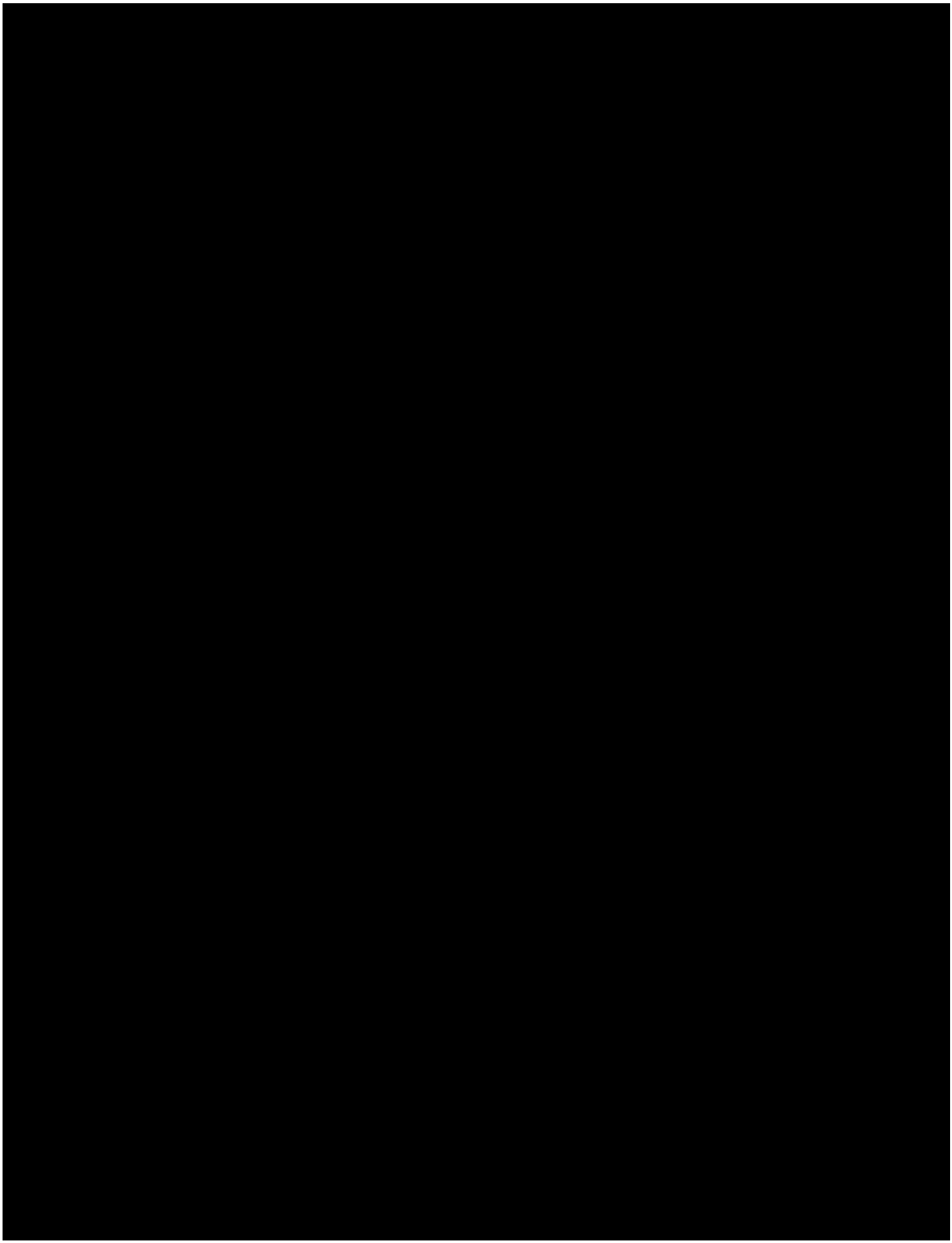


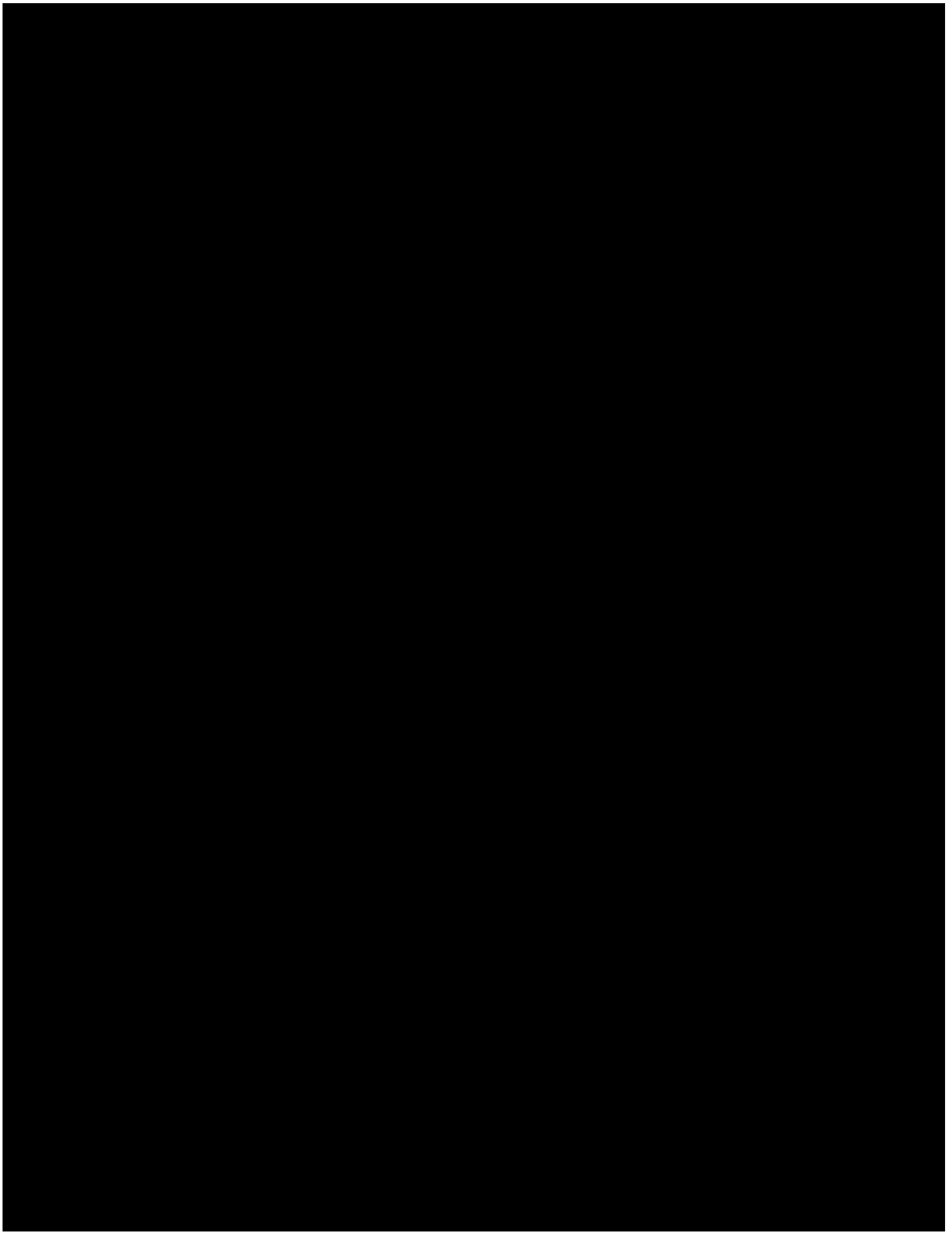


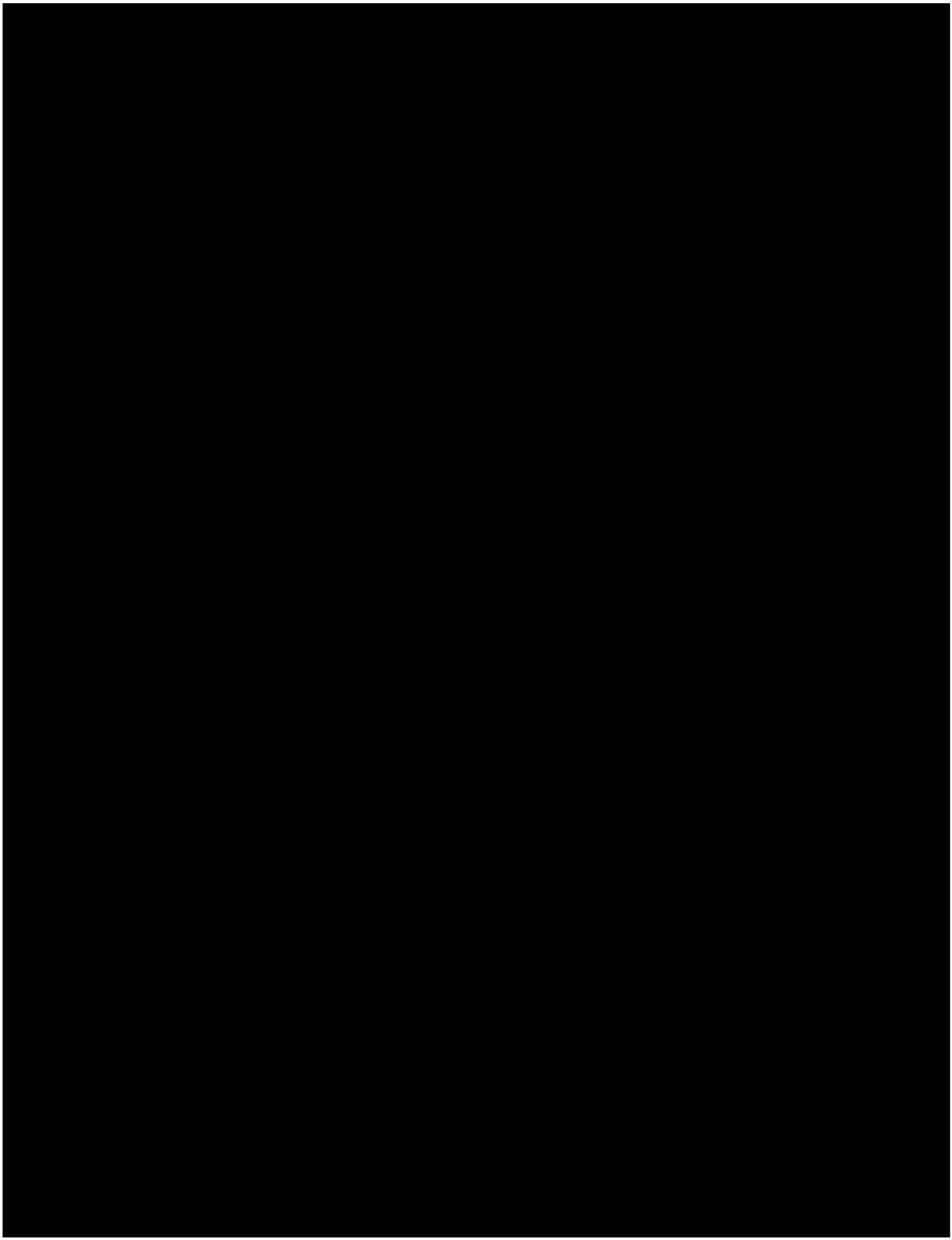


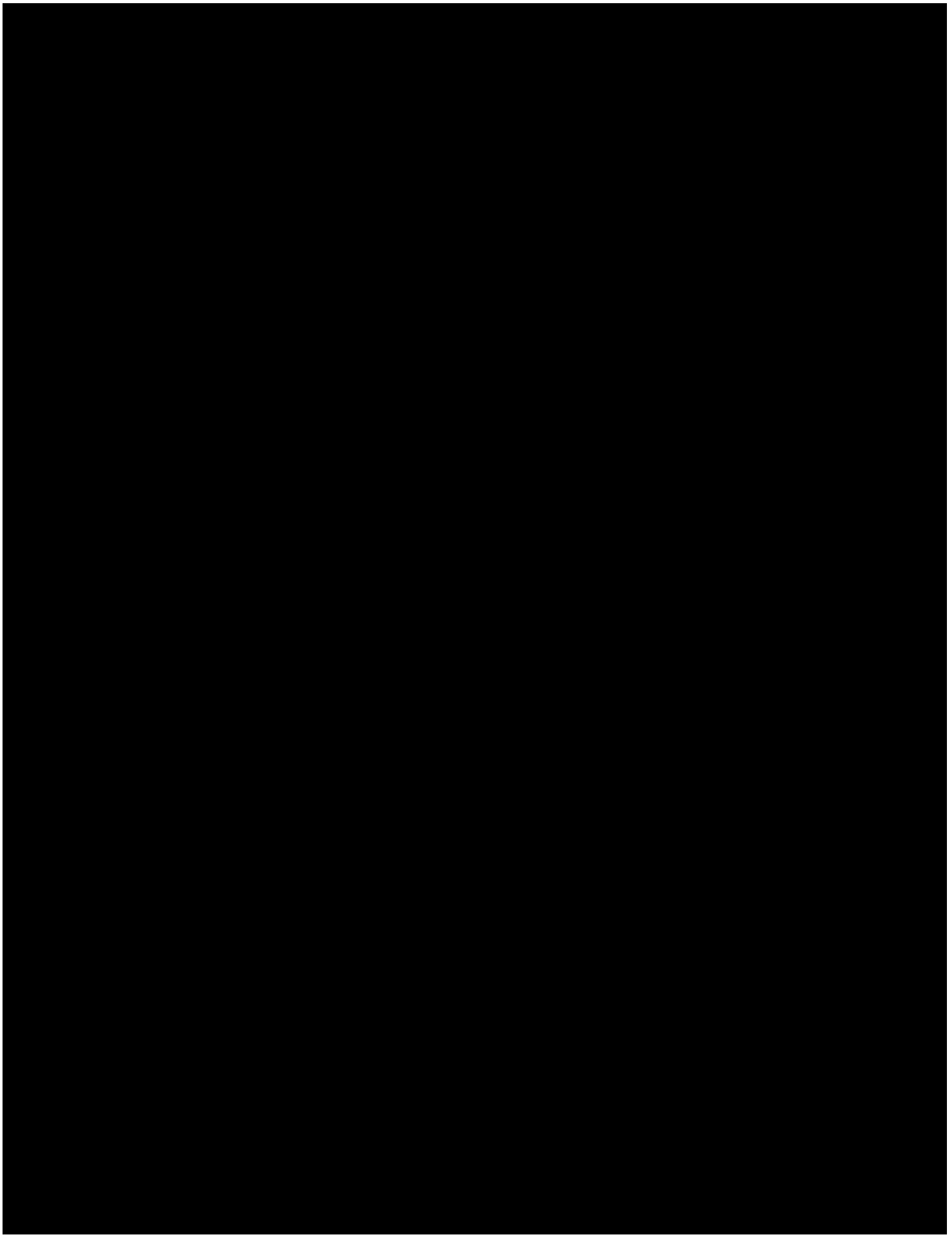


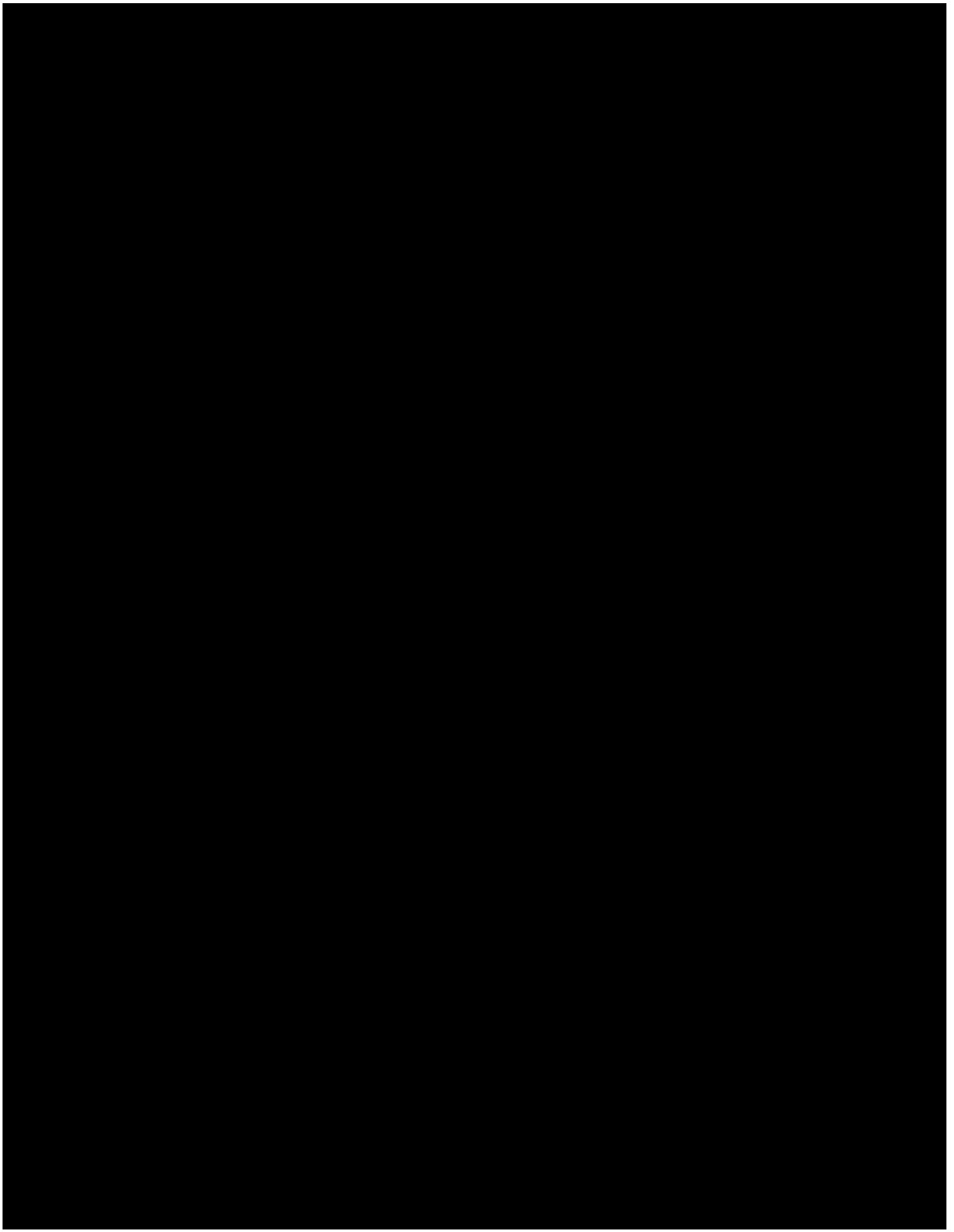


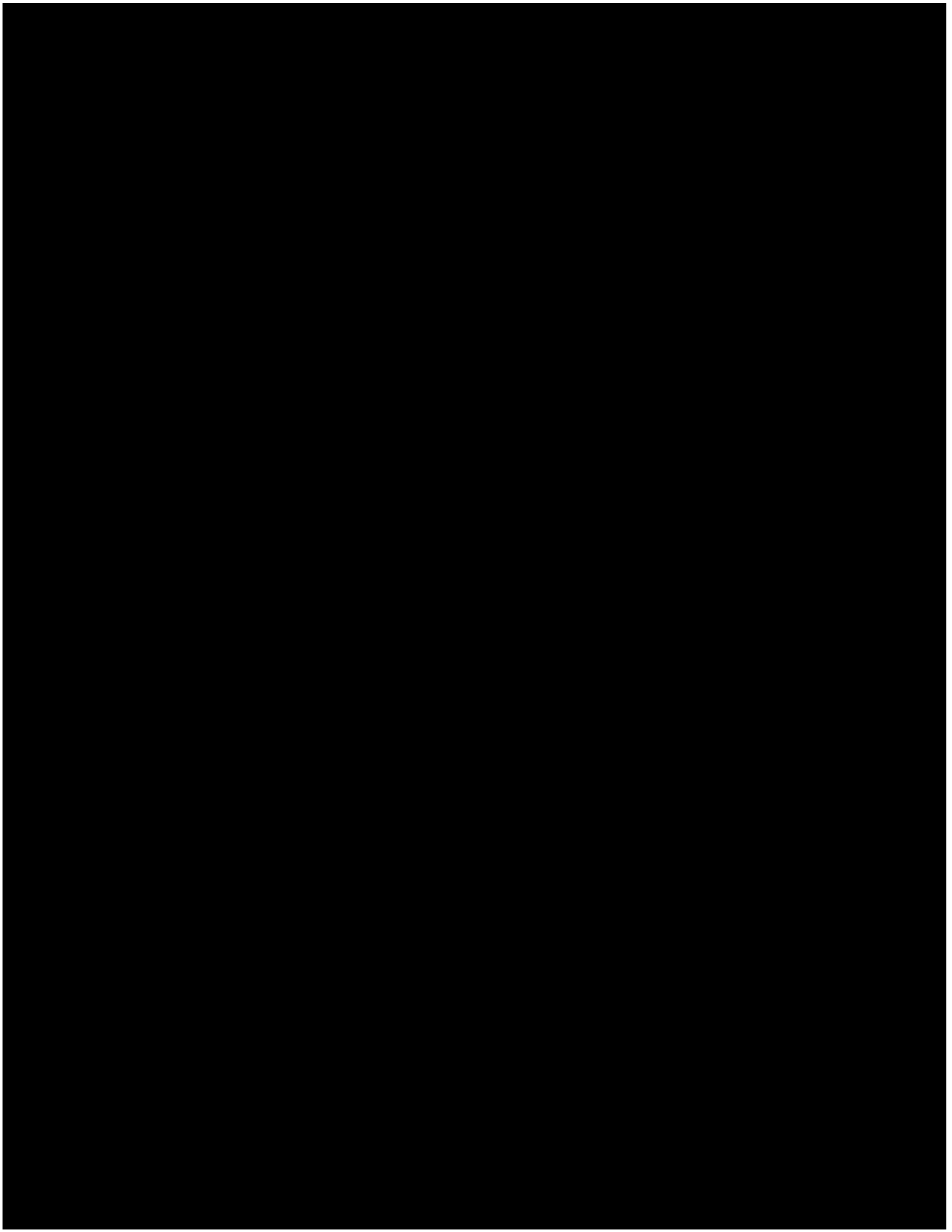


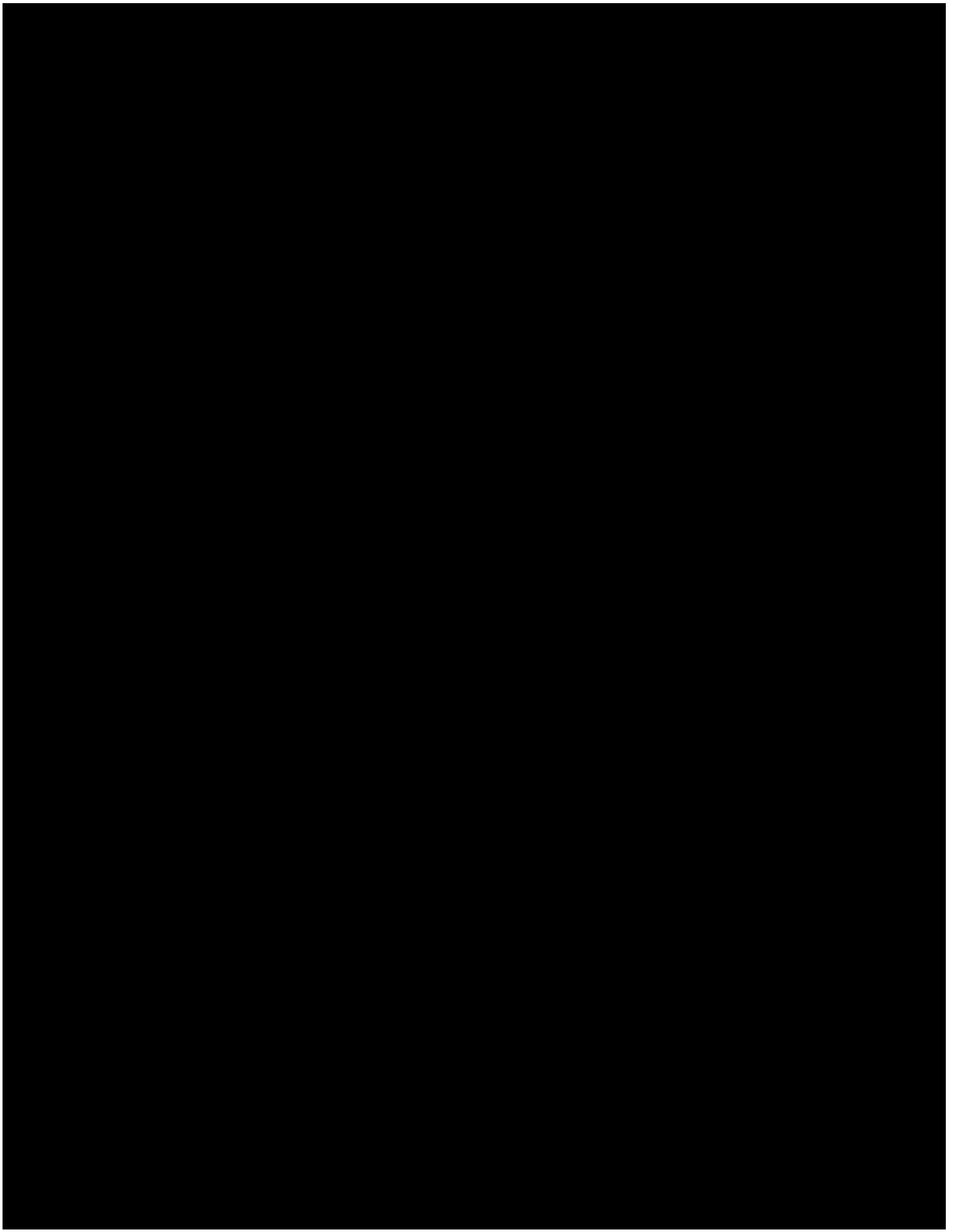


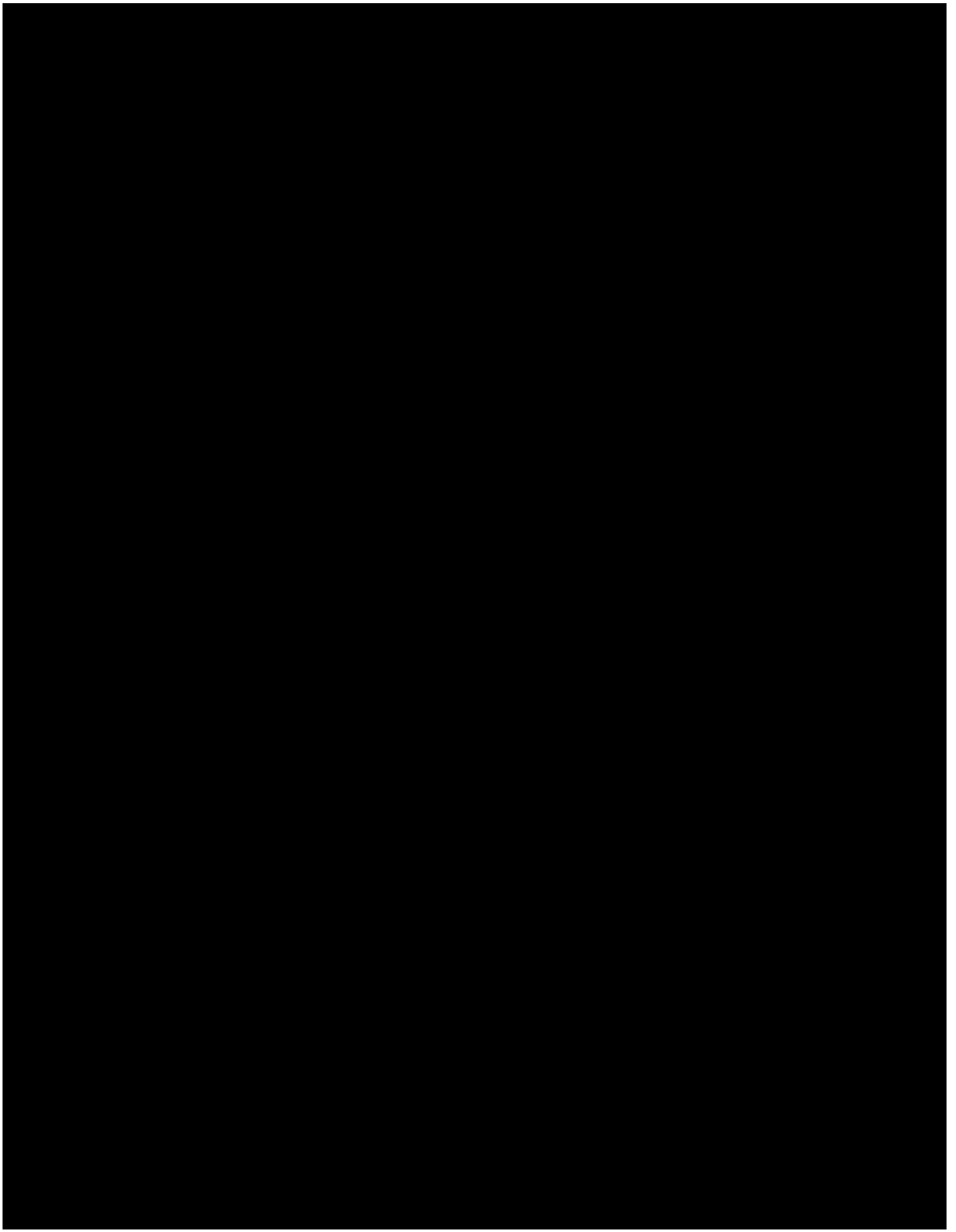


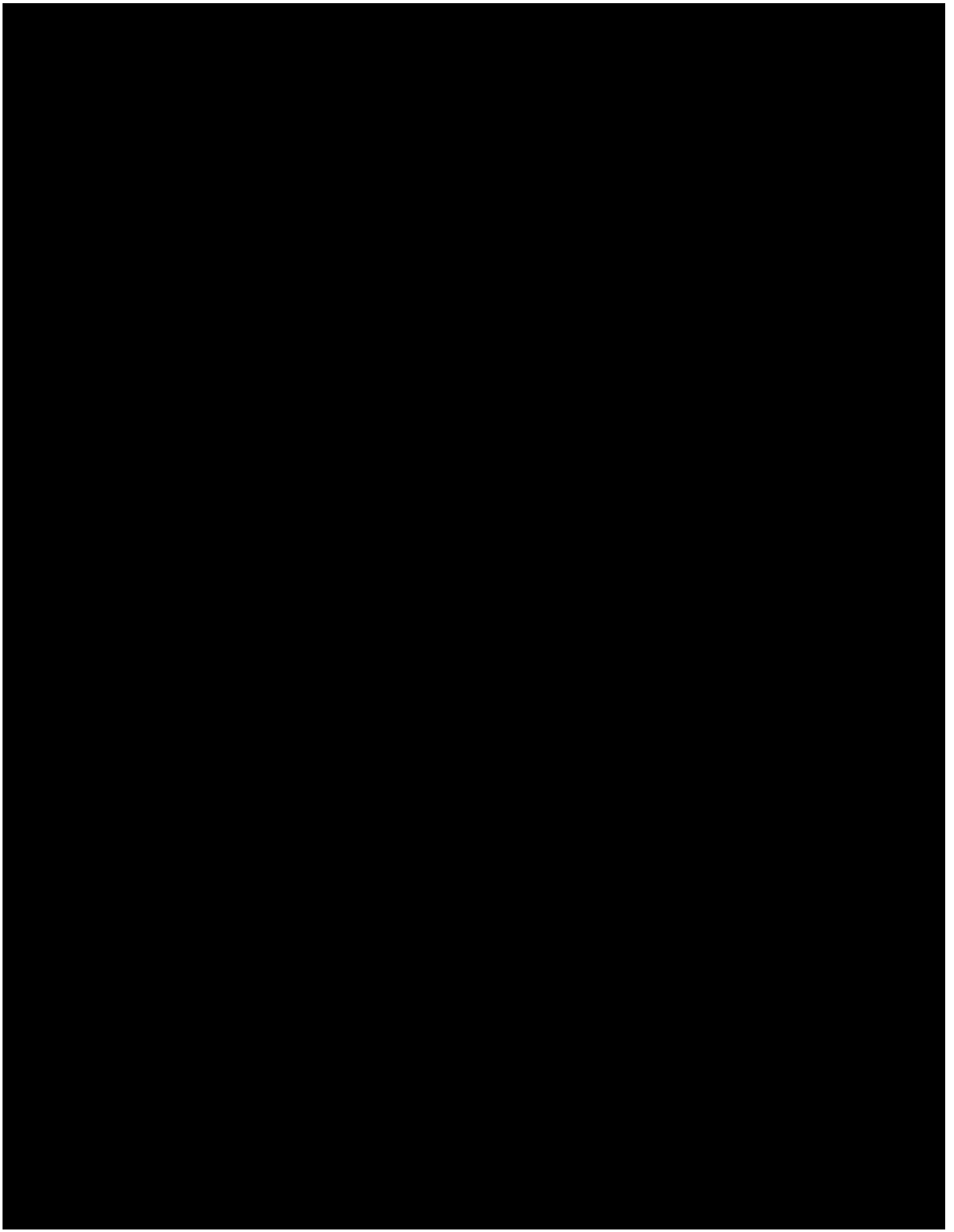


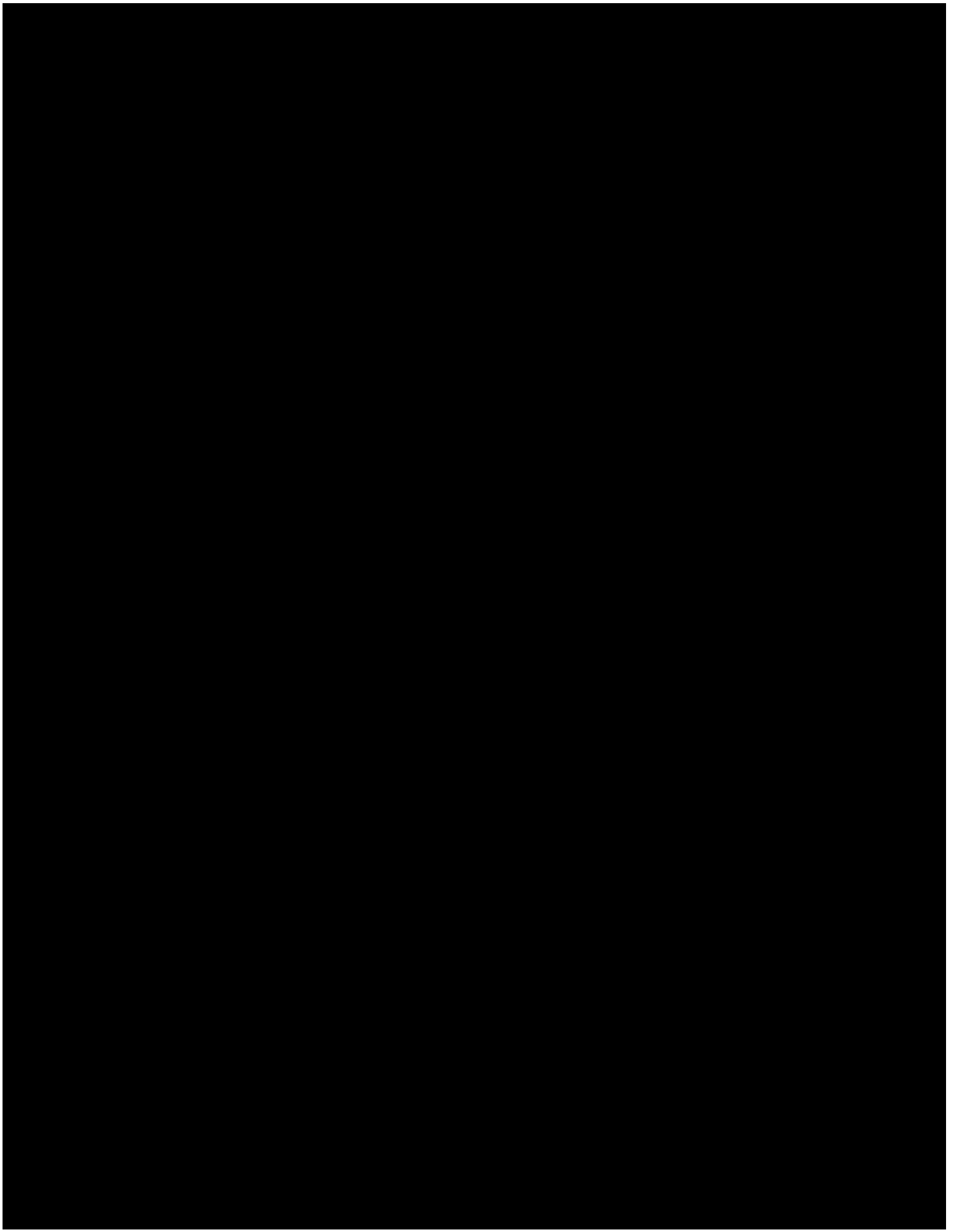


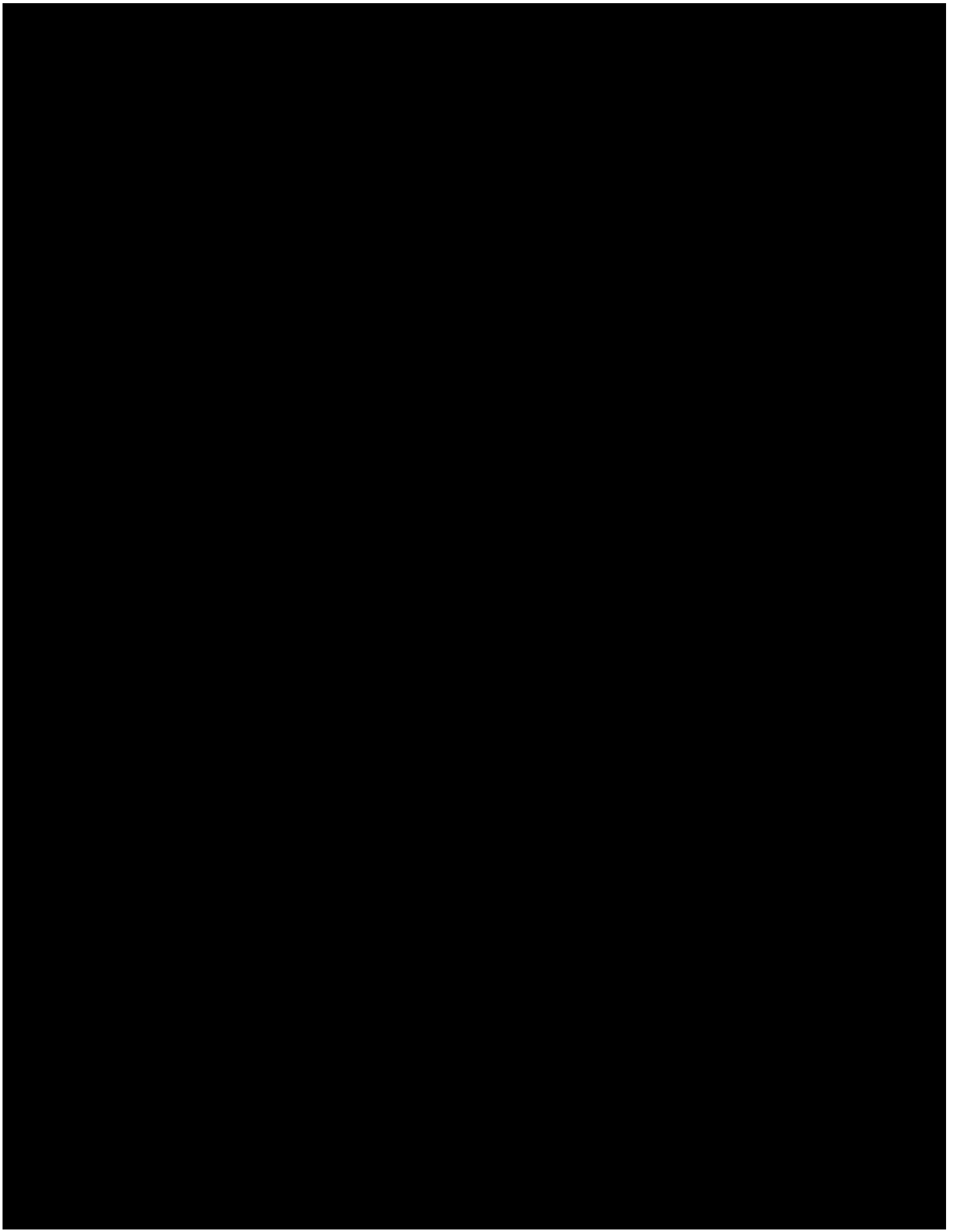


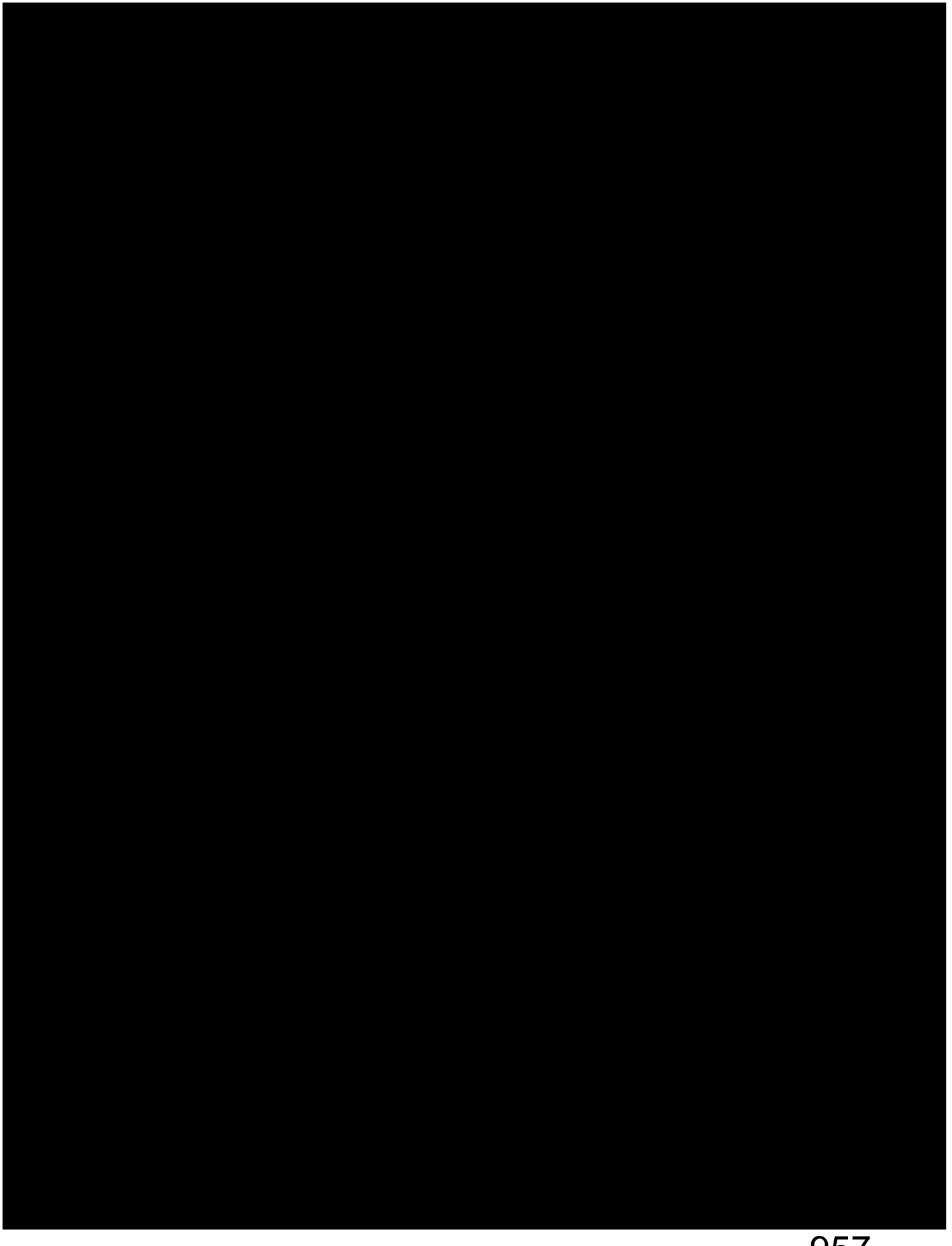


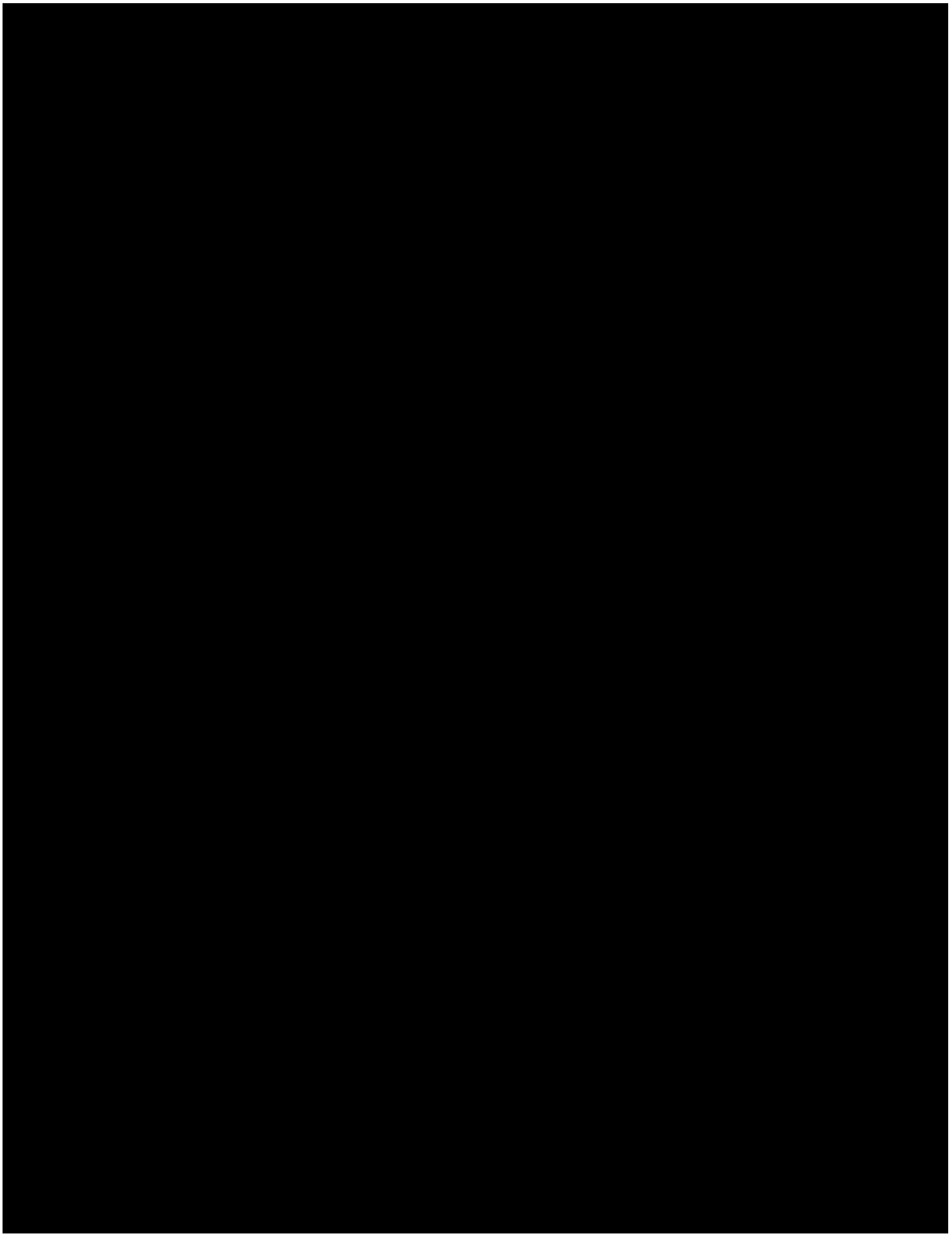


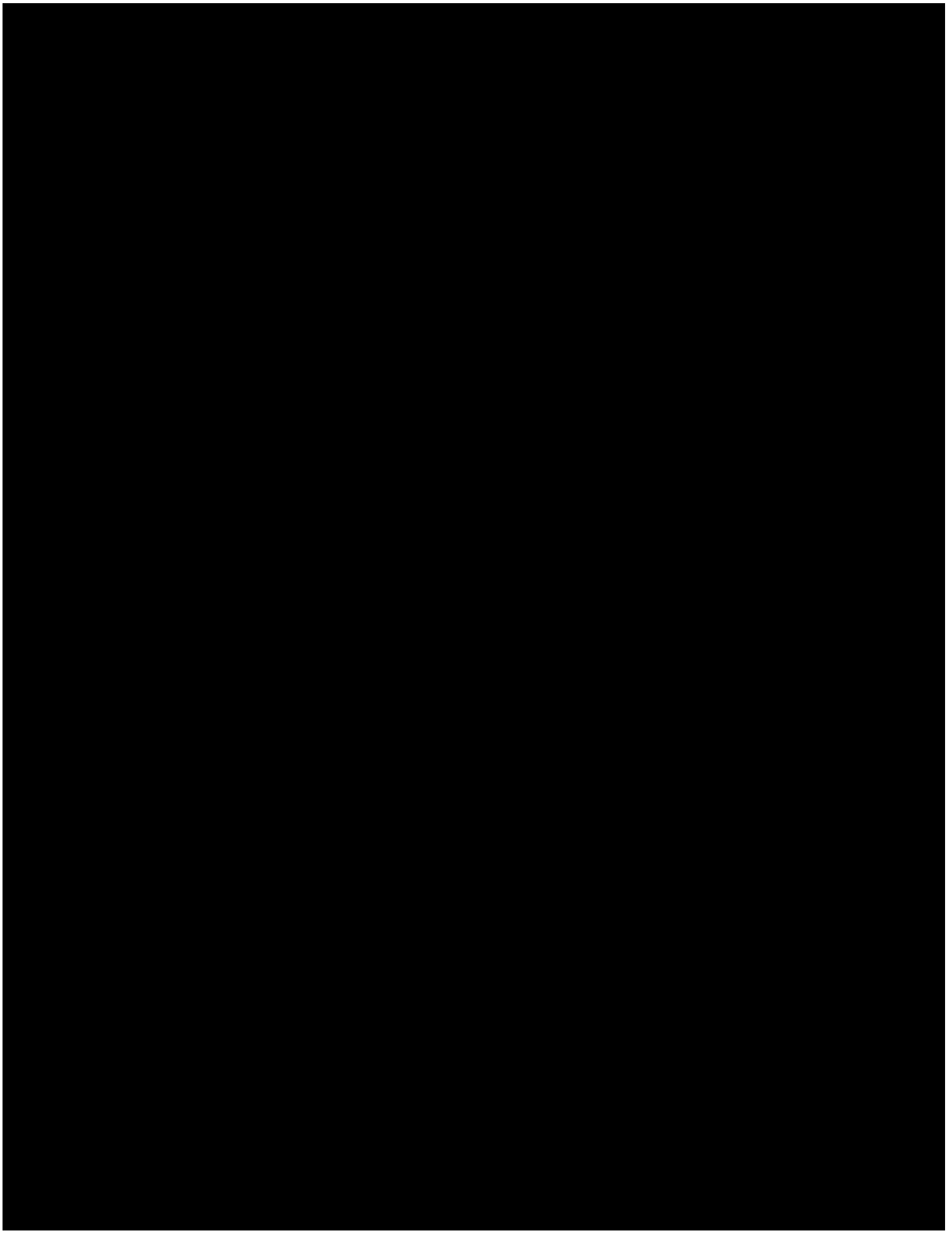


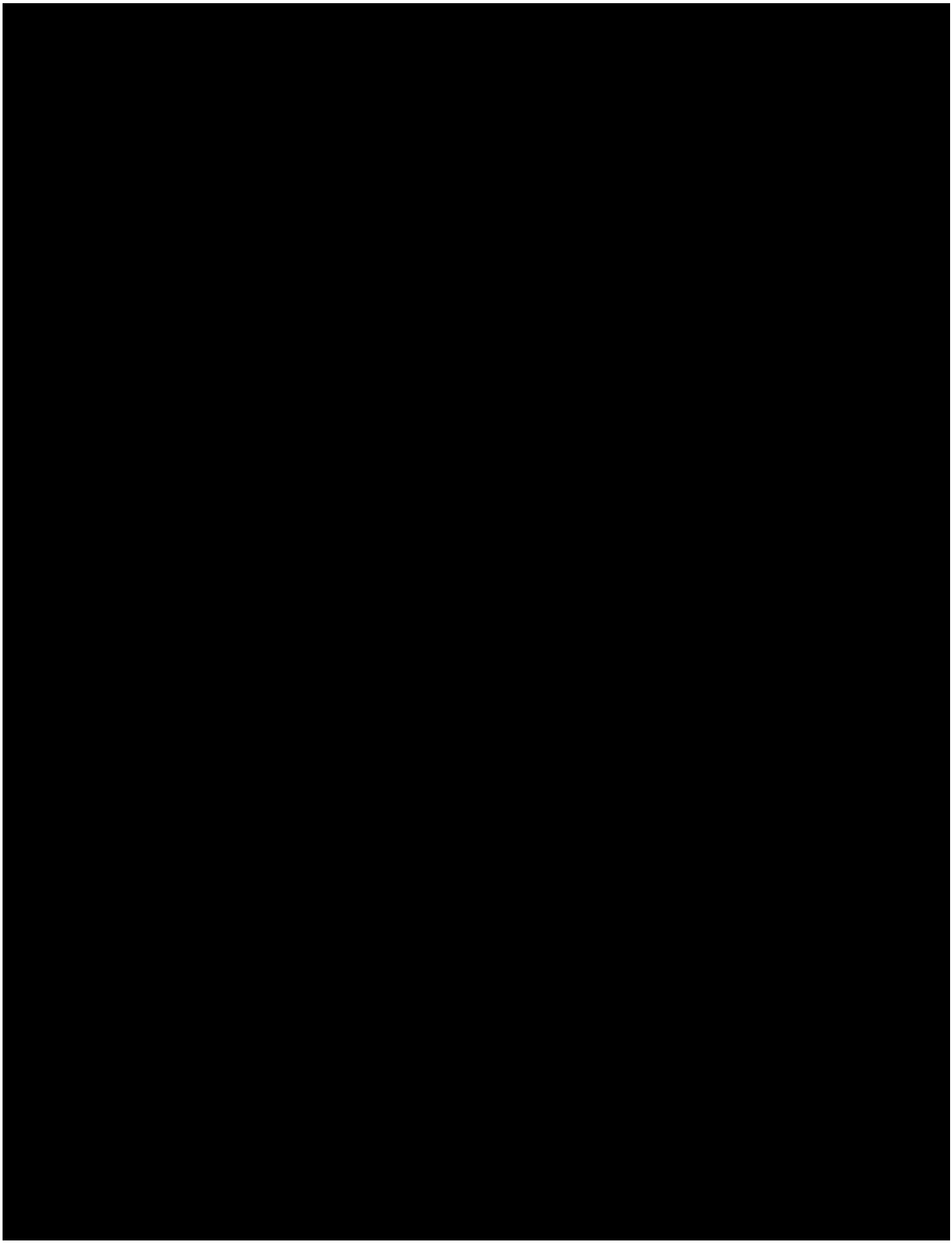


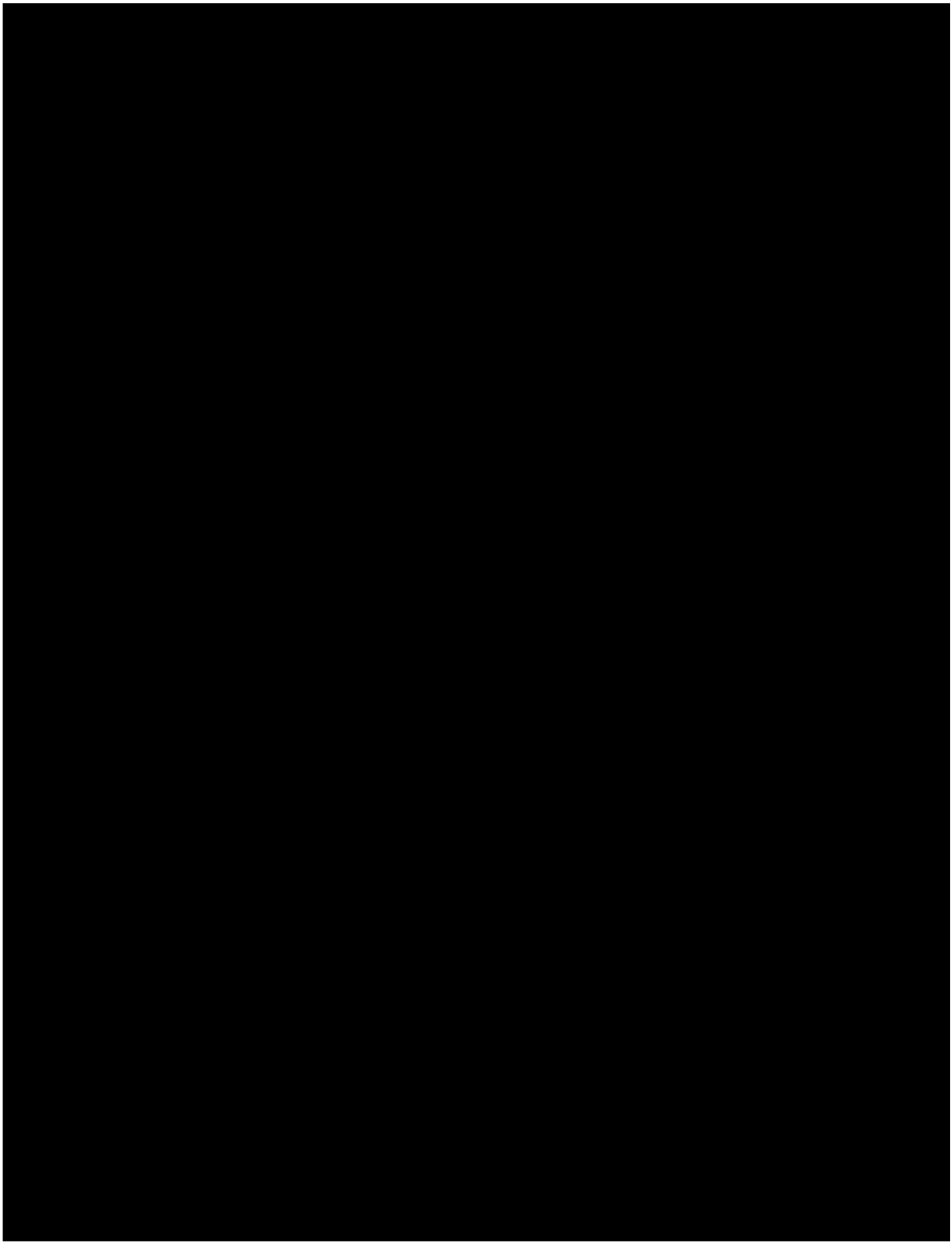


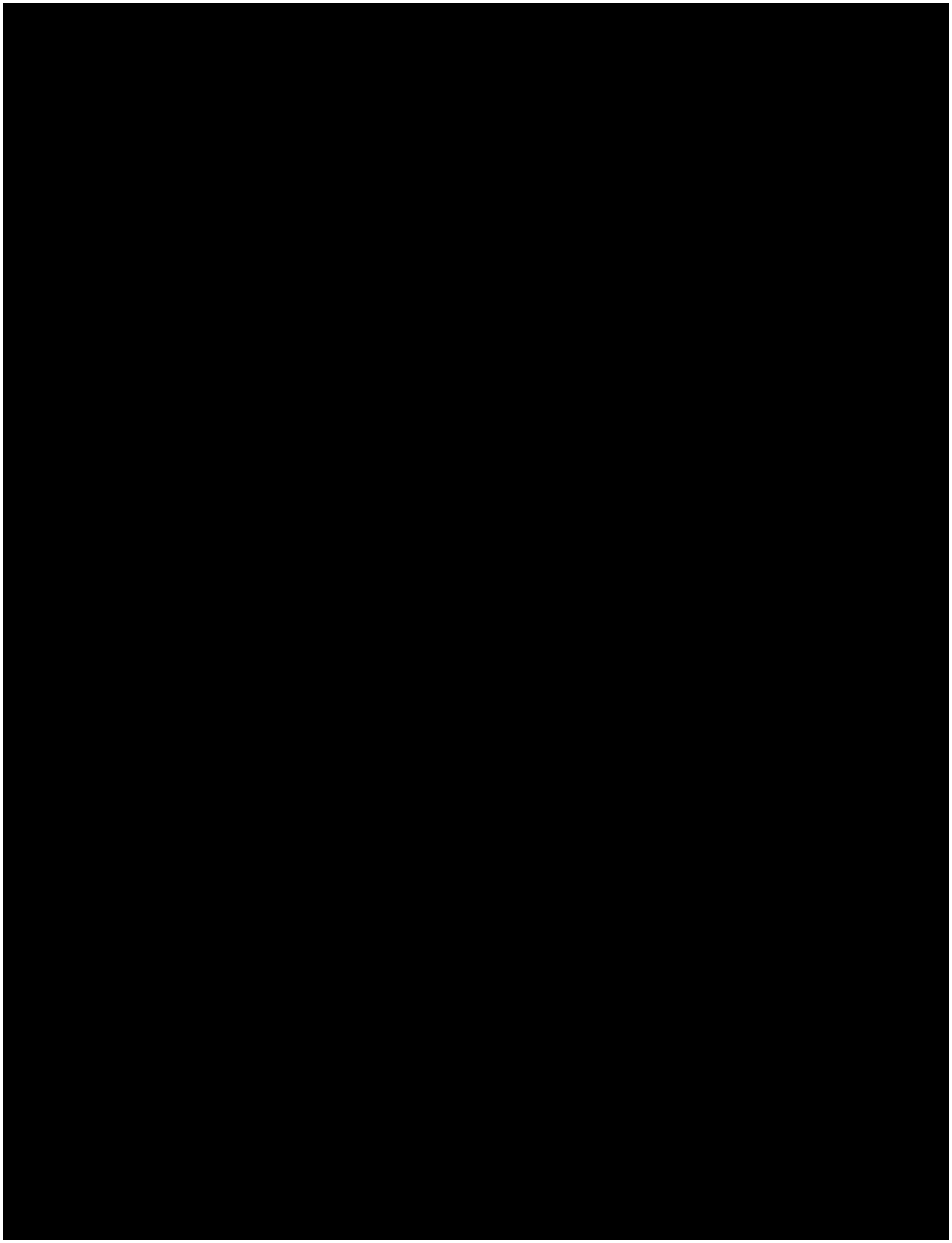


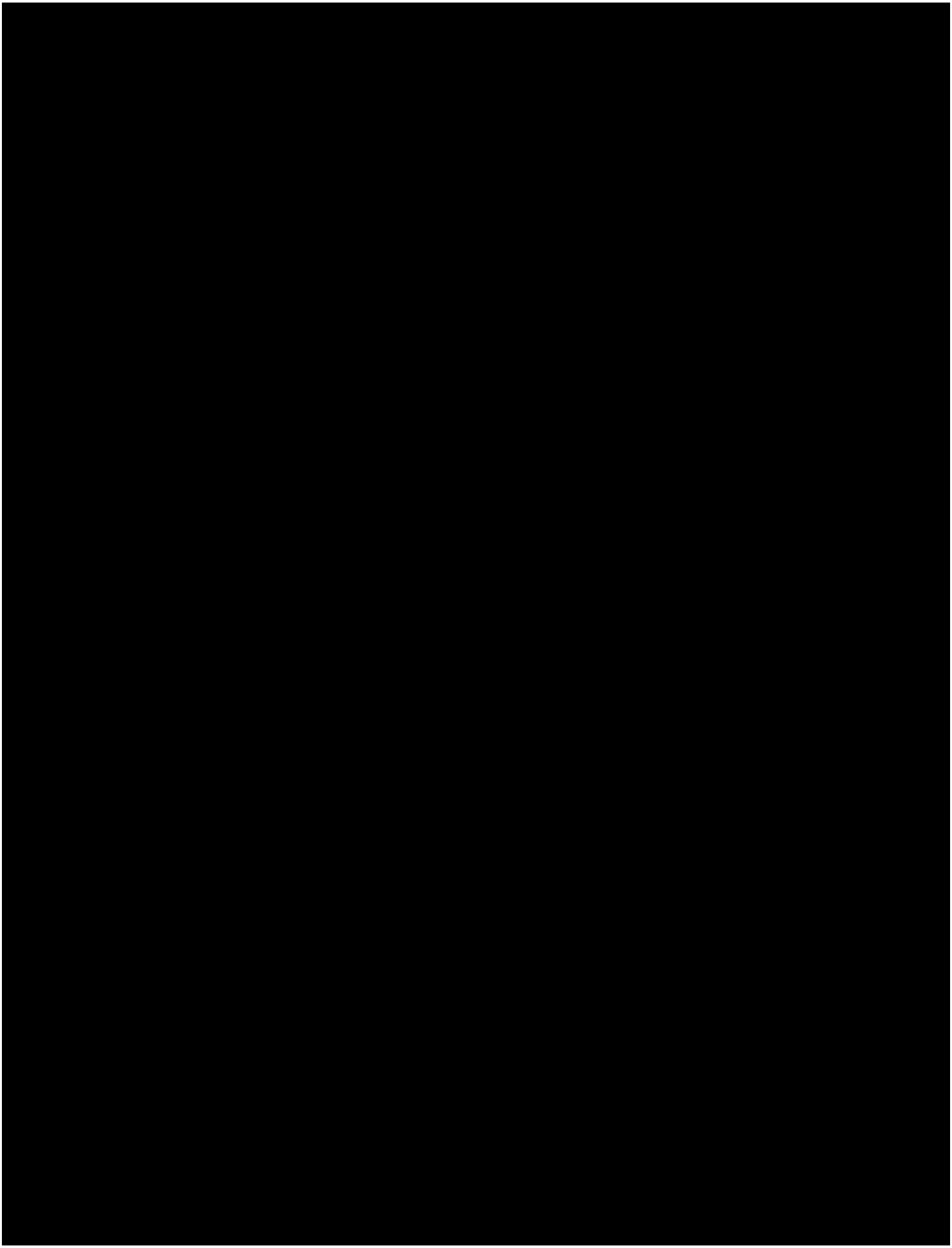












From: Daiquiri Carter
To: ASCC Pleadings; Kathryn Irby; jim@jimjacksonatty.com; Martha Cox
Cc: Brent Gasper; Daiquiri Carter
Subject: CC # 230641
Date: Friday, June 23, 2023 3:30:41 PM
Attachments: Respondent"s Motion to Strike et al_001.pdf
image001.png
image002.png

Please find attached Respondent's Motion to Strike claimants' Motion for summary Judgment et al…. I have copied Claimants' attorney on this email.

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
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TIME-SENSITIVE PLEADING

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY, HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JAQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN[1] **CLAIMANTS**

v. **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

RESPONDENT'S MOTION TO STRIKE CLAIMANTS' MOTION FOR SUMMARY JUDGMENT OR, ALTERNATIVELY, RESPONDENT'S MOTION FOR AN ENLARGED OF TIME TO RESPOND TO CLAIMANTS' MOTION FOR SUMMARY JUDGMENT
AND
MOTION TO EXPEDITE A DECISION ON THE MOTIONS HEREIN

COMES NOW, the Respondent, the State of Arkansas, Department of Human Services, Office of Chief Counsel, by its attorney, Brent P. Gasper, Assistant Deputy Chief Counsel, and for its Motion to Strike Claimants' Motion for Summary Judgment, or, alternatively, Respondent's Motion for an Enlarged Period of Time to Respond to Claimants' Motion for Summary Judgment, states:

CLAIMANTS' RUSH TO JUDGMENT

1. Claimants have filed a Motion for Summary Judgment alleging therein that there remains *no dispute* as to the material facts concerning liability in this case. ***Claimants could not be more wrong***. Claimants have cherry-picked certain pieces of evidence it contends are

[1] Respondent acknowledges that Claimants have filed a motion to non-suit Haley Hudson, individually, and [redacted] individually, as Claimants in this case. However, until the Commission grants the motion Respondent will continue to use the original styling of the case.

absolutely, one hundred percent (100%) dispositive of Respondent's total and complete liability in this case and now attempts to convince this Commission that, concerning liability, it is time to *move right along now, nothing more to see here*! This, all the while willfully ignoring the *mountain* of evidence that has yet to be unearthed[2], ready to be located during the normal course of discovery. Claimants likewise *refuse to even acknowledge* to this Commission the evidence currently *in Claimants' own possession* that clearly shows a legitimate question of liability. Due to the foregoing and for the reasons to be set out in the motions below, Claimants' utterly premature motion for summary judgment should be ***stricken in its entirety*** until discovery is complete. Alternatively, the Commission should enlarge the time period allotted to Respondent to respond to the Motion for Summary Judgment until discovery– at the very least as to liability – is complete.

MOTION TO EXPEDITE

2. First, however, Respondent respectfully requests this Commission expedite the decision on the substantive motions herein, as failure to do so threatens Respondent's due process rights as well as hinders Respondent's ability to avail itself to the provisions concerning summary judgment responses as set forth in the Arkansas Rules of Civil Procedure.

3. Specifically, Respondent has just twenty-one (21) days from the day the motion is served to respond to Claimants' motion for summary judgment. *See* Ark. R. Civ. Pro. 56(c)(1). This puts Respondent's response due date on July 5th, 2023.[3]

4. Respondent desires to move to strike the entire summary judgment motion as clearly and obviously premature. However, through conversations with the Director of the

[2] See, for instance, the huge amount of discovery tendered to Claimants' counsel just *today*, with Respondent obtaining the State Police photographs just *yesterday*.

[3] This is also the day following Independence Day, a state and federal holiday, where Respondent's office will be closed.

Arkansas State Claims Commission, Kathryn Irby, it is not a certainty that the Commission will even see Respondent's motion before the due date for the response to the pending motion for summary judgment arrives. This puts Respondent at a distinct disadvantage, unable to obtain a ruling on its Motion to Strike before being forced to file a response to protect itself from an argument by Claimants that Respondent failed to file a timely response.

5. Equity and due process should allow Respondent to obtain a ruling on its Motion to Strike before being required to respond to a premature summary judgment motion wherein it will be forced to provide all available evidence to defeat the motion and also be forced to compromise its case strategy by potentially divulging nondiscoverable or impeachment evidence it would normally choose to keep under wraps until an appropriate time. The Claimants should not be allowed to flush out and be privy to privileged trial strategy and nondiscoverable evidence simply by filing a summary judgment so early in the litigation and to use the Rules of Civil Procedure as a sword against which Respondent, due to the part-time nature of the Claims Commission, has no shield.

6. Moreover, Rule 56(c) contains the following provision:

> *For good cause shown, the court may by order reduce or enlarge the foregoing time periods.*

7. As is clearly laid out in the Rule, Respondent may request an enlargement of time to respond to the summary judgment motion. However, unless these motions are expedited and put in front of the Commission before July 5, Respondent again will be forced to file a response to the summary judgment motion itself to meet its obligation to file a timely response.

8. It is clear that unless these motions are expedited and considered by the Commission during the week of June 26-30, Respondent will be substantially disadvantaged and its due process rights violated by not being able to avail itself of proper responses, defenses, or

pleadings to which it is entitled under Rule 56 of the Arkansas Rules of Civil Procedure as well as other rules of the Commission.

9. **Due to the foregoing, Respondent MOVES that consideration of the motions herein are EXPEDITED, CONSIDERED, AND RULED UPON prior to June 30, 2023**.

10. Turning to its substantive motions, Respondent moves to strike Claimants' Motion for Summary Judgment or, alternatively, moves for an enlarged period of time in which to respond to the motion.

MOTION TO STRIKE

11. In their motion, Claimants have presented "undisputed facts" and have made numerous factual assertions that Respondent disputes and has disputed in the clearest possible way, having contested Claimants' version of events in both its original Answer and its Answer to Claimants' Second Amended Complaint. It is this mad dash to altogether skip the question of liability that is the first indicator that, in fact, the issue of liability is FAR from resolved. Indeed, even Claimants' counsel himself knows this to be true, having as recently as May 31, 2023, been in discussions with personnel at the State Crime Lab concerning the unlawful controlled substances that were found in Jacqueline Ashcraft's urine at the time of the accident.[4] This discussion was memorialized in a memo to the file by the State Crime Lab that was given to Respondent in response to a subpoena. *See* Respondent's Exhibit "A", attached.

[4] It is noteworthy and perhaps of importance to the Commission that Claimants' counsel has still failed or refused to turn over the toxicology report for Jacqueline Ashcraft *even though he has had this clearly discoverable evidence in his possession for months*. In fact, documents of this nature were *specifically* requested by Respondent in its first set of interrogatories and requests for production of documents. As of this date, Claimants' attorney has still not satisfied his obligation to turn over this discoverable evidence. Respondent was forced to obtain a subpoena duces tecum from Commission to acquire this evidence from the State Crime Lab on its own accord.

12. Jacqueline Ashcraft's intoxication at the time of the accident and how it adversely affected the operation of her vehicle is just the tip of the iceberg, however, when counting the number of "disputed facts" concerning liability that Claimants either refuses or fails to recognize. Examples are listed below:

a) Trooper James Rays' inaccurate, flawed, and problematic accident report.

13. Claimants rely totally and completely on the accident report and the deposition of former State Trooper James Ray to make their case as to liability. Whether they know it or not, Claimants have done so to their detriment. Respondent repeatedly contested and questioned Mr. Ray's findings in the accident report and as Respondent has now discovered, it was correct in doing so. Respondent has and is developing evidence that will show that *not only are Mr. Ray's findings flawed and incomplete but that the accident report itself is flawed to the extent that Mr. Ray cannot be relied upon as a reliable witness*. If Mr. Ray's accident report and deposition are unreliable – or perhaps in parts even dead wrong – how can Claimants rely upon *other* information in the accident report? Even more importantly, how can the Commission??[5]

14. One example involves the GPS coordinates listed on the accident report. They are incorrect. The GPS coordinates listed on the accident report actually take you to an altogether

[5] It should be noted that Claimants' own pleadings are currently fatally flawed and will likewise require *yet another* Amended Complaint and *yet another* Answer to be filed in response. To wit: in each of Claimants' Complaints the address and location of the accident is incorrectly stated as either [redacted] when in fact the correct address is [redacted] While Respondent understands this may very well have been a scrivener's error or the result of erroneous typing or transcription, the Commission should note that *as a fact-pleading state*, this error is currently fatal to Claimants' case as no accident occurred at the address Claimants claim on the face of their pleadings. Moreover, as many times as Claimants attempt to make factual claims that they contend are absolute and unassailable, that the Claimants have overlooked such a simple, straightforward, and fatal error multiple times over multiple months should inform this Commission on the extent to which it should rely on Claimants' claims in the past and moving forward.

different location on [redacted] to a spot ½ mile down the road. Respondent obtained on its own accord and through its own investigation and due diligence the correct GPS address. *See* Respondent's Exhibit "B", attached. Please see also a map of the incorrect GPS coordinates as listed on the attached report attached as Respondent's Exhibit "C". Respondent acknowledges that, when viewed on its own, this may simply have been a clerical error by Mr. Ray. However, the importance of this error is magnified in the litigation of this case. For starters, Mr. Ray and Claimants' counsel **relied upon and used these flawed coordinates in Mr. Ray's deposition.** Specifically, the wrong GPS coordinates when used in the Google Maps online application take you to an entirely different location than the accident scene as you see in Exhibit "C". A print-out of this erroneous address was then used as a picture of the accident scene at Trooper Ray's deposition that shows the wrong house. *See* Respondent's Exhibit "D", attached. The entirety of that overhead photograph does not accurately depict what both Mr. Ray and Claimants' counsel stated occurred in a sworn deposition. While the picture used at the deposition had a picture of a house and a driveway it is the ***wrong house and driveway*** and Mr. Ray did not seem to recognize this error when he so carefully and assuredly described what occurred at the accident scene. This calls into question not only Mr. Ray's memory, accuracy, and judgment, but also the actual physical measurements taken at the scene.

15. Mr. Ray's already demonstrated incomplete and flawed accident report diagram is extensively used and directly cited to by Claimants in their summary judgment motion. This too, highlights more errors made by Mr. Ray while investigating the accident. Specifically, the diagram in the report references only one (1) set of skid marks at the scene. Moreover, there were measurements taken of only one (1) set of skid marks. There are, however, *two (2) sets of skid marks*, as is clearly shown on a newly obtained photograph of the accident scene. *See*

Respondent's Exhibit "E", attached hereto, with arrows noting the two distinct skidmarks. The accident report diagram also does not show the actual locations of both sets of skid marks, one of which starts on the shoulder of the road and one of which starts at the fog line and then curves all the way across the lane.

16. The reason that the skid marks are important is that, as later evidence will show, Ms. Ashcraft's vehicle likely created the second set of skid marks that were not noted on the accident report diagram. If this turns out to be correct as Respondent believes, the skid mark evidence will definitively show that the position of Ms. Ashcraft's vehicle was NOT entirely in the roadway as Mr. Ray and Claimants contend, but in fact was *partially on the shoulder*. Why is that important? First, it continues to cast doubt on the accuracy and veracity of Mr. Ray's accident report, investigation, and testimony. Second, the angle of Ms. Ashcraft's skidmarks, coupled with the impact damage her vehicle sustained primarily on the right passenger side, show that her vehicle was angled diagonally relative to the roadway. This proves that Ms. Ashcraft was actually reentering the main roadway from the shoulder. And why is that important? *Because the traffic laws of the state and the Rules of the Road require all vehicles reentering the roadway from the shoulder to yield to oncoming traffic.*[6] If this is the case – and Respondent will prove that it is – then it is actually Ms. Ashcraft that caused the accident through her negligent operation of her vehicle, not Jennifer Wilkerson.

[6] Find attached as Respondent's Exhibit "F" excerpts from both the Arkansas Highway and Transportation 2019 Motor Vehicles and Traffic Laws publication and the 2022 Arkansas State Police Study Guide.

b) The eyewitness account of Bobby Dale Wilson.

17. It would be one thing if all Respondent had to argue were skid marks and a theory that it was Jacqueline Ashcraft who was responsible for the accident. But in fact, Respondent has much more than that.

18. Mr. Bobby Dale Wilson is a truck driver from Alabama. He is also apparently the sole identified eyewitness to the entire accident. Mr. Wilson was driving west on Highway 22 with an oversize load on his truck when he saw the entire accident occur right in front of him, with a birds-eye view from his elevated truck cabin. He also witnessed the accident's aftermath as Jennifer Wilkerson's car collided with his truck and trailer after striking Ms. Ashcraft's vehicle.

19. While Mr. Wilson did make a brief written statement shortly after the accident (which was included in Mr. Ray's accident report), this statement was woefully incomplete. Mr. Wilson, in fact, had more information to give concerning the accident that Mr. Ray nor Claimants felt was important enough to track down.[7] Respondent, however, believed differently.

20. It was extremely time consuming and oftentimes frustrating to locate Mr. Wilson and ultimately obtain his sworn affidavit. This process took many months with more failures than successes. However, Respondent was ultimately able to do what both Mr. Ray and Claimants' counsel apparently decided was unimportant – ***actually talking to an eyewitness***.[8] Attached as Respondent's Exhibit "G" is the sworn affidavit of Bobby Dale Wilson, the only eyewitness with

[7] Why Mr. Ray did not follow up with Mr. Wilson about this accident is as much of a mystery as to *why was no one ever charged with any offense concerning this accident?* Mr. Wilson was potentially an eyewitness to actual criminal conduct. However, Mr. Ray did not charge *anyone* with *any* offense – not even a traffic ticket. This, despite the fact that the accident involved two (2) drivers with unknown amounts of multiple illegal substances in their system and three (3) children, one (1) of whom suffered a concussion. And, ultimately, a dead participant.

[8] And there are more eyewitnesses out there that Respondent is still trying to locate. This will be explored further herein.

an advantageous view of the entire accident, start to finish. Why his testimony is so vital is that Mr. Wilson under no uncertain terms states that immediately before the accident Ms. Ashcraft's car was only partially in the main roadway. Already established with the missing skid mark evidence, this corroborating evidence is drastically different than what Mr. Ray described in his accident report. Moreover, for the purposes of this motion, Mr. Wilson's statement *is by its very existence evidence that Claimants' Motion for Summary Judgment is not only premature now but will never be operative at any point in this litigation*.

21. Indeed, while Claimants may not recognize or want to admit the fact, we are still in deep on the very question of *what exactly happened here*?

c) The need for an accident reconstruction expert.

22. To answer that question – really, the main question in the entire trial – and given the consistent stream of liability evidence filtering back thanks to Respondent's investigative and discovery efforts, it is almost a certainty that Respondent will employ an accident reconstruction expert to testify as to exactly *how this accident occurred*.

23. Expert analysis and the opinion of an accident reconstruction expert will be vital to Respondent's case at trial. Respondent is obviously entitled to a full and fair defense in this matter and considering it has from the very outset raised both comparative fault and, to the extent it is applicable, contributory negligence, Respondent should be given plenty of time and leeway to develop its case before being forced to defend a premature declaration by the Claimants that the question of liability is a foregone conclusion when Respondent is just getting started proving otherwise. Part of developing its case will likely be to turn toward expert opinions on the accident itself and that process takes time, especially when Respondent is still collecting evidence.

d) Additional witnesses still unidentified or not yet located.

24. Through its diligent investigative efforts, Respondent has also several witnesses that it is still attempting to locate. These include:

1. Stacey Lowe, a person named in the 911 call logs maintained by the Logan County Sheriff's Department, and her mother, who were presumably driving along Highway 22 when the accident occurred. Ms. Lowe stated on her 911 call that her mother was assisting one (1) or more of the persons involved in the accident. Ms. Lowe's mother may have spoken to any of the persons in the accident shortly after it occurred. These statements would be non-hearsay evidence and might have included a narrative of what had happened. Respondent is still attempting to track down these two women.

2. Ms. Latosha Lewis of Hamilton, Alabama, was driving the flag escort in front of and for Mr. Wilson's oversize load at the time of the accident. A flag escort was required per the regulations of the Arkansas Highway and Transportation Department. Respondent has identified Ms. Lewis through its own efforts speaking to Bobby Dale Wilson and does not believe any of the law enforcement officers spoke with her about the accident at the scene, even though she may have observed all or part of the accident. Moreover, if Ms. Lewis was driving in front of Mr. Wilson as his flagged escort she would have driven past both Ms. Ashcraft and Ms. Wilkerson and may have seen their relative positions on the roadway. Nevertheless, Respondent is still attempting to locate Ms. Lewis as Mr. Wilson does not currently know her whereabouts.

3. Members of the Paris Police Department responded to the scene of the accident. Respondent is in the process of locating these officers to see if they have any relevant evidence or information.

4. The owners of the residence at [redacted] where the accident occurred have been identified as Jessica and Adam Capo. Respondent is still attempting to obtain statements from these witnesses to the aftermath of the accident[9]. Ms. Ashcraft spent approximately twenty-four (24) minutes inside of the residence with these witnesses without medical personnel or law enforcement personnel present. Ms. Ashcraft may have made statements concerning the accident to these witnesses. Further, these witnesses may have evidence of any acts by Ms. Ashcraft subsequent to the accident that may have instead caused her head injury.[10]

e) Respondent is still asking for subpoenas to be issued by the Commission.

25. Even with all the evidence outlined in the foregoing, Respondent has not ceased in its attempt to procure evidence of Ms. Ashcraft's liability. In fact, the Commission itself is still issuing subpoenas duces tecum at Respondent's request. In the past month, the Respondent has requested, and the Commission has issued, subpoenas duces tecum to law enforcement agencies, police departments, cell phone carries, internet providers, and emergency medical providers. On the same day that this motion was being drafted, the Arkansas State Police answered a subpoena issued by the Commission and provided photographs, dispatch logs, and a "Fatal Crash Preliminary Reporting Form" *that was not part of the documentation either provided by Mr. Ray*

[9] Ms. Capo indicated to Respondent's counsel that she believed Adam Capo was present at the residence at the time of the accident but she was not completely sure. Respondent is still attempting to verify this information.

[redacted]

or that was, as far as Respondent knows, not yet part of the case.[11] Direct evidence in the form of photographs that no one has yet seen arrived at Respondent's offices on the *same day* that Respondent's counsel was responding to Claimants' unfounded assertion that liability was already decided and a foregone conclusion. Only due to Respondent's independent effort and it's newfound belief that Mr. Ray's accident report was incomplete and inaccurate – prompting Respondent to ask for its accident records independent of what was provided by Mr. Ray – would these photographs and other documentary evidence have been discovered at all.

COMPARATIVE FAULT AND CONTRIBUTORY NEGLIGENCE DEFENSES REPEATEDLY RAISED

26. Claimants have raised with the Commission the defense of comparative fault and, to the extent it applies, contributory negligence. Indeed, if this Commission were to even consider a Motion for Summary Judgment in this case, it would altogether prevent and deprive Respondent from being able to argue these defenses at trial. As the Arkansas Court of Appeals held:

> Where the decision on a question of law by the trial court depends upon an inquiry into the surrounding facts and circumstances, the trial court should **refuse to grant a motion for summary judgment until the facts and circumstances have been sufficiently developed** to enable the trial court to be reasonably certain that it is making a correct determination of the question of law. *Ingram v. Chandler*, 63 Ark.App. 1, 971 S.W.2d 801 (1998).
>
> [S]ummary judgment is **only appropriate** when the state of the evidence as portrayed by the pleadings, affidavits, discovery responses, and admissions on file **is such that the nonmoving party is not entitled to a day in court**. *Guidry v. Harp's Food Stores, Inc.*, 66 Ark.App. 93, 987 S.W.2d 755 (1999).[12]

[11] This evidence was provided to Claimants' counsel via email on the same day this motion was filed.

[12] *See also, First National Bank v. Newport Hospital Clinic*, 281 Ark. 221, 663, S.W.2d 742 (1984) (holding that before being required to fully demonstrate that evidence in response to a motion for summary judgment a plaintiff is entitled to have the benefit of adequate discovery from the

(emphasis added)

27. Citing back to Respondent's Answer to Claimants' Second Amended Complaint, Respondent has asserted the following factual claims pertaining to the issue of liability for the accident of June 11, 2021:

> *c. Claimant Jacqueline Ashcraft's own actions caused the accident described in the Second Amended Complaint. These actions include operating her vehicle while under the influence of one (1) or more controlled substances at the time of the accident. Those controlled substances, as identified in a toxicology screen conducted by the Arkansas State Crime Lab from a sample taken from Ms. Ashcraft after the accident, were identified as amphetamines, methamphetamine, a benzodiazapine, and cannabis. Being under the influence of these controlled substances at the time of the accident impaired Ms. Ashcraft's judgment, vision, reaction time, depth perception, perspective, attentiveness, as well as other possible mental or physical issues that would have directly and negatively affected her ability to drive safely. Additionally, Jacqueline Ashcraft was not physically in good health on the day the accident occurred, stating to the EMTs after the accident that she was weak and had been vomiting for the previous (2) days. She was also noted in the medical records to appear "frail" and having "diaphoretic skin". Simply, Jacqueline Ashcraft was in no condition to be operating a vehicle on the roads of this state, much less to drive safely with three (3) minor children in the car;*
>
> *d. Further, Jacqueline Ashcraft violated the traffic laws of the state and the Rules of the Road by negligently operating her vehicle, pulling off the shoulder of the road directly in front of Jennifer Wilkerson. This sudden entry onto Highway 22 caught Ms. Wilkerson by surprise and did not leave her with sufficient distance or reaction time to avoid the collision. Because Ms. Ashcraft was on the shoulder of the road, it was her responsibility to yield to oncoming traffic, which she failed to do. Ultimately, it was Ms. Ashcraft's own negligent driving that caused the accident.*
>
> *f. Ultimately, Respondent is not liable for any injuries sustained by any of the claimants as Respondent was not negligent for the acts attributed to it in the Second Amended Complaint. Respondent's*

---

opposing parties. The trial court should not have granted summary judgment until appellant was able to complete discovery and develop the necessary proof.

actions did not cause or contribute to Ms. Ashcraft's injuries or death, nor were Respondent's actions the cause of the injuries alleged by the two minor children herein.

See Respondent's Answer to Claimants' Second Amended Complaint.

28. Further, Respondent raised to the Commission in its Answer to Claimants' Second Amended Complaint the potential existence of a cross-claim between the two minor children Claimants and the Estate of Jacqueline Ashcraft. Specifically:

EXISTENCE OF CROSS-CLAIM

56. Based on the facts alleged and defenses asserted, Respondent now raises the existence of a potential cross-claim concerning liability for the damages allegedly sustained by Claimants [redacted] *and* [redacted] *who were passengers in the car driven by Ms. Ashcraft. Specifically, Claimant Ms. Jacqueline Ashcraft was at fault and caused of the accident described in the Second Amended Complaint.*

57. As previously described herein, Ms. Ashcraft had physical and/or mental limitations that led to her negligently operating her vehicle, resulting in the accident described in the Second Amended Complaint. Specifically, at the time of the accident, Claimant Jacqueline Ashcraft was operating her motor vehicle under the influence of amphetamines, methamphetamines, benzodiazepines, and cannabinoids in violation of Ark. Code Ann. § 5-65-103. Ms. Ashcraft was also not physically fit at the time to drive her vehicle, having spent the prior days being weak and constantly vomiting. See exhibit "A", attached. The EMTs also noted that Ms. Ashcraft displayed an "altered mental status" when they arrived at the scene. See exhibit "B", attached. Notably, this observation was made as a secondary impression by the EMTs when Ms. Ashcraft was still up walking around and talking after the accident and before signing a form where she refused medical care. See exhibit "B". This "altered mental status" is direct evidence of Ms. Ashcraft being under the influence of one (1) or more controlled substances. Simply, being under the influence of narcotics and being physically unable to safely operate her vehicle were negligent acts that led to the collision described in the Second Amended Complaint.

58. Further, Ms. Ashcraft violated the state's traffic laws and Rules of the Road and these violations were a direct cause of the accident described in the Second Amended Complaint.

59. Additionally, Ms. Ashcraft was in fact not fully stopped in the roadway and instead was on the shoulder of the roadway shortly before

> *the accident and illegally and suddenly drove her vehicle back into the lane of traffic giving Jennifer Wilkerson no time to react and avoid the collision.*
>
> *60. A vehicle entering the roadway from the shoulder of the road is required to yield to oncoming traffic, which Ms. Ashcraft failed to do.*
>
> *61. The combination of Ms. Ashcraft's being under the influence of one (1) or more controlled substances combined with her negligent operation of her own motor vehicle was the direct cause of the accident described in Claimants' Second Amended Complaint.*
>
> *62. Under Rule 13(f) of the Arkansas Rules of Civil Procedure, "[a] cross-claim may include a claim that the party against whom it is asserted is or may be liable to the cross-claimant for all or part of a claim asserted in the action against the cross-claimant." In this case Claimant Jacqueline Ashcraft's own actions led in whole or in part to the injuries sustained by Claimants Kadey Lynn Jones and Carley Rae Jones and she is therefore liable in whole or in part to the Claimants Kadey Lynn Jones and Carley Rae Jones and is likewise responsible for the damages the Claimants alleged they are owed in the Second Amended Complaint.*
>
> *63. Further, to the extent that Respondent is found to be wholly or partially liable – a claim that Respondent categorically denies – Claimant Jacqueline Ashcraft is jointly and severally liable as to the accident as well and therefore would be jointly and severally liable as to any damage award awarded Claimants Kadey Lynn Jones and Carley Rae Jones stemming from this accident.*

See Respondent's Answer to Claimants' Second Amended Complaint.

29. Because of the existence of a potential cross-claim, Respondent moved this Commission to hold the case in abeyance due to jurisdictional issues and "until any potential action between Claimants Estate of Jacqueline Ashcraft and Ms. Ashcraft's insurance company and Claimant[redacted] is resolved, either through settlement or in the state courts." *See id.*

30. All of the foregoing issues are set to be decided at a hearing on August 11, 2023, as well as a Motion to Compel that has direct implications as to the causation of the accident.

31. Respondent's Motion to Compel, while not directly concerning evidence of liability, may very well add to Respondent's argument if the evidence sought is ever provided by the Claimants. This is because Claimants have stonewalled Respondent's attempts at discovering the names of the medical providers seen by Ms. Ashcraft prior to her death. Respondent believes that it will prevail on its motion and finally be able to review Ms. Ashcraft's personal health and medical records once this occurs. Why this is important to the Respondent is, because as explained earlier, Ms. Ashcraft was a user of controlled substances and was under the influence of ***FOUR different controlled substances*** to certain degrees at the time of the accident – methamphetamine, amphetamine, benzodiazepines, and marijuana. This not only violated the criminal law, *see* Ark. Code Ann. § 5-65-103, it also directly influenced Ms. Ashcraft's ability to drive or otherwise control her vehicle at the time of the accident. This evidence is a lynchpin of Respondent's defenses of comparative fault and contributory negligence. However, because Claimants refuse to adhere to and comply with their discovery obligations, Respondent cannot attempt to procure this information and asked the Commission to hear the matter and render a decision.

32. To sum up and to put colloquially, Respondent is still actively "working its case". The fact that it now may have to defend against an obviously premature motion for summary judgment[13] at this point only serves to slow down its progress and to tip its hand, evidentiary- and strategy-wise, to Claimants, who for their part have actively refused and delayed providing evidence concerning one of the major factual questions of this case – Ms. Ashcraft's health prior to and the day of the accident.

33. Due to the foregoing, Respondent MOVES TO STRIKE Claimants' Motion for Summary Judgment and to request that the motion be removed from consideration. Moreover,

[13] Not to mention be forced to draft and file this very motion.

Respondent MOVES that this Commission ORDER Claimants to refrain from filing a subsequent Motion for Summary Judgment until the end of the Discovery period.

ALTERNATIVE MOTION FOR ENLGARGEMENT OF TIME TO RESPOND

34. Rule 56(c) of the Arkansas Rules of Civil Procedure provides that leave may be given to a "defending party" to "enlarge" the time to file a pleading "for good cause shown".

35. Should the Commission rule adversely against Respondent in its Motion to Strike, Respondent respectfully requests the Commission to expand the timeframe to allow the hearing on August 11, 2023, and the contested issues therein, to resolve themselves before being required to respond to Claimants' Motion for Summary Judgment. This expanded timeframe would allow the Commission to rule on Respondent's Motion to Compel, its Motion to Sever, and its Motion to Hold in Abeyance, as well as any other motion or matter that should come before it prior to that time. Resolution of those issues would likewise inform Respondent on its response or perhaps make the motion for summary judgment moot itself. Because Rule 56(c) of the Arkansas Rules of Civil Procedure allow twenty-one (21) days to file a response to a motion for summary judgment, Respondent respectfully requests twenty-one (21) days after the matters heard on August 11, 2023, are formally ruled upon and orders issued before it is required to file a formal response to Claimants' Motion for Summary judgment.

36. Due to the foregoing, should this Commission deny its previous Motion to Strike, Respondent alternatively MOVES that this Commission GRANT AN ENLARGED PERIOD OF TIME for the Respondent to respond to Claimants' Motion for Summary Judgment to a date twenty-one (21) days after the Commission issues formal decisions on all the pending motions and matters before it on August 11; 2021.

Respectfully submitted,

By: _____

Brent P. Gasper
Assistant Deputy Chief Counsel
Ark. Bar No. 98240

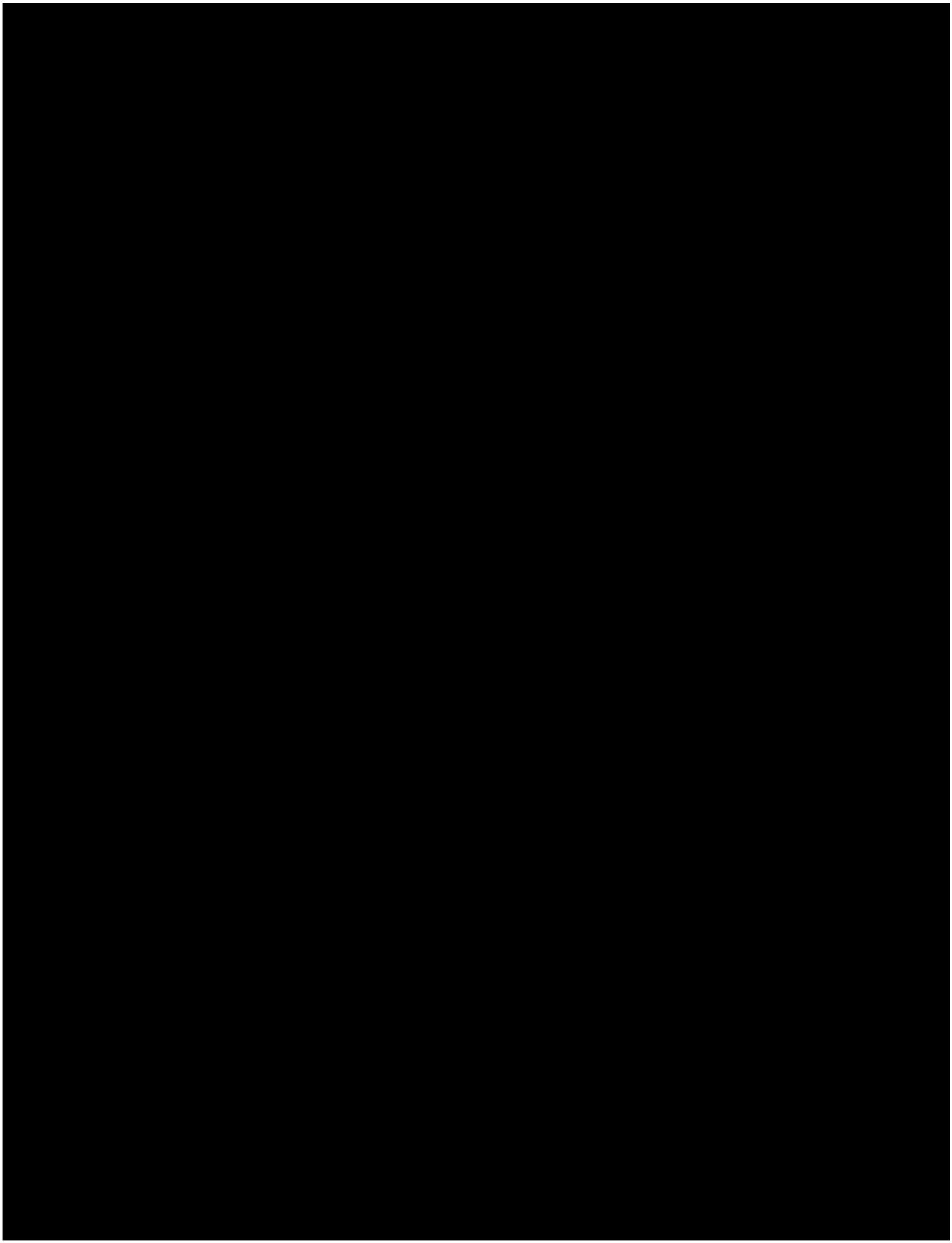
Arkansas Department of Human Services
Office of Chief Counsel
P.O. Box 1437
Little Rock, AR 72203
Phone (501) 320-8950
Brent.Gasper@dhs.arkansas.gov

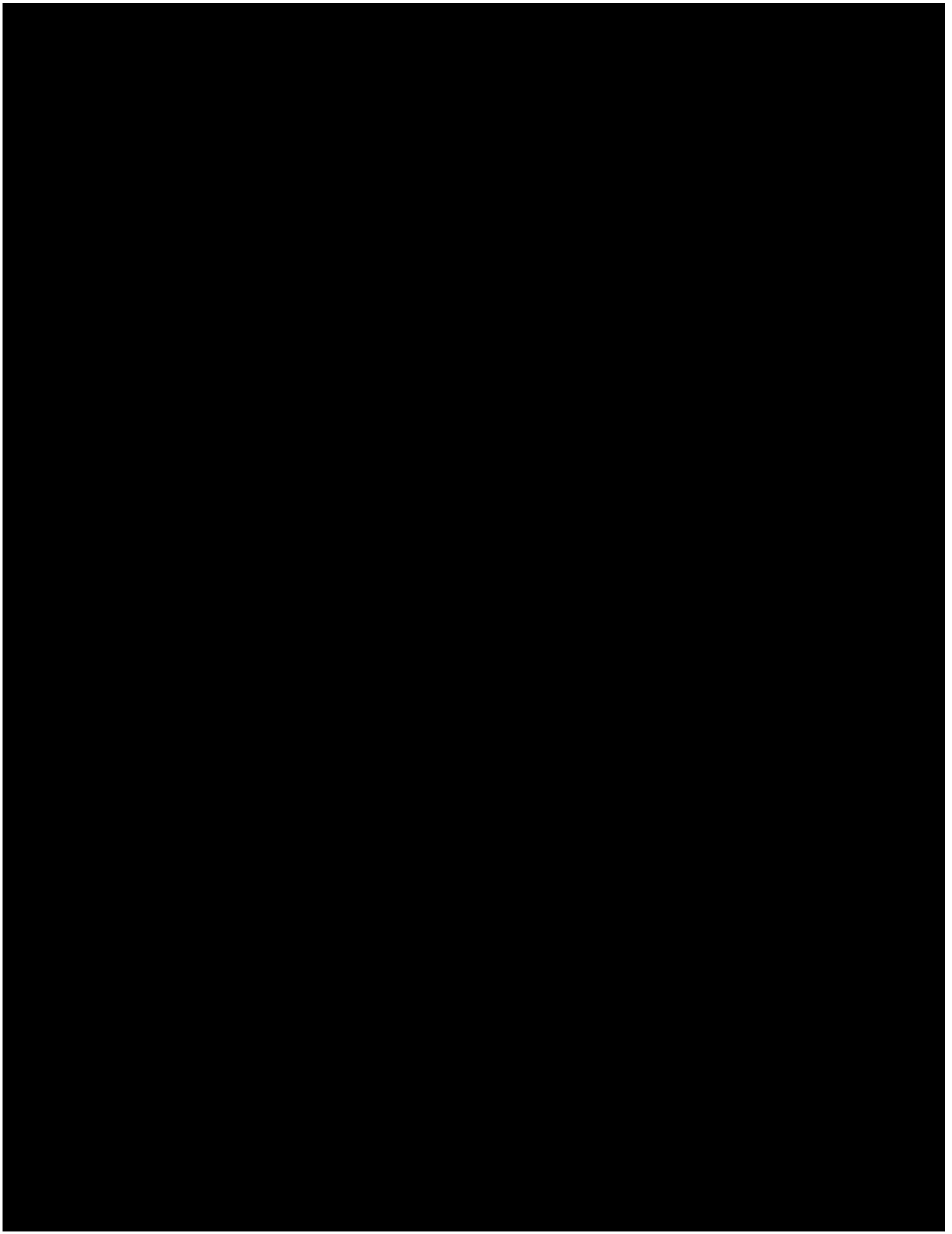
CERTIFICATE OF SERVICE

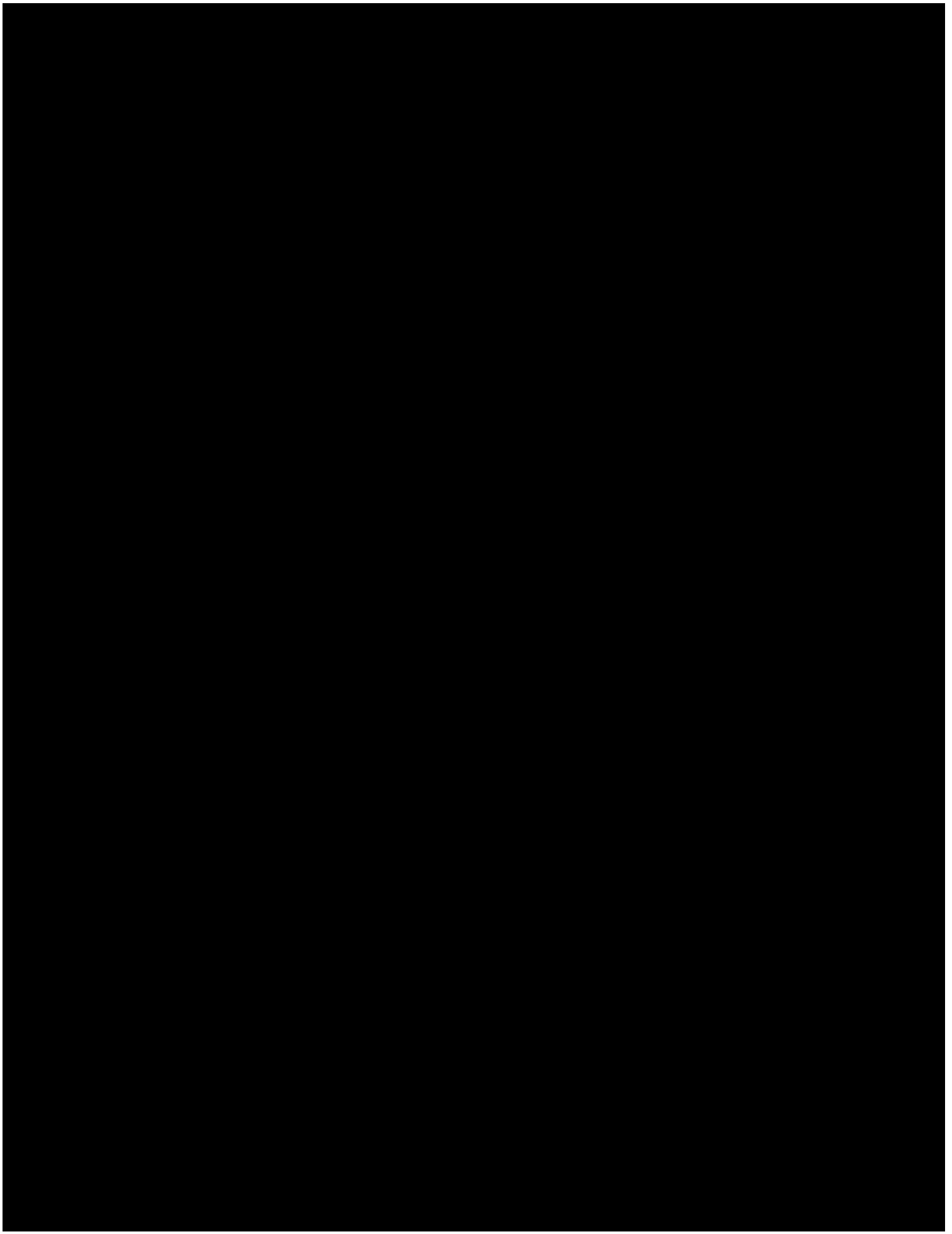
I, Brent Gasper, hereby certify that on 23 June, 2023, I electronically filed the foregoing with the Claims Commission and copied Claimants' attorney Jim Jackson via email.

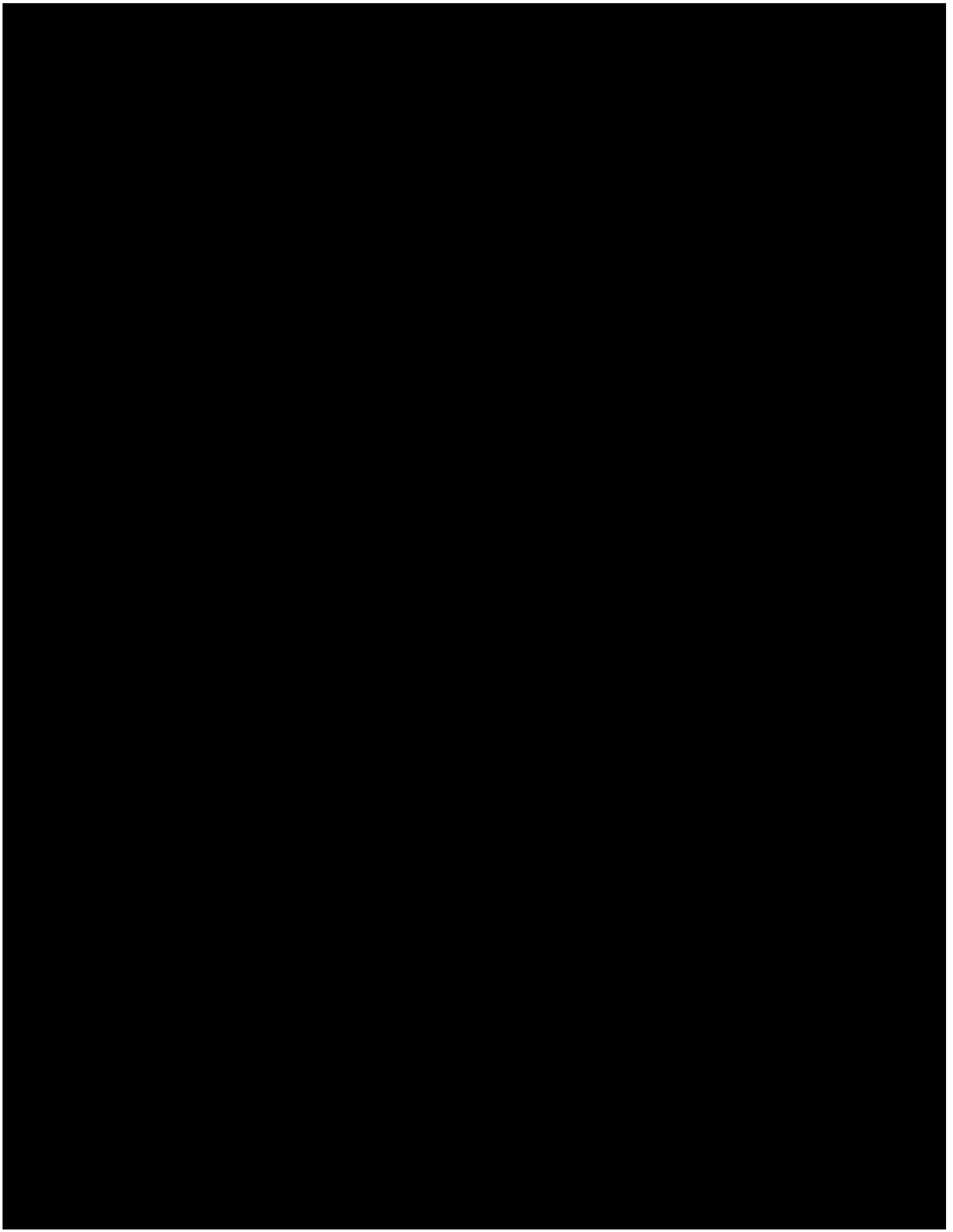
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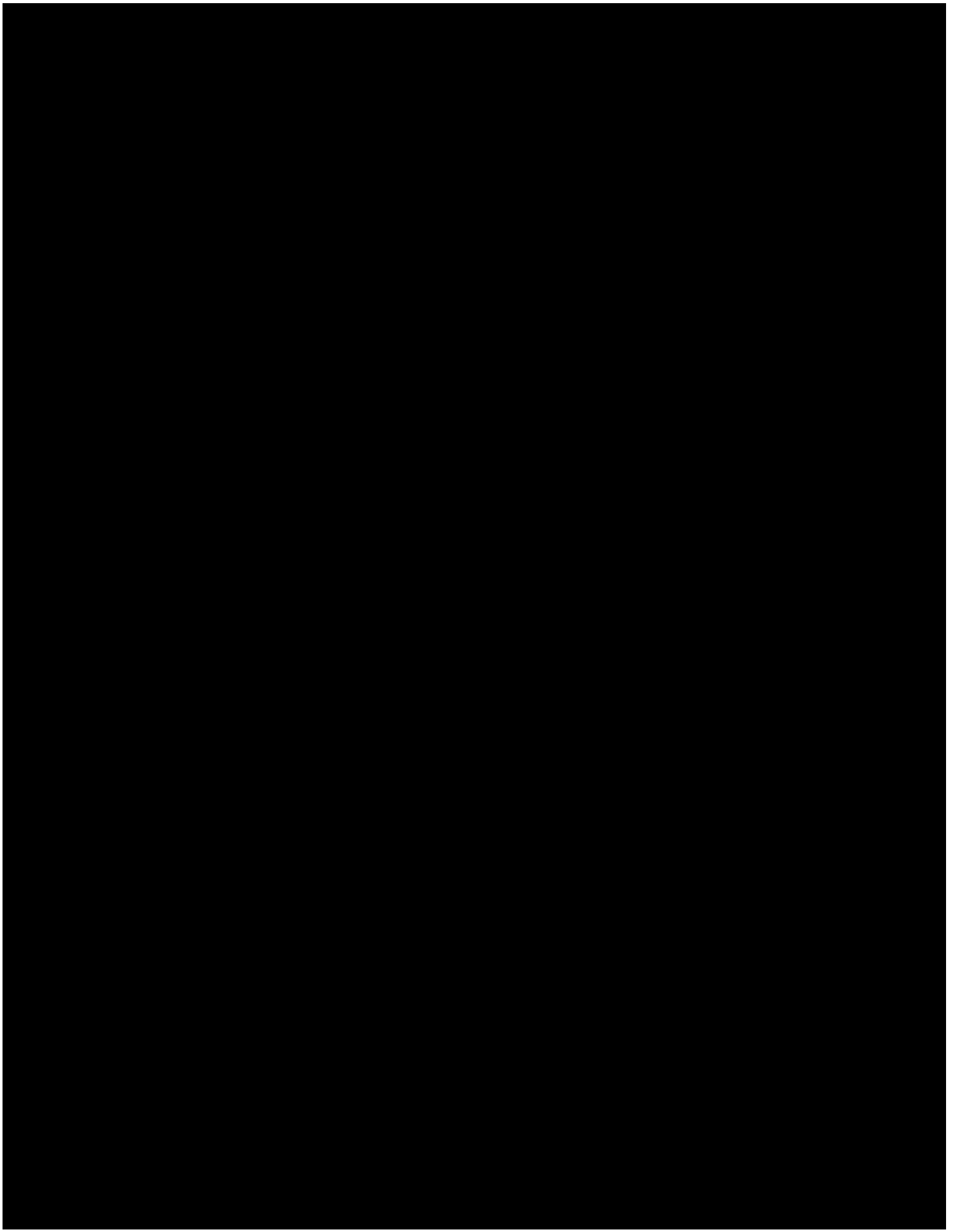
Brent P. Gasper

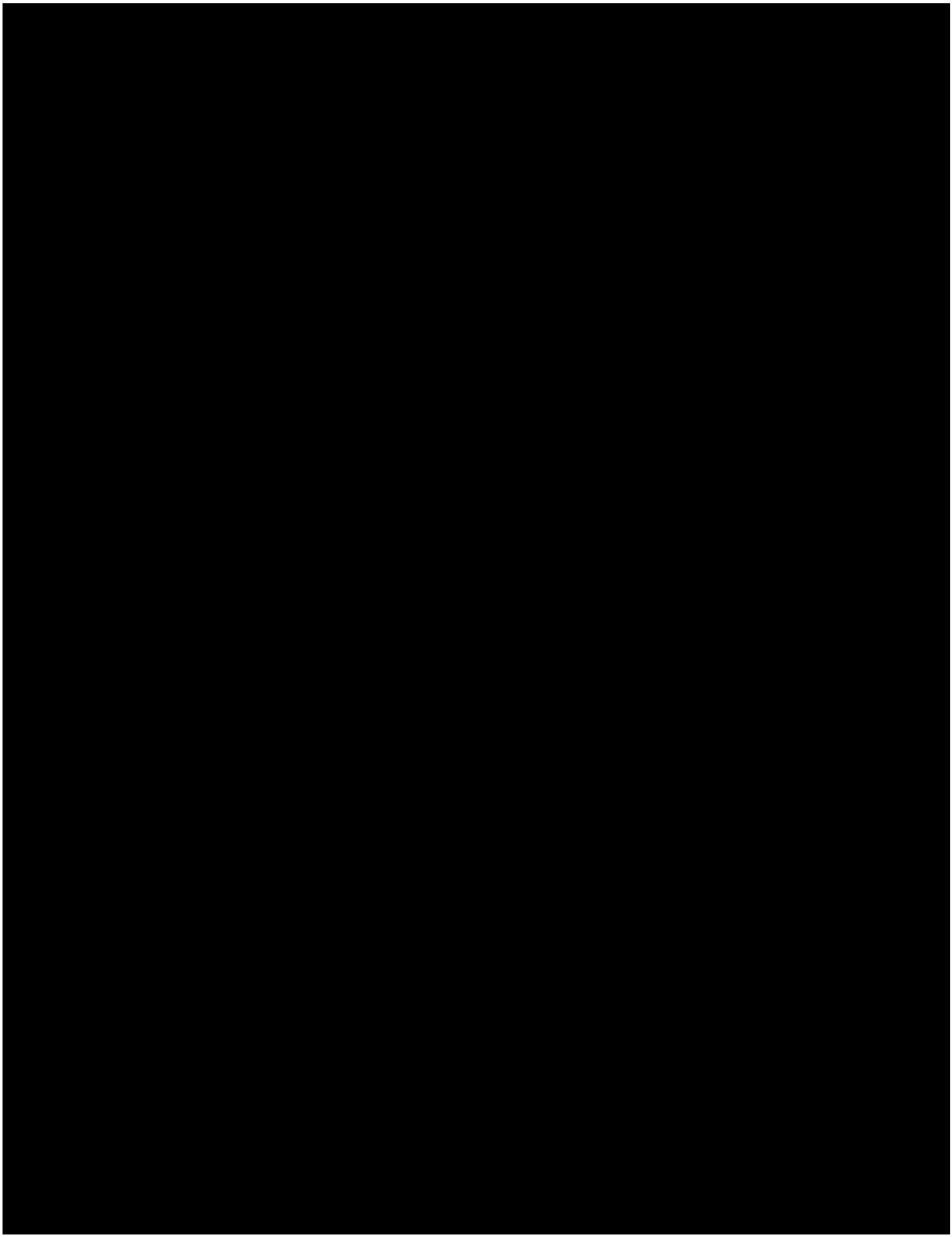


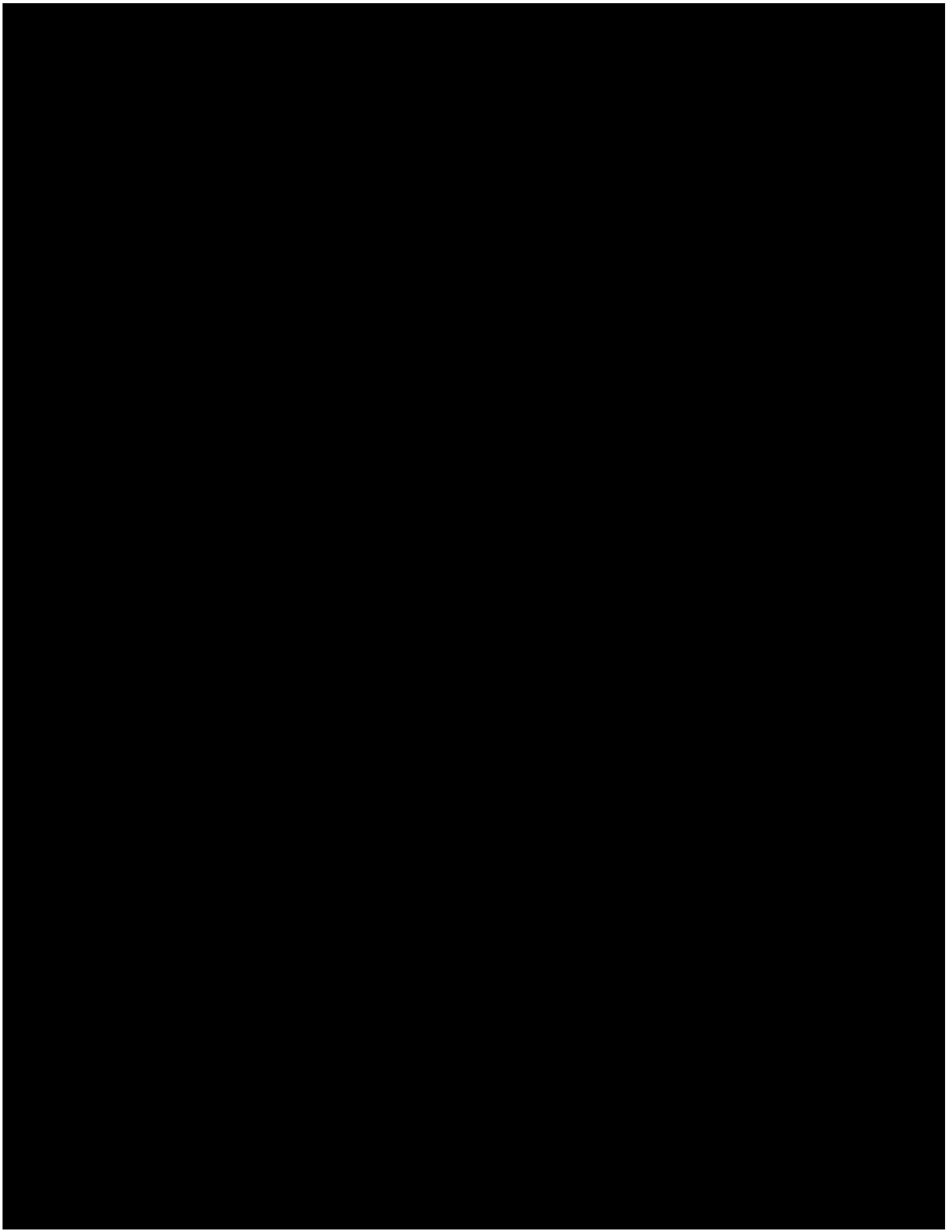


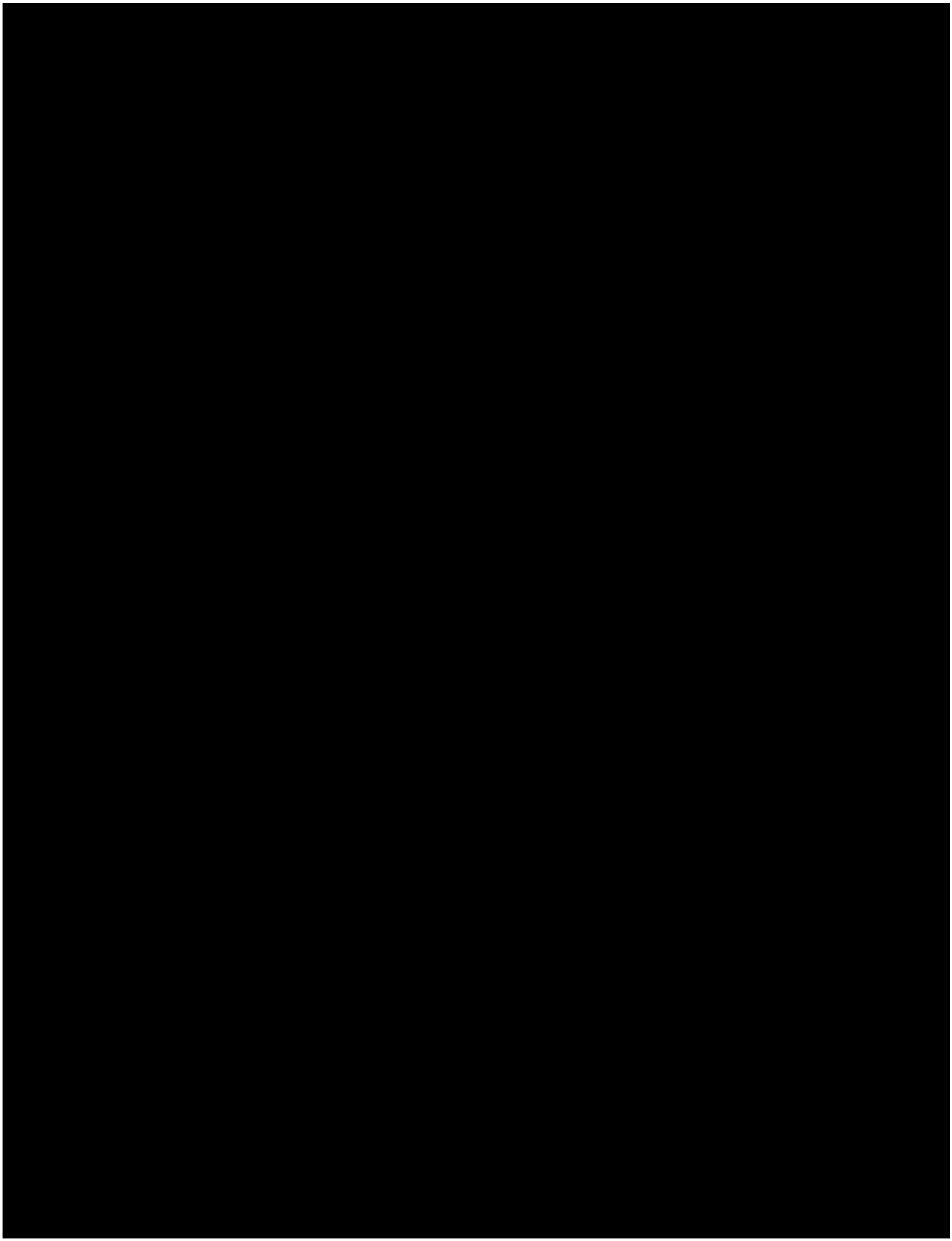


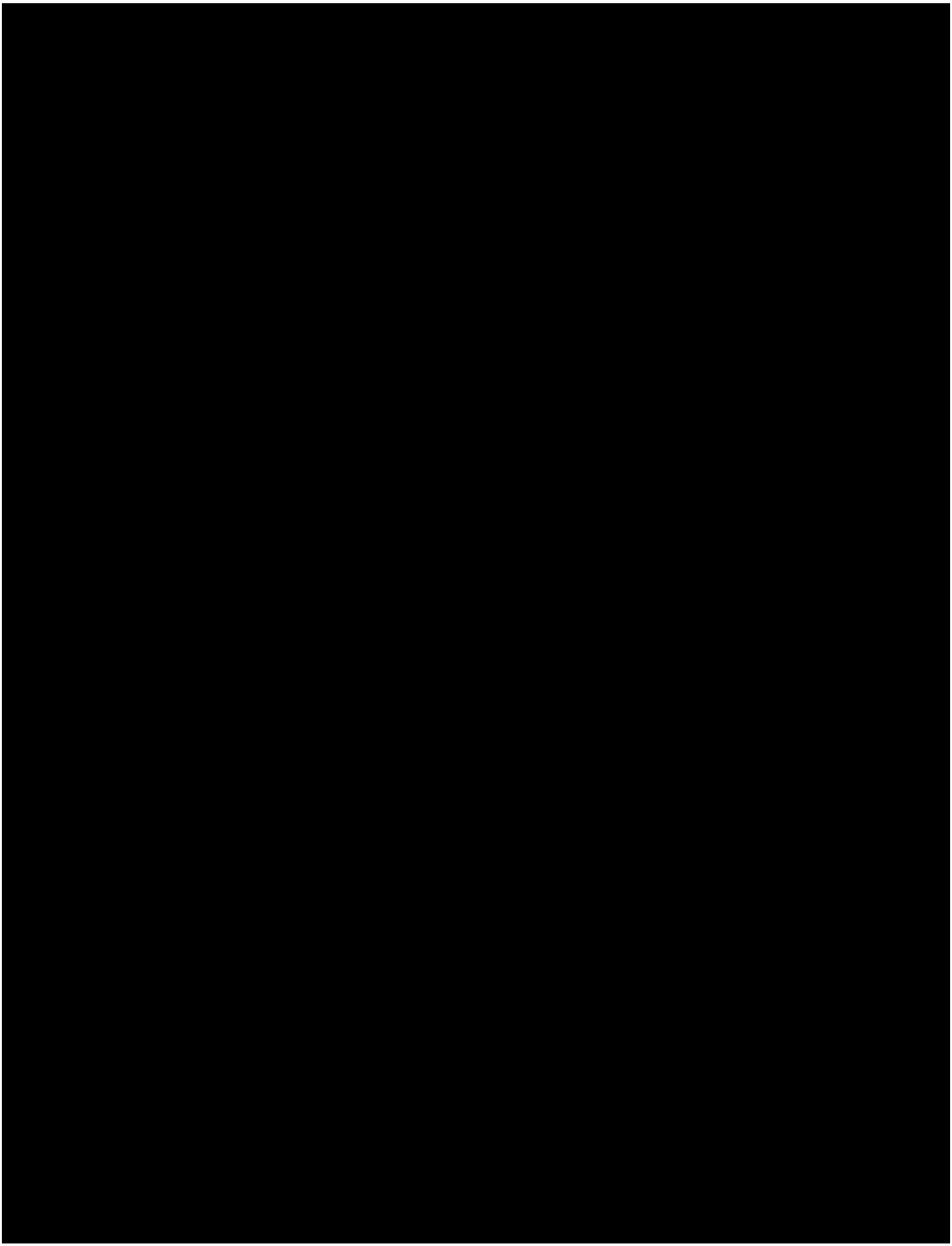


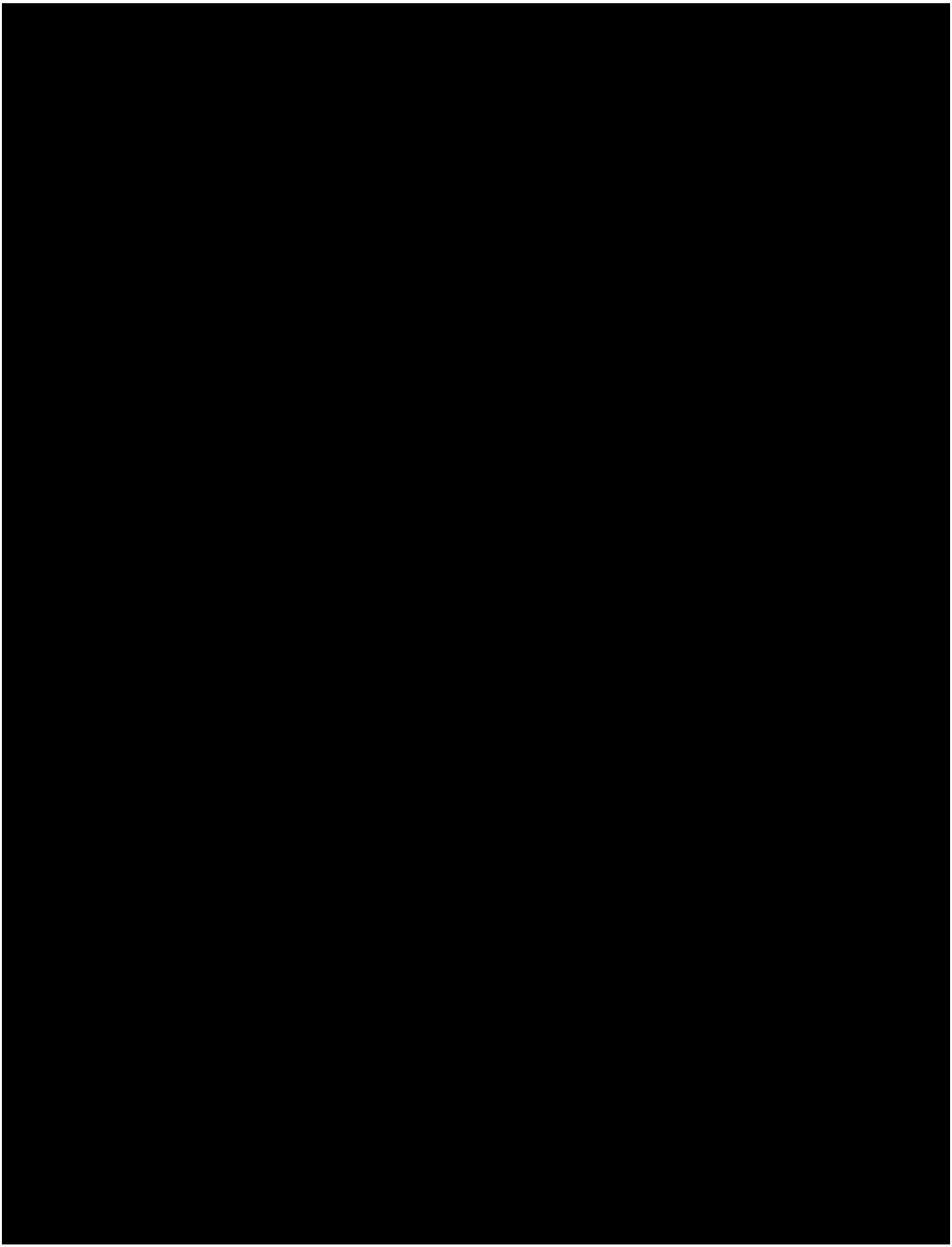


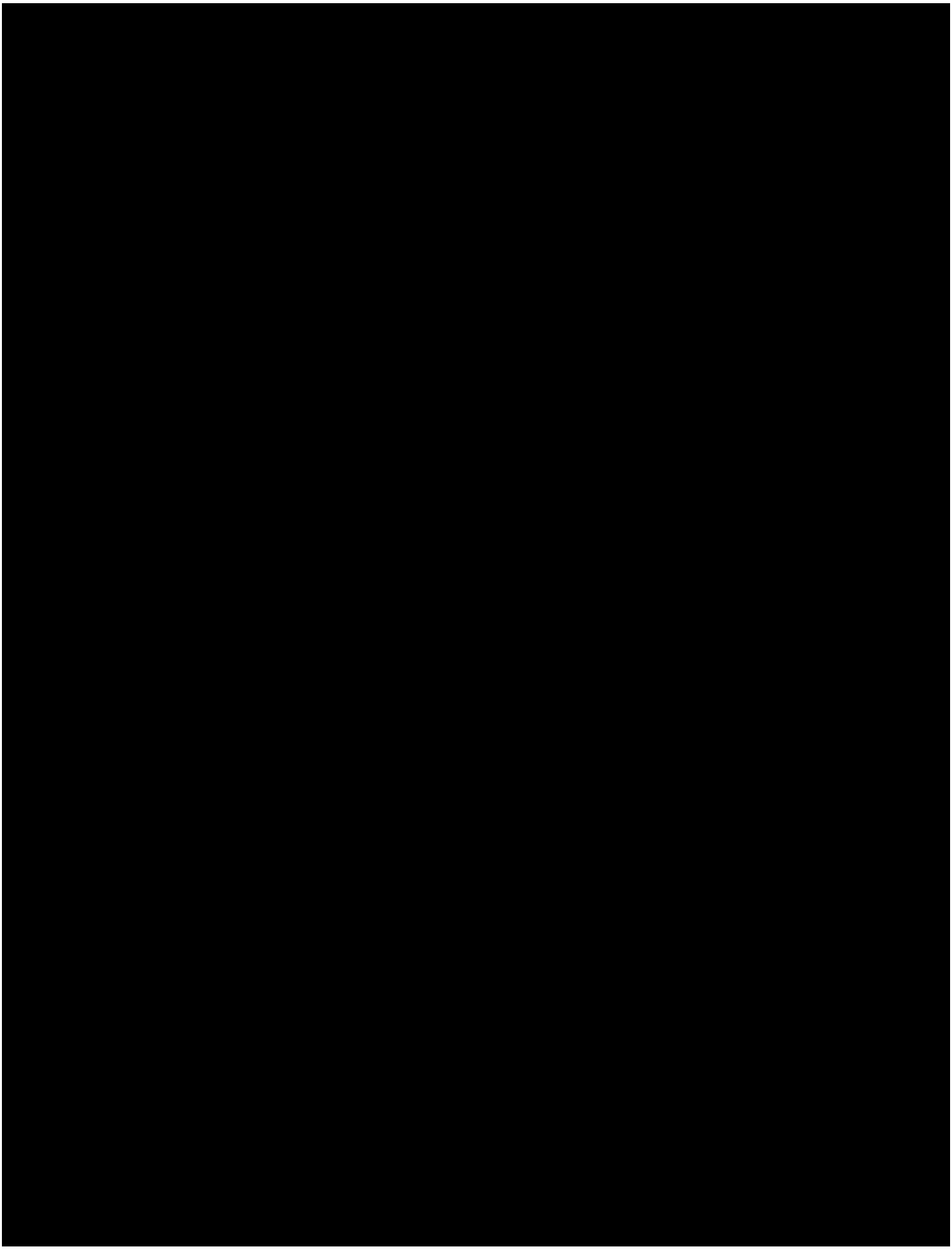


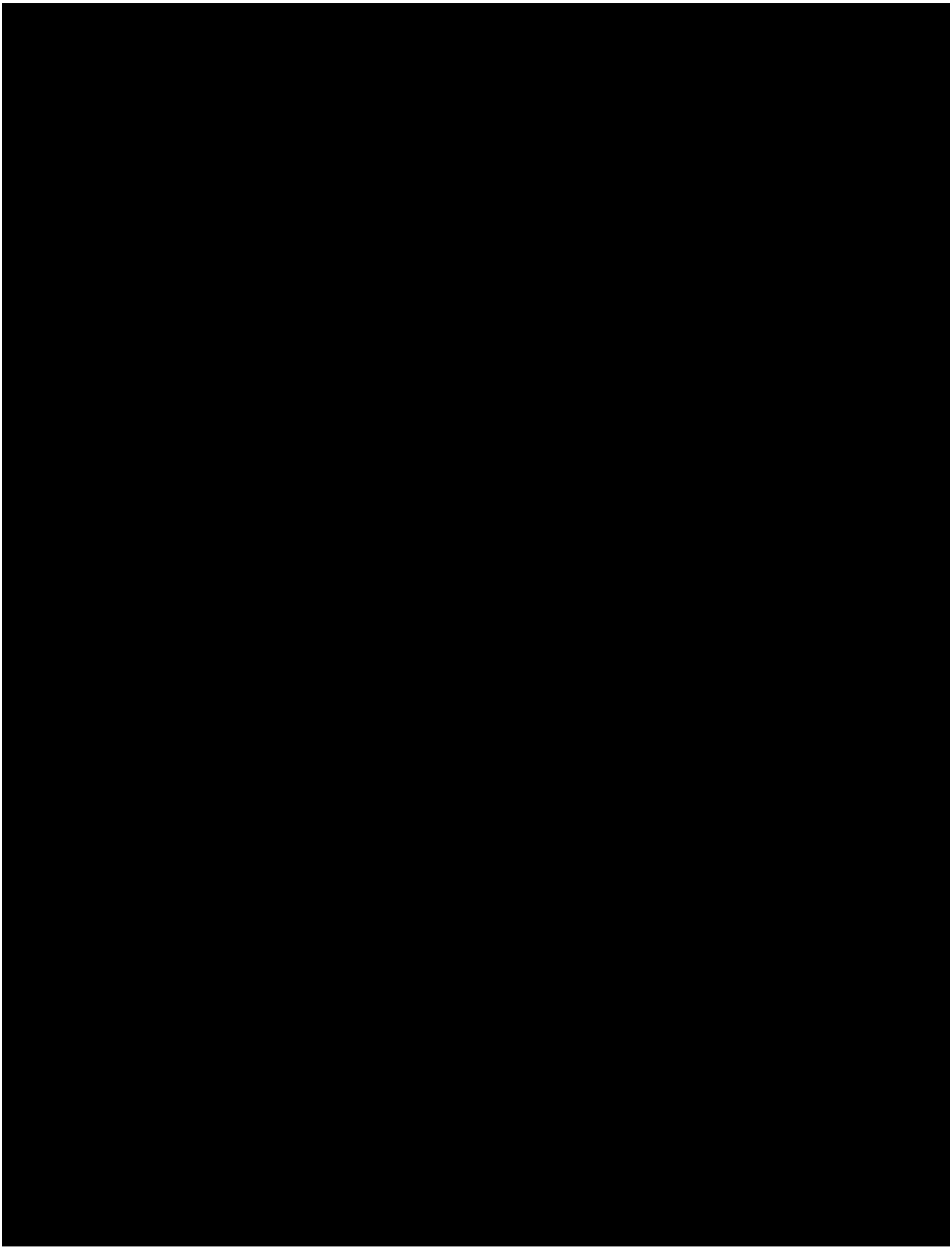












2019 EDITION

ARKANSAS Motor Vehicle and Traffic Laws and State Highway Commission Regulations

Issued by Authority of
the Arkansas Department of Transportation and the
Department of Finance and Administration

Blue360° Media

PENGAD 800-631-6989
EXHIBIT
F

27-51-1302. Stopping, standing, or parking prohibited in specified places.

(a) No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or a traffic control device, in any of the following places:

(1) On a sidewalk;

(2) In front of a public or a private driveway;

(3) Within an intersection;

(4) Within fifteen feet (15′) of a fire hydrant;

(5) On a crosswalk;

(6) Within twenty feet (20′) of a crosswalk at an intersection;

(7) Within thirty feet (30′) upon the approach to any flashing beacon, any stop sign, or any traffic-control signal located at the side of a roadway;

(8) Between a safety zone and the adjacent curb or within thirty feet (30′) of points on the curb immediately opposite the ends of a safety zone, unless the local traffic authority indicates a different length by signs or markings;

(9) Within fifty feet (50′) of the nearest rail of a railroad crossing;

(10) Within twenty feet (20′) of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet (75′) of the entrance when properly signposted;

(11) Alongside or opposite any street excavation or any street obstruction when stopping, standing, or parking would obstruct traffic;

(12) On a roadway side of any vehicle stopped or parked at the edge of a curb or a street;

(13) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(14) At any place where official signs prohibit stopping; or

(15) On the shoulders, the median, the ramps, and all other highway rights-of-way along interstate or fully controlled access highways, except in designated parking areas, provided that stopping, standing, or parking that is brief in duration and is due to an emergency, a vehicle disablement, or to correct or avert an unsafe condition shall not be considered a violation of this section.

(b) No person shall move a vehicle not owned by the person into any such prohibited area or away from a curb a distance that is unlawful.

History.

Acts 1937, No. 300, § 92; Pope's Dig., § 6749; A.S.A. 1947, § 75-649; Acts 2007, No. 997, § 1.

27-51-1303. Stopping, standing, or parking outside of business or residence district.

(a) (1) Upon any highway outside of a business or residential district, no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park, or leave the vehicle off that part of the highway. In every event, an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles, and a clear view of the stopped vehicles shall be available from a distance of two hundred feet (200′) in each direction upon the highway.

(2) Any driver who shall violate the provisions of this section shall be liable for any damages of which the violation is the proximate cause.

(3) This subsection shall not apply to:

(A) Employees or vehicles of the Arkansas Department of Transportation engaged in necessary construction, maintenance, or repair of the highways;

(B) Authorized emergency vehicles on emergency trips such as police vehicles on duty, fire vehicles on calls, or ambulances and wreckers engaged in the



ARKANSAS DRIVER LICENSE STUDY GUIDE

VOLUME 1 – EDITION 8

January
2022

RIGHT OF WAY

When there are no signs or signals to regulate traffic and pedestrians may be present, there are rules in which a vehicle must yield the right-of-way. The rules will determine which vehicle goes first and which vehicle must wait.

Traffic laws determine which vehicle must yield the right-of-way and does not give a vehicle absolute right-of way. As a driver, you must do everything possible to prevent striking a pedestrian or another vehicle, regardless of the circumstance.

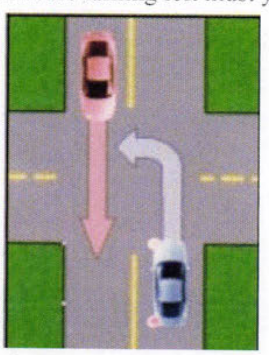
Intersections- Right of Way

Pedestrians:

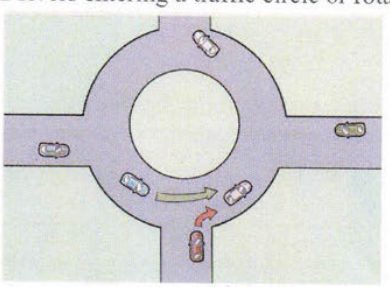
- Drivers must yield where necessary to avoid striking pedestrians who are legally crossing the road.
- Drivers crossing a sidewalk when entering or exiting a driveway, alley, or parking lot must yield to pedestrians. It is illegal to drive on a sidewalk except to cross it.
- Pedestrians using a guide dog or carrying a white cane have absolute right-of-way. Do not use your horn as it could confuse or frighten a blind pedestrian.

Left Turns:

- Drivers turning left must yield to oncoming cars traveling straight ahead.

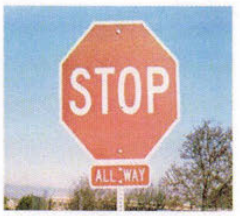


- Drivers entering a traffic circle or rotary must yield to drivers already in the circle.







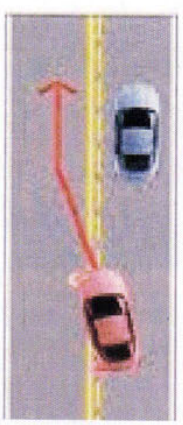


At "3 WAY", "4 WAY and an "ALL WAY" stop sign, the driver reaching the intersection first goes first, after making a complete stop.

General Right of Way Rules

- Drivers crossing a sidewalk when entering or exiting a driveway, alley, or parking lot must yield to pedestrians. It is illegal to drive on a sidewalk except to cross it.
- Drivers entering a road from a driveway, alley or roadside must yield to vehicles already on the main road
- Drivers may not enter an intersection unless they can get through it without having to stop. You should wait until traffic clears, so that you are not blocking the intersection.
- Before entering an intersection you should look left and right.

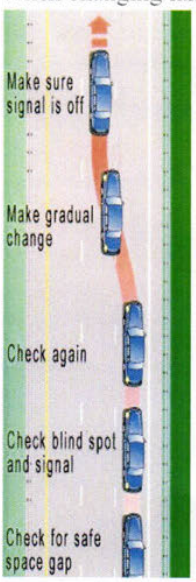
Passing



Example: Red vehicle must yield to blue vehicle being passed. Be aware of the vehicle you are passing and watch for any possible sudden turns or stops.

- Drivers passing a vehicle traveling in the same direction must yield to the vehicle being passed, even if the vehicle is slowing or coming to a stop, because the vehicle may be attempting to turn left or may be approaching a hazard the overtaking vehicle does not see.

When changing lanes, you should:



- Look in your rear-view and side mirrors. Make sure there are no vehicles in the lane you want to enter and make sure no one is about to pass you.
- Look over your shoulder in the direction you plan to move. Your rearview and side mirrors will not allow you to see vehicles in your blind spots. Blind spots are the rear corners of your vehicle that block other vehicles not seen through your mirrors.
- When checking your blind spot, turn your head and quickly glance over your shoulder. Don't take your eyes off the road ahead for more than an instant. Traffic ahead could stop suddenly while you're checking traffic to the sides, rear, or over your shoulder. Use your mirrors to check the position of other vehicles when preparing to change lanes, merge, or pull onto a roadway. Then just before you move into the opposite lane look quickly over your shoulder
- Remember to look carefully for motorcycles, bicycles and pedestrians which can be especially hard to see when you are entering the roadway from the curb or driveway.

Slowing- Drivers should check behind them before slowing down. Allowing plenty of time to slow down will keep you from stopping suddenly or at points where a following driver would not expect you to slow, such as private driveways or parking lots.

Backing- It can be difficult to get a clear view from behind your vehicle. When backing from a parking space or straight line you should:



- Check behind your vehicle before you get in. Children or small objects cannot be seen from the driver's seat
- Place your right arm over the back of the seat and turn your body, so you can look directly through the rear and side windows. Do not depend on your rearview or side mirrors as you cannot see directly behind your vehicle.
- Back slowly; your vehicle is much harder to steer while you are backing.
- Whenever possible use a person outside the vehicle to help you back.

Moving Along Steep Inclines- Drivers need to check traffic through the mirrors when going down hills or mountains. Vehicles often build up speed moving down a steep grade. Be alert for large trucks and buses that may be going too fast.

AFFIDAVIT OF STATEMENT OF BOBBY DALE WILSON

I, Bobby Dale Wilson of Sulligent, Alabama, do hereby certify that under penalty of perjury, that I communicated this statement to Brent Gasper on May 12, 2023, during a phone call. Mr. Gasper put the statement on paper and I looked at it for accuracy. This written statement is what I said to Mr. Gasper on that phone call. Also, the statement attached to this one is the statement I gave to the Trooper on June 11, 2021.

1. My name is Bobby Dale Wilson and I drove the Peterbilt that was in the wreck on Highway 22. I was working for GKD Trucking which also goes by A&G and Transco.
2. I was driving west on Highway 22. It was two-lane. A few seconds before the accident, I saw the car and the car must've seen me because it pulled over halfway into the shoulder. It looked like it was stopped and was going to turn left.
3. I told the Trooper in my statement that that car was stopped in the east bound lane. But the car was not completely in the lane. It was part on the shoulder.
4. Right after that there was the collision in the other lane and the car that hit the car that had just been on the shoulder then came over and hit my truck.
5. This is basically what I remember.

06/07/23
Date

Bobby Dale Wilson

Subscribed and sworn to before me on this 7th day of May, 2023.

Notary Public
My commission expires: 01/15/2029

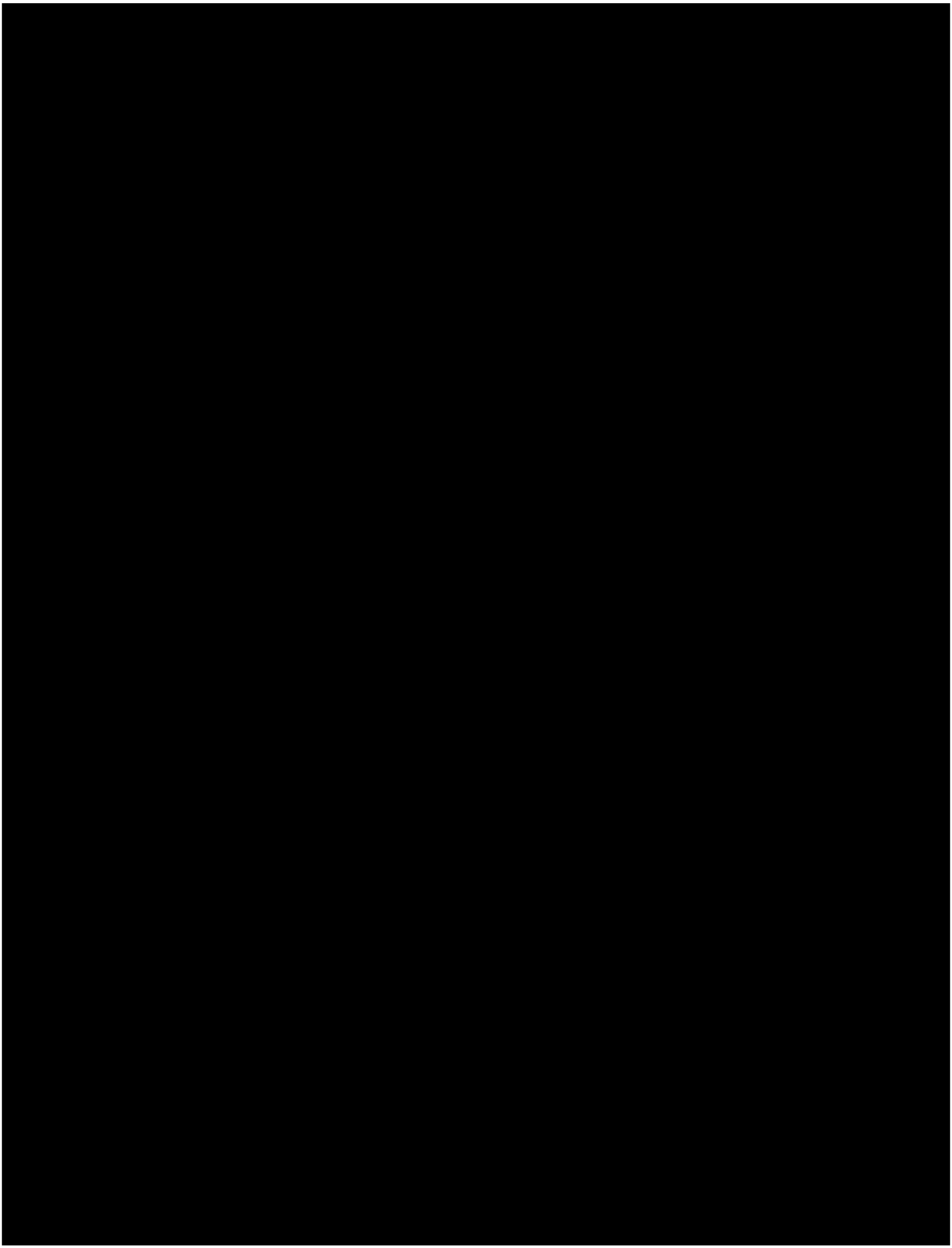
GREGORY SEAB STATON NOTARY PUBLIC #12370255 PULASKI COUNTY AR

Signature:

EXHIBIT G

PENGAD 800-631-6989

This Notarization was conducted using audio/video technology provided by eNotaryLog, LLC
Session ID: cfd698c7-34bf-4cd9-a728-93c87c388666
Document ID: a661b8b1-72b7-4298-b6ff-6f3a0b0d7fa1 HH 000051



From: Kathryn Irby
To: Jim Jackson; Brent Gasper
Cc: Martha Cox; Daiquiri Carter
Subject: SPECIAL HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641
Date: Monday, June 26, 2023 10:23:00 AM

Jim and Brent, a special hearing has been scheduled for this Thursday, June 29, at 8:00 a.m. to take up DHS' motion filed on June 23rd. The Zoom invitation is below. If the parties will join a minute or two before, that will enable me to do a quick sound check before we get started.

Jim, to the extent that you would like to respond to the motion, please email your response to asccpleadings@arkansas.gov and to me by 5pm on Wednesday, June 28.

I would like for each party to respond and to confirm receipt of this email.

Thanks,
Kathryn

Kathryn Irby -- Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- special hearing
Time: Jun 29, 2023 08:00 AM Central Time (US and Canada)

Join Zoom Meeting
https://us06web.zoom.us/j/86190081626?pwd=THk2T213Ync4Y1Vpa0VKb3U5V29Ddz09

Meeting ID: 861 9008 1626
Passcode: 7rhK7V

One tap mobile
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+19294362866,,86190081626#,,,,*375102# US (New York)

Dial by your location
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• +1 929 436 2866 US (New York)
• +1 301 715 8592 US (Washington DC)
• +1 305 224 1968 US
• +1 309 205 3325 US
• +1 312 626 6799 US (Chicago)
• +1 253 205 0468 US

- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 360 209 5623 US
- +1 386 347 5053 US
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 669 444 9171 US
- +1 669 900 6833 US (San Jose)
- +1 689 278 1000 US
- +1 719 359 4580 US

Meeting ID: 861 9008 1626
Passcode: 375102

Find your local number: https://us06web.zoom.us/u/kcdl4UagGe

From: Jim Jackson
To: Kathryn Irby; Brent Gasper
Cc: Martha Cox; Daiquiri Carter
Subject: RE: SPECIAL HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641
Date: Monday, June 26, 2023 10:56:56 AM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg

Kathryn,
I am in receipt of the notice and Zoom information for this Thursday.
Thank you,
Jim



Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611



From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Monday, June 26, 2023 10:24 AM
To: Jim Jackson <jim@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: SPECIAL HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641

Jim and Brent, a special hearing has been scheduled for this Thursday, June 29, at 8:00 a.m. to take up DHS' motion filed on June 23rd. The Zoom invitation is below. If the parties will join a minute or two before, that will enable me to do a quick sound check before we get started.

Jim, to the extent that you would like to respond to the motion, please email your response to asccpleadings@arkansas.gov and to me by 5pm on Wednesday, June 28.

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Thanks,
Kathryn

Kathryn Irby -- Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- special hearing
Time: Jun 29, 2023 08:00 AM Central Time (US and Canada)

Join Zoom Meeting
https://us06web.zoom.us/j/86190081626?pwd=THk2T213Ync4Y1Vpa0VKb3U5V29Ddz09

Meeting ID: 861 9008 1626
Passcode: 7rhK7V

One tap mobile
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+19294362866,,86190081626#,,,,*375102# US (New York)

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• +1 929 436 2866 US (New York)
• +1 301 715 8592 US (Washington DC)
• +1 305 224 1968 US
• +1 309 205 3325 US
• +1 312 626 6799 US (Chicago)
• +1 253 205 0468 US
• +1 253 215 8782 US (Tacoma)
• +1 346 248 7799 US (Houston)
• +1 360 209 5623 US
• +1 386 347 5053 US
• +1 507 473 4847 US
• +1 564 217 2000 US
• +1 669 444 9171 US
• +1 669 900 6833 US (San Jose)
• +1 689 278 1000 US
• +1 719 359 4580 US

Meeting ID: 861 9008 1626
Passcode: 375102

Find your local number: https://us06web.zoom.us/u/kcdl4UagGe

From: Brent Gasper
To: Kathryn Irby; Jim Jackson
Cc: Martha Cox; Daiquiri Carter
Subject: RE: SPECIAL HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641
Date: Tuesday, June 27, 2023 8:11:27 AM

Received, thank you Kathryn,

brent

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Monday, June 26, 2023 10:24 AM
To: Jim Jackson <jim@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: SPECIAL HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641

Jim and Brent, a special hearing has been scheduled for this Thursday, June 29, at 8:00 a.m. to take up DHS' motion filed on June 23rd. The Zoom invitation is below. If the parties will join a minute or two before, that will enable me to do a quick sound check before we get started.

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• +1 719 359 4580 US

Meeting ID: 861 9008 1626
Passcode: 375102

Find your local number: https://us06web.zoom.us/u/kcdl4UagGe

From: Martha Cox
To: ASCC Pleadings; Kathryn Irby
Cc: Brent Gasper; Daiquiri Carter; Jim Jackson
Subject: RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, dec"d & Permanent Guardian of [redacted], a Minor v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641
Date: Wednesday, June 28, 2023 11:59:40 AM
Attachments: Claimant"s Response to Respondent"s Motion to Strike 6-28-2023.pdf

---

Please find attached the claimant's Response to Respondent's Motion to Strike for filing in the above-referenced case.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] a minor — **CLAIMANT**

v. — **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S RESPONSE TO RESPONDENT'S MOTION TO STRIKE CLAIMANT'S MOTION FOR SUMMARY JUDGMENT OR, ALTERNATIVELY, RESPONDENT'S MOTION FOR AN ENLARGED (SIC) OF TIME TO RESPOND TO CLAIMANT'S MOTION FOR SUMMARY JUDGMENT

Comes now Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and Permanent Legal Guardian of [redacted] a minor, by and through her attorney, Jim Jackson, and for her Response to the Respondent's Motion to Strike Claimant's Motion for Summary Judgment or Alternatively, Respondent's Motion for an Enlarged (Sic) of Time to Respond to Claimant's Motion for Summary Judgment, states:

1. The Claimant does not oppose the Respondent's request for an enlarged period of time to respond to the Motion for Partial Summary Judgment. The Claimant opposes the Motion to Strike, as there is no such rule in the Arkansas Rules of Civil Procedure that permits a Motion for Summary Judgment to be "stricken."

2. This is a straight forward rear-end collision. The wreck occurred on June 22, 2021. The Respondent immediately began an investigation into what happened. DHS' internal investigation was completed within a week after the wreck. *See* Kristen Shelton's testimony and exhibits referenced at pgs. 18-22 in the Claimant's Brief in Support of the Motion for Partial Summary Judgment on the Issue of Liability filed on June 14, 2023.

3. The Claimant takes exception to several of the unsupported allegations made in the Respondent's Motion and would like to take this opportunity to set the record straight. The Respondent's initial argument supporting its Motion to Strike is based upon inadmissible testimony which is highly speculative. The Respondent is correct that the toxicology report of Ashcraft has not been used in this litigation. The Respondent fails to reveal that the toxicology reports showed *both* Ashcraft and Wilkerson tested positive for methamphetamine, amphetamine, and benzodiazepines. Attached hereto as Exhibit 1 is a copy of the Toxicology report for both drivers. However, these test results are "qualitative" samples which only indicates the presence of a drug. The leap of logic from a positive hit in a drug test to being legally "intoxicated" at the time of the wreck requires conjecture and speculation. There is no proof that either Ashcraft or Wilkerson was driving "intoxicated" at the time of the collision even though a positive hit was found in both urine samples.

4. The legal standard required to prove that a person was legally "intoxicated" is that a person's reaction, motor skills and judgment must be "substantially altered" as the result of ingesting a controlled substance. There is no testimony that any driver in this wreck was legally "intoxicated" or that their motor skills were "substantially altered" as defined by Ark. Code Ann. § 5-65-102(2).

> "Intoxicated" means influenced or affected by the ingestion of alcohol, a controlled substance, any intoxicant, or any combination of alcohol, a controlled substance, or in intoxicant, to such a degree that the driver's reactions, motor skills, and judgment are *substantially altered* and the driver, therefore, constitutes a clear and substantial danger of physical injury or death to himself and other motorists or pedestrians.
> (Emphasis added.)

5. There is no testimony that any driver was "weaving" or appeared impaired at the scene of the wreck. We have no way of knowing when any of the narcotics were ingested, nor the metabolism rate, by either Ashcraft or Wilkerson.

6. The Respondent is asking the Commission to use rank speculation to find that Ashcraft, and by inference Wilkerson, were legally "intoxicated" at the time of the collision. The qualitative toxicology report by itself does not prove if a driver was intoxicated or not. The Respondent's introduction of Ashcraft's positive urine sample without referencing its own driver's practically identical positive urine sample is not fully forthcoming. The argument that the positive test means intoxication is fallacious.

7. Paramedic Holly Newman's observation of Ashcraft is the key. She was the initial First Responder to interact with Ashcraft. A paramedic's primary responsibility upon interacting with a patient is to perform an initial assessment. The initial assessment of a patient is the gold standard for a paramedic to determine how to treat a patient. Newman's notes upon interacting with Ashcraft show a patient who was in full control of her faculties and does not show any evidence of a patient that was "impaired, intoxicated or whose judgment was substantially altered." In fact, Ashcraft was coherent and able to make normal, rational responses to the questions from the initial assessment and a second assessment made right before the paramedic left to assess another patient. The paramedic's notes state:

> SQ 1 RESPONDED EMERGENT TO 3 VEHICLE ACCIDENT.
>
> UOA[1] FOUND PT STANDING OUTSIDE OF HER CAR WITH HER 2 CHILDREN. PT IS A&OX4[2] WITH DIAPHORETIC SKIN. TODAY'S TEMP IS APPROX 95 DEGREES AND HUMID OUTSIDE. PT STATED SHE DIDN'T WANT TO GO WITH EMS AND DIDN'T WANT HER DAUGHTERS TO GO AS WELL. PT IS ABLE TO ANSWER ALL QUESTIONS ACCORDINGLY AND CORRECTLY. PT THEN SIGNED THE REFUSAL FORM.

[1] Upon Arrival

[2] This is the standard assessment used by paramedics to determine if a patient can make sound medical decisions for themselves. 1) Does the person know their name? 2) Place – does the patient know where they are? 3) Time – Does the patient know the day/date? 4) Event – Is the patient aware of what is happening currently and the events leading up to the present?

> WHILE MEDIC NEWMAN WAS WITH THE PT, THE PT BECAME WEAK AND STATED SHE WANTED TO GO ACROSS THE STREET INTO THEIR HOUSE AND COOL OFF. PT AND CHILDREN STATED SHE HAS BEEN THROWING UP X2 DAYS WHICH SUBSIDED TODAY BUT THAT THE PT HAS BEEN WEAK SINCE. PT IS APPROX 95 LBS. PT WAS ASSISTED INTO THE HOUSE AND PLACED ON THE COUCH. FAMILY WENT AND PLACED A TOWEL UNDER COOL WATER. MEDIC NEWMAN THEN PLACED TOWEL AROUND PT'S NECK. PT STILL A&OX4 AT THIS TIME AND ABLE TO ANSWER QUESTIONS. PT WAS LEFT IN THE CARE OF FAMILY WHILE MEDIC NEWMAN WENT AND CHECKED OUT THE DRIVER OF THE 3RD VEHICLE.
>
> AT APPROX 13:30 MEDIC NEWMAN WAS ADVISED A MEDIC IS NEEDED IN THE HOUSE. AT THIS TIME PT IS NOW A&OX2. PT IS EASILY AROUSABLE WITH VERBAL AND PAINFUL STIMULI BUT HAS SLURRED SPEECH AND CONFUSION. 18G IV STARTED INSIDE THE HOUSE BY MEDIC NEWMAN AND CBG READ 95. SALINE LOCK AND PLACED. MEDIC NEWMAN REQUESTED ANOTHER UNIT FOR THIS PT VIA STATE POLICE.

8. Paramedic Newman did not note anything abnormal about Ashcraft when she initially assessed her shortly after the wreck. Newman specifically found Ashcraft "is able to answer all questions *accordingly and correctly*." (Emphasis added.) Nor did she note anything unusual after Ashcraft walked across the highway and went into the home to cool off. Ashcraft was alert and orientated during the time the paramedic was initially with her. Ashcraft's brain bleed did not cause symptoms of slurred speech until approximately thirty (30) minutes after the wreck occurred.

9. The Respondent's attack on Trooper Ray is more troubling. Obviously, Trooper Ray made a typographical error when entering the GPS coordinate as "Latitude 35.294605°N and Longitude 93.662085° W." A typographical error does not alleviate the fact that Wilkerson rear-ended Ashcraft's car at a high rate of speed. The Claimant did not cite the GPS coordinates in the Motion for Partial Summary Judgment. Instead, the street address for the destination of Jacqueline Ashcraft was used. This address is for a home owned by Jennifer Capo[redacted]

10. Most disingenuous of all is the Respondent's bold proclamation to this Commission in paragraph 25 of its Motion to Strike:

> "[D]irect evidence in the form of photographs that *no one has yet seen* arrived at Respondent's offices on the same day that Respondent's counsel was responding to Claimant's unfounded assertion that liability was already decided and a foregone conclusion." (Emphasis added.)

11. This is <u>not</u> correct. These "new" photos are the same photos attached as Exhibit 28 to Trooper Ray's deposition taken on February 21, 2023. Trooper Ray testified about these photos during his deposition! The same photos are attached as Exhibit 1 to the Claimant's Motion for Partial Summary Judgment and are Bates stamped "Claimant's Exhibits MSJ 003 – 10." Attached hereto as Exhibit 2 is the Index of Exhibits for Trooper Ray's deposition.

12. The Respondent's allegation regarding Trooper Ray's "skid marks" reference in his diagram is just as troubling. There are numerous skid marks and tire marks in a fatal collision. Trooper Ray's diagram #3 states "C=Skid marks begin 100.10 ft WEST OF RP." Nowhere in Trooper Ray's accident report or his deposition does he state that the skid marks referenced in his diagram were the "only" skid marks on the roadway. Exhibits 1-28 to Trooper Ray's deposition contain numerous photographs with various skid marks. During Trooper Ray's deposition, the Respondent's counsel examined Trooper Ray about his measurements and findings. Counsel had every opportunity to also examine Trooper Ray about each skid mark in each photograph and its meaning.

13. The Respondent attempts to assert that Trooper Ray did something wrong by not bringing the "Fatal Crash Preliminary Reporting Form" to his deposition. This is misleading because Trooper Ray was not asked to bring anything to his deposition other than the photographs which were attached as Exhibit 28 to his deposition. Attached hereto as

Exhibit 3 is a copy of the Notice of Deposition for Trooper Ray's deposition taken on February 21, 2023.

14. Furthermore, the Fatal Crash Preliminary Reporting Form is a public record found on the Arkansas Department of Public Safety's web page. Anyone with internet access can obtain a copy. It is simply an abbreviated summary of a fatal crash that the Arkansas State Police uploads onto its website. Attached hereto as Exhibit 4 is the form. There is no information in this form that is not contained in Trooper Ray's full accident report.

15. The Respondent claims that there is evidence that Ashcraft was negligent. The facts show that Ashcraft was traveling east approaching a residential driveway and began slowing to make a left-hand turn. At the same time, an oversized load with an escort/pilot car was approaching from the west. Ashcraft moved her vehicle to the right side of her traffic lane to allow both the escort/pilot car and oversized load to pass before attempting a left-hand turn. The Respondent's contention that Ashcraft violated one of the rules of the road contained in Exhibit F to the Respondent's Motion to Strike is without merit. The Respondent relies on Ark. Code Ann. § 27-51-1302 to prove negligence. "No person shall stop, stand, or park a vehicle, *except when necessary to avoid conflict with the other traffic* or in compliance with the directions of a police officer or a traffic control device. . . ." (Emphasis added.) Ashcraft did everything possible to avoid a collision by operating her vehicle in a safe and responsible manner. She was paying attention to the oncoming oversized load and took the appropriate action to slow down and allow it to pass before making a left-hand turn into the private driveway. There was nothing to prevent Wilkerson from seeing Ashcraft's blue car slowing to make a left-hand turn. Wilkerson had a duty to pay attention to the traffic in front of her and avoid rear-ending Ashcraft's car.

16. The Claimant retained Stanley Cain, a licensed accident reconstructionist, to go to the scene of the accident, make observations, and take photographs.

17. Attached hereto as Exhibit 5 is Stanley Cain's Affidavit and Investigation Report.[3] This report and its attachments will be used to supplement the Claimant's Motion for Partial Summary Judgment on the Issue of Liability. Stanley Cain is available to be deposed during the first three weeks of July.

CONCLUSION

WHEREFORE, the Claimant requests that the Respondent's Motion to Strike be denied. The Claimant does not oppose the Motion for Enlargement of Time. The Claimant requests that the time not be contingent on the date of the ruling on the issues being heard on August 11. Rather, the Claimant suggests that the Respondent take the deposition of Stanley Cain during the first three weeks of July and have 20 days after the deposition transcript is returned by the court reporter in which to file a response to the Claimant's Motion for Partial Summary Judgment on the Issue of Liability.

Respectfully Submitted,

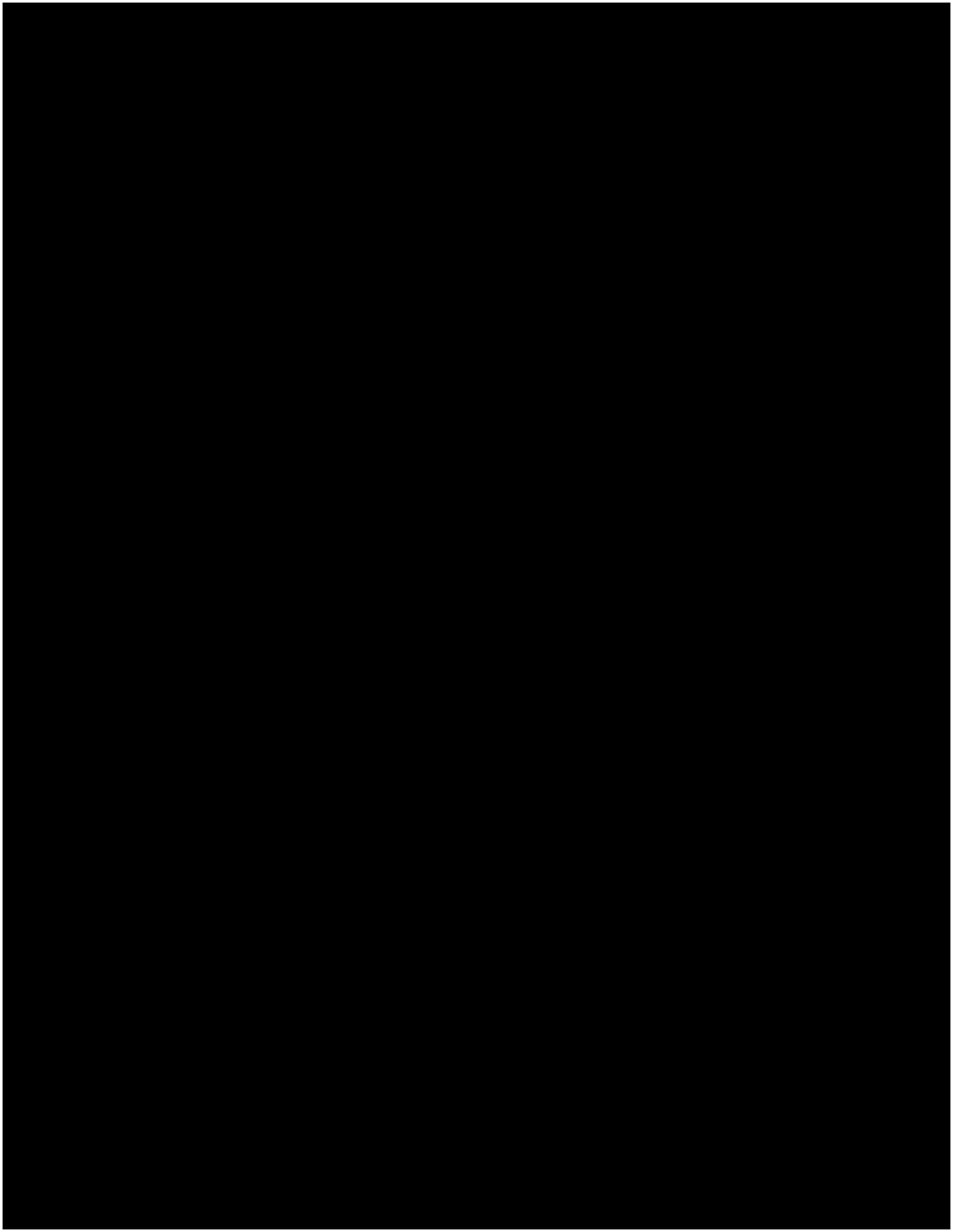
Jim R. Jackson, AR Bar #93209
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700 West Broadway Street, Suite 200
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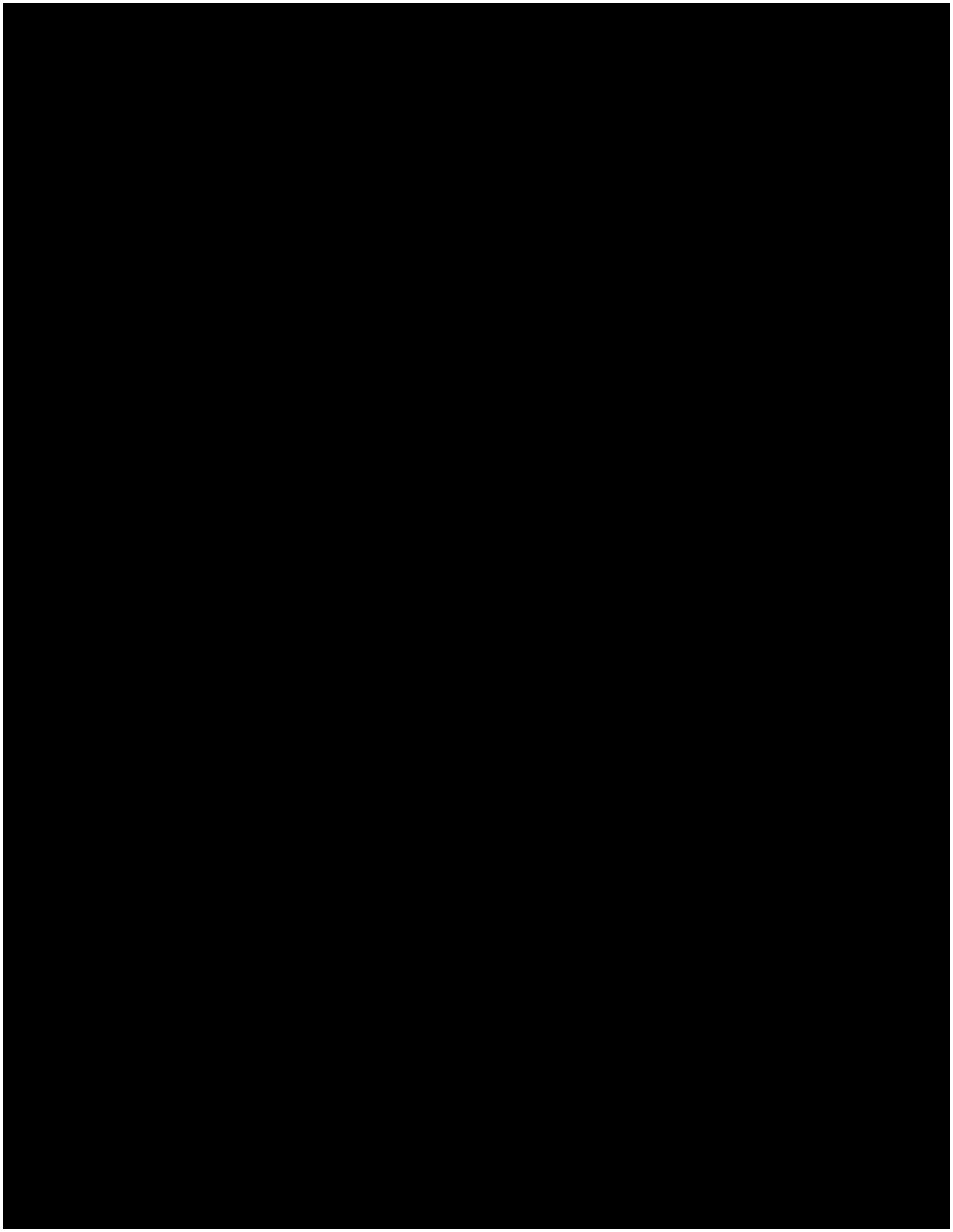
[3] The exhibits referenced in the Investigation Report will be attached and included in the supplement to the Claimant's Motion for Partial Summary Judgment.

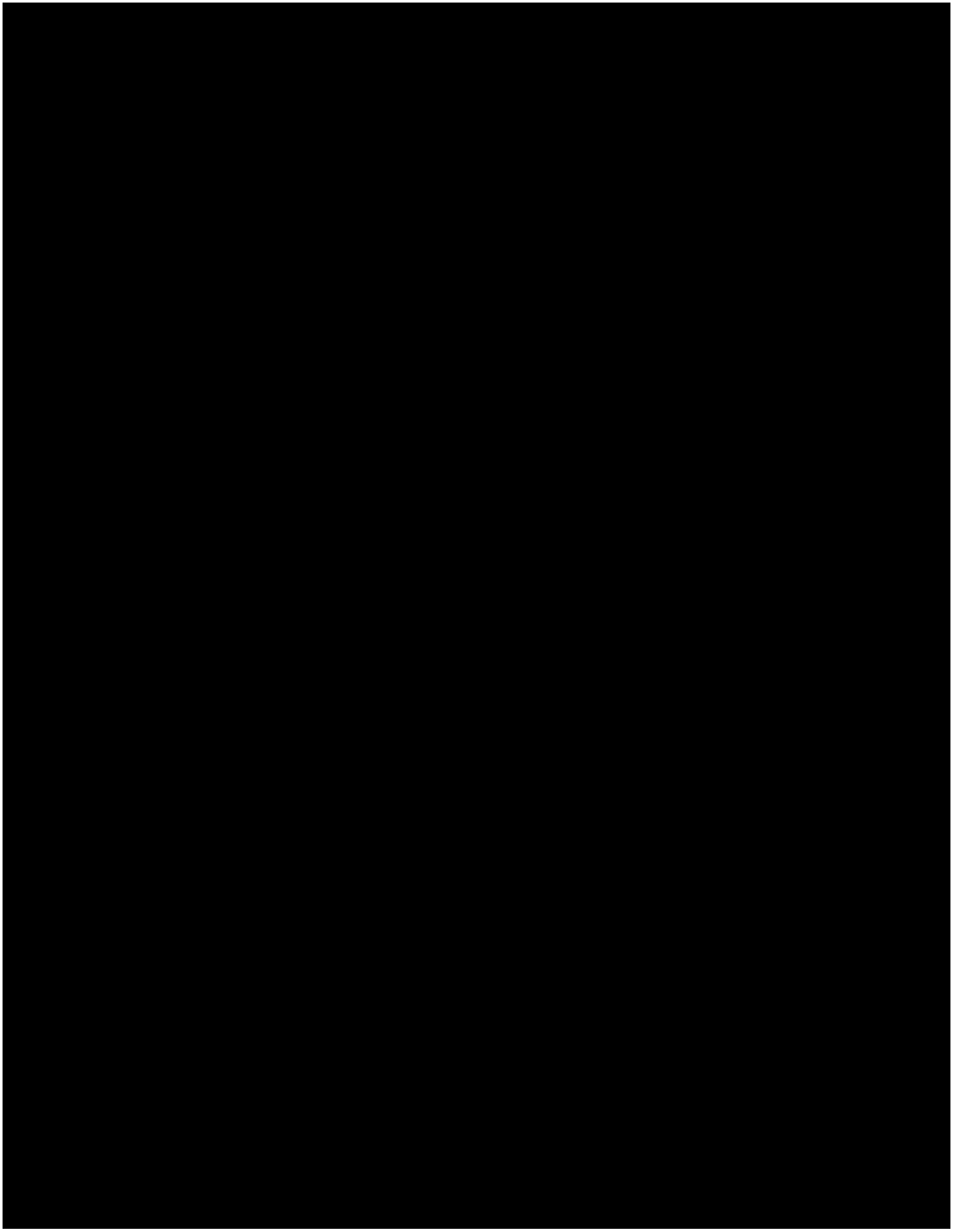
CERTIFICATE OF SERVICE

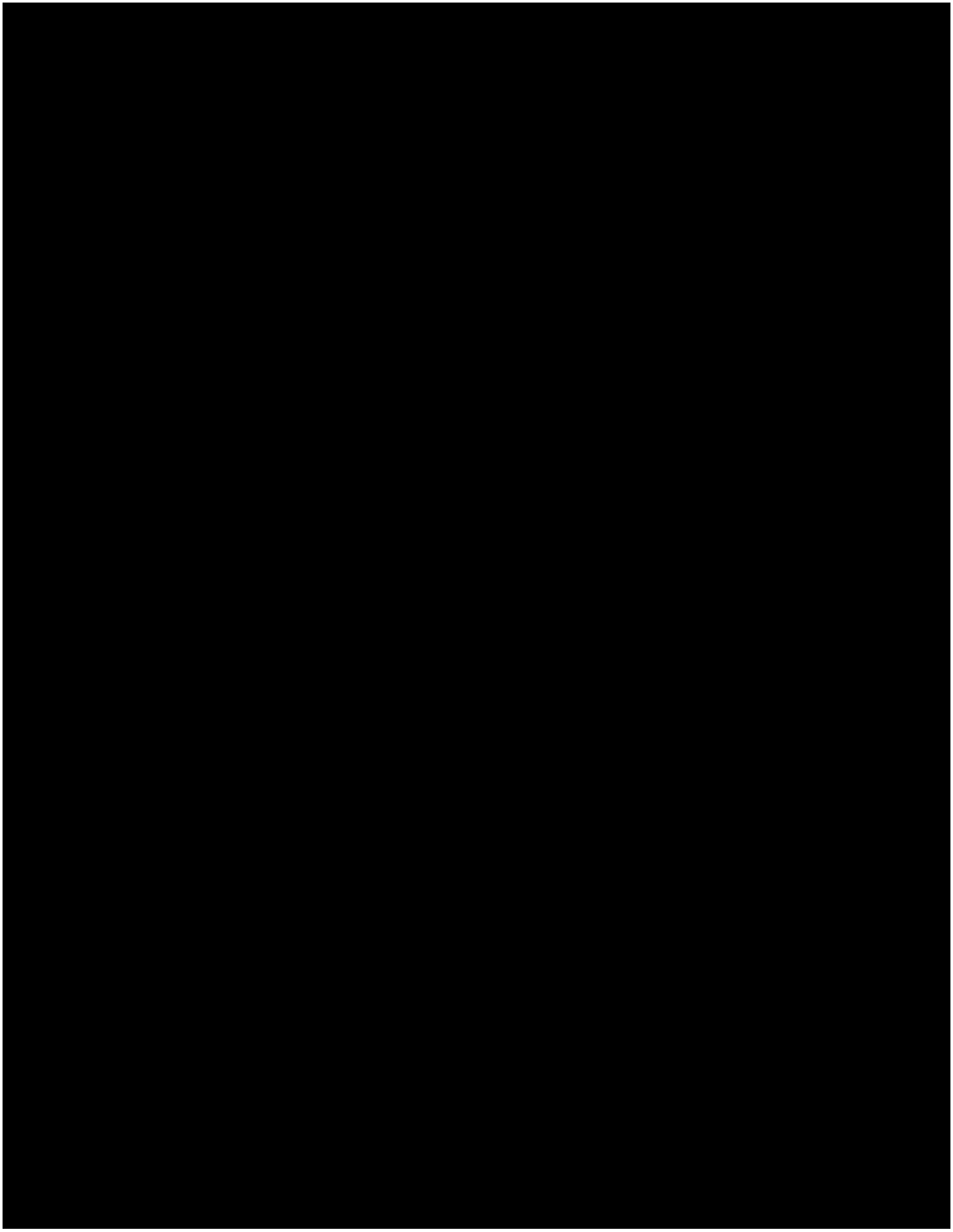
I, Jim R. Jackson, hereby certify that I have electronically filed this pleading with the Clerk of the Arkansas Claims Commission and served the Respondent's attorney, Brent P. Gasper, via email, with the Claimant's Response to Motion to Strike Claimant's Motion for Summary Judgment or Alternatively, Respondent's Moton for an Enlarged (Sic) of Time to Respond to Claimants' Motion for Summary Judgment on June 28, 2023.

Jim R. Jackson









ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] AND [redacted] MINOR CHILDREN — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES — RESPONDENT

VIDEOTAPED DEPOSITION

OF

JAMES RAY

Taken February 21st, 2023, at 1:03 P.M.



APPEARANCES

ON BEHALF OF THE CLAIMANT:

JIM R. JACKSON, ESQUIRE
JACKSON LAW FIRM
700 WEST BROADWAY STREET, SUITE 200
NORTH LITTLE ROCK, ARKANSAS 72114-5528
(501) 823-3610
jim@jimjacksonatty.com

ON BEHALF OF THE RESPONDENT:

BRENT GASPER, ESQUIRE
ASSISTANT DEPUTY CHIEF COUNSEL
ARKANSAS DEPARTMENT OF HUMAN SERVICES
P.O. Box 1437
LITTLE ROCK, ARKANSAS 72203
(501) 320-8950
brent.gasper@dhs.arkansas.gov

VIA TELEPHONE:

SARAH DEBUSK, ESQUIRE
ARKANSAS DEPARTMENT OF HUMAN SERVICES
P.O. BOX 1437
LITTLE ROCK, ARKANSAS 72203
(501) 320-8950
sarah.debusk@dhs.arkansas.gov

ALSO PRESENT:

RICHARD HAYDEN, VIDEOGRAPHER

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EXHIBITS

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16. Wilson Statement.
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20. Paramedic report.
21. Photograph.
22. Photograph.
23. Photograph.
24. Photograph.
25. Photograph.
26. Photograph.
27. Photograph.
28. Thumb Drive

(Court Reporter Note: Physical Copy of thumb drive Exhibit No. 28 mailed to each attorney.)

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] AND [redacted] MINOR CHILDREN — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES — RESPONDENT

NOTICE OF DEPOSITION

TO: Arkansas Department of Health and Human Services
c/o Mr. Brent Gasper
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

NOTICE is hereby given that the plaintiff will take the deposition of Trooper James Ray on Tuesday February 21, 2023, beginning at 1:00 p.m. at the Arkansas Game & Fish Commission's Regional Office, 8401 Massard Road, Fort Smith, Arkansas 72916, for all purposes, upon oral examination, before a Certified Court Reporter, duly authorized to administer oath, and recorded by stenographic means. The deposition will continue until completed.



Respectfully submitted,

BY: /s/ Jim R. Jackson

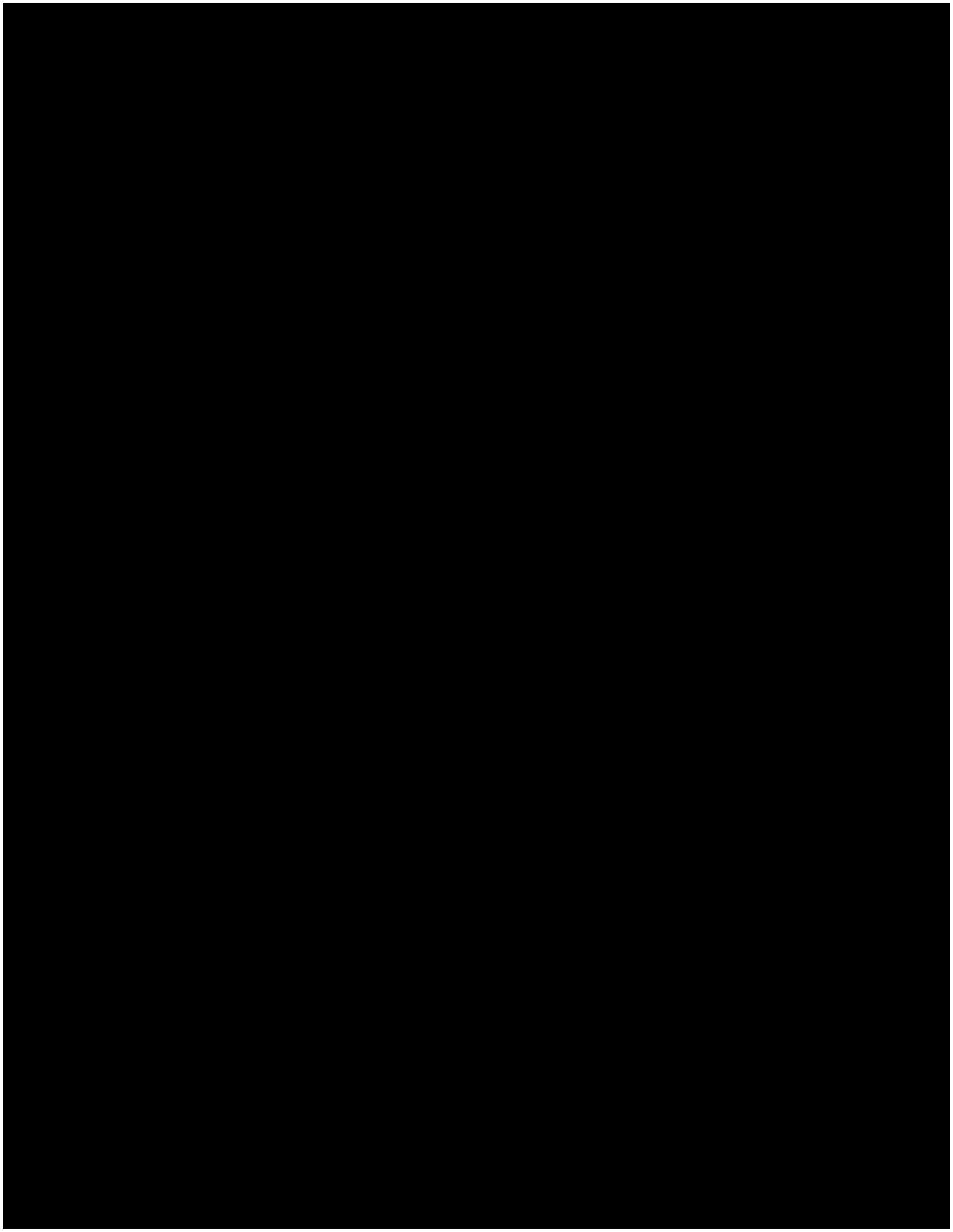
Jim R. Jackson, AR Bar #93-209
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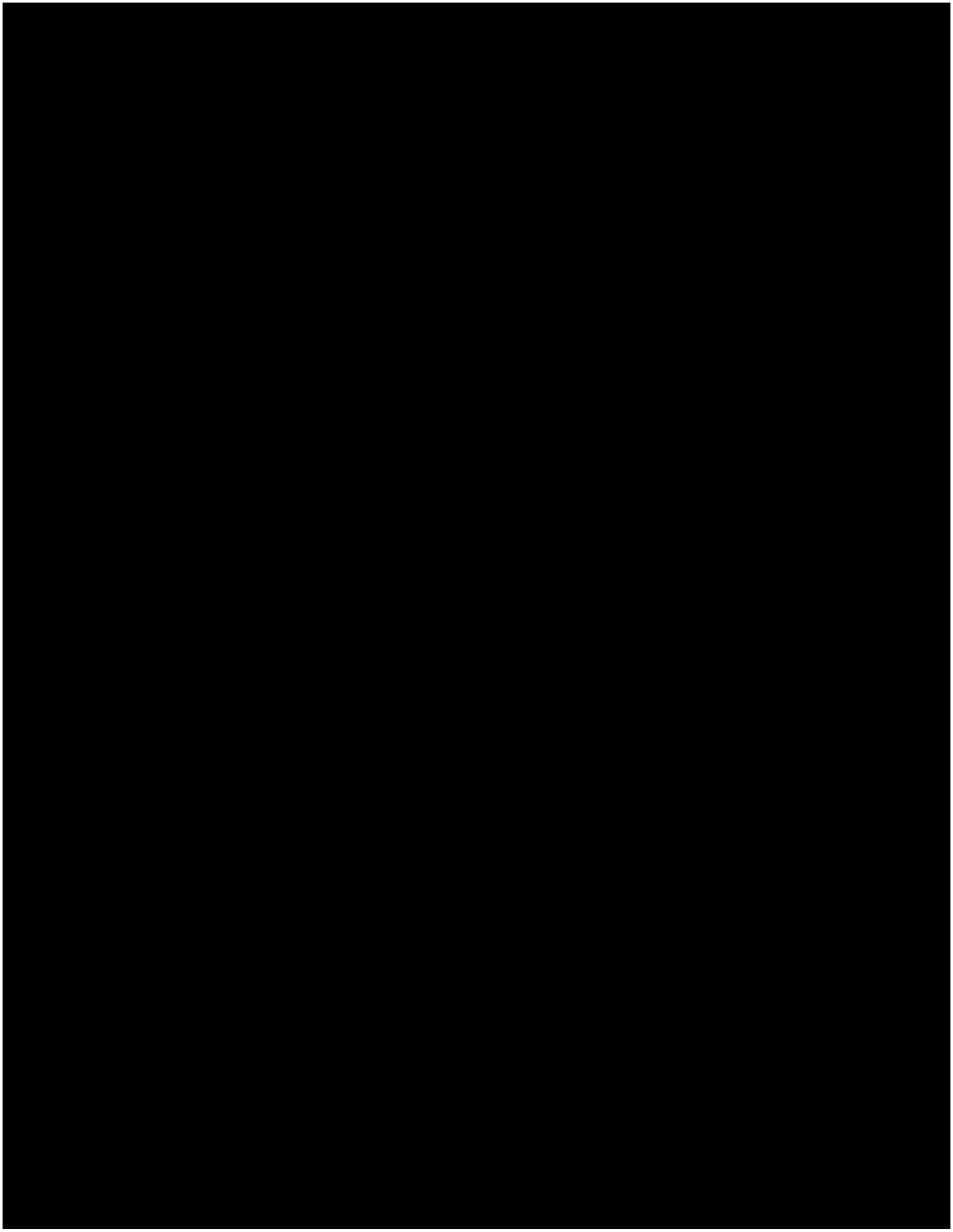
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Notice of Deposition was served on the following counsel of record by either U.S. Mail, postage prepaid, or by electronic service to:

Mr. Brent Gasper
Ms. Sarah DeBusk
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

/s/ Jim R. Jackson
Jim R. Jackson





IN THE CIRCUIT COURT OF LOGAN COUNTY, ARKANSAS

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR CHILD — **CLAIMANT**

VS. — **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

AFFIDAVIT OF STANLEY B. CAIN

Comes now Stanley Cain, and for his Affidavit, states:

1. My name is Stanley Cain. I am over the age of 18 and am mentally competent to make this affidavit.

2. I am a member of the Accreditation Commission for Traffic Accident Reconstruction "ACTAR" with license number [redacted] I passed ACTAR's independent credentialing examination that objectively assesses a candidate's comprehension and application of the minimum training standards of a forensic specialist in motor vehicle accident reconstruction.

3. I was employed by the Rogers Police Department from July 1995 through December 2020. I retired with the rank of Corporal which included 16 years total in the traffic unit for the Rogers Police Department. I served a total of 25 years and six months for the Rogers Police Department. I earned a Bachelor in of Science in Soil Science & Agronomy from the University of Arkansas in 1990.

4. I was retained by attorney Jim Jackson to perform an investigation of the crash that is the subject of this litigation.

PLAINTIFF'S EXHIBIT 5

5. Attached is my Investigation Report which contains my notes from the scene inspection where I went to the accident site and took photographs, made measurements and observations.

6. The findings from my analysis and calculations are that Jennifer Wilkerson was extremely negligent when she collided into the rear of Ms. Ashcraft's vehicle. Furthermore, Jacqueline Ashcraft's vehicle was positioned within the bounds of the eastbound lane of traffic on Highway 22 at all times relevant to this collision.

7. My findings are consistent with the findings of Trooper James Ray who prepared the accident report and provided deposition testimony on February 21, 2023.

8. My findings are consistent with the initial statements obtained by Arkansas Department of Human Services' employees and witnesses. These statements are attached to Kristen Shelton's deposition.

9. Attached as Exhibit 1 is my Investigation Report which contains the basis of my opinion and the supporting documentation which are:

i. Ten pages of calculations using AR PRO computer program;

ii. 35 scene photographs; and,

iii. Diagram of the accident site prepared by Stanley Cain.

10. Attached as Exhibit 2 are four aerial photographs taken by a drone that I will utilize to assist my testimony in describing the accident scene at deposition and trial.

Stanley Cain, ACTAR #1686

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF PULASKI)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 26th day of June, 2023.

Martha Cox
NOTARY PUBLIC

My Commission Expires:

8-19-2031

SEAL

MARTHA COX
NOTARY PUBLIC - STATE OF ARKANSAS
SALINE COUNTY
My Commission Expires 8-19-2031
Commission # 12383466

Stanley B. Cain Accident Reconstructionist, LLC

P.O. Box 836, Waldron, AR 72958
Phone: 479-426-1957
Email: stanley.cain26@yahoo.com

INVESTIGATION REPORT

PREPARED FOR: Mr. Jim Jackson, with Jackson Law Firm.

REFERENCE: Jacqueline Ashcraft collision on 6/11/21.

On 5/16/23, Mr. Jim Jackson, with Jackson Law Firm, contacted me and requested my services to investigate a motor vehicle collision involving his client, the estate of Ms. Jacqueline Ashcraft.

ITEMS RECEIVED

1. Arkansas Motor Vehicle Collision Report from the Arkansas State Police (Report [redacted]
2. Crash scene photographs taken by Arkansas State Police.
3. Scene photographs taken by Mr. Jim Jackson.
4. Correspondence emails from the Arkansas Department of Human Services, regarding their internal investigation of the collision.
5. Trooper James Ray's deposition & exhibits.
6. Kristen Shelton's deposition & exhibits.
7. Aerial photographs of accident site.

BACKGROUND INFORMATION

Date and time of collision: Approximately 12:50 PM on 6/11/2021.
Location: Arkansas State Highway 22, Paris, Arkansas.
Vehicle 1: 2005 Hyundai Sonata, driven by Ms. Jacqueline Ashcraft.
Vehicle 2: 2009 Hyundai Elantra, driven by Ms. Jenifer Wilkerson.
Vehicle 3: 2001 Peterbilt truck-tractor and modular trailer, driven by Mr. Bobby Wilson.

SCENE INSPECTION

On 5/20/23, I went to the scene for observations, photographs, and measurements. Highway 22 is a two-lane State Highway consisting of one westbound lane and one eastbound lane, separated by a double yellow line, and bordered by white fog lines. The highway is bordered on both sides by improved shoulders. Each lane is approximately 11 feet wide. The eastbound shoulder is approximately 7.6 feet wide, and the westbound shoulder is approximately 7.3 feet wide. I did not observe any line-of-sight issues present that would hinder the view of traffic in either lane.

During the scene inspection, I located the final resting area of vehicle 1. The distances from the RP to A to D, from the vehicle collision report, ended at the shadow of a tire mark which I recognized as the remnants of the skid mark shown in the scene photographs for vehicle 1. I was able to locate the remaining end of the skid mark on the eastbound fog line.

With the measurements provided by the vehicle collision report, I located the beginning of the skid marks from vehicle 2. From the scene photographs I was able to place the beginning point of the skid marks in relation to the eastbound lane and shoulder. From the rumble stripes on the shoulder, I was able to locate the approximate beginning location of a passenger side skid mark, and the area where that skid mark crossed the fog line. With the approximate track width of vehicle 2, I was able to place the approximate location of the driver side skid mark.

The scene photographs also showed a third skid mark, which I identified as being produced by the left rear wheel of vehicle 2. That skid mark followed along the fog line and veered to the left with the other two skid marks. By counting the number of rumble stripes next to that skid mark, I was able to locate the approximate beginning point of that skid mark also.

I was not able to locate the ending location of the three skid marks. I placed the approximate ending location of the three skid marks, based upon their ending location in the scene photographs.

Further east I located numerous grooves and gouges in the westbound lane. I located an additional gouge in the eastbound lane, along with grooves leading to the final resting location of vehicle 2.

West of the area of impact, I located the beginning of a dual wheel skid mark on the westbound fog line, at approximately 274 feet west of the reference point. The skid mark continued onto the shoulder and ended as a single wheel skid mark, at approximately 452 feet west of the reference point.

For more information, refer to the scene diagram.

VEHICLE INSPECTIONS

None of the three vehicles were still available for inspections. To complete the investigation, I reviewed the scene photographs provided by Arkansas State Police.

I observed the damage to vehicle 1, and I noticed that the vehicle had primary contact damage to the passenger side half of the rear end. The driver side of the rear bumper contained induced damage. I observed that the crush damage retarded the rotation of the right rear wheel to the point that the wheel produced a post-impact skid mark. I observed that the back panel of the driver seat was leaning back into the rear passenger area. I did not locate any damage to the vehicle that would indicate that vehicle 1 collided with vehicle 3.

I observed the damage to vehicle 2, and I noticed that the vehicle had primary crush damage to the front end of the vehicle, with the most extensive crush to the left front section. I observed that vehicle 2, had induced damage to the driver door frame and the rear passenger door on the driver's side. Furthermore, I observed underride damage to the right front panel, which is consistent with vehicle 2 colliding with the underside of the modular home being towed by vehicle 3.

I observed that vehicle 3 and contact damage to the driver side tractor tandems, and secondary contact damage to the driver side front corner of the modular home and trailer frame. The damage at that corner is consistent with vehicle 2 under riding the trailer with the front end. The under-riding contact by vehicle 2 is consistent with vehicle 2 creating the gouges and grooves seen in the westbound lane, at maximum engagement.

ANALYSIS AND CALCULATIONS

To conduct the impact speed calculations for vehicle 2, I had to first calculate the post-impact speed for both vehicle 1 and vehicle 2. From the scene diagram I measured that vehicle 1 traveled approximately 188.5 feet. From the observations of the scene photographs provided by Arkansas State Police, I noticed that the damage to vehicle 1 had retarded the right rear wheel to the point that it was producing a skid mark. Although I located only a portion of the skid mark from vehicle 1 during the scene inspection, the braking capability of that wheel would have commenced at the point of maximum engagement between the two vehicles.

To determine the post-impact speed, I had to calculate the adjusted deceleration factor for vehicle 1. To calculate the total deceleration factor for the vehicle I used a rolling resistance value of 0.01 for the left rear wheel (non-drive axle) and 0.10 for the left front wheel and the right front wheel (drive axle)[1]. For the right rear wheel (damage induced braking) I used an accepted coefficient of friction of 0.60 to 0.80 for a dry asphalt roadway surface that has been subjected to traveled use[2]. I calculated the post-impact speed for vehicle 1 at approximately 33.63 MPH, using an average coefficient of friction of 0.70.

Next, I calculated the post-impact speed for vehicle2. From the scene photographs I observed post-impact skid marks leading from the area of impact. The beginning of the driver side skid mark had a darkened area that was darker than the remaining portion of the skid mark. I recognized this as an indicator of the area of impact because wheels that are braking tend to produce very darkened skid marks upon maximum engagement with another vehicle. Furthermore, the scene photographs show three skid marks from vehicle 2, which indicates that it was off tracking from lateral instability. This movement is another indicator that vehicle 2 is moving away post-impact. The above-described characteristics of the skid marks conclude that there were very little to no pre-impact skid marks from vehicle 2 and therefore little to no pre-impact braking by vehicle 2.

From the scene diagram, I measured that vehicle 2 traveled approximately 53.2 feet post impact to the area where the vehicle collided with vehicle 3. I calculated the post-impact speed for vehicle 2 at approximately 33.44 MPH, using an average coefficient of friction of 0.70.

To further analyze the potential variability in the impact speed of vehicle 2, I calculated post-impact speeds for both vehicles using a roadway coefficient of friction of 0.60. In addition, the scene photographs depicted only three post-impact skid marks for vehicle 2. Therefore, I adjusted the deceleration factor for vehicle 2.

Furthermore, I provided a range of impact speeds for vehicle 2 based upon the potential range of pre-impact speed for vehicle 1. I did not locate any evidence during my scene inspection to indicate the pre-impact speed of vehicle 1. However, the statements by both Ms. Wilkerson and Mr. Wilson indicate that vehicle 1 was stationary when the impact occurred.

I calculated the impact speeds with AR PRO 15 Accident Reconstruction Software. The summary of the impact speeds is listed below:

---

[1] D. Parkka, Equation Directory for the Reconstructionist, First Edition.

[2] R. W. Rivers, On-Scene Traffic Accident Investigators Manual (Charles C. Thomas Publisher, 1981) 136.

IMPACT SPEED FOR WILKERSON (MPH)			
Coeff. of Friction	Ashcraft (Stationary)	Ashcraft (10 MPH)	Ashcraft (20 MPH)
0.70	74.3	62.1	50.0
0.57	71.0	58.9	46.7
0.60	69.7	57.6	45.4
0.49	66.7	54.6	42.4

For more information refer to the AR PRO Calculation Reports. NOTE: When referencing the AR PRO Calculation Reports, please be aware that vehicle 1 is WILKERSON and vehicle 2 is ASHCRAFT, in order to match the variables in the collinear momentum formula.

Based upon a review of the post-impact speeds I have concluded that the post-impact speed of vehicle 2 would be closer to the speeds calculated without a reduction in the braking efficiency. My conclusion is based upon my finding that the range of post-impact speeds for vehicle 1 (33.63 MPH to 31.90 MPH) is more consistent with the range of post -impact speeds for vehicle 2 (33.44 MPH to 30.96MPH).

The calculations clearly show that the post-impact speed of vehicle 1 was increased from the initial speed, which was result of the greater amount of momentum being brought into the collision by vehicle 2. Also, generally in momentum analysis the target vehicle (vehicle 1) can only depart from the collision at a speed equal to or less than the post-impact speed of the bullet vehicle. However, in this collision, the post-impact speed for vehicle 1 is slightly more than the value for vehicle 2. The investigation states that vehicle 2 also collided with vehicle 3, after colliding with vehicle 1. It is not known for certain, but vehicle 2 still may have been traveling eastbound when it collided with vehicle 3, and that collision prevented vehicle 2 from the opportunity to travel on its own to a complete stop. If vehicle 2 had been able to travel a further distance, then it would have generated a greater post-impact speed.

The damage profile to the rear of vehicle 1 clearly indicates that the impact by vehicle 2 was an off-set collision and not a complete in-line impact. The beginning of the skid marks from vehicle 2, along with the impact configuration, conclude that vehicle 1 was positioned within the bounds of the eastbound lane. Vehicle 1 was positioned towards the south half of the eastbound lane, likely because vehicle 3 was approaching and towing an oversized load. The delivery receipt shown within the scene photographs indicate that the oversized load behind vehicle 3 was a 14-foot by 56-foot modular home section.

During the scene inspection I observed that the eastbound lane was bordered by an improved paved shoulder, and the shoulder measured approximately 7.6 feet wide. The vehicle specifications for vehicle 2 list that it is approximately 5.9 feet wide for overall width. The shoulder would have provided Ms. Wilkerson with adequate room to maneuver her vehicle around vehicle 1 and avoid the collision altogether or greatly reduce the severity of the collision. The placement of the vehicles at impact indicates that vehicle 2 was veering to the right and possibly attempting to avoid the impact.

RESULTS AND CONCLUSIONS

The investigation has clearly concluded that Ms. Wilkerson was extremely negligent when she collided into the rear of Ms. Ashcraft. Furthermore, my investigation has concluded that Ms. Wilkerson was exceeding the posted speed limit for the highway.

There were no line-of-sight issues present at the scene and there were no adverse weather conditions present when the collision occurred. If Ms. Wilkerson had been keeping a proper lookout for traffic or hazards ahead, she could have easily observed that Ms. Ashcraft was slowing or stopped, and she could have avoided or greatly reduced the severity of the collision.

I did not discover any contributing actions to the collisions by Mr. Bobby Wilson.

I reserve the right to revise or supplement this report, based upon the discovery of new information or data, including the testimony or statements of parties and/or witnesses.

By: Stanley B. Cain

ACTAR #1686

Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

COEFFICIENT OF FRICTION

Find a Coefficient of Friction.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$f = (\mu lf \times nlf \times Sin\theta) + (\mu rf \times nrf \times Sin\theta) + (\mu lr \times nlr \times Sin\theta) + (\mu rr \times nrr \times Sin\theta)$

$f = (0.1000 \times 0.3050 \times Sin(90.0000)) + (0.1000 \times 0.3050 \times Sin(90.0000)) +$
$(0.0100 \times 0.1950 \times Sin(90.0000)) + (0.6000 \times 0.1950 \times Sin(90.0000))$

$f = (0.1000 \times 0.3050 \times 1.0000) + (0.1000 \times 0.3050 \times 1.0000) +$
$(0.0100 \times 0.1950 \times 1.0000) + (0.6000 \times 0.1950\ 1.0000)$

$f = 0.0305 + 0.0305 + 0.0019 + 0.1170$
$f = 0.1799$

f = The Adjusted Accel/Drag Factor
μ = The Tire - Surface Friction by wheel
n = The Percentage of Braking
θ = The angular difference between the veh heading and CofM direction
lf, rf, lr, rr = The tire at each corner of the vehicle (left front, etc.)
m = The Grade Percentage

Formula Inputs:

The Left Front Tire μ is:	0.1000
The Left Front Tire % of Braking is:	0.3050
The Left Front Tire Angular Difference is:	90.0000
The Right Front Tire μ is:	0.1000
The Right Front Tire % of Braking is:	0.3050
The Right Front Tire Angular Difference is:	90.0000
The Left Rear Tire μ is:	0.0100
The Left Rear Tire % of Braking is:	0.1950
The Left Rear Tire Angular Difference is:	90.0000
The Right Rear Tire μ is:	0.6000
The Right Rear Tire % of Braking is:	0.1950
The Right Rear Tire Angular Difference is:	90.0000

Formula Results:

The Acceleration/Drag Factor is: 0.1799

Calculation Notes:

Deceleration factor for vehicle 2 (ASHCRAFT), with a drive axle rolling resistance of 0.10.
Roadway coefficient of friction: 0.60.

AR Pro 15, © Dirigo Software, LLC

Stanley B. Cain Accident
Reconstructionist, LLC

[redacted]

COEFFICIENT OF FRICTION

Find a Coefficient of Friction.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$f = (\mu lf \times nlf \times Sin\theta) + (\mu rf \times nrf \times Sin\theta) + (\mu lr \times nlr \times Sin\theta) + (\mu rr \times nrr \times Sin\theta)$

$f = (0.1000 \times 0.3050 \times Sin(90.0000)) + (0.1000 \times 0.3050 \times Sin(90.0000)) +$
$(0.0100 \times 0.1950 \times Sin(90.0000)) + (0.7000 \times 0.1950 \times Sin(90.0000))$

$f = (0.1000 \times 0.3050 \times 1.0000) + (0.1000 \times 0.3050 \times 1.0000) +$
$(0.0100 \times 0.1950 \times 1.0000) + (0.7000 \times 0.1950\ 1.0000)$

$f = 0.0305 + 0.0305 + 0.0019 + 0.1365$

$f = 0.1994$

f = The Adjusted Accel/Drag Factor
μ = The Tire - Surface Friction by wheel
n = The Percentage of Braking
θ = The angular difference between the veh heading and CofM direction
(lf, rf, lr, rr = The tire at each corner of the vehicle (left front, etc.)
m = The Grade Percentage

Formula Inputs:

The Left Front Tire μ is:	0.1000
The Left Front Tire % of Braking is:	0.3050
The Left Front Tire Angular Difference is:	90.0000
The Right Front Tire μ is:	0.1000
The Right Front Tire % of Braking is:	0.3050
The Right Front Tire Angular Difference is:	90.0000
The Left Rear Tire μ is:	0.0100
The Left Rear Tire % of Braking is:	0.1950
The Left Rear Tire Angular Difference is:	90.0000
The Right Rear Tire μ is:	0.7000
The Right Rear Tire % of Braking is:	0.1950
The Right Rear Tire Angular Difference is:	90.0000

Formula Results:

The Acceleration/Drag Factor is:	0.1994

Calculation Notes:

Deceleration factor for vehicle 2 (ASHCRAFT), with a drive axle rolling resistance of 0.10.
Roadway coefficient of friction: 0.70.

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Stanley B. Cain Accident
Reconstructionist, LLC

[redacted]

COEFFICIENT OF FRICTION

Find a Coefficient of Friction.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$f = (\mu lf \times nlf \times Sin\theta) + (\mu rf \times nrf \times Sin\theta) + (\mu lr \times nlr \times Sin\theta) + (\mu rr \times nrr \times Sin\theta)$$

$$f = (0.6000 \times 0.3150 \times Sin(90.0000)) + (0.6000 \times 0.3150 \times Sin(90.0000)) + (0.6000 \times 0.1850 \times Sin(90.0000)) + (0.0100 \times 0.1850 \times Sin(90.0000))$$

$$f = (0.6000 \times 0.3150 \times 1.0000) + (0.6000 \times 0.3150 \times 1.0000) + (0.6000 \times 0.1850 \times 1.0000) + (0.0100 \times 0.1850\ 1.0000)$$

$$f = 0.1890 + 0.1890 + 0.1110 + 0.0018$$

$$f = 0.4908$$

f = The Adjusted Accel/Drag Factor
μ = The Tire - Surface Friction by wheel
n = The Percentage of Braking
θ = The angular difference between the veh heading and CofM direction
lf, rf, lr, rr = The tire at each corner of the vehicle (left front, etc.)
m = The Grade Percentage

Formula Inputs:

The Left Front Tire μ is:	0.6000
The Left Front Tire % of Braking is:	0.3150
The Left Front Tire Angular Difference is:	90.0000
The Right Front Tire μ is:	0.6000
The Right Front Tire % of Braking is:	0.3150
The Right Front Tire Angular Difference is:	90.0000
The Left Rear Tire μ is:	0.6000
The Left Rear Tire % of Braking is:	0.1850
The Left Rear Tire Angular Difference is:	90.0000
The Right Rear Tire μ is:	0.0100
The Right Rear Tire % of Braking is:	0.1850
The Right Rear Tire Angular Difference is:	90.0000

Formula Results:

The Acceleration/Drag Factor is:	0.4908

Calculation Notes:

Deceleration factor for vehicle 1 (WILKERSON) with reduced braking efficiency.
Roadway coefficient of friction: 0.60.

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Stanley B. Cain Accident
Reconstructionist, LLC

[redacted]

COEFFICIENT OF FRICTION

Find a Coefficient of Friction.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$f = (\mu lf \times nlf \times Sin\theta) + (\mu rf \times nrf \times Sin\theta) + (\mu lr \times nlr \times Sin\theta) + (\mu rr \times nrr \times Sin\theta)$$

$$f = (0.7000 \times 0.3150 \times Sin(90.0000)) + (0.7000 \times 0.3150 \times Sin(90.0000)) + (0.7000 \times 0.1850 \times Sin(90.0000)) + (0.0100 \times 0.1850 \times Sin(90.0000))$$

$$f = (0.7000 \times 0.3150 \times 1.0000) + (0.7000 \times 0.3150 \times 1.0000) + (0.7000 \times 0.1850 \times 1.0000) + (0.0100 \times 0.1850\ 1.0000)$$

$$f = 0.2205 + 0.2205 + 0.1295 + 0.0018$$

$$f = 0.5723$$

f = The Adjusted Accel/Drag Factor
μ = The Tire - Surface Friction by wheel
n = The Percentage of Braking
θ = The angular difference between the veh heading and CofM direction
lf, rf, lr, rr = The tire at each corner of the vehicle (left front, etc.)
m = The Grade Percentage

Formula Inputs:

The Left Front Tire μ is:	0.7000
The Left Front Tire % of Braking is:	0.3150
The Left Front Tire Angular Difference is:	90.0000
The Right Front Tire μ is:	0.7000
The Right Front Tire % of Braking is:	0.3150
The Right Front Tire Angular Difference is:	90.0000
The Left Rear Tire μ is:	0.7000
The Left Rear Tire % of Braking is:	0.1850
The Left Rear Tire Angular Difference is:	90.0000
The Right Rear Tire μ is:	0.0100
The Right Rear Tire % of Braking is:	0.1850
The Right Rear Tire Angular Difference is:	90.0000

Formula Results:

The Acceleration/Drag Factor is:	0.5723

Calculation Notes:

Deceleration factor for vehicle 1 (WILKERSON) with reduced braking efficiency.
Roadway coefficient of friction: 0.70.

AR Pro 15, © Dirigo Software, LLC

Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

MINIMUM SPEED W/ KNOWN DRAG FACTOR

Find a Minimum Speed with a skid distance and drag factor.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$S = \sqrt{30 \times D \times f}$$
$$S = \sqrt{30 \times 53.2400 \times 0.4900}$$
$$S = \sqrt{782.6280}$$
$$S = 27.9754$$

S = The Speed in mph/kph
30 = A Constant
D = The Distance in feet
f = The Adjusted Accel/Drag Factor

Formula Inputs:

The Acceleration/Drag Factor is:	0.4900
The Distance in feet is:	53.2400

Formula Results:

The Speed in mph is:	27.9754
The Velocity in fps is:	41.0305

Calculation Notes:

Post impact speed range for vehicle 1 (WILKERSON).

Incrementation Results

Drag F	Speed	Drag F	Speed	Drag F	Speed
0.4900	27.9754	0.5700	30.1729	0.6500	32.2208
0.5000	28.2595	0.5800	30.4364	0.6600	32.4677
0.5100	28.5407	0.5900	30.6976	0.6700	32.7127
0.5200	28.8191	0.6000	30.9567	0.6800	32.9559
0.5300	29.0949	0.6100	31.2136	0.6900	33.1974
0.5400	29.3681	0.6200	31.4684	0.7000	33.4371
0.5500	29.6388	0.6300	31.7212		
0.5600	29.9070	0.6400	31.9719		

AR Pro 15, © Dirigo Software, LLC

Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

MINIMUM SPEED W/ KNOWN DRAG FACTOR

Find a Minimum Speed with a skid distance and drag factor.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$S = \sqrt{30 \times D \times f}$

$S = \sqrt{30 \times 188.5000 \times 0.1800}$

$S = \sqrt{1017.9000}$

$S = 31.9045$

S = The Speed in mph/kph
30 = A Constant
D = The Distance in feet
f = The Adjusted Accel/Drag Factor

Formula Inputs:

The Acceleration/Drag Factor is:	0.1800
The Distance in feet is:	188.5000

Formula Results:

The Speed in mph is:	31.9045
The Velocity in fps is:	46.7932

Calculation Notes:

Post impact speed range for vehicle 2 (ASHCRAFT).

Incrementation Results

Drag F	Speed	Drag F	Speed	Drag F	Speed
0.1800	31.9045	0.2200	35.2718	0.2600	38.3444
0.1900	32.7788	0.2300	36.0645		
0.2000	33.6303	0.2400	36.8401		
0.2100	34.4608	0.2500	37.5998		

AR Pro 15, © Dirigo Software, LLC

Stanley B. Cain Accident Reconstructionist, LLC
[redacted]

COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$

$(3074.0000 \times V_1) + (3733.0000 \times 0.0000) = (3074.0000 \times 30.9600) + (3733.0000 \times 31.9000)$

$(3074.0000 \times V_1) + 0.0000 = 95171.0400 + 119082.7000$

$(3074.0000 \times V_1) + 0.0000 = 214253.7400$

$(3074.0000 \times V_1) = 214253.7400 - 0.0000$

$(3074.0000 \times V_1) = 214253.7400$

$$V_1 = \frac{214253.7400}{3074.0000} \qquad V_1 = 69.6986$$

W_1 = The Wt of Veh 1 in pounds
W_2 = The Wt of Veh 2 in pounds
V_1 = The Speed of Veh 1 in mph
V_2 = The Speed of Veh 2 in mph
V_3 = The Spd After Impact, Veh 1
V_4 = The Spd After Impact, Veh 2
* * This is a Rear End collision * *:

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3074.0000
The After Impact Speed of Veh 1 is:	30.9600
The Wt of Veh 2 (lbs) is:	3733.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	31.9000

Formula Results:

The Spd of Veh 1 in mph is:	69.6986
The Vel of Veh 1 in fps is:	102.2246

Calculation Notes:

Impact speed for both vehicles.
Roadway coefficient of friction: 0.60
100% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	69.6986	8.0000	59.9836	16.0000	50.2686
1.0000	68.4843	9.0000	58.7692	17.0000	49.0542
2.0000	67.2699	10.0000	57.5548	18.0000	47.8398
3.0000	66.0555	11.0000	56.3405	19.0000	46.6254
4.0000	64.8411	12.0000	55.1261	20.0000	45.4111
5.0000	63.6267	13.0000	53.9117		
6.0000	62.4124	14.0000	52.6973		
7.0000	61.1980	15.0000	51.4829		

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Stanley B. Cain Accident
Reconstructionist, LLC

[redacted]

COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$
$(3074.0000 \times V_1) + (3733.0000 \times 0.0000) = (3074.0000 \times 27.9800) + (3733.0000 \times 31.9000)$
$(3074.0000 \times V_1) + 0.0000 = 86010.5200 + 119082.7000$
$(3074.0000 \times V_1) + 0.0000 = 205093.2200$
$(3074.0000 \times V_1) = 205093.2200 - 0.0000$
$(3074.0000 \times V_1) = 205093.2200$

$$V_1 = \frac{205093.2200}{3074.0000} \qquad V_1 = 66.7186$$

W_1 = The Wt of Veh 1 in pounds
W_2 = The Wt of Veh 2 in pounds
V_1 = The Speed of Veh 1 in mph
V_2 = The Speed of Veh 2 in mph
V_3 = The Spd After Impact, Veh 1
V_4 = The Spd After Impact, Veh 2
* * This is a Rear End collision * *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3074.0000
The After Impact Speed of Veh 1 is:	27.9800
The Wt of Veh 2 (lbs) is:	3733.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	31.9000

Formula Results:

The Spd of Veh 1 in mph is:	66.7186
The Vel of Veh 1 in fps is:	97.8539

Calculation Notes:

Impact speed for both vehicles.
Roadway coefficient of friction: 0.60
75% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	66.7186	7.0000	58.2180	14.0000	49.7173
1.0000	65.5043	8.0000	57.0036	15.0000	48.5029
2.0000	64.2899	9.0000	55.7892	16.0000	47.2886
3.0000	63.0755	10.0000	54.5748	17.0000	46.0742
4.0000	61.8611	11.0000	53.3605	18.0000	44.8598
5.0000	60.6467	12.0000	52.1461	19.0000	43.6454
6.0000	59.4324	13.0000	50.9317		

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Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$
$(3074.0000 \times V_1) + (3733.0000 \times 0.0000) = (3074.0000 \times 33.4400) + (3733.0000 \times 33.6300)$
$(3074.0000 \times V_1) + 0.0000 = 102794.5600 + 125540.7900$
$(3074.0000 \times V_1) + 0.0000 = 228335.3500$
$(3074.0000 \times V_1) = 228335.3500 - 0.0000$
$(3074.0000 \times V_1) = 228335.3500$

$$V_1 = \frac{228335.3500}{3074.0000} \qquad V_1 = 74.2795$$

W_1 = The Wt of Veh 1 in pounds
W_2 = The Wt of Veh 2 in pounds
V_1 = The Speed of Veh 1 in mph
V_2 = The Speed of Veh 2 in mph
V_3 = The Spd After Impact, Veh 1
V_4 = The Spd After Impact, Veh 2
* * This is a Rear End collision * *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3074.0000
The After Impact Speed of Veh 1 is:	33.4400
The Wt of Veh 2 (lbs) is:	3733.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	33.6300

Formula Results:

The Spd of Veh 1 in mph is:	74.2795
The Vel of Veh 1 in fps is:	108.9432

Calculation Notes:

Impact speed for both vehicles.
Roadway coefficient of friction: 0.70
100% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	74.2795	8.0000	64.5645	16.0000	54.8494
1.0000	73.0651	9.0000	63.3501	17.0000	53.6351
2.0000	71.8507	10.0000	62.1357	18.0000	52.4207
3.0000	70.6364	11.0000	60.9213	19.0000	51.2063
4.0000	69.4220	12.0000	59.7070	20.0000	49.9919
5.0000	68.2076	13.0000	58.4926		
6.0000	66.9932	14.0000	57.2782		
7.0000	65.7789	15.0000	56.0638		

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Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$
$(3074.0000 \times V_1) + (3733.0000 \times 0.0000) = (3074.0000 \times 30.1700) + (3733.0000 \times 33.6300)$
$(3074.0000 \times V_1) + 0.0000 = 92742.5800 + 125540.7900$
$(3074.0000 \times V_1) + 0.0000 = 218283.3700$
$(3074.0000 \times V_1) = 218283.3700 - 0.0000$
$(3074.0000 \times V_1) = 218283.3700$

$$V_1 = \frac{218283.3700}{3074.0000} \qquad V_1 = 71.0095$$

W_1 = The Wt of Veh 1 in pounds
W_2 = The Wt of Veh 2 in pounds
V_1 = The Speed of Veh 1 in mph
V_2 = The Speed of Veh 2 in mph
V_3 = The Spd After Impact, Veh 1
V_4 = The Spd After Impact, Veh 2
* * This is a Rear End collision * *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3074.0000
The After Impact Speed of Veh 1 is:	30.1700
The Wt of Veh 2 (lbs) is:	3733.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	33.6300

Formula Results:

The Spd of Veh 1 in mph is:	71.0095
The Vel of Veh 1 in fps is:	104.1472

Calculation Notes:

Impact speed for both vehicles.
Roadway coefficient of friction: 0.70
75% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	71.0095	8.0000	61.2945	16.0000	51.5794
1.0000	69.7951	9.0000	60.0801	17.0000	50.3651
2.0000	68.5807	10.0000	58.8657	18.0000	49.1507
3.0000	67.3664	11.0000	57.6513	19.0000	47.9363
4.0000	66.1520	12.0000	56.4370	20.0000	46.7219
5.0000	64.9376	13.0000	55.2226		
6.0000	63.7232	14.0000	54.0082		
7.0000	62.5089	15.0000	52.7938		

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From: Kathryn Irby
To: Brent Gasper; Jim Jackson
Cc: Daiquiri Carter; Martha Cox
Subject: SPECIAL HEARING CANCELED: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, dec"d & Permanent Guardian of [redacted] a Minor v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641
Date: Wednesday, June 28, 2023 1:33:42 PM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg

Based on both parties' agreement with a November 8 scheduling of a hearing on the MPSJ, I am adding this MPSJ to that hearing docket and canceling the special hearing set tomorrow. I will notify the commissioners.

Brent, an October 6 response date is fine. Jim, you may file a reply on or before October 13. I will submit a proposed order memorializing this agreement to the Commission for review and approval at the next hearing.

Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Wednesday, June 28, 2023 1:26 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: INFO NEEDED: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, dec'd & Permanent Guardian of [redacted] a Minor v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641

Kathryn, I just saw this email the minute I pushed "send" on my last transmission

Again, November 8 works. Can we all agree on October 6 as my response due date? That is a Friday and would even give Jim a little more time to respond if he so chose.

I would note that in agreeing to this new date I am assuming that the proper action is that the Commission is either 1) granting my motion for an enlargement of time, or 2) doing so sua sponte. Either way is fine with me as long as there is an order to the effect that the period of time to respond is enlarged entered prior to July 5. I would also note that I am ***not*** withdrawing my motion to strike. I may do so at a later date, more possibly after the Commission's decisions stemming from the August 11 hearing (which I believe will clear up a lot of pending issues), but as of right now I wish to keep my motion to strike pending.

Thank you again. I look forward to hearing that the hearing has officially been postponed.

Thanks!

Brent

Cc: Jim, Martha, Daiquiri

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Wednesday, June 28, 2023 1:13 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: INFO NEEDED: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, dec'd & Permanent Guardian of [redacted], a Minor v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641

[EXTERNAL SENDER]
Kathryn,
November 8 is good for me for the hearing on the MSJ.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Wednesday, June 28, 2023 12:49 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: INFO NEEDED: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, dec'd & Permanent Guardian of [redacted], a Minor v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641
Importance: High

Brent and Jim, in reviewing Jim's response, I note in Paragraph 1 that Jim "does not oppose the Respondent's request for an enlarged period of time to respond to the Motion for Partial Summary

Judgment." If that is the case, is this hearing tomorrow morning needed? I had a tentative spot on the November 8 docket for this MPSJ – is that agreeable to both parties? If so, Respondent's response could be due thirty days before that hearing date, giving Jim time to reply and the Commission time to review prior to the hearing.

Please respond back at your earliest convenience, so that if this hearing needs to be canceled, I can do so.

Thanks,
Kathryn

From: Martha Cox <mcox@jimjacksonatty.com>
Sent: Wednesday, June 28, 2023 12:00 PM
To: ASCC Pleadings <ASCCPleadings@arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, dec'd & Permanent Guardian of [redacted], a Minor v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641

Please find attached the claimant's Response to Respondent's Motion to Strike for filing in the above-referenced case.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

From: Martha Cox
To: Kathryn Irby; ASCC Pleadings
Cc: Brent Gasper; Daiquiri Carter; Jim Jackson
Subject: RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, dec"d & Permanent Guardian of [redacted] a Minor v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641
Date: Wednesday, June 28, 2023 3:17:14 PM
Attachments: Claimant"s Supplemental Exhibit to Claimant"s Motion for Partial Summary Judgment 6-28-2023.pdf
Letter to Kathryn Irby filing Claimant"s Supplemental Exhibit to Claimant"s Motion for Partial Summary Judgment 6-28-2023.pdf

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Please find attached the claimant's Supplemental Exhibit to the claimant's Motion for Partial Summary Judgment for filing in the above-referenced case.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

JACKSON
LAW FIRM

June 28, 2023

VIA Email and First Class Mail
ASCCPleadings@arkansas.gov
Kathryn.Irby@arkansas.gov

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, AR 72201

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of* [redacted] *a minor vs. The Arkansas Department of Human Services*
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Kathryn:

Please find enclosed the original and three copies of the claimant's Supplemental Exhibit to her Motion for Partial Summary Judgment on Issue of Liability for filing in the above-referenced matter.

Thank you for your attention to this matter.

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosures

cc/enc.: Brent Gasper, Esq. (via e-mail only)

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528
501.823.3610
Fax: 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S SUPPLEMENTAL EXHIBIT TO HER MOTION FOR PARTIAL SUMMARY JUDGMENT ON ISSUE OF LIABILITY

Comes now the claimant, Haley Hudson. by and through her attorney, and for her Supplement to her Motion for Partial Summary Judgment on the Issue of Liability, states:

1. The Claimant retained Stanley Cain, a certified accident reconstructionist, to perform a site inspection, review the deposition testimony of Trooper James Ray and Kristen Shelton and photographs, and perform an analysis and calculations. Mr. Cain prepared an Investigation Report with exhibits which are attached hereto as Exhibit 1, along with his Affidavit.

2. Mr. Cain's expert opinion is:

> The investigation has clearly concluded that Ms. Wilkerson was extremely negligent when she collided into the rear of Ms. Ashcraft. Furthermore, my investigation has concluded that Ms. Wilkerson was exceeding the posted speed limit for the highway.
>
> There were no line-of-sight issues present at the scene and there were no adverse weather conditions present when the collision occurred. If Ms. Wilkerson had been keeping a proper lookout for traffic or hazards ahead, she could have easily observed that Ms. Ashcraft was slowing or stopped, and she could have avoided or greatly reduced the severity of the collision.

I did not discover any contributing actions to the collisions by Mr. Bobby Wilson.

3. Pursuant to Rule 56 of the Arkansas Rules of Civil Procedure, the claimant is entitled to judgment on the issue of liability as a matter of law for the reasons set forth herein and in her original Motion for Partial Summary Judgment and Brief in Support.

4. There is no genuine issue of material fact that Jennifer Wilkerson was solely responsible for causing the collision at issue while operating within the course and scope of her employment with the respondent.

WHEREFORE, the claimant prays that this Commission enter an Order granting the claimant's Motion for Partial Summary Judgment on the Issue of Liability.

Respectfully submitted,

Jim Jackson, AR Bar #93209
Jackson Law Firm
700 W. Broadway Street, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that on this date, June 28, 2023, I electronically transmitted the attached document via e-mail to the Clerk of the Arkansas State Claims Commission and to:

Brent Gasper, Esq.
Assistant Deputy Chief Counsel
Attorney for the Respondent
P.O. Box 1437
Little Rock, AR 72203-1437
Brent.Gasper@dhs.Arkansas.gov

Jim Jackson

IN THE CIRCUIT COURT OF LOGAN COUNTY, ARKANSAS

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR CHILD — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

AFFIDAVIT OF STANLEY B. CAIN

Comes now Stanley Cain, and for his Affidavit, states:

1. My name is Stanley Cain. I am over the age of 18 and am mentally competent to make this affidavit.

2. I am a member of the Accreditation Commission for Traffic Accident Reconstruction "ACTAR" with license number [redacted] I passed ACTAR's independent credentialing examination that objectively assesses a candidate's comprehension and application of the minimum training standards of a forensic specialist in motor vehicle accident reconstruction.

3. I was employed by the Rogers Police Department from July 1995 through December 2020. I retired with the rank of Corporal which included 16 years total in the traffic unit for the Rogers Police Department. I served a total of 25 years and six months for the Rogers Police Department. I earned a Bachelor in of Science in Soil Science & Agronomy from the University of Arkansas in 1990.

4. I was retained by attorney Jim Jackson to perform an investigation of the crash that is the subject of this litigation.

5. Attached is my Investigation Report which contains my notes from the scene inspection where I went to the accident site and took photographs, made measurements and observations.

6. The findings from my analysis and calculations are that Jennifer Wilkerson was extremely negligent when she collided into the rear of Ms. Ashcraft's vehicle. Furthermore, Jacqueline Ashcraft's vehicle was positioned within the bounds of the eastbound lane of traffic on Highway 22 at all times relevant to this collision.

7. My findings are consistent with the findings of Trooper James Ray who prepared the accident report and provided deposition testimony on February 21, 2023.

8. My findings are consistent with the initial statements obtained by Arkansas Department of Human Services' employees and witnesses. These statements are attached to Kristen Shelton's deposition.

9. Attached as Exhibit 1 is my Investigation Report which contains the basis of my opinion and the supporting documentation which are:

i. Ten pages of calculations using AR PRO computer program;

ii. 35 scene photographs; and,

iii. Diagram of the accident site prepared by Stanley Cain.

10. Attached as Exhibit 2 are four aerial photographs taken by a drone that I will utilize to assist my testimony in describing the accident scene at deposition and trial.

Stanley Cain, ACTAR #1686

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF PULASKI)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 26th day of June, 2023.

Martha Cox
NOTARY PUBLIC

My Commission Expires:

8-19-2031

SEAL

MARTHA COX
NOTARY PUBLIC - STATE OF ARKANSAS
SALINE COUNTY
My Commission Expires 8-19-2031
Commission # 12383466

Stanley B. Cain Accident Reconstructionist, LLC

[redacted]

INVESTIGATION REPORT

PREPARED FOR: Mr. Jim Jackson, with Jackson Law Firm.

REFERENCE: Jacqueline Ashcraft collision on 6/11/21.

On 5/16/23, Mr. Jim Jackson, with Jackson Law Firm, contacted me and requested my services to investigate a motor vehicle collision involving his client, the estate of Ms. Jacqueline Ashcraft.

ITEMS RECEIVED

1. Arkansas Motor Vehicle Collision Report from the Arkansas State Police (Repor[redacted]
2. Crash scene photographs taken by Arkansas State Police.
3. Scene photographs taken by Mr. Jim Jackson.
4. Correspondence emails from the Arkansas Department of Human Services, regarding their internal investigation of the collision.
5. Trooper James Ray's deposition & exhibits.
6. Kristen Shelton's deposition & exhibits.
7. Aerial photographs of accident site.

BACKGROUND INFORMATION

Date and time of collision: Approximately 12:50 PM on 6/11/2021.
Location: Arkansas State Highway 22, Paris, Arkansas.
Vehicle 1: 2005 Hyundai Sonata, driven by Ms. Jacqueline Ashcraft.
Vehicle 2: 2009 Hyundai Elantra, driven by Ms. Jenifer Wilkerson.
Vehicle 3: 2001 Peterbilt truck-tractor and modular trailer, driven by Mr. Bobby Wilson.

SCENE INSPECTION

On 5/20/23, I went to the scene for observations, photographs, and measurements. Highway 22 is a two-lane State Highway consisting of one westbound lane and one eastbound lane, separated by a double yellow line, and bordered by white fog lines. The highway is bordered on both sides by improved shoulders. Each lane is approximately 11 feet wide. The eastbound shoulder is approximately 7.6 feet wide, and the westbound shoulder is approximately 7.3 feet wide. I did not observe any line-of-sight issues present that would hinder the view of traffic in either lane.

During the scene inspection, I located the final resting area of vehicle 1. The distances from the RP to A to D, from the vehicle collision report, ended at the shadow of a tire mark which I recognized as the remnants of the skid mark shown in the scene photographs for vehicle 1. I was able to locate the remaining end of the skid mark on the eastbound fog line.

With the measurements provided by the vehicle collision report, I located the beginning of the skid marks from vehicle 2. From the scene photographs I was able to place the beginning point of the skid marks in relation to the eastbound lane and shoulder. From the rumble stripes on the shoulder, I was able to locate the approximate beginning location of a passenger side skid mark, and the area where that skid mark crossed the fog line. With the approximate track width of vehicle 2, I was able to place the approximate location of the driver side skid mark.

The scene photographs also showed a third skid mark, which I identified as being produced by the left rear wheel of vehicle 2. That skid mark followed along the fog line and veered to the left with the other two skid marks. By counting the number of rumble stripes next to that skid mark, I was able to locate the approximate beginning point of that skid mark also.

I was not able to locate the ending location of the three skid marks. I placed the approximate ending location of the three skid marks, based upon their ending location in the scene photographs.

Further east I located numerous grooves and gouges in the westbound lane. I located an additional gouge in the eastbound lane, along with grooves leading to the final resting location of vehicle 2.

West of the area of impact, I located the beginning of a dual wheel skid mark on the westbound fog line, at approximately 274 feet west of the reference point. The skid mark continued onto the shoulder and ended as a single wheel skid mark, at approximately 452 feet west of the reference point.

For more information, refer to the scene diagram.

VEHICLE INSPECTIONS

None of the three vehicles were still available for inspections. To complete the investigation, I reviewed the scene photographs provided by Arkansas State Police.

I observed the damage to vehicle 1, and I noticed that the vehicle had primary contact damage to the passenger side half of the rear end. The driver side of the rear bumper contained induced damage. I observed that the crush damage retarded the rotation of the right rear wheel to the point that the wheel produced a post-impact skid mark. I observed that the back panel of the driver seat was leaning back into the rear passenger area. I did not locate any damage to the vehicle that would indicate that vehicle 1 collided with vehicle 3.

I observed the damage to vehicle 2, and I noticed that the vehicle had primary crush damage to the front end of the vehicle, with the most extensive crush to the left front section. I observed that vehicle 2, had induced damage to the driver door frame and the rear passenger door on the driver's side. Furthermore, I observed underride damage to the right front panel, which is consistent with vehicle 2 colliding with the underside of the modular home being towed by vehicle 3.

I observed that vehicle 3 and contact damage to the driver side tractor tandems, and secondary contact damage to the driver side front corner of the modular home and trailer frame. The damage at that corner is consistent with vehicle 2 under riding the trailer with the front end. The under-riding contact by vehicle 2 is consistent with vehicle 2 creating the gouges and grooves seen in the westbound lane, at maximum engagement.

ANALYSIS AND CALCULATIONS

To conduct the impact speed calculations for vehicle 2, I had to first calculate the post-impact speed for both vehicle 1 and vehicle 2. From the scene diagram I measured that vehicle 1 traveled approximately 188.5 feet. From the observations of the scene photographs provided by Arkansas State Police, I noticed that the damage to vehicle 1 had retarded the right rear wheel to the point that it was producing a skid mark. Although I located only a portion of the skid mark from vehicle 1 during the scene inspection, the braking capability of that wheel would have commenced at the point of maximum engagement between the two vehicles.

To determine the post-impact speed, I had to calculate the adjusted deceleration factor for vehicle 1. To calculate the total deceleration factor for the vehicle I used a rolling resistance value of 0.01 for the left rear wheel (non-drive axle) and 0.10 for the left front wheel and the right front wheel (drive axle)[1]. For the right rear wheel (damage induced braking) I used an accepted coefficient of friction of 0.60 to 0.80 for a dry asphalt roadway surface that has been subjected to traveled use[2]. I calculated the post-impact speed for vehicle 1 at approximately 33.63 MPH, using an average coefficient of friction of 0.70.

Next, I calculated the post-impact speed for vehicle2. From the scene photographs I observed post-impact skid marks leading from the area of impact. The beginning of the driver side skid mark had a darkened area that was darker than the remaining portion of the skid mark. I recognized this as an indicator of the area of impact because wheels that are braking tend to produce very darkened skid marks upon maximum engagement with another vehicle. Furthermore, the scene photographs show three skid marks from vehicle 2, which indicates that it was off tracking from lateral instability. This movement is another indicator that vehicle 2 is moving away post-impact. The above-described characteristics of the skid marks conclude that there were very little to no pre-impact skid marks from vehicle 2 and therefore little to no pre-impact braking by vehicle 2.

From the scene diagram, I measured that vehicle 2 traveled approximately 53.2 feet post impact to the area where the vehicle collided with vehicle 3. I calculated the post-impact speed for vehicle 2 at approximately 33.44 MPH, using an average coefficient of friction of 0.70.

To further analyze the potential variability in the impact speed of vehicle 2, I calculated post-impact speeds for both vehicles using a roadway coefficient of friction of 0.60. In addition, the scene photographs depicted only three post-impact skid marks for vehicle 2. Therefore, I adjusted the deceleration factor for vehicle 2.

Furthermore, I provided a range of impact speeds for vehicle 2 based upon the potential range of pre-impact speed for vehicle 1. I did not locate any evidence during my scene inspection to indicate the pre-impact speed of vehicle 1. However, the statements by both Ms. Wilkerson and Mr. Wilson indicate that vehicle 1 was stationary when the impact occurred.

I calculated the impact speeds with AR PRO 15 Accident Reconstruction Software. The summary of the impact speeds is listed below:

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[1] D. Parkka, Equation Directory for the Reconstructionist, First Edition.

[2] R. W. Rivers, On-Scene Traffic Accident Investigators Manual (Charles C. Thomas Publisher, 1981) 136.

IMPACT SPEED FOR WILKERSON (MPH)			
Coeff. of Friction	Ashcraft (Stationary)	Ashcraft (10 MPH)	Ashcraft (20 MPH)
0.70	74.3	62.1	50.0
0.57	71.0	58.9	46.7
0.60	69.7	57.6	45.4
0.49	66.7	54.6	42.4

For more information refer to the AR PRO Calculation Reports. NOTE: When referencing the AR PRO Calculation Reports, please be aware that vehicle 1 is WILKERSON and vehicle 2 is ASHCRAFT, in order to match the variables in the collinear momentum formula.

Based upon a review of the post-impact speeds I have concluded that the post-impact speed of vehicle 2 would be closer to the speeds calculated without a reduction in the braking efficiency. My conclusion is based upon my finding that the range of post-impact speeds for vehicle 1 (33.63 MPH to 31.90 MPH) is more consistent with the range of post -impact speeds for vehicle 2 (33.44 MPH to 30.96MPH).

The calculations clearly show that the post-impact speed of vehicle 1 was increased from the initial speed, which was result of the greater amount of momentum being brought into the collision by vehicle 2. Also, generally in momentum analysis the target vehicle (vehicle 1) can only depart from the collision at a speed equal to or less than the post-impact speed of the bullet vehicle. However, in this collision, the post-impact speed for vehicle 1 is slightly more than the value for vehicle 2. The investigation states that vehicle 2 also collided with vehicle 3, after colliding with vehicle 1. It is not known for certain, but vehicle 2 still may have been traveling eastbound when it collided with vehicle 3, and that collision prevented vehicle 2 from the opportunity to travel on its own to a complete stop. If vehicle 2 had been able to travel a further distance, then it would have generated a greater post-impact speed.

The damage profile to the rear of vehicle 1 clearly indicates that the impact by vehicle 2 was an off-set collision and not a complete in-line impact. The beginning of the skid marks from vehicle 2, along with the impact configuration, conclude that vehicle 1 was positioned within the bounds of the eastbound lane. Vehicle 1 was positioned towards the south half of the eastbound lane, likely because vehicle 3 was approaching and towing an oversized load. The delivery receipt shown within the scene photographs indicate that the oversized load behind vehicle 3 was a 14-foot by 56-foot modular home section.

During the scene inspection I observed that the eastbound lane was bordered by an improved paved shoulder, and the shoulder measured approximately 7.6 feet wide. The vehicle specifications for vehicle 2 list that it is approximately 5.9 feet wide for overall width. The shoulder would have provided Ms. Wilkerson with adequate room to maneuver her vehicle around vehicle 1 and avoid the collision altogether or greatly reduce the severity of the collision. The placement of the vehicles at impact indicates that vehicle 2 was veering to the right and possibly attempting to avoid the impact.

RESULTS AND CONCLUSIONS

The investigation has clearly concluded that Ms. Wilkerson was extremely negligent when she collided into the rear of Ms. Ashcraft. Furthermore, my investigation has concluded that Ms. Wilkerson was exceeding the posted speed limit for the highway.

There were no line-of-sight issues present at the scene and there were no adverse weather conditions present when the collision occurred. If Ms. Wilkerson had been keeping a proper lookout for traffic or hazards ahead, she could have easily observed that Ms. Ashcraft was slowing or stopped, and she could have avoided or greatly reduced the severity of the collision.

I did not discover any contributing actions to the collisions by Mr. Bobby Wilson.

I reserve the right to revise or supplement this report, based upon the discovery of new information or data, including the testimony or statements of parties and/or witnesses.

By: Stanley B. Cain

[redacted]


SINGLE WHEEL SKID MARK ENDS
DUAL WHEEL SKID MARK BEGINS ON FOG LINE
DRIVEWAY TO 5033 STATE HIGHWAY 22
ASP REFERENCE POINT
POST IMPACT SKID MARK FROM VEHICLE 1
POST IMPACT SKID MARK FROM VEHICLE 2
N

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[redacted]

COEFFICIENT OF FRICTION

Find a Coefficient of Friction.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$f = (\mu lf \times nlf \times Sin\theta) + (\mu rf \times nrf \times Sin\theta) + (\mu lr \times nlr \times Sin\theta) + (\mu rr \times nrr \times Sin\theta)$$

$$f = (0.1000 \times 0.3050 \times Sin(90.0000)) + (0.1000 \times 0.3050 \times Sin(90.0000)) + (0.0100 \times 0.1950 \times Sin(90.0000)) + (0.6000 \times 0.1950 \times Sin(90.0000))$$

$$f = (0.1000 \times 0.3050 \times 1.0000) + (0.1000 \times 0.3050 \times 1.0000) + (0.0100 \times 0.1950 \times 1.0000) + (0.6000 \times 0.1950\ 1.0000)$$

$$f = 0.0305 + 0.0305 + 0.0019 + 0.1170$$

$$f = 0.1799$$

f = The Adjusted Accel/Drag Factor
μ = The Tire - Surface Friction by wheel
n = The Percentage of Braking
θ = The angular difference between the veh heading and Coll'n direction
(lf, rf, lr, rr = The tire at each corner of the vehicle (left front, etc.)
m = The Grade Percentage

Formula Inputs:

The Left Front Tire μ is:	0.1000
The Left Front Tire % of Braking is:	0.3050
The Left Front Tire Angular Difference is:	90.0000
The Right Front Tire μ is:	0.1000
The Right Front Tire % of Braking is:	0.3050
The Right Front Tire Angular Difference is:	90.0000
The Left Rear Tire μ is:	0.0100
The Left Rear Tire % of Braking is:	0.1950
The Left Rear Tire Angular Difference is:	90.0000
The Right Rear Tire μ is:	0.6000
The Right Rear Tire % of Braking is:	0.1950
The Right Rear Tire Angular Difference is:	90.0000

Formula Results:

The Acceleration/Drag Factor is:	0.1799

Calculation Notes:

Deceleration factor for vehicle 2 (ASHCRAFT), with a drive axle rolling resistance of 0.10.
Roadway coefficient of friction: 0.60.

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COEFFICIENT OF FRICTION

Find a Coefficient of Friction.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$f = (\mu lf \times nlf \times Sin\theta) + (\mu rf \times nrf \times Sin\theta) + (\mu lr \times nlr \times Sin\theta) + (\mu rr \times nrr \times Sin\theta)$$

$$f = (0.1000 \times 0.3050 \times Sin(90.0000)) + (0.1000 \times 0.3050 \times Sin(90.0000)) + (0.0100 \times 0.1950 \times Sin(90.0000)) + (0.7000 \times 0.1950 \times Sin(90.0000))$$

$$f = (0.1000 \times 0.3050 \times 1.0000) + (0.1000 \times 0.3050 \times 1.0000) + (0.0100 \times 0.1950 \times 1.0000) + (0.7000 \times 0.1950\ 1.0000)$$

$$f = 0.0305 + 0.0305 + 0.0019 + 0.1365$$

$$f = 0.1994$$

f = The Adjusted Accel/Drag Factor
μ = The Tire - Surface Friction by wheel
n = The Percentage of Braking
θ = The angular difference between the veh heading and Coll'n direction
lf, rf, lr, rr = The tire at each corner of the vehicle (left front, etc.)
m = The Grade Percentage

Formula Inputs:

The Left Front Tire μ is:	0.1000
The Left Front Tire % of Braking is:	0.3050
The Left Front Tire Angular Difference is	90.0000
The Right Front Tire μ is:	0.1000
The Right Front Tire % of Braking is:	0.3050
The Right Front Tire Angular Difference is	90.0000
The Left Rear Tire μ is:	0.0100
The Left Rear Tire % of Braking is:	0.1950
The Left Rear Tire Angular Difference is:	90.0000
The Right Rear Tire μ is:	0.7000
The Right Rear Tire % of Braking is:	0.1950
The Right Rear Tire Angular Difference is	90.0000

Formula Results:

The Acceleration/Drag Factor is:	0.1994

Calculation Notes:

Deceleration factor for vehicle 2 (ASHCRAFT), with a drive axle rolling resistance of 0.10.
Roadway coefficient of friction: 0.70.

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COEFFICIENT OF FRICTION

Find a Coefficient of Friction.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$f = (\mu lf \times nlf \times Sin\theta) + (\mu rf \times nrf \times Sin\theta) + (\mu lr \times nlr \times Sin\theta) + (\mu rr \times nrr \times Sin\theta)$$

$$f = (0.6000 \times 0.3150 \times Sin(90.0000)) + (0.6000 \times 0.3150 \times Sin(90.0000)) + (0.6000 \times 0.1850 \times Sin(90.0000)) + (0.0100 \times 0.1850 \times Sin(90.0000))$$

$$f = (0.6000 \times 0.3150 \times 1.0000) + (0.6000 \times 0.3150 \times 1.0000) + (0.6000 \times 0.1850 \times 1.0000) + (0.0100 \times 0.1850\ 1.0000)$$

$$f = 0.1890 + 0.1890 + 0.1110 + 0.0018$$

$$f = 0.4908$$

f = The Adjusted Accel/Drag Factor
μ = The Tire - Surface Friction by wheel
n = The Percentage of Braking
θ = The angular difference between the veh heading and Coll'n direction
lf, rf, lr, rr = The tire at each corner of the vehicle (left front, etc.)
m = The Grade Percentage

Formula Inputs:

The Left Front Tire μ is:	0.6000
The Left Front Tire % of Braking is:	0.3150
The Left Front Tire Angular Difference is	90.0000
The Right Front Tire μ is:	0.6000
The Right Front Tire % of Braking is:	0.3150
The Right Front Tire Angular Difference is	90.0000
The Left Rear Tire μ is:	0.6000
The Left Rear Tire % of Braking is:	0.1850
The Left Rear Tire Angular Difference is:	90.0000
The Right Rear Tire μ is:	0.0100
The Right Rear Tire % of Braking is:	0.1850
The Right Rear Tire Angular Difference is	90.0000

Formula Results:

The Acceleration/Drag Factor is:	0.4908

Calculation Notes:

Deceleration factor for vehicle 1 (WILKERSON) with reduced braking efficiency.
Roadway coefficient of friction: 0.60.

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[redacted]

COEFFICIENT OF FRICTION

Find a Coefficient of Friction.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$f = (\mu lf \times nlf \times Sin\theta) + (\mu rf \times nrf \times Sin\theta) + (\mu lr \times nlr \times Sin\theta) + (\mu rr \times nrr \times Sin\theta)$$

$$f = (0.7000 \times 0.3150 \times Sin(90.0000)) + (0.7000 \times 0.3150 \times Sin(90.0000)) + (0.7000 \times 0.1850 \times Sin(90.0000)) + (0.0100 \times 0.1850 \times Sin(90.0000))$$

$$f = (0.7000 \times 0.3150 \times 1.0000) + (0.7000 \times 0.3150 \times 1.0000) + (0.7000 \times 0.1850 \times 1.0000) + (0.0100 \times 0.1850\ 1.0000)$$

$$f = 0.2205 + 0.2205 + 0.1295 + 0.0018$$

$$f = 0.5723$$

f = The Adjusted Accel/Drag Factor
μ = The Tire - Surface Friction by wheel
n = The Percentage of Braking
θ = The angular difference between the veh. heading and Coll'n direction
(lf, rf, lr, rr = The tire at each corner of the vehicle (left front, etc.)
m = The Grade Percentage

Formula Inputs:

The Left Front Tire μ is:	0.7000
The Left Front Tire % of Braking is:	0.3150
The Left Front Tire Angular Difference is:	90.0000
The Right Front Tire μ is:	0.7000
The Right Front Tire % of Braking is:	0.3150
The Right Front Tire Angular Difference is:	90.0000
The Left Rear Tire μ is:	0.7000
The Left Rear Tire % of Braking is:	0.1850
The Left Rear Tire Angular Difference is:	90.0000
The Right Rear Tire μ is:	0.0100
The Right Rear Tire % of Braking is:	0.1850
The Right Rear Tire Angular Difference is:	90.0000

Formula Results:

The Acceleration/Drag Factor is:	0.5723

Calculation Notes:

Deceleration factor for vehicle 1 (WILKERSON) with reduced braking efficiency.
Roadway coefficient of friction: 0.70.

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MINIMUM SPEED W/ KNOWN DRAG FACTOR

Find a Minimum Speed with a skid distance and drag factor.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$S = \sqrt{30 \times D \times f}$$
$$S = \sqrt{30 \times 53.2400 \times 0.4900}$$
$$S = \sqrt{782.6280}$$
$$S = 27.9754$$

S = The Speed in mph/kph
30 = A Constant
D = The Distance in feet
f = The Adjusted Accel/Drag Factor

Formula Inputs:

The Acceleration/Drag Factor is:	0.4900
The Distance in feet is:	53.2400

Formula Results:

The Speed in mph is:	27.9754
The Velocity in fps is:	41.0305

Calculation Notes:

Post impact speed range for vehicle 1 (WILKERSON).

Incrementation Results

Drag F	Speed	Drag F	Speed	Drag F	Speed
0.4900	27.9754	0.5700	30.1729	0.6500	32.2208
0.5000	28.2595	0.5800	30.4364	0.6600	32.4677
0.5100	28.5407	0.5900	30.6976	0.6700	32.7127
0.5200	28.8191	0.6000	30.9567	0.6800	32.9559
0.5300	29.0949	0.6100	31.2136	0.6900	33.1974
0.5400	29.3681	0.6200	31.4684	0.7000	33.4371
0.5500	29.6388	0.6300	31.7212		
0.5600	29.9070	0.6400	31.9719		

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MINIMUM SPEED W/ KNOWN DRAG FACTOR

Find a Minimum Speed with a skid distance and drag factor.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$S = \sqrt{30 \times D \times f}$$
$$S = \sqrt{30 \times 188.5000 \times 0.1800}$$
$$S = \sqrt{1017.9000}$$
$$S = 31.9045$$

S = The Speed in mph/kph
30 = A Constant
D = The Distance in feet
f = The Adjusted Accel/Drag Factor

Formula Inputs:

The Acceleration/Drag Factor is:	0.1800
The Distance in feet is:	188.5000

Formula Results:

The Speed in mph is:	31.9045
The Velocity in fps is:	46.7932

Calculation Notes:

Post impact speed range for vehicle 2 (ASHCRAFT).

Incrementation Results

Drag F	Speed	Drag F	Speed	Drag F	Speed
0.1800	31.9045	0.2200	35.2718	0.2600	38.3444
0.1900	32.7788	0.2300	36.0645		
0.2000	33.6303	0.2400	36.8401		
0.2100	34.4608	0.2500	37.5998		

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[redacted]

COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$

$(3074.0000 \times V_1) + (3733.0000 \times 0.0000) = (3074.0000 \times 30.9600) + (3733.0000 \times 31.9000)$

$(3074.0000 \times V_1) + 0.0000 = 95171.0400 + 119082.7000$

$(3074.0000 \times V_1) + 0.0000 = 214253.7400$

$(3074.0000 \times V_1) = 214253.7400 - 0.0000$

$(3074.0000 \times V_1) = 214253.7400$

$$V_1 = \frac{214253.7400}{3074.0000} \qquad V_1 = 69.6986$$

W_1 = The Wt of Veh 1 in pounds
W_2 = The Wt of Veh 2 in pounds
V_1 = The Speed of Veh 1 in mph
V_2 = The Speed of Veh 2 in mph
V_3 = The Spd After Impact, Veh 1
V_4 = The Spd After Impact, Veh 2
* * This is a Rear End collision * *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3074.0000
The After Impact Speed of Veh 1 is:	30.9600
The Wt of Veh 2 (lbs) is:	3733.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	31.9000

Formula Results:

The Spd of Veh 1 in mph is:	69.6986
The Vel of Veh 1 in fps is:	102.2246

Calculation Notes:

Impact speed for both vehicles.
Roadway coefficient of friction: 0.60
100% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	69.6986	8.0000	59.9836	16.0000	50.2686
1.0000	68.4843	9.0000	58.7692	17.0000	49.0542
2.0000	67.2699	10.0000	57.5548	18.0000	47.8398
3.0000	66.0555	11.0000	56.3405	19.0000	46.6254
4.0000	64.8411	12.0000	55.1261	20.0000	45.4111
5.0000	63.6267	13.0000	53.9117		
6.0000	62.4124	14.0000	52.6973		
7.0000	61.1980	15.0000	51.4829		

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Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$

$(3074.0000 \times V_1) + (3733.0000 \times 0.0000) = (3074.0000 \times 27.9800) + (3733.0000 \times 31.9000)$

$(3074.0000 \times V_1) + 0.0000 = 86010.5200 + 119082.7000$

$(3074.0000 \times V_1) + 0.0000 = 205093.2200$

$(3074.0000 \times V_1) = 205093.2200 - 0.0000$

$(3074.0000 \times V_1) = 205093.2200$

$$V_1 = \frac{205093.2200}{3074.0000} \qquad V_1 = 66.7186$$

W_1 = The Wt of Veh 1 in pounds
W_2 = The Wt of Veh 2 in pounds
V_1 = The Speed of Veh 1 in mph
V_2 = The Speed of Veh 2 in mph
V_3 = The Spd After Impact, Veh 1
V_4 = The Spd After Impact, Veh 2
* * This is a Rear End collision * *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3074.0000
The After Impact Speed of Veh 1 is:	27.9800
The Wt of Veh 2 (lbs) is:	3733.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	31.9000

Formula Results:

The Spd of Veh 1 in mph is:	66.7186
The Vel of Veh 1 in fps is:	97.8539

Calculation Notes:

Impact speed for both vehicles.
Roadway coefficient of friction: 0.60
75% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	66.7186	7.0000	58.2180	14.0000	49.7173
1.0000	65.5043	8.0000	57.0036	15.0000	48.5029
2.0000	64.2899	9.0000	55.7892	16.0000	47.2886
3.0000	63.0755	10.0000	54.5748	17.0000	46.0742
4.0000	61.8611	11.0000	53.3605	18.0000	44.8598
5.0000	60.6467	12.0000	52.1461	19.0000	43.6454
6.0000	59.4324	13.0000	50.9317		

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Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$

$(3074.0000 \times V_1) + (3733.0000 \times 0.0000) = (3074.0000 \times 33.4400) + (3733.0000 \times 33.6300)$

$(3074.0000 \times V_1) + 0.0000 = 102794.5600 + 125540.7900$

$(3074.0000 \times V_1) + 0.0000 = 228335.3500$

$(3074.0000 \times V_1) = 228335.3500 - 0.0000$

$(3074.0000 \times V_1) = 228335.3500$

$$V_1 = \frac{228335.3500}{3074.0000} \qquad V_1 = 74.2795$$

W_1 = The Wt of Veh 1 in pounds
W_2 = The Wt of Veh 2 in pounds
V_1 = The Speed of Veh 1 in mph
V_2 = The Speed of Veh 2 in mph
V_3 = The Spd After Impact, Veh 1
V_4 = The Spd After Impact, Veh 2
* * This is a Rear End collision * *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3074.0000
The After Impact Speed of Veh 1 is:	33.4400
The Wt of Veh 2 (lbs) is:	3733.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	33.6300

Formula Results:

The Spd of Veh 1 in mph is:	74.2795
The Vel of Veh 1 in fps is:	108.9432

Calculation Notes:

Impact speed for both vehicles.
Roadway coefficient of friction: 0.70
100% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	74.2795	8.0000	64.5645	16.0000	54.8494
1.0000	73.0651	9.0000	63.3501	17.0000	53.6351
2.0000	71.8507	10.0000	62.1357	18.0000	52.4207
3.0000	70.6364	11.0000	60.9213	19.0000	51.2063
4.0000	69.4220	12.0000	59.7070	20.0000	49.9919
5.0000	68.2076	13.0000	58.4926		
6.0000	66.9932	14.0000	57.2782		
7.0000	65.7789	15.0000	56.0638		

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Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$

$(3074.0000 \times V_1) + (3733.0000 \times 0.0000) = (3074.0000 \times 30.1700) + (3733.0000 \times 33.6300)$

$(3074.0000 \times V_1) + 0.0000 = 92742.5800 + 125540.7900$

$(3074.0000 \times V_1) + 0.0000 = 218283.3700$

$(3074.0000 \times V_1) = 218283.3700 - 0.0000$

$(3074.0000 \times V_1) = 218283.3700$

$$V_1 = \frac{218283.3700}{3074.0000} \qquad V_1 = 71.0095$$

W_1 = The Wt of Veh 1 in pounds
W_2 = The Wt of Veh 2 in pounds
V_1 = The Speed of Veh 1 in mph
V_2 = The Speed of Veh 2 in mph
V_3 = The Spd After Impact, Veh 1
V_4 = The Spd After Impact, Veh 2
* * This is a Rear End collision * *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3074.0000
The After Impact Speed of Veh 1 is:	30.1700
The Wt of Veh 2 (lbs) is:	3733.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	33.6300

Formula Results:

The Spd of Veh 1 in mph is:	71.0095
The Vel of Veh 1 in fps is:	104.1472

Calculation Notes:

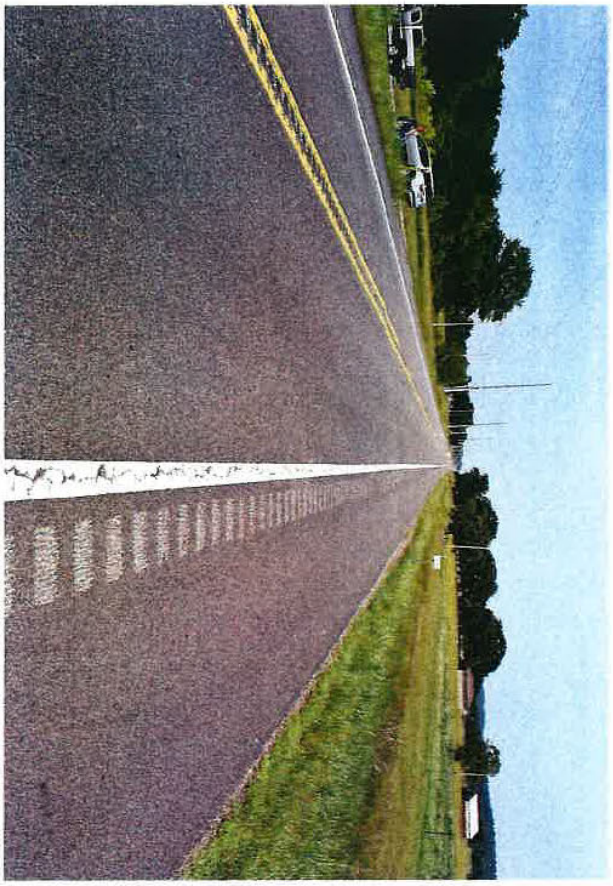
Impact speed for both vehicles.
Roadway coefficient of friction: 0.70
75% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	71.0095	8.0000	61.2945	16.0000	51.5794
1.0000	69.7951	9.0000	60.0801	17.0000	50.3651
2.0000	68.5807	10.0000	58.8657	18.0000	49.1507
3.0000	67.3664	11.0000	57.6513	19.0000	47.9363
4.0000	66.1520	12.0000	56.4370	20.0000	46.7219
5.0000	64.9376	13.0000	55.2226		
6.0000	63.7232	14.0000	54.0082		
7.0000	62.5089	15.0000	52.7938		

AR Pro 15, © Dirigo Software, LLC







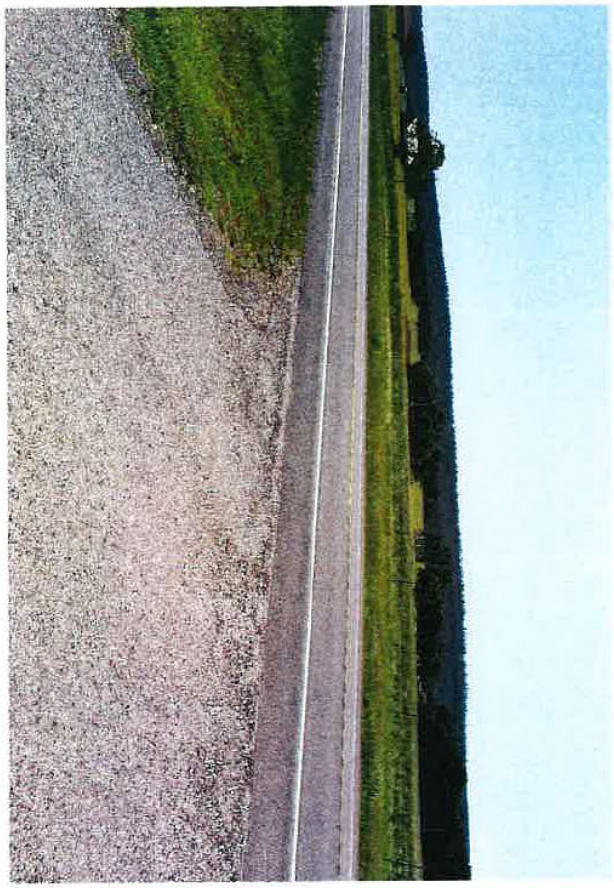






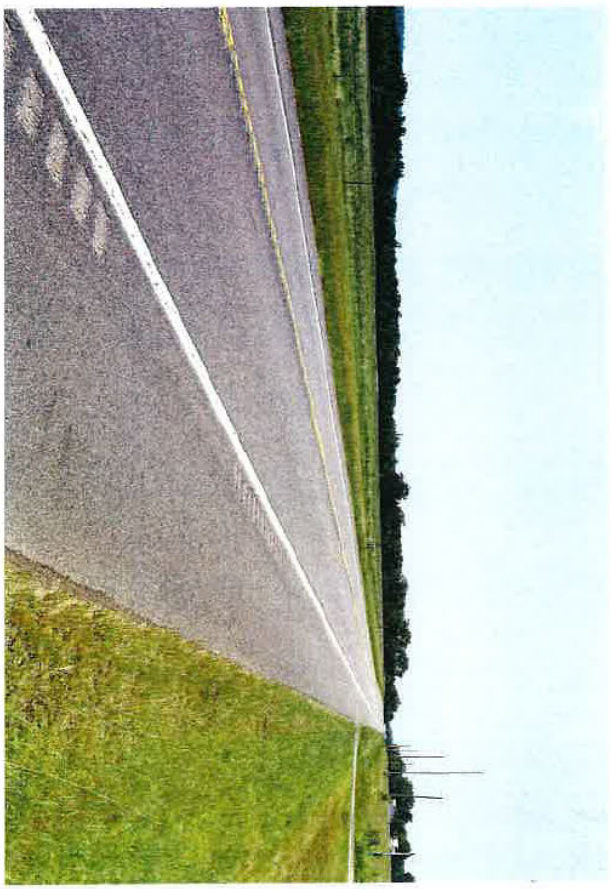






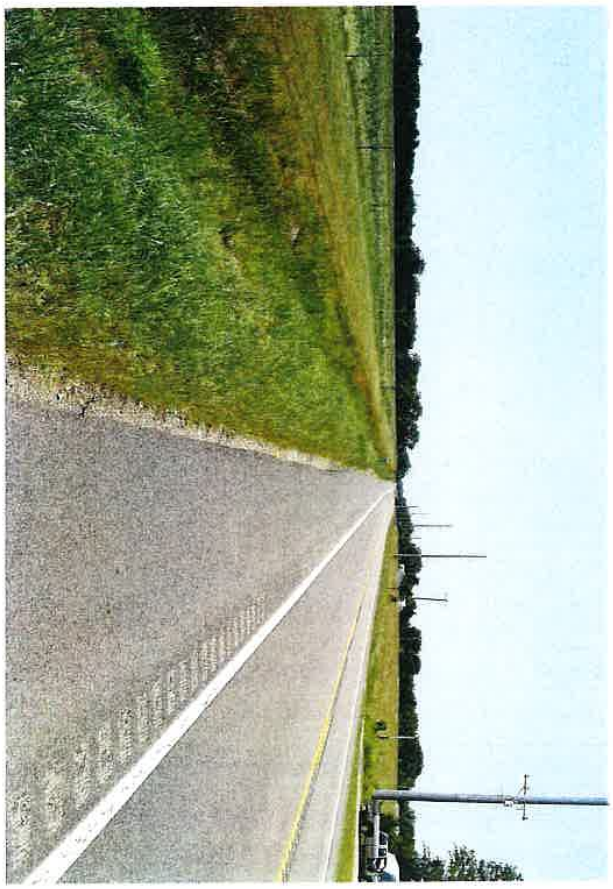


















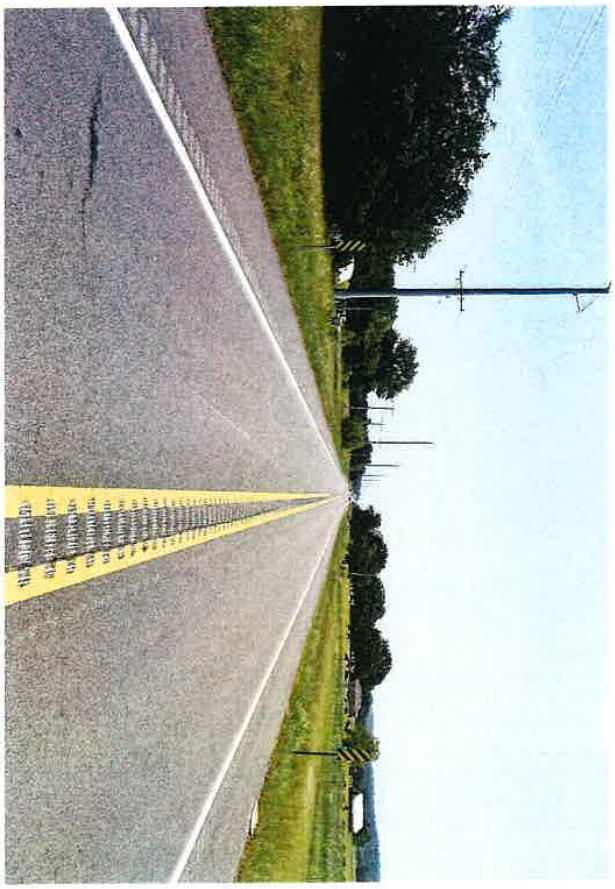


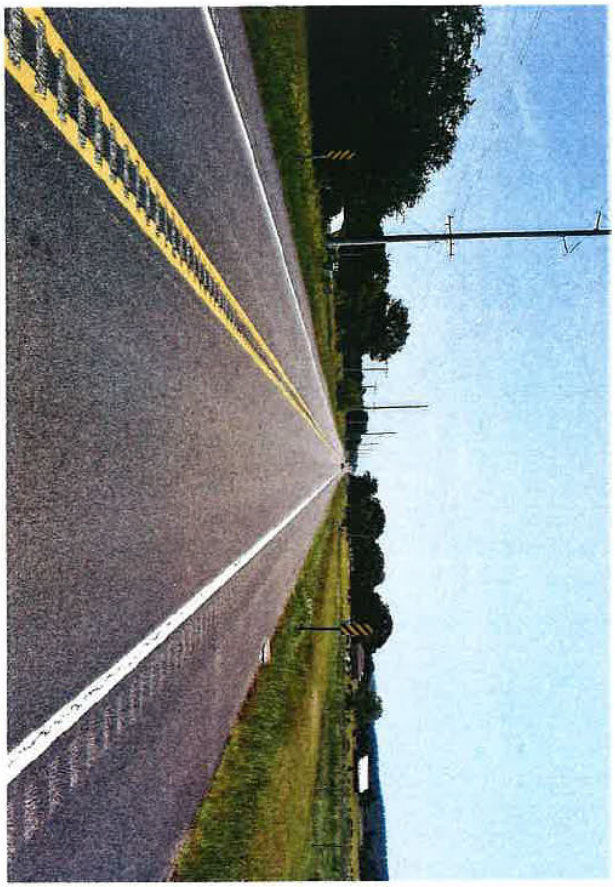




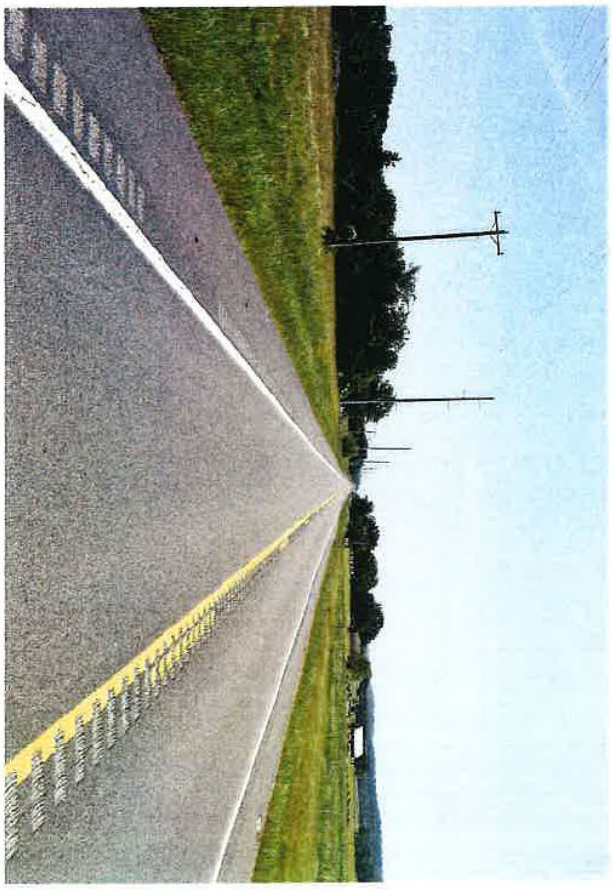














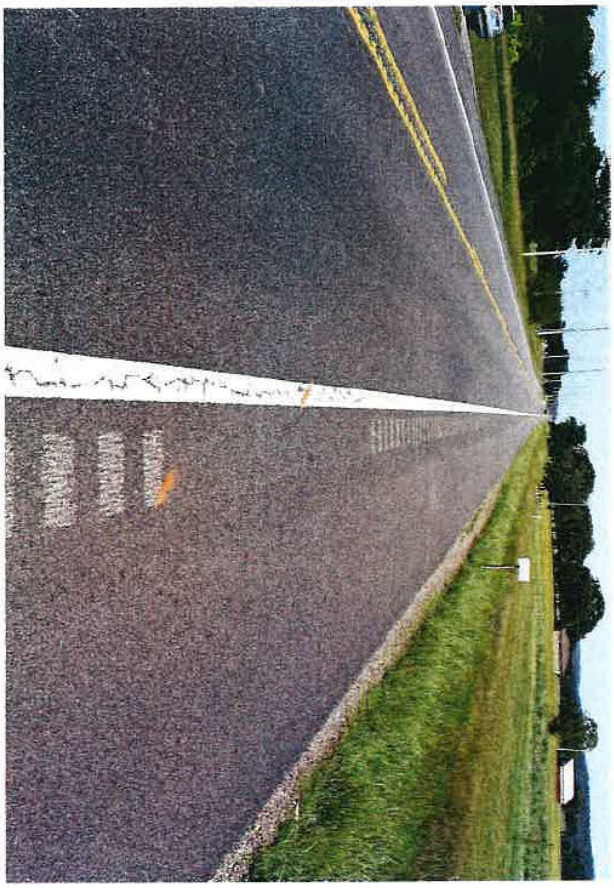















SINGLE WHEEL SKID MARK ENDS
DUAL WHEEL SKID MARK BEGINS ON FOG LINE
DRIVEWAY TO 5033 STATE HIGHWAY 22
ASI REFERENCE POINT
POST IMPACT SKID MARK FROM VEHICLE 1
POST IMPACT SKID MARK FROM VEHICLE 2
N

From:	Kathryn Irby
To:	Jim Jackson; Brent Gasper
Cc:	Martha Cox; Daiquiri Carter
Subject:	HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641
Date:	Wednesday, June 28, 2023 3:35:00 PM
Attachments:	Hudson v. DHS -- 230641 -- hearing ltr (Cl"s MPSJ).pdf

Jim and Brent, please see attached hearing letter related to Jim's MPSJ.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823

KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

June 28, 2023

Mr. Jim Jackson (*via email*)
Jackson Law Firm
700 W. Broadway Street, Suite 200
North Little Rock, Arkansas 72114

Mr. Brent P. Gasper (*via email*)
Arkansas Department of Human Services
Post Office Box 1437
Little Rock, Arkansas 72203

RE: ***Haley Hudson, individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Guardian of [redacted] v. Arkansas Department of Human Services***
Claim No. 230641

Dear Mr. Jackson and Mr. Gasper,

The Claims Commission has scheduled a hearing on Claimant's motion for partial summary judgment for **Wednesday, November 8, 2023**, beginning at 9:00 a.m. All parties will attend via Zoom. The Zoom invitation is enclosed.

Sincerely,

Kathryn Irby

ES: kmirby

Kathryn Irby -- Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings
Time: Nov 8, 2023 09:00 AM Central Time (US and Canada)

Join Zoom Meeting
https://us06web.zoom.us/j/87626344312?pwd=UlkyR2xsc0h3VjZwaFhObHcrblgxUT09

Meeting ID: 876 2634 4312
Passcode: dqD41S

One tap mobile
+13092053325,,87626344312#,,,,*215282# US
+13126266799,,87626344312#,,,,*215282# US (Chicago)

Dial by your location
• +1 309 205 3325 US
• +1 312 626 6799 US (Chicago)
• +1 646 931 3860 US
• +1 929 436 2866 US (New York)
• +1 301 715 8592 US (Washington DC)
• +1 305 224 1968 US
• +1 719 359 4580 US
• +1 253 205 0468 US
• +1 253 215 8782 US (Tacoma)
• +1 346 248 7799 US (Houston)
• +1 360 209 5623 US
• +1 386 347 5053 US
• +1 507 473 4847 US
• +1 564 217 2000 US
• +1 669 444 9171 US
• +1 669 900 6833 US (San Jose)
• +1 689 278 1000 US

Meeting ID: 876 2634 4312
Passcode: 215282

Find your local number: https://us06web.zoom.us/u/kdERQd2ARa

From:	Jim Jackson
To:	Kathryn Irby; Brent Gasper
Cc:	Martha Cox; Daiquiri Carter
Subject:	RE: HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641
Date:	Wednesday, June 28, 2023 3:38:20 PM
Attachments:	image001.jpg image002.jpg image003.jpg image004.jpg

Received,
Thank you
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Wednesday, June 28, 2023 3:36 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641

Jim and Brent, please see attached hearing letter related to Jim's MPSJ.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

Issued by the
ARKANSAS STATE CLAIMS COMMISSION

Arkansas
State Claims Commission

JUN 29 2023

RECEIVED

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted] Minor Children, Claimant

V.

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

SUBPOENA

CLAIM NO. 230641

TO: **CV's Family Foods**
1004 East Walnut Street
Paris, Arkansas 72855

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

All employee and personnel files for Jacqueline Ashcraft, [redacted]

May 10, 2023
Date

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

PROOF OF SERVICE

SERVED ON (Print Name)

DATE

PLACE

MANNER OF SERVICE

SERVED BY (Print Name)

TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d).

A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

ARKANSAS DEPARTMENT OF HUMAN SERVICES

Office of Chief Counsel
Brent Gasper

P.O. Box 1437, Slot S-260 Little Rock, AR 72203-1437
501-320-8250 · Fax: 501-682-6720
brent.gasper@dhs.arkansas.gov

Arkansas State Claims Commission

JUN 29 2023

RECEIVED

June 7, 2023

CV's Family Foods
Attn: Personnel
324 Stone Mountain Loop
Alma AR 72921-8518

RE: Jacqueline Ashcraft, DOB: [redacted]

To Whom It May Concern:

Please find attached a subpoena issued by the Arkansas State Claims Commission concerning employee and personnel files for Jacqueline Ashcraft.

I have attached a self-addressed stamped envelope for your convenience. If you do not have any records concerning Ms. Ashcraft, please contact Ms. Carter at 501-320-6338.

I appreciate your cooperation in this matter.

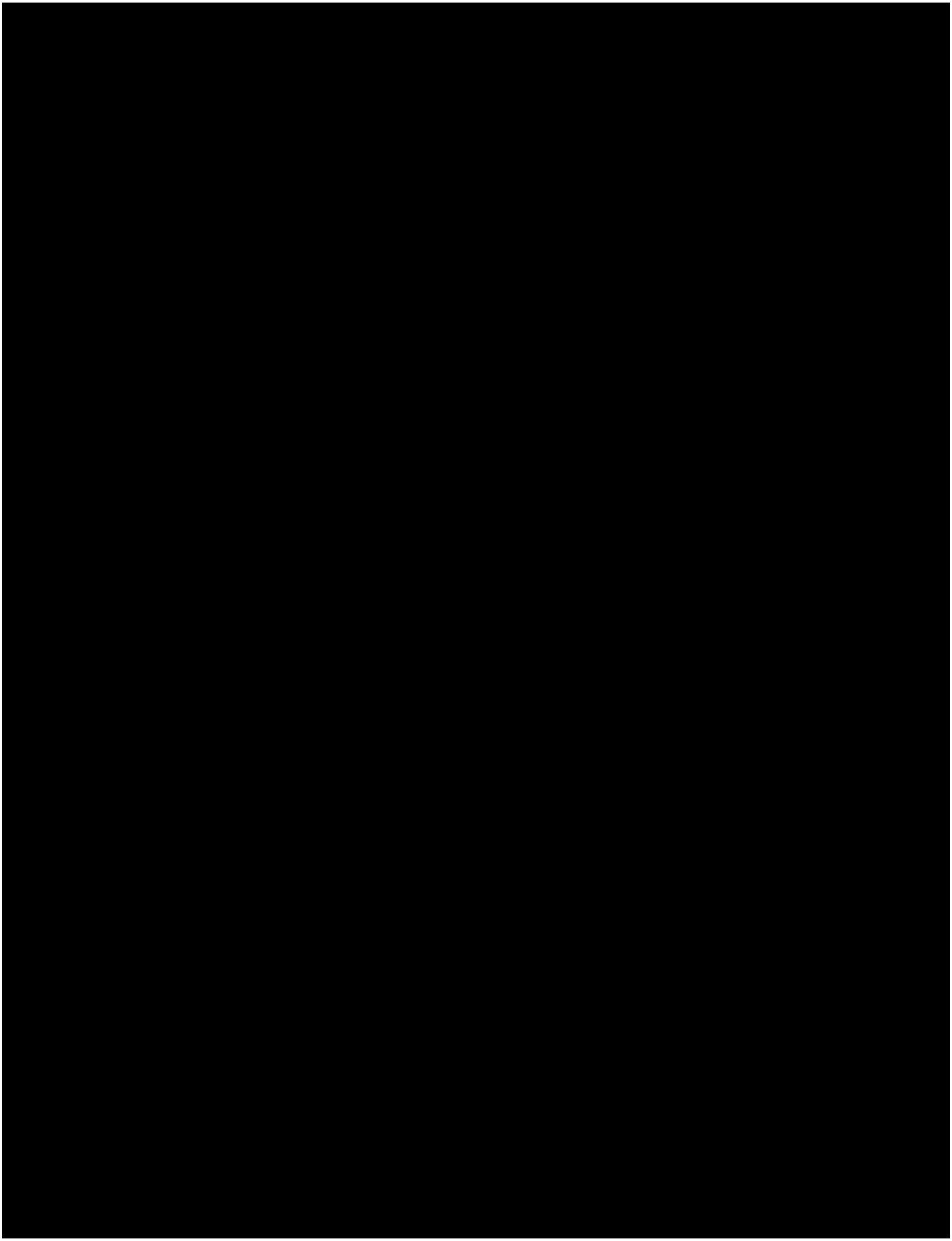
Sincerely,

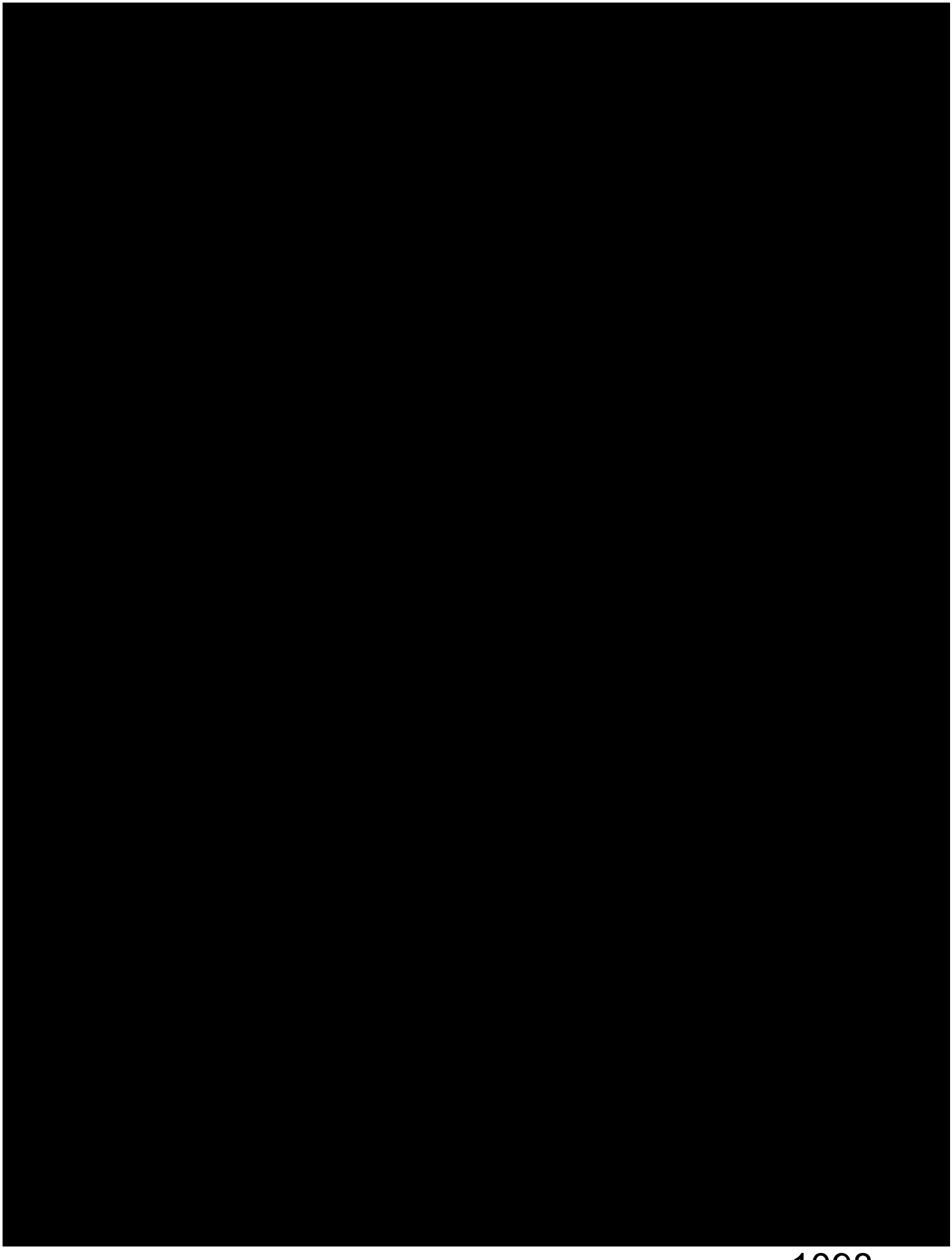
Brent Gasper

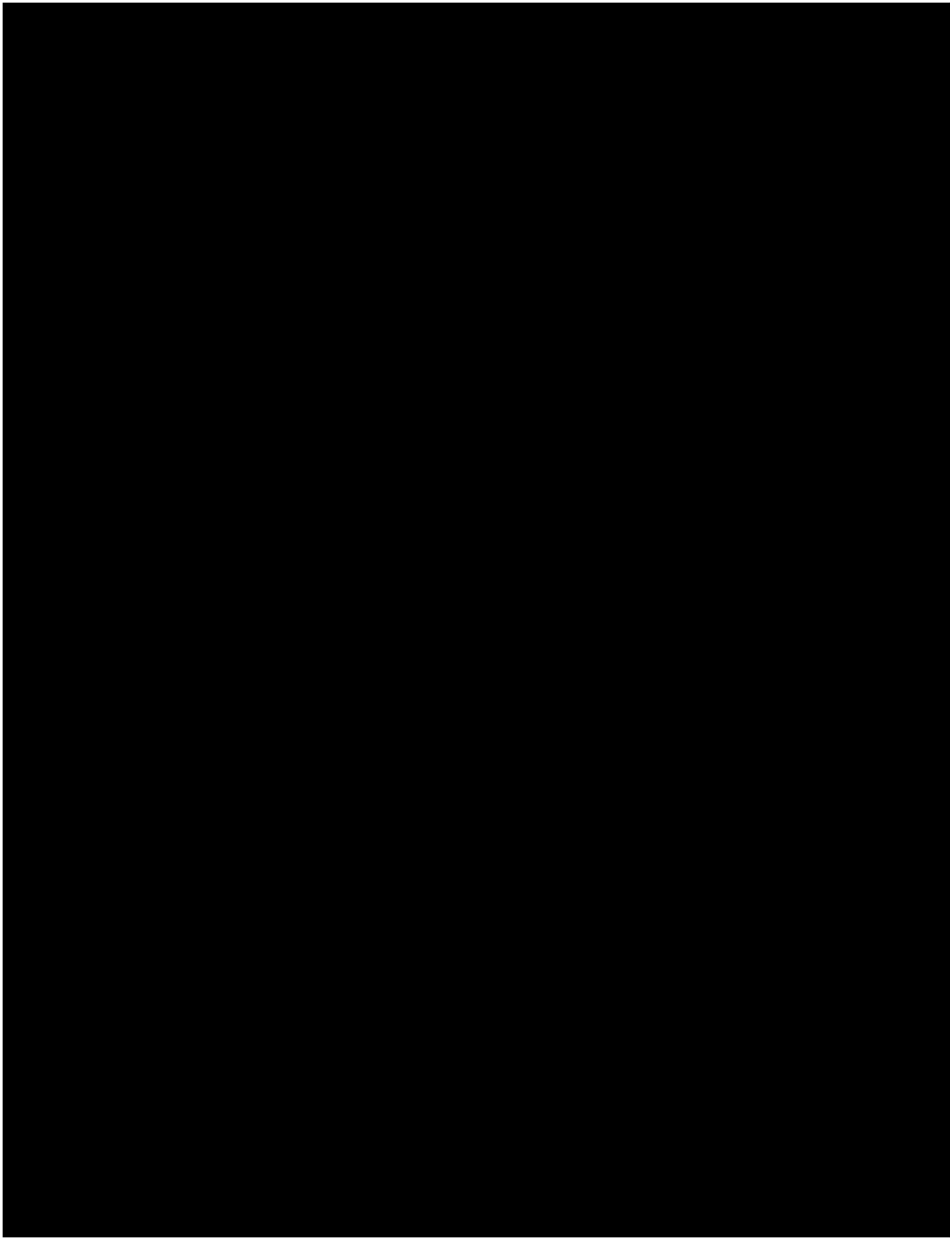
Brent Gasper
Deputy Director

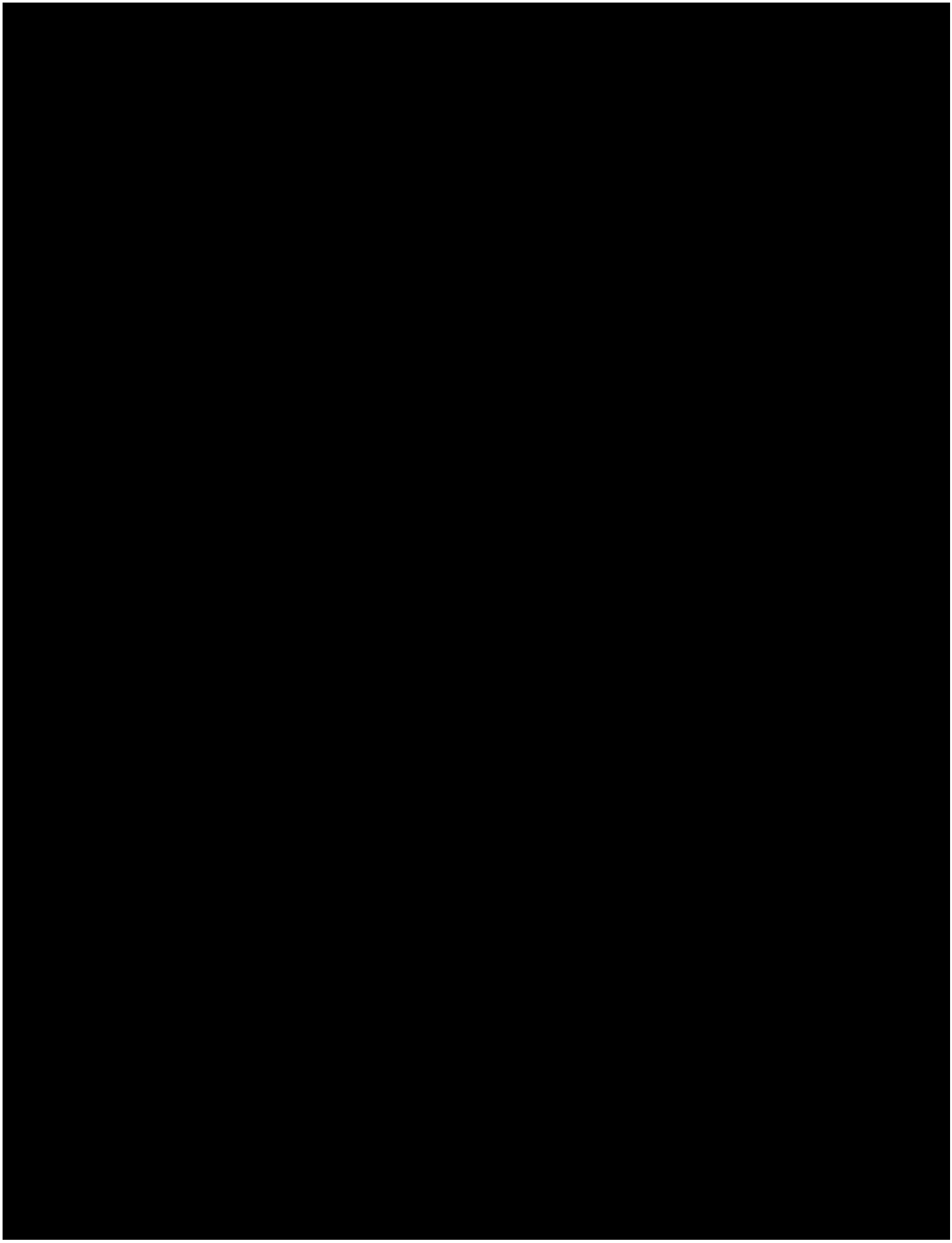
/ddc
Enclosure

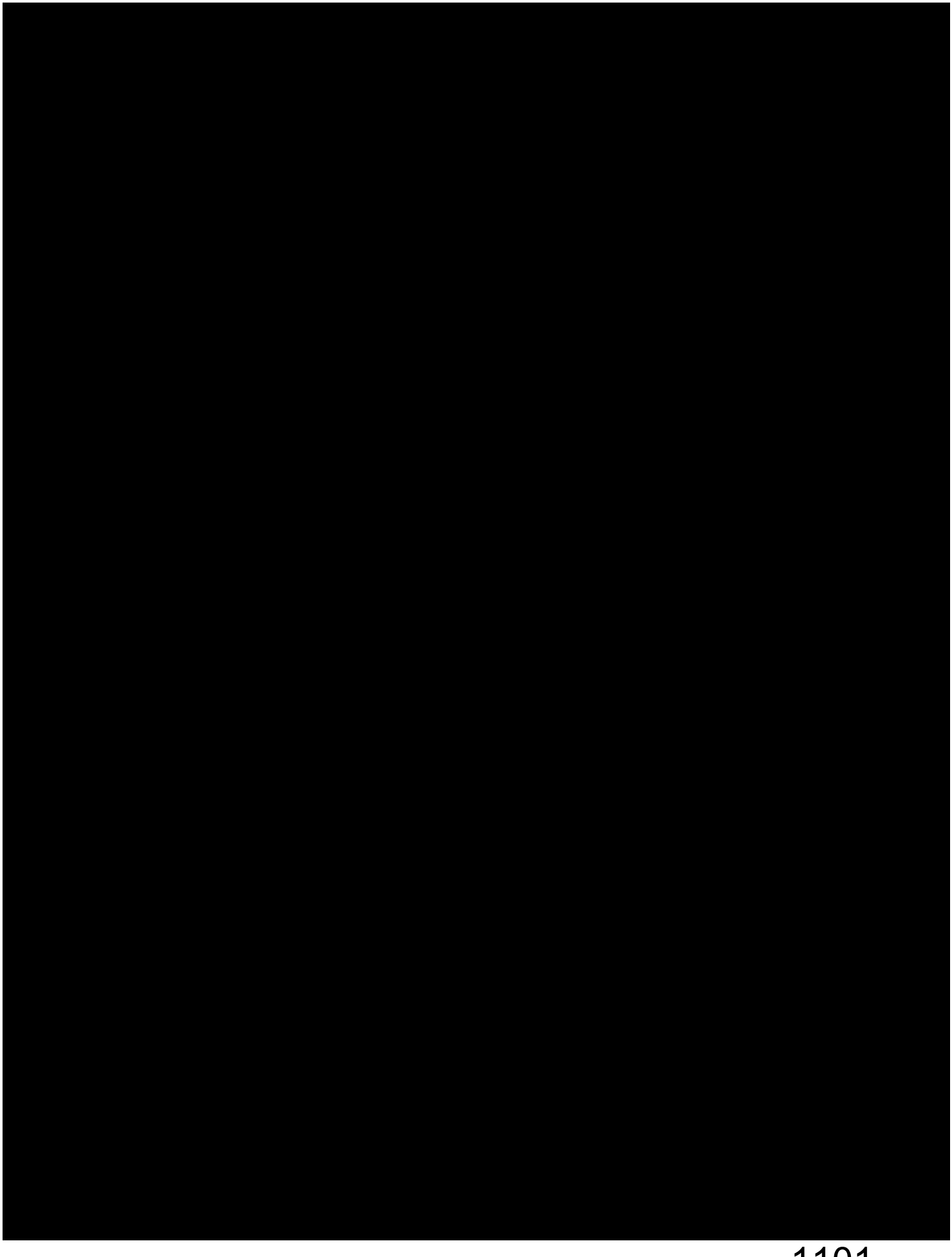
2019
2020

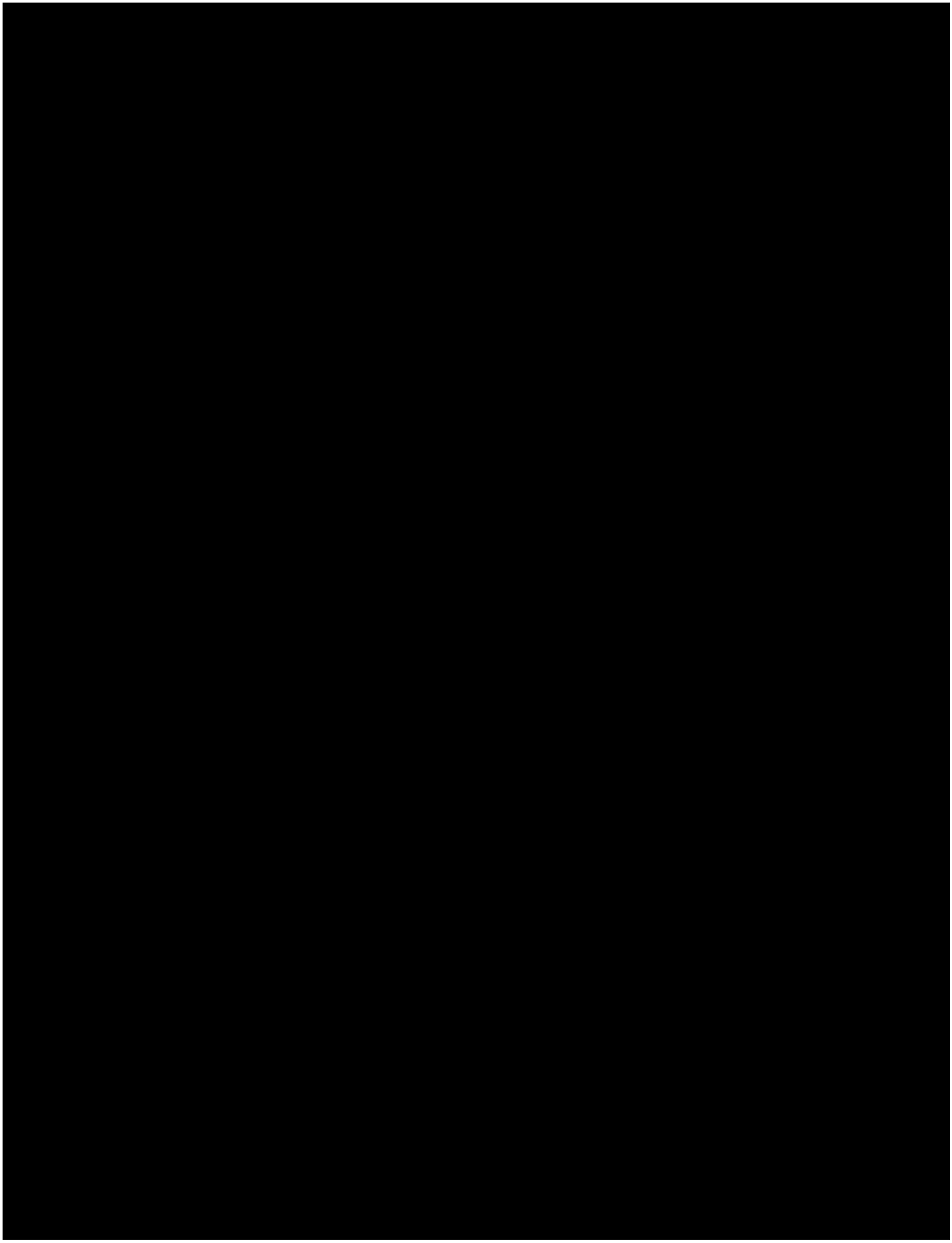


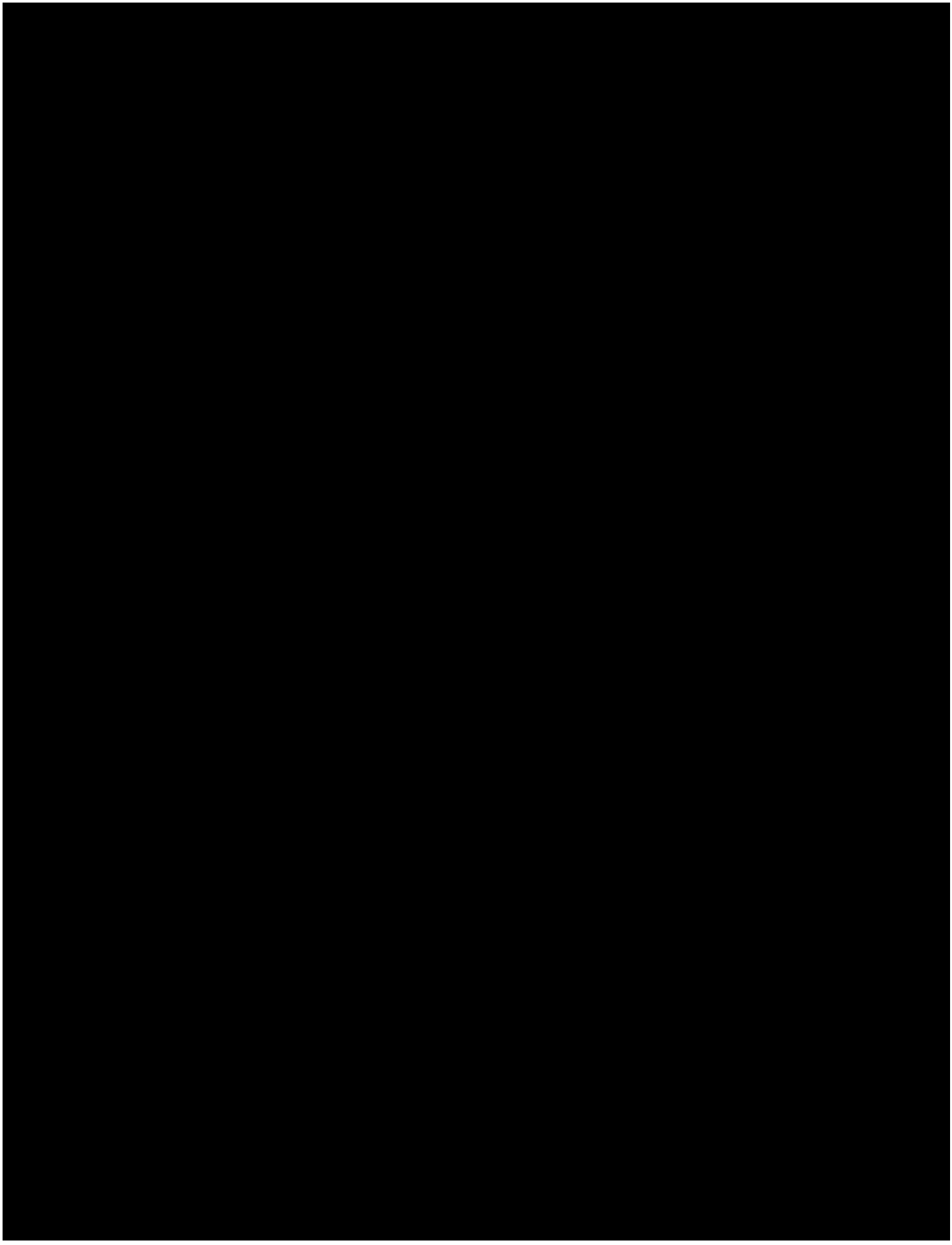


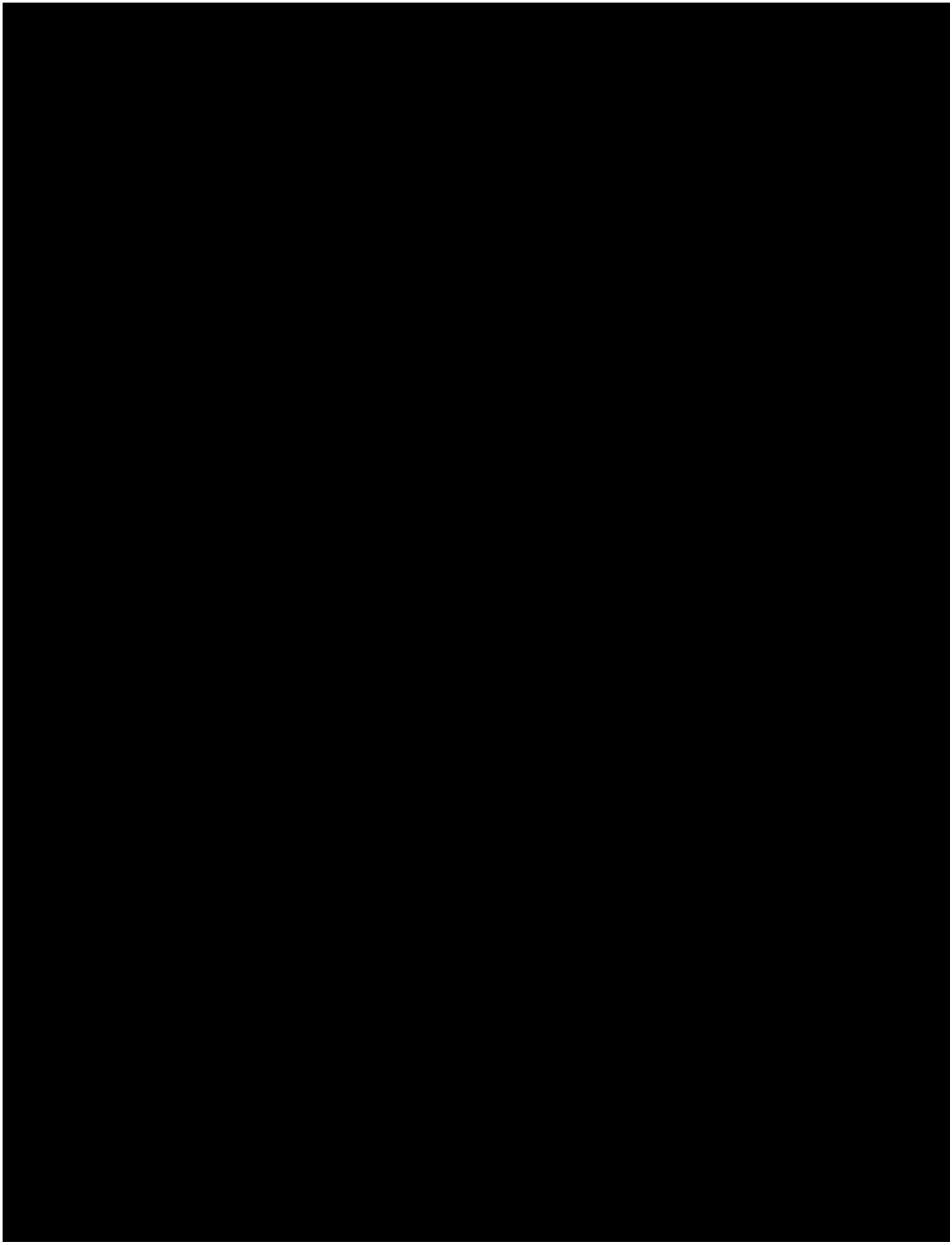


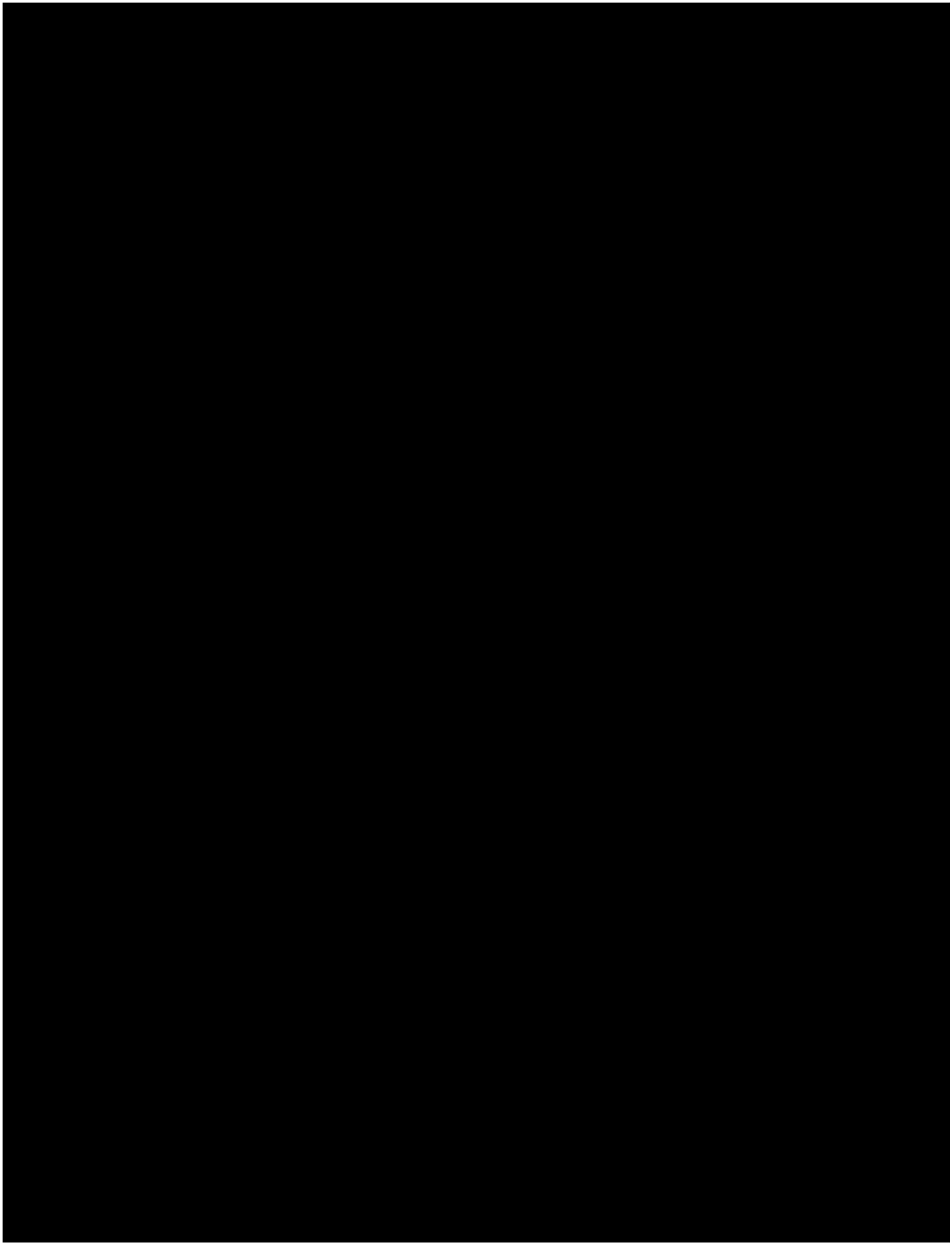


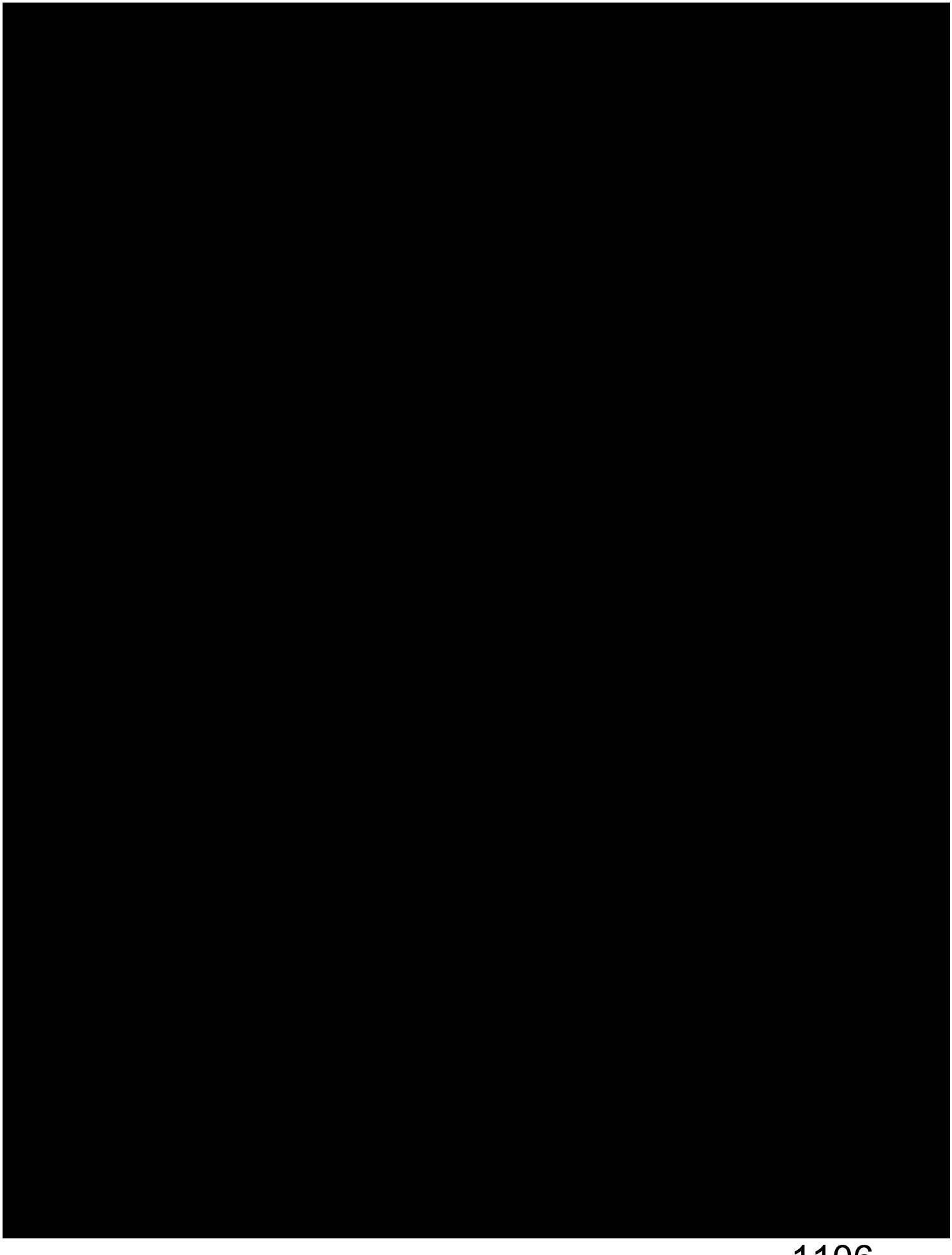


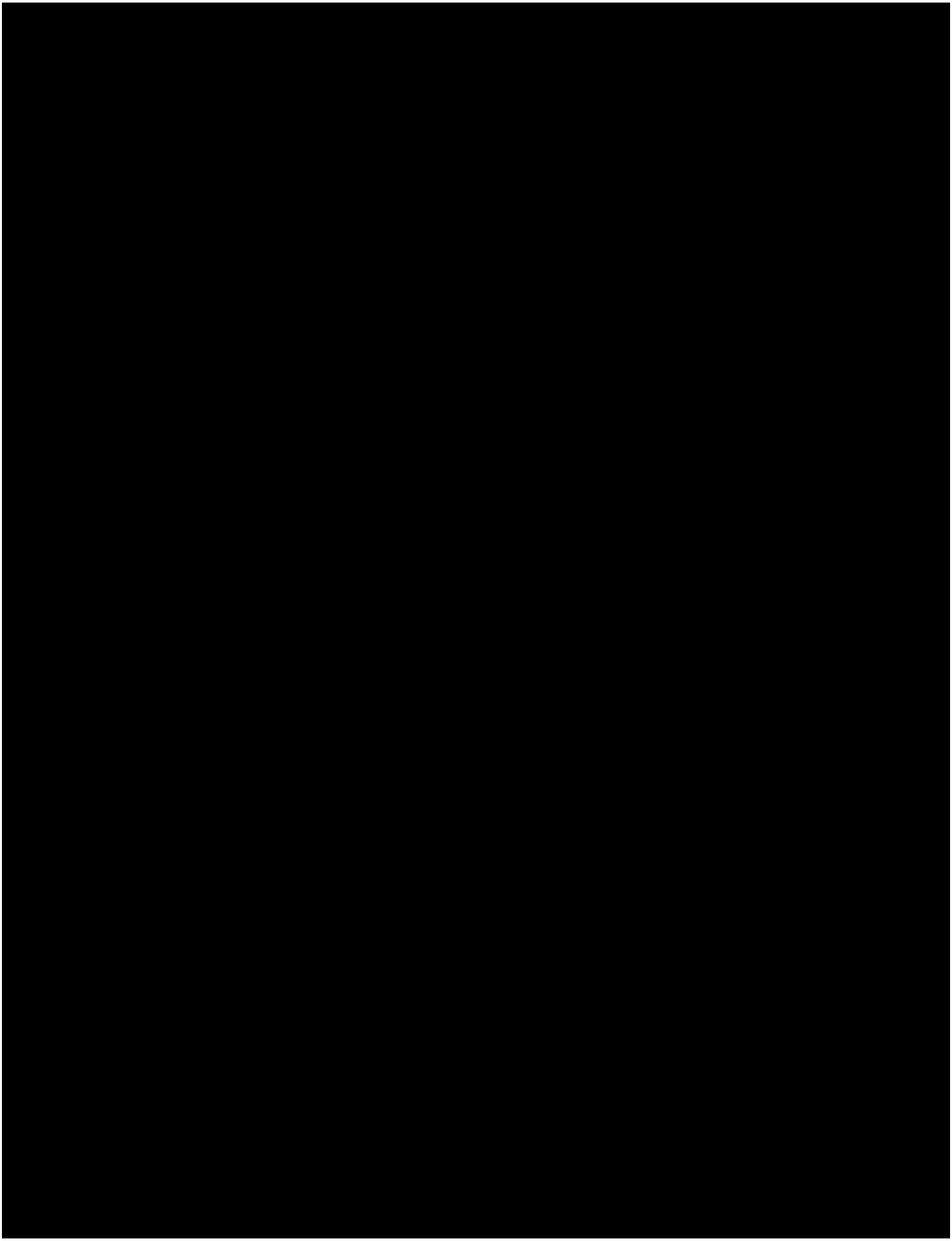


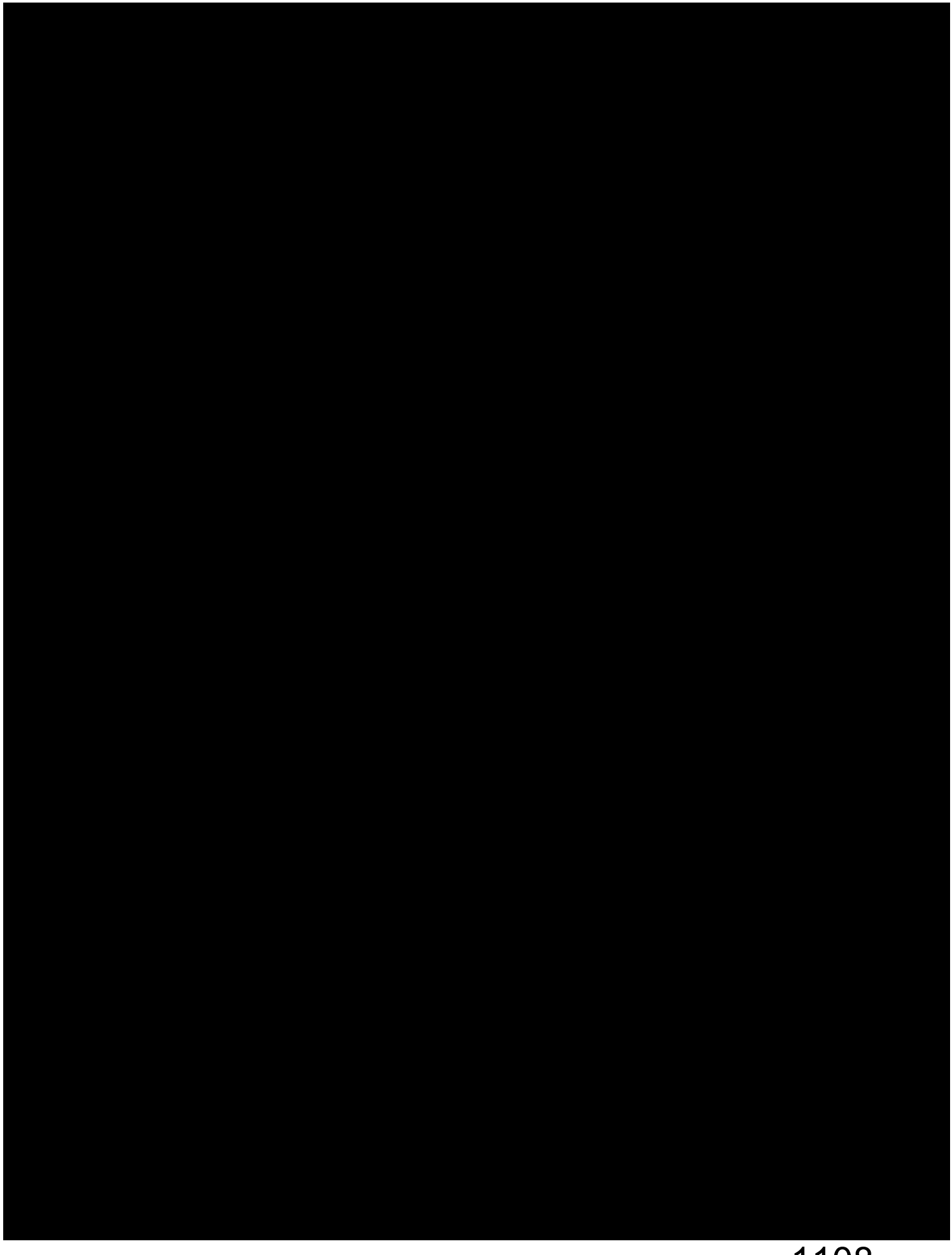


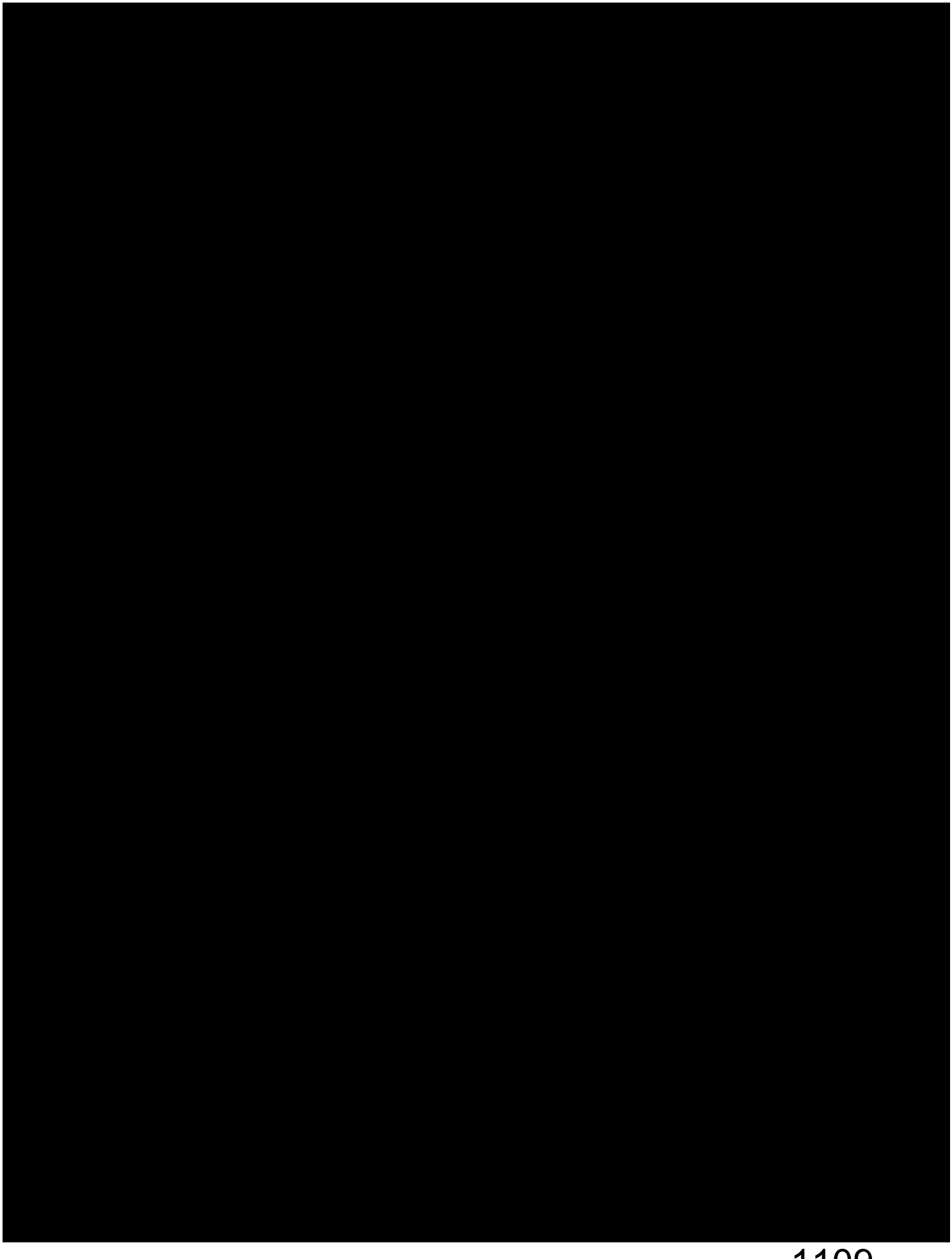


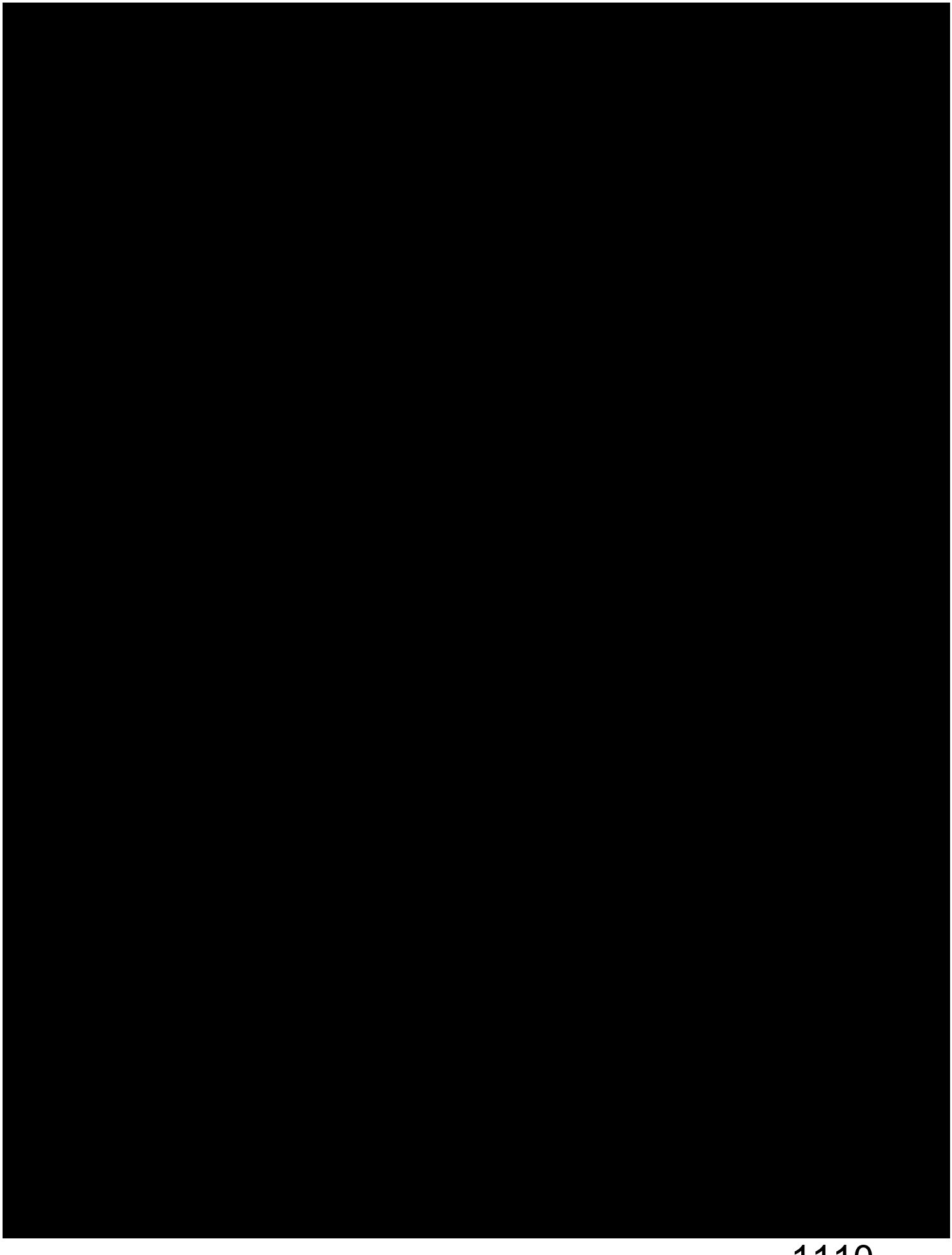


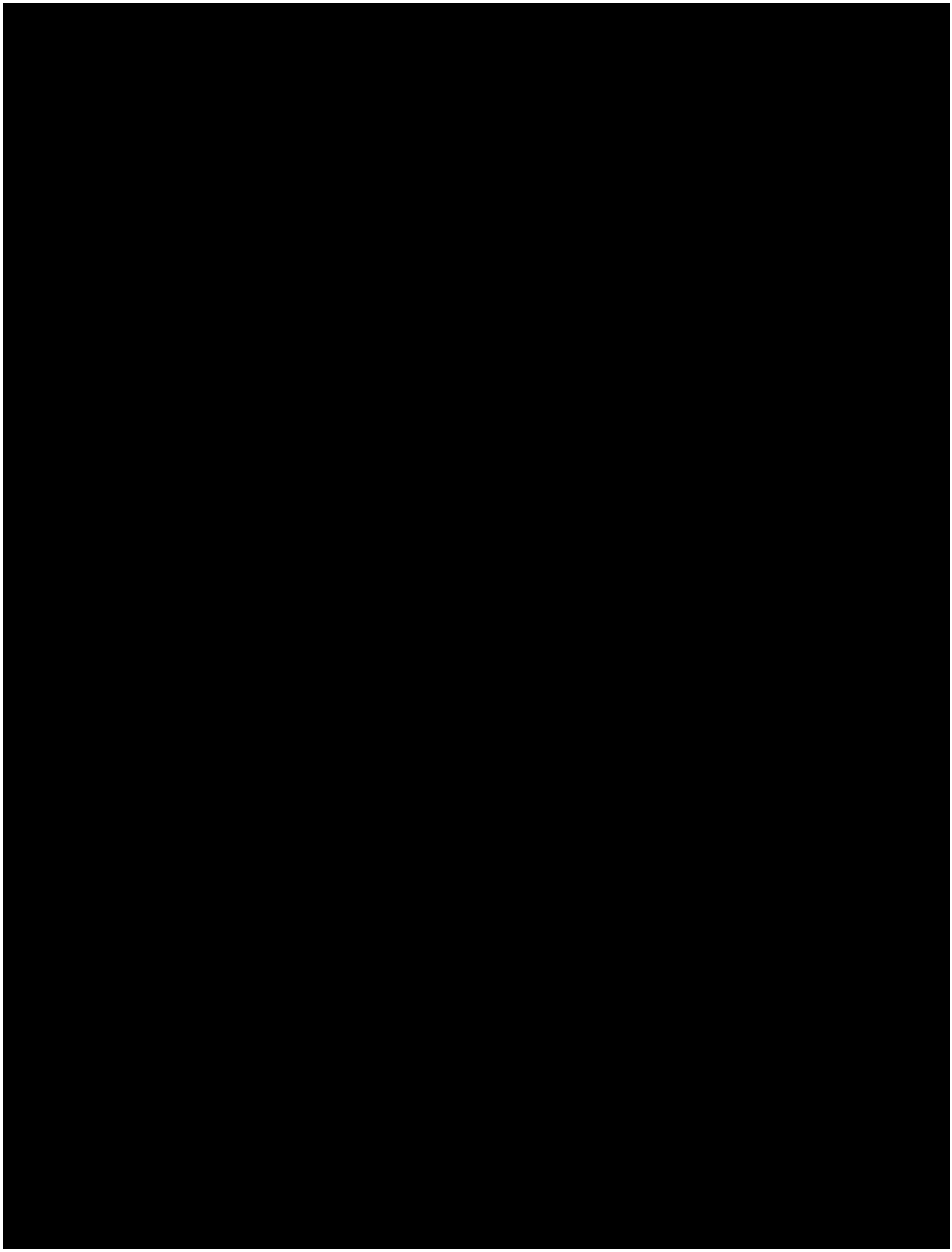


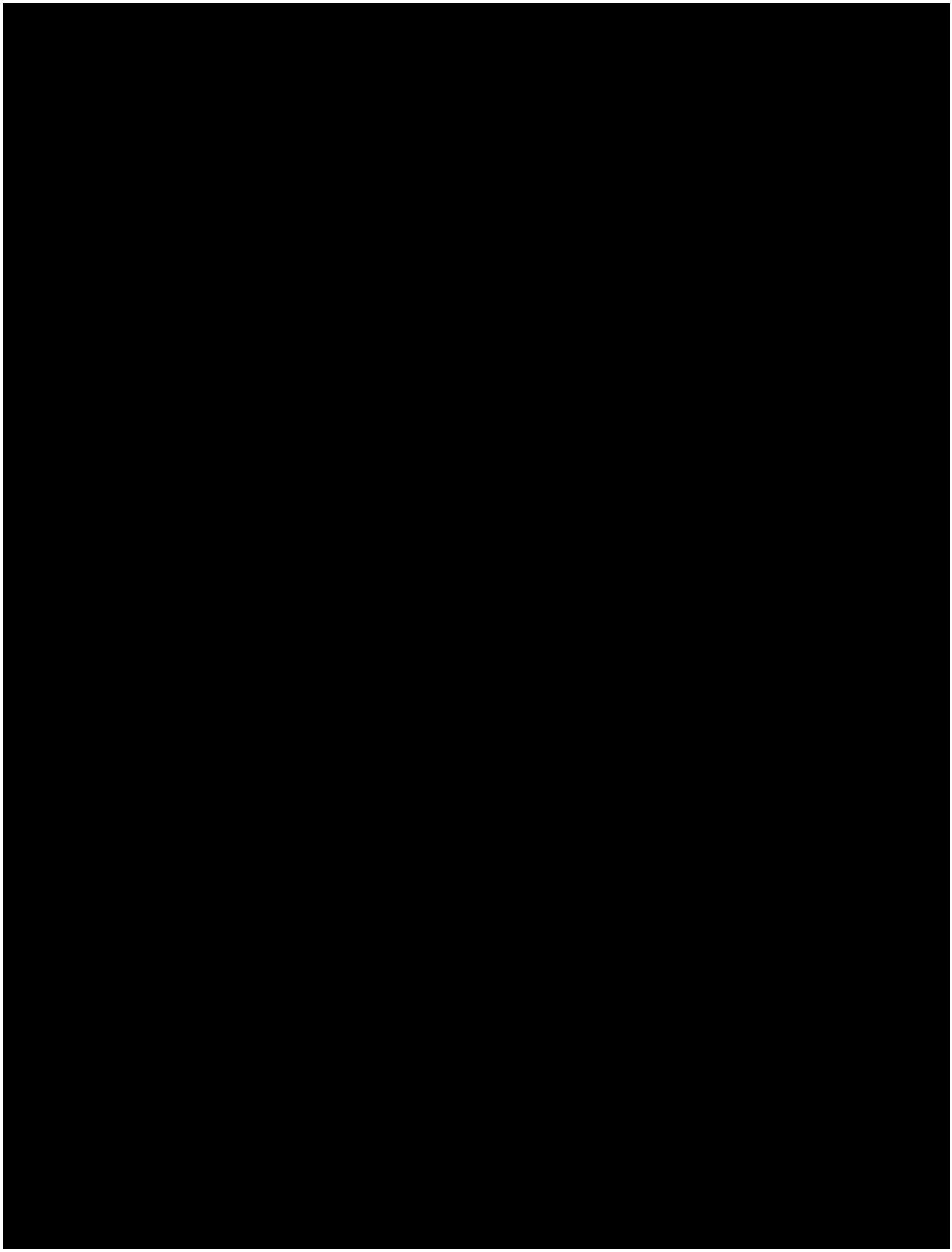












From: Daiquiri Carter
To: ASCC Pleadings; jim@jimjacksonatty.com; Martha Cox
Cc: Brent Gasper; Daiquiri Carter
Subject: CC # 230641
Date: Wednesday, July 5, 2023 3:22:31 PM
Attachments: Respondent"s Reply to Claimant"s Response_001.pdf
image001.png
image002.png

Please find enclosed Respondent's Reply to Claimants' Response to Respondent's Motion to Sever and Motion to Hold in Abeyance. I have copied Claimant's counsel on this email.

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov





NOTE - This email may contain sensitive or confidential information.

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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY, HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JAQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, AS PERMANENT LEGAL GUARDIAN OF [redacted] MINORCHILDREN[1] **CLAIMANTS**

v. **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

RESPONDENT'S REPLY TO CLAIMANTS' RESPONSE TO RESPONDENT'S MOTION TO SEVER AND MOTION TO HOLD IN ABEYANCE

COMES NOW, the Respondent, the State of Arkansas, Department of Human Services, Office of Chief Counsel, by its attorney, Brent P. Gasper, Assistant Deputy Chief Counsel, and for its Reply to Claimants' Response to Respondent's Motion to Sever and Motion to Hold in Abeyance, states:

1. In their response to Respondent's Motion to Sever and Motion to Hold in Abeyance, Claimants maintain that the doctrine of "parental immunity" prohibits Claimant [redacted] from bringing an action in tort in the state courts against Claimant Estate of Jacqueline Ashcraft. Specifically, citing *Spears v. Spears*, 339 Ark. 162, 3 S.W.3d 691 (1999), Claimants argue that a parent is immune from a lawsuit brought by his or her child for unintentional injury but not for an intentional injury.

[1] Respondent acknowledges that Claimants have filed a motion to non-suit Haley Hudson, individually, and [redacted] individually, as Claimants in this case. However, until the Commission grants the motion Respondent will continue to use the original styling of the case.

2. What Claimants have not informed this Commission, however, is that *Spears* was decided on extremely tenuous grounds as the Arkansas Supreme Court discussed at length in 2002 in *Fields v. Southern Farm Bureau Casualty Insurance Company*, 350 Ark. 75, 87 S.W.3d 224 (2002). To wit:

> *[I]n 1999, this court stated that it planned to reexamine the parental-immunity doctrine, when the issue was appropriately developed. Spears v. Spears, 339 Ark. 162, 3 S.W.3d 691 (1999). Fields argues that in Spears, this court refused to entertain an argument to abolish the parental-immunity doctrine only because the appellant had failed to present an adequate argument on appeal. We did note in Spears that the appellant argued "in conclusory fashion, that thirty states have allowed suits against parents involving automobile accidents but cites no caselaw to support the conclusion and otherwise provides us with a paucity of cases to warrant changing our common law." Spears, 339 Ark. at 165-166, 3 S.W.3d at 693-694. Noting that "[w]e do not overrule our common law cavalierly or without giving considerable thought to the change," this court refused to consider the appellant's argument to do away with parental immunity. Id. at 166, 3 S.W.3d at 693-694. Finally, we observed in Spears that the appellant had failed to plead insurance coverage in the trial court which rendered this court unable to consider the issue on an appeal from a judgment on the pleadings. Id.*

3. The *Fields* Court went on to examine the history of the doctrine of parental immunity in Arkansas[2], noting instances when the doctrine was either expanded or contracted when the Court was presented with various fact patterns. Notably, *having direct and immediate implications in this case*, was the 1982 case *Attwood v. Attwood's Estate*, 276 Ark. 230, 633 S.W.2d 366 (1982), where:

> *[T]his Court held that the parental-immunity doctrine did not apply to a case where a **father became willfully and intentionally intoxicated and then drove a vehicle while intoxicated with his child as a passenger and injured that child**. We refused to apply the doctrine to those facts, and held*

[2] Historically, courts created and, in earlier years, upheld the doctrine of parental immunity as one that would further parental and familial harmony and tranquility, as well as "integrity and stability … of the family unit." *See Rambo v. Rambo*, 195 Ark. 832, 114 S.W.2d 468 (1938) (first establishing the doctrine of parental immunity). Since that time, this view has since been continuously marginalized as more states refuse to recognize or outright abolish the doctrine.

> *that "it is clear that a willful tort is beyond the scope of the parental-immunity doctrine as it is applied in Arkansas." (emphasis added) (citations omitted)*

4. Indeed, as a general proposition, the doctrine of parental immunity appears to increasingly be on less and less sound footing, both nationally and in the courts of Arkansas[3]. In a concurring opinion in the 1986 case, *Carpenter v. Bishop*, 290 Ark. 424, 720 S.W.2d 299 (1986), Justice George Rose Smith stated that the Restatement (Second) of Torts, § 895G, rejects the parental-immunity doctrine and then said that "*[t]he doctrine of parental immunity still governs in Arkansas negligence law, but it takes little prophetic ability to realize that the doctrine's life expectancy is short.*" *See Fields, infra*, citing *Carpenter* (Rose, J., concurring)

5. The *Fields* Court ultimately eliminated the parental-immunity doctrine where the source of recovery is uninsured motorist benefits under a motor vehicle liability insurance policy. *See id.* Further, and perhaps more important for the purposes of the instant case, the Court reasoned:

> *[W]e are in agreement with the growing number of courts which have reached the following conclusion: when liability insurance exists, the domestic tranquility argument is, at best, hollow. Liability insurance impersonalizes the suit and negates the possible disruption of family harmony by easing the financial repercussions of the accident. In short, when insurance is involved, the action between parent and child is not truly adversary; both parties seek recovery from the insurance carrier to create a fund for the child's medical care and support without depleting the family's other assets.*
>
> *We can readily understand how an action against a liability insurance carrier might ease the financial crunch caused by a car accident rather than becoming a source of family disharmony.*
>
> ...

[3] Even in 2002, the doctrine was becoming more and more disfavored, with eleven (11) states eliminating the doctrine, four (4) states where the doctrine was never adopted, and twenty (21) states carving out an exception for negligent operation of a motor vehicle where liability insurance is involved. *See Fields, infra.*

> *[Finally] ... we are not convinced that the traditional policy reasons sustaining parental immunity are persuasive when the party with the true economic interest at stake is the liability carrier.*

6. The *Fields* Court's holding was further expanded as recently as 2021, when the Arkansas Supreme Court created an additional exception to the doctrine of parental immunity that applies when a party files a direct-action suit against an insurance carrier for underinsured-motorist coverage and when insurance benefits are the damages requested. *See Tomey v. Southern Farm Bureau Casualty Insurance Company*, 2021 Ark. 62, 619 S.W. 3d 25 (2021).

7. Moreover, the *Tomey* Court stated:

> *Further, we see no meaningful distinction between underinsured coverage and uninsured coverage for the purpose of parental immunity. True, the two coverages have different applications — uninsured coverage applies when the tortfeasor has no insurance while underinsured coverage applies when the tortfeasor's policy fails to fully compensate the injured party. See Clampit v. State Farm Mut. Auto. Ins. Co., 309 Ark. 107, 109-10, 828 S.W.2d 593, 595 (1992). But this distinction does not affect the policy underlying the parental-immunity doctrine.*

8. Clearly, given the decisions by the Arkansas Supreme Court and those holdings applied to the facts of the instant case, the doctrine of parental immunity does not govern or apply here. As the Respondent has argued in its Motion to Sever and in other pleadings, Jacqueline Ashcraft was operating a motor vehicle under the influence of several controlled substances. The record to this point clearly proves this fact as evidenced by the postmortem drug screen of Jacqueline Ashcraft. In doing so she engaged in not only negligent behavior but *wanton* behavior by driving a vehicle containing three (3) minor children at the time she was intoxicated and then causing an accident that injured [redacted] It is this *exact scenario* that the Arkansas Supreme Court addressed in *Attwood, supra*, where the Court held that the doctrine of parental

immunity did not apply. The more recent cases of *Fields*[4] and *Tomey*[5] involve negligent operation of motor vehicles in a manner not as "bad" as those in *Attwood* (i.e. no DWI involved) and the Court *still* believed they were worthy of an exception to the doctrine. Just like those cases, *this case* is ripe for litigation in the state courts of Arkansas as the doctrine of parental immunity would be inapplicable should Claimant [redacted] choose to pursue a cause of action against the Estate of Jacqueline Ashcraft. Such a claim could result in a *significant* award of damages[6].

---

[4] "On January 10, 1997, [Stephen Hunter Fields] was riding in an automobile with his mother when they were injured in a single-car accident. According to the motor vehicle accident report, Cheryl [Fields] lost control of her 1990 Ford Van during heavy snowfall while traveling westbound on Interstate 40 just outside of Russellville. Her van spun counter-clockwise once, went off the road and into the median, and tumbled down a steep embankment, rolling three times before coming to rest. According to the complaint, [Stephen Hunter Fields] was thrown from the vehicle and severely injured. He suffered a broken right femur and numerous bruises and contusions over his entire body. As a result of the accident, he now suffers from "residual leg length discrepancy," which presumably means that his right leg after the accident was shorter than his left leg. He suffered extreme pain throughout his recovery, according to the complaint, including nightmares and restlessness. It is undisputed that Cheryl [Fields] was driving her van negligently at the time of her accident." *Fields, supra.*

[5] "In April 2016, Christina Buchanan crashed a Dodge Grand Caravan, killing herself and severely injuring her daughter, Nova, who was a passenger." *Tomey, supra.*

[6] Claimants argue that Jacqueline Ashcraft was not intoxicated at the time she caused the accident at issue. While Respondent disagrees with this contention, the fact remains that this disputed fact would be one that would be *raised and litigated in state court in any case between the Claimants*. This Commission does not have the jurisdiction to decide factual matters in a dispute between Claimant Jacqueline Ashcraft and Claimant [redacted] and therefore should not factor that question into any reasoning or decision as to whether or not a state court case between the Claimants is meritorious. Only a state court would be in such a position. Further, the *Tomey* Court held that mere negligence was enough to eliminate parental immunity, so even if this Commission agrees with Claimants that Jacqueline Ashcraft was somehow *not* driving while intoxicated, her simple negligence in pulling out into traffic from the shoulder of the road alone would suffice to defeat the doctrine.

9. Due to the foregoing, this Commission should SEVER the instant cases and HOLD THE PROCEEDINGS HERE IN ABEYANCE until the resolution between the two Claimants herein is resolved in the state courts.

Respectfully submitted,

By: _____

Brent P. Gasper
Assistant Deputy Chief Counsel
Ark. Bar No. 98240

Arkansas Department of Human Services
Office of Chief Counsel
P.O. Box 1437
Little Rock, AR 72203
Phone (501) 320-8950
Brent.Gasper@dhs.arkansas.gov

CERTIFICATE OF SERVICE

I, Brent Gasper, hereby certify that on 5 July, 2023, I electronically filed the foregoing with the Claims Commission and copied Claimants' attorney Jim Jackson via email.

_____

Brent P. Gasper

From: Daiquiri Carter
To: ASCC Pleadings; jim@jimjacksonatty.com; Martha Cox
Cc: Brent Gasper; Daiquiri Carter
Subject: CC # 230641
Date: Thursday, July 6, 2023 3:25:42 PM
Attachments: Respondent"s Reply to Claimants" Response to Motion to Strike_001.pdf
image001.png
image002.png

Please find attached Respondent's Reply to Claimants' Response to Respondent's Motion to Strike. I have copied Claimants' attorney on this email.

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY, HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JAQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN[1] **CLAIMANTS**

v. **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

RESPONDENT'S REPLY TO CLAIMANTS' RESPONSE TO RESPONDENT'S MOTION TO STRIKE

COMES NOW, the Respondent, the State of Arkansas, Department of Human Services, Office of Chief Counsel, by its attorney, Brent P. Gasper, Assistant Deputy Chief Counsel, and for its Reply to Claimants' Response to Respondent's Motion to Strike, states:

1. In response to Respondent's Motion to Strike, Claimants informed this Commission that a motion to strike is not a recognized or valid motion under the Rules of Civil Procedure when responding to a motion for summary judgment and therefore is not proper herein. The appellate courts of Arkansas disagree. *See Trujillo v.TK Martial Arts Academy*, 2015 Ark. App. 606, 474 S.W.3d 519 (Ark. Ct. App. 2015) (Motions to strike filed in response to motion for summary judgment.); *Anderson-Tulley v. Vaden*, 2018 Ark. App. 484, 562 S.W.3d 249 (Ark. Ct. App. 2018) (Motion to strike filed in response to a motion for summary judgment.); *see also Allen v. Greenland*, 347 Ark. 465, 65 S.W.3d 424 (2002) ("We affirm appellee Greenland's motion to strike amendment to answer."); *Orr v. Hudson*, 2010 Ark. 484, 374 S.W.3d 686 (2010) ("In

[1] Respondent acknowledges that Claimants have filed a motion to non-suit Haley Hudson, individually, and [redacted] individually, as Claimants in this case. However, until the Commission grants the motion Respondent will continue to use the original styling of the case.

reviewing the denial of a motion to strike, this court has used an abuse-of-discretion standard of review."); *Rodgers v. McRaven's Cherry Pickers, Inc.*, 302 Ark. 140, 788 S.W.2d 227 (1990) ("Here, our review of the record reveals that Orr filed her responses to the doctors' motion to dismiss and amended motion to dismiss well before filing her motion to strike … Accordingly, we cannot say that the circuit court abused its discretion in denying Orr's motion to strike."); *Pippinger v. Benson*, 2011 Ark. 535, 385 S.W.3d 266 (2011) ("In reviewing the denial of a motion to strike, this court has used an abuse-of-discretion standard of review."); *Milner v. Luttrell*, 2011 Ark. App. 297, 384 S.W.3d 1 (Ark Ct. App. 2011) ("[T]he denial of a motion to strike will not be reversed absent an abuse of discretion.")

2. Further, that the Claimants have procured the services of an accident reconstruction expert is all the evidence this Commission needs to see through the premature and somewhat disingenuous claim that there are no genuine issues of material fact in dispute. If this were truly the case, Claimants would not have needed much less even considered employing an expert to support their claim that Jennifer Wilkerson was completely at fault in the accident if they believed fault and liability were already foregone conclusions based upon all available evidence. Indeed, the Motion for Summary Judgment was filed *before the accident reconstruction report was even completed!* Claimants were still "working their case" to prove Respondent's negligence even after they had filed a pleading flatly stating that fault and liability was an open and shut case. If this fact alone does not show that the Motion for Summary Judgment is premature, Respondent is at a loss as to what else could do so.

3. This matter is set for a hearing on November 8, continued to this date at the last possible moment before Respondent's Response to the Motion for Summary Judgment was due. Respondent extends its gratitude to the Commission and its Director for accommodating its last-

minute plea to have this matter continued. That being said, the Motion for Summary Judgment should still be *stricken in its entirety* and the Commission should do so at its earliest possible convenience so the parties may move ahead on this case without the November 8 hearing still pending. Nothing prevents Claimants from filing a subsequent motion for summary judgment down the road after the discovery in this case is complete. But for now, this matter should be disposed of and set aside.

4. Due to the foregoing, Respondent moves that this Commission STRIKE Claimants' Motion for Summary Judgment for these reasons and the reasons set forth in Respondent's original motion.

Respectfully submitted,

By: _____

Brent P. Gasper
Assistant Deputy Chief Counsel
Ark. Bar No. 98240

Arkansas Department of Human Services
Office of Chief Counsel
P.O. Box 1437
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Phone (501) 320-8950
Brent.Gasper@dhs.arkansas.gov

CERTIFICATE OF SERVICE

I, Brent Gasper, hereby certify that on 6 July, 2023, I electronically filed the foregoing with the Claims Commission and copied Claimants' attorney Jim Jackson via email.

_____

Brent P. Gasper

From: Martha Cox
To: ASCC Pleadings; Kathryn Irby
Cc: Daiquiri Carter; Jim Jackson; Brent Gasper
Subject: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted] Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incident
Date: Monday, July 10, 2023 12:33:11 PM
Attachments: Claimant"s Sur-Response to Respondent"s Motion to Sever and Motion to Hold in Abeyance 7-10-2023.pdf

---

Please see attached the claimant's Sur-Response to Respondent's Motion to Sever and Motion to Hold in Abeyance. The original and three copies of the Sur-Response are being mailed to the Commission today.

Thanks.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

JACKSON
LAW FIRM

July 10, 2023

VIA Email and First Class Mail
ASCCPleadings@arkansas.gov
Kathryn.Irby@arkansas.gov

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, AR 72201

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of* [redacted] *a minor vs. The Arkansas Department of Human Services*
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Kathryn:

Please find enclosed the original and three copies of the claimant's Sur-Response to Respondent's Motion to Sever and Motion to Hold in Abeyance for filing in the above-referenced matter.

Thank you for your attention to this matter.

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosures

cc/enc.: Brent Gasper, Esq. (via e-mail only)

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
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Jim@JimJacksonAtty.com
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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] a minor — CLAIMANT

v. CC No. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES — RESPONDENT

CLAIMANT'S SUR-RESPONSE TO RESPONDENT'S MOTION TO SEVER AND MOTION TO HOLD IN ABEYANCE

Comes now Haley Hudson, as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Permanent Legal Guardian of [redacted] a minor, by and through her attorney, Jim Jackson, and for her Sur-Response to the respondent's Motion to Sever and Motion to Hold in Abeyance, states:

1. Justice Woods' opening sentence of the Arkansas Supreme Court's 2021 decision in *Tomey* affirmed that the long-standing parental-immunity doctrine is still the law with only three exceptions. "The parental-immunity doctrine bars unemancipated minors from suing their parents for involuntary torts." *Tomey v. So. Farm Bureau Cas. Ins. Co.*, 2021 Ark. 62, 619 S.W.3d 25 (Ark. 2021). (Attached as Exhibit 1 is a copy of the *Tomey* decision). The three exceptions that apply after the *Tomey* decision are:

   i. Willful or intentional torts;

   ii. Uninsured Motorist[1] ("UM") Claim; and

   iii. Underinsured Motorist ("UIM") Claim.

[1] UM & UIM claims are also called direct action claims or first party claims.

These three exceptions do not apply to [redacted]odily claim arising from the rear-end collision caused by the respondent's employee driving her car into the rear-end of the Aschraft car at a high rate of speed.

2. The *Tomey* court went through a litany of other tort claims brought by a minor child which were denied when the minor child's attorney sought an exception to the parental-immunity doctrine. The *Tomey* court holding is that the parental-immunity doctrine is still the law in Arkansas with only the three aforementioned exceptions to the doctrine being applicable.

3. The requirement of Ark. Code Ann. § 19-10-223 for a claimant to bring a claim before this Commission is that the claimant must exhaust all available state remedies. This "exhaustion" occurred when the respondent's liability insurance company, Cincinnati Insurance Company, tendered its policy limits with the Logan County Circuit Court. Attached as Exhibit 2 is Circuit Judge David McCormick's Order granting the respondent's insurance carrier's Motion to deposit its policy limits into the registry of the court in the Interpleader action in Logan County Circuit Court. The damages from this claim greatly exceed the limits that the respondent had with Cincinnati Insurance which is why this claim was brought before the Arkansas Claims Commission.

4. There is no requirement that a claimant overturn long-standing tort law prior to bringing a claim before the Arkansas Claims Commission.

5. Assuming arguendo, let's examine what would happen if Haley Hudson, in her capacity as Permanent Guardian of [redacted]a minor, brought a lawsuit against Haley Hudson, in her capacity as Special Administratrix of the Estate of Jacqueline Ashcraft, deceased. Ashcraft's liability insurance policy explicitly bars a claim by one family member against another family member.

6. The Ashcraft vehicle was insured by American Underwriters Insurance of Conway ("AUIC") which issued policy numbe[redacted]o Ashcraft. Attached as Exhibit 3 is a copy of the declaration sheet for Ashcraft's Sonata along with a cover letter from Brad Wilbanks explaining that "there is no coverage for any first party damage or injuries sustained by Jacqueline Ashcraft and her estate. AUIC has no duty to indemnify under the policy for this claim and no loss will be paid."

7. A review of the policy itself contains the family-member exclusion which is found in practically every automobile liability policy. Attached as Exhibit 4 is a copy of the AUIC personal auto policy.

8. The very first exclusion in AUIC's policy precludes[redacted] or any other family member, from bringing a claim against Jacqueline Ashcraft. The Liability Coverage Exclusion Endorsement on page 2 of Ashcraft's policy states:

> **We do not provide Liability Coverage for any "insured" for "bodily injury" to you or any "family member."**

9. There is no liability insurance coverage for [redacted]to make a recovery against the Estate of Jacqueline Ashcraft, deceased, even if the respondent could find any witness to allege that the wreck was caused by anyone other than Jennifer Wilkerson driving into the rear-end of Ashcraft's car at a high rate of speed. The parental-immunity doctrine and AUIC's policy both exclude [redacted]from bringing a liability claim against her mother.

WHEREFORE, the claimant requests that the respondent's Motion to Sever and Motion to Hold in Abeyance be denied, as the Parental-Immunity doctrine and AUIC's policy prevent the respondent's novel theory from being applicable to [redacted]claim.

Respectfully Submitted,

Jim R. Jackson, AR Bar #93209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
Phone: 501-823-3610
Fax: 501-823-3611
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I, Jim R. Jackson, hereby certify that I have electronically filed this pleading with the Clerk of the Arkansas Claims Commission and served the respondent's attorney, Brent P. Gasper, via email, with the Claimant's Response to Motion to Sever and Motion to Hold in Abeyance on July 10, 2023.

Jim R. Jackson

2021 Ark. 62
619 S.W.3d 25

Sherry TOMEY, Guardian of the Estate of Novalene Kent, a Minor, Petitioner
v.
SOUTHERN FARM BUREAU CASUALTY INSURANCE COMPANY, Respondent

No. CV-20-421

Supreme Court of Arkansas.

Opinion Delivered: March 18, 2021

Reed Firm, P.A., by: Tim Reed, for petitioner.

Turner Law Firm, P.A., by: Andy L. Turner, Little Rock and Kaleb M. Jones, Cabot, for respondent.

Brian G. Brooks, Attorney at Law, PLLC, by: Brian G. Brooks, amicus curiae for Arkansas Trial Lawyers Association.

RHONDA K. WOOD, Associate Justice

The parental-immunity doctrine bars unemancipated minors from suing their parents for involuntary torts. One exception applies when the minor brings a direct-action suit against an insurance carrier for *uninsured* -motorist coverage. Here, the minor brought a direct-action suit against an insurance carrier for *underinsured* -motorist coverage. The United States District Court for the Eastern District of Arkansas, in accordance with Arkansas Supreme Court Rule 6-8, certified the following question of law:

> Does the State of Arkansas recognize an exception to the parental-immunity doctrine when a direct-action suit against a motor vehicle liability insurance carrier for *underinsured* motorist coverage is at issue and when *underinsured* motorist benefits are the damages requested?

We find no distinction between the two coverages for the purpose of the parental-immunity doctrine. The reasons justifying the exception for *uninsured* -motorist coverage apply equally to *underinsured* -motorist coverage. We therefore expand the exception to cover direct-action claims when underinsured benefits are at issue and answer the certified question in the affirmative.

[619 S.W.3d 27]

I. *Factual Background*

The parties agreed to these facts. In April 2016, Christina Buchanan crashed a Dodge Grand Caravan, killing herself and severely injuring her daughter, Nova, who was a passenger. A third party, Anthony Ray, owned the Caravan. Ray insured the Caravan with The Hartford on a $25,000 bodily-injury liability policy. The Hartford offered the full $25,000 to Nova in exchange for a release of all negligence claims against Ms. Buchanan and Mr. Ray. Nova accepted the settlement through her guardian.

Even so, Nova's medical bills exceeded $25,000. She therefore submitted a claim against Ms. Buchanan's underinsured-motorist coverage with Farm Bureau. The policy's language provided as follows:

> We will pay damages for bodily injury which a covered person is legally entitled to recover from the owner or operator of an underinsured auto. Bodily injury must be caused by an accident arising out of the ownership, maintenance or use of the underinsured auto.
>
> We will pay under this coverage only after the limits of liability under any applicable bodily injury liability bonds or policies have been exhausted by payment of judgments or settlements.

The parties agreed that the mother's negligent operation of Mr. Ray's underinsured Caravan caused Nova's injuries and that Mr. Ray's policy

fastcase

PLAINTIFF'S EXHIBIT 1 tabbies

limits were exhausted. But the parties disputed whether Nova, as a covered person, was legally entitled to recover from her mother, the operator of the Caravan.

Farm Bureau maintained that Nova could not recover under Arkansas's parental-immunity doctrine. It accordingly denied Nova's claim against her mother's policy. Nova then filed a direct-action lawsuit against Farm Bureau, which ended up in federal district court. The district court acknowledged that this court has recognized an exception to the parental-immunity doctrine when the source of recovery is *uninsured* -motorist benefits under a motor-vehicle liability policy. The question raised was whether a similar exception existed for *underinsured* -motorist benefits. We answer yes for the reasons explained below.

II. *Law and Analysis*

The parental-immunity doctrine prohibits unemancipated minors from suing their parents for an involuntary tort. This court created the doctrine in 1938. *See Rambo v. Rambo* , 195 Ark. 832, 114 S.W.2d 468 (1938). We reasoned the doctrine was necessary to maintain the "integrity and stability ... of the family unit." *Id.* at 835, 114 S.W.2d at 469. We also noted the State could still bring criminal charges against parents for abuse that amounts to a criminal violation. *Id.*

Petitioner correctly points out that the national trend in state courts has been to abrogate the parental-immunity doctrine. *See Fields v. So. Farm Bureau Cas. Ins. Co.* , 350 Ark. 75, 88, 87 S.W.3d 224, 229 (2002) (recognizing most states have either abolished the parental-immunity doctrine, never adopted it, or created exceptions); Brian A. Wamble, *Parental Immunity: Tennessee Joins the National Trend Toward Modification* , 25 U. Mem. L. Rev. 235, 239 (1994) ("[A] majority of jurisdictions have either discarded parental immunity altogether or at least restricted its application."). Despite the trend, the parental-immunity doctrine has survived in Arkansas for over eighty years. We recognize that this is a judicially created doctrine and not derived from common law. Our legislature has not limited or expanded the doctrine since 1938, suggesting tacit approval. *See Chapman v. Alexander* , 307 Ark. 87, 90, 817 S.W.2d 425, 427 (1991)

[619 S.W.3d 28]

(noting "[l]egislative silence after such a long period gives rise to an arguable inference of acquiescence or passive approval"). While complete abrogation has been raised repeatedly to this court, we have declined to reach this policy decision. If the legislature disagrees with parental immunity, it is free to extinguish it by statute, as it has done with other types of immunity in the past. *Compare Parish v. Pitts* , 244 Ark. 1239, 429 S.W.2d 45 (1968) (abolishing municipal immunity) *with* Act 165 of 1969, now codified at Ark. Code Ann. § 21-9-301 (Repl. 2016) (reestablishing municipal immunity). Absent this, we continue our case-by-case consideration of the doctrine and when exceptions should apply.

Over the years, we created two exceptions to the doctrine. The first exception applies when a child sues a parent for a willful tort. *Attwood v. Estate of Attwood* , 276 Ark. 230, 633 S.W.2d 366 (1982). "[A] willful tort is beyond the scope of the parental immunity doctrine." *Id.* at 238, 633 S.W.2d at 370. The second exception applies "when a direct-action suit against a motor vehicle liability insurance carrier for uninsured motorist coverage is at issue and when insurance benefits are the damages requested." *Fields* , 350 Ark. at 88, 87 S.W.3d at 231. Here, we consider the scope of the second exception.

The *Fields* court gave multiple reasons for the exception. First, the court noted only nine states, including Arkansas, applied the parental-immunity doctrine when automobile insurance was the source of recovery. *Id.* at 84, 87 S.W.3d at 229. Second, the court decided the policy basis for the doctrine—family harmony—was inapplicable when "the insurance company is the true adversary." *Id.* at 86, 87 S.W.3d at 230. Third, the court thought any fraud or collusion between parent and child would be rare and could be countered during litigation: "the judicial process

and investigation by the carrier itself will stem the potential for abuse." *Id.* at 87, 87 S.W.3d at 230. Last, the court concluded the existence of criminal laws to punish the parent failed to justify the doctrine's application in this circumstance. *Id.* In all, the court reasoned, the policy underlying parental immunity was not "persuasive when the party with the true economic interest at stake is the liability carrier." *Id.* at 87, 87 S.W.3d at 231.

We find the basis for the *Fields* exception for uninsured coverage applies equally to the underinsured coverage. Accordingly, we hold an exception to the parental-immunity doctrine applies when a party files a direct-action suit against an insurance carrier for underinsured-motorist coverage and when insurance benefits are the damages requested. This appears to be the majority view according to the *Fields* court's examination of the law. The insurance company can root out collusion and fraud during its investigation, during discovery, or in the courtroom. And the risk of fraud and collusion is practically nonexistent where, as here, the mother is deceased. *Cf. Attwood* , 276 Ark. at 236, 633 S.W.2d at 235 ("[T]he reasons which may have justified barring the child's remedy against a living parent lose much of their force when the parent child relationship is terminated by death.").

Further, we see no meaningful distinction between underinsured coverage and uninsured coverage for the purpose of parental immunity.[1] True, the two coverages

[619 S.W.3d 29]

have different applications—uninsured coverage applies when the tortfeasor has no insurance while underinsured coverage applies when the tortfeasor's policy fails to fully compensate the injured party. *See Clampit v. State Farm Mut. Auto. Ins. Co.* , 309 Ark. 107, 109–10, 828 S.W.2d 593, 595 (1992). But this distinction does not affect the policy underlying the parental-immunity doctrine.

This does not mean we will always create exceptions. We have declined to do so in other cases. *See, e.g.* , *Greenwood v. Anderson* , 2009 Ark. 360, 324 S.W.3d 324 (upholding doctrine when son sued absentee father for negligence); *Robinson v. Robinson* , 323 Ark. 224, 914 S.W.2d 292 (1996) (upholding doctrine when daughter sued mother for negligently failing to prevent sexual abuse). We also upheld the doctrine when homeowner's insurance was the source of recovery. *Verdier v. Verdier* , 364 Ark. 287, 219 S.W.3d 143 (2005). There, a son sued his father for injuries arising out of a lawnmower accident, seeking recovery up to the limits of his father's homeowner's insurance policy. We rejected the son's request to create another exception. We noted many injuries occurred in the home and limiting the doctrine would lead to a slippery slope. But we also based our holding on the fact that the law requires auto insurance but not homeowner's insurance. Because "many households in Arkansas are not protected by homeowner's insurance," extending the doctrine could "create separate benefits and burdens for those who are insured than from those who are not." *Id.* at 291, 219 S.W.3d at 146.

As for future exceptions, we will carefully evaluate them as each case presents itself to the court.

Certified question answered.

Notes:

[1] The States with an automobile-negligence exception do not distinguish between underinsured coverage and uninsured coverage. *See, e.g.* , Conn. Gen. Stat. § 52-572c ("In all actions for negligence in the operation of a motor vehicle ... the immunity between parent and child ... is abrogated."); N.C. Gen. Stat. § 1-539.21 ("The relationship of a parent and child shall not bar the right of action ... arising out of operation of a motor vehicle."); *Ard v. Ard* , 414 So. 2d 1066, 1067 (Fla. 1982) (waiving parental-immunity doctrine in negligence action "to the extent of the parent's available liability insurance coverage");

Unah ex rel. Unah v. Martin , 676 P.2d 1366, 1370 (Okla. 1984) (same); *Merrick v. Sutterlin* , 93 Wash.2d 411, 610 P.2d 891, 893 (1980) (eliminating the doctrine for negligence actions against parent arising from automobile accident); *Lee v. Comer* , 159 W.Va. 585, 224 S.E.2d 721, 725 (1976) (same); *Dellapenta v. Dellapenta* , 838 P.2d 1153, 1158 (Wyo. 1992) (permitting unemancipated minor to bring automobile-negligence action after identifying "at least thirty states that now recognize [the] action").

IN THE CIRCUIT COURT OF LOGAN COUNTY, ARKANSAS
CIVIL DIVISION

ELECTRONICALLY FILED
Logan County Circuit Court in Paris District
Kim Ruloph, Circuit Clerk
2022-Mar-21 15:25:57
42PCV-21-116
C15D02 : 3 Pages

CINCINNATI INSURANCE COMPANY PLAINTIFF

v. CASE NO. 42PCV-21-116

HALEY HUDSON, ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, and also GUARDIAN OF THE ESTATES OF [redacted]
And [redacted] both minors;
JENNIFER WILKERSON;
ARKANSAS DEPARTMENT OF HUMAN SERVICES;
BOBBY DALE WILSON;
JOE ASHLEY TRUCKING, LLC;
GKD MANAGEMENT, LP D/B/A A&G COMMERCIAL TRUCKING, INC.;
TRU HOMES, LLC;
JOHN DOES 1-3
DEFENDANTS

ORDER

The Court, upon motions of the parties, and being well and sufficiently advised, hereby orders as follows:

1. This Court grants the unopposed Motion to Deposit Funds of Plaintiff, the Cincinnati Insurance Company ("Cincinnati"). The Logan County Circuit Clerk is hereby authorized to accept from Cincinnati a check or draft in the sum of the adjusted policy proceeds, and to deposit the adjusted proceeds into an interest-bearing account.

2. Once Cincinnati has deposited the funds, Cincinnati shall be dismissed from the instant action and be discharged from all further liability.

3. Only two Defendants, Haley Hudson, Administratrix of the Estate of Jacqueline Lynn Ashcraft, Deceased, and also Guardian of the Estates of [redacted] Minors ("Hudson") and GKD Management d/b/a A&G Commercial Trucking, Inc. ("GKD") have made claims to the funds to be deposited into the Registry of the Court.

PLAINTIFF'S EXHIBIT 2

4. Hudson and GKD have amicably resolved their competing claims to the funds, with GKD to received $12,500.00 from the funds to be deposited, and with Hudson to receive the remainder of the funds to be deposited.

5. Once Cincinnati has deposited the funds into the Registry of the Court, the Logan County Circuit Clerk is hereby directed to issue two checks distributing the funds in the above-described amounts to Hudson and GKD, respectively.

6. Once the funds have been distributed accordingly, the instant action shall be dismissed with prejudice.

IT IS SO ORDERED this ___ day of March, 2022.

Honorable David McCormick
Circuit Court Judge

APPROVED:

B. Michael Easley, Attorney for the Ashcraft Estate

Mary Buckley, Attorney for GKD

Arkansas Judiciary

Case Title: CINCINNATI INSURANCE COMPANY V HALEY HUDSON ET AL

Case Number: 42PCV-21-116

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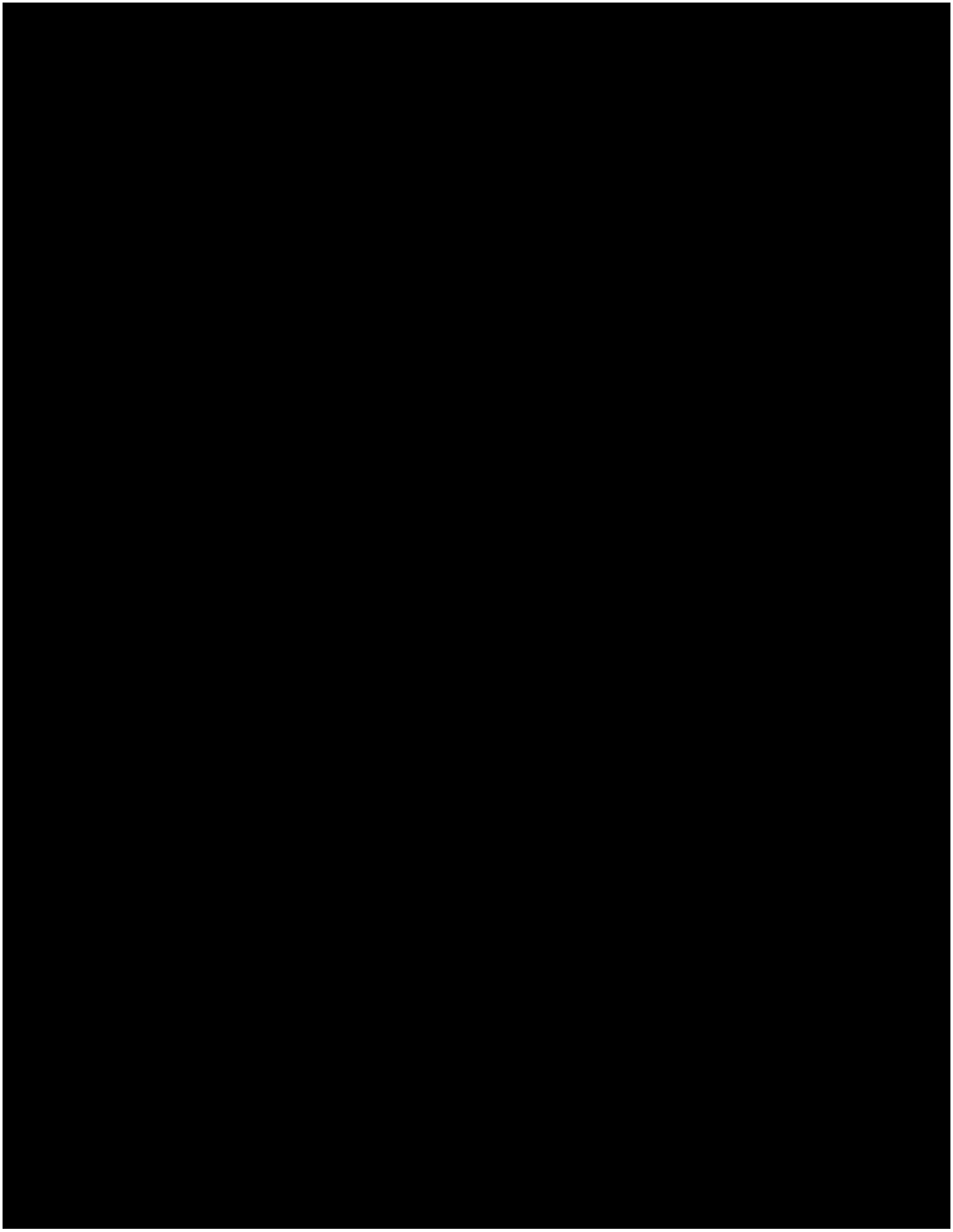
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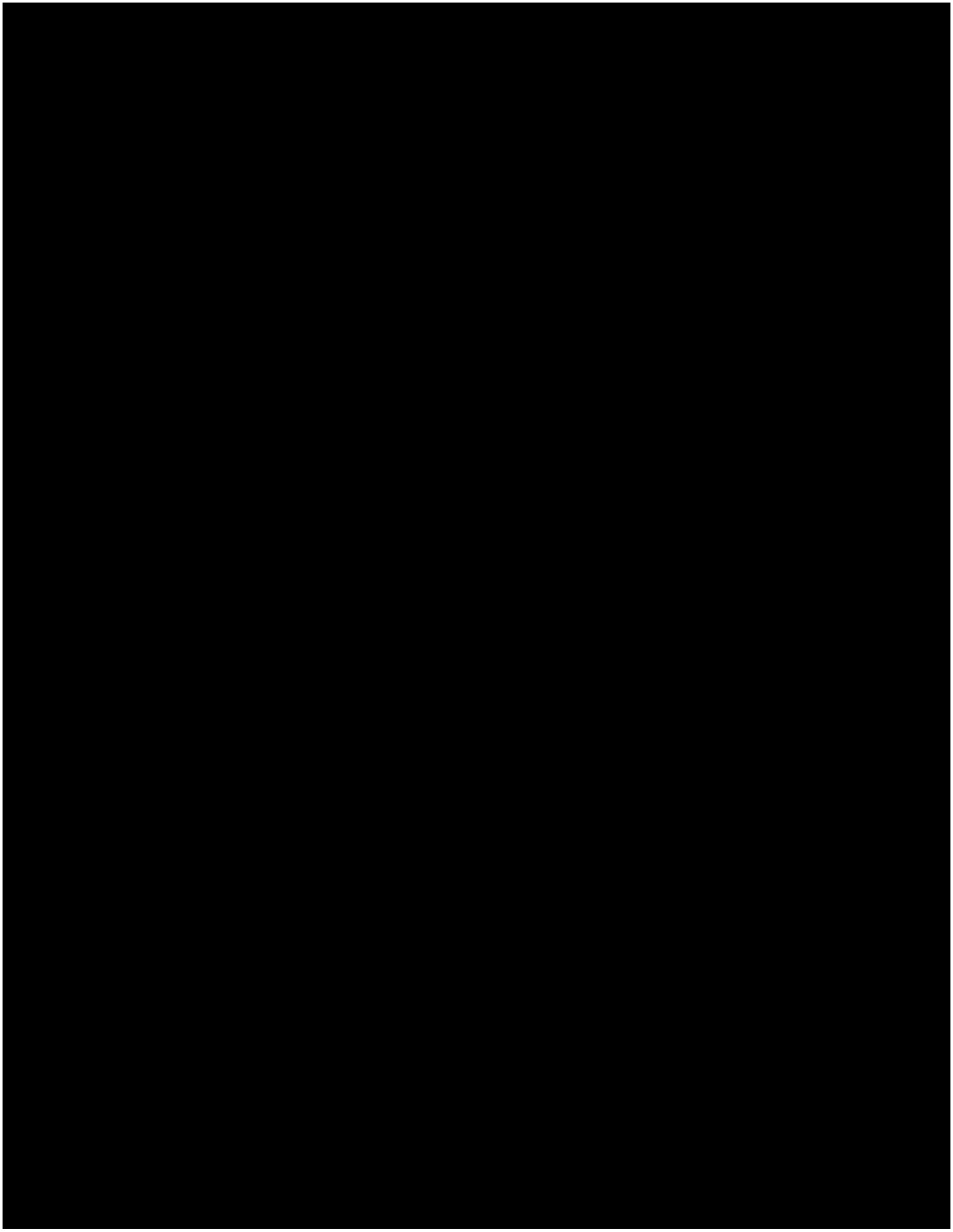
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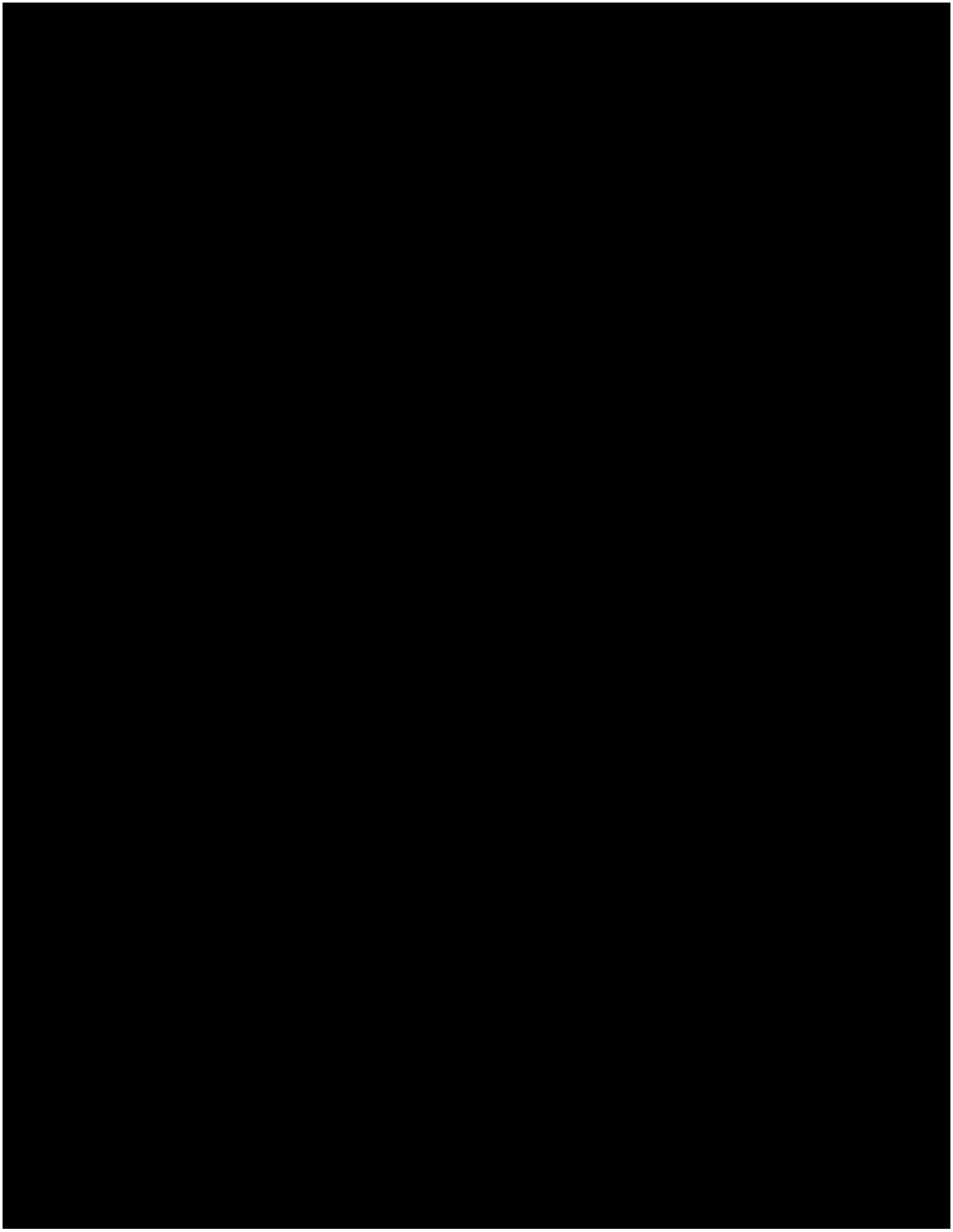
David H. McCormick, 15th Circuit
Division 2 Judge

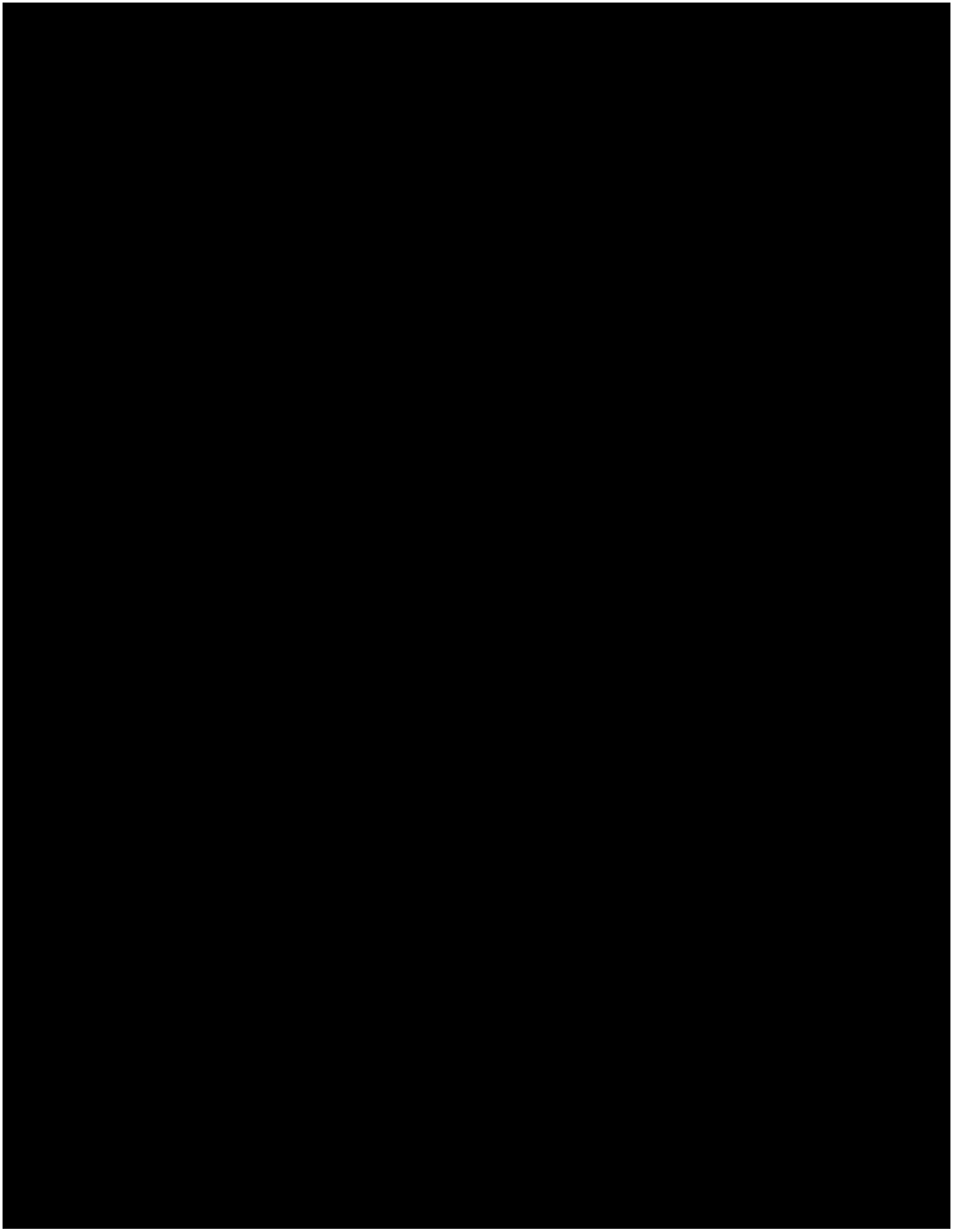
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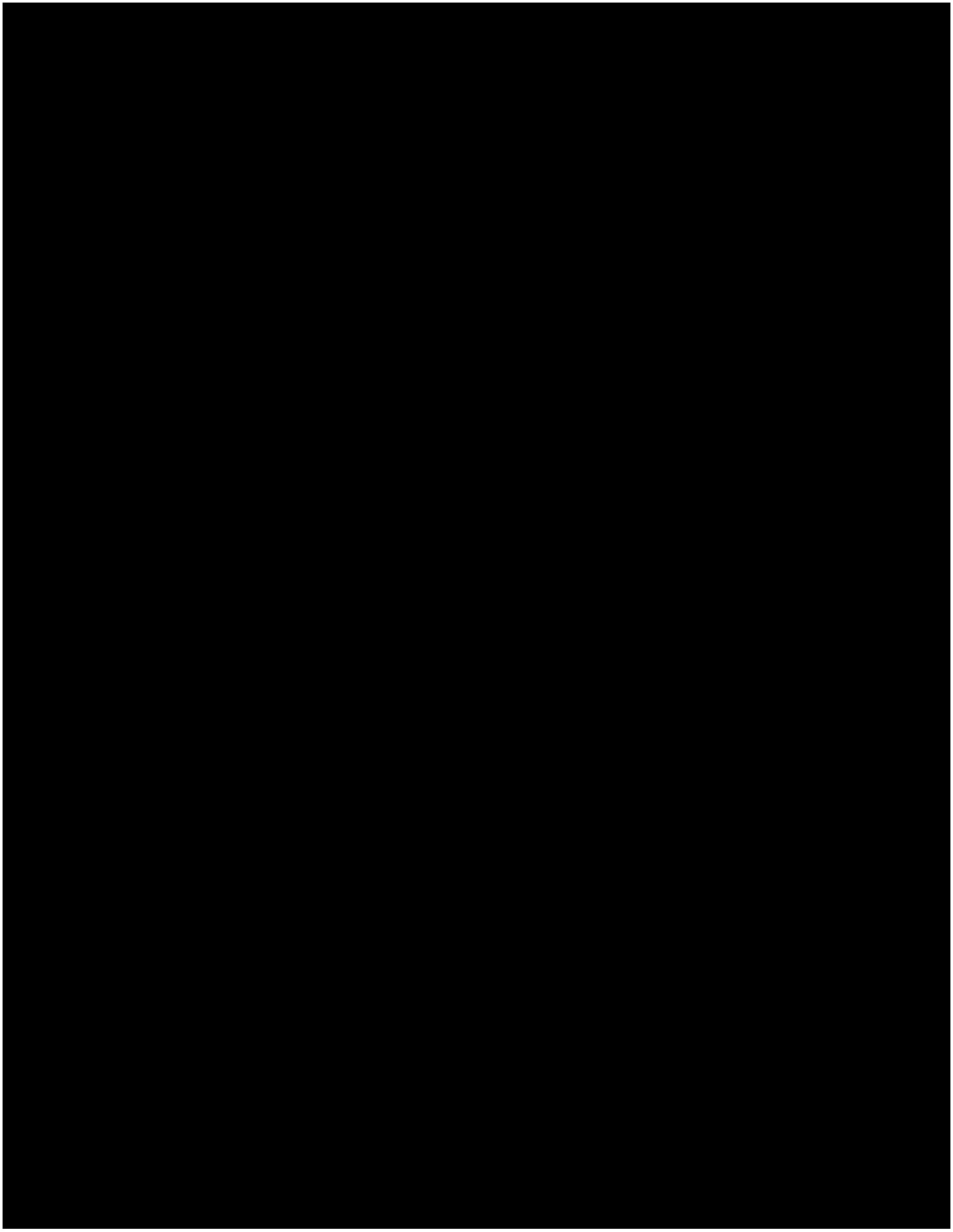
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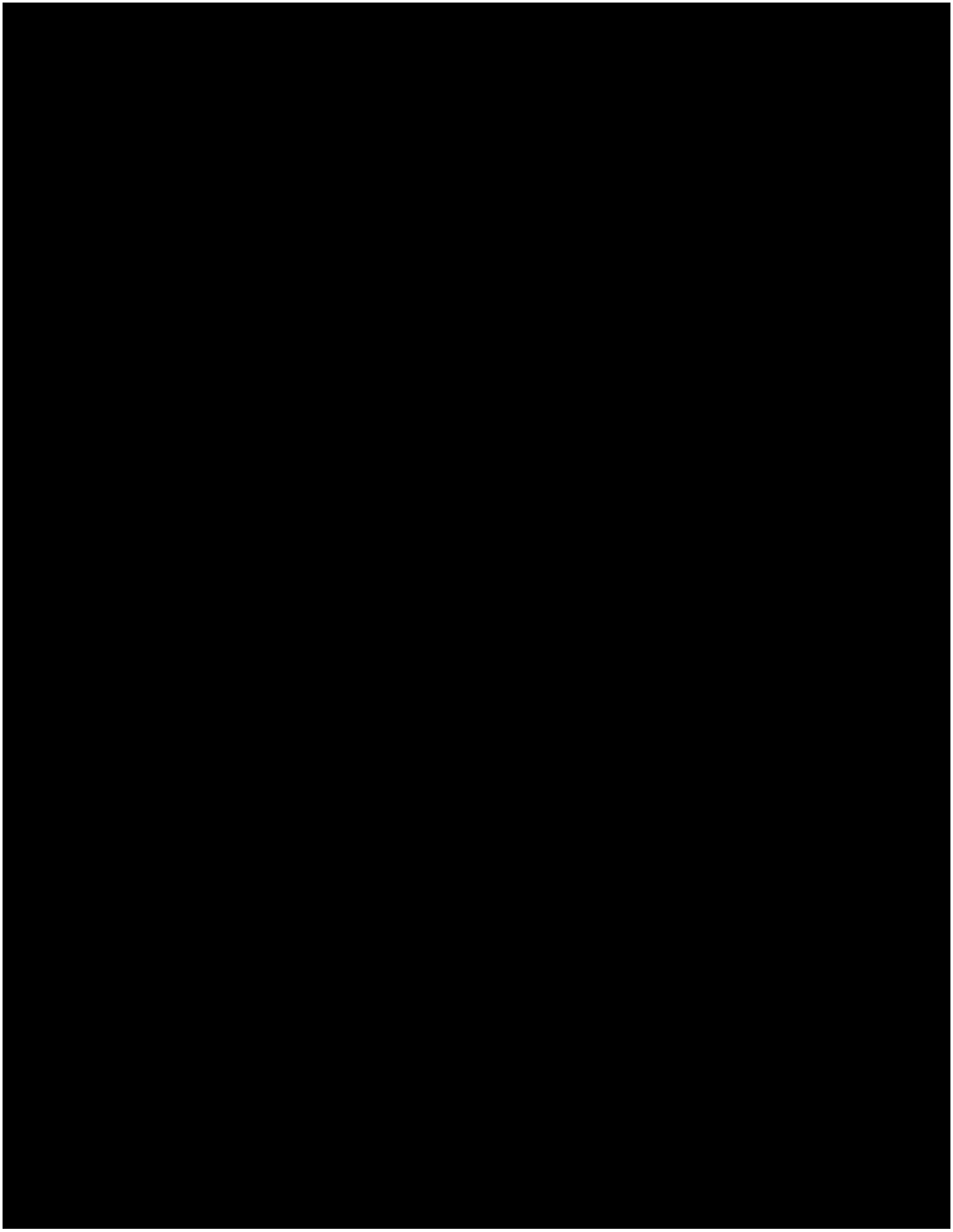


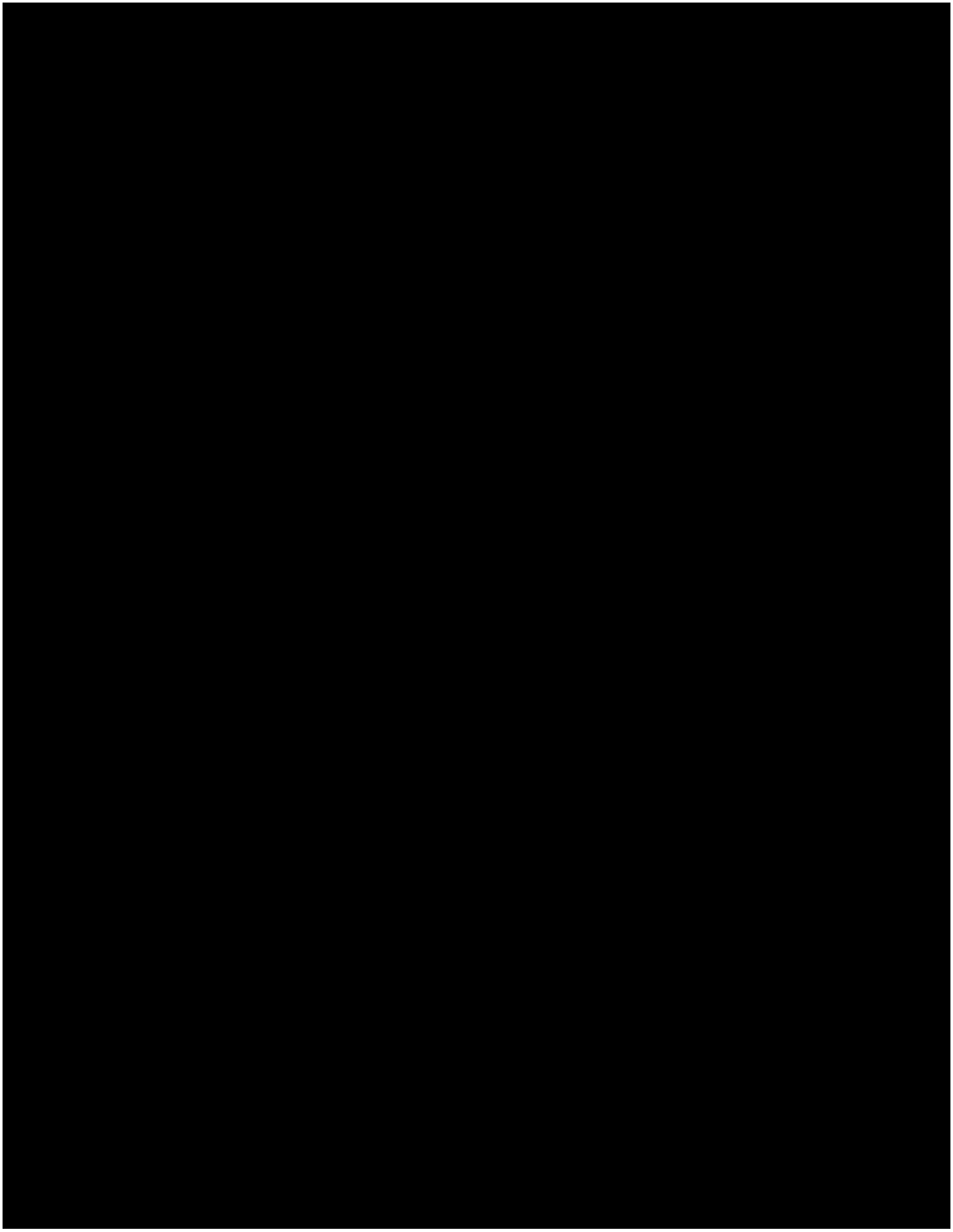


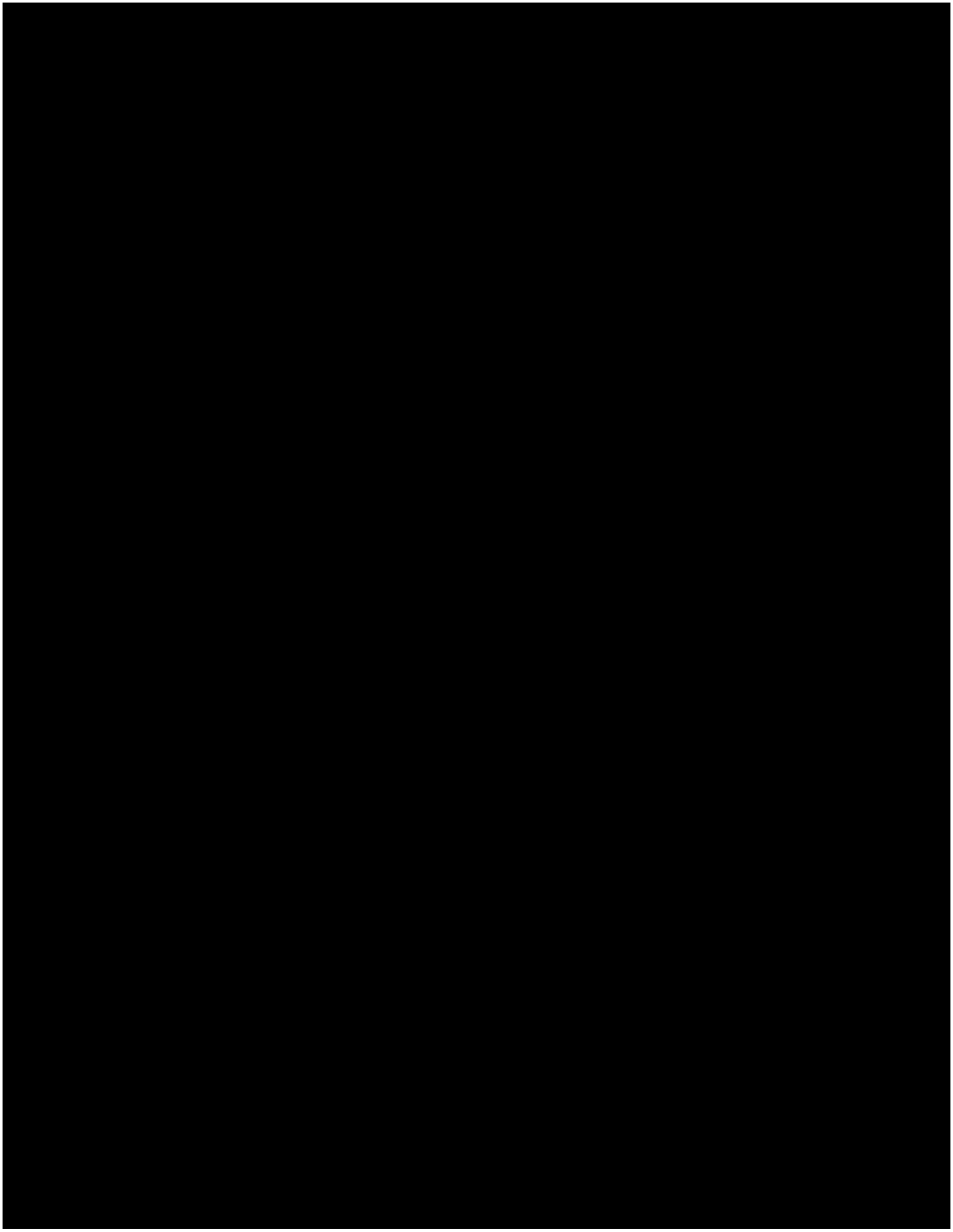


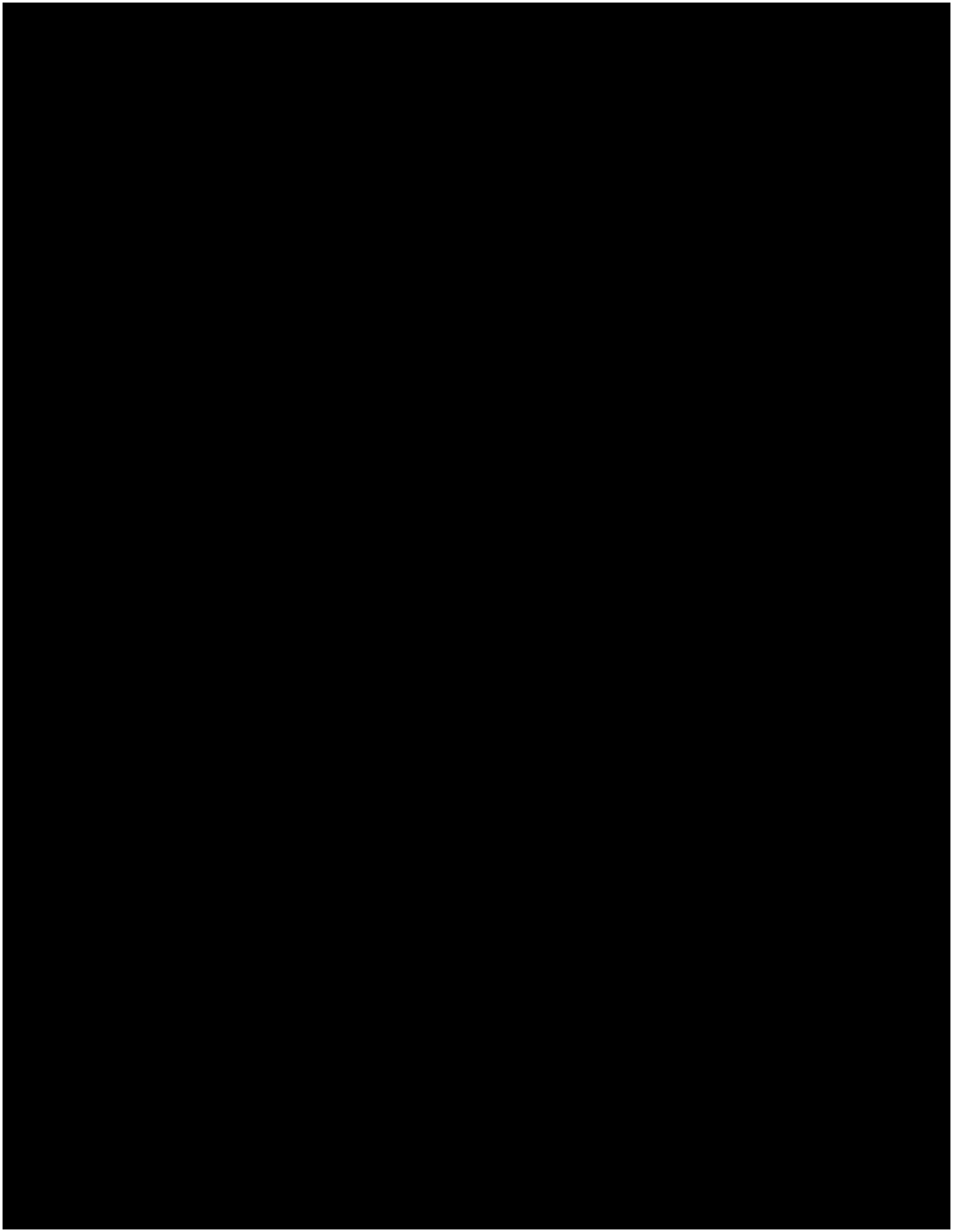


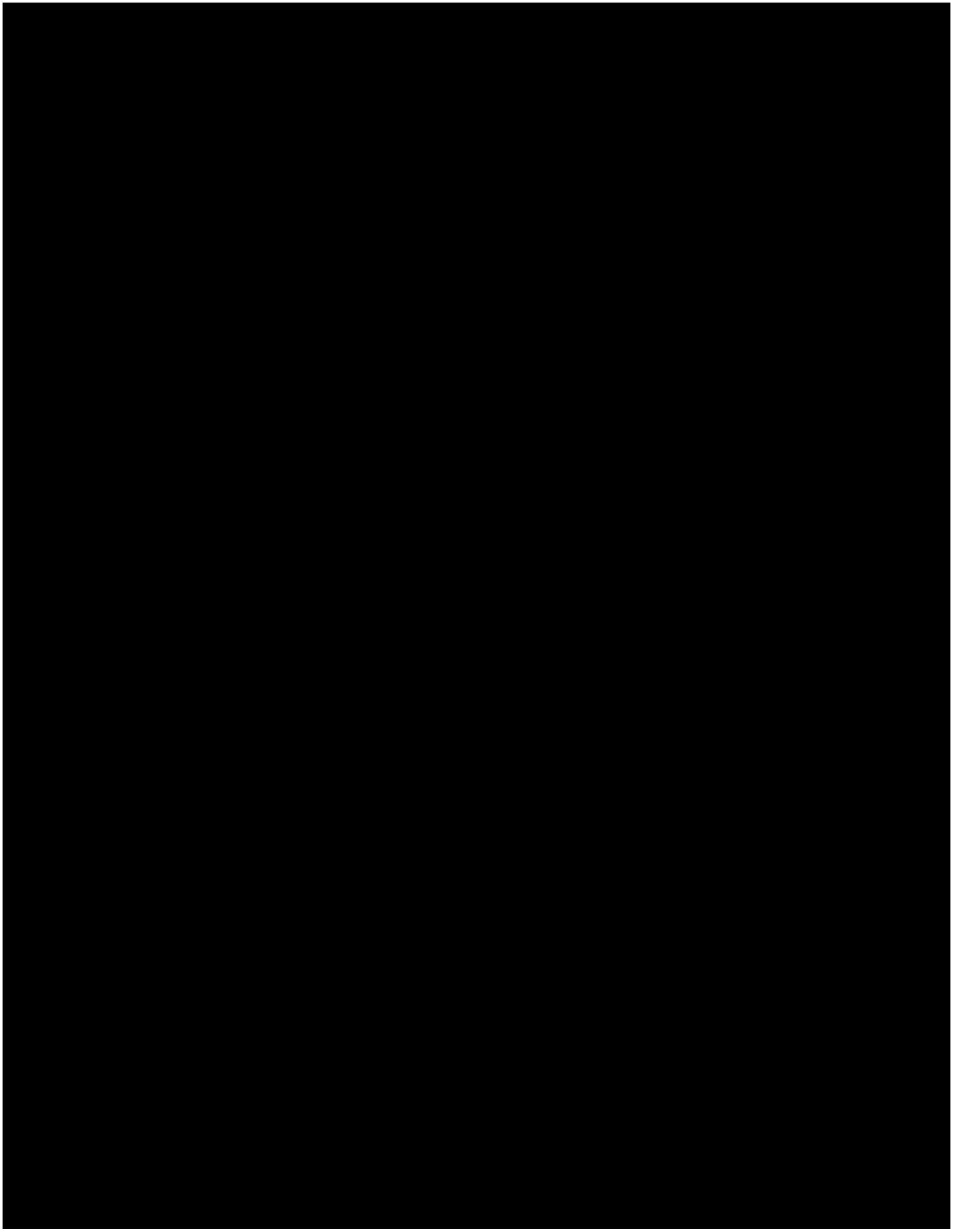


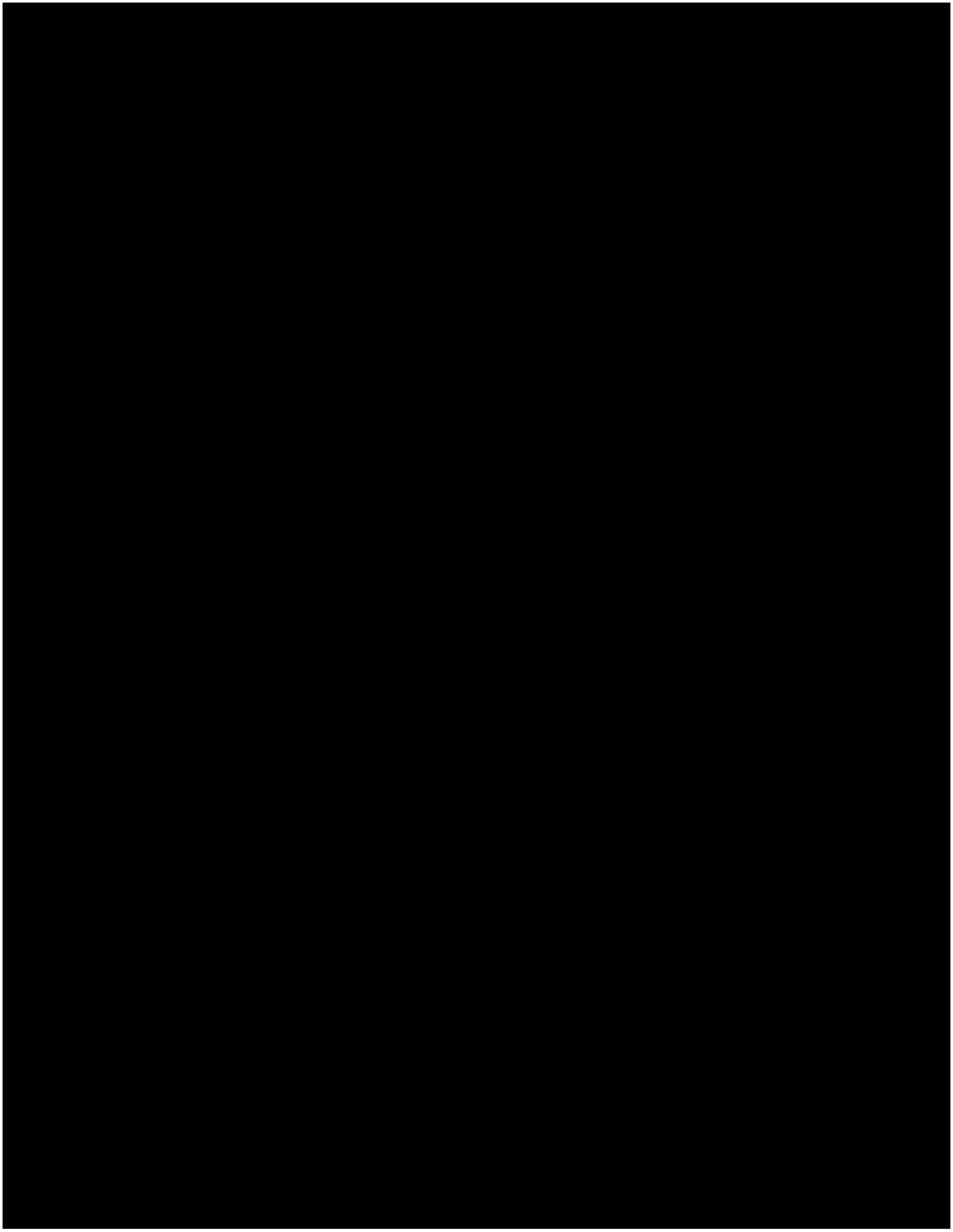


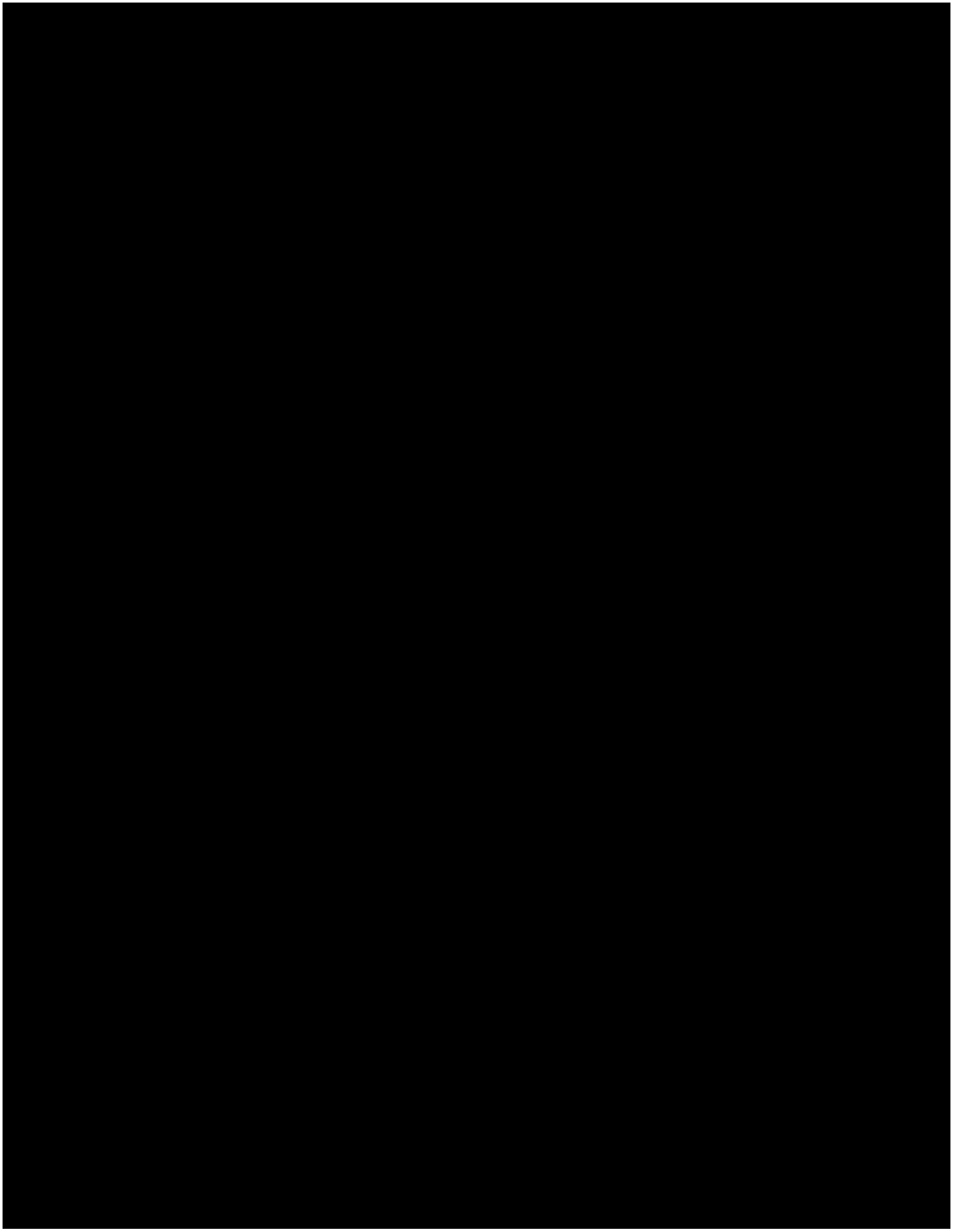


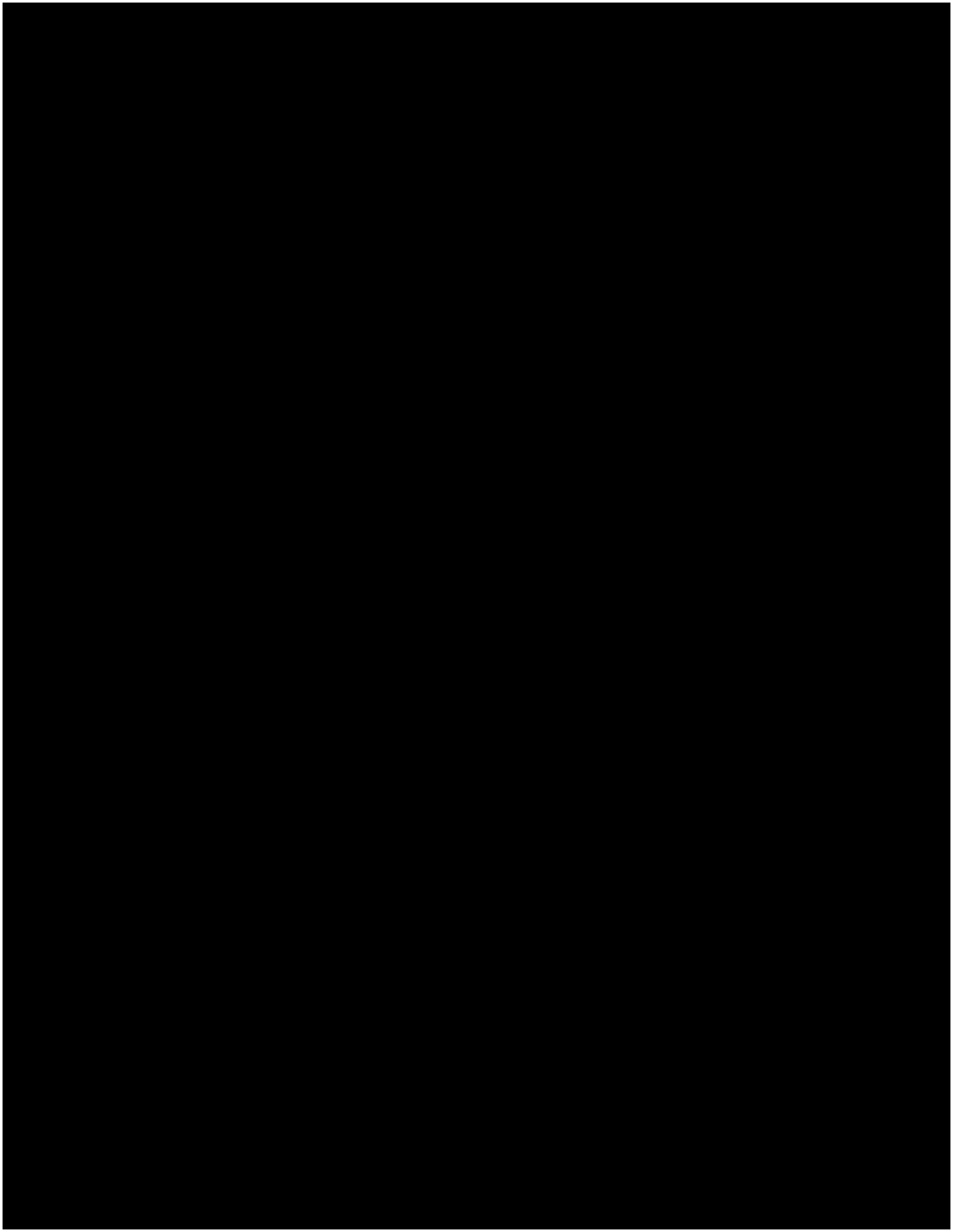


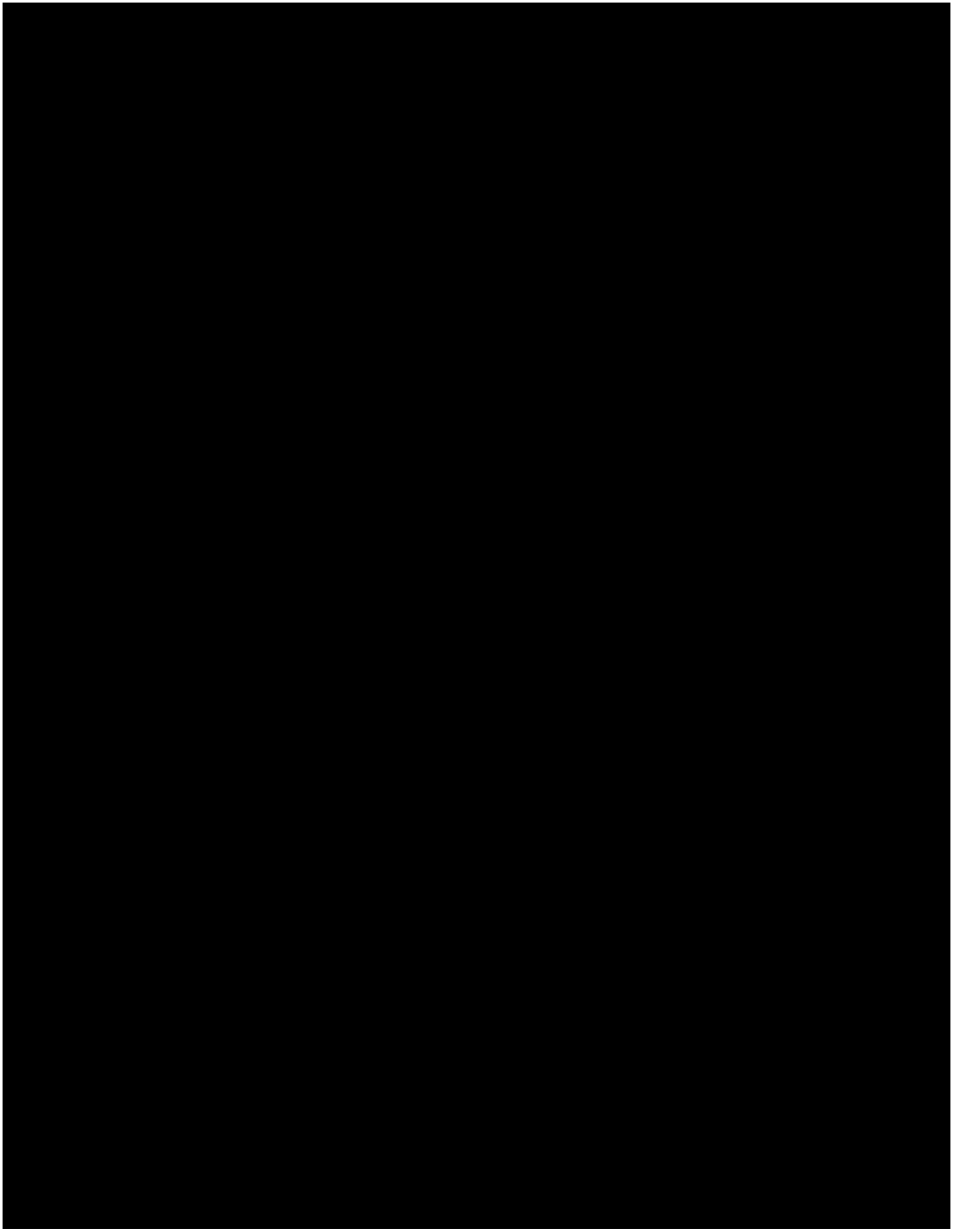


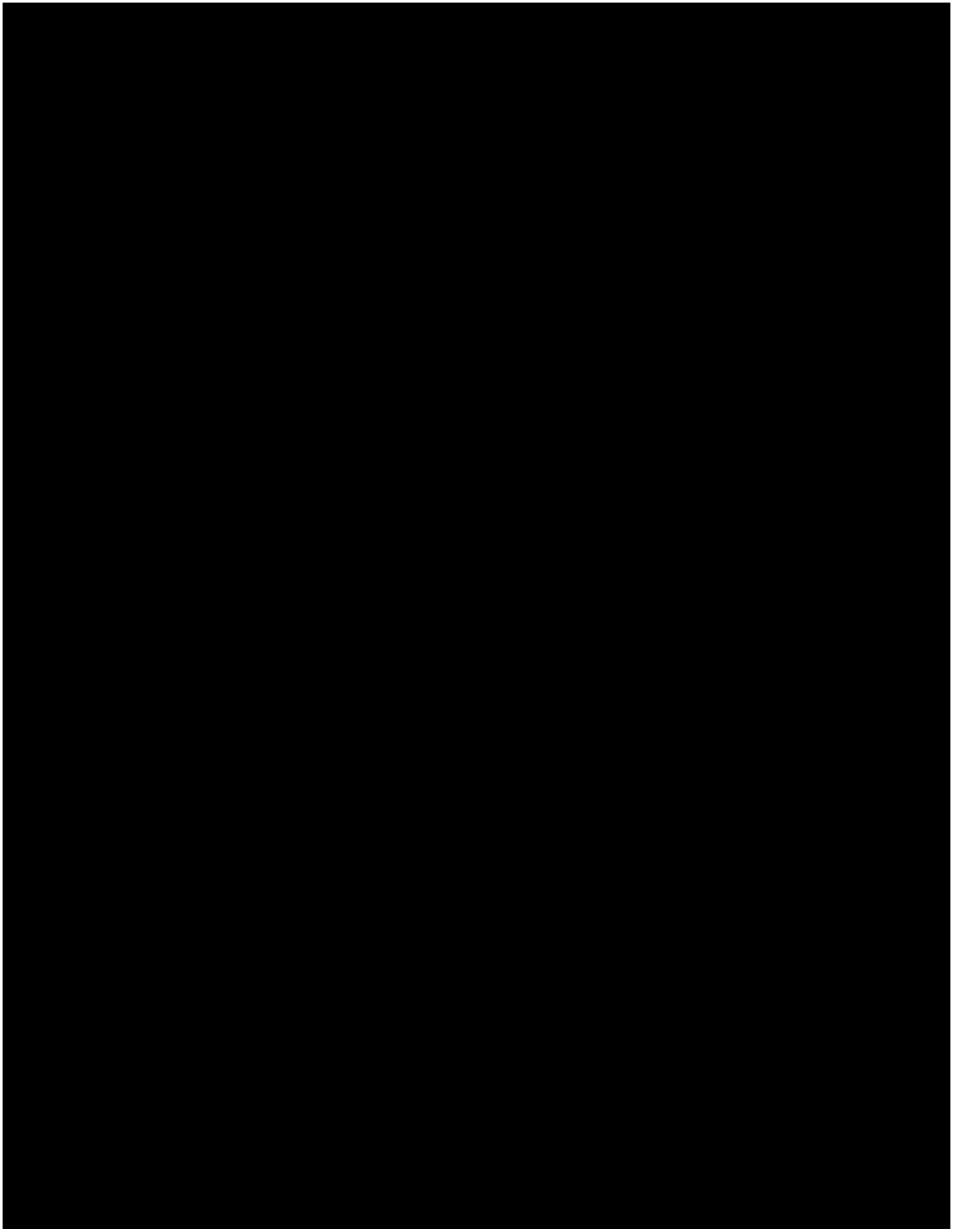


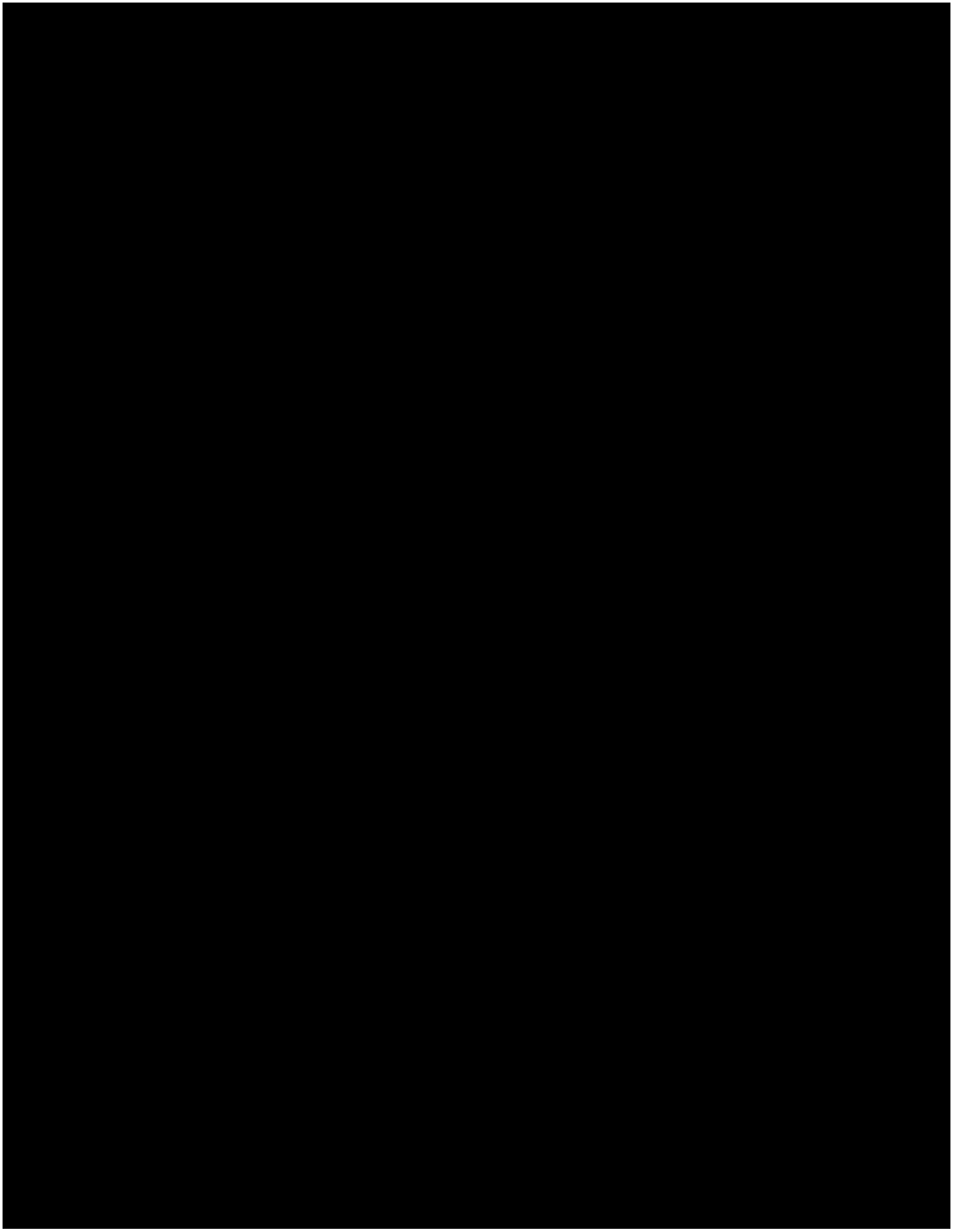


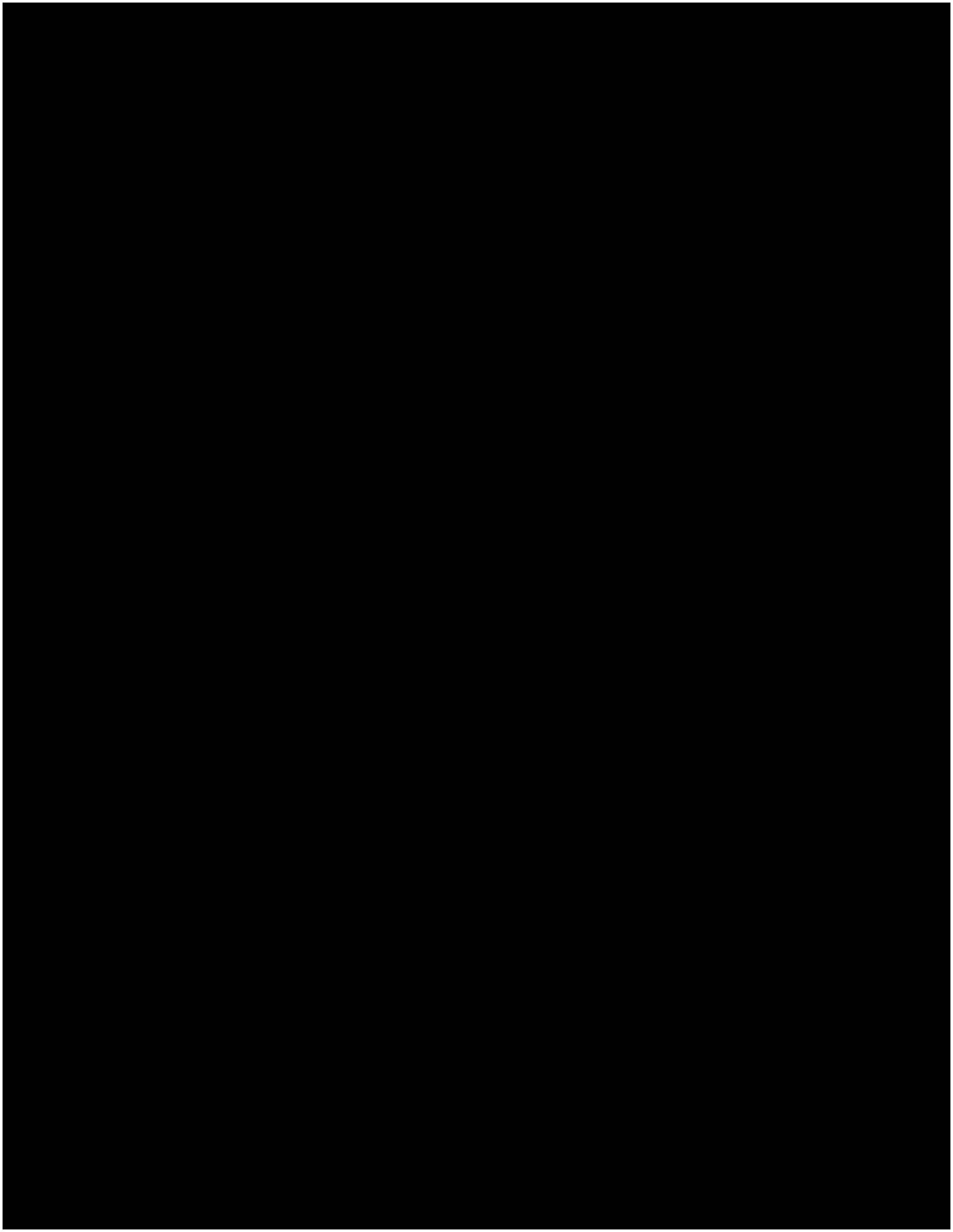


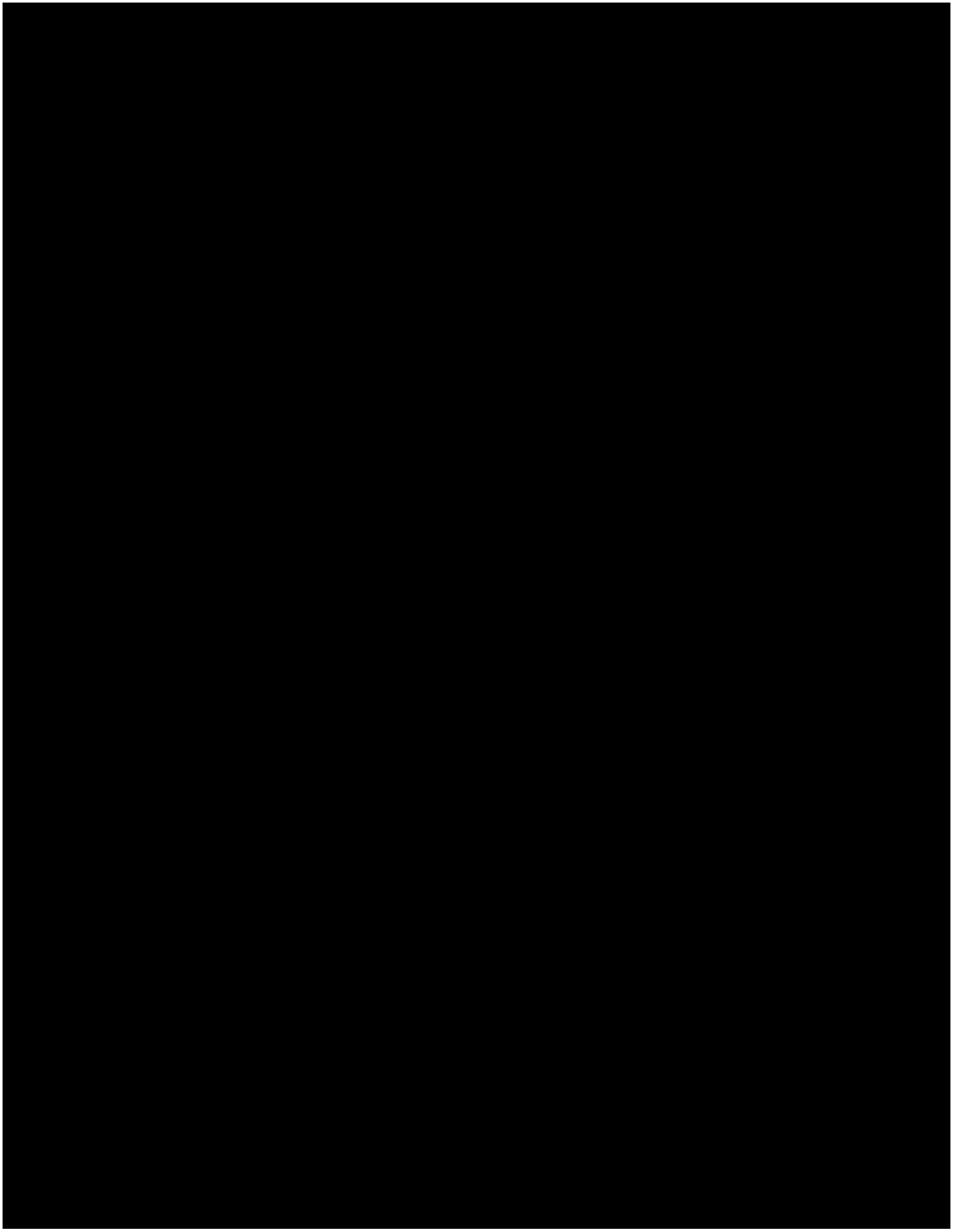


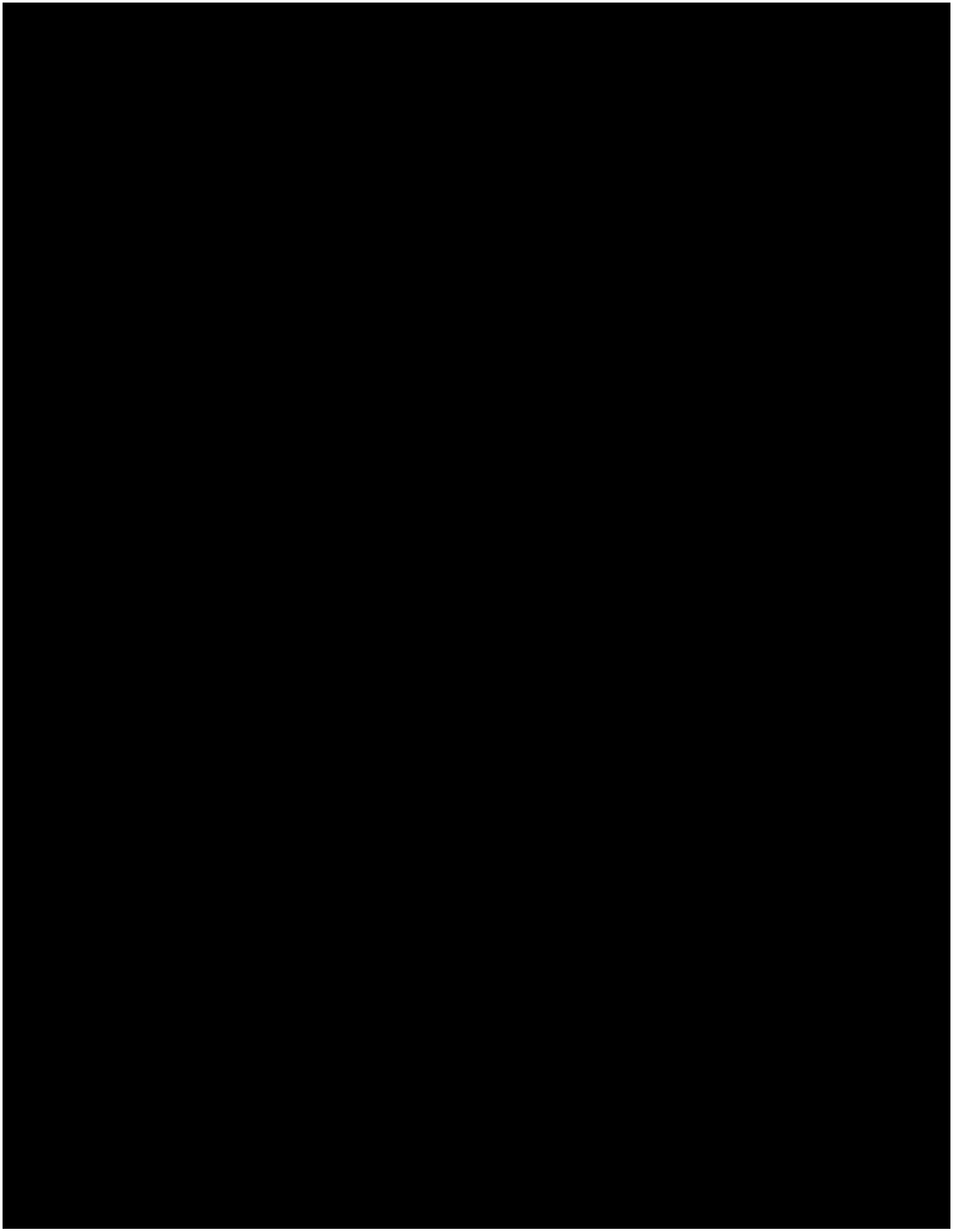


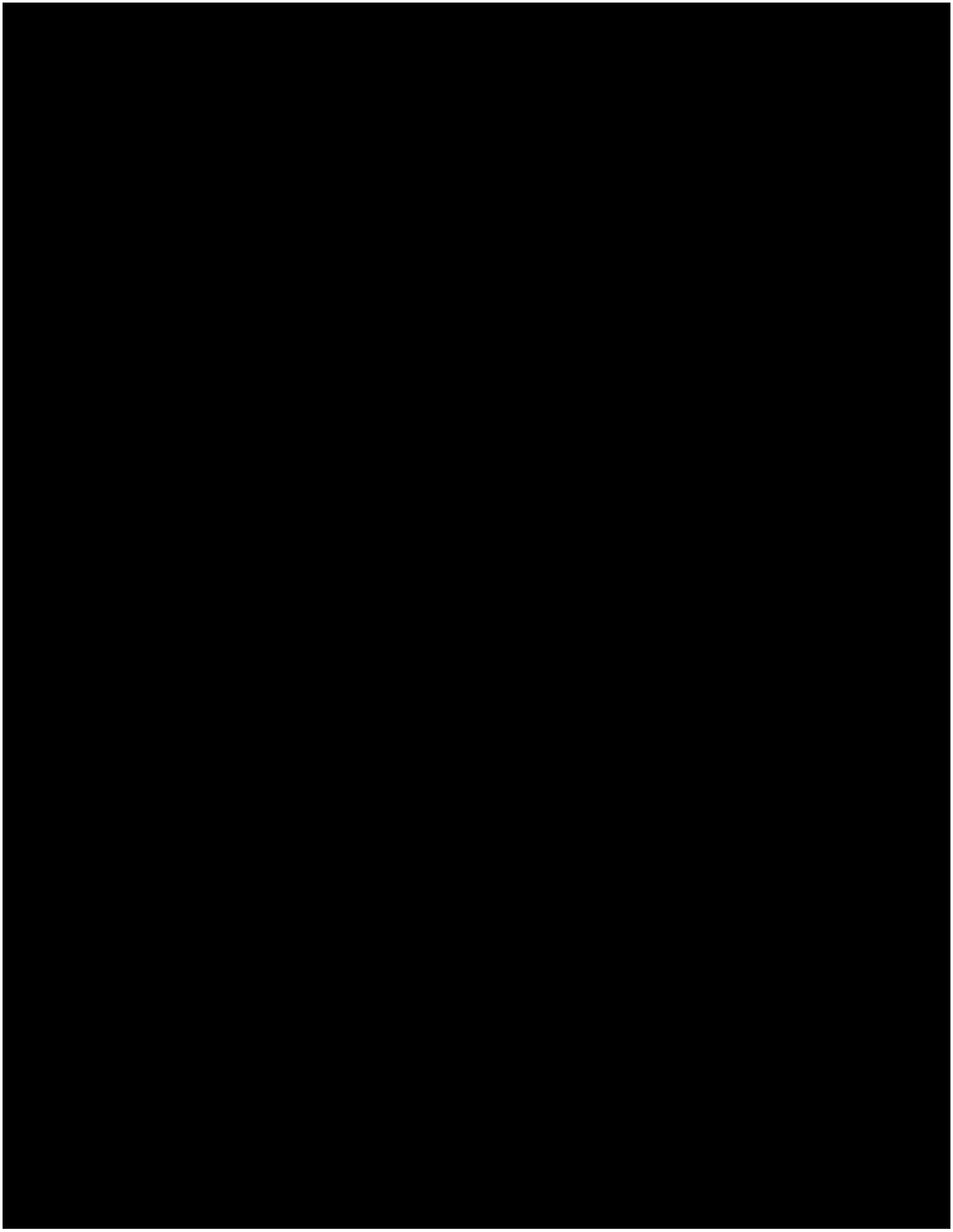


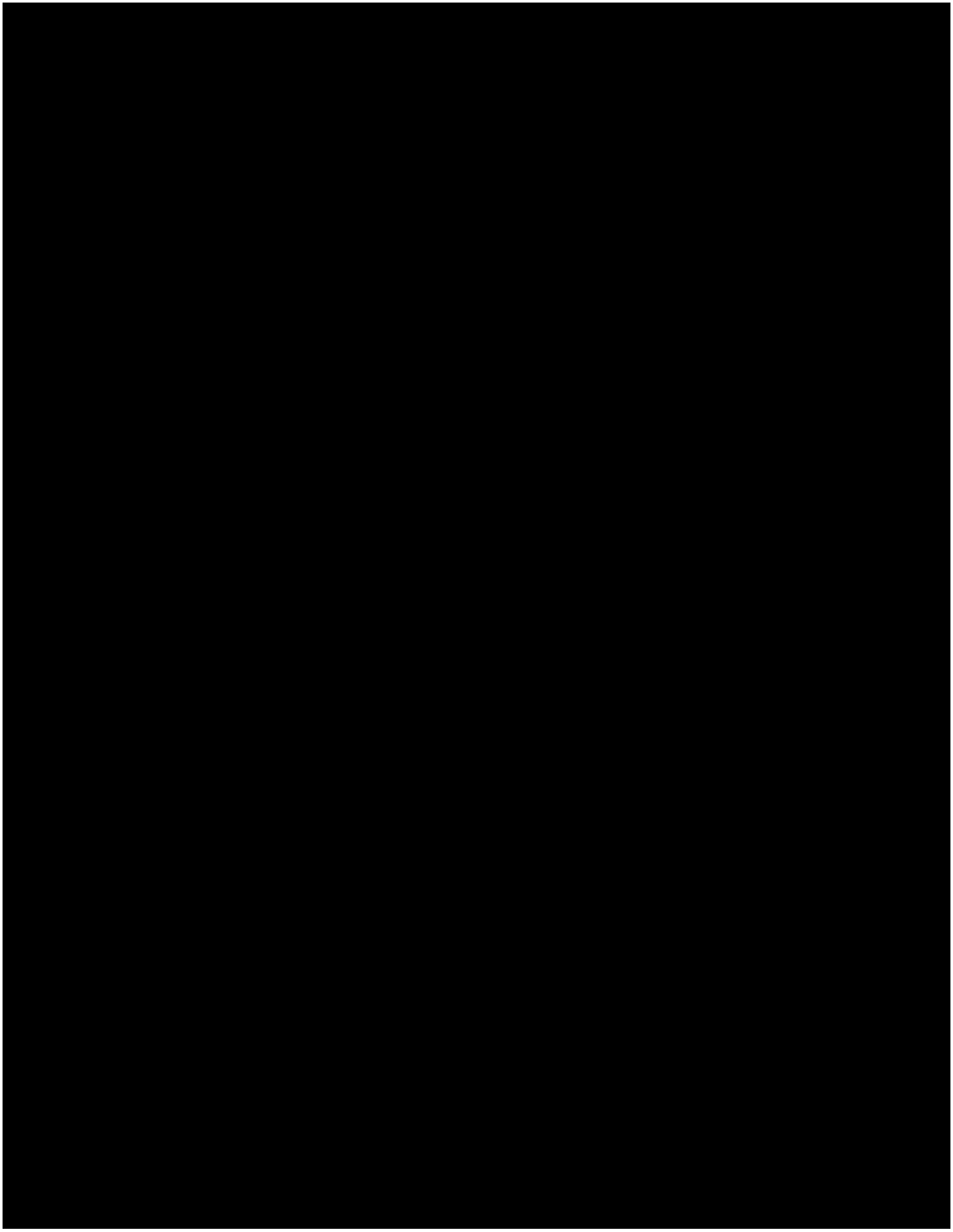


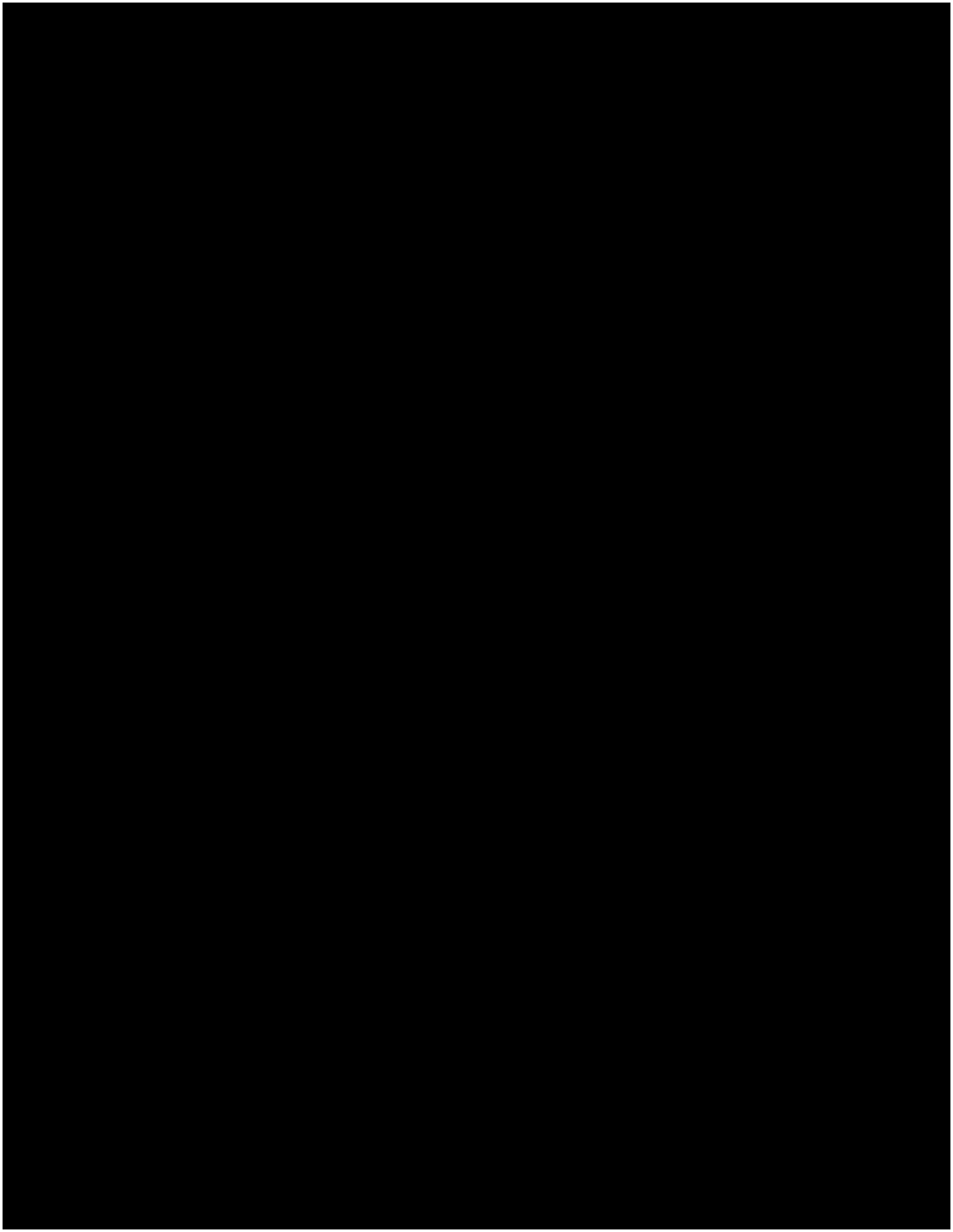


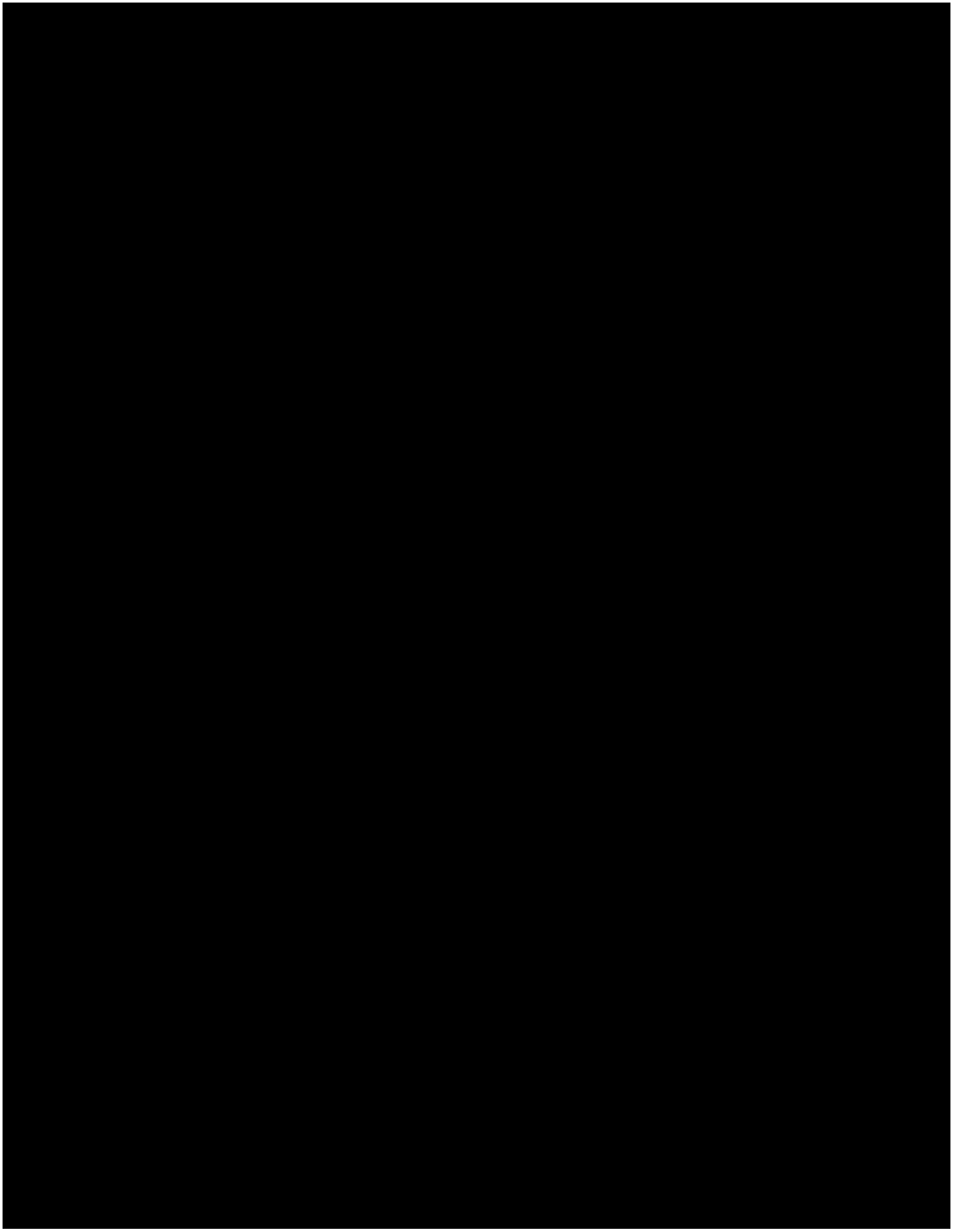


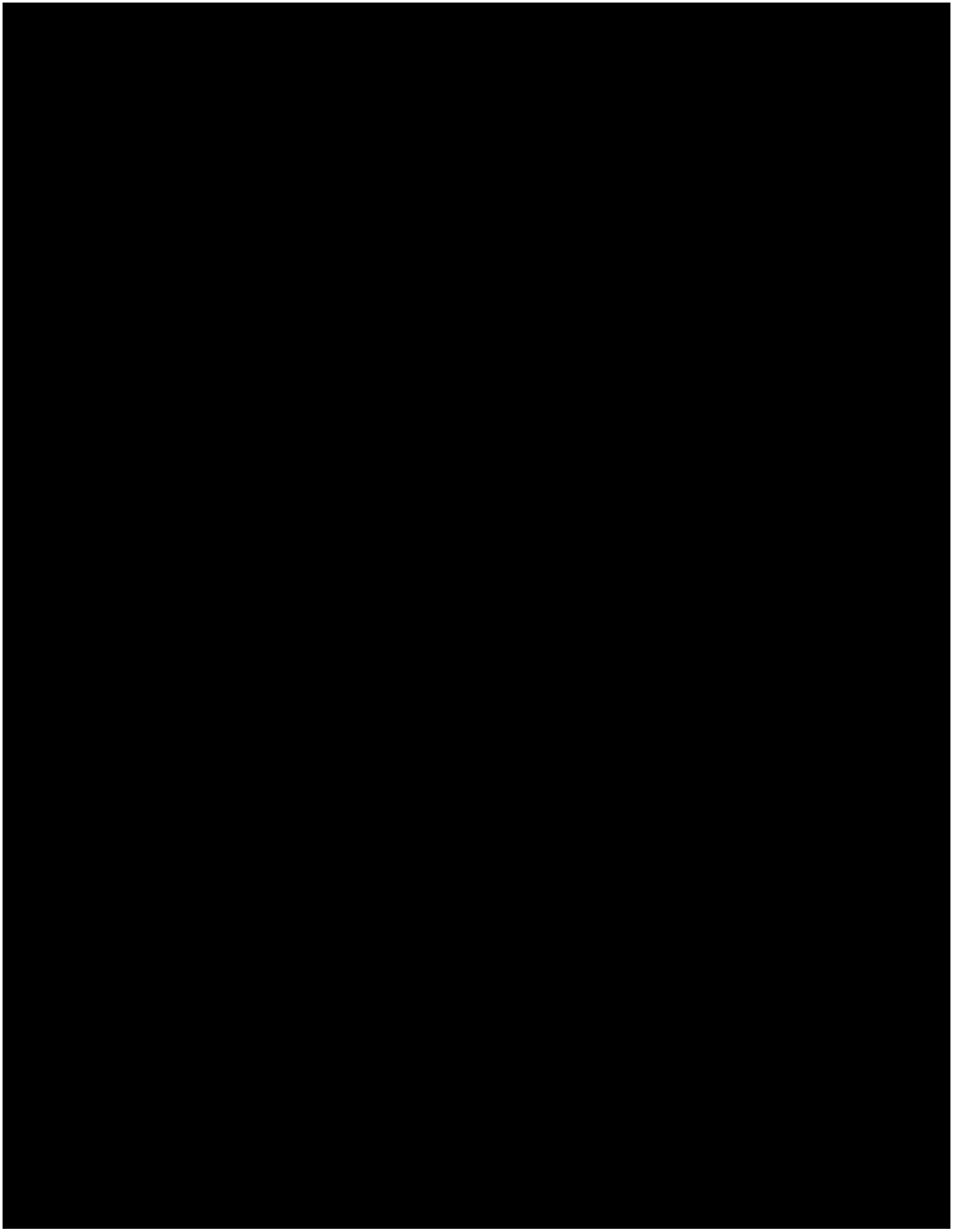


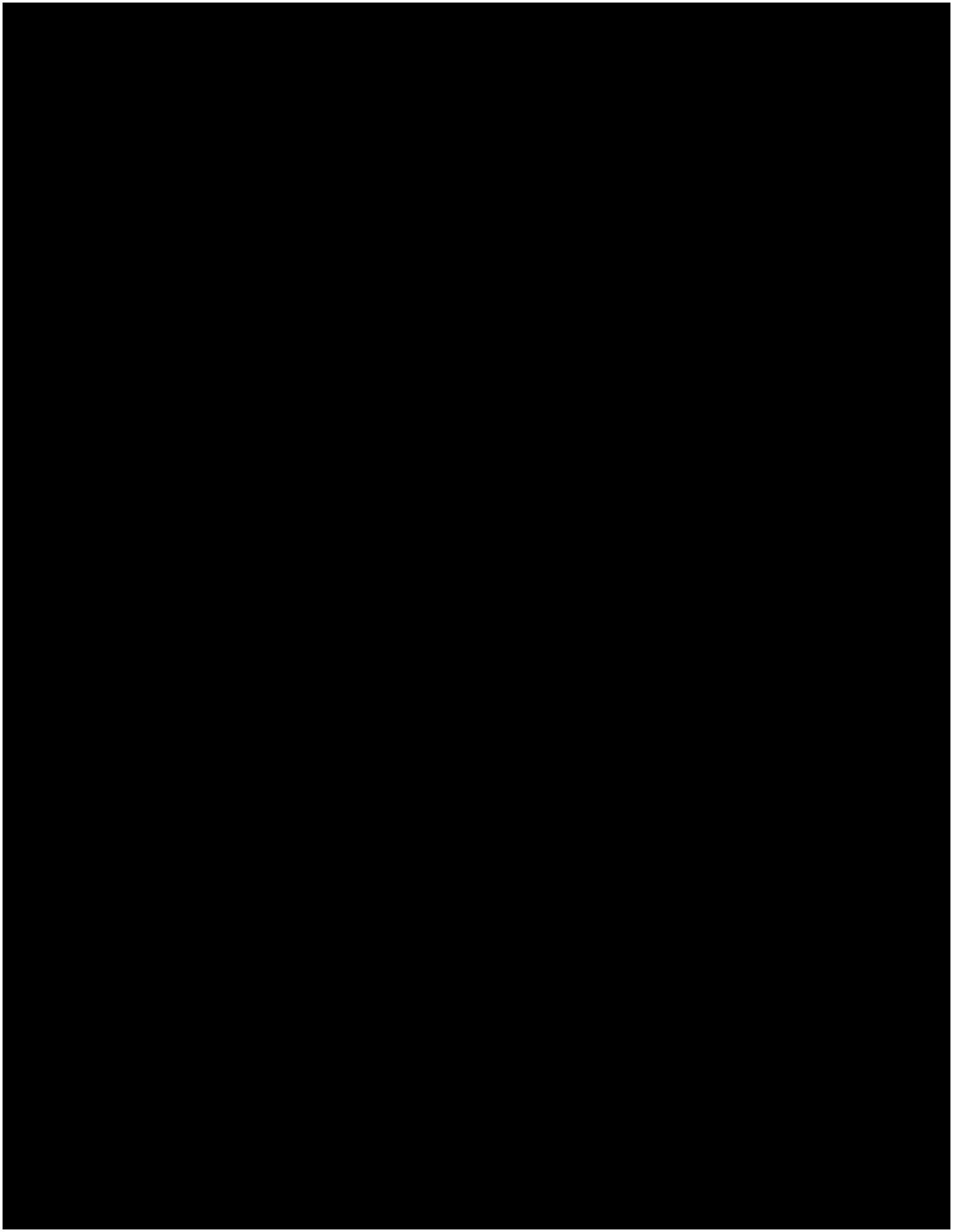


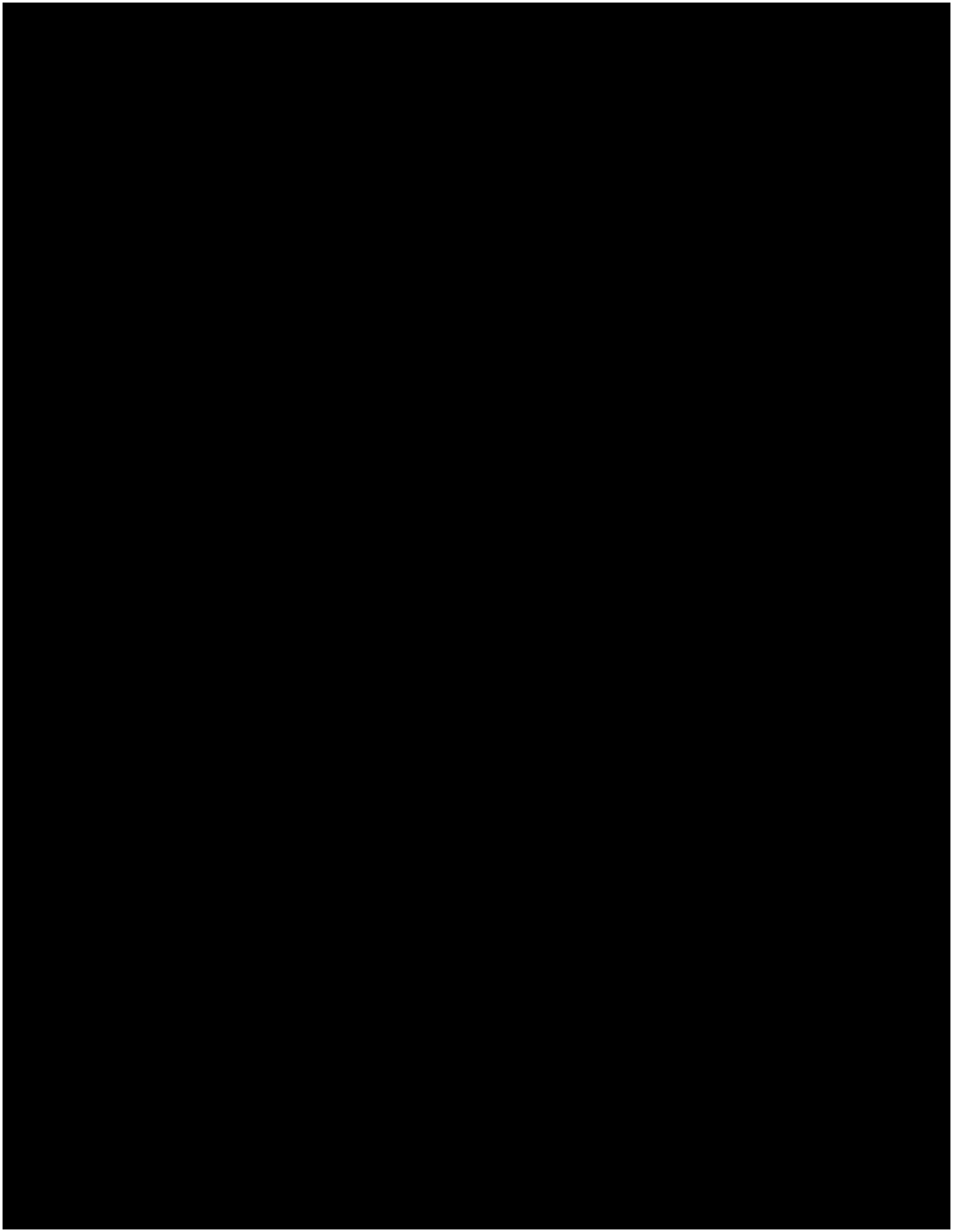


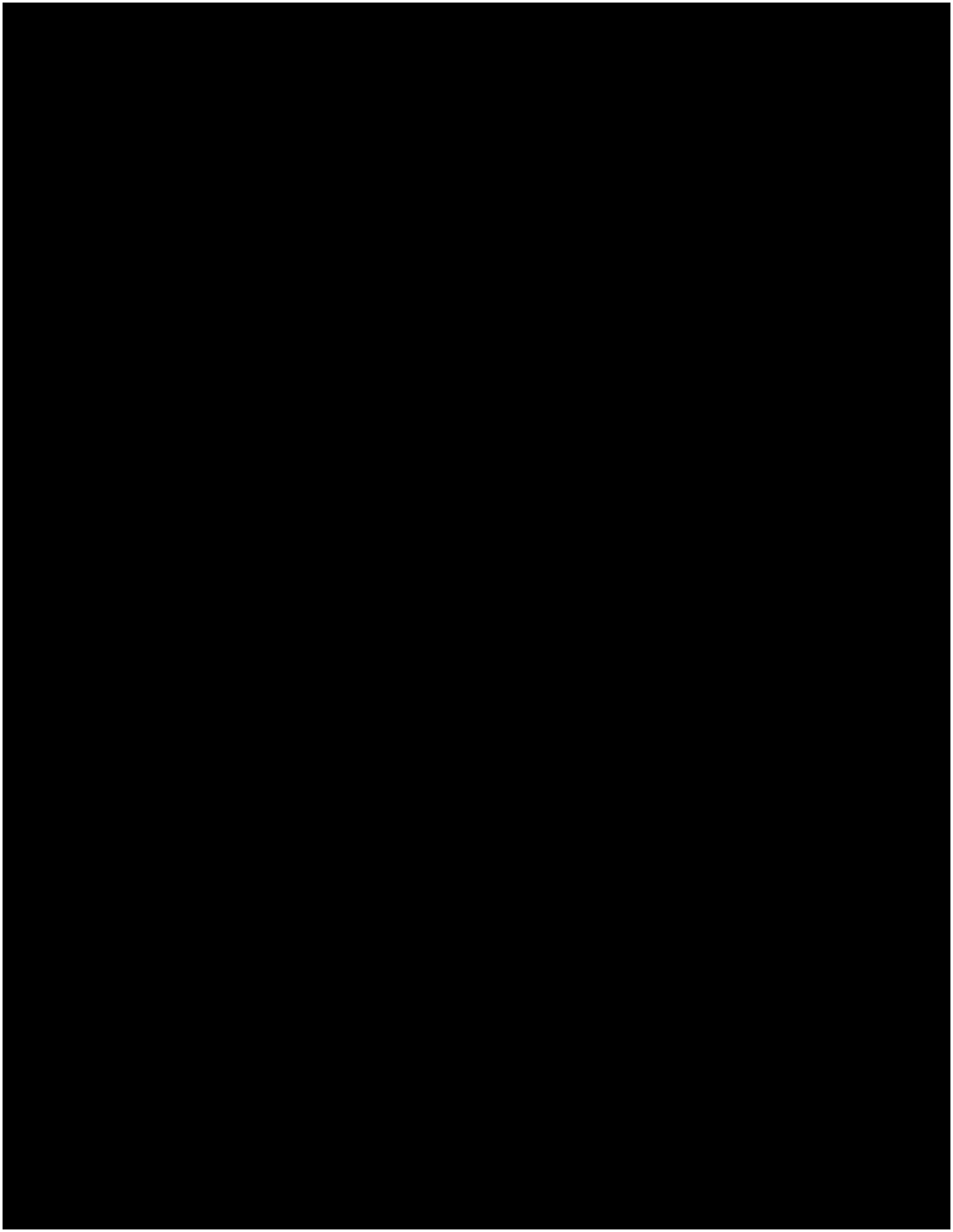


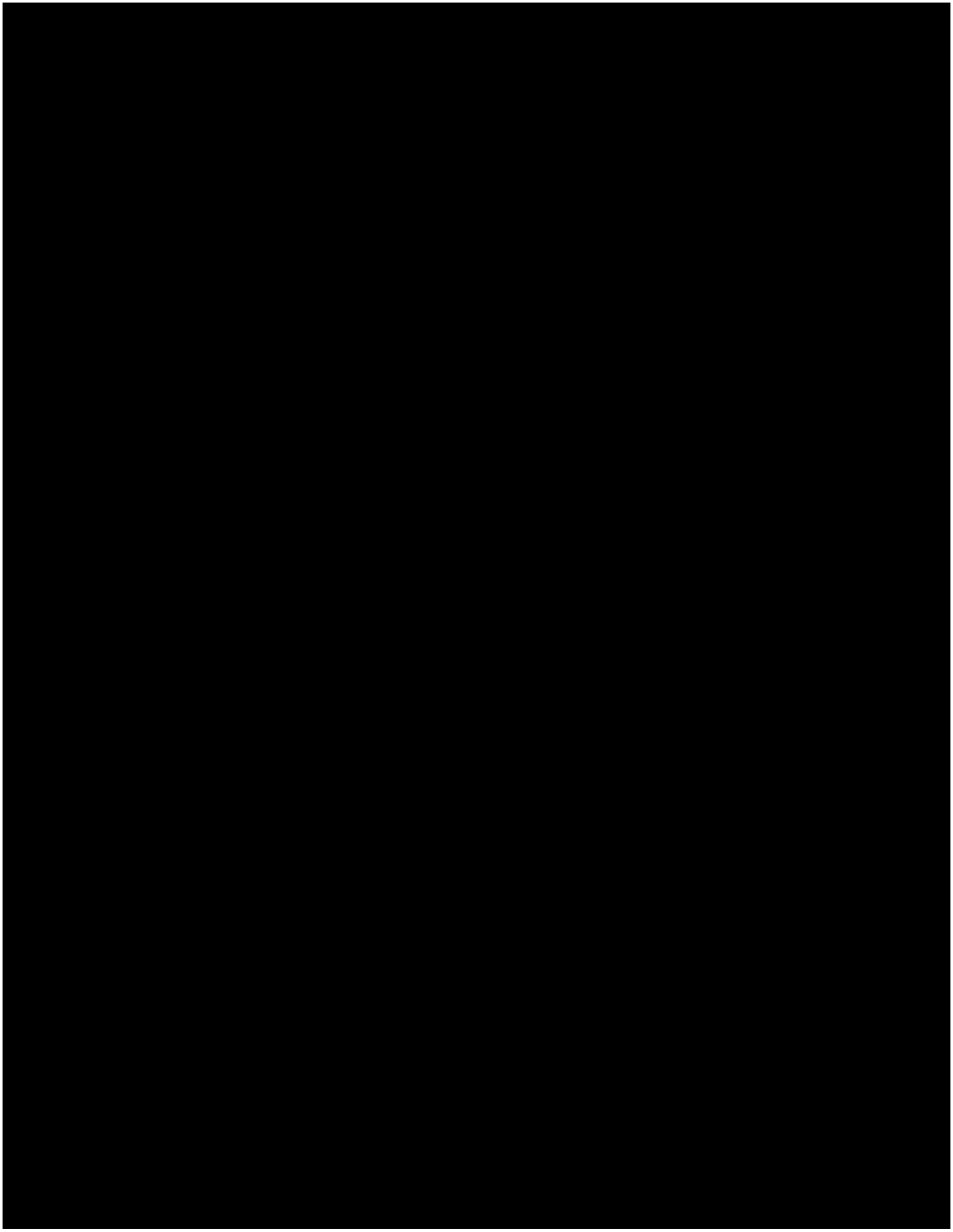


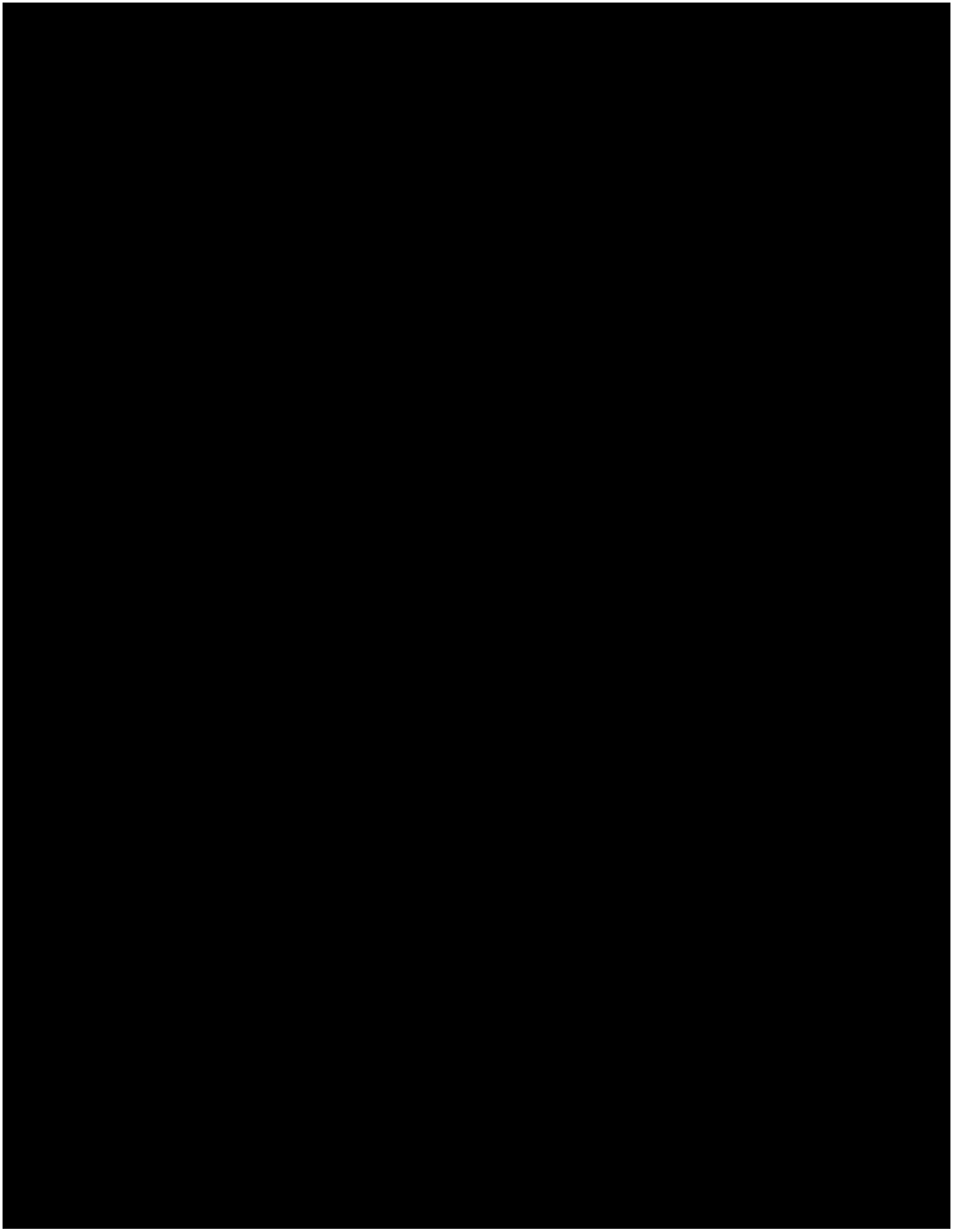


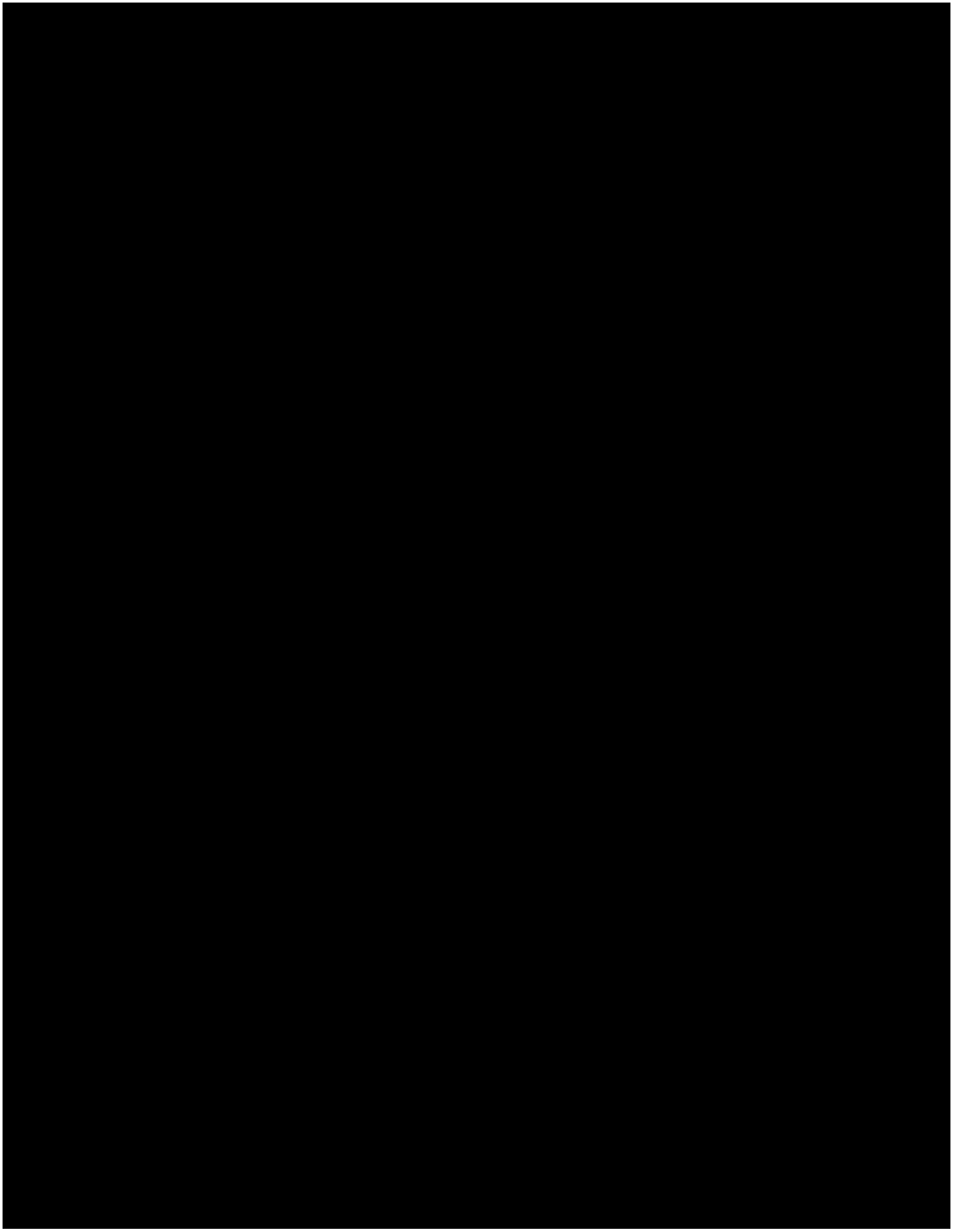


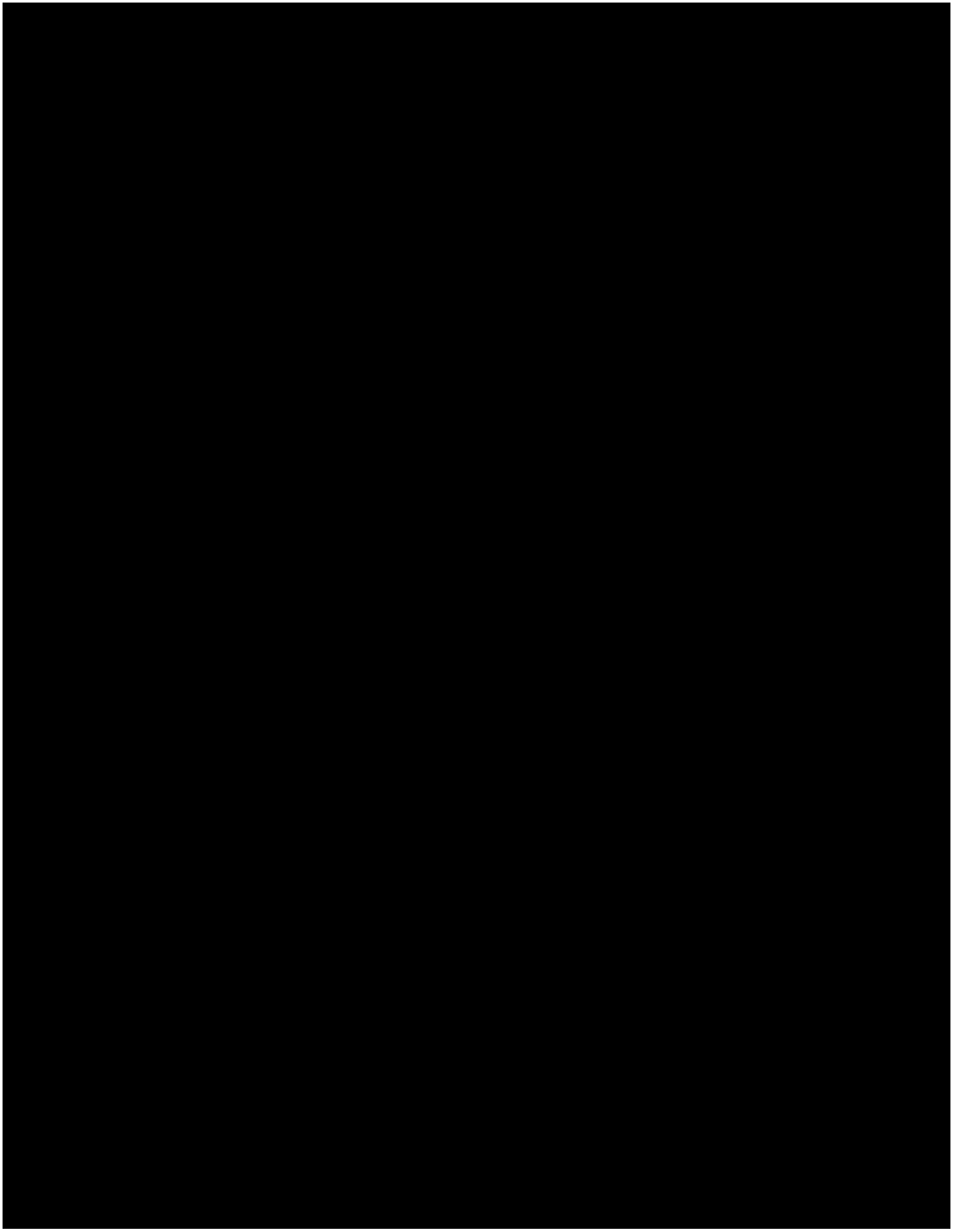


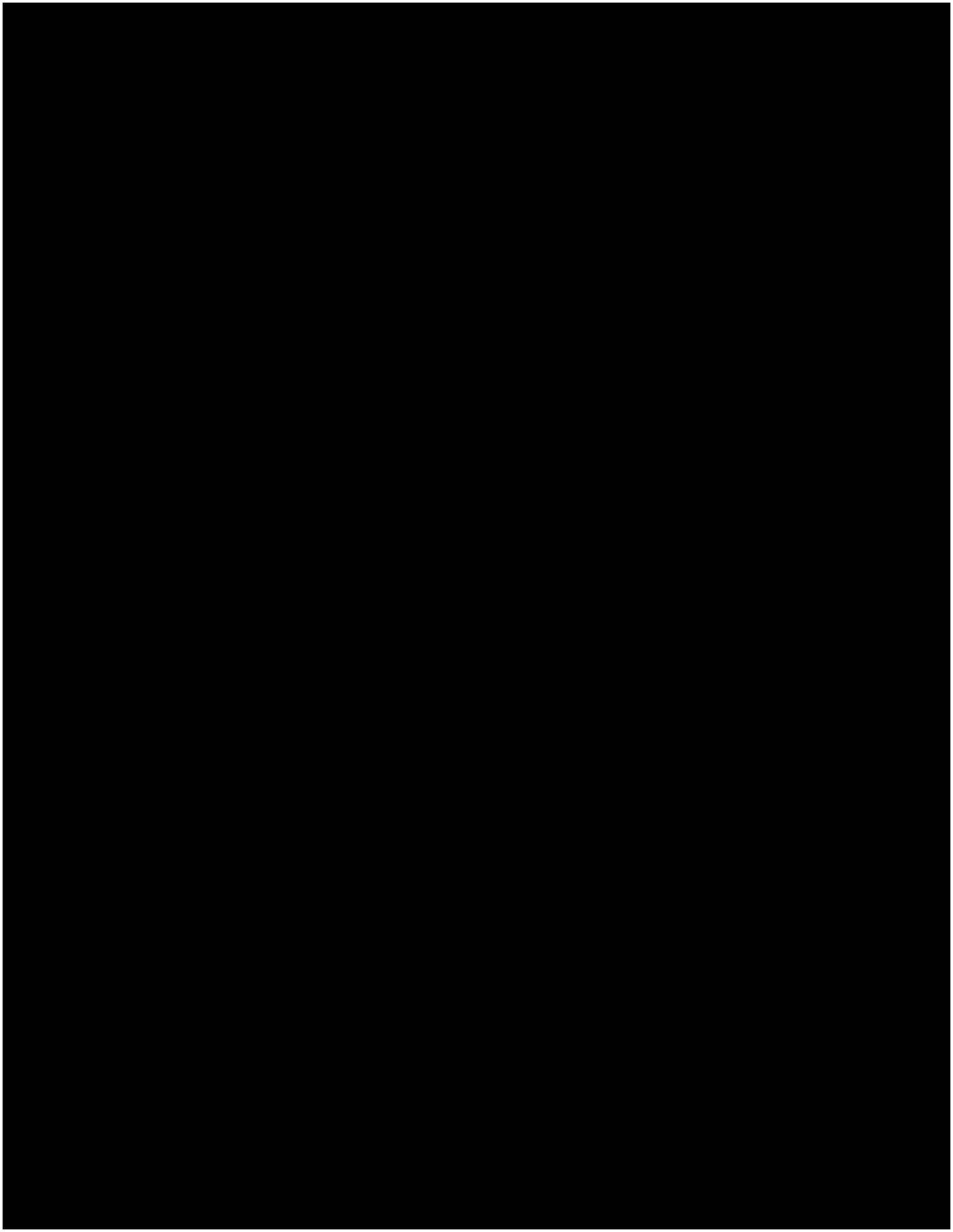


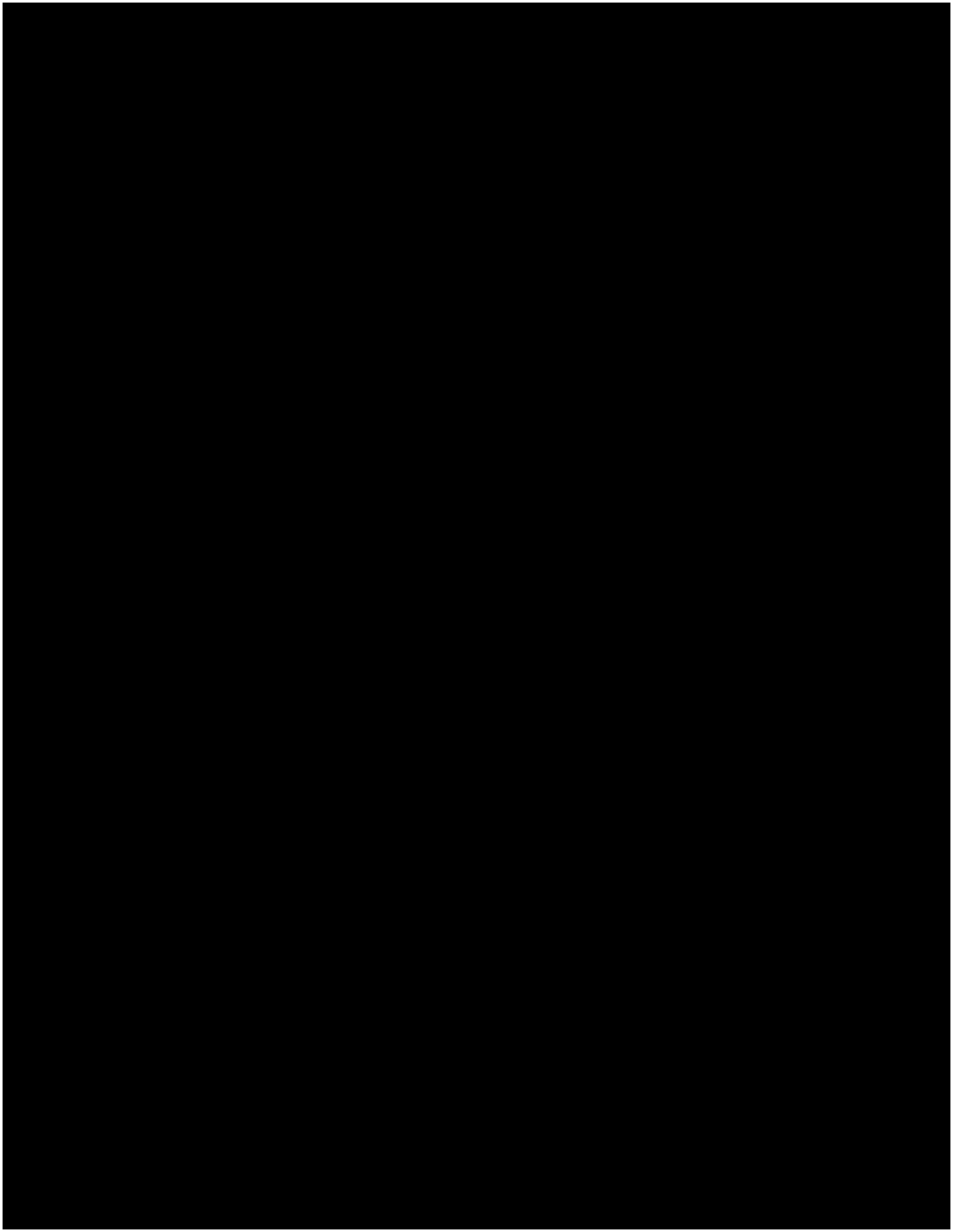


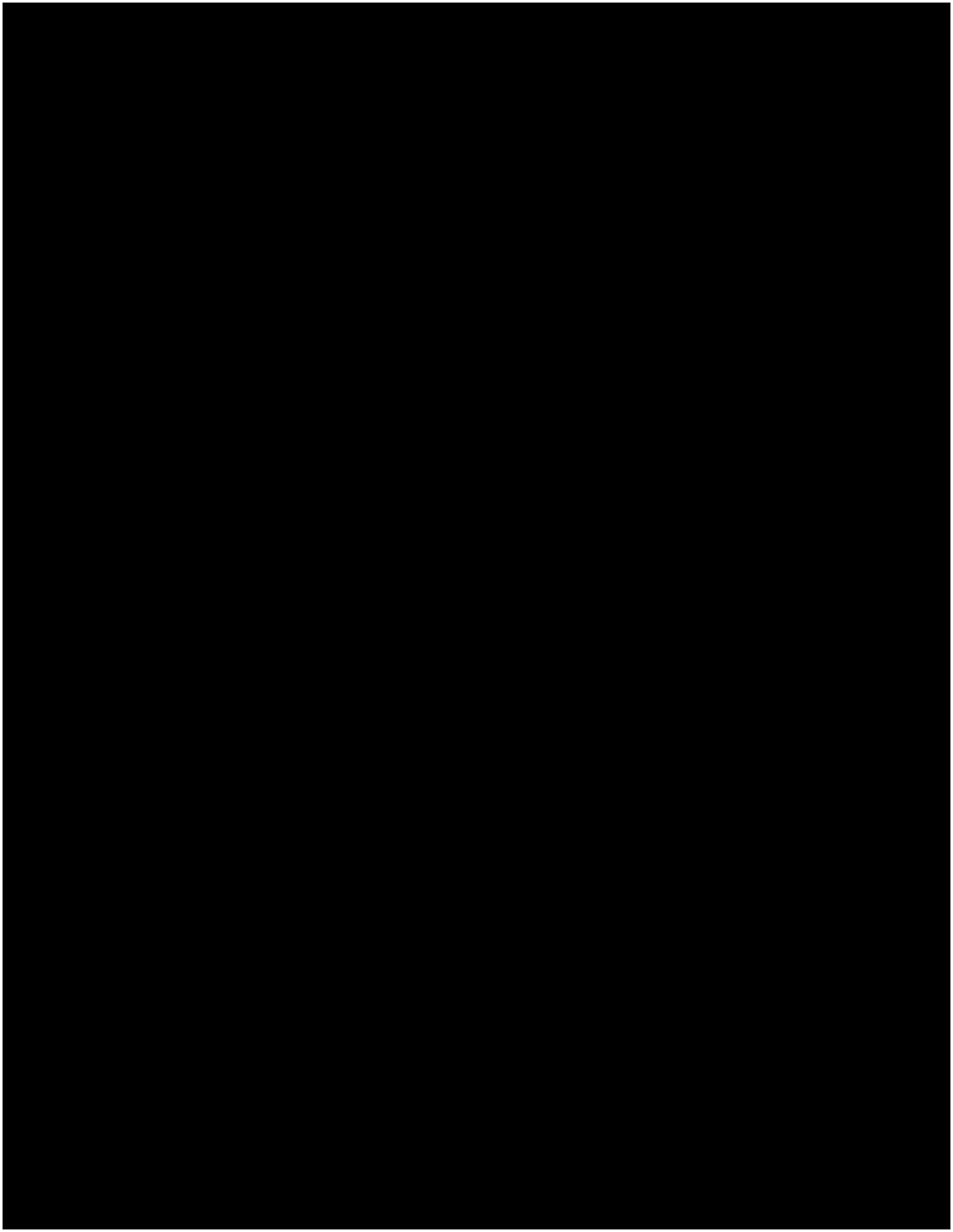


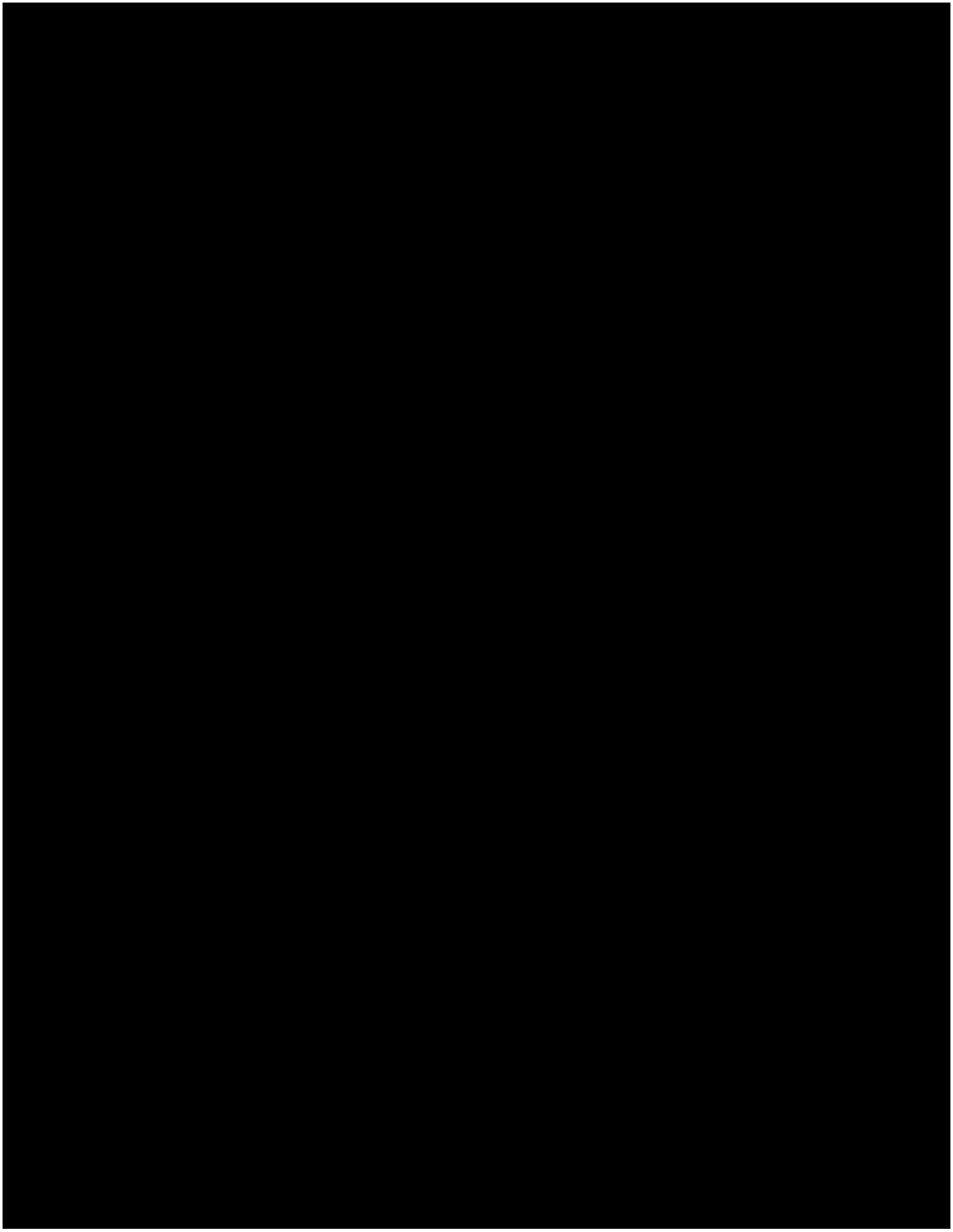


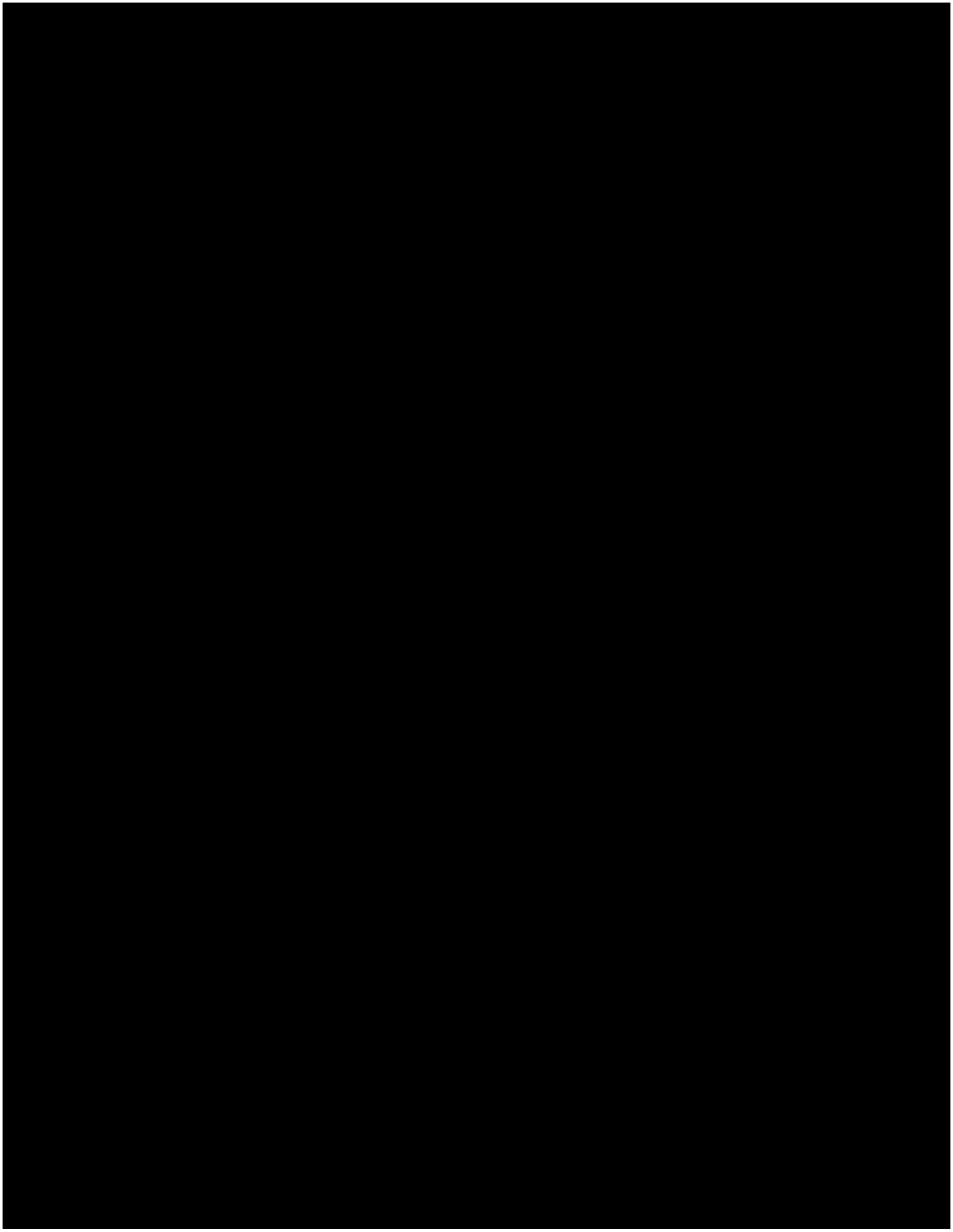


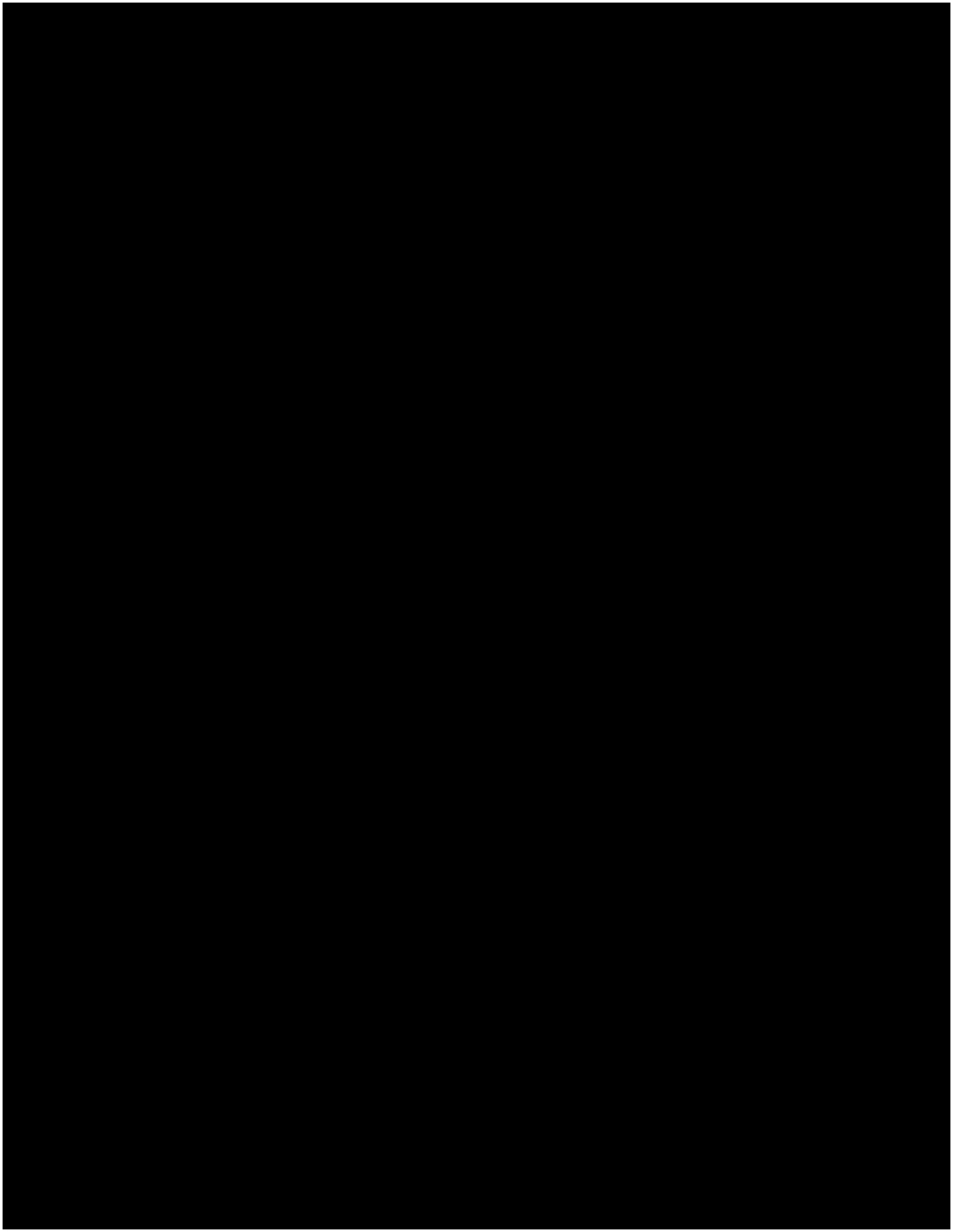


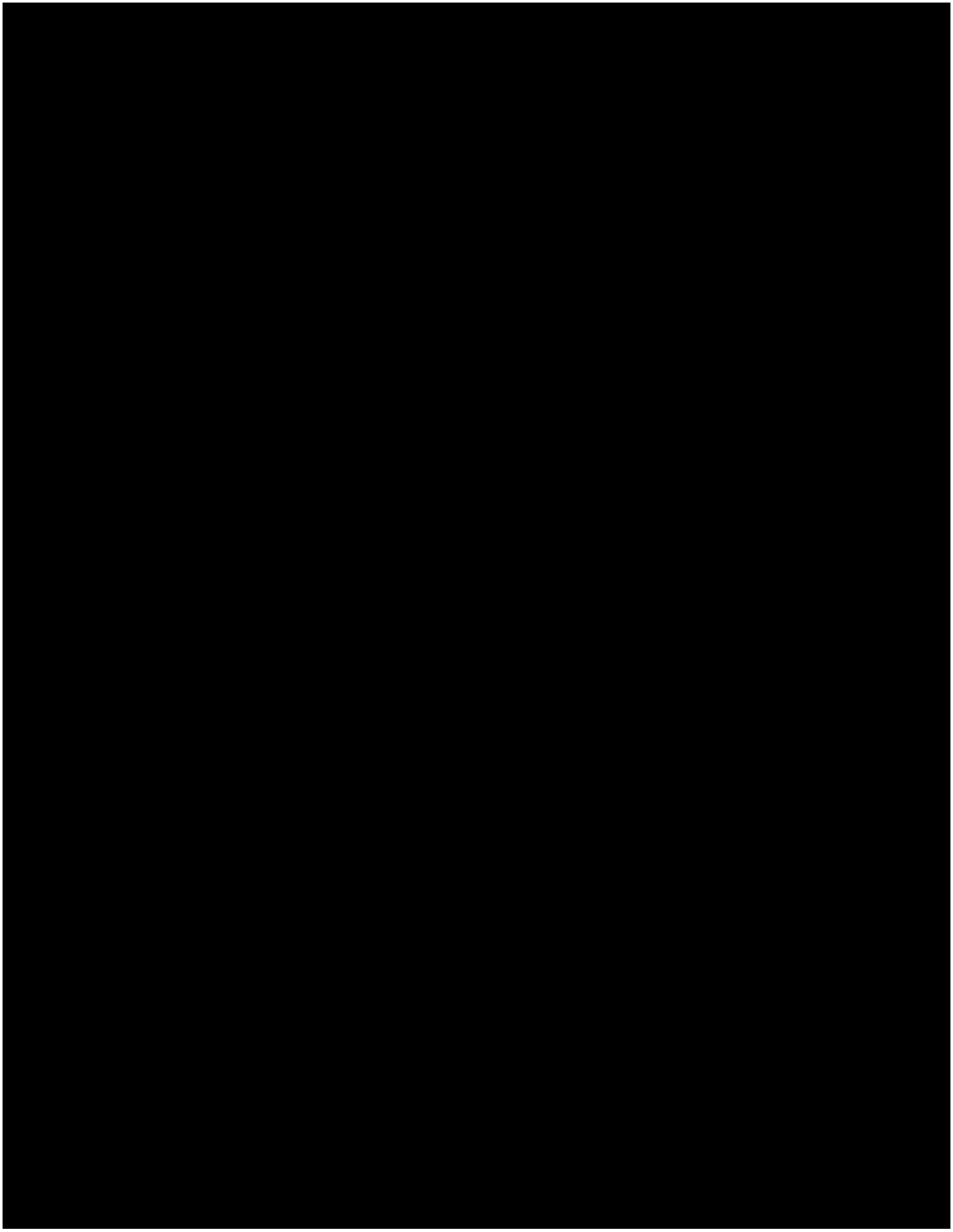


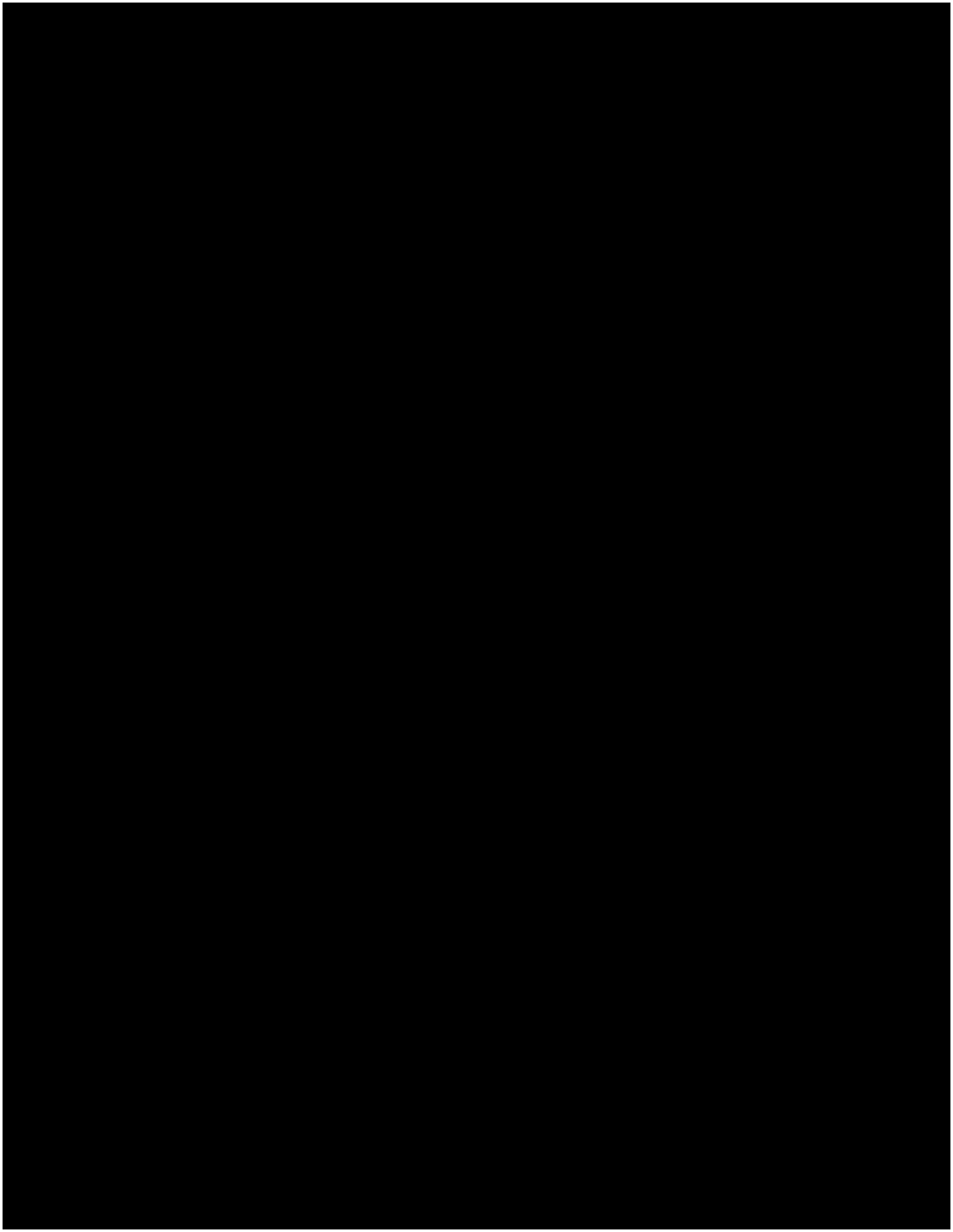


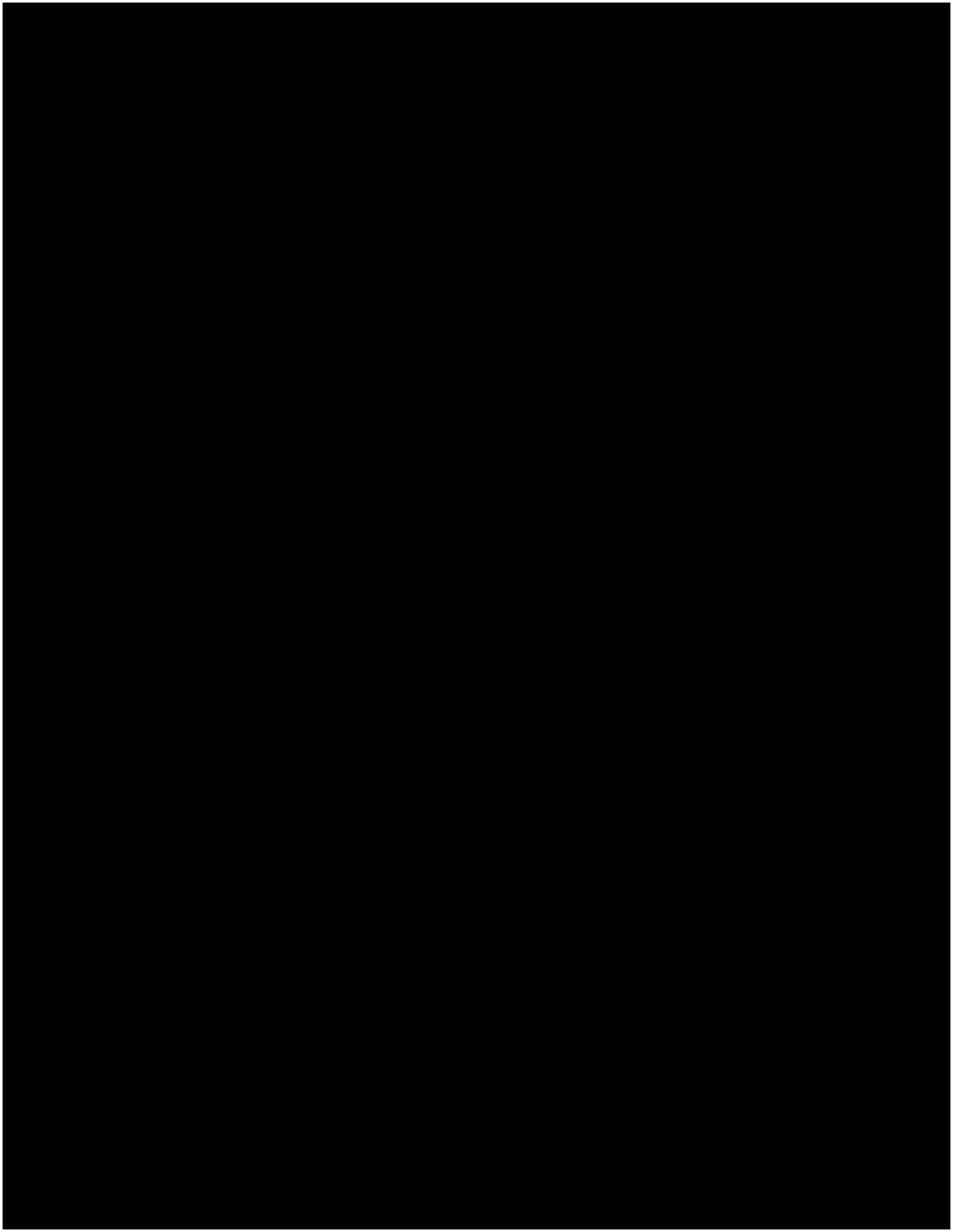


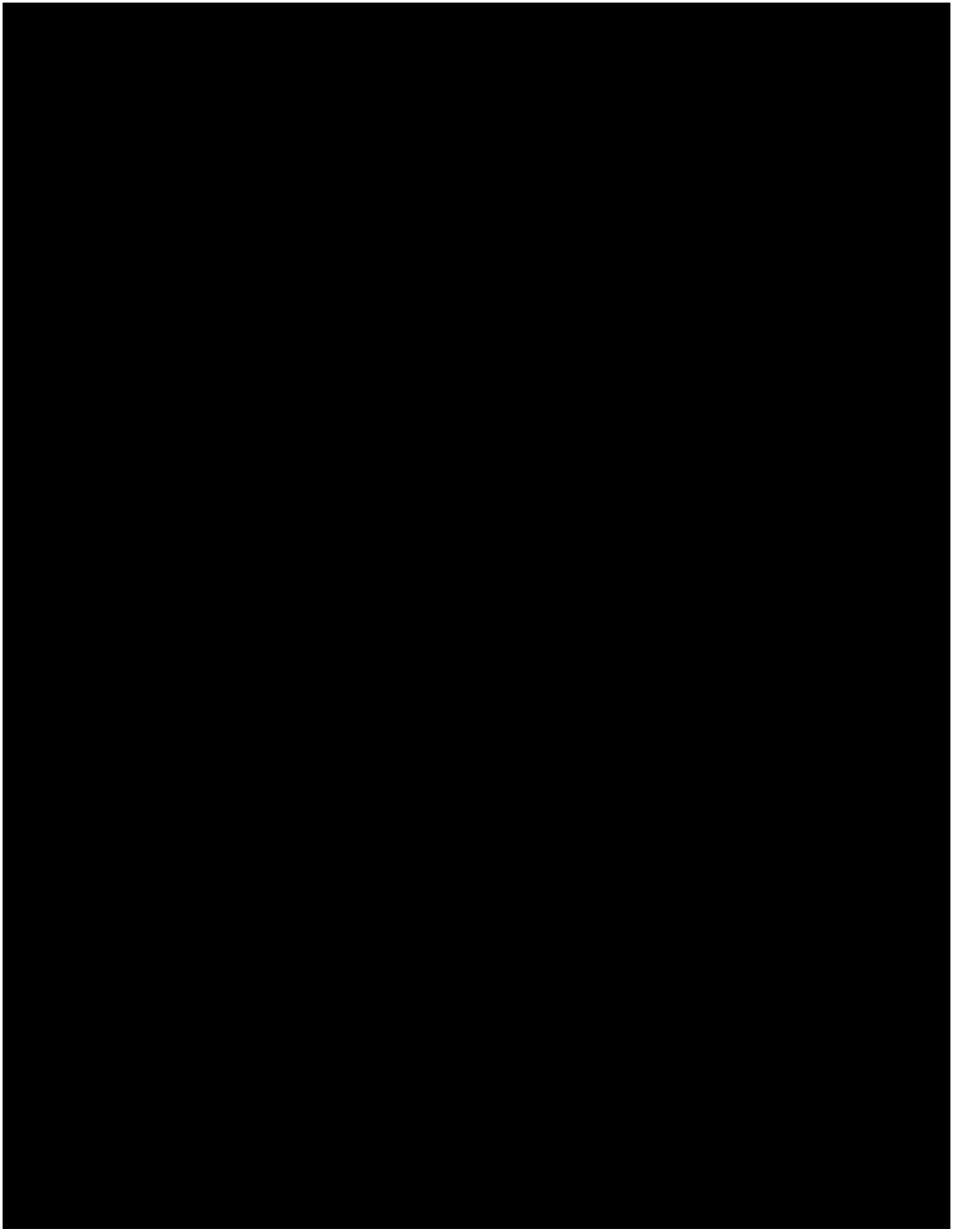












JACKSON
LAW FIRM

Arkansas
State Claims Commission
JUL 11 2023
RECEIVED

July 11, 2023

VIA Email and First Class Mail
ASCCPleadings@arkansas.gov
Kathryn.Irby@arkansas.gov

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, AR 72201

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of* [redacted] *a minor vs. The Arkansas Department of Human Services*
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Kathryn:

Please find enclosed one copy of the claimant's Third Supplemental Answers to Respondent's First Set of Interrogatories and Requests for Production of Documents for filing in the above-referenced matter. A copy of the claimant's Third Supplemental Answers and its attachments are also contained on the enclosed thumb drive in pdf format.

Thank you for your attention to this matter.

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosures

cc/enc.: Brent Gasper, Esq. (via e-mail only)

JIM JACKSON // Attorney at Law
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North Little Rock, AR 72114-5528
501.823.3610
Fax: 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — **CLAIMANT**

v. — **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S THIRD SUPPLEMENTAL ANSWERS TO RESPONDENT'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

Comes now the Claimant, Haley Hudson, and for her Third Supplemental Answers to the respondent's First Set of Interrogatories and Requests for Production of Documents, states:

INTERROGATORY NO. 1: Please identify each person who may have knowledge or discoverable information relating to the claims or defenses to this claim and state briefly the nature of the knowledge or discoverable information had by each person identified.

RESPONSE: Haley Hudson is aware of the persons listed by Arkansas State Police Trooper James Ray in the accident report who have information regarding how the accident occurred in addition to the information that [redacted] possess. Kimmy Corley is the mother of the minor child who was in the back seat. Ms. Corley lived at [redacted] t the time of the wreck. Bobby Dale Wilson, [redacted] is the name and address listed in the accident report. Mr. Wilson was the driver of the tractor trailer rig that was approaching Ms. Ashcraft's vehicle at the time it was rear-ended by Jennifer Wilkerson. Jennifer Wilkerson was the respondent's

employee, and her contact information is presumed to be in your possession. [redacted] live with Haley Hudson at [redacted]

The statutory beneficiaries' names and addresses are listed in the claimant's response to Interrogatory No. 12.

The medical providers listed in the medical records previously provided have information regarding the injury sustained. The billing manager at Brotherton Brothers Funeral Homes, P.O. Box 192, Charleston, AR, and P.O. Box 482, Paris, AR 72855, has information regarding the statement for the funeral and services for Ms. Ashcraft. Attached is a copy of the invoice from Brotherton Brothers Funeral Homes for the amount of $1,195.95.

SUPPLEMENTAL ANSWER TO INTERROGATORY NO. 1: The medical providers listed in the attached medical records for [redacted] from Logan County EMS have information regarding the injuries she sustained.

Arkansas State Crime Laboratory personnel may have information related to the accident, which is the subject of the claimant's Complaint. Attached are toxicology reports upon Jennifer Wilkerson and Jacqueline Ashcraft.

Jessica Capo is the mother of Kim Corley. Ms. Capo is the owner of the home located at [redacted] Ms. Capo and Ms. Corley arrived at the scene of the wreck shortly after it occurred.

INTERROGATORY NO. 10: Please describe with particularity the employment history for Jacqueline Ashcraft for the five (5) year period prior to June 11, 2021, including dates of employment and compensation.

RESPONSE: Ms. Ashcraft worked at CV's Family Foods, 1004 E. Walnut St., Paris, AR 72855; Family Dollar, 1800 Falls Blvd., Wynne, AR 72396; Dollar General, 1911 Falls Blvd., Wynne, AR 72396; Johnson's Fish House & Diner, 329 US-64, Wynne, AR 72396. Haley Hudson is not certain of the dates or years of employment by Ms. Ashcraft.

SUPPLEMENTAL ANSWER TO INTERROGATORY NO. 10: See attached income tax information provided by the Arkansas Department of Finance and Administration upon Jacqueline Ashcraft for 2018, 2019, and 2020.

INTERROGATORY NO. 12: Please provide the name, address, email address, and telephone number of all lay witnesses whom Claimant may call at trial of this matter and for those persons identified, please state the anticipated subject matter of their testimony.

RESPONSE: Jennifer Wilkerson, Bobby Wilson, Trooper James Ray, [redacted] will testify on liability. Haley Hudson, [redacted] Mark Hudson, [redacted] (adult son), Dalton Cody Ashcraft, [redacted] (adult son), and LaDonna Jackson, [redacted] mother), will testify regarding damages and their respective mental anguish claims.

SUPPLEMENTAL ANSWER TO INTERROGATORY NO. 12: The claimant reserves the right to call as a lay witness any of the medical providers for Jacqueline Ashcraft, [redacted] as identified in the medical records that have been provided to the respondent. The claimant reserves the right to call as lay witnesses Arkansas State Crime Laboratory personnel. The claimant reserves the right to call Jessica Capo and Kim Corley as lay witnesses. The claimant reserves the right to call as lay witnesses any person listed by the respondent as a lay witness and any person identified by either party in discovery, as well as any witness de posed in this matter.

INTERROGATORY NO. 24: Please provide the names, addresses, and phone numbers for all medical professionals, including without limitation physicians, nurses, therapists, counselors, physical therapists, consulting healthcare providers, and homeopaths, that treated, in whole or in part, the minor children for injuries sustained due to the accident at issue.

RESPONSE:

1.	Mercy Hospital Emergency Room 500 E. Academy St. Paris, AR 72855	June 11, 2021
2.	Mercy Clinic – Paris Kimberly L. Hertlein, ANP 303 South 5th Street Paris, AR 72855	June 17 & 24, 2021
3.	Scarbrough Clinic Tad R. Scarbrough, D.C. 191 N. Killough Road Wynne, AR 72396	July 12, 2021
4.	The Belinga Clinic Steve-Felix Belinga, M.D. 10929 Old Hwy. 71 Fort Smith, AR 72916	September 14 & 30, 2021
5.	Wynne Medical Clinic 710 South Falls Blvd. Wynne, AR 72396	August 26, 2021 - January 25, 2023

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 24: [redacted] was seen at the accident scene by Logan County EMS personnel. Attached are the records upon [redacted] from Logan County EMS.

REQUEST FOR PRODUCTION NO. 3: Please produce a complete copy of the insurance policy described in Interrogatory No. 23 (sic) that was in effect on June 11, 2021.

RESPONSE: Haley Hudson does not have the complete copy of the policy. Attached is a hyperlink a copy of every document that American Underwriters has produced.

SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Please find attached an e-mail dated July 6, 2023, from Brad Willbanks, Executive Specialist, Claims, Crum & Forster, along with a copy of the AUIC policy that was in force on the date your client rear-ended the Ashcraft vehicle at a high rate of speed on Highway 22 in Logan County, Arkansas.

REQUEST FOR PRODUCTION NO. 12: Please produce all documents or exhibits which Claimant plans to use at the trial of this case, including without limitation documents or exhibits which Claimant plans on introducing into evidence and documents or exhibits which Claimant plans to or will use in the direct examination and cross-examination of witnesses at the trial of this case.

RESPONSE: Please see the exhibits attached to Trooper James Ray's deposition taken on February 21, 2023. The claimant has previously provided a copy of the medical records of Jacqueline Ashcraft and [redacted] The report of Dr. Scott will also be introduced as an exhibit. These items can be found in the following four hyperlinks:

Ashcraft Response to Discovery.pdf

Crash Scene Photos by Trooper James Ray.pdf

Ashcraft Mercy Records Bates Stamped.pdf

[redacted] Medical Records.pdf

SUPPLEMENTAL ANSWER TO REQUEST FOR PRODUCTION NO. 12: See attached medical records upon [redacted] from Logan County EMS. The claimant reserves the right to introduce or utilize at trial any exhibit attached to a deposition taken in this matter. The Investigative Report prepared by Stanley Cain will be introduced, along with the exhibits attached to his report. The report of Dr. Garrett Andrews and any exhibits thereto will also be utilized at trial. The reports of Stanley Cain and Dr. Garrett Andrews have been previously provided to the respondent. The claimant reserves the right to introduce or utilize at trial any document produced by either party during discovery or attached as an exhibit to any deposition taken by either party in this case.

See attached income tax information provided by the Arkansas Department of Finance and Administration upon Jacqueline Ashcraft for 2018, 2019, and 2020.

Respectfully Submitted,

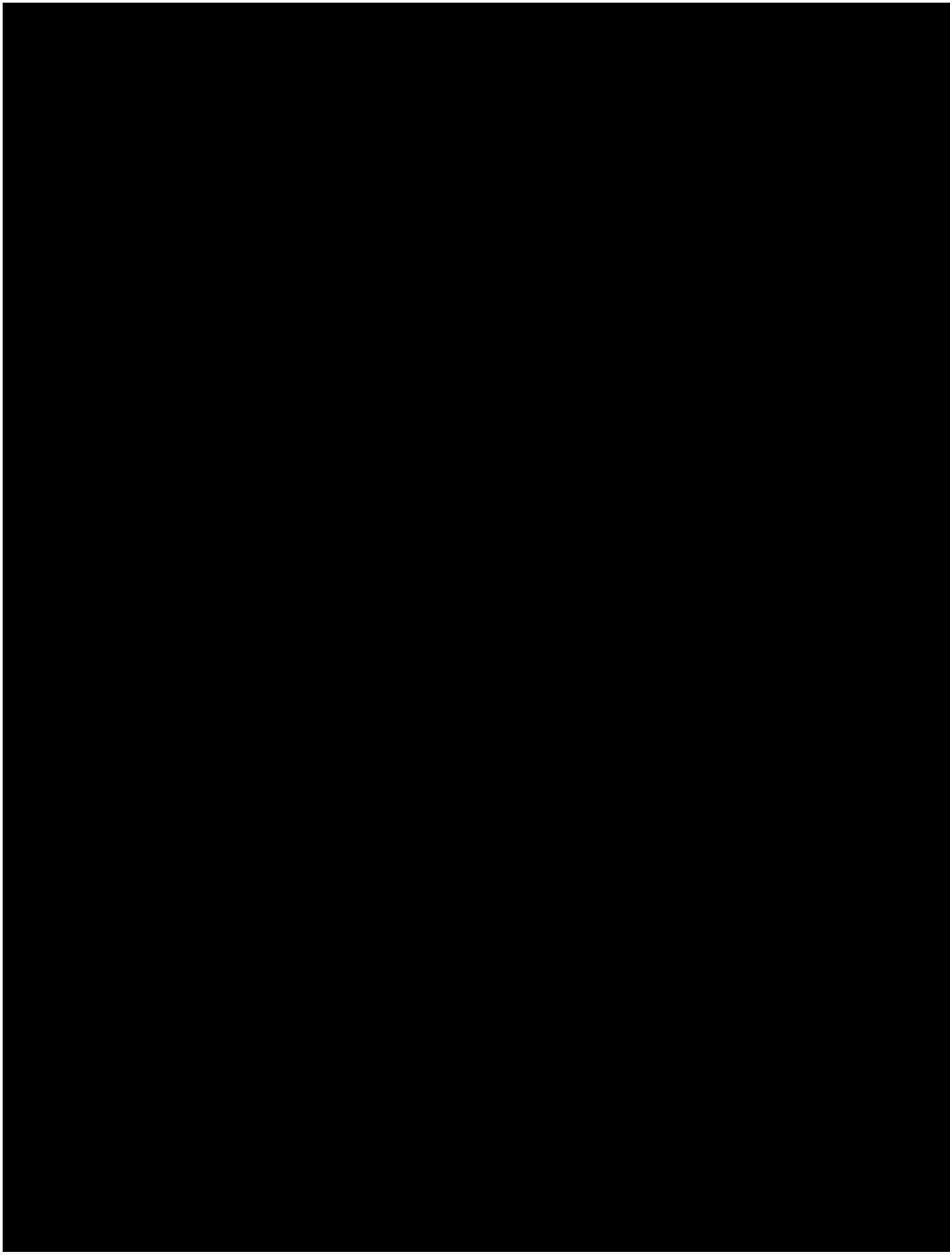
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
Phone: 501-823-3610
Fax: 501-823-3611
Jim@JimJacksonatty.com

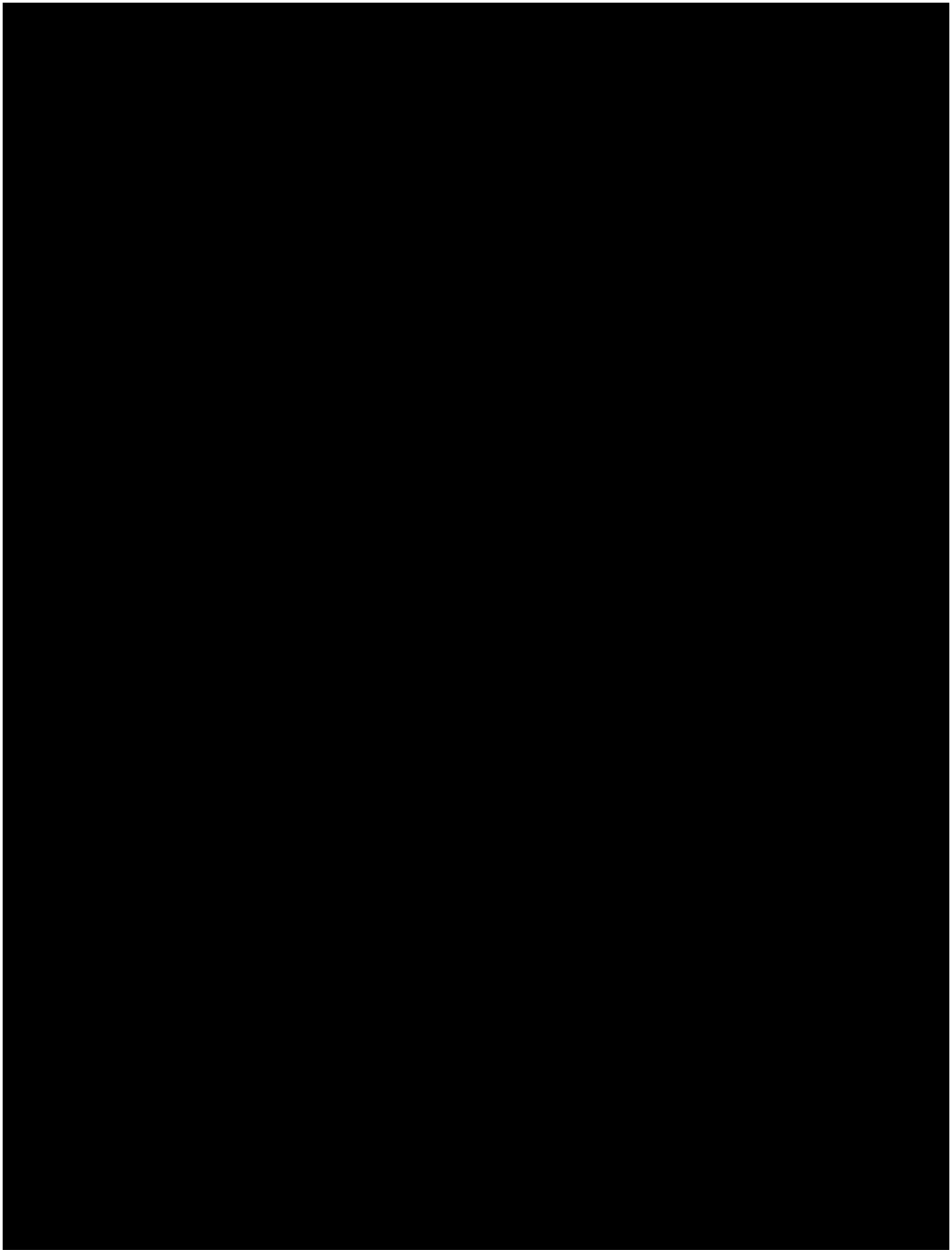
By: /s/ Jim Jackson
Jim R. Jackson
Arkansas Bar No. 93209

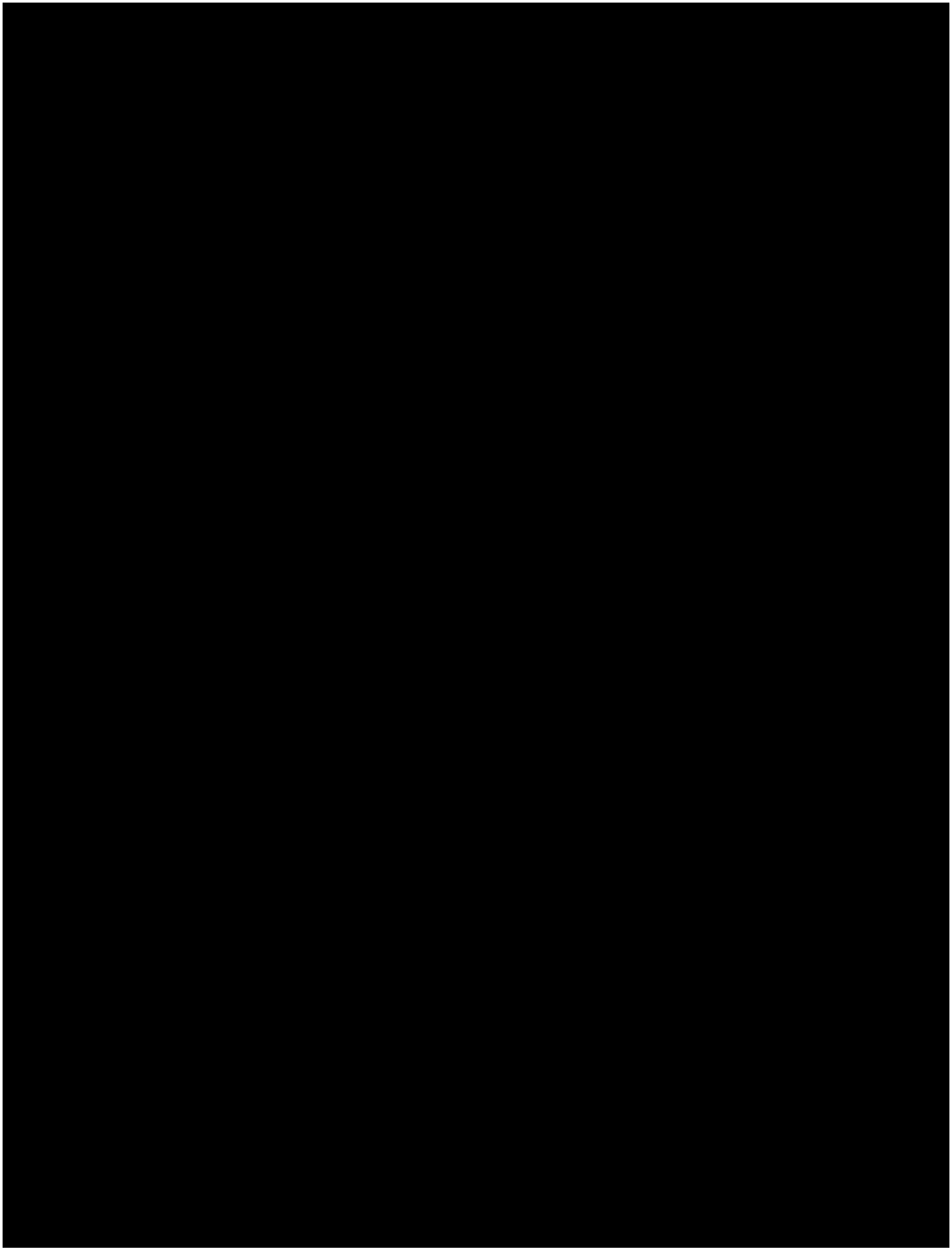
CERTIFICATE OF SERVICE

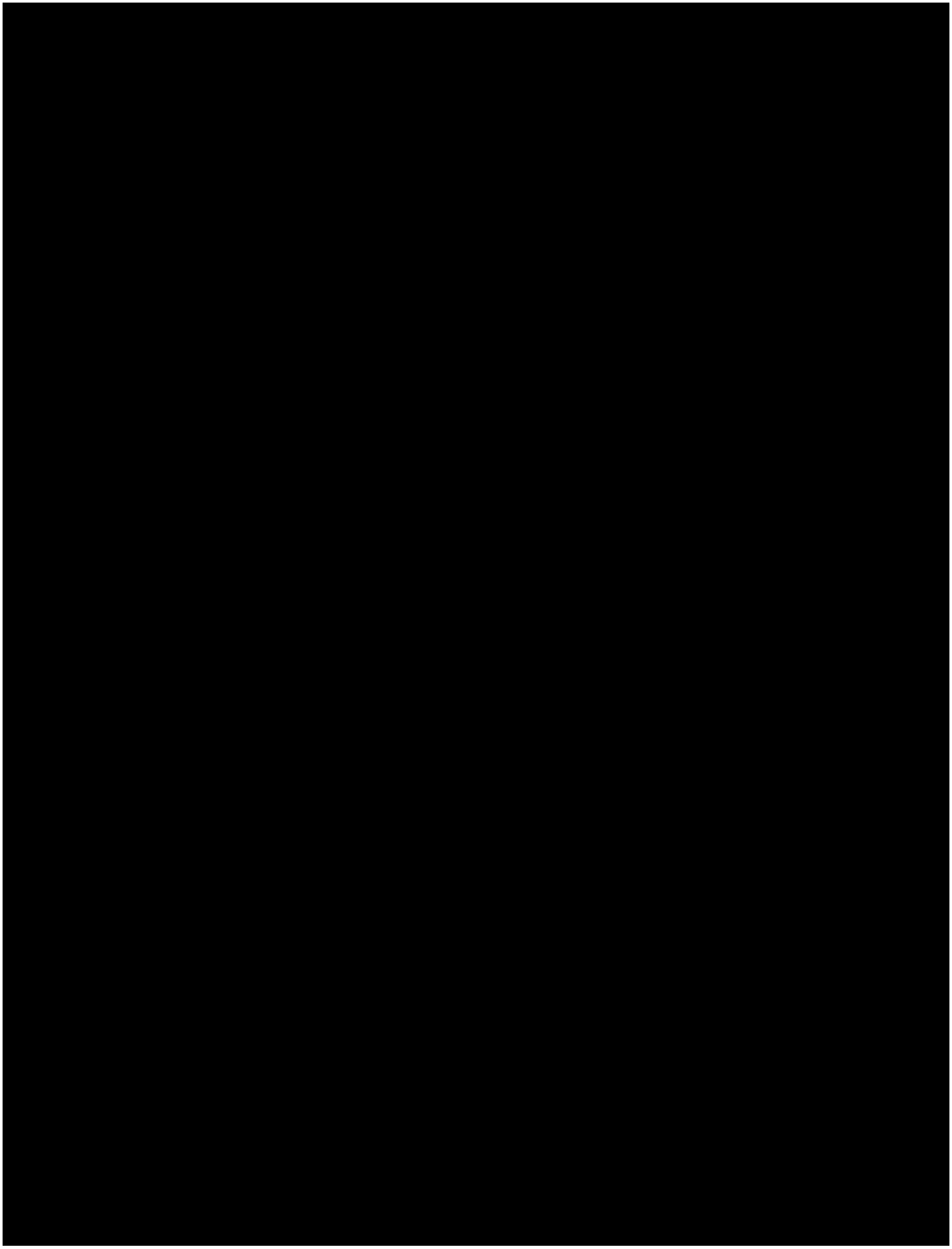
I, Jim R. Jackson, hereby certify that I have filed a copy of the foregoing Claimant's Third Supplemental Answers to Respondent's Interrogatories and Requests for Production of Documents with the Arkansas Claims Commission and served a copy upon the respondent's attorney, Brent P. Gasper, via email.

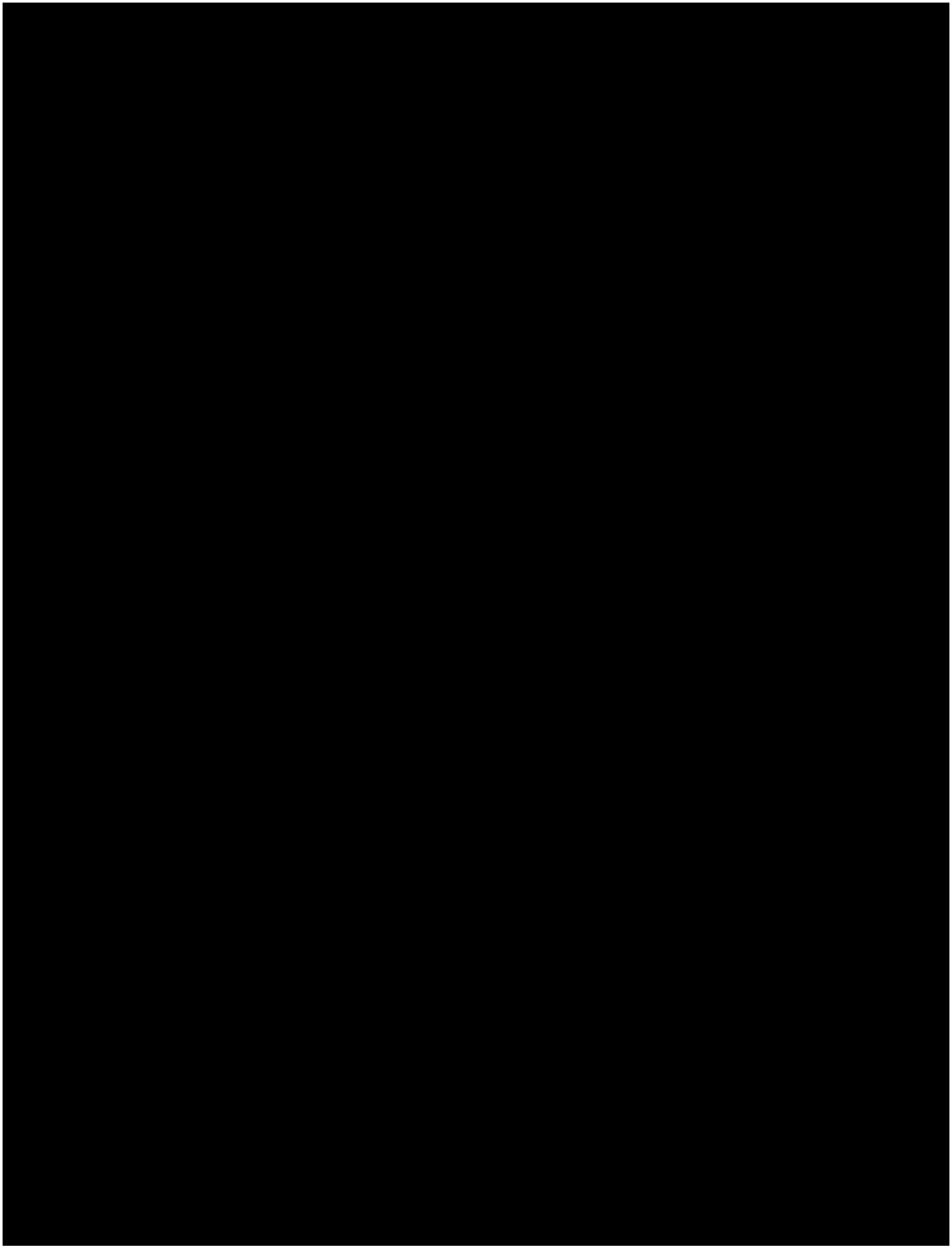
/s/ Jim Jackson
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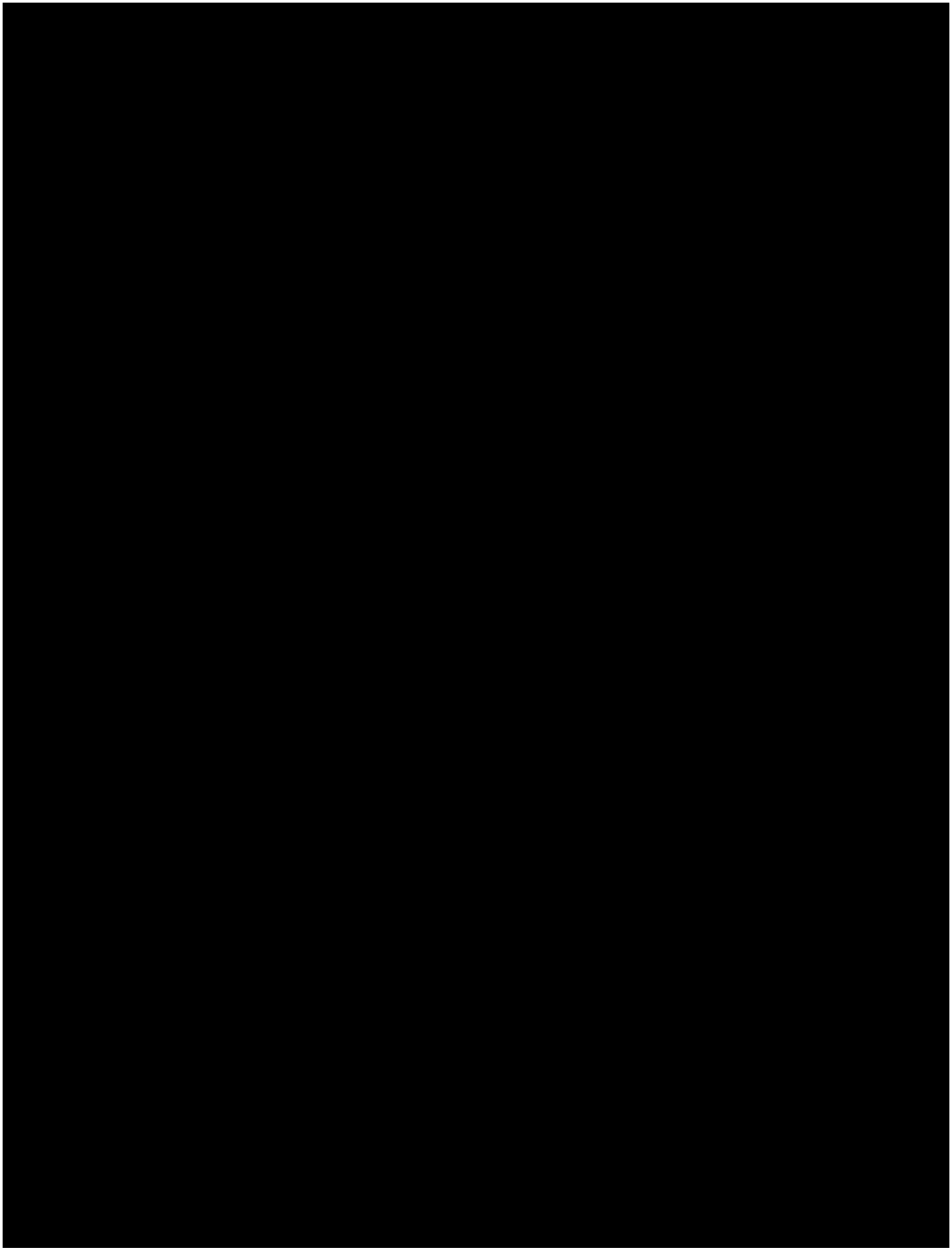


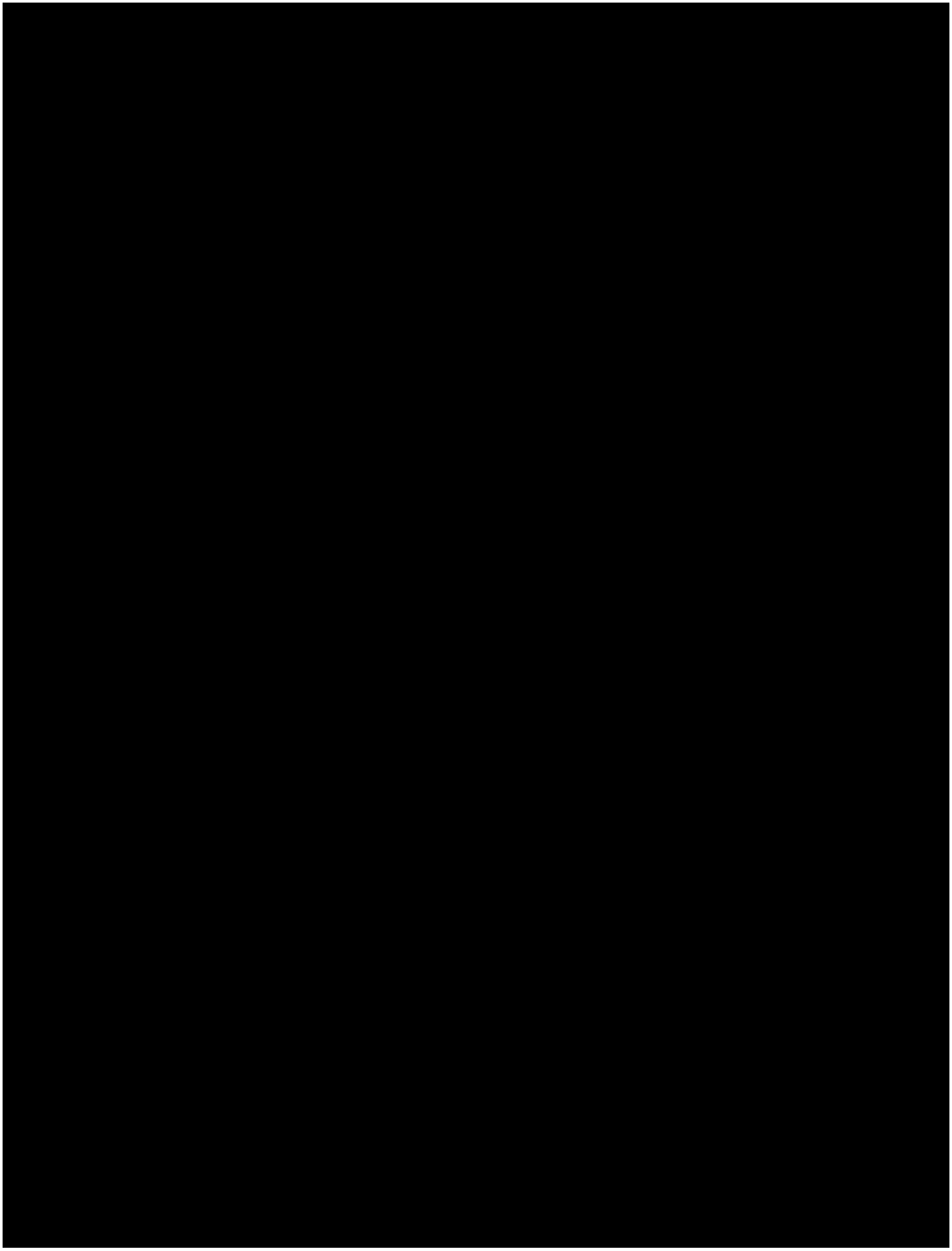


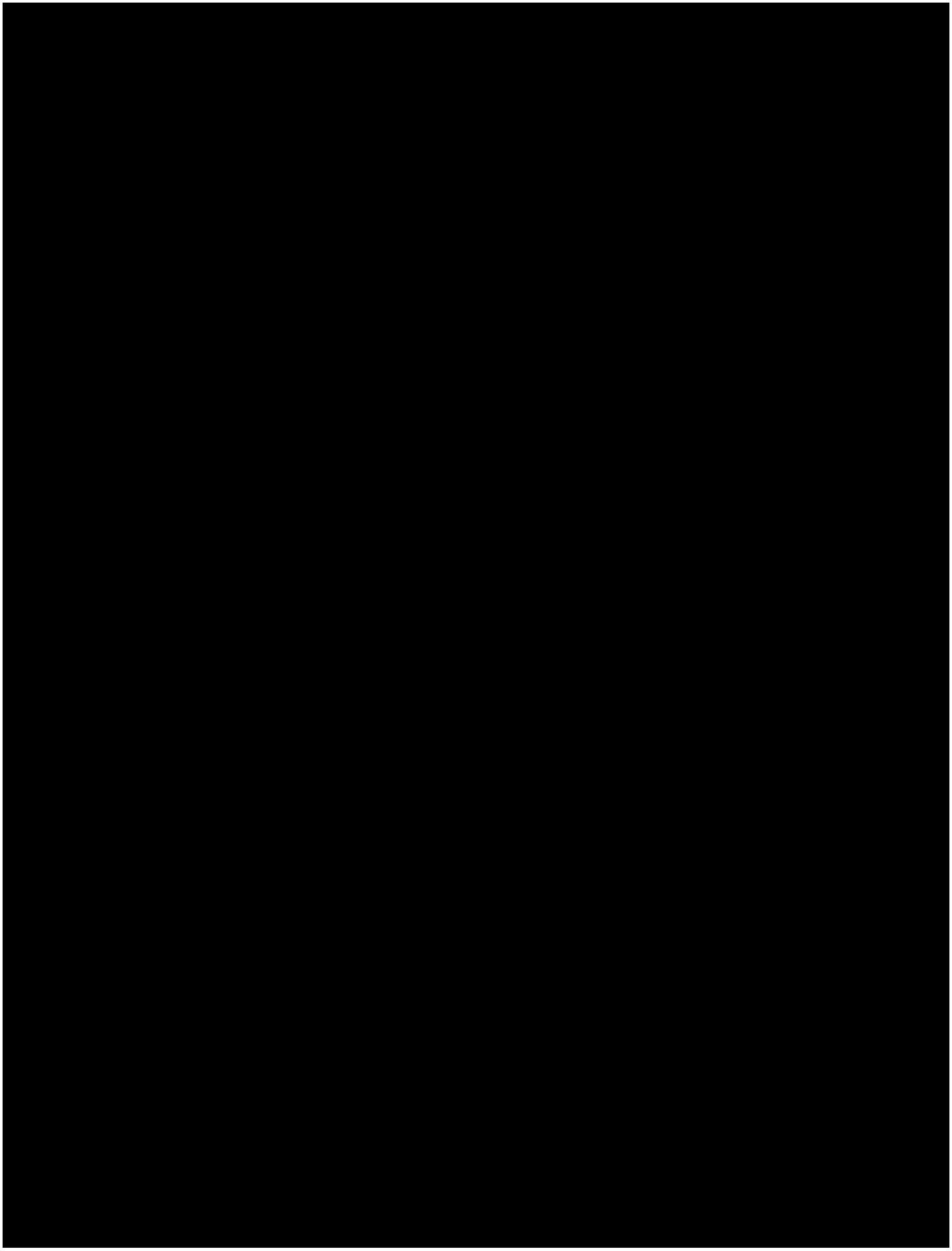


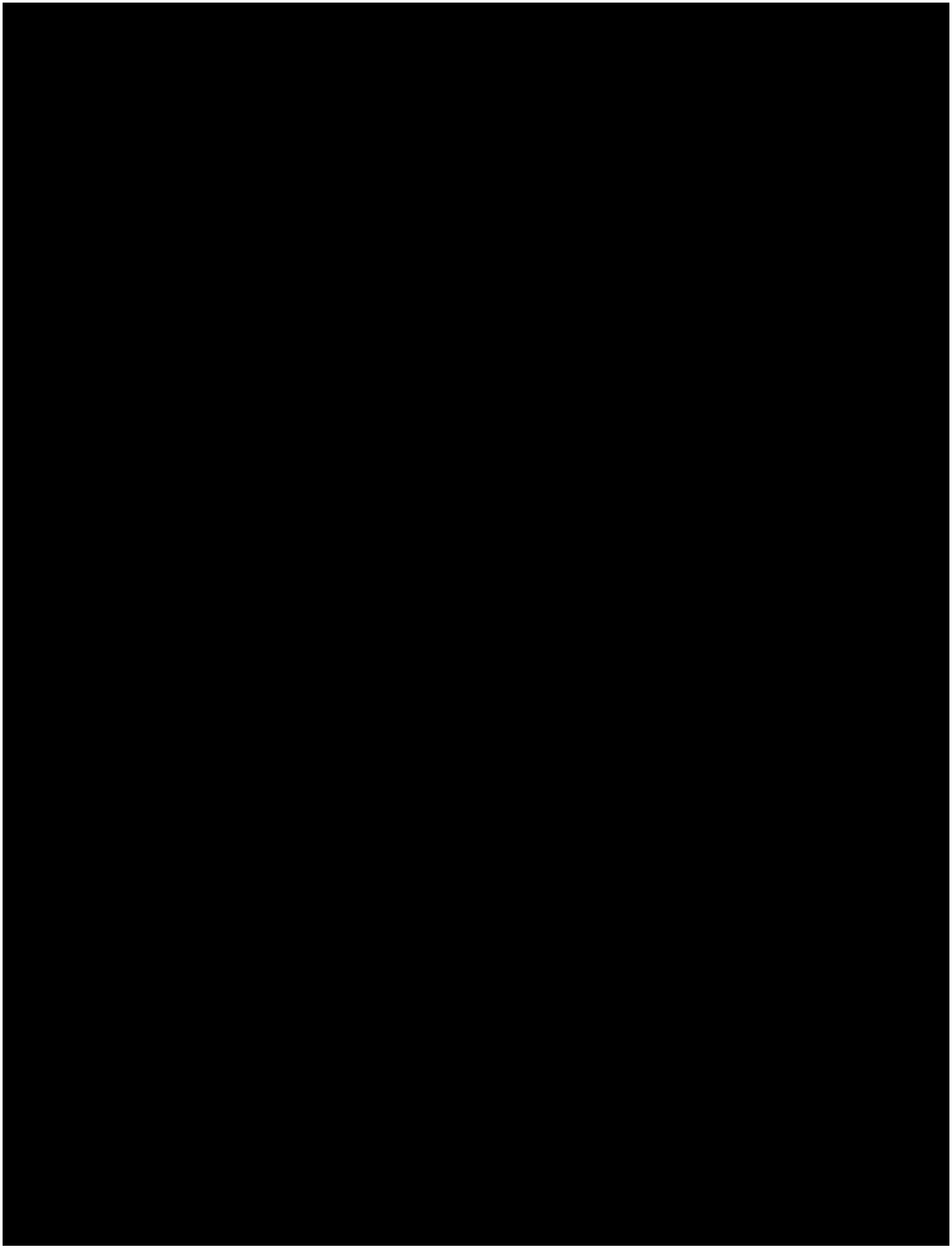


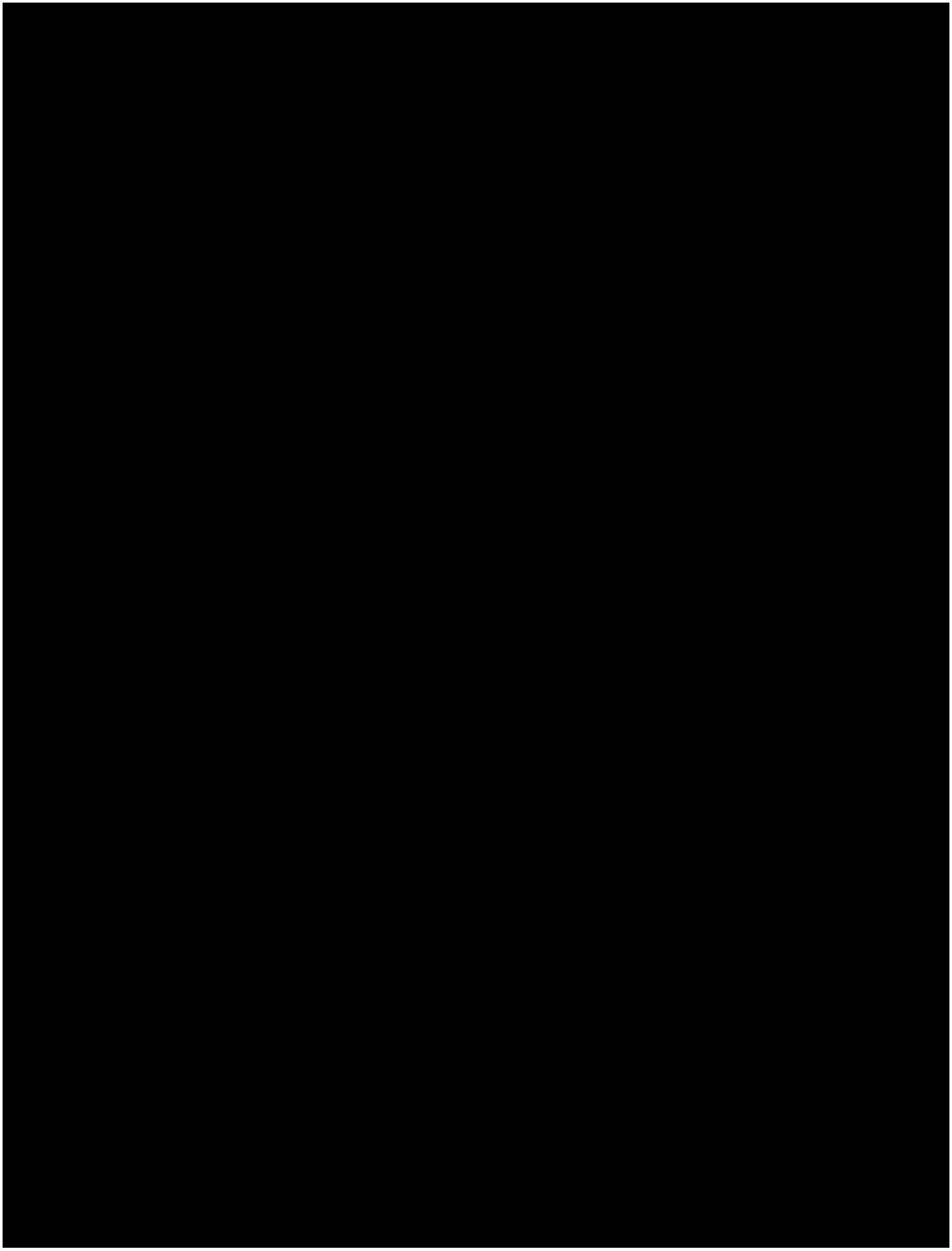


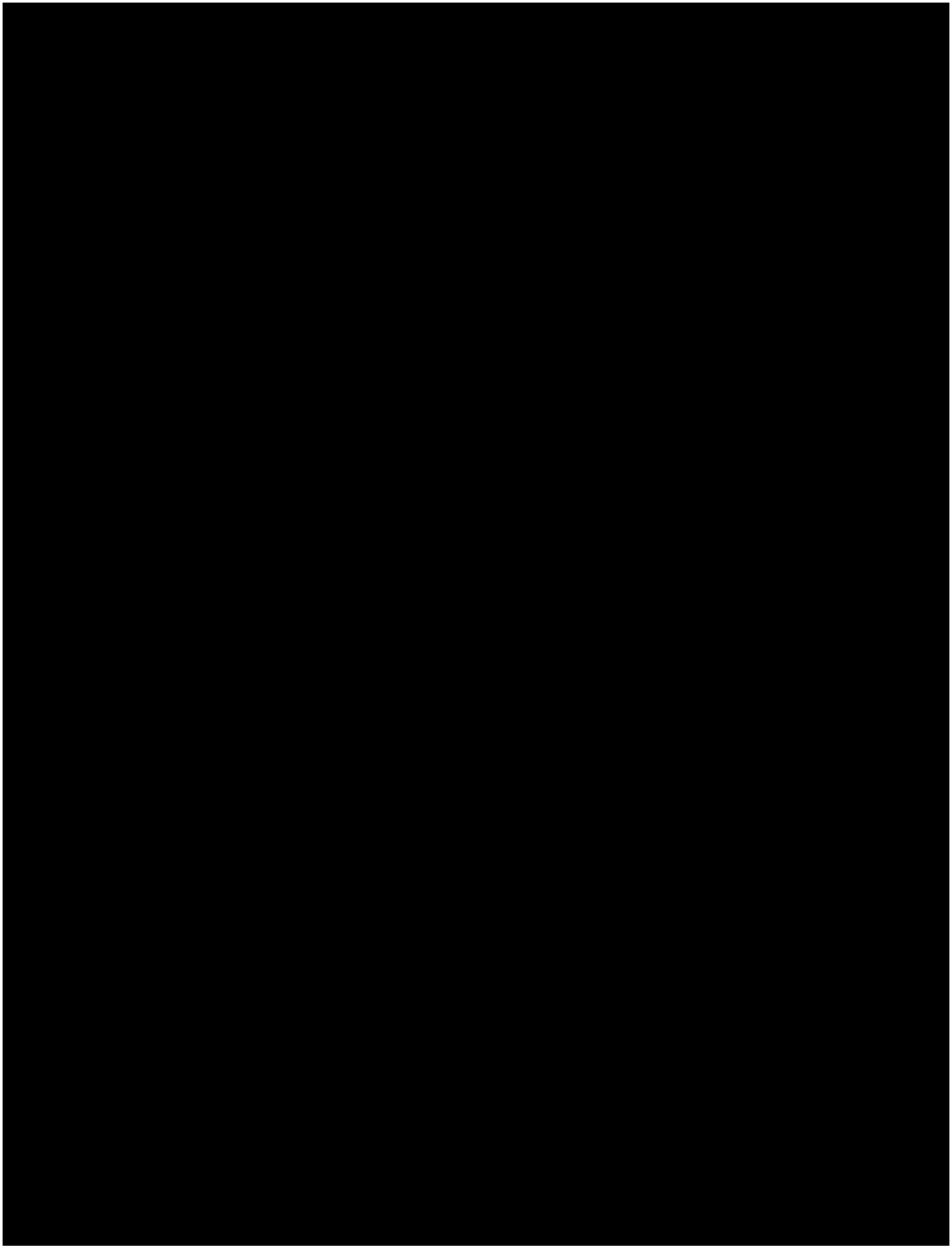


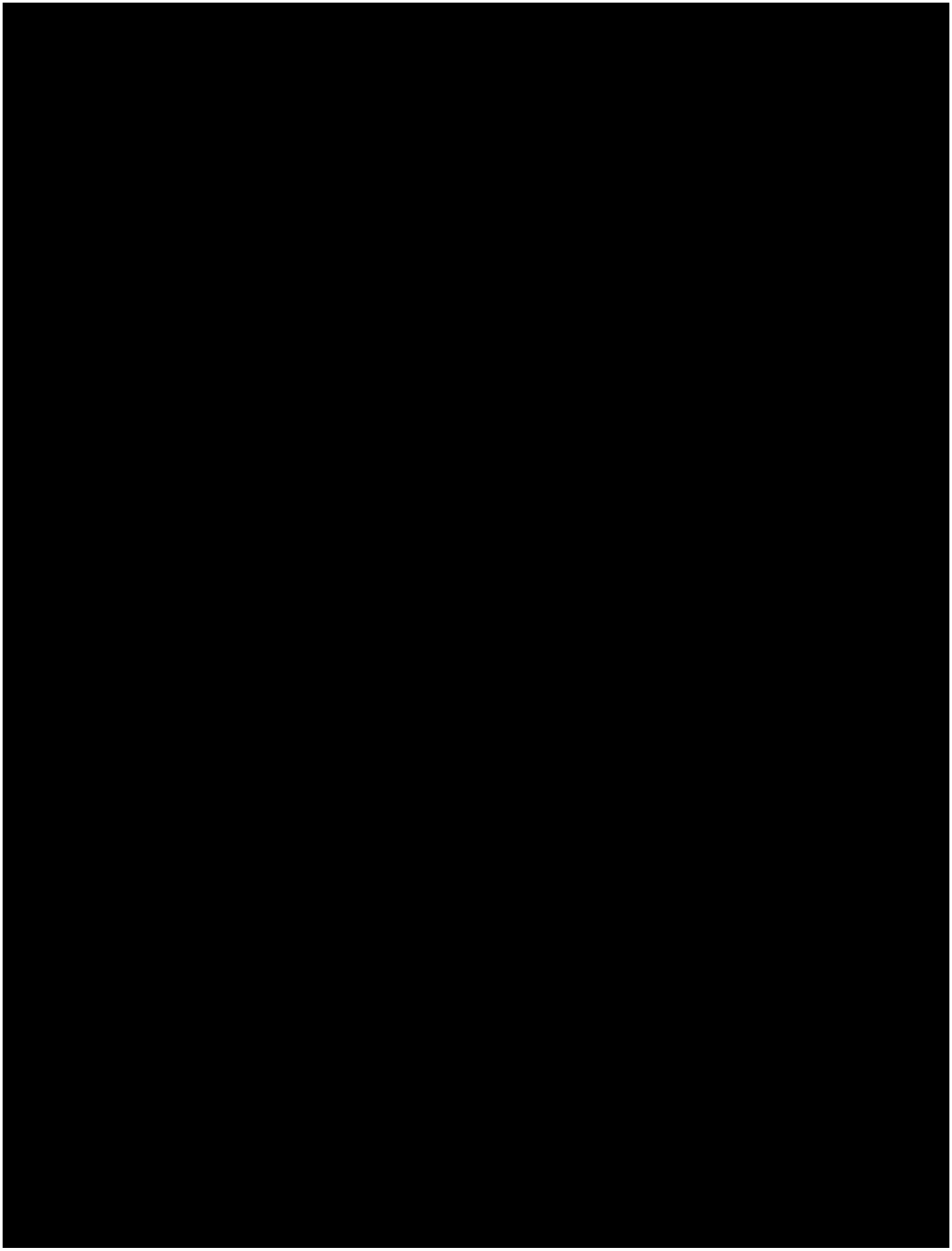


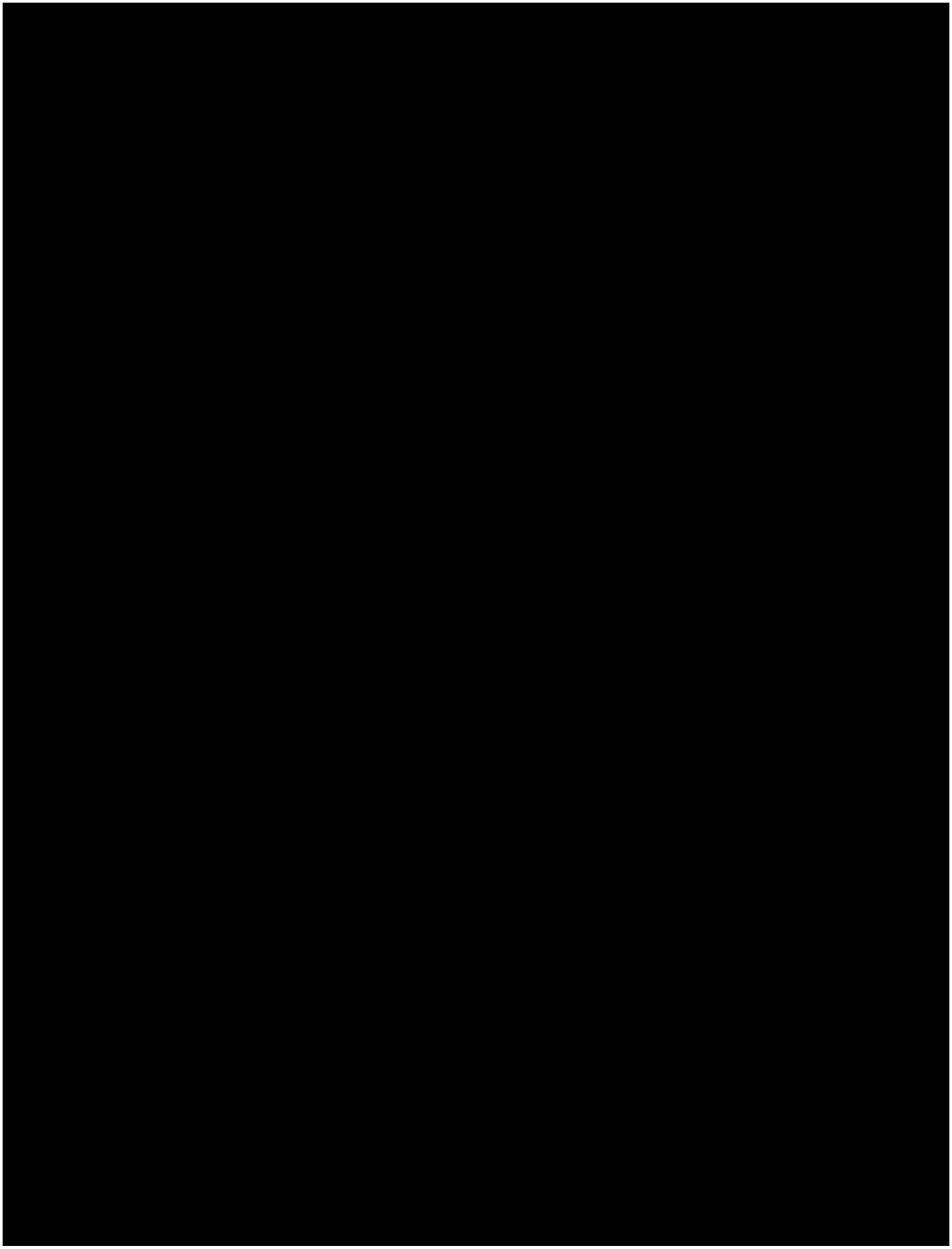


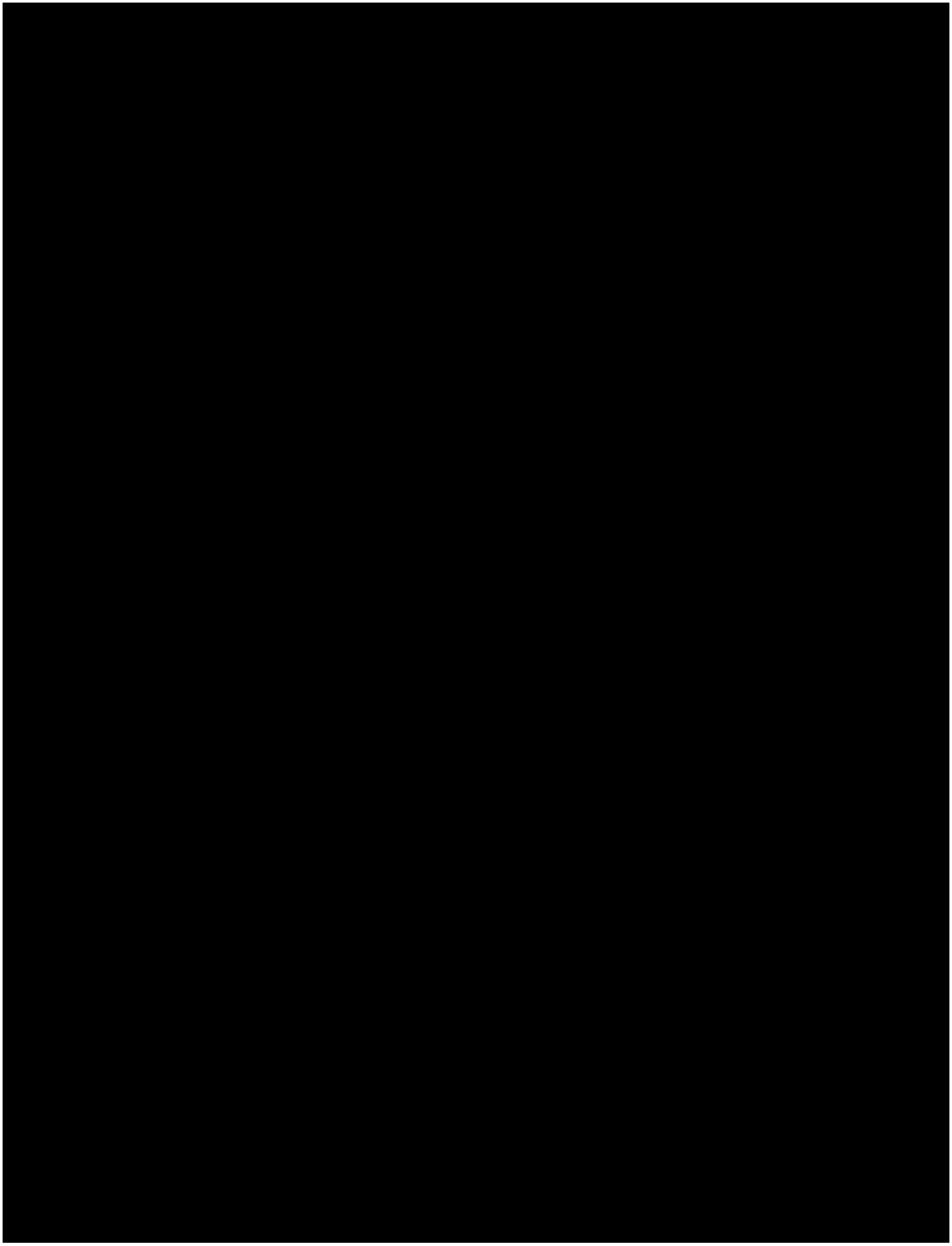


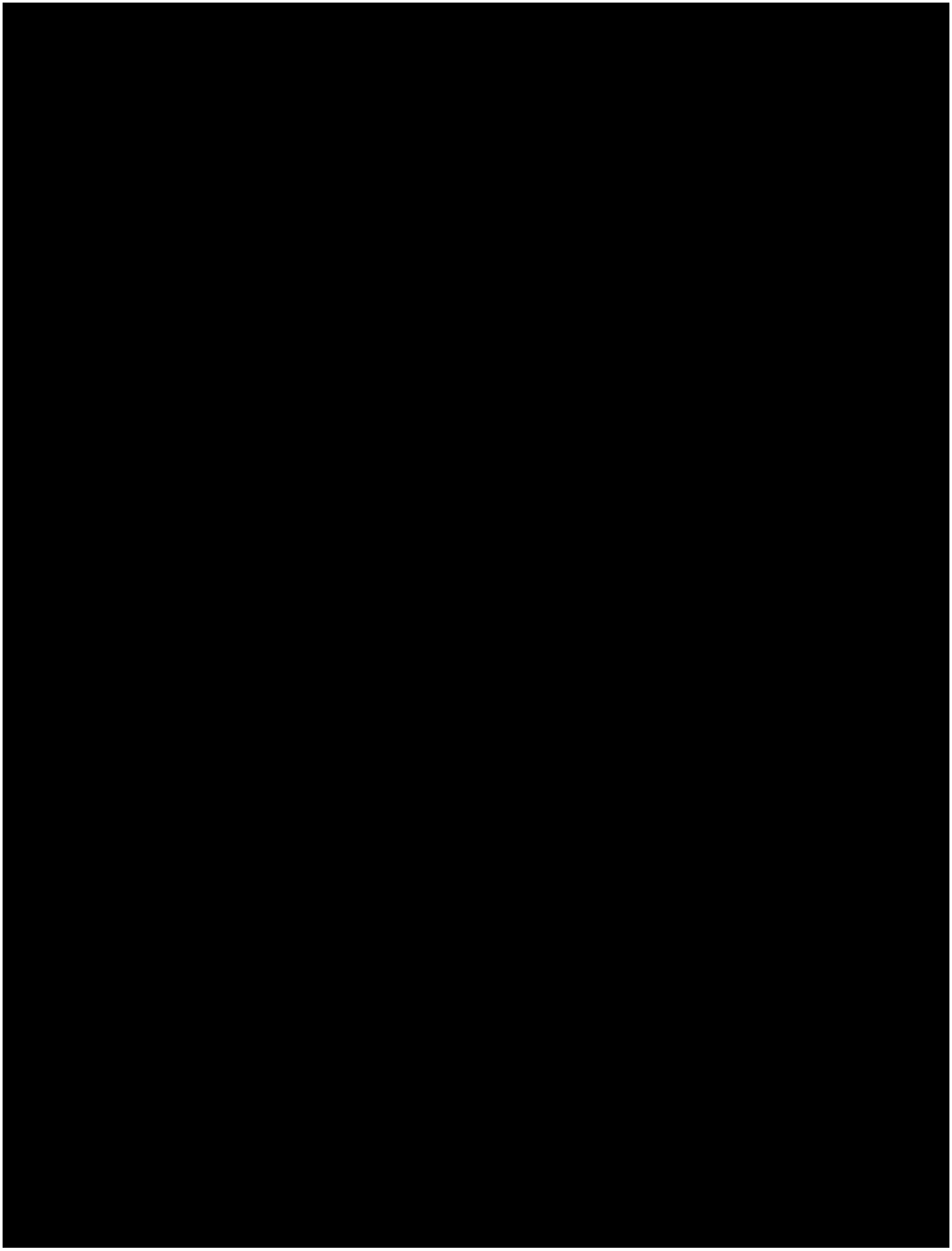


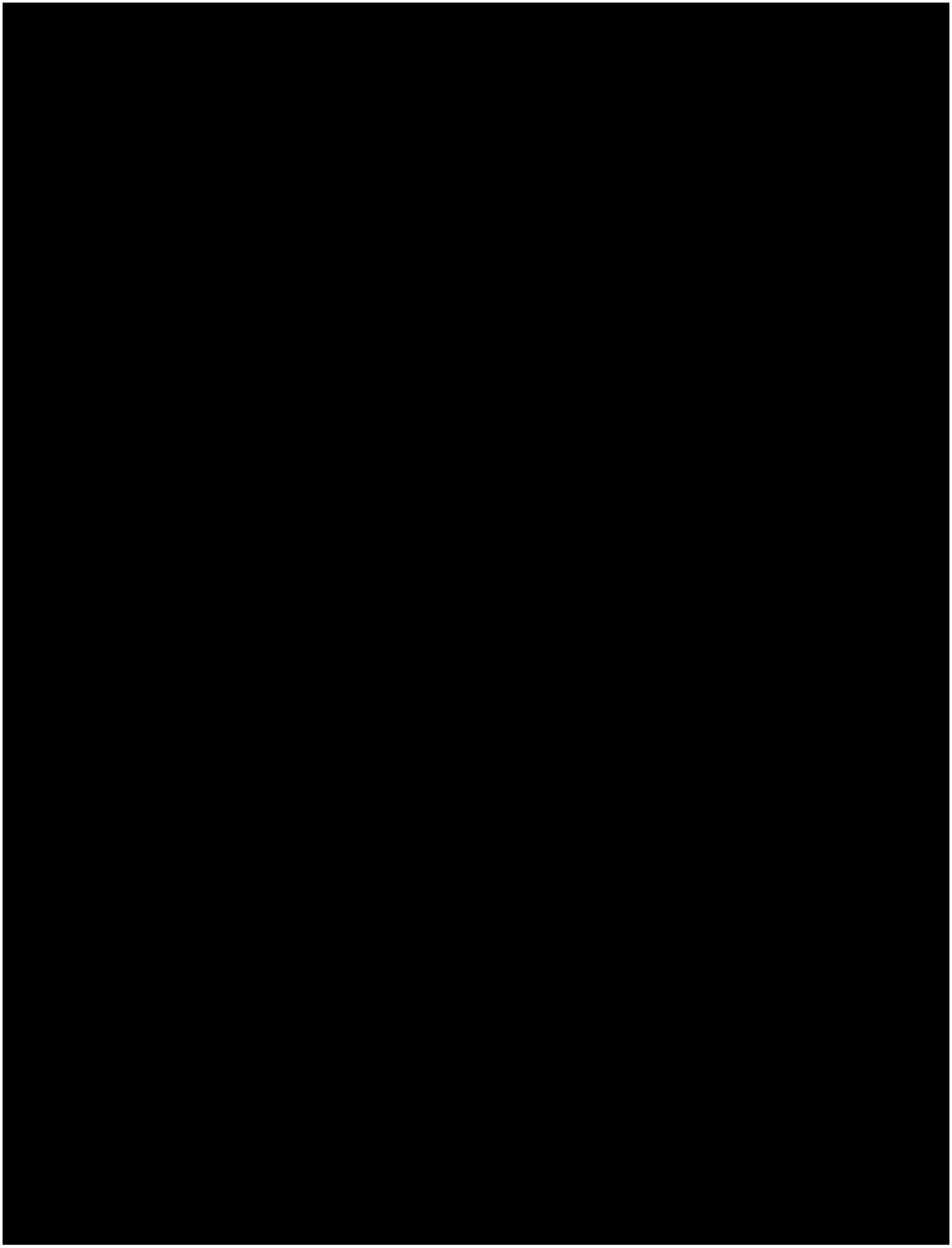


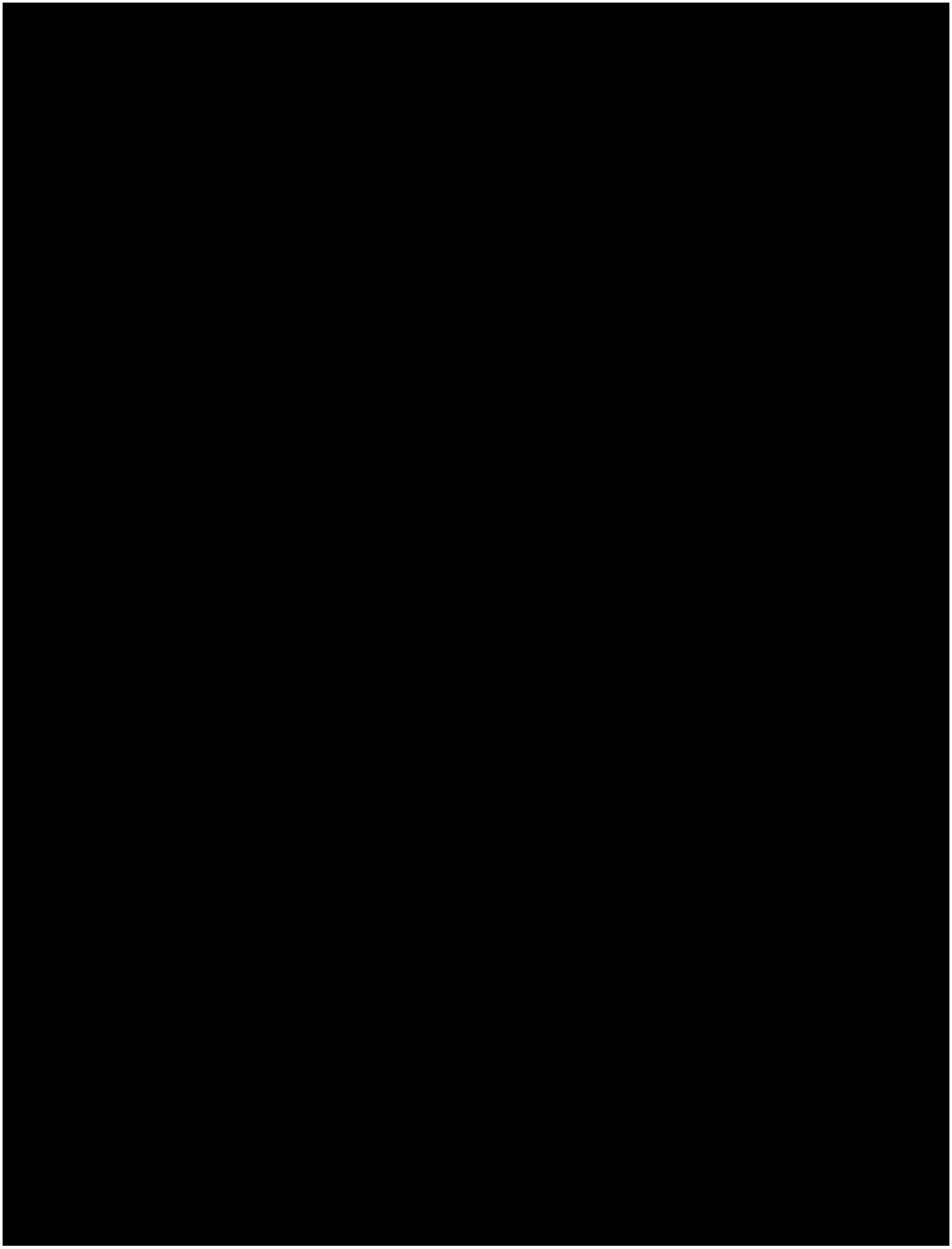


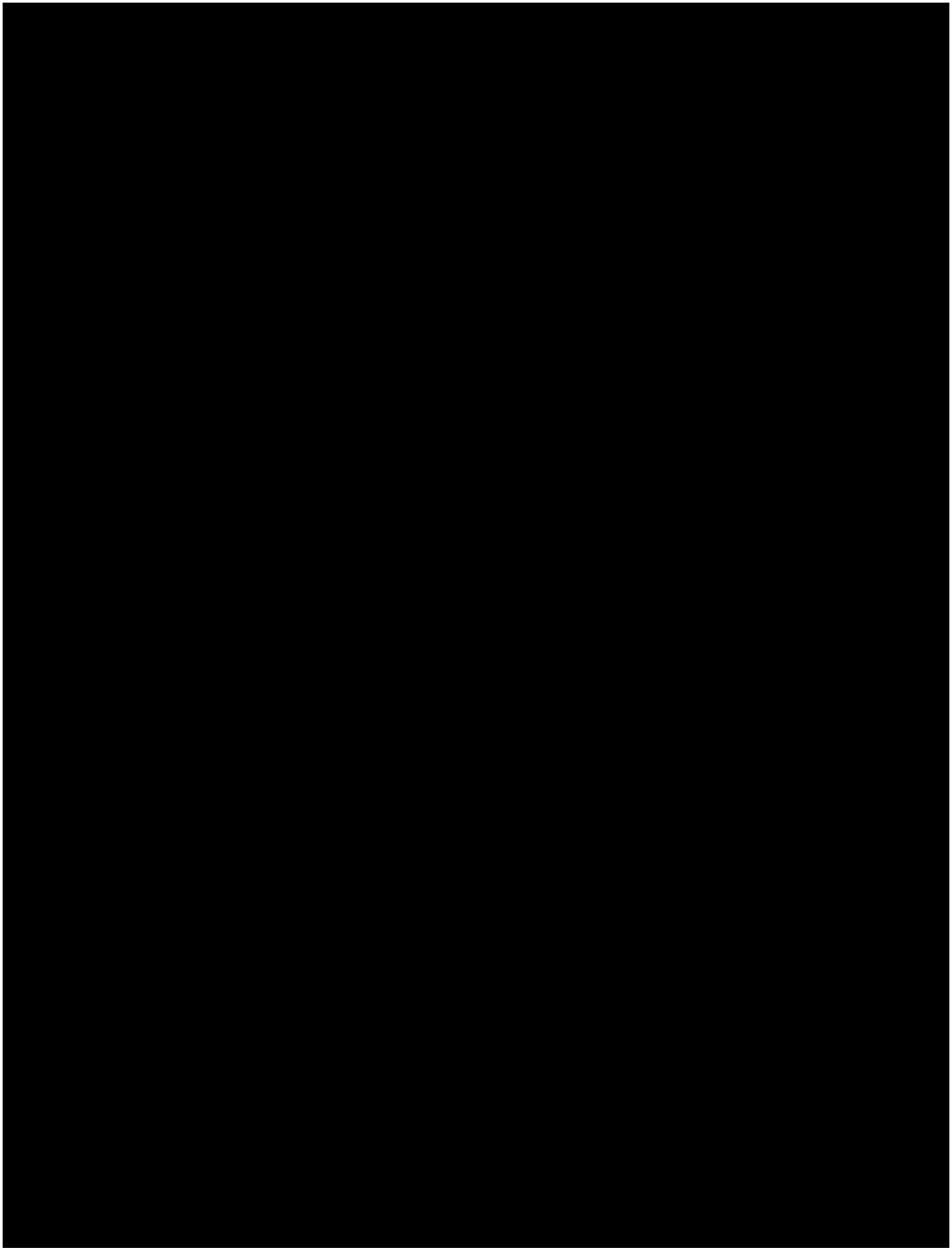


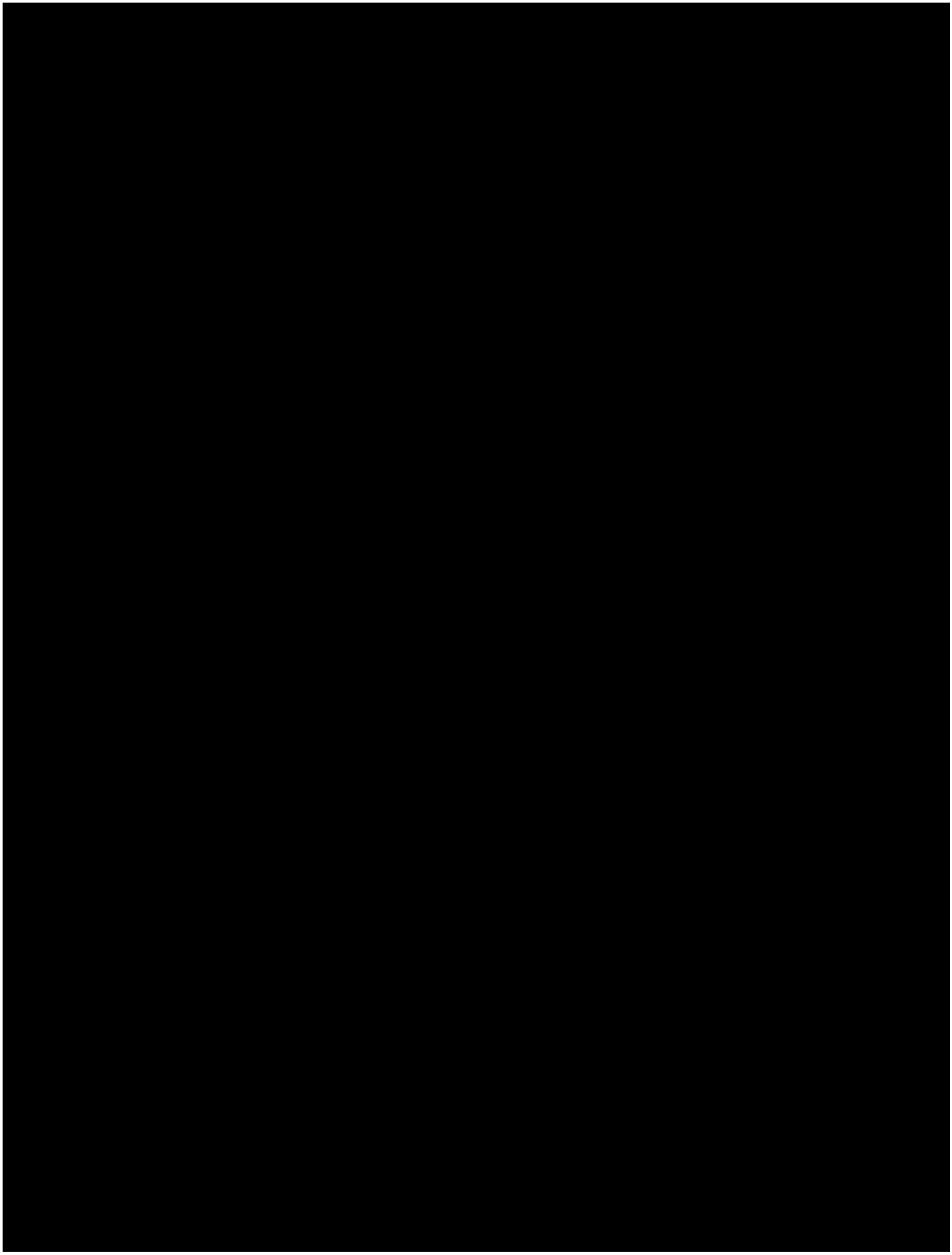


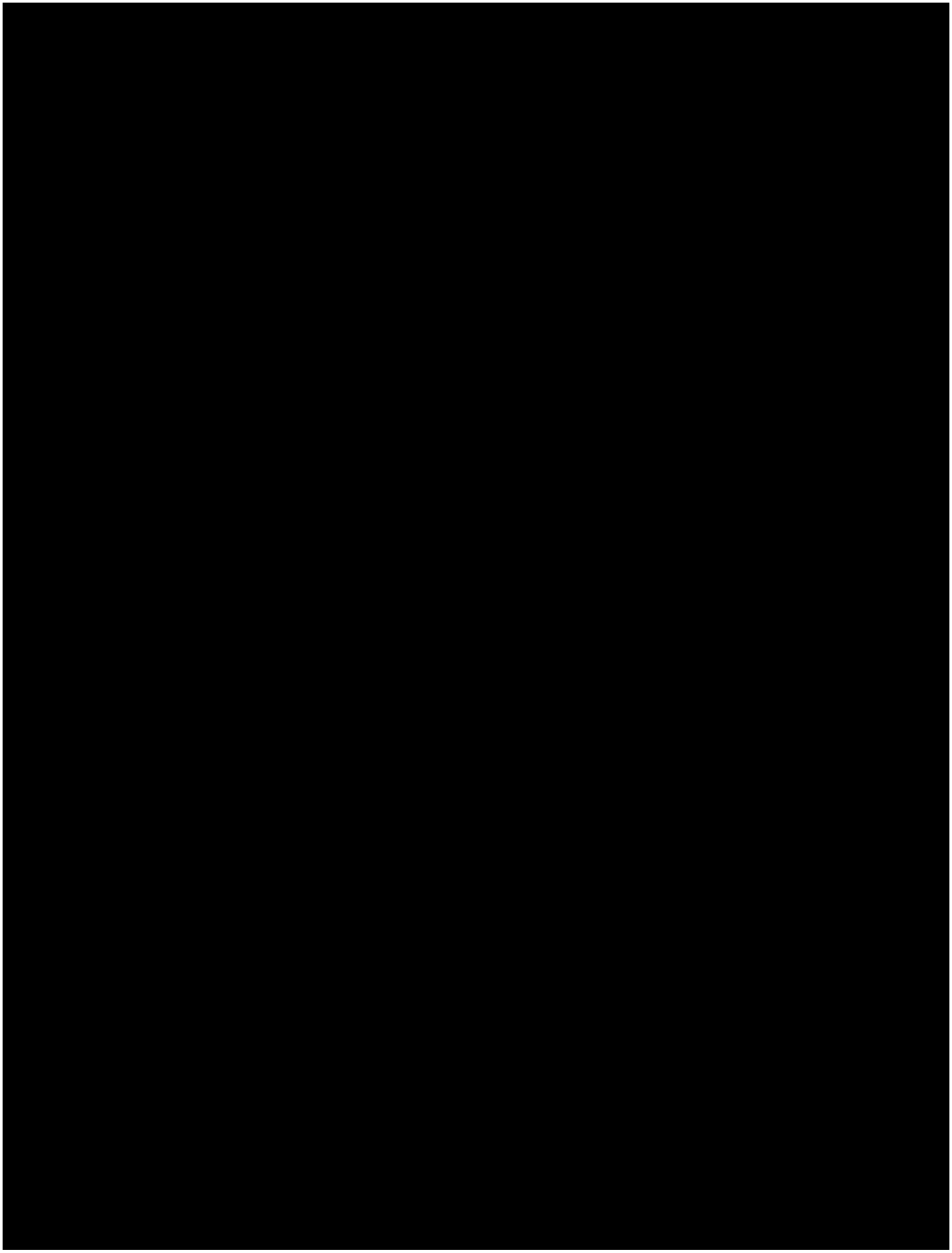


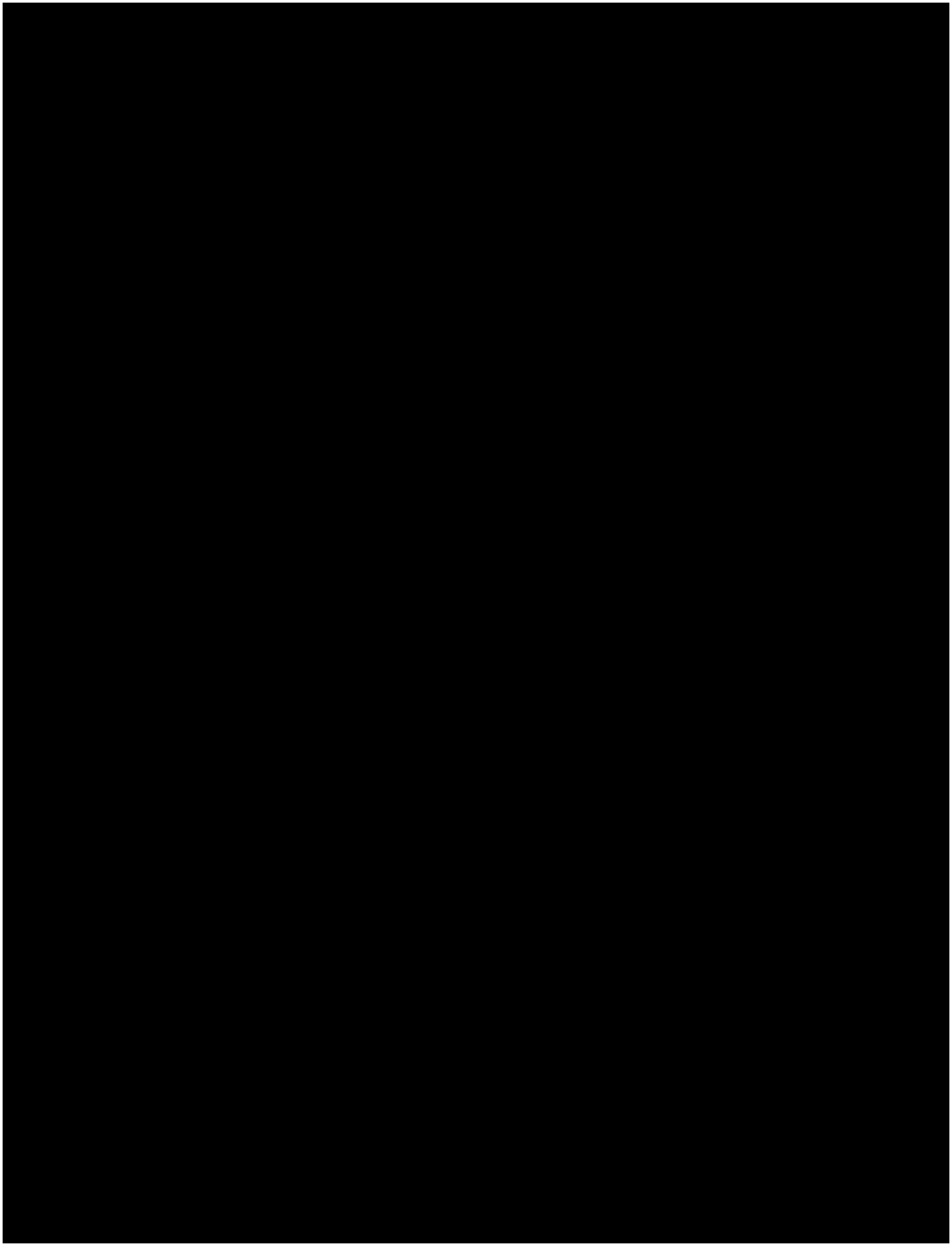


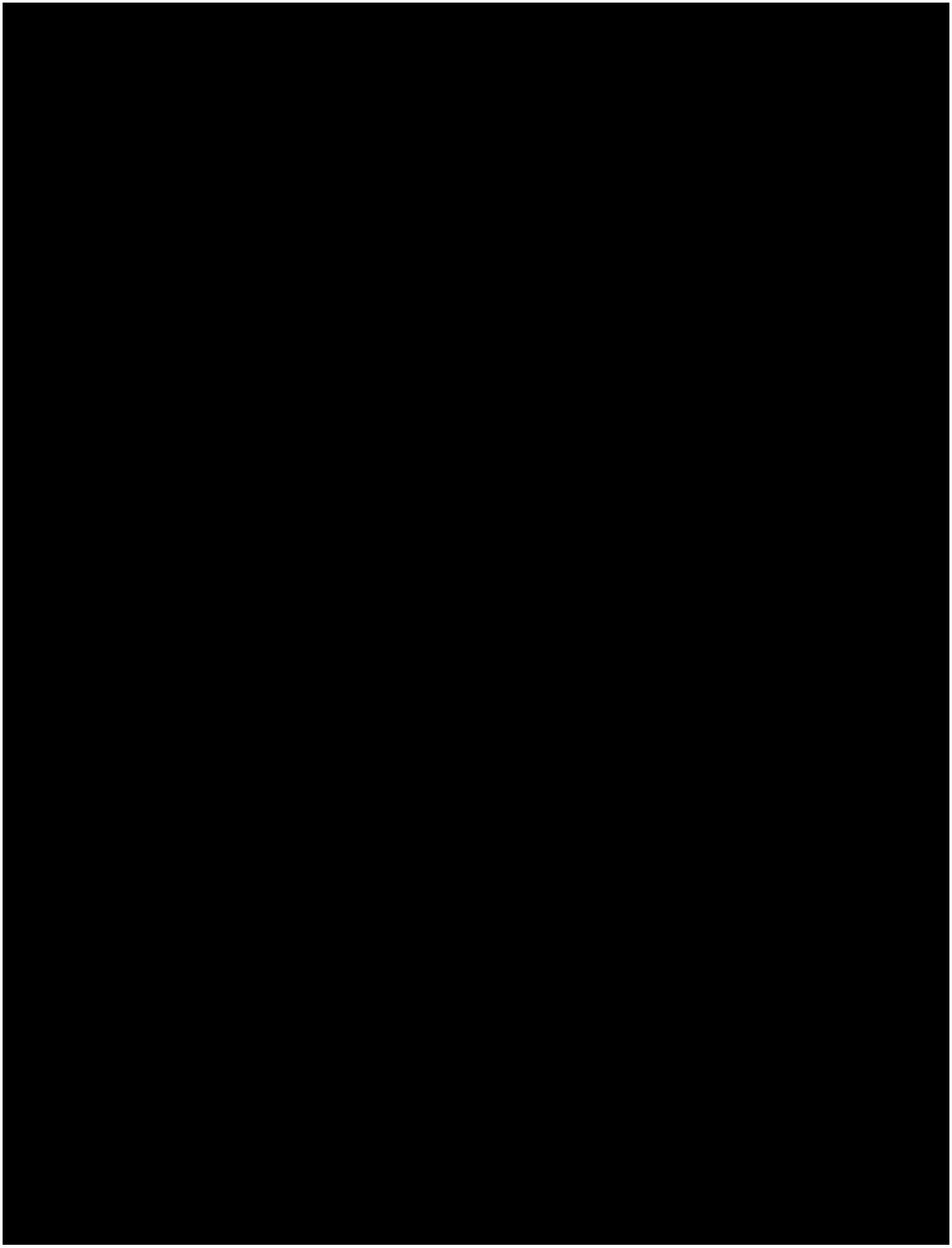


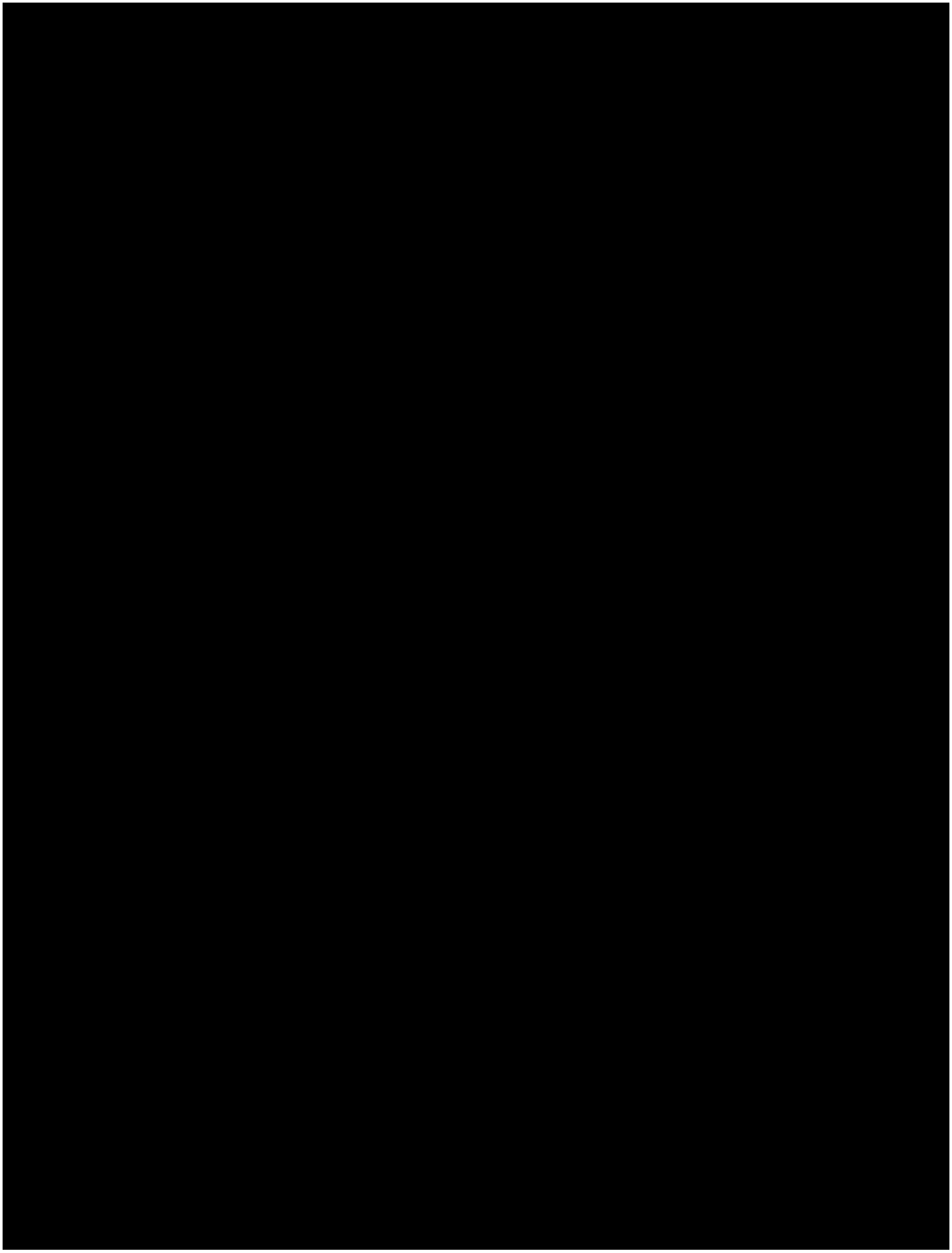


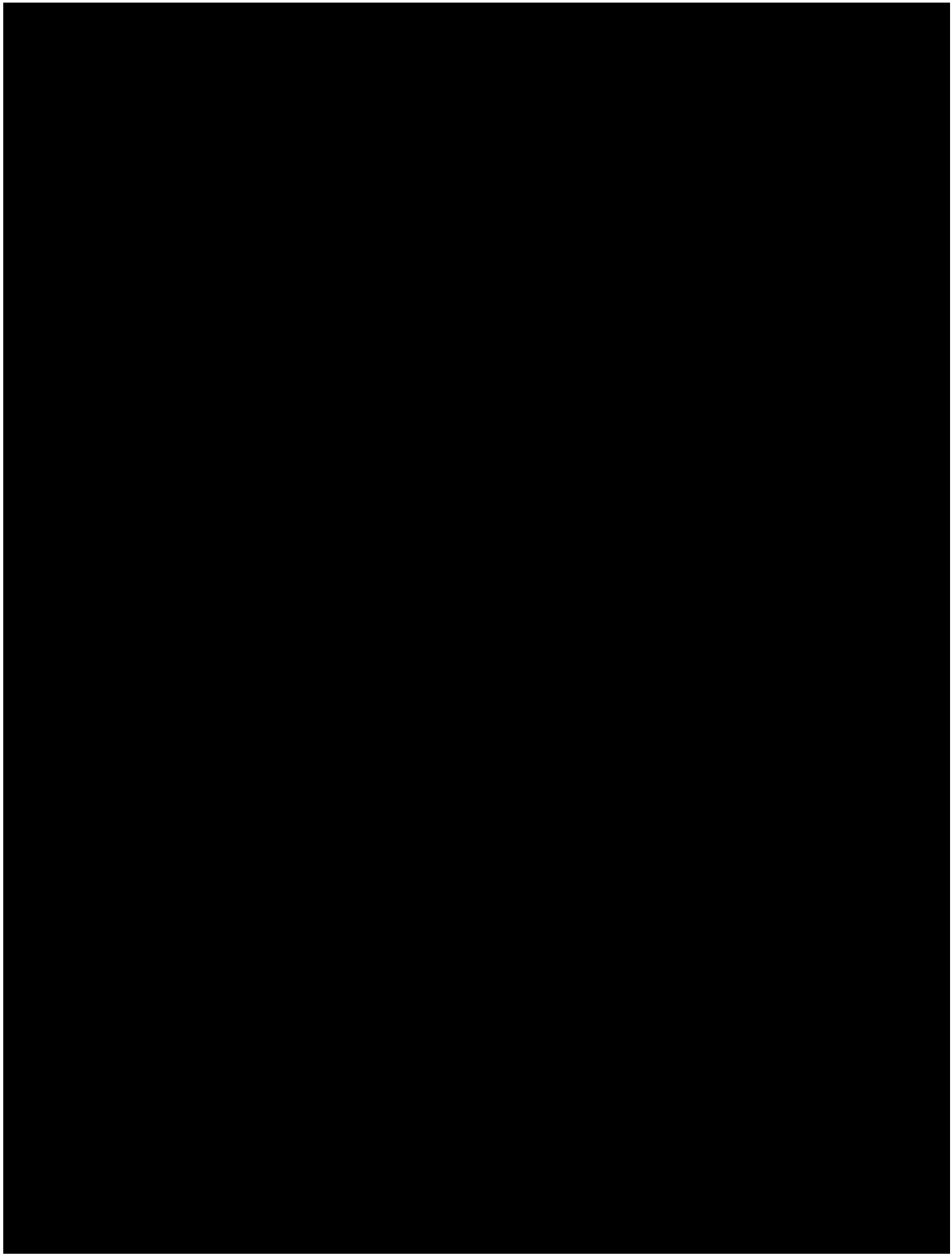


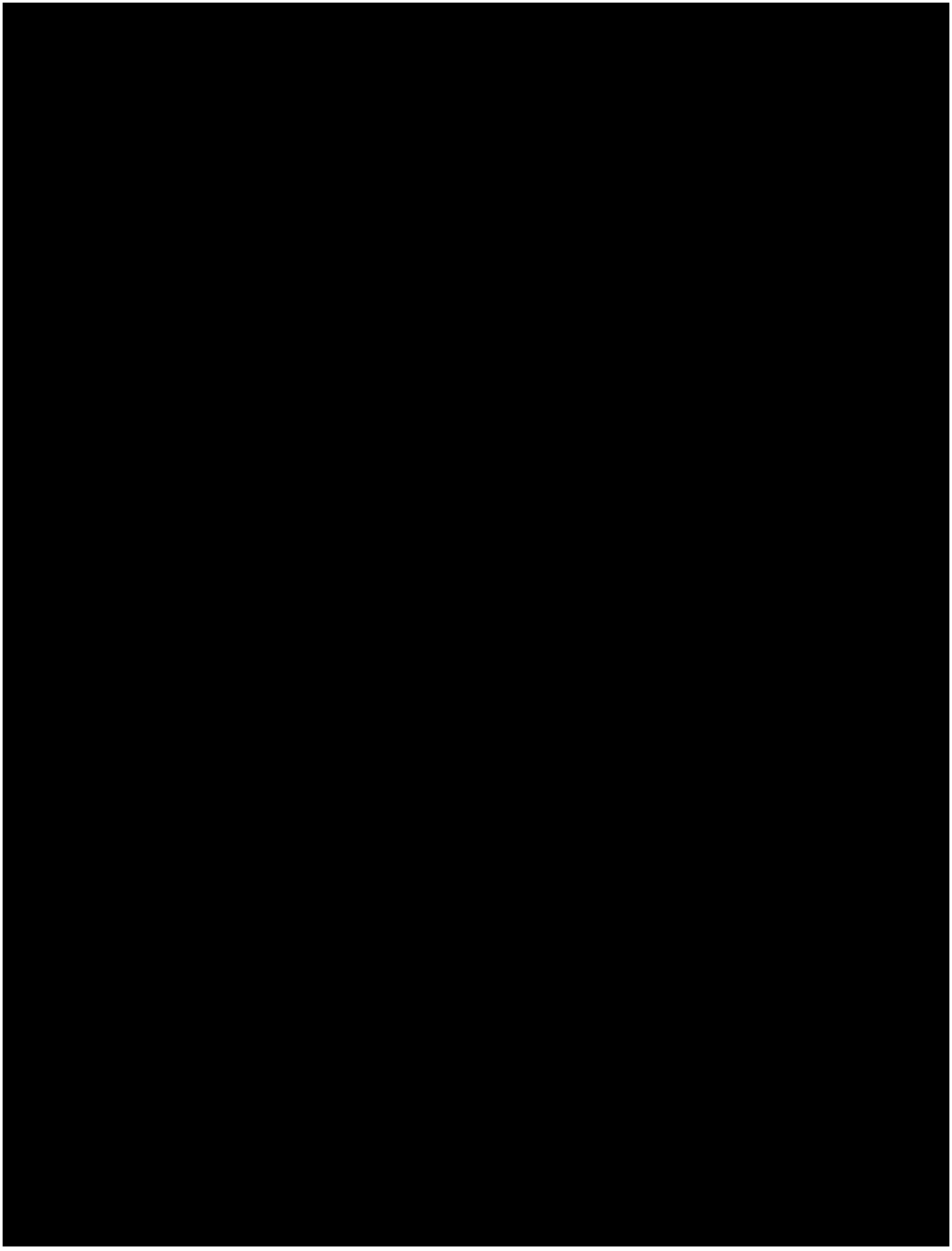


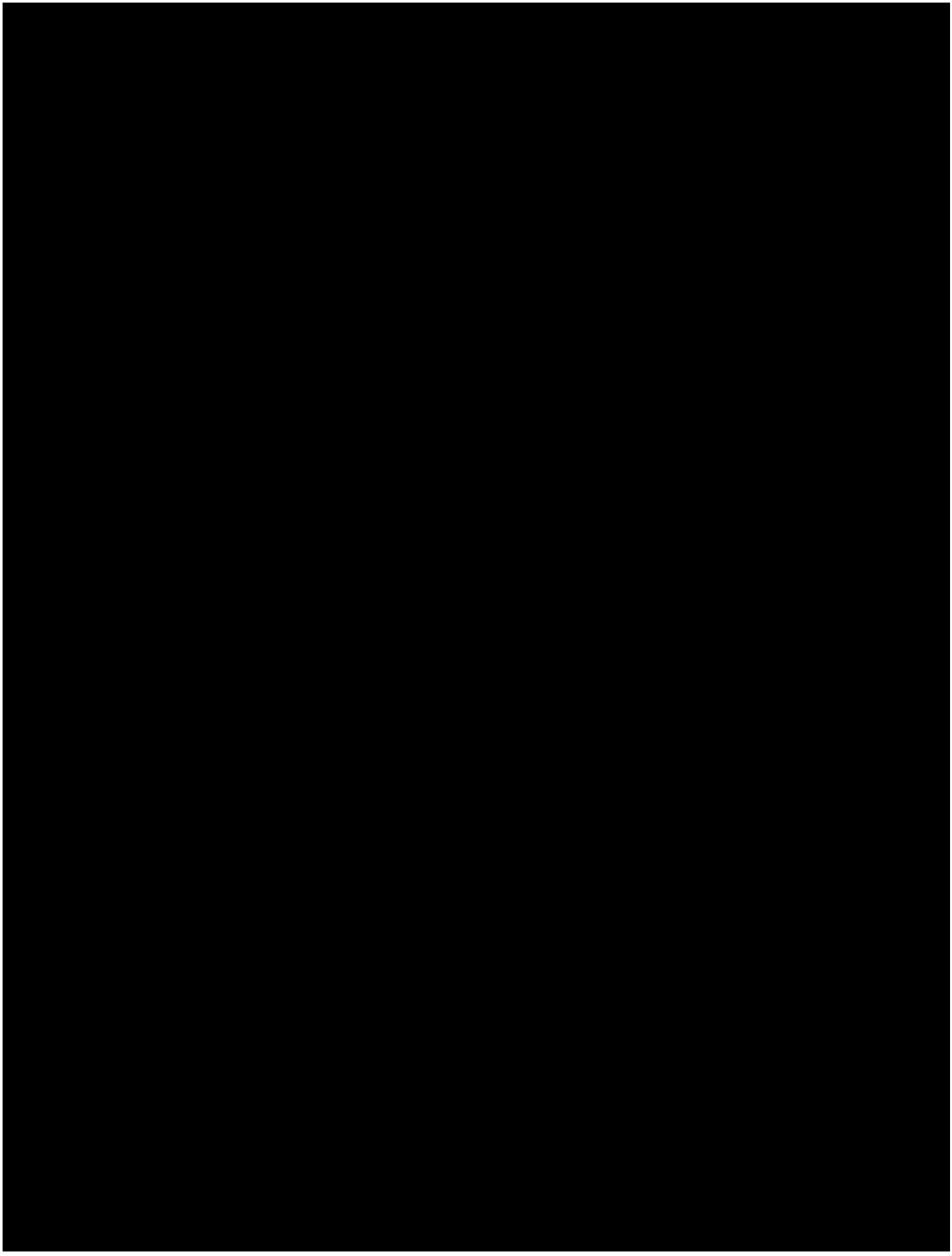


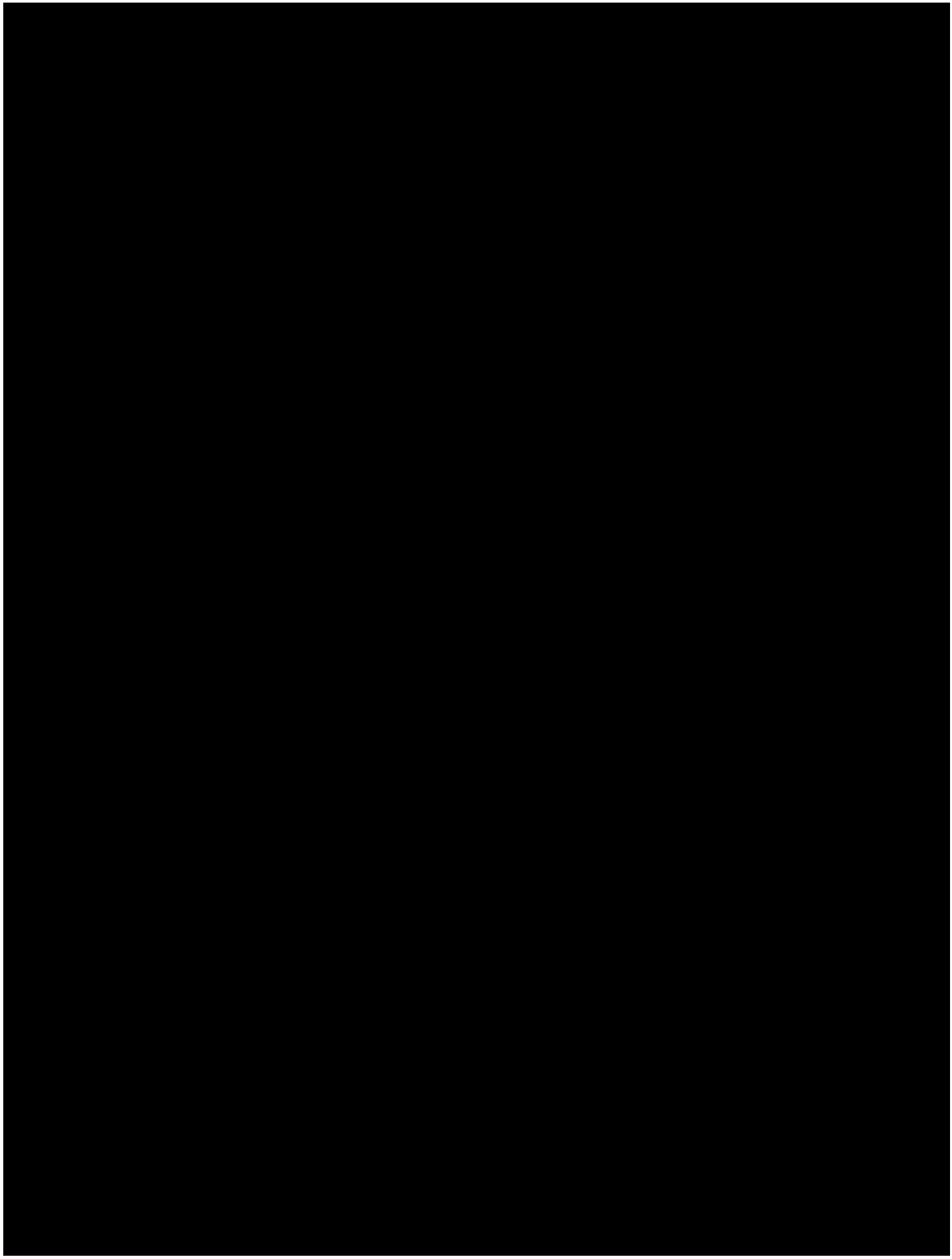


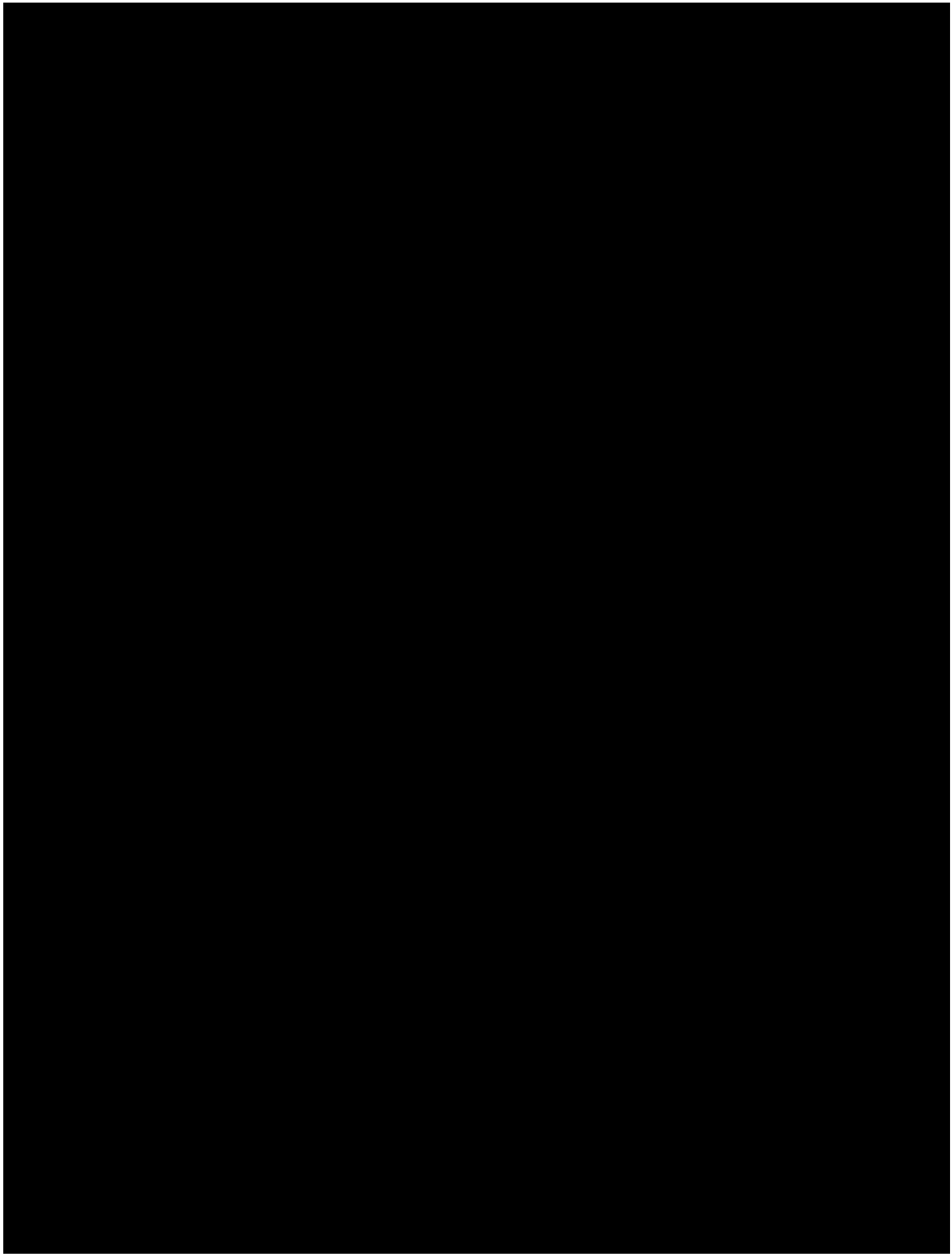


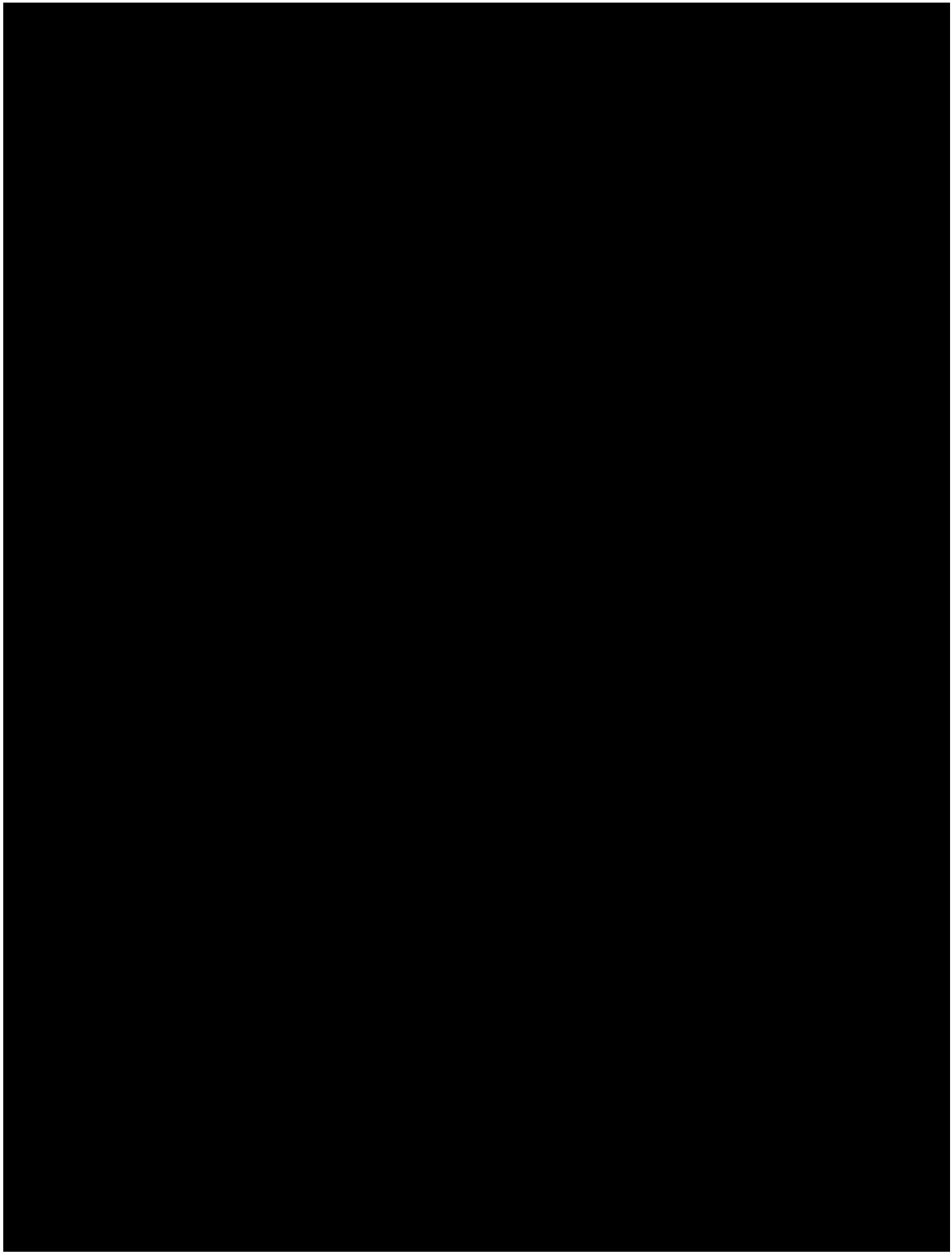


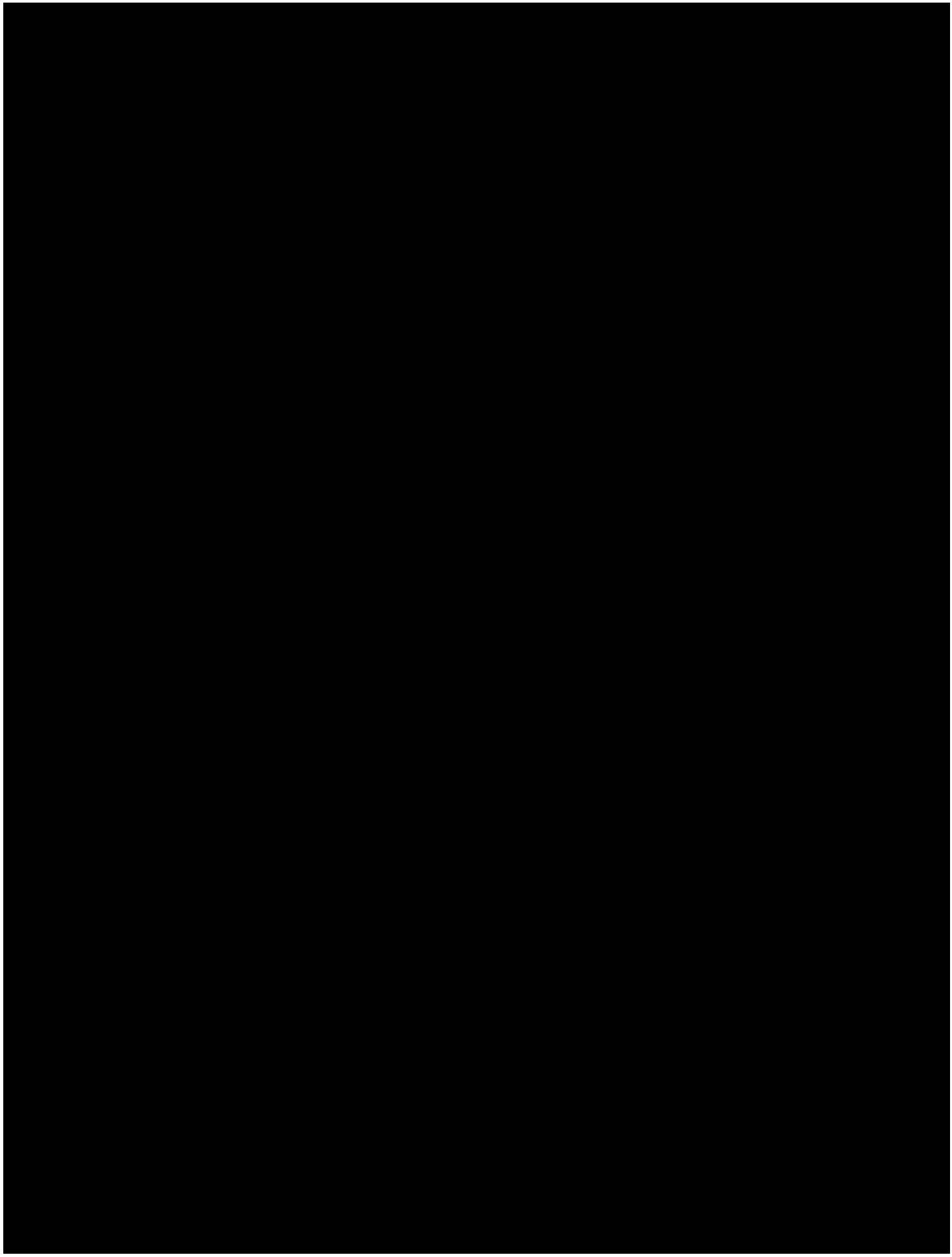


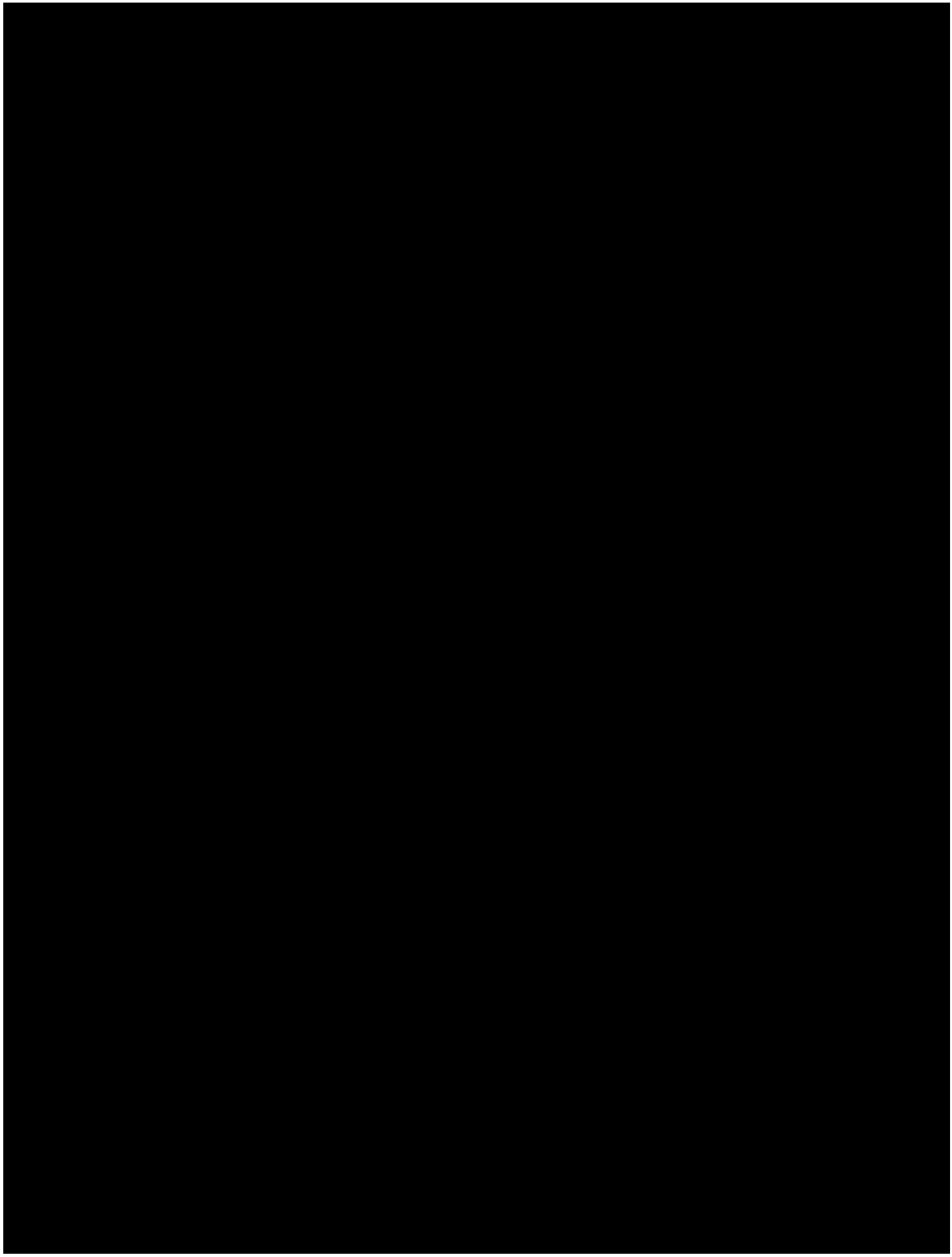


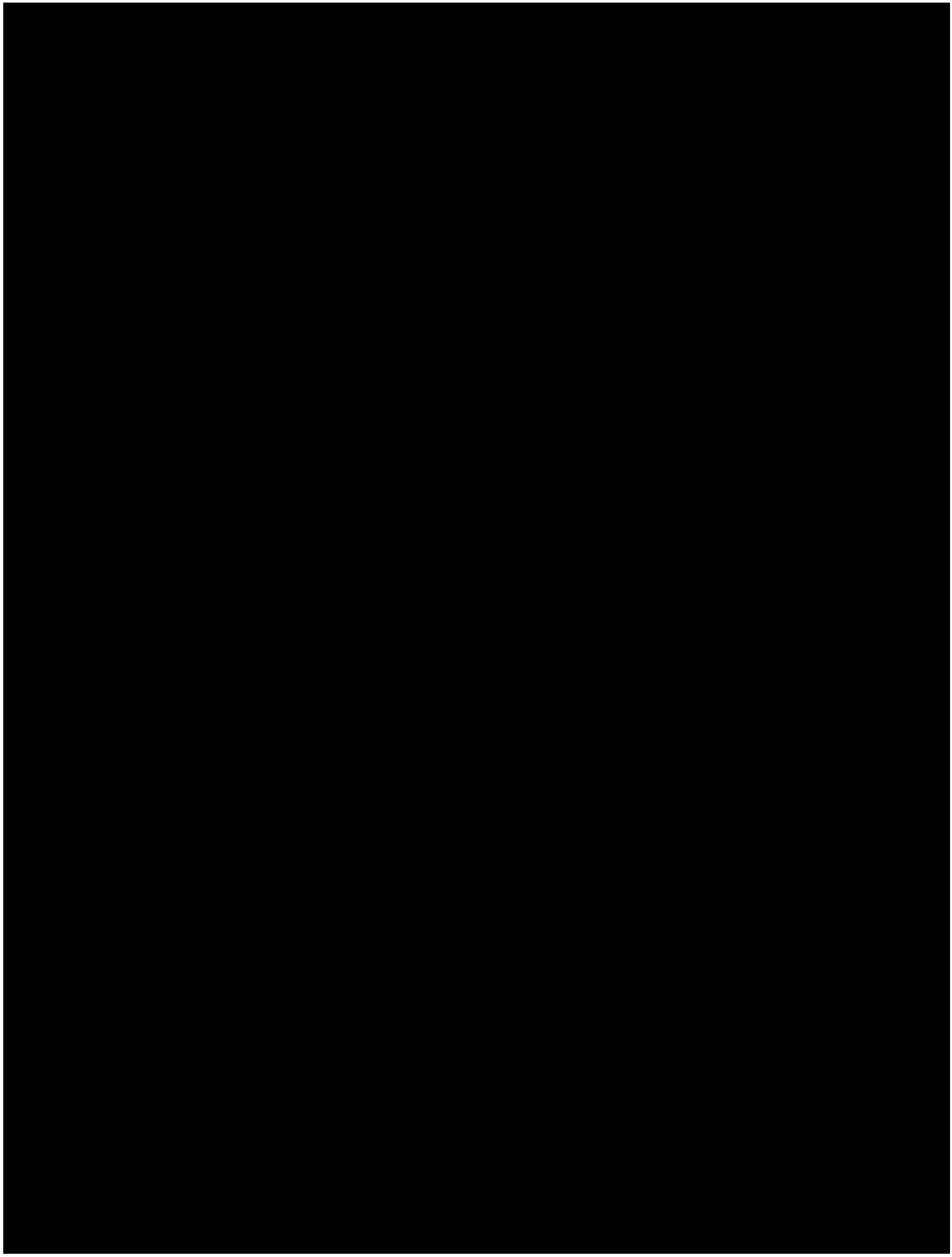


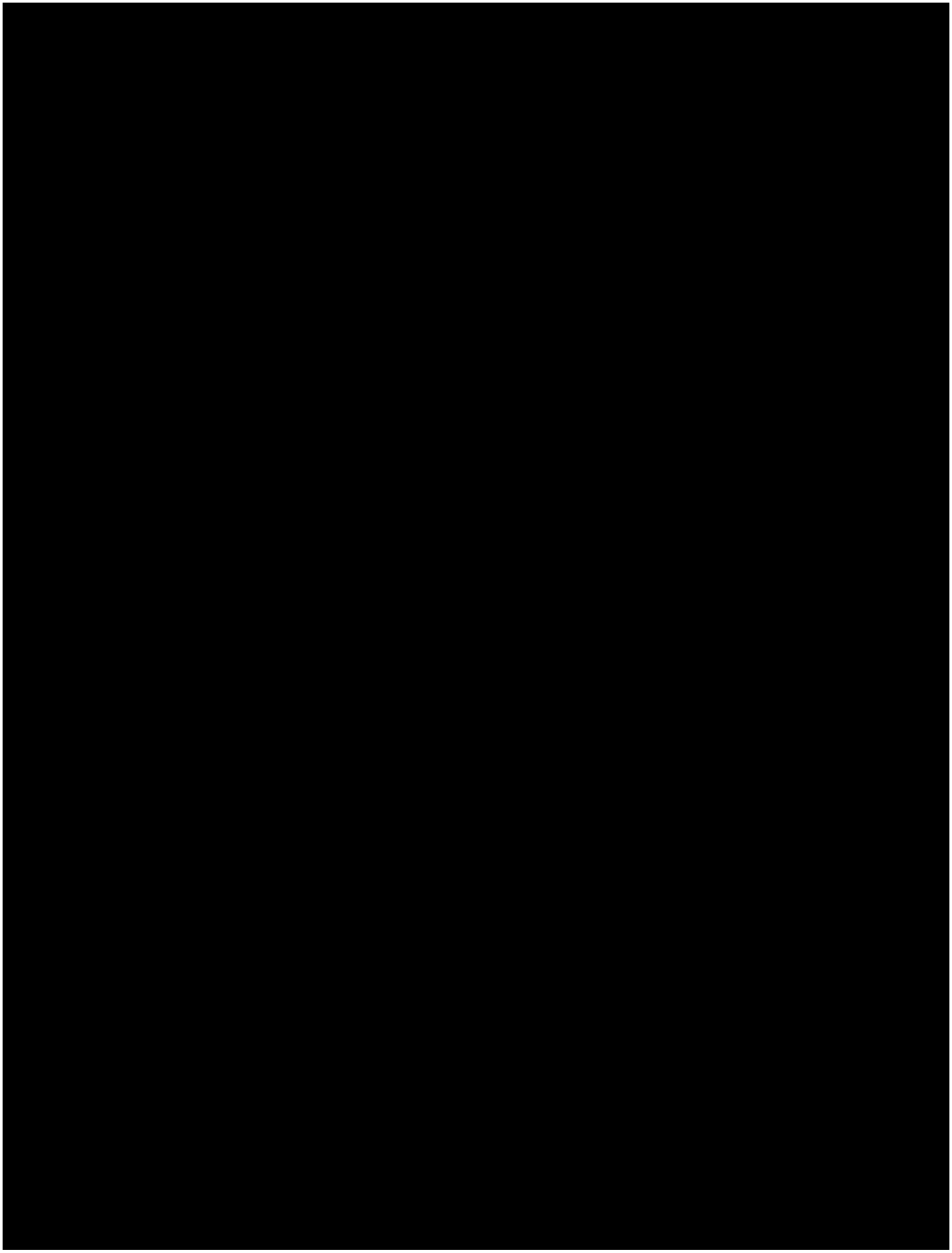


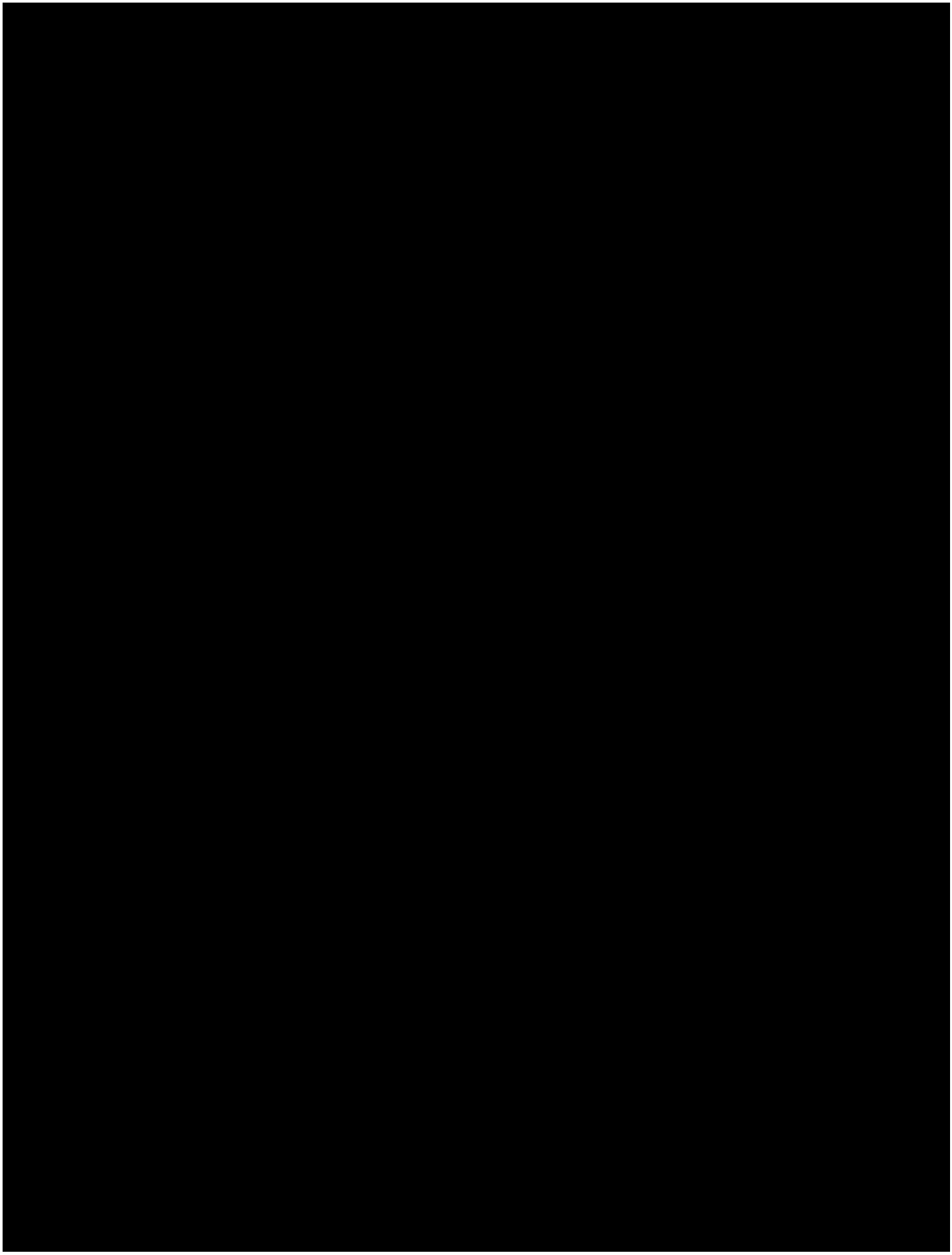


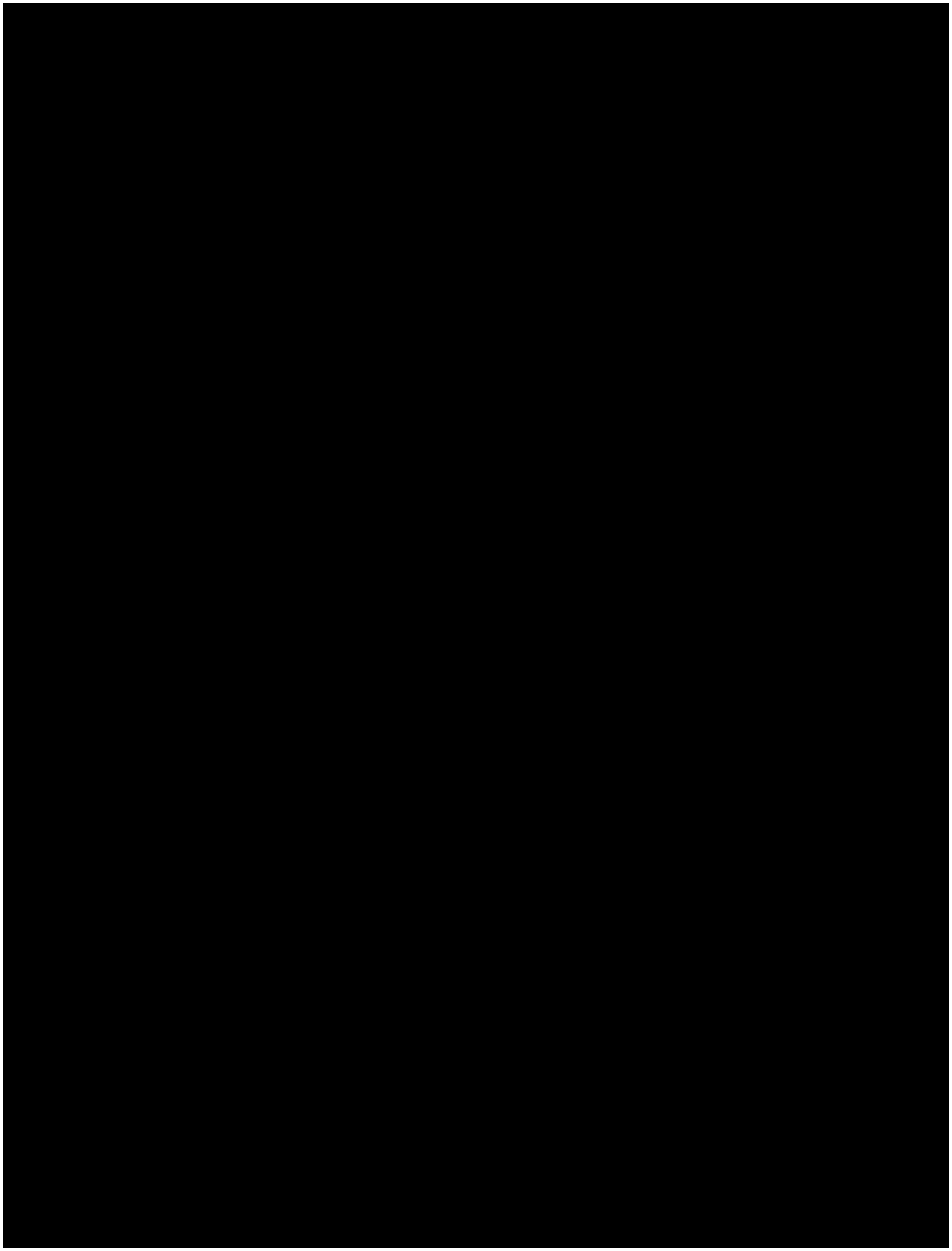


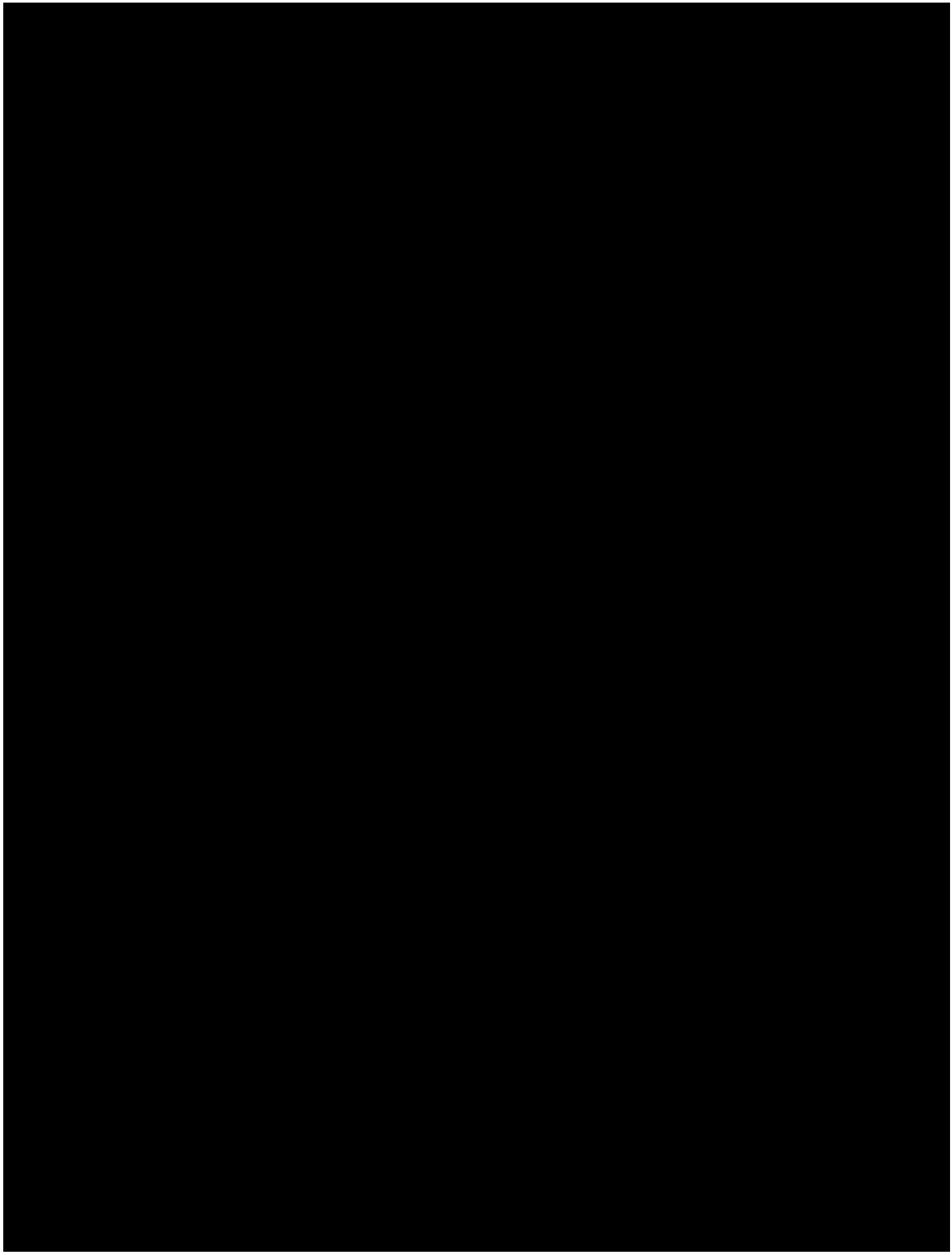


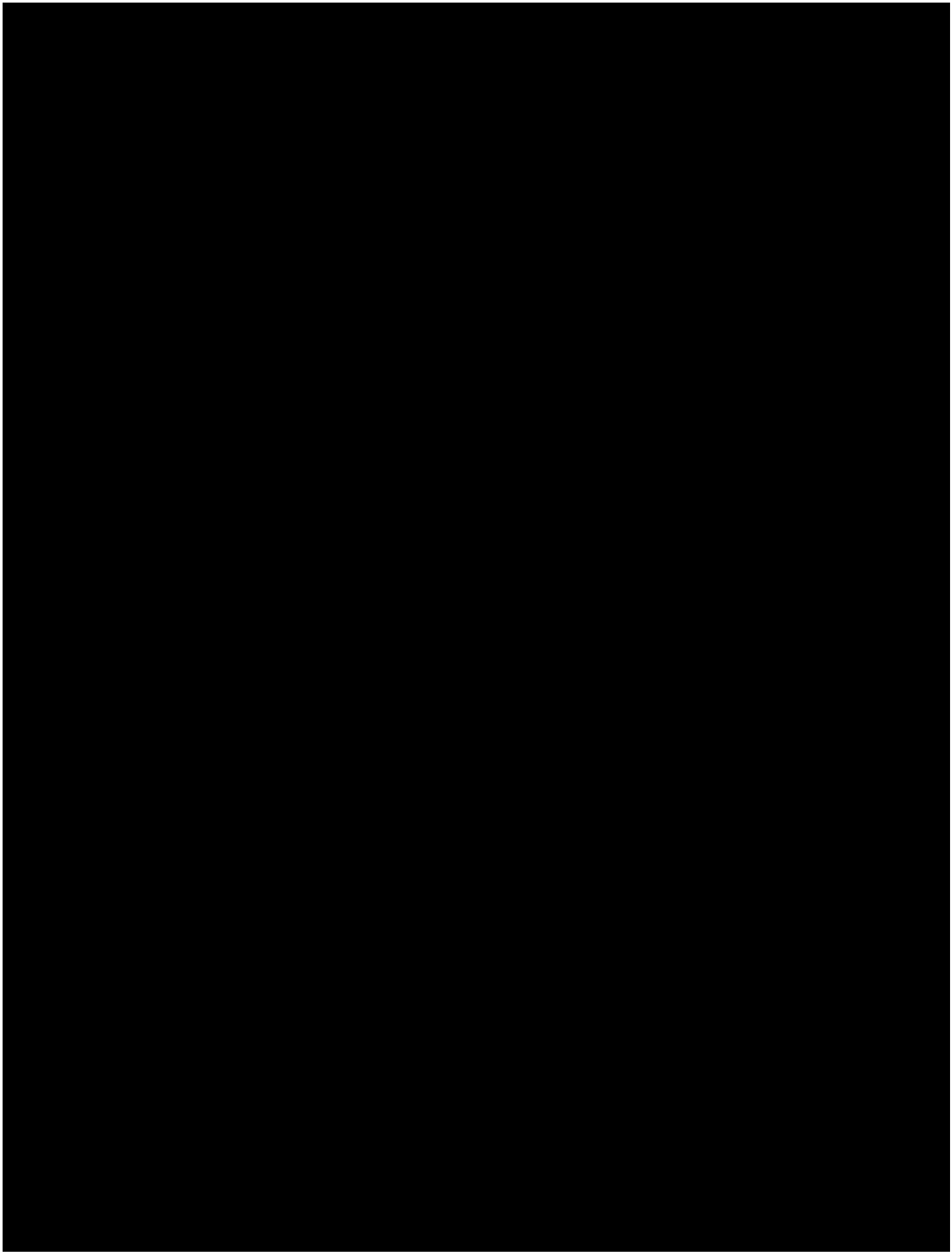


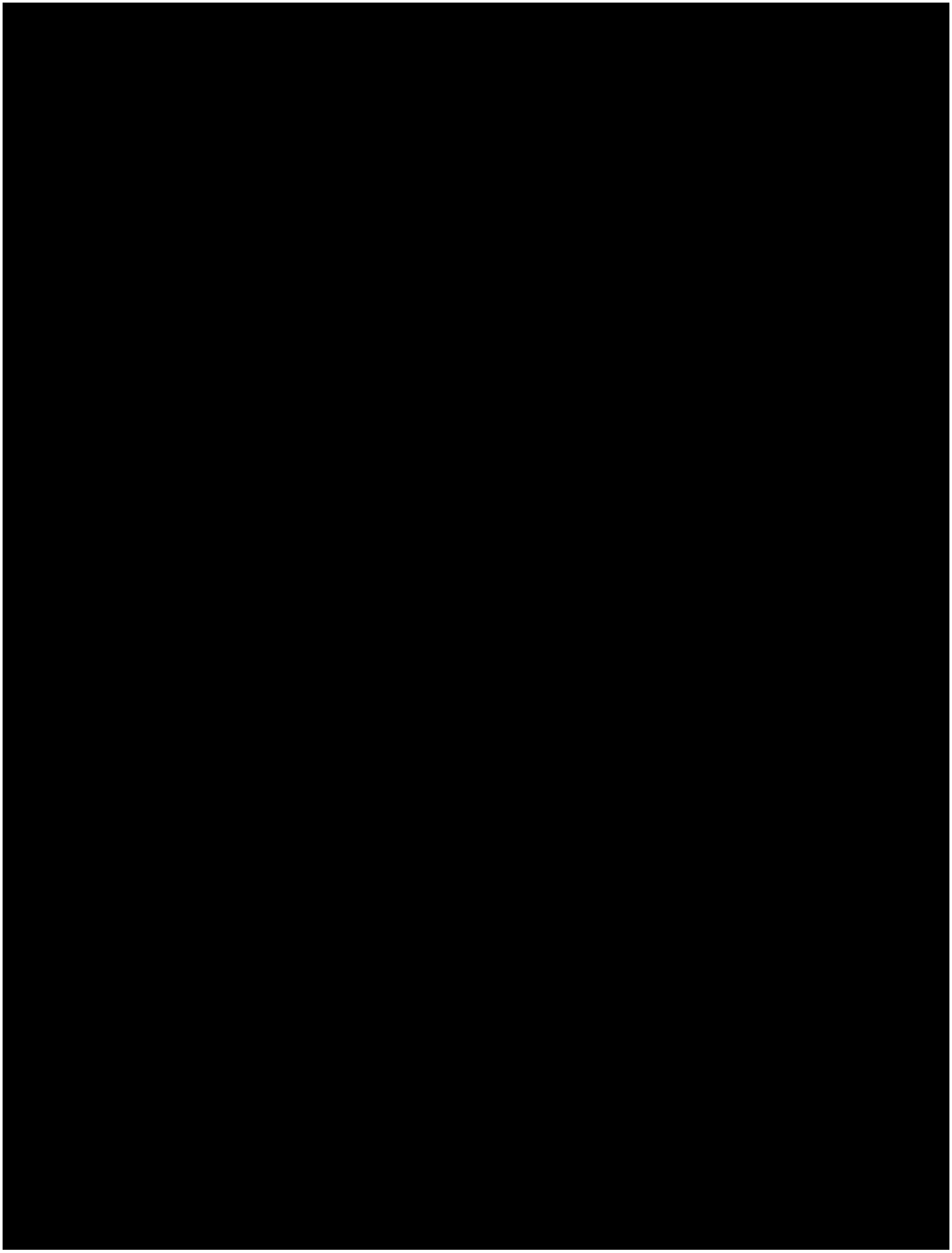


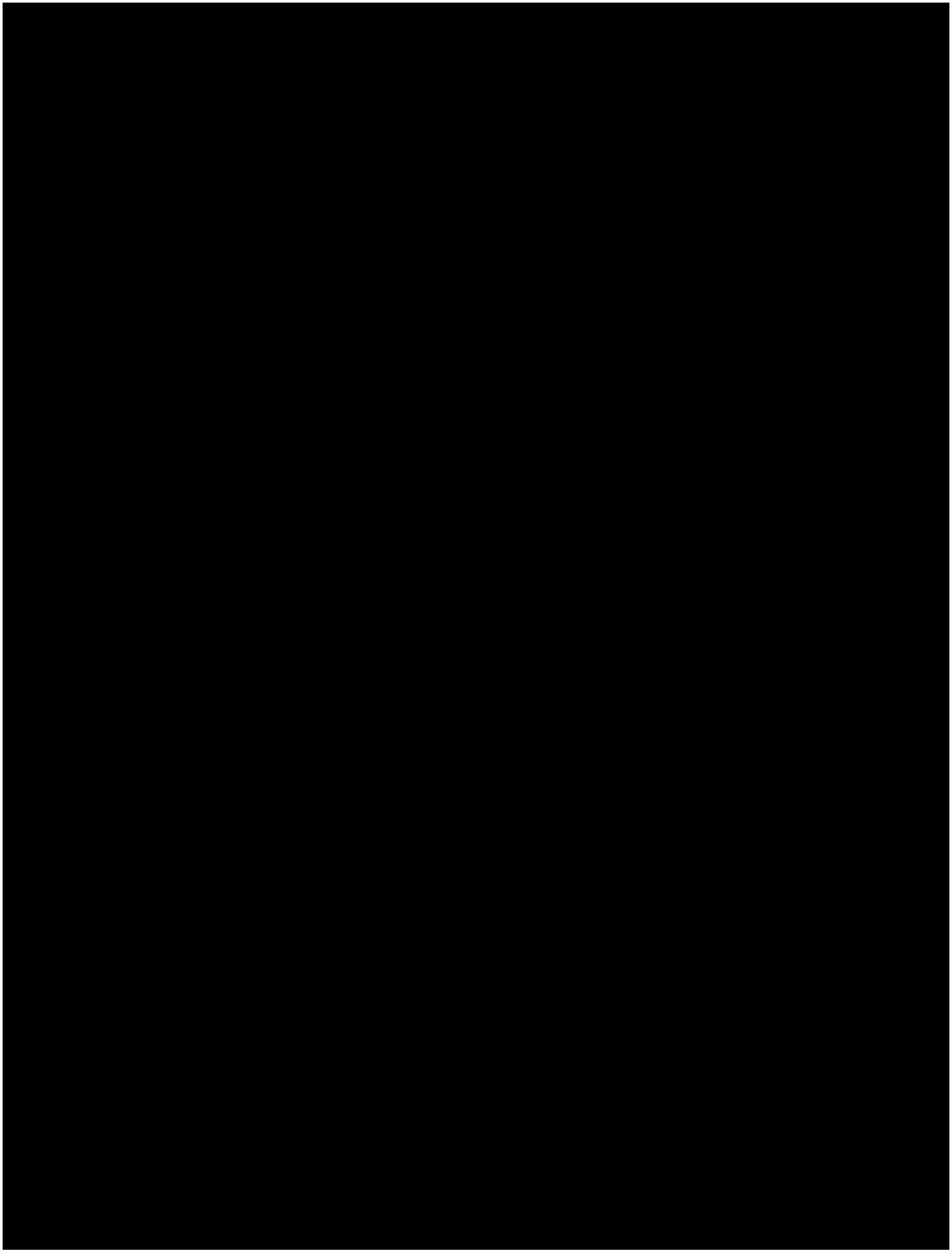


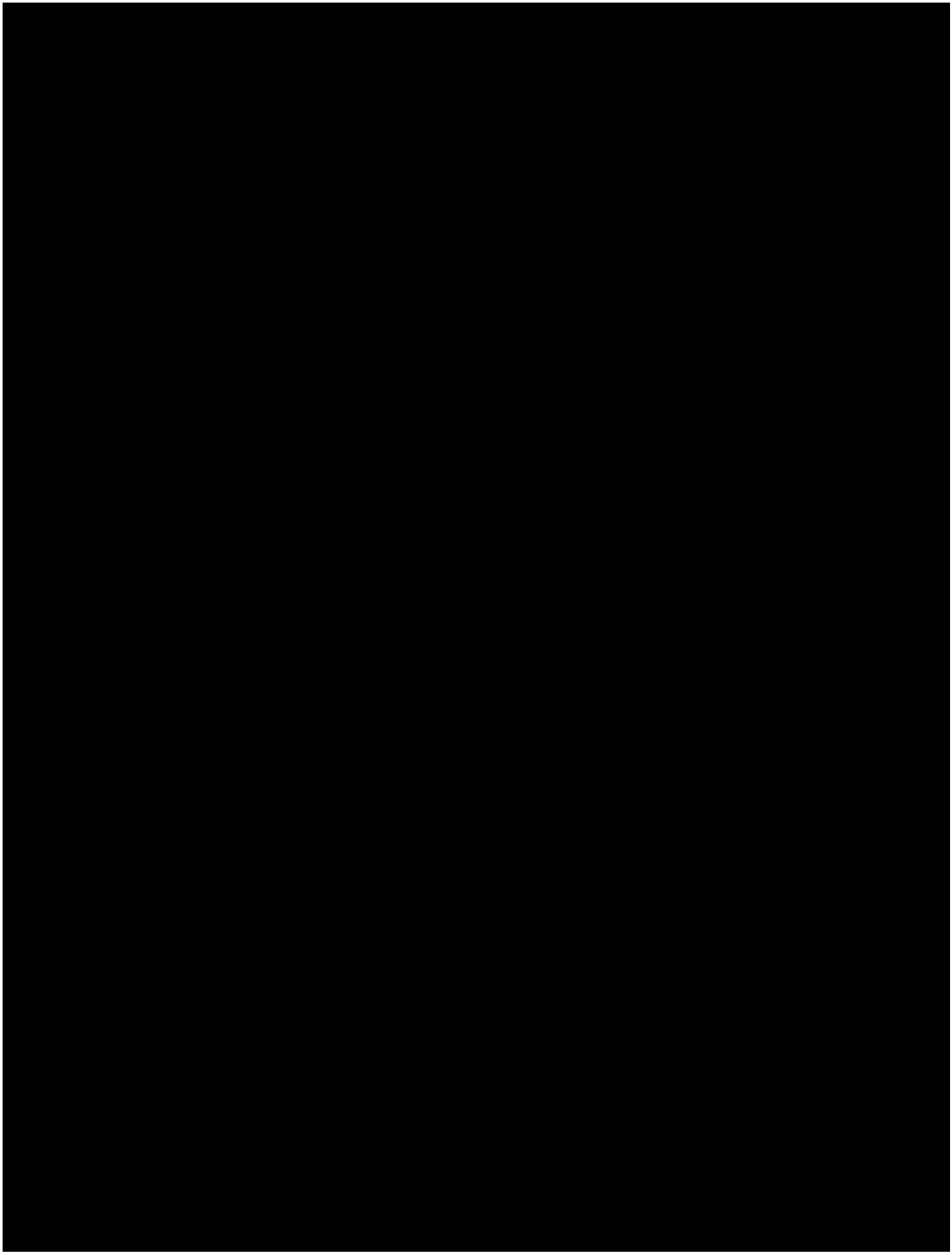


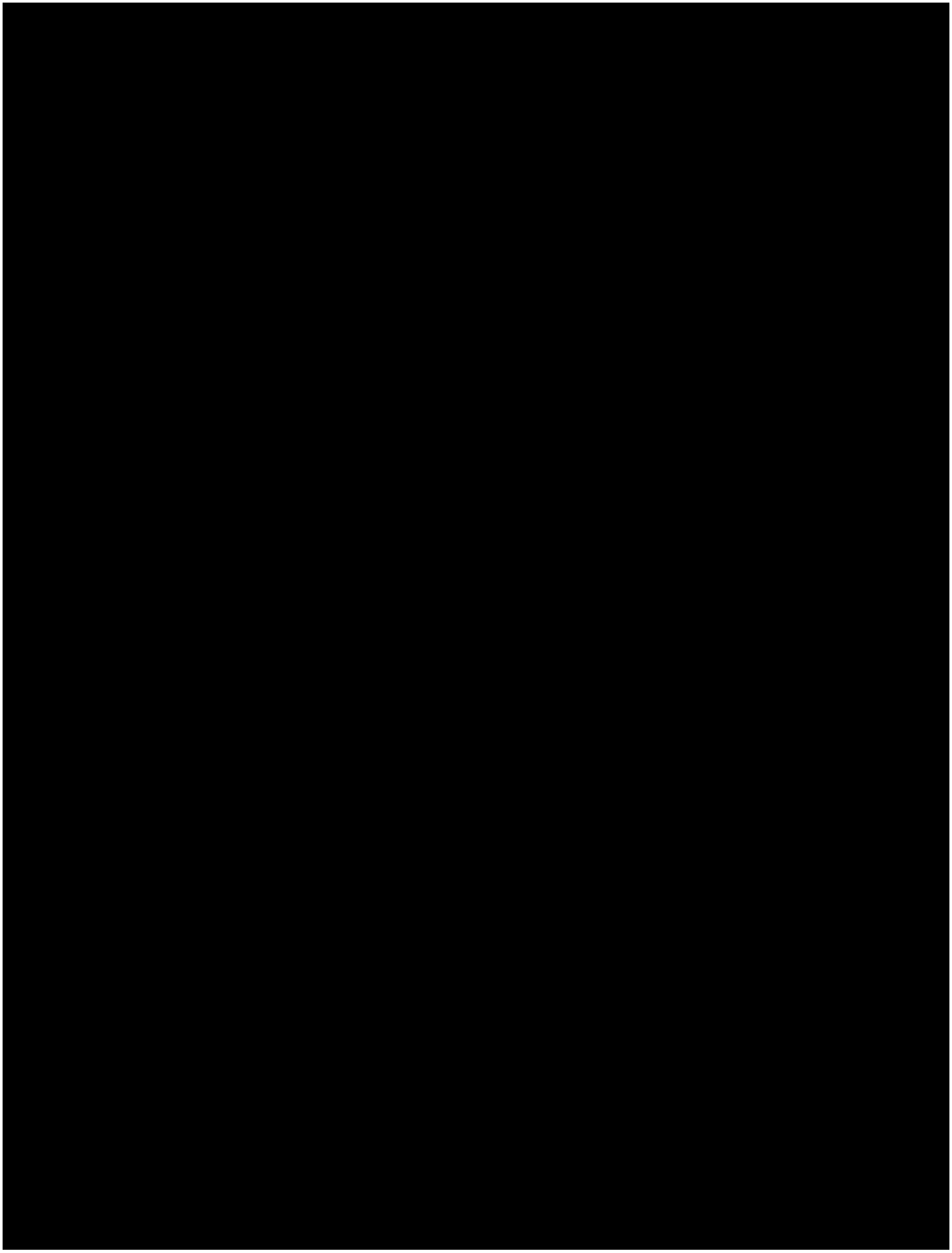


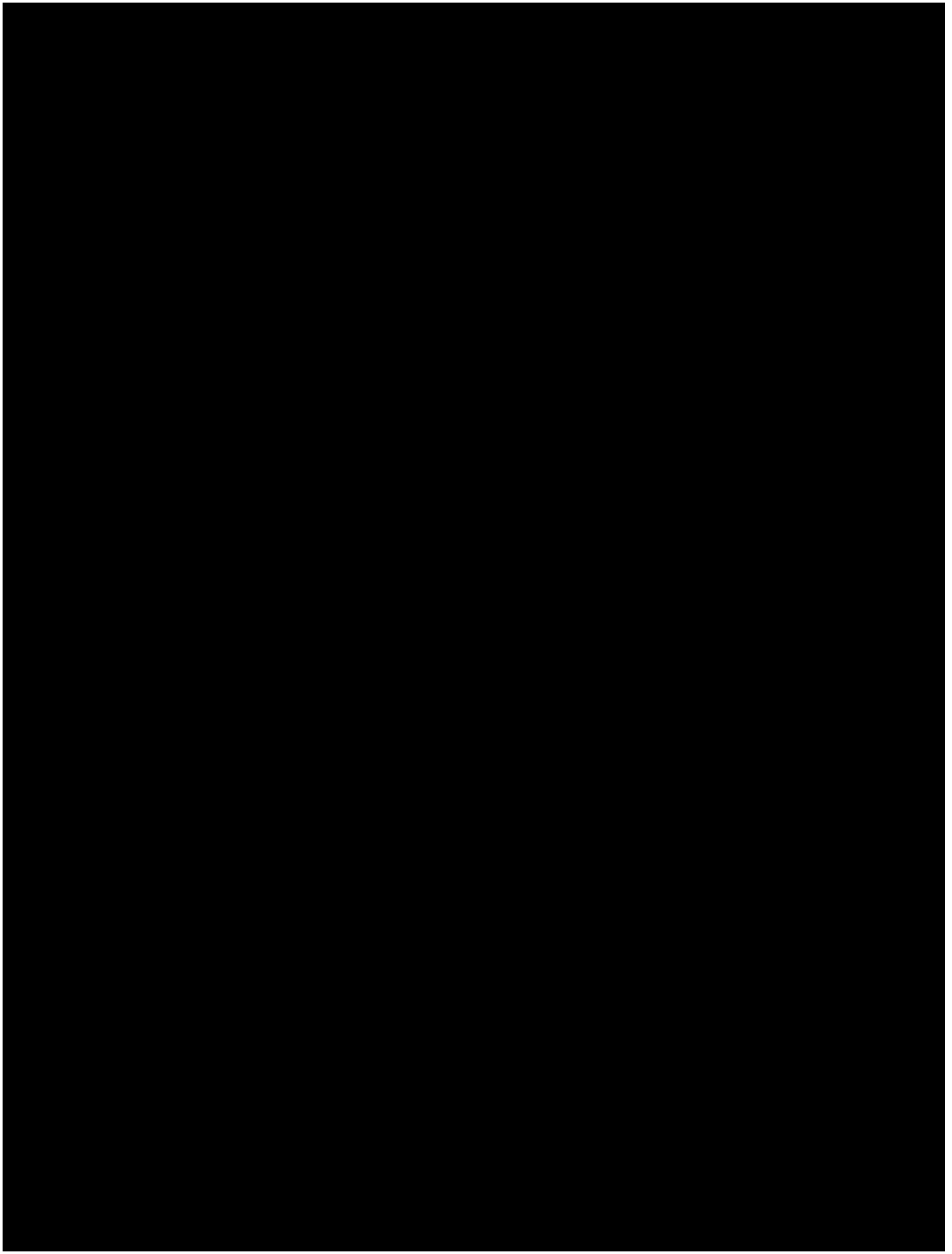


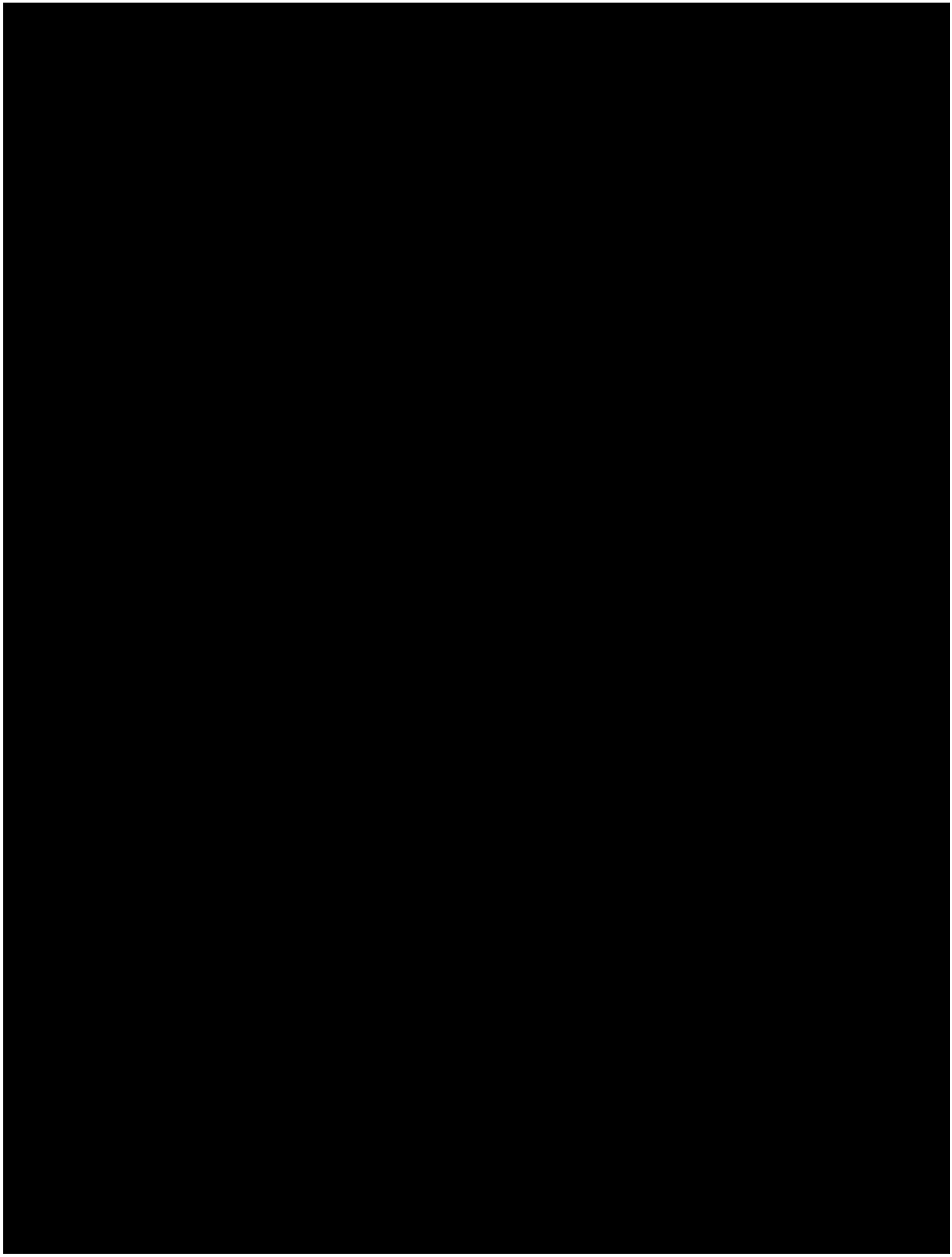


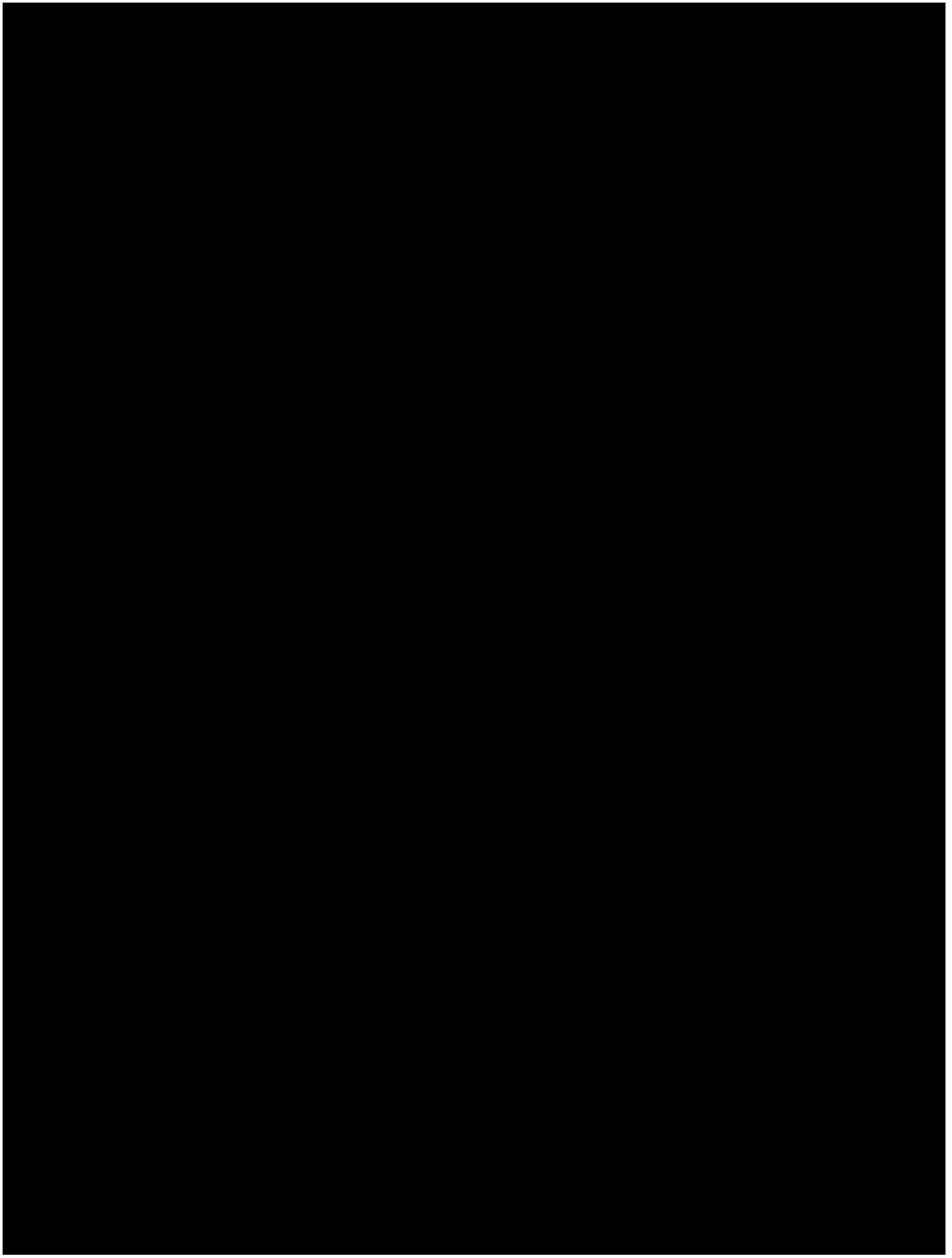


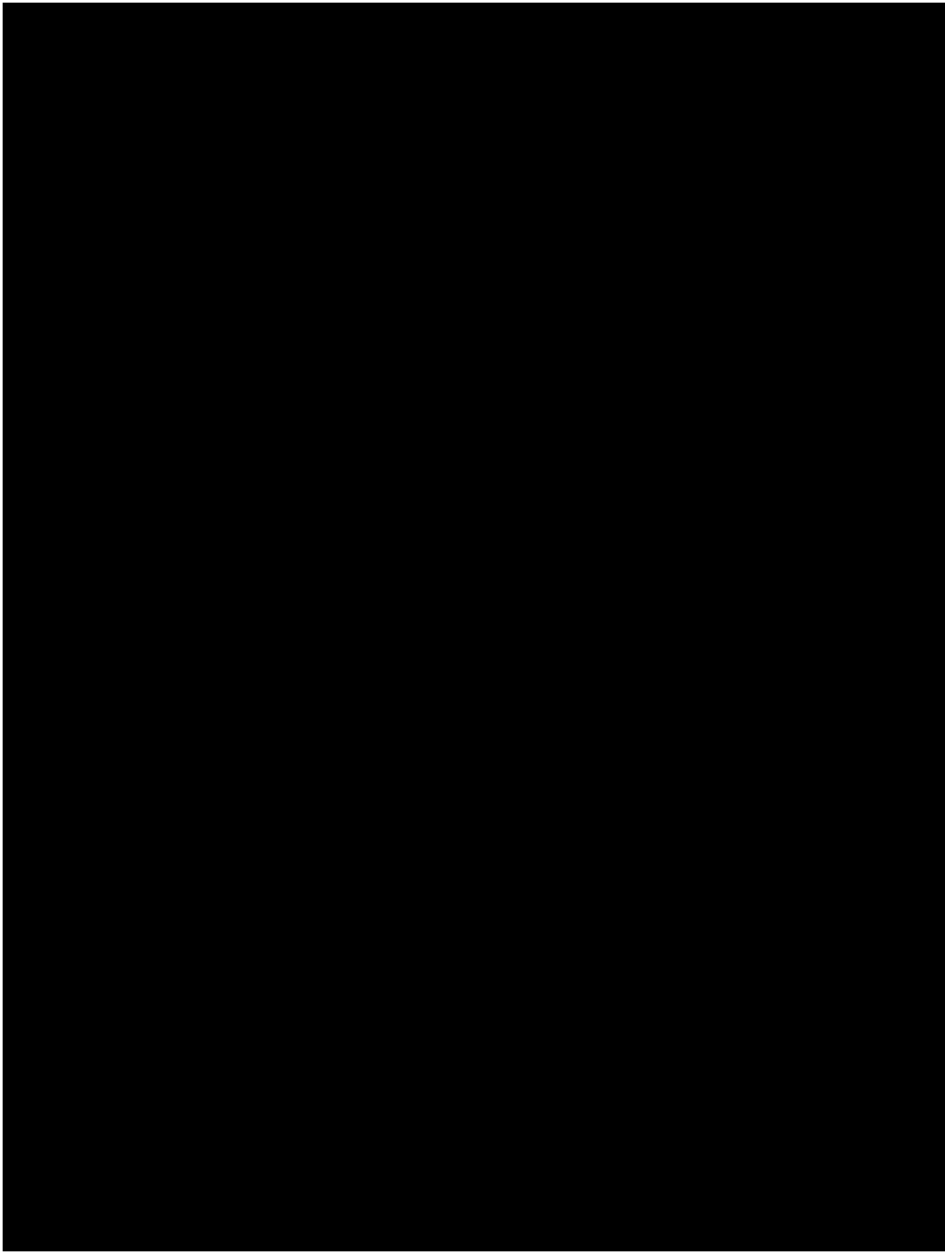


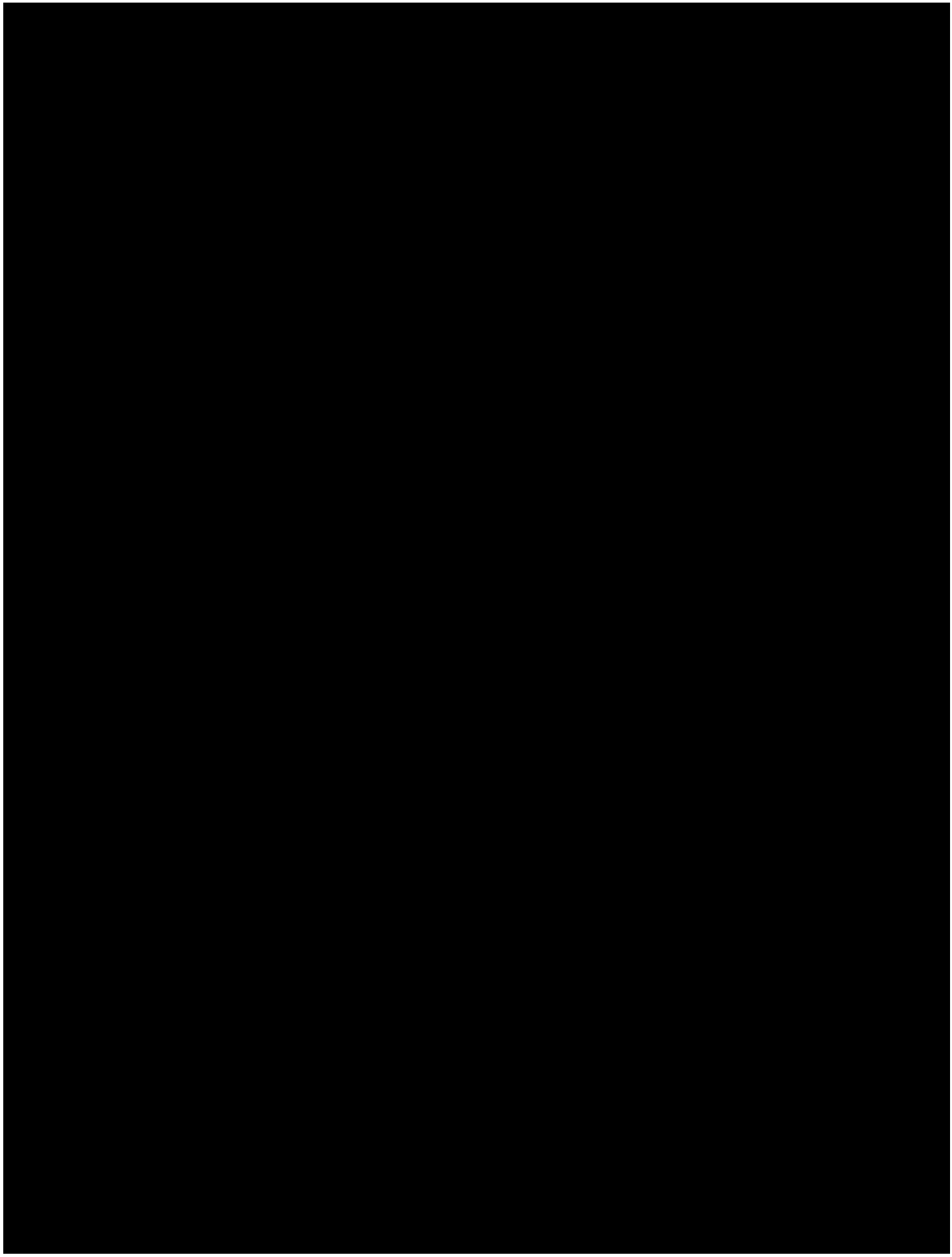


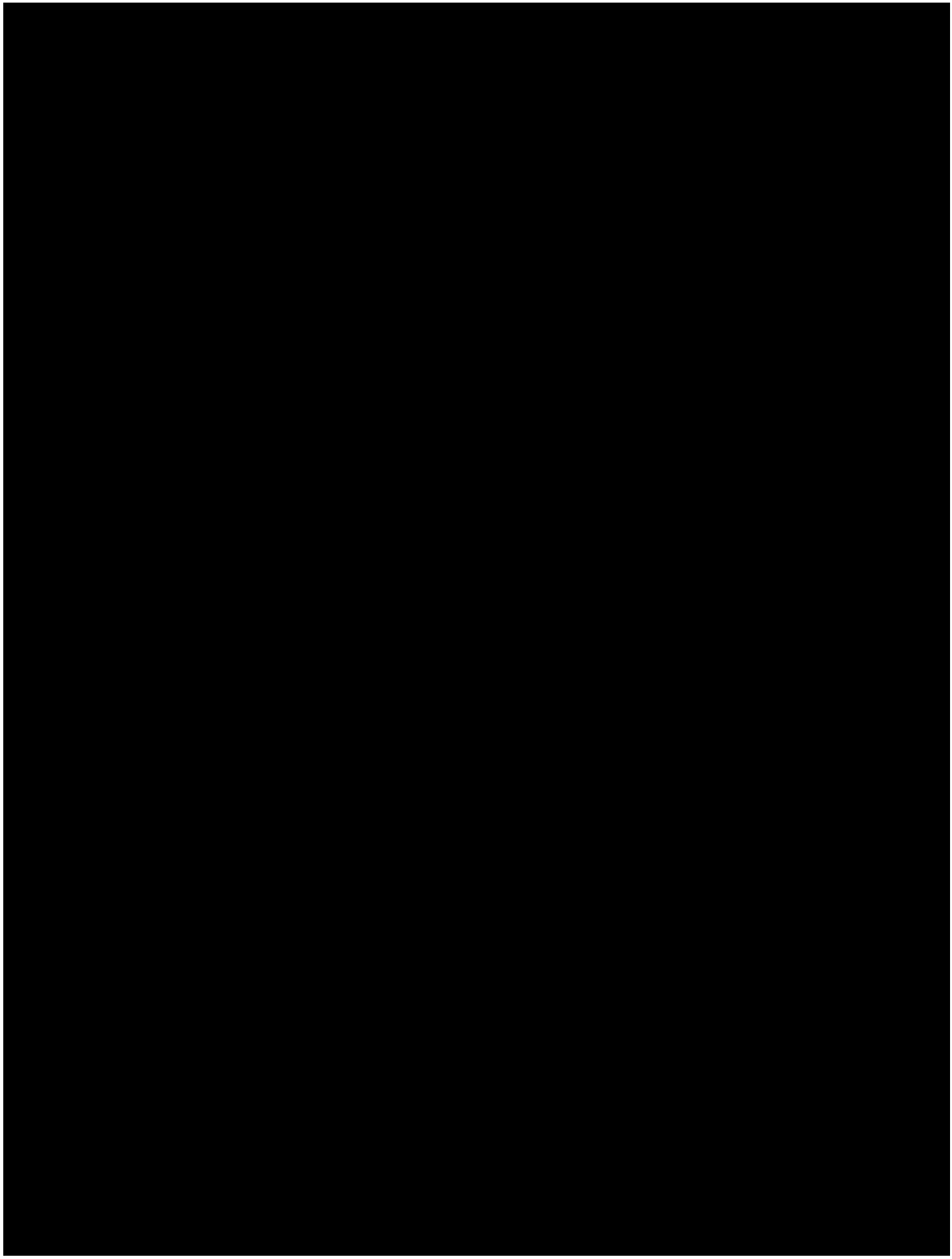


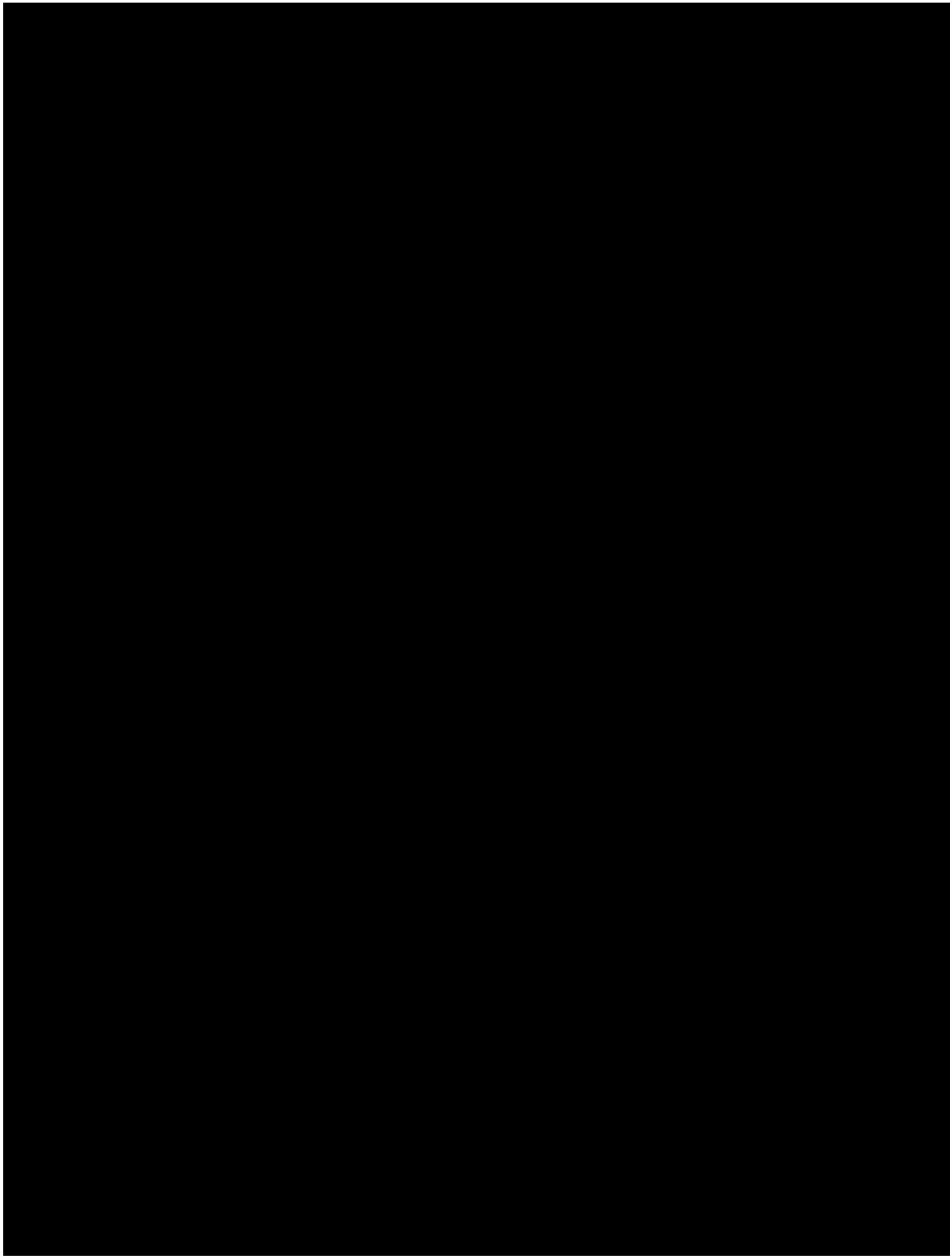


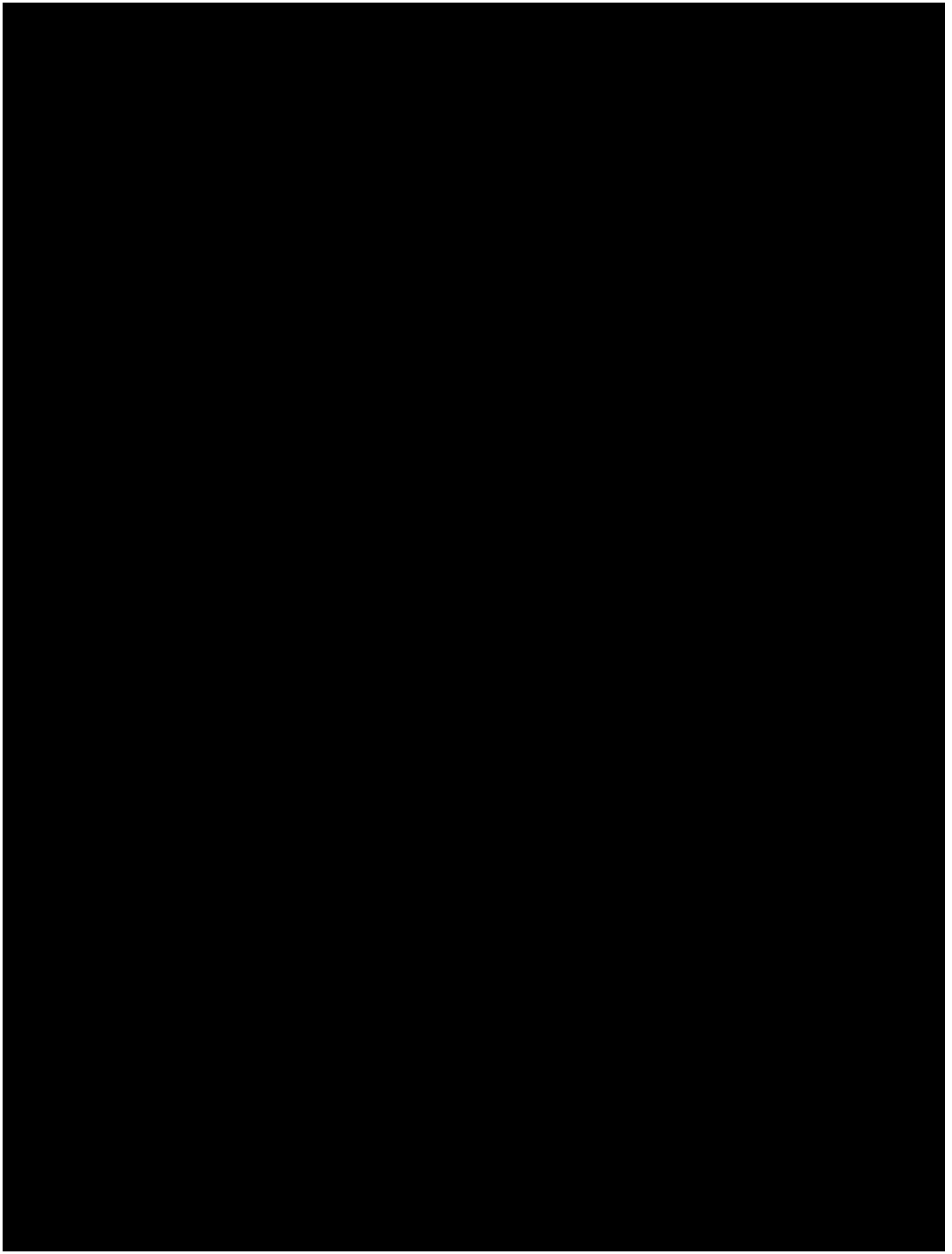


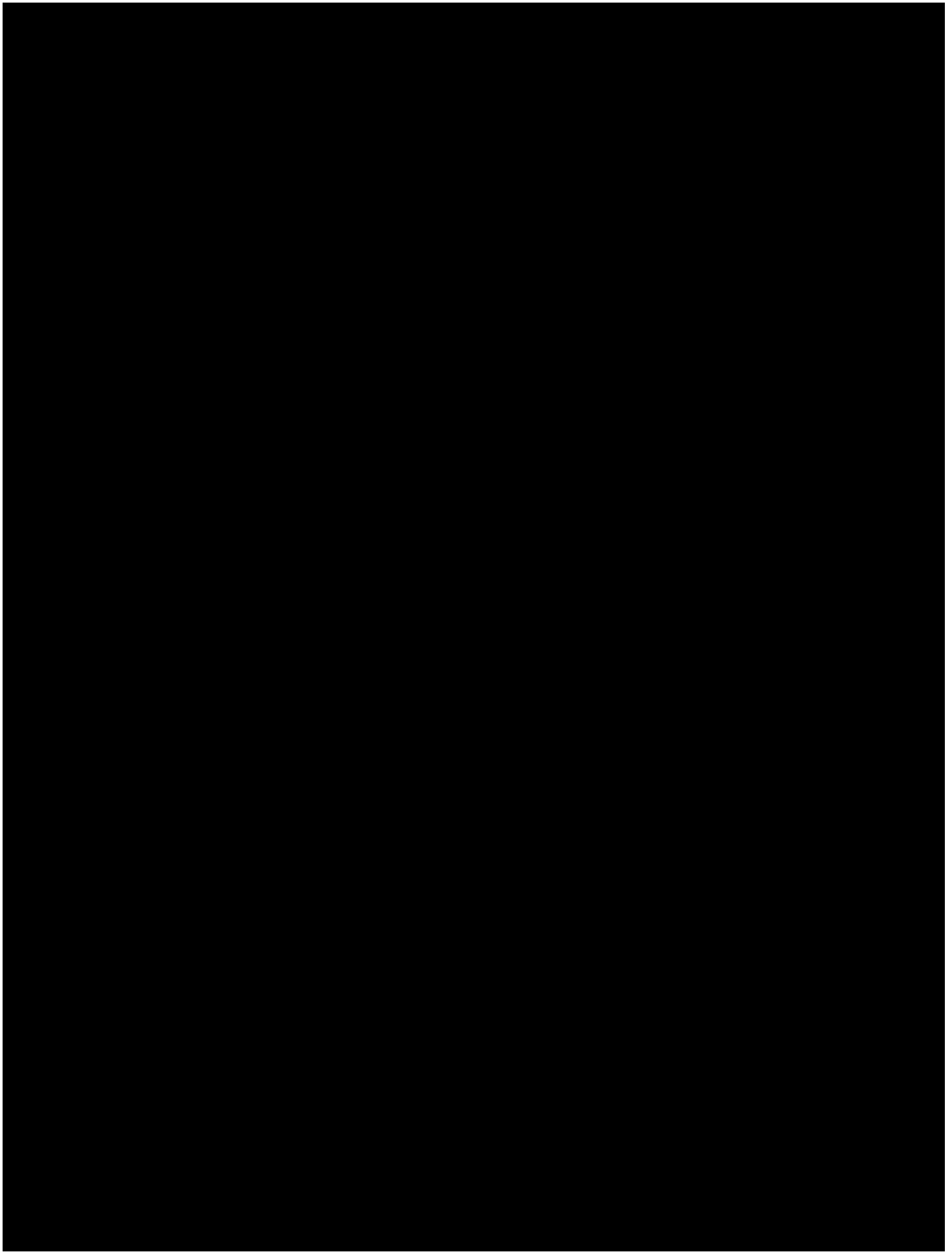


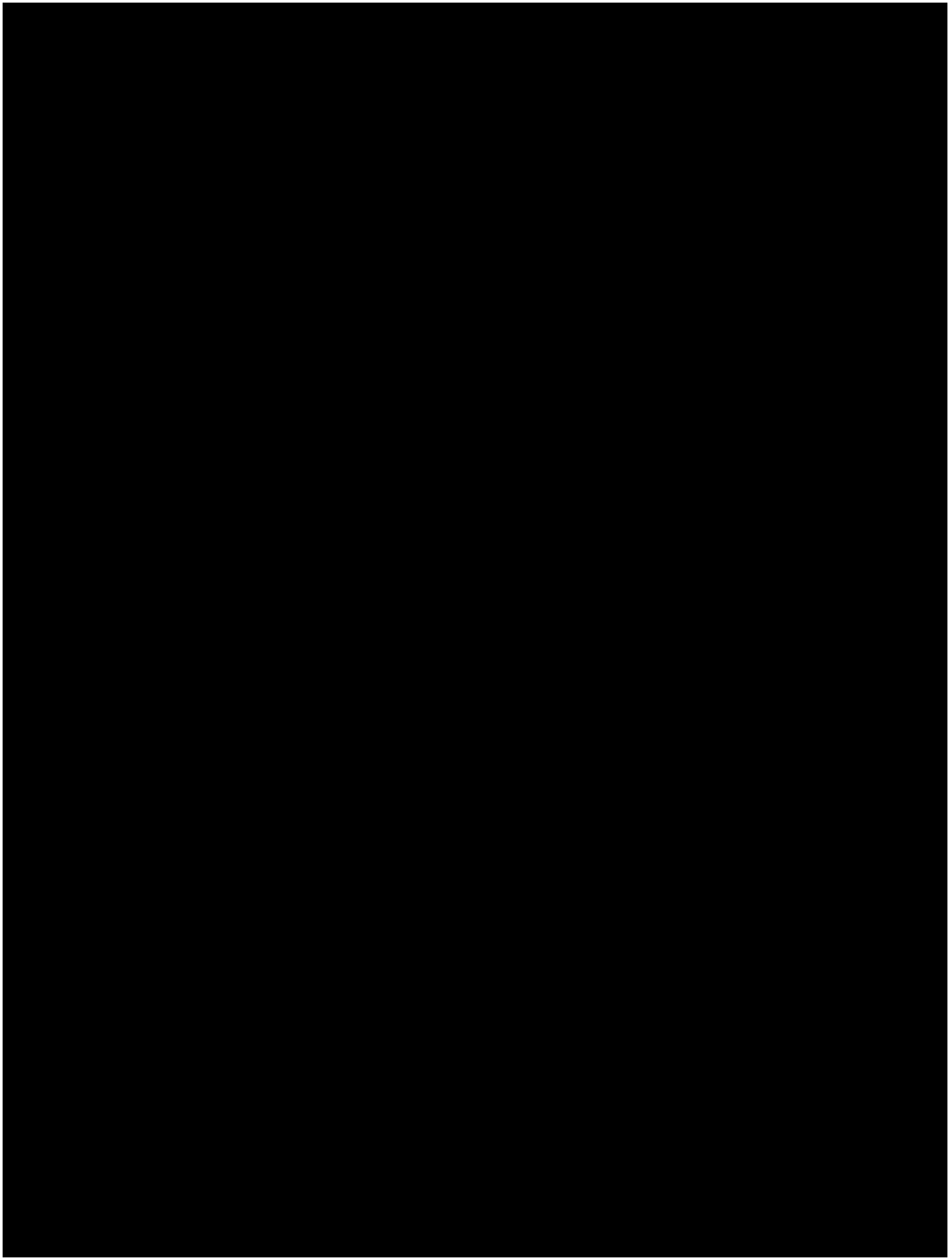


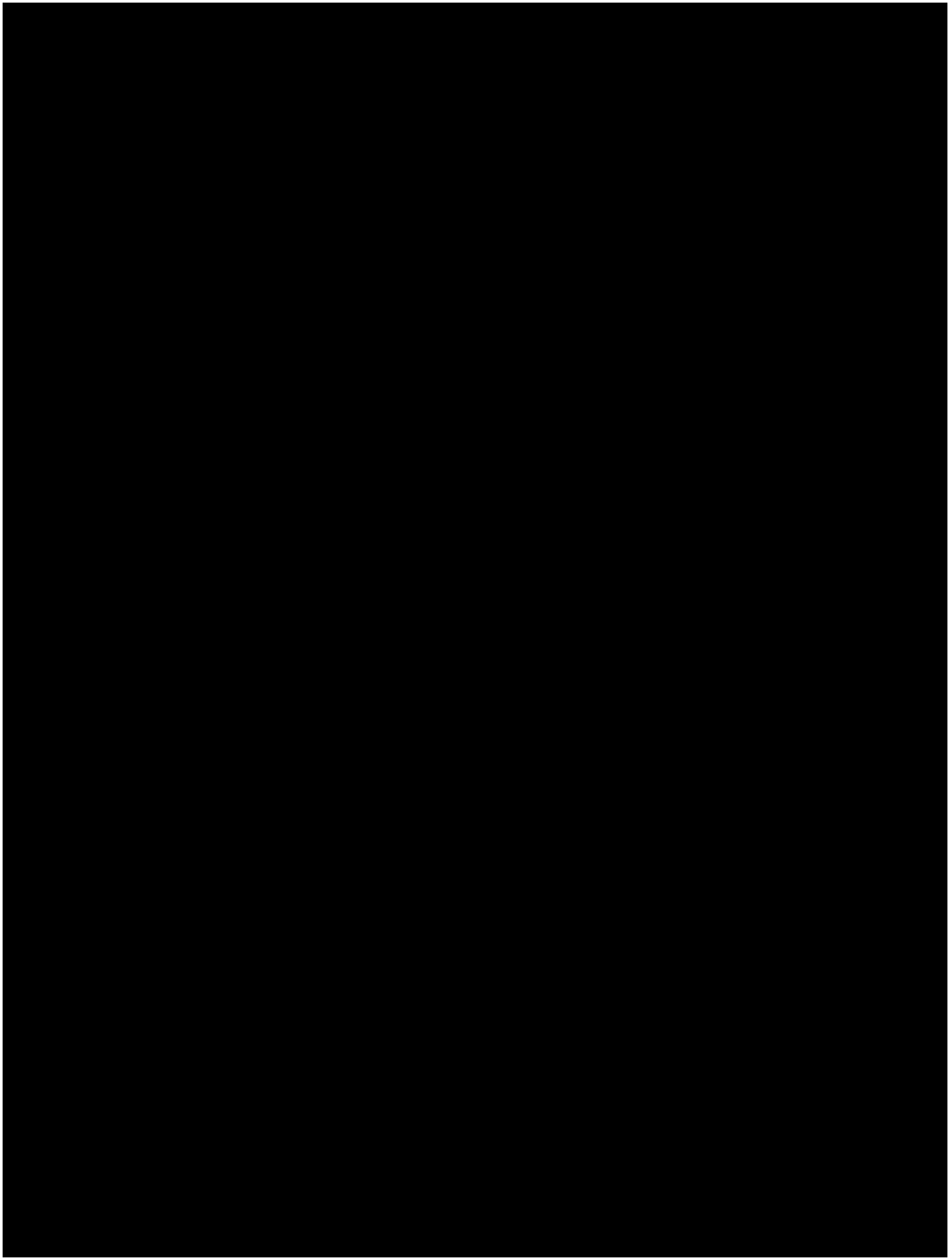


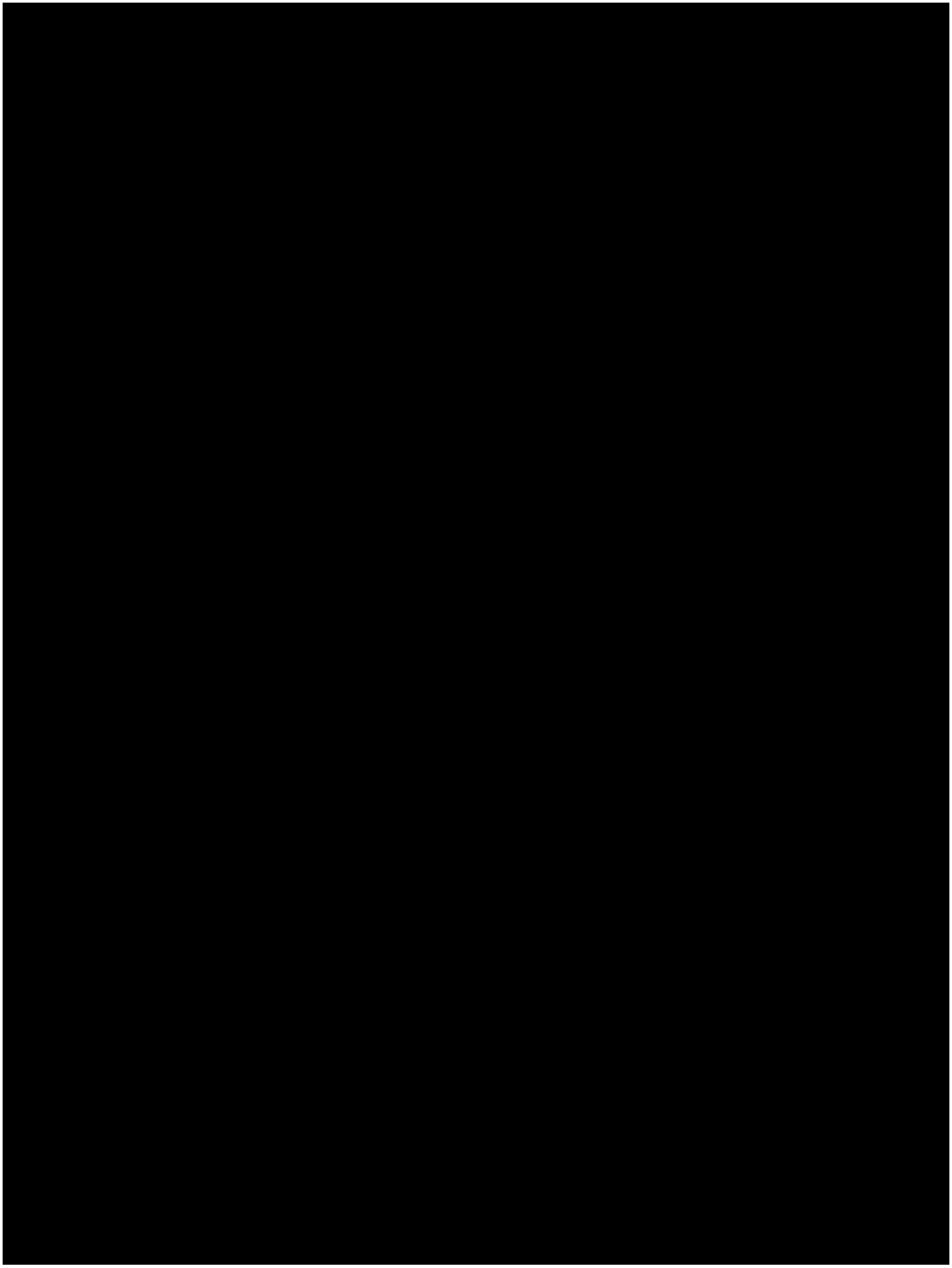


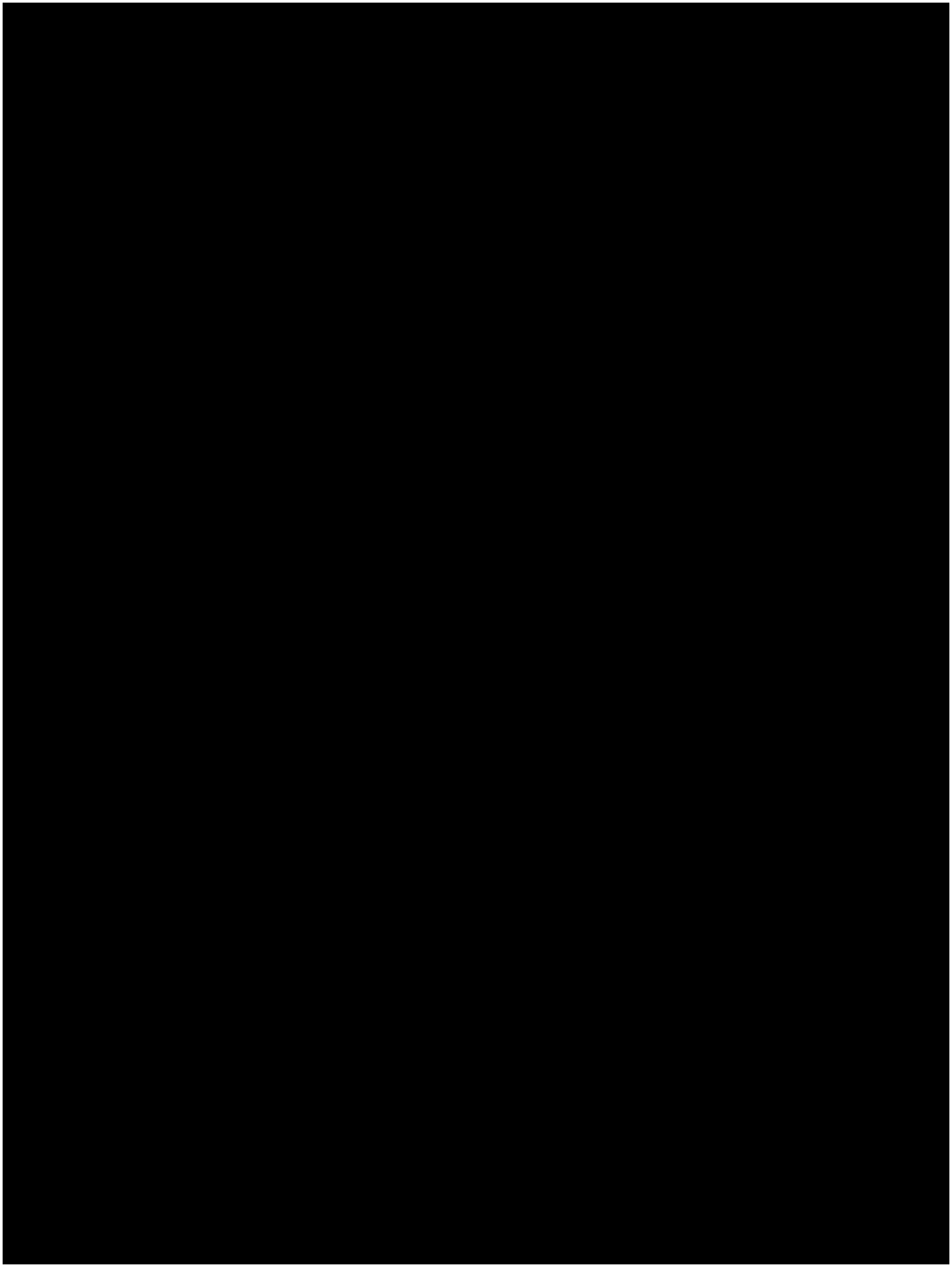


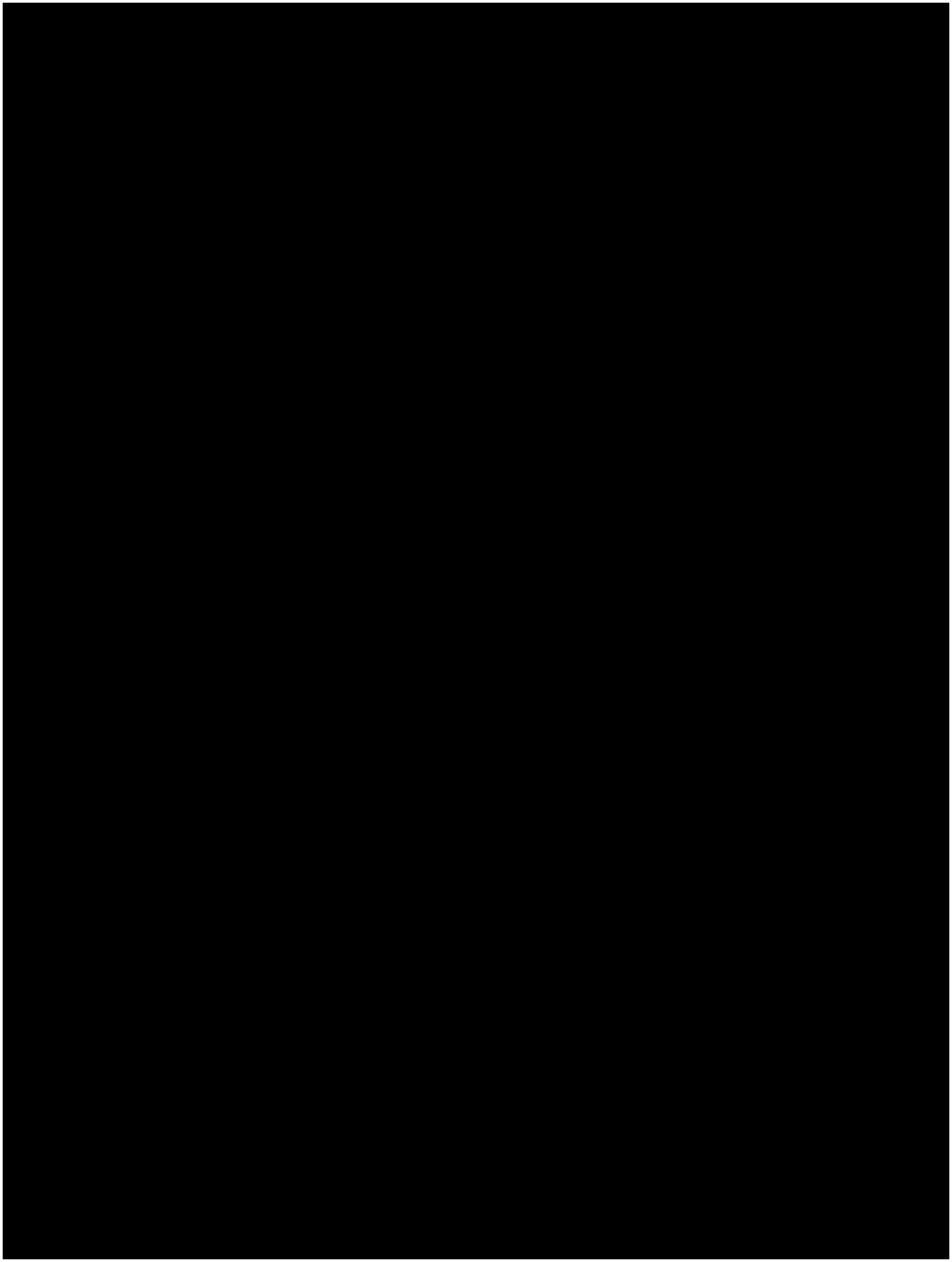


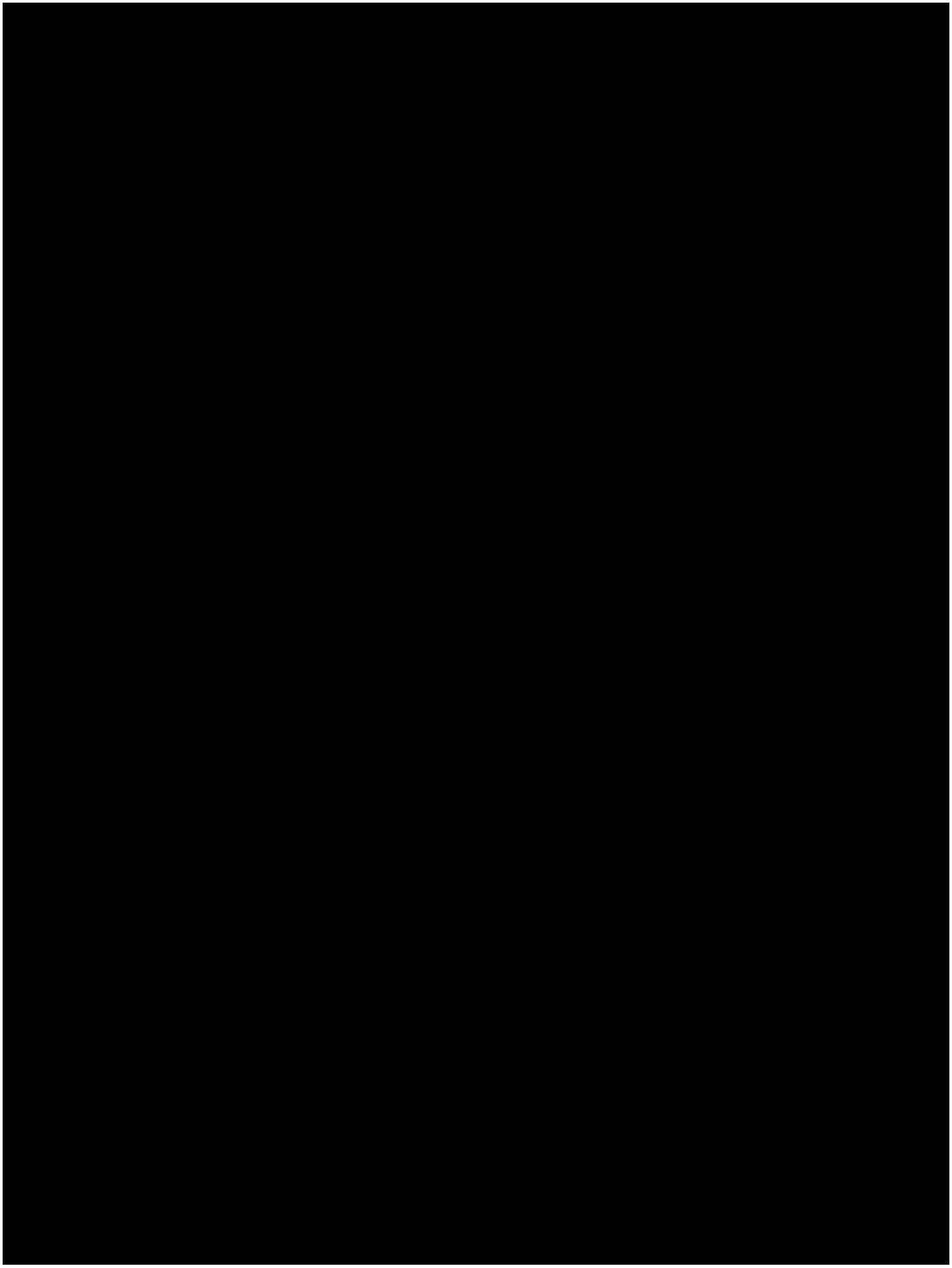


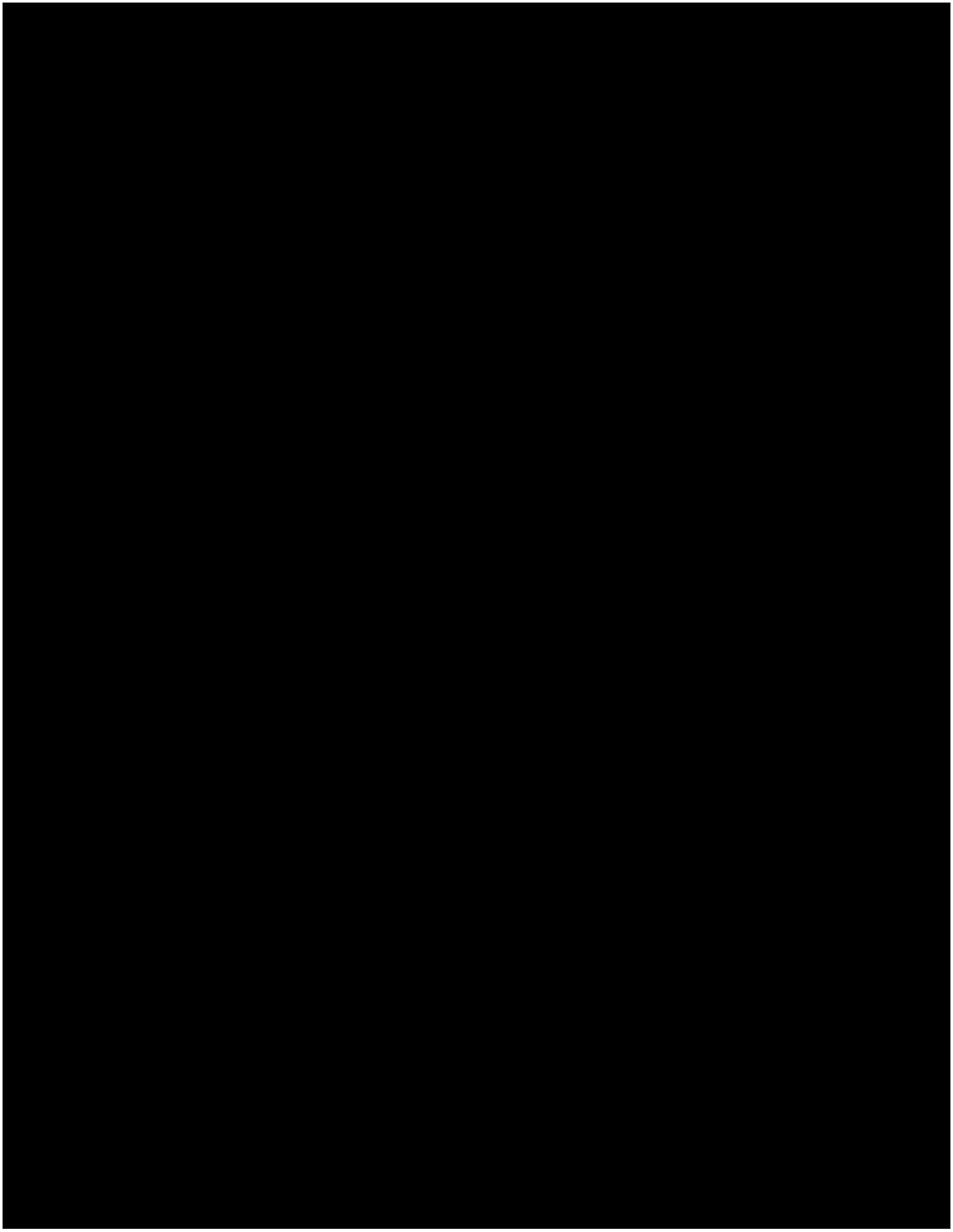


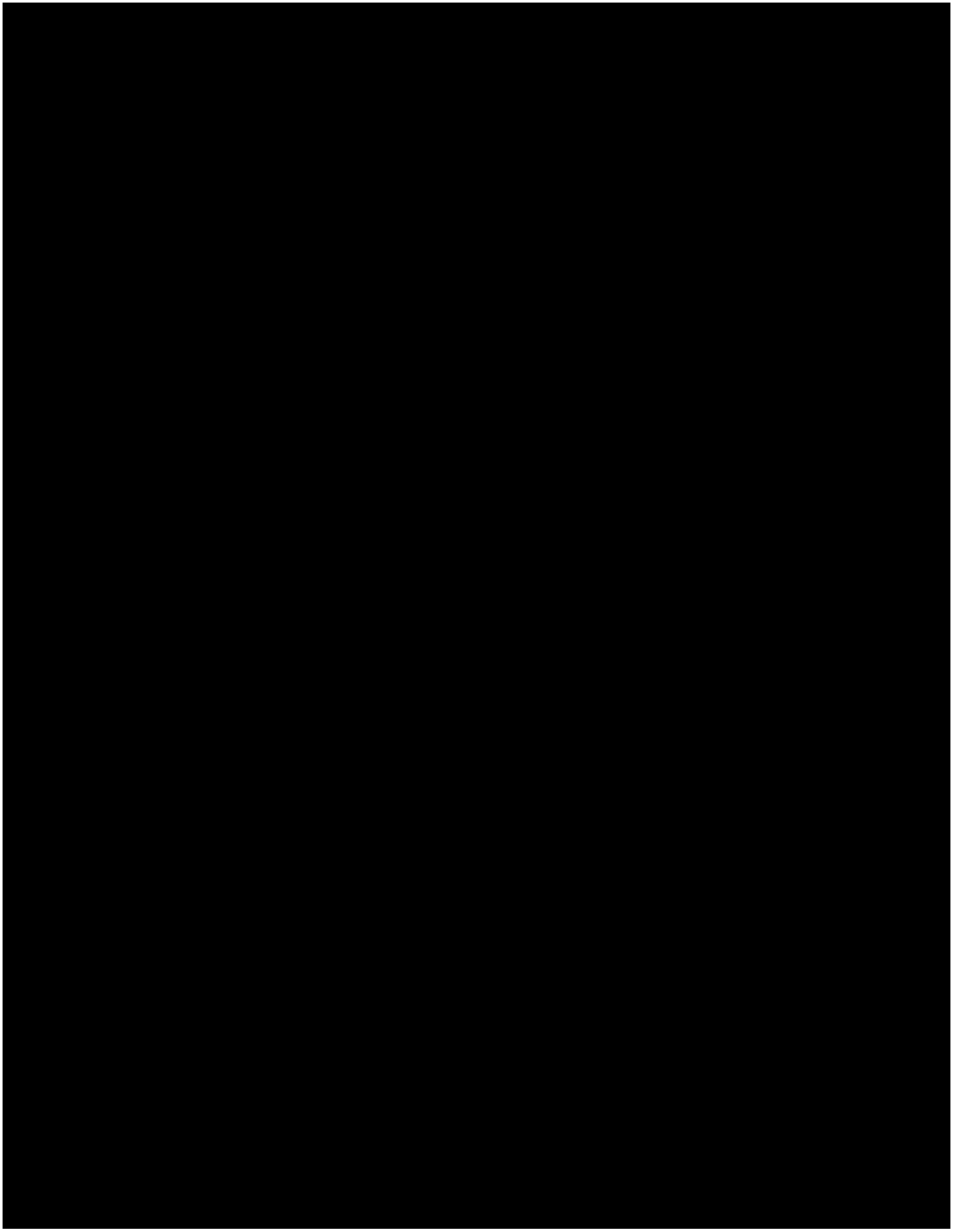


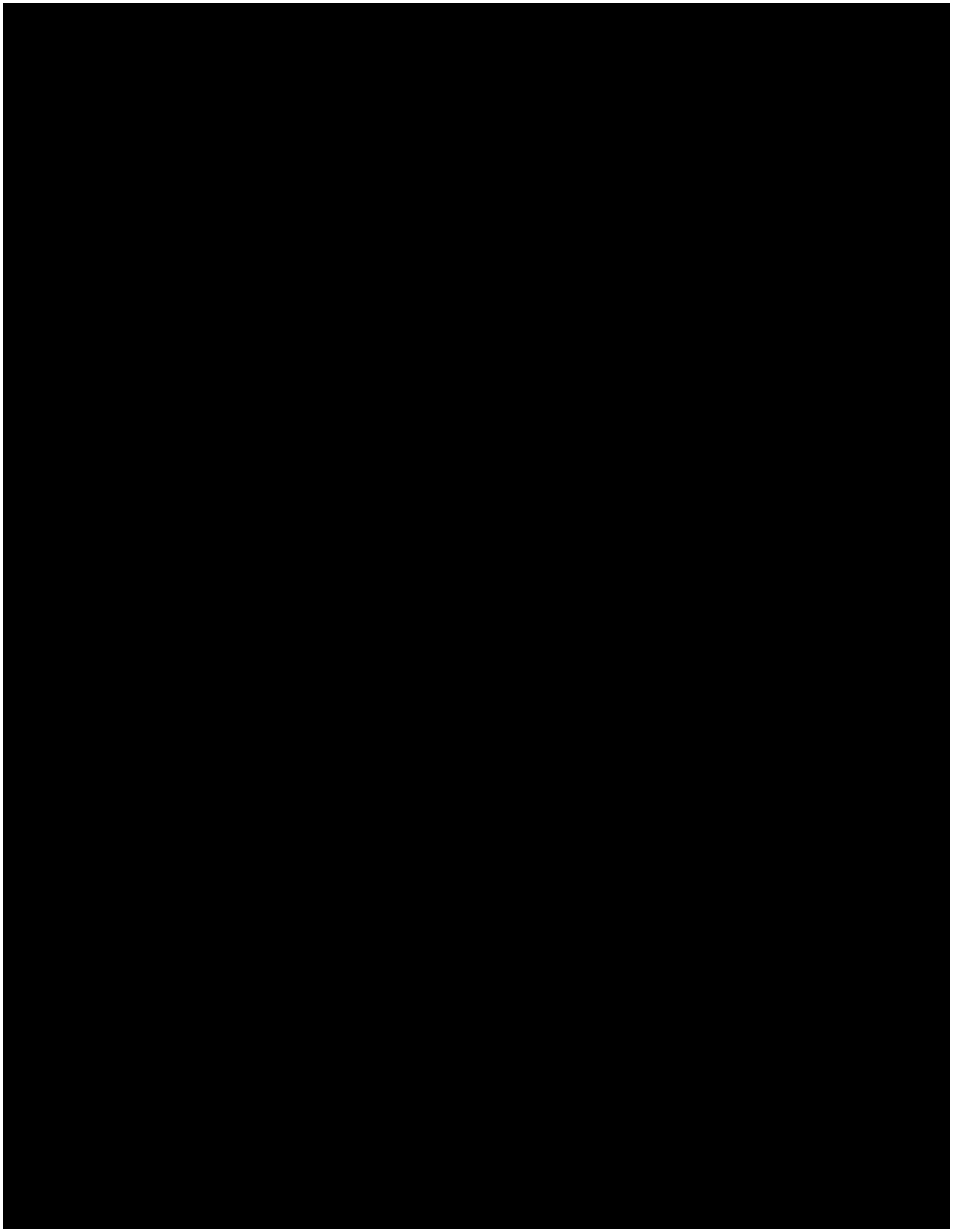


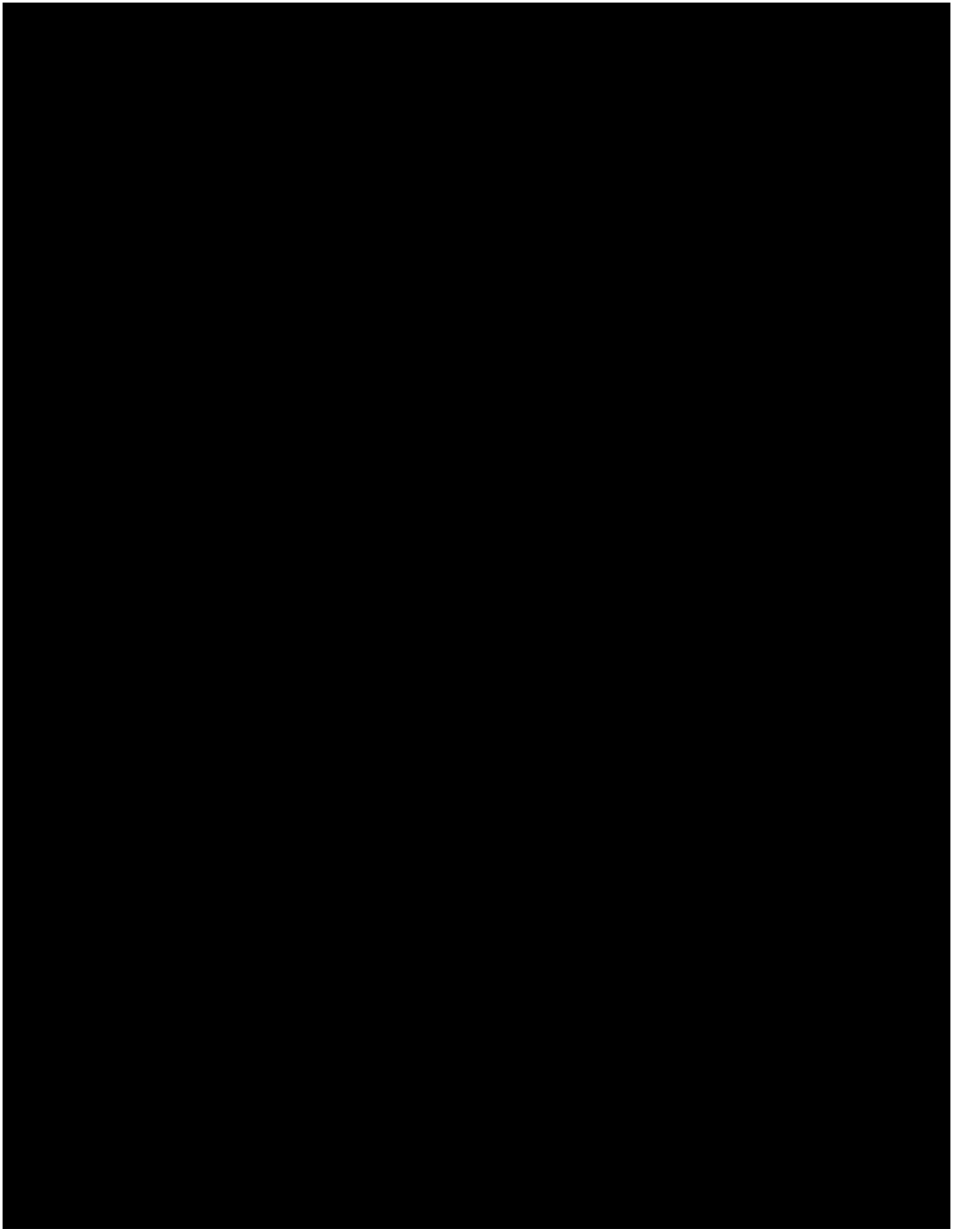


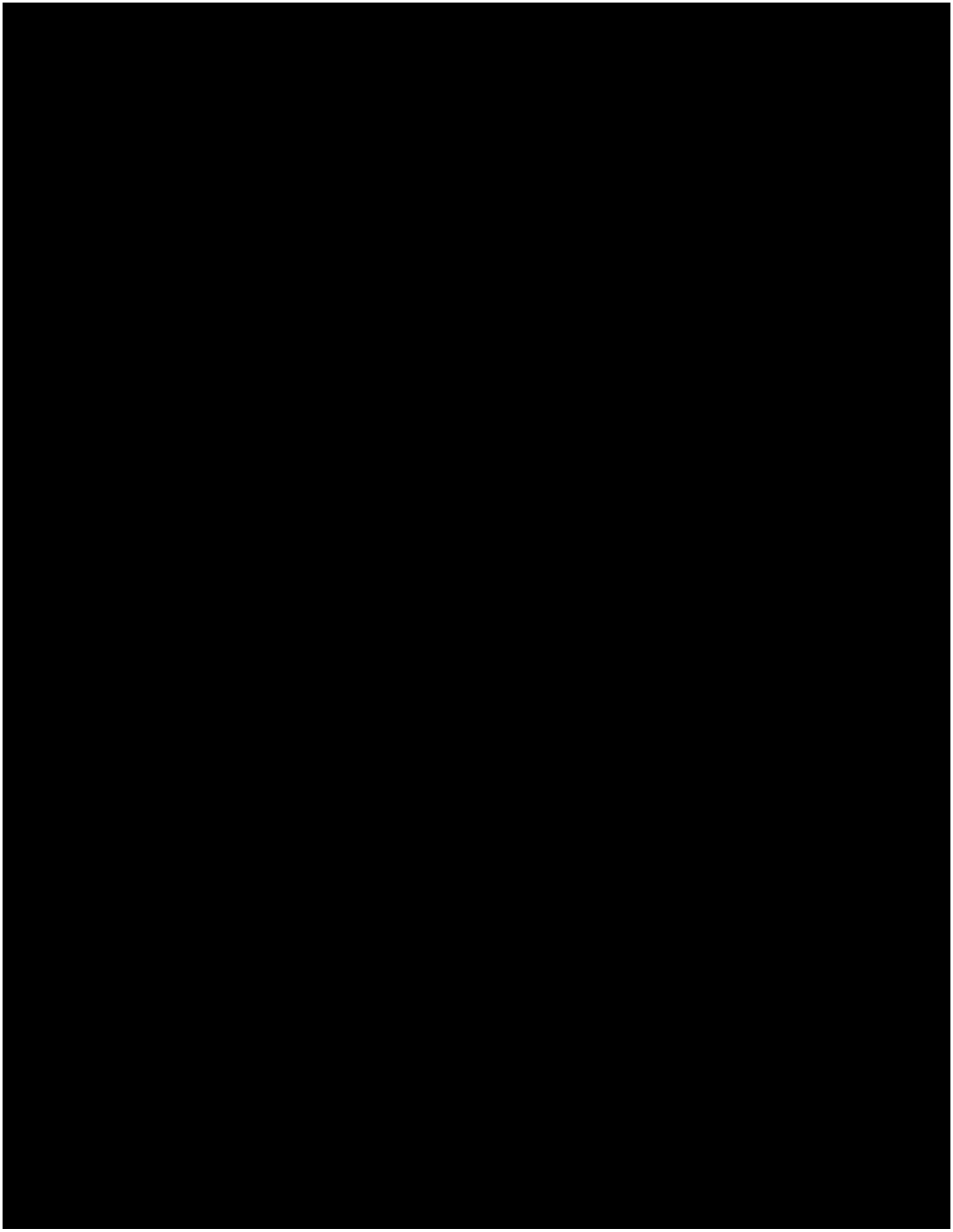


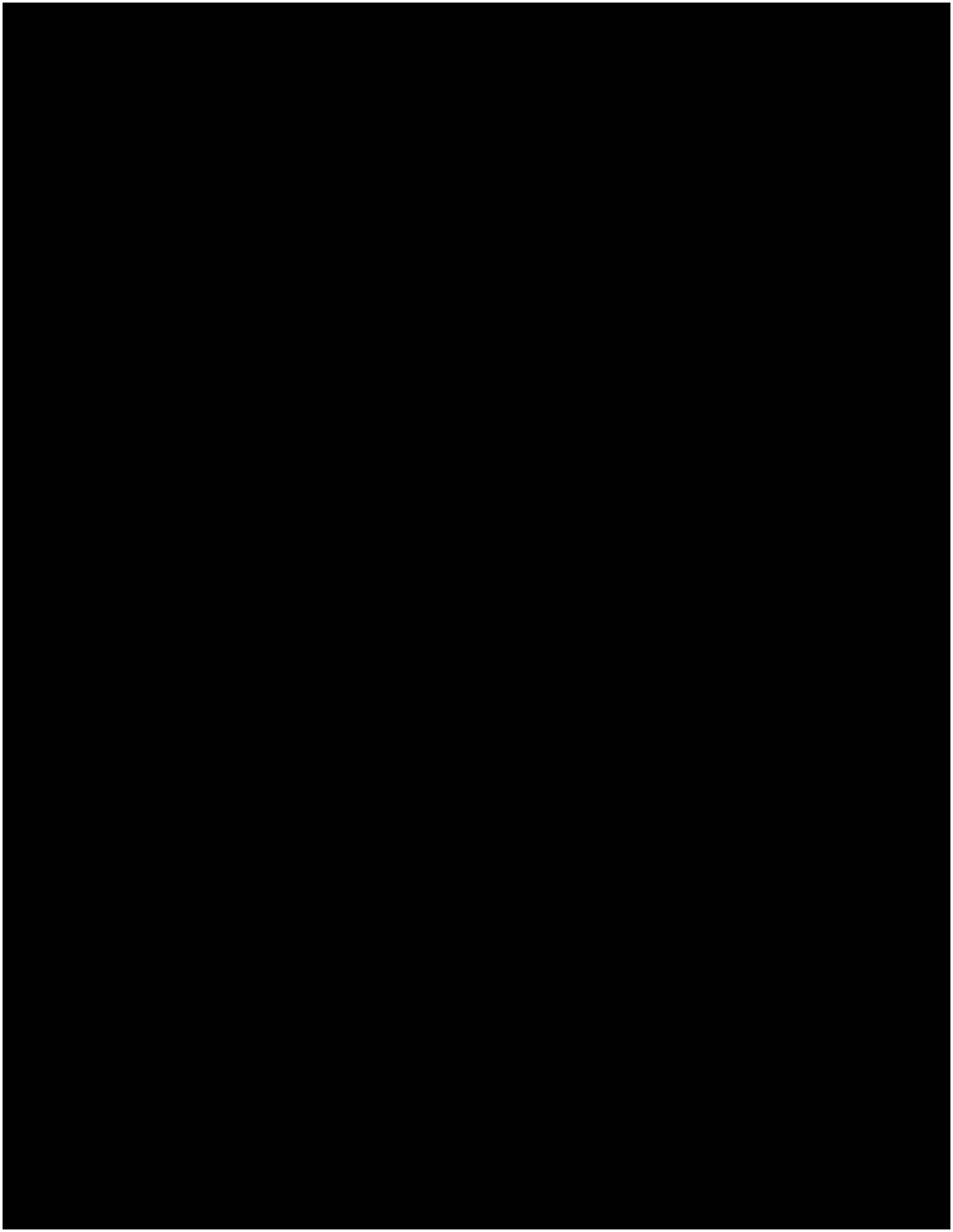


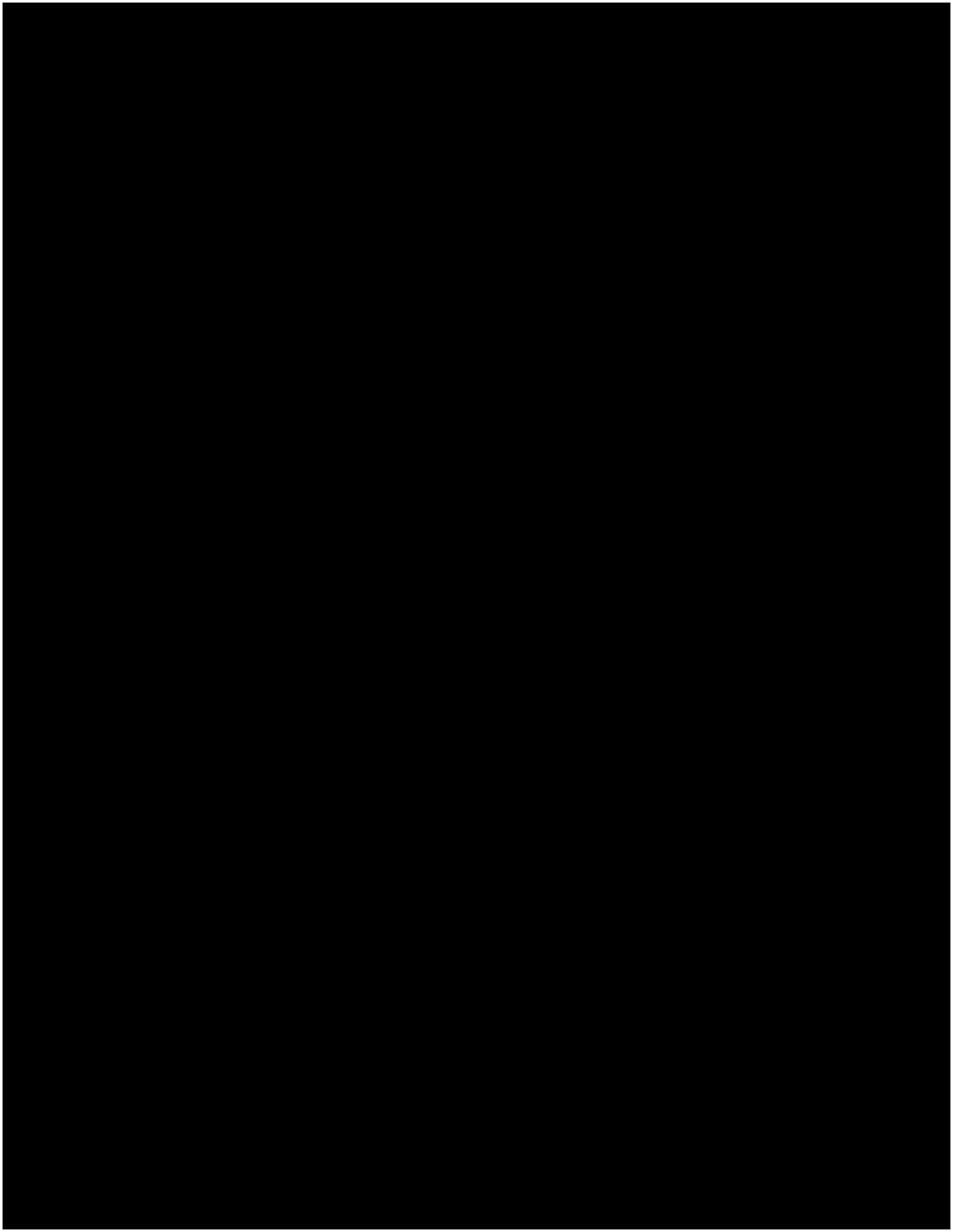


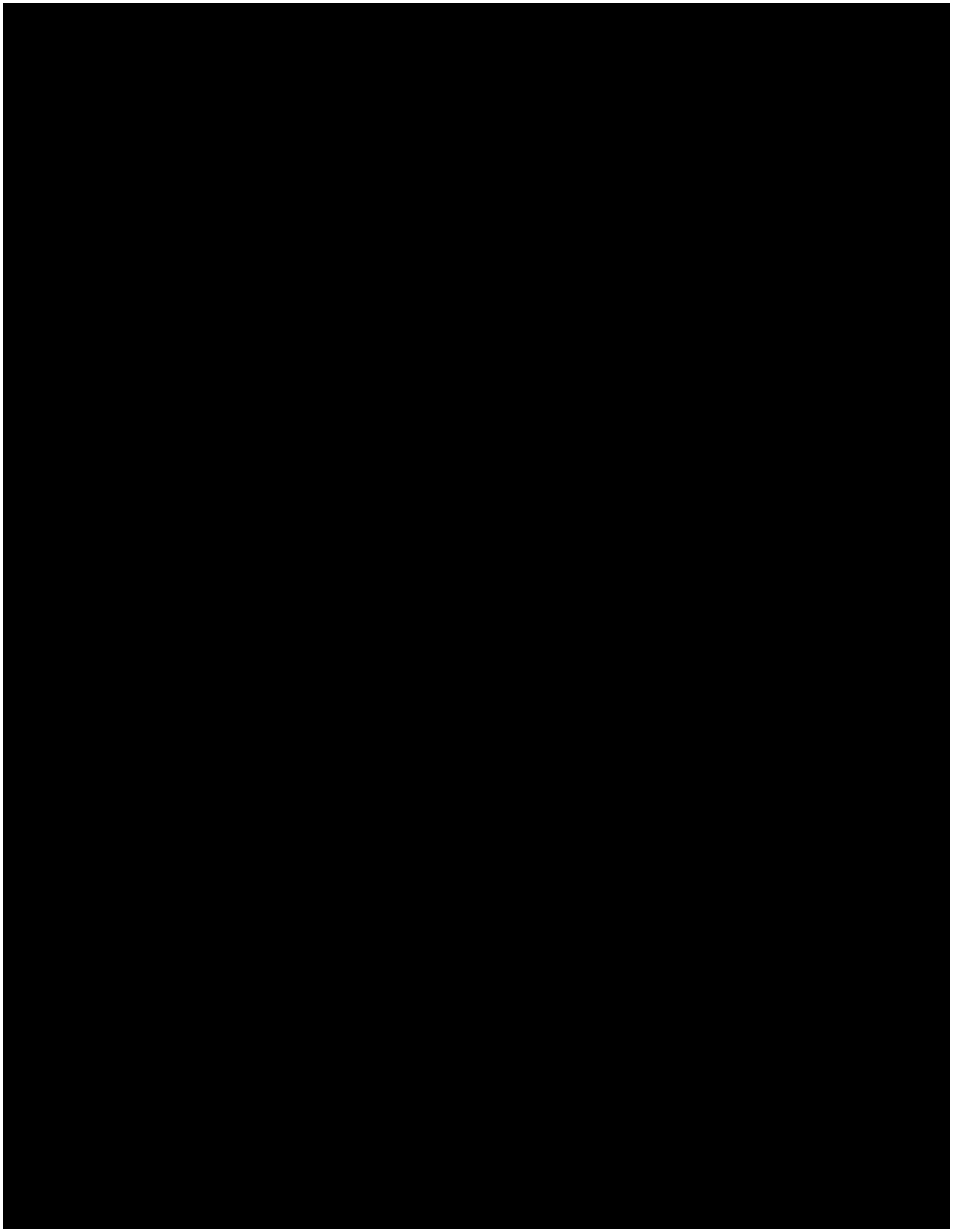


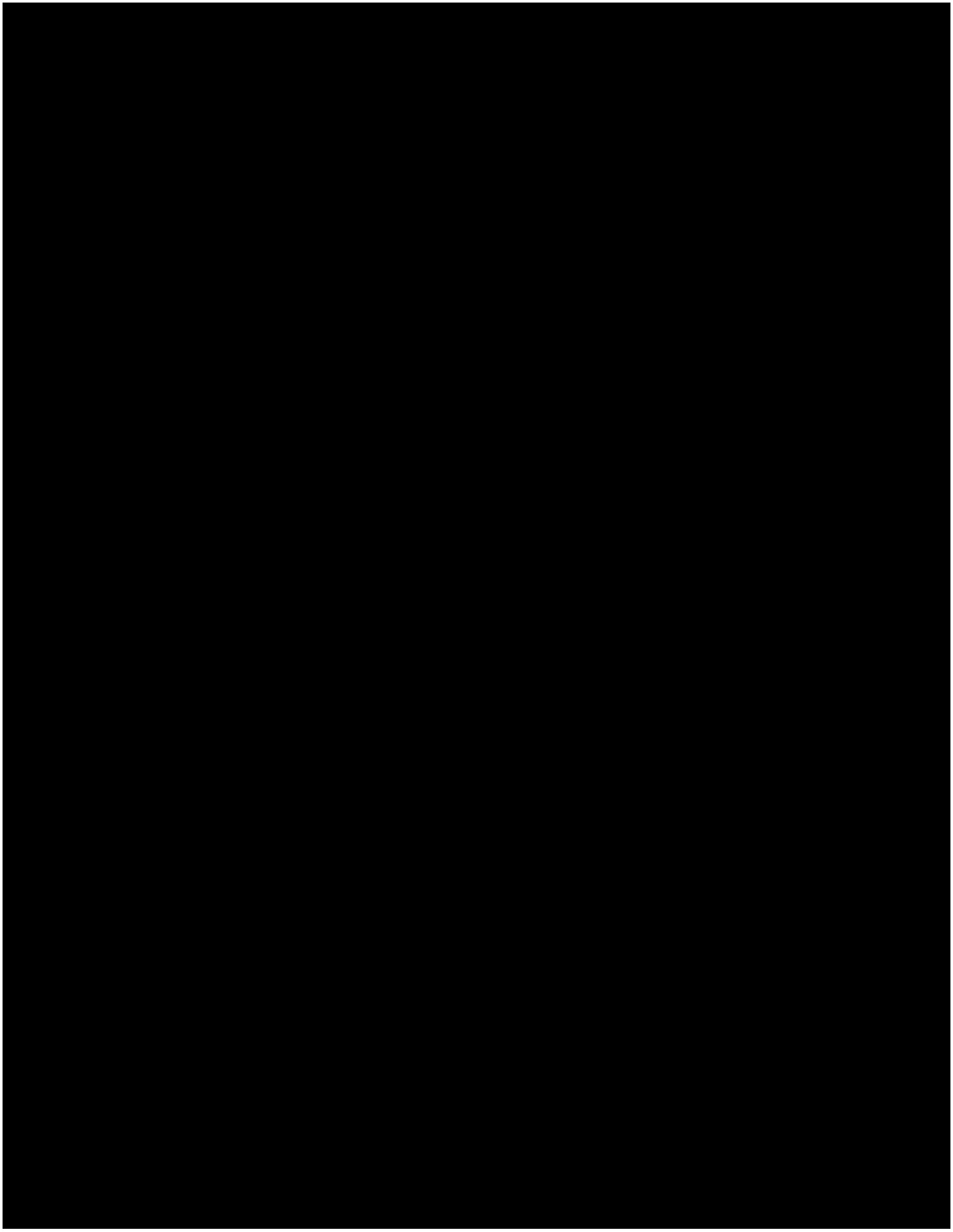


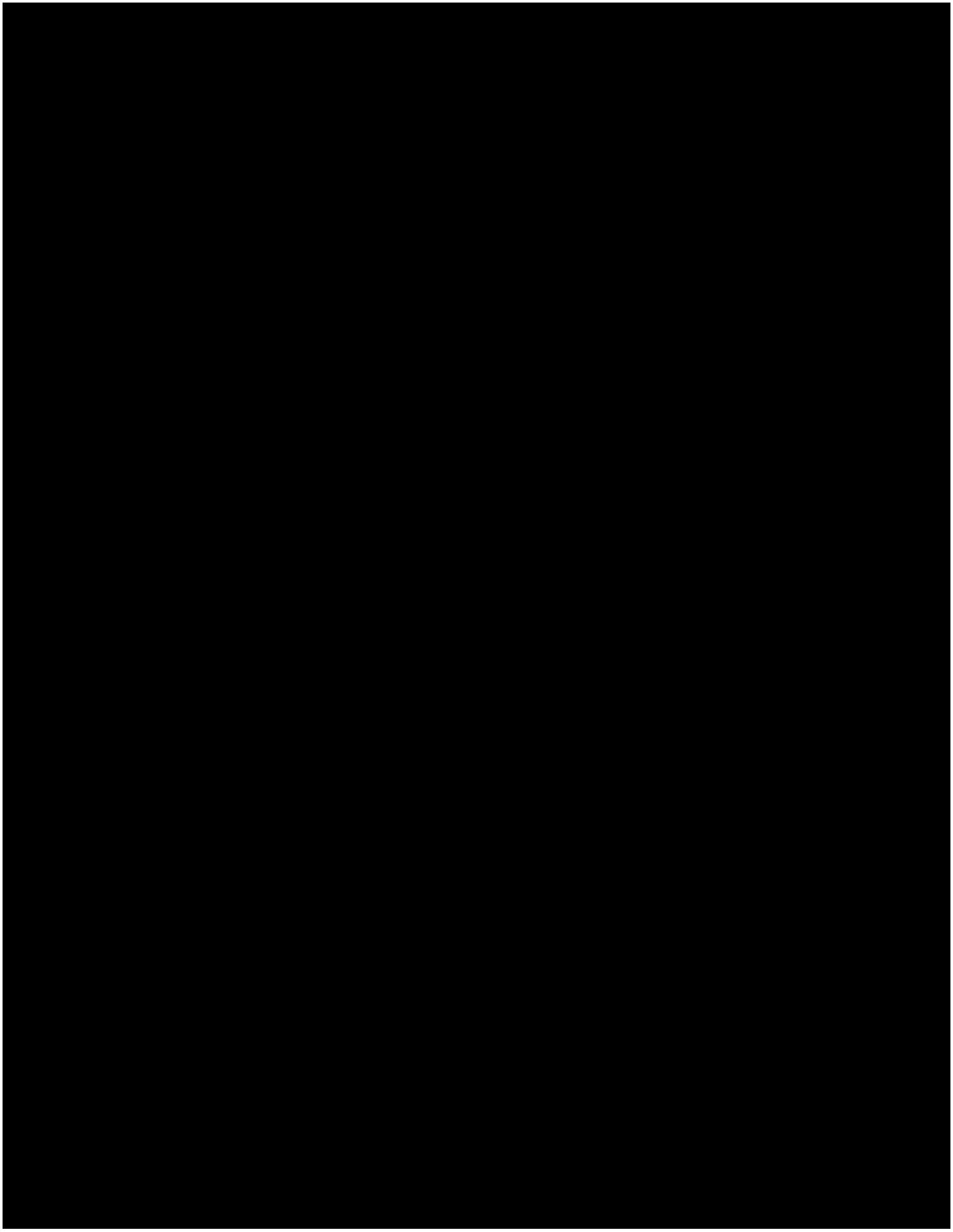


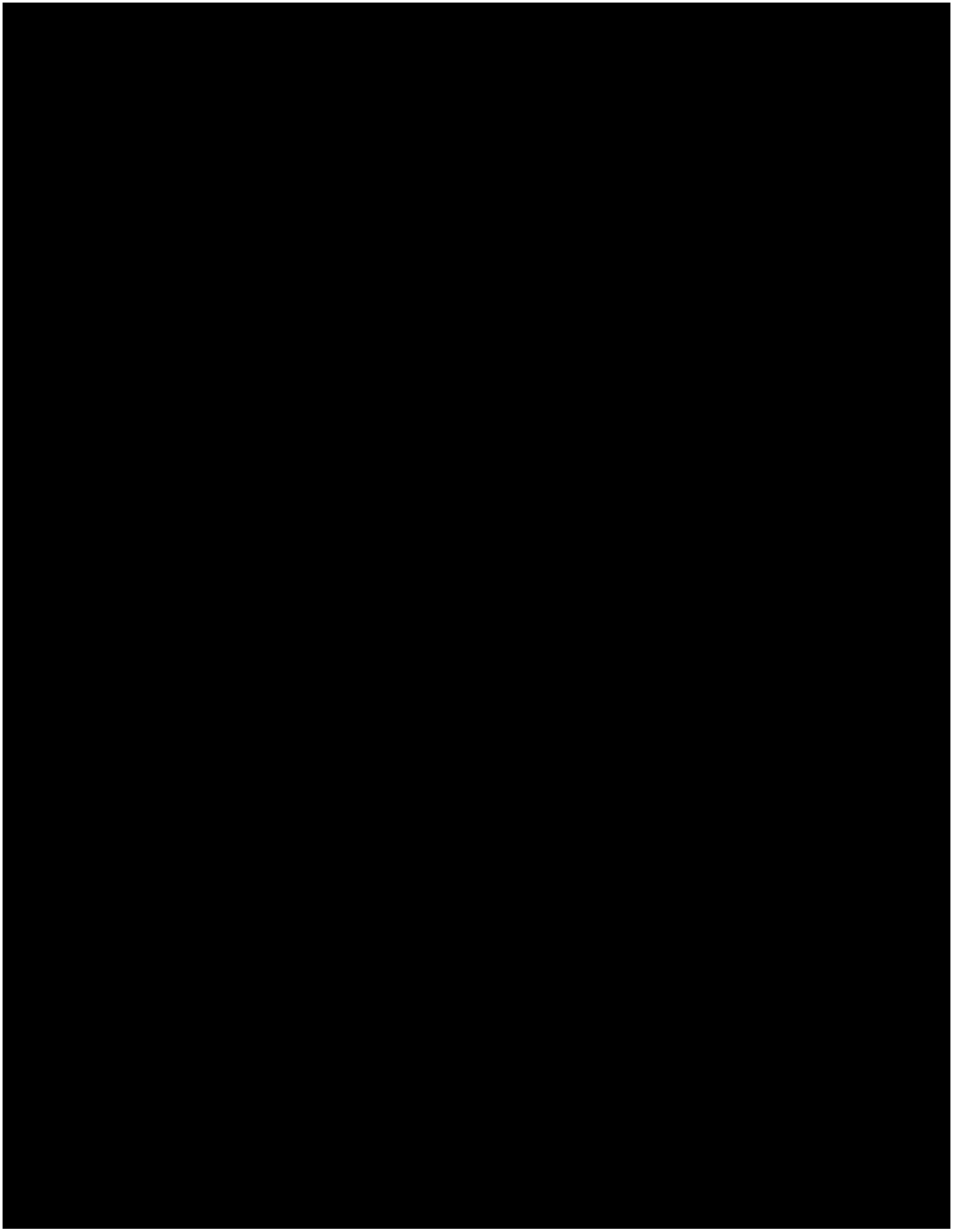


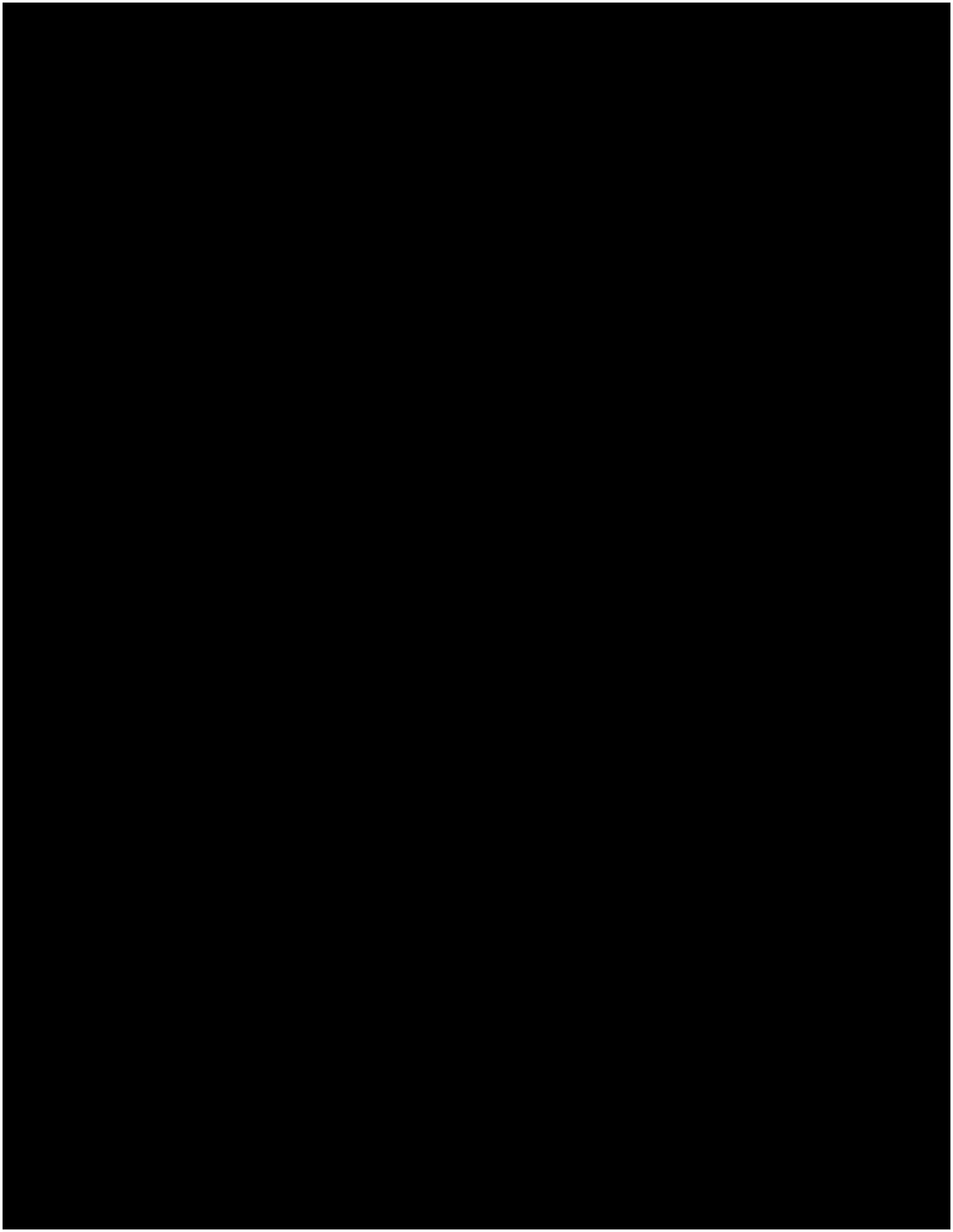


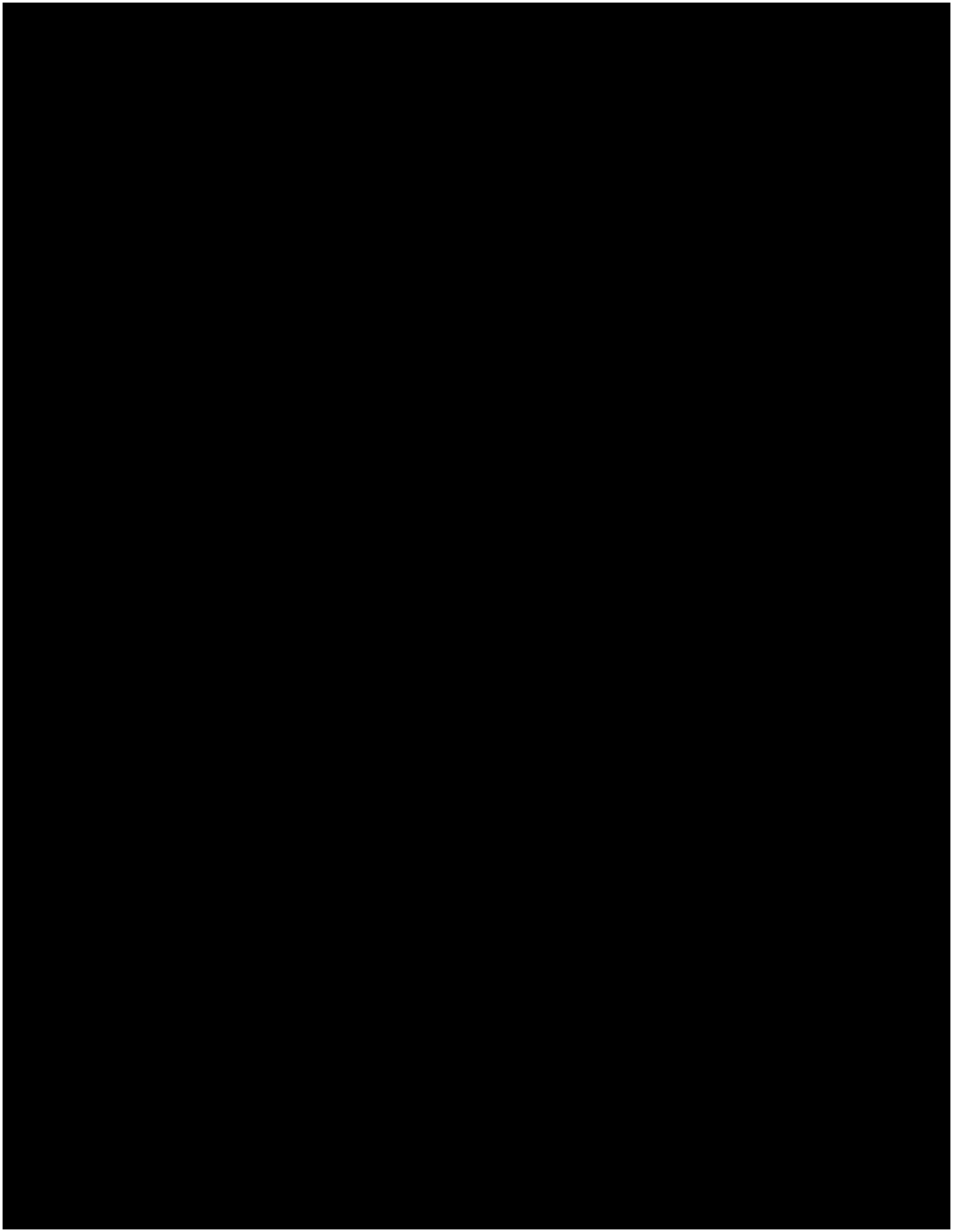


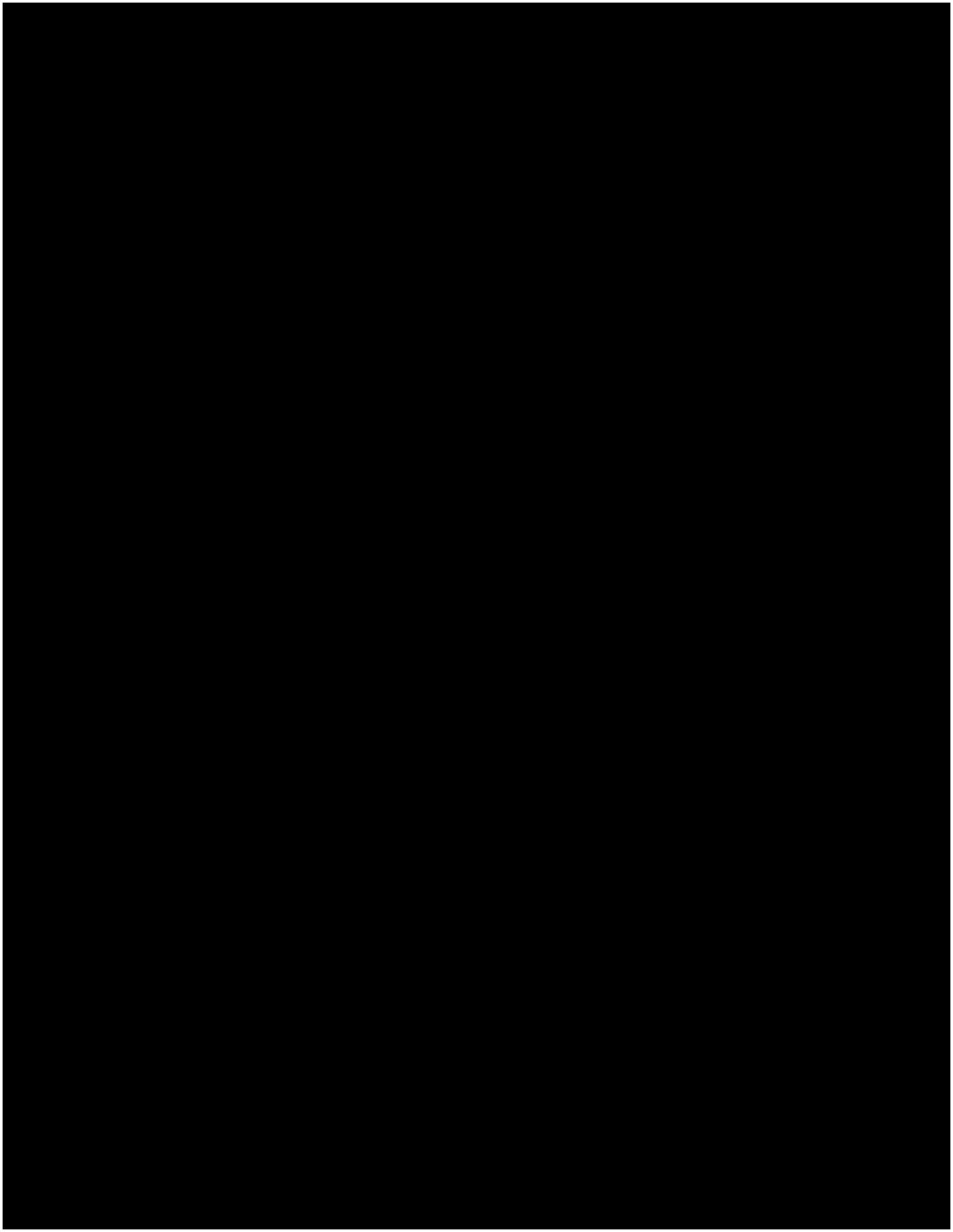


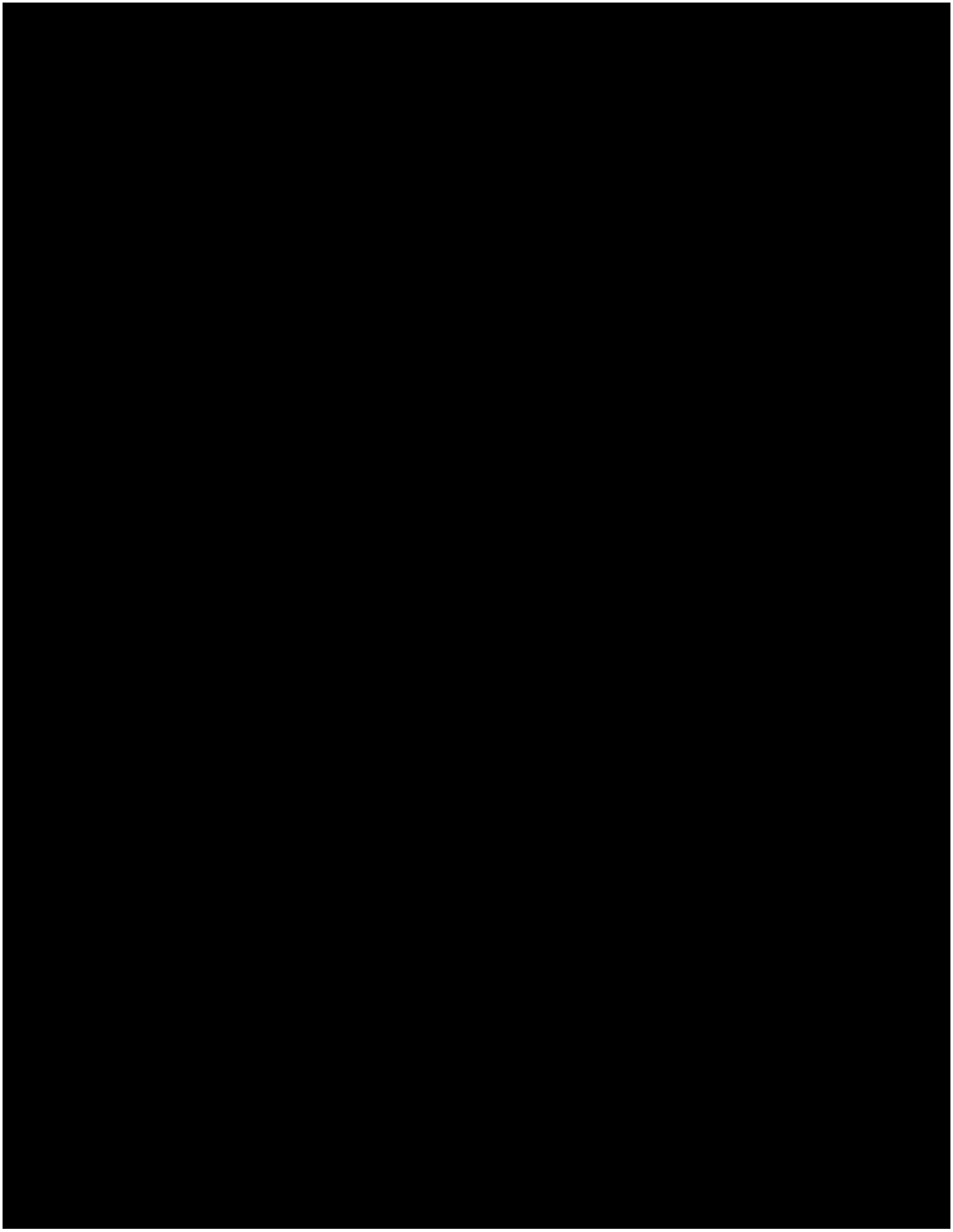


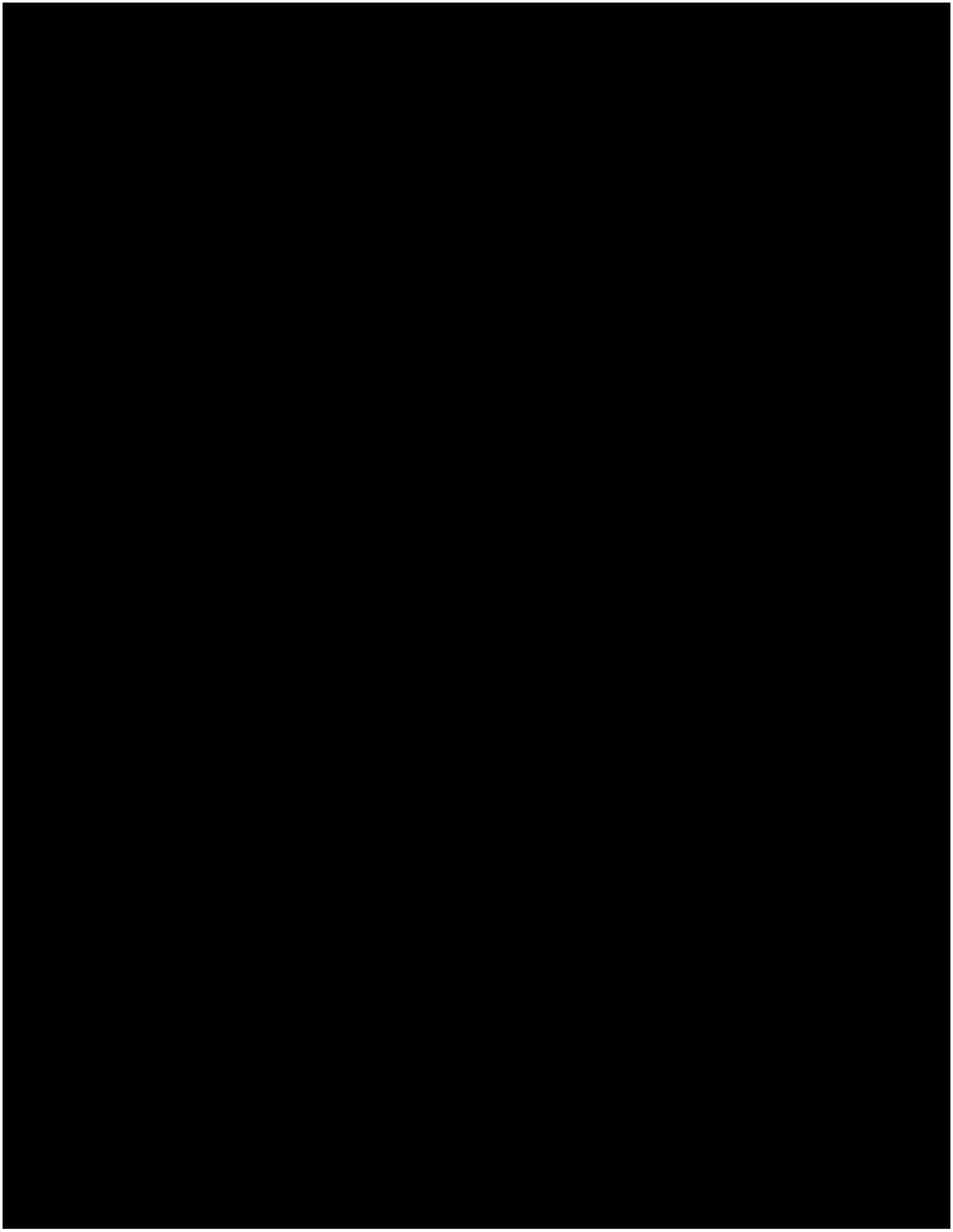


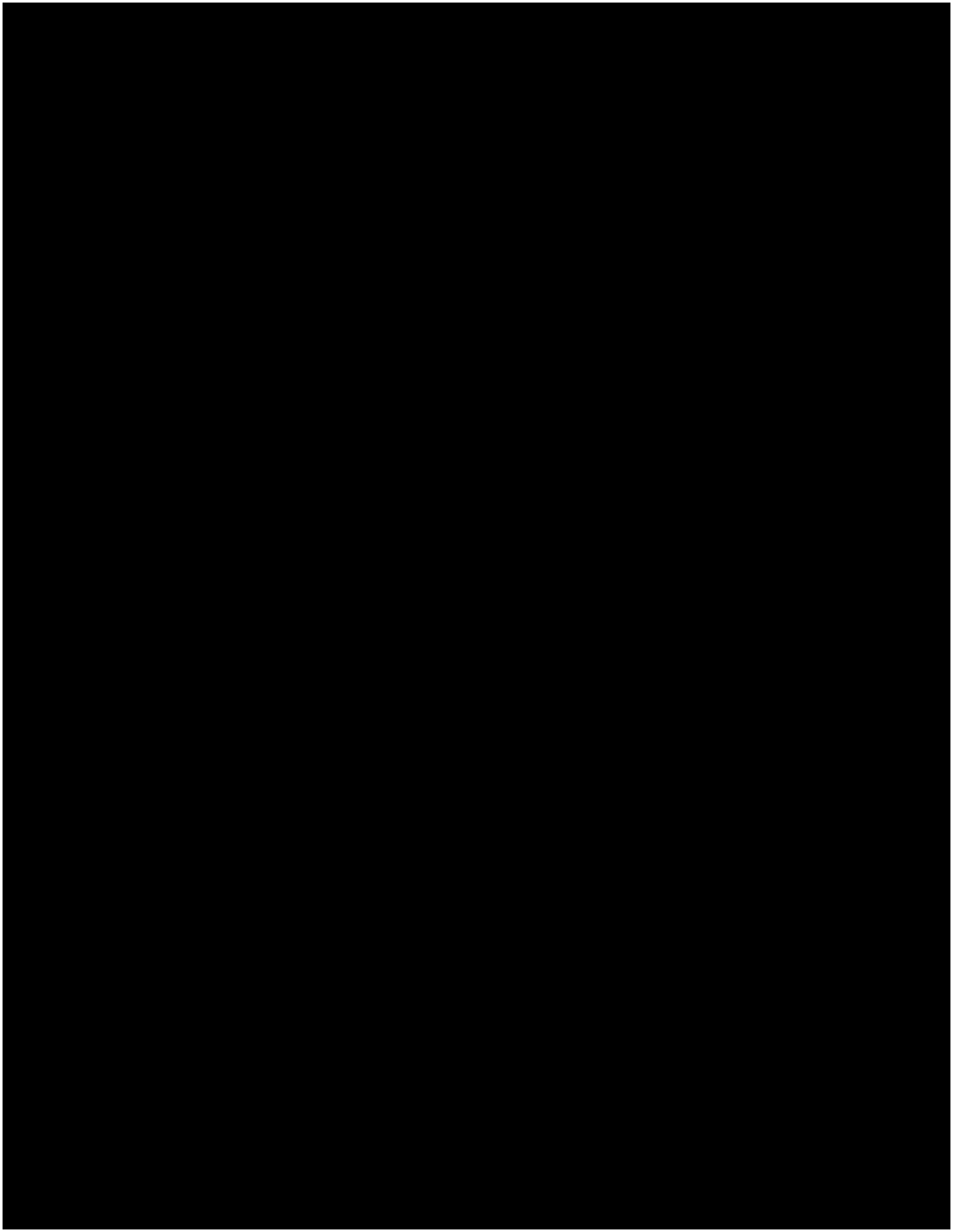


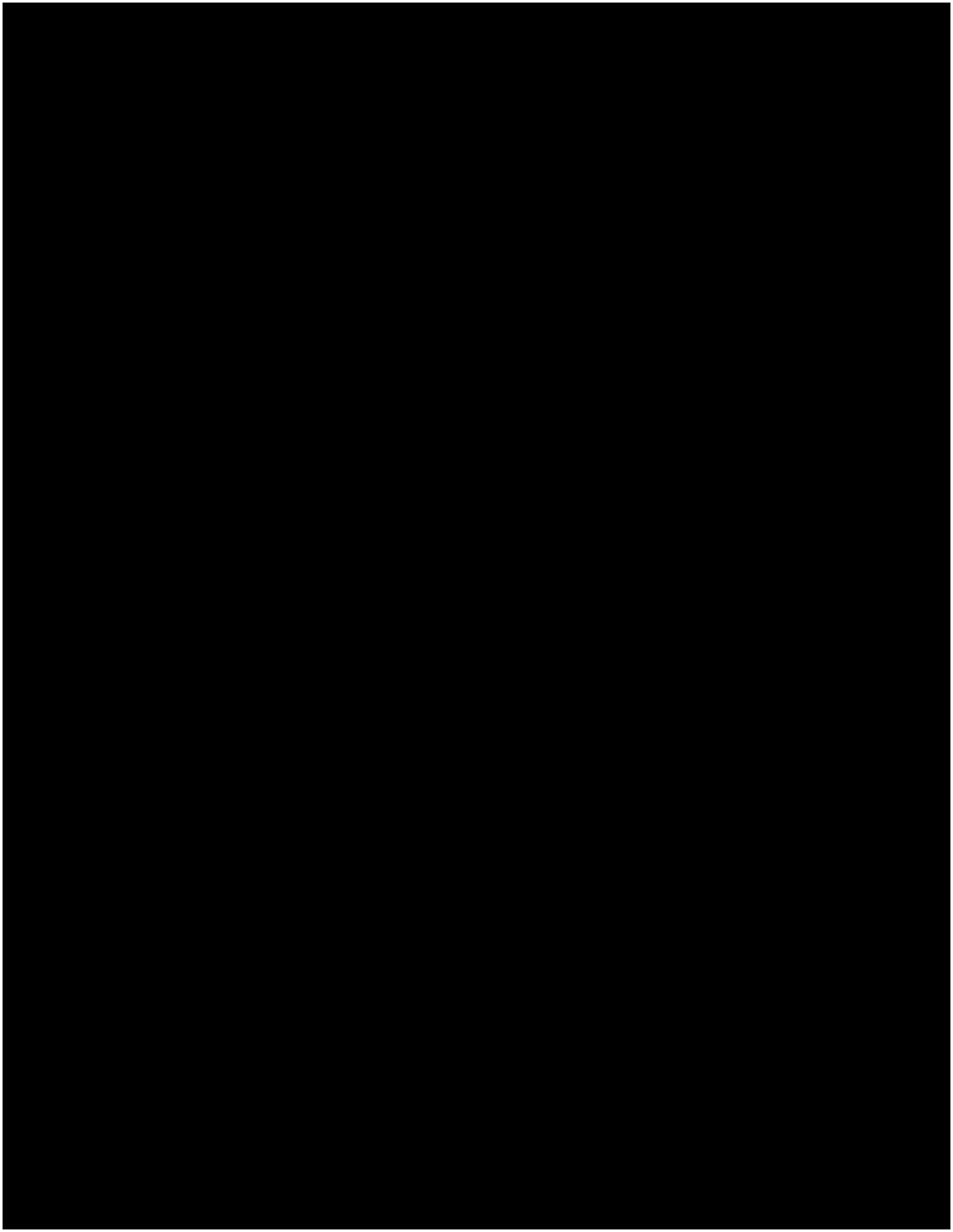


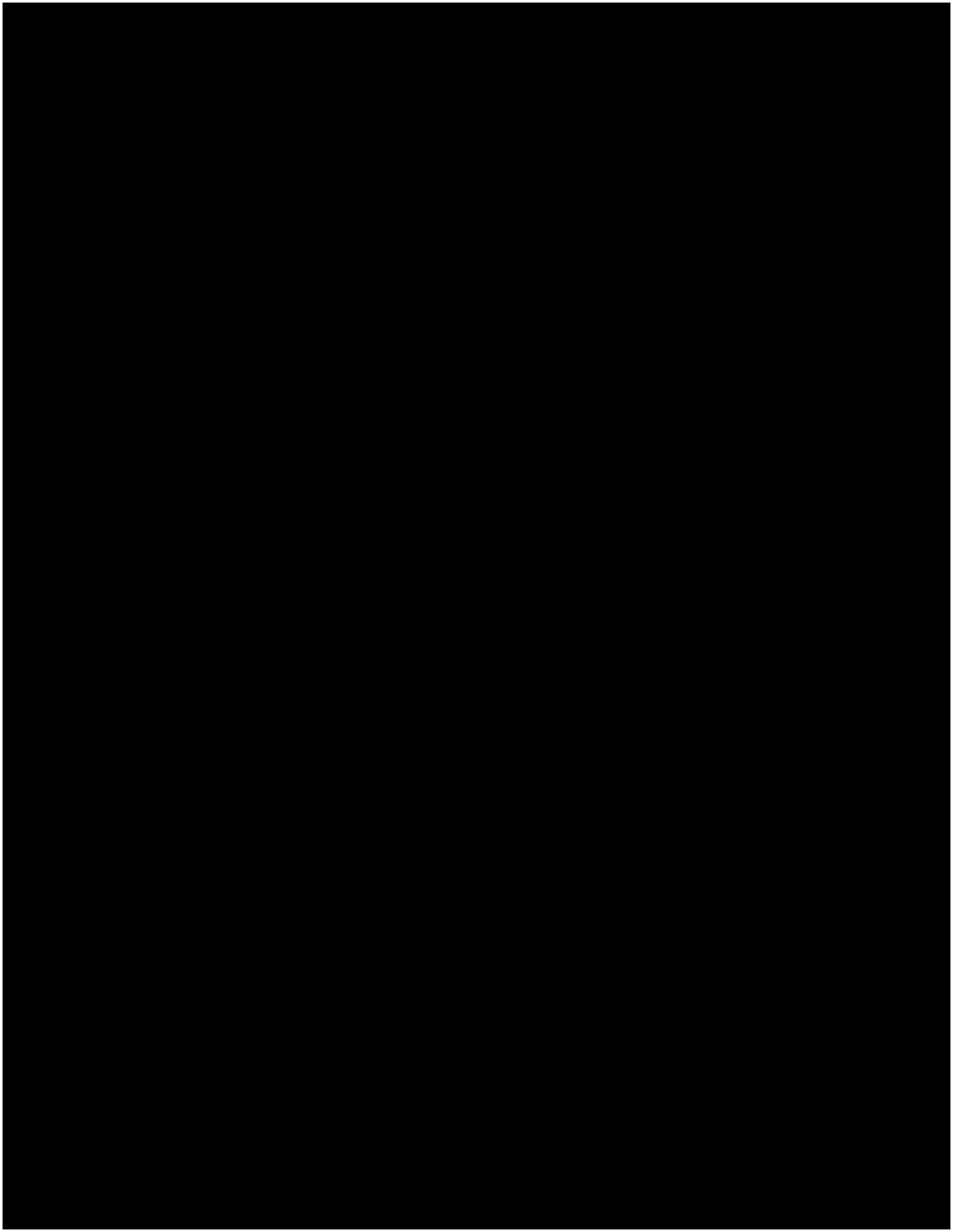


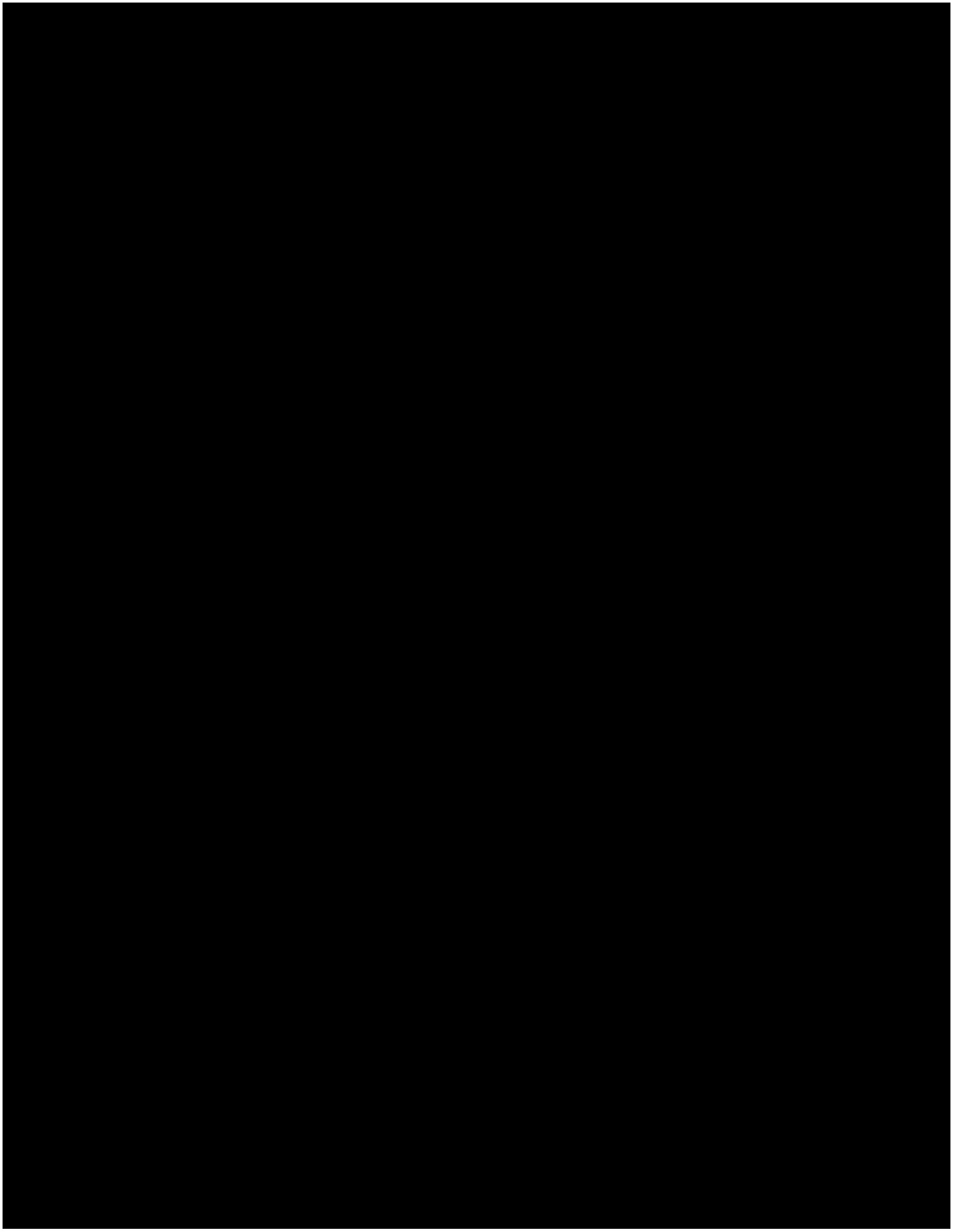


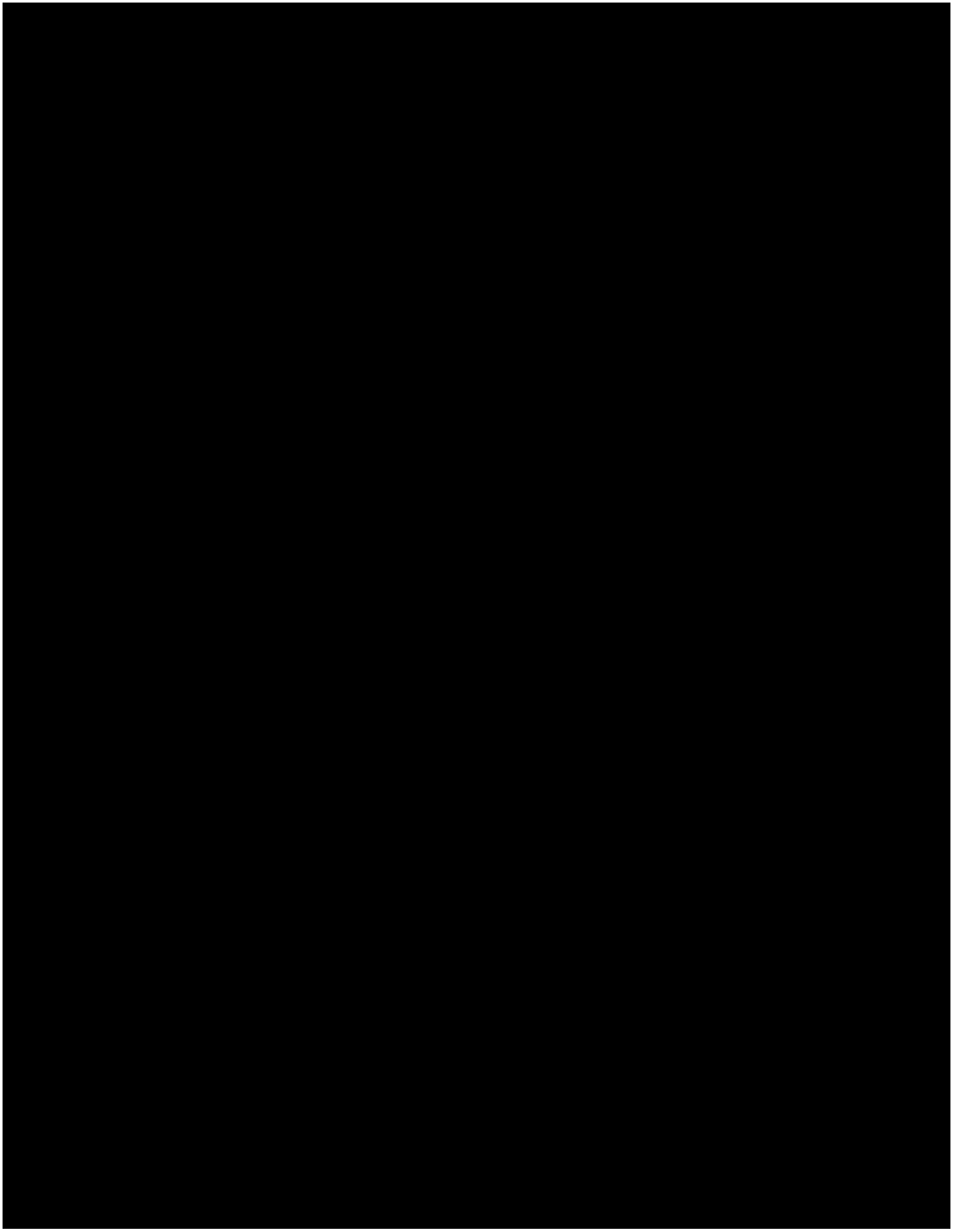


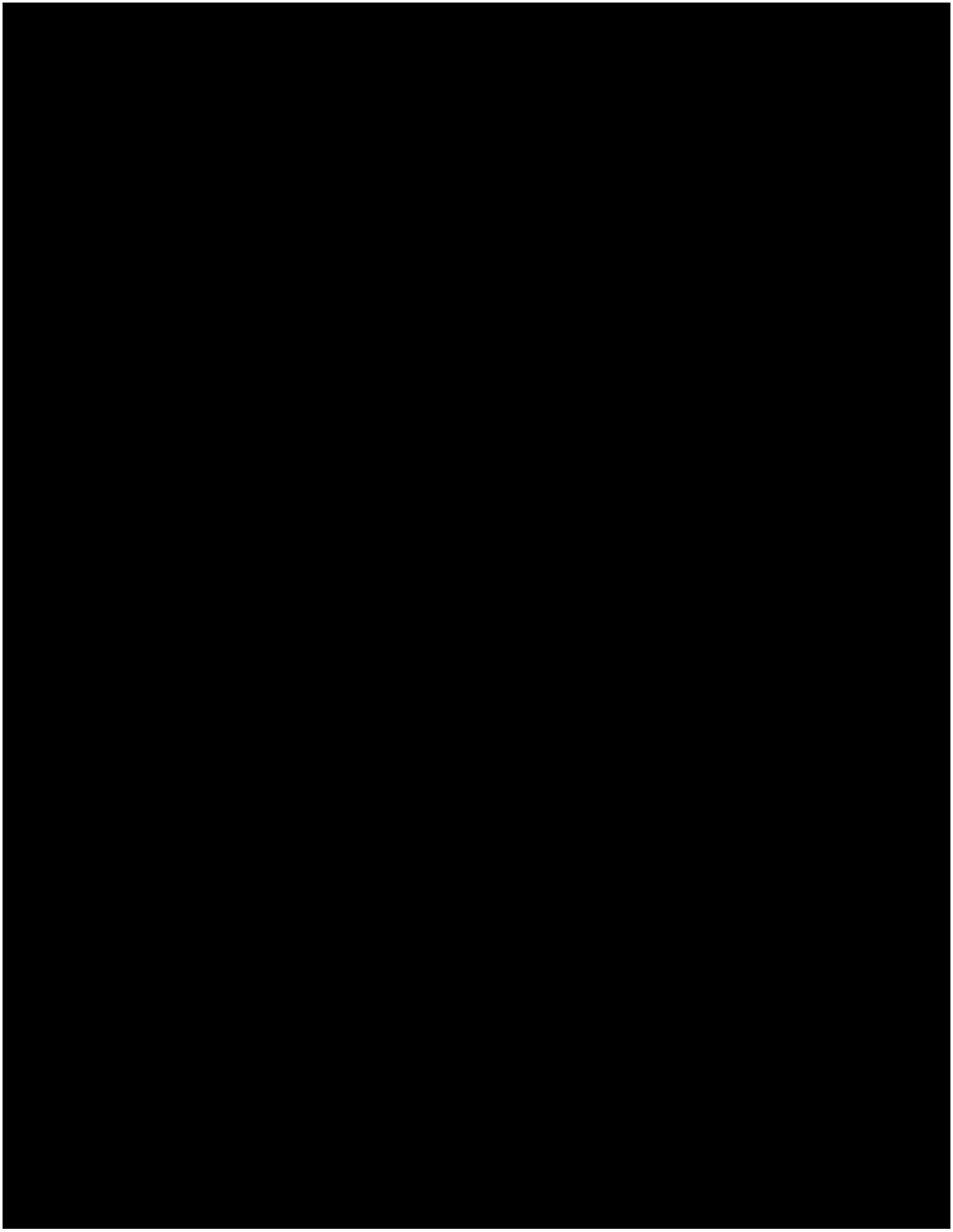


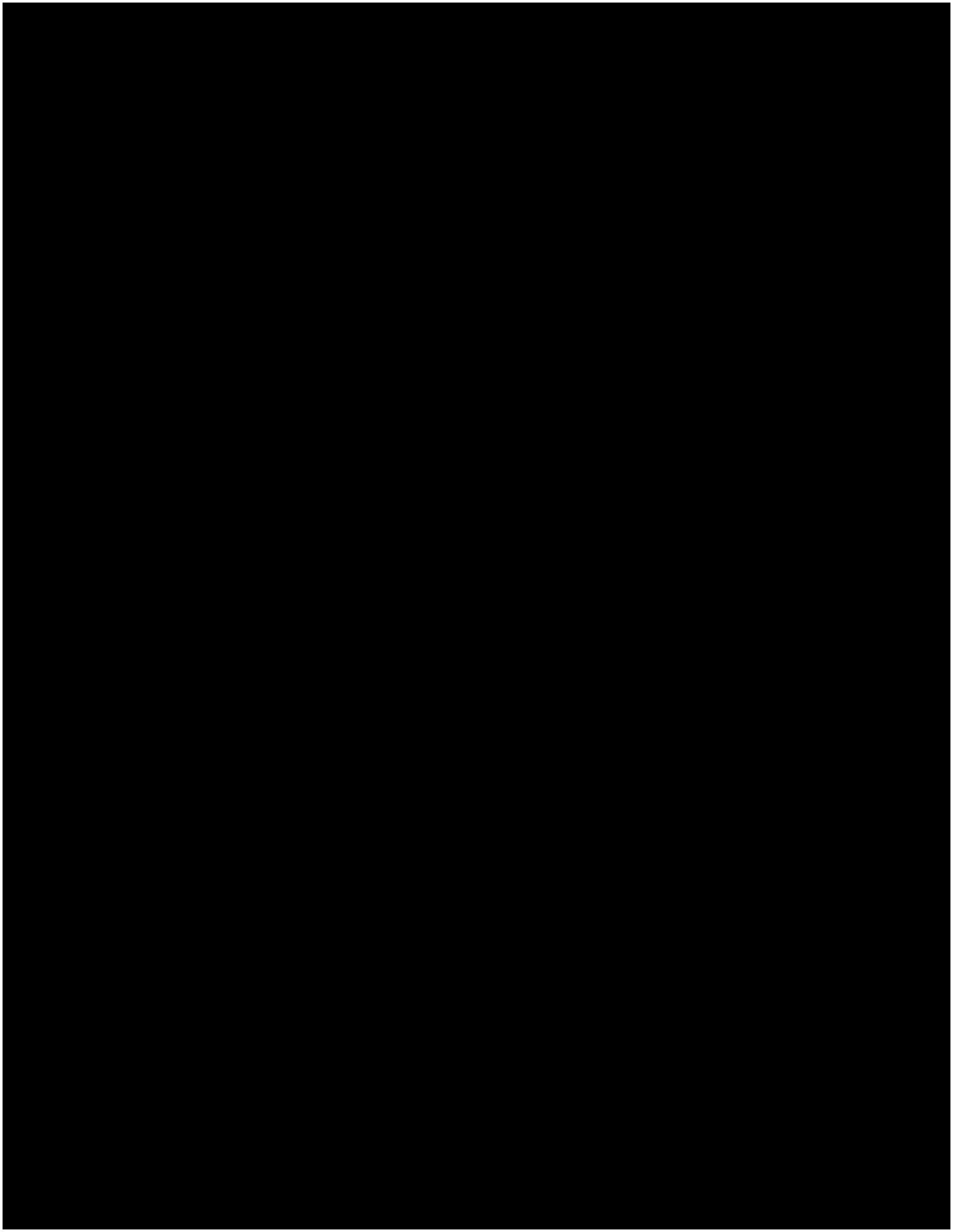


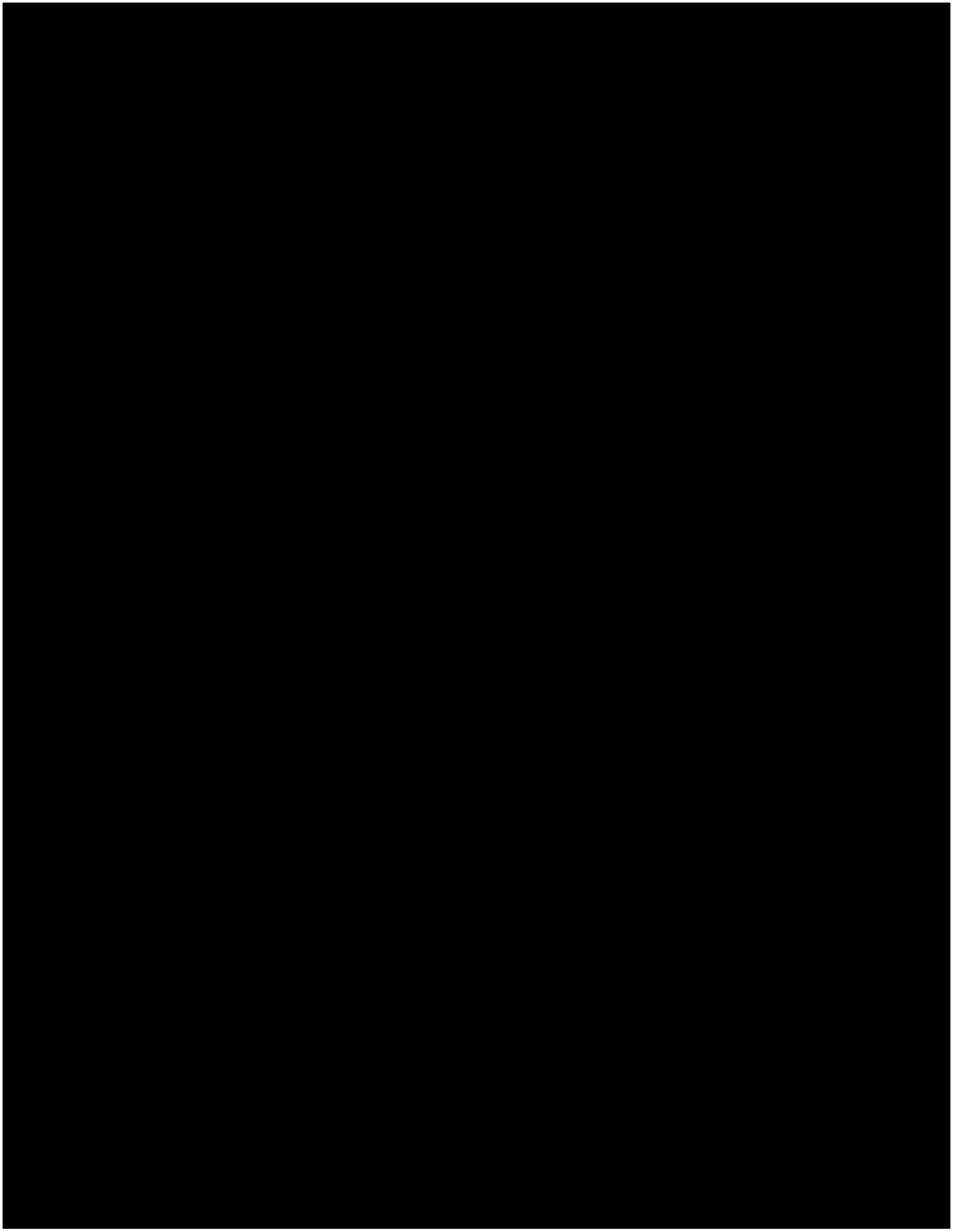


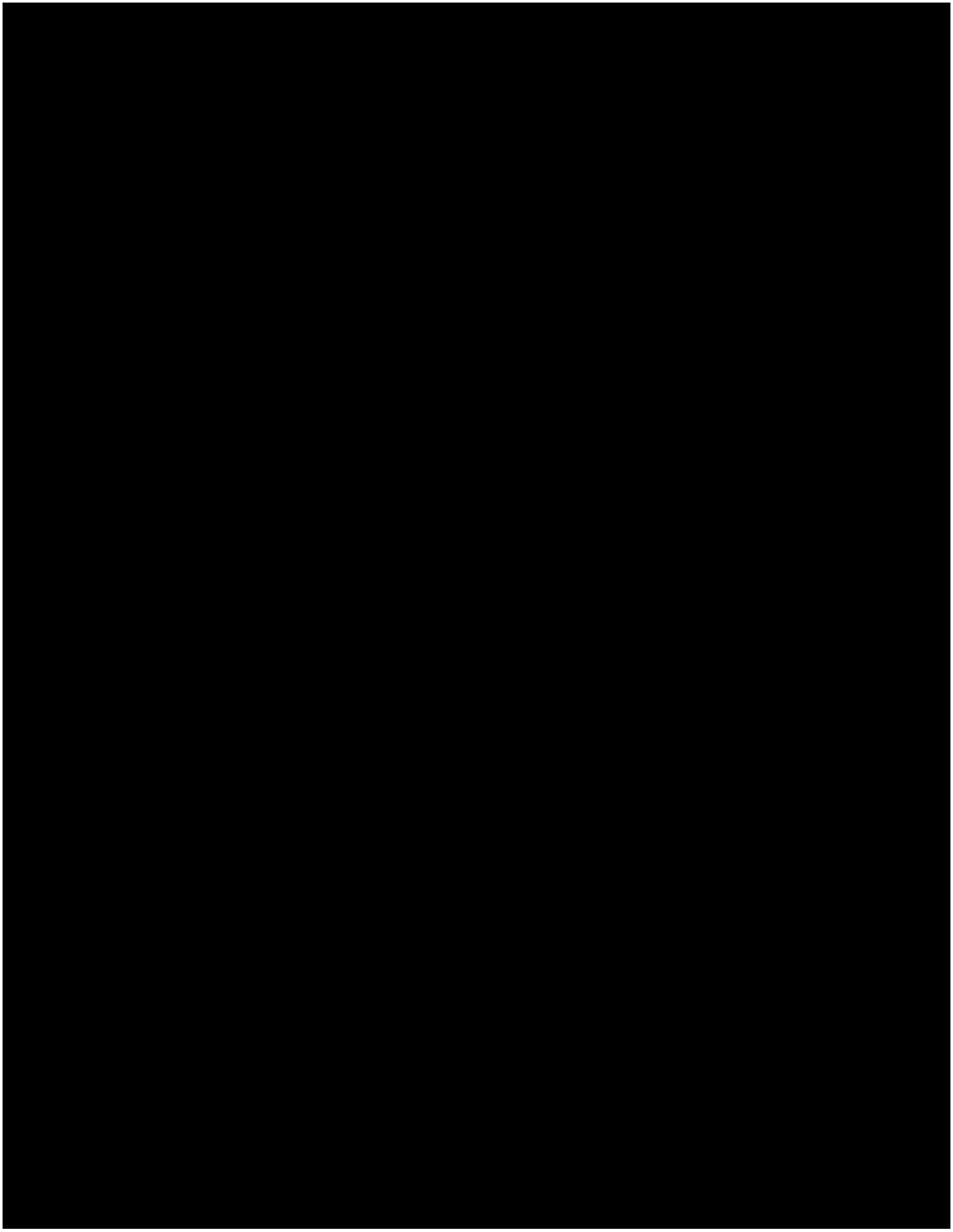


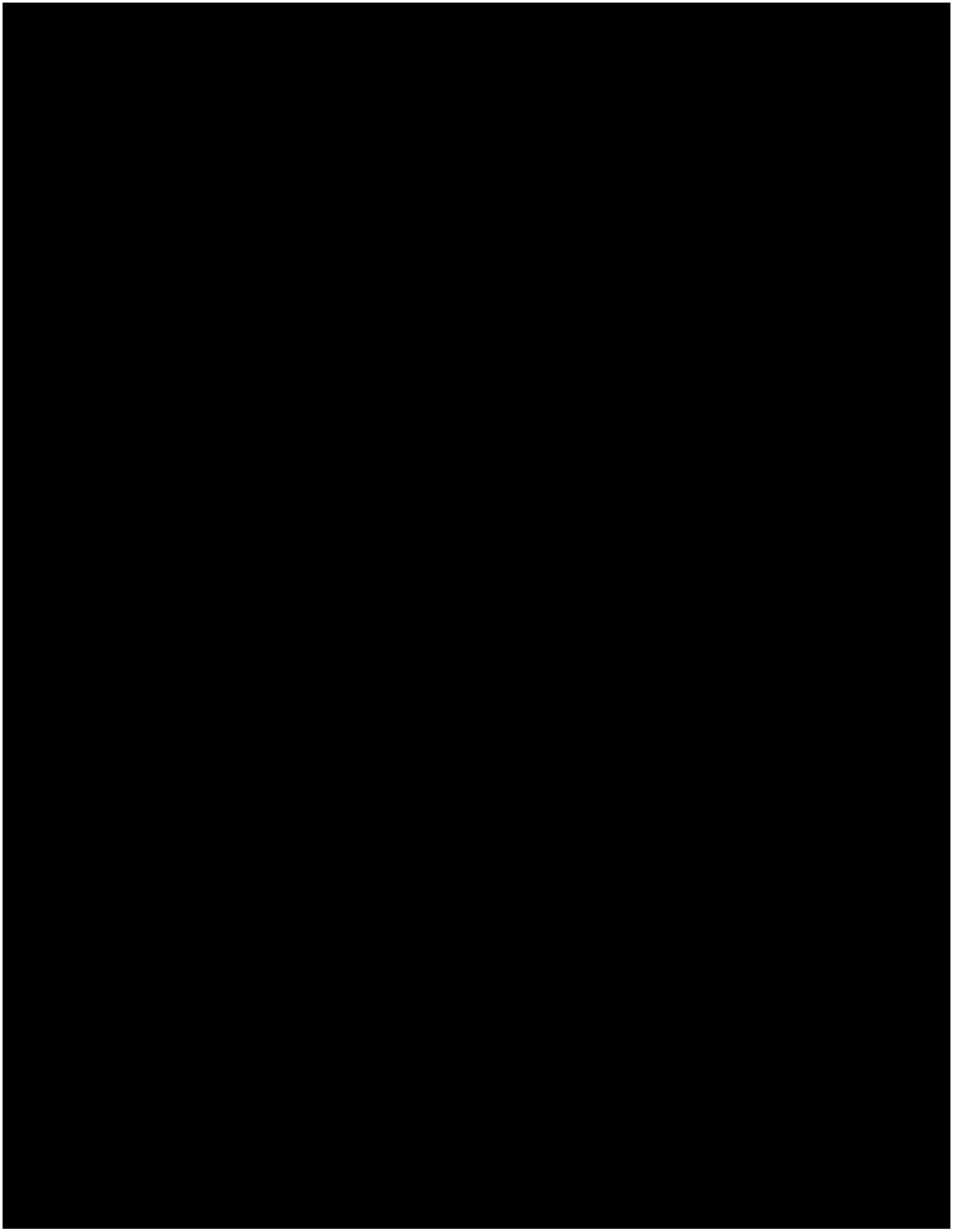


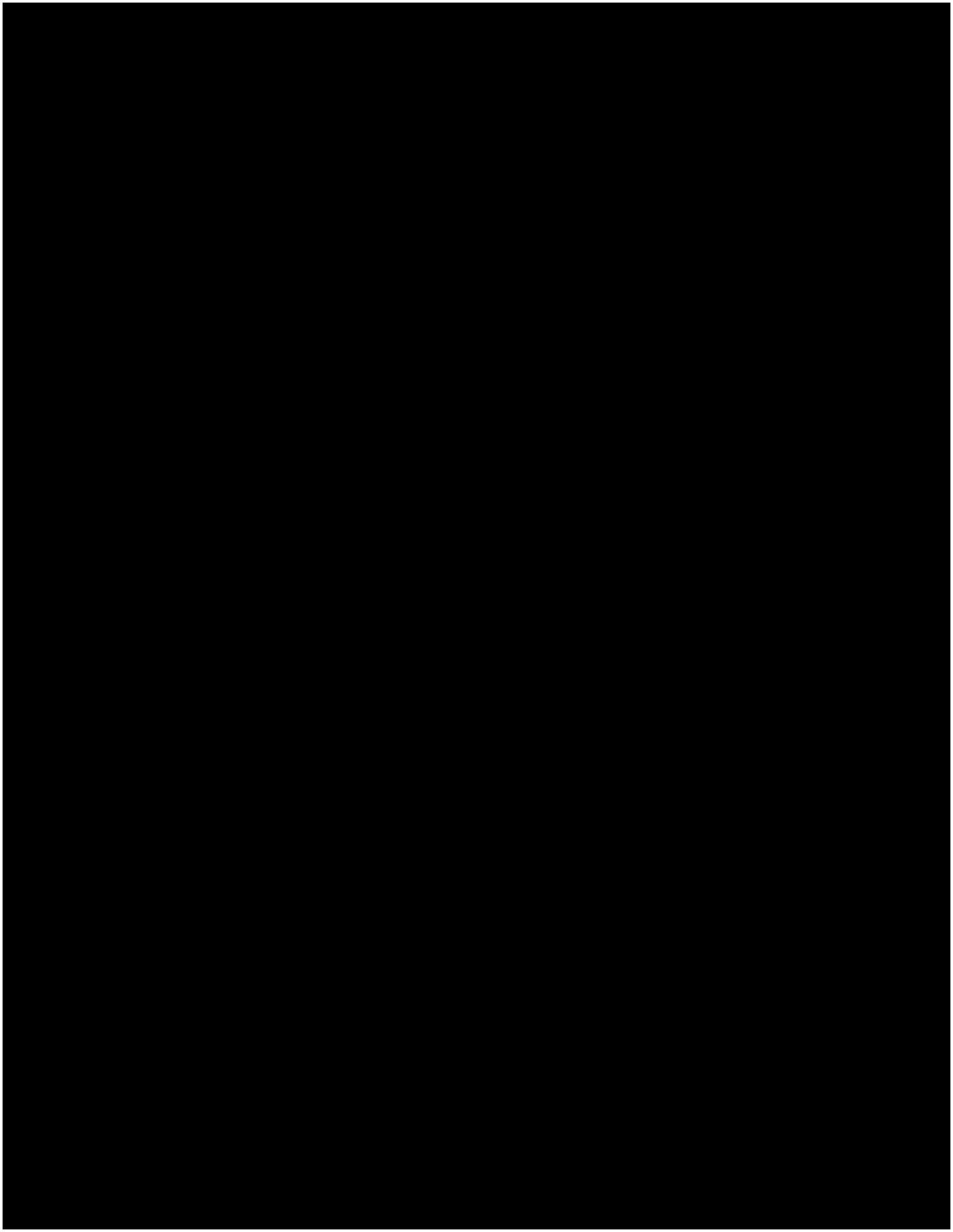


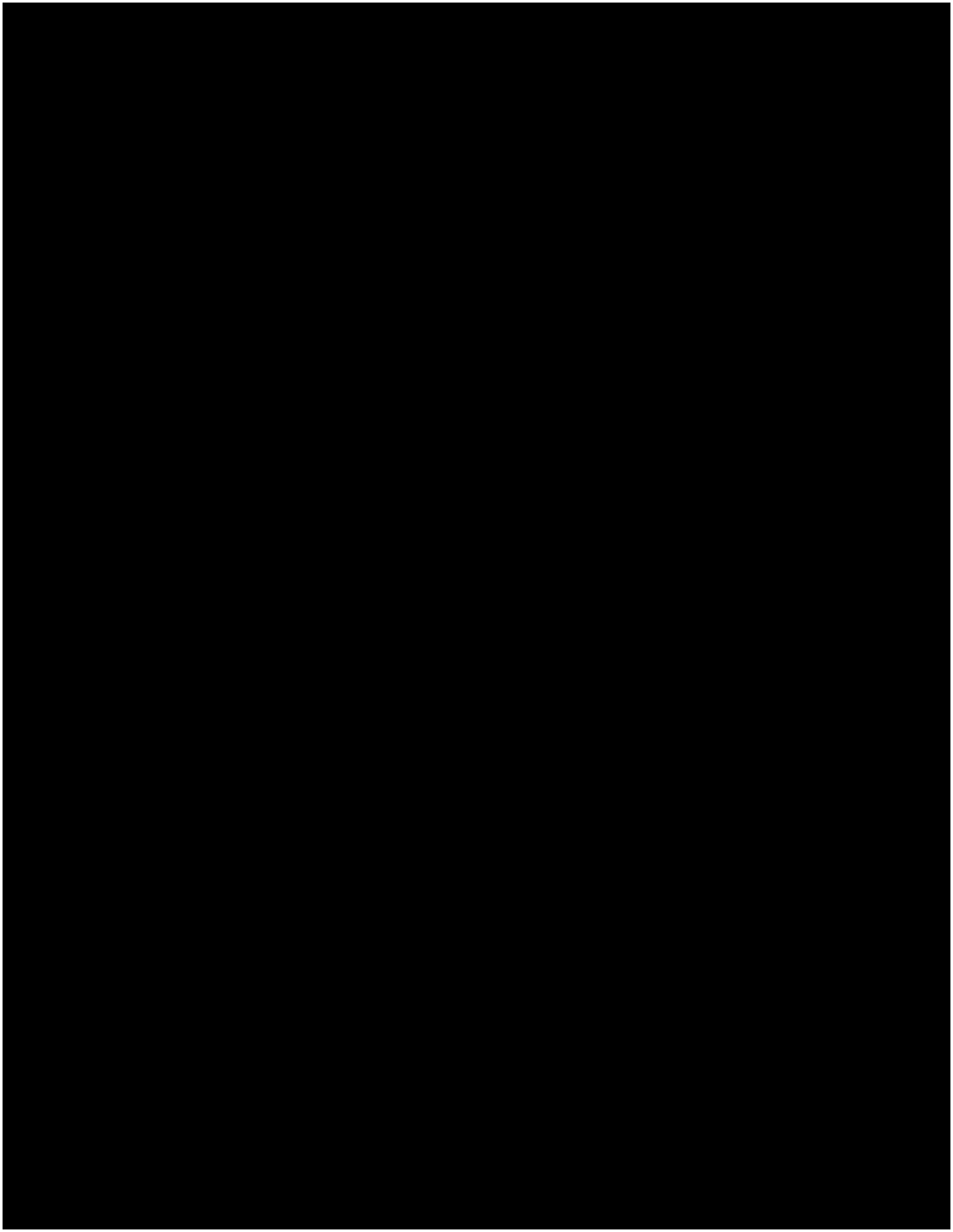


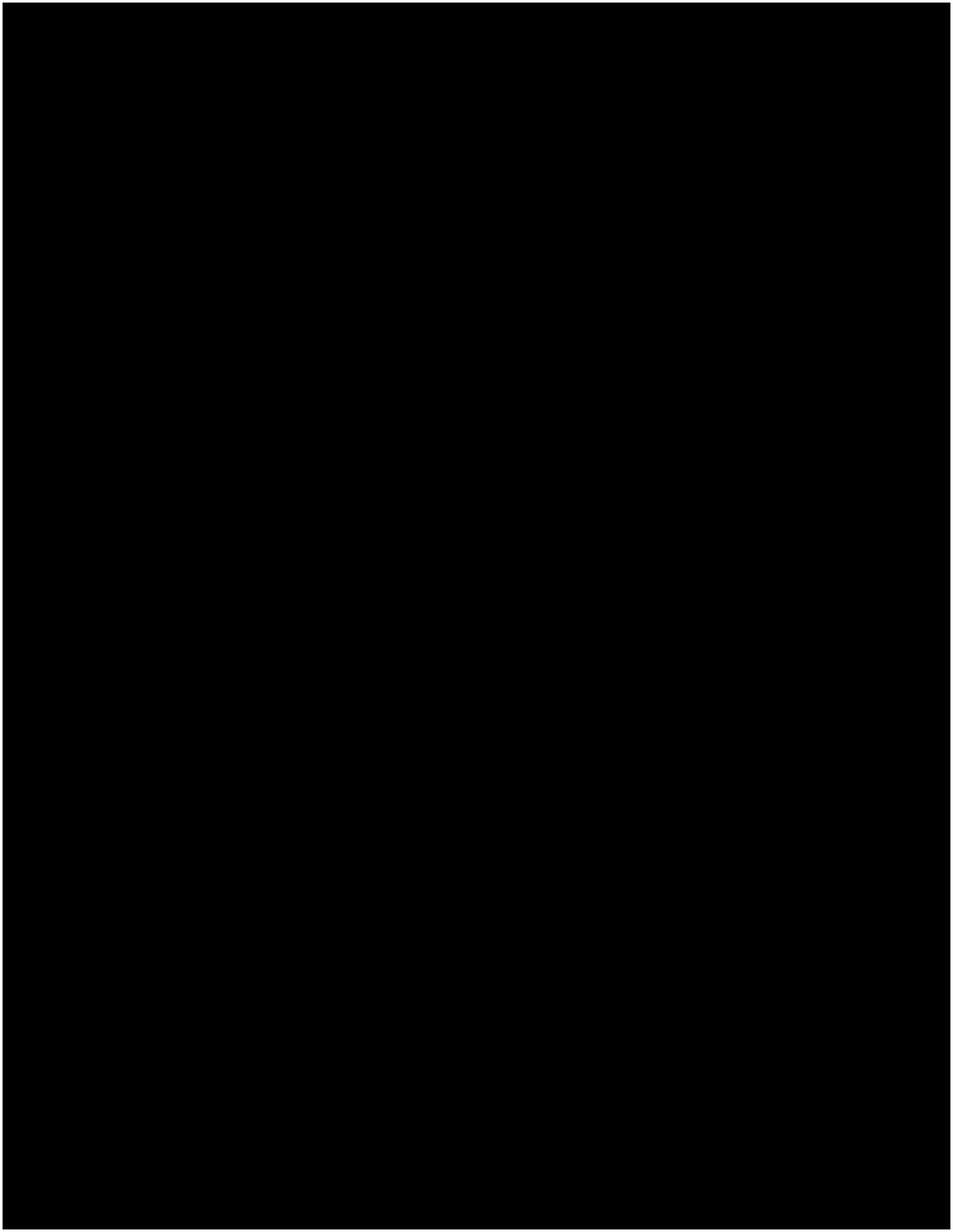


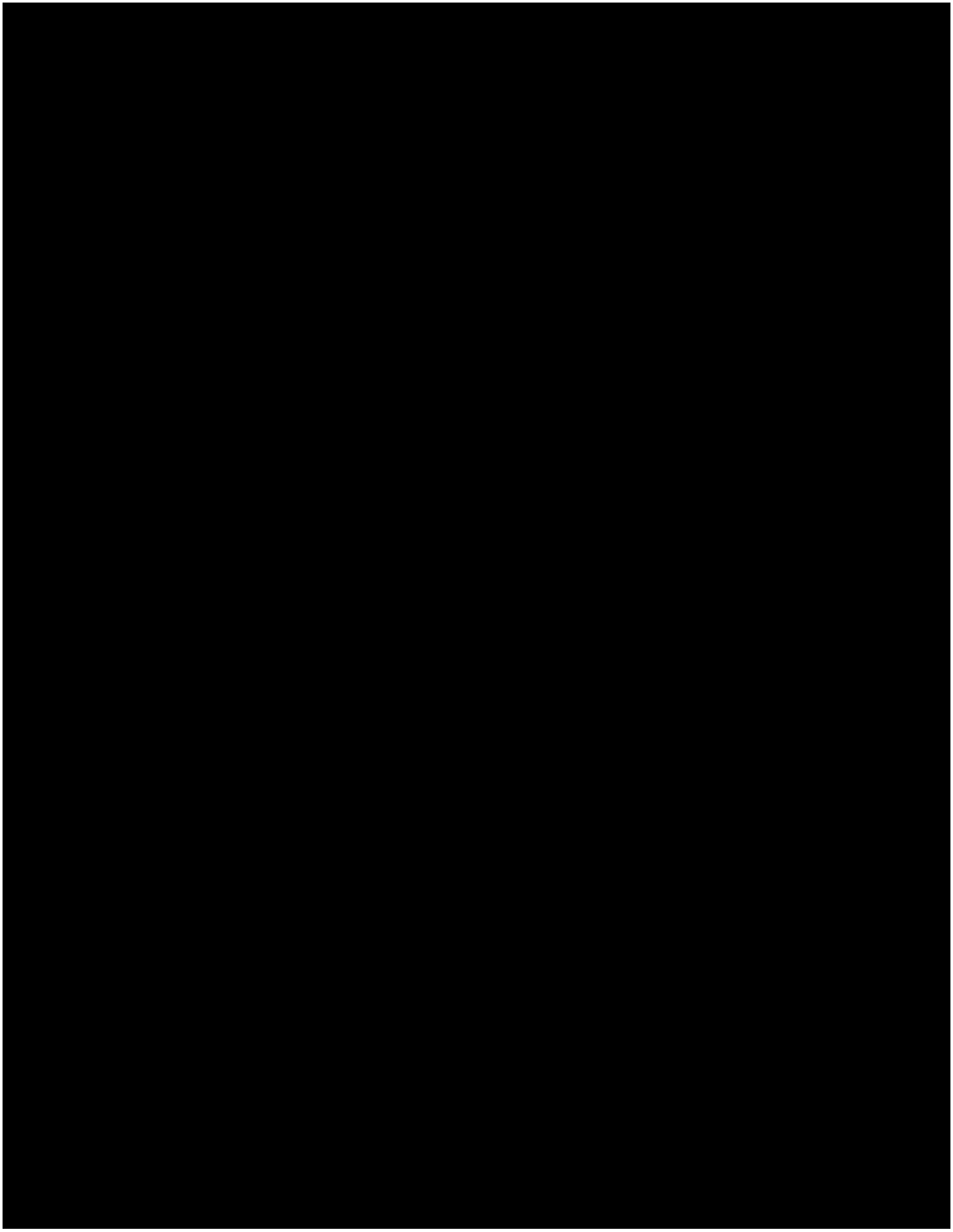


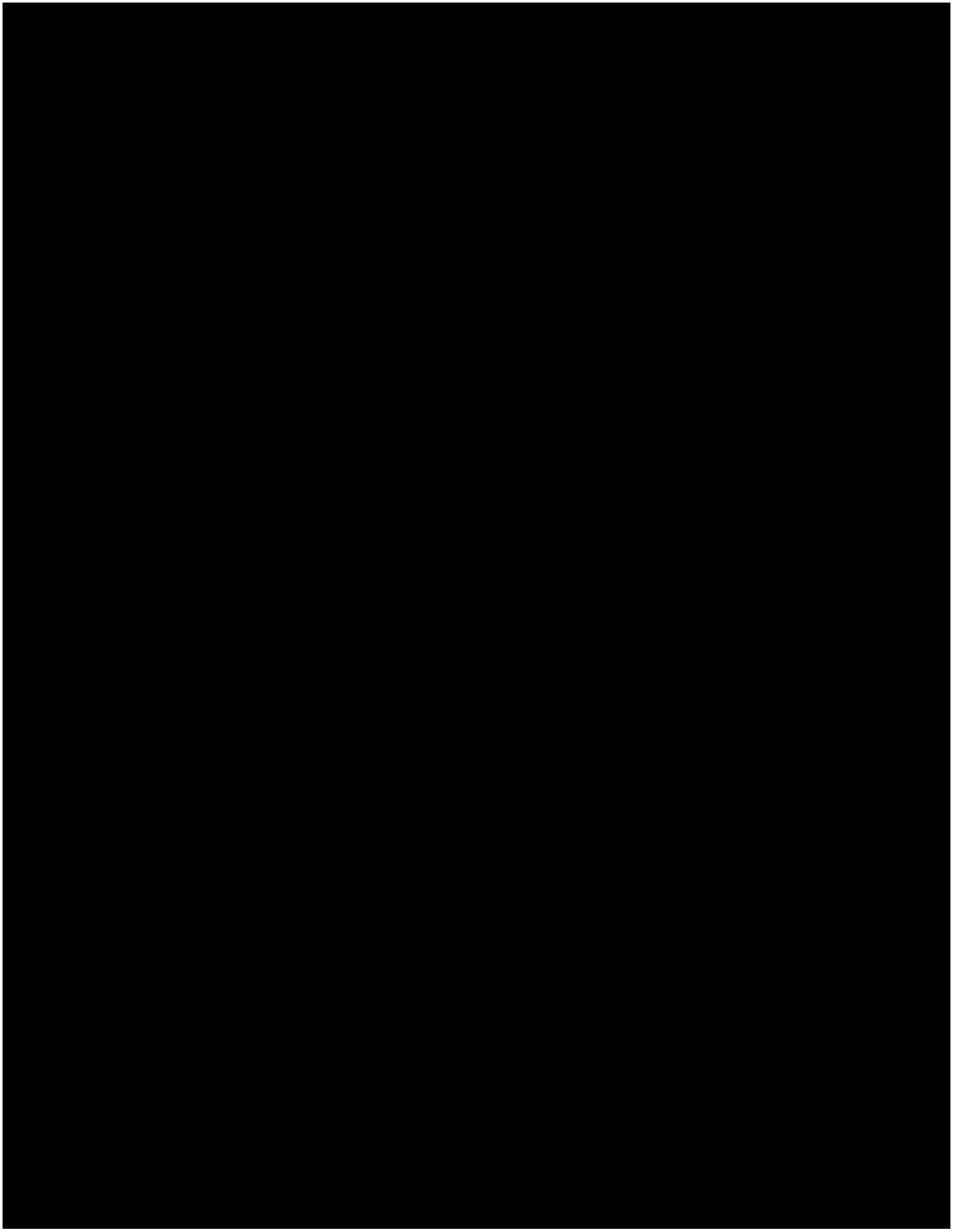


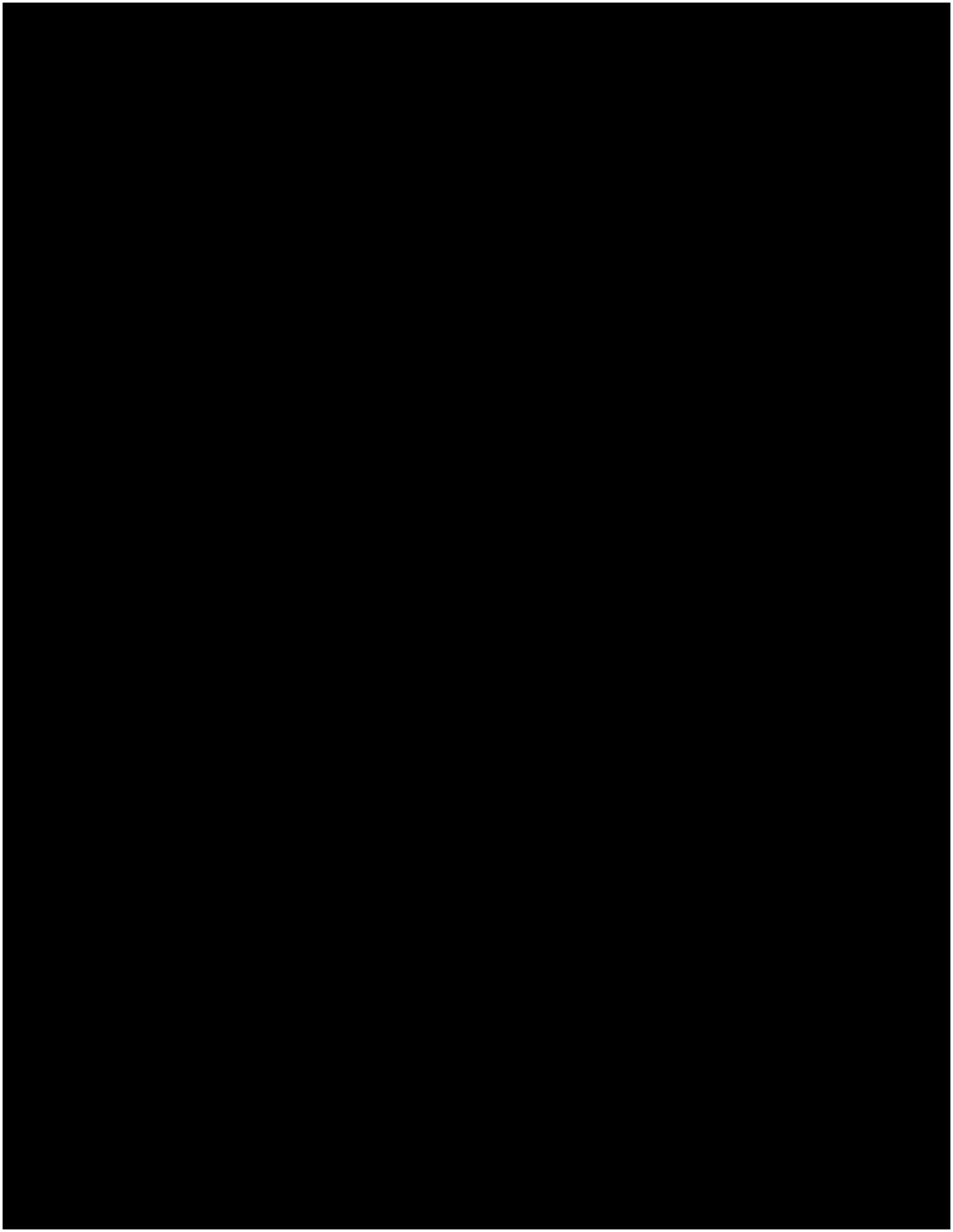


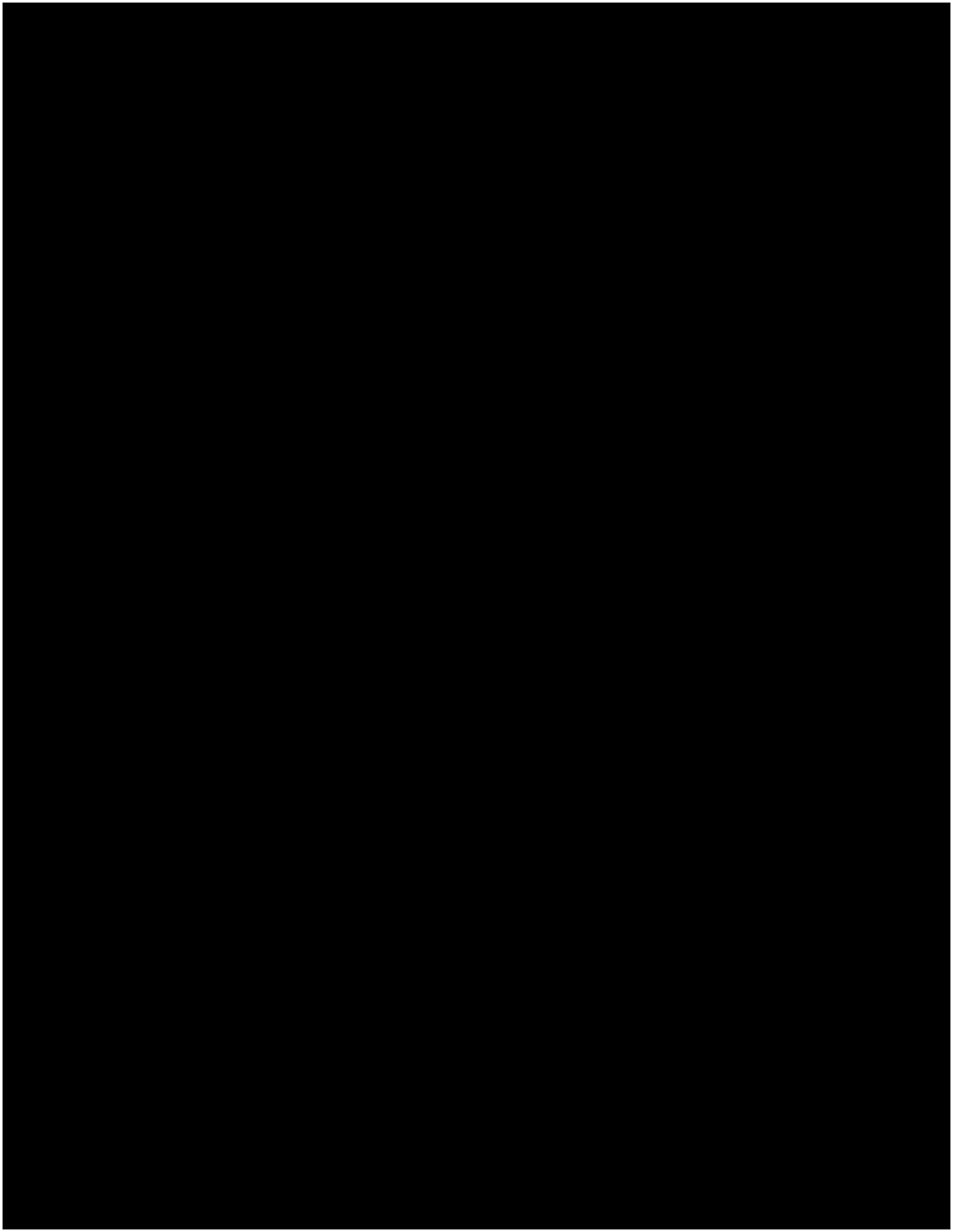


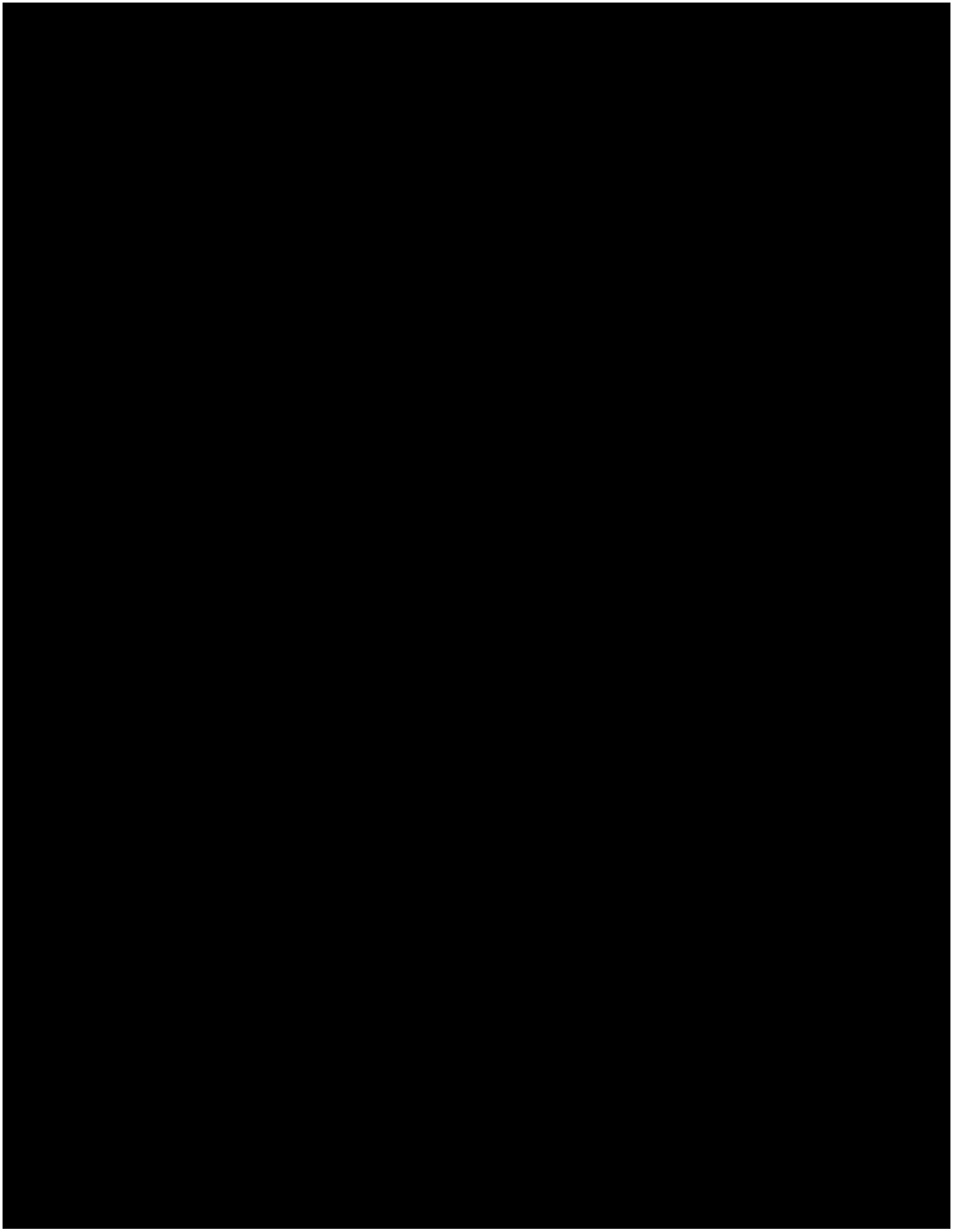


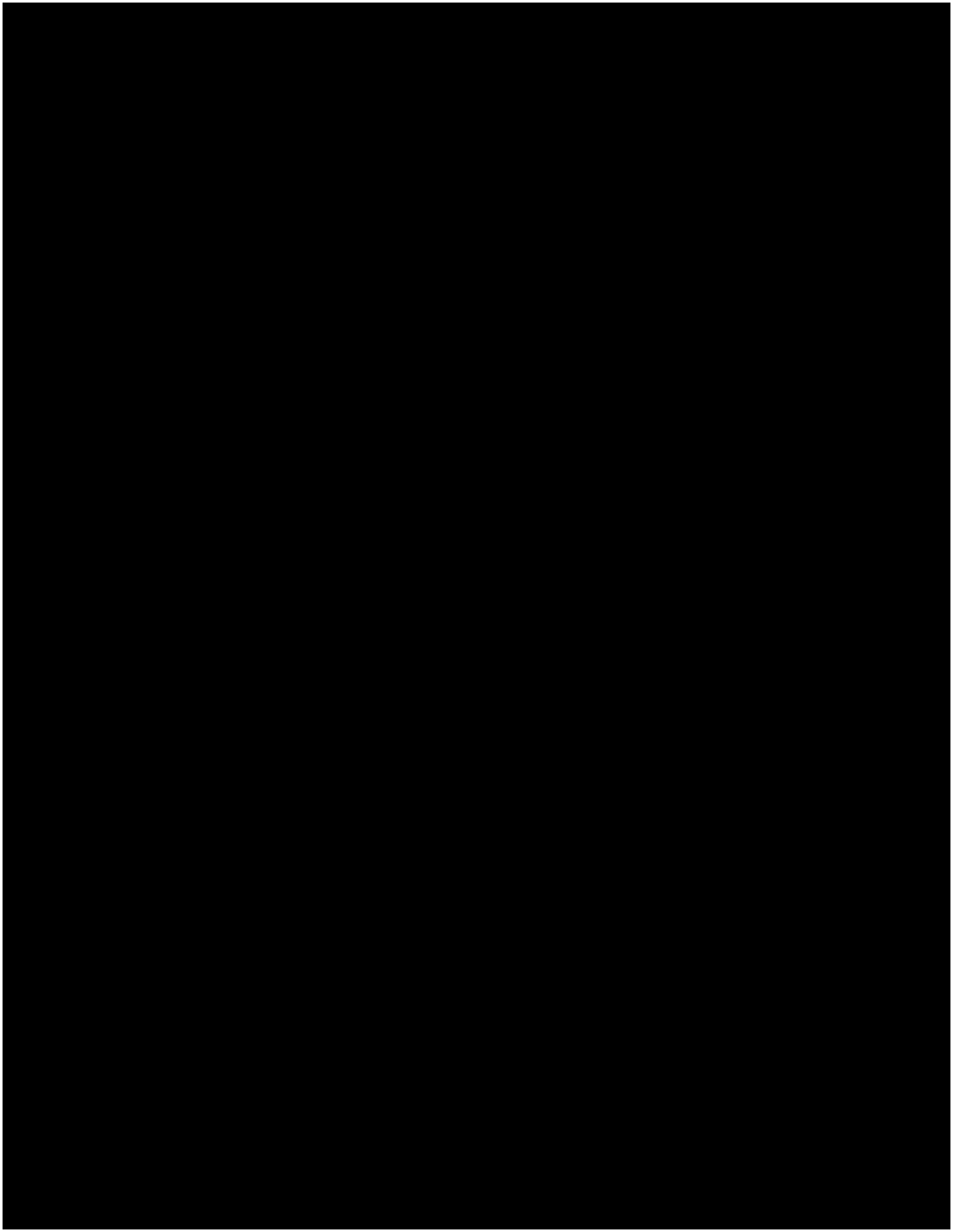


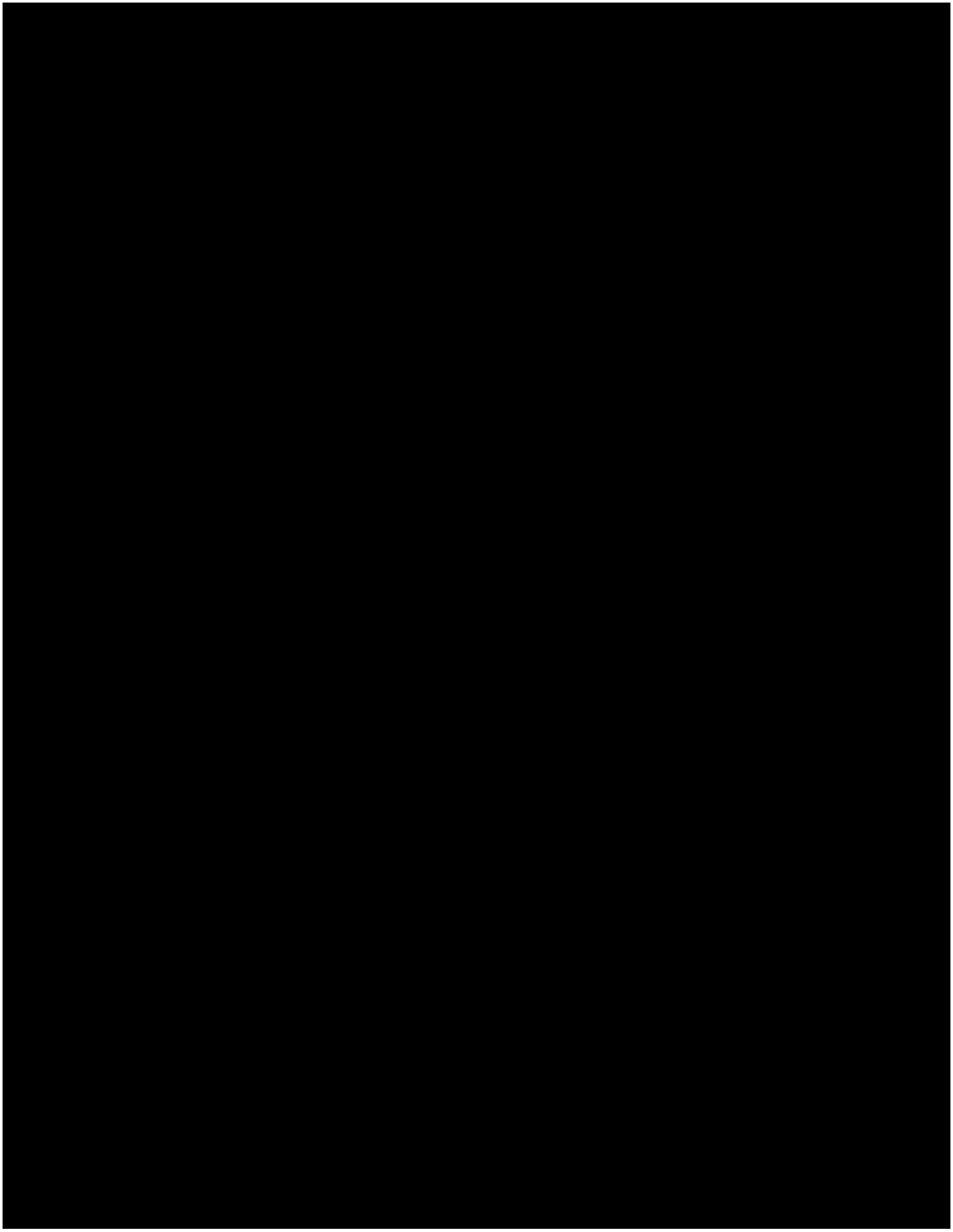


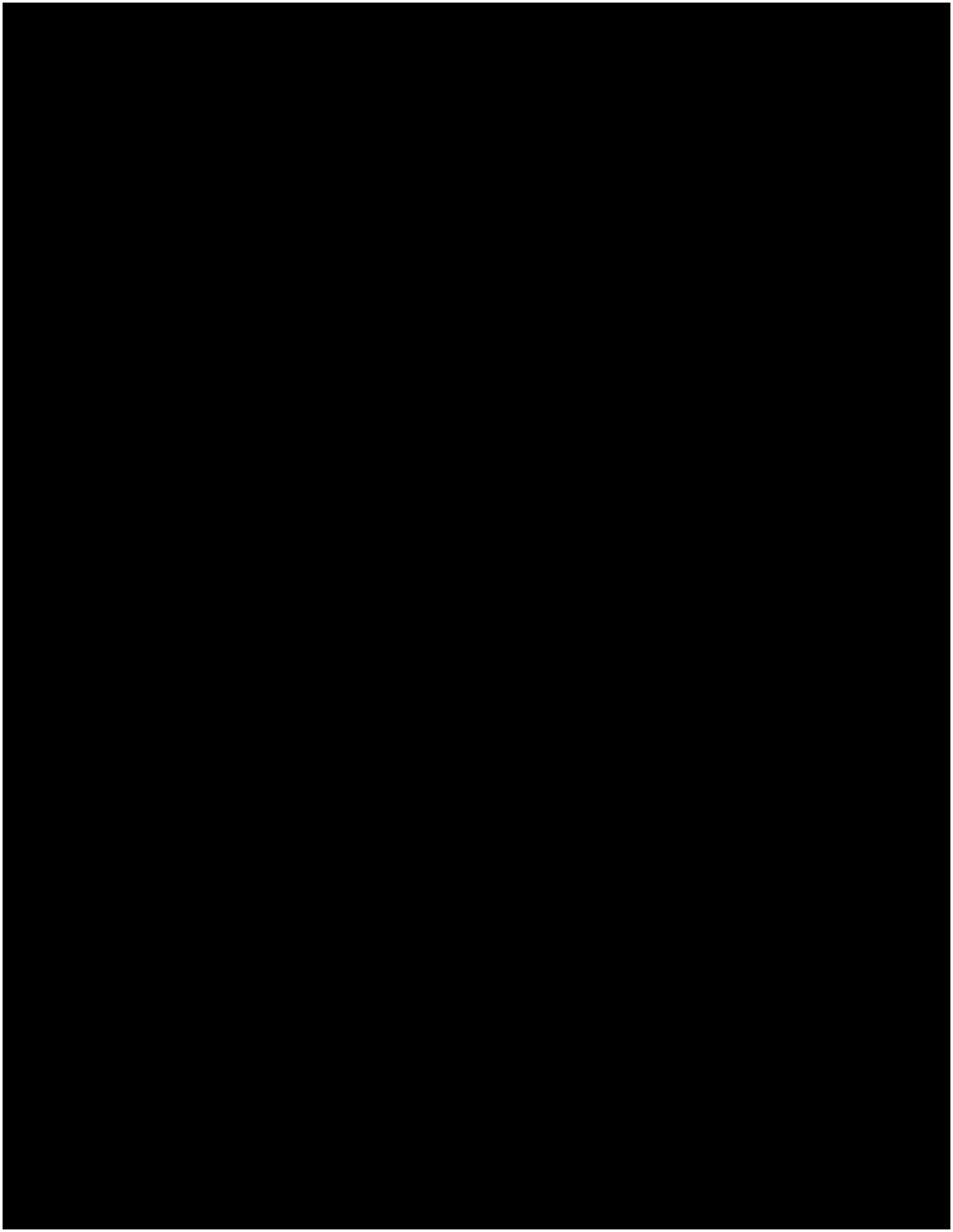


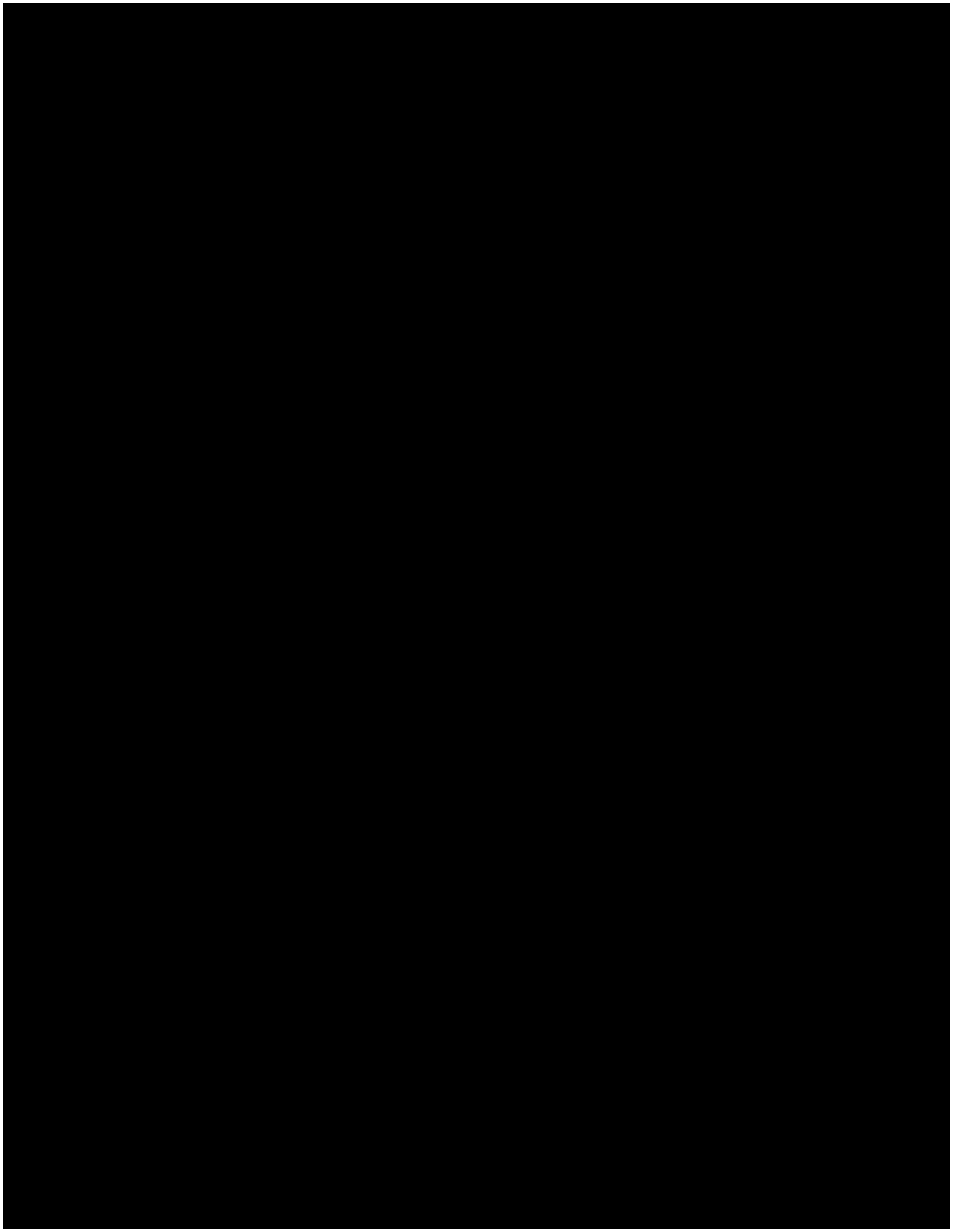


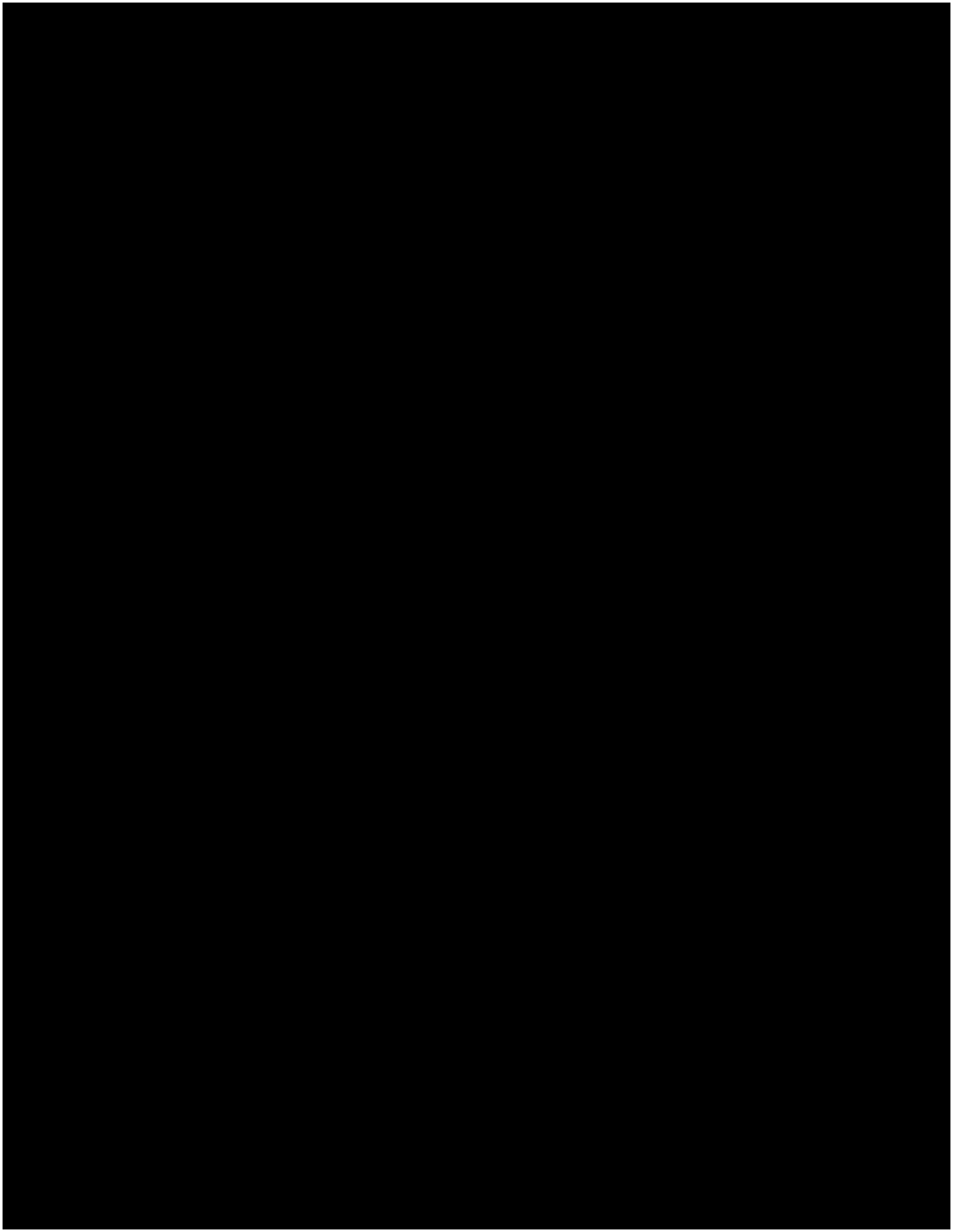


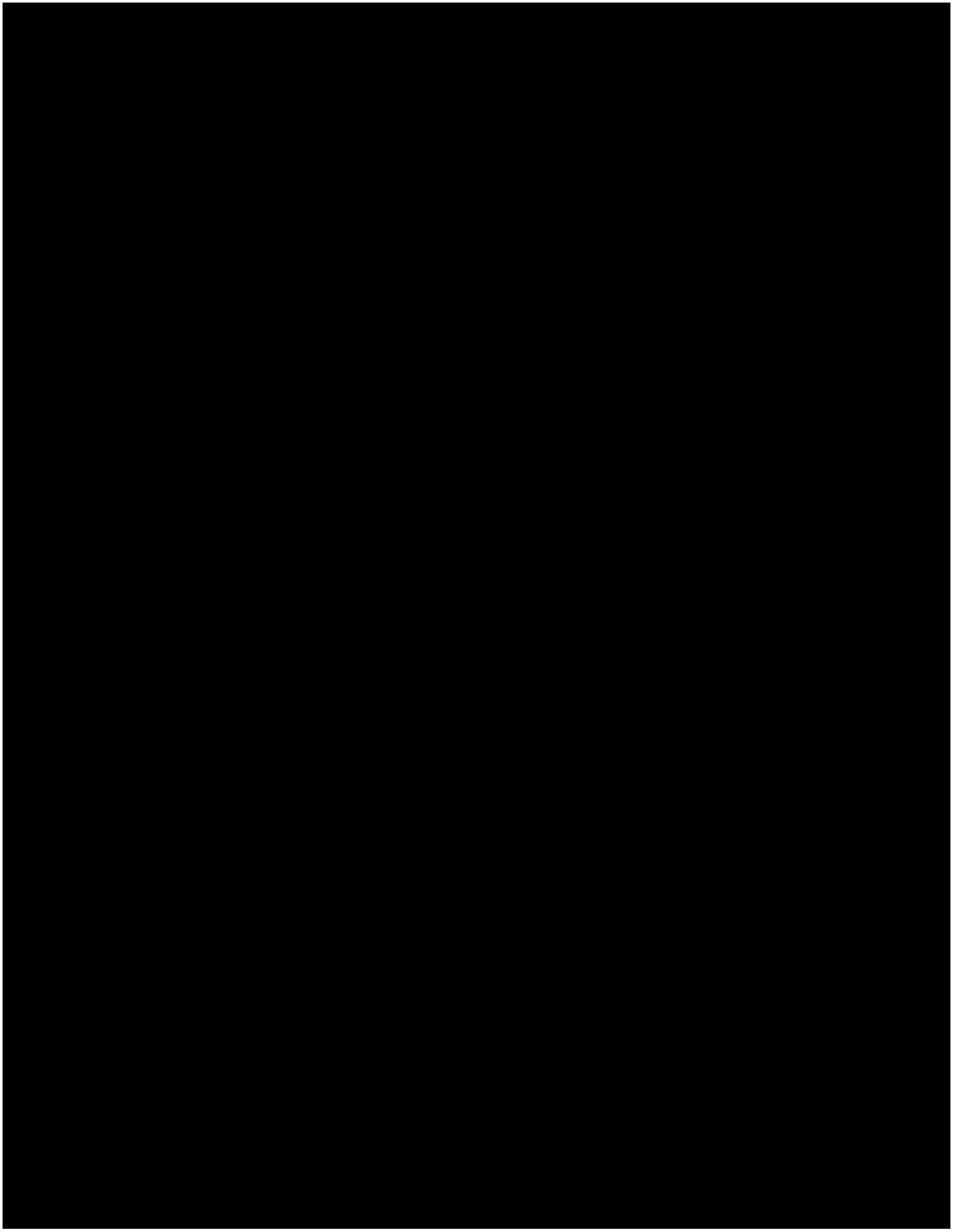


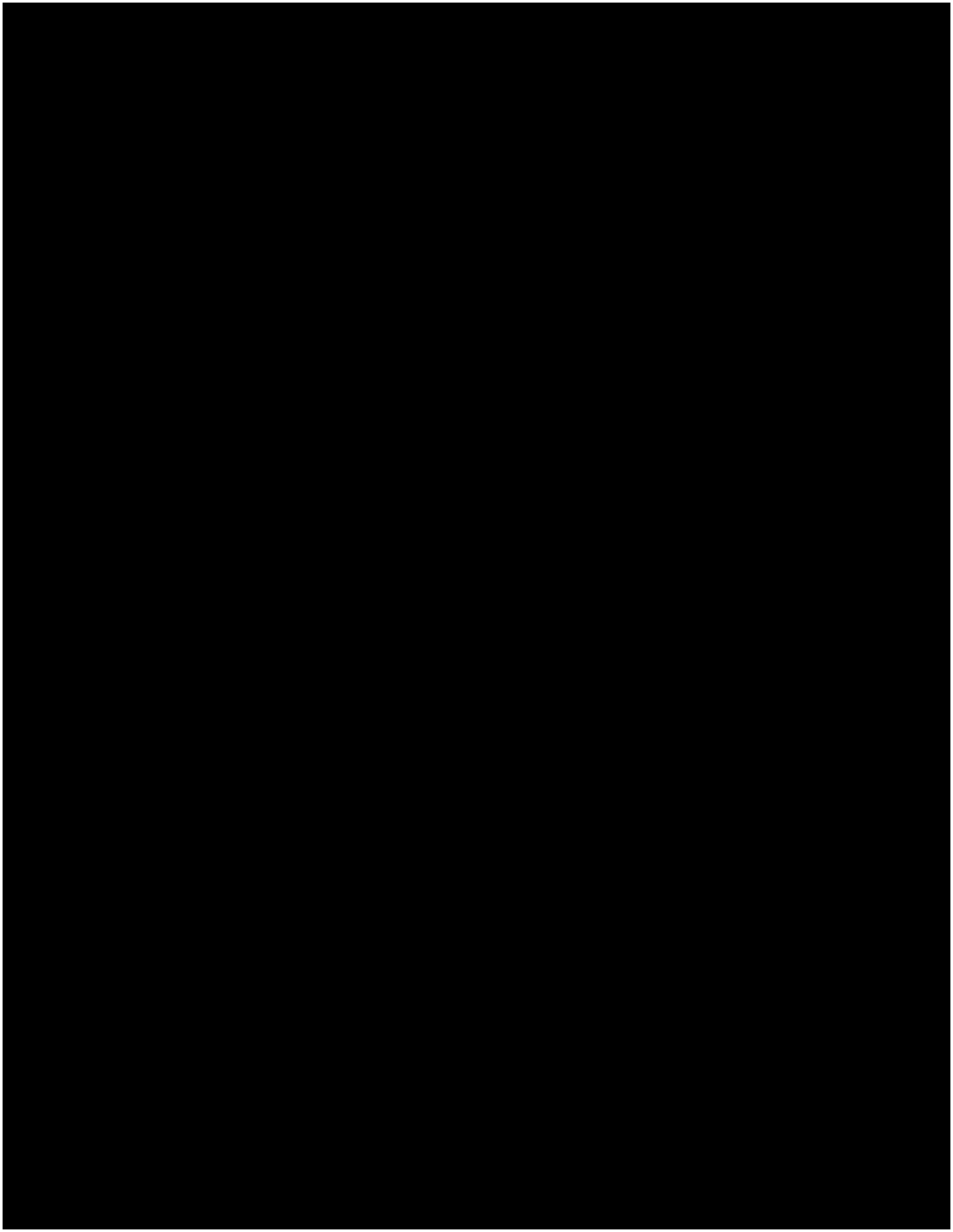


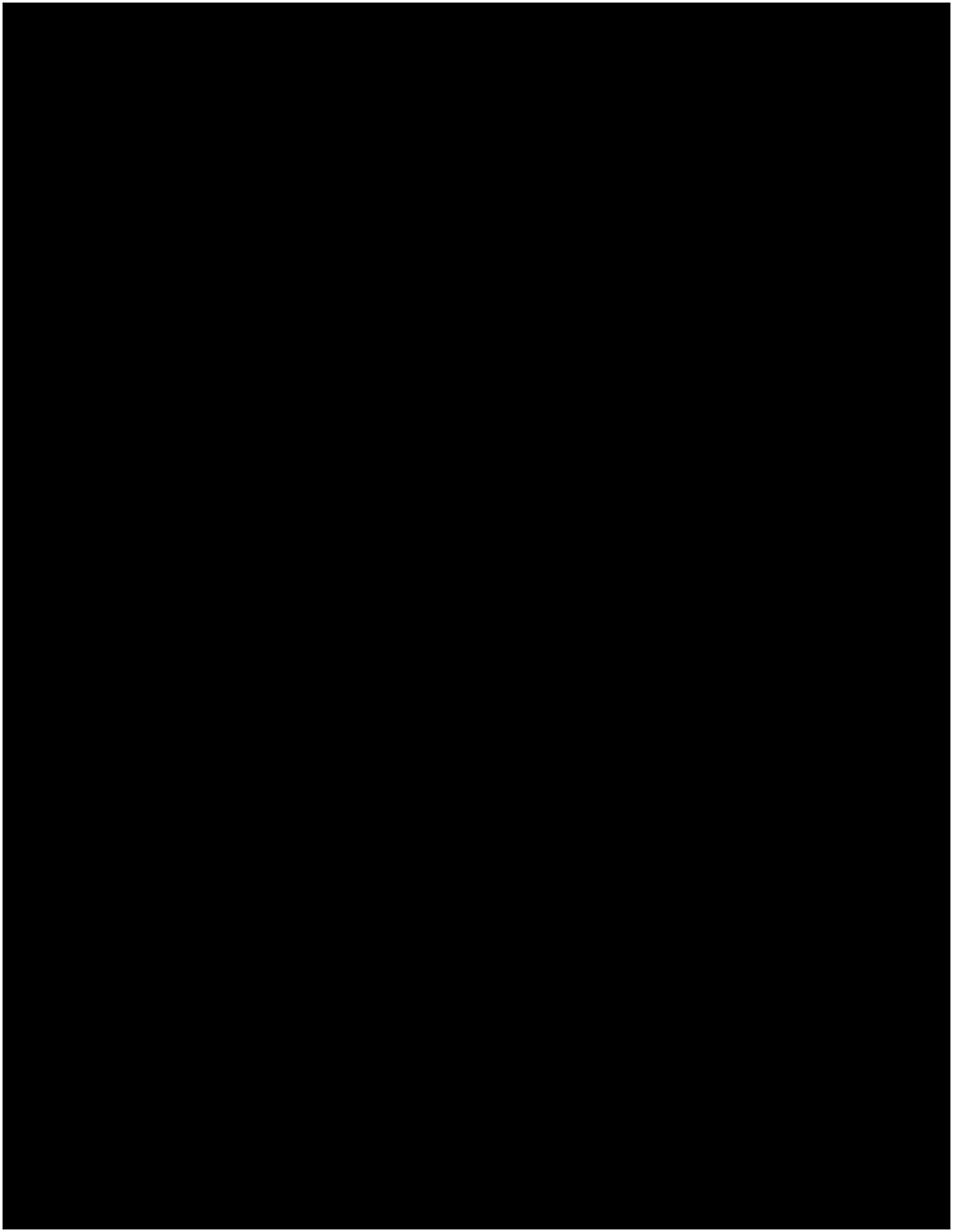


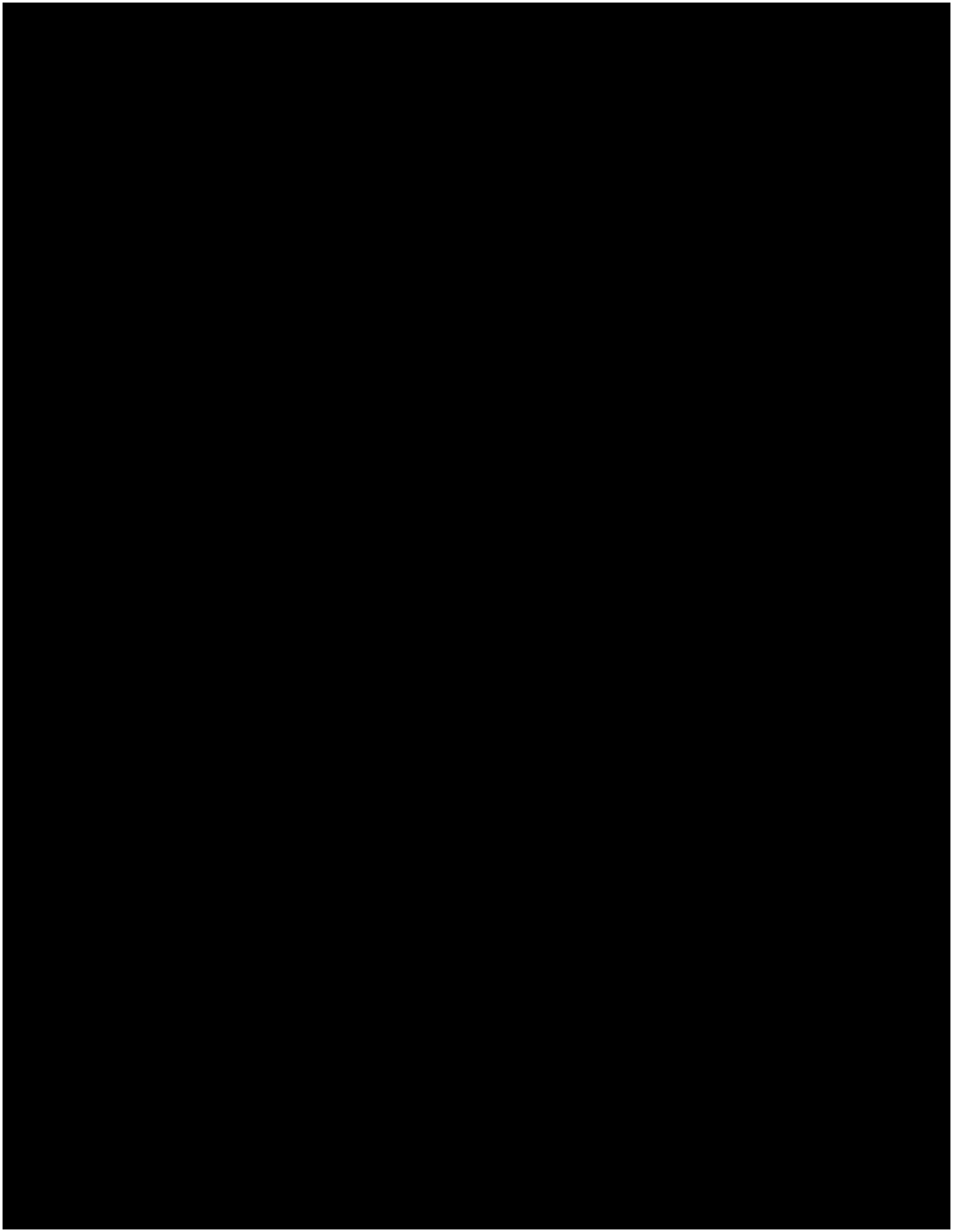


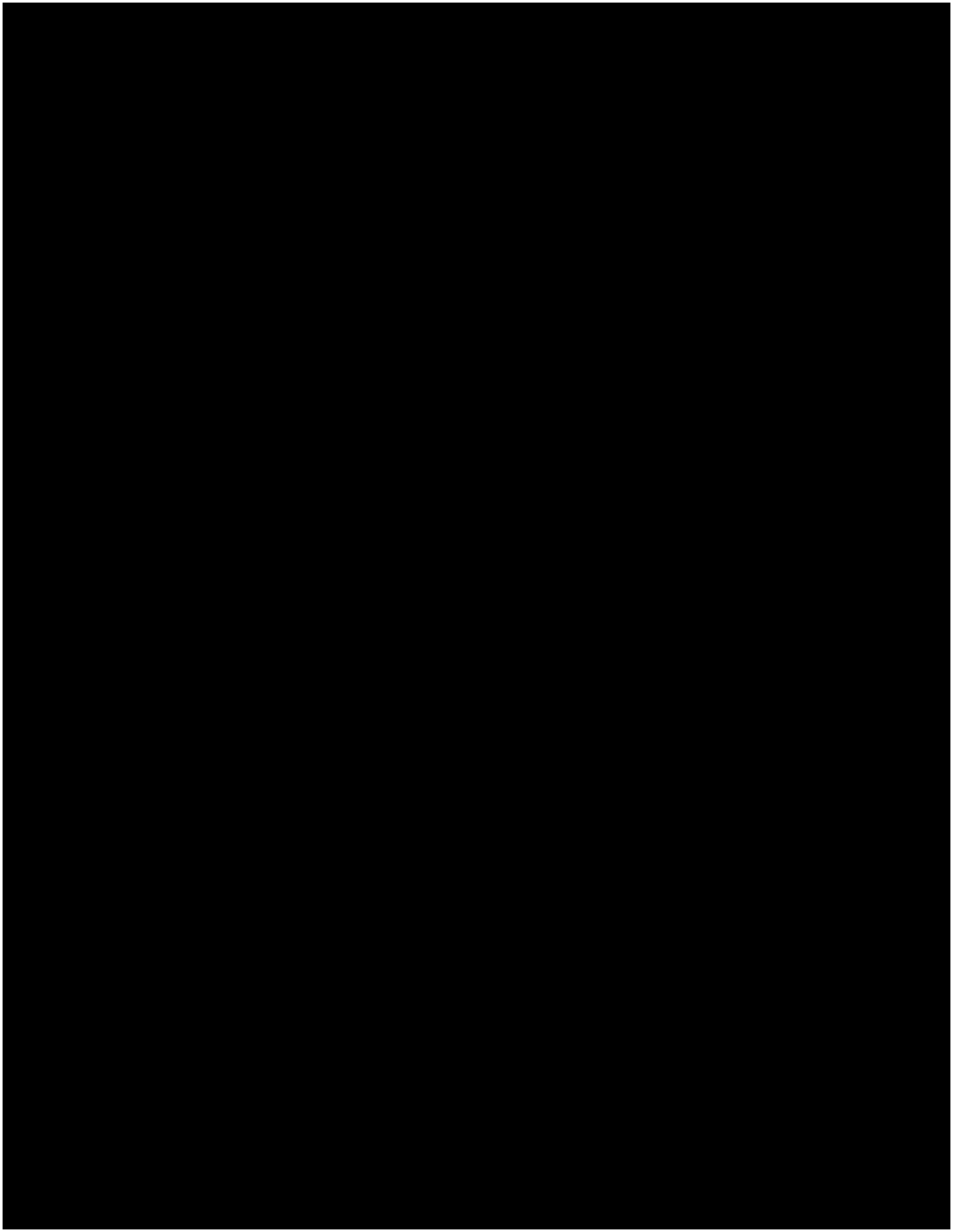


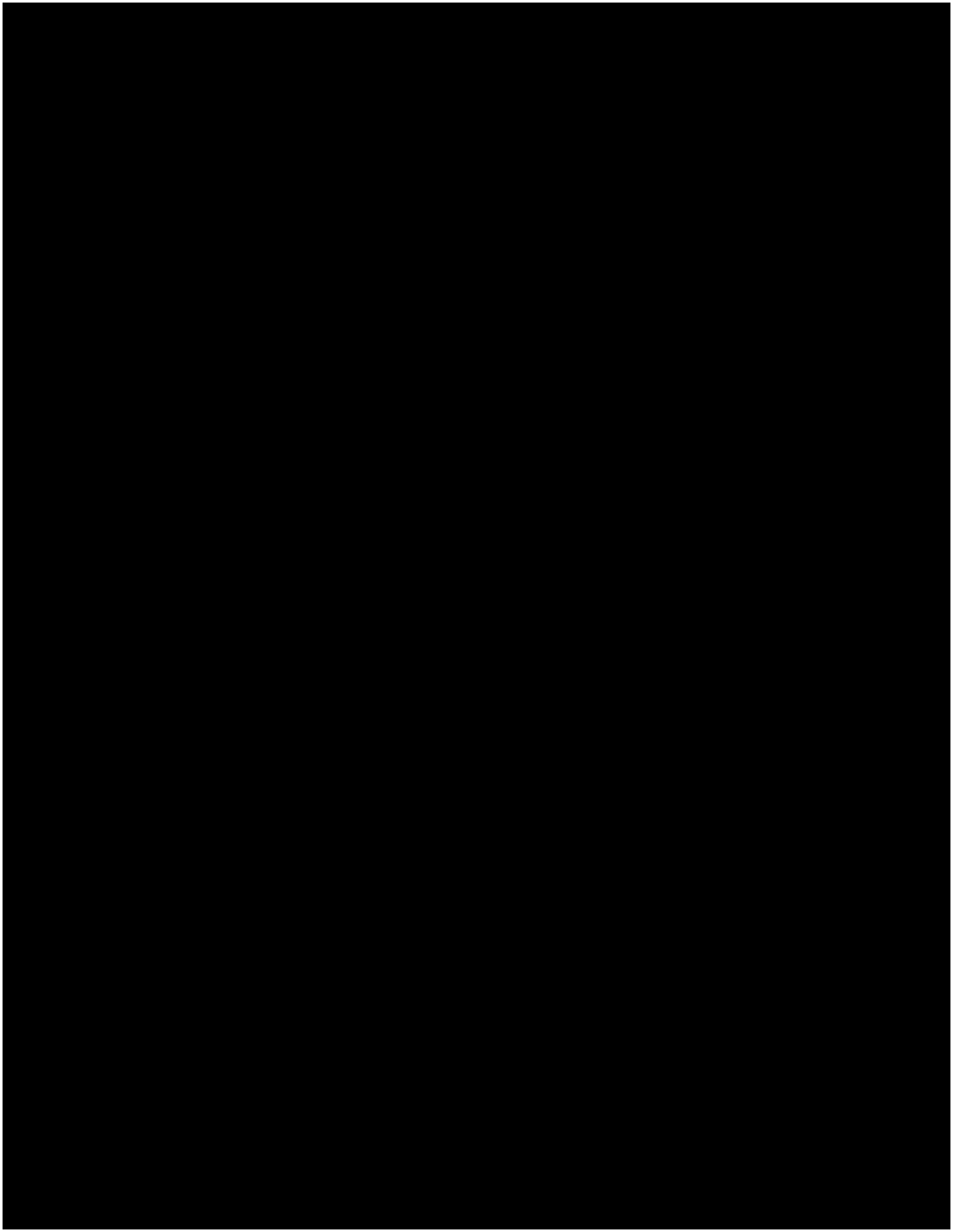


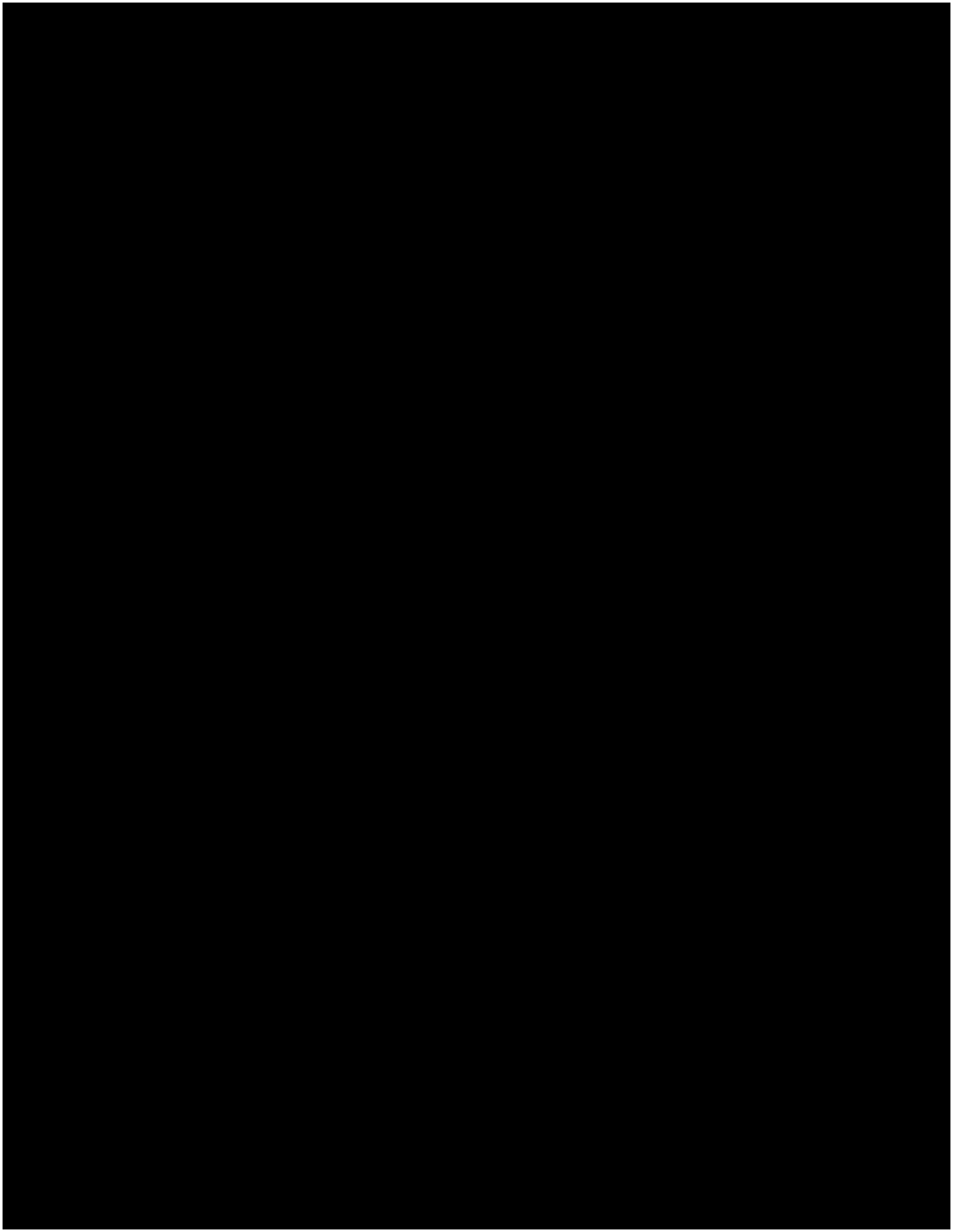


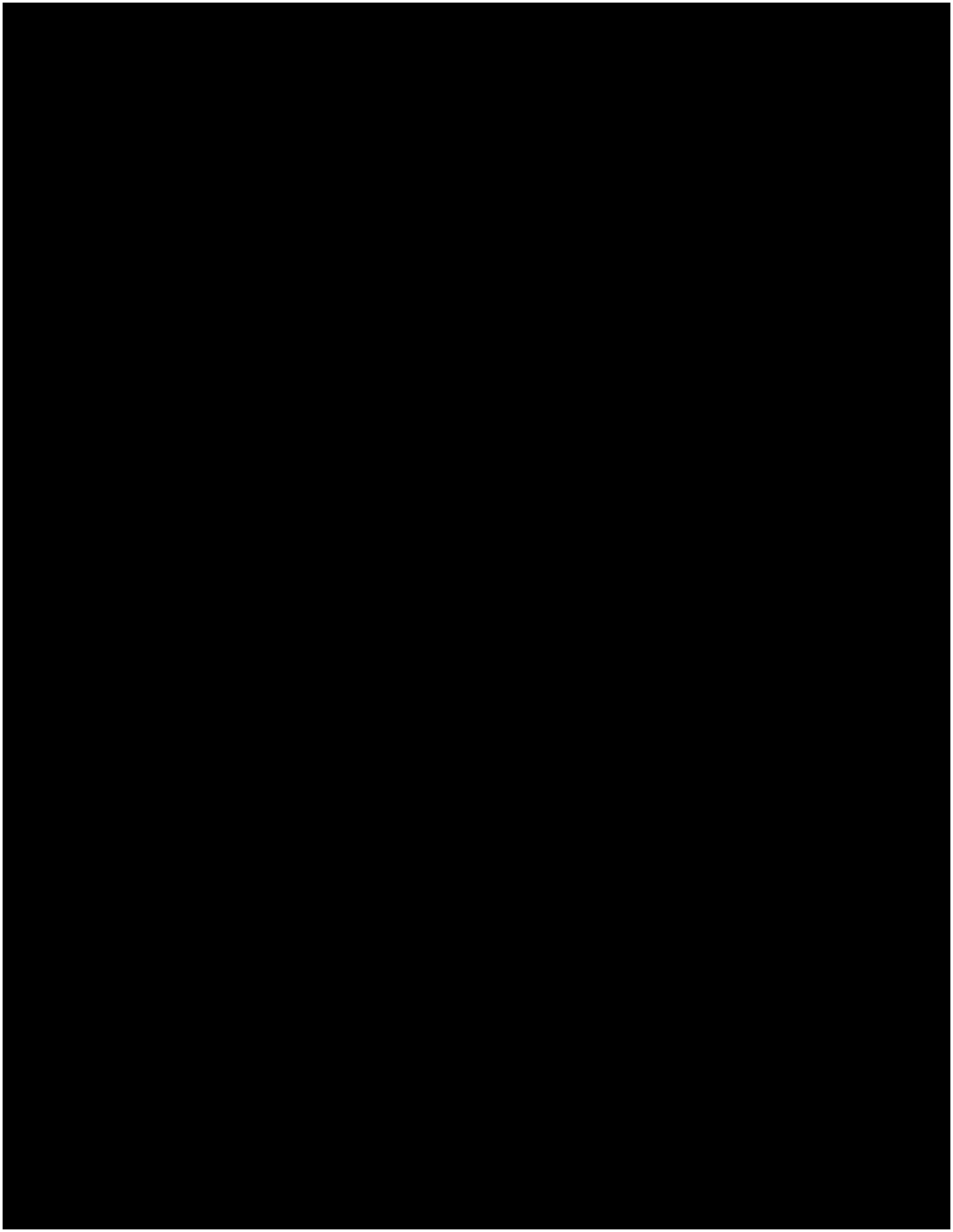


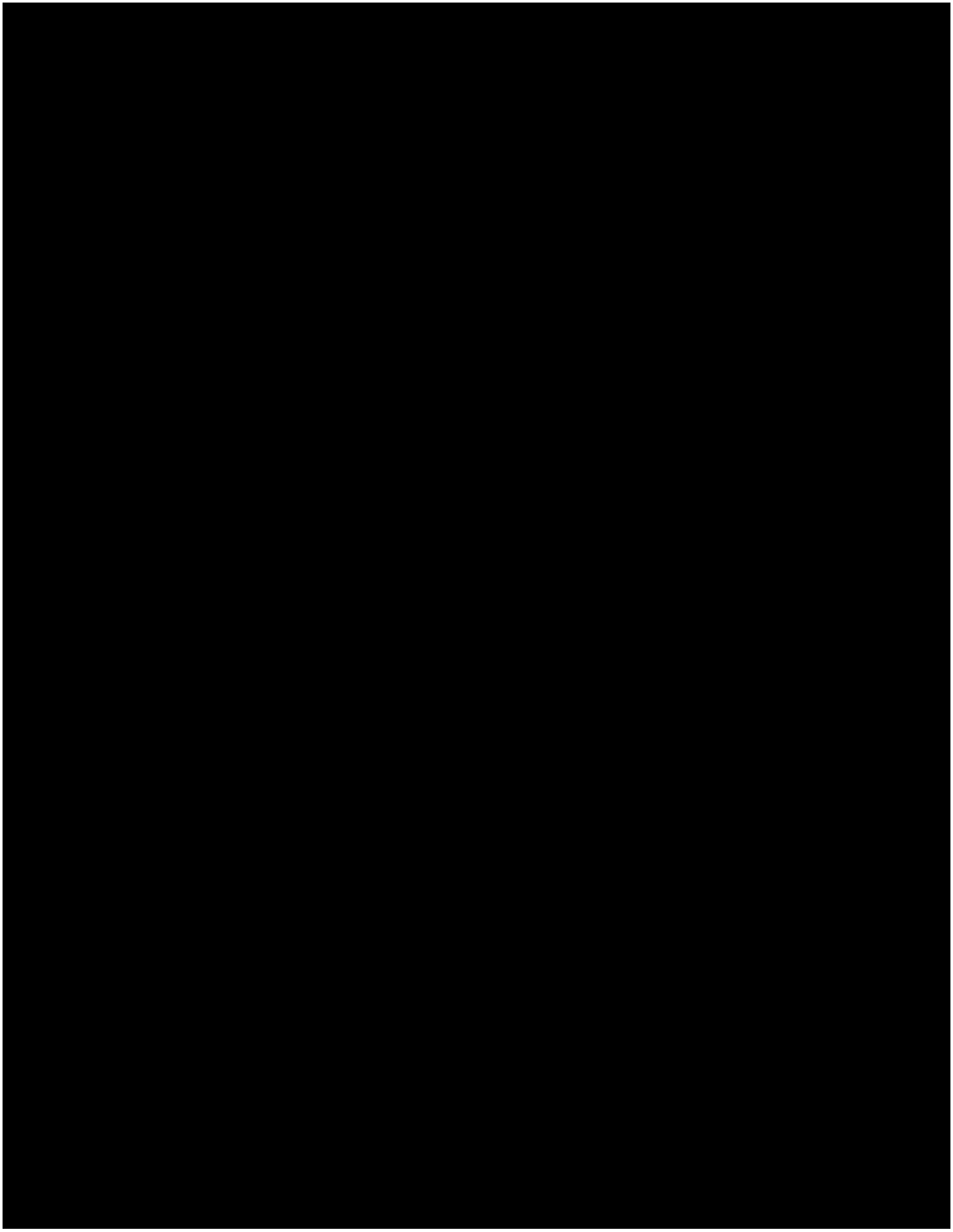


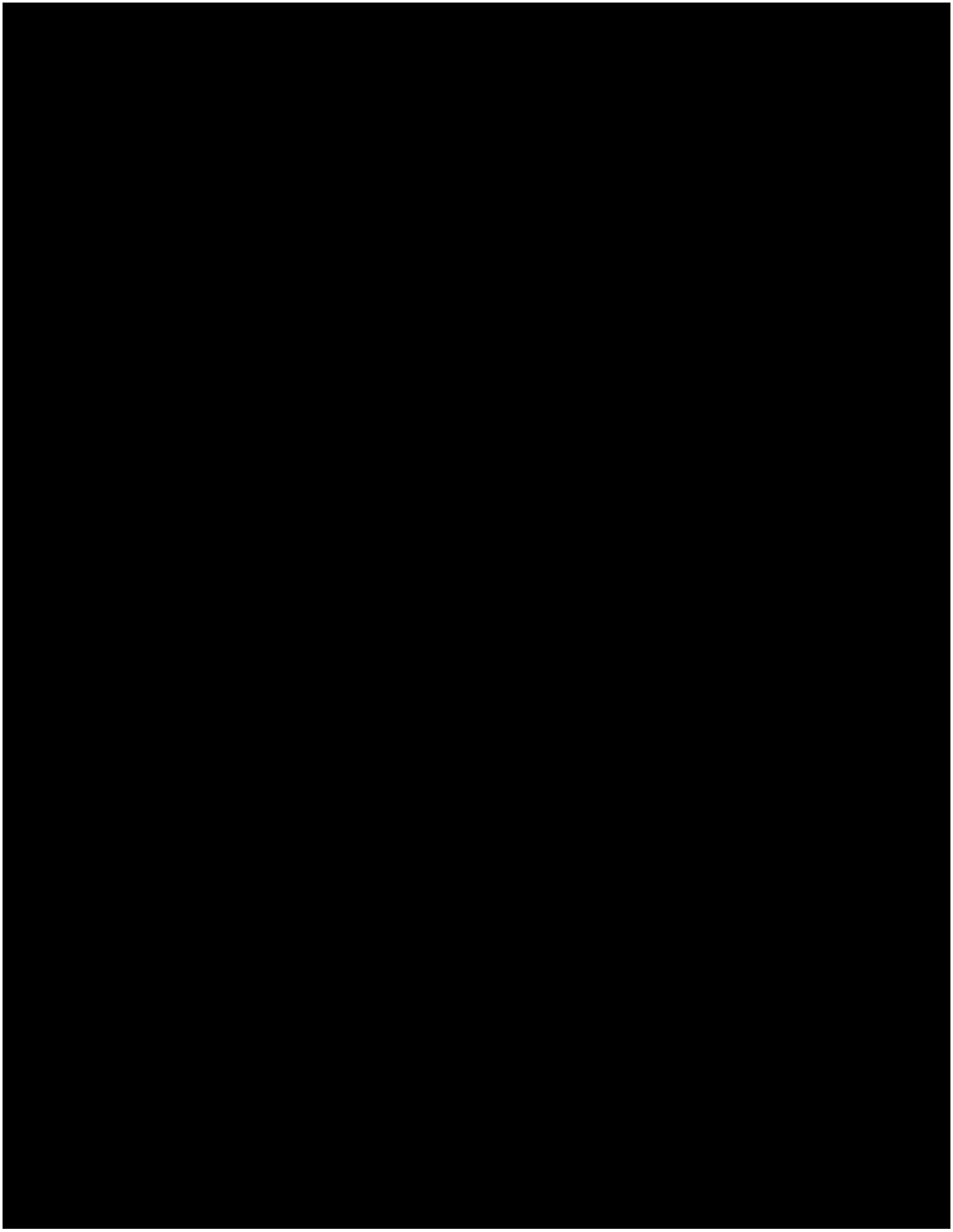


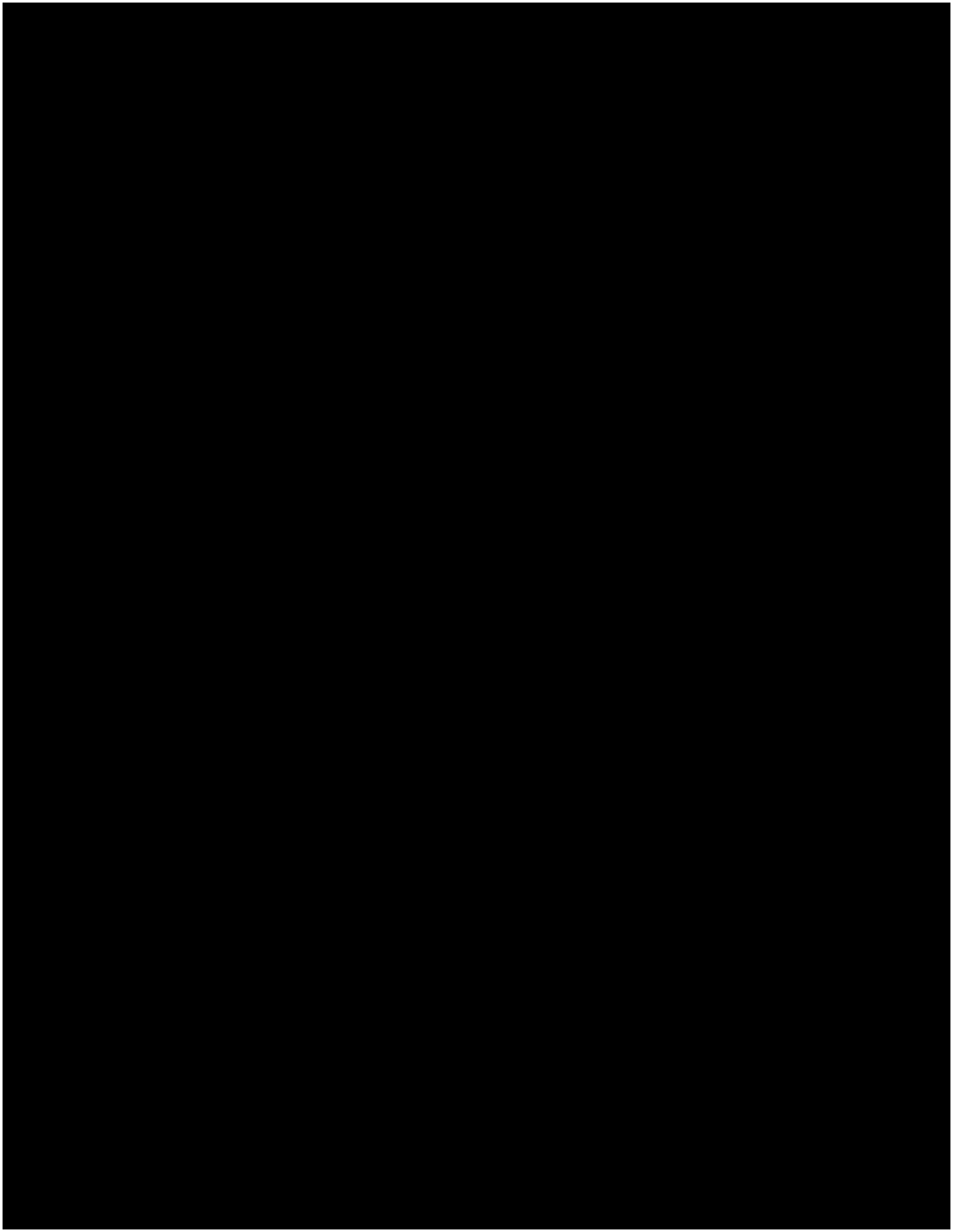


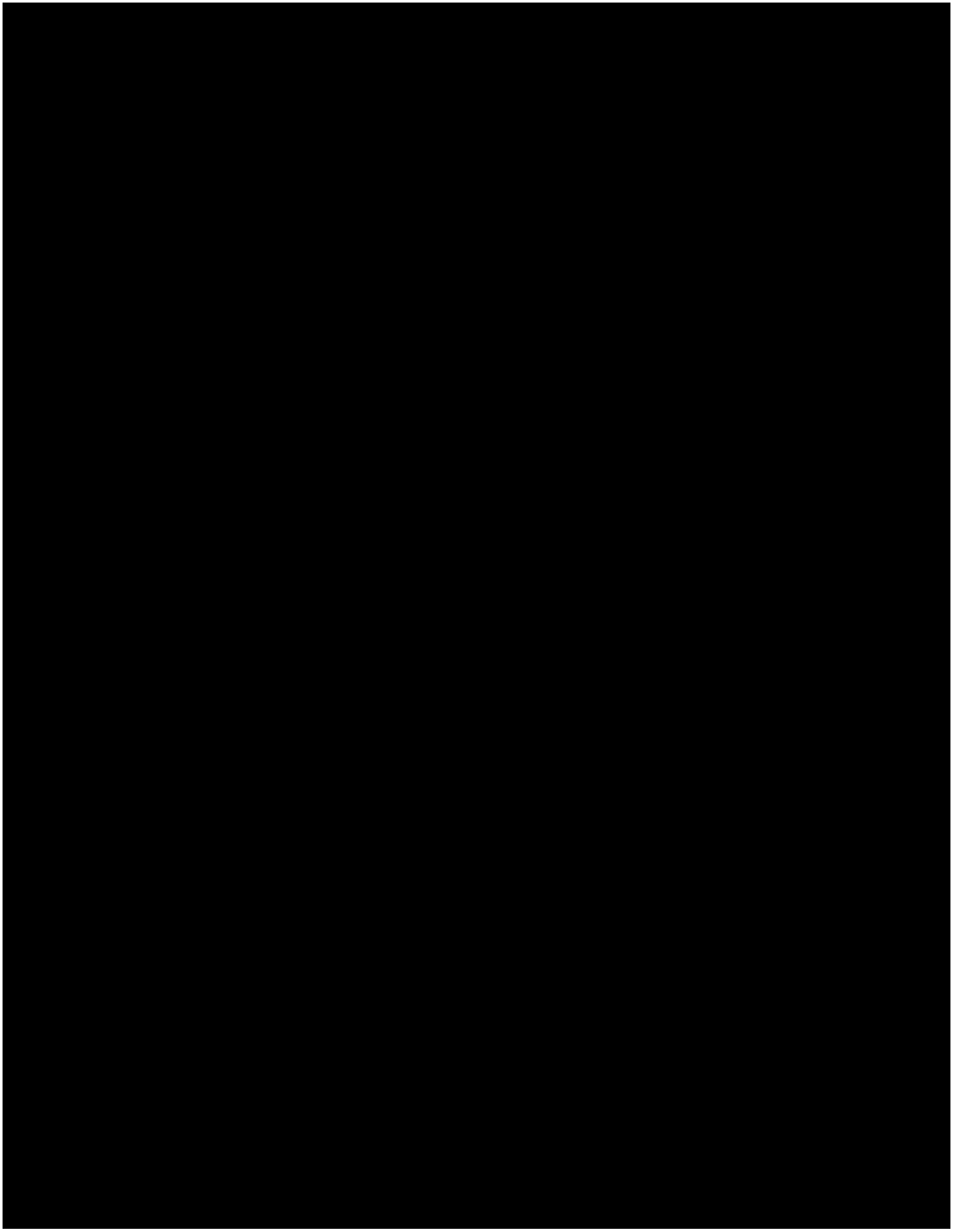


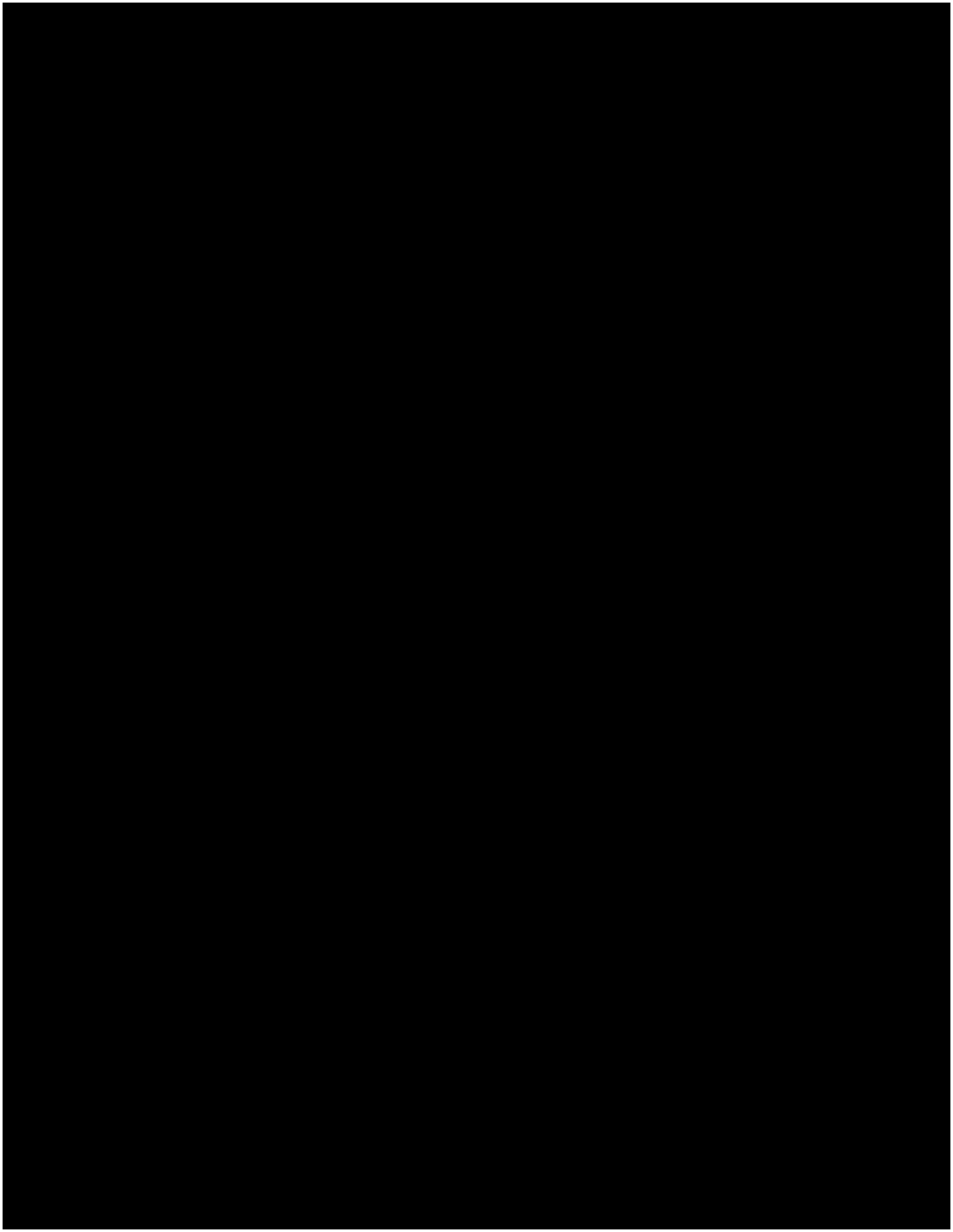


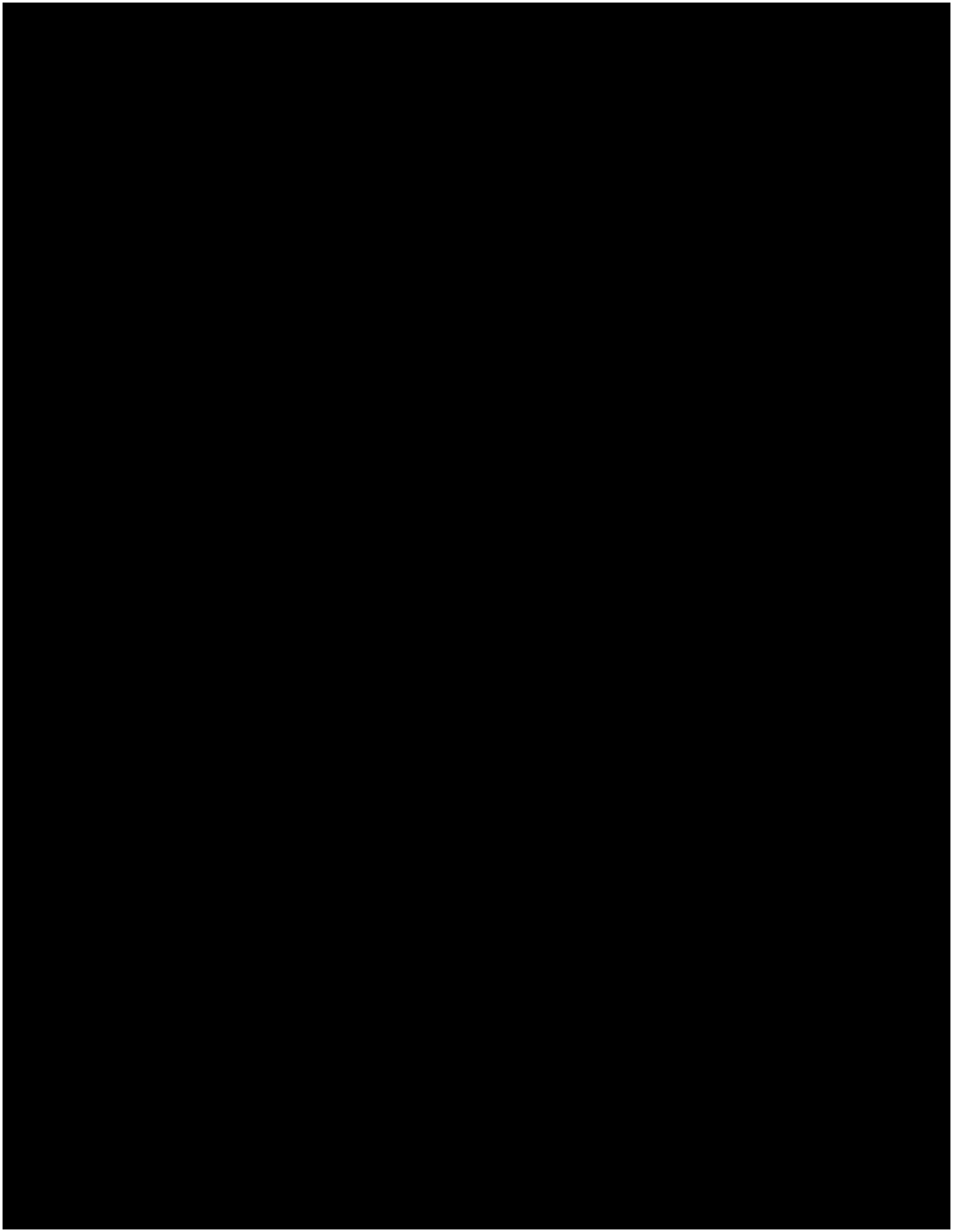


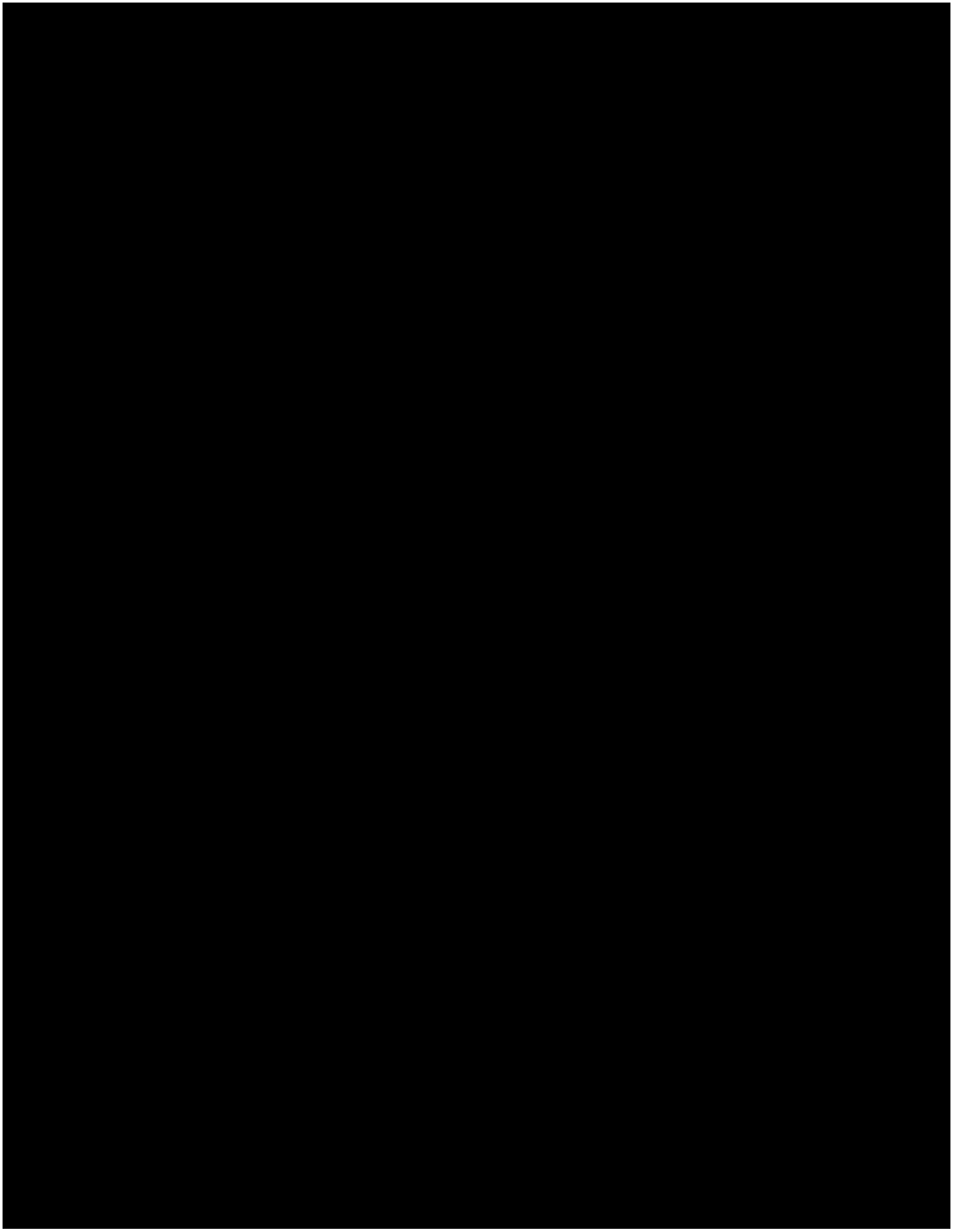


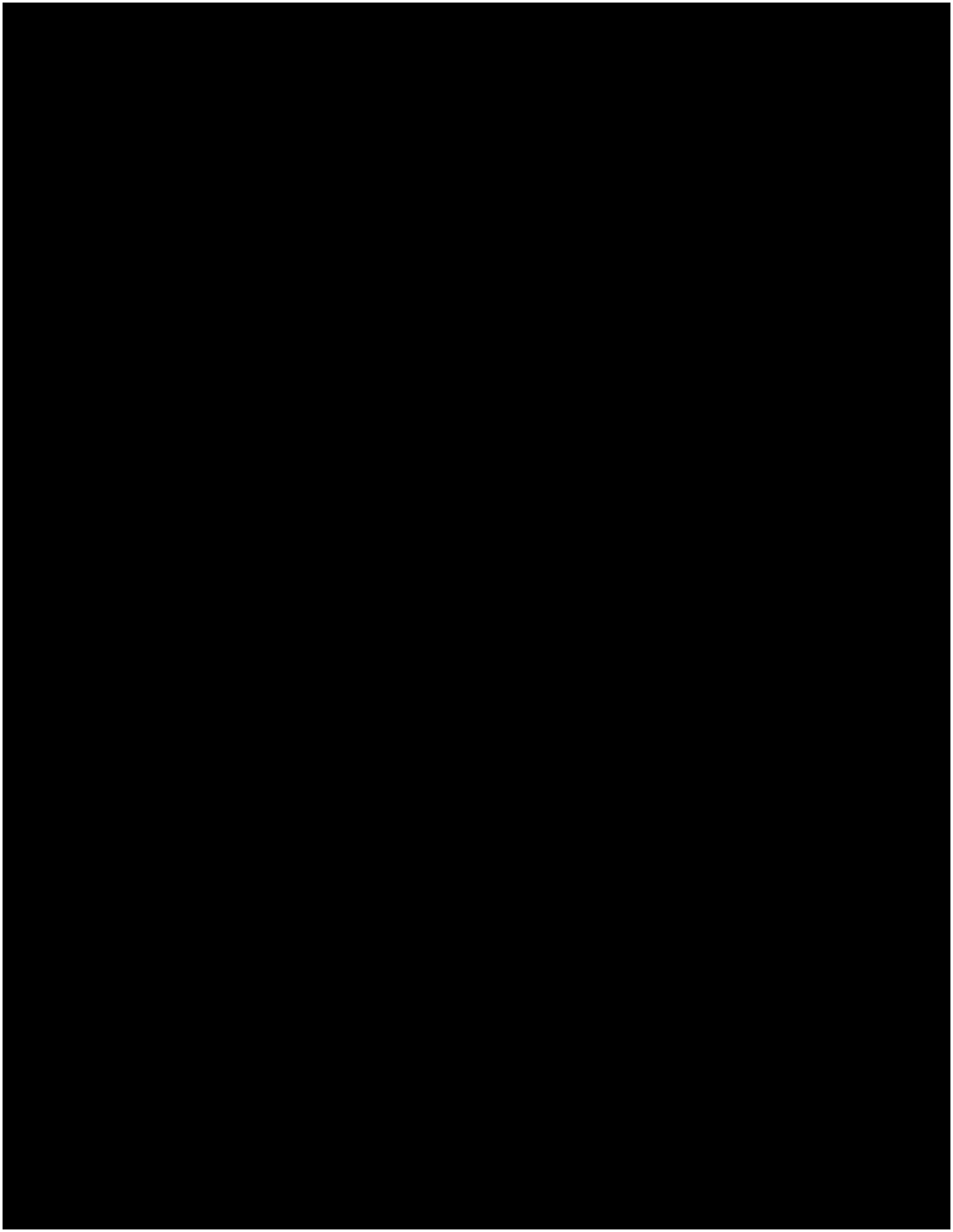


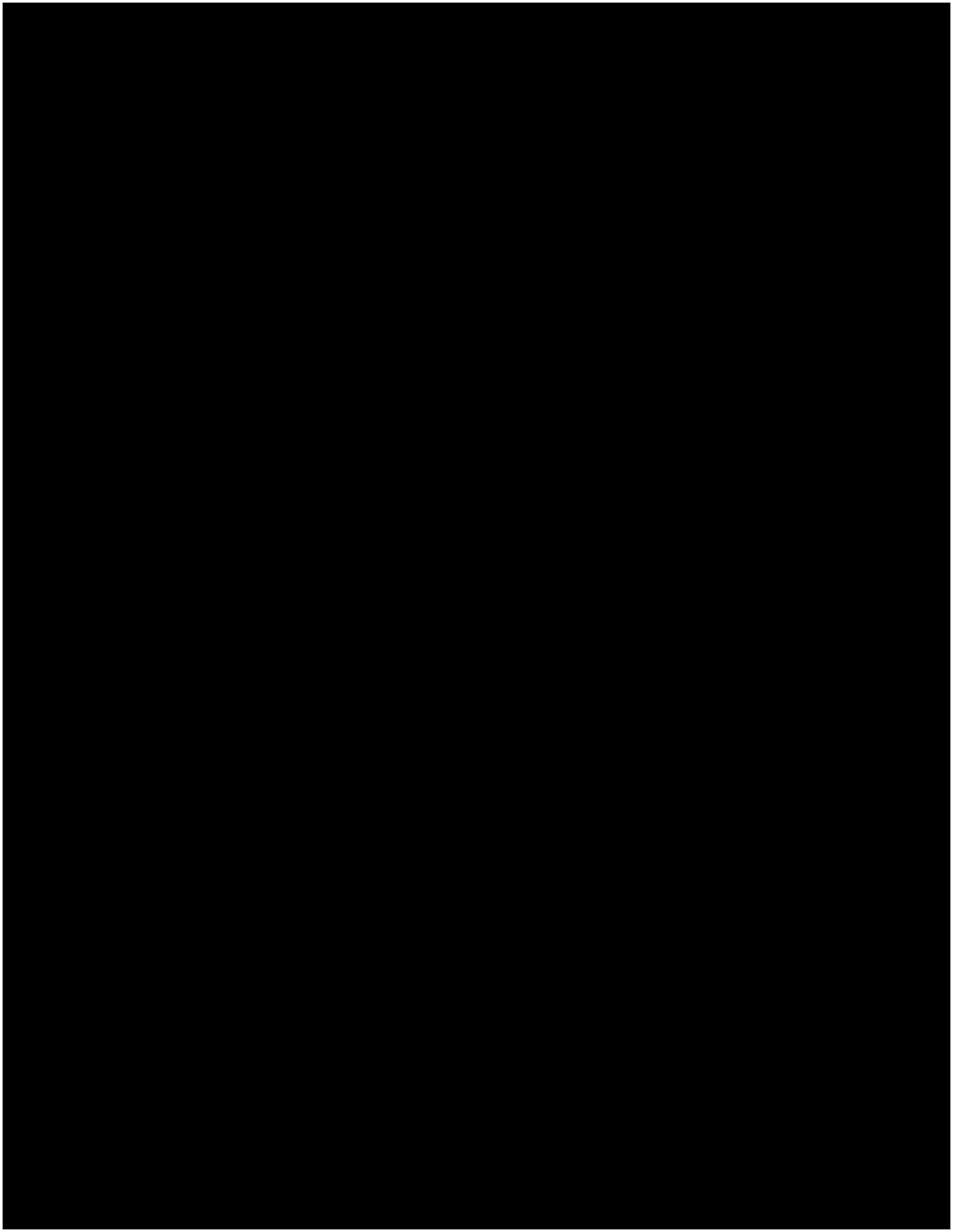


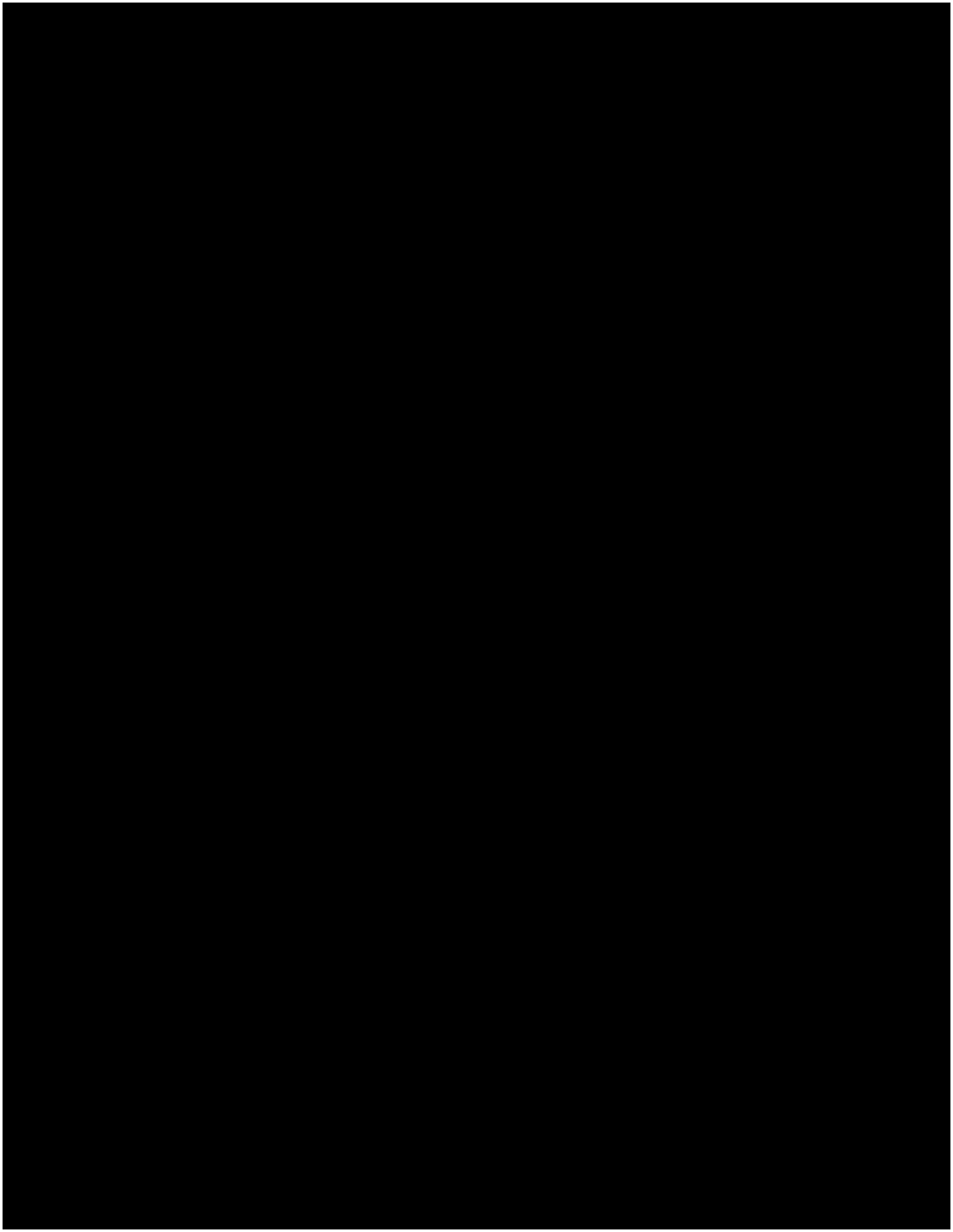


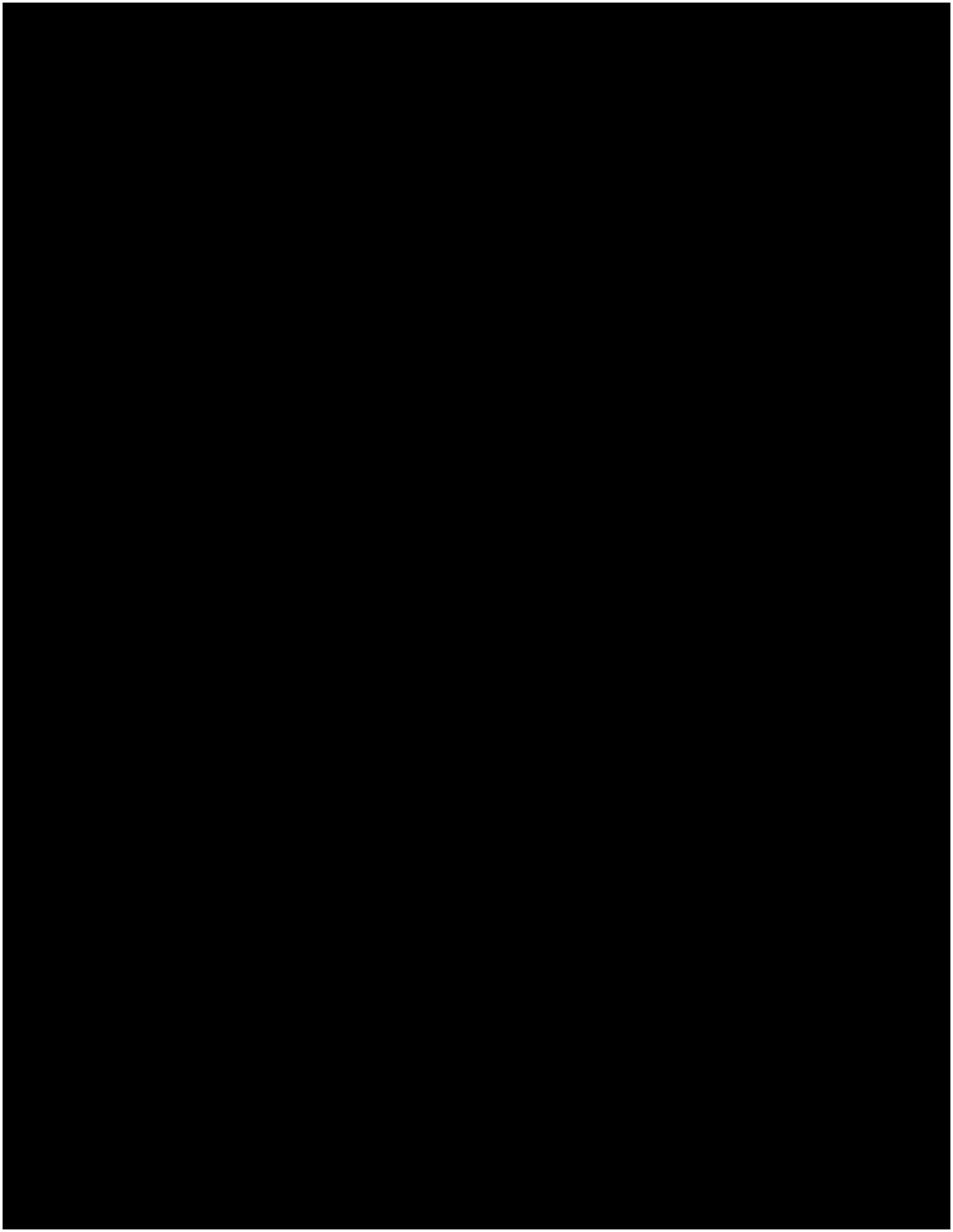


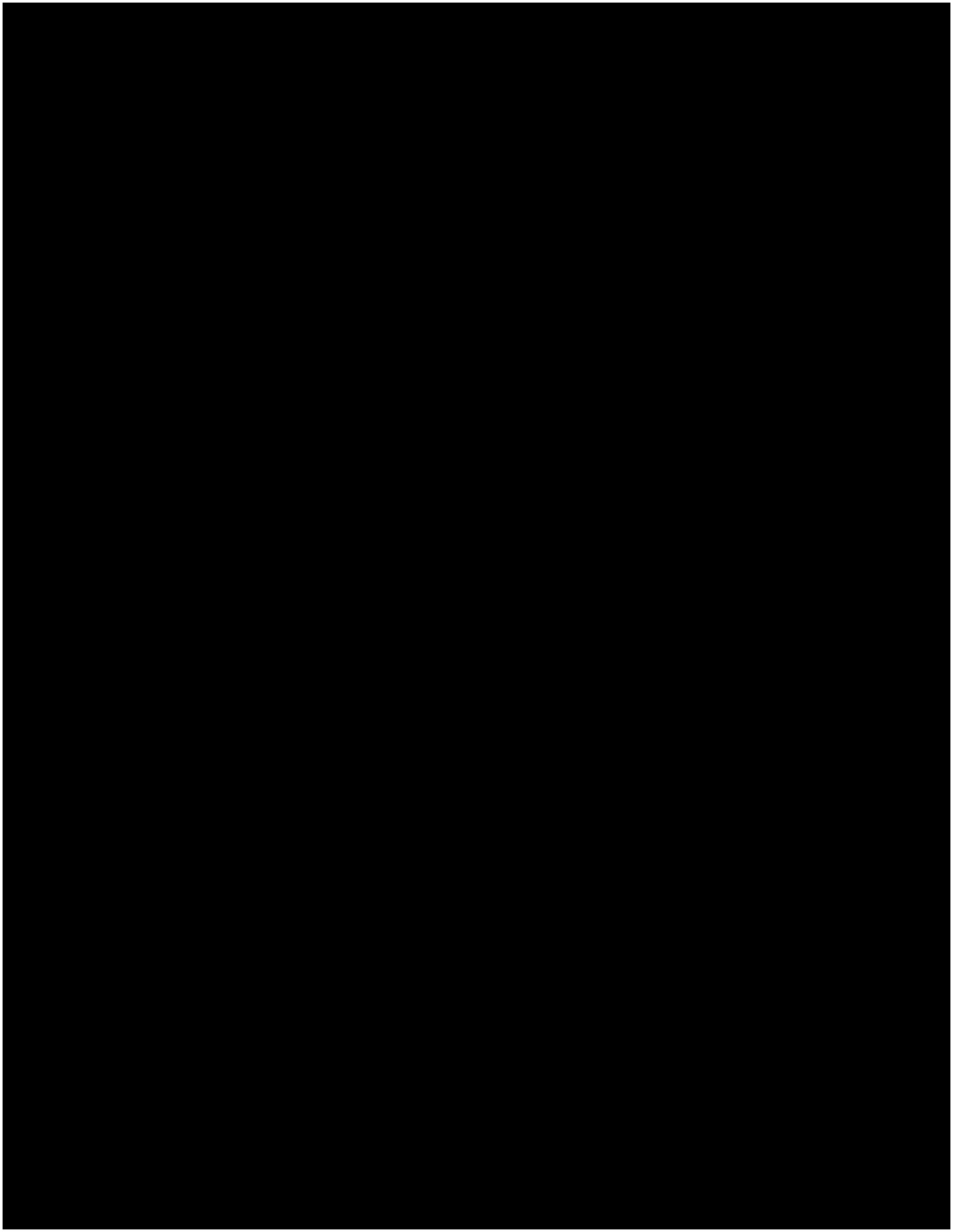


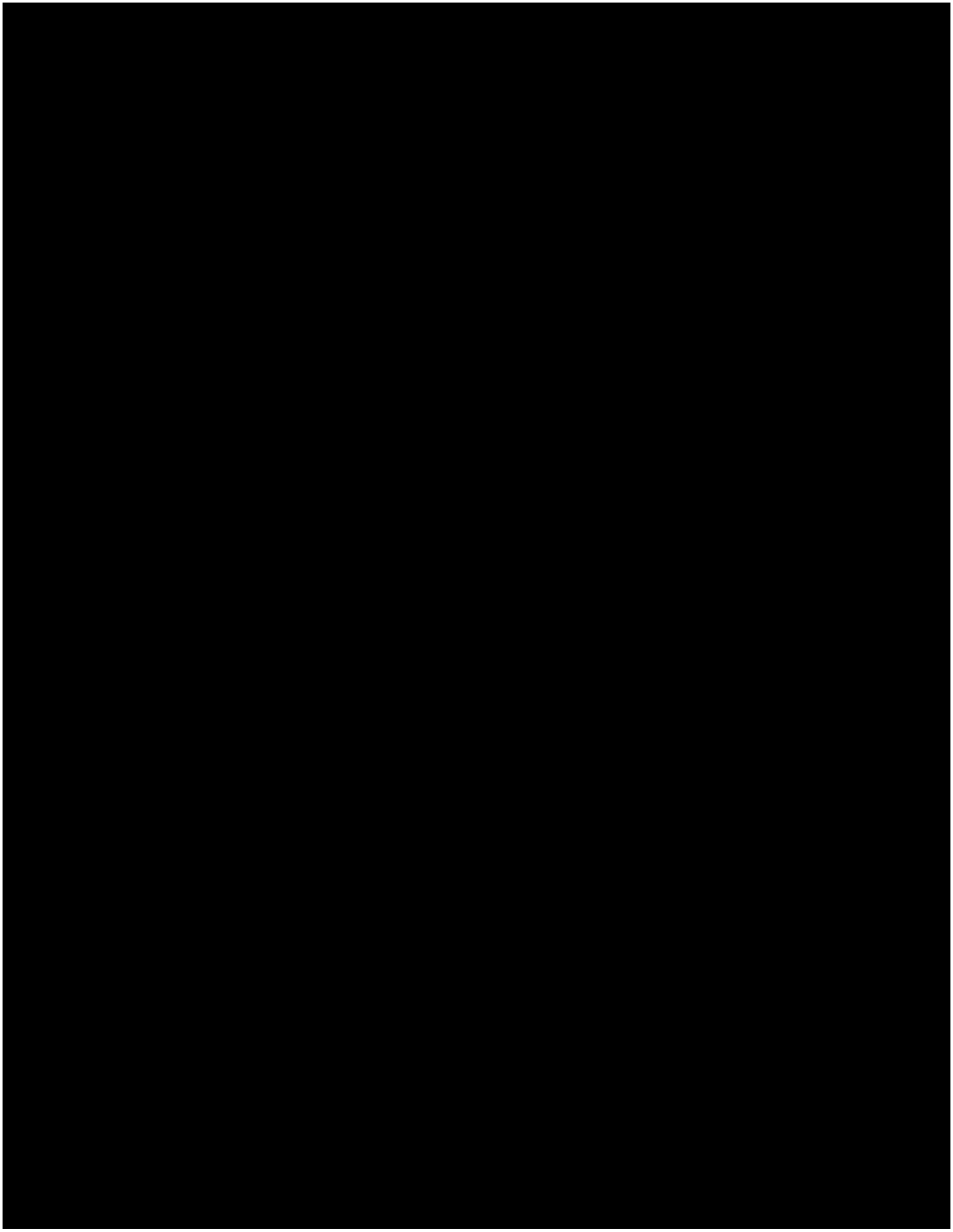


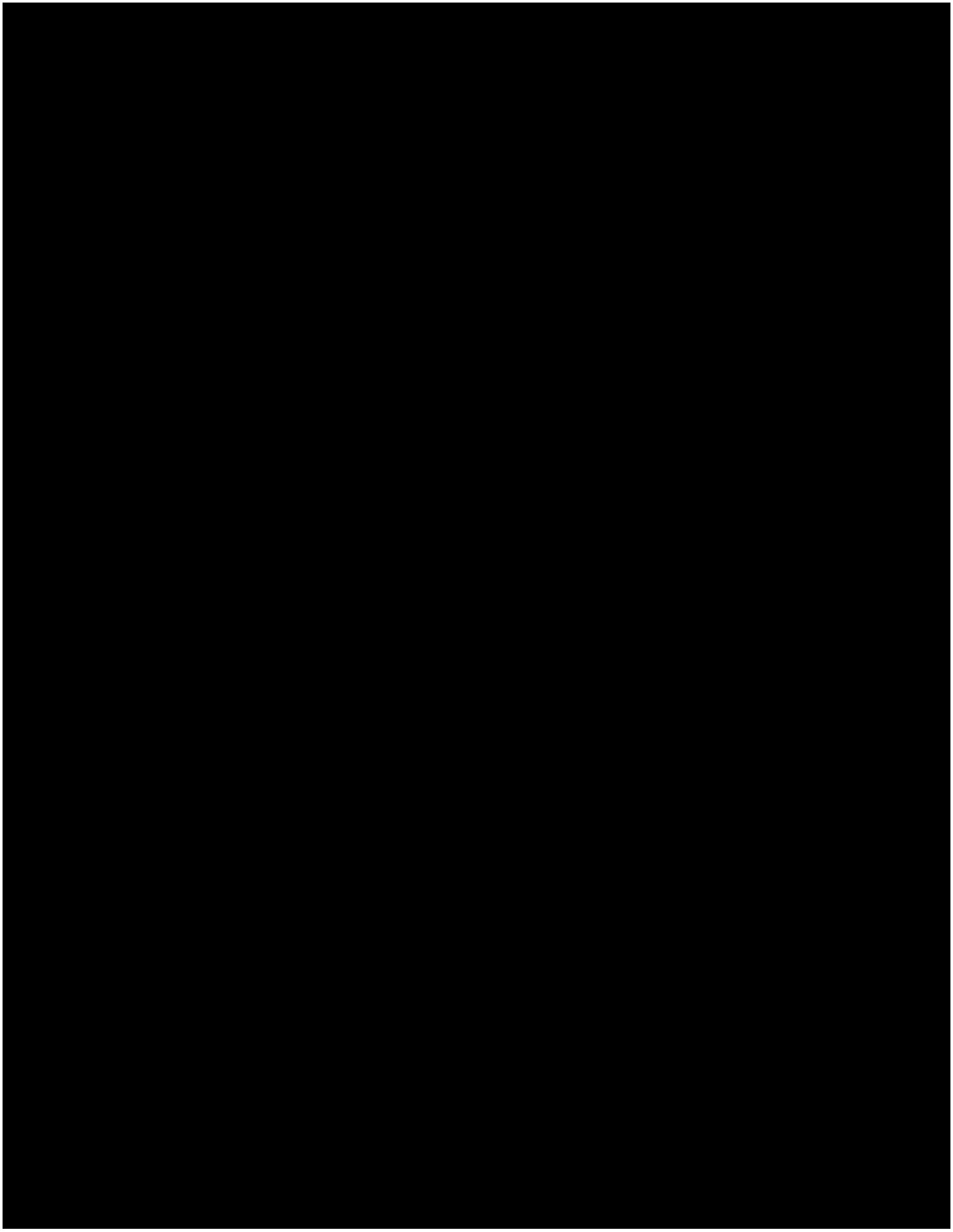


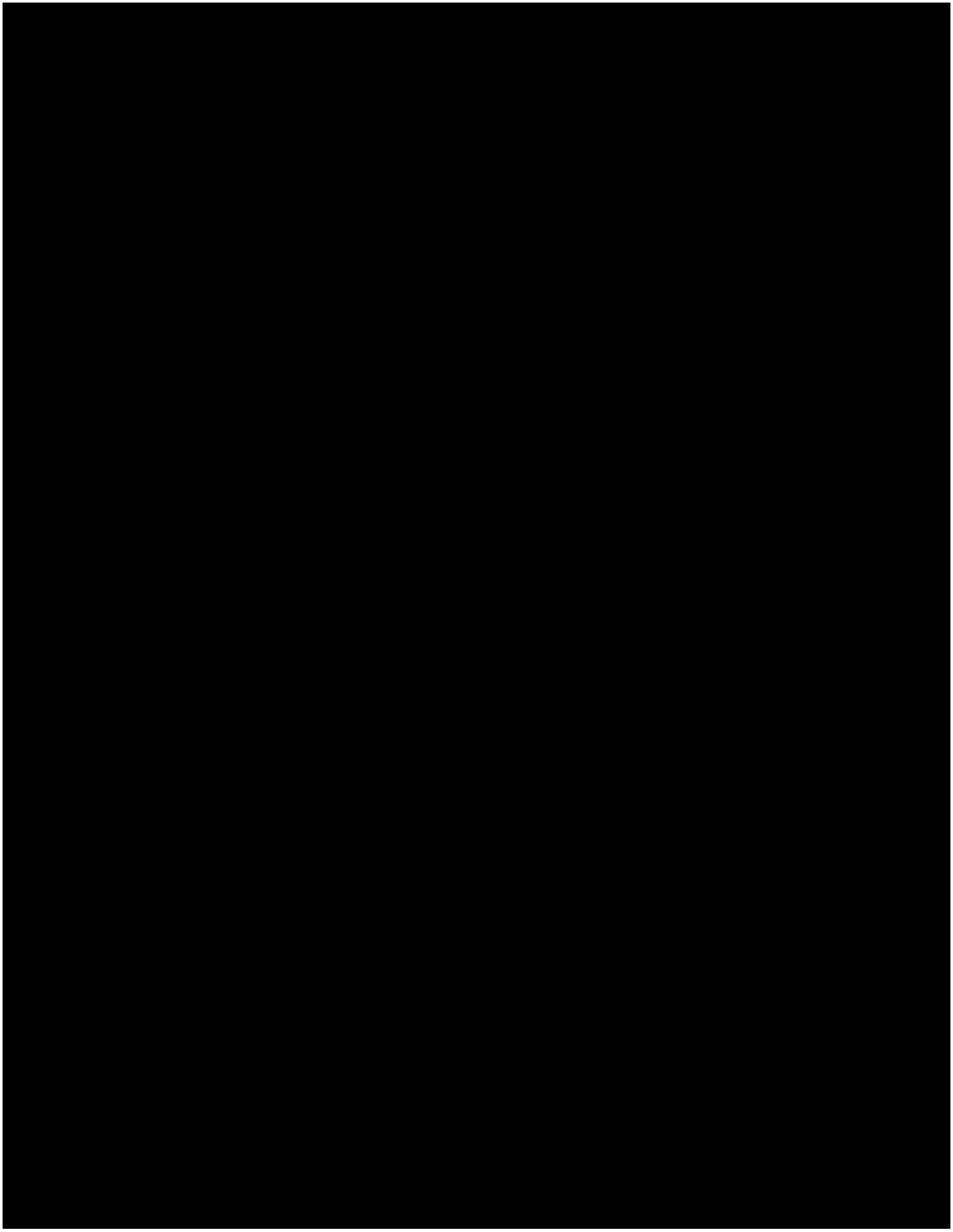


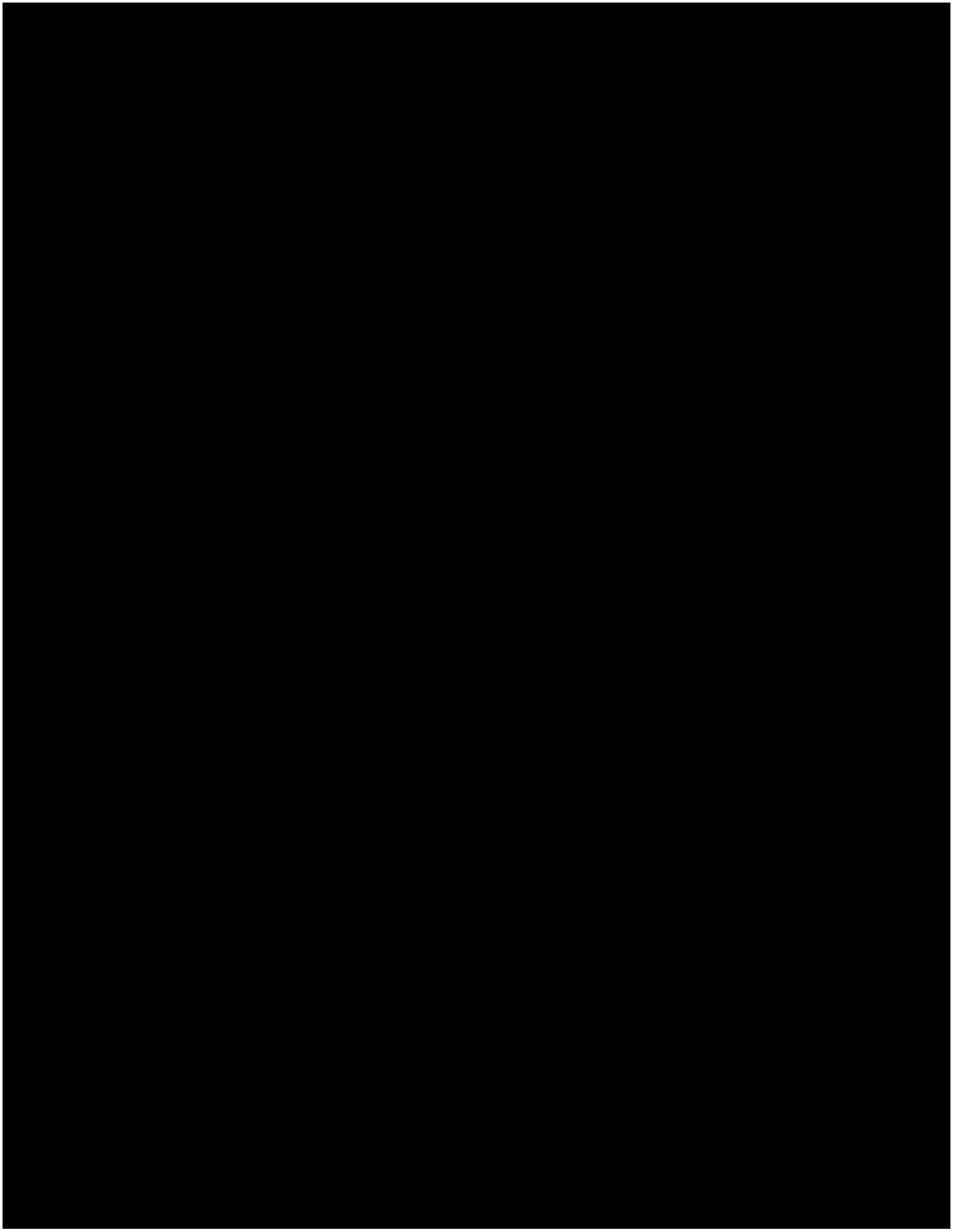


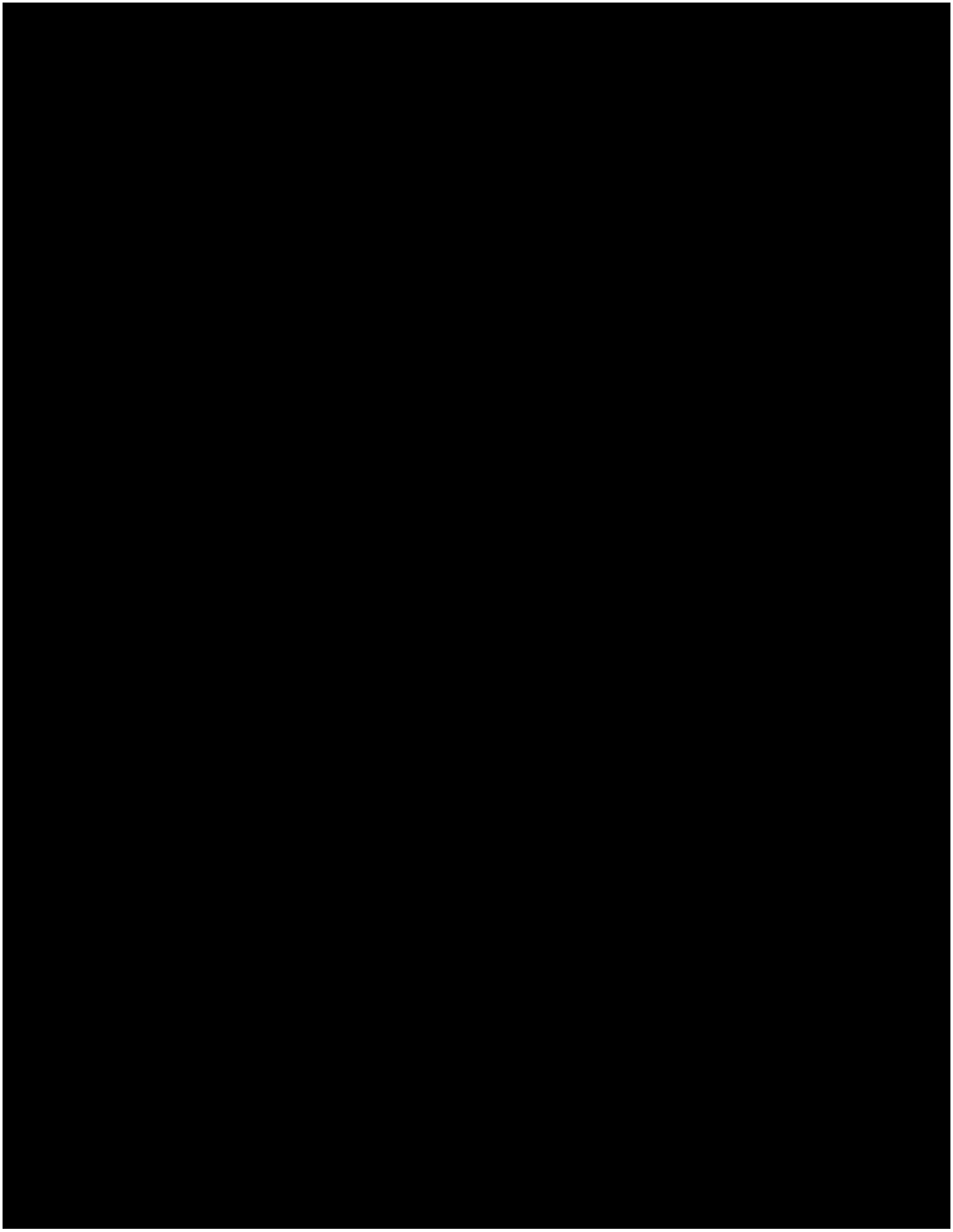


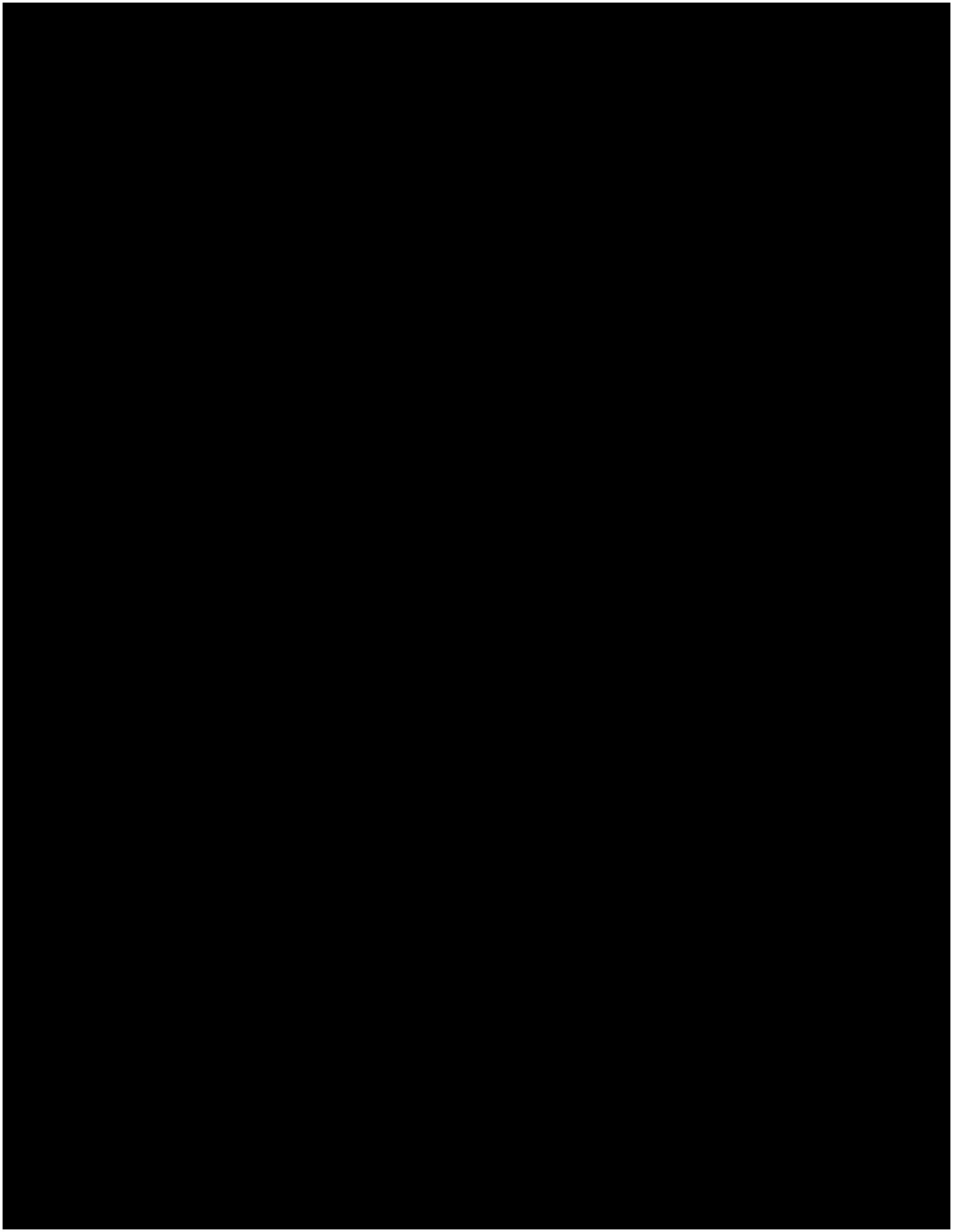


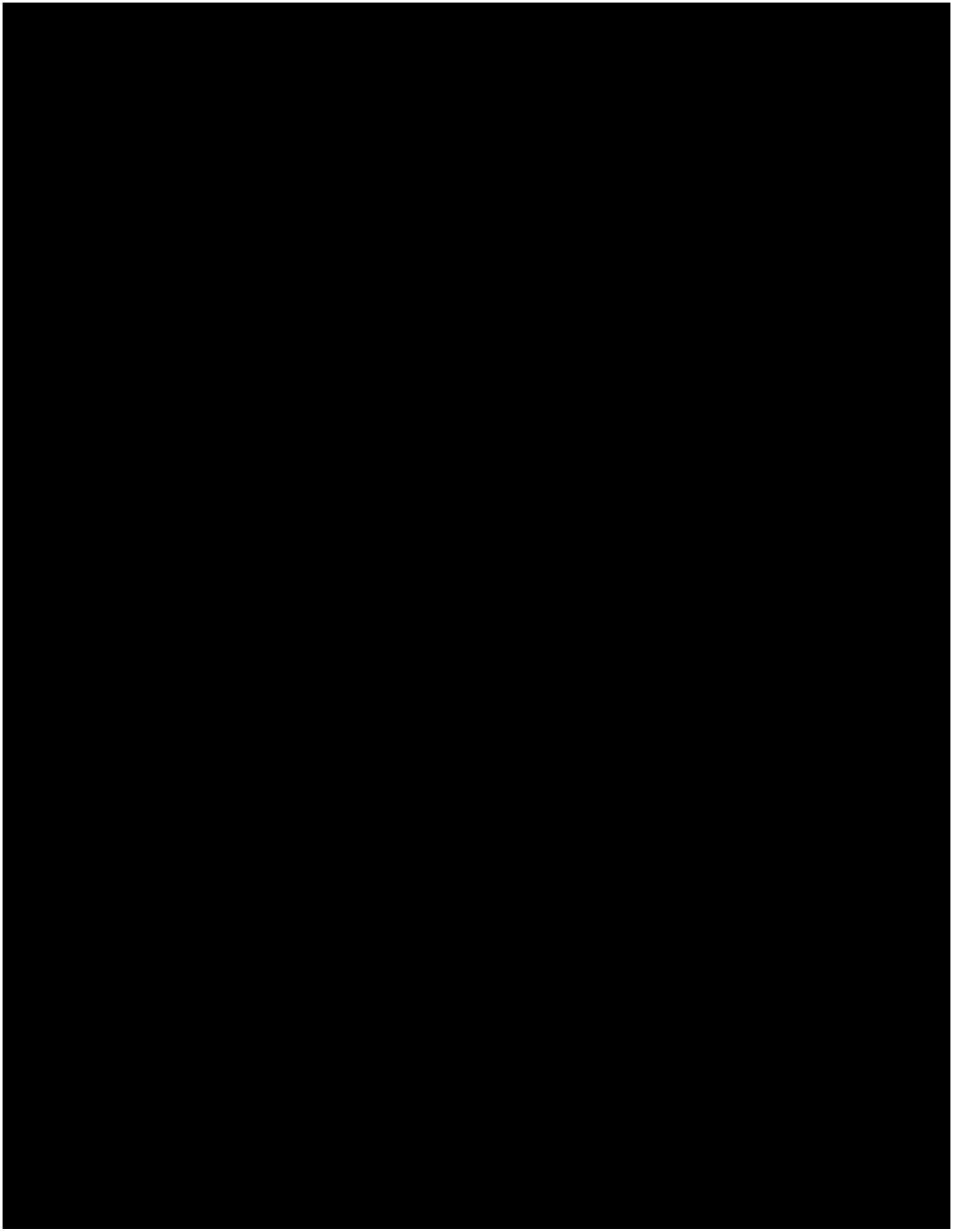


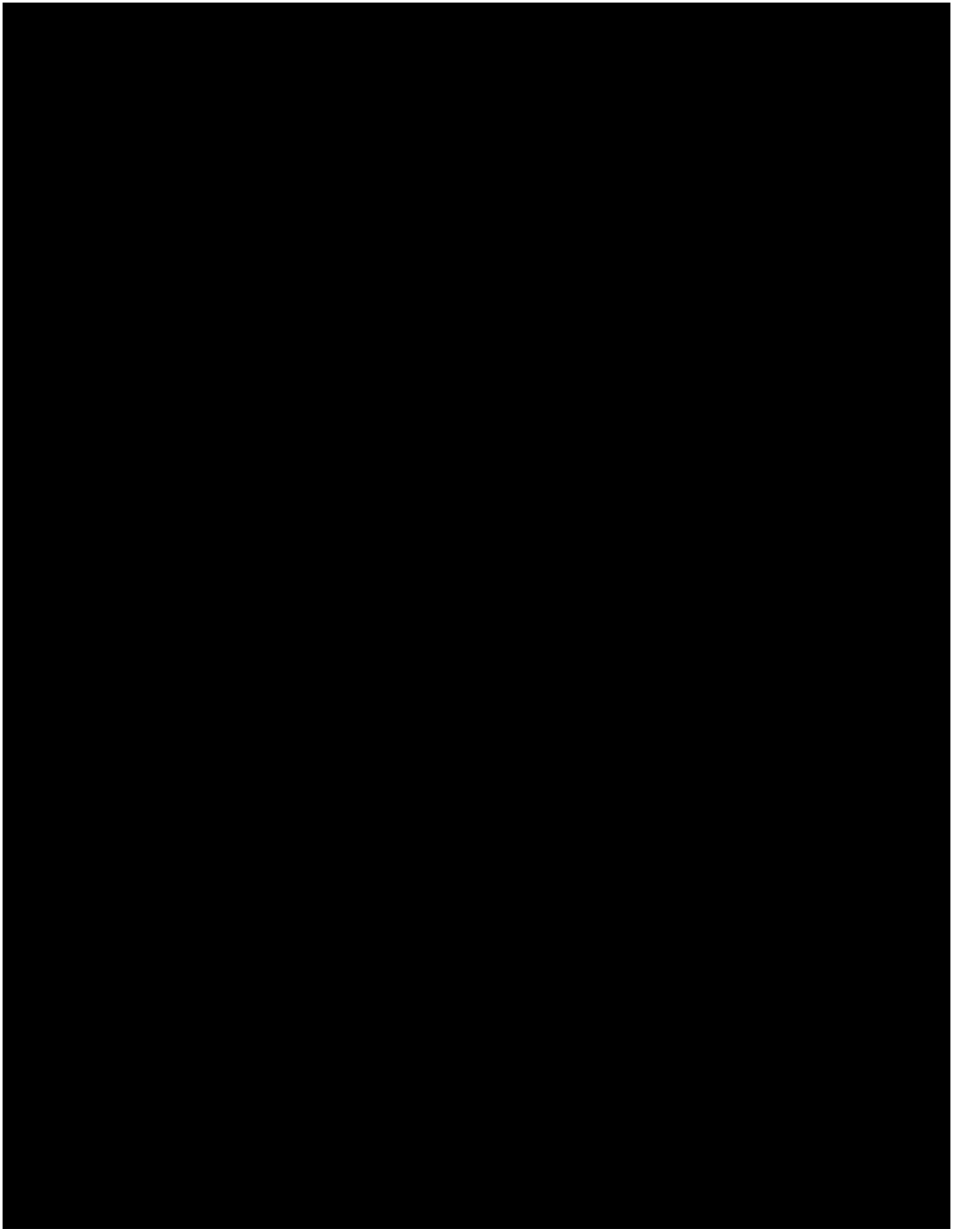


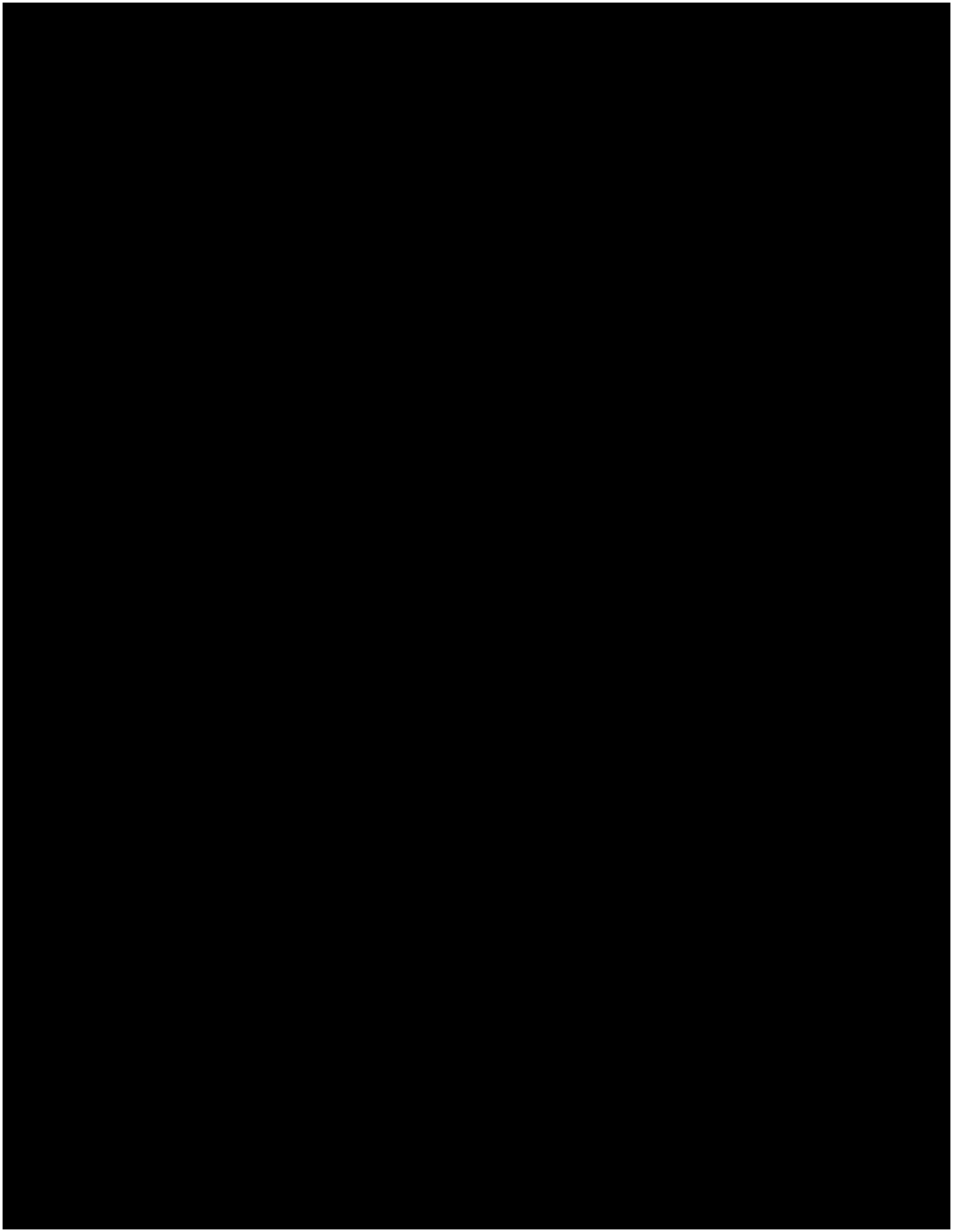


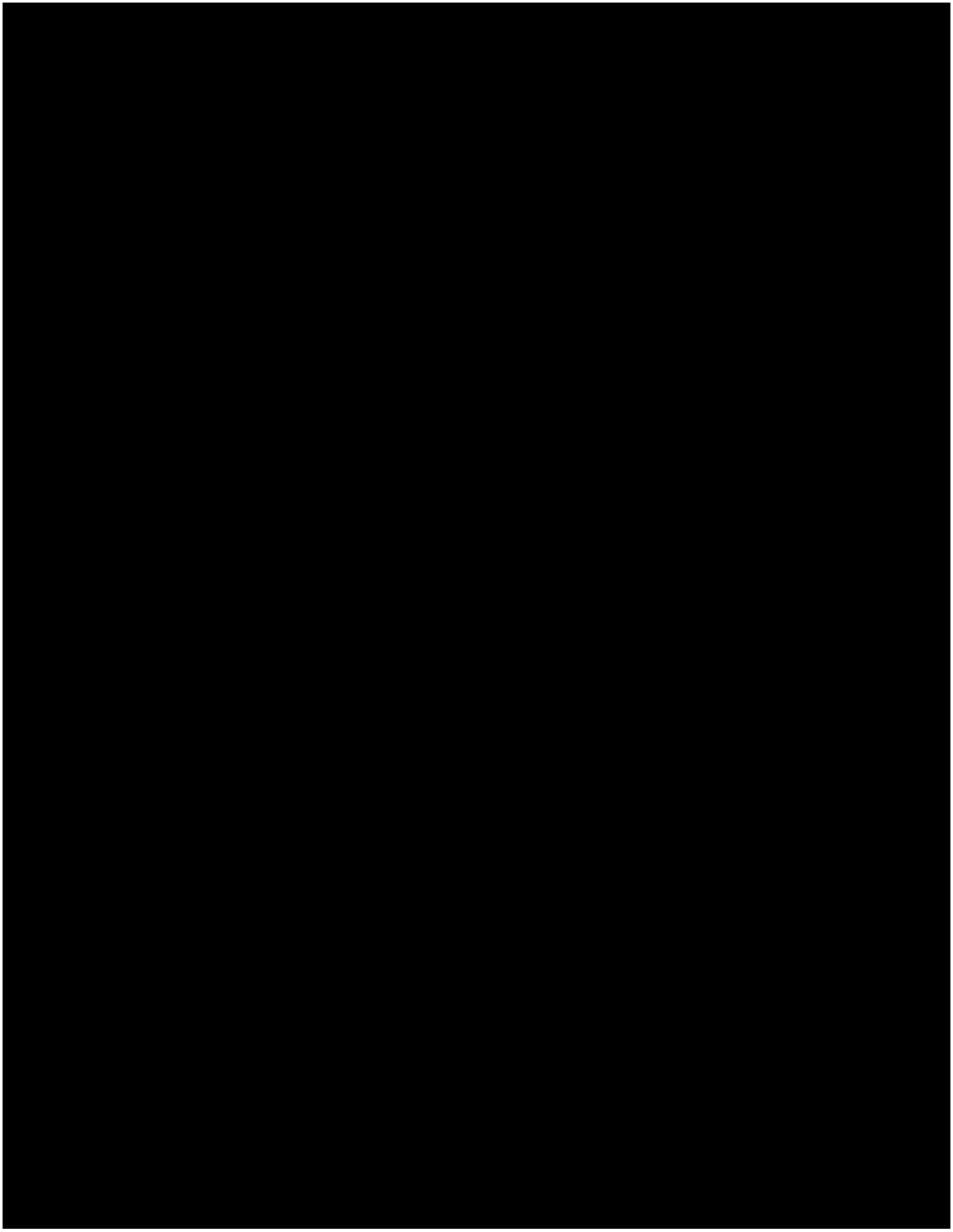


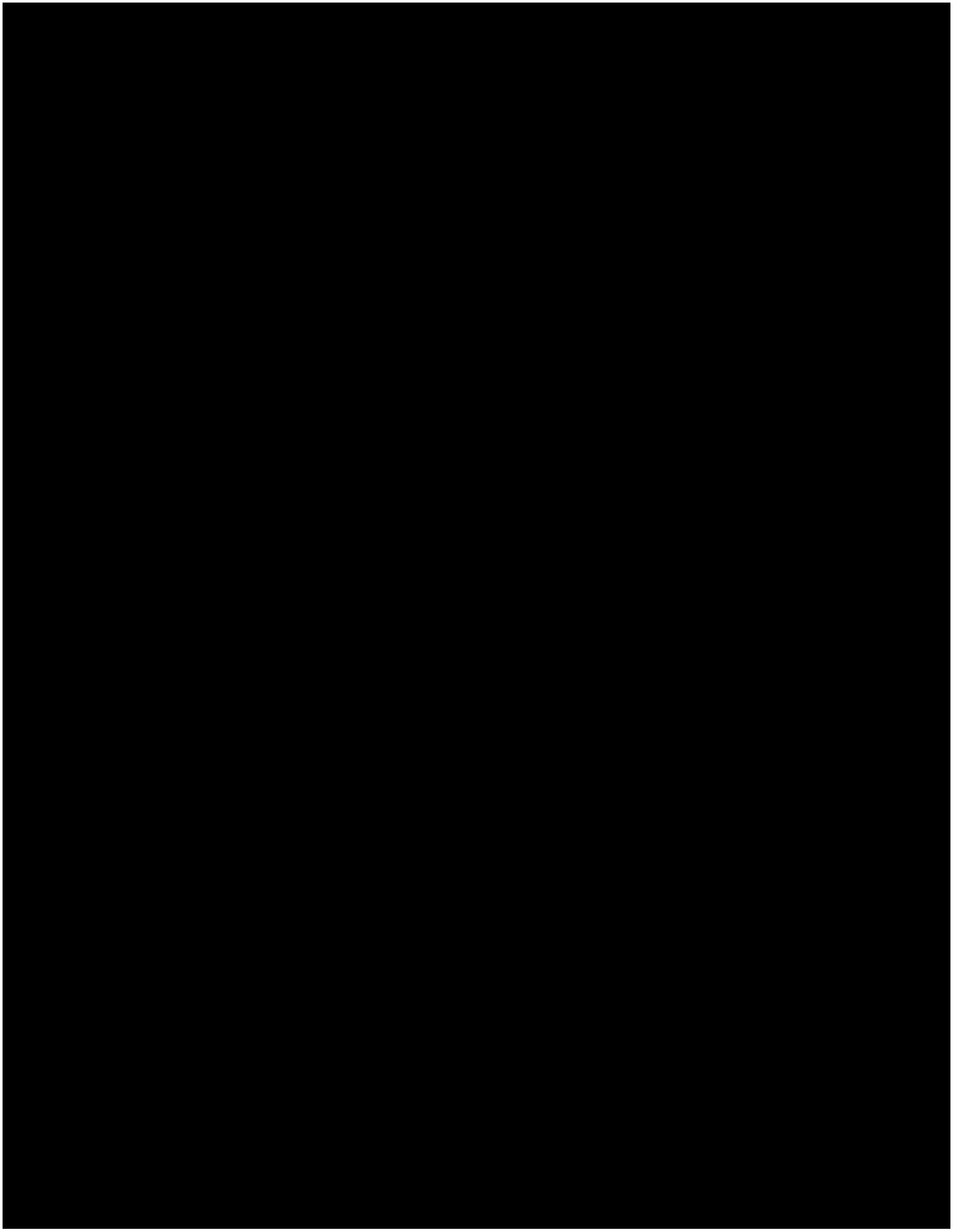


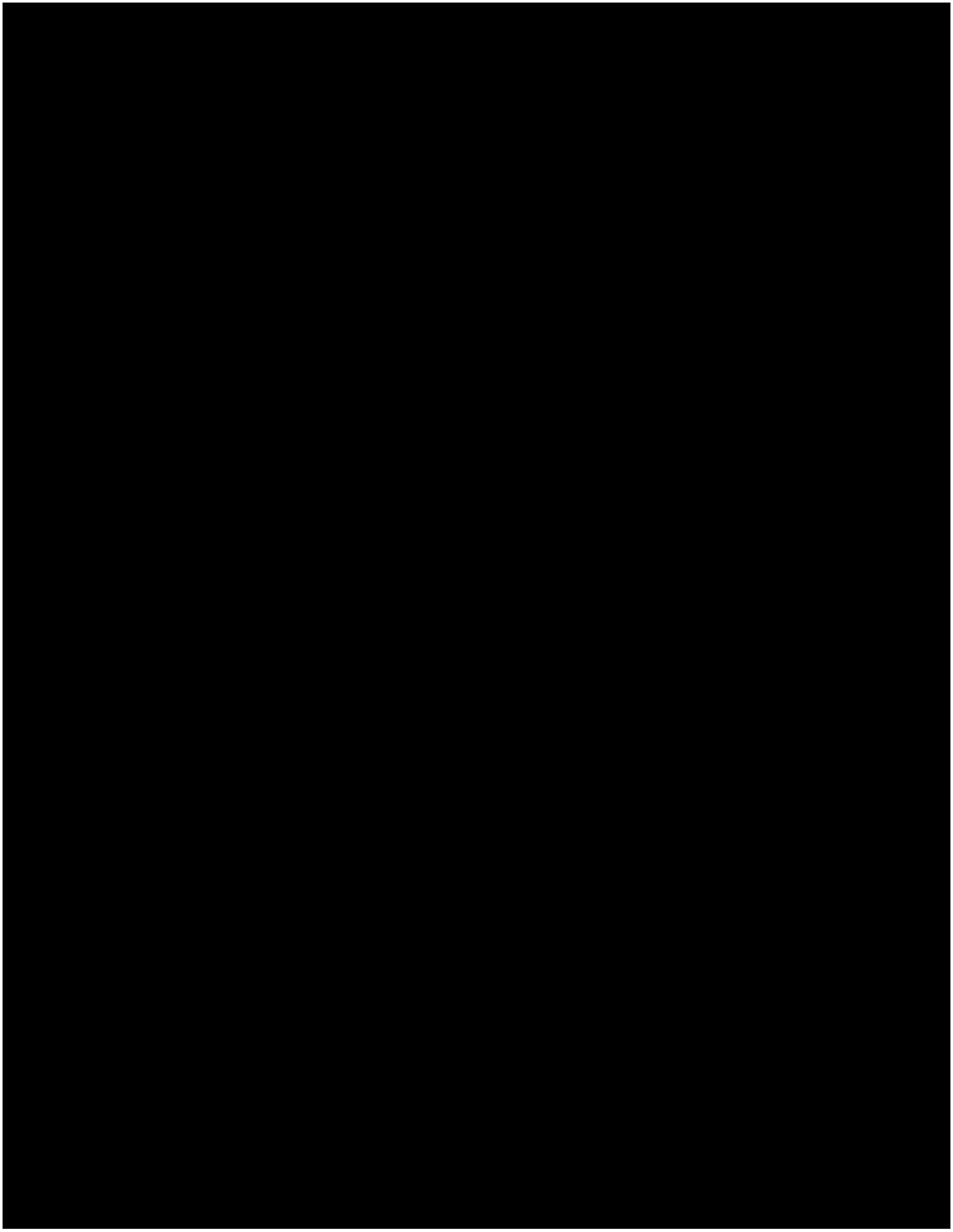


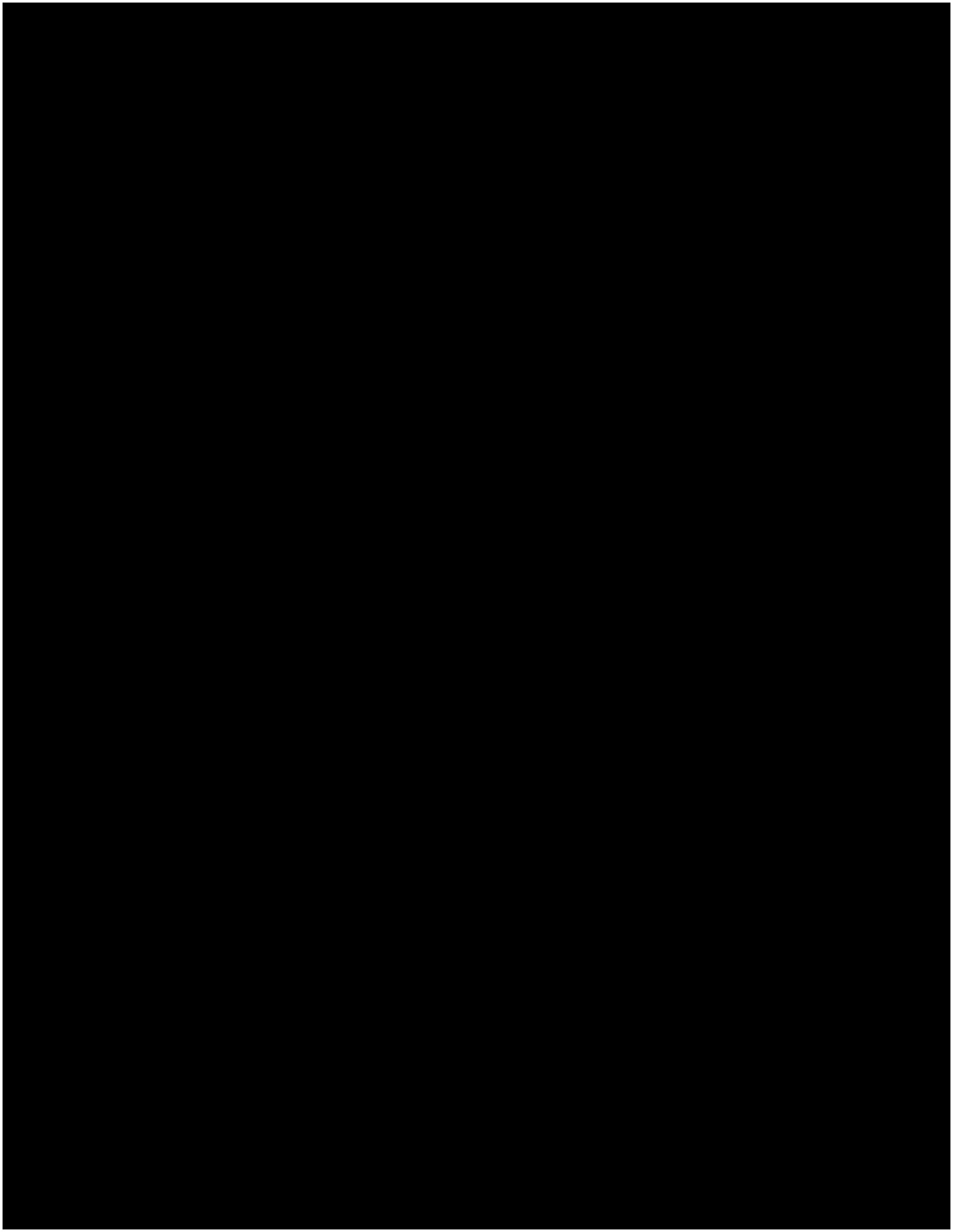


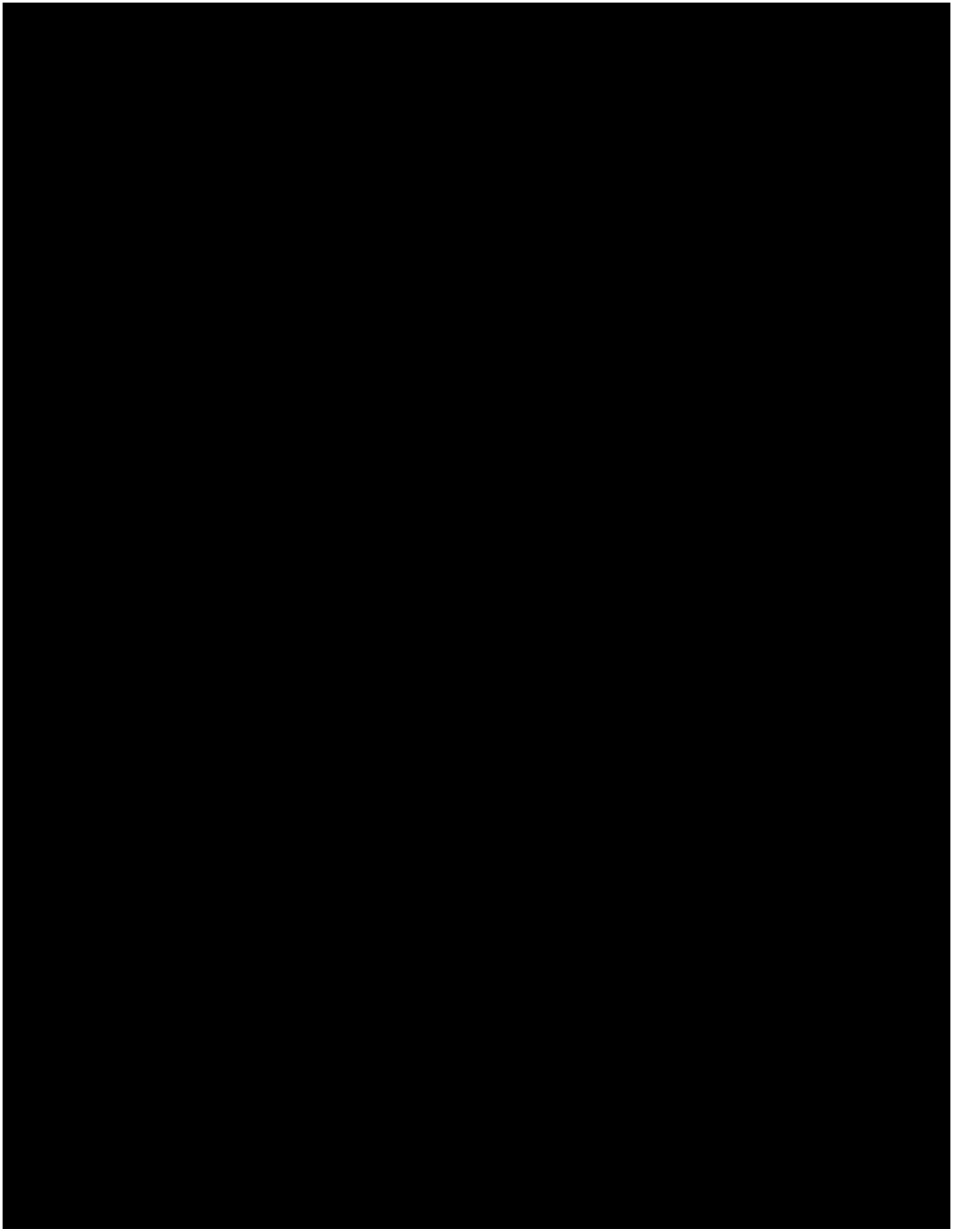


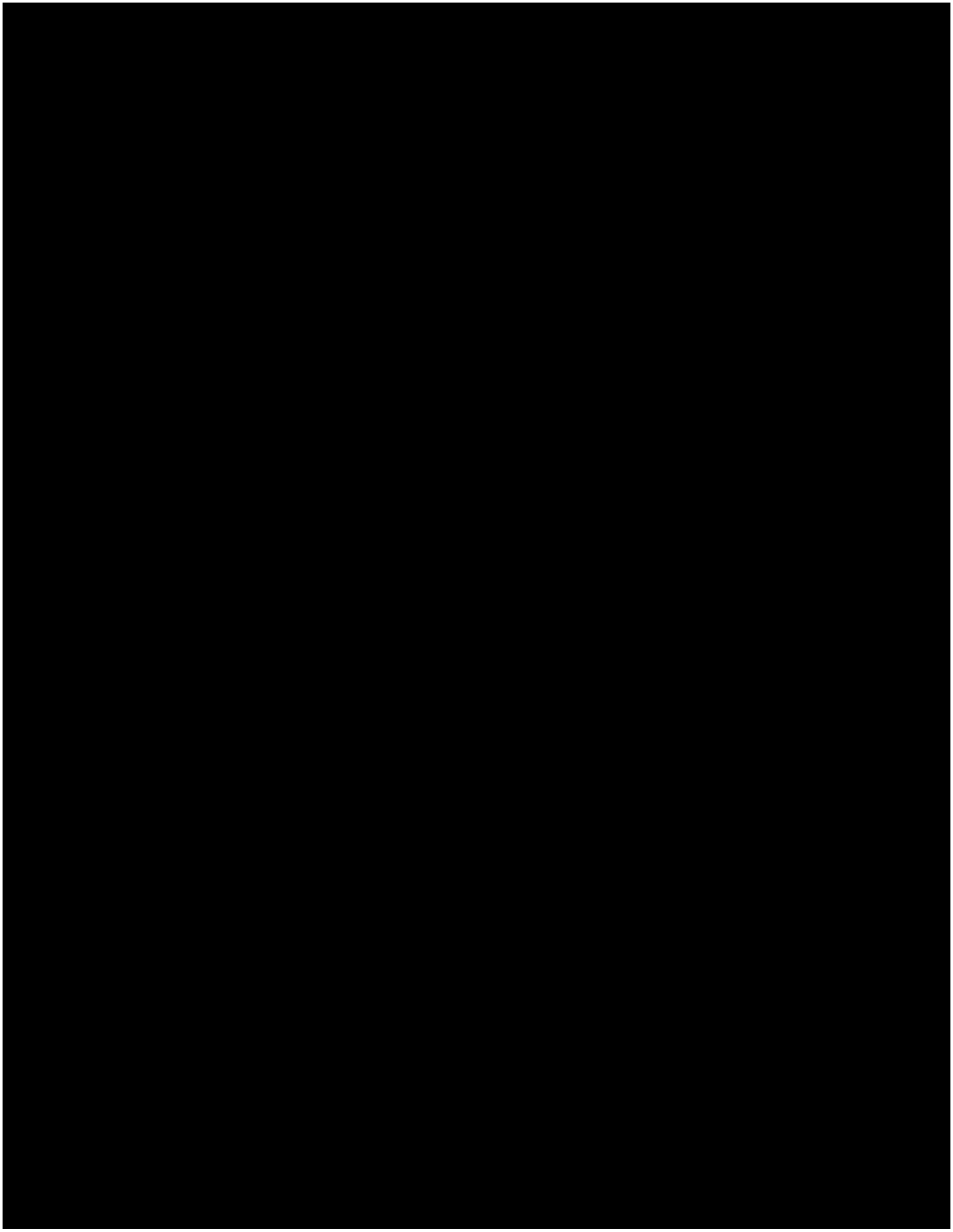


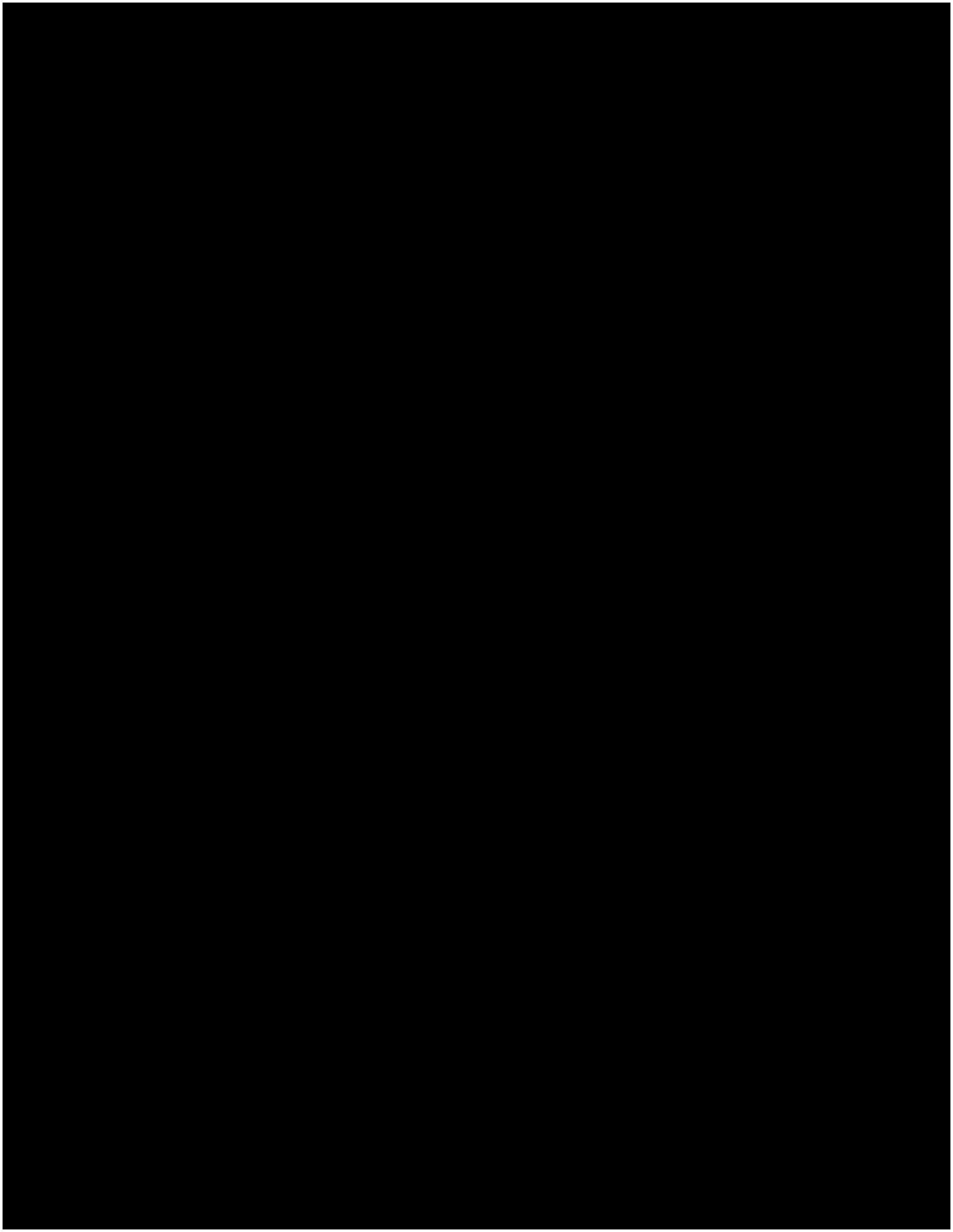


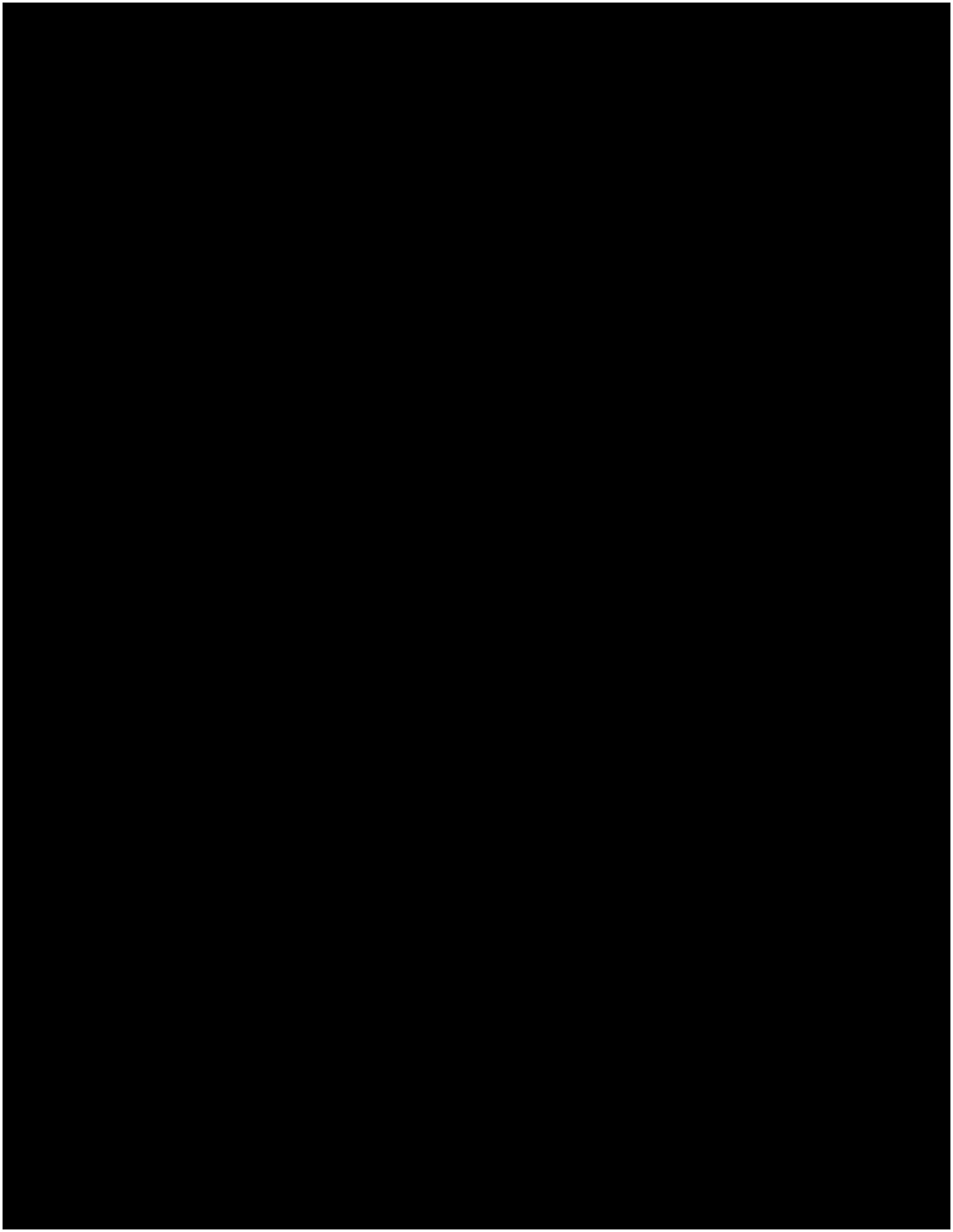


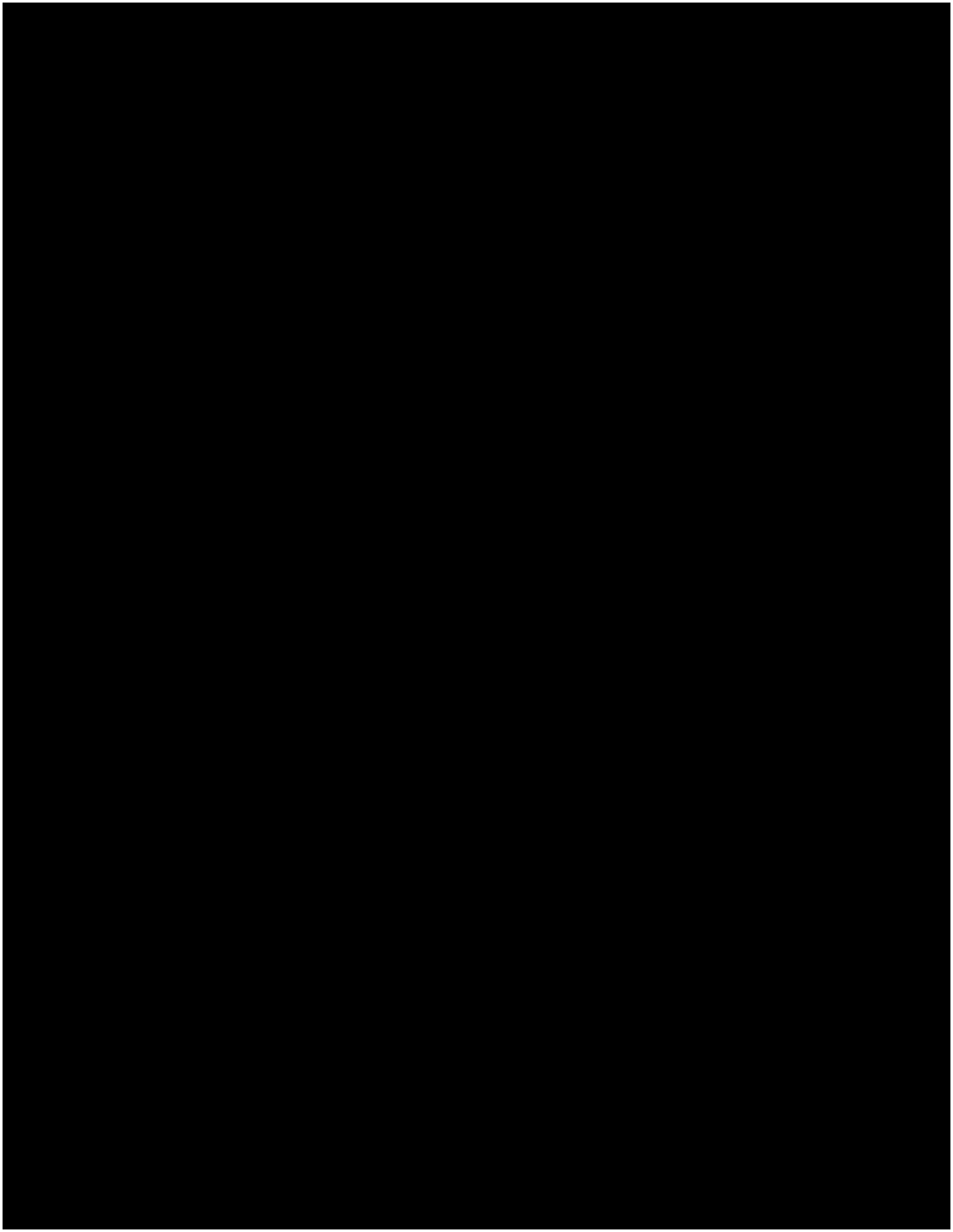


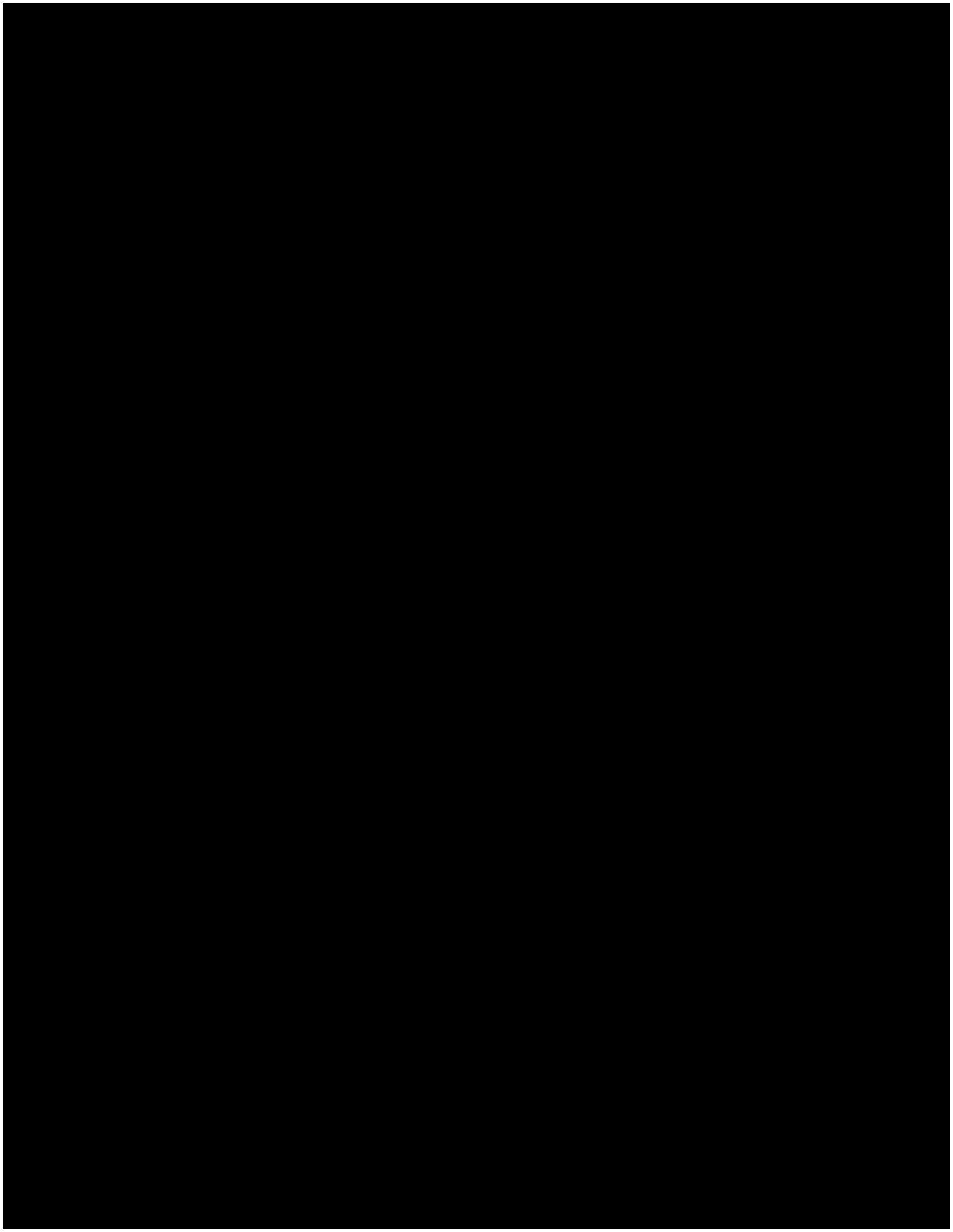


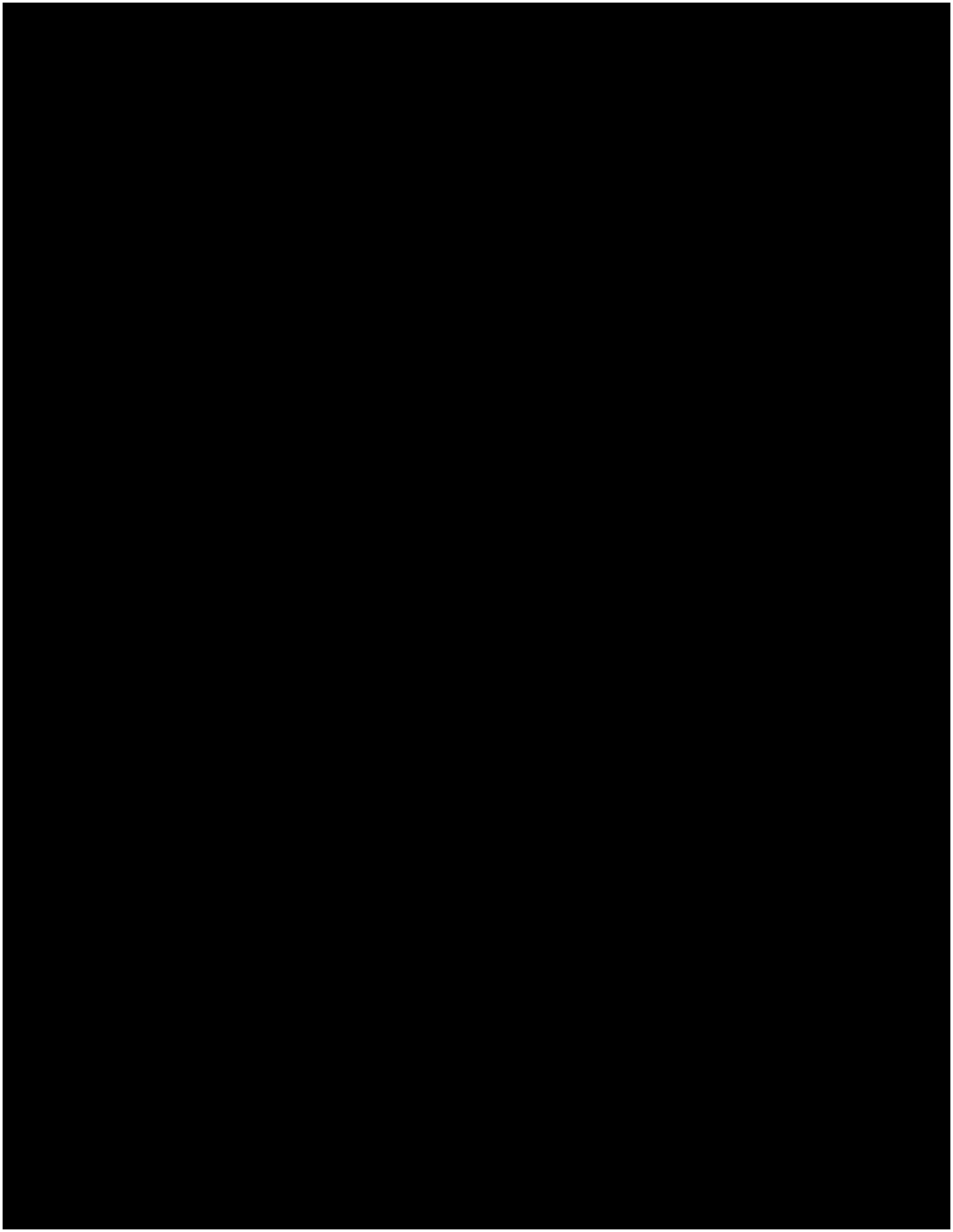


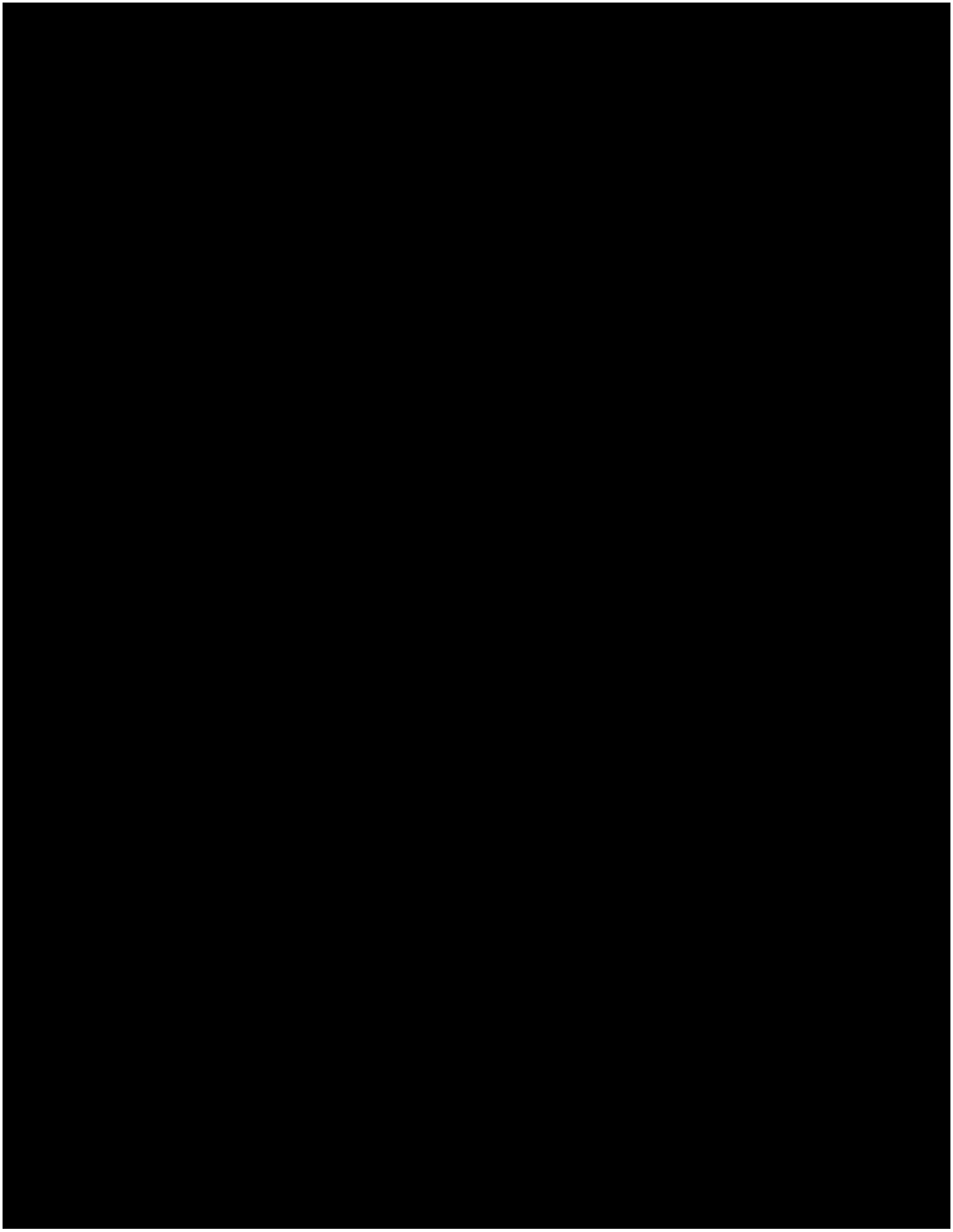


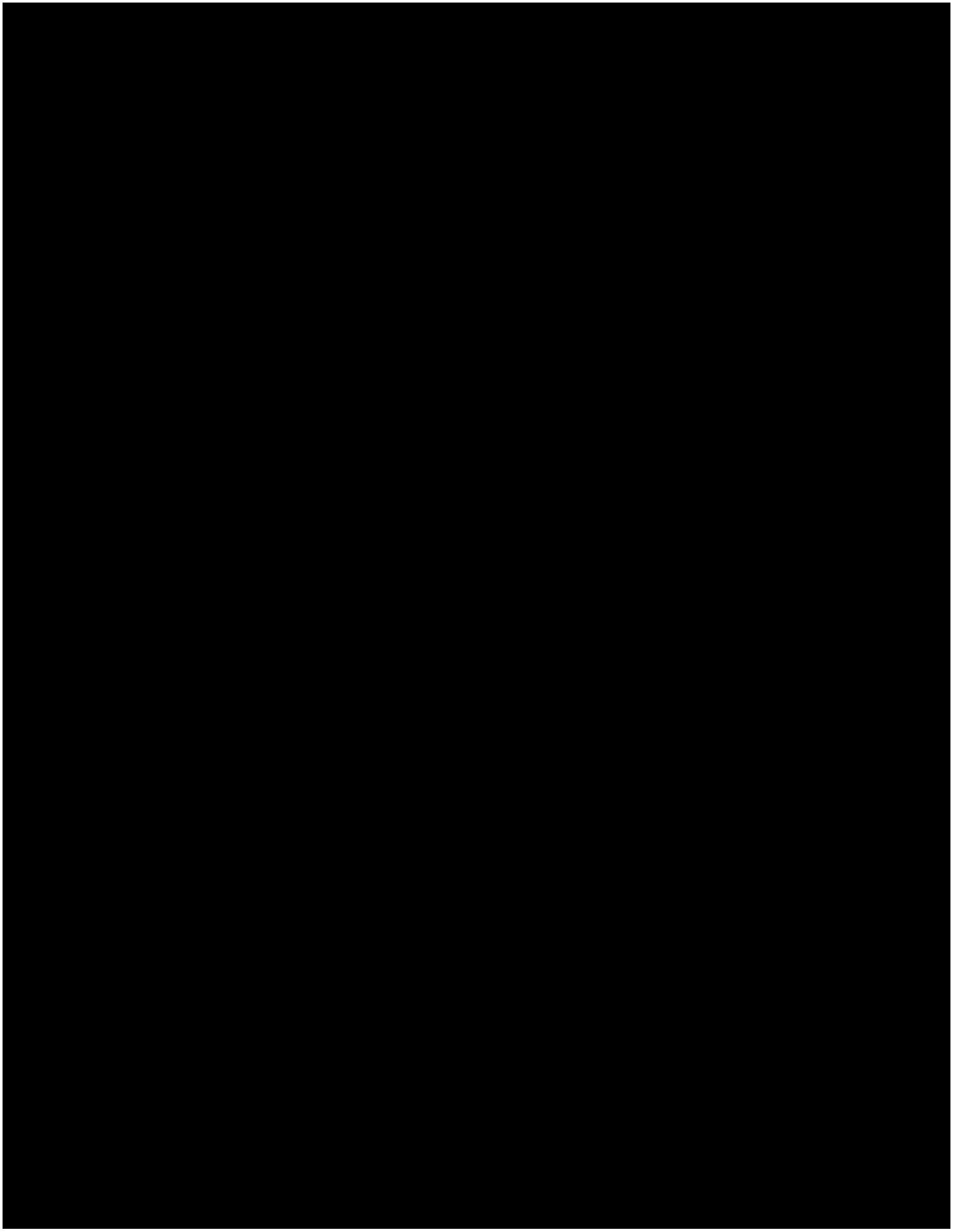


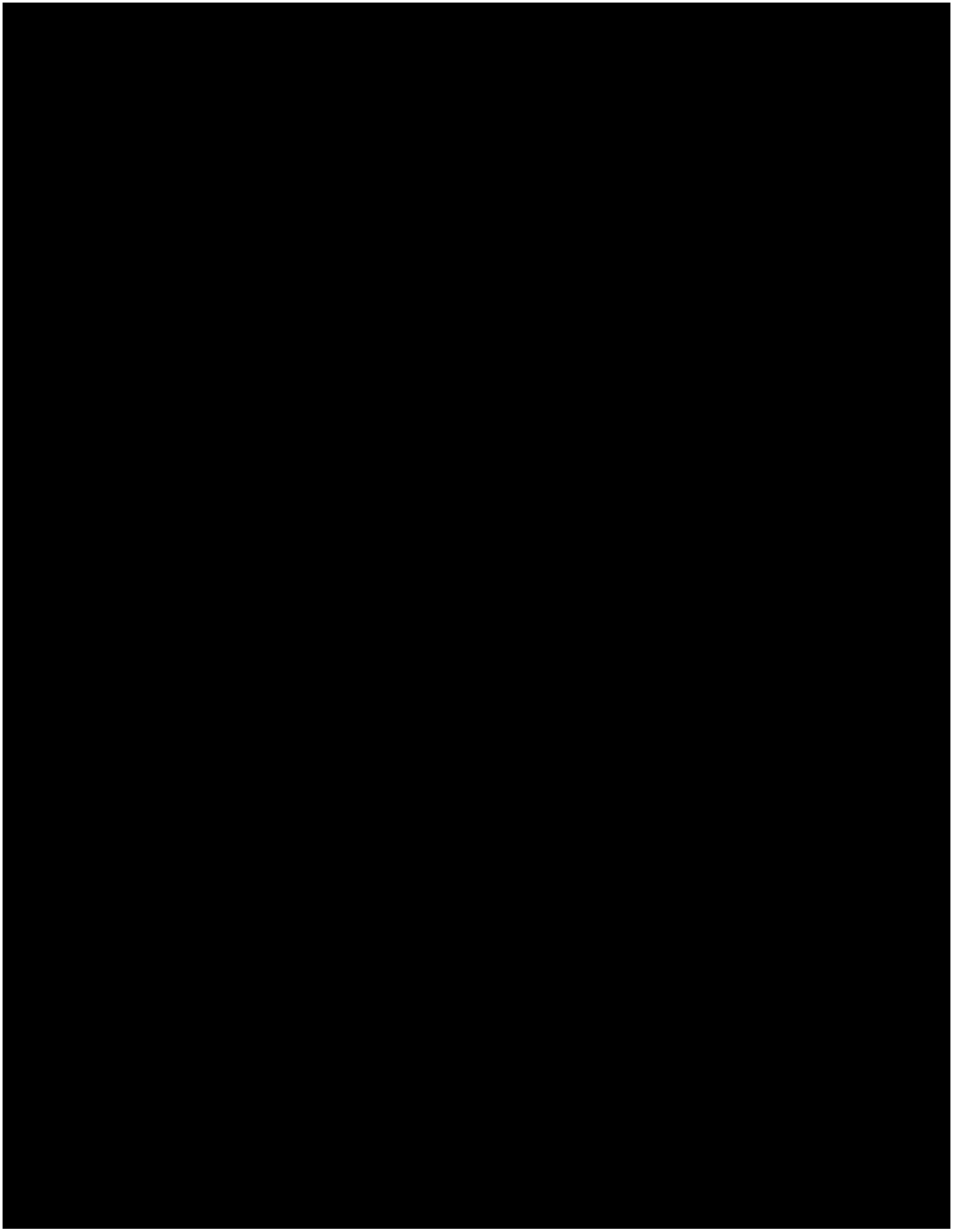


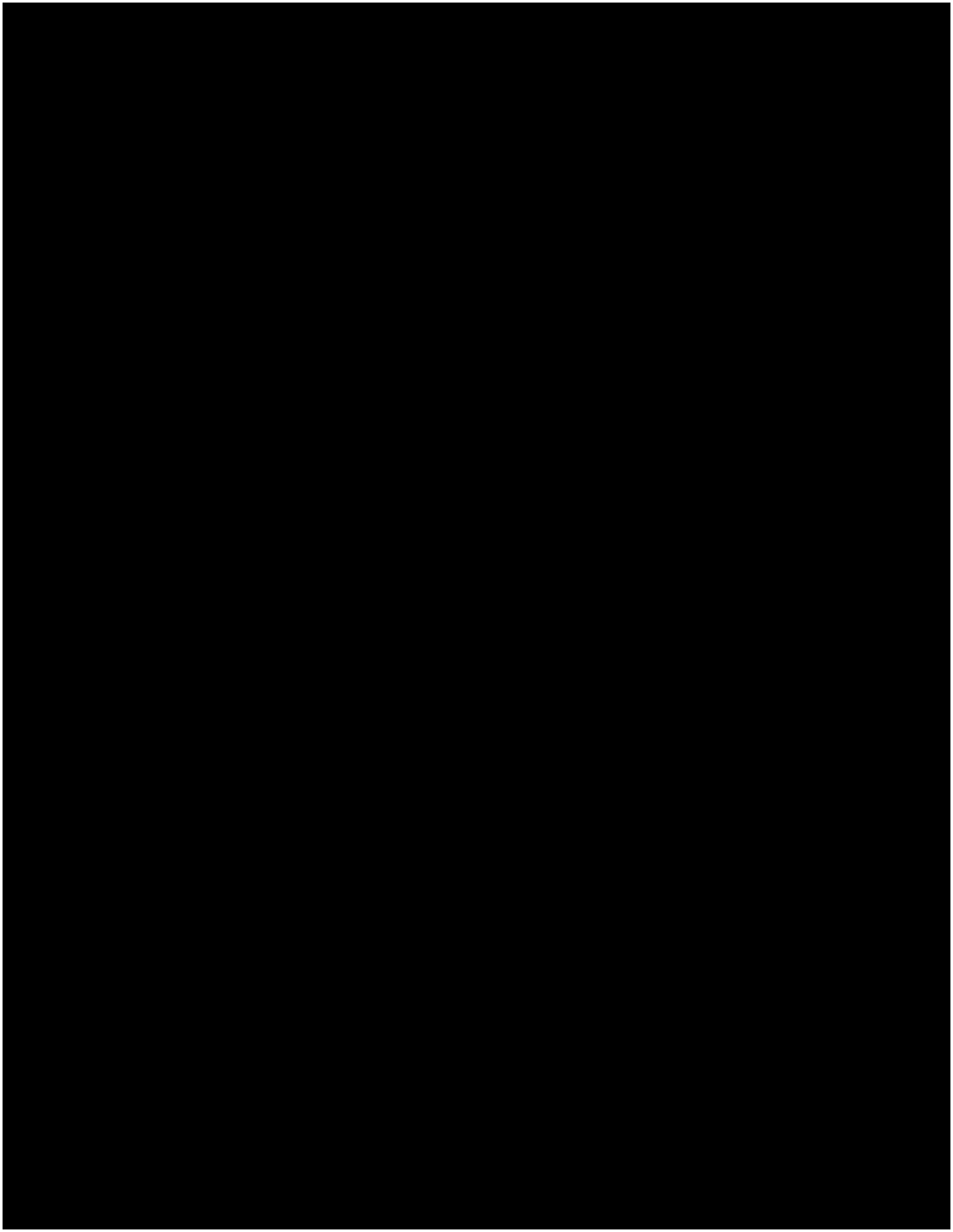


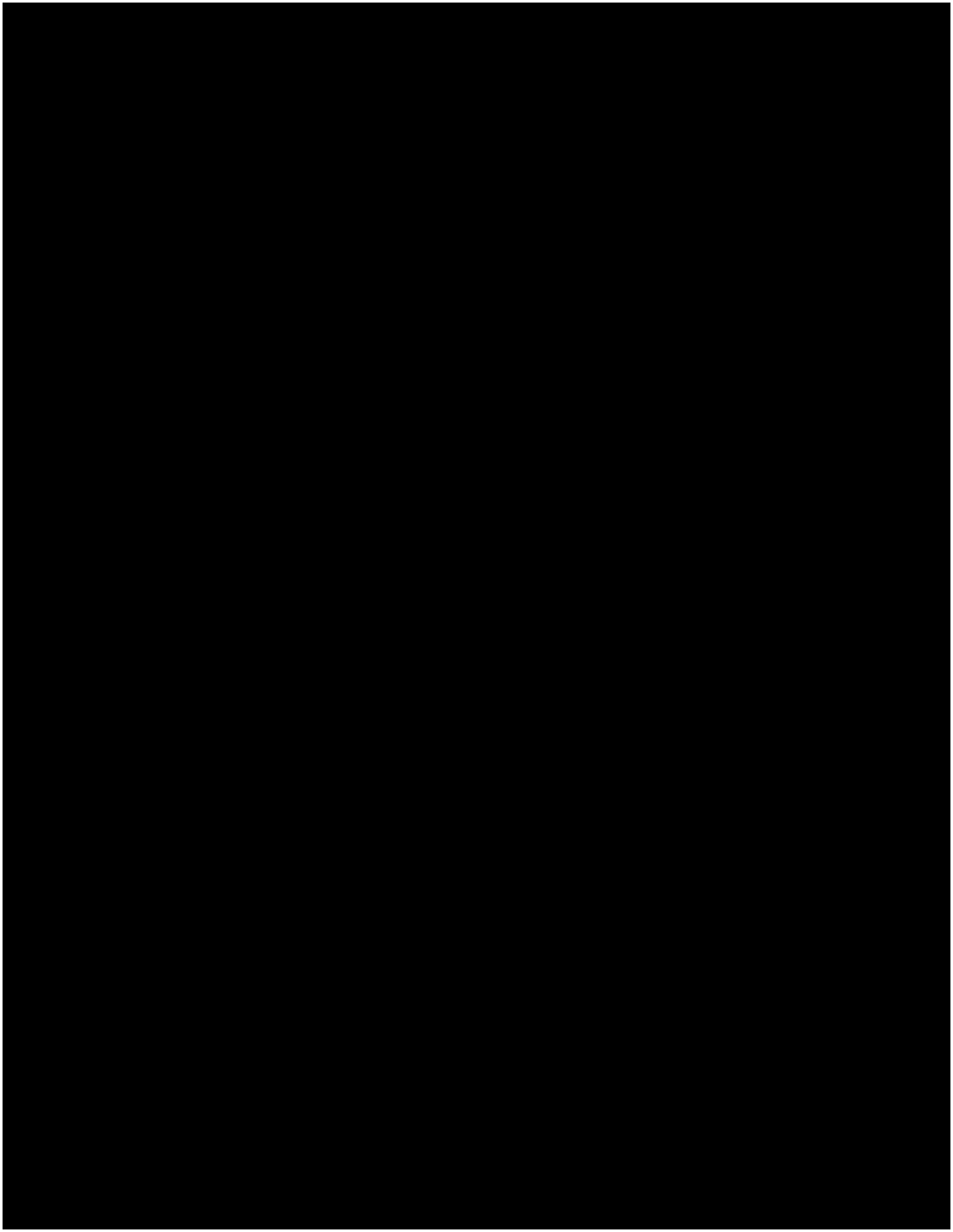


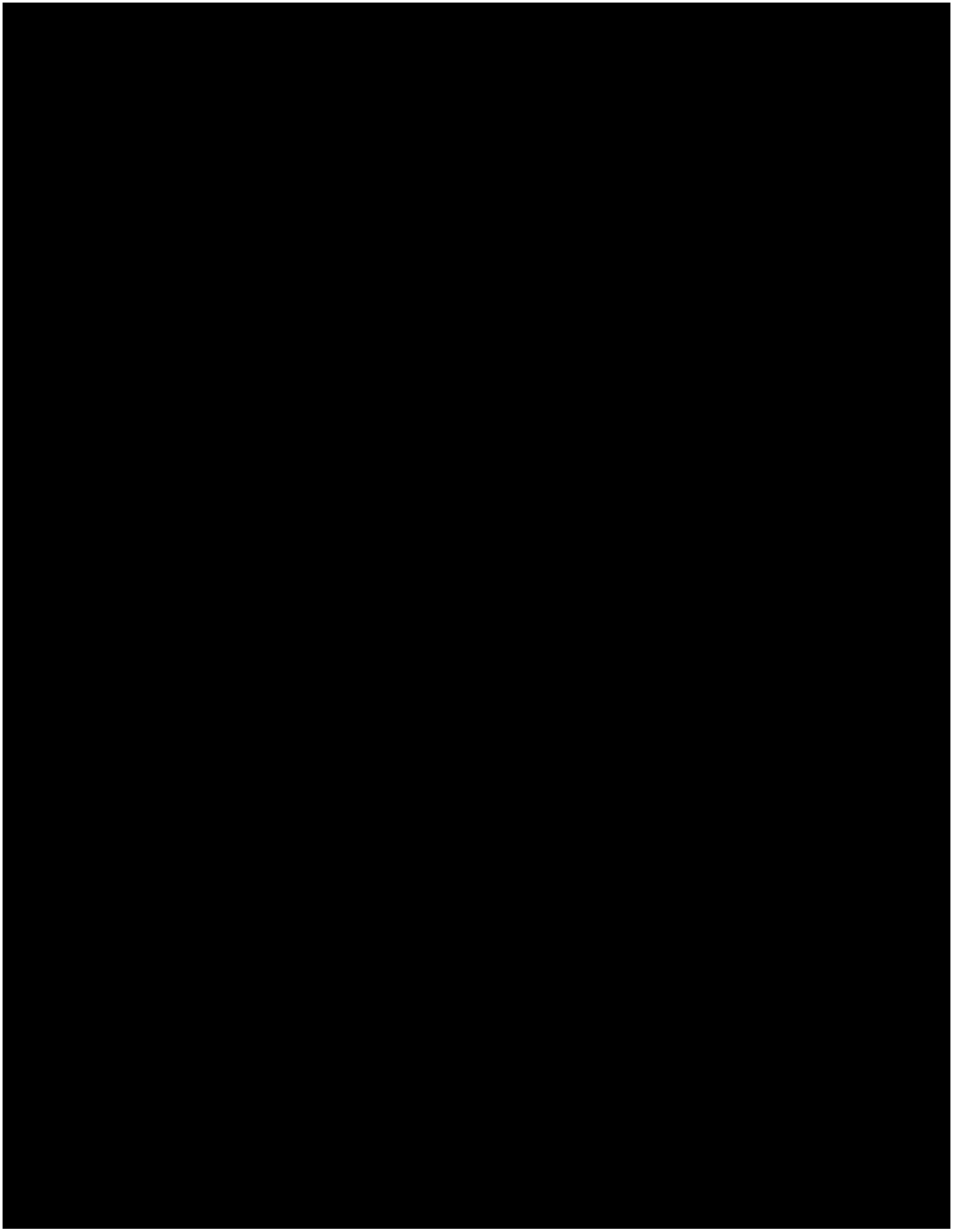


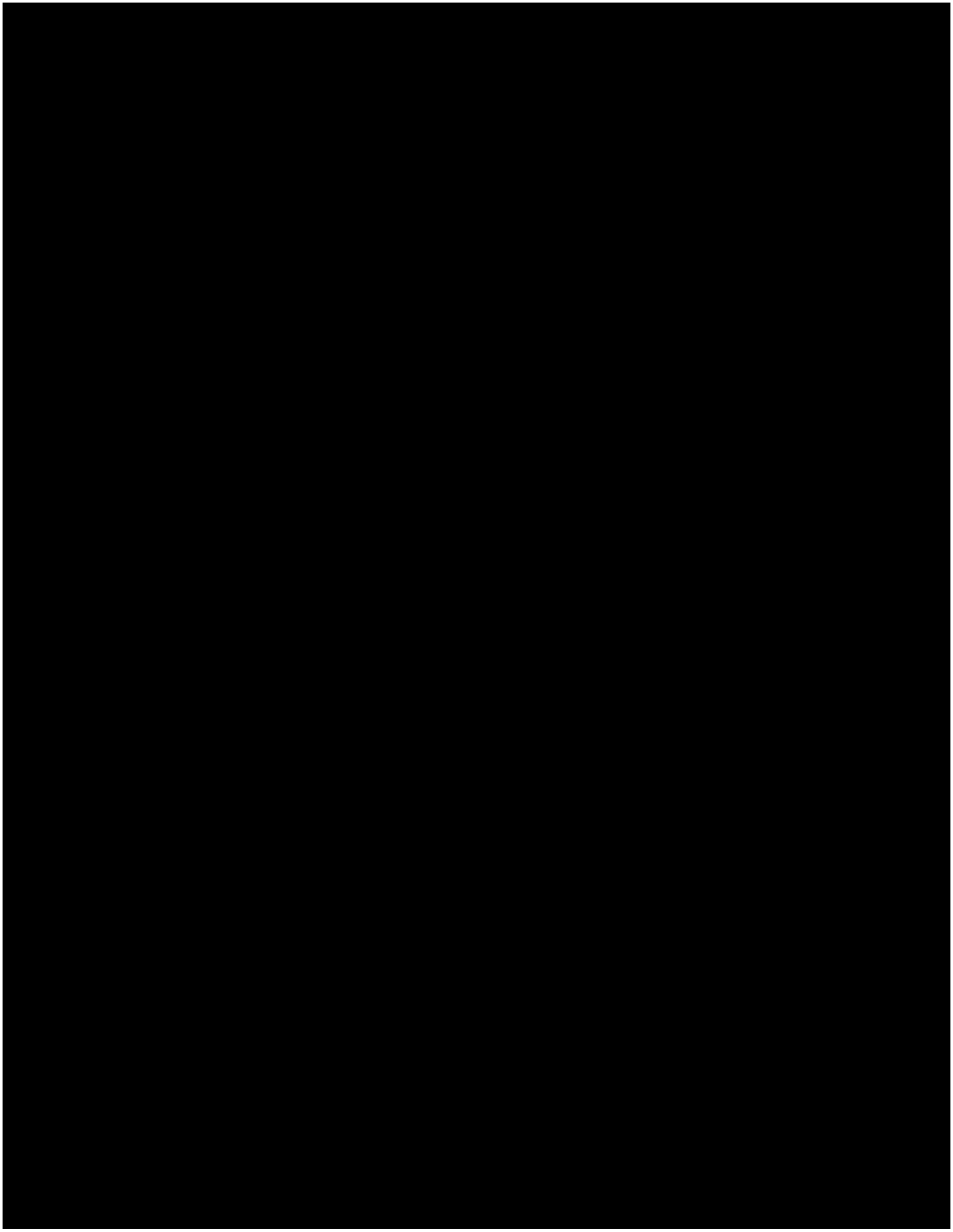


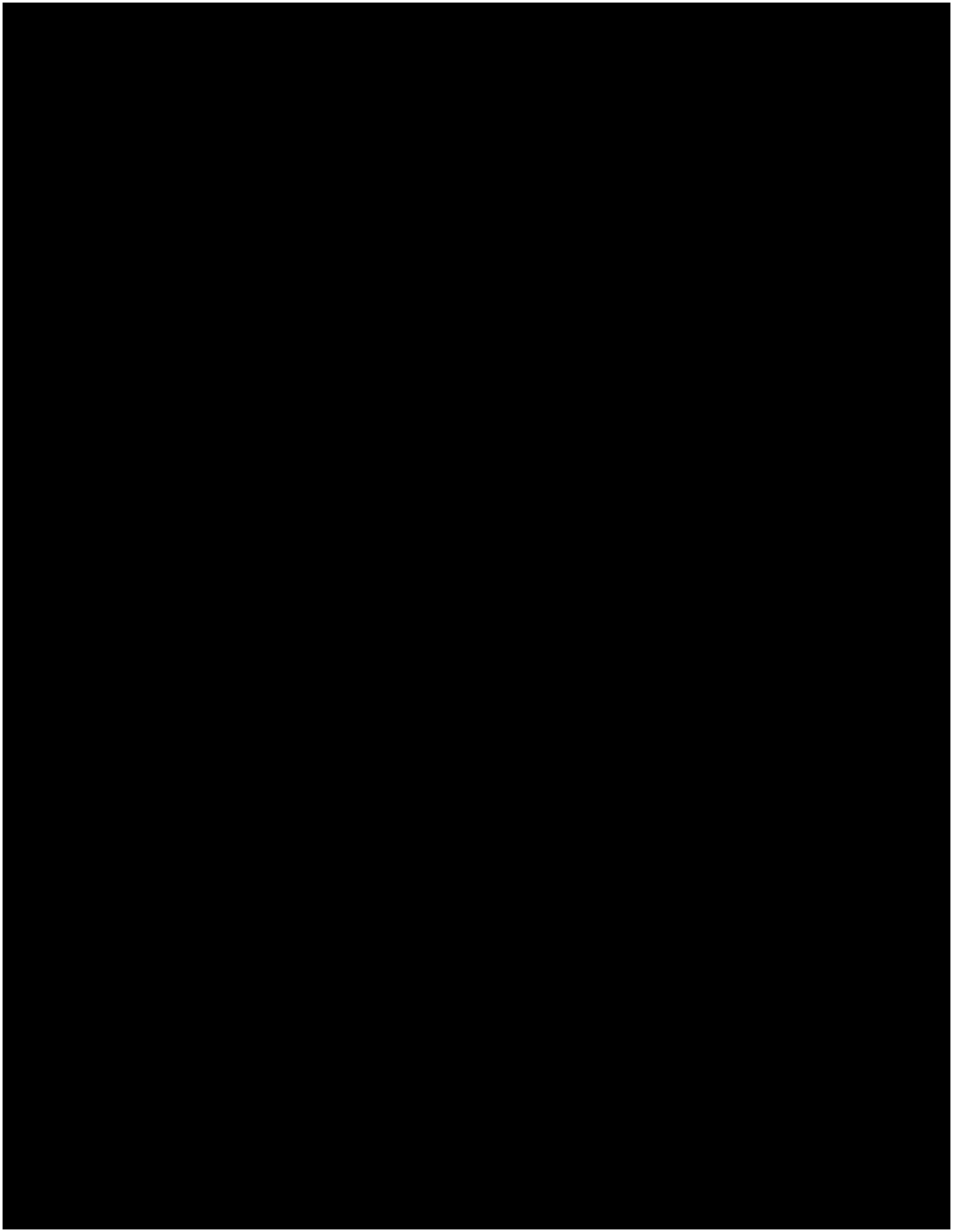


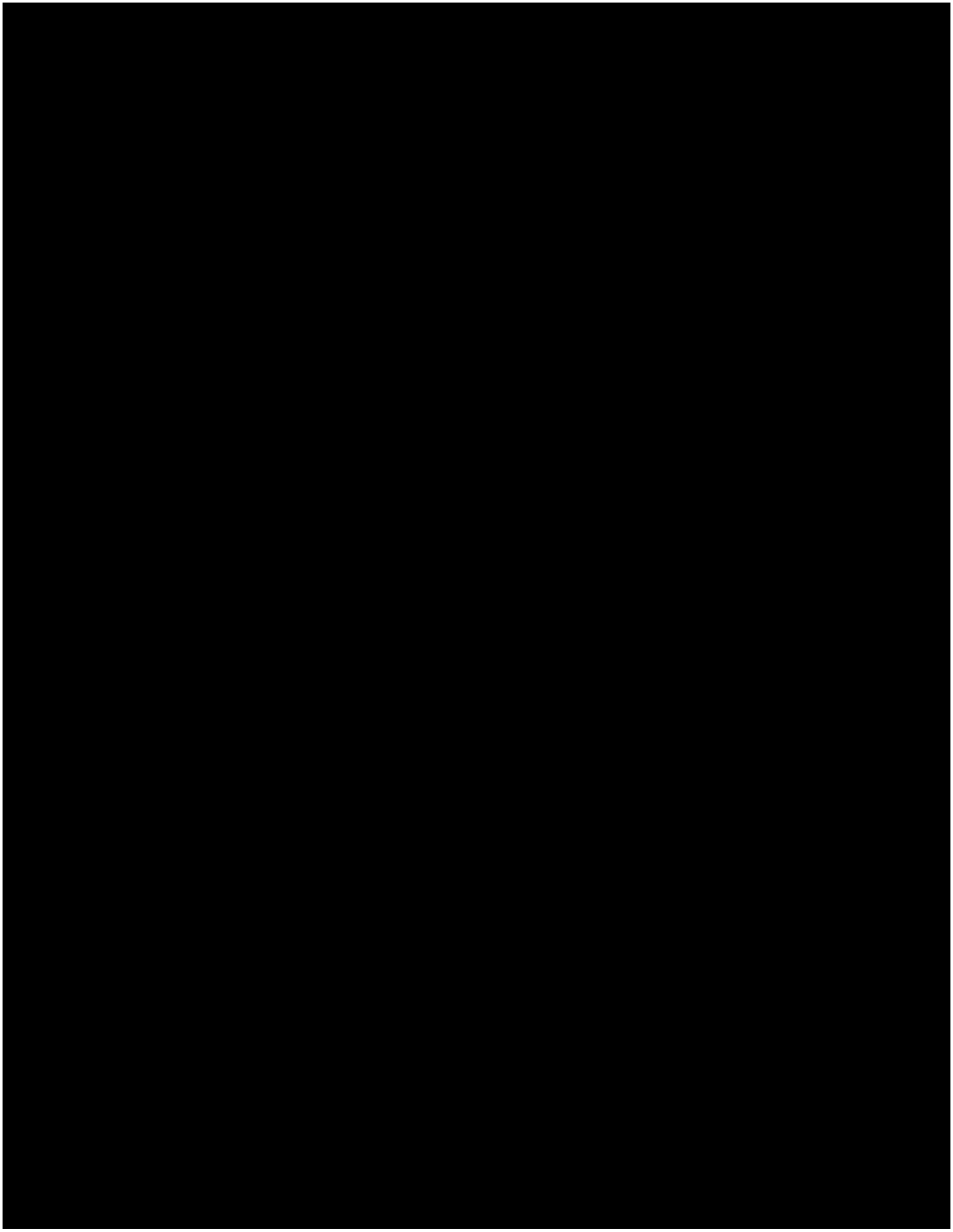


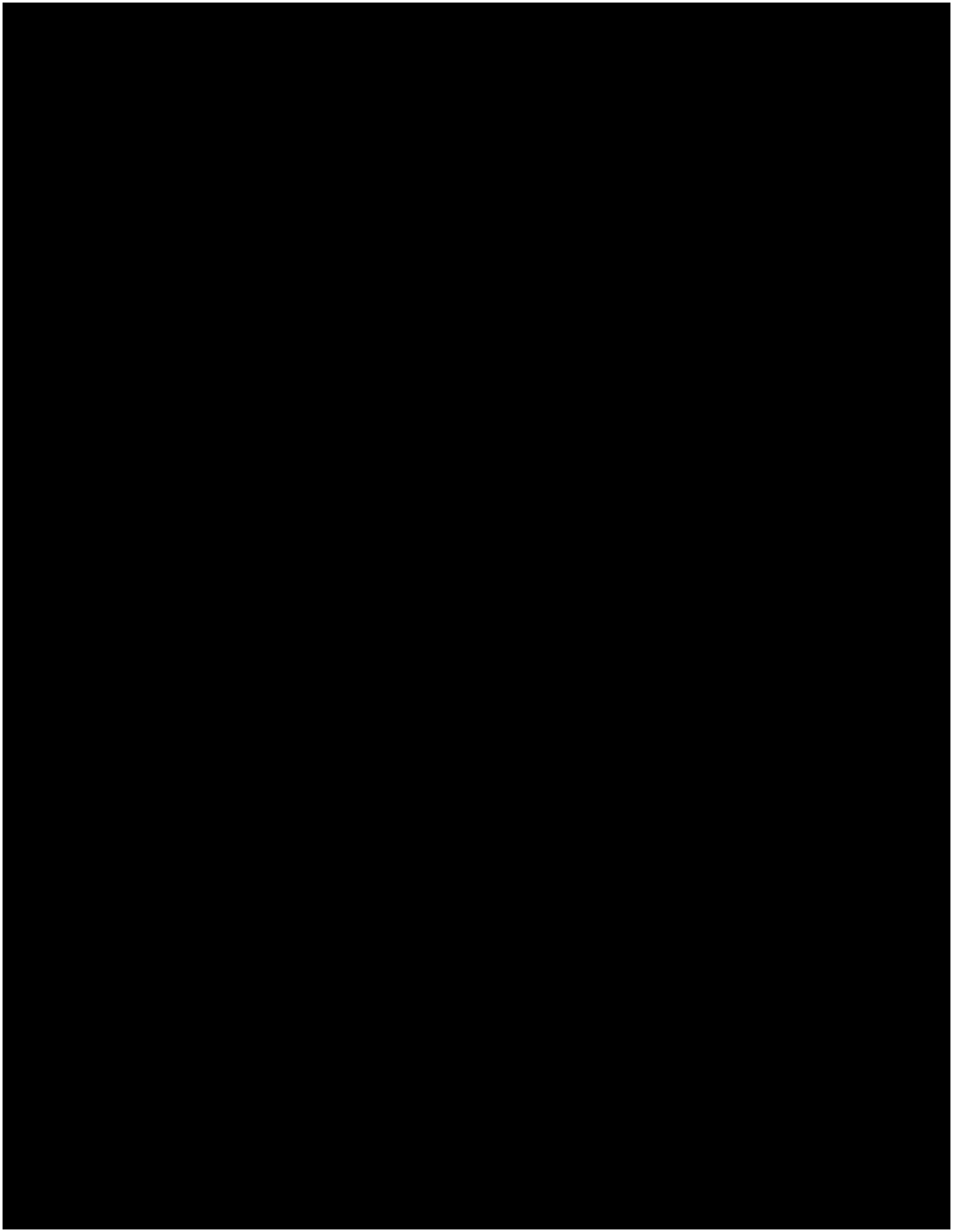


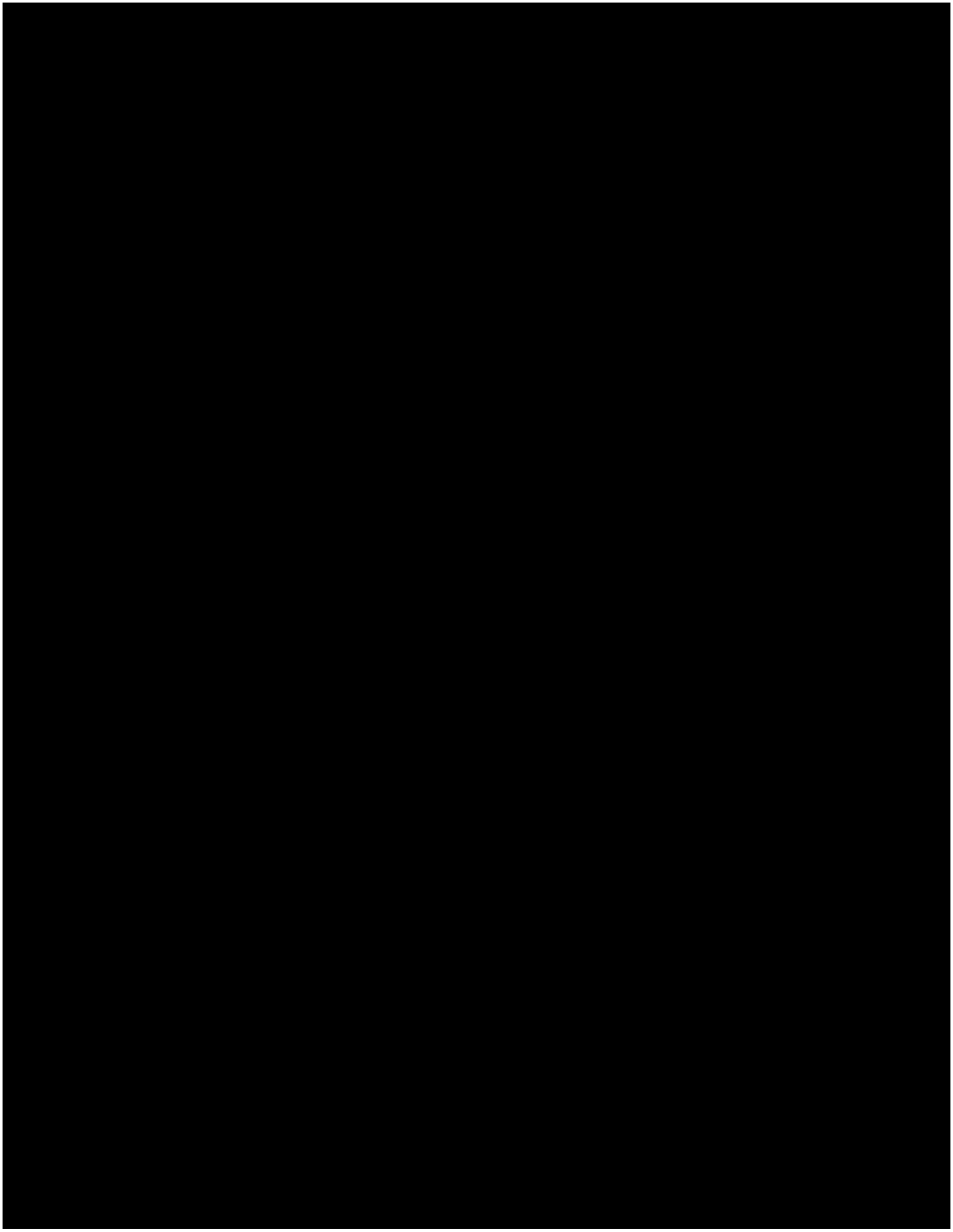


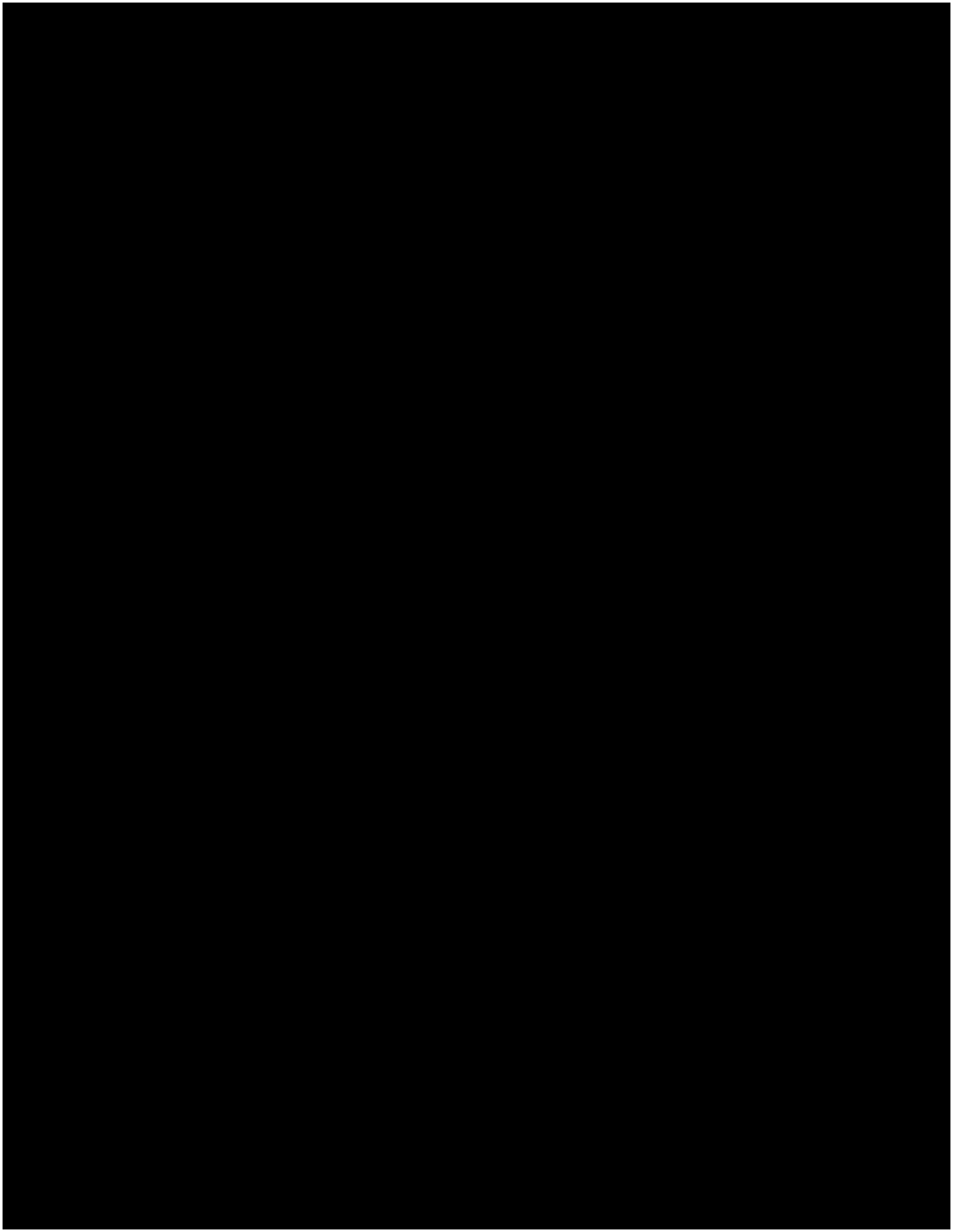


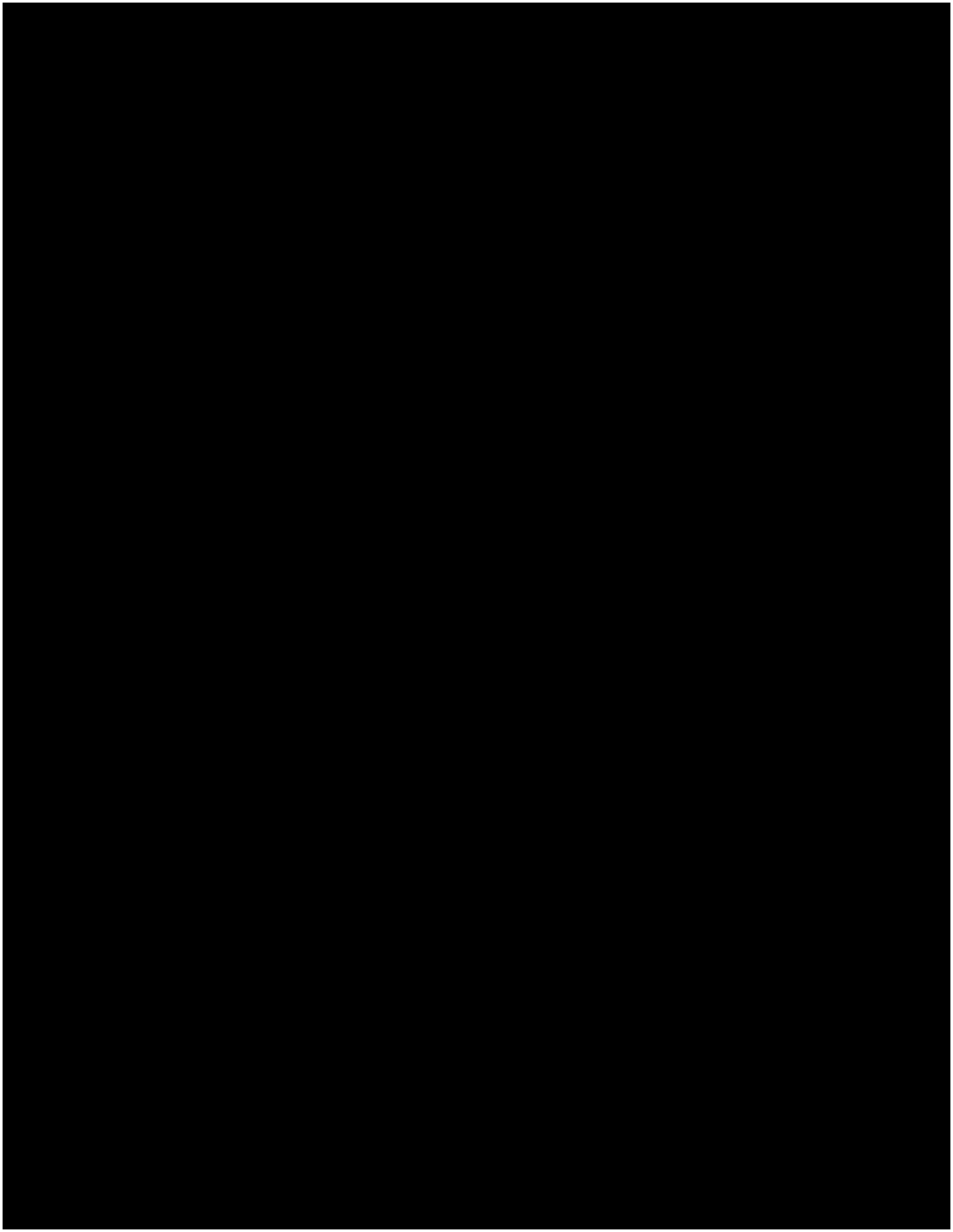


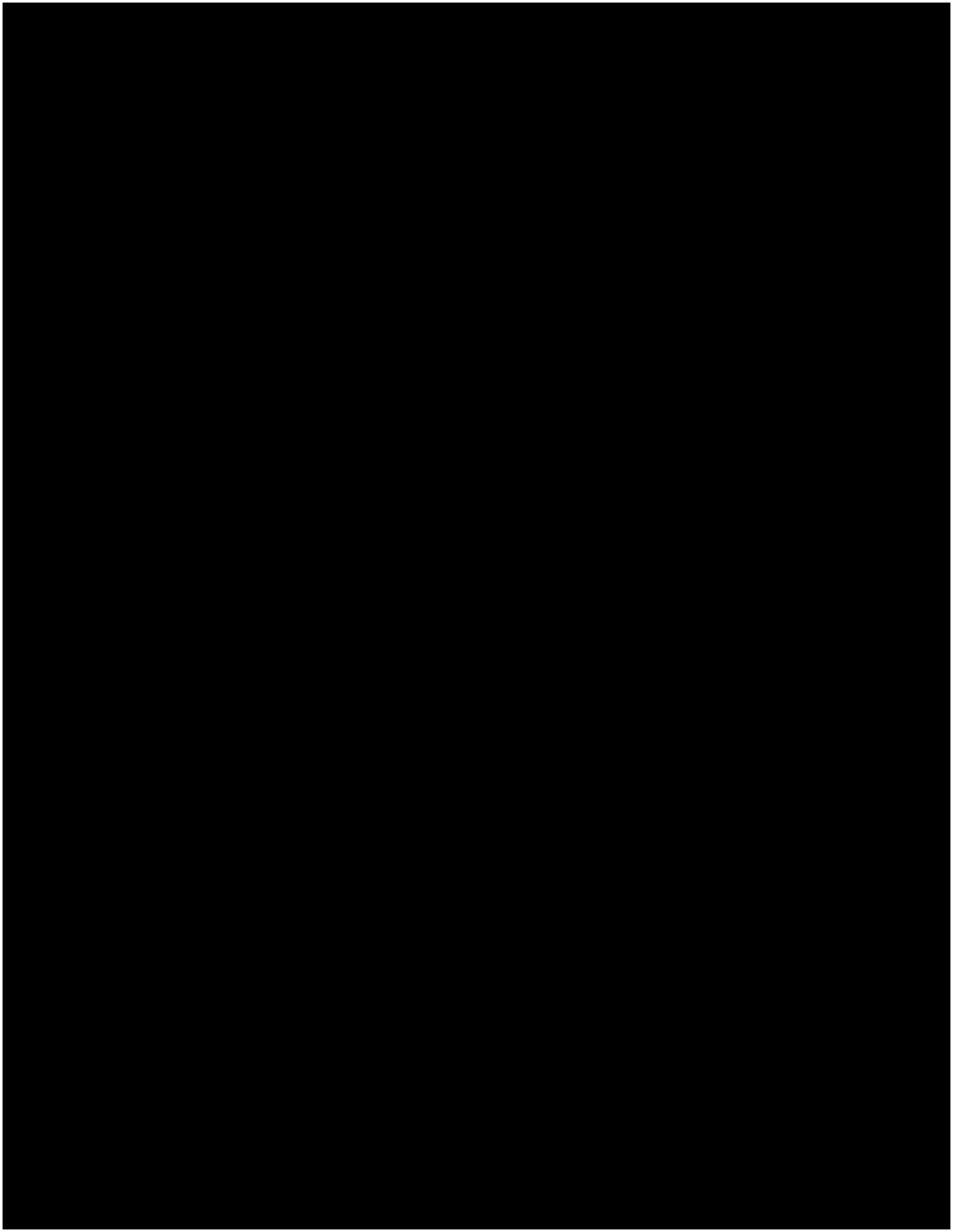


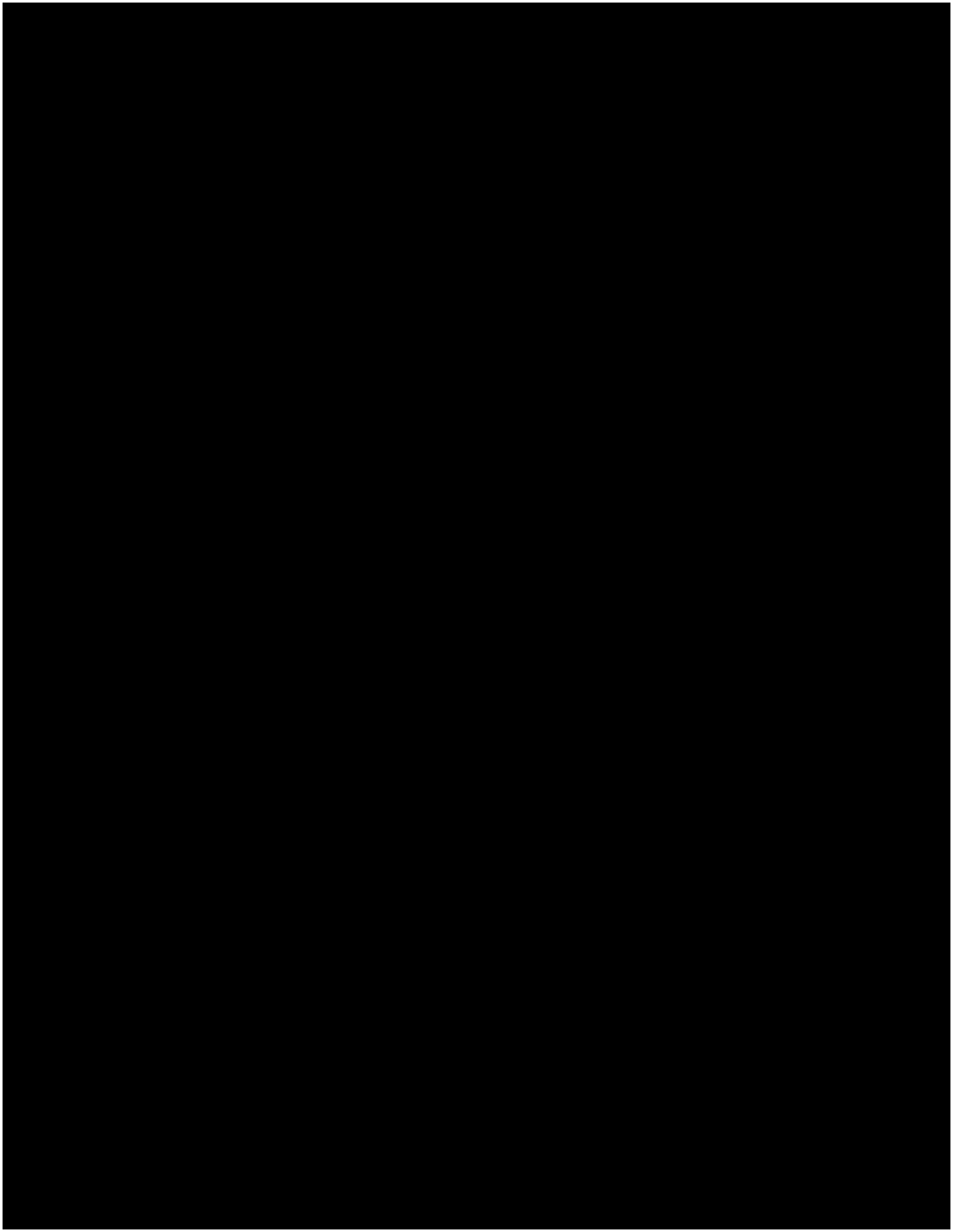


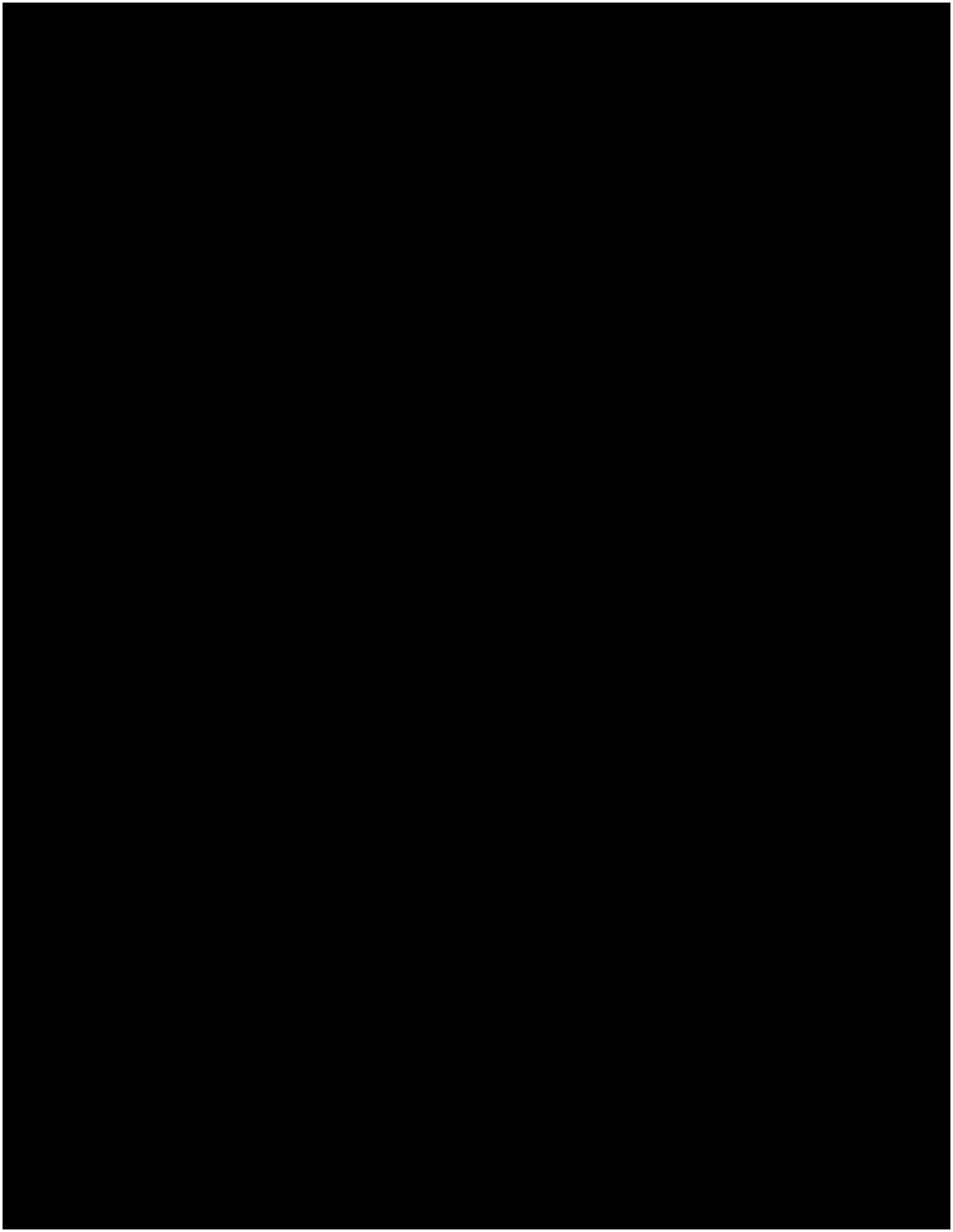


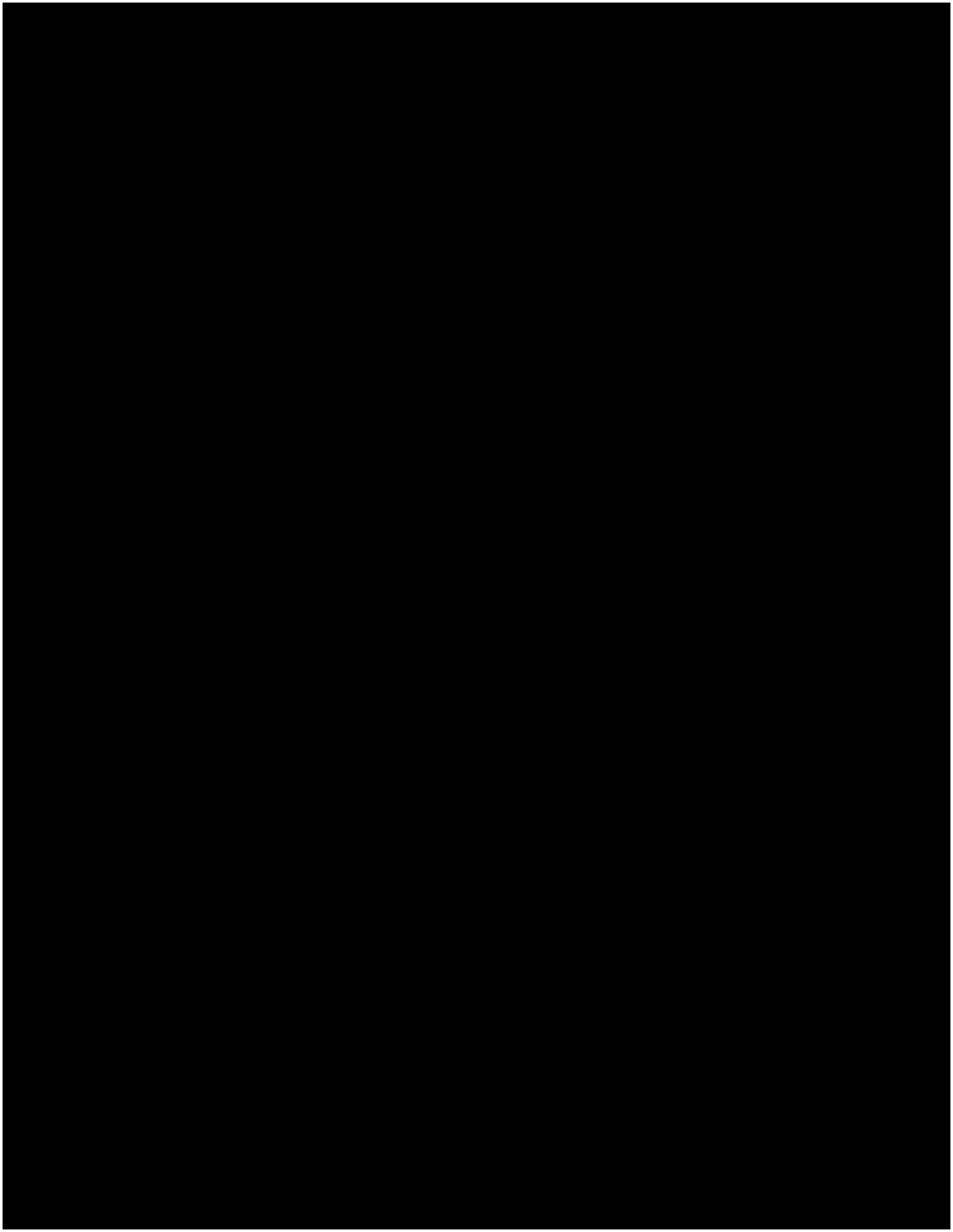


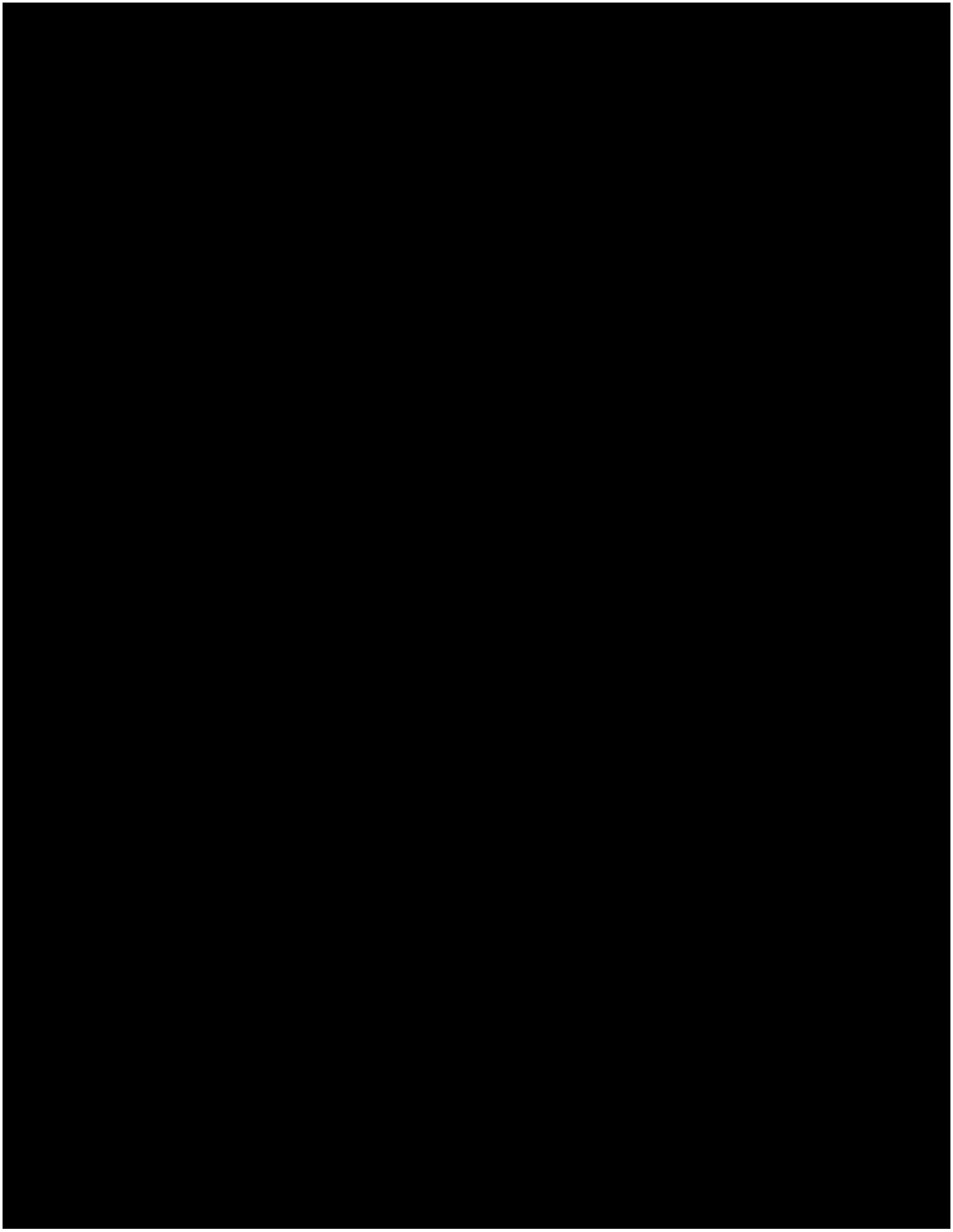


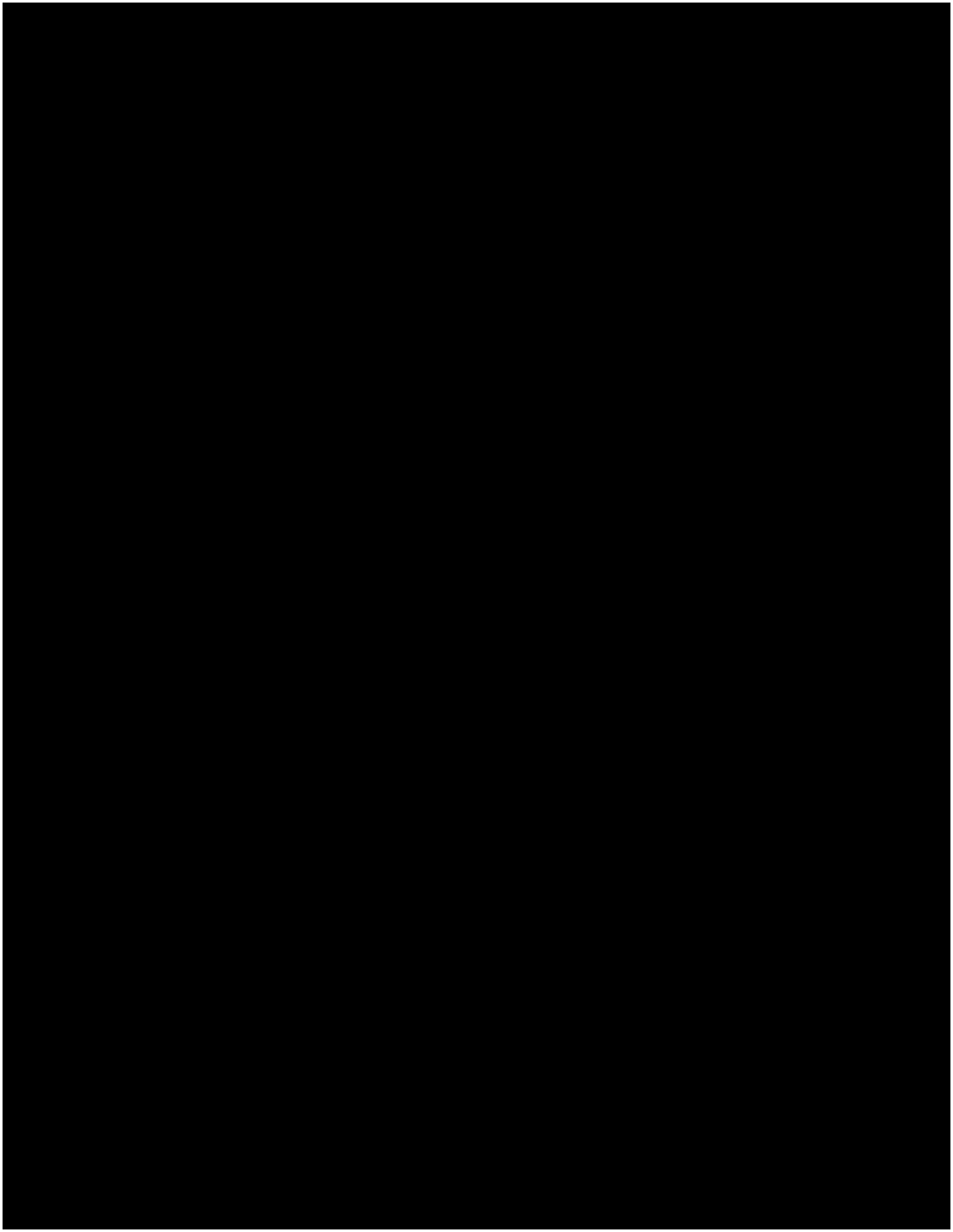


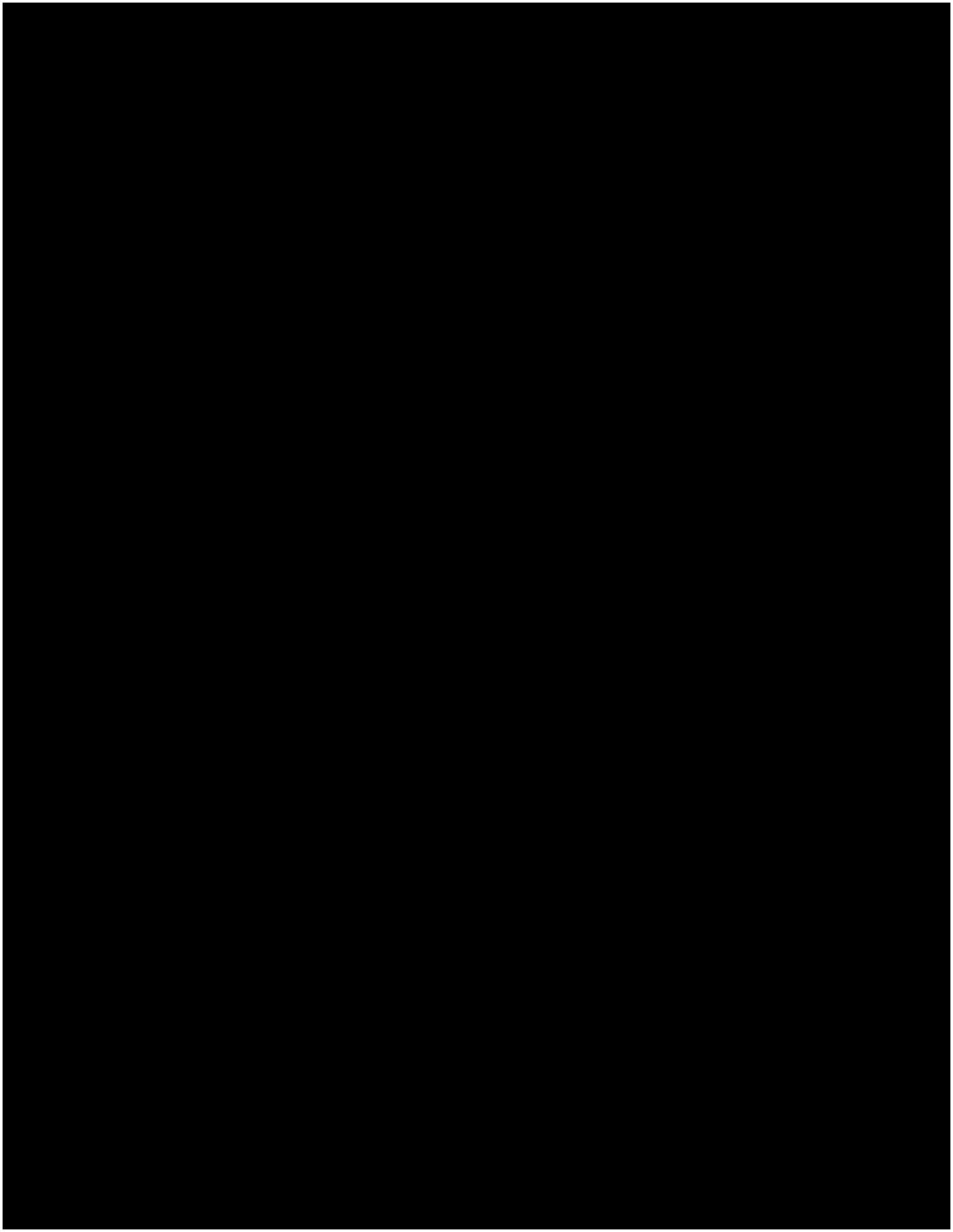


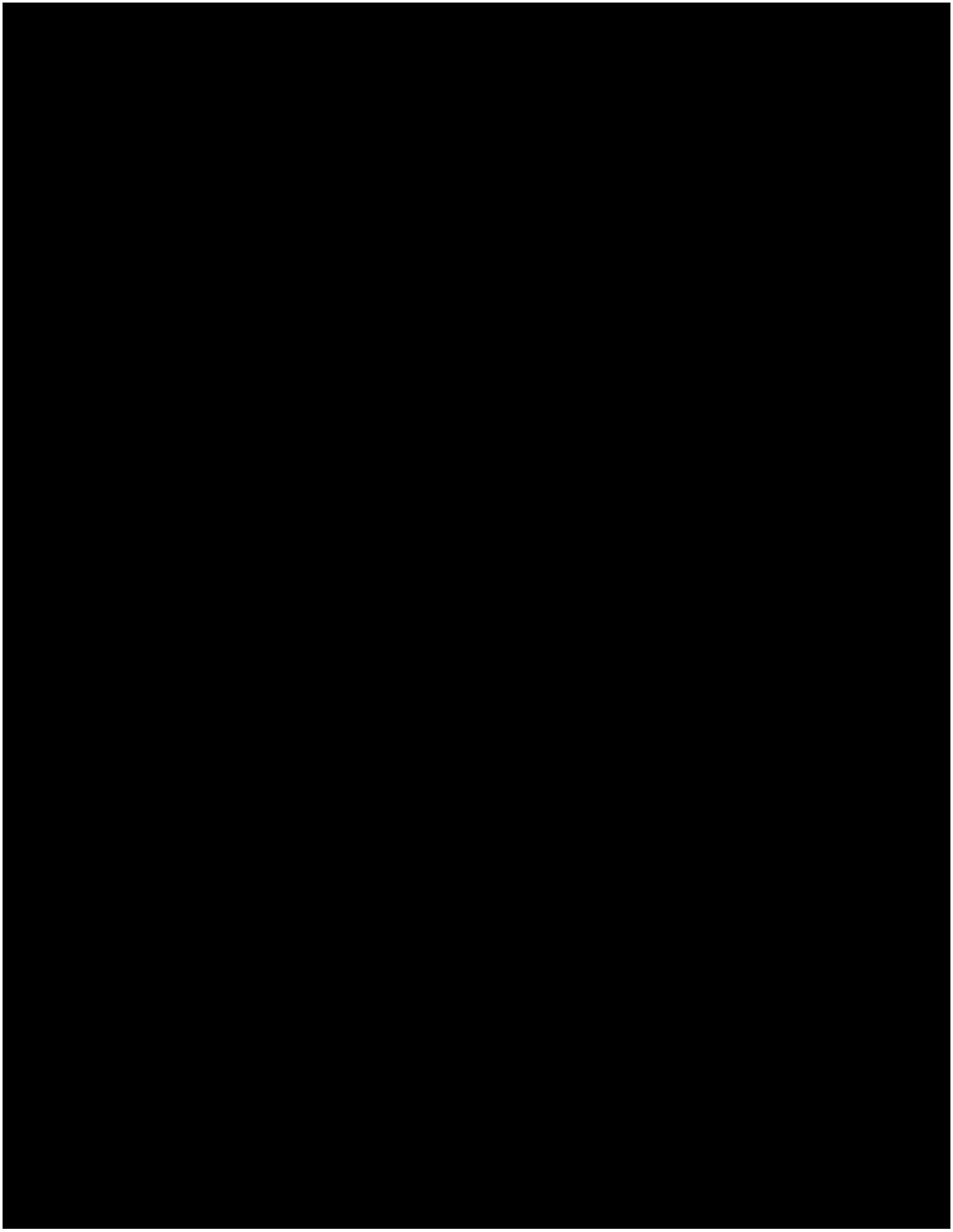


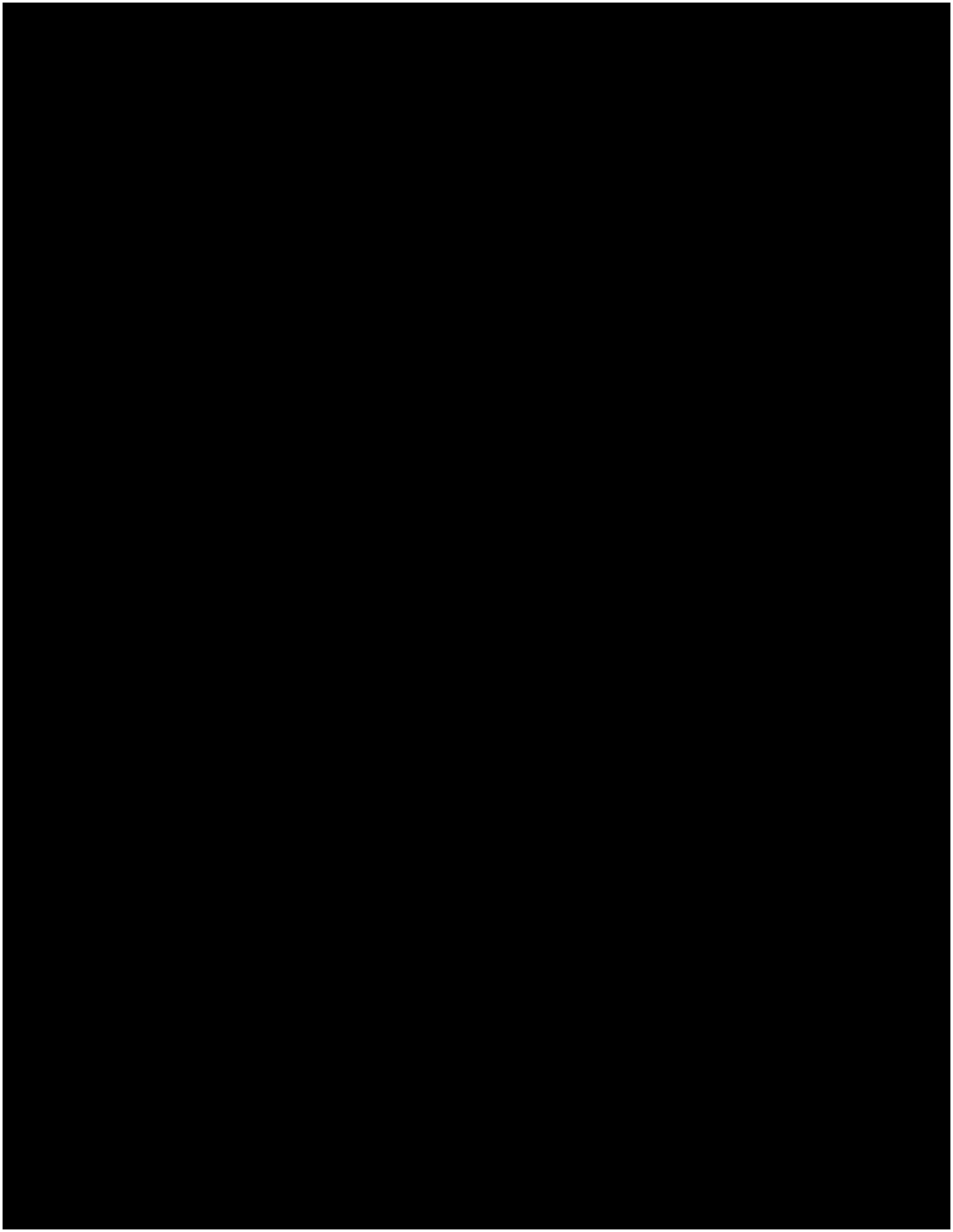


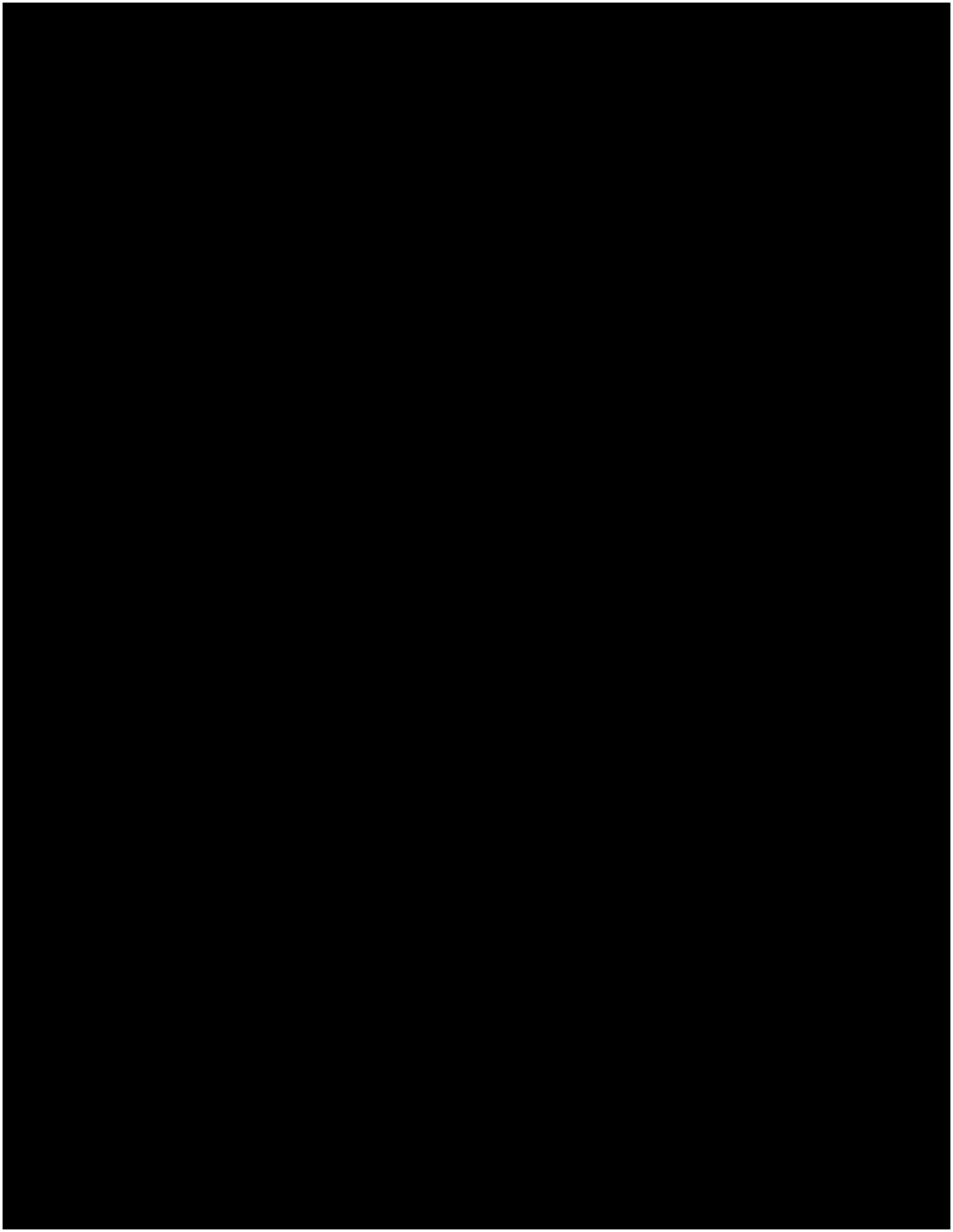


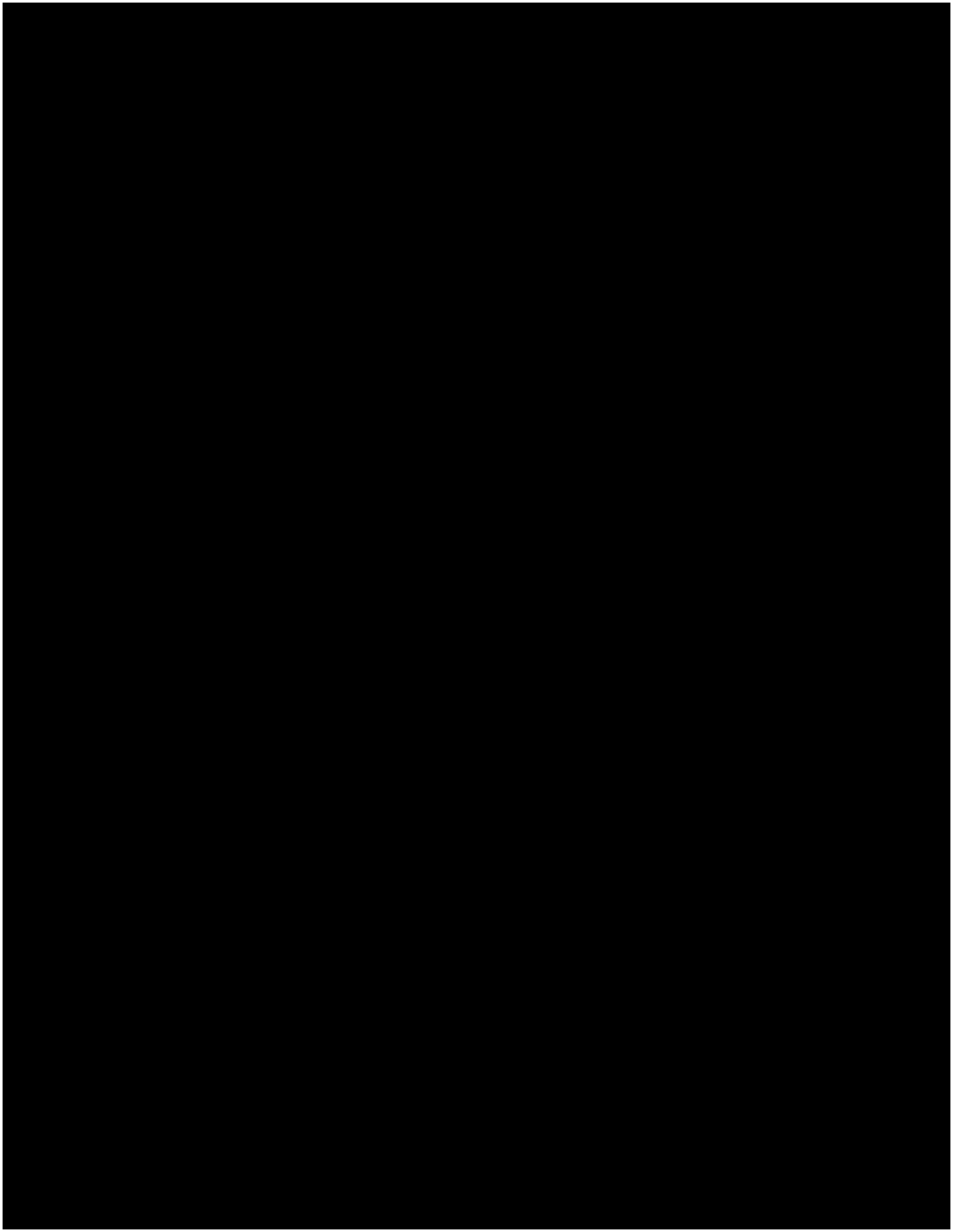


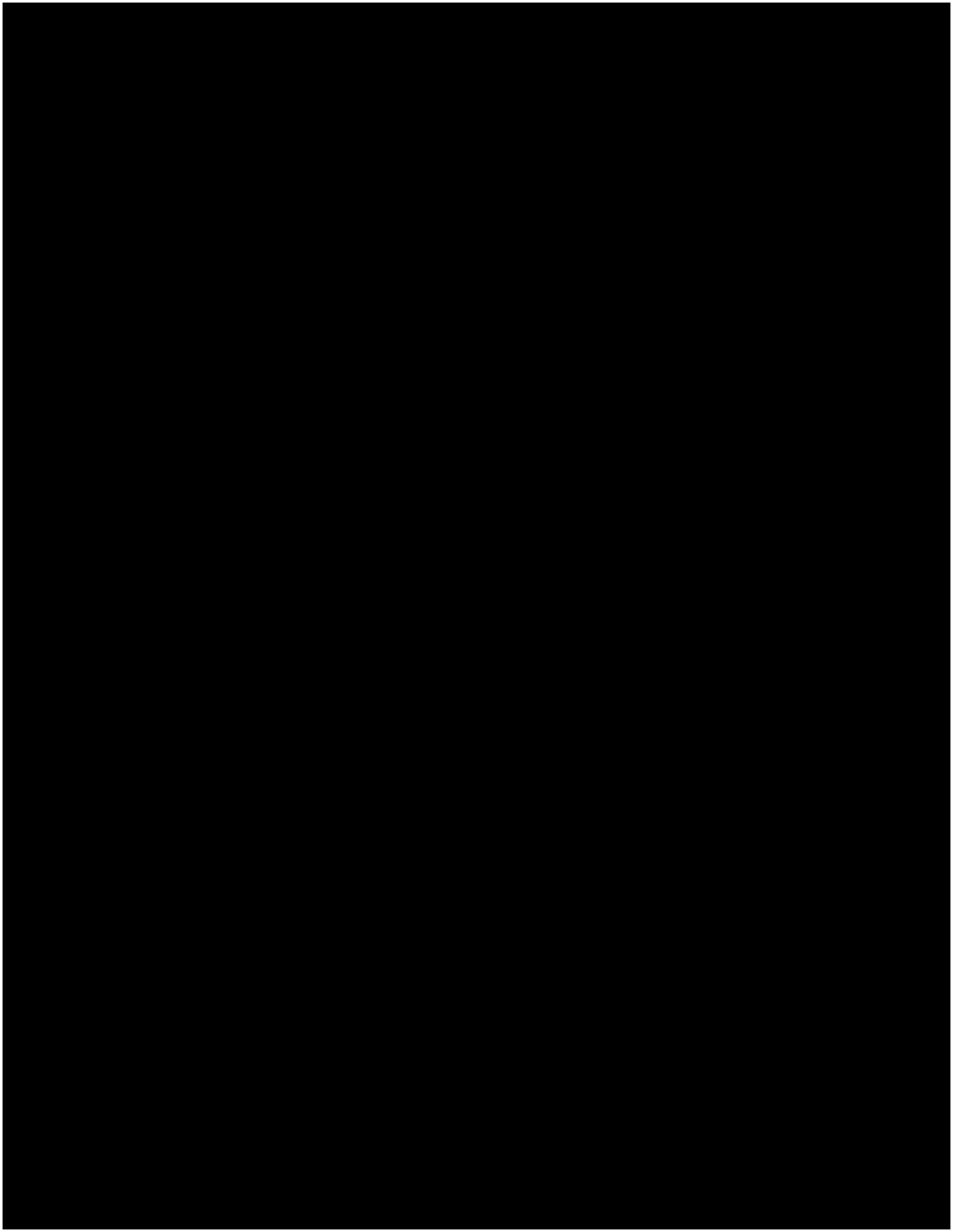


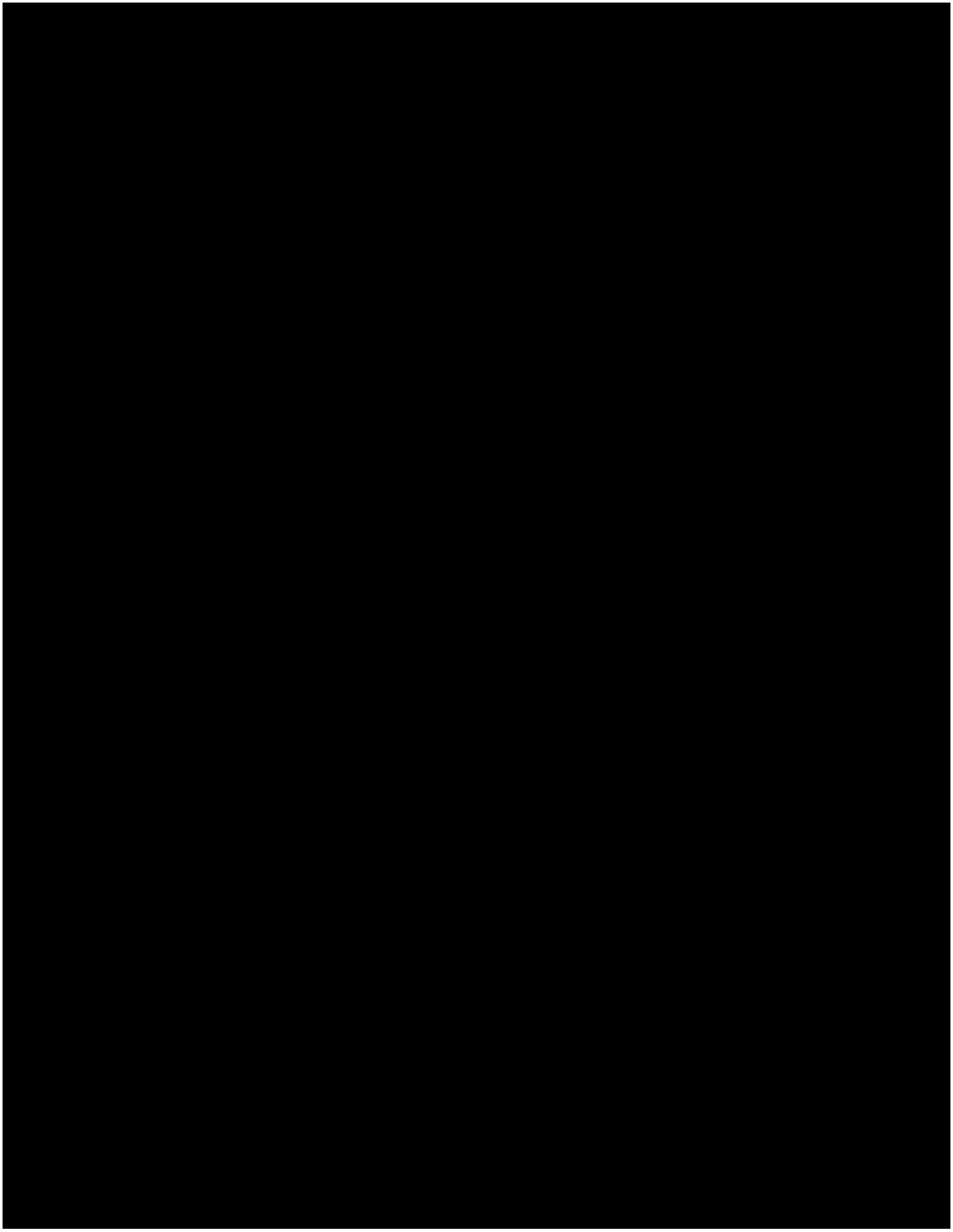


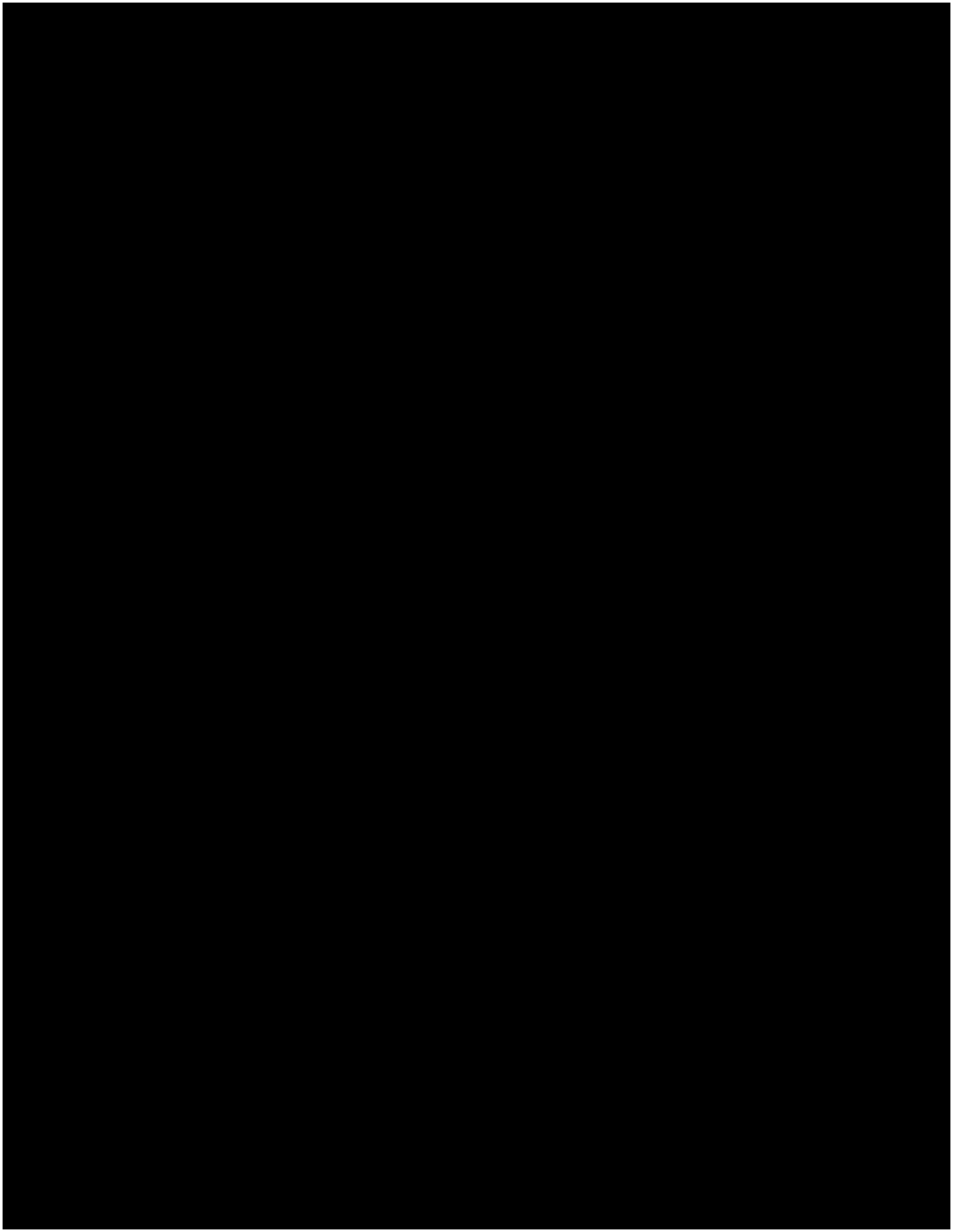


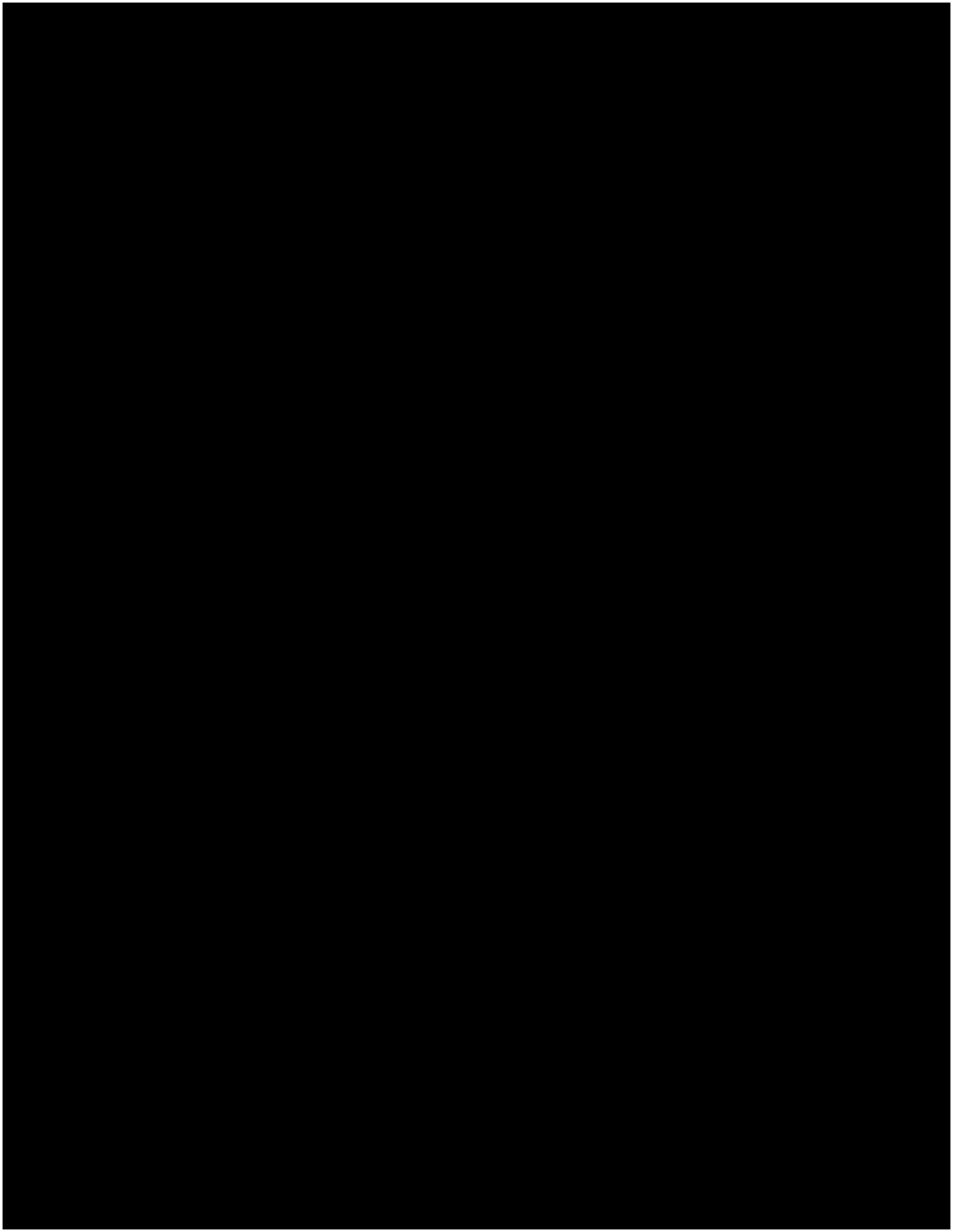


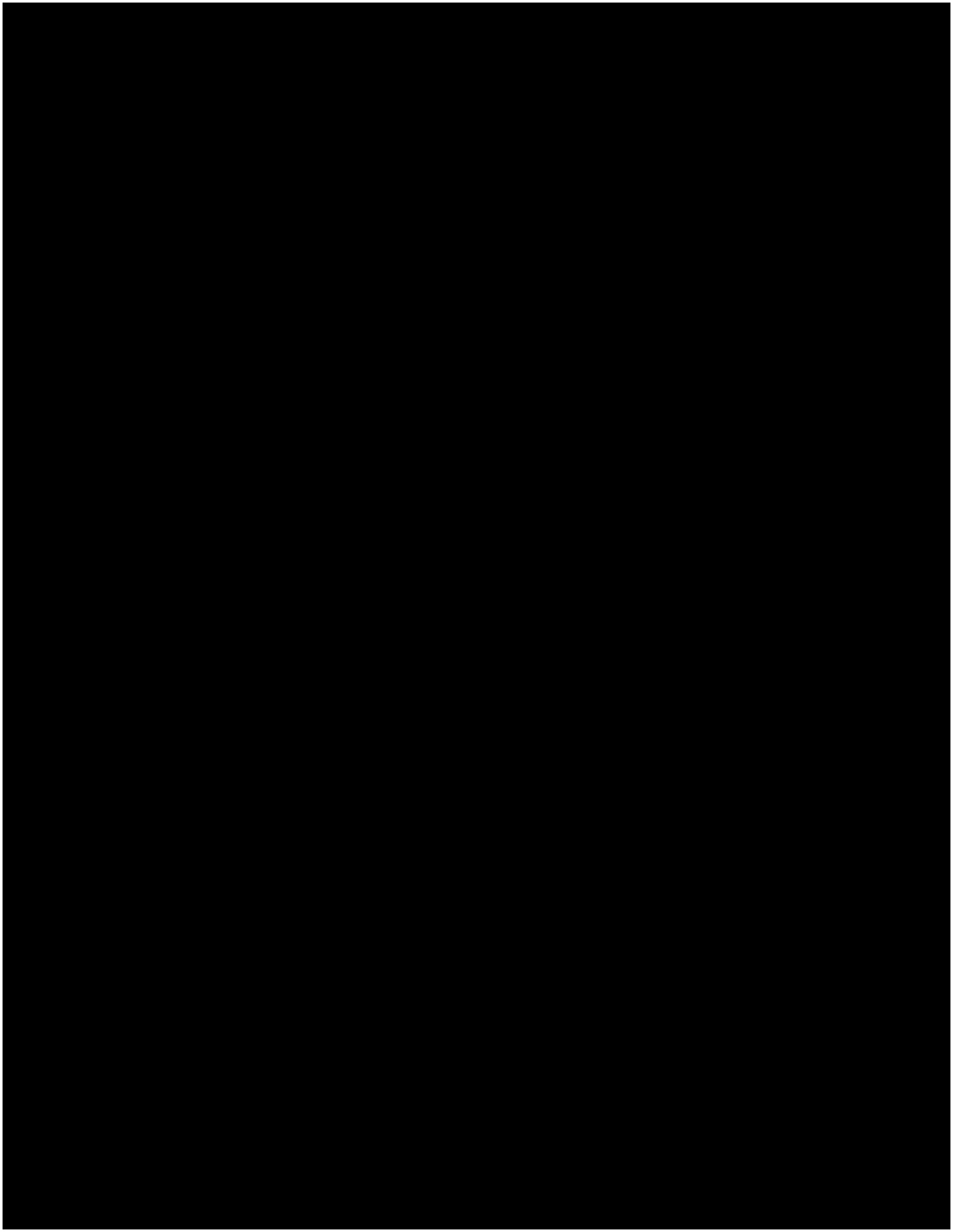


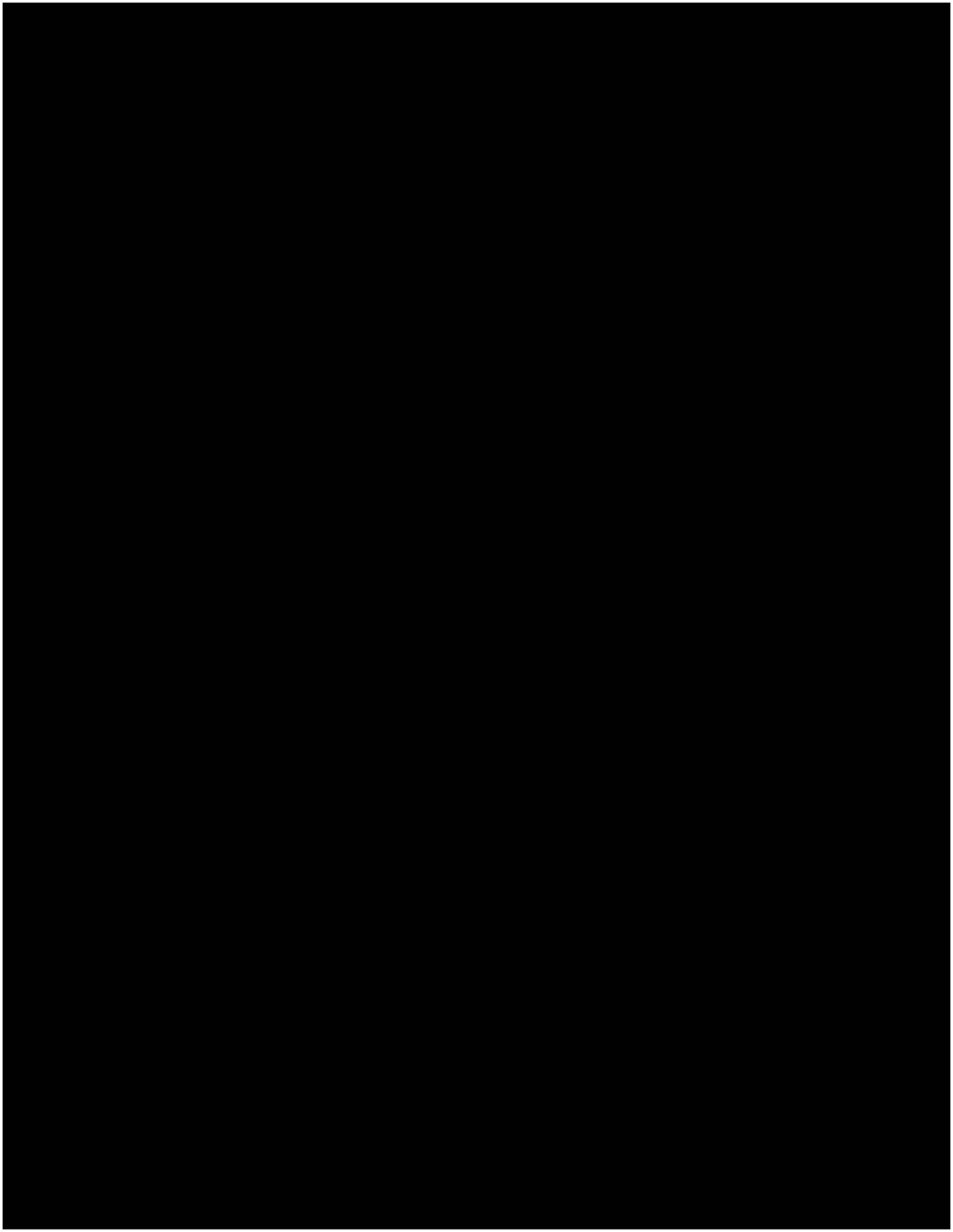


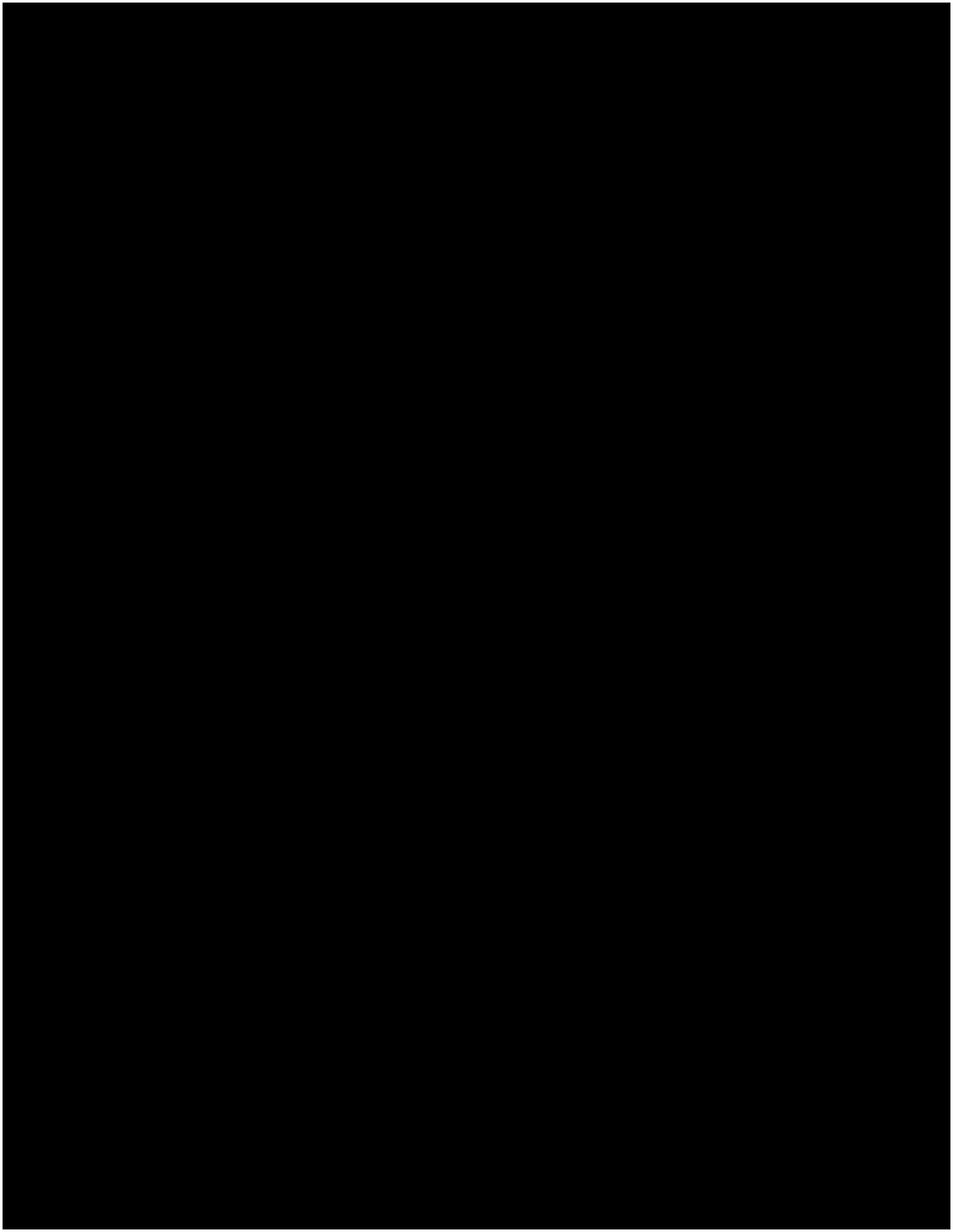


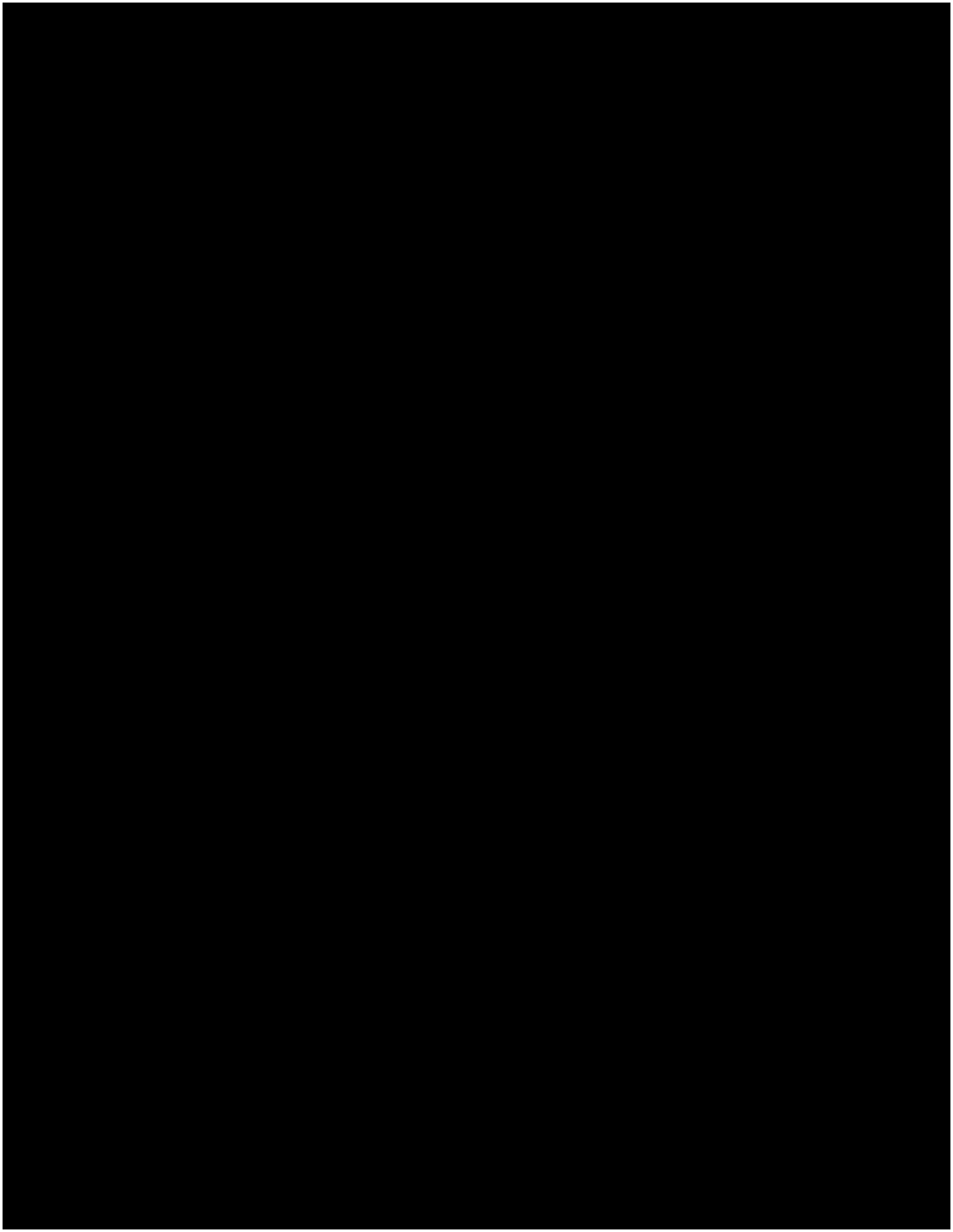


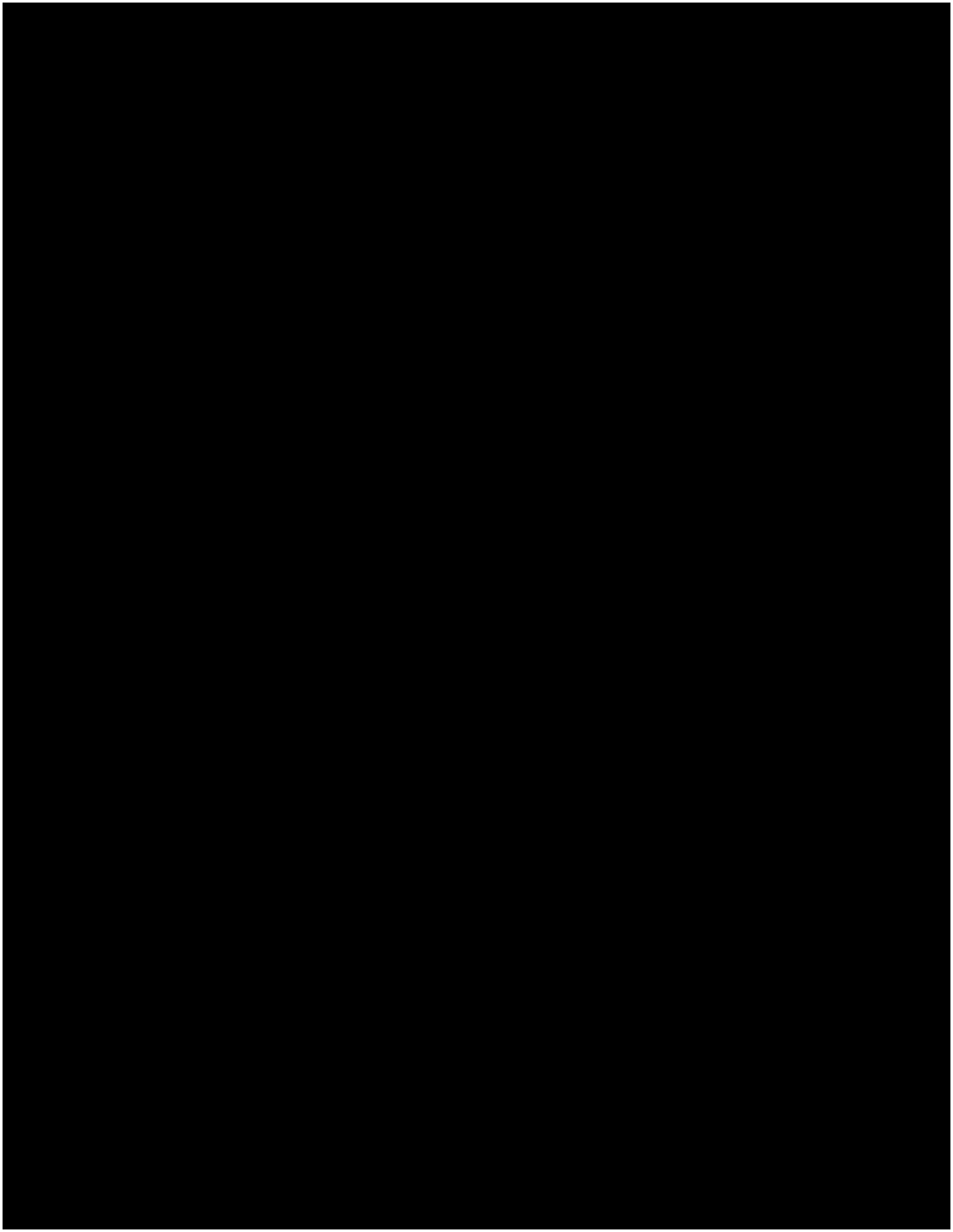


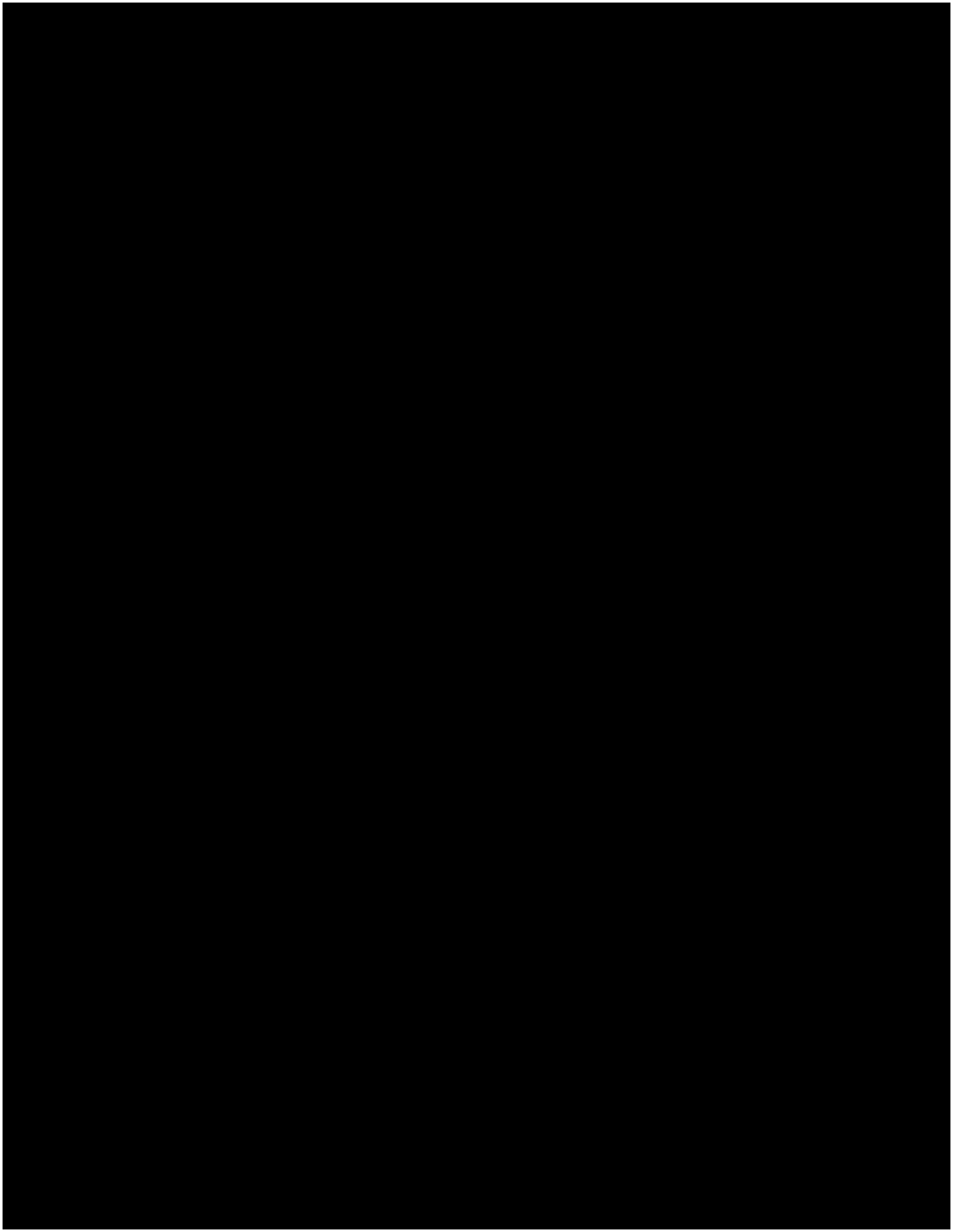


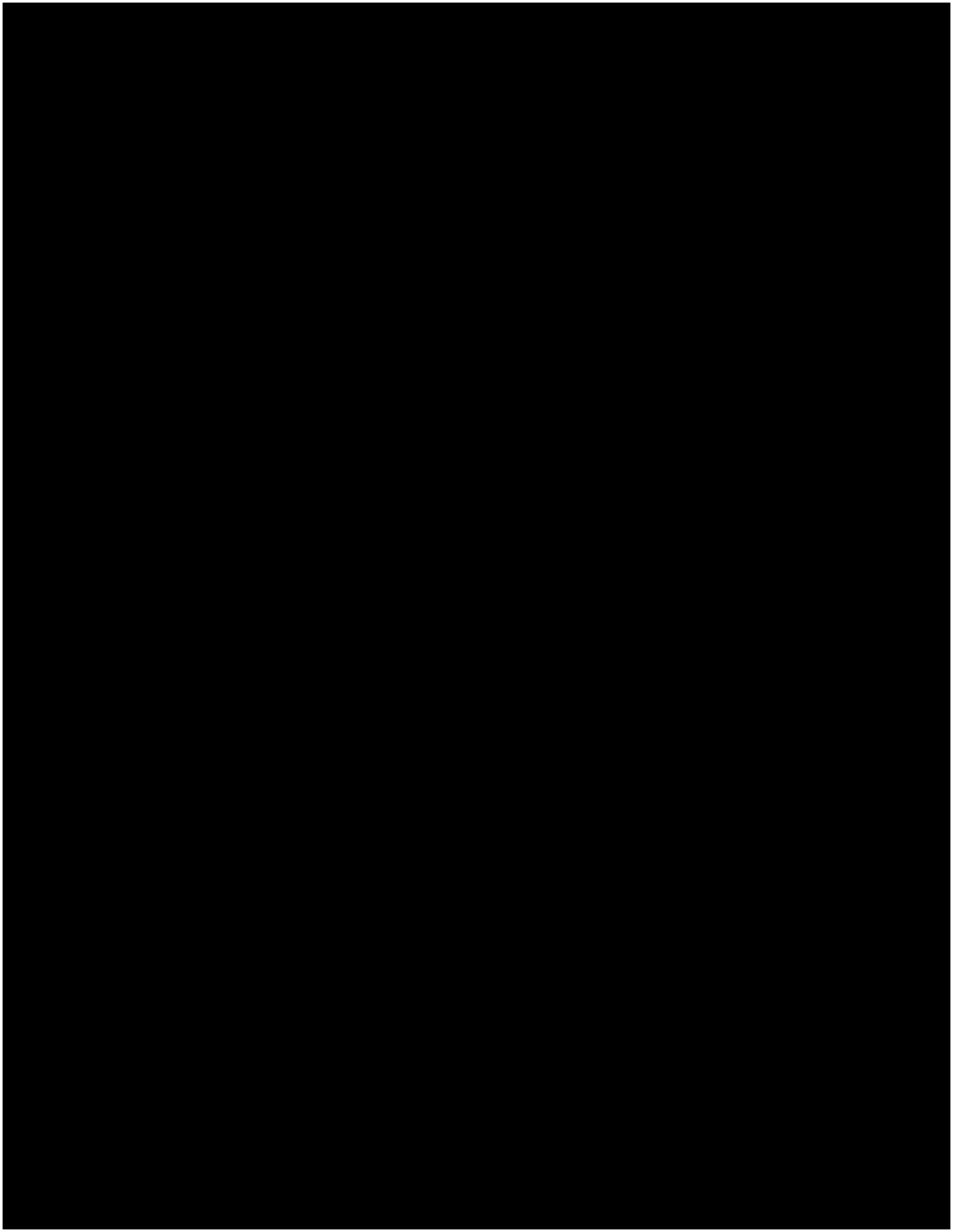


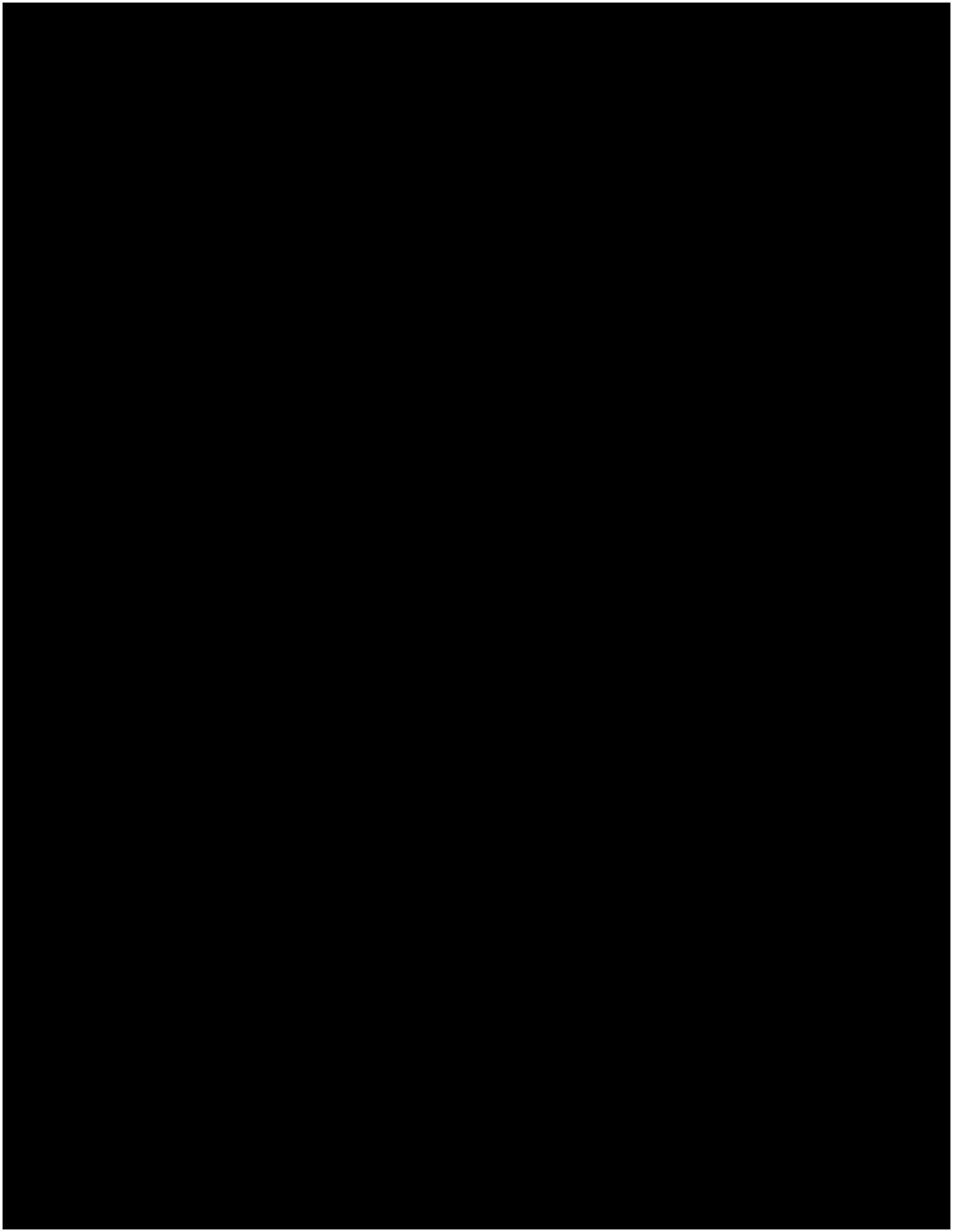


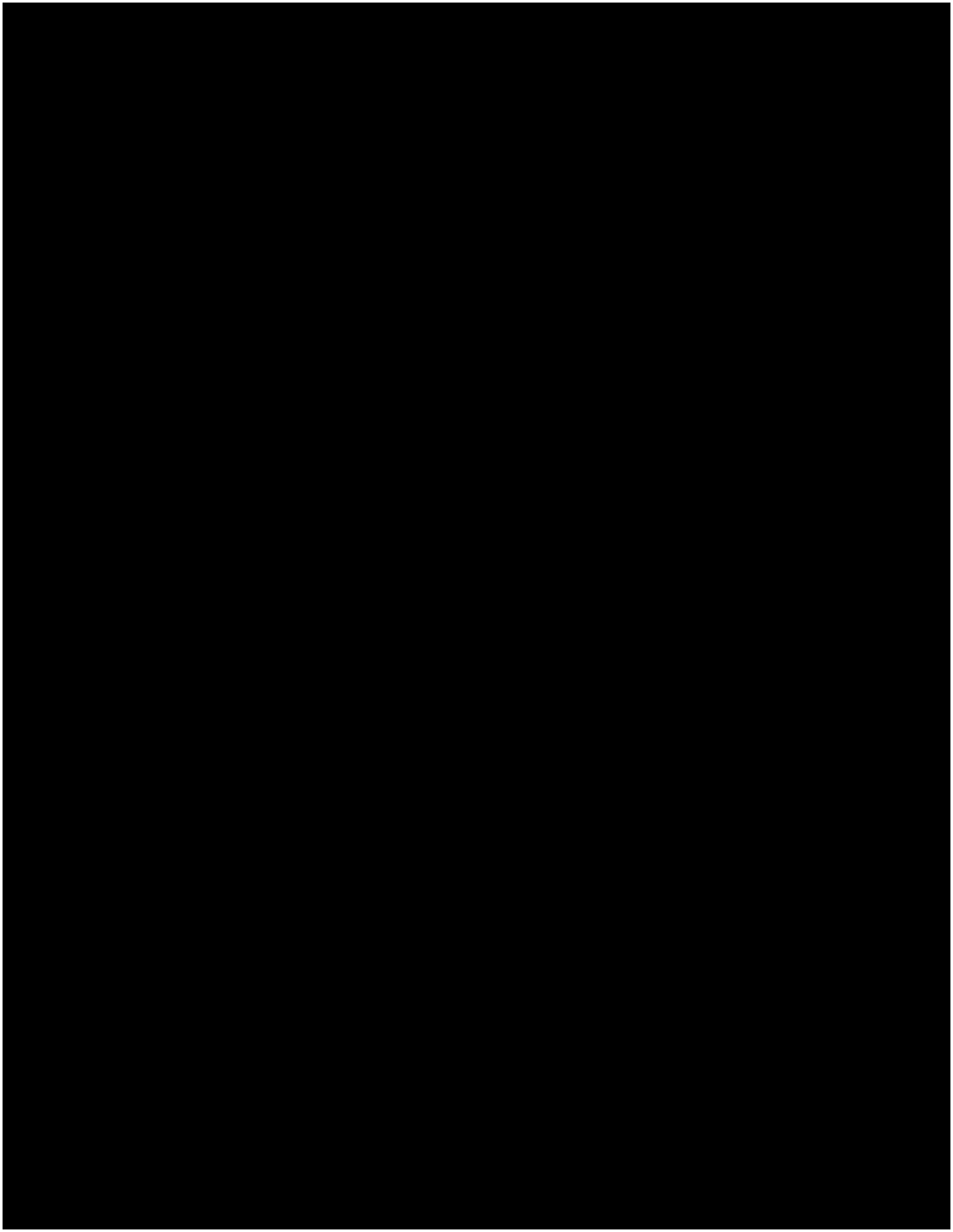


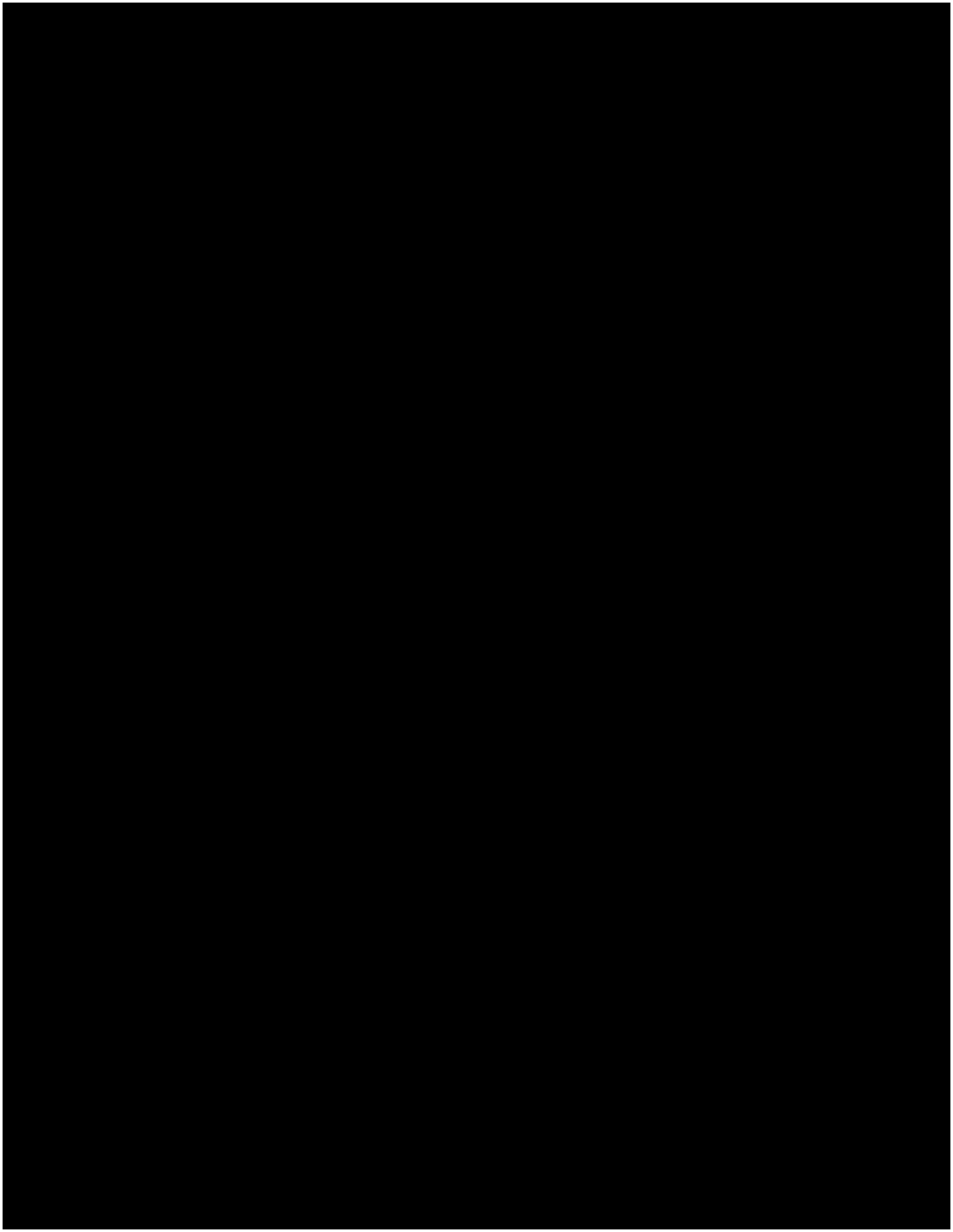


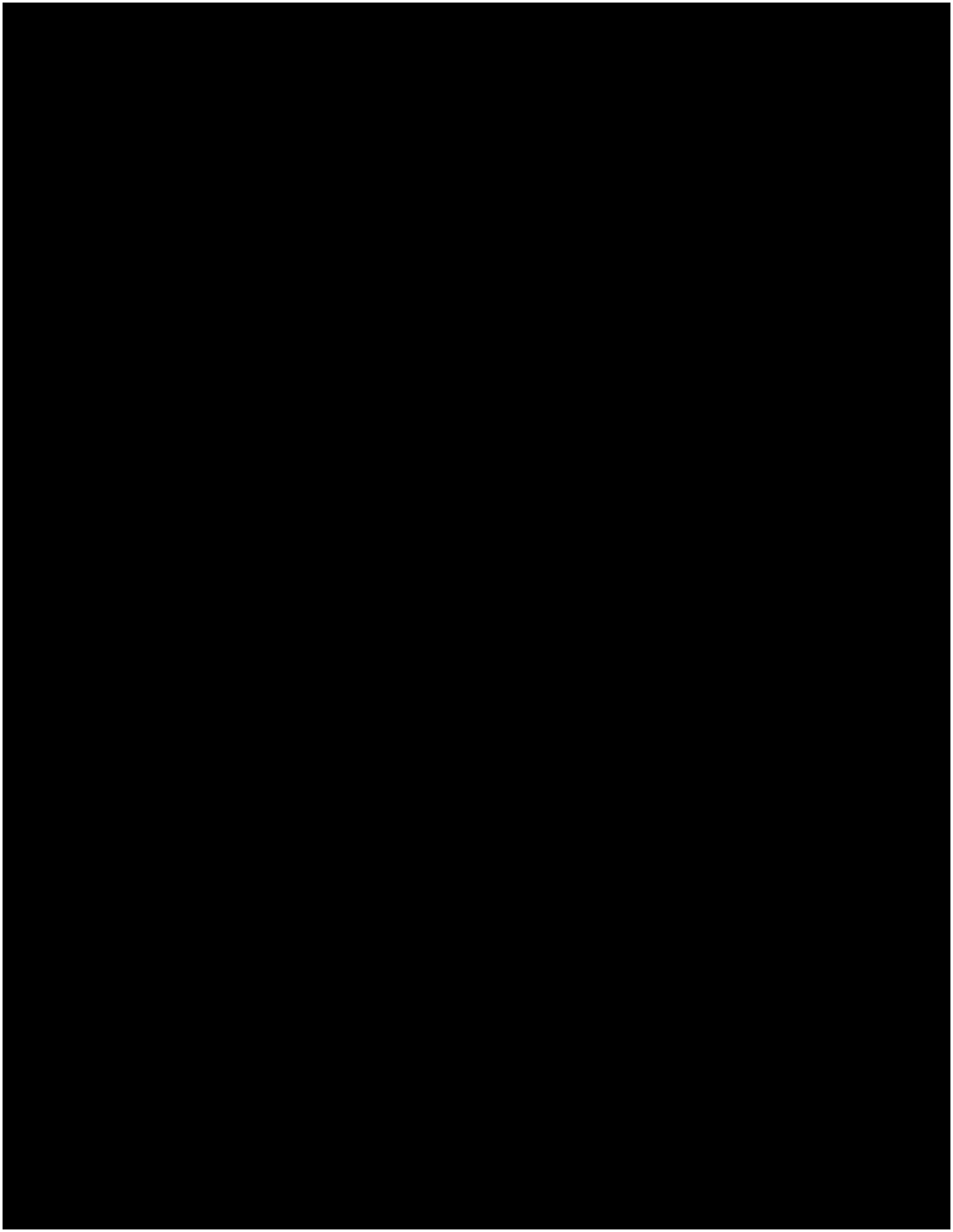


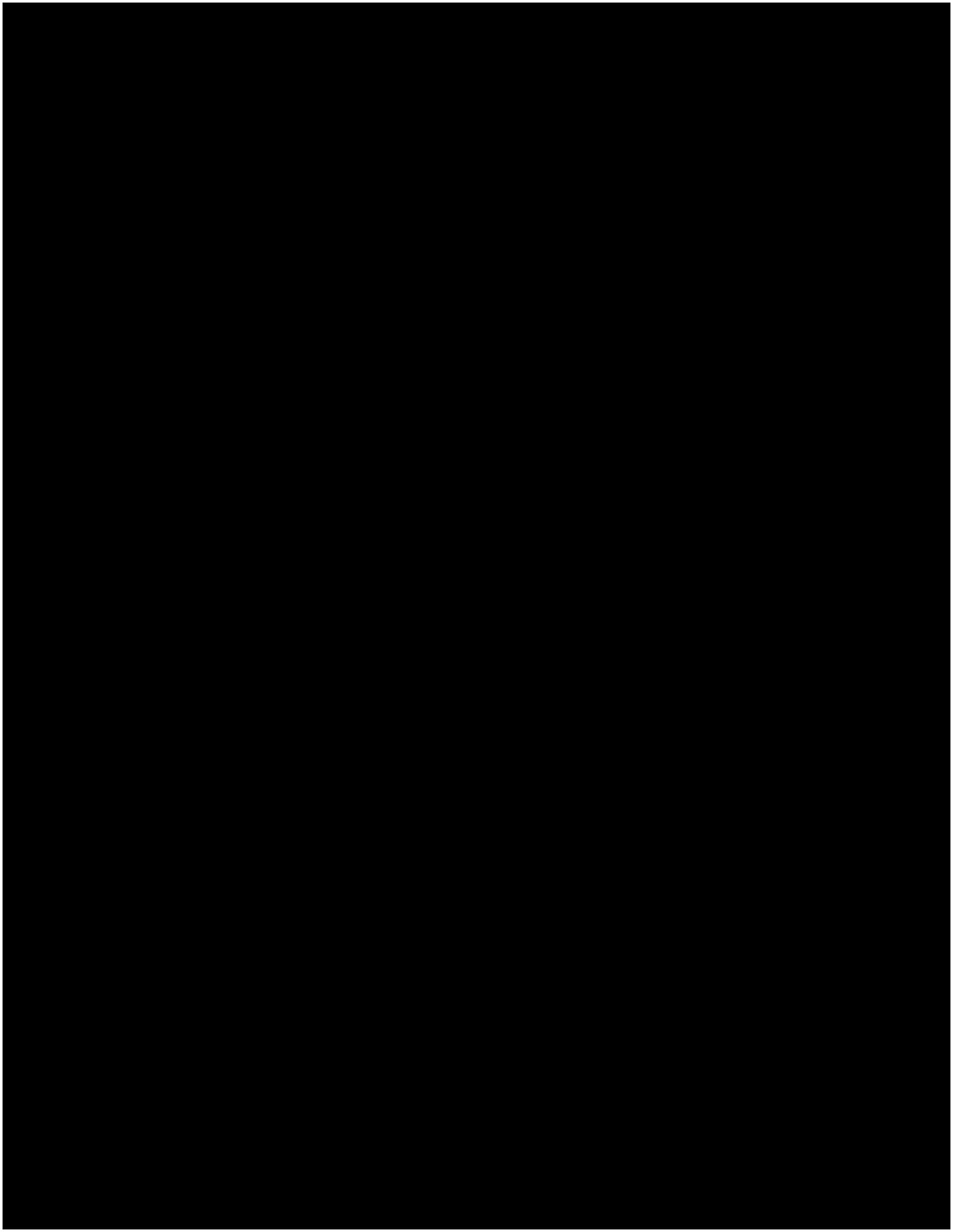


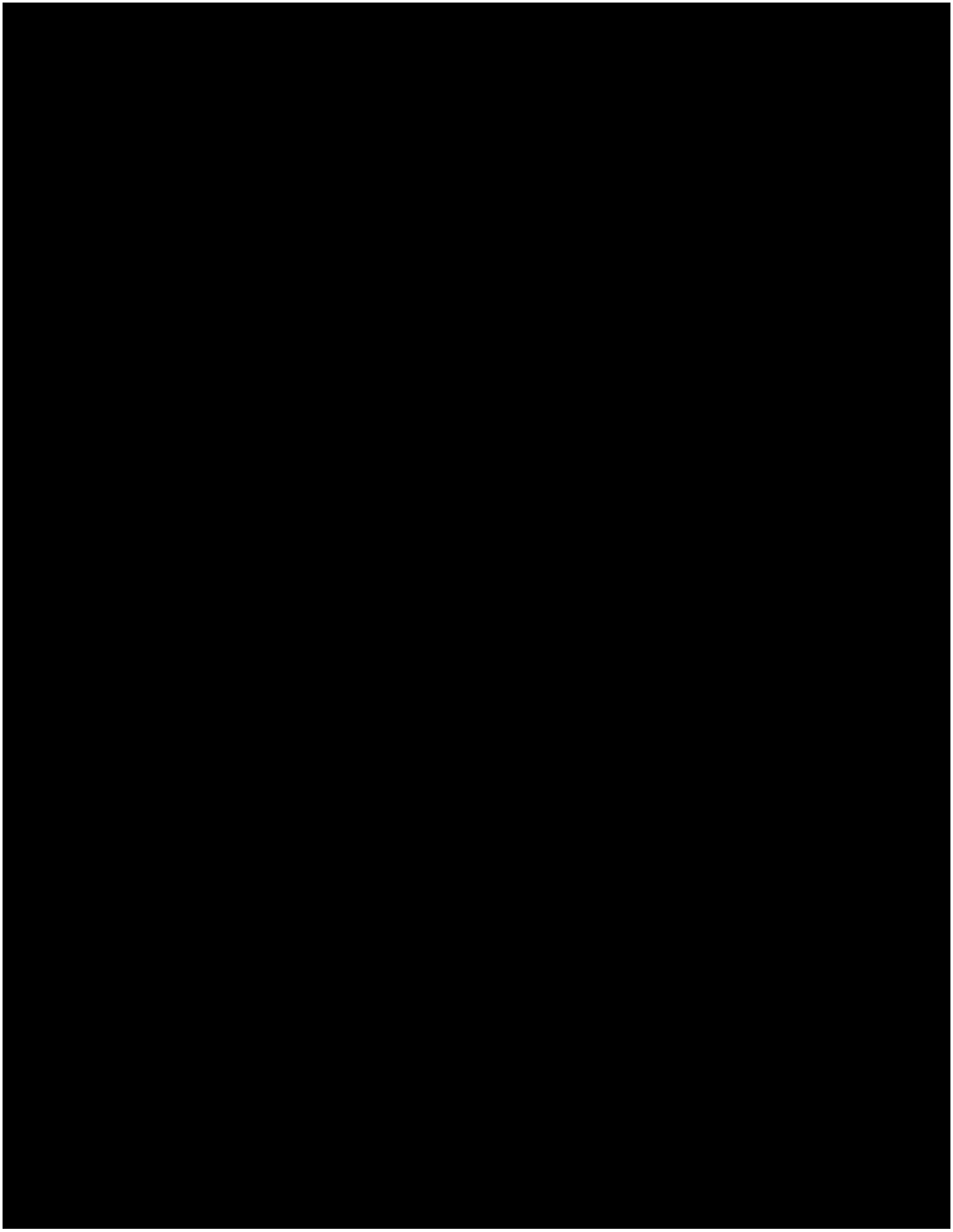


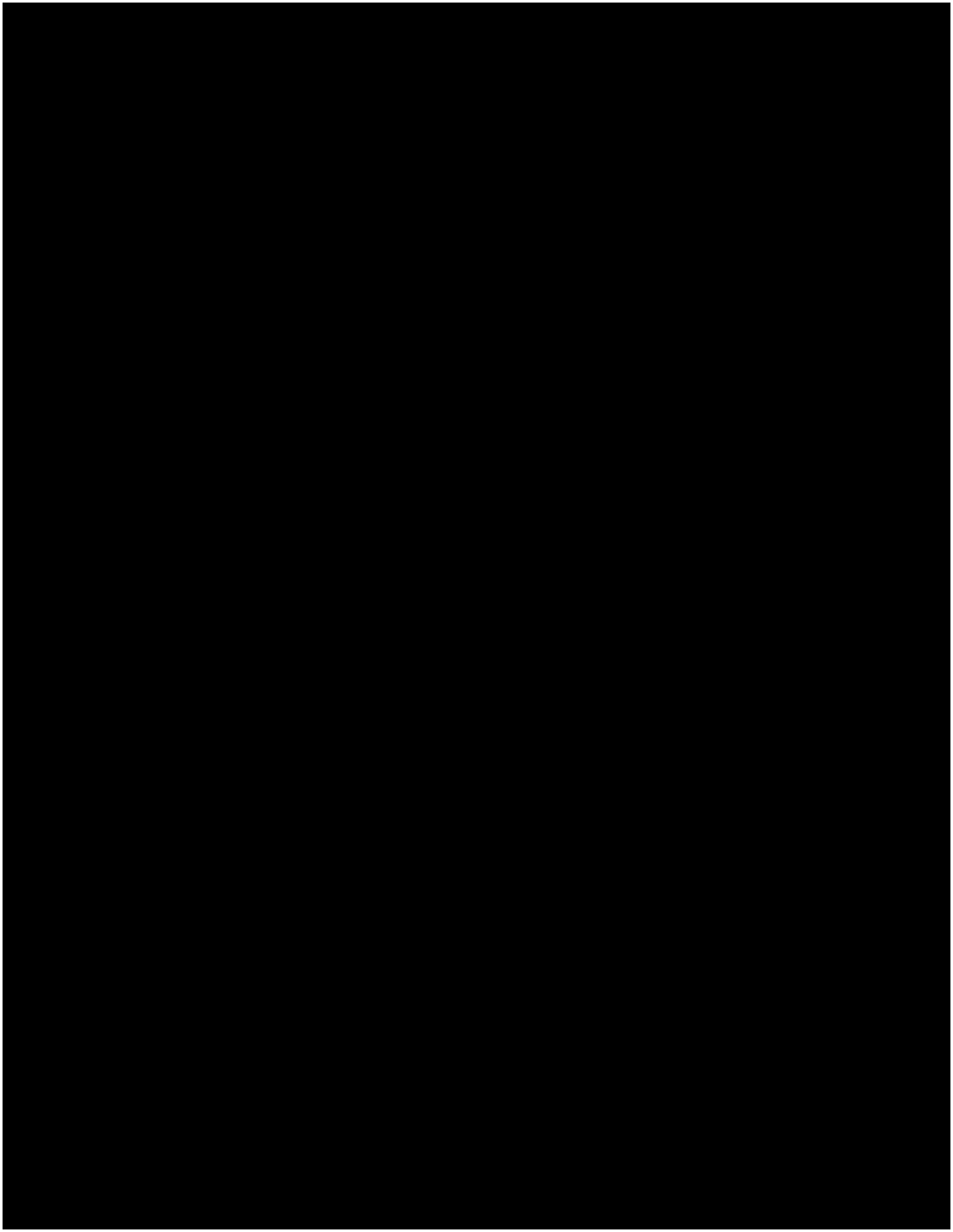


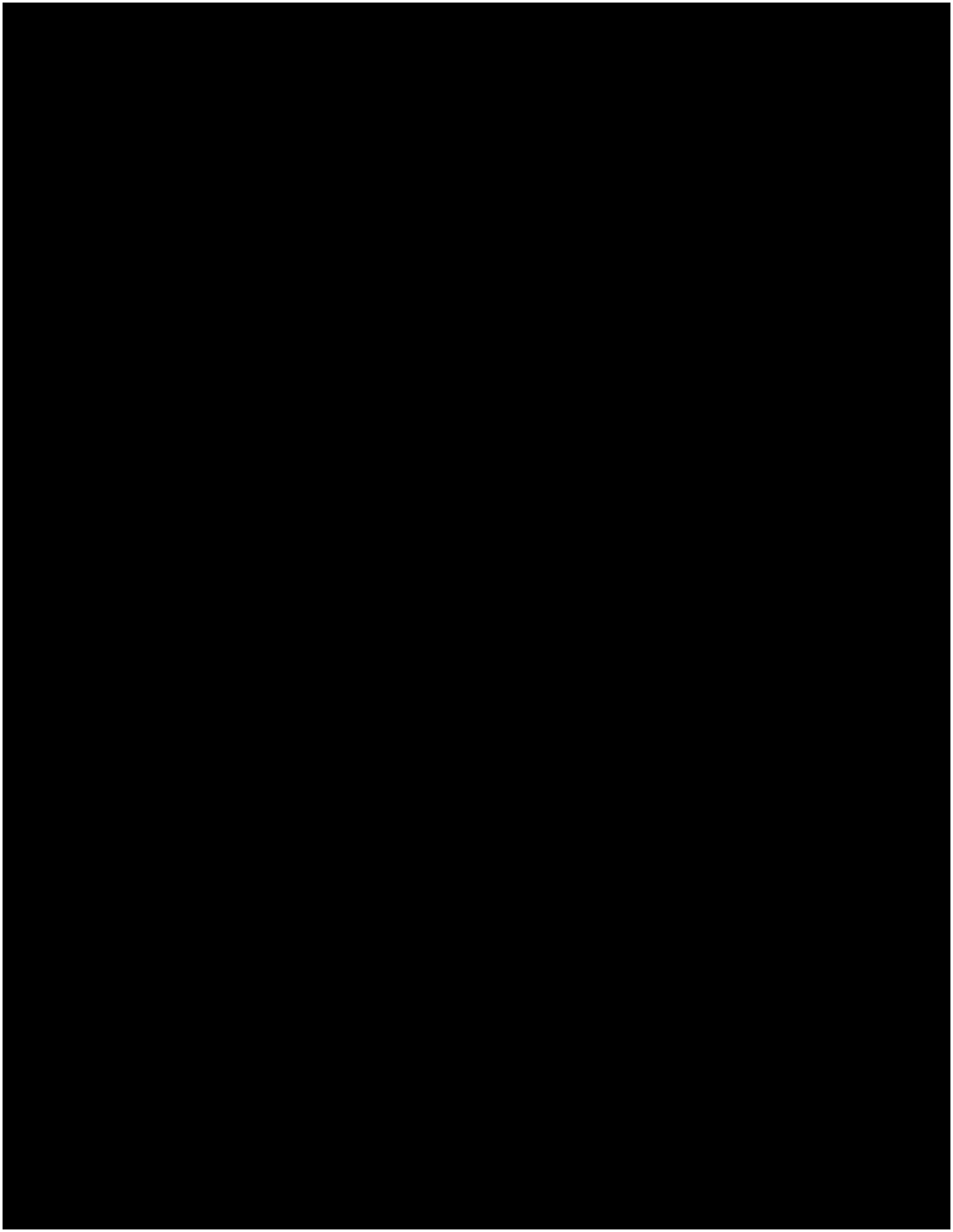


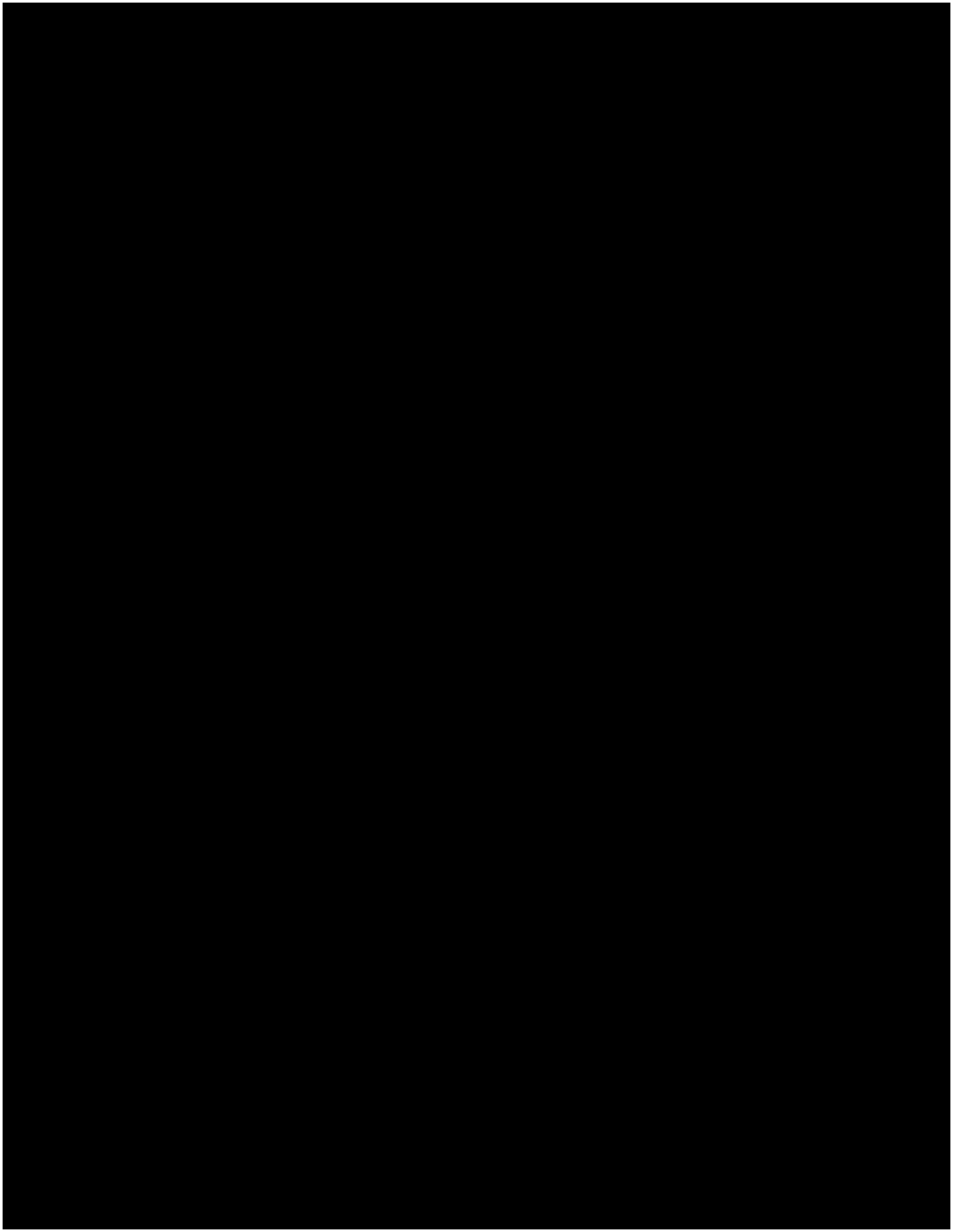


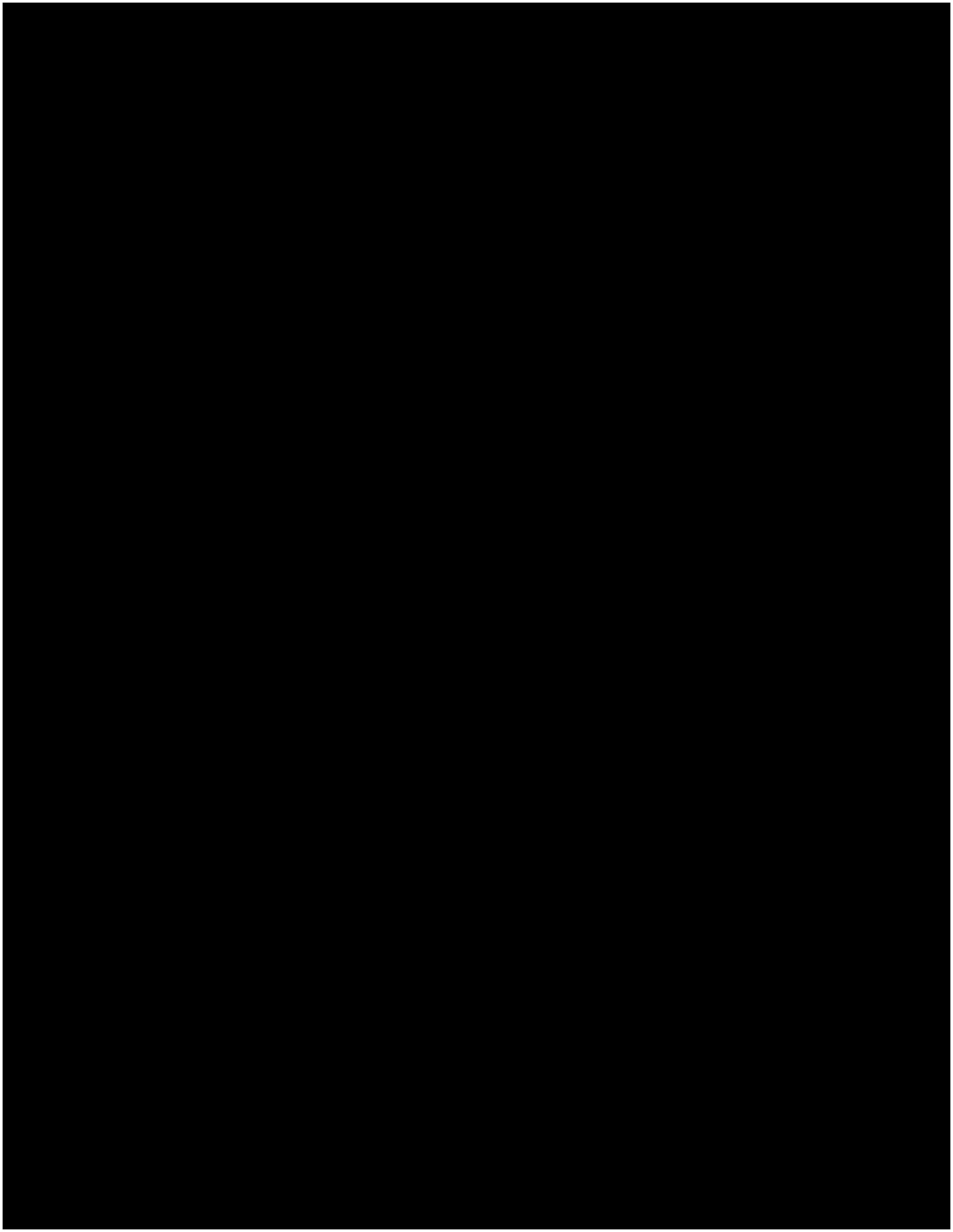


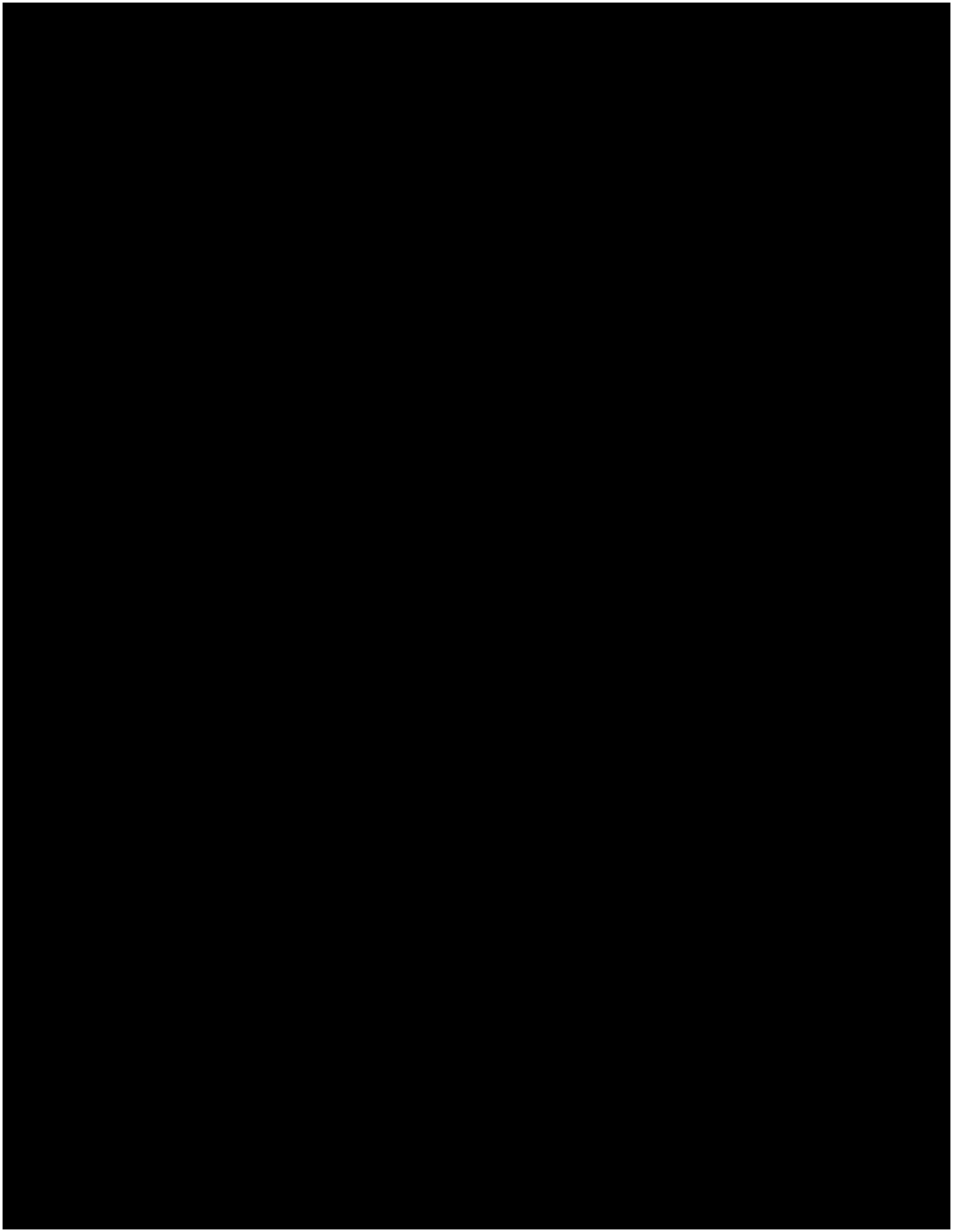


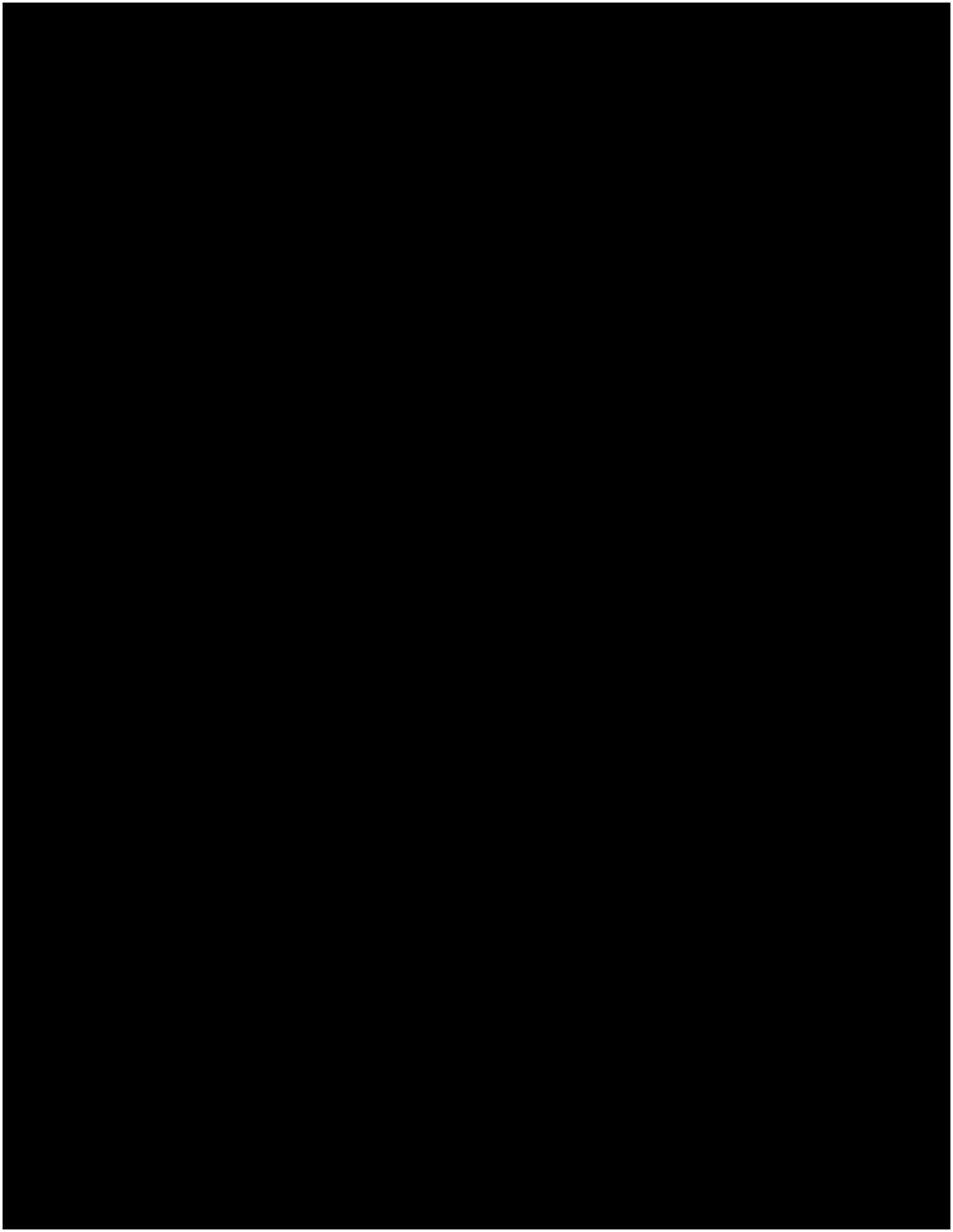


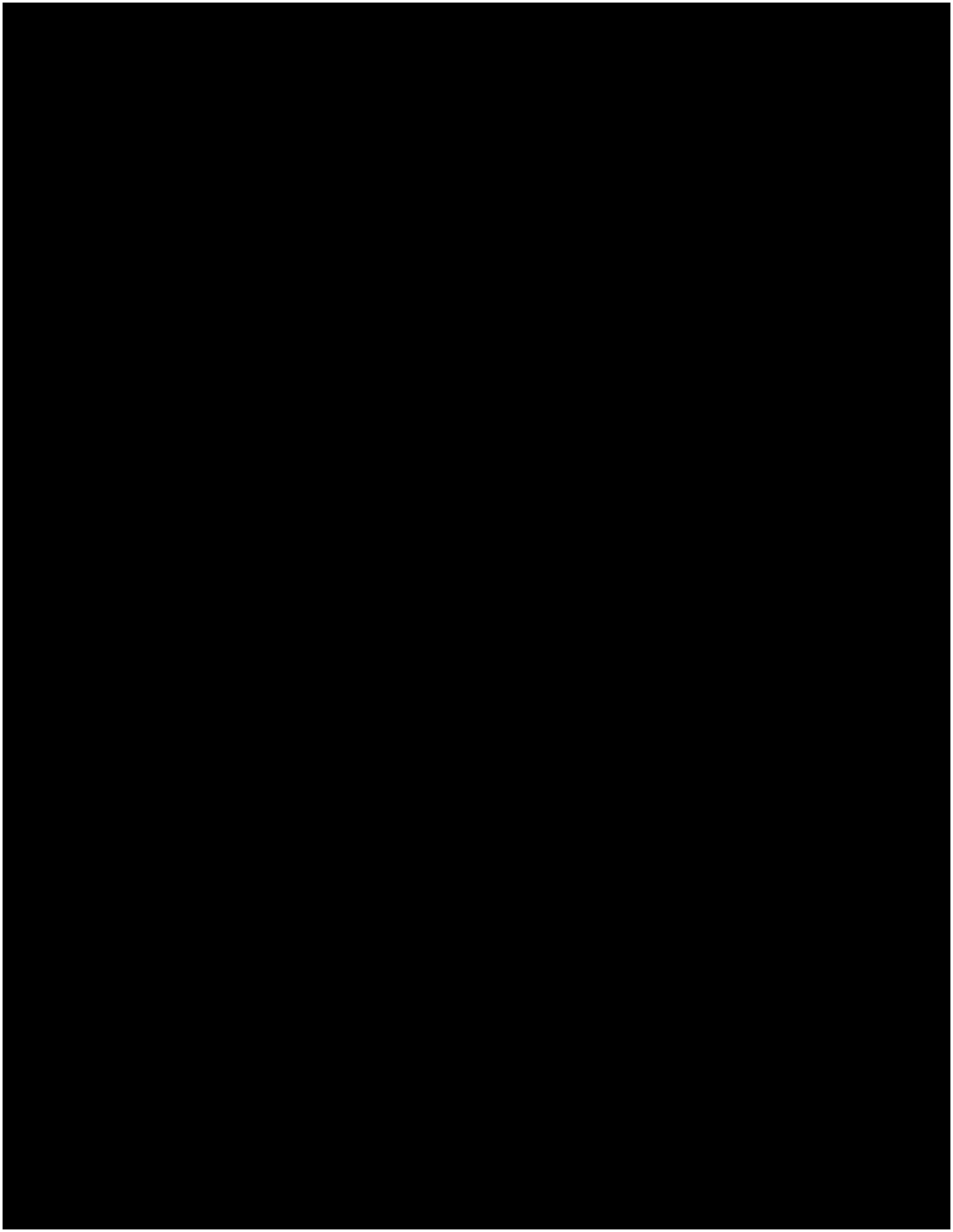


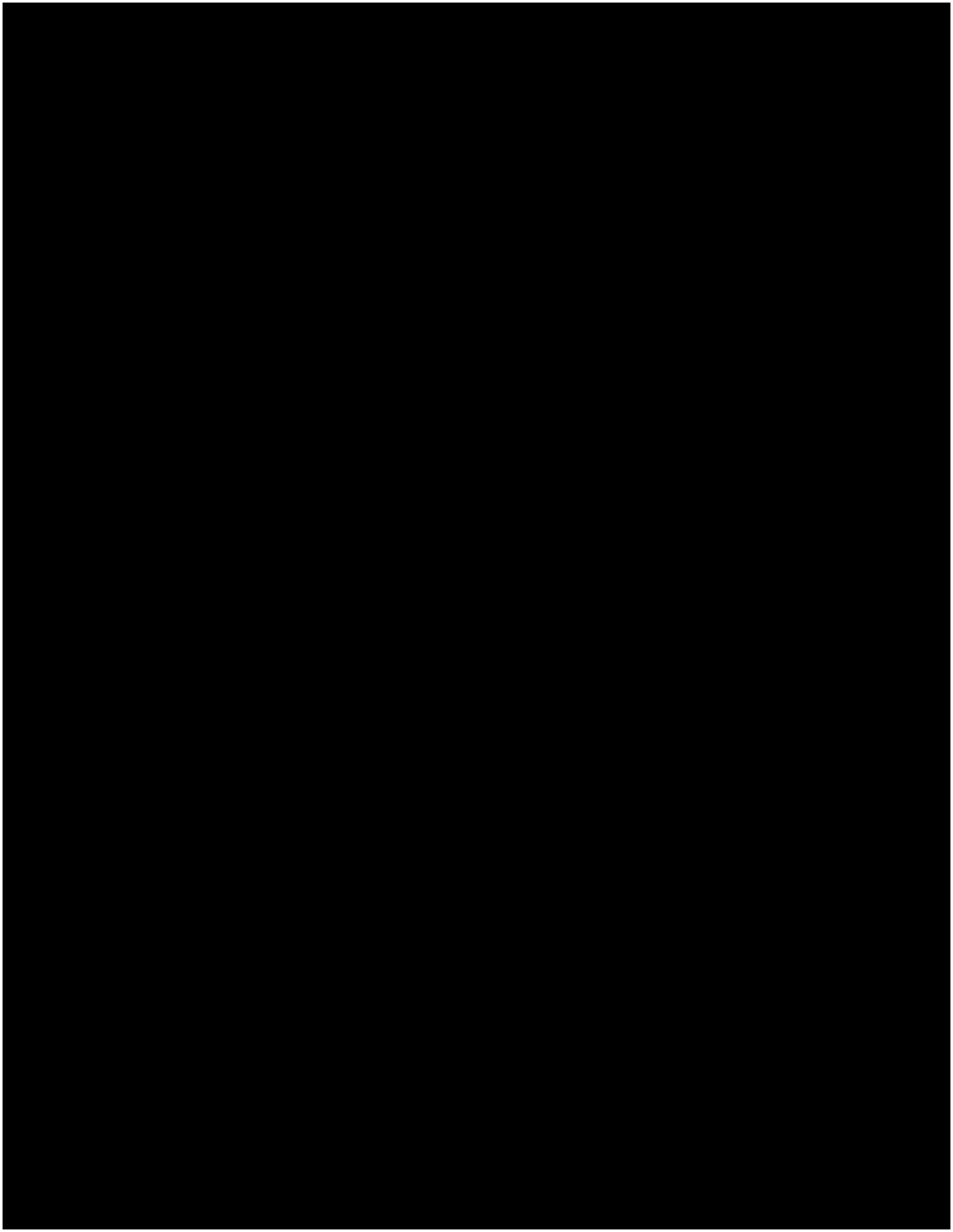












Stanley B. Cain
Stanley B. Cain Accident Reconstructionist, LLC
P. O. Box 836
Waldron, AR 72958

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[redacted]

INVESTIGATION REPORT

PREPARED FOR: Mr. Jim Jackson, with Jackson Law Firm.

REFERENCE: Jacqueline Ashcraft collision on 6/11/21.

On 5/16/23, Mr. Jim Jackson, with Jackson Law Firm, contacted me and requested my services to investigate a motor vehicle collision involving his client, the estate of Ms. Jacqueline Ashcraft.

ITEMS RECEIVED

1. Arkansas Motor Vehicle Collision Report from the Arkansas State Police (Report [redacted]
2. Crash scene photographs taken by Arkansas State Police.
3. Scene photographs taken by Mr. Jim Jackson.
4. Correspondence emails from the Arkansas Department of Human Services, regarding their internal investigation of the collision.
5. Trooper James Ray's deposition & exhibits.
6. Kristen Shelton's deposition & exhibits.
7. Aerial photographs of accident site.

BACKGROUND INFORMATION

Date and time of collision: Approximately 12:50 PM on 6/11/2021.
Location: Arkansas State Highway 22, Paris, Arkansas.
Vehicle 1: 2005 Hyundai Sonata, driven by Ms. Jacqueline Ashcraft.
Vehicle 2: 2009 Hyundai Elantra, driven by Ms. Jenifer Wilkerson.
Vehicle 3: 2001 Peterbilt truck-tractor and modular trailer, driven by Mr. Bobby Wilson.

SCENE INSPECTION

On 5/20/23, I went to the scene for observations, photographs, and measurements. Highway 22 is a two-lane State Highway consisting of one westbound lane and one eastbound lane, separated by a double yellow line, and bordered by white fog lines. The highway is bordered on both sides by improved shoulders. Each lane is approximately 11 feet wide. The eastbound shoulder is approximately 7.6 feet wide, and the westbound shoulder is approximately 7.3 feet wide. I did not observe any line-of-sight issues present that would hinder the view of traffic in either lane.

During the scene inspection, I located the final resting area of vehicle 1. The distances from the RP to A to D, from the vehicle collision report, ended at the shadow of a tire mark which I recognized as the remnants of the skid mark shown in the scene photographs for vehicle 1. I was able to locate the remaining end of the skid mark on the eastbound fog line.

With the measurements provided by the vehicle collision report, I located the beginning of the skid marks from vehicle 2. From the scene photographs I was able to place the beginning point of the skid marks in relation to the eastbound lane and shoulder. From the rumble stripes on the shoulder, I was able to locate the approximate beginning location of a passenger side skid mark, and the area where that skid mark crossed the fog line. With the approximate track width of vehicle 2, I was able to place the approximate location of the driver side skid mark.

The scene photographs also showed a third skid mark, which I identified as being produced by the left rear wheel of vehicle 2. That skid mark followed along the fog line and veered to the left with the other two skid marks. By counting the number of rumble stripes next to that skid mark, I was able to locate the approximate beginning point of that skid mark also.

I was not able to locate the ending location of the three skid marks. I placed the approximate ending location of the three skid marks, based upon their ending location in the scene photographs.

Further east I located numerous grooves and gouges in the westbound lane. I located an additional gouge in the eastbound lane, along with grooves leading to the final resting location of vehicle 2.

West of the area of impact, I located the beginning of a dual wheel skid mark on the westbound fog line, at approximately 274 feet west of the reference point. The skid mark continued onto the shoulder and ended as a single wheel skid mark, at approximately 452 feet west of the reference point.

For more information, refer to the scene diagram.

VEHICLE INSPECTIONS

None of the three vehicles were still available for inspections. To complete the investigation, I reviewed the scene photographs provided by Arkansas State Police.

I observed the damage to vehicle 1, and I noticed that the vehicle had primary contact damage to the passenger side half of the rear end. The driver side of the rear bumper contained induced damage. I observed that the crush damage retarded the rotation of the right rear wheel to the point that the wheel produced a post-impact skid mark. I observed that the back panel of the driver seat was leaning back into the rear passenger area. I did not locate any damage to the vehicle that would indicate that vehicle 1 collided with vehicle 3.

I observed the damage to vehicle 2, and I noticed that the vehicle had primary crush damage to the front end of the vehicle, with the most extensive crush to the left front section. I observed that vehicle 2, had induced damage to the driver door frame and the rear passenger door on the driver's side. Furthermore, I observed underride damage to the right front panel, which is consistent with vehicle 2 colliding with the underside of the modular home being towed by vehicle 3.

I observed that vehicle 3 and contact damage to the driver side tractor tandems, and secondary contact damage to the driver side front corner of the modular home and trailer frame. The damage at that corner is consistent with vehicle 2 under riding the trailer with the front end. The under-riding contact by vehicle 2 is consistent with vehicle 2 creating the gouges and grooves seen in the westbound lane, at maximum engagement.

ANALYSIS AND CALCULATIONS

To conduct the impact speed calculations for vehicle 2, I had to first calculate the post-impact speed for both vehicle 1 and vehicle 2. From the scene diagram I measured that vehicle 1 traveled approximately 188.5 feet. From the observations of the scene photographs provided by Arkansas State Police, I noticed that the damage to vehicle 1 had retarded the right rear wheel to the point that it was producing a skid mark. Although I located only a portion of the skid mark from vehicle 1 during the scene inspection, the braking capability of that wheel would have commenced at the point of maximum engagement between the two vehicles.

To determine the post-impact speed, I had to calculate the adjusted deceleration factor for vehicle 1. To calculate the total deceleration factor for the vehicle I used a rolling resistance value of 0.01 for the left rear wheel (non-drive axle) and 0.10 for the left front wheel and the right front wheel (drive axle)[1]. For the right rear wheel (damage induced braking) I used an accepted coefficient of friction of 0.60 to 0.80 for a dry asphalt roadway surface that has been subjected to traveled use[2]. I calculated the post-impact speed for vehicle 1 at approximately 33.63 MPH, using an average coefficient of friction of 0.70.

Next, I calculated the post-impact speed for vehicle2. From the scene photographs I observed post-impact skid marks leading from the area of impact. The beginning of the driver side skid mark had a darkened area that was darker than the remaining portion of the skid mark. I recognized this as an indicator of the area of impact because wheels that are braking tend to produce very darkened skid marks upon maximum engagement with another vehicle. Furthermore, the scene photographs show three skid marks from vehicle 2, which indicates that it was off tracking from lateral instability. This movement is another indicator that vehicle 2 is moving away post-impact. The above-described characteristics of the skid marks conclude that there were very little to no pre-impact skid marks from vehicle 2 and therefore little to no pre-impact braking by vehicle 2.

From the scene diagram, I measured that vehicle 2 traveled approximately 53.2 feet post impact to the area where the vehicle collided with vehicle 3. I calculated the post-impact speed for vehicle 2 at approximately 33.44 MPH, using an average coefficient of friction of 0.70.

To further analyze the potential variability in the impact speed of vehicle 2, I calculated post-impact speeds for both vehicles using a roadway coefficient of friction of 0.60. In addition, the scene photographs depicted only three post-impact skid marks for vehicle 2. Therefore, I adjusted the deceleration factor for vehicle 2.

Furthermore, I provided a range of impact speeds for vehicle 2 based upon the potential range of pre-impact speed for vehicle 1. I did not locate any evidence during my scene inspection to indicate the pre-impact speed of vehicle 1. However, the statements by both Ms. Wilkerson and Mr. Wilson indicate that vehicle 1 was stationary when the impact occurred.

I calculated the impact speeds with AR PRO 15 Accident Reconstruction Software. The summary of the impact speeds is listed below:

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[1] D. Parkka, Equation Directory for the Reconstructionist, First Edition.

[2] R. W. Rivers, On-Scene Traffic Accident Investigators Manual (Charles C. Thomas Publisher, 1981) 136.

IMPACT SPEED FOR WILKERSON (MPH)			
Coeff. of Friction	Ashcraft (Stationary)	Ashcraft (10 MPH)	Ashcraft (20 MPH)
0.70	74.3	62.1	50.0
0.57	71.0	58.9	46.7
0.60	69.7	57.6	45.4
0.49	66.7	54.6	42.4

For more information refer to the AR PRO Calculation Reports. NOTE: When referencing the AR PRO Calculation Reports, please be aware that vehicle 1 is WILKERSON and vehicle 2 is ASHCRAFT, in order to match the variables in the collinear momentum formula.

Based upon a review of the post-impact speeds I have concluded that the post-impact speed of vehicle 2 would be closer to the speeds calculated without a reduction in the braking efficiency. My conclusion is based upon my finding that the range of post-impact speeds for vehicle 1 (33.63 MPH to 31.90 MPH) is more consistent with the range of post -impact speeds for vehicle 2 (33.44 MPH to 30.96MPH).

The calculations clearly show that the post-impact speed of vehicle 1 was increased from the initial speed, which was result of the greater amount of momentum being brought into the collision by vehicle 2. Also, generally in momentum analysis the target vehicle (vehicle 1) can only depart from the collision at a speed equal to or less than the post-impact speed of the bullet vehicle. However, in this collision, the post-impact speed for vehicle 1 is slightly more than the value for vehicle 2. The investigation states that vehicle 2 also collided with vehicle 3, after colliding with vehicle 1. It is not known for certain, but vehicle 2 still may have been traveling eastbound when it collided with vehicle 3, and that collision prevented vehicle 2 from the opportunity to travel on its own to a complete stop. If vehicle 2 had been able to travel a further distance, then it would have generated a greater post-impact speed.

The damage profile to the rear of vehicle 1 clearly indicates that the impact by vehicle 2 was an off-set collision and not a complete in-line impact. The beginning of the skid marks from vehicle 2, along with the impact configuration, conclude that vehicle 1 was positioned within the bounds of the eastbound lane. Vehicle 1 was positioned towards the south half of the eastbound lane, likely because vehicle 3 was approaching and towing an oversized load. The delivery receipt shown within the scene photographs indicate that the oversized load behind vehicle 3 was a 14-foot by 56-foot modular home section.

During the scene inspection I observed that the eastbound lane was bordered by an improved paved shoulder, and the shoulder measured approximately 7.6 feet wide. The vehicle specifications for vehicle 2 list that it is approximately 5.9 feet wide for overall width. The shoulder would have provided Ms. Wilkerson with adequate room to maneuver her vehicle around vehicle 1 and avoid the collision altogether or greatly reduce the severity of the collision. The placement of the vehicles at impact indicates that vehicle 2 was veering to the right and possibly attempting to avoid the impact.

RESULTS AND CONCLUSIONS

The investigation has clearly concluded that Ms. Wilkerson was extremely negligent when she collided into the rear of Ms. Ashcraft. Furthermore, my investigation has concluded that Ms. Wilkerson was exceeding the posted speed limit for the highway.

There were no line-of-sight issues present at the scene and there were no adverse weather conditions present when the collision occurred. If Ms. Wilkerson had been keeping a proper lookout for traffic or hazards ahead, she could have easily observed that Ms. Ashcraft was slowing or stopped, and she could have avoided or greatly reduced the severity of the collision.

I did not discover any contributing actions to the collisions by Mr. Bobby Wilson.

I reserve the right to revise or supplement this report, based upon the discovery of new information or data, including the testimony or statements of parties and/or witnesses.

By: Stanley B. Cain

[redacted]

Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

COEFFICIENT OF FRICTION

Find a Coefficient of Friction.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$f = (\mu lf \times nlf \times Sin\theta) + (\mu rf \times nrf \times Sin\theta) + (\mu lr \times nlr \times Sin\theta) + (\mu rr \times nrr \times Sin\theta)$$

$$f = (0.1000 \times 0.3050 \times Sin(90.0000)) + (0.1000 \times 0.3050 \times Sin(90.0000)) + (0.0100 \times 0.1950 \times Sin(90.0000)) + (0.6000 \times 0.1950 \times Sin(90.0000))$$

$$f = (0.1000 \times 0.3050 \times 1.0000) + (0.1000 \times 0.3050 \times 1.0000) + (0.0100 \times 0.1950 \times 1.0000) + (0.6000 \times 0.1950\ 1.0000)$$

$$f = 0.0305 + 0.0305 + 0.0019 + 0.1170$$

$$f = 0.1799$$

f = The Adjusted Accel/Drag Factor
μ = The Tire - Surface Friction by wheel
n = The Percentage of Braking
θ = The angular difference between the veh heading and CofM direction
lf, rf, lr, rr = The tire at each corner of the vehicle (left front, etc.)
m = The Grade Percentage

Formula Inputs:

The Left Front Tire μ is:	0.1000
The Left Front Tire % of Braking is:	0.3050
The Left Front Tire Angular Difference is:	90.0000
The Right Front Tire μ is:	0.1000
The Right Front Tire % of Braking is:	0.3050
The Right Front Tire Angular Difference is:	90.0000
The Left Rear Tire μ is:	0.0100
The Left Rear Tire % of Braking is:	0.1950
The Left Rear Tire Angular Difference is:	90.0000
The Right Rear Tire μ is:	0.6000
The Right Rear Tire % of Braking is:	0.1950
The Right Rear Tire Angular Difference is:	90.0000

Formula Results:

The Acceleration/Drag Factor is:	0.1799

Calculation Notes:

Deceleration factor for vehicle 2 (ASHCRAFT), with a drive axle rolling resistance of 0.10.
Roadway coefficient of friction: 0.60.

AR Pro 15, © Dirigo Software, LLC

Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

COEFFICIENT OF FRICTION

Find a Coefficient of Friction.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$f = (\mu lf \times nlf \times Sin\theta) + (\mu rf \times nrf \times Sin\theta) + (\mu lr \times nlr \times Sin\theta) + (\mu rr \times nrr \times Sin\theta)$$

$$f = (0.1000 \times 0.3050 \times Sin(90.0000)) + (0.1000 \times 0.3050 \times Sin(90.0000)) + (0.0100 \times 0.1950 \times Sin(90.0000)) + (0.7000 \times 0.1950 \times Sin(90.0000))$$

$$f = (0.1000 \times 0.3050 \times 1.0000) + (0.1000 \times 0.3050 \times 1.0000) + (0.0100 \times 0.1950 \times 1.0000) + (0.7000 \times 0.1950\ 1.0000)$$

$$f = 0.0305 + 0.0305 + 0.0019 + 0.1365$$

$$f = 0.1994$$

f = The Adjusted Accel/Drag Factor
μ = The Tire - Surface Friction by wheel
n = The Percentage of Braking
θ = The angular difference between the veh heading and CofM direction
lf, rf, lr, rr = The tire at each corner of the vehicle (left front, etc.)
m = The Grade Percentage

Formula Inputs:

The Left Front Tire μ is:	0.1000
The Left Front Tire % of Braking is:	0.3050
The Left Front Tire Angular Difference is:	90.0000
The Right Front Tire μ is:	0.1000
The Right Front Tire % of Braking is:	0.3050
The Right Front Tire Angular Difference is:	90.0000
The Left Rear Tire μ is:	0.0100
The Left Rear Tire % of Braking is:	0.1950
The Left Rear Tire Angular Difference is:	90.0000
The Right Rear Tire μ is:	0.7000
The Right Rear Tire % of Braking is:	0.1950
The Right Rear Tire Angular Difference is:	90.0000

Formula Results:

The Acceleration/Drag Factor is:	0.1994

Calculation Notes:

Deceleration factor for vehicle 2 (ASHCRAFT), with a drive axle rolling resistance of 0.10.
Roadway coefficient of friction: 0.70.

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Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

COEFFICIENT OF FRICTION

Find a Coefficient of Friction.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$f = (\mu lf \times nlf \times Sin\theta) + (\mu rf \times nrf \times Sin\theta) + (\mu lr \times nlr \times Sin\theta) + (\mu rr \times nrr \times Sin\theta)$$

$$f = (0.6000 \times 0.3150 \times Sin(90.0000)) + (0.6000 \times 0.3150 \times Sin(90.0000)) + (0.6000 \times 0.1850 \times Sin(90.0000)) + (0.0100 \times 0.1850 \times Sin(90.0000))$$

$$f = (0.6000 \times 0.3150 \times 1.0000) + (0.6000 \times 0.3150 \times 1.0000) + (0.6000 \times 0.1850 \times 1.0000) + (0.0100 \times 0.1850\ 1.0000)$$

$$f = 0.1890 + 0.1890 + 0.1110 + 0.0018$$

$$f = 0.4908$$

f = The Adjusted Accel/Drag Factor
μ = The Tire - Surface Friction by wheel
n = The Percentage of Braking
θ = The angular difference between the veh heading and CofM direction
lf, rf, lr, rr = The tire at each corner of the vehicle (left front, etc.)
m = The Grade Percentage

Formula Inputs:

The Left Front Tire μ is:	0.6000
The Left Front Tire % of Braking is:	0.3150
The Left Front Tire Angular Difference is:	90.0000
The Right Front Tire μ is:	0.6000
The Right Front Tire % of Braking is:	0.3150
The Right Front Tire Angular Difference is:	90.0000
The Left Rear Tire μ is:	0.6000
The Left Rear Tire % of Braking is:	0.1850
The Left Rear Tire Angular Difference is:	90.0000
The Right Rear Tire μ is:	0.0100
The Right Rear Tire % of Braking is:	0.1850
The Right Rear Tire Angular Difference is:	90.0000

Formula Results:

The Acceleration/Drag Factor is:	0.4908

Calculation Notes:

Deceleration factor for vehicle 1 (WILKERSON) with reduced braking efficiency.
Roadway coefficient of friction: 0.60.

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Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

COEFFICIENT OF FRICTION

Find a Coefficient of Friction.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$f = (\mu lf \times nlf \times Sin\theta) + (\mu rf \times nrf \times Sin\theta) + (\mu lr \times nlr \times Sin\theta) + (\mu rr \times nrr \times Sin\theta)$$

$$f = (0.7000 \times 0.3150 \times Sin(90.0000)) + (0.7000 \times 0.3150 \times Sin(90.0000)) + (0.7000 \times 0.1850 \times Sin(90.0000)) + (0.0100 \times 0.1850 \times Sin(90.0000))$$

$$f = (0.7000 \times 0.3150 \times 1.0000) + (0.7000 \times 0.3150 \times 1.0000) + (0.7000 \times 0.1850 \times 1.0000) + (0.0100 \times 0.1850\ 1.0000)$$

$$f = 0.2205 + 0.2205 + 0.1295 + 0.0018$$

$$f = 0.5723$$

f = The Adjusted Accel/Drag Factor
μ = The Tire - Surface Friction by wheel
n = The Percentage of Braking
θ = The angular difference between the veh heading and CofM direction
lf, rf, lr, rr = The tire at each corner of the vehicle (left front, etc.)
m = The Grade Percentage

Formula Inputs:

The Left Front Tire μ is:	0.7000
The Left Front Tire % of Braking is:	0.3150
The Left Front Tire Angular Difference is:	90.0000
The Right Front Tire μ is:	0.7000
The Right Front Tire % of Braking is:	0.3150
The Right Front Tire Angular Difference is:	90.0000
The Left Rear Tire μ is:	0.7000
The Left Rear Tire % of Braking is:	0.1850
The Left Rear Tire Angular Difference is:	90.0000
The Right Rear Tire μ is:	0.0100
The Right Rear Tire % of Braking is:	0.1850
The Right Rear Tire Angular Difference is:	90.0000

Formula Results:

The Acceleration/Drag Factor is: 0.5723

Calculation Notes:

Deceleration factor for vehicle 1 (WILKERSON) with reduced braking efficiency.
Roadway coefficient of friction: 0.70.

AR Pro 15, © Dirigo Software, LLC

Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

MINIMUM SPEED W/ KNOWN DRAG FACTOR

Find a Minimum Speed with a skid distance and drag factor.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$S = \sqrt{30 \times D \times f}$$
$$S = \sqrt{30 \times 53.2400 \times 0.4900}$$
$$S = \sqrt{782.6280}$$
$$S = 27.9754$$

S = The Speed in mph/kph
30 = A Constant
D = The Distance in feet.
f = The Adjusted Accel/Drag Factor

Formula Inputs:

The Acceleration/Drag Factor is:	0.4900
The Distance in feet is:	53.2400

Formula Results:

The Speed in mph is:	27.9754
The Velocity in fps is:	41.0305

Calculation Notes:

Post impact speed range for vehicle 1 (WILKERSON).

Incrementation Results

Drag F	Speed	Drag F	Speed	Drag F	Speed
0.4900	27.9754	0.5700	30.1729	0.6500	32.2208
0.5000	28.2595	0.5800	30.4364	0.6600	32.4677
0.5100	28.5407	0.5900	30.6976	0.6700	32.7127
0.5200	28.8191	0.6000	30.9567	0.6800	32.9559
0.5300	29.0949	0.6100	31.2136	0.6900	33.1974
0.5400	29.3681	0.6200	31.4684	0.7000	33.4371
0.5500	29.6388	0.6300	31.7212		
0.5600	29.9070	0.6400	31.9719		

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Reconstructionist, LLC
[redacted]

MINIMUM SPEED W/ KNOWN DRAG FACTOR

Find a Minimum Speed with a skid distance and drag factor.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$S = \sqrt{30 \times D \times f}$$
$$S = \sqrt{30 \times 188.5000 \times 0.1800}$$
$$S = \sqrt{1017.9000}$$
$$S = 31.9045$$

S = The Speed in mph/kph
30 = A Constant
D = The Distance in feet
f = The Adjusted Accel/Drag Factor

Formula Inputs:

The Acceleration/Drag Factor is:	0.1800
The Distance in feet is:	188.5000

Formula Results:

The Speed in mph is:	31.9045
The Velocity in fps is:	46.7932

Calculation Notes:

Post impact speed range for vehicle 2 (ASHCRAFT).

Incrementation Results

Drag F	Speed	Drag F	Speed	Drag F	Speed
0.1800	31.9045	0.2200	35.2718	0.2600	38.3444
0.1900	32.7788	0.2300	36.0645		
0.2000	33.6303	0.2400	36.8401		
0.2100	34.4608	0.2500	37.5998		

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COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$
$(3074.0000 \times V_1) + (3733.0000 \times 0.0000) = (3074.0000 \times 30.9600) + (3733.0000 \times 31.9000)$
$(3074.0000 \times V_1) + 0.0000 = 95171.0400 + 119082.7000$
$(3074.0000 \times V_1) + 0.0000 = 214253.7400$
$(3074.0000 \times V_1) = 214253.7400 - 0.0000$
$(3074.0000 \times V_1) = 214253.7400$

$$V_1 = \frac{214253.7400}{3074.0000} \qquad V_1 = 69.6986$$

W_1 = The Wt of Veh 1 in pounds
W_2 = The Wt of Veh 2 in pounds
V_1 = The Speed of Veh 1 in mph
V_2 = The Speed of Veh 2 in mph
V_3 = The Spd After Impact, Veh 1
V_4 = The Spd After Impact, Veh 2
* * This is a Rear End collision * *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3074.0000
The After Impact Speed of Veh 1 is:	30.9600
The Wt of Veh 2 (lbs) is:	3733.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	31.9000

Formula Results:

The Spd of Veh 1 in mph is:	69.6986
The Vel of Veh 1 in fps is:	102.2246

Calculation Notes:

Impact speed for both vehicles.
Roadway coefficient of friction: 0.60
100% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	69.6986	8.0000	59.9836	16.0000	50.2686
1.0000	68.4843	9.0000	58.7692	17.0000	49.0542
2.0000	67.2699	10.0000	57.5548	18.0000	47.8398
3.0000	66.0555	11.0000	56.3405	19.0000	46.6254
4.0000	64.8411	12.0000	55.1261	20.0000	45.4111
5.0000	63.6267	13.0000	53.9117		
6.0000	62.4124	14.0000	52.6973		
7.0000	61.1980	15.0000	51.4829		

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Reconstructionist, LLC
[redacted]

COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$
$(3074.0000 \times V_1) + (3733.0000 \times 0.0000) = (3074.0000 \times 27.9800) + (3733.0000 \times 31.9000)$
$(3074.0000 \times V_1) + 0.0000 = 86010.5200 + 119082.7000$
$(3074.0000 \times V_1) + 0.0000 = 205093.2200$
$(3074.0000 \times V_1) = 205093.2200 - 0.0000$
$(3074.0000 \times V_1) = 205093.2200$

$$V_1 = \frac{205093.2200}{3074.0000} \qquad V_1 = 66.7186$$

W_1 = The Wt of Veh 1 in pounds
W_2 = The Wt of Veh 2 in pounds
V_1 = The Speed of Veh 1 in mph
V_2 = The Speed of Veh 2 in mph
V_3 = The Spd After Impact, Veh 1
V_4 = The Spd After Impact, Veh 2
* * This is a Rear End collision * *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3074.0000
The After Impact Speed of Veh 1 is:	27.9800
The Wt of Veh 2 (lbs) is:	3733.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	31.9000

Formula Results:

The Spd of Veh 1 in mph is:	66.7186
The Vel of Veh 1 in fps is:	97.8539

Calculation Notes:

Impact speed for both vehicles.
Roadway coefficient of friction: 0.60
75% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	66.7186	7.0000	58.2180	14.0000	49.7173
1.0000	65.5043	8.0000	57.0036	15.0000	48.5029
2.0000	64.2899	9.0000	55.7892	16.0000	47.2886
3.0000	63.0755	10.0000	54.5748	17.0000	46.0742
4.0000	61.8611	11.0000	53.3605	18.0000	44.8598
5.0000	60.6467	12.0000	52.1461	19.0000	43.6454
6.0000	59.4324	13.0000	50.9317		

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[redacted]

COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$
$(3074.0000 \times V_1) + (3733.0000 \times 0.0000) = (3074.0000 \times 33.4400) + (3733.0000 \times 33.6300)$
$(3074.0000 \times V_1) + 0.0000 = 102794.5600 + 125540.7900$
$(3074.0000 \times V_1) + 0.0000 = 228335.3500$
$(3074.0000 \times V_1) = 228335.3500 - 0.0000$
$(3074.0000 \times V_1) = 228335.3500$

$$V_1 = \frac{228335.3500}{3074.0000} \qquad V_1 = 74.2795$$

W_1 = The Wt of Veh 1 in pounds
W_2 = The Wt of Veh 2 in pounds
V_1 = The Speed of Veh 1 in mph
V_2 = The Speed of Veh 2 in mph
V_3 = The Spd After Impact, Veh 1
V_4 = The Spd After Impact, Veh 2
* * This is a Rear End collision * *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3074.0000
The After Impact Speed of Veh 1 is:	33.4400
The Wt of Veh 2 (lbs) is:	3733.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	33.6300

Formula Results:

The Spd of Veh 1 in mph is:	74.2795
The Vel of Veh 1 in fps is:	108.9432

Calculation Notes:

Impact speed for both vehicles.
Roadway coefficient of friction: 0.70
100% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	74.2795	8.0000	64.5645	16.0000	54.8494
1.0000	73.0651	9.0000	63.3501	17.0000	53.6351
2.0000	71.8507	10.0000	62.1357	18.0000	52.4207
3.0000	70.6364	11.0000	60.9213	19.0000	51.2063
4.0000	69.4220	12.0000	59.7070	20.0000	49.9919
5.0000	68.2076	13.0000	58.4926		
6.0000	66.9932	14.0000	57.2782		
7.0000	65.7789	15.0000	56.0638		

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[redacted]

COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$
$(3074.0000 \times V_1) + (3733.0000 \times 0.0000) = (3074.0000 \times 30.1700) + (3733.0000 \times 33.6300)$
$(3074.0000 \times V_1) + 0.0000 = 92742.5800 + 125540.7900$
$(3074.0000 \times V_1) + 0.0000 = 218283.3700$
$(3074.0000 \times V_1) = 218283.3700 - 0.0000$
$(3074.0000 \times V_1) = 218283.3700$

$$V_1 = \frac{218283.3700}{3074.0000} \qquad V_1 = 71.0095$$

W_1 = The Wt of Veh 1 in pounds
W_2 = The Wt of Veh 2 in pounds
V_1 = The Speed of Veh 1 in mph
V_2 = The Speed of Veh 2 in mph
V_3 = The Spd After Impact, Veh 1
V_4 = The Spd After Impact, Veh 2
* * This is a Rear End collision * *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3074.0000
The After Impact Speed of Veh 1 is:	30.1700
The Wt of Veh 2 (lbs) is:	3733.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	33.6300

Formula Results:

The Spd of Veh 1 in mph is:	71.0095
The Vel of Veh 1 in fps is:	104.1472

Calculation Notes:

Impact speed for both vehicles.
Roadway coefficient of friction: 0.70
75% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	71.0095	8.0000	61.2945	16.0000	51.5794
1.0000	69.7951	9.0000	60.0801	17.0000	50.3651
2.0000	68.5807	10.0000	58.8657	18.0000	49.1507
3.0000	67.3664	11.0000	57.6513	19.0000	47.9363
4.0000	66.1520	12.0000	56.4370	20.0000	46.7219
5.0000	64.9376	13.0000	55.2226		
6.0000	63.7232	14.0000	54.0082		
7.0000	62.5089	15.0000	52.7938		

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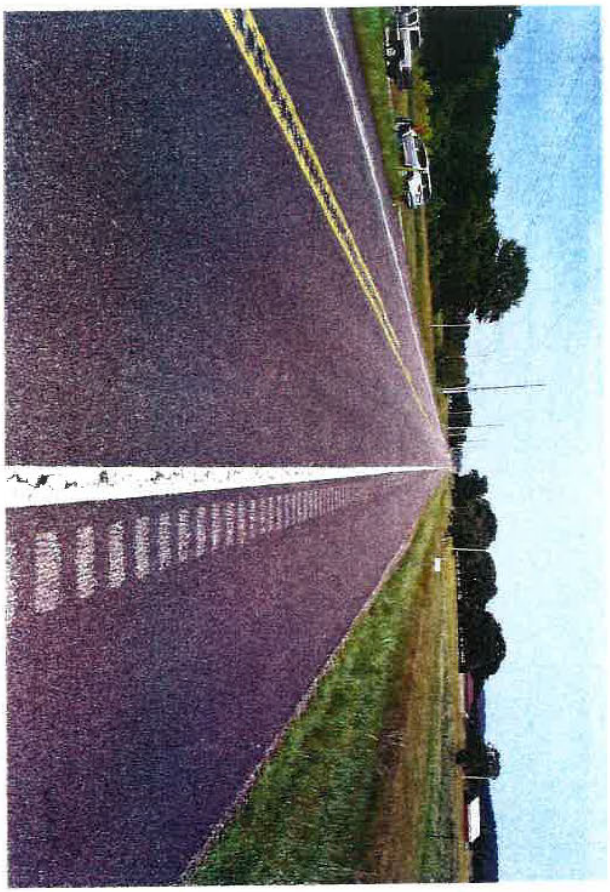
Virtual CRASH license: Stanley B. Cain Accident Reconstructionist

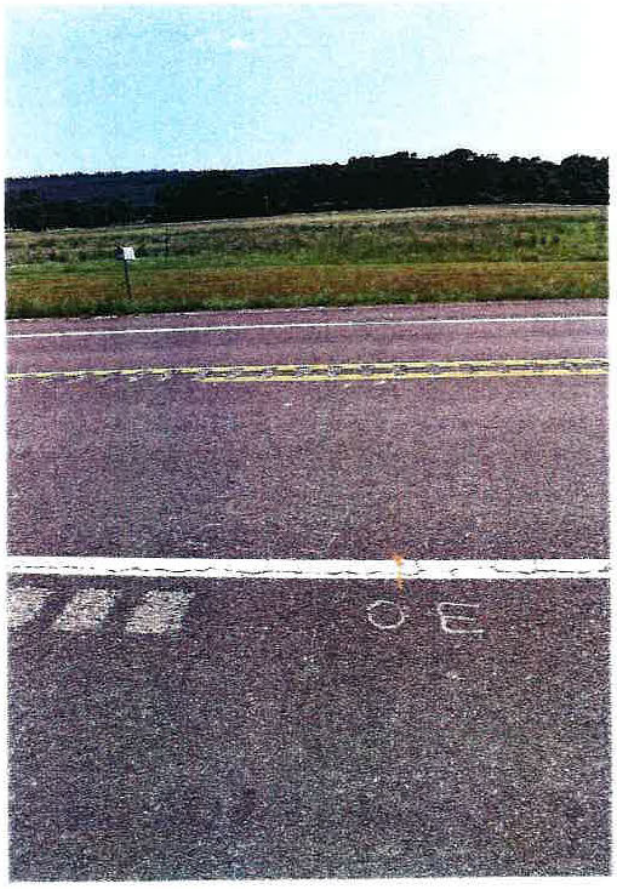
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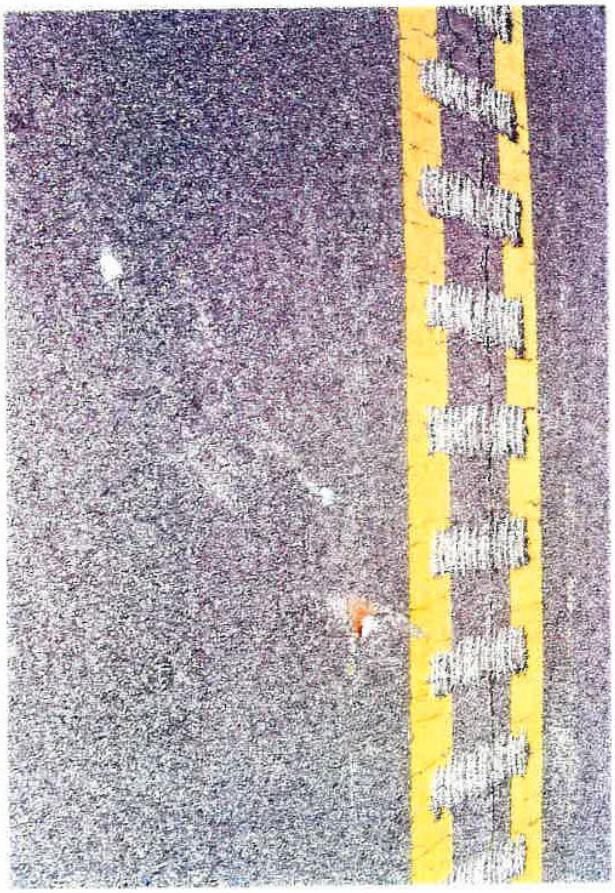
Ashcraft 2nd Supp Response 0586











Ashcraft 2nd Supp Response 0587





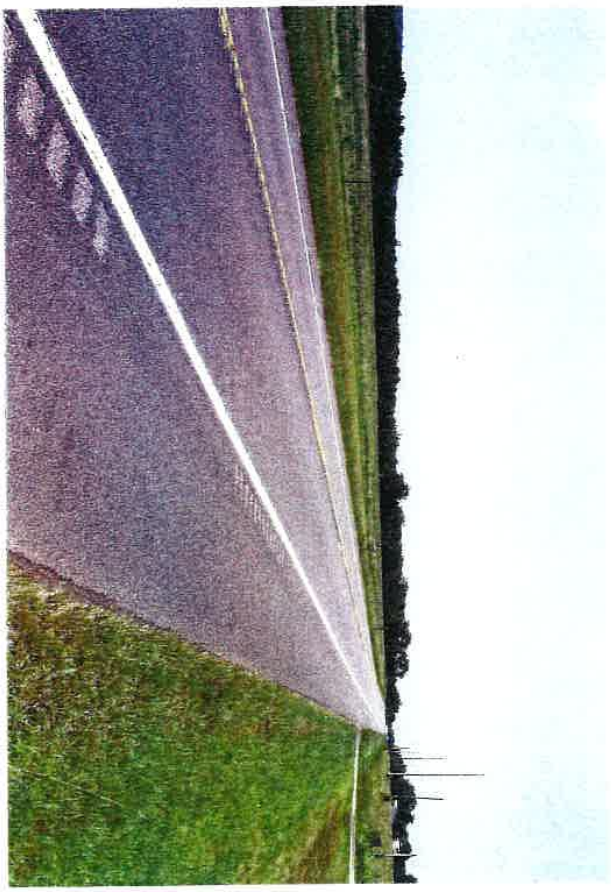








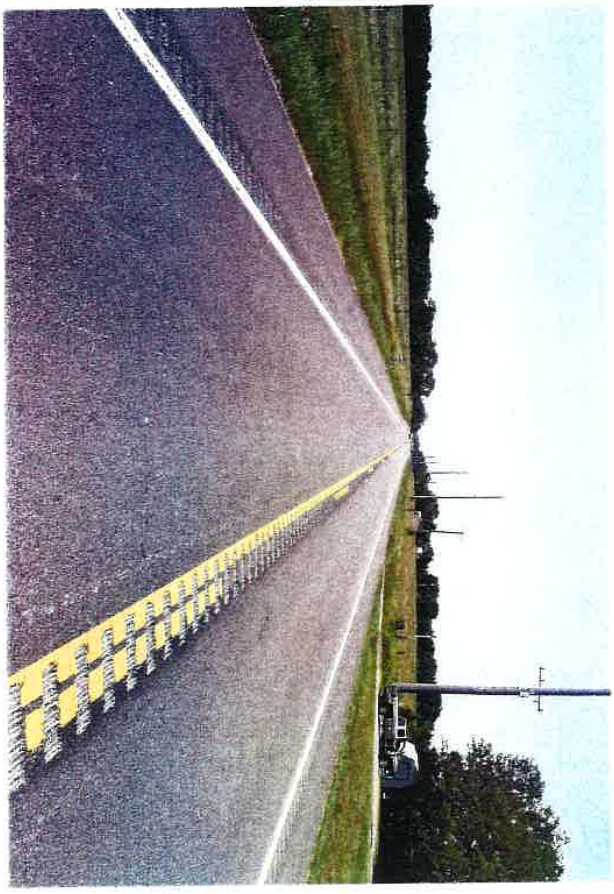




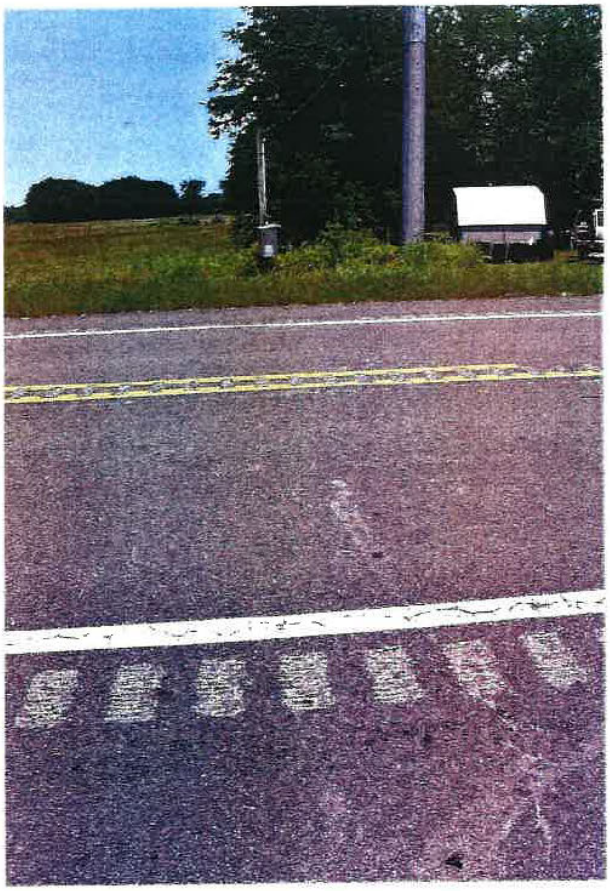


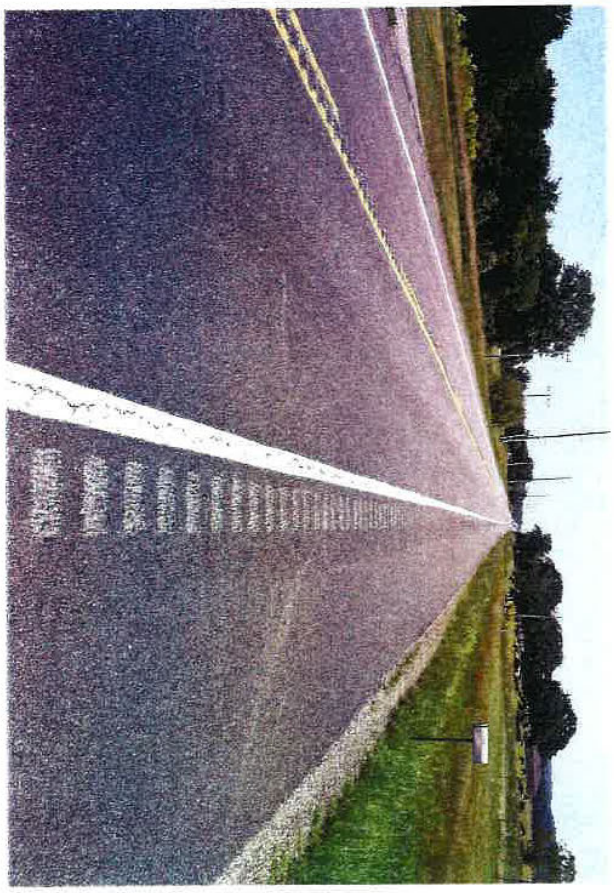


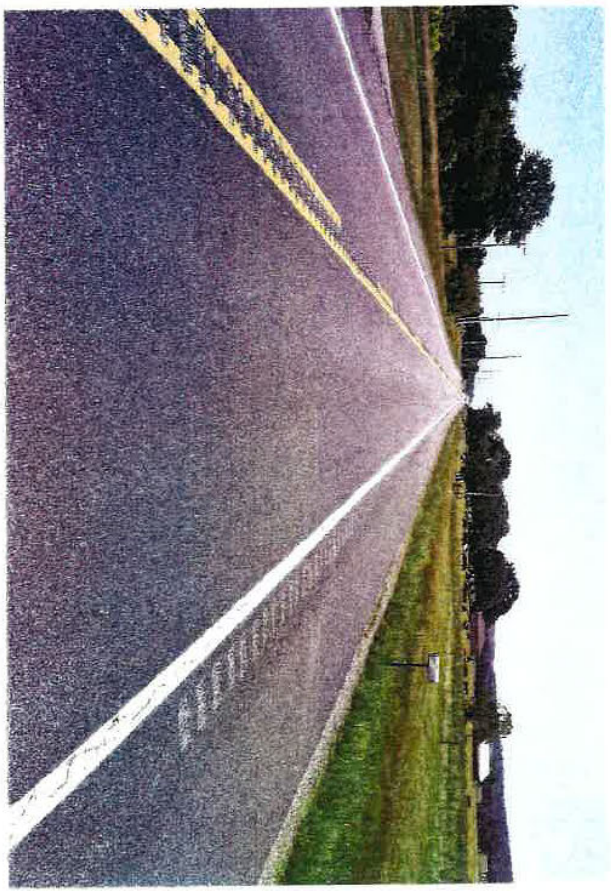










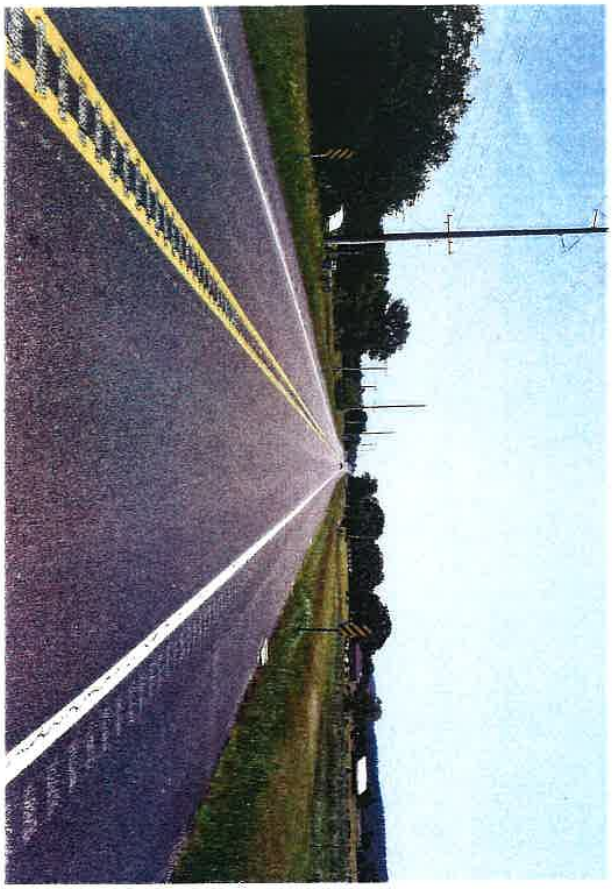




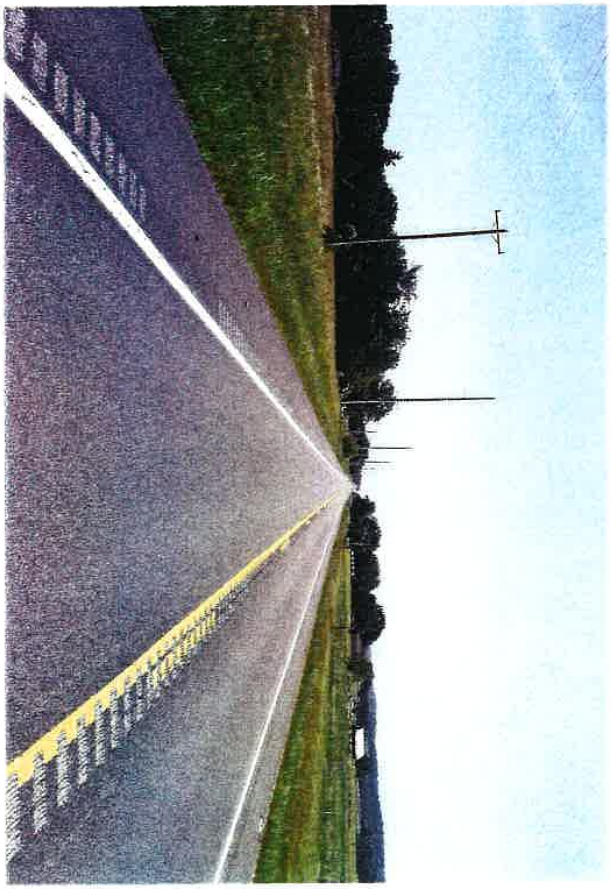






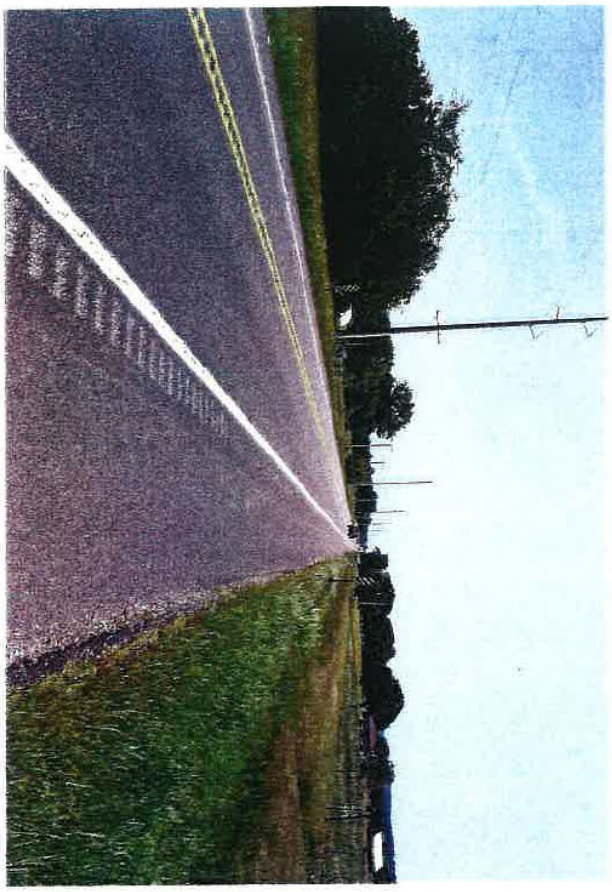








Ashcraft 2nd Supp Response 0593

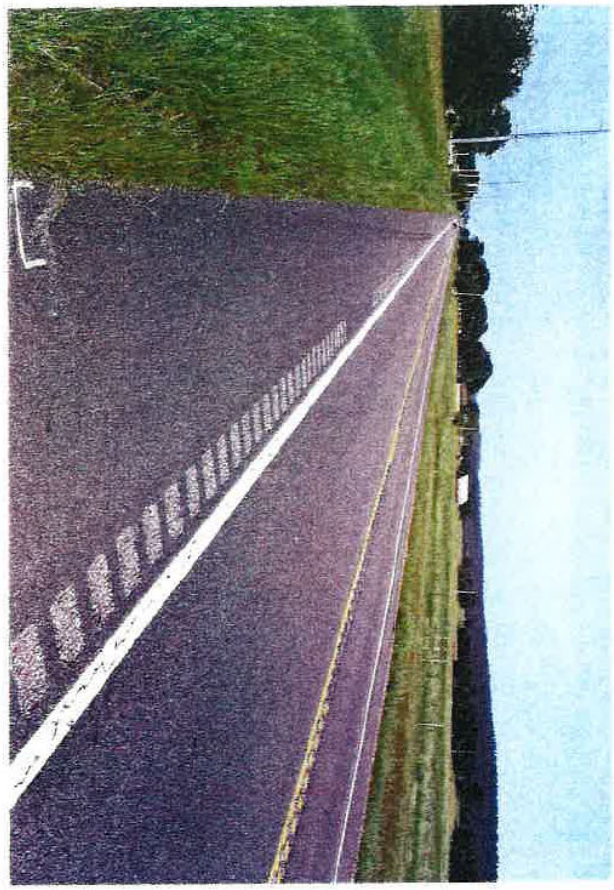








Ashcraft 2nd Supp Response 0594

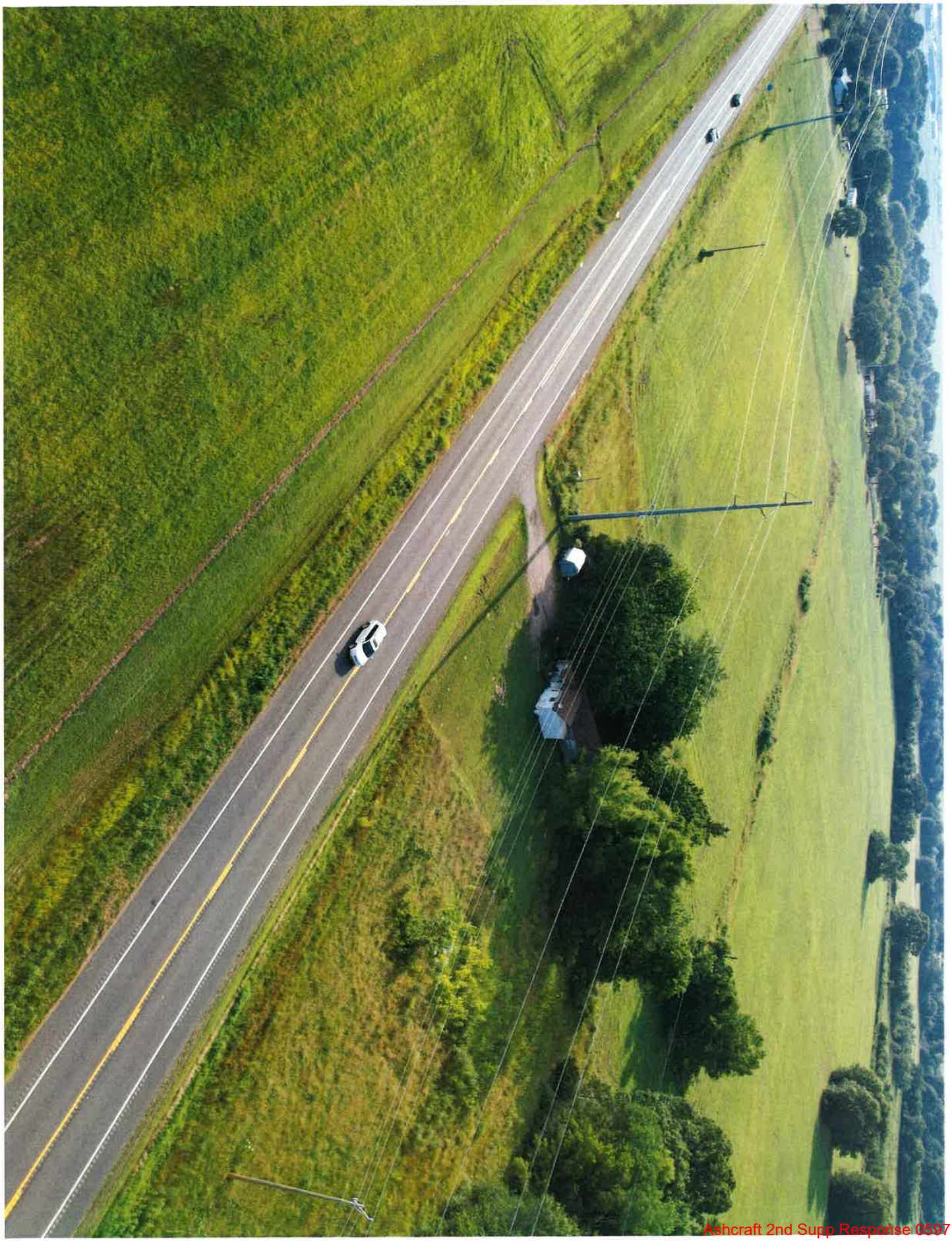








Ashcraft 2nd Supp Response 0596



Ashcraft 2nd Supp Response 0597



Ashcraft 2nd Supp Response 0598



Ashcraft 2nd Supp Response 0599

CURRICULUM VITAE

Stanley Bruce Cain

Accredited Traffic Accident Reconstructionist (ACTAR [redacted]

[redacted]

EMPLOYMENT HISTORY

July 1995 to Dec 2020: Rogers, Arkansas Police Department-Police Officer.

- Assigned to the Uniform Operations Division as a Patrol Corporal, from February 2016 to December 2020.
- Assigned to the Traffic Unit as a Traffic Unit Corporal, from May 2011 to February 2016, as a collision investigator.
- Assigned to the Criminal Investigation Division as a Detective, from May 2010 to May 2011.
- Assigned to the Traffic Unit as a Patrolman, from September 1997 to October 2009, as a collision investigator.
- Investigated approximately 4,361 motor vehicle collisions, assisted with the investigation of additional 873 motor vehicle collisions and completed reconstruction investigation in 41 motor vehicle collisions, as of 12/31/2020.
- Testified in numerous trials and depositions, in both district court and circuit court, regarding collision investigations.

Oct 1991 to July 1995: University of Arkansas, Fayetteville, Arkansas-Research Specialist

- Assisted the Project Leader with the Variety Testing Program with agronomic crops.
- Assisted and participated in all phases of the evaluations, including sample packaging, plot layout, planting, managing, harvesting, sample processing, data processing and preparing final publications.

EDUCATION

- Bachelor of Science in Agriculture, University of Arkansas, Fayetteville, AR, December 1990.

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SPECIALIZED EDUCATION AND TRAINING

October 1995:	Basic Police Training Course (Basic Class 95-D), Arkansas Law Enforcement Training Academy, 400 hours.
November 1998:	Highway-Railroad Grade Crossing Collision Investigation, Operation Lifesaver Inc., 16 hours.
	• Curriculum included: elements of a grade crossing collision, locating and documenting physical evidence and interviewing.
August 1999	Advanced Collision Investigation, Texas A and M University-Engineering and Extension Service, 80 hours.
	• Curriculum included: speed calculation from skid marks and yaw marks, stopping distances, radius calculation, combined speed calculation, applications of trigonometry, collision scene diagramming, airborne speed calculation, speed calculation with pedestrian collision and conservation of linear momentum.
January 2000	At-Scene Traffic Accident Investigation, University of North Florida-Institute of Police Technology and Management, correspondence study.
	• Curriculum included: series of events, human element, environmental factors, identification of roadway marks and evidence, vehicle damage and defects, speed estimates, field measurements and diagrams.
May 2001	Collision Reconstruction, Texas A and M University-Engineering and Extension Service, 80 hours.
	• Curriculum included: kinetic energy calculations, speed loss calculations, time and distance calculations, conservation of linear momentum, vector diagramming, change in velocity, principal direction of force and case studies.
June 2005	Speed Determination from Crush Analysis, Riverside County California Sheriff's Office, 40 hours.
	• Curriculum included: techniques and methods for measuring crush profile, calculating balanced forces, determination of principle direction of force, calculation of stiffness coefficients and barrier equivalent velocity.
November 2008	Side Underride Analysis, The Engineering Institute, 8 hours.
	• Curriculum included: history and development of DOT bumper requirements, familiarization with coefficient values and calculations and live test crash demonstrations.

April 2019	ACTAR Test Preparation-Comprehensive, University of North Florida-Institute of Police Technology and Management, 40 hours.
	• Curriculum included: photography, airborne speed calculation, conservation of linear momentum, time and distance calculation, kinetic energy calculation, pedestrian collision investigation and commercial vehicle collision investigation.
August 2020	vCRASH Interface and vCRASH Simulation Basics, Virtual Crash Accident Reconstruction Software-vCRASH Academy
	• Curriculum included: navigating workspace and commands, modifying and moving objects, introduction to CAD tools and simulations in Virtual Crash, auto driver tools and vehicle/pedestrian collision simulation.
January 2022	PhotoModeler for Collision Investigation, PhotoModeler Technologies, 32 hours.
	• Curriculum included: photography techniques, scene diagramming, scene mapping, and crush measurements from photographs; collecting photographs from unknown cameras, use of point clouds in diagramming and collecting measurements.
October 2022	Advanced HVEDR Systems, Texas Association of Accident Reconstruction Specialists, 21 hours.
	• Curriculum included: Introduction and familiarization with components found on commercial vehicles that record event data from engine control modules, ABS braking systems, trailers, and transmissions.

LAW ENFORCEMENT TRAINING

November 1995	Police Traffic Radar Operator, Rogers Police Department.
November 1995	DWI Standardized Field Sobriety Testing, UALR Criminal Justice Institute.
November 1997	Managing Eyewitness Identification and Confessions, UALR Criminal Justice Institute.
February 1998	Defensive Driving, Thompson Driving Systems.
December 1998	Field Training Officer Certification, Arkansas Law Enforcement Training Academy.
January 1999	Instructor Development, Arkansas Law Enforcement Training Academy.
March 1999	DWI Standardized Field Sobriety Instructor Certification, UALR Criminal Justice Institute.

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March 2000	The Reid Technique of Interviewing and Interrogation, John E. Reid and Associates.
May 2002	Detective and New Criminal Investigator, Public Agency Training Council.
September 2015	P.R.I.M.E. T.I.M.E Interview School, Rogers Police Department.

TEACHING EXPERIENCE

December 1998 to December 2020	Field Training Officer: Instructed 51 new police officer recruits in on-scene collision investigation.
June 2000 to December 2020	Traffic Radar Operator Instructor.
2006 to 2009 2012 to Present	Vehicle Collision Investigation, Arkansas Law Enforcement Training Academy-Northwest, Basic Police Training Course
November 2017	Motor Vehicle Collision Investigation: Plaintiff's Personal Injury from Start to Finish, National Business Institute.

ACCREDITATION

2006 to 2011 2019 to Present	Accreditation Commission for Traffic Accident Reconstruction (ACTAR) Awarded full accreditation as a Traffic Accident Reconstructionist. Registration No. 1686.

PROFESSIONAL MEMBERSHIPS

- National Association of Professional Accident Reconstruction Specialists (NAPARS). Member No. 22186.
- International Network of Collision Reconstructionists (INCR).

AWARDS

October 1995	Special Achievement Award-3rd Place in Academics, Basic Police Training Course Class 95-D, Arkansas Law Enforcement Training Academy.
February 2001	The Raven Foundation Officer Appreciation and Achievement Award for 2000.

REV. 3/01/2023

PUBLICATIONS

Dombek, D.G., and S.B. Cain. 1992 Arkansas Soybean Performance Tests, University of Arkansas Department of Agronomy.

Dombek, D.G., and S.B. Cain. 1992 Arkansas Corn and Grain Sorghum Performance Tests, University of Arkansas, Department of Agronomy.

Dombek, D.G., and S.B. Cain. 1993 Arkansas Soybean Performance Tests, University of Arkansas Department of Agronomy.

Dombek, D.G., and S.B. Cain. 1993 Arkansas Corn and Grain Sorghum Performance Tests, University of Arkansas, Department of Agronomy.

Dombek, D.G., R.D. Bond, and S.B. Cain. 1994 Arkansas Soybean Performance Tests, University of Arkansas, Department of Agronomy.

Dombek, D.G., R.D. Bond, and S.B. Cain. 1994 Arkansas Corn and Grain Sorghum Performance Tests, University of Arkansas, Department of Agronomy.

Dombek, D.G., D.K. Ahrent, R.D. Bond, and S.B. Cain. 1995 Arkansas Soybean Performance Tests, University of Arkansas, Department of Agronomy.

Dombek, D.G., D.K. Ahrent, R.D. Bond, and S.B. Cain. 1995 Arkansas Corn and Grain Sorghum Performance Tests, University of Arkansas, Department of Agronomy.

Stanley B. Cain Accident Reconstructionist, LLC

Available Services

- Consultation, review and analysis of the police motor vehicle collision report and any documentation available.
- Detailed measurements, photographs, or video recording of the collision scene to document: the traffic controls present, line-of-sight obstructions, environmental factors, vehicle damage and any other pertinent evidence as it pertains to the client's case.
- Scaled CAD drawn diagram of the collision scene to document: lane configuration, roadway geometry, line of sight obstructions, witness location, tire marks and roadway evidence.
- Detailed interviews of drivers, passengers, witnesses, and all other individuals as needed to complete a thorough investigation.
- Vehicle speed calculation from: visible skid marks, yaw marks, linear momentum analysis, crush analysis and airborne scenarios.
- Reconstruction and investigation of pedestrian/bicyclist collisions.
- Reconstruction and investigation of motorcycle collisions.
- Reconstruction and investigation of commercial vehicle collisions.
- Reconstruction and investigation of collisions at signalized intersections and railroad grade crossings.
- Time/distance/speed analysis for vehicles, pedestrians, and bicyclists.
- Vehicle lamp analysis.
- Detailed written reports of the collision investigation and/or reconstruction, along with the needed documentation, diagrams, and photographs.
- Appearances for testimony, deposition or consultation as needed by the client.

If there are questions regarding a service listed or not listed, please feel free to contact me.

Costs and Fees

- A client may request an initial consultation for $300.00. The consultation includes a preliminary review and familiarization with the client's case by allowing a review of any reports, statements, photographs, documentation, etc., that the client will make available. After the review, the consultation also includes two hours with the client, either in person or by phone, to discuss the preliminary review and answer questions pertaining to the investigation.
- A client may also request a complete investigation of the collision which includes: the above listed consultation, a scaled scene diagram and/or collision simulation, scene inspection and photographs, vehicle inspection and photographs of the available vehicles, witness location and interview, a reconstruction calculations report, and a detailed written report discussing the analysis and conclusion, is available for $1500.00 plus $0.55/mile for mileage accumulated after 200 miles of travel required for the investigation and inspections.
- Appearances for court testimony and/or deposition is $50.00/ hour.

REV. 3/01/2023

JACKSON
LAW FIRM

May 17, 2023

Mr. Stanley Cain
Cain Accident Reconstruction
P.O. Box 836
Waldron, AR 72958-0836

Re: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted] Minor Children v. Arkansas Department of Human Services
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Mr. Cain:

Please find enclosed a check in the amount of $750.00 as a retainer in the above referenced matter. Please bill against this and send me an invoice to compensate you for your time in this matter.

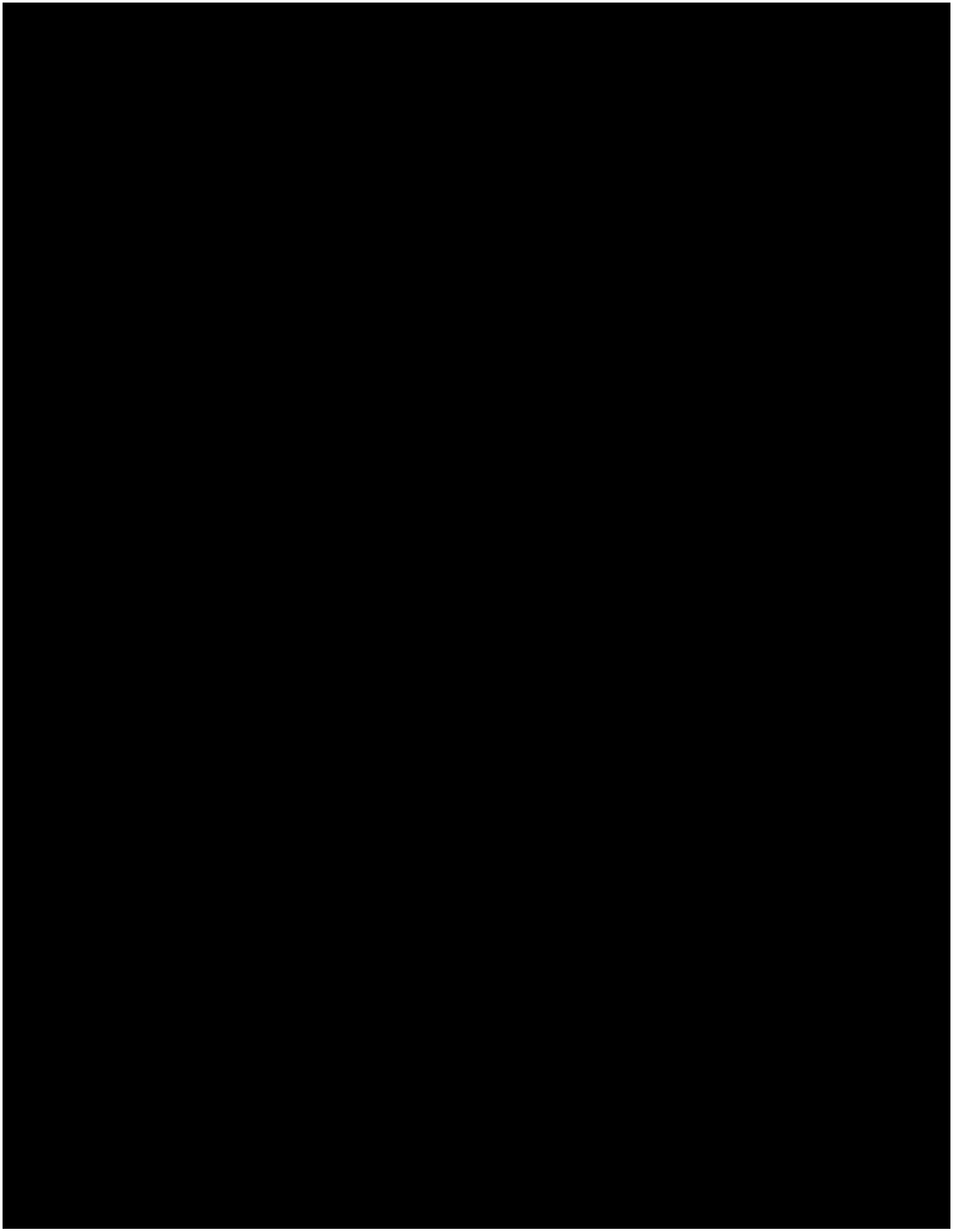
Please call me at (501) 823-3610 with any questions or suggestions. My e-mail address is *Jim@JimJacksonatty.com.*

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosure

JIM JACKSON / Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528 • 501.823.3610 • Fax: 501.823.3611 • Jim@JimJacksonAtty.com • www.JimJacksonAtty.com



Jim Jackson

From: Jim Jackson
Sent: Wednesday, May 17, 2023 8:51 AM
To: [redacted]
Cc: Martha Cox
Subject: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted] Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incident
Attachments: Accident Report_Ashcraft.pdf; Hwy 22 Facing East in Same direction Jennifer Wilkerson was traveling.jpg

Stan,
Please find attached a copy of Trooper James Ray's Accident report with 3 pages of diagrams at the back.
Also attached is a JPG from the Logan County Sheriff's Facebook page.

Below is a link to the JPG images that Trooper Ray had as part of his file.
High Resolution photos from Trooper James Ray

Below is a link to the photos in PDF Format with a Table of Contents.
Crash Scene Photos by Trooper James Ray.pdf

Below is a link to photos I took on Tuesday May 16, 2023 with my best attempt at naming them.
Photos by Jim on May 16, 2023

Please let me know if you have any issues opening any of these files or folders.
Also, I need your Mailing Address.

Thank you,

Jim

JACKSON LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

Jim Jackson

From: Stanley Cain [redacted]
Sent: Wednesday, May 17, 2023 1:45 PM
To: Jim Jackson
Subject: Jacqueline Ashcraft Collision in Logan County

Jim:

I received your email. I got the following:

ASP report
Photos by Trooper Ray
31 page PDF with scene photos
The photos that you took yesterday
Facebook post photo

Thanks for gathering all that up for me. I plan on going to the scene on Saturday. I will check in with you and give you an update next week.

My mailing address is listed below. Thank you.

Stanley Cain
Stanley B. Cain Accident Reconstructionist, LLC
PO Box 836, Waldron, AR 72958
[redacted]

Sent from Mail for Windows 10

JACKSON
LAW FIRM

May 18, 2023

Mr. Stanley Cain
Cain Accident Reconstruction
P.O. Box 836
Waldron, AR 72958-0836

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of* [redacted]
Minor Children v. Arkansas Department of Human Services
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Mr. Cain:

Please find enclosed additional documents regarding the above matter that were not sent to you yesterday.

Please call me at (501) 823-3610 with any questions or suggestions. My e-mail address is *Jim@JimJacksonatty.com.*

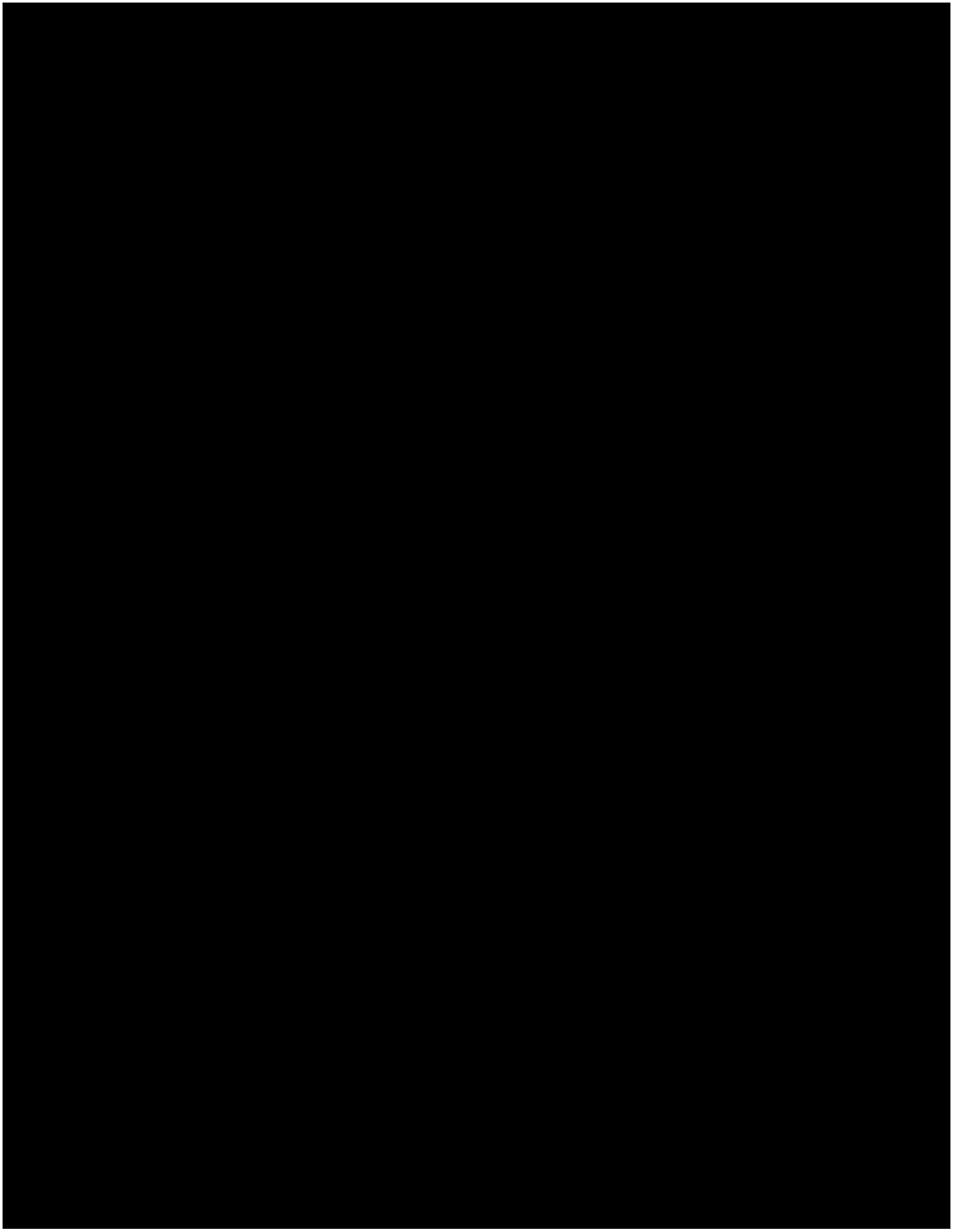
Sincerely,

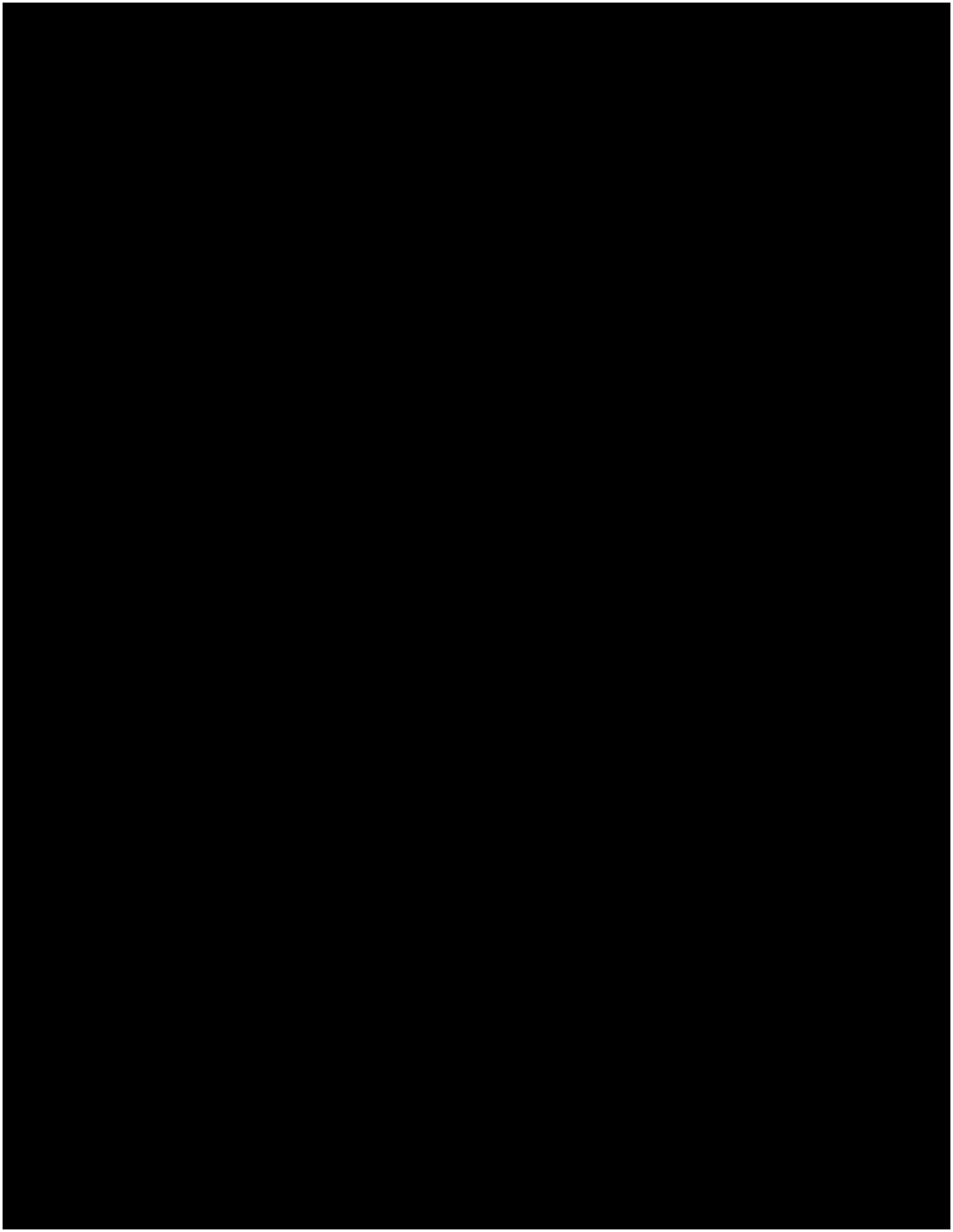
Jim Jackson

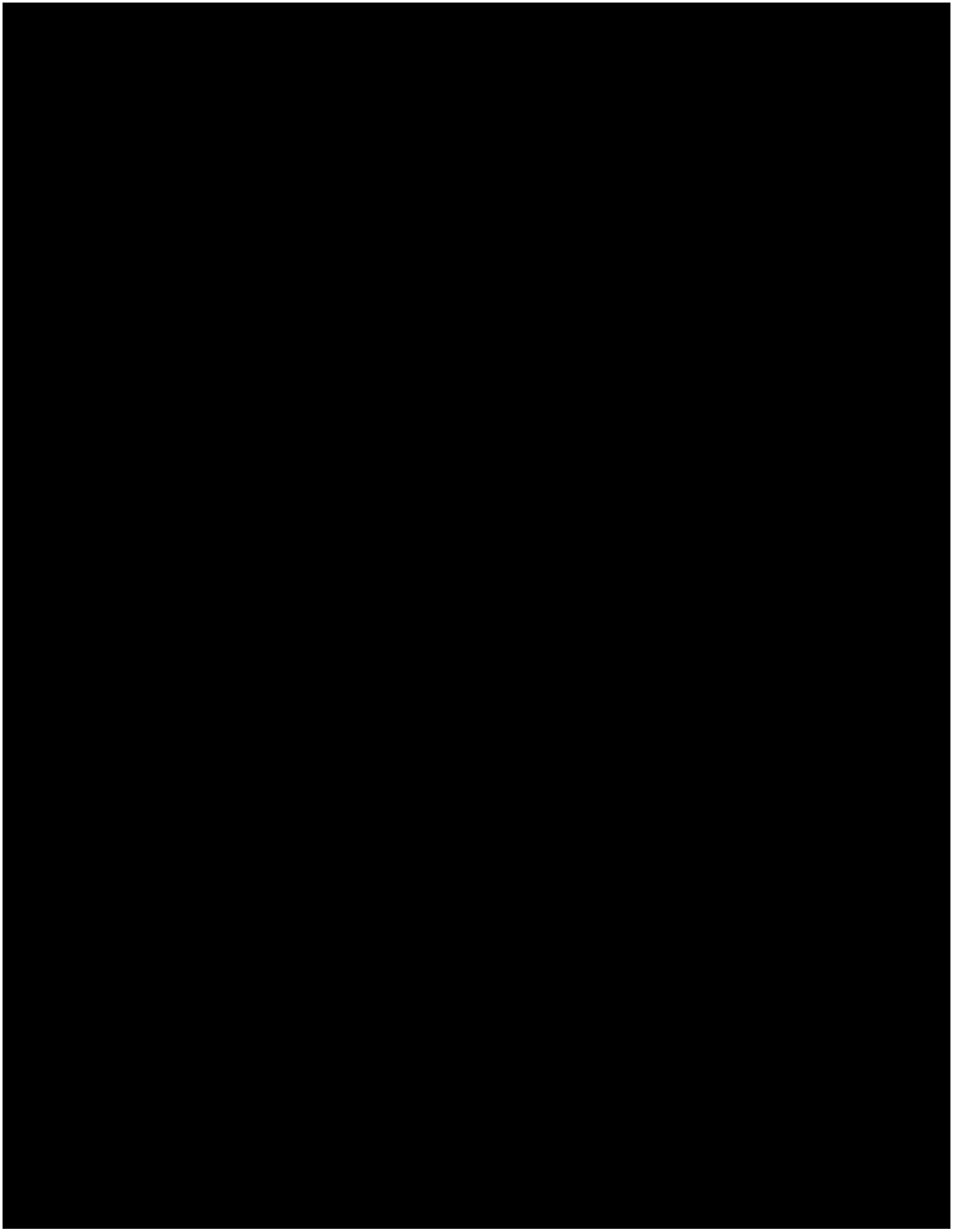
Jim R. Jackson

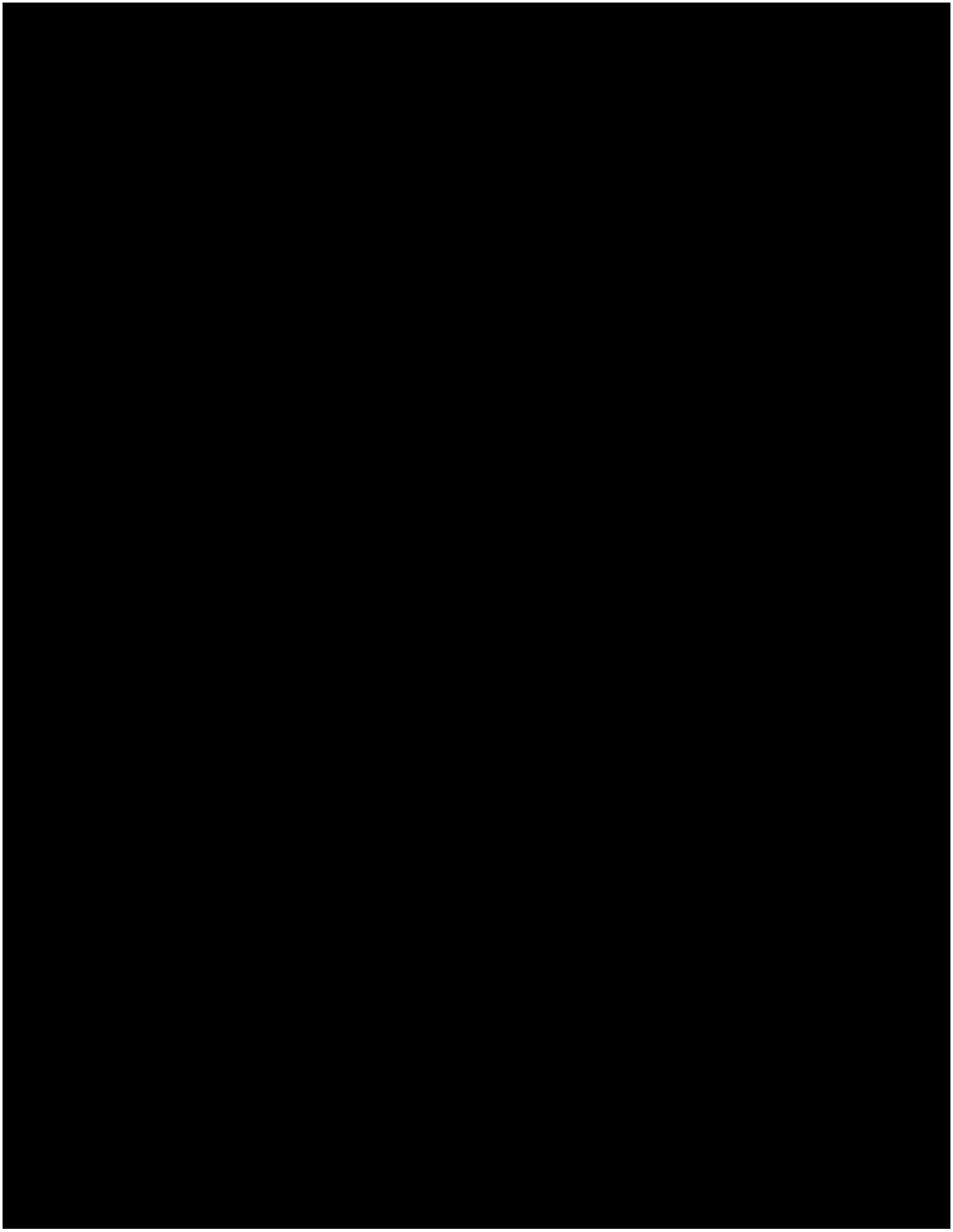
JRJ/mc
Enclosures

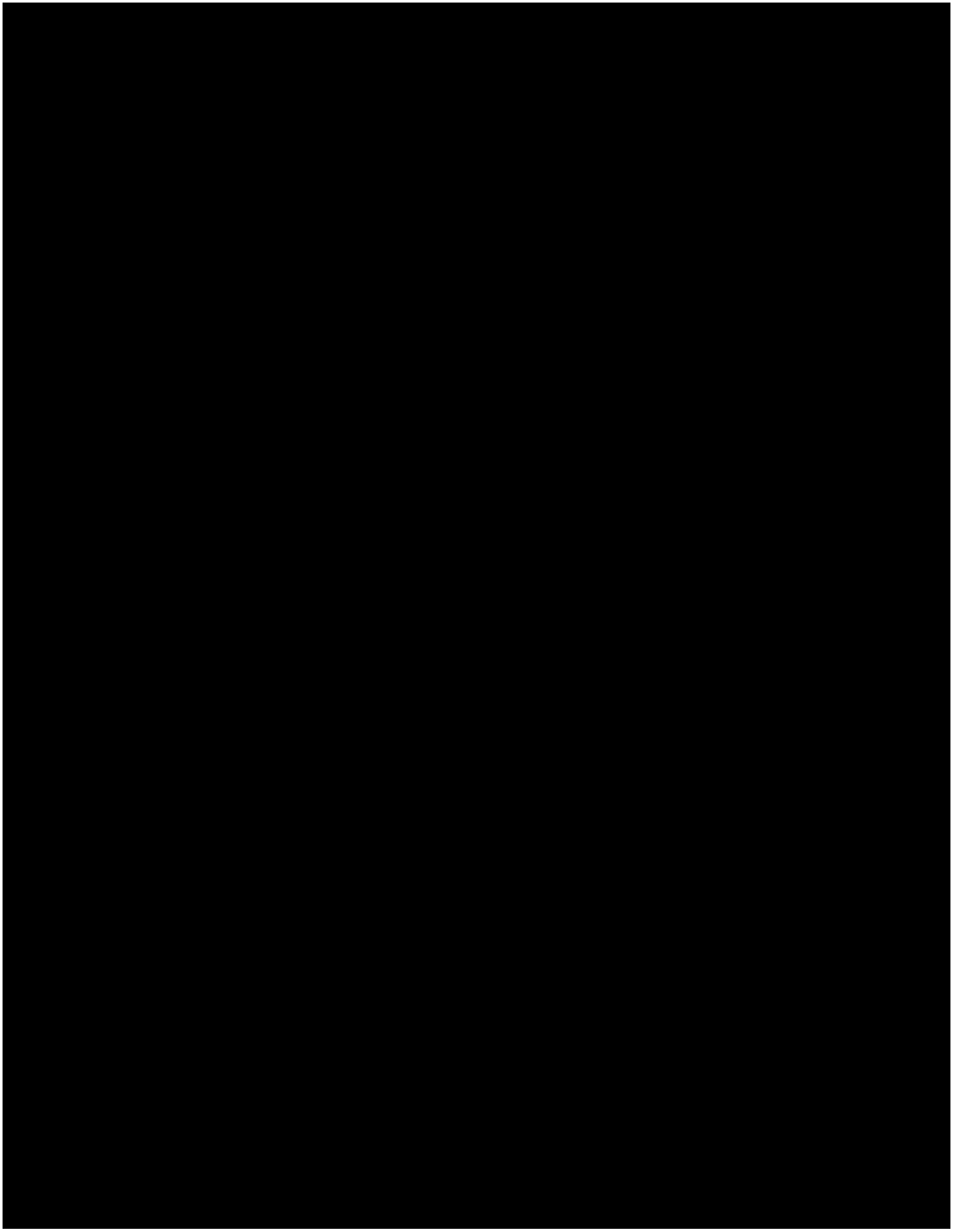
JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528
501.823.3610
Fax: 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

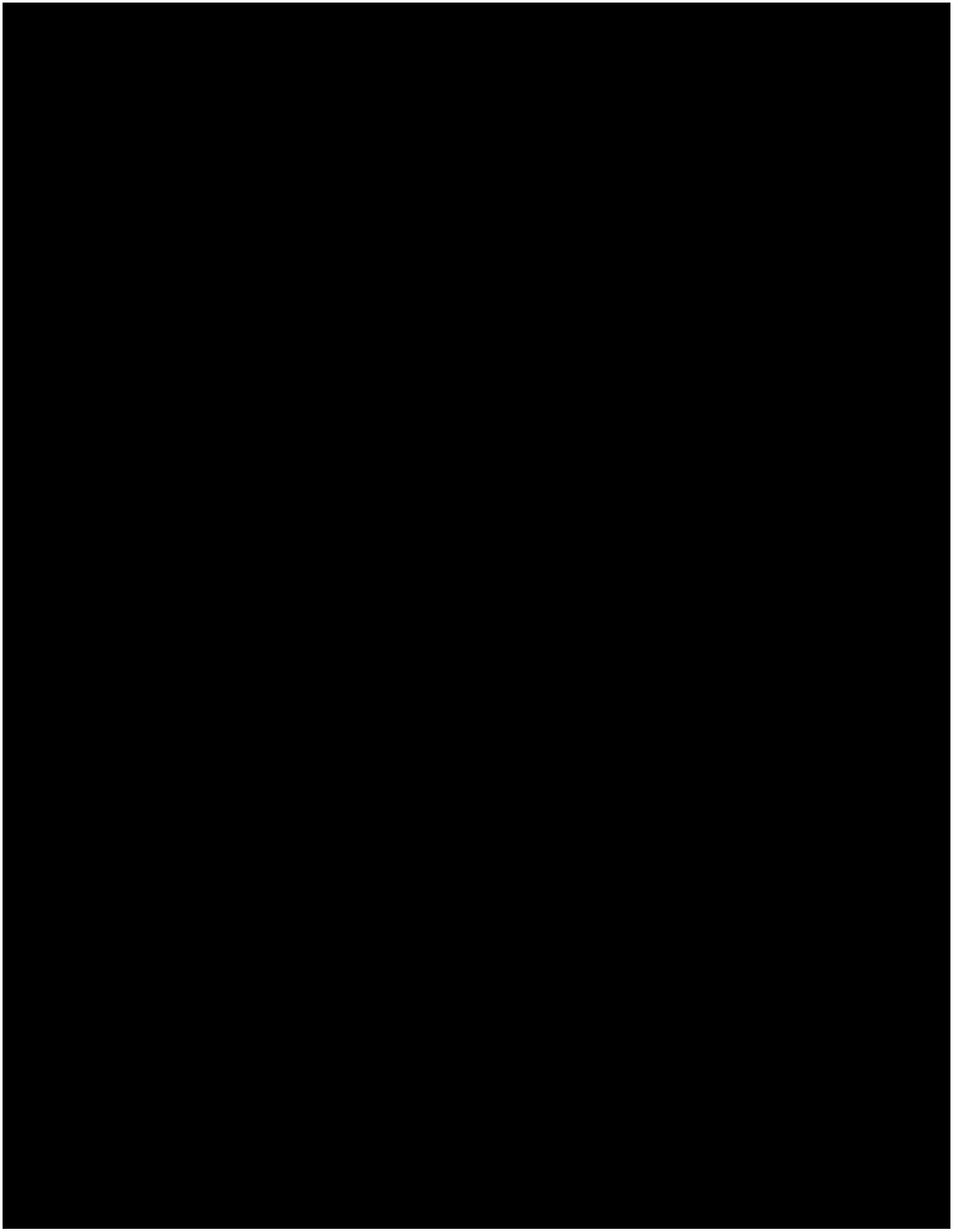


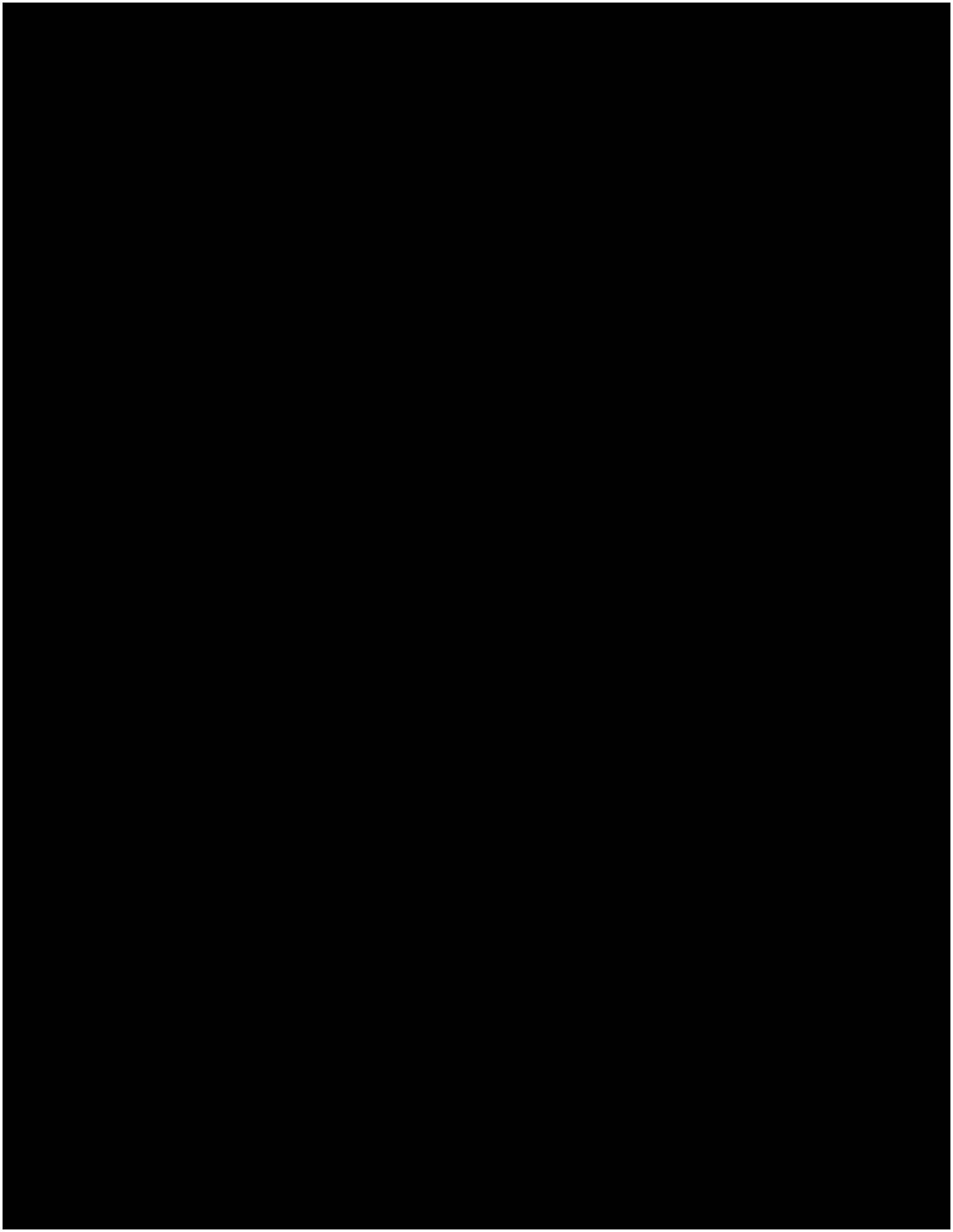


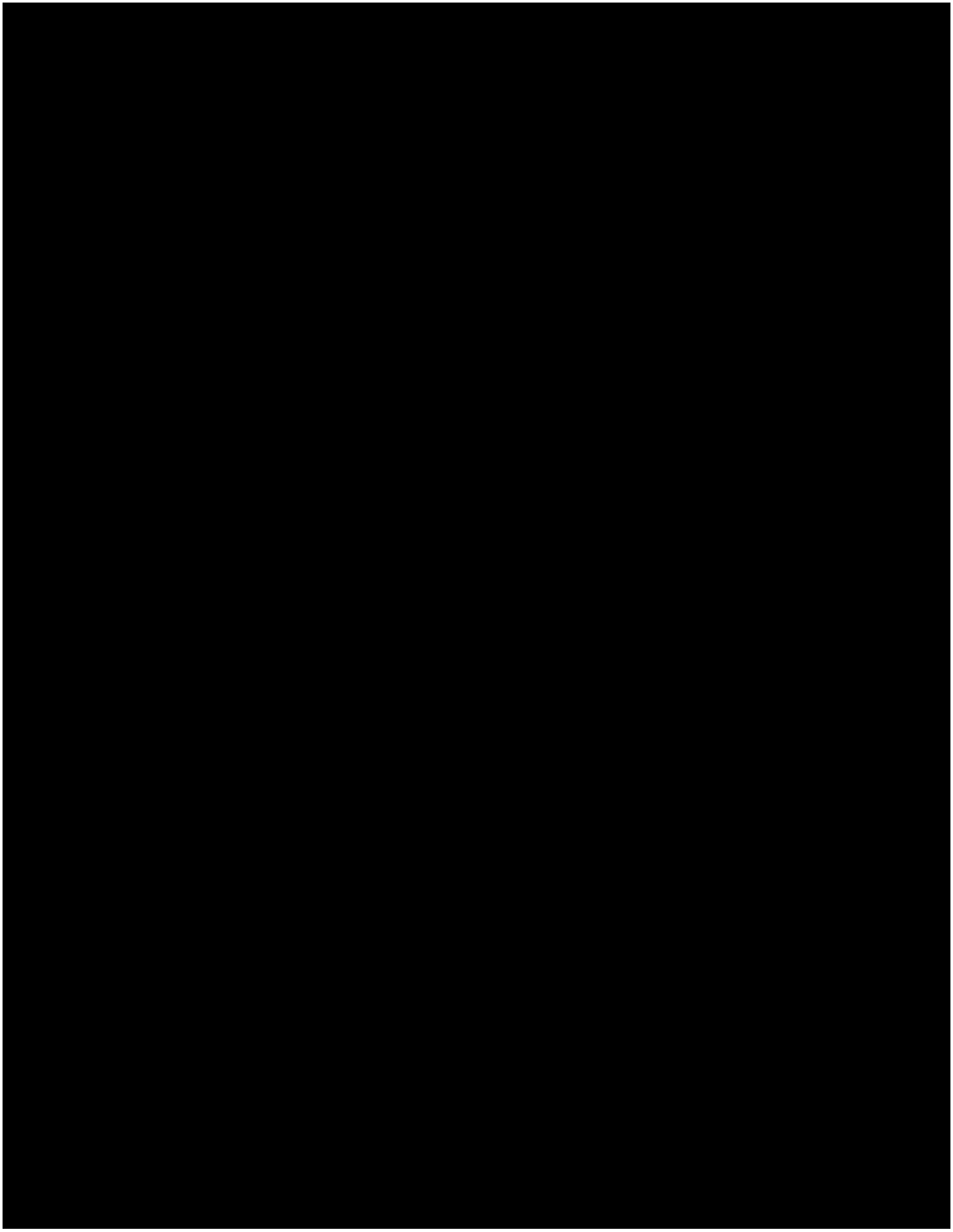


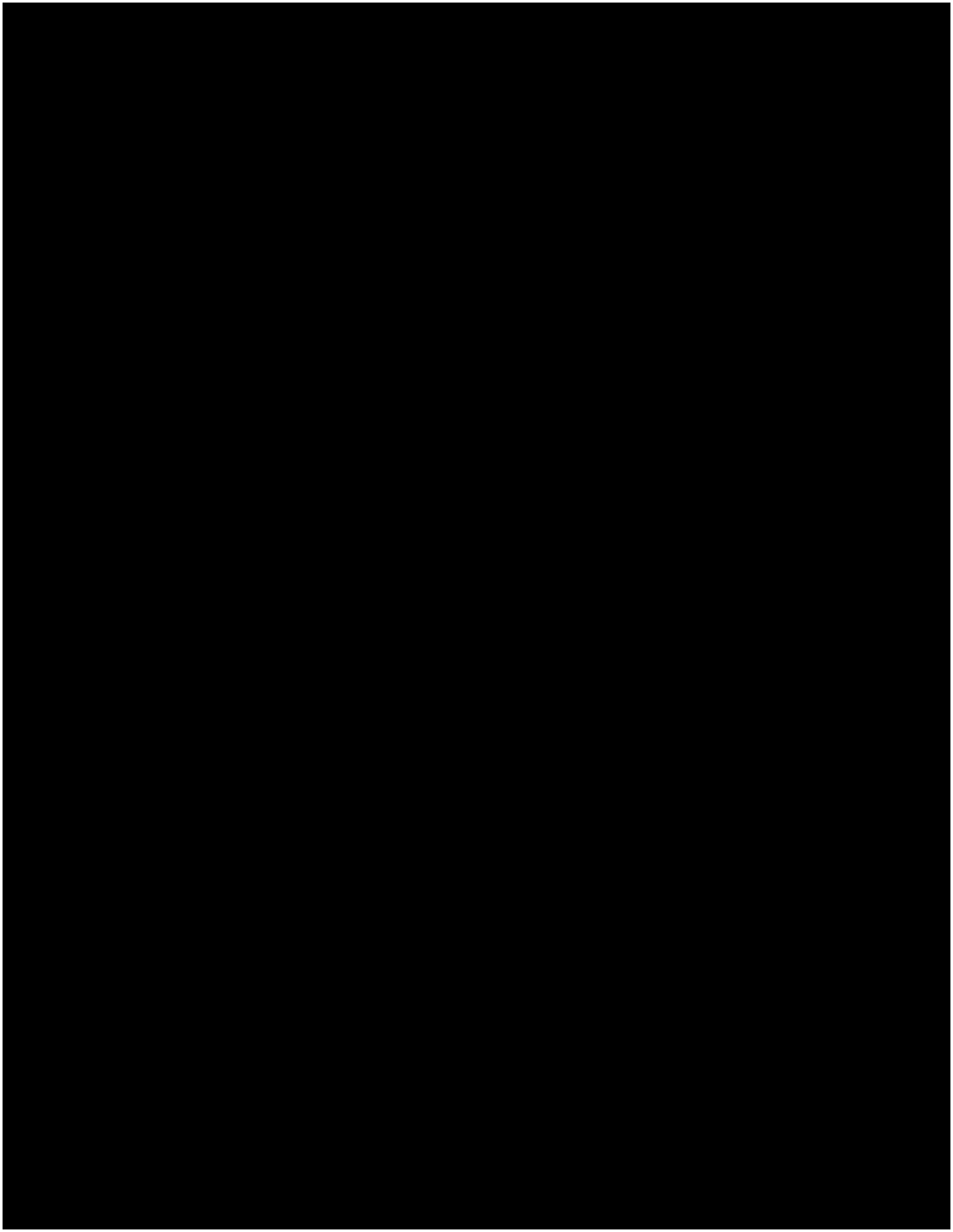


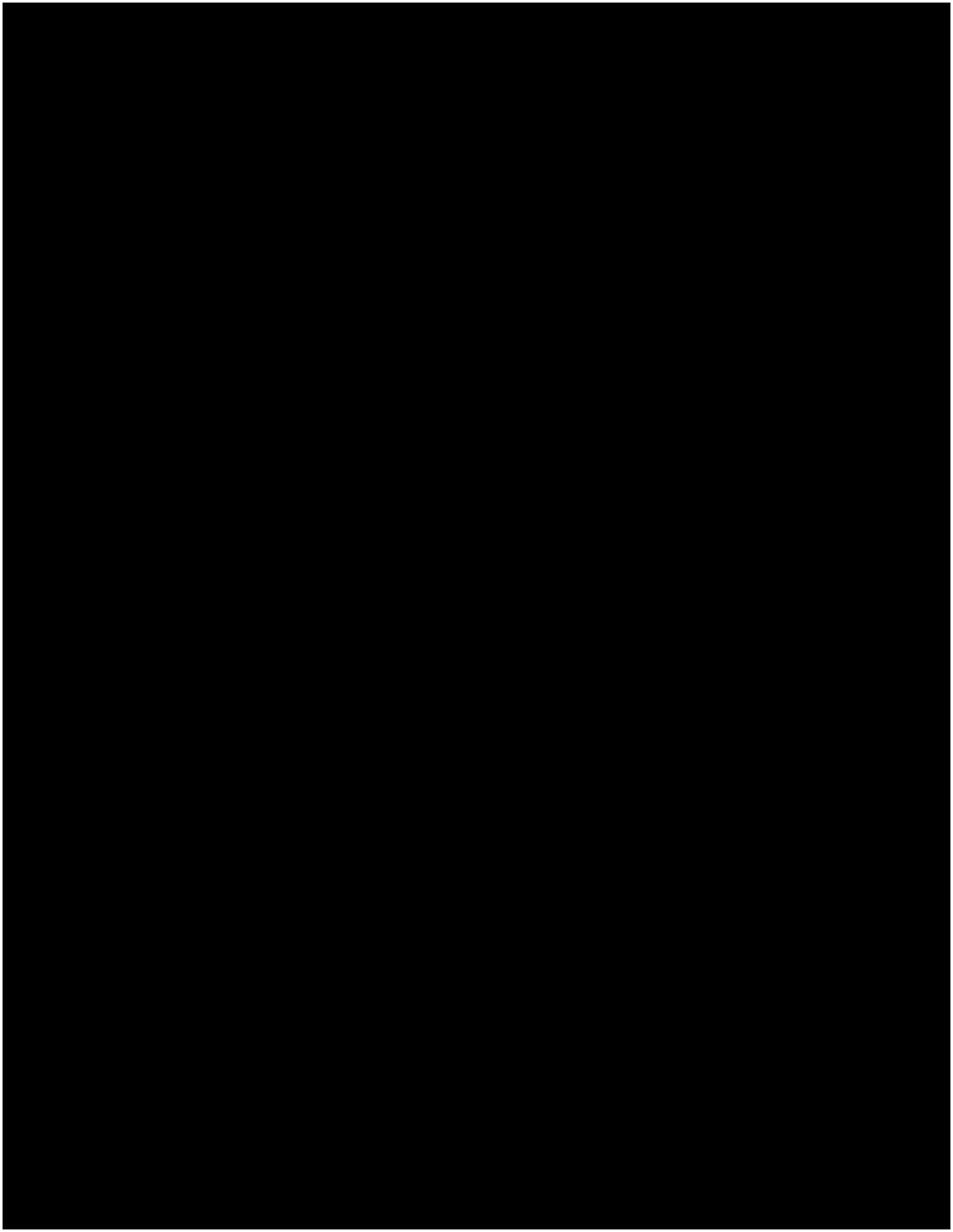


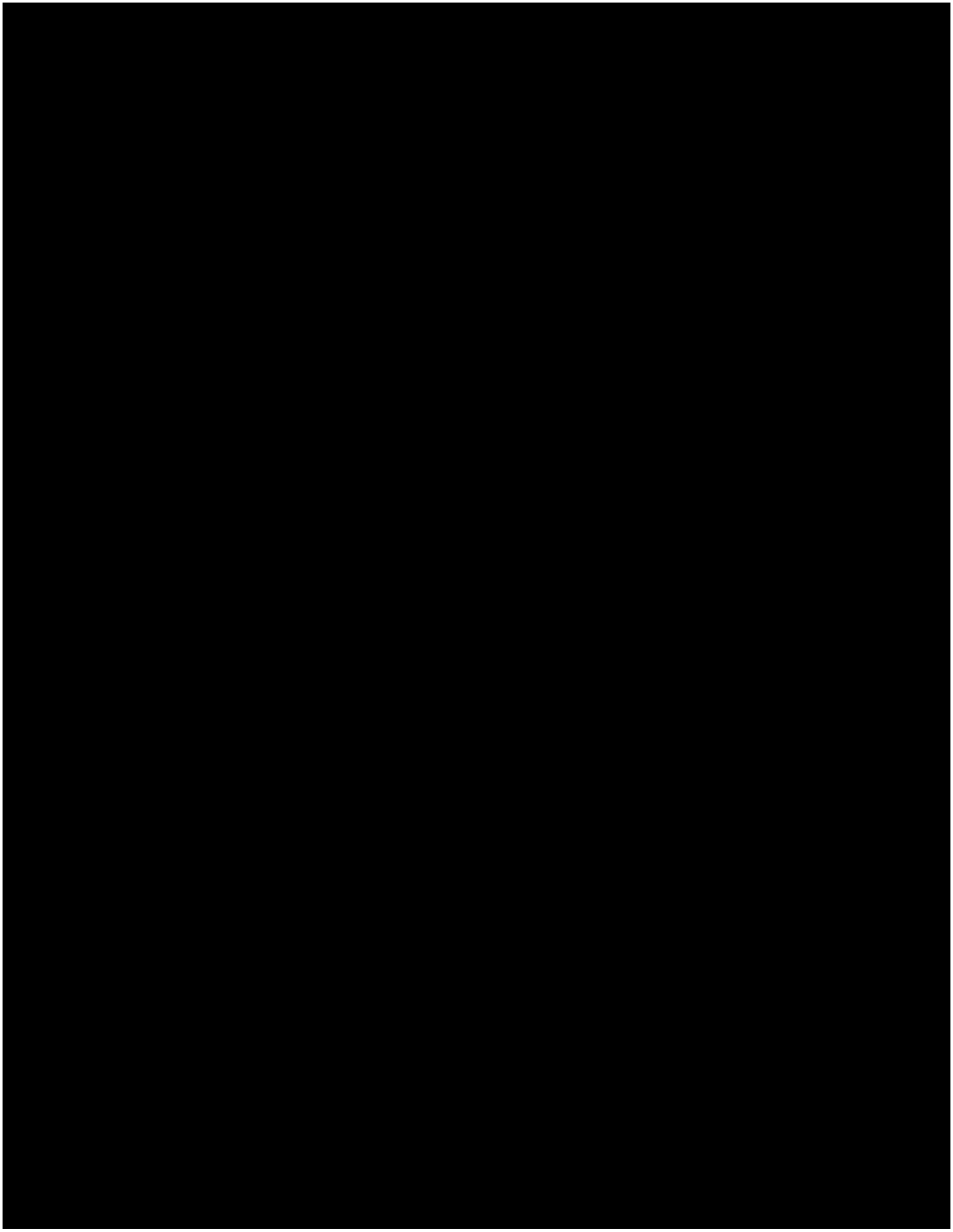


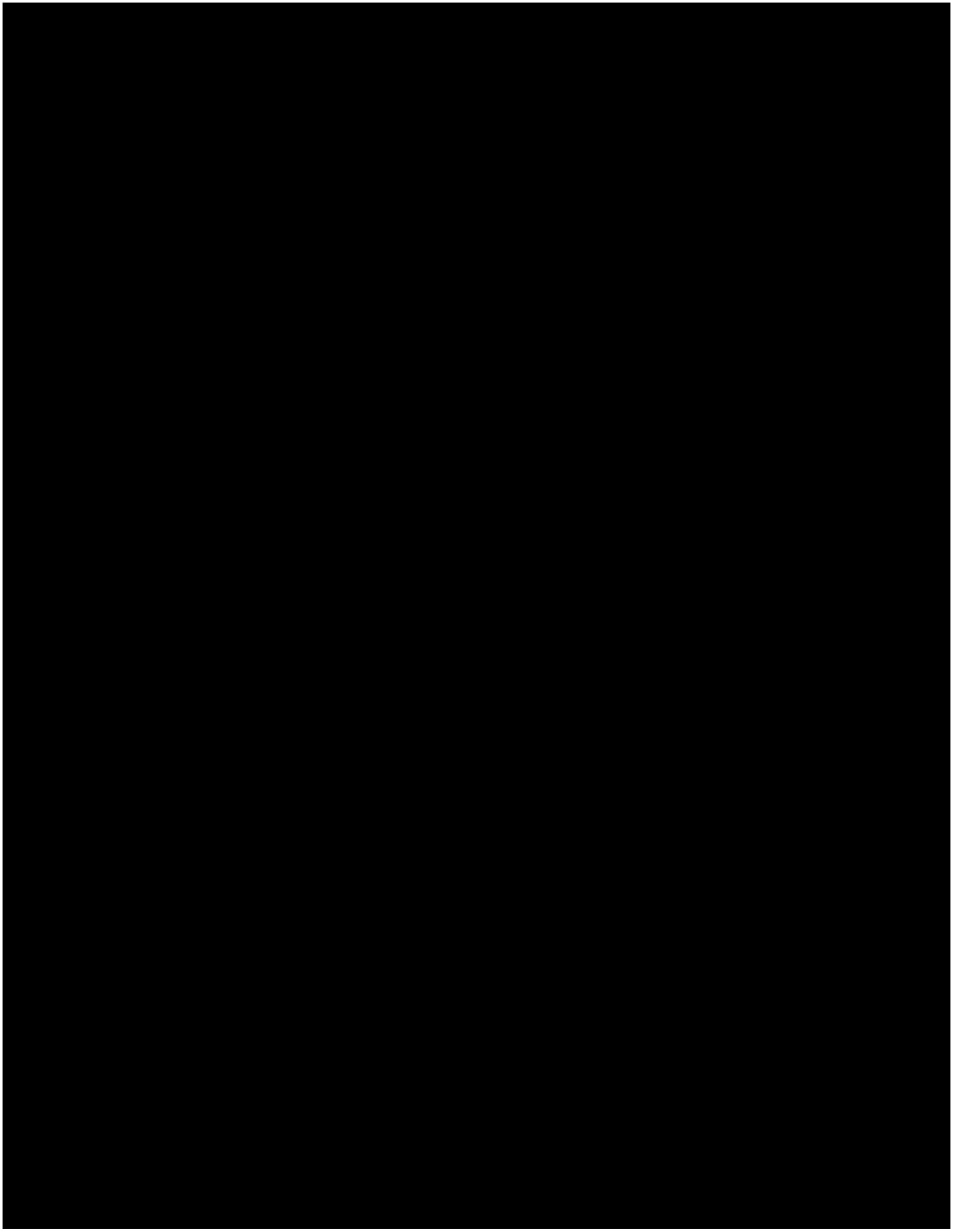












Martha Cox

From: Jim Jackson
Sent: Tuesday, May 30, 2023 8:25 AM
To: 'Stanley Cain'
Subject: RE: Jacqueline Ashcraft Collision

The three occupants were:

[redacted]

[redacted]

[redacted]

All three were in the rear of the car.

Thank you,
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Stanley Cain [redacted]
Sent: Monday, May 29, 2023 11:03 PM
To: Jim Jackson <jim@jimjacksonatty.com>
Subject: Jacqueline Ashcraft Collision

Jim:

I need some information for my calculations. Did Jacqueline have some minor passengers with her when the collision occurred? If she did, I will need their age(s), so I can place an approximate weight for them in the momentum calculations. The crash report does not list any passengers, but I wanted to double check that with you.

Thank you.

Stanley Cain
Stanley B. Cain Accident Reconstructionist, LLC
PO Box 836, Waldron, AR 72958
[redacted]

Sent from Mail for Windows

JACKSON
LAW FIRM

June 10, 2023

Mr. Stanley Cain
Cain Accident Reconstruction
P.O. Box 836
Waldron, AR 72958-0836

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of* [redacted] *a Minor Child v. Arkansas Department of Human Services*
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Mr. Cain:

Please find enclosed a copy of Trooper James Ray's deposition and Kristen Shelton's deposition in the above referenced matter. Please add these to your file.

Please call me at (501) 823-3610 with any questions or suggestions. My e-mail address is *Jim@JimJacksonAtty.com*.

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosure

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528
501.823.3610
Fax: 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

Jim Jackson

From: Jim Jackson
Sent: Monday, June 19, 2023 2:44 PM
To: [redacted]
Cc: Martha Cox
Subject: FW: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...

Stanley,
I retained Johnny Bolinger to take drone footage of the accident site.
Can you review these and incorporate them into your report if they will assist you in explaining your findings and conclusions?
Thank you,
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Johnny Bolinger [redacted]
Sent: Monday, June 19, 2023 2:35 PM
To: Jim Jackson <jim@jimjacksonatty.com>
Subject: Re: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...

[redacted]

Sent from my iPhone

> On Jun 19, 2023, at 10:52 AM, Jim Jackson <jim@jimjacksonatty.com> wrote:
>
> Johnny,

I hope you are having a good Monday.
I'd like to forward the aerials to our accident reconstruction expert when you send them.
Thank you,
Jim

<image001.jpg>

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611
<image002.jpg>
<image003.jpg>

<image004.jpg>

From: Johnny Bolinger [redacted]
Sent: Saturday, June 17, 2023 6:40 PM
To: Jim Jackson <jim@jimjacksonatty.com>
Subject: Re: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...

Sir, I'm mortified that I let this slip through the cracks on me. I drove out a few minutes ago and shot them and I'll be able to email a link tomorrow if that's ok! I'm so sorry. It's been crazy busy for me.

Sent from my iPhone

> On May 15, 2023, at 7:55 AM, Jim Jackson <jim@jimjacksonatty.com> wrote:
>
> Johnny,
> We have a deposition in Clarksville tomorrow afternoon.
> If you have a JPG of the aerial, that would be great.
> If not, do not worry about it.
> I am going to Paris tomorrow morning to drive from the dairy bar to the accident site to get a good feel of the area.
> I will have my cell phone with me.
> If you need to visit with me on anything, my number is:
> [redacted]
> Thank you,
> Jim
>
> <image001.jpg>

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611



From: Johnny Bolinger [redacted]
Sent: Wednesday, May 10, 2023 12:22 PM
To: Jim Jackson <jim@jimjacksonatty.com>
Subject: Re: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted] Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...

Well, this email got lost in the hundreds I get every day. I'll get on this asap.

Sent from my iPhone

> On May 2, 2023, at 4:00 PM, Jim Jackson <jim@jimjacksonatty.com> wrote:
>
> Jonathan,
> Thank you for visiting with me this afternoon about the drone/aerial photography.
> Attached is a copy of the accident report.
> My client was driving from Paris east on Hwy 22.
> She was attempting to turn left into a driveway at: 5033 Hwy 22.
> She had to stop while a tractor trailer rig traveling west cleared the right of way.
> While stopped, she was rear-ended at a high rate of speed.
> Attached is a Google Earth Aerial of the highway.
> I think this information should be enough to get you to the right place.
> Also, if you hear anything about this wreck, please let me know.
> The trooper working it arrived 30 minutes after it was called in so I suspect the Paris Police and Logan County Sheriff's department has more information that was not included.
> Jennifer Wilkerson tested positive for meth and amphetamines after the wreck.
> Her boyfriend is Scott Lindstrom who has several possession convictions.
> Thank you,

Jim

<image001.jpg>

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611
<image002.jpg>
<image003.jpg>

<image004.jpg>

<Accident Report_Ashcraft.pdf>
<Photo - Aerial Photo of Accident Scene 35°17'40.6_N 93°39'43.5_W - Google Maps.pdf>
<Photo DHS car in ditch on other side of road with debris in highway.pdf>
<Photo Long view of Highway.pdf>

Jim Jackson

From: Jim Jackson
Sent: Thursday, June 22, 2023 2:14 PM
To: Stanley Cain
Subject: RE: Jacqueline Ashcraft Collision

I'll let you know as soon as I get access to it.
I see the message from Dropbox.
Jim

JACKSON LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Stanley Cain [redacted]
Sent: Thursday, June 22, 2023 2:10 PM
To: Jim Jackson <jim@jimjacksonatty.com>
Subject: Jacqueline Ashcraft Collision

Jim:

I just shared the completed report for this case in Dropbox, so you should get a link. Let me know if you do not receive anything.

Also, call me if you have questions.

Stanley Cain
Stanley B. Cain Accident Reconstructionist, LLC
PO Box 836, Waldron, AR 72958
[redacted]

Sent from Mail for Windows

Jim Jackson

From: Stanley Cain <[redacted]
Sent: Sunday, June 25, 2023 6:47 PM
To: Jim Jackson
Subject: RE: The Estate of Jacqueline Lynn Ashcraft, deceased
Attachments: STANLEY CAIN-ACCIDENT RECONSTRUCTIONIST-CURRICULUM VITAE-SERVICES AND FEES.pdf; image001.jpg; image002.jpg; image003.jpg; image004.jpg

Jim:

The affidavit looks good. I will try to get the signature page back to you tomorrow afternoon. I will have to take it to a copy and print service to get the signature page printed and then scanned.

Attached is my current CV.

Stanley Cain
Stanley B. Cain Accident Reconstructionist, LLC
PO Box 836, Waldron, AR 72958
[redacted]

Sent from Mail for Windows

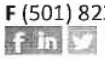
From: Jim Jackson
Sent: Sunday, June 25, 2023 3:38 PM
To: [redacted]
Cc: Martha Cox
Subject: The Estate of Jacqueline Lynn Ashcraft, deceased

Stanley,
Attached is an Affidavit that I prepared based upon your Report.
Also attached is a PDF containing what is labeled as exhibit 2 to your Affidavit.
Can you review both of these and call me at [redacted] with any questions.
Also, I will need a copy of your CV.
Thank you,
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611



JACKSON
LAW FIRM

June 28, 2023

Mr. Brent Gasper
Arkansas Department of Human Services
Third Party Liability Unit
P.O. Box 1437, Slot S260
Little Rock, AR 72203

Re: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted] a minor Children v. Arkansas Department of Human Services
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Brent:

Please find enclosed the claimant's Second Supplemental Responses to Respondent's First Set of Interrogatories and Requests for Production of Documents in the above-referenced case.

Please call me at (501) 823-3610 with any questions or suggestions. My e-mail address is *Jim@JimJacksonatty.com.*

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosures

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528
501.823.3610
Fax: 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR — **CLAIMANT**

v. — **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S SECOND SUPPLEMENTAL RESPONSES TO RESPONDENT'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION

Comes the claimant, Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and Haley Hudson, as permanent legal guardian of [redacted] a minor, by and through her attorney, Jim R. Jackson, and for her Second Supplemental Responses to Respondent's First Set of Interrogatories and Requests for Production of Documents, states:

INTERROGATORY NO. 11: Please provide the name, address, email address, and telephone number of each expert who may be called as a witness, and for each such expert provide:

1. The subject matter concerning which the witness is expected to testify;
2. The material reviewed by each expert;
3. The facts known to the expert which relate to or form the basis of the mental impressions and opinions held by the expert;
4. The dates of all reports rendered by such experts, and the names and addresses of the persons having custody of same; and

5. The facts, opinions, and a summary of the findings upon which the expert witnesses concludes or generates.

RESPONSE TO INTERROGATORY NO 11: The claimant will call one of the medical doctors who provided palliative care at Mercy Hospital in Fort Smith to Ms. Ashcraft before she was pronounced dead. This witness will be deposed. A copy of Ms. Ashcraft's medical records from Mercy Hospital in Fort Smith, containing the names and contact information for these providers are contained therein, is attached in the following hyperlink. *Ashcraft Mercy Records Bates Stamped.pdf*

These records contain the EMS records and Mercy Booneville Medical Records.

The claimant will call Ralph Scott, Ph.D., [redacted] to testify on economic loss and loss of life. A copy of Dr. Scott's report is contained in a hyperlink which contains the facts, opinions, and a summary of his findings. Also attached is information regarding loss of life which will be presented to the Claims Commissioners with Dr. Scott's testimony. Also attached is a copy of his billing record. Below is a summary of the economic damages: *Ashcraft Response to Discovery.pdf*

LOSS OF EARNING CAPACITY

i. Past potential lifetime earnings: $40,494.47

ii. Future potential income earnings: $103,465.39 to $285,597.80

iii. Past potential Fringe benefits: $43,187

Total for projected income and & fringe benefits range: $187,147.82 to $423,919.95.

COST OF RAISING [redacted]

iv. Present Value Cost $161,866.43

v. Tuition of four-year college $113,300

COST OF RAISING [redacted]

vi. Present Value Cost $28,971.49

vii. Tuition of four-year college $113,300

LOSS OF LIFE CLAIM FOR ESTATE OF JACQUELINE ASHCRAFT, DEC.

viii. Annual Value of $278,711 x 33.6 years =$9,364,689.60

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 11:

Stanley B. Cain, [redacted] Email: [redacted]

1. Mr. Cain is a certified accident reconstructionist who will testify on the subject of liability and causation.
2. Please see the seven items listed in "Items Received" which is contained on page one of Mr. Cain's Investigative Report.
3. The facts known to Mr. Cain are contained in the attached Investigative Report with calculations and photographs.
4. June 23, 2023.
5. The facts, opinions, and a summary of the findings are contained in the investigative report which is attached.

Garrett Andrews, Ph.D., Arkansas Neuroscience Institute and Research Center Building, 6020 Warden Road, Suite 210, Sherwood, AR 72120; phone: (501) 537-1388.

1. Dr. Andrews will testify about the nature and extent of [redacted] Traumatic Brain Injury.
2. Medical records o[redacted]
3. Please see attached a copy of Dr. Andrews' report which contains his opinions.
4. Please see the above response.
5. Please see the above response.

REQUEST FOR PRODUCTION NO. 11: Please produce the following materials with respect to each expert witness Claimant may call at the trial of this case:

1. A copy of the witness's most recent curriculum vitae;

2. A copy of all pertinent sections or excerpts of books, texts, treatises, articles, statutes, rules, regulations, guidelines, or any material which has been or may be referred to or relied upon by any expert witness in forming or explaining his or her opinions in connection with this case, together with citations to specific passages or sections relied upon (a list of the items above with specific citations to the relied-upon material will suffice as an alternative);

3. A copy of any computer programs, spreadsheets, analytical programs, statistical programs of any other computer-based tool utilized by any expert witness in any manner with regard to his/her opinions in this case (a list of the items above with specific citations to the relied-upon material will suffice as an alternative);

4. Copies of each spreadsheet, program, algorithm, statistical model, macro program, or other computer-based files created by or at the direction of any expert witness which has been utilized in any manner regarding his or her opinions in this case;

5. Copies of reports, correspondence, notes, documents, writings, diagrams, charts, records, photographs, video or audio recordings of any type, computer files, emails or tangible items of any kind that have been supplied to any expert witness by Claimant, attorneys for Claimant, and/or any representative of the Claimant or Claimant's attorney.

6. Copies of reports, correspondence, notes, documents, writings, diagrams, charts, records, photographs, video, or audio recordings of any type, computer files, emails, or tangible items of any kind that any expert witness has provided to the Claimant, attorneys for Claimant, and/or any representative of Claimant's attorney;

7. Copies of reports, correspondence, notes, documents, writings, diagrams, charts, records, photographs, video or audio recordings of any type, computer files, emails, or tangible items of any kind made or prepared by any expert witness in connection with this case regardless of whether such materials were provided to any other person; and

8. All billing records, bills, invoices, and fee schedule an expert witness has prepared or provided in connection with this case.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11: The claimant will provide this information as it becomes available.

SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

The report and supporting documentation from Dr. Ralph Scott has been previously provided in the claimant's original Response to Request for Production of Documents Nos. 9, 10, and 12.

Stanley B. Cain:

1. Please find attached a copy of Stanley Cain's C.V.
2. This information will be provided as discovery proceeds.
3. Attached to Mr. Cain's Investigative Report are 10 pages of analytical data produced by Mr. Cain's computer program.
4. Please see the attached Investigative Report prepared by Mr. Cain.
5. Please see the attached Investigative Report prepared by Mr. Cain with reference to "Items Received."
6. Please see the attached Investigative Report prepared by Mr. Cain.
7. Please see the attached Investigative Report prepared by Mr. Cain.
8. Please see the attached cover letter and copy of a retainer check.

Garrett Andrews, Ph.D.:

1. Please find attached a copy of Dr. Andrews' C.V.

2. This information will be provided as discovery proceeds.

3. Please see Dr. Andrews' report.

4. Not applicable.

5. Please find attached a cover letter and emails to Dr. Andrews.

6. Please find attached a copy of emails from Dr. Andrews and his report.

7. Please see attached a copy of Dr. Andrews' report.

8. Please see attached a copy of the retainer agreement and fee schedule from Dr. Andrews.

Respectfully Submitted,

Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
Phone: 501-823-3610
Fax: 501-823-3611
Jim@JimJacksonatty.com

BY: Jim R Jackson
Jim R. Jackson
Arkansas Bar No. 93209

CERTIFICATE OF SERVICE

I, Jim R. Jackson, hereby certify that I have mailed a copy of the foregoing to the respondent's attorney, Brent P. Gasper, by first class mail on June 29, 2023:

Mr. Brent Gasper
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

Jim Jackson
Jim R. Jackson

From: Martha Cox
To: ASCC Pleadings; Kathryn Irby
Cc: Brent Gasper; Daiquiri Carter; Jim Jackson
Subject: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incident
Date: Wednesday, July 12, 2023 1:54:12 PM
Attachments: Claimant"s Sur-Response to Respondent Motion to Strike.pdf
Letter to Kathryn Irby transmitting Claimant"s Sur-Response to Respondent"s Motion to Strike 7-12-2023.pdf

---

Please see the attached transmittal letter from Attorney Jim Jackson to Ms. Kathryn Irby and the Claimant's Sur-Response to the respondent's Motion to Strike for filing in the above-referenced case.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

JACKSON
LAW FIRM

July 12, 2023

VIA Email and US Mail

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue; Suite 410
Little Rock, AR 72201

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of* [redacted] *minor children vs. The Arkansas Department of Human Services*
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Kathryn:

Please find enclosed the Claimant's Sur-Response to Respondent's Motion to Strike Claimant's Motion for Partial Summary Judgment in the above referenced matter.

Thank you for your attention to this matter.

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosure
cc:w/enc. Brent Gasper, Esq. (via Email)

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528
501.823.3610
Fax: 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] a minor — CLAIMANT

v. CC No. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES — RESPONDENT

CLAIMANT'S SUR-RESPONSE TO RESPONDENT'S MOTION TO STRIKE CLAIMANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT

Comes now the claimant, and for her Sur-Response to the Respondent's Motion to Strike Claimant's Motion for Summary Judgment, states:

1. Rule 56 governs the claimant's Motion for Partial Summary Judgment on the Issue of Liability. Rule 56 does not provide for a motion to strike. Rule 56 specifically requires an adverse party to respond with proof that a genuine issue of material fact exists in response to a motion for summary judgment on any issue.

2. The respondent argues that the appellate courts of Arkansas permit a Motion to Strike a Motion for Summary Judgment. The first two cases cited by the respondent, *Trujillo* and *Anderson-Tulley*, mention in passing that a party filed a Motion to Strike as part of the underlying record. Neither appellate decision stands for the proposition that the party was correct in filing a Motion to Strike a Motion for Summary Judgment. The remaining five cases cited by the respondent, *Allen*[1], *Orr*[2], *Rodgers*[3], *Pippenger*[4], and *Milner*[5], do not contain

[1] Motion to Strike a Motion for Sanctions and Amendment to an Answer.
[2] Motion to Strike a Motion to Dismiss.
[3] Motion to Strike at trial a "corporate entity" defense.
[4] Motion to Strike a Petition to Establish Grandparent Visitation.
[5] Motion to Strike during trial when counsel referenced insurance in testimony.

any reference to a Motion to Strike a Motion for Summary Judgment. These five cases relied upon by the respondent contain no language or analysis pertaining to a Motion to Strike a Rule 56 Motion for Summary Judgment. The claimant is at a loss as to why the respondent cited these five cases.

3. Setting aside the procedural issue, the respondent's contention that the claimant's retention of an accident reconstructionist means that the claimant admits that there is a genuine question on the issue of liability is just flat wrong. Parties routinely retain expert witnesses in litigation. Stanley Cain, the accident reconstructionist in this case, has the scientific knowledge to calculate the speed of the vehicles at the point of impact, explain the significance of skid marks, the direction of travel of the vehicles post impact, and the significance of the crush intrusion of the property damage. If anything, the Claimant's engagement of an accident reconstructionist places an even greater burden *on the Respondent* to meet "proof-with-proof" to show that a genuine issue of material fact exists on the issue of liability.

4. The claimant's accident reconstruction expert's Results and Conclusions are:

> **The investigation has clearly concluded that Ms. Wilkerson was extremely negligent when she collided into the rear of Ms. Ashcraft. Furthermore, my investigation has concluded that Ms. Wilkerson was exceeding the posted speed limit for the highway.**
>
> **There were no line-of-sight issues present at the scene and there were no adverse weather conditions present when the collision occurred. If Ms. Wilkerson had been keeping a proper lookout for traffic or hazards ahead, she could have easily observed that Ms. Ashcraft was slowing or stopped, and she could have avoided or greatly reduced the severity of the collision.**
>
> **I did not discover any contributing actions to the collisions by Mr. Bobby Wilson.**

The expert's conclusions are the same as Trooper Ray and DHS Program Administrator Kristen Shelton – the respondent's driver was responsible for causing this rearend collision.

The respondent's burden is to meet "proof with proof" in its response to a Rule 56 Motion for Partial Summary Judgment.

5. The claimant is prepared to present the issue of liability on November 8, 2023 which will allow the Commission to focus on the issue of damages in the spring.

CONCLUSION

WHEREFORE, the claimant requests that the respondent's Motion to Strike be denied and that this matter be fully briefed and heard according to the scheduling order issued.

Respectfully Submitted,

Jim R. Jackson, AR Bar #93209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
Phone: 501-823-3610
Fax: 501-823-3611
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I, Jim R. Jackson, hereby certify that I have electronically filed this pleading with the Clerk of the Arkansas Claims Commission and served the Respondent's attorney, Brent P. Gasper, via email, with this pleading on July 12, 2023.

Jim R. Jackson

Arkansas
State Claims Commission
JUL 14 2023
RECEIVED

JACKSON
LAW FIRM

July 12, 2023

VIA Email and US Mail

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue; Suite 410
Little Rock, AR 72201

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of* [redacted] *minor children vs. The Arkansas Department of Human Services*
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Kathryn:

Please find enclosed the Claimant's Sur-Response to Respondent's Motion to Strike Claimant's Motion for Partial Summary Judgment in the above referenced matter.

Thank you for your attention to this matter.

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosure
cc:w/enc. Brent Gasper, Esq. (via Email)

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528
501.823.3610
Fax: 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] a minor

CLAIMANT

Arkansas State Claims Commission
JUL 14 2023
RECEIVED

v. CC No. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES

RESPONDENT

CLAIMANT'S SUR-RESPONSE TO RESPONDENT'S MOTION TO STRIKE CLAIMANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT

Comes now the claimant, and for her Sur-Response to the Respondent's Motion to Strike Claimant's Motion for Summary Judgment, states:

1. Rule 56 governs the claimant's Motion for Partial Summary Judgment on the Issue of Liability. Rule 56 does not provide for a motion to strike. Rule 56 specifically requires an adverse party to respond with proof that a genuine issue of material fact exists in response to a motion for summary judgment on any issue.

2. The respondent argues that the appellate courts of Arkansas permit a Motion to Strike a Motion for Summary Judgment. The first two cases cited by the respondent, *Trujillo* and *Anderson-Tulley*, mention in passing that a party filed a Motion to Strike as part of the underlying record. Neither appellate decision stands for the proposition that the party was correct in filing a Motion to Strike a Motion for Summary Judgment. The remaining five cases cited by the respondent, *Allen*[1], *Orr*[2], *Rodgers*[3], *Pippenger*[4], and *Milner*[5], do not contain

[1] Motion to Strike a Motion for Sanctions and Amendment to an Answer.
[2] Motion to Strike a Motion to Dismiss.
[3] Motion to Strike at trial a "corporate entity" defense.
[4] Motion to Strike a Petition to Establish Grandparent Visitation.
[5] Motion to Strike during trial when counsel referenced insurance in testimony.

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3. Setting aside the procedural issue, the respondent's contention that the claimant's retention of an accident reconstructionist means that the claimant admits that there is a genuine question on the issue of liability is just flat wrong. Parties routinely retain expert witnesses in litigation. Stanley Cain, the accident reconstructionist in this case, has the scientific knowledge to calculate the speed of the vehicles at the point of impact, explain the significance of skid marks, the direction of travel of the vehicles post impact, and the significance of the crush intrusion of the property damage. If anything, the Claimant's engagement of an accident reconstructionist places an even greater burden *on the Respondent* to meet "proof-with-proof" to show that a genuine issue of material fact exists on the issue of liability.

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> **There were no line-of-sight issues present at the scene and there were no adverse weather conditions present when the collision occurred. If Ms. Wilkerson had been keeping a proper lookout for traffic or hazards ahead, she could have easily observed that Ms. Ashcraft was slowing or stopped, and she could have avoided or greatly reduced the severity of the collision.**
>
> **I did not discover any contributing actions to the collisions by Mr. Bobby Wilson.**

The expert's conclusions are the same as Trooper Ray and DHS Program Administrator Kristen Shelton – the respondent's driver was responsible for causing this rearend collision.

The respondent's burden is to meet "proof with proof" in its response to a Rule 56 Motion for Partial Summary Judgment.

5. The claimant is prepared to present the issue of liability on November 8, 2023 which will allow the Commission to focus on the issue of damages in the spring.

CONCLUSION

WHEREFORE, the claimant requests that the respondent's Motion to Strike be denied and that this matter be fully briefed and heard according to the scheduling order issued.

Respectfully Submitted,

Jim R. Jackson, AR Bar #93209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
Phone: 501-823-3610
Fax: 501-823-3611
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I, Jim R. Jackson, hereby certify that I have electronically filed this pleading with the Clerk of the Arkansas Claims Commission and served the Respondent's attorney, Brent P. Gasper, via email, with this pleading on July 12, 2023.

Jim R. Jackson

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD **CLAIMANT**

V. **CLAIM NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

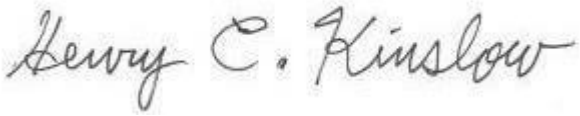
ORDER

Now before the Arkansas State Claims Commission (the "Commission") is a motion filed by Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased and Haley Hudson, Permanent Legal Guardian of [redacted], a Minor Child (collectively referred to as the "Claimant") to nonsuit any individual claim by Ms. Hudson for bodily injury in Claimant's claim against the Arkansas Department of Human Services (the "Respondent"). Pursuant to Ark. R. Civ. Proc. 41, the Commission hereby grants Claimant's request and dismisses any individual claim for bodily injury by Ms. Hudson. The Commission further corrects the style of the claim to read, as stated by Claimant: *Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased and Haley Hudson, Permanent Legal Guardian of [redacted], a Minor Child v. Arkansas Department of Human Services,* Claim No. 230641.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Courtney Baird



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow, Chair



ARKANSAS STATE CLAIMS COMMISSION
Sylvester Smith

DATE: July 21, 2023

Notice(s) which may apply to your claim

(1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).

(2) If a Claimant is awarded less than $15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.

(3) Awards or negotiated settlement agreements of $15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

From:	Misty Scott on behalf of ASCC Pleadings
To:	Jim@JimJacksonatty.com; Brent Gasper
Cc:	Martha Cox; Daiquiri Carter; ASCC Pleadings; OCC Claims Commission Cases; Kathryn Irby
Subject:	ORDER: Haley, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], minor children v. DHS, Claim No. 230641
Date:	Wednesday, July 26, 2023 8:54:00 AM
Attachments:	Haley Hudson-order.pdf

Mr. Jackson and Mr. Gasper:

Please see attached order entered by the Claims Commission. Contact Kathryn Irby with any questions.

Thank you,

Misty

Misty Scott
Arkansas State Claims Commission

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD **CLAIMANT**

V. **CLAIM NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

ORDER

Now before the Arkansas State Claims Commission (the "Commission") is a motion filed by the Arkansas Department of Human Services (the "Respondent") labeled as "Respondent's motion to strike Claimants' motion for [partial] summary judgment or, alternatively, Respondent's motion for an enlarge[ment] of time to respond to Claimants' motion for [partial] summary judgment and motion to expedite a decision on the motions herein." These motions relate to the claim filed by Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased and Haley Hudson, Permanent Legal Guardian of [redacted], a Minor Child (collectively referred to as the "Claimant") against Respondent.

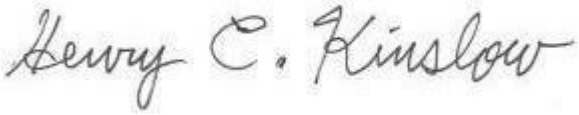
The Commission scheduled a special hearing on Respondent's motion for June 29, 2023. However, prior to the hearing, the parties agreed that the hearing on Claimant's motion for partial summary judgment could be moved to the Commission's November 8, 2023, docket, thereby eliminating the need for the special hearing. As such, the special hearing was not held. The parties also agreed that Respondent's response to the motion for partial summary judgment will be due on or before October 6, 2023, with Claimant's reply brief due on or before October 13, 2023.

The Commission finds that Respondent's motion for enlargement of time and motion to expedite are mooted by the rescheduling of the hearing on Claimant's motion for partial summary judgment and the adjusted deadlines for Respondent's response and Claimant's reply. The Commission declines to rule on Respondent's motion to strike at this time.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Courtney Baird



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow, Chair



ARKANSAS STATE CLAIMS COMMISSION
Sylvester Smith

DATE: July 21, 2023

Notice(s) which may apply to your claim

(1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).

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(3) Awards or negotiated settlement agreements of $15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

From:	Misty Scott on behalf of ASCC Pleadings
To:	Jim Jackson; Brent Gasper
Cc:	Martha Cox; Daiquiri Carter; ASCC Pleadings; Kathryn Irby; OCC Claims Commission Cases
Subject:	ORDER: Haley, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and Haley Hudson, Permanent Legal Guardian of [redacted] a Minor Child v. DHS, Claim No. 230641
Date:	Wednesday, July 26, 2023 9:16:00 AM
Attachments:	Haley Hudson-order2.pdf

Mr. Jackson and Mr. Gasper:

Please see attached order entered by the Claims Commission. Contact Kathryn Irby with any questions.

Thank you,

Misty

Misty Scott
Arkansas State Claims Commission

From: Brent Gasper
To: Kathryn Irby; Jim Jackson
Subject: Hudson v. DHS
Date: Wednesday, July 26, 2023 10:18:14 AM

Kathryn, in light of the Commission's order nonsuiting Haley Hudson, individually, and [redacted] as plaintiffs in this case I'll withdraw my motion to dismiss those two persons as claimants.

Thanks!

Brent

Cc: Jim Jackson

Brent P. Gasper

Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

This email may contain sensitive or confidential information.

CONFIDENTIALITY NOTICE: The information contained in this email message and any attachment are the property of the State of Arkansas and may be protected by state and federal laws governing disclosure of private information. It is intended solely for the use of the entity to whom this email is addressed. If you are not the intended recipient, you are hereby notified that reading, copying, or distributing this transmission is STRICTLY PROHIBITED.

The sender has not waived any applicable privilege by sending the accompanying transmission. If you have received this transmission in error, please notify the sender by return email and delete the message and attachment(s) from your system.

From: Martha Cox
To: Brent Gasper; ASCC Pleadings; Kathryn Irby
Cc: Daiquiri Carter; Jim Jackson
Subject: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, dec"d and Permanent Guardian of [redacted], a minor child v. AR Dept of Human Services; Arkansas State Claims Commission #230641
Date: Tuesday, August 1, 2023 11:26:49 AM
Attachments: Letter to Brent Gasper with authorizations 8-1-2023.pdf

---

Please see the attached letter (with enclosures) from Attorney Jim Jackson with regard to the above-referenced case.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

JACKSON
LAW FIRM

August 1, 2023

VIA E-MAIL ONLY

Mr. Brent Gasper
Arkansas Department of Human Services
Third Party Liability Unit
P.O. Box 1437, Slot W-296
Little Rock, AR 72203-1437

Re: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted] a minor child v. Arkansas Department of Human Services
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Brent:

As a supplement to the plaintiff's Answers to Interrogatories and Requests for Production of Documents propounded to her as the Special Administratrix of the Estate of Jacqueline Ashcraft and as Permanent Guardian of [redacted] a minor child, in the above-referenced case, please find enclosed the following executed authorizations:

1. IRS Form 56, Notice Concerning Fiduciary Relationship
2. IRS Form 8821, Tax Information Authorization
3. Form AR4506, Request for Copies of Arkansas Tax Returns and W-2s
6. [redacted] School Records Release Authorization
7. [redacted] Child Support Records Release Authorization

Sincerely,

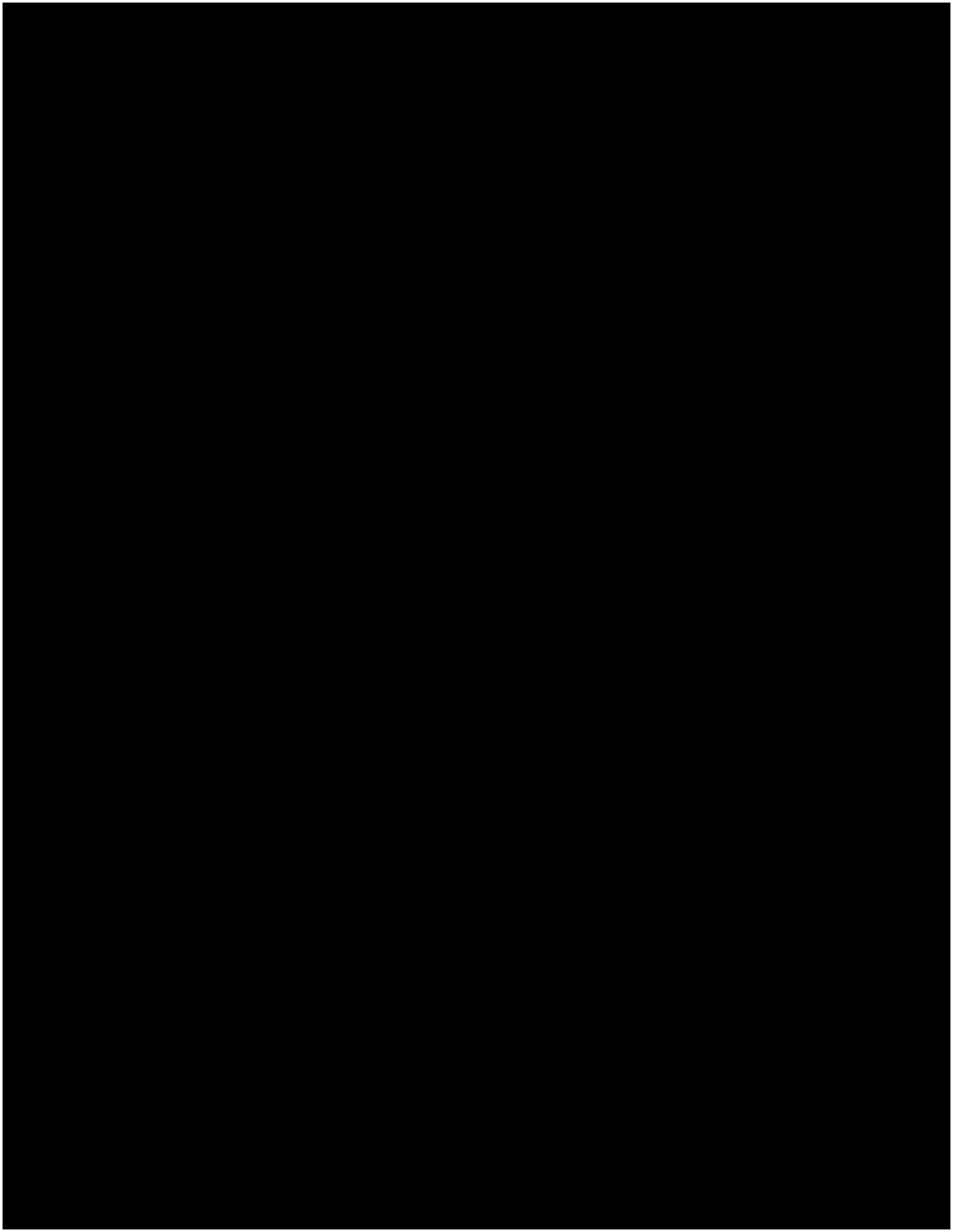
Jim R. Jackson

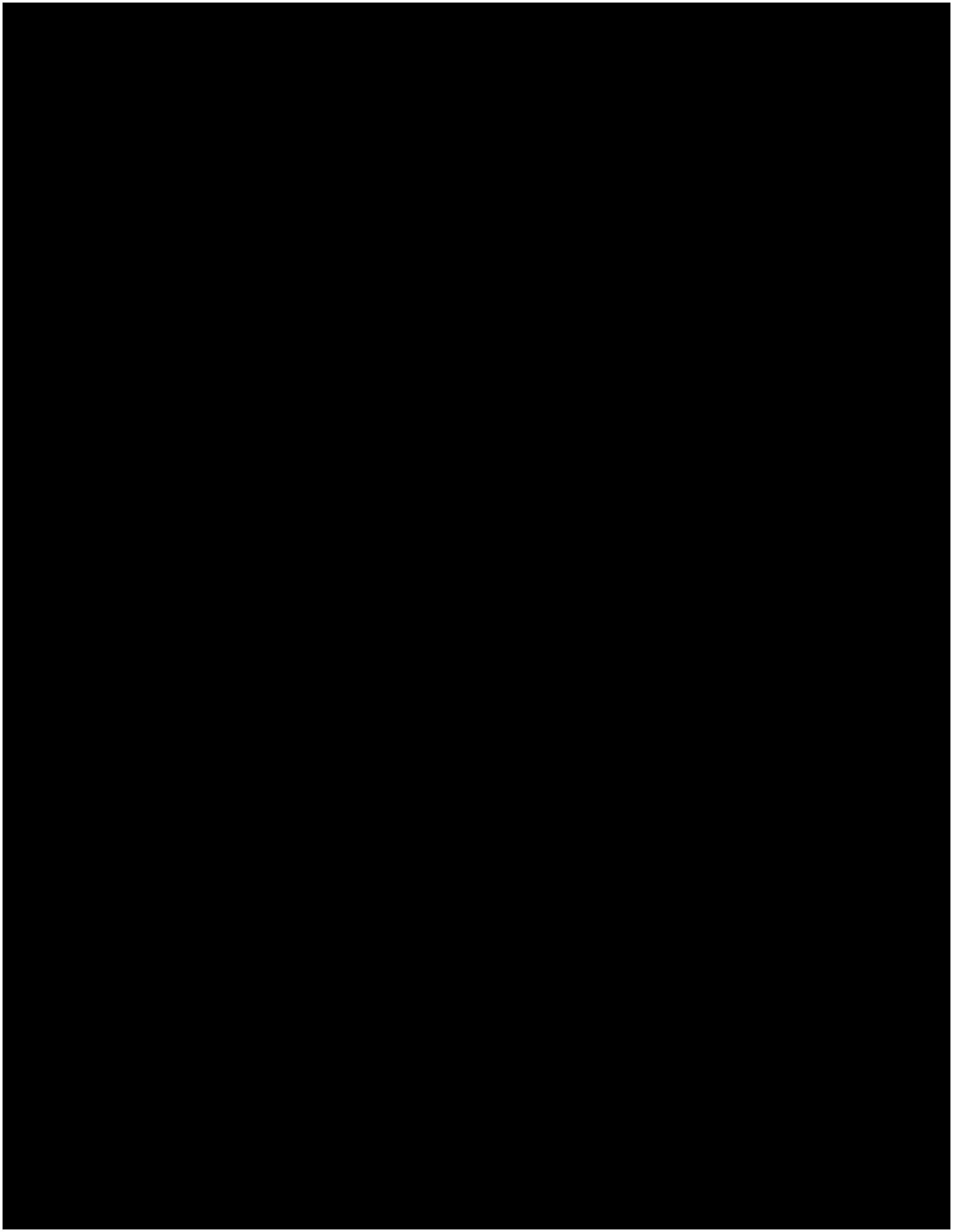
JRJ/mc
Enclosures

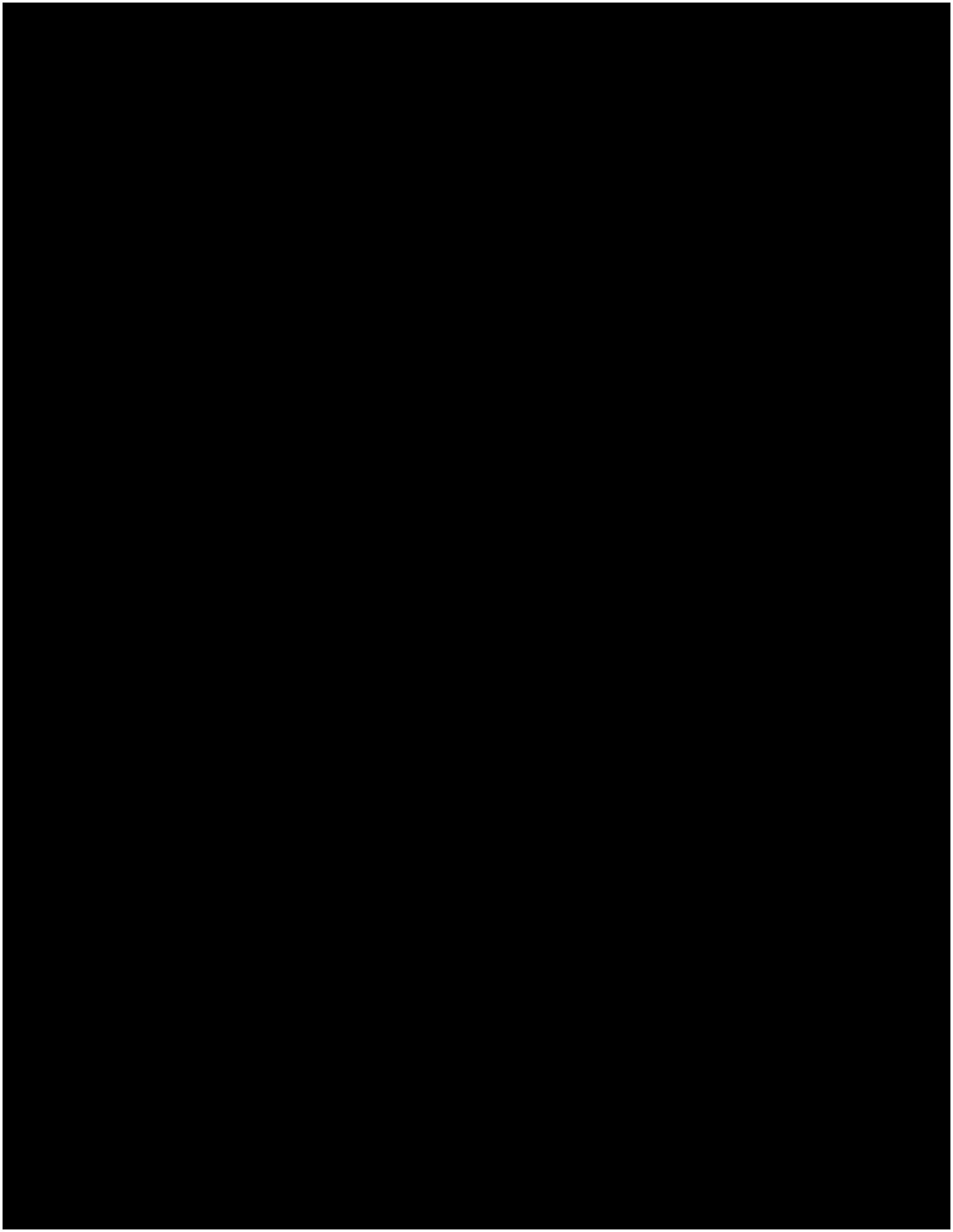
cc/enc. Ms. Kathryn Irby
Arkansas Claims Commission

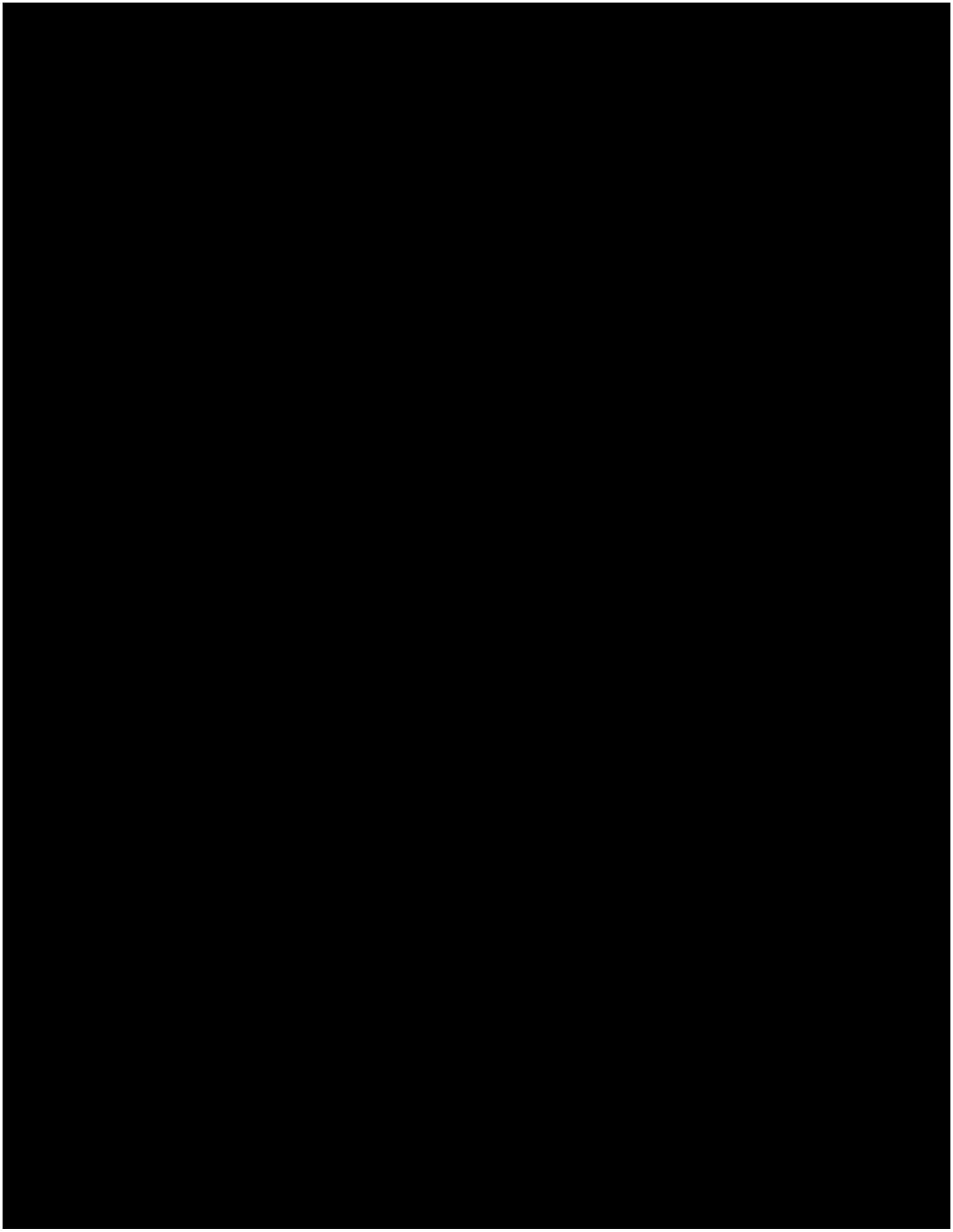
JIM JACKSON / Attorney at Law

700 W. Broadway Street; Suite 2
North Little Rock, AR 72114-5528 • 501.823.3610 • F 501.823.3611 • Jim@JimJacksonAtty.com • www.JimJacksonAtty.com









IN THE CIRCUIT COURT OF LOGAN COUNTY, ARKANSAS
PROBATE DIVISION
III

IN THE MATTER OF THE ESTATE OF
JACQUELINE LYNN ASHCRAFT, DECEASED **NO. 42PR-2021-63**

ORDER APPOINTING SPECIAL ADMINISTRATRIX AND APPROVING THE EMPLOYMENT OF ATTORNEYS TO PURSUE A WRONGFUL DEATH CLAIM

Now on this 28 day of July, 2021 comes on for consideration by the Court the Petition of Haley Nicole Hudson for appointment as special administratrix of the estate of Jacqueline Lynn Ashcraft, deceased, pursuant to ACA § 28-48-103, and praying that the firm of Easley & Houseal, PLLC be approved as attorneys to pursue a wrongful death action against such tortfeasor(s) as may be liable for the death of the decedent, and from said Petition, the representations of counsel, examination of the attorneys fee agreement entered into between petitioner and said attorneys, the record herein, and other things before the Court, the Court finds:

1. That special administration is hereby opened herein for the purpose of pursuing a wrongful death action on behalf of the deceased's estate;

2. That Haley Nicole Hudson is a proper person, should be, and is hereby appointed special administratrix, and authorized to pursue a wrongful death action;

FILED FOR RECORD
AUG 06 2021
PEGGY FITZJURLS
County and Probate Clerk
Logan County, AR

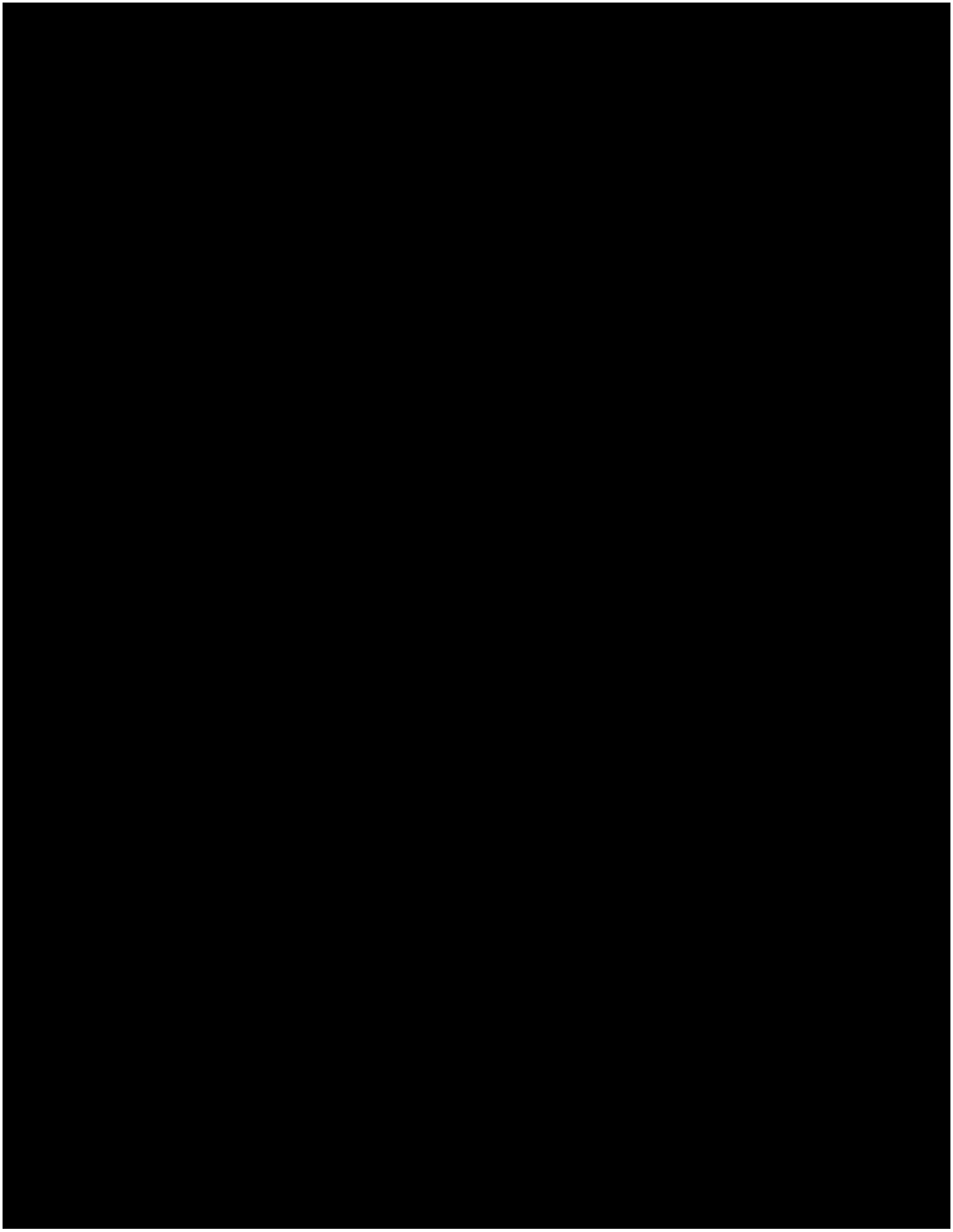
BOOK X-67 PAGE 847

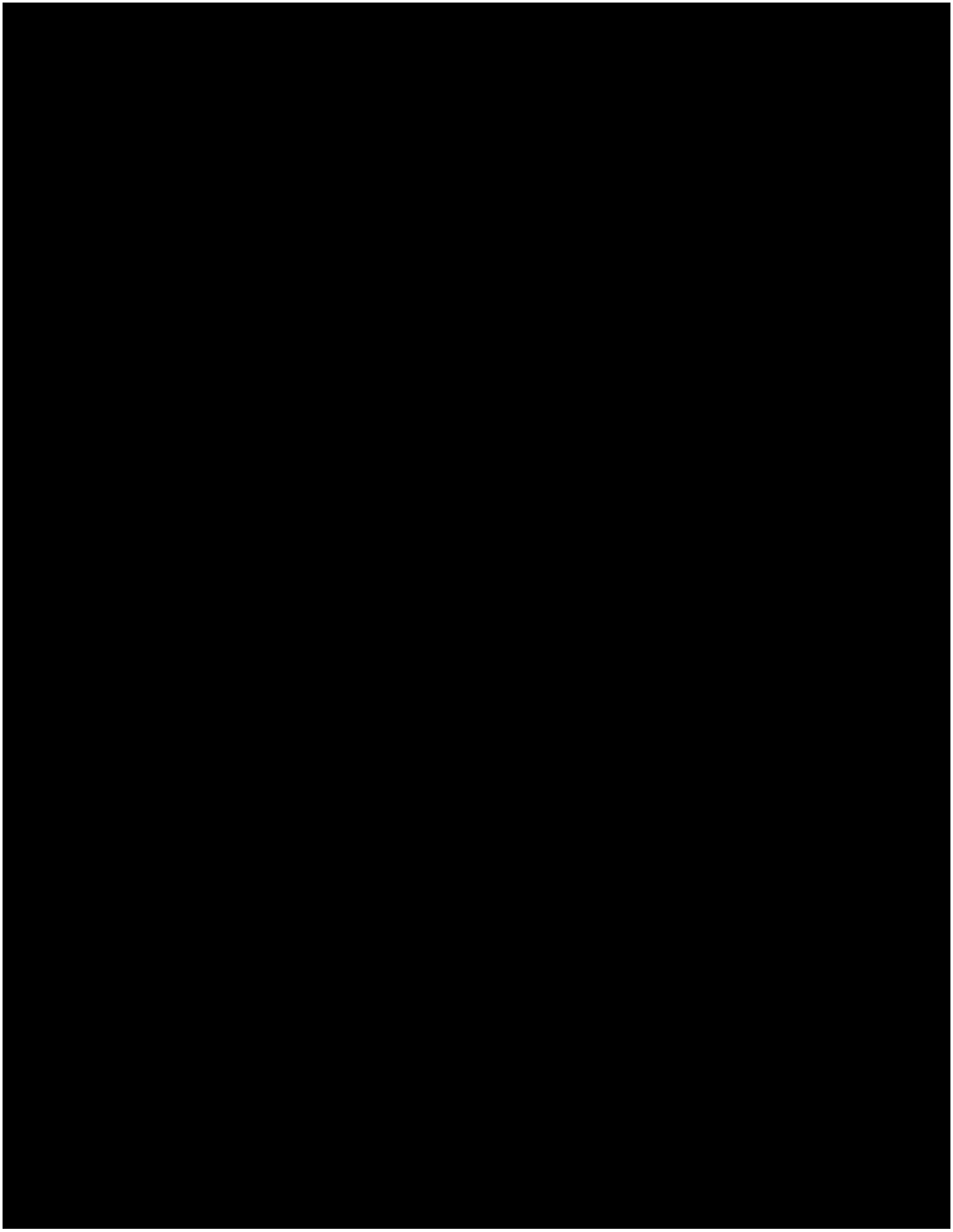
3. That petitioner has signed an attorneys fee agreement with the firm of Easley & Houseal, PLLC. The Court has examined said attorneys fee agreement, and finds same to be reasonable, and in the best interests of the estate. The Court hereby ratifies and confirms same, thereby recognizing said firm as the attorneys of record for the estate, to pursue all wrongful death claims, for all beneficiaries under the Arkansas Wrongful Death Act (ACA§ 16-62-102).

IT IS SO ORDERED.

TERRY M. SULLIVAN, CIRCUIT JUDGE

BOOK X-67 PAGE 848





FILED - MELANIE WINKLER
COUNTY & PROBATE CLERK

JUL 20 2021

CROSS COUNTY ARKANSAS
BY Mary Beth Eaker D.C.

IN THE CIRCUIT COURT OF CROSS COUNTY, ARKANSAS
PROBATE DIVISION

IN THE MATTER OF THE GUARDIANSHIP
OF THE PERSON AND ESTATE OF
[redacted]

19PR-2021-57-3

ORDER FOR PERMANENT GUARDIANSHIP

NOW on this ____ day July 20 2021, 2021, is presented to the Court the Emergency Petition of Haley Nicole Hudson of Cross County, Arkansas, for her appointment as Permanent Guardian of the person and estate of [redacted]. Upon consideration of such Petition, the evidence in support thereof, arguments of counsel, and the facts, the Court finds:

1. [redacted] are incompetent by reason of their minority.

2. This court has jurisdiction and venue properly lies in this county.

3. That the Petitioner, Haley Nicole Hudson, appeared in the Cross County Circuit Court today, July 20, 2021 at 9:00 a.m. That the courtroom and hallway of the Cross County Courthouse were sounded three (3) times on July 20, 2021 at 9:00 a.m., and the Respondent, Steven Allen Jones, failed to appear despite being served with notice of the hearing on the 27th day of June , 2021, by Tim McMahon, Process Server.

4. That this court deems the contents of the Verified Emergency Petition for Guardianship filed by the Petitioner, Haley Nicole Hudson, to be admitted and hereby accepts

the affidavits as evidence in support of the grant of a permanent guardianship in this cause.

5. The minor child, [redacted] being fourteen years of age or older has consented to the entry of the permanent guardianship in this cause.

6. That it is in the best interest of the minor children that Haley Nicole Hudson be given full guardianship and control of the minor children for any and all purposed endowed to their natural parents, including but not limited to medical and education needs.

7. That it is hereby ordered that Haley Nicole Hudson is granted permanent guardianship of [redacted]

8. That letters of permanent guardianship shall be issued by the Probate Court Clerk of Cross County, Arkansas.

IT IS THEREFORE, CONSIDERED, ORDERED AND ADJUDGED, that Haley Nicole Hudson, is hereby appointed as permanent guardian of the person and estate of [redacted] that letters of permanent guardianship shall be issued by the Probate Court Clerk of Cross County, Arkansas; no bond is required because the minor children have no assets in their estate.

IT IS SO ORDERED.

CIRCUIT JUDGE

JUL 20 2021

DATE ENTERED

From: Martha Cox
To: Brent Gasper
Cc: Daiquiri Carter; Kathryn Irby; ASCC Pleadings; Jim Jackson
Subject: Haley Hudson, Special Adm"x of the Estate of Jacqueline Lynn Ashcraft, dec"d & Permanent Guardian of [redacted], a Minor Child v. Arkansas Department of Human Services Arkansas; State Claims Commission No. 230641
Date: Monday, August 7, 2023 11:13:00 AM
Attachments: Claimant"s Second Set of Interrogatories & RFP - to Arkansas Dept of Human Services.docx
Claimant"s Second Set of Interrogatories and RFP to Respondent.pdf

---

Mr. Gasper, please find attached the claimant's Second Set of Interrogatories and Requests for Production of Documents to the respondent in the above-referenced case. I am also attaching these discovery requests in Word format for your convenience.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED,AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted]A MINOR CHILD — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S SECOND SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

Comes the claimant, Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Permanent Guardian of [redacted]a minor child, by and through her attorney, Jim Jackson, and propounds the following Second Set of Interrogatories and Requests for Production of Documents to the respondent, Arkansas Department of Human Services:

REQUEST FOR PRODUCTION NO. 1: Please attach prints or photocopies of the photographs of the accident scene taken by Brandy Ezell; or, in the alternative, furnish jpg or pdf files to the undersigned so that prints may be made therefrom.

REQUEST FOR PRODUCTION NO. 2: Please attach prints or photocopies of the photographs of the accident scene taken by Pamela Feemster; or, in the alternative, furnish jpg or pdf files to the undersigned so that prints may be made therefrom.

Respectfully submitted,

BY: _____

Jim R. Jackson, AR Bar #93-209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
(501) 823-3610 phone
(501) 823-3611 facsimile
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Second Set of Interrogatories and Requests for Production of Documents was served on the following counsel of record by either U.S. Mail, postage prepaid, or by electronic service to:

Mr. Brent Gasper
Assistant Deputy Chief Counsel
Arkansas Departrment of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

/s/ Jim R. Jackson .
Jim R. Jackson

Invoice Date: July 31, 2023

Invoice Number: [redacted]

Billing Fax:

Bill To:

Arkansas State Claims Commission
AUG 07 2023
RECEIVED

at&t

Global Legal Demand Center

Make checks payable to:
AT&T
PO BOX 5071
CAROL STREAM, IL 60197-5071

ARKANSAS STATE CLAIMS COMMISSION
KATHRYN IRBY
101 EAST CAPITOL AVE, SUITE 410
LITTLE ROCK, ARKANSAS 72207

REF #

GLDC Invoice

File Code	Case Description	Description of	Units	Rate	Amount
3709425	ASHCRAFT VS. ARKANSAS DEPT OF HUMAN SERVICES 230641	Billed Units	1.0	$25.00	$25.00
3709425	ASHCRAFT VS. ARKANSAS DEPT OF HUMAN SERVICES 230641	Processing Fee	1.0	$45.00	$45.00

Federal Tax ID: 91-1370952

Subtotal:	$70.00
Payments Received:	- $0.00
Total Due:	$70.00

JRM



Arkansas
State Claims Commission
AUG 07 2023
RECEIVED

Invoice Date: July 31, 2023
Invoice Number: [redacted]
File Code:

Tax ID Number - 91-1379052 / 84-1659970
D&B Number - 130598238 SUPO

Due Date	Amount Due	Amount Paid
Upon Receipt	$70.00	$ _____

Make checks payable to:
AT&T
PO BOX 5071
CAROL STREAM, IL 60197-5071

Remitted By: ARKANSAS STATE CLAIMS
KATHRYN IRBY
101 EAST CAPITOL AVE, SUITE 410
LITTLE ROCK, ARKANSAS 72207

If paying by credit card please complete the form below and email to ATTMOBILITY.NCC@ATT.COM or send payments made payable to AT&T to our address listed above with remittance slip.

PLEASE NOTE: Transactions on your credit card statement will appear as "AT&T POS"

_____ _____EXP DATE_____
Credit Card Number — Credit Card Type (Visa, MasterCard, Amex, etc)

_____ _____
Name As It Appears on the Credit Card — Contact Name & Telephone Number

_____ _____
Signature — Date

Only provide the email address if credit card payment receipt is needed:

_____

Confirmation will be sent by:
DoNotReply@billing-notification.com
with subject line of: ATT - Transaction Receipt for (amount of charge)

From:	Brent Gasper
To:	ASCC New Claims; Jim Jackson
Cc:	Caitlin McDaniel
Subject:	RE: Haley Hudson as special administratrix of the Estate of Jacqueline Lynn, Claim No. 230641
Date:	Thursday, August 10, 2023 12:18:25 PM

I believe this belongs to me. Thanks for the heads-up.

Brent

Cc: Jim

From: ASCC New Claims <ASCC.New.Claims@arkansas.gov>
Sent: Thursday, August 10, 2023 9:59 AM
To: Jim Jackson <JIm@JimJacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Subject: Haley Hudson as special administratrix of the Estate of Jacqueline Lynn, Claim No. 230641

Dear Mr. Jackson and Mr. Gasper,

Please see attached. Contact this office with any questions.

Thank you,
Caitlin

Caitlin McDaniel
Administrative Specialist II
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-1619

From:	Daiquiri Carter
To:	ASCC Pleadings; jim@jimjacksonatty.com; mcox@jimjacksonatty.com
Cc:	Brent Gasper; Daiquiri Carter
Subject:	CC #230641
Date:	Thursday, August 10, 2023 2:49:36 PM
Attachments:	Respondent"s Supplemental Response_001.pdf image001.png image002.png

Please find attached Respondent's First Supplemental Response to Claimant's First Set of Interrogatories. I have copied Claimant's attorney on this email.

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov





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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JAQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR CHILD **CLAIMANTS**

v. **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

RESPONDENT'S FIRST SUPPLEMENTAL RESPONSE TO CLAIMANT'S FIRST SET OF INTERROGATORIES

COMES NOW, the Respondent, the State of Arkansas, Department of Human Services, Office of Chief Counsel, by its attorney, Brent P. Gasper, Assistant Deputy Chief Counsel, consistent with its obligation to supplement discovery, with its First Supplemental Response to Claimant's First Set of Interrogatories.

INTERROGATORY NO. 1: Please state the names and complete present or last known addresses and telephone numbers of all persons known to you, your attorneys, or other representatives who have knowledge of the facts relating to the accident as alleged or described in the Complaint (the "accident").

SUPPLEMENTAL ANSWER: Mr. Chris Ihle was a first responder to the accident at issue and had personal contact with the parties to the accident. His phone number is [redacted] Mr. Ihle was identified as a witness for the first time at the deposition of Brandy Ezell on August 1, 2023.

Respectfully submitted,

By: _____

Brent P. Gasper
Assistant Deputy Chief Counsel
Ark. Bar No. 98240

Arkansas Department of Human Services
Office of Chief Counsel
P.O. Box 1437
Little Rock, AR 72203
Phone (501) 320-8950
Brent.Gasper@dhs.arkansas.gov

CERTIFICATE OF SERVICE

I, Brent Gasper, hereby certify that on 10 August, 2023, I electronically filed the foregoing with the Claims Commission and copied Claimants' attorney Jim Jackson via email.

_____

Brent P. Gasper

From: Kathryn Irby
To: Brent Gasper
Cc: Jim Jackson
Subject: RE:
Date: Friday, August 11, 2023 12:51:00 PM

Brent, the Commission entered an order on July 21 setting a briefing schedule for responding to Jim's MPSJ in advance of the November 8 hearing date. Commissioner Morris confirmed today that the Commission will address everything related to summary judgment, including DHS' motion to strike Jim's MPSJ, at that November 8 hearing.

The July 21 order gives DHS the timeline in which it may file a response. As Commissioner Morris stated several times, to the extent that DHS wants the Commission to consider its response to Jim's MPSJ, the briefing schedule sets out the deadline for responding.

Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Friday, August 11, 2023 10:23 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Jim Jackson <jim@jimjacksonatty.com>
Subject:

Kathryn:

Can you please let me know whether I am required to respond to the Motion for Summary Judgment or not. Mr. Morris initially said I did and then at the end of the hearing said I did not.

Please advise.

Thanks,

Brent

Cc: Jim Jackson

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

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From: Brent Gasper
To: Kathryn Irby
Subject: case
Date: Friday, August 11, 2023 1:57:26 PM

Kathryn, can you talk about this over the phone? I think there is significant confusion about what the Commission previously ordered me to do, what it contended it was going to do, and Mr. Morris' direction this morning. I believe it may stem from Mr. Morris not being a signatory on the July 21 order and therefore not fully aware of what the Commission did on that day.

I'm happy to write out an email but frankly it would be easier just me explaining it to you.

As it stands I'm likely going to have to file yet another motion to expedite the hearing of my motion to strike. I think that might annoy the Commissioners even more than I already have but unless we can all get on the same playing field in regards to the order of things I don't think I'll have any choice.

Thanks,

brent

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

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BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD **CLAIMANT**

V. **CLAIM NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

ORDER

Now before the Arkansas State Claims Commission (the "Commission") are two motions filed by the Arkansas Department of Human Services (the "Respondent"), one motion filed by Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased and Haley Hudson, Permanent Legal Guardian of [redacted], a Minor Child (collectively referred to as the "Claimant"), and one scheduling issue related to the upcoming November 2023 motions hearing. Respondent's first motion is seeking to compel Claimant to respond to discovery requests with more specific information about the medical providers seen by Ms. Ashcraft (the "Decedent") prior to her death. Respondent's second motion is seeking to sever the claim of the Decedent's Estate from the claim of [redacted] (the "Minor Child") and to hold the instant claim in abeyance pending resolution of any related possible lawsuit that might be filed by the Minor Child against the Decedent's Estate in circuit court. Claimant filed a motion to withdraw her first and second sets of requests for admission. At the hearing held on August 11, 2023, Claimant was represented by Jim Jackson, with Ms. Hudson also present, and Brent Gasper appeared on behalf of Respondent.

1. Claimant filed the instant claim seeking damages after the Decedent died following a motor vehicle accident with a vehicle owned by Respondent and operated by an employee of Respondent.

Respondent's Motion to Compel

2. Respondent argued that Claimant has not identified any of the Decedent's medical providers. The discovery request at issue in this motion reads as follows:

> Please provides the names, addresses, and phone numbers for all medical professionals, including with limitation physicians, nurses, therapists, counselors, physical therapist, optometrists, osteopaths, or homeopaths, that treated Jacqueline Ashcraft for any reason for the five (5) year period prior to June 11, 2021.
>
> RESPONSE: Haley Hudson does not possess this information.

3. Claimant's counsel responded that Ms. Hudson is the 30 year old daughter of the Decedent. She talked to the Decedent almost daily prior to her death. Ms. Hudson has asked her siblings, but none of them know whether the Decedent saw any medical providers in the five years prior to her death. Ms. Hudson has signed medical authorizations to allow Respondent to get Medicaid information from the State and to get records from any medical provider. Ms. Hudson cleaned out the Decedent's apartment following her death, and Ms. Hudson does not recall seeing any prescription medications or anything related to medical care. Ms. Hudson's siblings were born in Forrest City, but that was more than five years ago.

4. Upon a question from a commissioner, Respondent confirmed that Ms. Hudson had not yet been deposed.

5. Upon a question from a commissioner to Ms. Hudson, Ms. Hudson confirmed that the Decedent lived in Paris, Arkansas, which is in Logan County. Claimant's counsel has sought medical records from the health department in Paris and a medical clinic there, but no such records exist.

6. Upon a question from a commissioner, Claimant's counsel confirmed that he has received some older medical records and that those older medical records can be provided to Respondent.

7. Upon a question from a commissioner, Ms. Hudson confirmed that the Decedent did not have a bank account or credit card and that she paid for everything with cash.

8. Upon a question from a commissioner as to what else Claimant is required to provide to Respondent, Respondent argued that Claimant has a responsibility to give affirmative responses. The chair commissioner noted his disagreement with the argument that Ms. Hudson is required to swear to something that she does not know. Ms. Hudson stated that, the Monday following the Decedent's death, Ms. Hudson received a letter from the State canceling the Decedent's Medicaid coverage due to her death.

9. The Commission finds that Respondent's motion should be denied, although the Commission urges Claimant to provide the older medical records and medical information in its possession to Respondent. The Commission finds that it is unreasonable to require Ms. Hudson to swear to information that she does not know. Should Respondent depose Ms. Hudson and determine that she has knowledge of medical providers not disclosed in discovery, the parties can utilize their remedies provided for in the Arkansas Rules of Civil Procedure, including the supplementation of discovery responses or the filing of an appropriate motion.

Respondent's Motion to Sever and Motion to Hold Claim in Abeyance

10. Respondent argued that it has evidence that the Decedent had controlled substances in her system at the time of her death. Arguing that this goes to the issue of comparative fault, Respondent stated the Minor Child may have a claim against the Decedent's Estate because the Minor Child was a passenger in the Decedent's car at the time of the accident. Respondent asked the Commission to sever the Decedent's Estate's claim from the Minor Child's claim so

that the Minor Child could pursue a lawsuit against the Decedent's Estate in circuit court. Respondent also asked the Commission to hold the instant claim in abeyance while this possible circuit court lawsuit is litigated.

11. Upon a question from a commissioner, Respondent stated that, if a hypothetical lawsuit by the Minor Child against the Decedent's Estate was dismissed pursuant to Arkansas's parental immunity doctrine, Respondent could not require the Minor Child to appeal this dismissal but that Respondent should be able to argue set off if the Minor Child does not utilize her appellate remedies.

12. Claimant argued that the Arkansas Supreme Court has barred minors from suing their parents, and that the parental immunity doctrine is the law of the State of Arkansas. Claimant cited to *Tomey v. S. Farm Bureau Cas. Ins. Co*., 2021 Ark. 62, 619 S.W.3d 25. Claimant also argued that there is no liability insurance on that vehicle that would apply.

13. Respondent responded, arguing that the parental immunity doctrine in *Tomey* applies to involuntary torts, which does not apply in light of the controlled substances in the Decedent's system.

14. Negligence is an involuntary tort. *Fields v. S. Farm Bureau Cas. Ins. Co.*, 350 Ark. 75, 80–86, 87 S.W.3d 224, 226–30 (2002). Respondent seems to be arguing that the parental immunity doctrine would not apply if the Decedent ingested controlled substances prior to operating her vehicle. However, even if this is true, the Decedent's intoxication would be evidence of negligence for the Commission to consider at the claim hearing but would not convert her actions into a voluntary tort. Ark. Model Jury Instr., Civil AMI 607; *Chicago, Rock Island & Pac. Ry. Co. et al. v. Houston*, 209 Ark. 217, 189 S.W.2d 904 (1945).

15. As such, the Commission finds that Respondent's motion should be denied. To the extent that the Commission were to find comparative fault on the part of the Decedent, any award would be reduced depending on the Decedent's percentage of fault.

Claimant's Motion to Withdraw Requests for Admission

16. Claimant filed a motion to withdraw the first and second sets of requests for admission propounded to Respondent. The Commission finds that Claimant's motion should be granted.

November 2023 Hearing Setting

17. At the beginning of the hearing, Respondent inquired whether the Commission would consider its motion to strike Claimant's motion for partial summary judgment. The Commission advised Respondent that everything related to the issue of summary judgment, including Claimant's motion for partial summary judgment and Respondent's motion to strike, would be taken up by the Commission at the November 2023 hearing.

18. Respondent subsequently asked the Commission to reconsider its decision as to the motion to strike, and the chair commissioner stated that no decision had been made on the motion to strike. The chair commissioner also stated that if Respondent wanted the Commission to review Respondent's response to Claimant's motion for partial summary judgment, Respondent should submit its response pursuant to the briefing schedule in the July 21, 2023, order.

19. Following the hearing, Respondent's counsel sent correspondence to the Commission director asking whether he was "required" to respond to the Claimant's motion for partial summary judgment. The Commission director responded, pointing Respondent to the Commission's July 21, 2023, order, as well as the Commission's directions to the parties regarding the scope of the November 2023 hearing.

20. Respondent's counsel then sent additional correspondence stating that he may file a motion for expedited review of Respondent's motion to strike. The Commission notes that Respondent is free to file any motion that it believes is necessary. That said, the Commission reiterates that the scope of the November 2023 hearing includes Claimant's motion for partial summary judgment and Respondent's motion to strike. Respondent previously agreed to the November 2023 hearing date and, in fact, suggested the due date for its response to Claimant's motion for partial summary judgment.[1] In the parties' agreement to remove the previously scheduled June 29, 2023, special hearing, Respondent did not ask that the Commission consider Respondent's motion to strike before Respondent had responded to Claimant's motion for partial summary judgment.[2] Moreover, in the July 21, 2023, order, the Commission declined to rule on Respondent's motion to strike, which was logical in light of Respondent's correspondence stating that Respondent might withdraw the motion to strike after the August 11 hearing.[3]

21. As such, and for the sake of clarity, the Commission notes that, if Respondent would like for the Commission to review its response and (should Respondent file a response) if Claimant would like for the Commission to review its reply brief, those should be filed in

---

[1] In a June 28, 2023, email between Respondent's counsel, Claimant's counsel, and the Commission director, Respondent's counsel wrote, in pertinent part:

> …Again, November 8 works. Can we all agree on October 6 as my response due date? That is a Friday and would even give Jim a little more time to respond if he so chose.

In that same email, Respondent's counsel confirmed that he was not withdrawing his motion to strike (which was filed with other motions):

> …I would also note that I am *not* withdrawing my motion to strike. I may do so at a later date, more possibly after the Commission's decisions stemming from the August 11 hearing (which I believe will clear up a lot of pending issues), but as of right now I wish to keep my motion to strike pending.

[2] *See* fn. 1, infra.

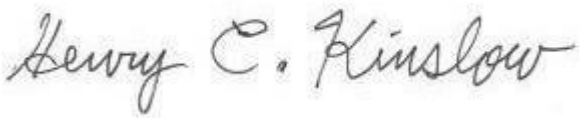
[3] *See* fn. 1, infra.

accordance with the briefing schedule in the July 21, 2023, order. That said, Respondent is not required to file a response, and Claimant is not required to file a reply brief. The Commission will consider all currently pending motions related to the issue of summary judgment, including Claimant's motion for partial summary judgment and Respondent's motion to strike, at the November 2023 hearing.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Courtney Baird



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair

DATE: August 14, 2023

Notice(s) which may apply to your claim

(1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).

(2) If a Claimant is awarded less than $15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.

(3) Awards or negotiated settlement agreements of $15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

From: Kathryn Irby
To: Jim Jackson; Martha Cox; Brent Gasper; Daiquiri Carter
Subject: ORDER: Hudson v. DHS, Claim No. 230641
Date: Monday, August 14, 2023 1:43:00 PM
Attachments: Hudson -- 230641 -- order re motions.pdf

Jim and Brent, please see attached order.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Brent Gasper
To: Kathryn Irby
Subject: RE: case
Date: Monday, August 14, 2023 2:00:17 PM

Thank you Kathryn. I do not believe a phone call is necessary at this point.

I appreciate your assistance with this.

brent

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Monday, August 14, 2023 1:47 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Subject: RE: case

Brent, the order that was just transmitted to the parties should address your questions. I can schedule a telephone call, but Jim will need to be on the call, as well.

Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Friday, August 11, 2023 1:57 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Subject: case

Kathryn, can you talk about this over the phone? I think there is significant confusion about what the Commission previously ordered me to do, what it contended it was going to do, and Mr. Morris' direction this morning. I believe it may stem from Mr. Morris not being a signatory on the July 21 order and therefore not fully aware of what the Commission did on that day.

I'm happy to write out an email but frankly it would be easier just me explaining it to you.

As it stands I'm likely going to have to file yet another motion to expedite the hearing of my motion to strike. I think that might annoy the Commissioners even more than I already have but unless we can all get on the same playing field in regards to the order of things I don't think I'll have any choice.

Thanks,

brent

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street

Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

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From: Martha Cox
To: Brent Gasper; ASCC Pleadings; Kathryn Irby
Cc: Daiquiri Carter; Jim Jackson
Subject: Haley Hudson, Special Adm"x of the Estate of Jacqueline Ashcraft, dec & Permanent Guardian of [redacted] a Minor Child v. Arkansas Department of Human Services; Arkansas State Claims Commission No. 230641
Date: Monday, August 14, 2023 4:02:40 PM
Attachments: Letter to Brent Gasper with Supplemental Response to Discovery for Medical Records.docx
Pharmacy records - Walmart 2010-2013 for Ashcraft.pdf
Claimant"s 4th Supplemental Answers to Respondent"s Interrogatories & RFP.pdf

---

Please see attached the Claimant's Fourth Supplemental Answers to the Respondent's First Set of Interrogatories and Requests for Production of Documents in the above-referenced case.

If you have any difficulty opening the documents or the link contained therein, please let us know.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

JACKSON
LAW FIRM

August 14, 2023

VIA E-MAIL

Mr. Brent Gasper
Arkansas Department of Human Services
Third Party Liability Unit
P.O. Box 1437, Slot W-296
Little Rock, AR 72203-1437

Re: Haley Hudson, Special Adm'x of the Estate of Jacqueline Ashcraft, deceased and Permanent Guardian of [redacted], a Minor Child v. Arkansas Department of Human Services
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Mr. Gasper:

Please find enclosed the claimant's Fourth Supplemental Answers to discovery regarding the medical history of Ms. Ashcraft. Please find enclosed Ms. Aschraft's records from Dr. Simmie Armstrong, Jr. These records are from July 11, 1990, through April 20, 1999. Dr. Armstong's office address is: 1400 West 43rd Avenue, Pine Bluff, AR 71603.

Medical records - Dr Simmie Armstrong - Ashcraft.pdf

Also enclosed are four (4) pages of pharmacy records from Walmart Pharmacy.

Please call me at (501) 823-3610 with any questions or suggestions. My e-mail address is *Jim@JimJacksonatty.com*.

Sincerely,

Jim Jackson

Jim R. Jackson

JRJ/mc
Enclosures

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 2
North Little Rock, AR 72114-5528
501.823.3610
F 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

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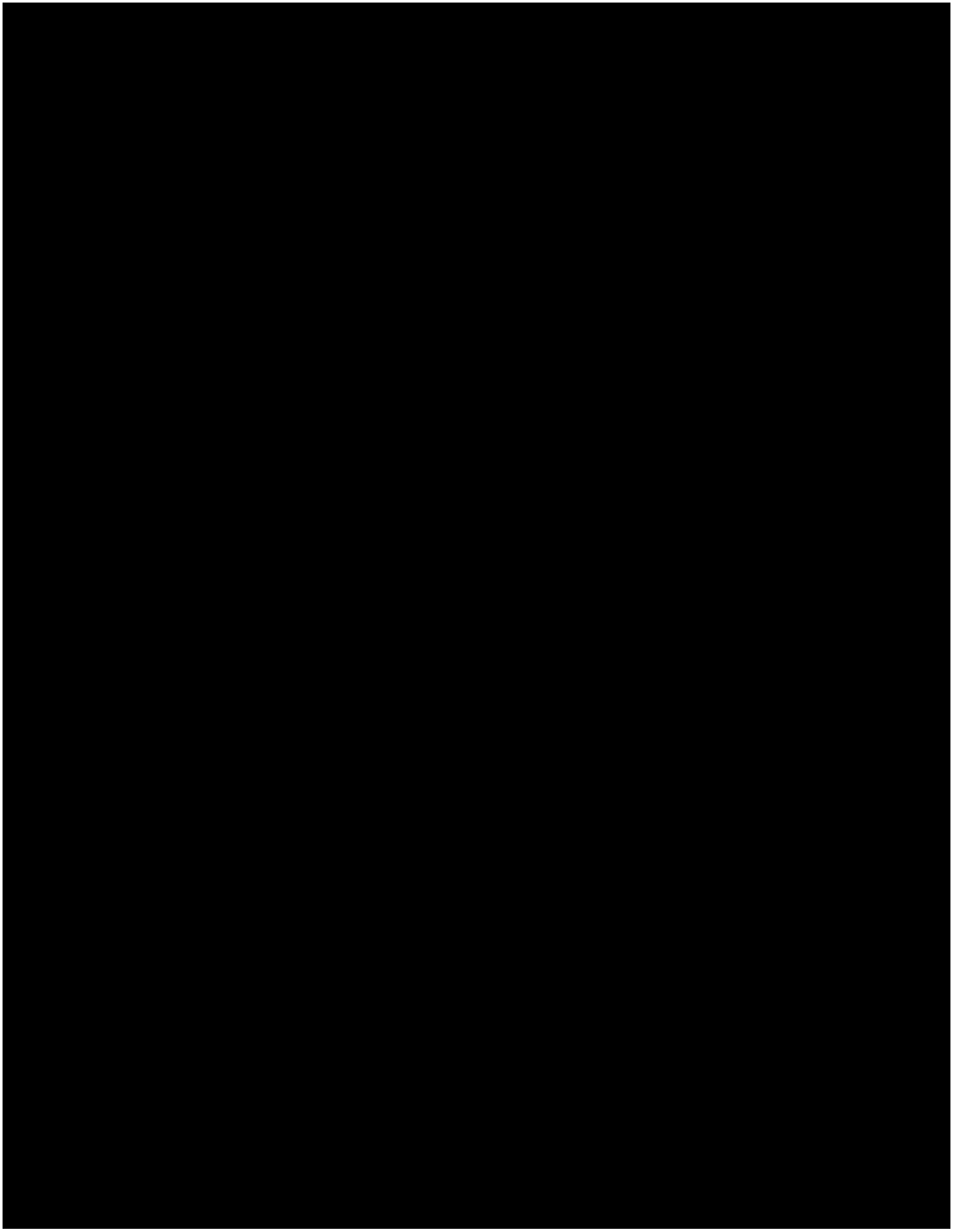
Dear Requestor,

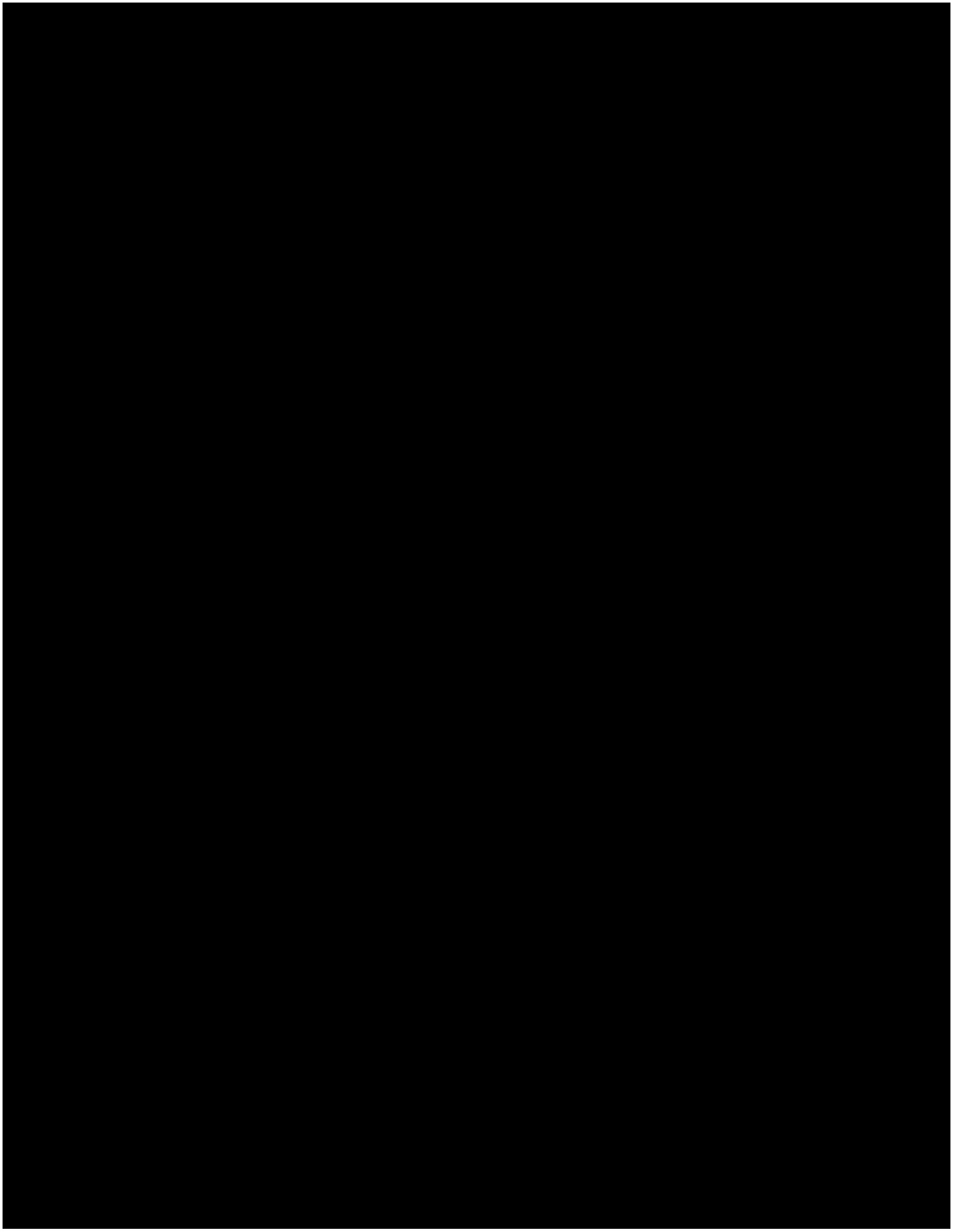
The records produced herewith are accurate, complete, true, and correct copies of all records received or retrieved to the best of our knowledge by Legal pursuant to your request. Walmart Inc. is the custodian of record, that the records were kept in the regular course of business and that this is a regularly conducted business activity, that these records were made at or near the time the acts, events, conditions, opinions, or diagnoses occurred or within a reasonable time thereafter, that the charges were reasonable for similar services, necessary as payment for a prescription filled by our Walmart Health pursuant to a doctor's orders and finally that these records were made by, or from information transmitted by, a person with knowledge of the acts, events, conditions, opinions or diagnoses stated therein.

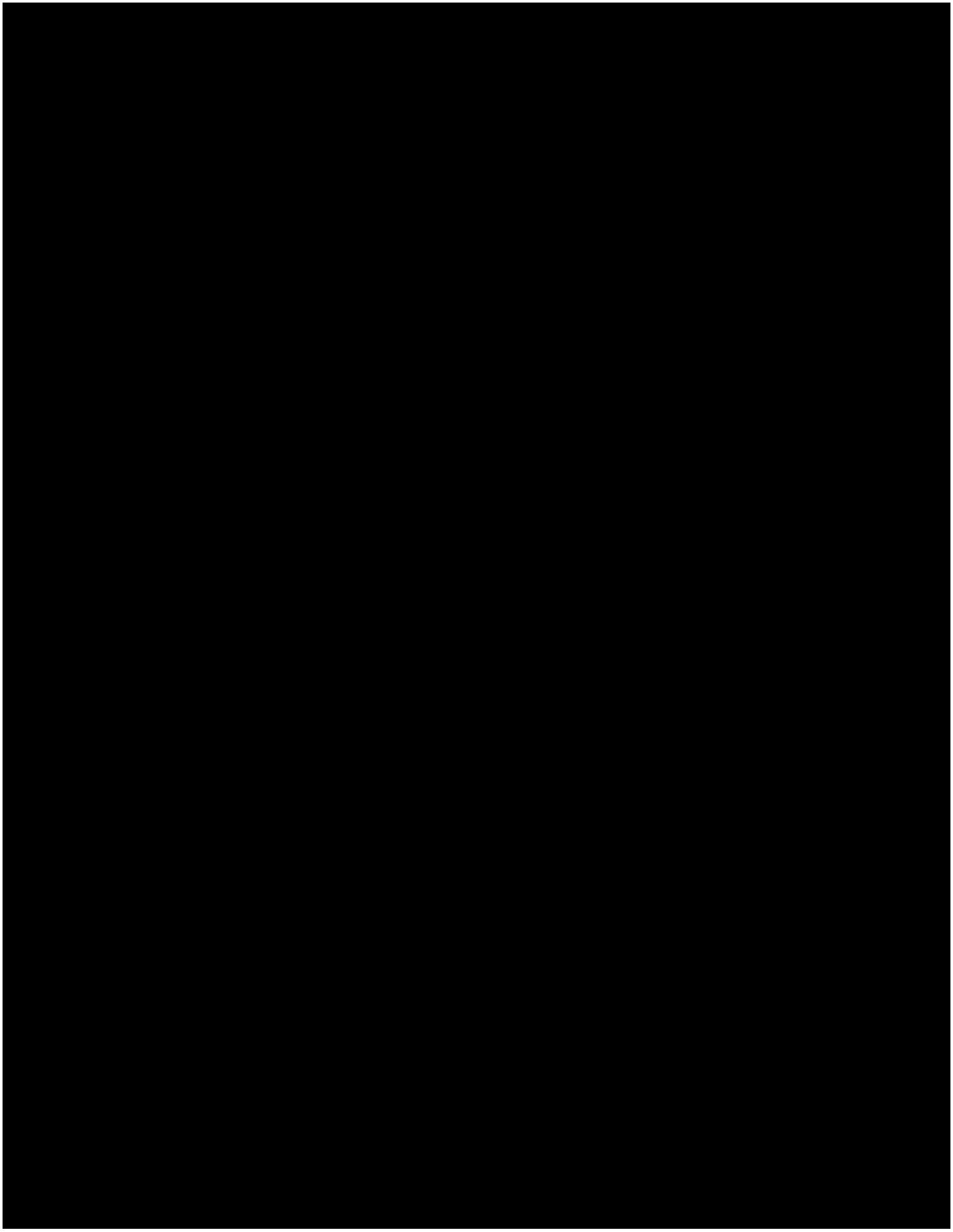
If you have any questions or need further assistance, please feel free to contact via email hportreq@wal-mart.com or phone 479-204-6788.

Sincerely,

Release of Information Team
Health Information Management







ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], MINOR CHILDREN — **CLAIMANT**

v. **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

FOURTH SUPPLEMENTAL ANSWERS TO RESPONDENT'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO CLAIMANT HALEY HUDSON, INDIVIDUALLY, AS SPECIAL ADMINISTRATRIX, AND AS LEGAL GUARDIAN

Comes now the Claimant, Haley Hudson, and for her Fourth Supplemental Answers to the respondent's First Set of Interrogatories and Requests for Production of Documents, states:

INTERROGATORY NO. 7: Please provide the names, addresses, and phone numbers for all medical professionals including without limitation physicians, nurses, therapists, counselors, physical therapists, optometrists, osteopaths, or homeopaths, that treated Jacqueline Ashcraft for any reason for the five (5) year period prior to June 11, 2021.

RESPONSE: Attached (in the link below) are medical records upon Jacqueline Ashcraft from Dr. Simmie Armstrong, Jr., for dates of service 7/11/1990 – 4/20/1999. Dr. Armstong's office address is: 1400 West 43rd Avenue, Pine Bluff, AR 71603.

Medical records - Dr Simmie Armstrong - Ashcraft.pdf

Please see attached the pharmacy records upon Jacqueline Ashcraft from Walmart Pharmacy for the years 2010 – 2013.

Respectfully Submitted,

Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
Phone: 501-823-3610
Fax: 501-823-3611
Jim@JimJacksonatty.com

By: /s/ Jim Jackson
Jim R. Jackson
Arkansas Bar No. 93209

CERTIFICATE OF SERVICE

I, Jim R. Jackson, hereby certify that I have electronically filed the foregoing with the Arkansas Claims Commission and copied the respondent's attorney, Brent P. Gasper, via email.

/s/ Jim Jackson
Jim R. Jackson

From: Martha Cox
To: ASCC Pleadings
Cc: Brent Gasper; Daiquiri Carter; Jim Jackson
Subject: Haley Hudson, Special Adm"x of the Estate of Jacqueline Ashcraft, dec"d & Permanent Guardian of [redacted], a Minor Child v. Arkansas Department of Human Services; Arkansas State Claims Commission No. 230641
Date: Wednesday, August 16, 2023 10:16:03 AM
Attachments: Claimant"s Second Supplemental Exhibits to MPSJ 8-16-2023.pdf
Letter to Kathryn Irby with Claimant"s Second Supp Exhibits to MPSJ 8-16-2023.pdf

---

Please find attached, for filing in the above-referenced case, a letter from Attorney Jim Jackson to Kathryn Irby and Claimant's Second Supplemental Exhibits to Claimant's Motion for Partial Summary Judgment on Issue of Liability. Three copies of the Claimant's Second Supplemental Exhibits to Claimant's Motion for Partial Summary Judgment are being mailed today to the Claims Commission.

By copy of this e-mail, the Claimant's Second Supplemental Exhibits to Claimant's Motion for Partial Summary Judgment is being served upon the respondent's counsel of record.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

JACKSON
LAW FIRM

August 16, 2023

VIA Email and First-Class Mail
ASCCPleadings@arkansas.gov
Kathryn.Irby@arkansas.gov

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, AR 72201

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of* [redacted] *a minor vs. The Arkansas Department of Human Services*
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Kathryn:

Please find enclosed the original and three copies of the claimant's Second Supplemental Exhibits to her Motion for Partial Summary Judgment on Issue of Liability for filing in the above-referenced matter.

Thank you for your attention to this matter.

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosures

cc/enc.: Brent Gasper, Esq. (via e-mail only)

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528
501.823.3610
Fax: 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR CHILD — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES — RESPONDENT

CLAIMANT'S SECOND SUPPLEMENTAL EXHIBITS TO THE MOTION FOR PARTIAL SUMMARY JUDGMENT ON ISSUE OF LIABILITY

Comes now the claimant, Haley Hudson. by and through her attorney, Jim Jackson, and for her Second Supplemental Exhibits to the Motion for Partial Summary Judgment on the Issue of Liability, states:

1. The comprehensive Affidavit of Bobby D. Wilson, who was the third driver involved in this automobile accident, is attached hereto as Exhibit 1 and incorporated in the Motion for Partial Summary Judgment on the Issue of Liability as if set out word for word.

2. Mr. Wilson's comprehensive Affidavit unequivocally states that the driver of the blue car, Ashcraft, made the normal driving procedure to attempt a left-hand turn as an oversized load was approaching. Mr. Wilson's Affidavit is also clear that the respondent's employee, Wilkerson, was driving at a high rate of speed and driving "with her head down as if she were looking down at her cellular phone."

3. Mr. Wilson's testimony corroborates the findings of Trooper James Ray and expert reconstructionist Stanley Cain – this wreck was caused solely by the negligence of the respondent's employee, Jennifer Wilkerson.

4. Pursuant to Rule 56 of the Arkansas Rules of Civil Procedure, the claimant is entitled to judgment on the issue of liability as a matter of law for the reasons set forth herein

and in her original Motion for Partial Summary Judgment and Brief in Support and in her Response to the respondent's Motion to Strike Claimant's Motion for Summary Judgment, or Alternatively, Respondent's Motion for an Enlarged (sic) of Time to Respond to Claimant's Motion for Summary Judgment.

5. There is no genuine issue of material fact that Jennifer Wilkerson was solely responsible for causing the collision at issue while operating a vehicle within the course and scope of her employment with the respondent.

6. Obtaining a deposition of Mr. Wilson has proven difficult due to the fact that Mr. Wilson is a truck driver who resides in Alabama. He drives "oversized loads" such as the modular home that he was transporting on the day of the wreck, which is the subject of this litigation. Mr. Wilson only answers his mobile telephone when he is not at work.

7. Attached as Exhibit 2 is the Affidavit of Kristen Mauldin, a toxicologist for the Arkansas Crime Laboratory, who performed the urinalysis testing on Jacqueline Ashcraft's sample.

8. Ms. Mauldin's Affidavit confirms that the urine sample is only a qualitative analysis and not a quantitative analysis. The test results do not shed any light as to whether or not Ms. Ashcraft or Ms. Wilkerson were "under the influence of an intoxicant" on June 11, 2021.

9. The claimant adopts her argument in paragraphs three through eight in her Response to the Respondent's Motion to Strike Claimant's Motion for Summary Judgment, which addressed the allegation of "intoxication" by both Jacqueline Ashcraft and Jennifer Wilkerson.

10. Paramedic Holly Newman was the first medical provider to arrive at the accident scene. Ms. Newman testified in her deposition that Ms. Ashcraft appeared normal,

answered questions appropriately, and her pupils responded normally. (Ms. Newman was deposed on July 31, 2023, and the transcript of her deposition is pending.)

WHEREFORE, the claimant prays that the Commission enter an Order granting the claimant's Motion for Partial Summary Judgment on the Issue of Liability and set this matter for a hearing on damages in the Spring.

Respectfully submitted,

Jim Jackson, AR Bar #93209
Jackson Law Firm
700 W. Broadway Street, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that on this date, August 16, 2023, I electronically transmitted the attached pleading via e-mail to the Clerk of the Arkansas State Claims Commission and to:

Brent Gasper, Esq.
Assistant Deputy Chief Counsel
Attorney for the Respondent
P.O. Box 1437
Little Rock, AR 72203-1437
Brent.Gasper@dhs.Arkansas.gov

Jim Jackson

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES — RESPONDENT

CLEAR COPY OF AFFIDAVIT

- THE FOLLOWING IS AN EXACT COPY OF BOBBY DALE WILSON'S AFFIDAVIT WHICH HAS BEEN PRINTED ON COPY PAPER FOR THE READING CONVENIENCE OF THE COMMISSIONERS.
- MR. WILSON'S EXECUTED AFFIDAVIT WAS FAXED TO THE CLAIMANT'S COUNSEL AND CONTAINS MULTIPLE FAX LINES ON EACH SHEET WHICH MAY MAKE IT DIFFICULT TO READ.



ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR CHILD — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES — RESPONDENT

AFFIDAVIT OF BOBBY DALE WILSON

Comes now Bobby Dale Wilson, and for his Affidavit, states:

1. My name is Bobby Dale Wilson. I reside at [redacted] My date of birth is [redacted] I am over the age of 18 and am mentally competent to make this affidavit.

2. I am a commercial truck driver. I transport modular homes which are generally classified as an "oversized load."

3. I was transporting a modular home on June 11, 2021, on State Highway 22.

4. I was traveling west towards Paris, Arkansas.

5. Because I transport an oversized load, I must pay very close attention to all automobile traffic. I am always diligent about keeping my load under control and staying in my lane of traffic.

6. I have good visibility of drivers approaching my rig because the seat of a Peterbilt tractor is much higher than the seat of a passenger vehicle.

7. This particular section of Highway 22 is very well maintained. The highway has an eastbound and westbound lane with fresh paint and a wide shoulder on both sides of the road.

8. An "Escort Car" was in front of my oversized load at all times as I was transporting my load on June 11, 2021. The "Escort Car" displayed a visible "Oversize Load" sign in both the front and rear. The signs are at least 5' long and 12" in height. They are yellow with black letters. The "Escort Car" had two safety flags on all four corners of the vehicle. Each flag is at least 18" in length. My "Escort Car" had an amber-colored flashing light that is mounted on top of the car so it is visible from a 360-degree angle for a minimum of 500 feet.

9. I noticed a blue passenger car traveling east towards me with its left-hand turn signal on as I was approaching the city limits of Paris.

10. The blue car slowed to either to a full stop or was barely moving to allow my tractor trailer rig to clear the roadway before making a left-hand turn into a residential driveway on the north side of Highway 22.

11. The blue vehicle took the appropriate action to avoid a collision with my tractor trailer rig. This included using its left turn signal, slowing down, and coming to a stop to wait for oncoming traffic to pass. The blue car had to wait for my load to clear the roadway before it could safely make a left-hand turn.

12. The driver of the blue car stayed in the eastbound lane of travel but moved to the right while staying in the traffic lane. This is the action most drivers take when approaching an oversized load such as mine.

13. The passenger tires of the blue car were either on the white fog line or very close to the white fog line when I approached it.

14. The blue car is in the photograph attached as **Exhibit** 1.

15. I observed a brown car traveling east behind the blue car. This car is in the photograph attached as **Exhibit 2.**

16. I later learned that the brown car was driven by an employee of the State of Arkansas.

17. The brown car was driving at a high rate of speed toward the rear end of the blue car.

18. There was nothing blocking my vision of the brown car as it approached my rig.

19. I observed the driver of the brown car with her head down as if she were looking down at her cellular phone.

20. I did not observe the driver of the brown car take any evasive actions to avoid rear-ending the blue car.

21. I did not hear the sound of skidding of tires from braking prior to impact.

22. The brown car spun into the side of my rig after its impact with the blue car.

23. I did not observe the driver of the blue car do anything to contribute to or cause the collision.

24. I pulled over to the right immediately and notified the authorities of the wreck.

25. I have explained these same facts to the attorney for the State of Arkansas who has called me multiple times.

26. The statement I provided to the investigating officer on June 11, 2021, is attached as **Exhibit 3**.

27. The photograph attached as **Exhibit 4** shows my rig parked on the side of the road. The location of the collision is behind my trailer. This photo appears to have been taken shortly after the wreck.

28. The three (3) diagrams prepared by Trooper Ray accurately depict the events and path of travel of the vehicles and the sequence of events for this wreck. These three (3) diagrams are attached as **Exhibit 5.**

_____
Bobby Dale Wilson

ACKNOWLEDGMENT

STATE OF _____)
)
COUNTY OF _____)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this ___ day of June, 2023.

_____
NOTARY PUBLIC

My Commission Expires:

_____

SEAL

IN THE CIRCUIT COURT OF LOGAN COUNTY, ARKANSAS

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR CHILD — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES — RESPONDENT

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1. My name is Bobby Dale Wilson. I reside at [redacted] My date of birth is [redacted] I am over the age of 18 and am mentally competent to make this affidavit.

2. I am a commercial truck driver. I transport modular homes which are generally classified as an "oversized load."

3. I was transporting a modular home on June 11, 2021, on State Highway 22.

4. I was traveling west towards Paris, Arkansas.

5. Because I transport an oversized load, I must pay very close attention to all automobile traffic. I am always diligent about keeping my load under control and staying in my lane of traffic.

6. I have good visibility of drivers approaching my rig because the seat of a Peterbilt tractor is much higher than the seat of a passenger vehicle.

7. This particular section of Highway 22 is very well maintained. The highway has an eastbound and westbound lane with fresh paint and a wide shoulder on both sides of the road.

EXHIBIT 1

PENGAD 800-631-6989

8. An "Escort Car" was in front of my oversized load at all times as I was transporting my load on June 11, 2021. The "Escort Car" displayed a visible "Oversize Load" sign in both the front and rear. The signs are at least 5' long and 12" in height. They are yellow with black letters. The "Escort Car" had two safety flags on all four corners of the vehicle. Each flag is at least 18" in length. My "Escort Car" had an amber-colored flashing light that is mounted on top of the car so it is visible from a 360-degree angle for a minimum of 500 feet.

9. I noticed a blue passenger car traveling east towards me with its left-hand turn signal on as I was approaching the city limits of Paris.

10. The blue car slowed to either to a full stop or was barely moving to allow my tractor trailer rig to clear the roadway before making a left-hand turn into a residential driveway on the north side of Highway 22.

11. The blue vehicle took the appropriate action to avoid a collision with my tractor trailer rig. This included using its left turn signal, slowing down, and coming to a stop to wait for oncoming traffic to pass. The blue car had to wait for my load to clear the roadway before it could safely make a left-hand turn.

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28. The three (3) diagrams prepared by Trooper Ray accurately depict the events and path of travel of the vehicles and the sequence of events for this wreck. These three (3) diagrams are attached as **Exhibit 5.**

Bobby Dale Wilson

ACKNOWLEDGMENT

STATE OF Alabama)
COUNTY OF Lamar)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 17th day of ~~June~~ July, 2023.

NOTARY PUBLIC

My Commission Expires:
05/12/2025

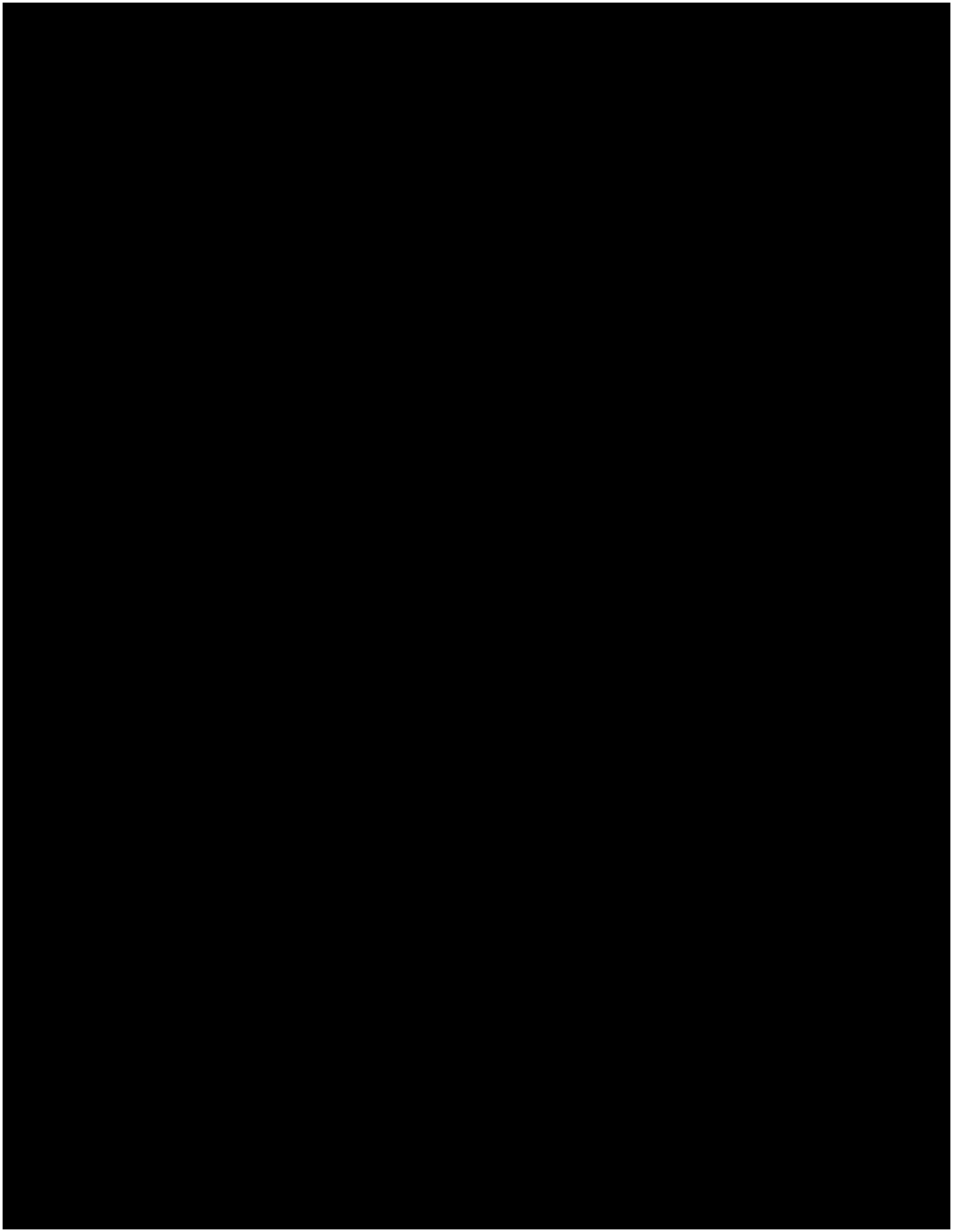
SEAL

LANA HOLLIDAY NOTARY PUBLIC ALABAMA STATE AT LARGE Commission Expires 05/12/2025

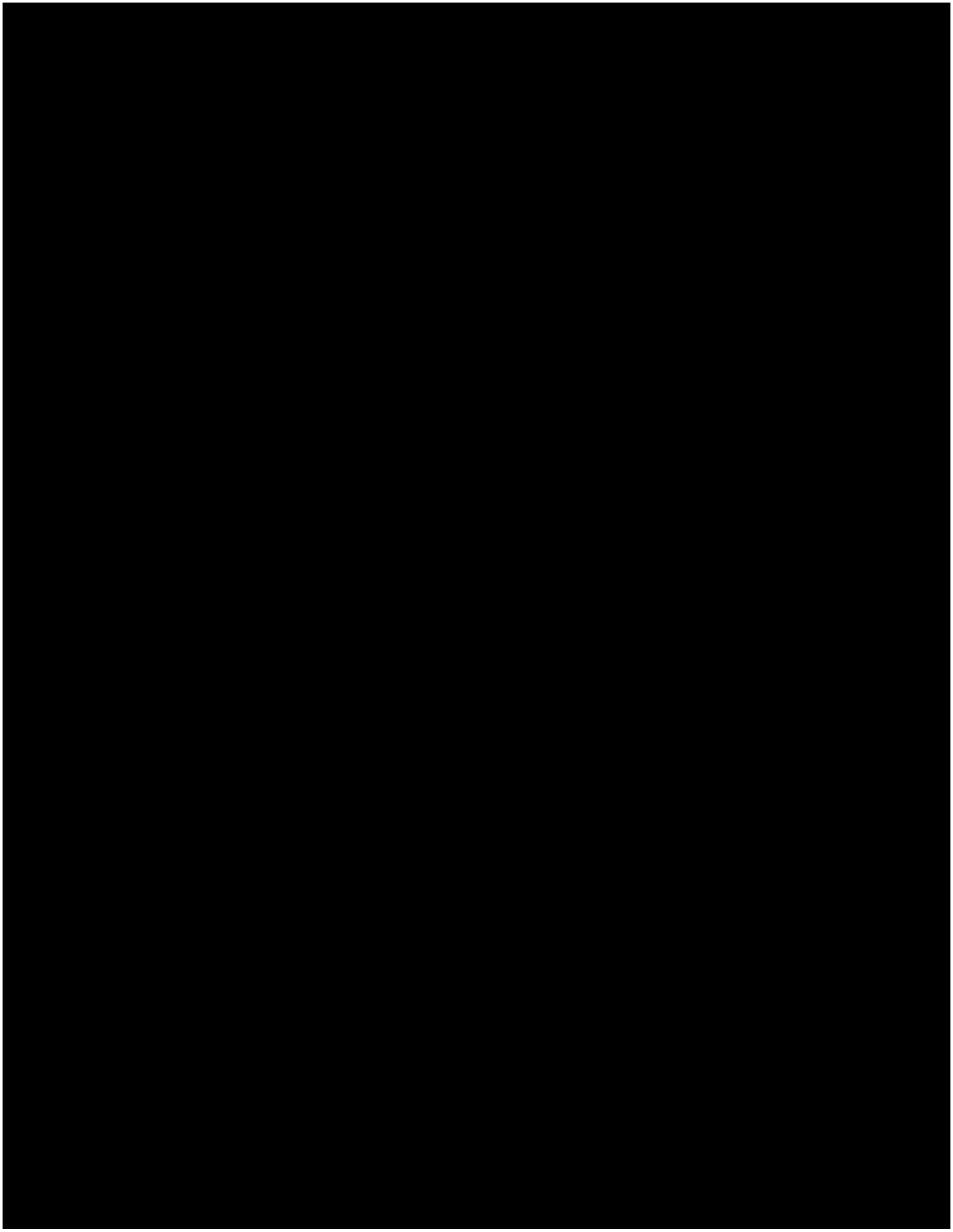
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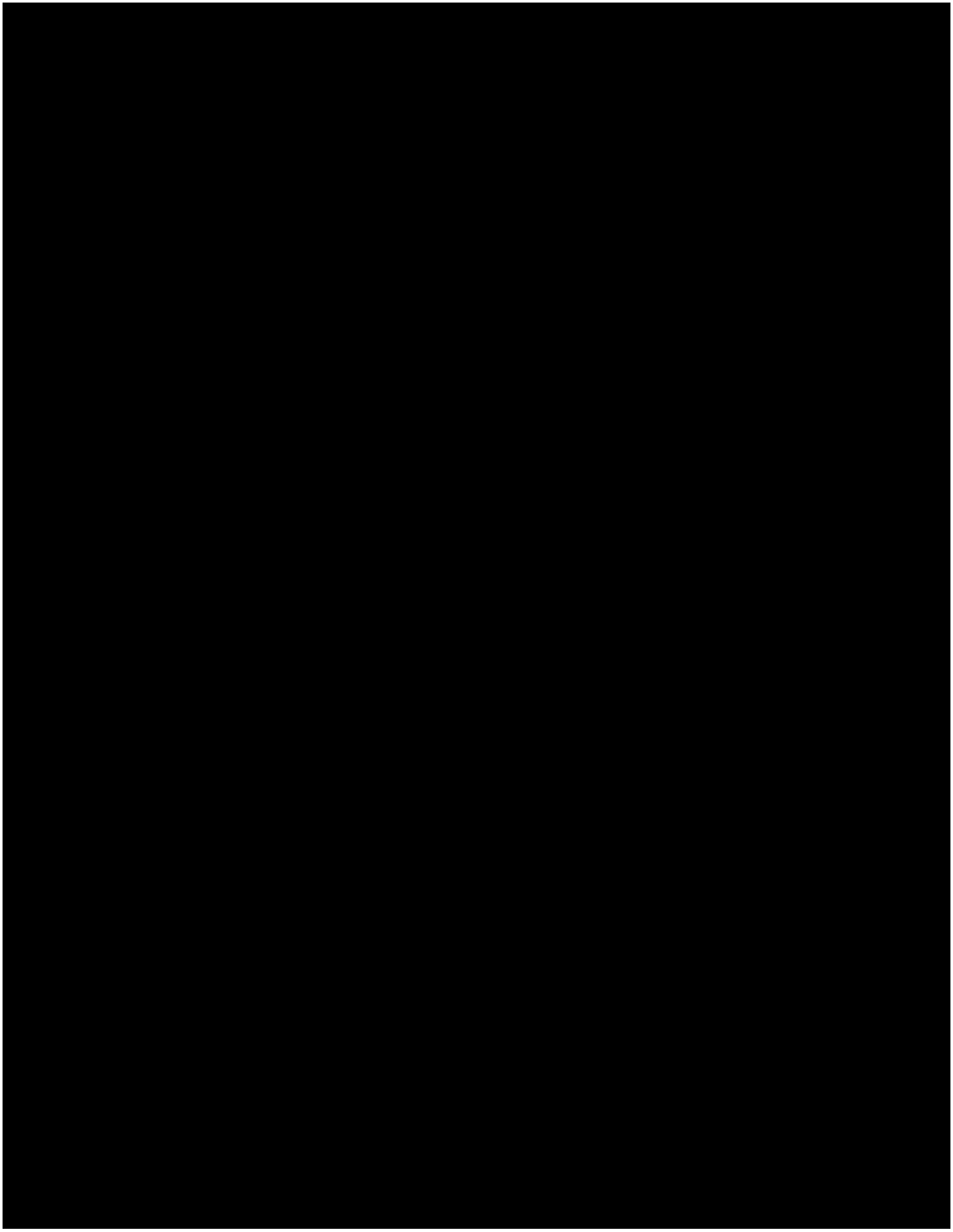
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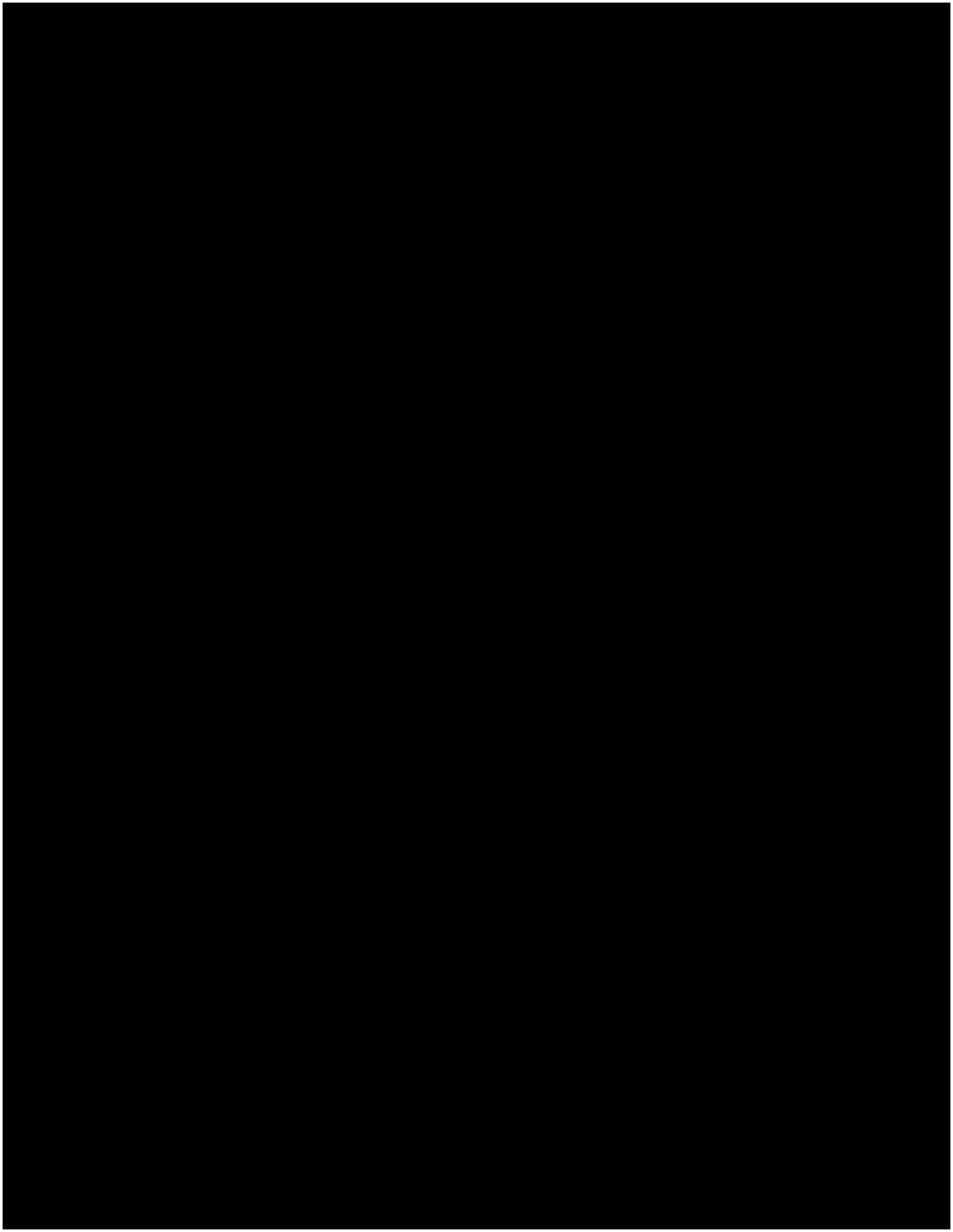
PLAINTIFF'S
EXHIBIT
2



PLAINTIFF'S
EXHIBIT
47







AFFIDAVIT OF KRISTEN MAULDIN

Comes now Kristen Mauldin, and for her Affidavit, states:

1) My name is Kristen Mauldin. I am over the age of 18 and am mentally competent to make this Affidavit.
2) I am a Toxicologist employed by the Arkansas State Crime Laboratory.
3) The Arkansas Crime Laboratory has a forensic testing laboratory which is ANAB accredited.
4) I am the Toxicologist that issued the report for Jacqueline Ashcraft. I performed certain portions of the analysis on the urine sample for Jacqueline Ashcraft.
5) The date listed as the date specimen was collected for Jacqueline Ashcraft's urine was 5:27 p.m. on June 11, 2021 according to the Investigating Officer's Report form that accompanied the urine sample.
6) Our laboratory performs a qualitative drug test on urine samples. The laboratory performs quantitative testing on urine for ethanol.
7) A qualitative test shows the presence or absence of a drug. A qualitative test result does not reveal an amount of drug in a specimen.
8) I can only speak on impairment when it comes to ethanol values as they related to per se laws.
9) As a toxicologist, I cannot testify as to when the drug was ingested per se but I can testify to typical half-lives of drugs.

FURTHER AFFIANT SAYETH NOT.

Kristen Mauldin



ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF PULASKI)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 10th day of July, 2023.

NOTARY PUBLIC

My Commission Expires:

JAMES R. JACKSON
NOTARY PUBLIC - STATE OF ARKANSAS
PULASKI COUNTY
My Commission Expires 10-14-2031
Commission # 12384804

SEAL

From: Daiquiri Carter
To: ASCC Pleadings; jim@jimjacksonatty.com; Martha Cox
Cc: Brent Gasper; Daiquiri Carter
Subject: Notice of Deposition
Date: Wednesday, August 23, 2023 10:51:25 AM
Attachments: Notice of Deposition_001.pdf
image001.png
image002.png

Please find attached a Notice of Deposition for Haley Hudson, [redacted].
I have copied Claimant's attorney on this email.

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov





NOTE - This email may contain sensitive or confidential information.

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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JAQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR CHILD **CLAIMANTS**

v. **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

NOTICE OF DEPOSITION

TO: Jim Jackson

Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528

NOTICE is hereby given that the Respondent will take the depositions of Haley Hudson, [redacted] on Thursday, September 7, 2023, beginning at 1:00 p.m. at the Department of Human Services, located at 803 US-64, Wynne, AR, for all purposes, upon oral examination, before a Certified Coury Reporter, duly authorized to administer oath, and recorded by stenographic means. The deposition will continue until completed.

Respectfully submitted,

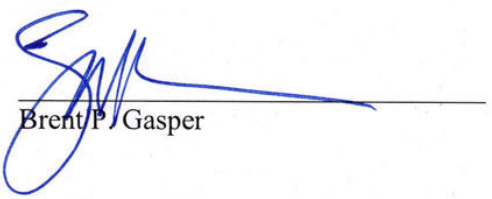
By: _____

Brent P. Gasper
Assistant Deputy Chief Counsel
Ark. Bar No. 98240

Arkansas Department of Human Services
Office of Chief Counsel
P.O. Box 1437
Little Rock, AR 72203
Phone (501) 320-8950
Brent.Gasper@dhs.arkansas.gov

CERTIFICATE OF SERVICE

I, Brent Gasper, hereby certify that on 23 August, 2023, I electronically filed the foregoing with the Claims Commission and copied Claimants' attorney Jim Jackson via email.



Brent P. Gasper

From: Brent Gasper
To: Jim Jackson
Cc: Daiquiri Carter; ASCC Pleadings
Subject: Hudson v. DHS, case #230641- Response to Request for Production
Date: Wednesday, August 23, 2023 12:08:04 PM

Jim:

In response to your second set of interrogatories and requests for production you filed on or about August 7 of this year, after speaking with both Brandy Ezell and Pamela Feemster about any additional photographs they may have taken at the scene, neither can locate them, if they did exist in the first place. All photos the existence of which we are aware that were taken by Brandy Ezell or Pamela Feemster have already been turned over to you in responses to previous discovery requests.

Please let me know if you have any questions or concerns regarding this response.

Thanks,

Brent

Cc: Kathryn Irby, Daiquiri Carter,

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

This email may contain sensitive or confidential information.

CONFIDENTIALITY NOTICE: The information contained in this email message and any attachment are the property of the State of Arkansas and may be protected by state and federal laws governing disclosure of private information. It is intended solely for the use of the entity to whom this email is addressed. If you are not the intended recipient, you are hereby notified that reading, copying, or distributing this transmission is STRICTLY PROHIBITED.

The sender has not waived any applicable privilege by sending the accompanying transmission. If you have received this transmission in error, please notify the sender by return email and delete the message and attachment(s) from your system.

From:	Kathryn Irby
To:	Daiquiri Carter; jim@jimjacksonatty.com; Martha Cox
Cc:	Brent Gasper
Subject:	HEARING LTR/ZOOM INVITATION: Hudson v. DHS, Claim No. 230641
Date:	Thursday, August 24, 2023 8:34:00 AM
Attachments:	Hudson v. DHS -- 230641 -- hearing ltr and Zoom invitation.pdf

Jim and Brent, please see attached hearing letter and Zoom invitation for the November 8 hearing.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823

KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

August 24, 2023

Mr. Jim Jackson (*via email*)
Jackson Law Firm
700 W. Broadway Street, Suite 200
North Little Rock, Arkansas 72114

Mr. Brent P. Gasper (*via email*)
Arkansas Department of Human Services
Post Office Box 1437
Little Rock, Arkansas 72203

RE: ***Haley Hudson, individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Permanent Guardian of [redacted]nes v. Arkansas Department of Human Services***
Claim No. 230641

Dear Mr. Jackson and Mr. Gasper,

Enclosed please find the Zoom invitation for the motions hearing scheduled for **Wednesday, November 8, 2023**, beginning at 9:00 a.m. Pursuant to the Commission's August 14, 2023, order, the Commission will take up Claimant's motion for partial summary judgment and Respondent's motion to strike same at this motions hearing.

Sincerely,

Kathryn Irby

ES: kmirby

Kathryn Irby -- Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings
Time: Nov 8, 2023 09:00 AM Central Time (US and Canada)

Join Zoom Meeting
https://us06web.zoom.us/j/87626344312?pwd=UlkyR2xsc0h3VjZwaFhObHcrblgxUT09

Meeting ID: 876 2634 4312
Passcode: dqD41S

One tap mobile
+13092053325,,87626344312#,,,,*215282# US
+13126266799,,87626344312#,,,,*215282# US (Chicago)

Dial by your location
• +1 309 205 3325 US
• +1 312 626 6799 US (Chicago)
• +1 646 931 3860 US
• +1 929 436 2866 US (New York)
• +1 301 715 8592 US (Washington DC)
• +1 305 224 1968 US
• +1 719 359 4580 US
• +1 253 205 0468 US
• +1 253 215 8782 US (Tacoma)
• +1 346 248 7799 US (Houston)
• +1 360 209 5623 US
• +1 386 347 5053 US
• +1 507 473 4847 US
• +1 564 217 2000 US
• +1 669 444 9171 US
• +1 669 900 6833 US (San Jose)
• +1 689 278 1000 US

Meeting ID: 876 2634 4312
Passcode: 215282

Find your local number: https://us06web.zoom.us/u/kdERQd2ARa

From:	Jim Jackson
To:	Brent Gasper; ASCC Pleadings
Cc:	Daiquiri Carter; Martha Cox
Subject:	Haley Hudson, Special Adm"x of the Estate of Jacqueline Ashcraft, deceased and Permanent Guardian of [redacted] a Minor Child v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incident Date: 6/11/2021 - Logan Co.
Date:	Tuesday, September 12, 2023 12:54:20 PM
Attachments:	image001.jpg image002.jpg image003.jpg image004.jpg 3761_001.pdf Stanley Cain Emails 1.pdf Text Messages to Stanley Cain.pdf

---

Brent,

Please find attached 3 PDF files to supplement the Claimant's response to discovery about expert witness Stanley Cain.

One of the e-mails was inadvertently not included in the file "Stanley Cain Emails 1.PDF" so we just created a separate PDF file for it instead of starting all over.

Please let me know if you have any issue opening these PDF files.

Thank you,

Jim

Jim Jackson

Jackson Law Firm

JimJacksonAtty.com

700 W. Broadway

North Little Rock, AR 72114

P (501) 823-3610

F (501) 823-3611

Jim Jackson

From: Stanley Cain [redacted]
Sent: Monday, September 11, 2023 10:40 PM
To: Jim Jackson
Subject: Ashcraft Photographs

Jim:

I worked up a list of photos that you can print to 8 X 10.

My scene inspection photos: 0829, 0831, 0837, 0838, 0842, 0844, 0852, 0854, 0857, 0860.

Trooper Ray's photos: 7135, 7142, 7143, 7144, 7146, 7147, 7156, 7157, 7158.

I received the photos and depositions today that you mailed to me.

Stanley Cain
Stanley B. Cain Accident Reconstructionist, LLC
P.O. Box 836, Waldron, AR 72958
[redacted]

From: Jim Jackson
Sent: 9/12/2023 9:52:53 AM
To: [redacted]
Subject: Photos

Mr. Cain,
I want to make sure you have received all of the JPG images.
Please see the Hyperlink below.
Ashcraft, Jacqueline; Deceased (Haley Hudson)
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Jim Jackson
Sent: 9/12/2023 9:52:53 AM
To: [redacted]
Subject: Photos

Mr. Cain,
I want to make sure you have received all of the JPG images.
Please see the Hyperlink below.
Ashcraft, Jacqueline; Deceased (Haley Hudson)
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Jim Jackson
Sent: 6/26/2023 8:41:29 AM
To: [redacted]
Cc: Martha Cox
Subject: the Estate of Jacqueline Lynn Ashcraft, deceased
Attachments: Exhibit E to Motion to Strike.pdf

Stanley,
Can you review the attached and call me at [redacted]?

JACKSON LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Jim Jackson
Sent: 6/25/2023 3:37:18 PM
To: [redacted]
Cc: Martha Cox
Subject: The Estate of Jacqueline Lynn Ashcraft, deceased
Attachments: Affidavit of Stanley Cain.docx, 4 Aerieal Drone Photos.pdf

Stanley,
Attached is an Affidavit that I prepared based upon your Report.
Also attached is a PDF containing what is labeled as exhibit 2 to your Affidavit.
Can you review both of these and call me at [redacted] with any questions.
Also, I will need a copy of your CV.
Thank you,
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Jim Jackson
Sent: 6/19/2023 2:43:54 PM
To: [redacted]
Cc: Martha Cox
Subject: FW: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...

Stanley,
I retained Johnny Bolinger to take drone footage of the accident site.
Can you review these and incorporate them into your report if they will assist you in explaining your findings and conclusions?
Thank you,
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Johnny Bolinger [redacted]
Sent: Monday, June 19, 2023 2:35 PM
To: Jim Jackson <jim@jimjacksonatty.com>
Subject: Re: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...

[redacted]

Sent from my iPhone

On Jun 19, 2023, at 10:52 AM, Jim Jackson <jim@jimjacksonatty.com> wrote:

Johnny,
I hope you are having a good Monday.
I'd like to forward the aerials to our accident reconstruction expert when you send them.
Thank you,
Jim

<image001.jpg>

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611
<image002.jpg>
<image003.jpg>

<image004.jpg>

From: Johnny Bolinger [redacted]>
Sent: Saturday, June 17, 2023 6:40 PM
To: Jim Jackson <jim@jimjacksonatty.com>
Subject: Re: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted], Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...

Sir, I'm mortified that I let this slip through the cracks on me. I drove out a few minutes ago and shot them and I'll be able to email a link tomorrow if that's ok! I'm so sorry. It's been crazy busy for me.

Sent from my iPhone

> On May 15, 2023, at 7:55 AM, Jim Jackson <jim@jimjacksonatty.com> wrote:
>
> Johnny,
> We have a deposition in Clarksville tomorrow afternoon.
> If you have a JPG of the aerial, that would be great.
> If not, do not worry about it.
> I am going to Paris tomorrow morning to drive from the dairy bar to the accident site to get a good feel of the area.

I will have my cell phone with me.
If you need to visit with me on anything, my number is:
[redacted]
Thank you,
Jim

<image001.jpg>

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611
<image002.jpg>
<image003.jpg>

<image004.jpg>

From: Johnny Bolinger [redacted]
Sent: Wednesday, May 10, 2023 12:22 PM
To: Jim Jackson <jim@jimjacksonatty.com>
Subject: Re: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted] Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 In...

Well, this email got lost in the hundreds I get every day. I'll get on this asap.

Sent from my iPhone

> On May 2, 2023, at 4:00 PM, Jim Jackson <jim@jimjacksonatty.com> wrote:
>
> Jonathan,
> Thank you for visiting with me this afternoon about the drone/aerial photography.
> Attached is a copy of the accident report.
> My client was driving from Paris east on Hwy 22.
> She was attempting to turn left into a driveway at: 5033 Hwy 22.

She had to stop while a tractor trailer rig traveling west cleared the right of way.
While stopped, she was rear-ended at a high rate of speed.
Attached is a Google Earth Aerial of the highway.
I think this information should be enough to get you to the right place.
Also, if you hear anything about this wreck, please let me know.
The trooper working it arrived 30 minutes after it was called in so I suspect the Paris Police and Logan County Sheriff's department has more information that was not included.
Jennifer Wilkerson tested positive for meth and amphetamines after the wreck.
Her boyfriend is Scott Lindstrom who has several possession convictions.
Thank you,
Jim

<image001.jpg>

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611
<image002.jpg>
<image003.jpg>

<image004.jpg>

<Accident Report_Ashcraft.pdf>
<Photo - Aerial Photo of Accident Scene 35°17'40.6_N 93°39'43.5_W - Google Maps.pdf>
<Photo DHS car in ditch on other side of road with debris in highway.pdf>
<Photo Long view of Highway.pdf>

From: Jim Jackson
Sent: 8/29/2023 9:25:11 AM
To: Stanley Cain
Cc: Martha Cox
Subject: Re: Jacqueline Ashcraft Collision

Thank you
Jim

Jim Jackson
Attorney at Law
700 West Broadway St: Suite 2
North Little Rock, AR 72114
(501) 823-3610

On Aug 29, 2023, at 4:29 AM, Stanley Cain [redacted] wrote:

Jim:

I reviewed the affidavit from Mr. Wilson. I don't see any amendments needed for my report, or revisions of my conclusion and opinion.

September 14th at 1:00 in Little Rock works for me. Just let me know the location. We will visit before that day.

Thanks.

Stanley Cain
Stanley B. Cain Accident Reconstructionist, LLC
P.O. Box 836, Waldron, AR 72958
[redacted]

From: Jim Jackson
Sent: 6/26/2023 8:07:34 AM
To: 'Stanley Cain'
Subject: RE: The Estate of Jacqueline Lynn Ashcraft, deceased

Sounds good, thanks!
Jim

JACKSON LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Stanley Cain [redacted]
Sent: Sunday, June 25, 2023 6:47 PM
To: Jim Jackson <jim@jimjacksonatty.com>
Subject: RE: The Estate of Jacqueline Lynn Ashcraft, deceased

Jim:

The affidavit looks good. I will try to get the signature page back to you tomorrow afternoon. I will have to take it to a copy and print service to get the signature page printed and then scanned.

Attached is my current CV.

Stanley Cain
Stanley B. Cain Accident Reconstructionist, LLC
PO Box 836, Waldron, AR 72958
[redacted]

Sent from Mail for Windows

From: Jim Jackson
Sent: Sunday, June 25, 2023 3:38 PM
To: [redacted]
Cc: Martha Cox
Subject: The Estate of Jacqueline Lynn Ashcraft, deceased

Stanley,
Attached is an Affidavit that I prepared based upon your Report.
Also attached is a PDF containing what is labeled as exhibit 2 to your Affidavit.
Can you review both of these and call me at [redacted] with any questions.
Also, I will need a copy of your CV.
Thank you,
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Jim Jackson
Sent: 6/22/2023 2:14:11 PM
To: Stanley Cain
Subject: RE: Jacqueline Ashcraft Collision

I'll let you know as soon as I get access to it.
I see the message from Dropbox.
Jim

JACKSON LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Stanley Cain [redacted]
Sent: Thursday, June 22, 2023 2:10 PM
To: Jim Jackson <jim@jimjacksonatty.com>
Subject: Jacqueline Ashcraft Collision

Jim:

I just shared the completed report for this case in Dropbox, so you should get a link. Let me know if you do not receive anything.

Also, call me if you have questions.

Stanley Cain
Stanley B. Cain Accident Reconstructionist, LLC
PO Box 836, Waldron, AR 72958
[redacted]

Sent from Mail for Windows

From: Jim Jackson
Sent: 5/30/2023 8:24:44 AM
To: 'Stanley Cain'
Subject: RE: Jacqueline Ashcraft Collision

The three occupants were:

[redacted]

[redacted]

[redacted]

All three were in the rear of the car.

Thank you,
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Stanley Cain [redacted]
Sent: Monday, May 29, 2023 11:03 PM

To: Jim Jackson <jim@jimjacksonatty.com>
Subject: Jacqueline Ashcraft Collision

Jim:

I need some information for my calculations. Did Jacqueline have some minor passengers with her when the collision occurred? If she did, I will need their age(s), so I can place an approximate weight for them in the momentum calculations. The crash report does not list any passengers, but I wanted to double check that with you.

Thank you.

Stanley Cain
Stanley B. Cain Accident Reconstructionist, LLC
PO Box 836, Waldron, AR 72958
[redacted]

Sent from Mail for Windows

From: Jim Jackson
Sent: 5/17/2023 8:50:33 AM
To: [redacted]
Cc: Martha Cox
Subject: Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of [redacted] Minor Children v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incident
Attachments: Accident Report_Ashcraft.pdf, Hwy 22 Facing East in Same direction Jennifer Wilkerson was traveling.jpg

Stan,
Please find attached a copy of Trooper James Ray's Accident report with 3 pages of diagrams at the back.
Also attached is a JPG from the Logan County Sheriff's Facebook page.

Below is a link to the JPG images that Trooper Ray had as part of his file.
High Resolution photos from Trooper James Ray

Below is a link to the photos in PDF Format with a Table of Contents.
Crash Scene Photos by Trooper James Ray.pdf

Below is a link to photos I took on Tuesday May 16, 2023 with my best attempt at naming them.
Photos by Jim on May 16, 2023

Please let me know if you have any issues opening any of these files or folders.
Also, I need your Mailing Address.

Thank you,

Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611



From: Stanley Cain
Sent: 6/26/2023 1:45:41 PM
To: Jim Jackson
Subject: RE: The Estate of Jacqueline Lynn Ashcraft, deceased
Attachments: Signature Page.pdf, Copy of DL.jpg
Importance: Normal

Jim:

Attached is the signed signature page. Also I attached a copy of my DL in case your notary needs it for her files.

Stanley Cain
Stanley B. Cain Accident Reconstructionist, LLC
PO Box 836, Waldron, AR 72958
[redacted]

Sent from Mail for Windows

From: Jim Jackson
Sent: Monday, June 26, 2023 8:07 AM
To: Stanley Cain
Subject: RE: The Estate of Jacqueline Lynn Ashcraft, deceased

Sounds good, thanks!
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Stanley Cain [redacted]
Sent: Sunday, June 25, 2023 6:47 PM
To: Jim Jackson <jim@jimjacksonatty.com>
Subject: RE: The Estate of Jacqueline Lynn Ashcraft, deceased

Jim:

The affidavit looks good. I will try to get the signature page back to you tomorrow afternoon. I will have to take it to a copy and print service to get the signature page printed and then scanned.

Attached is my current CV.

Stanley Cain
Stanley B. Cain Accident Reconstructionist, LLC
PO Box 836, Waldron, AR 72958
[redacted]

Sent from Mail for Windows

From: Jim Jackson
Sent: Sunday, June 25, 2023 3:38 PM
To: [redacted]
Cc: Martha Cox
Subject: The Estate of Jacqueline Lynn Ashcraft, deceased

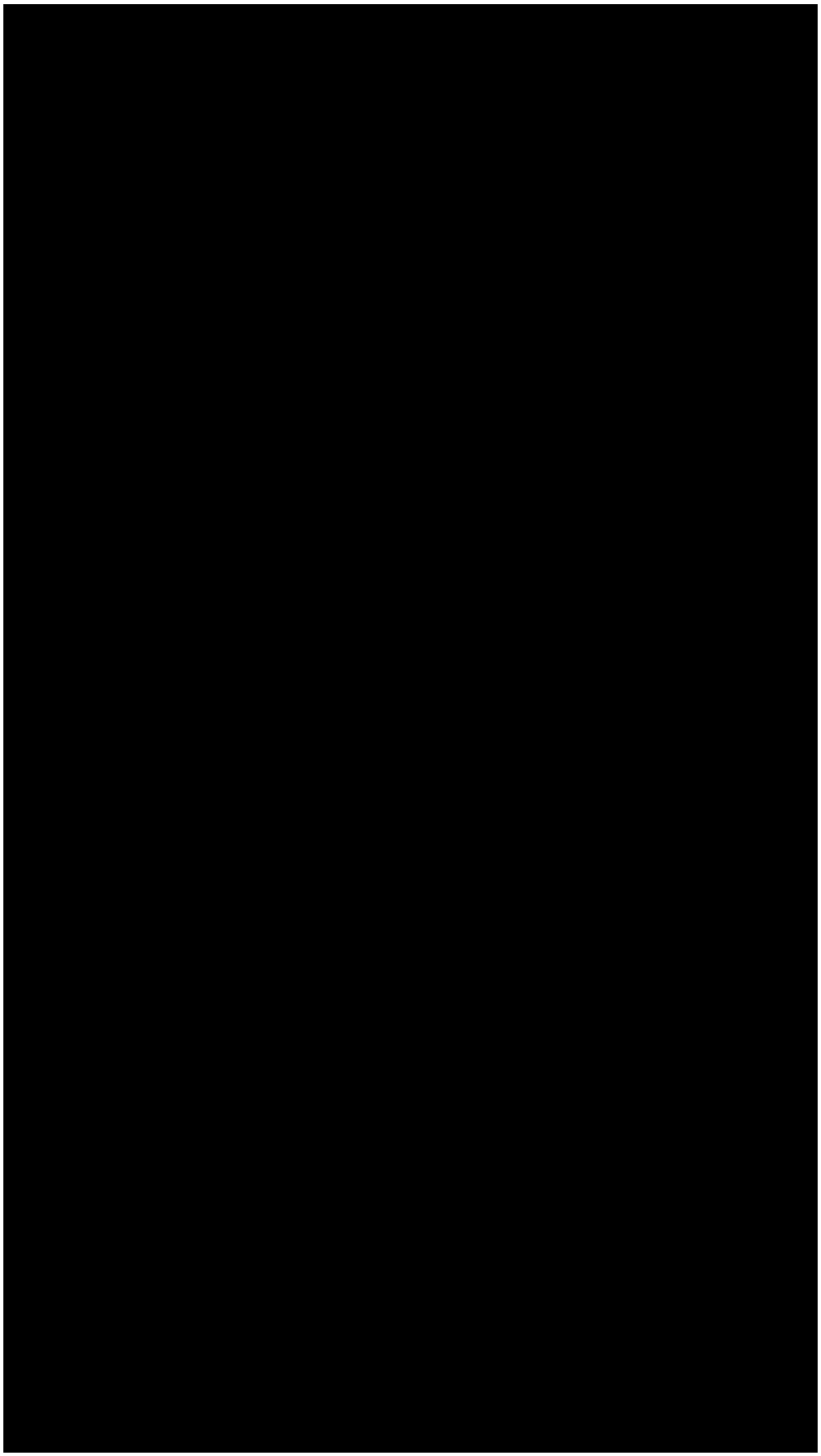
Stanley,
Attached is an Affidavit that I prepared based upon your Report.
Also attached is a PDF containing what is labeled as exhibit 2 to your Affidavit.
Can you review both of these and call me at [redacted] with any questions.
Also, I will need a copy of your CV.
Thank you,
Jim

JACKSON LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611





From: Stanley Cain
Sent: 6/25/2023 6:47:21 PM
To: Jim Jackson
Subject: RE: The Estate of Jacqueline Lynn Ashcraft, deceased
Attachments: STANLEY CAIN-ACCIDENT RECONSTRUCTIONIST-CURRICULUM VITAE-SERVICES AND FEES.pdf
Importance: Normal

Jim:

The affidavit looks good. I will try to get the signature page back to you tomorrow afternoon. I will have to take it to a copy and print service to get the signature page printed and then scanned.

Attached is my current CV.

Stanley Cain
Stanley B. Cain Accident Reconstructionist, LLC
PO Box 836, Waldron, AR 72958
[redacted]

Sent from Mail for Windows

From: Jim Jackson
Sent: Sunday, June 25, 2023 3:38 PM
To: s[redacted]
Cc: Martha Cox
Subject: The Estate of Jacqueline Lynn Ashcraft, deceased

Stanley,
Attached is an Affidavit that I prepared based upon your Report.
Also attached is a PDF containing what is labeled as exhibit 2 to your Affidavit.
Can you review both of these and call me at [redacted] with any questions.
Also, I will need a copy of your CV.
Thank you,
Jim

JACKSON LAW FIRM

Jim Jackson

Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611



From: Stanley Cain
Sent: 6/22/2023 2:09:49 PM
To: Jim Jackson
Subject: Jacqueline Ashcraft Collision
Importance: Normal

Jim:

I just shared the completed report for this case in Dropbox, so you should get a link. Let me know if you do not receive anything.

Also, call me if you have questions.

Stanley Cain
Stanley B. Cain Accident Reconstructionist, LLC
PO Box 836, Waldron, AR 72958
[redacted]

Sent from Mail for Windows

From: Stanley Cain
Sent: 5/29/2023 11:02:30 PM
To: Jim Jackson
Subject: Jacqueline Ashcraft Collision
Importance: Normal

Jim:

I need some information for my calculations. Did Jacqueline have some minor passengers with her when the collision occurred? If she did, I will need their age(s), so I can place an approximate weight for them in the momentum calculations. The crash report does not list any passengers, but I wanted to double check that with you.

Thank you.

Stanley Cain
Stanley B. Cain Accident Reconstructionist, LLC
PO Box 836, Waldron, AR 72958
[redacted]

Sent from Mail for Windows

From: Stanley Cain
Sent: 5/17/2023 1:45:24 PM
To: Jim Jackson
Subject: Jacqueline Ashcraft Collision in Logan County
Importance: Normal

Jim:

I received your email. I got the following:

ASP report
Photos by Trooper Ray
31 page PDF with scene photos
The photos that you took yesterday
Facebook post photo

Thanks for gathering all that up for me. I plan on going to the scene on Saturday. I will check in with you and give you an update next week.

My mailing address is listed below. Thank you.

Stanley Cain
Stanley B. Cain Accident Reconstructionist, LLC
PO Box 836, Waldron, AR 72958
[redacted]

Sent from Mail for Windows 10

From: Stanley Cain
Sent: 9/6/2023 7:11:29 AM
To: Jim Jackson
Subject: Deposition for Ashcraft collision on 9-14-23

Jim:

Do you need me to arrange for printing the attachments for the deposition, or will you take care of that? Everything I have is still in digital format. Will it be ok if I use my case file on my computer for reference for my testimony?

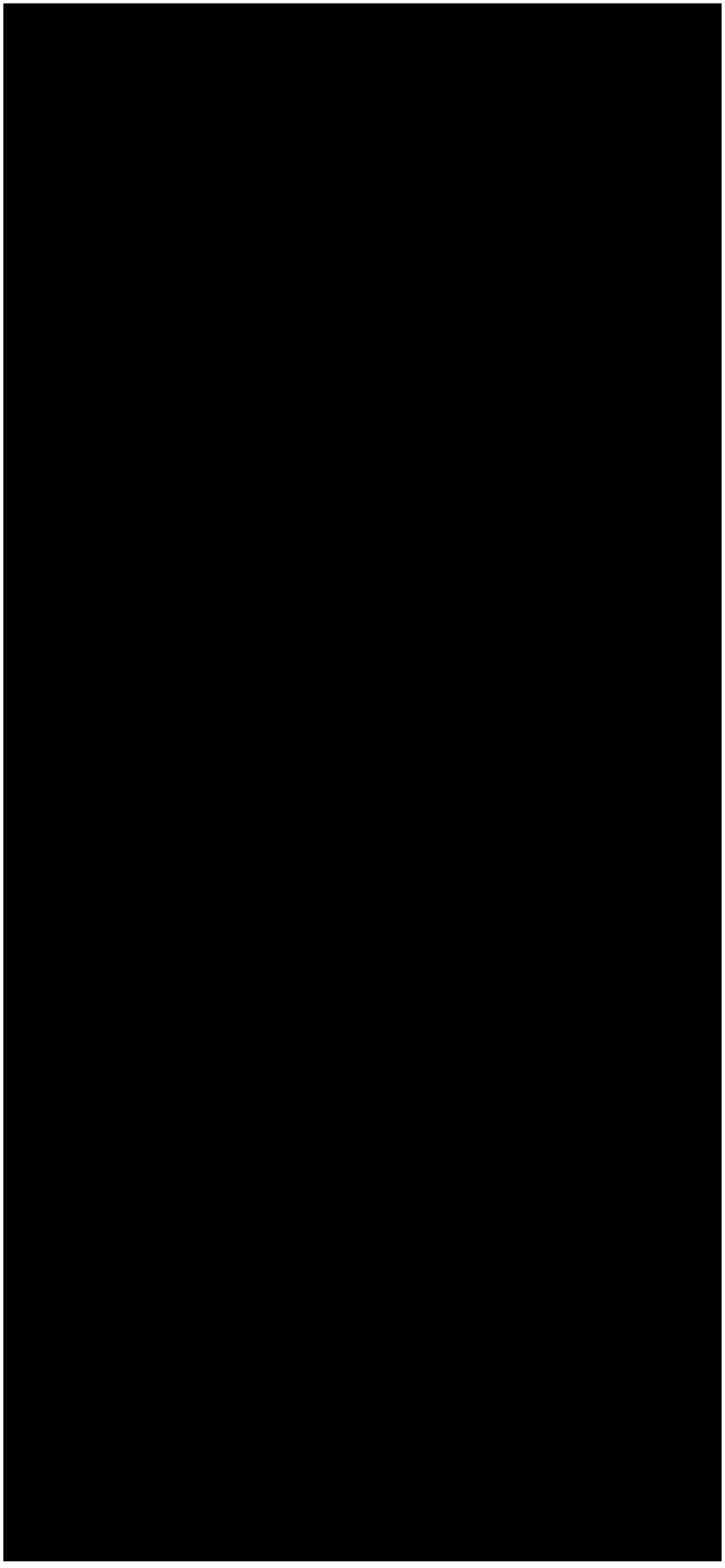
Stanley Cain
Stanley B. Cain Accident Reconstructionist, LLC
P.O. Box 836, Waldron, AR 72958
[redacted]

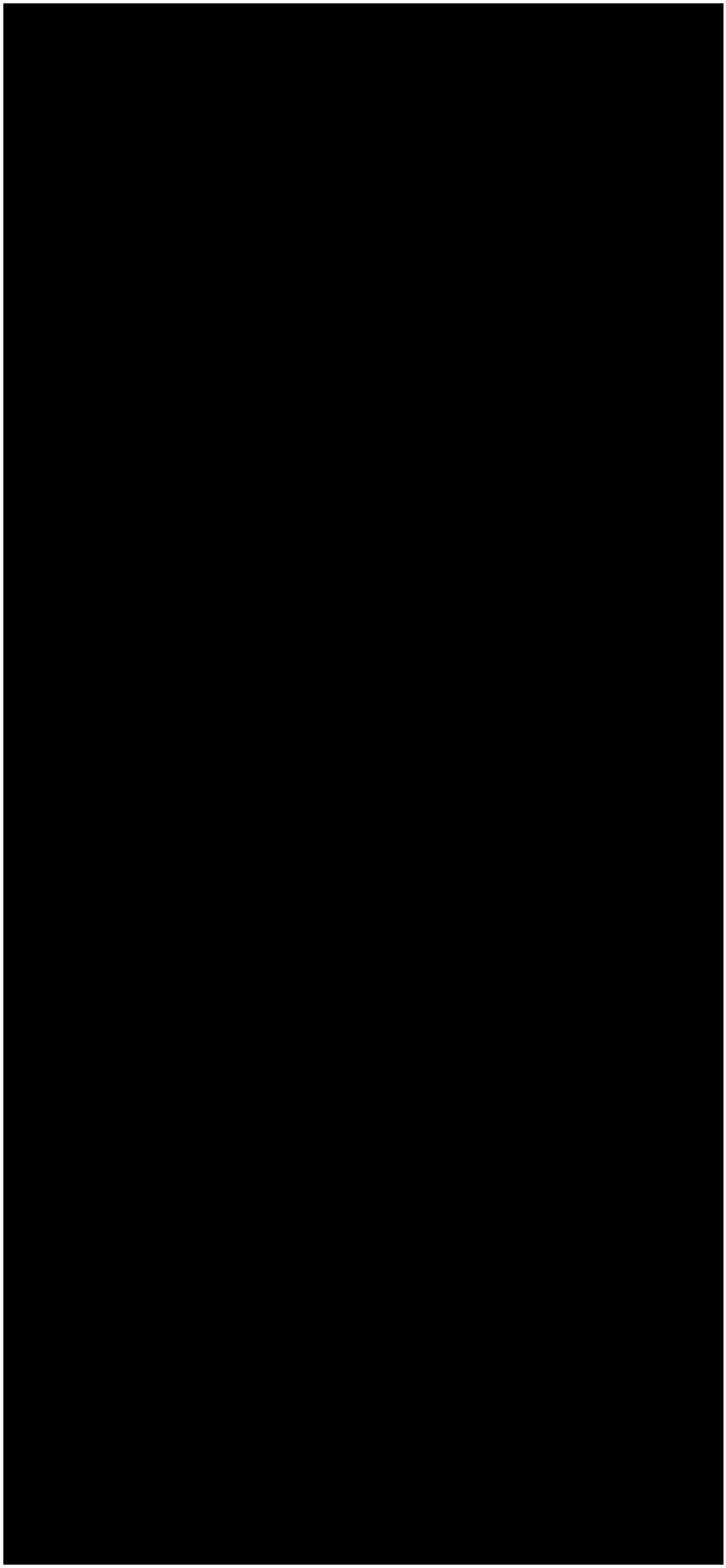
From: Stanley Cain
Sent: 9/10/2023 6:22:18 PM
To: Jim Jackson
Subject: Jacqueline Ashcraft collision
Attachments: Consultations-Investigations-Reconstructions.pdf, STANLEY CAIN-ACCIDENT RECONSTRUCTIONIST-CURRICULUM VITAE-SERVICES AND FEES.pdf

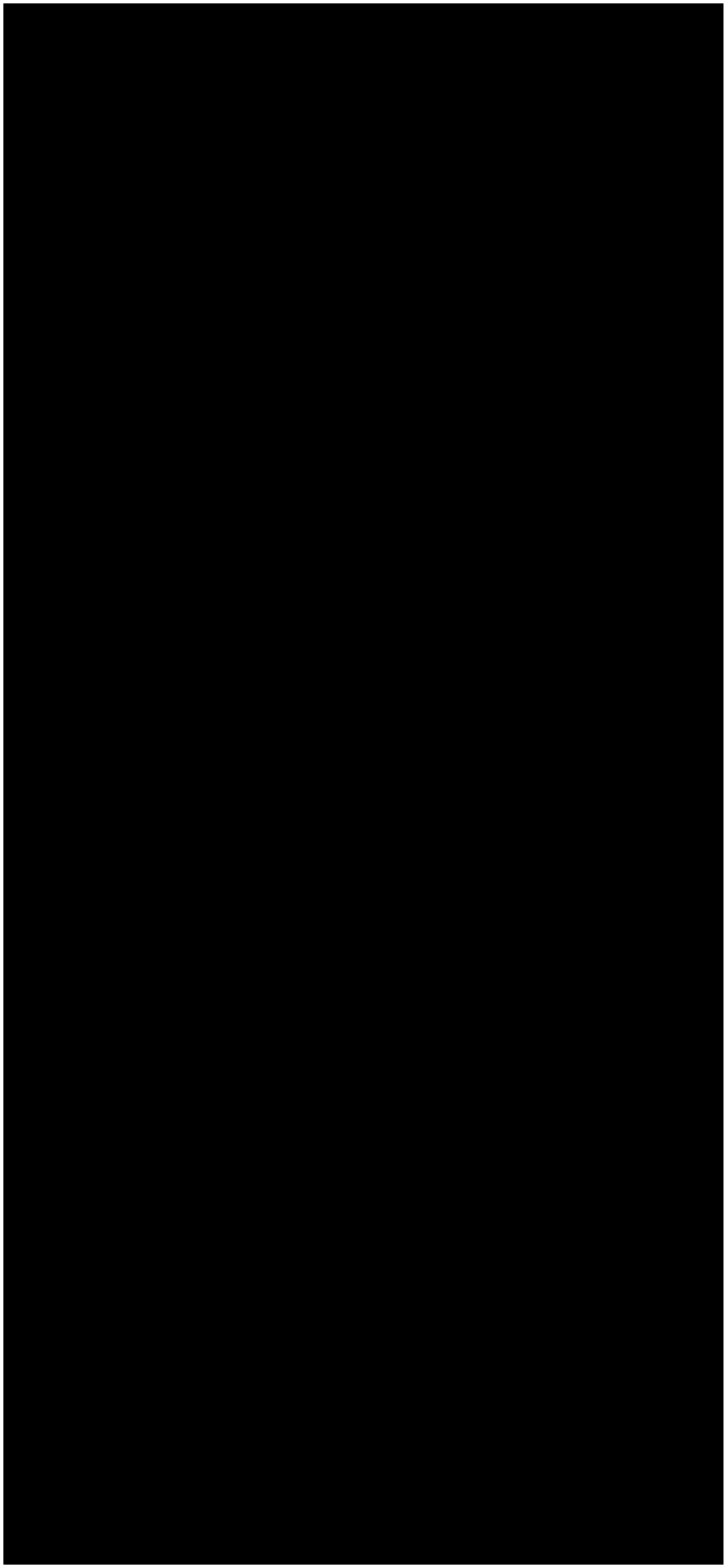
Jim:

Attached is a current copy of my CV.
Also, I have created a master list of all of the cases I have worked on to current date.

Stanley Cain
Stanley B. Cain Accident Reconstructionist, LLC
P.O. Box 836, Waldron, AR 72958
[redacted]







From: Daiquiri Carter
To: ASCC Pleadings; Kathryn Irby; jim@jimjacksonatty.com; Martha Cox; Brent Gasper
Cc: Daiquiri Carter
Subject: CC # 230641
Date: Monday, October 2, 2023 3:47:38 PM
Attachments: [redacted]

Please find attached Respondent's Motion for Enlargement of Time. I have copied claimant's attorney on this email.

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov

NOTE - This email may contain sensitive or confidential information.

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TIME SENSITIVE

REQUEST FOR IMMEDIATE CONSIDERATION

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JAQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD

CLAIMANTS

v. **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES

RESPONDENT

MOTION FOR ENLARGEMENT OF TIME IN WHICH TO RESPOND TO CLAIMANTS' MOTION FOR SUMMARY JUDGMENT

COMES NOW, the Respondent, the State of Arkansas, Department of Human Services, Office of Chief Counsel, by its attorney, Brent P. Gasper, Assistant Deputy Chief Counsel, and for its Motion for Enlargement of Time in which to Respond to Claimants' Motion for Summary Judgment, states:

1. Respondent is ordered to respond to Claimants' Motion for Summary Judgment by this Friday, October 6. Respondent now requests the Commission grant it additional time to do so. First, however, Respondent respectfully requests this Commission expedite the decision on the motion, as failure to do so threatens Respondent's due process rights as well as hinders Respondent's ability to avail itself to the provisions concerning summary judgment responses as set forth in the Arkansas Rules of Civil Procedure.

2. Specifically, Respondent is still actively engaged in procuring and discovering evidence that is directly relevant as to whether there is a genuine issue of material fact concerning the circumstances leading up to and involving the accident at issue.

3. Respondent asks this Commission for an enlargement of time of sixty (60) days to permit it to finish what it hopes is the discovery period needed to argue liability, which Claimants wrongfully contend is already a foregone conclusion as stated in their motion for summary judgment.[1] However, Respondent acknowledges that the Commission likely would not have the opportunity to consider this motion before it is scheduled to meet again and before the response to the motion is required to be filed. As such, Respondent now begs the Commission to take the extraordinary step of considering this motion for an enlargement of time in an expedited fashion. Equity and due process should allow Respondent to obtain a ruling on its motion before being required to respond to the summary judgment motion. Indeed, the purpose of the summary judgment motion itself is to put to rest any questions concerning who is liable for the damages caused by the accident, when in fact Respondent is still actively engaged in procuring and discovering evidence in support of its position.

4. Rule 56(c) of the Arkansas Rules of Civil Procedure contains the following provision:

> *For good cause shown, the court may by order reduce or enlarge the foregoing time periods.*

5. As is clearly laid out in the Rule, Respondent may request an enlargement of time to respond to the summary judgment motion after showing good cause. However, unless these motions are expedited and put in front of the Commission before Friday, October 6, Respondent

[1] Respondent vehemently disagrees with this assertion as set forth in its Motion to Strike Claimants' Motion for Summary Judgment, which is still pending before the Commission.

will be forced to file a response to the summary judgment motion before it has fully uncovered the facts of this case.

6. Examples of good cause are in abundance here. Respondent deposed Haley Hudson, [redacted], in Wynne, Arkansas, on September 7, 2023. Both [redacted] and [redacted] were passengers in their mother's vehicle at the time of the accident. They were eyewitnesses. The transcripts of those depositions, however, are *still not available for review*, much less available to include in a response to summary judgment. Respondent deposed Claimants' expert Stanley Cain in Little Rock a week later, on September 14, 2023. The transcript of this deposition, which lasted five (5) hours, was just made available late afternoon on Friday, September 29, only one (1) week before Respondent's response is due. Respondent's attorney is still in the process of reviewing the transcript.[2] On Monday, October 2, Respondent notified Claimants' counsel that it has retained the expertise of Michael Kerley of Jackson Reconstruction in Hot Springs to prepare a report based on his findings and containing his opinions and conclusions concerning the accident at issue. A copy of this report is attached as Respondent's Exhibit A. While it is certainly not Respondent's responsibility to suggest that Claimant's counsel review the report, based upon experience and belief, Respondent believes that Claimant's counsel will want to do so and will likewise want to depose Mr. Kerley.[3]

7. The truth of the matter is that the reasons listed in paragraph #6 should alone suffice in support of Respondent's request for more time. However, there are even more witnesses that have yet to be deposed that have direct information concerning the accident itself and its aftermath

[2] As is Michael Kerley, Respondent's expert witness, *supra*.

[3] Yet it is worth noting that Claimant has up to this point steadfastly contended that liability is a nonissue at this point and that all facts should be already settled regarding fault, *as evidenced by the pending motion for summary judgment, which explicitly raises this argument*. If this were truly the case, then a deposition of Mr. Kerley would not be necessary.

at the scene, such as the driver of the truck, Bobby Wilson[4] and his flag-car driver LaTosha Lewis, emergency responders Zach Marry and Chris Ihle, Kim Corley, and even Jennifer Wilkerson, the driver of Respondent's car, although she has been very difficult to locate.

8. It is Respondent's strong belief that, if given the additional sixty (60) days to respond to Claimants' Motion for Summary Judgment, it should be by then finished with its investigation into and determination as to liability. Additionally, it is also Respondent's strong belief that the disputed facts as to liability will be numerous and impossible to ignore, constructively mooting Claimants' summary judgment motion in any event.

9. What *is* clear is that unless the motion herein is expedited and considered by the Commission before Friday, October 6, Respondent will be substantially disadvantaged and its due process rights violated by not being able to avail itself of proper responses, defenses, or pleadings to which it is entitled under Rule 56 of the Arkansas Rules of Civil Procedure as well as other rules of the Commission.

10. **Due to the foregoing, Respondent MOVES that consideration of the motion for enlargement of time herein is EXPEDITED, CONSIDERED, and RULED UPON prior to Friday, October 6, 2023 and that Respondent is awarded an additional sixty (60) days in order to fully investigate the incident at issue and fully and properly respond to Claimants' motion**.

[4] Who may, according to Mr. Kerley's report, may be significantly more at fault in this accident than initially believed.

Respectfully submitted,

By: _____

Brent P. Gasper
Assistant Deputy Chief Counsel
Ark. Bar No. 98240

Arkansas Department of Human Services
Office of Chief Counsel
P.O. Box 1437
Little Rock, AR 72203
Phone (501) 320-8950
Brent.Gasper@dhs.arkansas.gov

CERTIFICATE OF SERVICE

I, Brent Gasper, hereby certify that on 2 October, 2023, I electronically filed the foregoing with the Claims Commission and copied Claimants' attorney Jim Jackson via email.

_____
Brent P. Gasper

JACKSON RECONSTRUCTION
ACCIDENT INVESTIGATION & RECONSTRUCTION
112 Normandy Street | Hot Springs, AR 71913 | 501.623.1019
Est. 1982

Preliminary Report

for

Ashcraft

vs.

Arkansas Department of Human Services

Our Case Number: [redacted]

Collision Location: E. Arkansas Highway 22, Paris, AR.

Latitude 35.294605° N

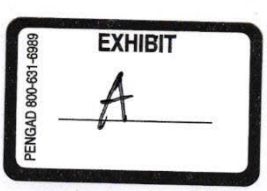
Longitude 93.662085° W

Date of Collision: Friday, June 11, 2021

Prepared for:
Brent Gasper, Esq.
Department of Human Services, Office of Chief Counsel

Date Prepared:
September 29, 2023

Prepared by:
Michael Kerley



JACKSON RECONSTRUCTION
ACCIDENT INVESTIGATION & RECONSTRUCTION
112 Normandy Street | Hot Springs, AR 71913 | 501.623.1019
Est. 1982

September 29, 2023

Brent Gasper
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
Little Rock, AR 72203

Re: Ashcraft vs. Arkansas Department of Human Services
Our File: [redacted]

Mr. Gasper:

As requested, I have provided my observations and conclusions in response to your request for a preliminary report into the events that occurred on Friday, June 11, 2021, at approximately 12:50 p.m. on Arkansas Highway 22 (AR-22) near Paris Arkansas.

This file was received by Jackson Reconstruction Inc. on August 14, 2023. It was requested that I analyze this collision incident with a preliminary report regarding any opinions and findings that could be made in this collision. This collision was investigated and reconstructed using commonly accepted investigative and scientific principles.

It was also requested that I analyze the motor carrier compliance, driver compliance, and industry standards. The methods utilized during this evaluation are similar methods used by other experts in the transportation industry. Upon review of the materials provided, this report contains opinions relative to standards of practice in the trucking industry, including the standard operational practices, defensive driving standards, driver supervision, driver hiring and crash avoidance within a reasonable degree of professional certainty in the field of commercial truck operations.

All conclusions are to a reasonable degree of scientific certainty and are based on my review, evaluation, analysis, and synthesis of the following information obtained during my investigation:

1. Arkansas State Police (ASP) Report [redacted] dated 6/11/2021, by Trooper Ray James.
2. 30 scene photos taken by ASP Trooper Ray James.

3. Evaluation by photographs of the involved blue 2005 Hyundai Sonata, Arkansas vehicle registration permanent plate [redacted][1].
4. Evaluation by photographs of the involved tan 2009 Hyundai Elantra, Arkansas vehicle registration permanent plate [redacted][2].
5. Evaluation by photographs of the involved green 2001 Peterbilt Tractor and Trailer, Tennessee vehicle registration permanent plate [redacted].
6. Examination and documentation of the scene on AR-22, Paris, AR., completed by Stanley Cain.
7. Handwritten statement by Bobby D. Wilson (1 page).
8. Handwritten statement from Jennifer Wilkerson *(transcribed by Trooper James Ray).*
9. Toxicology report on the urine sample provided by Jaqueline Ashcraft.
10. Toxicology report on the urine sample provided by Jennifer Wilkerson.
11. Videotaped and transcribed deposition of Trooper James Ray dated February 21, 2023.
12. Investigation Report completed by Stanley B. Cain.
13. Affidavit of Bobby D. Wilson.
14. Affidavit of Kristen Mauldin.
15. Photograph of the collision scene as posted to the Logan County Sheriff's Facebook page.
16. Excerpts from the deposition of Kristen Shelton.
17. Handwritten answers to Department of Human Services questions provided by Jennifer Wilkerson.
18. Handwritten answered statement *(via e-mail to DHS)* by Jennifer Wilkerson.
19. Typed *(via e-mail to DHS)* statement by Brandy Ezell.
20. Scanned photographs marked "Ashcraft Rsp to Discovery 0260" and labeled Plaintiff's Exhibits 1-15.
21. 38 Drone photographs labeled "Drone Photos Provided by J. Bollinger".
22. 29 photographs labeled "High Resolution photos from Trooper James Ray".
23. 26 photographs labeled "Low Resolution photos".
24. 25 photographs labeled "Photos by Jim on May 16, 2023".
25. Videotaped deposition of Trooper James Ray.
26. 174 color digital photographs of the scene taken on September 13, 2023.
27. Generally accepted principles of Motor Vehicle Collision Reconstruction.

PERSONS AND VEHICLES INVOLVED:

Vehicle 1: Blue 2005 Hyundai Sonata | VIN – [redacted] | AR – [redacted]
Driver 1: Jacqueline L. Ashcraft | 50 Years Old

[1] Vehicle was not available for an in-person examination, evaluation, or electronic information download.
[2] Vehicle was not available for an in-person examination, evaluation, or electronic information download.
[3] Vehicle was not available for an in-person examination, evaluation, or electronic information download.

Vehicle 2: Tan Hyundai Elantra | VIN – [redacted] | AR – [redacted]
Driver 2: Jennifer L. Wilkerson | 33 Years Old

Vehicle 3: Green 2001 Peterbilt Tractor | VIN – [redacted] | TN – [redacted]
Driver 3: Bobby D. Wilson | 50 Years Old

SITE INSPECTION:

The collision site was inspected on September 13, 2023. I took 174 color digital photographs and conducted a photogrammetric aerial scan of the collision scene. The scene was documented with a Sokkia total station and mapped with a DJI Phantom Pro IV drone. The result of the examination revealed that:

Arkansas State Highway 22 (AR-22) is designated as an East-West rural two-lane highway comprised of asphalt. AR-22 has one lane in each direction that is approximately 10.8 feet wide in each direction, that is separated by a double yellow center dividing line that is approximately 1.8 feet wide. The roadway has a painted fog line and a paved shoulder on each side that is approximately 7.7 feet wide. The roadway is straight at the collision area. The posted speed limit is 55 MPH and does not increase.

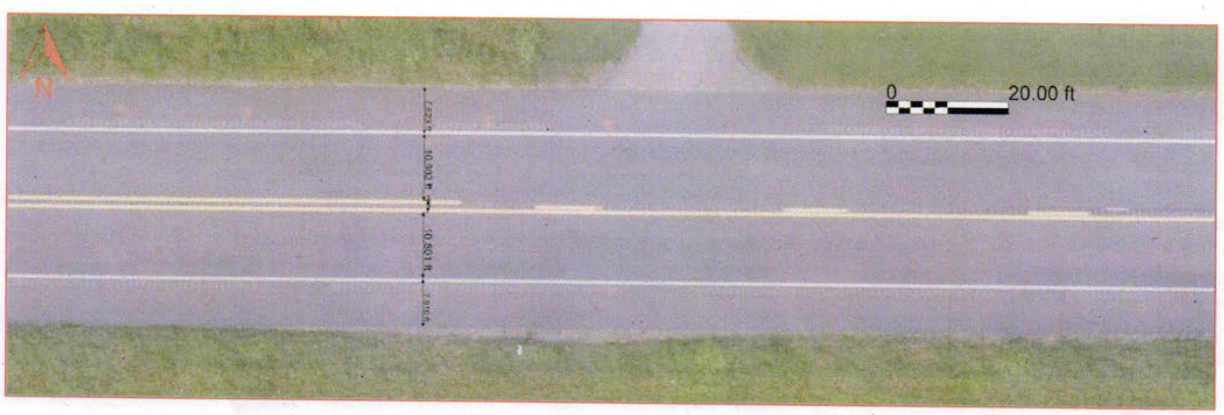


Diagram 1

COLLISION INVESTIGATION AND ANALYSIS:

The investigation revealed that there were gouge marks located in the Eastbound lane of traffic, as well as gouge and scratch marks on the right (South-side) shoulder, indicating the Area of Impact (AOI) and post impact path of travel of Vehicle 2, which is illustrated in *Image 1*[4]. *Image 1* also illustrates the impact scuff from the right front tire of Vehicle 2 as it under-rode Vehicle 1 upon impact.

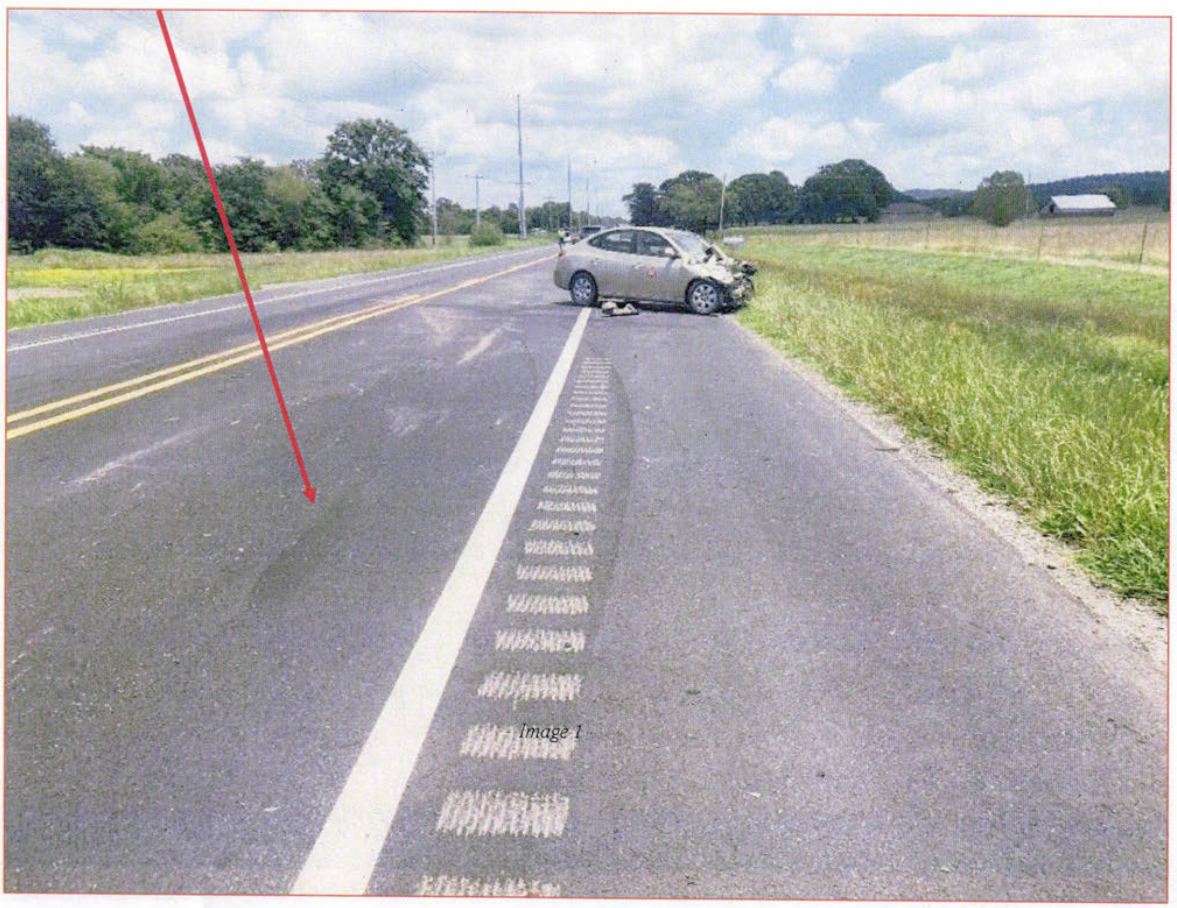


Image 1

[4] *Image 1* – IMG-7142 – Photos by Trooper James Ray

There were also gouge marks and scratch marks in the Eastbound lane rotating into the Westbound lane of traffic, indicating the post impact travel of Vehicle 2, as Vehicle 2 rotated counterclockwise and collided with Vehicle 3 as illustrated in *Image* 2 below. *Image* 2 also illustrates the post impact paths of travel for Vehicles 2 and 3 to their Final Rest (FR) positions, which will be described further in the scene diagram.

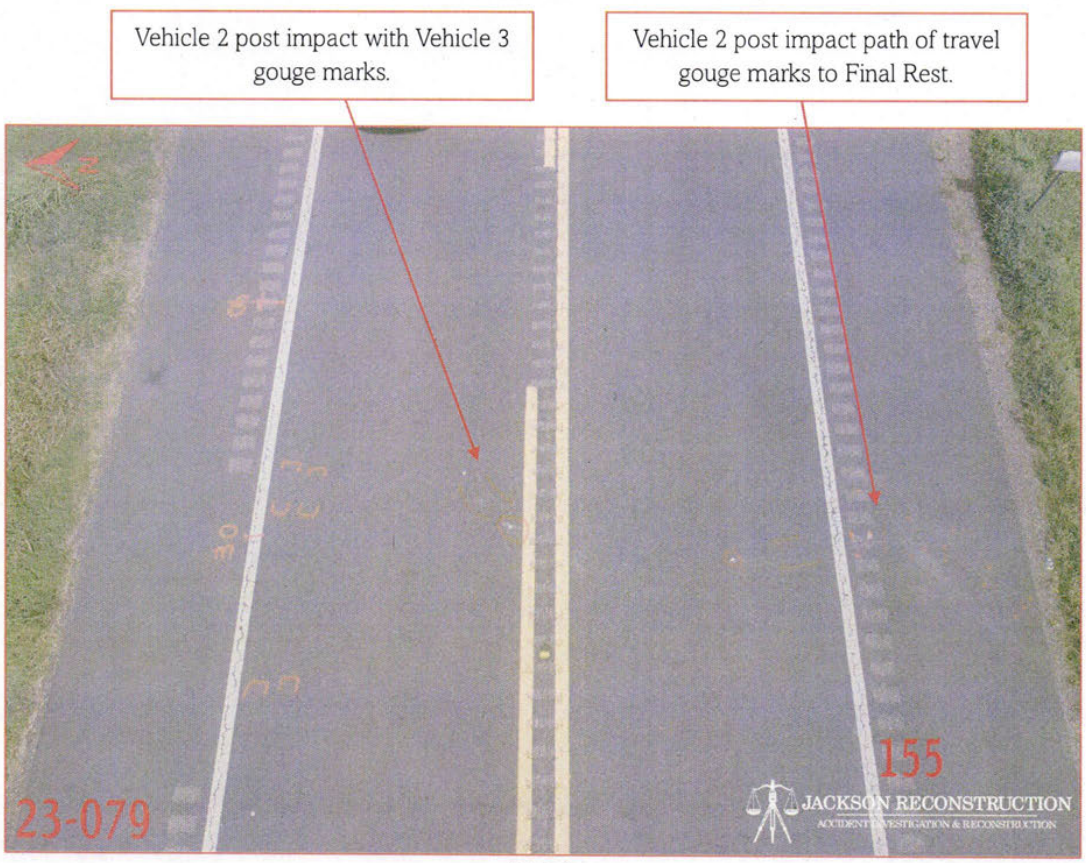


Image 2

The scene also showed a single right rear wheel lock up skid mark from Vehicle 1. This skid mark is estimated to be approximately ~72 feet in length, based upon the photographs provided for review. The on-site inspection revealed the skid mark began on the right (South) shoulder fog line and ended approximately ~49 feet East on the right shoulder. *Image* 3 illustrates the skid mark evidence during the on-site inspection.

In a review of the photographs provided *(Image 4)*, the evidence shows that the right rear wheel of Vehicle 1 was locked as a result of the collision and was the only tire leaving a skid mark to the FR position.

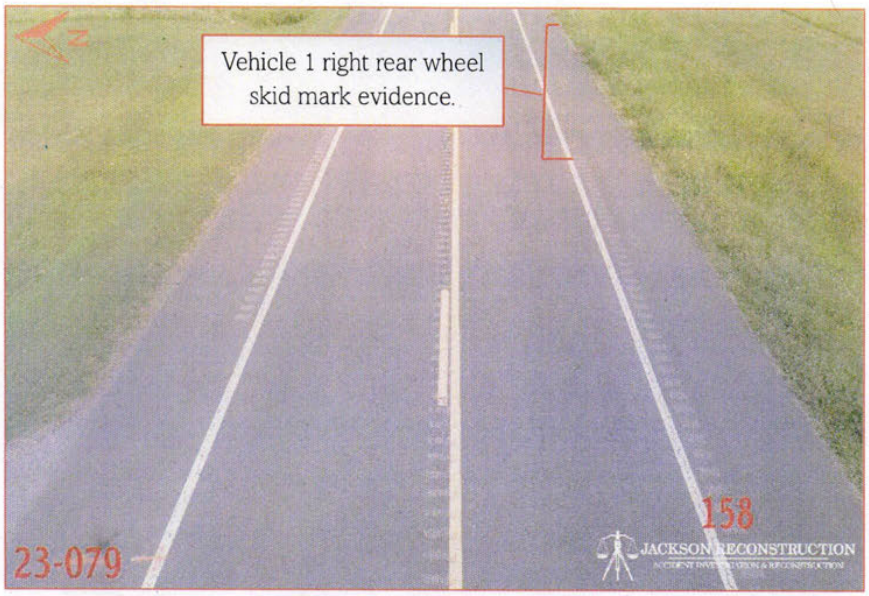


Image 3

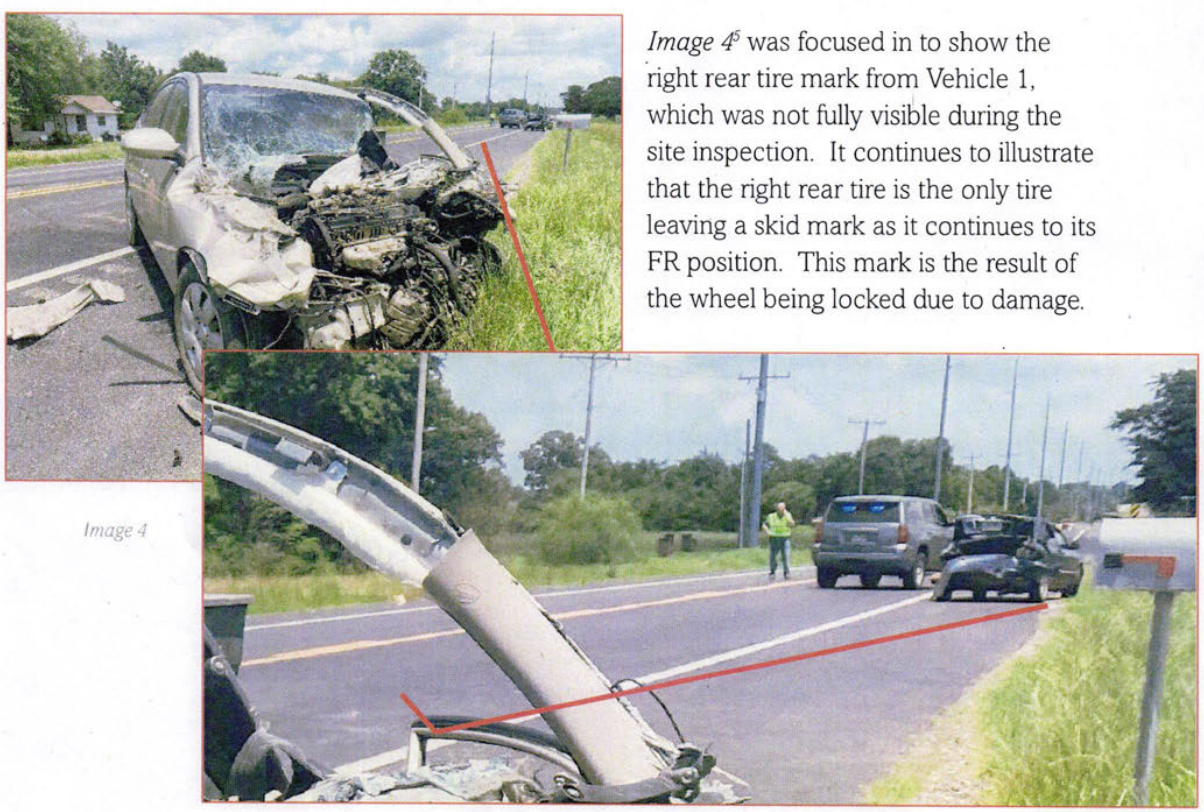


Image 4

Image 4[5] was focused in to show the right rear tire mark from Vehicle 1, which was not fully visible during the site inspection. It continues to illustrate that the right rear tire is the only tire leaving a skid mark as it continues to its FR position. This mark is the result of the wheel being locked due to damage.

[5] *Image 4* - IMG-7144 – Photos by Trooper James Ray

The impact and gouge marks indicate that Vehicle 2 was traveling behind Vehicle 1 at an undetermined distance, Eastbound on AR-22. Vehicle 1 was slowing down in anticipation of turning left into the residence of 5033 AR-22.

Wilson stated in his affidavit that he observed Vehicle 1 "halfway" onto the shoulder. There was no documentation of the Point of Impact (POI) and no photographs to depict the exact impact points. An analysis of the physical evidence from the scene and the provided photographs shows that, post impact, Vehicle 2 yawed counterclockwise into the path of Vehicle 3.

The damage profile and photographic evidence is consistent with this impact occurring as an offset to the right as illustrated in *Images 5 and 6.*



Image 5



Image 6

This damage indicates that Vehicle 2 under-rode Vehicle 1, lifting the rear of Vehicle 1 as it was accelerated forward. This initial impact damage resulted in the right rear wheel being locked. Based on the evidence reviewed and the available photographs, the right rear tire is the only tire leaving a skid mark as it continues to its FR position.

Based upon the physical evidence and the provided photographs, Vehicle 2 left the initial impact in a counterclockwise rotation and collided the front with the left side tandems of Vehicle 3 and the trailer carrying the mobile home. The mobile home overrode the hood of Vehicle 2 and pushed Vehicle 2 to continue to rotate counterclockwise and came to FR as depicted in *Diagram 2.* Vehicle 1 was accelerated forward and continued Eastbound from the initial impact to FR as depicted. Vehicle 3 continued Westbound and came to a controlled FR West of the collision location.

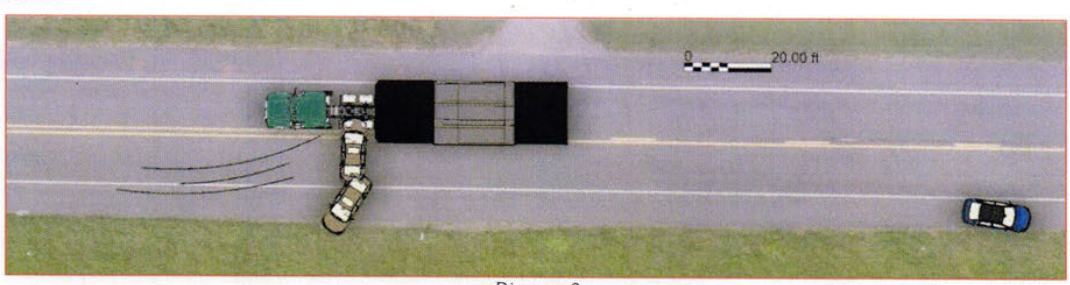


Diagram 2

Image 8[6] was focused in to evaluate the roadway evidence. This indicates the location of Vehicle 3 at impact with Vehicle 2. Vehicle 3's left side tandem tires were on the double yellow dividing line, placing the overhanging wide load approximately 3.4 feet into the Eastbound lane of traffic.



An arrow was added to illustrate the tire marks left by the left side tandem tires of Vehicle 3 from the impact of Vehicle 2.



Image 7

[6] *Image 5* - IMG-7156, *Image 6* - IMG-7157, *Image 7* - IMG-7138 – Photos by Trooper James Ray

CMV TRANSPORTATION SAFETY ANALYSIS

Statement of qualifications: As a Colorado State Trooper and a Garden City Police Officer, part of my day-to-day traffic enforcement duties included routinely inspecting commercial motor vehicles and issuing citations for violations of the Federal Motor Carrier Safety Regulations (FMCSR), which was adopted by the State of Arkansas through Rule 17.1[7].

The following areas of investigation were subject to the Federal Motor Carrier Safety Regulations and reviewed:

* Purpose
* General Applicability
* Definitions

* 49 CFR Part 40 – Procedures for Transportation Workplace Drug & Alcohol Testing Programs
* 49 CFR Part 325 – Compliance with Interstate Motor Carrier Noise Emission Standards
* 49 CFR Part 375 – Transportation of Household Goods in Interstate Commerce
* 49 CFR Part 380 – Special Training Requirements
* 49 CFR Part 382 – Controlled Substance and Alcohol Use and Testing
* 49 CFR Part 383 – Commercial Driver's License Standards
* 49 CFR Part 384 – State Compliance with Commercial Driver's License Program
* 49 CFR Part 385 – Safety Fitness Procedures
* 49 CFR Part 387 – Minimum Levels of Financial Responsibility for Motor Carriers
* 49 CFR Part 390 – General Federal Motor Carrier Safety Regulations
* 49 CFR Part 391 – Qualifications of Drivers
* 49 CFR Part 392 – Driving of Commercial Motor Vehicles
* 49 CFR Part 393 – Parts and Accessories Necessary for Safe Operation
* 49 CFR Part 395 – House of Service of Drivers
* 49 CFR Part 396 – Inspection, Repair and Maintenance
* 49 CFR Part 397 – Transportation of Hazardous Materials; Driving and Parking Rules
* 49 CFR Parts 100 thru 185 – Hazardous Material Regulations.
* Arkansas Permit Rules – Movement of Oversize and Overweight Vehicles

The FMCSA[8] defines a preventable accident as:

> *Preventable accident* on the part of a motor carrier means an accident
>
> (1) that involved a commercial motor vehicle, and
>
> (2) that could have been averted but for an act, or failure to act, by the motor carrier or the driver.

[7] Appendix A
[8] FMCSR 385.3

Arkansas Permit Rules[9] states that the permittee shall be responsible for any and all damages to roads, bridges, persons, and private property resulting from the movement.

> 7. The Department shall not be held liable for any damage to public roads or bridges or to persons or private property caused by a permitted load or vehicle or its escort vehicle. The permittee shall be responsible for any and all damages to roads, bridges, persons, and private property resulting from the movement, and shall recompense the Department or a political subdivision for any expenditures made by the Department or political subdivision to repair damage caused by the permitted vehicle or load to a public road or facility of the State Highway System.

The Arkansas Permit Rules[10] also states "Vehicles exceeding the maximum width, height, or length, as provided, shall have a plainly legible sign reading "OVERSIZE LOAD" displayed across the front and back of the loaded vehicle."

> 3. Vehicles exceeding the maximum width, height, or length, as provided under Arkansas Code Annotated §§ 27-35-206, 27-35-207, and 27-35-208, shall have a plainly legible sign reading "OVERSIZE LOAD" displayed across the front and back of the loaded vehicle and eighteen inch (18") red or fluorescent orange flags on all four corners of the load.

The Arkansas Permit Rules[11], as it relates to manufactured homes states that the above applies as well as it should have 18" red or fluorescent orange flags displayed on all four (4) corners of the unit.

> 2. **Signs/Flags**:
>
> a. The vehicle pulling the manufactured home unit shall display clearly an "OVERSIZE LOAD" sign on the front of the towing unit and rear of the manufactured home unit and shall be constructed of a durable material with a yellow background and black letters of a two inch (2") stroke and a minimum height of ten inches (10").
>
> b. Eighteen inch (18") red or fluorescent orange flags shall be displayed on all four corners of the unit.

[9] Arkansas Permit Rules on Movement of Oversize and Overweight Vehicles, pg. 12
[10] Arkansas Permit Rules on Movement of Oversize and Overweight Vehicles, pg. 17
[11] Arkansas Permit Rules on Movement of Oversize and Overweight Vehicles, pg. 34

The Arkansas Permit Rules[12], shows that the pilot/escort vehicles *are also* required to be signed and flagged as required.

> b. An escort vehicle accompanying a manufactured home unit shall display signs on the front and back with the message, "OVERSIZE (width in feet rounded up to the nearest whole foot) LOAD". An example of the sign is "OVERSIZE 14 LOAD".

In a review of the photographs provided, Vehicle 3 was not in compliance with the oversized load permit rules and requirements. The photographs provided show that Vehicle 3 was not properly signed as required. The front of the power unit does not have an oversize load warning sign. The sign requirements and the size of the sign, by regulations, would cover the majority of the front bumper and would make a portion of that sign visible in the photographs provided[13].

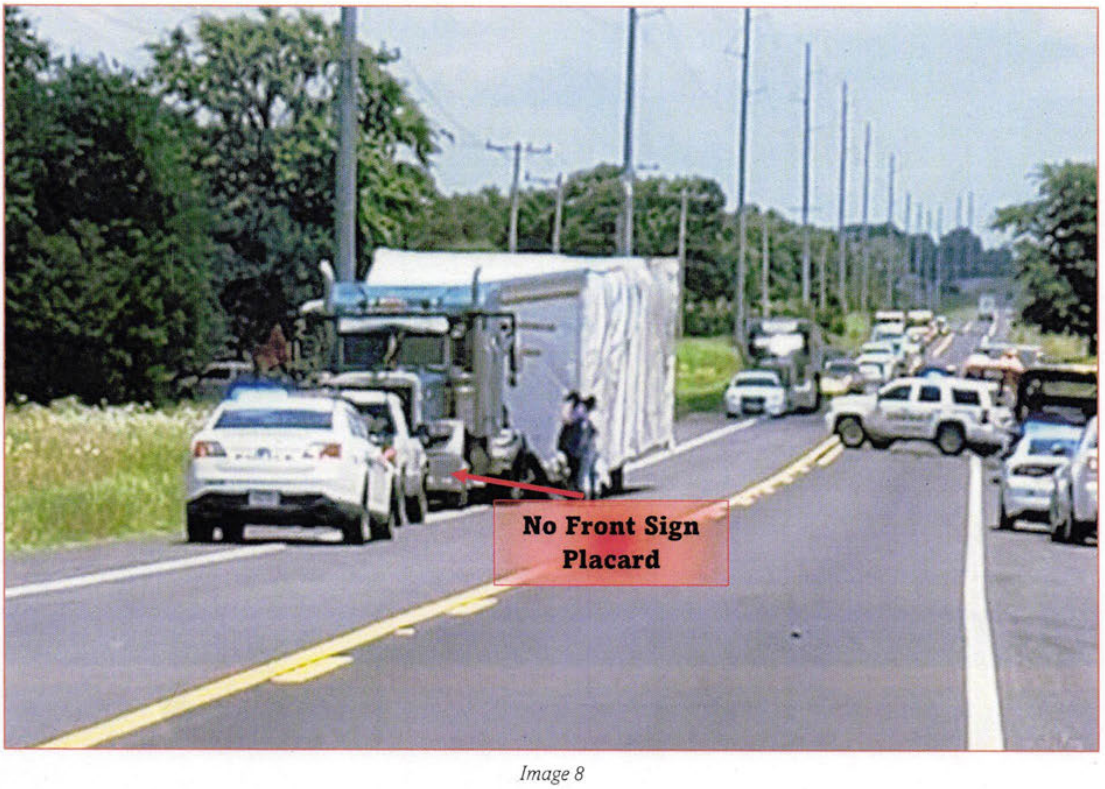


Image 8

Arkansas State Statute § 27-35-206 states: "Furthermore, such vehicles, when operated individually, or in combination with other vehicles, on the roads, highways, or streets of this state must be equipped with a sign or placard on the front and on the rear of the vehicle when operated individually, or on the front of the vehicle furnishing the motive power and on the rear

[12] Arkansas Permit Rules on Movement of Oversize and Overweight Vehicles, pg. 29
[13] *Image 8* - Hwy_22_Facing_East_in_Same_direction_Jennifer_Wilkerson_was_traveling Daiquiri Carter

of any vehicle operated in combination with the vehicle furnishing the motive power, when operated in combination, indicating that vehicle or combination of vehicles is slow-moving. Such signs or placards shall be of such a size, dimension, and color that it is readily apparent to the traveling public that the vehicle or combination is slow-moving and shall be in accordance with rules and regulations to be made and promulgated by the commission."

Arkansas State Statute § 27-51-301 *(Vehicles to be Driven on the Right Side of the Roadway)* states that "upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway."

Vehicle 3 was approximately 14' 9" (14.75') wide. The paved portion of the roadway in this area is approximately 18.5 feet wide from the edge of the asphalt portion of the roadway to the inside of the center dividing yellow line. With the vehicle dimensions and the roadway dimensions, this would allow for Vehicle 3 to have 3.75 feet of additional clearance to remain within the Westbound lane and right shoulder without having to cross the center dividing line at any time.

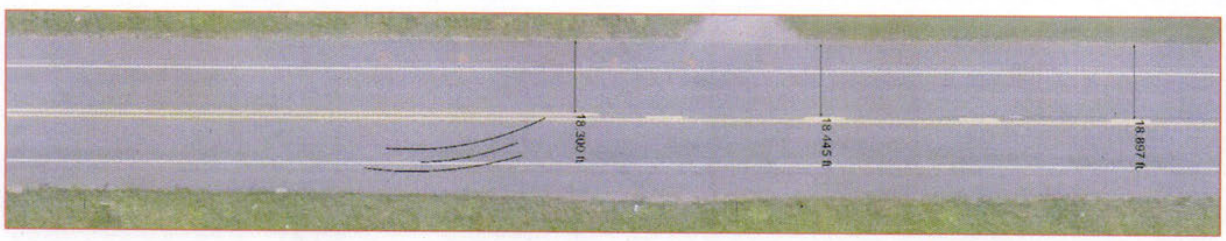


Diagram 3

There is only one sign in the area that is approximately 116.5 feet West of the collision scene as illustrated in *Image 9*. There was no evidence to indicate a need for Vehicle 3 to cross the center dividing line.



Image 9

CONCLUSIONS AND FINDINGS:

Based on my investigation and evaluation of the evidence and information I have available at this time; the following are my conclusions and opinions:

1. On Friday, June 11, 2021, Ashcraft and Wilkerson were traveling East on AR-22. Wilson was traveling West on AR-22. Ashcraft had slowed down to yield to an on-coming oversized load (Vehicle 3) and to turn left into the residence at 5033 AR-22.

2. At the initial impact, Vehicle 1's right rear tire was caged due to damage and the rear of the vehicle was lifted up, allowing the vehicle to be accelerated forward without a tire mark being left. As Vehicle 1's rear wheels came back into contact with the ground, Vehicle 1 had no other braking until it slid to its uncontrolled Final Rest (FR) position. Vehicle 2 rotated counterclockwise and collided the left front with the left side tandems of Vehicle 3 and then with the right front of the trailer and side of the mobile home being transported. Vehicle 2 continued rotating counterclockwise back across the Eastbound lane and came to an uncontrolled FR position on the South side of the roadway.

3. Vehicle 3 (Wilson) was not properly signed as required, violating Arkansas State Statute § 27-35-206 and the Arkansas Oversize Permit Rules and Regulations.

4. Based on the physical evidence from the scene, a portion of Vehicle 3 was over the center dividing line in the area of the collision. According to Arkansas State Statute §27-51-301 all vehicles shall be driven on the right half of the roadway. Based on an examination of the scene, the width of the asphalt portion available to Vehicle 3 was sufficient that no portion of Vehicle 3, or its load, would need to be across the center dividing line.

5. Wilkerson stated, "I remember seeing a car up ahead but no break lights or signal lights." The unavailability of Vehicle 1 prevents the determination of Vehicle 1's brake lights and signal lights functionality at the time of the collision.

DISCLAIMER:

My conclusions and observations contained herein are within a reasonable degree of scientific certainty and are based on information available to me as of the date of this report and subject to the limitations noted above in this report. I reserve the right to evaluate any additional

information, evidence, or other data as it becomes available and to reevaluate my opinions and conclusions to reflect that new information.

Michael A. Kerley, ACTAR, Ph.D. (c)
Accident Reconstructionist | ACTAR [redacted]
Drug Recognition Expert (DRE) | No. [redacted]

Jackson Reconstruction Inc.

APPENDIX – A

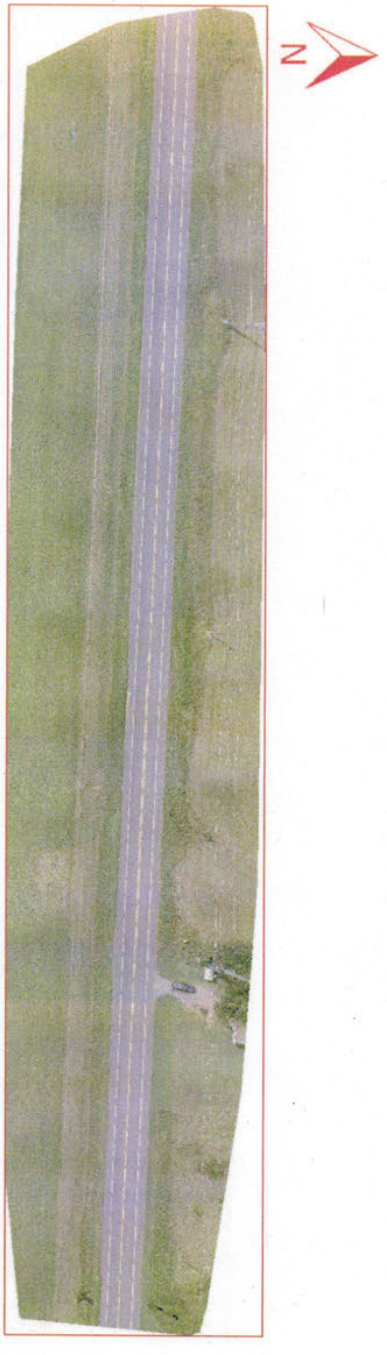
ARKANSAS STATE HIGHWAY COMMISSION RULE 17.1

Rule 17.1 General Safety Requirements

All rules and safety regulations now or hereafter prescribed and adopted by the U.S Department of Transportation, Federal Motor Carrier Safety Administration, applicable to motor vehicles under the Federal Motor Carrier Safety Regulations as found in 49 C.F.R. Parts 383 through 399, not in conflict with the laws of the State of Arkansas, are hereby adopted and prescribed as the safety rules and regulations applicable to the interstate and intrastate operations of motor vehicles under the jurisdiction of this Commission. In all instances within the provisions of 49 C.F.R. Parts 383 through 399 wherein the terms "special agent," "special agent of the Federal Motor Carrier Safety Administration," or "authorized personnel" are utilized, including, but not limited to, 49 C.F.R. Parts 390.5, 390.15, 395.13 (a), 396.9 (a), 396.9 (c)(1), and 398.8, such terms shall include officers of the Arkansas Highway Police Division of the Arkansas State Highway and Transportation Department. For the purposes of Part 395.1(k), that period of time between January 1st and December 31st of each year is declared to be the planting and harvesting seasons in this State.

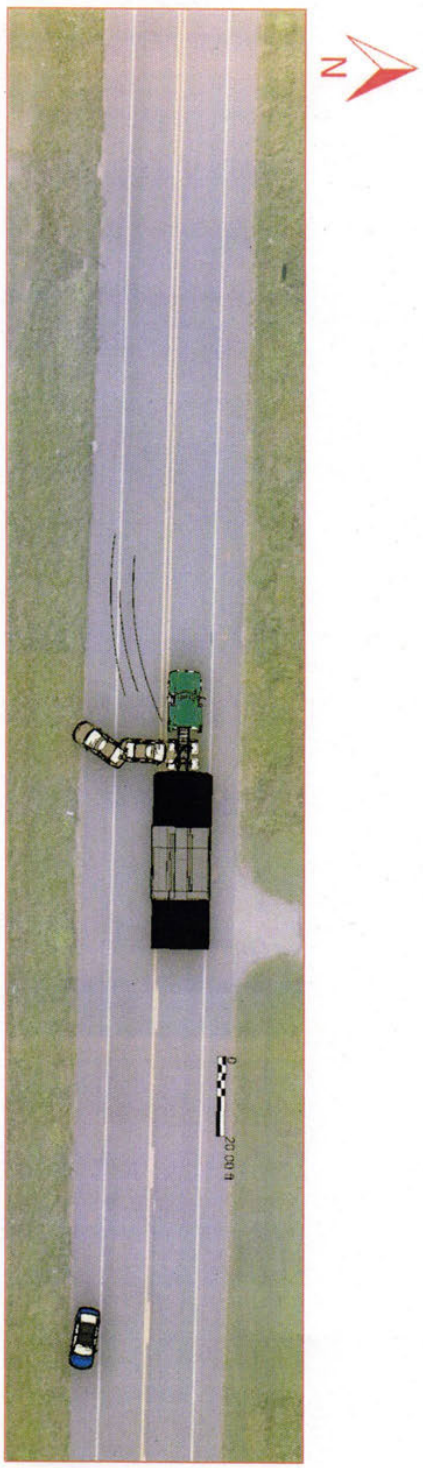
APPENDIX – B

ORTHOMOSAIC SCENE DIAGRAM



APPENDIX – C

COLLISION SCENE DIAGRAM



From: Kathryn Irby
To: Daiquiri Carter; ASCC Pleadings; Martha Cox; Brent Gasper; Jim Jackson
Subject: SPECIAL HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641
Date: Tuesday, October 3, 2023 4:46:55 PM
Attachments: Hudson v. DHS [redacted] and Resp's MTStrike and Cr [redacted].pdf
[redacted]
[redacted]

Jim and Brent, please see attached hearing letter and Zoom invitation.

Thanks,
Kathryn

From: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Sent: Monday, October 2, 2023 3:47 PM
To: ASCC Pleadings <ASCCPleadings@arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>; jim@jimjacksonatty.com; Martha Cox <mcox@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: CC # 230641

Please find attached Respondent's Motion for Enlargement of Time. I have copied claimant's attorney on this email.

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov

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ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823

KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

October 3, 2023

Mr. Jim Jackson (*via email*)
Jackson Law Firm
700 W. Broadway Street, Suite 200
North Little Rock, Arkansas 72114

Mr. Brent P. Gasper (*via email*)
Arkansas Department of Human Services
Post Office Box 1437
Little Rock, Arkansas 72203

RE: ***Haley Hudson, individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Permanent Guardian of [redacted] v. Arkansas Department of Human Services***
Claim No. 230641

Dear Mr. Jackson and Mr. Gasper,

Enclosed please find the Zoom invitation for a special hearing scheduled for **Thursday, October 5, 2023**, beginning at 8:00 a.m. The scope of the special hearing will be the motion for enlargement of time filed by DHS yesterday. The motion does not reference the parties conferring, so I am assuming that the motion is contested. If that assumption is incorrect, please advise as soon as possible.

Sincerely,

Kathryn Irby

ES: kmirby

Kathryn Irby -- Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- special hearing
Time: Oct 5, 2023 08:00 AM Central Time (US and Canada)

Join Zoom Meeting
https://us06web.zoom.us/j/86099620851?pwd=JTU5bRU5CdwaFUofQWxmgT0OcU7nAL.1

Meeting ID: 860 9962 0851
Passcode: F3yRqY

One tap mobile
+13126266799,,86099620851#,,,,*040743# US (Chicago)
+16469313860,,86099620851#,,,,*040743# US

Dial by your location
• +1 312 626 6799 US (Chicago)
• +1 646 931 3860 US
• +1 929 436 2866 US (New York)
• +1 301 715 8592 US (Washington DC)
• +1 305 224 1968 US
• +1 309 205 3325 US
• +1 689 278 1000 US
• +1 719 359 4580 US
• +1 253 205 0468 US
• +1 253 215 8782 US (Tacoma)
• +1 346 248 7799 US (Houston)
• +1 360 209 5623 US
• +1 386 347 5053 US
• +1 507 473 4847 US
• +1 564 217 2000 US
• +1 669 444 9171 US
• +1 669 900 6833 US (San Jose)

Meeting ID: 860 9962 0851
Passcode: 040743

Find your local number: https://us06web.zoom.us/u/kuy0uyvtt

From: Jim Jackson
To: Kathryn Irby; Daiquiri Carter; ASCC Pleadings; Martha Cox; Brent Gasper
Subject: RE: SPECIAL HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641
Date: Tuesday, October 3, 2023 4:59:33 PM
Attachments: [redacted]

Received, and acknowledged.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Tuesday, October 3, 2023 4:47 PM
To: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
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Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>

Subject: CC # 230641

Please find attached Respondent's Motion for Enlargement of Time. I have copied claimant's attorney on this email.

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
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From: Brent Gasper
To: Kathryn Irby; Daiquiri Carter; ASCC Pleadings; Martha Cox; Jim Jackson
Subject: RE: SPECIAL HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641
Date: Wednesday, October 4, 2023 8:15:19 AM
Attachments: image001.png
image002.png

Thank you Kathryn.

Brent

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Tuesday, October 3, 2023 4:47 PM
To: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
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Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
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□□□

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To: Jim Jackson; Kathryn Irby; Daiquiri Carter; ASCC Pleadings; Martha Cox
Subject: RE: SPECIAL HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641
Date: Thursday, October 5, 2023 9:54:56 AM
Attachments: image003.jpg image002.jpg image005.jpg image001.jpg image004.png image006.png

---

The 20th would probably be the best day for me to travel to Logan County if that is doable.

Thx

brent

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Sent: Thursday, October 5, 2023 9:06 AM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
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As you noted in your Motion, she is difficult to reach so I will ask Director Irby to issue a Subpoena compelling her deposition at:

Logan County Courthouse
25 West Walnut Street
Paris, AR 72855
If you want to depose paramedic/EMT Zach Marry or any other Logan County witnesses at that time, please let me know and I will be glad to accommodate you.

Also, Mr. Kerley's report indicates that he took 174 color photos of the accident scene.
Can you transmit a hyperlink to these photos?
Also, do you have the Orthomosaic Scene Diagram in a format other than the PDF which is attached to the Preliminary Report as Appendix B?
If so, can you transmit that file to my attention?

Thank you,

Jim



Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611



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Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
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Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
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From: Kathryn Irby
To: Jim Jackson; Brent Gasper; Daiquiri Carter; ASCC Pleadings; Martha Cox
Subject: RE: Subpoena - J. Wilkerson -: Hudson v. DHS, Claim No. 230641
Date: Thursday, October 5, 2023 10:08:00 AM
Attachments: [redacted]

Subpoena attached with the date and time blank. Please doublecheck the details and let me know if you see any issues.

Thanks,
Kathryn

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Thursday, October 5, 2023 10:03 AM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: Subpoena - J. Wilkerson -: Hudson v. DHS, Claim No. 230641

Friday October 20 would be ideal for me.
The witness' address is:

Ms. Jennifer Leann Wilkerson
[redacted]

Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

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Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: CC # 230641

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Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
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Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted], a Minor Child, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO: Ms. Jennifer Leann Wilkerson
[redacted]

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_X___ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

Date:
Time:
Location: Logan County Courthouse
25 West Walnut Street
Paris, AR 72855

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

_____ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

October 5, 2023

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Date

PROOF OF SERVICE

_____

SERVED ON (Print Name)

_____ _____

DATE PLACE

_____

MANNER OF SERVICE

_____ _____

SERVED BY (Print Name) TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ _____

DATE SIGNATURE OF SERVER

_____

ADDRESS OF SERVER

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d).

A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD **CLAIMANT**

V. **CLAIM NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

ORDER

Now before the Arkansas State Claims Commission (the "Commission") is a motion filed by the Arkansas Department of Human Services (the "Respondent") for enlargement of time in which to respond to the motion for partial summary judgment filed by Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased and Haley Hudson, Permanent Legal Guardian of [redacted] a Minor Child (collectively referred to as the "Claimant").

1. Claimant filed the instant claim seeking damages after the Decedent died following a motor vehicle accident with a vehicle owned by Respondent and operated by an employee of Respondent.

2. Respondent's motion was filed on October 2, 2023. In the motion, Respondent sought an additional 60 days to complete the discovery related to the issue of liability and to respond to Claimant's motion for partial summary judgment.

3. At the beginning of the hearing, the chair commissioner gave Claimant's attorney an opportunity to orally respond to the motion, since the hearing was set prior to Claimant's deadline to file a written response.

4. Claimant's attorney noted that the accident occurred in 2021 and that Respondent had been investigating the accident since the day it occurred. Claimant's attorney recounted the procedural history and stated Claimant's opposition to Respondent's motion.

5. Given that the instant claim was filed in November 2022, such that it has been pending less than a year, the Commission unanimously voted to grant Respondent's motion. As such, Respondent's deadline to respond to Claimant's motion for partial summary judgment is extended from October 6, 2023, to Monday, December 4, 2023. Claimant's deadline to file a reply brief is also extended from October 13, 2023, to Monday, January 8, 2024.

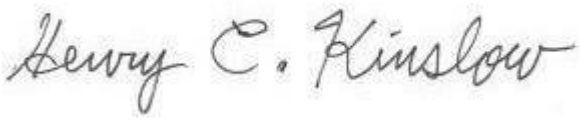
6. At Claimant's attorney's request, the Commission also instructed the parties to complete discovery as to lay witnesses related to the issue of liability and as to Respondent's accident reconstruction expert witness by Respondent's deadline to respond to Claimant's motion for partial summary judgment (December 4, 2023). Upon a question from the chair commissioner, Respondent agreed to this deadline.

7. The Commission stated that the motions hearing previously scheduled for November 2023 has been removed from the hearing docket and will be rescheduled for the earliest available hearing date following the conclusion of the new briefing schedule for Claimant's motion for partial summary judgment. The Commission instructed its director to send a rescheduling letter on the motions hearing and a scheduling letter for the claim hearing, with a deadline for the completion of all other discovery included in the claim hearing scheduling letter.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Courtney Baird



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair

DATE: October 6, 2023

Notice(s) which may apply to your claim

(1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).

(2) If a Claimant is awarded less than $15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.

(3) Awards or negotiated settlement agreements of $15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

From: Kathryn Irby
To: Jim Jackson; Martha Cox; Brent Gasper; Daiquiri Carter
Subject: ORDER: Hudson v. DHS, Claim No. 230641
Date: Friday, October 6, 2023 9:23:00 PM
Attachments: Hudson - 230641 - Order re Response to Motion for Enlargement of time.pdf

Jim and Brent, please see attached order. The hearing letters for the rescheduled motions hearing and the claim hearing will be sent early next week.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Brent Gasper
To: Kathryn Irby; Jim Jackson; Martha Cox; Daiquiri Carter
Subject: RE: ORDER: Hudson v. DHS, Claim No. 230641
Date: Monday, October 9, 2023 8:38:36 AM

Thank you, Kathryn,

brent

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Friday, October 6, 2023 9:23 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Martha Cox <mcox@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: ORDER: Hudson v. DHS, Claim No. 230641

Jim and Brent, please see attached order. The hearing letters for the rescheduled motions hearing and the claim hearing will be sent early next week.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Kathryn Irby
To: Jim Jackson; Martha Cox; Brent Gasper; Daiquiri Carter
Subject: MOTIONS HEARING RESCHEDULED: Hudson v. DHS, Claim No. 230641
Date: Wednesday, October 11, 2023 12:31:00 PM
Attachments: [redacted]

Jim and Brent, please see attached hearing rescheduling letter and new Zoom invitation.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823

KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

October 11, 2023

Mr. Jim Jackson (*via email*)
Jackson Law Firm
700 W. Broadway Street, Suite 200
North Little Rock, Arkansas 72114

Mr. Brent P. Gasper (*via email*)
Arkansas Department of Human Services
Post Office Box 1437
Little Rock, Arkansas 72203

RE: ***Haley Hudson, individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Permanent Guardian of [redacted] v. Arkansas Department of Human Services***
Claim No. 230641

Dear Mr. Jackson and Mr. Gasper,

Pursuant to the Commission's recent Order, the Commission has rescheduled the motions hearing previously set for November 8, 2023, to **Friday, January 19, 2024**, beginning at 9:00 a.m. The new Zoom invitation is enclosed.

As this is a motion hearing, no prehearing materials are requested by the Commission.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Kathryn Irby

ES: kmirby

The Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings
Time: Jan 19, 2024 09:00 AM Central Time (US and Canada)

Join Zoom Meeting
https://us06web.zoom.us/j/85350621789?pwd=MmlYZmYrajg1VTlLVzBMN3hrcUN0UT09
Meeting ID: 853 5062 1789
Passcode: D8HHRg

Dial by your location
• +1 312 626 6799 US (Chicago)
• +1 646 931 3860 US
Meeting ID: 853 5062 1789
Passcode: 408463

Find your local number: https://us06web.zoom.us/u/kck4S1YGtn

From: Brent Gasper
To: Kathryn Irby
Subject: RE: MOTIONS HEARING RESCHEDULED: Hudson v. DHS, Claim No. 230641
Date: Wednesday, October 11, 2023 12:33:30 PM

Received. Thank you Kathryn!

brent

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Wednesday, October 11, 2023 12:32 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Martha Cox <mcox@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: MOTIONS HEARING RESCHEDULED: Hudson v. DHS, Claim No. 230641

Jim and Brent, please see attached hearing rescheduling letter and new Zoom invitation.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Kathryn Irby
To: Jim Jackson; Martha Cox; Brent Gasper; Daiquiri Carter
Subject: CLAIM HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641
Date: Wednesday, October 11, 2023 12:48:00 PM
Attachments: [redacted]

Jim and Brent, please see attached hearing letter for the claim.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823

KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

October 11, 2023

Mr. Jim Jackson (*via email*)
Jackson Law Firm
700 W. Broadway Street, Suite 200
North Little Rock, Arkansas 72114

Mr. Brent P. Gasper (*via email*)
Arkansas Department of Human Services
Post Office Box 1437
Little Rock, Arkansas 72203

RE: ***Haley Hudson, individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Permanent Guardian of [redacted] v. Arkansas Department of Human Services***
Claim No. 230641

Dear Mr. Jackson and Mr. Gasper,

The Commission has scheduled this claim for a one-day hearing on **Thursday, September 19, 2024**, beginning at 9:00 a.m. All parties will attend via Zoom. If either party objects to the Zoom format, a written objection must be submitted via email (kathryn.irby@arkansas.gov) or mail no later than October 16, 2023. The Zoom invitation is enclosed.

The Commission's October 6, 2023, Order "instructed the parties to complete discovery as to lay witnesses related to the issue of liability and as to Respondent's accident reconstruction expert witness" by December 4, 2023. The Commission herein instructs the parties that all other discovery must be completed on or before **July 1, 2024**.

The following prehearing materials are due on or before **July 1, 2024**:

- Each party's list of witnesses who will testify live at the hearing or via deposition;
- Each party's list of exhibits that may be introduced at the hearing;

The following prehearing materials are due on or before **August 22, 2024**:

- Deposition transcripts if any deposition testimony will be submitted in lieu of live testimony;
- Prehearing briefs if either party would like to submit for Commission review; and
- Subpoena requests (absent a showing of good cause, the Commission will not issue subpoenas for requests received after this deadline).

To the extent that either party intends to file a motion of any kind, absent a showing of good cause, the motion must be submitted in sufficient time to allow the motion to be fully briefed pursuant to the Arkansas Rules of Civil Procedure by **August 22, 2024**.

Please note that a copy of any filing must be served upon the opposing party in accordance with the Arkansas Rules of Civil Procedure.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Kathryn Irby

ES: kmirby

The Claims Commission is inviting you to a scheduled Zoom meeting.
Topic: Claims Commission -- hearings
Time: Sep 19, 2024 09:00 AM Central Time (US and Canada)

Join Zoom Meeting
https://us06web.zoom.us/j/89325174710?pwd=4OGhHVweZgNpCnPUsN3NfpH8gsgrns.1
Meeting ID: 893 2517 4710
Passcode: riH9Sn

Dial by your location
• +1 646 931 3860 US
• +1 312 626 6799 US (Chicago)

Meeting ID: 893 2517 4710
Passcode: 048773

Find your local number: https://us06web.zoom.us/u/kvRXLHStu

From: Jim Jackson
To: Kathryn Irby; Martha Cox; Brent Gasper; Daiquiri Carter
Cc: Martha Cox
Subject: RE: CLAIM HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641
Date: Wednesday, October 11, 2023 1:43:45 PM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg

Received, thank you.
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Wednesday, October 11, 2023 12:48 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Martha Cox <mcox@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: CLAIM HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641

Jim and Brent, please see attached hearing letter for the claim.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Brent Gasper
To: Kathryn Irby
Subject: RE: CLAIM HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641
Date: Wednesday, October 11, 2023 1:46:44 PM

Received, thanks.

brent

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Wednesday, October 11, 2023 12:48 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Martha Cox <mcox@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: CLAIM HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641

Jim and Brent, please see attached hearing letter for the claim.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Martha Cox
To: Brent Gasper
Cc: Daiquiri Carter; ASCC Pleadings; Kathryn Irby; Jim Jackson
Subject: Haley Hudson, etc. v. Arkansas Department of Human Services, Arkansas State Claims Commission No. 230641
Date: Thursday, October 12, 2023 3:41:15 PM
Attachments: [redacted]

Mr. Gasper, please find attached the claimant's Second Set of Requests for Admissions in the above-referenced case.

By copy of this email, we request that the Arkansas State Claims Commission file this pleading in the above-referenced claim.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

PLAINTIFF'S SECOND SET OF REQUESTS FOR ADMISSIONS

Come now the Claimant, Haley Hudson, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased and Haley Hudson as Permanent Legal Guardian of [redacted] by and through her attorney, Jim Jackson, and propounds the following Second Set of Requests for Admissions to the respondent, pursuant to Rule 36 of the Arkansas Rules of Civil Procedure, to be answered in writing, under oath, within thirty (30) days from the receipt of this request, admit the truth of each of the following requests for purposes of this action only. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny.

REQUEST FOR ADMISSION NO. 1: Admit that you have no evidence to rebut Stanley Cain's calculations and results contained in the table below titled "Impact Speed for Wilkerson (MPH)." This table is also found in Stanley Cain's report.

IMPACT SPEED FOR WILKERSON (MPH)			
Coeff. of Friction	Ashcraft (Stationary)	Ashcraft (10 MPH)	Ashcraft (20 MPH)
0.70	74.3	62.1	50.0
0.57	71.0	58.9	46.7
0.60	69.7	57.6	45.4
0.49	66.7	54.6	42.4

REQUEST FOR ADMISSION NO. 2: Admit that you have no evidence to rebut Stanley Cain's expert's calculations contained in the attached ten (10) pages of calculations which are attached to these Requests as Exhibit #1.

REQUEST FOR ADMISSION NO. 3: Admit that you have no evidence to rebut Michael Kerley's finding that the right rear tire of Jacqueline Ashcraft's was on the right (South) shoulder fog line at the time the respondent's vehicle collided into the rear end of the Ashcraft vehicle.

REQUEST FOR ADMISSION NO. 4: Admit that you have no evidence that Jacqueline Ashcraft was negligent in any way in causing the Jennifer Wilkerson to drive into the rear end of her automobile.

Respectfully submitted,

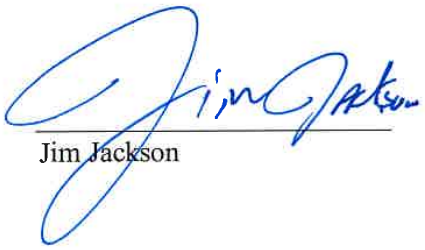
JACKSON LAW FIRM
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114
(501) 823-3610 phone

By: Jim Jackson
Jim Jackson, Bar #93209

CERTIFICATE OF SERVICE

I, Jim Jackson, do hereby certify that a true and correct copy of the above and foregoing has been served upon the following counsel of record by E-Mail on this, the 12th day of October, 2023.

Mr. Brent Gasper
Assistant Deputy Chief Counsel
Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437



Jim Jackson

Stanley B. Cain Accident Reconstructionist, LLC
[redacted]

COEFFICIENT OF FRICTION

Find a Coefficient of Friction.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$f = (\mu lf \times nlf \times Sin\theta) + (\mu rf \times nrf \times Sin\theta) + (\mu lr \times nlr \times Sin\theta) + (\mu rr \times nrr \times Sin\theta)$$

$$f = (0.1000 \times 0.3050 \times Sin(90.0000)) + (0.1000 \times 0.3050 \times Sin(90.0000)) + (0.0100 \times 0.1950 \times Sin(90.0000)) + (0.6000 \times 0.1950 \times Sin(90.0000))$$

$$f = (0.1000 \times 0.3050 \times 1.0000) + (0.1000 \times 0.3050 \times 1.0000) + (0.0100 \times 0.1950 \times 1.0000) + (0.6000 \times 0.1950\ 1.0000)$$

$$f = 0.0305 + 0.0305 + 0.0019 + 0.1170$$

$$f = 0.1799$$

f = The Adjusted Accel/Drag Factor.
μ = The Tire - Surface Friction by wheel.
n = The Percentage of Braking.
θ = The angular difference between the veh heading and CofM direction.
lf, rf, lr, rr = The tire at each corner of the vehicle (left front, etc.).
m = The Grade Percentage.

Formula Inputs:

The Left Front Tire μ is:	0.1000
The Left Front Tire % of Braking is:	0.3050
The Left Front Tire Angular Difference is:	90.0000
The Right Front Tire μ is:	0.1000
The Right Front Tire % of Braking is:	0.3050
The Right Front Tire Angular Difference is:	90.0000
The Left Rear Tire μ is:	0.0100
The Left Rear Tire % of Braking is:	0.1950
The Left Rear Tire Angular Difference is:	90.0000
The Right Rear Tire μ is:	0.6000
The Right Rear Tire % of Braking is:	0.1950
The Right Rear Tire Angular Difference is:	90.0000

Formula Results:

The Acceleration/Drag Factor is: 0.1799

Calculation Notes:

Deceleration factor for vehicle 2 (ASHCRAFT), with a drive axle rolling resistance of 0.10.
Roadway coefficient of friction: 0.60.



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Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

COEFFICIENT OF FRICTION

Find a Coefficient of Friction.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$f = (\mu lf \times nlf \times Sin\theta) + (\mu rf \times nrf \times Sin\theta) + (\mu lr \times nlr \times Sin\theta) + (\mu rr \times nrr \times Sin\theta)$$

$$f = (0.1000 \times 0.3050 \times Sin(90.0000)) + (0.1000 \times 0.3050 \times Sin(90.0000)) + (0.0100 \times 0.1950 \times Sin(90.0000)) + (0.7000 \times 0.1950 \times Sin(90.0000))$$

$$f = (0.1000 \times 0.3050 \times 1.0000) + (0.1000 \times 0.3050 \times 1.0000) + (0.0100 \times 0.1950 \times 1.0000) + (0.7000 \times 0.1950\ 1.0000)$$

$$f = 0.0305 + 0.0305 + 0.0019 + 0.1365$$

$$f = 0.1994$$

f = The Adjusted Accel/Drag Factor
μ = The Tire - Surface Friction by wheel.
n = The Percentage of Braking.
θ = The angular difference between the veh heading and CofM direction
lf, rf, lr, rr = The tire at each corner of the vehicle (left front, etc.).
m = The Grade Percentage.

Formula Inputs:

The Left Front Tire μ is:	0.1000
The Left Front Tire % of Braking is:	0.3050
The Left Front Tire Angular Difference is:	90.0000
The Right Front Tire μ is:	0.1000
The Right Front Tire % of Braking is:	0.3050
The Right Front Tire Angular Difference is:	90.0000
The Left Rear Tire μ is:	0.0100
The Left Rear Tire % of Braking is:	0.1950
The Left Rear Tire Angular Difference is:	90.0000
The Right Rear Tire μ is:	0.7000
The Right Rear Tire % of Braking is:	0.1950
The Right Rear Tire Angular Difference is:	90.0000

Formula Results:

The Acceleration/Drag Factor is: 0.1994

Calculation Notes:

Deceleration factor for vehicle 2 (ASHCRAFT), with a drive axle rolling resistance of 0.10.
Roadway coefficient of friction: 0.70.

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Stanley B. Cain Accident Reconstructionist, LLC
[redacted]

COEFFICIENT OF FRICTION

Find a Coefficient of Friction.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$f = (\mu lf \times nlf \times Sin\theta) + (\mu rf \times nrf \times Sin\theta) + (\mu lr \times nlr \times Sin\theta) + (\mu rr \times nrr \times Sin\theta)$$

$$f = (0.6000 \times 0.3150 \times Sin(90.0000)) + (0.6000 \times 0.3150 \times Sin(90.0000)) + (0.6000 \times 0.1850 \times Sin(90.0000)) + (0.0100 \times 0.1850 \times Sin(90.0000))$$

$$f = (0.6000 \times 0.3150 \times 1.0000) + (0.6000 \times 0.3150 \times 1.0000) + (0.6000 \times 0.1850 \times 1.0000) + (0.0100 \times 0.1850\ 1.0000)$$

$$f = 0.1890 + 0.1890 + 0.1110 + 0.0018$$

$$f = 0.4908$$

f = The Adjusted Accel/Drag Factor.
μ = The Tire - Surface Friction by wheel.
n = The Percentage of Braking.
θ = The angular difference between the veh heading and CofM direction.
lf, rf, lr, rr = The tire at each corner of the vehicle (left front, etc.).
m = The Grade Percentage.

Formula Inputs:

The Left Front Tire μ is:	0.6000
The Left Front Tire % of Braking is:	0.3150
The Left Front Tire Angular Difference is:	90.0000
The Right Front Tire μ is:	0.6000
The Right Front Tire % of Braking is:	0.3150
The Right Front Tire Angular Difference is:	90.0000
The Left Rear Tire μ is:	0.6000
The Left Rear Tire % of Braking is:	0.1850
The Left Rear Tire Angular Difference is:	90.0000
The Right Rear Tire μ is:	0.0100
The Right Rear Tire % of Braking is:	0.1850
The Right Rear Tire Angular Difference is:	90.0000

Formula Results:

The Acceleration/Drag Factor is: 0.4908

Calculation Notes:

Deceleration factor for vehicle 1 (WILKERSON) with reduced braking efficiency.
Roadway coefficient of friction: 0.60.

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Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

COEFFICIENT OF FRICTION

Find a Coefficient of Friction.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$f = (\mu lf \times nlf \times Sin\theta) + (\mu rf \times nrf \times Sin\theta) + (\mu lr \times nlr \times Sin\theta) + (\mu rr \times nrr \times Sin\theta)$$

$$f = (0.7000 \times 0.3150 \times Sin(90.0000)) + (0.7000 \times 0.3150 \times Sin(90.0000)) + (0.7000 \times 0.1850 \times Sin(90.0000)) + (0.0100 \times 0.1850 \times Sin(90.0000))$$

$$f = (0.7000 \times 0.3150 \times 1.0000) + (0.7000 \times 0.3150 \times 1.0000) + (0.7000 \times 0.1850 \times 1.0000) + (0.0100 \times 0.1850\ 1.0000)$$

$$f = 0.2205 + 0.2205 + 0.1295 + 0.0018$$

$$f = 0.5723$$

f = The Adjusted Accel/Drag Factor.
μ = The Tire - Surface Friction by wheel.
n = The Percentage of Braking.
θ = The angular difference between the veh heading and CofM direction.
lf, rf, lr, rr = The tire at each corner of the vehicle (left front, etc).
m = The Grade Percentage.

Formula Inputs:

The Left Front Tire μ is:	0.7000
The Left Front Tire % of Braking is:	0.3150
The Left Front Tire Angular Difference is:	90.0000
The Right Front Tire μ is:	0.7000
The Right Front Tire % of Braking is:	0.3150
The Right Front Tire Angular Difference is:	90.0000
The Left Rear Tire μ is:	0.7000
The Left Rear Tire % of Braking is:	0.1850
The Left Rear Tire Angular Difference is:	90.0000
The Right Rear Tire μ is:	0.0100
The Right Rear Tire % of Braking is:	0.1850
The Right Rear Tire Angular Difference is:	90.0000

Formula Results:

The Acceleration/Drag Factor is: 0.5723

Calculation Notes:

Deceleration factor for vehicle 1 (WILKERSON) with reduced braking efficiency.
Roadway coefficient of friction: 0.70.

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Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

MINIMUM SPEED W/ KNOWN DRAG FACTOR

Find a Minimum Speed with a skid distance and drag factor.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$S = \sqrt{30 \times D \times f}$$
$$S = \sqrt{30 \times 53.2400 \times 0.4900}$$
$$S = \sqrt{782.6280}$$
$$S = 27.9754$$

S = The Speed in mph/kph.
30 = A Constant.
D = The Distance in feet.
f = The Adjusted Accel/Drag Factor.

Formula Inputs:

The Acceleration/Drag Factor is:	0.4900
The Distance in feet is:	53.2400

Formula Results:

The Speed in mph is:	27.9754
The Velocity in fps is:	41.0305

Calculation Notes:

Post impact speed range for vehicle 1 (WILKERSON).

Incrementation Results

Drag F	Speed	Drag F	Speed	Drag F	Speed
0.4900	27.9754	0.5700	30.1729	0.6500	32.2208
0.5000	28.2595	0.5800	30.4364	0.6600	32.4677
0.5100	28.5407	0.5900	30.6976	0.6700	32.7127
0.5200	28.8191	0.6000	30.9567	0.6800	32.9559
0.5300	29.0949	0.6100	31.2136	0.6900	33.1974
0.5400	29.3681	0.6200	31.4684	0.7000	33.4371
0.5500	29.6388	0.6300	31.7212		
0.5600	29.9070	0.6400	31.9719		

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Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

MINIMUM SPEED W/ KNOWN DRAG FACTOR

Find a Minimum Speed with a skid distance and drag factor.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$S = \sqrt{30 \times D \times f}$$
$$S = \sqrt{30 \times 188.5000 \times 0.1800}$$
$$S = \sqrt{1017.9000}$$
$$S = 31.9045$$

S = The Speed in mph/kph
30 = A Constant
D = The Distance in feet.
f = The Adjusted Accel/Drag Factor.

Formula Inputs:

The Acceleration/Drag Factor is:	0.1800
The Distance in feet is:	188.5000

Formula Results:

The Speed in mph is:	31.9045
The Velocity in fps is:	46.7932

Calculation Notes:

Post impact speed range for vehicle 2 (ASHCRAFT).

Incrementation Results

Drag F	Speed	Drag F	Speed	Drag F	Speed
0.1800	31.9045	0.2200	35.2718	0.2600	38.3444
0.1900	32.7788	0.2300	36.0645		
0.2000	33.6303	0.2400	36.8401		
0.2100	34.4608	0.2500	37.5998		

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Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$
$(3074.0000 \times V_1) + (3733.0000 \times 0.0000) = (3074.0000 \times 30.9600) + (3733.0000 \times 31.9000)$
$(3074.0000 \times V_1) + 0.0000 = 95171.0400 + 119082.7000$
$(3074.0000 \times V_1) + 0.0000 = 214253.7400$
$(3074.0000 \times V_1) = 214253.7400 - 0.0000$
$(3074.0000 \times V_1) = 214253.7400$

$$V_1 = \frac{214253.7400}{3074.0000} \qquad V_1 = 69.6986$$

W_1 = The Wt of Veh 1 in pounds.
W_2 = The Wt of Veh 2 in pounds.
V_1 = The Speed of Veh 1 in mph.
V_2 = The Speed of Veh 2 in mph.
V_3 = The Spd After Impact, Veh 1.
V_4 = The Spd After Impact, Veh 2.
* * This is a Rear End collision.* *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3074.0000
The After Impact Speed of Veh 1 is:	30.9600
The Wt of Veh 2 (lbs) is:	3733.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	31.9000

Formula Results:

The Spd of Veh 1 in mph is:	69.6986
The Vel of Veh 1 in fps is:	102.2246

Calculation Notes:

Impact speed for both vehicles.
Roadway coefficient of friction: 0.60
100% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	69.6986	8.0000	59.9836	16.0000	50.2686
1.0000	68.4843	9.0000	58.7692	17.0000	49.0542
2.0000	67.2699	10.0000	57.5548	18.0000	47.8398
3.0000	66.0555	11.0000	56.3405	19.0000	46.6254
4.0000	64.8411	12.0000	55.1261	20.0000	45.4111
5.0000	63.6267	13.0000	53.9117		
6.0000	62.4124	14.0000	52.6973		
7.0000	61.1980	15.0000	51.4829		

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Stanley B. Cain Accident Reconstructionist, LLC

[redacted]

COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$

$(3074.0000 \times V_1) + (3733.0000 \times 0.0000) = (3074.0000 \times 27.9800) + (3733.0000 \times 31.9000)$

$(3074.0000 \times V_1) + 0.0000 = 86010.5200 + 119082.7000$

$(3074.0000 \times V_1) + 0.0000 = 205093.2200$

$(3074.0000 \times V_1) = 205093.2200 - 0.0000$

$(3074.0000 \times V_1) = 205093.2200$

$$V_1 = \frac{205093.2200}{3074.0000} \qquad V_1 = 66.7186$$

W_1 = The Wt of Veh 1 in pounds.
W_2 = The Wt of Veh 2 in pounds.
V_1 = The Speed of Veh 1 in mph.
V_2 = The Speed of Veh 2 in mph.
V_3 = The Spd After Impact, Veh 1.
V_4 = The Spd After Impact, Veh 2.
* * This is a Rear End collision.* *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3074.0000
The After Impact Speed of Veh 1 is:	27.9800
The Wt of Veh 2 (lbs) is:	3733.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	31.9000

Formula Results:

The Spd of Veh 1 in mph is:	66.7186
The Vel of Veh 1 in fps is:	97.8539

Calculation Notes:

Impact speed for both vehicles.
Roadway coefficient of friction: 0.60
75% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	66.7186	7.0000	58.2180	14.0000	49.7173
1.0000	65.5043	8.0000	57.0036	15.0000	48.5029
2.0000	64.2899	9.0000	55.7892	16.0000	47.2886
3.0000	63.0755	10.0000	54.5748	17.0000	46.0742
4.0000	61.8611	11.0000	53.3605	18.0000	44.8598
5.0000	60.6467	12.0000	52.1461	19.0000	43.6454
6.0000	59.4324	13.0000	50.9317		

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Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$
$(3074.0000 \times V_1) + (3733.0000 \times 0.0000) = (3074.0000 \times 33.4400) + (3733.0000 \times 33.6300)$
$(3074.0000 \times V_1) + 0.0000 = 102794.5600 + 125540.7900$
$(3074.0000 \times V_1) + 0.0000 = 228335.3500$
$(3074.0000 \times V_1) = 228335.3500 - 0.0000$
$(3074.0000 \times V_1) = 228335.3500$

$$V_1 = \frac{228335.3500}{3074.0000} \qquad V_1 = 74.2795$$

W_1 = The Wt of Veh 1 in pounds.
W_2 = The Wt of Veh 2 in pounds.
V_1 = The Speed of Veh 1 in mph.
V_2 = The Speed of Veh 2 in mph.
V_3 = The Spd After Impact, Veh 1.
V_4 = The Spd After Impact, Veh 2.
* * This is a Rear End collision.* *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3074.0000
The After Impact Speed of Veh 1 is:	33.4400
The Wt of Veh 2 (lbs) is:	3733.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	33.6300

Formula Results:

The Spd of Veh 1 in mph is:	74.2795
The Vel of Veh 1 in fps is:	108.9432

Calculation Notes:

Impact speed for both vehicles.
Roadway coefficient of friction: 0.70
100% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	74.2795	8.0000	64.5645	16.0000	54.8494
1.0000	73.0651	9.0000	63.3501	17.0000	53.6351
2.0000	71.8507	10.0000	62.1357	18.0000	52.4207
3.0000	70.6364	11.0000	60.9213	19.0000	51.2063
4.0000	69.4220	12.0000	59.7070	20.0000	49.9919
5.0000	68.2076	13.0000	58.4926		
6.0000	66.9932	14.0000	57.2782		
7.0000	65.7789	15.0000	56.0638		

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Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$
$(3074.0000 \times V_1) + (3733.0000 \times 0.0000) = (3074.0000 \times 30.1700) + (3733.0000 \times 33.6300)$
$(3074.0000 \times V_1) + 0.0000 = 92742.5800 + 125540.7900$
$(3074.0000 \times V_1) + 0.0000 = 218283.3700$
$(3074.0000 \times V_1) = 218283.3700 - 0.0000$
$(3074.0000 \times V_1) = 218283.3700$

$$V_1 = \frac{218283.3700}{3074.0000} \qquad V_1 = 71.0095$$

W_1 = The Wt of Veh 1 in pounds.
W_2 = The Wt of Veh 2 in pounds.
V_1 = The Speed of Veh 1 in mph.
V_2 = The Speed of Veh 2 in mph.
V_3 = The Spd After Impact, Veh 1.
V_4 = The Spd After Impact, Veh 2.
* * This is a Rear End collision. * *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3074.0000
The After Impact Speed of Veh 1 is:	30.1700
The Wt of Veh 2 (lbs) is:	3733.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	33.6300

Formula Results:

The Spd of Veh 1 in mph is:	71.0095
The Vel of Veh 1 in fps is:	104.1472

Calculation Notes:

Impact speed for both vehicles.
Roadway coefficient of friction: 0.70
75% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	71.0095	8.0000	61.2945	16.0000	51.5794
1.0000	69.7951	9.0000	60.0801	17.0000	50.3651
2.0000	68.5807	10.0000	58.8657	18.0000	49.1507
3.0000	67.3664	11.0000	57.6513	19.0000	47.9363
4.0000	66.1520	12.0000	56.4370	20.0000	46.7219
5.0000	64.9376	13.0000	55.2226		
6.0000	63.7232	14.0000	54.0082		
7.0000	62.5089	15.0000	52.7938		

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From: Daiquiri Carter
To: ASCC Pleadings; jim@jimjacksonatty.com; Martha Cox
Cc: Brent Gasper; Daiquiri Carter
Subject: CC # 230641
Date: Wednesday, October 18, 2023 3:19:07 PM
Attachments: [redacted]

Please find attached Respondent's Response to Claimants'' Second Set of Requests for Admissions. I have copied Claimants' attorney on this email.

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov

NOTE - This email may contain sensitive or confidential information.

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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JAQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD **CLAIMANTS**

v. **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

RESPONDENT'S RESPONSE TO CLAIMANTS' SECOND SET OF REQUESTS FOR ADMISSION

COMES NOW, the Respondent, the State of Arkansas, Department of Human Services, Office of Chief Counsel, by its attorney, Brent P. Gasper, Assistant Deputy Chief Counsel, with its Response to Claimants' Second Set of Requests for Admission, and states:

REQUEST FOR ADMISSION NO. 1: Admit that you have no evidence to rebut Stanley Cain's calculations and results contained in the table below titled "Impact Speed for Wilkerson (MPH)." This table is also found in Stanley Cain's report.

IMPACT SPEED FOR WILKERSON (MPH)			
Coeff. of Friction	Ashcraft (Stationary)	Ashcraft (10 MPH)	Ashcraft (20 MPH)
0.70	74.3	62.1	50.0
0.57	71.0	58.9	46.7
0.60	69.7	57.6	45.4
0.49	66.7	54.6	42.4

RESPONSE: Denied.

REQUEST FOR ADMISSION NO. 2: Admit that you have no evidence to rebut Stanley Cain's expert's calculations contained in the attached ten (10) pages of calculations which are attached to these Requests as Exhibit #1.

RESPONSE: Denied.

REQUEST FOR ADMISSION NO. 3: Admit that you have no evidence to rebut Michael Kerley's finding that the right rear tire of Jacqueline Ashcraft's was on the right (South) shoulder fog line at the time the respondent's vehicle collided into the rear end of the Ashcraft vehicle.

RESPONSE: Denied.

REQUEST FOR ADMISSION NO. 4: Admit that you have no evidence that Jacqueline Ashcraft was negligent in any way in causing Jennifer Wilkerson to drive into the rear end of her automobile.

RESPONSE: Denied.

Respectfully submitted,

By: _____

Brent P. Gasper
Assistant Deputy Chief Counsel
Ark. Bar No. 98240

Arkansas Department of Human Services
Office of Chief Counsel
P.O. Box 1437
Little Rock, AR 72203
Phone (501) 320-8950
Brent.Gasper@dhs.arkansas.gov

CERTIFICATE OF SERVICE

I, Brent Gasper, hereby certify that on 18 October, 2023, I electronically filed the foregoing with the Claims Commission and copied Claimants' attorney Jim Jackson via email.

_____
Brent P. Gasper

From: Martha Cox
To: Kathryn Irby; ASCC Pleadings
Cc: Brent Gasper; Daiquiri Carter; Jim Jackson
Subject: Haley Hudson, Special Adm"x of the Estate of Jacqueline Ashcraft, deceased and Permanent Guardian of [redacted] a Minor Child v. Arkansas Department of Human Services; Arkansas State Claims Commission No. 230641
Date: Wednesday, October 18, 2023 4:36:30 PM
Attachments: Claimant"s Second [redacted] set 10-18-2023.pdf

Please find enclosed for filing in the above-referenced case the claimant's Second Set of Interrogatories and Requests for Production of Documents. By copy of this email, they are being served upon the respondent's counsel.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] AND [redacted] MINOR CHILDREN — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES — RESPONDENT

CLAIMANT'S SECOND SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

Comes the claimant, Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Permanent Guardian of [redacted] minor child, by and through her attorney, Jim Jackson, and propounds the following Second Set of Interrogatories and Requests for Production of Documents to the respondent, Arkansas Department of Human Services:

INTERROGATORY NO. 1: Please state all evidence that you have that supports your denial of the Claimant's Request for Admission No. 1.

INTERROGATORY NO. 2: Please provide the calculations and results of any analysis of impact speed in your possession that supports your denial of Claimant's Request for Admission No. 1.

INTERROGATORY NO. 3: Please state the name, address and telephone number of all persons on behalf of the Respondent who have performed an analysis of the calculations contained in Stanley Cain's expert calculations which were attached as Exhibit #1 to the Claimant's Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 1: Please attach to your answers copies of all reports and other documents prepared or furnished by said person or persons who have examined the calculations contained in the Claimant's Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 2: Please attach to your answers copies of all reports, analysis, calculations and other documents prepared or furnished by said person or persons who have evidence that rebuts Stanley Cain's expert calculations which were attached as Exhibit #1 to the Claimant's Request for Production No. 2.

INTERROGATORY NO. 4: Identify all evidence you have that supports your denial of the Claimant's Request for Admission No. 3.

INTERROGATORY NO. 5: Identify all evidence you have that supports your denial of the Claimant's Request for Admission No. 4.

REQUEST FOR PRODUCTION NO. 3: Please attach to your answers copies of all documents you have received from the cellular phone subpoena issued by the Arkansas Claims Commission to AT&T.

REQUEST FOR PRODUCTION NO. 4: Please attach to your answers copies of all documents you have received from the HIPAA authorization for Jacqueline Ashcraft executed by the claimant.

REQUEST FOR PRODUCTION NO. 5: Please attach to your answers copies of all documents you have received from the Arkansas Department of Human Services' Authorization to Disclose Health Information authorization executed by the claimant.

REQUEST FOR PRODUCTION NO. 6: Please attach to your answers copies of all documents you have received from the Authorization for Review of Criminal History Information for Jacqueline Lynn Ashcraft authorization executed by the claimant and delivered to your office on April 17, 2023 via e-mail.

REQUEST FOR PRODUCTION NO. 7: Please attach to your answers copies of all documents you have received from the HIPAA authorization for [redacted] executed by the claimant that was delivered to your office on April 21, 2023.

REQUEST FOR PRODUCTION NO. 8: Please attach to your answers copies of all documents you have received from the Driving Records authorization executed by the claimant which was delivered to your office on April 21, 2023.

REQUEST FOR PRODUCTION NO. 4: Please attach to your answers copies of all documents you have received from the authorization titled [redacted] Child Support Release Authorization executed by the claimant on May 22, 2023.

INTERROGATORY NO. 6: These interrogatories and requests for production are considered to be continuing in nature, to be supplemented by the respondent upon receipt of additional information after the interrogatories and requests for production have been answered. Will you do so?

Respectfully submitted,

BY: Jim Jackson

Jim R. Jackson, AR Bar #93-209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
(501) 823-3610 phone
(501) 823-3611 facsimile
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Set of Interrogatories and Requests for Production of Documents were served on the following counsel of record by electronic service according to the Rules of the Arkansas Claims Commission to:

Mr. Brent Gasper
Assistant Deputy Chief Counsel
Arkansas Departrment of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

/s/ Jim R. Jackson
Jim R. Jackson

From: Kathryn Irby
To: Brent Gasper
Cc: Daiquiri Carter; Misty Scott
Subject: RE: CC docket Q
Date: Monday, October 23, 2023 11:02:00 AM

The below list does not include correspondence or orders.

Thanks,
Kathryn

Online claim – 11/6/2022
Signature page and supporting docs – 11/9/2022
Additional documentation – 11/12/2022, 11/17/2022, 11/22/2022, 11/28/2022
DHS' motion to cure – 12/7/2022
Cl's response to motion to cure and complaint – 12/16/2022
Cl's amended complaint – 12/28/2022
Cl's first RFAs – 1/19/2023
Resp's responses to first RFAs – 2/9/2023
Cl's second set of RFAs – 2/10/2023
Resp's responses to first interrogatories and RFPs – 2/10/2023
Cl's motion to withdraw first and second set of RFAs – 2/27/2023
Answer – 3/1/2023
Resp's first set of interrogatories and RFPs – 3/7/2023
Cl's responses to interrogatories and RFPs – 4/4/2023
Cl's notice of filing medical records – 4/20/2023
Resp's MTD Haley Hudson individually – 4/26/2023
Resp's motion to compel – 5/2/2023
Resp's motion to quash – 5/3/2023
Cl's response to MTD – 5/10/2023
Cl's second amended complaint – 5/10/2023
Cl's response to motion to compel – 5/16/2023
Cl's second amended complaint – 5/18/2023
Resp's reply to response to motion to compel – 5/25/2023
Cl's sur-reply to reply to response to motion to compel – 6/2/2023
Resp's answer to second amended complaint, motion to sever, motion to hold claim in abeyance – 6/7/2023
Cl's motion to nonsuit individual claim – 6/12/2023
Cl's responses to discovery requests – 6/12/2023
Cl's motion for partial summary judgment – 6/15/2023
Cl's response to motion to sever and motion to hold claim in abeyance – 6/21/2023
Resp supplemented discovery – 6/23/2023
Resp's motion to strike Cl's MPSJ, etc. – 6/23/2023
Cl's response to motion to strike, etc. – 6/28/2023
Cl's supplemental exhibit to MPSJ – 6/28/2023

Resp's reply to response to motion to sever and motion to hold claim in abeyance – 7/5/2023
Resp's reply to response to motion to strike – 7/6/2023
Cl's sur-reply to reply to response to motion to sever and motion to hold claim in abeyance – 7/10/2023
Cl's sur-reply to reply to response to motion to strike – 7/14/2023
Resp's withdrew MTD individual claim – 7/26/2023
Cl's second set of discovery requests – 8/7/2023
Resp's supplemental response to Cl's first set of discovery requests – 8/10/2023
Cl's second supplemental exhibits to MPSJ – 8/16/2023
Resp's response to Cl's second set of discovery requests – 8/23/2023
Resp's motion for enlargement of time – 10/2/2023
Cl's second set of RFAs – 10/12/2023
Resp's responses to second set of RFAs – 10/18/2023

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Monday, October 23, 2023 10:32 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Misty Scott <Misty.Scott@arkansas.gov>
Subject: RE: CC docket Q

Thank you, Kathryn. Misty, I'm just looking for a list of all pleadings that have been filed and received by the Commission and the dates of those submissions and filings. Is that something you can help me with?

Thanks!

brent

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Monday, October 23, 2023 10:13 AM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Misty Scott <Misty.Scott@arkansas.gov>
Subject: RE: CC docket Q

No, there is not an online docket search for the Commission. If you need to know when a particular filing was submitted, you can email me or Misty Scott (who is copied on this email).

Thanks,
Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>

Sent: Monday, October 23, 2023 9:05 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: CC docket Q

Kathryn:

Good morning! Does the CC have an online docket search like CourtConnect? I'm trying to find a docket reflecting entries of filings in Hudson v. DHS. Basically just looking for when things were filed.

Any help would be appreciated. Thanks!

brent

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

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From: Martha Cox
To: Brent Gasper; Kathryn Irby; ASCC Pleadings
Cc: Daiquiri Carter; Jim Jackson
Subject: RE: Haley Hudson, Special Adm"x of the Estate of Jacqueline Ashcraft, deceased and Permanent Guardian of [redacted], a Minor Child v. Arkansas Department of Human Services; Arkansas State Claims Commission No. 230641
Date: Monday, October 23, 2023 10:50:35 AM
Attachments: Second Set of Interrogatories & RFP [redacted] Arkansas Dept of Human Services.docx

Please see attached, in Word format, the claimant's Second Set of Interrogatories & Requests for Production of Documents to the respondent in the above-referenced case.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

From: Brent Gasper <brent.gasper@dhs.arkansas.gov>
Sent: Monday, October 23, 2023 10:47 AM
To: Martha Cox <mcox@jimjacksonatty.com>; Kathryn Irby <Kathryn.Irby@arkansas.gov>; ASCC Pleadings <ASCCPleadings@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: RE: Haley Hudson, Special Adm'x of the Estate of Jacqueline Ashcraft, deceased and Permanent Guardian of [redacted], a Minor Child v. Arkansas Department of Human Services; Arkansas State Claims Commission No. 230641

Thank you, Martha. Would you be able to send these over in Word format?

I appreciate it!

brent

From: Martha Cox <mcox@jimjacksonatty.com>
Sent: Wednesday, October 18, 2023 4:36 PM
To: Kathryn Irby <kathryn.irby@arkansas.gov>; ASCC Pleadings <asccpleadings@arkansas.gov>
Cc: Brent Gasper <brent.gasper@dhs.arkansas.gov>; Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: Haley Hudson, Special Adm'x of the Estate of Jacqueline Ashcraft, deceased and Permanent Guardian of [redacted], a Minor Child v. Arkansas Department of Human Services; Arkansas State Claims Commission No. 230641

[EXTERNAL SENDER]

Please find enclosed for filing in the above-referenced case the claimant's Second Set of Interrogatories and Requests for Production of Documents. By copy of this email, they are being served upon the respondent's counsel.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

From: Kathryn Irby
To: Brent Gasper
Cc: Daiquiri Carter
Subject: RE: subpoena duces tecum
Date: Wednesday, October 25, 2023 1:12:00 PM
Attachments: [redacted]

Please see attached.

Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Wednesday, October 25, 2023 8:42 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: subpoena duces tecum

Kathryn, can you prepare a subpoena duces tecum in the Hudson v. DHS case for the following:

Mercy Hospital – Booneville
Attn: Human Resources Department
880 W Main Street
Booneville AR 72927

The request should be any and all medical records for Jacqueline "Jackie" Lynn Ashcraft, DOB [redacted] for the last five (5) years.

Thank you!

Brent

Cc: Daiquiri Carter

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

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Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted], a Minor Child, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO: Mercy Hospital – Booneville
Attn: Human Resources Department
880 West Main Street
Booneville, Arkansas 72927

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

_X___ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

Any and all medical records for Jacqueline "Jackie" Lynn Ashcraft, DOB [redacted] SSN [redacted] for the last five (5) years.

October 25, 2023

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Date

PROOF OF SERVICE

_____

SERVED ON (Print Name)

_____ _____

DATE PLACE

_____

MANNER OF SERVICE

_____ _____

SERVED BY (Print Name) TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ _____

DATE SIGNATURE OF SERVER

_____

ADDRESS OF SERVER

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d).

A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

From: Kathryn Irby
To: Brent Gasper
Cc: Daiquiri Carter
Subject: RE: subpoena DT
Date: Friday, October 27, 2023 10:30:00 AM
Attachments: [redacted]

Brent, please see attached. Let me know if you see any issues.

Thanks,
Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Friday, October 27, 2023 8:48 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: subpoena DT

Kathryn, I'm sorry for the duplication but I confused myself with that last request for a SDT. I ***do*** need information from the following but need to request different records:

Mercy Hospital – Booneville
Attn: Human Resources Department
880 W Main Street
Booneville AR 72927

"Please provide any documentation that lists or create a list that includes the names of all nurses, including nurse practitioners, RN's, CNA's, LPN's, and any other person employed by Mercy Hospital – Booneville that required a nursing licensure as a prerequisite for hire or employment for the last five years. Please include last known phone number or address for each person listed."

Thanks!

brent

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

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Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted], a Minor Child, Claimant

SUBPOENA

V.

CLAIM NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

TO: Mercy Hospital – Booneville
Attn: Human Resources Department
880 West Main Street
Booneville, Arkansas 72927

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

_X___ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

Please provide any documentation that lists or create a list that includes the names of all nurses, including nurse practitioners, RN's, CNA's, LPN's, and any other person employed by Mercy Hospital – Booneville that required a nursing licensure as a prerequisite for hire or employment for the last five years. Please include last known phone number or address for each person listed.



October 27, 2023

_____ _____

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Date

PROOF OF SERVICE

_____
SERVED ON (Print Name)

_____ _____
DATE PLACE

_____
MANNER OF SERVICE

_____ _____
SERVED BY (Print Name) TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ _____
DATE SIGNATURE OF SERVER

_____
ADDRESS OF SERVER

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d).

A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

From: Daiquiri Carter
To: ASCC Pleadings; jim@jimjacksonatty.com
Cc: Martha Cox; Brent Gasper; Daiquiri Carter
Subject: CC #230641
Date: Monday, October 30, 2023 12:53:53 PM
Attachments: [redacted]
[redacted]
Response to Claim[redacted]gatories_001.pdf

Please find attached DHS' Response to Claimants' Second Set of Interrogatories and Requests for Production. I have copied Claimants attorney on this email.

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov

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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JAQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD **CLAIMANTS**

v. **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

RESPONDENT'S RESPONSE TO CLAIMANTS' SECOND SET OF INTERROGATORIES AND REQUESTS FOR PRODCUTION OF DOCUMENTS

COMES NOW, the Respondent, the State of Arkansas, Department of Human Services, Office of Chief Counsel, by its attorney, Brent P. Gasper, Assistant Deputy Chief Counsel, with its Response to Claimants' Second Set of Interrogatories and Requests for Production of Documents, and states:

INTERROGATORY NO. 1: Please state all evidence that you have that supports your denial of the Claimant's Request for Admission No. 1.

RESPONSE: Mr. Michael Kerley testified at a deposition on October 26, 2023, and noted discrepancies concerning Mr. Stanley Cain's calculations based upon the inaccuracy of the map and diagrams being used by Mr. Cain in his calculations, as well as certain factors that may influence the calculations one way or the other. A full recitation of Mr. Kerley's explanation will be available when the transcript of his deposition is prepared.

INTERROGATORY NO. 2: Please provide the calculations and results of any analysis of impact speed in your possession that supports your denial of Claimant's Request for Admission No. 1.

RESPONSE: Please see response to Interrogatory No. 1.

INTERROGATORY NO. 3: Please state the name, address and telephone number of all persons on behalf of the Respondent who have performed an analysis of the calculations contained in Stanley Cain's expert calculations which were attached as Exhibit #1 to the Claimant's Request for Production No. 1.

RESPONSE: Michael Kerley. Mr. Kerley's CV has been previously provided to Claimants' counsel.

REQUEST FOR PRODUCTION NO. 1: Please attach to your answers copies of all reports and other documents prepared or furnished by said person or persons who have examined the calculations contained in the Claimant's Request for Production No. 1.

RESPONSE: Please see response to Interrogatory No. 1. Mr. Kerley's testimony will be available when the transcript of his deposition is prepared. The court reporter will be able to provide Claimants with a copy of that deposition.

REQUEST FOR PRODUCTION NO. 2: Please attach to your answers copies of all reports, analysis, calculations and other documents prepared or furnished by said person or persons who have evidence that rebuts Stanley Cain's expert calculations which were attached as Exhibit #1 to the Claimant's Request for Production No. 2.

RESPONSE: See response to previous discovery responses, supra.

INTERROGATORY NO. 4: Identify all evidence you have that supports your denial of the Claimant's Request for Admission No. 3.

RESPONSE: Mr. Michael Kerley testified at a deposition on October 26, 2023, and discussed the relative placement of the tires of Ms. Ashcraft's vehicle at the time of impact.

A full recitation of Mr. Kerley's testimony concerning the relative placement of the vehicles and their tires will be available when the transcript of his deposition is prepared.

INTERROGATORY NO. 5: Identify all evidence you have that supports your denial of the Claimant's Request for Admission No. 4.

RESPONSE: The testimony of Michael Kerley. The testimony of Stanley Cain. The testimony of Jennifer Wilkerson. The testimony of Bobby Dale Wilson. The testimony of James Ray. The police report generated by Mr. Ray. The expert report generated by Stanley Cain. The expert report generated by Michael Kerley. Respondent also believes that the forthcoming medical testimony will establish that Ms. Ashcraft was negligent in operating her vehicle under the influence of a controlled substance and/or while being treated for a medical condition that adversely affected her ability to drive. Furthermore, discovery in this case is still ongoing and Respondent reserves the right to supplement this answer with any newly discovered evidence of Ms. Ashcraft's negligence.

REQUEST FOR PRODUCTION NO. 3: Please attach to your answers copies of all documents you have received from the cellular phone subpoena issued by the Arkansas Claims Commission to AT&T.

RESPONSE: This response will be supplemented with the requested records.

REQUEST FOR PRODUCTION NO. 4: Please attach to your answers copies of all documents you have received from the HIPAA authorization for Jacqueline Ashcraft executed by the claimant.

RESPONSE: This response will be supplemented with the requested records.

REQUEST FOR PRODUCTION NO. 5: Please attach to your answers copies of all documents you have received from the Arkansas Department of Human Services' Authorization to Disclose Health Information authorization executed by the claimant.

RESPONSE: This response will be supplemented with the requested records.

REQUEST FOR PRODUCTION NO. 6: Please attach to your answers copies of all documents you have received from the Authorization for Review of Criminal History Information for Jacqueline Lynn Ashcraft authorization executed by the claimant and delivered to your office on April 17, 2023, via e-mail.

RESPONSE: This response will be supplemented with the requested records.

REQUEST FOR PRODUCTION NO. 7: Please attach to your answers copies of all documents you have received from the HIPAA authorization for [redacted] executed by the claimant that was delivered to your office on April 21, 2023.

RESPONSE: This response will be supplemented with the requested records.

REQUEST FOR PRODUCTION NO. 8: Please attach to your answers copies of all documents you have received from the Driving Records authorization executed by the claimant which was delivered to your office on April 21, 2023.

RESPONSE: This response will be supplemented with the requested records.

REQUEST FOR PRODUCTION NO. 4: Please attach to your answers copies of all documents you have received from the authorization titled [redacted] Child Support Release Authorization executed by the claimant on May 22, 2023.

RESPONSE: This response will be supplemented with the requested records.

INTERROGATORY NO. 6: These interrogatories and requests for production are considered to be continuing in nature, to be supplemented by the respondent upon receipt of

additional information after the interrogatories and requests for production have been answered. Will you do so?

RESPONSE: Yes.

Respectfully submitted,

By: _____

Brent P. Gasper
Assistant Deputy Chief Counsel
Ark. Bar No. 98240

Arkansas Department of Human Services
Office of Chief Counsel
P.O. Box 1437
Little Rock, AR 72203
Phone (501) 320-8950
Brent.Gasper@dhs.arkansas.gov

CERTIFICATE OF SERVICE

I, Brent Gasper, hereby certify that on 31 October, 2023, I electronically filed the foregoing with the Claims Commission and copied Claimants' attorney Jim Jackson via email.

_____
Brent P. Gasper

From: Daiquiri Carter
To: ASCC Pleadings; jim@jimjacksonatty.com; Martha Cox
Cc: Brent Gasper; Daiquiri Carter
Subject: CC # 230641
Date: Wednesday, November 1, 2023 11:10:30 AM
Attachments: [redacted]

Please find attached Respondent's Motion to Compel. I have copied Claimants attorney on this email.

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov





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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JAQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD **CLAIMANTS**

v. **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

RESPONDENT'S MOTION TO COMPEL

COMES NOW, the Respondent, the State of Arkansas, Department of Human Services, Office of Chief Counsel, by its attorney, Brent P. Gasper, Assistant Deputy Chief Counsel, with its Motion to Compel, and states:

1. On March 7, 2023, Respondent filed its First Set of Interrogatories and Requests for Production on the named Claimants' counsel, Jim Jackson.

2. Claimants' responses to Respondent's first interrogatory, which were filed by Claimants on April 4, 2023, is copied below:

> *INTERROGATORY NO. 1: Please identify* ***each person who may have knowledge*** *or discoverable information* ***relating to the claims or defenses*** *to this claim and state briefly the nature of the knowledge or discoverable information had by each person identified.*
>
> *RESPONSE: Haley Hudson is aware of the persons listed by Arkansas State Police Trooper James Ray in the accident report who have information regarding how the accident occurred in addition to the information that Carley Jones and Kadey Jones possess. Kimmy Corley is the mother of the minor child who was in the back seat. Ms. Corley lived at 5501 SH 22, Paris, Arkansas, at the time of the wreck. Bobby Dale Wilson, 798 Wilson Road, Sulligent, Alabama 35586, is the name and address listed in the accident report. Mr. Wilson was the driver of the tractor trailer rig that was approaching Ms. Ashcraft's vehicle at the time it was rear-ended by Jennifer Wilkerson.* ***Jennifer Wilkerson was the respondent's employee, and her contact information is presumed to be in your possession****. Kadey*

> *and Carley Jones live with Haley Hudson at 546 CR 354, Wynne, Arkansas 72396.* (emphasis added)

3. Claimants' responses to Respondent's second interrogatory, which were filed by Claimants on April 4, 2023, is copied below:

> *INTERROGATORY NO. 2:* ***Please state the last known address, phone number, email address,*** *and social media account identification for each person identified in the response to Interrogatory No. 1. Social media includes without limitation Facebook, Instagram, Twitter, Truth Social, Tik Tok, SnapChat, YouTube, and WhatsApp,*
>
> *RESPONSE: Objection ... Without waiving said Objection,* ***the names and address are contained in the claimant's answers to Interrogatory Nos. 1 and 12.***[1] (emphasis added)

4. As is pleaded under oath as part of a response filed with this Commission, on the date these responses were delivered to Respondent, it *appears* that Claimants' counsel does not know the whereabouts of the witness Jennifer Wilkerson. At least, that's what he would like this Commission to believe. Indeed, he never *outright* states that he does or does not know of her whereabouts and her contact information. He merely states that some twenty-two (22) months after her employment with Respondent was terminated that Respondent still knows where Ms. Wilkerson is and how to contact her. Why he believes that Respondent keeps tabs or should keep tabs on former employees is not clearly explained. What is clear is that he provided no affirmative information in response to the first interrogatory.

5. Perhaps more interesting is his response to the second interrogatory. Here, Claimants' counsel simply objects and then refers back to his response to the first interrogatory, *but only in reference to names and phone numbers*. Notably, he fails to address email addresses.

[1] Claimants' counsel actually initially argues in furtherance of his objection but that argument is strictly as the interrogatory pertains to social media accounts. Because social media accounts are not the subject of this motion to compel Respondent has removed that part of Claimants' response for the sake of brevity.

6. At the end of Claimants' responses to Respondent's first set of interrogatories, which were filed by Claimants on April 4, 2023, was this provision:

> *INTERROGATORY NO. 32: Please state whether Claimant will treat the foregoing interrogatories as continuing and furnish to Respondent, in writing, any additional information received by Claimant subsequent to the date of Claimant's answers hereto that would modify or supplement Claimant's answers, such additional information to be furnished as soon as reasonably possible after receipt by Claimant and within a reasonable time prior to the assigned trial date in order to permit appropriate discovery procedure.*
>
> *RESPONSE: The claimant will abide by the Arkansas Rules of Civil Procedure.*

7. As the Commission knows, this is a standard interrogatory that describes the subsequent and ongoing obligation to comply with the rules of discovery by supplementing the given answers as the case develops over time. While Claimants counsel did not answer in the affirmative, Claimants counsel did state Claimants would abide by the Arkansas Rules of Civil Procedure, where that requirement exists nonetheless.[2] As the following sections of this motion clearly set out, Claimants counsel failed to live up to this obligation.

Knowledge of Jennifer Wilkerson's Whereabouts

8. Ms. Wilkerson is a difficult person to reach.[3] This was one of the claims Respondent made in furtherance of its motion for an enlarged period of time to respond to Claimants' Motion for Summary Judgment. In an email to Kathryn Irby, Director of the Arkansas State Claims Commission, Claimants' counsel *acknowledges and agrees* with this assertion when asking Ms. Irby to prepare a subpoena to compel Ms. Wilkerson's attendance at a deposition. *See* Respondent's Exhibit "A", attached hereto. This, however, was not the entire truth.

---

[2] *See* Ark. R. Civ. Pro. 26(e).

[3] As previously stated, Ms. Wilkerson is no longer employed by Respondent and as discovered at her deposition, is currently unemployed.

9. At her deposition on October 20th in the Logan County Courthouse, Jennifer Wilkerson revealed, much to Respondent's counsel's surprise, that Claimants' counsel has been in contact with her since *at least* April 7, 2023. *See* attached as Respondent's Exhibit "B" a copy of a screenshot from Ms. Wilkerson's personal cell phone that shows a message sent by Claimants' counsel on this date.[4] In fact, Claimants' counsel has tried to contact her repeatedly by both phone and email to try and get her to both talk about the case but also to persuade her to sign an affidavit that he himself had drafted that allegedly described Ms. Wilkerson's actions at the time of the accident. These contacts by Claimants' counsel were so constant and continuous that, at her deposition, Ms. Wilkerson described Claimants' counsel as being "pushy" and "harass[ing]" her. She also stated that she felt like she was being "manipulated" and "bullied" by Claimants' counsel.[5]

10. As expected, Respondent's counsel was taken aback by these revelations as he had relied upon and believed Claimants' responses to the interrogatories and requests for production of documents those many months prior. However, it turned out that Claimants' counsel knew where Ms. Wilkerson was *for months*, had contacted her repeatedly, possessed written and/or electronic communications with Ms. Wilkerson, and had concealed this fact from Respondent's counsel. This, while simultaneously pursuing a motion for summary judgment where Claimants stated that there was *no dispute as to the material facts of this case*.

---

[4] Notably, this was approximately one (1) month before Claimants filed their Second Amended Complaint and approximately two (2) months before Claimants filed their motion for summary judgment. Moreover, this screenshot was provided to Respondent not by Claimants by Ms. Wilkerson herself.

[5] Respondent has been provided partial records from Ms. Wilkerson that show contacts or attempted contacts by Claimant's counsel on April 7, August 14, September 8, September 11, September 14, and October 2, all from 2023. Respondent anticipates there will be many more if full records are provided. Ms. Wilkerson also states that she sent an email to Claimant's counsel during this time period, presumably in response to one of his contacts. This, of course, would be discoverable but has not been turned over to Respondent as of the date of this motion. Ms. Wilkerson also testified that Claimant's counsel left her a voicemail as well but a copy of that voicemail was apparently not retained. Claimant's counsel, however, does acknowledge leaving that voicemail. *See* attached Exhibit "C".

Claimants' Counsel's Discovery Obligation

11. To be clear, Claimants' counsel had an obligation to inform Respondent of Jennifer Wilkerson's whereabouts and to provide Respondent with her contact information. This includes email addresses, which Claimants' counsel artfully dodged providing in his initial discovery responses. Rule 26(e) of the Arkansas Rules of Civil Procedure is as plain as day:

> *(e) Supplementation of Responses. (1) A party is under a duty seasonably to amend a prior response to an interrogatory, request for production, or request for admission if the party learns that the response is in some material respect incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.* ***This duty includes, but is not limited to, supplying supplemental information about the identity and location of persons having knowledge of discoverable matters, the identity and location of each person expected to be called as a witness at trial****, and the subject matter and substance of any expert witness's testimony.*

12. As should be clear before this Commission, Claimants' evasive and incomplete answer to the interrogatories coupled with a motion for summary judgment that Respondent believes would have been – and still will be – easily defeated by evidence that would have been and has now been gleaned from Jennifer Wilkerson's testimony is a demonstration of bad faith before this Commission. Indeed, had Ms. Wilkerson's eyewitness observations and her version of events been known about sooner, Claimants' counsel would have been unable to file his motion in good faith as Ms. Wilkerson's deposition made abundantly clear.

13. Specifically, Jennifer Wilkerson testified that she never saw brake lights or a turn signal on Ms. Ashcraft's vehicle before and at the time of the accident. She also testified that it was very possible that the reason for this was that Ms. Ashcraft was on the shoulder of the road, subsequently reentering the roadway immediately before the collision, which in turn would have corroborated the sworn affidavit of Bobby Dale Wilson, the driver of the truck involved in the accident. Ms. Wilkerson's testimony that she never saw any brake lights also supports

Respondent's expert's findings that there were no skid marks left by Ms. Ashcraft's vehicle, which would have been left had Ms. Ashcraft been applying her brakes at the time. Both cumulatively and individually these facts support Respondent's defense that Ms. Ashcraft was comparatively at fault in this accident, which is a direct contradiction to Claimants' claim from the outset that Ms. Wilkerson was *wholly at fault*. It also is a direct refutation that there was no dispute as to a material fact concerning liability, *which is the entire impetus* of Claimants' motion for summary judgment.

14. Jennifer Wilkerson *also* testified that she had heard from a family member that Ms. Ashcraft had been visiting the emergency room prior to the accident for a medical issue involving her head.[6] Mr. Wilkerson testified that an unknown nurse had told Ms. Wilkerson's family member this information after knowledge of the accident and Ms. Ashcraft's death that resulted from a brain bleed began circulating in the community. Clearly this information, if proven accurate, would be a turn of events with significant import in this case as Claimants have contended from the outset that Ms. Ashcraft's brain injuries were caused *solely* by the accident and therefore *solely* by the actions of Jennifer Wilkerson. Likewise, Claimants have pleaded and subsequently testified under oath that at the time of her death Ms. Ashcraft was not being seen by any medical professional and did not suffer from any condition that would have caused her injuries. Jennifer Wilkerson's testimony now casts a dark shadow over these claims.

15. As would be expected, after being made aware of this information Respondent immediately began to investigate these claims and has begun to try to locate the unnamed nurse. Respondent has also begun re-requesting Ms. Ashcraft's medical records from area hospitals and trauma centers in the event that Respondent had previously overlooked a facility that may have possessed records of Ms. Ashcraft's medical treatment or where she might have used an alias. It

[6] Ms. Wilkerson referred to the condition at her deposition as a "brain aneurysm" although she was not entirely sure what the nature of the head condition was.

is too early to know whether these efforts will bear fruit before Respondent's response to Claimants' motion for summary judgment is due. What is clear, however, is that had Claimants' counsel honored his obligation to supplement discovery by providing Jennifer Wilkerson's contact information to Respondent when he should have – much earlier in these proceedings and not through an inadvertent reveal at Ms. Wilkerson's deposition – Respondent would likely have had ample time to investigate this claim instead of fighting a premature motion for summary judgment. Claimant would likewise not have felt it necessary to involve this Commission in not one but *two* last-minute emergency hearings to request reprieves from the undue hardship imposed on Respondent with the condensed discovery timeline.

Compulsion of Evidence

16. Due to the foregoing, Respondent asks this Commission to compel Claimants' counsel to provide Respondent with any and all discoverable material and information not already provided to Respondent. Respondent also requests that, if necessary, this Commission conduct an *in camera* review of all information and documentation concerning and surrounding Claimants' counsel's dealings with Ms. Wilkerson to ensure that all discoverable information and material has been provided to Respondent and, if not, to compel Claimants' counsel to do so.[7]

Discovery Violations

17. Respondent also contends that Claimants' counsel violated the rules of discovery, implicating not only Rule 26(e) but also Rule 37, which sets forth what constitutes a failure to make discovery.

[7] Respondent believes that an *in camera* review the best method to ascertain the collective evidence Claimants' counsel has been withholding from Respondent as Claimants' counsel has stated on the record that he did not believe Respondent was "entitled" to this information. While Respondent disagrees, an *in camera* hearing would protect the parties and ensure that not only are discovery obligations being honored but that privileged information is not inadvertently disclosed.

18. Rule 37(d) reads, in part:

> *(d) Failure of Party to Attend at Own Deposition or Serve Answers to Interrogatories or Respond to Request for Inspection.*
>
> *If a party ... fails ...*
>
> *... (2) to serve answers or objections to interrogatories submitted under Rule 33, after proper service of the interrogatories ... the court in which the action is pending on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized under paragraphs (A), (B) and (C) of subdivision (b)(2) of this rule.*
>
> *Any motion specifying a failure under clause (2) or (3) of this subdivision shall include a statement that the movant has in good faith conferred or attempted to confer with the party failing to answer or respond in an effort to obtain such answer or response without court action.*
>
> *In lieu of any other order or in addition thereto, the court shall require the party failing to act or the attorney advising him or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.*

19. As required under Rule 37(d), Respondent did send an email to Claimants' counsel on Monday, October 23, stating:

> *"Following up on my on-the-record request, please remit copies of any and all written, text, email, or voice communications you have had with Jennifer Wilkerson. Please also supply a call log of each and every phone call placed or message sent to Jennifer Wilkerson or that you have received from Jennifer Wilkerson."*

20. In response, Claimants' counsel stated:

> *"Your request for my correspondence, notes, text messages, phone call log with a witness is also misplaced. It is my opinion that the items you informally requested in your email are protected under the attorney work product doctrine. However, if I am mistaken in my understanding of the law, I have prepared a Privilege Log containing my correspondence with Ms. Wilkerson. I am asserting that the documents you informally requested in your email are privileged communications."*

21. Claimants' counsel's reliance on the "attorney work doctrine" is unfounded in this instance. Potentially privileged information is specifically addressed in Rule 37(d):

> *The failure to act described in this subdivision may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order as provided in Rule 26(c).*

22. Claimants' attorney has thus far requested no protective order as far as Respondent is aware.

23. Further, Rule 37(e) is particularly relevant:

> *(e) Failure to Supplement Responses.*
>
> *If a party fails to supplement responses seasonably as required by Rule 26(e), and another party suffers prejudice, then upon motion of the prejudiced party made before or at trial, the court may make any order which justice requires to protect the moving party, including but not limited to imposing any sanction allowed by subdivision (b)(2)(A)-(C) of this rule.*

24. In light of the foregoing, Respondent expects that Claimants' counsel will argue that he in fact did answer truthfully in his responses to interrogatories because he did not outright deny that he did not know Jennifer Wilkerson's whereabouts or contact information. However, Rule 37 contemplates this excuse by stating in no uncertain terms "*an evasive or incomplete answer or response is to be treated as a failure to answer or respond*." *See* Rule 37(a)(3). The official commentary to Rule 37(a)(3) further explains:

> *Under revised paragraph (3) of subdivision (a), evasive or incomplete disclosures and responses to interrogatories and production requests are treated as failures to disclose or respond.*
>
> *Interrogatories and requests for inspection should not be read or interpreted in an artificially restrictive or hypertechnical manner to avoid disclosure of information fairly covered by the discovery request, and to do so is subject to appropriate sanctions.*

Prejudice

25. Claimants' counsel's failure and/or refusal to comply with the Arkansas Rules of Civil Procedure has substantially prejudiced Respondent and potentially damaged its case. It certainly has upended Respondent's investigation into the matter, compromised its trial strategy and preparation, and altered its approach to the case. The compressed and unreasonable timeframe under which Respondent has been required to act resulting from Claimants' counsel's bad faith has cost Respondent and its counsel time, effort, and money that it would not have had to expend had Claimants' counsel fairly proceeded under the rules. And this Commission would not have had to referee the still-ongoing dispute over Claimants' motion for summary judgment by reviewing dozens of pages of legal argument contained in the several motions filed before it concerning that issue, as well as holding two (2) extraordinary hearings to decide them. Claimants' actions have placed an unfair and unreasonably undue hardship on Respondent and its counsel and have materially affected the case to Respondent's detriment.

Prayers for Relief

26. Due to the foregoing, Respondent PRAYS that its Motion to Compel be GRANTED. Respondent further PRAYS for any and all other relief to which it may show itself entitled.

Respectfully submitted,

By: _____

Brent P. Gasper
Assistant Deputy Chief Counsel
Ark. Bar No. 98240

Arkansas Department of Human Services
Office of Chief Counsel
P.O. Box 1437

Little Rock, AR 72203
Phone (501) 320-8950
Brent.Gasper@dhs.arkansas.gov

CERTIFICATE OF SERVICE

I, Brent Gasper, hereby certify that on 1 November, 2023, I electronically filed the foregoing with the Claims Commission and copied Claimants' attorney Jim Jackson via email.

Brent P. Gasper

Brent Gasper

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Thursday, October 5, 2023 9:06 AM
To: Brent Gasper; Kathryn Irby; Daiquiri Carter; ASCC Pleadings; Martha Cox
Subject: RE: SPECIAL HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641

[EXTERNAL SENDER]
Brent,
Following up on the hearing this morning, I would like to depose Jennifer Wilkerson on October 18, 19 or 20 beginning at 1:00 p.m.
As you noted in your Motion, she is difficult to reach so I will ask Director Irby to issue a Subpoena compelling her deposition at:

Logan County Courthouse
25 West Walnut Street
Paris, AR 72855
If you want to depose paramedic/EMT Zach Marry or any other Logan County witnesses at that time, please let me know and I will be glad to accommodate you.

Also, Mr. Kerley's report indicates that he took 174 color photos of the accident scene.
Can you transmit a hyperlink to these photos?
Also, do you have the Orthomosaic Scene Diagram in a format other than the PDF which is attached to the Preliminary Report as Appendix B?
If so, can you transmit that file to my attention?

Thank you,

Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611



From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Wednesday, October 4, 2023 8:15 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>; Jim Jackson <jim@jimjacksonatty.com>
Subject: RE: SPECIAL HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641

Thank you Kathryn.

Brent

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Tuesday, October 3, 2023 4:47 PM
To: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: SPECIAL HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641

Jim and Brent, please see attached hearing letter and Zoom invitation.

Thanks,
Kathryn

From: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Sent: Monday, October 2, 2023 3:47 PM
To: ASCC Pleadings <ASCCPleadings@arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>; jim@jimjacksonatty.com; Martha Cox <mcox@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: CC # 230641

Please find attached Respondent's Motion for Enlargement of Time. I have copied claimant's attorney on this email.

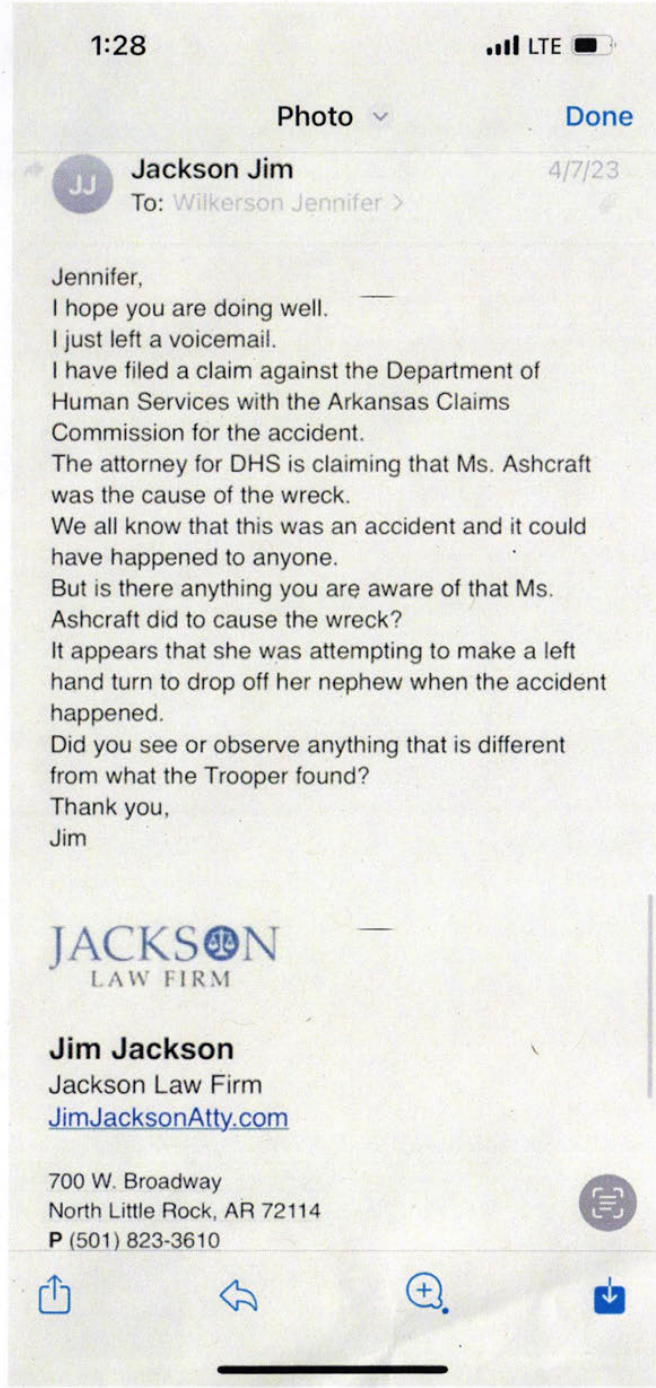
Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov

DHS

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1:28 LTE

Photo Done

Jackson Jim 4/7/23
To: Wilkerson Jennifer >

Jennifer,
I hope you are doing well.
I just left a voicemail.
I have filed a claim against the Department of Human Services with the Arkansas Claims Commission for the accident.
The attorney for DHS is claiming that Ms. Ashcraft was the cause of the wreck.
We all know that this was an accident and it could have happened to anyone.
But is there anything you are aware of that Ms. Ashcraft did to cause the wreck?
It appears that she was attempting to make a left hand turn to drop off her nephew when the accident happened.
Did you see or observe anything that is different from what the Trooper found?
Thank you,
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610





4:57

244 Affidavit

Jackson Jim
To: Wilkerson Jennifer >
8/14/23

Jennifer,
I hate to bother you about the affidavit but it is something that has to be addressed.
Have you reviewed the Affidavit to see if it is correct?
If so, can you please either sign it in front of a Notary Public and mail it back to my office or let me know what corrections/additions you would like to make.
Thank you,
Jim

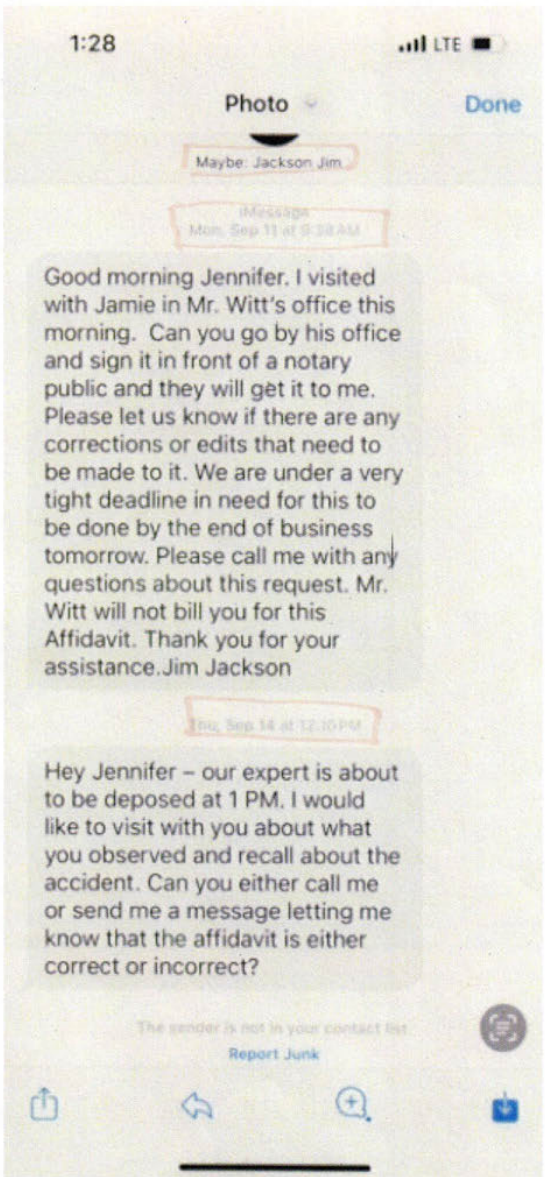
JACKSON LAW FIRM

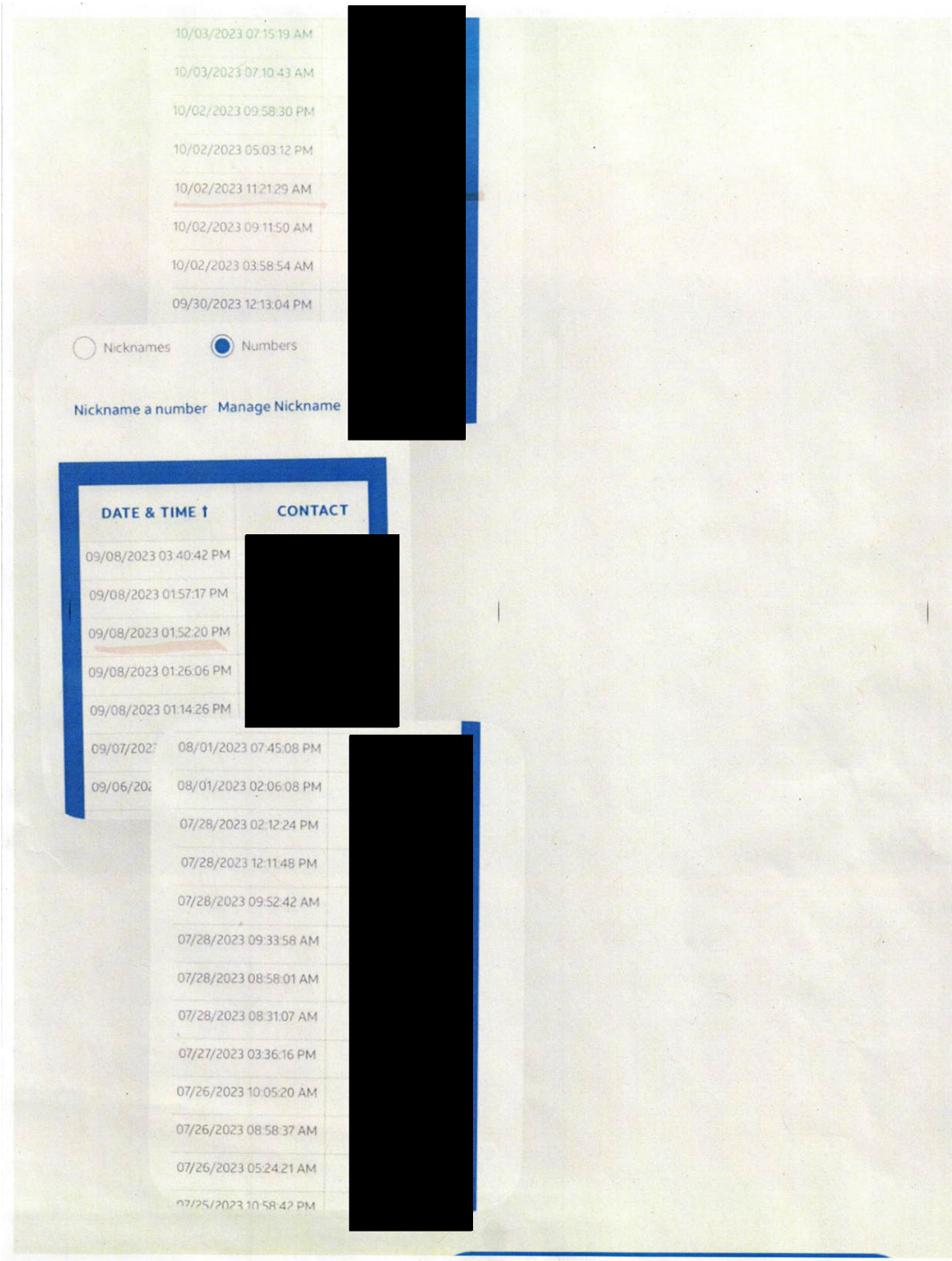
Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

PENGAD 800-631-6989

EXHIBIT C


1:28
LTE
Photo
Done
Maybe: Jackson Jim
Good morning Jennifer. I visited with Jamie in Mr. Witt's office this morning. Can you go by his office and sign it in front of a notary public and they will get it to me. Please let us know if there are any corrections or edits that need to be made to it. We are under a very tight deadline in need for this to be done by the end of business tomorrow. Please call me with any questions about this request. Mr. Witt will not bill you for this Affidavit. Thank you for your assistance.Jim Jackson
Hey Jennifer – our expert is about to be deposed at 1 PM. I would like to visit with you about what you observed and recall about the accident. Can you either call me or send me a message letting me know that the affidavit is either correct or incorrect?
Report Junk


10/03/2023 07:15:19 AM
10/03/2023 07:10:43 AM
10/02/2023 09:58:30 PM
10/02/2023 05:03:12 PM
10/02/2023 11:21:29 AM
10/02/2023 09:11:50 AM
10/02/2023 03:58:54 AM
09/30/2023 12:13:04 PM
Nicknames
Numbers
Nickname a number
Manage Nickname
DATE & TIME
CONTACT
09/08/2023 03:40:42 PM
09/08/2023 01:57:17 PM
09/08/2023 01:52:20 PM
09/08/2023 01:26:06 PM
09/08/2023 01:14:26 PM
08/01/2023 07:45:08 PM
08/01/2023 02:06:08 PM
07/28/2023 02:12:24 PM
07/28/2023 12:11:48 PM
07/28/2023 09:52:42 AM
07/28/2023 09:33:58 AM
07/28/2023 08:58:01 AM
07/28/2023 08:31:07 AM
07/27/2023 03:36:16 PM
07/26/2023 10:05:20 AM
07/26/2023 08:58:37 AM
07/26/2023 05:24:21 AM

From: Unser, Kyle T.
To: Brent Gasper; Kathryn Irby
Cc: Newton, Ivy L.
Subject: RE: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23
Date: Monday, November 6, 2023 1:26:46 PM

You don't often get email from kyle.unser@kutakrock.com. Learn why this is important

Perfect. Thank you Brent. I'm around today and tomorrow and happy to discuss at your convenience.

Kyle T. Unser
Partner

Kutak Rock LLP
5111 W. J.B. Hunt Dr., Suite 300
kyle.unser@kutakrock.com
p: 479-250-9675 **m:** 479-957-8328

Support provided by
Ivy Newton | Paralegal | **p:** 479-973-4200 | ivy.newton@kutakrock.com

---

From: Brent Gasper <brent.gasper@dhs.arkansas.gov>
Sent: Monday, November 6, 2023 1:15 PM
To: Unser, Kyle T. <Kyle.Unser@KutakRock.com>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Newton, Ivy L. <Ivy.Newton@KutakRock.com>
Subject: RE: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23

[CAUTION - EXTERNAL SENDER]

Sorry for the wrong number Kyle. I'm in a hearing right now but can call after. I have no objection at all to giving more time to respond. No need to file a motion to quash yet. I'm sure Kyle and I can work it out.

Kyle, my direct line is 501-320-8950.

Brent

Cc: Kathryn Irby

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203

(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

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From: Unser, Kyle T. <Kyle.Unser@KutakRock.com>
Sent: Monday, November 6, 2023 1:10 PM
To: Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Brent Gasper <brent.gasper@dhs.arkansas.gov>; Newton, Ivy L. <Ivy.Newton@KutakRock.com>
Subject: FW: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23

[EXTERNAL SENDER]
Ms. Irby:

I wasn't able to reach Mr. Gasper. It's only been a few minutes, but I am concerned that Mercy was served early enough last week that their deadline to respond to this subpoena is today. Can you please provide the address to which I should email a motion to quash the subpoena? I'm going to send it today out of an abundance of caution.

Brent, happy to work with you on the subpoena at your convenience.

Kyle T. Unser
Partner

Kutak Rock LLP
5111 W. J.B. Hunt Dr., Suite 300
kyle.unser@kutakrock.com
p: 479-250-9675 **m:** 479-957-8328

Support provided by
Ivy Newton | Paralegal | **p:** 479-973-4200 | ivy.newton@kutakrock.com

---

From: Unser, Kyle T.

Sent: Monday, November 6, 2023 1:02 PM
To: brent.gasper@dhs.arkansas.gov
Cc: Newton, Ivy L. <Ivy.Newton@KutakRock.com>
Subject: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23

Brent:

I tried to call the phone number listed on your letterhead but it's telling me it's not a working number. Do you have a minute to discuss?

The subpoena requests that Mercy identify every employee who held a license for the past five years and their phone numbers and addresses. I think that's a pretty healthy list. Mercy has asked me to file a motion to quash the subpoena but is there a more targeted way to get you the information you're after?

Kyle

Kyle T. Unser
Partner

Kutak Rock LLP
5111 W. J.B. Hunt Dr., Suite 300
kyle.unser@kutakrock.com
p: 479-250-9675 **m:** 479-957-8328

Support provided by
Ivy Newton | Paralegal | **p:** 479-973-4200 | ivy.newton@kutakrock.com

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Thank you.

From: Kathryn Irby
To: Unser, Kyle T.
Cc: Brent Gasper; Newton, Ivy L.
Subject: RE: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23
Date: Monday, November 6, 2023 2:11:00 PM

Kyle, based upon the emails between you and Brent, it sounds like you've won't need to file the motion referenced in your email. That said, to answer your question, the Commission's electronic filing email is asccpleadings@arkansas.gov.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Unser, Kyle T. <Kyle.Unser@KutakRock.com>
Sent: Monday, November 6, 2023 1:10 PM
To: Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Brent Gasper <brent.gasper@dhs.arkansas.gov>; Newton, Ivy L. <Ivy.Newton@KutakRock.com>
Subject: FW: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23

You don't often get email from kyle.unser@kutakrock.com. Learn why this is important

Ms. Irby:

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Brent, happy to work with you on the subpoena at your convenience.

Kyle T. Unser
Partner

Kutak Rock LLP
5111 W. J.B. Hunt Dr., Suite 300
kyle.unser@kutakrock.com
p: 479-250-9675 **m:** 479-957-8328

Support provided by

Ivy Newton | Paralegal | **p:** 479-973-4200 | ivy.newton@kutakrock.com

---

From: Unser, Kyle T.
Sent: Monday, November 6, 2023 1:02 PM
To: brent.gasper@dhs.arkansas.gov
Cc: Newton, Ivy L. <Ivy.Newton@KutakRock.com>
Subject: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23

Brent:

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Kyle

Kyle T. Unser
Partner

Kutak Rock LLP
5111 W. J.B. Hunt Dr., Suite 300
kyle.unser@kutakrock.com
p: 479-250-9675 **m:** 479-957-8328

Support provided by
Ivy Newton | Paralegal | **p:** 479-973-4200 | ivy.newton@kutakrock.com

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Thank you.

From: Martha Cox
To: ASCC Pleadings; Kathryn Irby
Cc: Brent Gasper; Daiquiri Carter; Jim Jackson
Subject: Haley Hudson, etc. v. Arkansas DHS; Arkansas State Claims Commission No. 230641; Incident Date: 6/11/2021
Date: Monday, November 13, 2023 3:38:10 PM
Attachments: [redacted] Exhibits 1-8.pdf
[redacted] Motion to Compel.pdf
[redacted] compel 11-13-2023.pdf

Ms. Irby, please find attached a letter from Attorney Jim Jackson with the claimant's Response to the respondent's Motion to Compel and exhibits for filing in the above-referenced claim.

Three copies of the claimant's Response to Motion to Compel with exhibits are being mailed to you.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

JACKSON
LAW FIRM

November 13, 2023

VIA EMAIL & US MAIL

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, AR 72201

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Ashcraft, deceased and Permanent Guardian of* [redacted] *a Minor Child v. Arkansas Department of Human Services*
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Kathryn:

Please find enclosed an original and two copies of the Claimant's Response to Motion to Compel that is being delivered via US Mail. A PDF copy of the Response is filed online and a copy of the PDF being sent to Brent Gasper, counsel for DHS, at the time of the electronic filing.

Please call me at (501) 823-3610 with any questions or suggestions.

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosure
cc:w/enc. Brent Gasper, *Esq.*

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528
501.823.3610
Fax: 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILD — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES — RESPONDENT

CLAIMANT'S RESPONSE TO MOTION TO COMPEL

It is categorically false that counsel withheld contact information for Jennifer Wilkerson. The primary thrust of the Motion to Compel is that DHS has been placed at a disadvantage because the claimant's counsel withheld the name and contact information for eyewitness Jennifer Wilkerson in violation of Rule 26 of the Arkansas Rules of Civil Procedure. DHS' Motion would lead one to think it only learned of Jennifer Wilkerson's identity and location during her deposition on October 20, 2023.

Nothing could be further from the truth! The claimant's counsel obtained the address and telephone number of Jennifer Wilkerson *from DHS' Answers to Interrogatories* and the State Trooper's accident report. Yes, the Commission is reading this correctly. DHS provided the claimant with the name, address, and cell phone number of Jennifer Wilkerson in a pleading filed with this Commission nearly a year ago. DHS provided the claimant with the *name, address, and cell phone number* of Jennifer Wilkerson in its initial response to Interrogatories and Requests for Production of Documents, which were filed with this Commission on January 10, 2023. DHS listed Ms. Wilkerson's address as [redacted] **Last known phone** [redacted] Attached as Exhibit 1 are the

first two pages of DHS' answers to discovery served on January 10, 2023. This was three months **before** the claimant's answer to discovery was filed on April 4, 2023. This is the same answer that DHS alleges was inadequate in revealing the location of Jennifer Wilkerson.

As background information, Jennifer Wilkerson was a DHS employee who was driving a DHS car at the time of the wreck. Wilkerson was tasked to drive from Paris to Beebe to pick up a foster child and bring the child to Clarksville for a family visit. Wilkerson lives at the same address in Paris, Arkansas, as she did when she was employed by DHS. There is no evidence that Wilkerson has ever moved to any other address since the wreck occurred.

The respondent cannot assert a good faith argument that its Motion to Compel is not frivolous or filed to cause unnecessary delay or needlessly increase the cost of litigation. How can DHS claim that the location of Ms. Wilkerson's whereabouts had been withheld by the claimant when the claimant received the address and cell phone number from DHS in January? The claimant learned of Ms. Wilkerson's address and mobile phone number *from the respondent's answers* to Interrogatories. Wilkerson's address was corroborated in the State Trooper's crash report. Ms. Wilkerson confirmed during her deposition that she still resides at [redacted] Wilkerson's mobile phone number is still the same as contained in DHS' answers to discovery.

DHS argues that if "Claimant's counsel honored his obligation to supplement discovery by providing Jennifer Wilkerson's contact information to respondent when he should have- much earlier in these proceedings and not through an inadvertent revealed that Ms. Wilkerson's deposition-Respondent would likely have had ample time to investigate this claim instead of fighting a premature motion for summary judgment." This is a nonsensical argument. Jennifer Wilkerson's address and telephone number were in the respondent's Answers to Interrogatories. Furthermore, Jennifer Wilkerson's address was in the Trooper's Crash Report.

Jennifer Wilkerson has been constant in her lack of knowledge as to what happened to cause a wreck in which she drove nearly straight into the rearend of Ashcraft's car. Jennifer Wilkerson provided a written statement to DHS the week after the wreck. Kristen Shelton, a DHS Program Administrator, administered 10 written questions to Ms. Wilkerson as part of her formal Fact-Finding Investigation. Question #5 asked:

"While you were driving, what happened to cause the accident?"

"I remember seeing a car up ahead but no break (sic) lights or signal lights.

That's all I remember until I came to."

[redacted]

Attached as Exhibit 2 are the respondent's Response to Requests for Production of Documents, Bates stamped 417 – 426, which contain the information DHS gathered about Jennifer Wilkerson's crash immediately after the wreck as part of its formal Fact-Finding Investigation.

Claimant filed her Motion for Partial Summary Judgment on the Issue of Liability based, among other things, upon the information Jennifer Wilkerson provided DHS the week after the wreck. In a nutshell, Wilkerson was an hour behind schedule to pick up a foster child in Beebe, and she was driving east on Highway 22 at a high rate of speed. Wilkerson did not see the oversized tractor-trailer rig or escort vehicle until after the wreck occurred. Wilkerson did not see Ashcraft's vehicle, which had slowed to allow the oversized load to pass before attempting a left-hand turn. Wilkerson had no idea what happened to cause her to drive into the rear end of Ashcraft's car at a high rate of speed just a few miles outside of Paris. DHS rightfully terminated Wilkerson at the conclusion of its fact-finding

investigation. This evidence, along with the other evidence contained in the claimant's Motion for Partial Summary Judgment, presents DHS with a very difficult burden of proving that anyone other than Wilkerson was at fault in causing a wreck that demolished two passenger cars and led to the death of Jacqueline Ashcraft from an acute brain hemorrhage.

The claimant decided to depose Jennifer Wilkerson even though the information contained in DHS' "Fact-Finding" investigation meets the burden of proof that DHS was solely at fault. The claimant asked Director Irby to issue a Subpoena for Ms. Wilkerson and used the address of: [redacted]

The Logan County Sheriff's Department served Jennifer Wilkerson with the subpoena at: [redacted] (Attached as Exhibit 3 is the Process of Service form completed by the Logan County Deputy). There can be no confusion by DHS as to the whereabouts of Jennifer Wilkerson.

If DHS was confused about how to locate Jennifer Wilkerson, it could have referenced State Trooper James Ray's Crash Report [redacted] which is a public document. Trooper Ray's report of June 11, 2021, lists the address of Jennifer Wilkerson as [redacted] **This is the same address that DHS provided on January 10, 2023.**

DRIVER INFORMATION

Name ☐ Unknown				Date of Birth/Age	Sex ☐ Male ☑ Female ☐ Unknown
WILKERSON	JENNIFER	LEANN		[redacted]	
Last	First	Middle	Suffix		

Address ☐ Unknown

[redacted]

Street City State Postal Code

DRIVER LICENSE INFORMATION

License Status	100	License Number	Restrictions on License Check all that apply.	Restrictions Viol.
000 Not licensed 100 Valid license 200 Suspended 201 Revoked		916290378	☑ 000 None	☑ 000 None
		License State: AR / License Class: D	☐ 100 With licensed adult	☐ 100 With licensed

Trooper Ray's Crash Report containing the "Driver Information" for Jennifer Wilkerson was attached as an exhibit to his deposition on February 21, 2023. This fact alone points out how easy it would be for the respondent to locate Wilkerson.

There is no legitimate argument that the respondent can make that it could not locate Jennifer Wilkerson. Attached as Exhibit 4 is a copy of the e-mails sent by Jennifer Wilkerson in response to a letter mailed to her address at [redacted] Nothing prevented DHS from sending a letter to Wilkerson. Accordingly, the accusation that claimant withheld the "whereabouts" of the respondent's former employee in this case is devoid of merit and likely frivolous within the meaning of Rule 11 of the Arkansas Rules of Civil Procedure.

Rule 26(b)(1) of the Arkansas Rules of Civil Procedure lists the scope of discovery that a party is required to disclose. The relevant portion of this subsection is: "the identity and location of persons who have knowledge of any discoverable matter or who will or may be called as a witness at the trial of any cause." The claimant's response was clearly correct. DHS did have Jennifer Wilkerson's identity and location. Any assertion that e-mail addresses, TikTok handles, *etc.*, are required to be disclosed is an incorrect argument of law. That is beyond the scope of discovery.

The identity, location, and cell phone number of DHS employee Jennifer Wilkerson were known by DHS since prior to the wreck occurred.

WHAT IS THE POINT OF THE RESPONDENT'S MOTION TO COMPEL?

At this point, the Commission must be wondering, what is the point of DHS' Motion to Compel? After all, the agency had Jennifer Wilkerson's address and cell phone number since she was their employee. Wilkerson returned to work the week after the wreck to provide DHS with her version of what happened. Paris is a very small town. DHS could have served Wilkerson with a Subpoena to conduct her deposition at any point in this litigation.

Why didn't DHS ask its former employee to drop by the DHS office in Paris and visit with counsel? Why didn't DHS write or call Ms. Wilkerson to ask her questions about the wreck?

The answer is obvious. DHS does not want to address the claimant's Motion for Partial Summary Judgment on Liability. The respondent's counsel has sent multiple e-mails attempting to cajole claimant's counsel into withdrawing the Motion for Partial Summary Judgment on Liability. *See, e.g.*, Exhibit 5, where counsel for respondent writes: "I may reconsider those motions for sanctions should the motion for summary judgment be withdrawn." It is alarming that DHS would employ such a "win-at-all-costs" strategy against the family of a deceased Arkansas citizen who perished in a traffic accident caused by a DHS employee. DHS *knows* there is a mountain of evidence that Jennifer Wilkerson was driving at a high rate of speed, not paying attention to traffic, and was running an hour late to pick up a foster child in Beebe when she drove directly into the rear end of Ashcraft's car on a straight stretch of Highway 22.

DHS' own expert, Michael Kerley, found that Jennifer Wilkerson was at fault in causing the wreck. Mr. Kerley testified that if he were the investigating State Trooper, he would have issued a traffic citation to Jennifer Wilkerson.

Q. And I certainly do not want to start saying he assigned fault when that's kind of what we are litigating here. But I just want to try to - - I'm using that as a- as just kind of a starting point to ask you the question, is there enough in that police report to assign fault in this - - in this case? If you were an officer - - I know that officers are not going to have the benefit of all of this that you've done.

A. If I were just a road officer, yes, I would have issued a citation to Ms. Wilkerson.

Deposition of Michael Kerley, pp. 100-101, lines 20 – 5.

Mr. Kerley did not challenge the claimant's expert's speed calculations, which found that Jennifer Wilkerson was traveling in a range from 66.7 to 74.3 mph in a 55-mph zone at the time of the collision.

To summarize, the respondent does not want this Commission to decide the issue of liability on the merits of the evidence.

DEFAMATION OF JACQUELINE ASHCRAFT

DHS was not content with trying to allege that claimant's counsel did something underhanded by allegedly withholding the contact information of Jennifer Wilkerson. DHS' motion astonishingly attacks Jacqueline Ashcraft by alleging that she "*might have used an alias*" in seeking medical treatment prior to the wreck!

DHS is asking this Commission to believe that Ms. Ashcraft was so clairvoyant to foresee that she was going to be in a fatal rear-end collision caused by Jennifer Wilkerson that Ashcraft began using an "alias" to prevent DHS from finding her medical records. This allegation would constitute actionable defamation of character if Ms. Ashcraft had survived the wreck. Not only is the allegation slanderous, but it is also preposterous because it suggests that a doctor's clinic or emergency room would not discover such deceit.

Furthermore, DHS deliberately misrepresents the testimony of Haley Hudson [redacted] in its Motion to Compel. "Likewise, Claimants have pleaded and subsequently testified under oath that at the time of her death, Ms. Ashcraft was not being seen by any medical professional and did not suffer from any condition that would have caused her injuries. Jennifer Wilkerson's testimony now casts a dark shadow over these claims."

The truth is that Haley, [redacted] each testified that they had no knowledge of their mother seeking medical treatment since she had moved from Wynne to Paris.

Attached as Exhibit 6 are pages 20-25 of [redacted] deposition; attached as Exhibit 7 are pages 19 – 24 of [redacted] deposition; and attached as Exhibit 8 are pages 53-63 of Haley Hudson's deposition. No reasonable reading of these deposition transcripts would lead anyone to conclude anything other than these three children had no knowledge of their 50-year-old mother seeking medical treatment since her move from Wynne to Paris. A lack of knowledge of their mother's medical treatment is not the same as denying that their mother had medical treatment. Again, this is a DHS distraction in an attempt to prevent the Commission from hearing a legitimately drafted Motion for Partial Summary Judgment on the Issue of Liability.

CONCLUSION

The best and kindest characterization is that DHS' Motion to Compel feigns outrage and indignation that the claimant did not provide the identity and location of DHS employee Jennifer Wilkerson. The Commission can look no further for this melodrama than the motion itself where DHS alleges that the failure to provide the whereabouts of Jennifer Wilkerson "*has substantially prejudiced Respondent and potentially damages its case. It certainly has upended Respondent's investigation into the matter, compromised its trial strategy and preparation, and altered its approach to the case. The compressed and unreasonable timeframe under which Respondent has been required to act resulting from Claimants' counsel's bad faith has cost Respondent and its counsel time, effort, and money that it would not have had to expend had Claimant's counsel fairly proceeded under the rules.*"

This must be the most preposterous allegation ever raised by counsel, who originally provided the claimant with the name, address, and cell phone number of Jennifer Wilkerson, along with the DHS' own investigative "Fact Finding" of Jennifer Wilkerson's conduct the week after the wreck. The result of DHS' "Fact Finding" investigation clearly found that Jennifer Wilkerson is solely liable for the wreck.

This allegation contained in the Motion to Compel is nonsensical at best. At worst, it shows that the respondent is grasping at straws in an effort to postpone the inevitable finding that the respondent is the sole and proximate cause of the collision that led to Jacqueline Ashcraft's death.

Respectfully submitted,

Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
Phone: 501-823-3610
Jim@JimJacksonatty.com

By: Jim Jackson
Jim R. Jackson
Arkansas Bar No. 93209

CERTIFICATE OF SERVICE

I, Jim Jackson, certify that on this date, November 13, 2023, consistent with the requirements of Ark. R. Civ. P. 5, a complete copy of the foregoing was electronically submitted to the Clerk of the Arkansas Claims Commission and electronically served on Brent Gasper, *Esq.*, counsel for the Arkansas Department of Human Services.

Jim R. Jackson
Jim R. Jackson

CLAIMANT'S RESPONSE TO
MOTION TO COMPEL

ARKANSAS CLAIMS COMMISSION #230641

EXHIBIT 1

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — **CLAIMANT**

v. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES — **RESPONDENT**

RESPONDENT'S RESPONSE TO CLAIMANT'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

COMES NOW, the Respondent, the State of Arkansas, Department of Human Services ("DHS"), Office of Chief Counsel, by its attorneys, Brent P. Gasper, Assistant Deputy Chief Counsel, and Sarah DeBusk, General Counsel, and for its Responses to Claimant's First Set of Interrogatories and for Production of Documents, states:

INTERROGATORY NO. 1: Please state the names and complete present or last known addresses and telephone numbers of all persons known to you, your attorneys, or other representatives who have knowledge of the facts relating to the accident as alleged or described in the Complaint (the "accident").

ANSWER: This claim is still being investigated and persons with knowledge are still being ascertained. Respondent will update and supplement this response when this information becomes available. At this point, Respondent can state that the following persons have information regarding the accident:



1. Jennifer Wilkerson, [redacted] Last known phone [redacted]
2. Kristen Shelton, Office phone 479 647-7171, Office address is 900 Rogers Ave., Clarksville, AR 72830.
3. Brandy Ezell, Office phone 479 963-2783, Office address, #17 W. McKeen St., Paris, AR 72855
4. Pam Feemster, Office phone 479 963-2783, Office address, #17 W. McKeen St., Paris, AR 72855
5. James Ray, Game and Fish Commission, james.ray@agfc.ar.gov
6. Bobby Dale Wilson, GKD Management, [redacted]

INTERROGATORY NO. 2: Please state the names and complete present or last known addresses and telephone numbers of all persons who will or may be called as witnesses on your behalf at the trial of this lawsuit.

ANSWER: This claim is still being investigated and this information is still being ascertained. Further, Respondent has not ascertained which, if any, persons will be called at the trial of this matter. Respondent will update and supplement this response when this information becomes available.

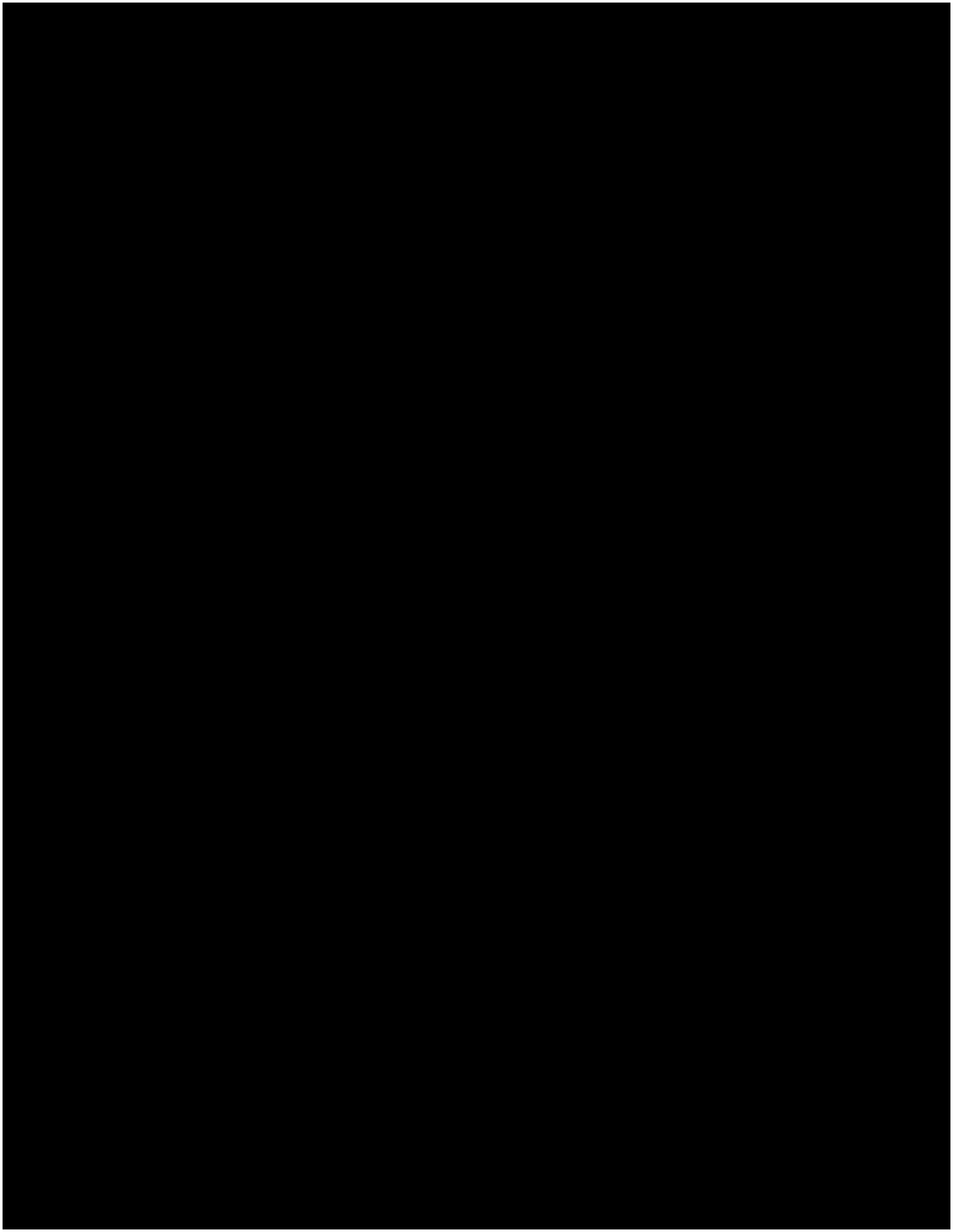
INTERROGATORY NO. 3: Please state briefly the facts or the nature of the subject matter known to each of the persons listed in response to Interrogatory Nos. 1 and 2 above.

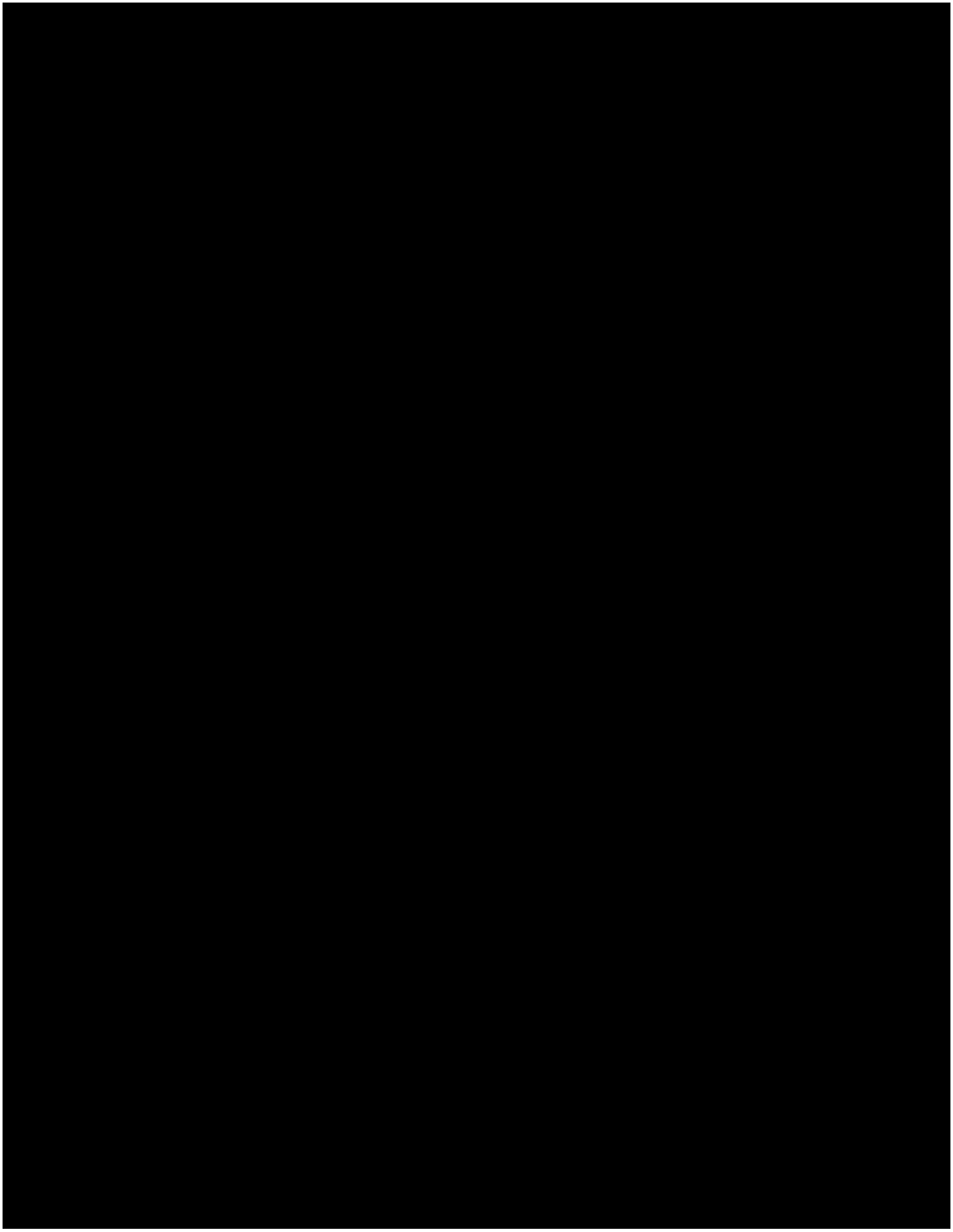
ANSWER: Please see responses to Interrogatories Nos 1 and 2. Respondent would at this point state that Jennifer Wilkerson stated she was driving the DHS vehicle and that Bobby Dale Wilson was the driver of the truck that was also involved in the accident. Further, James Ray was at the time an Arkansas State Trooper who responded to and investigated the accident. Kristen Shelton was at the time a DHS employee that investigated the accident and the

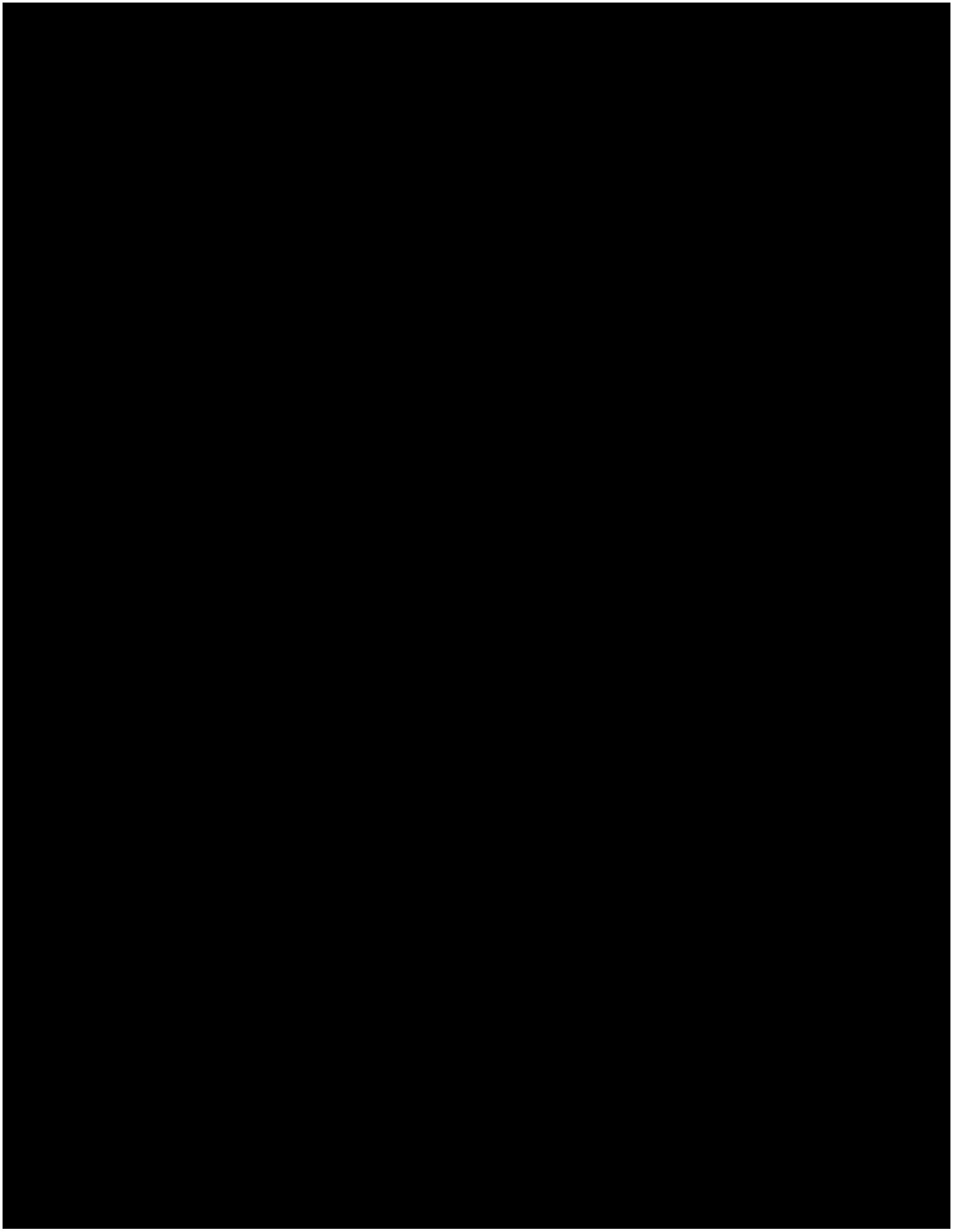
CLAIMANT'S RESPONSE TO
MOTION TO COMPEL

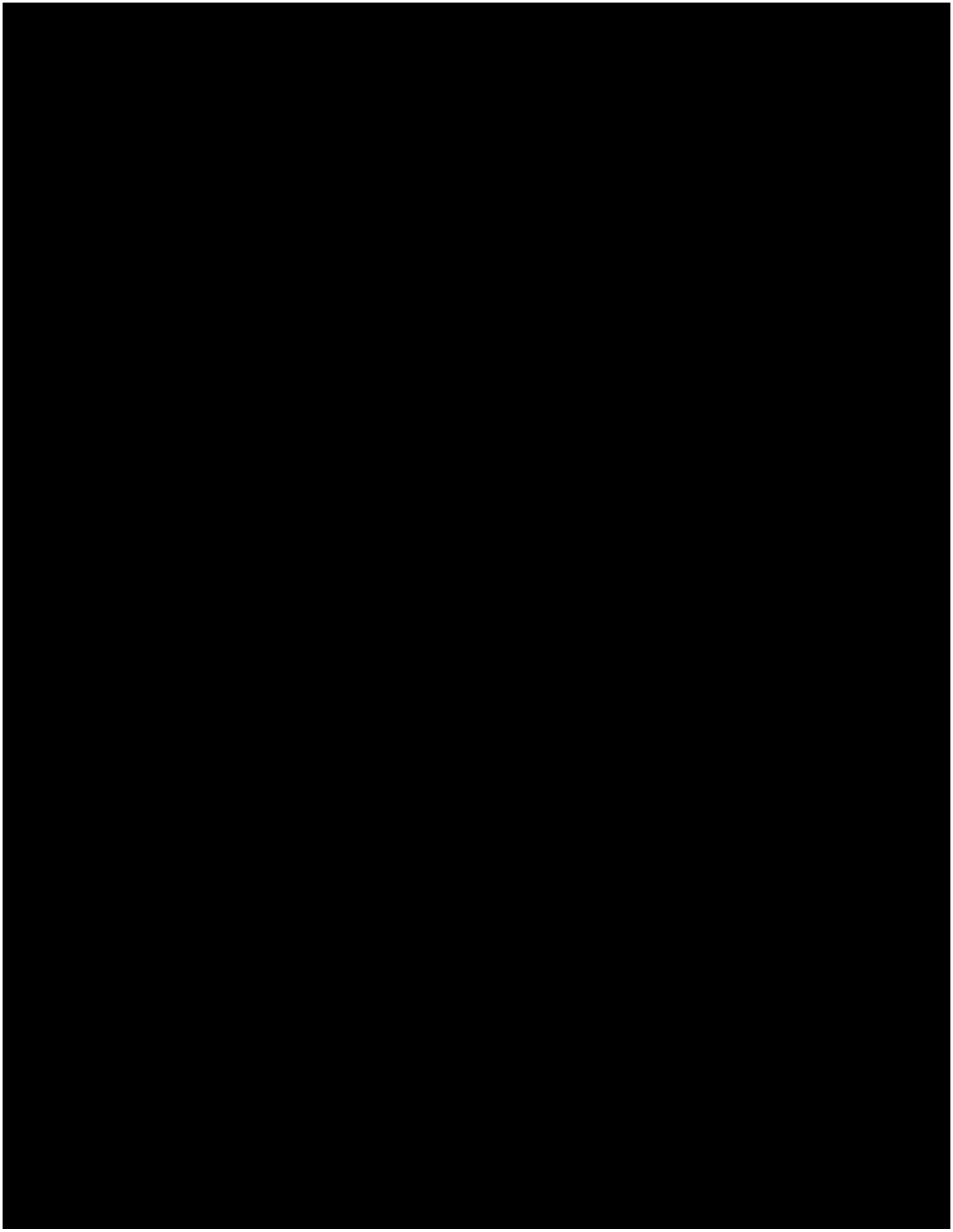
ARKANSAS CLAIMS COMMISSION #230641

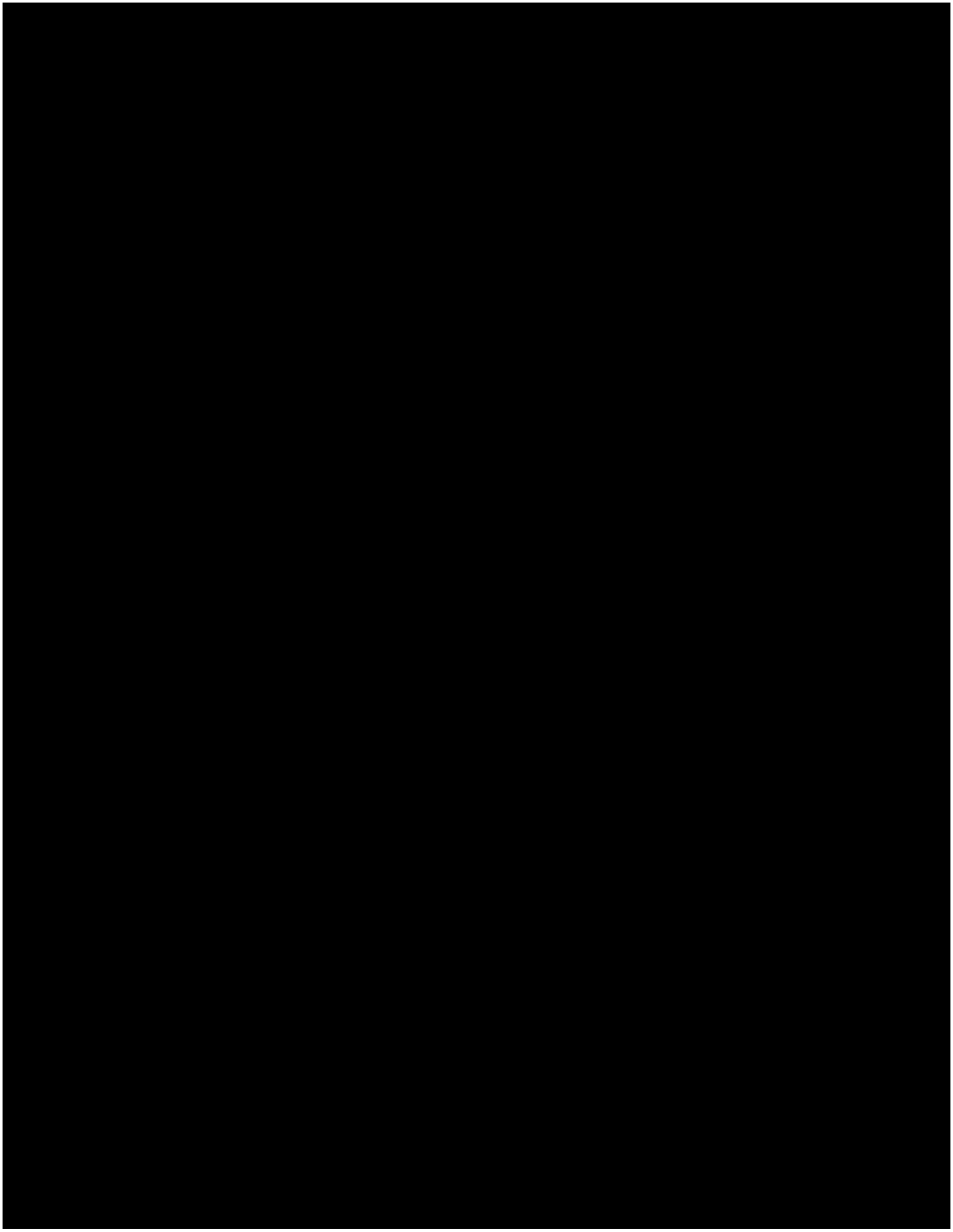
EXHIBIT 2

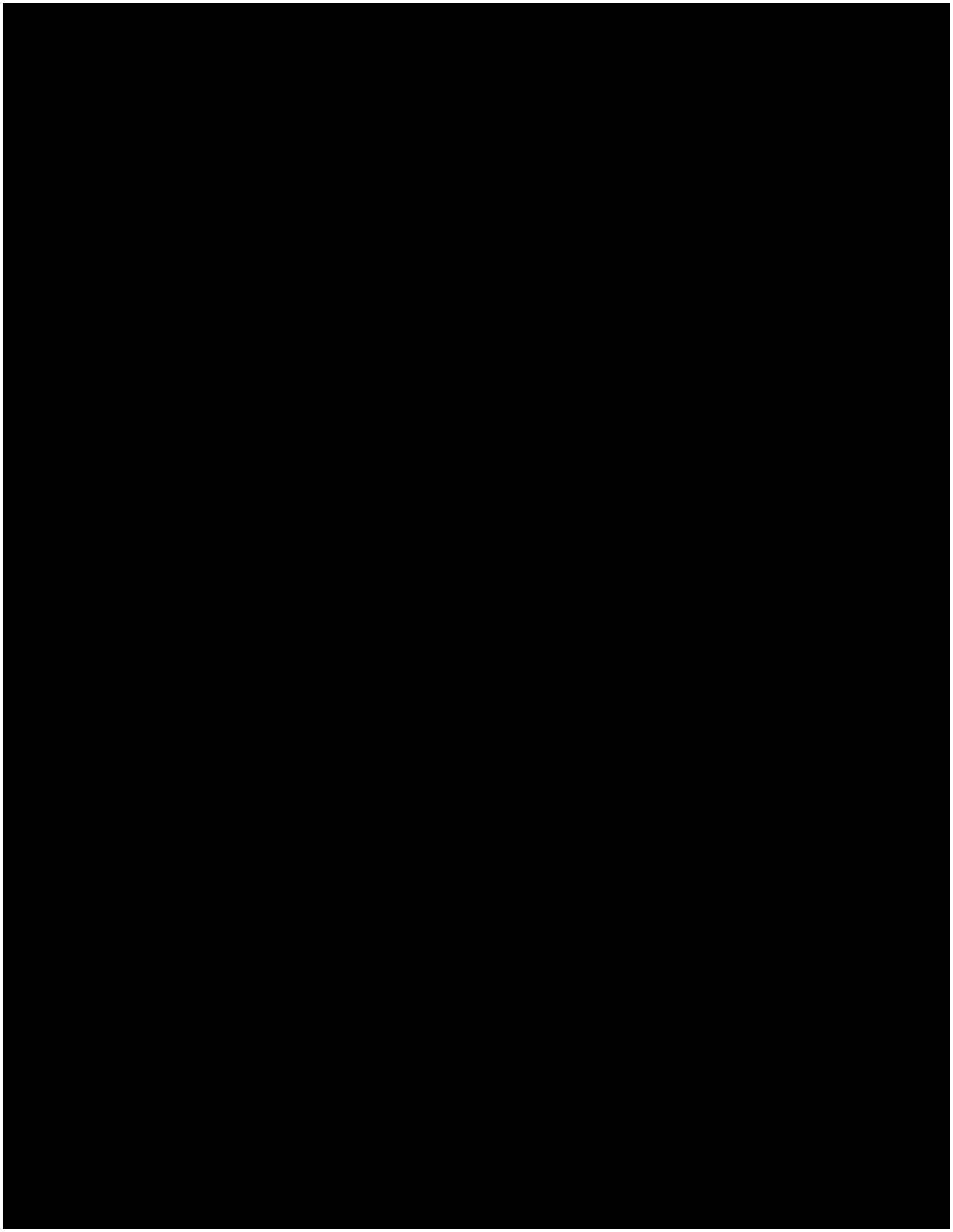


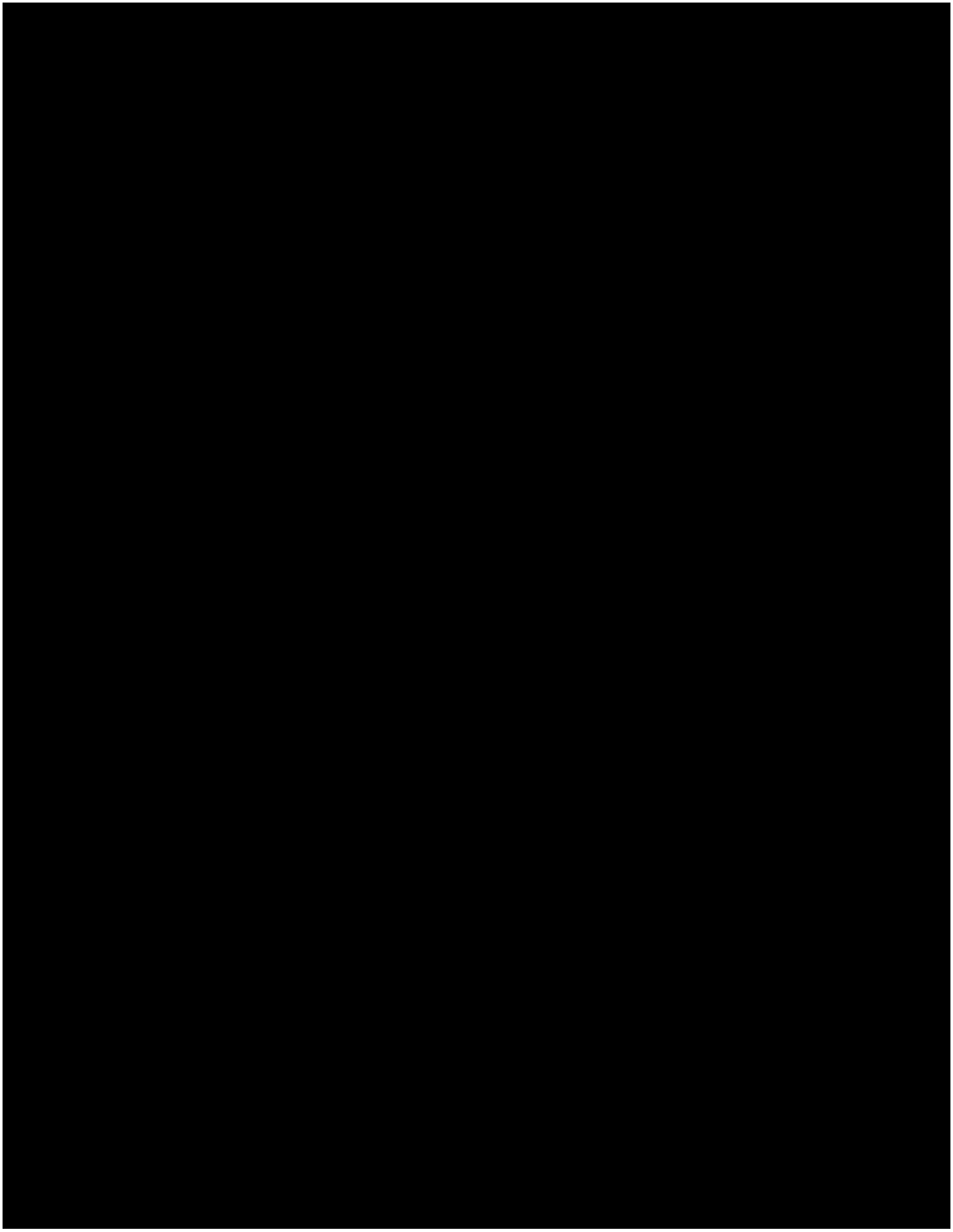


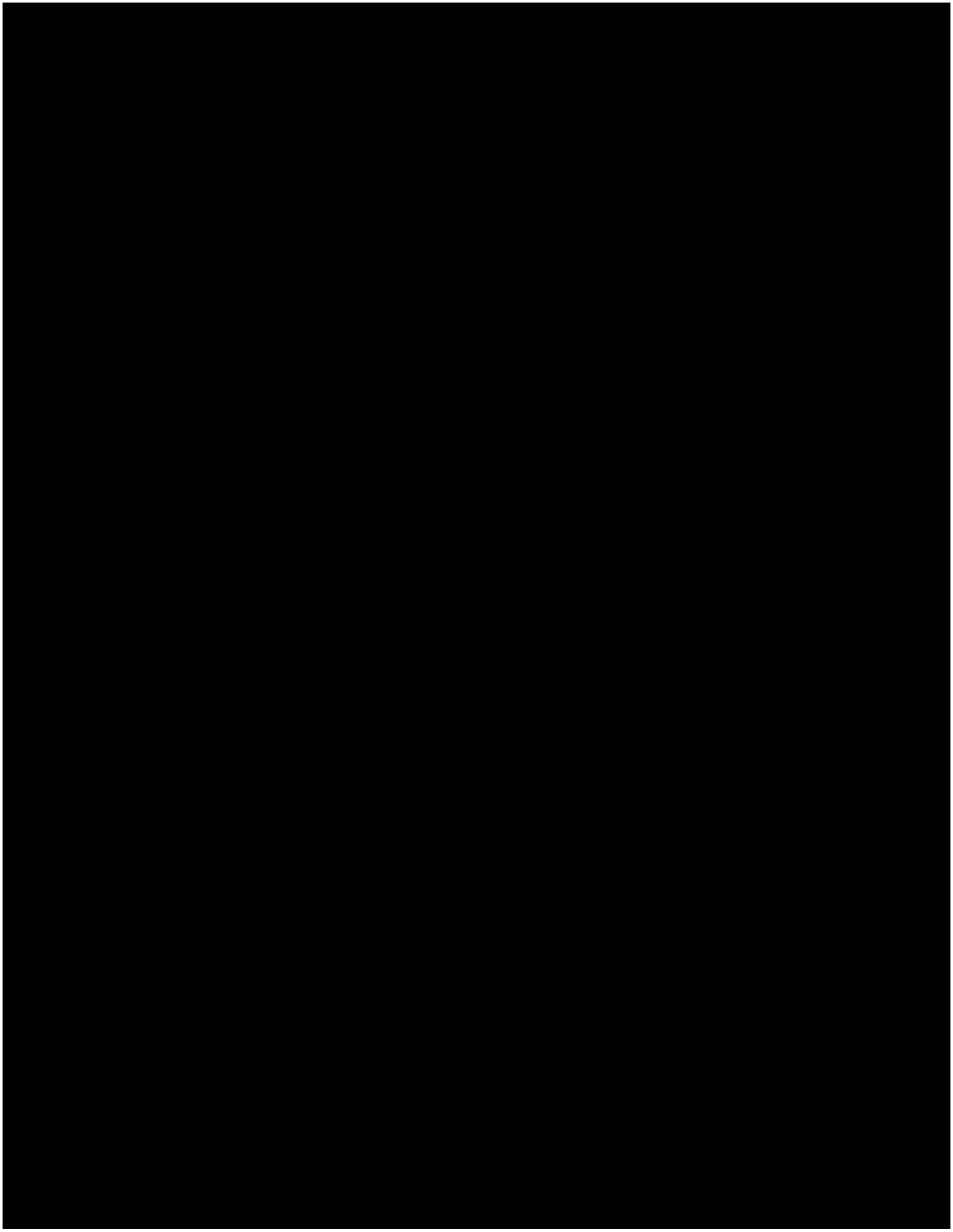


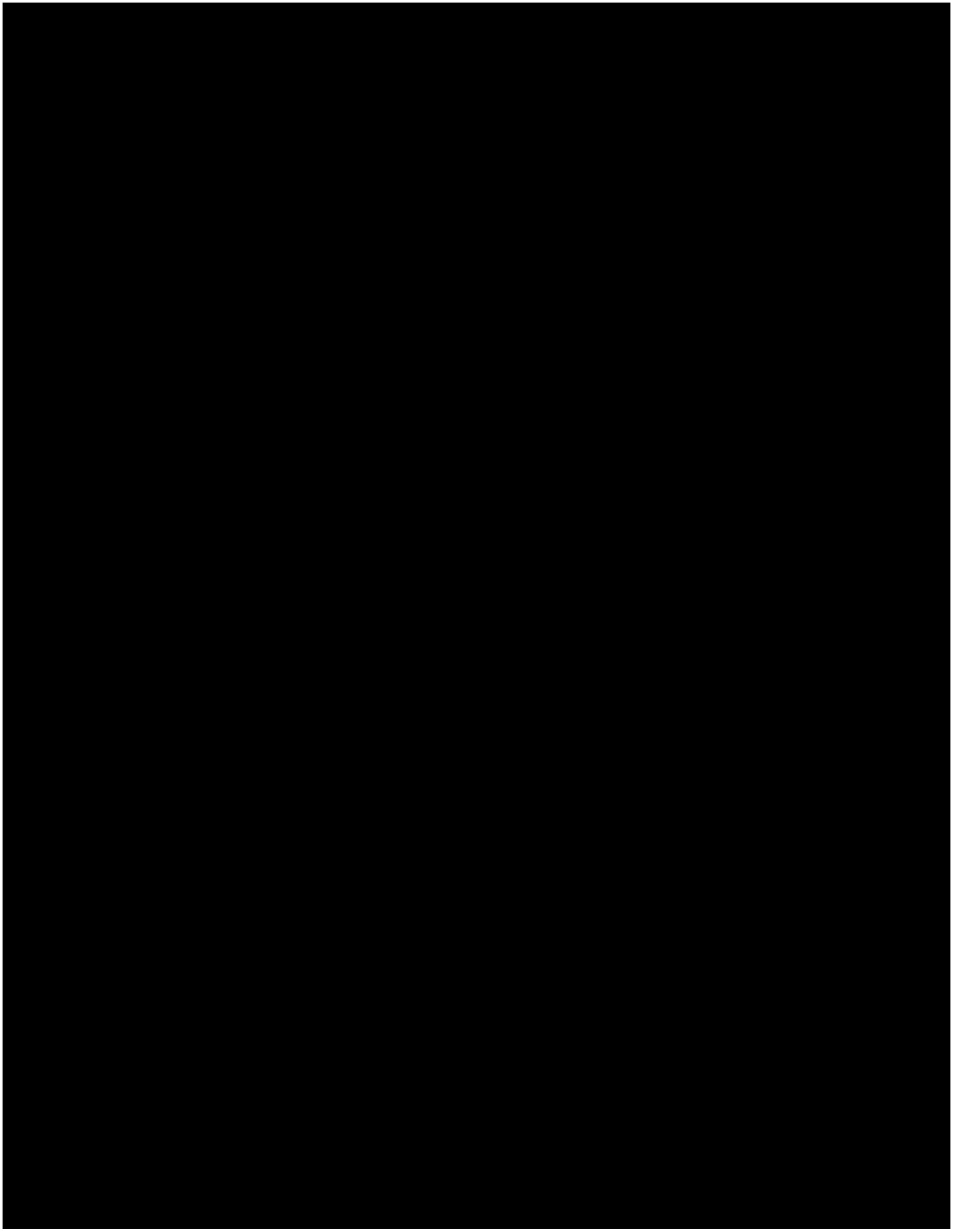


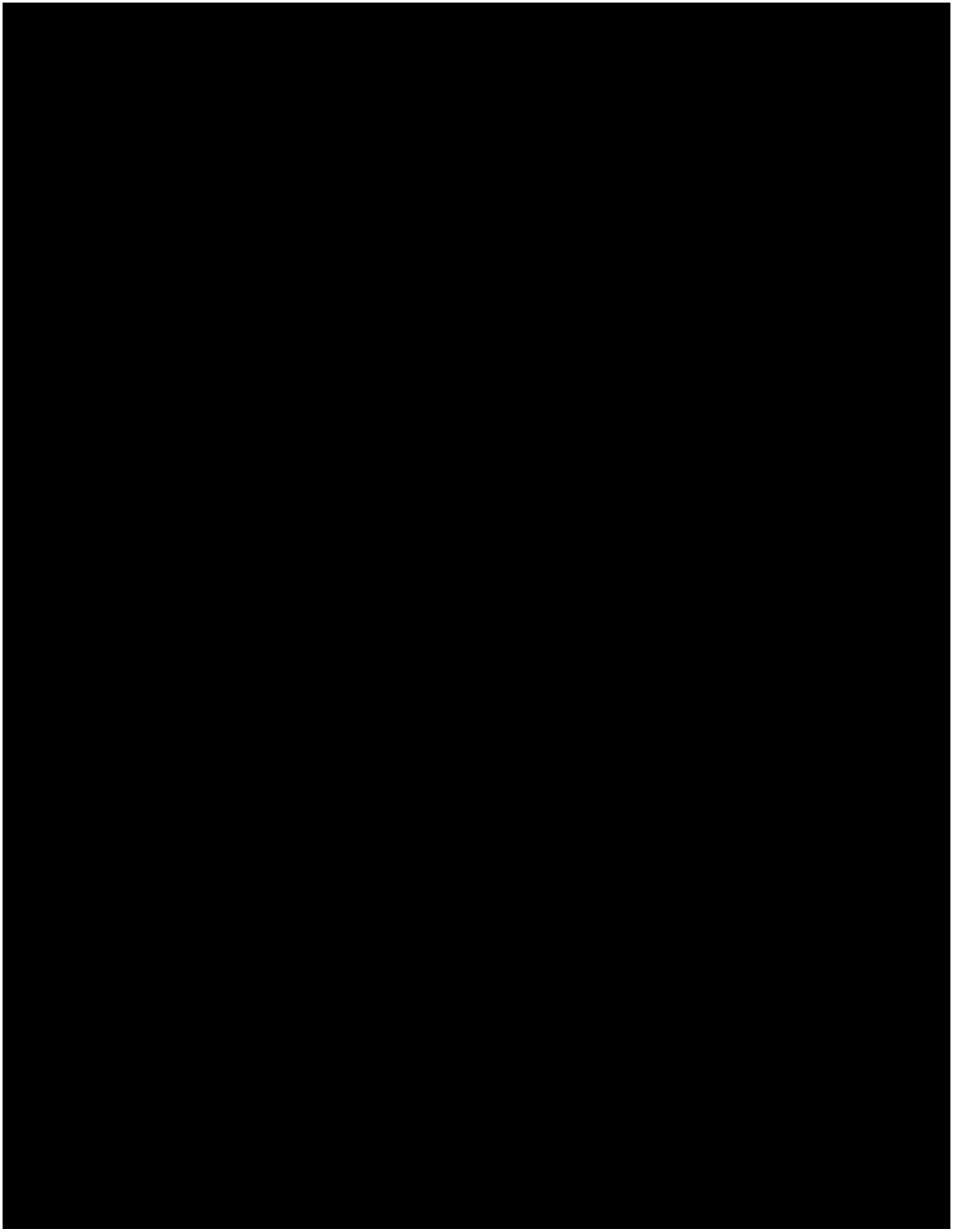












CLAIMANT'S RESPONSE TO
MOTION TO COMPEL

ARKANSAS CLAIMS COMMISSION #230641

EXHIBIT 3

PROOF OF SERVICE

Jennifer Wilkerson
SERVED ON (Print Name)

10/16/23
DATE

[redacted]

Personal Service
MANNER OF SERVICE

Charlie M. Edmonson
SERVED BY (Print Name)

Deputy LC/4
TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on 10/16/23
DATE

Dep Charlie M. Edmonson
SIGNATURE OF SERVER

[redacted]

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d).

A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).



CLAIMANT'S RESPONSE TO
MOTION TO COMPEL

ARKANSAS CLAIMS COMMISSION #230641

EXHIBIT 4

Jim Jackson

From: Jim Jackson
Sent: Monday, January 23, 2023 3:45 PM
To: Jennifer Wilkerson
Subject: RE: Response to letter received

Jennifer,
Thank you for the e-mail.
We are bringing a claim against DHS before the Arkansas Claims Commission.
All that the DHS attorneys will tell me is that you are no longer employed by them.
I just wanted to confirm that you were in the course and scope of employment at the time of the wreck.
I assumed so since you were driving a DHS car and the time of the wreck was during the day but I just wanted to make certain.
This is just a claim with DHS so it does not mean you will have to be personally liable.
We know it was an accident but we want to make sure that DHS steps up and accepts responsibility for what happened.
Thank you,
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Jennifer Wilkerson [redacted]
Sent: Monday, January 23, 2023 3:39 PM
To: Jim Jackson <jim@jimjacksonatty.com>
Subject: Response to letter received

Mr. Jackson,
This is Jennifer Wilkerson, i received a letter in the mail and i am responding to your question. I was working for DHS at the time of the wreck on 6/11/2021 but I no longer work for them. I hope this is all you were wanting from me. Please let me know that you did receive this email. If you have any other questions about this incident please let me know and if you could provide a brief summary of what this means and does it pertain to me directly.

Sincerely

Jennifer Wilkerson
[redacted]



Jim Jackson

From: Jim Jackson
Sent: Friday, April 7, 2023 9:48 AM
To: Jennifer Wilkerson
Subject: RE: Response to letter received

Jennifer,
I hope you are doing well.
I just left a voicemail.
I have filed a claim against the Department of Human Services with the Arkansas Claims Commission for the accident.
The attorney for DHS is claiming that Ms. Ashcraft was the cause of the wreck.
We all know that this was an accident and it could have happened to anyone.
But is there anything you are aware of that Ms. Ashcraft did to cause the wreck?
It appears that she was attempting to make a left hand turn to drop off her nephew when the accident happened.
Did you see or observe anything that is different from what the Trooper found?
Thank you,
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Jennifer Wilkerson [redacted]
Sent: Monday, January 23, 2023 3:39 PM
To: Jim Jackson <jim@jimjacksonatty.com>
Subject: Response to letter received

Mr. Jackson,
This is Jennifer Wilkerson, i received a letter in the mail and i am responding to your question. I was working for DHS at the time of the wreck on 6/11/2021 but I no longer work for them. I hope this is all you were wanting from me. Please let me know that you did receive this email. If you have any other questions about this incident please let me know and if you could provide a brief summary of what this means and does it pertain to me directly.

Sincerely

Jennifer Wilkerson
[redacted]

Jim Jackson

From: Jim Jackson
Sent: Wednesday, July 26, 2023 1:43 PM
To: jenniferwilkerson88@gmail.com
Subject: Arkansas State Claims Commission No. 230641 Incident Date: June 11, 2021
Attachments: Affidavit of Jennifer Wilkerson.docx; Letter to Jennifer Wilkerson with proposed Affidavit 7-25-2023.pdf

Jennifer,
I'm the attorney representing the Ashcraft family before the Arkansas Claims Commission.
I know you have given a statement to the Arkansas State Police and to DHS right after the wreck.
I'd like to memorialize that in the form of an Affidavit for presenting to the Claims Commission.
Can you review the attached Affidavit and let me know if it is correct?
The PDF file has the exhibits referenced in the Word Document.
I called and left a voice mail earlier today.
Thank you for your attention to this matter.
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

Jim Jackson

From: Jim Jackson
Sent: Wednesday, August 9, 2023 4:03 PM
To: Jennifer Wilkerson
Subject: RE: Response to email

Tracking:

Recipient	Delivery
Jennifer Wilkerson	
Martha Cox	Delivered: 8/9/2023 4:03 PM

Ms. Wilkerson,
Were you able to sign and return the Affidavit?
We have not received it in the mail yet.
Thank you,
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Jim Jackson
Sent: Friday, July 28, 2023 10:11 AM
To: 'Jennifer Wilkerson [redacted]
Subject: RE: Response to email

Jennifer,
I know a lot of people were negatively affected by the wreck.
I am traveling today on business.
Can you take the Affidavit to your bank or insurance agent and sign it in front of a Notary Public and drop it off with the Post Office?
I will be back in Arkansas next week if you would like to visit with me.
Thank you,
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Jennifer Wilkerson <[redacted]
Sent: Friday, July 28, 2023 [redacted]
To: Jim Jackson <jim@jimjacksonatty.com>
Subject: Response to email

Mr. Jackson I received your email and you that is all correct there are things about myself and the trauma that it did cause and how dhs ruined my life because or the accident. This is a small town I haven't been able to get a job since then they like the rest of this town don't care about helping people. If you would like I can give you a call or I can get that sent back. That's the first time I saw a photo of the wreck myself.
Jennifer Wilkerson
--
Jennifer Wilkerson
[redacted]

Jim Jackson

From: Jim Jackson
Sent: Monday, August 14, 2023 2:22 PM
To: [redacted]
Subject: Affidavit

Jennifer,
I hate to bother you about the affidavit but it is something that has to be addressed.
Have you reviewed the Affidavit to see if it is correct?
If so, can you please either sign it in front of a Notary Public and mail it back to my office or let me know what corrections/additions you would like to make.
Thank you,
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

Jim Jackson

From: Jim Jackson
Sent: Friday, July 28, 2023 10:11 AM
To: Jennifer Wilkerson
Subject: RE: Response to email

Jennifer,
I know a lot of people were negatively affected by the wreck.
I am traveling today on business.
Can you take the Affidavit to your bank or insurance agent and sign it in front of a Notary Public and drop it off with the Post Office?
I will be back in Arkansas next week if you would like to visit with me.
Thank you,
Jim

JACKSON LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Jennifer Wilkerson [redacted]
Sent: Friday, July 28, 2023 8:08 AM
To: Jim Jackson <jim@jimjacksonatty.com>
Subject: Response to email

Mr. Jackson I received your email and you that is all correct there are things about myself and the trauma that it did cause and how dhs ruined my life because or the accident. This is a small town I haven't been able to get a job since then they like the rest of this town don't care about helping people. If you would like I can give you a call or I can get that sent back. That's the first time I saw a photo of the wreck myself.
Jennifer Wilkerson
--
Jennifer Wilkerson
[redacted]

Jim Jackson

From: Jim Jackson
Sent: Sunday, September 3, 2023 2:28 PM
To: Jennifer Wilkerson
Subject: Affidavit

Tracking:

Recipient	Delivery
Jennifer Wilkerson	
Martha Cox	Delivered: 9/3/2023 2:28 PM

Ms. Wilkerson,
Did you receive and review the Affidavit?
Were there any corrections that need to be made or additions to it?
I know this is not an issue you want to address but it is important that we know what information you recall about the incident.
Thank you,
Jim Jackson

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

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CLAIMANT'S RESPONSE TO
MOTION TO COMPEL

ARKANSAS CLAIMS COMMISSION #230641

EXHIBIT 5

Martha Cox

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Monday, October 23, 2023 9:32 AM
To: Jim Jackson
Cc: Daiquiri Carter
Subject: Request for documents

Jim:

Friday was a very interesting an enlightening day. Following up on my on-the-record request, please remit copies of any and all written, text, email, or voice communications you have had with Jennifer Wilkerson. Please also supply a call log of each and every phone call placed or or message sent to Jennifer Wilkerson or that you have received from Jennifer Wilkerson. Please also supply the name of the videographer so I may procure a copy of the videotaped deposition.

Please comply with these requests by the end of business today. I am happy to make these requests in a more formal manner and reference those parts of your formal discovery responses that require you to comply with my requests. However, I wanted to first give you the opportunity to do so informally.

Also, after Jennifer Wilkerson's deposition on Friday I think it is pretty clear that your summary judgment motion was not only premature as I have argued *ad nauseum* but is now doomed. I would appreciate you save us all the pain and work of jumping through those hoops and meeting these deadlines by withdrawing that motion. Frankly, I think at this point your best call is to nonsuit the case and refile before limitations runs, starting fresh from the beginning, but that is your decision to make.

Please make your decision regarding the summary judgment motion by the end of business today if you would. Tomorrow I will be filing a formal motion to compel your heretofore undisclosed contacts and written statements with Jennifer Wilkerson accompanied by a motion for sanctions for witness intimidation, witness tampering, and for filing pleadings that you knew or should have known were false. I may reconsider those motions for sanctions should the motion for summary judgment be withdrawn.

I look forward to hearing from you,

Brent

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

This email may contain sensitive or confidential information.



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CLAIMANT'S RESPONSE TO
MOTION TO COMPEL

ARKANSAS CLAIMS COMMISSION #230641

EXHIBIT 6

BEFORE THE STATE CLAIMS COMMISSION
OF THE STATE OF ARKANSAS

HALEY HUDSON, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR, CLAIMANTS,	
VS.	CLAIM NO. 230641
THE ARKANSAS DEPARTMENT OF HUMAN SERVICES, RESPONDENTS.	

---o---

DEPOSITION

OF

[redacted]

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THURSDAY, SEPTEMBER 7, 2023

---o---

COURT REPORTER:

DONNA K. PETRE, CCR
P. O. Box 1027
Little Rock, Arkansas 72203

PETRE'S STENOGRAPH SERVICE
(501) 376-1411



Q In the apartment, okay. But you don't remember what -- it is a woman, I am assuming?
A Yes.
Q Okay. You don't have to know that. That's fine. And did she spend much time like around her friends and so on?
A Yes.
Q Yes? Okay. Are you all right?
A Sure, I'm just nervous.
Q Oh, that's okay. Do you want to take a second?
A (Indicated yes.)
Q It's all right.

MR. GASPER: Let's go off the record.

(WHEREUPON, there was a brief break.)

MR. GASPER: Okay. Go back on the record, please, if you haven't already.

BY MR. GASPER:
Q Now, your mom, did you ever remember her like being sick during her just everyday life, being sick or anything?
A No. She always had a strong immune system. So, like I --
Q I'm sorry. Could you repeat? A what immune system?
A She had a strong immune system.

Q Strong immune system, okay.
A So, I really never remember her sick.
Q Okay. Well, that was -- that's very lucky for her. Did she ever go to the doctor, did you like go to -- ever accompany her to doctor appointments or anything?
A No.
Q What about, even if she had a dentist or two, occasionally?
A No. Because she got all her teeth pulled out.
Q Oh, no. Okay. Oh, man, when did that happen?
A Like before we moved to Paris.
Q Oh, okay.
A It was like before then.
Q Oh, man. And I also read that your mom smoked cigarettes?
A Yes, sir.
Q I was a smoker for years, so I get it. Luckily, I was able to quit. But do you know like how much she smoked? Did she -- was it just every once in a while, or did she have a -- like she did ten a day or a pack?
A She just only smoked half a pack a day.
Q Half a pack a day, okay. Do you know how long she did it? Like did she start when she was much

younger or do you have any idea?
A All I know is, she smoked like through my whole life. So, I don't know if she started like -- like when she started before and all.
Q Okay.
A Because I don't know.
Q Okay. As long as you can remember she did?
A Yes.
Q Okay. Did that ever cause her any problems that you know of?
A No, sir.
Q Did your mom drink alcohol, like beer or wine?
A No. I have never seen her drink before.
Q Okay. What about the Covid vaccine? Did she get vaccinated against Covid?
A No. But me and my sister did get tested.
Q Okay.
A But I don't think she got tested, but --
Q Did you get vaccinated, did you get a shot?
A No.
Q Okay. So she did not get a shot?
A No, sir.
Q Okay. Do you think you have ever had it? I thought I had it, I think I had it before I got my shot.

A Me, too.
Q You do?
A That's why I got tested, but it came back negative, though.
Q Oh, it did come back negative?
A Yes.
Q Yeah, mine came back negative, too. But I swore -- I promise you that it was Covid.
A Me, too.
Q But you remember how it was, when it was all a big mess?
A (Indicated yes.)
Q So, now, one thing that I thought was interesting was after the accident, the EMT, the paramedics they showed up, and they, according to Ms. Holly Newman, I think she was a paramedic, but the woman paramedic that you guys talked with, she said that your mom did not want to go to the hospital right away. Do you know why that is?
A I don't.
Q You don't? She just didn't want to go?
A I don't know why, but she just like really didn't like the doctors. I don't know why, but she just didn't.
Q Okay, all right. Did you feel like you wanted

to go to the doctor? Did you need to go to the doctor?

A (Indicated no.) Because I knew I didn't get hurt but --

Q You didn't?

A No.

Q Okay.

A But no, I didn't want to go.

Q Okay, fine. That's fine. Now, also, I read that she was -- I think the paramedic Ms. Newman testified to this, that she was -- she was kind of sick that day, like she had been throwing up or you had told her, the paramedic, that she had been throwing up and stuff? Does that ring a bell?

A I don't remember her throwing up --

Q Okay.

A -- any that week.

Q Okay. You don't?

A (Indicated no.)

Q Okay. So, as far as you know, she was in fine health that particular day?

A Yes.

Q Okay. Let me ask you about this. Now, your mom was like a grownup, and my wife is a grownup, and she -- she's not a very good driver. And she would

be the first person to admit that she is not a good driver. What about Jackie, what about your mom, was she, do you know anything like -- do you know if she was a good driver or not? Did she get many tickets or get in wrecks, or did she -- was she pretty much like a good driver?

A She was a good driver. I don't remember her getting any tickets, like ever.

Q Okay. Did she wear her seat belt regularly?

A Yes. Because she told us if we don't wear our seat belt, then we are getting our tail whooped, and so she would wear hers.

Q That's a good rule. I'm not going to -- I'm not going to lie, that's a good rule. So, you guys were all wearing your seat belts that particular day, right?

A Yes, sir.

Q Okay. This may sound like a strange question. But how did she have her seat? Was she a lean-back driver or an up-close driver, or do you have any memory of that at all?

A Well, she wasn't like really close, she was like really -- she was like right in the middle, so she could like --

Q Oh, she was just -- okay. She was just like a

C E R T I F I C A T E

STATE OF ARKANSAS)
)
COUNTY OF PULASKI)

I, DONNA K. PETRE, Certified Court Reporter in and for the County of Pulaski, State of Arkansas, duly commissioned and acting, do hereby certify that the above-entitled proceedings were taken by me in Stenotype, and were thereafter reduced to print by means of computer-assisted transcription, and the same fully, truly, and correctly reflects the proceedings had.

I FURTHER CERTIFY that I am not attorney or counsel of any of the parties, nor am I relative or employee of any attorney or counsel or party connected with the action, and have no interest in the outcome or results of this proceeding.

WHEREFORE, I have subscribed my signature and seal as such court reporter in the City of Little Rock, County of Pulaski, State of Arkansas, this the 27th day of October, 2023.

Donna K. Petre

DONNA K. PETRE, CCR, #125
COURT REPORTER IN AND FOR
PULASKI COUNTY, ARKANSAS

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CLAIMANT'S RESPONSE TO
MOTION TO COMPEL

ARKANSAS CLAIMS COMMISSION #230641

EXHIBIT 7

BEFORE THE STATE CLAIMS COMMISSION
OF THE STATE OF ARKANSAS

HALEY HUDSON, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR, CLAIMANTS,	
VS.	CLAIM NO. 230641
THE ARKANSAS DEPARTMENT OF HUMAN SERVICES, RESPONDENTS.	

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DEPOSITION

OF

[redacted]

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THURSDAY, SEPTEMBER 7, 2023

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COURT REPORTER:

DONNA K. PETRE, CCR
P. O. Box 1027
Little Rock, Arkansas 72203

PETRE'S STENOGRAPH SERVICE
(501) 376-1411



A Yes, sir.
Q Okay. What were they like, what were Lisa and Josh like?
A They are very quiet people to me. They are also very involved, especially my Uncle Josh, he is one of my favorite uncles. But like, they just -- I don't know how to describe it, they are just very to themselves kind of people.
Q Okay, all right. Now, did your mom have any friends she ran around with?
A Not really, no. Well, when we lived in the apartments, we had this neighbor, she was really nice. My mom talked to her sometimes, but that was really it. She usually -- if we ever went anywhere it was either to my brother's house to visit and see my nephews, or to my Aunt Jen's to see my cousins. But she didn't necessarily have any friends in Paris.
Q Okay. Do you remember what that person's name was, by any chance?
A No, sir.
Q And [redacted] couldn't remember, either.
A No, I don't remember her name.
Q Okay. Now, just going to just kind of like your mom's general health, before the accident, do you remember her ever being sick or anything?

A No, not -- just like everybody says the occasional sometimes stomach bug.
Q Okay.
A And stuff like that.
Q But nothing, you know, like cancer treatment, or anything like that?
A No, sir.
Q Do you know, did she ever go to the doctor, did you ever go with her to appointments?
A Not that I recall. I don't ever recall ever seeing her just going to the doctor.
Q Okay, okay. And I read, and I asked your sister [redacted] your mom smoked cigarettes, is that right?
A Yes, sir.
Q And [redacted] said it was as long as she can remember.
A Yeah.
Q Do you remember, I mean, was it as long as you can remember?
A Uh-huh, yes, sir.
Q So, it went back 15 or 16 years at least?
A Yes.
Q I had told your sister I smoked for years. So, I get it and I understand. It is a hard thing to kick.

A Yeah.
Q But it was something, it was a significant amount of time. Do you remember how, yes or no, was it a significant amount of time?
A I remember her always smoking, but like I don't really -- I mean, there was times she has tried quit. It was just kind of like (indicating) -- yeah.
Q Okay. Do you know approximately how many she would have a day, or was there an average, or just kind of a guess?
A At most, probably like a half a pack.
Q Okay. That's -- okay. That's reasonable. Okay. Did you ever see her drink alcohol or wine or beer?
A No, sir.
Q Okay. Now, your sister indicated that she did not believe your mom got the Covid vaccine, is that right?
A Yes. I don't -- she has never had a Covid vaccine. We were completely against that.
Q Okay. So, you did not believe in it, either?
A No. No, sir.
Q Do you know, did she ever catch Covid?
A No, sir.
Q No. Did you guys ever catch Covid?

A No, sir. We are -- the one time that like we even thought we had Covid was whenever my brother's wife had it. And we -- I got tested and it came back negative.
Q Okay.
A And I got quarantined. But that's it.
Q Your mom, so she didn't believe in the vaccine or --
A It's not that she didn't believe in it. It was just like -- it was just -- it happened so fast. It was just --
Q Sure. That was a crazy time, I remember.
A Yeah.
Q Okay. Now, on the day of the accident -- we're going to be going to the day of the accident. I read, in the medical reports from Holly Newman, she was the woman paramedic that was there, that you or your sister had indicated that your mom was sick that day. Do you remember this at all?
A I don't remember that day, like --
Q Okay. Well, yes, we are going to get into your memory things, but again, I have got to ask you these questions. You don't remember that?
A No, sir.
Q Okay. Do you remember her prior to that day,

like two or three days prior, was she suffering from any kind of bug or anything like that?

A I don't think so. I know prior to that, like I had the stomach bug, but I don't recall, she might have.

Q Okay.

A But like, I don't really remember.

Q Okay. Now, just so -- I'm not going to ask any questions that you simply do not remember. I don't think it's worth getting into, because very clearly, the records show that you had some memory loss. So, I'm not going to ask you anything about what happened for the time period you tell me you don't remember. So, can you tell me the last -- like when does the memory loss start and when did it end?

A Okay. The last thing I remember is the night before.

Q Okay.

A That was whenever I was sort of feeling better, so I cooked dinner, and that's all I remember from before. And then, the last thing I remember is my Aunt Lisa waking me up and like telling me like I needed to go get in the shower because we were going to visit Mom in the hospital. And like, on the way there, I'm pretty sure she told me what happened.

Q Okay.
A That's like what I remember.
Q So, to be clear, post, after you eat dinner the night before, up until a point in time after the accident occurred, and your Aunt Lisa wakes you up, you were already away from the scene at that point, right, you were at their house or --
A Yes, sir. I was at my Aunt Lisa's house.
Q Okay. During that time period, you do not remember anything?
A No, sir.
Q That will eliminate many questions that I asked your sister. So, can we talk about your injuries, I know you sustained some?
A Yes, sir.
Q Can you describe those to me?
A Well, I know from the accident, I had a concussion, but it -- like after all that, after the accident, like weeks, I had this ongoing headache that I just could not get rid of. And like, I guess that's kind of like the things that happen when you have concussions. And so, like I would take Ibuprofen and Tylenol trying to get rid of it. And I slept a lot.
But like now, I have trouble remembering things

C E R T I F I C A T E

STATE OF ARKANSAS)
)
COUNTY OF PULASKI)

I, DONNA K. PETRE, Certified Court Reporter in and for the County of Pulaski, State of Arkansas, duly commissioned and acting, do hereby certify that the above-entitled proceedings were taken by me in Stenotype, and were thereafter reduced to print by means of computer-assisted transcription, and the same fully, truly, and correctly reflects the proceedings had.

I FURTHER CERTIFY that I am not attorney or counsel of any of the parties, nor am I relative or employee of any attorney or counsel or party connected with the action, and have no interest in the outcome or results of this proceeding.

WHEREFORE, I have subscribed my signature and seal as such court reporter in the City of Little Rock, County of Pulaski, State of Arkansas, this the 27th day of October, 2023.

Donna K. Petre

DONNA K. PETRE, CCR, #125
COURT REPORTER IN AND FOR
PULASKI COUNTY, ARKANSAS

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CLAIMANT'S RESPONSE TO
MOTION TO COMPEL

ARKANSAS CLAIMS COMMISSION #230641

EXHIBIT 8

BEFORE THE STATE CLAIMS COMMISSION
OF THE STATE OF ARKANSAS

HALEY HUDSON, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR, CLAIMANTS,	
VS.	CLAIM NO. 230641
THE ARKANSAS DEPARTMENT OF HUMAN SERVICES, RESPONDENTS.	

---o---

DEPOSITION

OF

HALEY NICOLE HUDSON

---o---

THURSDAY, SEPTEMBER 7, 2023

---o---

COURT REPORTER:

DONNA K. PETRE, CCR
P. O. Box 1027
Little Rock, Arkansas 72203

PETRE'S STENOGRAPH SERVICE
(501) 376-1411



Diane.
Q Okay.
A But I don't know. I don't know.
Q Okay.
A I didn't -- I only went to really see her apartment like twice before she was in the wreck. And I only met that lady -- I met her one time when I went to visit. And then, I met her the second time after the wreck, because she wanted to get her cake pan back. And I was like, "You can come see these dishes. I don't know what is yours and what is not." And she come and got her cake pan. And, you know, she apologized for what was going on.
Q Okay.
A And I could be wrong, but I want to say Diane. I don't know why.
Q That's fine.
A I don't know why.
Q Now, do you know if your mom had any injuries or physical conditions --
A No.
Q -- that were -- and I know you were in the room whenever I --
A Yes.
Q -- was talking to your sisters about this.

A Yes. Before the wreck?
Q Yes.
A Like what was wrong with her --
Q Yes.
A -- or anything before the wreck?
Q Yes.
A No.
Q Okay. And I know we have -- I have made hay about medical records.
A Yes.
Q And that's again part of my job.
A No, I understand. And I -- I don't know. I mean, I get those papers from DHS that were sent a few days after her accident canceling her insurance. And I know she had insurance through DHS, but she just didn't go to the doctor.

I know that when she was here, [redacted] may have mentioned that she got all of her teeth pulled. She did, but she didn't go to like -- I don't know where we are -- a dentist. She went to this place in West Memphis where it was based off your income.

Q Okay.
A That way, she could do like monthly payments and, you know, try to get --
Q Okay.

A She wanted new teeth.
Q Okay. What happened to her teeth?
A Genetics.
Q Okay.
A They are just really bad. I have got really bad teeth, it's just bad.
Q Okay. But it was a dental place. Do you know when that occurred?
A Years, years ago.
Q Okay. So, more than ten years?
A My daughter is nine, so I'm going to say about nine or ten years.
Q Okay. So, it was a place over in West Memphis?
A Yes.
Q Do you remember -- and I know it's a long time, but do you remember if it was like a state run place --
A It's a --
Q -- or a private place?
A No. It's like -- they have got a dentist office, a doctor's office. They have those things in there. It's just for people that don't make a lot of money, you know?
Q Okay. So, it may have been like a community service or a volunteer organization or --

A Yeah. It's a big building. It's still there to this day.
Q Okay.
A But I don't know the name of it.
Q Okay. That's fine. I'm going to ask you about specific illnesses.
A Uh-huh. (Indicates yes.)
Q And I expect I know what your answer is going to be, but I have to ask these.
A Yes, sir.
Q Did she ever have, or was treated for cancer?
A No, sir.
Q Liver problems?
A No, sir.
Q Breathing, pulmonary problems, COPD?
A No, sir.
Q Kidneys?
A No, sir.
Q Heart problems?
A No, sir.
Q Neurological problems?
A No, sir.
Q Okay. Did she take medications for anything?
A I mean, she might have a bottle of Tylenol in her purse.

Q Okay.
A But now that I'm thinking about it I don't even think -- I mean, if she felt bad, of course. You know, she took like medicine, she would go to Dollar General and get some medicine. But --
Q Like prescription meds?
A No, like --
Q I mean, yeah, I know what you are saying for Dollar General.
A Yeah.
Q But did she have any prescription meds that you knew of?
A Not that I would know of, no.
Q Okay. She did not get the Covid vaccine, is that correct?
A No, sir.
Q Okay. Do you know why not? I mean, I know your sisters had some opinions, but do you know why not?
A Yeah. Because it just come along too quick. It felt more like a political move than it did health of the world.
Q Okay.
A And so, in her mind and my mind, and it just come about a little bit too fast. Don't get me wrong, we are all vaccinated. But you don't see me

standing in line for something that came out yesterday, you know.
Q Okay.
A That's just where she was.
Q Okay. Was she vaccinated against other things?
A Yes.
Q Like polio?
A Yes. Like she was, as far as I know --
Q Yes.
A I mean, I didn't know her when she was a kid --
Q Sure.
A -- but as far I know she was vaccinated.
Q Okay. Now, there was some testimony from Holly Newman who was the EMT. I know that, again, you overheard this.
A Yes.
Q Well, not overheard, but you heard this in the prior depositions --
A Yes.
Q -- that your mom refused medical treatment at the scene?
A Uh-huh. (Indicated yes.)
Q Can you tell me why you think she would have done that?
A Because she thought she was fine.

Q Okay.
A I have been in many wrecks where I've been fine. And they say, "Would you like to go to the hospital?" "No, I wouldn't, because I'm fine."
Q Okay.
A So, I think at that point in time, I think my mom thought that she was fine.
Q Okay. What if she had been told more than once, maybe as many as three times that the EMT suggested that she go to the hospital? Do you think she would -- well, just --
A Let me just say this.
Q Okay.
A My mom was a poor woman.
Q Okay.
A And she could not pay any doctor bills, hospital bills, and ambulance ride, which I still have the bill for. There is no way she could have done that.
Q Okay.
A So, she would have denied it all the way.
Q So, you believe that it was more of an economic decision?
A No. I think that she knew that she -- and at that point in time, she thought she was fine.
Q Okay.

A And so, she denied treatment. And then, by the time they kept asking her, she was gone -- like, you do realize this happened within a matter of minutes, not hours? Like she is fine one minute, the EMT walks over to Jennifer Wilkerson with whatever she has got going on. And then, that's when my mom goes downhill, and my sisters have to go get the EMT. This didn't happen in three hours, this was a matter of minutes. So, at the time, yeah, she probably did deny going to the hospital or getting any treatment. She wasn't going to, that's just not my mom.

Q Okay. Now, I think that since you said your mom didn't go to the doctor very often, right?

A No.

Q So, I'm going to ask you these questions, and I think I know the answers. But do you know the identity of any of her doctors?

A I know who delivered me. His name was -- oh, I don't know, Sing? He was a black doctor, I know that.

Q Okay.

A Armstrong, that's his name, or that's his last name.

Q Okay, all right.

A I know that in Forrest City -- what is his name?

I know the doctor that delivered my sisters. But other than that, I don't know of a whole lot of doctors that she just went to, no.

Q And you say as far as a dentist goes, it's the West Memphis Clinic?

A Yes.

Q Okay. Did she wear glasses or contacts?

A No. She would go to Dollar Tree sometimes and try to see if she needed, you know, like a stronger set, because once you get so high, like you would have to go to the eye doctor. But yeah, I mean, she would wear those to read every now and then, or like if she was on the phone she would have them, you know. (Indicating.)

Q Okay. But she wasn't ever prescribed like --

A No.

Q -- a vision prescription?

A No.

Q Did she ever get physical therapy for anything?

A Not that I know of.

Q What about like alterative medicine? Do you know what I'm talking about, like an osteopath or like acupuncture, you know?

A I know what acupuncture is.

Q No. Just kind of like non-traditional

medicines, did she have any --
A No, no. I used to work at a chiropractor.
Q Okay.
A And I would try so hard to get her to go. And she would say, "They are not a real doctor." "My dad," which was her dad was Bobby, "he used to go to those chiropractors three times a week, blah-blah-blah, he was so addicted." And I'm like, "Mom, it makes you feel better." "No, no." It wasn't -- in her eyes that wasn't a real doctor.
Q Okay.
A But on the record, I think they are real doctors.
Q Okay.
A I am all about a chiropractor.
Q Okay. All right. And so, when I refer to alternative medicine --
A Yes.
Q -- you know what I am kind of referring to, right?
A Yeah, like the acupuncture and maybe like a --
Q Yes, just non-traditional medicines. You know, like just, you know, that aren't like a primary care physician or a -- well, I think I've got you.
A Yeah, okay.

Q We will just move on from that.
A Okay.
Q What about a podiatrist? Did she ever have any foot issues?
A No.
Q Okay. Mental health? Did she ever seek or get treated for any kind of mental heath issues?
A I mean, not that I know of. I know -- I'm trying to think. I don't -- I mean, she would always say that she was crazy, but I don't think she ever went.
Q That was not an official diagnosis?
A Yeah. No, no, that was just her own thing.
Q We have come now to the point where I have to ask the question that I have been dreading asking --
A It's okay.
Q -- for the last week.
A No, you are fine.
Q How did the drugs get in her system?
A I don't know.
Q I mean --
A If you want me to be honest?
Q Yes.
A She lived with me for three years. Okay. So, their dad, Steven Jones, is really bad on drugs. He

C E R T I F I C A T E

STATE OF ARKANSAS)
)
COUNTY OF PULASKI)

I, DONNA K. PETRE, Certified Court Reporter in and for the County of Pulaski, State of Arkansas, duly commissioned and acting, do hereby certify that the above-entitled proceedings were taken by me in Stenotype, and were thereafter reduced to print by means of computer-assisted transcription, and the same fully, truly, and correctly reflects the proceedings had.

I FURTHER CERTIFY that I am not attorney or counsel of any of the parties, nor am I relative or employee of any attorney or counsel or party connected with the action, and have no interest in the outcome or results of this proceeding.

WHEREFORE, I have subscribed my signature and seal as such court reporter in the City of Little Rock, County of Pulaski, State of Arkansas, this the 27th day of October, 2023.

Donna K. Petre

DONNA K. PETRE, CCR, #125
COURT REPORTER IN AND FOR
PULASKI COUNTY, ARKANSAS

---o---

ARKANSAS DEPARTMENT OF HUMAN SERVICES

Office of Chief Counsel
Daiquiri D. Carter
P.O. Box 1437, Slot S260, Little Rock, AR 72203-1437
P: 501-320-6338 | E-mail: daiquiri.carter@dhs.arkansas.gov

November 8, 2023

Arkansas
State Claims Commission
NOV 13 2023
RECEIVED

Jim Jackson, Esquire
700 W Broadway, Suite 2
North Little Rock AR 72116-5528

Ms. Kathryn Irby
Arkansas State Claims Commission
101 E Capitol Ave, Suite 410
Little Rock, AR 72201

RE: Haley Hudson, et al v. DHS CC # 230641

Mr. Jackson:

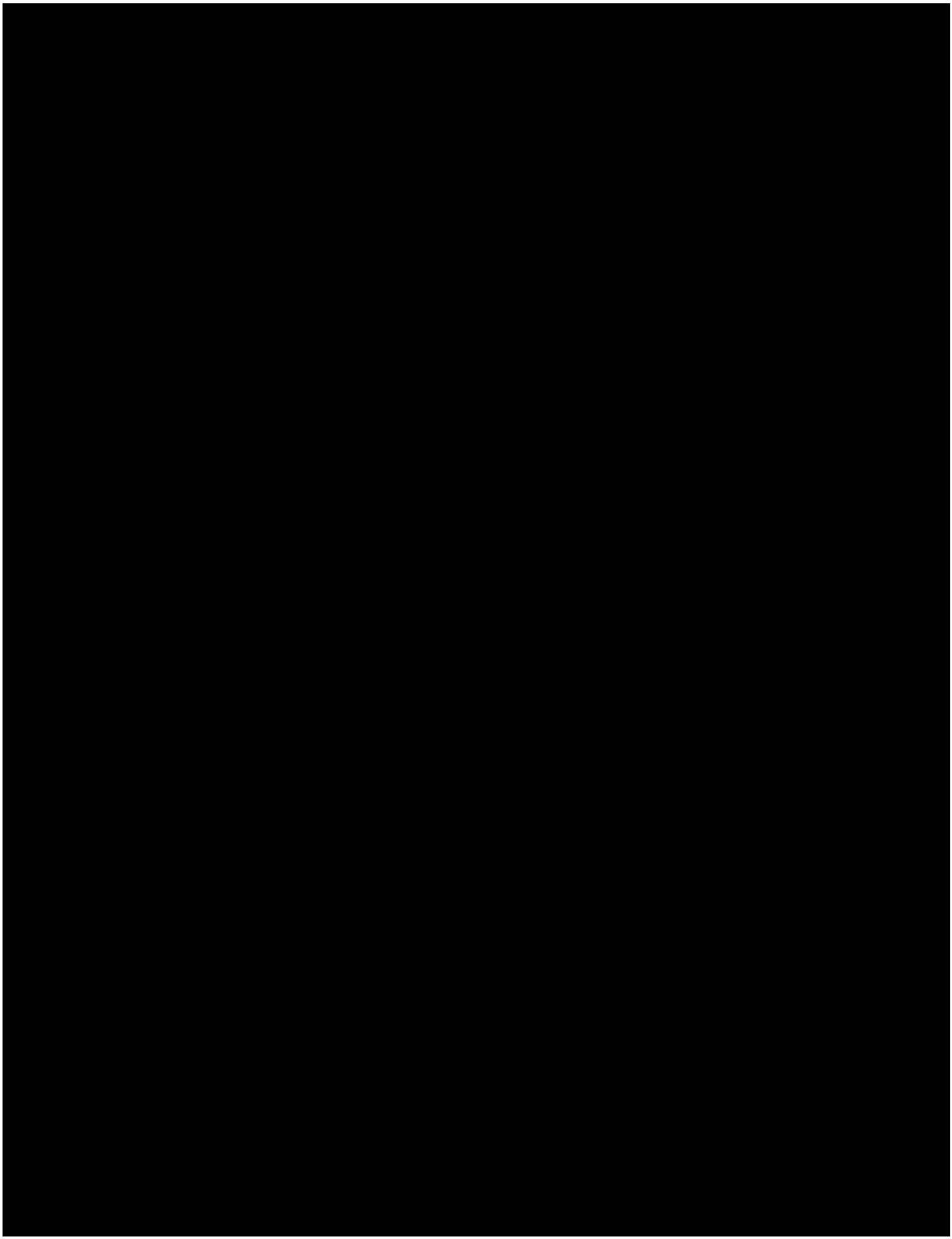
Please find enclosed documents pursuant to your discovery request. If you have any questions, please contact Brent Gasper.

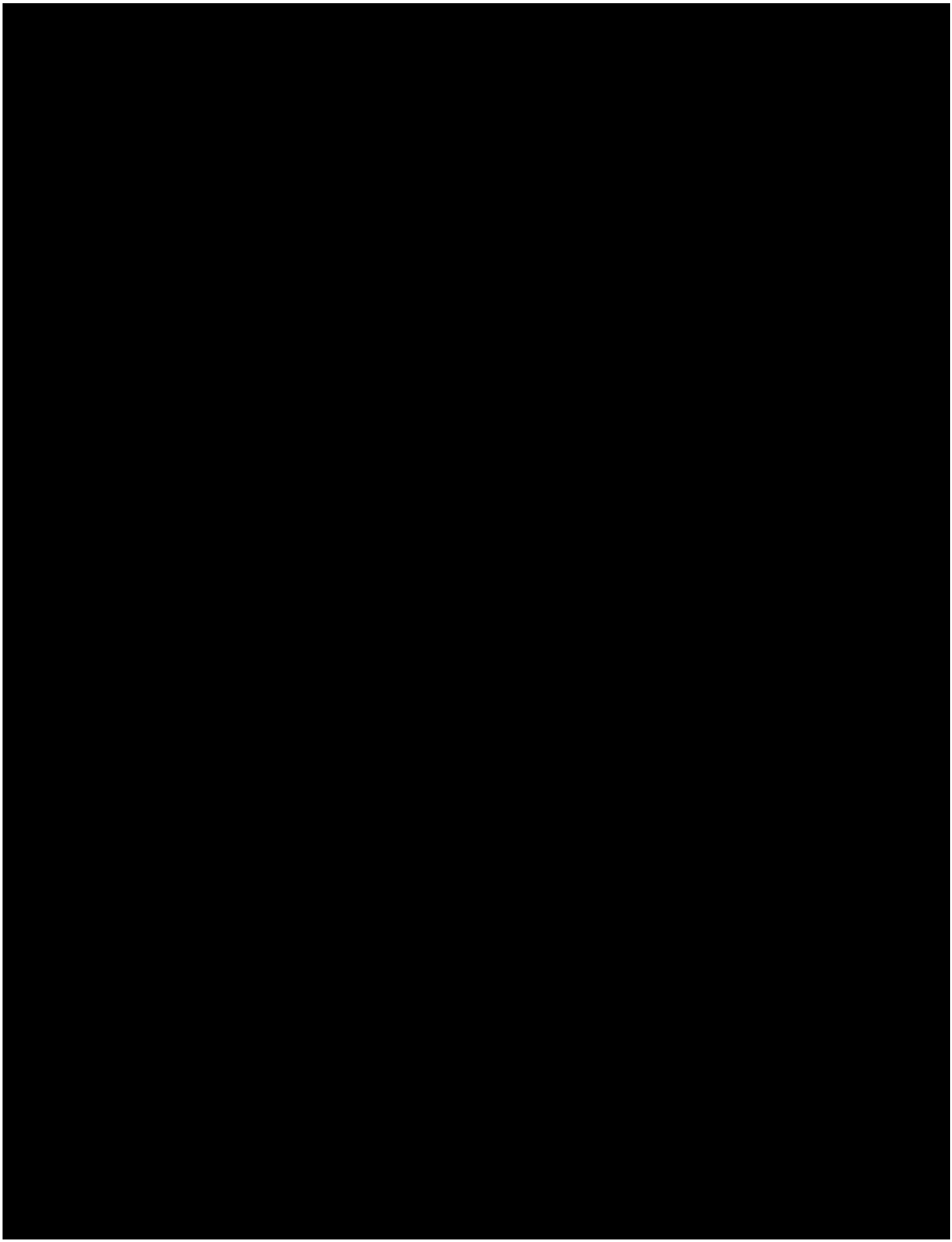
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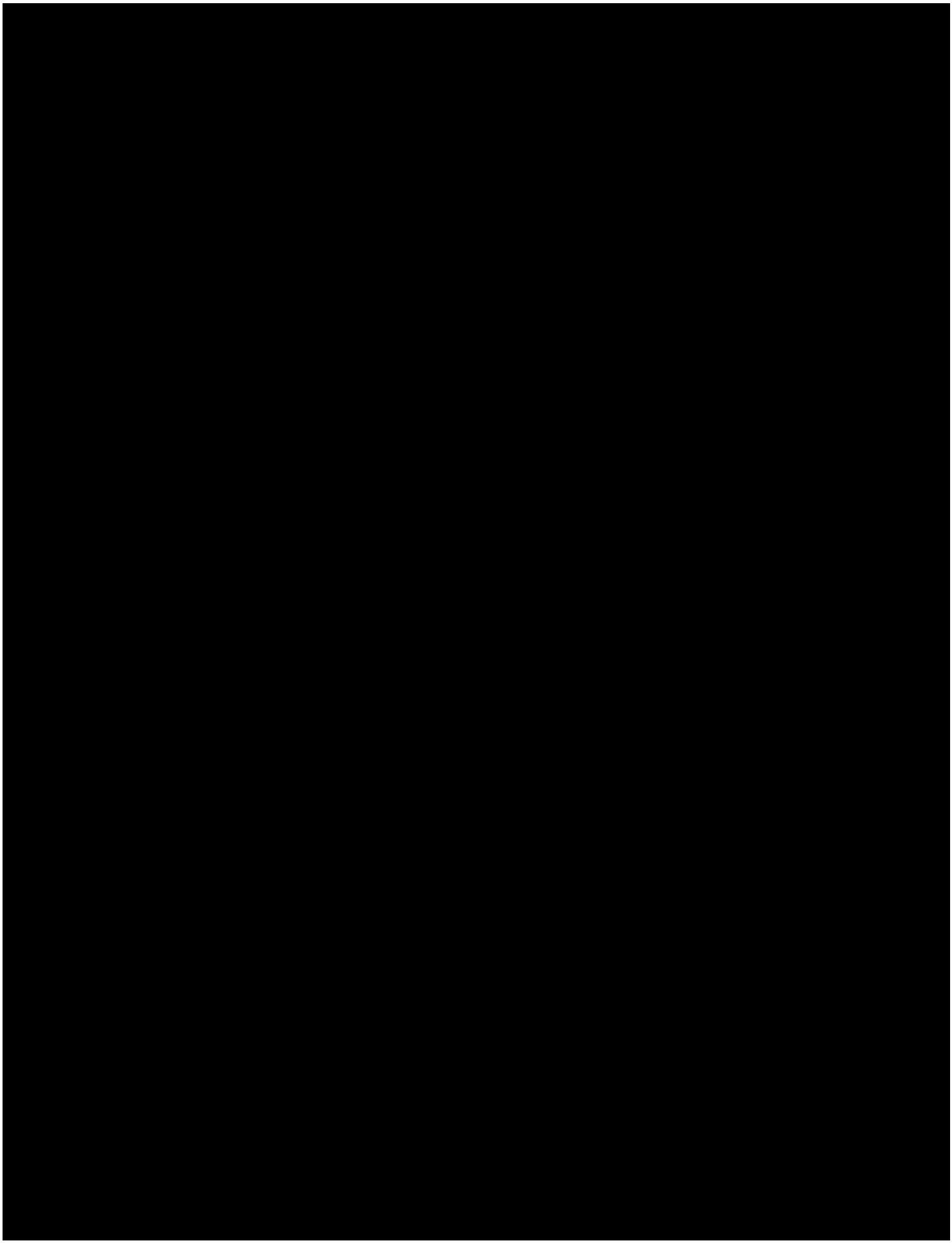
Daiquiri D. Carter

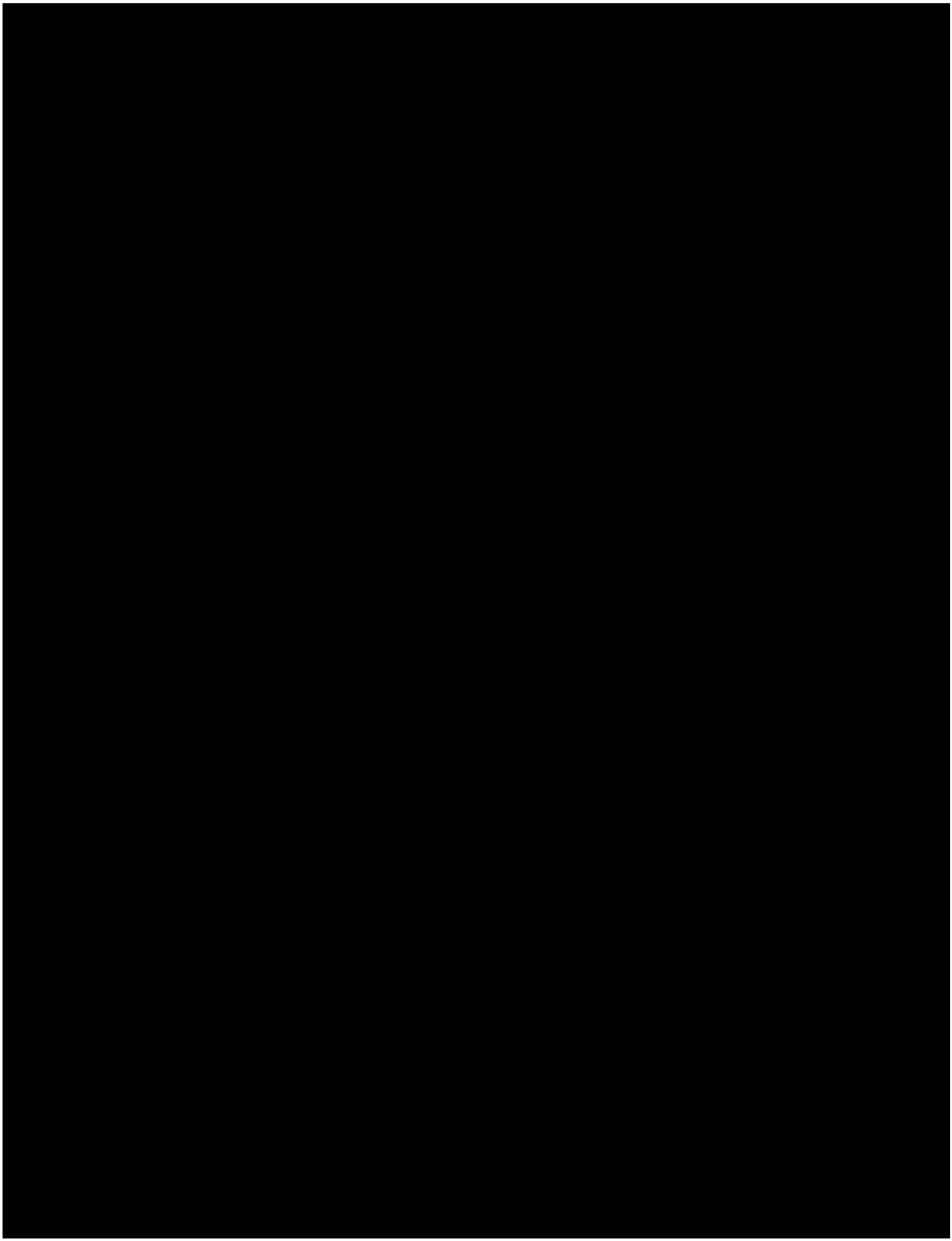
Daiquiri D. Carter
Legal Services Specialist

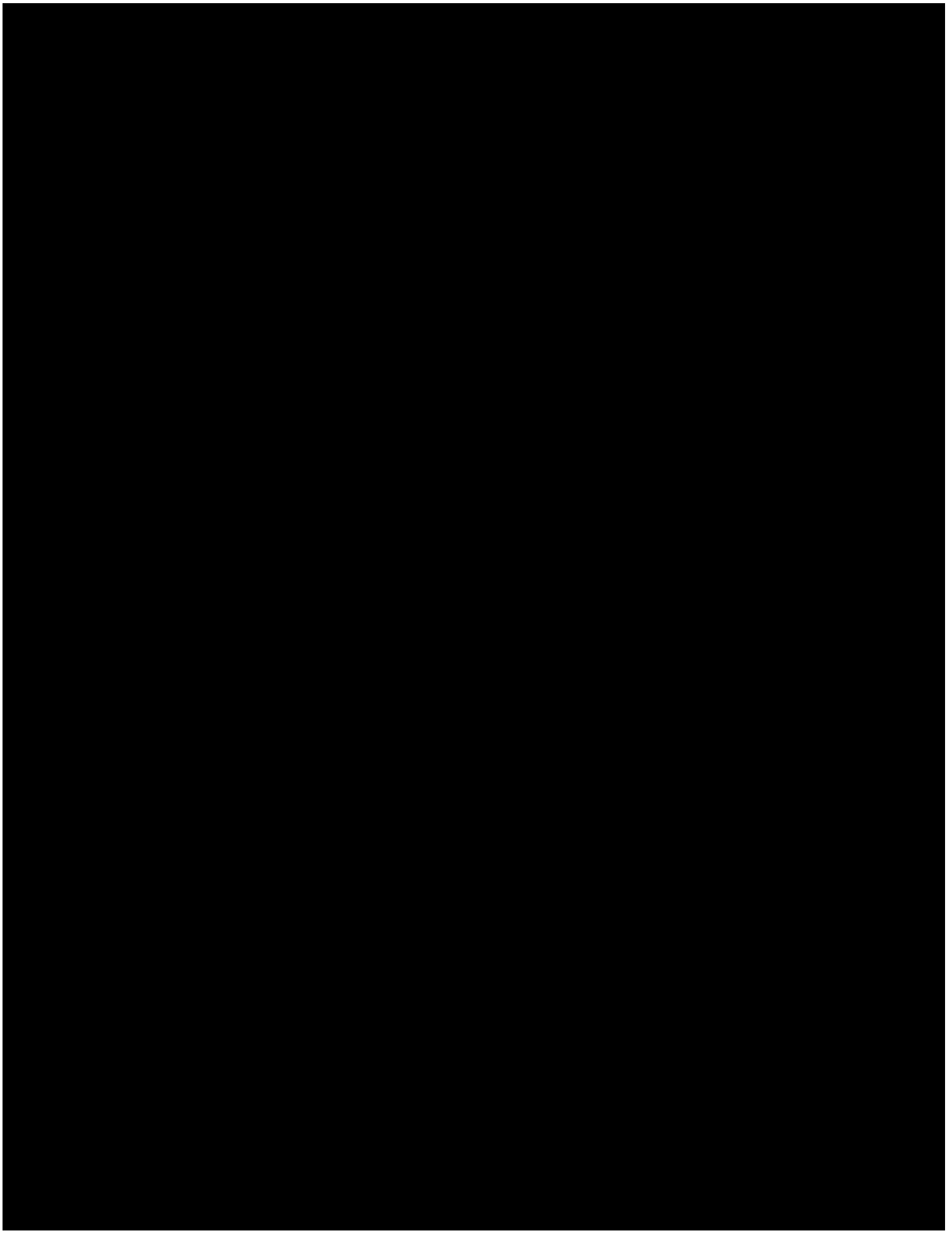
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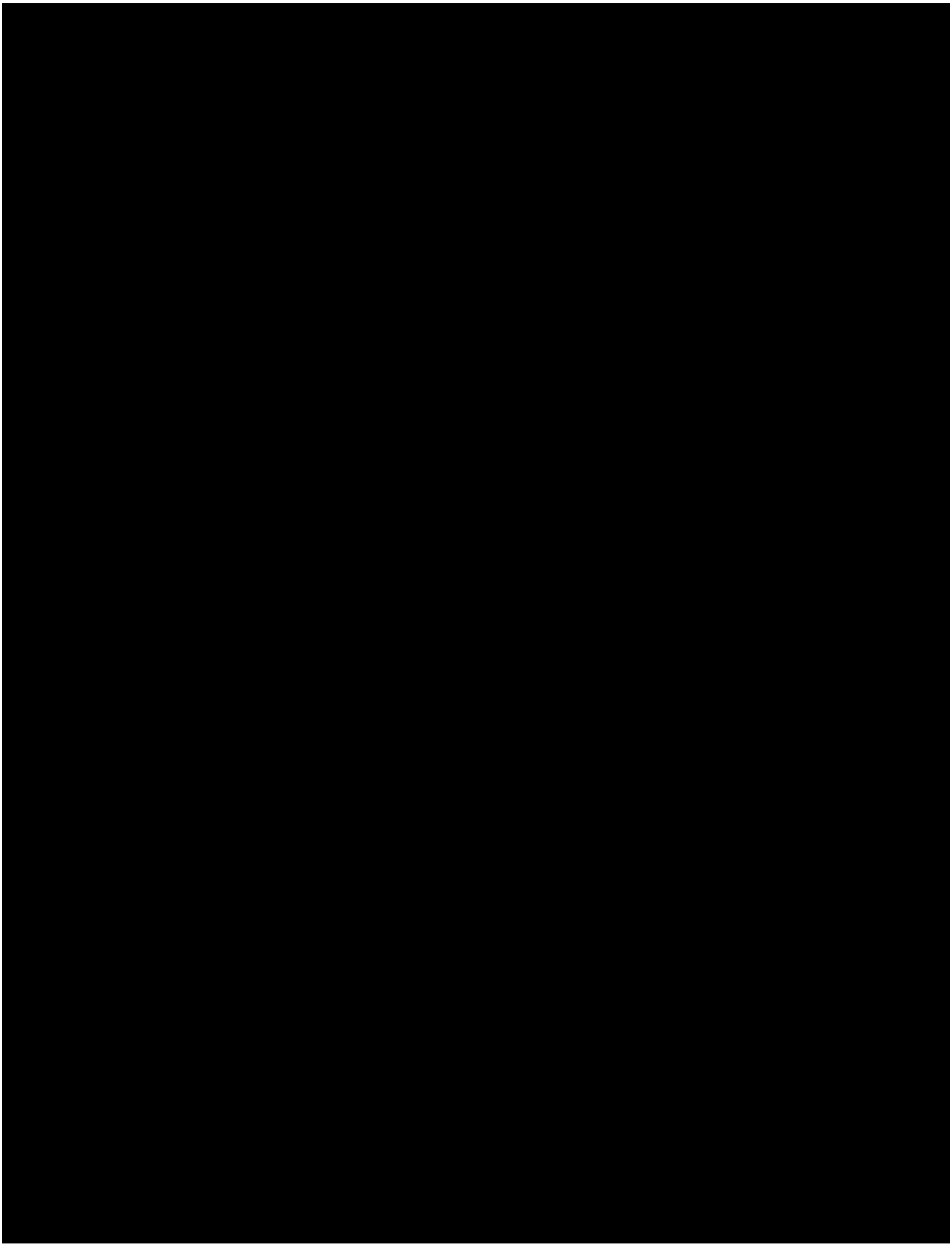


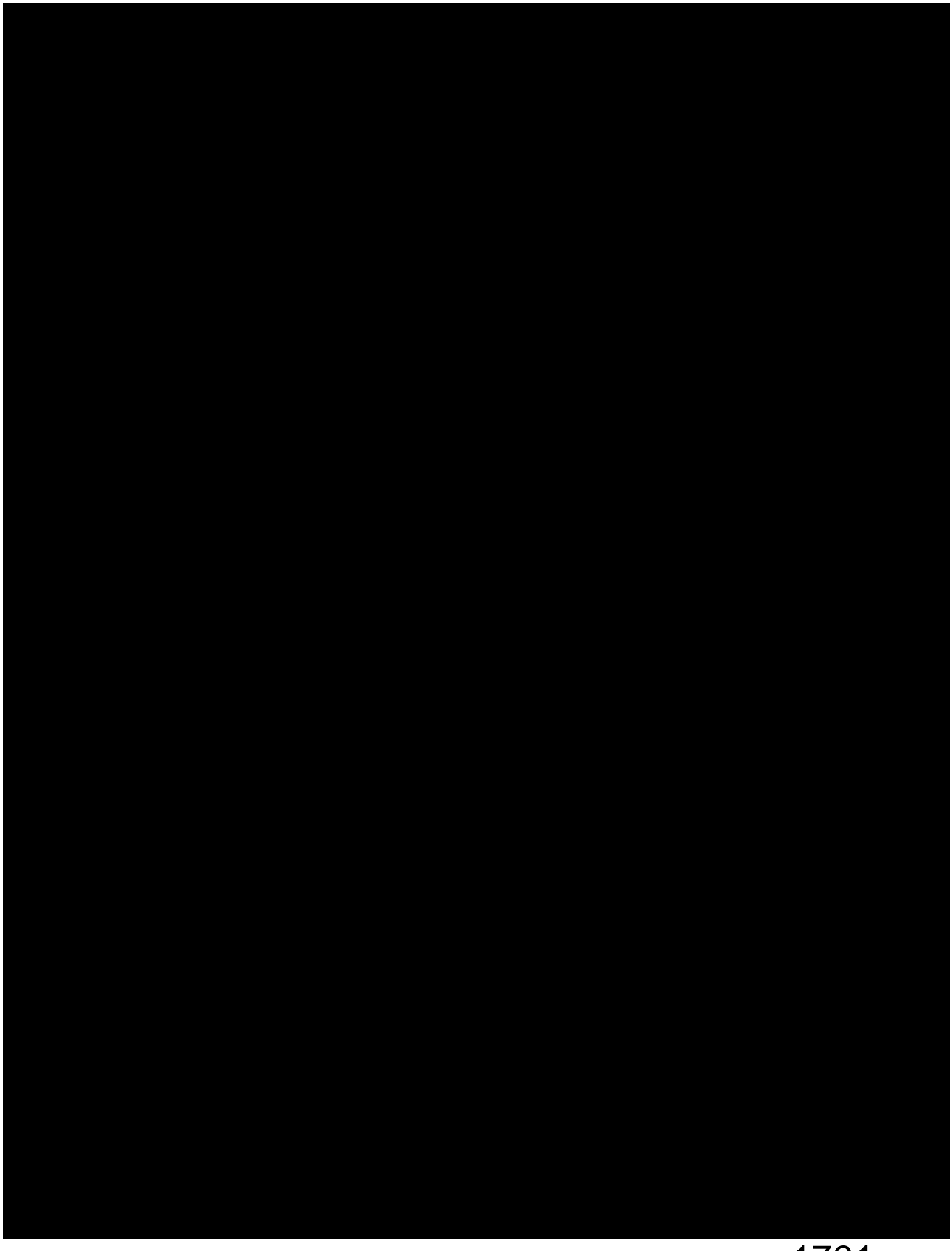


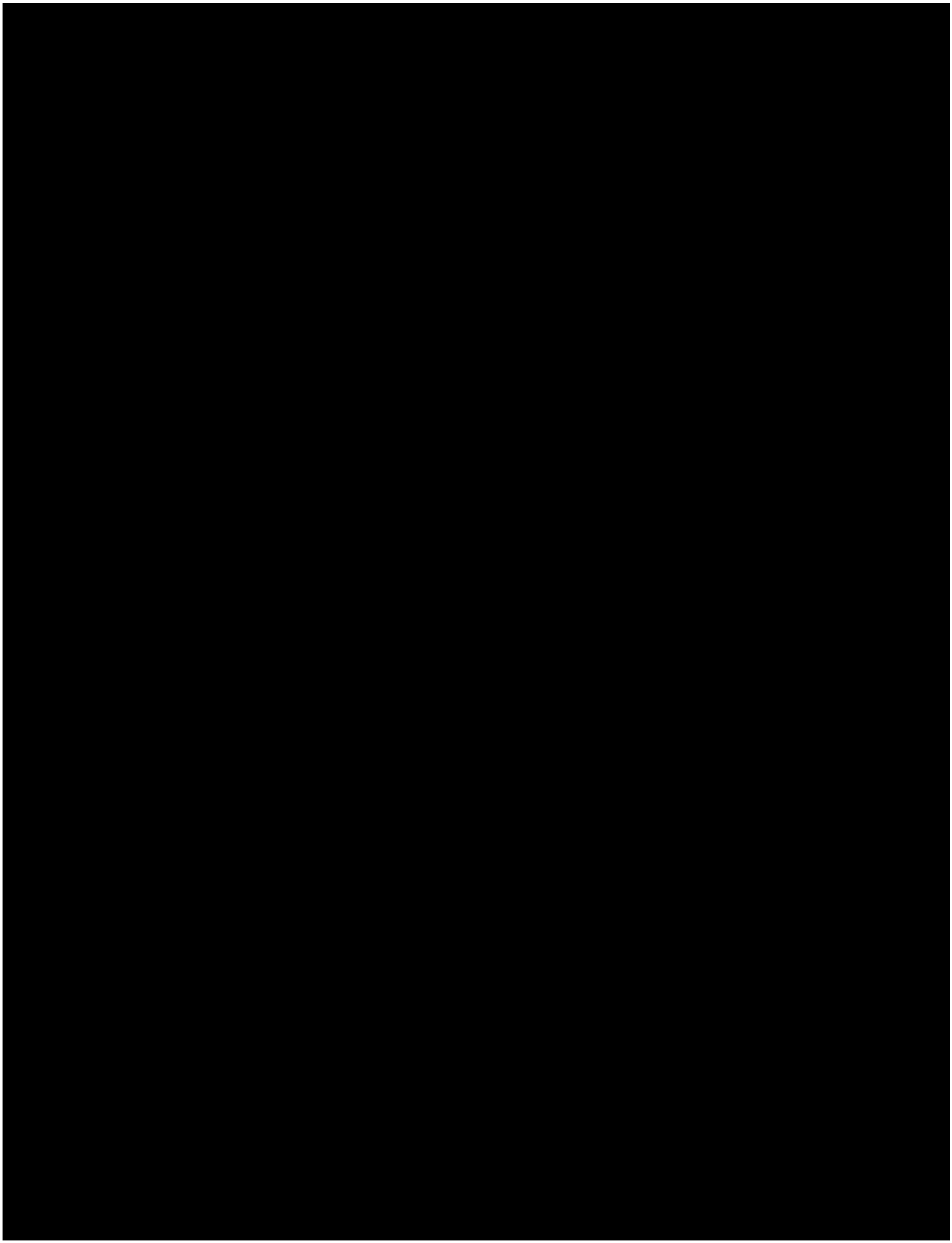


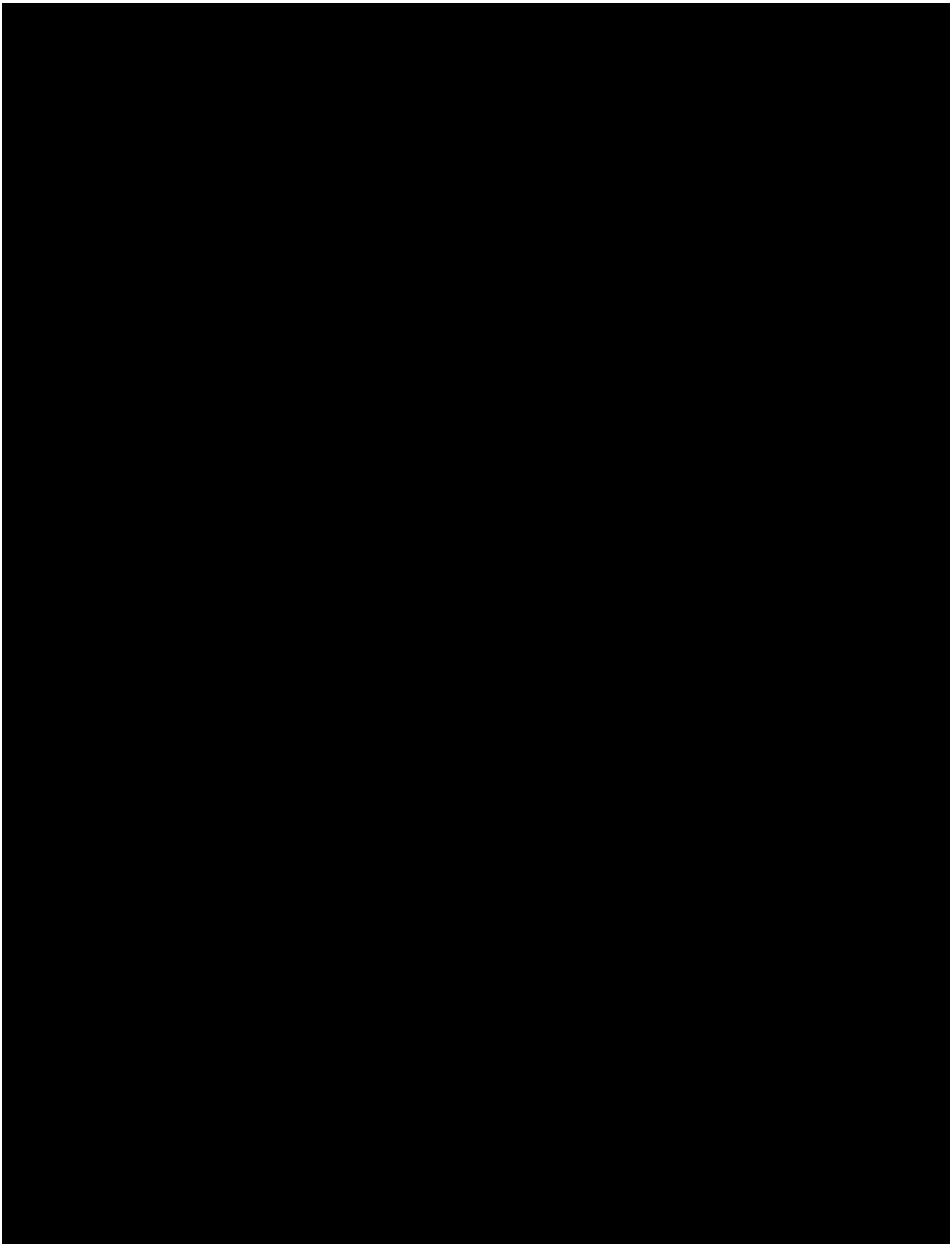


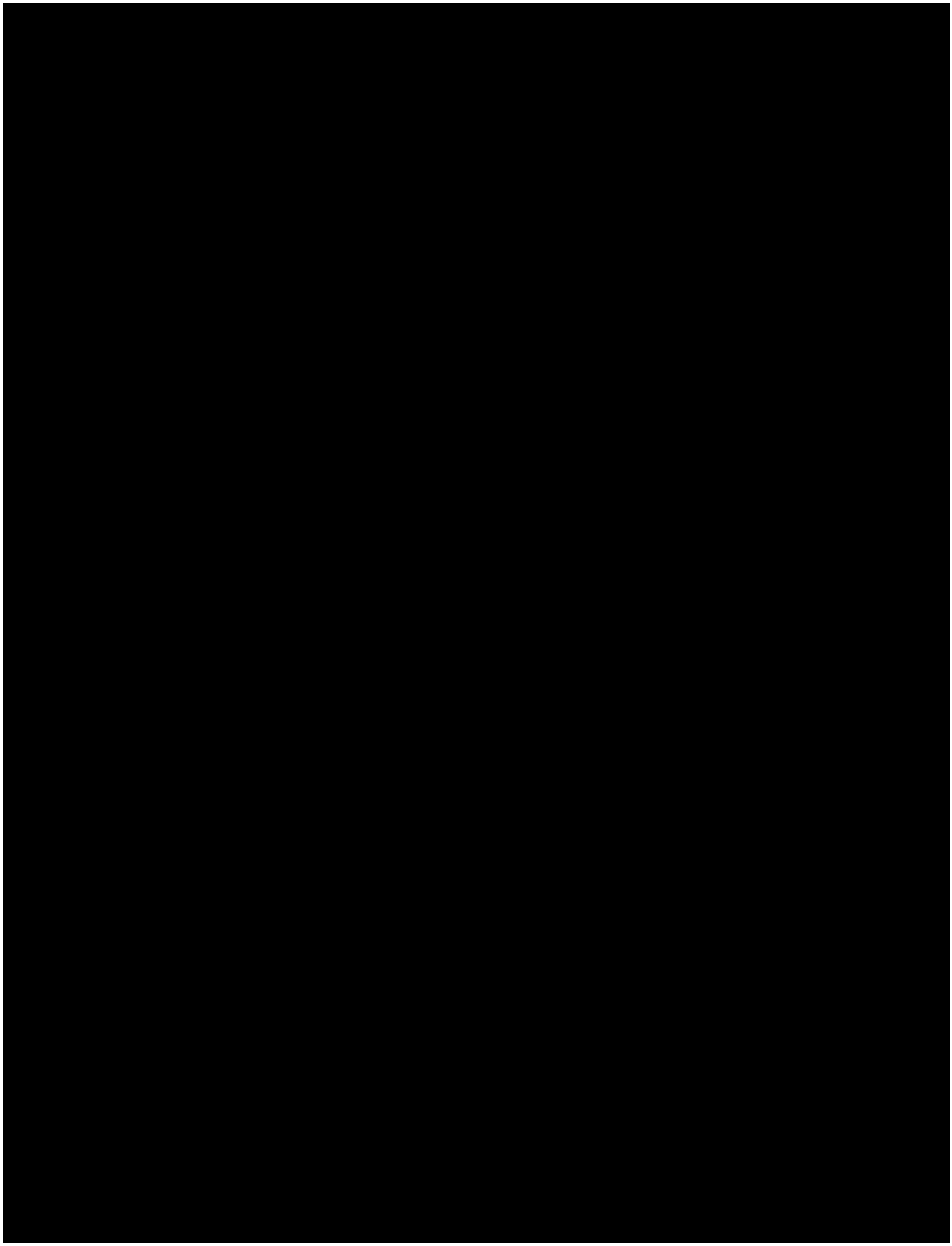


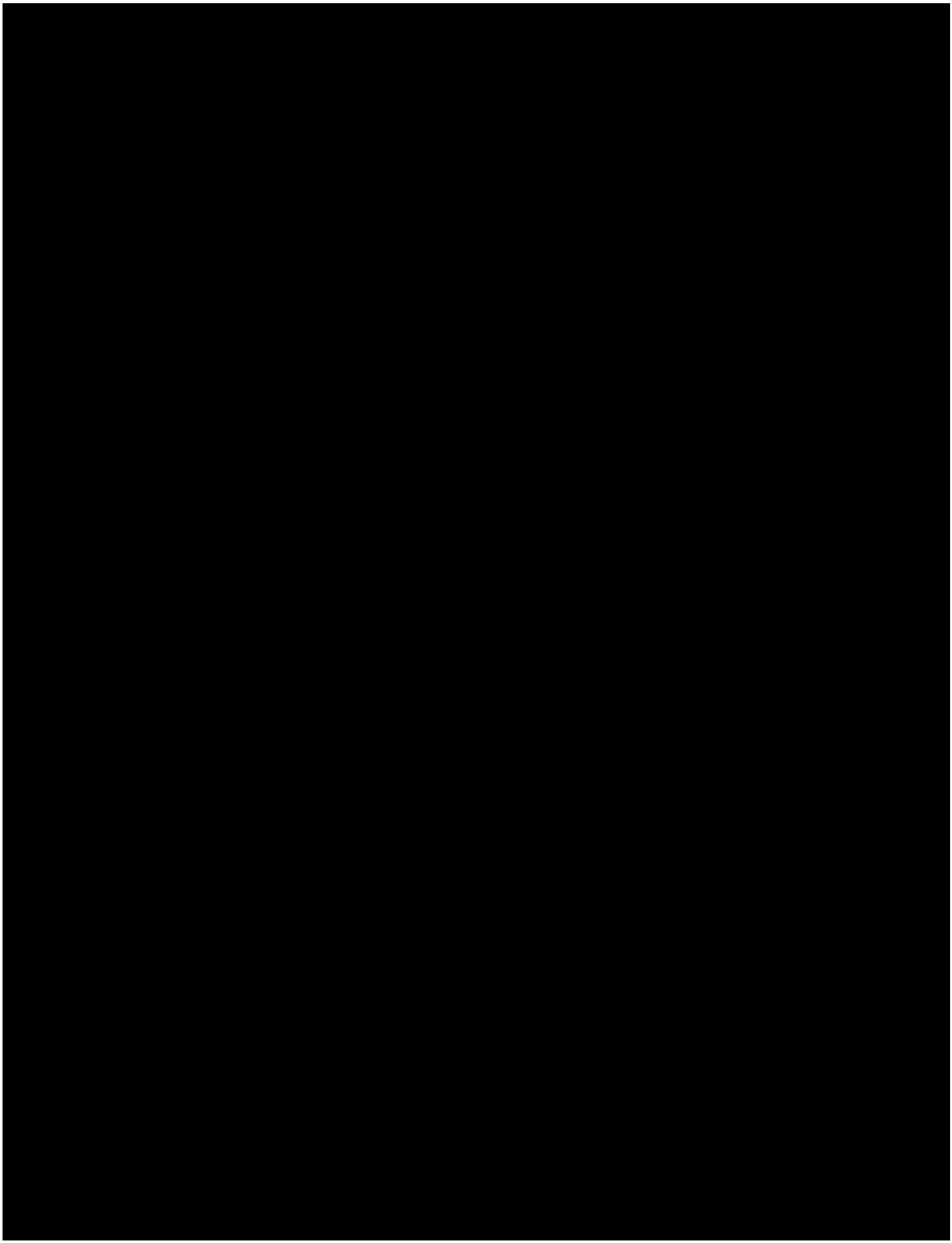


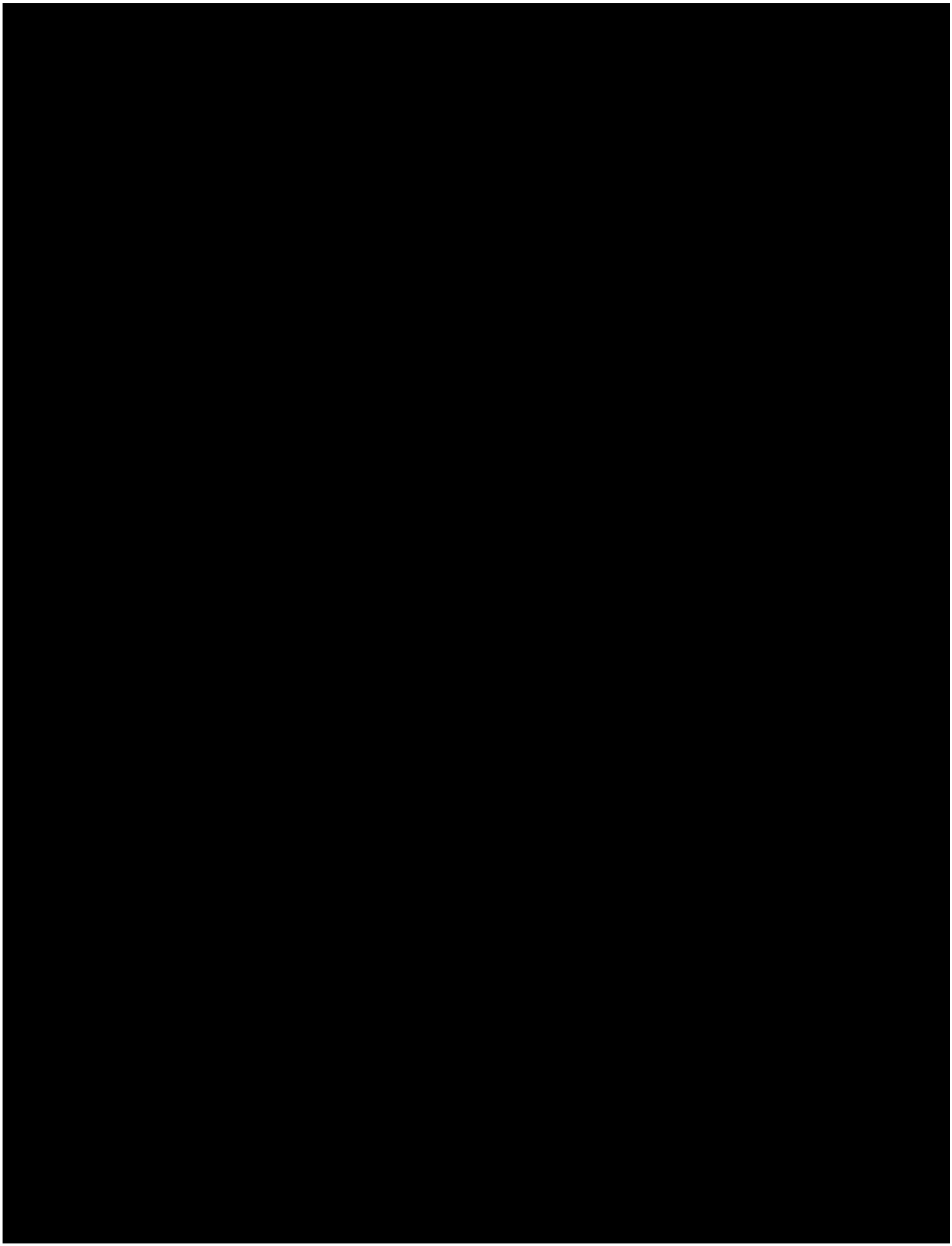


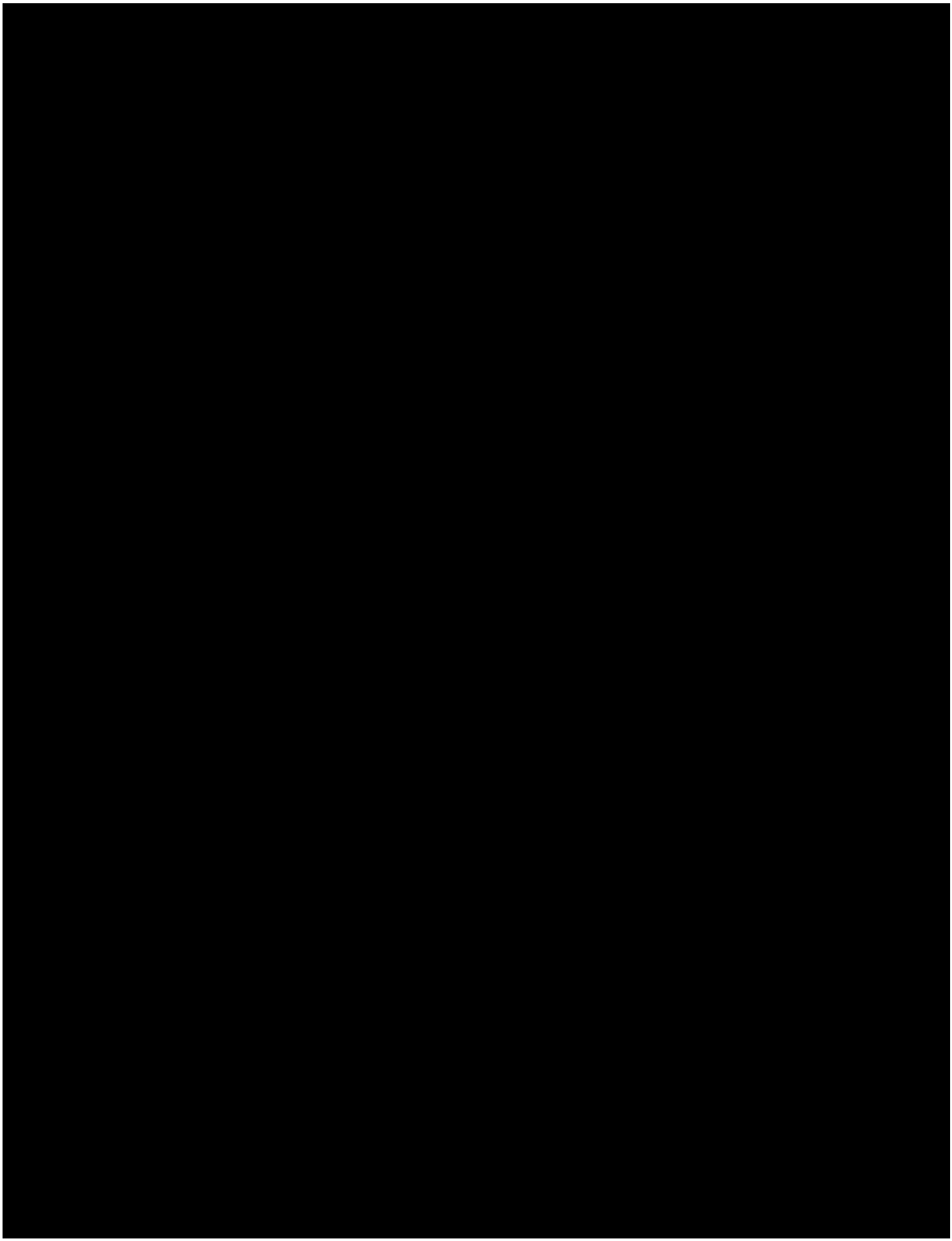


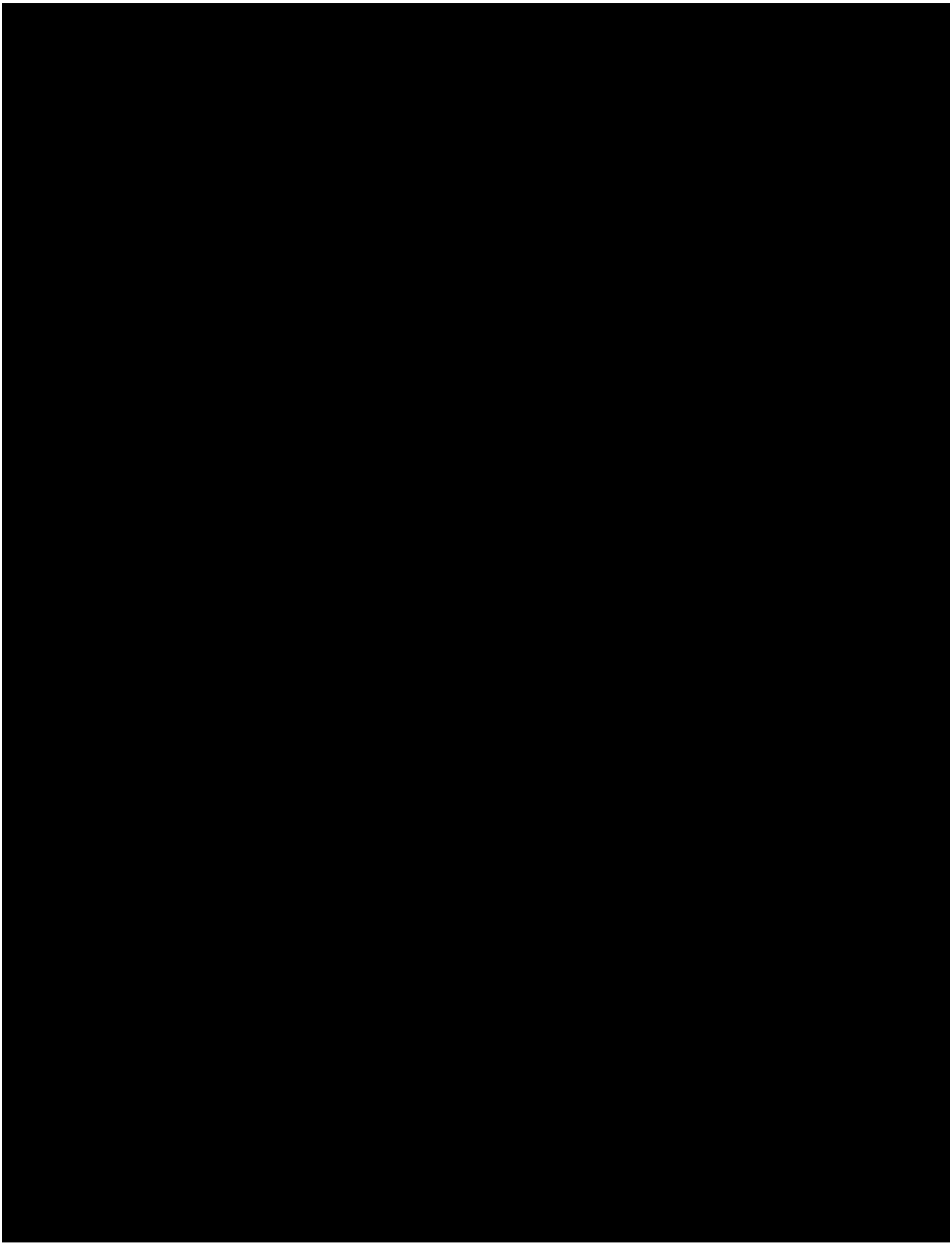


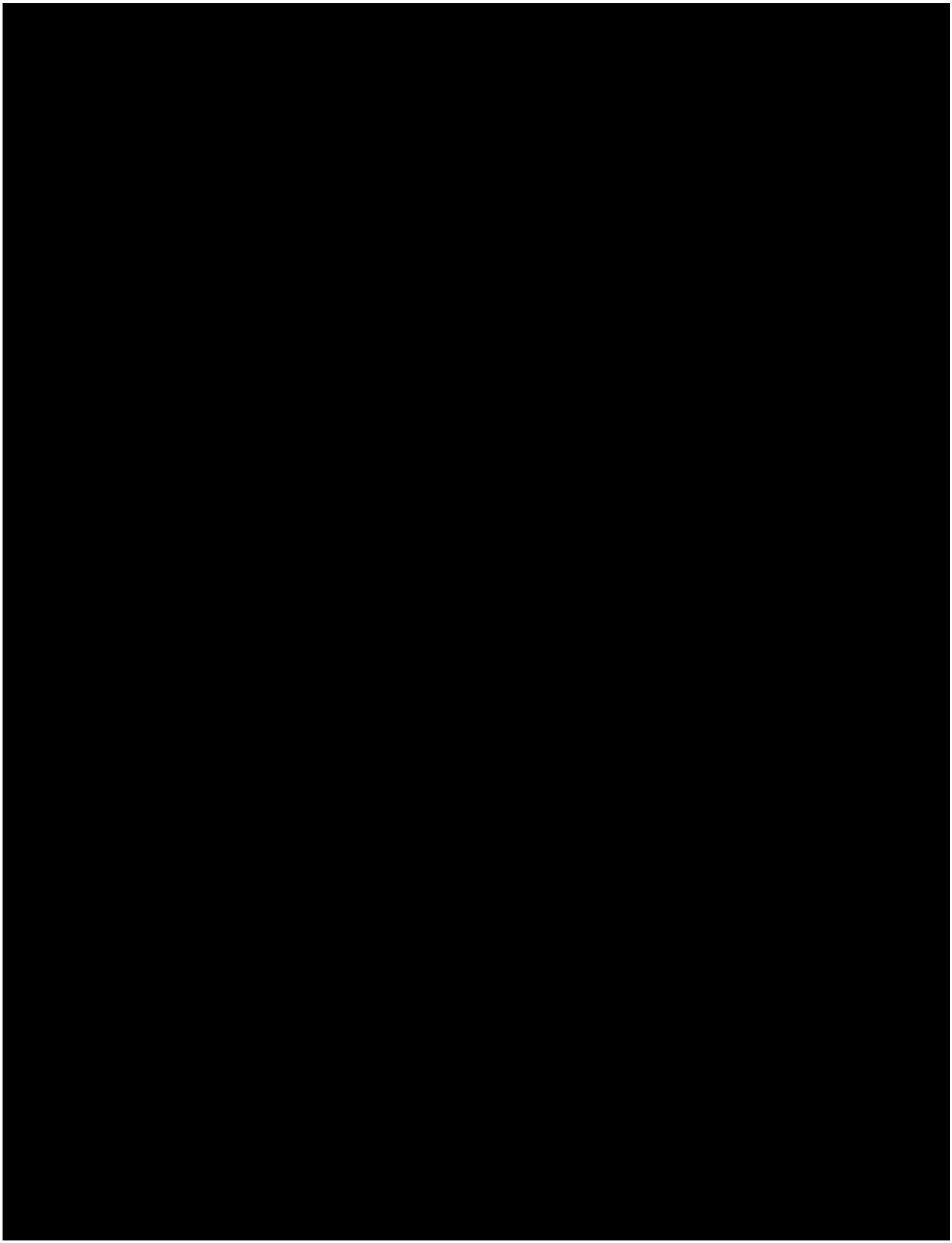














2021-015030 : Channell, Kermit - (06-05-2023)

ARKANSAS DEPARTMENT OF HUMAN SERVICES

Office of Chief Counsel
Brent Gasper

P.O. Box 1437, Slot S-260 Little Rock, AR 72203-1437
501-320-8250 - Fax: 501-682-6720
brent.gasper@dhs.arkansas.gov

May 31, 2023

Mr. Kermit B. Channell, II
Crime Lab Director
Arkansas State Crime Laboratory
3 Natural Resources Drive
Little Rock, AR 72205

RE: Jacqueline Ashcraft, DOB: [redacted]

To Whom It May Concern:

Please find attached a subpoena issued by the Arkansas State Claims Commission concerning Jacqueline Ashcraft.

I have enclosed a self-addressed stamped envelope for your convenience. If you do not have any records concerning Ms. Ashcraft, please contact Ms. Carter at 501-320-6338.

I appreciate your cooperation in this matter.

Sincerely,

Brent Gasper

Brent Gasper
Deputy Director of OCC

/ddc
Enclosure

2021-015030 : Bargiel, Sandra - (01-18-2023)

JACKSON
LAW FIRM

January 14, 2023

VIA CERTIFIED MAIL,

Ms. Sandra Bargiel
Arkansas State Crime Laboratory
3 Natural Resources Drive
Little Rock, AR 72205

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of* [redacted], *Minor Children v. The Arkansas Department of Human Services*
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Ms. Bargiel:

I represent the Claimant in the above referenced matter pending before the Arkansas State Claims Commission. This is a wrongful death claim arising from a motor vehicle accident.

Please find enclosed a Toxicology Report Request Form for Jennifer Wilkerson and Jacqueline Ashcraft, deceased along with a Subpoena issued by the Arkansas State Claims Commission's Executive Director, Kathryn Irby, *Esq.* Also enclosed is a check from my law firm in the amount of $50.00 made payable to the Arkansas State Crime Laboratory.

Can you send a PDF of the toxicology results to my office at: *Jim@JimJacksonatty.com* or fax it to my attention at (501) 823-3611?

Please call me at (501) 823-3610 with any questions or suggestions. Enclosed is a copy of Trooper Ray's accident report which references the toxicology tests.

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosure
cc: Brent Gasper, *Esq.*
Kathryn Irby, *Esq.*

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528
501.823.3610
Fax: 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

2021-015030 : Bargiel, Sandra - (01-18-2023)

Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of [redacted], Minor Children, Claimant

V.

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

SUBPOENA

CLAIM NO. 230641

TO: **Kermit B. Channell, II**
Crime Lab Director
Arkansas State Crime Laboratory
3 Natural Resources Drive
Little Rock, AR 72205

____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

BAC test and drug test results from p. 2 of the attached accident report.

January 12, 2023

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

Date

2021-015030 : Bargiel, Sandra - (01-16-2023)

Arkansas State Crime Laboratory

Toxicology Report Request Form

A copy of the toxicology report can be requested by submitting the following required items:

1) Written authorization from one of the following:
   a) the prosecuting attorney of the county where the incident occurred, or
   b) a court of competent jurisdiction, and
2) A cashier's check or money order for $50, made payable to the Arkansas State Crime Laboratory.
   Please do not send cash.

Name of tested individual: Jennifer Leann Wilkerson

Date of incident: June 11, 2021

Requester Information

Requester's name: Jim Jackson

Relationship to tested individual: Attorney at Law - See Attached Subpoeana Duces Tecum

Street address: 700 W. Broadway Street, Suite 200

City, state, ZIP: North Little Rock, AR 72114

Email address: Jim@JimJacksonatty.com

Telephone number: 501-823-3610

Signature of requester: Jim Jackson

Please mail request to: Arkansas State Crime Laboratory
ATTN: Sandra Bargiel, (501) 683-6223
3 Natural Resources Drive
Little Rock AR 72205

2021-015030 : Bargiel, Sandra - (01-18-2023)

Arkansas State Crime Laboratory

Toxicology Report Request Form

A copy of the toxicology report can be requested by submitting the following required items:

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   a) the prosecuting attorney of the county where the incident occurred, or
   b) a court of competent jurisdiction, and
2) A cashier's check or money order for $50, made payable to the Arkansas State Crime Laboratory.
   Please do not send cash.

Name of tested individual: Jacqueline Lynn Ashcraft

Date of incident: June 11, 2021

Requester Information

Requester's name: Jim Jackson

Relationship to tested individual: Attorney at Law - See Attached Subpoeana Duces Tecum

Street address: 700 W. Broadway Street, Suite 200

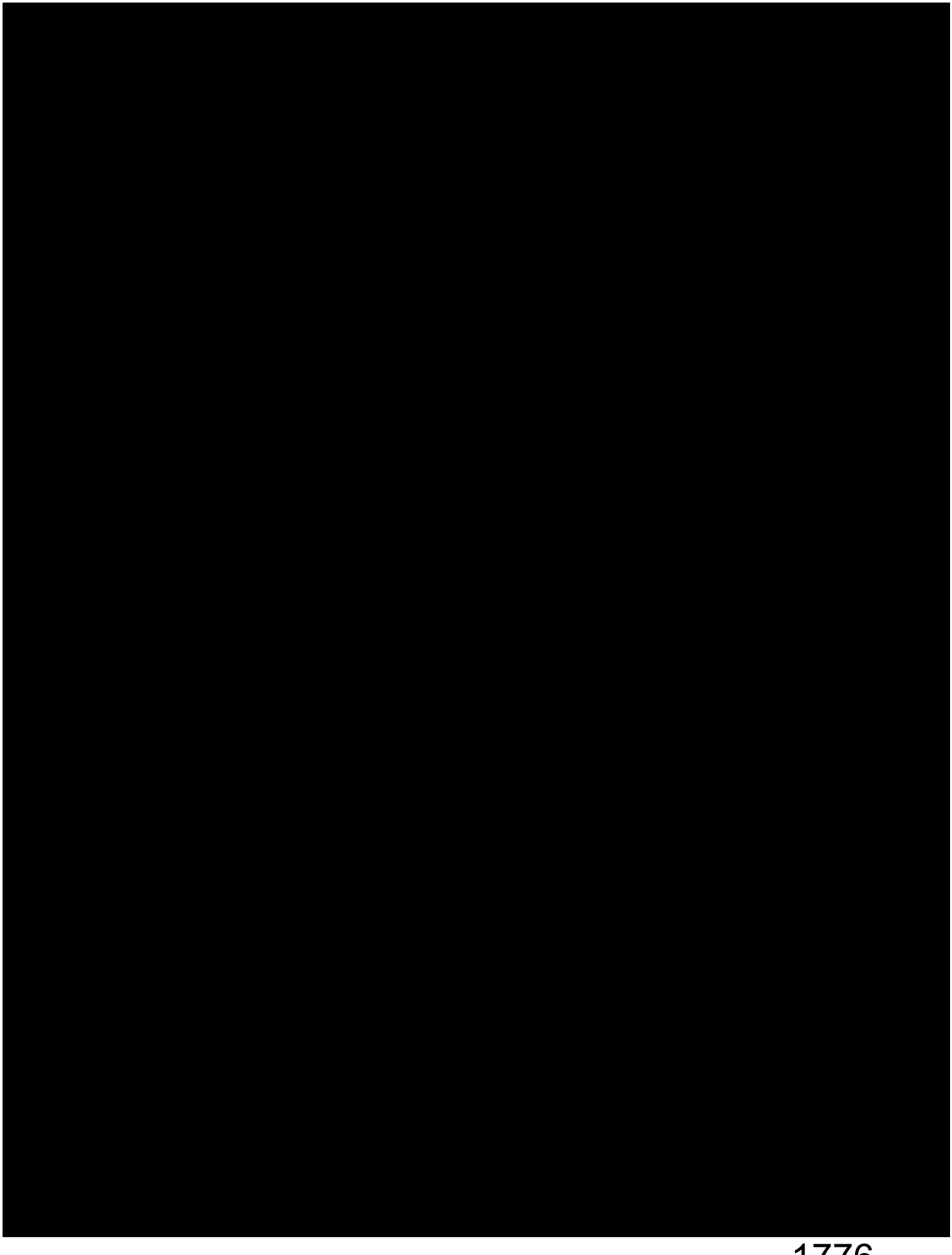
City, state, ZIP: North Little Rock, AR 72114

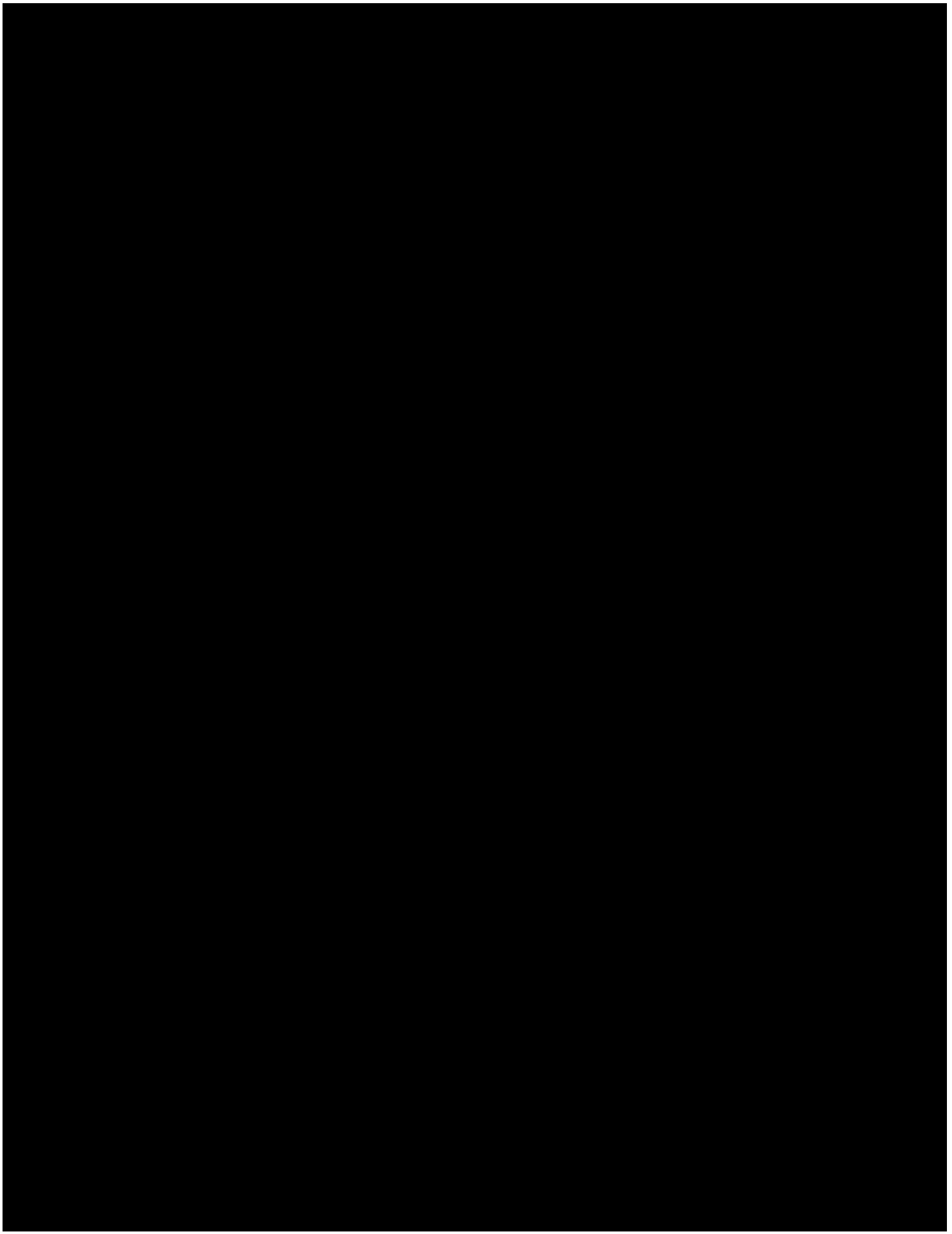
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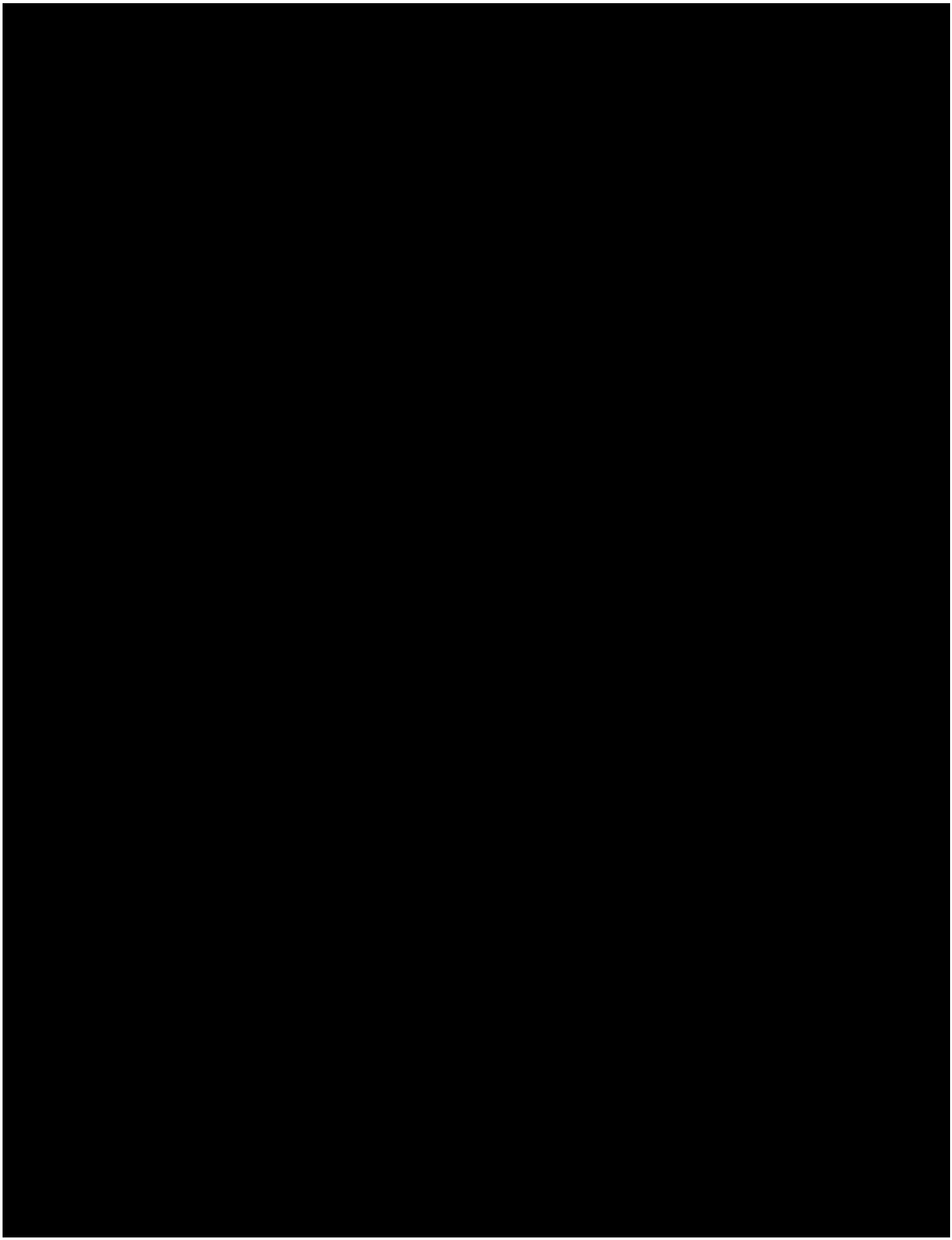
Telephone number: 501-823-3610

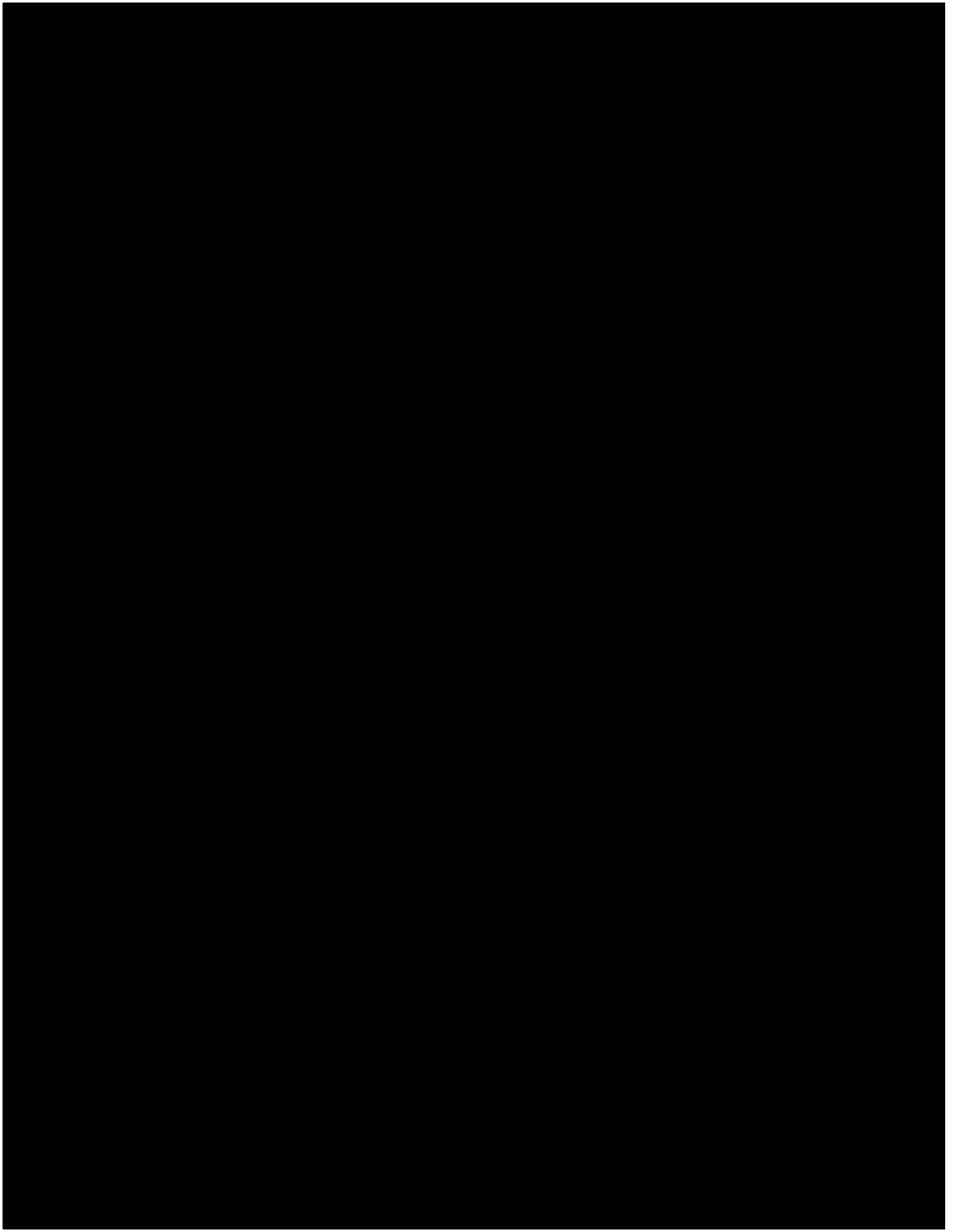
Signature of requester: Jim Jackson

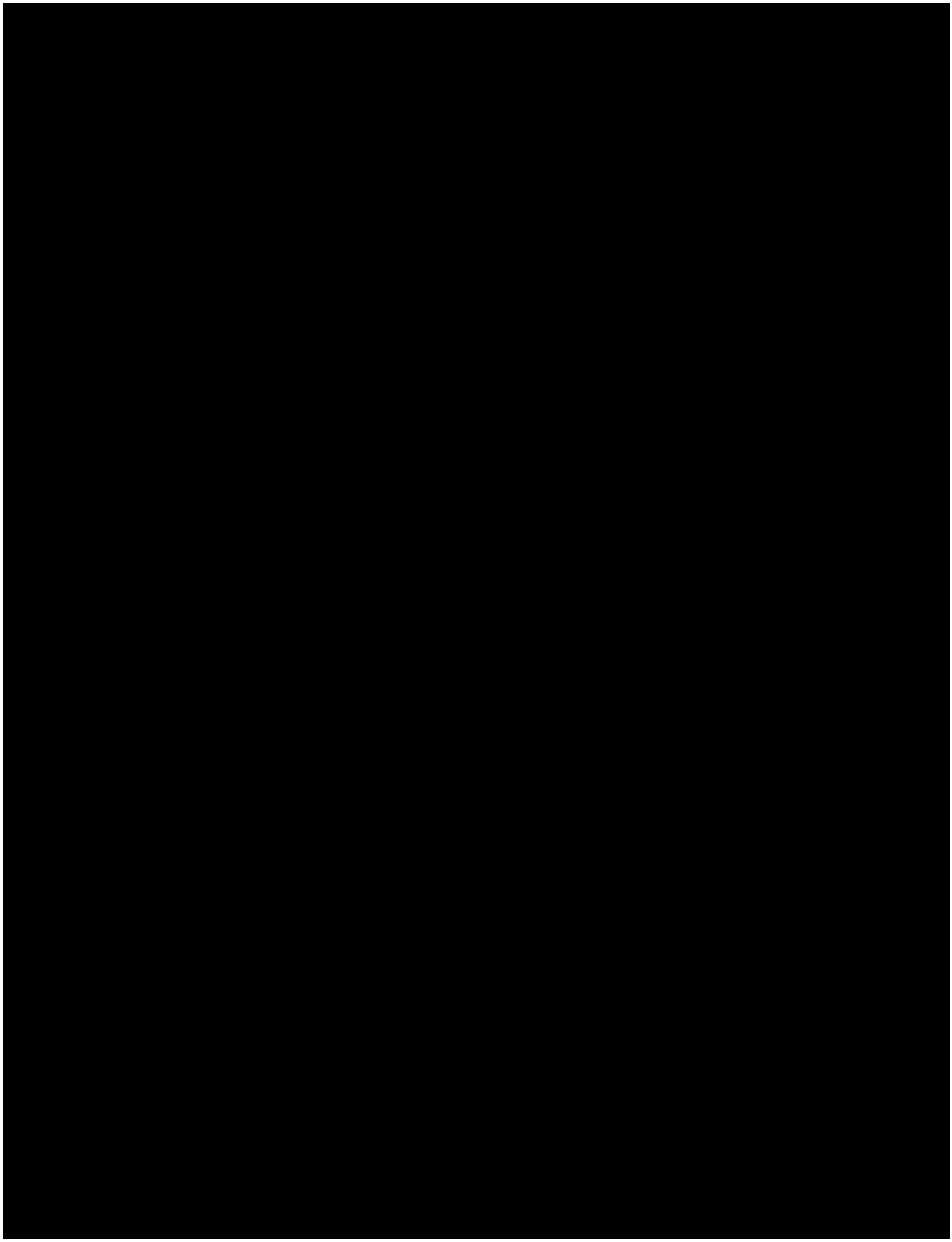
Please mail request to: Arkansas State Crime Laboratory
ATTN: Sandra Bargiel, (501) 683-6223
3 Natural Resources Drive
Little Rock AR 72205

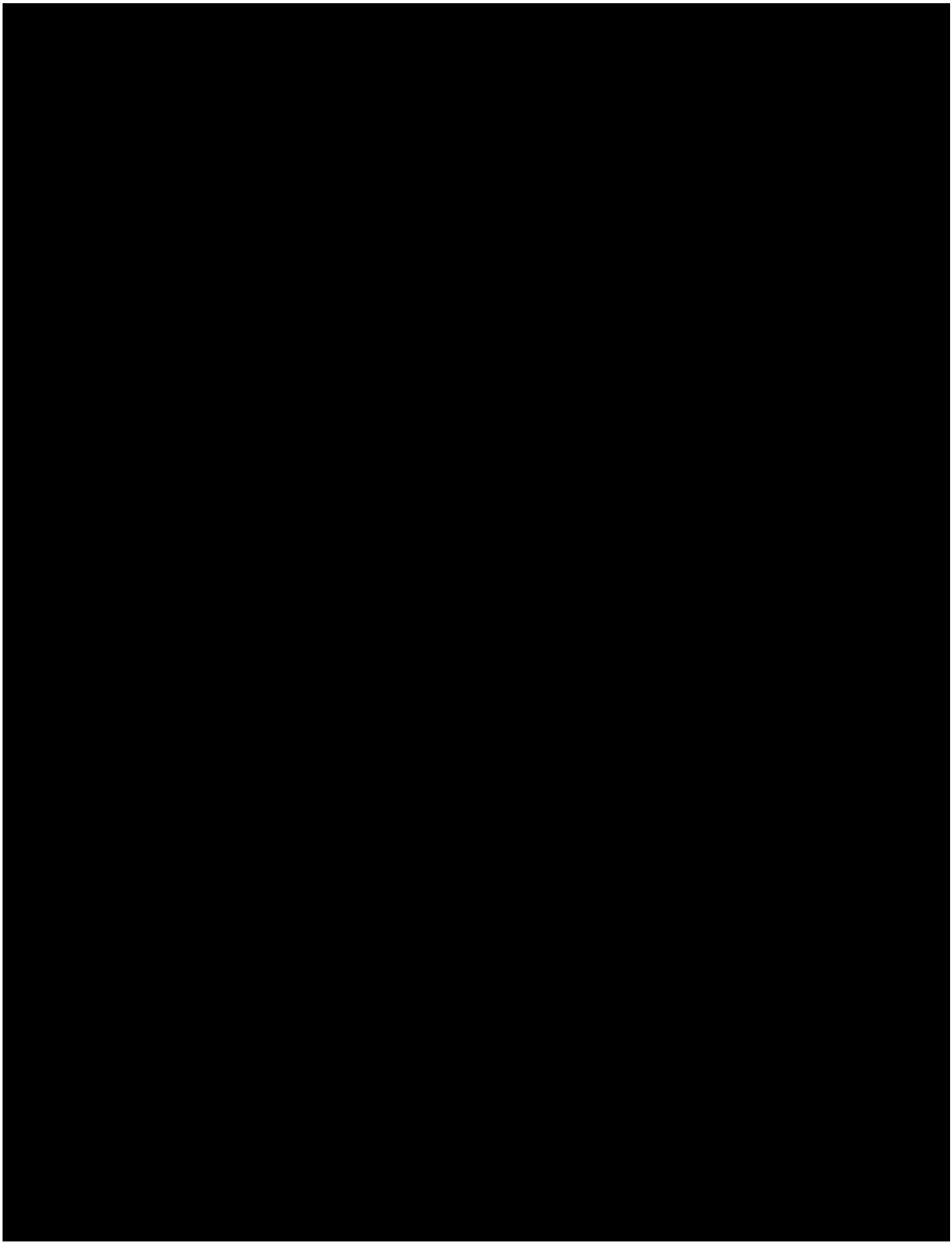


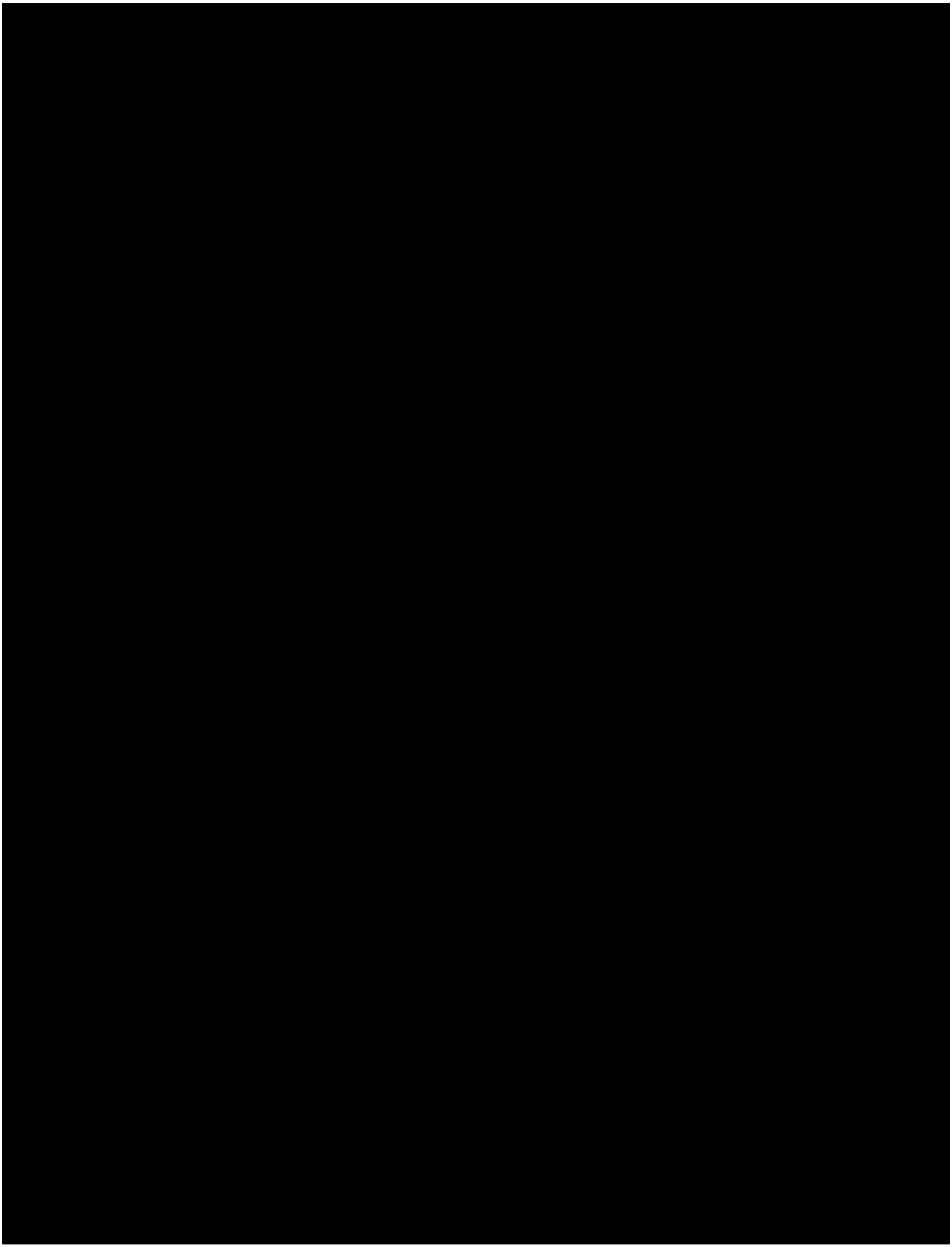


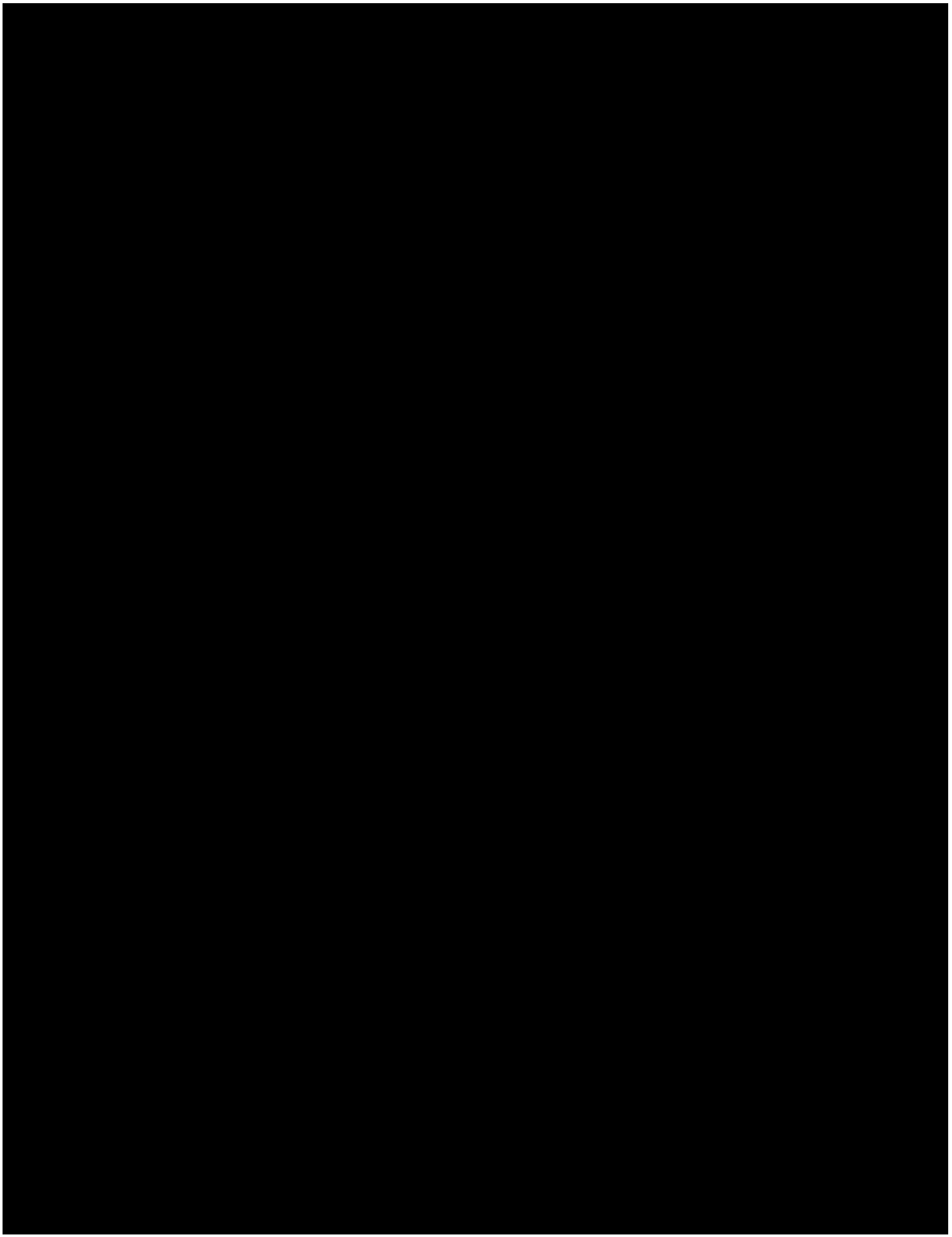


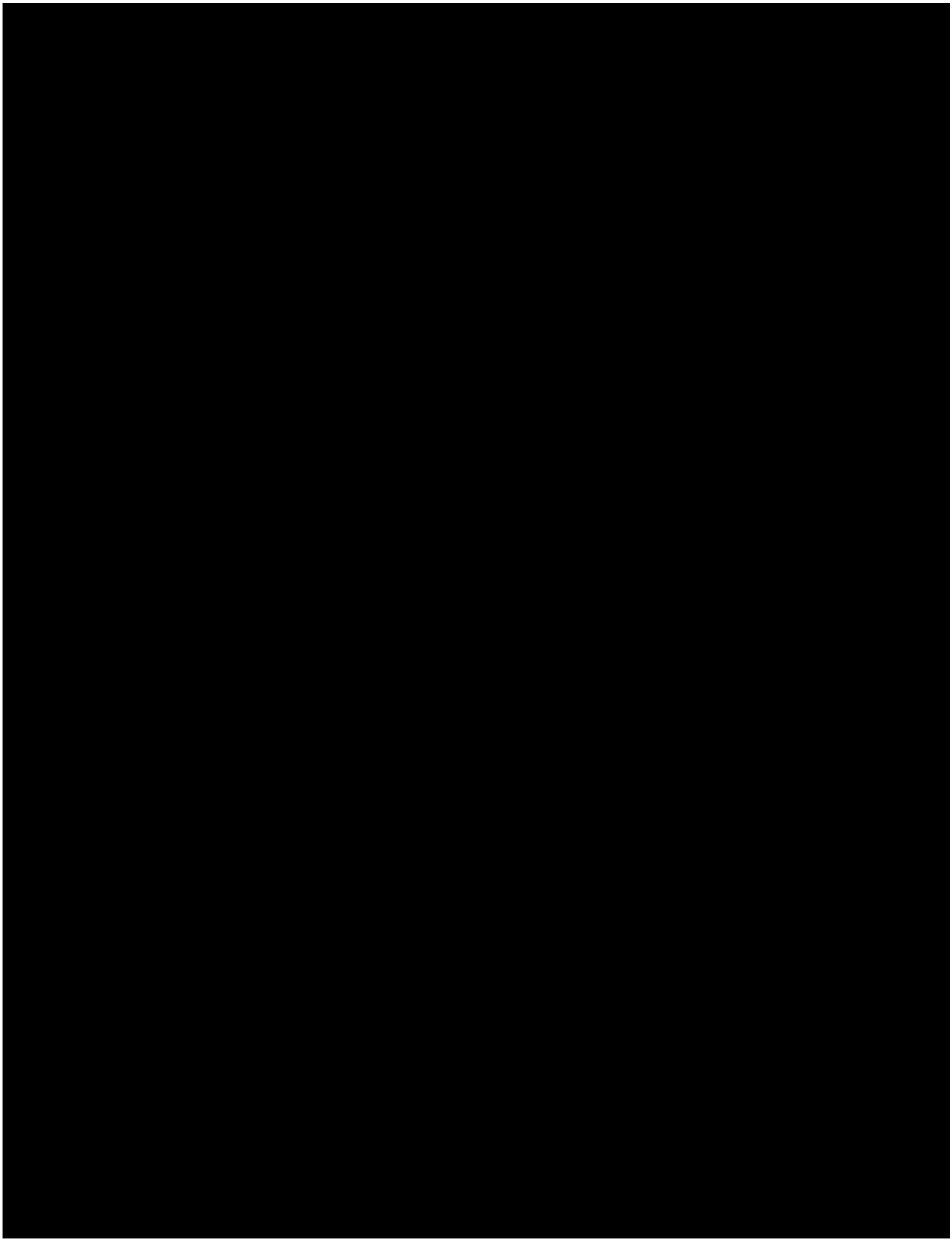


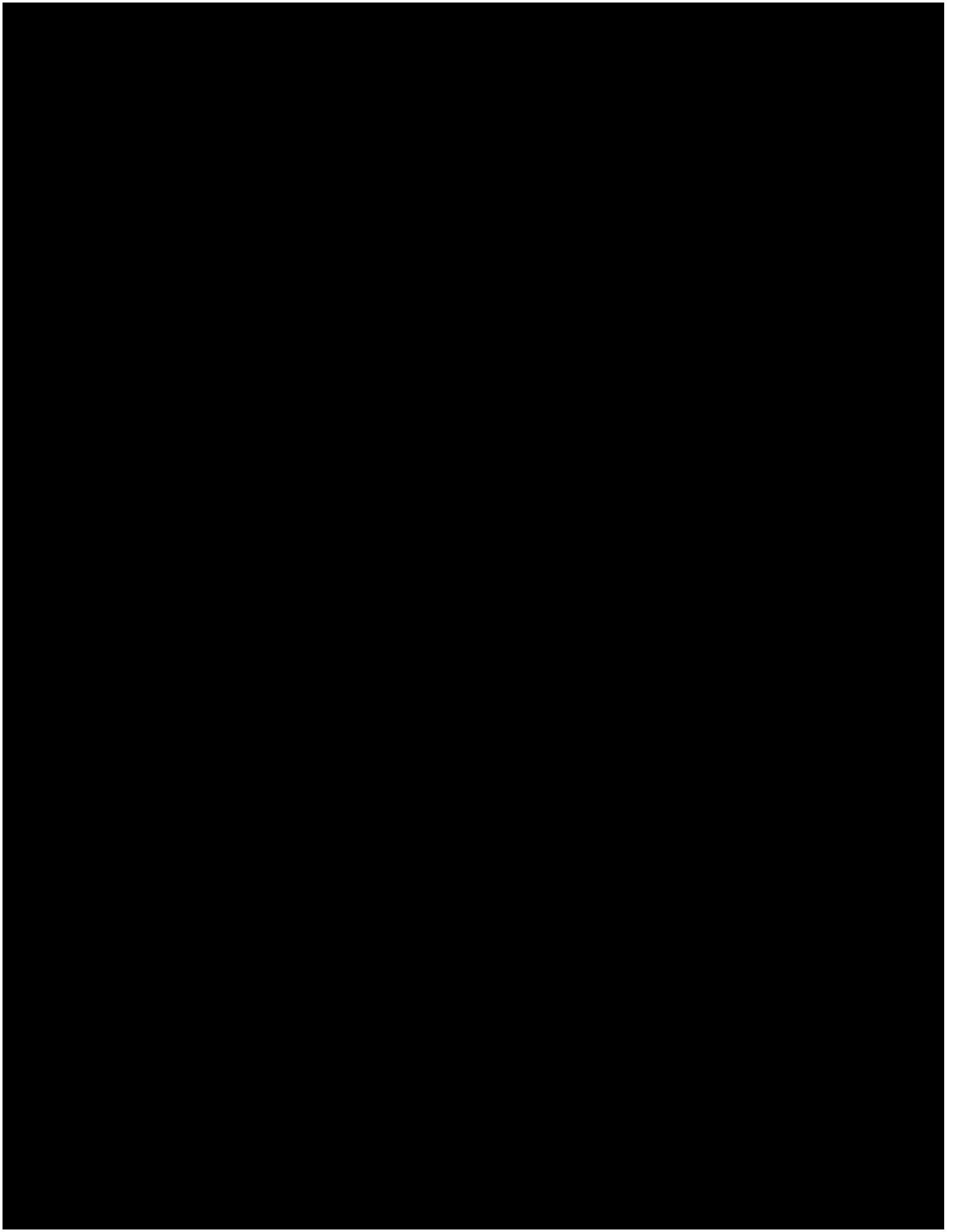


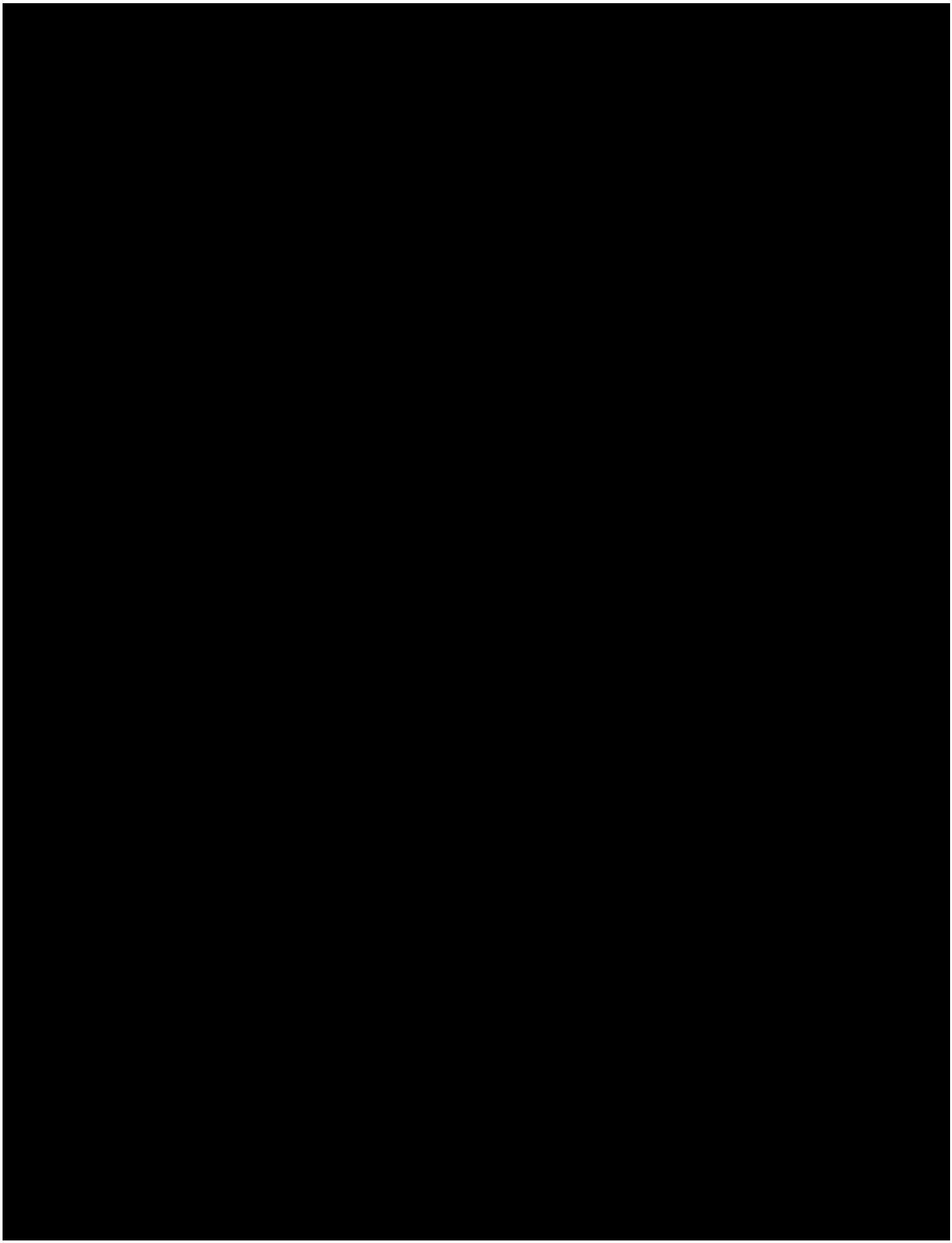


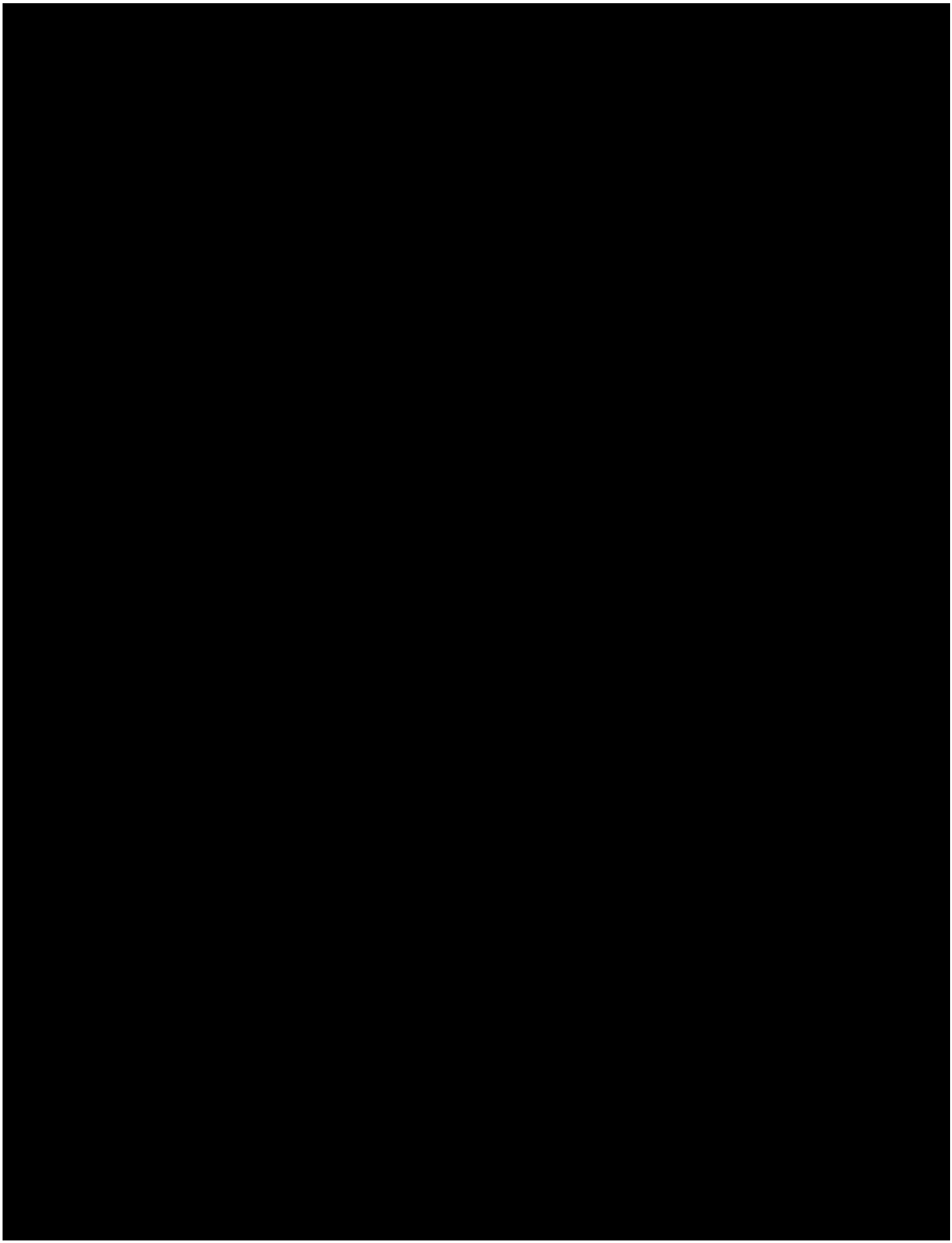


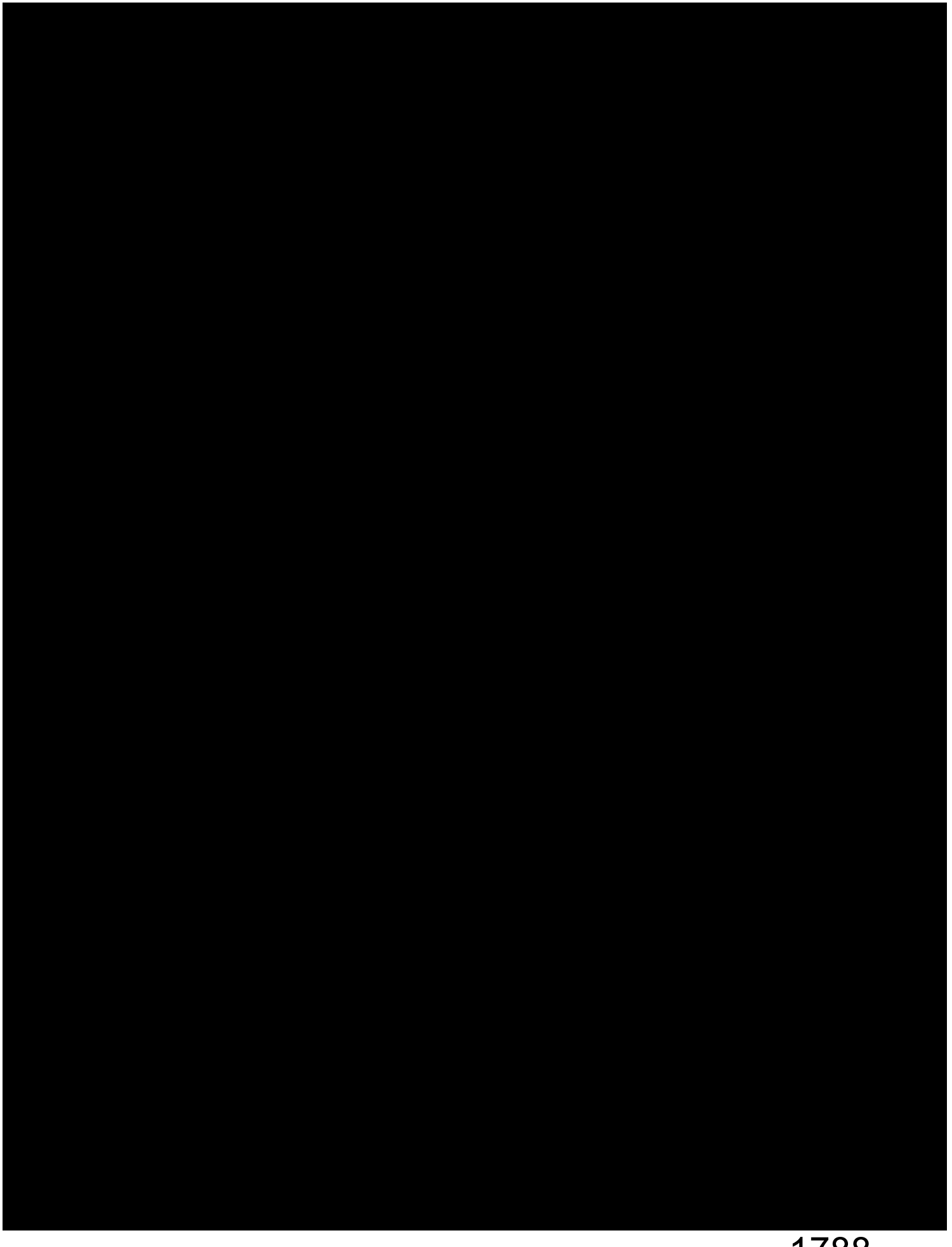


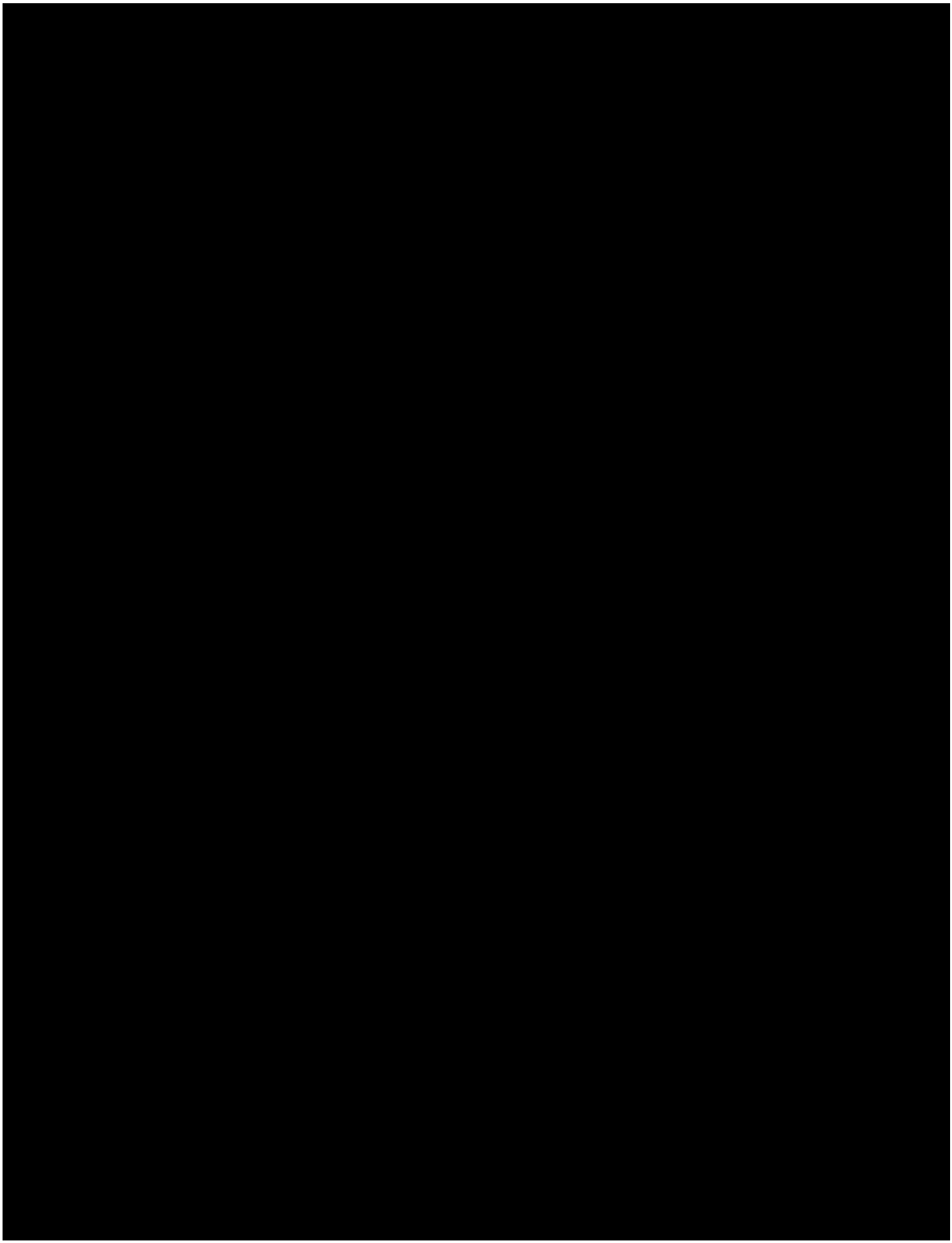


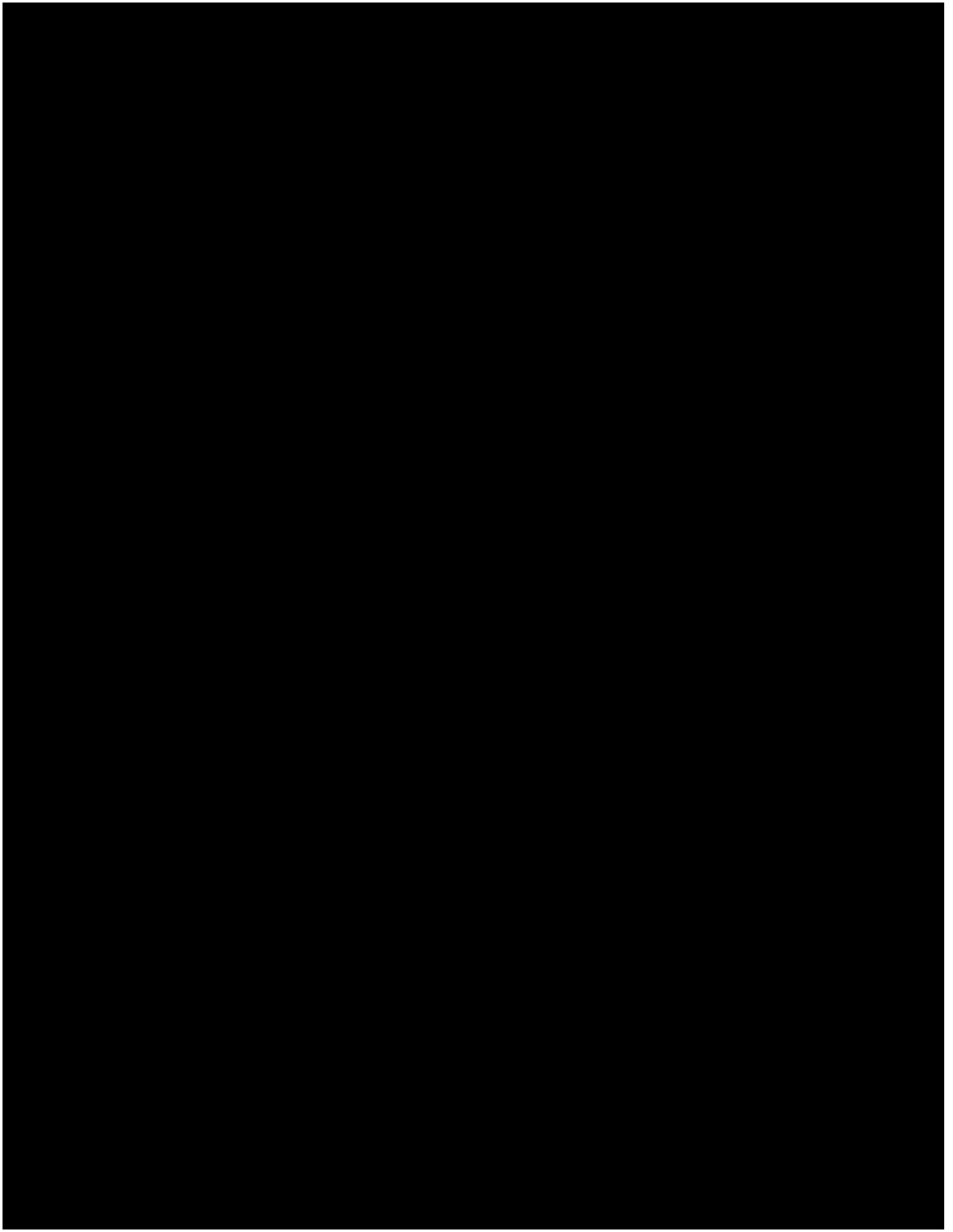


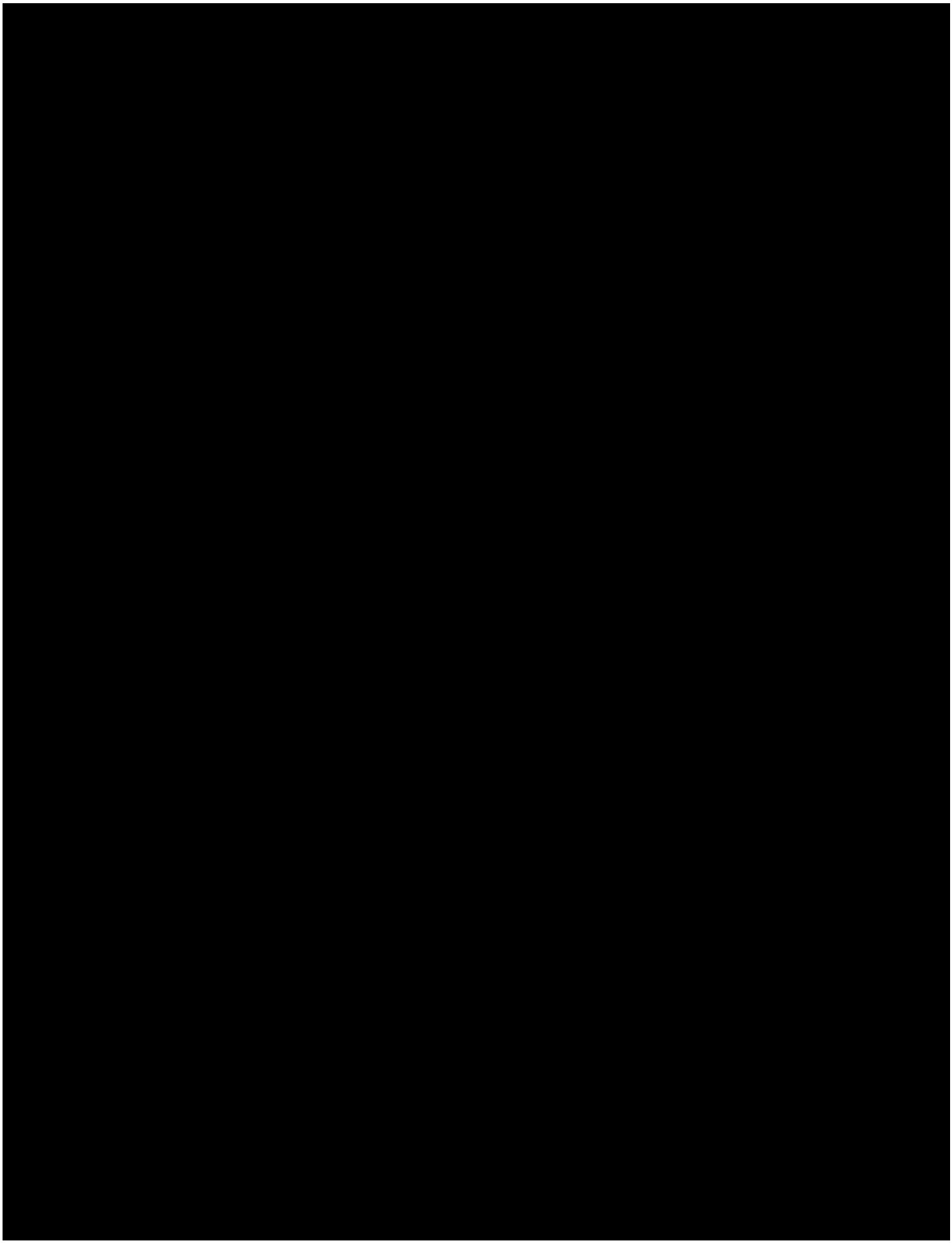


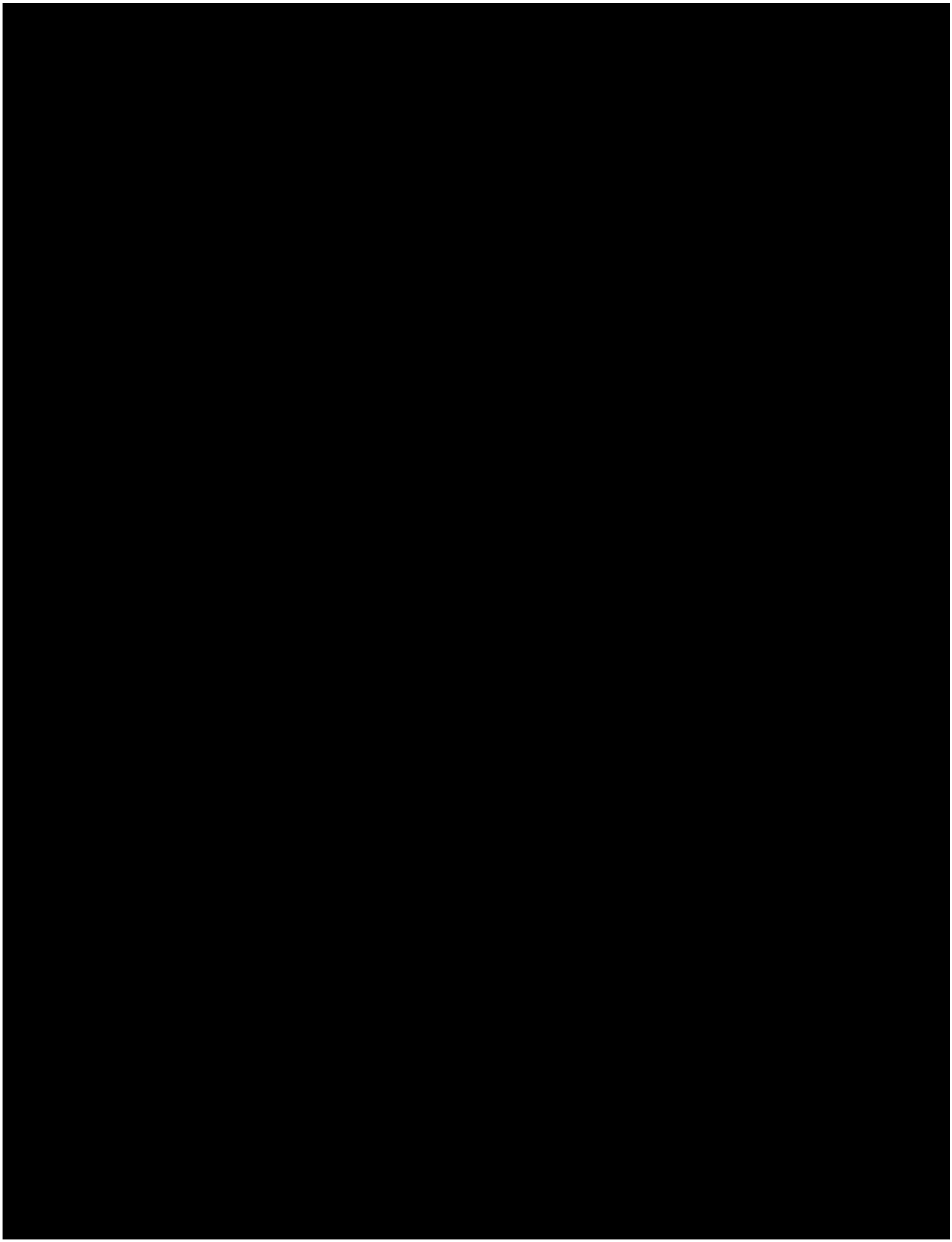


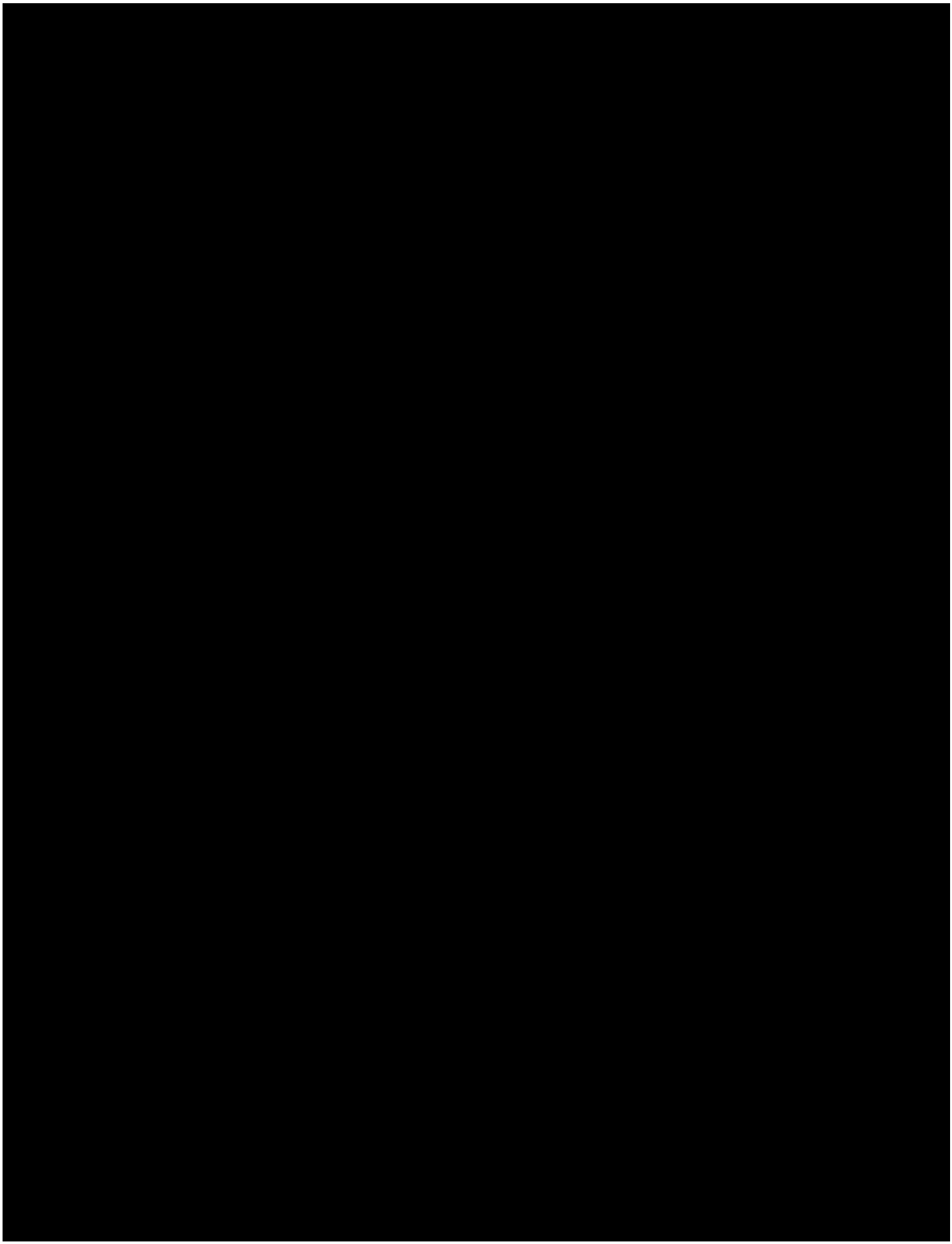


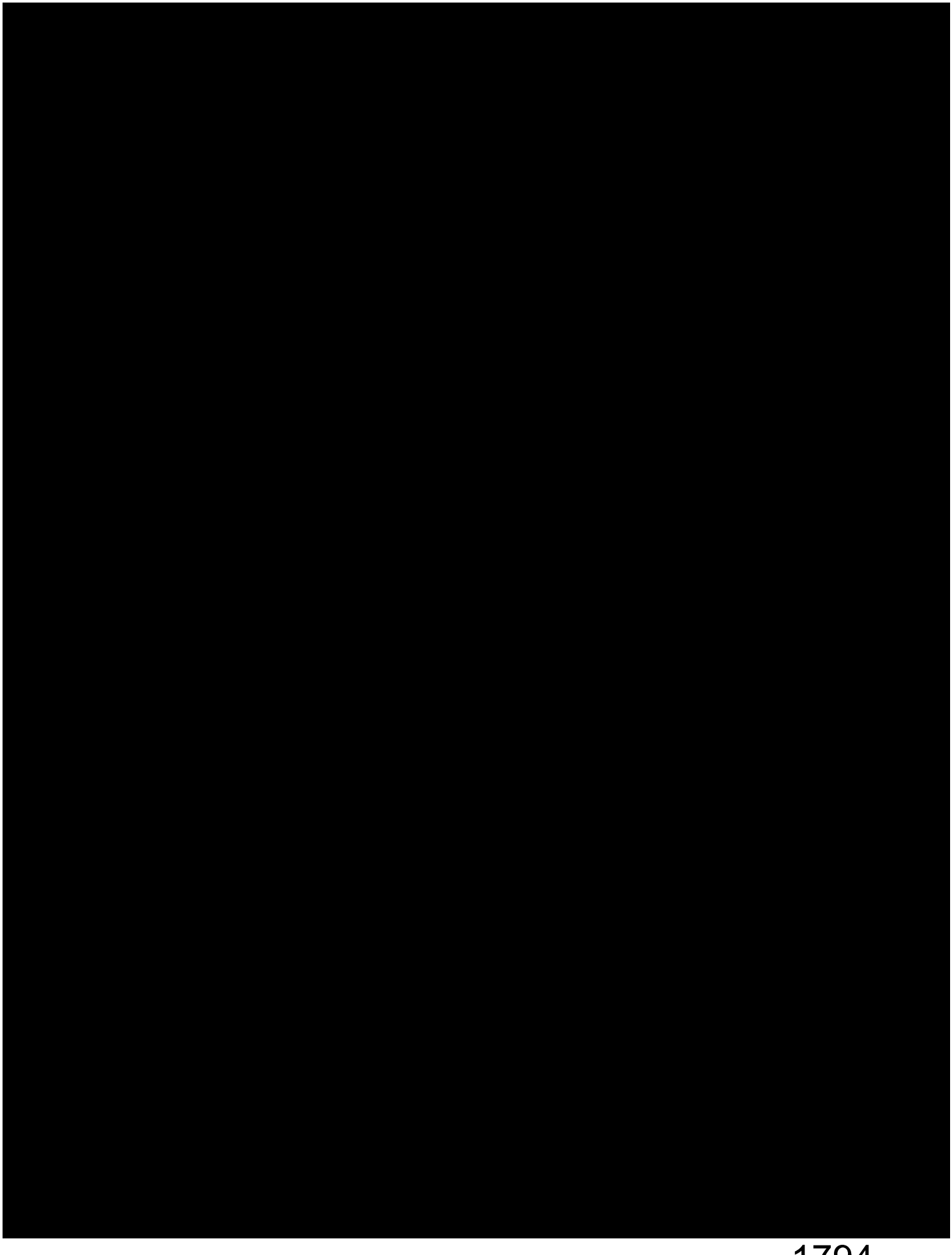


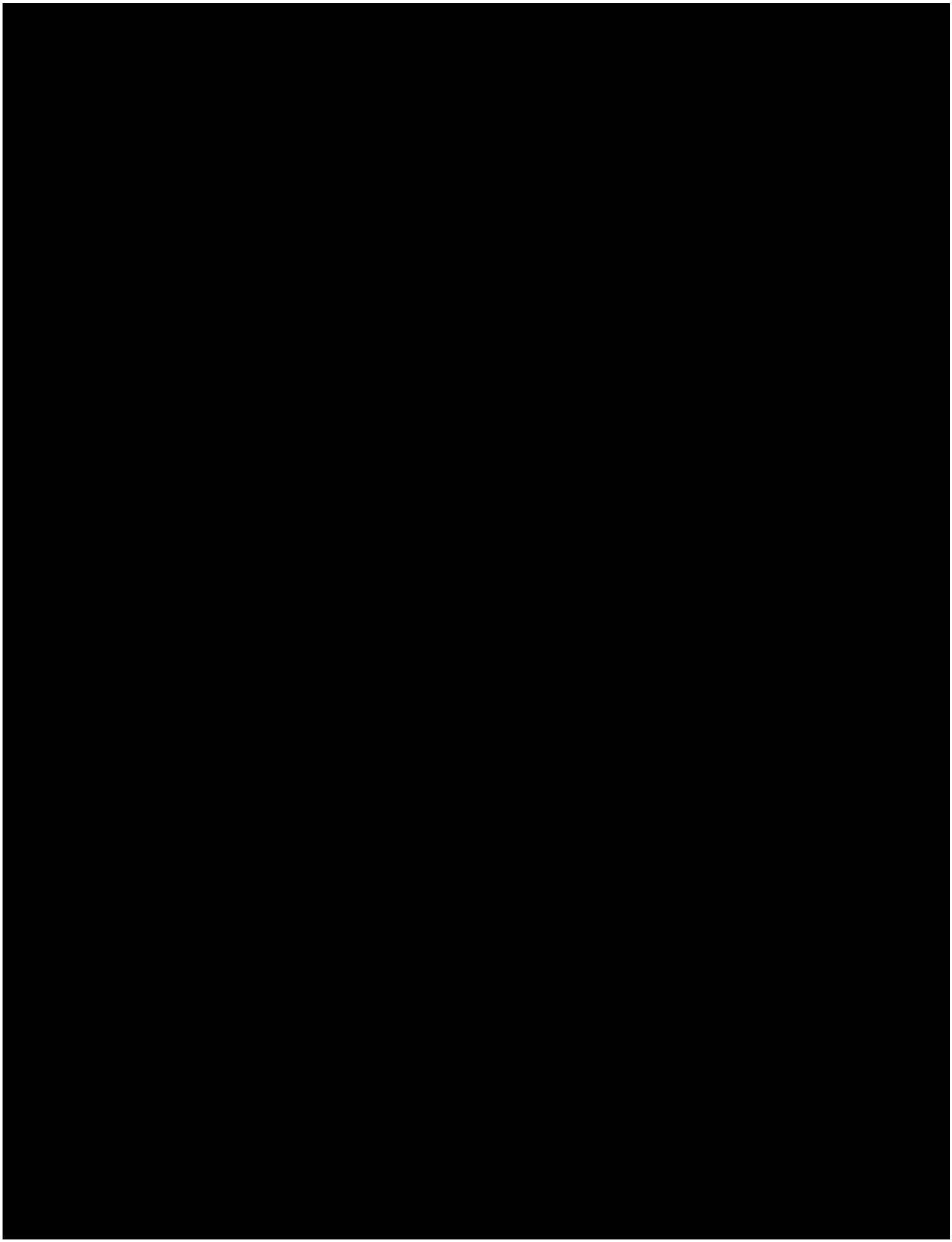


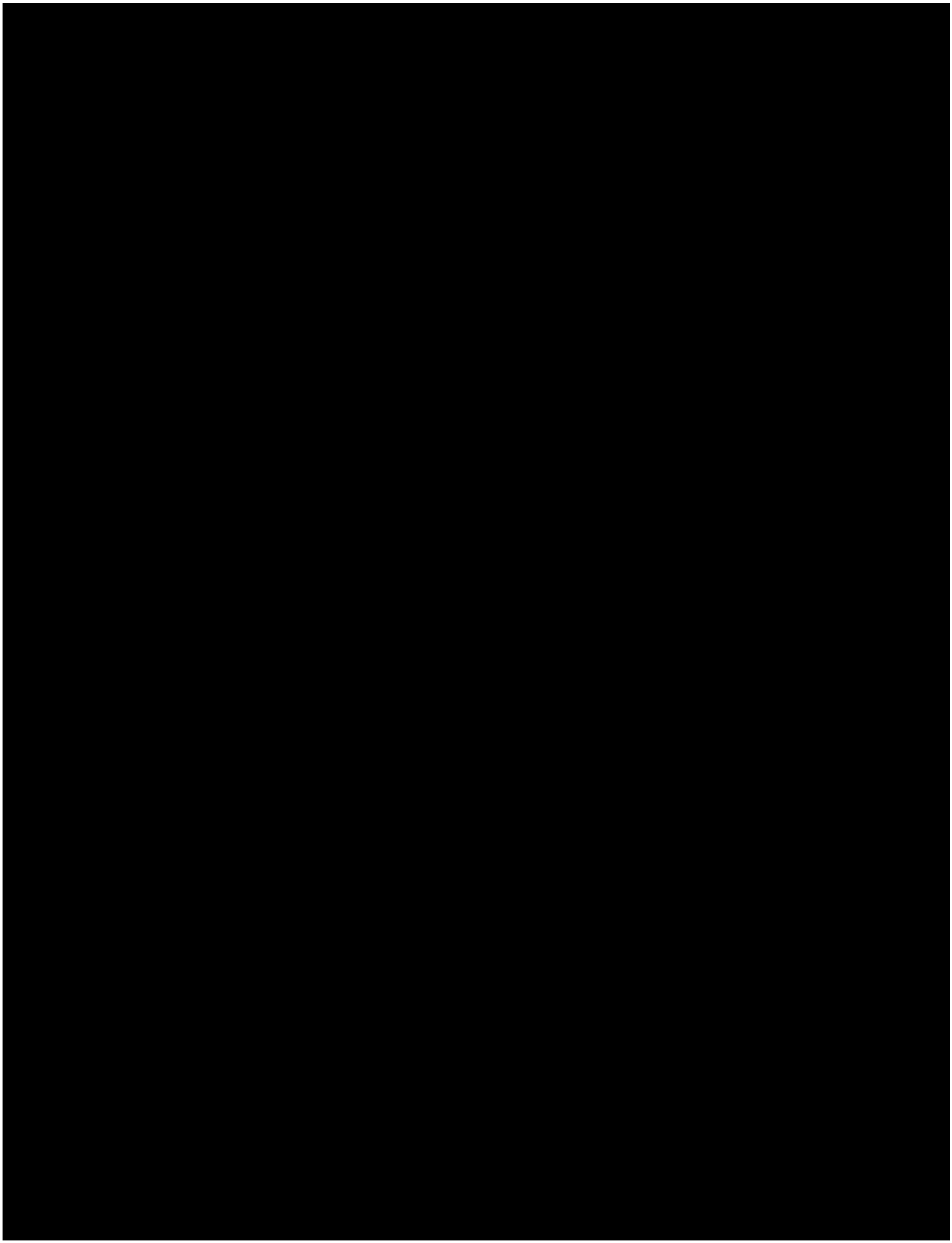


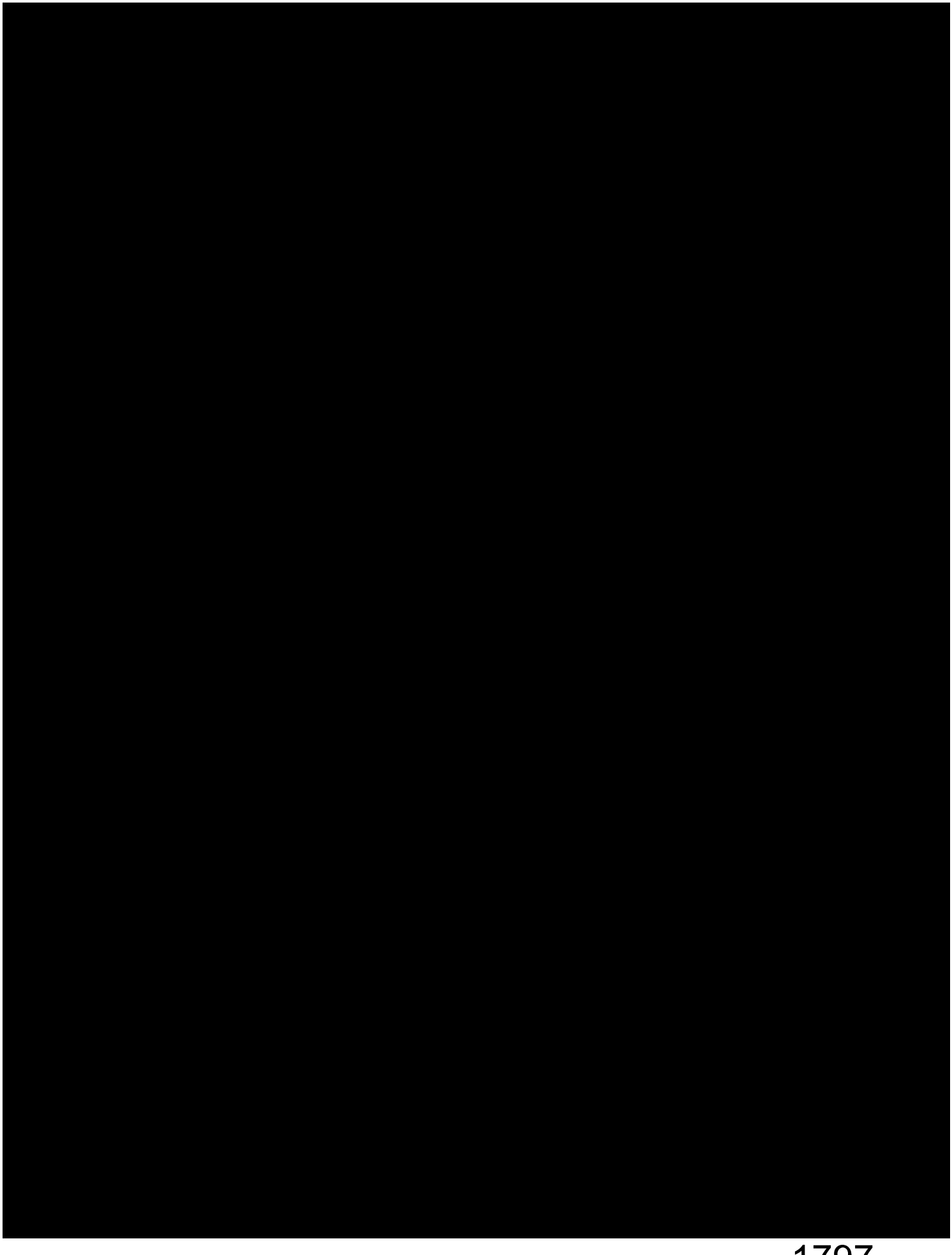


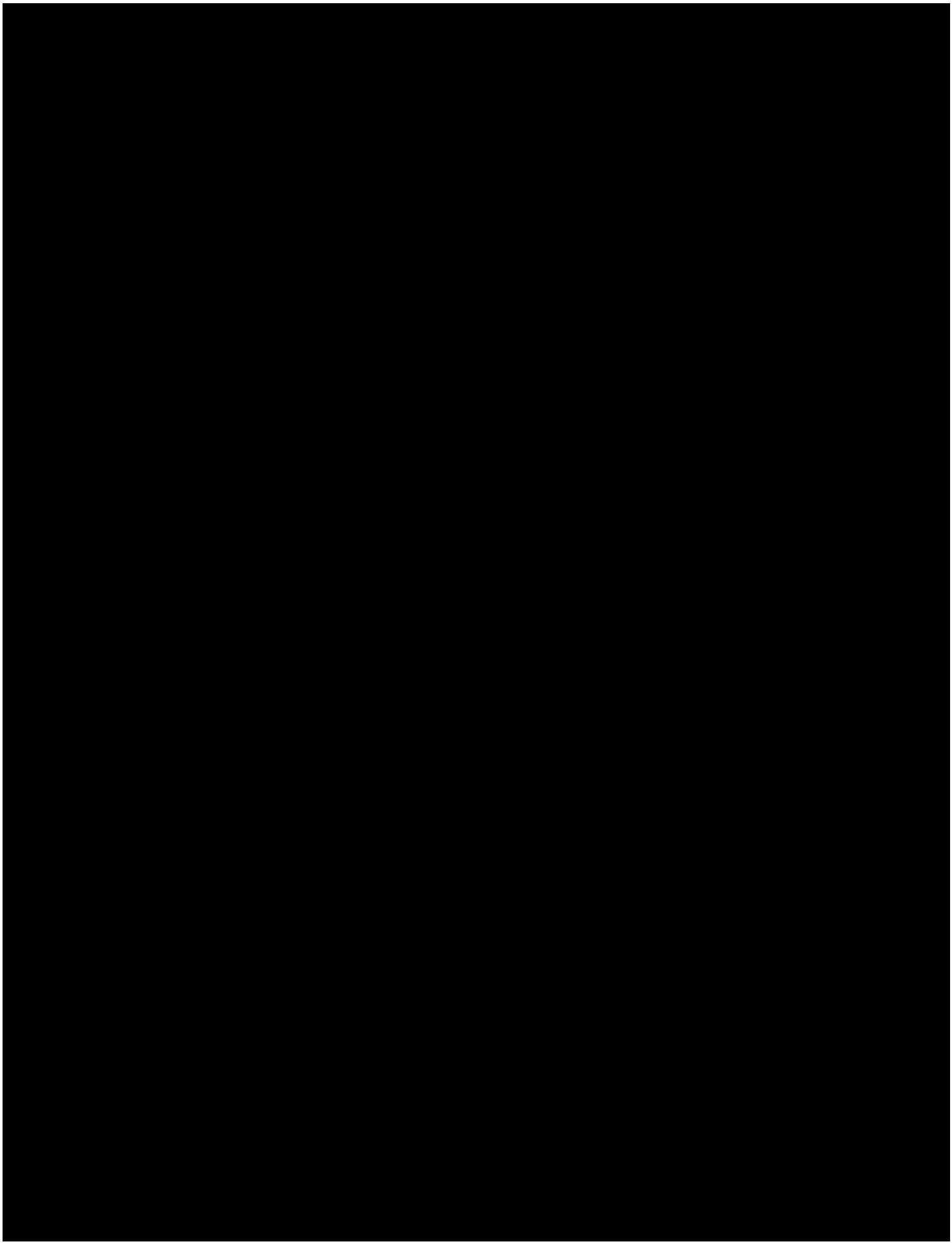


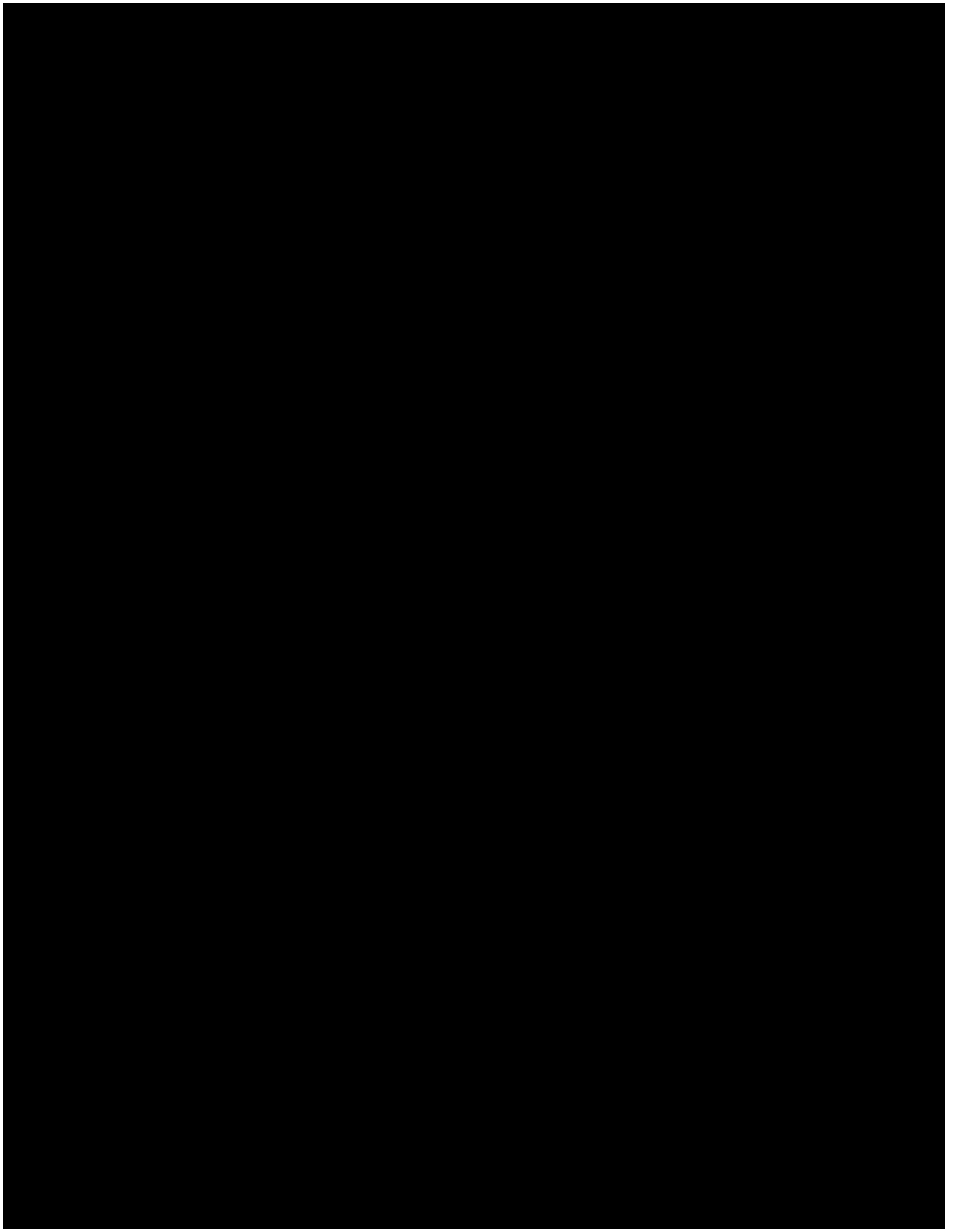


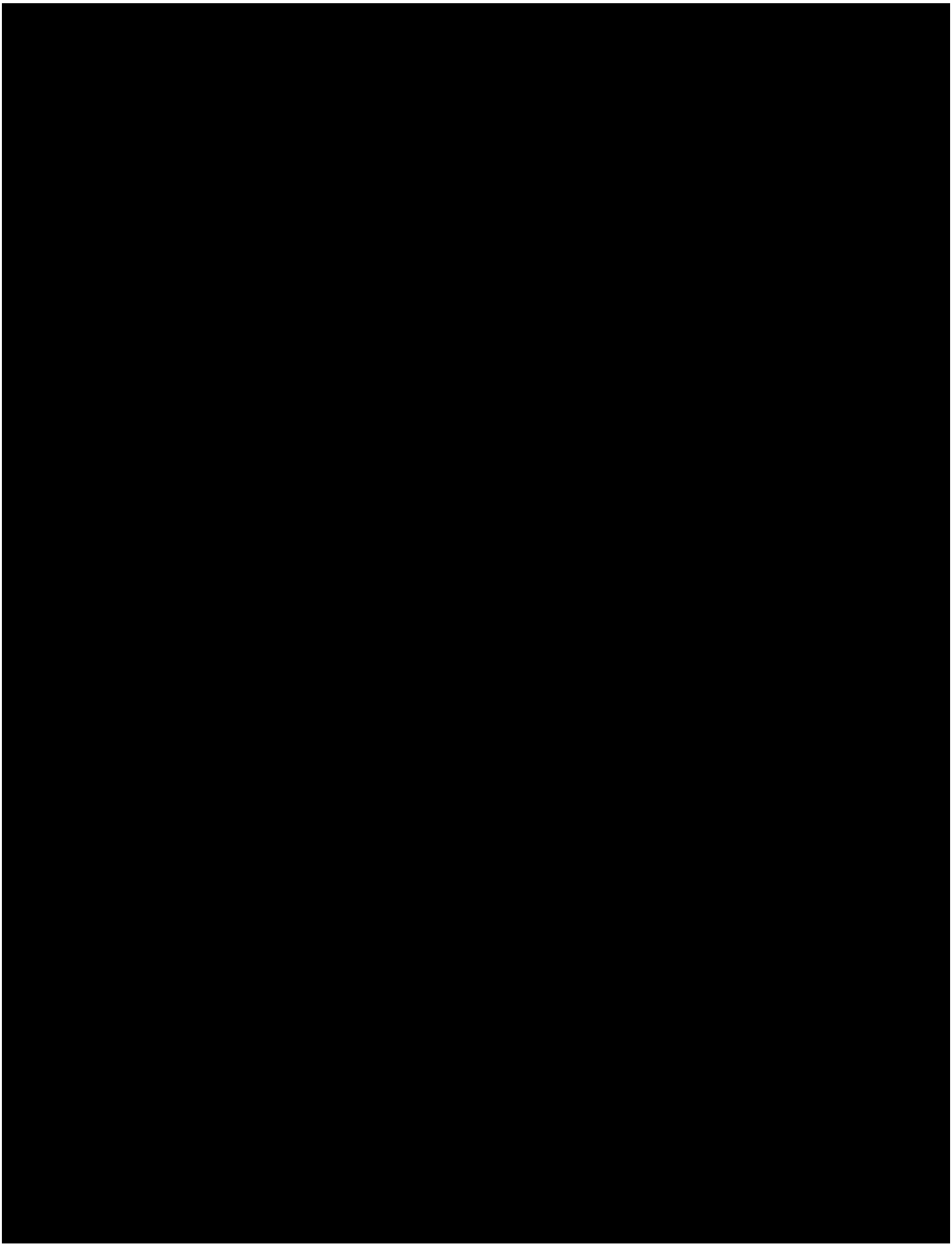


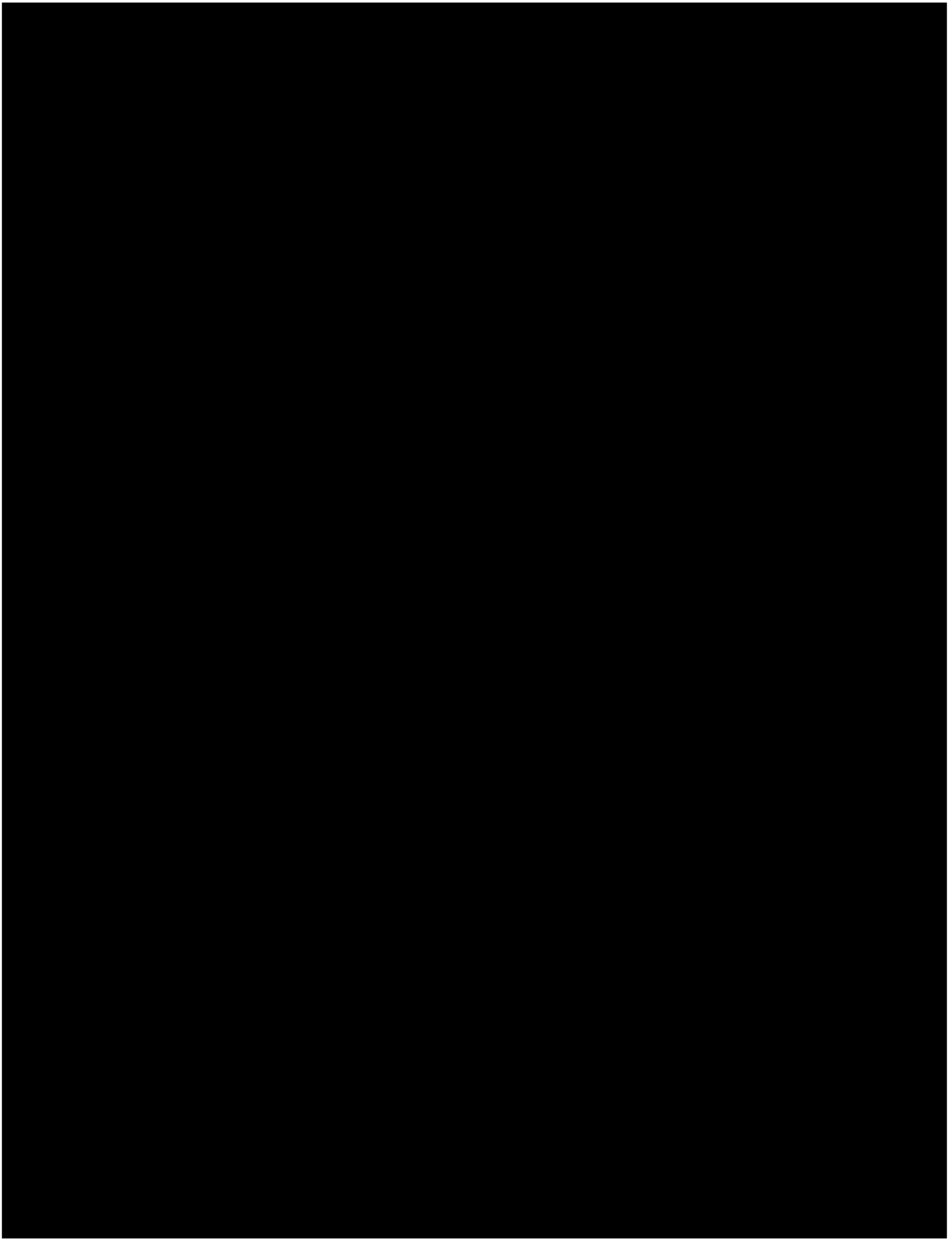


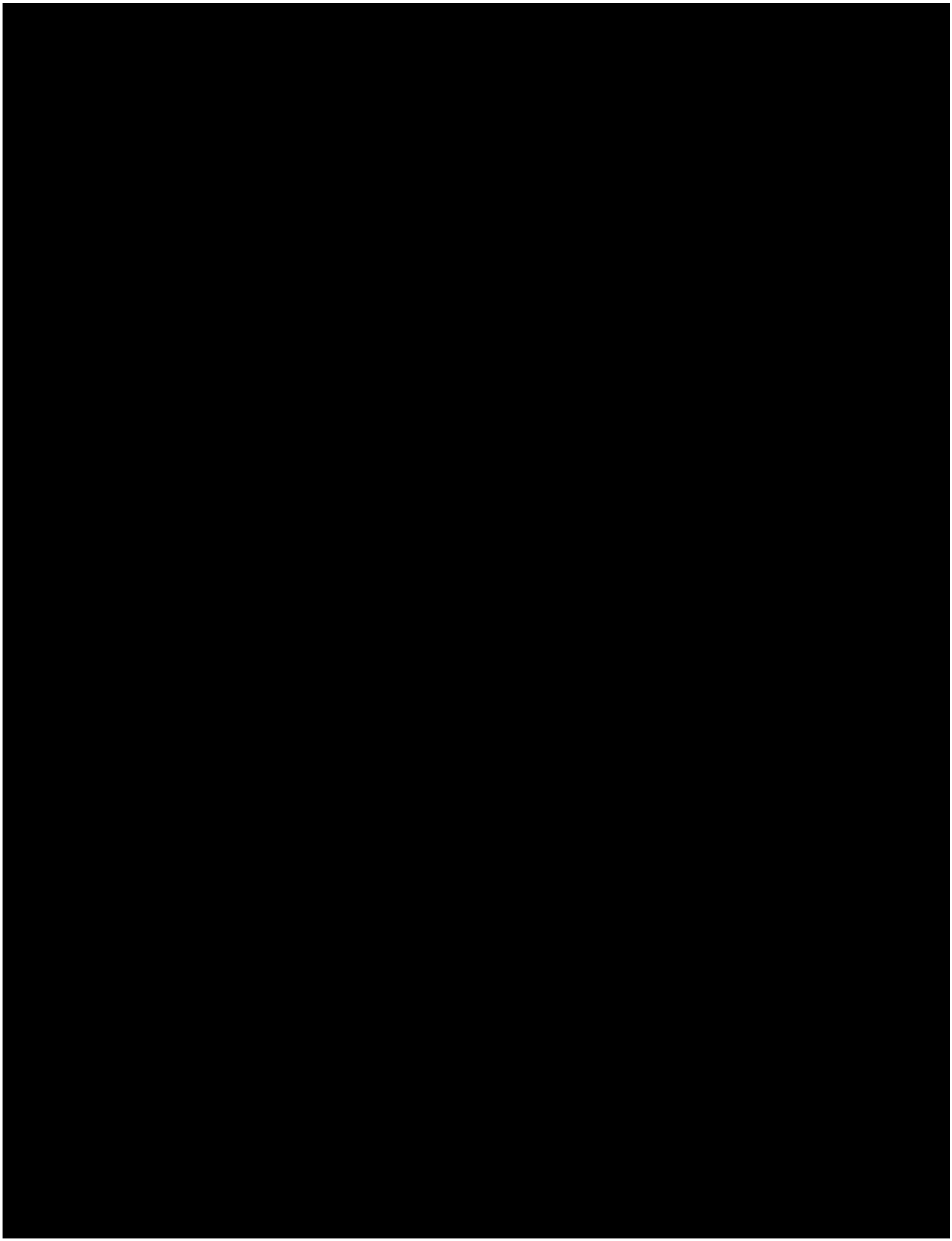


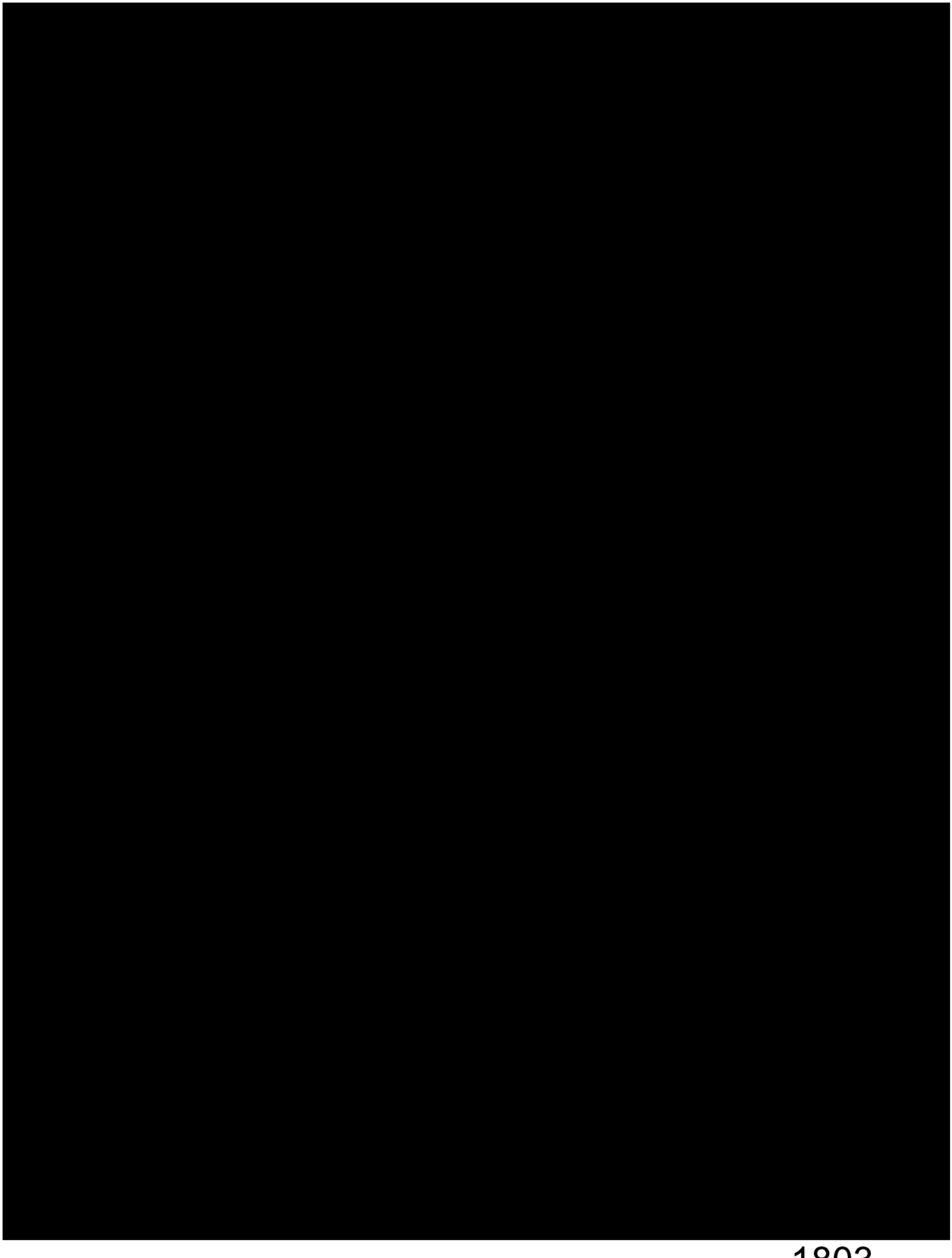


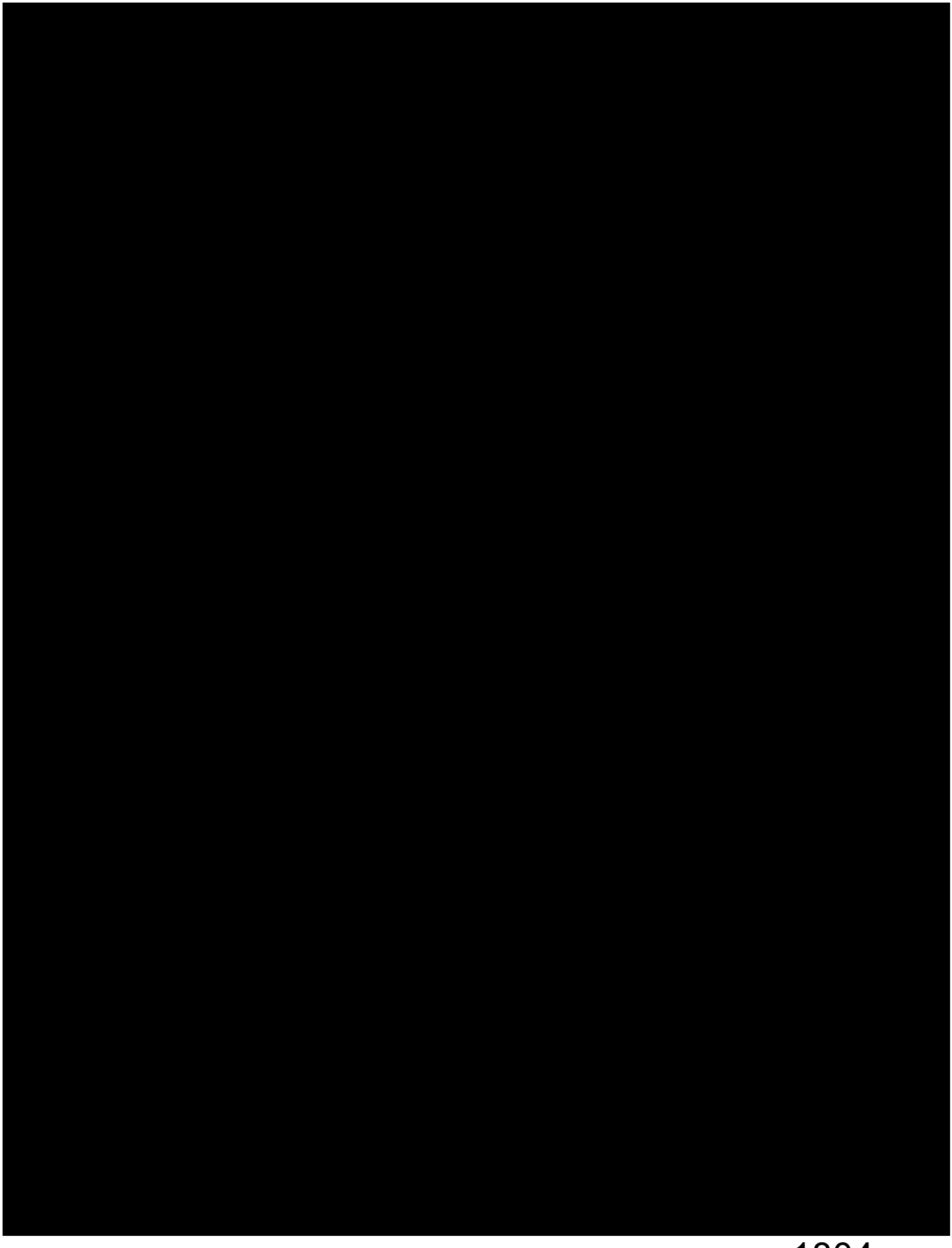


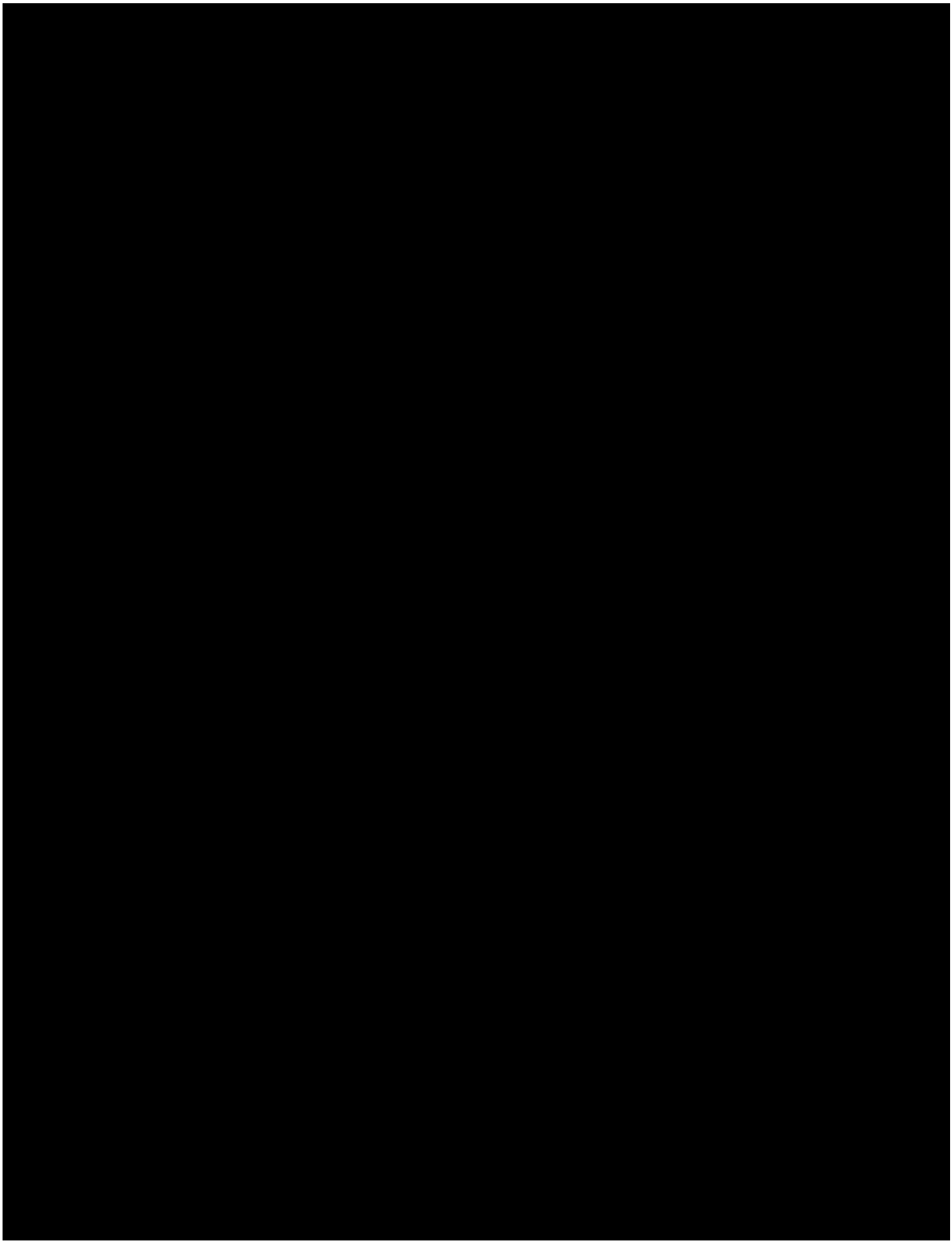


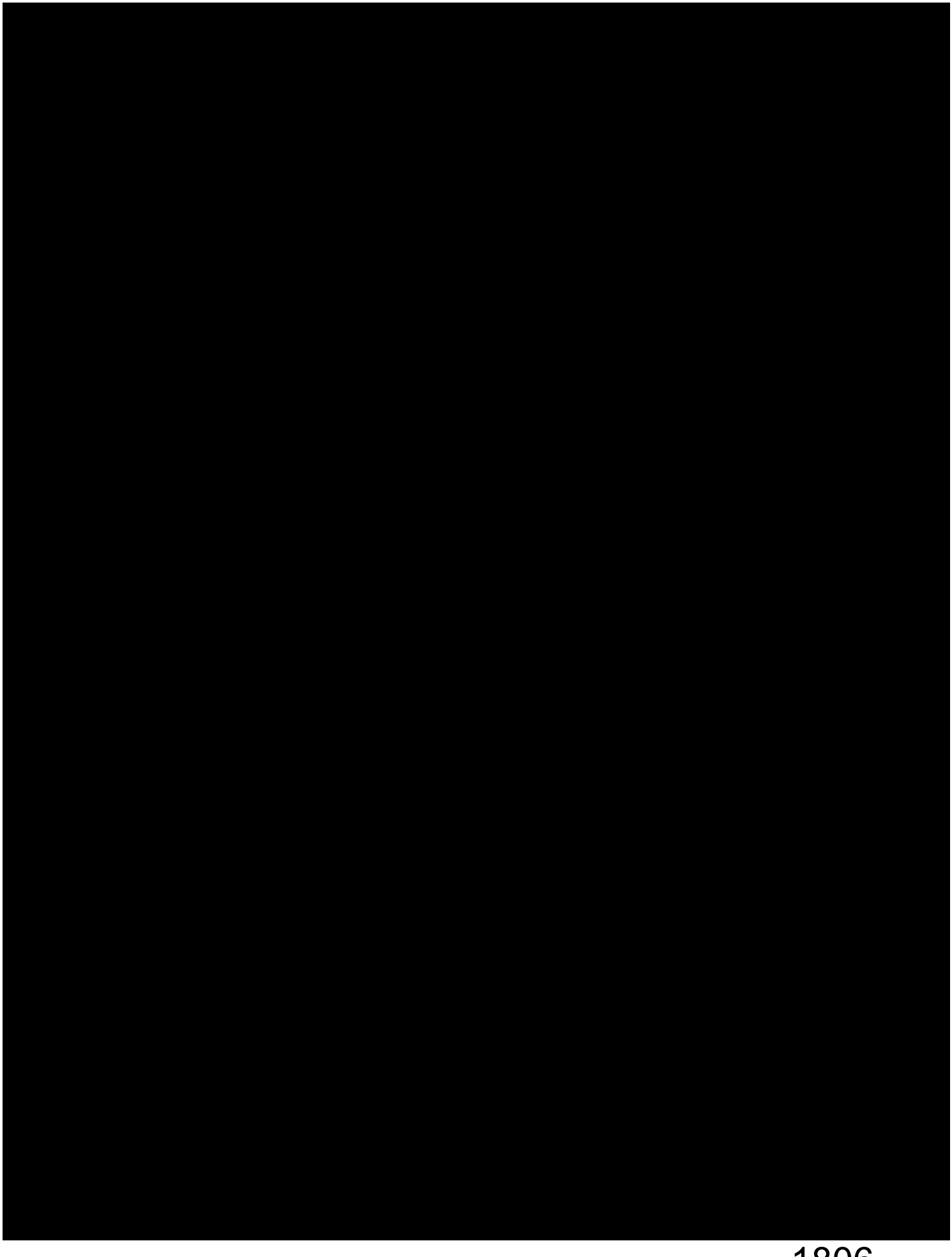


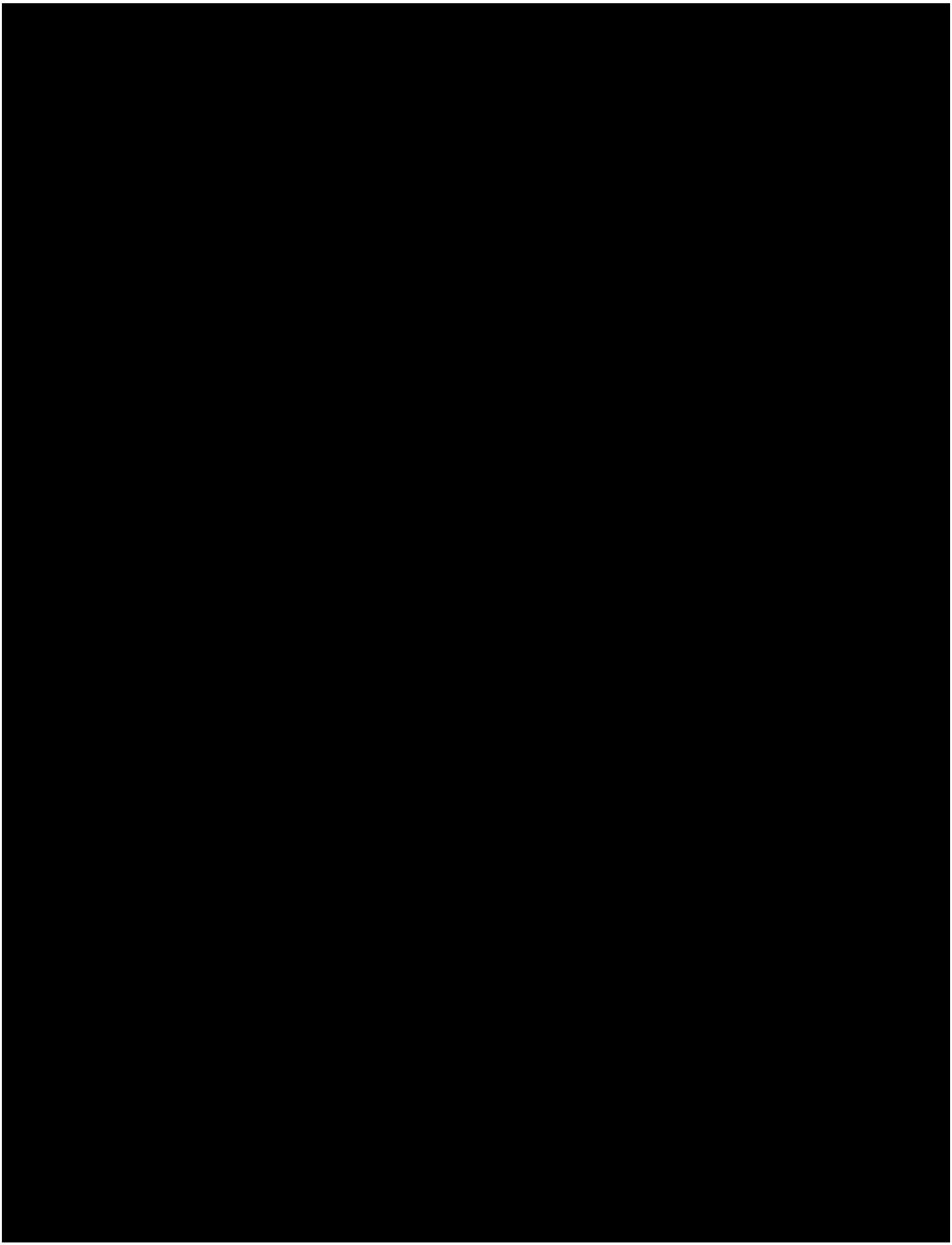


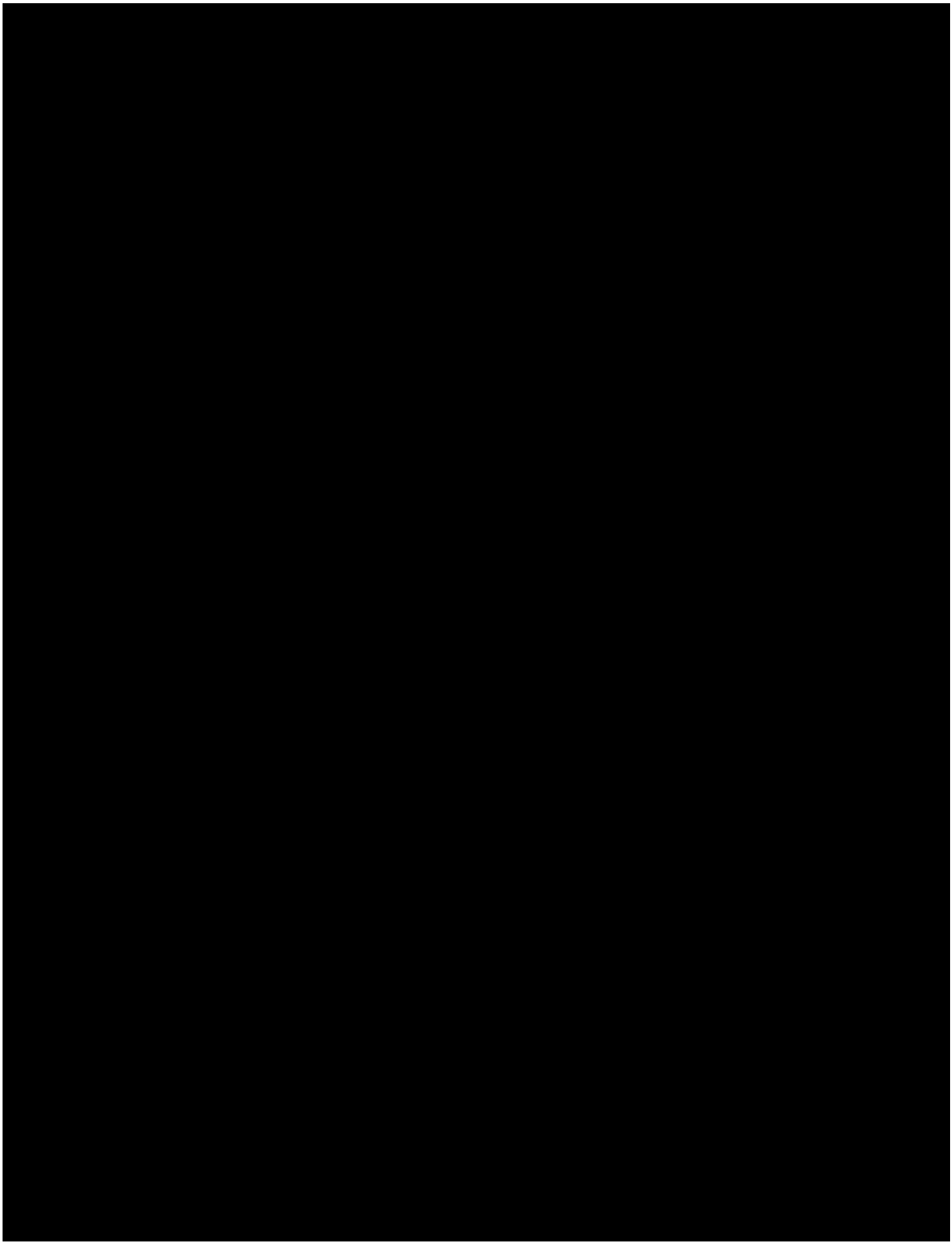


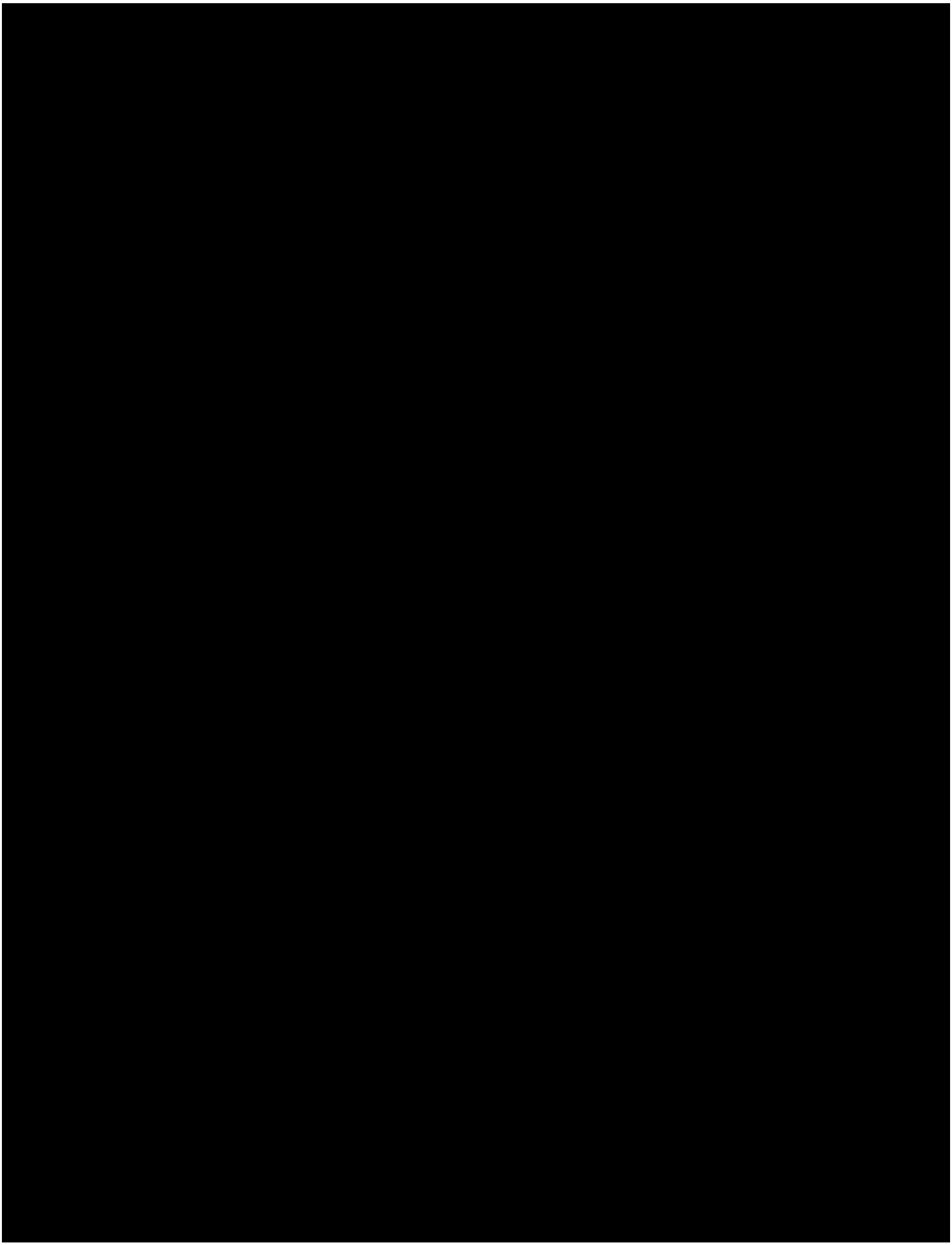


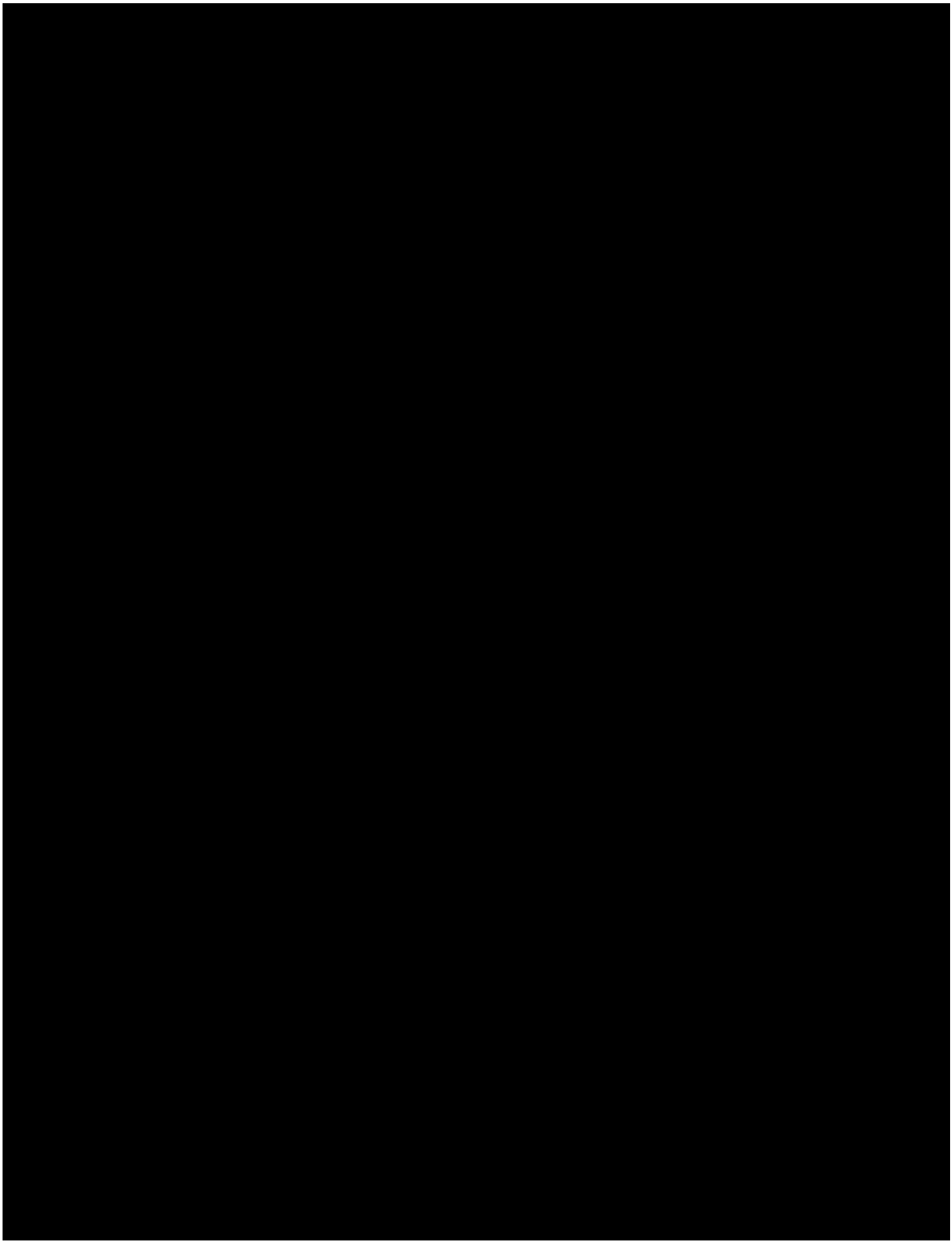


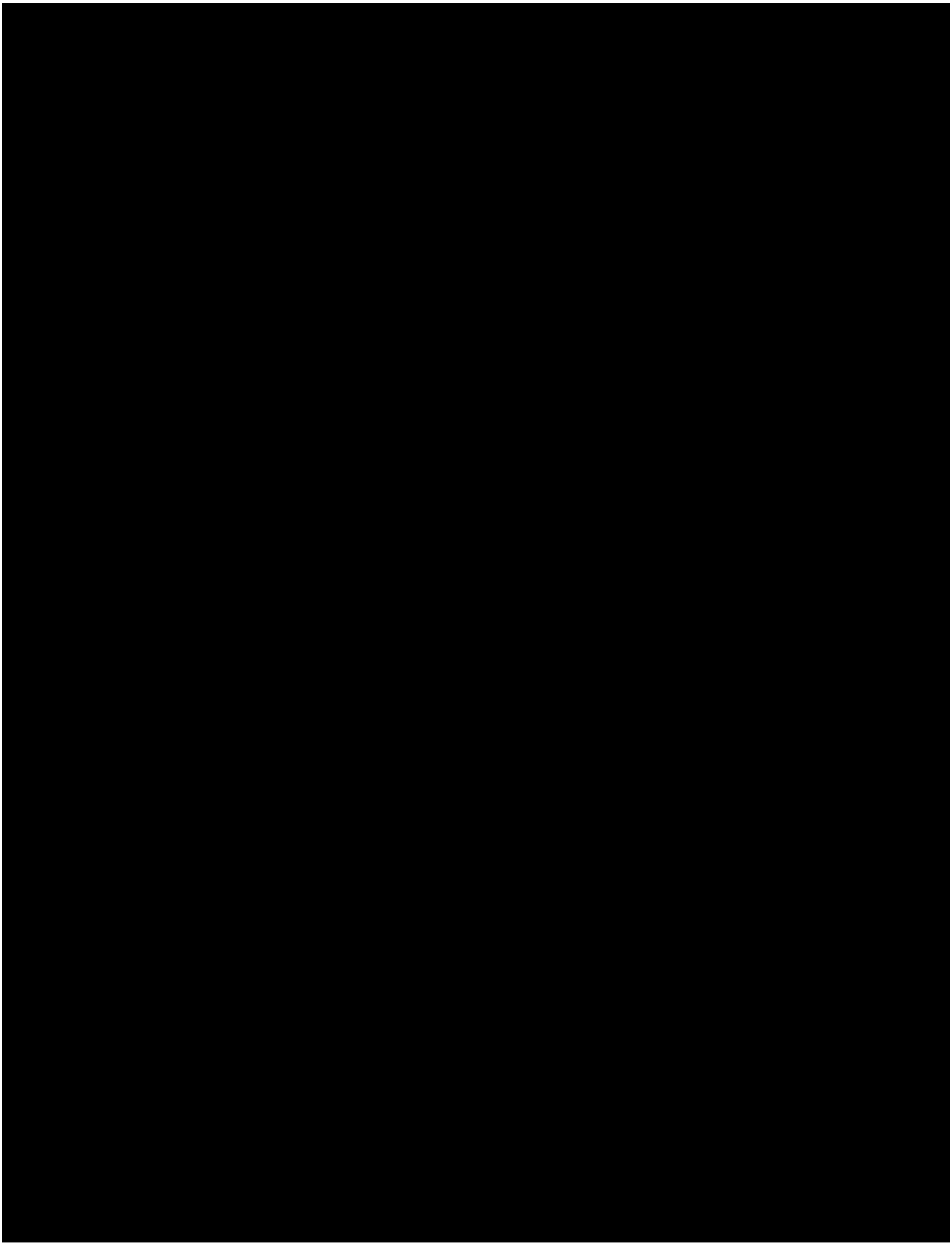


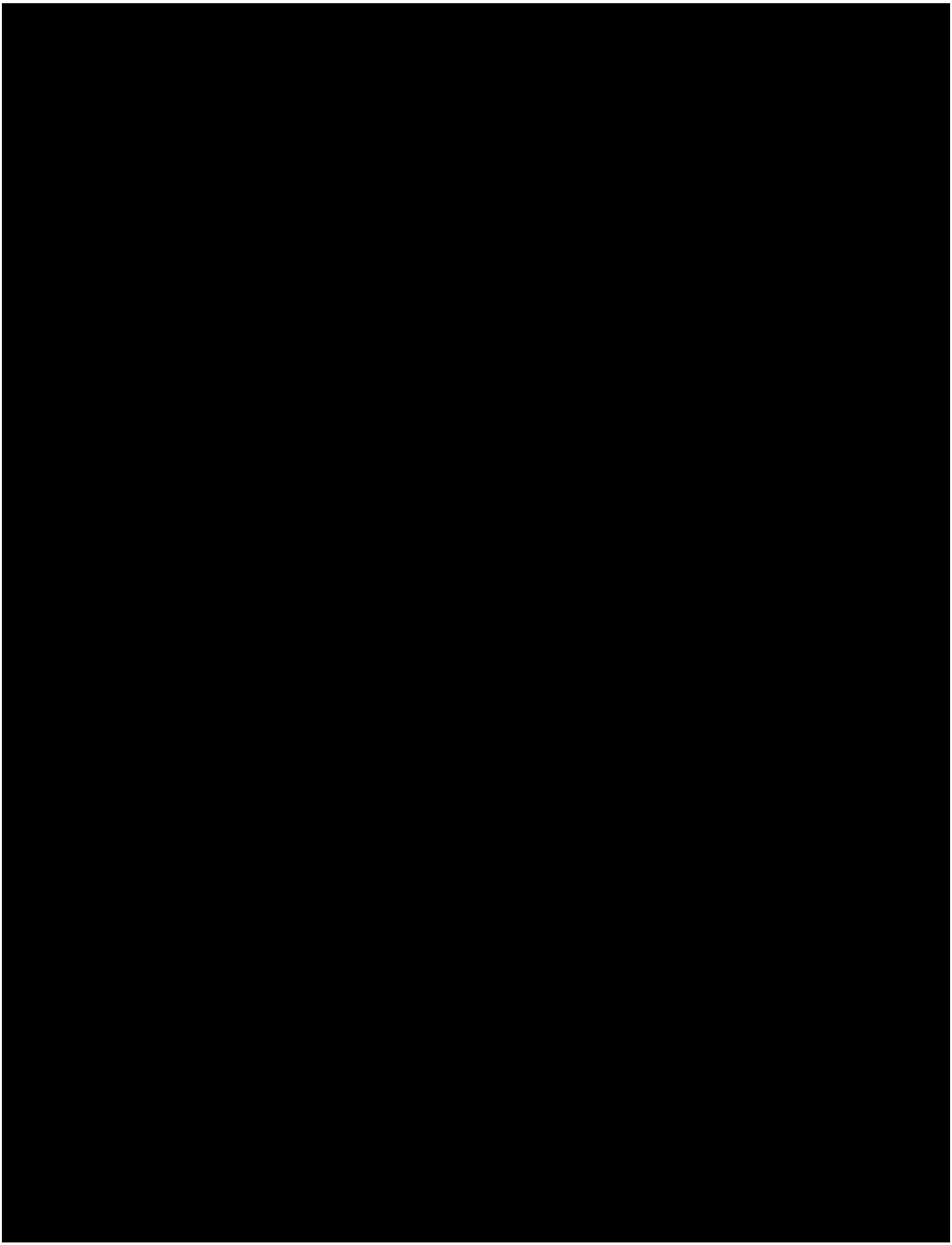


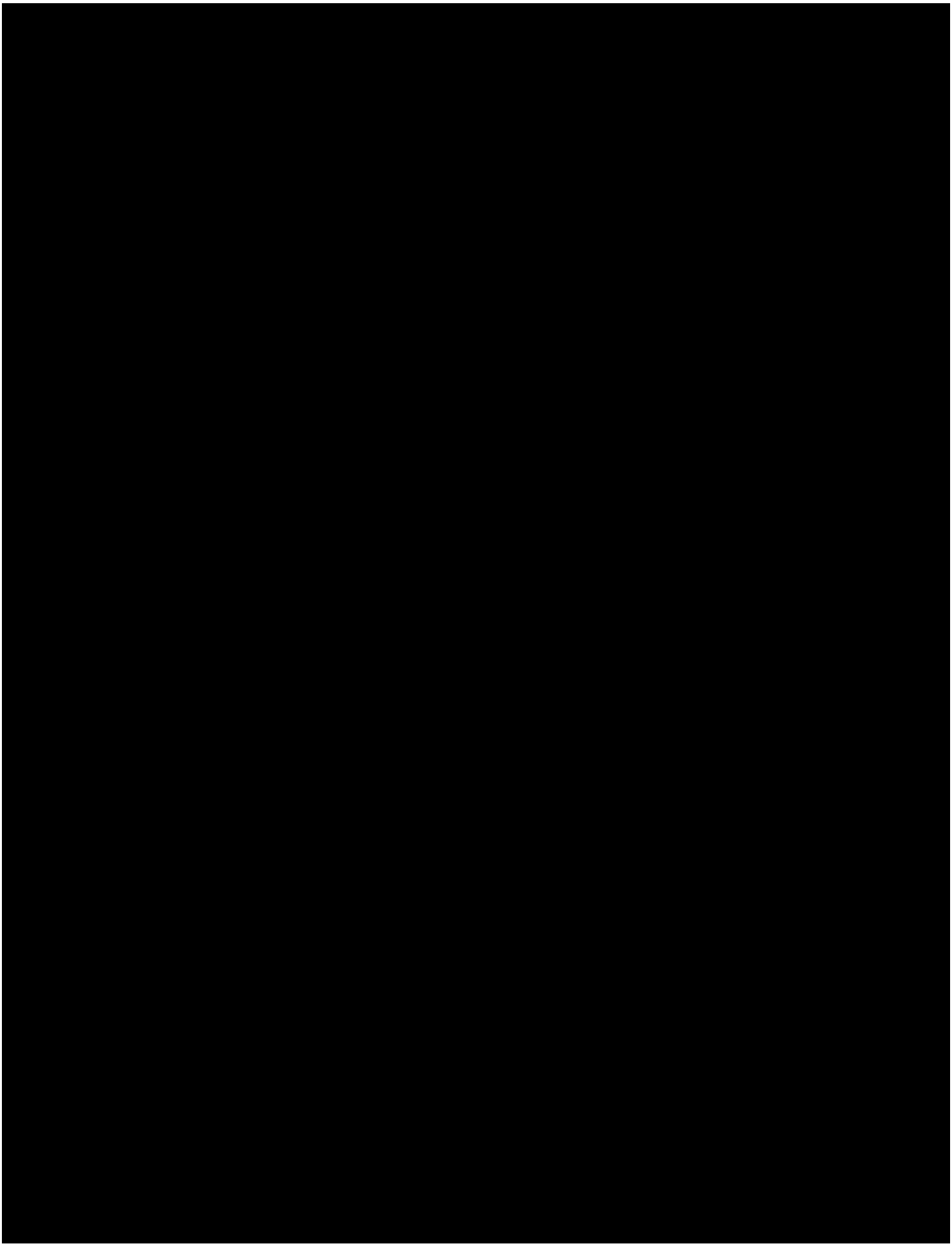


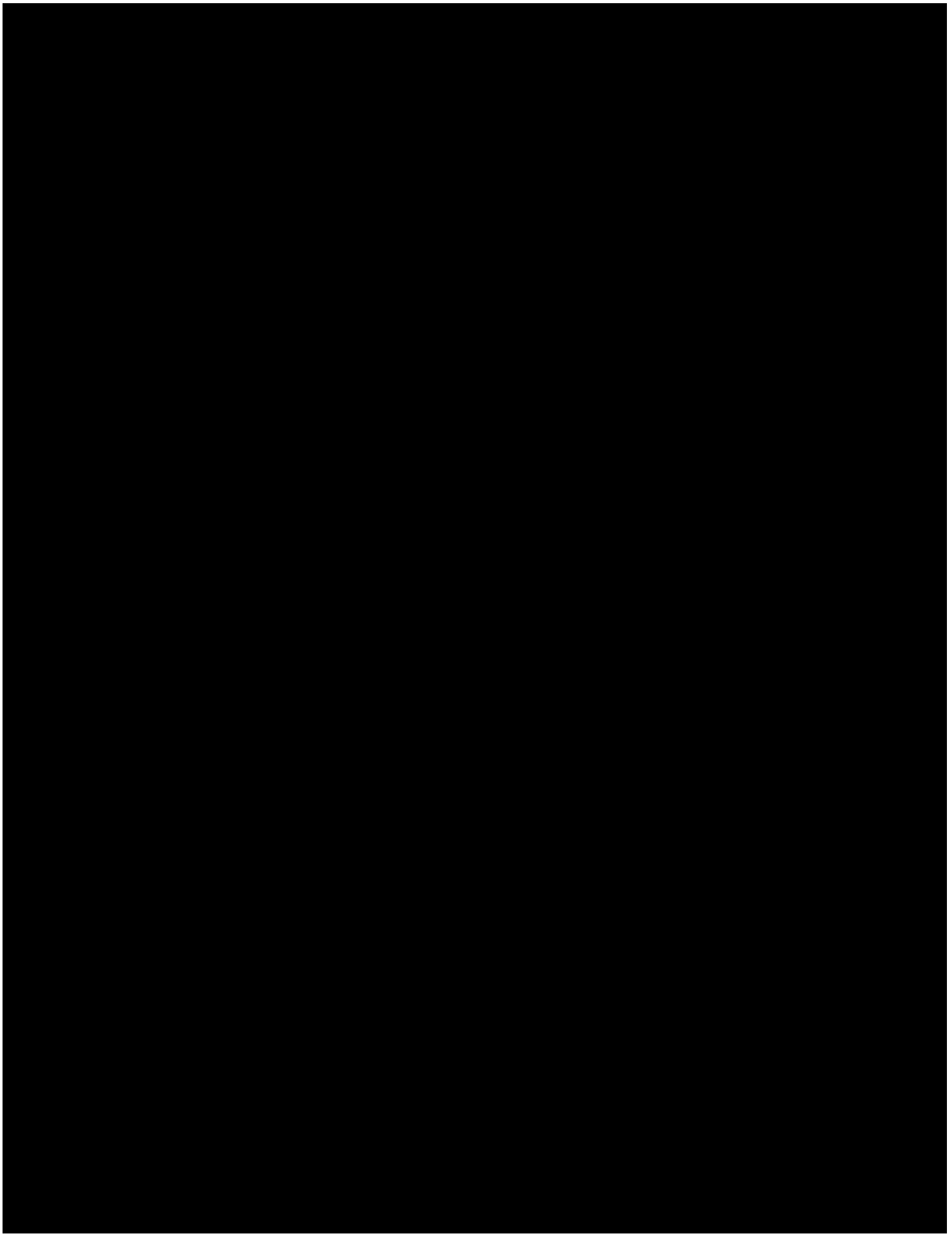


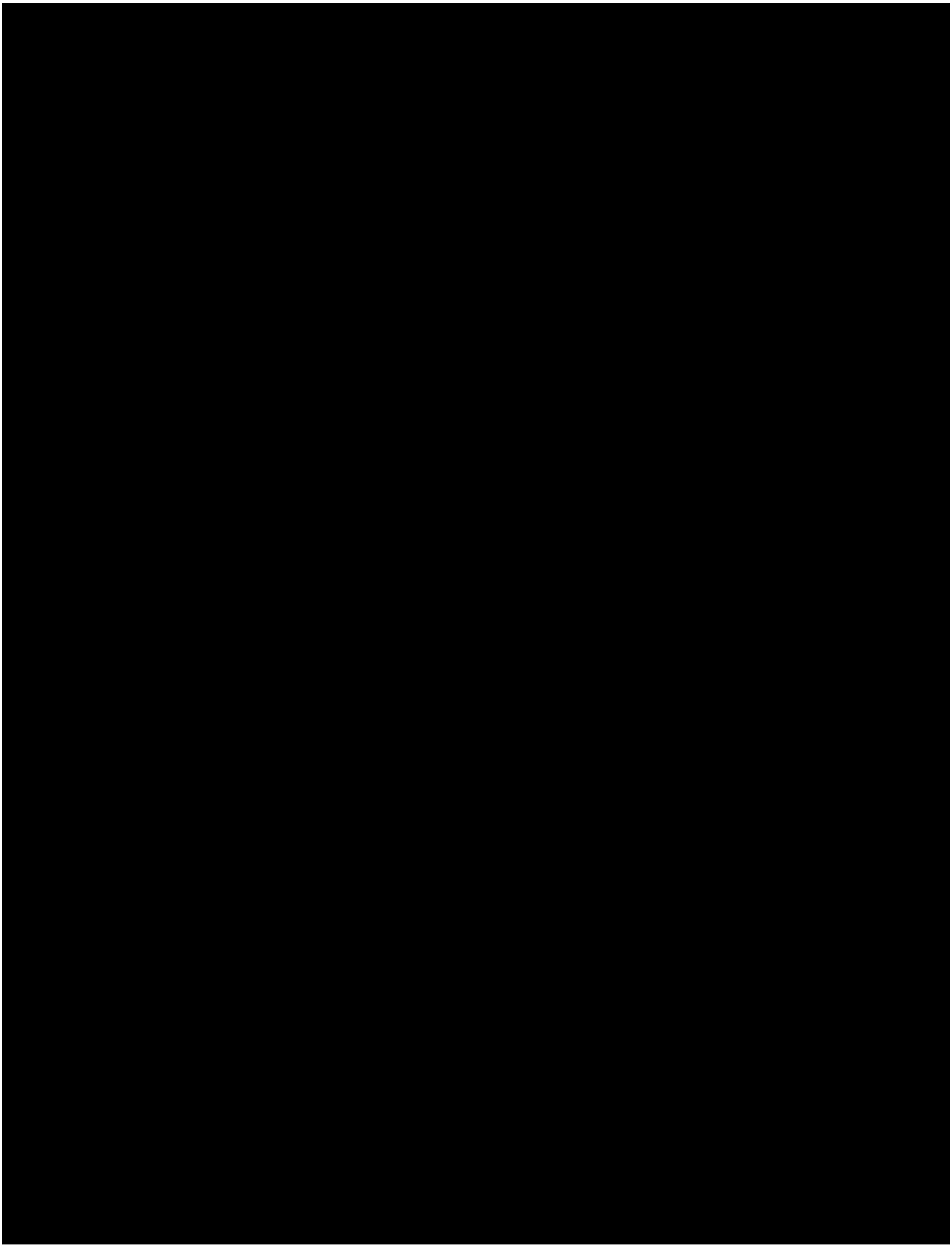


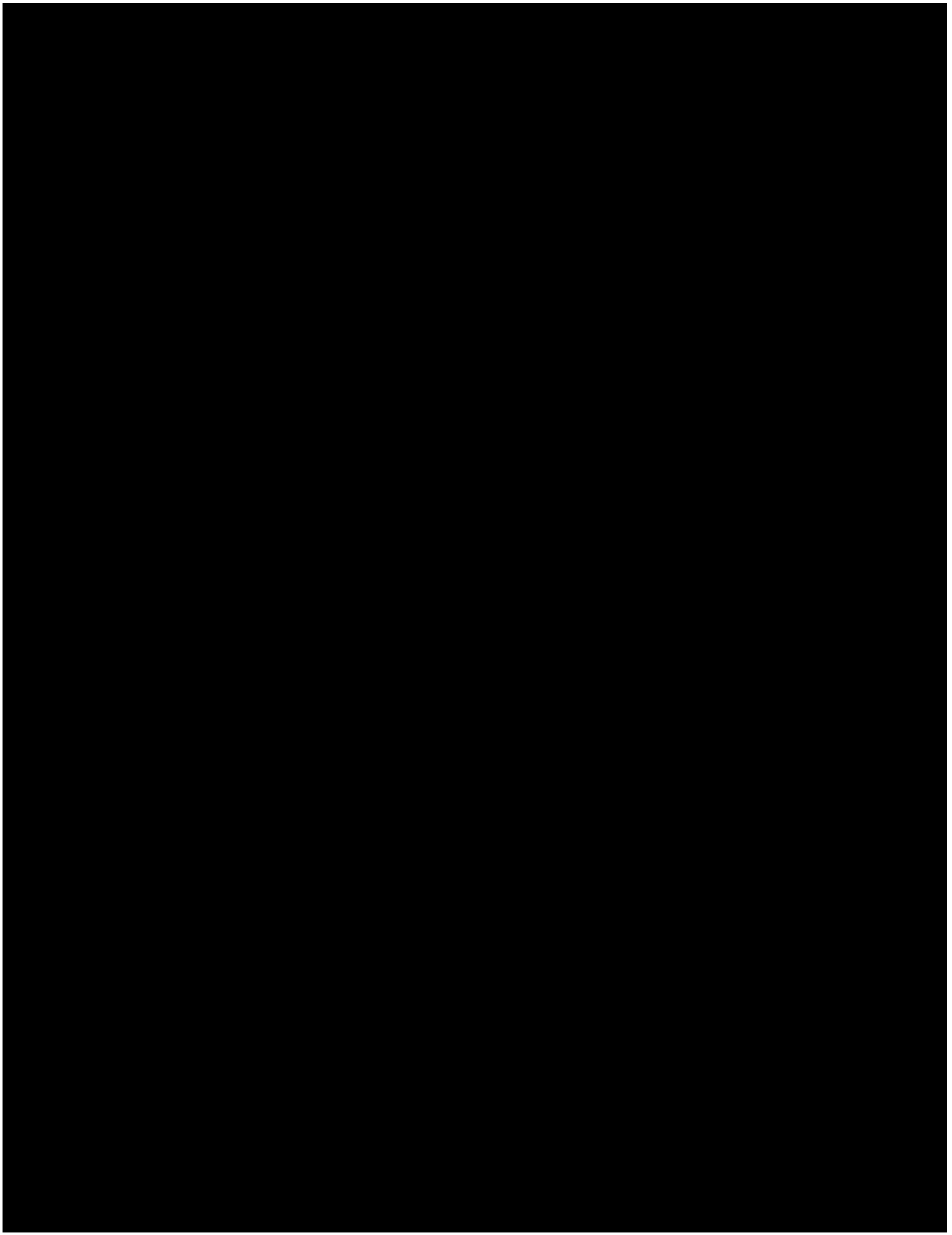


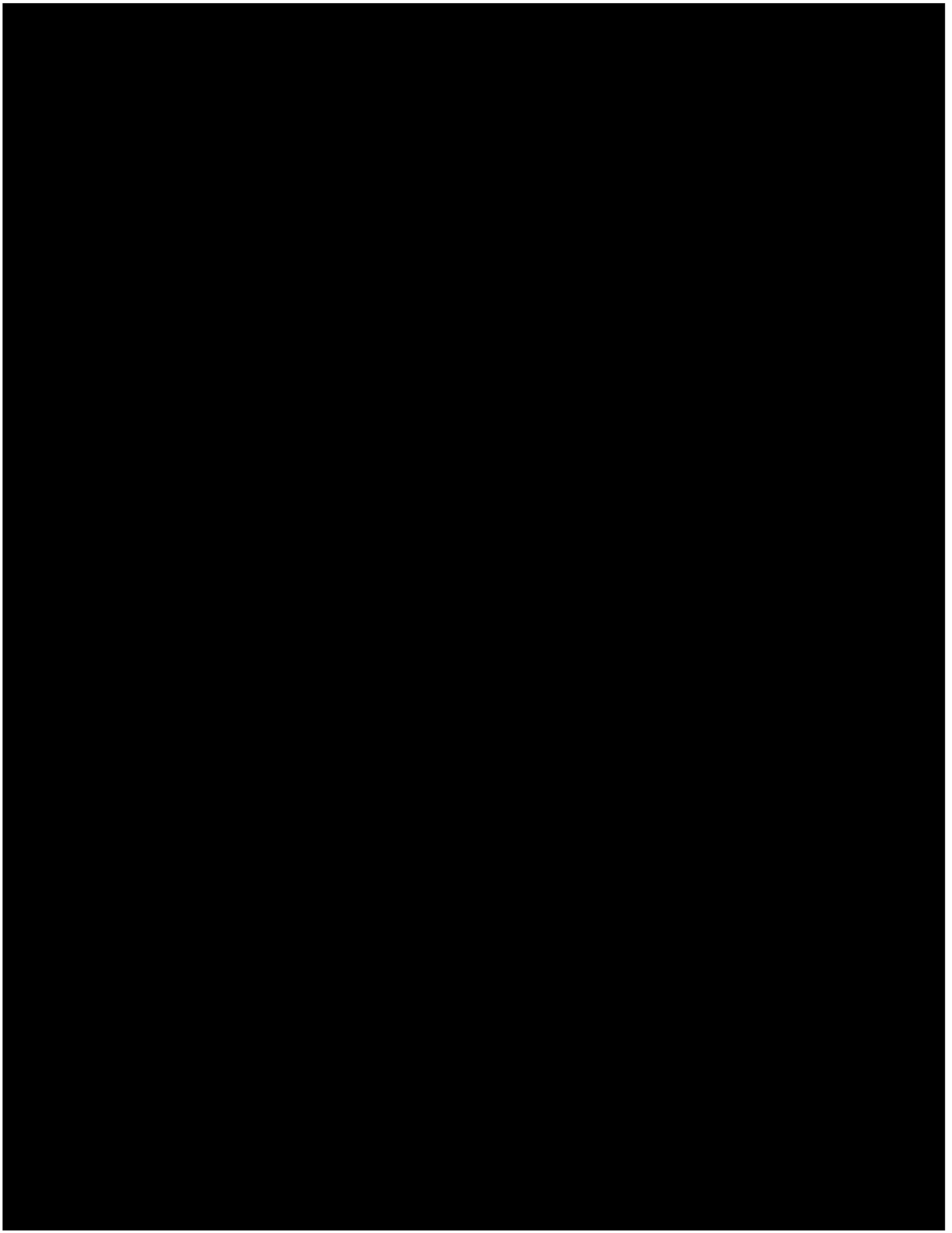


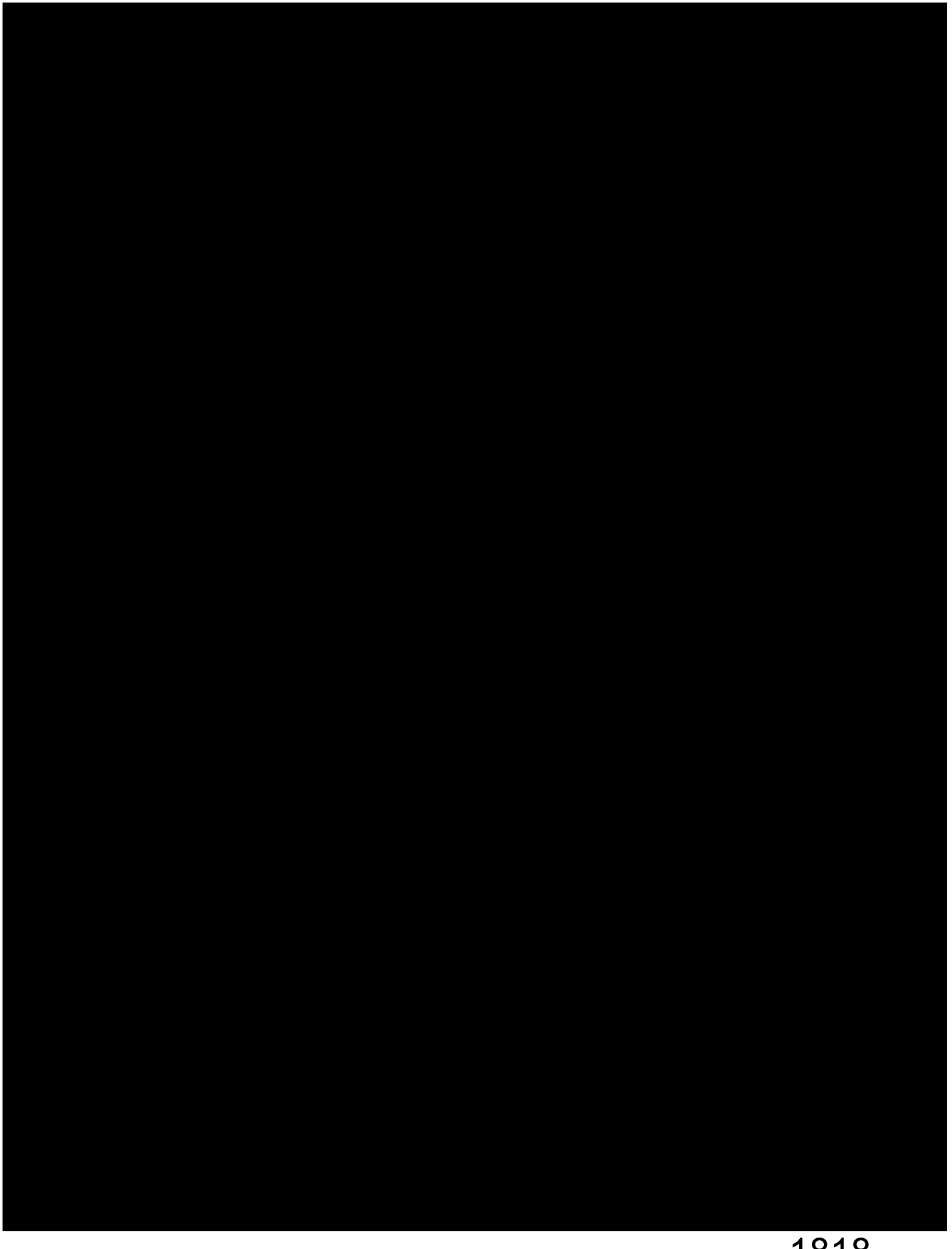


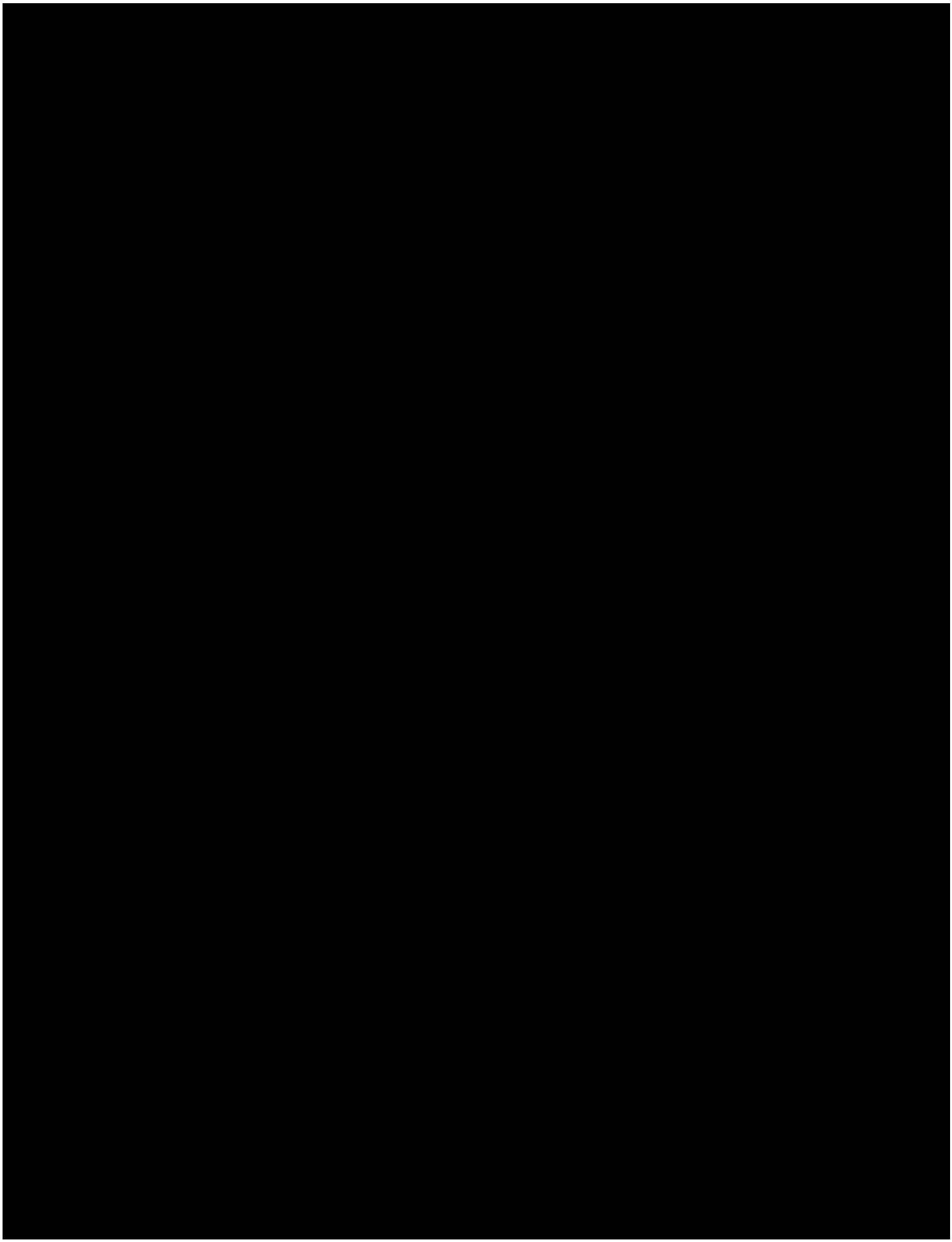


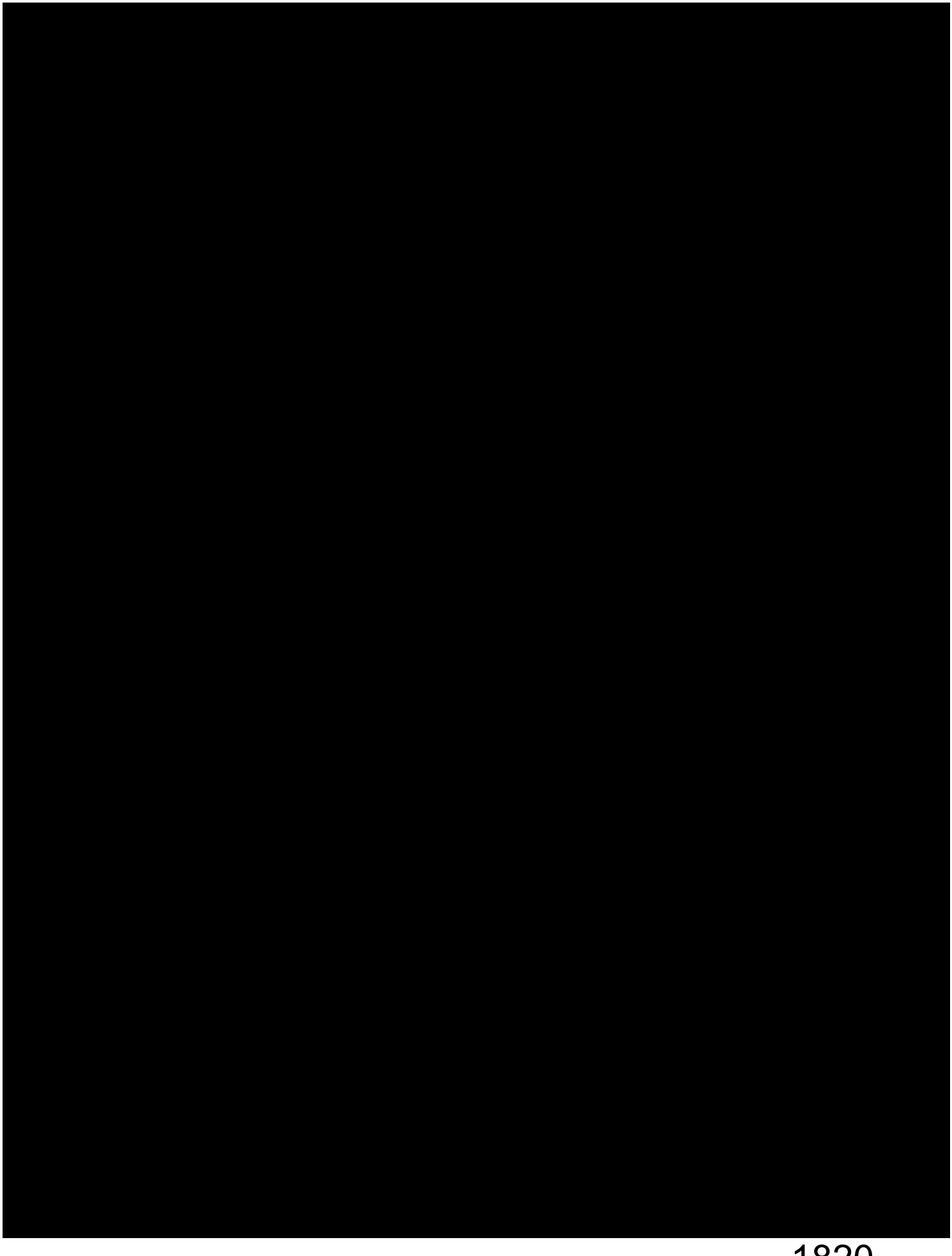


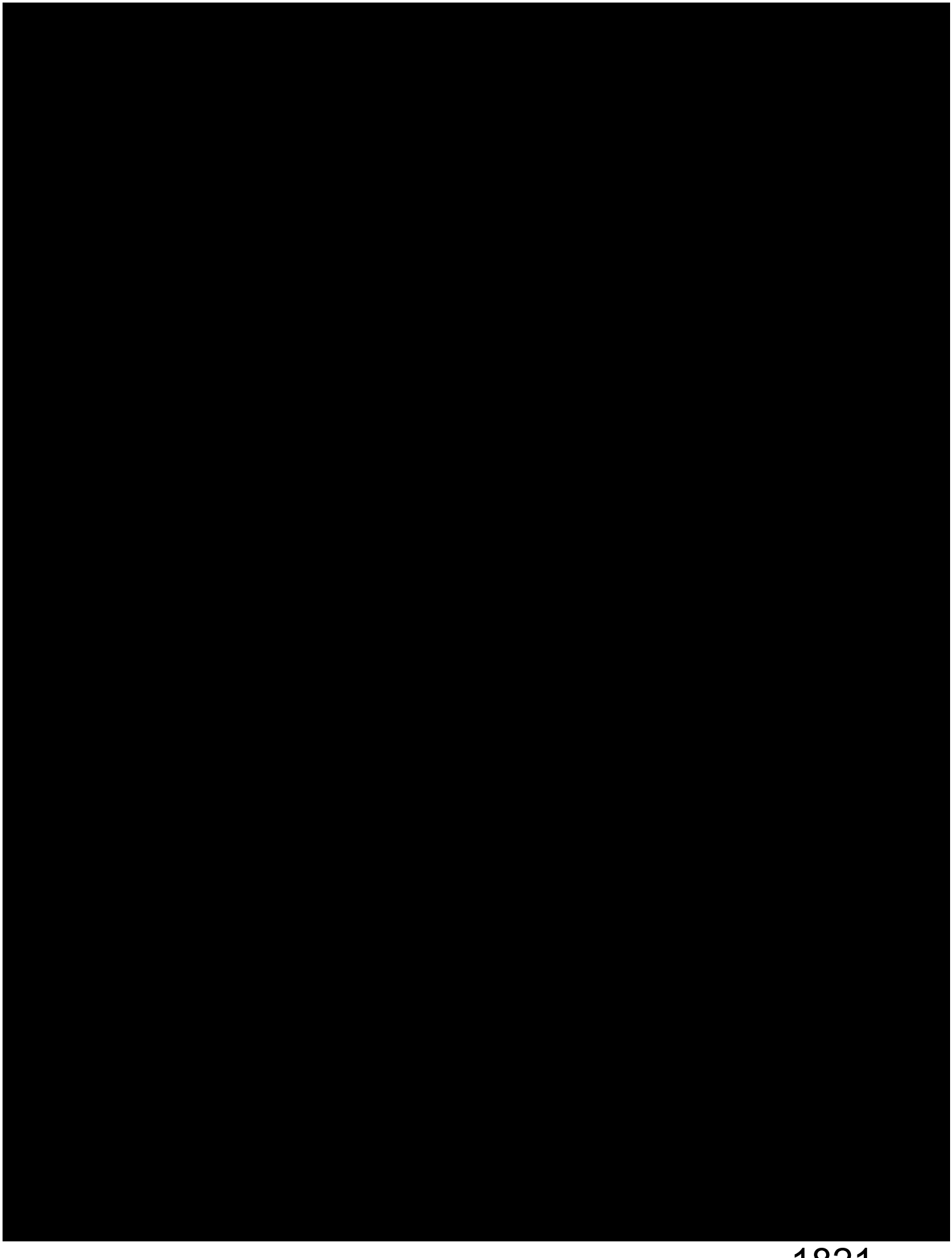


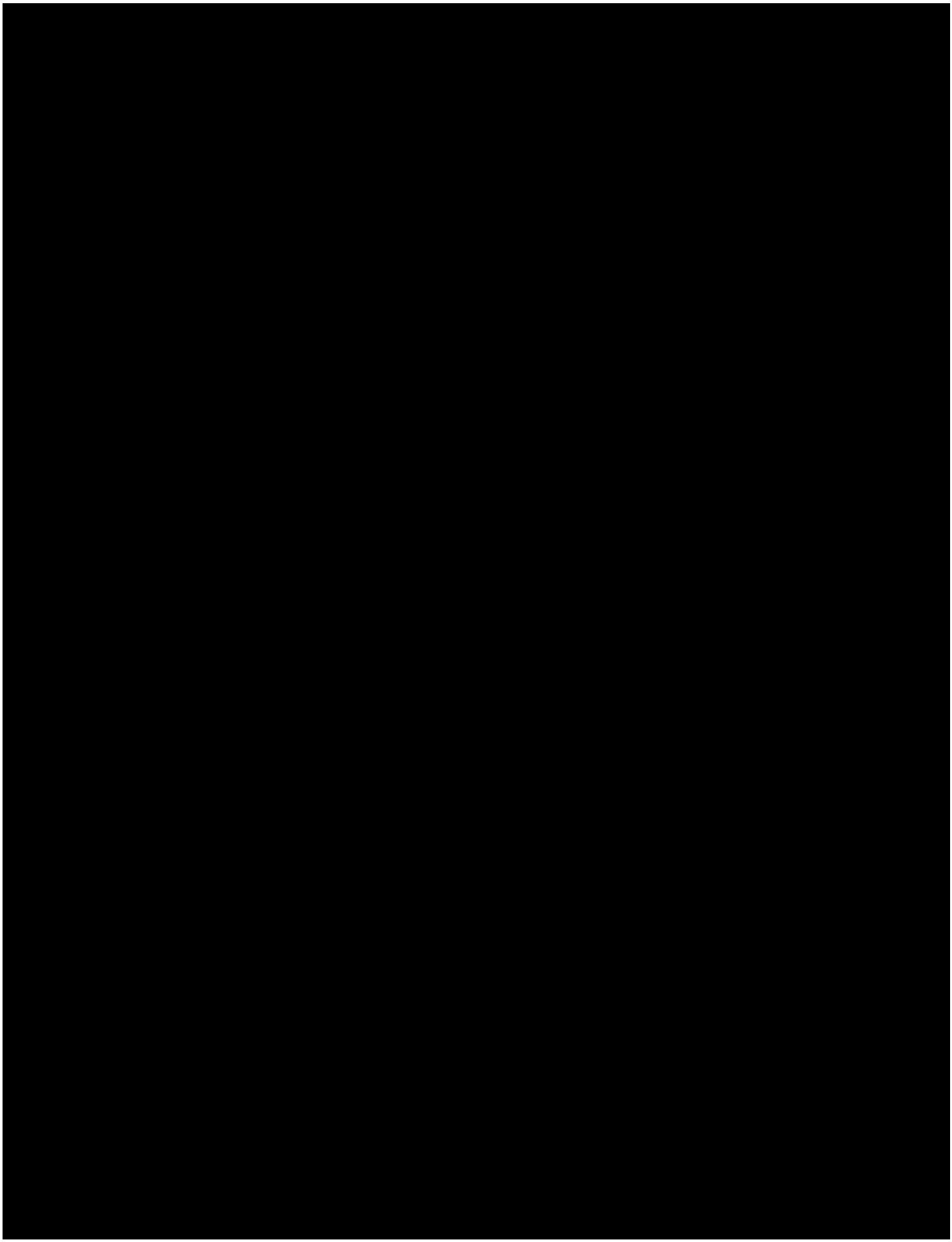


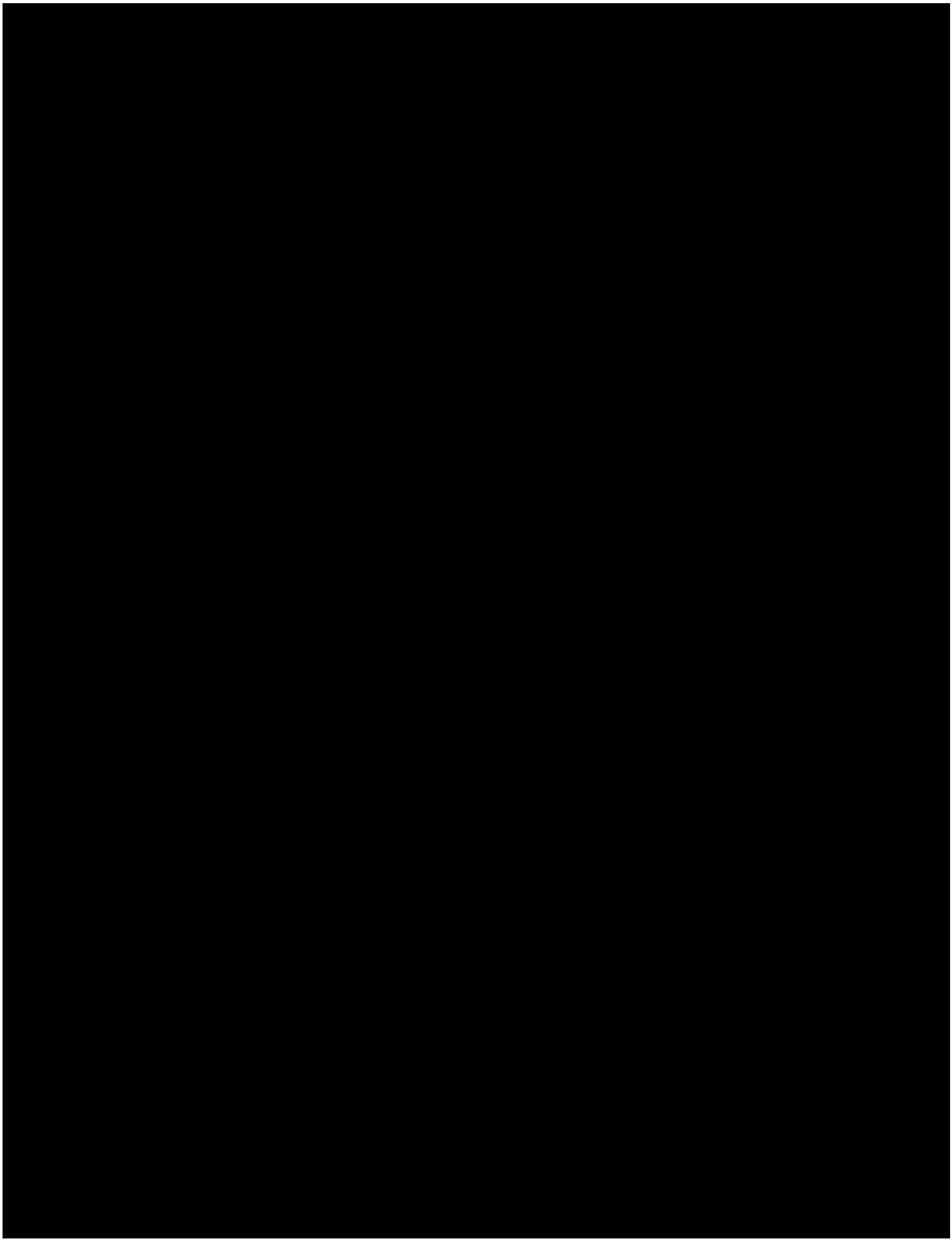


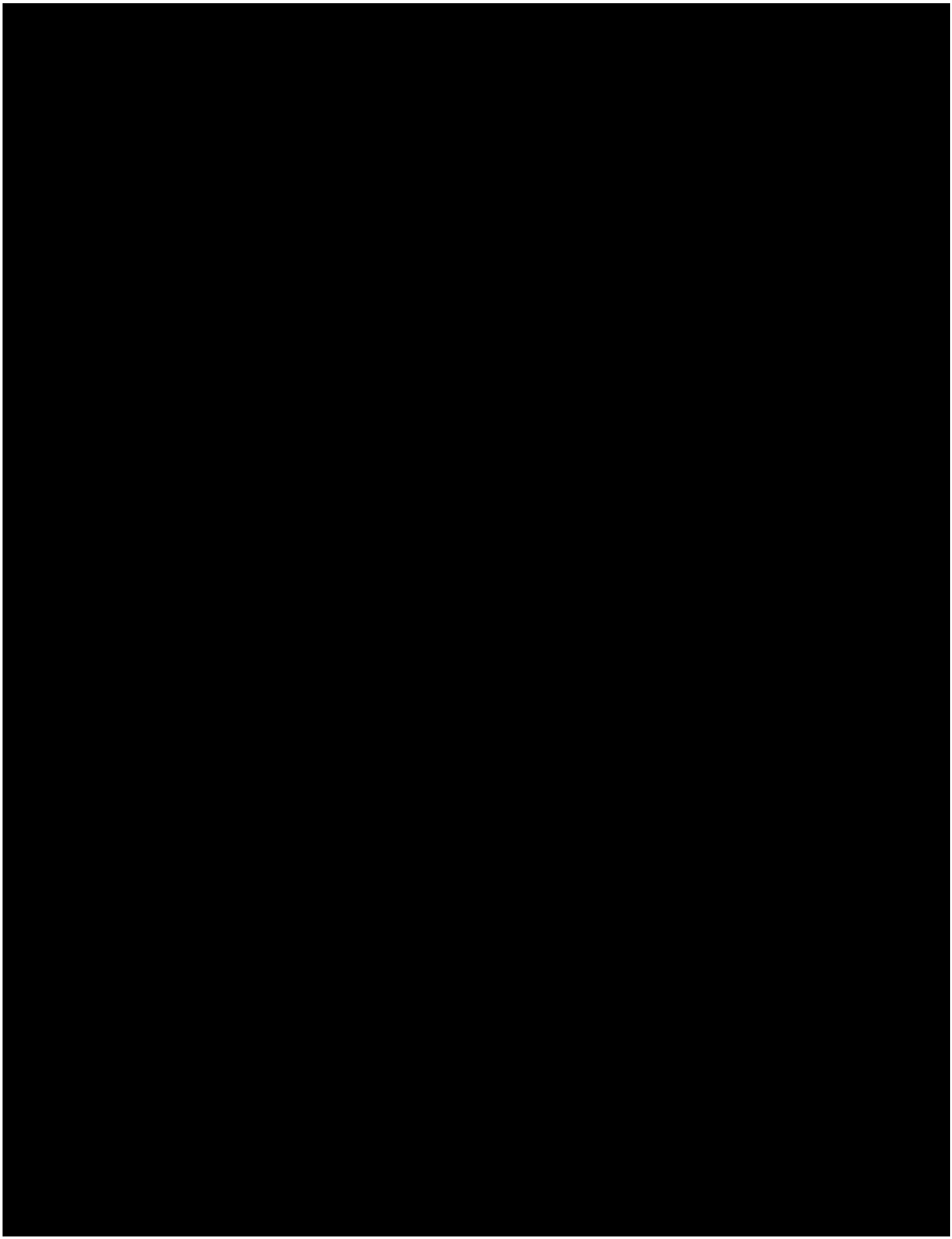


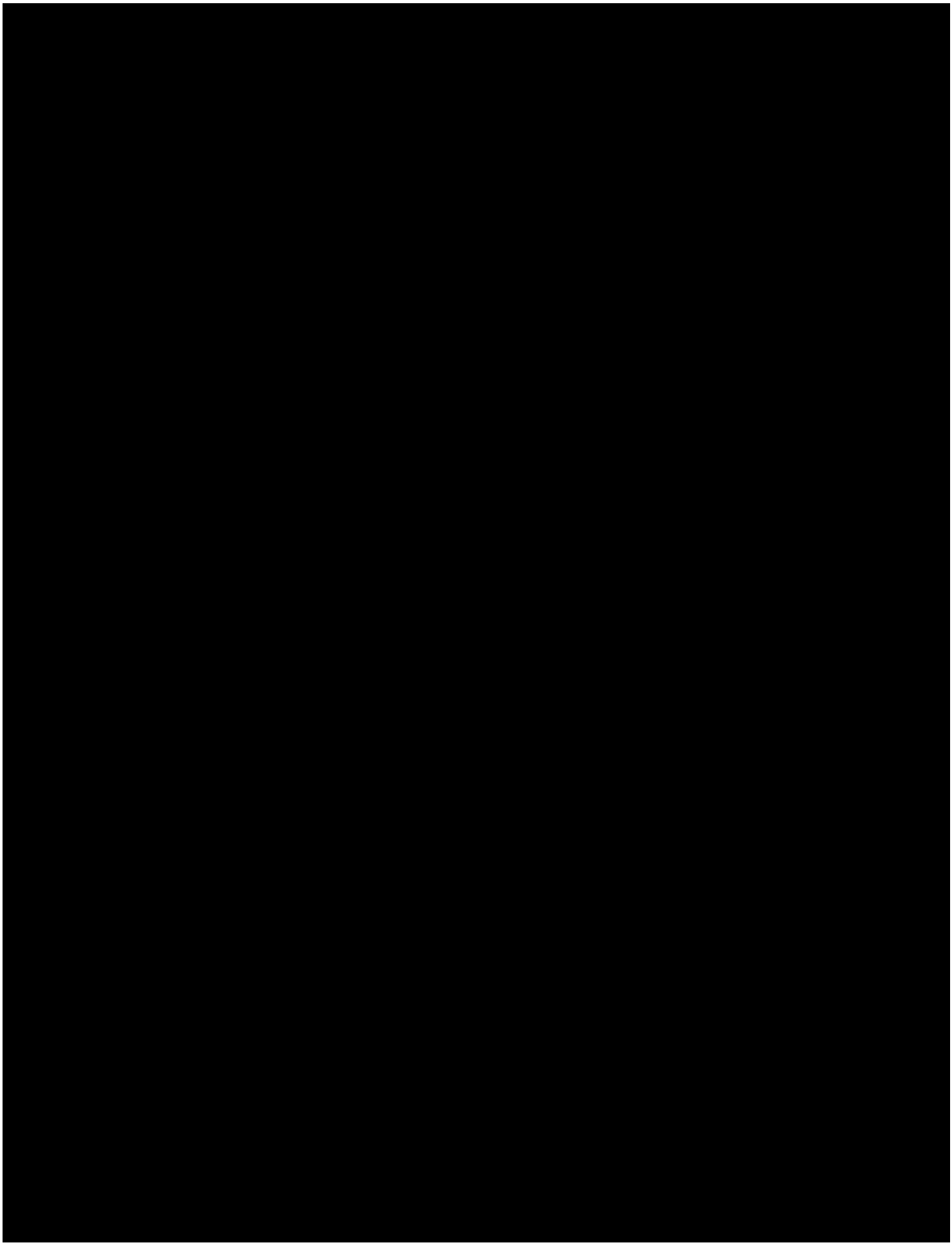


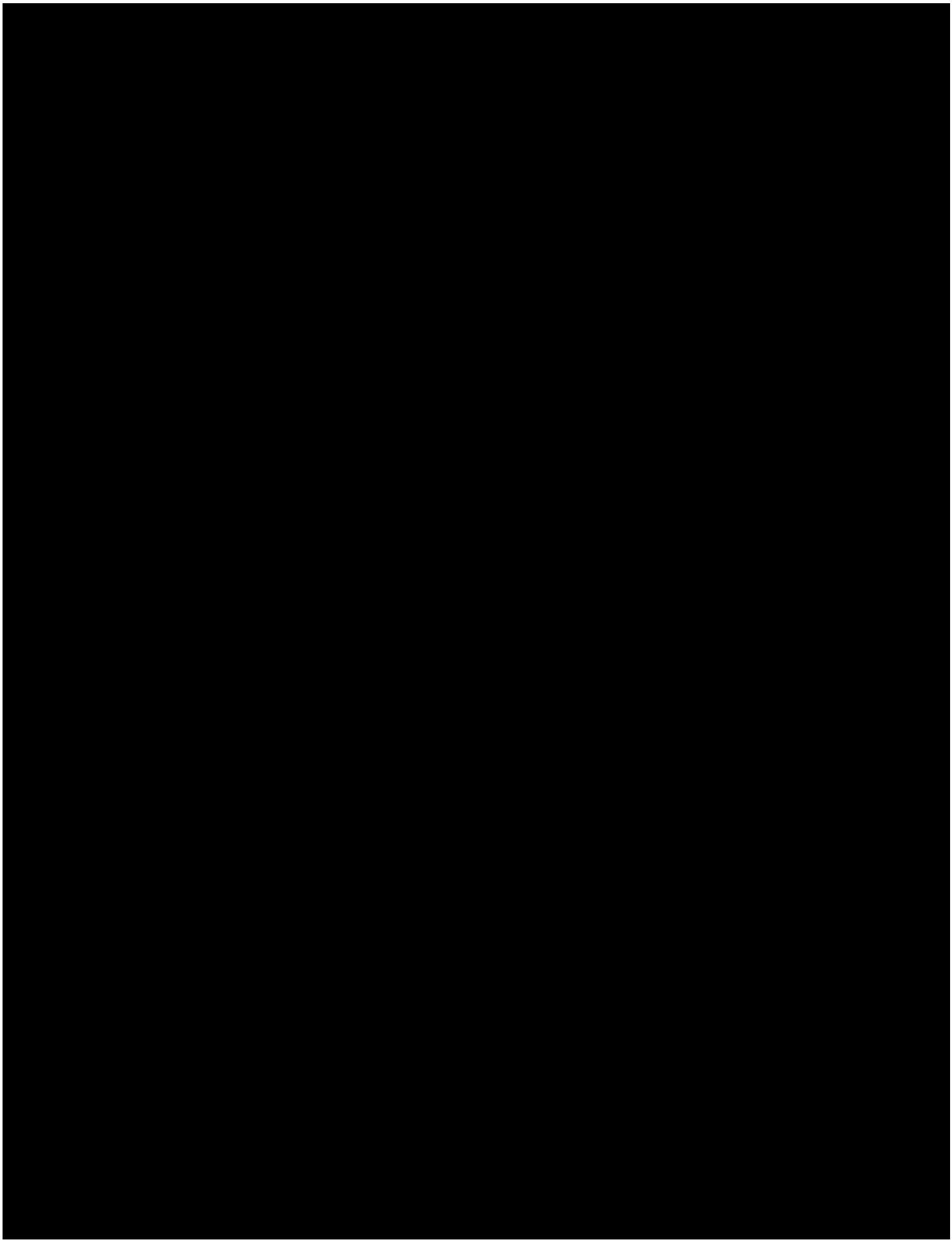


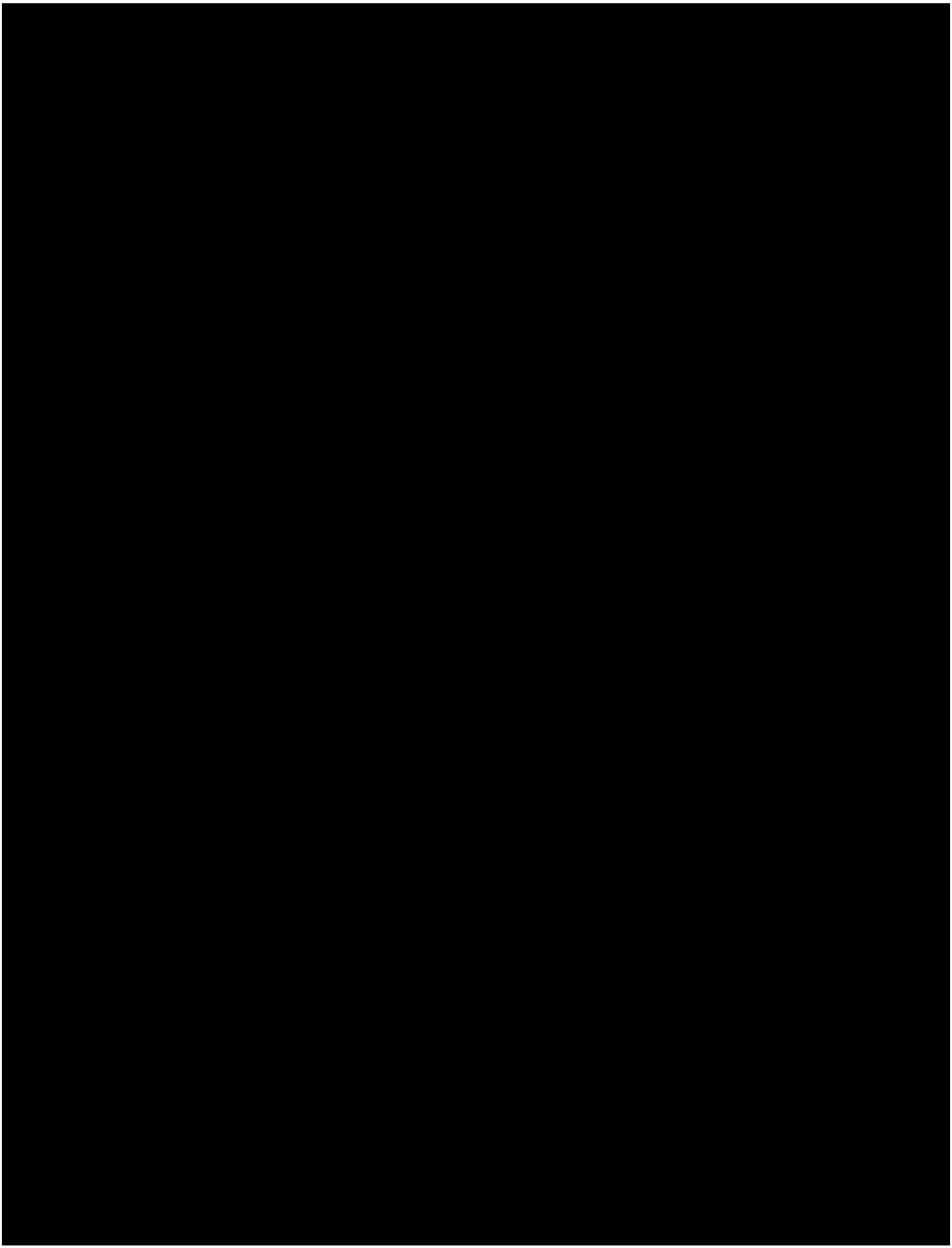


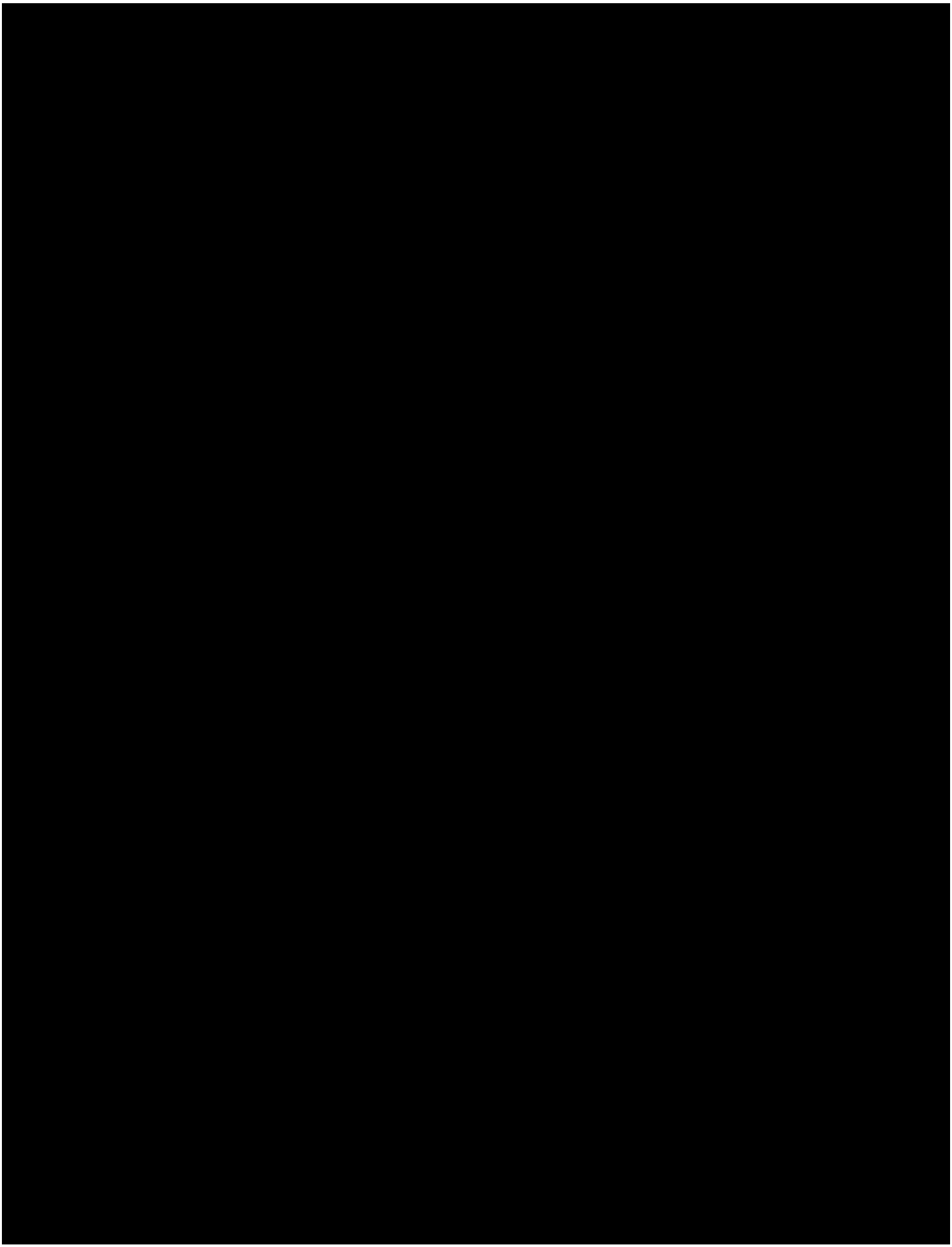


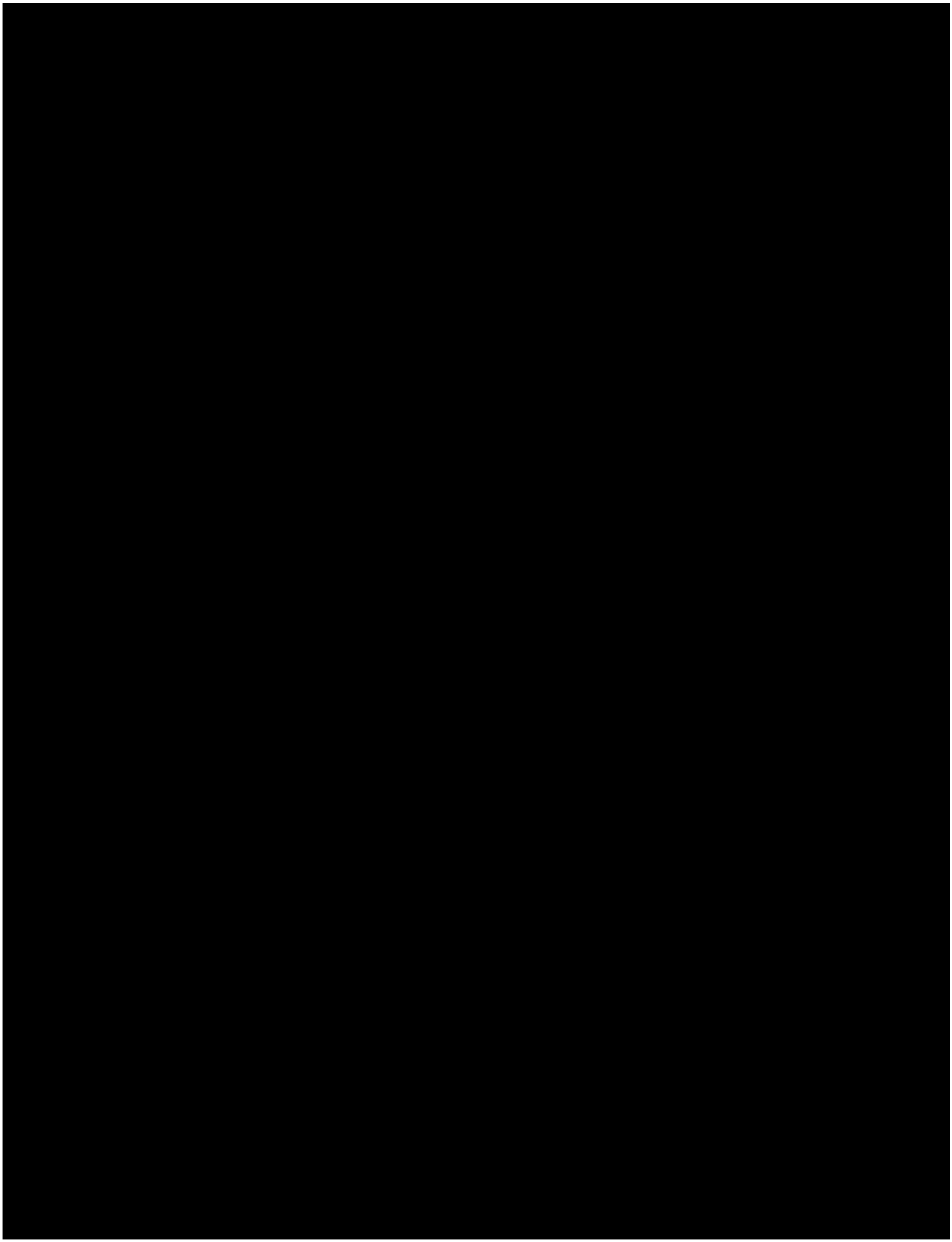


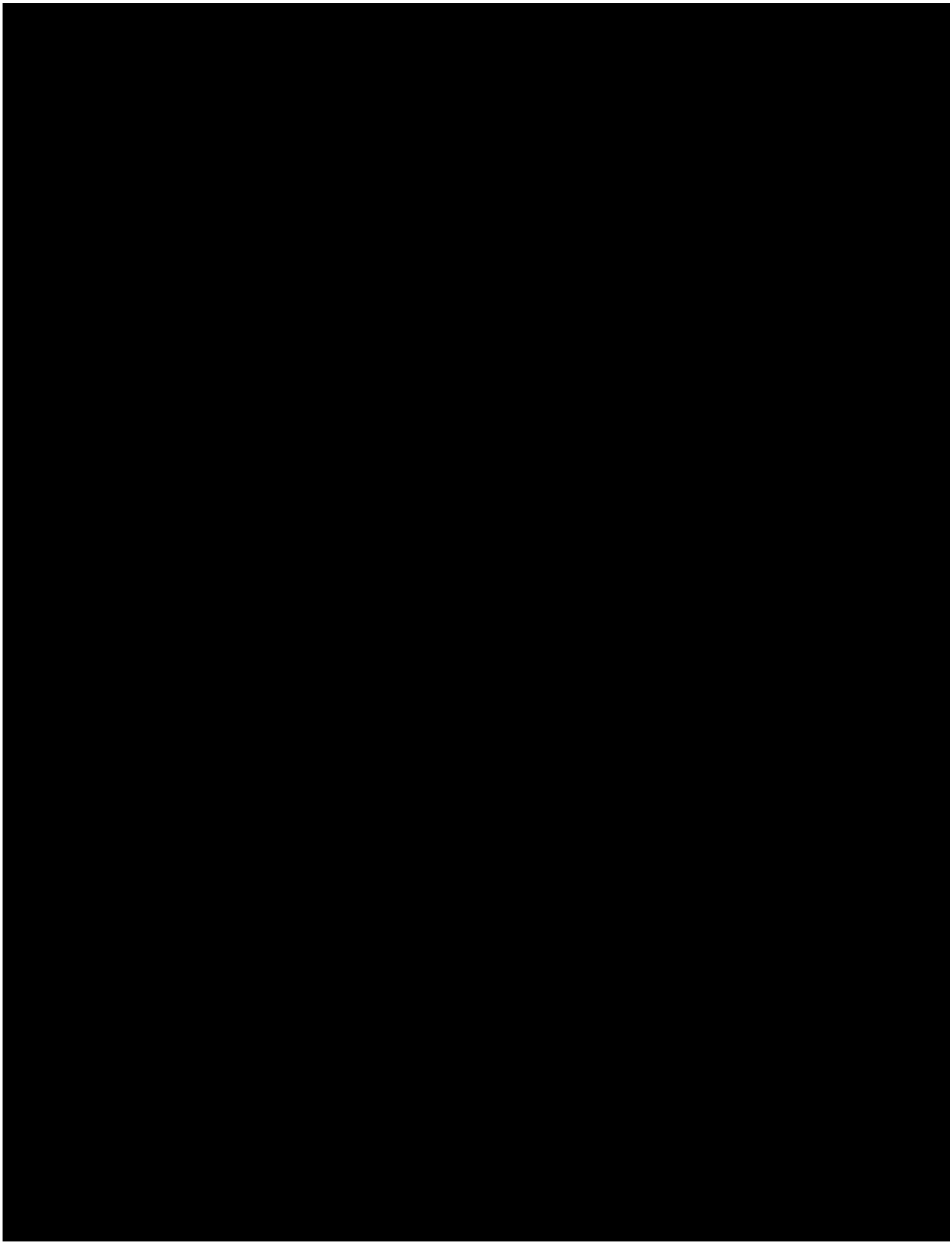


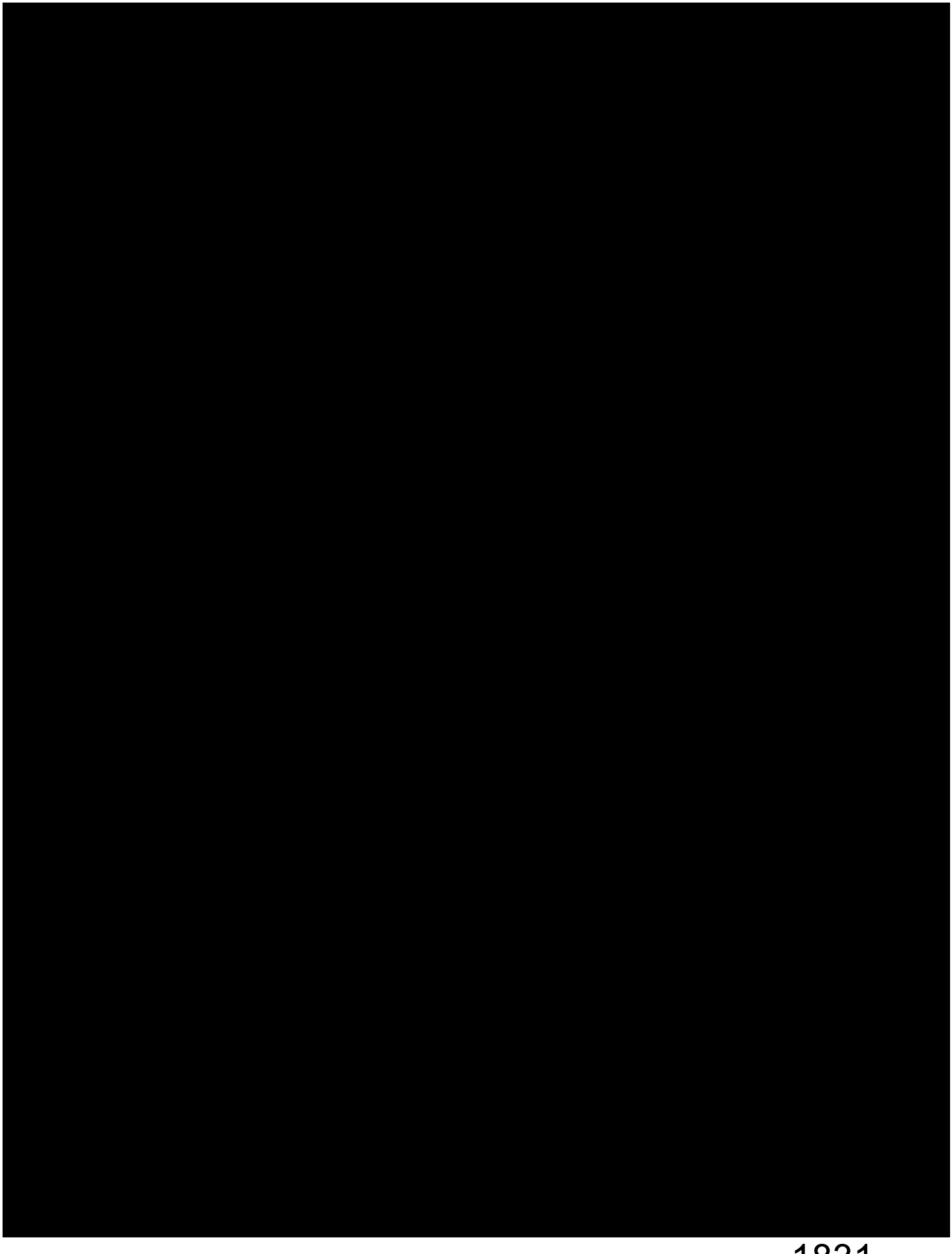


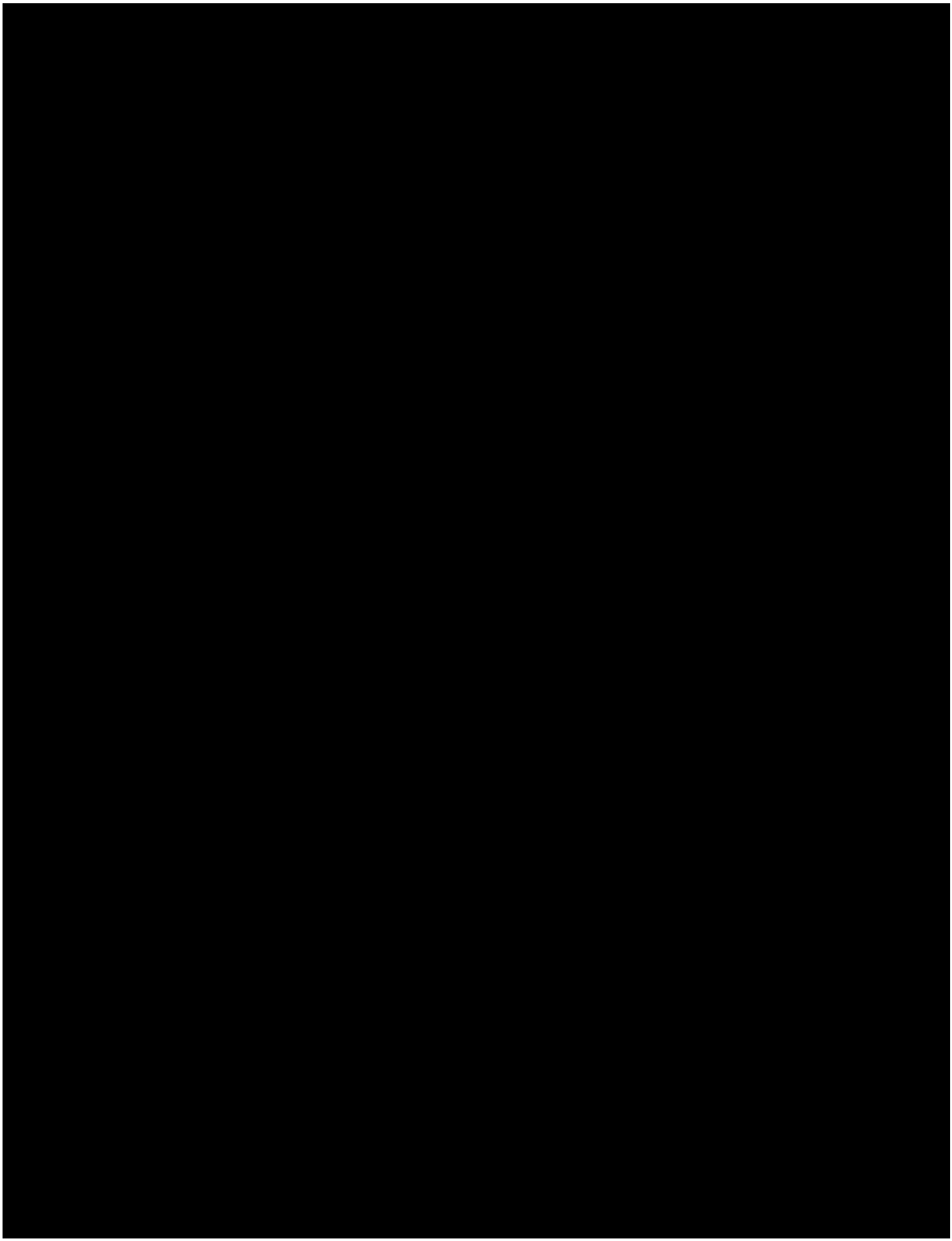


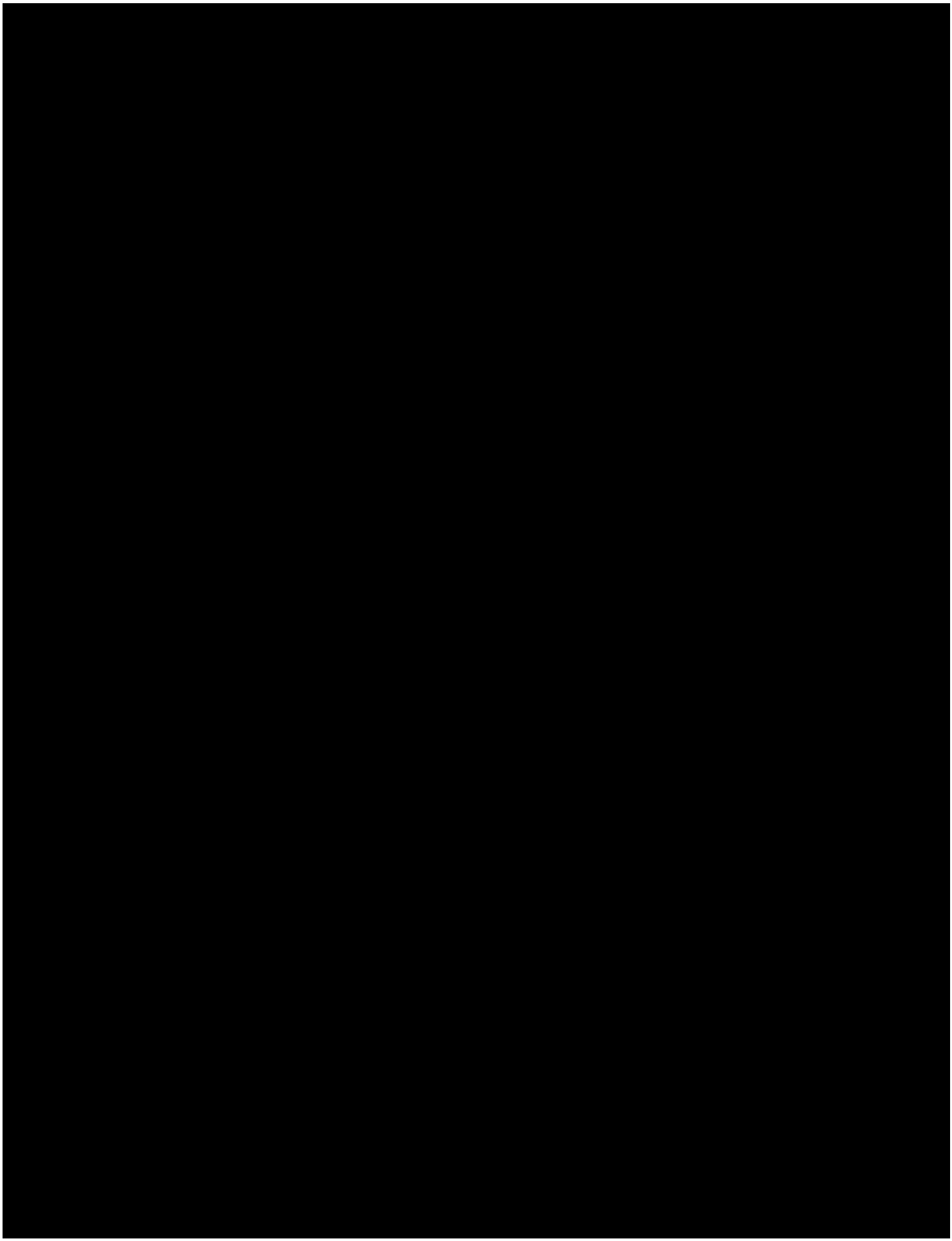


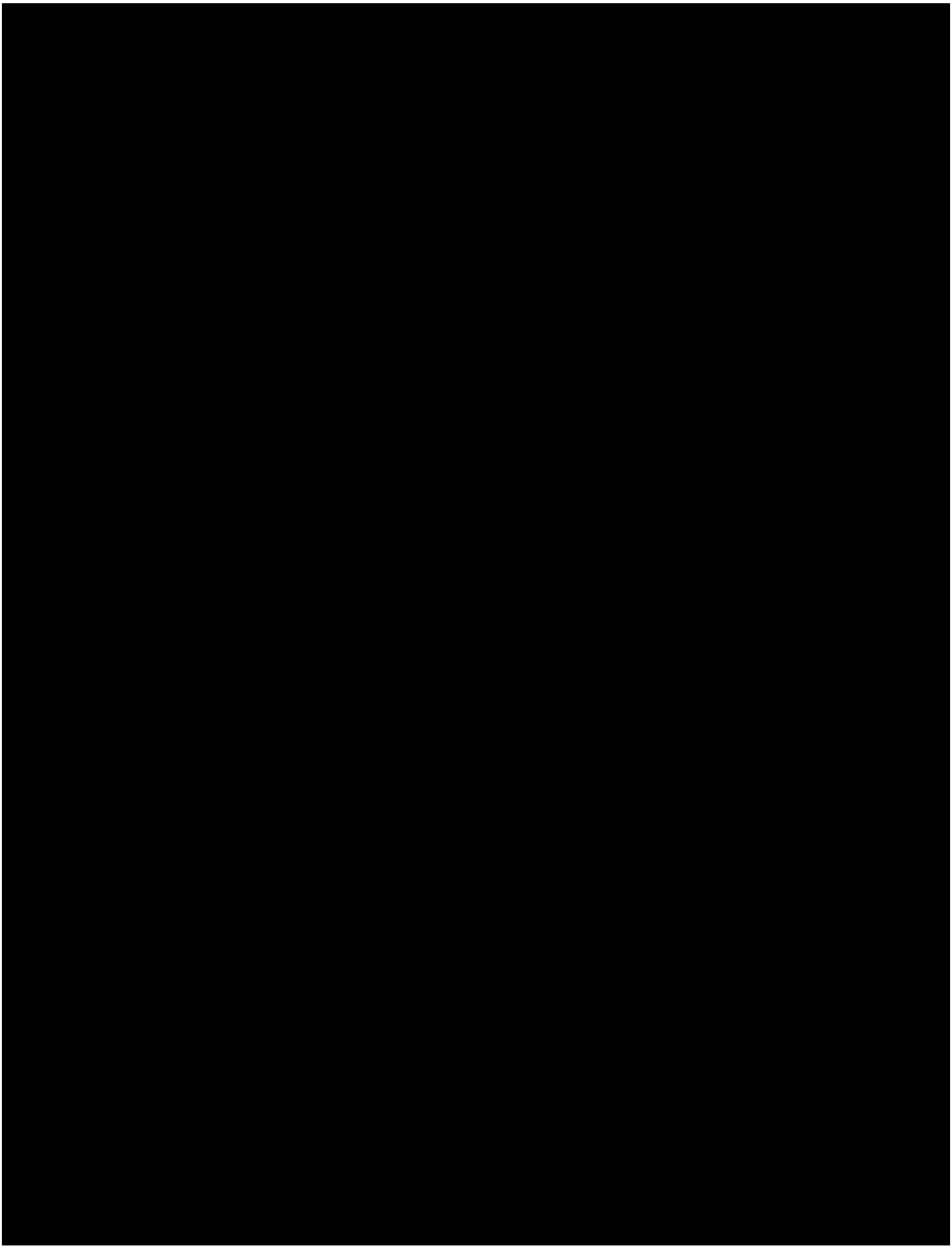


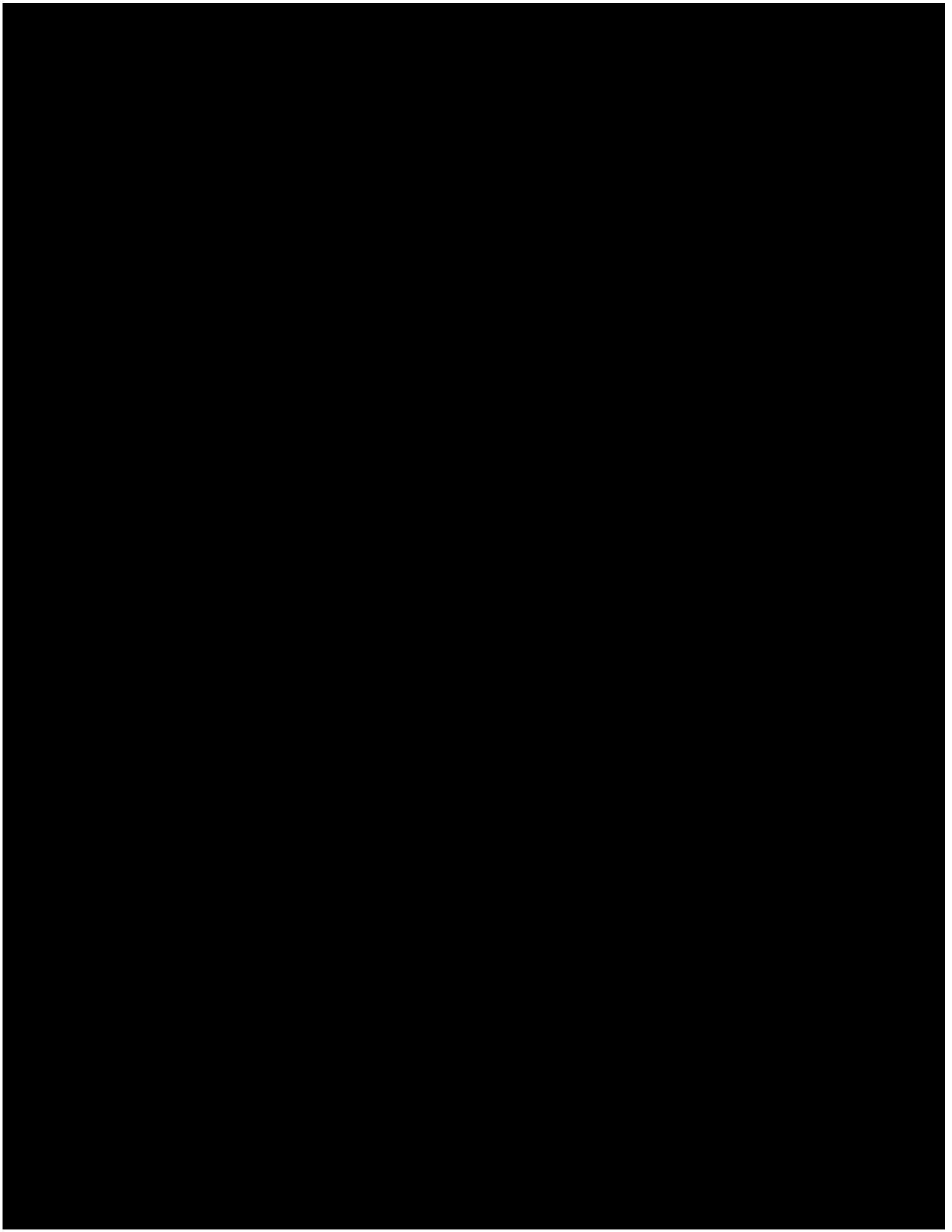


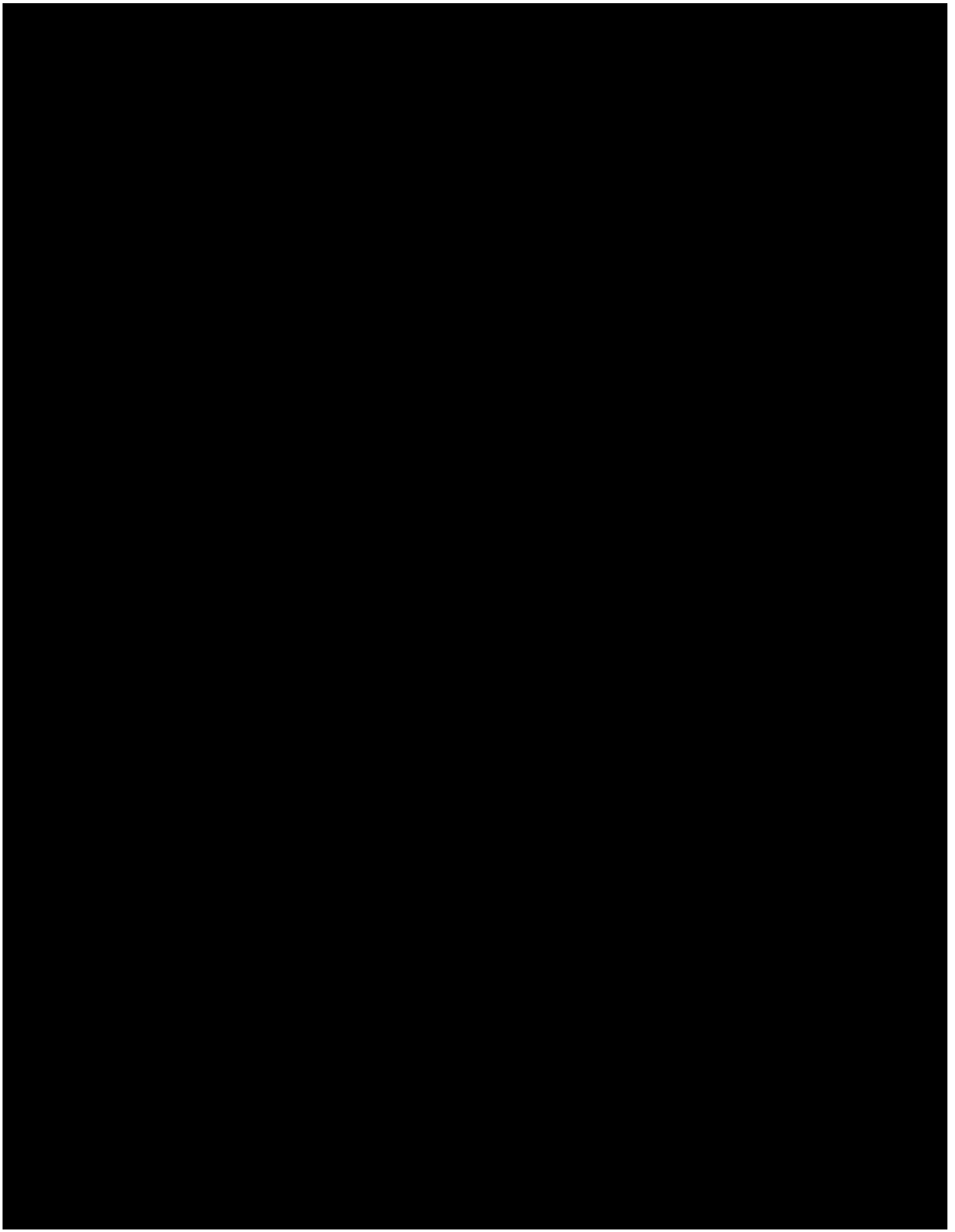


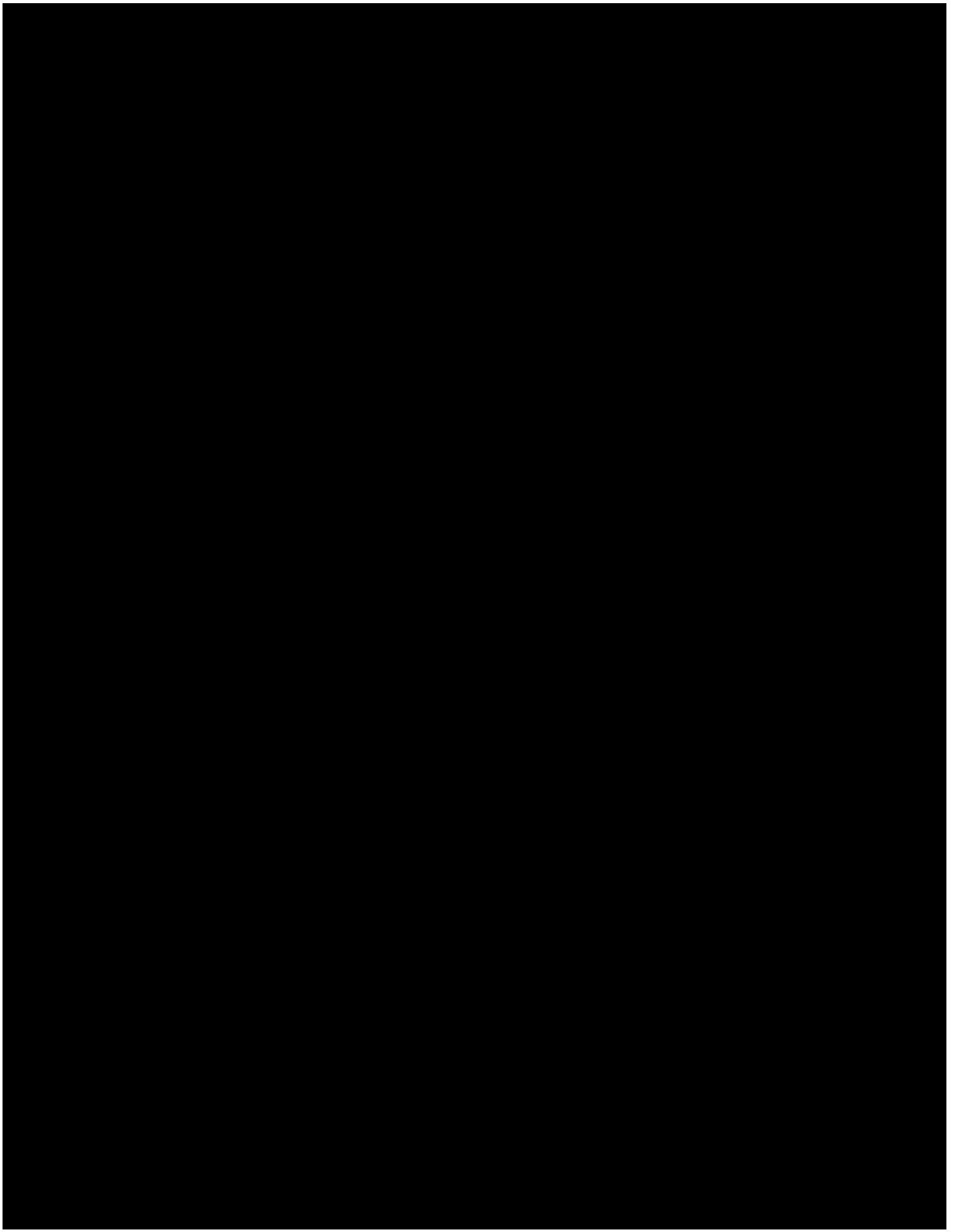


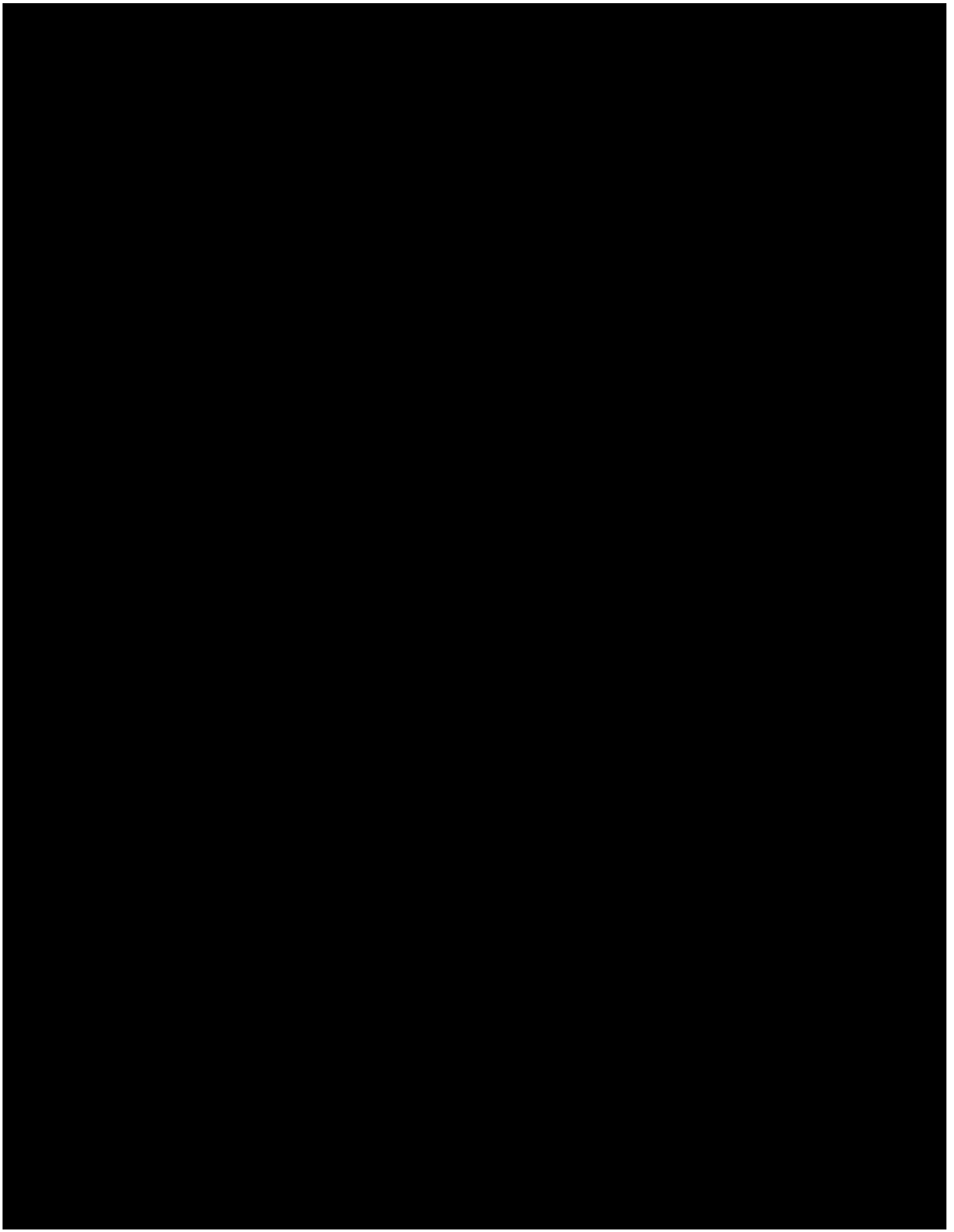


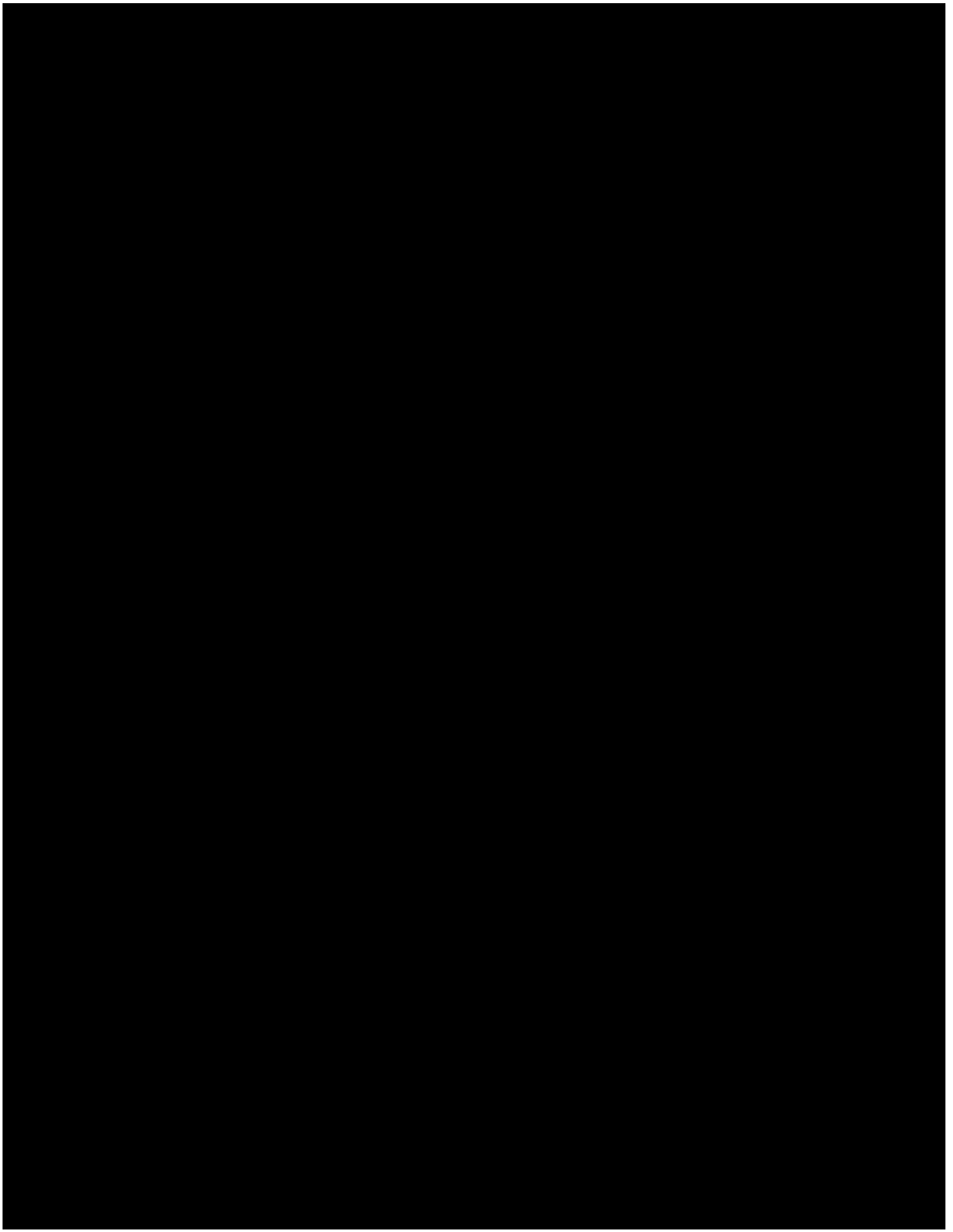


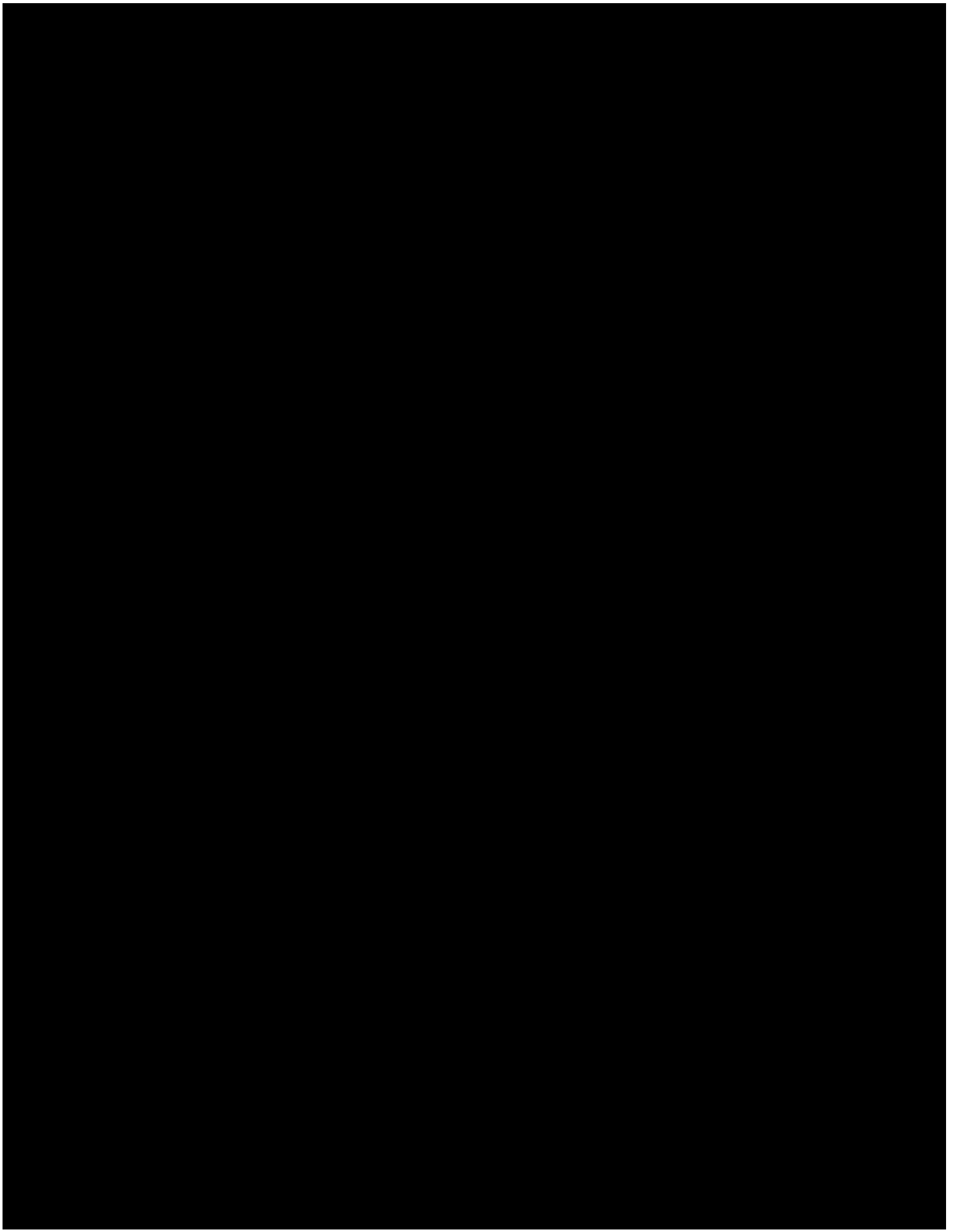


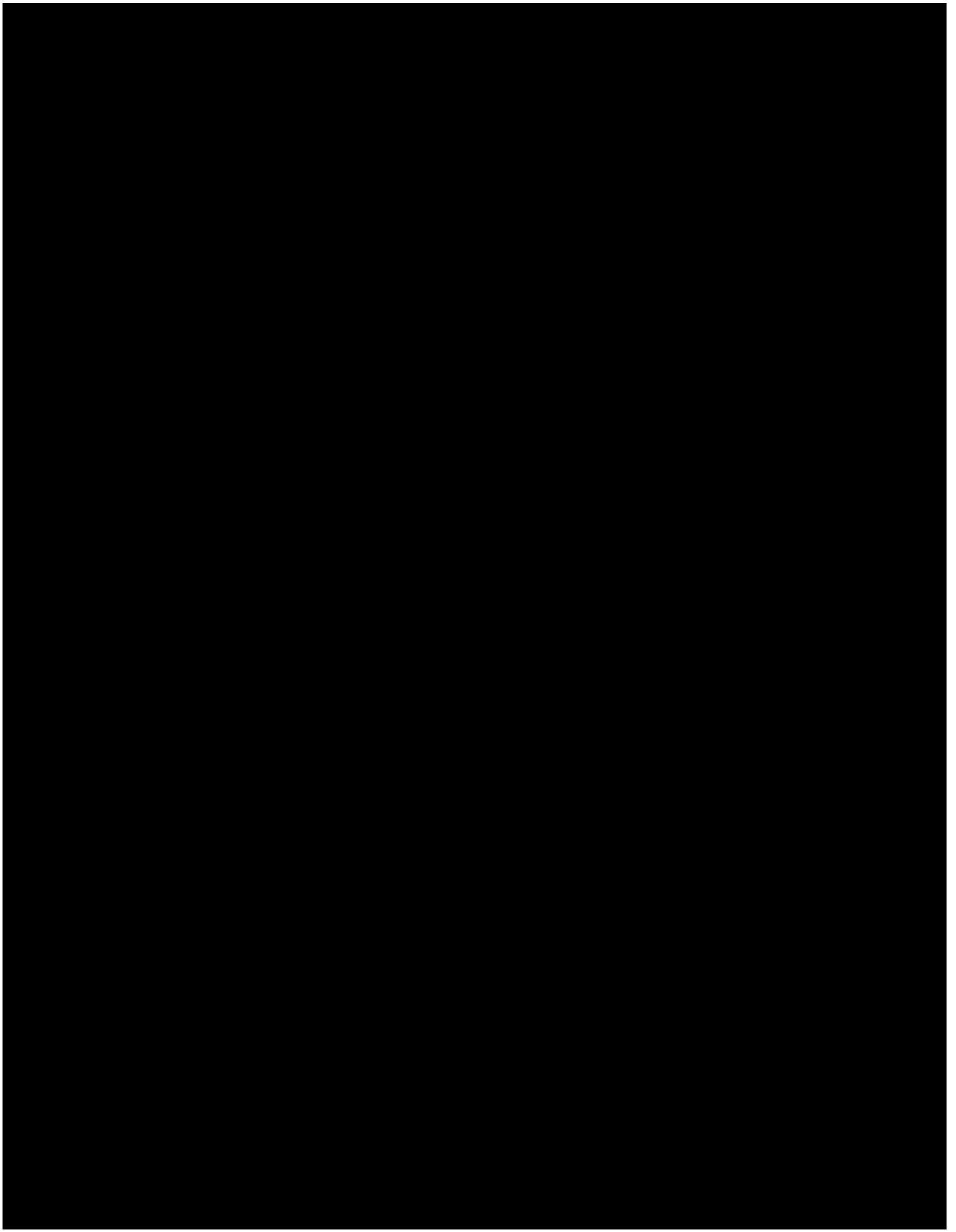


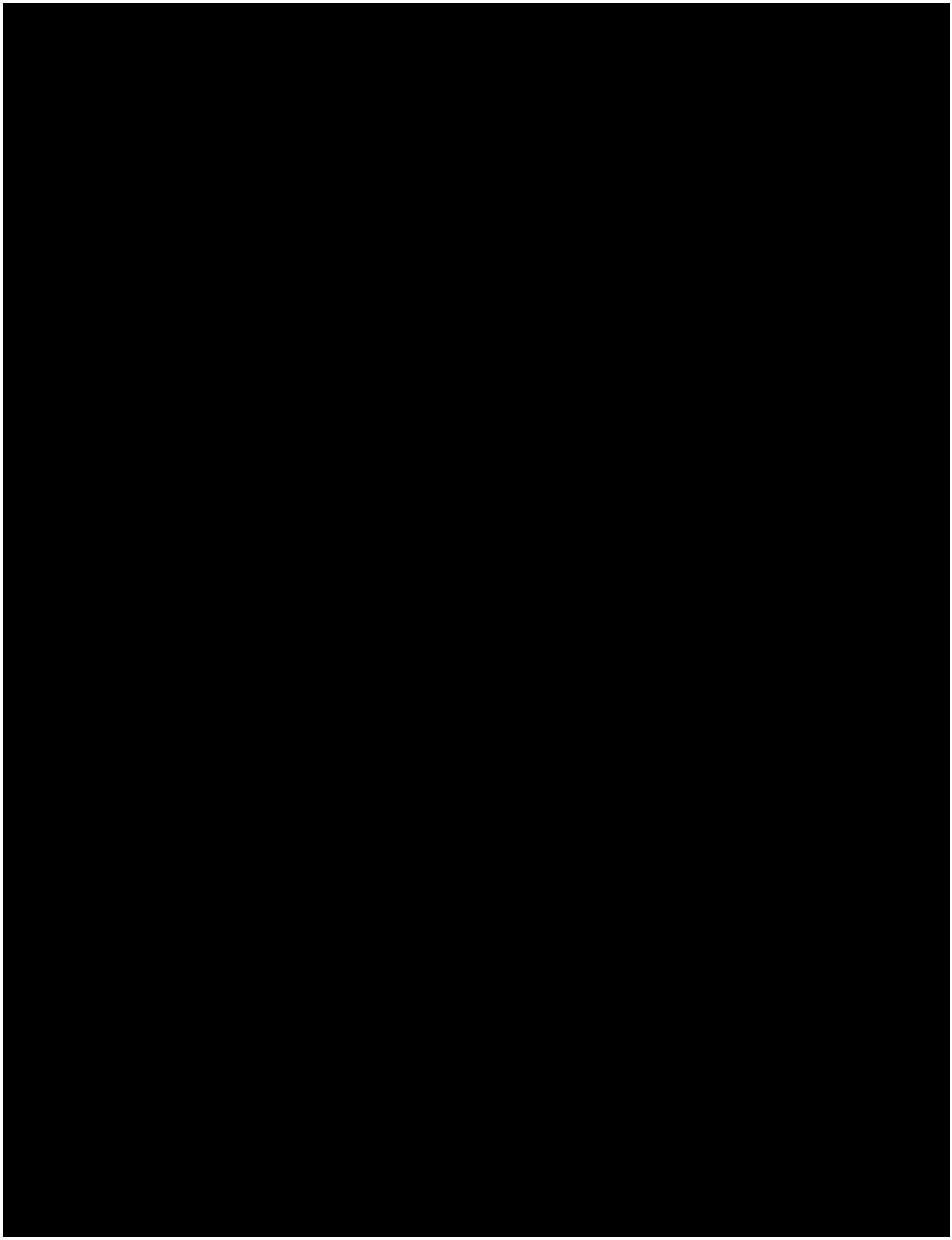


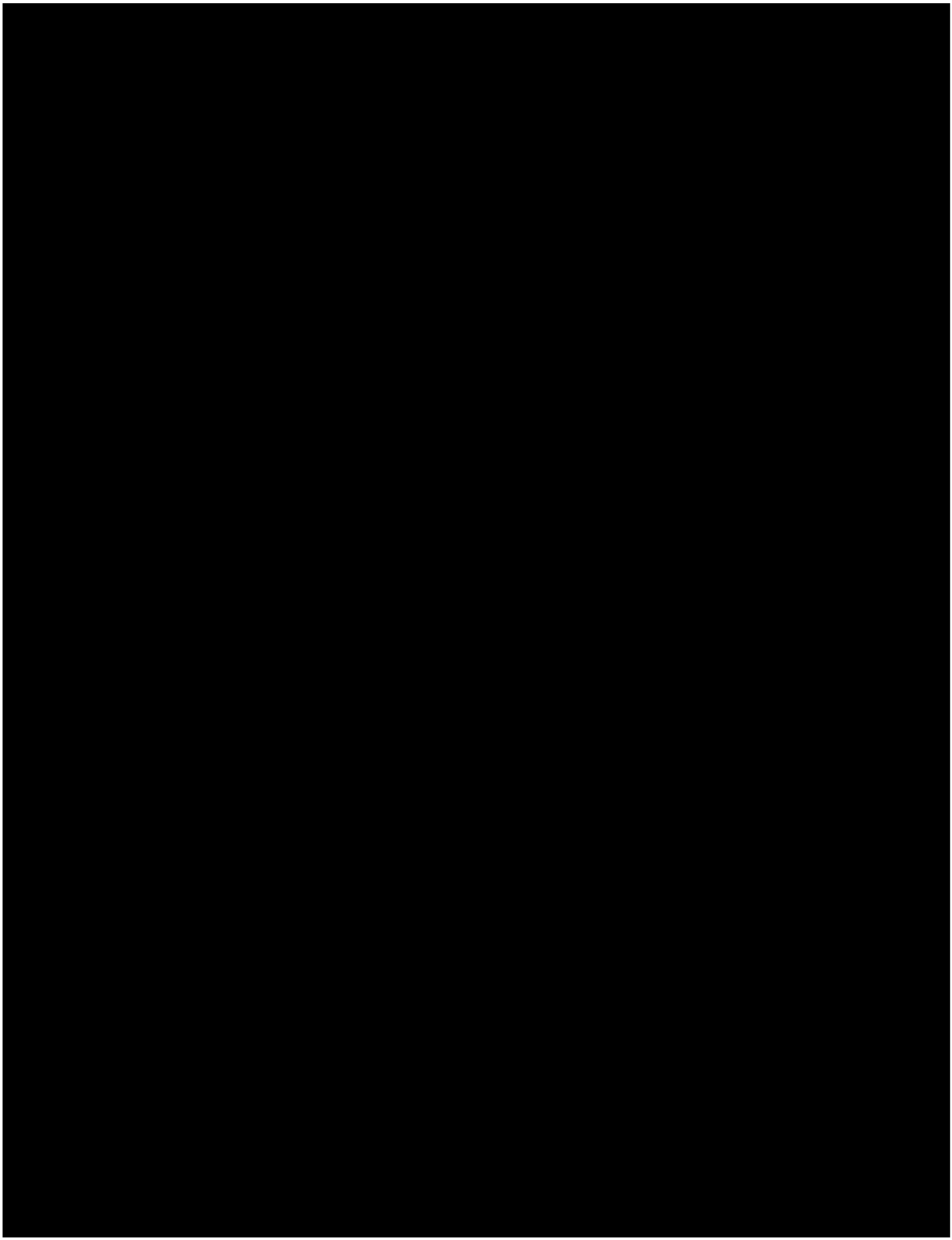


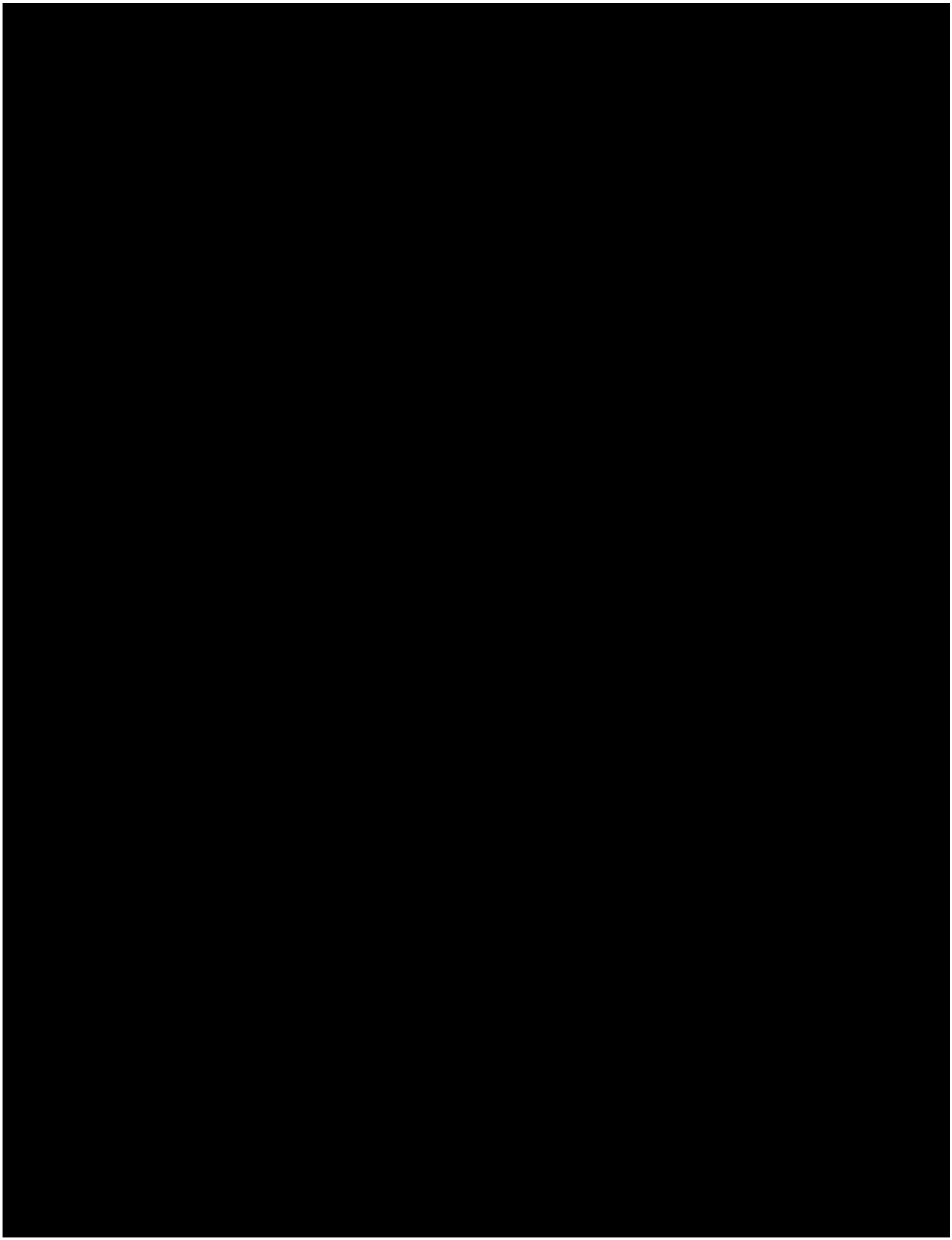












Issued by the
ARKANSAS STATE CLAIMS COMMISSION

Arkansas
State Claims Commission

JUN 29 2023

RECEIVED

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian o[redacted], Minor Children, Claimant

V.

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

SUBPOENA

CLAIM NO. 230641

TO: **CV's Family Foods**
1004 East Walnut Street
Paris, Arkansas 72855

_____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_____ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

_____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

__X__ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

All employee and personnel files for Jacqueline Ashcraft[redacted]

May 10, 2023

Date

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

PROOF OF SERVICE

SERVED ON (Print Name)

DATE

PLACE

MANNER OF SERVICE

SERVED BY (Print Name)

TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

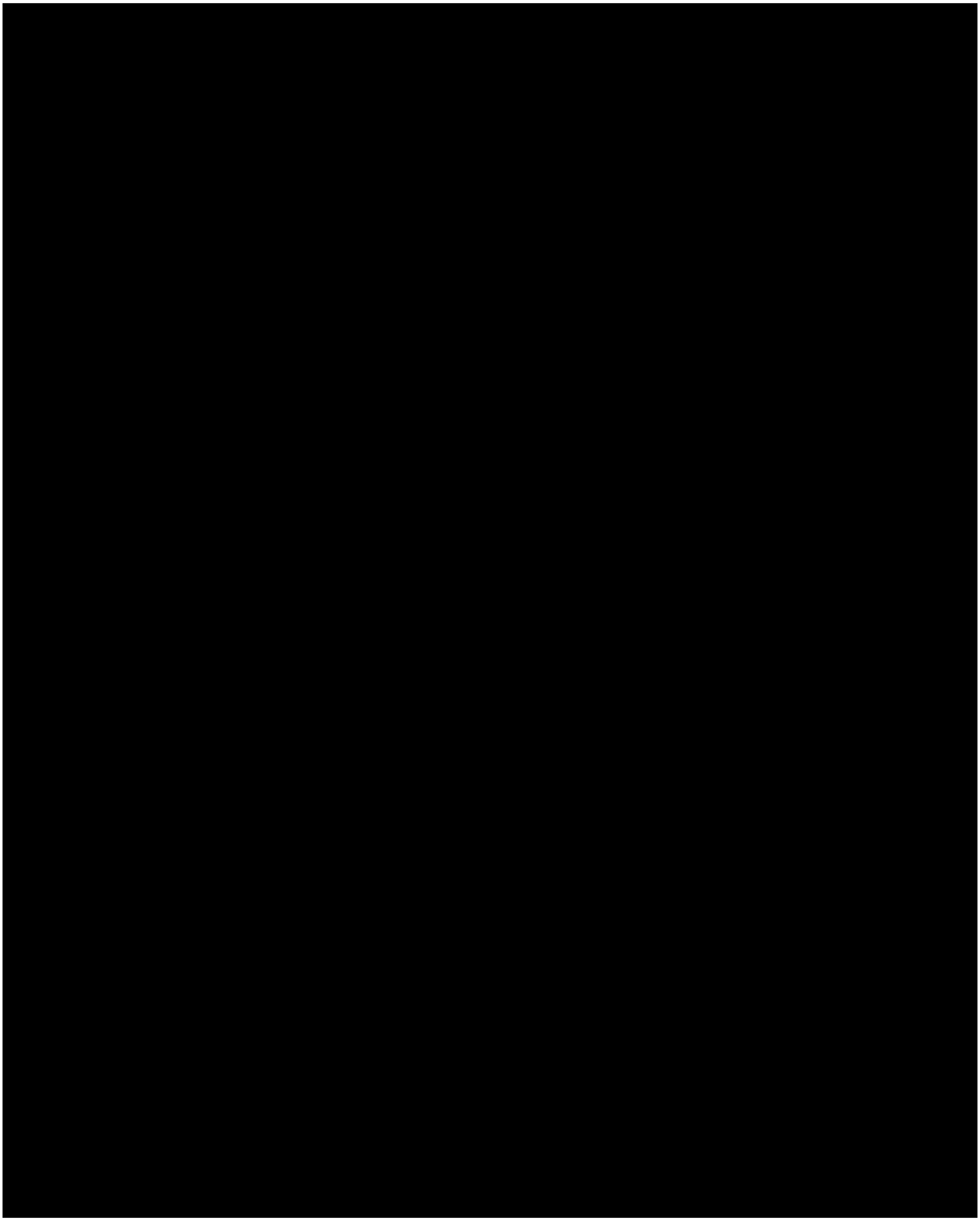
ADDRESS OF SERVER

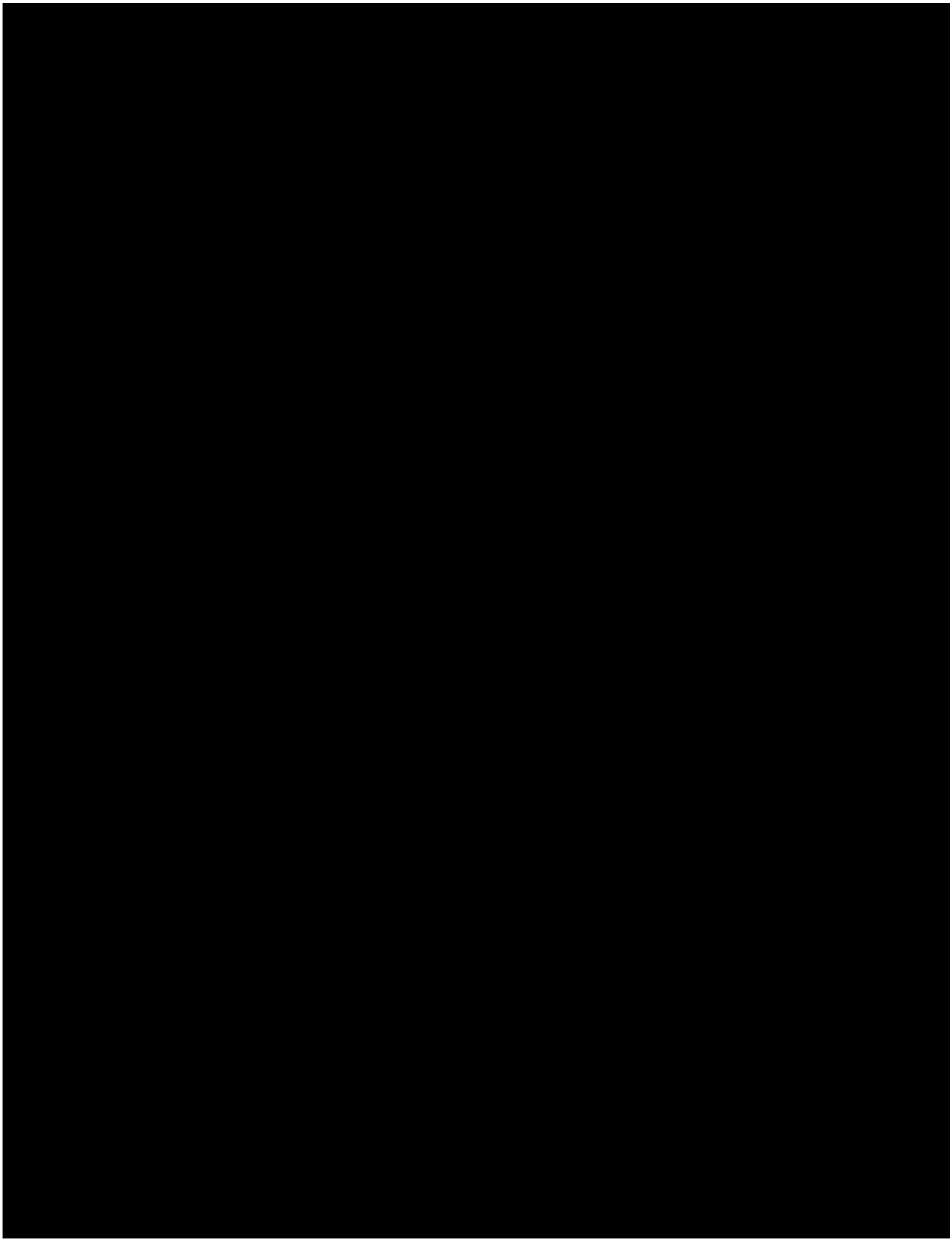
NOTICE TO PERSONS SUBJECT TO SUBPOENAS

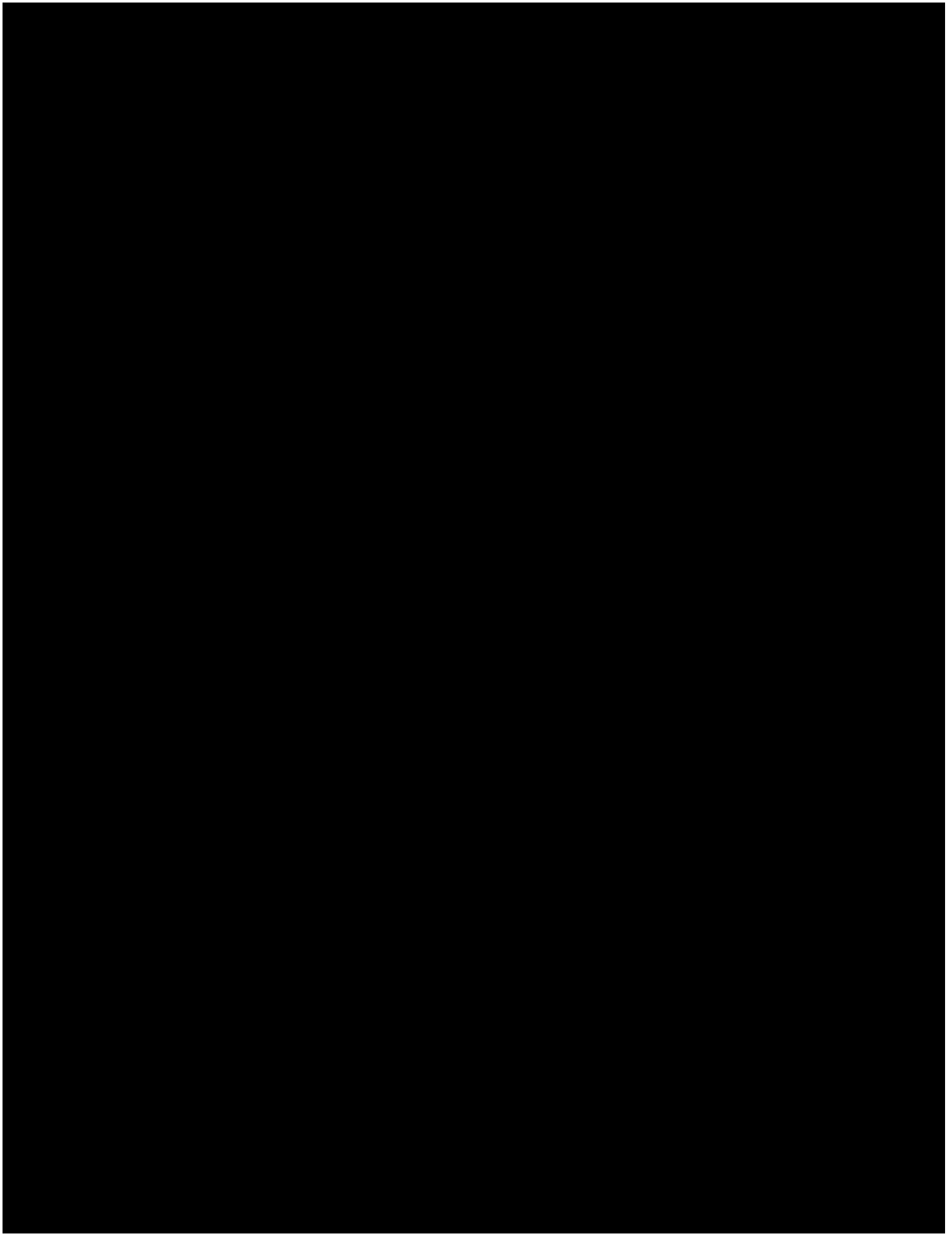
Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d). Claims Commission Rule 3.2(d).

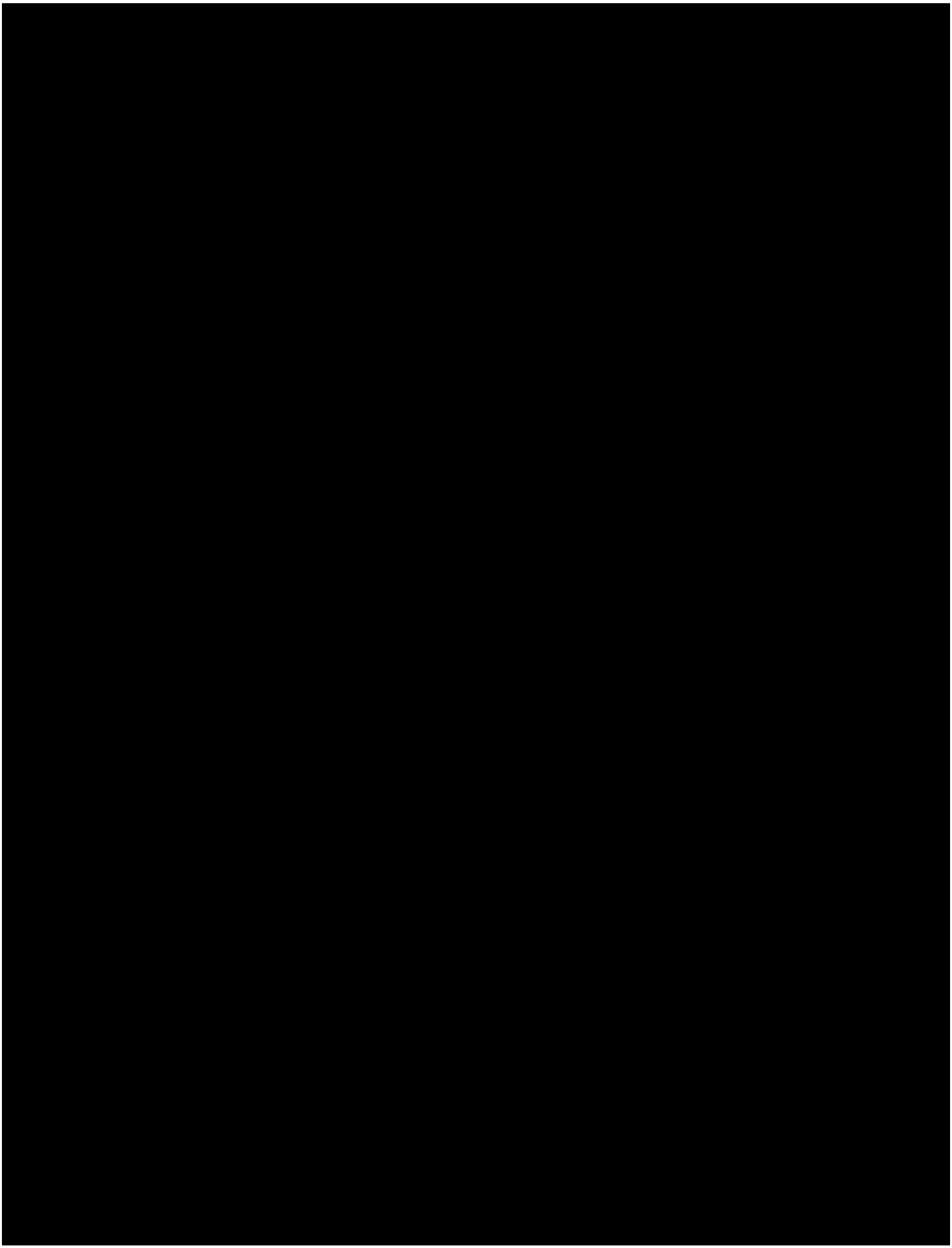
A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

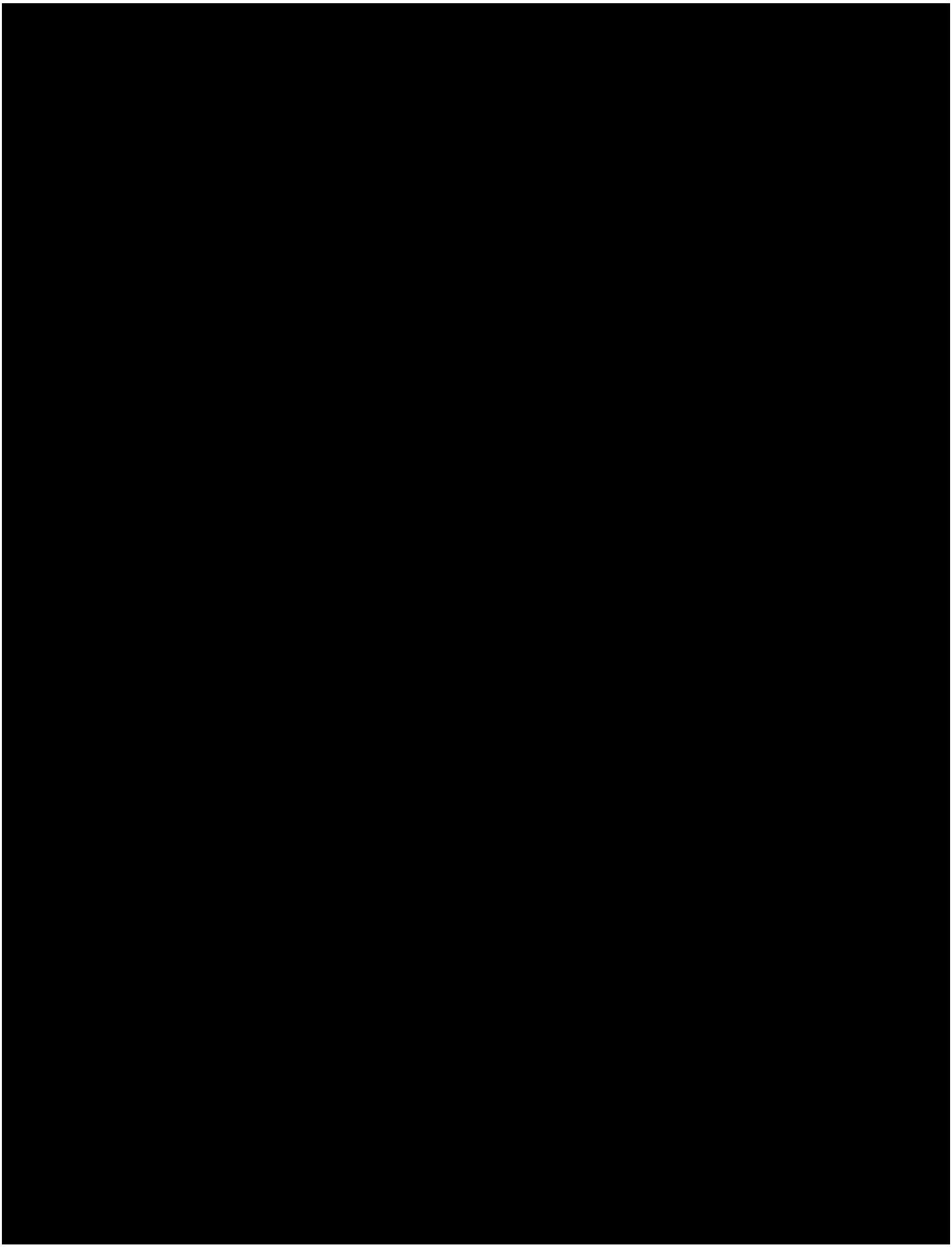
A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

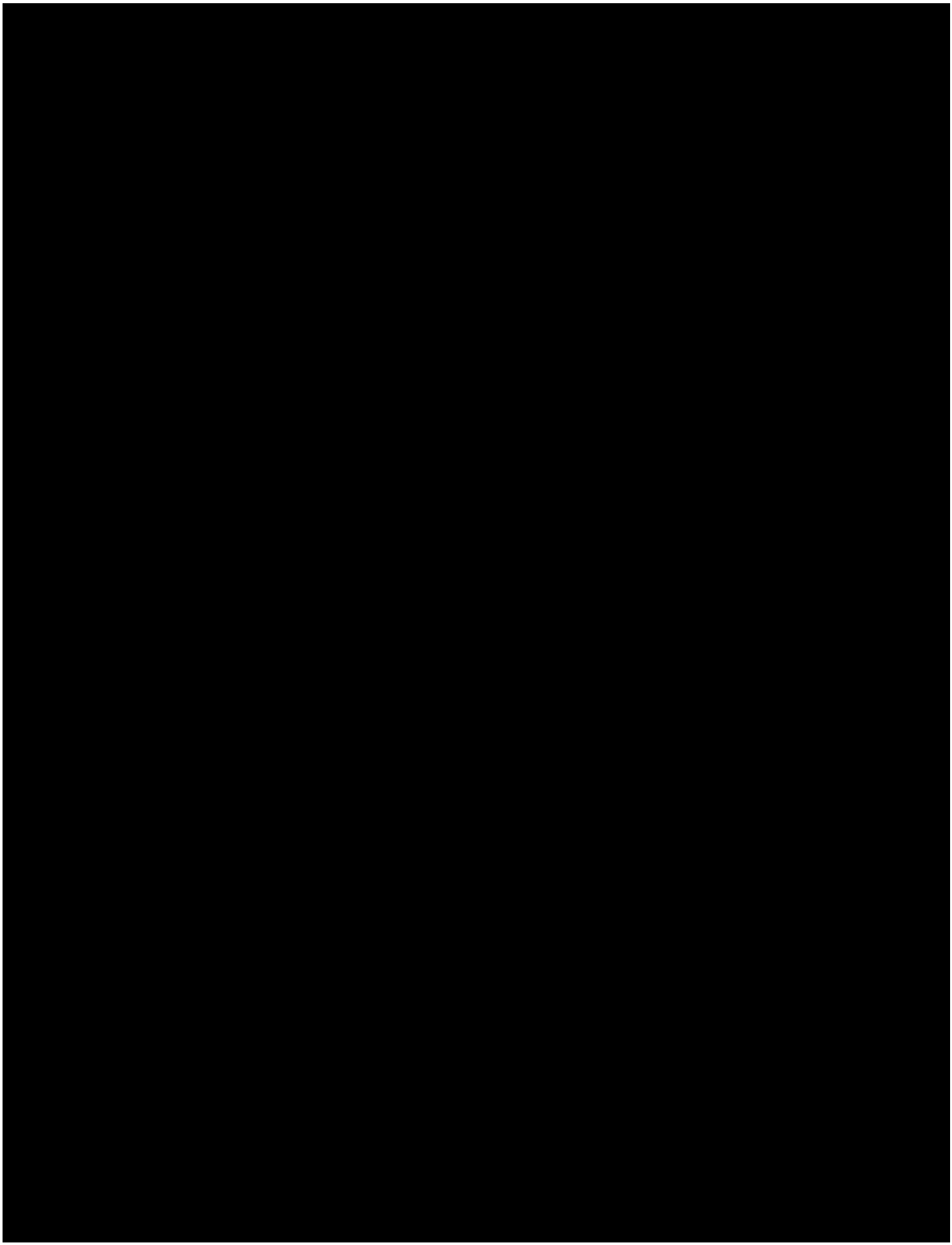


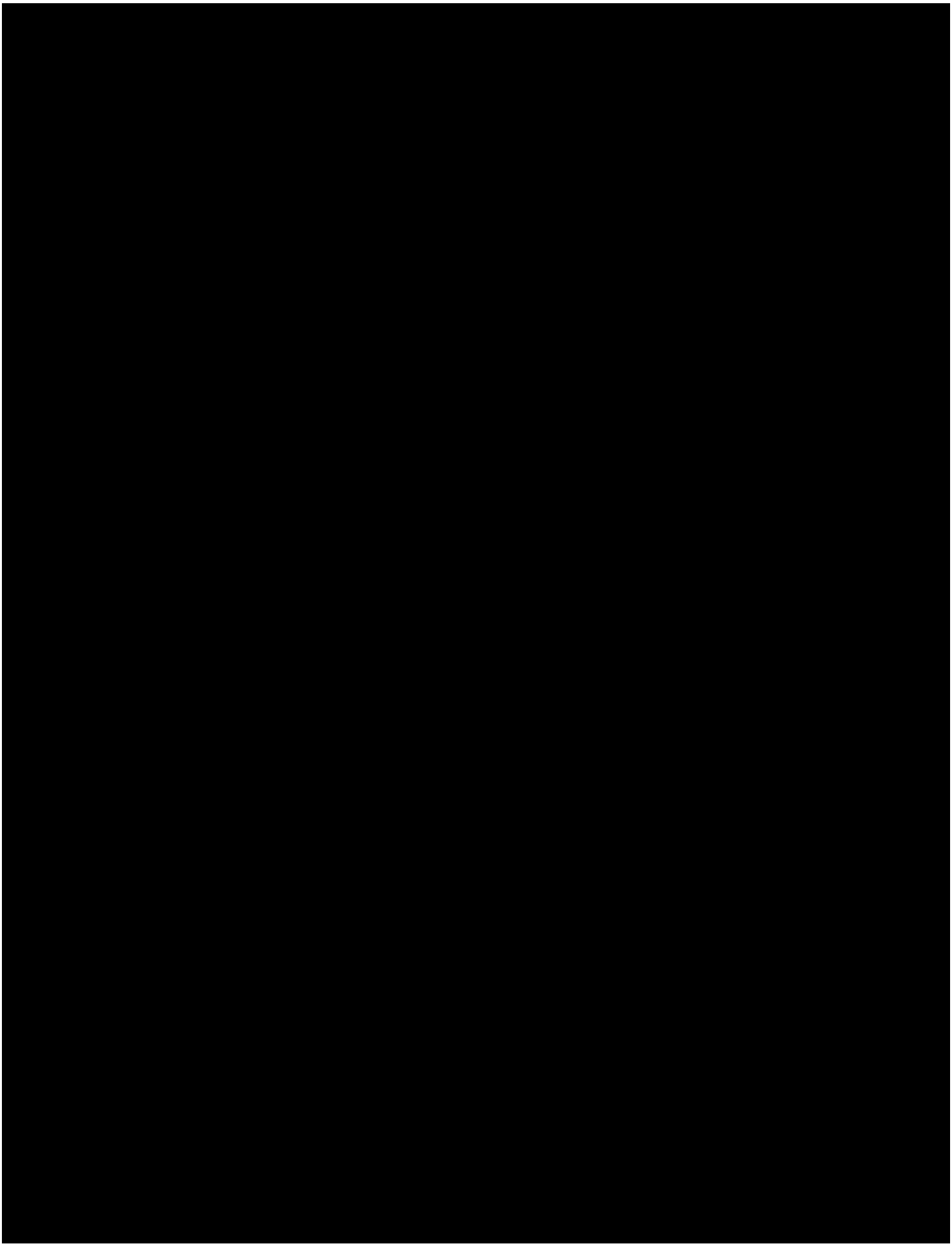


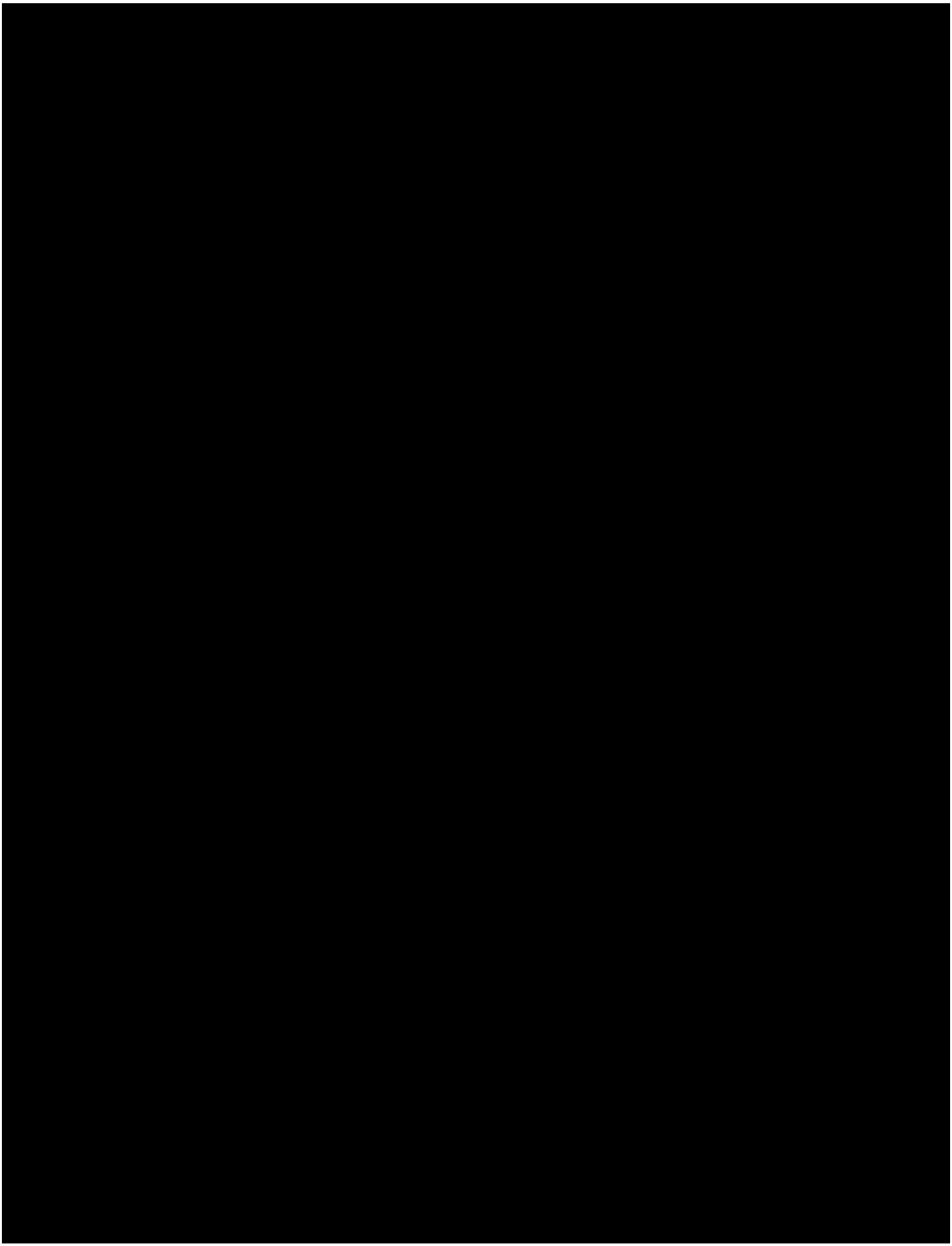


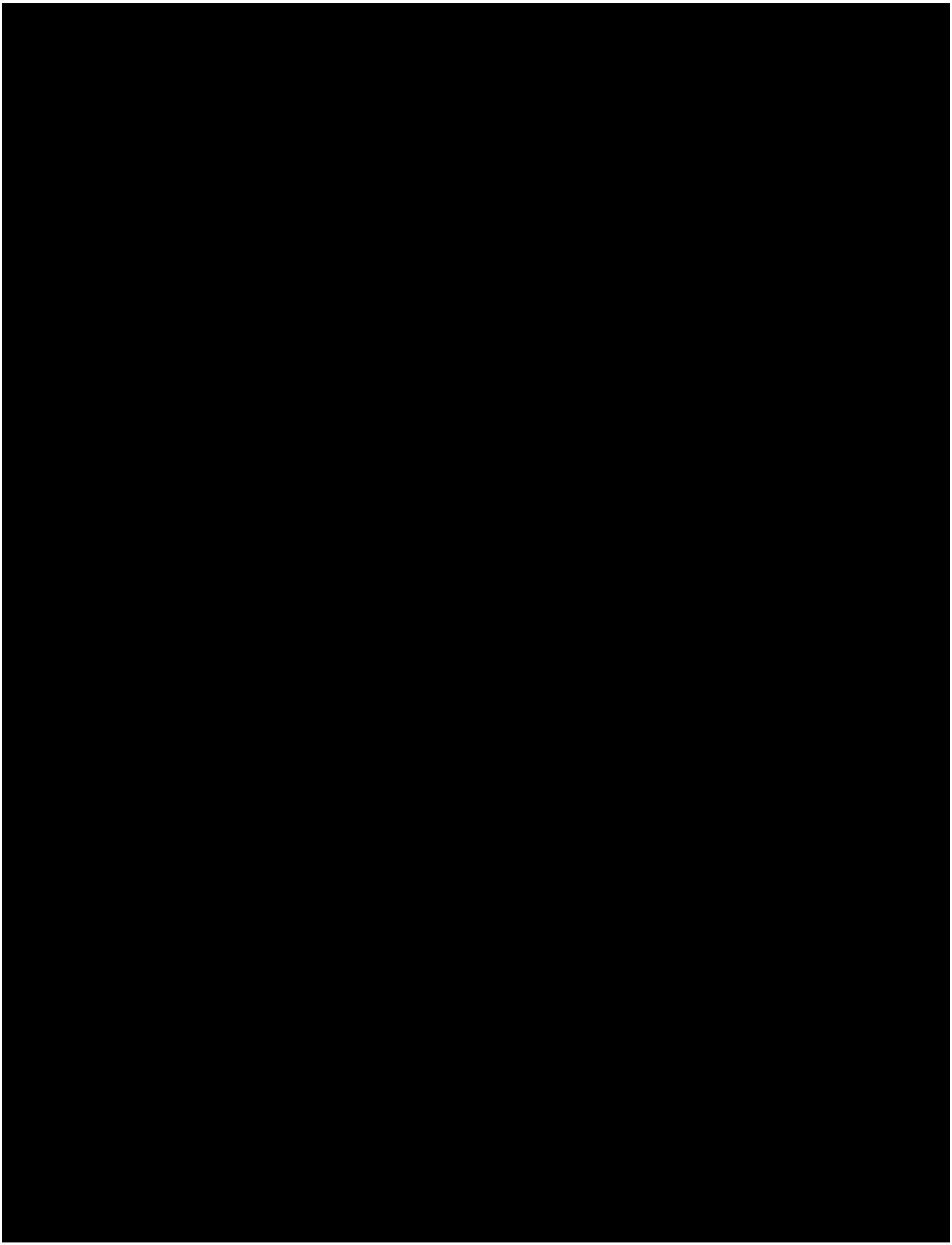


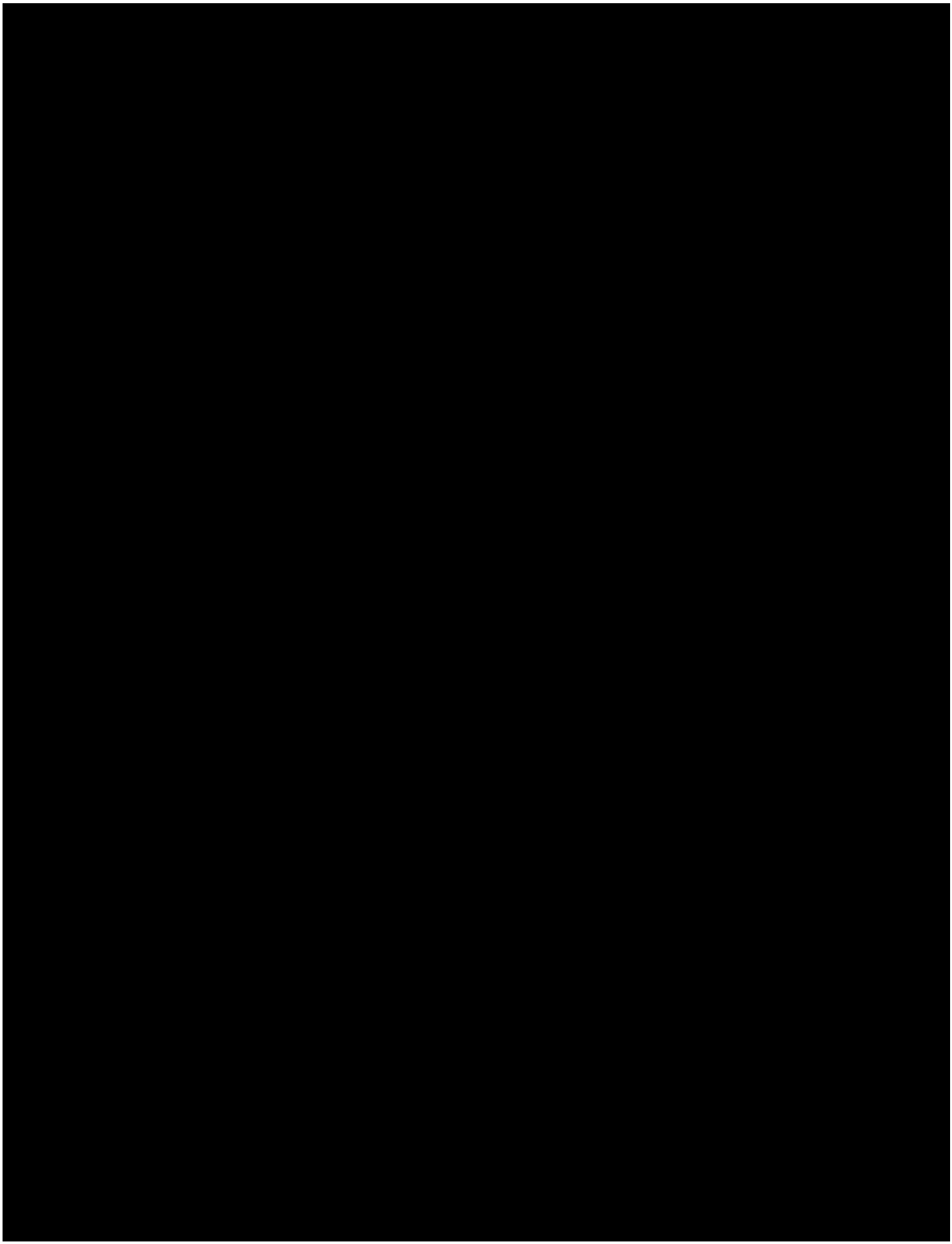


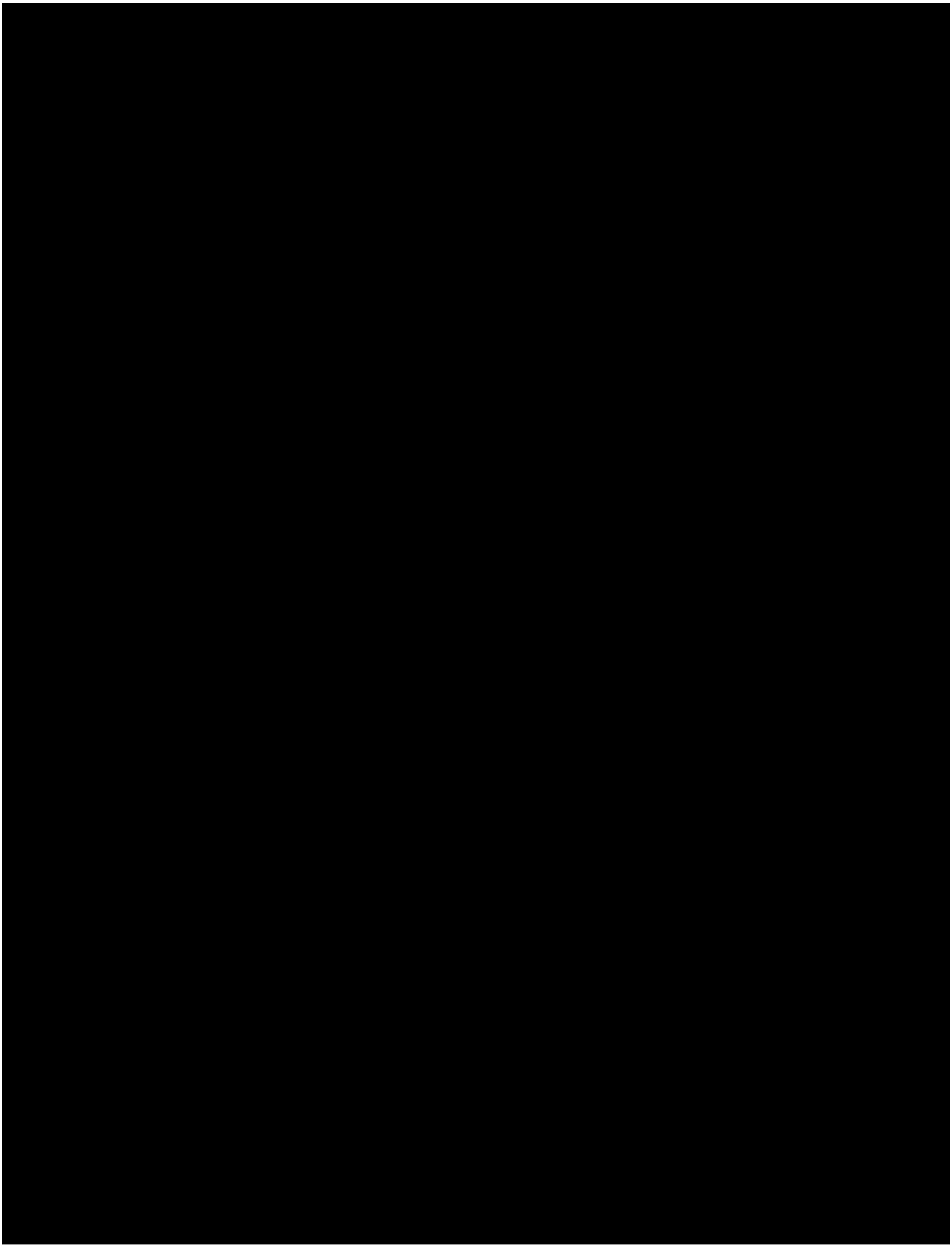


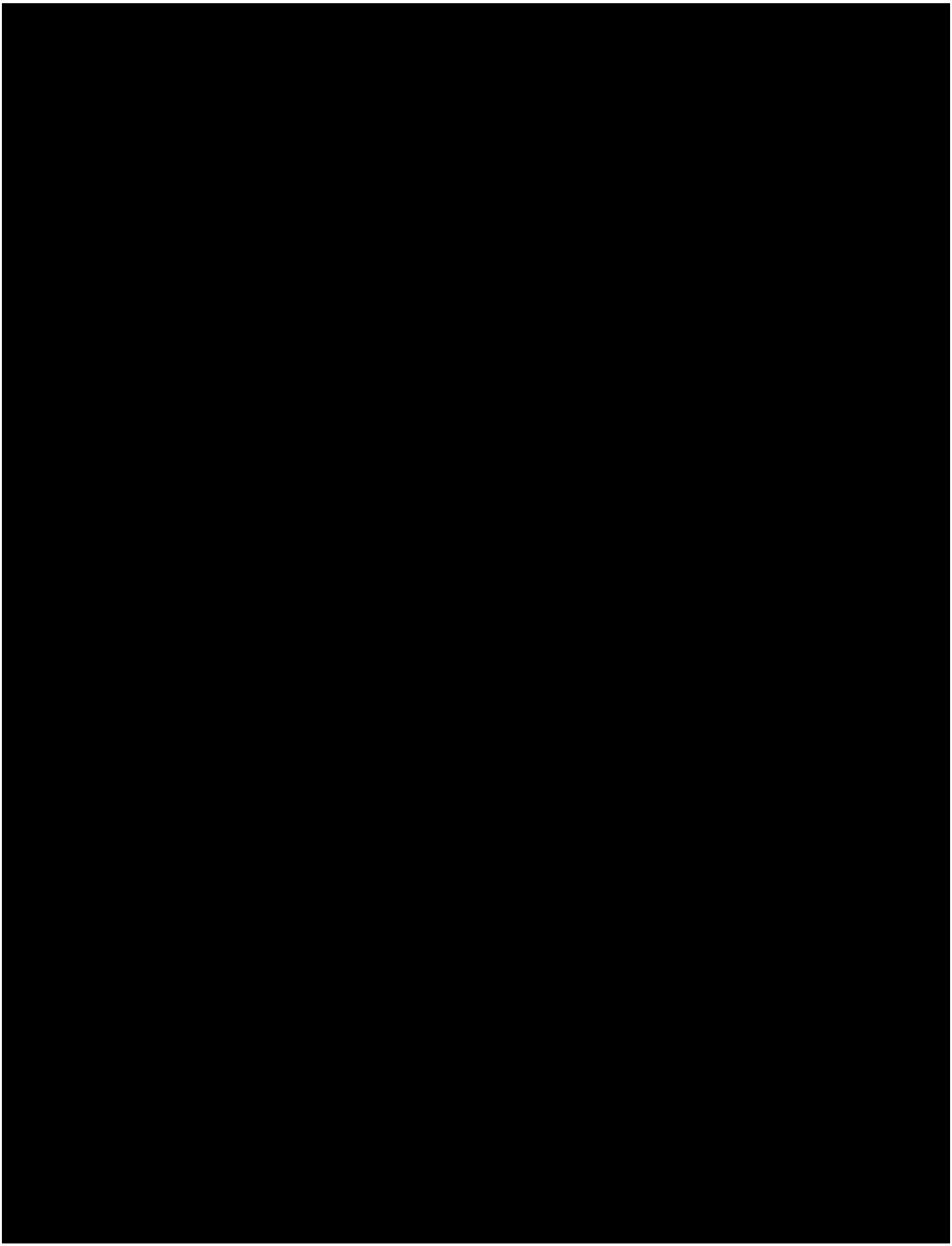


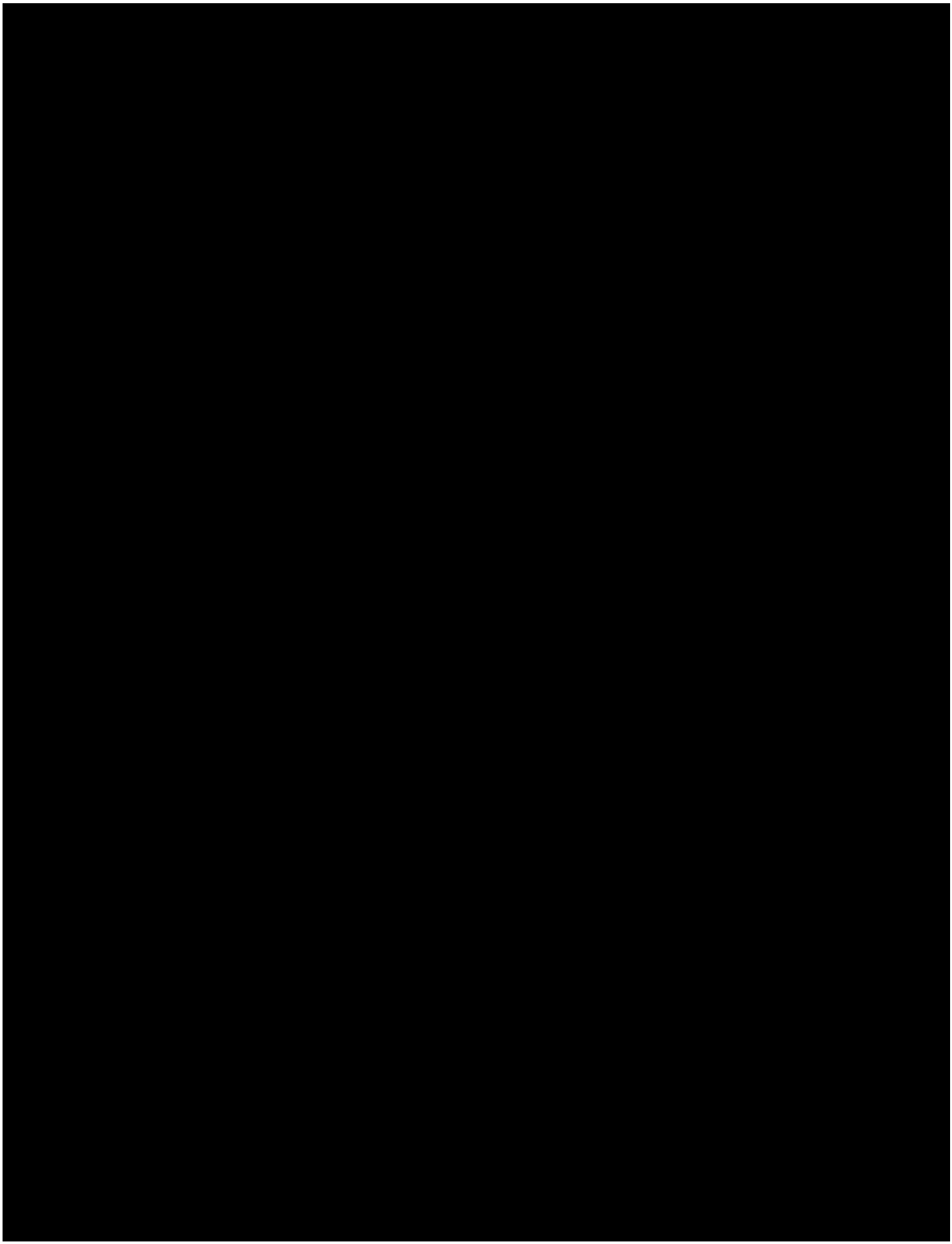


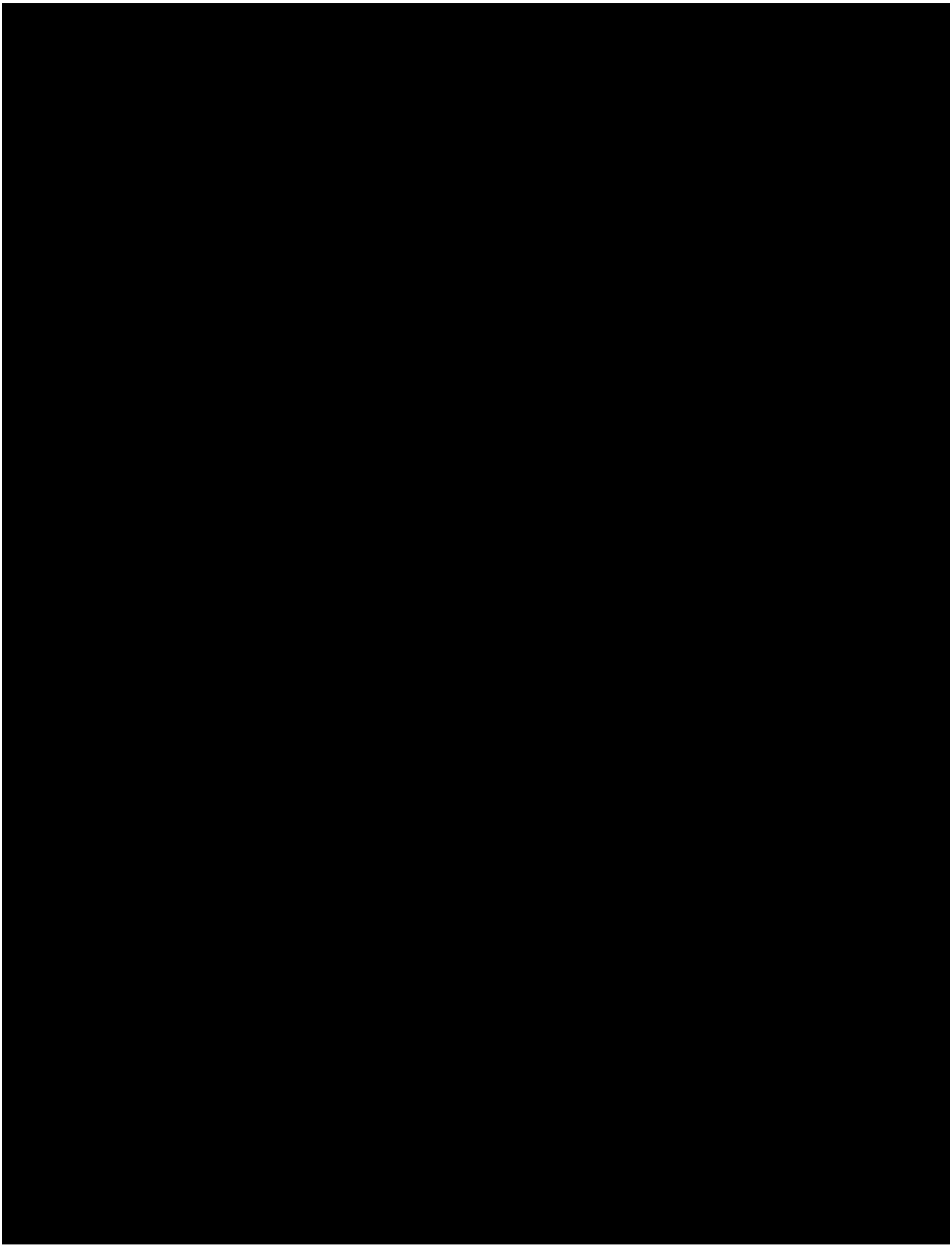


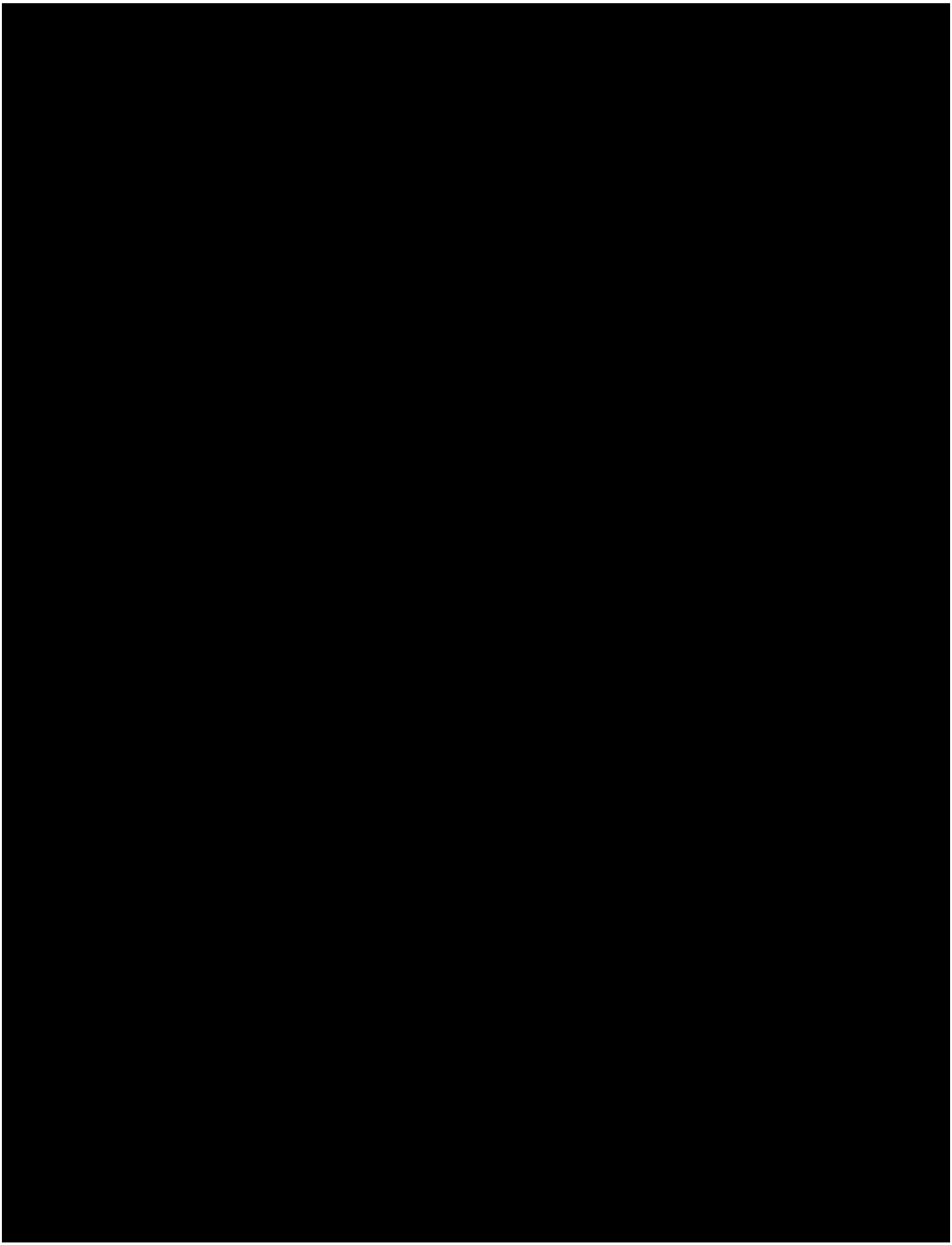


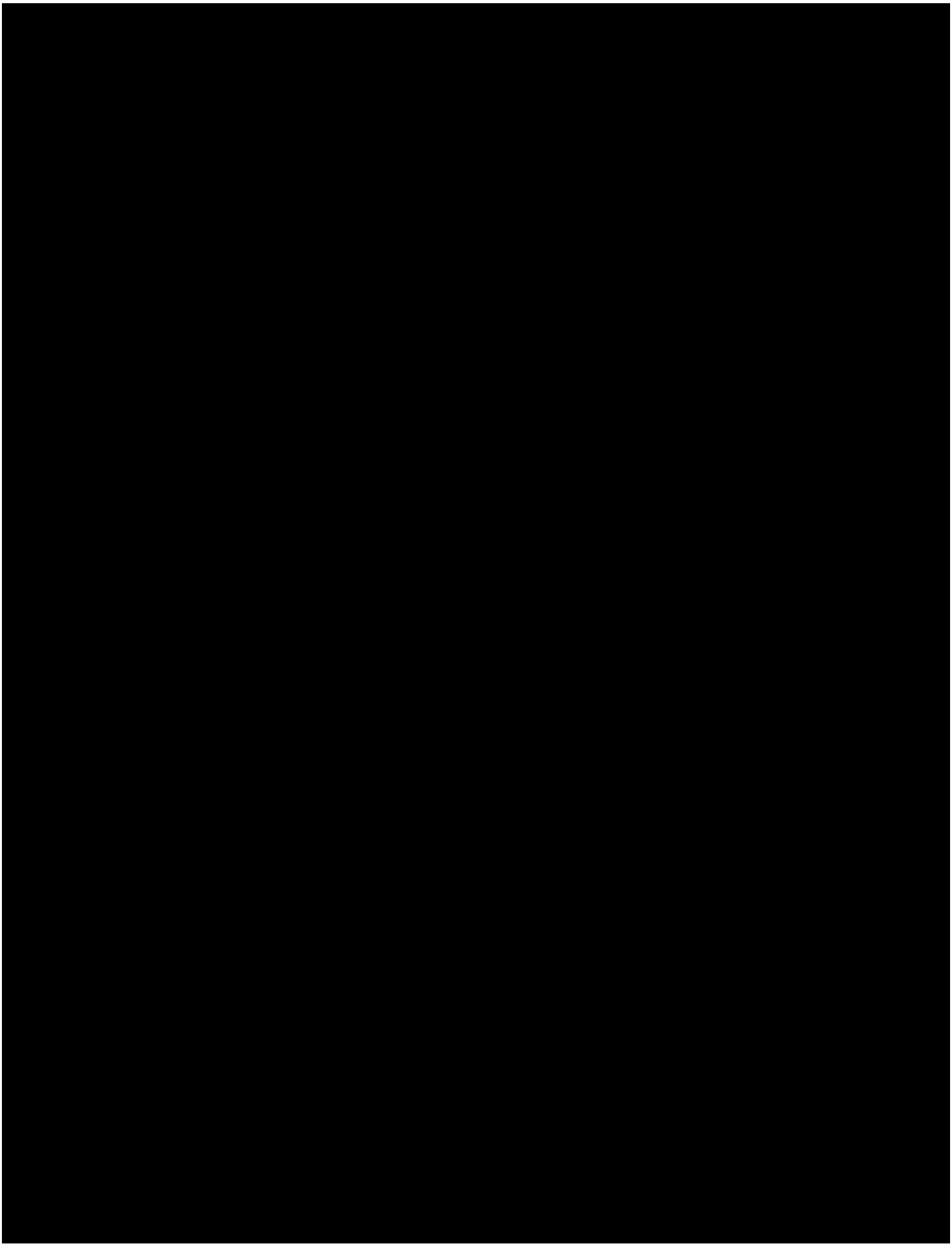


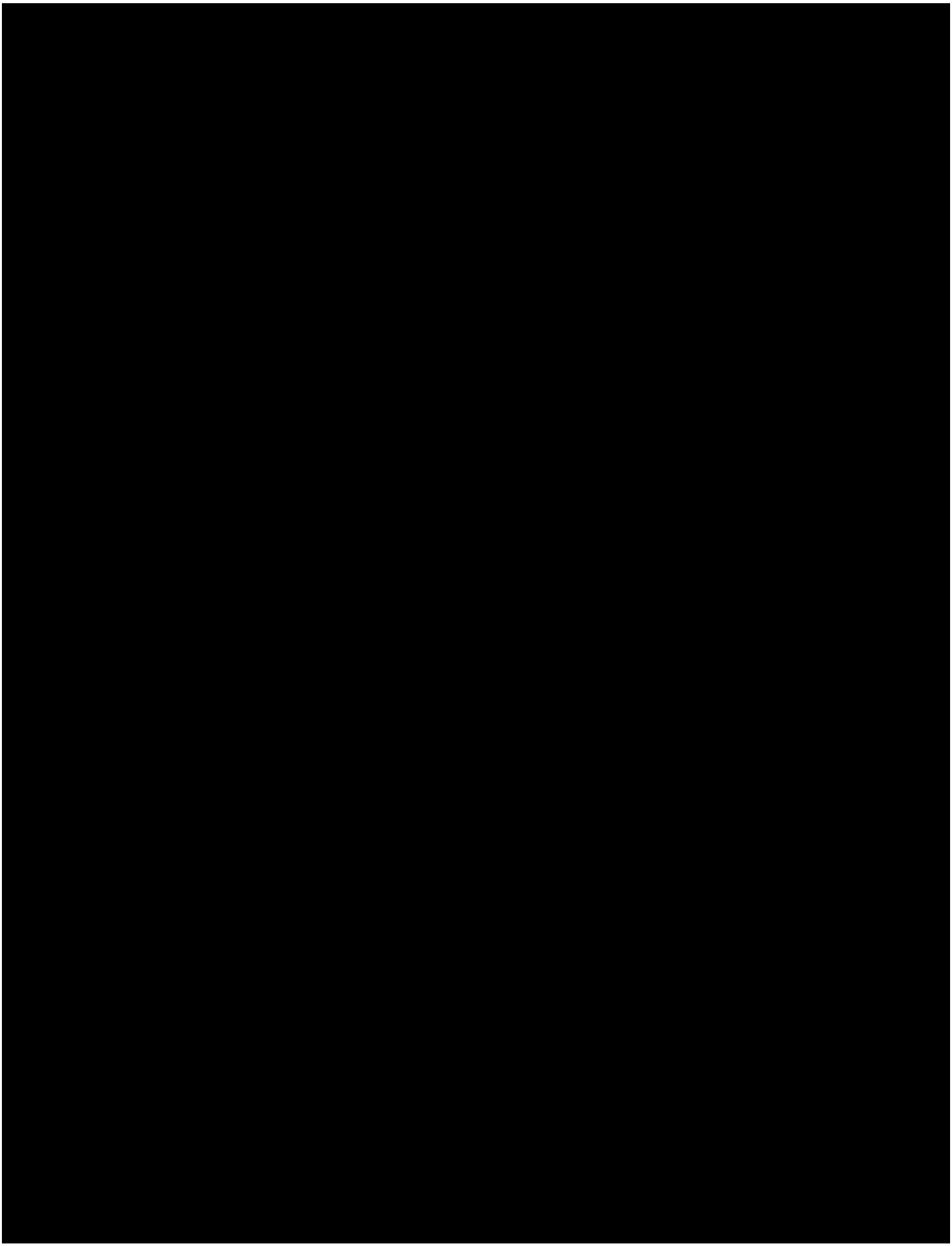


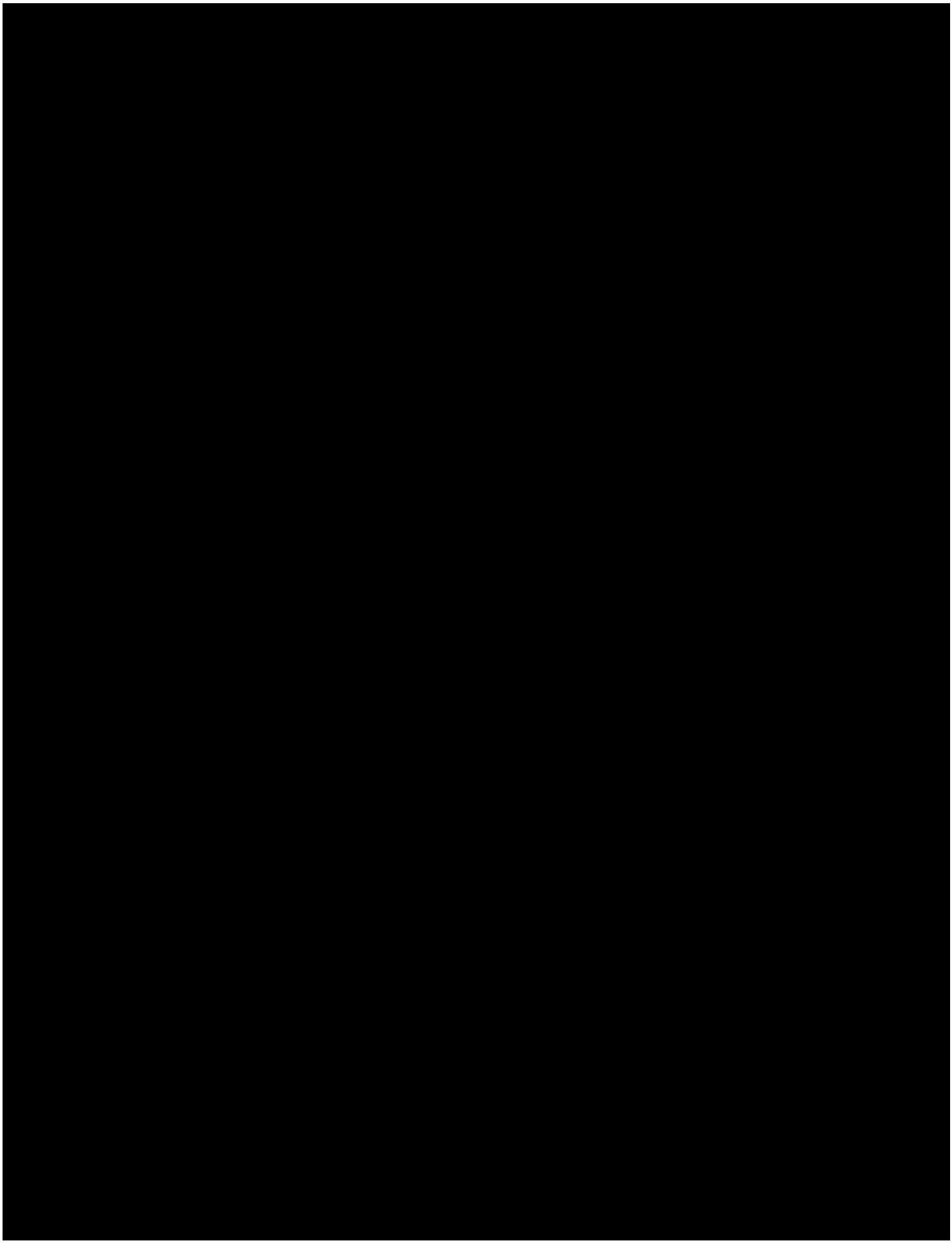


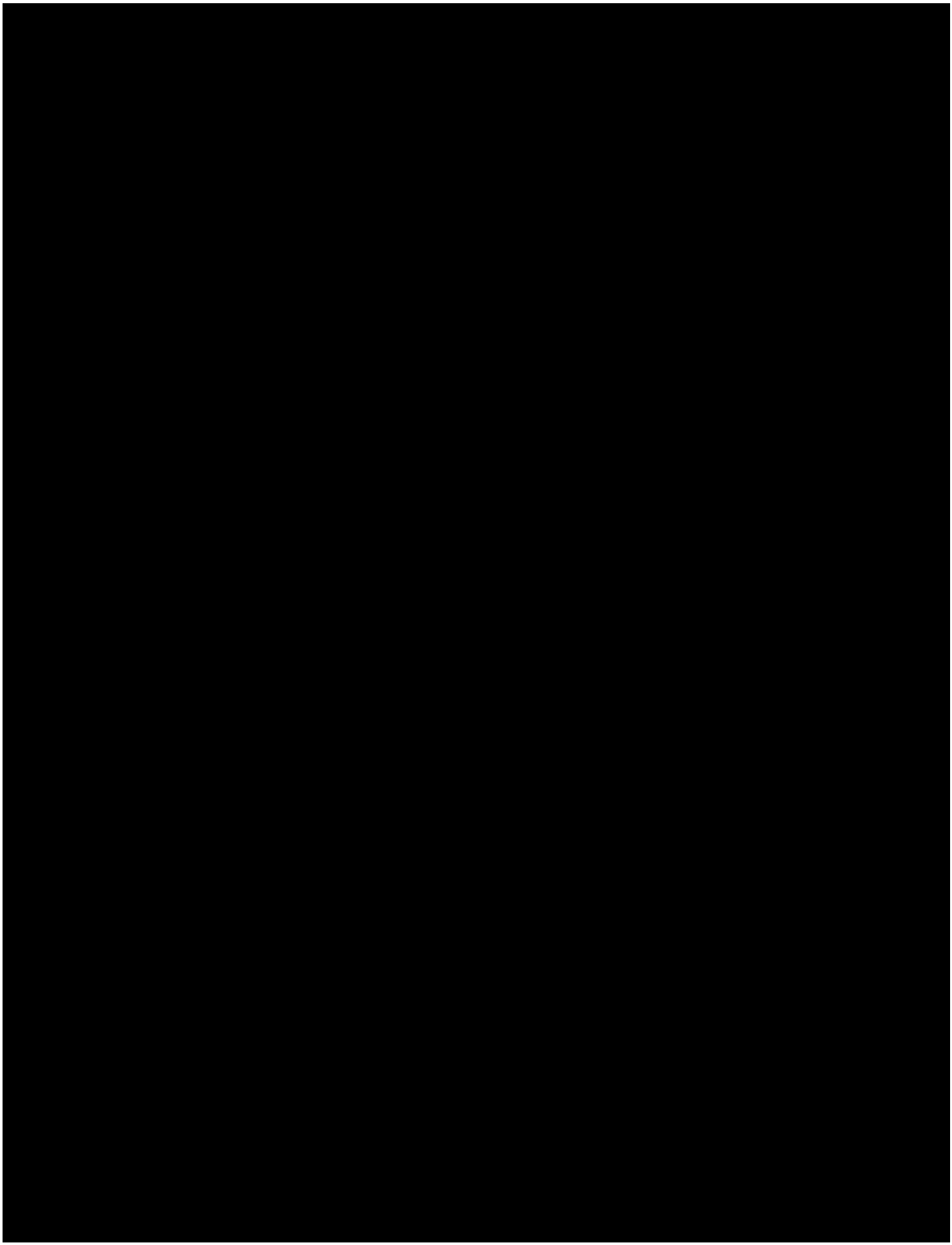


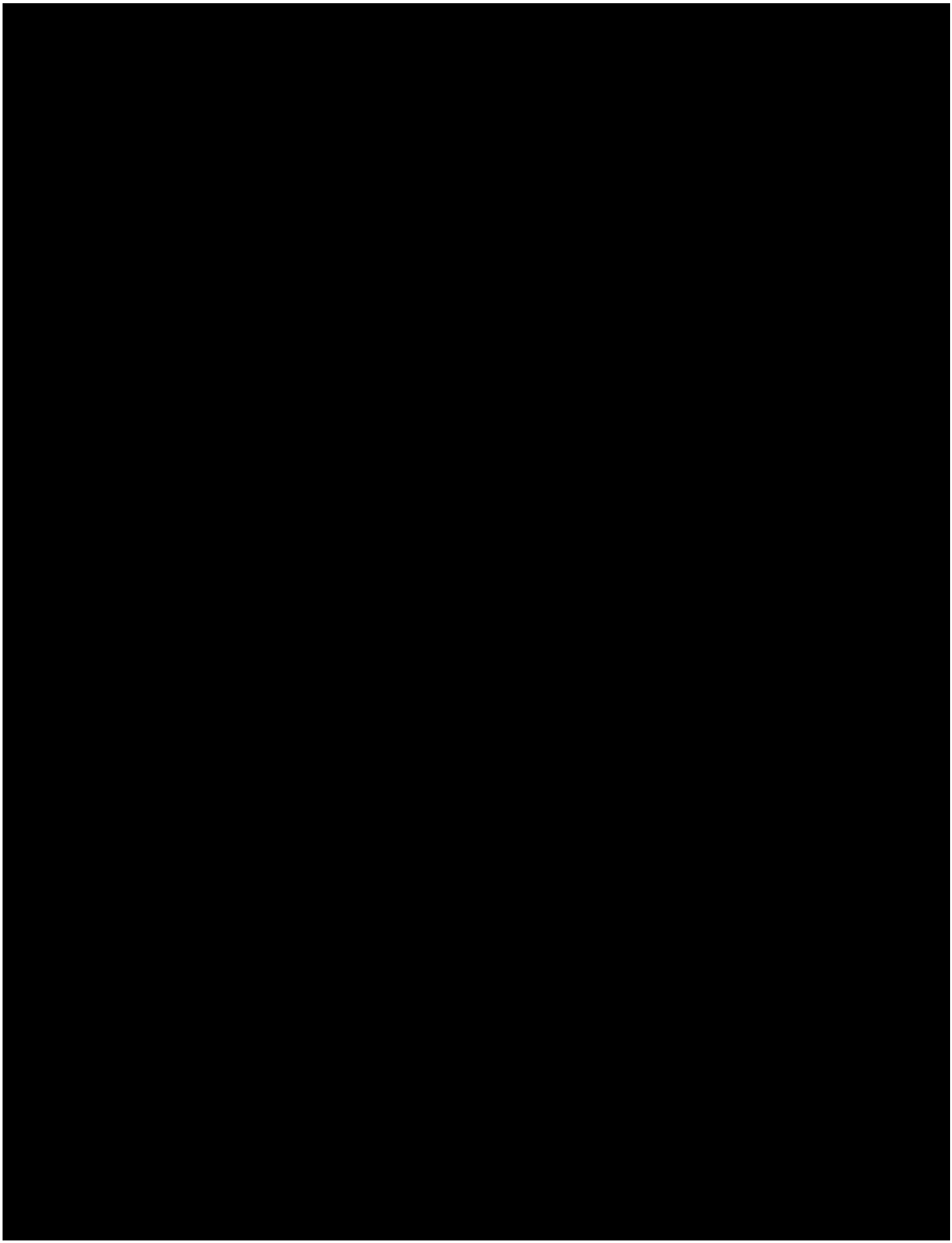


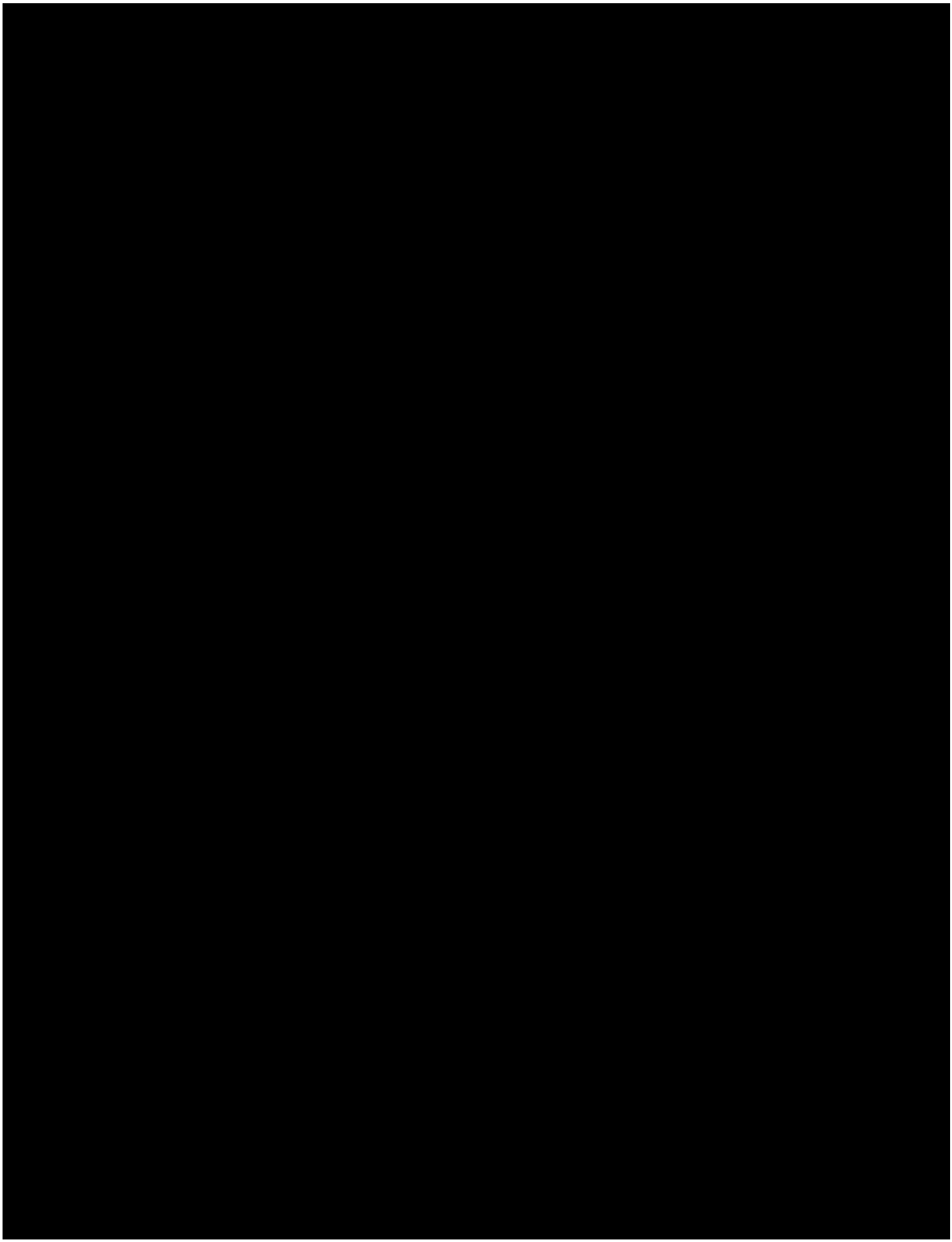


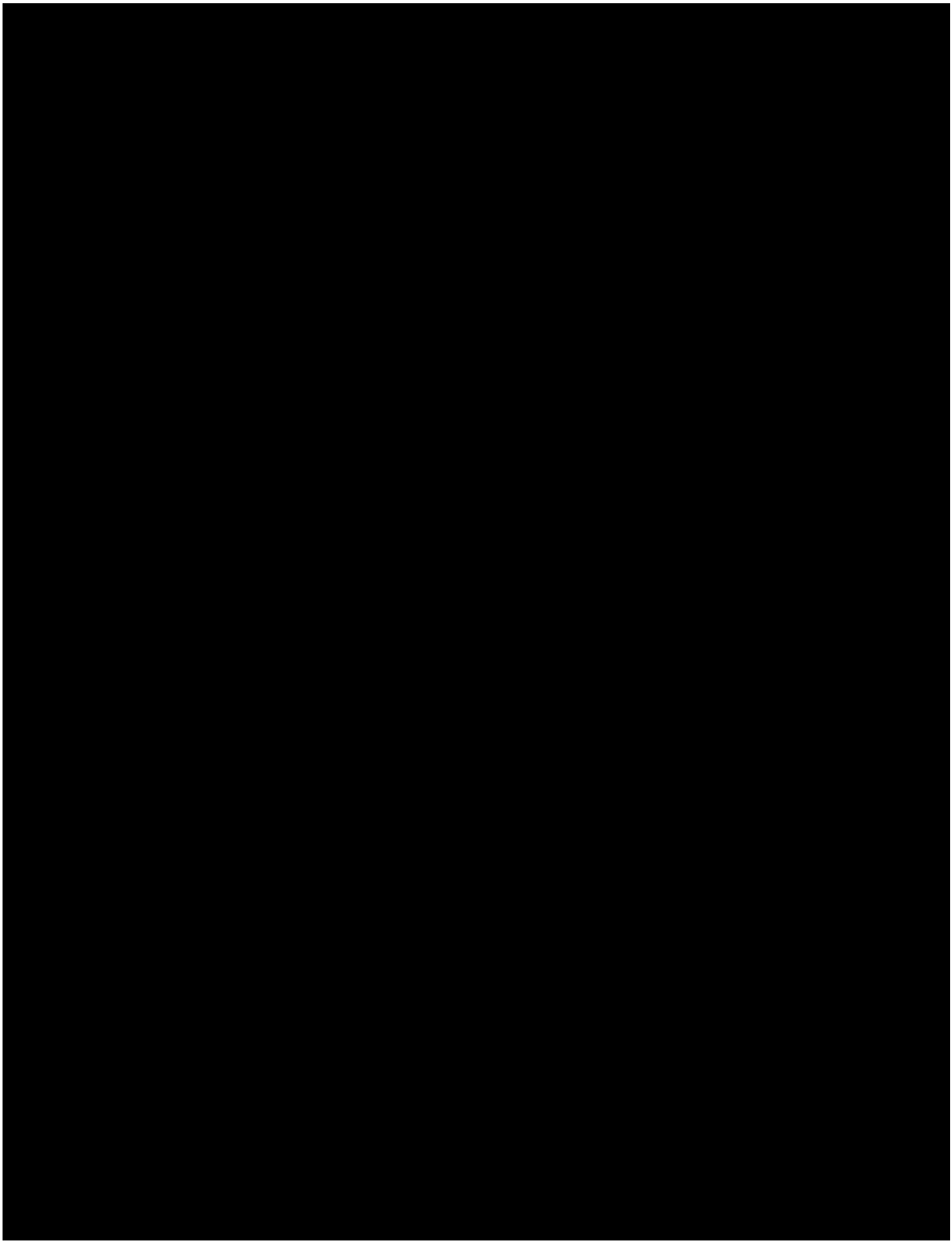


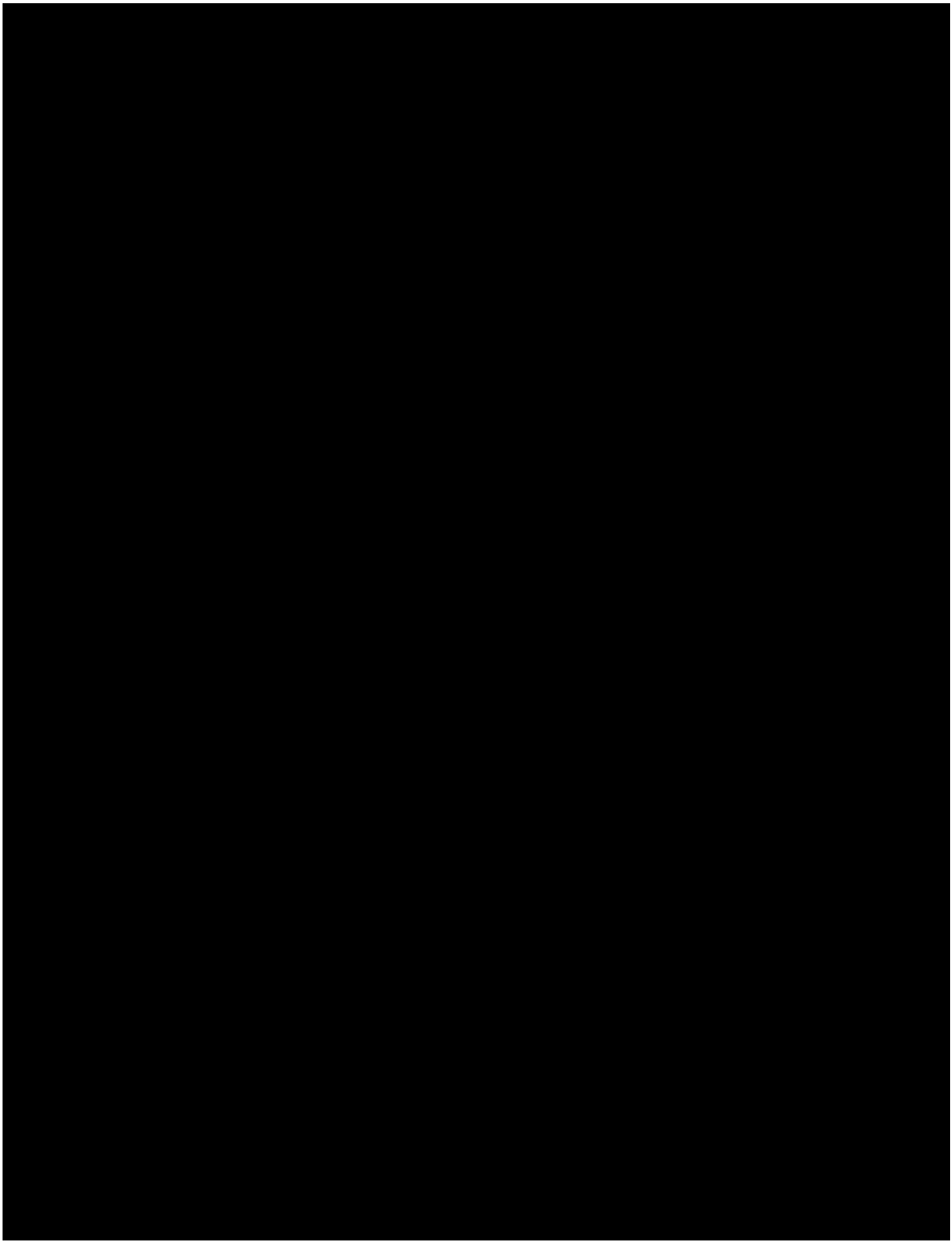


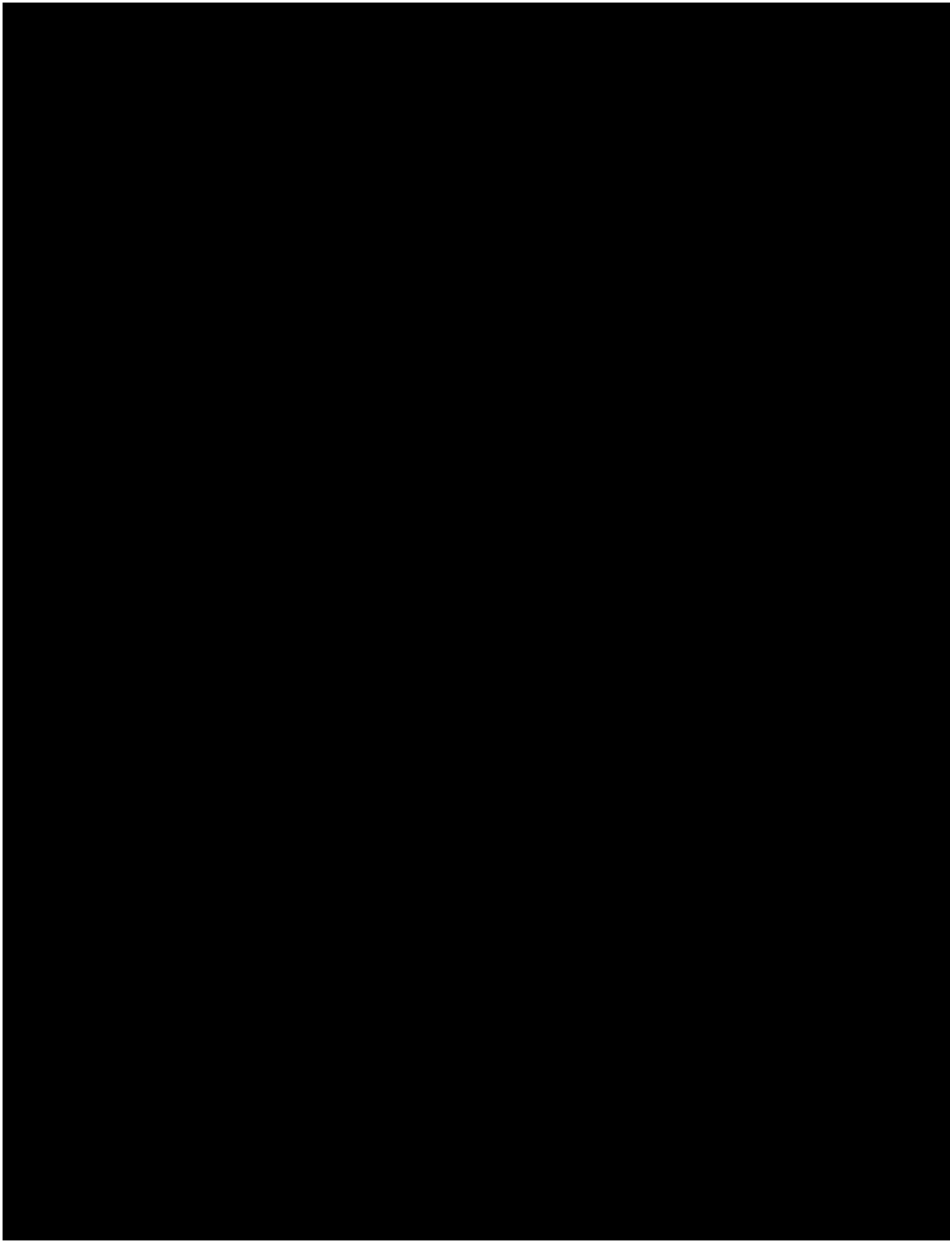


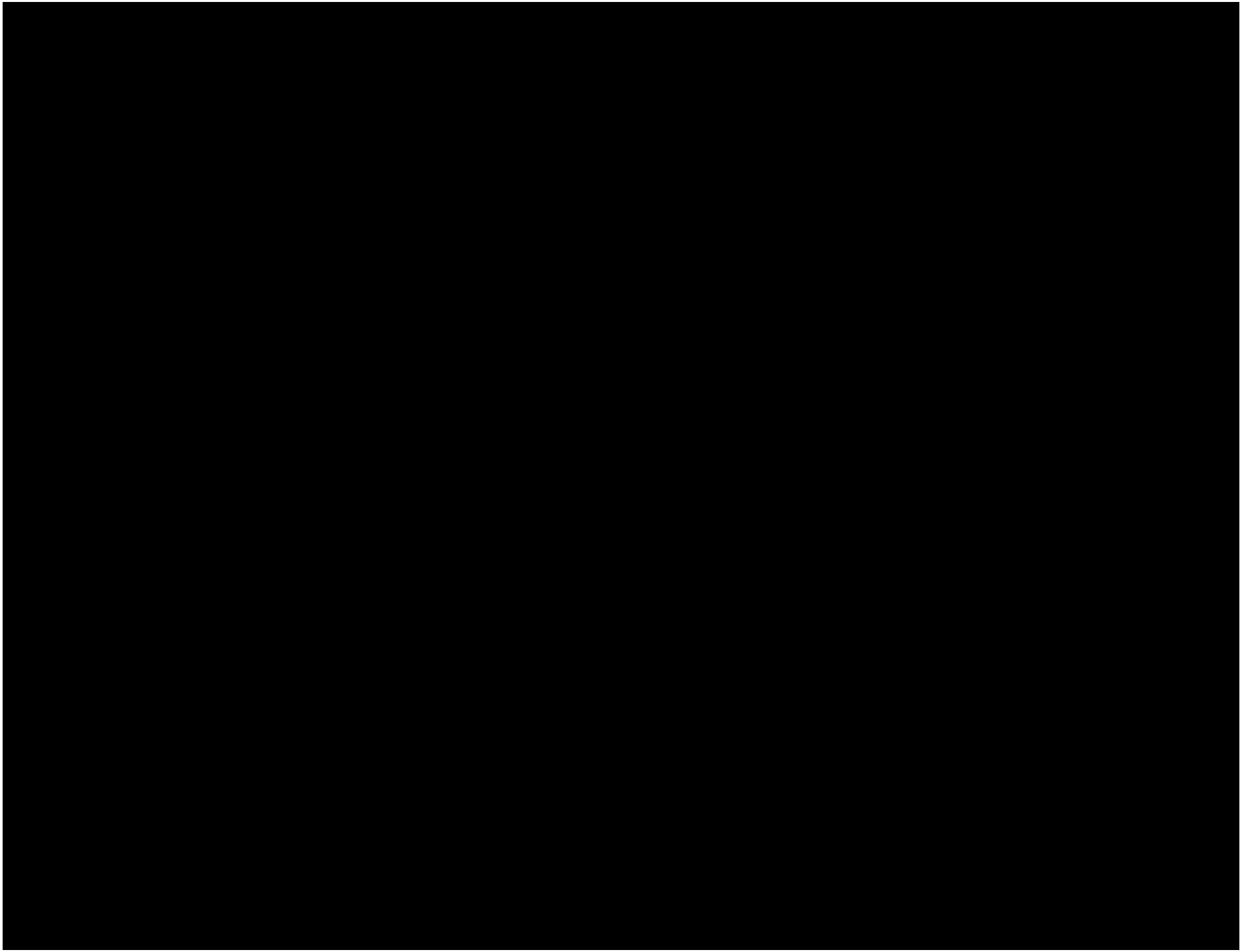


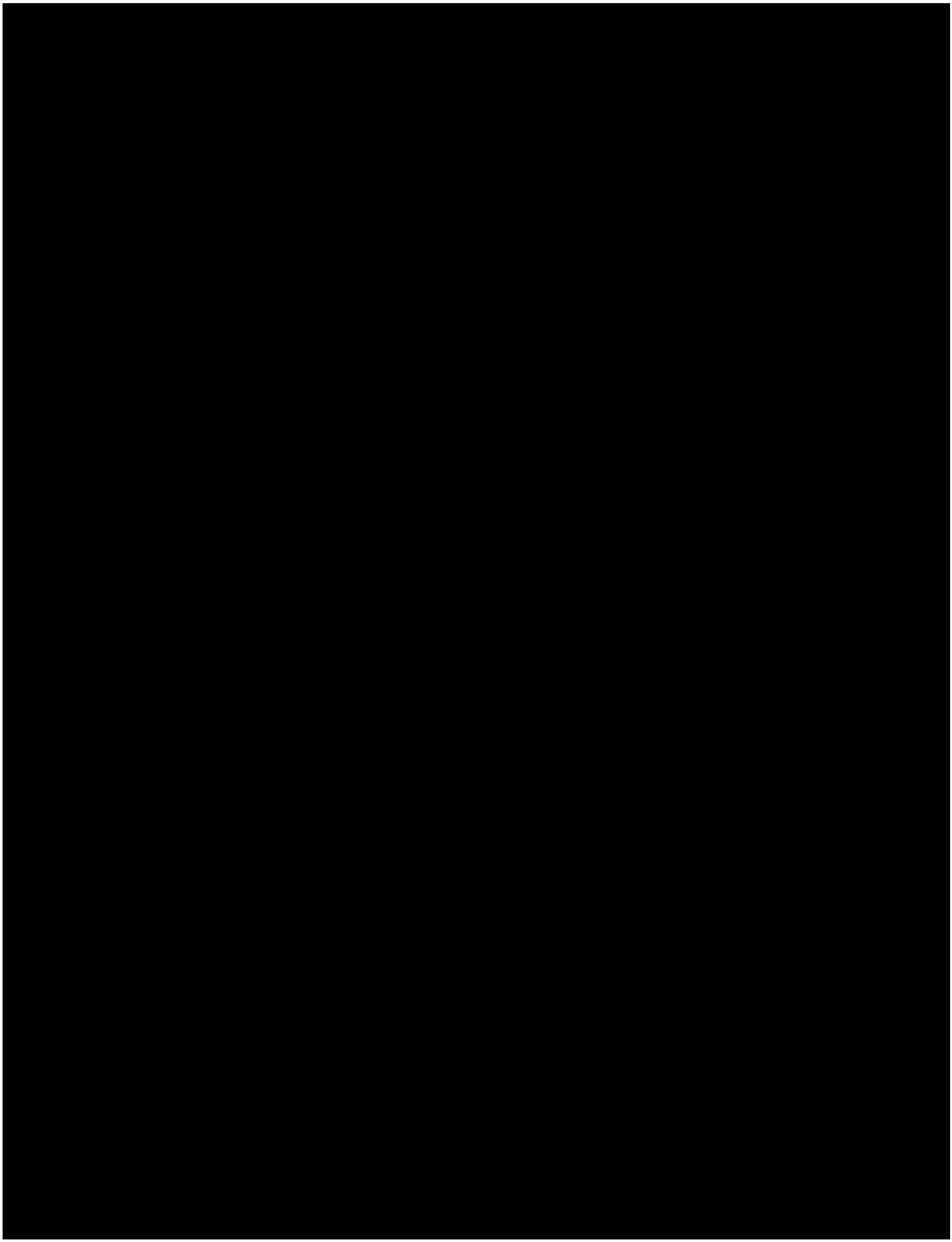


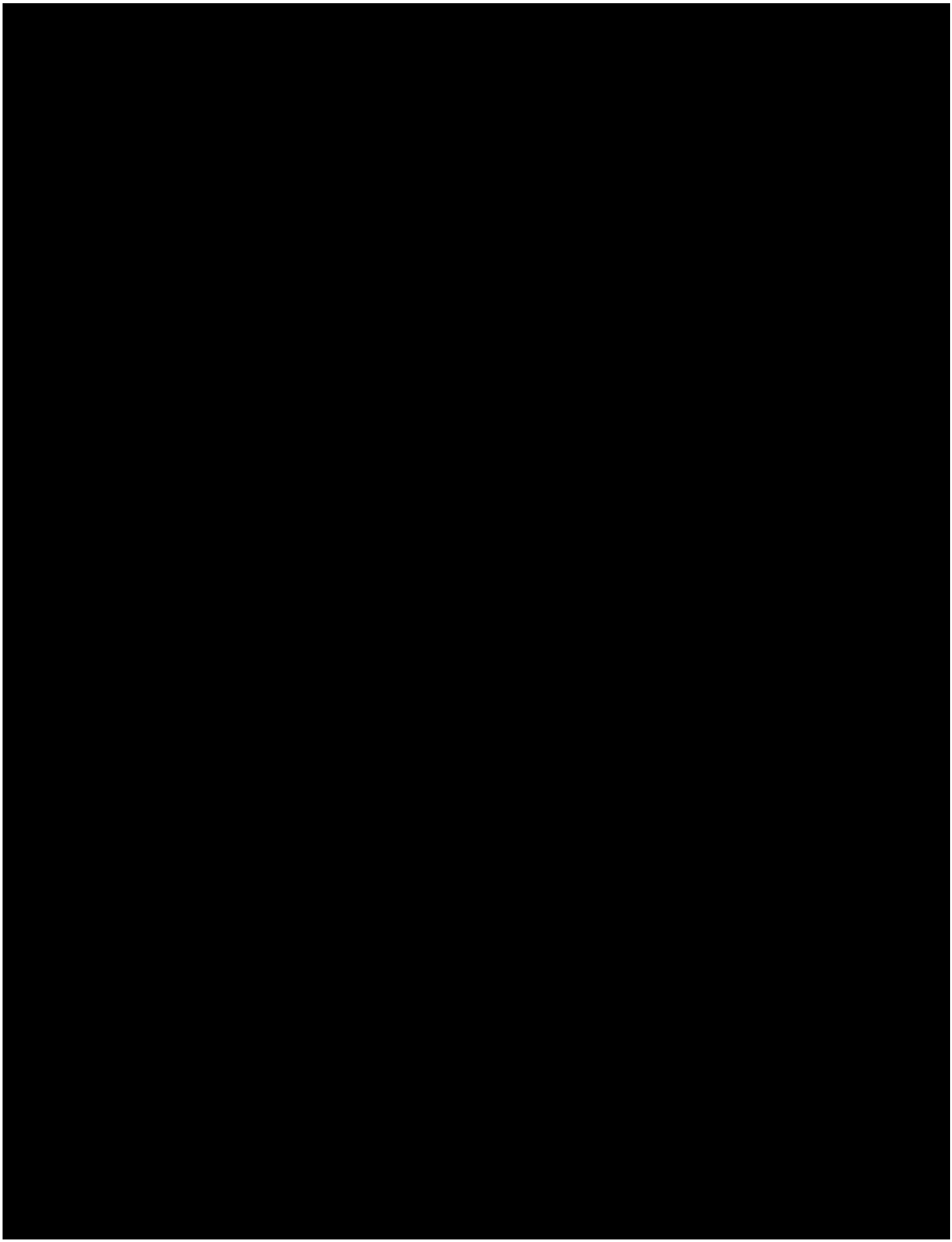


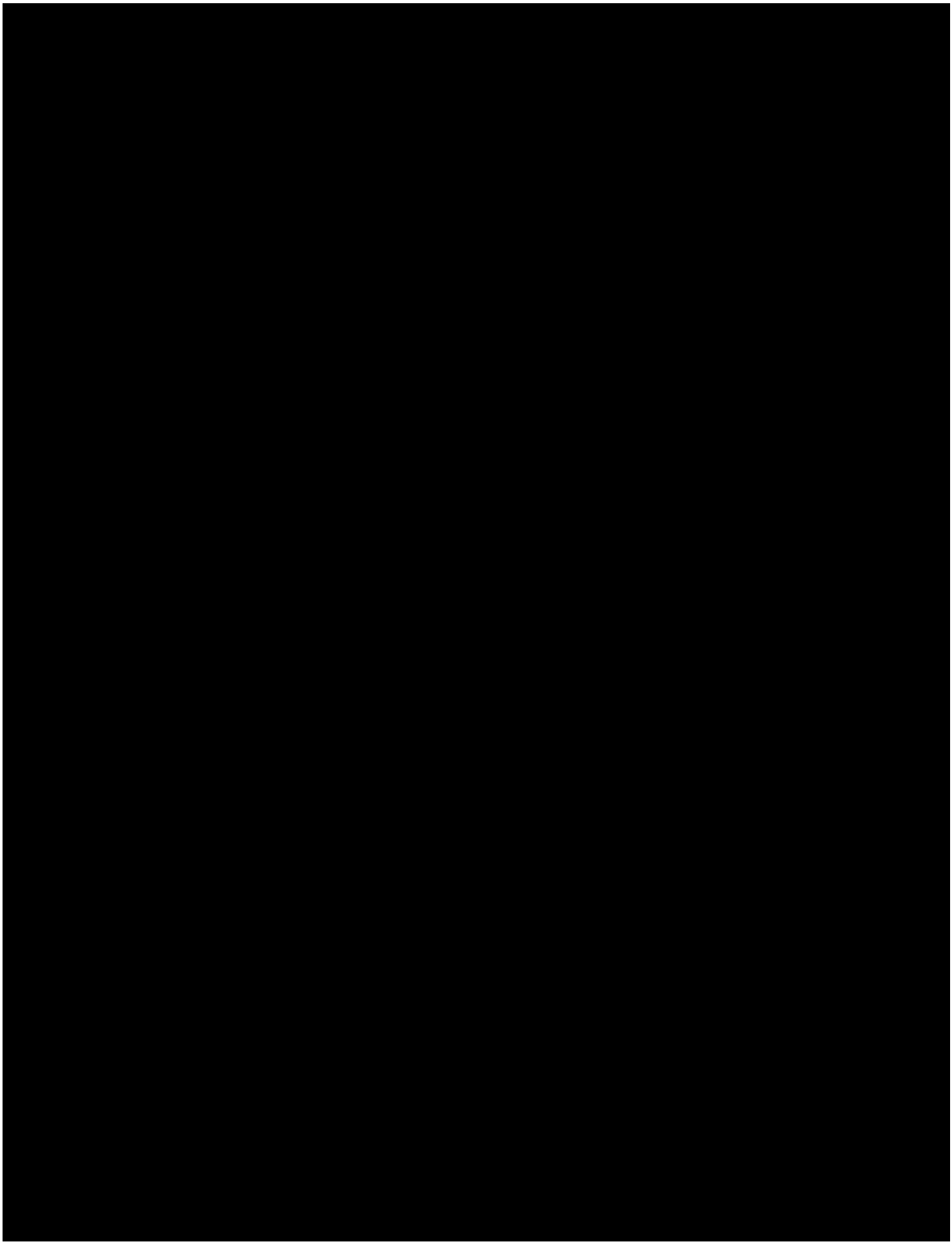


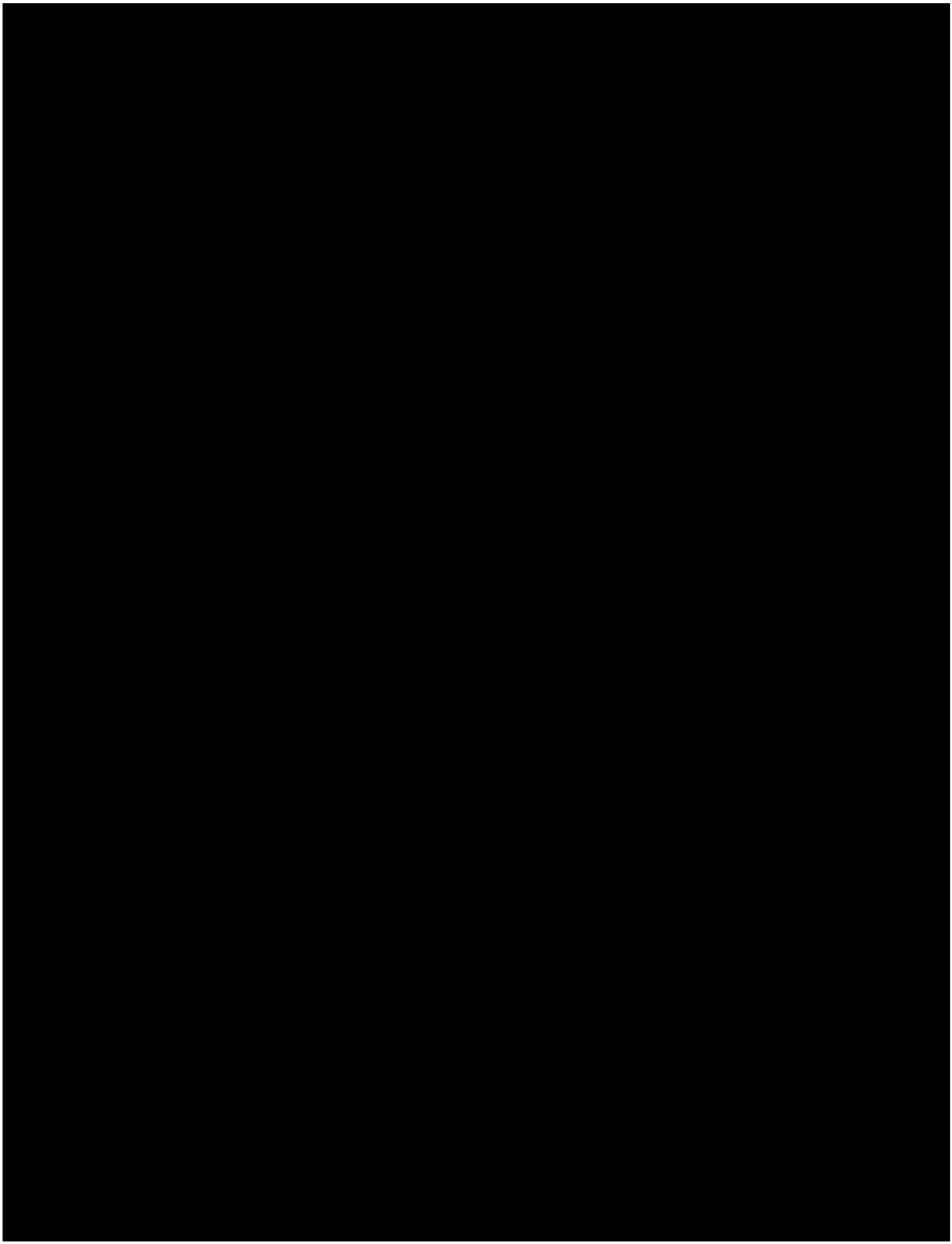


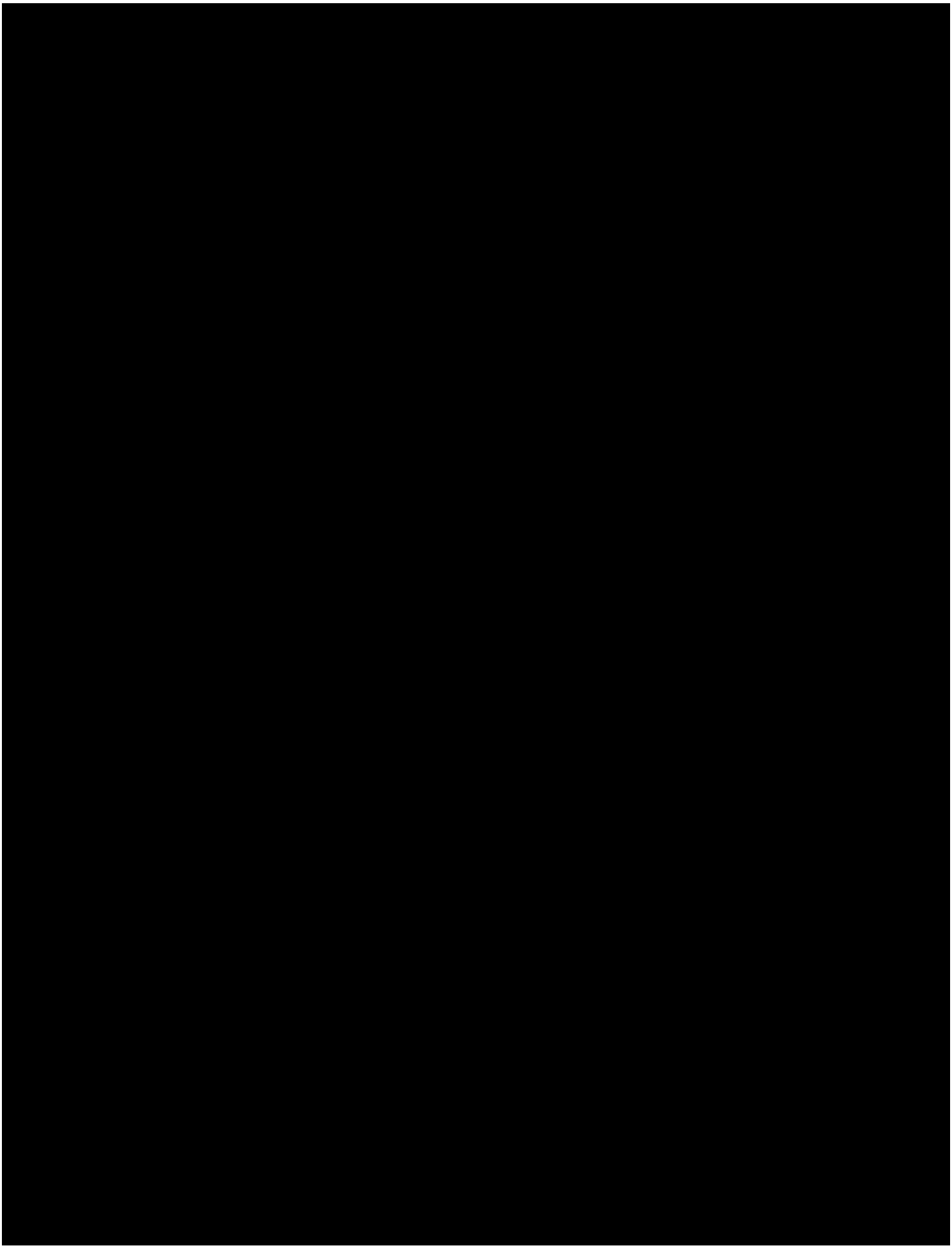


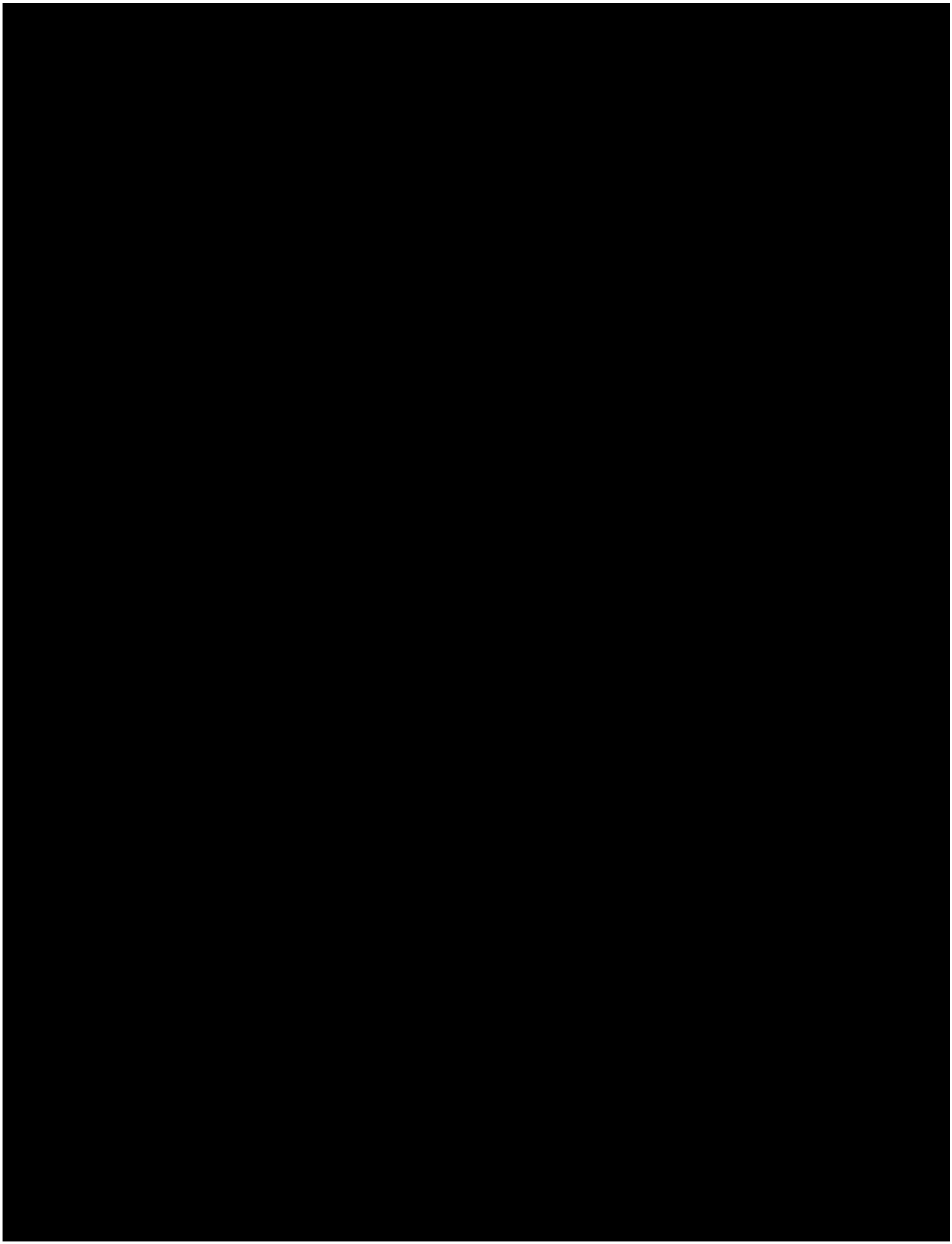


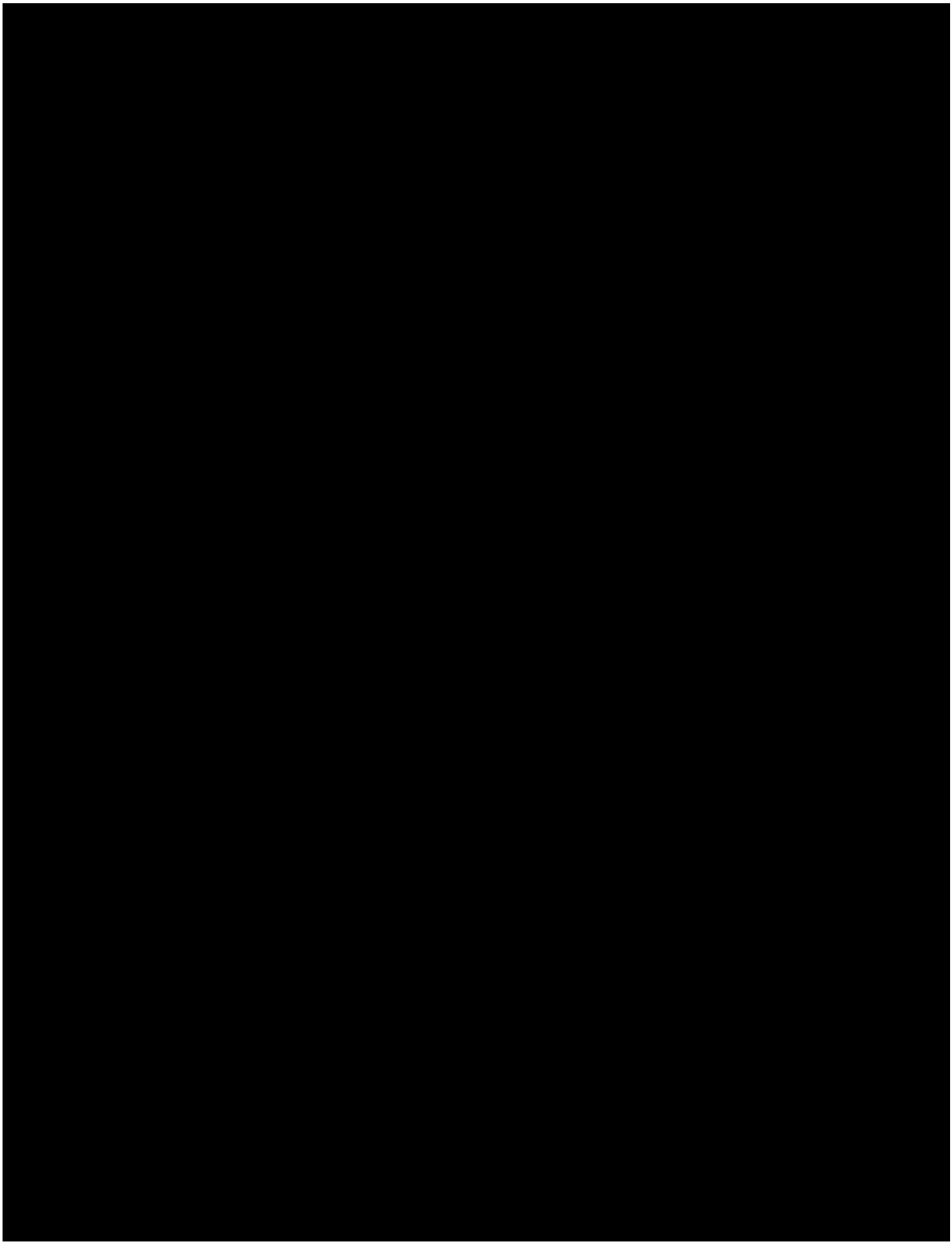


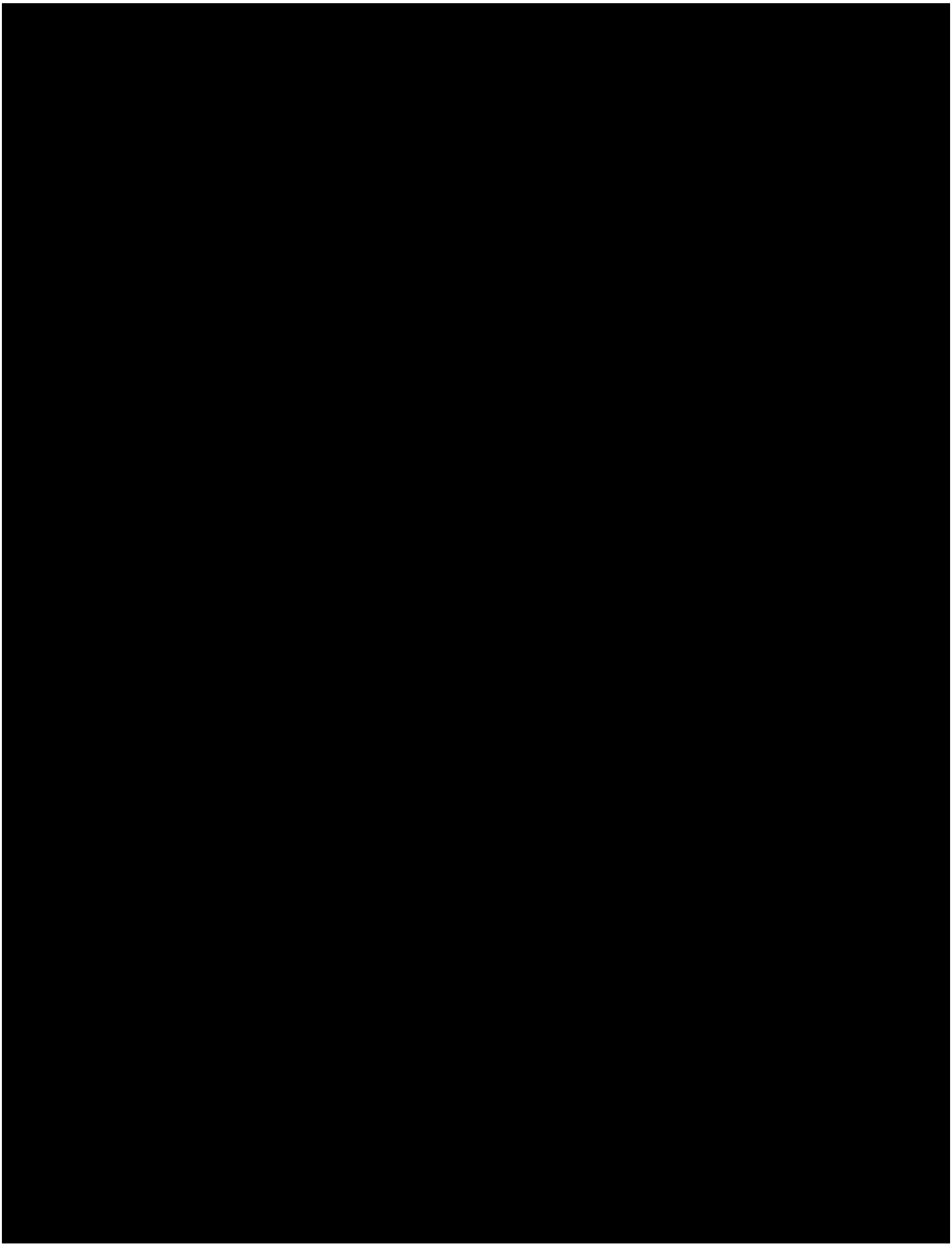


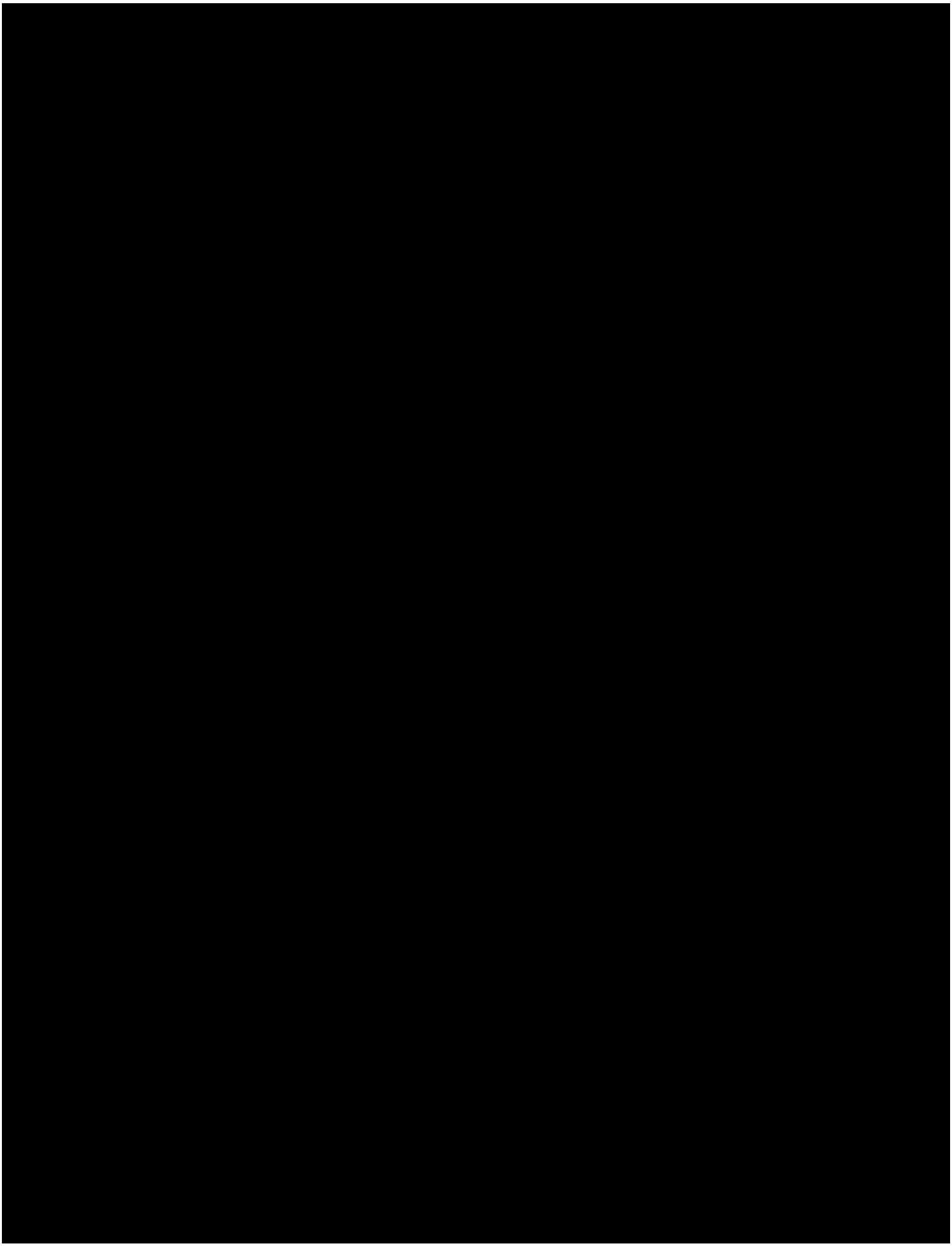


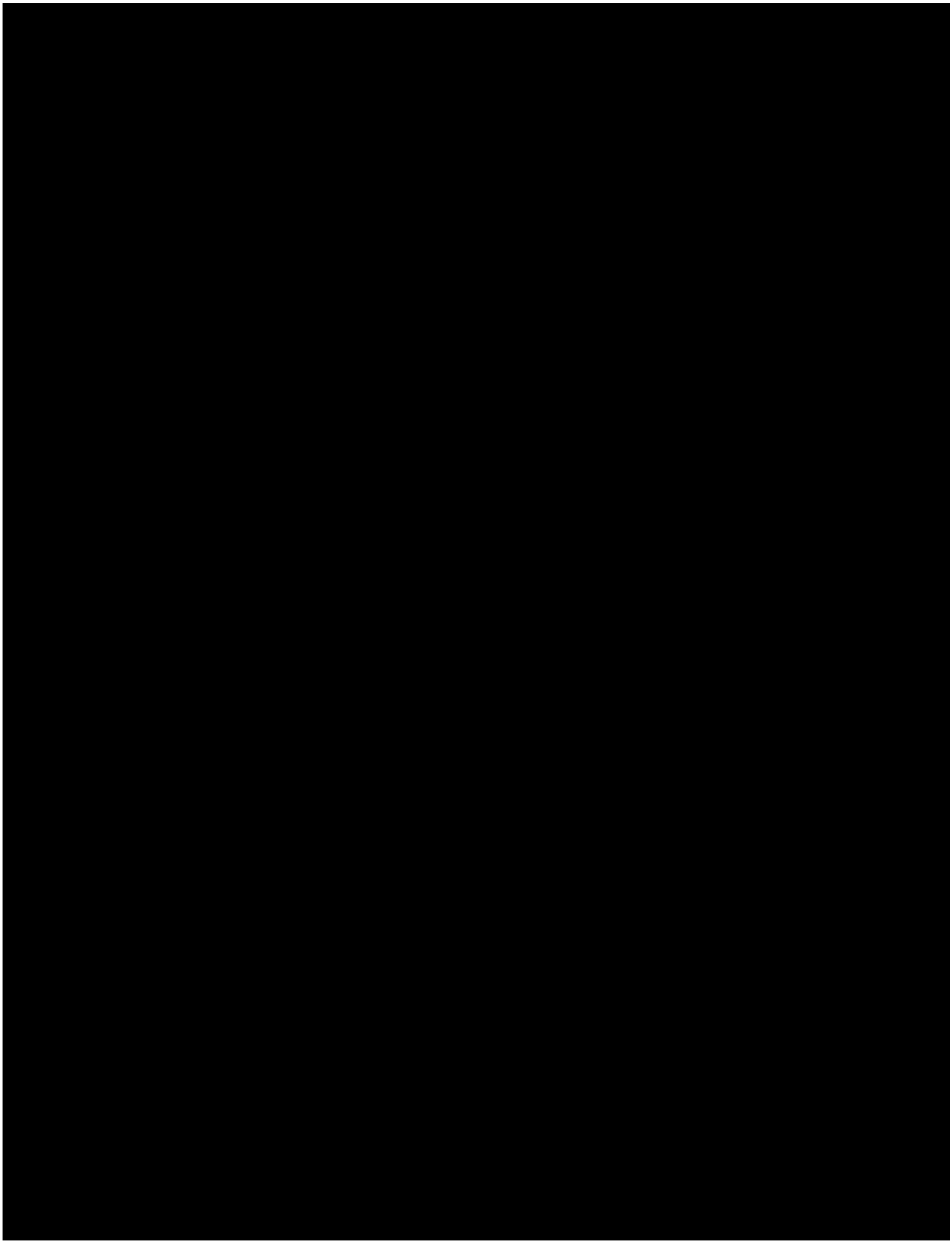


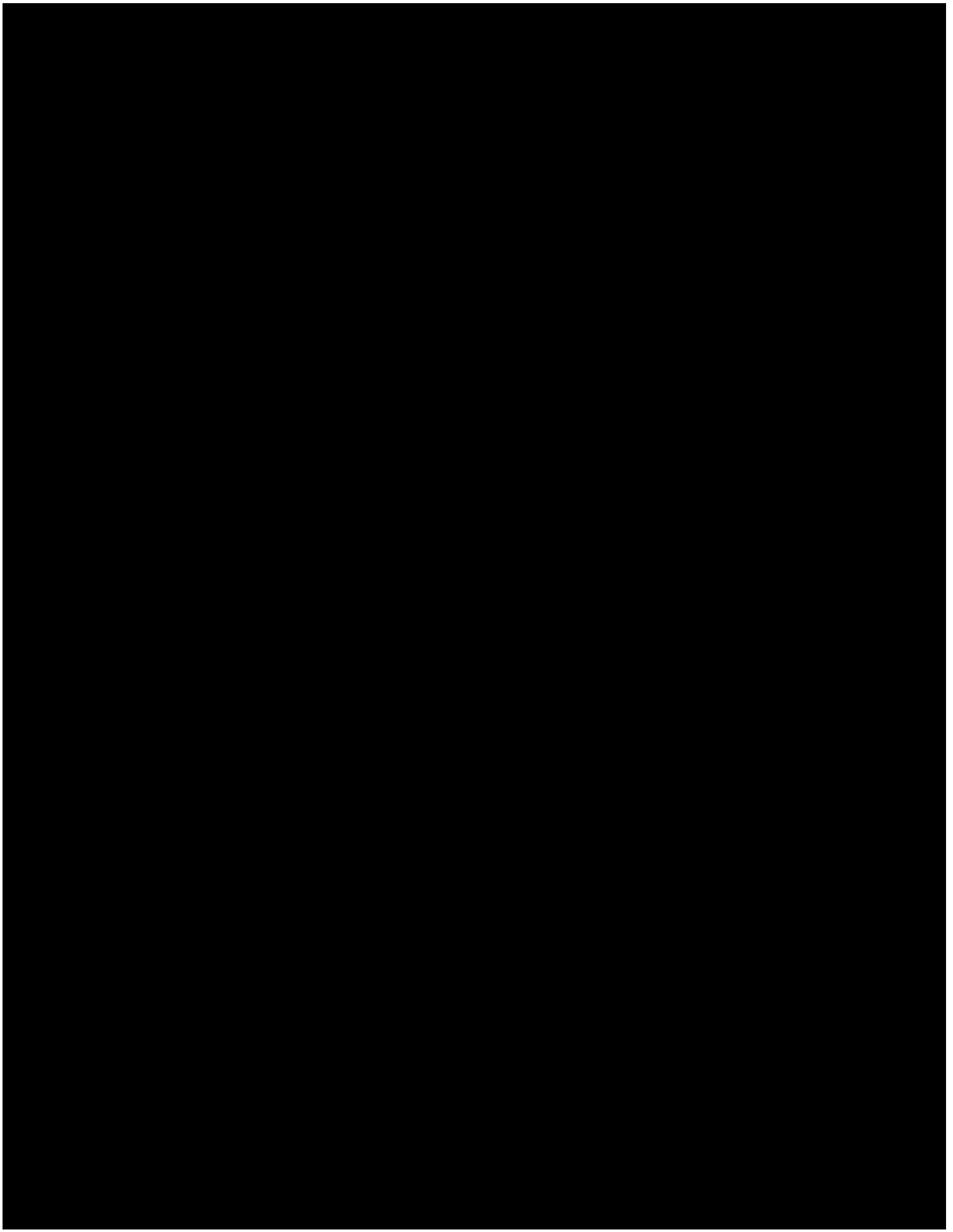


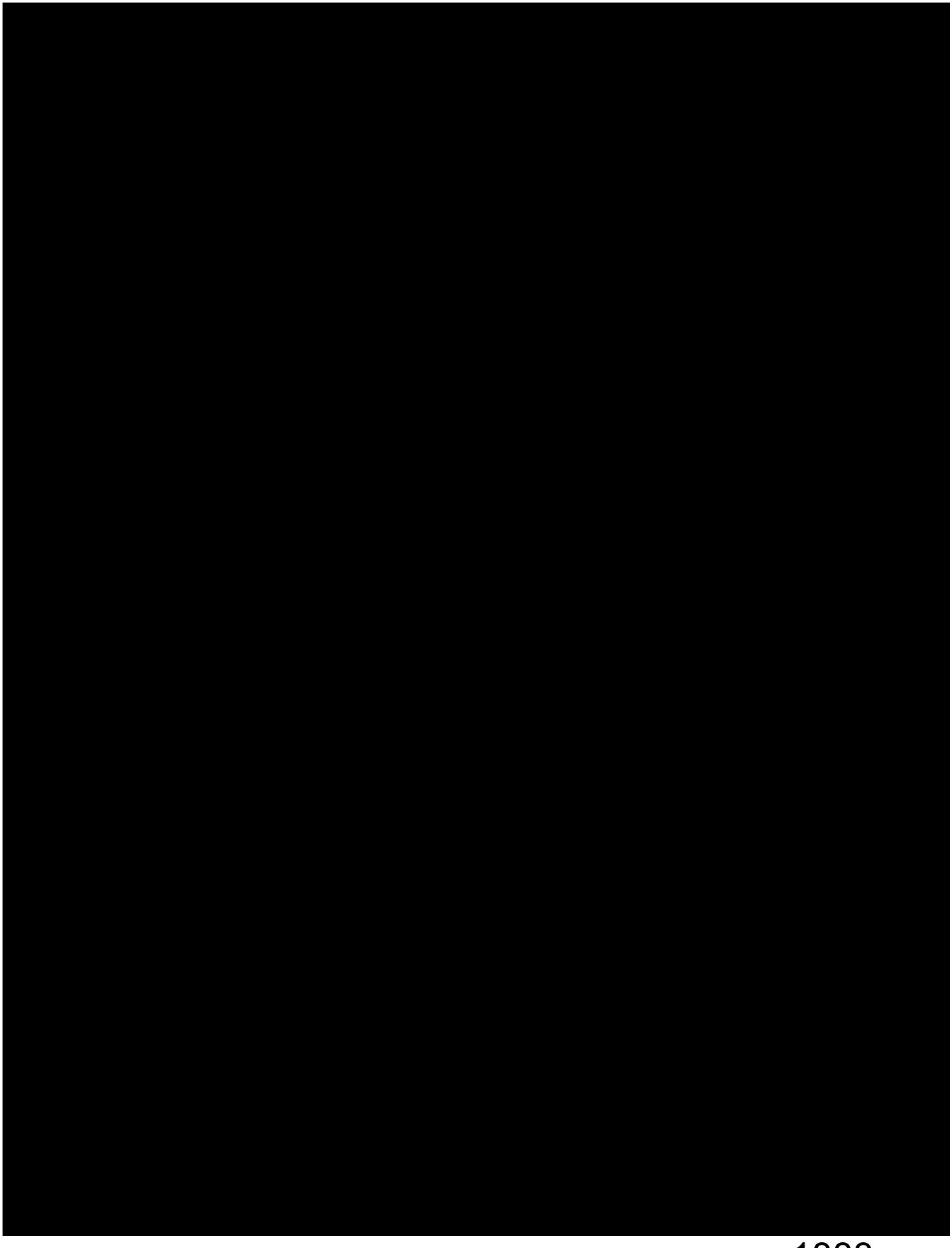


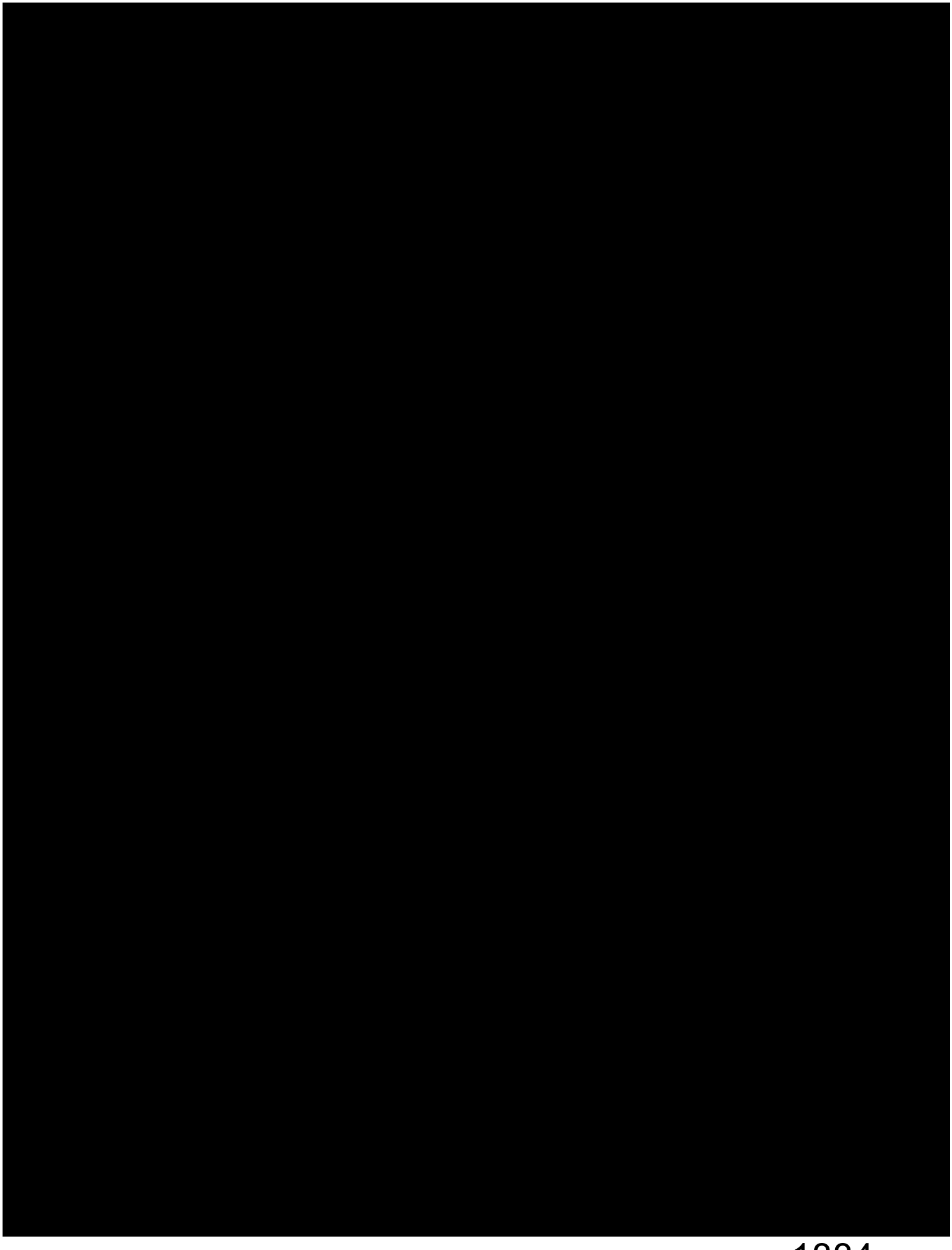


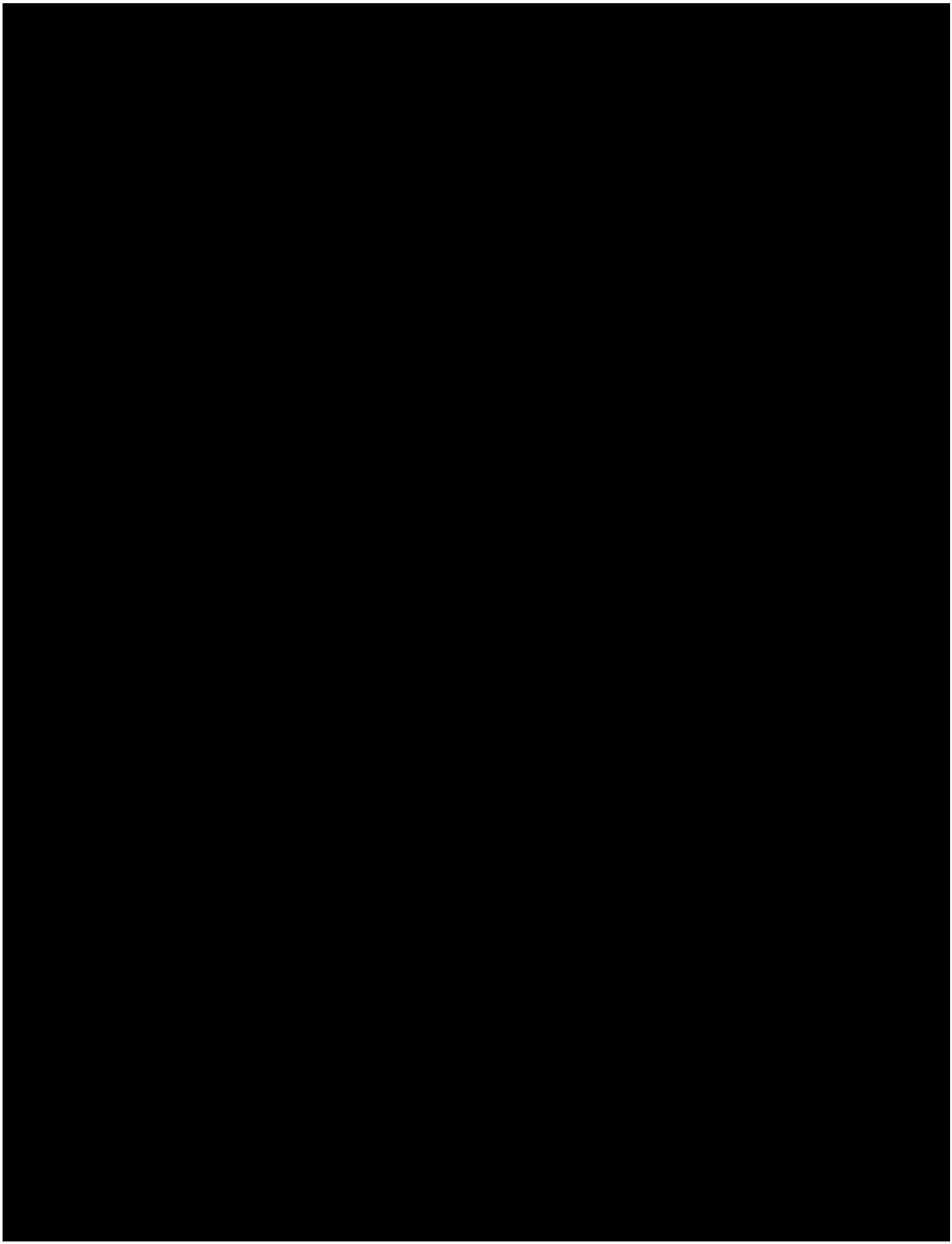


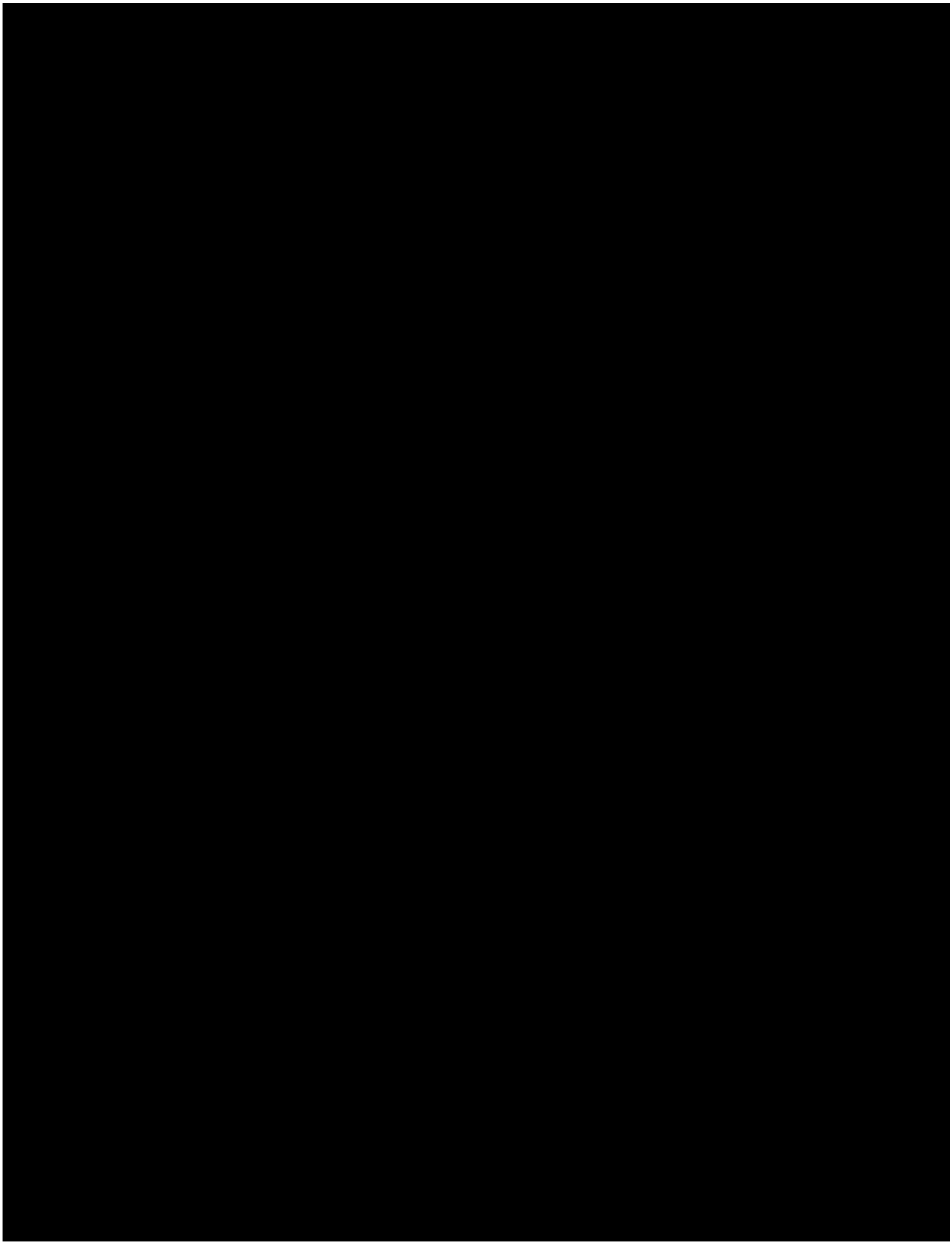


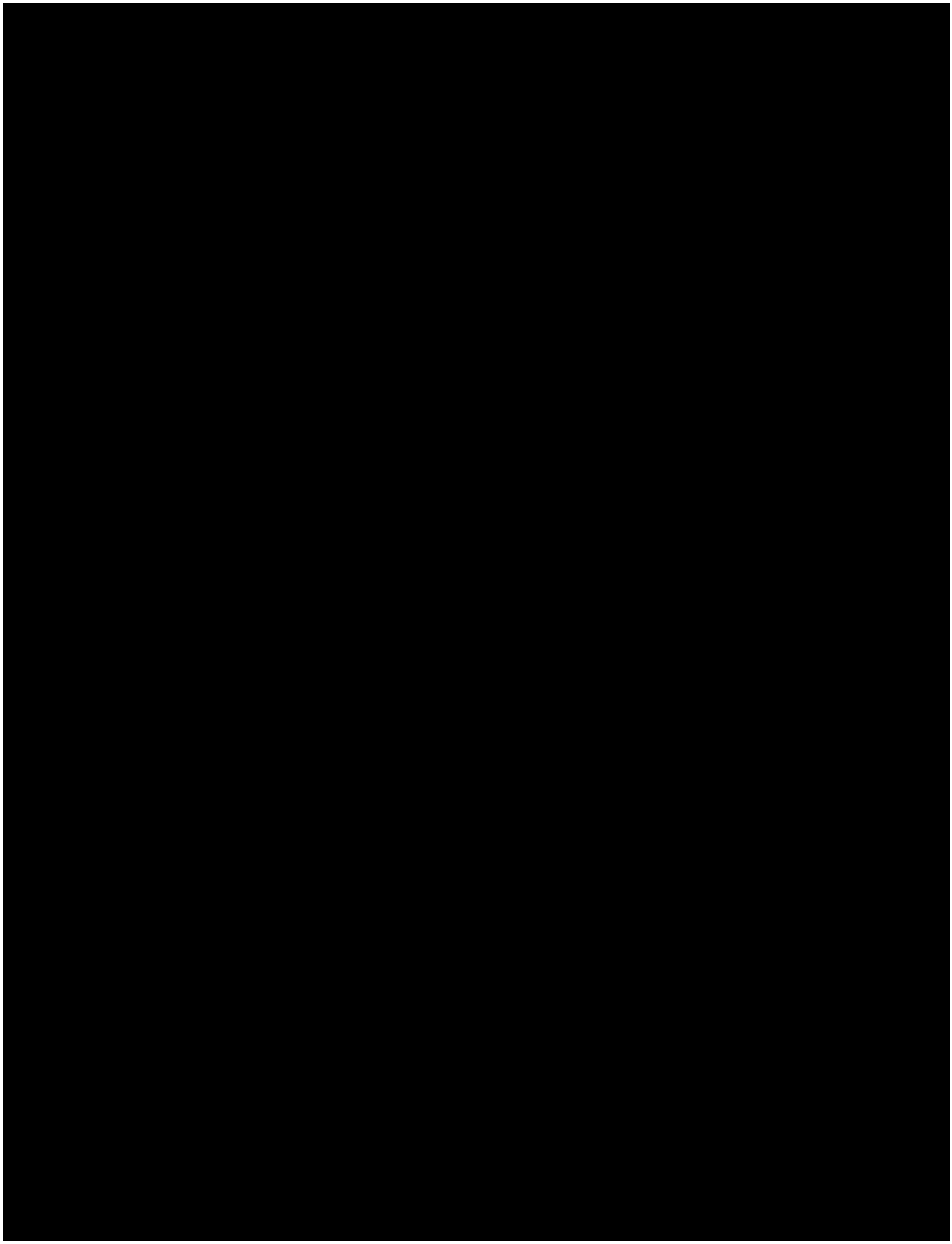


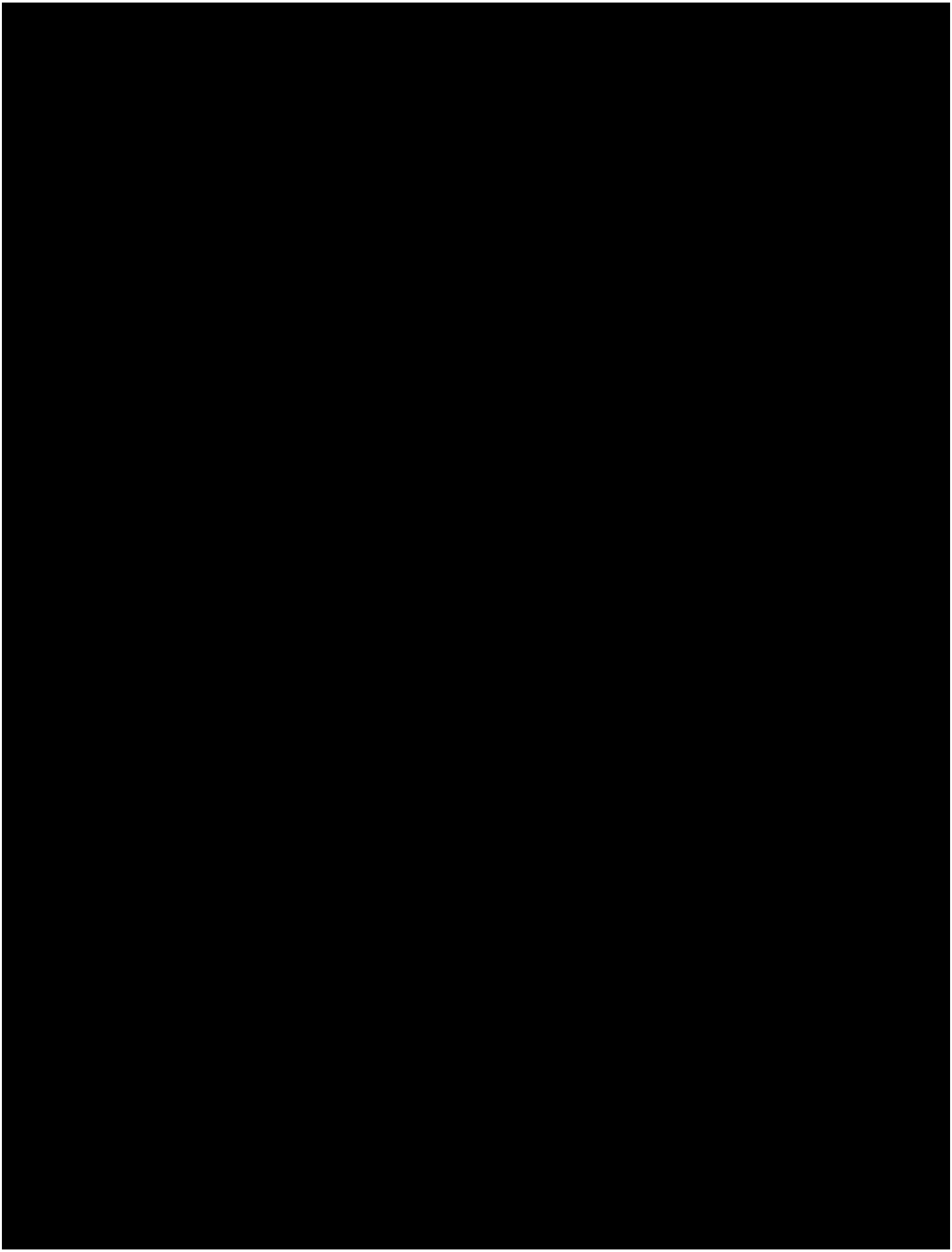


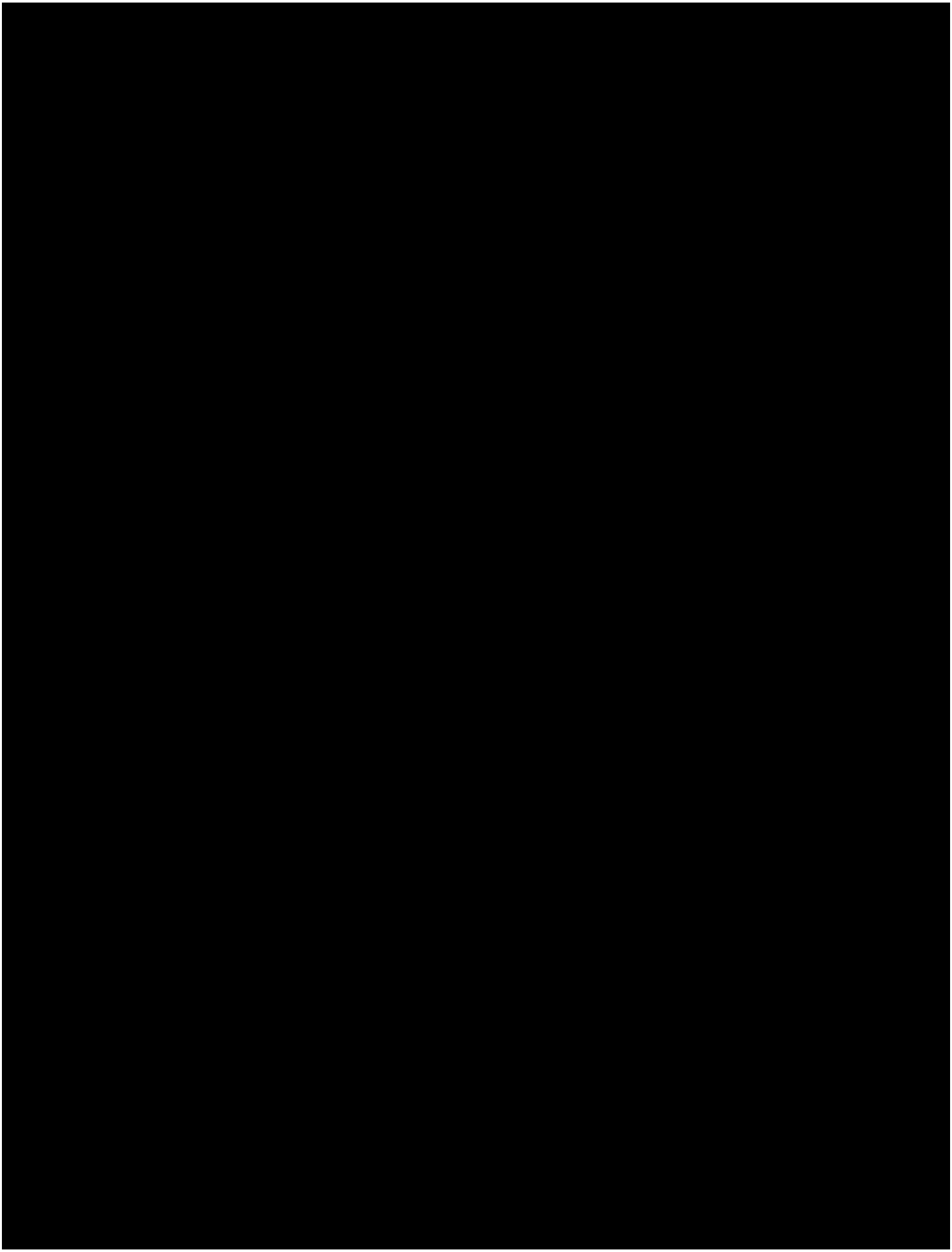


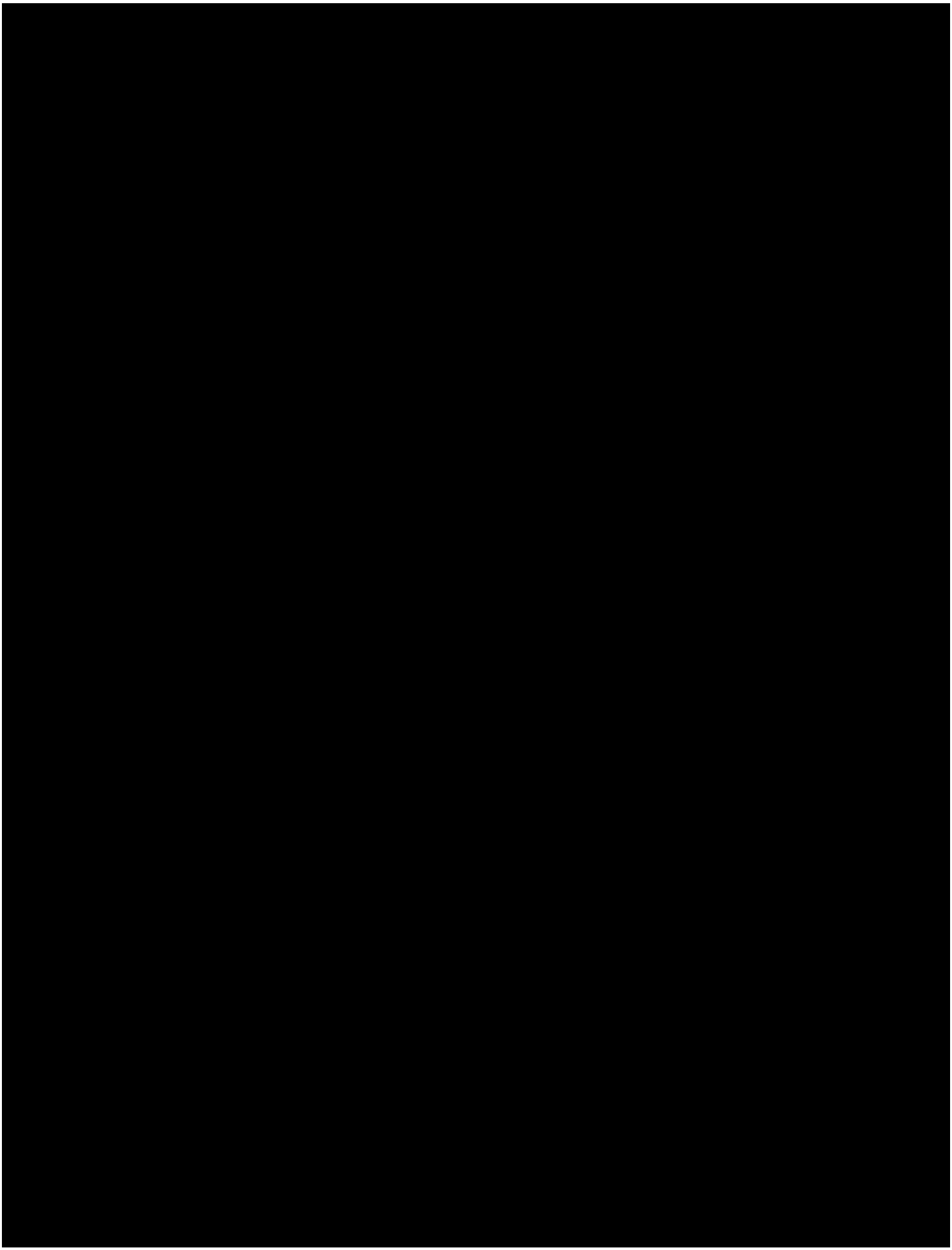


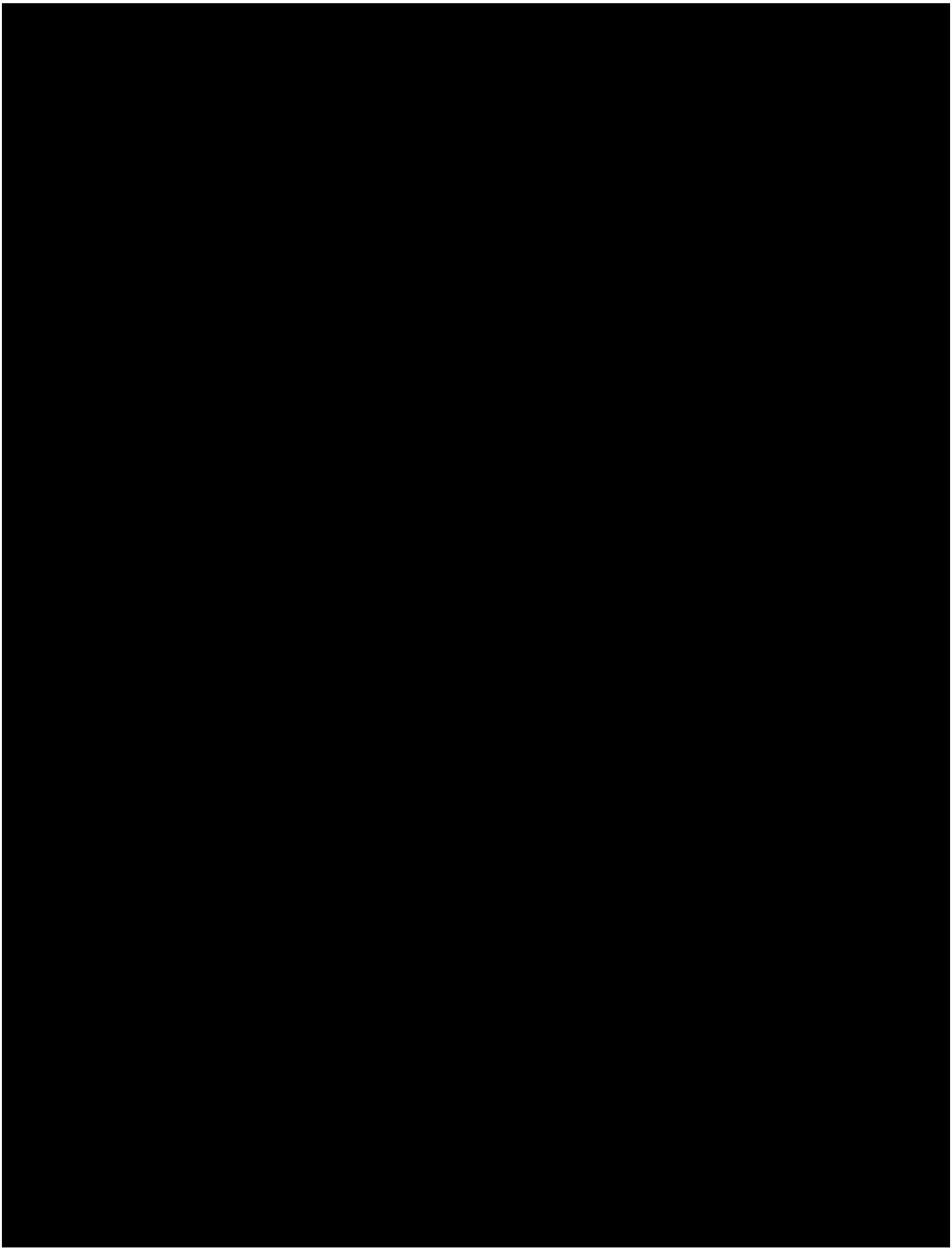


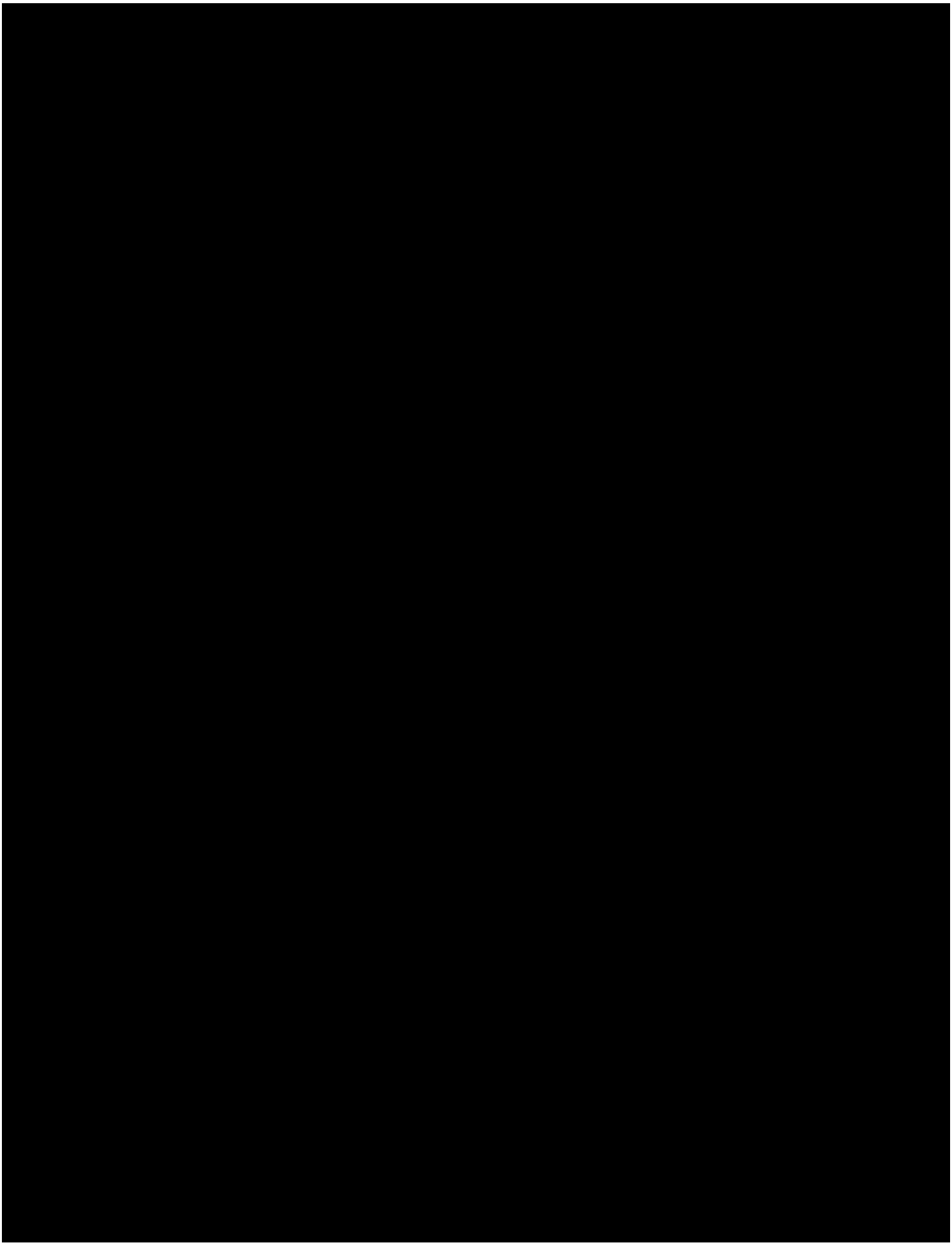


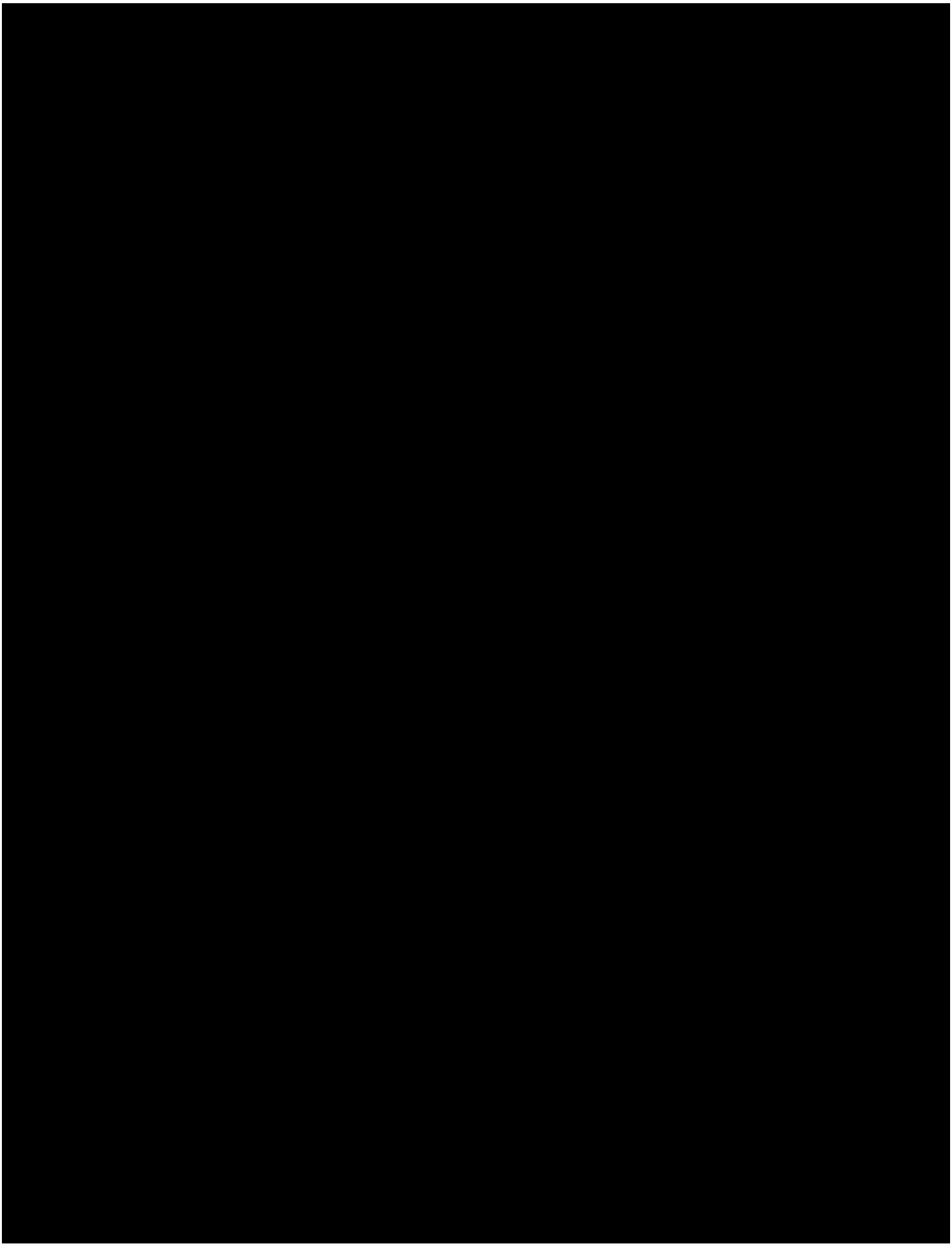


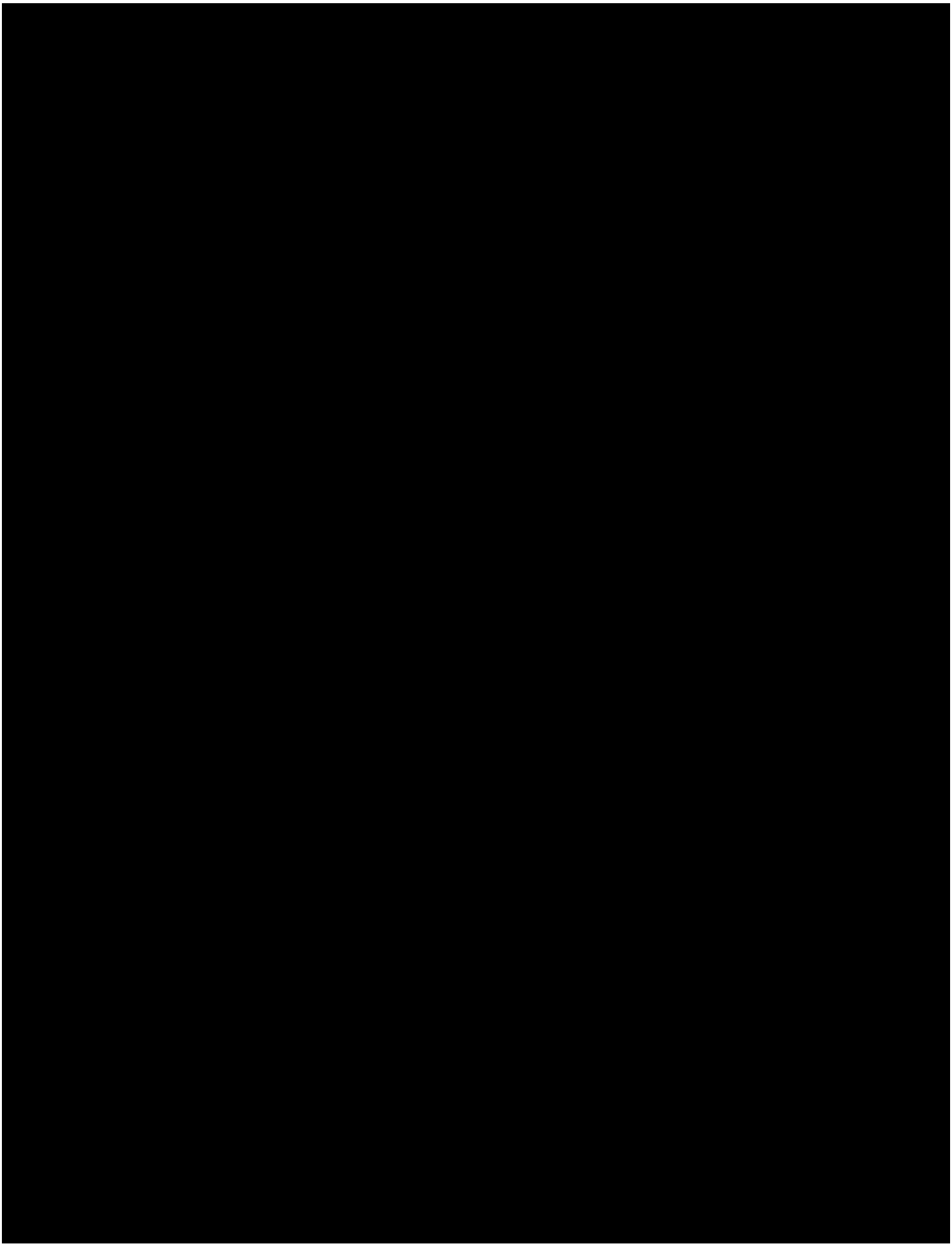


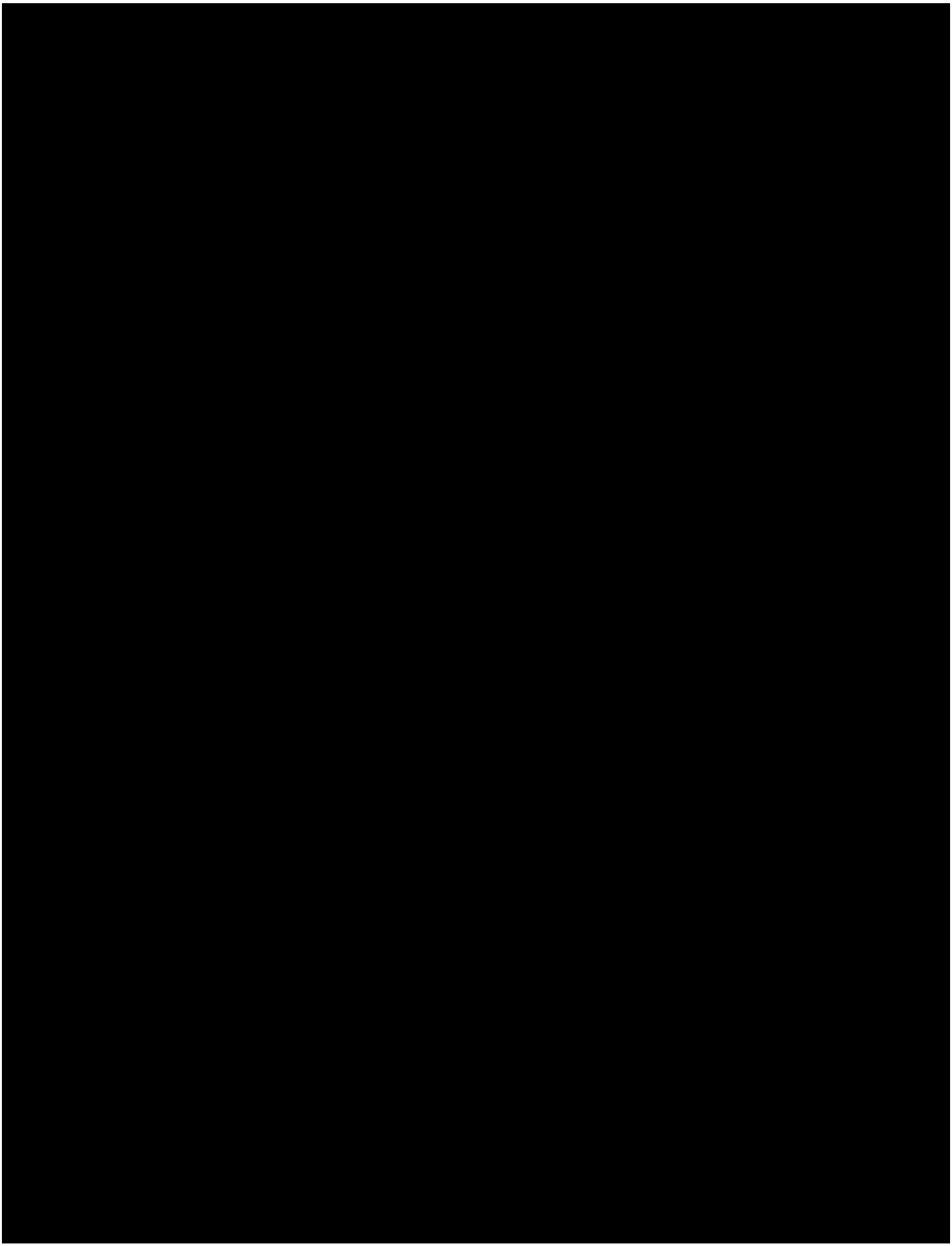


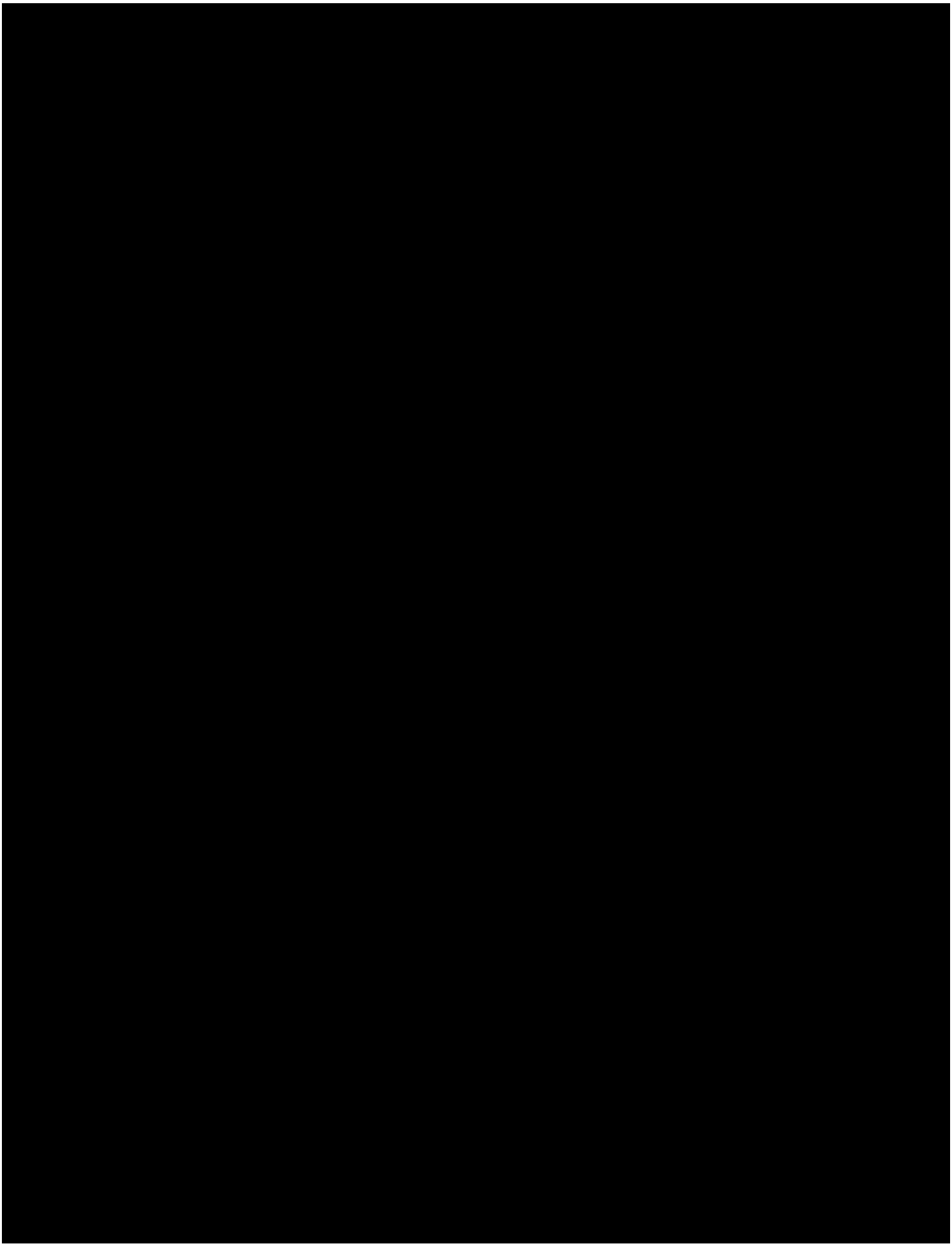


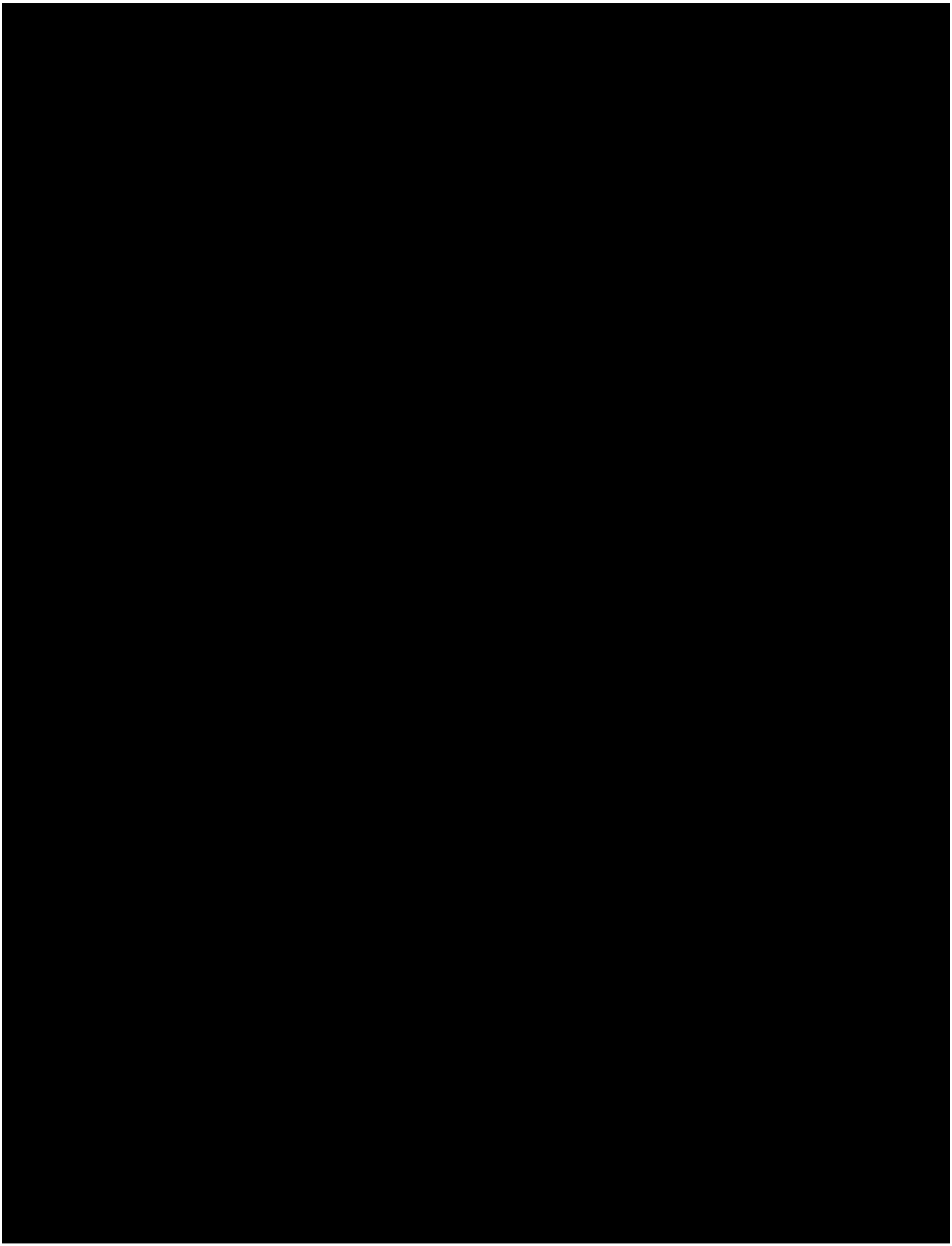


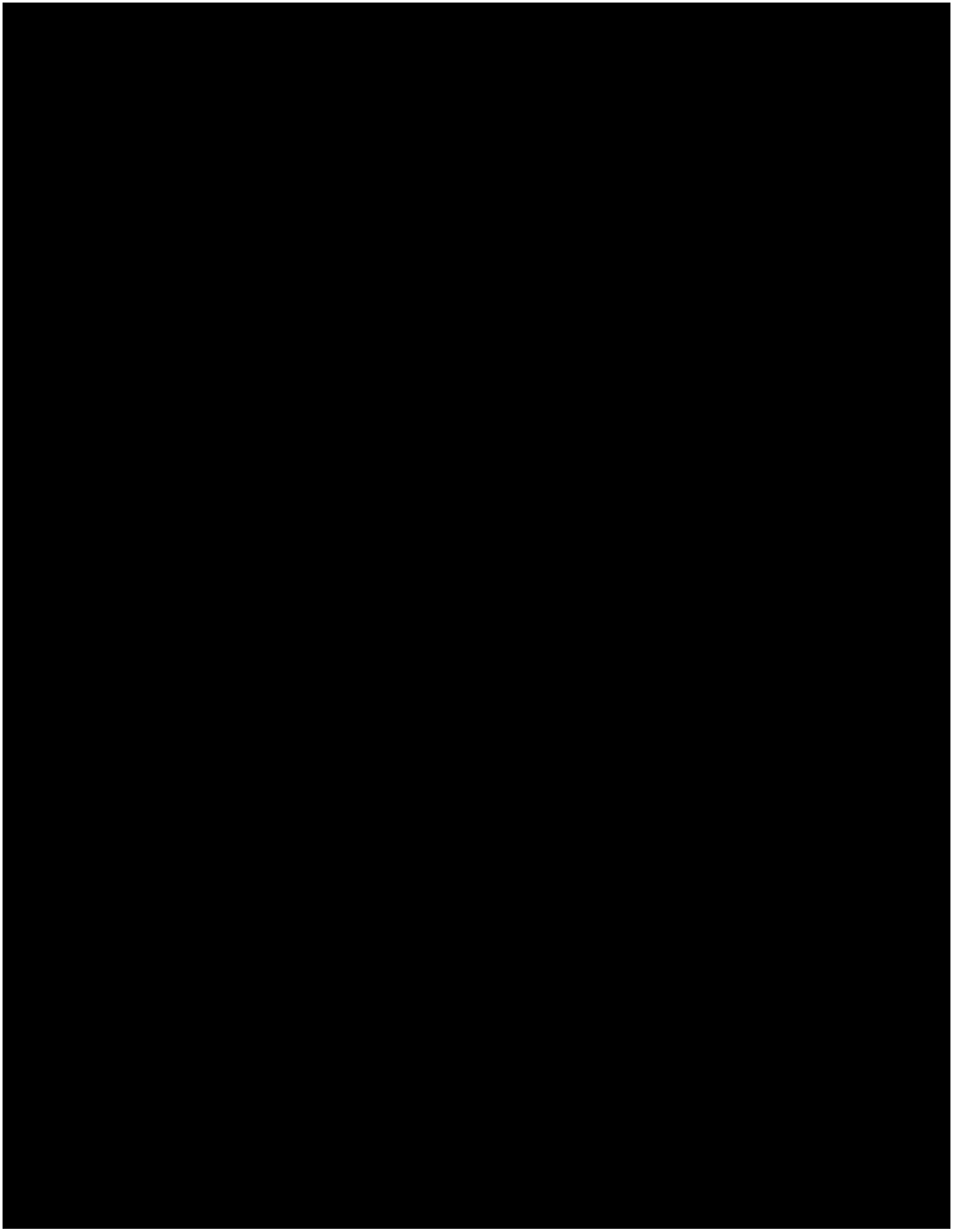


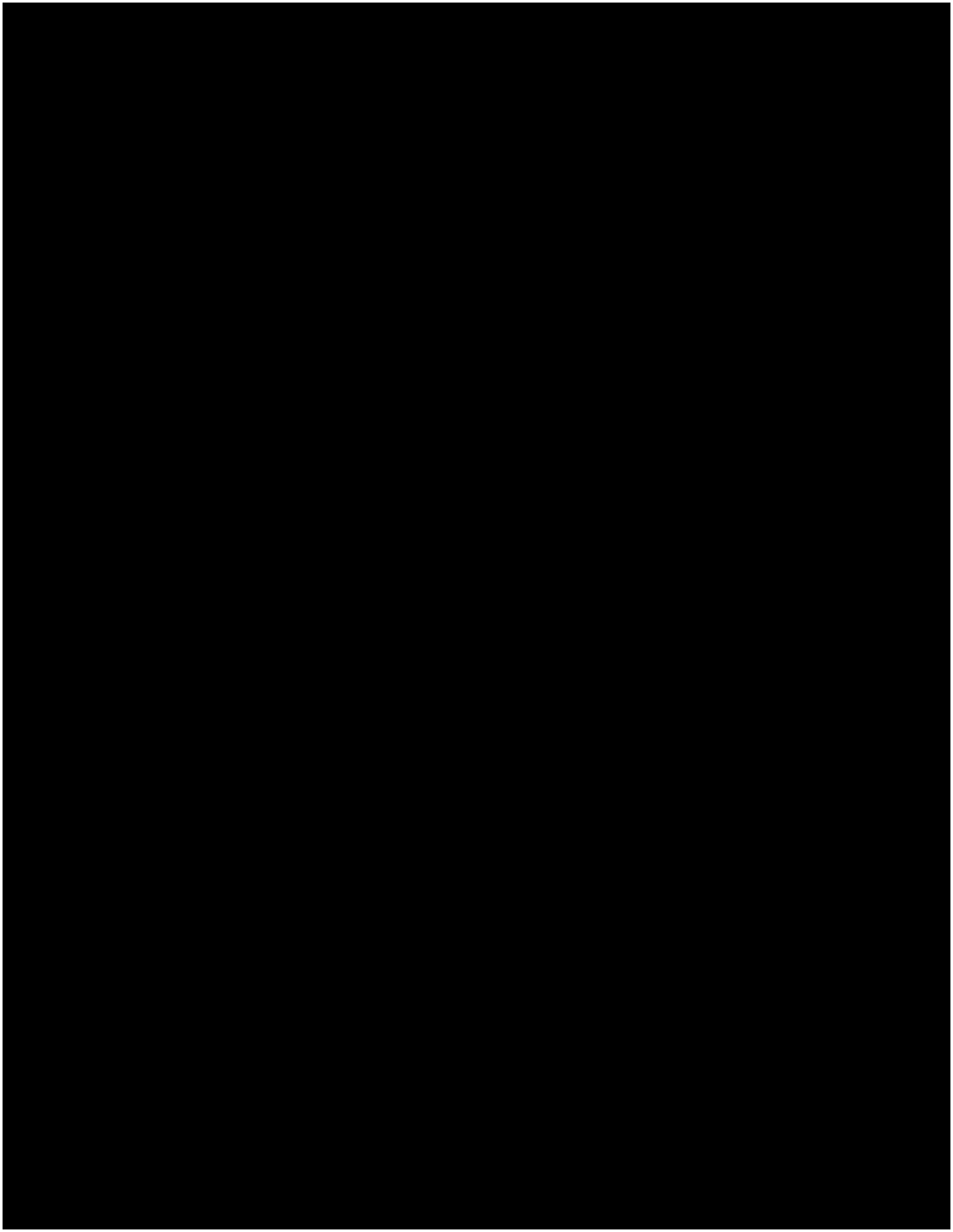


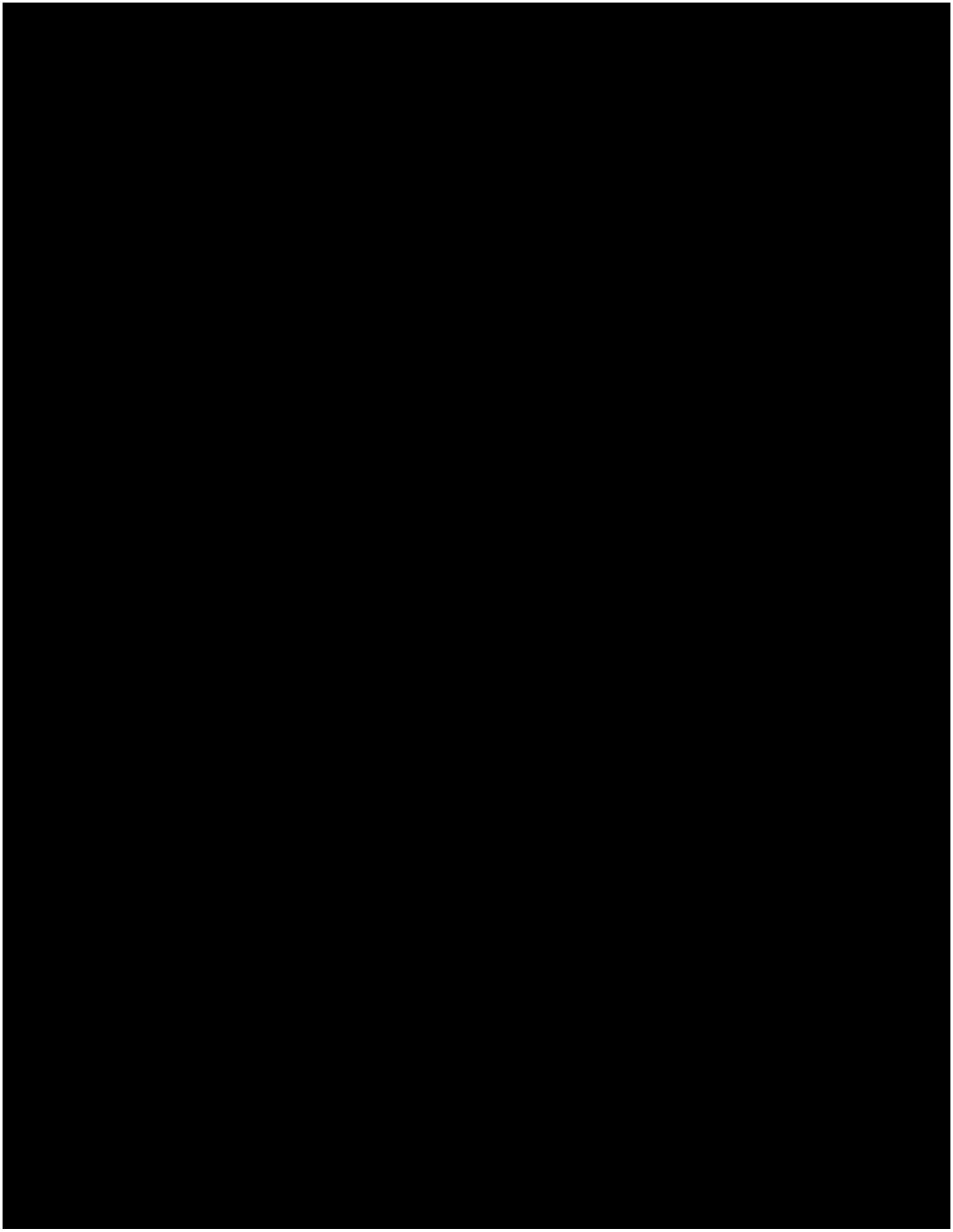


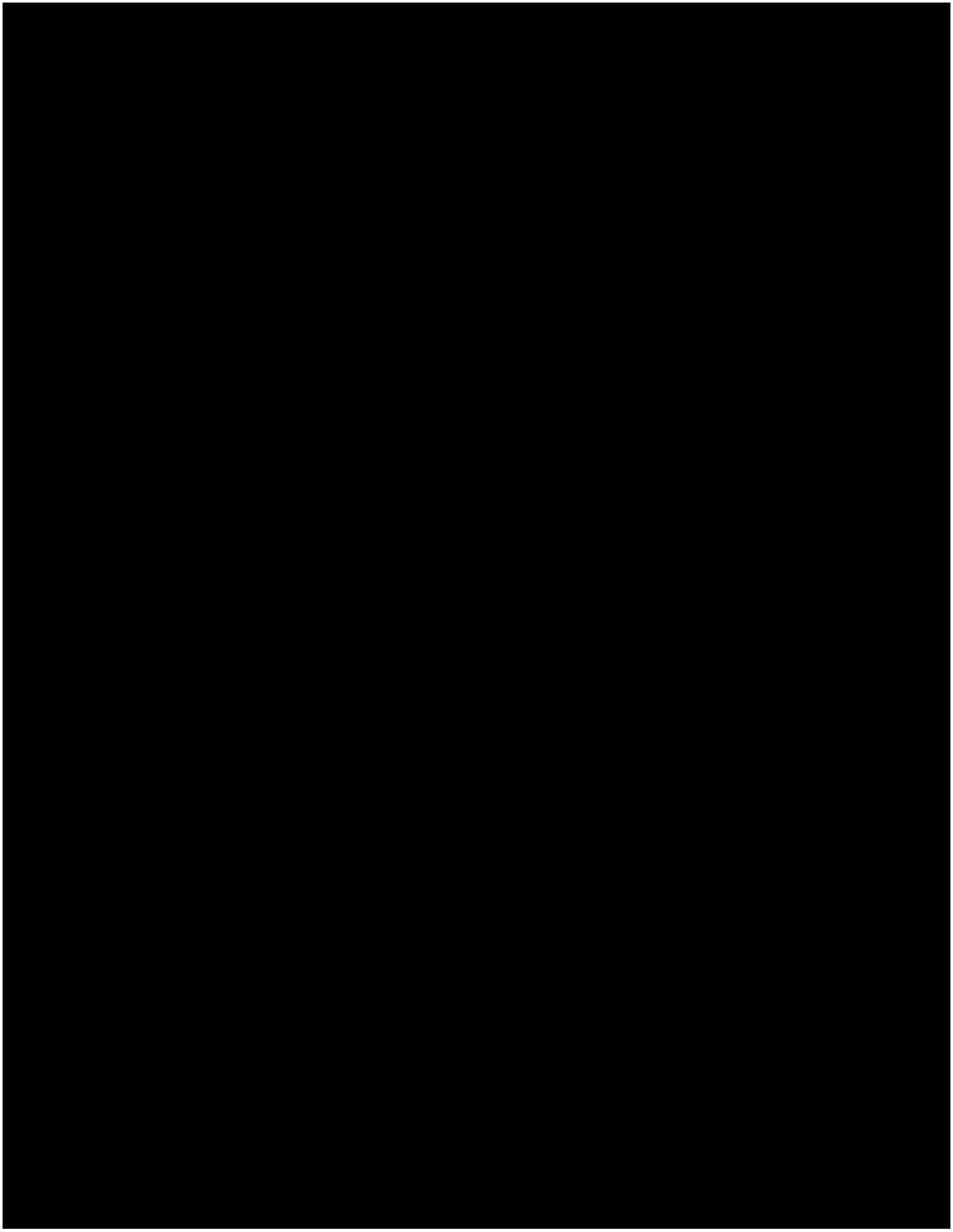


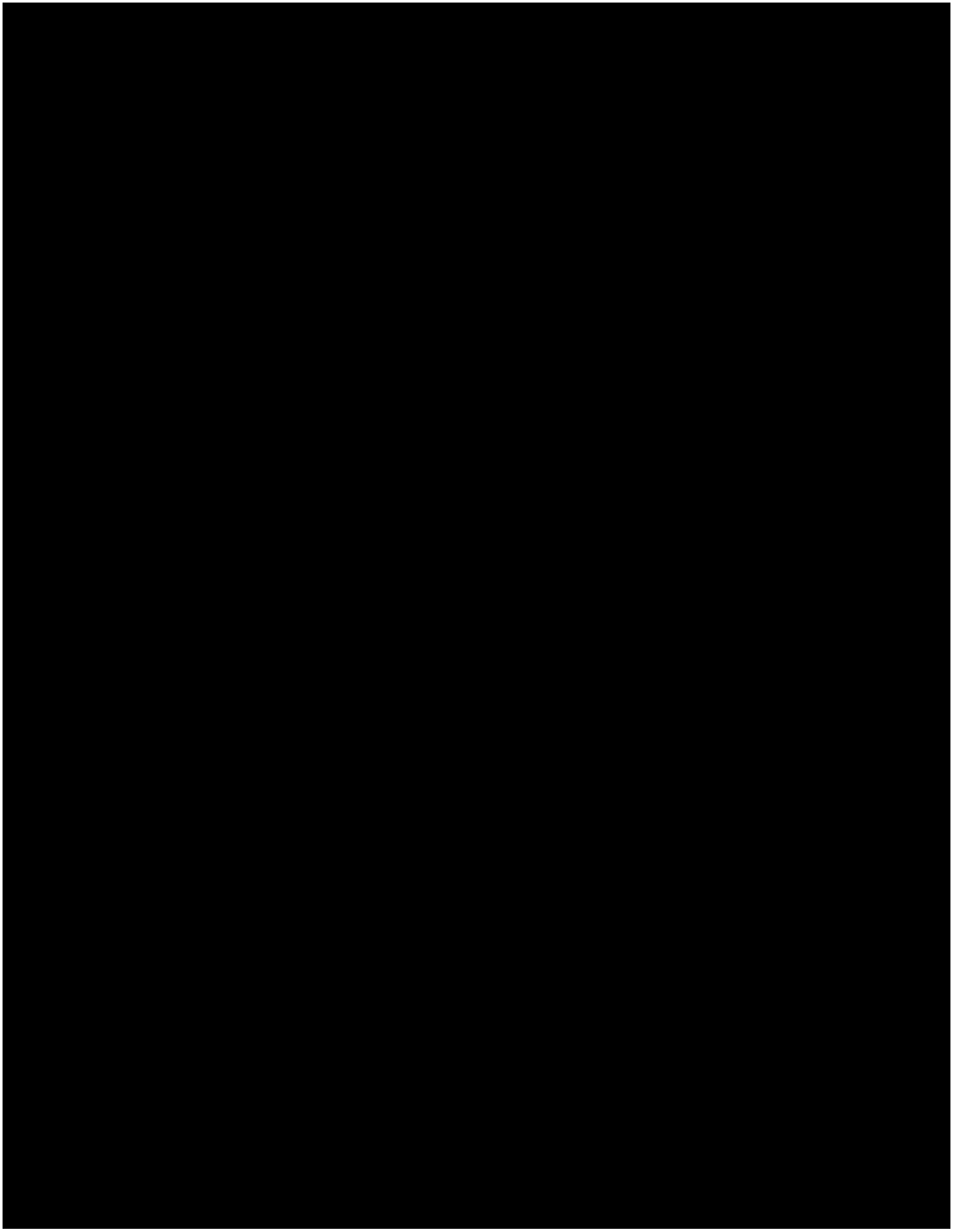


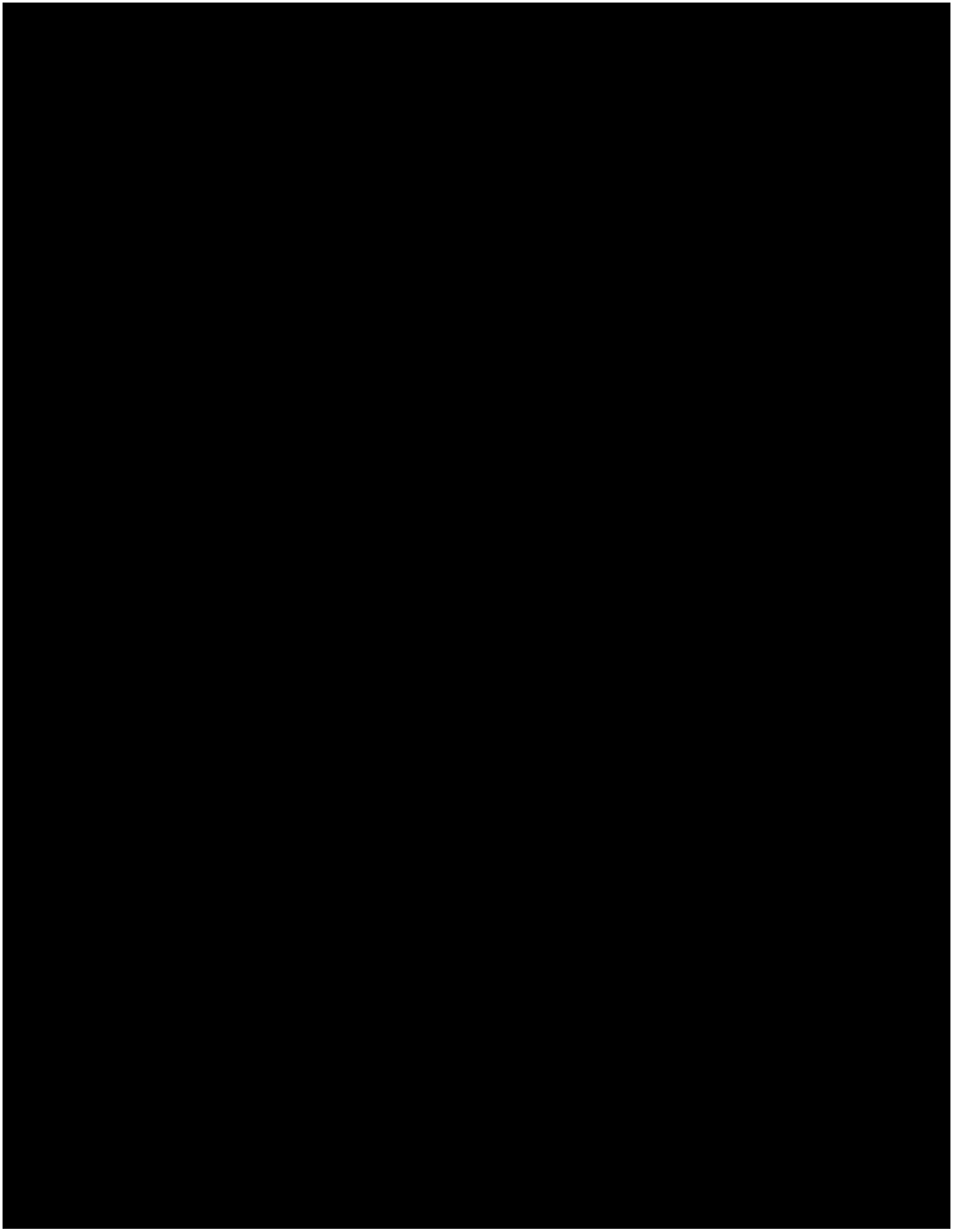


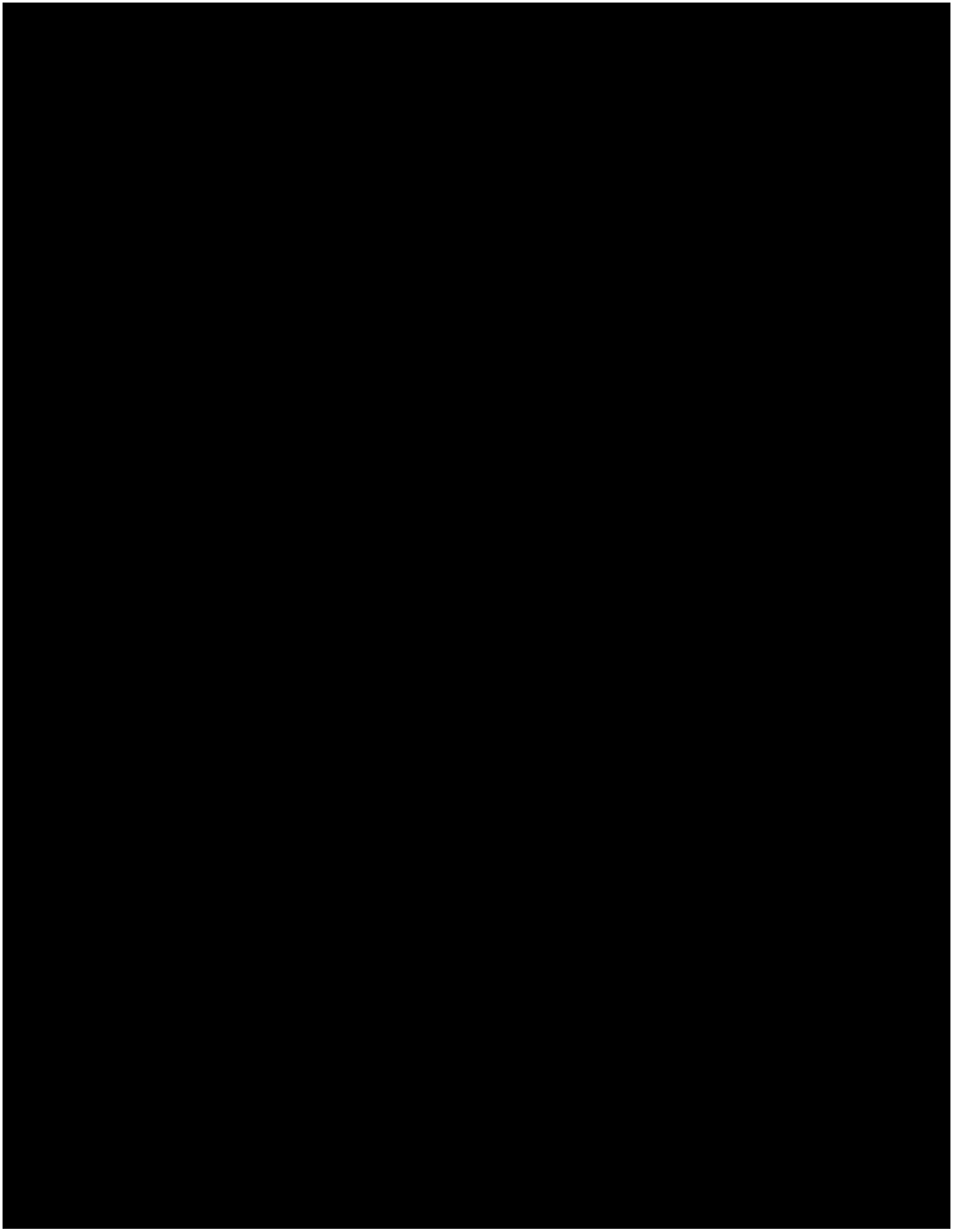


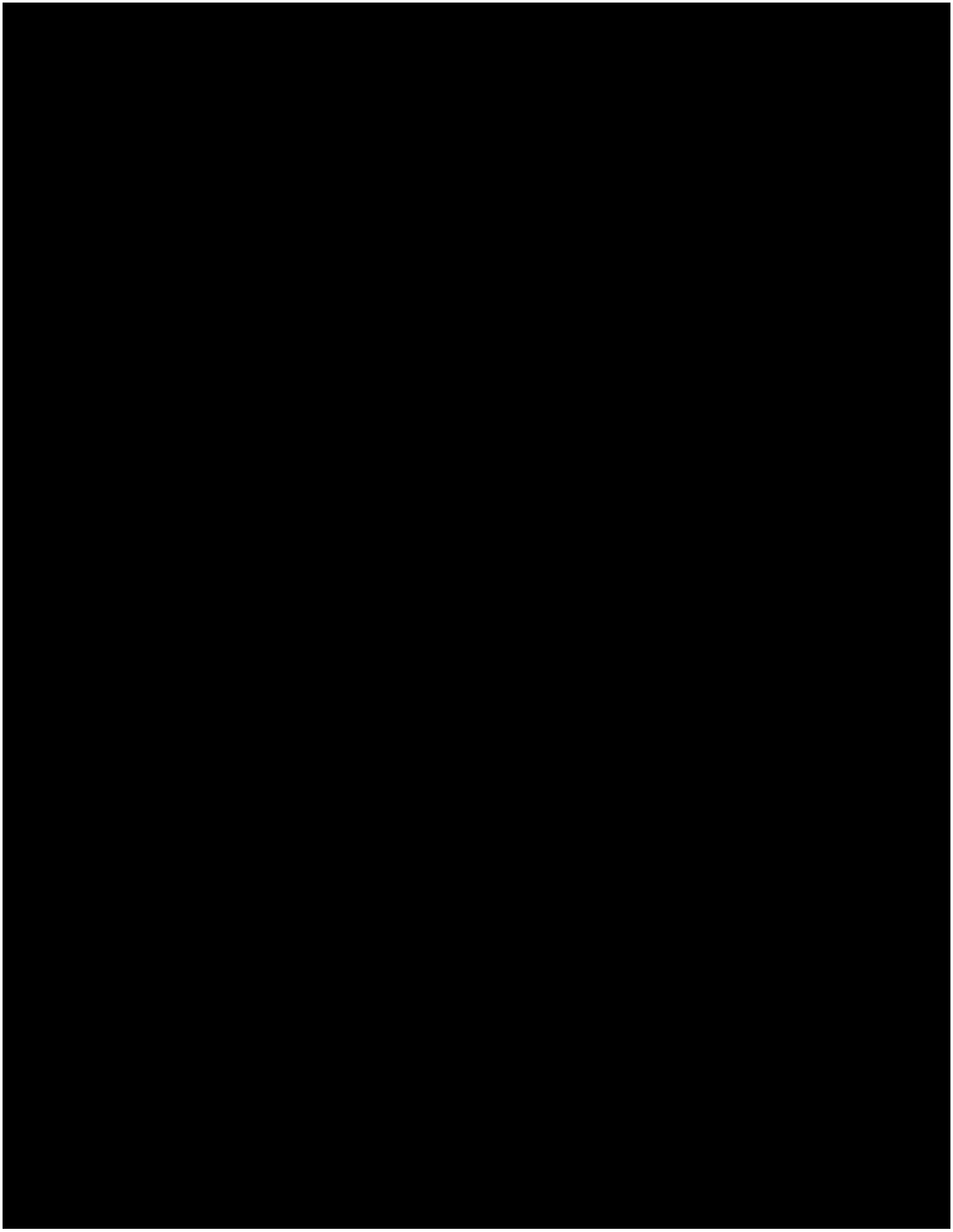


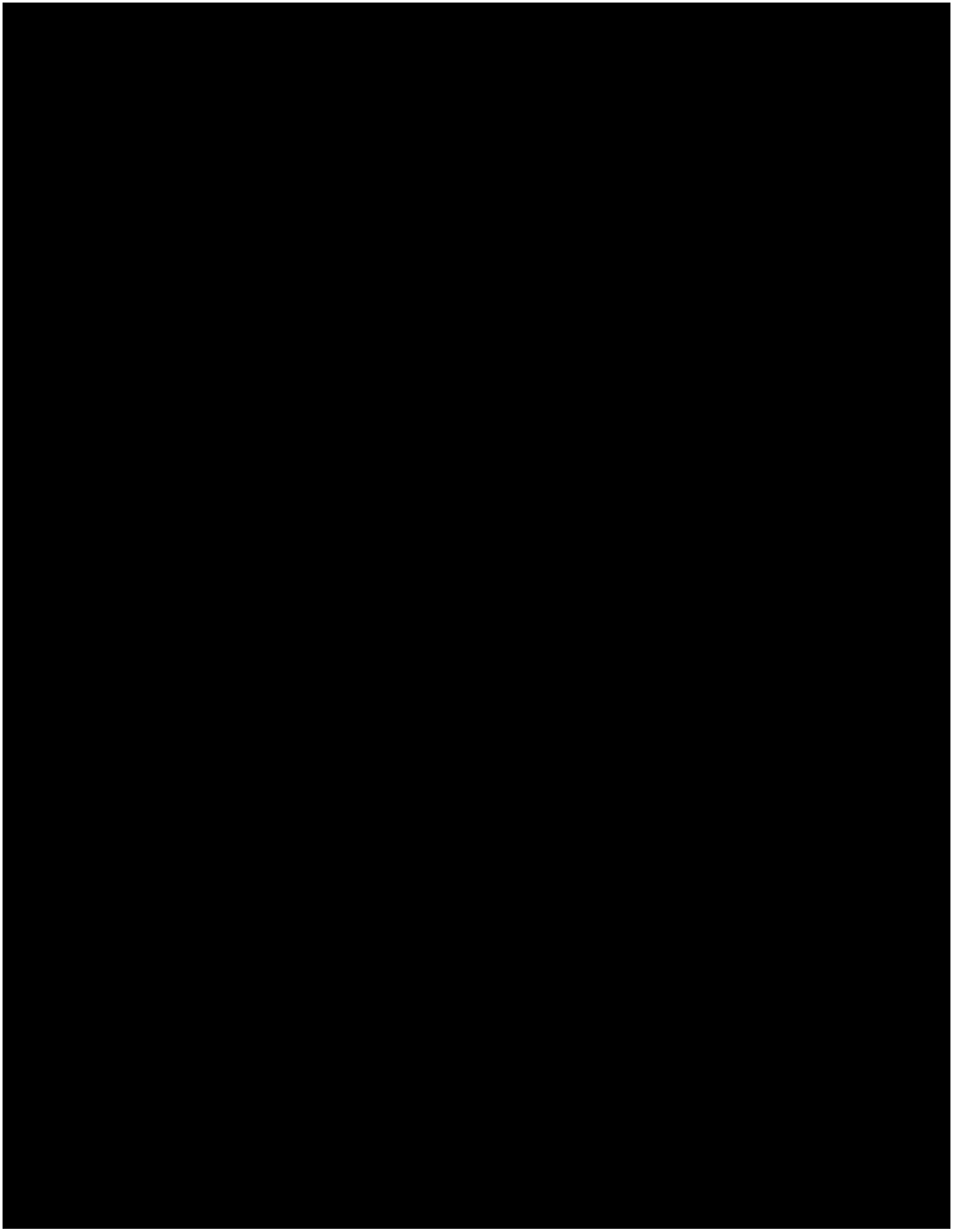


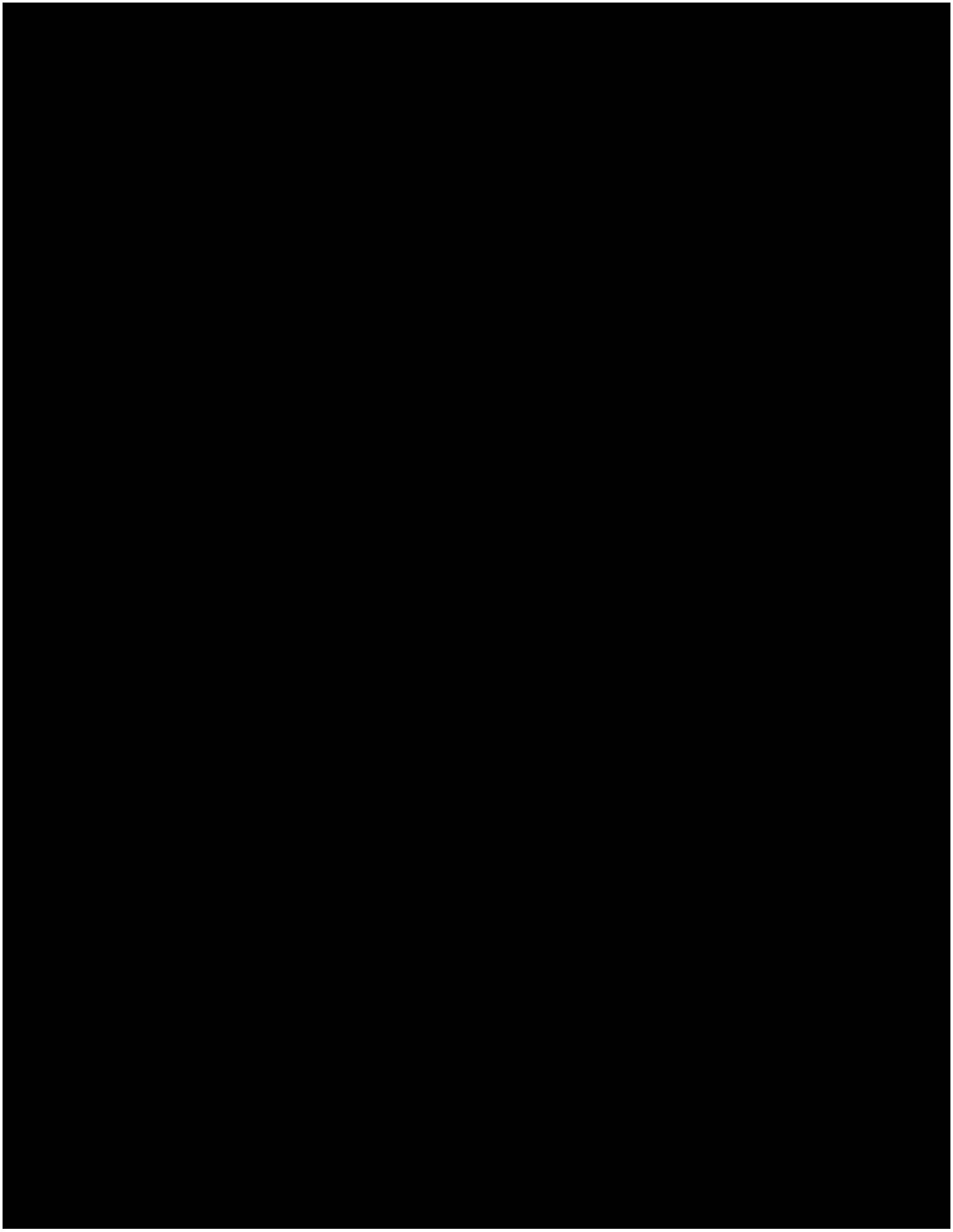


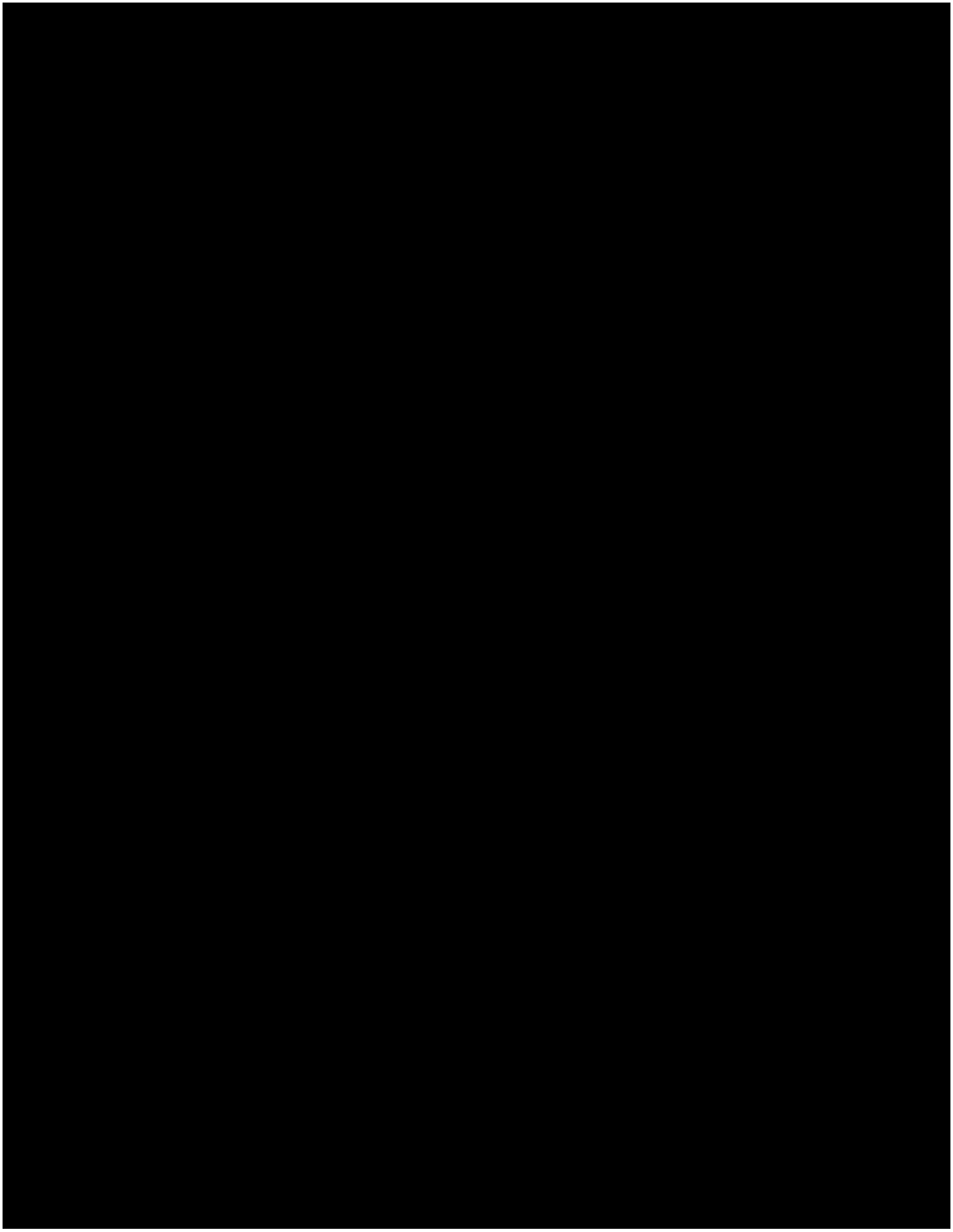


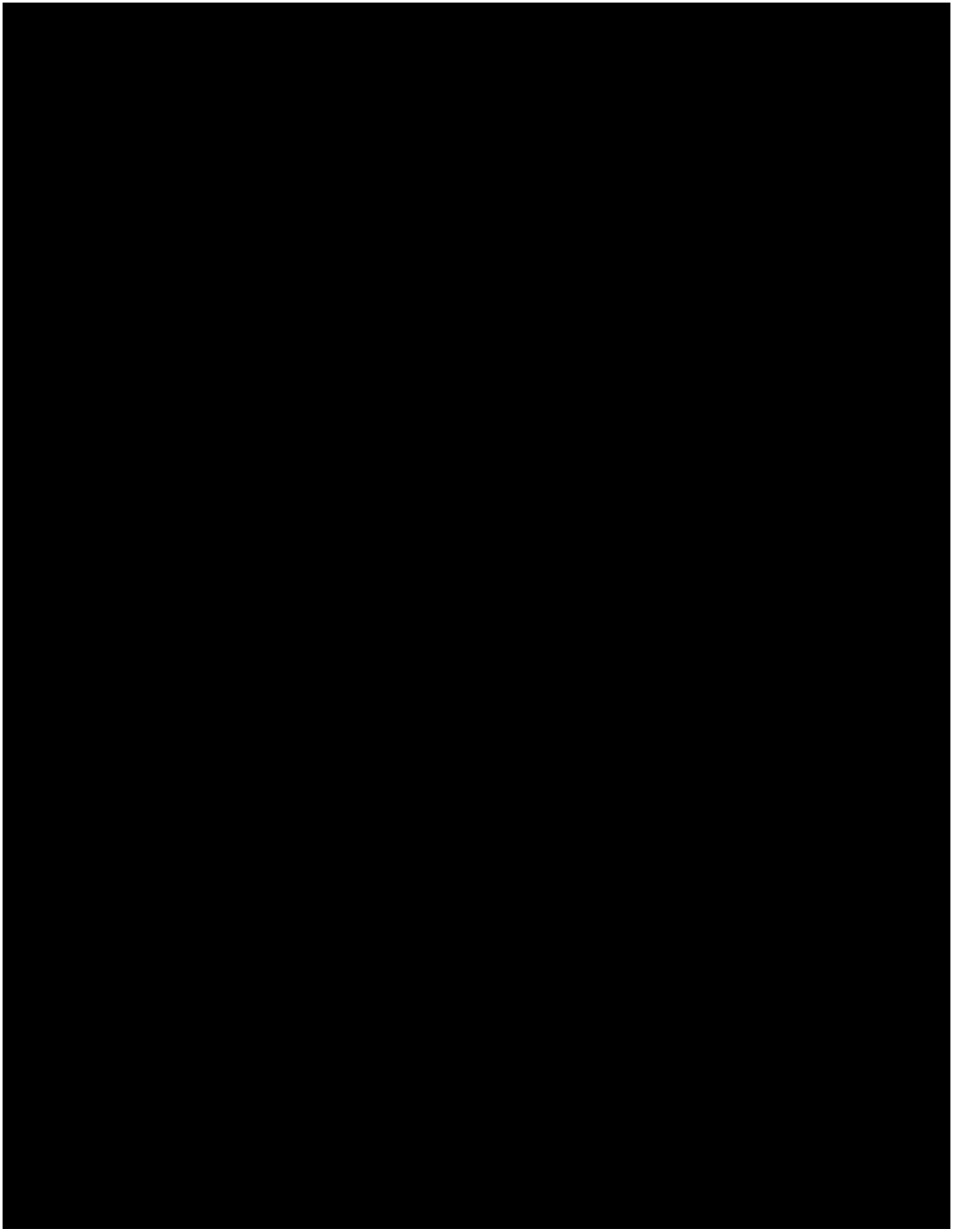


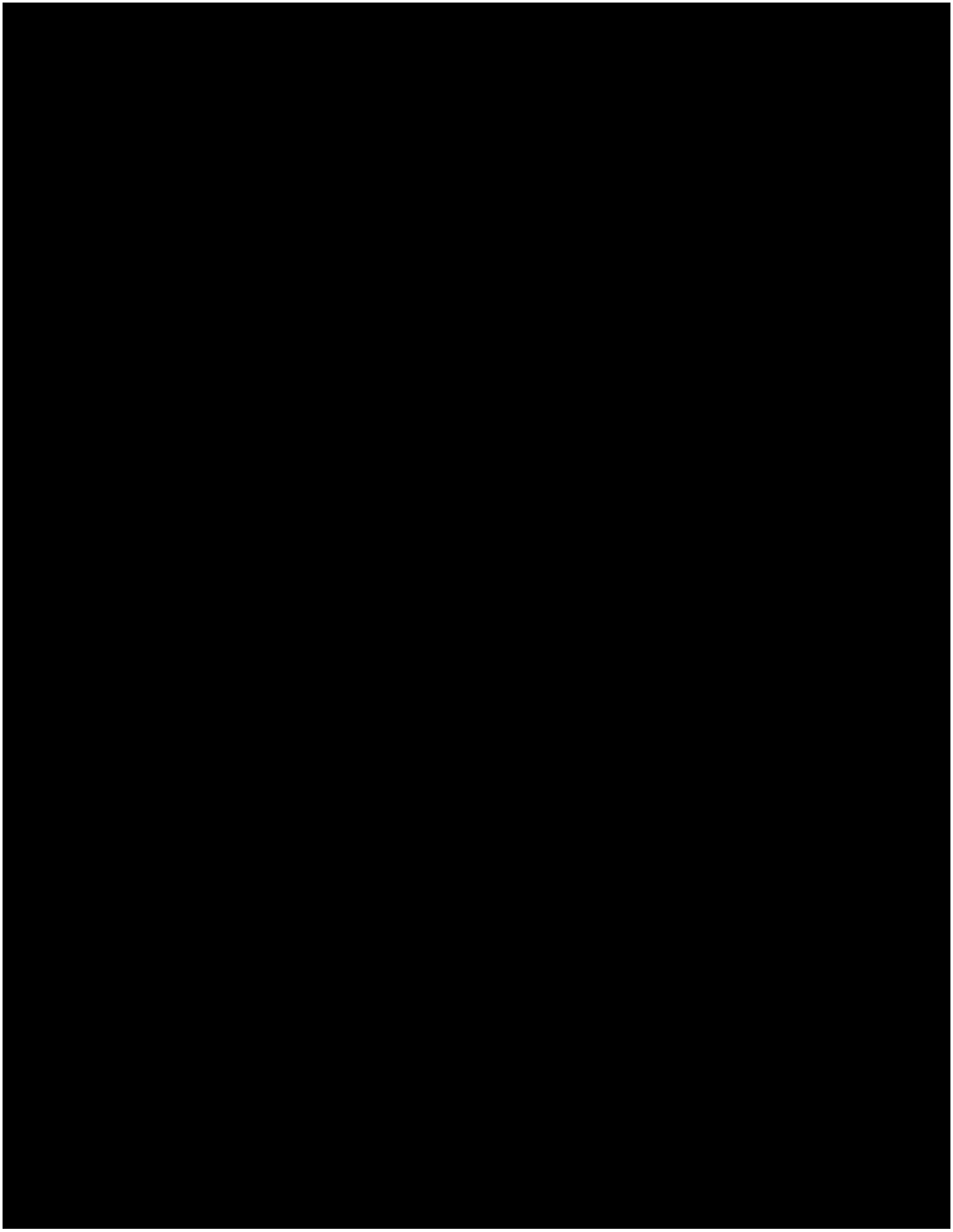


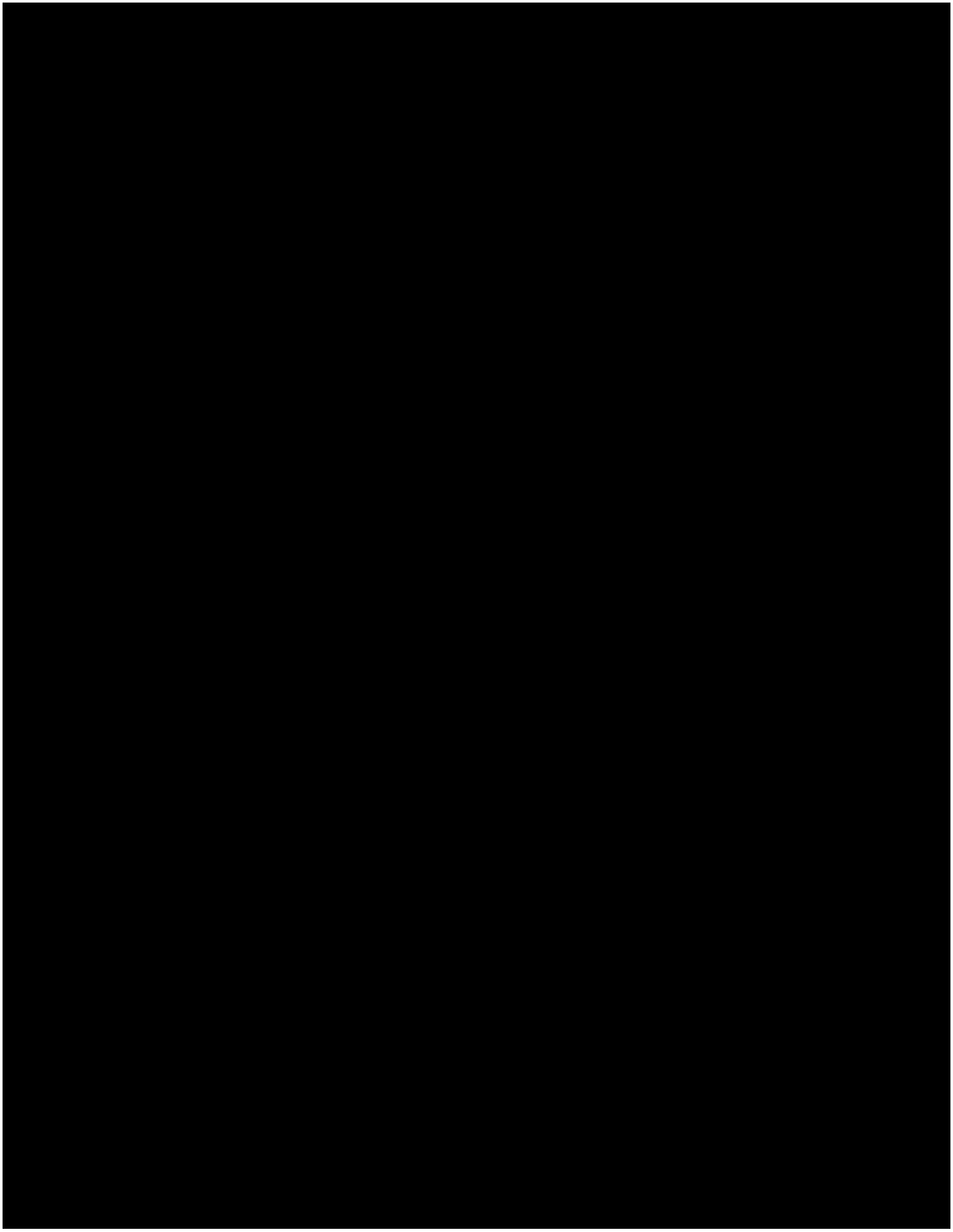


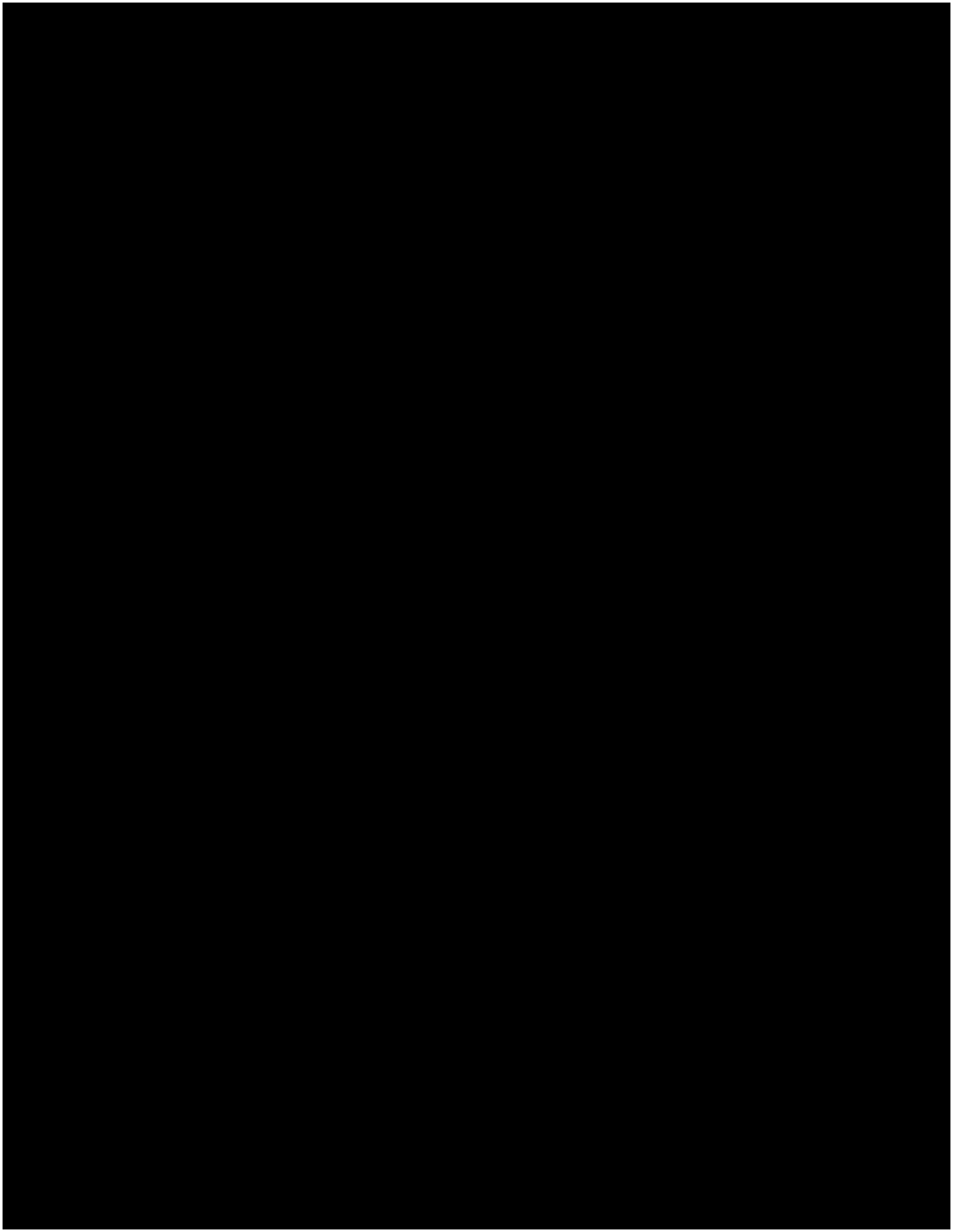


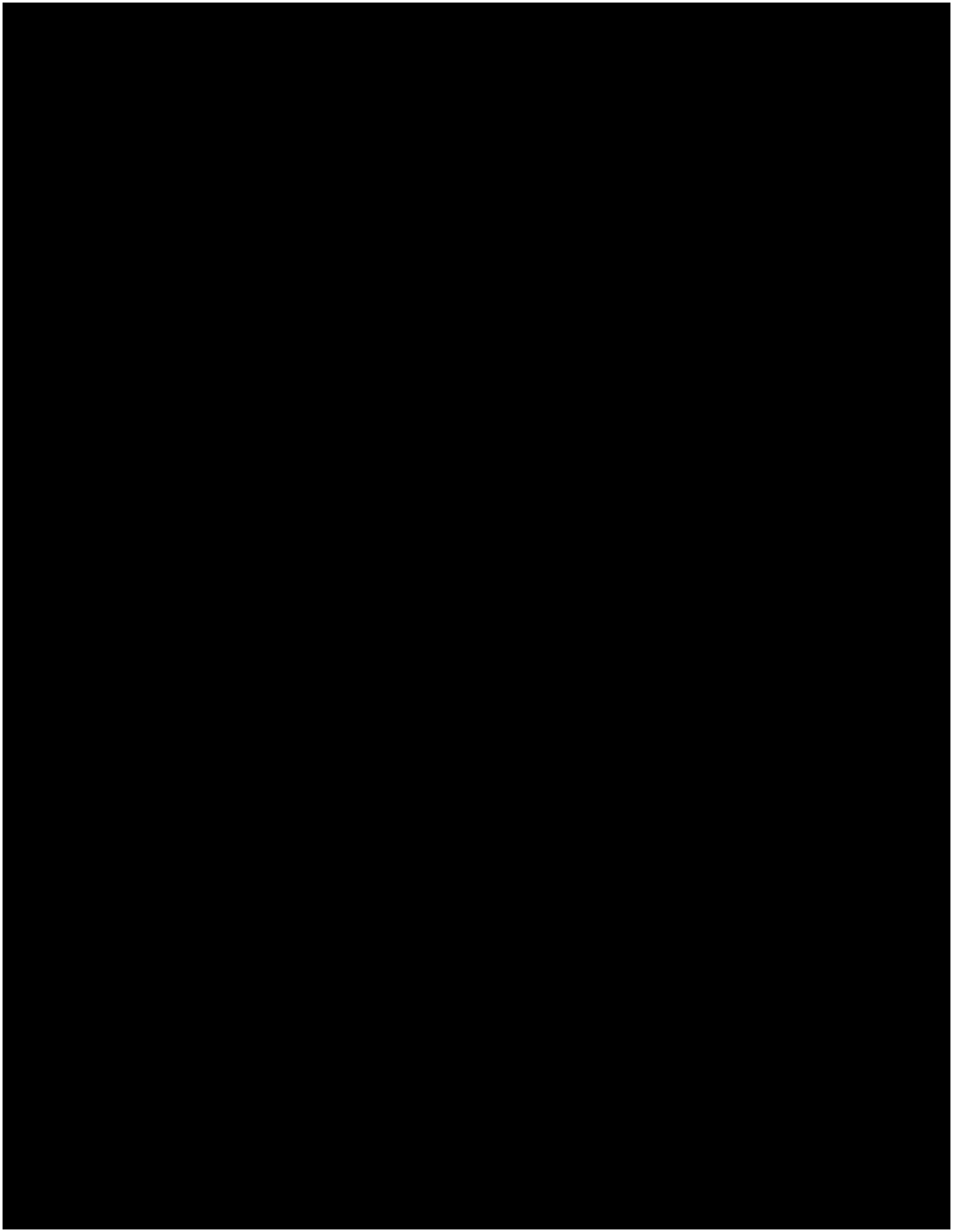


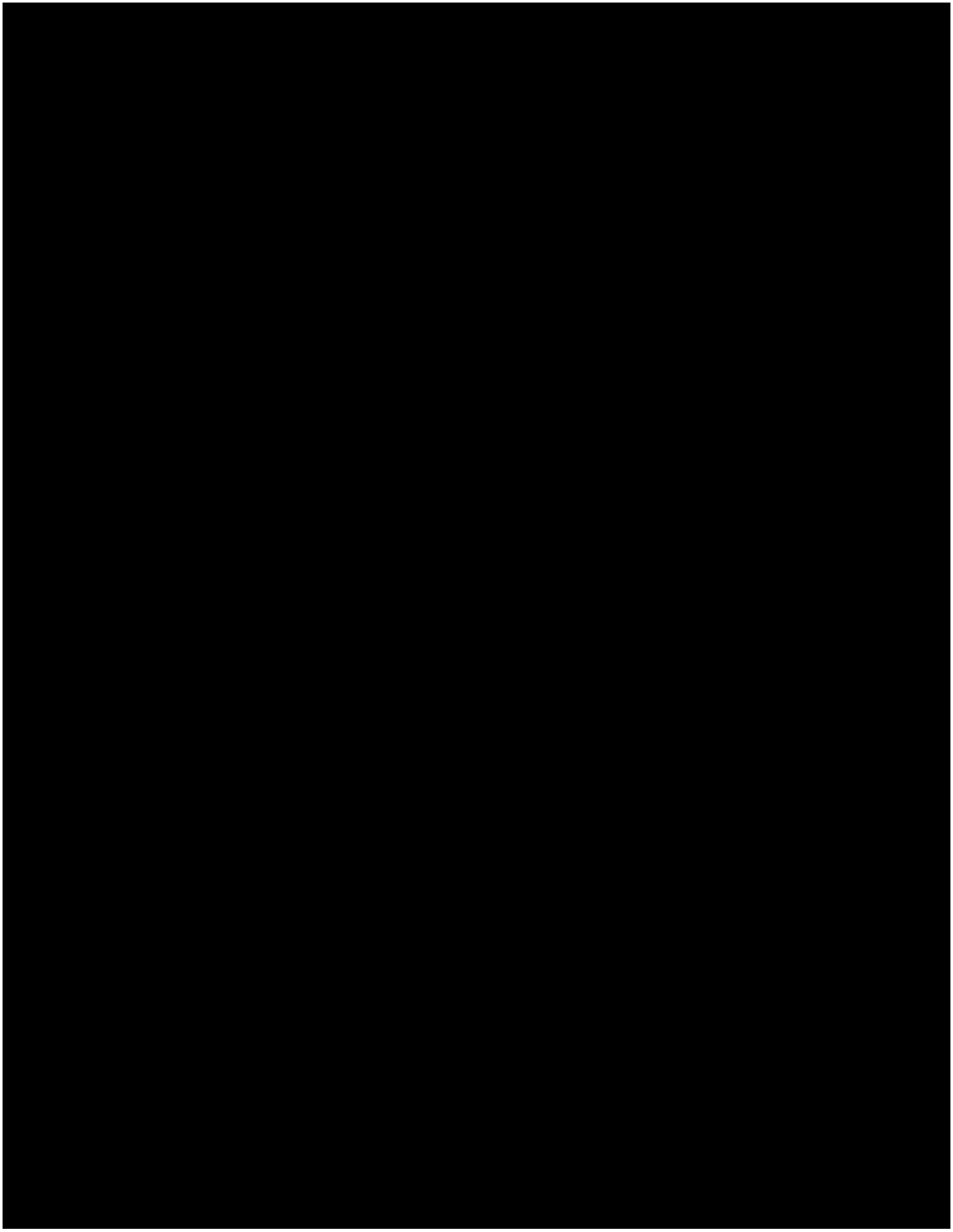


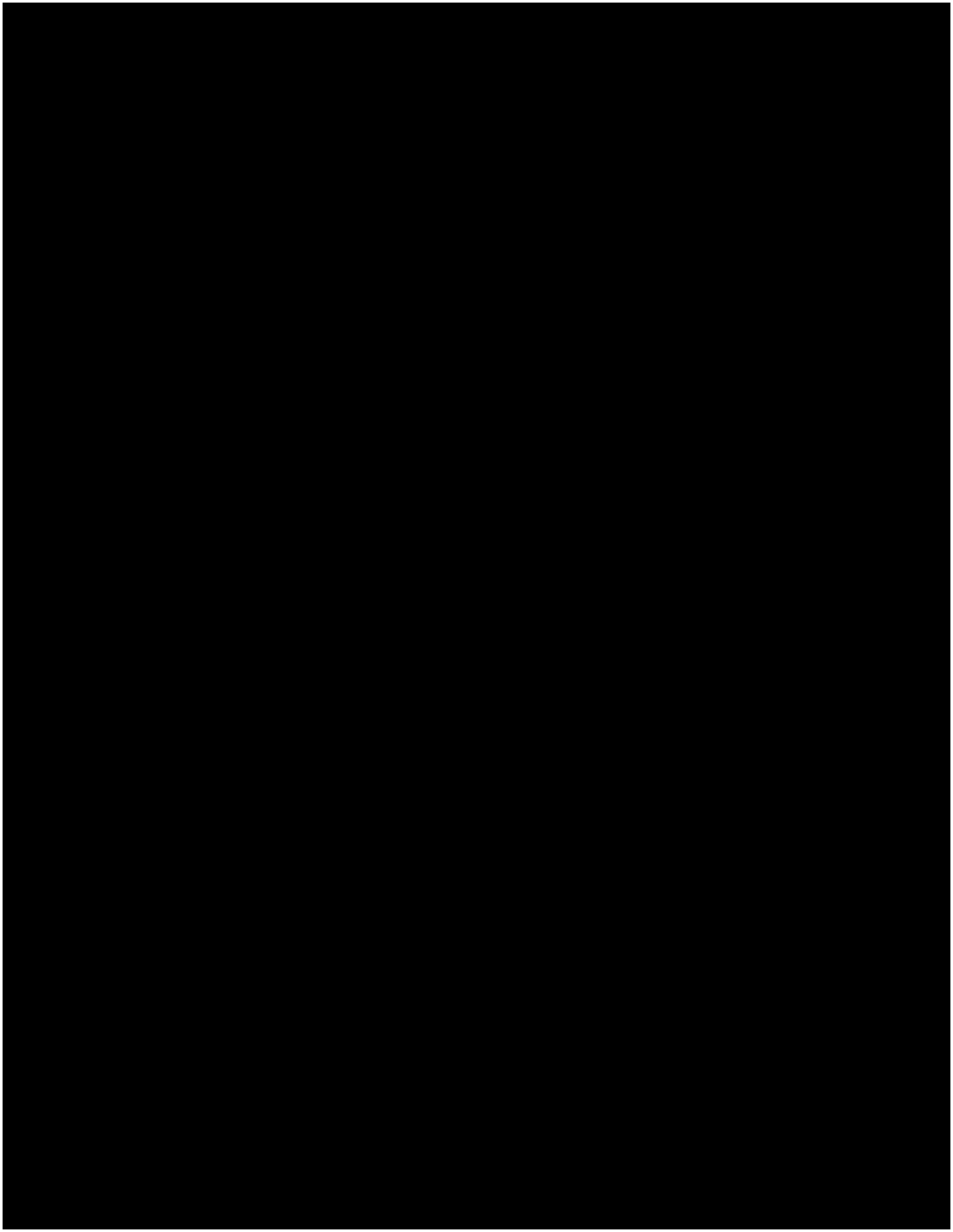


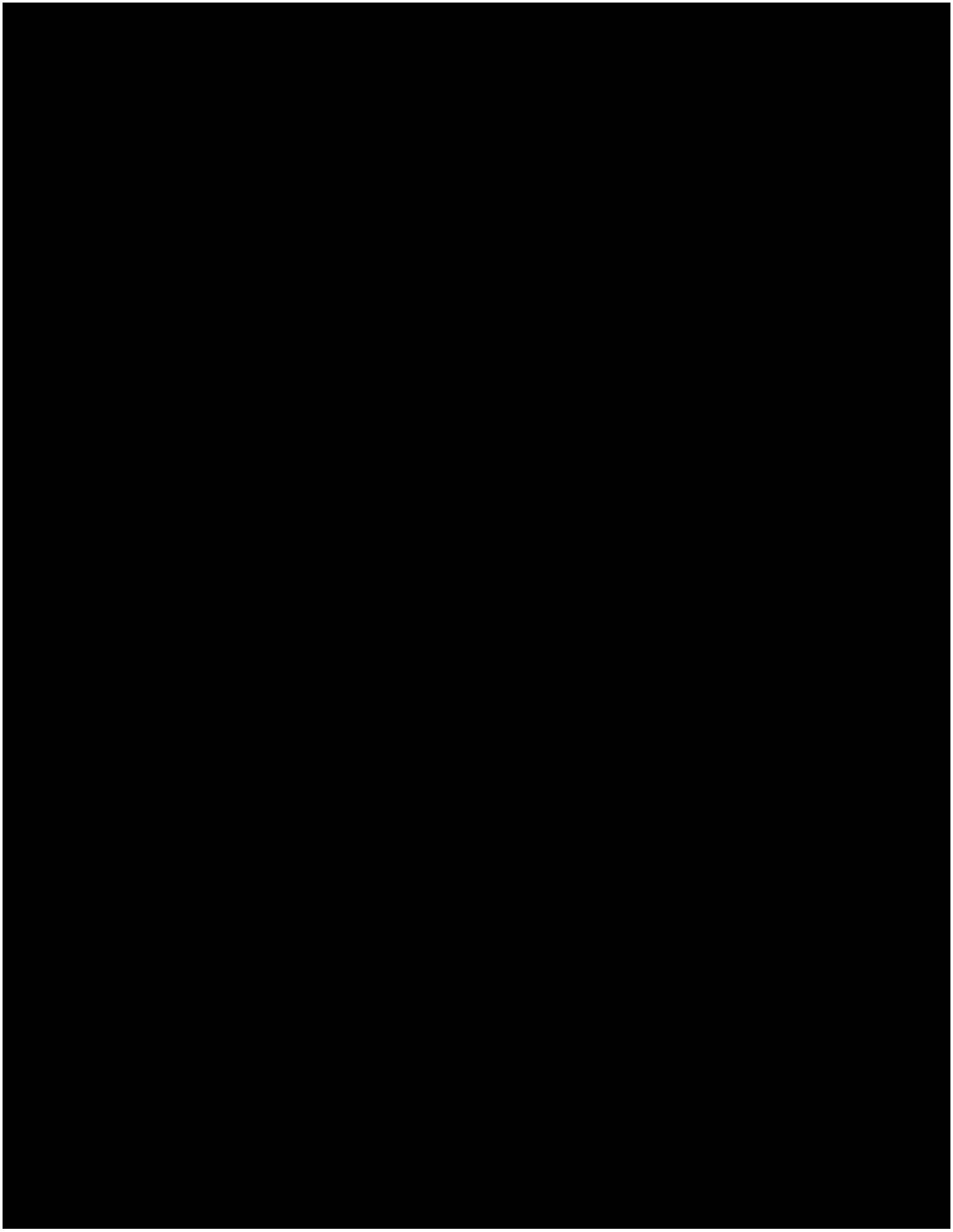


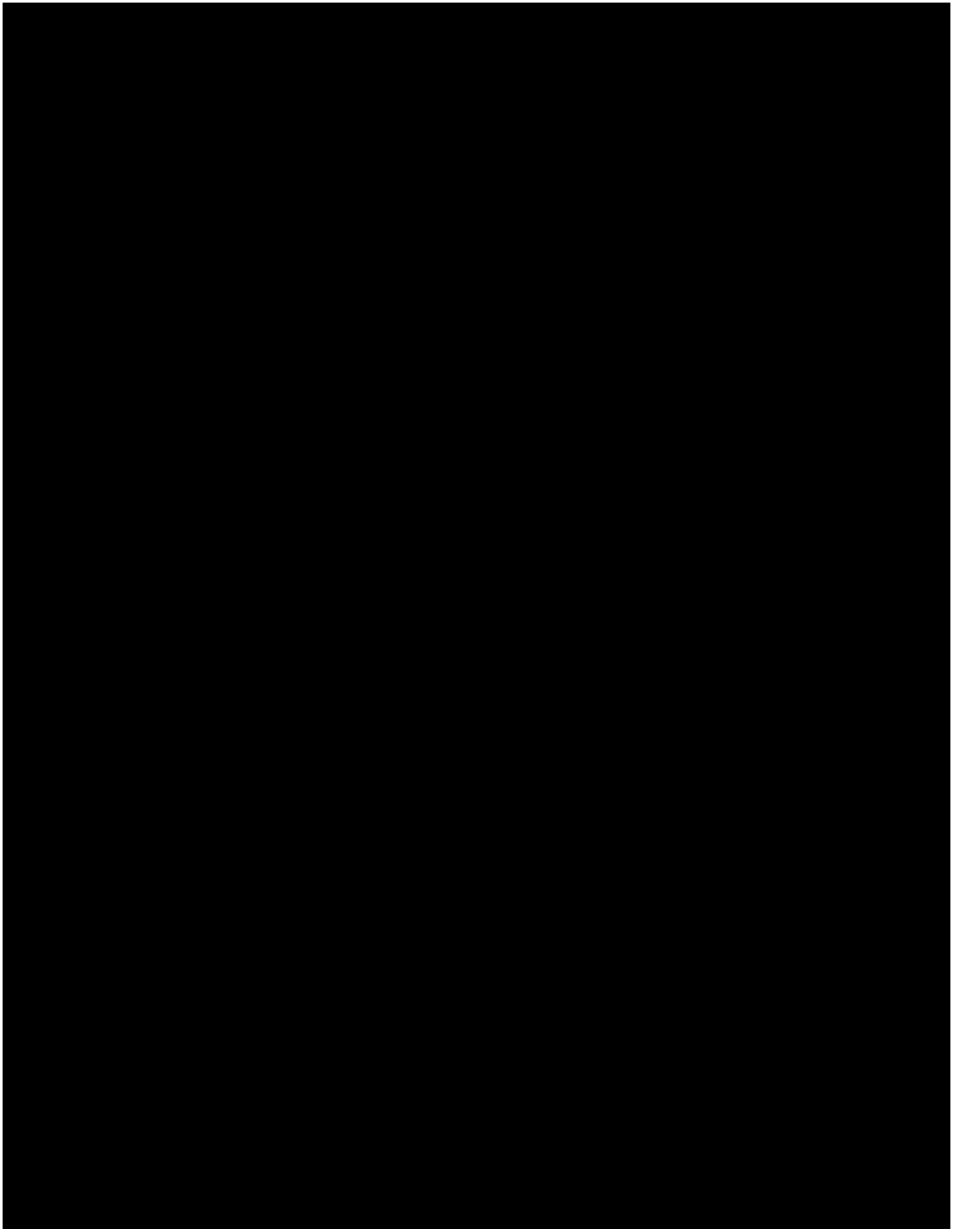


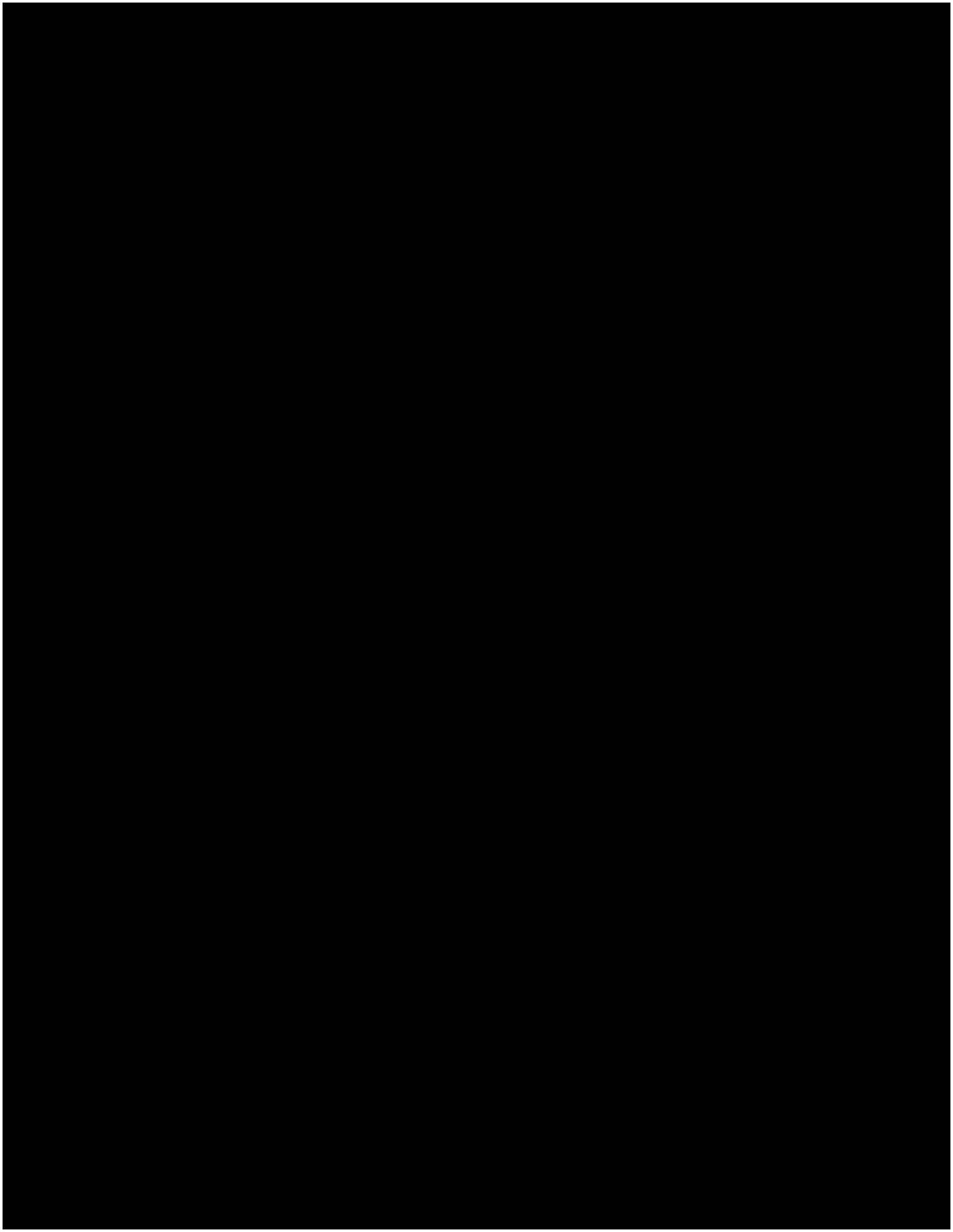


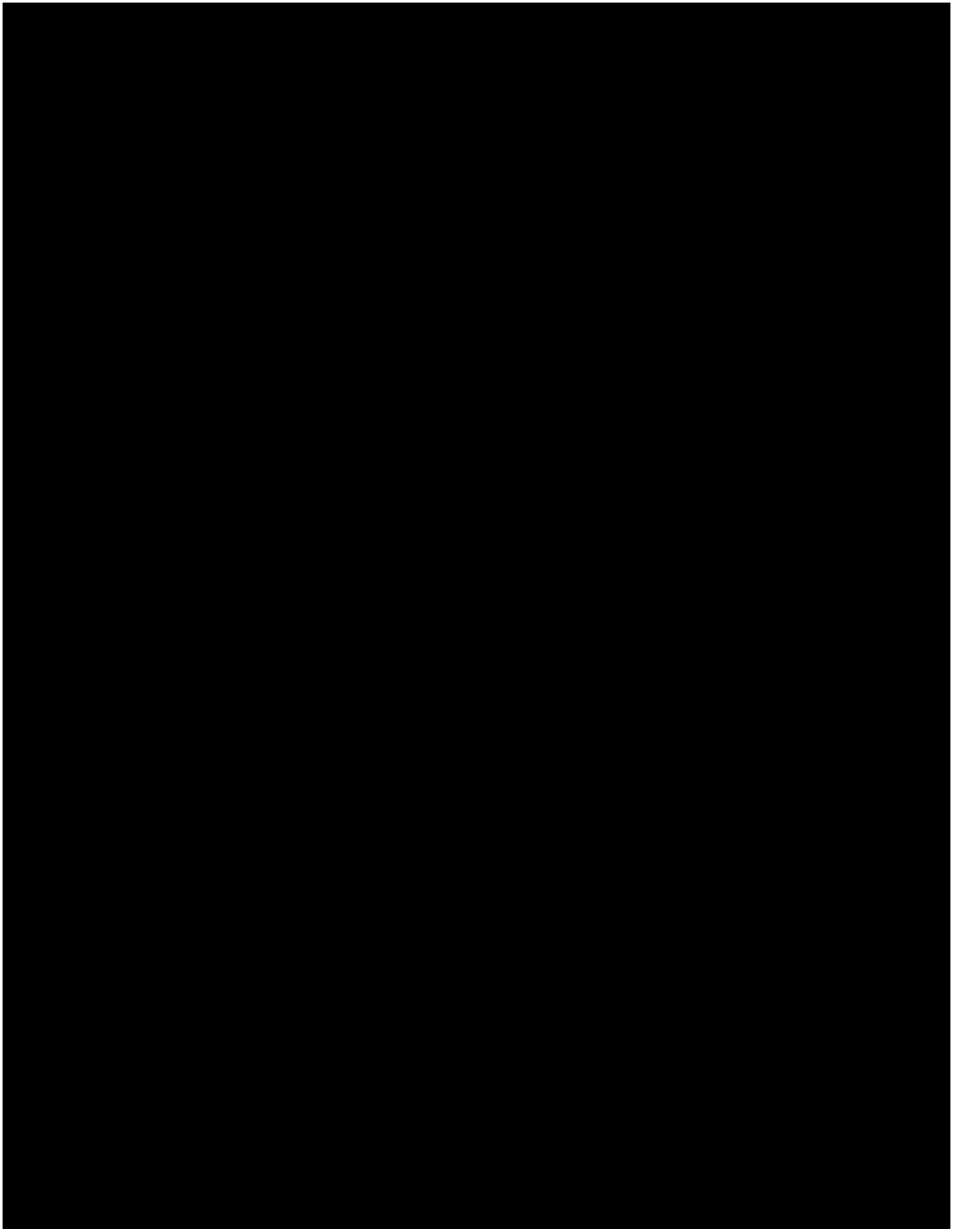


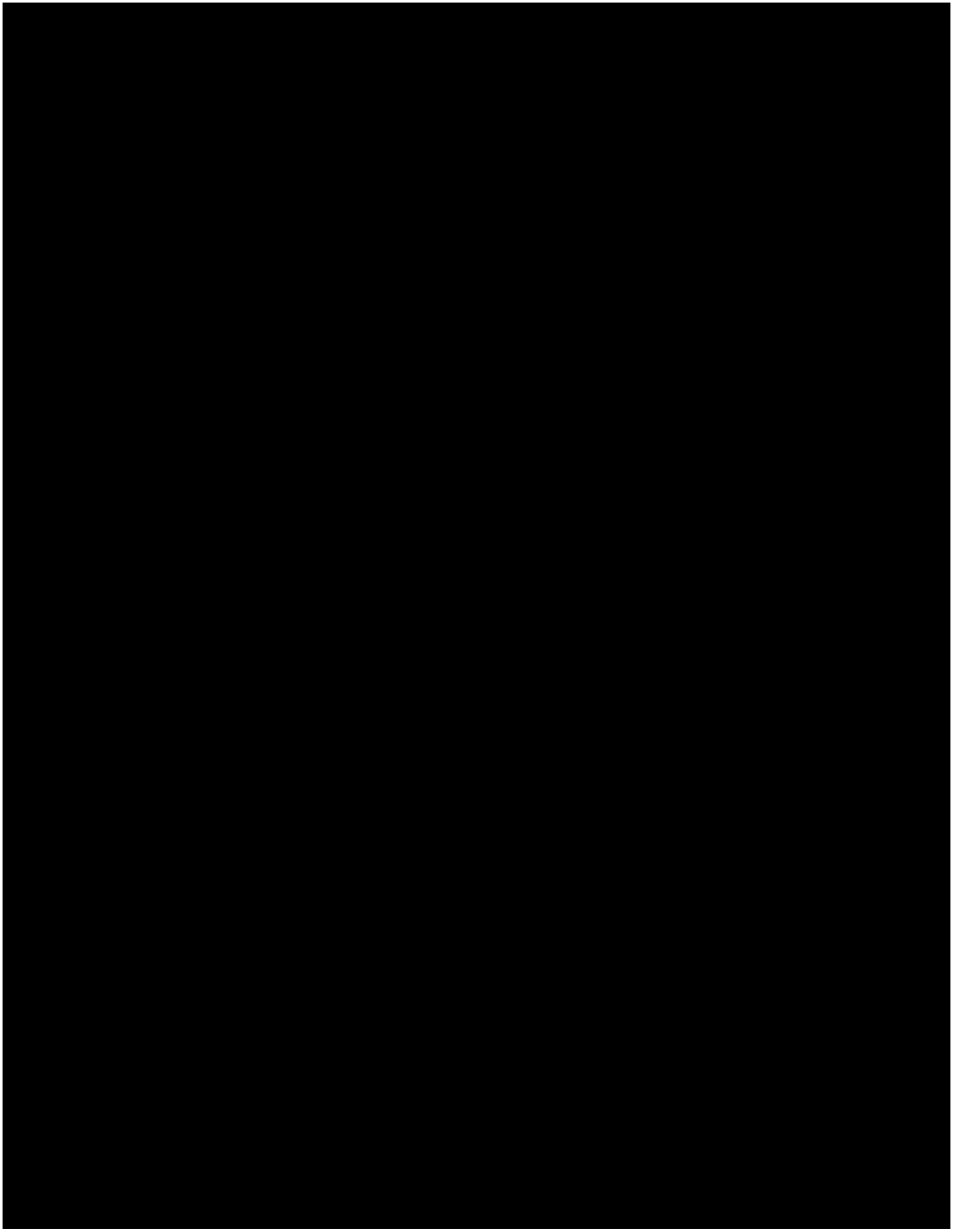


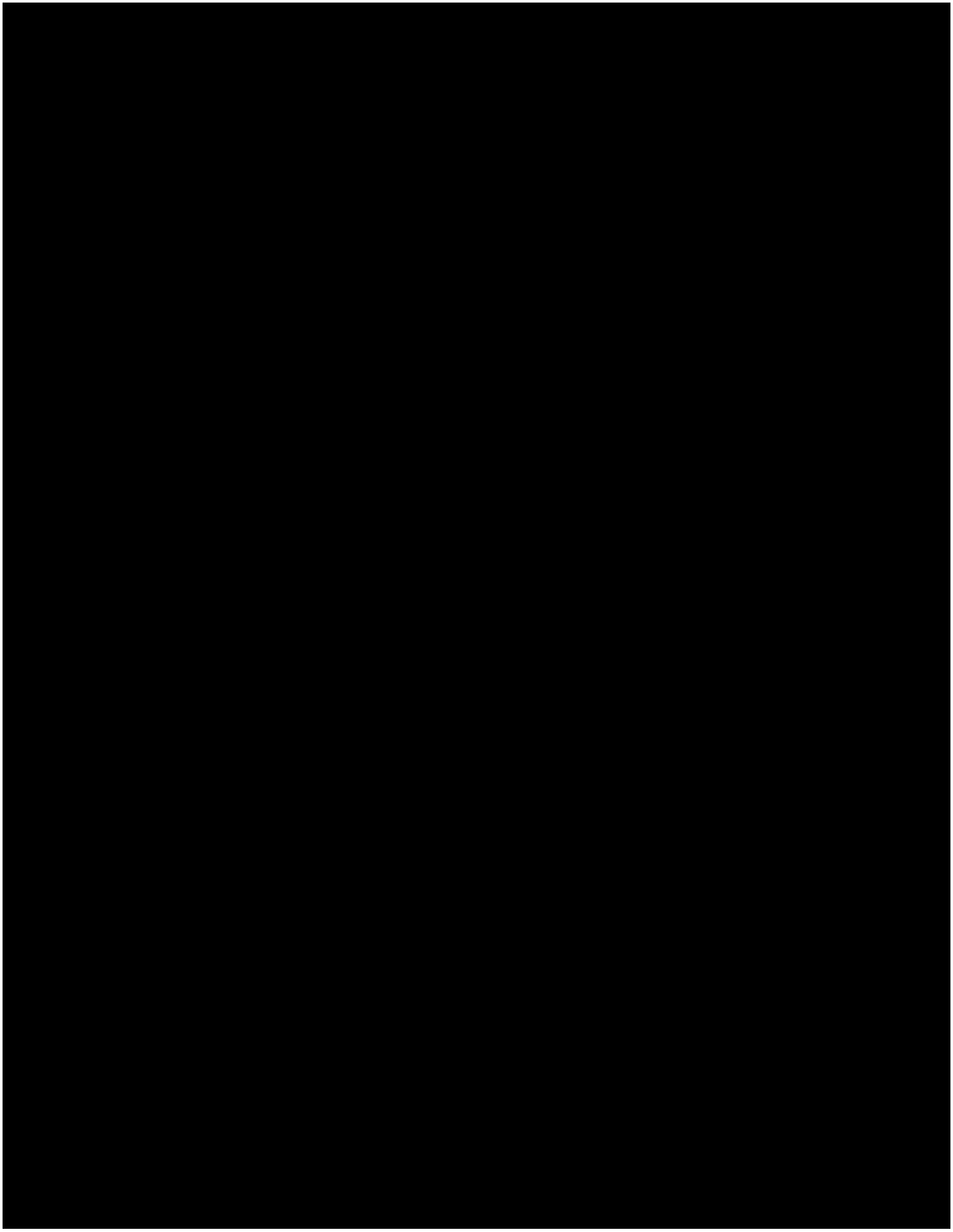


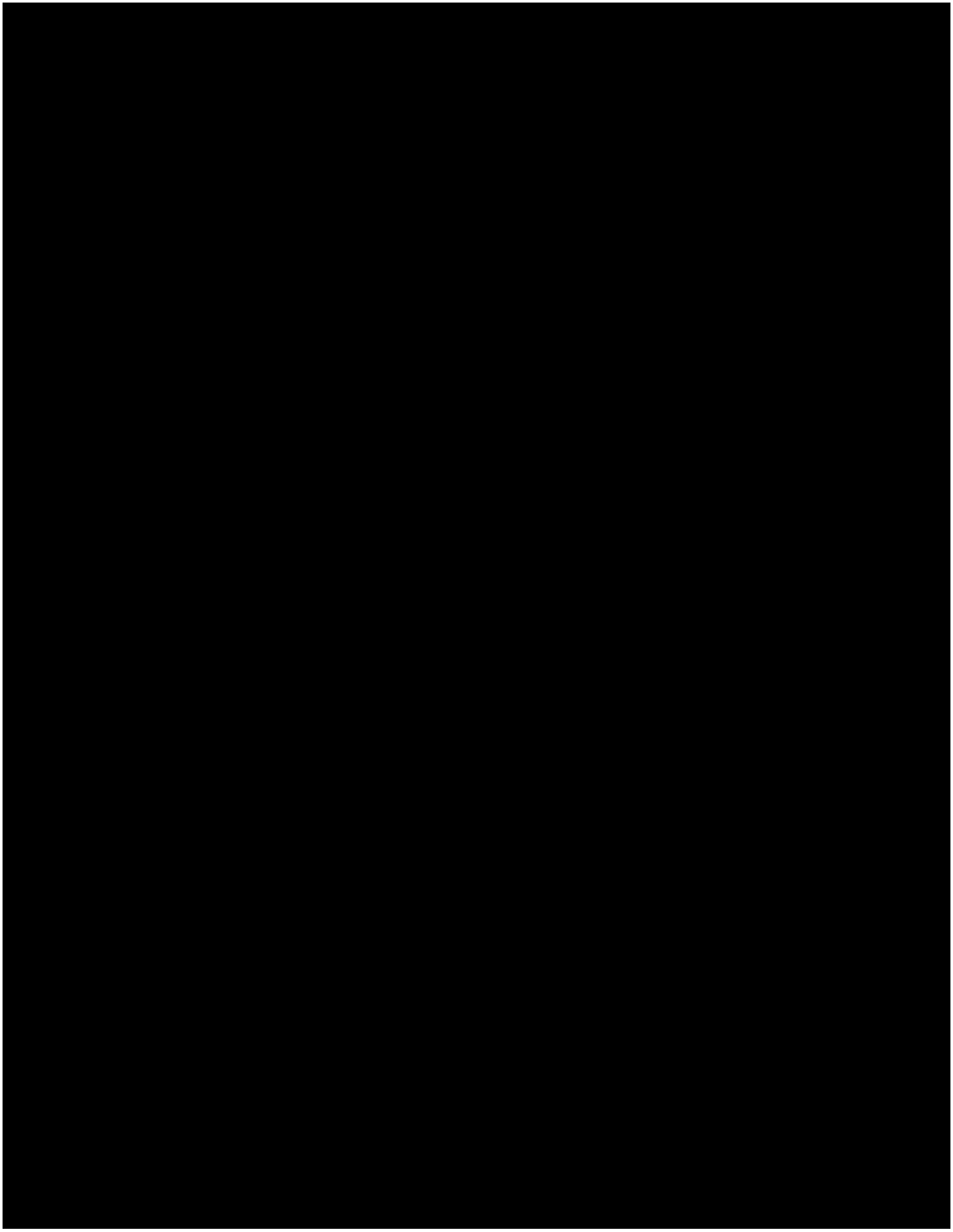


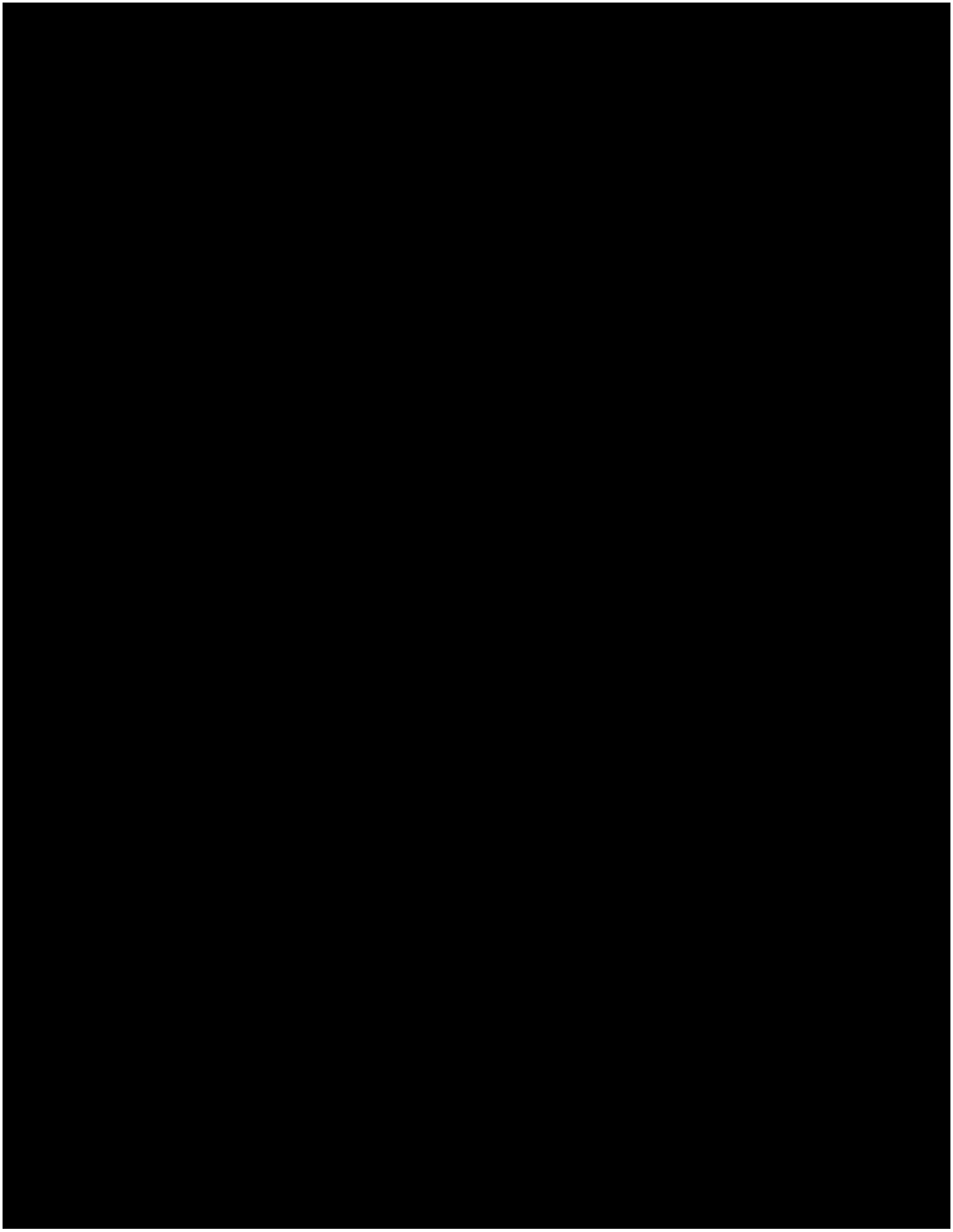


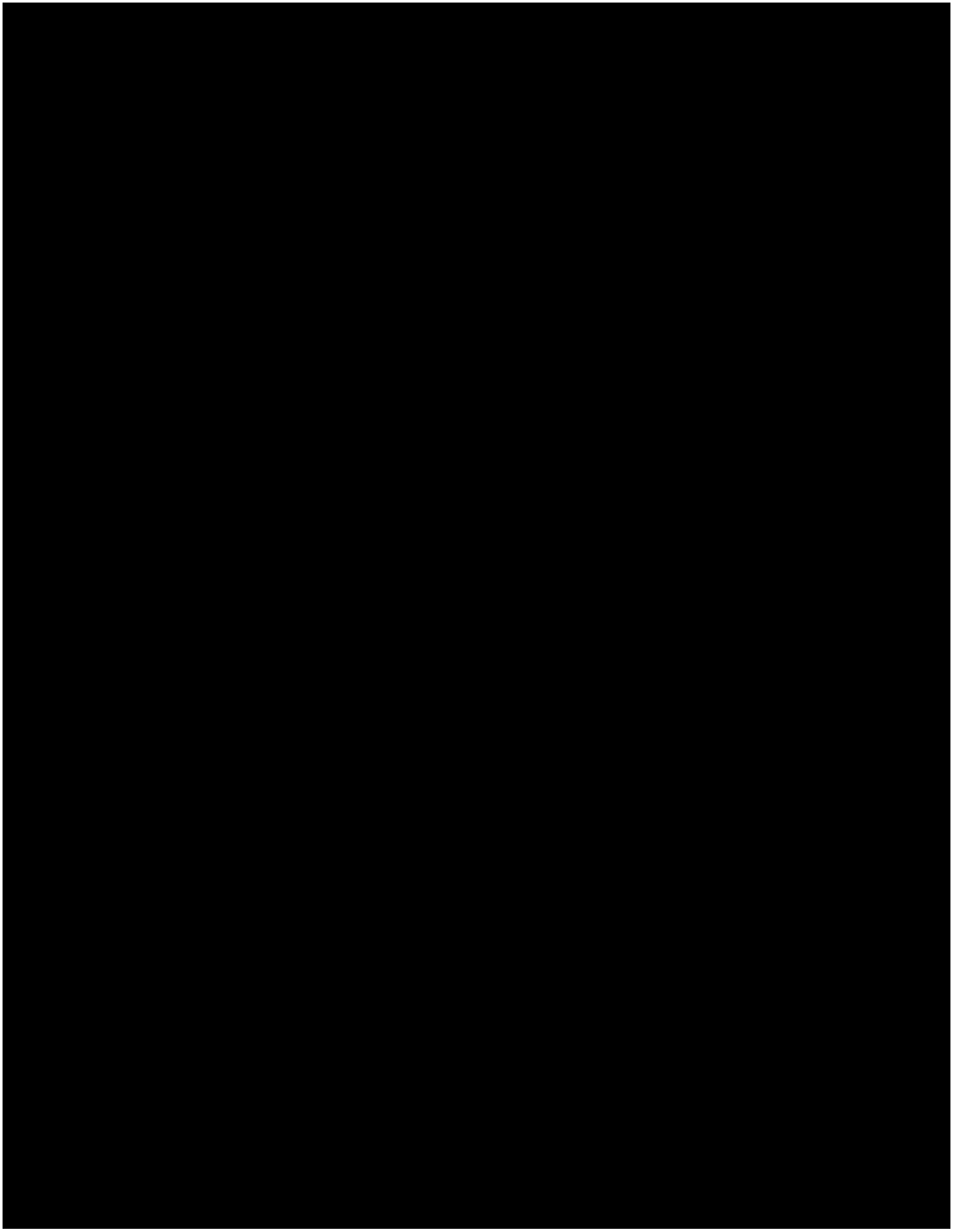


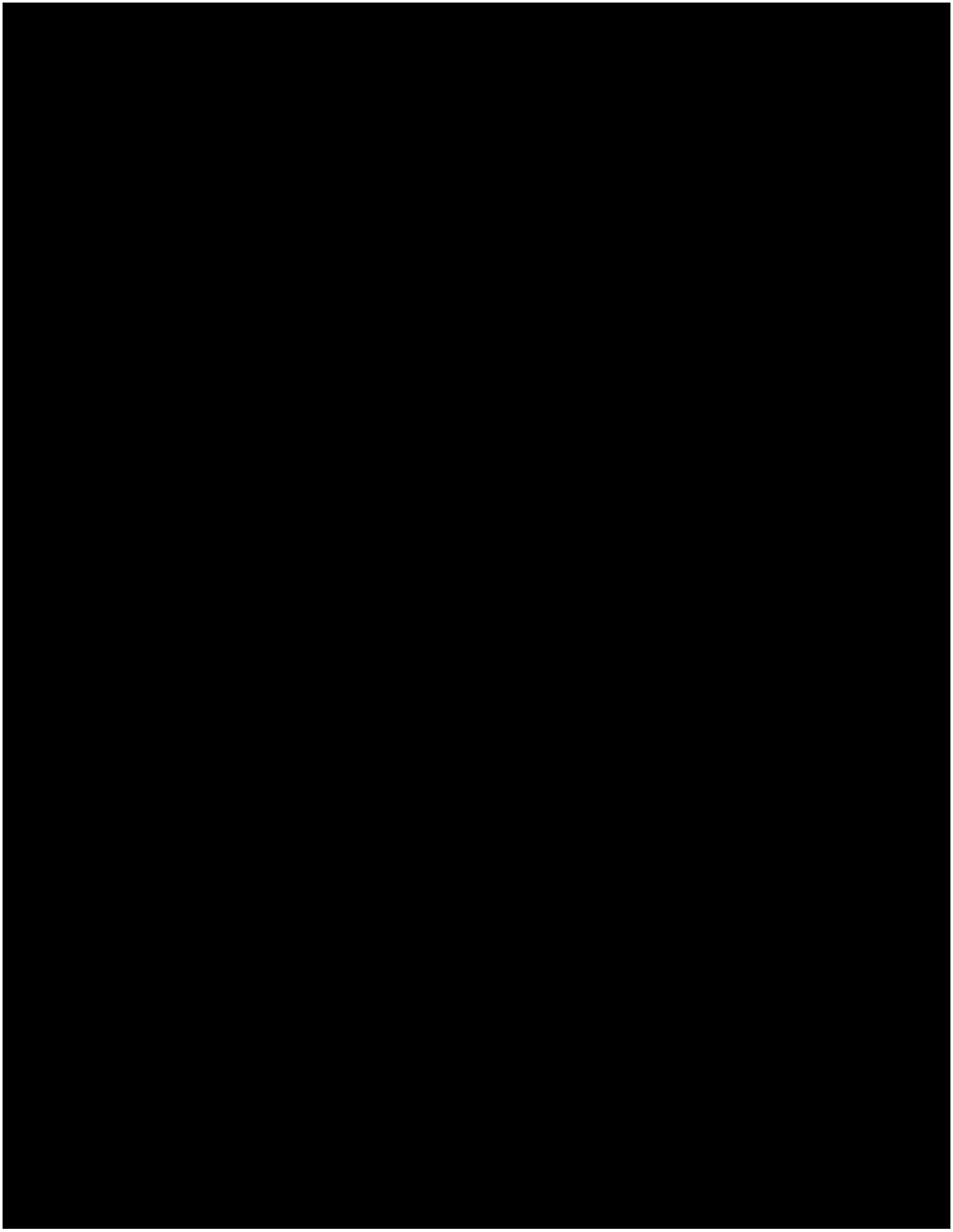


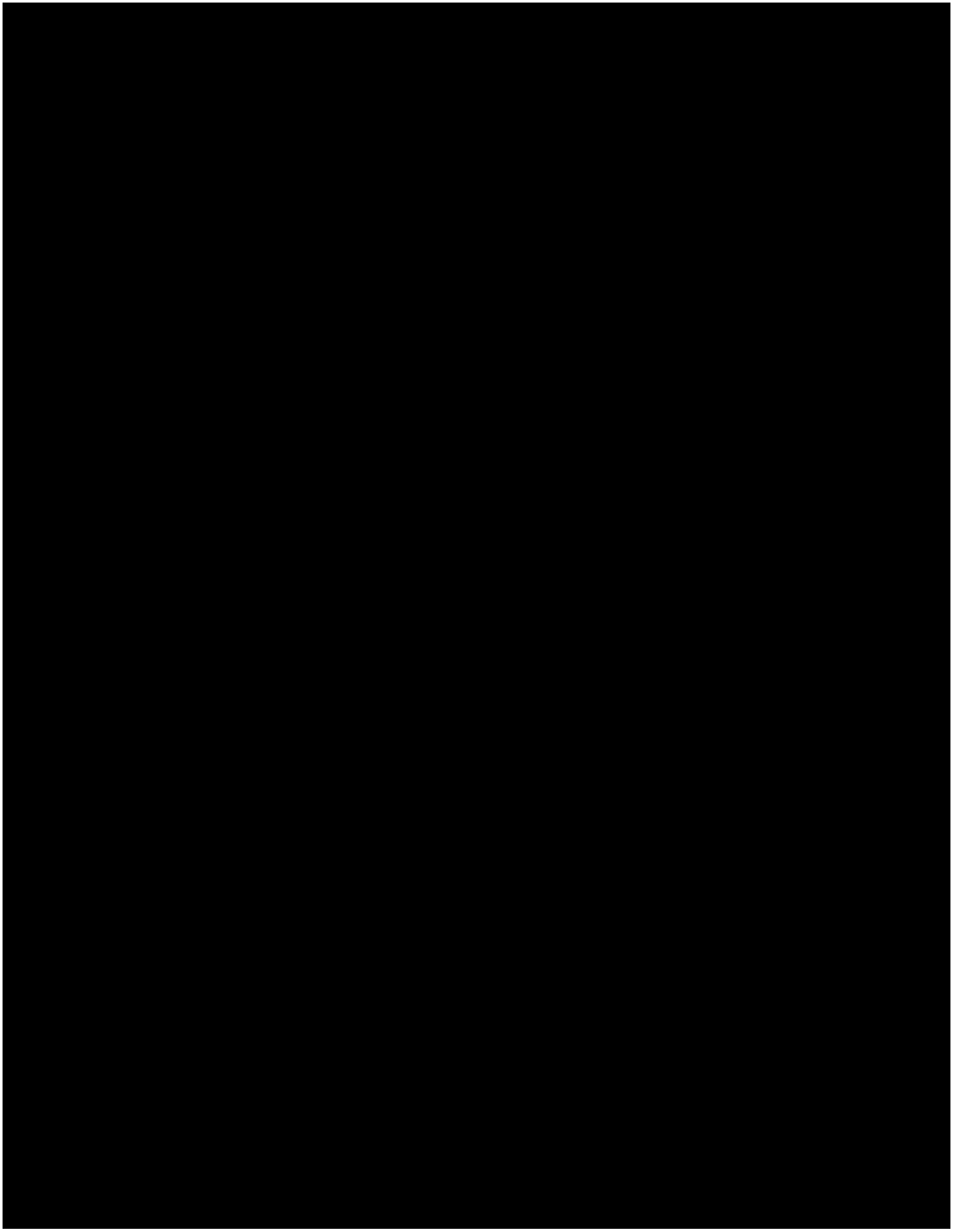


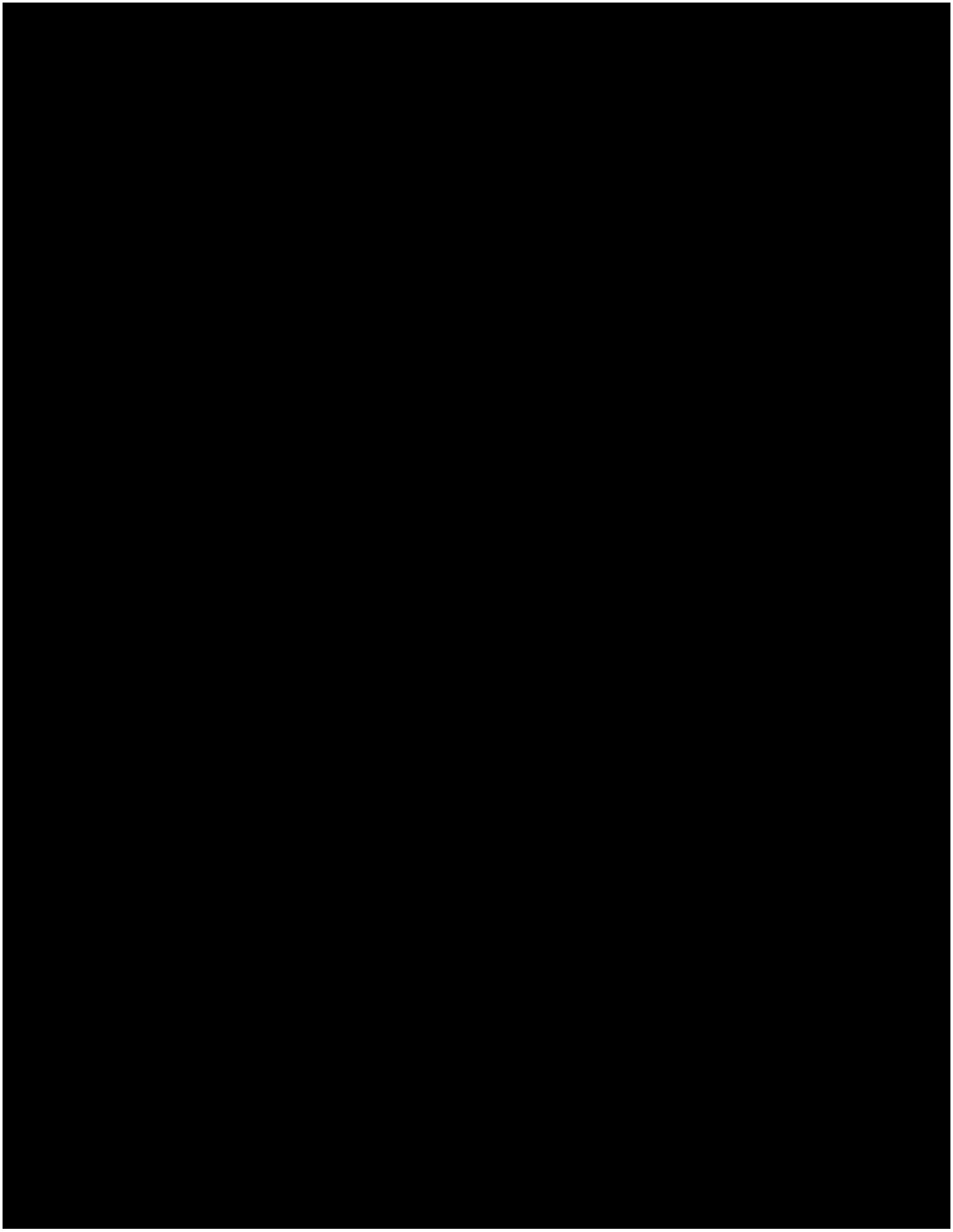


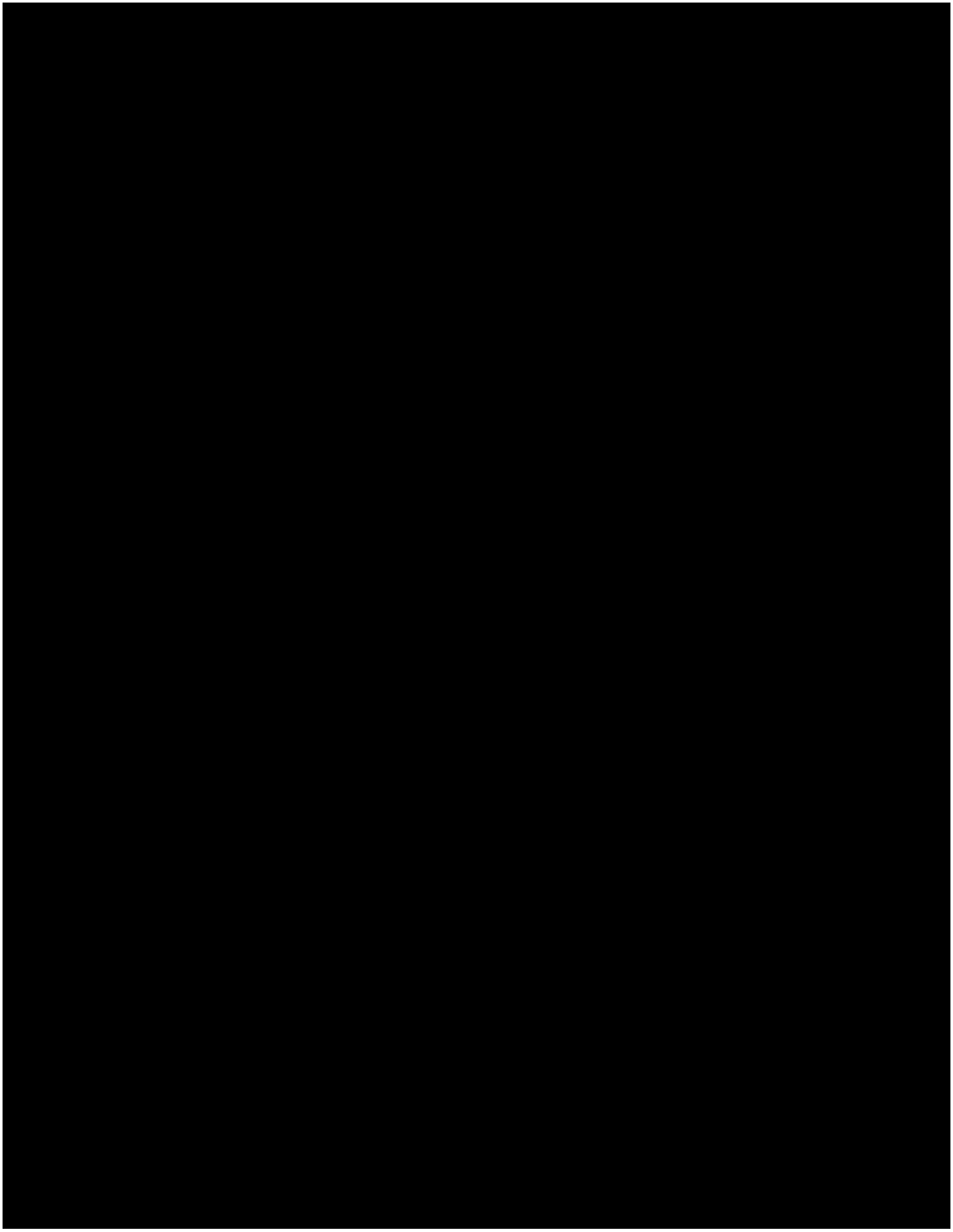


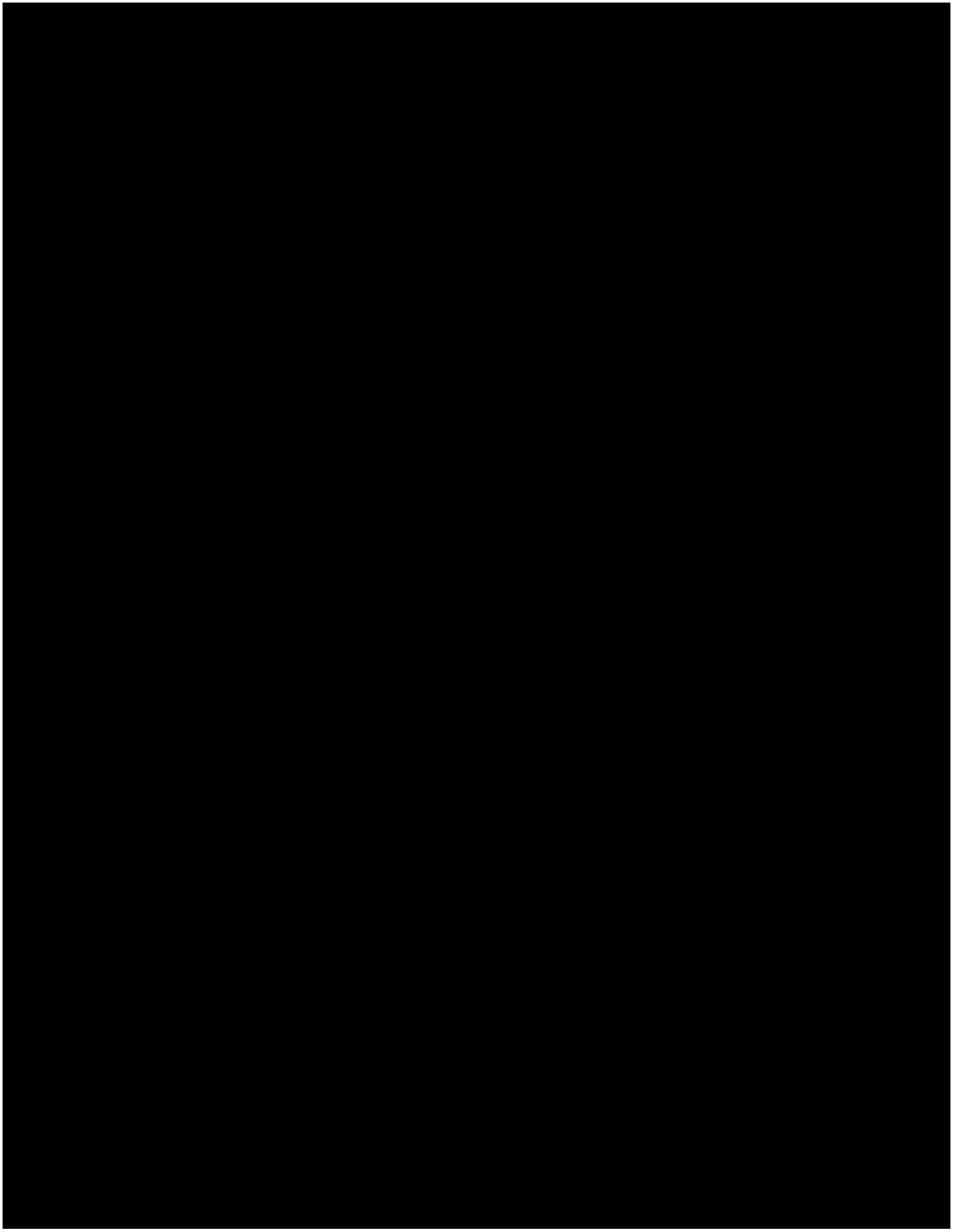


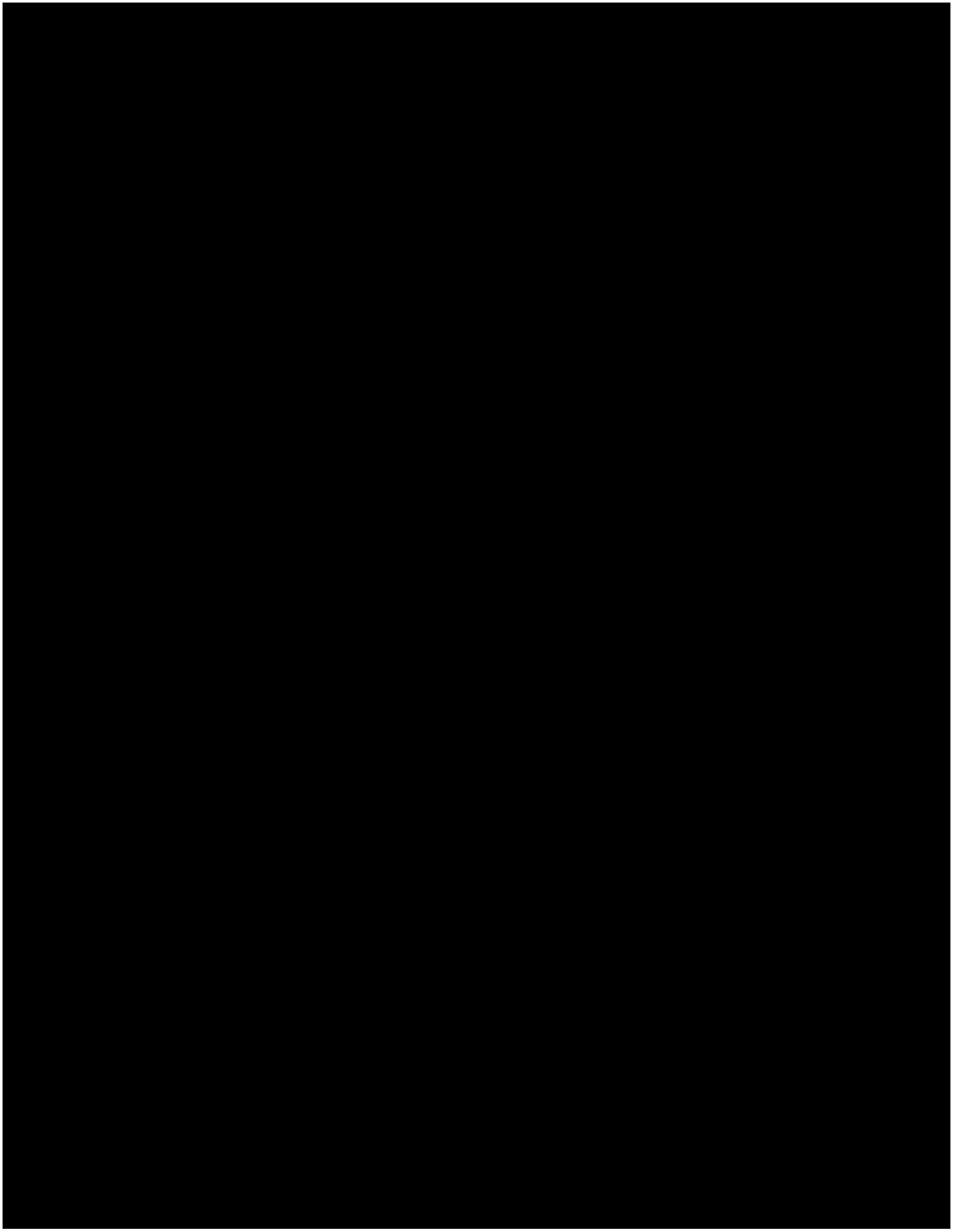


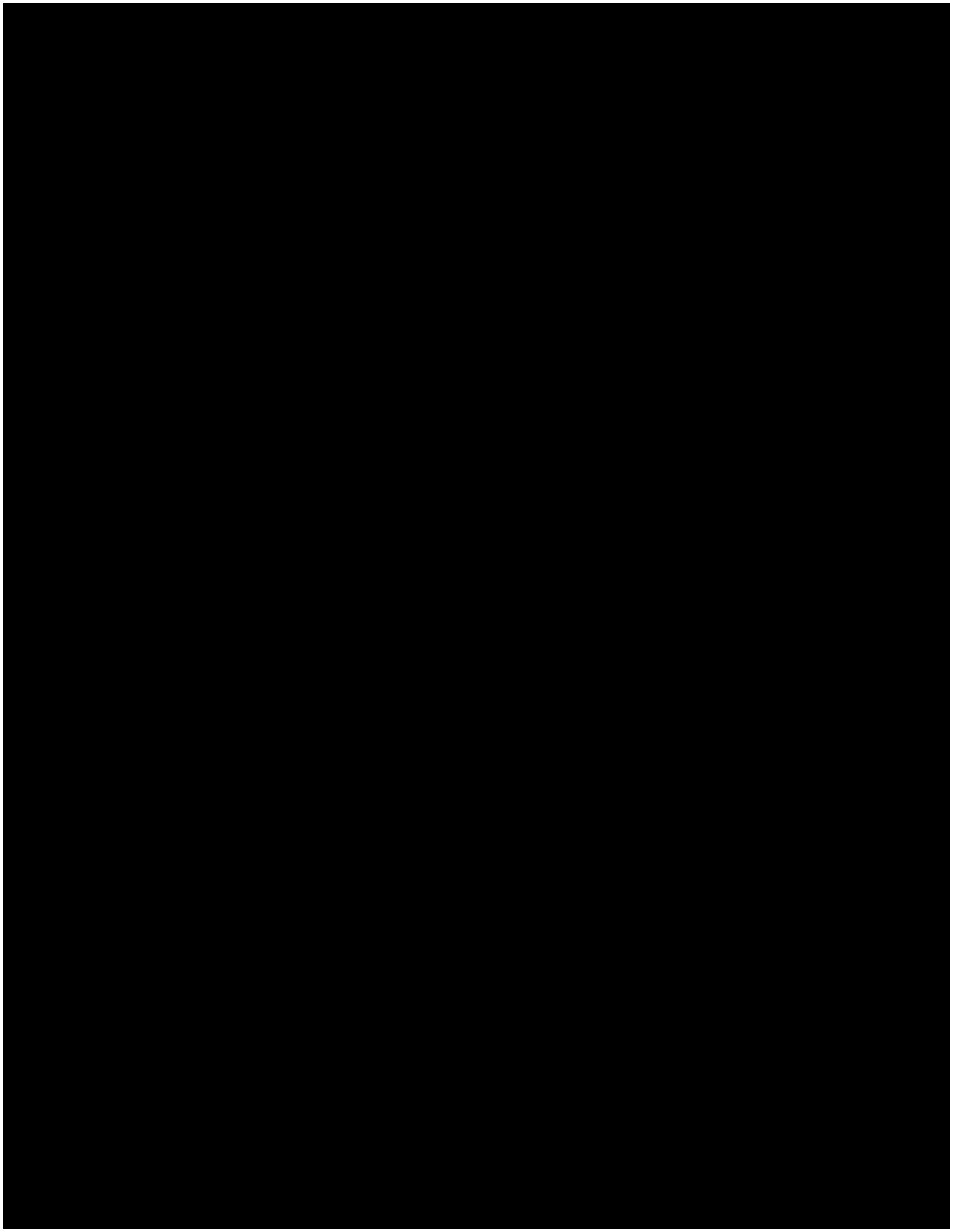


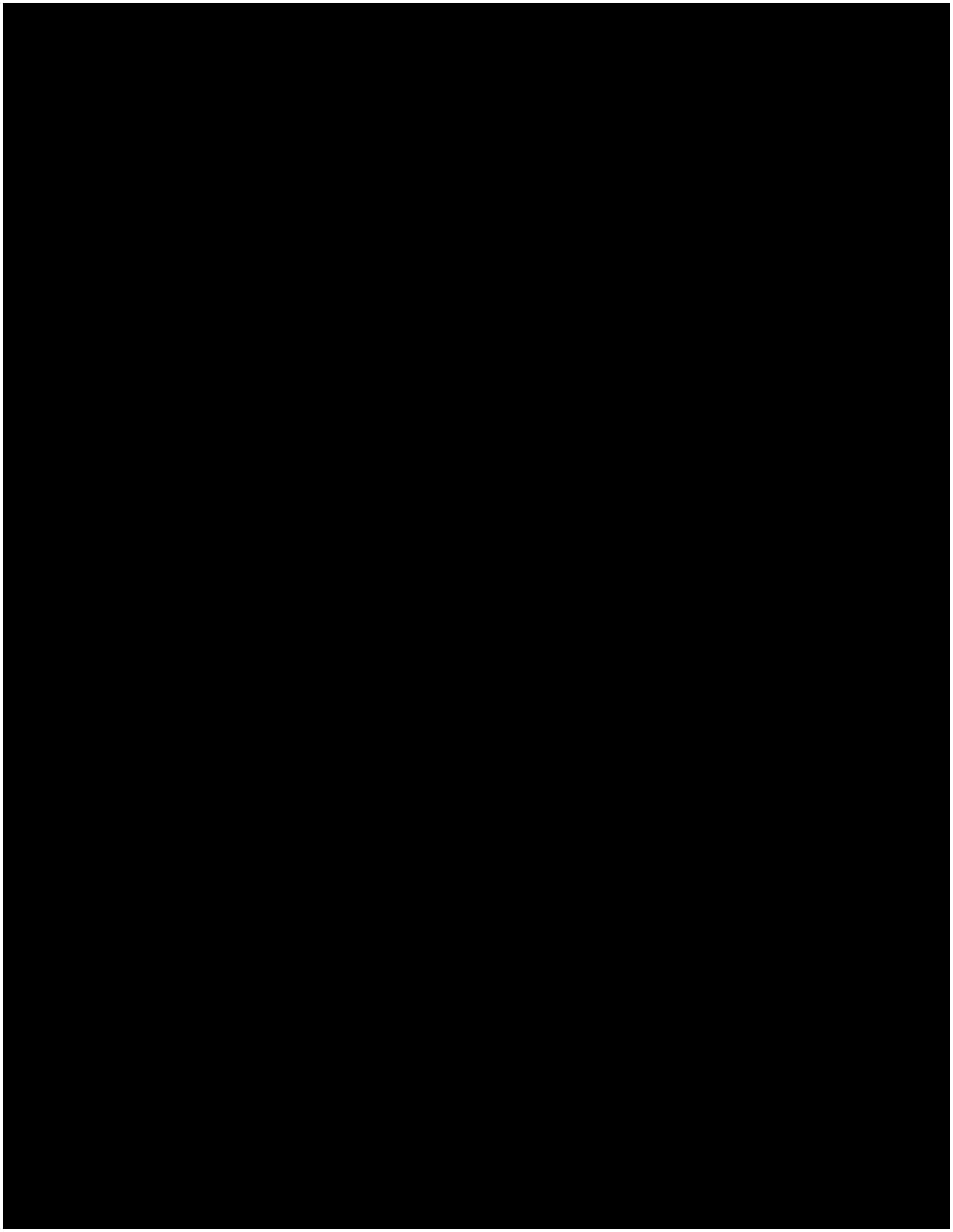


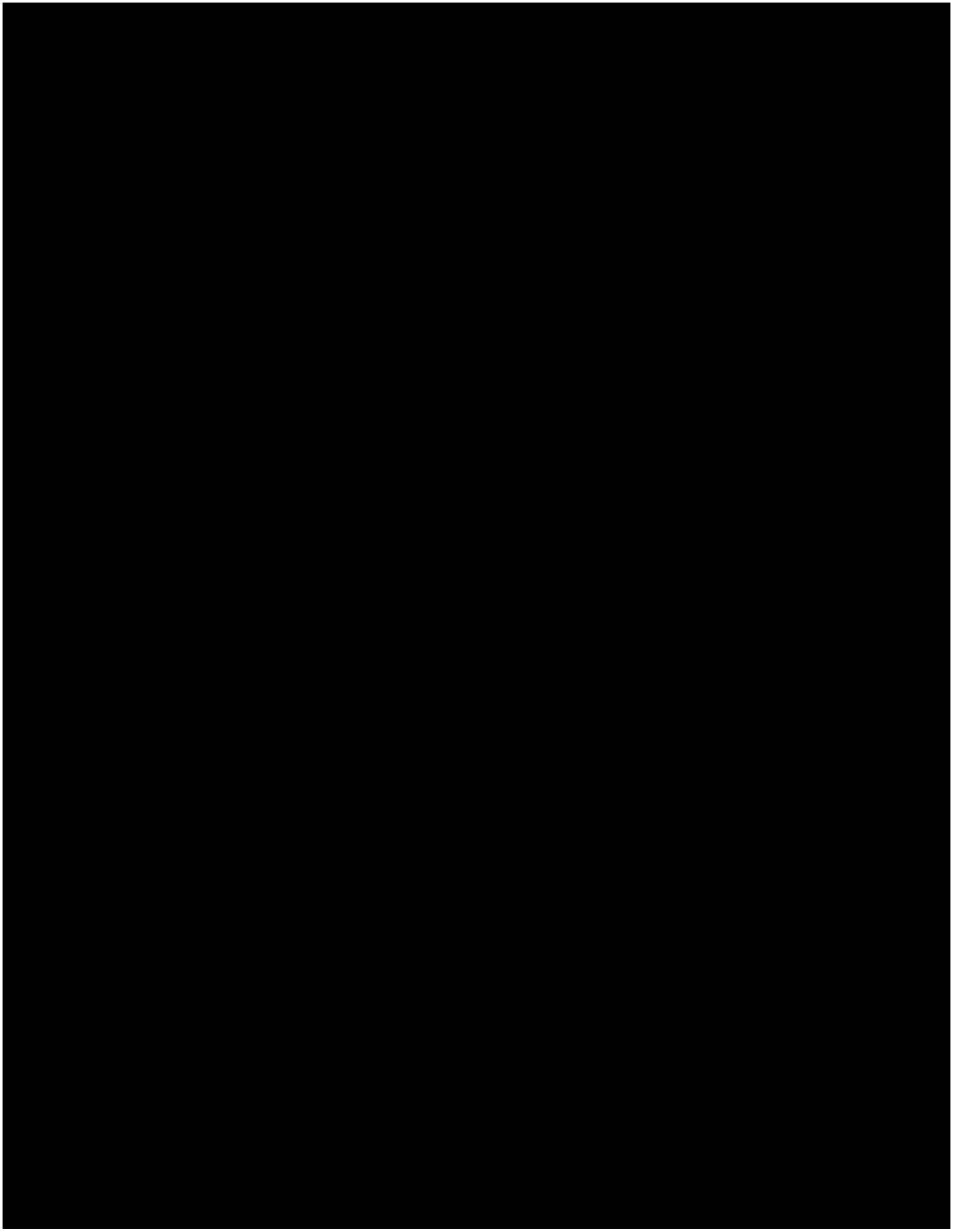


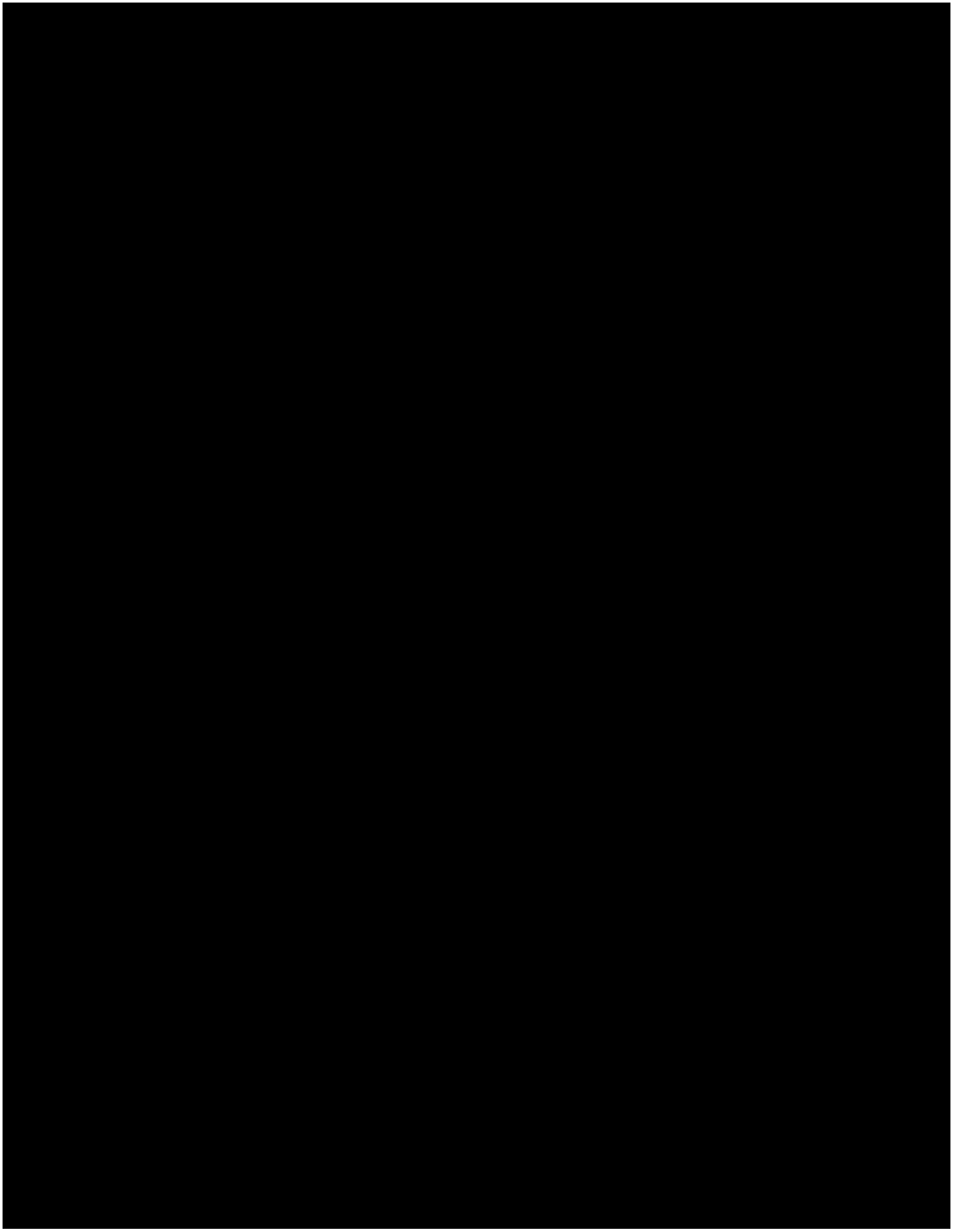


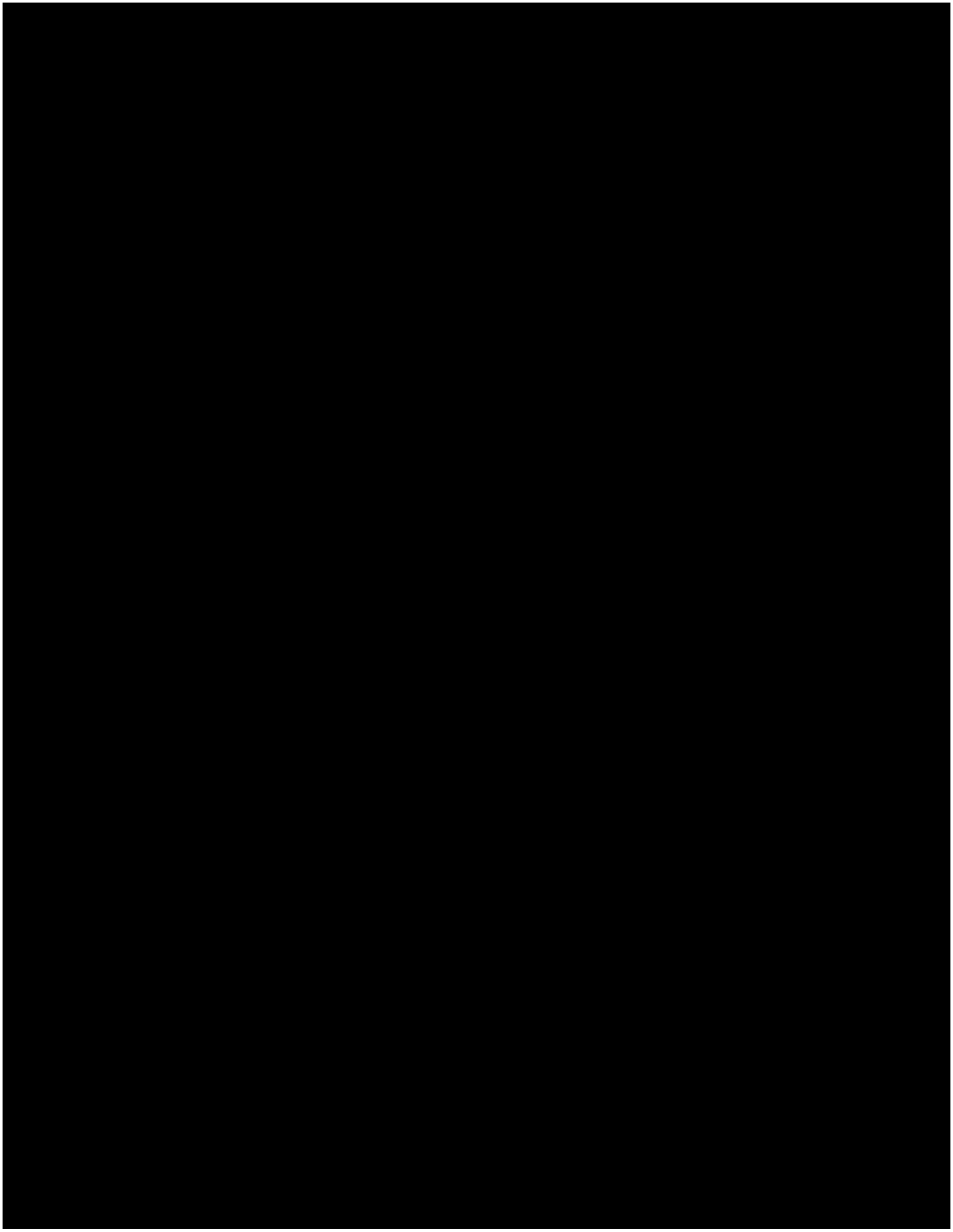


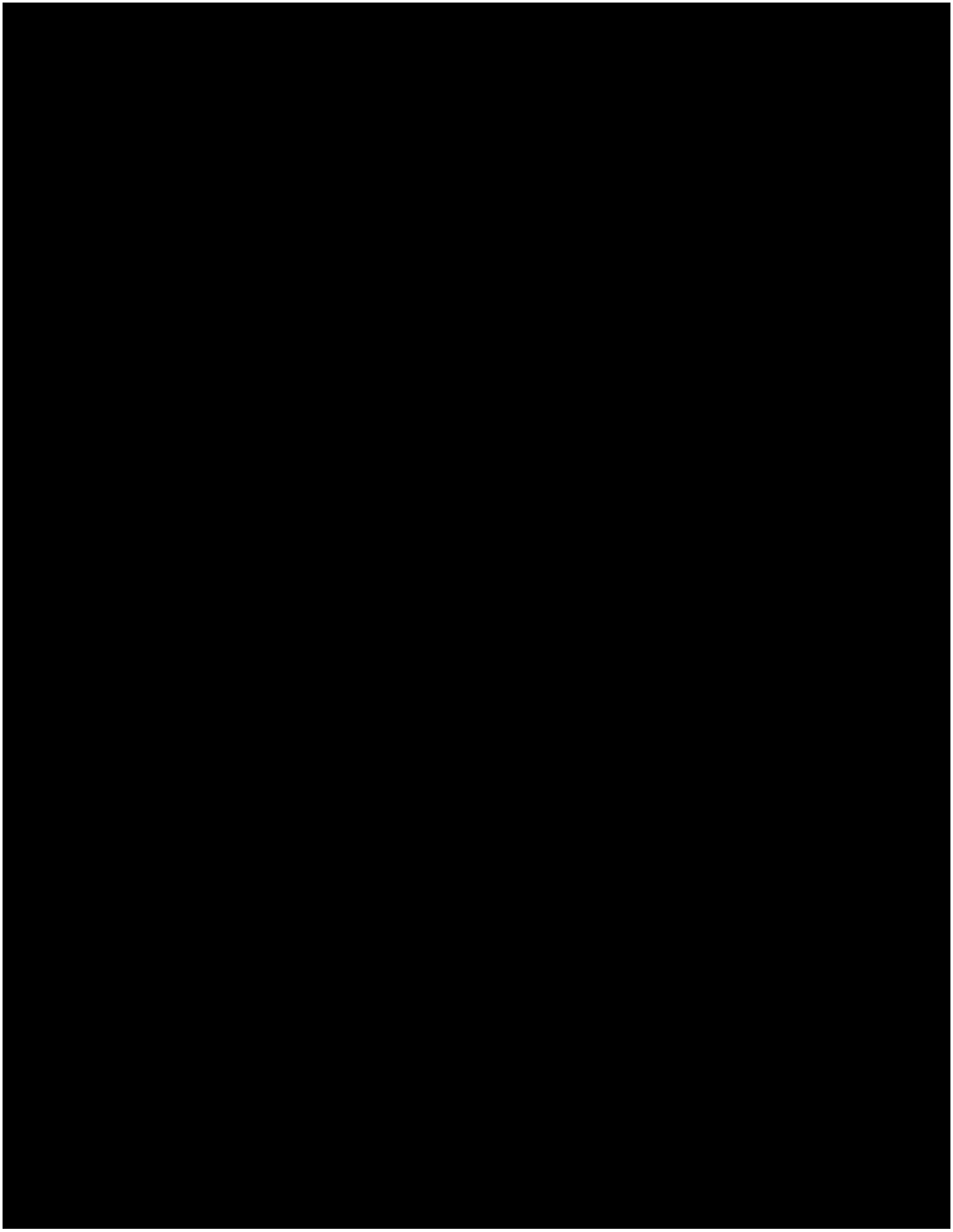


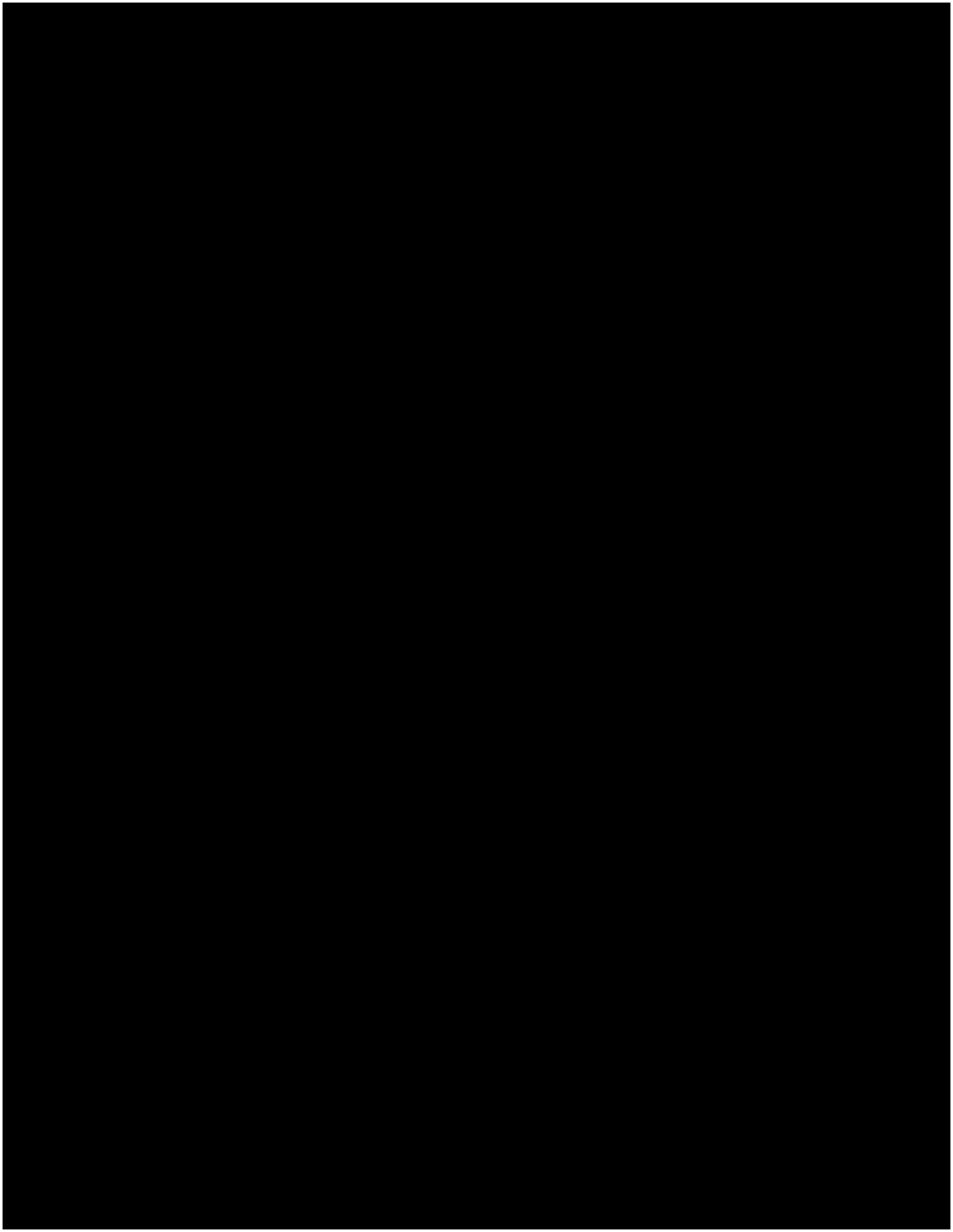


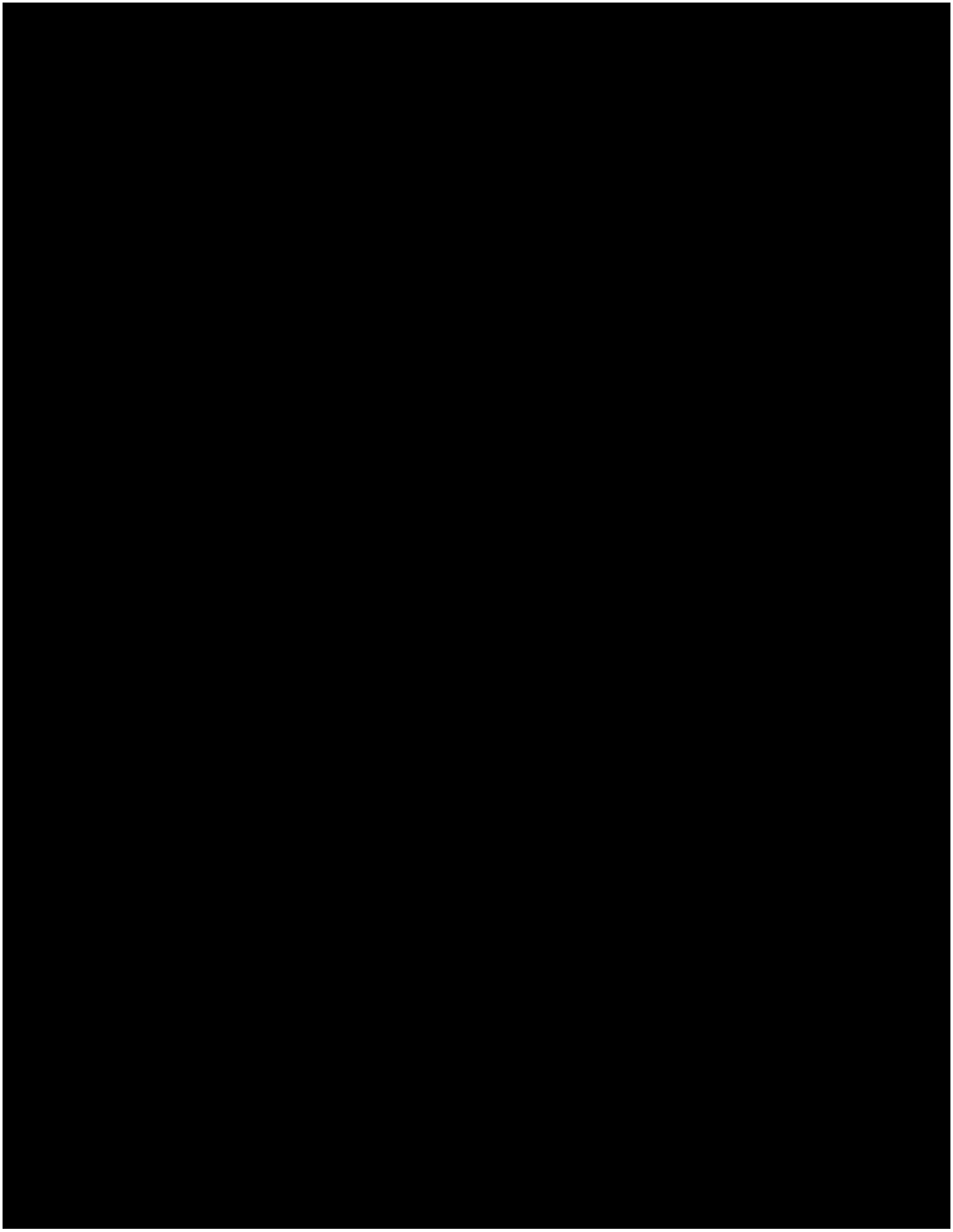


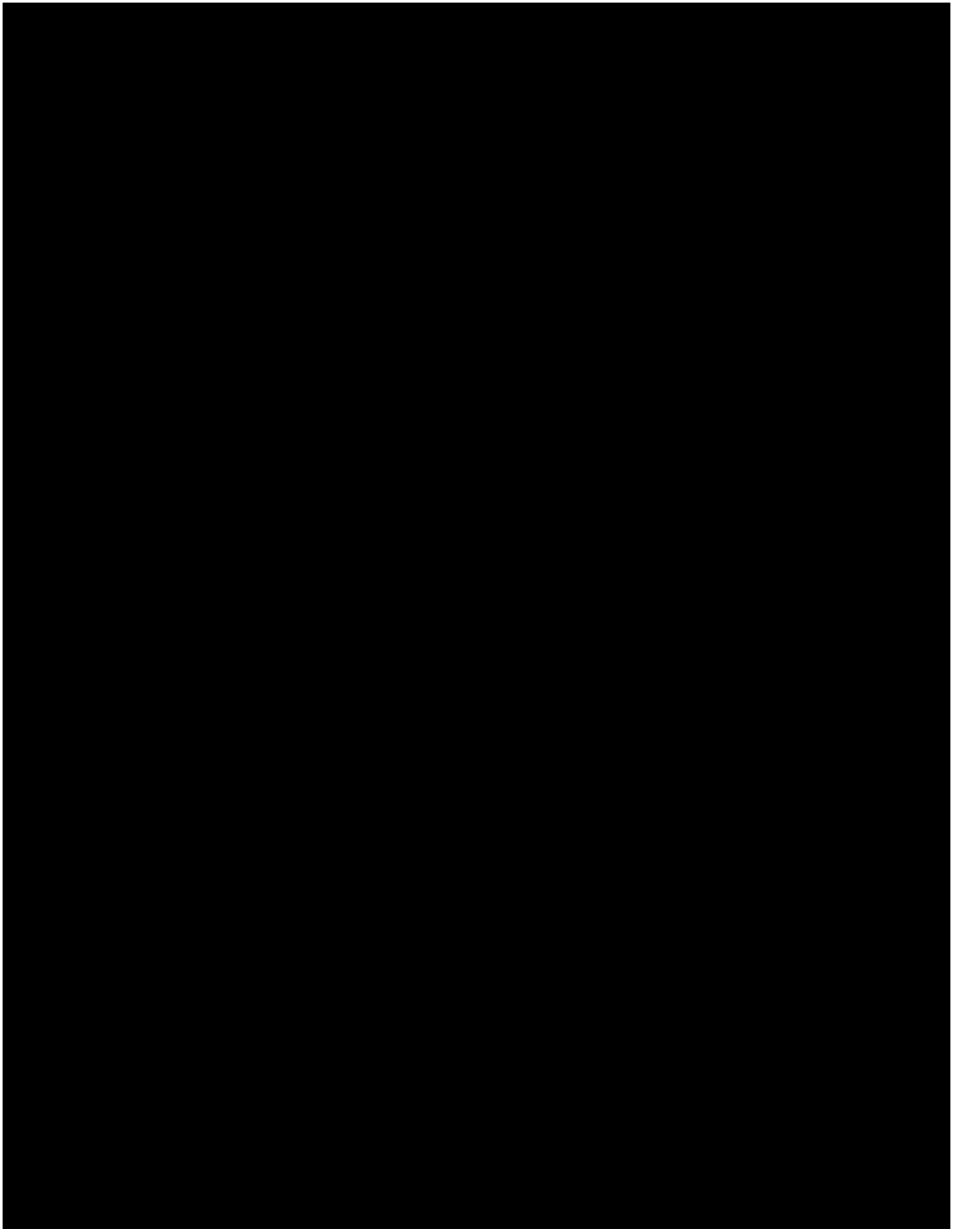


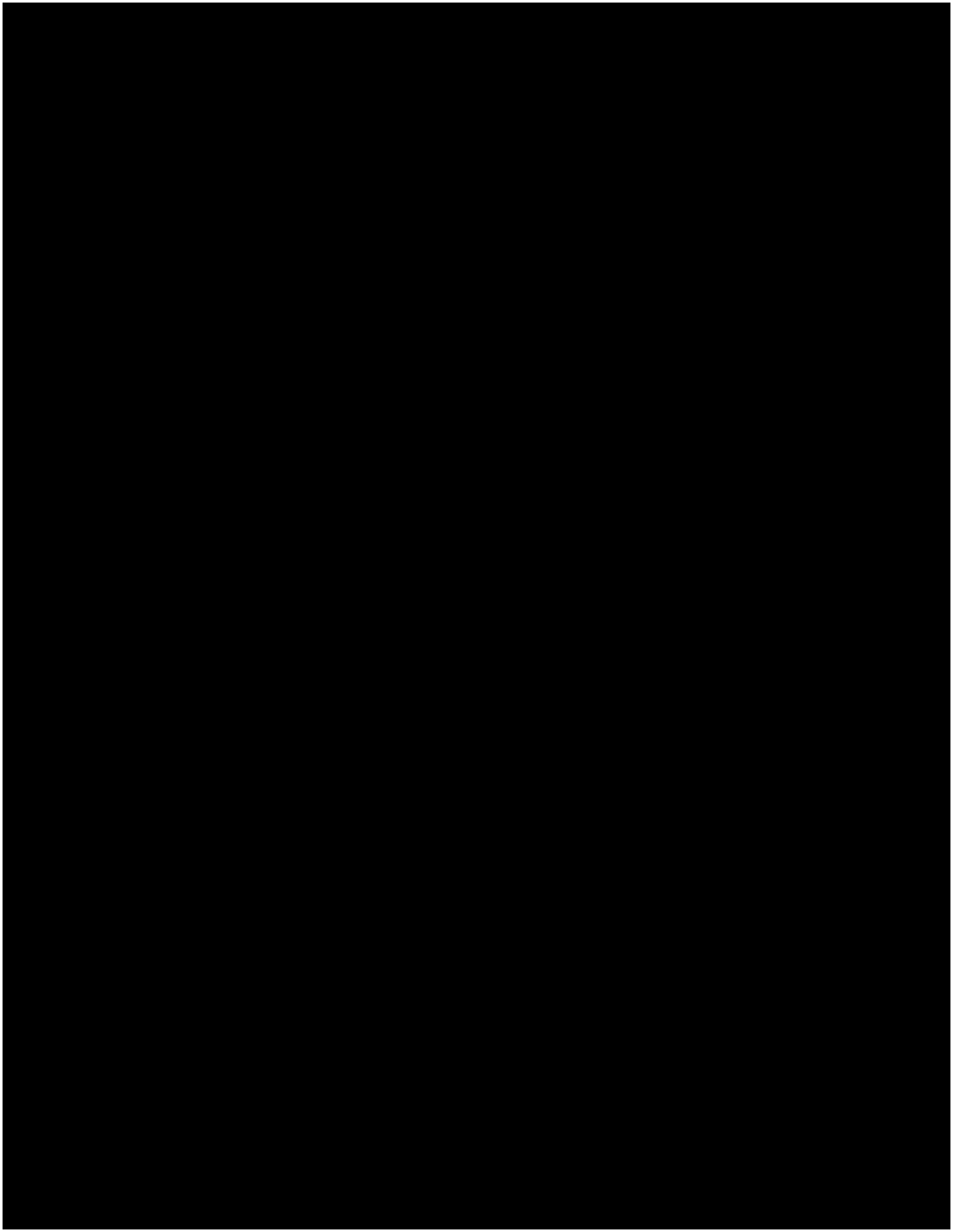


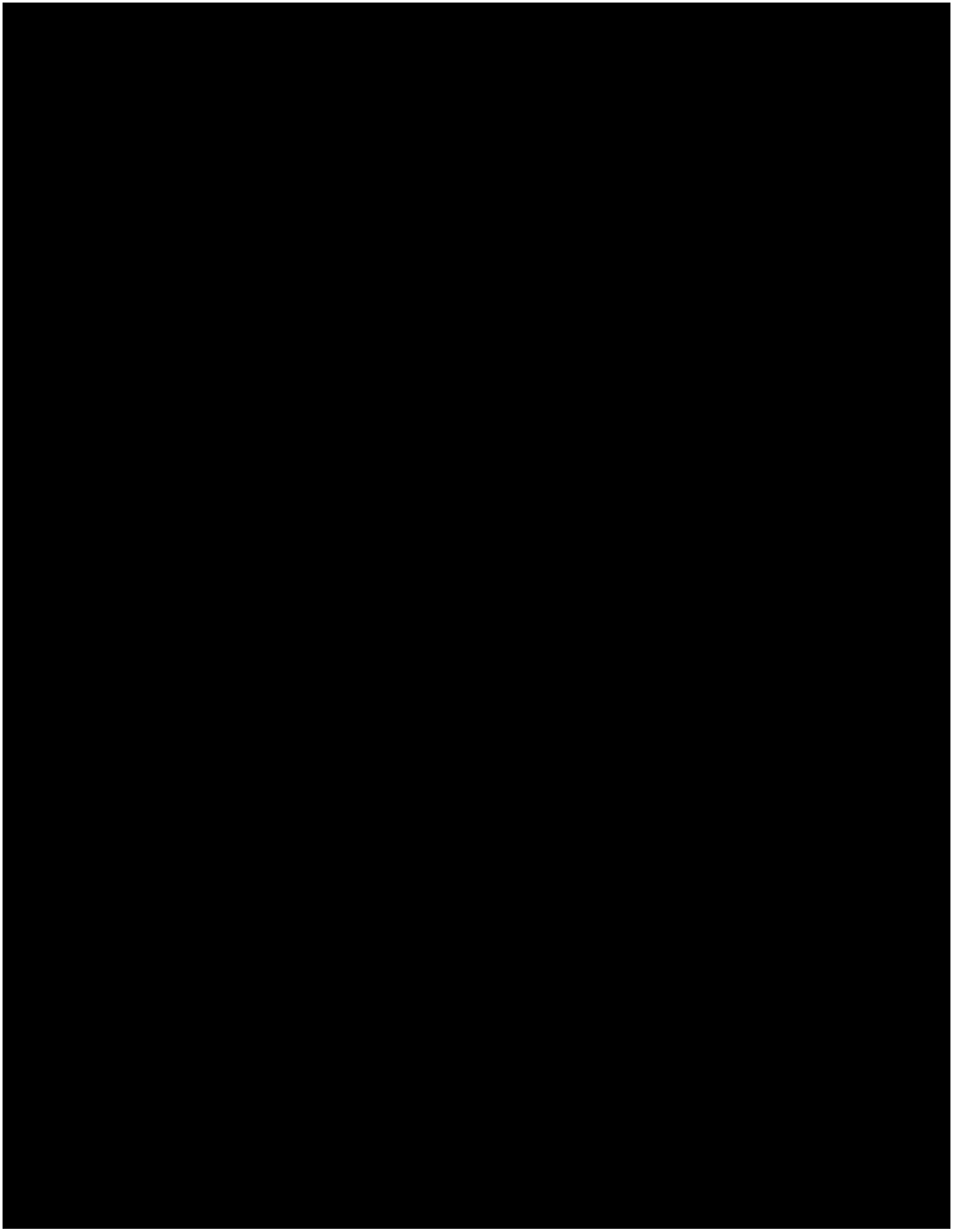


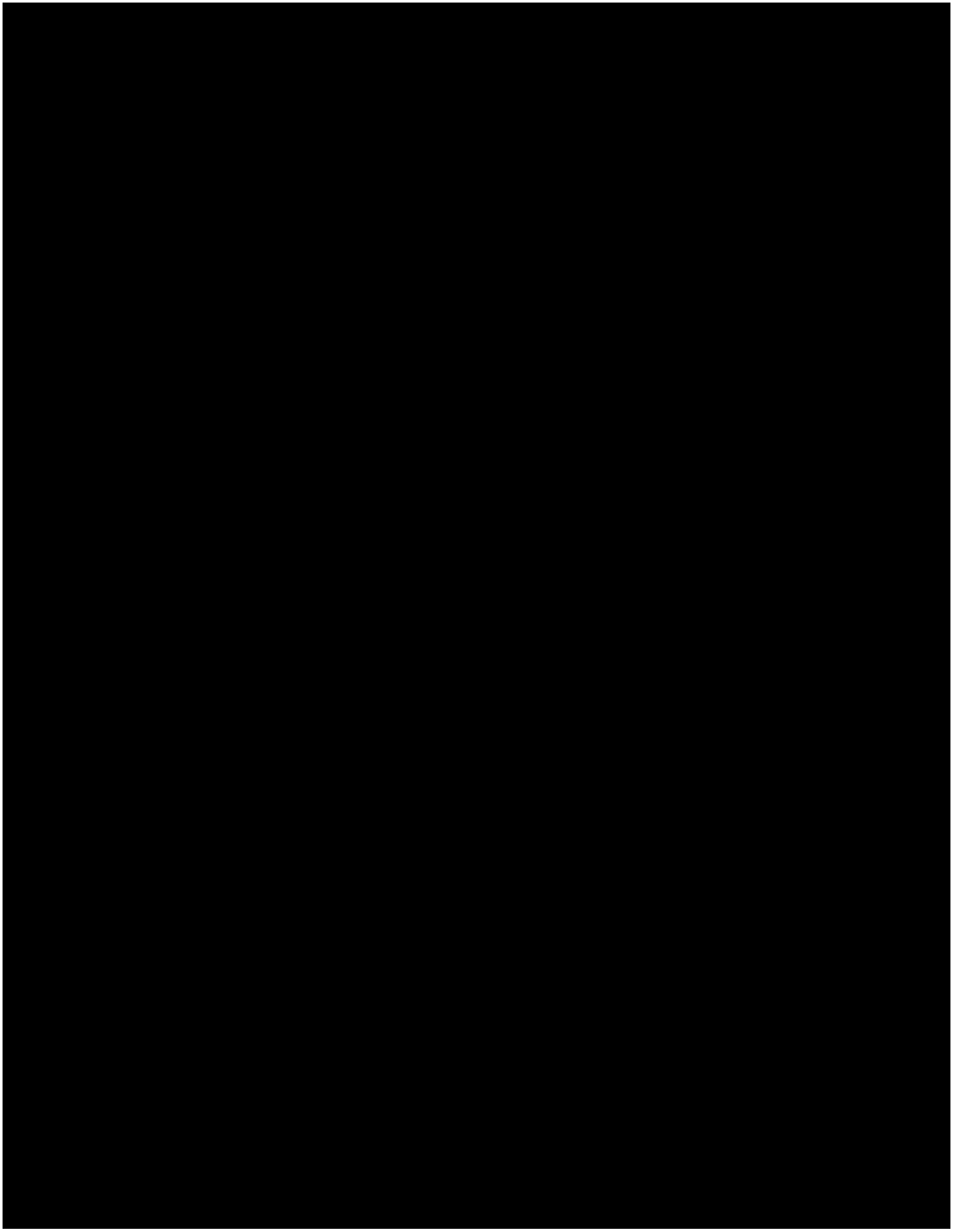


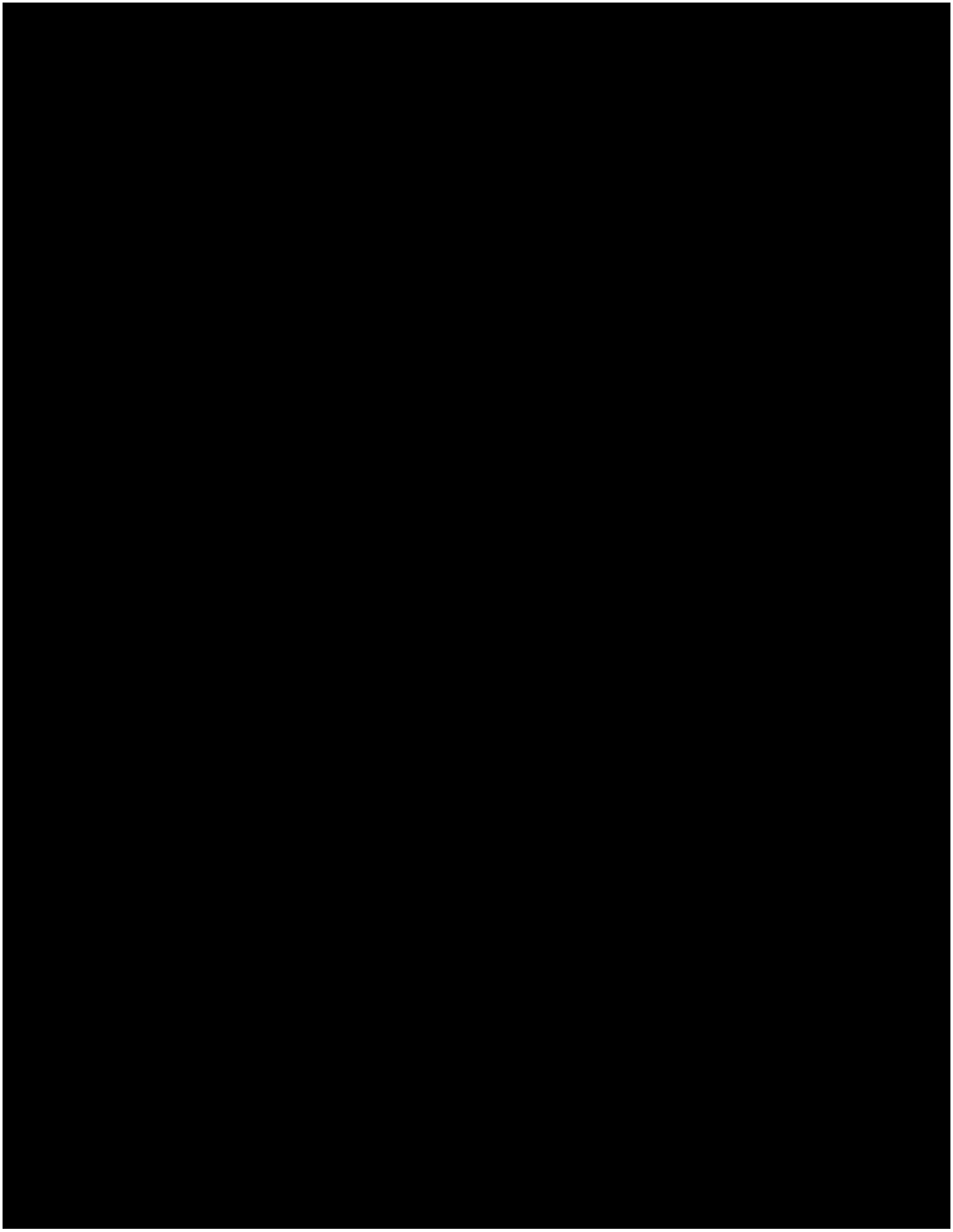


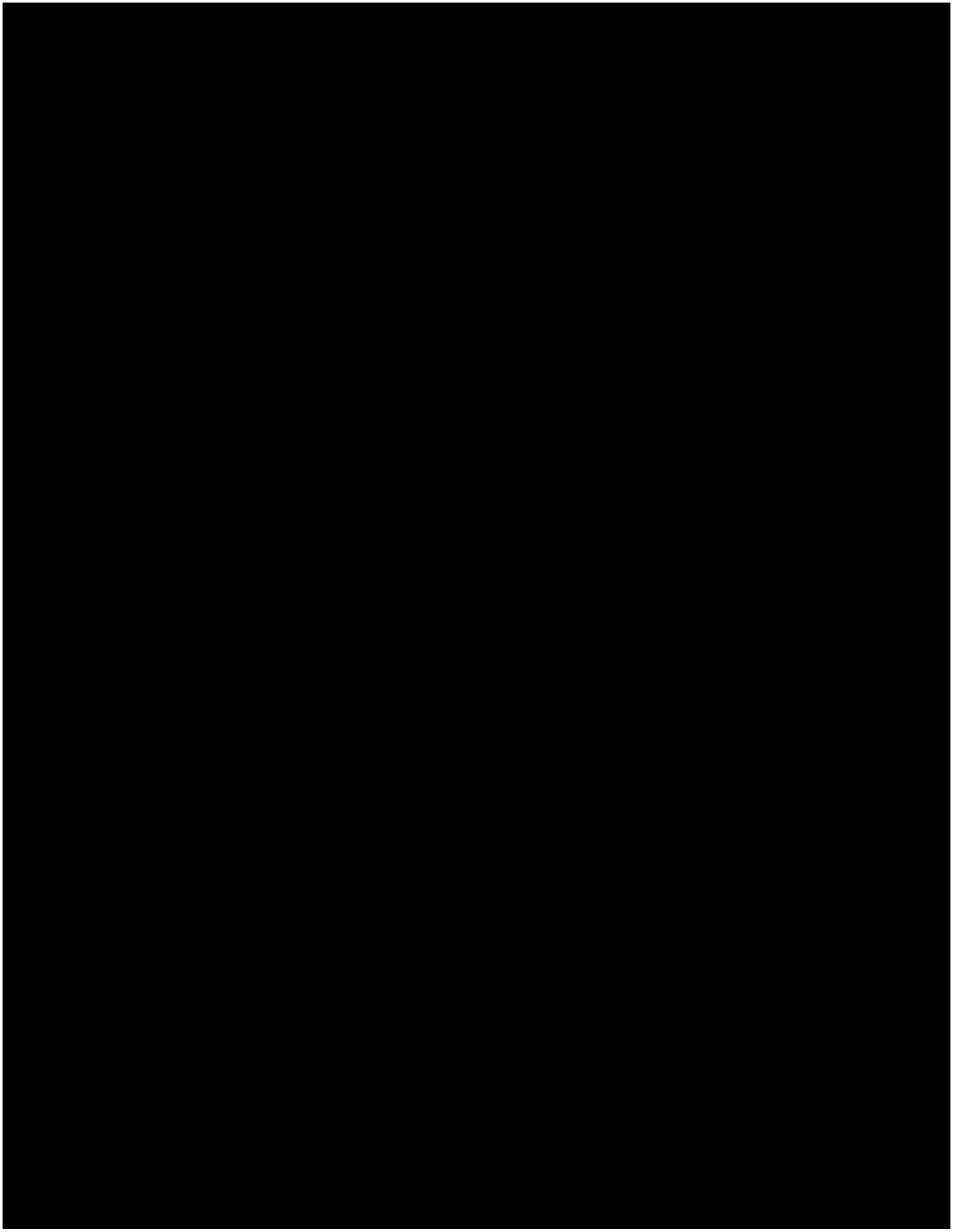


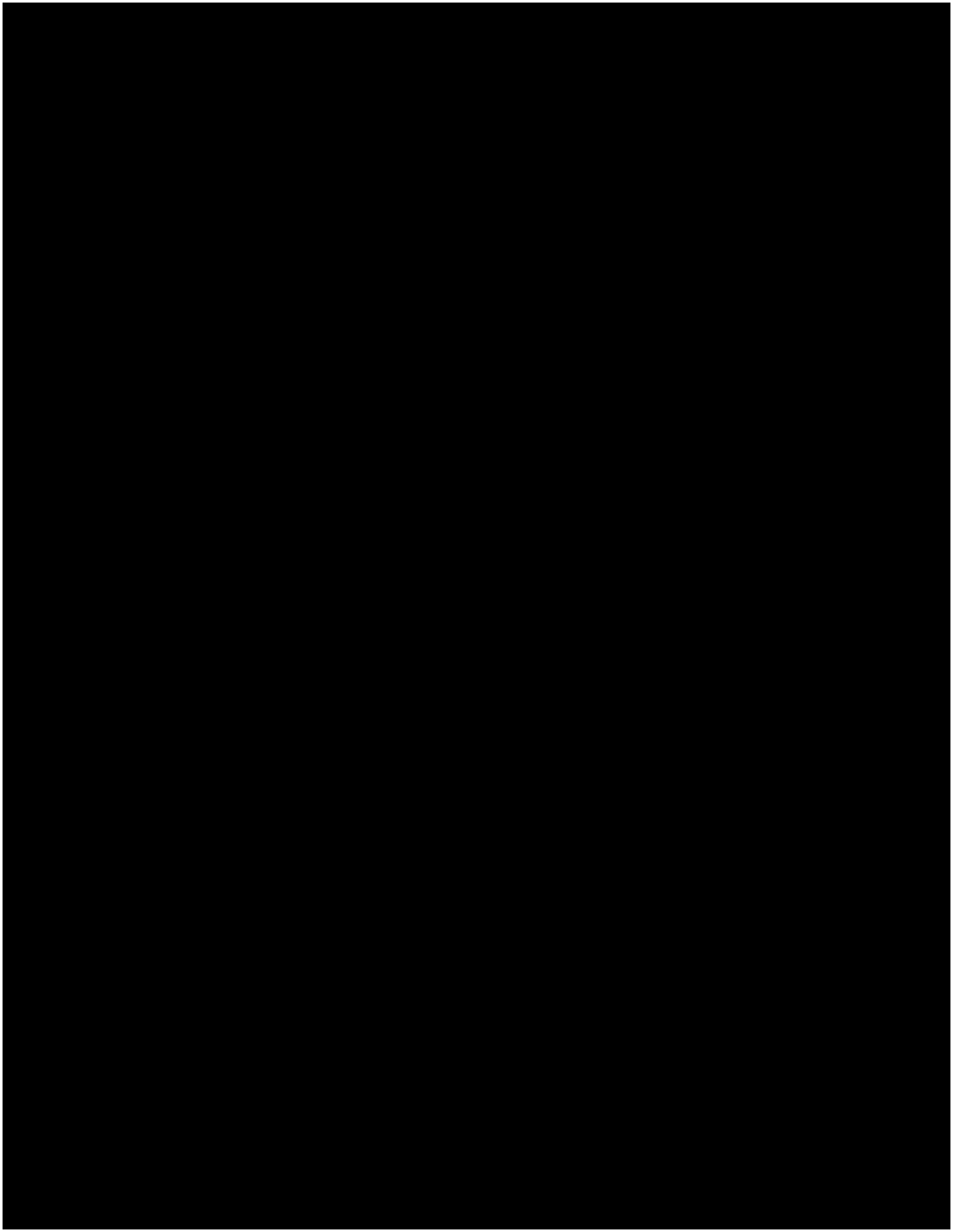


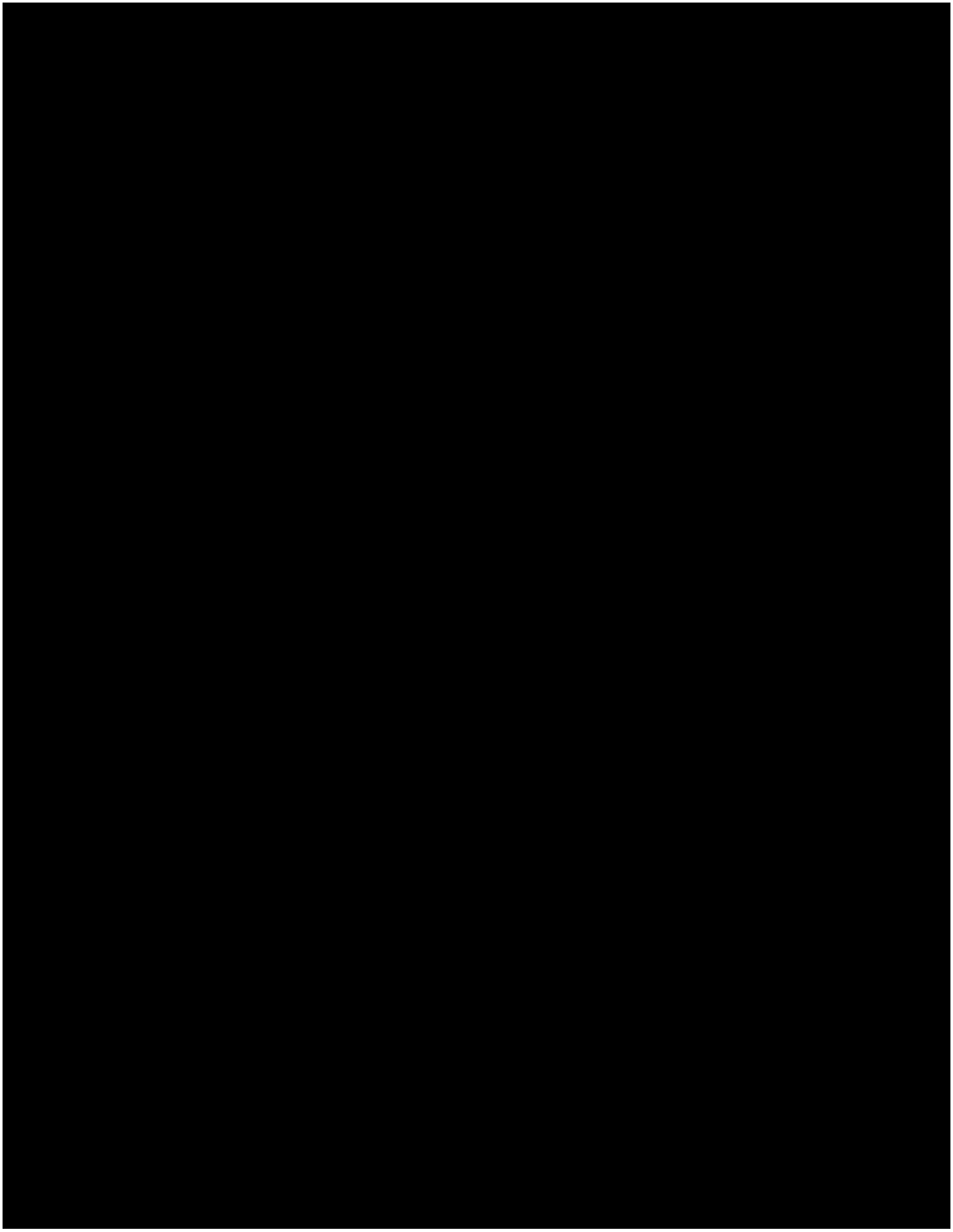


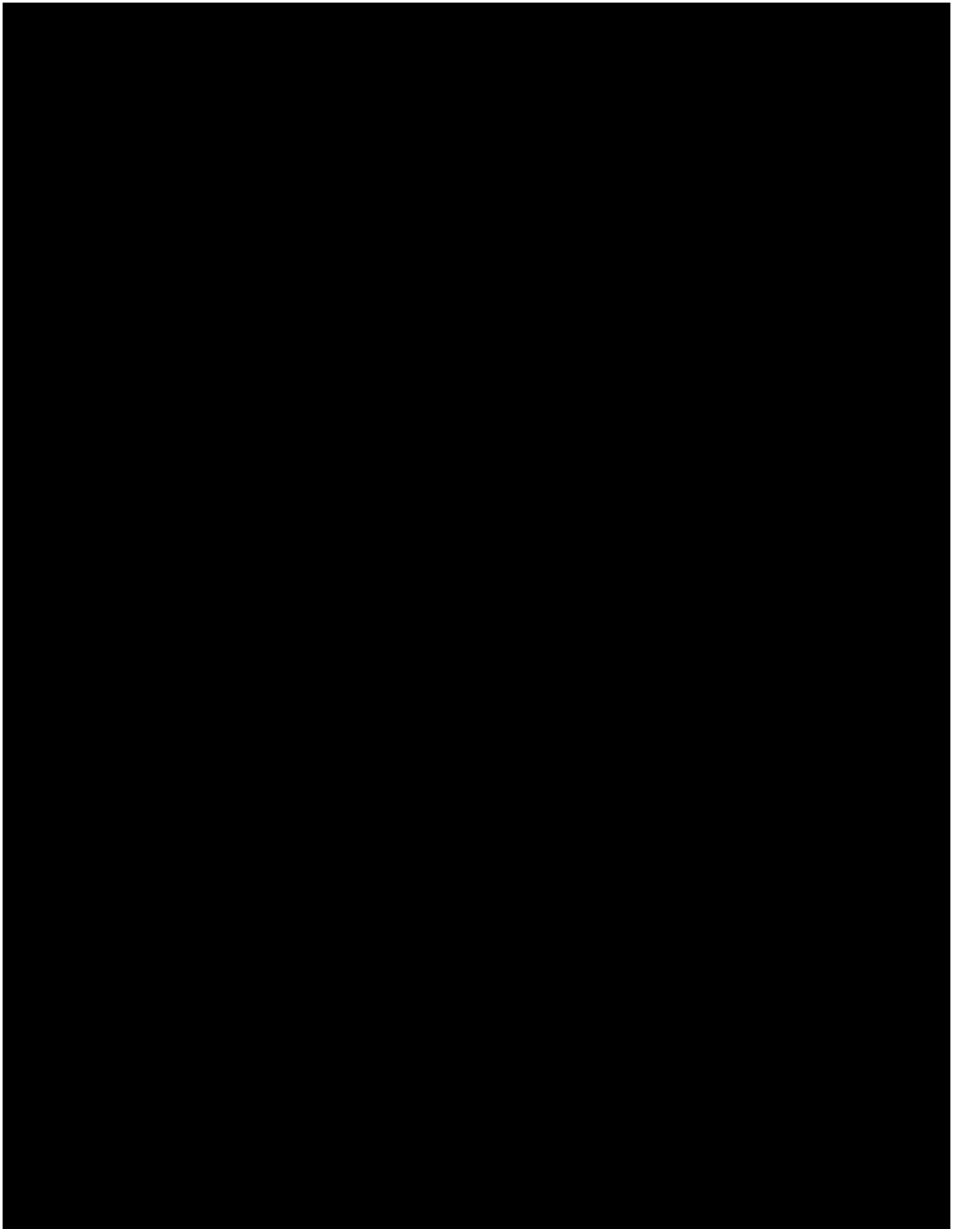


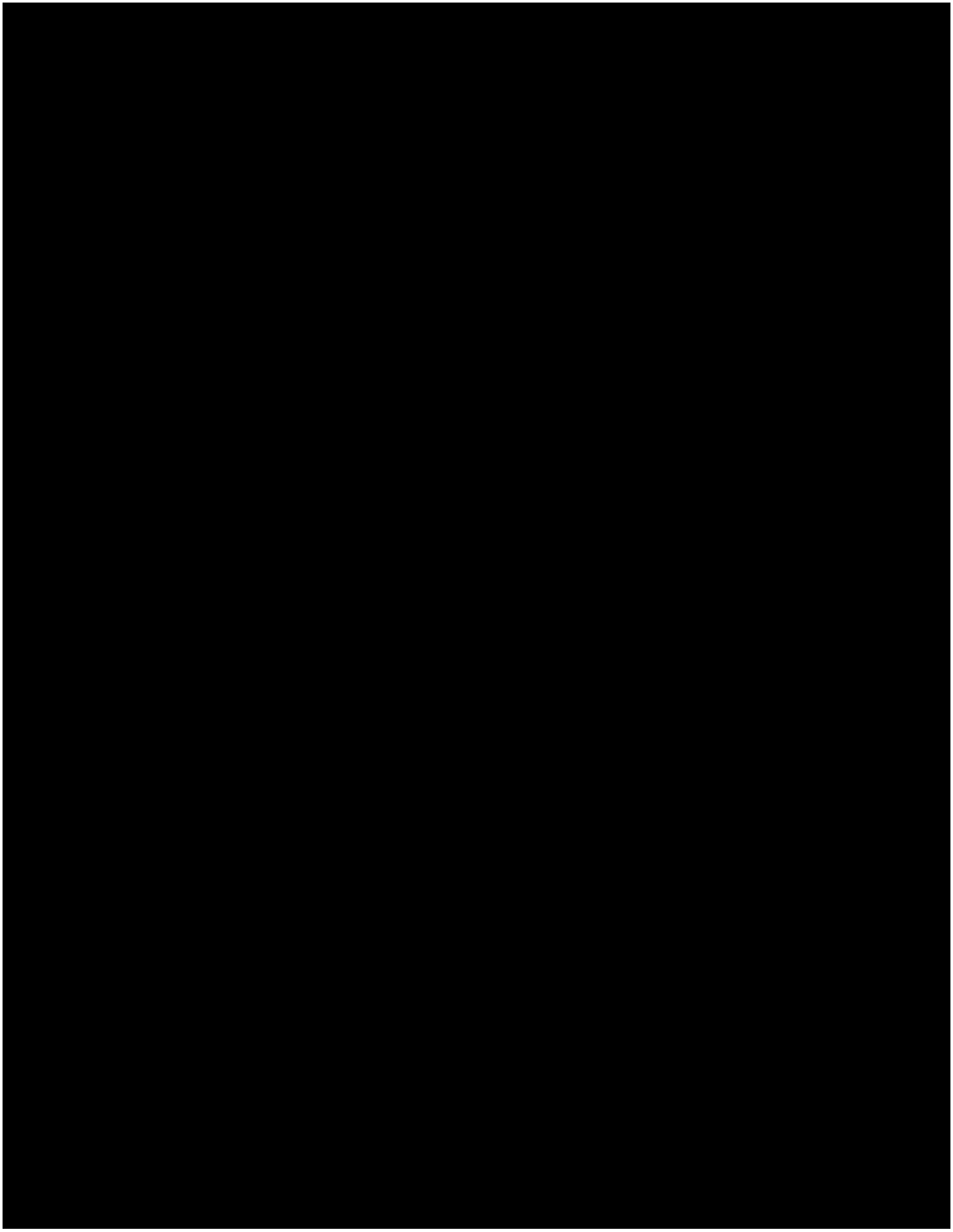


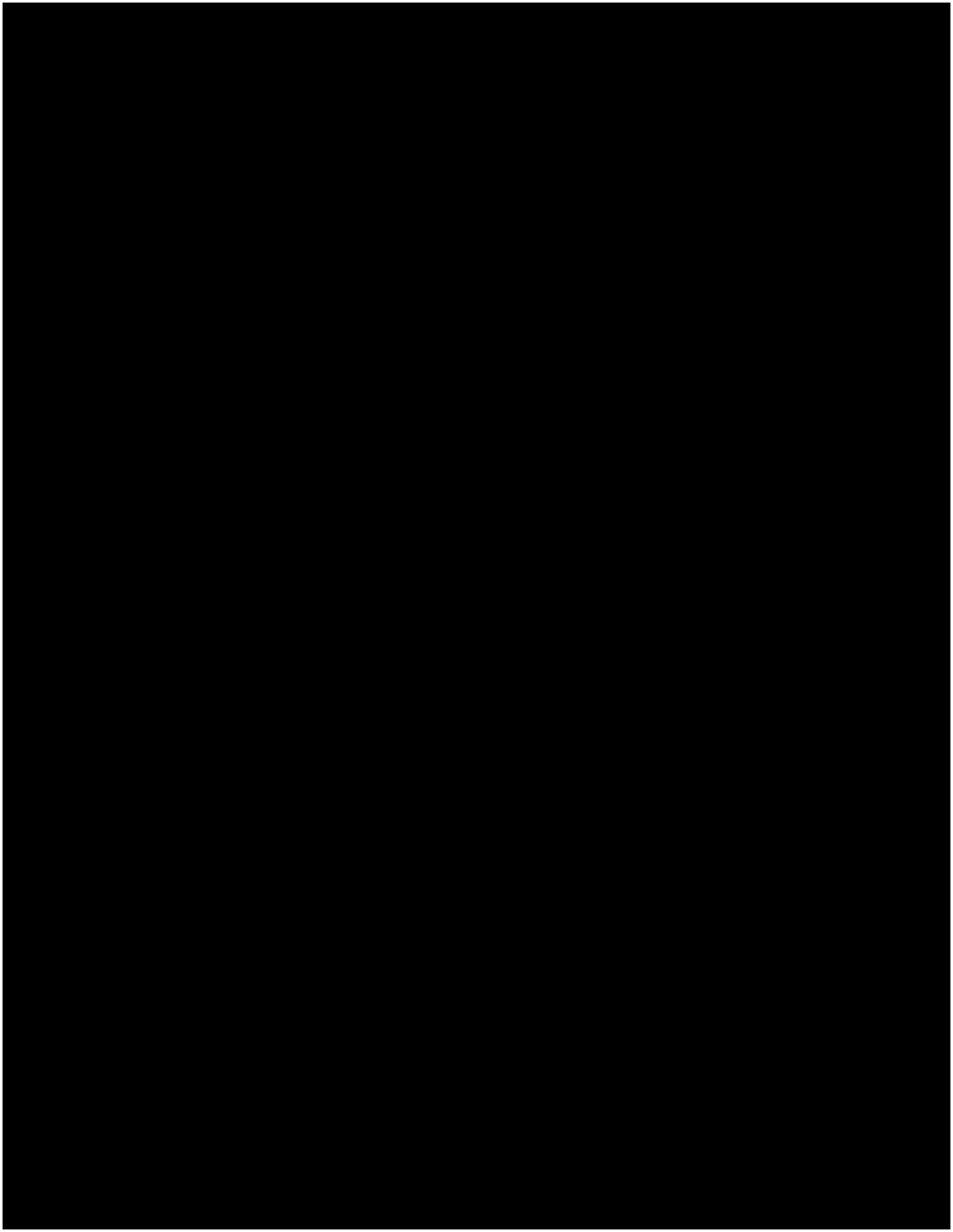


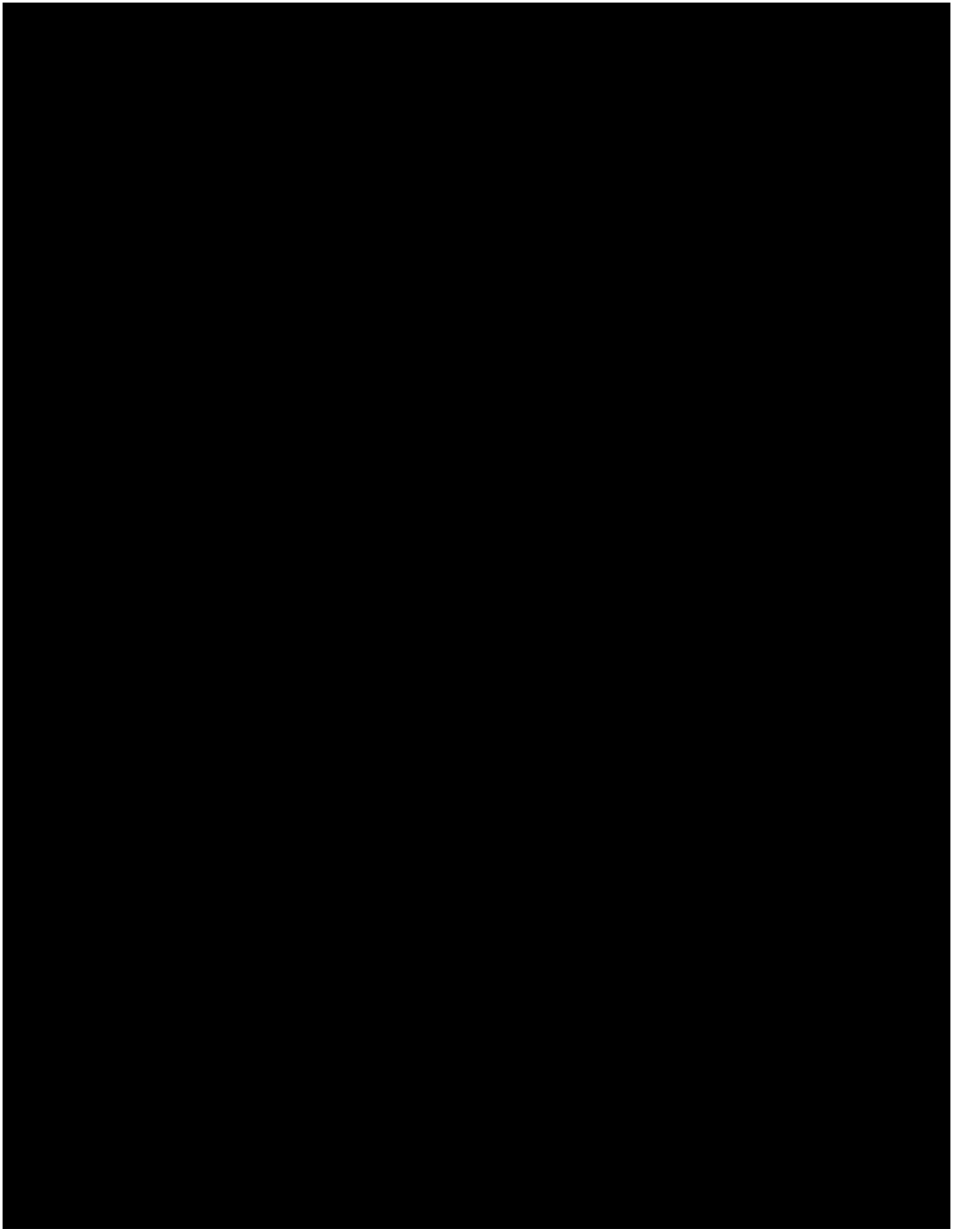


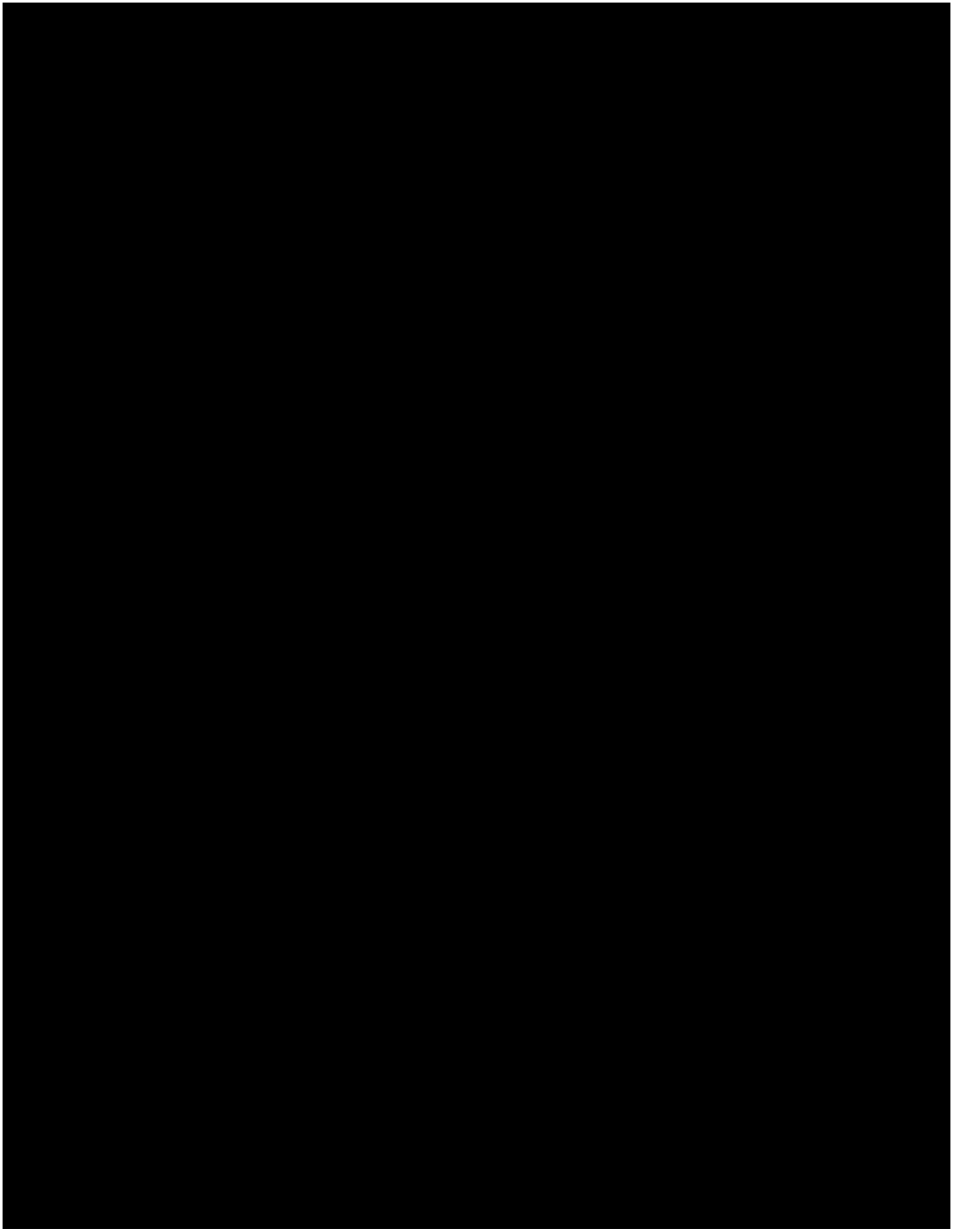


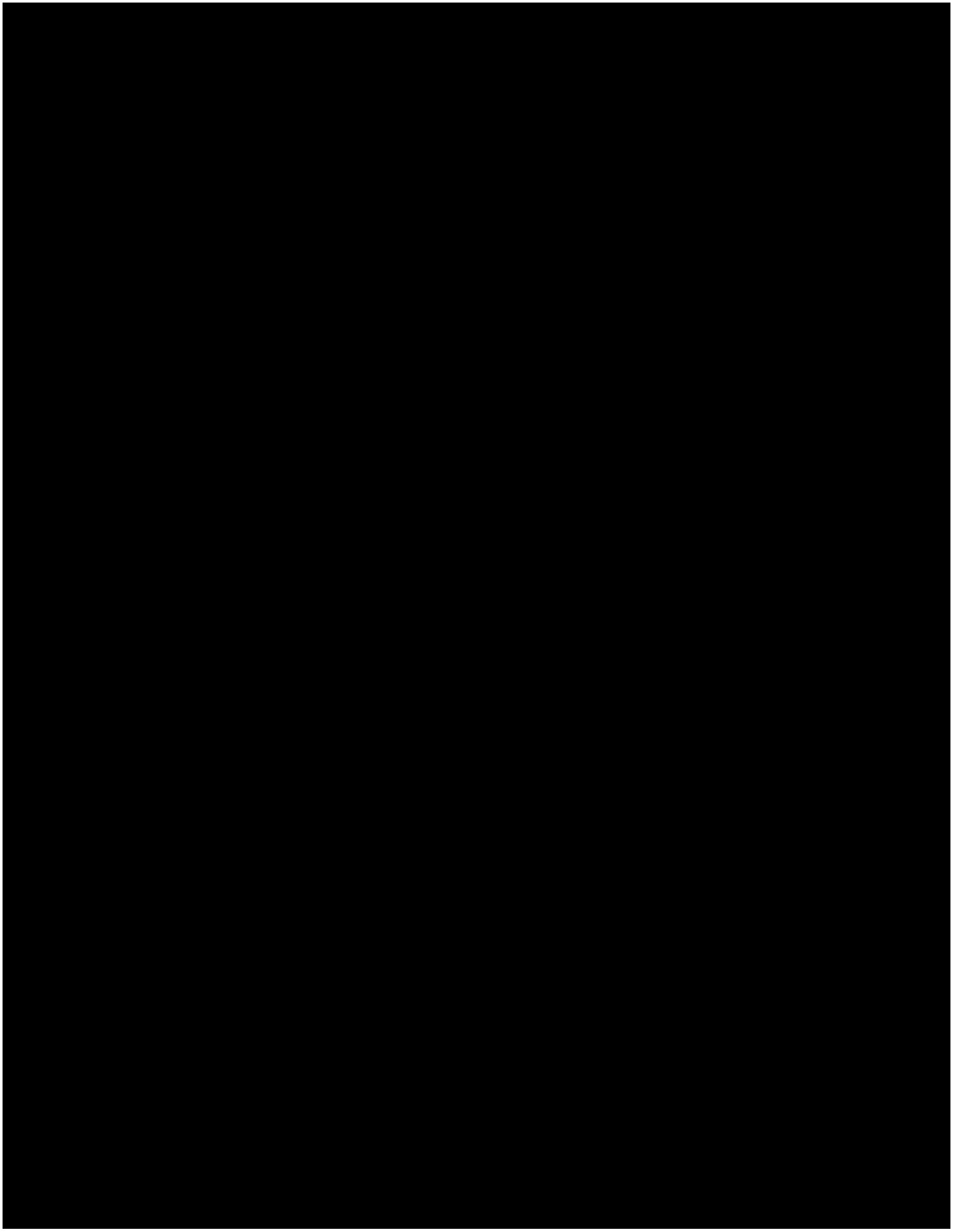


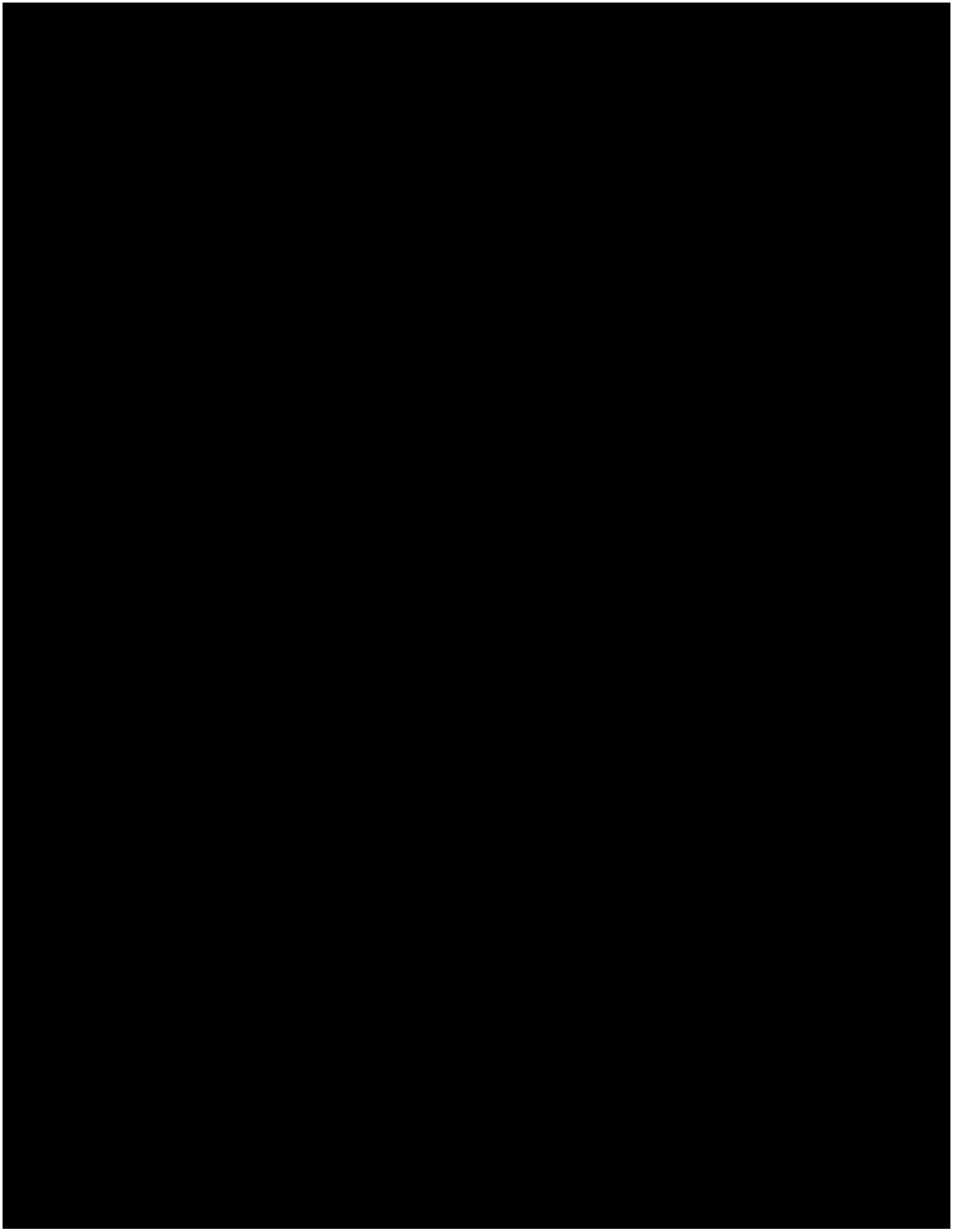


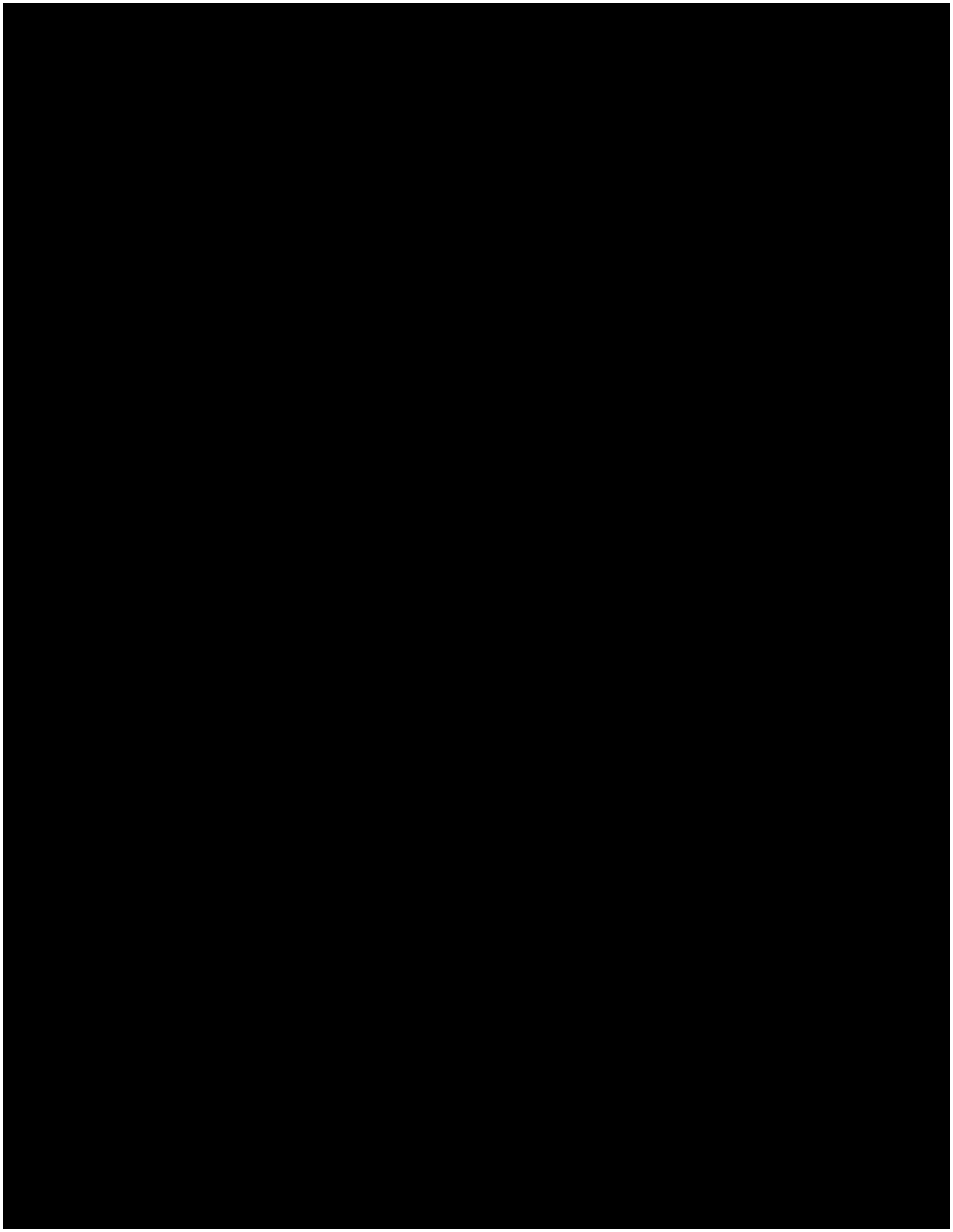


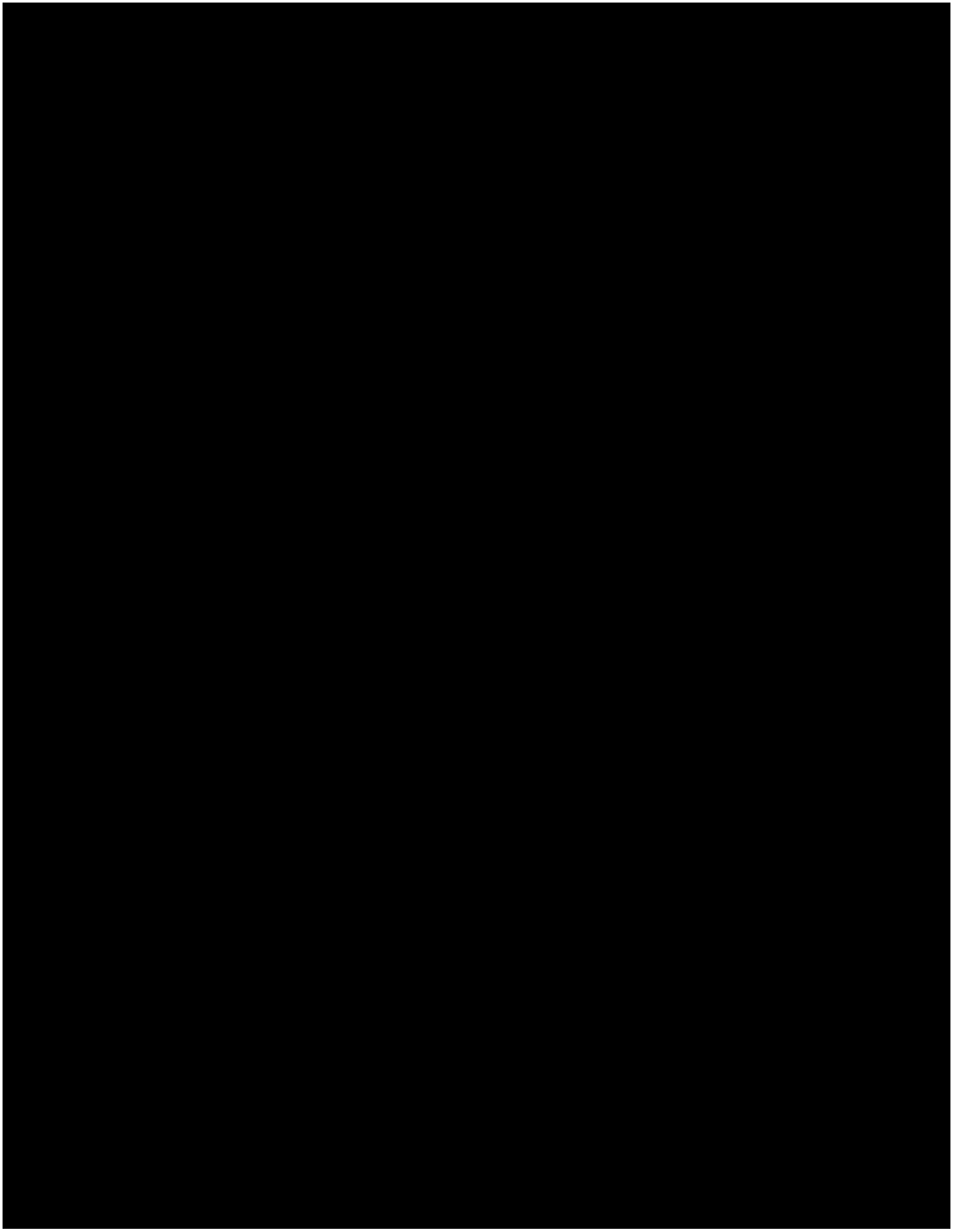


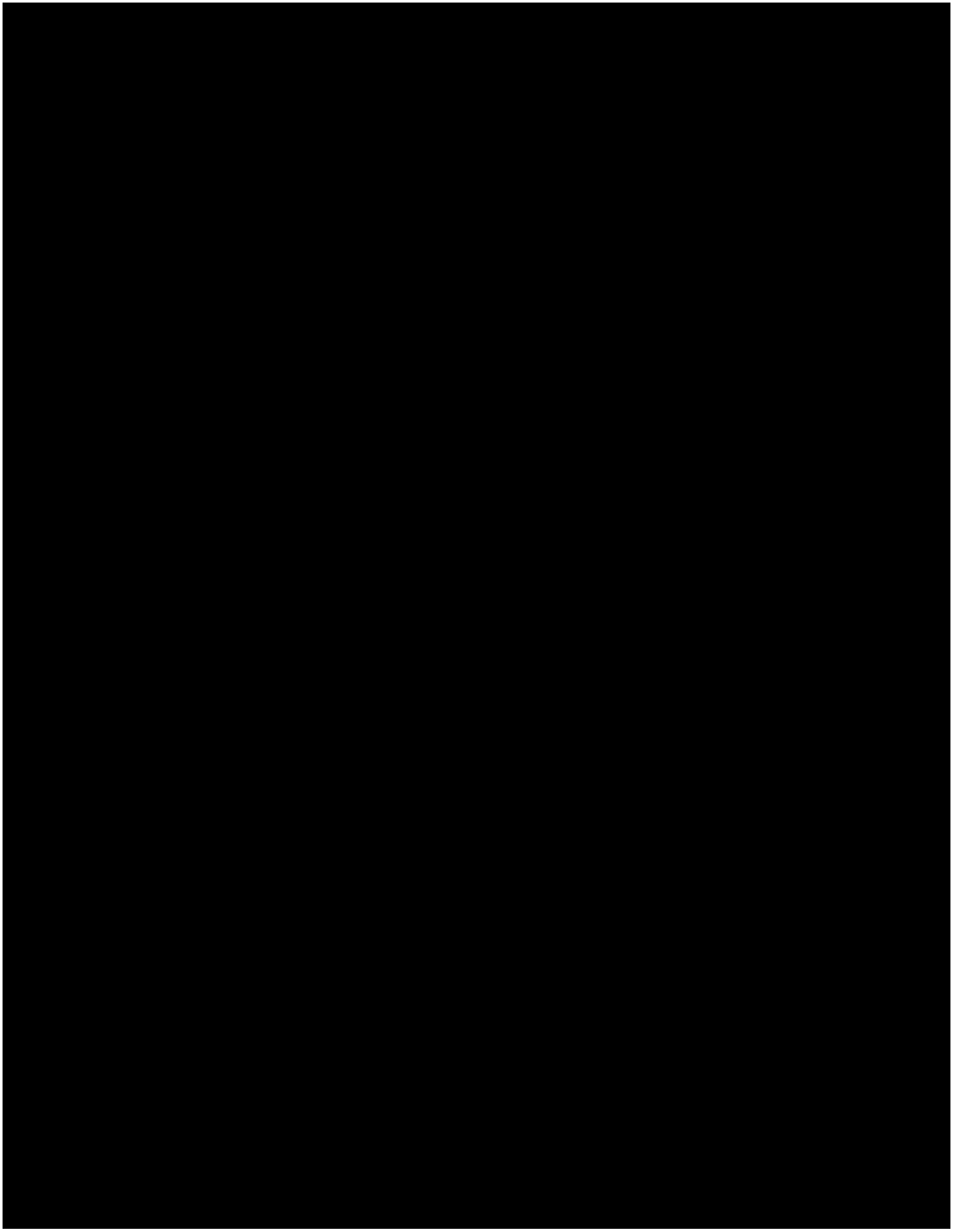


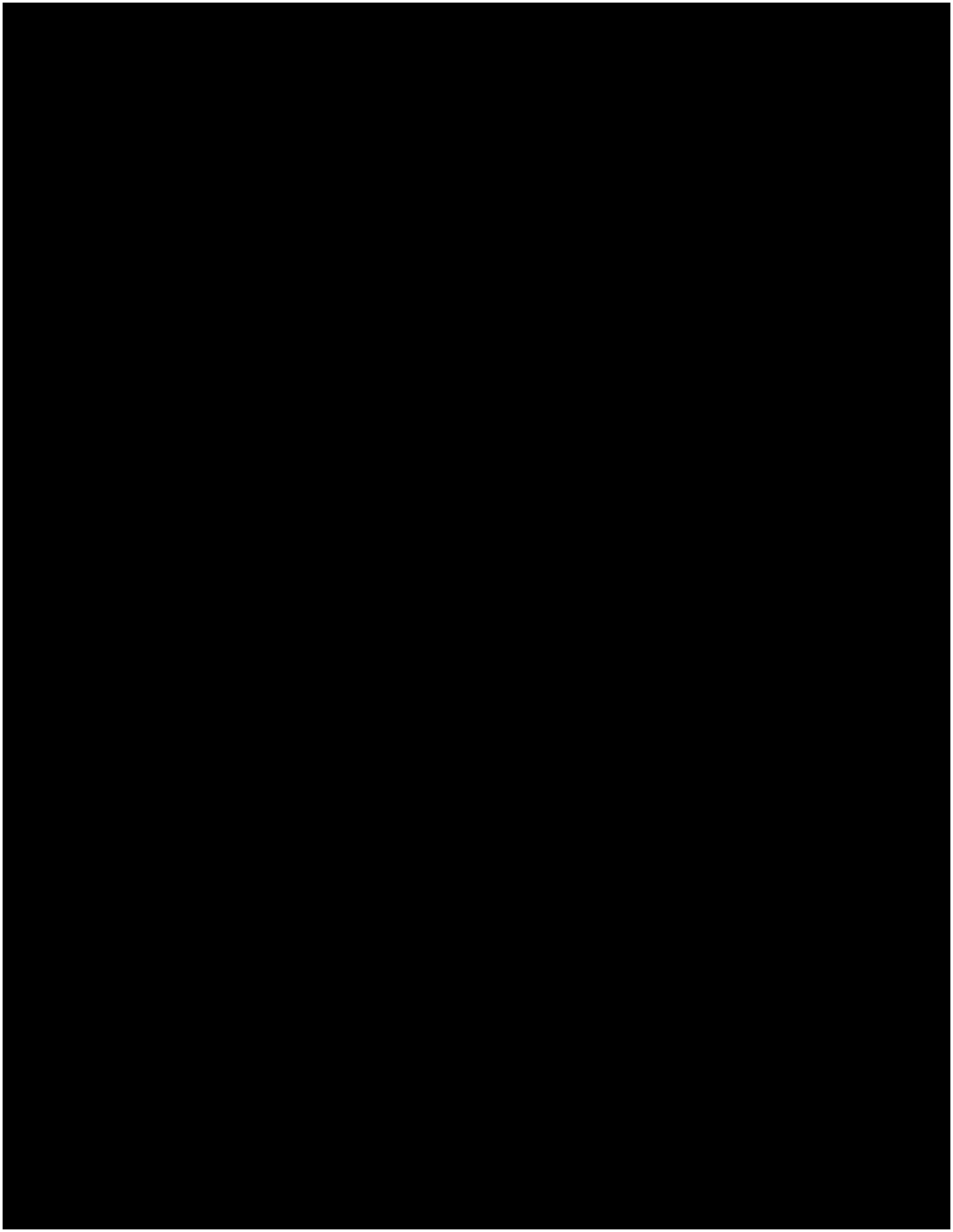


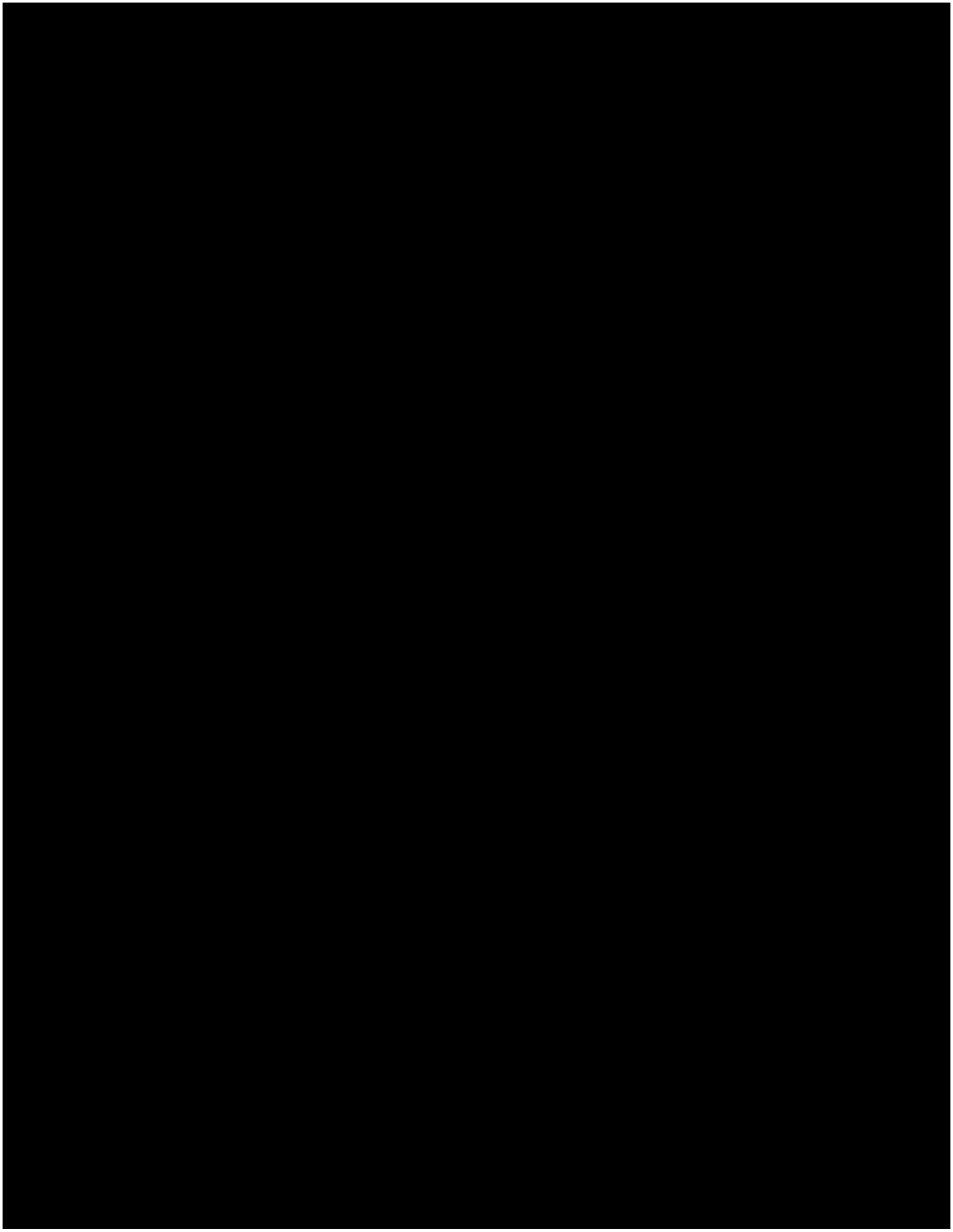


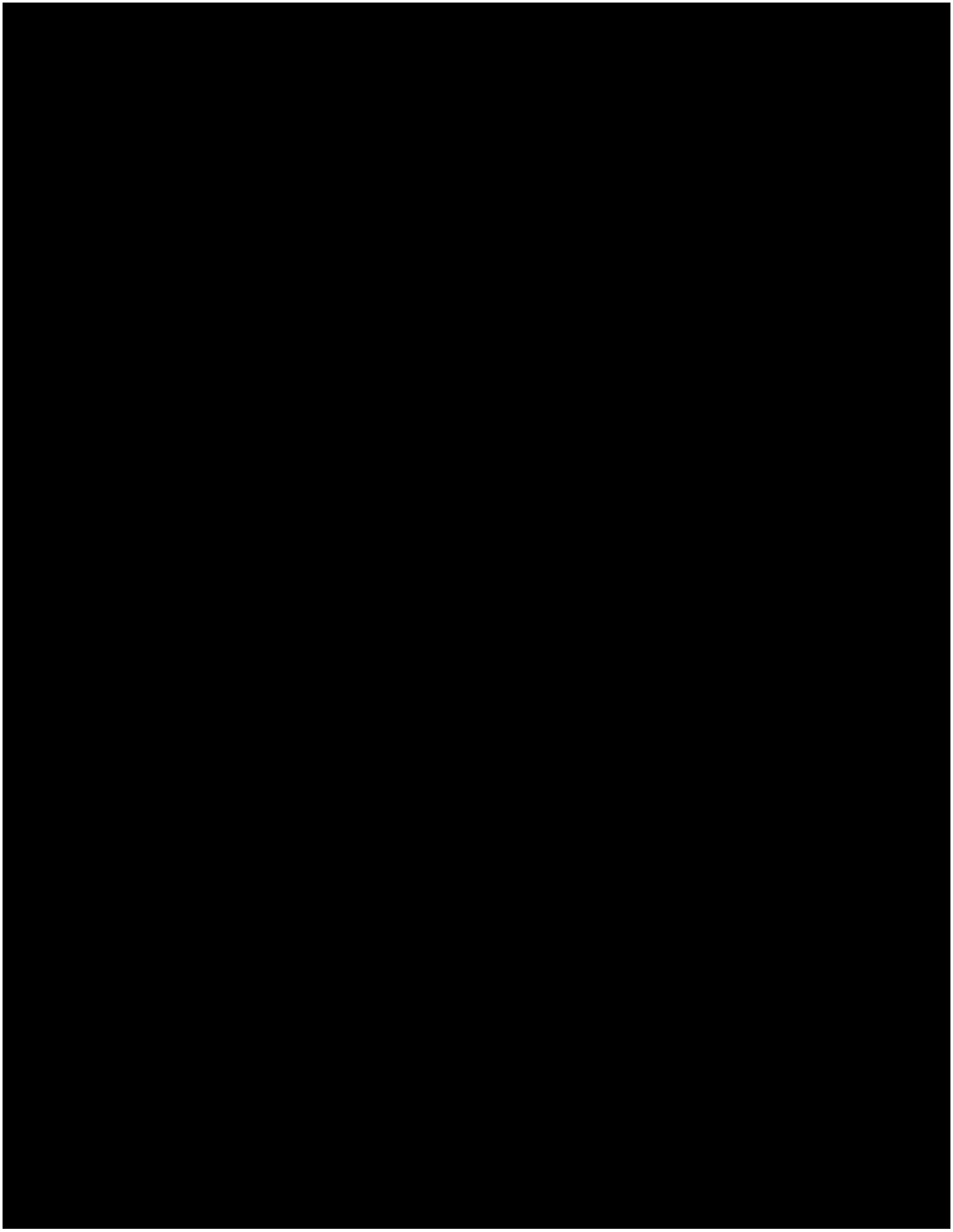


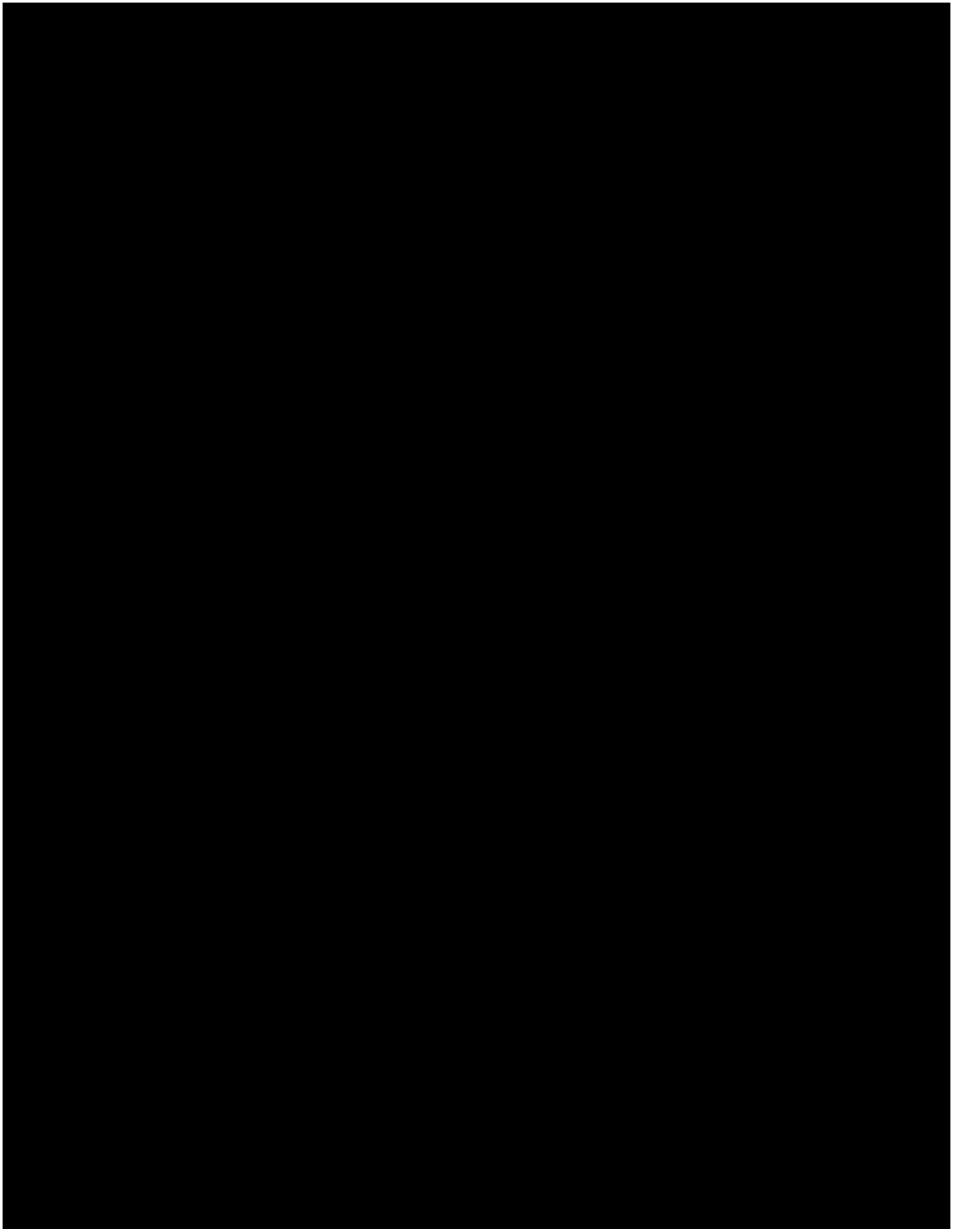


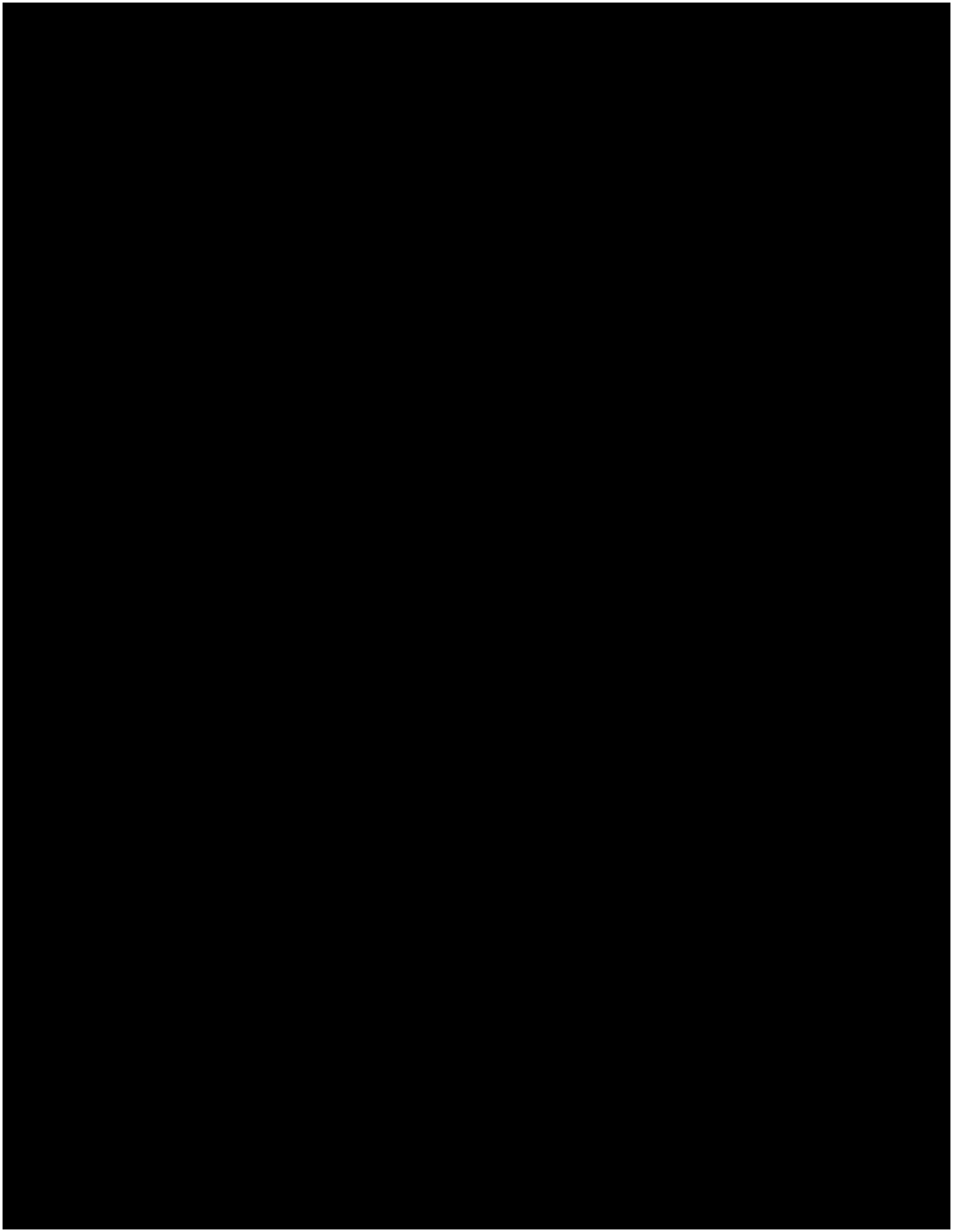


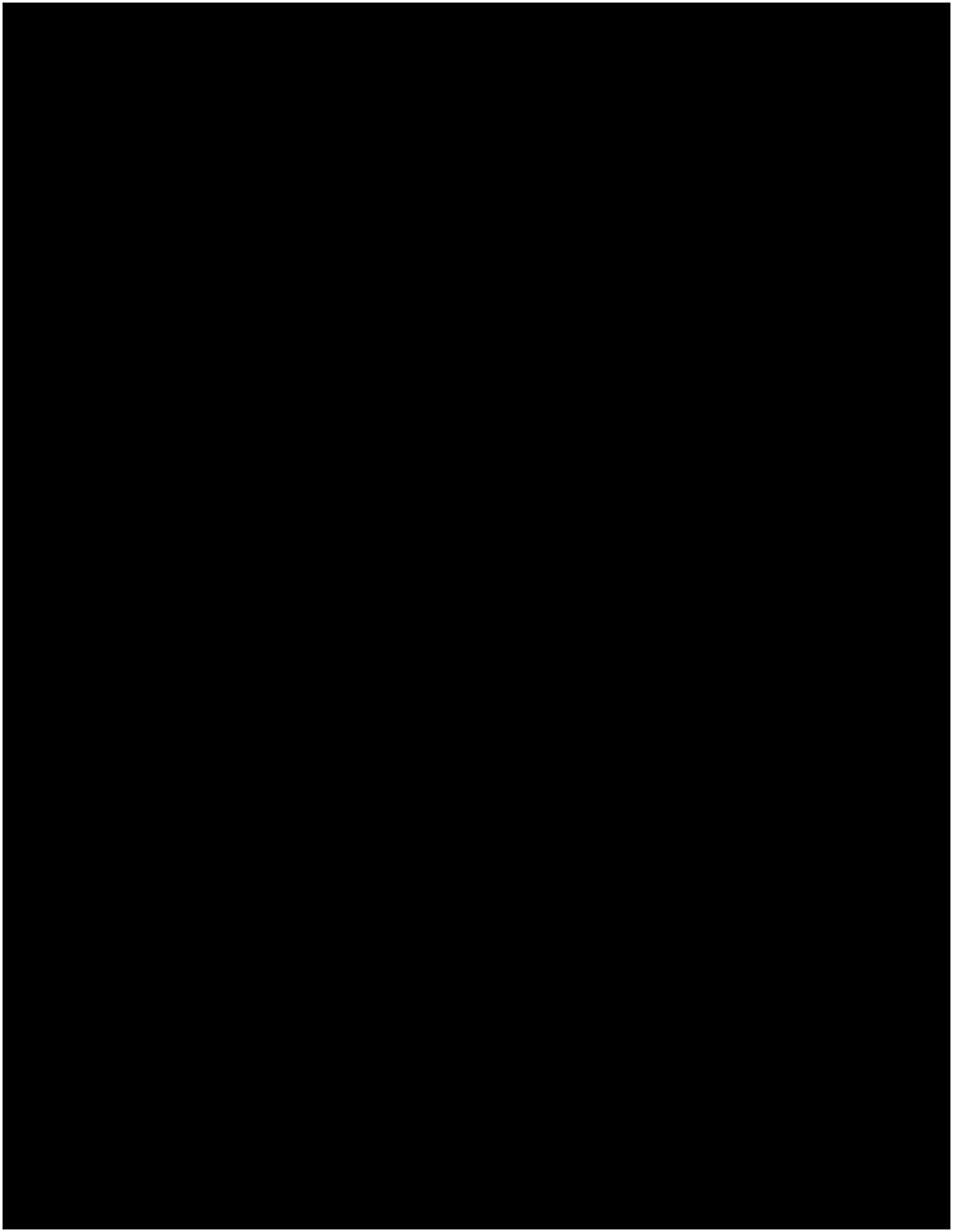


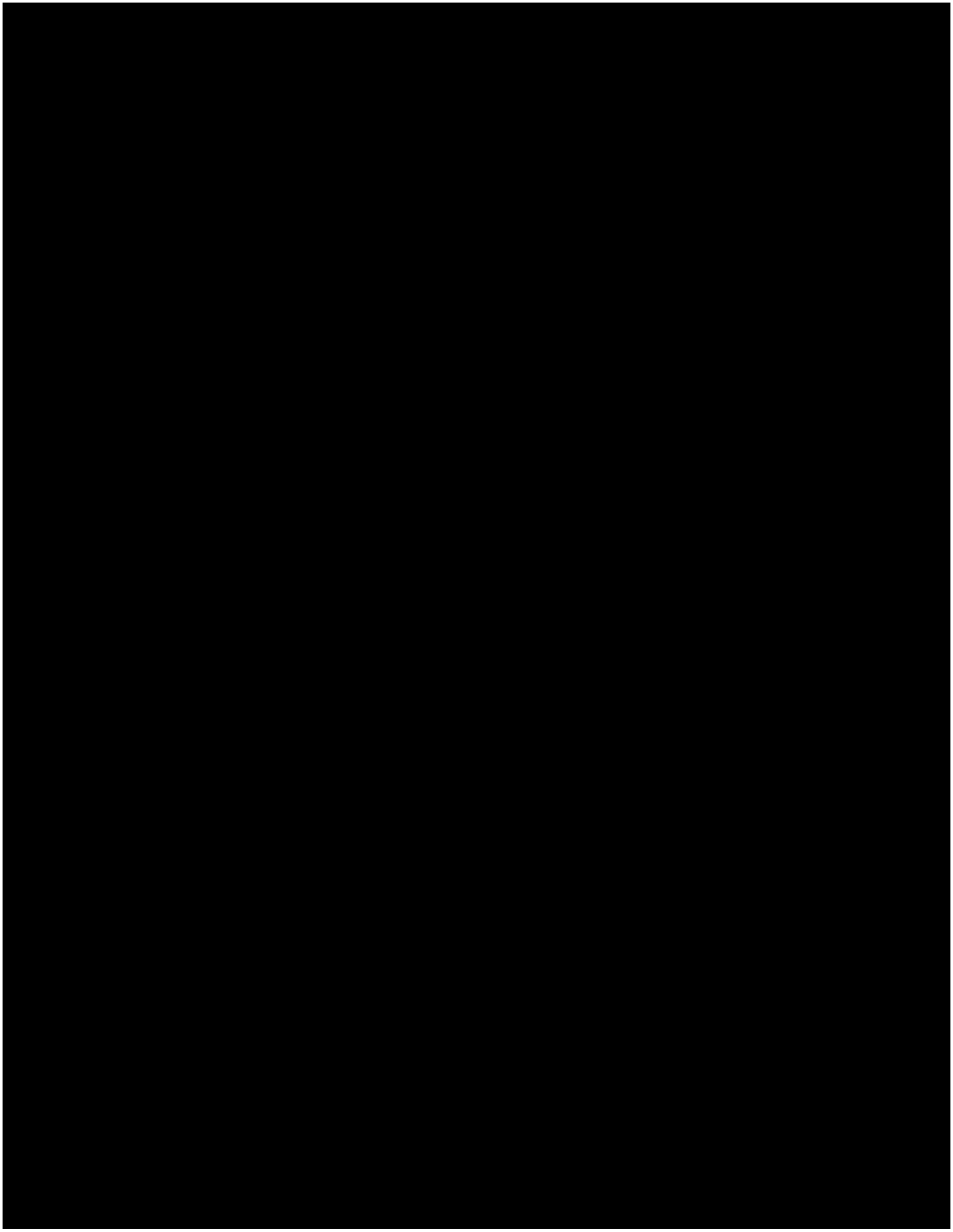


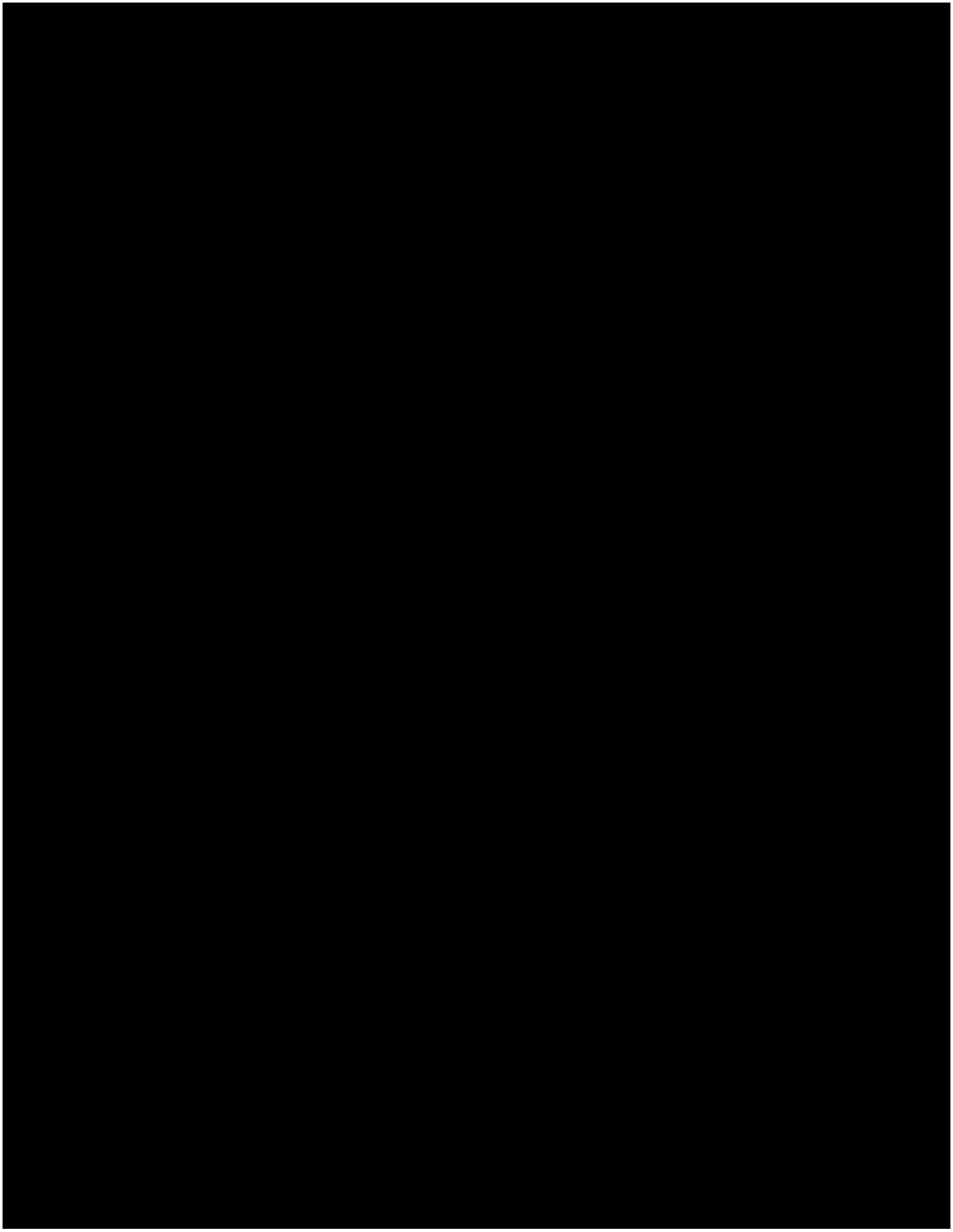


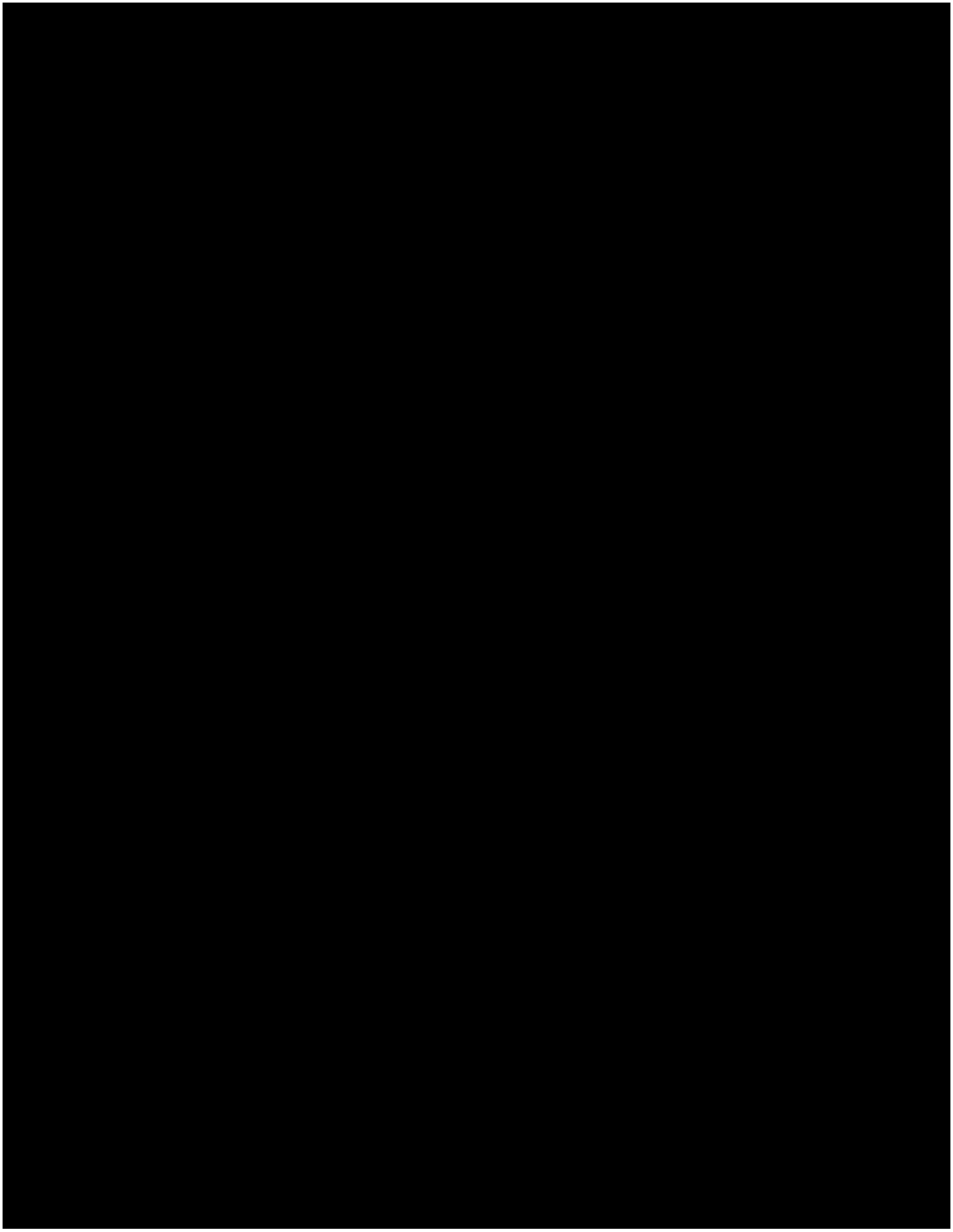


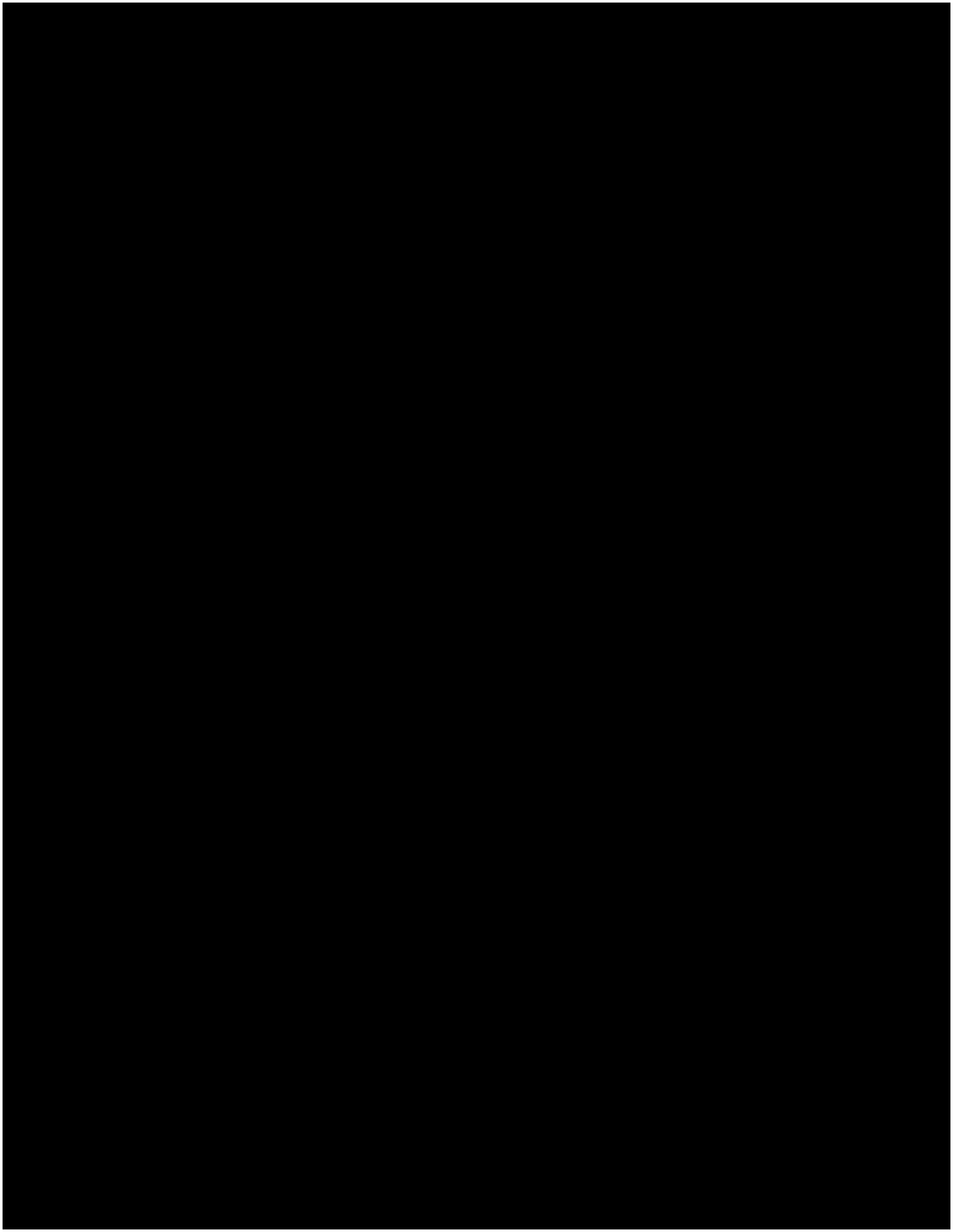


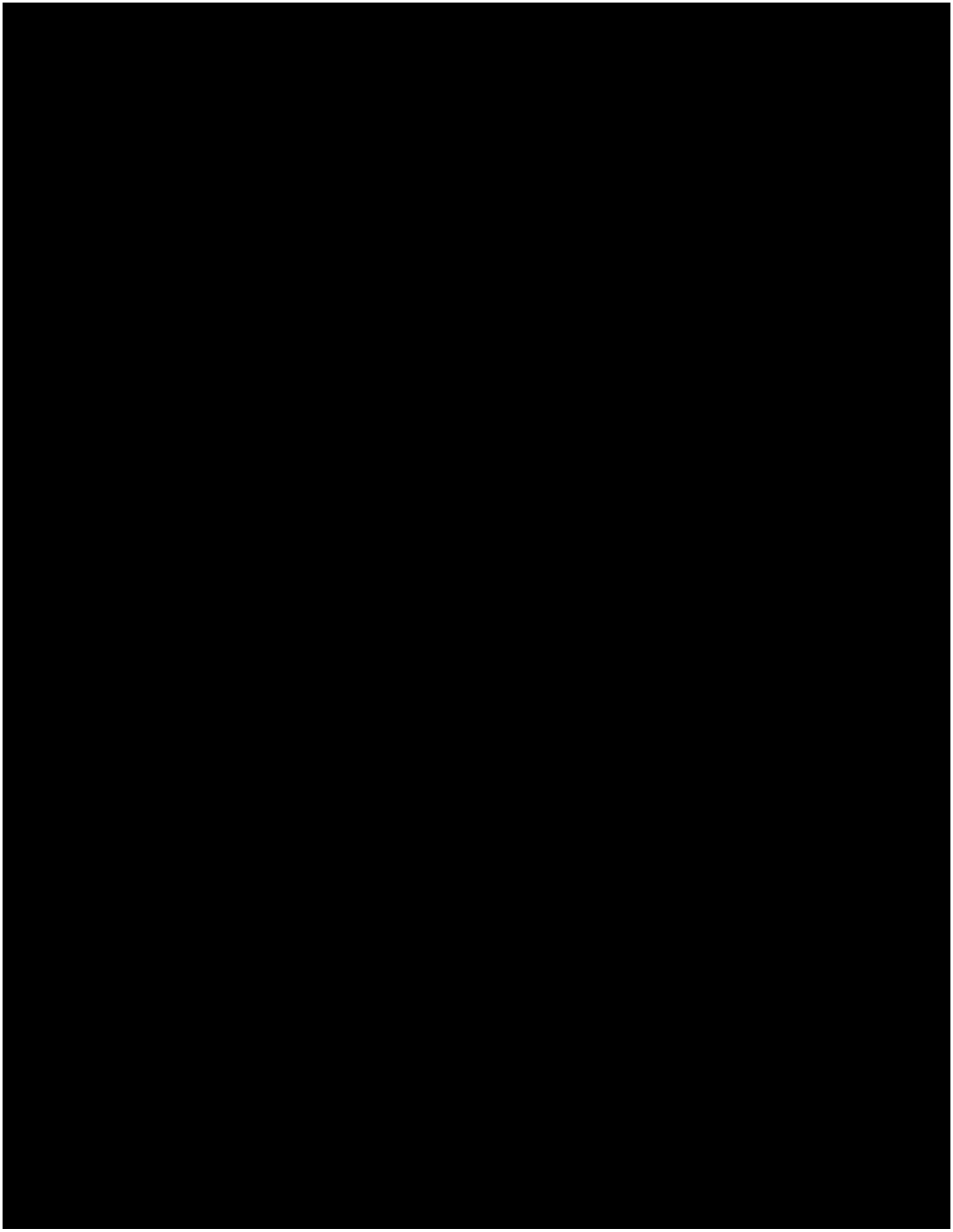


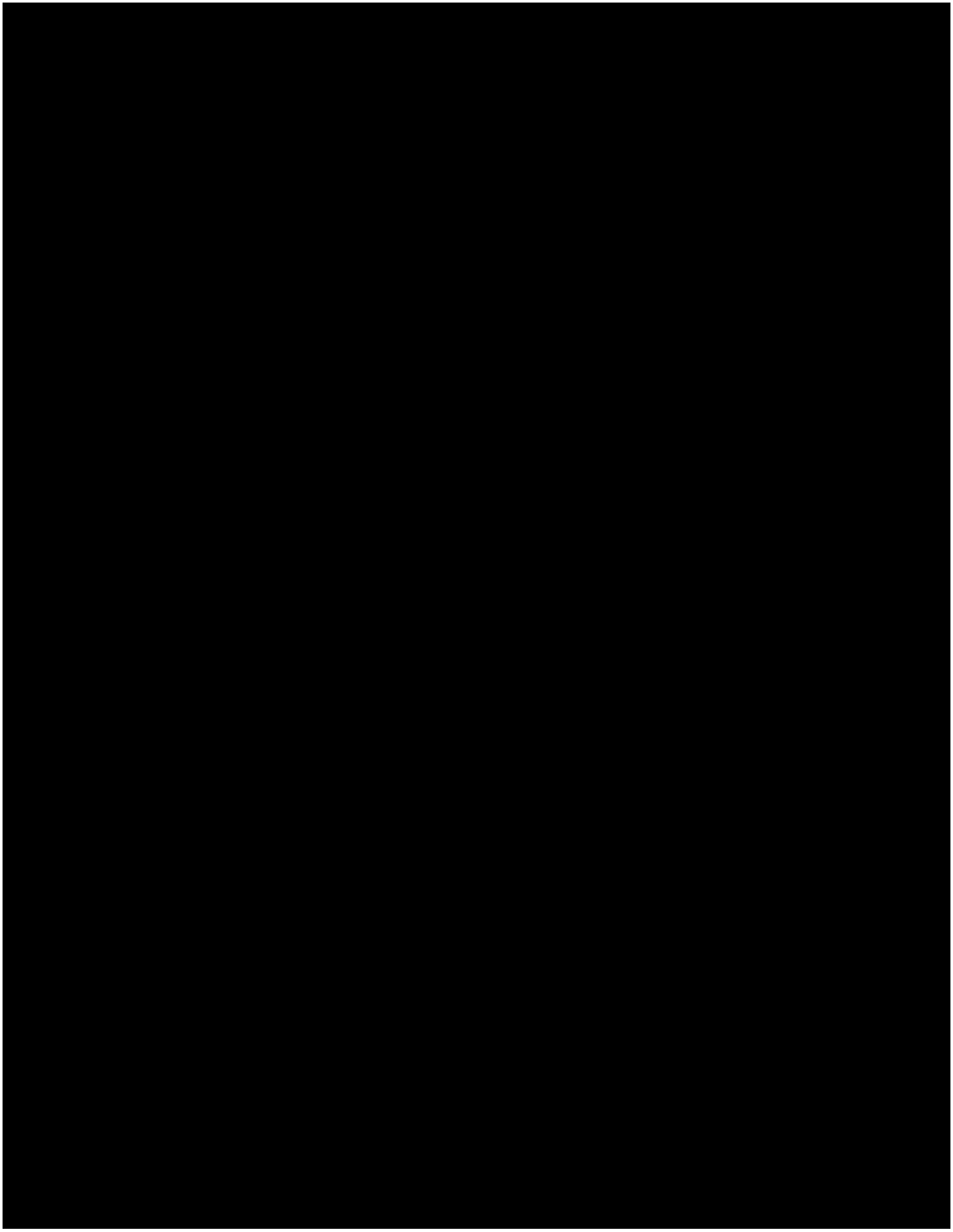


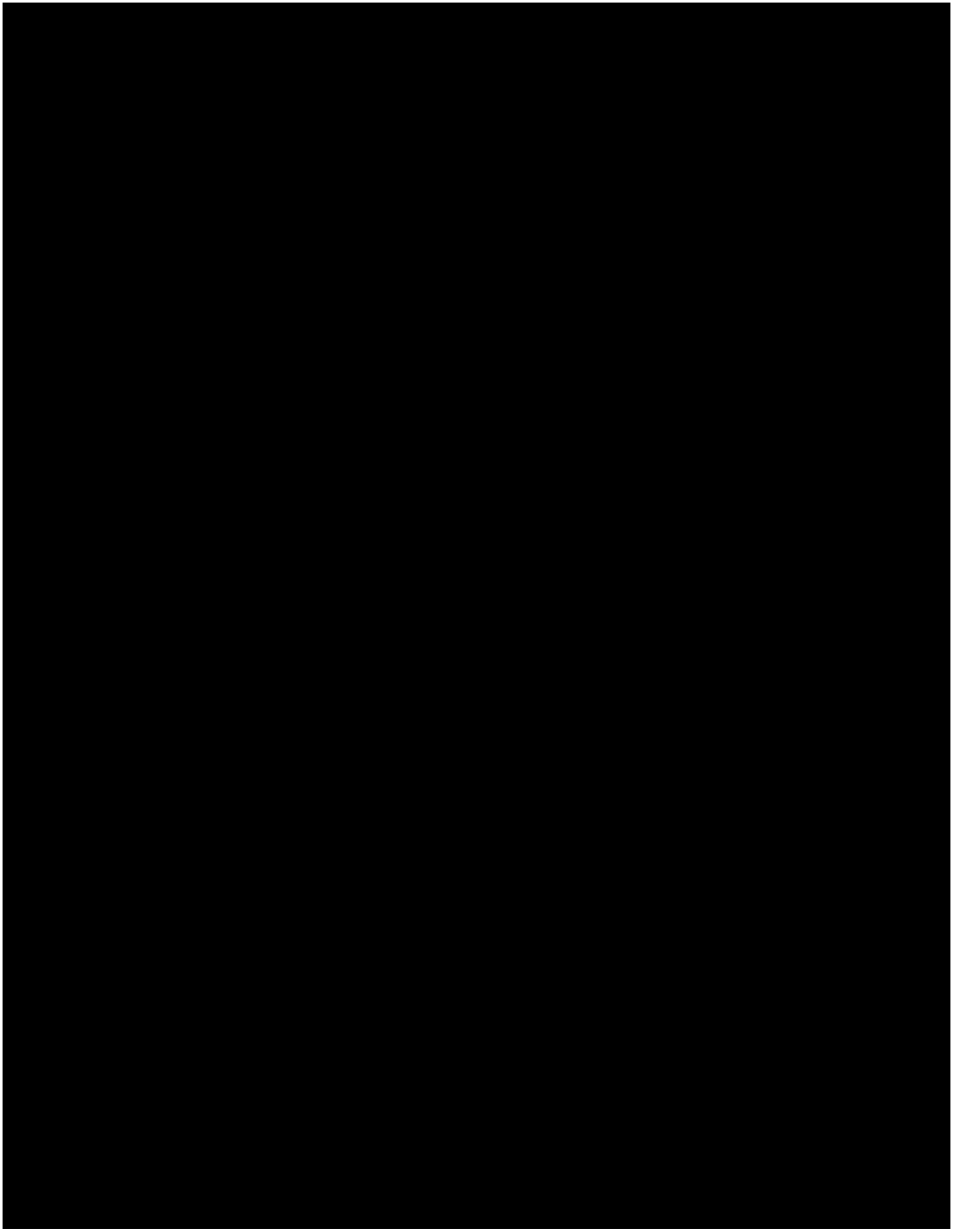


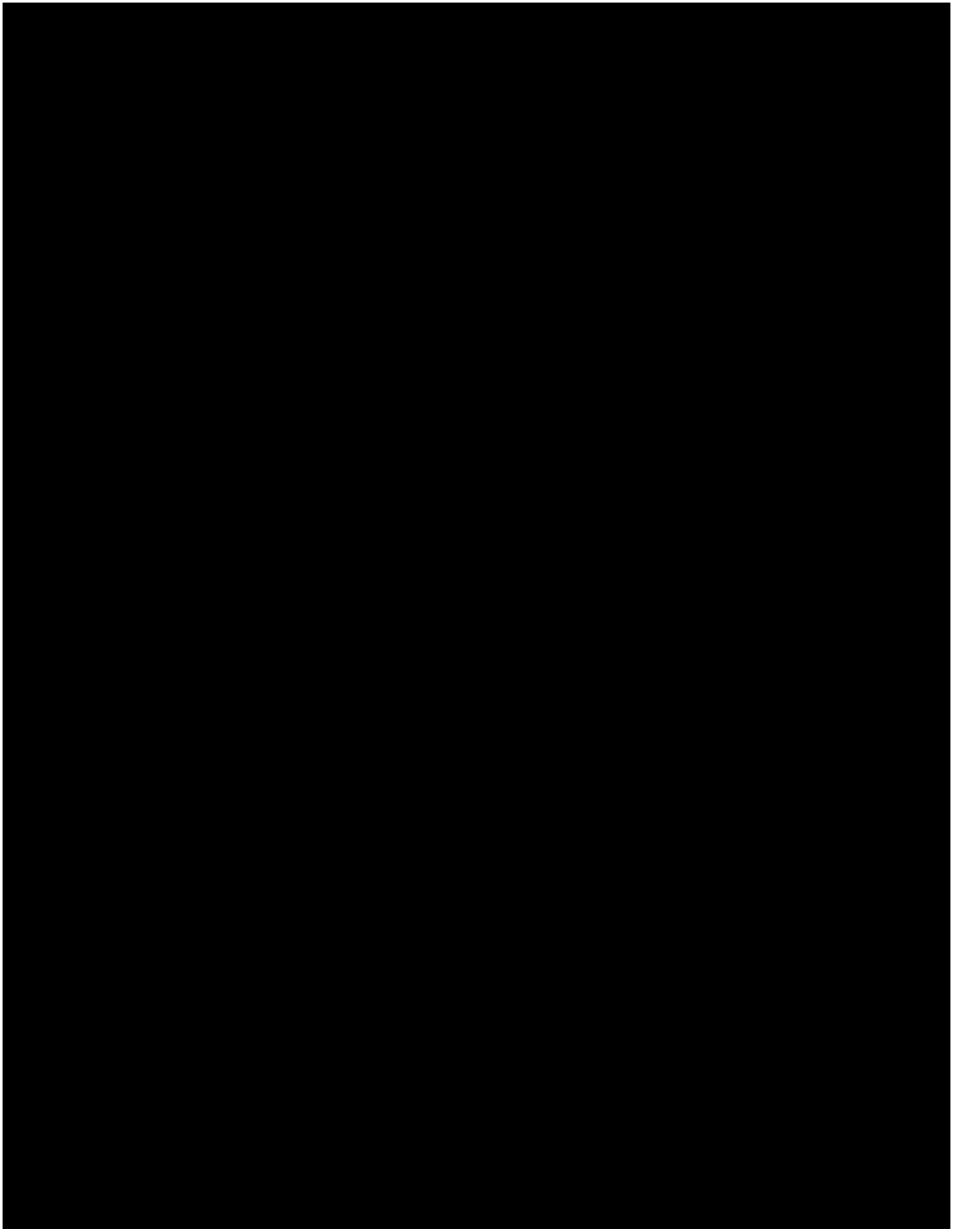


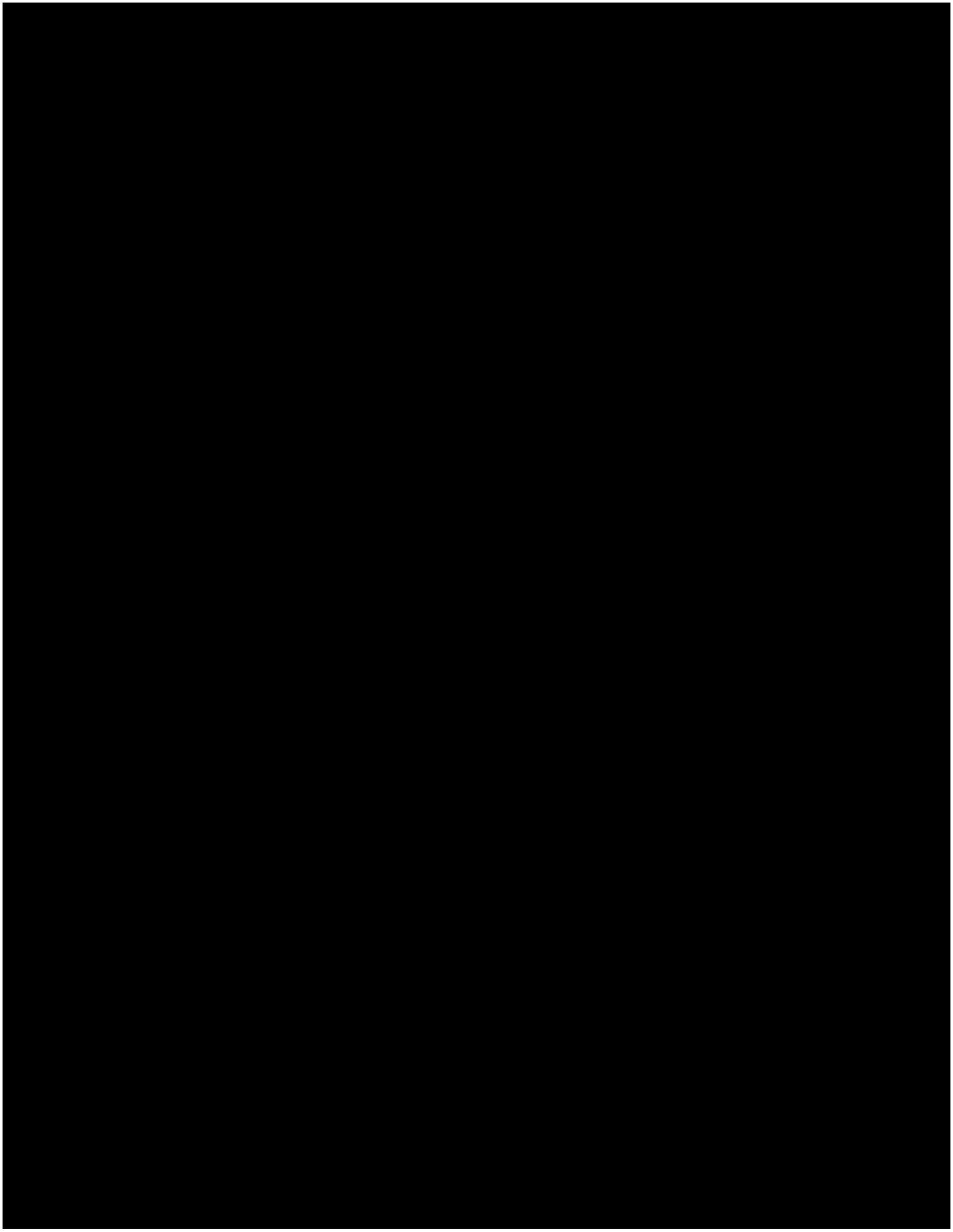


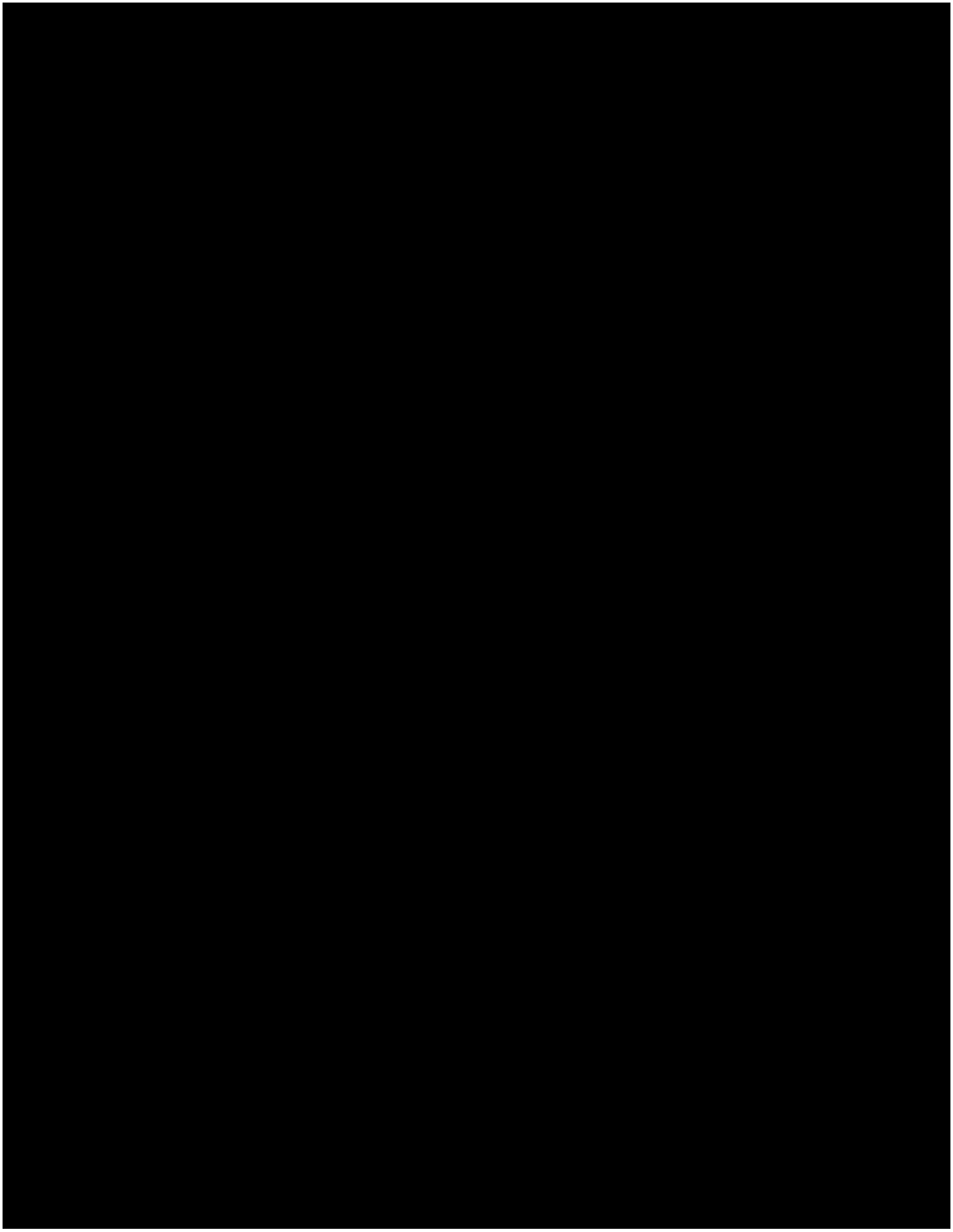


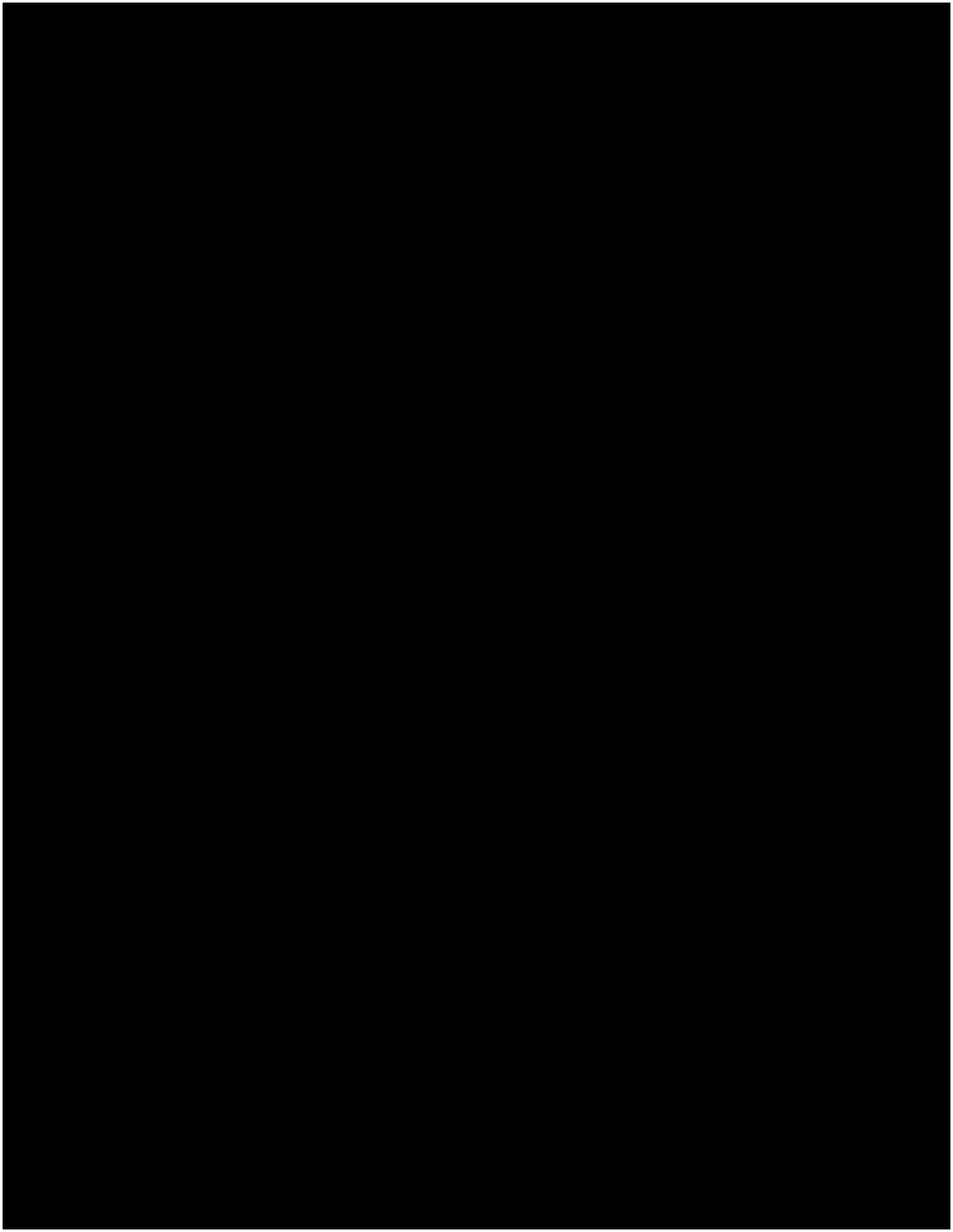


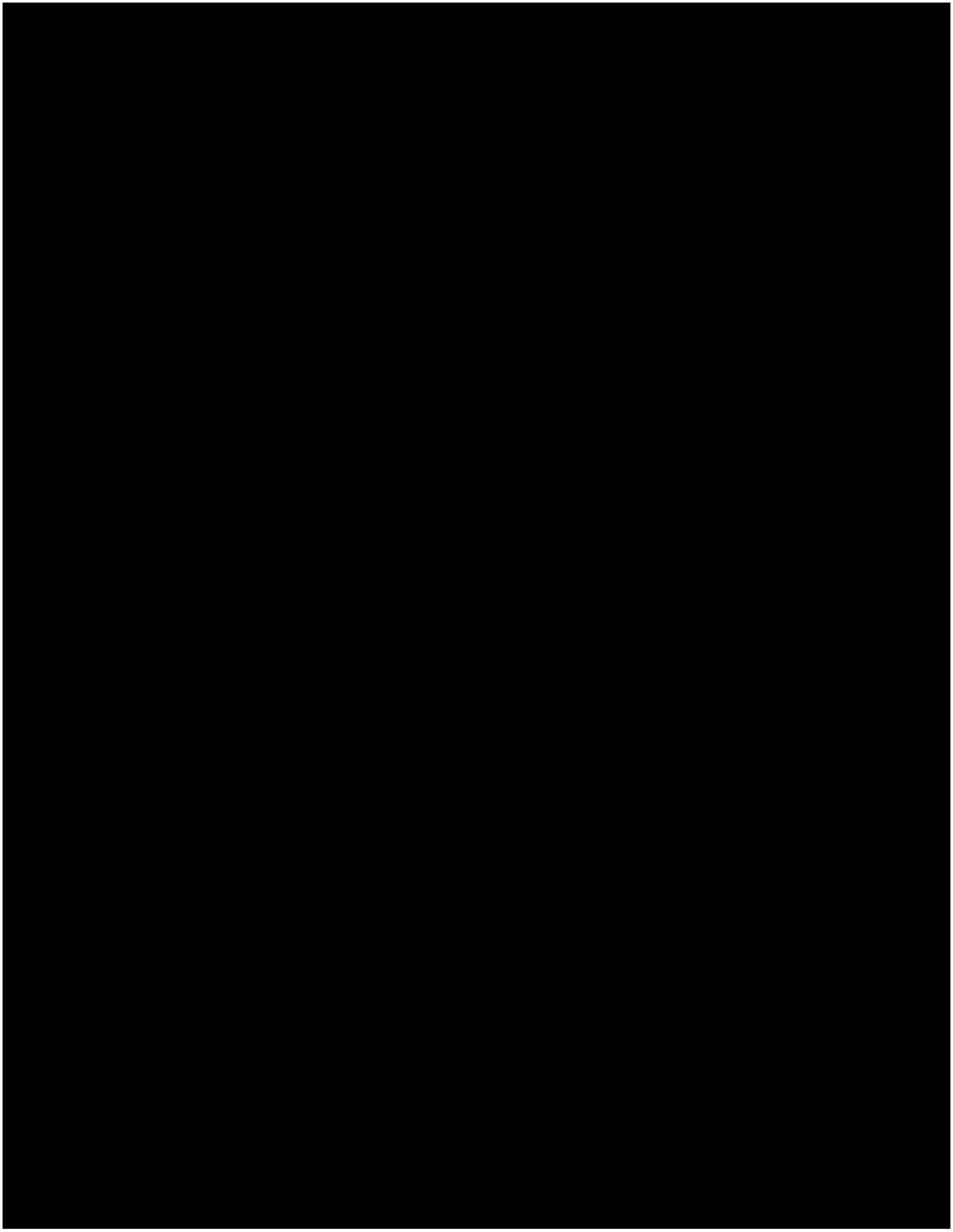


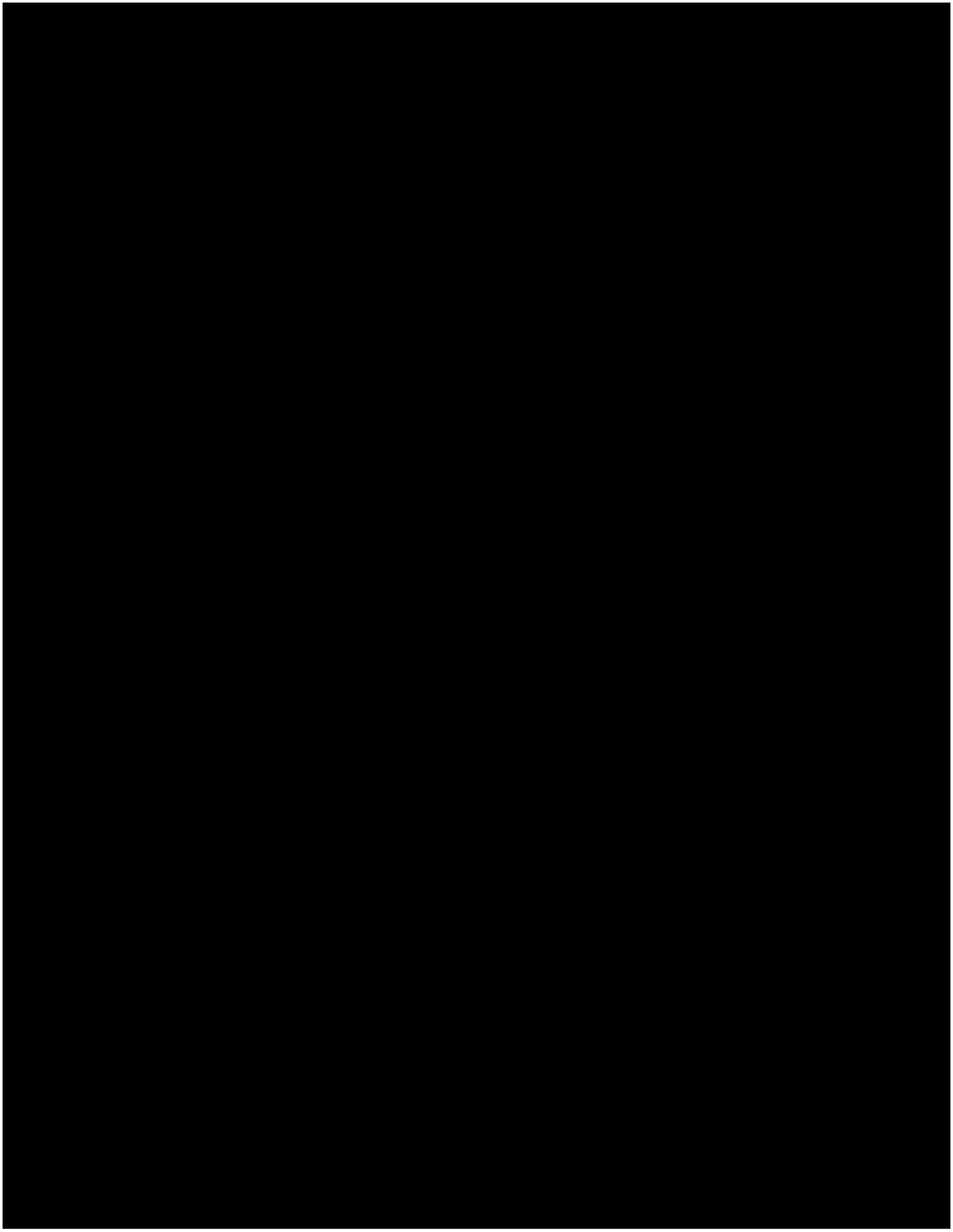


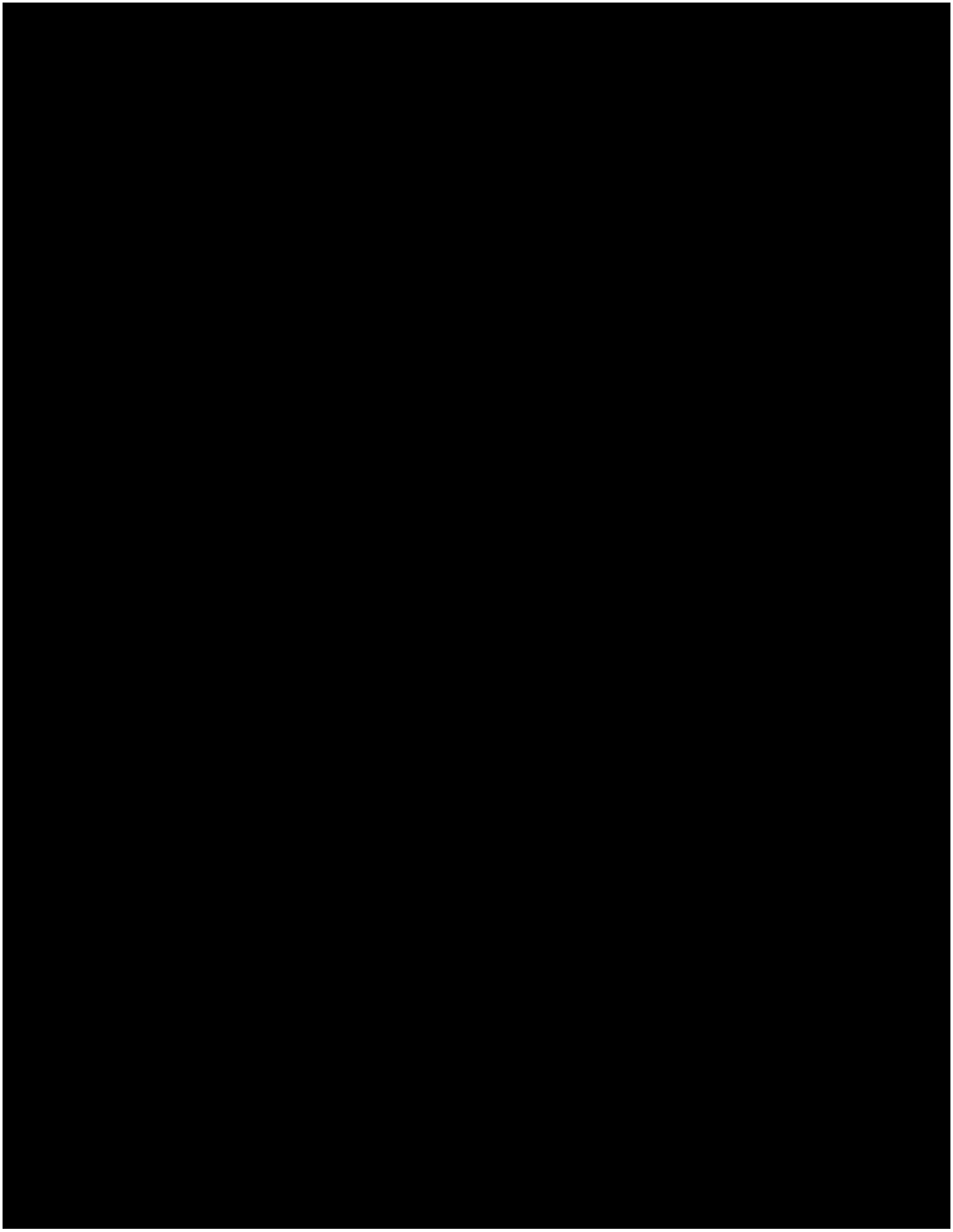


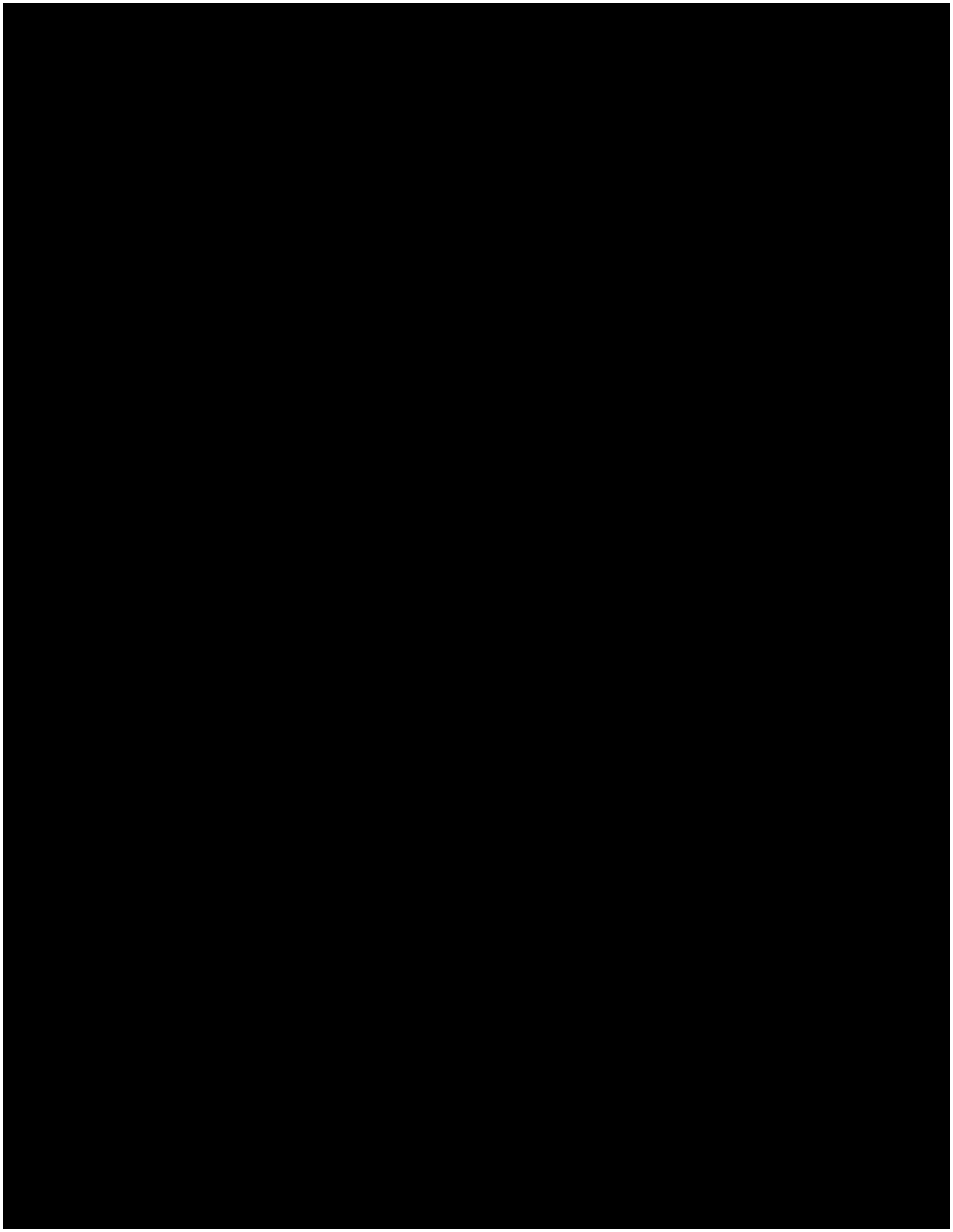


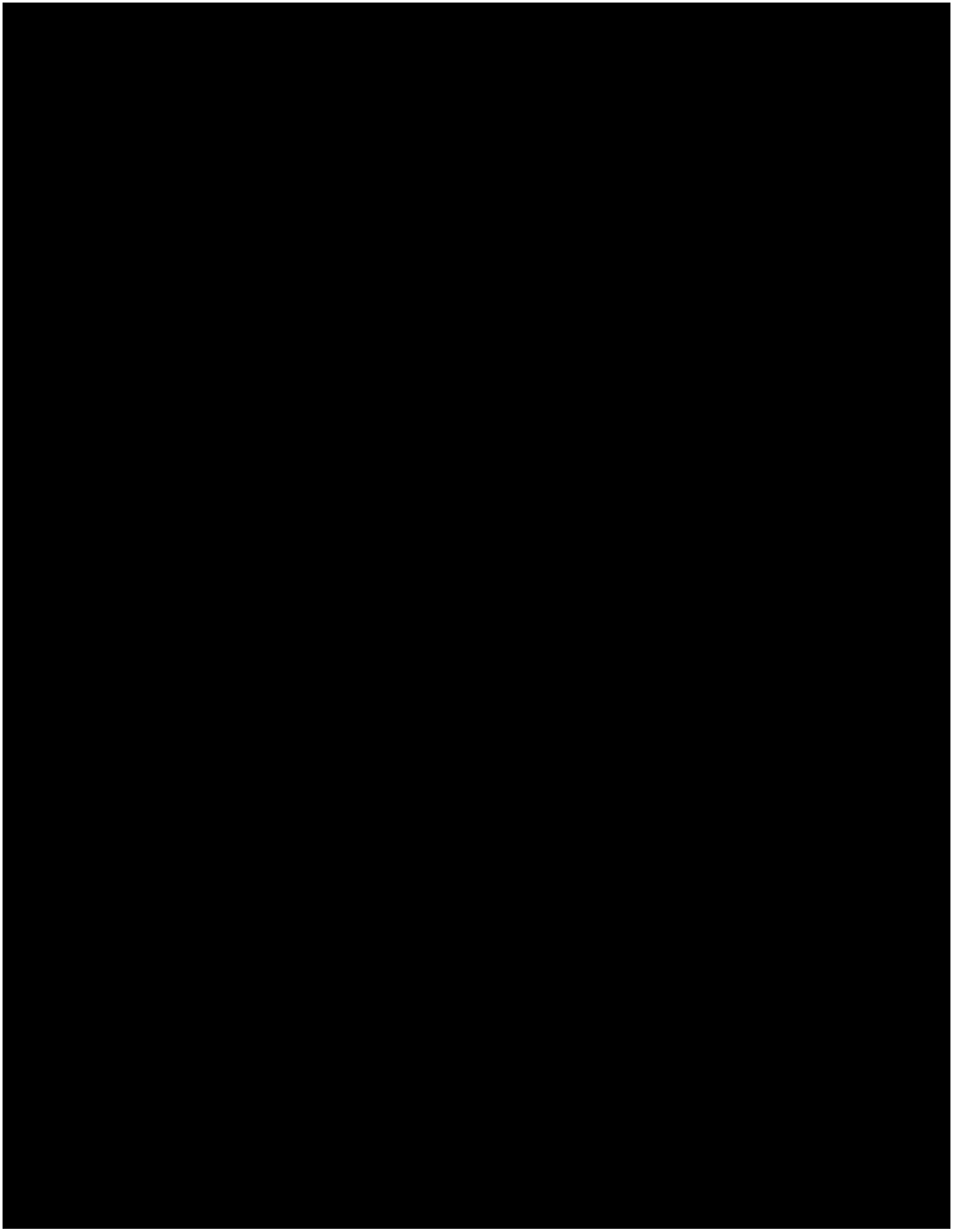


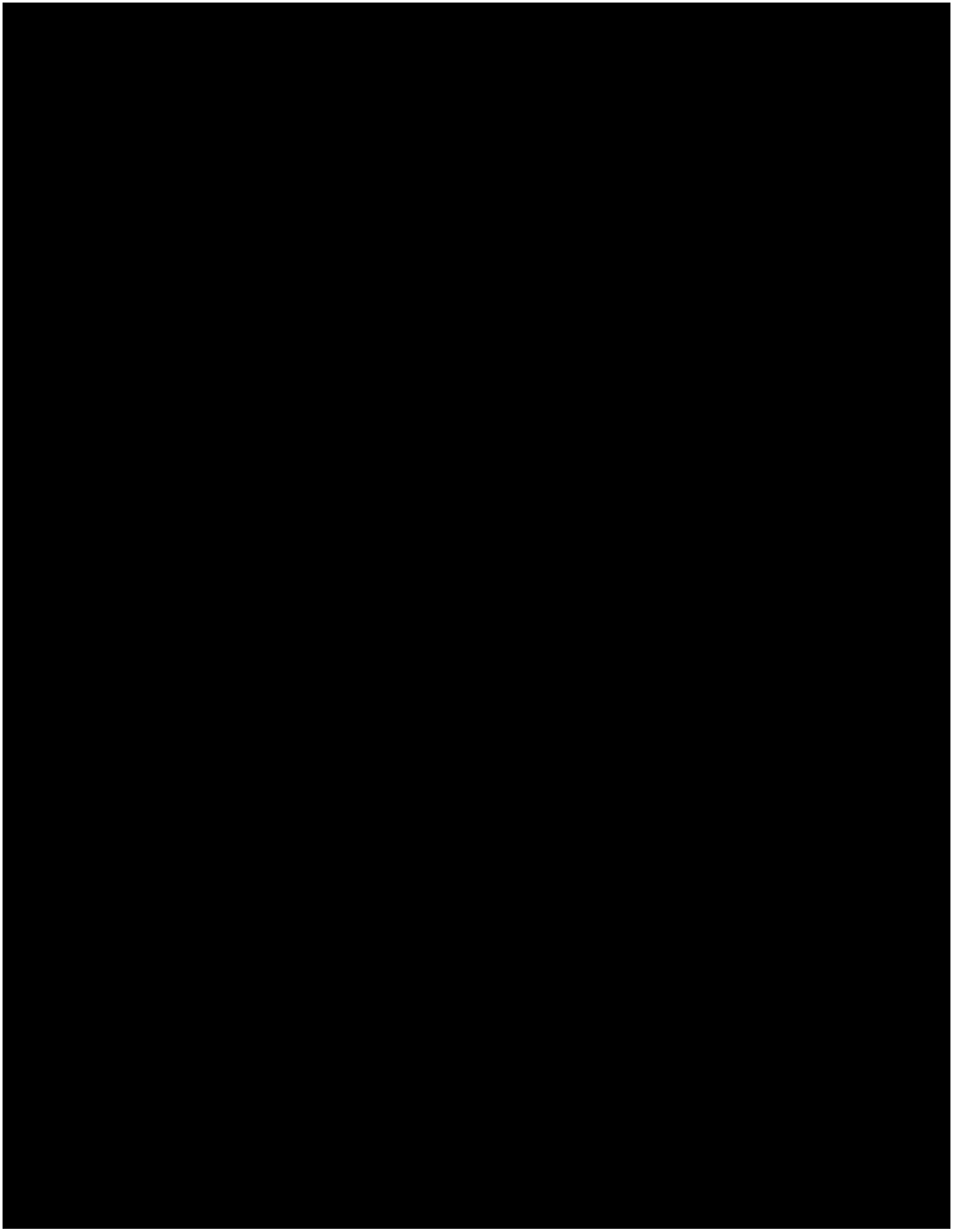


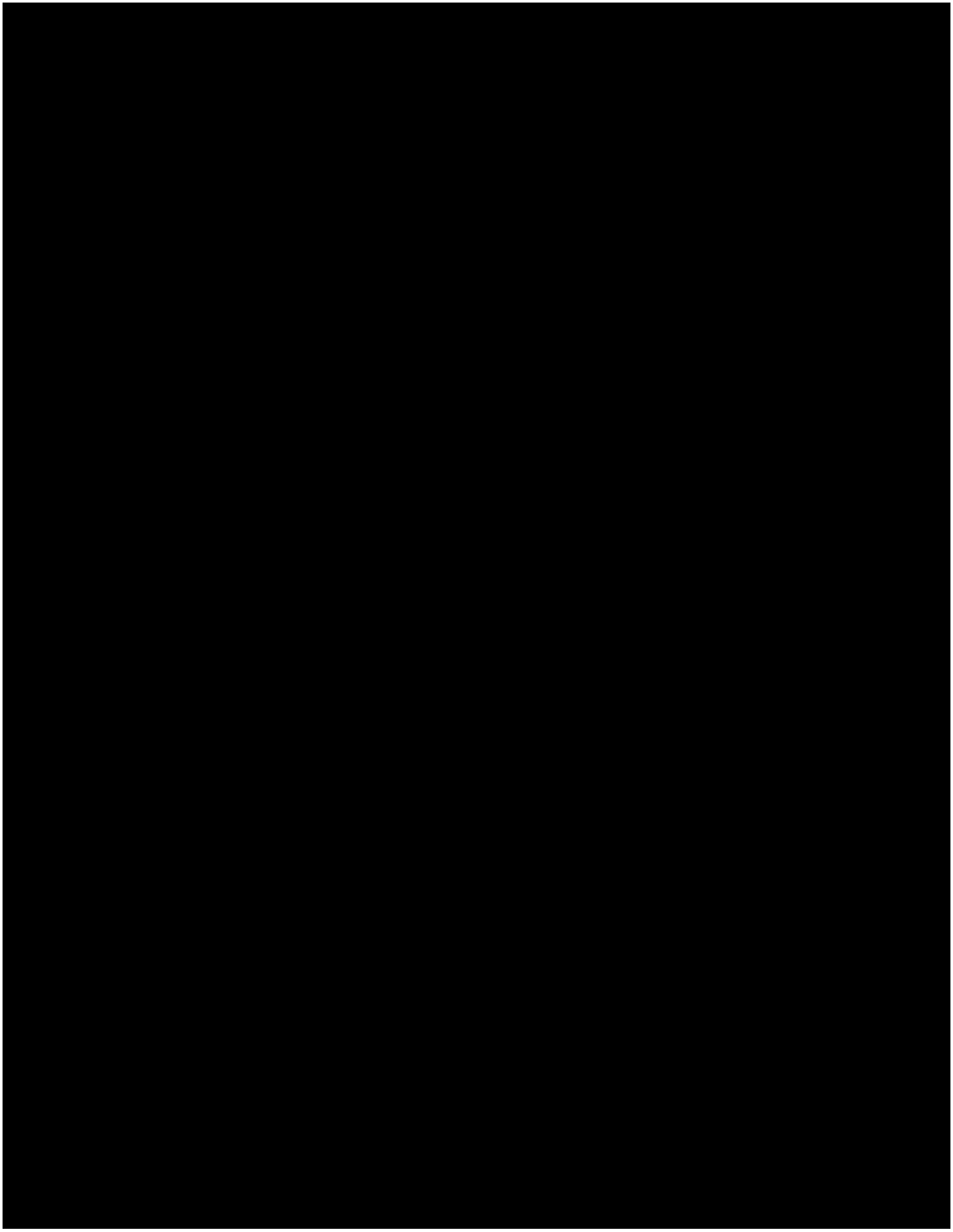


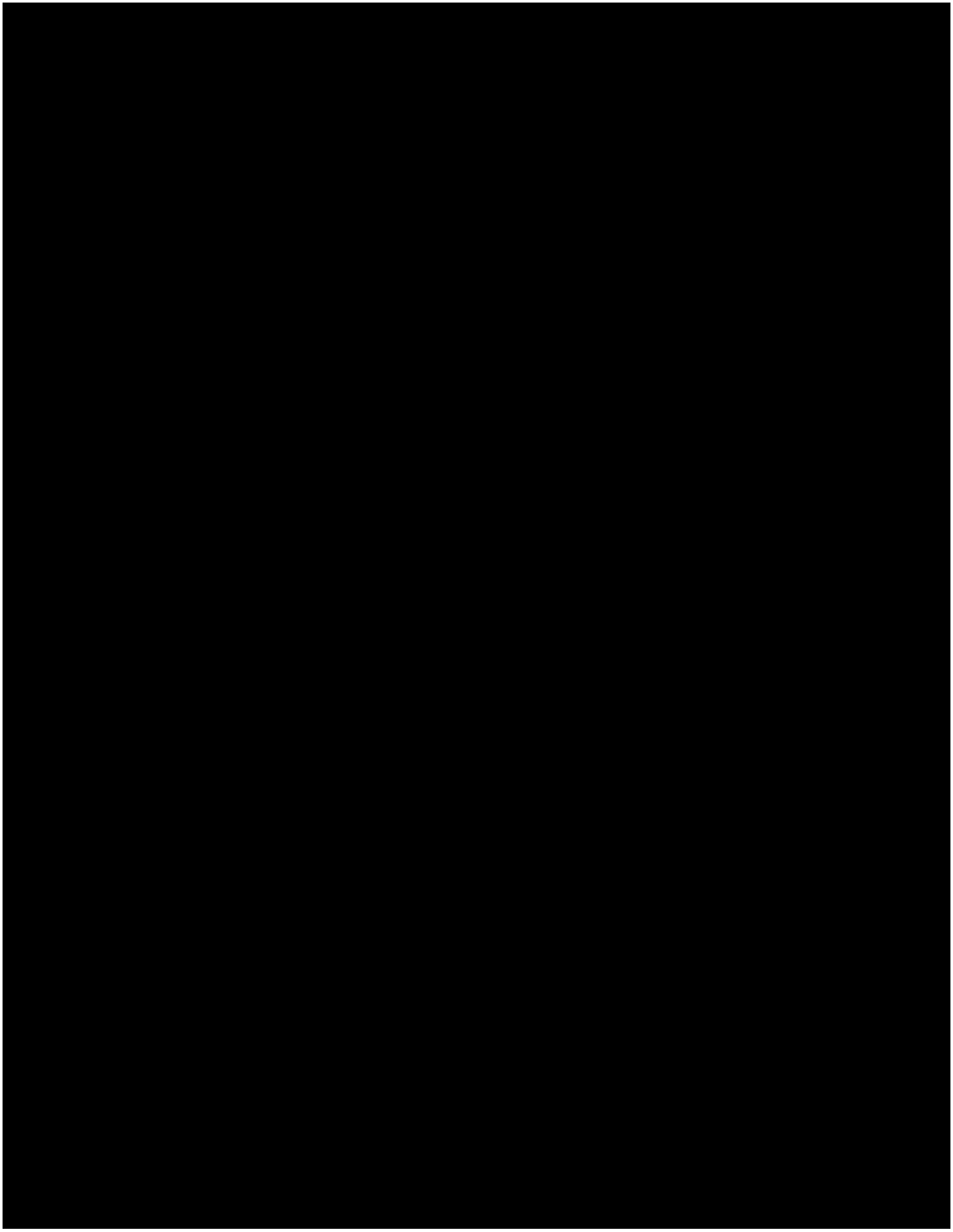


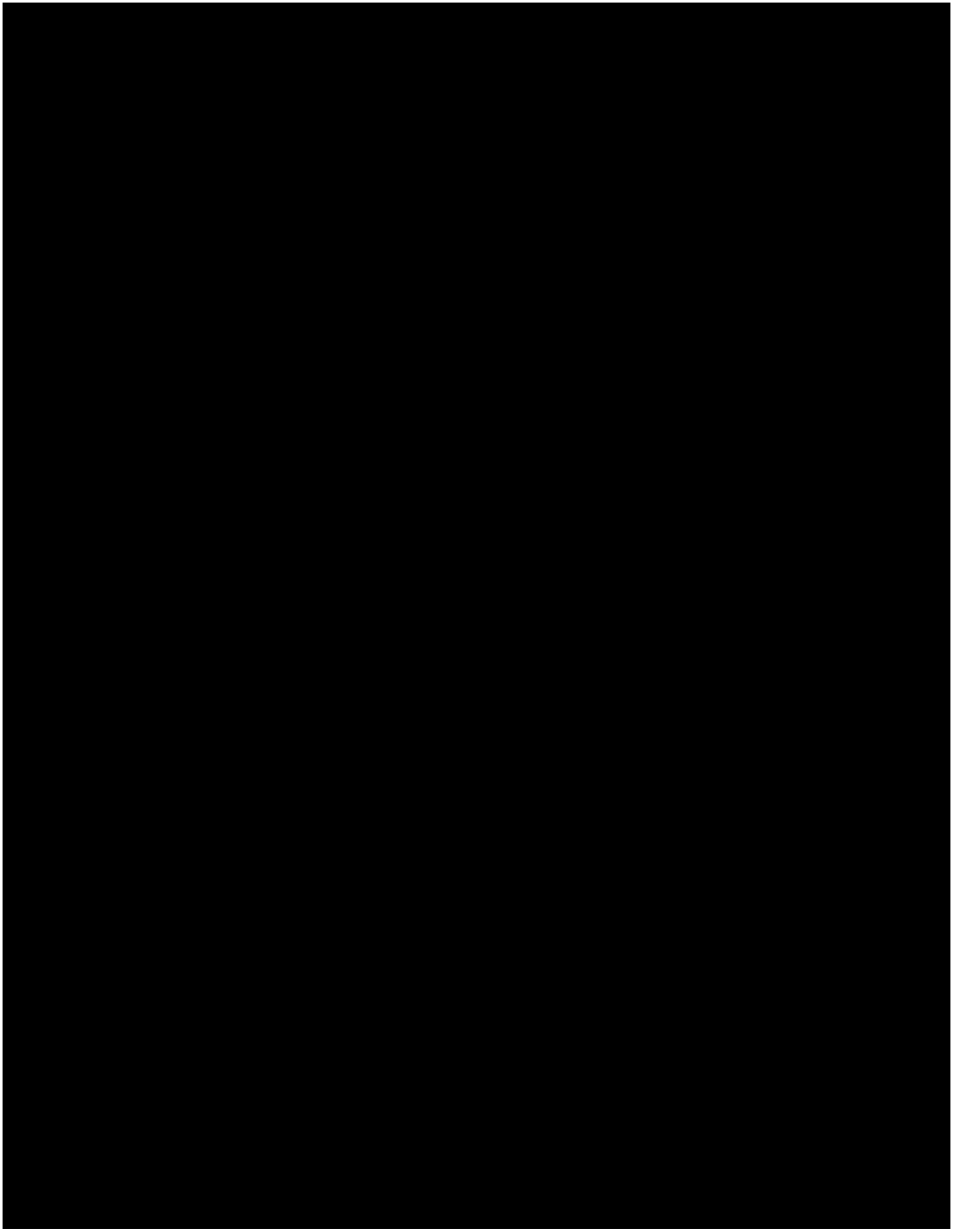


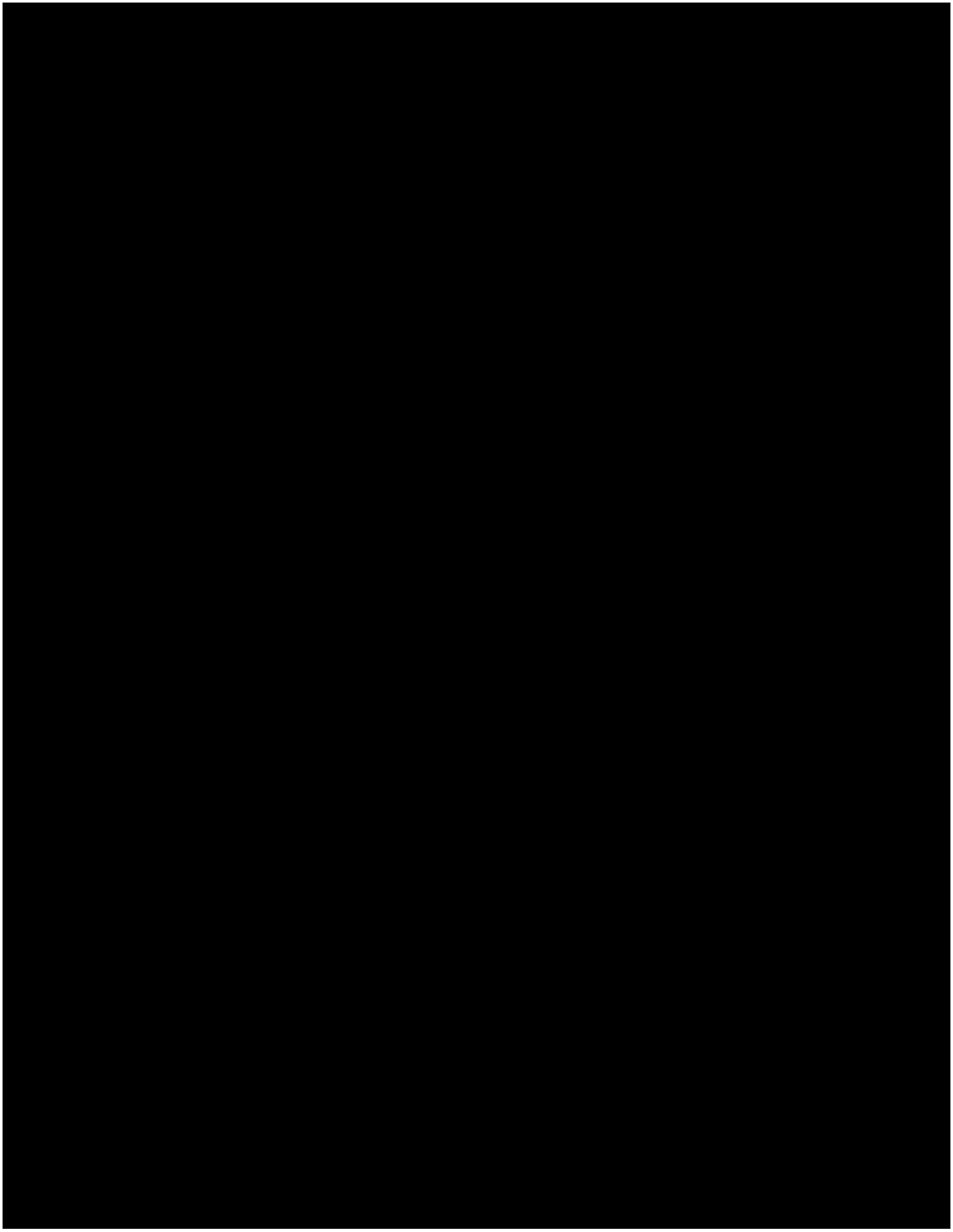


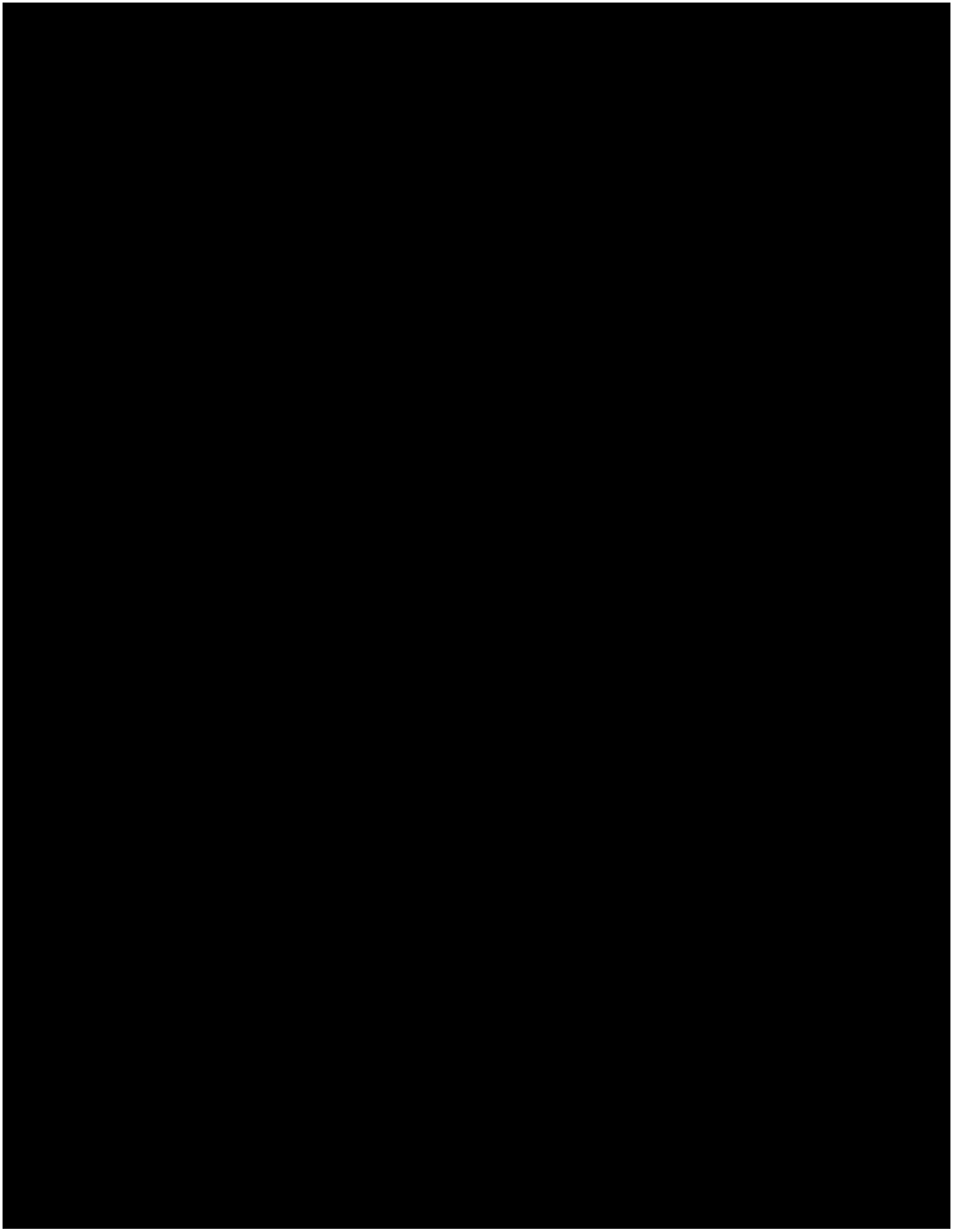


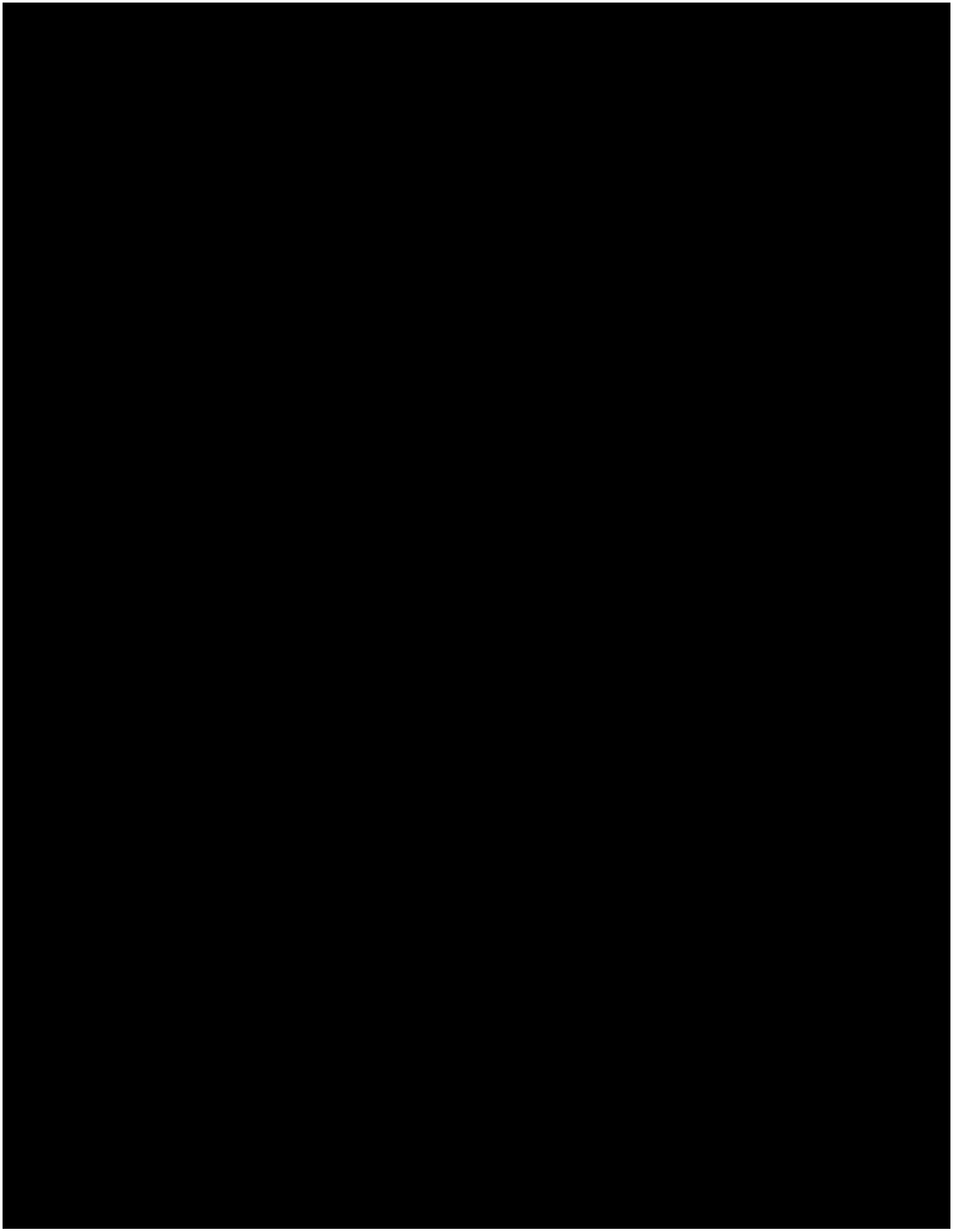


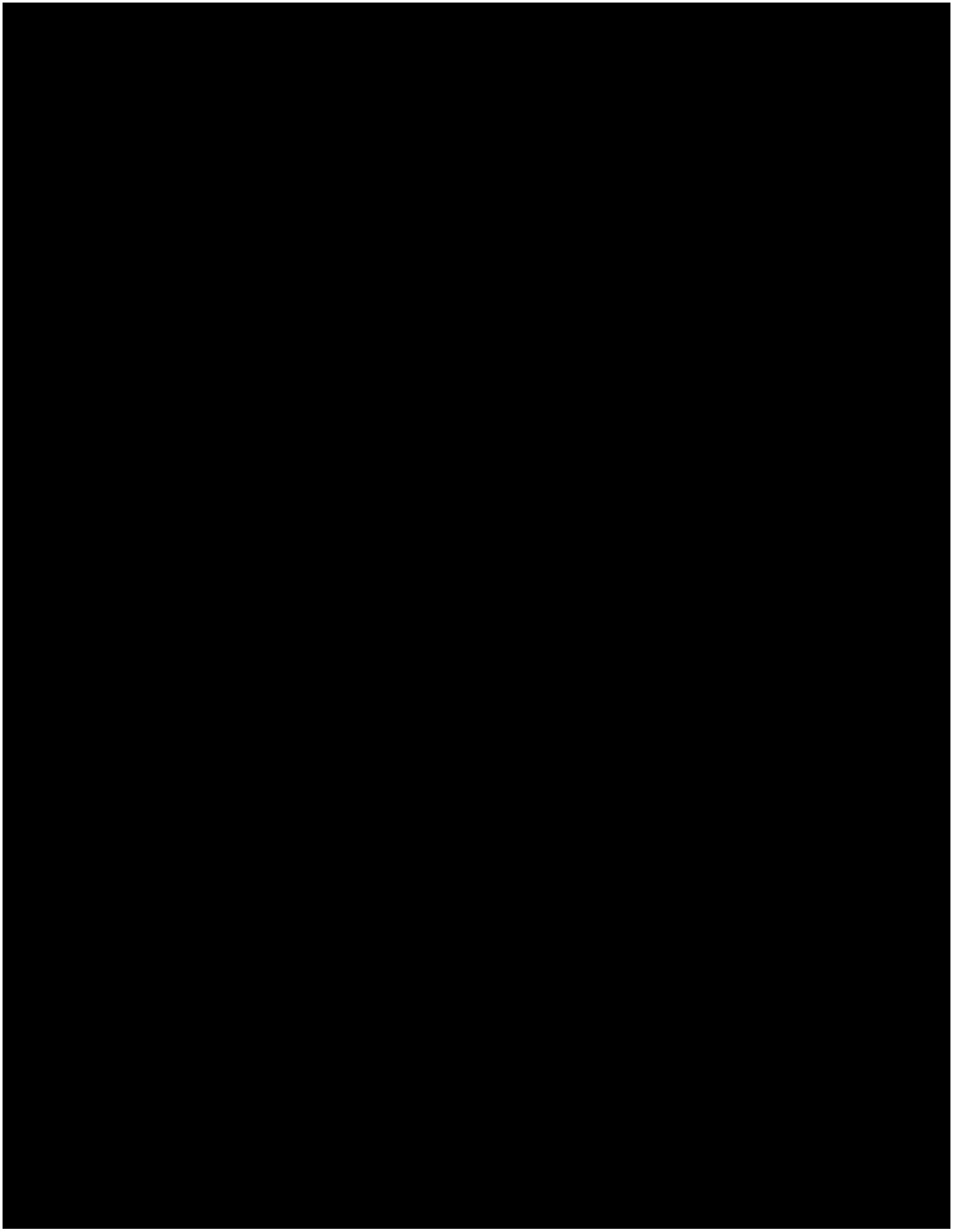


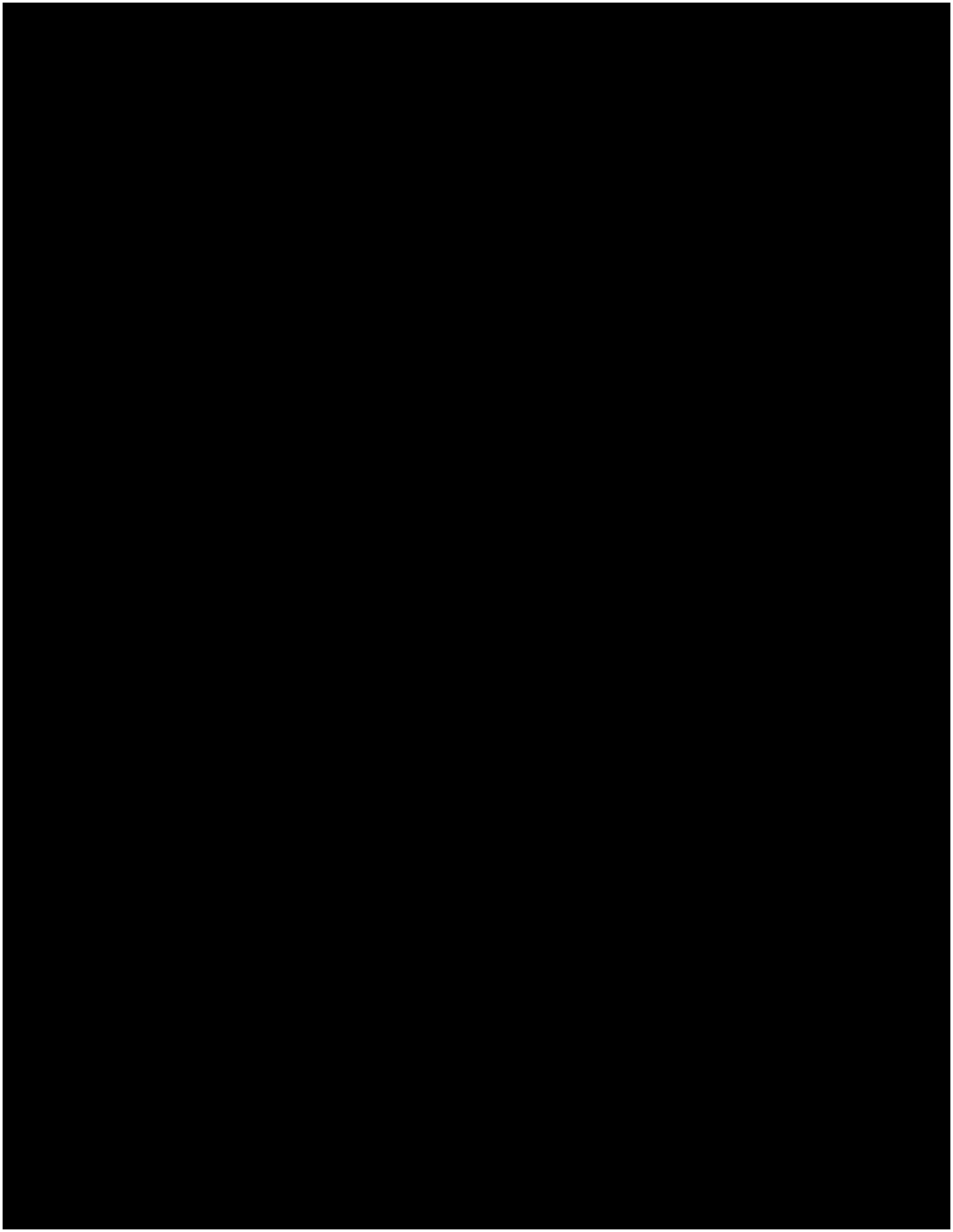


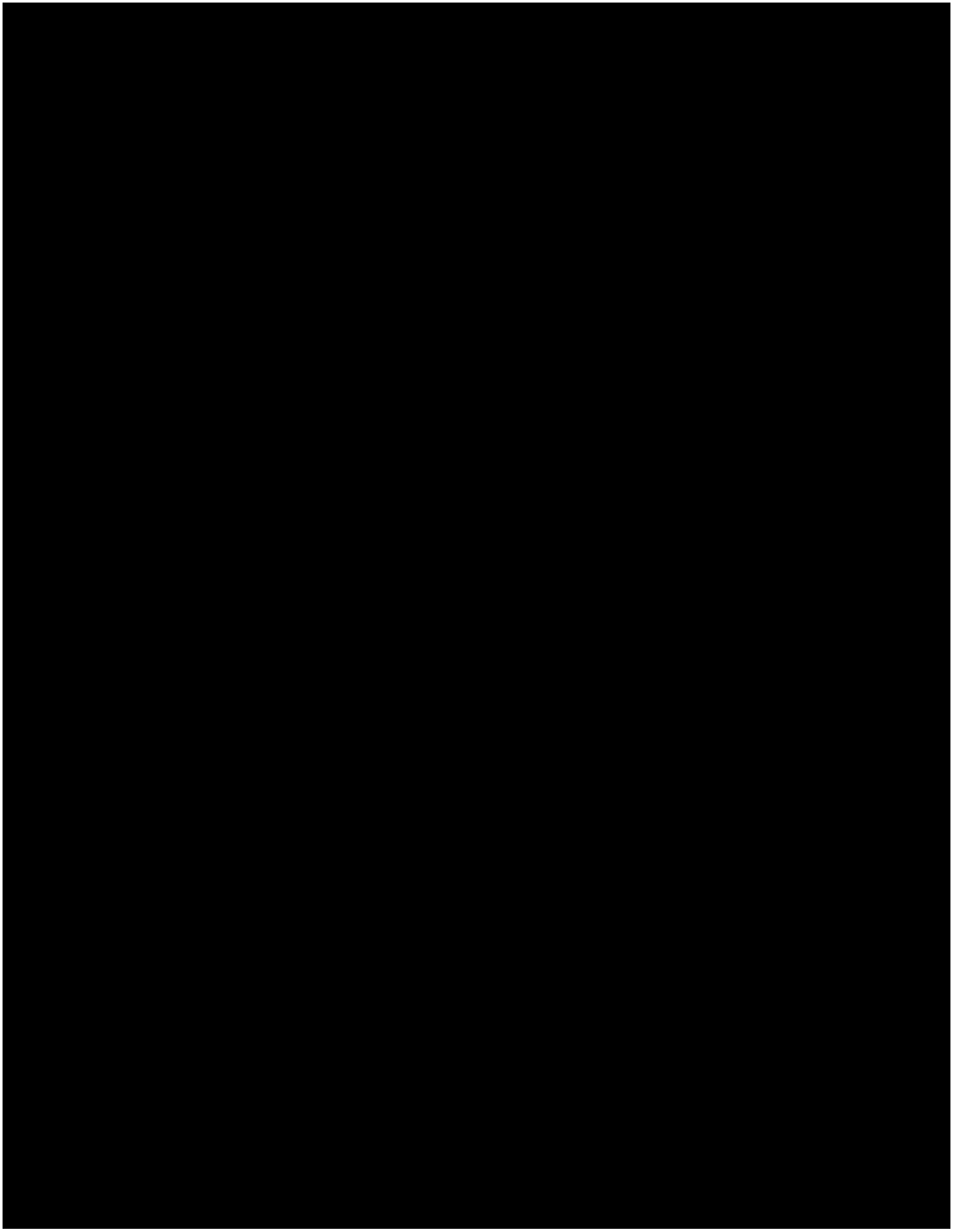


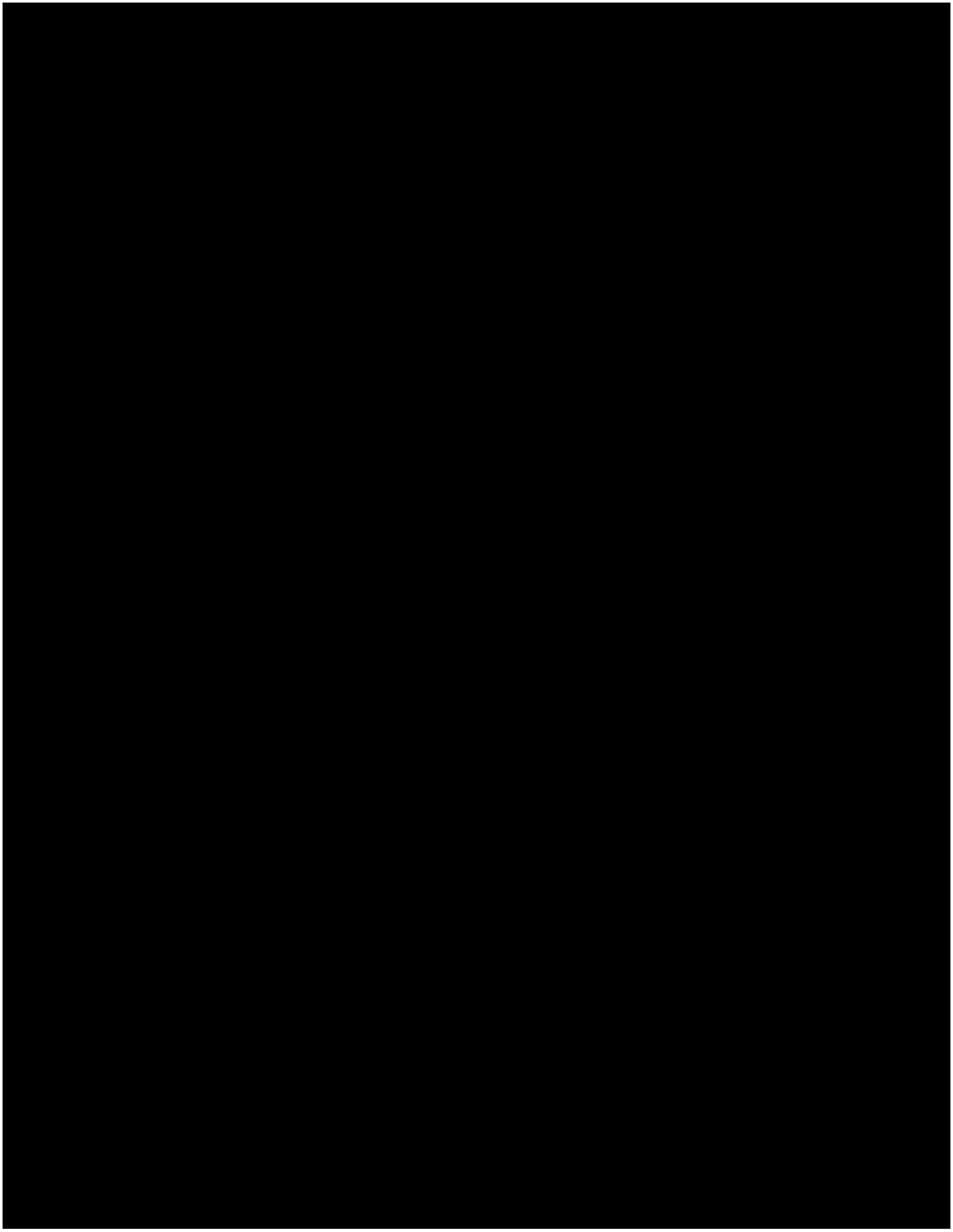


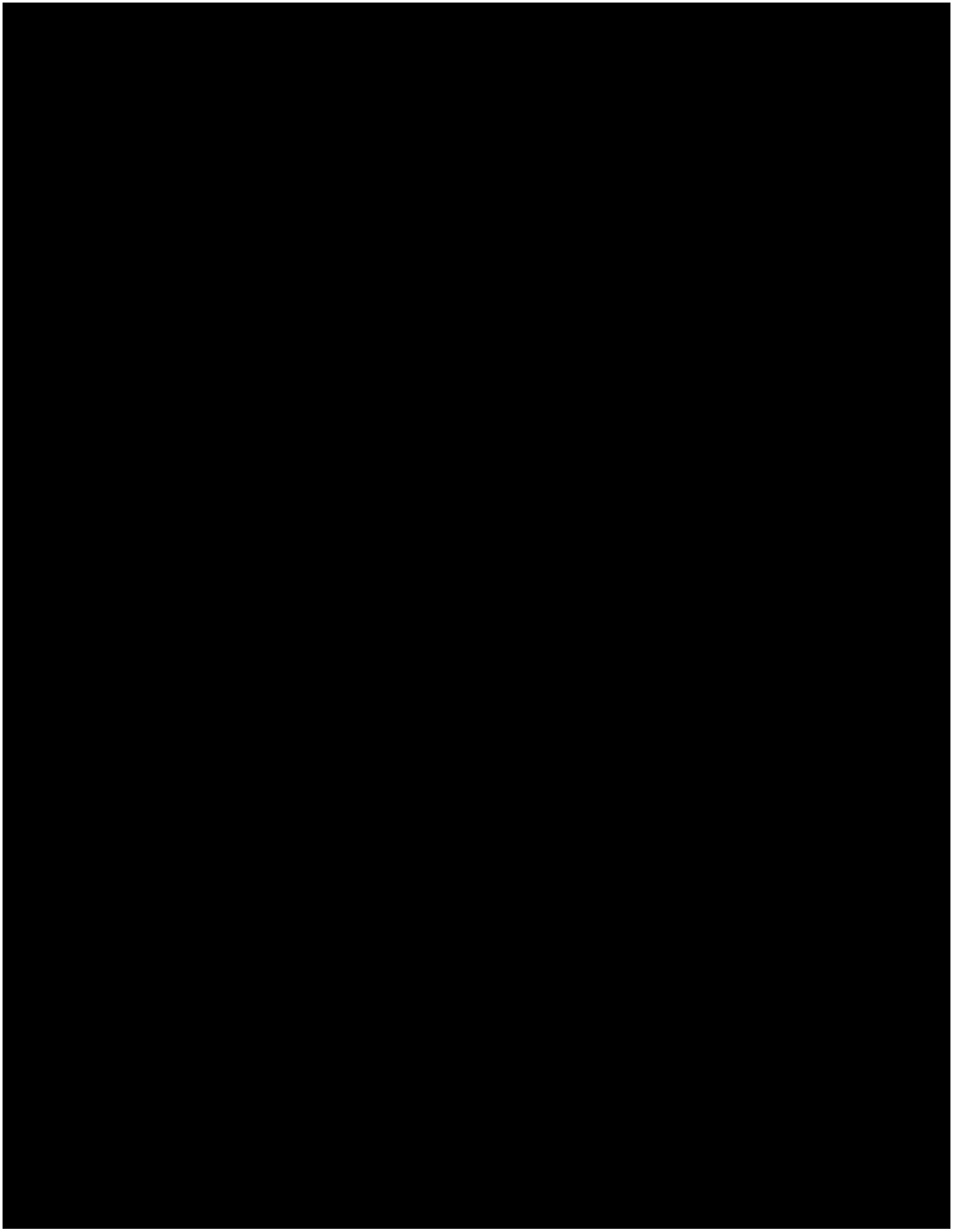


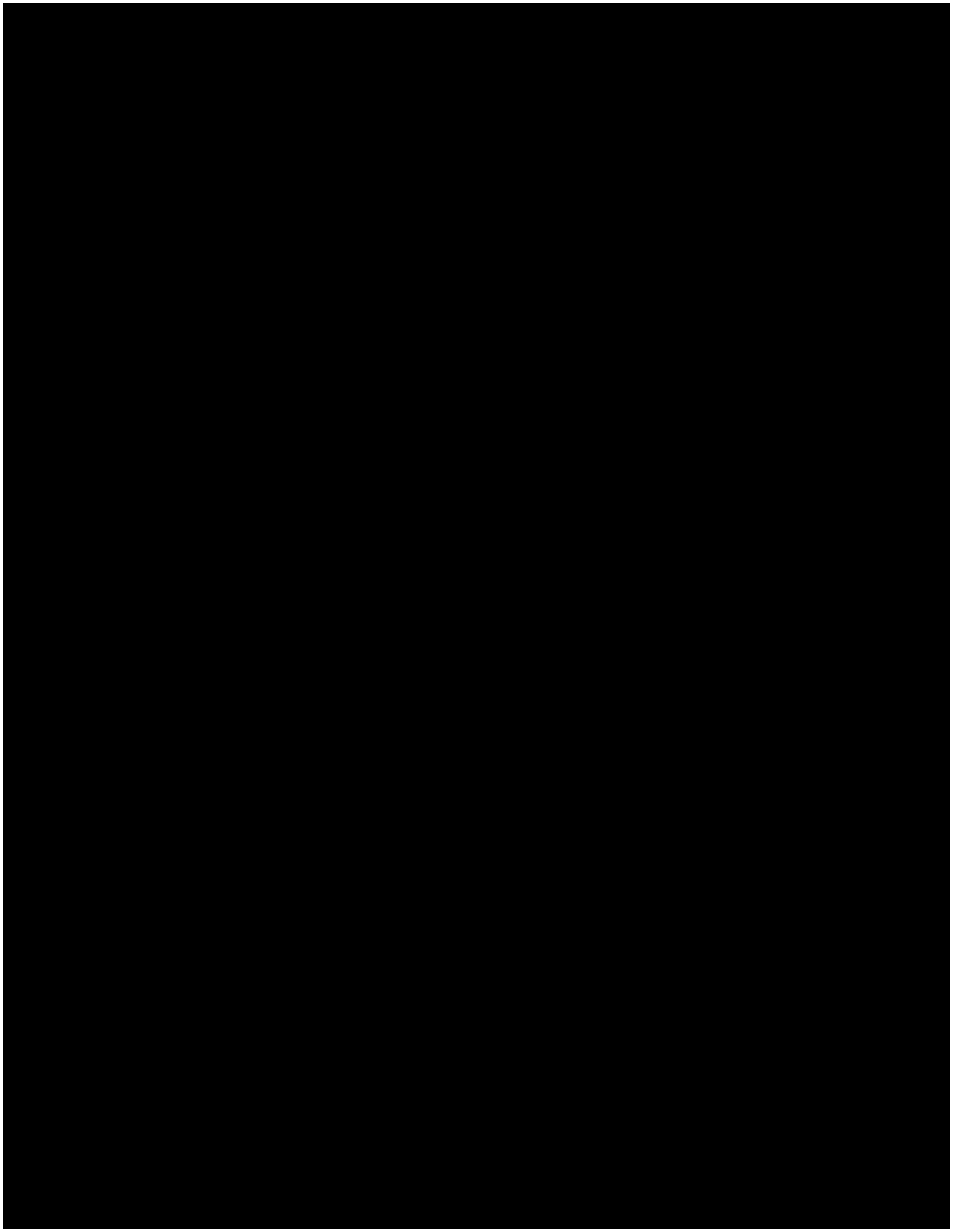


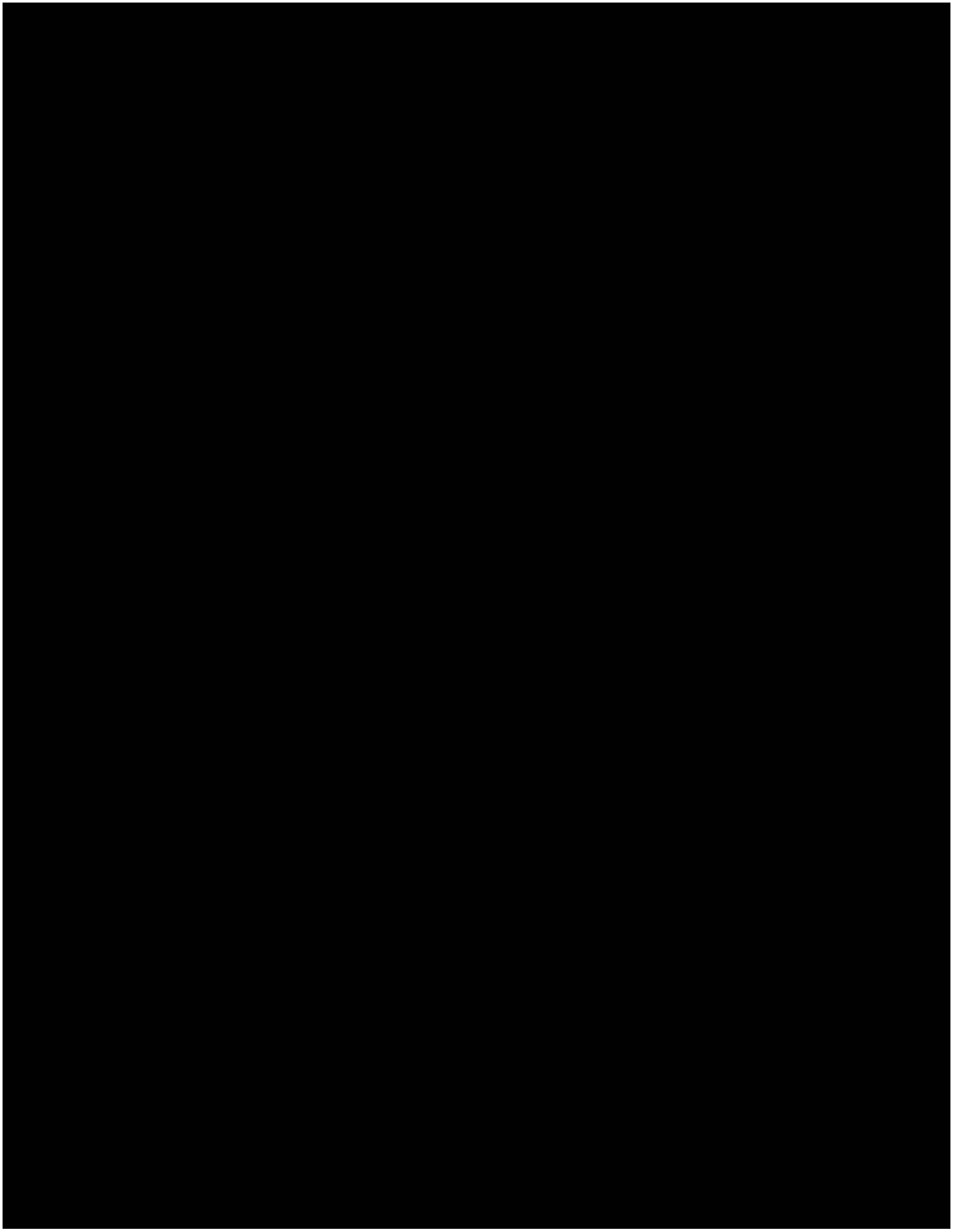


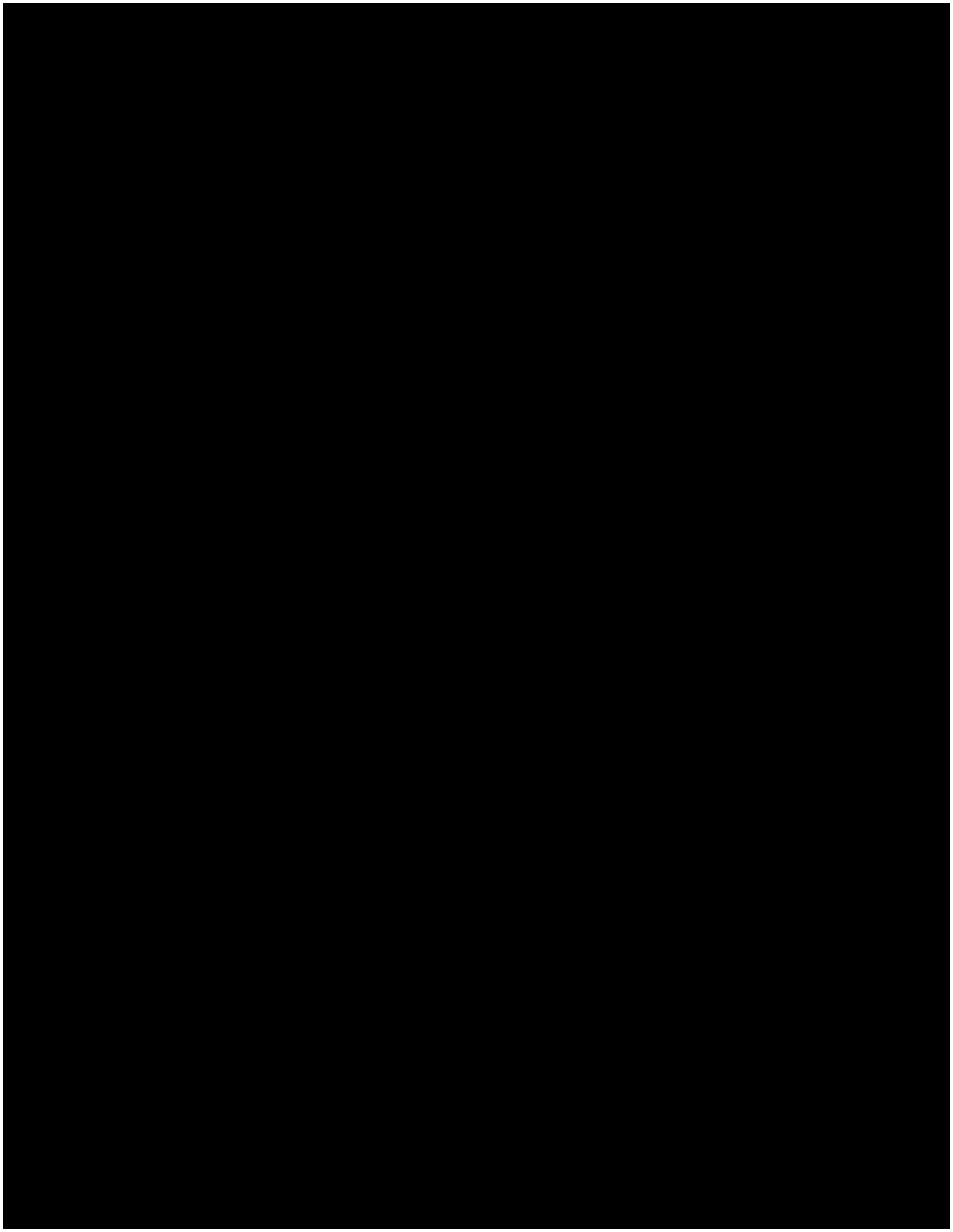


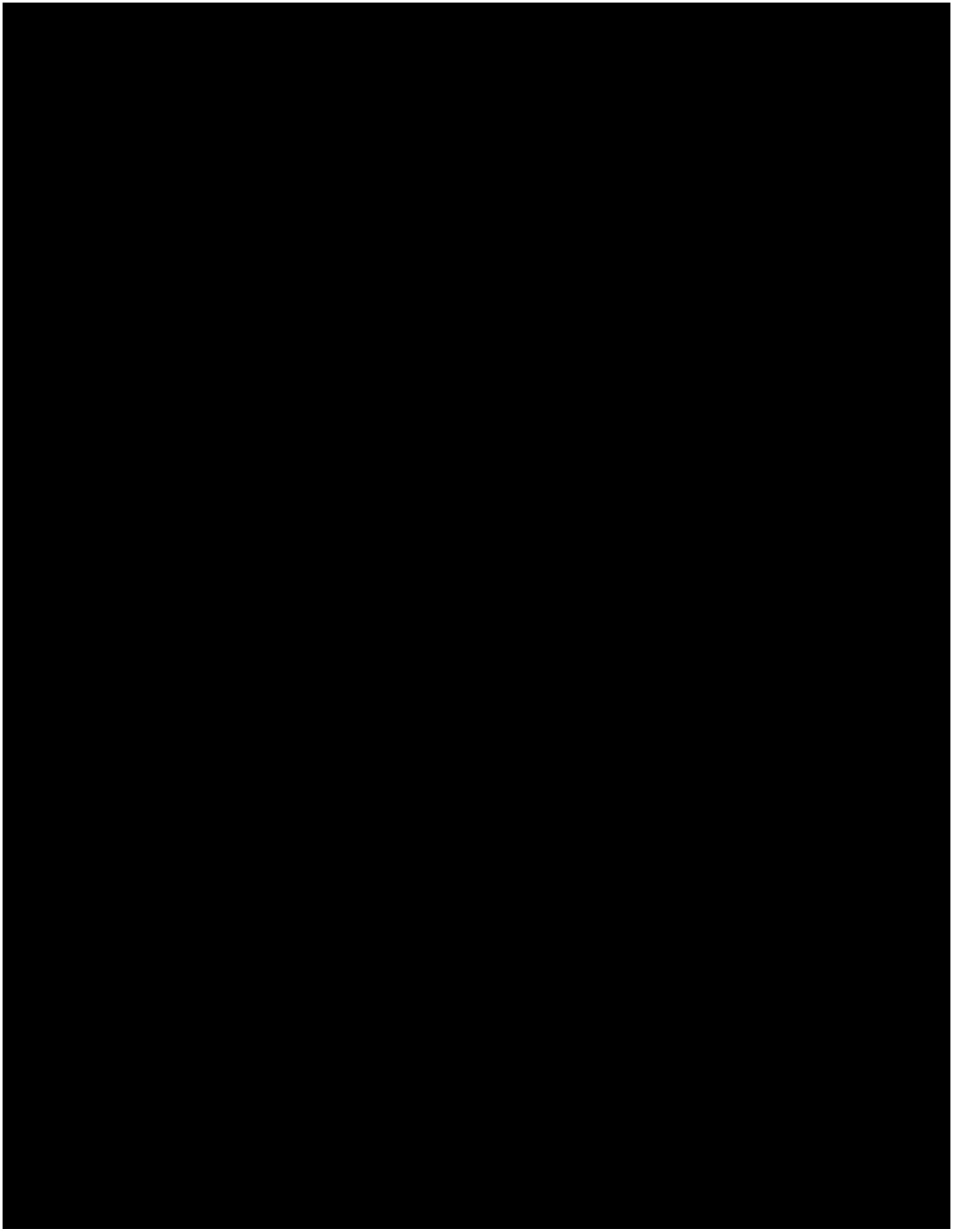


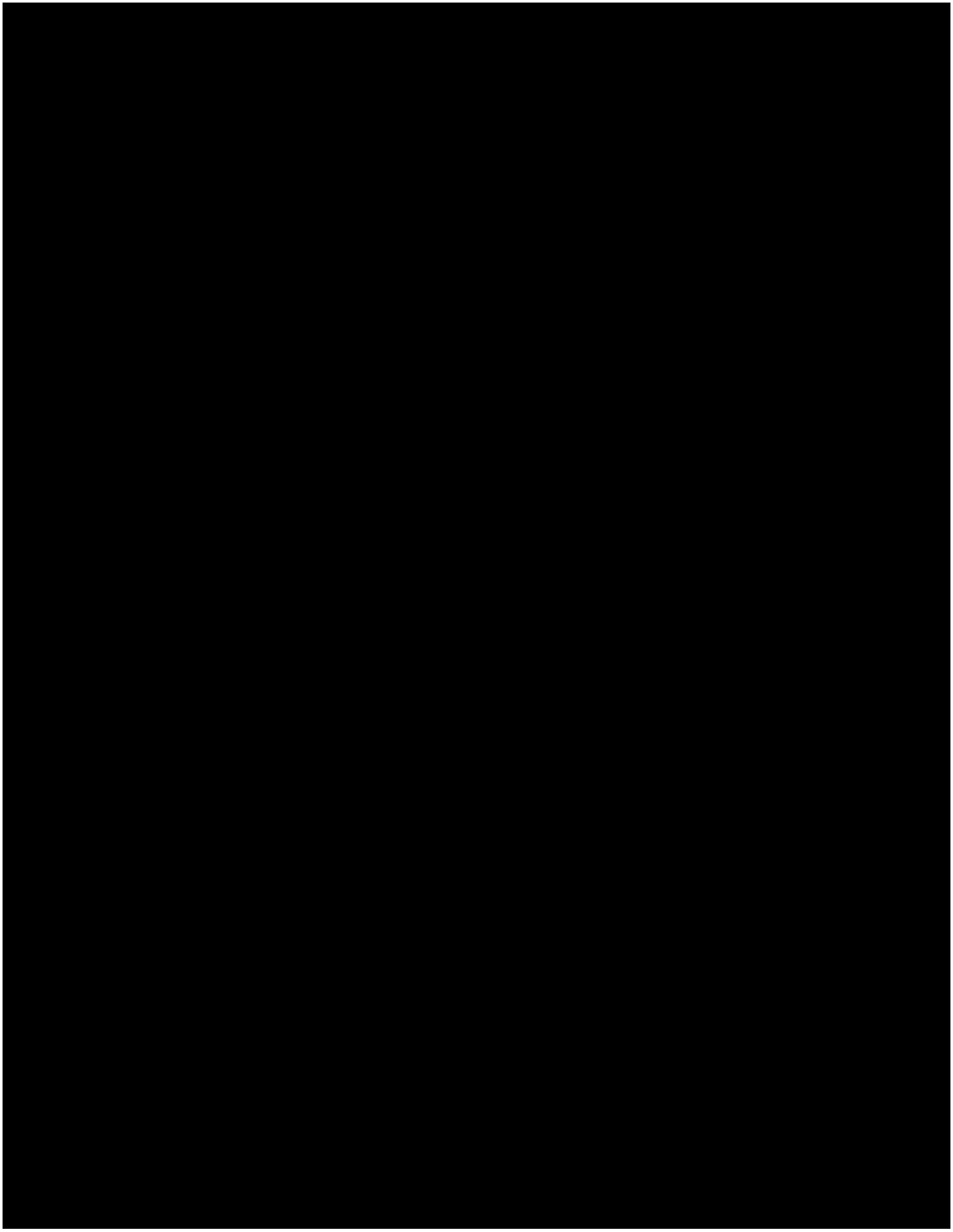


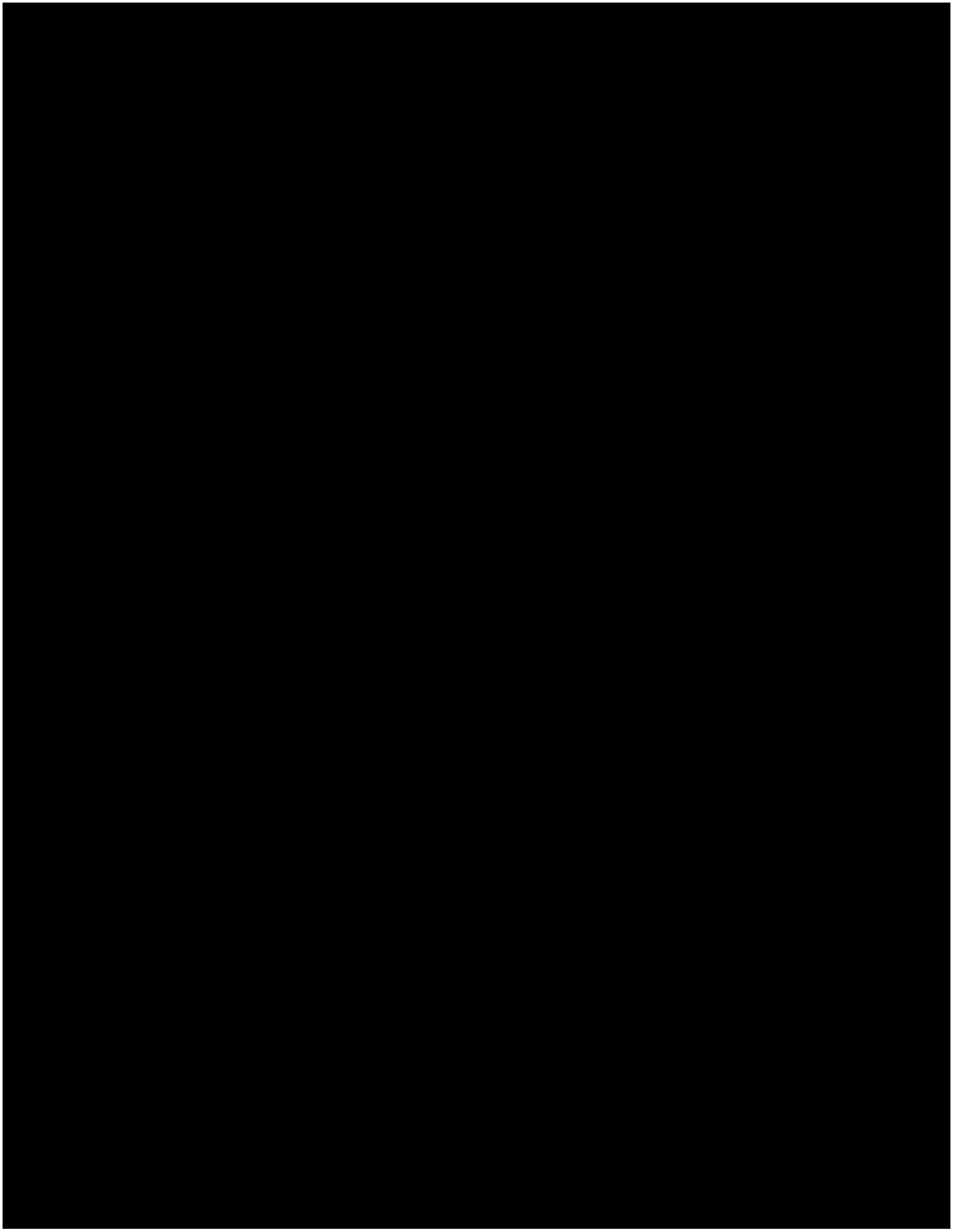


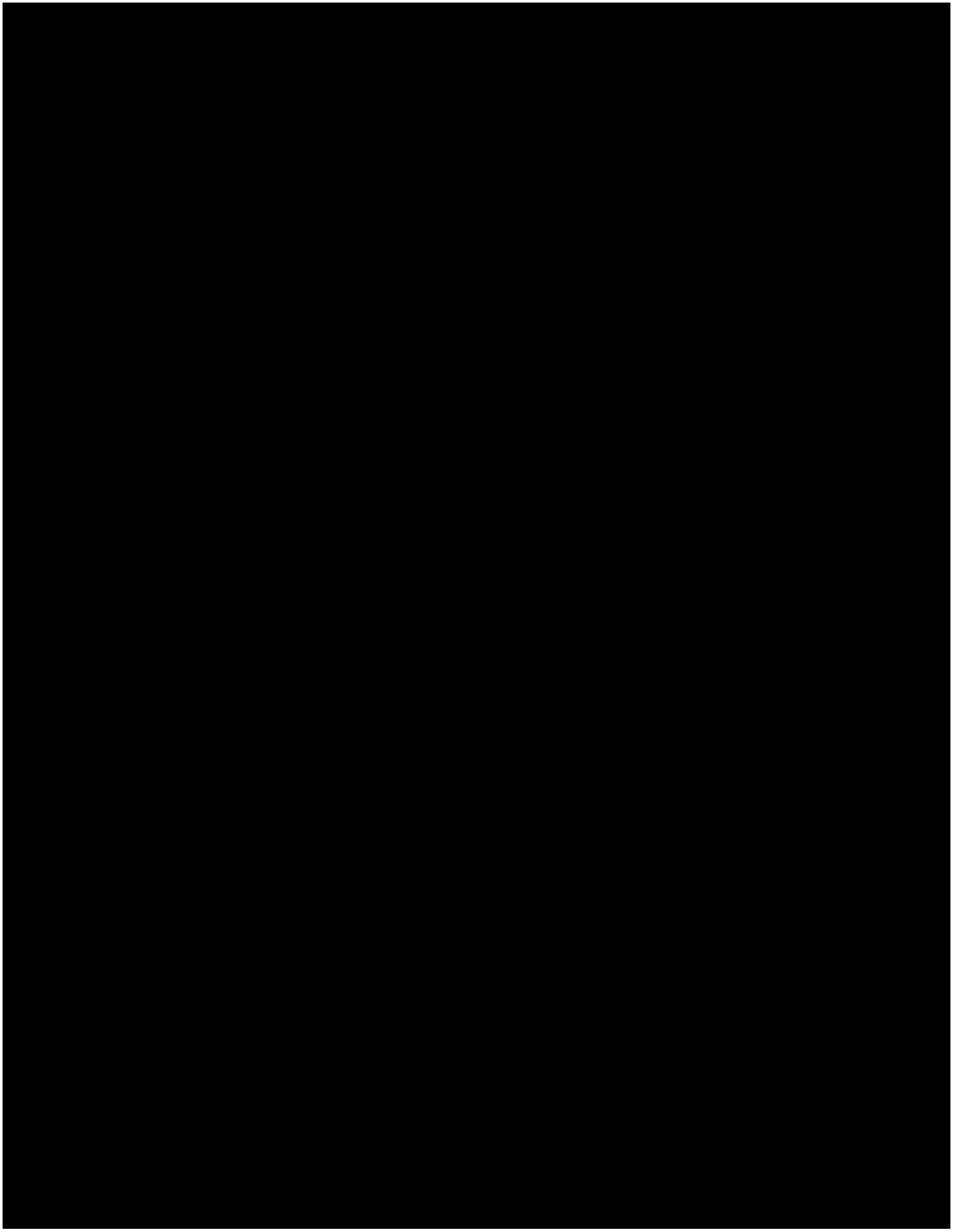


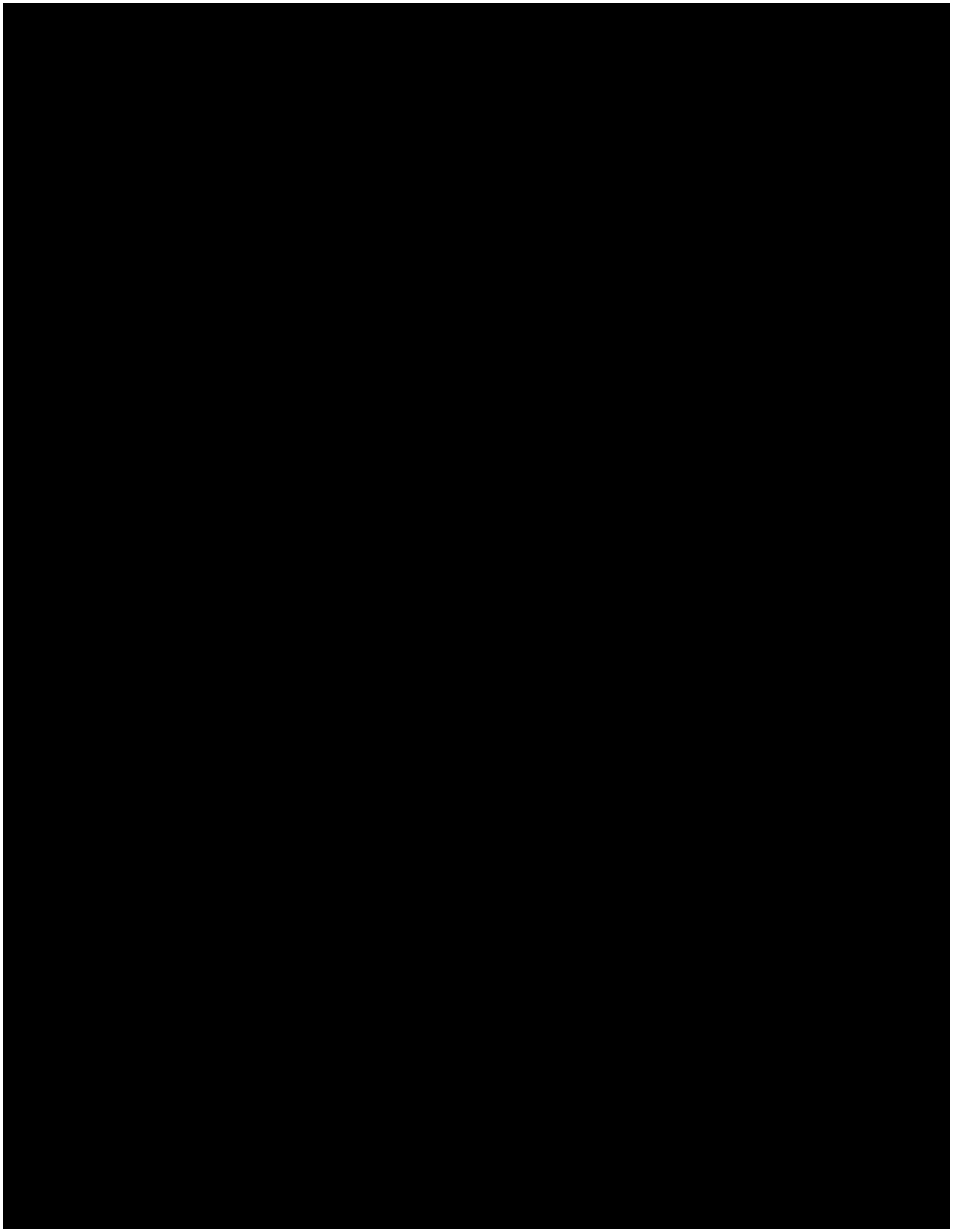


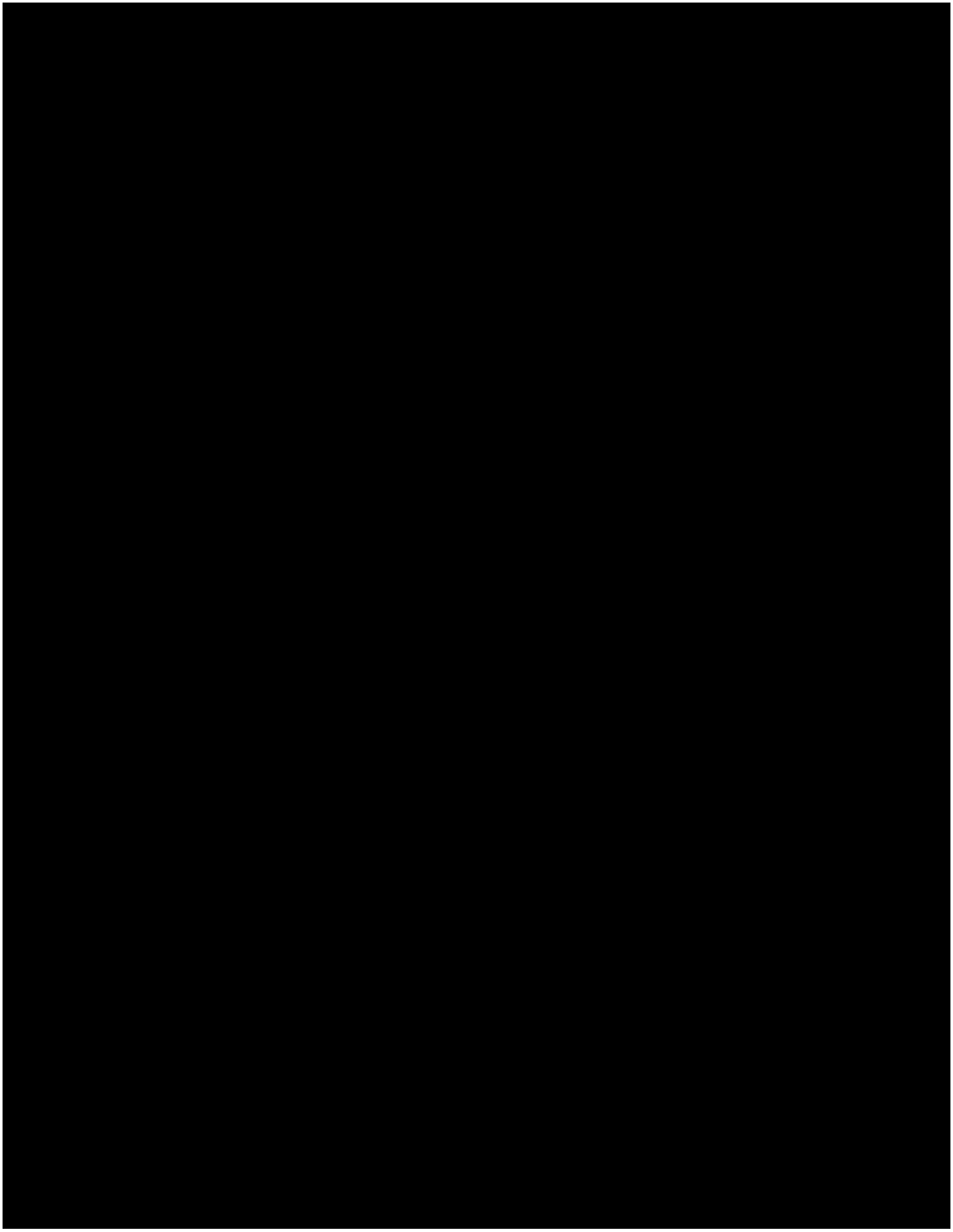


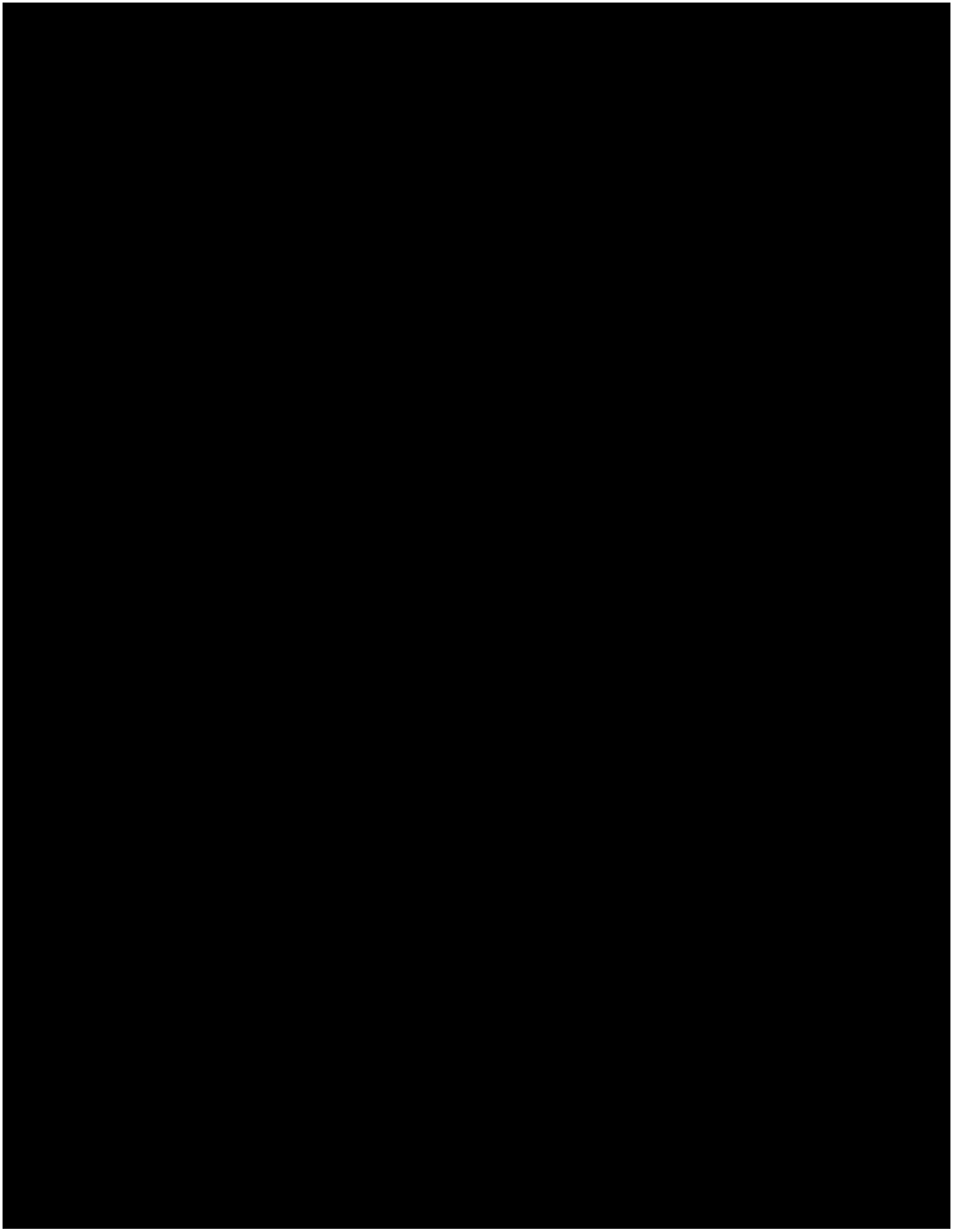


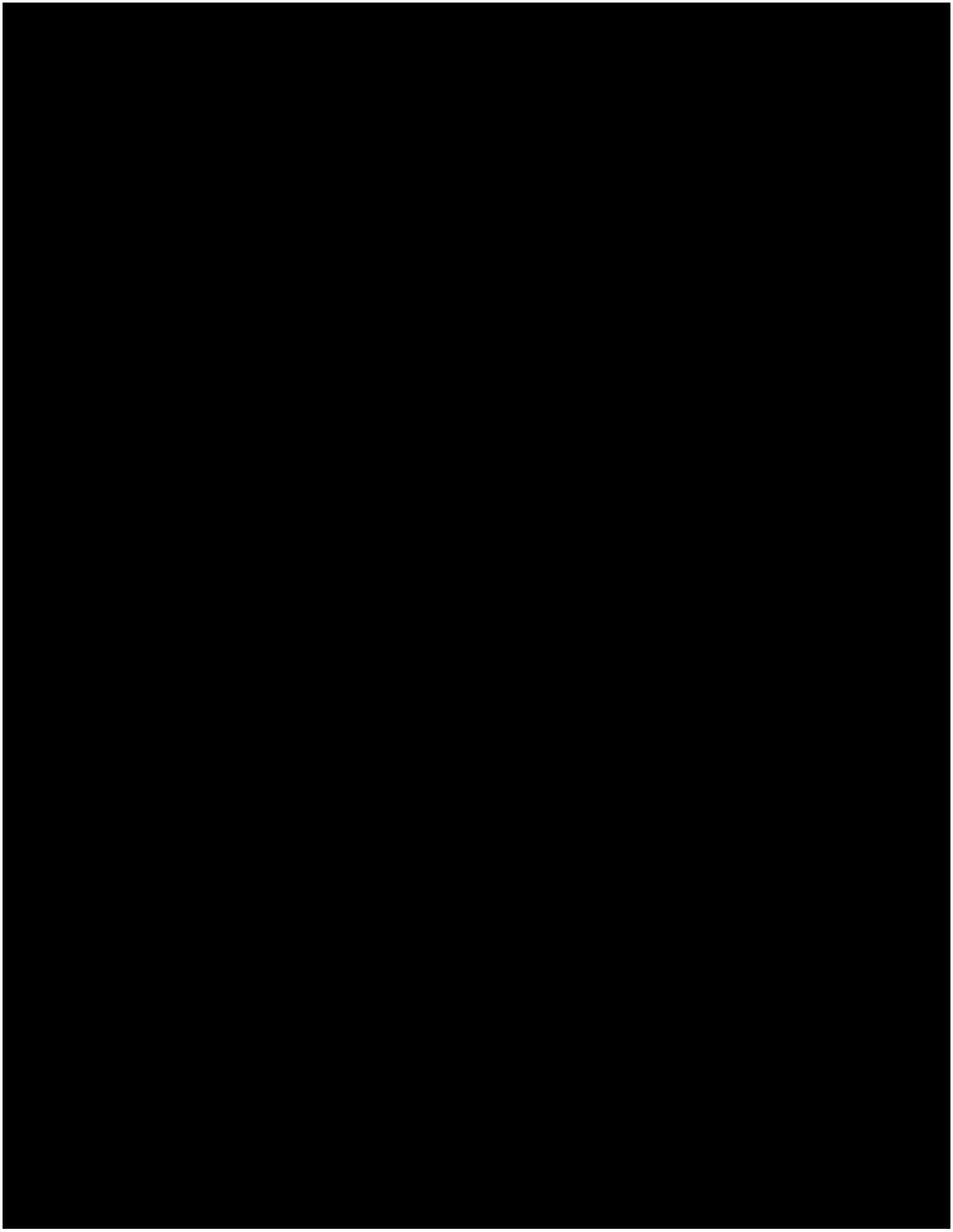


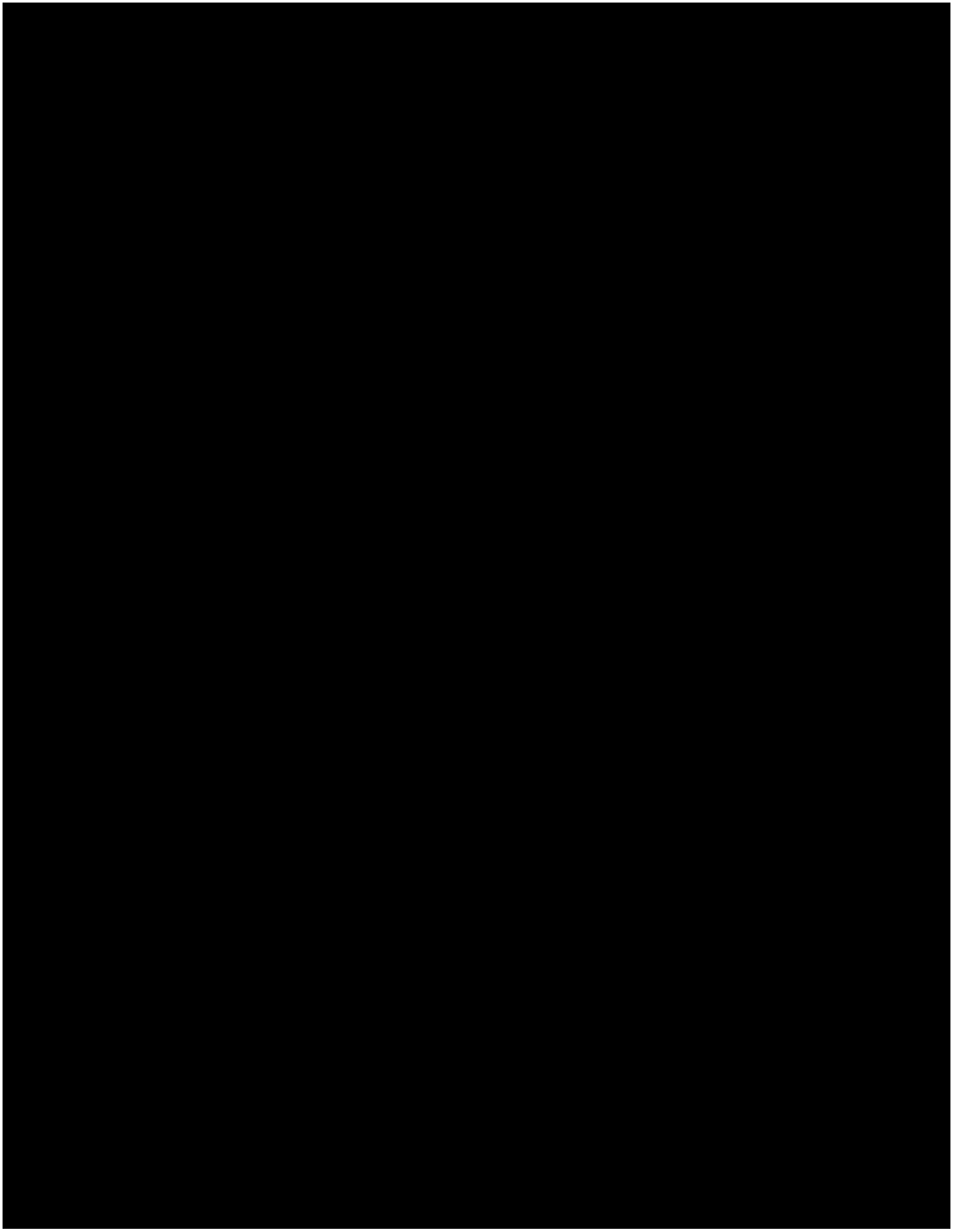


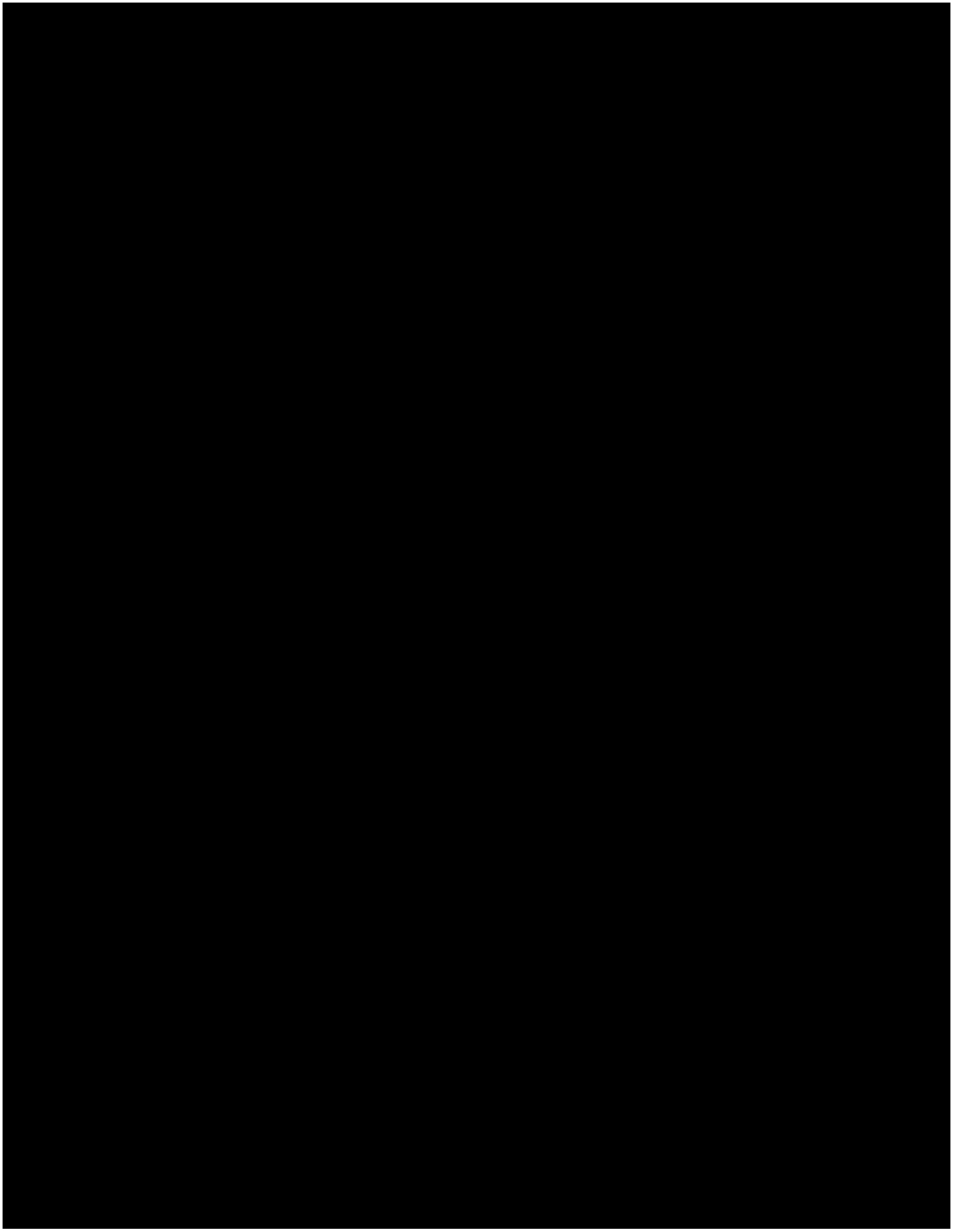


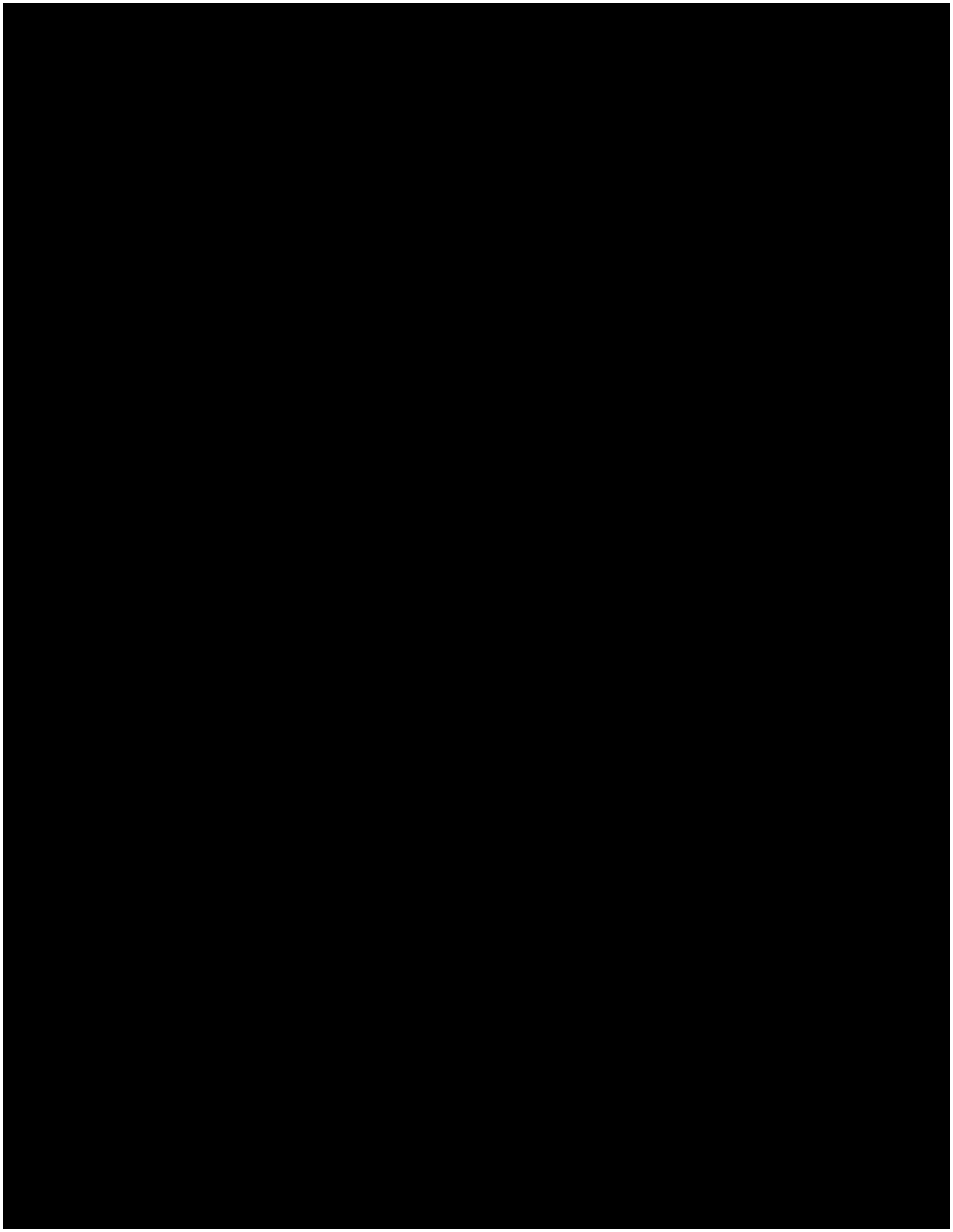


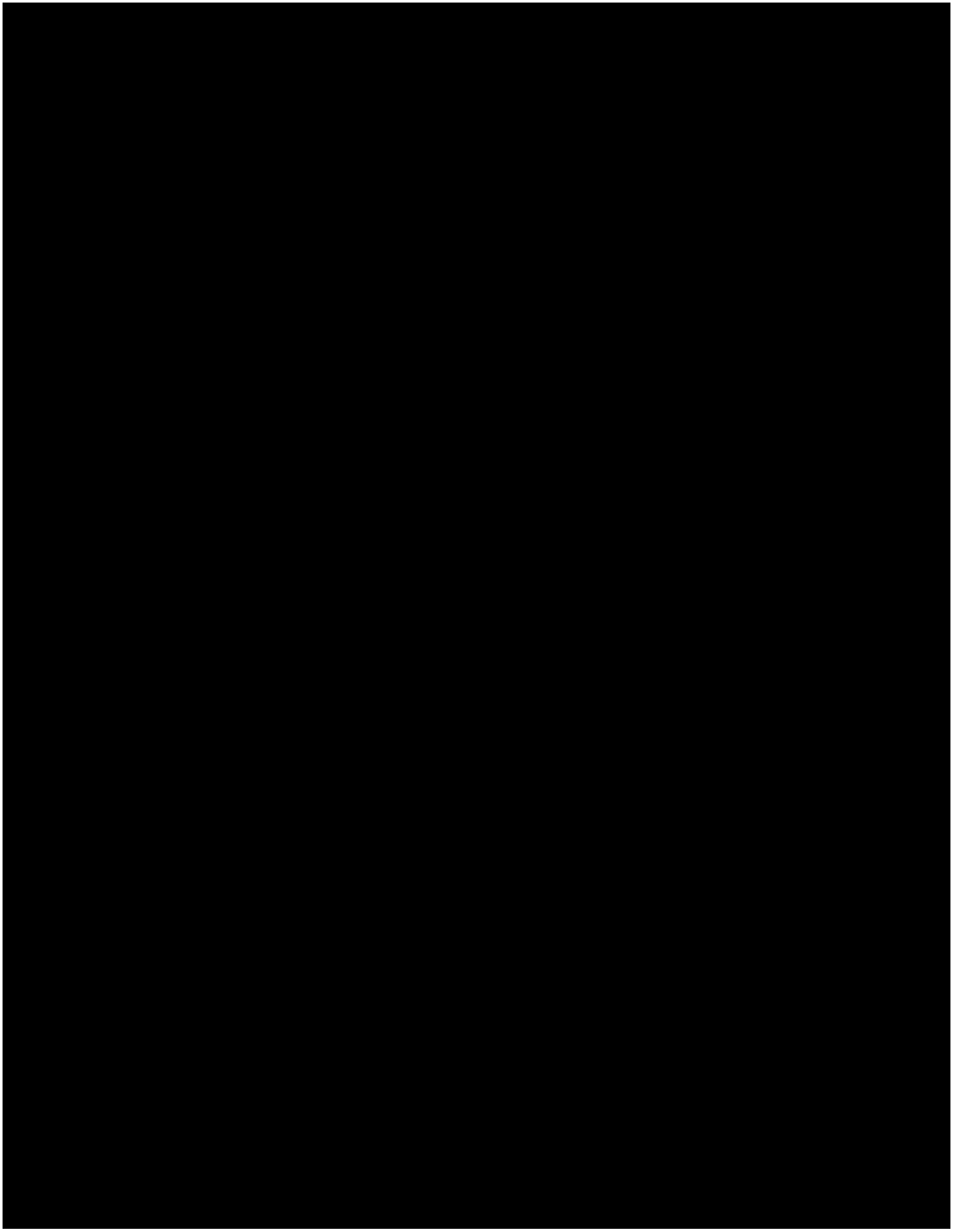


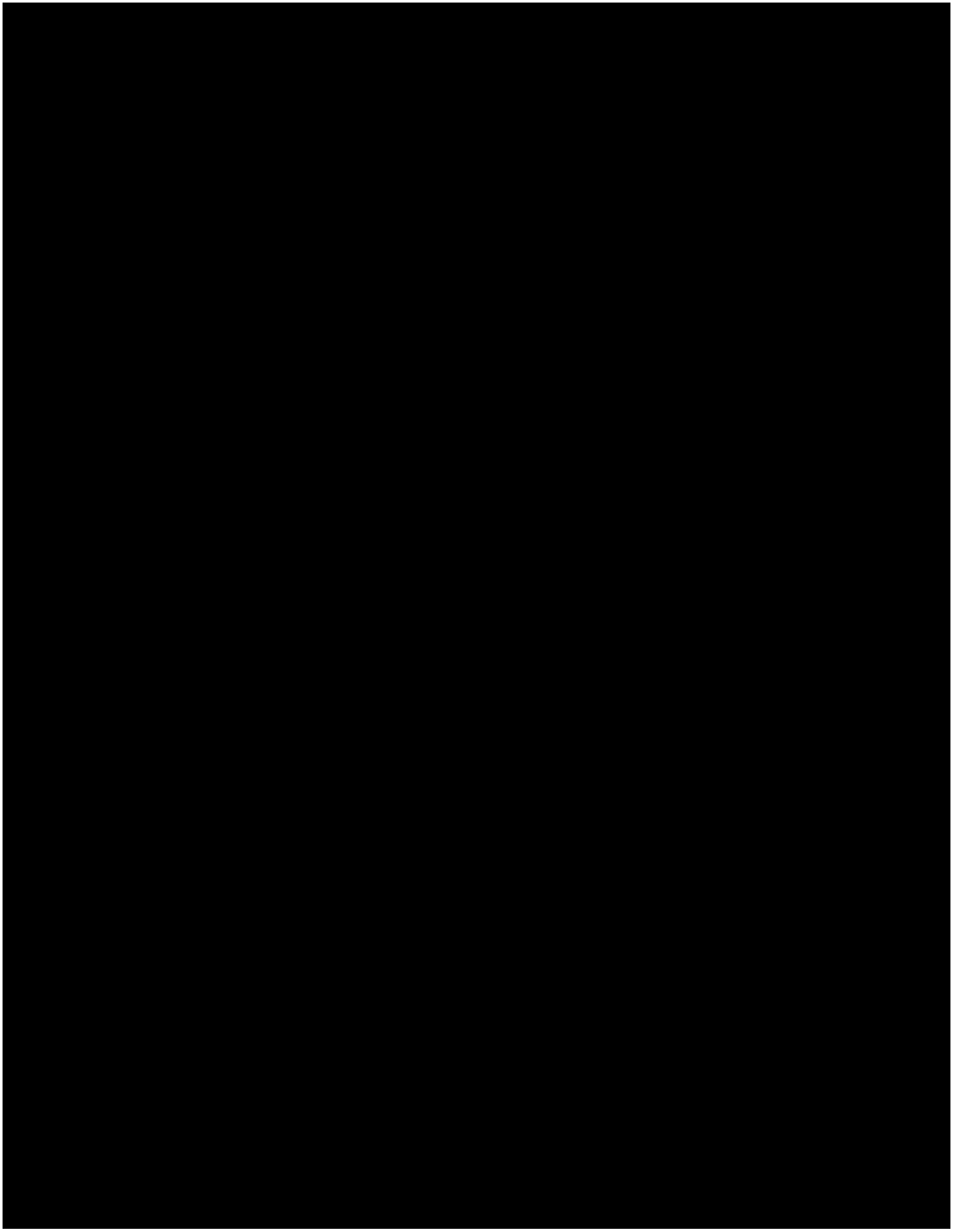


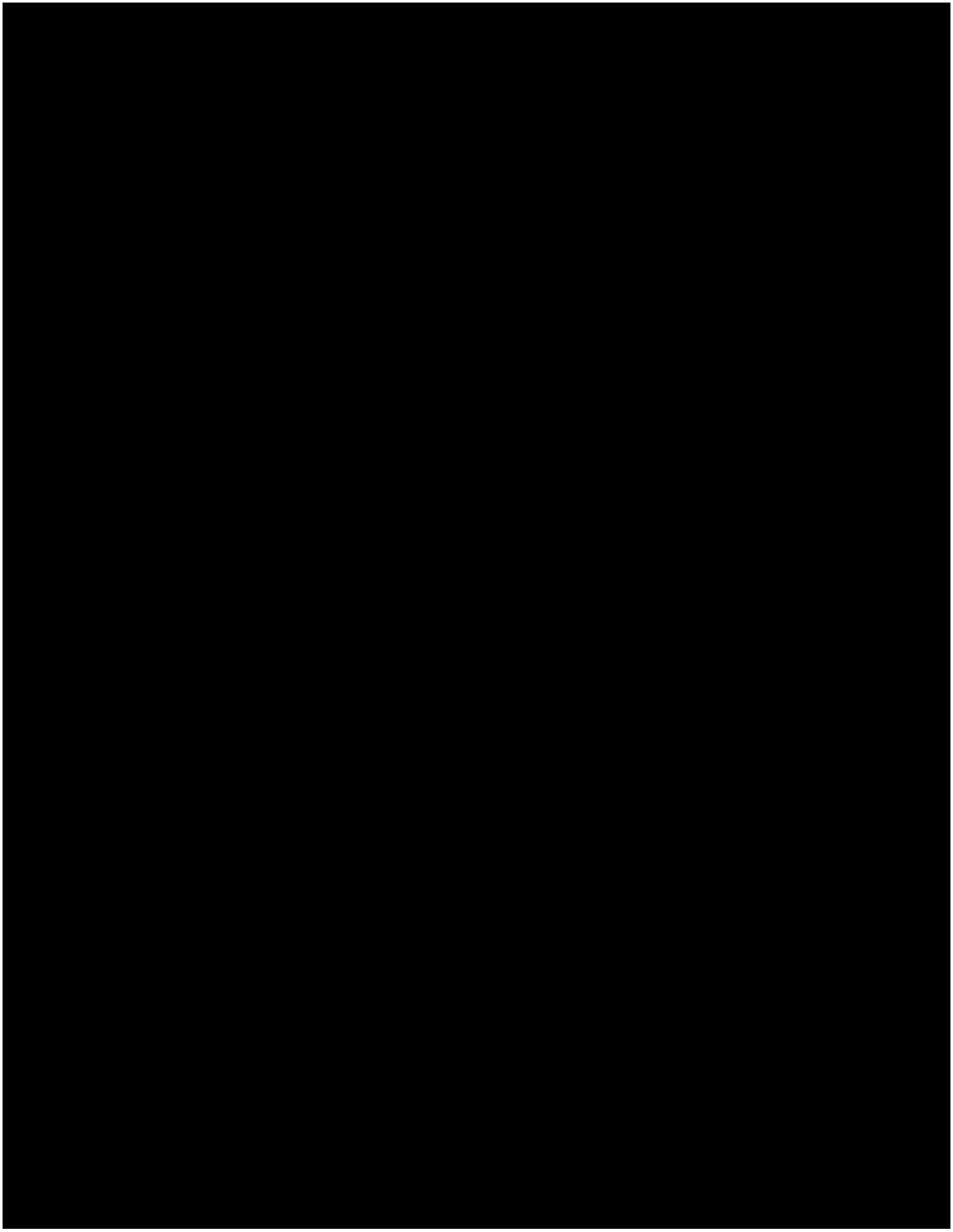


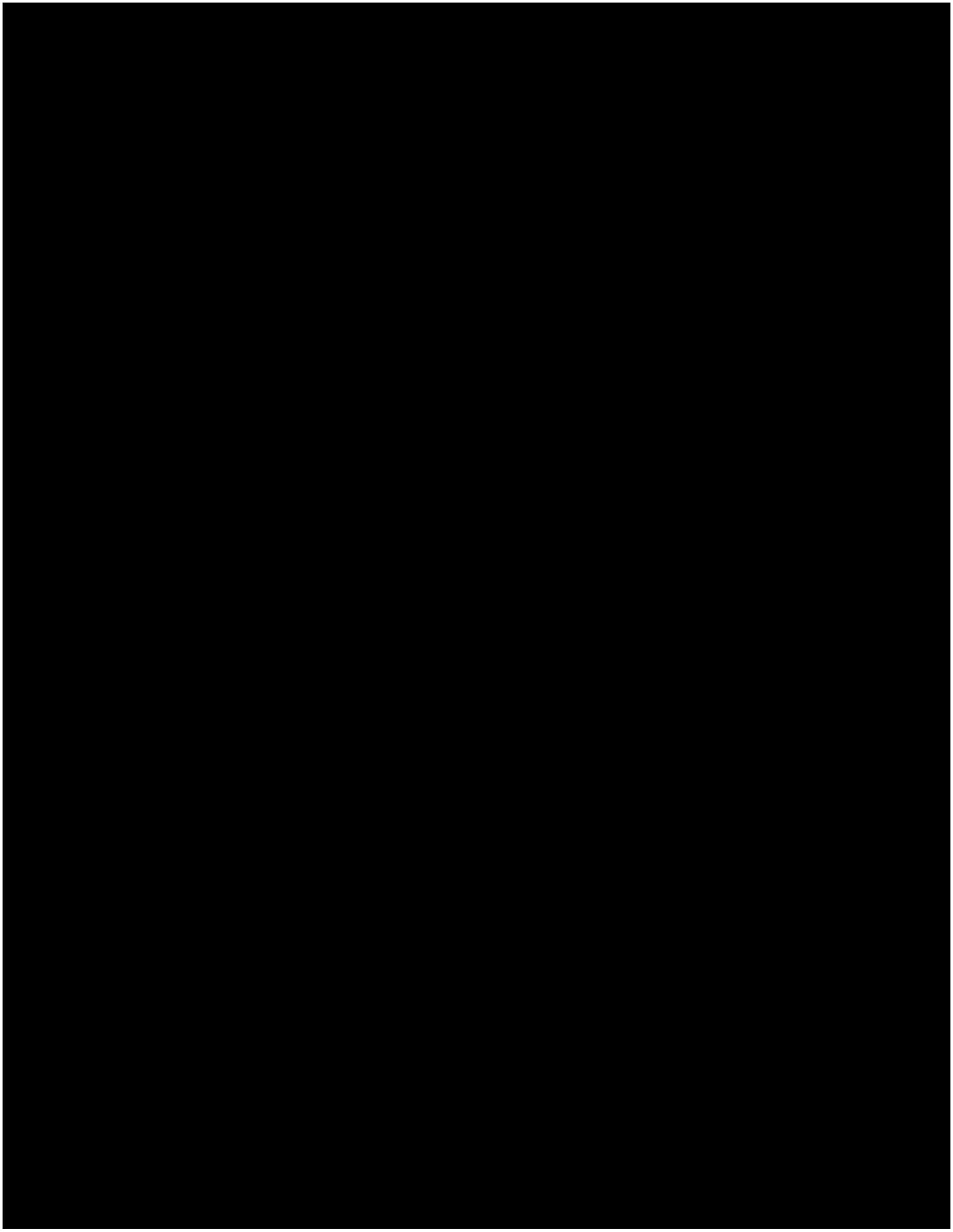


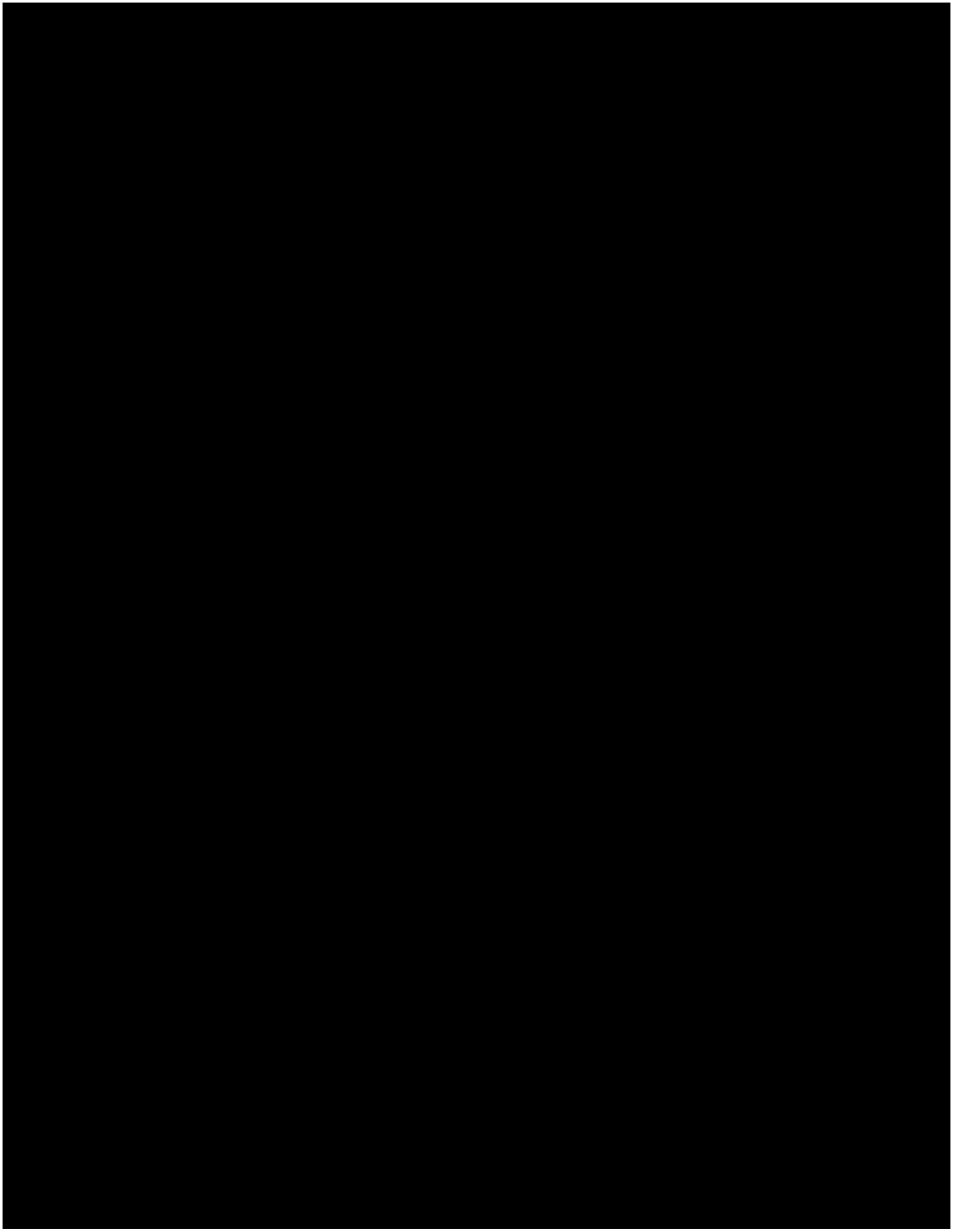


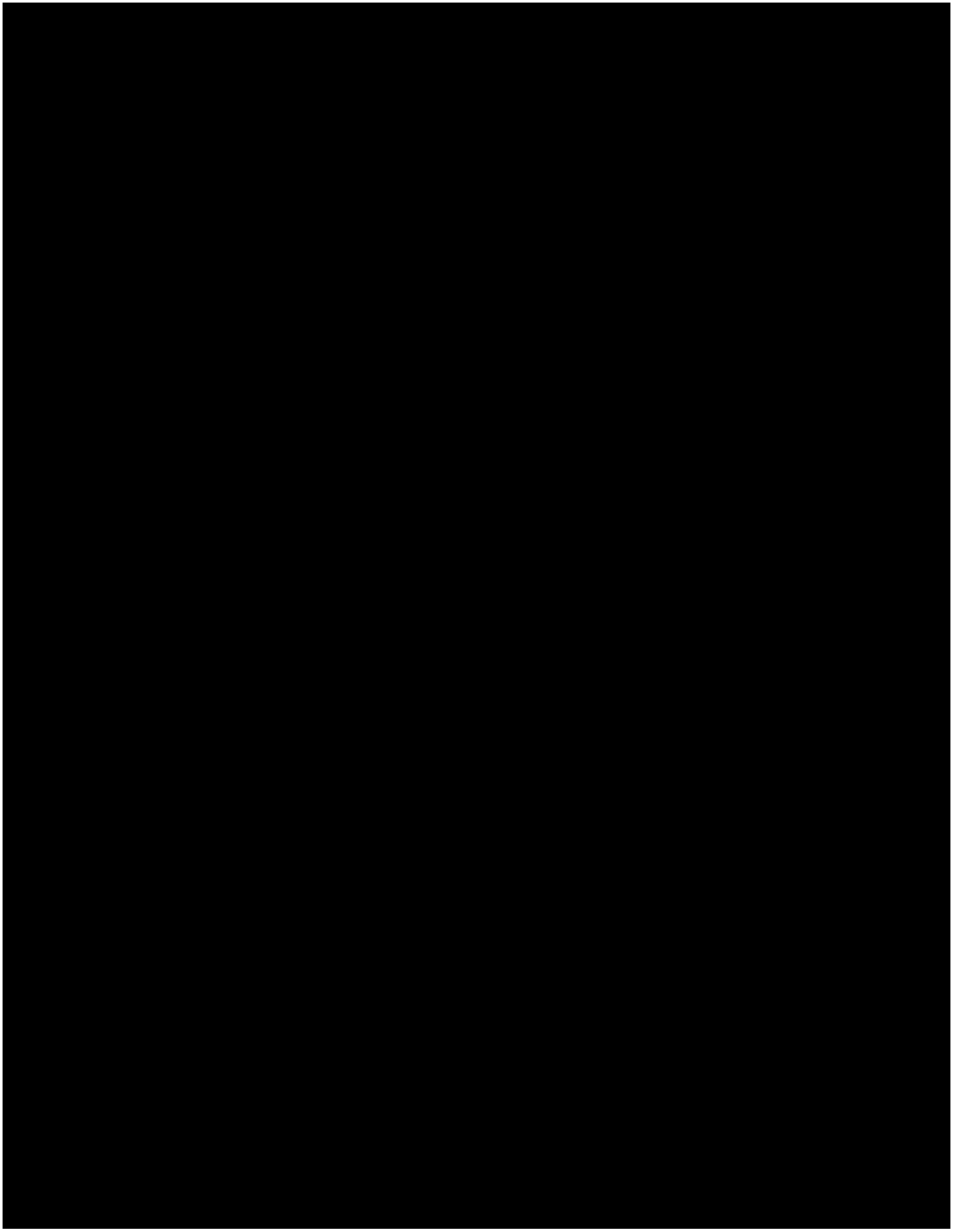


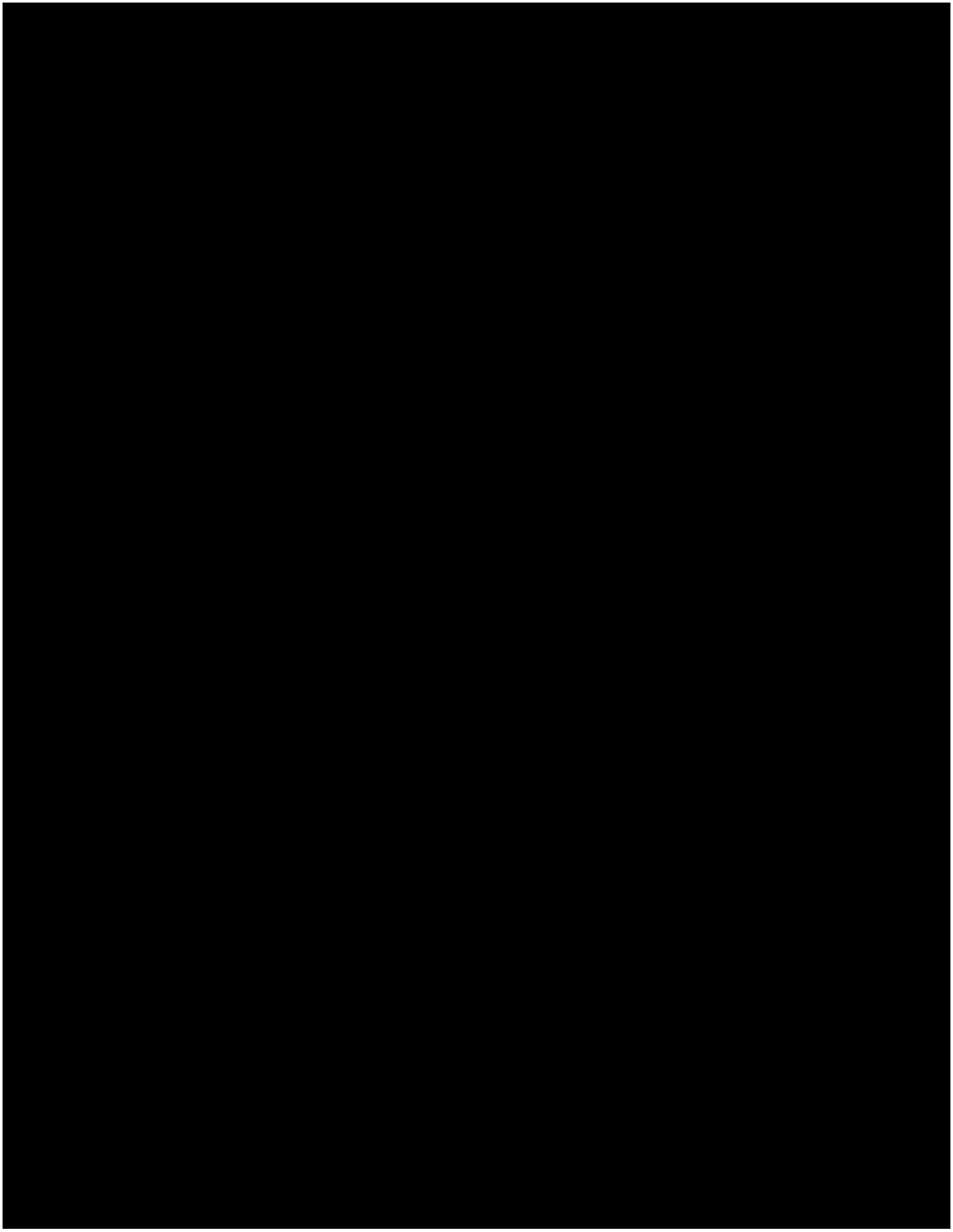


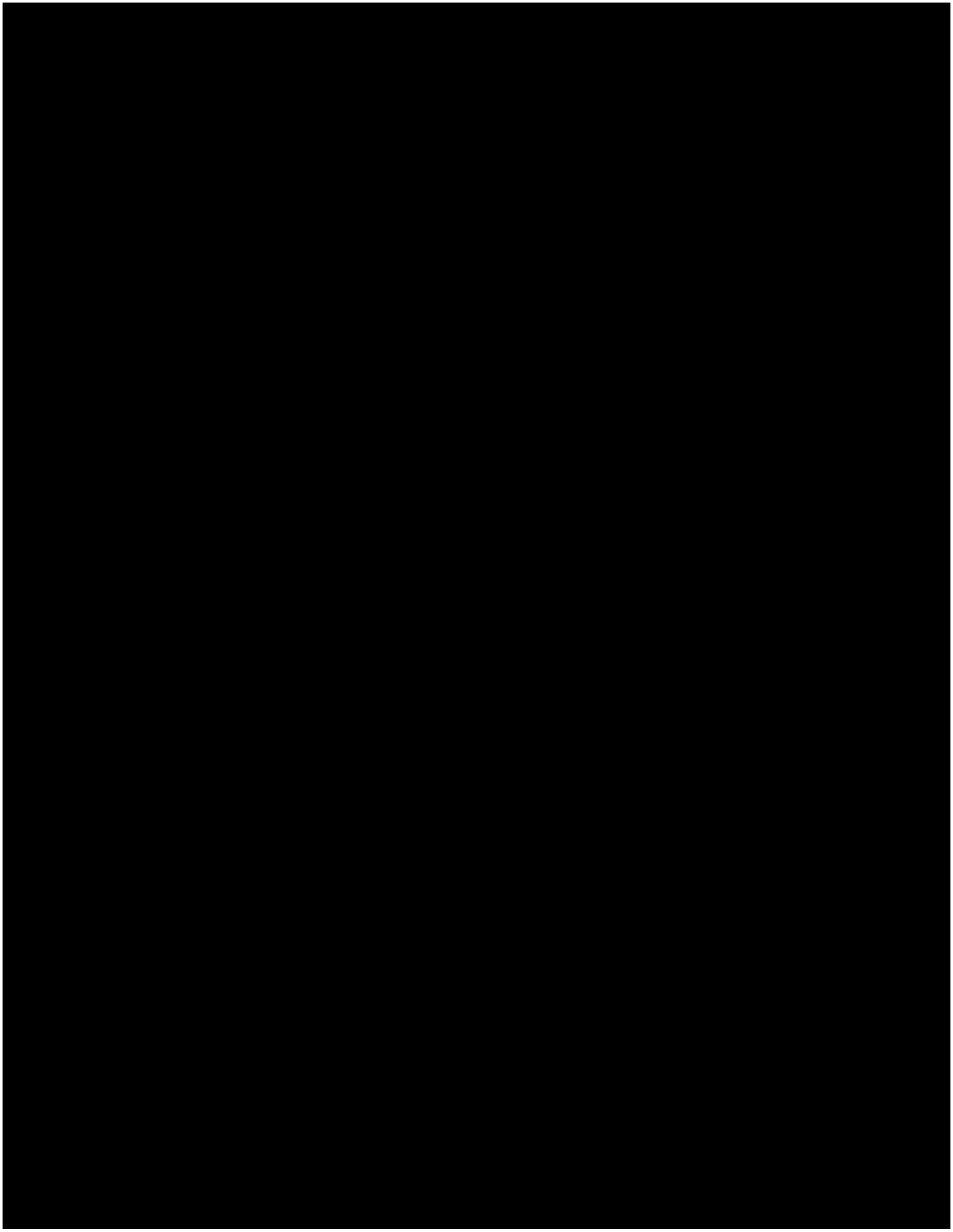


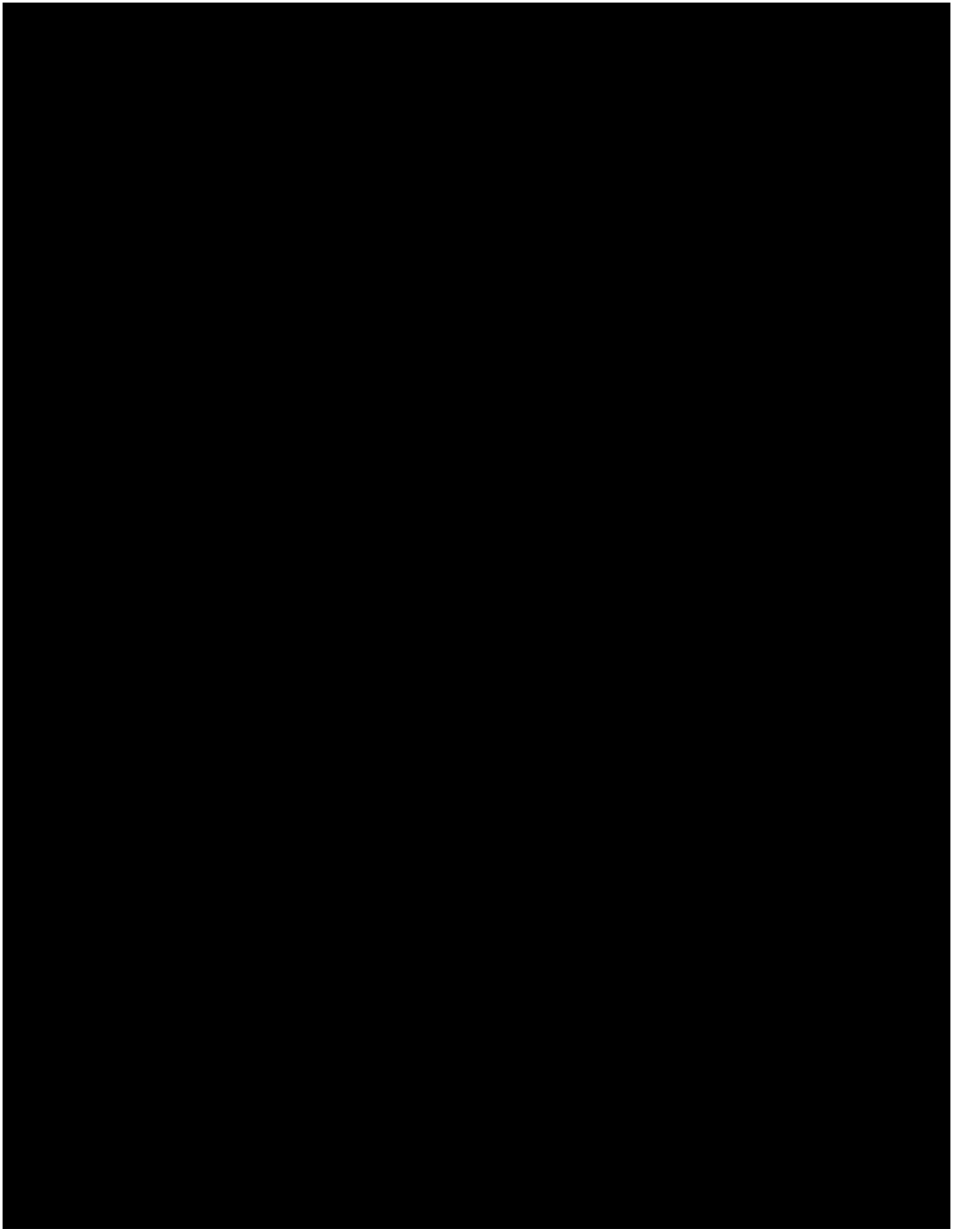


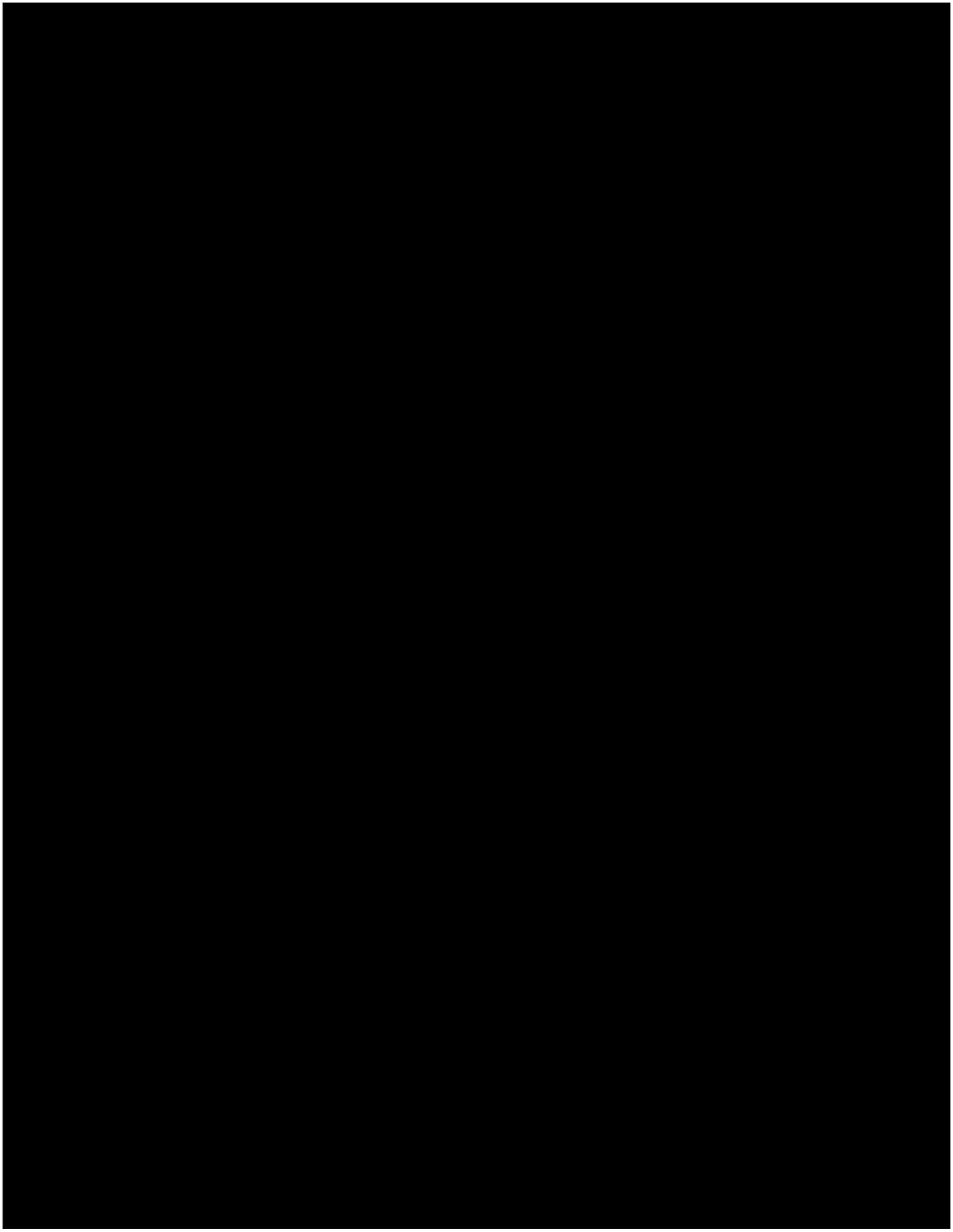


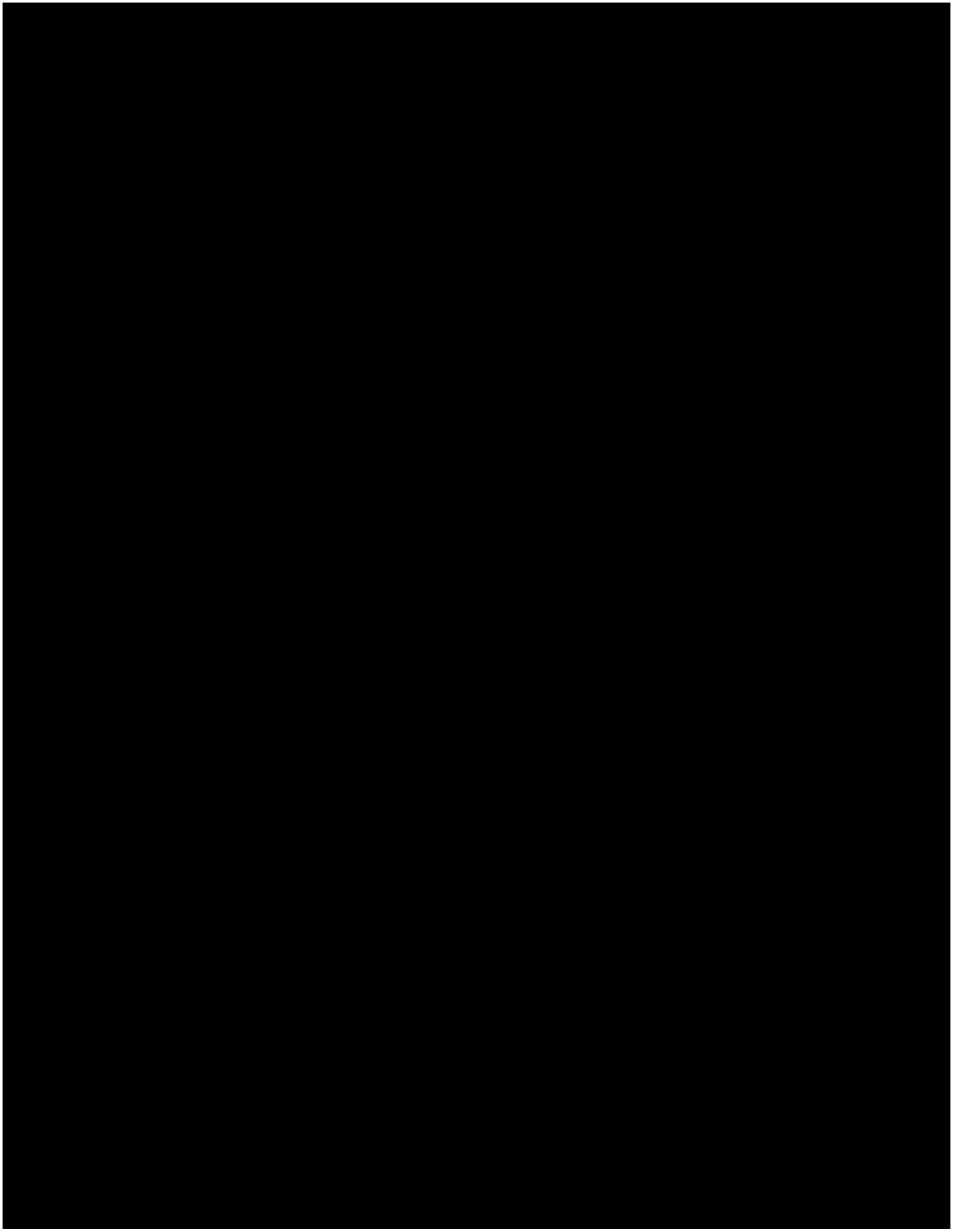


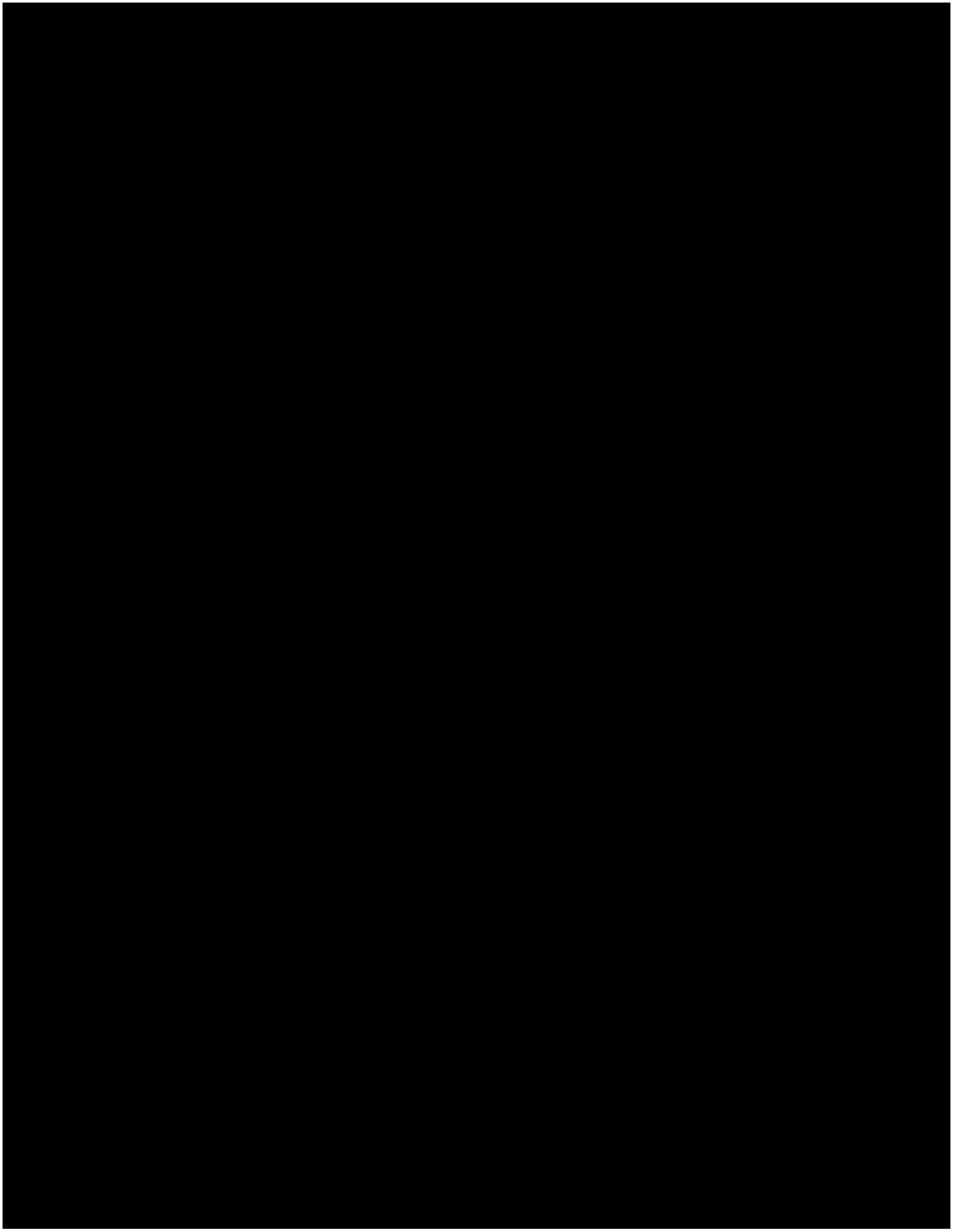


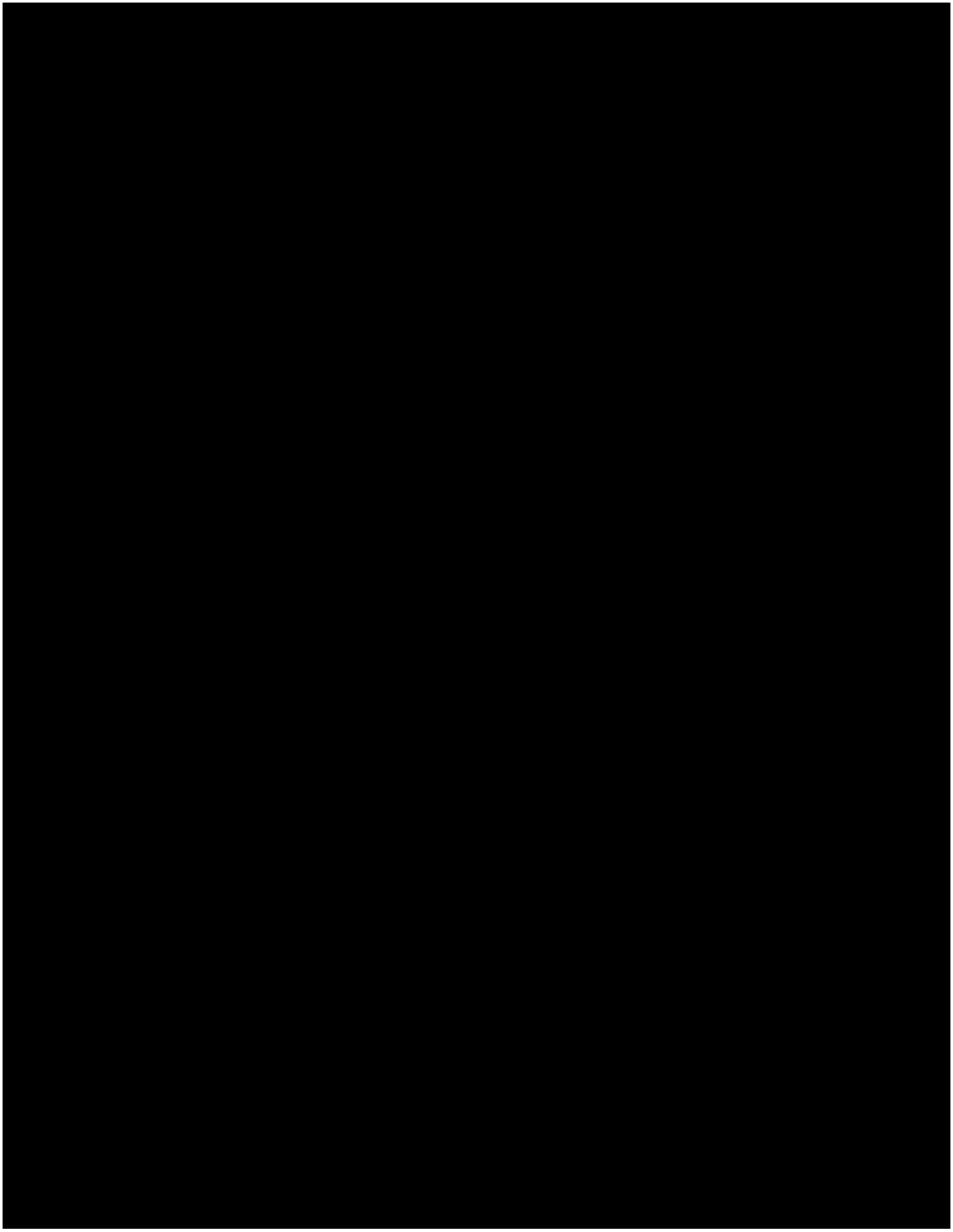


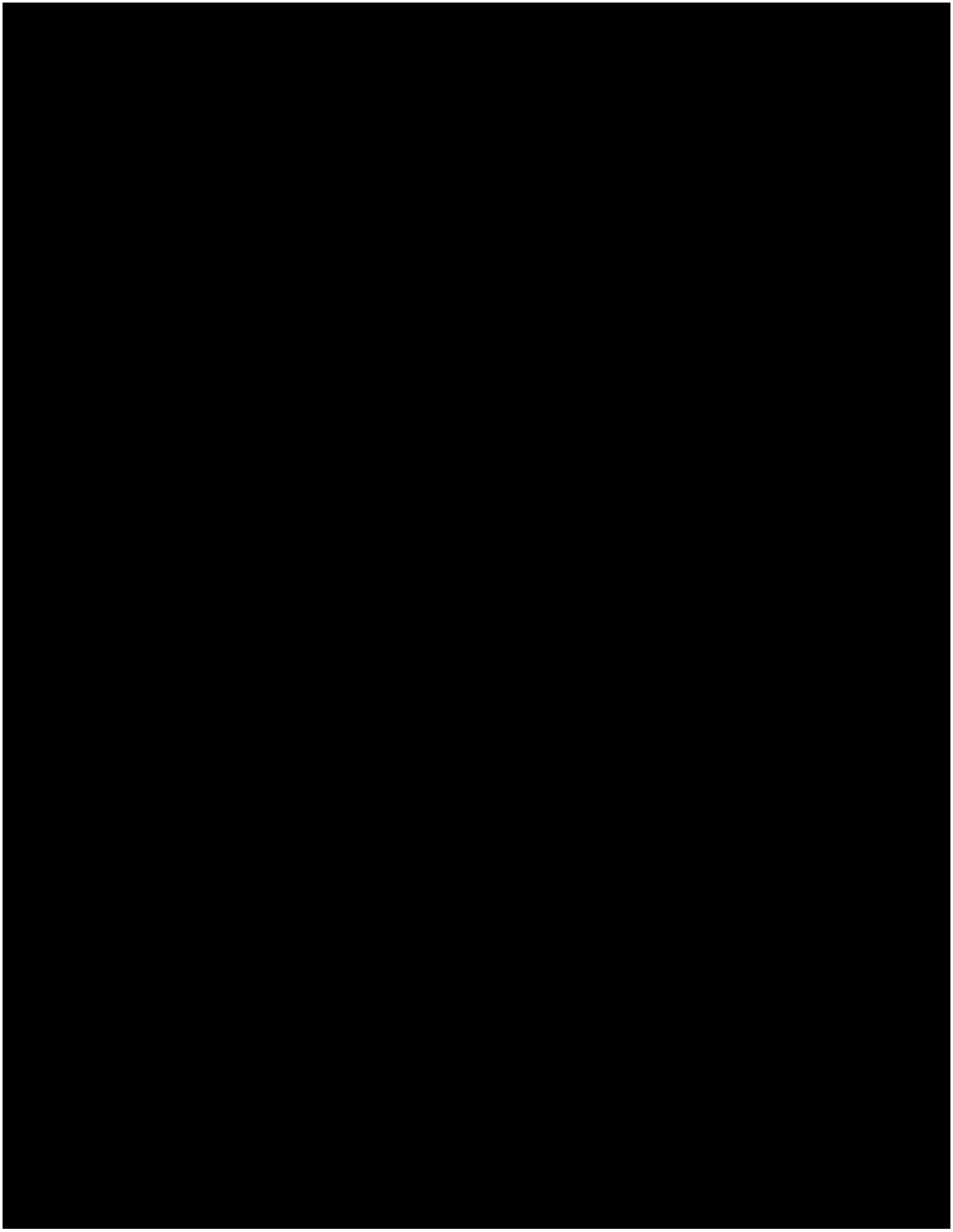


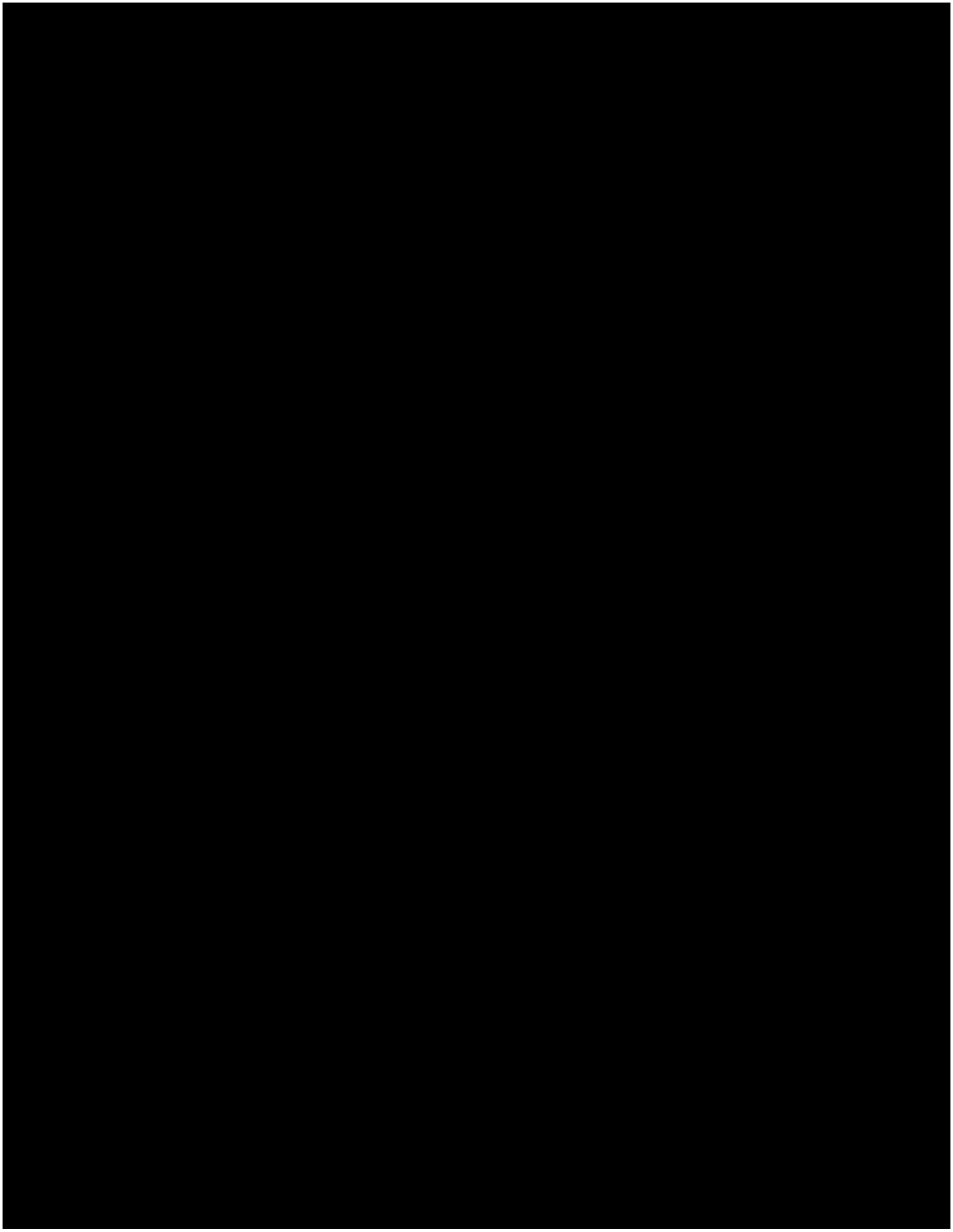


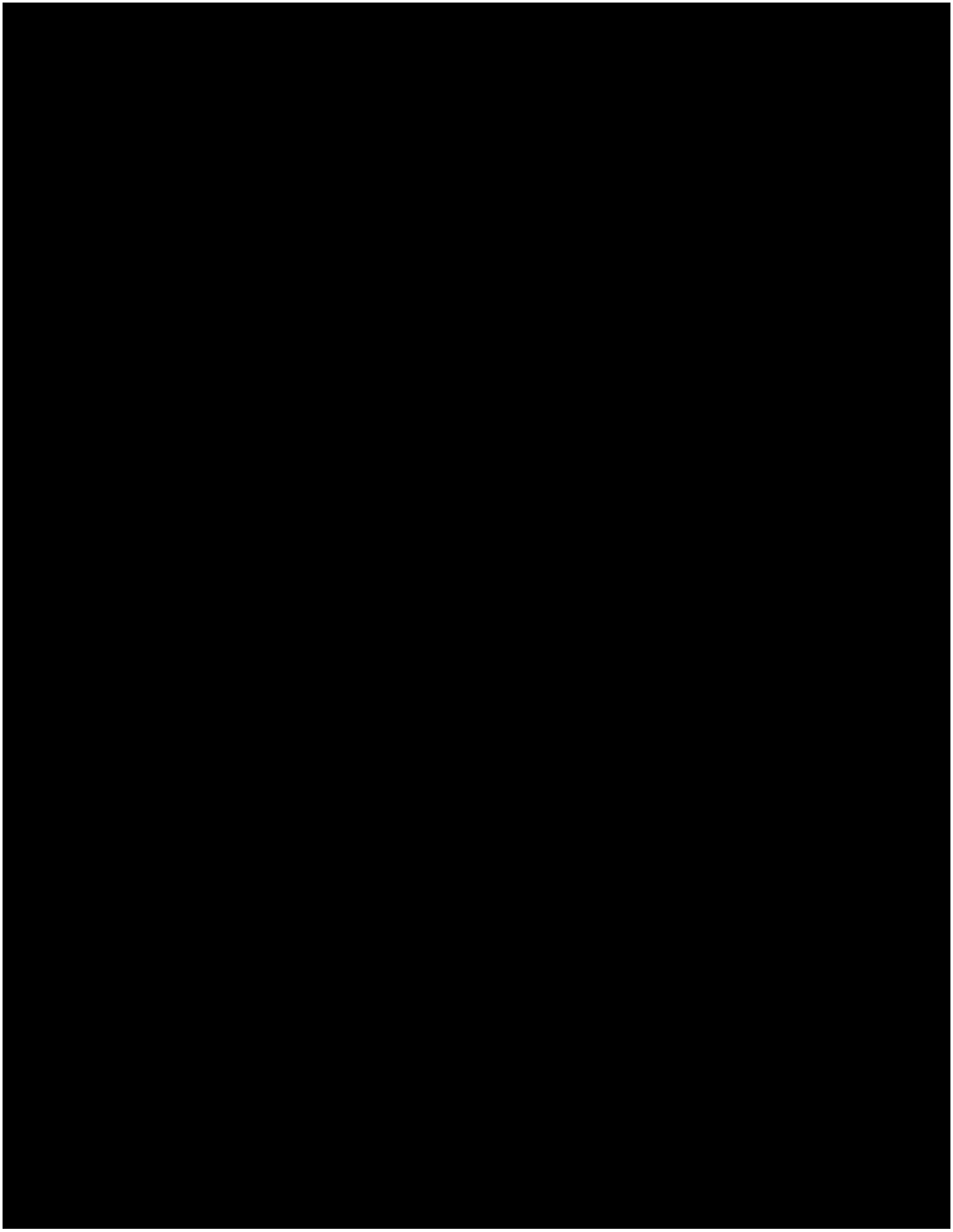


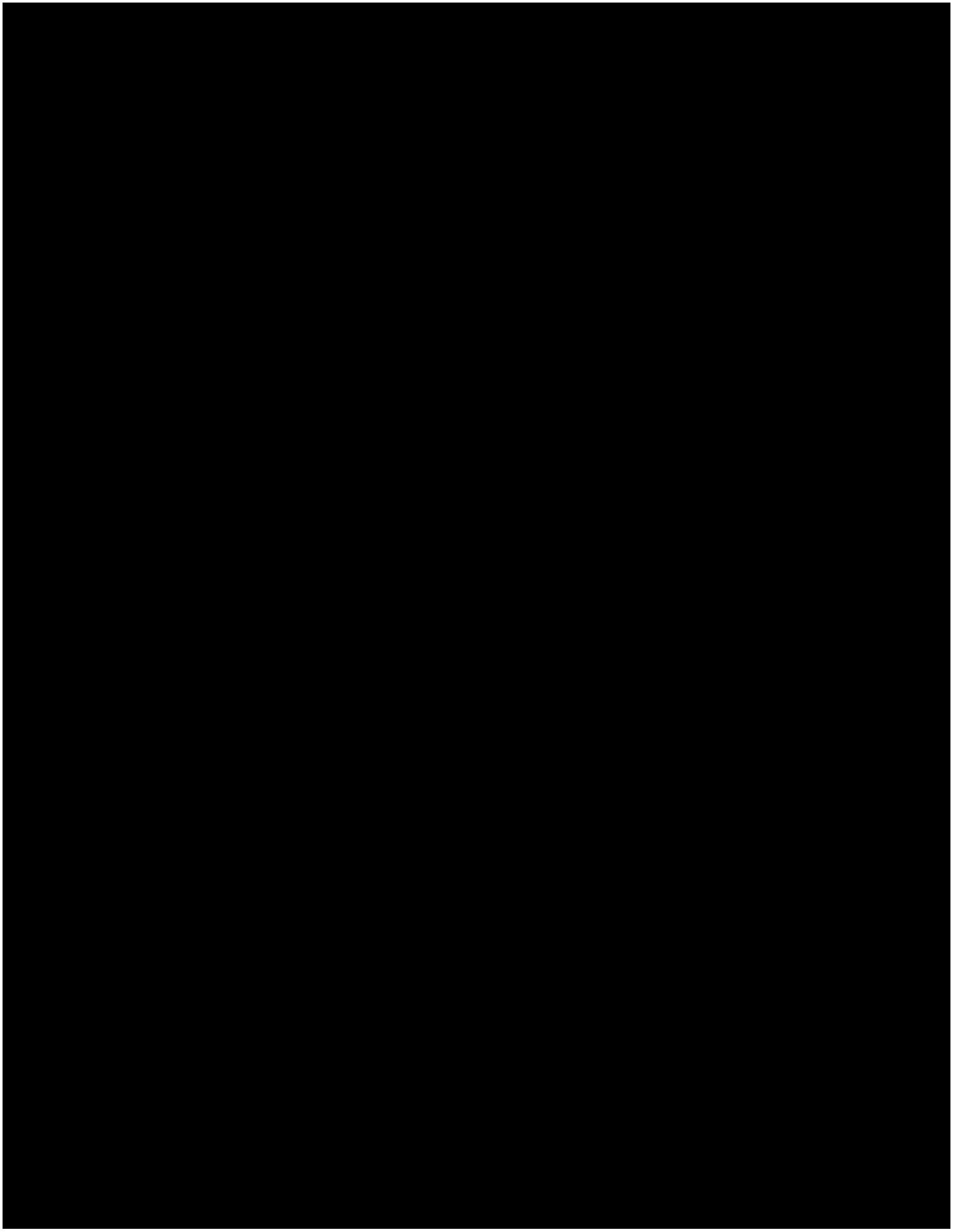


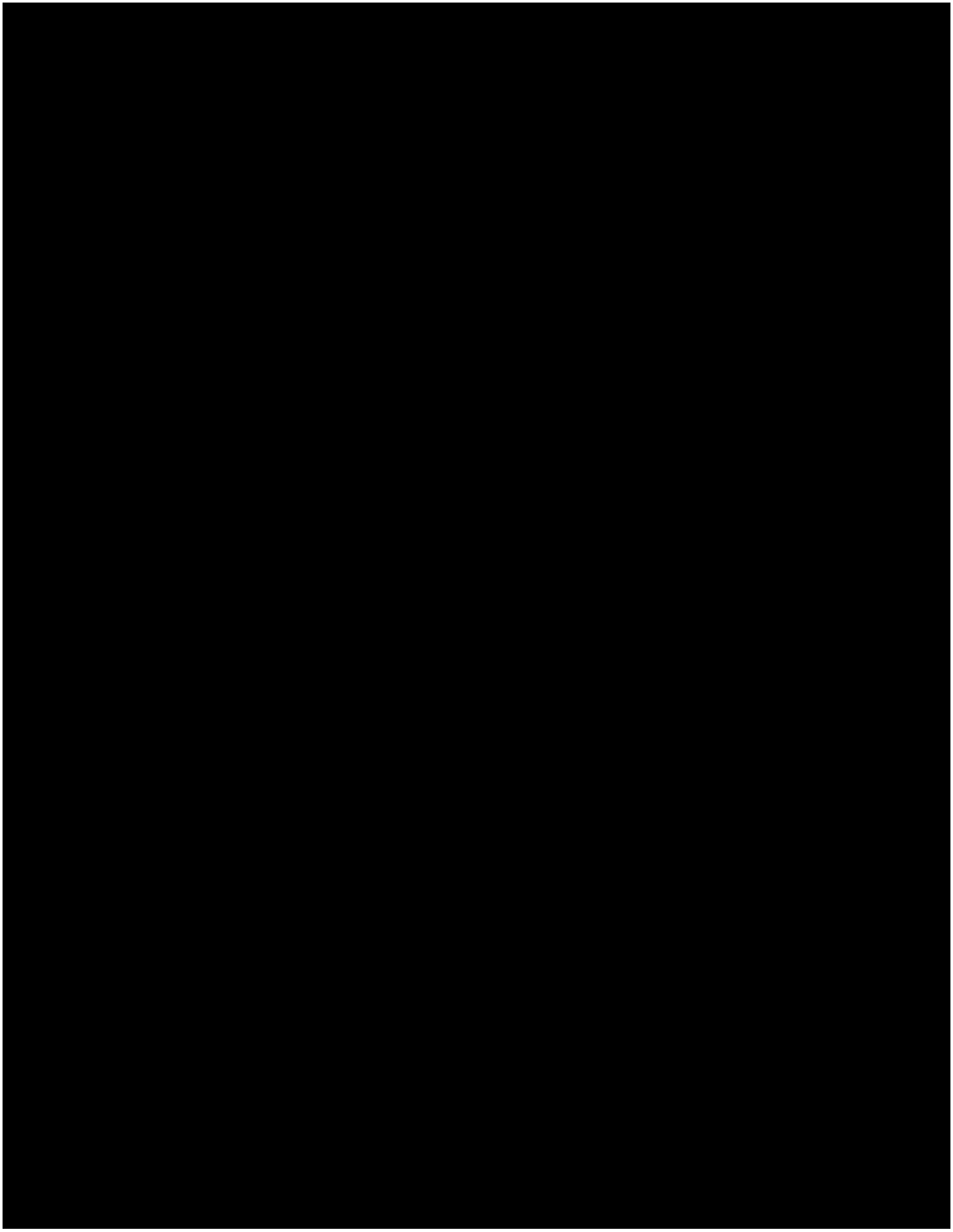


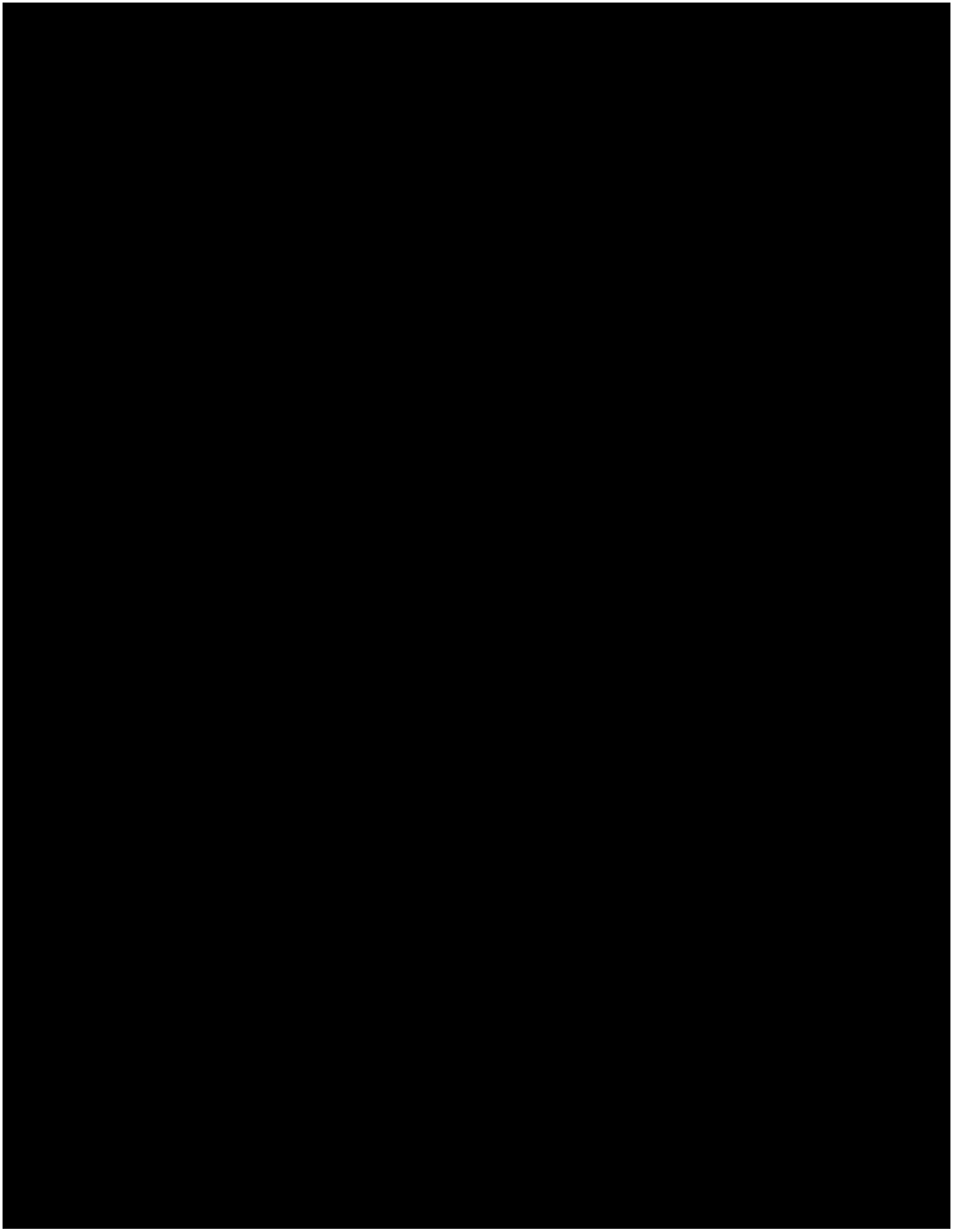


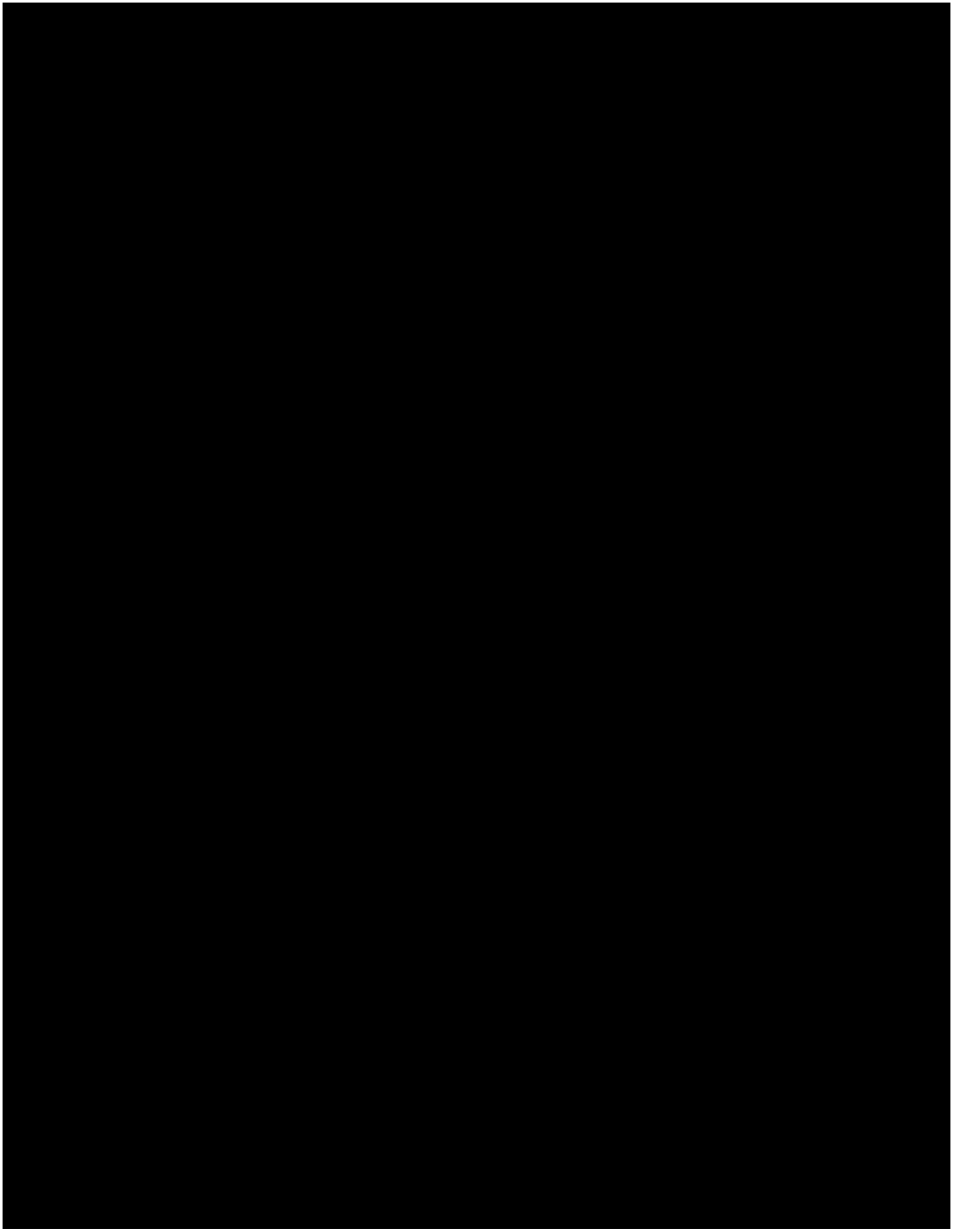


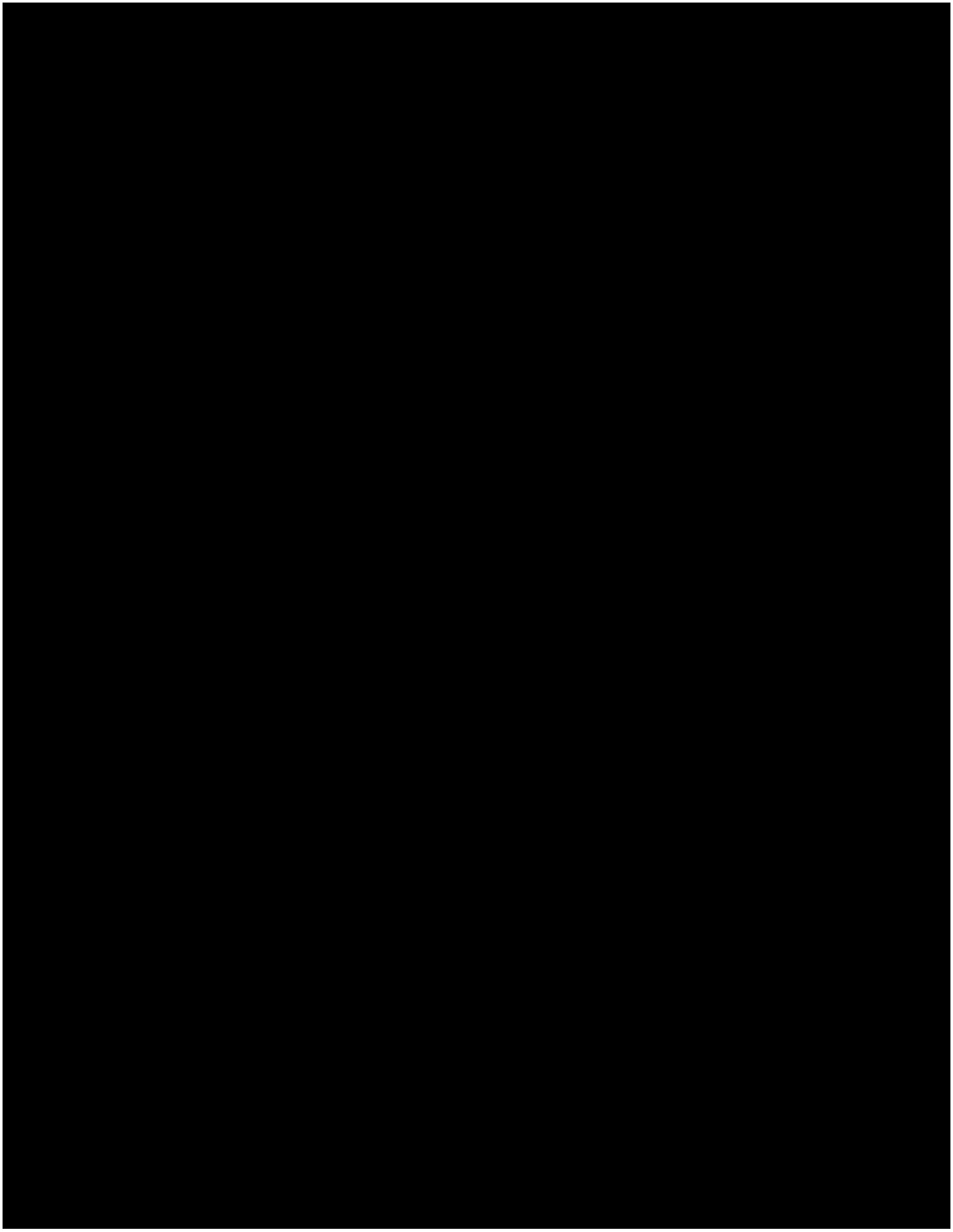


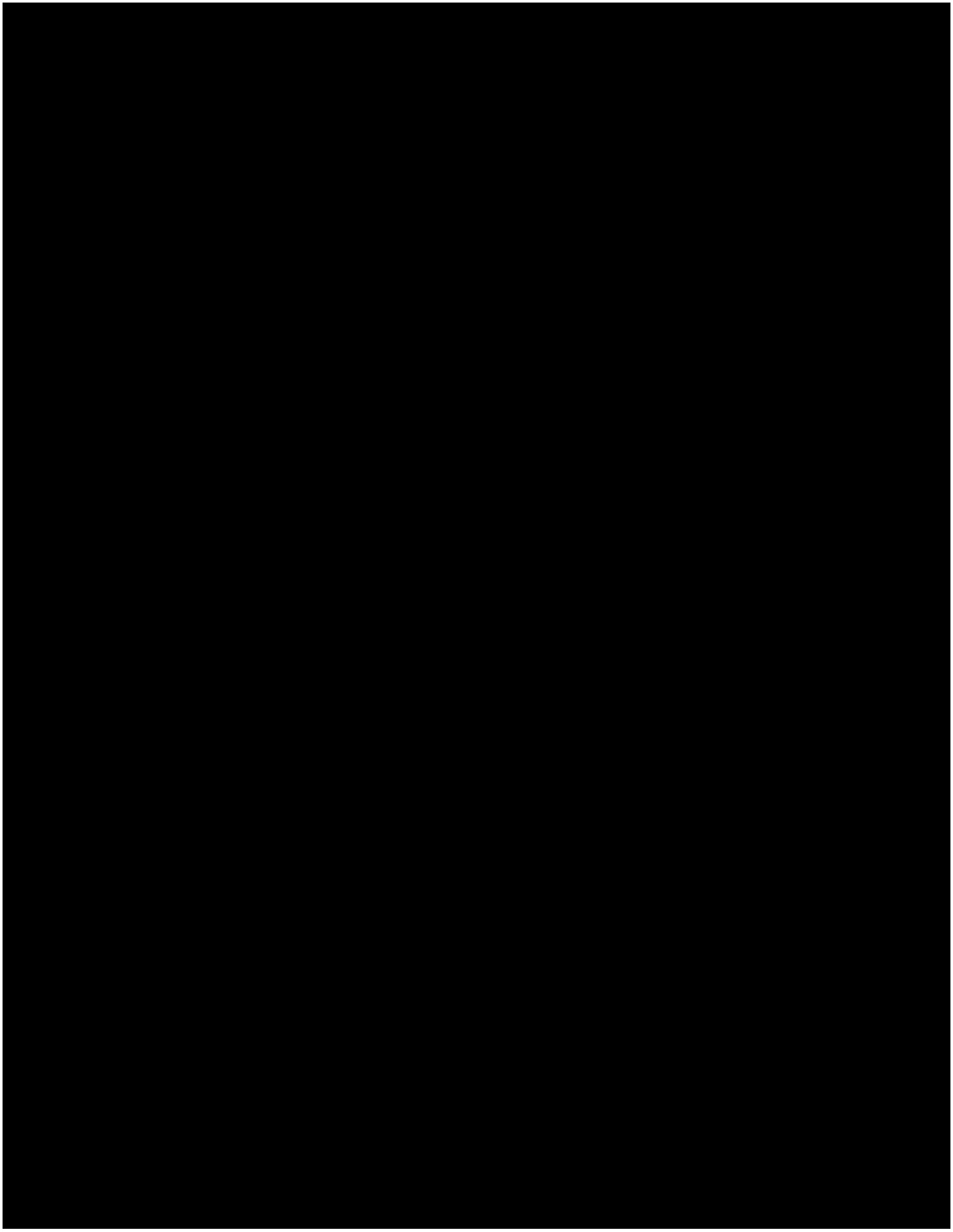


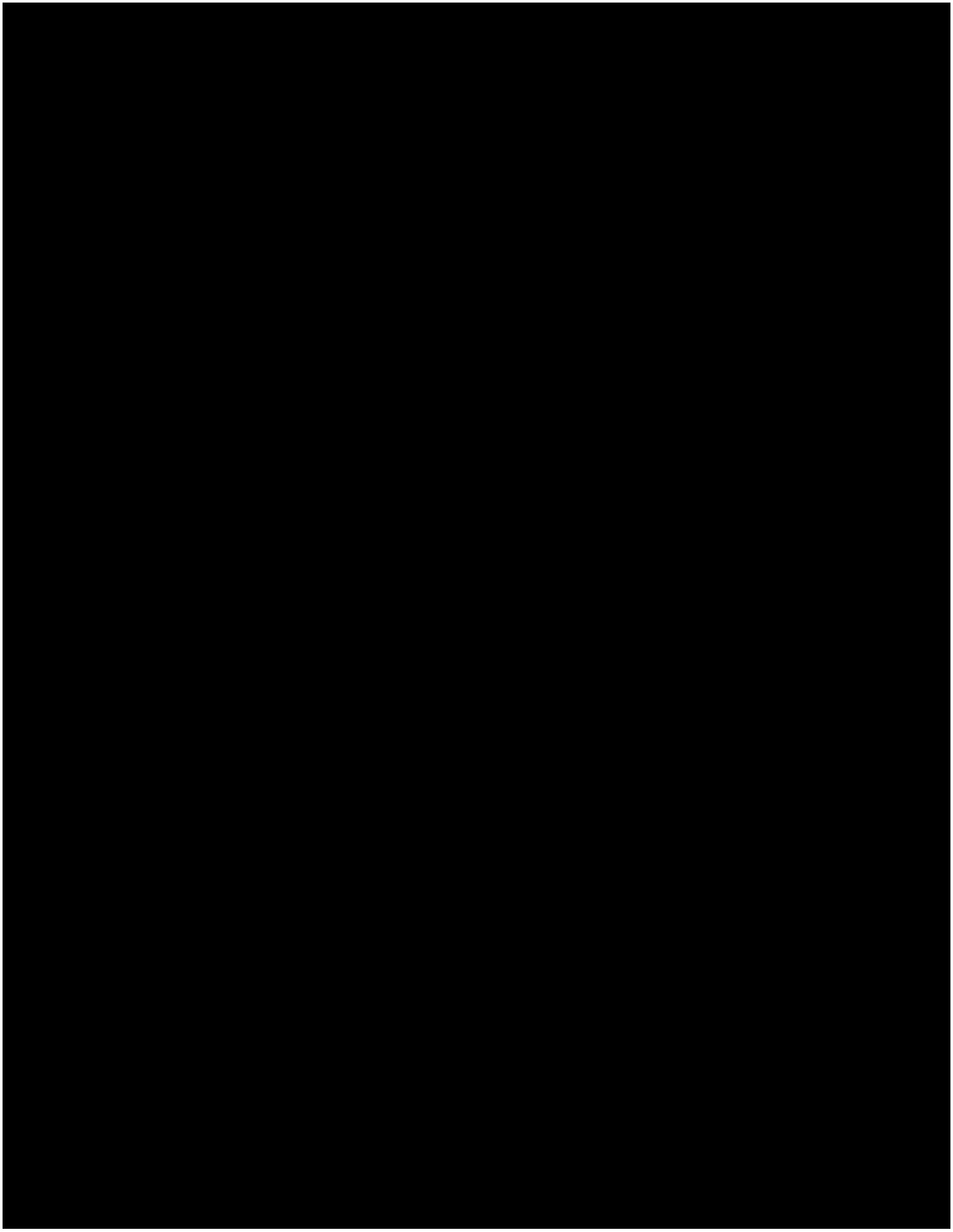


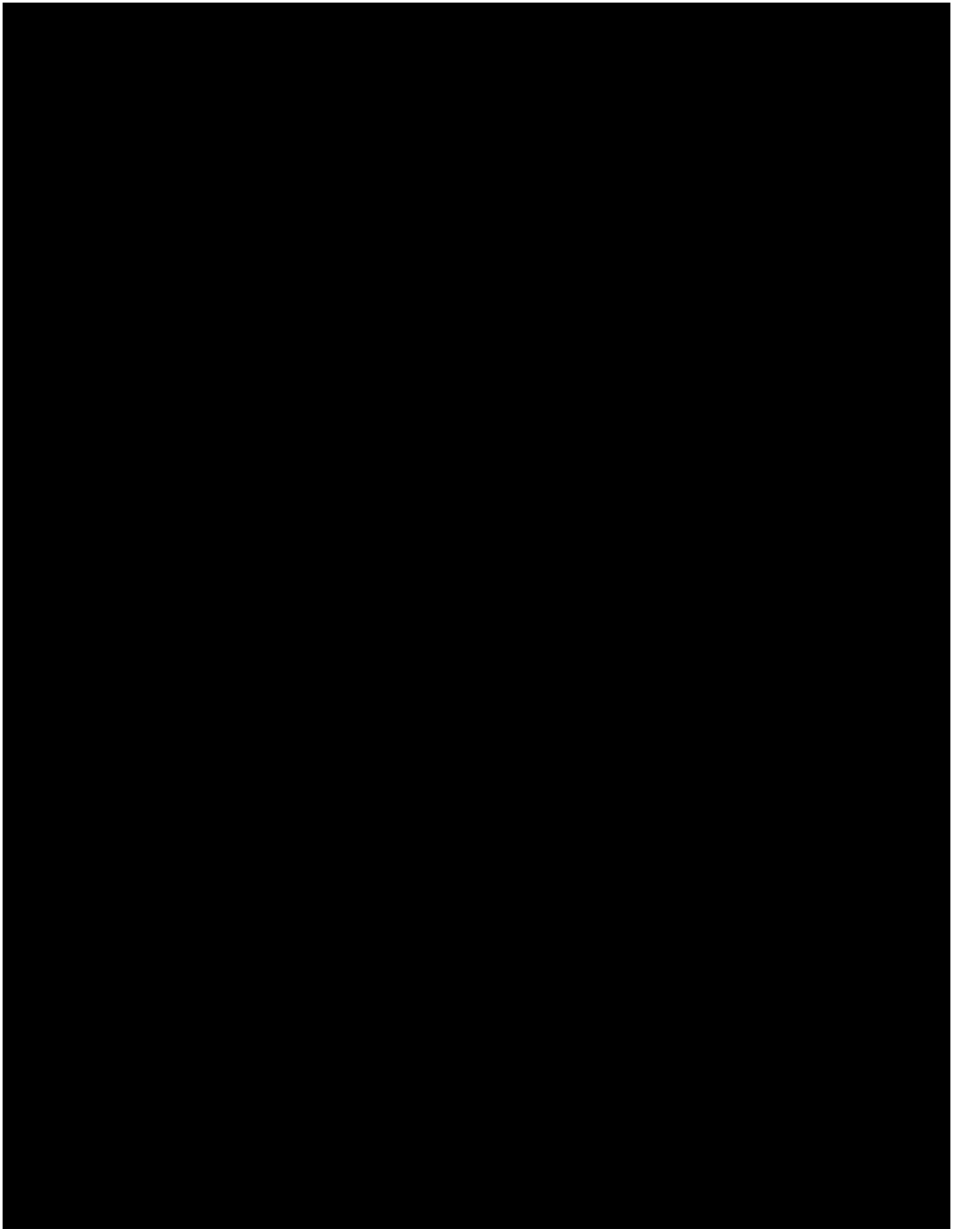


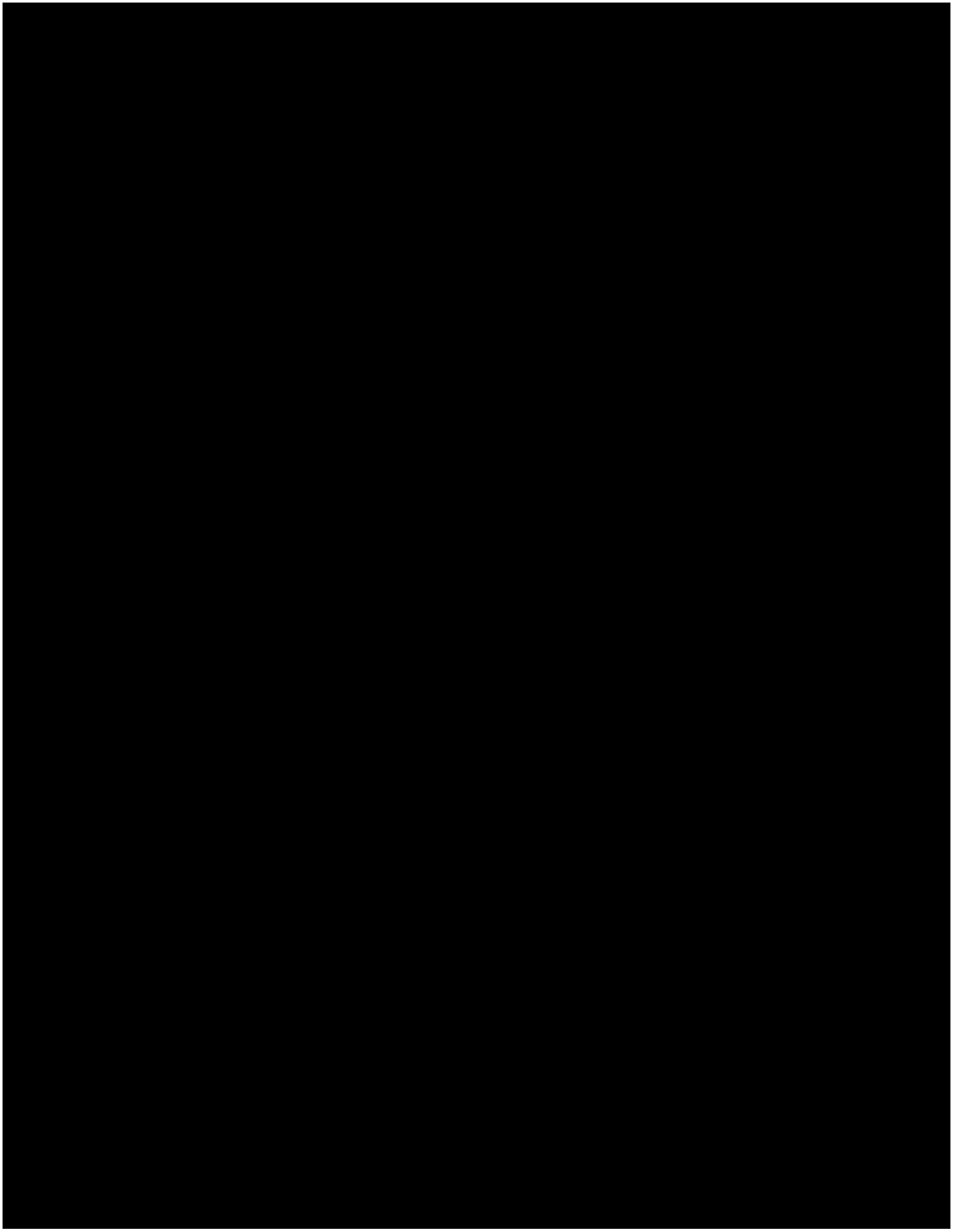


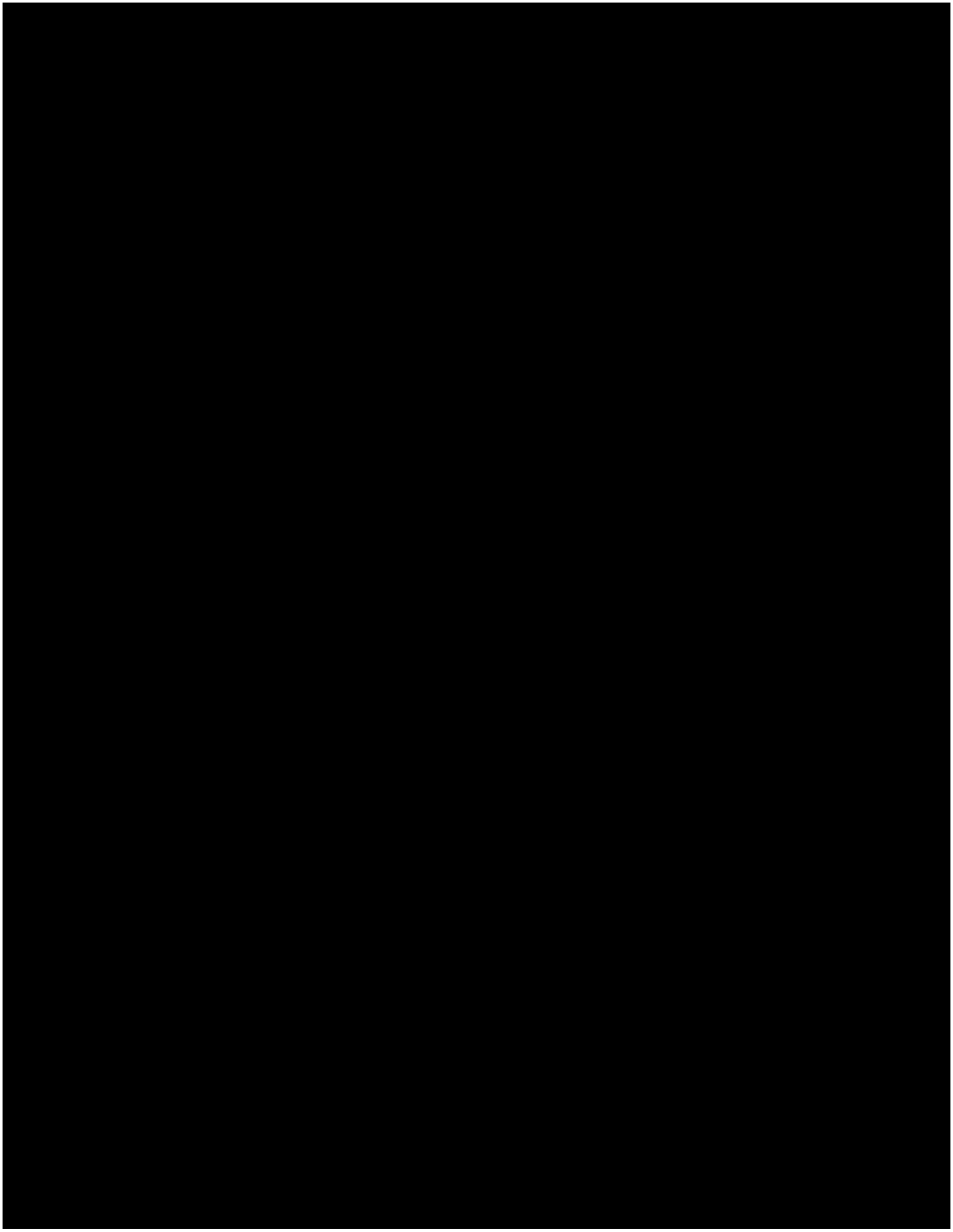


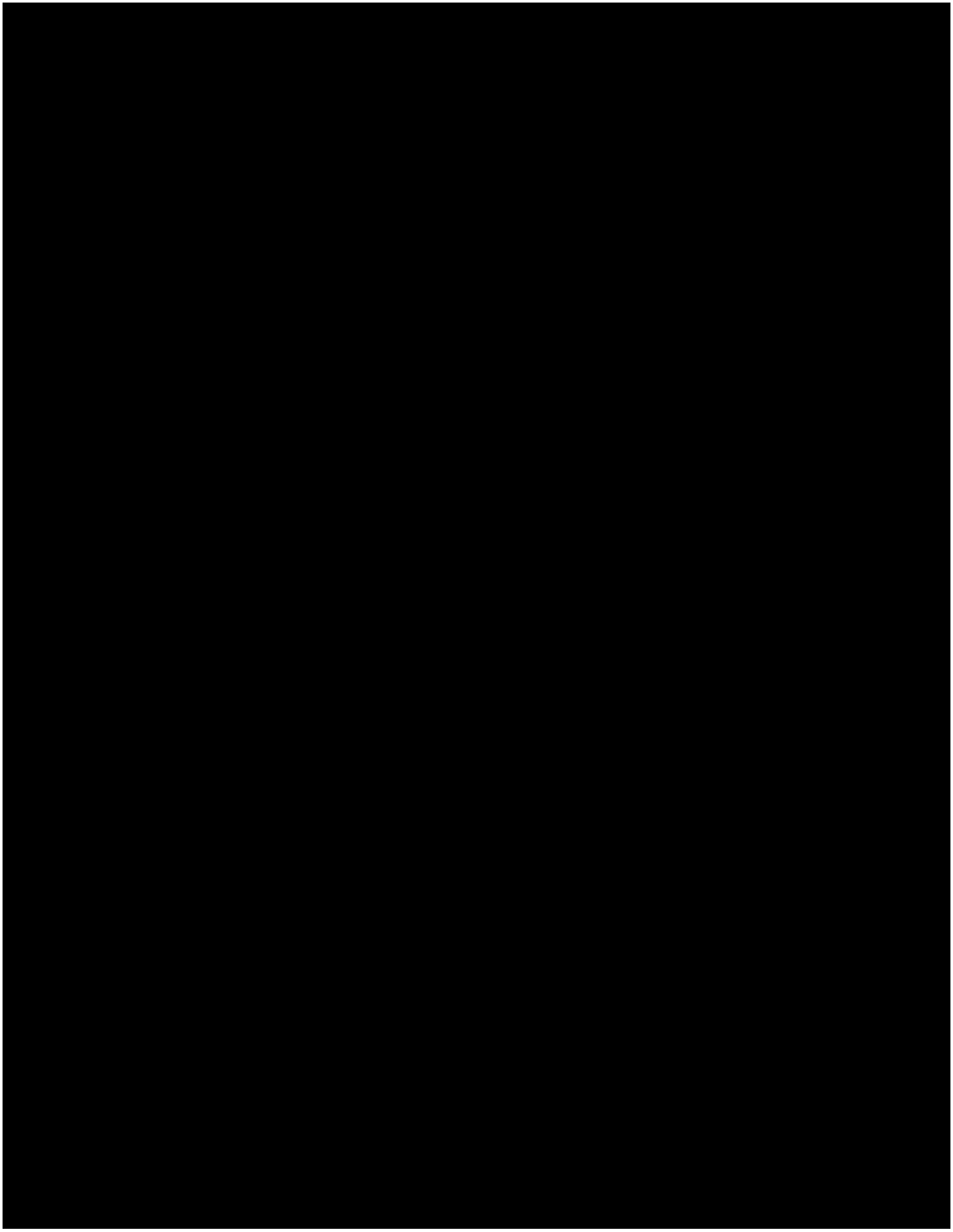


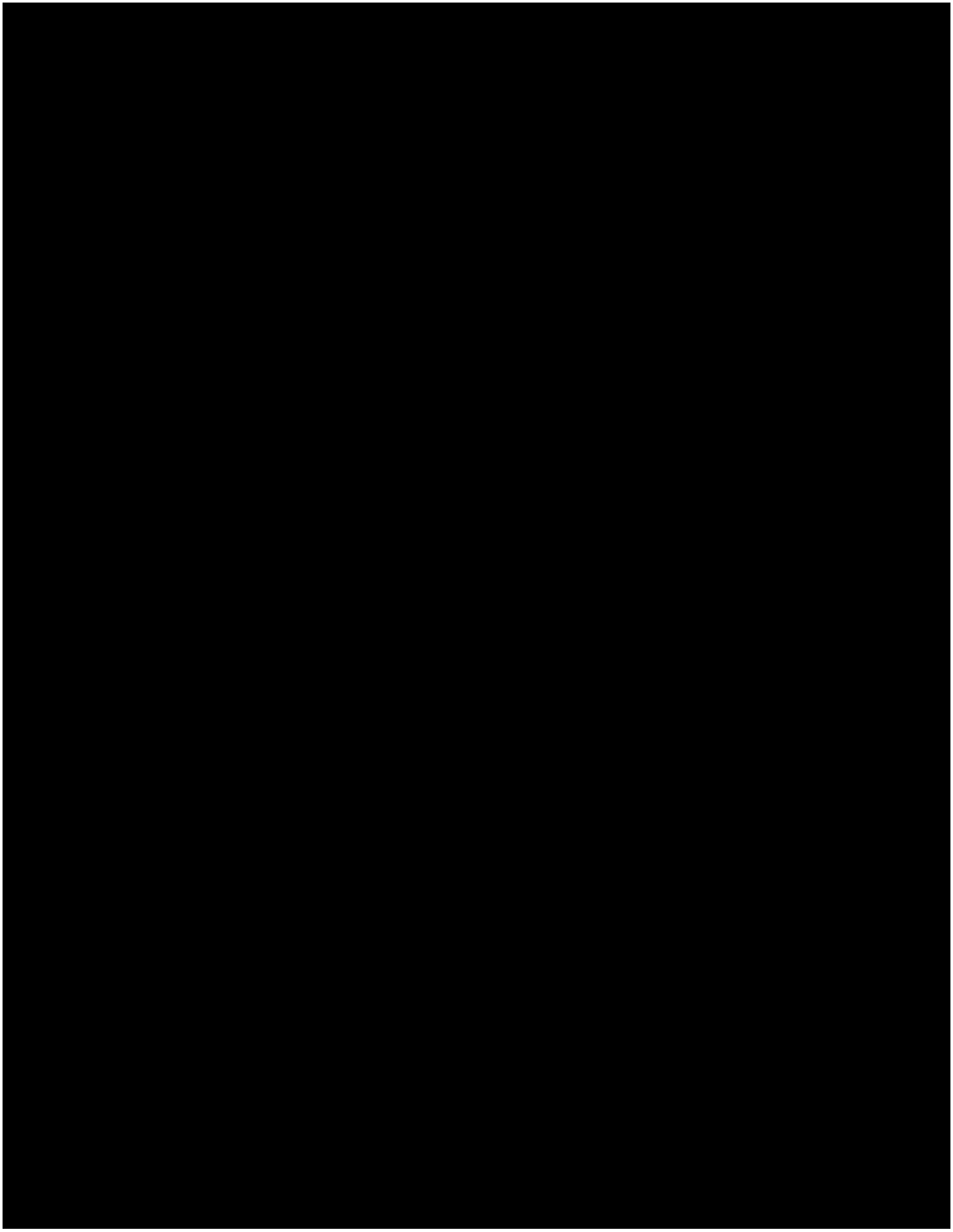


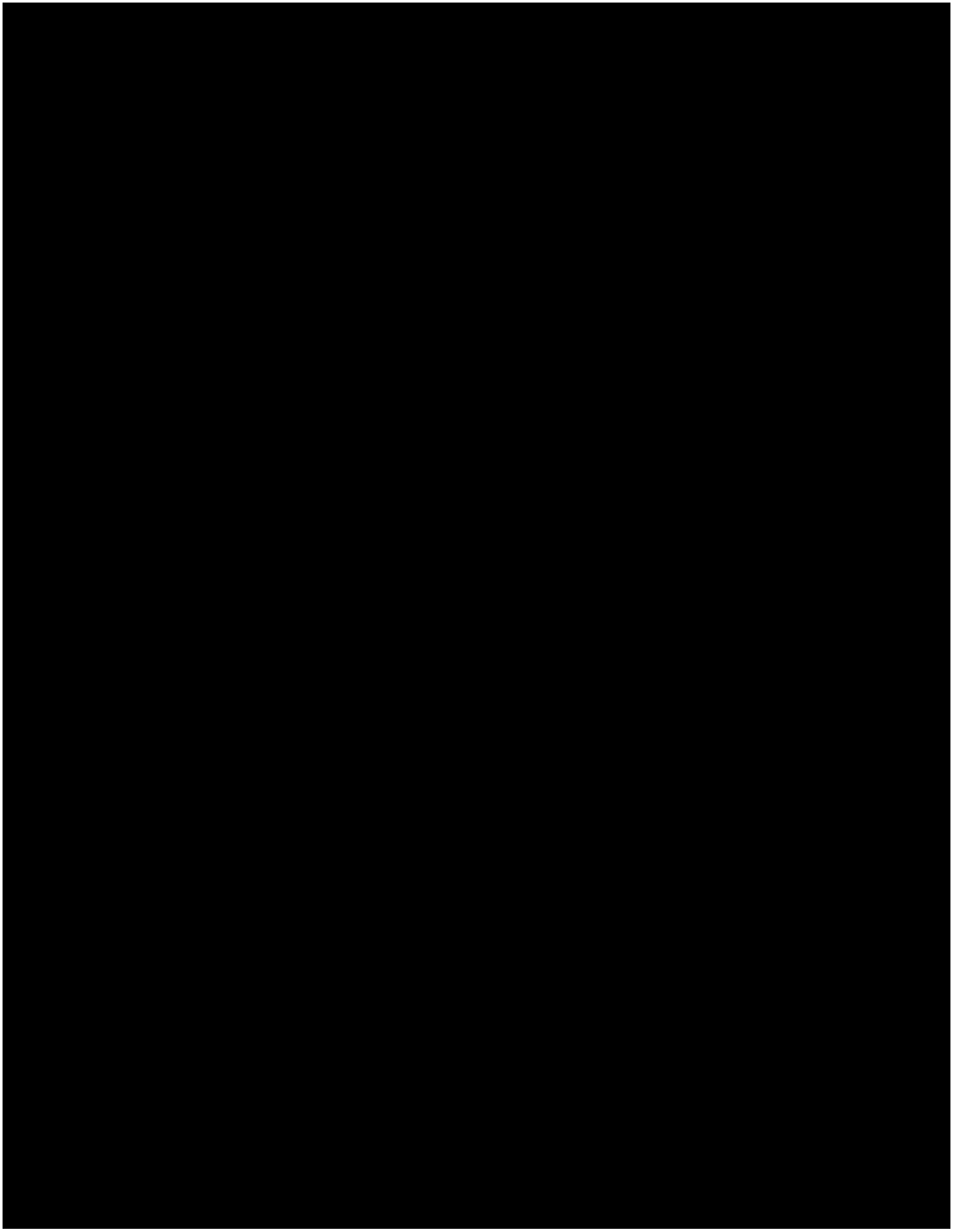


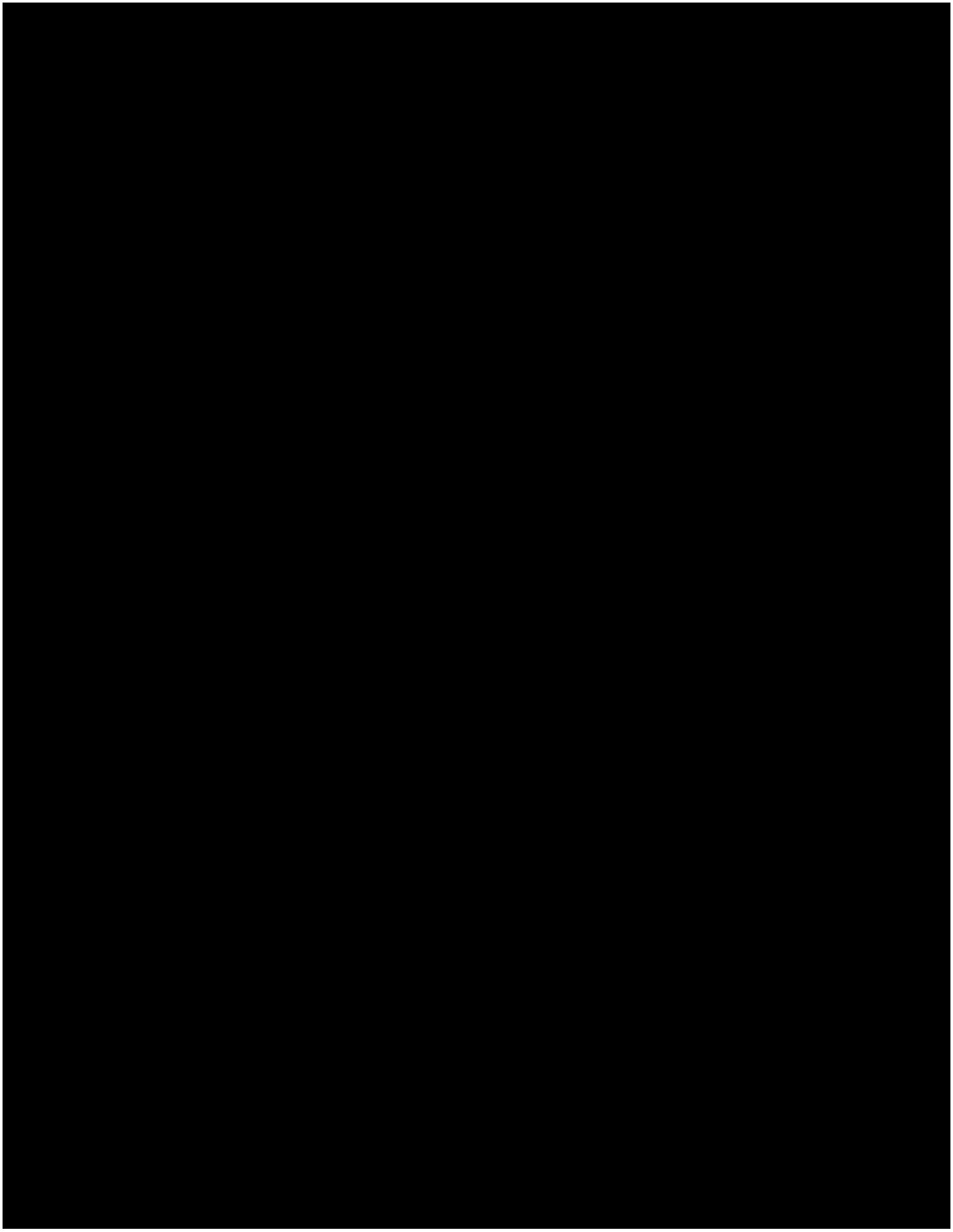


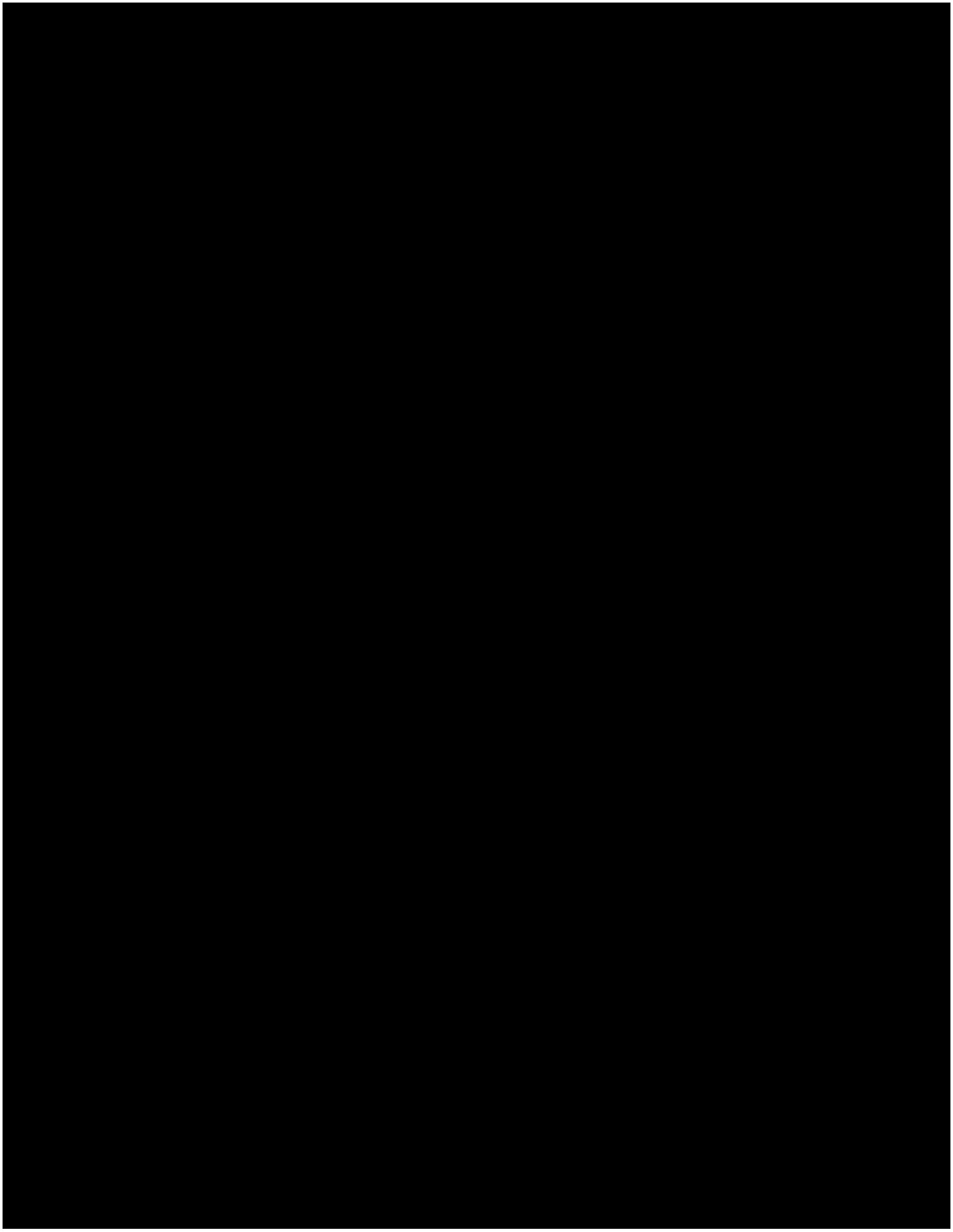


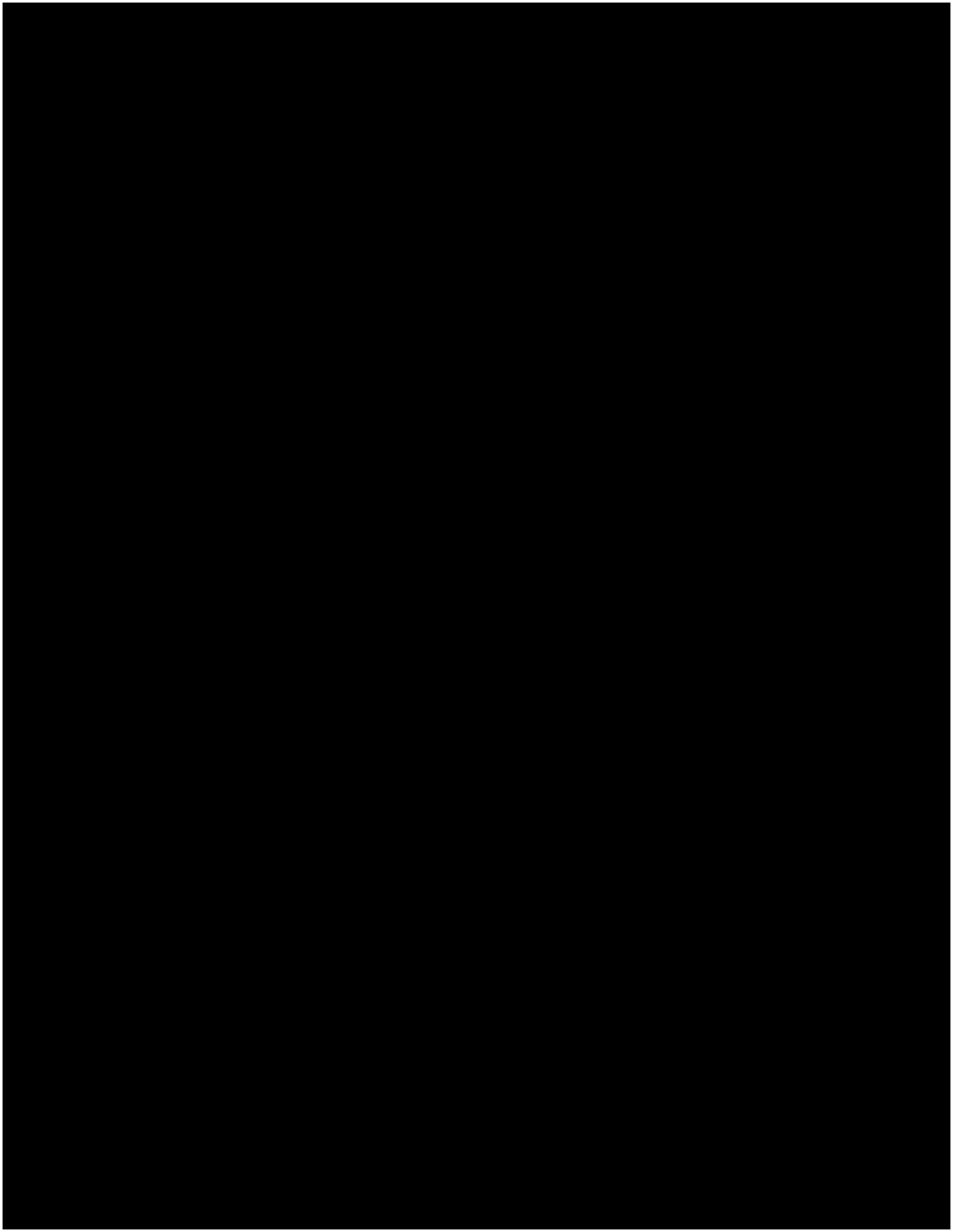


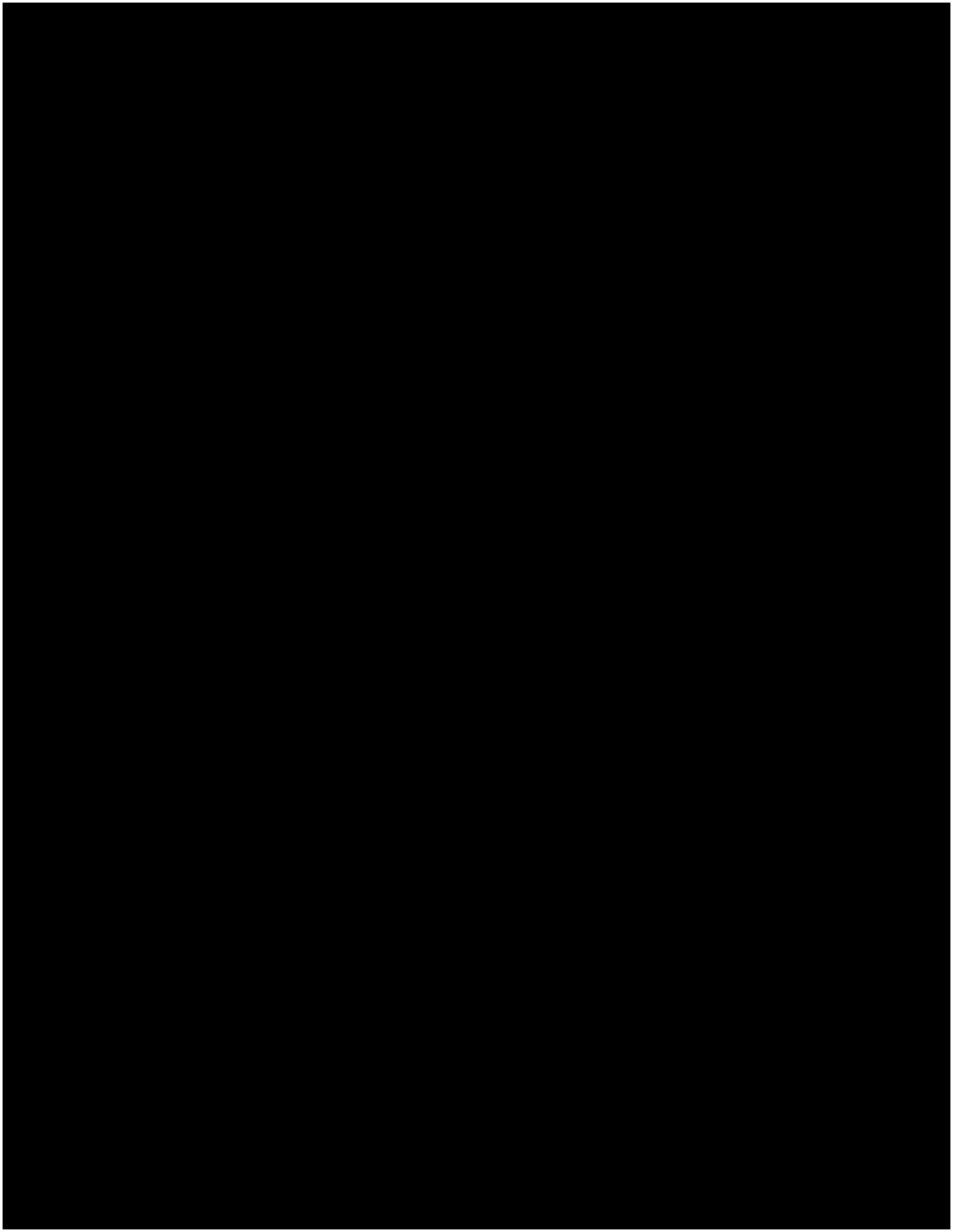


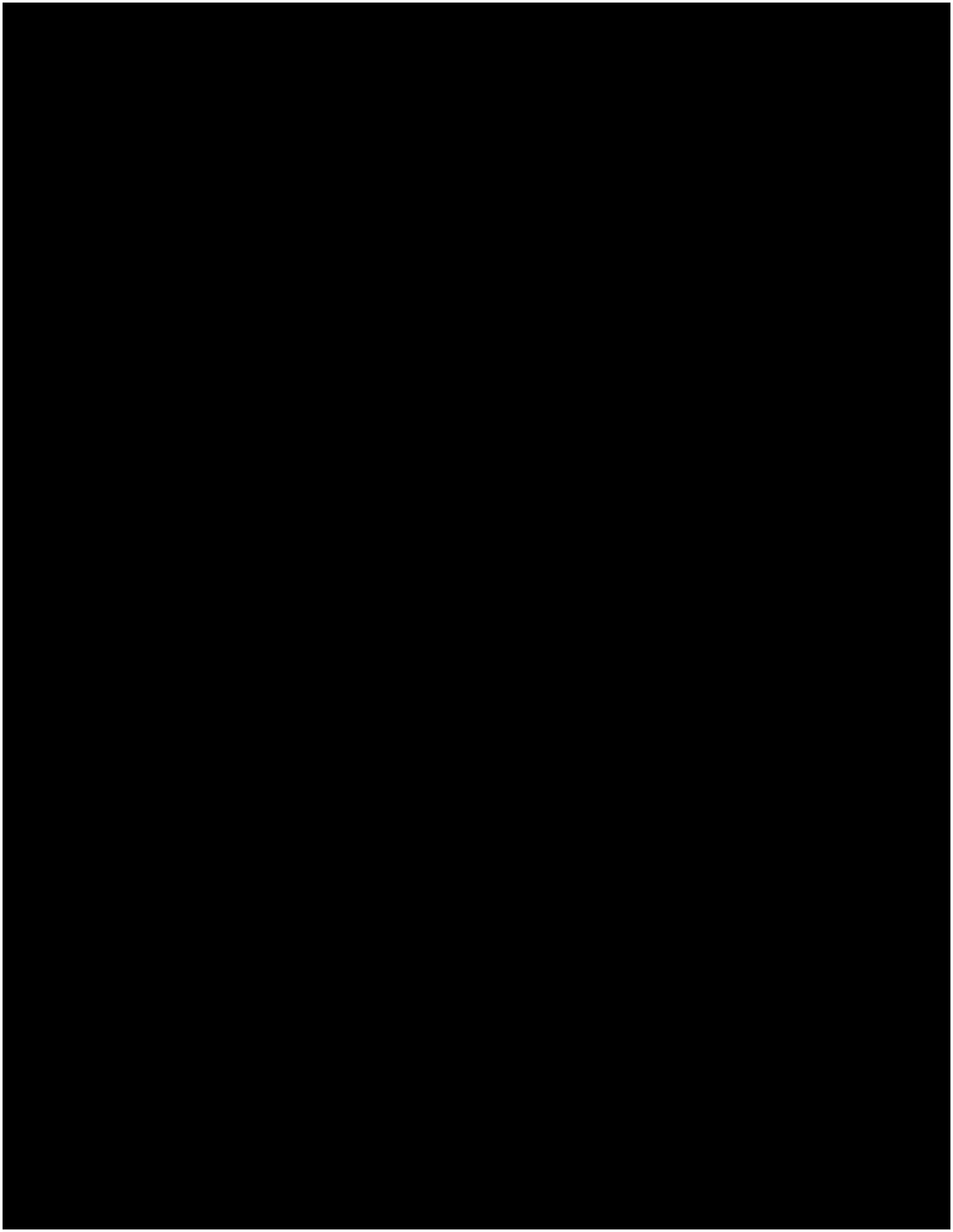


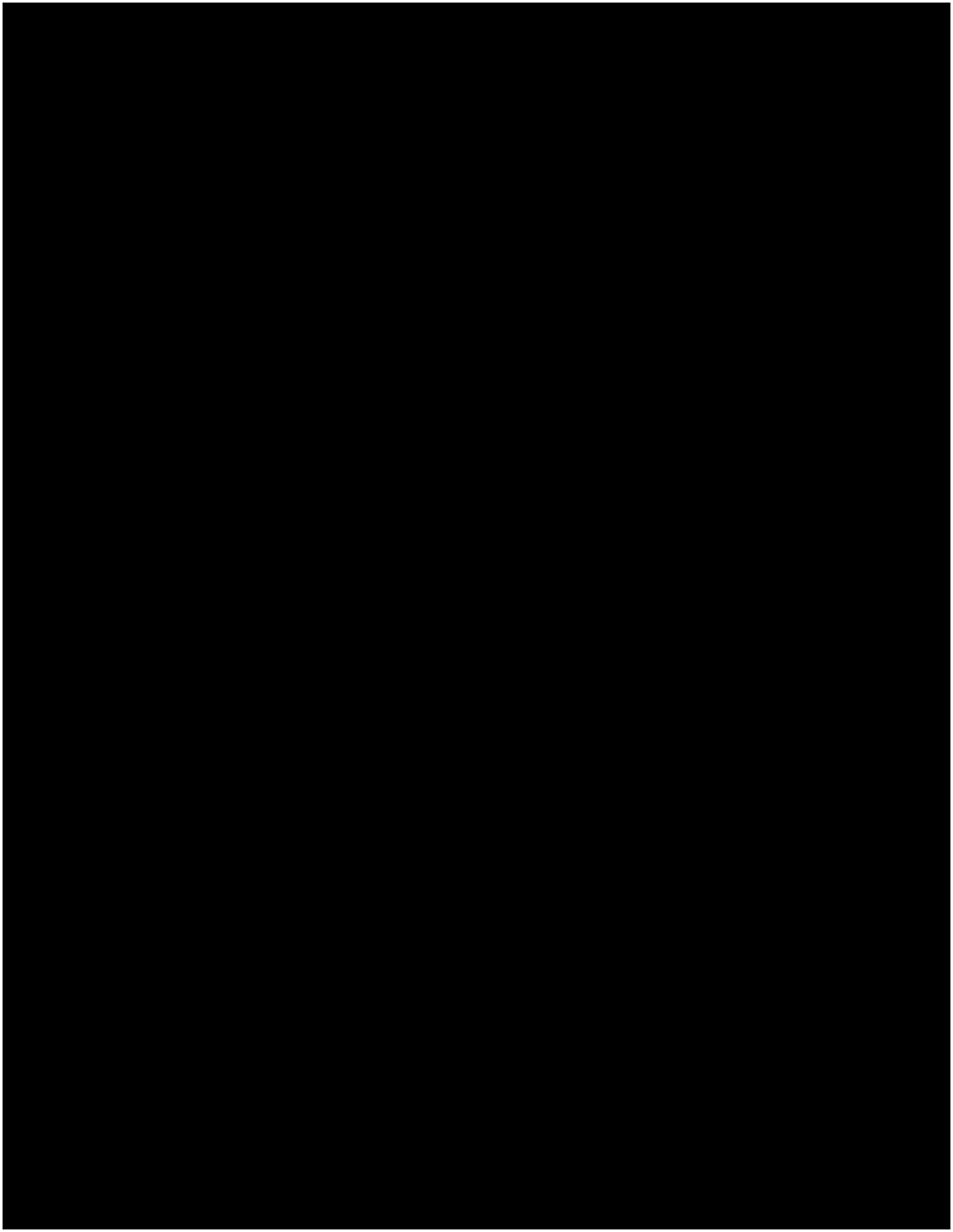


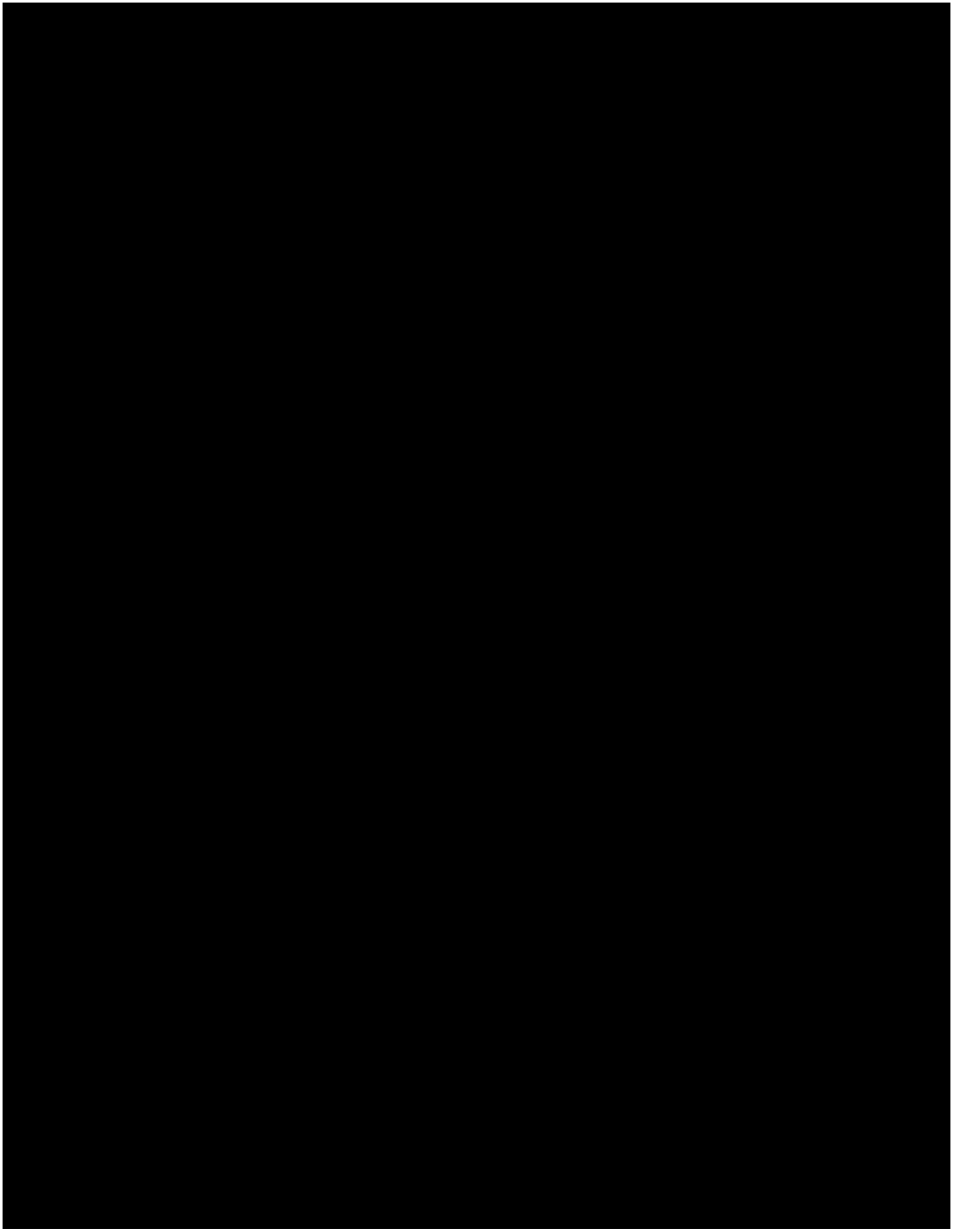


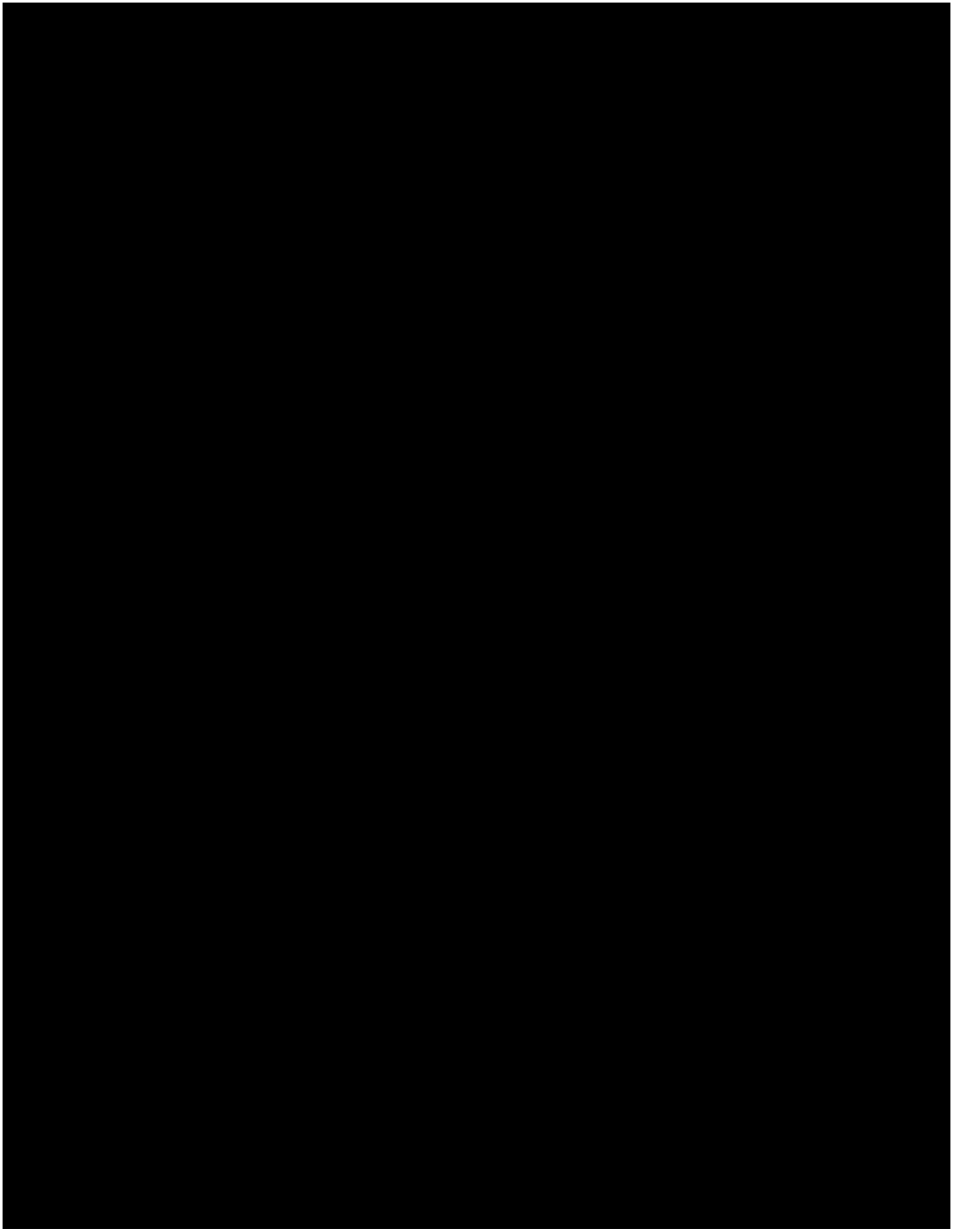


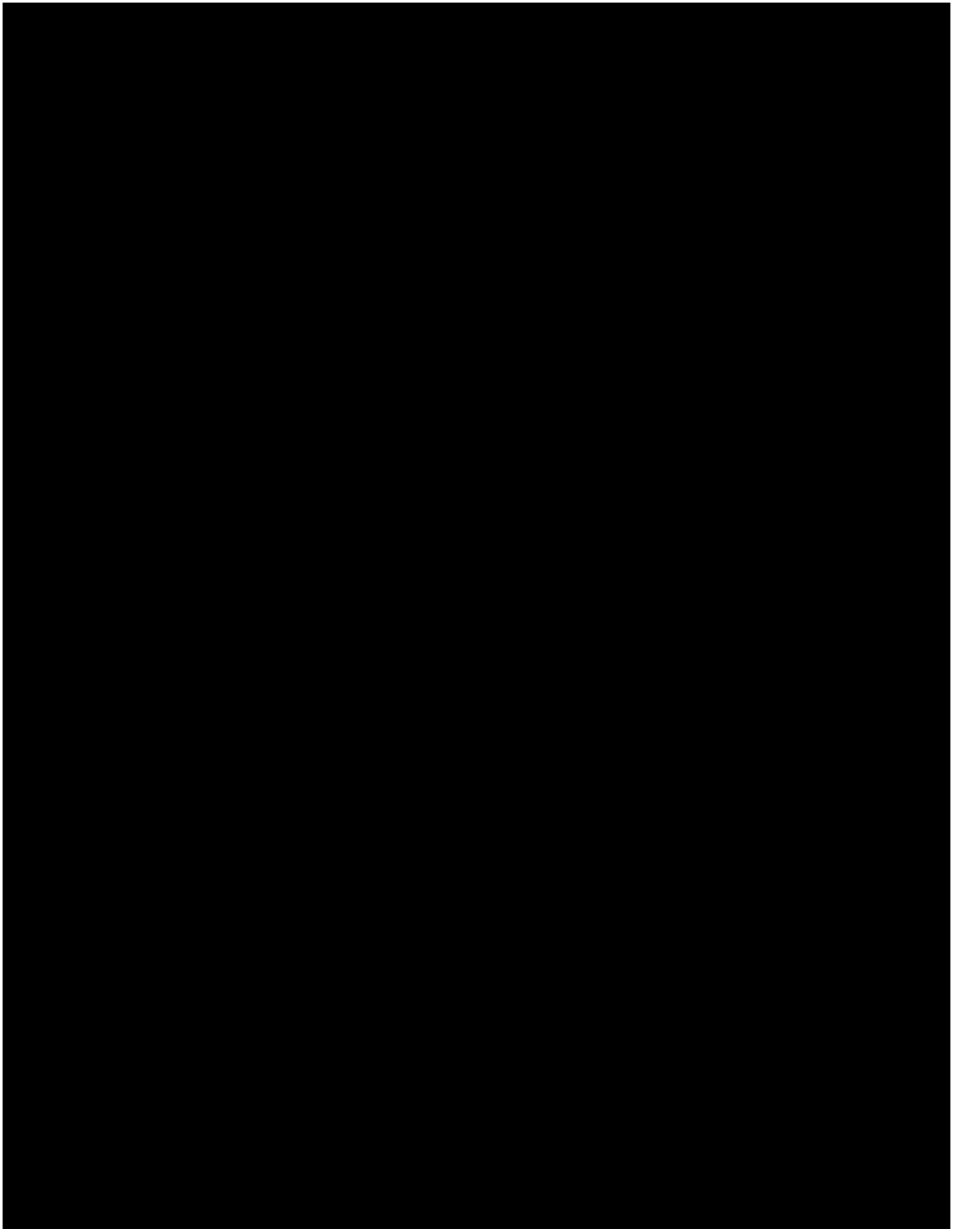


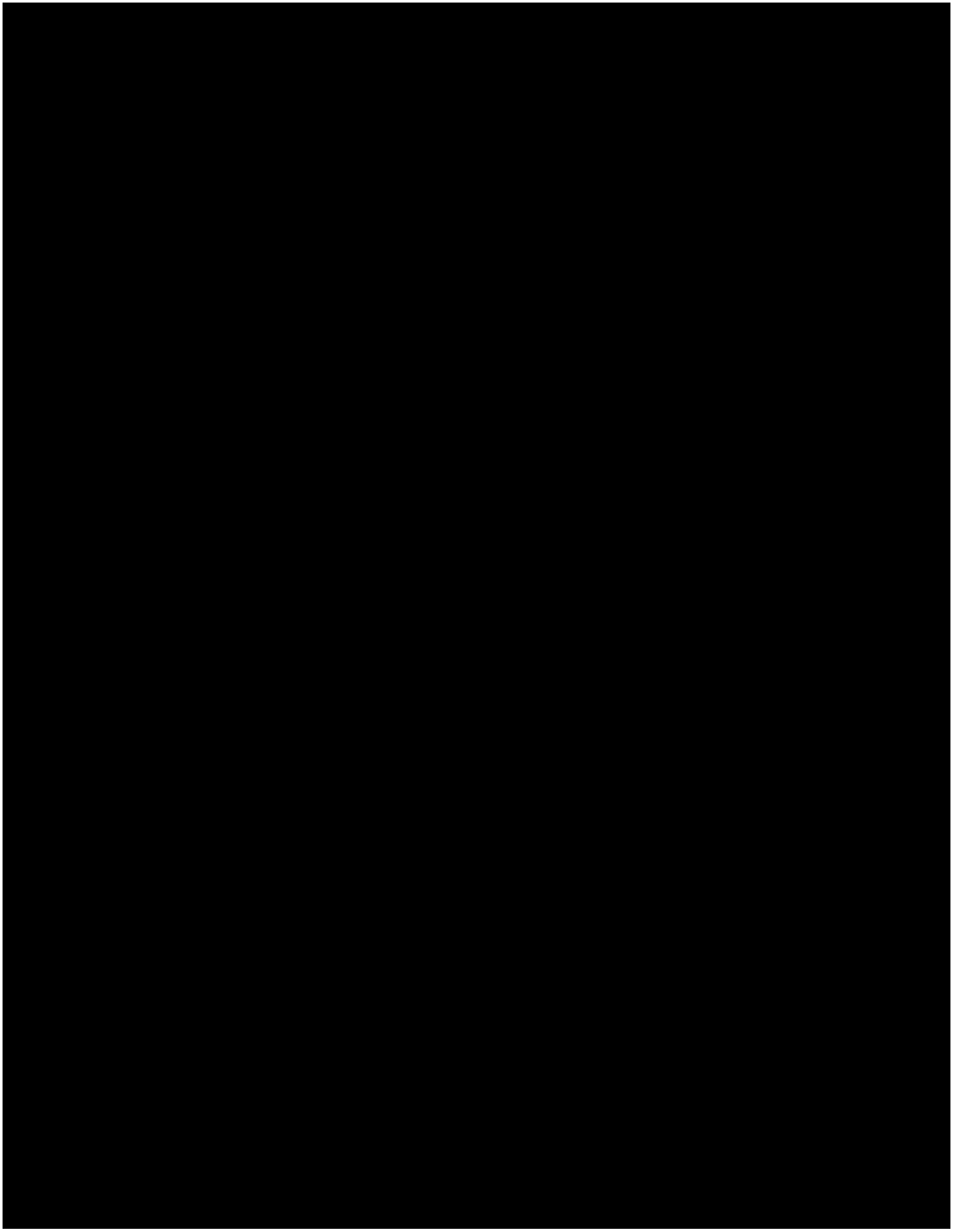


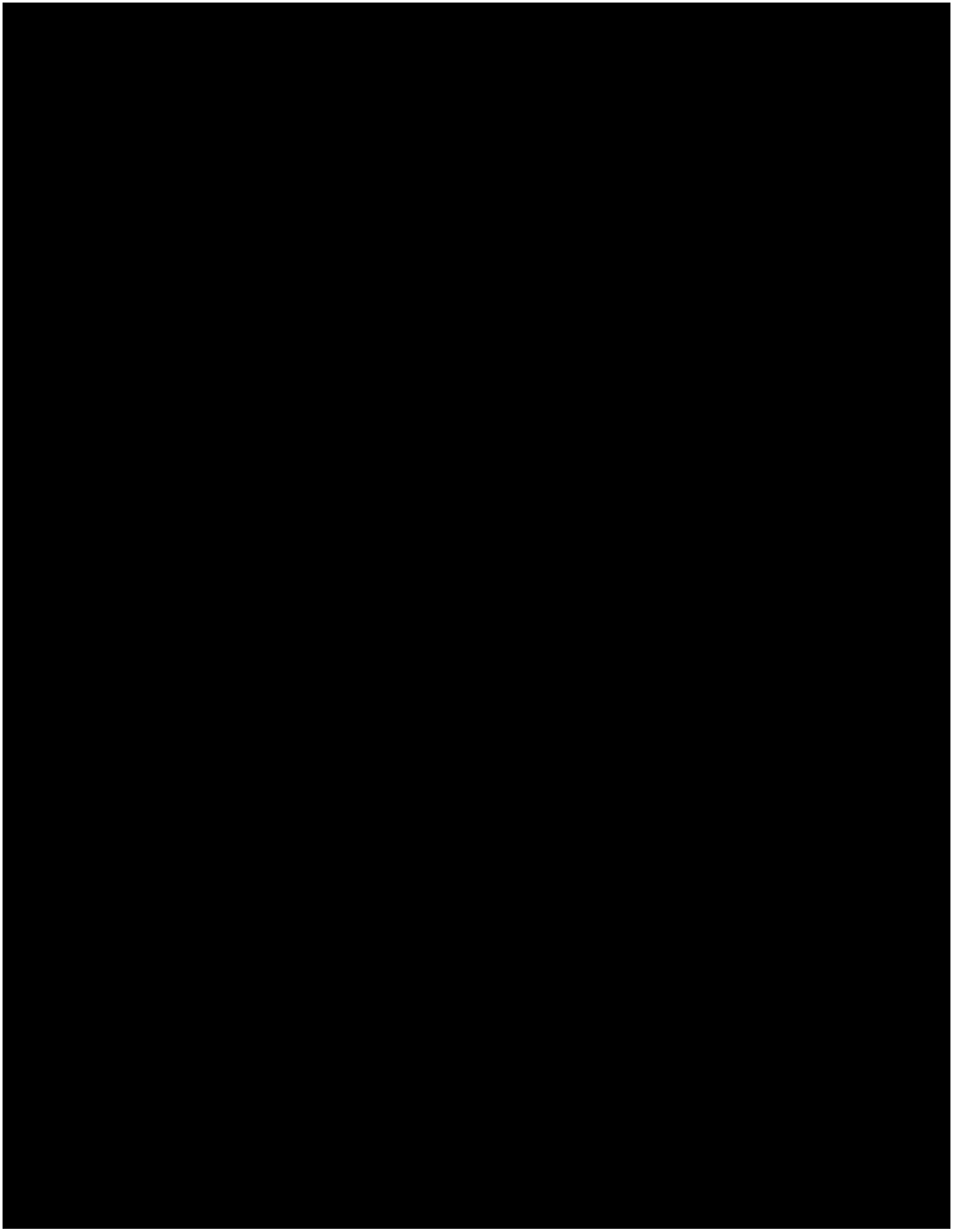


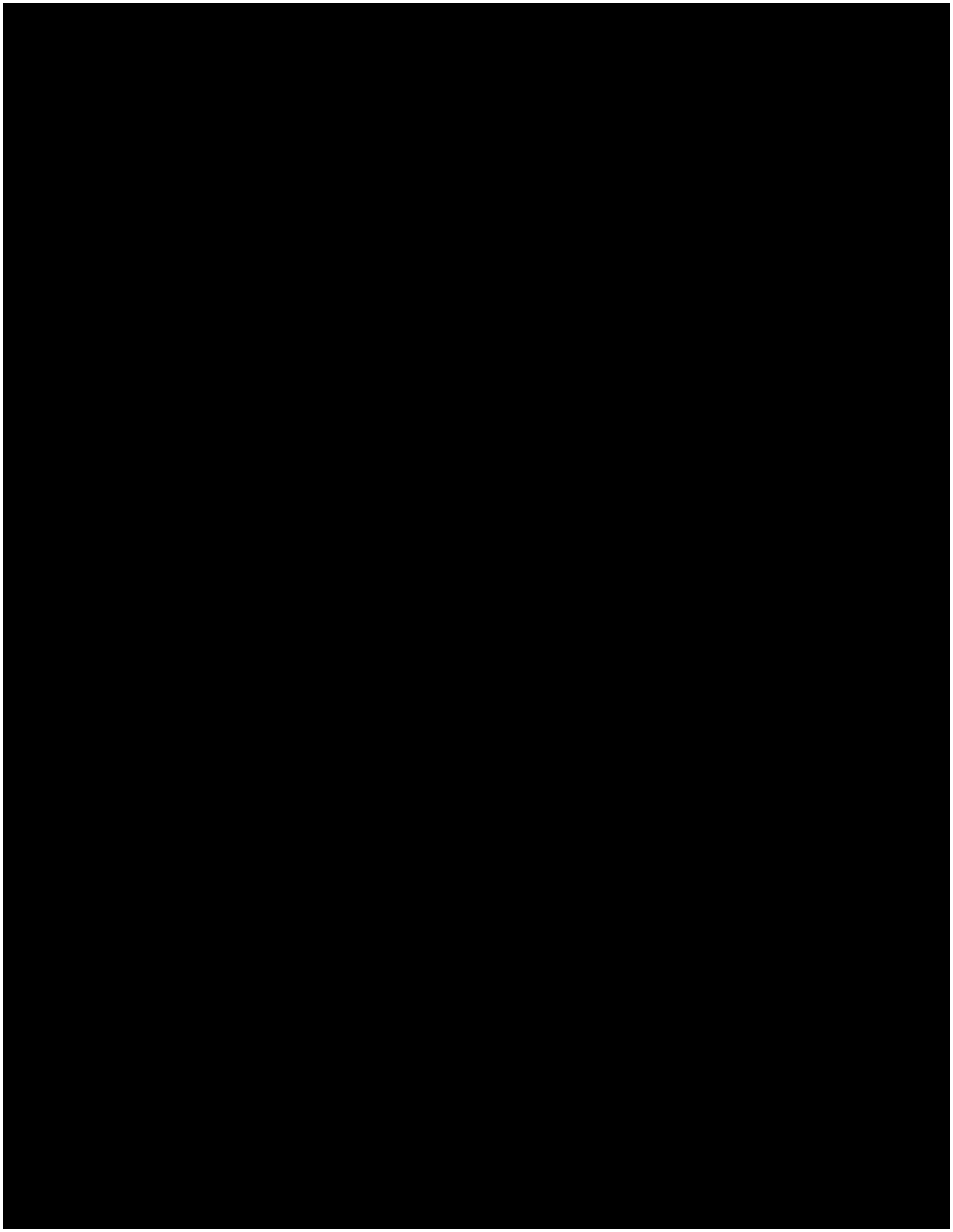


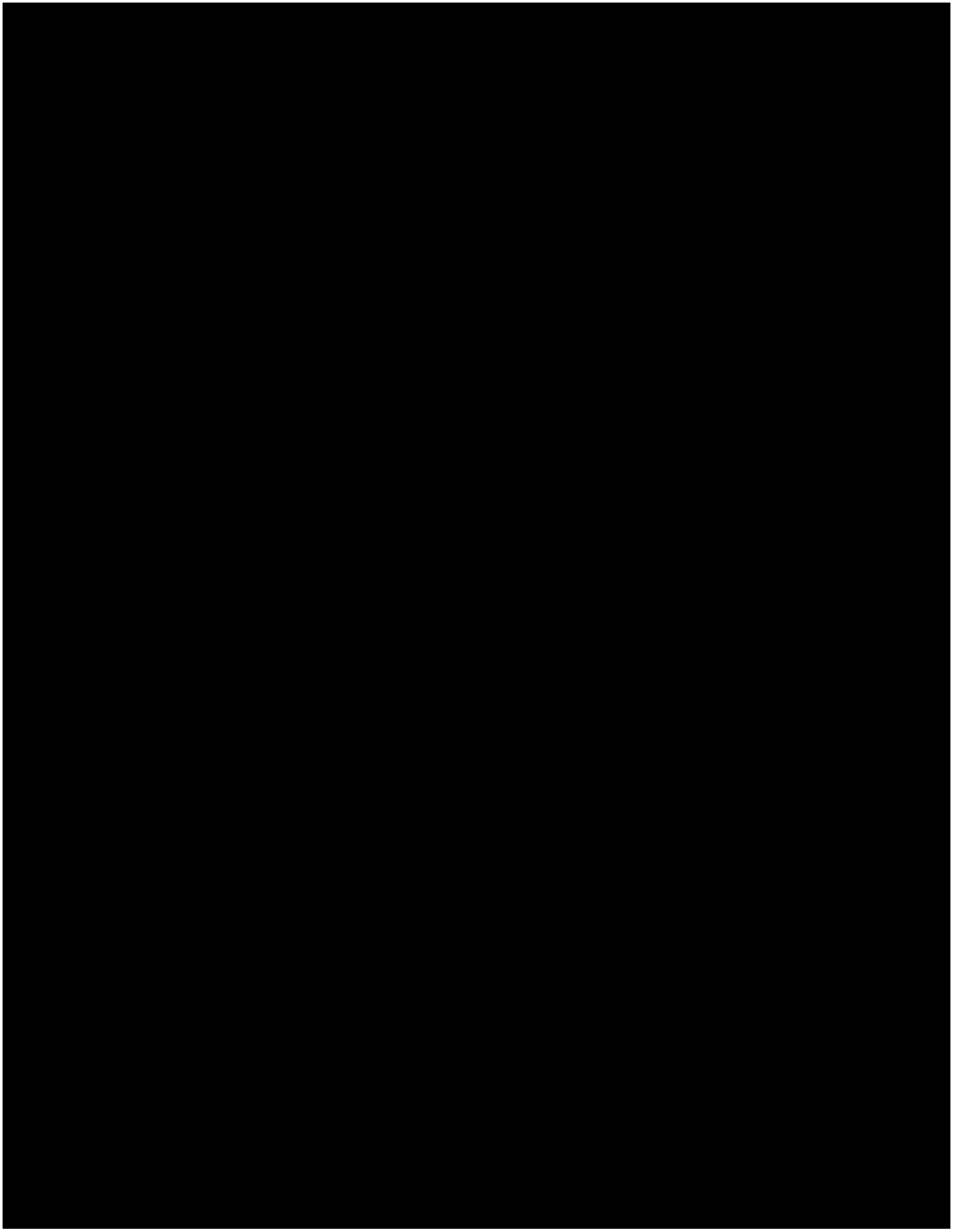


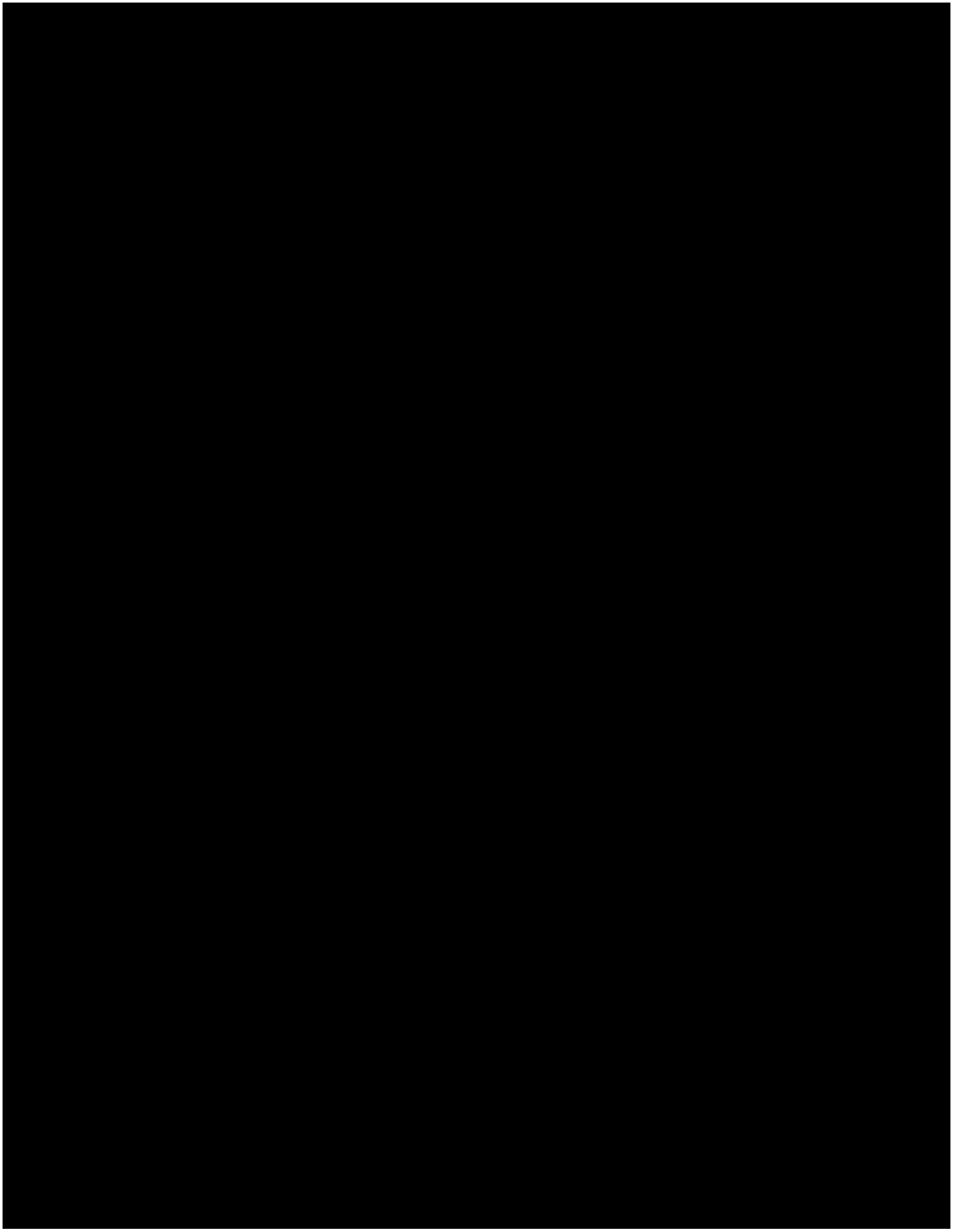


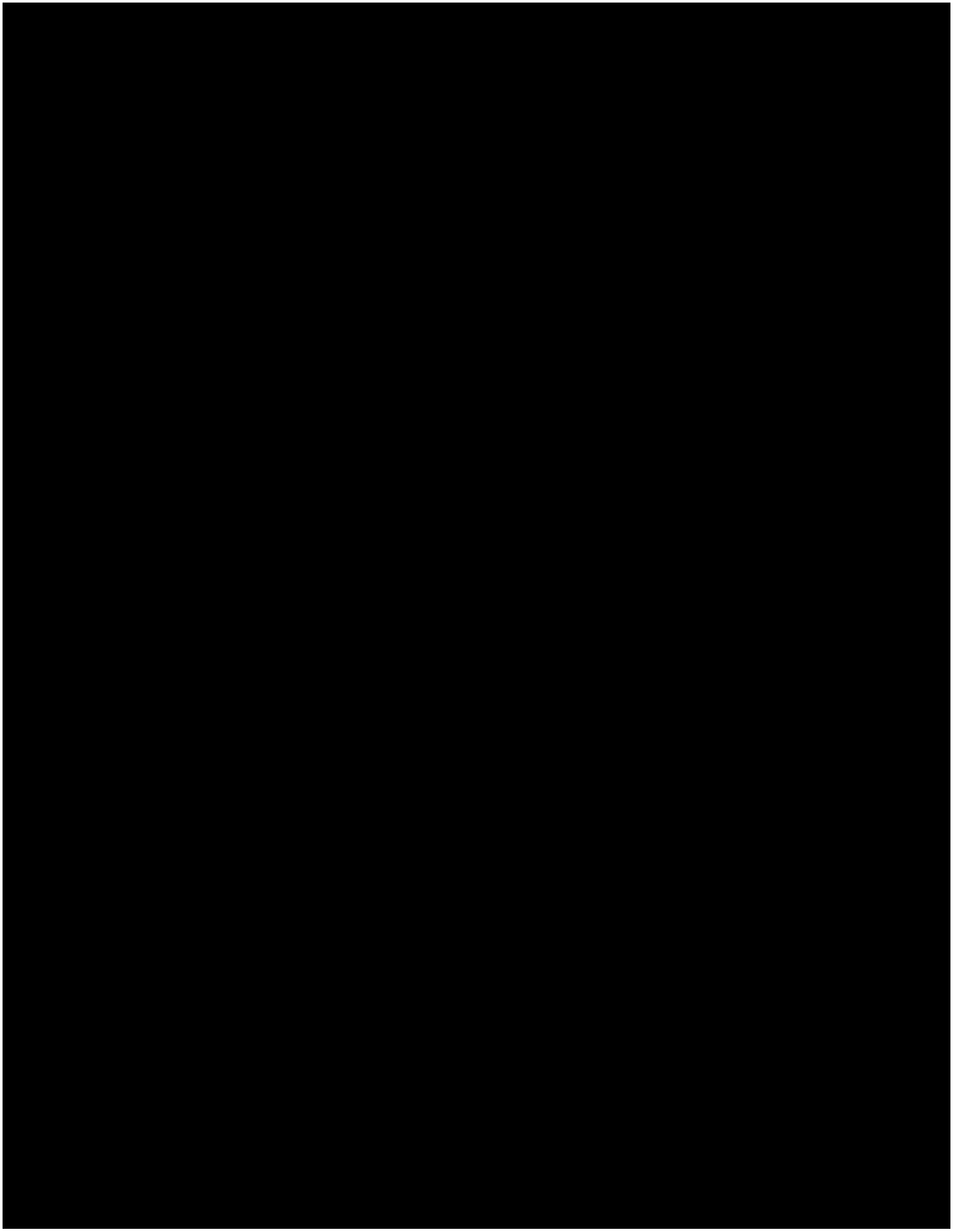


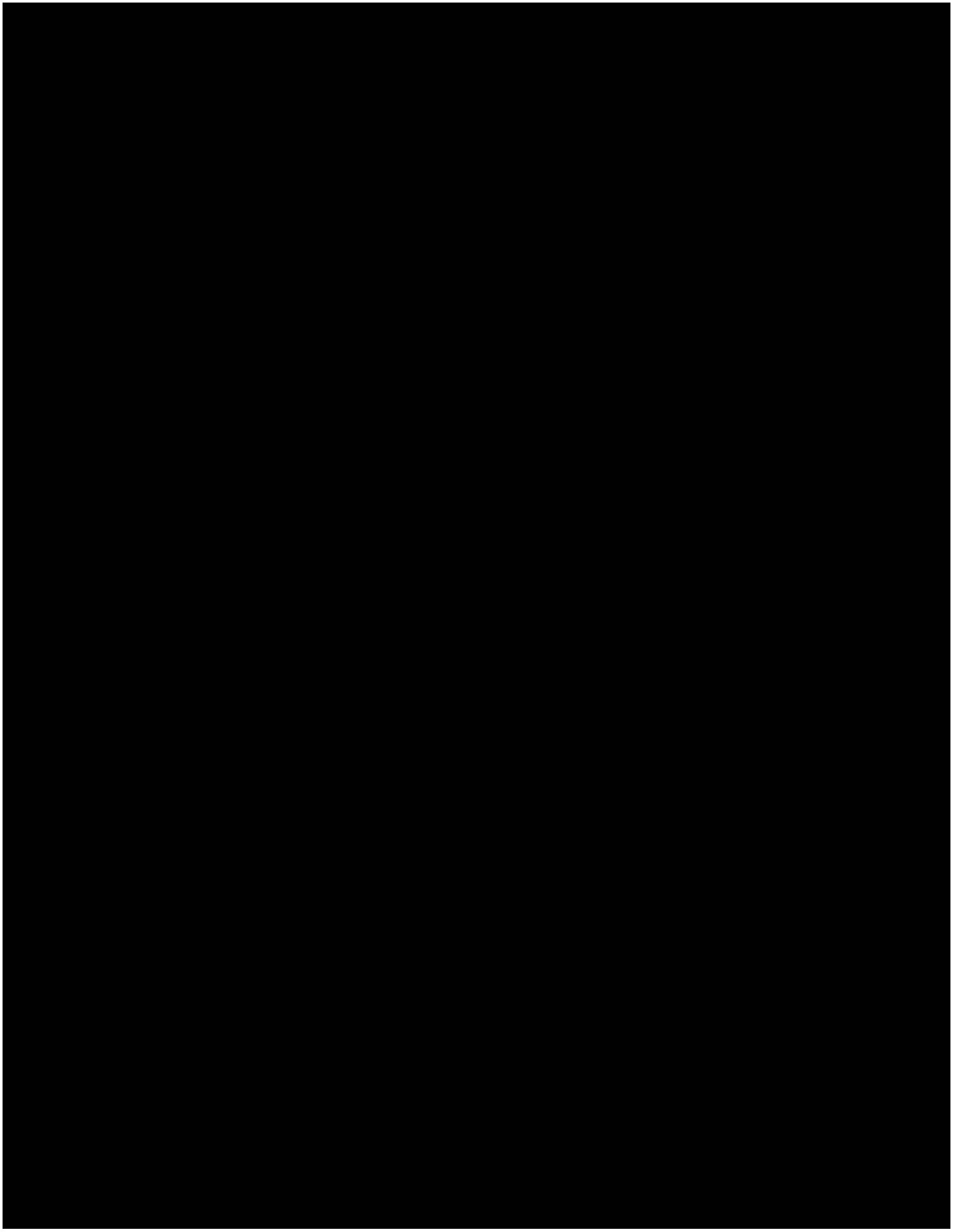


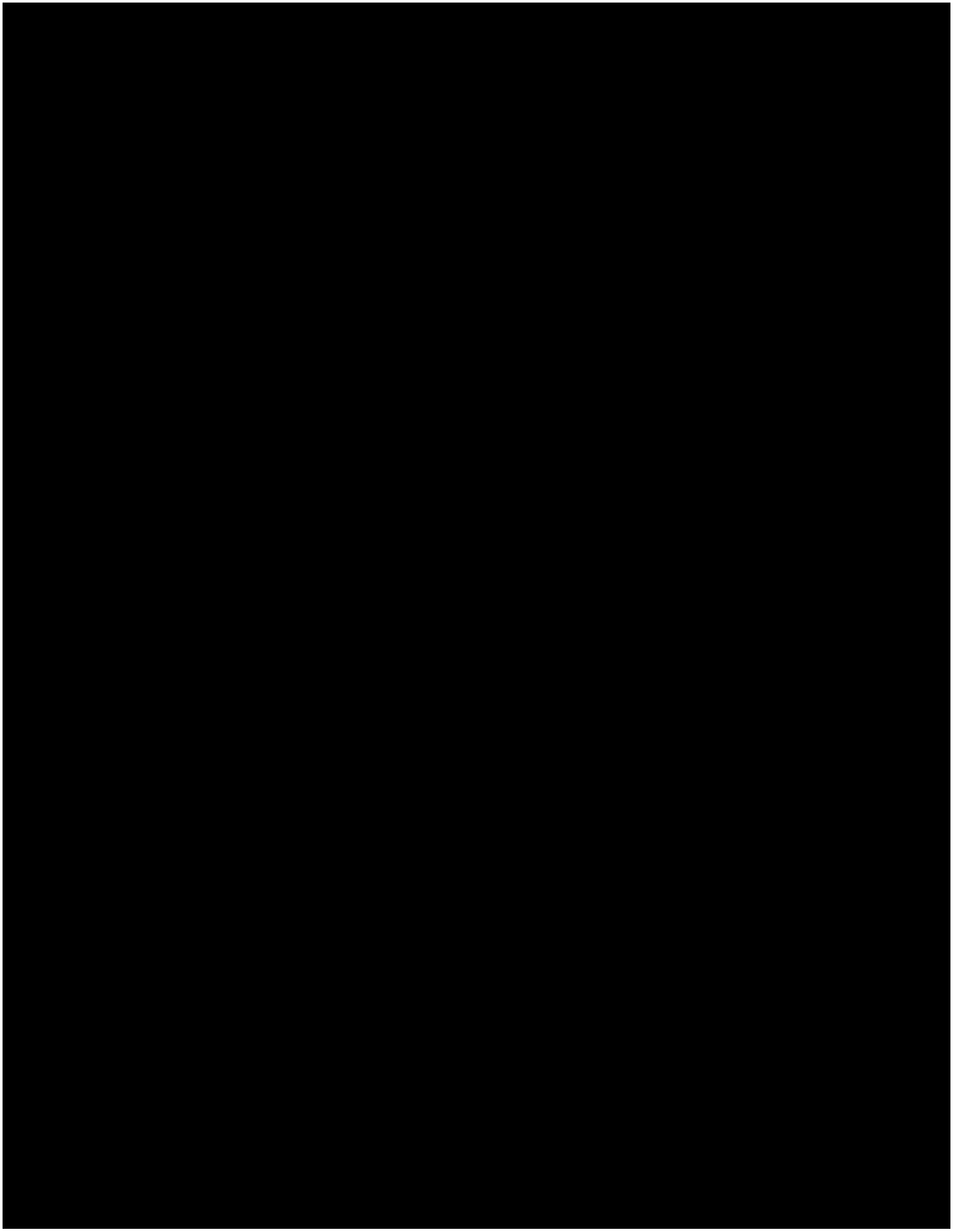


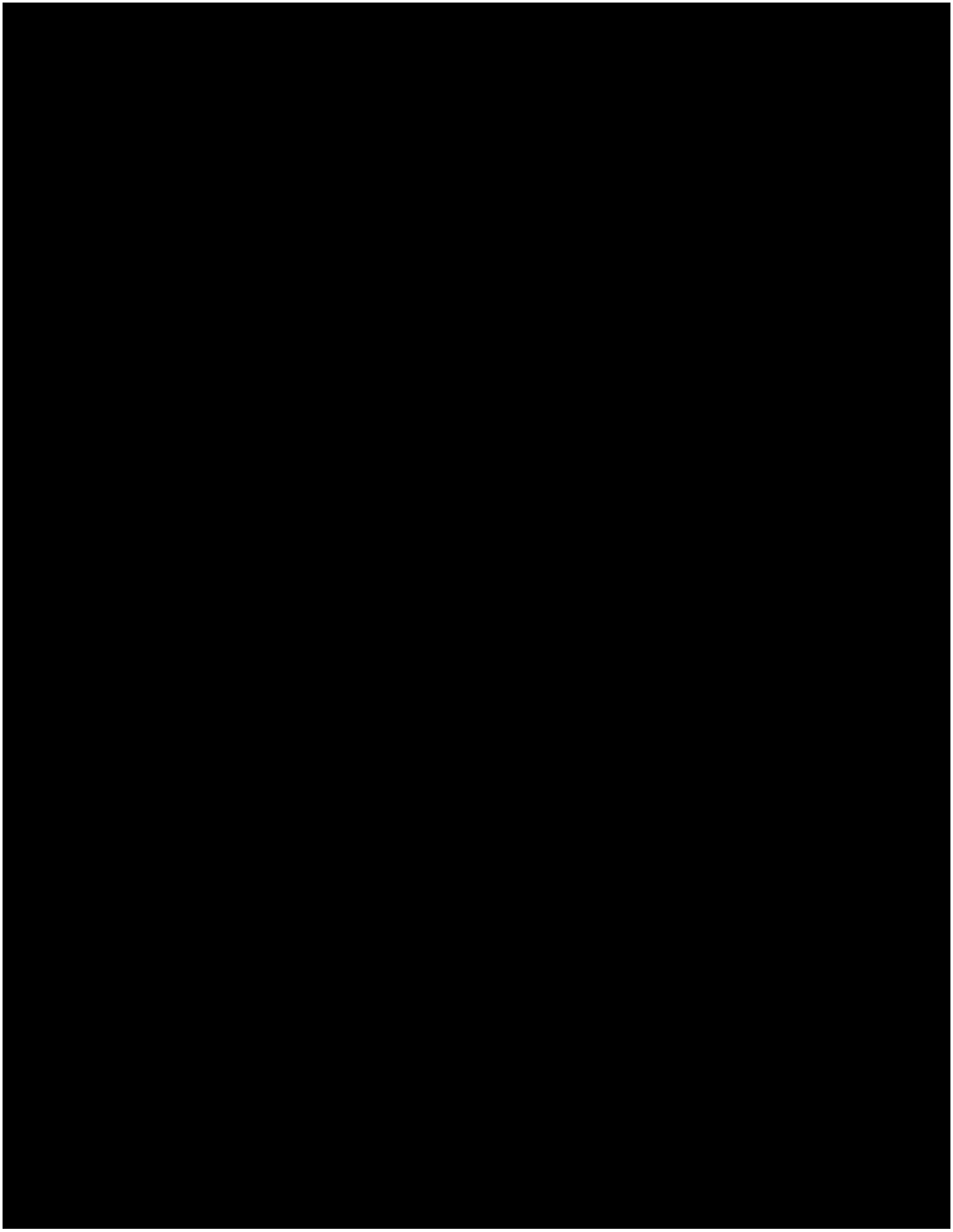


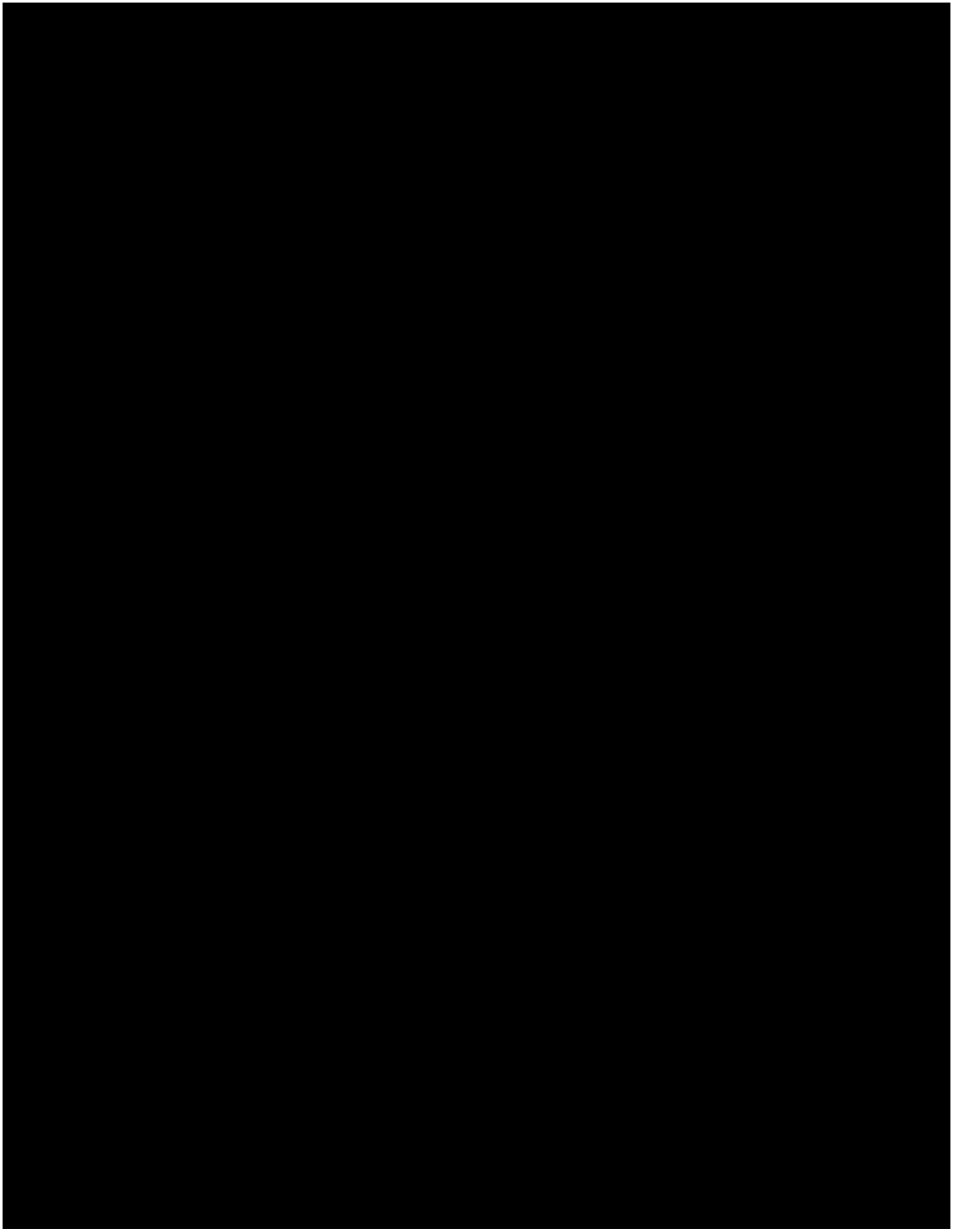


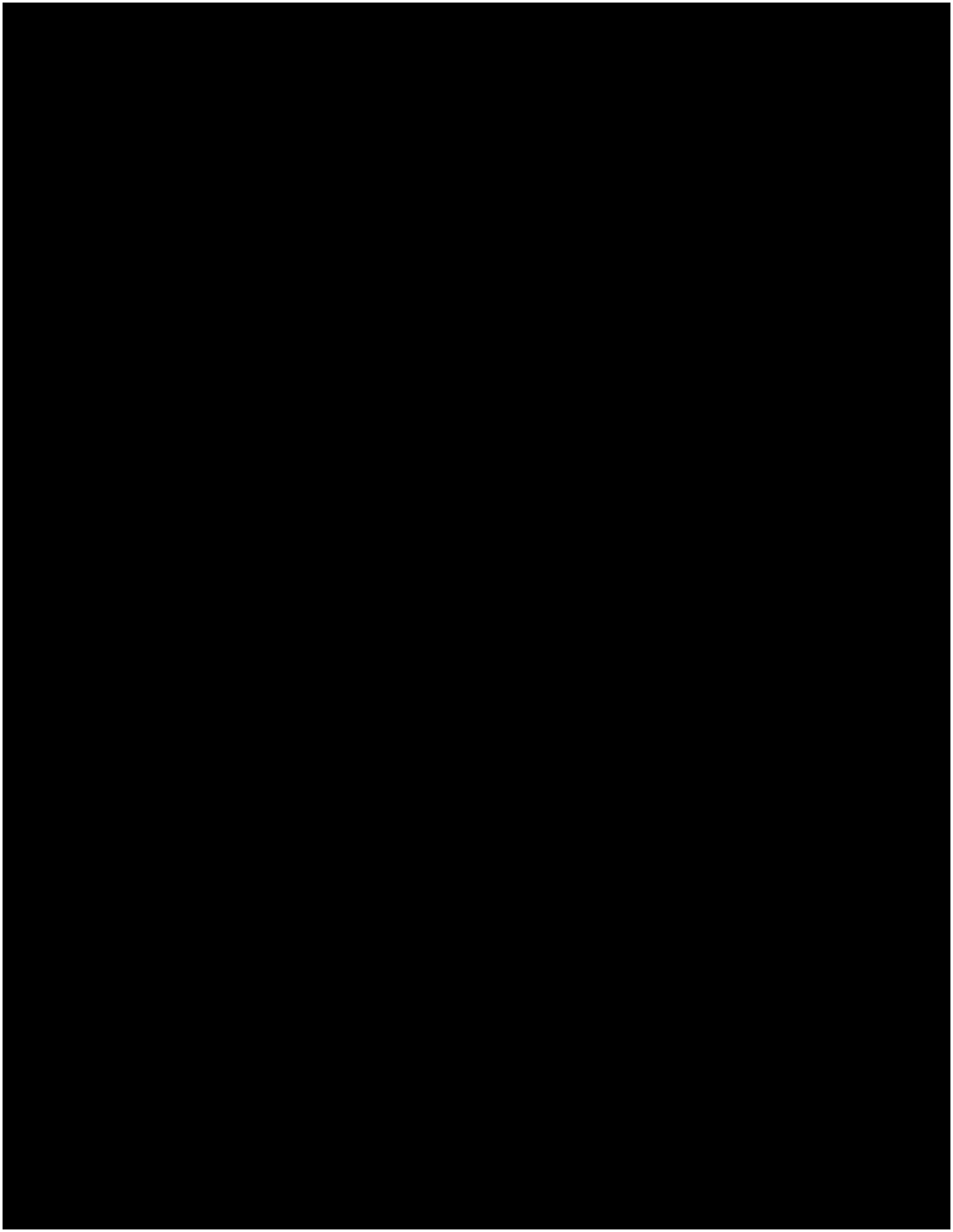


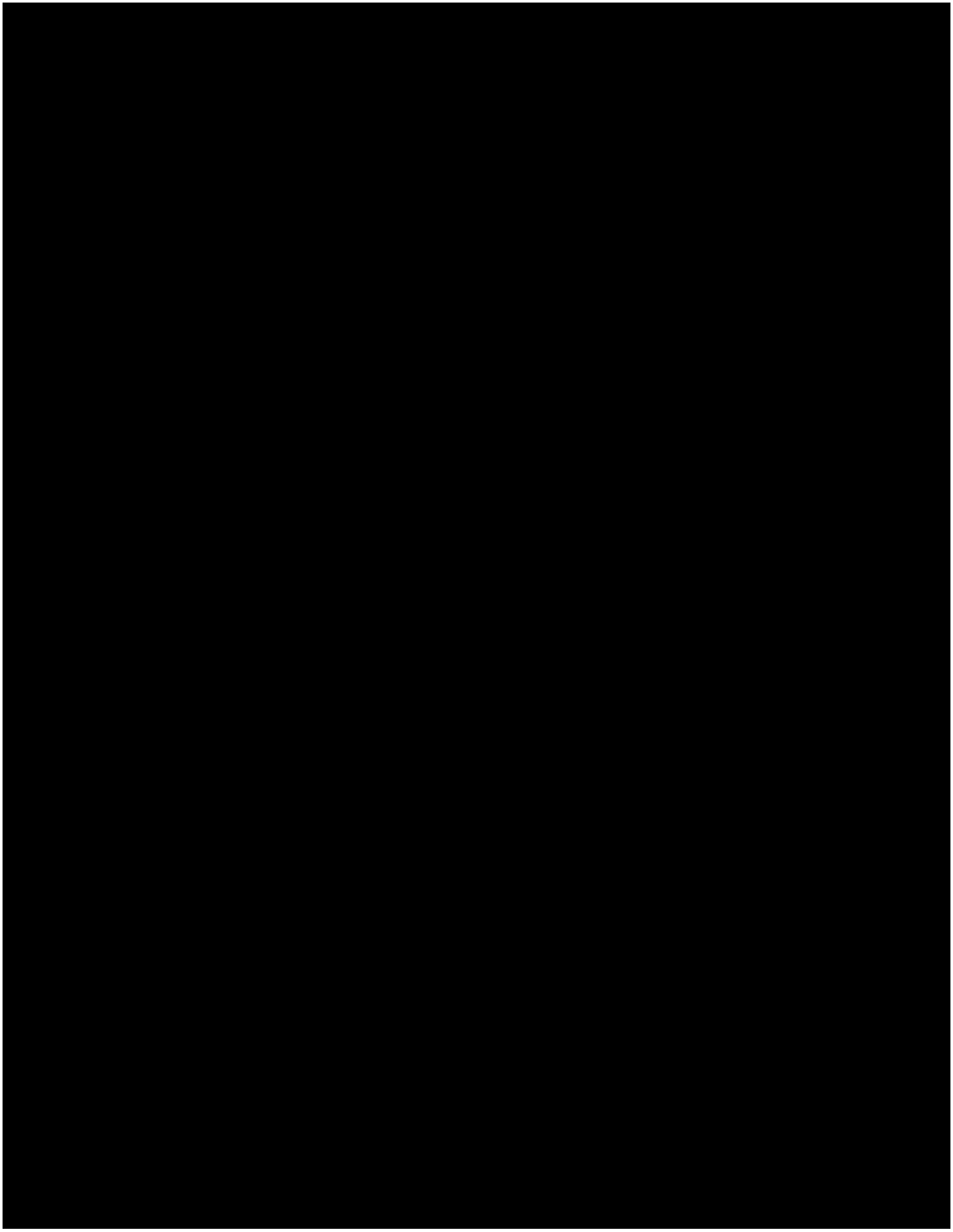


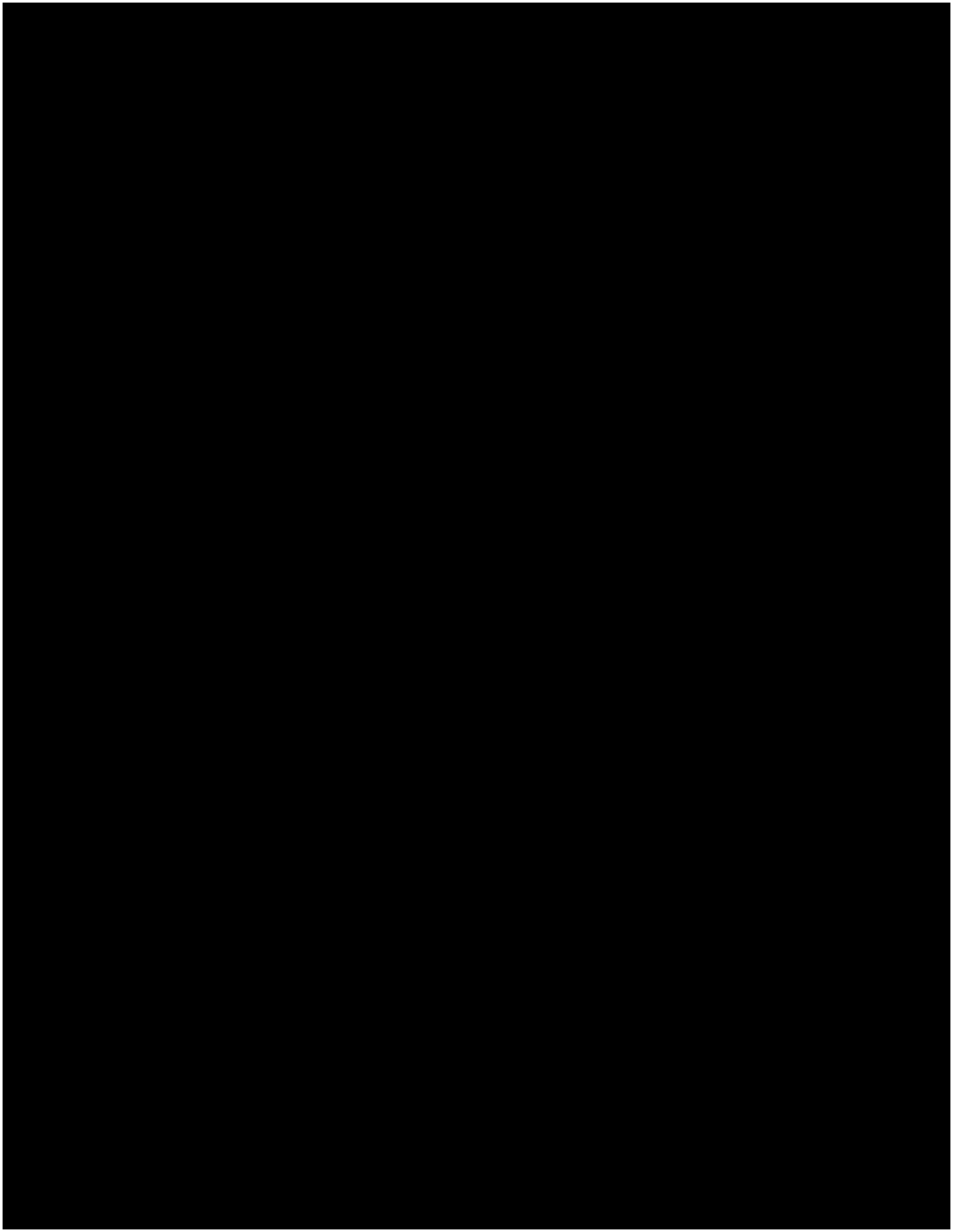


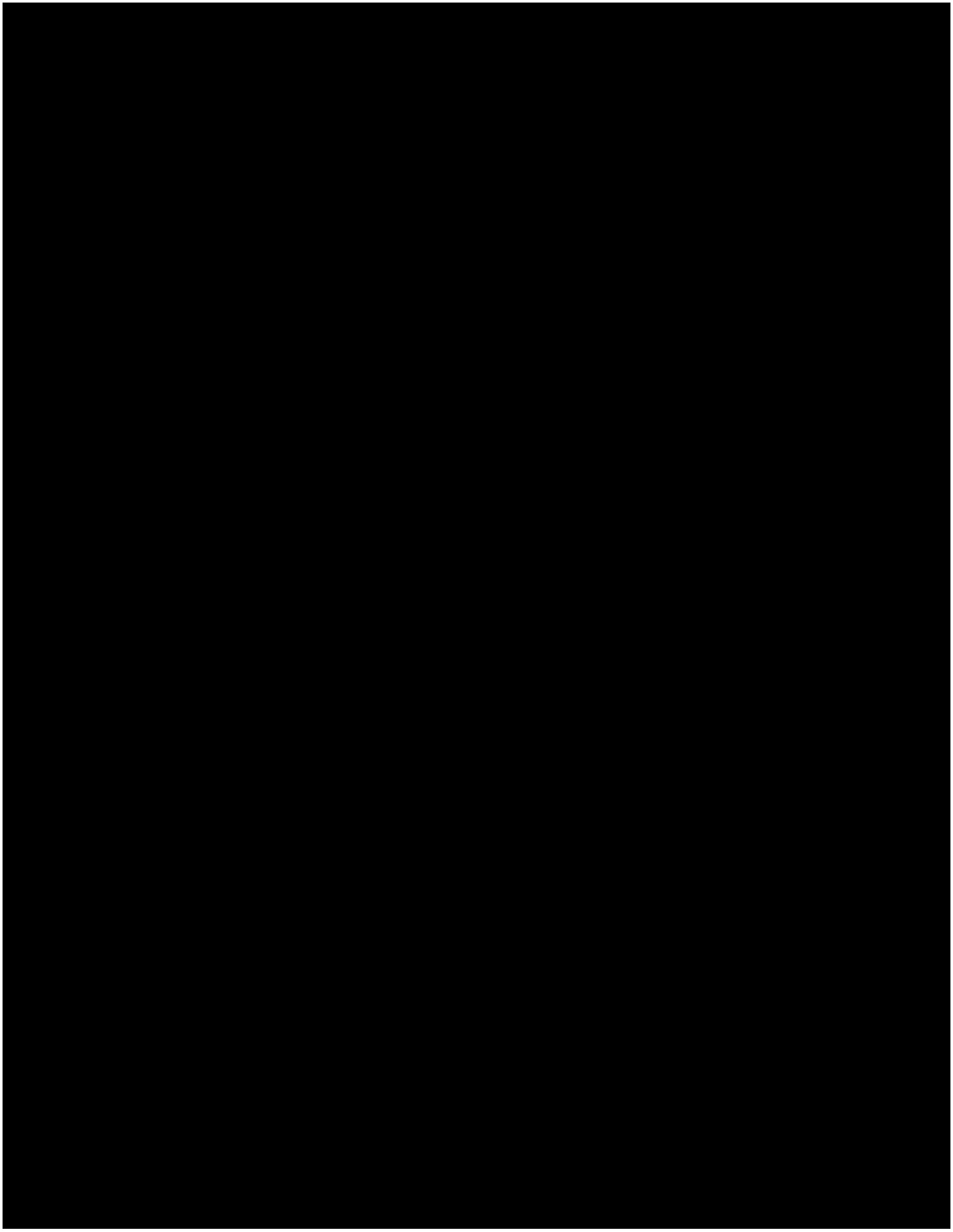


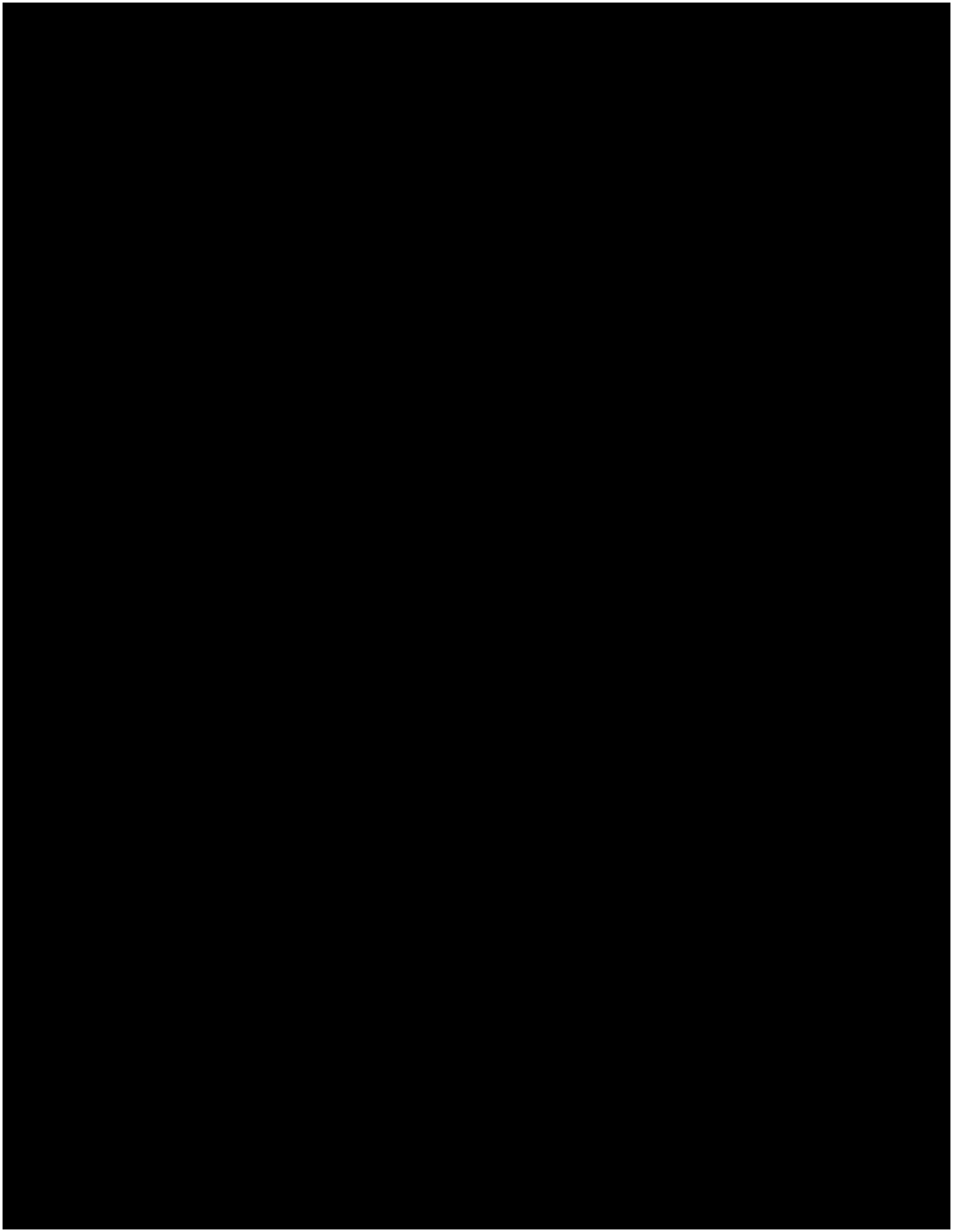


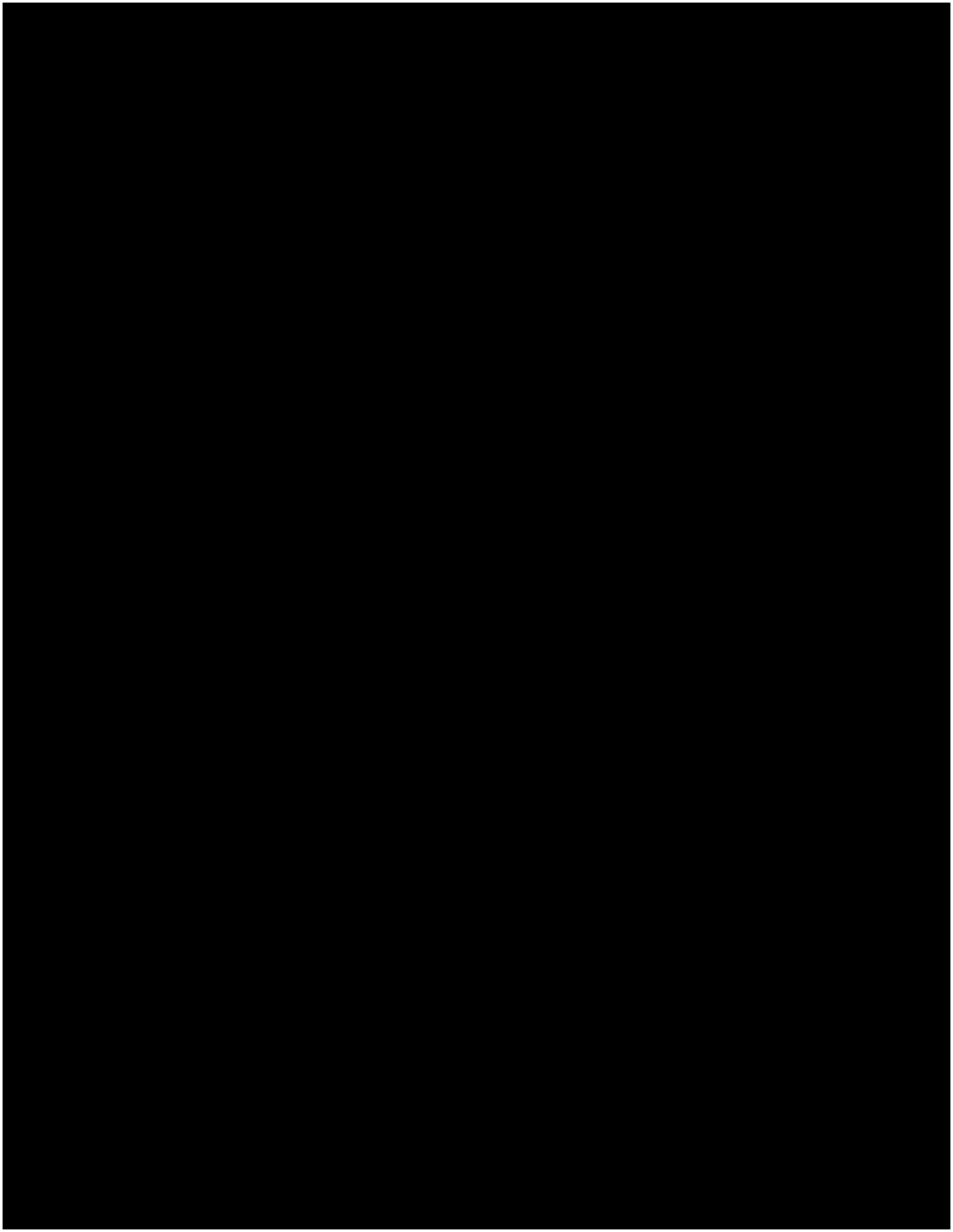


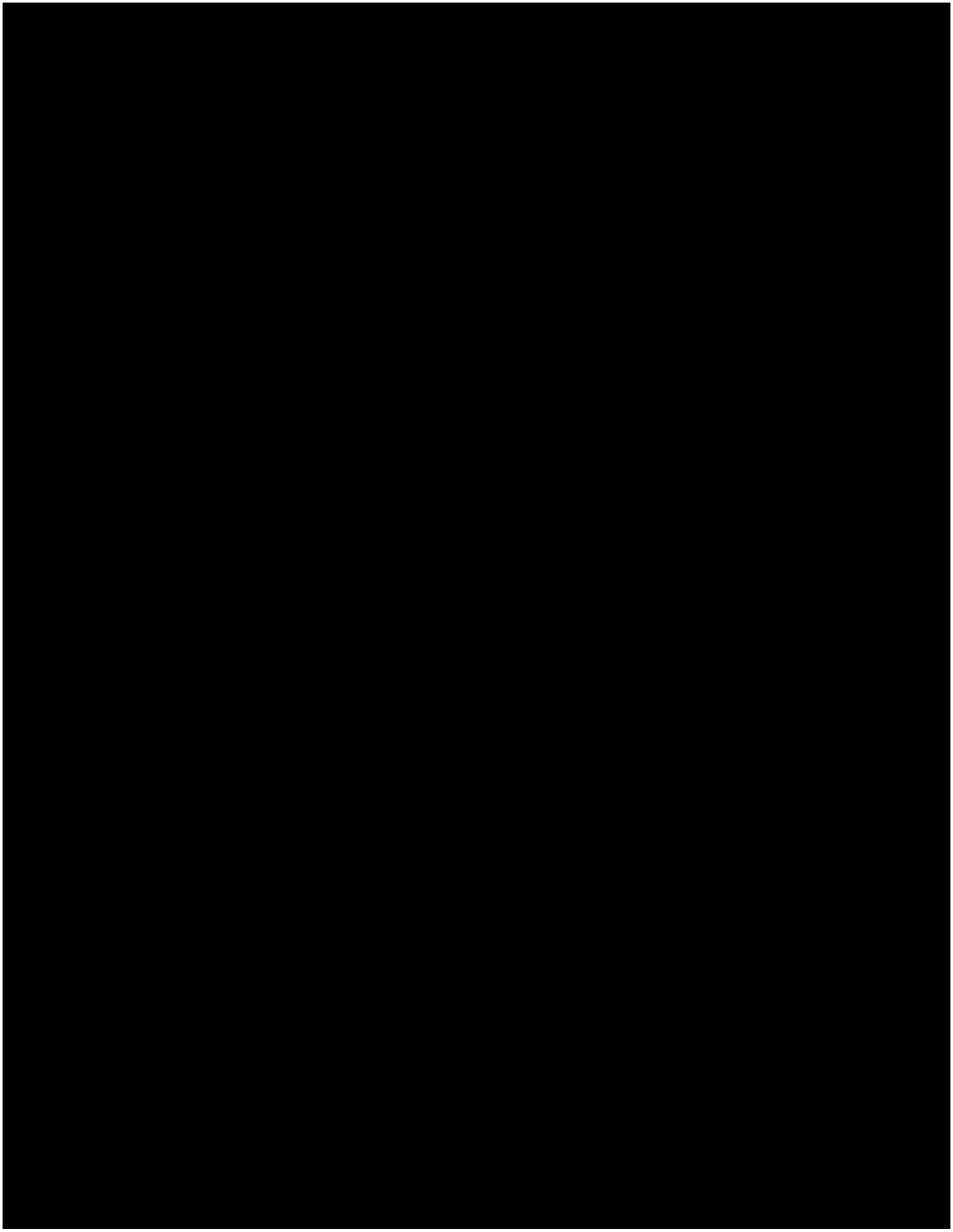


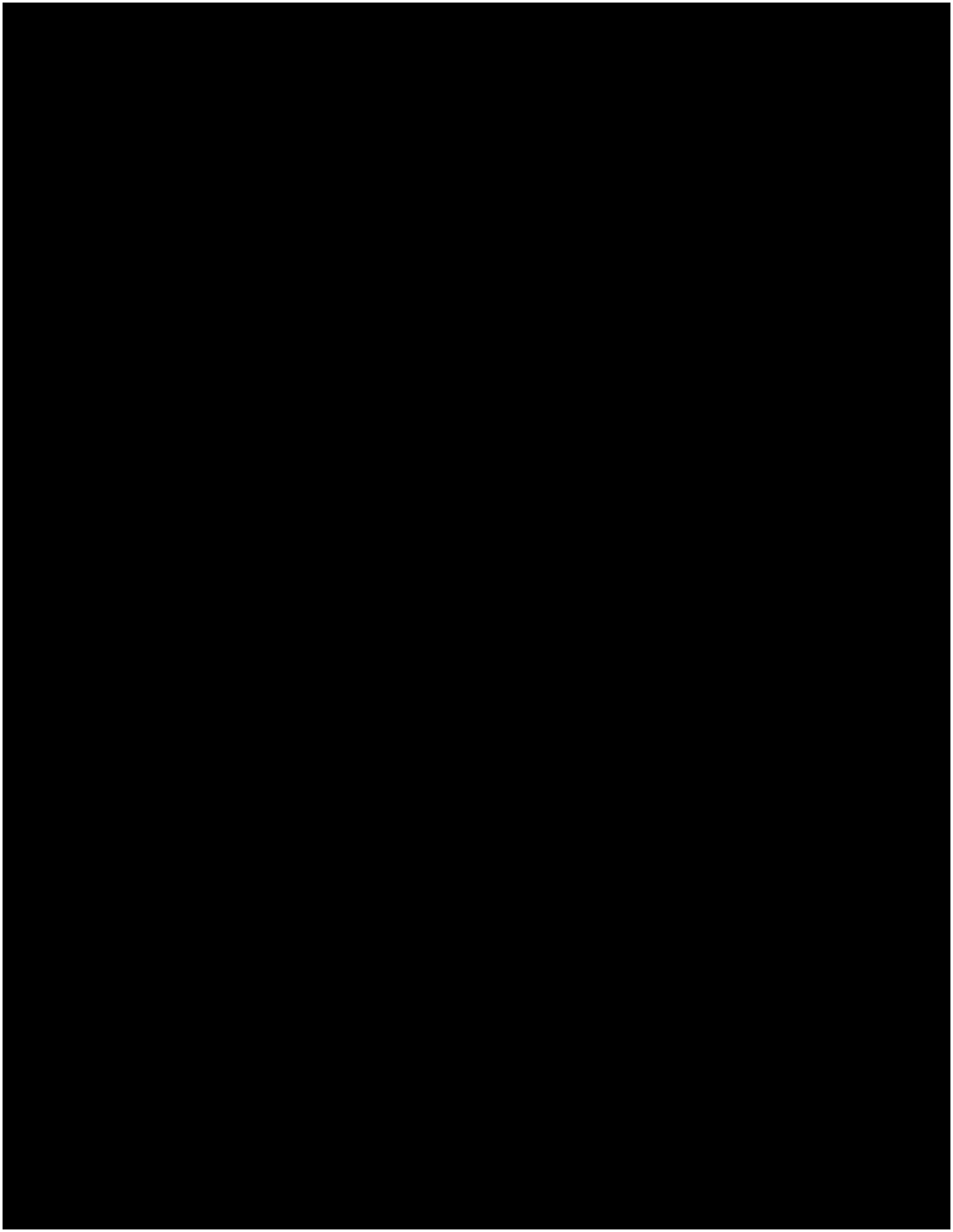


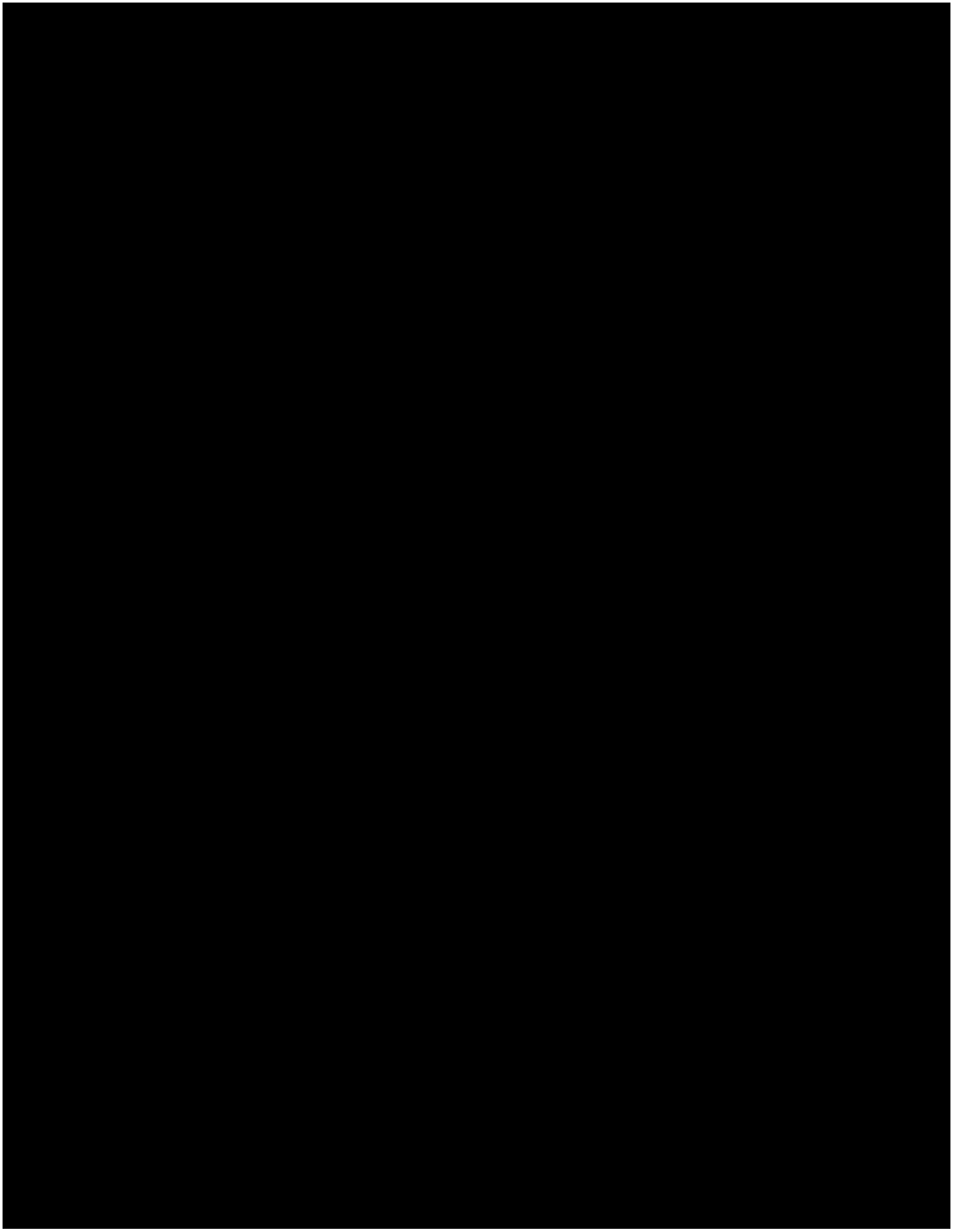


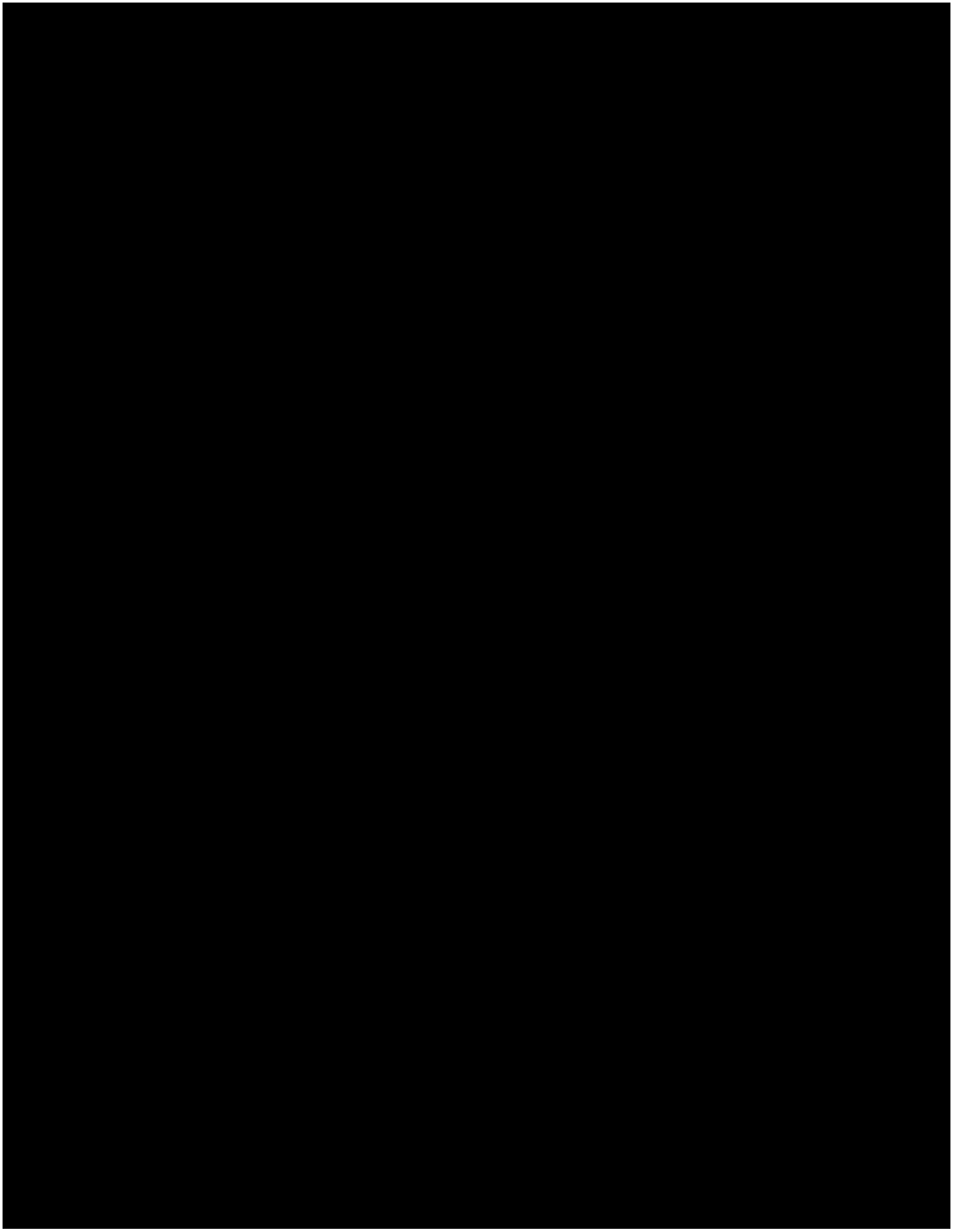


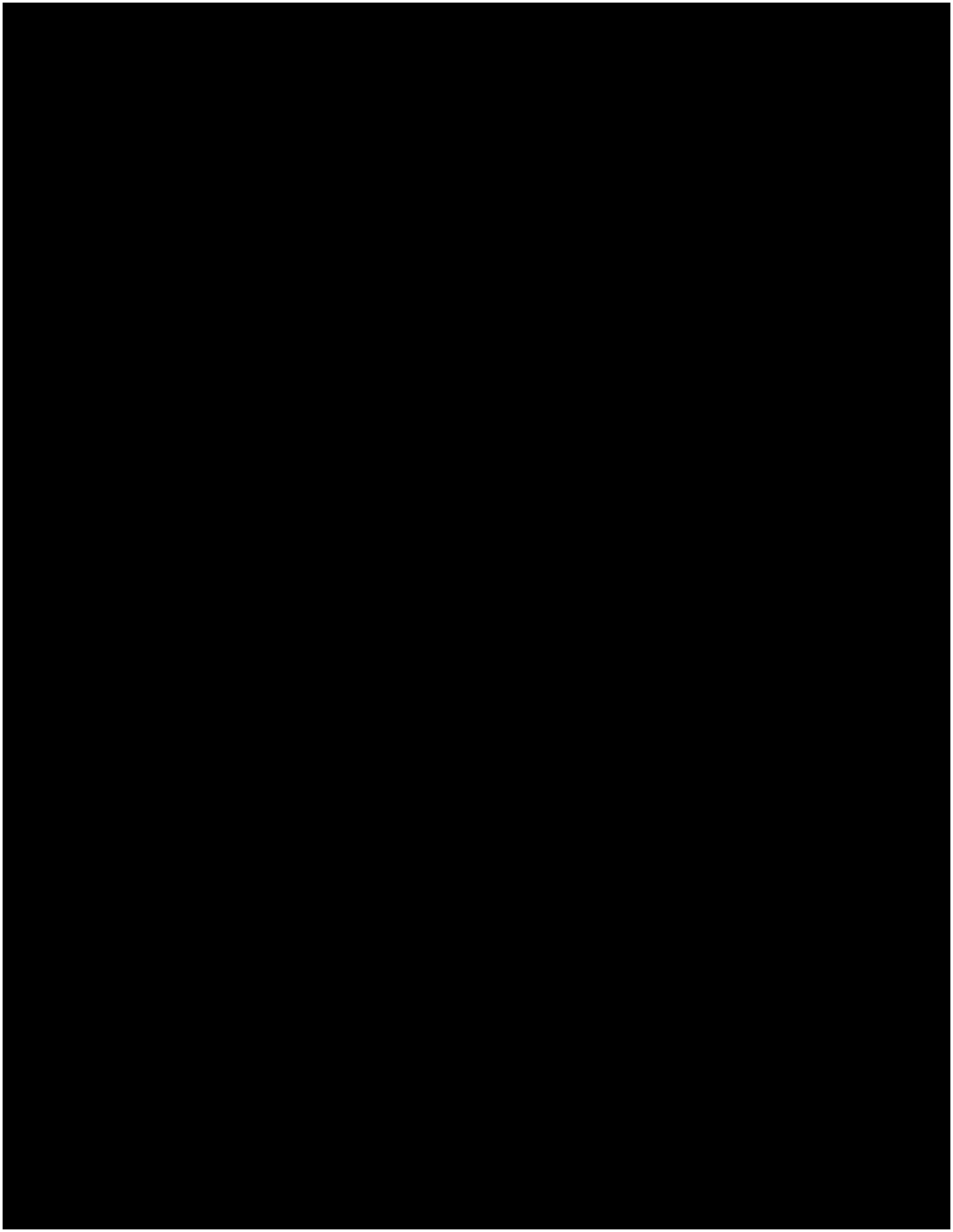


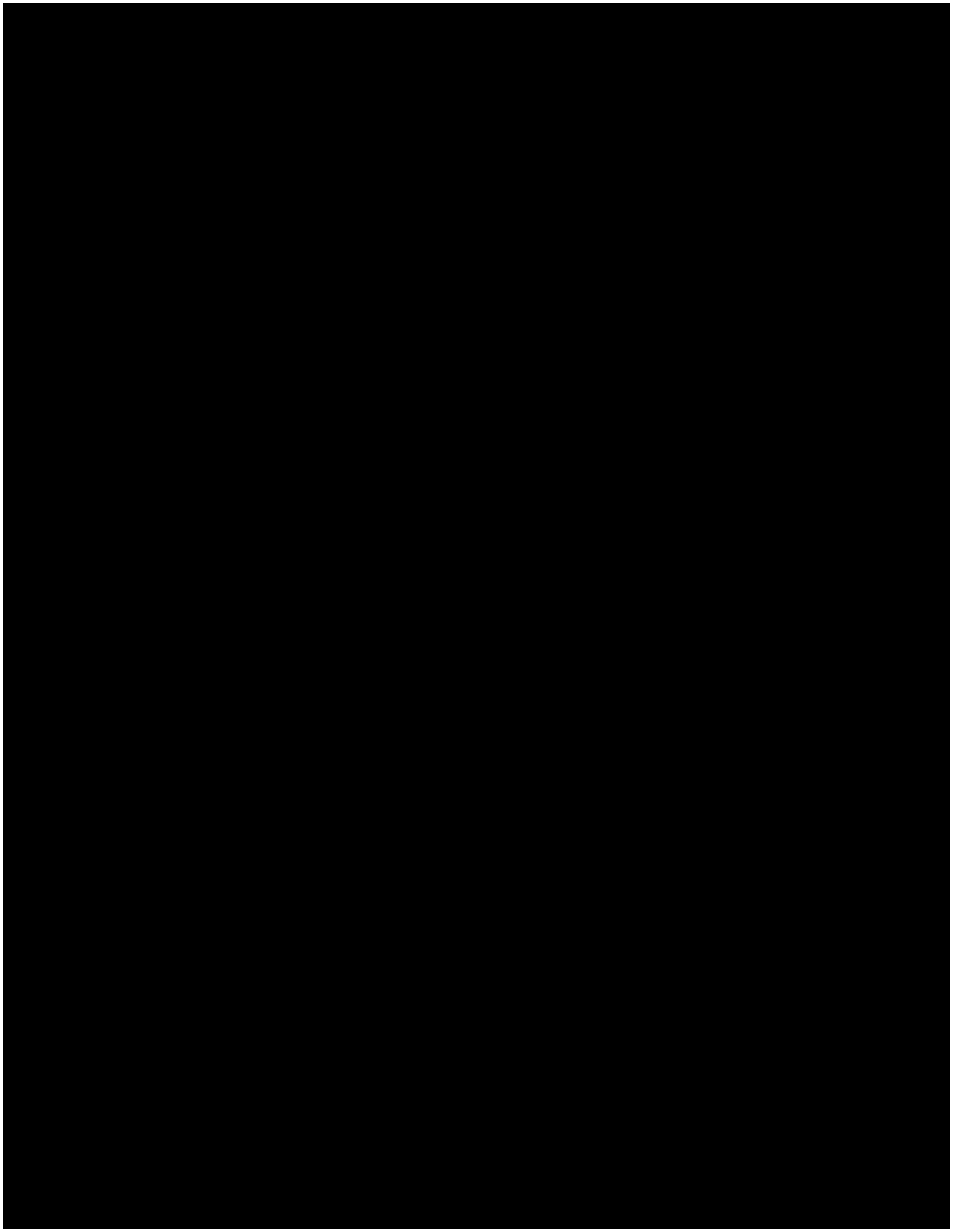


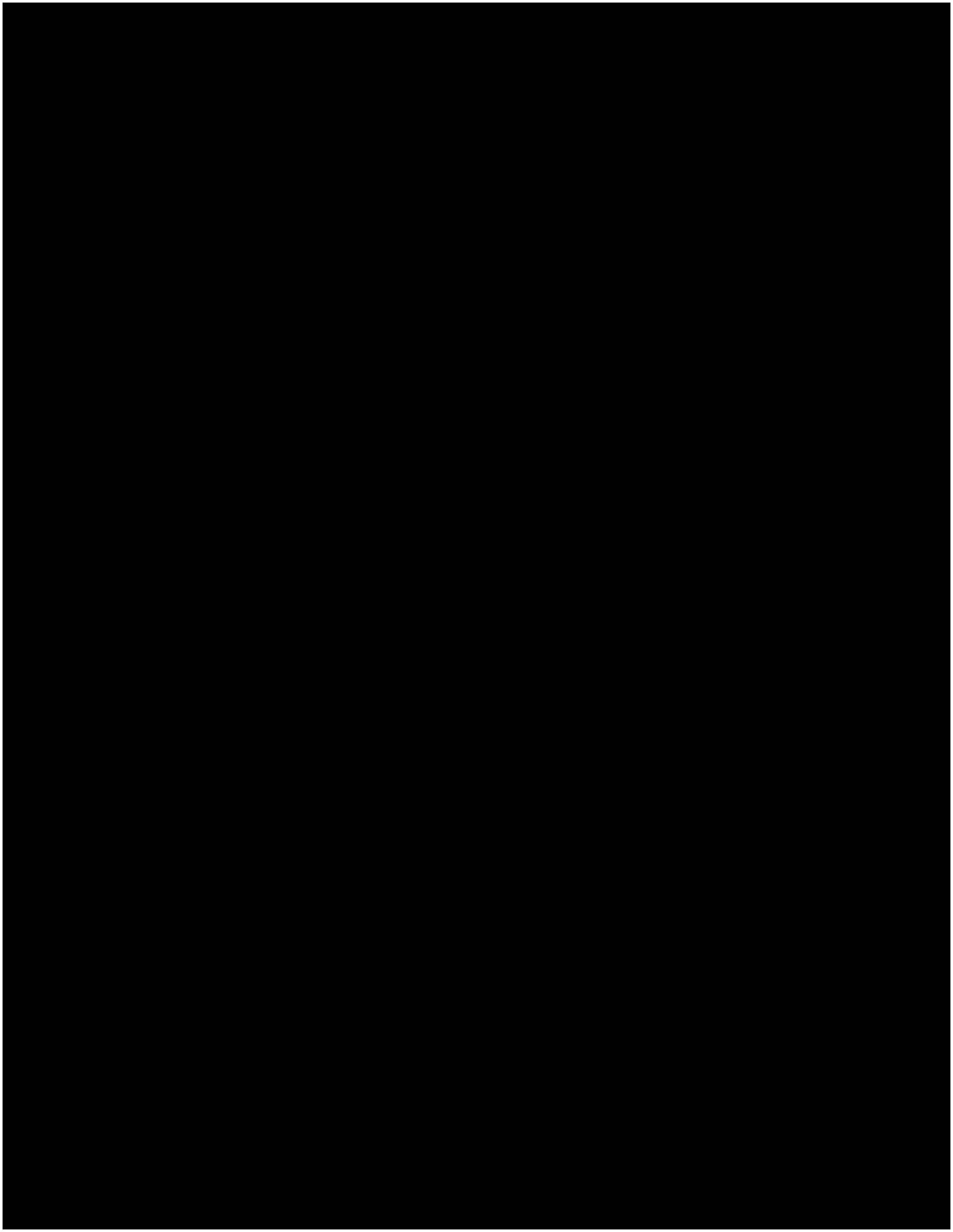


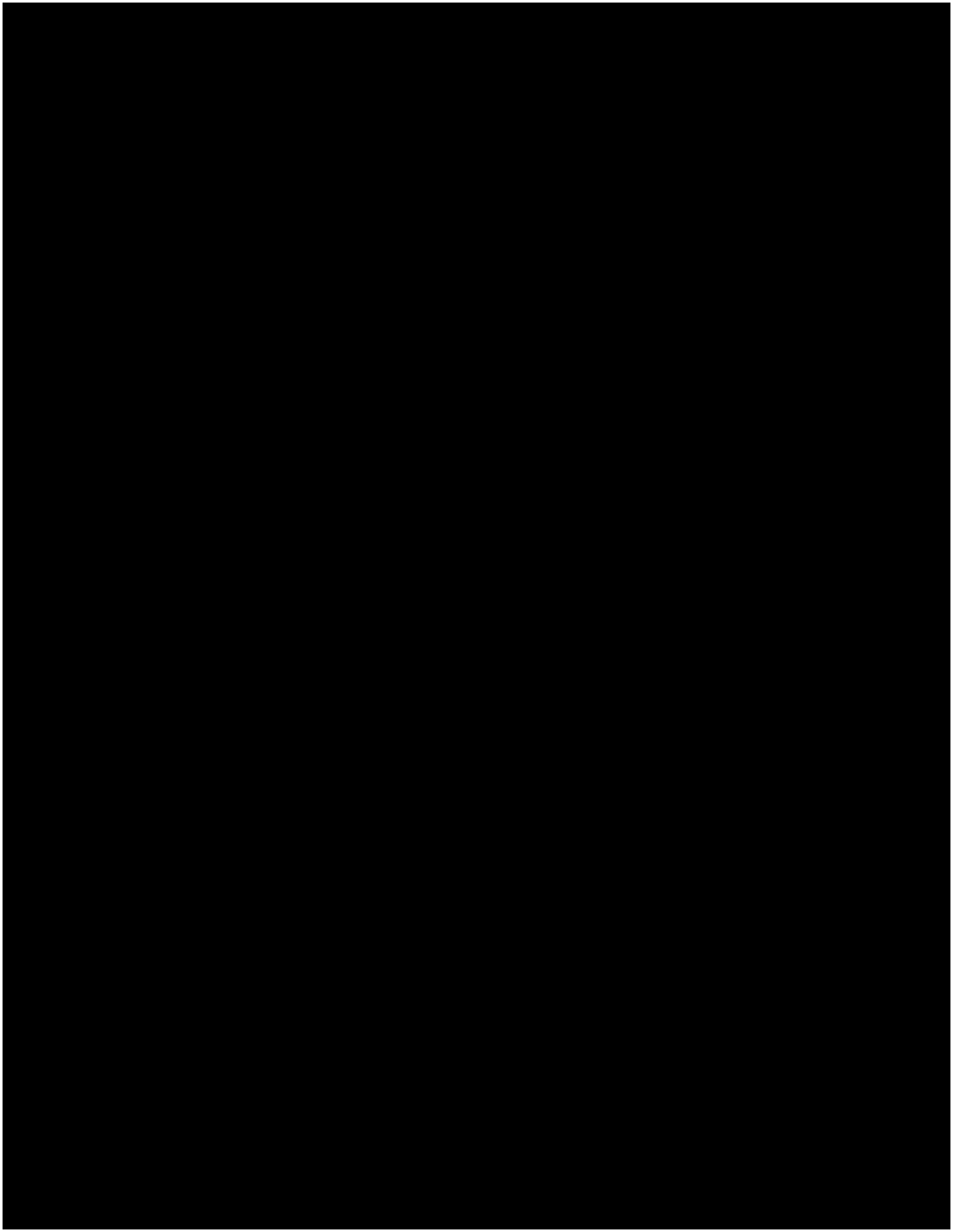


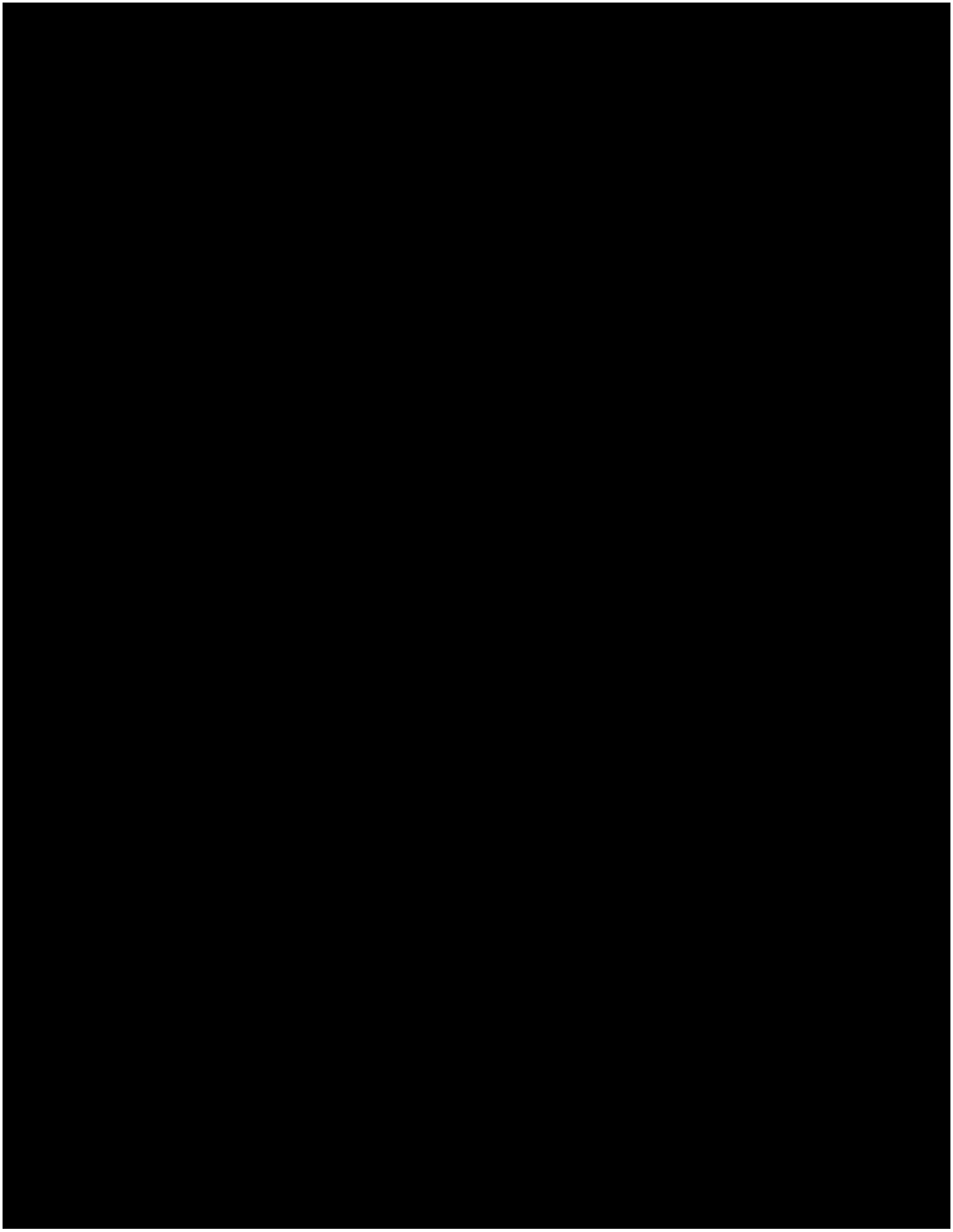


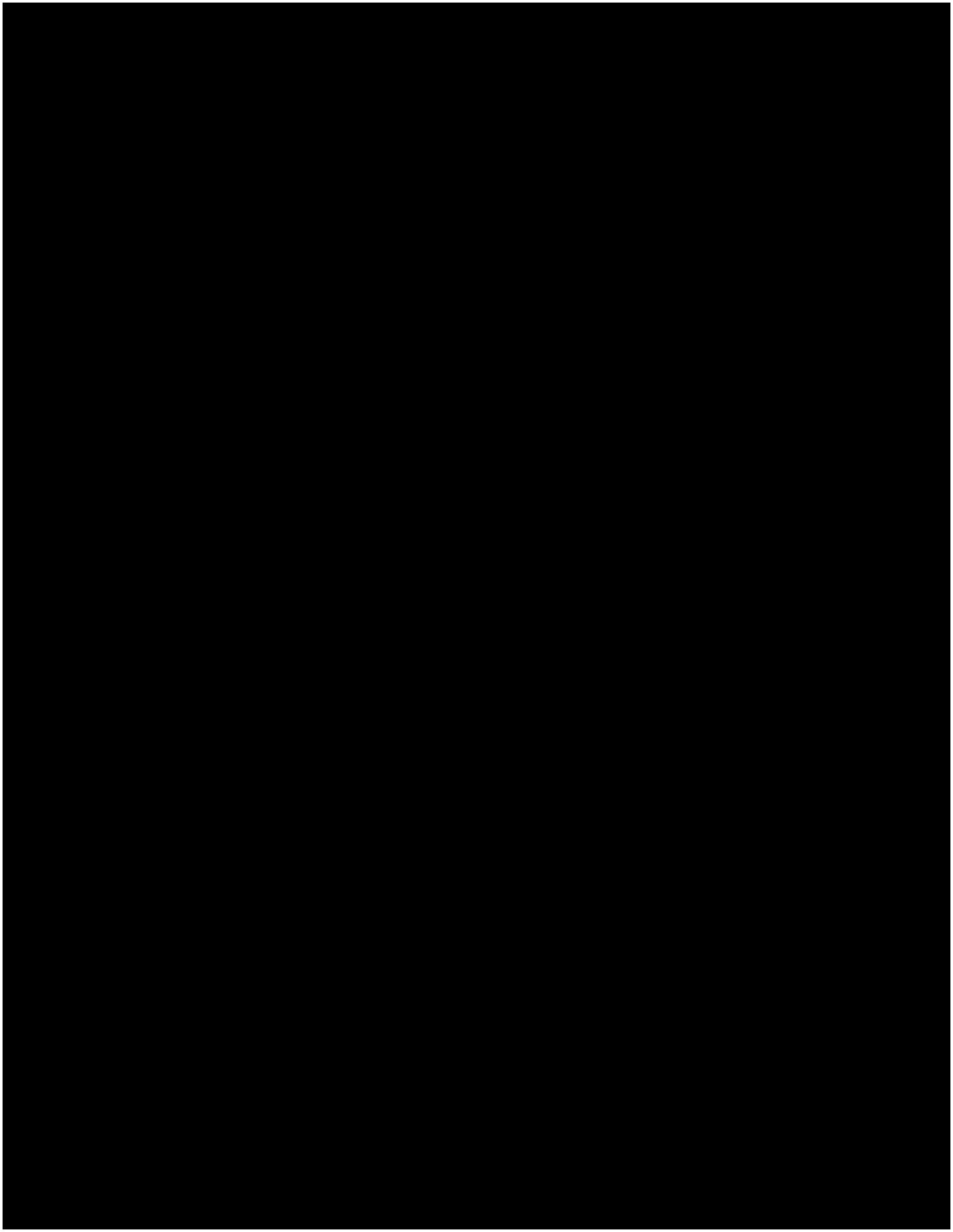


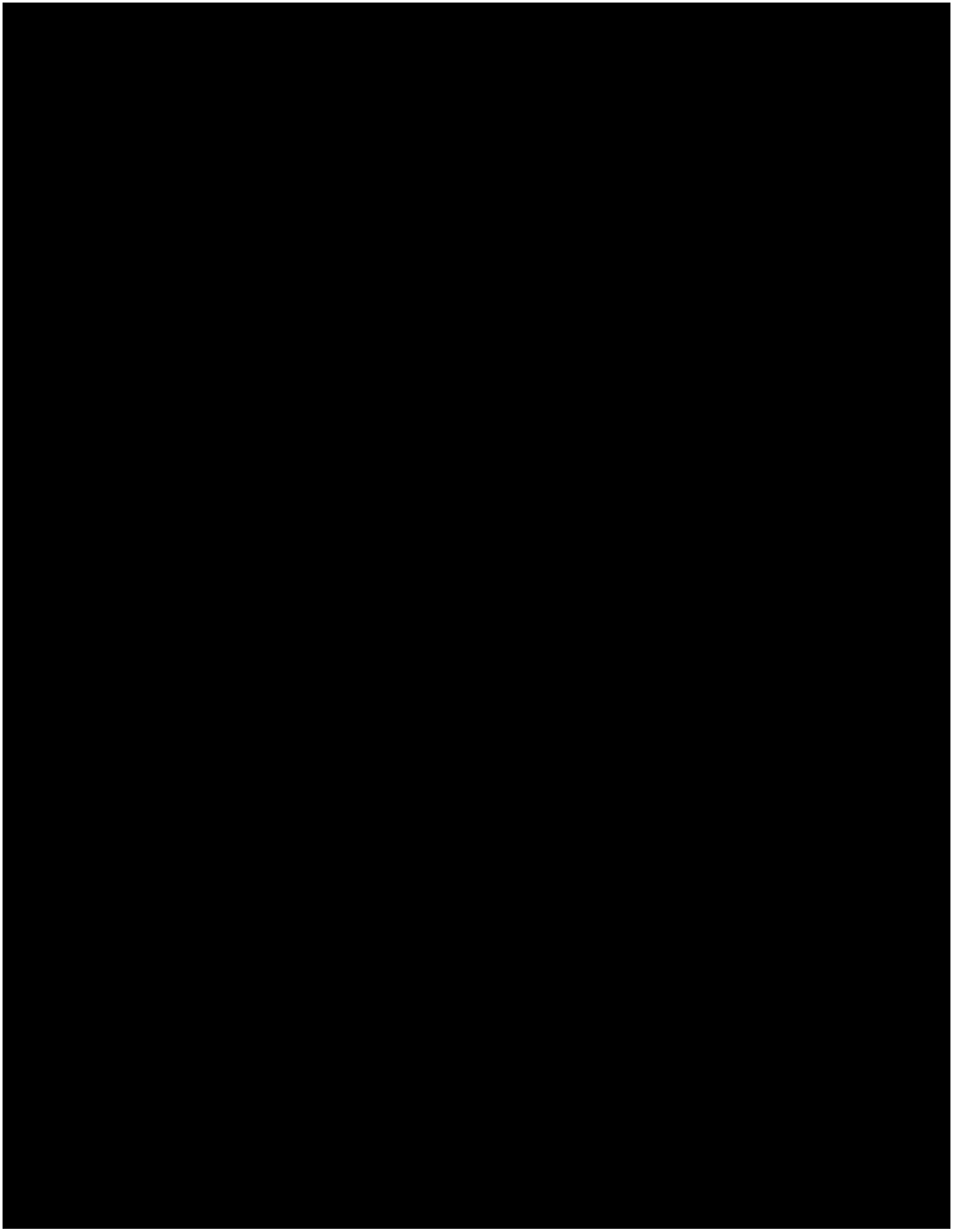


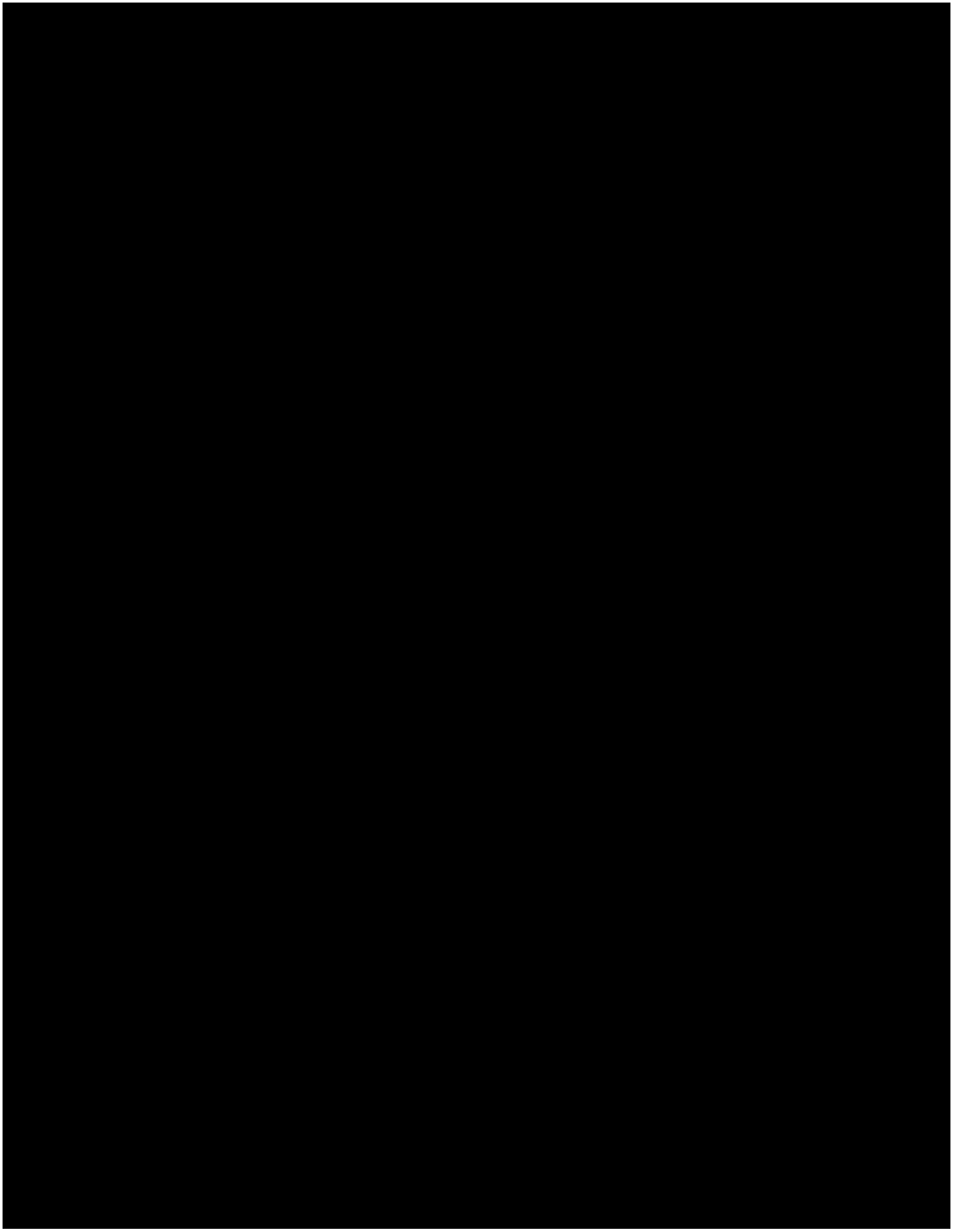


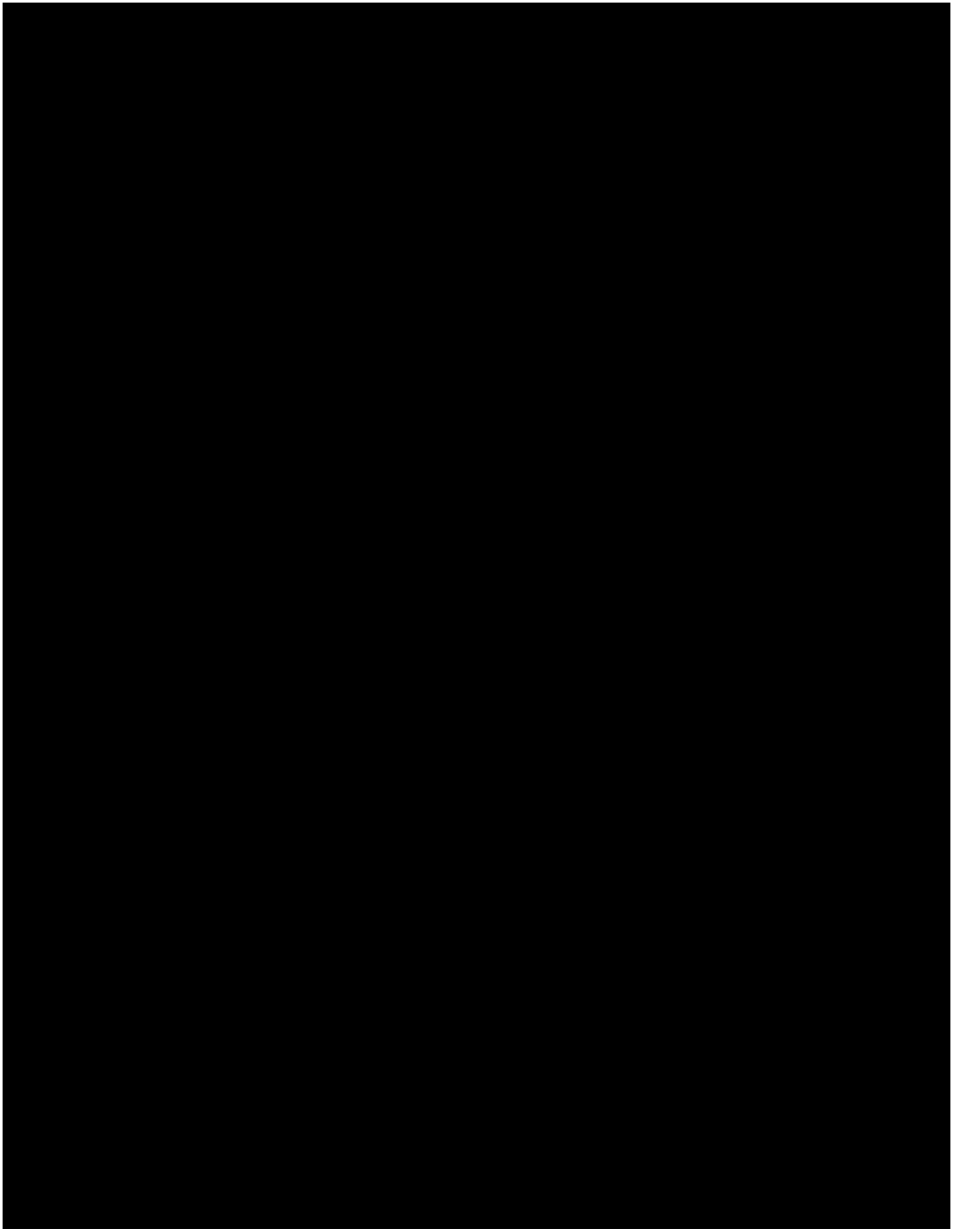


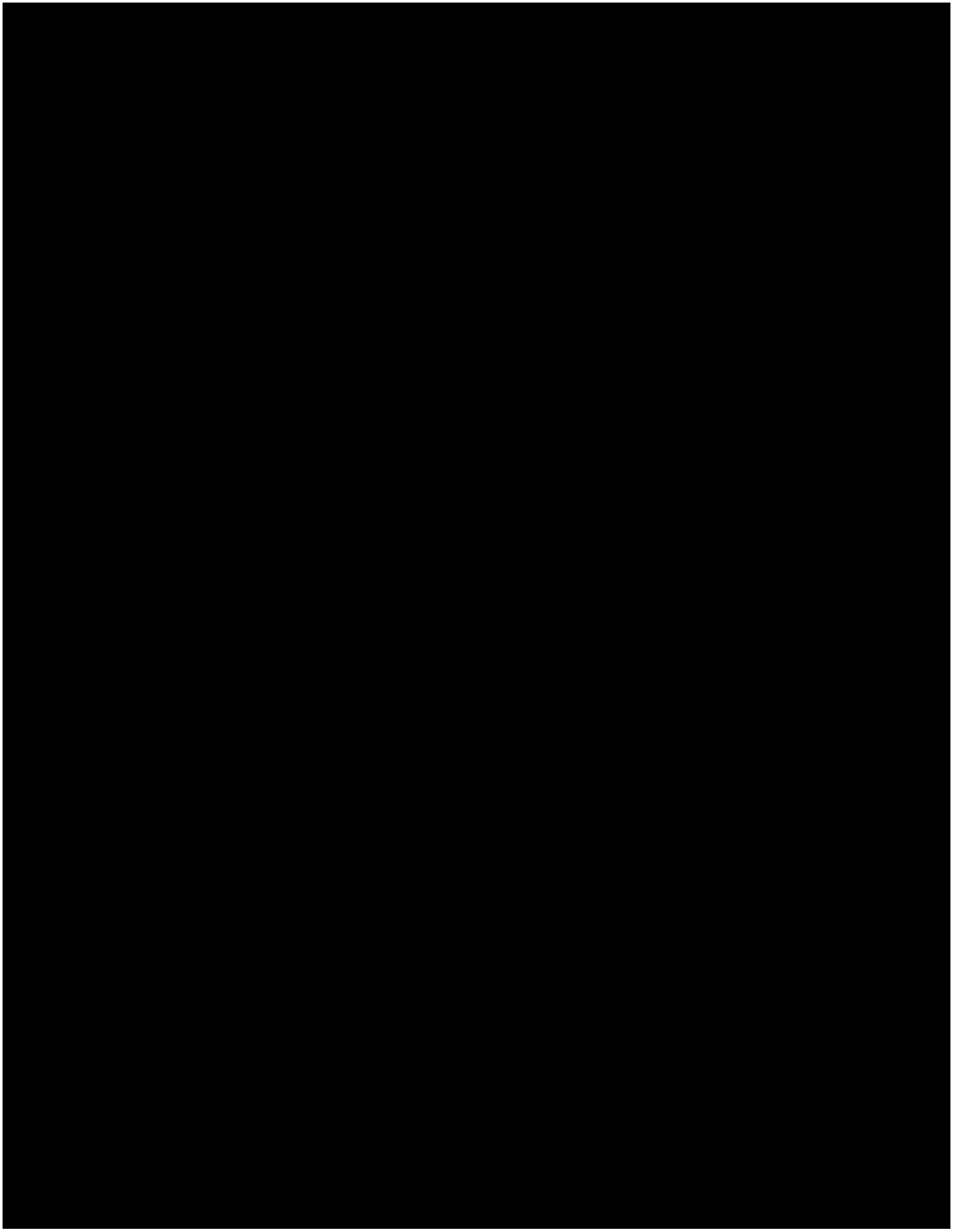


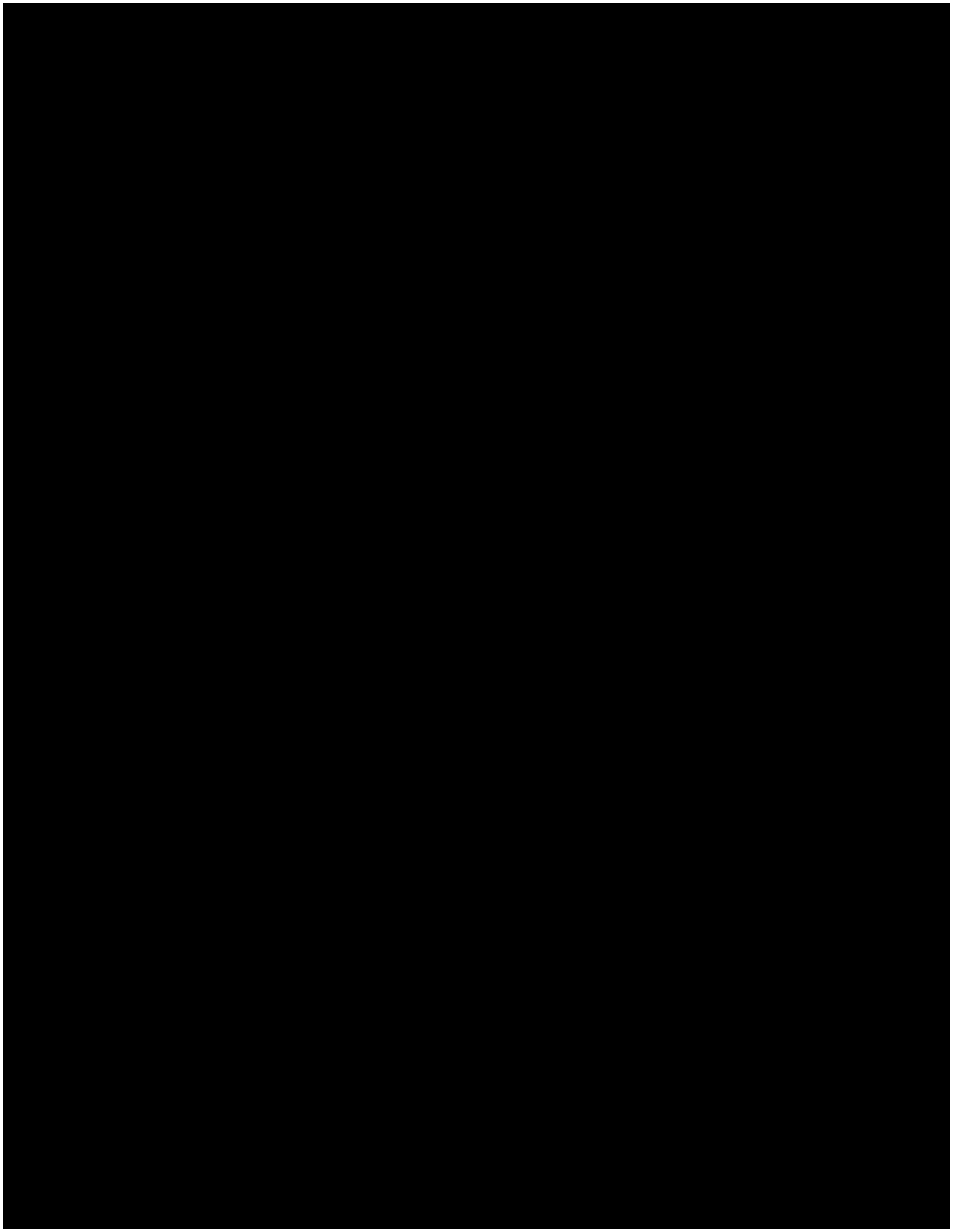


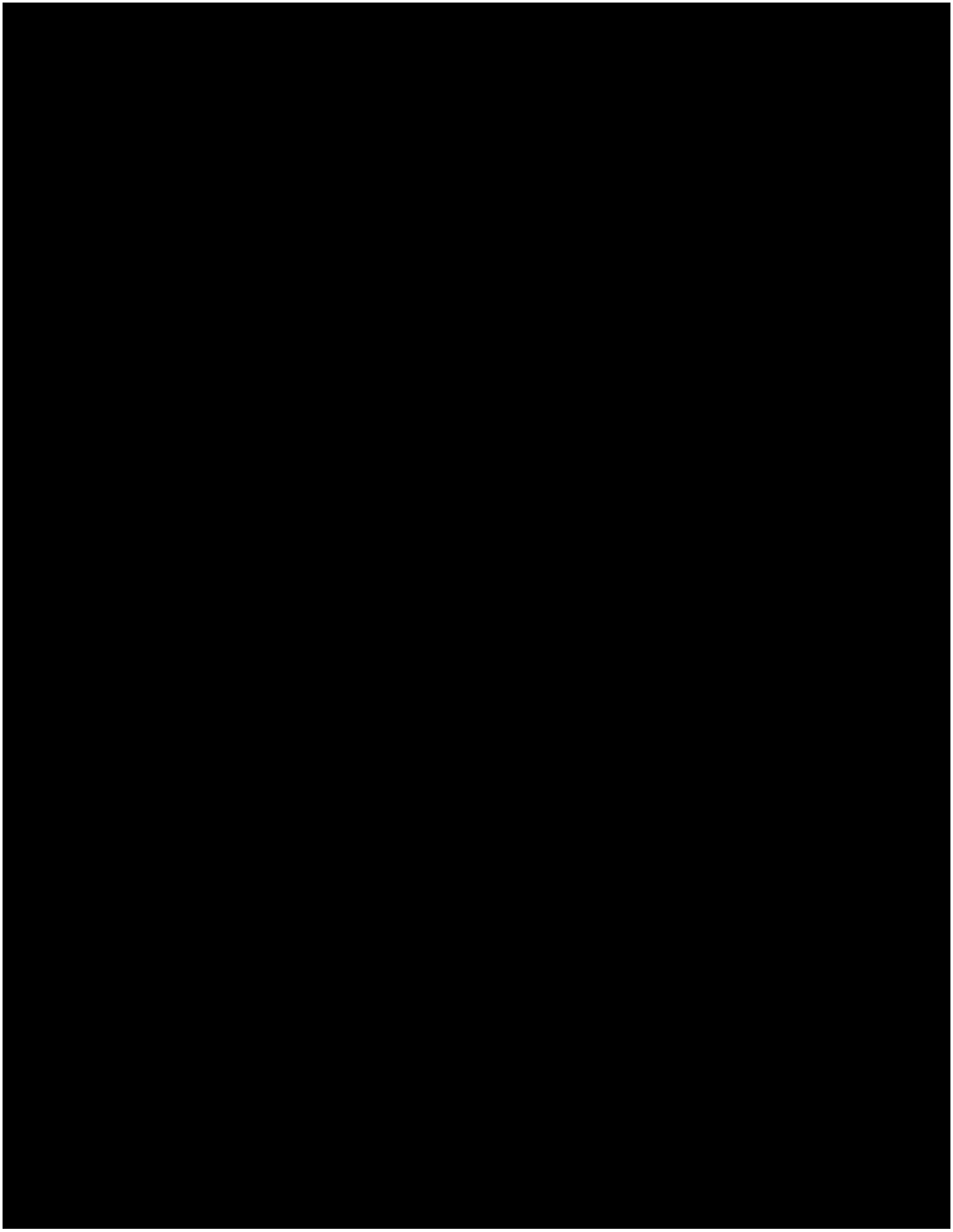


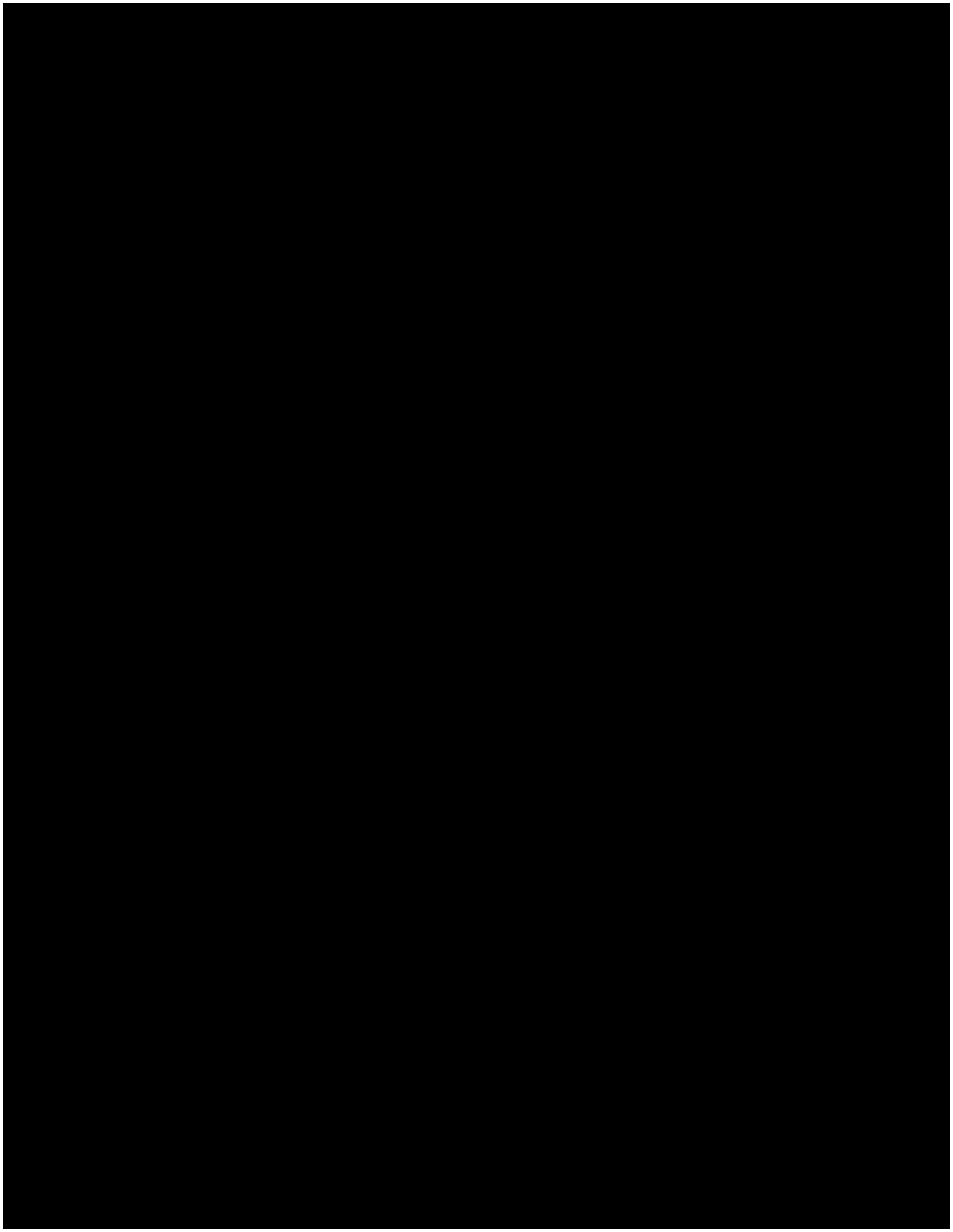


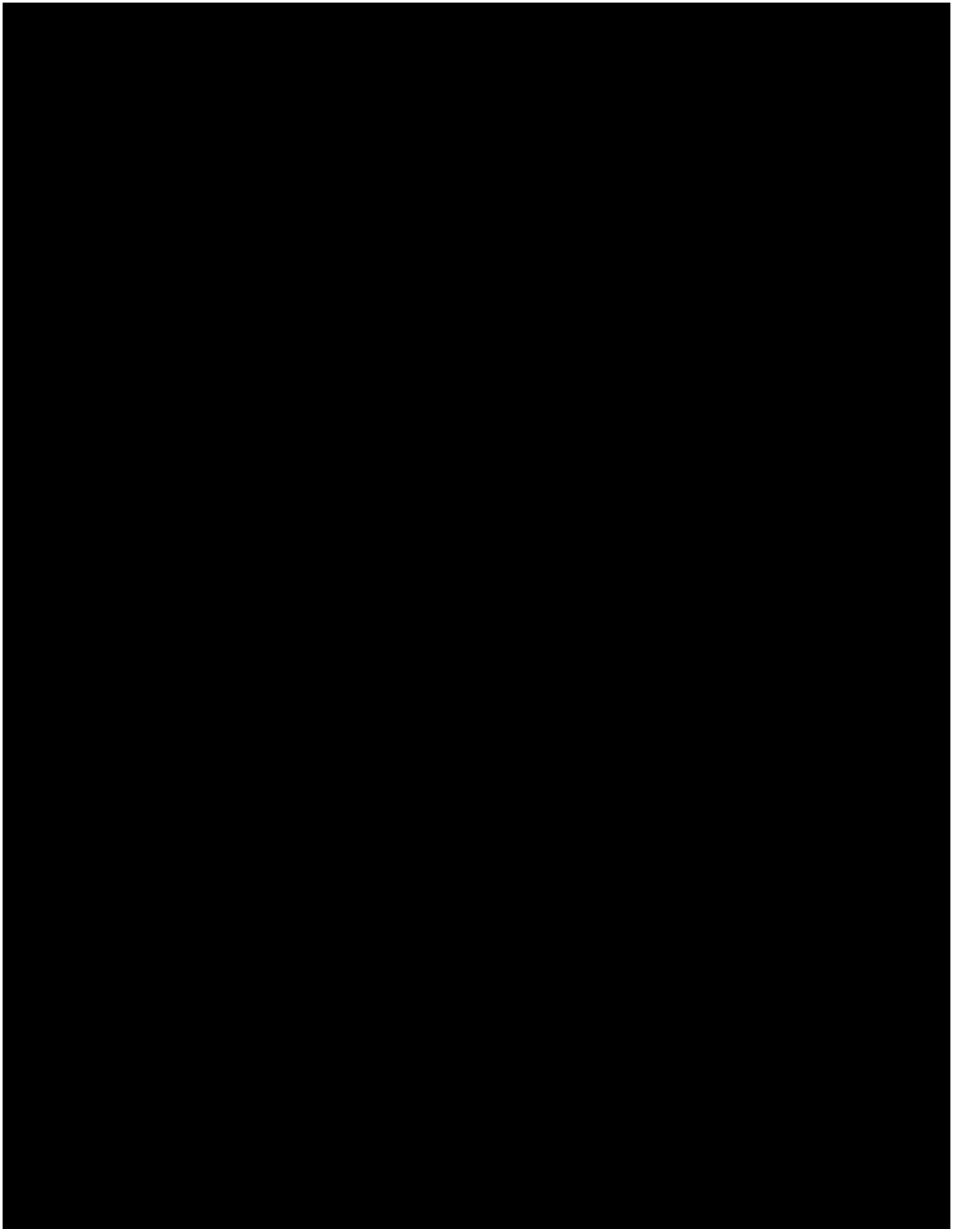


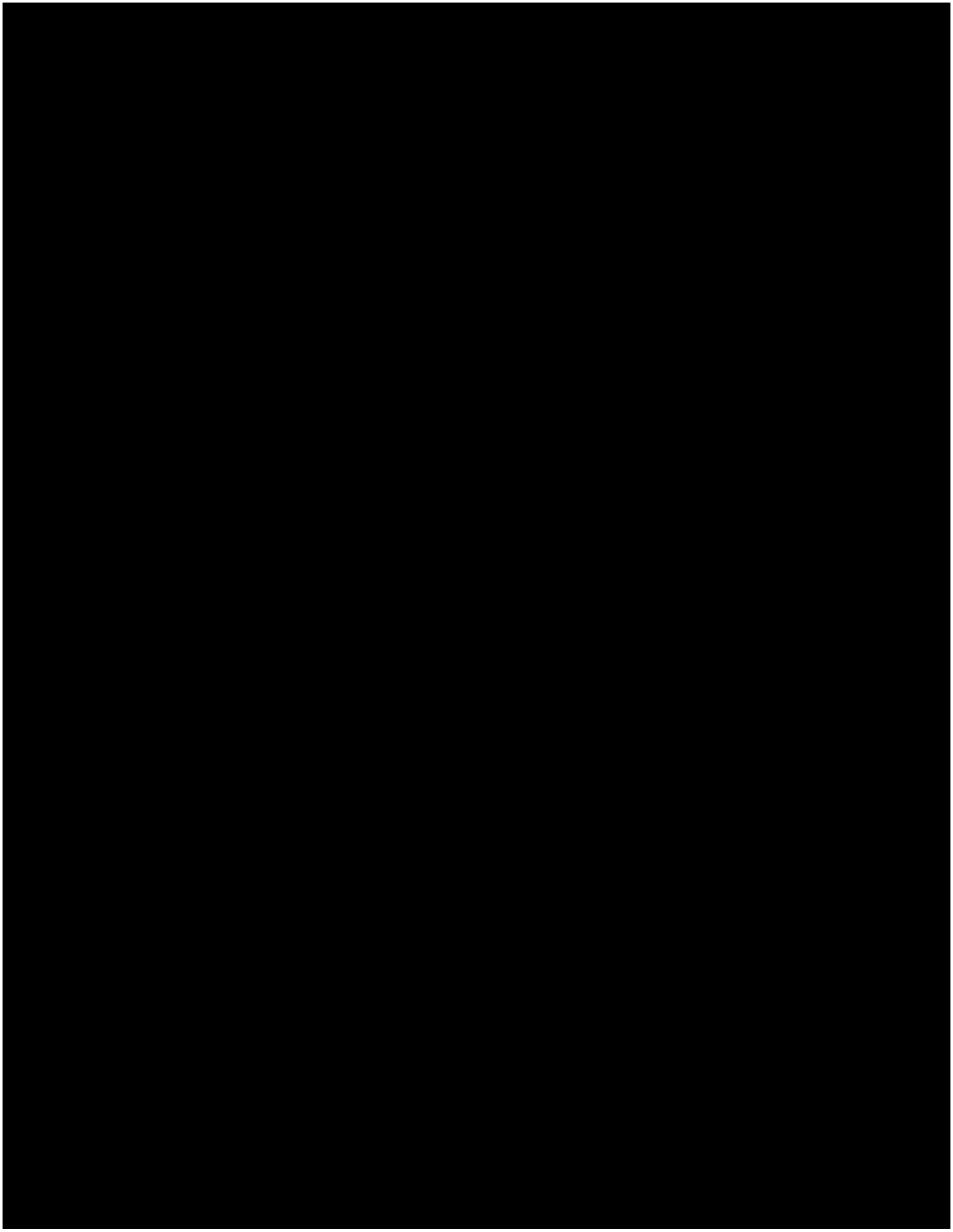


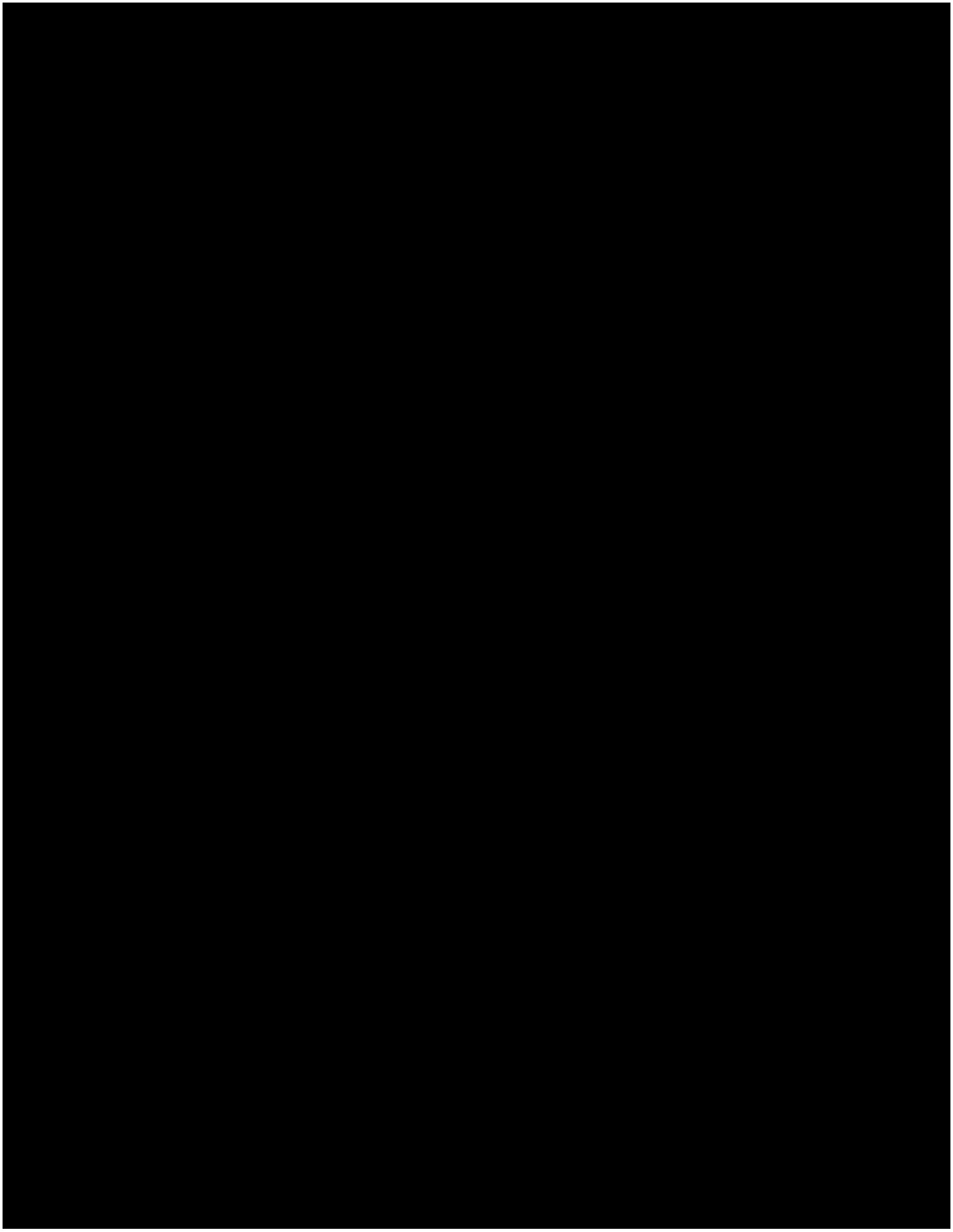


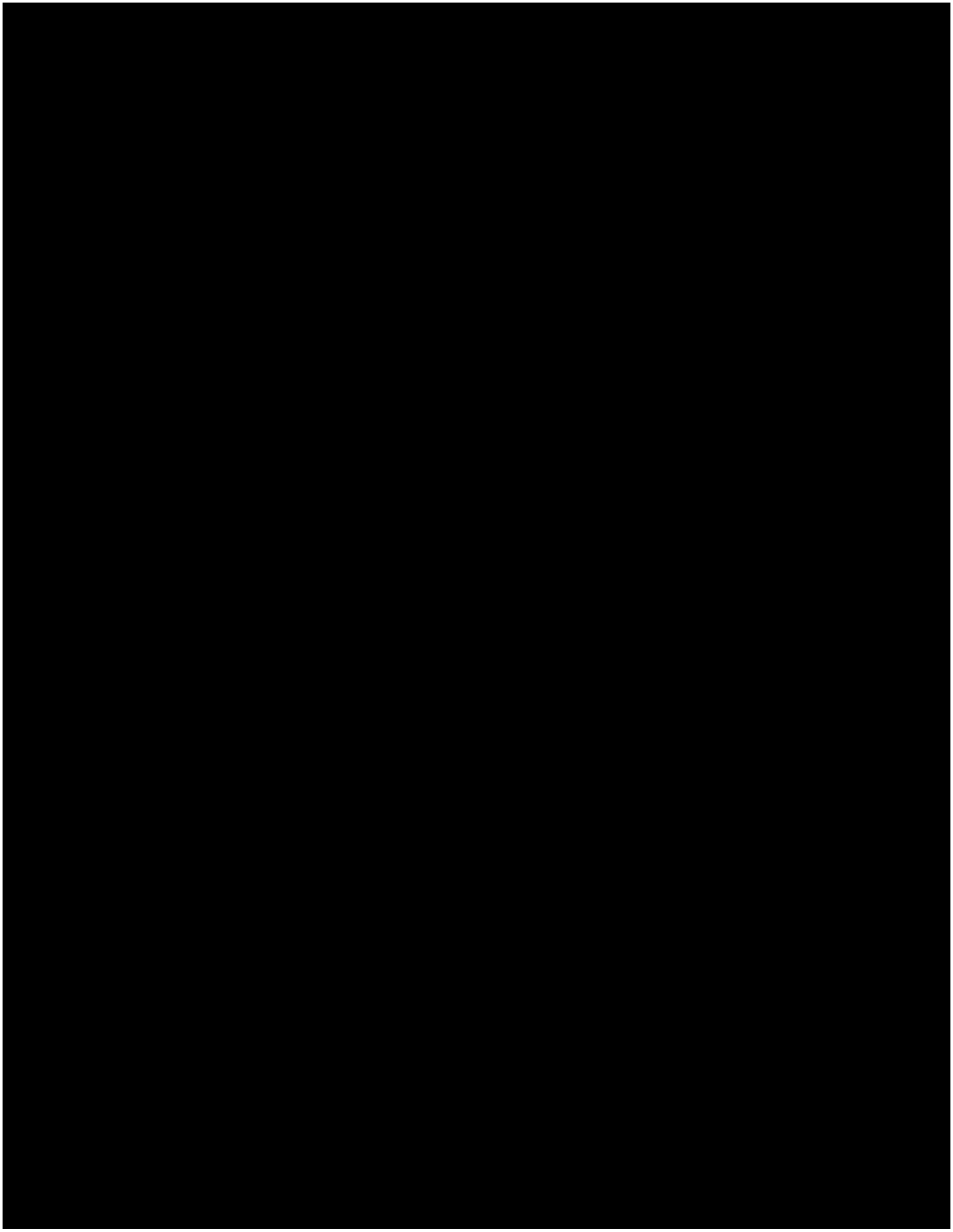


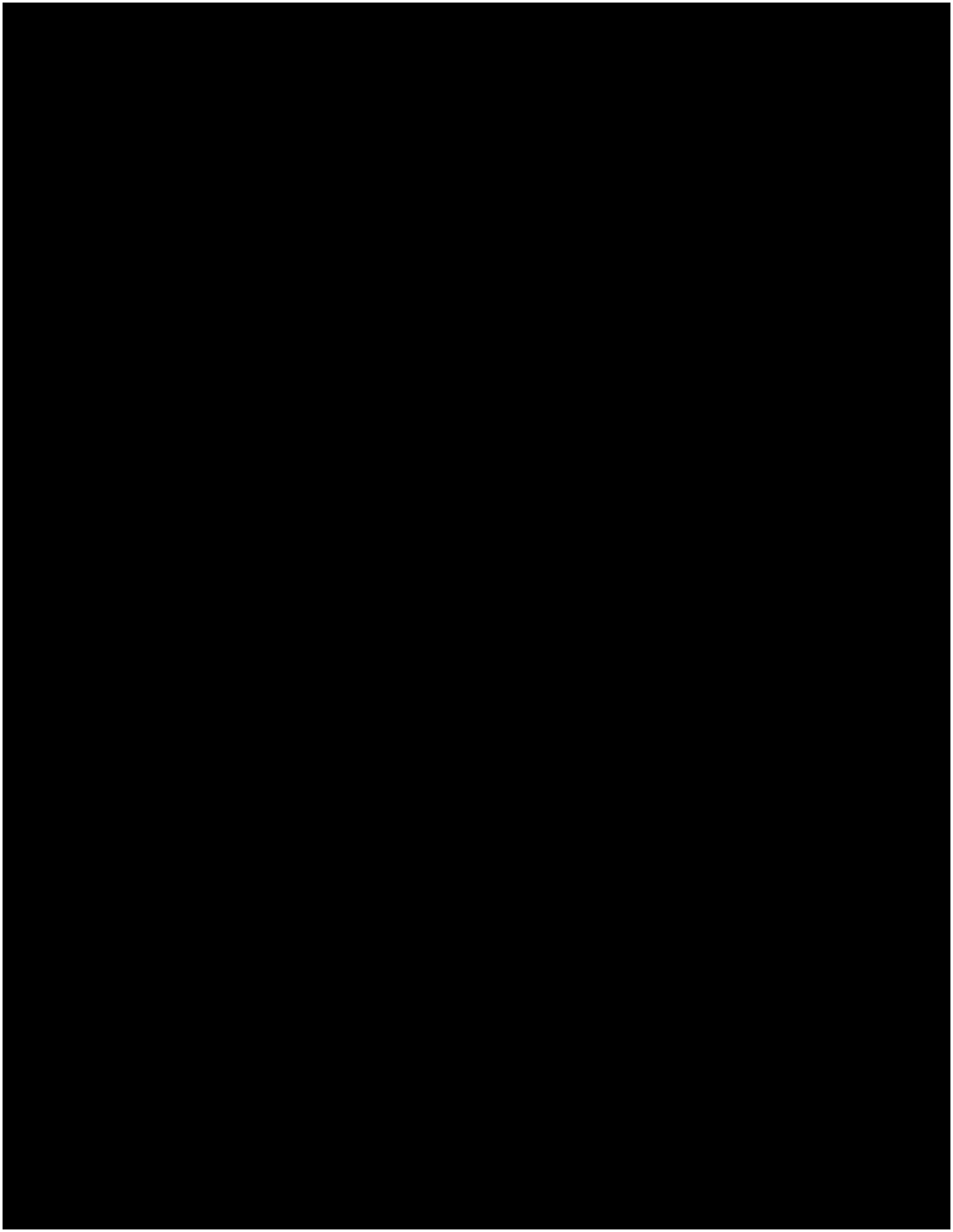


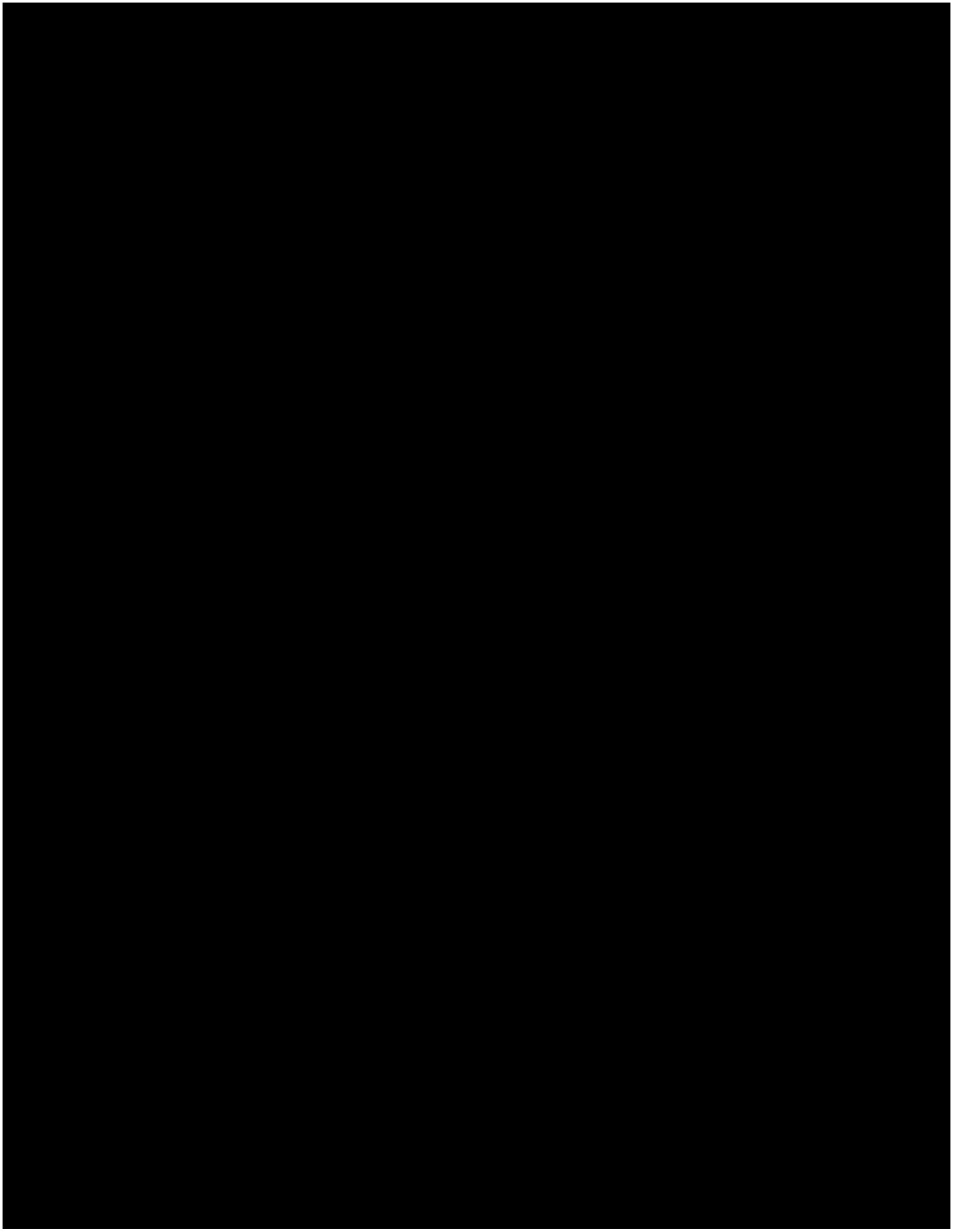


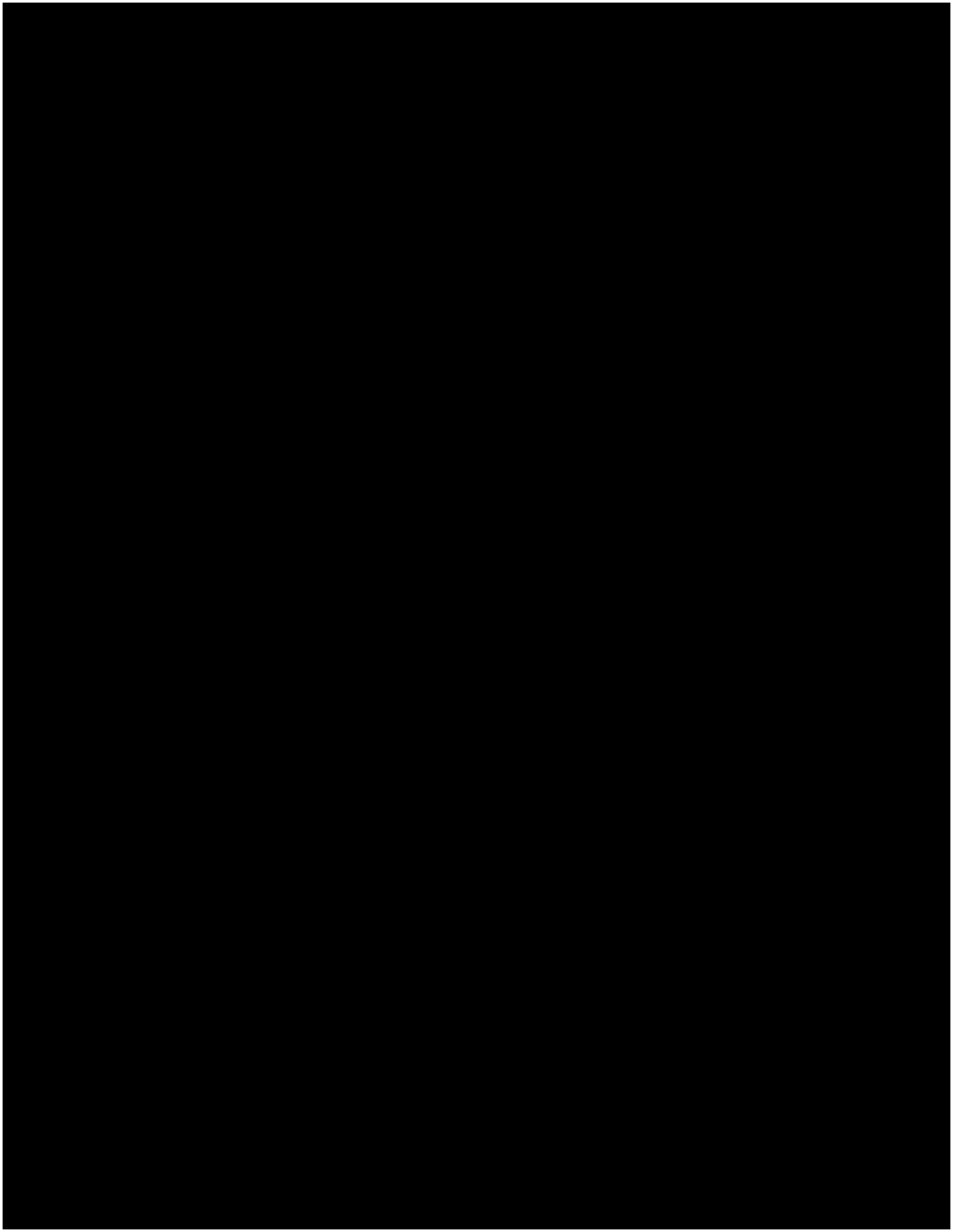


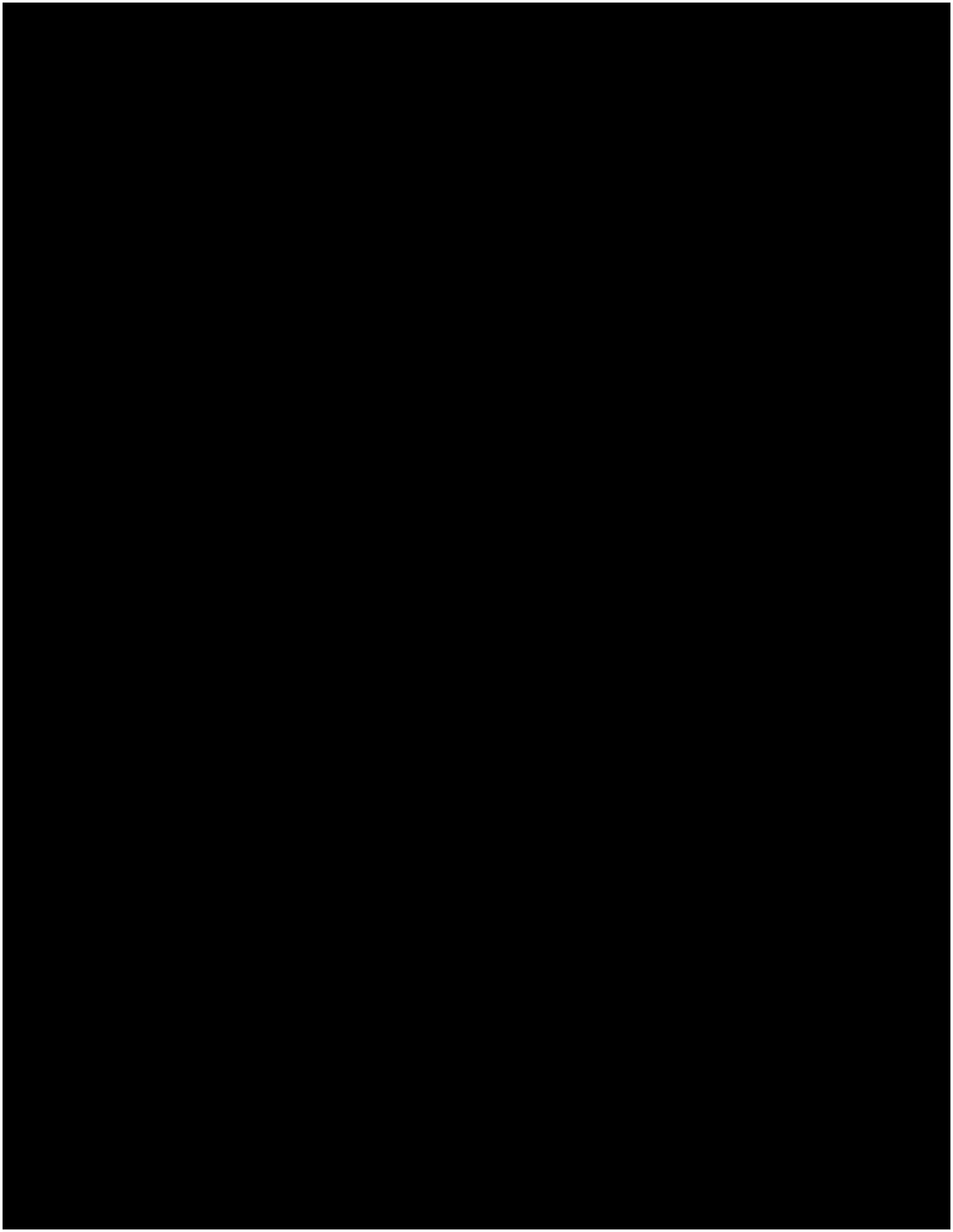


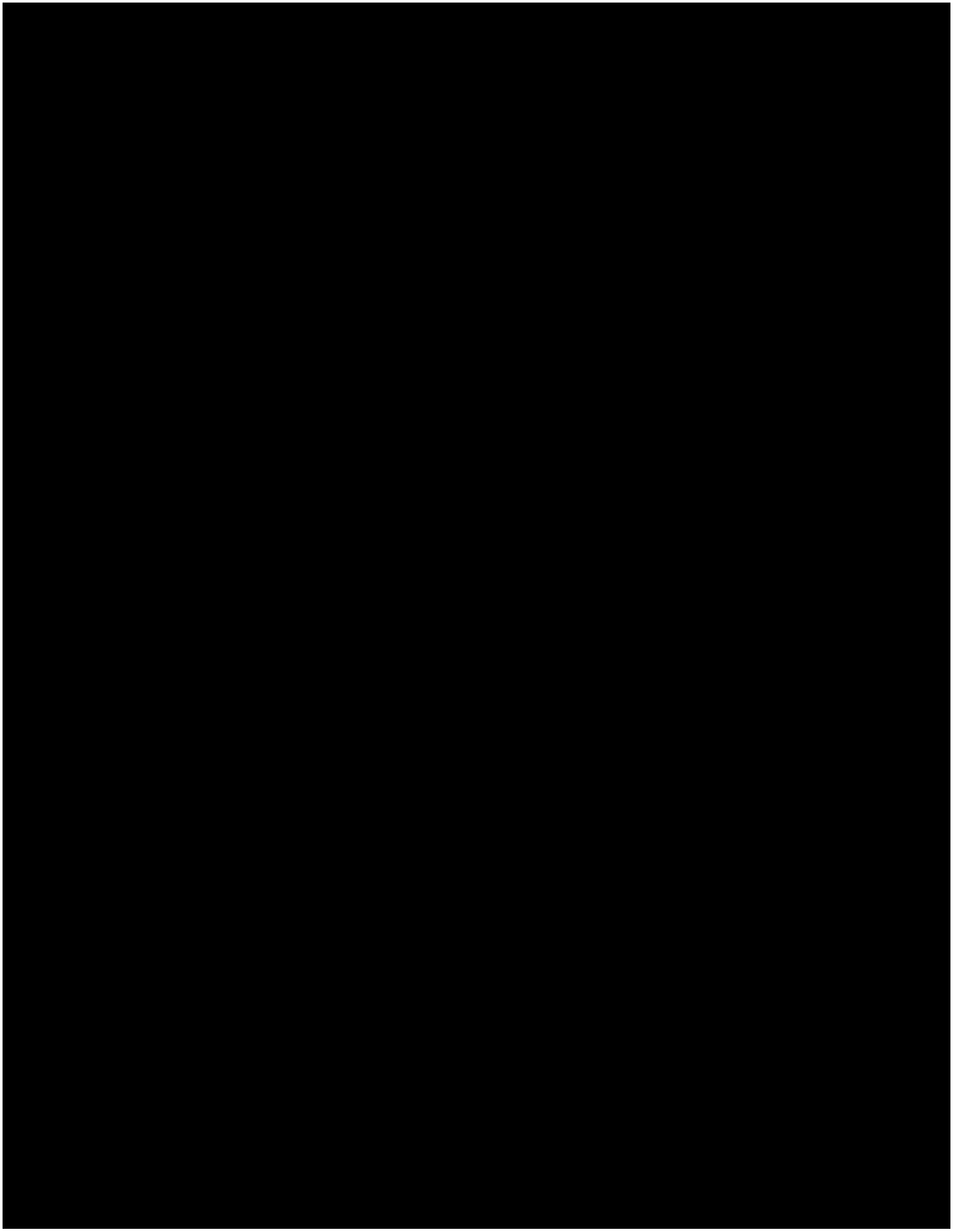


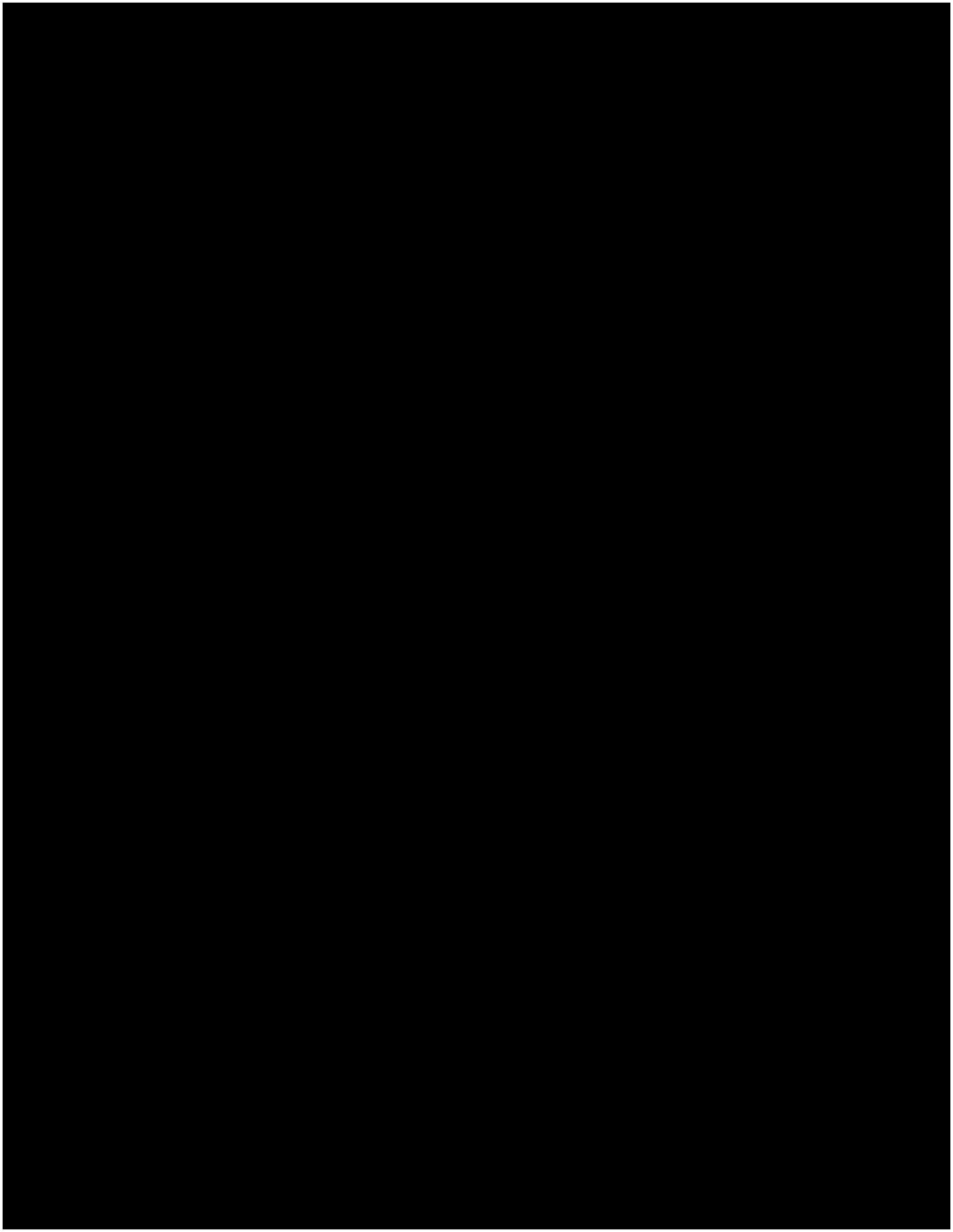


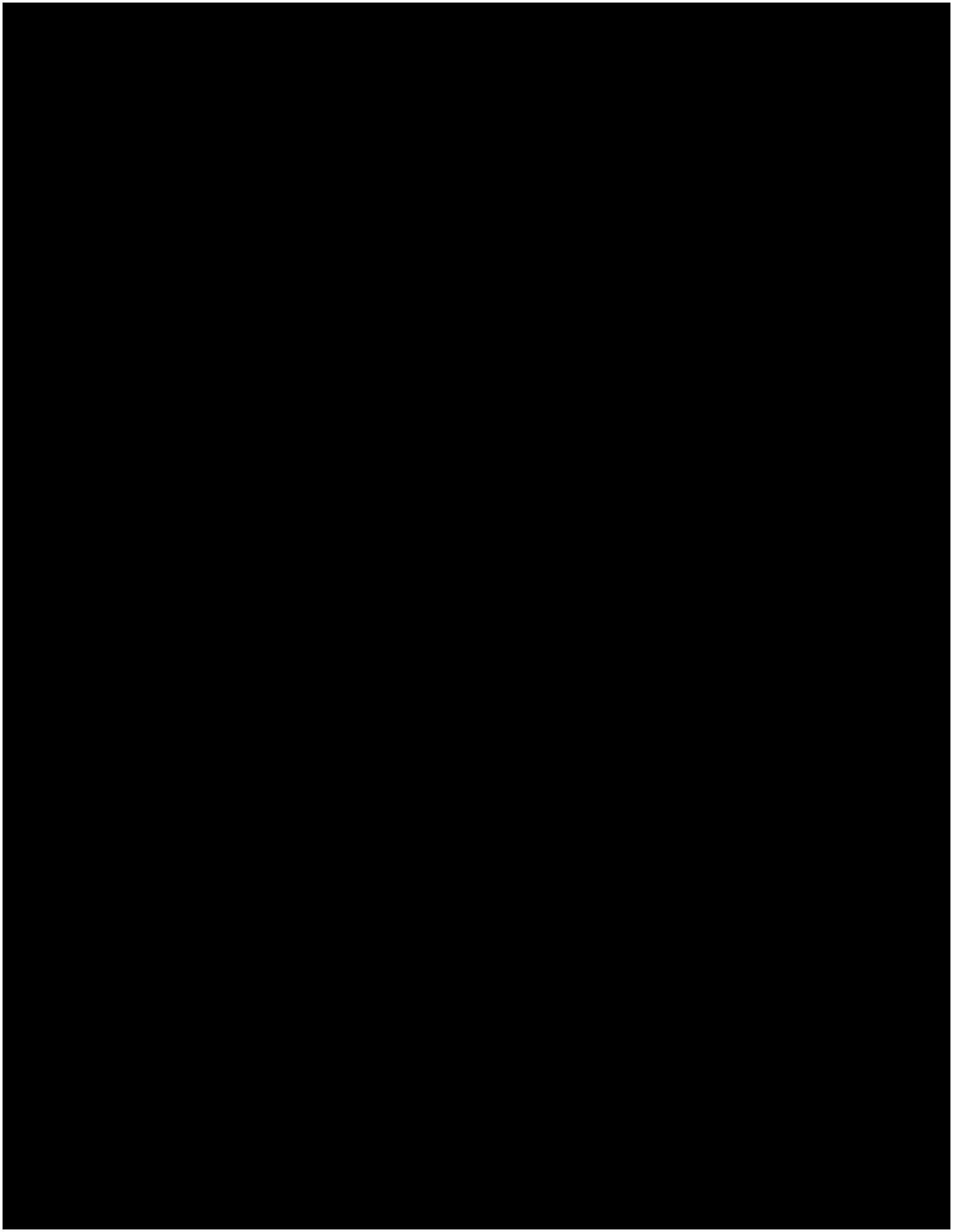


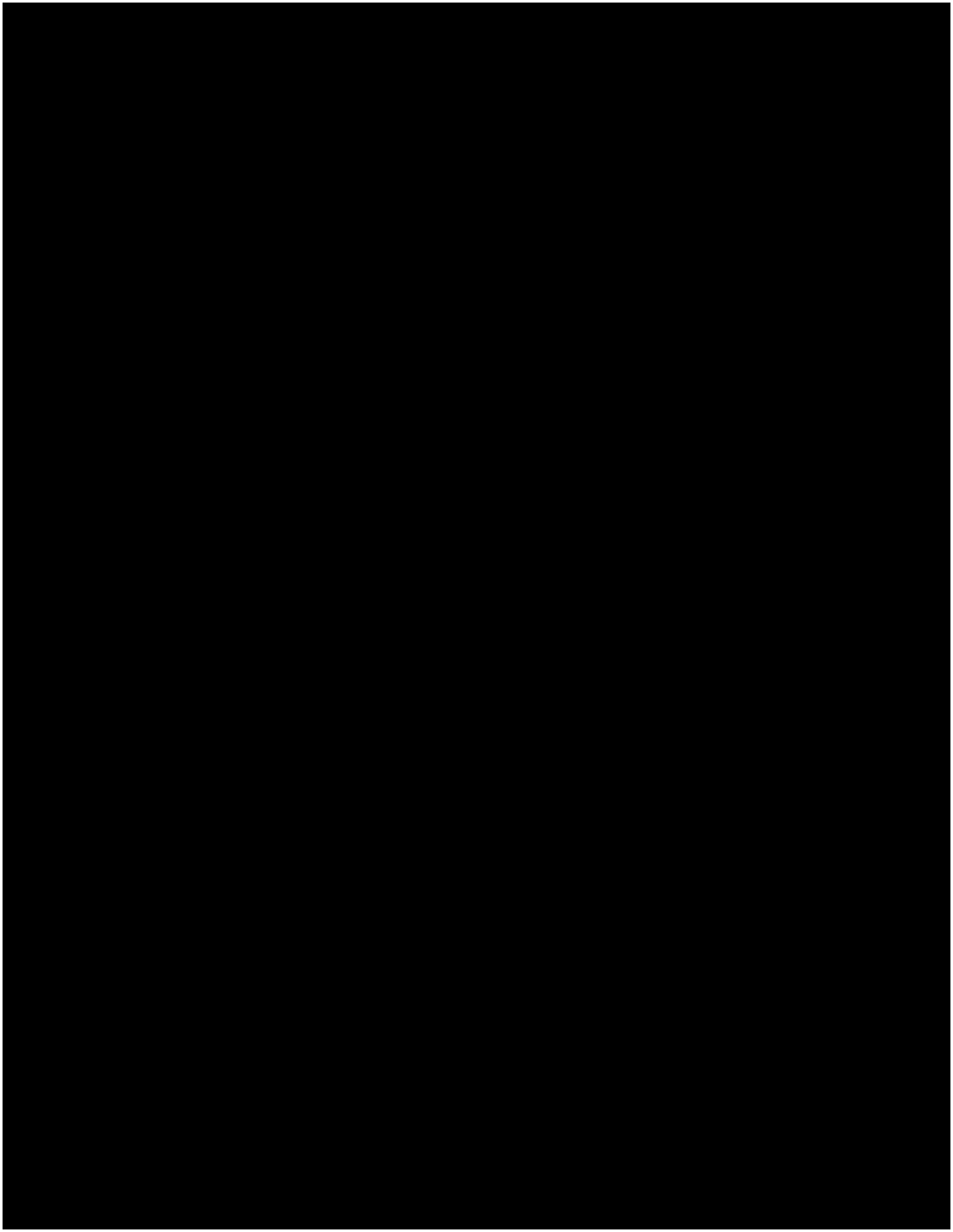


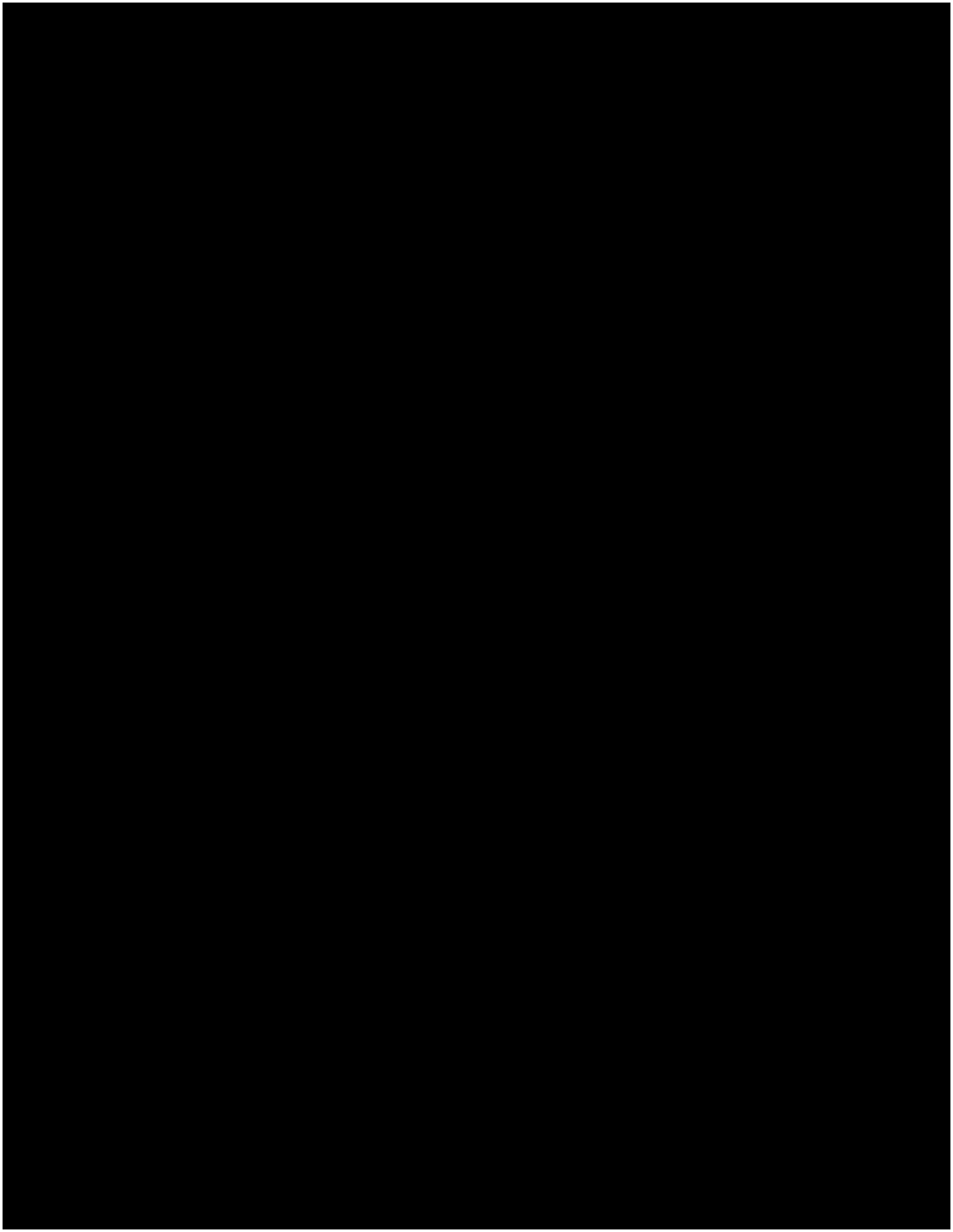


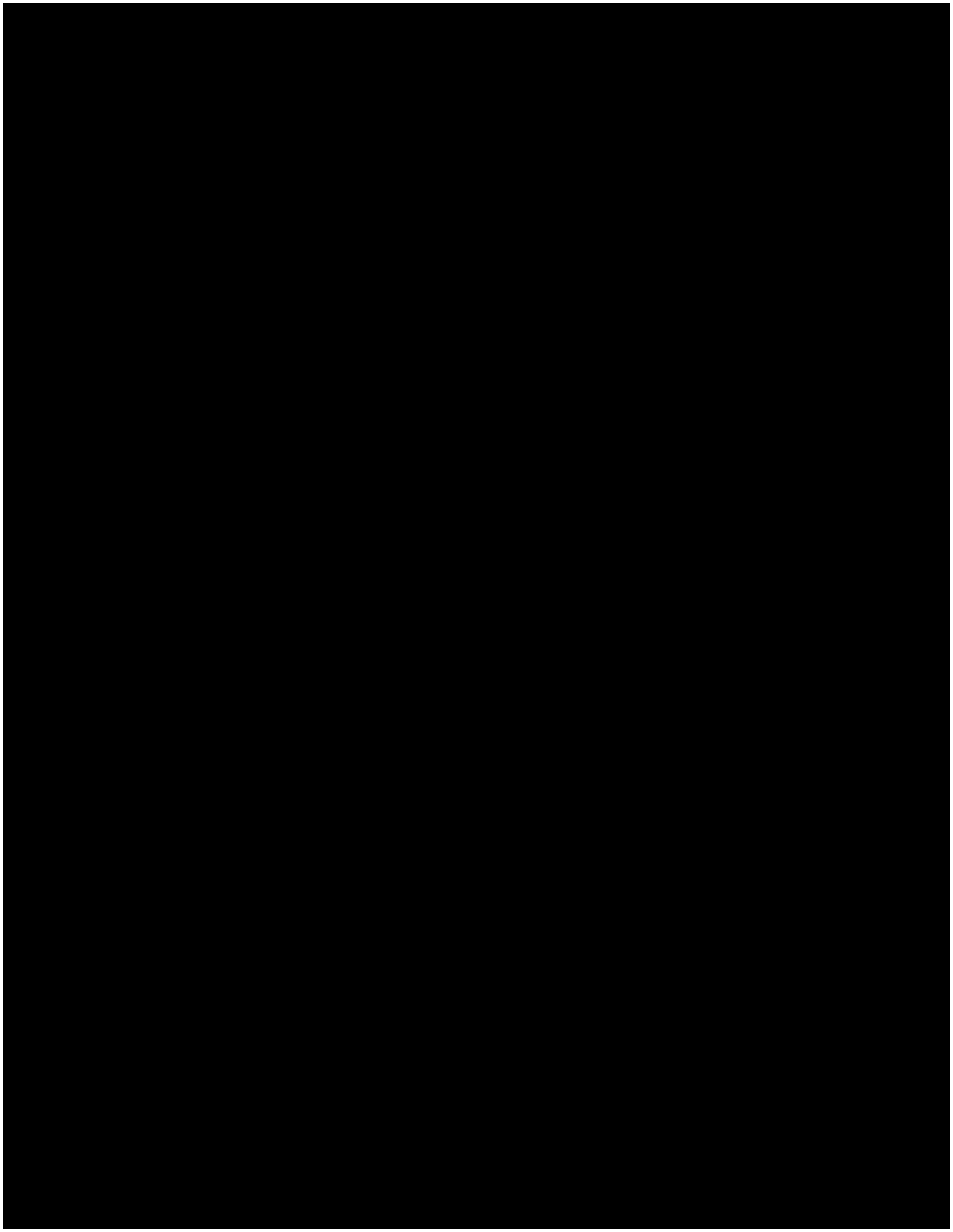


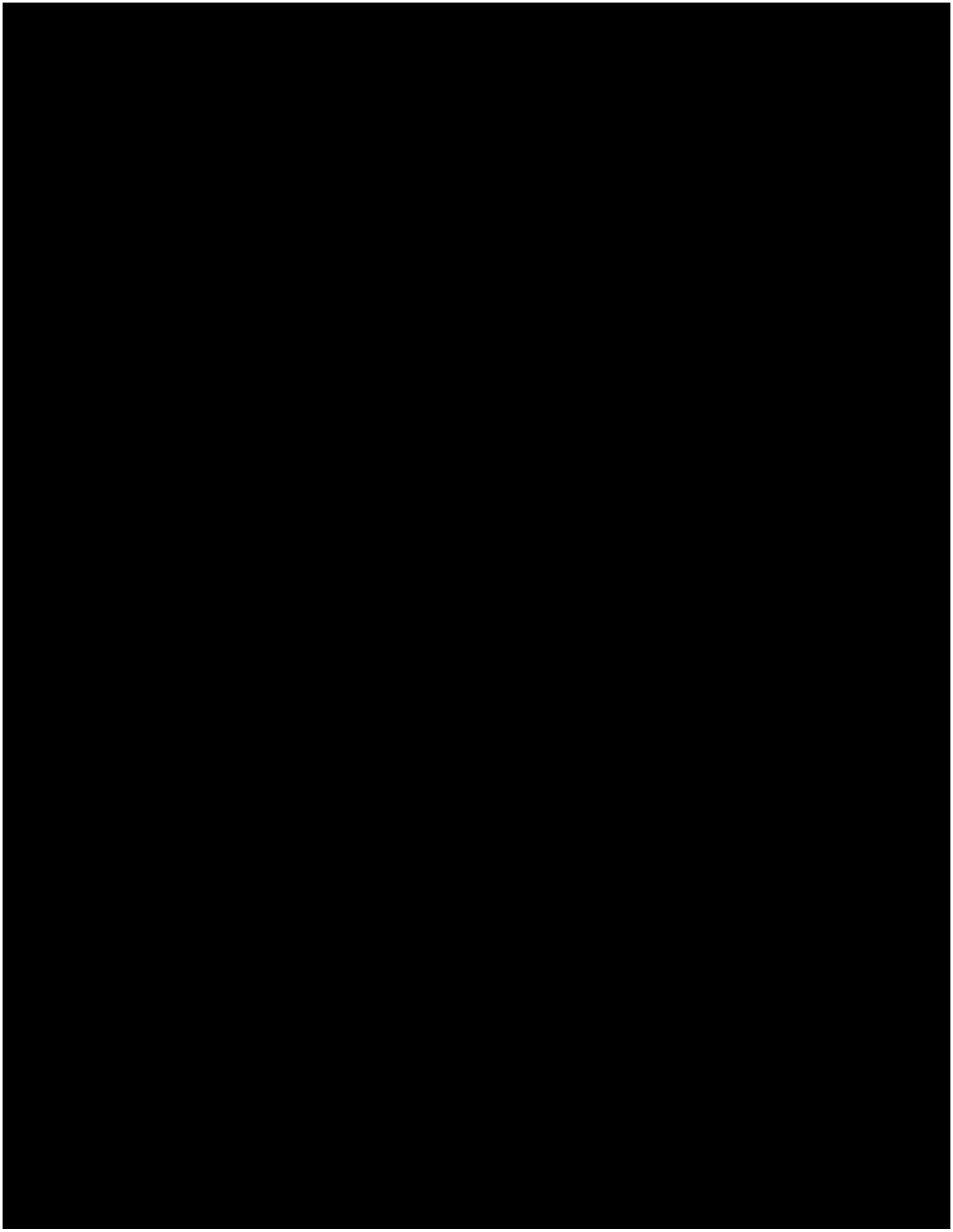


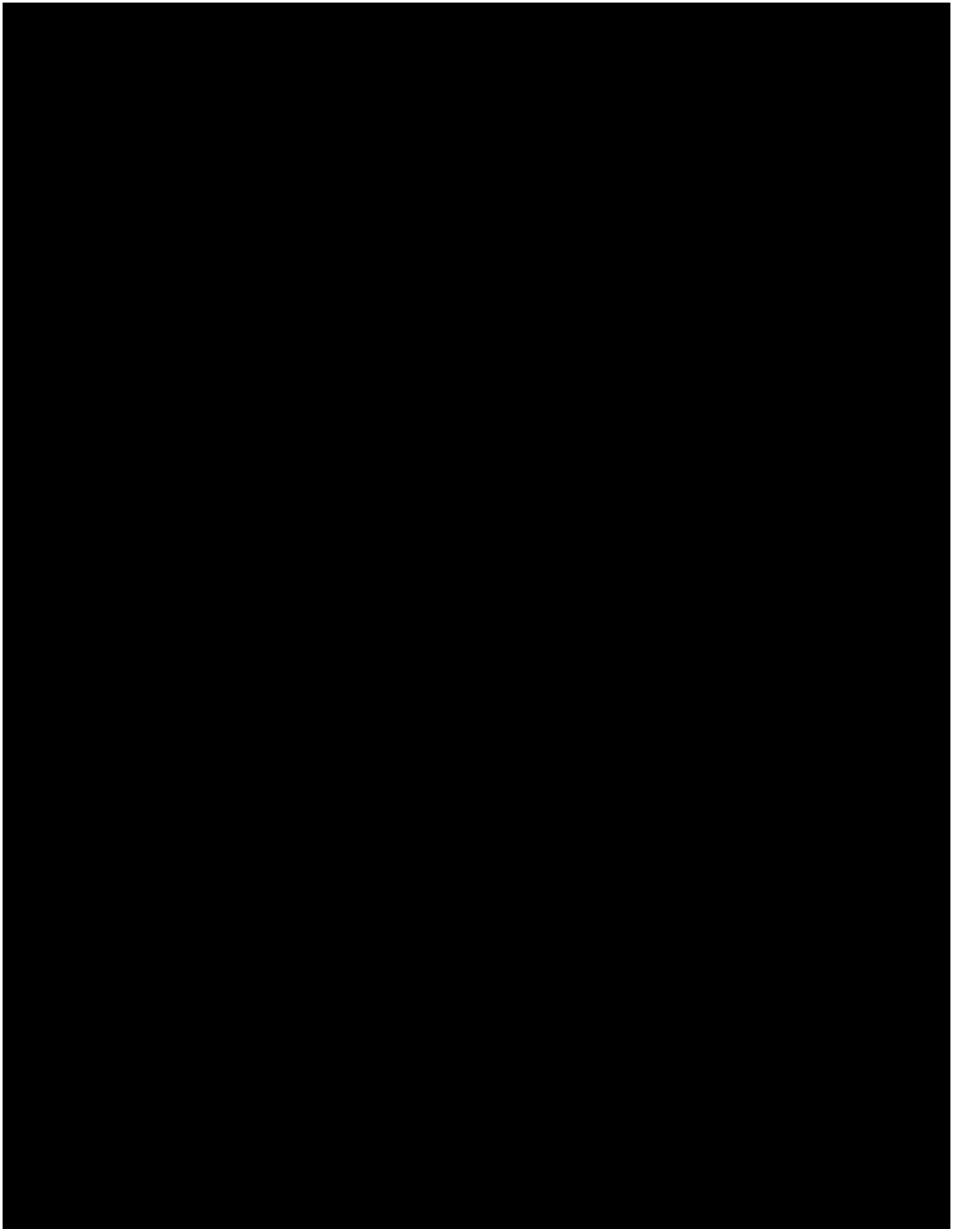


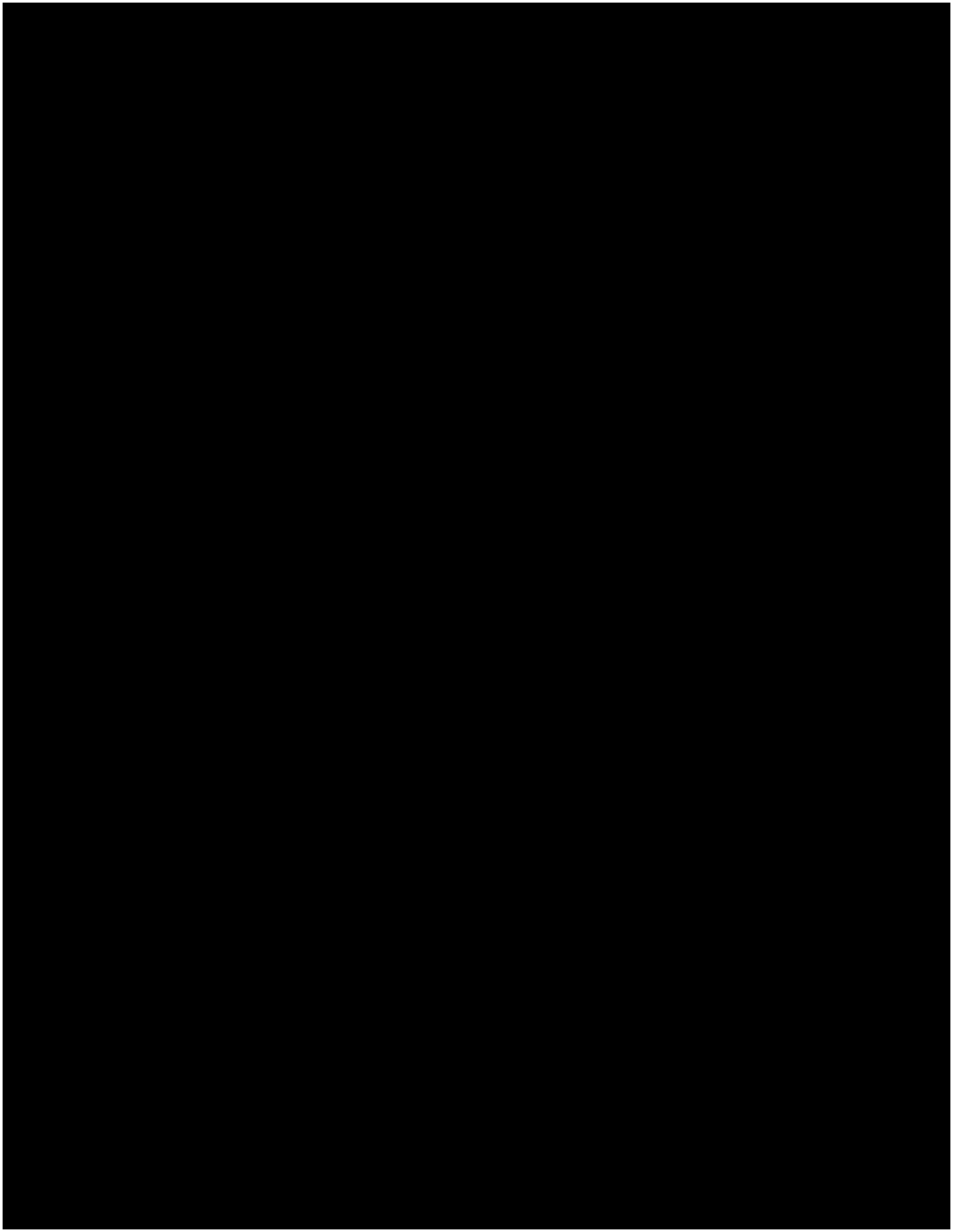


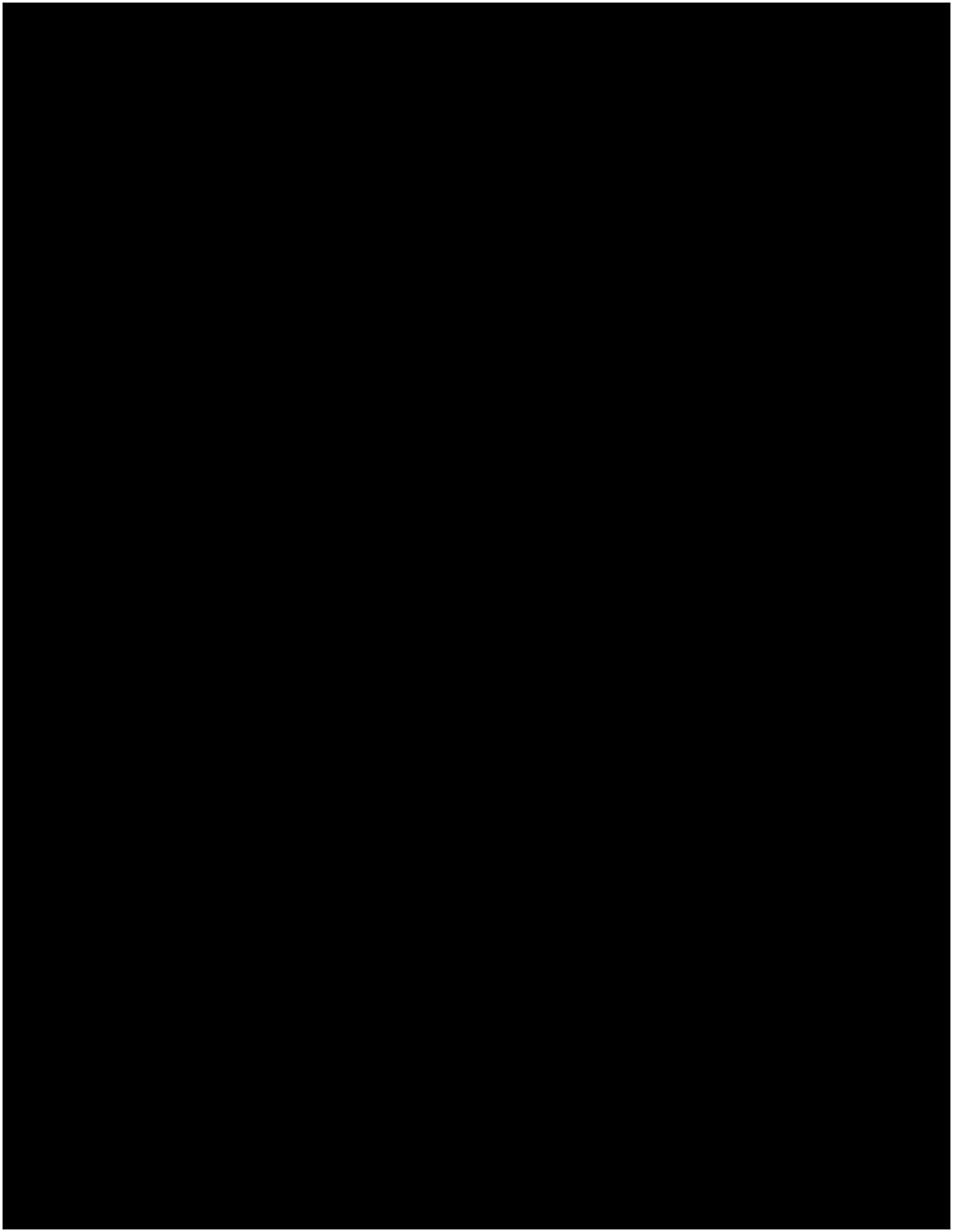


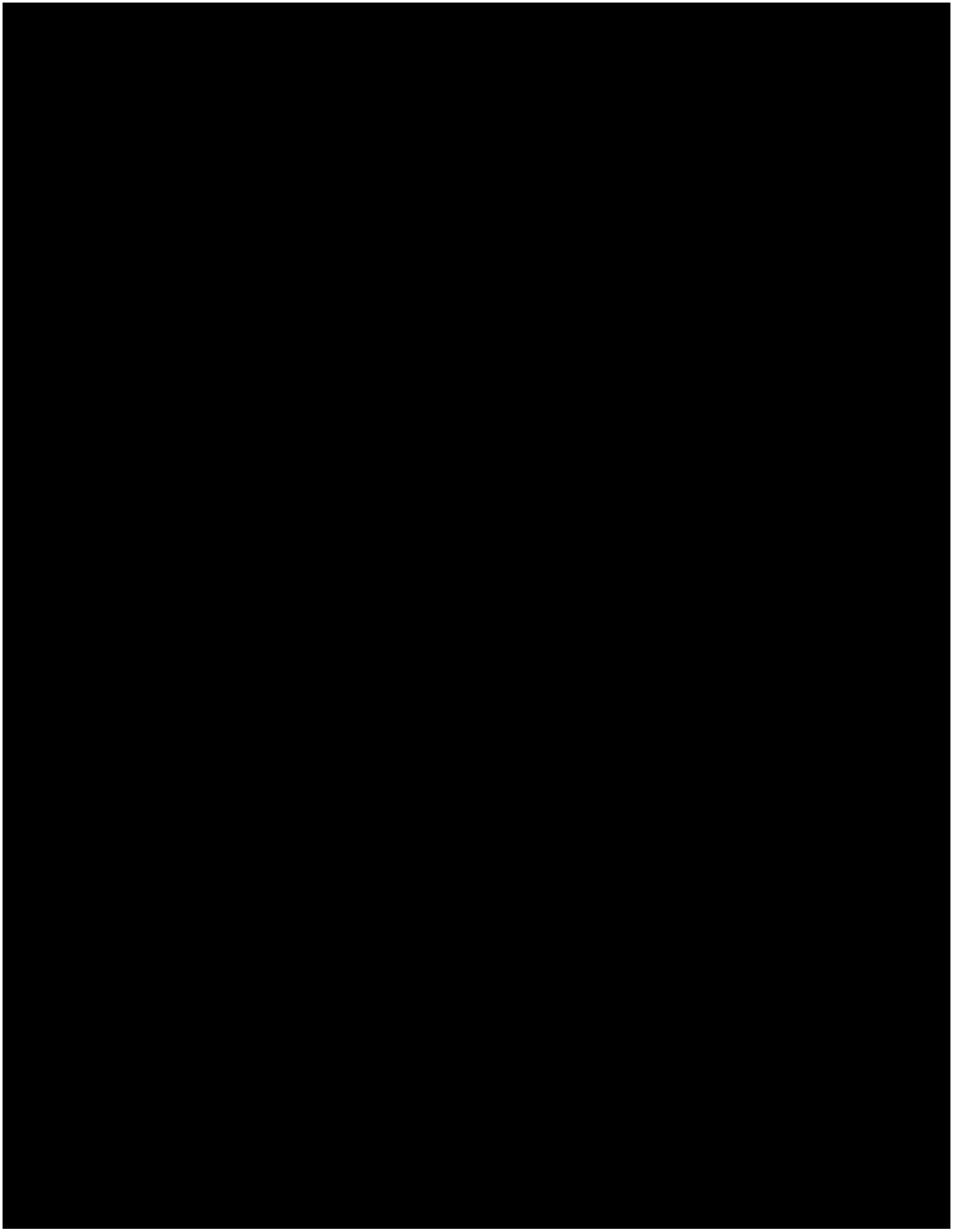


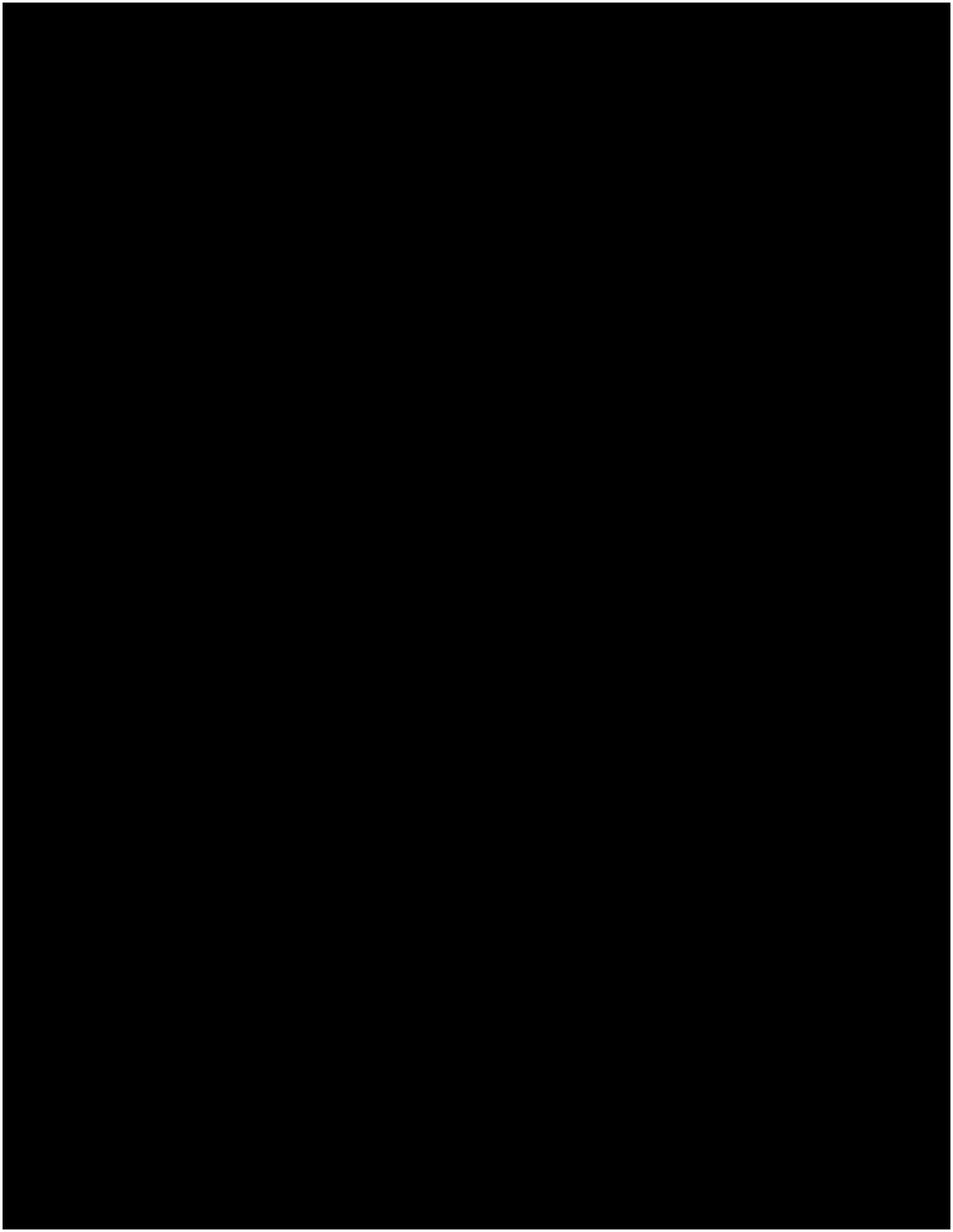


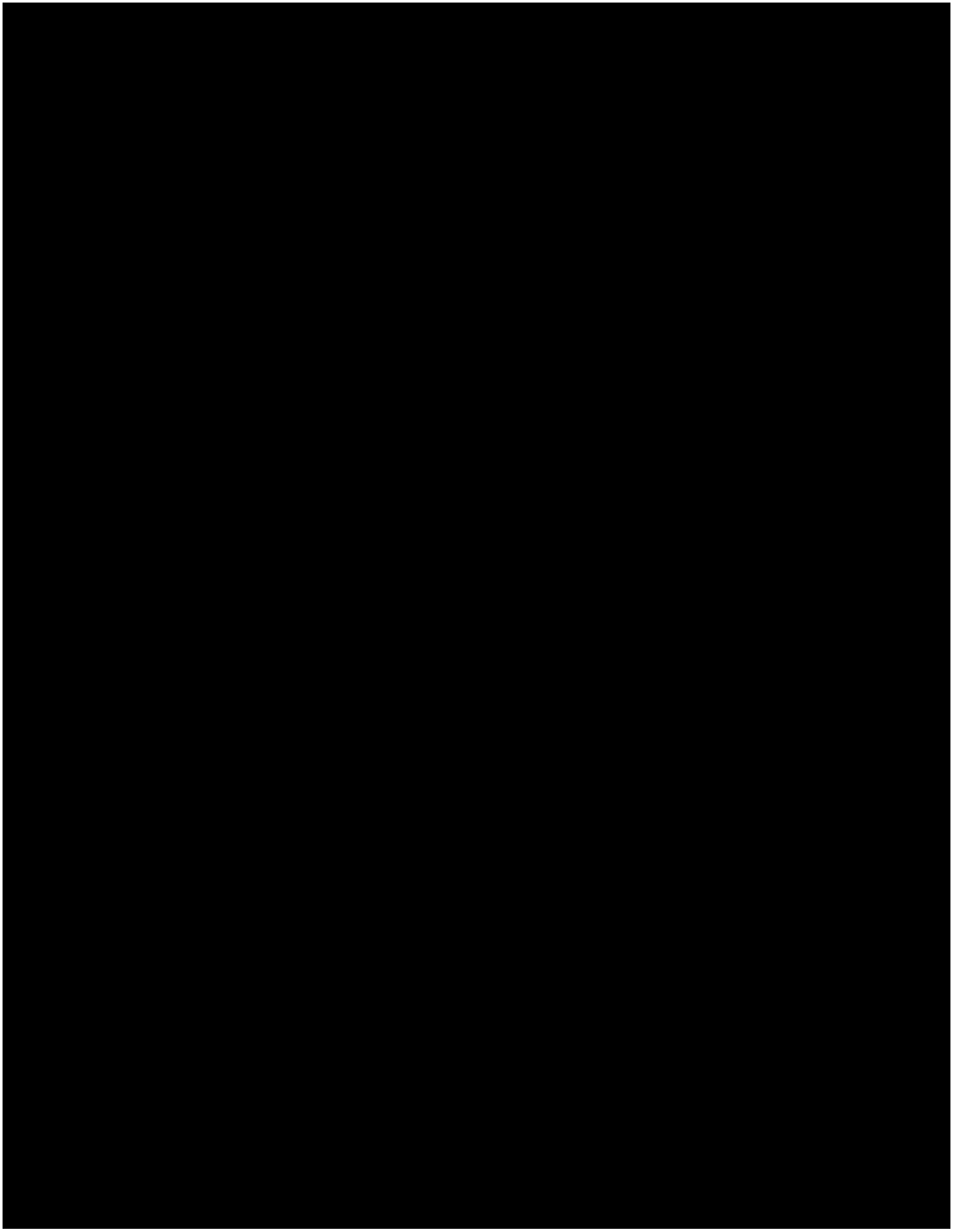


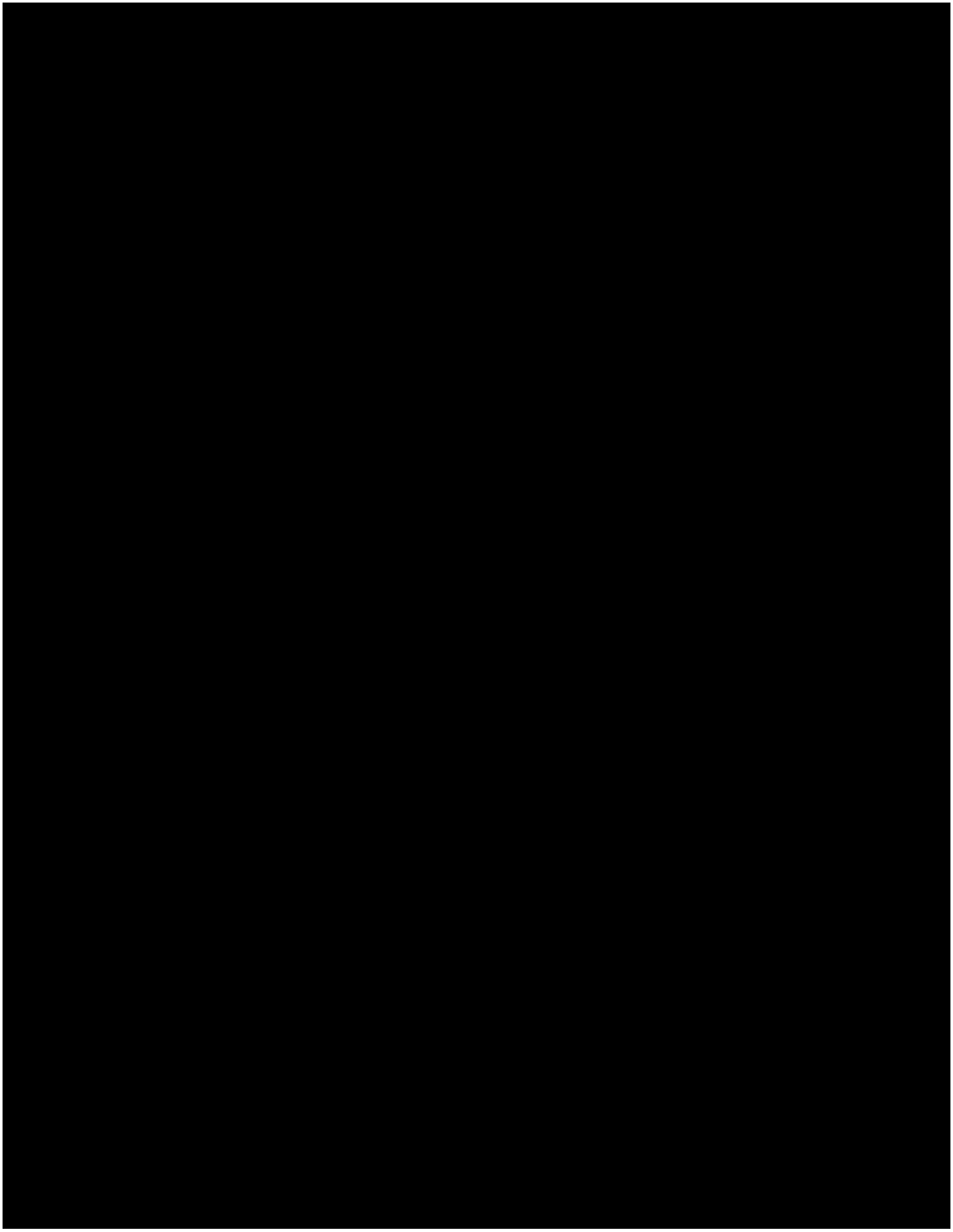


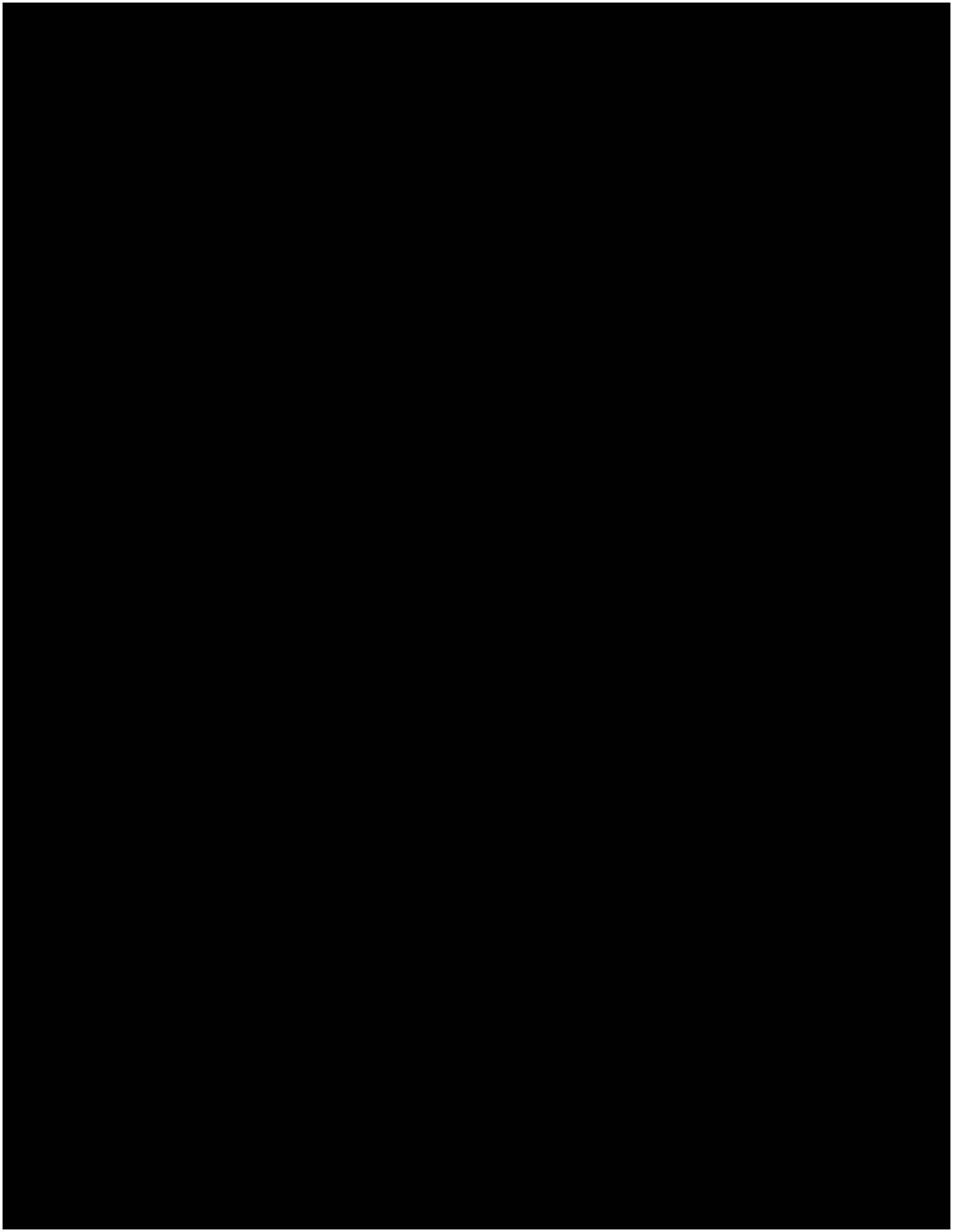


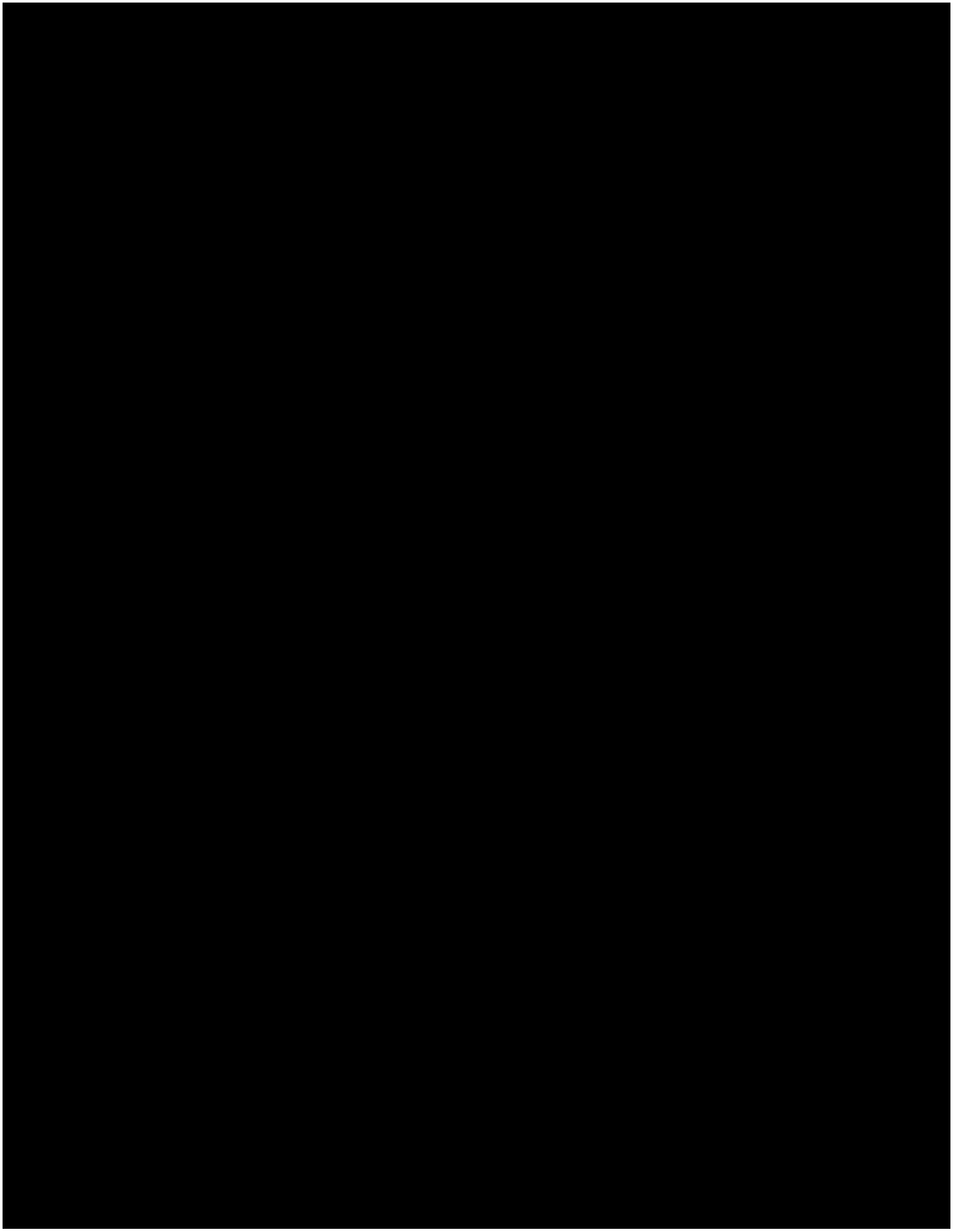


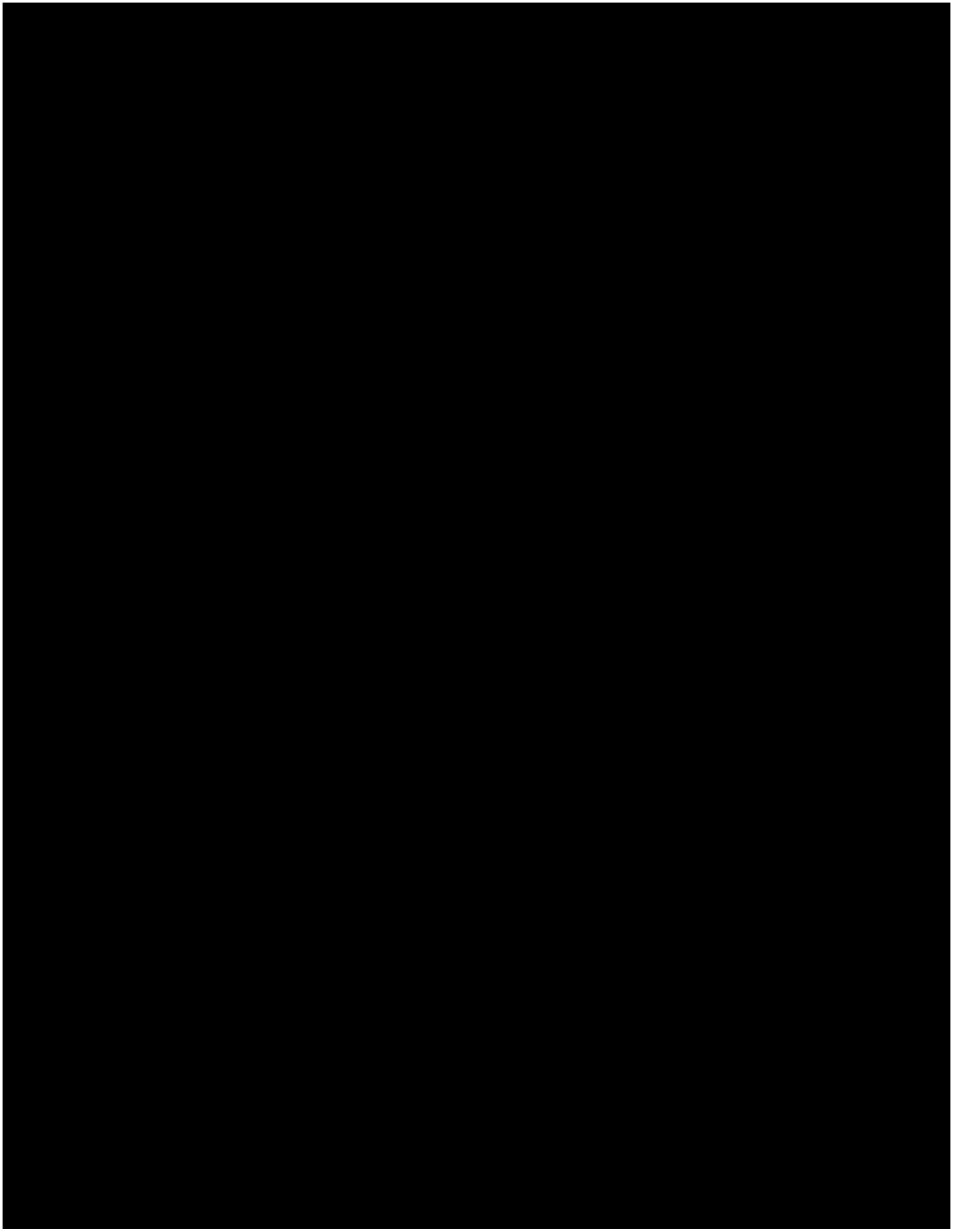












T-Mobile

Legal & Emergency Response
4 Sylvan Way, Parsippany, N.J. 07054
Email: lerinbound@t-mobile.com
Phone: (973) 292-8911 Fax: (973) 292-8697

June 22, 2023

T-Mobile Tracking ID: [redacted]
Case Number: [redacted]

Objection

T-Mobile hereby objects to the referenced legal demand and is unable to respond to your request for the following reason(s):

> In regard to identifier(s) JACQUELINE ASHCRAFT, The description of records sought is insufficient to identify a particular subscriber. Target telephone number or additional identifiers are required for conclusive search.

Notwithstanding the above objections, and without waiving same, T-Mobile may also object to the referenced legal demand for one or more of the following reason(s):
a) failure of personal service; b) lack of personal jurisdiction; c) demand is facially invalid; d) demand is overbroad, unduly burdensome and/or not refined in scope or date range; e) demand does not provide reasonable time for response; f) demand seeks electronic records that are not readily accessible; and/or g) demand seeks records that are not stored or maintained by T-Mobile.

Walmart
Save money. Live better

Legal
HIPAA Team

702 SW 8th Street
Bentonville, AR 72716-0215
Phone 479.204.6788
Fax 479.204.9655

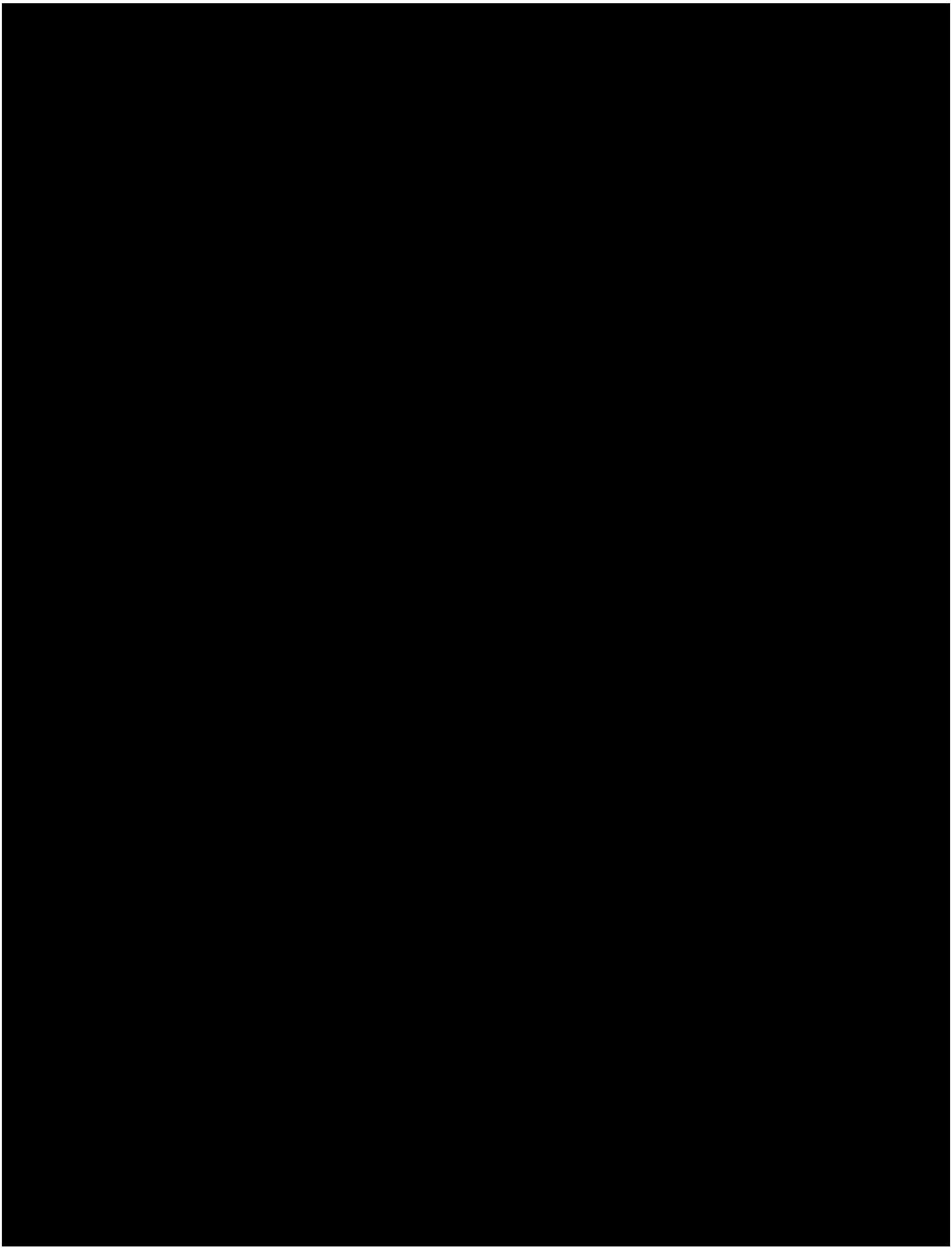
Dear Requestor,

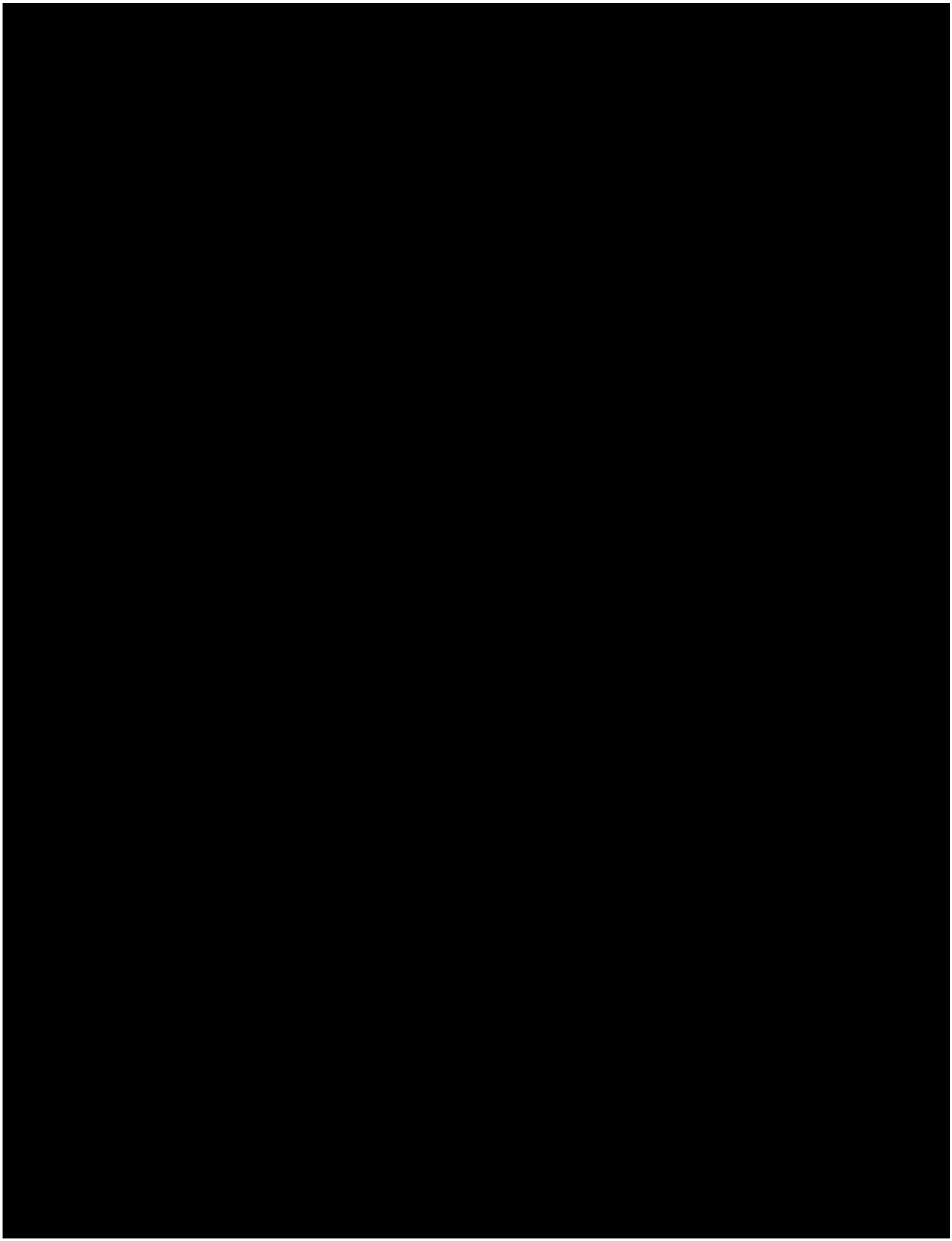
The records produced herewith are accurate, complete, true, and correct copies of all records received or retrieved to the best of our knowledge by Legal pursuant to your request. Walmart Inc. is the custodian of record, that the records were kept in the regular course of business and that this is a regularly conducted business activity, that these records were made at or near the time the acts, events, conditions, opinions, or diagnoses occurred or within a reasonable time thereafter, that the charges were reasonable for similar services, necessary as payment for a prescription filled by our Walmart Health pursuant to a doctor's orders and finally that these records were made by, or from information transmitted by, a person with knowledge of the acts, events, conditions, opinions or diagnoses stated therein.

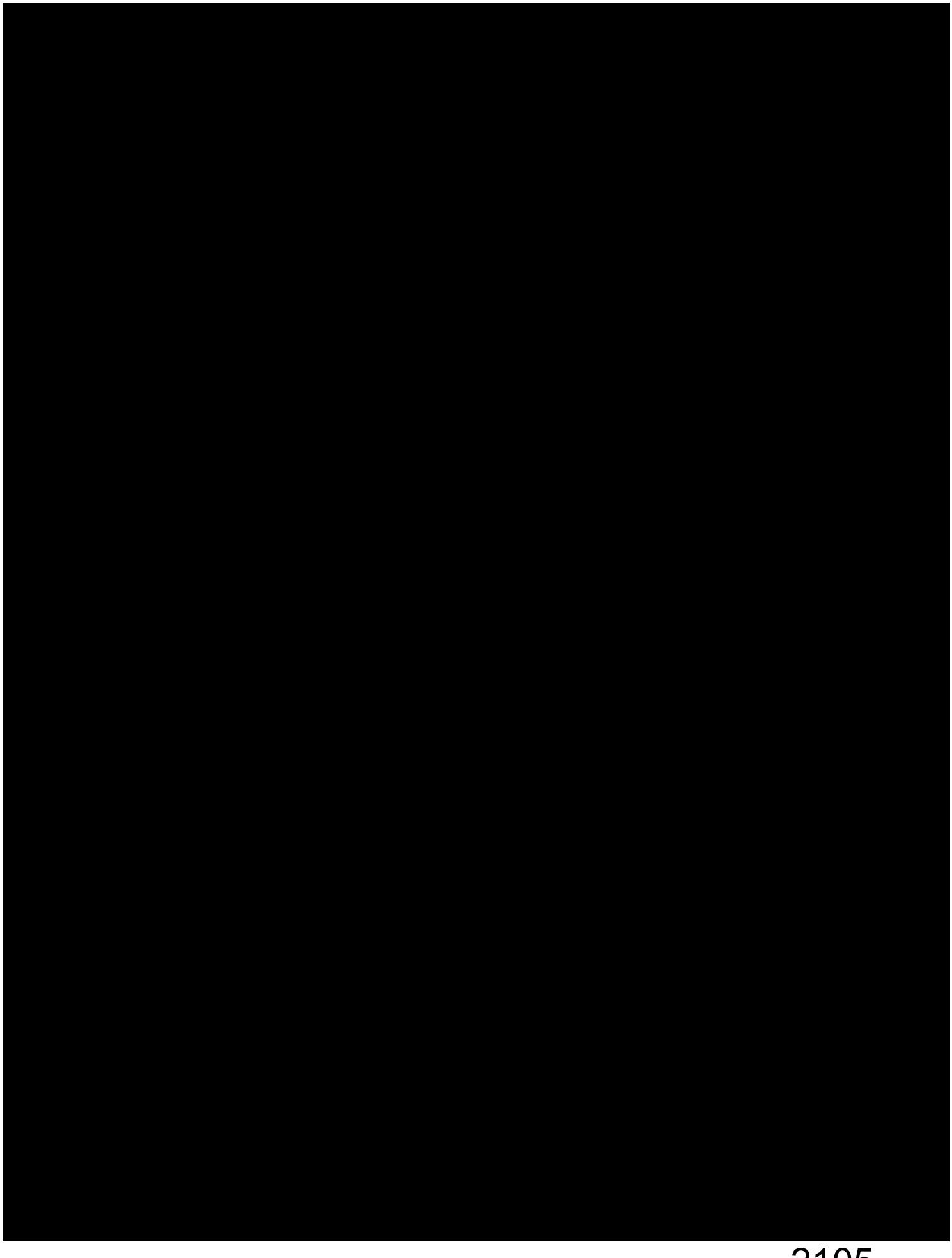
If you have any questions or need further assistance, please feel free to contact via email hportreq@wal-mart.com or phone 479-204-6788.

Sincerely,

Release of Information Team
Health Information Management







From: Brent Gasper
To: Unser, Kyle T.; Kathryn Irby
Cc: Newton, Ivy L.; Jim Jackson
Subject: RE: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23
Date: Tuesday, November 14, 2023 9:40:12 AM

Yes, of course. Thank you,

brent

From: Unser, Kyle T. <Kyle.Unser@KutakRock.com>
Sent: Tuesday, November 14, 2023 9:39 AM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Newton, Ivy L. <Ivy.Newton@KutakRock.com>; Jim Jackson <jim@jimjacksonatty.com>
Subject: RE: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23

[EXTERNAL SENDER]
No problem. I'll work with you however I can. Can you agree to an extension to respond to the subpoena/file a motion to quash until Friday? Just want to make sure I don't miss my deadline.

Kyle T. Unser
Partner

Kutak Rock LLP
5111 W. J.B. Hunt Dr., Suite 300
kyle.unser@kutakrock.com
p: 479-250-9675 **m:** 479-957-8328

Support provided by
Ivy Newton | Paralegal | **p:** 479-973-4200 | ivy.newton@kutakrock.com

---

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Tuesday, November 14, 2023 8:59 AM
To: Unser, Kyle T. <Kyle.Unser@KutakRock.com>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Newton, Ivy L. <Ivy.Newton@KutakRock.com>; Jim Jackson <jim@jimjacksonatty.com>
Subject: RE: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23

[CAUTION - EXTERNAL SENDER]

Kyle, thank you for your response. If you could hold off of the motion to quash I need to discuss this with my Chief Counsel. It may be that we withdraw the subpoena and proceed with this issue from another angle.

Thanks!

brent

From: Unser, Kyle T. <Kyle.Unser@KutakRock.com>
Sent: Monday, November 13, 2023 10:38 AM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Newton, Ivy L. <Ivy.Newton@KutakRock.com>; Jim Jackson <jim@jimjacksonatty.com>
Subject: RE: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23

[EXTERNAL SENDER]
Mr. Gasper:

Circling back up on this one. As we discussed, I interviewed Mercy Hospital Booneville's Clinical Supervisor regarding this matter. She has been in that role since before the accident. She remembered the decedent because it was unusual that she would have been brought to Booneville (level 4 critical access hospital with CT capability but no capability to treat her injury) when Mercy Fort Smith was roughly the same distance from the accident, but Trauma Comm directed EMS to take her to Booneville so they did.

She indicates that neither she nor anyone on staff with whom she has spoken has any indication whatsoever that the decedent sought care at the hospital under an alias name. You have requested that Mercy Hospital Booneville produce names, addresses and telephone numbers for all nurses employed in the last five years. **Mercy objects to this request as overly broad and unnecessary and requests that you withdraw the subpoena. Please confirm if you will agree to do so, or I can file a motion to quash by tomorrow as we agreed**.

Mercy also directed me to advise you and Mr. Jackson that as a matter of policy, Mercy's providers and nurses do not engage in *ex parte* communications with litigants or their counsel. Mercy will ask me to represent any providers or nurses with whom any of the litigants want to speak, and the conversation would only take place through a deposition.

I don't mean to be difficult. I honestly tried to figure out the best way to see if there was any institutional knowledge regarding this lady seeking care through an alias name, but there just isn't. Surely you don't mean to depose every nurse that ever worked at Mercy to follow up on this. If you do, let me know and I'll get my motion on file and we can argue to the commission about it.

Kyle

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Partner

Kutak Rock LLP
5111 W. J.B. Hunt Dr., Suite 300
kyle.unser@kutakrock.com
p: 479-250-9675 **m:** 479-957-8328

Support provided by

Ivy Newton | Paralegal | **p:** 479-973-4200 | ivy.newton@kutakrock.com

---

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Monday, November 6, 2023 2:51 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Unser, Kyle T. <Kyle.Unser@KutakRock.com>
Cc: Newton, Ivy L. <Ivy.Newton@KutakRock.com>
Subject: RE: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23

[CAUTION - EXTERNAL SENDER]

Thank you, Kathryn. Kyle, I'm free the rest of the afternoon if you want to give me a shout.

Brent
501-320-8950

From: Kathryn Irby <kathryn.irby@arkansas.gov>
Sent: Monday, November 6, 2023 2:11 PM
To: Unser, Kyle T. <Kyle.Unser@KutakRock.com>
Cc: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Newton, Ivy L. <Ivy.Newton@KutakRock.com>
Subject: RE: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23

Kyle, based upon the emails between you and Brent, it sounds like you've won't need to file the motion referenced in your email. That said, to answer your question, the Commission's electronic filing email is asccpleadings@arkansas.gov.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Unser, Kyle T. <Kyle.Unser@KutakRock.com>
Sent: Monday, November 6, 2023 1:10 PM
To: Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Brent Gasper <brent.gasper@dhs.arkansas.gov>; Newton, Ivy L. <Ivy.Newton@KutakRock.com>
Subject: FW: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23

You don't often get email from kyle.unser@kutakrock.com. Learn why this is important

Ms. Irby:

I wasn't able to reach Mr. Gasper. It's only been a few minutes, but I am concerned that Mercy was served early enough last week that their deadline to respond to this subpoena is today. Can you please provide the address to which I should email a motion to quash the subpoena? I'm going to send it today out of an abundance of caution.

Brent, happy to work with you on the subpoena at your convenience.

Kyle T. Unser
Partner

Kutak Rock LLP
5111 W. J.B. Hunt Dr., Suite 300
kyle.unser@kutakrock.com
p: 479-250-9675 **m:** 479-957-8328

Support provided by
Ivy Newton | Paralegal | **p:** 479-973-4200 | ivy.newton@kutakrock.com

---

From: Unser, Kyle T.
Sent: Monday, November 6, 2023 1:02 PM
To: brent.gasper@dhs.arkansas.gov
Cc: Newton, Ivy L. <Ivy.Newton@KutakRock.com>
Subject: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23

Brent:

I tried to call the phone number listed on your letterhead but it's telling me it's not a working number. Do you have a minute to discuss?

The subpoena requests that Mercy identify every employee who held a license for the past five years and their phone numbers and addresses. I think that's a pretty healthy list. Mercy has asked me to file a motion to quash the subpoena but is there a more targeted way to get you the information you're after?

Kyle

Kyle T. Unser
Partner

Kutak Rock LLP
5111 W. J.B. Hunt Dr., Suite 300
kyle.unser@kutakrock.com
p: 479-250-9675 **m:** 479-957-8328

Support provided by
Ivy Newton | Paralegal | **p:** 479-973-4200 | ivy.newton@kutakrock.com

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This E-mail message is confidential, is intended only for the named recipients above and may contain information that is privileged, attorney work product or otherwise protected by applicable law. If you have received this message in error, please notify the sender at 402-346-6000 and delete this E-mail message.
Thank you.

From:	Kathryn Irby
To:	Brent Gasper; Unser, Kyle T.
Cc:	Newton, Ivy L.; Jim Jackson; ASCC Pleadings
Subject:	RE: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23
Date:	Wednesday, November 15, 2023 8:18:51 AM

I can confirm receipt and that the subpoena has been withdrawn. I will add this information to the claim file.

Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Wednesday, November 15, 2023 8:17 AM
To: Unser, Kyle T. <Kyle.Unser@KutakRock.com>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Newton, Ivy L. <Ivy.Newton@KutakRock.com>; Jim Jackson <jim@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>
Subject: RE: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23

Kyle, et al:

After reviewing this with my colleagues we have determined that there is no longer a need to pursue this subpoena. As such, please consider it withdrawn.

Thank you, Kyle, for working with me on this so it didn't become a hassle!

Kathryn, if there's anything else I need to do to formally withdraw the subpoena please let me know.

Thanks,

brent

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Sent: Tuesday, November 14, 2023 9:39 AM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Newton, Ivy L. <Ivy.Newton@KutakRock.com>; Jim Jackson <jim@jimjacksonatty.com>
Subject: RE: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23

[EXTERNAL SENDER]
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Kyle T. Unser
Partner

Kutak Rock LLP
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Subject: RE: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23

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Cc: Newton, Ivy L. <Ivy.Newton@KutakRock.com>; Jim Jackson <jim@jimjacksonatty.com>
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Kyle T. Unser
Partner

Kutak Rock LLP
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kyle.unser@kutakrock.com
p: 479-250-9675 **m:** 479-957-8328

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Ivy Newton | Paralegal | **p:** 479-973-4200 | ivy.newton@kutakrock.com

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Cc: Newton, Ivy L. <Ivy.Newton@KutakRock.com>
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To: Unser, Kyle T. <Kyle.Unser@KutakRock.com>
Cc: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Newton, Ivy L. <Ivy.Newton@KutakRock.com>
Subject: RE: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production -

11-03-23

Kyle, based upon the emails between you and Brent, it sounds like you've won't need to file the motion referenced in your email. That said, to answer your question, the Commission's electronic filing email is asccpleadings@arkansas.gov.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Unser, Kyle T. <Kyle.Unser@KutakRock.com>
Sent: Monday, November 6, 2023 1:10 PM
To: Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Brent Gasper <brent.gasper@dhs.arkansas.gov>; Newton, Ivy L. <Ivy.Newton@KutakRock.com>
Subject: FW: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23

> You don't often get email from kyle.unser@kutakrock.com. Learn why this is important

Ms. Irby:

I wasn't able to reach Mr. Gasper. It's only been a few minutes, but I am concerned that Mercy was served early enough last week that their deadline to respond to this subpoena is today. Can you please provide the address to which I should email a motion to quash the subpoena? I'm going to send it today out of an abundance of caution.

Brent, happy to work with you on the subpoena at your convenience.

Kyle T. Unser
Partner

Kutak Rock LLP
5111 W. J.B. Hunt Dr., Suite 300
kyle.unser@kutakrock.com
p: 479-250-9675 **m:** 479-957-8328

Support provided by
Ivy Newton | Paralegal | **p:** 479-973-4200 | ivy.newton@kutakrock.com

---

From: Unser, Kyle T.

Sent: Monday, November 6, 2023 1:02 PM
To: brent.gasper@dhs.arkansas.gov
Cc: Newton, Ivy L. <Ivy.Newton@KutakRock.com>
Subject: Mercy Hospital Booneville - Haley Hudson et al v Dept of Human Services - Production - 11-03-23

Brent:

I tried to call the phone number listed on your letterhead but it's telling me it's not a working number. Do you have a minute to discuss?

The subpoena requests that Mercy identify every employee who held a license for the past five years and their phone numbers and addresses. I think that's a pretty healthy list. Mercy has asked me to file a motion to quash the subpoena but is there a more targeted way to get you the information you're after?

Kyle

Kyle T. Unser
Partner

Kutak Rock LLP
5111 W. J.B. Hunt Dr., Suite 300
kyle.unser@kutakrock.com
p: 479-250-9675 **m:** 479-957-8328

Support provided by
Ivy Newton | Paralegal | **p:** 479-973-4200 | ivy.newton@kutakrock.com

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This E-mail message is confidential, is intended only for the named recipients above and may contain information that is privileged, attorney work product or otherwise protected by applicable law. If you have received this message in error, please notify the sender at 402-346-6000 and delete this E-mail message.
Thank you.

From: Jim Jackson
To: Brent Gasper; Martha Cox; ASCC Pleadings; Kathryn Irby
Cc: Daiquiri Carter
Subject: RE: Haley Hudson, etc. v. Arkansas DHS; State Claims Commission No. 230641
Date: Wednesday, November 15, 2023 10:43:23 AM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg

Brent,
The Notice was filed prematurely.
I can change the start time.
It was my understanding that Mr. Wilson had to give it after his work day of driving.
Let me know if 2:00 p.m. works for you on Monday, Nov. 27.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com
700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Wednesday, November 15, 2023 10:09 AM
To: Martha Cox <mcox@jimjacksonatty.com>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: RE: Haley Hudson, etc. v. Arkansas DHS; State Claims Commission No. 230641
Jim, thank you for your email and notice of deposition. Unfortunately, I am lodging an objection to a deposition starting at 6:00 p.m.. A deposition of Bobby Wilson is certainly a necessary one for this case but it needs to begin during the work day and end before or shortly after close of business. As a parent of children and other after-work obligations, a deposition starting at this time is a nonstarter. It is also my understanding that Mr. Wilson is currently not under a subpoena to give his deposition at this point so the time of his deposition is not set in stone, so-to-speak. I'm happy to work with you to find a mutually beneficial time that is not post-office hours.
Kathryn, is there any pertinent pleading that I need to file in excess of my objections lodged herein?
Thanks!
Brent

From: Martha Cox <mcox@jimjacksonatty.com>
Sent: Wednesday, November 15, 2023 10:03 AM
To: ASCC Pleadings <asccpleadings@arkansas.gov>; Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Brent Gasper <brent.gasper@dhs.arkansas.gov>; Daiquiri Carter

<daiquiri.carter@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Subject: Haley Hudson, etc. v. Arkansas DHS; State Claims Commission No. 230641
[EXTERNAL SENDER]
Please find attached for filing in the above-referenced claim a Notice of Deposition for Bobby D. Wilson.
Thank you.
Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

From: Jim Jackson
To: ASCC Pleadings; Brent Gasper
Cc: Martha Cox; Daiquiri Carter
Subject: Haley Hudson, Special Adm"x of the Estate of Jacqueline Ashcraft, deceased and Permanent Guardian of [redacted] a Minor Child v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incident Date: 6/11/2021 - Logan Cou
Date: Wednesday, November 15, 2023 2:37:09 PM
Attachments: [redacted]

Brent,
Attached is Mr. Cain's revised investigative report.
Please let me know if you have any issues opening the PDF or the Hyperlink inserted in the letter.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

JACKSON
LAW FIRM

November 15, 2023

Mr. Brent Gasper
Arkansas Department of Human Services
Third Party Liability Unit
P.O. Box 1437, Slot W-296
Little Rock, AR 72203-1437

Re: Haley Hudson, Special Adm'x of the Estate of Jacqueline Ashcraft, deceased and Permanent Guardian of [redacted], a Minor Child v. Arkansas Department of Human Services
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Brent,

I am writing to informally supplement the claimant's Response to Request for Production No. 11. Please find below a hyperlink to Mr. Stanley Cain's revised investigative file. Also, attached is a PDF of his revised written report. This revised report should clarify the issues that Mr. Kerley expressed during his deposition.

Stanley Cain Revised Investigative File

Please call me at (501) 823-3610 if you have any issue opening this hyperlink.

Sincerely,

Jim Jackson

Jim R. Jackson

JRJ/mc
Enclosure
cc: Claims Commission Filings

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 2
North Little Rock, AR 72114-5528
501.823.3610
F 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

Stanley B. Cain Accident Reconstructionist, LLC

P.O. Box 836, Waldron, AR 72958

[redacted]

INVESTIGATION REPORT

PREPARED FOR: Mr. Jim Jackson, with Jackson Law Firm.

REFERENCE: Jacqueline Ashcraft collision on 6/11/21.

On 5/16/23, Mr. Jim Jackson, with Jackson Law Firm, contacted me and requested my services to investigate a motor vehicle collision involving his client, the estate of Ms. Jacqueline Ashcraft.

ITEMS RECEIVED

1. Arkansas Motor Vehicle Collision Report from the Arkansas State Police (Report [redacted]
2. Crash scene photographs taken by Arkansas State Police.
3. Scene photographs taken by Mr. Jim Jackson.
4. Correspondence emails from the Arkansas Department of Human Services, regarding their internal investigation of the collision.
5. Deposition transcript of Trooper James Ray.
6. Deposition transcript of Ms. Holly Newman.
7. Deposition transcript of Ms. Kristen Shelton.
8. Logan County Sheriff's Office Call for Service radio log.
9. Arkansas State Police Radio Transmission Log Form.
10. Arkansas State Police Fatal Crash Preliminary Reporting Form.
11. ARDOT Manufactured Home Transport Permit, issued to GKD Management.
12. Affidavit of Mr. Bobby Wilson.
13. Written statement completed by Mr. Bobby Wilson.
14. Arkansas State Crime Laboratory Report of Laboratory Analysis for Ms. Jacqueline Ashcraft and Ms. Jennifer Wilkerson.
15. Preliminary Report completed by Mr. Michael Kerley with Jackson Reconstruction.
16. Medical records from Mercy Health System for Ms. Jacqueline Ashcraft and Miss Kadey Jones

BACKGROUND INFORMATION

Date and time of collision: Approximately 12:50 PM on 6/11/2021.
Location: Arkansas State Highway 22, Paris, Arkansas.
Vehicle 1: 2005 Hyundai Sonata, driven by Ms. Jacqueline Ashcraft.
Vehicle 2: 2009 Hyundai Elantra, driven by Ms. Jenifer Wilkerson.
Vehicle 3: 2001 Peterbilt truck-tractor and modular trailer, driven by Mr. Bobby Wilson.

SCENE INSPECTION

On 5/20/23, I went to the scene for observations, photographs, and measurements. Highway 22 is a two-lane State Highway consisting of one westbound lane and one eastbound lane, separated by a

double yellow line, and bordered by white fog lines. The highway is bordered on both sides by improved shoulders. Each lane is approximately 11 feet wide. The eastbound shoulder is approximately 7.6 feet wide, and the westbound shoulder is approximately 7.3 feet wide. I did not observe any line-of-sight issues present that would hinder the view of traffic in either lane.

During the scene inspection, I located the final resting area of vehicle 1. The distances from the RP to A to D, from the vehicle collision report, ended at the shadow of a tire mark which I recognized as the remnants of the skid mark shown in the scene photographs for vehicle 1. I was able to locate the remaining end of the skid mark on the eastbound fog line.

With the measurements provided by the vehicle collision report, I located the beginning of the skid marks from vehicle 2. From the scene photographs I was able to place the beginning point of the skid marks in relation to the eastbound lane and shoulder. From the rumble stripes on the shoulder, I was able to locate the approximate beginning location of a passenger side skid mark, and the area where that skid mark crossed the fog line. With the approximate track width of vehicle 2, I was able to place the approximate location of the driver side skid mark.

The scene photographs also showed a third skid mark, which I identified as being produced by the left rear wheel of vehicle 2. That skid mark followed along the fog line and veered to the left with the other two skid marks. By counting the number of rumble stripes next to that skid mark, I was able to locate the approximate beginning point of that skid mark also.

I was not able to locate the ending location of the three skid marks. I placed the approximate ending location of the three skid marks, based upon their ending location in the scene photographs.

Further east I located numerous grooves and gouges in the westbound lane. I located an additional gouge in the eastbound lane, along with grooves leading to the final resting location of vehicle 2.

West of the area of impact, I located the beginning of a dual wheel skid mark on the westbound fog line, at approximately 274 feet west of the reference point. The skid mark continued onto the shoulder and ended as a single wheel skid mark, at approximately 452 feet west of the reference point.

To document the above listed roadway evidence, I completed a scene diagram with Virtual Crash 3 Accident Reconstruction Software, and I scaled the diagram by following the procedure outlined by Virtual Crash. For more information, refer to the scene diagram.

VEHICLE INSPECTIONS

None of the three vehicles were still available for inspections. To complete the investigation, I reviewed the scene photographs provided by Arkansas State Police.

I observed the damage to vehicle 1, and I noticed that the vehicle had primary contact damage to the passenger side half of the rear end. The driver side of the rear bumper contained induced damage. I observed that the crush damage retarded the rotation of the right rear wheel to the point that the wheel produced a post-impact skid mark. I observed that the back panel of the driver seat was leaning back into the rear passenger area. I did not locate any damage to the vehicle that would indicate that vehicle 1 collided with vehicle 3.

I observed the damage to vehicle 2, and I noticed that the vehicle had primary crush damage to the front end of the vehicle, with the most extensive crush to the left front section. I observed that vehicle 2, had induced damage to the driver door frame and the rear passenger door on the driver's side. Furthermore, I observed underride damage to the right front panel, which is consistent with vehicle 2 colliding with the underside of the modular home being towed by vehicle 3.

I observed that vehicle 3 had contact damage to the driver side tractor tandems, and secondary contact damage to the driver side front corner of the modular home and trailer frame. The damage at that corner is consistent with vehicle 2 under riding the trailer with the front end. The under-riding contact by vehicle 2 is consistent with vehicle 2 creating the gouges and grooves seen in the westbound lane, at maximum engagement.

ANALYSIS AND CALCULATIONS

To conduct the impact speed calculations for vehicle 2, I had to first calculate the post-impact speed for both vehicle 1 and vehicle 2. From the scene diagram I measured that vehicle 1 traveled approximately 188.5 feet. From the observations of the scene photographs provided by Arkansas State Police, I noticed that the damage to vehicle 1 had retarded the right rear wheel to the point that it was producing a skid mark. Although I located only a portion of the skid mark from vehicle 1 during the scene inspection, the braking capability of that wheel would have commenced at the point of maximum engagement between the two vehicles.

To determine the post-impact speed, I had to calculate the adjusted deceleration factor for vehicle 1. To calculate the total deceleration factor for the vehicle I used a rolling resistance value of 0.01 for the left rear wheel (non-drive axle) and 0.10 for the left front wheel and the right front wheel (drive axle)[1]. For the right rear wheel (damage induced braking) I used an accepted coefficient of friction of 0.60 to 0.80 for a dry asphalt roadway surface that has been subjected to traveled use[2]. I calculated the post-impact speed for vehicle 1 at approximately 33.63 MPH, using an average coefficient of friction of 0.70.

Next, I calculated the post-impact speed for vehicle2. From the scene photographs I observed post-impact skid marks leading from the area of impact. The beginning of the driver side skid mark had a darkened area that was darker than the remaining portion of the skid mark. I recognized this as an indicator of the area of impact because wheels that are braking tend to produce very darkened skid marks upon maximum engagement with another vehicle. Furthermore, the scene photographs show three skid marks from vehicle 2, which indicates that it was off tracking from lateral instability. This movement is another indicator that vehicle 2 is moving away post-impact. The above-described characteristics of the skid marks conclude that there were very little to no pre-impact skid marks from vehicle 2 and therefore little to no pre-impact braking by vehicle 2.

From the scene diagram, I measured that vehicle 2 traveled approximately 53.2 feet post impact to the area where the vehicle collided with vehicle 3. I calculated the post-impact speed for vehicle 2 at approximately 33.44 MPH, using an average coefficient of friction of 0.70.

To further analyze the potential variability in the impact speed of vehicle 2, I calculated post-impact speeds for both vehicles using a roadway coefficient of friction of 0.60. In addition, the scene

[1] D. Parkka, Equation Directory for the Reconstructionist, First Edition.
[2] R. W. Rivers, On-Scene Traffic Accident Investigators Manual (Charles C. Thomas Publisher, 1981) 136.

photographs depicted only three post-impact skid marks for vehicle 2. Therefore, I adjusted the deceleration factor for vehicle 2.

Furthermore, I provided a range of impact speeds for vehicle 2 based upon the potential range of pre-impact speed for vehicle 1. I did not locate any evidence during my scene inspection to indicate the pre-impact speed of vehicle 1. However, the statements by both Ms. Wilkerson and Mr. Wilson indicate that vehicle 1 was stationary when the impact occurred.

I calculated the impact speeds with AR PRO 15 Accident Reconstruction Software. The summary of the impact speeds is listed below:

IMPACT SPEED FOR WILKERSON (MPH)			
Coeff. of Friction	Ashcraft (Stationary)	Ashcraft (10 MPH)	Ashcraft (20 MPH)
0.70	74.3	62.1	50.0
0.57	71.0	58.9	46.7
0.60	69.7	57.6	45.4
0.49	66.7	54.6	42.4

For more information refer to the AR PRO Calculation Reports. NOTE: When referencing the AR PRO Calculation Reports, please be aware that vehicle 1 is WILKERSON and vehicle 2 is ASHCRAFT, in order to match the variables in the collinear momentum formula.

Based upon a review of the post-impact speeds I have concluded that the post-impact speed of vehicle 2 would be closer to the speeds calculated without a reduction in the braking efficiency. My conclusion is based upon my finding that the range of post-impact speeds for vehicle 1 (33.63 MPH to 31.90 MPH) is more consistent with the range of post -impact speeds for vehicle 2 (33.44 MPH to 30.96MPH).

The calculations clearly show that the post-impact speed of vehicle 1 was increased from the initial speed, which was result of the greater amount of momentum being brought into the collision by vehicle 2. Also, generally in momentum analysis the target vehicle (vehicle 1) can only depart from the collision at a speed equal to or less than the post-impact speed of the bullet vehicle. However, in this collision, the post-impact speed for vehicle 1 is slightly more than the value for vehicle 2. The investigation states that vehicle 2 also collided with vehicle 3, after colliding with vehicle 1. It is not known for certain, but vehicle 2 still may have been traveling eastbound when it collided with vehicle 3, and that collision prevented vehicle 2 from the opportunity to travel on its own to a complete stop. If vehicle 2 had been able to travel a further distance, then it would have generated a greater post-impact speed.

The damage profile to the rear of vehicle 1 clearly indicates that the impact by vehicle 2 was an off-set collision and not a complete in-line impact. The beginning of the skid marks from vehicle 2, along with the impact configuration, conclude that vehicle 1 was positioned within the bounds of the eastbound lane. Vehicle 1 was positioned towards the south half of the eastbound lane, likely because vehicle 3 was approaching and towing an oversized load. The delivery receipt shown within the scene photographs indicate that the oversized load behind vehicle 3 was a 14-foot by 56-foot modular home section.

During the scene inspection I observed that the eastbound lane was bordered by an improved paved shoulder, and the shoulder measured approximately 7.6 feet wide. The vehicle specifications for vehicle

2 list that it is approximately 5.9 feet wide for overall width. The shoulder would have provided Ms. Wilkerson with adequate room to maneuver her vehicle around vehicle 1 and avoid the collision altogether or greatly reduce the severity of the collision. The placement of the vehicles at impact indicates that vehicle 2 was veering to the right and possibly attempting to avoid the impact.

Mr. Michael Kerley, with Jackson Reconstruction, provided information during his investigation as to validity of the weights of vehicle 1 and vehicle 2 which I used in my momentum calculations. In response to the question of the calculated weights used for the momentum calculations, I have provided documentation and adjustment to the original weights listed in the AR PRO Calculation Reports.

To complete my speed calculations, I had to obtain the appropriate total weight of vehicle 1 and vehicle 2 to include all occupants. Mr. Jackson provided me with medical records from Mercy Health System for both Jacqueline Ashcraft and [redacted], and these records provided weights for both individuals. [redacted] she was examined on 6/24/2021. Jacqueline Ashcraft's weight was reported to be 115 pounds when she was examined on the day of the collision. No information was available to obtain the exact weight of the remaining occupants in either vehicle. Therefore, I used average weights to provide that data.

The average reported weight for 10-year-old females is approximately 72 pounds.[3] The average reported weight for 33-year-old females is approximately 171 pounds.[4]

I obtained the vehicle weights for both vehicles from the Canadian Vehicle Specification database accessed through the National Highway Transportation Administration (NHTSA) website. I used the VIN decoder, also available through the NHTSA website, to obtain a specific description of each vehicle.

With the vehicle description, I located the approximate weight of the subject vehicles. A 2005 Hyundai Sonata has an approximate weight of 3254 pounds reported on the NHTSA website. I located an additional resource, through Motortrend Publishing, which reported the approximate weight of that vehicle at approximately 3217 pounds.

A 2009 Hyundai Elantra has an approximate weight of 2894 pounds reported on the NHTSA website. Addition information, listed under NHTSA crash tests provided the following weight data:
NHTSA crash test #5884: 2877 pounds (2007 Elantra).
NHTSA crash test #9824: 2850 pounds (2009 Elantra).

For additional information, refer to the attached vehicle specification documents, NHTSA crash test reports, and the VIN decode reports. For my calculation, I used the lowest vehicle weight value for Ashcraft, and the highest vehicle weight value for Wilkerson, to provide the lowest possible speed estimate for Wilkerson.

VEHICLE WEIGHTS (POUNDS)		
	VEHICLE 1 (ASHCRAFT)	VEHICLE 2 (WILKERSON)
Vehicle	3217.0	2894.0
Driver	115.0	171.0
Passenger		

[3] https://www.lifemeasure.com/weight-charts/girls/10-years-old
[4] https://www.medicinenet.com/weight_women/article.htm

[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
Total Weight	3590.0	3065.0

REVISED IMPACT SPEED FOR WILKERSON (MPH)			
Coeff. of Friction	Ashcraft (Stationary)	Ashcraft (10 MPH)	Ashcraft (20 MPH)
0.70	72.8	61.1	49.4
0.57	69.6	57.8	46.1
0.60	68.3	56.6	44.9
0.49	65.3	53.6	41.9

For more information refer to the REVISED WEIGHTS AR PRO Calculation Reports. NOTE: When referencing the REVISED WEIGHTS AR PRO Calculation Reports, please be aware that vehicle 1 is WILKERSON and vehicle 2 is ASHCRAFT, in order to match the variables in the collinear momentum formula.

RESULTS AND CONCLUSIONS

The investigation has clearly concluded that Ms. Wilkerson was extremely negligent when she collided into the rear of Ms. Ashcraft. Furthermore, my investigation has concluded that Ms. Wilkerson was exceeding the posted speed limit for the highway.

There were no line-of-sight issues present at the scene and there were no adverse weather conditions present when the collision occurred. If Ms. Wilkerson had been keeping a proper lookout for traffic or hazards ahead, she could have easily observed that Ms. Ashcraft was slowing or stopped, and she could have avoided or greatly reduced the severity of the collision.

I did not discover any contributing actions to the collisions by Mr. Bobby Wilson.

I reserve the right to revise or supplement this report, based upon the discovery of new information or data, including the testimony or statements of parties and/or witnesses.

By: Stanley B. Cain

ACTAR #1686

Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$
$(3065.0000 \times V_1) + (3590.0000 \times 0.0000) = (3065.0000 \times 33.4400) + (3590.0000 \times 33.6300)$
$(3065.0000 \times V_1) + 0.0000 = 102493.6000 + 120731.7000$
$(3065.0000 \times V_1) + 0.0000 = 223225.3000$
$(3065.0000 \times V_1) = 223225.3000 - 0.0000$
$(3065.0000 \times V_1) = 223225.3000$

$$V_1 = \frac{223225.3000}{3065.0000} \qquad V_1 = 72.8304$$

W_1 = The Wt of Veh 1 in pounds.
W_2 = The Wt of Veh 2 in pounds.
V_1 = The Speed of Veh 1 in mph.
V_2 = The Speed of Veh 2 in mph.
V_3 = The Spd After Impact, Veh 1.
V_4 = The Spd After Impact, Veh 2.
* * This is a Rear End collision.* *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3065.0000
The After Impact Speed of Veh 1 is:	33.4400
The Wt of Veh 2 (lbs) is:	3590.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	33.6300

Formula Results:

The Spd of Veh 1 in mph is:	72.8304
The Vel of Veh 1 in fps is:	106.8179

Calculation Notes:

****REVISED WEIGHTS*********
Impact speed for both vehicles.
Roadway coefficient of friction: 0.70
100% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	72.8304	8.0000	63.4601	16.0000	54.0898
1.0000	71.6591	9.0000	62.2888	17.0000	52.9185
2.0000	70.4878	10.0000	61.1175	18.0000	51.7472
3.0000	69.3165	11.0000	59.9462	19.0000	50.5759
4.0000	68.1452	12.0000	58.7749	20.0000	49.4046
5.0000	66.9739	13.0000	57.6036		
6.0000	65.8027	14.0000	56.4323		
7.0000	64.6314	15.0000	55.2611		

AR Pro 15, © Dirigo Software, LLC

Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$
$(3065.0000 \times V_1) + (3590.0000 \times 0.0000) = (3065.0000 \times 30.1700) + (3590.0000 \times 33.6300)$
$(3065.0000 \times V_1) + 0.0000 = 92471.0500 + 120731.7000$
$(3065.0000 \times V_1) + 0.0000 = 213202.7500$
$(3065.0000 \times V_1) = 213202.7500 - 0.0000$
$(3065.0000 \times V_1) = 213202.7500$

$$V_1 = \frac{213202.7500}{3065.0000} \qquad V_1 = 69.5604$$

W_1 = The Wt of Veh 1 in pounds.
W_2 = The Wt of Veh 2 in pounds.
V_1 = The Speed of Veh 1 in mph.
V_2 = The Speed of Veh 2 in mph.
V_3 = The Spd After Impact, Veh 1.
V_4 = The Spd After Impact, Veh 2.
* * This is a Rear End collision.* *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3065.0000
The After Impact Speed of Veh 1 is:	30.1700
The Wt of Veh 2 (lbs) is:	3590.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	33.6300

Formula Results:

The Spd of Veh 1 in mph is:	69.5604
The Vel of Veh 1 in fps is:	102.0219

Calculation Notes:

****REVISED WEIGHTS**********
Impact speed for both vehicles.
Roadway coefficient of friction: 0.70
75% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	69.5604	8.0000	60.1901	16.0000	50.8198
1.0000	68.3891	9.0000	59.0188	17.0000	49.6485
2.0000	67.2178	10.0000	57.8475	18.0000	48.4772
3.0000	66.0465	11.0000	56.6762	19.0000	47.3059
4.0000	64.8752	12.0000	55.5049	20.0000	46.1346
5.0000	63.7039	13.0000	54.3336		
6.0000	62.5327	14.0000	53.1623		
7.0000	61.3614	15.0000	51.9911		

AR Pro 15, © Dirigo Software, LLC

Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$
$(3065.0000 \times V_1) + (3590.0000 \times 0.0000) = (3065.0000 \times 30.9600) + (3590.0000 \times 31.9000)$
$(3065.0000 \times V_1) + 0.0000 = 94892.4000 + 114521.0000$
$(3065.0000 \times V_1) + 0.0000 = 209413.4000$
$(3065.0000 \times V_1) = 209413.4000 - 0.0000$
$(3065.0000 \times V_1) = 209413.4000$

$$V_1 = \frac{209413.4000}{3065.0000} \qquad V_1 = 68.3241$$

W_1 = The Wt of Veh 1 in pounds.
W_2 = The Wt of Veh 2 in pounds.
V_1 = The Speed of Veh 1 in mph.
V_2 = The Speed of Veh 2 in mph.
V_3 = The Spd After Impact, Veh 1.
V_4 = The Spd After Impact, Veh 2.
* * This is a Rear End collision.* *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3065.0000
The After Impact Speed of Veh 1 is:	30.9600
The Wt of Veh 2 (lbs) is:	3590.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	31.9000

Formula Results:

The Spd of Veh 1 in mph is:	68.3241
The Vel of Veh 1 in fps is:	100.2086

Calculation Notes:

****REVISED WEIGHTS*********
Impact speed for both vehicles.
Roadway coefficient of friction: 0.60
100% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	68.3241	8.0000	58.9538	16.0000	49.5834
1.0000	67.1528	9.0000	57.7825	17.0000	48.4122
2.0000	65.9815	10.0000	56.6112	18.0000	47.2409
3.0000	64.8102	11.0000	55.4399	19.0000	46.0696
4.0000	63.6389	12.0000	54.2686	20.0000	44.8983
5.0000	62.4676	13.0000	53.0973		
6.0000	61.2963	14.0000	51.9260		
7.0000	60.1250	15.0000	50.7547		

AR Pro 15, © Dirigo Software, LLC

Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$
$(3065.0000 \times V_1) + (3590.0000 \times 0.0000) = (3065.0000 \times 27.9800) + (3590.0000 \times 31.9000)$
$(3065.0000 \times V_1) + 0.0000 = 85758.7000 + 114521.0000$
$(3065.0000 \times V_1) + 0.0000 = 200279.7000$
$(3065.0000 \times V_1) = 200279.7000 - 0.0000$
$(3065.0000 \times V_1) = 200279.7000$

$$V_1 = \frac{200279.7000}{3065.0000} \qquad V_1 = 65.3441$$

W_1 = The Wt of Veh 1 in pounds.
W_2 = The Wt of Veh 2 in pounds.
V_1 = The Speed of Veh 1 in mph.
V_2 = The Speed of Veh 2 in mph.
V_3 = The Spd After Impact, Veh 1.
V_4 = The Spd After Impact, Veh 2.
* * This is a Rear End collision.* *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3065.0000
The After Impact Speed of Veh 1 is:	27.9800
The Wt of Veh 2 (lbs) is:	3590.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	31.9000

Formula Results:

The Spd of Veh 1 in mph is:	65.3441
The Vel of Veh 1 in fps is:	95.8380

Calculation Notes:

****REVISED WEIGHTS**********
Impact speed for both vehicles.
Roadway coefficient of friction: 0.60
75% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	65.3441	8.0000	55.9738	16.0000	46.6034
1.0000	64.1728	9.0000	54.8025	17.0000	45.4322
2.0000	63.0015	10.0000	53.6312	18.0000	44.2609
3.0000	61.8302	11.0000	52.4599	19.0000	43.0896
4.0000	60.6589	12.0000	51.2886	20.0000	41.9183
5.0000	59.4876	13.0000	50.1173		
6.0000	58.3163	14.0000	48.9460		
7.0000	57.1450	15.0000	47.7747		

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From: Martha Cox
To: Kathryn Irby; ASCC Pleadings
Cc: Brent Gasper; Daiquiri Carter; Jim Jackson
Subject: Haley Hudson, etc. v. Arkansas DHS; Arkansas State Claims Commission No. 230641
Date: Wednesday, November 15, 2023 4:28:25 PM
Attachments: [redacted] Wilson (revised).pdf

Please find attached a Notice of Deposition for Bobby D. Wilson (revised) for filing in the above-referenced claim.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND AS PERMANENT LEGAL GUARDIAN OF [redacted], a minor — **CLAIMANT**

VS. — **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

NOTICE OF DEPOSITION

TO: Arkansas Department of Human Services
c/o Mr. Brent Gasper
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

NOTICE is hereby given that the claimant will take the deposition of Bobby D. Wilson, remotely via Zoom, on Monday, November 27, 2023, beginning at 2:00 p.m. CST, before a Certified Court Reporter, duly authorized to administer oath, and recorded by stenographic means. The deposition will be coordinated and stenographically recorded by a Certified Court Reporter with Arkansas Realtime Reporting, with a business address of 1130 E. Millsap Road, Fayetteville, AR 72703. The Certified Court Reporter may be remote or in the physical presence of the deponent. The deposition will continue until completed.

You are invited to attend and cross examine.

DATED this 15th day of November, 2023

Respectfully submitted,

BY: _____

Jim R. Jackson, AR Bar #93-209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
(501) 823-3610 phone
(501) 823-3611 facsimile
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Notice of Deposition was served on the following counsel of record by either U.S. Mail, postage prepaid, or by electronic service to:

Mr. Brent Gasper
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

/s/ Jim R. Jackson
Jim R. Jackson

JACKSON
LAW FIRM

November 13, 2023

Arkansas
State Claims Commission
NOV 15 2023
RECEIVED

VIA EMAIL & US MAIL

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, AR 72201

Re: Haley Hudson, Special Adm'x of the Estate of Jacqueline Ashcraft, deceased and Permanent Guardian of [redacted], Minor Child v. Arkansas Department of Human Services
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Kathryn:

Please find enclosed an original and two copies of the Claimant's Response to Motion to Compel that is being delivered via US Mail. A PDF copy of the Response is filed online and a copy of the PDF being sent to Brent Gasper, counsel for DHS, at the time of the electronic filing.

Please call me at (501) 823-3610 with any questions or suggestions.

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosure
cc:w/enc. Brent Gasper, *Esq.*

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528
501.823.3610
Fax: 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILD — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES — RESPONDENT

Arkansas
State Claims Commission
NOV 15 2023
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CLAIMANT'S RESPONSE TO MOTION TO COMPEL

It is categorically false that counsel withheld contact information for Jennifer Wilkerson. The primary thrust of the Motion to Compel is that DHS has been placed at a disadvantage because the claimant's counsel withheld the name and contact information for eyewitness Jennifer Wilkerson in violation of Rule 26 of the Arkansas Rules of Civil Procedure. DHS' Motion would lead one to think it only learned of Jennifer Wilkerson's identity and location during her deposition on October 20, 2023.

Nothing could be further from the truth! The claimant's counsel obtained the address and telephone number of Jennifer Wilkerson *from DHS' Answers to Interrogatories* and the State Trooper's accident report. Yes, the Commission is reading this correctly. DHS provided the claimant with the name, address, and cell phone number of Jennifer Wilkerson in a pleading filed with this Commission nearly a year ago. DHS provided the claimant with the *name, address, and cell phone number* of Jennifer Wilkerson in its initial response to Interrogatories and Requests for Production of Documents, which were filed with this Commission on January 10, 2023. DHS listed Ms. Wilkerson's address a[redacted]. Attached as Exhibit 1 are the

first two pages of DHS' answers to discovery served on January 10, 2023. This was three months **before** the claimant's answer to discovery was filed on April 4, 2023. This is the same answer that DHS alleges was inadequate in revealing the location of Jennifer Wilkerson.

As background information, Jennifer Wilkerson was a DHS employee who was driving a DHS car at the time of the wreck. Wilkerson was tasked to drive from Paris to Beebe to pick up a foster child and bring the child to Clarksville for a family visit. Wilkerson lives at the same address in Paris, Arkansas, as she did when she was employed by DHS. There is no evidence that Wilkerson has ever moved to any other address since the wreck occurred.

The respondent cannot assert a good faith argument that its Motion to Compel is not frivolous or filed to cause unnecessary delay or needlessly increase the cost of litigation. How can DHS claim that the location of Ms. Wilkerson's whereabouts had been withheld by the claimant when the claimant received the address and cell phone number from DHS in January? The claimant learned of Ms. Wilkerson's address and mobile phone number *from the respondent's answers* to Interrogatories. Wilkerson's address was corroborated in the State Trooper's crash report. Ms. Wilkerson confirmed during her deposition that she still resides at [redacted]. Wilkerson's mobile phone number is still the same as contained in DHS' answers to discovery.

DHS argues that if "Claimant's counsel honored his obligation to supplement discovery by providing Jennifer Wilkerson's contact information to respondent when he should have- much earlier in these proceedings and not through an inadvertent revealed that Ms. Wilkerson's deposition-Respondent would likely have had ample time to investigate this claim instead of fighting a premature motion for summary judgment." This is a nonsensical argument. Jennifer Wilkerson's address and telephone number were in the respondent's Answers to Interrogatories. Furthermore, Jennifer Wilkerson's address was in the Trooper's Crash Report.

Jennifer Wilkerson has been constant in her lack of knowledge as to what happened to cause a wreck in which she drove nearly straight into the rearend of Ashcraft's car. Jennifer Wilkerson provided a written statement to DHS the week after the wreck. Kristen Shelton, a DHS Program Administrator, administered 10 written questions to Ms. Wilkerson as part of her formal Fact-Finding Investigation. Question #5 asked:

"While you were driving, what happened to cause the accident?"

"I remember seeing a car up ahead but no break (sic) lights or signal lights. That's all I remember until I came to."

Arkansas State Claims Commission
RECEIVED NOV 15 2023

5. While you were driving, what happened to cause the accident?
I remeber seeing a car up ahead but no break lights or signal lights. Thats all I remember until I came to.
6. What did the accident occur?
Midday
7. [illegible] did the accident occur?

Attached as Exhibit 2 are the respondent's Response to Requests for Production of Documents, Bates stamped 417 – 426, which contain the information DHS gathered about Jennifer Wilkerson's crash immediately after the wreck as part of its formal Fact-Finding Investigation.

Claimant filed her Motion for Partial Summary Judgment on the Issue of Liability based, among other things, upon the information Jennifer Wilkerson provided DHS the week after the wreck. In a nutshell, Wilkerson was an hour behind schedule to pick up a foster child in Beebe, and she was driving east on Highway 22 at a high rate of speed. Wilkerson did not see the oversized tractor-trailer rig or escort vehicle until after the wreck occurred. Wilkerson did not see Ashcraft's vehicle, which had slowed to allow the oversized load to pass before attempting a left-hand turn. Wilkerson had no idea what happened to cause her to drive into the rear end of Ashcraft's car at a high rate of speed just a few miles outside of Paris. DHS rightfully terminated Wilkerson at the conclusion of its fact-finding

investigation. This evidence, along with the other evidence contained in the claimant's Motion for Partial Summary Judgment, presents DHS with a very difficult burden of proving that anyone other than Wilkerson was at fault in causing a wreck that demolished two passenger cars and led to the death of Jacqueline Ashcraft from an acute brain hemorrhage.

The claimant decided to depose Jennifer Wilkerson even though the information contained in DHS' "Fact-Finding" investigation meets the burden of proof that DHS was solely at fault. The claimant asked Director Irby to issue a Subpoena for Ms. Wilkerson and used the address of: [redacted]

The Logan County Sheriff's Department served Jennifer Wilkerson with the subpoena at: [redacted]. (Attached as Exhibit 3 is the Process of Service form completed by the Logan County Deputy). There can be no confusion by DHS as to the whereabouts of Jennifer Wilkerson.

If DHS was confused about how to locate Jennifer Wilkerson, it could have referenced State Trooper James Ray's Crash Report [redacted], which is a public document. Trooper Ray's report of June 11, 2021, lists the address of Jennifer Wilkerson as [redacted] **This is the same address that DHS provided on January 10, 2023.**

DRIVER INFORMATION

Name ☐ Unknown

Last	First	Middle	Suffix
WILKERSON	JENNIFER	LEANN	

Date of Birth/Age [redacted] Sex ☐ Male ☑ Female ☐ Unknown

Address ☐ Unknown

[redacted]

Street City State Postal Code

DRIVER LICENSE INFORMATION

License Status 100
000 Not licensed
100 Valid license
200 Suspended
201 Revoked

License Number [redacted]

License State AR

License Class D

Restrictions on License Check all that apply.
☑ 000 None
☐ 100 With licensed adult

Restrictions Viol.
☑ 000 None
☐ 100 With licensed

Trooper Ray's Crash Report containing the "Driver Information" for Jennifer Wilkerson was attached as an exhibit to his deposition on February 21, 2023. This fact alone points out how easy it would be for the respondent to locate Wilkerson.

There is no legitimate argument that the respondent can make that it could not locate Jennifer Wilkerson. Attached as Exhibit 4 is a copy of the e-mails sent by Jennifer Wilkerson in response to a letter mailed to her address at [redacted]. Nothing prevented DHS from sending a letter to Wilkerson. Accordingly, the accusation that claimant withheld the "whereabouts" of the respondent's former employee in this case is devoid of merit and likely frivolous within the meaning of Rule 11 of the Arkansas Rules of Civil Procedure.

Rule 26(b)(1) of the Arkansas Rules of Civil Procedure lists the scope of discovery that a party is required to disclose. The relevant portion of this subsection is: "the identity and location of persons who have knowledge of any discoverable matter or who will or may be called as a witness at the trial of any cause." The claimant's response was clearly correct. DHS did have Jennifer Wilkerson's identity and location. Any assertion that e-mail addresses, TikTok handles, *etc.*, are required to be disclosed is an incorrect argument of law. That is beyond the scope of discovery.

The identity, location, and cell phone number of DHS employee Jennifer Wilkerson were known by DHS since prior to the wreck occurred.

WHAT IS THE POINT OF THE RESPONDENT'S MOTION TO COMPEL?

At this point, the Commission must be wondering, what is the point of DHS' Motion to Compel? After all, the agency had Jennifer Wilkerson's address and cell phone number since she was their employee. Wilkerson returned to work the week after the wreck to provide DHS with her version of what happened. Paris is a very small town. DHS could have served Wilkerson with a Subpoena to conduct her deposition at any point in this litigation.

Why didn't DHS ask its former employee to drop by the DHS office in Paris and visit with counsel? Why didn't DHS write or call Ms. Wilkerson to ask her questions about the wreck?

The answer is obvious. DHS does not want to address the claimant's Motion for Partial Summary Judgment on Liability. The respondent's counsel has sent multiple e-mails attempting to cajole claimant's counsel into withdrawing the Motion for Partial Summary Judgment on Liability. *See, e.g.*, Exhibit 5, where counsel for respondent writes: "I may reconsider those motions for sanctions should the motion for summary judgment be withdrawn." It is alarming that DHS would employ such a "win-at-all-costs" strategy against the family of a deceased Arkansas citizen who perished in a traffic accident caused by a DHS employee. DHS *knows* there is a mountain of evidence that Jennifer Wilkerson was driving at a high rate of speed, not paying attention to traffic, and was running an hour late to pick up a foster child in Beebe when she drove directly into the rear end of Ashcraft's car on a straight stretch of Highway 22.

DHS' own expert, Michael Kerley, found that Jennifer Wilkerson was at fault in causing the wreck. Mr. Kerley testified that if he were the investigating State Trooper, he would have issued a traffic citation to Jennifer Wilkerson.

> Q. And I certainly do not want to start saying he assigned fault when that's kind of what we are litigating here. But I just want to try to - - I'm using that as a- as just kind of a starting point to ask you the question, is there enough in that police report to assign fault in this - - in this case? If you were an officer - - I know that officers are not going to have the benefit of all of this that you've done.
>
> A. If I were just a road officer, yes, I would have issued a citation to Ms. Wilkerson.

Deposition of Michael Kerley, pp. 100-101, lines 20 – 5.

Mr. Kerley did not challenge the claimant's expert's speed calculations, which found that Jennifer Wilkerson was traveling in a range from 66.7 to 74.3 mph in a 55-mph zone at the time of the collision.

To summarize, the respondent does not want this Commission to decide the issue of liability on the merits of the evidence.

DEFAMATION OF JACQUELINE ASHCRAFT

DHS was not content with trying to allege that claimant's counsel did something underhanded by allegedly withholding the contact information of Jennifer Wilkerson. DHS' motion astonishingly attacks Jacqueline Ashcraft by alleging that she "*might have used an alias*" in seeking medical treatment prior to the wreck!

DHS is asking this Commission to believe that Ms. Ashcraft was so clairvoyant to foresee that she was going to be in a fatal rear-end collision caused by Jennifer Wilkerson that Ashcraft began using an "alias" to prevent DHS from finding her medical records. This allegation would constitute actionable defamation of character if Ms. Ashcraft had survived the wreck. Not only is the allegation slanderous, but it is also preposterous because it suggests that a doctor's clinic or emergency room would not discover such deceit.

Furthermore, DHS deliberately misrepresents the testimony of Haley Hudson, [redacted] n its Motion to Compel. "Likewise, Claimants have pleaded and subsequently testified under oath that at the time of her death, Ms. Ashcraft was not being seen by any medical professional and did not suffer from any condition that would have caused her injuries. Jennifer Wilkerson's testimony now casts a dark shadow over these claims."

The truth is that Haley, [redacted] each testified that they had no knowledge of their mother seeking medical treatment since she had moved from Wynne to Paris.

Attached as Exhibit 6 are pages 20-25 of [redacted] deposition; attached as Exhibit 7 are pages 19 – 24 o[redacted] deposition; and attached as Exhibit 8 are pages 53-63 of Haley Hudson's deposition. No reasonable reading of these deposition transcripts would lead anyone to conclude anything other than these three children had no knowledge of their 50-year-old mother seeking medical treatment since her move from Wynne to Paris. A lack of knowledge of their mother's medical treatment is not the same as denying that their mother had medical treatment. Again, this is a DHS distraction in an attempt to prevent the Commission from hearing a legitimately drafted Motion for Partial Summary Judgment on the Issue of Liability.

CONCLUSION

The best and kindest characterization is that DHS' Motion to Compel feigns outrage and indignation that the claimant did not provide the identity and location of DHS employee Jennifer Wilkerson. The Commission can look no further for this melodrama than the motion itself where DHS alleges that the failure to provide the whereabouts of Jennifer Wilkerson "*has substantially prejudiced Respondent and potentially damages its case. It certainly has upended Respondent's investigation into the matter, compromised its trial strategy and preparation, and altered its approach to the case. The compressed and unreasonable timeframe under which Respondent has been required to act resulting from Claimants' counsel's bad faith has cost Respondent and its counsel time, effort, and money that it would not have had to expend had Claimant's counsel fairly proceeded under the rules.*"

This must be the most preposterous allegation ever raised by counsel, who originally provided the claimant with the name, address, and cell phone number of Jennifer Wilkerson, along with the DHS' own investigative "Fact Finding" of Jennifer Wilkerson's conduct the week after the wreck. The result of DHS' "Fact Finding" investigation clearly found that Jennifer Wilkerson is solely liable for the wreck.

This allegation contained in the Motion to Compel is nonsensical at best. At worst, it shows that the respondent is grasping at straws in an effort to postpone the inevitable finding that the respondent is the sole and proximate cause of the collision that led to Jacqueline Ashcraft's death.

Respectfully submitted,

Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
Phone: 501-823-3610
Jim@JimJacksonatty.com

By: Jim Jackson
Jim R. Jackson
Arkansas Bar No. 93209

CERTIFICATE OF SERVICE

I, Jim Jackson, certify that on this date, November 13, 2023, consistent with the requirements of Ark. R. Civ. P. 5, a complete copy of the foregoing was electronically submitted to the Clerk of the Arkansas Claims Commission and electronically served on Brent Gasper, *Esq.*, counsel for the Arkansas Department of Human Services.

Jim R. Jackson
Jim R. Jackson

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — CLAIMANT

v. CC NO. 230641

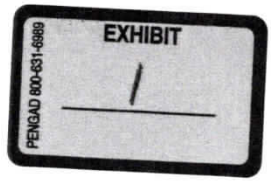
ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES — RESPONDENT

RESPONDENT'S RESPONSE TO CLAIMANT'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

COMES NOW, the Respondent, the State of Arkansas, Department of Human Services ("DHS"), Office of Chief Counsel, by its attorneys, Brent P. Gasper, Assistant Deputy Chief Counsel, and Sarah DeBusk, General Counsel, and for its Responses to Claimant's First Set of Interrogatories and for Production of Documents, states:

INTERROGATORY NO. 1: Please state the names and complete present or last known addresses and telephone numbers of all persons known to you, your attorneys, or other representatives who have knowledge of the facts relating to the accident as alleged or described in the Complaint (the "accident").

ANSWER: This claim is still being investigated and persons with knowledge are still being ascertained. Respondent will update and supplement this response when this information becomes available. At this point, Respondent can state that the following persons have information regarding the accident:



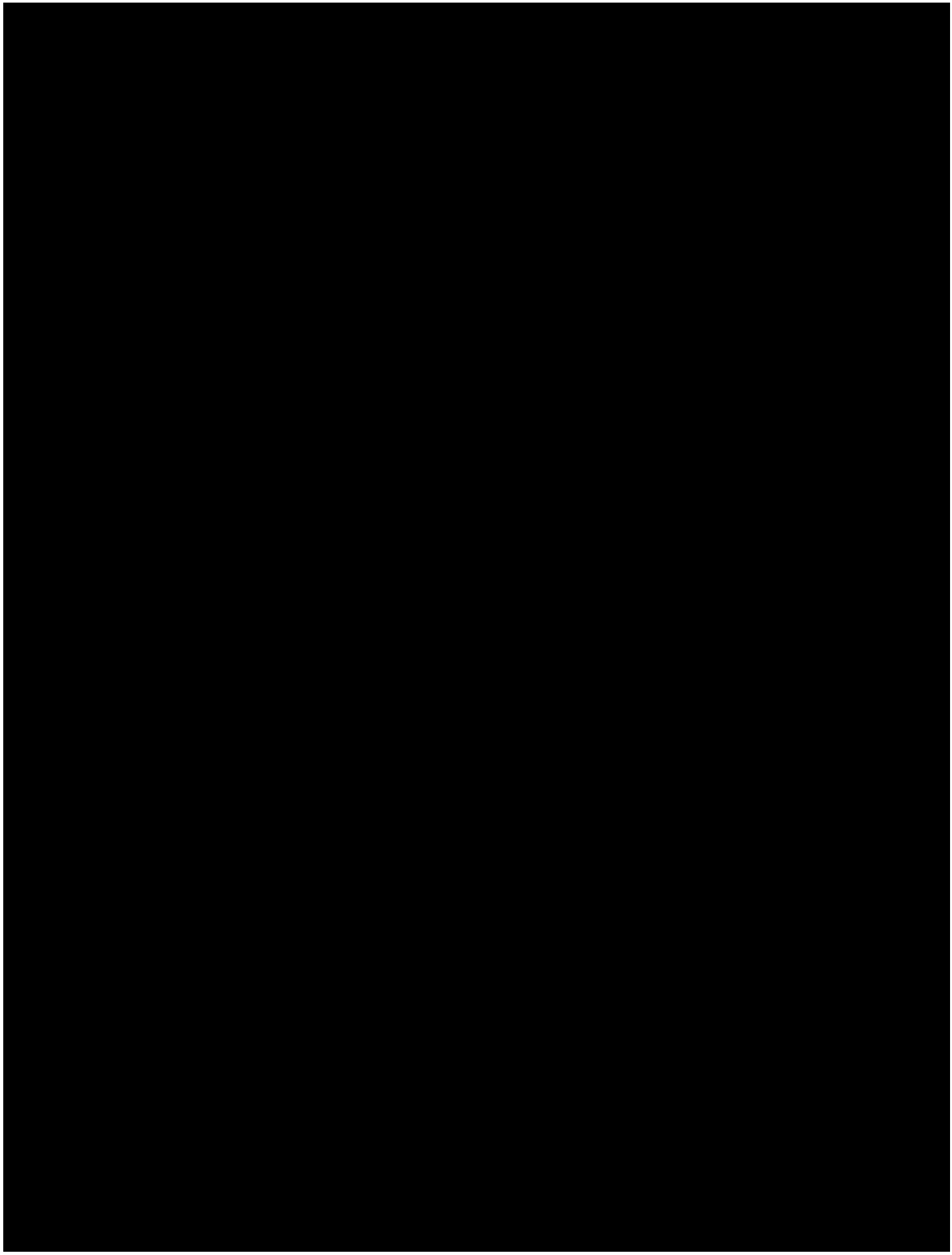
1. Jennifer Wilkerson, [redacted]
2. Kristen Shelton, Office phone 479 647-7171, Office address is 900 Rogers Ave., Clarksville, AR 72830.
3. Brandy Ezell, Office phone 479 963-2783, Office address, #17 W. McKeen St., Paris, AR 72855
4. Pam Feemster, Office phone 479 963-2783, Office address, #17 W. McKeen St., Paris, AR 72855
5. James Ray, Game and Fish Commission, james.ray@agfc.ar.gov
6. Bobby Dale Wilson, GKD Management [redacted]

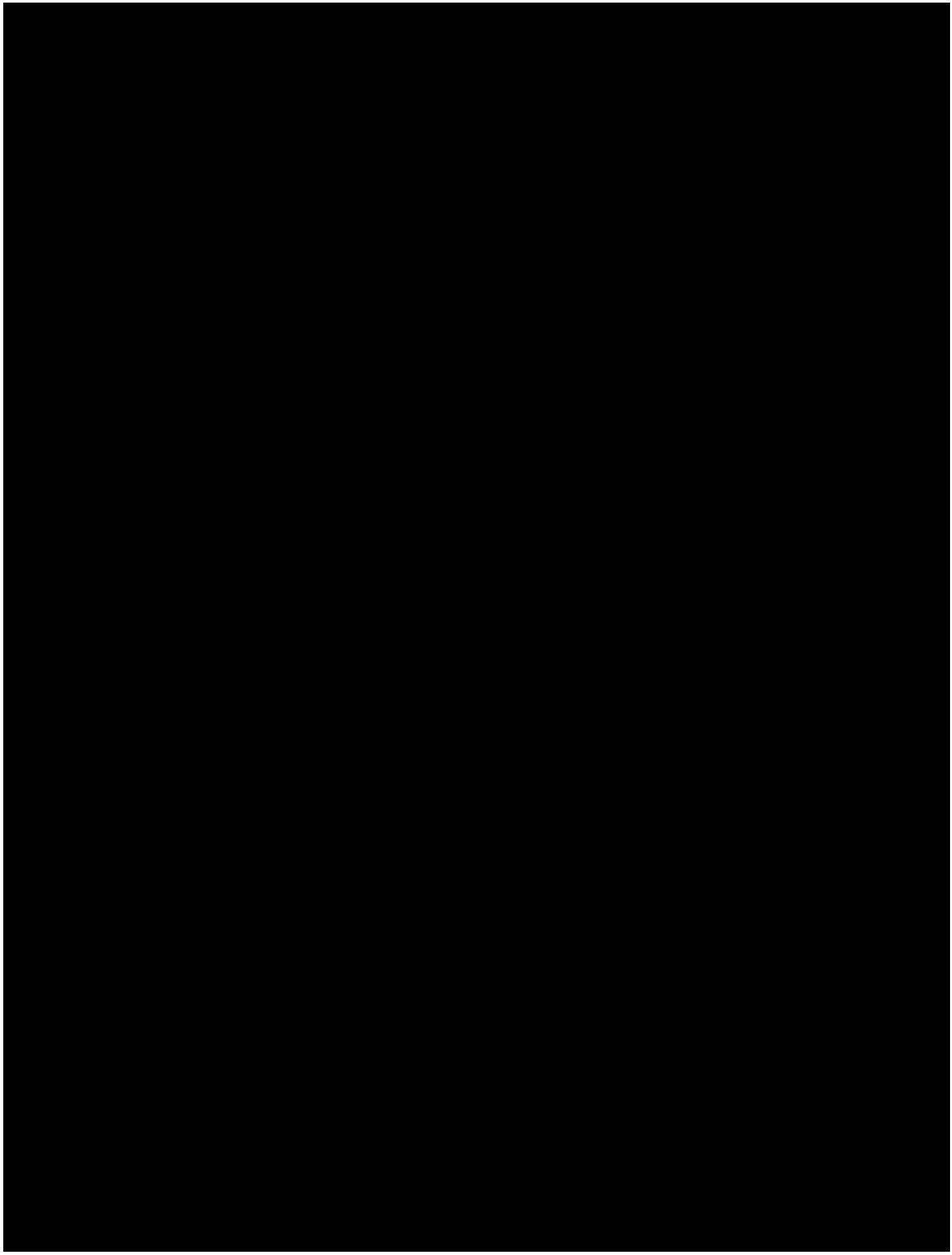
INTERROGATORY NO. 2: Please state the names and complete present or last known addresses and telephone numbers of all persons who will or may be called as witnesses on your behalf at the trial of this lawsuit.

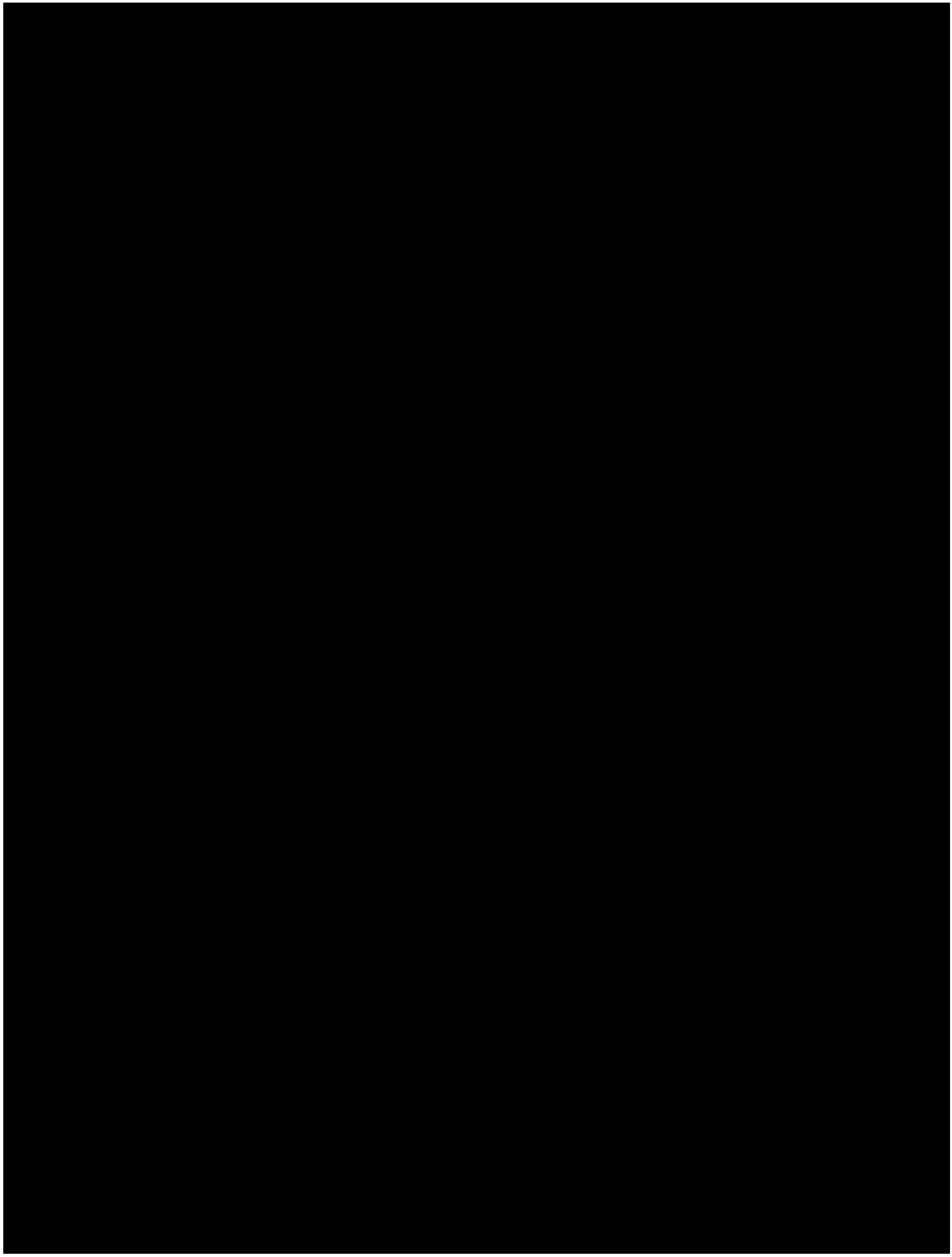
ANSWER: This claim is still being investigated and this information is still being ascertained. Further, Respondent has not ascertained which, if any, persons will be called at the trial of this matter. Respondent will update and supplement this response when this information becomes available.

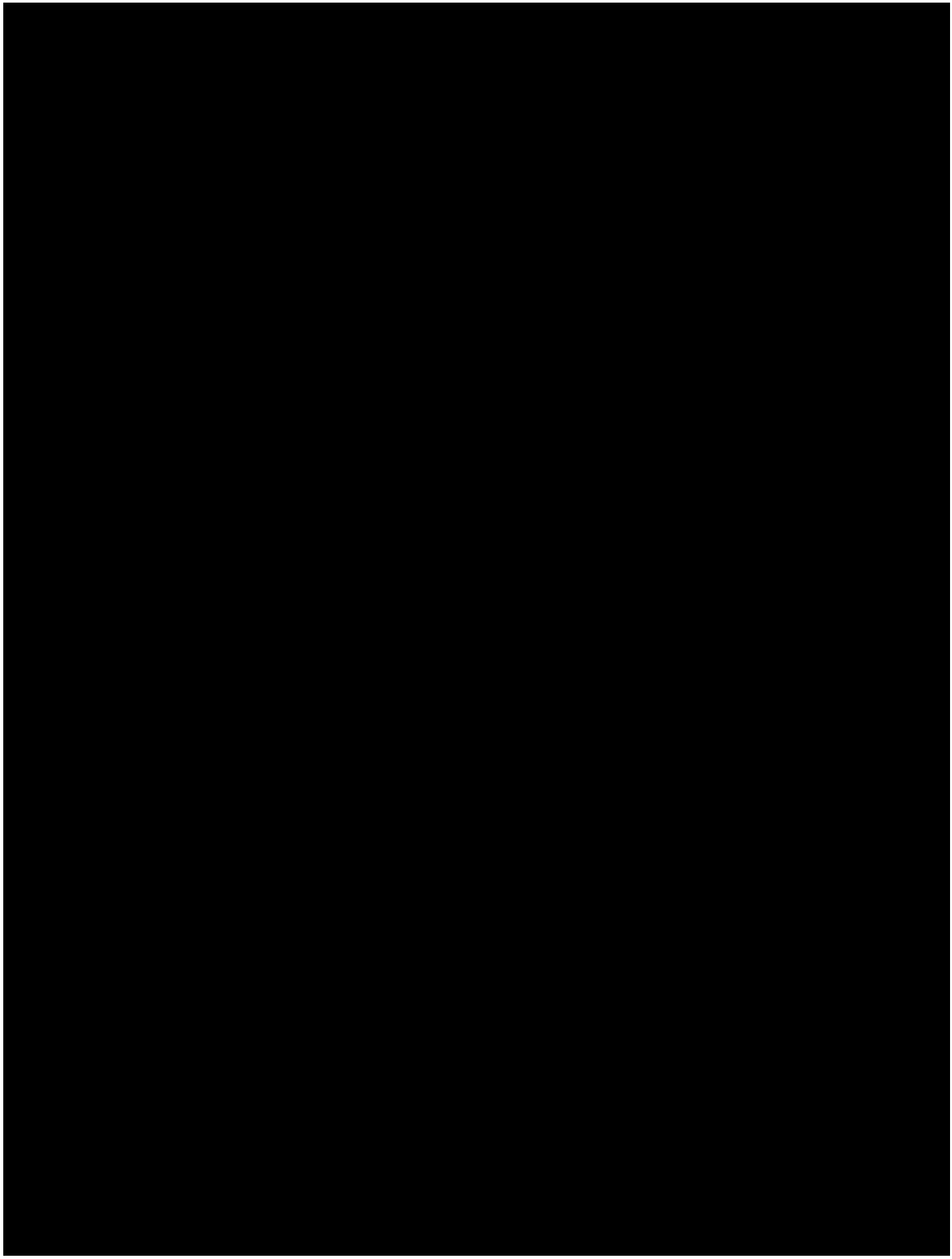
INTERROGATORY NO. 3: Please state briefly the facts or the nature of the subject matter known to each of the persons listed in response to Interrogatory Nos. 1 and 2 above.

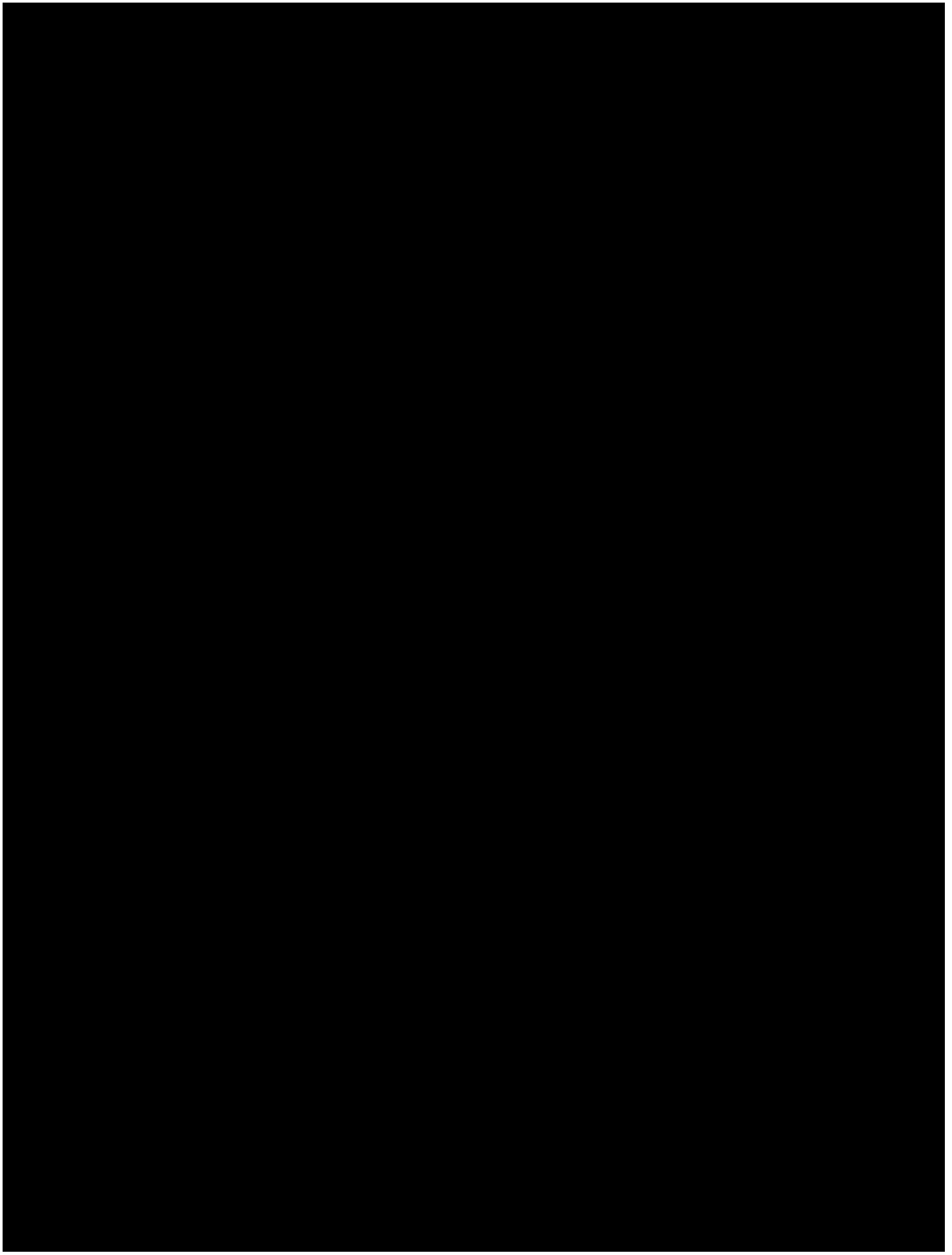
ANSWER: Please see responses to Interrogatories Nos 1 and 2. Respondent would at this point state that Jennifer Wilkerson stated she was driving the DHS vehicle and that Bobby Dale Wilson was the driver of the truck that was also involved in the accident. Further, James Ray was at the time an Arkansas State Trooper who responded to and investigated the accident. Kristen Shelton was at the time a DHS employee that investigated the accident and the

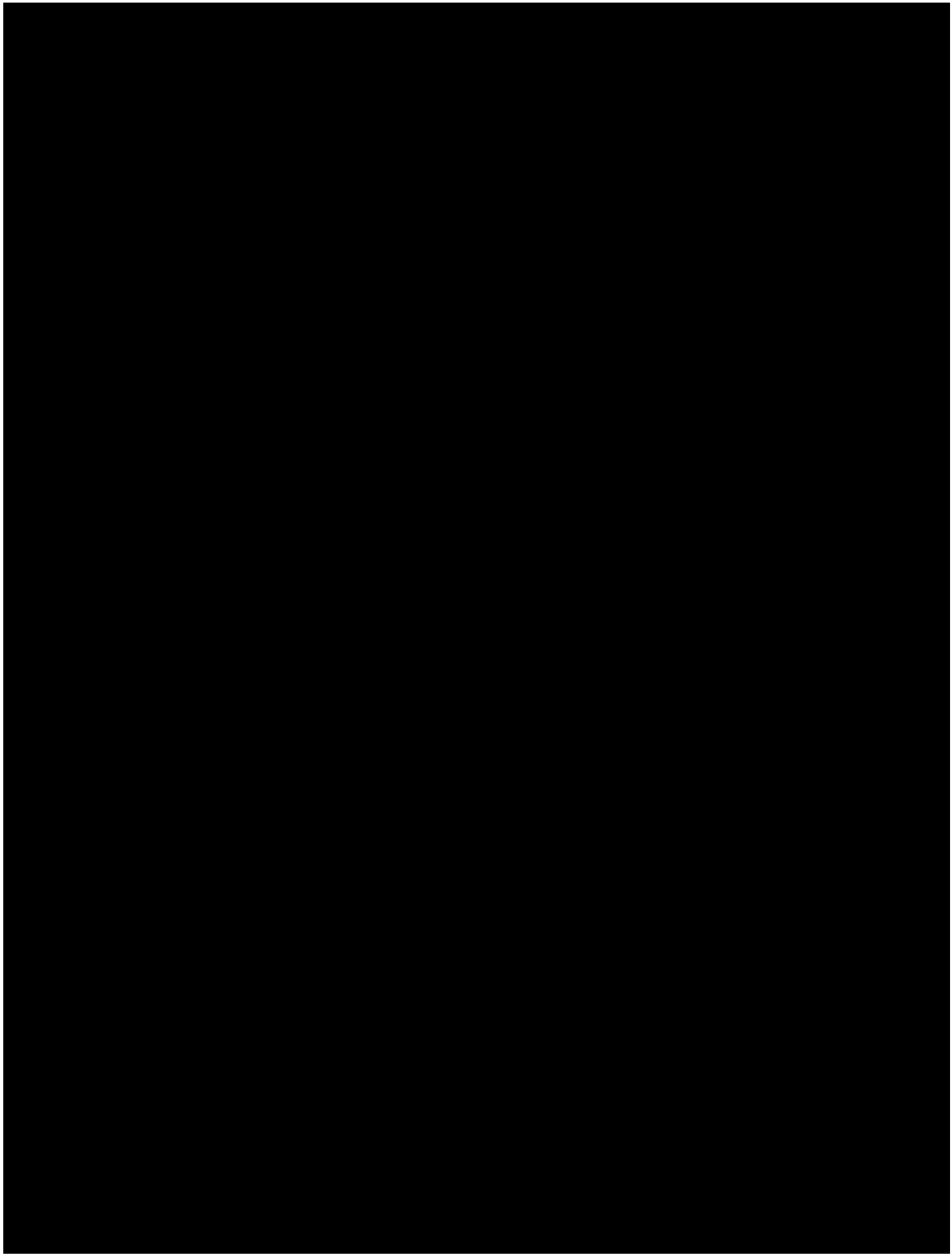


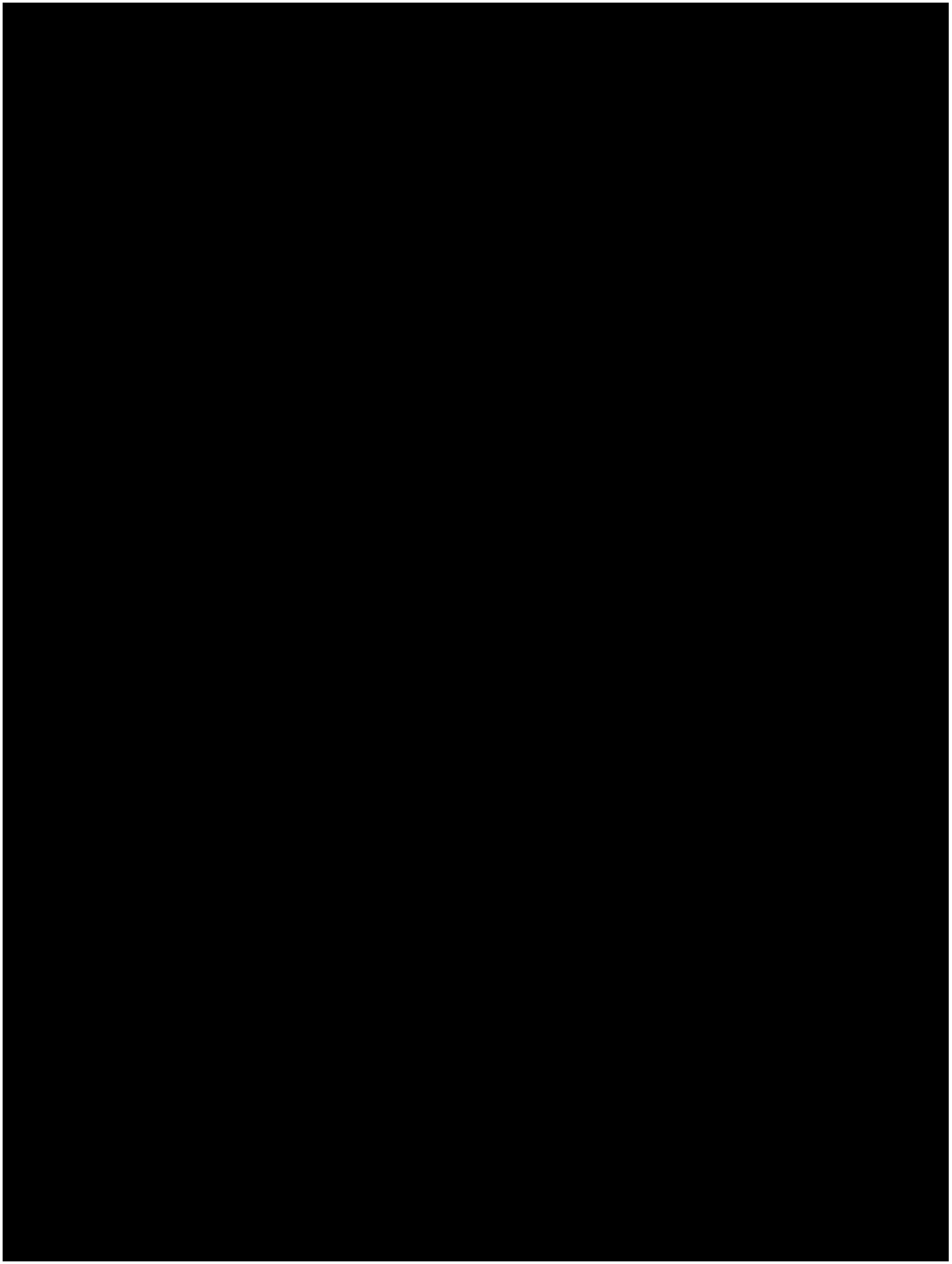


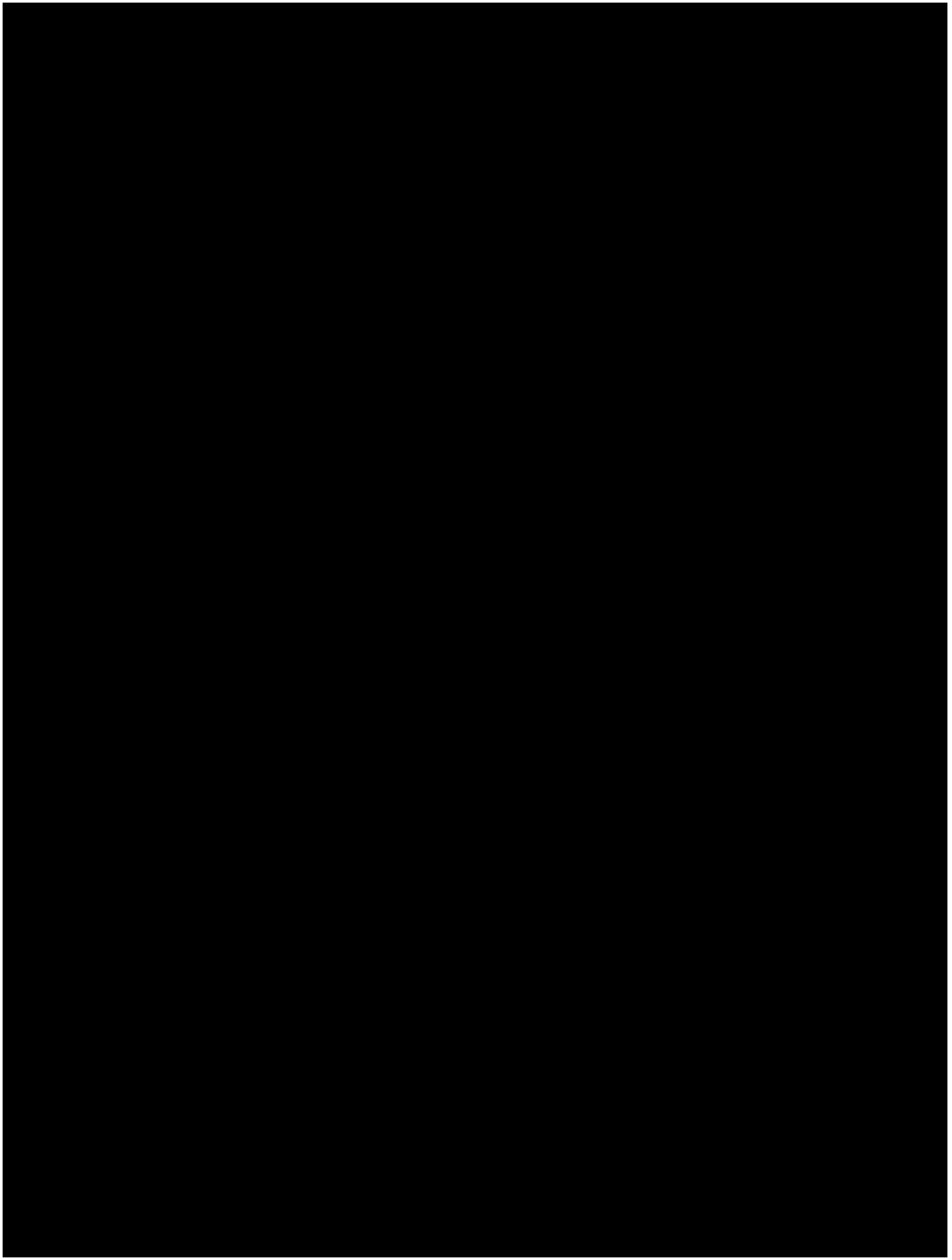


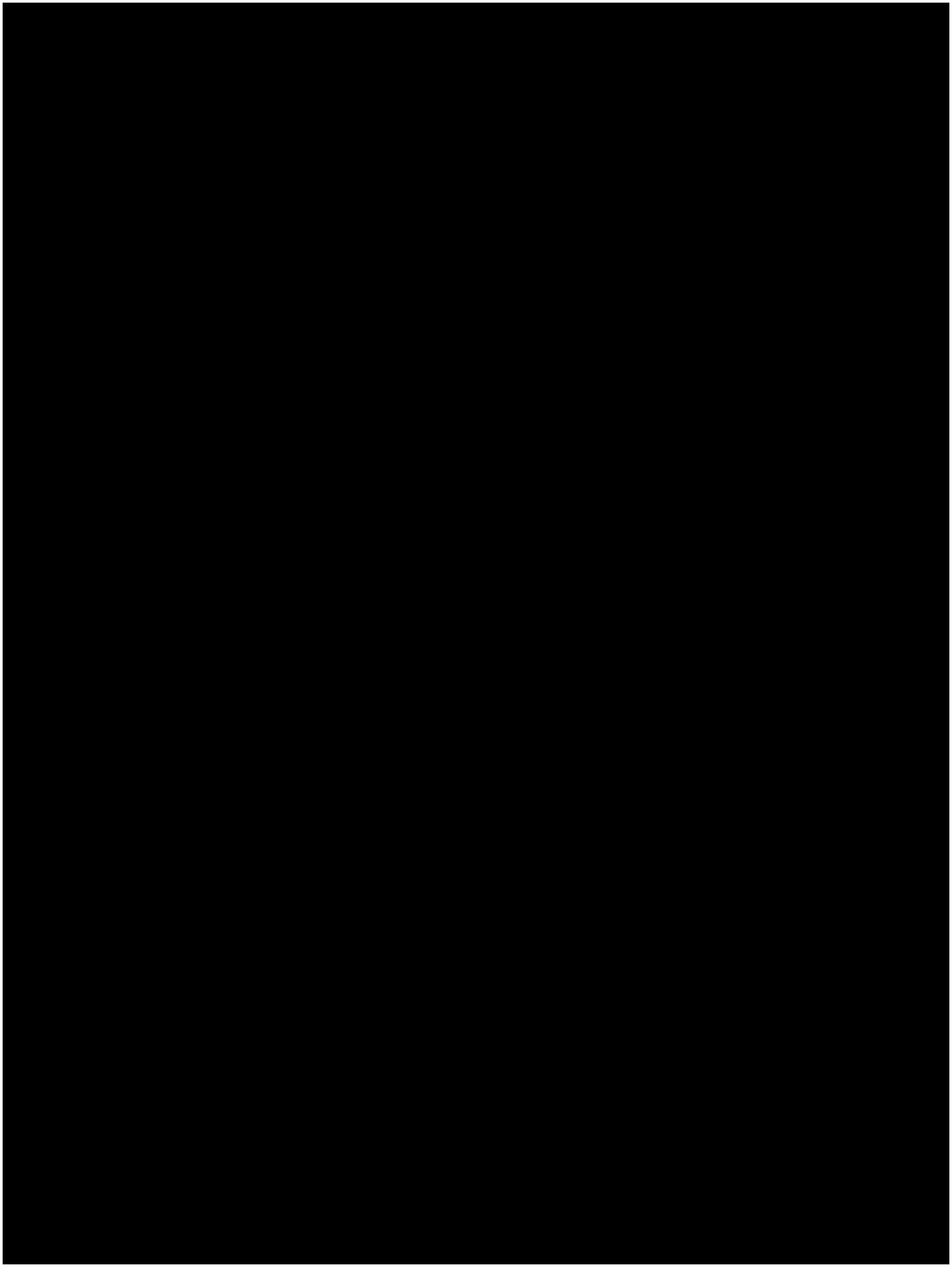


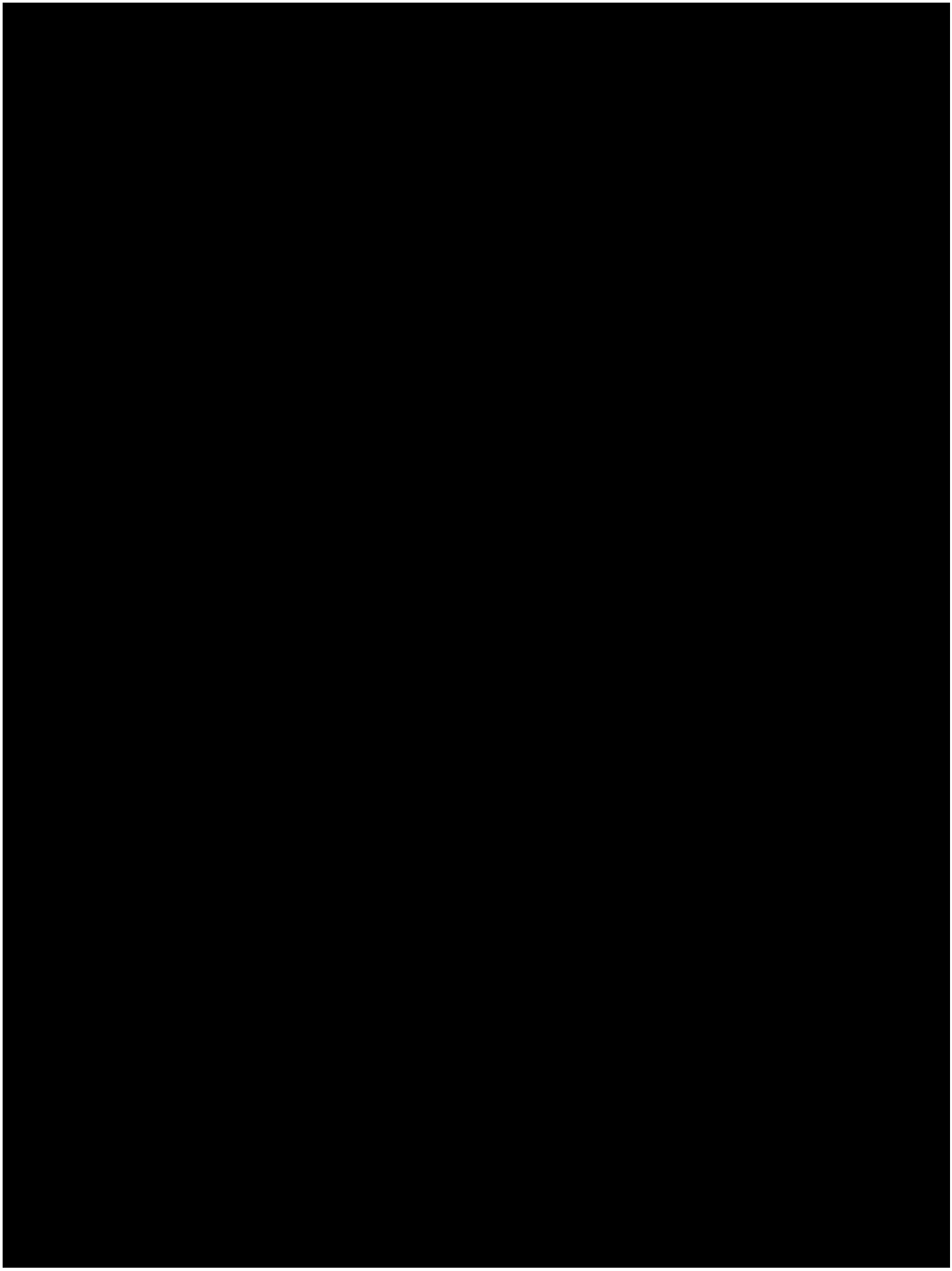












PROOF OF SERVICE

Jennifer Wilkerson
SERVED ON (Print Name)

10/16/23
DATE

[redacted]

Personal Service
MANNER OF SERVICE

Charlie M. Edmonson
SERVED BY (Print Name)

Deputy LC/4
TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on 10/16/23
DATE

Dep Charlie M. Edmonson
SIGNATURE OF SERVER

[redacted]

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d).

A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3.

A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

EXHIBIT
3

PENGAD 800-631-6989

Jim Jackson

From: Jim Jackson
Sent: Monday, January 23, 2023 3:45 PM
To: Jennifer Wilkerson
Subject: RE: Response to letter received

Jennifer,
Thank you for the e-mail.
We are bringing a claim against DHS before the Arkansas Claims Commission.
All that the DHS attorneys will tell me is that you are no longer employed by them.
I just wanted to confirm that you were in the course and scope of employment at the time of the wreck.
I assumed so since you were driving a DHS car and the time of the wreck was during the day but I just wanted to make certain.
This is just a claim with DHS so it does not mean you will have to be personally liable.
We know it was an accident but we want to make sure that DHS steps up and accepts responsibility for what happened.
Thank you,
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Jennifer Wilkerson [redacted]
Sent: Monday, January 23, 2023 3:39 PM
To: Jim Jackson <jim@jimjacksonatty.com>
Subject: Response to letter received

Mr. Jackson,
This is Jennifer Wilkerson, i received a letter in the mail and i am responding to your question. I was working for DHS at the time of the wreck on 6/11/2021 but I no longer work for them. I hope this is all you were wanting from me. Please let me know that you did receive this email. If you have any other questions about this incident please let me know and if you could provide a brief summary of what this means and does it pertain to me directly.

Sincerely

Jennifer Wilkerson
[redacted]

EXHIBIT 4
PENGAD 800-631-6989

Jim Jackson

From: Jim Jackson
Sent: Friday, April 7, 2023 9:48 AM
To: Jennifer Wilkerson
Subject: RE: Response to letter received

Jennifer,
I hope you are doing well.
I just left a voicemail.
I have filed a claim against the Department of Human Services with the Arkansas Claims Commission for the accident.
The attorney for DHS is claiming that Ms. Ashcraft was the cause of the wreck.
We all know that this was an accident and it could have happened to anyone.
But is there anything you are aware of that Ms. Ashcraft did to cause the wreck?
It appears that she was attempting to make a left hand turn to drop off her nephew when the accident happened.
Did you see or observe anything that is different from what the Trooper found?
Thank you,
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Jennifer Wilkerson [redacted]
Sent: Monday, January 23, 2023 3:39 PM
To: Jim Jackson <jim@jimjacksonatty.com>
Subject: Response to letter received

Mr. Jackson,
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Sincerely

Jennifer Wilkerson
[redacted]

Jim Jackson

From: Jim Jackson
Sent: Wednesday, July 26, 2023 1:43 PM
To: [redacted]
Subject: Arkansas State Claims Commission No. 230641 Incident Date: June 11, 2021
Attachments: Affidavit of Jennifer Wilkerson.docx; Letter to Jennifer Wilkerson with proposed Affidavit 7-25-2023.pdf

Jennifer,
I'm the attorney representing the Ashcraft family before the Arkansas Claims Commission.
I know you have given a statement to the Arkansas State Police and to DHS right after the wreck.
I'd like to memorialize that in the form of an Affidavit for presenting to the Claims Commission.
Can you review the attached Affidavit and let me know if it is correct?
The PDF file has the exhibits referenced in the Word Document.
I called and left a voice mail earlier today.
Thank you for your attention to this matter.
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

Jim Jackson

From: Jim Jackson
Sent: Wednesday, August 9, 2023 4:03 PM
To: Jennifer Wilkerson
Subject: RE: Response to email

Tracking:

Recipient	Delivery
Jennifer Wilkerson	
Martha Cox	Delivered: 8/9/2023 4:03 PM

Ms. Wilkerson,
Were you able to sign and return the Affidavit?
We have not received it in the mail yet.
Thank you,
Jim

JACKSON LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Jim Jackson
Sent: Friday, July 28, 2023 10:11 AM
To: 'Jennifer Wilkerson' [redacted]
Subject: RE: Response to email

Jennifer,
I know a lot of people were negatively affected by the wreck.
I am traveling today on business.
Can you take the Affidavit to your bank or insurance agent and sign it in front of a Notary Public and drop it off with the Post Office?
I will be back in Arkansas next week if you would like to visit with me.
Thank you,
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Jennifer Wilkerson <[redacted]
Sent: Friday, July 28, 2023 8:08 AM
To: Jim Jackson <jim@jimjacksonatty.com>
Subject: Response to email

Mr. Jackson I received your email and you that is all correct there are things about myself and the trauma that it did cause and how dhs ruined my life because or the accident. This is a small town I haven't been able to get a job since then they like the rest of this town don't care about helping people. If you would like I can give you a call or I can get that sent back. That's the first time I saw a photo of the wreck myself.
Jennifer Wilkerson
--
Jennifer Wilkerson
[redacted]

Jim Jackson

From: Jim Jackson
Sent: Monday, August 14, 2023 2:22 PM
To: [redacted]
Subject: Affidavit

Jennifer,
I hate to bother you about the affidavit but it is something that has to be addressed.
Have you reviewed the Affidavit to see if it is correct?
If so, can you please either sign it in front of a Notary Public and mail it back to my office or let me know what corrections/additions you would like to make.
Thank you,
Jim

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

Jim Jackson

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Sent: Friday, July 28, 2023 10:11 AM
To: Jennifer Wilkerson
Subject: RE: Response to email

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Jim Jackson
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700 W. Broadway
North Little Rock, AR 72114
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From: Jennifer Wilkerson [redacted]
Sent: Friday, July 28, 2023 8:08 AM
To: Jim Jackson <jim@jimjacksonatty.com>
Subject: Response to email

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Jennifer Wilkerson
--
Jennifer Wilkerson
[redacted]

Jim Jackson

From: Jim Jackson
Sent: Sunday, September 3, 2023 2:28 PM
To: Jennifer Wilkerson
Subject: Affidavit

Tracking:

Recipient	Delivery
Jennifer Wilkerson	
Martha Cox	Delivered: 9/3/2023 2:28 PM

Ms. Wilkerson,
Did you receive and review the Affidavit?
Were there any corrections that need to be made or additions to it?
I know this is not an issue you want to address but it is important that we know what information you recall about the incident.
Thank you,
Jim Jackson

JACKSON
LAW FIRM

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

Martha Cox

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Monday, October 23, 2023 9:32 AM
To: Jim Jackson
Cc: Daiquiri Carter
Subject: Request for documents

Jim:

Friday was a very interesting an enlightening day. Following up on my on-the-record request, please remit copies of any and all written, text, email, or voice communications you have had with Jennifer Wilkerson. Please also supply a call log of each and every phone call placed or or message sent to Jennifer Wilkerson or that you have received from Jennifer Wilkerson. Please also supply the name of the videographer so I may procure a copy of the videotaped deposition.

Please comply with these requests by the end of business today. I am happy to make these requests in a more formal manner and reference those parts of your formal discovery responses that require you to comply with my requests. However, I wanted to first give you the opportunity to do so informally.

Also, after Jennifer Wilkerson's deposition on Friday I think it is pretty clear that your summary judgment motion was not only premature as I have argued *ad nauseum* but is now doomed. I would appreciate you save us all the pain and work of jumping through those hoops and meeting these deadlines by withdrawing that motion. Frankly, I think at this point your best call is to nonsuit the case and refile before limitations runs, starting fresh from the beginning, but that is your decision to make.

Please make your decision regarding the summary judgment motion by the end of business today if you would. Tomorrow I will be filing a formal motion to compel your heretofore undisclosed contacts and written statements with Jennifer Wilkerson accompanied by a motion for sanctions for witness intimidation, witness tampering, and for filing pleadings that you knew or should have known were false. I may reconsider those motions for sanctions should the motion for summary judgment be withdrawn.

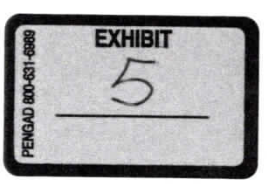
I look forward to hearing from you,

Brent

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Street
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

This email may contain sensitive or confidential information.



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BEFORE THE STATE CLAIMS COMMISSION
OF THE STATE OF ARKANSAS

Arkansas
State Claims Commission
NOV 15 2023
RECEIVED

HALEY HUDSON, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR,

CLAIMANTS,

VS.

THE ARKANSAS DEPARTMENT OF HUMAN SERVICES,

RESPONDENTS.

CLAIM NO. 230641

---o---

DEPOSITION

OF

[redacted]

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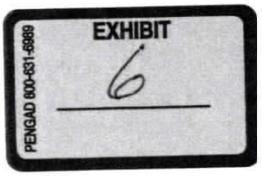
THURSDAY, SEPTEMBER 7, 2023

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COURT REPORTER:

DONNA K. PETRE, CCR
P. O. Box 1027
Little Rock, Arkansas 72203

PETRE'S STENOGRAPH SERVICE
(501) 376-1411



Q In the apartment, okay. But you don't remember what -- it is a woman, I am assuming?
A Yes.
Q Okay. You don't have to know that. That's fine. And did she spend much time like around her friends and so on?
A Yes.
Q Yes? Okay. Are you all right?
A Sure, I'm just nervous.
Q Oh, that's okay. Do you want to take a second?
A (Indicated yes.)
Q It's all right.

MR. GASPER: Let's go off the record.

(WHEREUPON, there was a brief break.)

MR. GASPER: Okay. Go back on the record, please, if you haven't already.

BY MR. GASPER:
Q Now, your mom, did you ever remember her like being sick during her just everyday life, being sick or anything?
A No. She always had a strong immune system. So, like I --
Q I'm sorry. Could you repeat? A what immune system?
A She had a strong immune system.

Q Strong immune system, okay.
A So, I really never remember her sick.
Q Okay. Well, that was -- that's very lucky for her. Did she ever go to the doctor, did you like go to -- ever accompany her to doctor appointments or anything?
A No.
Q What about, even if she had a dentist or two, occasionally?
A No. Because she got all her teeth pulled out.
Q Oh, no. Okay. Oh, man, when did that happen?
A Like before we moved to Paris.
Q Oh, okay.
A It was like before then.
Q Oh, man. And I also read that your mom smoked cigarettes?
A Yes, sir.
Q I was a smoker for years, so I get it. Luckily, I was able to quit. But do you know like how much she smoked? Did she -- was it just every once in a while, or did she have a -- like she did ten a day or a pack?
A She just only smoked half a pack a day.
Q Half a pack a day, okay. Do you know how long she did it? Like did she start when she was much

younger or do you have any idea?
A All I know is, she smoked like through my whole life. So, I don't know if she started like -- like when she started before and all.
Q Okay.
A Because I don't know.
Q Okay. As long as you can remember she did?
A Yes.
Q Okay. Did that ever cause her any problems that you know of?
A No, sir.
Q Did your mom drink alcohol, like beer or wine?
A No. I have never seen her drink before.
Q Okay. What about the Covid vaccine? Did she get vaccinated against Covid?
A No. But me and my sister did get tested.
Q Okay.
A But I don't think she got tested, but --
Q Did you get vaccinated, did you get a shot?
A No.
Q Okay. So she did not get a shot?
A No, sir.
Q Okay. Do you think you have ever had it? I thought I had it, I think I had it before I got my shot.

A Me, too.
Q You do?
A That's why I got tested, but it came back negative, though.
Q Oh, it did come back negative?
A Yes.
Q Yeah, mine came back negative, too. But I swore -- I promise you that it was Covid.
A Me, too.
Q But you remember how it was, when it was all a big mess?
A (Indicated yes.)
Q So, now, one thing that I thought was interesting was after the accident, the EMT, the paramedics they showed up, and they, according to Ms. Holly Newman, I think she was a paramedic, but the woman paramedic that you guys talked with, she said that your mom did not want to go to the hospital right away. Do you know why that is?
A I don't.
Q You don't? She just didn't want to go?
A I don't know why, but she just like really didn't like the doctors. I don't know why, but she just didn't.
Q Okay, all right. Did you feel like you wanted

to go to the doctor? Did you need to go to the doctor?

A (Indicated no.) Because I knew I didn't get hurt but --

Q You didn't?

A No.

Q Okay.

A But no, I didn't want to go.

Q Okay, fine. That's fine. Now, also, I read that she was -- I think the paramedic Ms. Newman testified to this, that she was -- she was kind of sick that day, like she had been throwing up or you had told her, the paramedic, that she had been throwing up and stuff? Does that ring a bell?

A I don't remember her throwing up --

Q Okay.

A -- any that week.

Q Okay. You don't?

A (Indicated no.)

Q Okay. So, as far as you know, she was in fine health that particular day?

A Yes.

Q Okay. Let me ask you about this. Now, your mom was like a grownup, and my wife is a grownup, and she -- she's not a very good driver. And she would

be the first person to admit that she is not a good driver. What about Jackie, what about your mom, was she, do you know anything like -- do you know if she was a good driver or not? Did she get many tickets or get in wrecks, or did she -- was she pretty much like a good driver?

A She was a good driver. I don't remember her getting any tickets, like ever.

Q Okay. Did she wear her seat belt regularly?

A Yes. Because she told us if we don't wear our seat belt, then we are getting our tail whooped, and so she would wear hers.

Q That's a good rule. I'm not going to -- I'm not going to lie, that's a good rule. So, you guys were all wearing your seat belts that particular day, right?

A Yes, sir.

Q Okay. This may sound like a strange question. But how did she have her seat? Was she a lean-back driver or an up-close driver, or do you have any memory of that at all?

A Well, she wasn't like really close, she was like really -- she was like right in the middle, so she could like --

Q Oh, she was just -- okay. She was just like a

C E R T I F I C A T E

STATE OF ARKANSAS)
)
COUNTY OF PULASKI)

I, DONNA K. PETRE, Certified Court Reporter in and for the County of Pulaski, State of Arkansas, duly commissioned and acting, do hereby certify that the above-entitled proceedings were taken by me in Stenotype, and were thereafter reduced to print by means of computer-assisted transcription, and the same fully, truly, and correctly reflects the proceedings had.

I FURTHER CERTIFY that I am not attorney or counsel of any of the parties, nor am I relative or employee of any attorney or counsel or party connected with the action, and have no interest in the outcome or results of this proceeding.

WHEREFORE, I have subscribed my signature and seal as such court reporter in the City of Little Rock, County of Pulaski, State of Arkansas, this the 27th day of October, 2023.

Donna K. Petre

DONNA K. PETRE, CCR, #125
COURT REPORTER IN AND FOR
PULASKI COUNTY, ARKANSAS

---o---

BEFORE THE STATE CLAIMS COMMISSION
OF THE STATE OF ARKANSAS

HALEY HUDSON, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR, CLAIMANTS,	
VS.	CLAIM NO. 230641
THE ARKANSAS DEPARTMENT OF HUMAN SERVICES, RESPONDENTS.	

---o---

DEPOSITION

OF

[redacted]

---o---

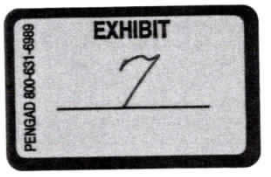
THURSDAY, SEPTEMBER 7, 2023

---o---

COURT REPORTER:

DONNA K. PETRE, CCR
P. O. Box 1027
Little Rock, Arkansas 72203

PETRE'S STENOGRAPH SERVICE
(501) 376-1411



A Yes, sir.
Q Okay. What were they like, what were Lisa and Josh like?
A They are very quiet people to me. They are also very involved, especially my Uncle Josh, he is one of my favorite uncles. But like, they just -- I don't know how to describe it, they are just very to themselves kind of people.
Q Okay, all right. Now, did your mom have any friends she ran around with?
A Not really, no. Well, when we lived in the apartments, we had this neighbor, she was really nice. My mom talked to her sometimes, but that was really it. She usually -- if we ever went anywhere it was either to my brother's house to visit and see my nephews, or to my Aunt Jen's to see my cousins. But she didn't necessarily have any friends in Paris.
Q Okay. Do you remember what that person's name was, by any chance?
A No, sir.
Q An[redacted]ouldn't remember, either.
A No, I don't remember her name.
Q Okay. Now, just going to just kind of like your mom's general health, before the accident, do you remember her ever being sick or anything?

A No, not -- just like everybody says the occasional sometimes stomach bug.
Q Okay.
A And stuff like that.
Q But nothing, you know, like cancer treatment, or anything like that?
A No, sir.
Q Do you know, did she ever go to the doctor, did you ever go with her to appointments?
A Not that I recall. I don't ever recall ever seeing her just going to the doctor.
Q Okay, okay. And I read, and I asked your sister [redacted] your mom smoked cigarettes, is that right?
A Yes, sir.
Q And [redacted] said it was as long as she can remember.
A Yeah.
Q Do you remember, I mean, was it as long as you can remember?
A Uh-huh, yes, sir.
Q So, it went back 15 or 16 years at least?
A Yes.
Q I had told your sister I smoked for years. So, I get it and I understand. It is a hard thing to kick.

A Yeah.
Q But it was something, it was a significant amount of time. Do you remember how, yes or no, was it a significant amount of time?
A I remember her always smoking, but like I don't really -- I mean, there was times she has tried quit. It was just kind of like (indicating) -- yeah.
Q Okay. Do you know approximately how many she would have a day, or was there an average, or just kind of a guess?
A At most, probably like a half a pack.
Q Okay. That's -- okay. That's reasonable. Okay. Did you ever see her drink alcohol or wine or beer?
A No, sir.
Q Okay. Now, your sister indicated that she did not believe your mom got the Covid vaccine, is that right?
A Yes. I don't -- she has never had a Covid vaccine. We were completely against that.
Q Okay. So, you did not believe in it, either?
A No. No, sir.
Q Do you know, did she ever catch Covid?
A No, sir.
Q No. Did you guys ever catch Covid?

A No, sir. We are -- the one time that like we even thought we had Covid was whenever my brother's wife had it. And we -- I got tested and it came back negative.
Q Okay.
A And I got quarantined. But that's it.
Q Your mom, so she didn't believe in the vaccine or --
A It's not that she didn't believe in it. It was just like -- it was just -- it happened so fast. It was just --
Q Sure. That was a crazy time, I remember.
A Yeah.
Q Okay. Now, on the day of the accident -- we're going to be going to the day of the accident. I read, in the medical reports from Holly Newman, she was the woman paramedic that was there, that you or your sister had indicated that your mom was sick that day. Do you remember this at all?
A I don't remember that day, like --
Q Okay. Well, yes, we are going to get into your memory things, but again, I have got to ask you these questions. You don't remember that?
A No, sir.
Q Okay. Do you remember her prior to that day,

like two or three days prior, was she suffering from any kind of bug or anything like that?

A I don't think so. I know prior to that, like I had the stomach bug, but I don't recall, she might have.

Q Okay.

A But like, I don't really remember.

Q Okay. Now, just so -- I'm not going to ask any questions that you simply do not remember. I don't think it's worth getting into, because very clearly, the records show that you had some memory loss. So, I'm not going to ask you anything about what happened for the time period you tell me you don't remember. So, can you tell me the last -- like when does the memory loss start and when did it end?

A Okay. The last thing I remember is the night before.

Q Okay.

A That was whenever I was sort of feeling better, so I cooked dinner, and that's all I remember from before. And then, the last thing I remember is my Aunt Lisa waking me up and like telling me like I needed to go get in the shower because we were going to visit Mom in the hospital. And like, on the way there, I'm pretty sure she told me what happened.

Q Okay.
A That's like what I remember.
Q So, to be clear, post, after you eat dinner the night before, up until a point in time after the accident occurred, and your Aunt Lisa wakes you up, you were already away from the scene at that point, right, you were at their house or --
A Yes, sir. I was at my Aunt Lisa's house.
Q Okay. During that time period, you do not remember anything?
A No, sir.
Q That will eliminate many questions that I asked your sister. So, can we talk about your injuries, I know you sustained some?
A Yes, sir.
Q Can you describe those to me?
A Well, I know from the accident, I had a concussion, but it -- like after all that, after the accident, like weeks, I had this ongoing headache that I just could not get rid of. And like, I guess that's kind of like the things that happen when you have concussions. And so, like I would take Ibuprofen and Tylenol trying to get rid of it. And I slept a lot.
But like now, I have trouble remembering things

C E R T I F I C A T E

STATE OF ARKANSAS)
)
COUNTY OF PULASKI)

I, DONNA K. PETRE, Certified Court Reporter in and for the County of Pulaski, State of Arkansas, duly commissioned and acting, do hereby certify that the above-entitled proceedings were taken by me in Stenotype, and were thereafter reduced to print by means of computer-assisted transcription, and the same fully, truly, and correctly reflects the proceedings had.

I FURTHER CERTIFY that I am not attorney or counsel of any of the parties, nor am I relative or employee of any attorney or counsel or party connected with the action, and have no interest in the outcome or results of this proceeding.

WHEREFORE, I have subscribed my signature and seal as such court reporter in the City of Little Rock, County of Pulaski, State of Arkansas, this the 27th day of October, 2023.

Donna K. Petre

DONNA K. PETRE, CCR, #125
COURT REPORTER IN AND FOR
PULASKI COUNTY, ARKANSAS

---o---

BEFORE THE STATE CLAIMS COMMISSION
OF THE STATE OF ARKANSAS

HALEY HUDSON, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR, CLAIMANTS,	
VS.	CLAIM NO. 230641
THE ARKANSAS DEPARTMENT OF HUMAN SERVICES, RESPONDENTS.	

---o---

DEPOSITION

OF

HALEY NICOLE HUDSON

---o---

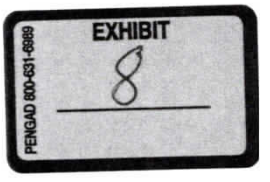
THURSDAY, SEPTEMBER 7, 2023

---o---

COURT REPORTER:

DONNA K. PETRE, CCR
P. O. Box 1027
Little Rock, Arkansas 72203

PETRE'S STENOGRAPH SERVICE
(501) 376-1411



Diane.

Q Okay.

A But I don't know. I don't know.

Q Okay.

A I didn't -- I only went to really see her apartment like twice before she was in the wreck. And I only met that lady -- I met her one time when I went to visit. And then, I met her the second time after the wreck, because she wanted to get her cake pan back. And I was like, "You can come see these dishes. I don't know what is yours and what is not." And she come and got her cake pan. And, you know, she apologized for what was going on.

Q Okay.

A And I could be wrong, but I want to say Diane. I don't know why.

Q That's fine.

A I don't know why.

Q Now, do you know if your mom had any injuries or physical conditions --

A No.

Q -- that were -- and I know you were in the room whenever I --

A Yes.

Q -- was talking to your sisters about this.

A Yes. Before the wreck?
Q Yes.
A Like what was wrong with her --
Q Yes.
A -- or anything before the wreck?
Q Yes.
A No.
Q Okay. And I know we have -- I have made hay about medical records.
A Yes.
Q And that's again part of my job.
A No, I understand. And I -- I don't know. I mean, I get those papers from DHS that were sent a few days after her accident canceling her insurance. And I know she had insurance through DHS, but she just didn't go to the doctor.

I know that when she was here, [redacted] may have mentioned that she got all of her teeth pulled. She did, but she didn't go to like -- I don't know where we are -- a dentist. She went to this place in West Memphis where it was based off your income.

Q Okay.
A That way, she could do like monthly payments and, you know, try to get --
Q Okay.

A She wanted new teeth.
Q Okay. What happened to her teeth?
A Genetics.
Q Okay.
A They are just really bad. I have got really bad teeth, it's just bad.
Q Okay. But it was a dental place. Do you know when that occurred?
A Years, years ago.
Q Okay. So, more than ten years?
A My daughter is nine, so I'm going to say about nine or ten years.
Q Okay. So, it was a place over in West Memphis?
A Yes.
Q Do you remember -- and I know it's a long time, but do you remember if it was like a state run place --
A It's a --
Q -- or a private place?
A No. It's like -- they have got a dentist office, a doctor's office. They have those things in there. It's just for people that don't make a lot of money, you know?
Q Okay. So, it may have been like a community service or a volunteer organization or --

A Yeah. It's a big building. It's still there to this day.
Q Okay.
A But I don't know the name of it.
Q Okay. That's fine. I'm going to ask you about specific illnesses.
A Uh-huh. (Indicates yes.)
Q And I expect I know what your answer is going to be, but I have to ask these.
A Yes, sir.
Q Did she ever have, or was treated for cancer?
A No, sir.
Q Liver problems?
A No, sir.
Q Breathing, pulmonary problems, COPD?
A No, sir.
Q Kidneys?
A No, sir.
Q Heart problems?
A No, sir.
Q Neurological problems?
A No, sir.
Q Okay. Did she take medications for anything?
A I mean, she might have a bottle of Tylenol in her purse.

Q Okay.
A But now that I'm thinking about it I don't even think -- I mean, if she felt bad, of course. You know, she took like medicine, she would go to Dollar General and get some medicine. But --
Q Like prescription meds?
A No, like --
Q I mean, yeah, I know what you are saying for Dollar General.
A Yeah.
Q But did she have any prescription meds that you knew of?
A Not that I would know of, no.
Q Okay. She did not get the Covid vaccine, is that correct?
A No, sir.
Q Okay. Do you know why not? I mean, I know your sisters had some opinions, but do you know why not?
A Yeah. Because it just come along too quick. It felt more like a political move than it did health of the world.
Q Okay.
A And so, in her mind and my mind, and it just come about a little bit too fast. Don't get me wrong, we are all vaccinated. But you don't see me

standing in line for something that came out yesterday, you know.
Q Okay.
A That's just where she was.
Q Okay. Was she vaccinated against other things?
A Yes.
Q Like polio?
A Yes. Like she was, as far as I know --
Q Yes.
A I mean, I didn't know her when she was a kid --
Q Sure.
A -- but as far I know she was vaccinated.
Q Okay. Now, there was some testimony from Holly Newman who was the EMT. I know that, again, you overheard this.
A Yes.
Q Well, not overheard, but you heard this in the prior depositions --
A Yes.
Q -- that your mom refused medical treatment at the scene?
A Uh-huh. (Indicated yes.)
Q Can you tell me why you think she would have done that?
A Because she thought she was fine.

Q Okay.
A I have been in many wrecks where I've been fine. And they say, "Would you like to go to the hospital?" "No, I wouldn't, because I'm fine."
Q Okay.
A So, I think at that point in time, I think my mom thought that she was fine.
Q Okay. What if she had been told more than once, maybe as many as three times that the EMT suggested that she go to the hospital? Do you think she would -- well, just --
A Let me just say this.
Q Okay.
A My mom was a poor woman.
Q Okay.
A And she could not pay any doctor bills, hospital bills, and ambulance ride, which I still have the bill for. There is no way she could have done that.
Q Okay.
A So, she would have denied it all the way.
Q So, you believe that it was more of an economic decision?
A No. I think that she knew that she -- and at that point in time, she thought she was fine.
Q Okay.

A And so, she denied treatment. And then, by the time they kept asking her, she was gone -- like, you do realize this happened within a matter of minutes, not hours? Like she is fine one minute, the EMT walks over to Jennifer Wilkerson with whatever she has got going on. And then, that's when my mom goes downhill, and my sisters have to go get the EMT. This didn't happen in three hours, this was a matter of minutes. So, at the time, yeah, she probably did deny going to the hospital or getting any treatment. She wasn't going to, that's just not my mom.

Q Okay. Now, I think that since you said your mom didn't go to the doctor very often, right?

A No.

Q So, I'm going to ask you these questions, and I think I know the answers. But do you know the identity of any of her doctors?

A I know who delivered me. His name was -- oh, I don't know, Sing? He was a black doctor, I know that.

Q Okay.

A Armstrong, that's his name, or that's his last name.

Q Okay, all right.

A I know that in Forrest City -- what is his name?

I know the doctor that delivered my sisters. But other than that, I don't know of a whole lot of doctors that she just went to, no.

Q And you say as far as a dentist goes, it's the West Memphis Clinic?

A Yes.

Q Okay. Did she wear glasses or contacts?

A No. She would go to Dollar Tree sometimes and try to see if she needed, you know, like a stronger set, because once you get so high, like you would have to go to the eye doctor. But yeah, I mean, she would wear those to read every now and then, or like if she was on the phone she would have them, you know. (Indicating.)

Q Okay. But she wasn't ever prescribed like --

A No.

Q -- a vision prescription?

A No.

Q Did she ever get physical therapy for anything?

A Not that I know of.

Q What about like alterative medicine? Do you know what I'm talking about, like an osteopath or like acupuncture, you know?

A I know what acupuncture is.

Q No. Just kind of like non-traditional

medicines, did she have any --
A No, no. I used to work at a chiropractor.
Q Okay.
A And I would try so hard to get her to go. And she would say, "They are not a real doctor." "My dad," which was her dad was Bobby, "he used to go to those chiropractors three times a week, blah-blah-blah, he was so addicted." And I'm like, "Mom, it makes you feel better." "No, no." It wasn't -- in her eyes that wasn't a real doctor.
Q Okay.
A But on the record, I think they are real doctors.
Q Okay.
A I am all about a chiropractor.
Q Okay. All right. And so, when I refer to alternative medicine --
A Yes.
Q -- you know what I am kind of referring to, right?
A Yeah, like the acupuncture and maybe like a --
Q Yes, just non-traditional medicines. You know, like just, you know, that aren't like a primary care physician or a -- well, I think I've got you.
A Yeah, okay.

Q We will just move on from that.
A Okay.
Q What about a podiatrist? Did she ever have any foot issues?
A No.
Q Okay. Mental health? Did she ever seek or get treated for any kind of mental heath issues?
A I mean, not that I know of. I know -- I'm trying to think. I don't -- I mean, she would always say that she was crazy, but I don't think she ever went.
Q That was not an official diagnosis?
A Yeah. No, no, that was just her own thing.
Q We have come now to the point where I have to ask the question that I have been dreading asking --
A It's okay.
Q -- for the last week.
A No, you are fine.
Q How did the drugs get in her system?
A I don't know.
Q I mean --
A If you want me to be honest?
Q Yes.
A She lived with me for three years. Okay. So, their dad, Steven Jones, is really bad on drugs. He

C E R T I F I C A T E

STATE OF ARKANSAS)
)
COUNTY OF PULASKI)

I, DONNA K. PETRE, Certified Court Reporter in and for the County of Pulaski, State of Arkansas, duly commissioned and acting, do hereby certify that the above-entitled proceedings were taken by me in Stenotype, and were thereafter reduced to print by means of computer-assisted transcription, and the same fully, truly, and correctly reflects the proceedings had.

I FURTHER CERTIFY that I am not attorney or counsel of any of the parties, nor am I relative or employee of any attorney or counsel or party connected with the action, and have no interest in the outcome or results of this proceeding.

WHEREFORE, I have subscribed my signature and seal as such court reporter in the City of Little Rock, County of Pulaski, State of Arkansas, this the 27th day of October, 2023.

Donna K. Petre

DONNA K. PETRE, CCR, #125
COURT REPORTER IN AND FOR
PULASKI COUNTY, ARKANSAS

---o---

From: Brent Gasper
To: Kathryn Irby; Jim Jackson
Cc: Daiquiri Carter
Subject: RE: Response to Motion for Partial Summary Judgment due date
Date: Friday, December 1, 2023 1:21:31 PM

Thank you, Kathryn.

brent

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Friday, December 1, 2023 1:21 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Response to Motion for Partial Summary Judgment due date

Yes.

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Friday, December 1, 2023 1:10 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Response to Motion for Partial Summary Judgment due date

Thank you Kathryn. I assume this means that the Monday response deadline is lifted at this point?

Thanks,

brent

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Friday, December 1, 2023 1:08 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Response to Motion for Partial Summary Judgment due date

Brent and Jim, given that the parties are in agreement with the extension until 1/29/2024, I will reschedule the January motions hearing and get a revised scheduling order from the Commission.

Thanks,
Kathryn

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Friday, December 1, 2023 1:05 PM

To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Cc: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: Re: Response to Motion for Partial Summary Judgment due date

Kathryn
This e-mail is just to confirm that I have no opposition.
Thank you
Jim
Jim Jackson
Attorney at Law
700 West Broadway St: Suite 2
North Little Rock, AR 72114
(501) 823-3610

On Dec 1, 2023, at 1:04 PM, Brent Gasper <Brent.Gasper@dhs.arkansas.gov> wrote:

Kathryn, I hope you had a great Thanksgiving holiday! As you know, our response to the Claimants' partial summary judgment motion is due by scheduling order this coming Monday December 4. However, since the hearing at which this date was set – despite diligent efforts to conduct and fully complete liability discovery within that time frame – liability discovery is still not fully complete. Respondent received deposition transcripts of both an eyewitness and an expert witness only yesterday. Further, another eyewitness was deposed only last Monday and the transcript will not be available before next Monday's due date.

I have explained these things to Jim and he has stated that he does not oppose an extension for additional time to respond to the SJ motion. As such, I am respectfully requesting an extension or enlargement of time until January 29, 2004, in order to respond to the motion. This time is needed to ensure that all transcripts are not only provided to each party in a timely manner but also to permit all parties (and their experts, if need be) time to review the contents of the testimony. Further, with the holidays coming up, travel and vacations make a December deadline unreasonable (I will be out of the office from December 15-29, for instance).

I will continue to work on my response and other pleadings as necessary until I am informed whether this request will be granted or not. If at all possible I would consider it a blessing if I heard back before the end of the day so I do not spend all weekend working on the response.

Thank you for your time and consideration,

Brent

Cc: Jim Jackson, Daiquiri

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Stree
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

This email may contain sensitive or confidential information.

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BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD **CLAIMANT**

V. **CLAIM NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

AMENDED BRIEFING SCHEDULE

Now before the Arkansas State Claims Commission (the "Commission") is an unopposed request by the Arkansas Department of Human Services (the "Respondent") to extend its time to respond to the motion for partial summary judgment filed by Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased and Haley Hudson, Permanent Legal Guardian of [redacted], a Minor Child (collectively referred to as the "Claimant") until January 29, 2024. Given that the request was unopposed by Claimant, the Commission amends the briefing schedule in its October 6, 2023, order as follows:

January 29, 2024:	Respondent's deadline to respond to Claimant's motion for partial summary judgment
January 29, 2024:	deadline for the parties to complete discovery as to lay witnesses related to the issue of liability and as to Respondent's accident reconstruction expert witness
February 12, 2024:	Claimant's deadline to file a reply brief

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Solomon Graves



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, chair



ARKANSAS STATE CLAIMS COMMISSION
Sylvester Smith

DATE: December 7, 2023

Notice(s) which may apply to your claim

(1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).

(2) If a Claimant is awarded less than $15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.

(3) Awards or negotiated settlement agreements of $15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

From: Kathryn Irby
To: Brent Gasper; Jim Jackson
Cc: Daiquiri Carter
Subject: AMENDED BRIEFING SCHEDULE: Hudson v. DHS, Claim No. 230641
Date: Tuesday, December 12, 2023 2:41:00 PM
Attachments: 66--Hudson -- 230641 -- Amended briefing schedule.pdf

Jim and Brent, please see attached amended briefing schedule, which was entered by the Commission on 12/7/2023.

Thanks,
Kathryn

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Friday, December 1, 2023 1:21 PM
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Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: Response to Motion for Partial Summary Judgment due date

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Cc: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: Re: Response to Motion for Partial Summary Judgment due date

Kathryn
This e-mail is just to confirm that I have no opposition.
Thank you
Jim
Jim Jackson
Attorney at Law
700 West Broadway St: Suite 2
North Little Rock, AR 72114
(501) 823-3610

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Thank you for your time and consideration,

Brent

Cc: Jim Jackson, Daiquiri

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
700 Main Stree
Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

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From: Kathryn Irby
To: Jim Jackson; Martha Cox; Brent Gasper; Daiquiri Carter
Subject: MOTION HEARING RESCHEDULED: Hudson v. DHS, Claim No. 230641
Date: Tuesday, December 12, 2023 2:48:00 PM
Attachments: Hudson v. DHS, 230641 – Mot[redacted]earing resched to 5-2024.pdf

Jim and Brent, please see attached hearing letter and new Zoom invitation.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823

KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

December 12, 2023

Mr. Jim Jackson (*via email*)
Jackson Law Firm
700 W. Broadway Street, Suite 200
North Little Rock, Arkansas 72114

Mr. Brent P. Gasper (*via email*)
Arkansas Department of Human Services
Post Office Box 1437
Little Rock, Arkansas 72203

RE: ***Haley Hudson, individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Permanent Guardian of [redacted] v. Arkansas Department of Human Services***
Claim No. 230641

Dear Mr. Jackson and Mr. Gasper,

In light of the extended briefing schedule for Claimant's motion for partial summary judgment, Commission has rescheduled the motions hearing previously set for January 2024 to **Thursday, May 9, 2024**, beginning at 9:00 a.m. The new Zoom invitation is enclosed.

As this is a motion hearing, no prehearing materials (other than the briefing of the motions by the parties) are requested by the Commission.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Kathryn Irby

ES: kmirby

The Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Hearings
Time: May 9, 2024 09:00 AM Central Time (US and Canada)

Join Zoom Meeting
https://us06web.zoom.us/j/88507418292?pwd=NV4EPJHY1FqPbBcrNpoFYBCGZmuagl.1

Meeting ID: 885 0741 8292
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One tap mobile
+13017158592,,88507418292#,,,,*017636# US (Washington DC)
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Dial by your location
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• +1 929 436 2866 US (New York)
• +1 386 347 5053 US
• +1 507 473 4847 US
• +1 564 217 2000 US
• +1 669 444 9171 US
• +1 669 900 6833 US (San Jose)
• +1 689 278 1000 US
• +1 719 359 4580 US
• +1 253 205 0468 US
• +1 253 215 8782 US (Tacoma)
• +1 346 248 7799 US (Houston)
• +1 360 209 5623 US

Meeting ID: 885 0741 8292
Passcode: 017636

Find your local number: https://us06web.zoom.us/u/kAvd3Nzan

From: Daiquiri Carter
To: ASCC Pleadings; jim@jimjacksonatty.com; Vincent France
Cc: Martha Cox; Daiquiri Carter
Subject: CC # 230641
Date: Monday, December 18, 2023 2:05:27 PM
Attachments: [redacted]

Please find attached an Entry of Appearance and a Motion to Substitute Counsel in the above mentioned case. I have copied Claimant's counsel on this email.

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
501-682-6720 fax
Daiquiri.carter@dhs.arkansas.gov





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IN THE ARKANSAS STATE CLAIMS COMMISSION

**HALEY HUDSON, INDIVIDUALLY
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF
THE ESTATE OF JAQUELINE LYNN ASHCRAFT,
DECEASED, AND HALEY HUDSON, AS PERMANENT
LEGAL GUARDIAN OF [redacted]
[redacted] MINOR CHILDREN** **CLAIMANT**

vs. **CC No. 230641**

**ARKANSAS DEPARTMENT OF
HUMAN SERVICES** **RESPONDENT**

ENTRY OF APPEARANCE

COMES NOW, Vincent P. France Deputy Chief Counsel for the Arkansas Department of Human Services, respectfully submits his entry of appearance on behalf of Respondent, Arkansas Department of Human Services, and requests that all future service and correspondence be sent accordingly.

I hereby certify that I am admitted to practice in the State of Arkansas and respectfully place the Clerk of the Court and all parties of record on notice of my appearance.

Respectfully submitted,

By: */s/ Vincent P. France*

Vincent P. France, Ark. Bar No. 2010063
Deputy Chief Counsel
Arkansas DHS
P.O. Box 1437, Slot S260
Little Rock, AR 72203
Phone: (501) 534-4127
Email: Vincent.P.France@DHS.Arkansas.gov
Attorney for Respondent

CERTIFICATE OF SERVICE

I, Vincent P. France, hereby certify that on December 18, 2023, I electronically filed the foregoing with the Arkansas State Claims Commission by emailing it to asccpleadings@arkansas.gov and by sending a copy to Claimant's attorney via email as indicated below.

Jim Jackson
Jim@JimJacksonatty.com

/s/ Vincent P. France
Vincent P. France

IN THE ARKANSAS STATE CLAIMS COMMISSION

**HALEY HUDSON, INDIVIDUALLY
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF
THE ESTATE OF JAQUELINE LYNN ASHCRAFT,
DECEASED, AND HALEY HUDSON, AS PERMANENT
LEGAL GUARDIAN OF [redacted]
[redacted] MINOR CHILDREN** **CLAIMANT**

vs. **CC No. 230641**

**ARKANSAS DEPARTMENT OF
HUMAN SERVICES** **RESPONDENT**

MOTION TO SUBSTITUTE COUNSEL

COMES NOW, Respondent, Arkansas Department of Human Services, by and through its attorney, Vincent P. France Deputy Chief Counsel for the Arkansas Department of Human Services, and for its Motion to Substitute Counsel, states the following:

1. Brent Gasper who was representing Respondent in this matter is no longer employed by the Arkansas Department of Human Services.

2. This matter has been reassigned to Deputy Chief Counsel Vincent P. France, who has filed an Entry of Appearance on behalf of Respondent and should be substituted as counsel of record.

3. Respondent respectfully requests that the Arkansas State Claims Commission and Counsel for Claimant direct all future service and correspondence to Vincent P. France and remove Brent Gasper as counsel of record.

WHEREFORE, Respondent respectfully moves that Brent Gasper be removed as counsel of record and to reflect that Vincent P. France as counsel of record for Respondent.

Respectfully submitted,

By: */s/ Vincent P. France*
Vincent P. France, Ark. Bar No. 2010063

Deputy Chief Counsel
Arkansas DHS
P.O. Box 1437, Slot S260
Little Rock, AR 72203
Phone: (501) 534-4127
Email: Vincent.P.France@DHS.Arkansas.gov
Attorney for Respondent

CERTIFICATE OF SERVICE

I, Vincent P. France, hereby certify that on December 18, 2023, I electronically filed the foregoing with the Arkansas State Claims Commission by emailing it to asccpleadings@arkansas.gov and by sending a copy to Claimant's attorney Jim Jackson via email as indicated below.

Jim Jackson
Jim@JimJacksonatty.com

/s/ Vincent P. France
Vincent P. France

From: Misty Scott on behalf of ASCC Pleadings
To: Daiquiri Carter
Cc: ASCC Pleadings; Kathryn Irby
Subject: Haley Hudson v. DHS, Claim No. 230641
Date: Thursday, January 25, 2024 1:52:00 PM
Attachments: RE Haley Hudson Special Adm"x of the Estate of Jacqueline Lynn Ashcraft dec"d Permanent Guardian of [redacted] Minor Children v. AR Dept. of Human Services; Arkansas State Claims Commission No. 230641.msg
E650FC30DFB64B39B4F43582[redacted]mplaint with exhibit one-2.pdf
E650FC30DFB64B39B4F4[redacted]xhibit to complaint-3.pdf

Ms. Carter:

Per your request, please see attached. Contact Kathryn Irby with any questions.

Thank you,

Misty

Misty Scott
Arkansas State Claims Commission

From: Vincent France
To: ASCC Pleadings
Cc: Daiquiri Carter; jim@jimjacksonatty.com; Kathryn Irby
Subject: Haley Hudson, et al v. Arkansas DHS Claim No. 230641
Date: Monday, January 29, 2024 11:57:31 AM
Attachments: [redacted].pdf
[redacted].pdf
[redacted].pdf
[redacted].pdf
[redacted].pdf
[redacted].png
[redacted].png

Please find the following documents attached for filing on behalf of Respondent DHS in the above-referenced claim.

- DHS Amended and Substituted Answer to Claimants' Second Amended Complaint,
- DHS's Cross Motion for Summary Judgment with exhibits;
- DHS's Brief in Support of Cross Motion for Summary Judgment;
- DHS's Statement of Undisputed Material Facts; and,
- DHS's Response to Claimants' Motion for Partial Summary Judgment.

Please confirm when these documents have been received and appropriately filed.

Sincerely,

Vincent P. France
Deputy Chief Counsel for Litigation
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
Office Phone: 501-534-4127
Vincent.P.France@dhs.arkansas.gov

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IN THE ARKANSAS STATE CLAIMS COMMISSION

**HALEY HUDSON, INDIVIDUALLY
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF
THE ESTATE OF JAQUELINE LYNN ASHCRAFT,
DECEASED, AND HALEY HUDSON, AS PERMANENT
LEGAL GUARDIAN OF [redacted]
[redacted] MINOR CHILDREN** **CLAIMANTS**

vs. **CC No. 230641**

**ARKANSAS DEPARTMENT OF
HUMAN SERVICES** **RESPONDENT**

RESPONDENT'S AMENDED AND SUBSTITUTED ANSWER TO CLAIMANTS' SECOND AMENDED COMPLAINT

COMES NOW, Respondent, Arkansas Department of Human Services, by and through its attorney, Vincent P. France Deputy Chief Counsel for the Arkansas Department of Human Services, and for its Amended and Substituted Answer to Claimants' Second Amended Complaint, states the following:

Respondent files this Amended and Substituted Answer to Claimants' Second Amended Complaint pursuant to Ark. R. Civ. P. 15. "[A] party may amend his pleadings at any time without leave of the court." Ark. R. Civ. P. 15(a). Moreover, "[t]his rule [Rule 15] is liberal in its allowance of amendments to conform pleadings to proof and even contemplates an amendment after judgment." *Middleton v. Middleton*, 2018 Ark. App. 237, at 9, 548 S.W.3d 199. This Amended Answer to Claimants' Second Amended Complaint will not cause any prejudice nor any delay. *See* Ark. R. Civ. P. 15(b) because Respondent is filing contemporaneously a response to Claimants' motion for partial summary judgment, a cross-motion for summary judgment, a brief in support, and a statement of undisputed material facts. As these additional filings will show, this amended answer is being filed in order to more properly conform to the proof. *See Middleton*, 2018 Ark. App. 237, at 9.

The "Background" section of the Second Amended Complaint does not comply with Ark. R. Civ. P. 8(e), as it does not direct concise averments. Thus, to the extent a response is required, any statements and allegations contained therein are denied.

1. Respondent admits Paragraph 1 of the Second Amended Complaint that the Claims Commission has jurisdiction to hear claims against Respondent.

2. Respondent lacks sufficient information to admit or deny the allegations in Paragraph 2 of the Second Amended Complaint; therefore, the allegations in Paragraph 2 are denied.

3. Respondent lacks sufficient information to admit or deny the allegations in Paragraph 3 of the Second Amended Complaint; therefore, the allegations in Paragraph 3 are denied.

4. Respondent lacks sufficient information to admit or deny the allegations in Paragraph 4 of the Second Amended Complaint; therefore, the allegations in Paragraph 4 are denied.

5. Respondent admits Paragraph 5 of the Second Amended Complaint.

6. Respondent only admits that Jennifer Wilkerson was an employee of DHS as alleged in Paragraph 6 of the Second Amended Complaint; however, Respondent vehemently denies the remainder of Paragraph 6 that she was engaged in the course and scope of her employment at all times relevant to this cause of action.

7. Respondent admits Paragraph 7 only to the extent that it correctly alleges the date, time, and location of the accident and the individuals involved in the accident; however, Respondent denies all other allegations contained therein.

8. Respondent admits Paragraph 8 of the Second Amended Complaint only to the extent that a vehicle owned by DHS was being driven by Ms. Wilkerson at the time of the accident.

9. Respondent admits Paragraph 9 of the Second Amended Complaint and adds that these facts and allegations contained therein show that Ms. Wilkerson was acting outside the scope of her employment with DHS at the time of the accident.

10. Respondent admits Paragraph 10 of the Second Amended Complaint only to the extent that Ms. Wilkerson caused the accident.

11. Respondent admits Paragraph 11 of the Second Amended Complaint.

12. Based upon the evidence that has been presented to this point, Respondent admits Paragraph 12 of the Second Amended Complaint.

13. Respondent lacks sufficient information to admit or deny the allegations in Paragraph 13 of the Second Amended Complaint; therefore, the allegations in Paragraph 13 are denied.

14. Respondent admits Paragraph 14 of the Second Amended Complaint that the Death Certificate speaks for itself.

15. Respondent lacks sufficient information to admit or deny the allegations in Paragraph 15 of the Second Amended Complaint; therefore, the allegations in Paragraph 15 are denied.

16. Respondent lacks sufficient information to admit or deny the allegations in Paragraph 16 of the Second Amended Complaint; therefore, the allegations in Paragraph 16 are denied.

17. Respondent admits Paragraph 17 of the Second Amended Complaint and that the accident report speaks for itself.

18. Respondent admits Paragraph 18 of the Second Amended Complaint and that the accident report speaks for itself.

19. Respondent only admits the allegation in Paragraph 19 of the Second Amended Complaint that Ms. Wilkerson was employed by DHS; however, Respondent denies the remainder of Paragraph 19 that Ms. Wilkerson was engaged in the course and scope of her employment at all times relevant to this cause of action.

20. Respondent denies Paragraph 20 of the Second Amended Complaint.

21. Respondent admits Paragraph 21 (a) through (f) of the Second Amended Complaint; however, Respondent denies that it is legally liable for those actions.

22. Respondent admits Paragraph 22 of the Second Amended Complaint, but denies that it is vicariously liable.

23. Respondent admits the statements in Paragraph 23 of the Second Amended Complaint only to the extent that those statements are contained in the report, which speaks for itself.

24. Respondent admits the statements in Paragraph 24 of the Second Amended Complaint only to the extent that those statements are contained in the report, which speaks for itself.

25. Respondent denies Paragraph 25 of the Second Amended Complaint.

26. Respondent admits Paragraph 26 of the Second Amended Complaint, but denies that it is vicariously liable for the alleged actions contained therein.

27. Respondent lacks sufficient information to admit or deny the allegations in Paragraph 27 of the Second Amended Complaint; therefore, the allegations in Paragraph 27 are denied.

28. Respondent lacks sufficient information to admit or deny the allegations in Paragraph 28 of the Second Amended Complaint; therefore, the allegations in Paragraph 28 are denied.

29. Respondent lacks sufficient information to admit or deny the allegations in Paragraph 29 of the Second Amended Complaint; therefore, the allegations in Paragraph 29 are denied.

30. Based upon the proof that has been provided, Respondent admits Paragraph 30 of the Second Amended Complaint.

31. Respondent lacks sufficient information to admit or deny the allegations in Paragraph 31 of the Second Amended Complaint; therefore, the allegations in Paragraph 31 are denied.

32. Based upon the proof that has been provided, Respondent now admits Paragraph 32 of the Second Amended Complaint.

33. Respondent lacks sufficient information to admit or deny the allegations in Paragraph 33 of the Second Amended Complaint; therefore, the allegations in Paragraph 33 are denied.

34. Based upon the proof that has been provided, Respondent now admits Paragraph 34 of the Second Amended Complaint.

35. Respondent lacks sufficient information to admit or deny the allegations in Paragraph 35 of the Second Amended Complaint; therefore, the allegations in Paragraph 35 are denied.

36. Based upon the proof that has been provided, Respondent now admits Paragraph 36 of the Second Amended Complaint.

37. Respondent denies Paragraph 37 of the Second Amended Complaint.

38. Respondent denies Paragraph 38 and sub-paragraphs (a) through (g) of the Second Amended Complaint.

39. Respondent denies Paragraph 39 and sub-paragraphs (a) through (c) of the Second Amended Complaint.

40. Respondent denies Paragraph 38[1] and sub-paragraphs (a) through (c) of the Second Amended Complaint.

41. Respondent denies Paragraph 40 of the Second Amended Complaint.

42. Based upon the proof that has been provided, Respondent now admits Paragraph 41 of the Second Amended Complaint.

43. Respondent admits the statements and allegations contained in Paragraph 42 of the Second Amended Complaint, but it denies that the statements and allegations contained therein have any legal impact on this claim.

44. Respondent admits the statements and allegations contained in Paragraph 43 of the Second Amended Complaint, but it denies that the statements and allegations contained therein have any legal impact on this claim.

45. Respondent admits the statements and allegations contained in Paragraph 44 of the Second Amended Complaint, but it denies that the statements and allegations contained therein have any legal impact on this claim.

[1] On page 14 of Claimants' Second Amended Complaint, following Paragraph 39, the next paragraph is labeled as "38." On page 15, the next paragraph is labeled as "40".

46. Respondent lacks sufficient information to admit or deny the allegations in Paragraph 45 of the Second Amended Complaint; therefore, the allegations in Paragraph 45 are denied.

47. Respondent lacks sufficient information to admit or deny the allegations in Paragraph 46 of the Second Amended Complaint; therefore, the allegations in Paragraph 46 are denied.

48. Respondent lacks sufficient information to admit or deny the allegations in Paragraph 47 of the Second Amended Complaint; therefore, the allegations in Paragraph 47 are denied.

49. Responding to the WHEREFORE clause of the Second Amended Complaint, Respondent denies that it is liable to Claimants and denies that Claimants are entitled to any of the relief they seek.

Affirmative Defenses

50. Respondent affirmatively pleads that the doctrine of *respondeat superior* does not apply in this claim and Respondent is not vicariously liable.

51. Respondent affirmatively pleads that Ms. Wilkerson—who had only been employed by DHS for ***eleven (11) days*** at the time of the accident—was acting outside the scope of her employment when the accident occurred.

52. Respondent affirmatively pleads that the proof shows that Ms. Wilkerson was driving at an excessive rate of speed to the point of constituting criminal conduct pursuant to Ark. Code Ann. §27-50-302, which was unauthorized and unexpected.

53. Respondent affirmatively pleads that the proof will show that Ms. Wilkerson had illegal taken Adderall a Schedule II controlled substance without a prescription when the accident

occurred; therefore, she was outside the scope of her employment with DHS when the accident occurred.

54. Respondent affirmatively pleads that it never ratified nor endorsed the actions of Ms. Wilkerson, and Respondent terminated Ms. Wilkerson from her employment with DHS because of the accident in question in this claim.

WHEREFORE, Respondent respectfully requests that the Arkansas State Claims Commission accepts this pleading as Respondent's Amended and Substituted Answer to Claimants' Second Amended Complaint and that Respondent is found to not be vicariously liable and that this claim against Respondent be dismissed with prejudice, and for any and all other just and proper relief.

Respectfully submitted,

By: */s/ Vincent P. France*

Vincent P. France, Ark. Bar No. 2010063
Deputy Chief Counsel
Arkansas DHS
P.O. Box 1437, Slot S260
Little Rock, AR 72203
Phone: (501) 534-4127
Email: Vincent.P.France@DHS.Arkansas.gov
Attorney for Respondent

CERTIFICATE OF SERVICE

I, Vincent P. France, hereby certify that on January 29, 2024, I electronically filed the foregoing with the Arkansas State Claims Commission by emailing it to asccpleadings@arkansas.gov and by sending a copy to Claimant's attorney Jim Jackson via email as indicated below.

Jim Jackson
Jim@JimJacksonatty.com

/s/ Vincent P. France
Vincent P. France

IN THE ARKANSAS STATE CLAIMS COMMISSION

**HALEY HUDSON, INDIVIDUALLY
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF
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DECEASED, AND HALEY HUDSON, AS PERMANENT
LEGAL GUARDIAN OF [redacted]
[redacted] MINOR CHILDREN** **CLAIMANTS**

vs. **CC No. 230641**

**ARKANSAS DEPARTMENT OF
HUMAN SERVICES** **RESPONDENT**

RESPONDENT'S CROSS MOTION FOR SUMMARY JUDGMENT

COMES NOW, Respondent, Arkansas Department of Human Services, by and through its attorney, Vincent P. France Deputy Chief Counsel for the Arkansas Department of Human Services, and for its Cross Motion for Summary Judgment states the following:

1. This claim arises from a motor vehicle accident that occurred on Friday, June 11, 2021, on State Highway 22 in Logan County, Arkansas near Paris, Arkansas.

2. On June 11, 2021, a DHS employee, Jennifer Wilkerson rear-ended a vehicle that was driven by Ms. Jacqueline Ashcraft and three passengers including two of Ms. Ashcraft's minor daughters, [redacted].

3. Ms. Wilkerson started working for DHS on June 1, 2021, and she had only been employed with DHS for eleven (11) days, when the accident occurred.

4. As a result of this accident, Ms. Wilkerson was fired from DHS.

5. According to Rule 56 of the Arkansas Rules of Civil Procedure, a party is entitled to summary judgment if the pleadings, together with any supporting documents, establish that there is no genuine issue of material fact in dispute.

6. Simply stated, DHS is entitled to summary judgment as a matter of law, because its employee was acting outside the scope of her employment when that accident occurred; therefore, DHS cannot be held vicariously liable for her actions.

7. The following exhibits are attached hereto and are incorporated by reference in Respondent's Brief and Statement of Undisputed Material Facts:

- Exhibit 1 Documents Produced in Discovery by Claimants;
- Exhibit 2 Excerpts and exhibits from Jennifer Wilkerson's deposition;
- Exhibit 3 Affidavit of Pamela Feemster;
- Exhibit 4 Excerpts and exhibits from Kristen Shelton's deposition;
- Exhibit 5 Excerpts and exhibits from Brandy Ezell's deposition;
- Exhibit 6 Excerpts and exhibits from James Ray's deposition; and
- Exhibit 7 Excerpts and selected exhibits from Stanley Cain's deposition.

8. Respondent is also filing contemporaneously herewith a Brief in Support of Respondent's Cross Motion for Summary Judgment and a Statement of Undisputed Material Facts.

WHEREFORE, Respondent respectfully requests that its Cross Motion for Summary Judgment be granted, and that Claimants' motion for partial summary judgment be denied and this claim be dismissed with prejudice, along with any other just and proper relief to which it is entitled.

Respectfully submitted,

By: */s/ Vincent P. France*

Vincent P. France, Ark. Bar No. 2010063
Deputy Chief Counsel
Arkansas DHS
P.O. Box 1437, Slot S260
Little Rock, AR 72203
Phone: (501) 534-4127
Email: Vincent.P.France@DHS.Arkansas.gov
Attorney for Respondent

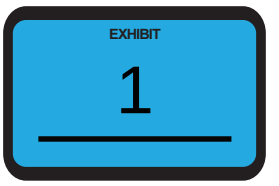
CERTIFICATE OF SERVICE

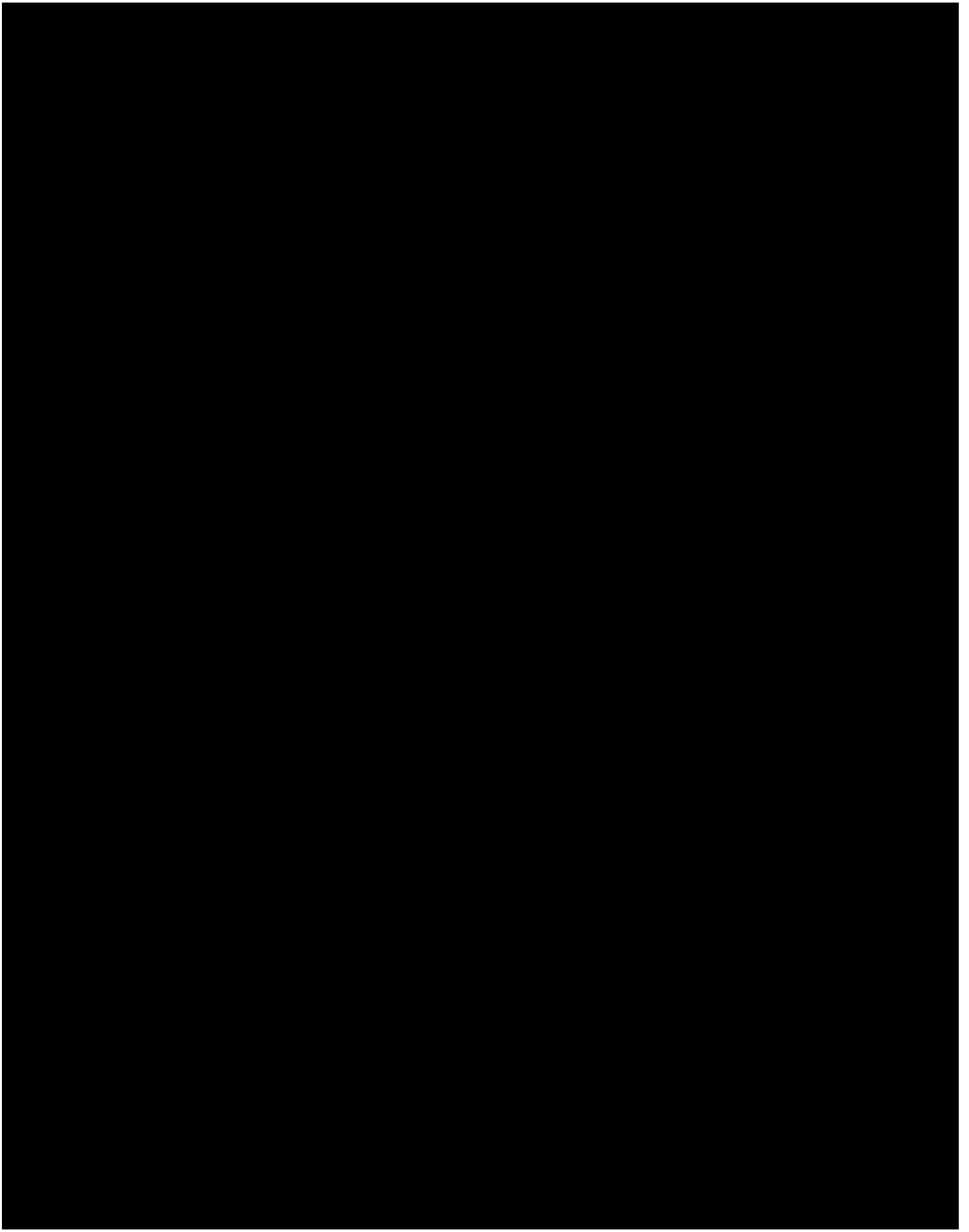
I, Vincent P. France, hereby certify that on January 29, 2024, I electronically filed the foregoing with the Arkansas State Claims Commission by emailing it to asccpleadings@arkansas.gov and by sending a copy to Claimant's attorney Jim Jackson via email as indicated below.

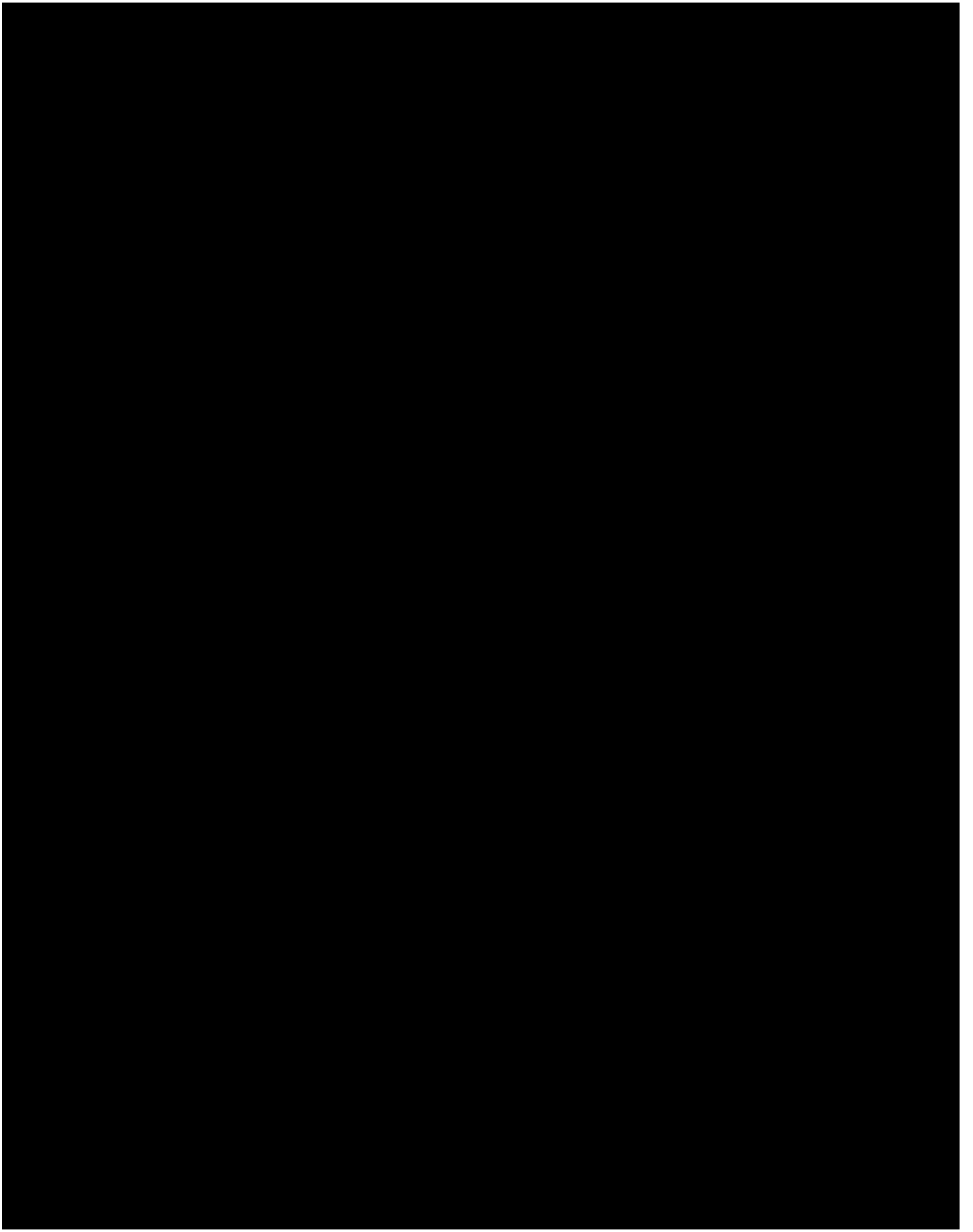
Jim Jackson
Jim@JimJacksonatty.com

/s/ Vincent P. France
Vincent P. France

Documents Produced by Claimant

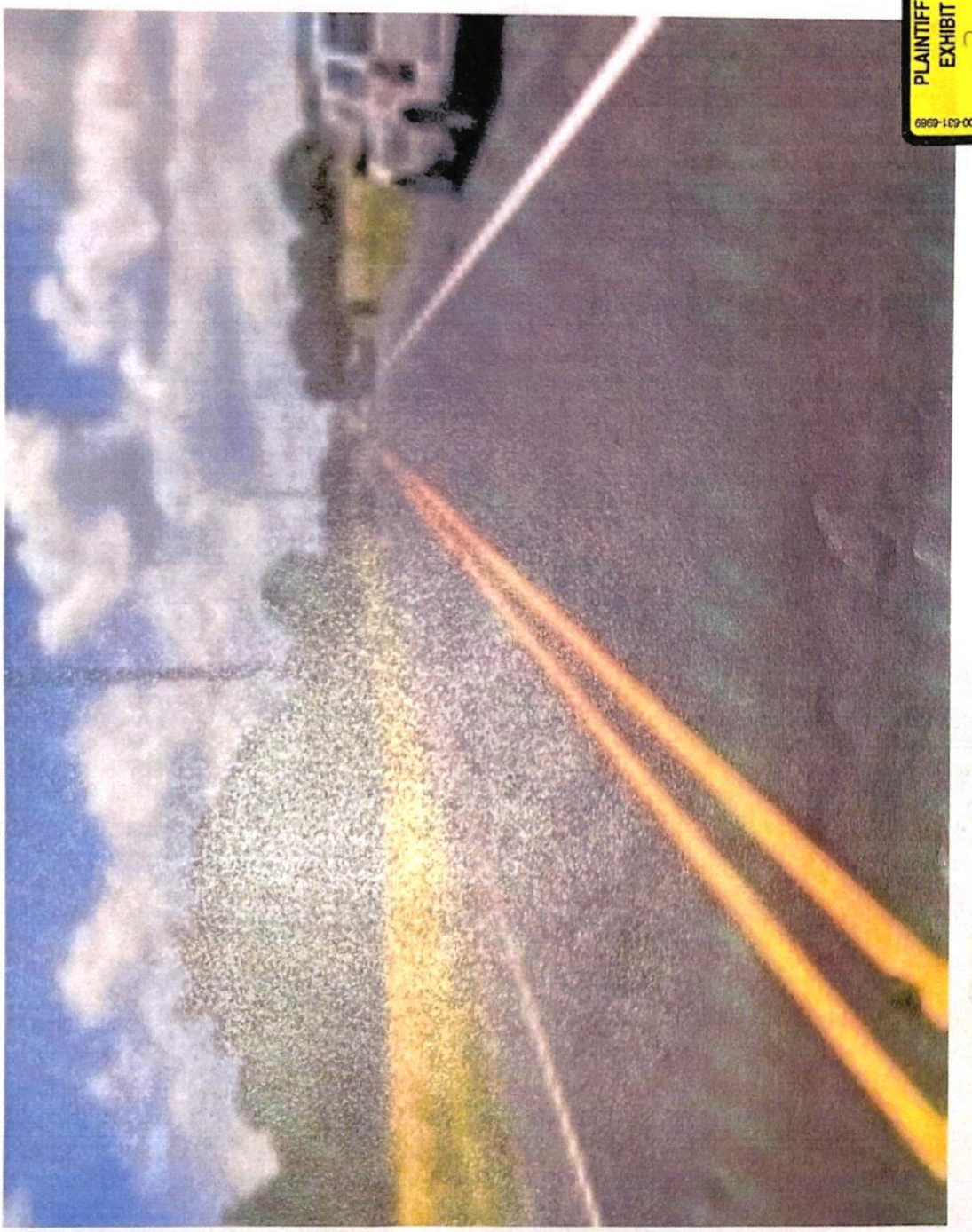






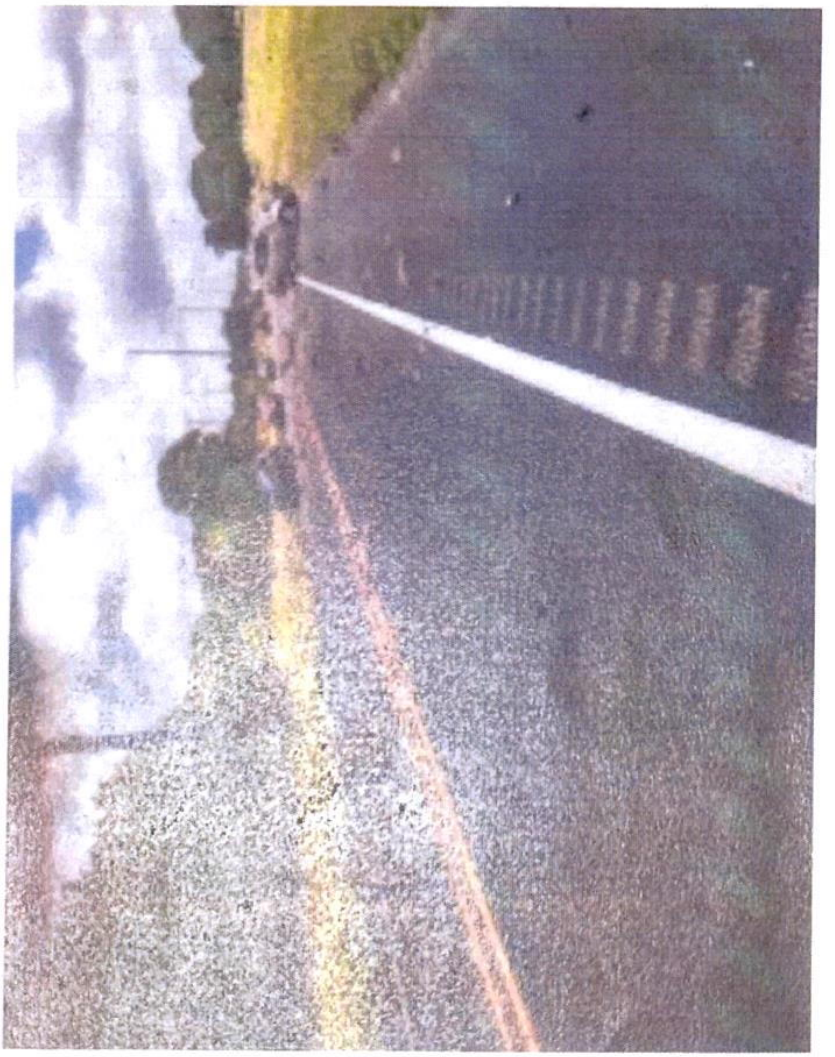


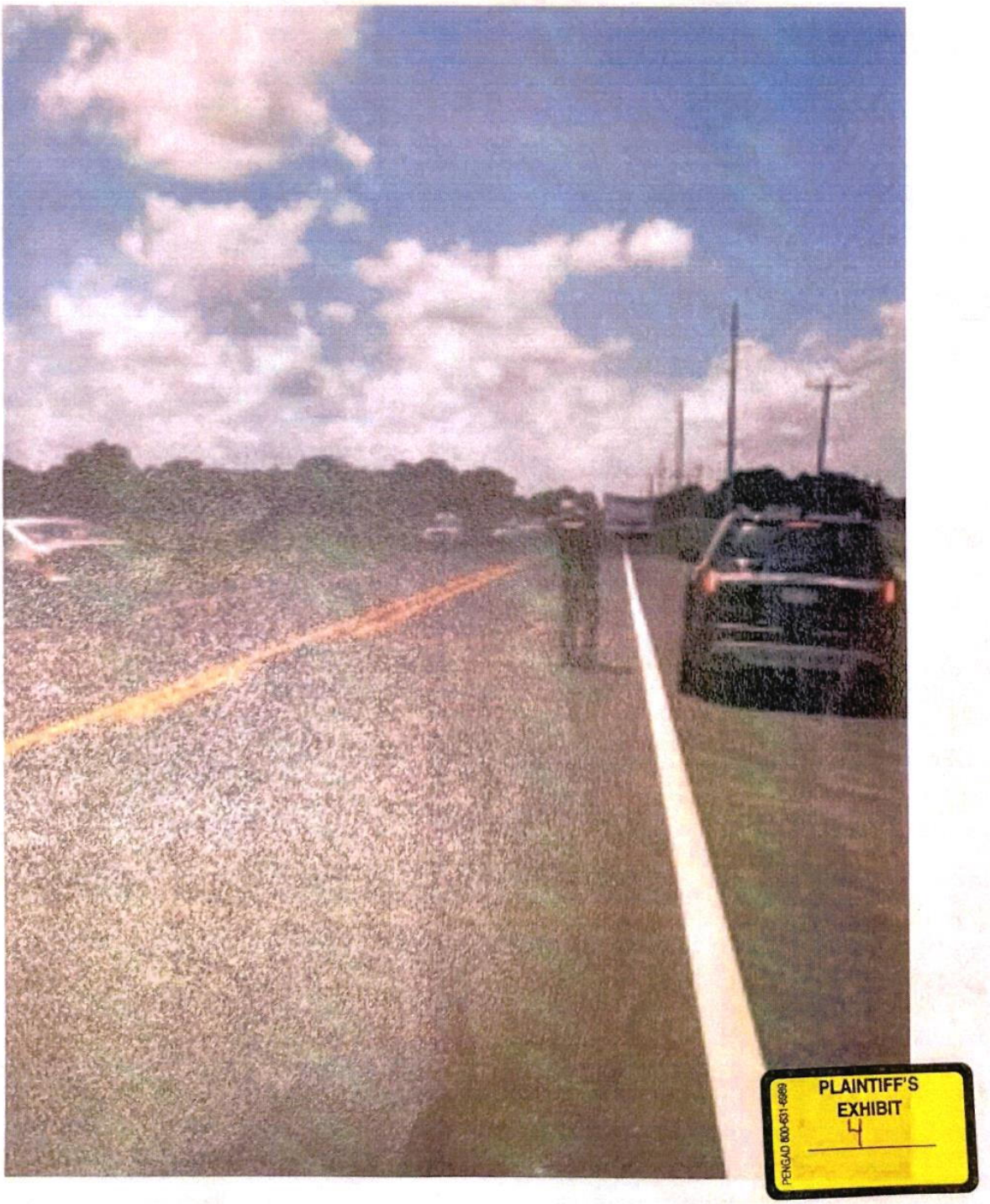
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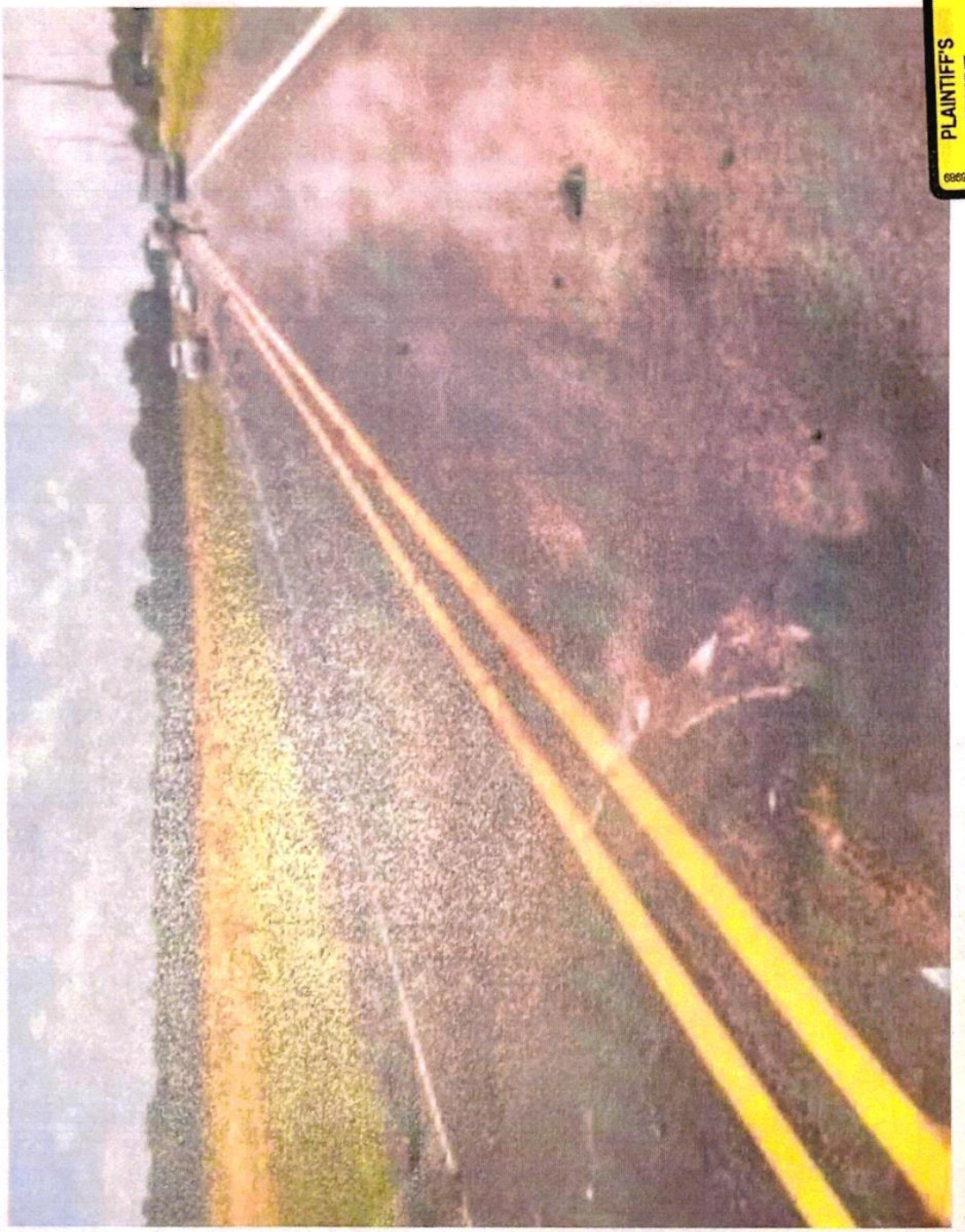


Ashcraft Rsp to Discovery 0263

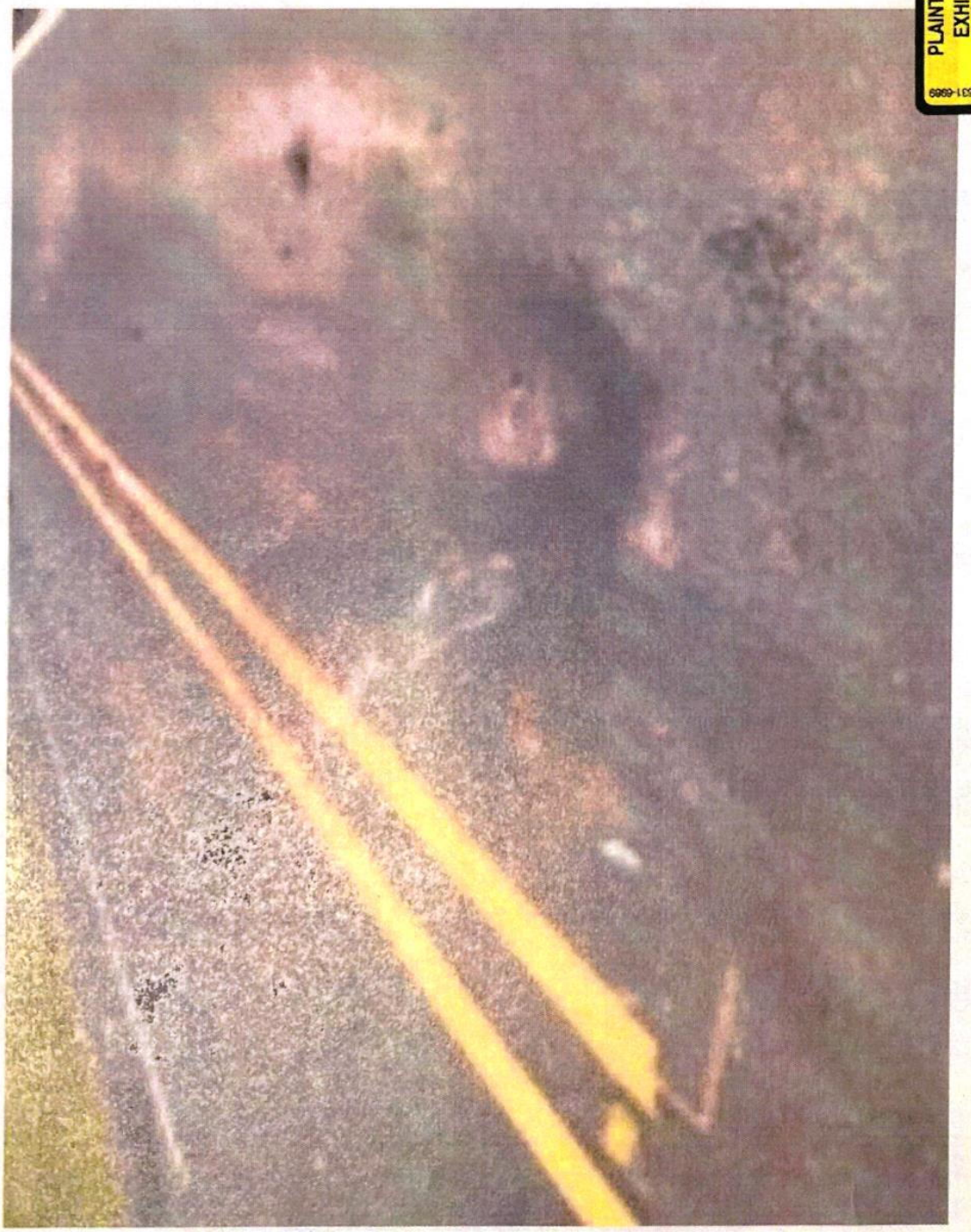

PLAINTIFF'S
EXHIBIT
PENGAD 800-631-6989




PLAINTIFF'S
EXHIBIT
4
PENGAD 800-631-6989

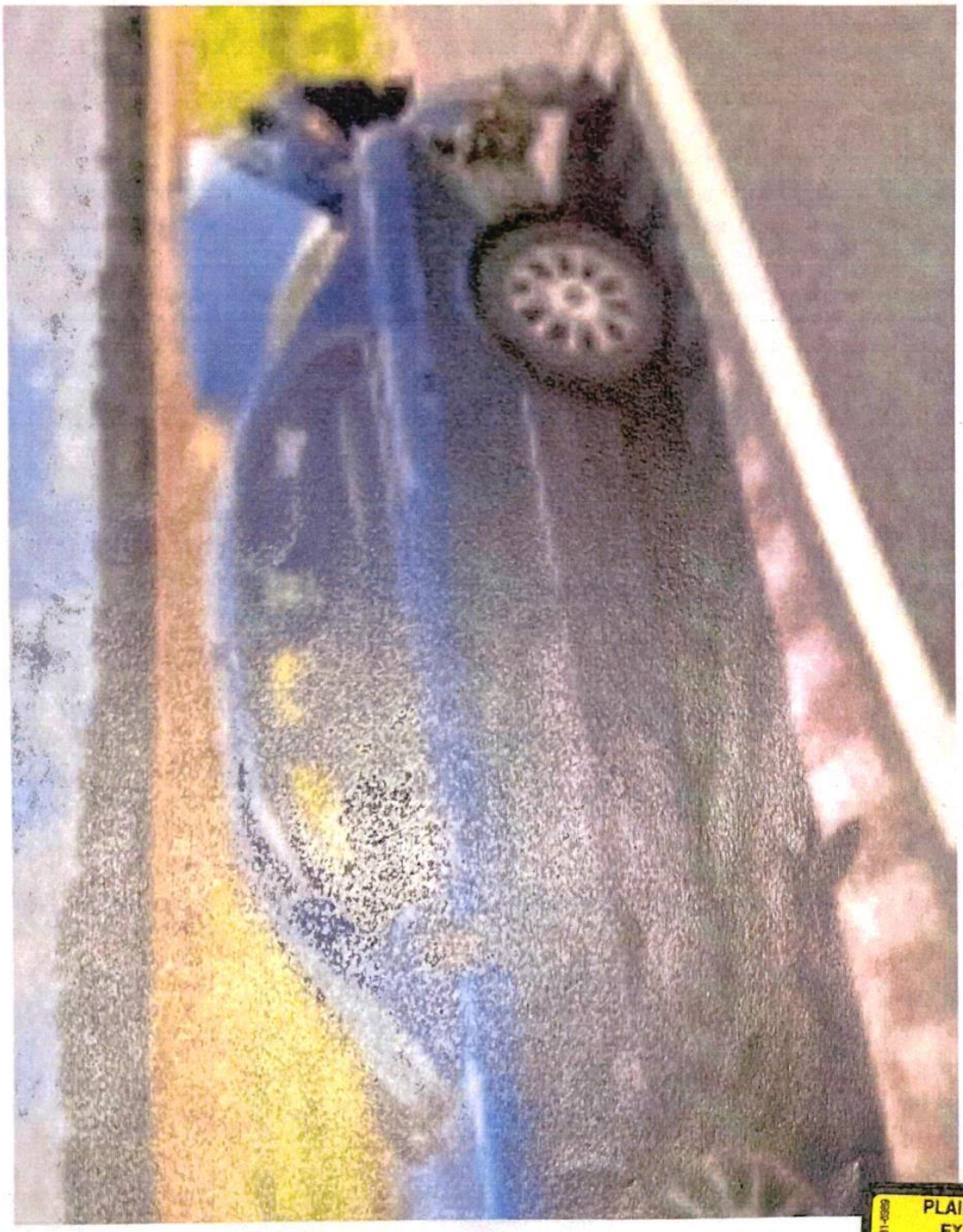


Ashcraft Rsp to Discovery 0266



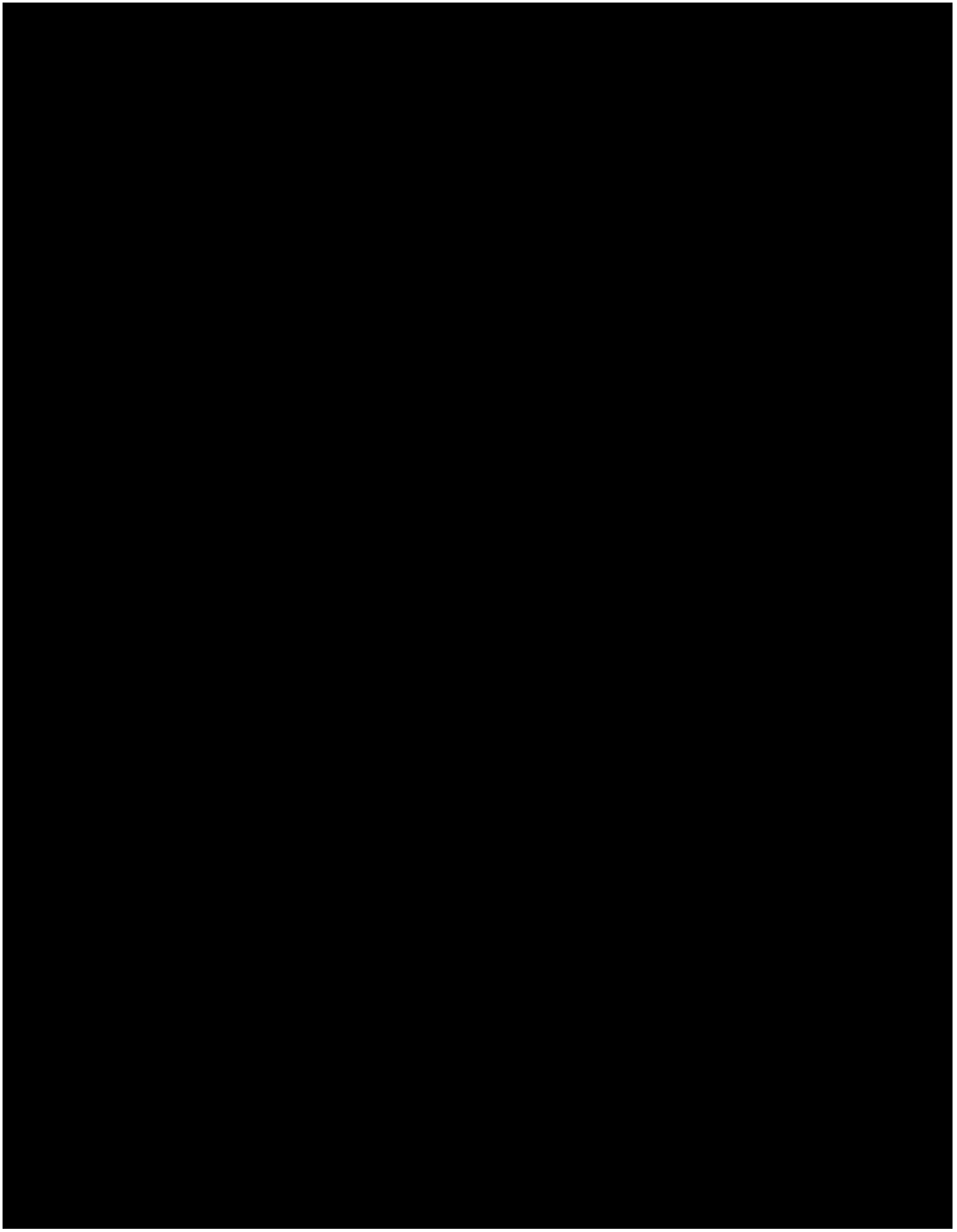
PLAINTIFF'S EXHIBIT 6
PENGAD 800-631-6989

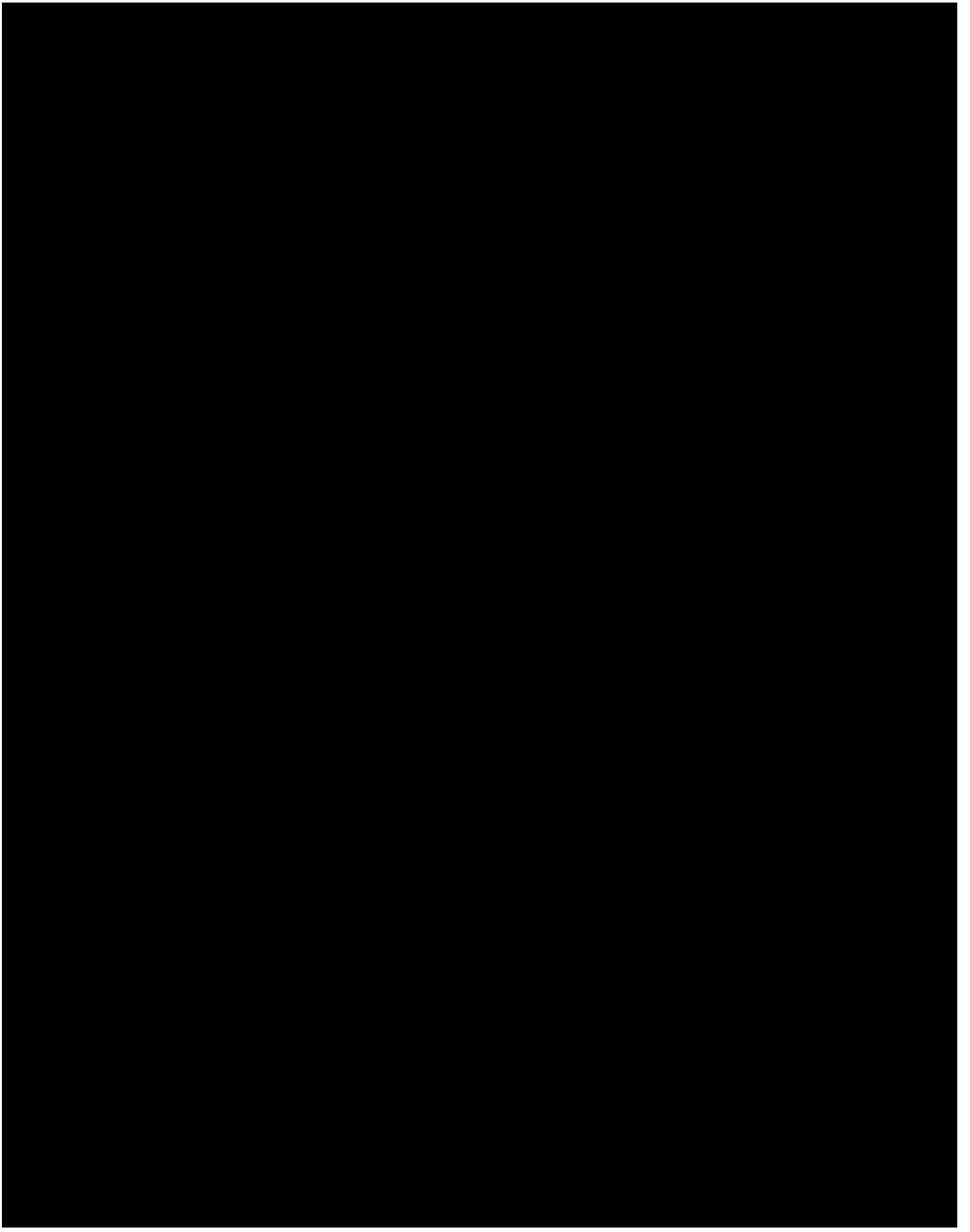

PLAINTIFF'S
EXHIBIT
7
PENGAD 800-631-6989

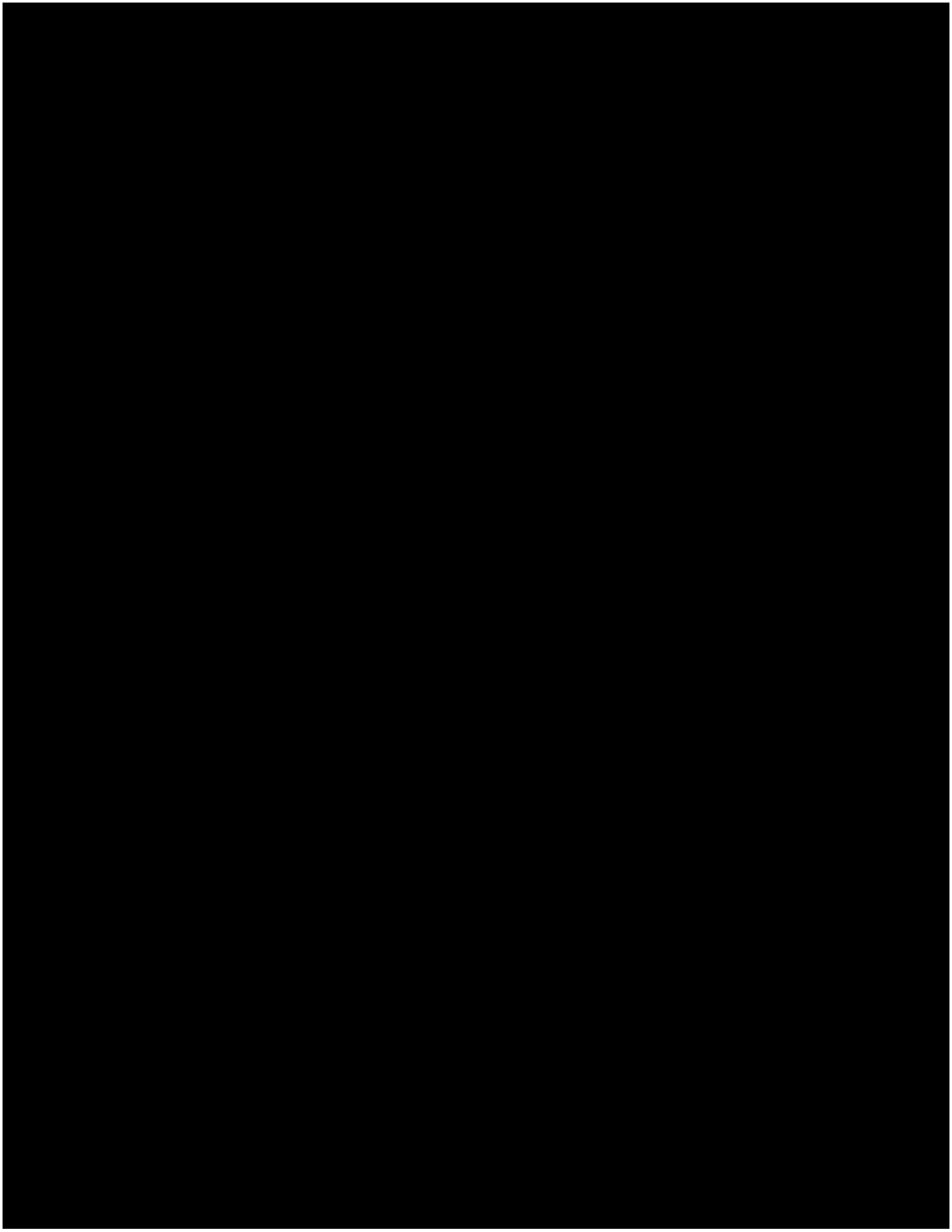


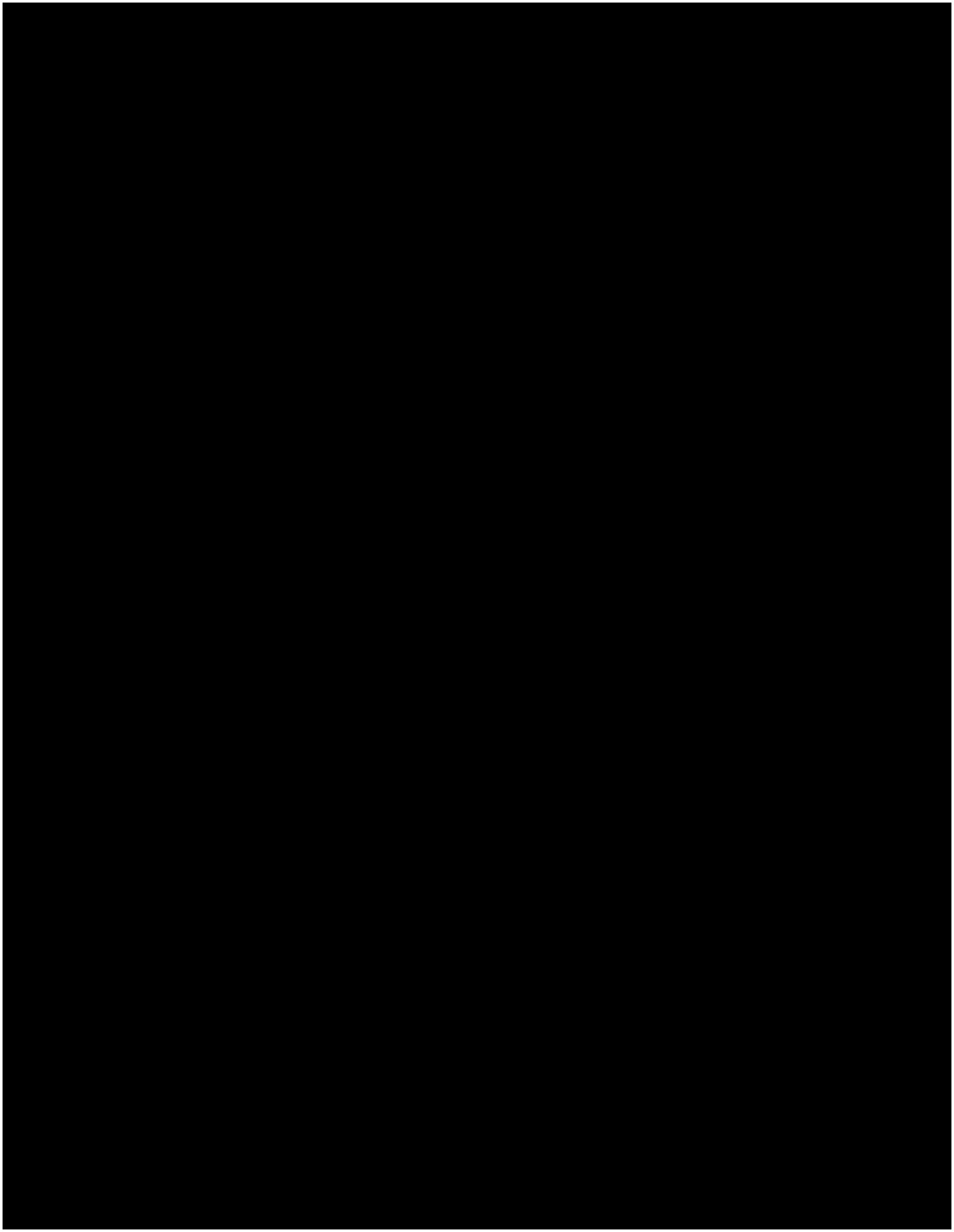
PLAINTIFF'S EXHIBIT 8

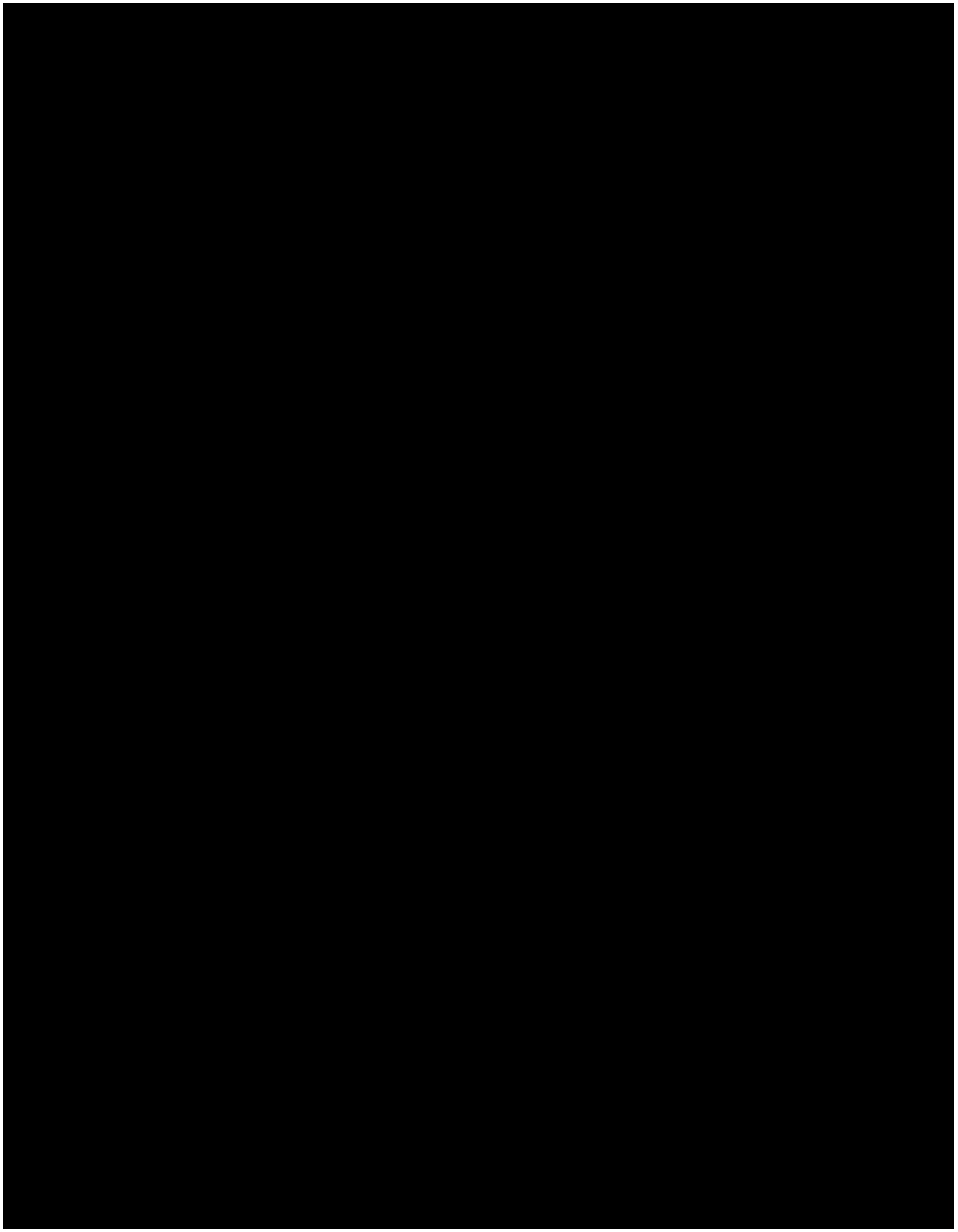
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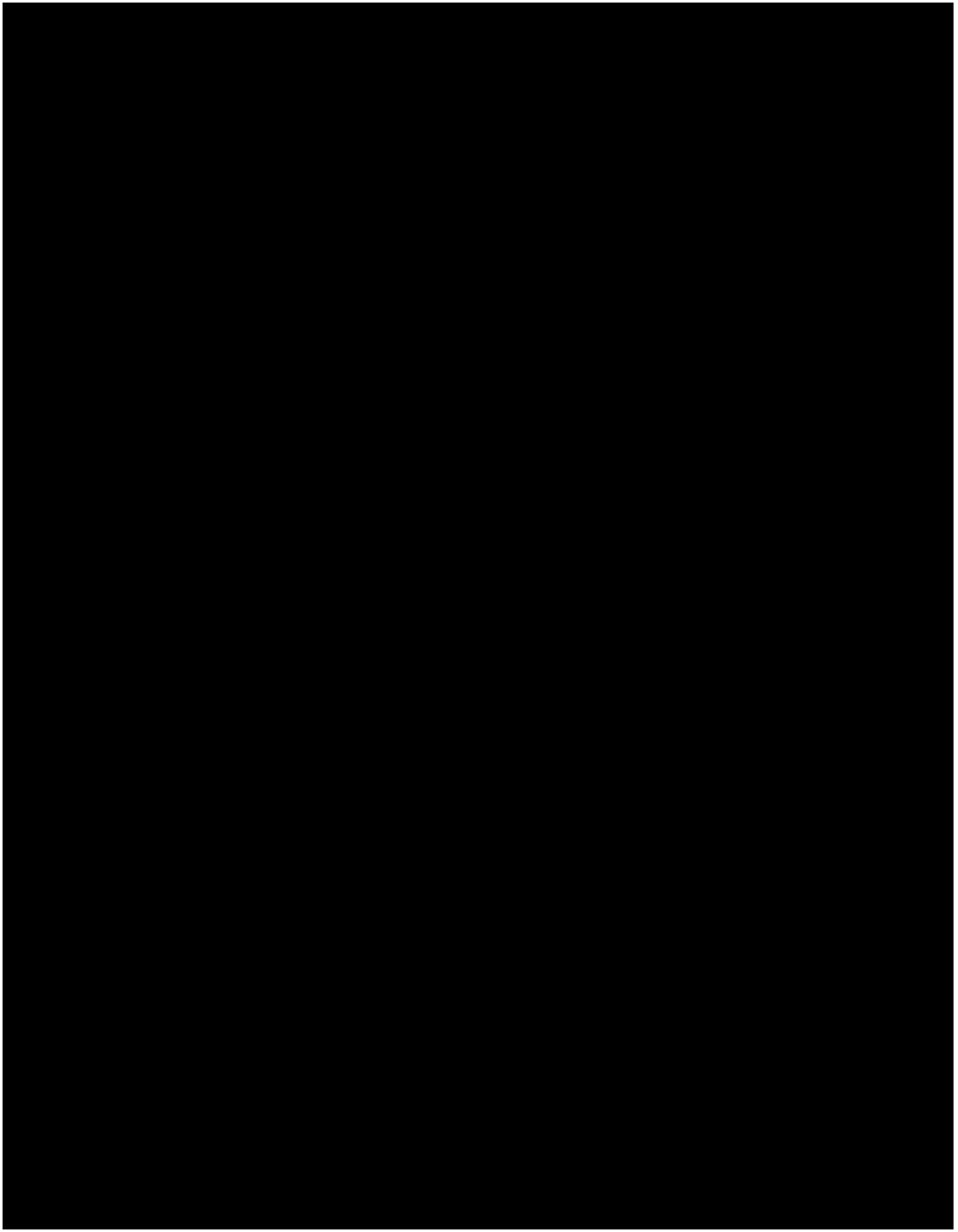


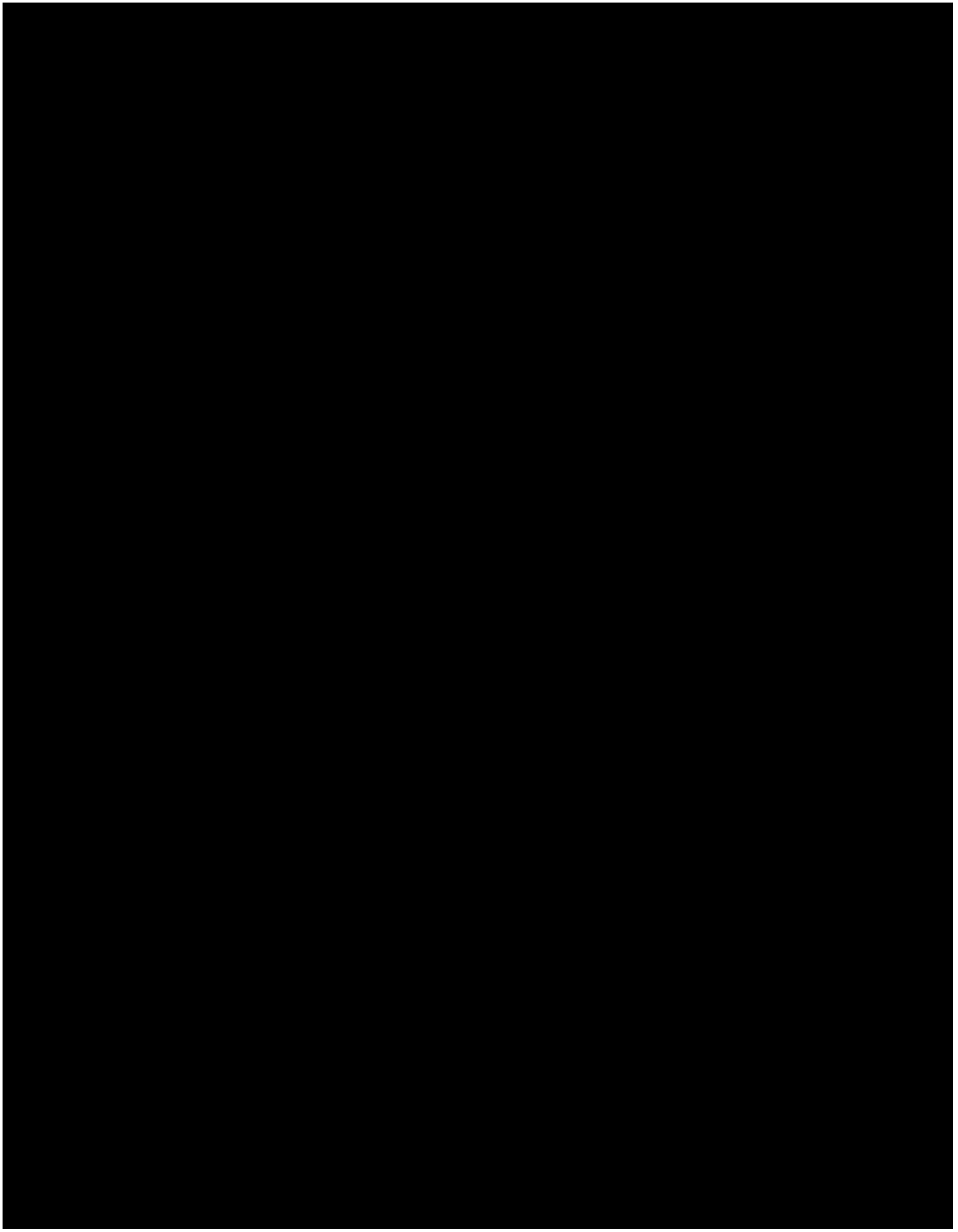


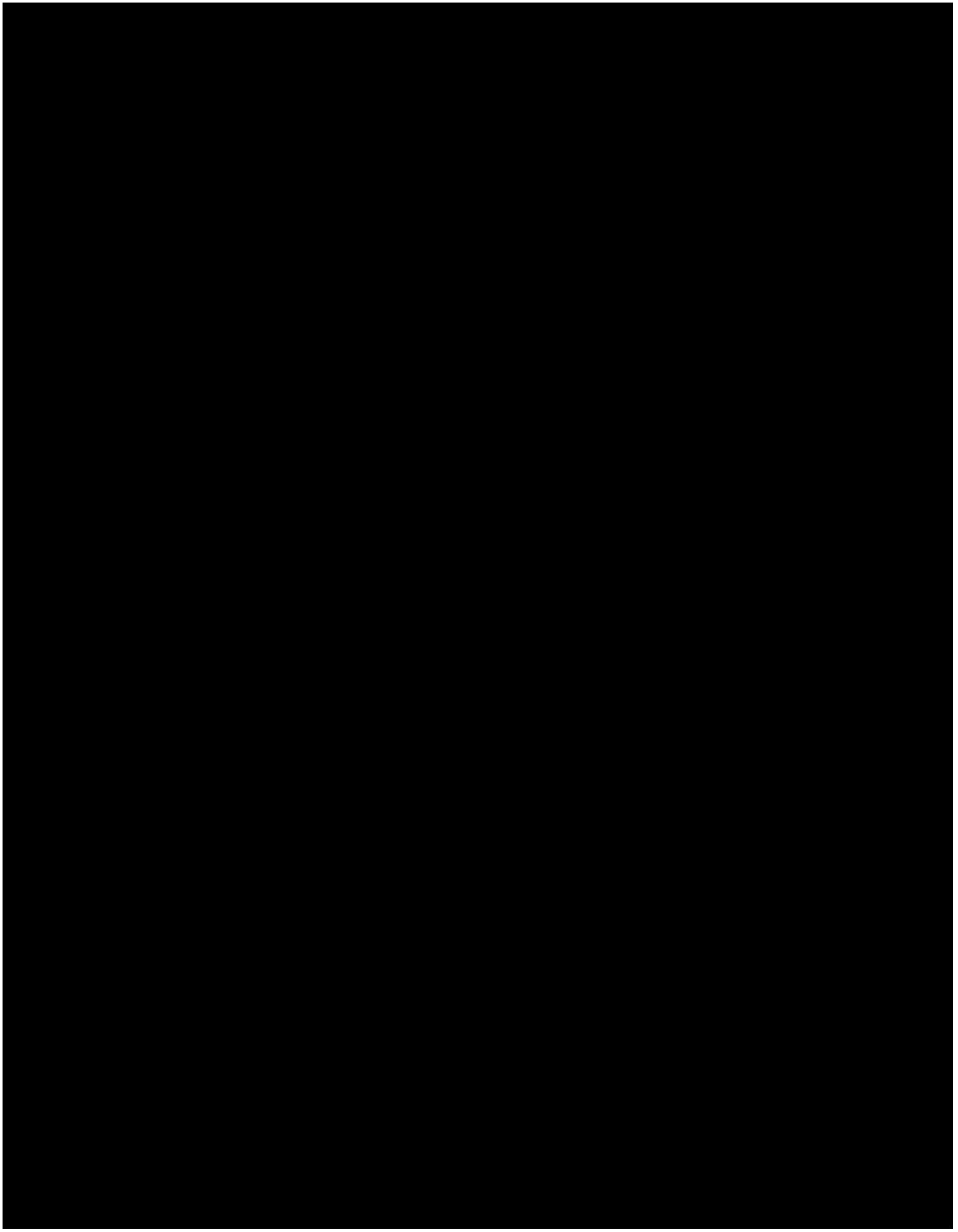


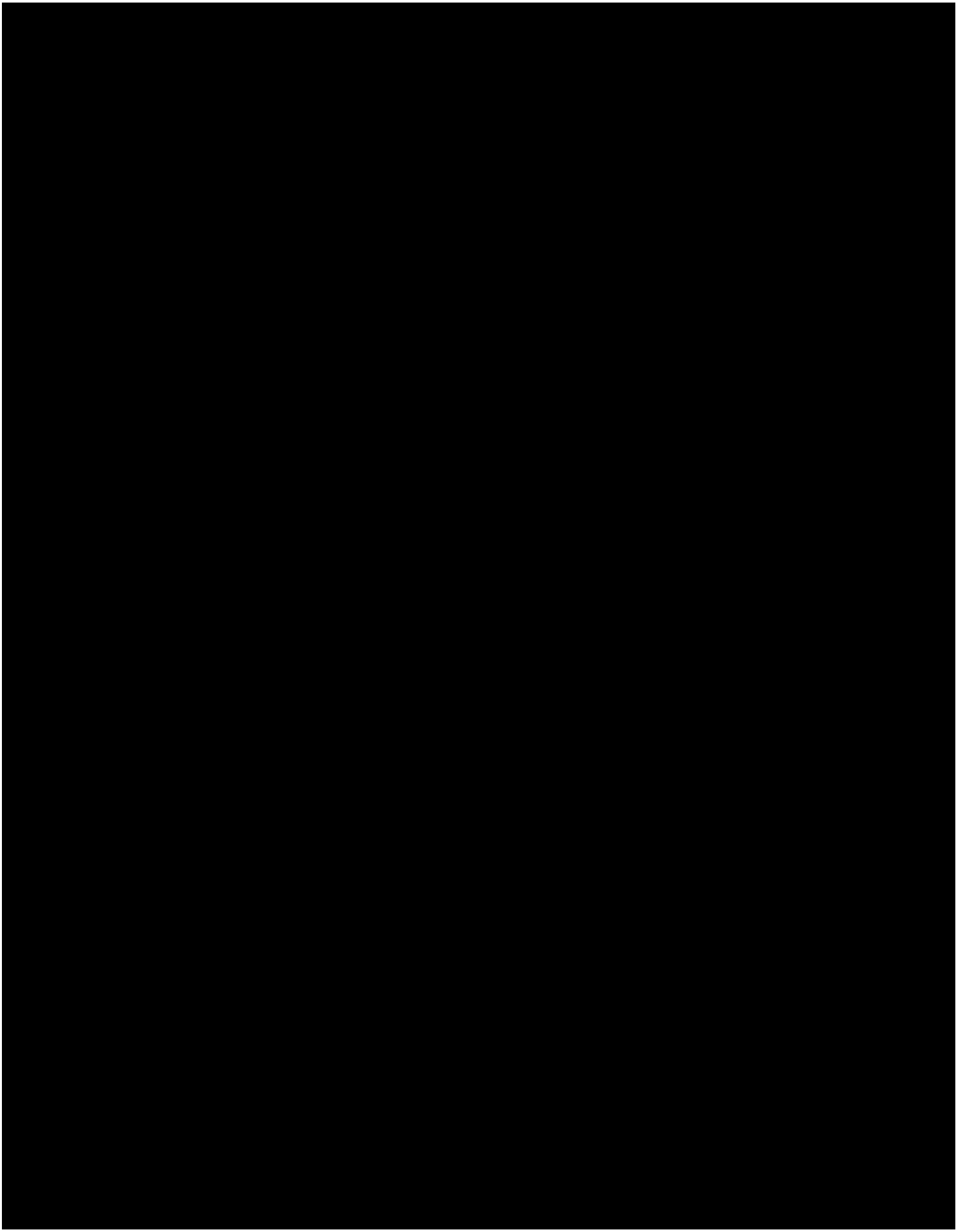


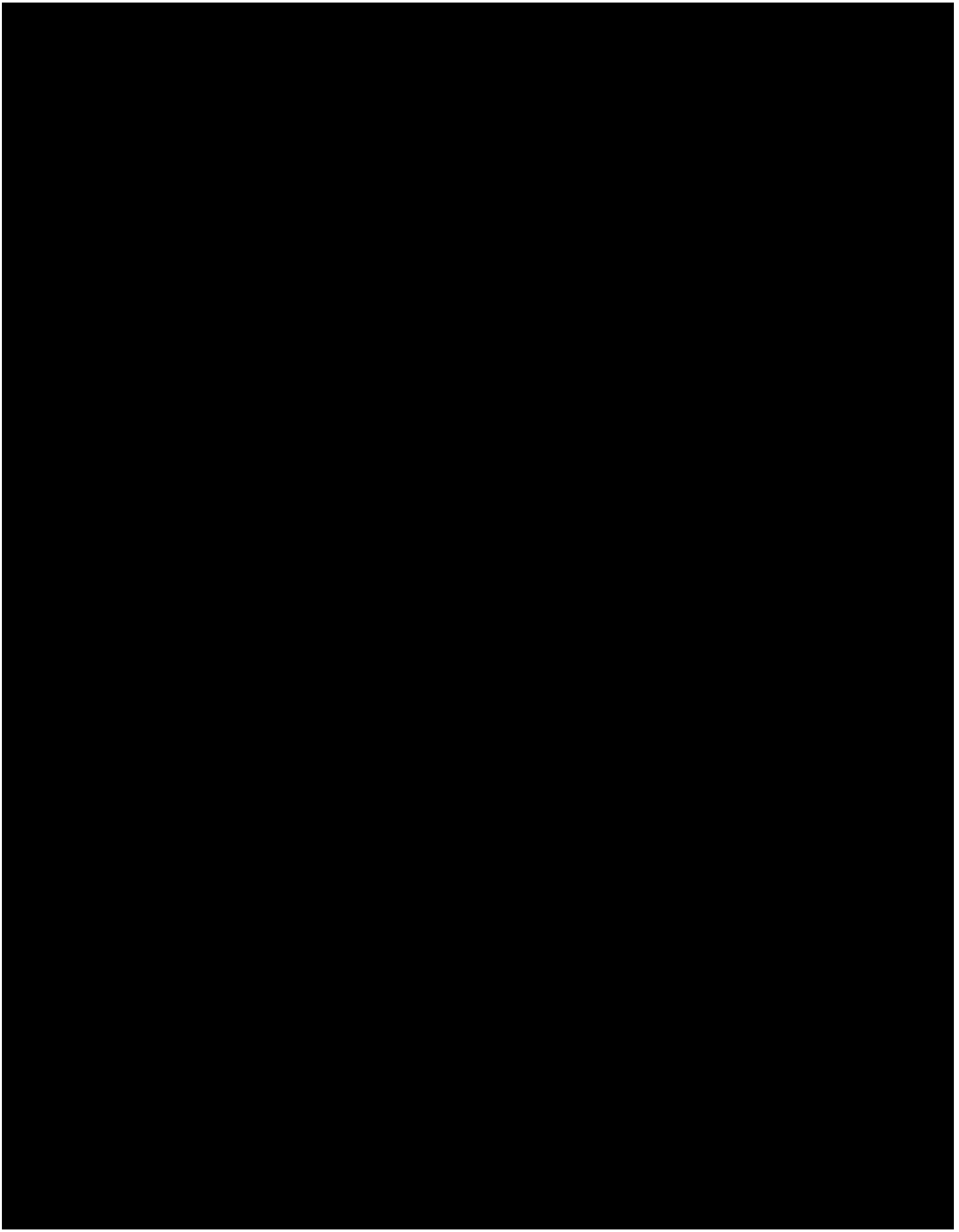


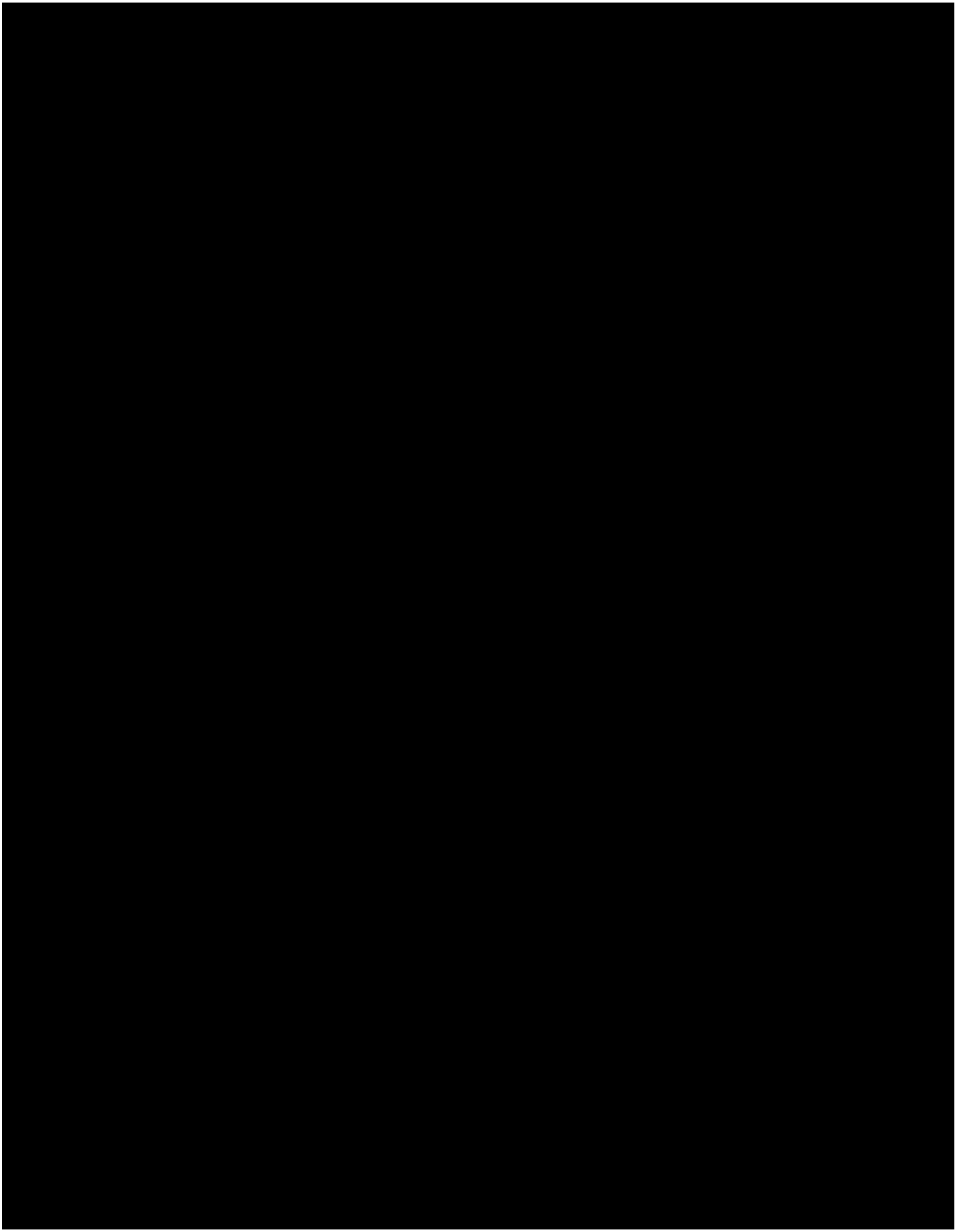


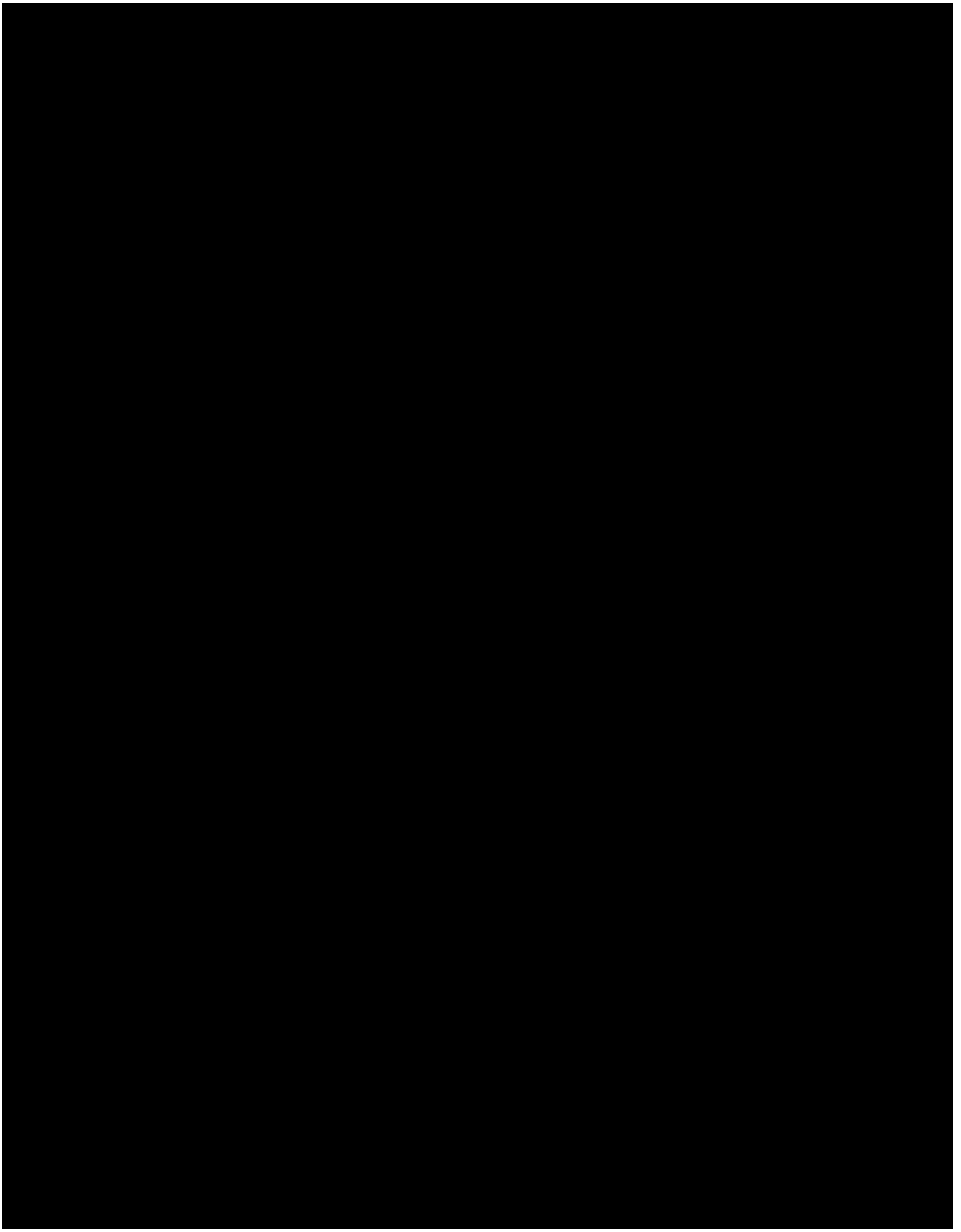


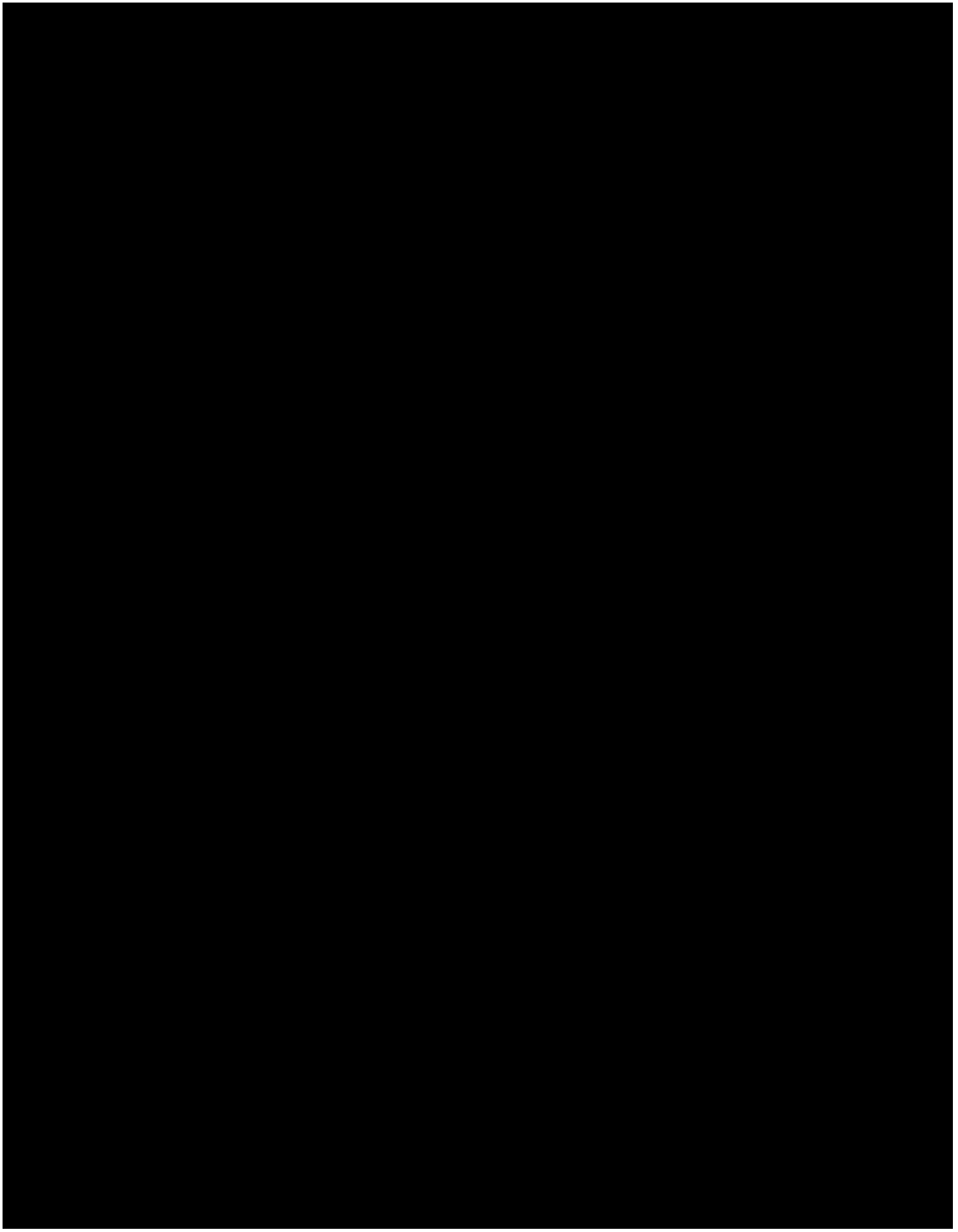


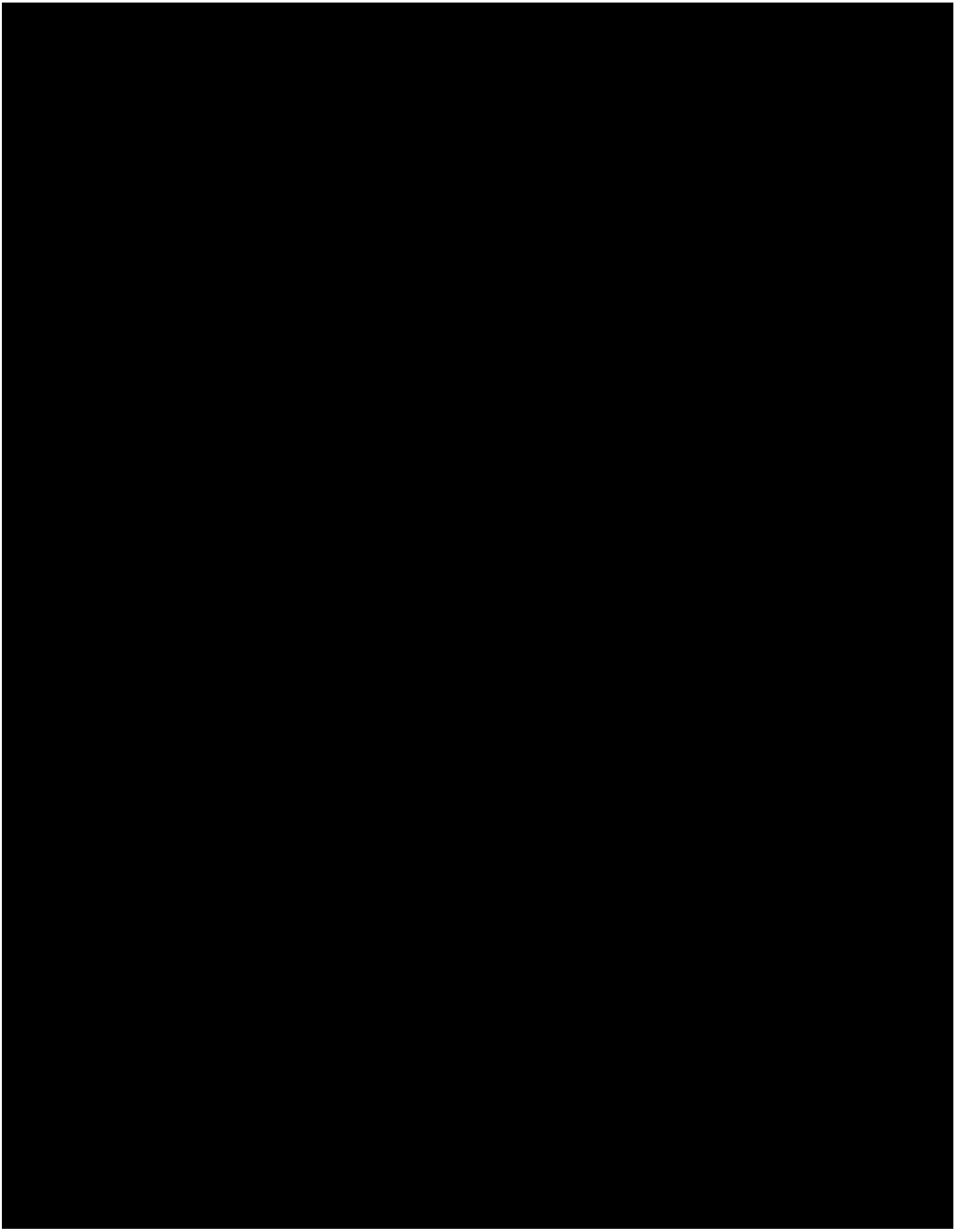


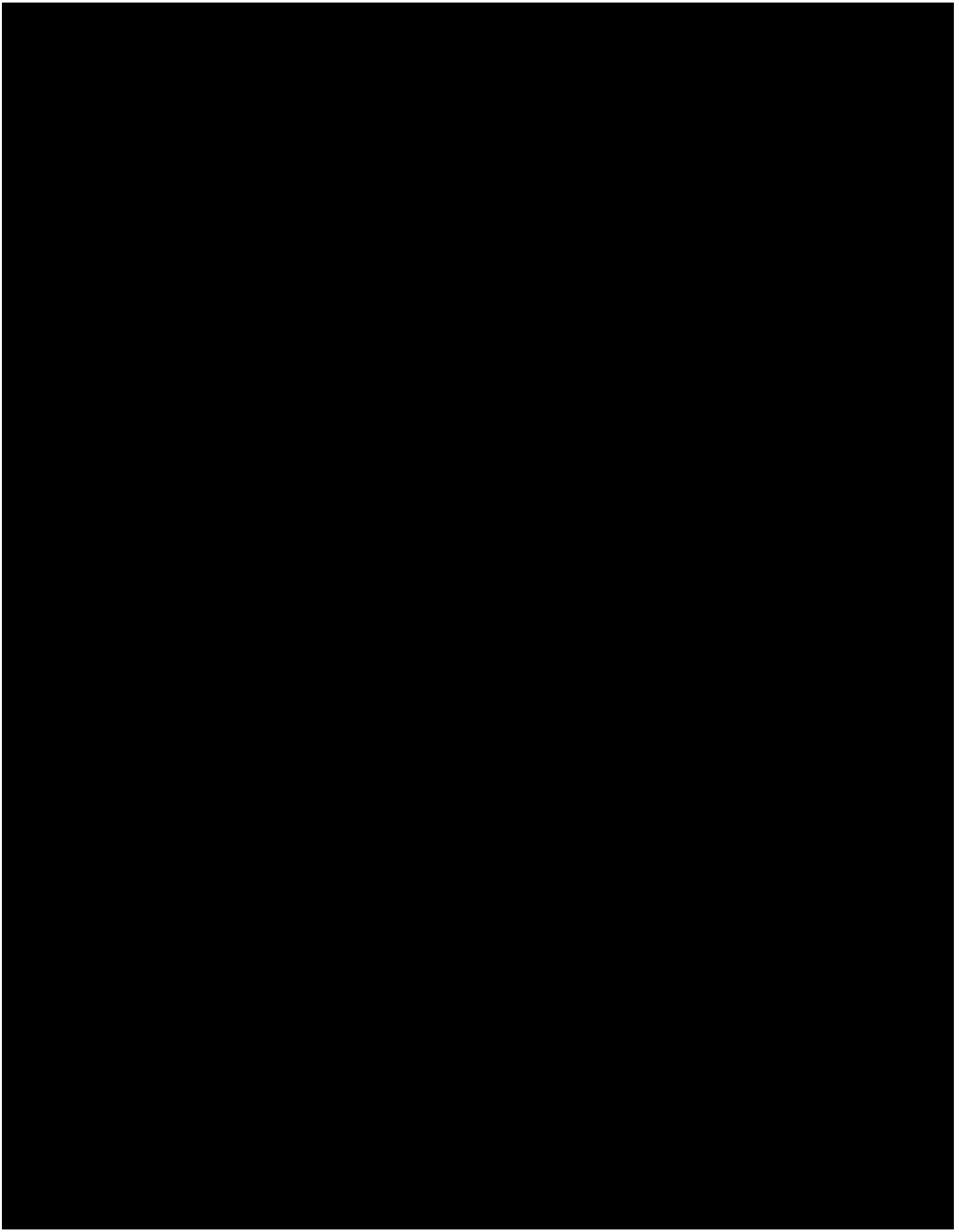


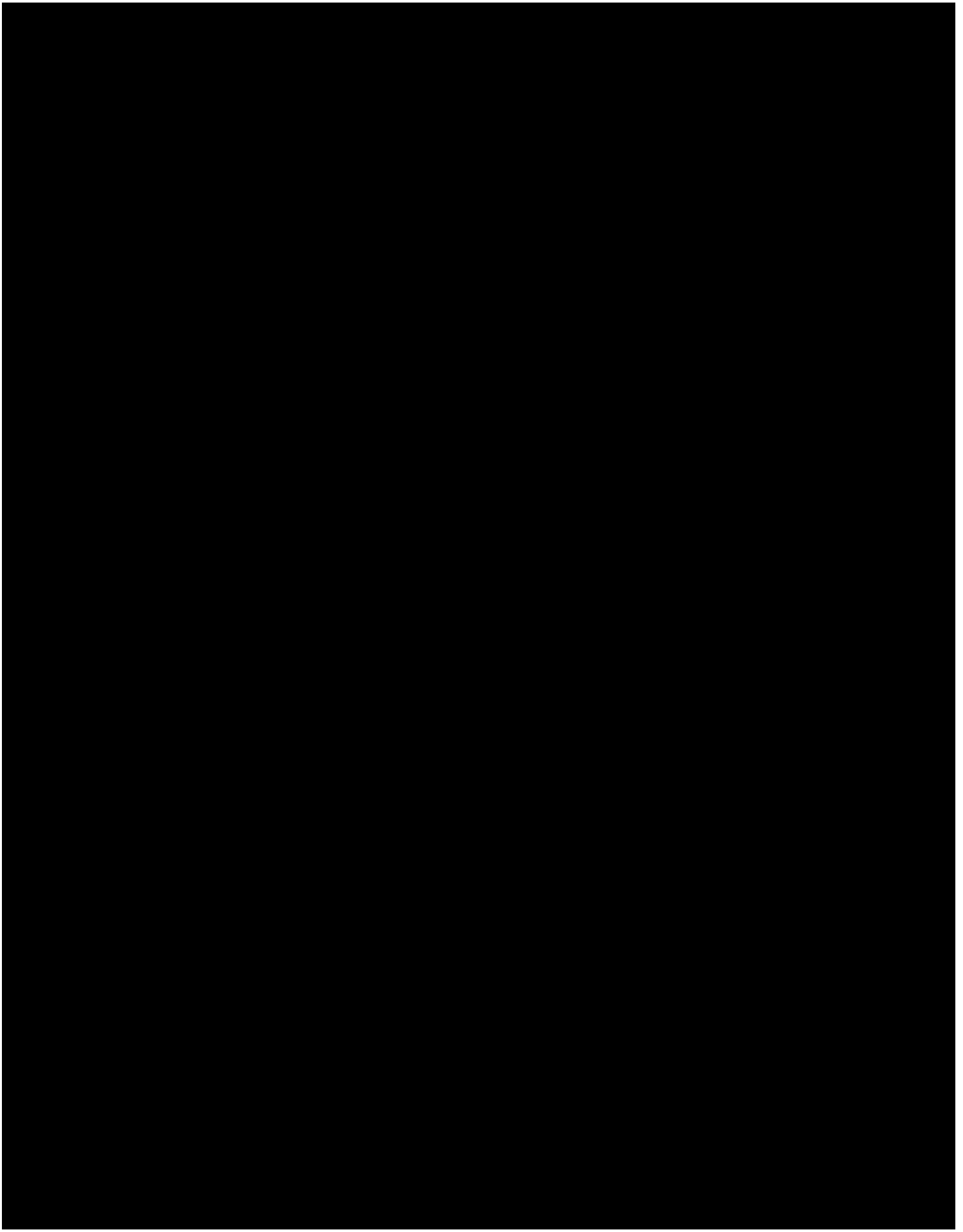


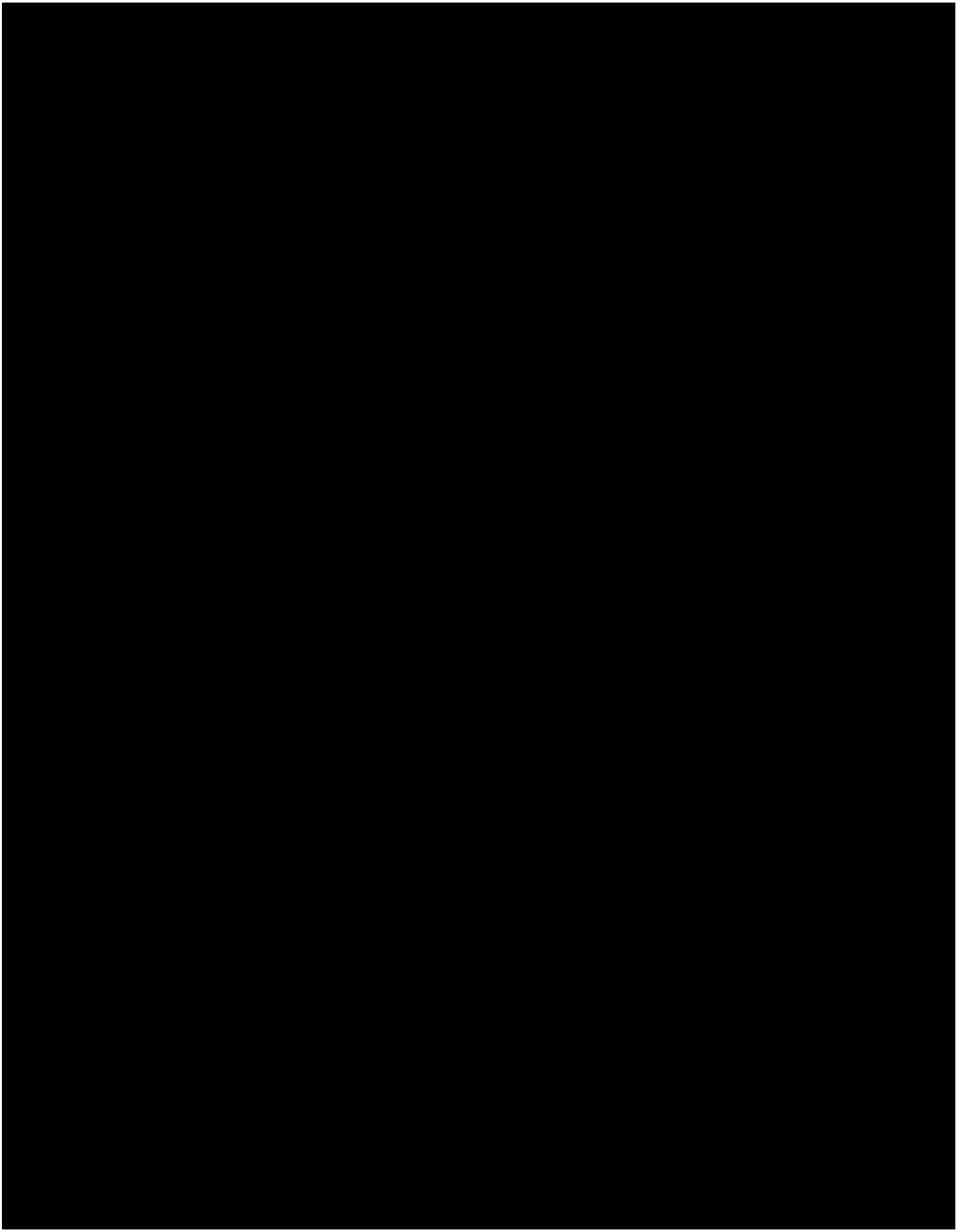


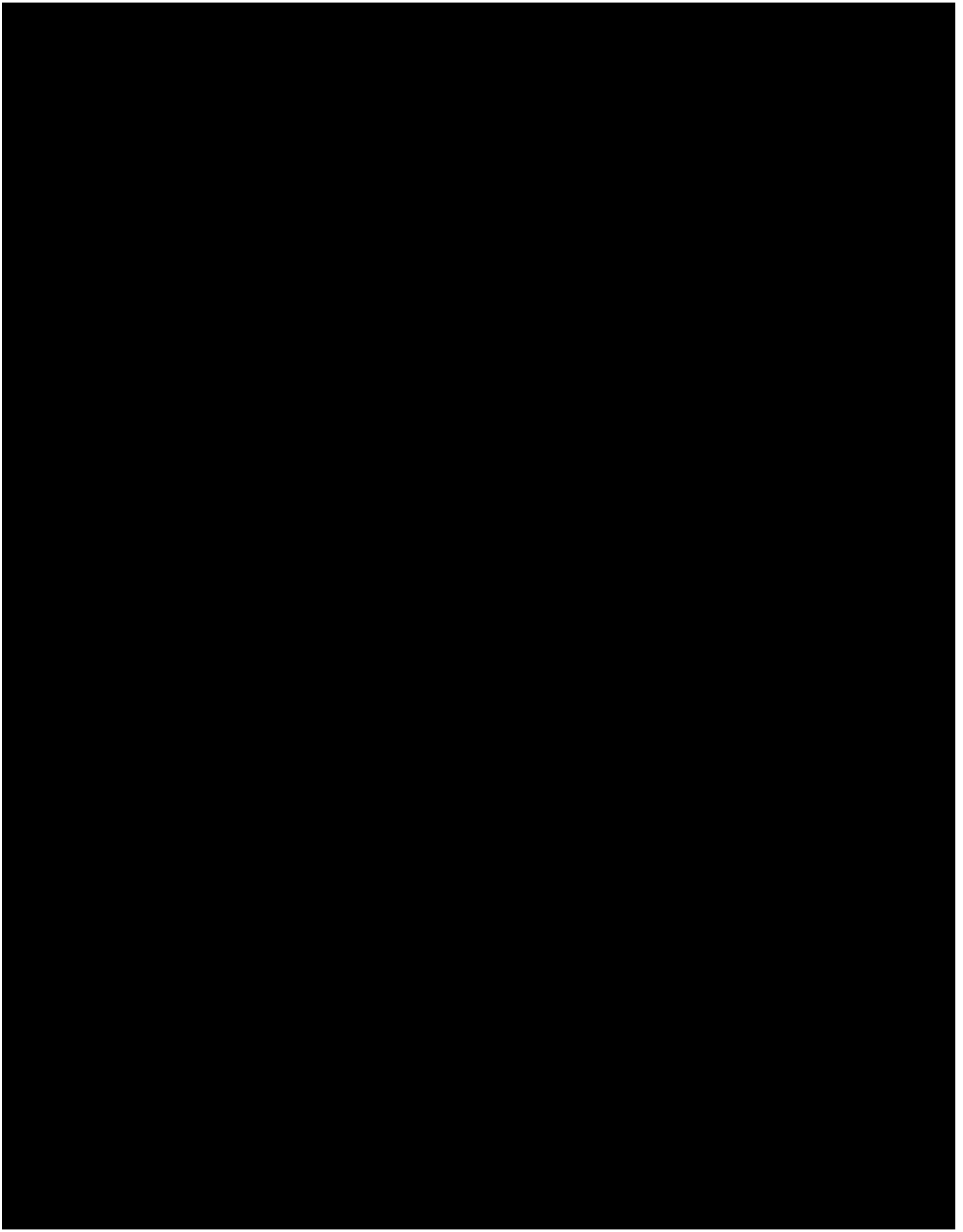


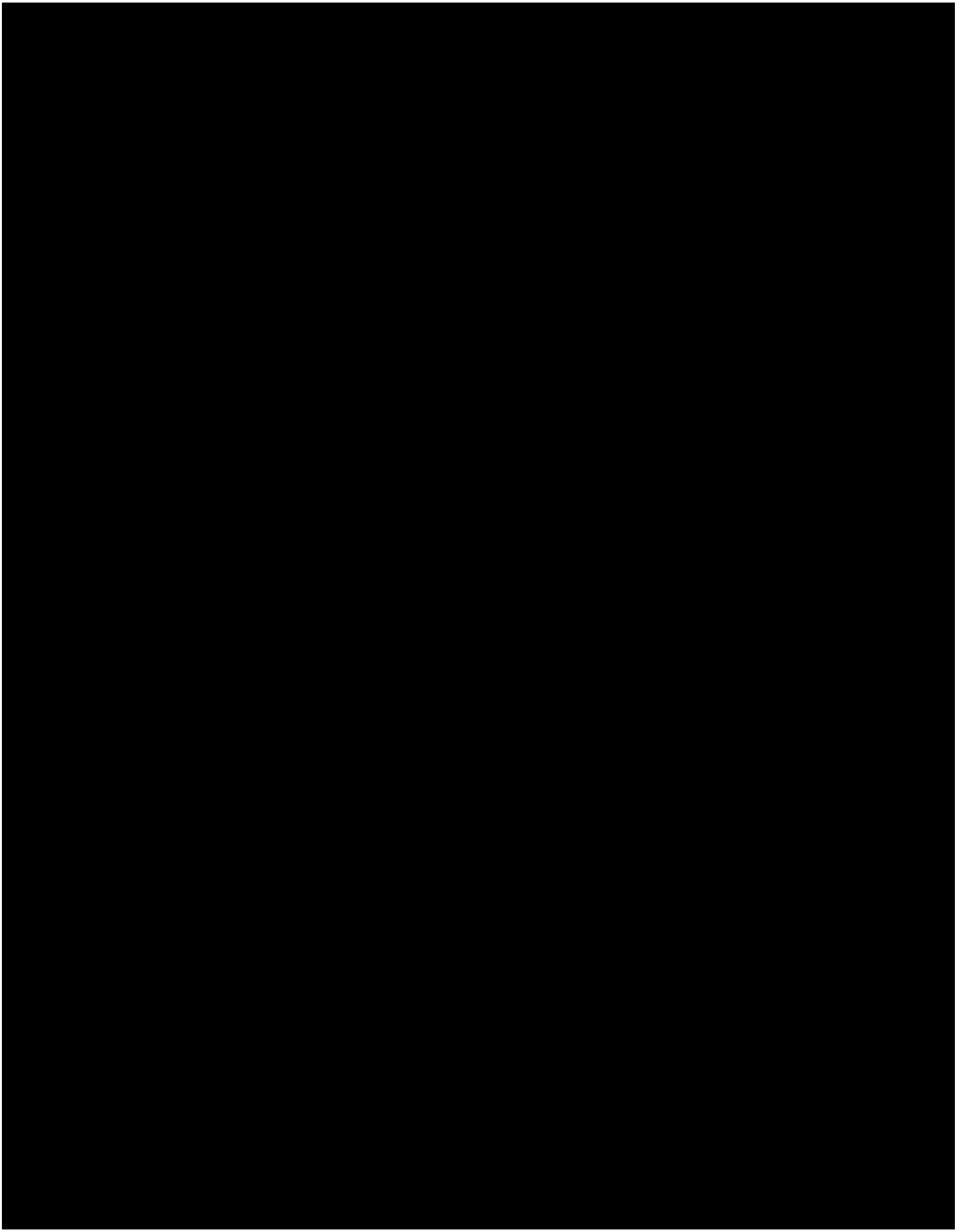


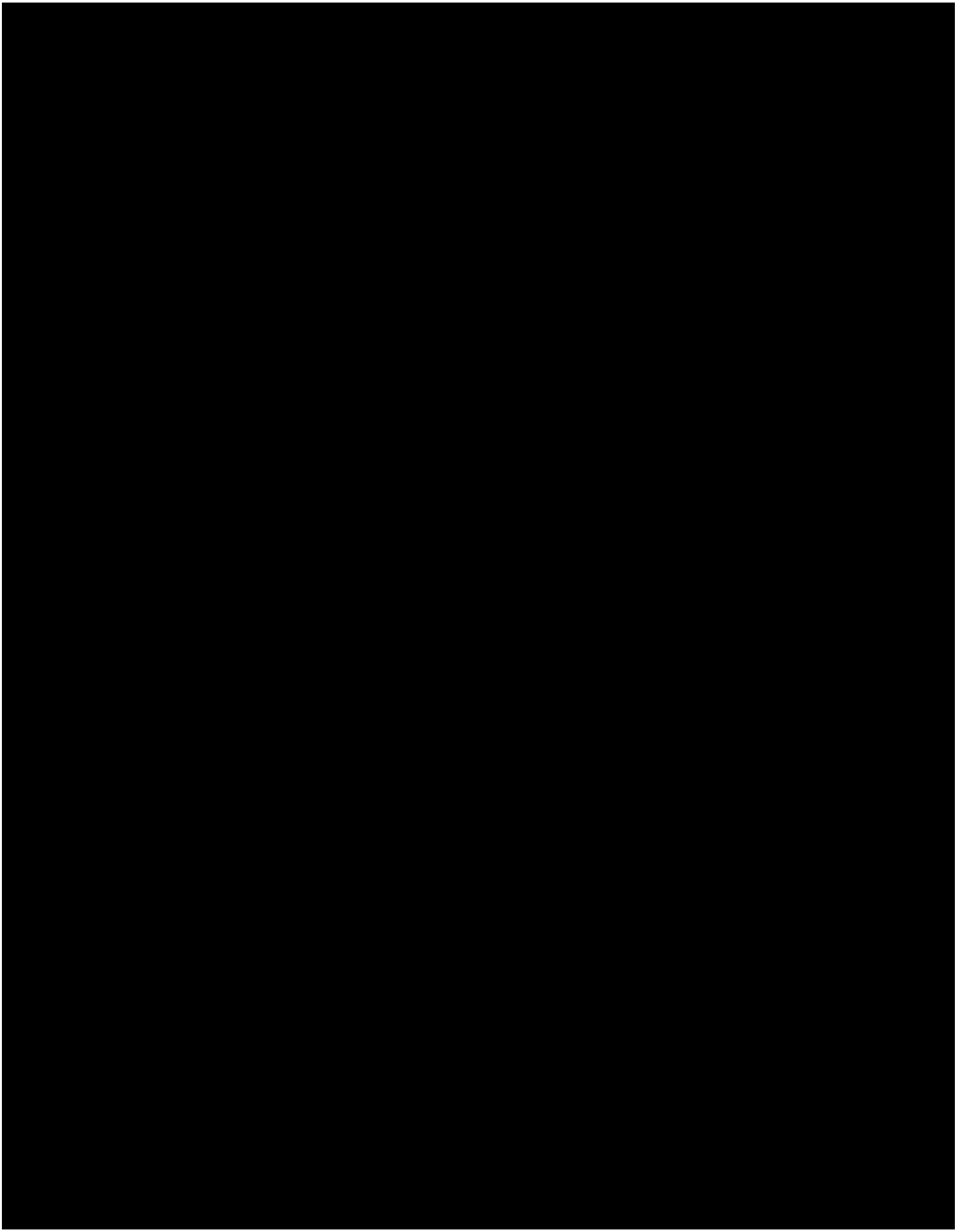


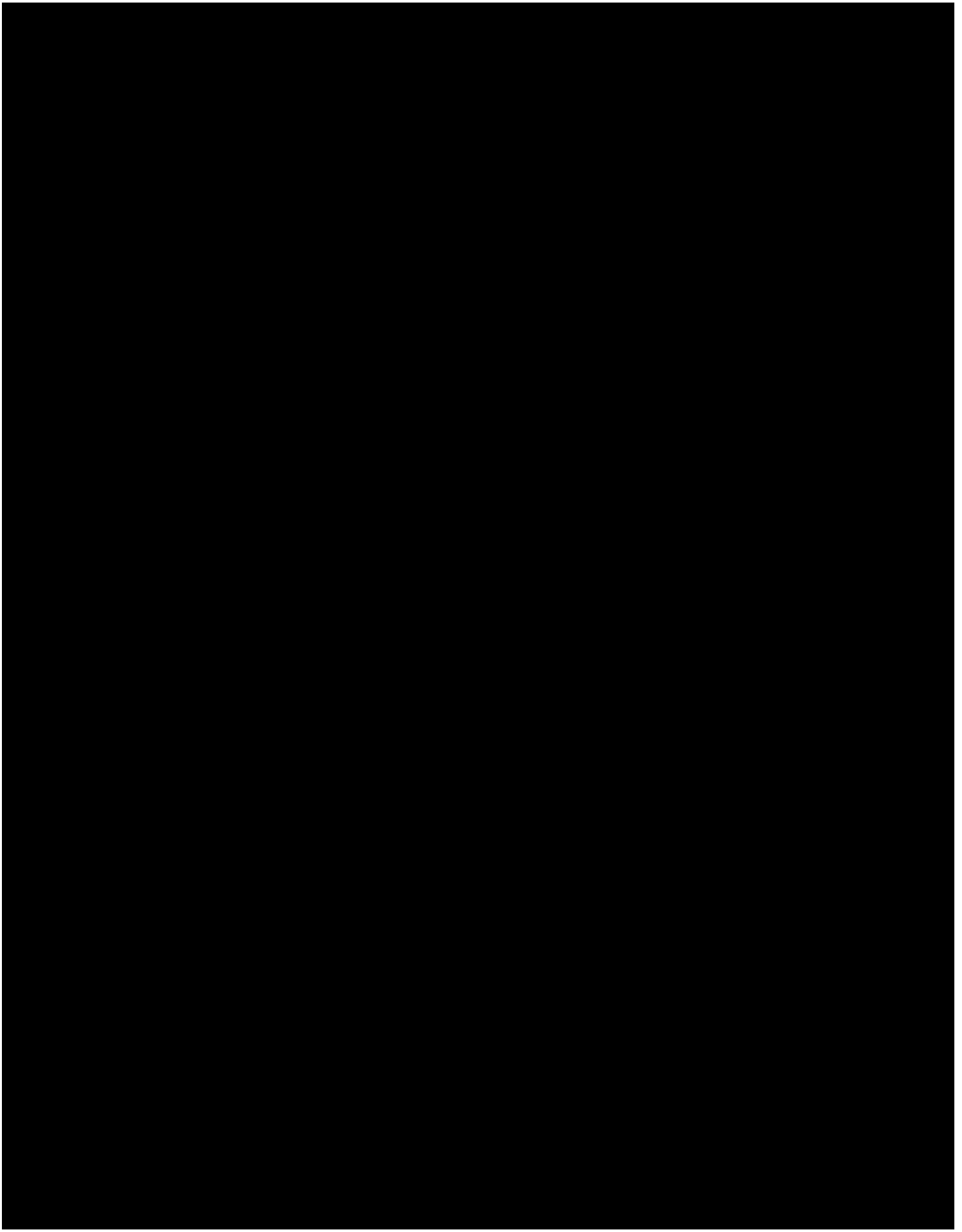


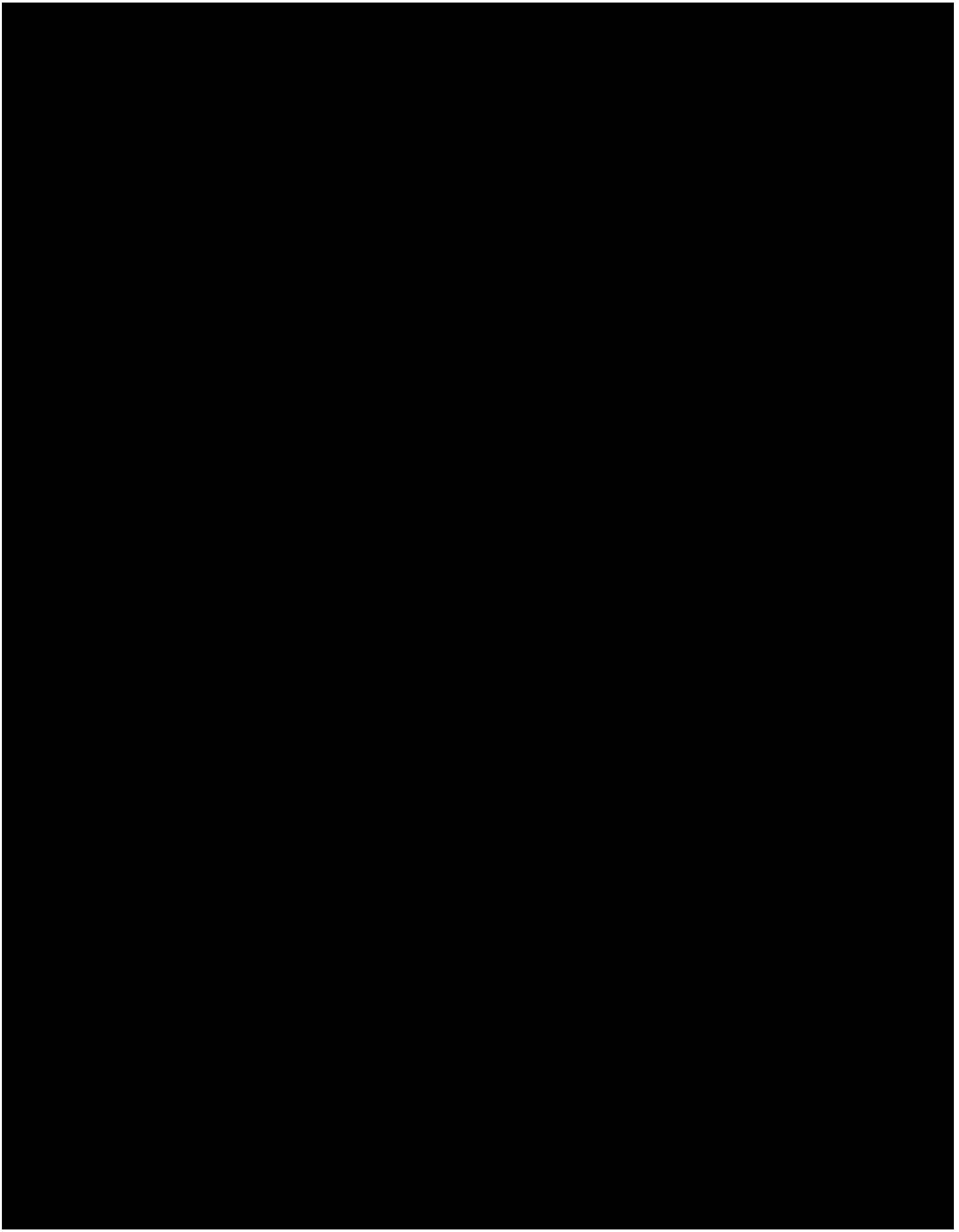


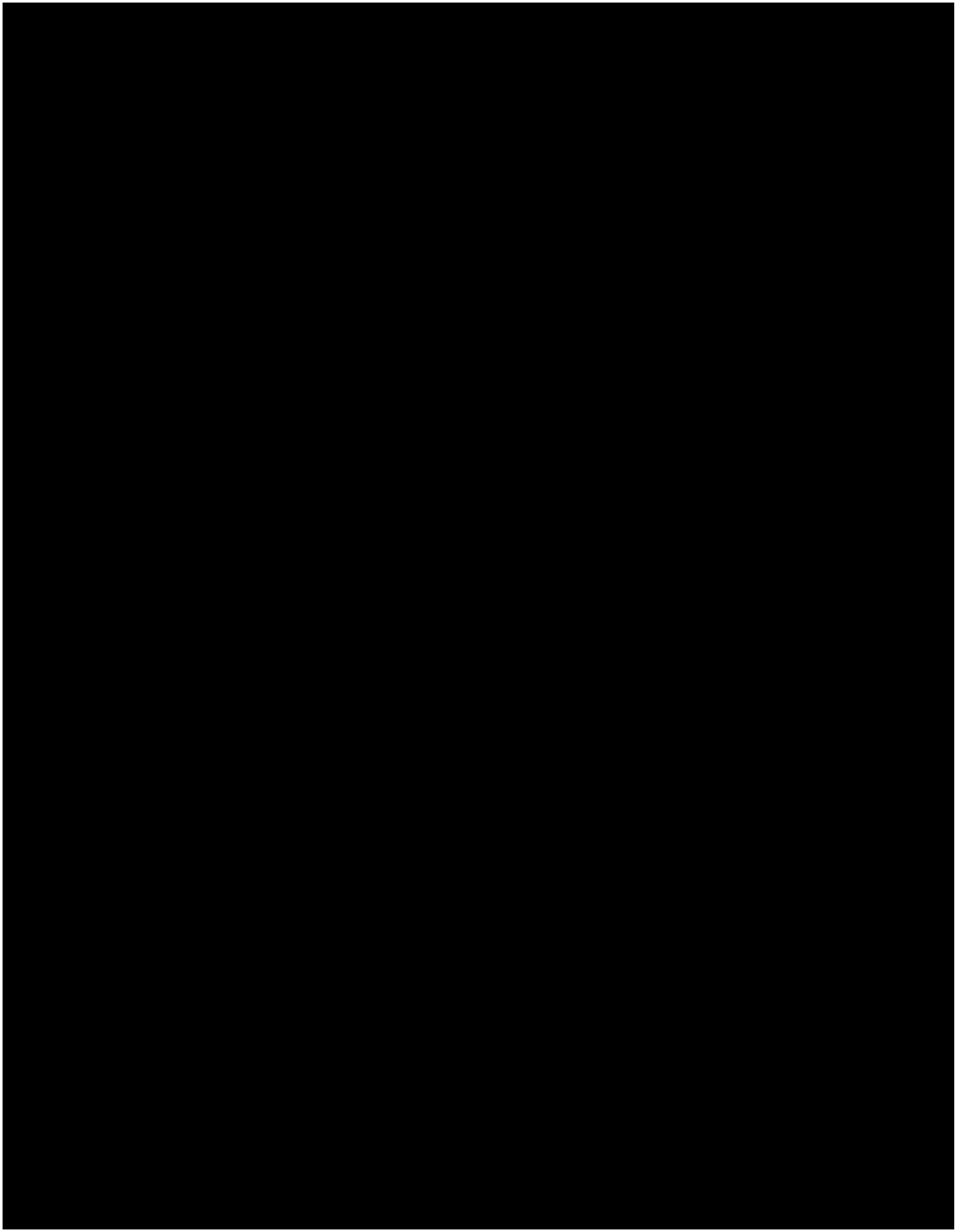


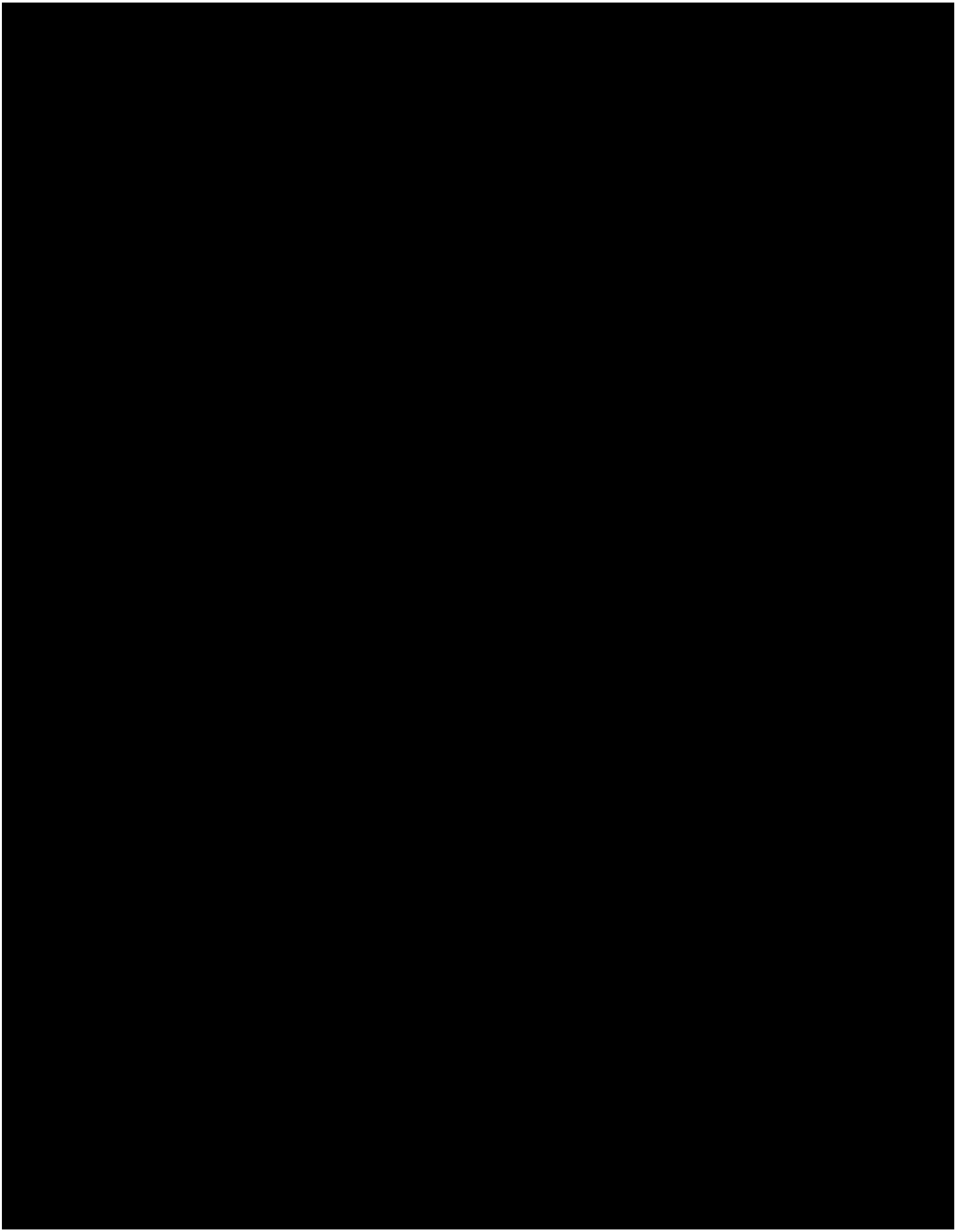


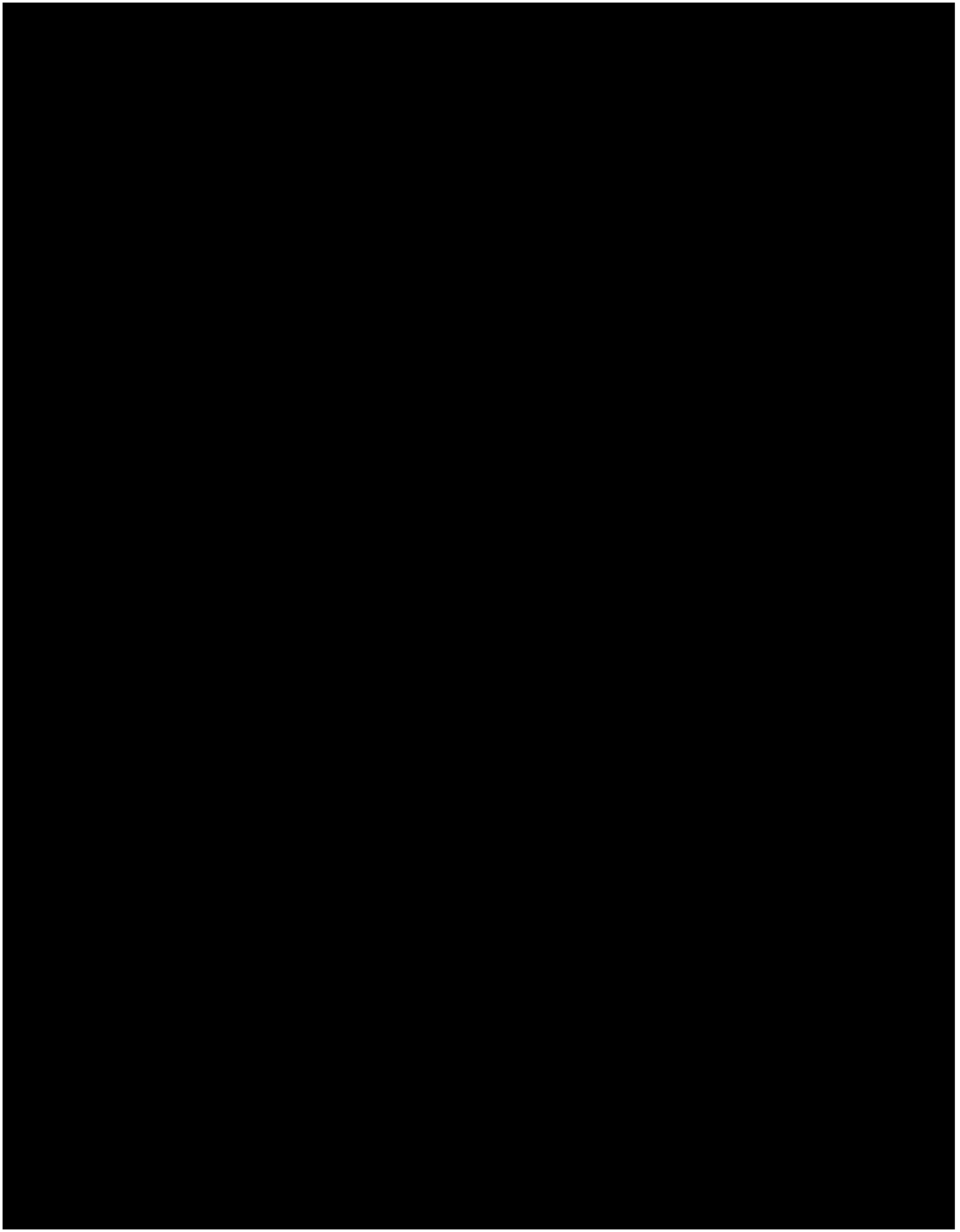


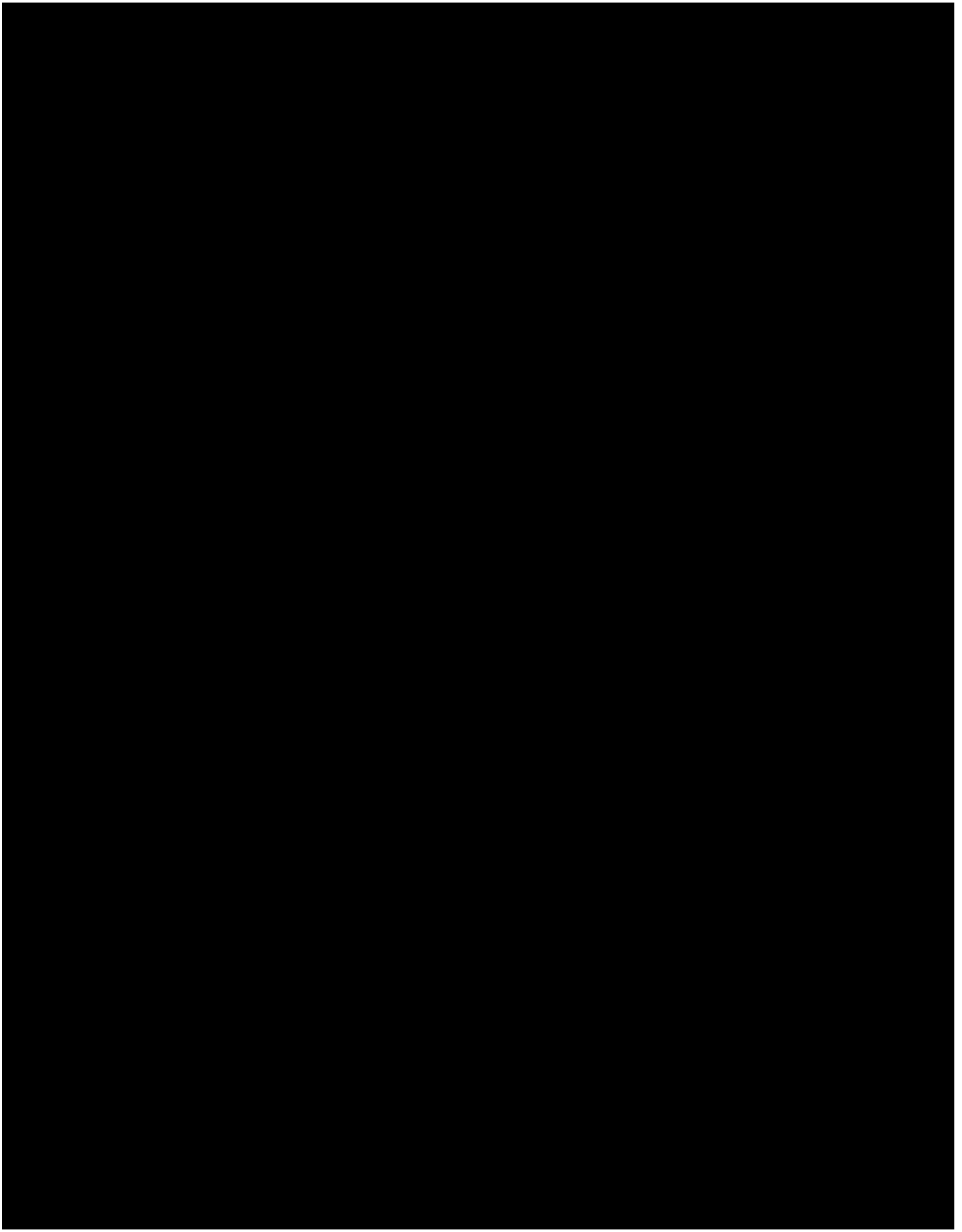


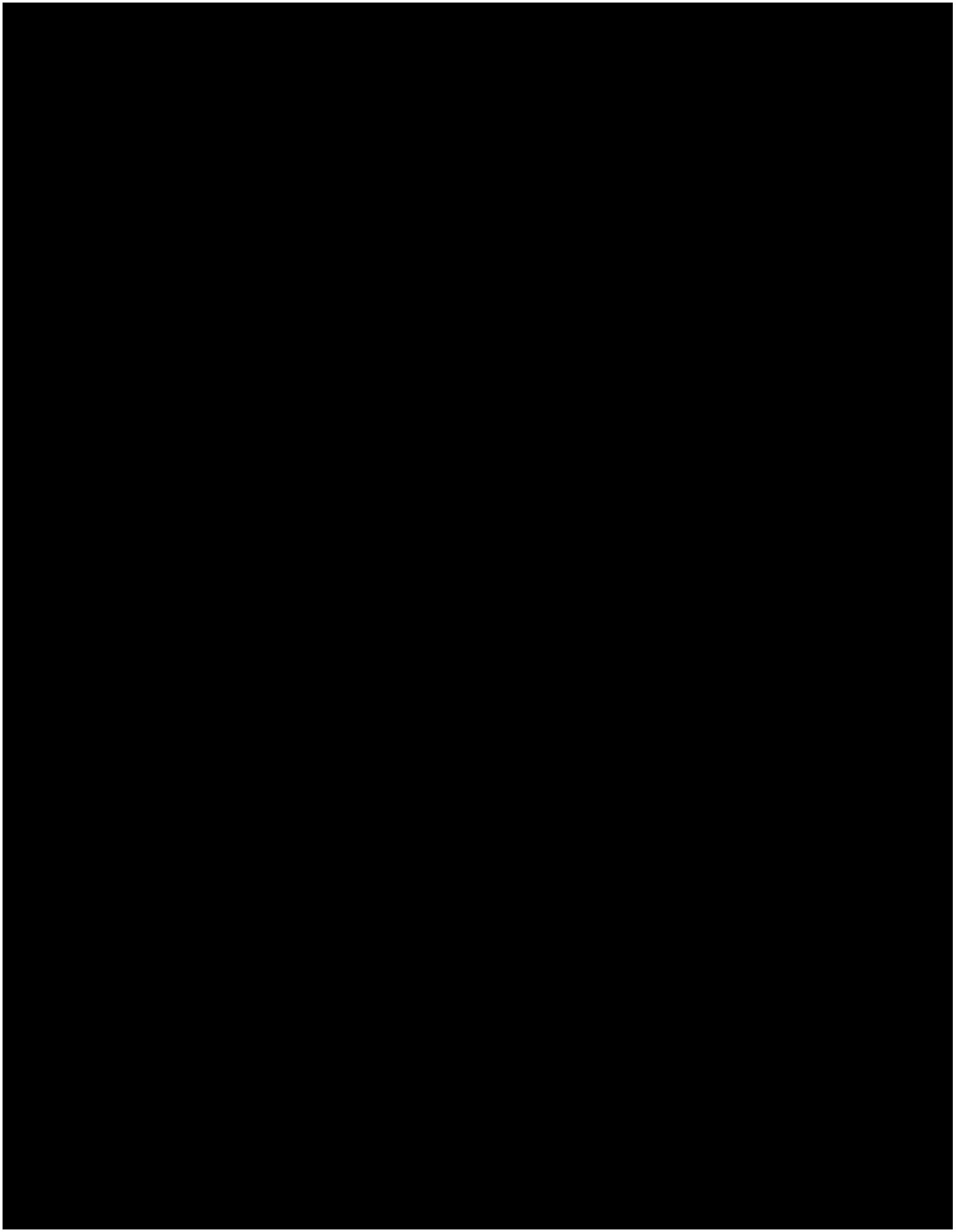


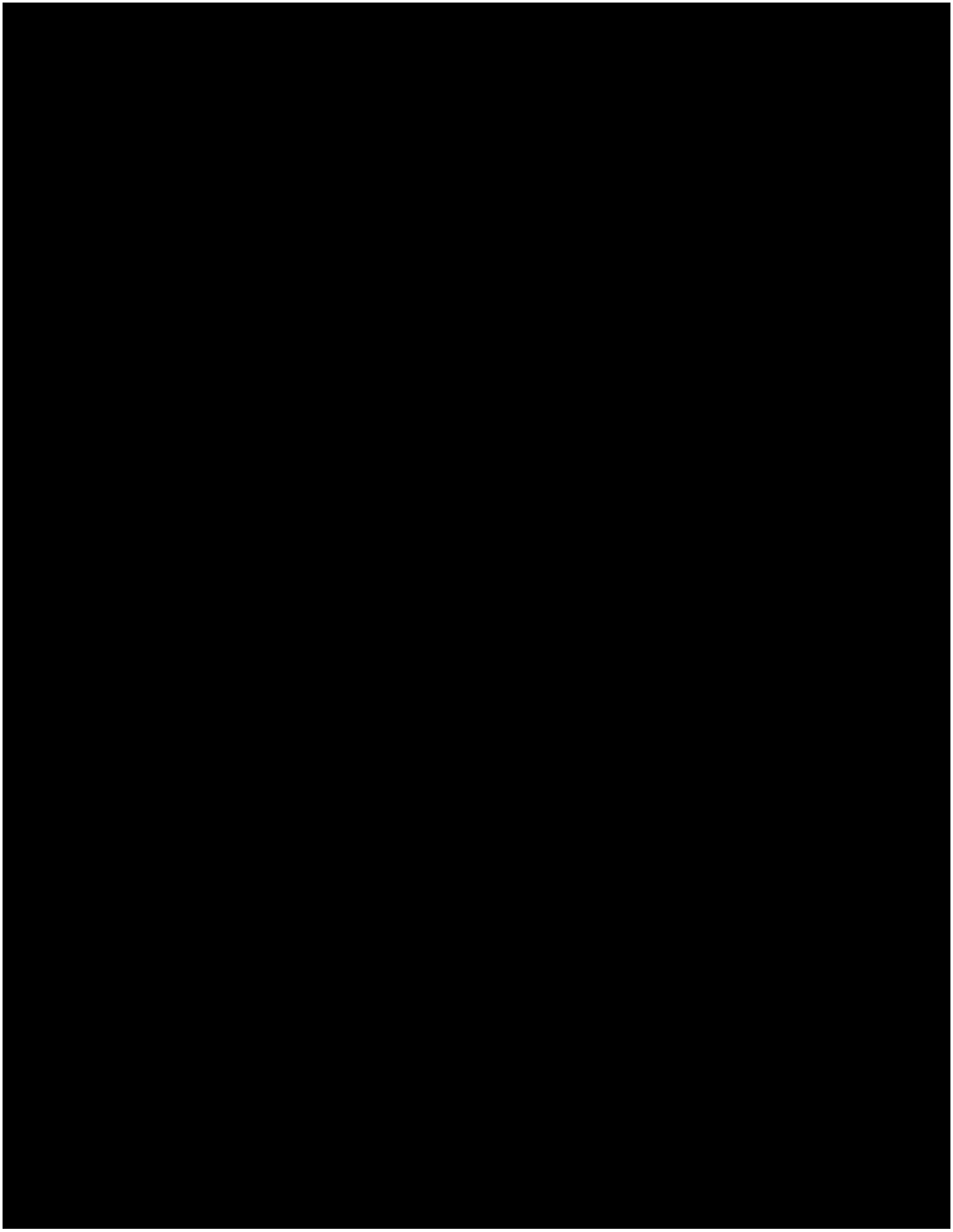


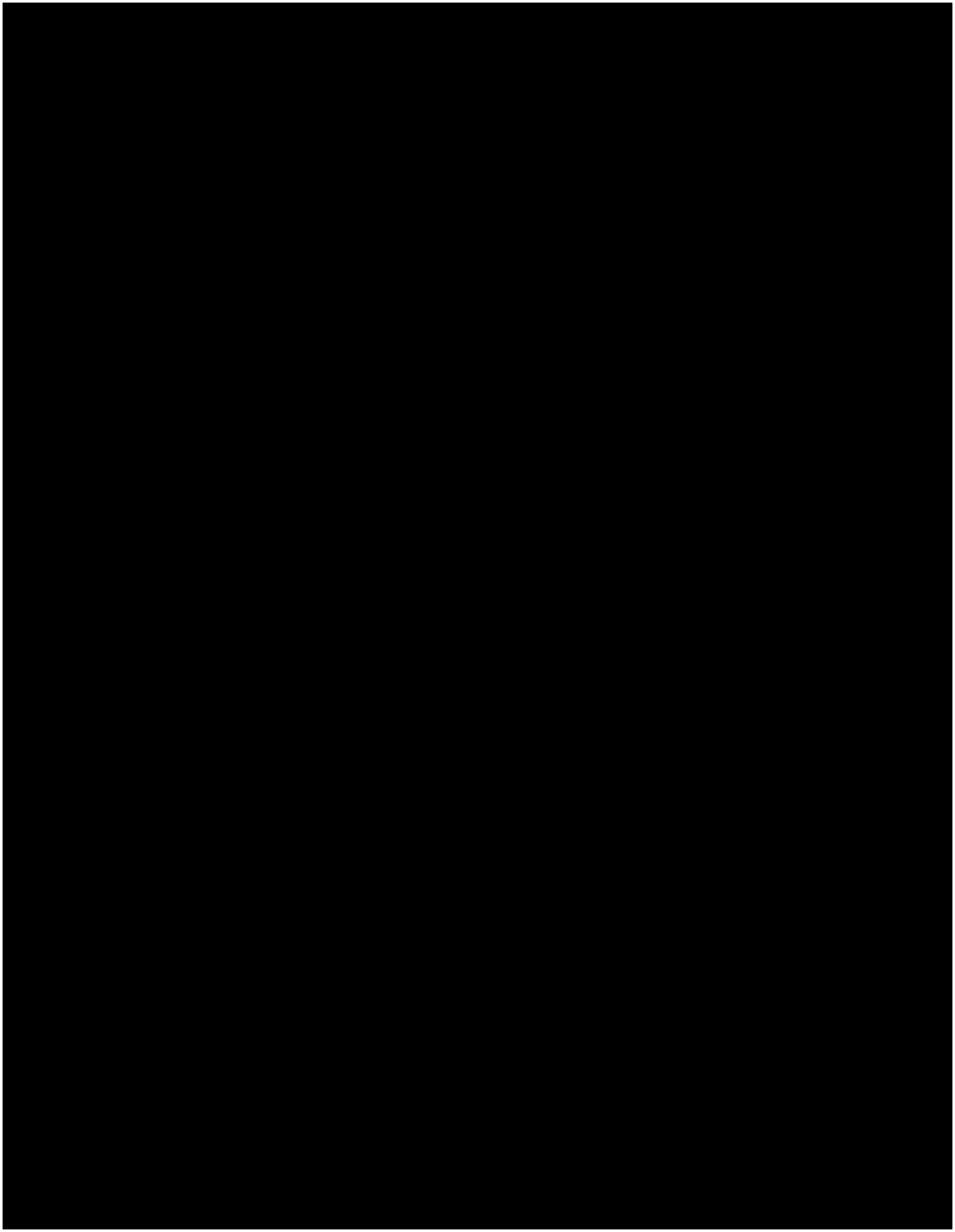


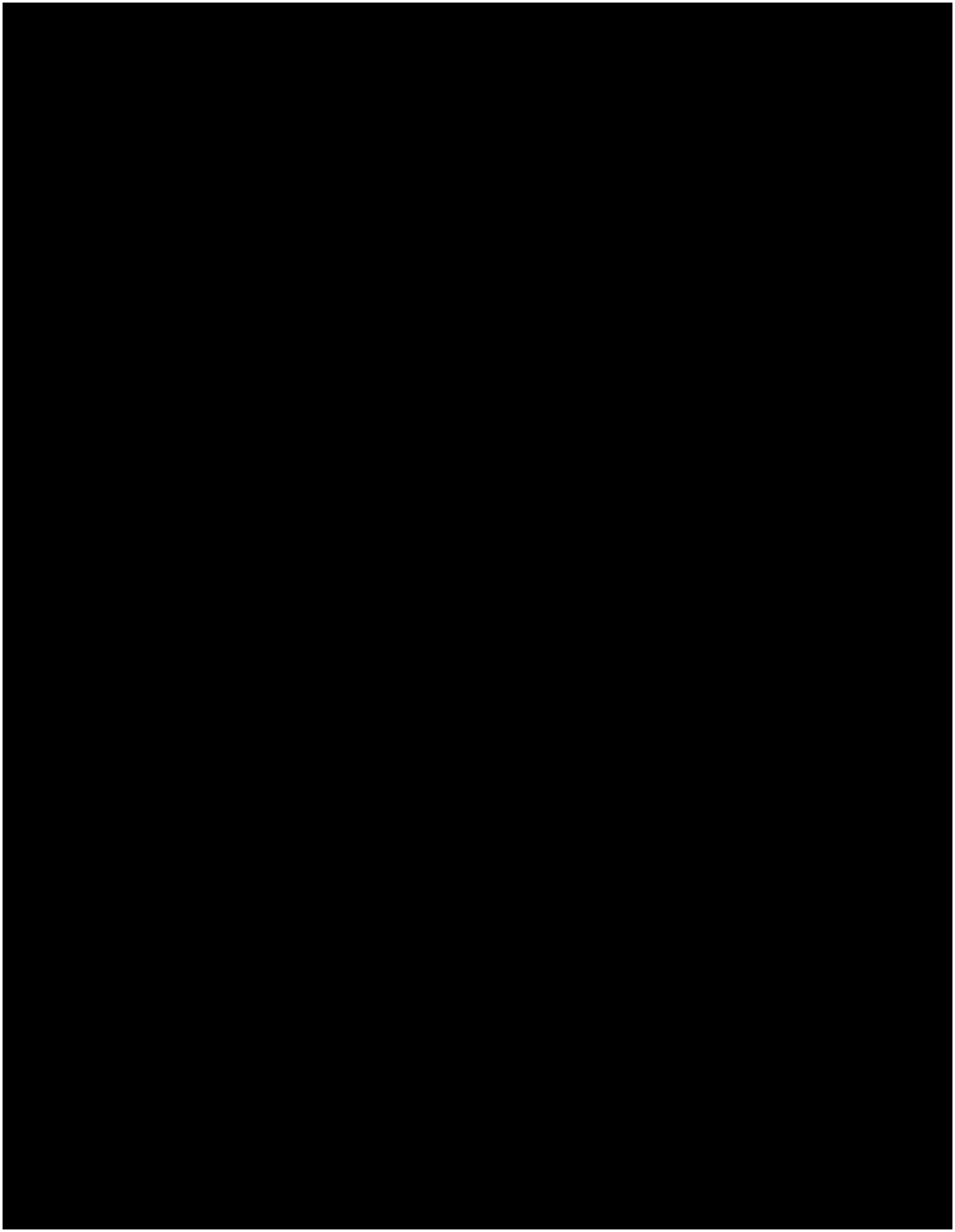


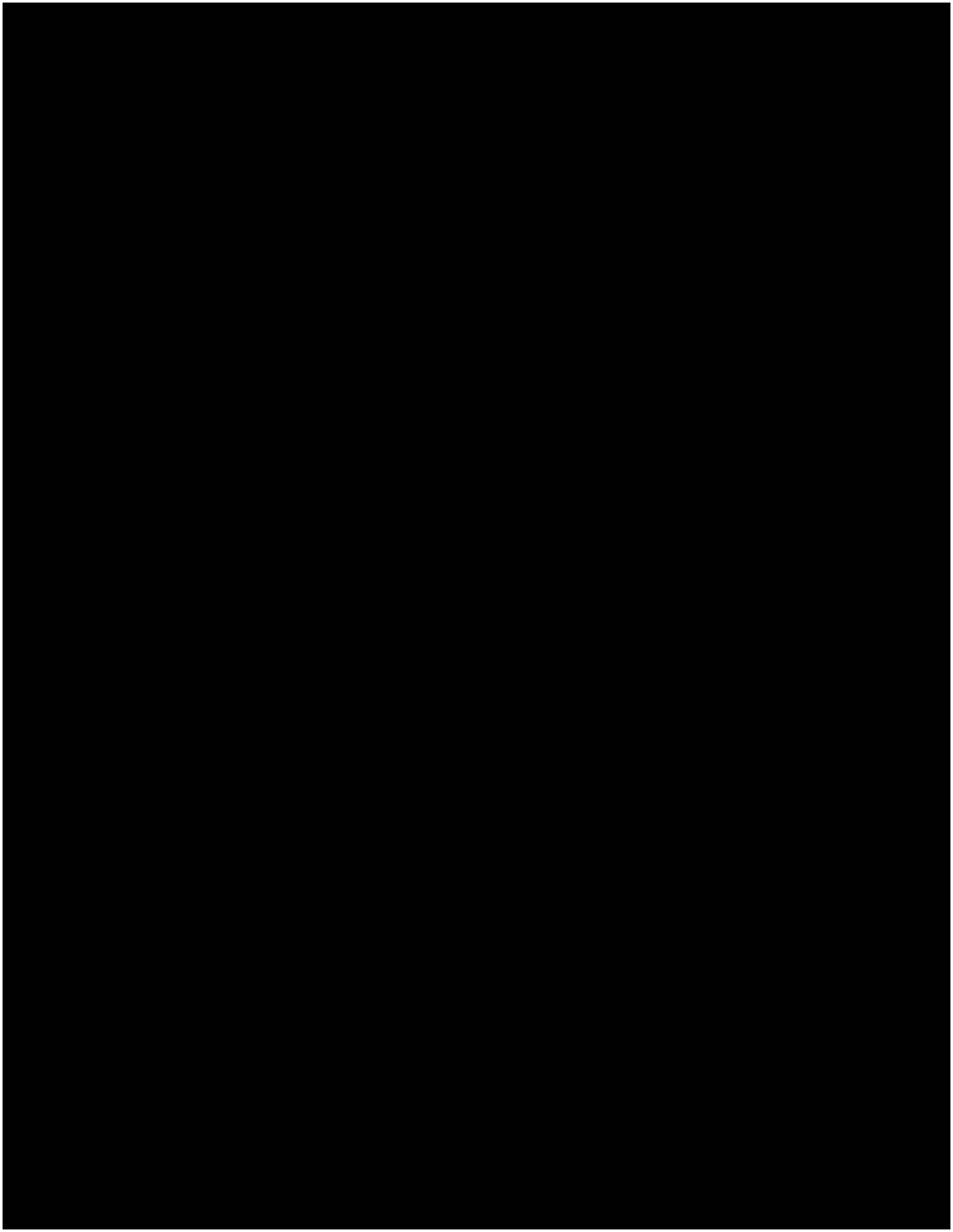


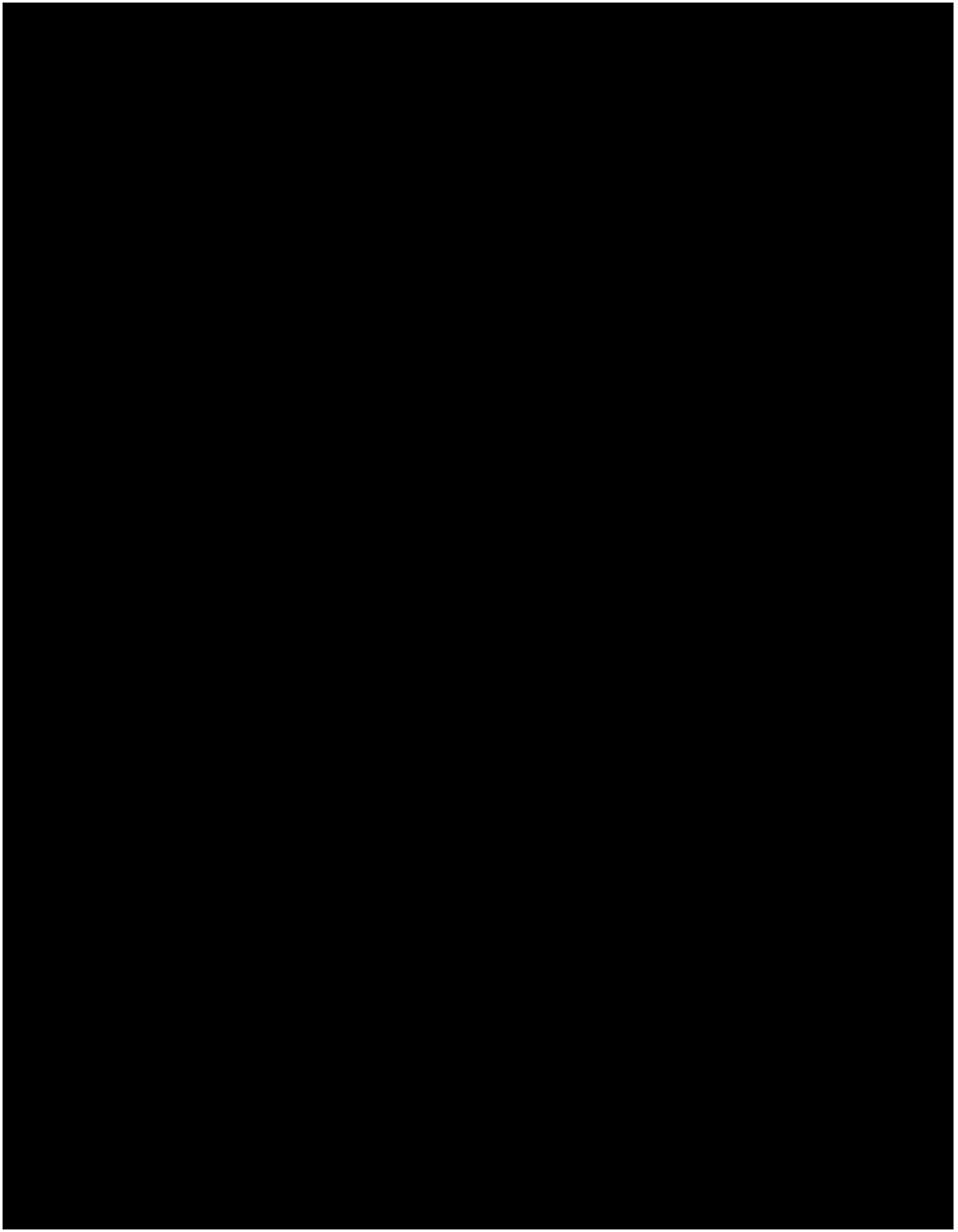


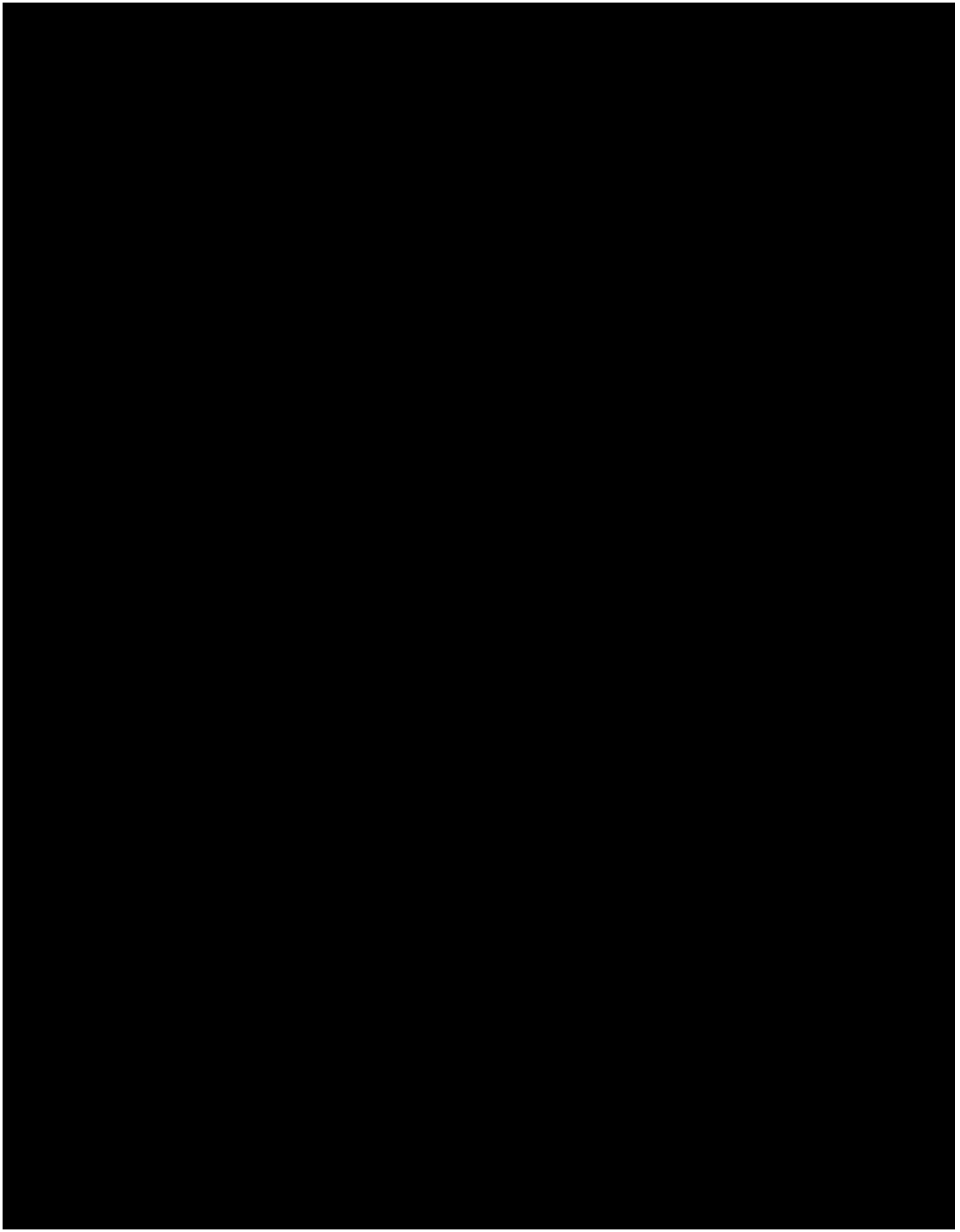


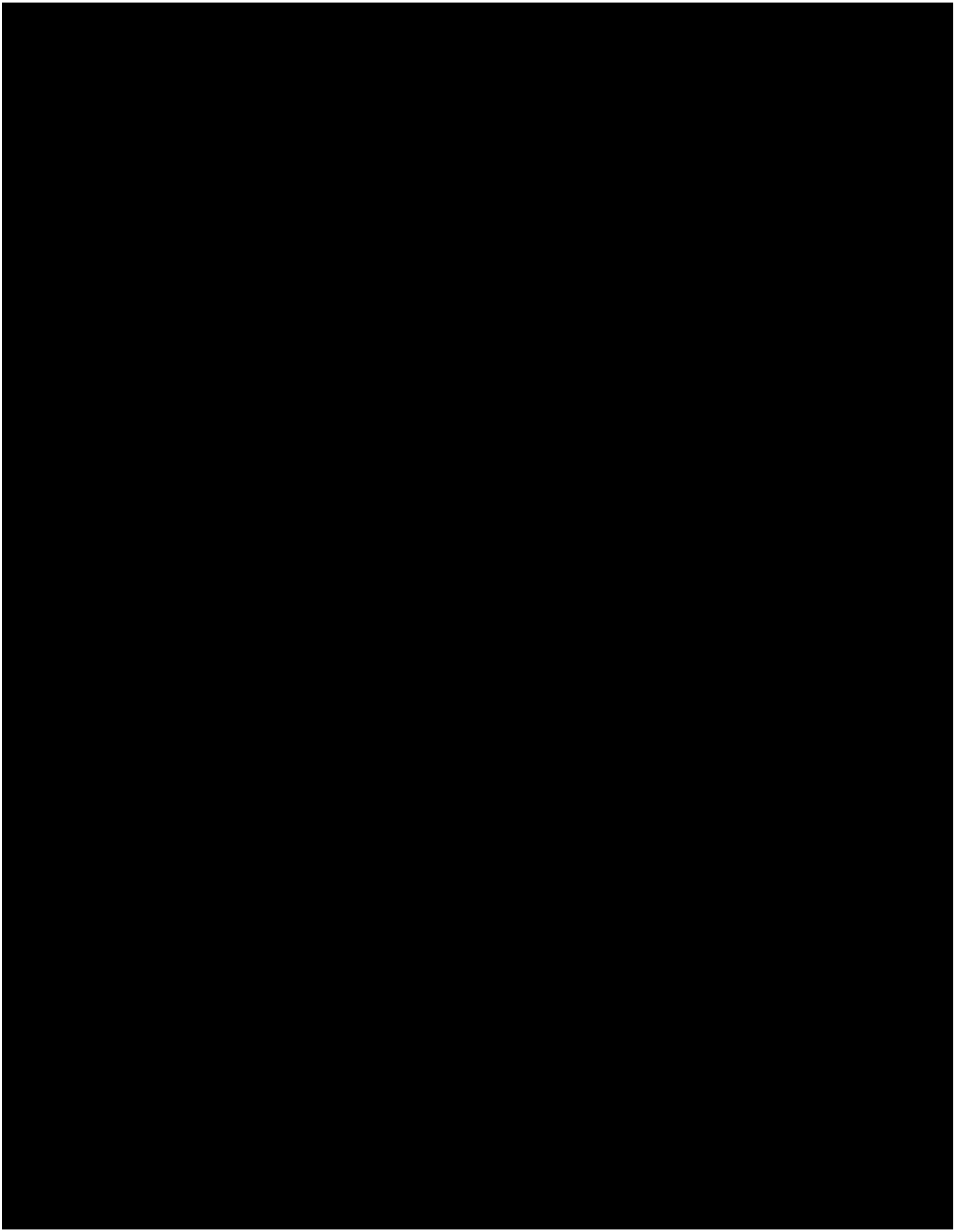


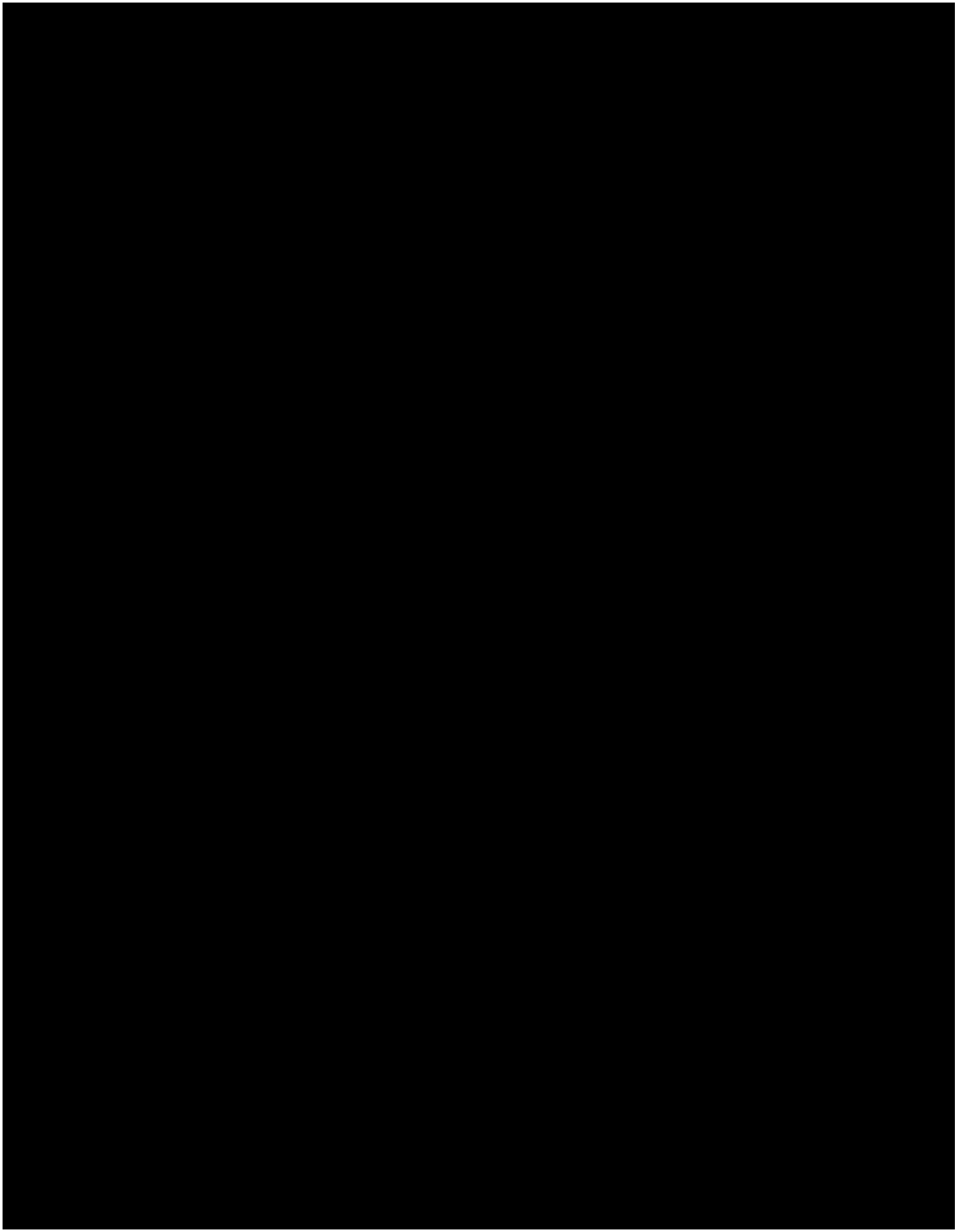


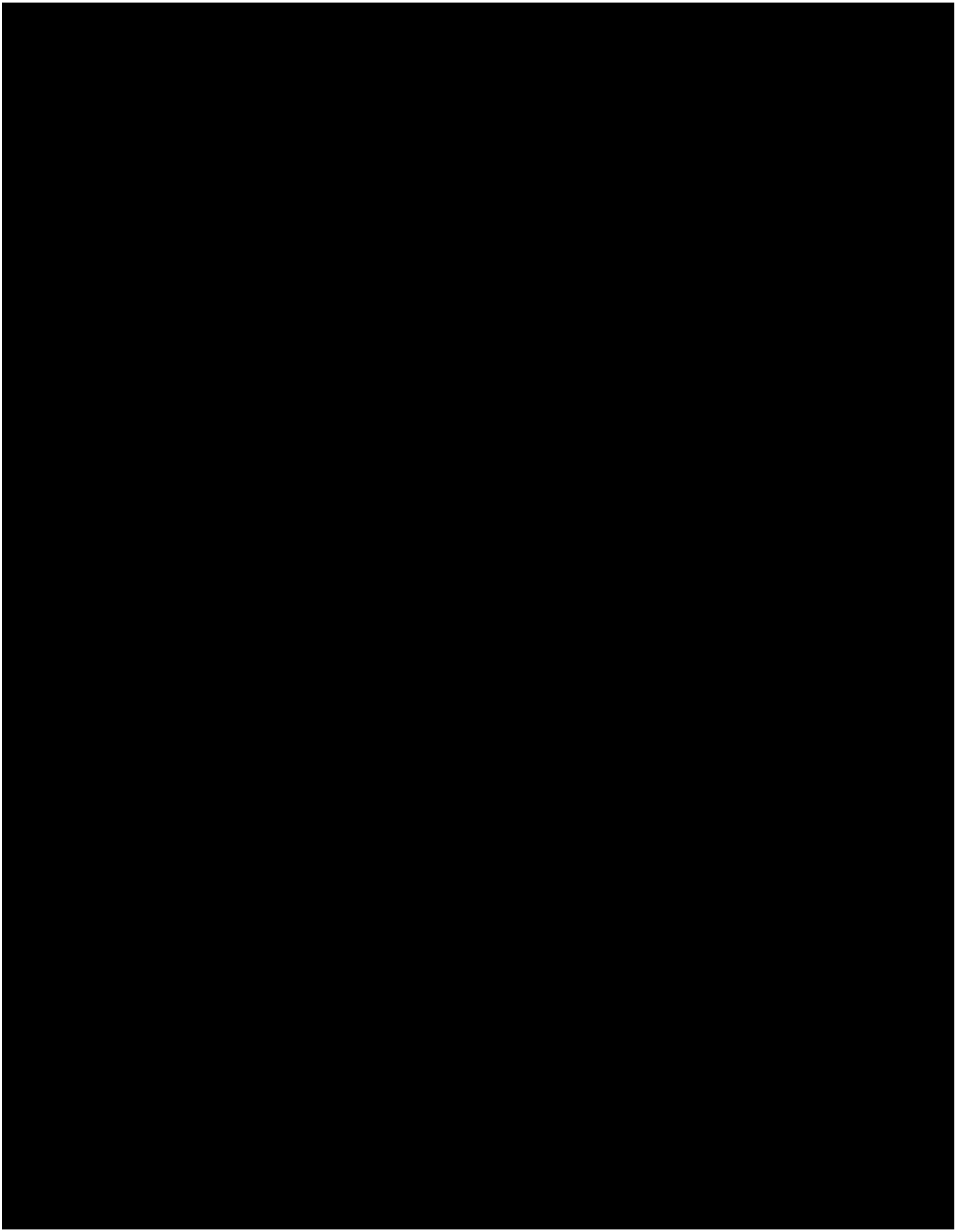


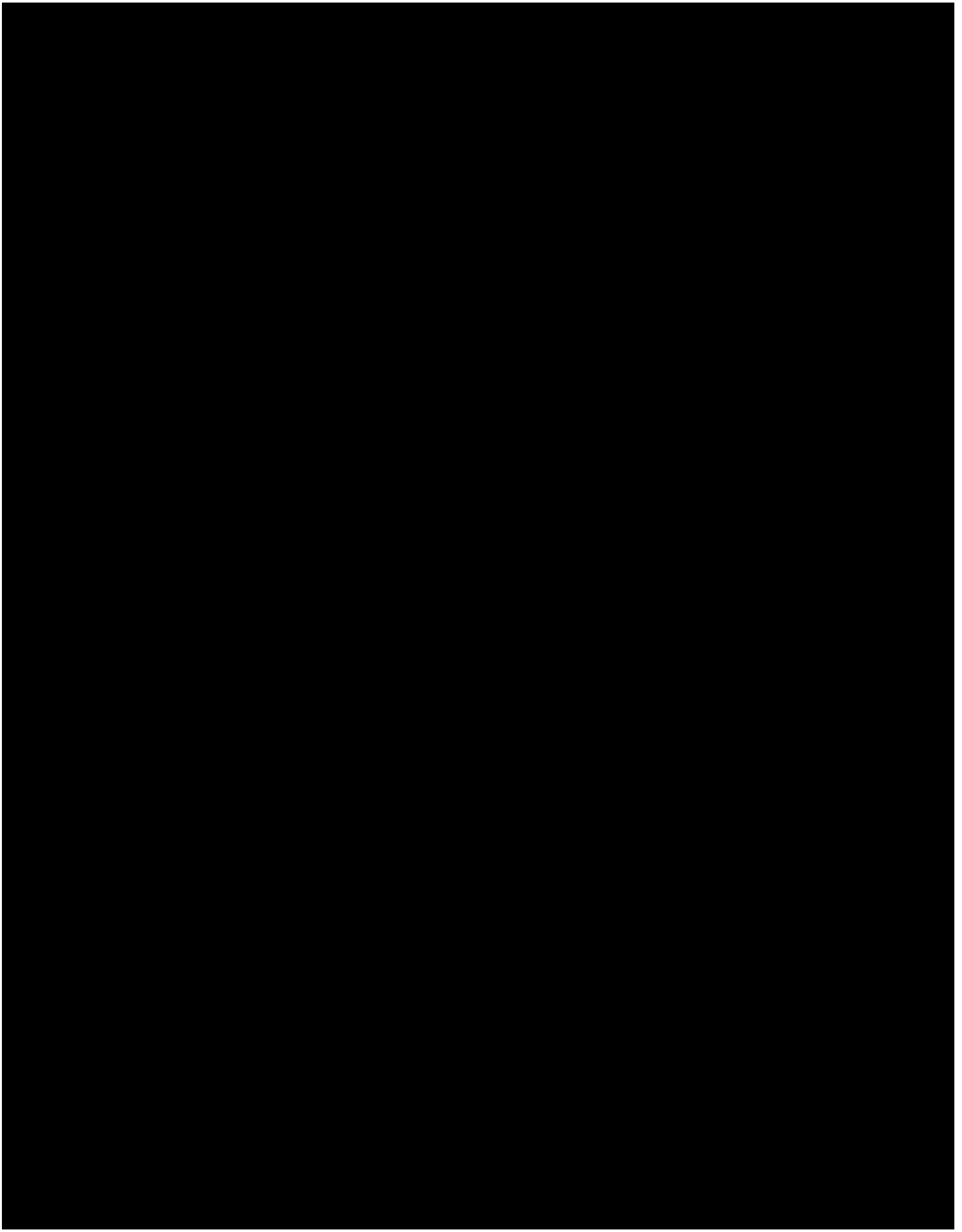












Stanley B. Cain Accident Reconstructionist, LLC

P.O. Box 836, Waldron, AR 72958

[redacted]

INVESTIGATION REPORT

PREPARED FOR: Mr. Jim Jackson, with Jackson Law Firm.

REFERENCE: Jacqueline Ashcraft collision on 6/11/21.

On 5/16/23, Mr. Jim Jackson, with Jackson Law Firm, contacted me and requested my services to investigate a motor vehicle collision involving his client, the estate of Ms. Jacqueline Ashcraft.

ITEMS RECEIVED

1. Arkansas Motor Vehicle Collision Report from the Arkansas State Police (Report # [redacted]).
2. Crash scene photographs taken by Arkansas State Police.
3. Scene photographs taken by Mr. Jim Jackson.
4. Correspondence emails from the Arkansas Department of Human Services, regarding their internal investigation of the collision.
5. Trooper James Ray's deposition & exhibits.
6. Kristen Shelton's deposition & exhibits.
7. Aerial photographs of accident site.

BACKGROUND INFORMATION

Date and time of collision: Approximately 12:50 PM on 6/11/2021.
Location: Arkansas State Highway 22, Paris, Arkansas.
Vehicle 1: 2005 Hyundai Sonata, driven by Ms. Jacqueline Ashcraft.
Vehicle 2: 2009 Hyundai Elantra, driven by Ms. Jenifer Wilkerson.
Vehicle 3: 2001 Peterbilt truck-tractor and modular trailer, driven by Mr. Bobby Wilson.

SCENE INSPECTION

On 5/20/23, I went to the scene for observations, photographs, and measurements. Highway 22 is a two-lane State Highway consisting of one westbound lane and one eastbound lane, separated by a double yellow line, and bordered by white fog lines. The highway is bordered on both sides by improved shoulders. Each lane is approximately 11 feet wide. The eastbound shoulder is approximately 7.6 feet wide, and the westbound shoulder is approximately 7.3 feet wide. I did not observe any line-of-sight issues present that would hinder the view of traffic in either lane.

During the scene inspection, I located the final resting area of vehicle 1. The distances from the RP to A to D, from the vehicle collision report, ended at the shadow of a tire mark which I recognized as the remnants of the skid mark shown in the scene photographs for vehicle 1. I was able to locate the remaining end of the skid mark on the eastbound fog line.

With the measurements provided by the vehicle collision report, I located the beginning of the skid marks from vehicle 2. From the scene photographs I was able to place the beginning point of the skid marks in relation to the eastbound lane and shoulder. From the rumble stripes on the shoulder, I was able to locate the approximate beginning location of a passenger side skid mark, and the area where that skid mark crossed the fog line. With the approximate track width of vehicle 2, I was able to place the approximate location of the driver side skid mark.

The scene photographs also showed a third skid mark, which I identified as being produced by the left rear wheel of vehicle 2. That skid mark followed along the fog line and veered to the left with the other two skid marks. By counting the number of rumble stripes next to that skid mark, I was able to locate the approximate beginning point of that skid mark also.

I was not able to locate the ending location of the three skid marks. I placed the approximate ending location of the three skid marks, based upon their ending location in the scene photographs.

Further east I located numerous grooves and gouges in the westbound lane. I located an additional gouge in the eastbound lane, along with grooves leading to the final resting location of vehicle 2.

West of the area of impact, I located the beginning of a dual wheel skid mark on the westbound fog line, at approximately 274 feet west of the reference point. The skid mark continued onto the shoulder and ended as a single wheel skid mark, at approximately 452 feet west of the reference point.

For more information, refer to the scene diagram.

VEHICLE INSPECTIONS

None of the three vehicles were still available for inspections. To complete the investigation, I reviewed the scene photographs provided by Arkansas State Police.

I observed the damage to vehicle 1, and I noticed that the vehicle had primary contact damage to the passenger side half of the rear end. The driver side of the rear bumper contained induced damage. I observed that the crush damage retarded the rotation of the right rear wheel to the point that the wheel produced a post-impact skid mark. I observed that the back panel of the driver seat was leaning back into the rear passenger area. I did not locate any damage to the vehicle that would indicate that vehicle 1 collided with vehicle 3.

I observed the damage to vehicle 2, and I noticed that the vehicle had primary crush damage to the front end of the vehicle, with the most extensive crush to the left front section. I observed that vehicle 2, had induced damage to the driver door frame and the rear passenger door on the driver's side. Furthermore, I observed underride damage to the right front panel, which is consistent with vehicle 2 colliding with the underside of the modular home being towed by vehicle 3.

I observed that vehicle 3 and contact damage to the driver side tractor tandems, and secondary contact damage to the driver side front corner of the modular home and trailer frame. The damage at that corner is consistent with vehicle 2 under riding the trailer with the front end. The under-riding contact by vehicle 2 is consistent with vehicle 2 creating the gouges and grooves seen in the westbound lane, at maximum engagement.

ANALYSIS AND CALCULATIONS

To conduct the impact speed calculations for vehicle 2, I had to first calculate the post-impact speed for both vehicle 1 and vehicle 2. From the scene diagram I measured that vehicle 1 traveled approximately 188.5 feet. From the observations of the scene photographs provided by Arkansas State Police, I noticed that the damage to vehicle 1 had retarded the right rear wheel to the point that it was producing a skid mark. Although I located only a portion of the skid mark from vehicle 1 during the scene inspection, the braking capability of that wheel would have commenced at the point of maximum engagement between the two vehicles.

To determine the post-impact speed, I had to calculate the adjusted deceleration factor for vehicle 1. To calculate the total deceleration factor for the vehicle I used a rolling resistance value of 0.01 for the left rear wheel (non-drive axle) and 0.10 for the left front wheel and the right front wheel (drive axle)[1]. For the right rear wheel (damage induced braking) I used an accepted coefficient of friction of 0.60 to 0.80 for a dry asphalt roadway surface that has been subjected to traveled use[2]. I calculated the post-impact speed for vehicle 1 at approximately 33.63 MPH, using an average coefficient of friction of 0.70.

Next, I calculated the post-impact speed for vehicle2. From the scene photographs I observed post-impact skid marks leading from the area of impact. The beginning of the driver side skid mark had a darkened area that was darker than the remaining portion of the skid mark. I recognized this as an indicator of the area of impact because wheels that are braking tend to produce very darkened skid marks upon maximum engagement with another vehicle. Furthermore, the scene photographs show three skid marks from vehicle 2, which indicates that it was off tracking from lateral instability. This movement is another indicator that vehicle 2 is moving away post-impact. The above-described characteristics of the skid marks conclude that there were very little to no pre-impact skid marks from vehicle 2 and therefore little to no pre-impact braking by vehicle 2.

From the scene diagram, I measured that vehicle 2 traveled approximately 53.2 feet post impact to the area where the vehicle collided with vehicle 3. I calculated the post-impact speed for vehicle 2 at approximately 33.44 MPH, using an average coefficient of friction of 0.70.

To further analyze the potential variability in the impact speed of vehicle 2, I calculated post-impact speeds for both vehicles using a roadway coefficient of friction of 0.60. In addition, the scene photographs depicted only three post-impact skid marks for vehicle 2. Therefore, I adjusted the deceleration factor for vehicle 2.

Furthermore, I provided a range of impact speeds for vehicle 2 based upon the potential range of pre-impact speed for vehicle 1. I did not locate any evidence during my scene inspection to indicate the pre-impact speed of vehicle 1. However, the statements by both Ms. Wilkerson and Mr. Wilson indicate that vehicle 1 was stationary when the impact occurred.

I calculated the impact speeds with AR PRO 15 Accident Reconstruction Software. The summary of the impact speeds is listed below:

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[1] D. Parkka, Equation Directory for the Reconstructionist, First Edition.
[2] R. W. Rivers, On-Scene Traffic Accident Investigators Manual (Charles C. Thomas Publisher, 1981) 136.

IMPACT SPEED FOR WILKERSON (MPH)			
Coeff. of Friction	Ashcraft (Stationary)	Ashcraft (10 MPH)	Ashcraft (20 MPH)
0.70	74.3	62.1	50.0
0.57	71.0	58.9	46.7
0.60	69.7	57.6	45.4
0.49	66.7	54.6	42.4

For more information refer to the AR PRO Calculation Reports. NOTE: When referencing the AR PRO Calculation Reports, please be aware that vehicle 1 is WILKERSON and vehicle 2 is ASHCRAFT, in order to match the variables in the collinear momentum formula.

Based upon a review of the post-impact speeds I have concluded that the post-impact speed of vehicle 2 would be closer to the speeds calculated without a reduction in the braking efficiency. My conclusion is based upon my finding that the range of post-impact speeds for vehicle 1 (33.63 MPH to 31.90 MPH) is more consistent with the range of post -impact speeds for vehicle 2 (33.44 MPH to 30.96MPH).

The calculations clearly show that the post-impact speed of vehicle 1 was increased from the initial speed, which was result of the greater amount of momentum being brought into the collision by vehicle 2. Also, generally in momentum analysis the target vehicle (vehicle 1) can only depart from the collision at a speed equal to or less than the post-impact speed of the bullet vehicle. However, in this collision, the post-impact speed for vehicle 1 is slightly more than the value for vehicle 2. The investigation states that vehicle 2 also collided with vehicle 3, after colliding with vehicle 1. It is not known for certain, but vehicle 2 still may have been traveling eastbound when it collided with vehicle 3, and that collision prevented vehicle 2 from the opportunity to travel on its own to a complete stop. If vehicle 2 had been able to travel a further distance, then it would have generated a greater post-impact speed.

The damage profile to the rear of vehicle 1 clearly indicates that the impact by vehicle 2 was an off-set collision and not a complete in-line impact. The beginning of the skid marks from vehicle 2, along with the impact configuration, conclude that vehicle 1 was positioned within the bounds of the eastbound lane. Vehicle 1 was positioned towards the south half of the eastbound lane, likely because vehicle 3 was approaching and towing an oversized load. The delivery receipt shown within the scene photographs indicate that the oversized load behind vehicle 3 was a 14-foot by 56-foot modular home section.

During the scene inspection I observed that the eastbound lane was bordered by an improved paved shoulder, and the shoulder measured approximately 7.6 feet wide. The vehicle specifications for vehicle 2 list that it is approximately 5.9 feet wide for overall width. The shoulder would have provided Ms. Wilkerson with adequate room to maneuver her vehicle around vehicle 1 and avoid the collision altogether or greatly reduce the severity of the collision. The placement of the vehicles at impact indicates that vehicle 2 was veering to the right and possibly attempting to avoid the impact.

RESULTS AND CONCLUSIONS

The investigation has clearly concluded that Ms. Wilkerson was extremely negligent when she collided into the rear of Ms. Ashcraft. Furthermore, my investigation has concluded that Ms. Wilkerson was exceeding the posted speed limit for the highway.

There were no line-of-sight issues present at the scene and there were no adverse weather conditions present when the collision occurred. If Ms. Wilkerson had been keeping a proper lookout for traffic or hazards ahead, she could have easily observed that Ms. Ashcraft was slowing or stopped, and she could have avoided or greatly reduced the severity of the collision.

I did not discover any contributing actions to the collisions by Mr. Bobby Wilson.

I reserve the right to revise or supplement this report, based upon the discovery of new information or data, including the testimony or statements of parties and/or witnesses.

By: Stanley B. Cain

ACTAR #1686

Stanley B. Cain Accident
Reconstructionist, LLC
[redacted]

COEFFICIENT OF FRICTION

Find a Coefficient of Friction.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$f = (\mu lf \times nlf \times Sin\theta) + (\mu rf \times nrf \times Sin\theta) + (\mu lr \times nlr \times Sin\theta) + (\mu rr \times nrr \times Sin\theta)$$

$$f = (0.1000 \times 0.3050 \times Sin(90.0000)) + (0.1000 \times 0.3050 \times Sin(90.0000)) + (0.0100 \times 0.1950 \times Sin(90.0000)) + (0.6000 \times 0.1950 \times Sin(90.0000))$$

$$f = (0.1000 \times 0.3050 \times 1.0000) + (0.1000 \times 0.3050 \times 1.0000) + (0.0100 \times 0.1950 \times 1.0000) + (0.6000 \times 0.1950\ 1.0000)$$

$$f = 0.0305 + 0.0305 + 0.0019 + 0.1170$$

$$f = 0.1799$$

f = The Adjusted Accel/Drag Factor
μ = The Tire - Surface Friction by wheel
n = The Percentage of Braking
θ = The angular difference between the veh heading and CofM direction
lf, rf, lr, rr = The tire at each corner of the vehicle (left front, etc.)
n) = The Grade Percentage

Formula Inputs:

The Left Front Tire μ is:	0.1000
The Left Front Tire % of Braking is:	0.3050
The Left Front Tire Angular Difference is	90.0000
The Right Front Tire μ is:	0.1000
The Right Front Tire % of Braking is:	0.3050
The Right Front Tire Angular Difference is	90.0000
The Left Rear Tire μ is:	0.0100
The Left Rear Tire % of Braking is:	0.1950
The Left Rear Tire Angular Difference is:	90.0000
The Right Rear Tire μ is:	0.6000
The Right Rear Tire % of Braking is:	0.1950
The Right Rear Tire Angular Difference is	90.0000

Formula Results:

The Acceleration/Drag Factor is:	0.1799

Calculation Notes:

Deceleration factor for vehicle 2 (ASHCRAFT), with a drive axle rolling resistance of 0.10.
Roadway coefficient of friction: 0.60.

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COEFFICIENT OF FRICTION

Find a Coefficient of Friction.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$f = (\mu lf \times nlf \times Sin\theta) + (\mu rf \times nrf \times Sin\theta) + (\mu lr \times nlr \times Sin\theta) + (\mu rr \times nrr \times Sin\theta)$$

$$f = (0.1000 \times 0.3050 \times Sin(90.0000)) + (0.1000 \times 0.3050 \times Sin(90.0000)) + (0.0100 \times 0.1950 \times Sin(90.0000)) + (0.7000 \times 0.1950 \times Sin(90.0000))$$

$$f = (0.1000 \times 0.3050 \times 1.0000) + (0.1000 \times 0.3050 \times 1.0000) + (0.0100 \times 0.1950 \times 1.0000) + (0.7000 \times 0.1950\ 1.0000)$$

$$f = 0.0305 + 0.0305 + 0.0019 + 0.1365$$

$$f = 0.1994$$

f = The Adjusted Accel/Drag Factor
μ = The Tire - Surface Friction by wheel
n = The Percentage of Braking
θ = The angular difference between the veh heading and CofM direction
lf, rf, lr, rr = The tire at each corner of the vehicle (left front, etc.)
m = The Grade Percentage

Formula Inputs:

The Left Front Tire μ is:	0.1000
The Left Front Tire % of Braking is:	0.3050
The Left Front Tire Angular Difference is:	90.0000
The Right Front Tire μ is:	0.1000
The Right Front Tire % of Braking is:	0.3050
The Right Front Tire Angular Difference is:	90.0000
The Left Rear Tire μ is:	0.0100
The Left Rear Tire % of Braking is:	0.1950
The Left Rear Tire Angular Difference is:	90.0000
The Right Rear Tire μ is:	0.7000
The Right Rear Tire % of Braking is:	0.1950
The Right Rear Tire Angular Difference is:	90.0000

Formula Results:

The Acceleration/Drag Factor is:	0.1994

Calculation Notes:

Deceleration factor for vehicle 2 (ASHCRAFT), with a drive axle rolling resistance of 0.10.
Roadway coefficient of friction: 0.70.

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COEFFICIENT OF FRICTION

Find a Coefficient of Friction.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$f = (\mu lf \times nlf \times Sin\theta) + (\mu rf \times nrf \times Sin\theta) + (\mu lr \times nlr \times Sin\theta) + (\mu rr \times nrr \times Sin\theta)$$

$$f = (0.6000 \times 0.3150 \times Sin(90.0000)) + (0.6000 \times 0.3150 \times Sin(90.0000)) + (0.6000 \times 0.1850 \times Sin(90.0000)) + (0.0100 \times 0.1850 \times Sin(90.0000))$$

$$f = (0.6000 \times 0.3150 \times 1.0000) + (0.6000 \times 0.3150 \times 1.0000) + (0.6000 \times 0.1850 \times 1.0000) + (0.0100 \times 0.1850\ 1.0000)$$

$$f = 0.1890 + 0.1890 + 0.1110 + 0.0018$$

$$f = 0.4908$$

f = The Adjusted Accel/Drag Factor
μ = The Tire - Surface Friction by wheel
n = The Percentage of Braking
θ = The angular difference between the veh heading and CofM direction
lf, rf, lr, rr = The tire at each corner of the vehicle (left front, etc.)
m = The Grade Percentage

Formula Inputs:

The Left Front Tire μ is:	0.6000
The Left Front Tire % of Braking is:	0.3150
The Left Front Tire Angular Difference is:	90.0000
The Right Front Tire μ is:	0.6000
The Right Front Tire % of Braking is:	0.3150
The Right Front Tire Angular Difference is:	90.0000
The Left Rear Tire μ is:	0.6000
The Left Rear Tire % of Braking is:	0.1850
The Left Rear Tire Angular Difference is:	90.0000
The Right Rear Tire μ is:	0.0100
The Right Rear Tire % of Braking is:	0.1850
The Right Rear Tire Angular Difference is:	90.0000

Formula Results:

The Acceleration/Drag Factor is:	0.4908

Calculation Notes:

Deceleration factor for vehicle 1 (WILKERSON) with reduced braking efficiency.
Roadway coefficient of friction: 0.60.

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COEFFICIENT OF FRICTION

Find a Coefficient of Friction.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$$f = (\mu lf \times nlf \times Sin\theta) + (\mu rf \times nrf \times Sin\theta) + (\mu lr \times nlr \times Sin\theta) + (\mu rr \times nrr \times Sin\theta)$$

$$f = (0.7000 \times 0.3150 \times Sin(90.0000)) + (0.7000 \times 0.3150 \times Sin(90.0000)) + (0.7000 \times 0.1850 \times Sin(90.0000)) + (0.0100 \times 0.1850 \times Sin(90.0000))$$

$$f = (0.7000 \times 0.3150 \times 1.0000) + (0.7000 \times 0.3150 \times 1.0000) + (0.7000 \times 0.1850 \times 1.0000) + (0.0100 \times 0.1850\ 1.0000)$$

$$f = 0.2205 + 0.2205 + 0.1295 + 0.0018$$

$$f = 0.5723$$

f = The Adjusted Accel/Drag Factor
μ = The Tire - Surface Friction by wheel
n = The Percentage of Braking
θ = The angular difference between the veh heading and CofM direction
lf, rf, lr, rr = The tire at each corner of the vehicle (left front, etc.)
m = The Grade Percentage

Formula Inputs:

The Left Front Tire μ is:	0.7000
The Left Front Tire % of Braking is:	0.3150
The Left Front Tire Angular Difference is:	90.0000
The Right Front Tire μ is:	0.7000
The Right Front Tire % of Braking is:	0.3150
The Right Front Tire Angular Difference is:	90.0000
The Left Rear Tire μ is:	0.7000
The Left Rear Tire % of Braking is:	0.1850
The Left Rear Tire Angular Difference is:	90.0000
The Right Rear Tire μ is:	0.0100
The Right Rear Tire % of Braking is:	0.1850
The Right Rear Tire Angular Difference is:	90.0000

Formula Results:

The Acceleration/Drag Factor is:	0.5723

Calculation Notes:

Deceleration factor for vehicle 1 (WILKERSON) with reduced braking efficiency.
Roadway coefficient of friction: 0.70.

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MINIMUM SPEED W/ KNOWN DRAG FACTOR

Find a Minimum Speed with a skid distance and drag factor.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$S = \sqrt{30 \times D \times f}$

$S = \sqrt{30 \times 53.2400 \times 0.4900}$

$S = \sqrt{782.6280}$

$S = 27.9754$

S = The Speed in mph/kph
30 = A Constant
D = The Distance in feet
f = The Adjusted Accel/Drag Factor

Formula Inputs:

The Acceleration/Drag Factor is:	0.4900
The Distance in feet is:	53.2400

Formula Results:

The Speed in mph is:	27.9754
The Velocity in fps is:	41.0305

Calculation Notes:

Post impact speed range for vehicle 1 (WILKERSON).

Incrementation Results

Drag F	Speed	Drag F	Speed	Drag F	Speed
0.4900	27.9754	0.5700	30.1729	0.6500	32.2208
0.5000	28.2595	0.5800	30.4364	0.6600	32.4677
0.5100	28.5407	0.5900	30.6976	0.6700	32.7127
0.5200	28.8191	0.6000	30.9567	0.6800	32.9559
0.5300	29.0949	0.6100	31.2136	0.6900	33.1974
0.5400	29.3681	0.6200	31.4684	0.7000	33.4371
0.5500	29.6388	0.6300	31.7212		
0.5600	29.9070	0.6400	31.9719		

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MINIMUM SPEED W/ KNOWN DRAG FACTOR

Find a Minimum Speed with a skid distance and drag factor.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$S = \sqrt{30 \times D \times f}$
$S = \sqrt{30 \times 188.5000 \times 0.1800}$
$S = \sqrt{1017.9000}$
$S = 31.9045$

S = The Speed in mph/kph
30 = A Constant
D = The Distance in feet
f = The Adjusted Accel/Drag Factor

Formula Inputs:

The Acceleration/Drag Factor is:	0.1800
The Distance in feet is:	188.5000

Formula Results:

The Speed in mph is:	31.9045
The Velocity in fps is:	46.7932

Calculation Notes:

Post impact speed range for vehicle 2 (ASHCRAFT).

Incrementation Results

Drag F	Speed	Drag F	Speed	Drag F	Speed
0.1800	31.9045	0.2200	35.2718	0.2600	38.3444
0.1900	32.7788	0.2300	36.0645		
0.2000	33.6303	0.2400	36.8401		
0.2100	34.4608	0.2500	37.5998		

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COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$
$(3074.0000 \times V_1) + (3733.0000 \times 0.0000) = (3074.0000 \times 30.9600) + (3733.0000 \times 31.9000)$
$(3074.0000 \times V_1) + 0.0000 = 95171.0400 + 119082.7000$
$(3074.0000 \times V_1) + 0.0000 = 214253.7400$
$(3074.0000 \times V_1) = 214253.7400 - 0.0000$
$(3074.0000 \times V_1) = 214253.7400$

$$V_1 = \frac{214253.7400}{3074.0000} \qquad V_1 = 69.6986$$

W_1 = The Wt of Veh 1 in pounds
W_2 = The Wt of Veh 2 in pounds
V_1 = The Speed of Veh 1 in mph
V_2 = The Speed of Veh 2 in mph
V_3 = The Spd After Impact, Veh 1
V_4 = The Spd After Impact, Veh 2
* * This is a Rear End collision * *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3074.0000
The After Impact Speed of Veh 1 is:	30.9600
The Wt of Veh 2 (lbs) is:	3733.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	31.9000

Formula Results:

The Spd of Veh 1 in mph is:	69.6986
The Vel of Veh 1 in fps is:	102.2246

Calculation Notes:

Impact speed for both vehicles.
Roadway coefficient of friction: 0.60
100% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	69.6986	8.0000	59.9836	16.0000	50.2686
1.0000	68.4843	9.0000	58.7692	17.0000	49.0542
2.0000	67.2699	10.0000	57.5548	18.0000	47.8398
3.0000	66.0555	11.0000	56.3405	19.0000	46.6254
4.0000	64.8411	12.0000	55.1261	20.0000	45.4111
5.0000	63.6267	13.0000	53.9117		
6.0000	62.4124	14.0000	52.6973		
7.0000	61.1980	15.0000	51.4829		

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COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$
$(3074.0000 \times V_1) + (3733.0000 \times 0.0000) = (3074.0000 \times 27.9800) + (3733.0000 \times 31.9000)$
$(3074.0000 \times V_1) + 0.0000 = 86010.5200 + 119082.7000$
$(3074.0000 \times V_1) + 0.0000 = 205093.2200$
$(3074.0000 \times V_1) = 205093.2200 - 0.0000$
$(3074.0000 \times V_1) = 205093.2200$

$$V_1 = \frac{205093.2200}{3074.0000} \qquad V_1 = 66.7186$$

W_1 = The Wt of Veh 1 in pounds
W_2 = The Wt of Veh 2 in pounds
V_1 = The Speed of Veh 1 in mph
V_2 = The Speed of Veh 2 in mph
V_3 = The Spd After Impact, Veh 1
V_4 = The Spd After Impact, Veh 2
* * This is a Rear End collision * *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3074.0000
The After Impact Speed of Veh 1 is:	27.9800
The Wt of Veh 2 (lbs) is:	3733.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	31.9000

Formula Results:

The Spd of Veh 1 in mph is:	66.7186
The Vel of Veh 1 in fps is:	97.8539

Calculation Notes:

Impact speed for both vehicles.
Roadway coefficient of friction: 0.60
75% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	66.7186	7.0000	58.2180	14.0000	49.7173
1.0000	65.5043	8.0000	57.0036	15.0000	48.5029
2.0000	64.2899	9.0000	55.7892	16.0000	47.2886
3.0000	63.0755	10.0000	54.5748	17.0000	46.0742
4.0000	61.8611	11.0000	53.3605	18.0000	44.8598
5.0000	60.6467	12.0000	52.1461	19.0000	43.6454
6.0000	59.4324	13.0000	50.9317		

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COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$
$(3074.0000 \times V_1) + (3733.0000 \times 0.0000) = (3074.0000 \times 33.4400) + (3733.0000 \times 33.6300)$
$(3074.0000 \times V_1) + 0.0000 = 102794.5600 + 125540.7900$
$(3074.0000 \times V_1) + 0.0000 = 228335.3500$
$(3074.0000 \times V_1) = 228335.3500 - 0.0000$
$(3074.0000 \times V_1) = 228335.3500$

$$V_1 = \frac{228335.3500}{3074.0000} \qquad V_1 = 74.2795$$

W_1 = The Wt of Veh 1 in pounds
W_2 = The Wt of Veh 2 in pounds
V_1 = The Speed of Veh 1 in mph
V_2 = The Speed of Veh 2 in mph
V_3 = The Spd After Impact, Veh 1
V_4 = The Spd After Impact, Veh 2
* * This is a Rear End collision * *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3074.0000
The After Impact Speed of Veh 1 is:	33.4400
The Wt of Veh 2 (lbs) is:	3733.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	33.6300

Formula Results:

The Spd of Veh 1 in mph is:	74.2795
The Vel of Veh 1 in fps is:	108.9432

Calculation Notes:

Impact speed for both vehicles.
Roadway coefficient of friction: 0.70
100% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	74.2795	8.0000	64.5645	16.0000	54.8494
1.0000	73.0651	9.0000	63.3501	17.0000	53.6351
2.0000	71.8507	10.0000	62.1357	18.0000	52.4207
3.0000	70.6364	11.0000	60.9213	19.0000	51.2063
4.0000	69.4220	12.0000	59.7070	20.0000	49.9919
5.0000	68.2076	13.0000	58.4926		
6.0000	66.9932	14.0000	57.2782		
7.0000	65.7789	15.0000	56.0638		

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COLLINEAR MOMENTUM

Find the Impact Speed of Vehicle 1 with In-Line Momentum.

CASE NUMBER: Jackson Law Firm: Jacqueline Ashcraft

$(W_1 \times V_1) + (W_2 \times V_2) = (W_1 \times V_3) + (W_2 \times V_4)$
$(3074.0000 \times V_1) + (3733.0000 \times 0.0000) = (3074.0000 \times 30.1700) + (3733.0000 \times 33.6300)$
$(3074.0000 \times V_1) + 0.0000 = 92742.5800 + 125540.7900$
$(3074.0000 \times V_1) + 0.0000 = 218283.3700$
$(3074.0000 \times V_1) = 218283.3700 - 0.0000$
$(3074.0000 \times V_1) = 218283.3700$

$$V_1 = \frac{218283.3700}{3074.0000} \qquad V_1 = 71.0095$$

W_1 = The Wt of Veh 1 in pounds
W_2 = The Wt of Veh 2 in pounds
V_1 = The Speed of Veh 1 in mph
V_2 = The Speed of Veh 2 in mph
V_3 = The Spd After Impact, Veh 1
V_4 = The Spd After Impact, Veh 2
* * This is a Rear End collision * *

Formula Inputs:

The Wt of Veh 1 (lbs) is:	3074.0000
The After Impact Speed of Veh 1 is:	30.1700
The Wt of Veh 2 (lbs) is:	3733.0000
The Impact Spd of Veh 2 is:	0.0000
The After Impact Speed of Veh 2 is:	33.6300

Formula Results:

The Spd of Veh 1 in mph is:	71.0095
The Vel of Veh 1 in fps is:	104.1472

Calculation Notes:

Impact speed for both vehicles.
Roadway coefficient of friction: 0.70
75% braking efficiency by vehicle 1 (WILKERSON).

Incrementation Results

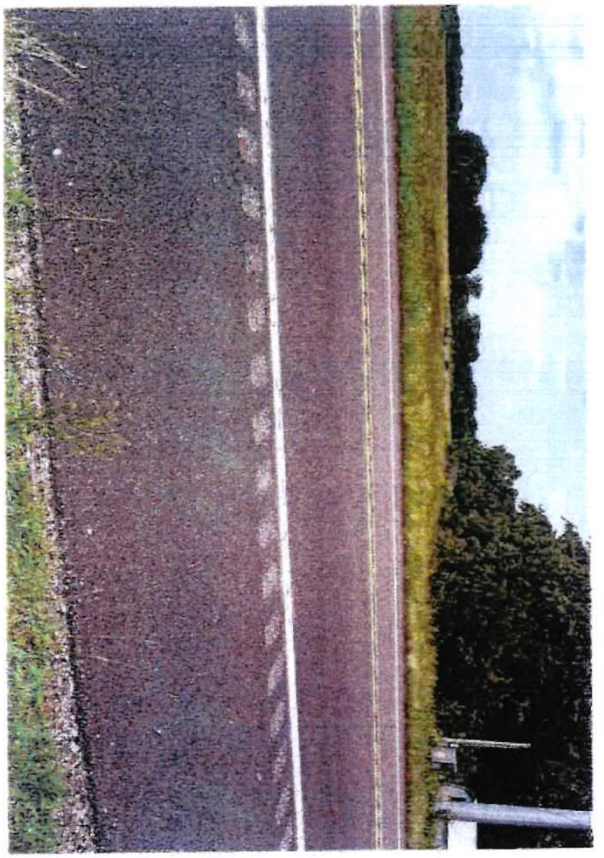
IS V_2	V_1 Speed	IS V_2	V_1 Speed	IS V_2	V_1 Speed
0.0000	71.0095	8.0000	61.2945	16.0000	51.5794
1.0000	69.7951	9.0000	60.0801	17.0000	50.3651
2.0000	68.5807	10.0000	58.8657	18.0000	49.1507
3.0000	67.3664	11.0000	57.6513	19.0000	47.9363
4.0000	66.1520	12.0000	56.4370	20.0000	46.7219
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7.0000	62.5089	15.0000	52.7938		

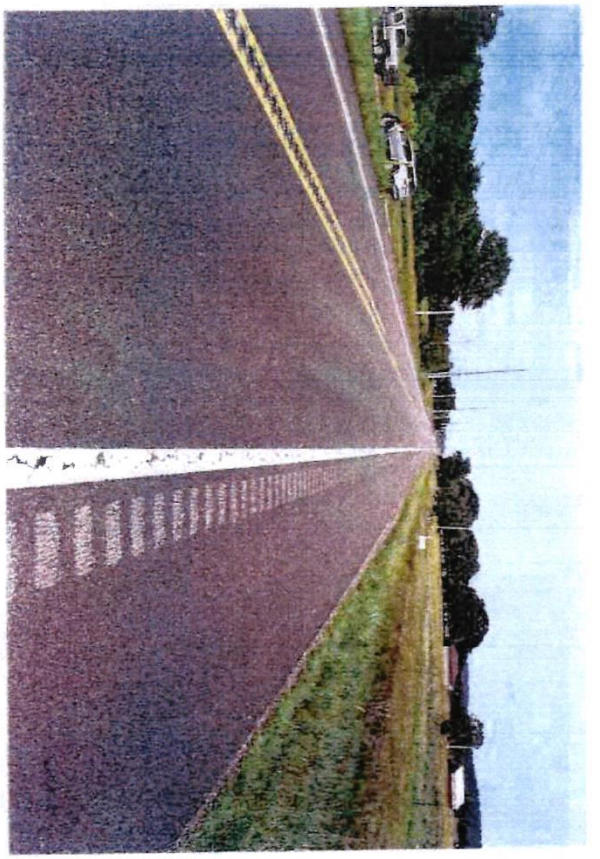
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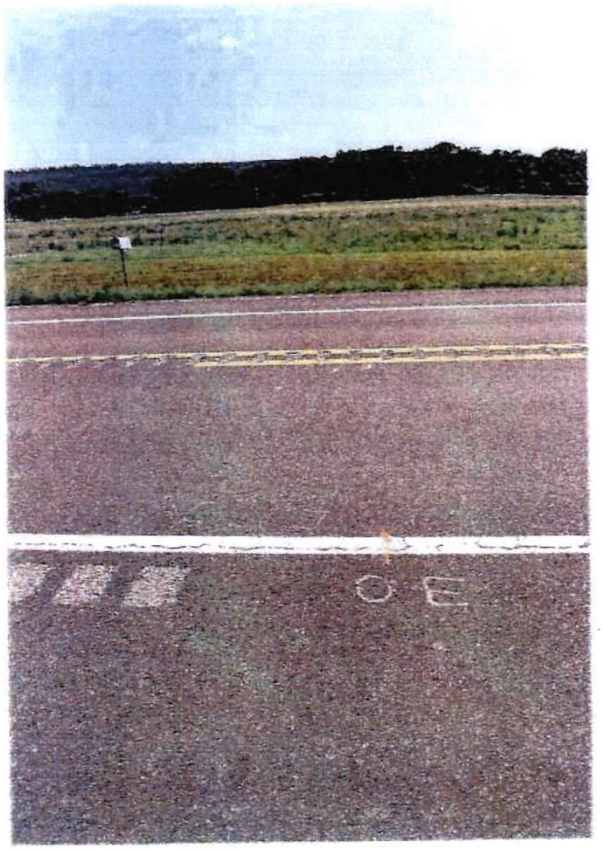
Virtual CRASH license: Stanley B. Cain Accident Reconstructionist

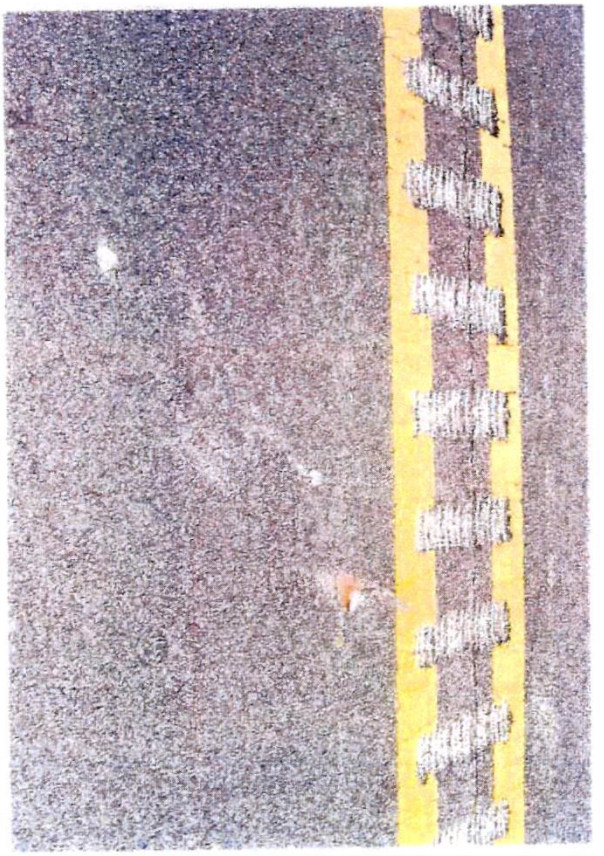
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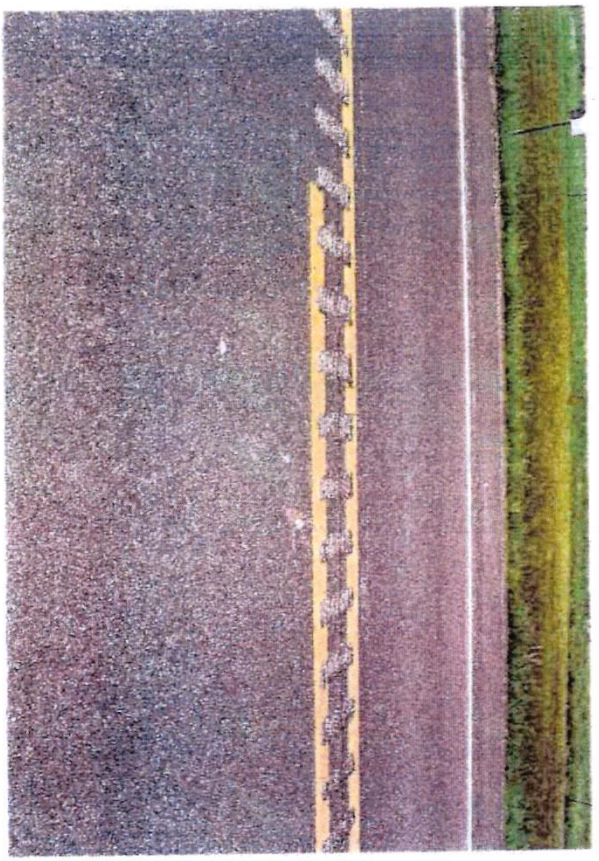


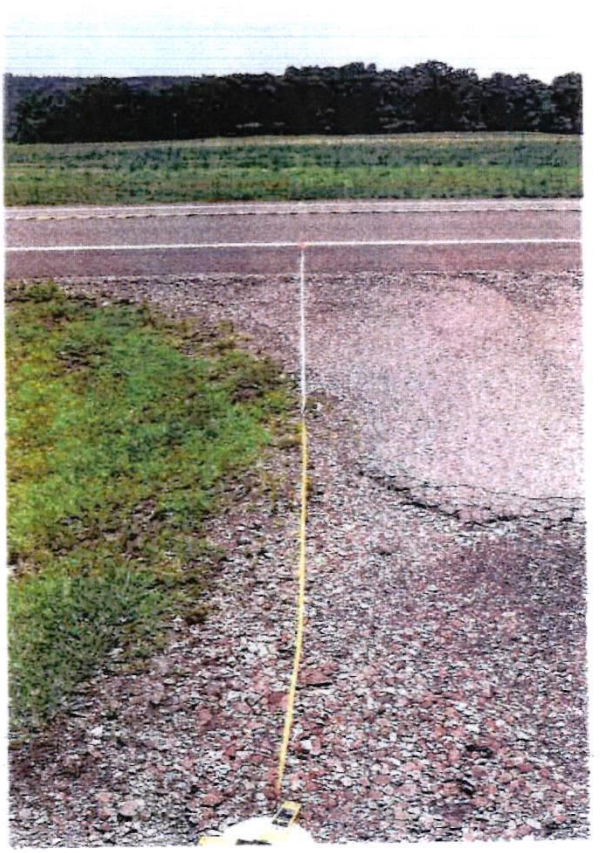




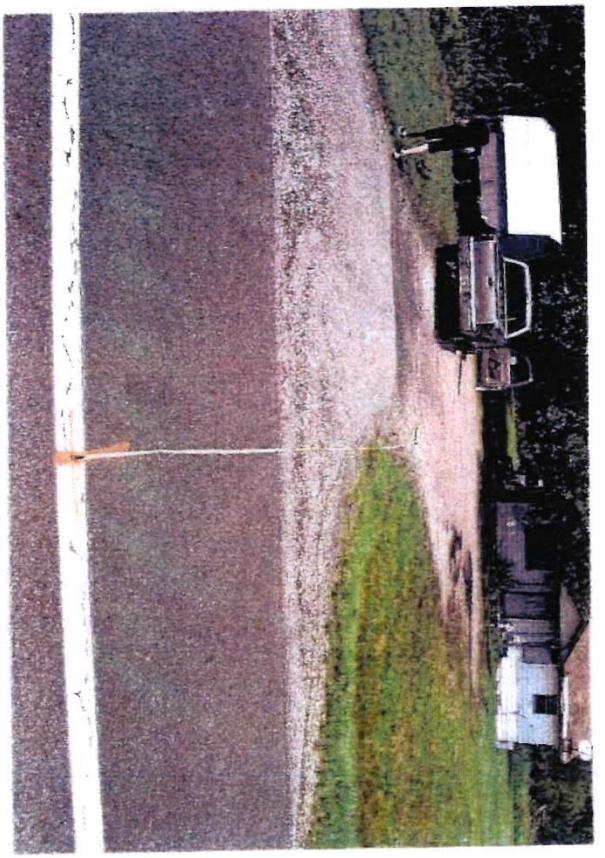




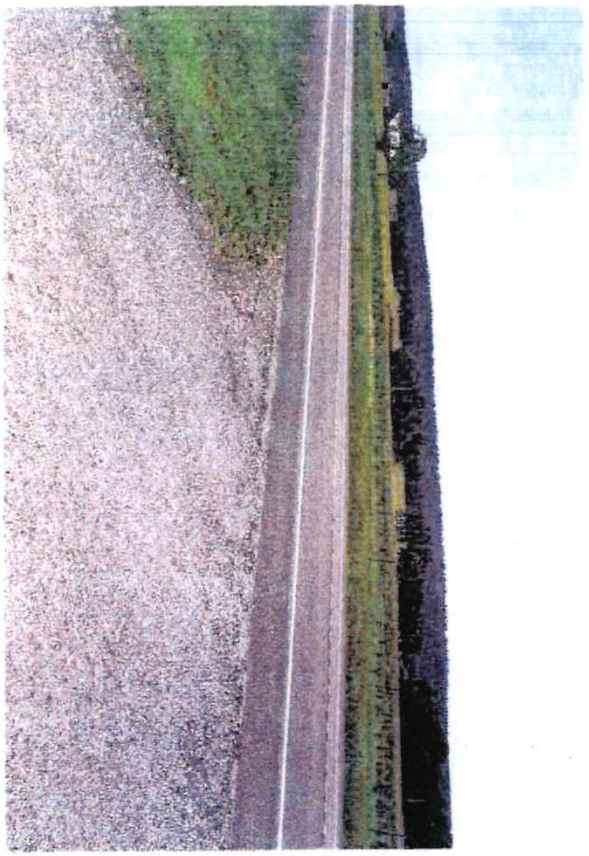




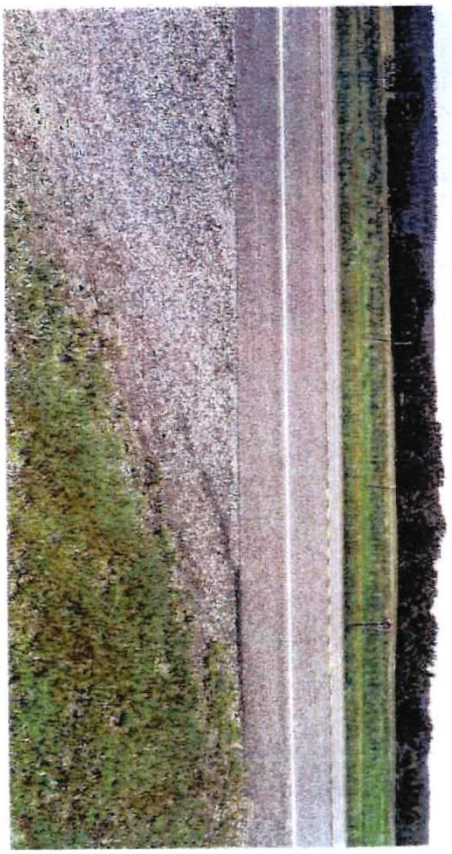




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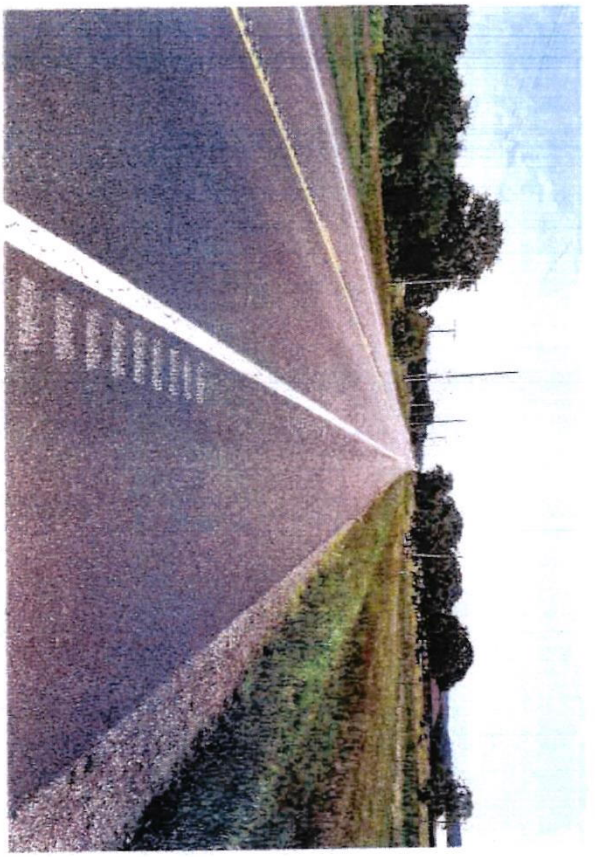


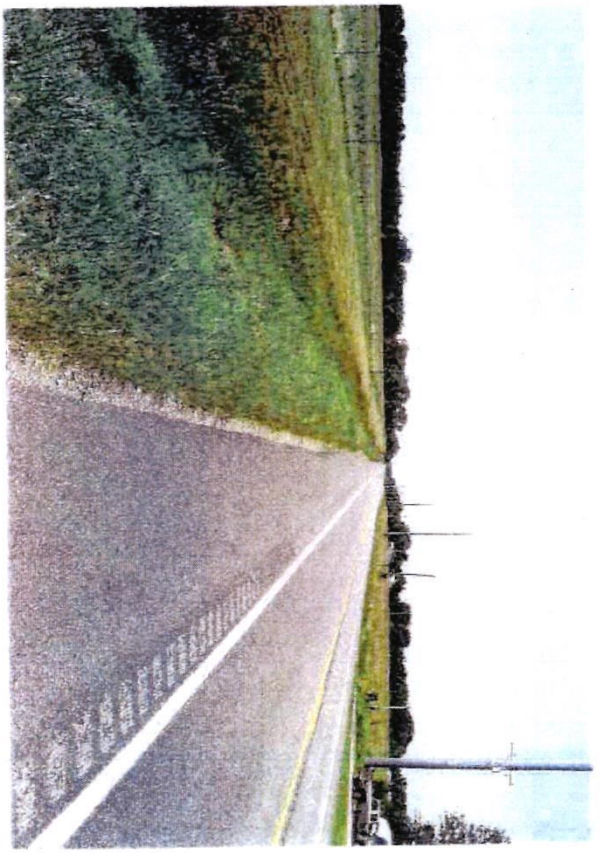


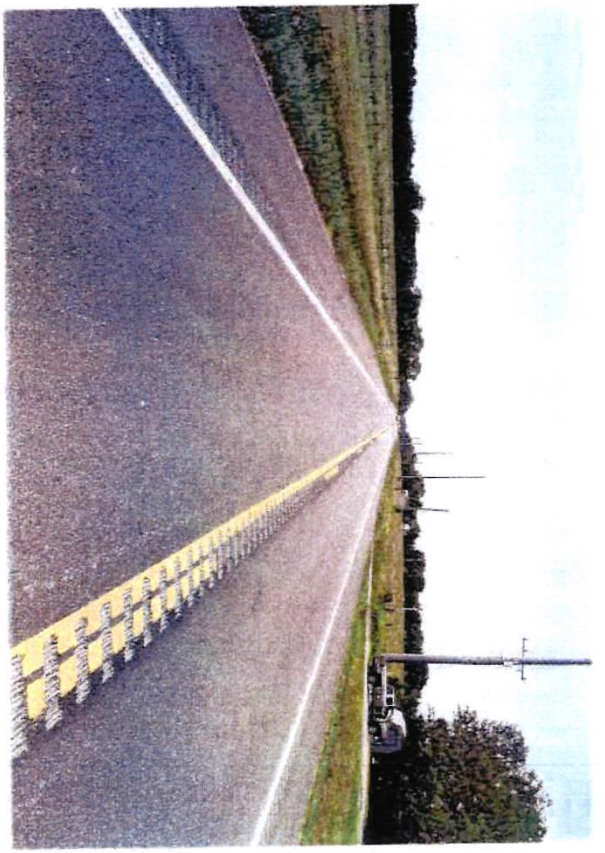


Ashcraft 2nd Supp Response 0589

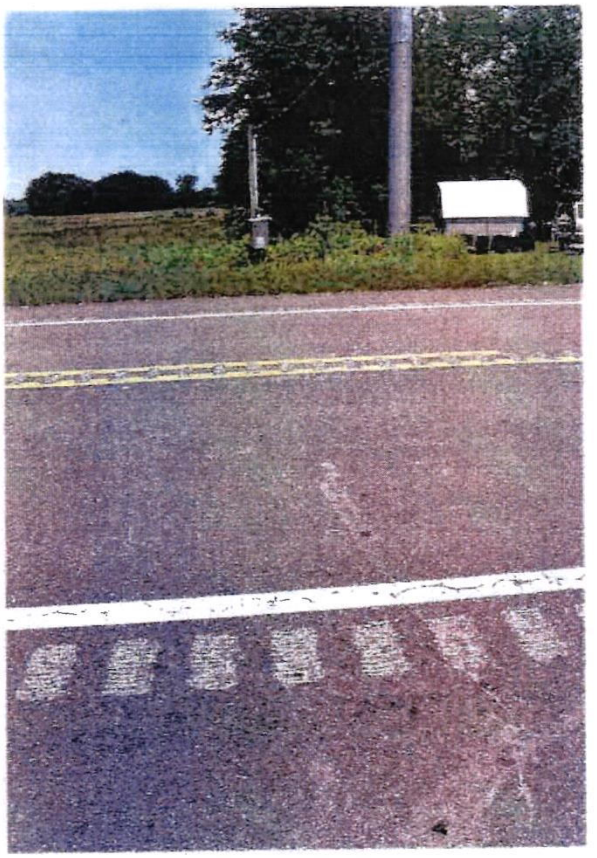


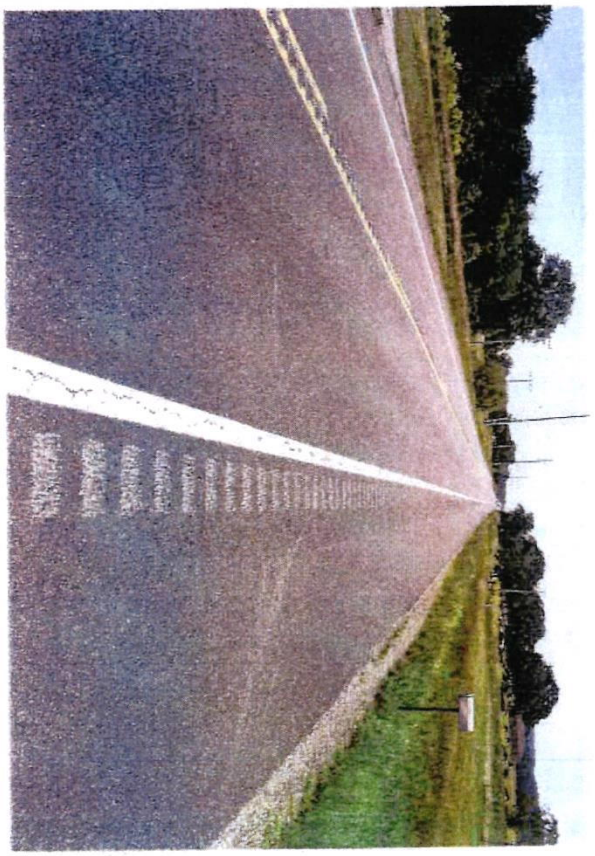


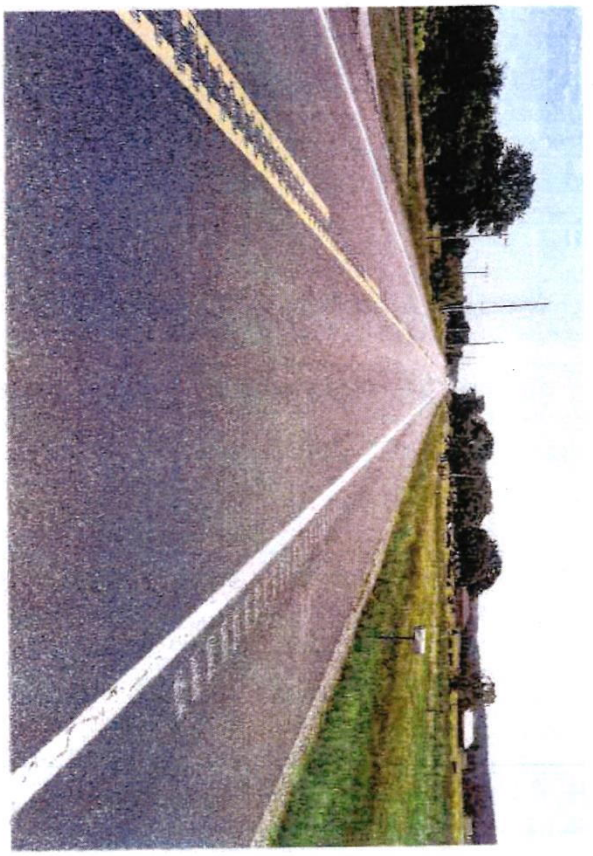


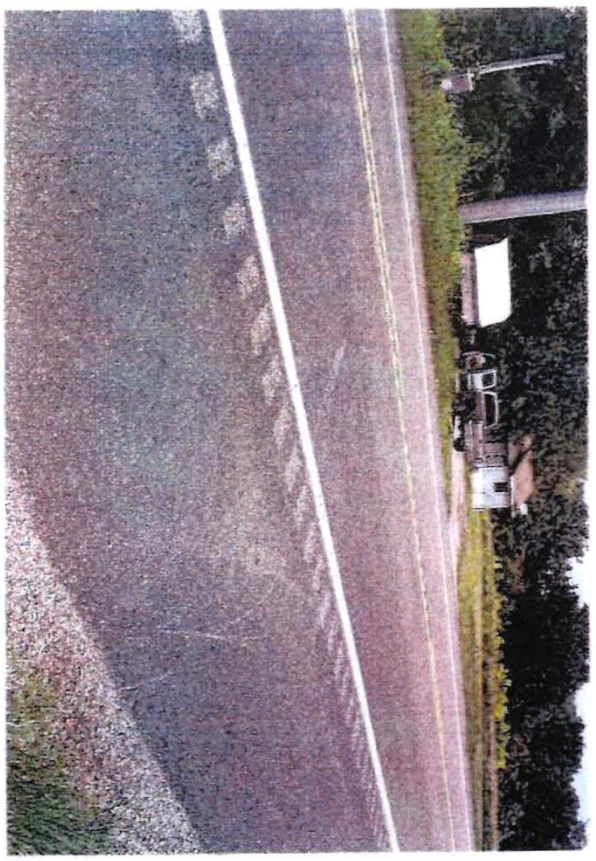


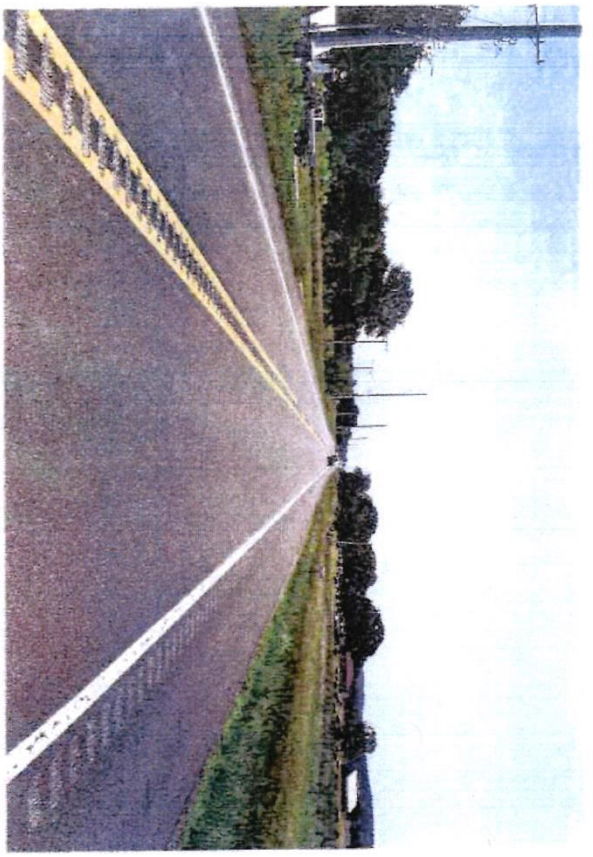


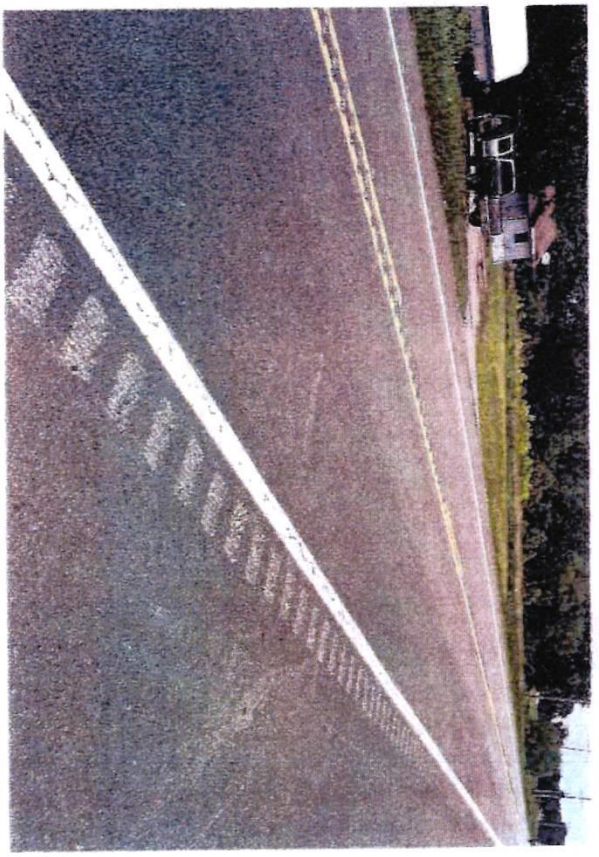


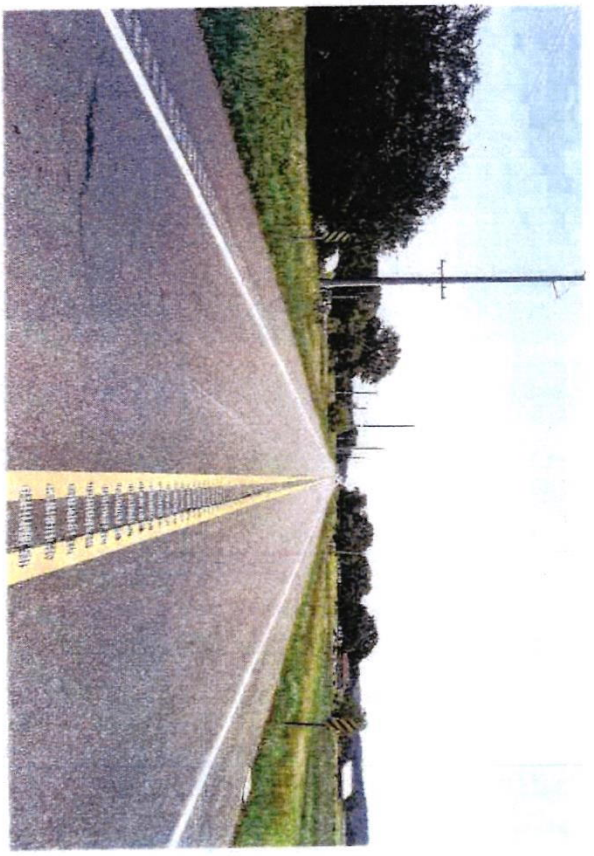


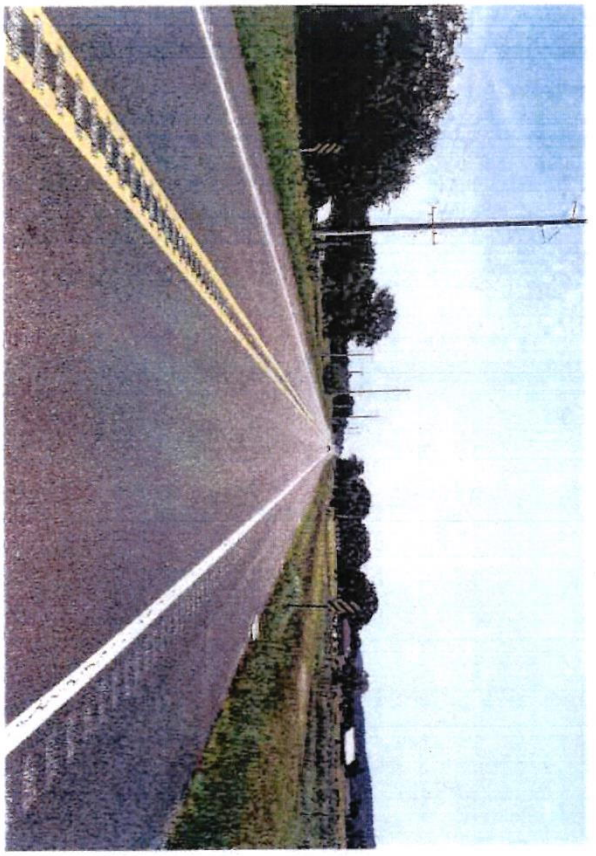




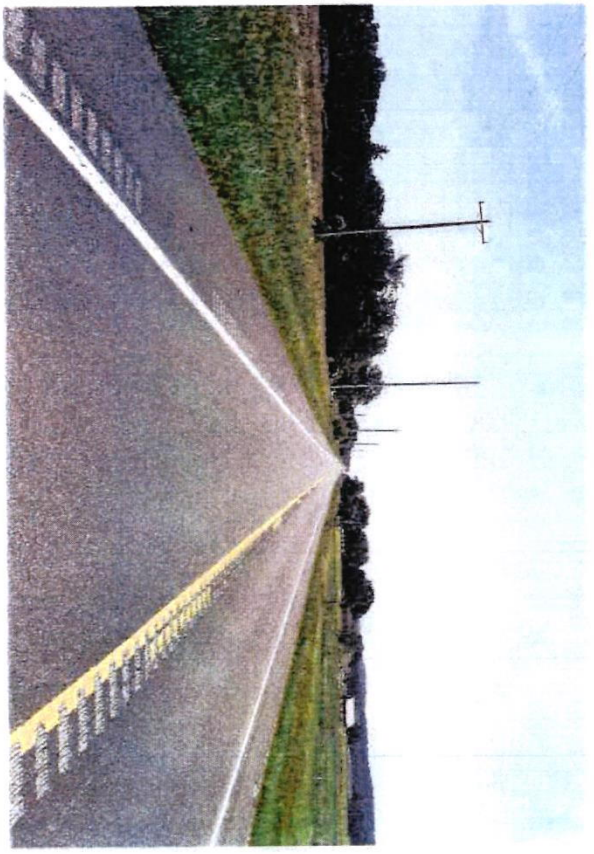


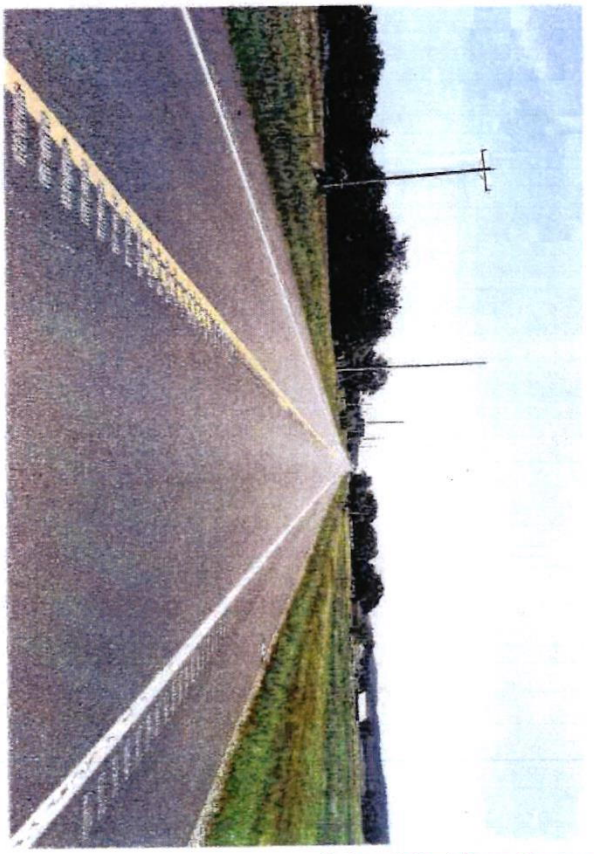


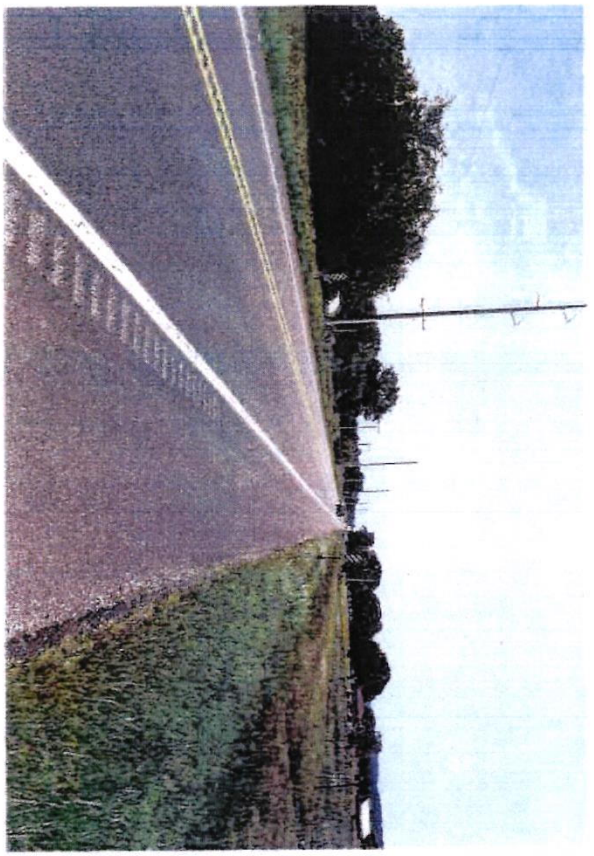






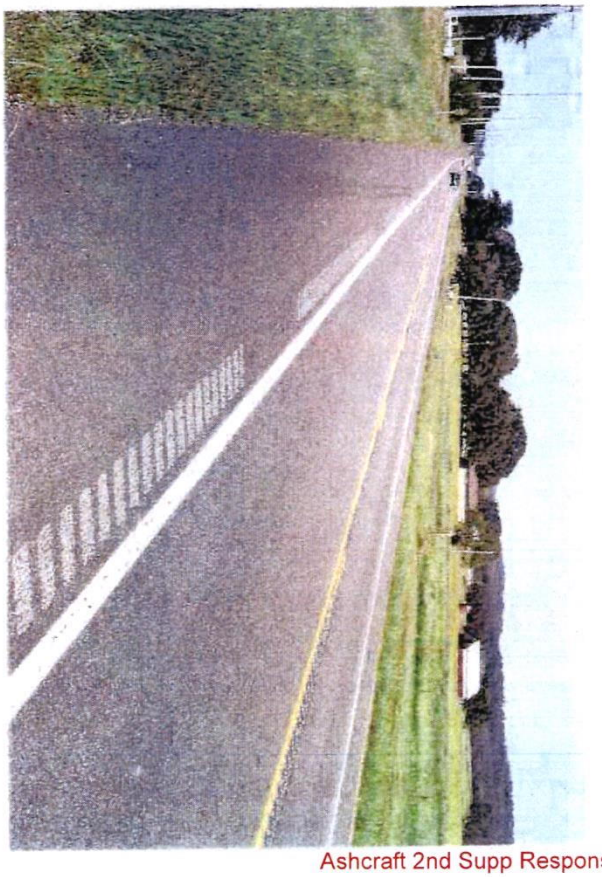


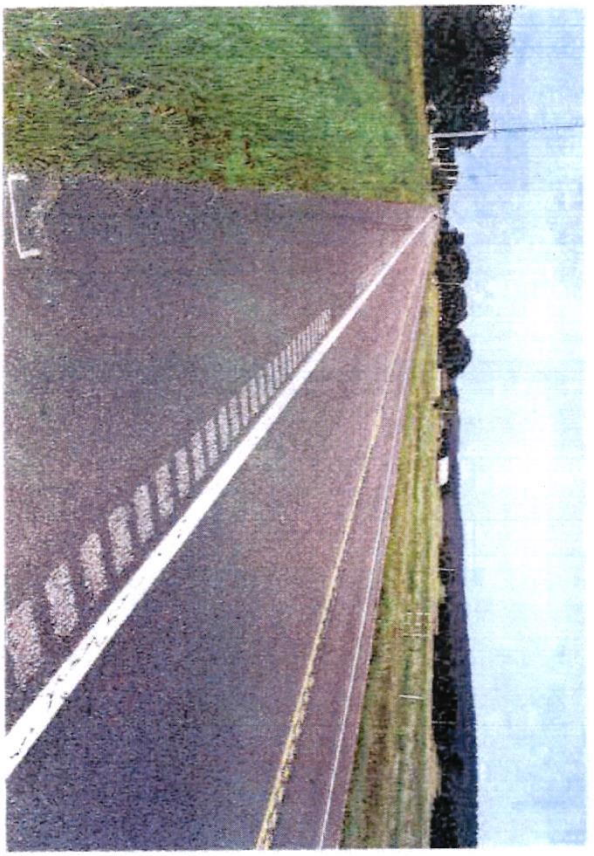


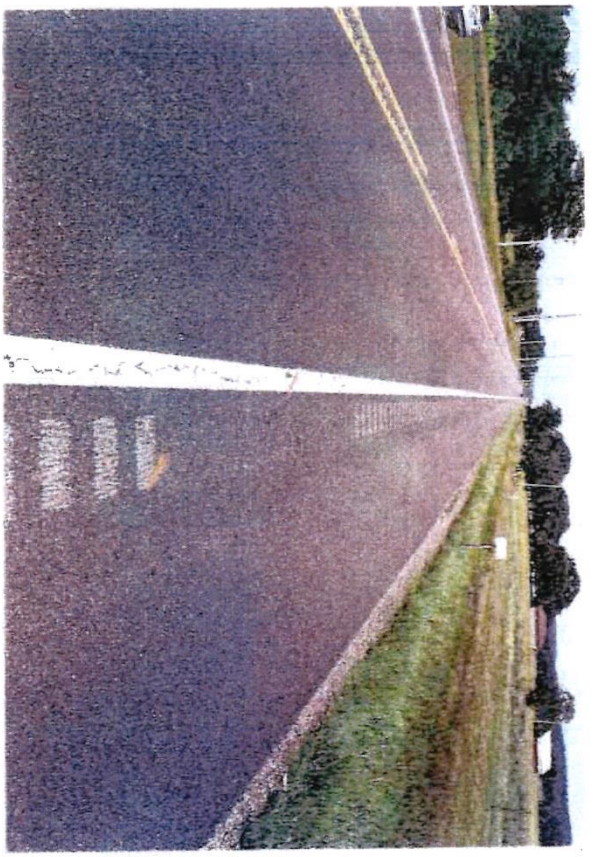


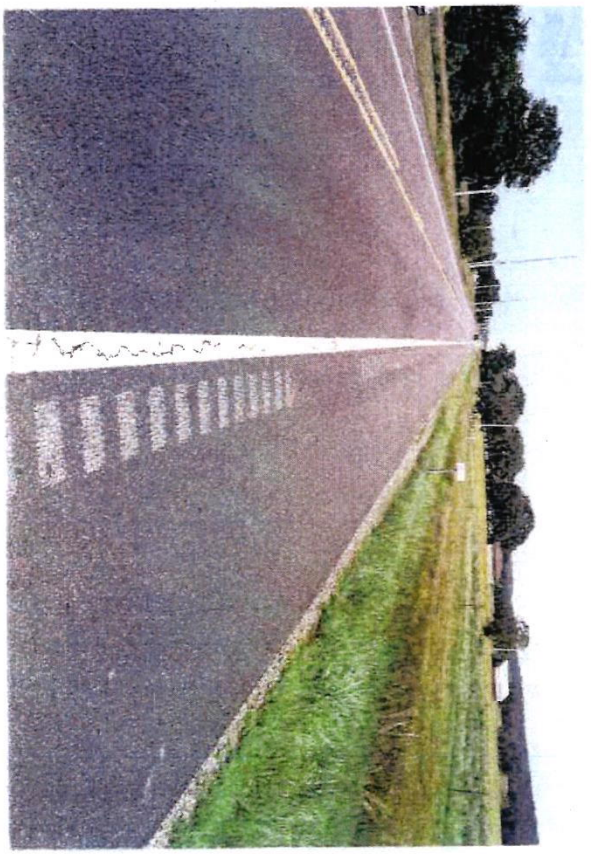














Ashcraft 2nd Supp Response 0596

Ashcraft 2nd Supp Response 0597

Ashcraft 2nd Supp Response 0598

Ashcraft 2nd Supp Response 0599

CURRICULUM VITAE

Stanley Bruce Cain

Accredited Traffic Accident Reconstructionist (ACTAR [redacted]

[redacted]

EMPLOYMENT HISTORY

July 1995 to Dec 2020: Rogers, Arkansas Police Department-Police Officer.

- Assigned to the Uniform Operations Division as a Patrol Corporal, from February 2016 to December 2020.
- Assigned to the Traffic Unit as a Traffic Unit Corporal, from May 2011 to February 2016, as a collision investigator.
- Assigned to the Criminal Investigation Division as a Detective, from May 2010 to May 2011.
- Assigned to the Traffic Unit as a Patrolman, from September 1997 to October 2009, as a collision investigator.
- Investigated approximately 4,361 motor vehicle collisions, assisted with the investigation of additional 873 motor vehicle collisions and completed reconstruction investigation in 41 motor vehicle collisions, as of 12/31/2020.
- Testified in numerous trials and depositions, in both district court and circuit court, regarding collision investigations.

Oct 1991 to July 1995: University of Arkansas, Fayetteville, Arkansas-Research Specialist

- Assisted the Project Leader with the Variety Testing Program with agronomic crops.
- Assisted and participated in all phases of the evaluations, including sample packaging, plot layout, planting, managing, harvesting, sample processing, data processing and preparing final publications.

EDUCATION

- Bachelor of Science in Agriculture, University of Arkansas, Fayetteville, AR, December 1990.

REV. 3/01/2023

SPECIALIZED EDUCATION AND TRAINING

October 1995:	Basic Police Training Course (Basic Class 95-D), Arkansas Law Enforcement Training Academy, 400 hours.
November 1998:	Highway-Railroad Grade Crossing Collision Investigation, Operation Lifesaver Inc., 16 hours.

- Curriculum included: elements of a grade crossing collision, locating and documenting physical evidence and interviewing.

August 1999	Advanced Collision Investigation, Texas A and M University-Engineering and Extension Service, 80 hours.

- Curriculum included: speed calculation from skid marks and yaw marks, stopping distances, radius calculation, combined speed calculation, applications of trigonometry, collision scene diagramming, airborne speed calculation, speed calculation with pedestrian collision and conservation of linear momentum.

January 2000	At-Scene Traffic Accident Investigation, University of North Florida-Institute of Police Technology and Management, correspondence study.

- Curriculum included: series of events, human element, environmental factors, identification of roadway marks and evidence, vehicle damage and defects, speed estimates, field measurements and diagrams.

May 2001	Collision Reconstruction, Texas A and M University-Engineering and Extension Service, 80 hours.

- Curriculum included: kinetic energy calculations, speed loss calculations, time and distance calculations, conservation of linear momentum, vector diagramming, change in velocity, principal direction of force and case studies.

June 2005	Speed Determination from Crush Analysis, Riverside County California Sheriff's Office, 40 hours.

- Curriculum included: techniques and methods for measuring crush profile, calculating balanced forces, determination of principle direction of force, calculation of stiffness coefficients and barrier equivalent velocity.

November 2008	Side Underride Analysis, The Engineering Institute, 8 hours.

- Curriculum included: history and development of DOT bumper requirements, familiarization with coefficient values and calculations and live test crash demonstrations.

REV. 3/01/2023

April 2019	ACTAR Test Preparation-Comprehensive, University of North Florida-Institute of Police Technology and Management, 40 hours.
	• Curriculum included: photography, airborne speed calculation, conservation of linear momentum, time and distance calculation, kinetic energy calculation, pedestrian collision investigation and commercial vehicle collision investigation.
August 2020	vCRASH Interface and vCRASH Simulation Basics, Virtual Crash Accident Reconstruction Software-vCRASH Academy
	• Curriculum included: navigating workspace and commands, modifying and moving objects, introduction to CAD tools and simulations in Virtual Crash, auto driver tools and vehicle/pedestrian collision simulation.
January 2022	PhotoModeler for Collision Investigation, PhotoModeler Technologies, 32 hours.
	• Curriculum included: photography techniques, scene diagramming, scene mapping, and crush measurements from photographs; collecting photographs from unknown cameras, use of point clouds in diagramming and collecting measurements.
October 2022	Advanced HVEDR Systems, Texas Association of Accident Reconstruction Specialists, 21 hours.
	• Curriculum included: Introduction and familiarization with components found on commercial vehicles that record event data from engine control modules, ABS braking systems, trailers, and transmissions.

LAW ENFORCEMENT TRAINING

November 1995	Police Traffic Radar Operator, Rogers Police Department.
November 1995	DWI Standardized Field Sobriety Testing, UALR Criminal Justice Institute.
November 1997	Managing Eyewitness Identification and Confessions, UALR Criminal Justice Institute.
February 1998	Defensive Driving, Thompson Driving Systems.
December 1998	Field Training Officer Certification, Arkansas Law Enforcement Training Academy.
January 1999	Instructor Development, Arkansas Law Enforcement Training Academy.
March 1999	DWI Standardized Field Sobriety Instructor Certification, UALR Criminal Justice Institute.

REV. 3/01/2023

March 2000	The Reid Technique of Interviewing and Interrogation, John E. Reid and Associates.
May 2002	Detective and New Criminal Investigator, Public Agency Training Council.
September 2015	P.R.I.M.E. T.I.M.E Interview School, Rogers Police Department.

TEACHING EXPERIENCE

December 1998 to December 2020	Field Training Officer: Instructed 51 new police officer recruits in on-scene collision investigation.
June 2000 to December 2020	Traffic Radar Operator Instructor.
2006 to 2009 2012 to Present	Vehicle Collision Investigation, Arkansas Law Enforcement Training Academy-Northwest, Basic Police Training Course
November 2017	Motor Vehicle Collision Investigation: Plaintiff's Personal Injury from Start to Finish, National Business Institute.

ACCREDITATION

2006 to 2011 2019 to Present	Accreditation Commission for Traffic Accident Reconstruction (ACTAR) Awarded full accreditation as a Traffic Accident Reconstructionist. Registration No. 1686.

PROFESSIONAL MEMBERSHIPS

- National Association of Professional Accident Reconstruction Specialists (NAPARS). Member No. 22186.
- International Network of Collision Reconstructionists (INCR).

AWARDS

October 1995	Special Achievement Award-3rd Place in Academics, Basic Police Training Course Class 95-D, Arkansas Law Enforcement Training Academy.
February 2001	The Raven Foundation Officer Appreciation and Achievement Award for 2000.

REV. 3/01/2023

PUBLICATIONS

Dombek, D.G., and S.B. Cain. 1992 Arkansas Soybean Performance Tests, University of Arkansas Department of Agronomy.

Dombek, D.G., and S.B. Cain. 1992 Arkansas Corn and Grain Sorghum Performance Tests, University of Arkansas, Department of Agronomy.

Dombek, D.G., and S.B. Cain. 1993 Arkansas Soybean Performance Tests, University of Arkansas Department of Agronomy.

Dombek, D.G., and S.B. Cain. 1993 Arkansas Corn and Grain Sorghum Performance Tests, University of Arkansas, Department of Agronomy.

Dombek, D.G., R.D. Bond, and S.B. Cain. 1994 Arkansas Soybean Performance Tests, University of Arkansas, Department of Agronomy.

Dombek, D.G., R.D. Bond, and S.B. Cain. 1994 Arkansas Corn and Grain Sorghum Performance Tests, University of Arkansas, Department of Agronomy.

Dombek, D.G., D.K. Ahrent, R.D. Bond, and S.B. Cain. 1995 Arkansas Soybean Performance Tests, University of Arkansas, Department of Agronomy.

Dombek, D.G., D.K. Ahrent, R.D. Bond, and S.B. Cain. 1995 Arkansas Corn and Grain Sorghum Performance Tests, University of Arkansas, Department of Agronomy.

Stanley B. Cain Accident Reconstructionist, LLC

Available Services

- Consultation, review and analysis of the police motor vehicle collision report and any documentation available.
- Detailed measurements, photographs, or video recording of the collision scene to document: the traffic controls present, line-of-sight obstructions, environmental factors, vehicle damage and any other pertinent evidence as it pertains to the client's case.
- Scaled CAD drawn diagram of the collision scene to document: lane configuration, roadway geometry, line of sight obstructions, witness location, tire marks and roadway evidence.
- Detailed interviews of drivers, passengers, witnesses, and all other individuals as needed to complete a thorough investigation.
- Vehicle speed calculation from: visible skid marks, yaw marks, linear momentum analysis, crush analysis and airborne scenarios.
- Reconstruction and investigation of pedestrian/bicyclist collisions.
- Reconstruction and investigation of motorcycle collisions.
- Reconstruction and investigation of commercial vehicle collisions.
- Reconstruction and investigation of collisions at signalized intersections and railroad grade crossings.
- Time/distance/speed analysis for vehicles, pedestrians, and bicyclists.
- Vehicle lamp analysis.
- Detailed written reports of the collision investigation and/or reconstruction, along with the needed documentation, diagrams, and photographs.
- Appearances for testimony, deposition or consultation as needed by the client.

If there are questions regarding a service listed or not listed, please feel free to contact me.

Costs and Fees

- A client may request an initial consultation for $300.00. The consultation includes a preliminary review and familiarization with the client's case by allowing a review of any reports, statements, photographs, documentation, etc., that the client will make available. After the review, the consultation also includes two hours with the client, either in person or by phone, to discuss the preliminary review and answer questions pertaining to the investigation.
- A client may also request a complete investigation of the collision which includes: the above listed consultation, a scaled scene diagram and/or collision simulation, scene inspection and photographs, vehicle inspection and photographs of the available vehicles, witness location and interview, a reconstruction calculations report, and a detailed written report discussing the analysis and conclusion, is available for $1500.00 plus $0.55/mile for mileage accumulated after 200 miles of travel required for the investigation and inspections.
- Appearances for court testimony and/or deposition is $50.00/ hour.

REV. 3/01/2023

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, As Special Administratrix of the Estate of JACQUELINE LYNN ASHCRAFT, Deceased, and as Permanent Legal Guardian of [redacted], A Minor,	)	CC NUMBER 230641
CLAIMANT,	)	
VS.	)	
ARKANSAS DEPARTMENT OF HUMAN SERVICES,	)	
RESPONDENT.	)	

ORAL AND VIDEOTAPED DEPOSITION OF

JENNIFER LEANN WILKERSON

October 20, 2023

ORAL AND VIDEOTAPED DEPOSITION OF JENNIFER LEANN WILKERSON, produced as a witness at the instance of the CLAIMANT, and duly sworn, was taken in the above-styled and numbered cause on the 20th day of October, 2023, from 12:54 p.m. to 4:05 p.m., before Tammie L. Foreman, CCR in and for the State of Arkansas, RPR, CRR, reported by machine shorthand at the Logan County Courthouse, 25 West Walnut Street, Paris, Arkansas, pursuant to the Arkansas Rules of Civil Procedure.

this. Okay?
A. Okay.
Q. It's not a marathon session at all. My understanding is the accident occurred on Friday, June
12:58PM 11th, 2021. Does that sound correct to you?
A. Yes.
Q. And what was your job description for DHS? Do you recall the title? Does the phrase "program assistant" mean anything to you?
12:58PM A. Yes. Yes. Yes.
Q. What is a -- when did you start working for the Arkansas Department of Human Services?
A. I think it was exactly -- I got in the wreck exactly two weeks since I had started. So, you know,
12:59PM the date?
Q. And we need for you -- if you don't know something, just say I don't know, so you don't have to ask your mom or anything. This is not like school, where an answer of "I don't know" gets you an F.
12:59PM A. Yeah.
Q. Here, if you don't know, you don't know. Okay?
A. I know I've sent you -- I've talked to you, so I've sent you that. I just don't remember the exact dates. That was two years ago.
12:59PM Q. Certainly. So I looked back at the calendar.

It looks like Memorial Day was on Monday, the 31st, and that maybe you may have started on June 1st?
A. Yes.
Q. And then the accident happened on Friday, June 11th?
12:59PM
A. Correct.
Q. Was this your first time to leave Paris to go on a child visit?
A. Yes.
01:00PM
Q. Okay. Just briefly explain what -- what your understanding of what you were supposed to do on that afternoon. What was your responsibility?
A. Well, I was supposed to go on an eight and a half hour, I guess, trip to go pick up a child. I
01:00PM
don't have a child, so I don't even know how to use a car seat or anything like that.

I had never -- I didn't have a gas card. I guess you have to have -- I didn't even know all the procedures yet 'cause I was -- I had no training or
01:00PM
anything like that. So it was just -- I mean, to go and pick up the kid and then bring them back to Clarksville -- well, it changed so much 'cause I -- and it wasn't planned out. Okay?

So it was the night -- the night before, I
01:01PM
was with Brandy Ezell, and she had told me to be

she working in the Paris office?
A. Yes. Yes. And she had told me she didn't -- she didn't know what time that she was going to -- the kid had counseling or something like that, and that
01:04PM she didn't know. And then I'm, like, trying to tell Brandy, you know, well, she -- I need to know what time to leave, like, all morning. And then -- so either way, a professional to me is, you would have had -- I should have left, like, in time for -- if I
01:04PM ran out of gas or -- so yeah. I don't know.
Q. What's the name of the lady that went to Fayetteville; do you recall?
A. I would know if I heard it. I can't remember.
Q. Okay. That's fine. So --
01:05PM A. And then -- but it changed from first it was meet at -- we were supposed to meet in Russellville or -- yeah, in Russellville; then it went to Clarksville.
Q. Okay. Did you or Brandy Ezell print out
01:05PM anything on paper to show you your route?
A. No.
Q. How did you know what route to take to go to Beebe?
A. I didn't really. She got on map -- one of the
01:05PM map things and I was supposed to go by that.

Q. And so I have a map on my telephone, Google Maps, and I use that. Is that what you are talking about?
A. That's not what I -- what we were using -- what she used.
Q. Was it on a handheld device or was it on a computer that's --
A. No. It was --
Q. -- desktop?
A. Well, I didn't have a State phone yet, so I had my personal iPhone. And she was using hers, so...
Q. How -- what -- what device or object map were you going to use to get to Beebe? Was it the map on your iPhone?
A. Yes. That's what I was supposed to use.
Q. Okay. And did you type in the address of your destination and put search and find a route? Is that how it worked at the time?
A. That's -- Brandy did that. Brandy did that.
Q. On your phone or her phone?
A. On -- well, on -- I guess on hers and then I had -- I did it on mine.
Q. All right. Ms. Ezell testified that she and Ms. Feemster left about 12:07 p.m. on Friday from the DHS office, and that was about the same time that you

Brandy, like, every day to do her visits, like, in her personal car on her visits. And she smoked in her car. I guess that's why they don't take -- they want to use their personal vehicles because you can smoke in your vehicle. You can go -- they go and eat during their sessions and leave early and stuff like that.

Q. Okay. So I'd like for us to focus on --

A. Yeah.

Q. -- what happened on Friday.

A. Okay.

Q. You and Ms. Ezell returned from Casey's to the DHS parking lot, correct?

A. Yes. And then --

Q. You're in the passenger's seat, correct?

A. Uh-huh.

Q. You go inside with Ms. Ezell, correct?

A. Yes.

Q. Tell me what happens next.

A. Okay. That's when she figures out on the maps, when I needed to leave, and it was I needed to leave then because I needed to leave earlier than that really.

And so I left, and I had called in some food at Dari-Delite because I knew that's what she does, and this is a eight-hour trip with no -- no gas

already. And then I was driving, and that's when -- okay.

Q. So I want to stop you before you --

A. Oh, yeah. Okay. So I went -- okay.

01:11PM Q. So you went to Dari-Delite?

A. Yes. Pick up, just, something to eat because I hadn't had anything.

Q. Okay.

A. And that's what I thought -- I mean, Brandy, 01:11PM that's -- if I was -- she was training me. I mean, that was what I --

Q. Did you go inside and sit down and eat or was it a drive-through? I don't know how that works at Dari-Delite.

01:11PM A. You can do either way.

Q. What did you do?

A. I went and picked it up. I went in and got it.

Q. Okay. After the accident occurred, do you remember who came to the accident scene?

01:12PM A. Like, Brandy?

Q. (Nodding head.)

A. Brandy and Pam.

Q. Yes. Who else? Who did you call and who came to the accident scene? Those are two separate 01:12PM questions, so let me back up. Did you call anyone?

A. I called Brandy.
Q. And what did you tell her?
A. That I'd just got in a car accident.
Q. Okay. And then who else did you call after that?
A. I called my boyfriend at that time. He's not my boyfriend anymore.
Q. And then --
A. And then I called my mom.
MR. GASPER: Can we -- can we get a name?
Q. (By Mr. Jackson:) Yeah. What's the name of your boyfriend?
A. Ex-boyfriend.
Q. Ex-boyfriend, I mean.
A. Scott Thomas Lindstrom.
Q. Okay. And did all -- did you call -- do you remember calling anybody else other than those three?
A. I called my mom.
Q. You said your mom. You said Scott Lindstrom. And you said Brandy Ezell. Were there any other calls you made that you recollect?
A. No. I don't -- I don't think so.
Q. Did all three of those people come pretty quickly to the accident scene?

A. But they didn't do anything -- anything then, so I didn't know for two months that my back was broke. And I was in so much pain that they made me come in to work just to do that thing, and I didn't even know what it was.

(Exhibit 3 marked for identification.)

Q. I am going to hand you a document. We'll mark it as Exhibit Number 3 to your deposition. Is that what you are talking about?

A. Yes.

Q. Okay. So this is part of where we need to make a record. That document is -- looks like an email from Kristen Shelton to you that was printed out, 10 questions, and then there's handwritten responses under each question. Is that your handwritten -- handwriting?

A. Yes.

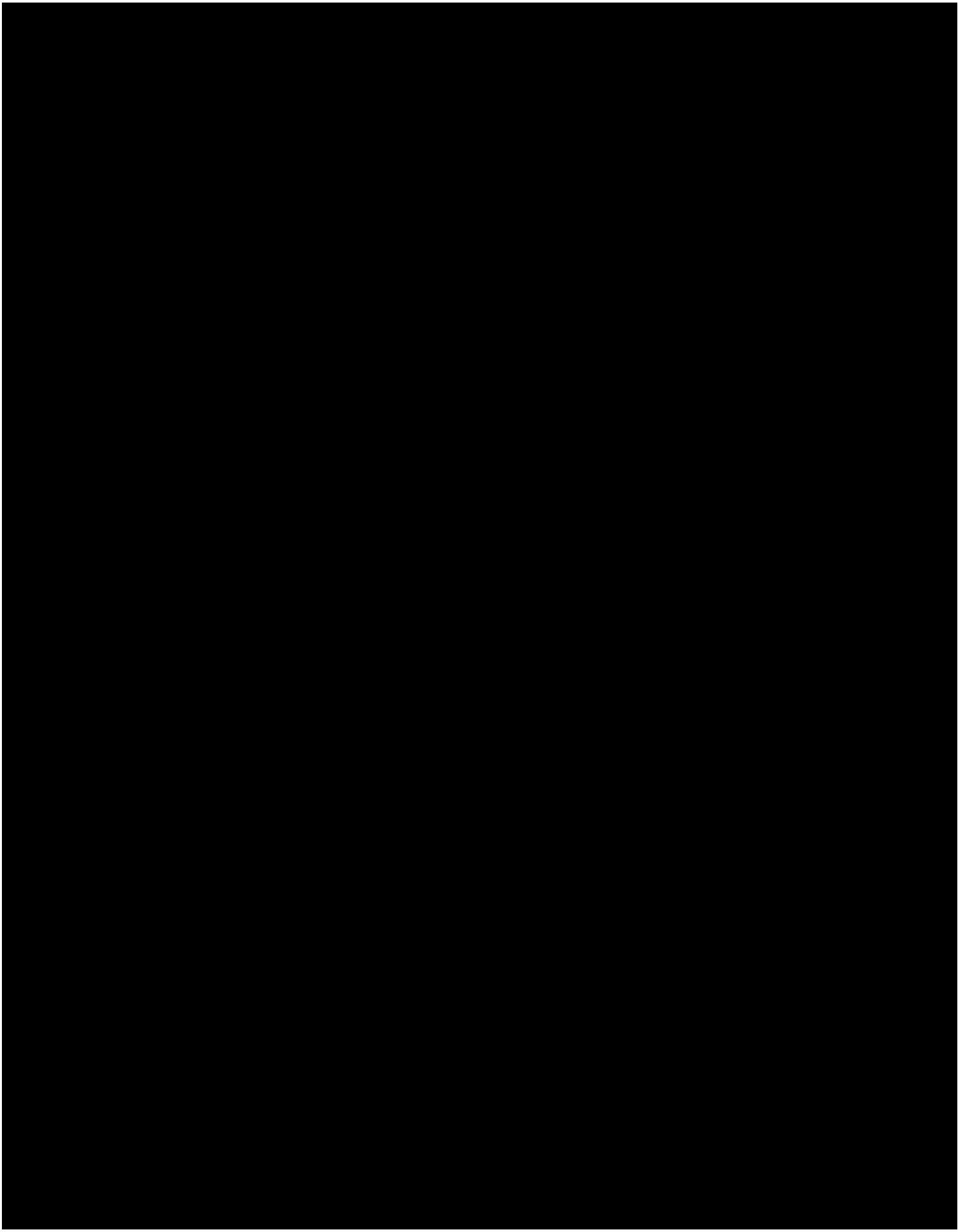
Q. And is that your statement that you gave to DHS as to what happened?

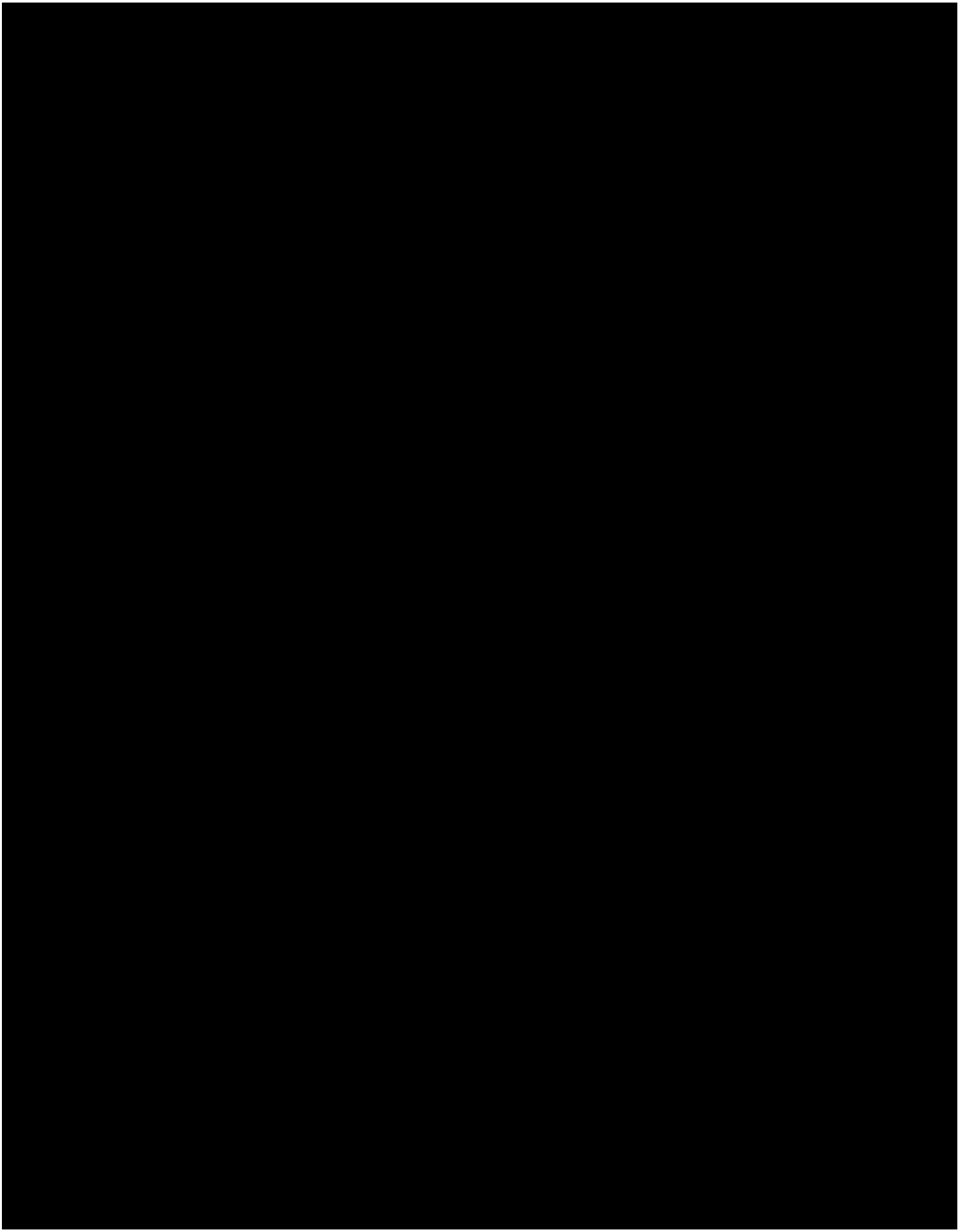
A. I guess -- I guess so. I didn't know what it was. I just got -- I wasn't explaining anything. Pam just said, "Fill it out."

Q. Will you look over --

A. Yes.

Q. Can you just take a moment and look over the





to get some air.

And then -- -then all of a sudden, she's in the ambulance, and it just got worse throughout that whole process. They gave her -- and they said they thought that -- they gave her a Narcan shot because they thought that she was having withdrawals, drug withdrawals or something.

And they couldn't -- they couldn't get an IV or anything in there. So -- and they couldn't get one in me, so I had bruises all over, and we wasn't even driving then. And it just got worse. She was getting worse.

And they said they thought that she had a brain -- had a brain aneurysm and that it was -- that they couldn't say that it wasn't -- that's not -- wasn't happening before the wreck. I mean, that it -- that's not -- that she wasn't having the brain aneurysm, you know, at that time before I even hit her.

MR. GASPER: That she was or was not?

Q. (By Mr. Jackson:) Yeah. I didn't understand that last sentence you just said.

A. That that was -- that it was possible that she was stopped because she was having that brain aneurysm.

MR. GASPER: Stopped -- I'm sorry. This is Jim's question. I'm just trying to --

THE WITNESS: Or that it triggered or that it was going on.

01:56PM Q. (By Mr. Jackson:) Where were you when you heard this?

A. In the EMS. In the ambulance. It was just us on the way -- there was another wreck that day, so that -- we couldn't go to Paris. It would be a longer 01:56PM wait, is what --

Q. So you went to -- they transported you to Booneville?

A. Yes.

Q. And there was a female medic driving, correct?

01:56PM A. Yes.

Q. And there was a male medic in the back?

A. Yes.

Q. Okay. Do you know either one of them?

A. No.

01:56PM Q. Okay. And where -- when you got to the emergency room, I assume all the attention was being put on Jacqueline Ashcraft and you were secondary; would that be fair to say? Or did they have a ER doctor there for you? How did that work?

01:57PM A. I -- I didn't know. I was just -- I would say

[redacted]

MR. GASPER: Did or did not?

02:23PM THE WITNESS: I mean, he said I did, but --

[redacted]

02:23PM [redacted]

(Exhibit 8 marked for identification.)

Q. I want to hand you what we'll mark as Exhibit Number 8.

MR. GASPER: I've seen it.

02:23PM Q. (By Mr. Jackson:) And have you seen that document before?

A. No.

Q. At the bottom, it has the -- what was found present in your urine. Can you look at that?

02:24PM Present, present, present, present, present, and it's in a line for those.

[redacted]

Q. Any reason to disagree with any of those findings by the toxicology laboratory?

02:25PM [redacted]

on there.

Q. What are -- I don't know --

[redacted]

Q. Okay. And have you applied for Social Security disability?

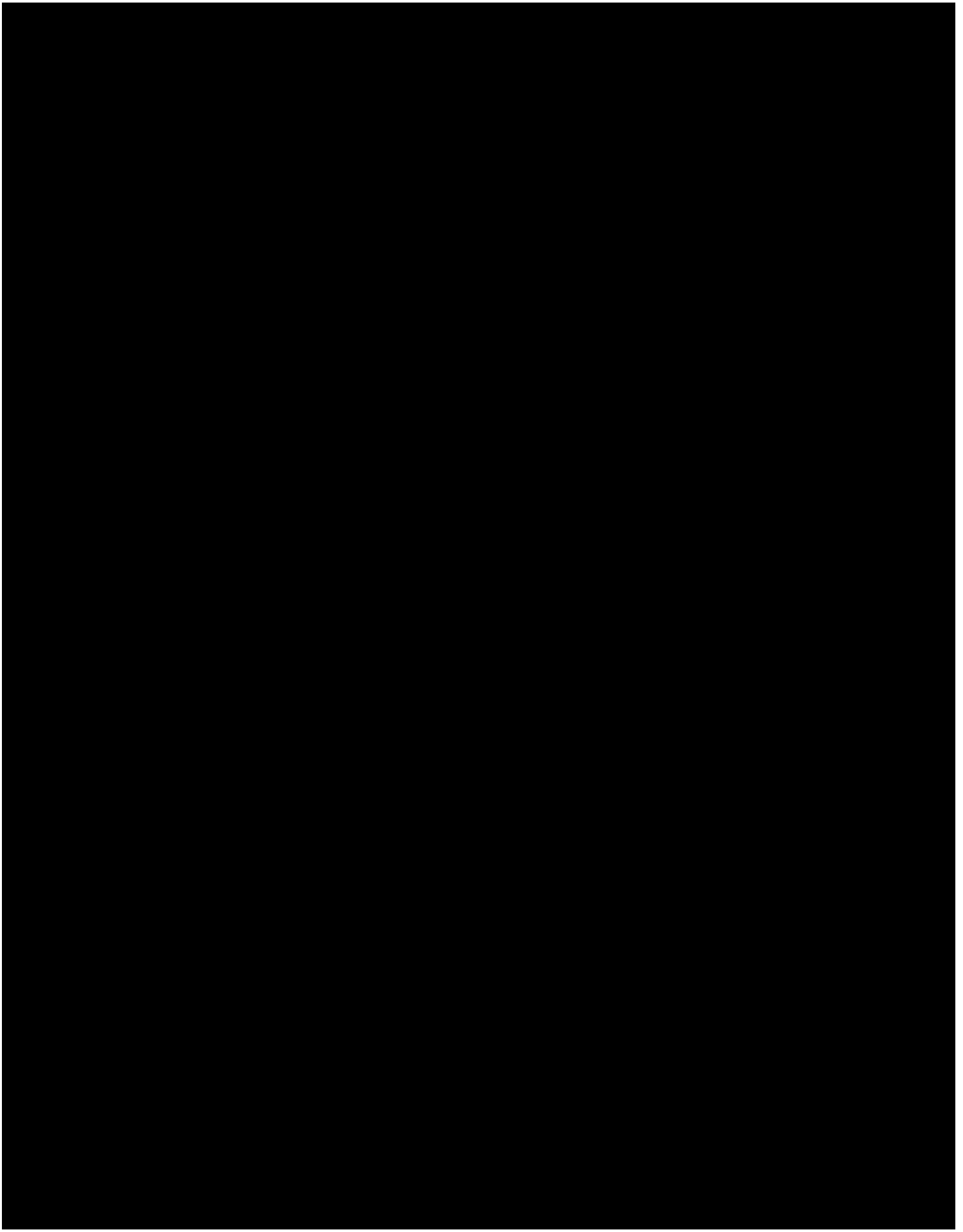
A. I -- I don't know how. I've tried to start it, but I didn't know how. And that's -- my mom said that I wouldn't -- she didn't think that was a good idea. I don't know.

Q. Jennifer, you've -- we've sat here today, started a little bit before 1:00, and thank you for coming in. I'm about at the end of my questions. Mr. Gasper may have some questions for you.

But as you sit here, is there anything else you recall about the wreck, and from that five seconds till the vehicles came to impact that you haven't already told us?

A. Can you say that again?

Q. Sure. We took a break. You've been asked a lot of questions --





A. Boyfriend and girlfriend, I guess.
Q. Just a -- you weren't engaged or married?
A. No.
Q. Okay. And you say Scott got there first; is
03:16PM that right? That's what I've got written down. I may
have written it down wrong. Who arrived first? Your
mom?
A. No. My mom didn't -- no one -- my mom didn't
come there at all.
03:16PM Q. Oh, she didn't? Okay. It was just --
A. Scott was the only person that --
Q. Were you talking to your mom on the phone?
A. I talked -- talked with her. Yes.
Q. Scott came and got you?
03:16PM A. No. He came to the wreck.
Q. Right. Now, you had been with Scott prior to
that, right? Like, at Dari-Delite?
A. Yes, I saw him.
Q. You saw him there or did you meet him there?
03:16PM A. I mean, he was there, and that's where I got
food.
Q. Okay. Was it prearranged to meet there or just
bumped into him?
A. I mean, I was going there --
03:17PM Q. Okay.

A. Like, random places. Like, I was driving with someone, and he was trying to get her to go meet him somewhere.

MR. GASPER: Okay. Well, Jennifer, that is all I have today. Pending if Jim probably has some follow-ups for you. I may have some follow-ups. If he has follow-ups, generally, I think that you answered most of my questions and gave us a lot of good information. I appreciate you showing up today. So I'll pass the witness to Jim.

MR. JACKSON: Jennifer, just a few follow-up questions.

FURTHER EXAMINATION

BY MR. JACKSON:

Q. Did you still have your meal with you from the Dari-Delite?

A. No.

Q. Did you eat your meal at -- where did you eat the meal?

A. I think I did have -- actually, I -- I think I had some coffee in there. I had my drink in there.

Q. So where did you eat? Where did you eat your meal from the Dari-Delite?

A. I'm trying to recall. I ate -- I guess I ate

it -- it was when I went in and then I threw it away there.
Q. So you went inside and sat at a booth or a table?
03:41PM A. No. I went inside to pick up my meal, like I said earlier.
Q. Okay.
A. So instead of waiting through the drive-through.
Q. Okay.
03:41PM A. And I went ahead and ate it. I didn't sit down at the booth 'cause I didn't get very much to eat.
Q. So you -- just -- I'm not trying to be difficult, but just to help me understand. So you went in, you would have had a sack or something? You
03:41PM would have picked it up and gone back to your car and eaten?
A. Well, Scott was there. He knew that I was going to be there, so he was there. It was not -- that was not planned. And that's -- that's how it --
03:42PM Q. What was the meal? Was it a hamburger? What -- I heard you say coffee.
A. Yeah. A hamburger.
Q. Okay. And by the time of the wreck, had you eaten the hamburger or thrown it away?
03:42PM A. Yeah. I had already ate it.

Q. Okay. Where were you physically when you ate -- when you consumed the hamburger?
A. At the Dari-Delite.
Q. Were you at a booth or at a table or in the parking lot?
A. I was in the -- standing inside.
Q. Okay. So you just went in and ate your hamburger standing there inside the Dari-Delite?
A. Yeah. That's kind of how it is around here.
Q. Okay. So that's why you looked at me odd when I asked you if you were sitting at a booth. You were standing?
A. Yeah.
Q. All right. The person that cut the seatbelt, do you know who he is?
A. No. I didn't know who any of them were.
Q. So the person that -- any of the women that were there right afterwards, you don't know who they were?
A. No. I was not even paying attention. I just know that there was blood and I was sitting. I was out of it.
Q. All right. And then now I want to go back to what -- some of the things that Mr. Gasper asked you at the very beginning of his questions. He said Mr. Jackson is not your friend and then he went

IN THE ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF
THE ESTATE OF JAQUELINE LYNN ASHCRAFT,
DECEASED, AND HALEY HUDSON, AS PERMANENT
LEGAL GUARDIAN OF [redacted]
AND [redacted] MINOR CHILDREN **CLAIMANT**

vs. **CC No. 230641**

ARKANSAS DEPARTMENT OF
HUMAN SERVICES **RESPONDENT**

AFFIDAVIT OF PAMELA FEEMSTER

I, Pamela Feemster, am competent to testify and have personal knowledge regarding the statements contained in this affidavit, do hereby declare, under the penalty of perjury to the following:

1. I am currently employed with the Arkansas Department of Humans Services (DHS), Division of Children and Family Services (DCFS) as a Family Service Supervisor in Logan County, Arkansas, a position that I have held since December 2, 2019.

2. I have worked for DHS for over 11 years.

3. In June 2021, I was working as a Family Service Supervisor in Logan County, Arkansas.

4. As a Family Service Supervisor, my duties include: assigning work to staff including program assistants, conducting consults, preparing monthly reports, participate in the hiring process by conducting interviews and submitting hiring packets for individuals that I recommend should be hired, I can also recommend that a employee be terminated from DHS.

EXHIBIT
3

5. In 2021, I interviewed Jennifer Wilkerson and submitted a hiring packet for her to human resources and Central Office in Little Rock for approval. *See attached hereto* Exhibit A, Selected Records from Wilkerson's Personnel File (redacted) (hereinafter "Exhibit A").

6. After receiving approval to hire Ms. Wilkerson, I informed her that she would need to submit to a pre-employment drug test that is required for all new hires at DHS. Exhibit A, p. 9-10. Ms. Wilkerson passed her drug screen. Exhibit A, p. 11.

7. Ms. Wilkerson was also required to agree to all traffic laws and the driving policies for DHS. *See* Exhibit A, p. 5-6, 21-24.

8. Jennifer Wilkerson was hired as a Program Assistant for DCFS in Logan County. *See* Exhibit A, 17-19.

9. On June 1, 2021, Ms. Wilkerson began working as a Program Assistant and I was her direct supervisor.

10. Ms. Wilkerson and I both worked at the Logan County DHS office, which is located at 17 W. McKeen Street, Paris, Arkansas 72855.

11. As a Program Assistant, Ms. Wilkerson's main responsibilities were transportation of children and to conduct supervised visitations.

12. On June 11, 2021, Ms. Wilkerson was assigned to go to Beebe, Arkansas to pick up a child at 2:00 p.m. and transport the child to Clarksville, Arkansas for a sibling visit at 4:00 p.m.

13. In order for Ms. Wilkerson to arrive in Beebe by 2:00 p.m., she needed to leave Paris, Arkansas around noon because it takes approximately two (2) hours to drive from Paris to Beebe.

14. Prior to the accident on June 11, 2021, the last time that I saw Ms. Wilkerson was when Brandy Ezell and I were leaving to go to lunch a few minutes after noon and I saw Ms. Wilkerson heading to the state vehicle to head Beebe, Arkansas.

Wilkerson Calls Ezell to Report the Accident

15. As Brandy and I were returning from lunch and pulling into the parking lot at the Logan County DHS office, Brandy received a call from Ms. Wilkerson that she had been in a motor vehicle accident.

16. Brandy and I were still in Brandy's personal vehicle when Ms. Wilkerson called Brandy and told her about the accident.

17. As Brandy and I drove to the accident, Brandy expressed concern to me that Ms. Wilkerson was still near the office when the accident occurred.

18. It only took about 5 to 10 minutes for us to arrive at the accident scene.

Actions at the Scene

19. When we arrived, we had to park some distance from the actual accident.

20. When we got close to the ambulance, I observed Ms. Wilkerson was being loaded into the ambulance.

21. At the scene, I observed a male individual, whom I learned later was Ms. Wilkerson's boyfriend, Scott Lindstrom, get into the state vehicle and remove some bags from the vehicle.

[redacted]

23. While at the scene of the accident, I also called Kristen Shelton, who was my supervisor, to inform her about the accident.

24. At the scene, I did ask one of the state troopers about whether they would be drug testing Ms. Wilkerson, but I was informed at that point that there was no plan to conduct a drug test of Ms. Wilkerson.

25. Brandy and I were at the accident scene for approximately thirty (30) minutes before we left to go to the hospital to ask that Ms. Wilkerson be given a drug test.

26. After learning that the state police were not planning on performing a drug test on Ms. Wilkerson, Brandy and I decided to go to the hospital and ask the hospital staff to drug test Ms. Wilkerson.

After Leaving Accident Scene

27. At some point, Brandy and I were informed that Ms. Wilkerson had been taken to the hospital in Booneville, Arkansas.

28. Upon arriving at the hospital in Booneville, we were informed that the hospital was on lockdown because of an incident involving Scott Lindstrom, Ms. Wilkerson's boyfriend.

29. Brandy saw Jennifer Wilkerson's mother standing by the door of the hospital and the two of us went over to speak with her.

30. Jennifer's mother informed Brandy and I that prior to the accident, Jennifer had met up with her boyfriend at Dairy-Delite for lunch.

31. Given my work as a DCFS worker, I was familiar with the staff at the hospital in Booneville; therefore, while at the hospital, I asked the staff to conduct a drug test on Ms. Wilkerson.

32. After I had left the hospital, I received a text message from Ms. Wilkerson in which she informed me that although she did not have a prescription for Adderall, she had taken Adderall prior to the accident.

Termination of Ms. Wilkerson

33. I first discussed terminating Ms. Wilkerson on June 11, 2021, after I received the text message from Ms. Wilkerson regarding her using Adderall without a prescription, combined with her inconsistent statements, and the fact Ms. Wilkerson was a new hire.

34. Beyond the text message I received from Ms. Wilkerson, any communications I had with her regarding the accident was done through email.

35. Kristen Shelton conducted a fact-finding investigation as required by DHS policy.

36. Following the investigation, Ms. Wilkerson was fired from DHS on Wednesday, June 16, 2021, by Kristen Shelton.

I declare under the penalty of perjury that the foregoing is true and correct.

Pamela Feemster

01/26/2024
DATE

STATE OF Arkansas)
)
COUNTY OF Logan)

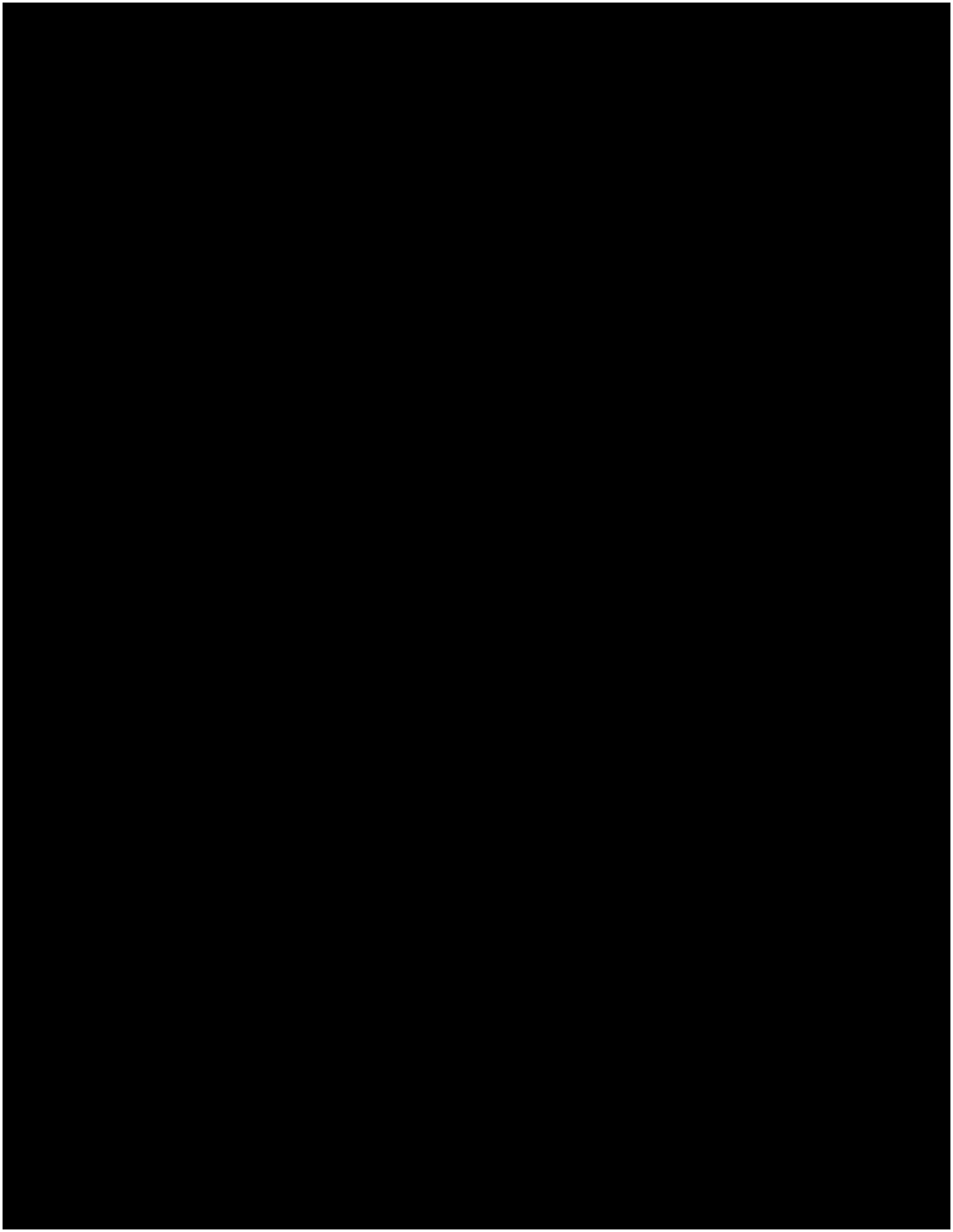
VERONICA ELLIOTT
Notary Public-Arkansas
Franklin County
My Commission Expires 08-15-2027
Commission # 12362100

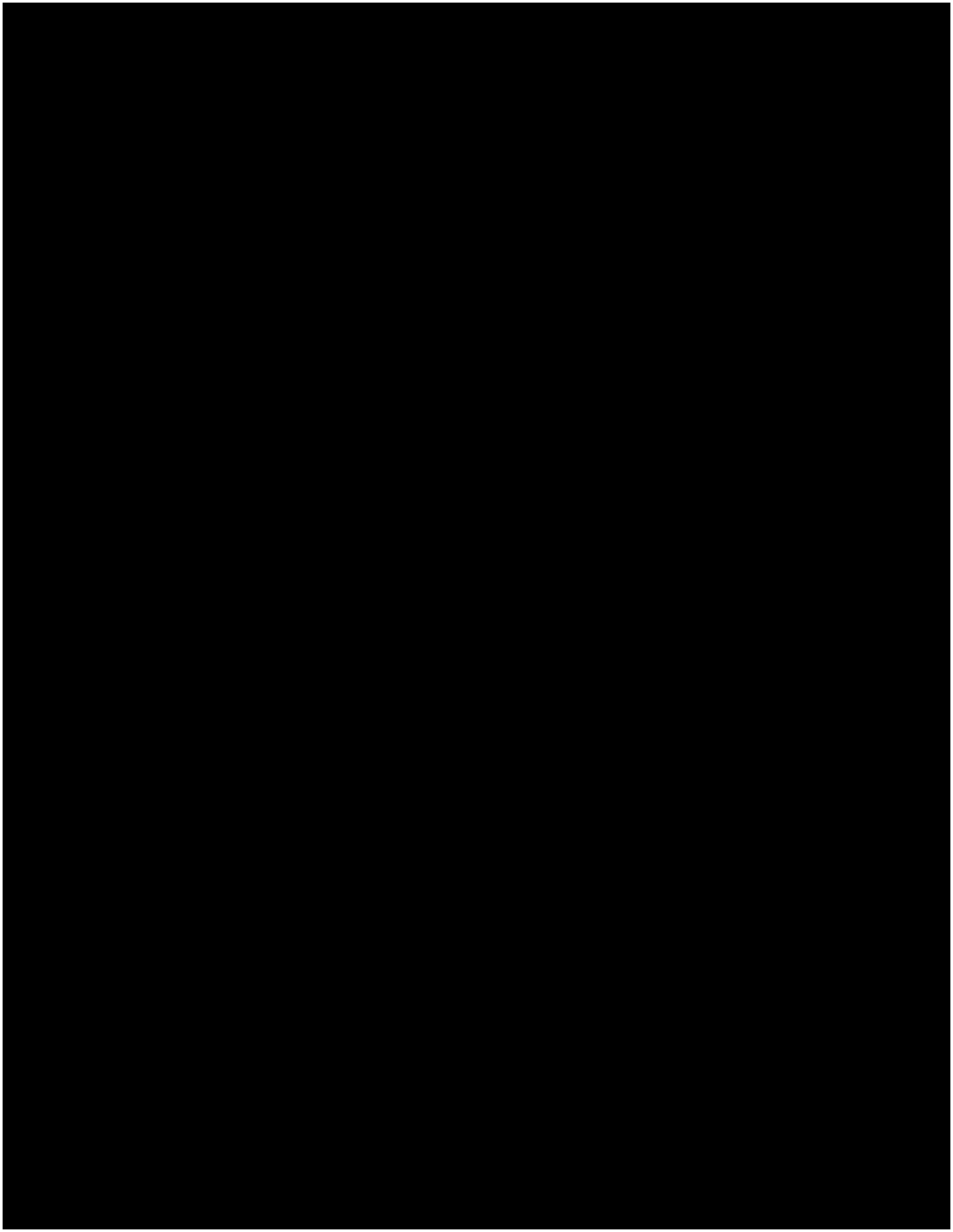
Subscribed and sworn to me, a Notary Public, on this 26 day of January, 2024.

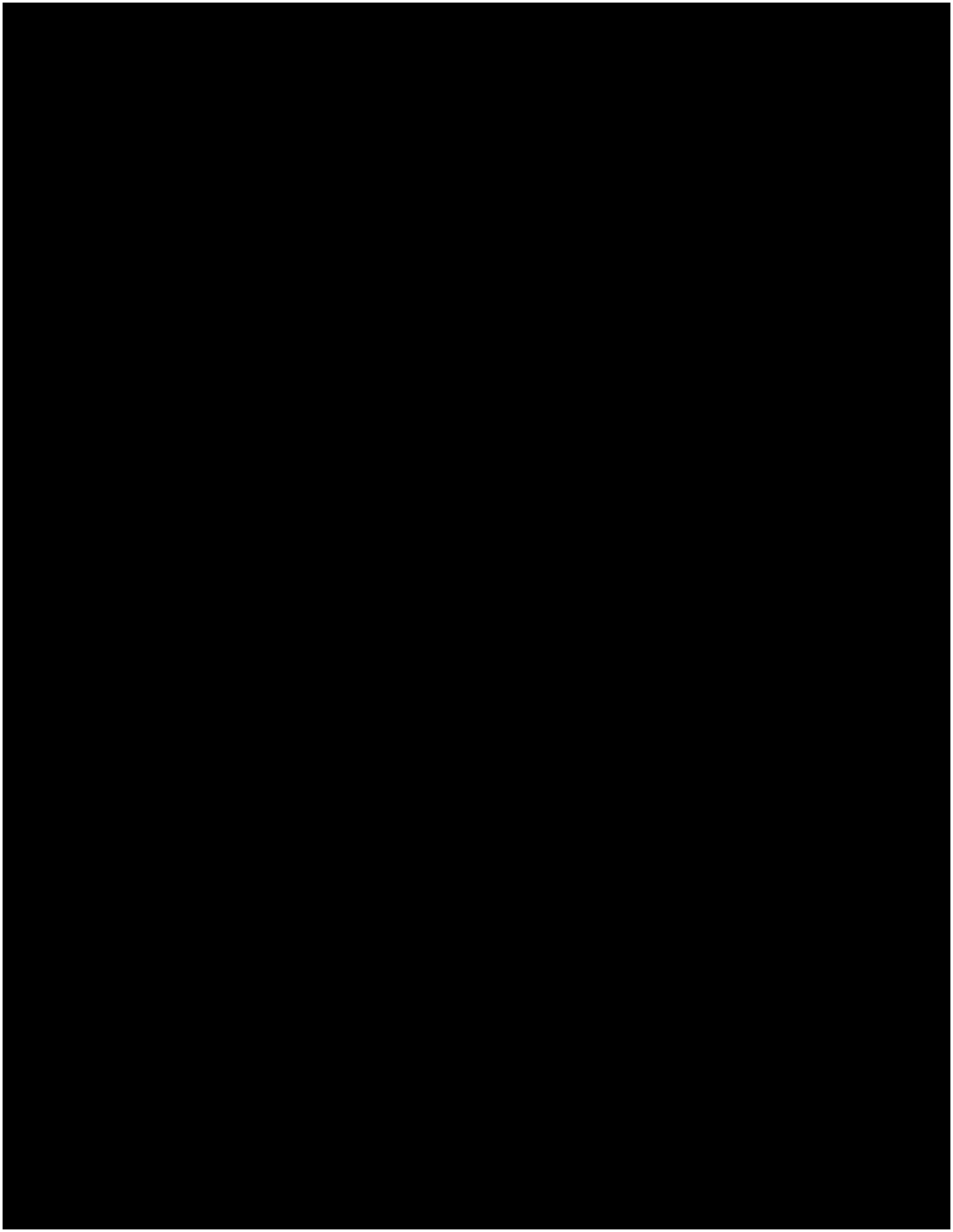
Veronica Elliott
Notary Public

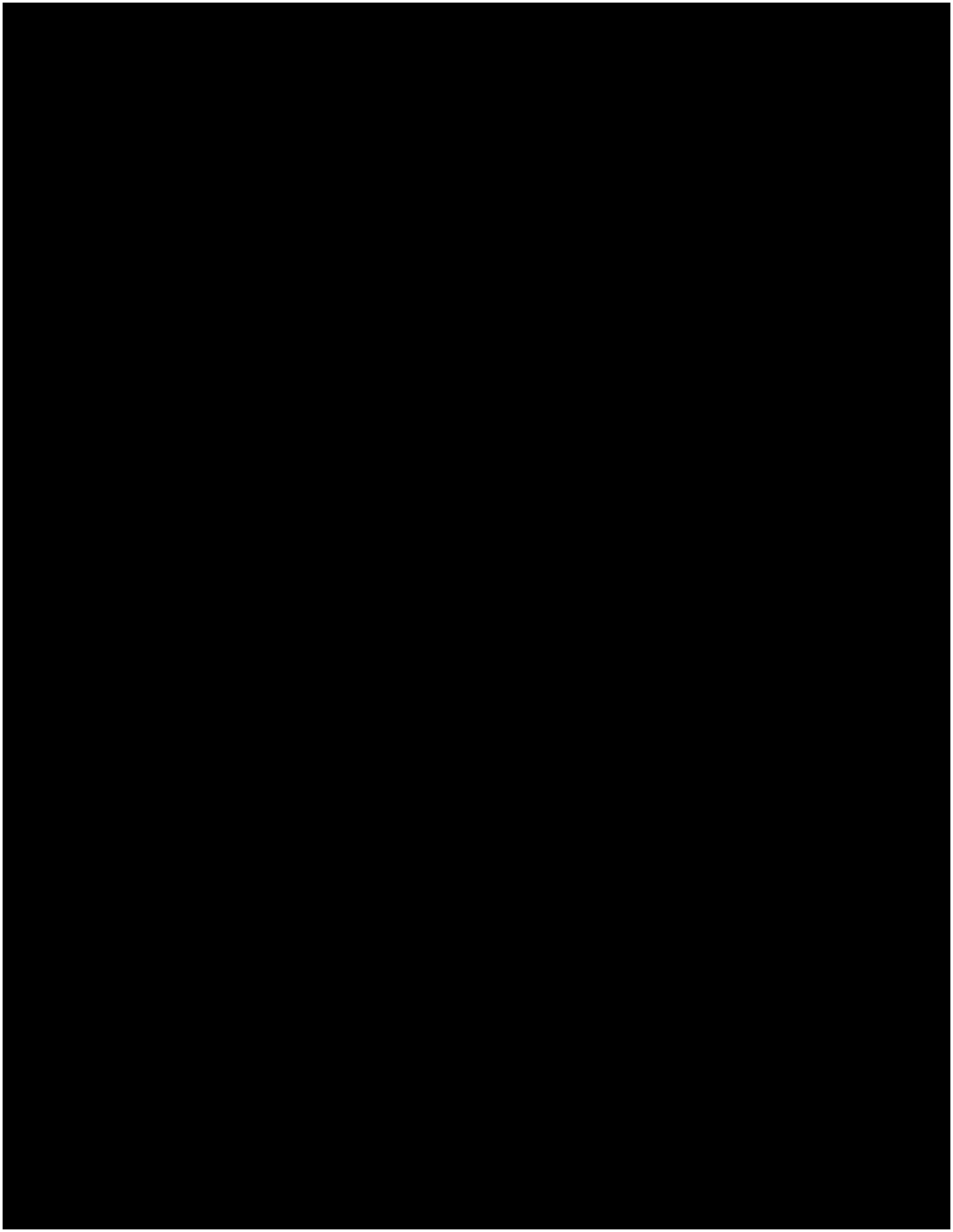
My Commission Expires:
8-15-2027

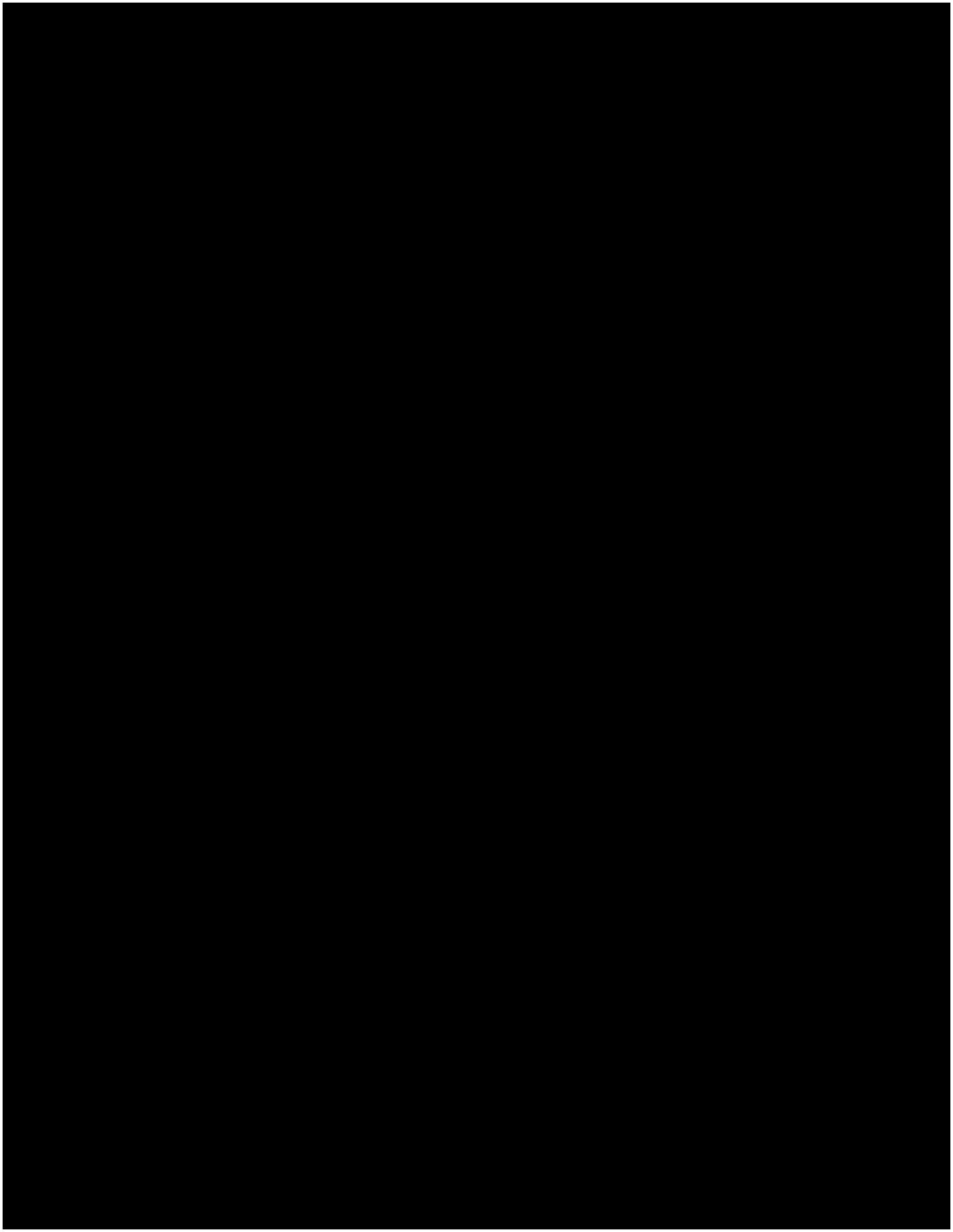
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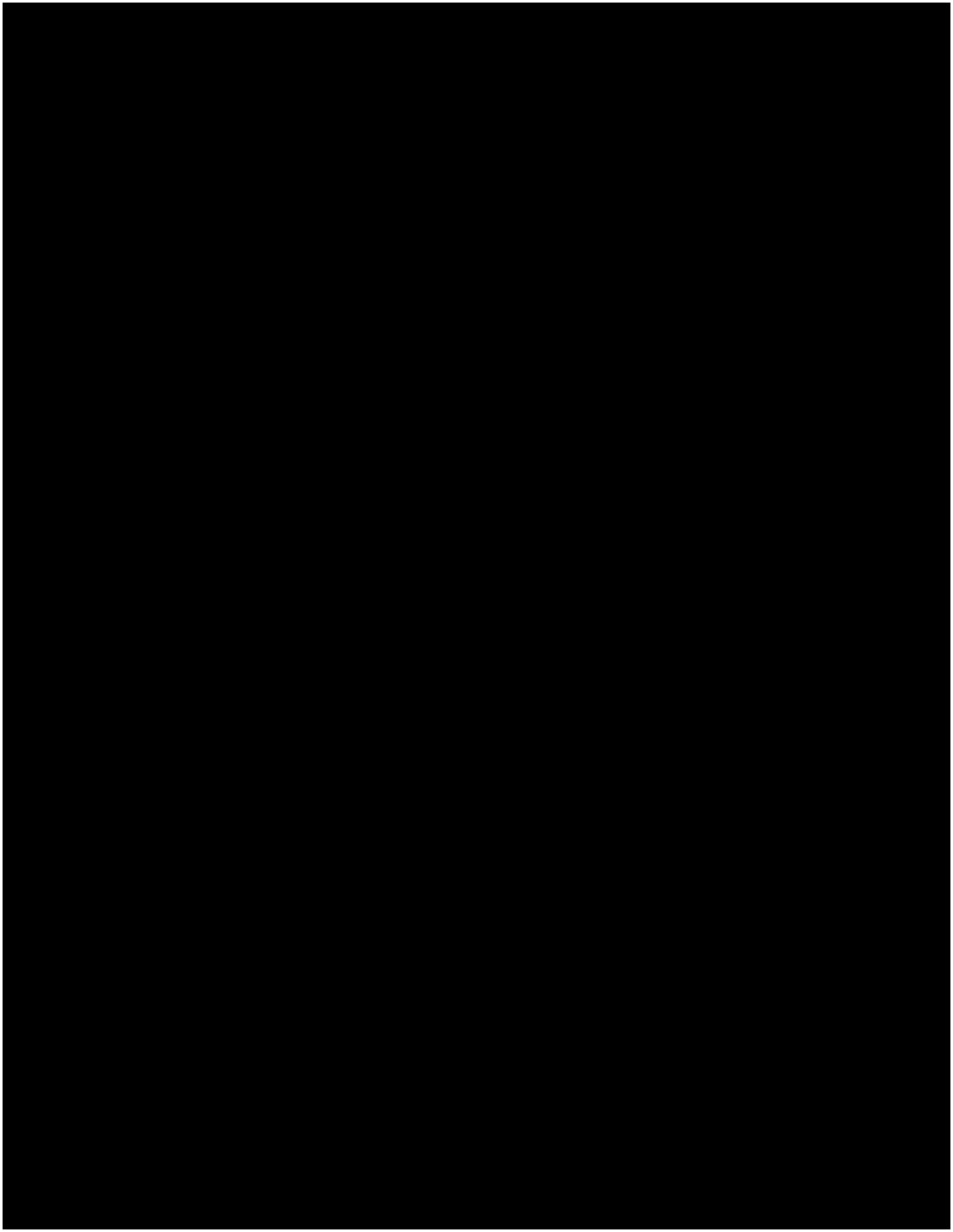


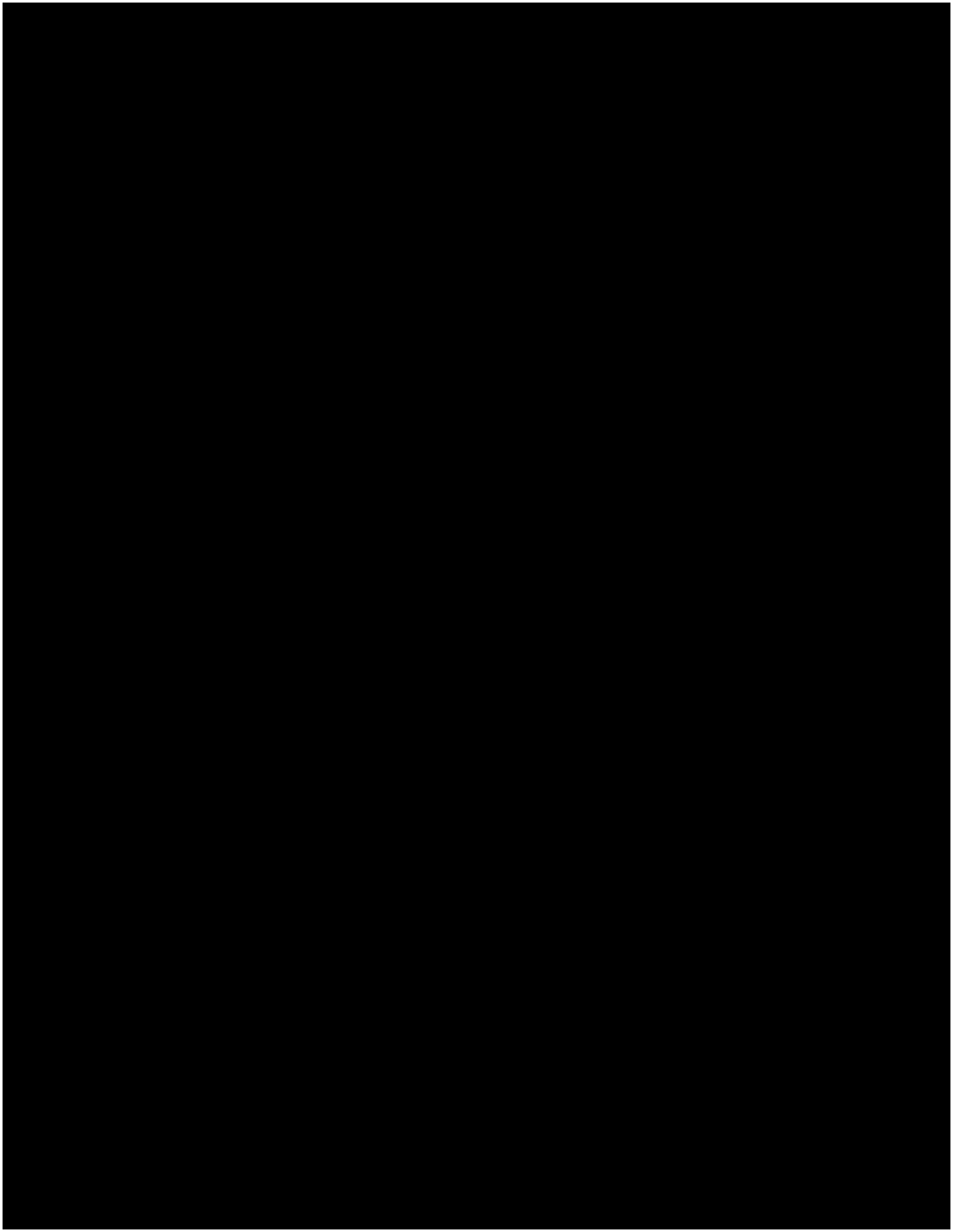


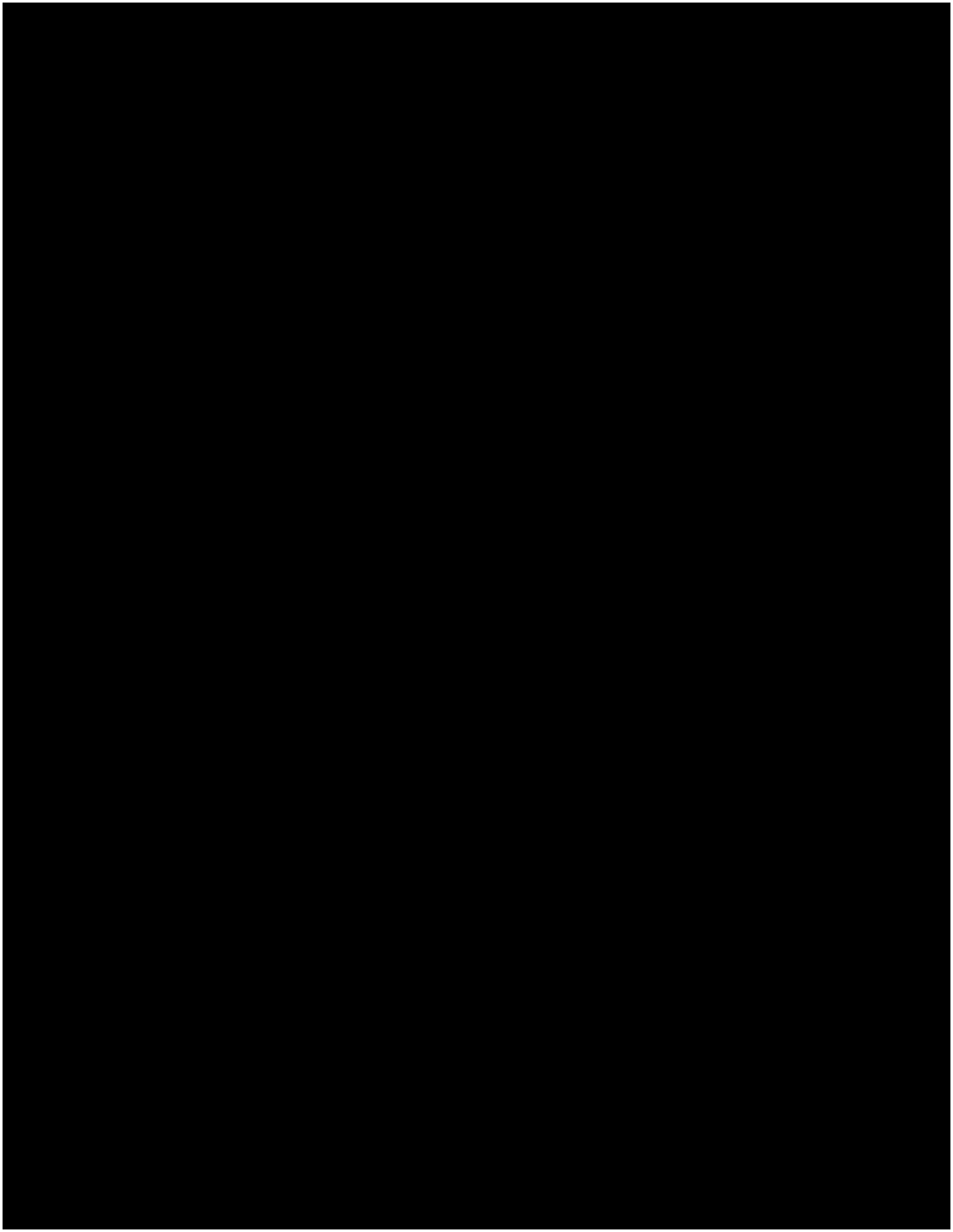


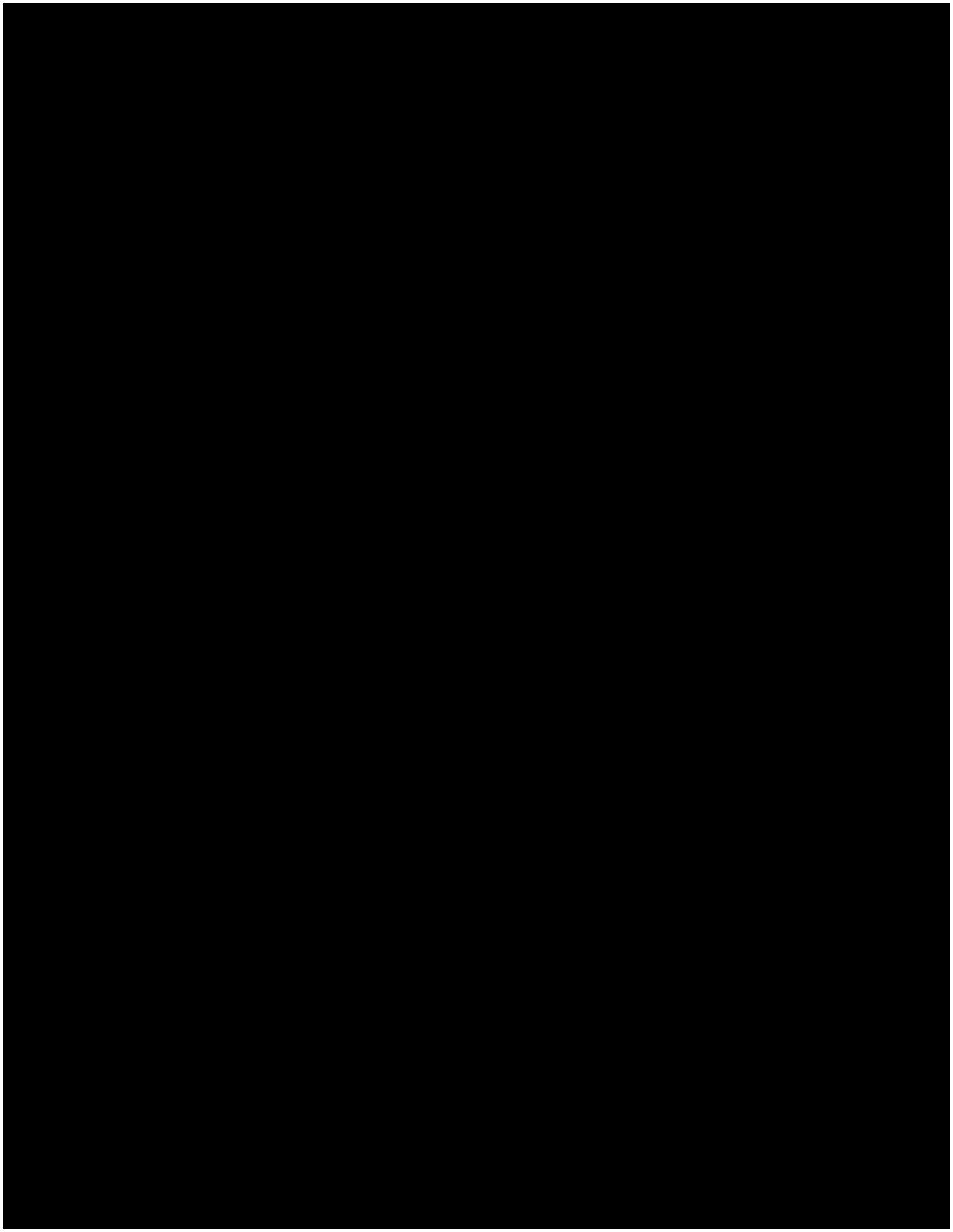


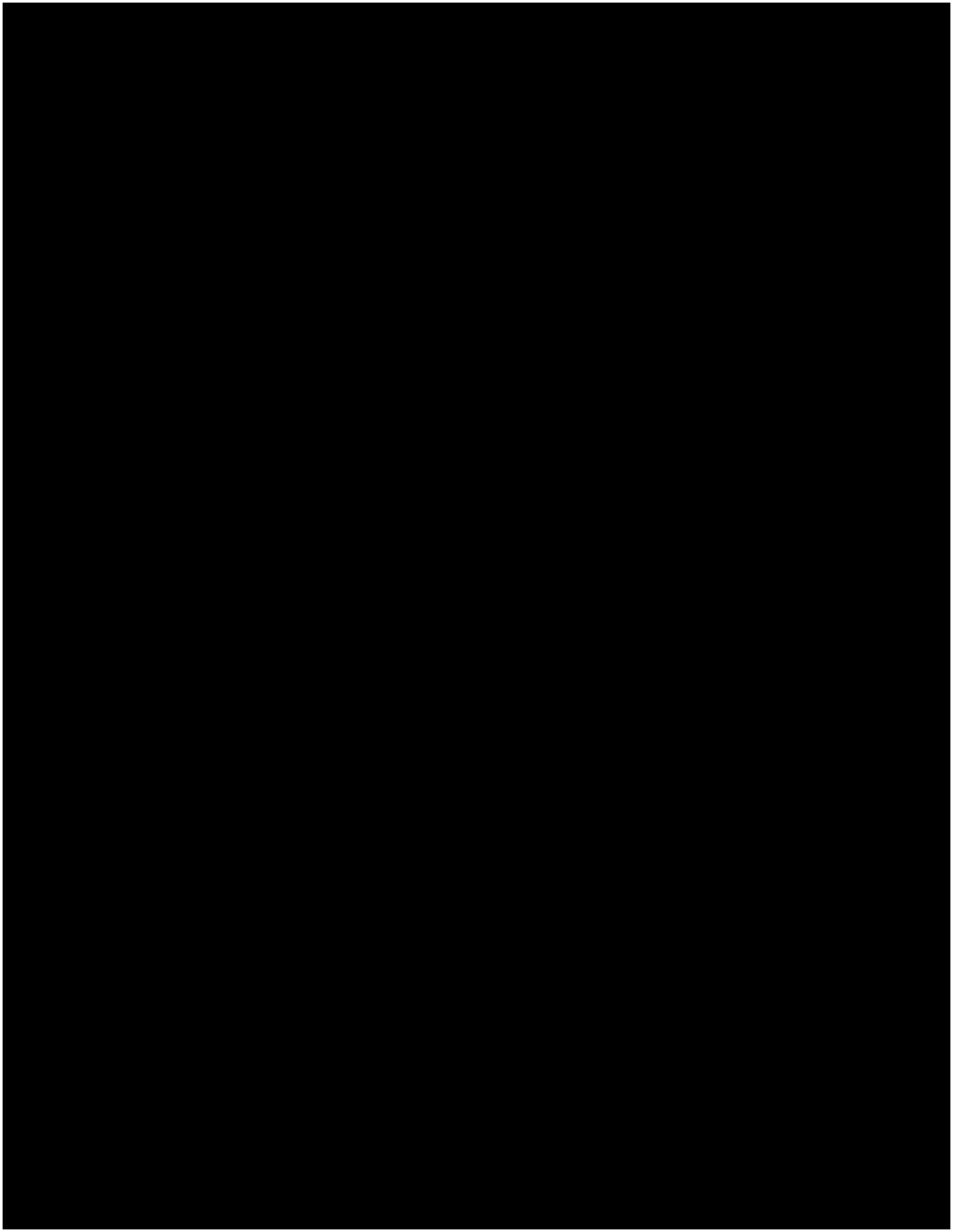


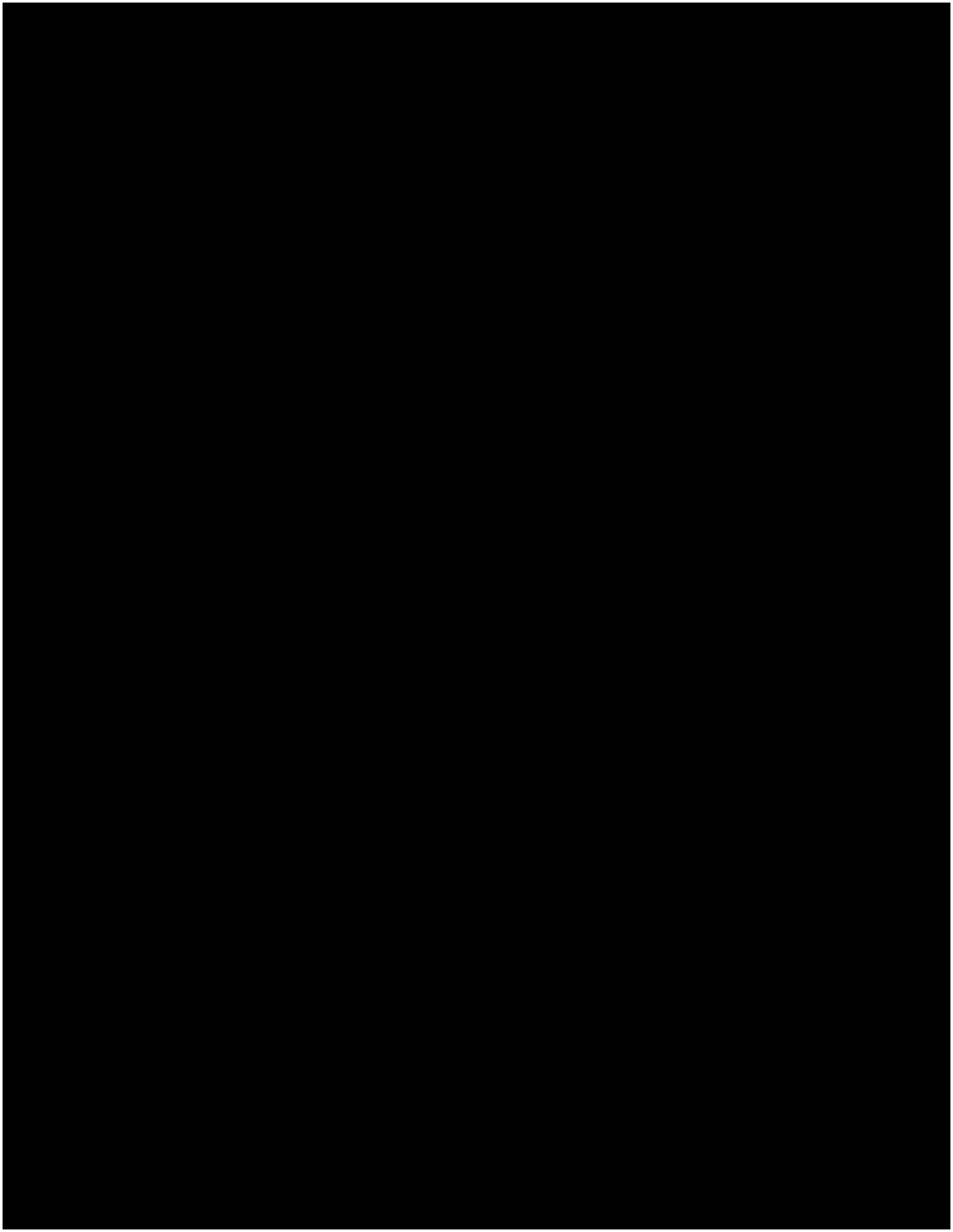


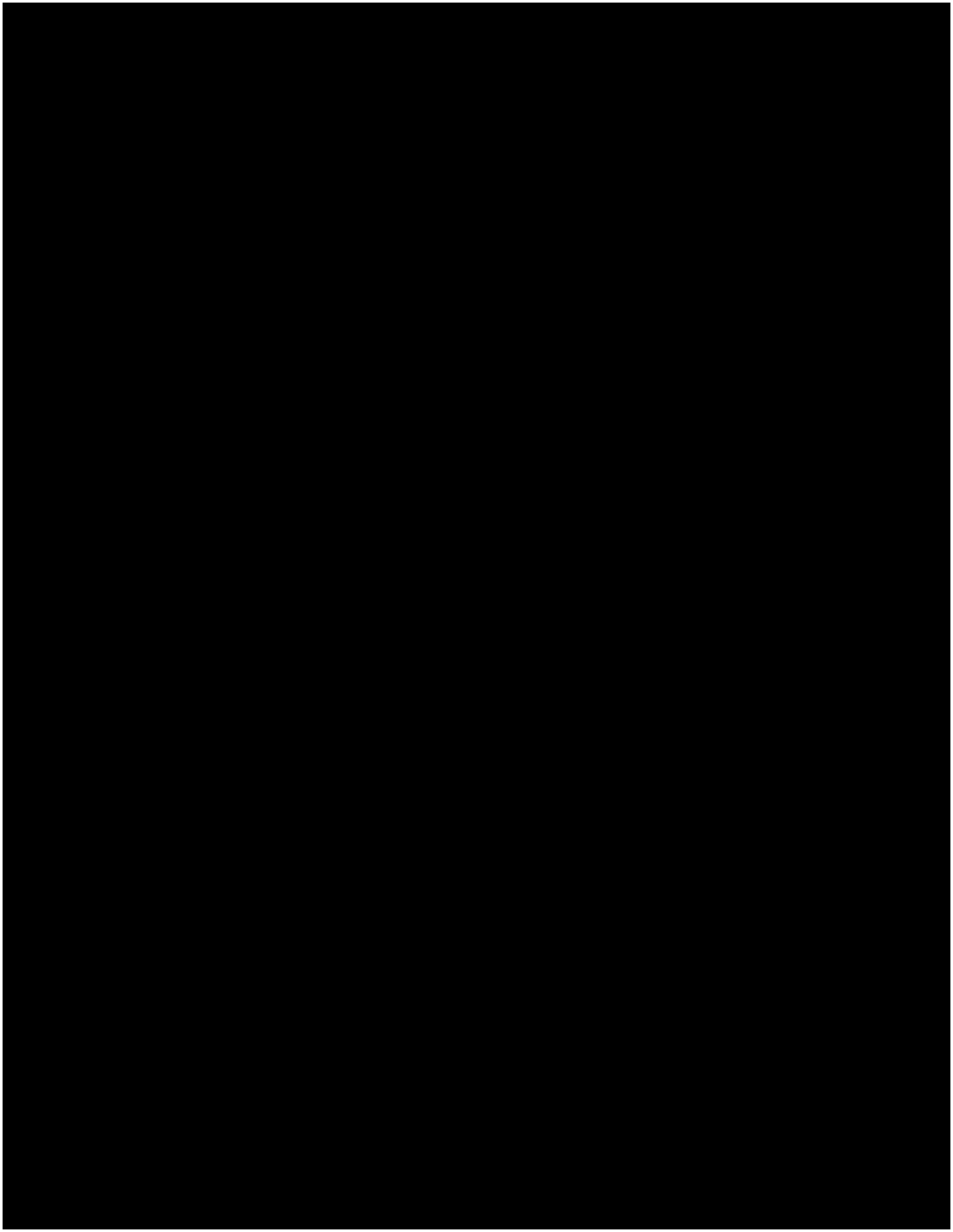


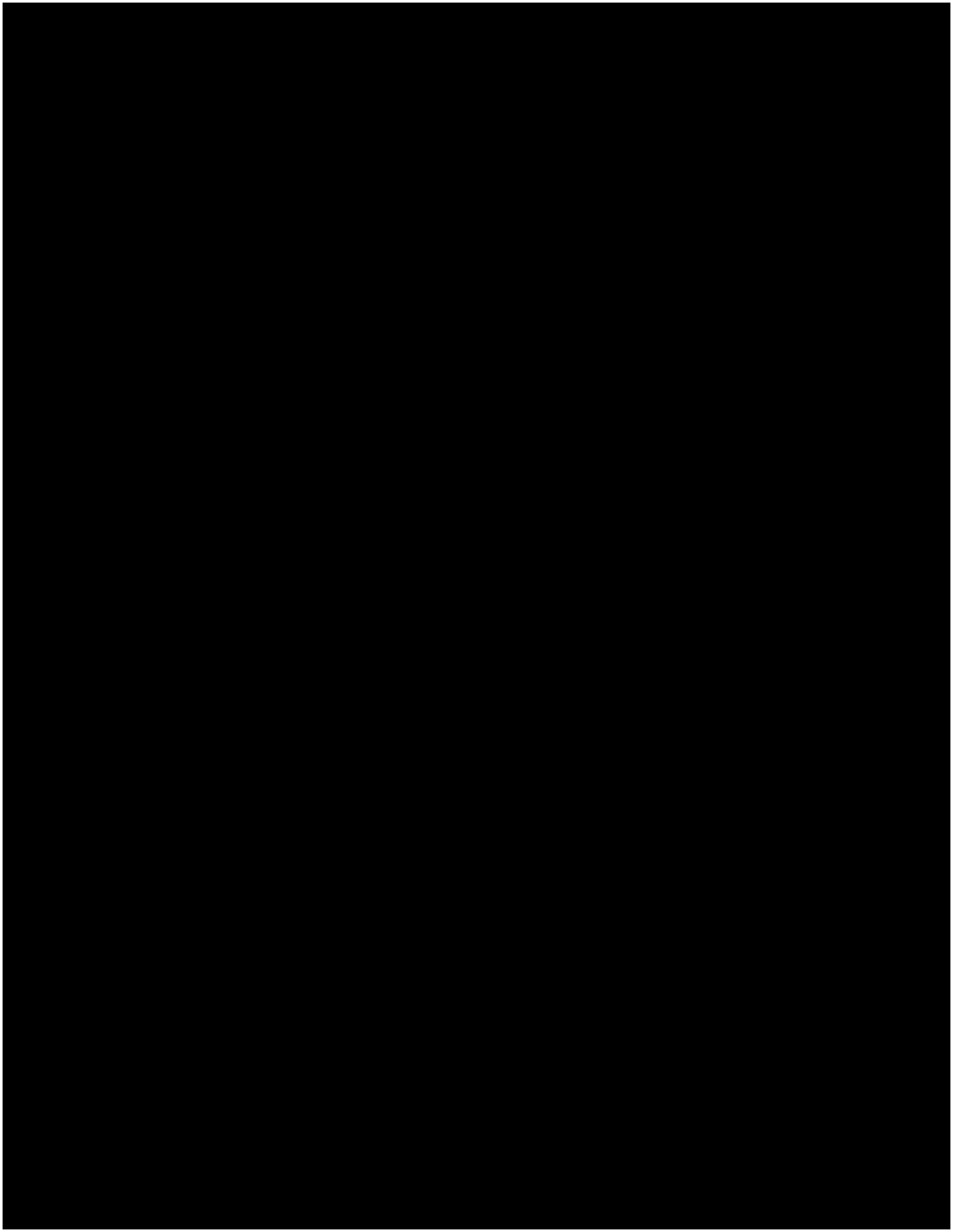


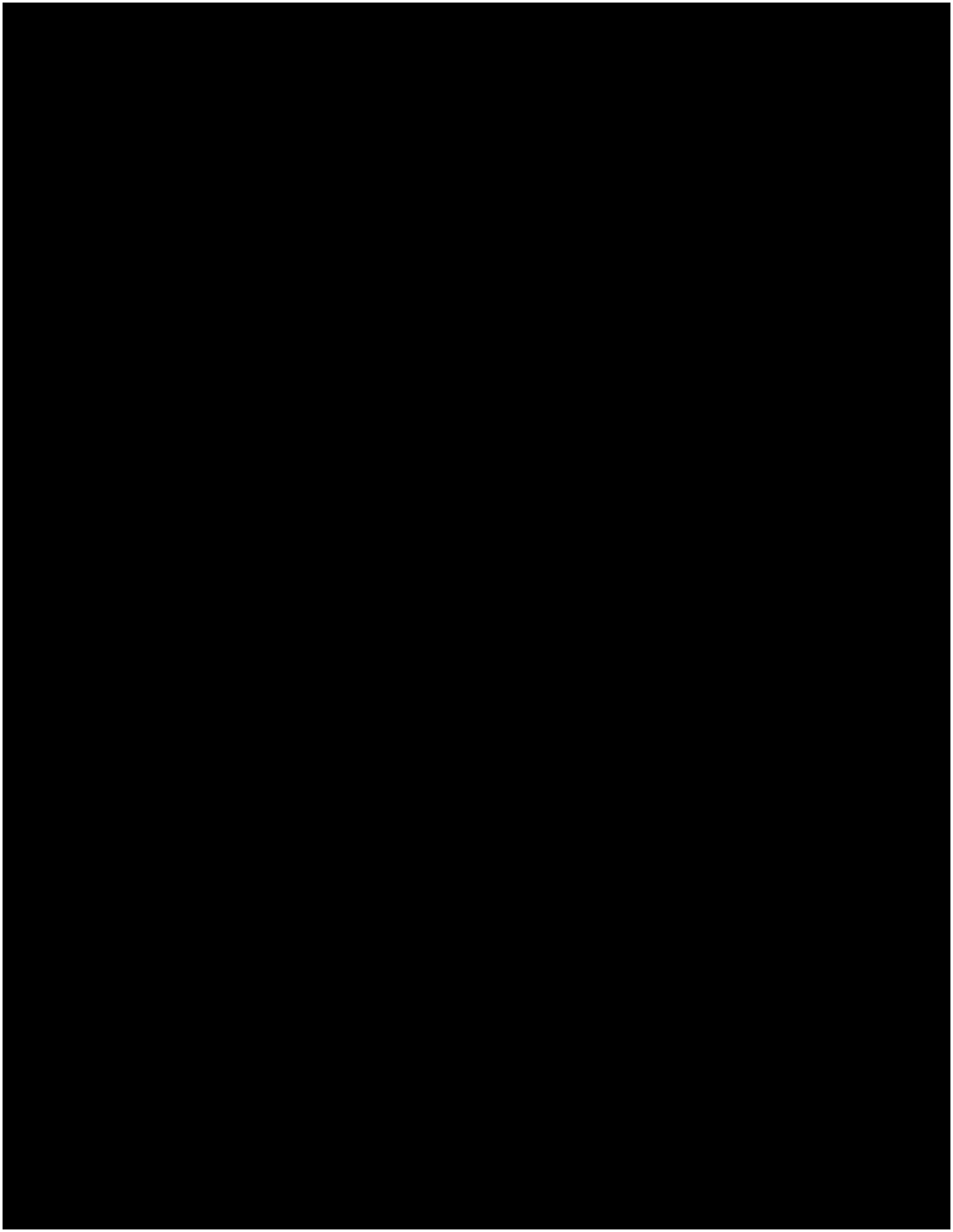


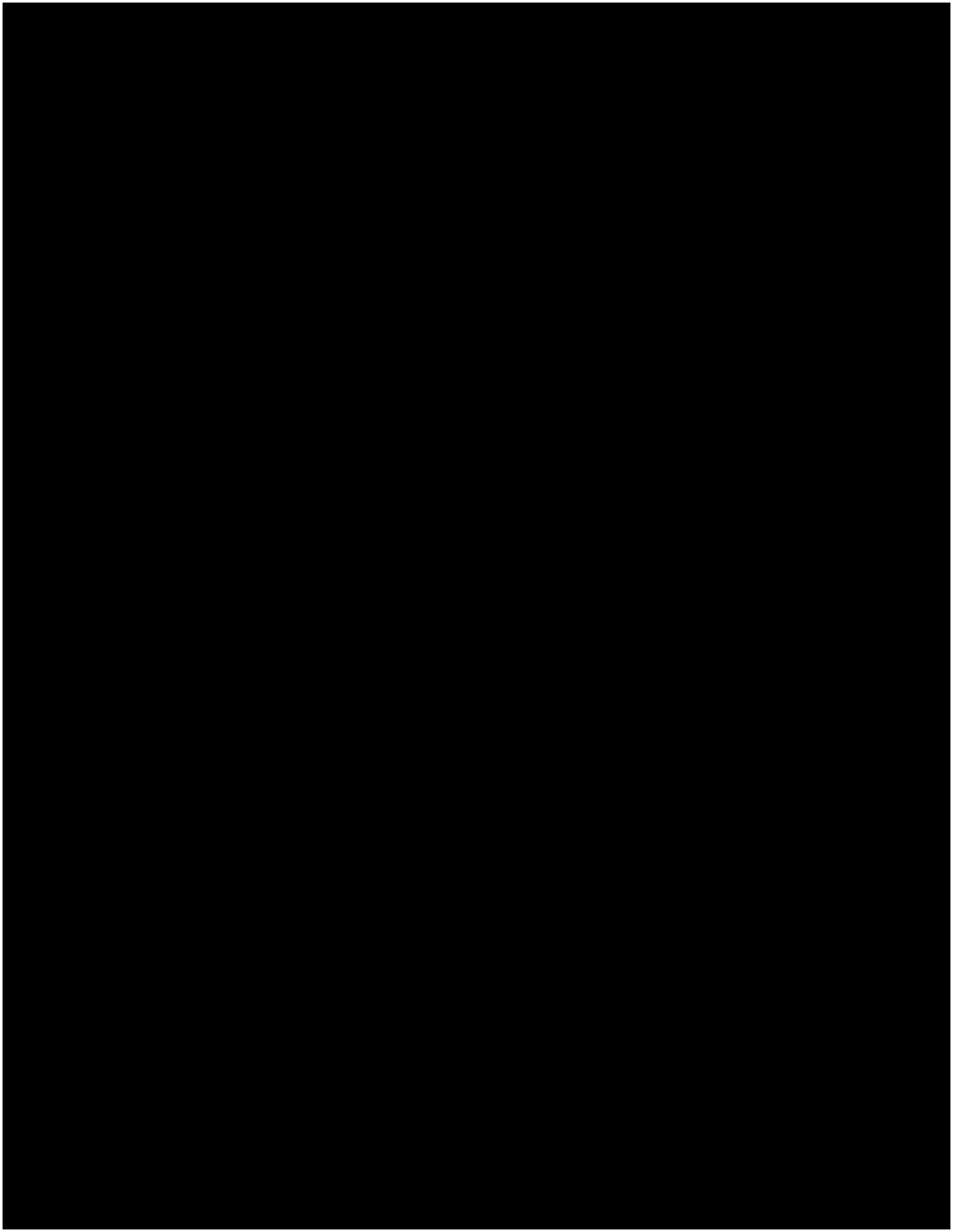


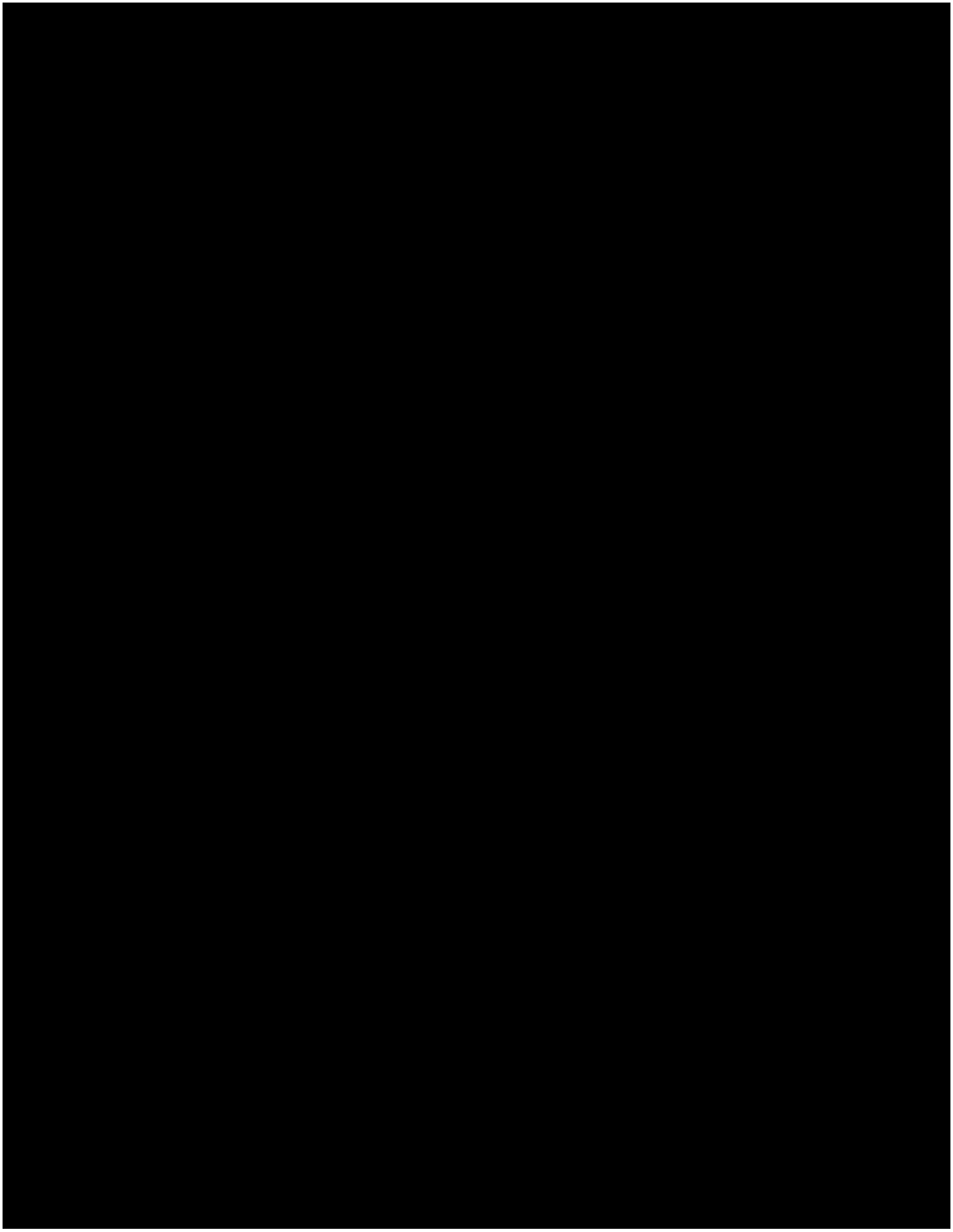


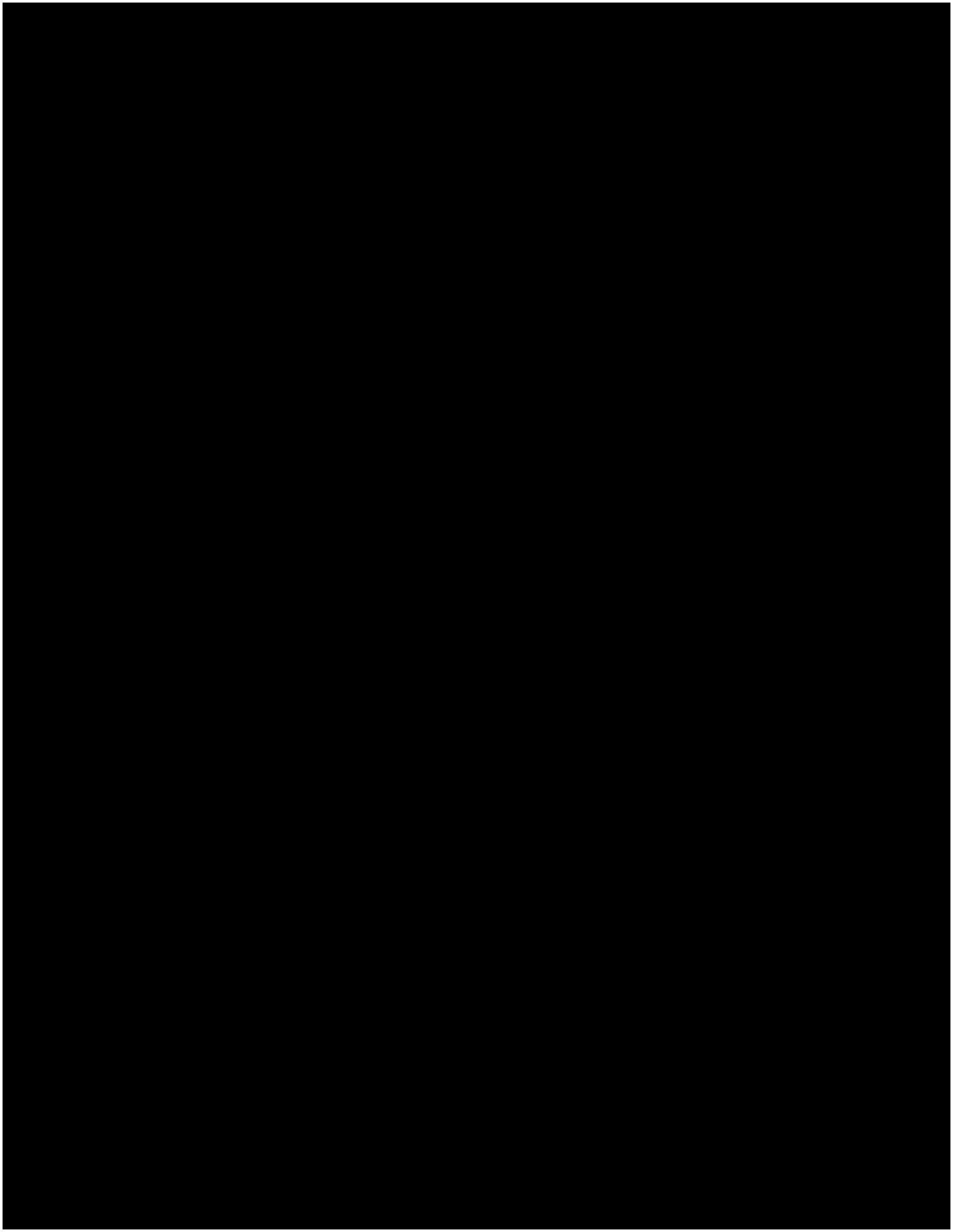


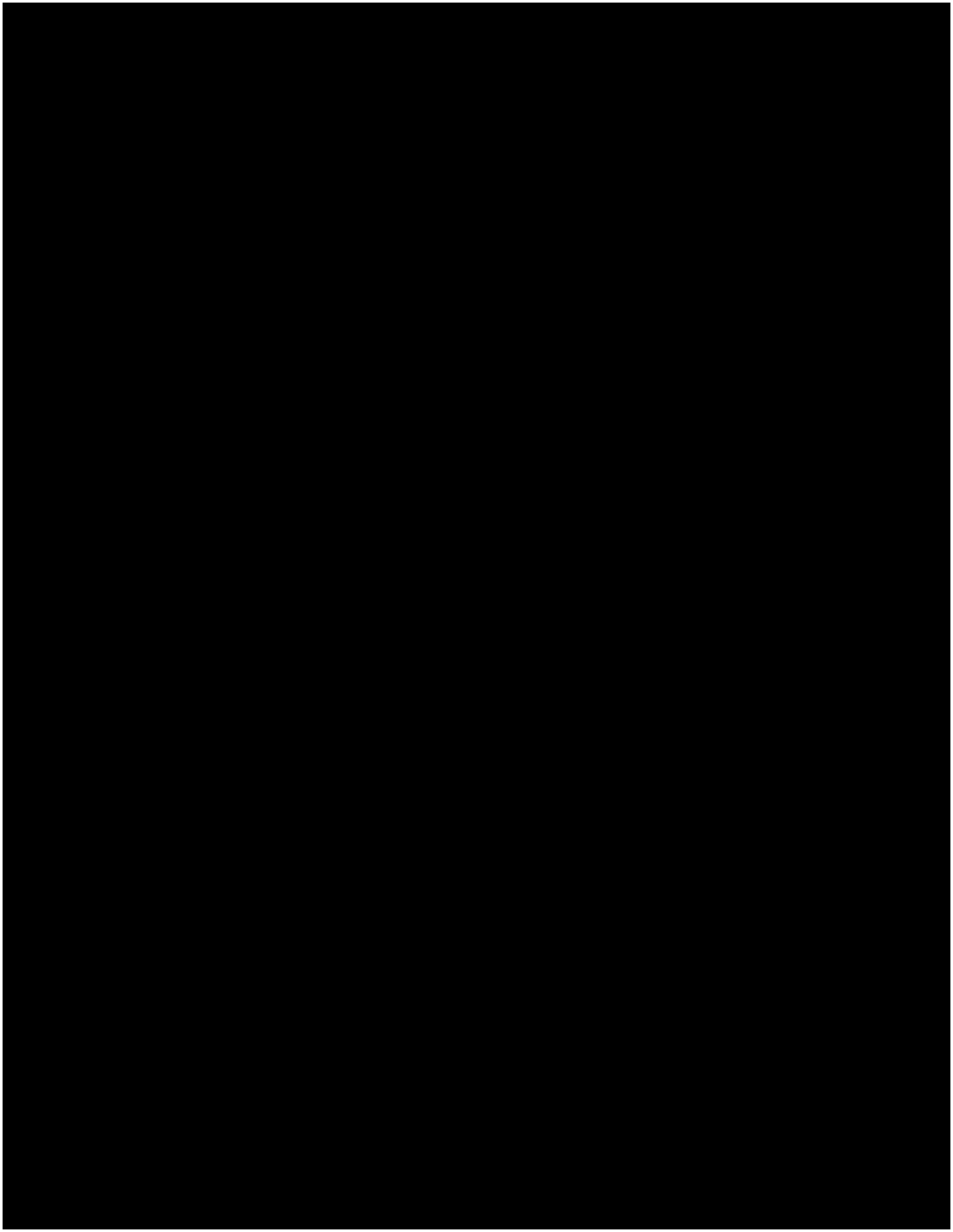


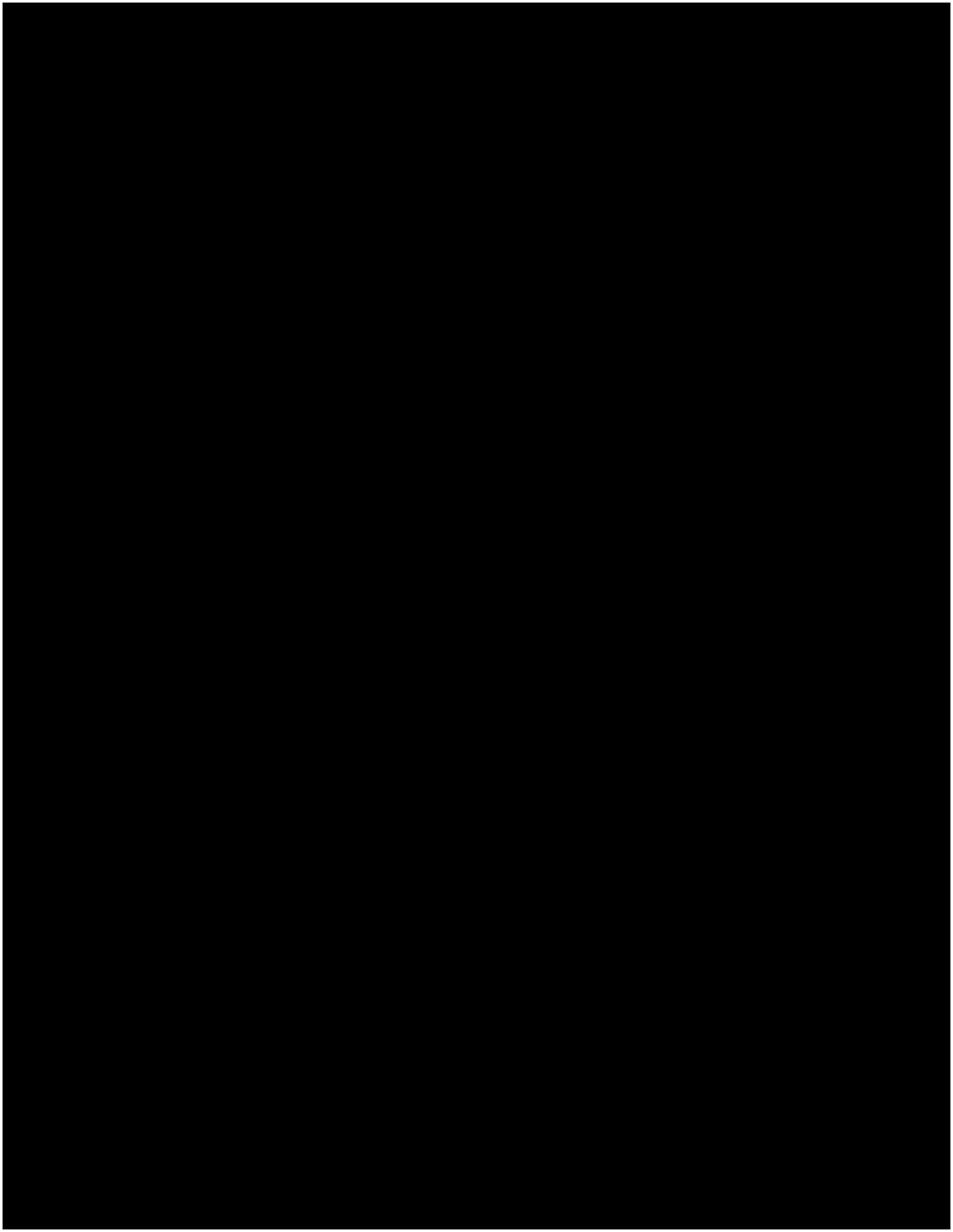


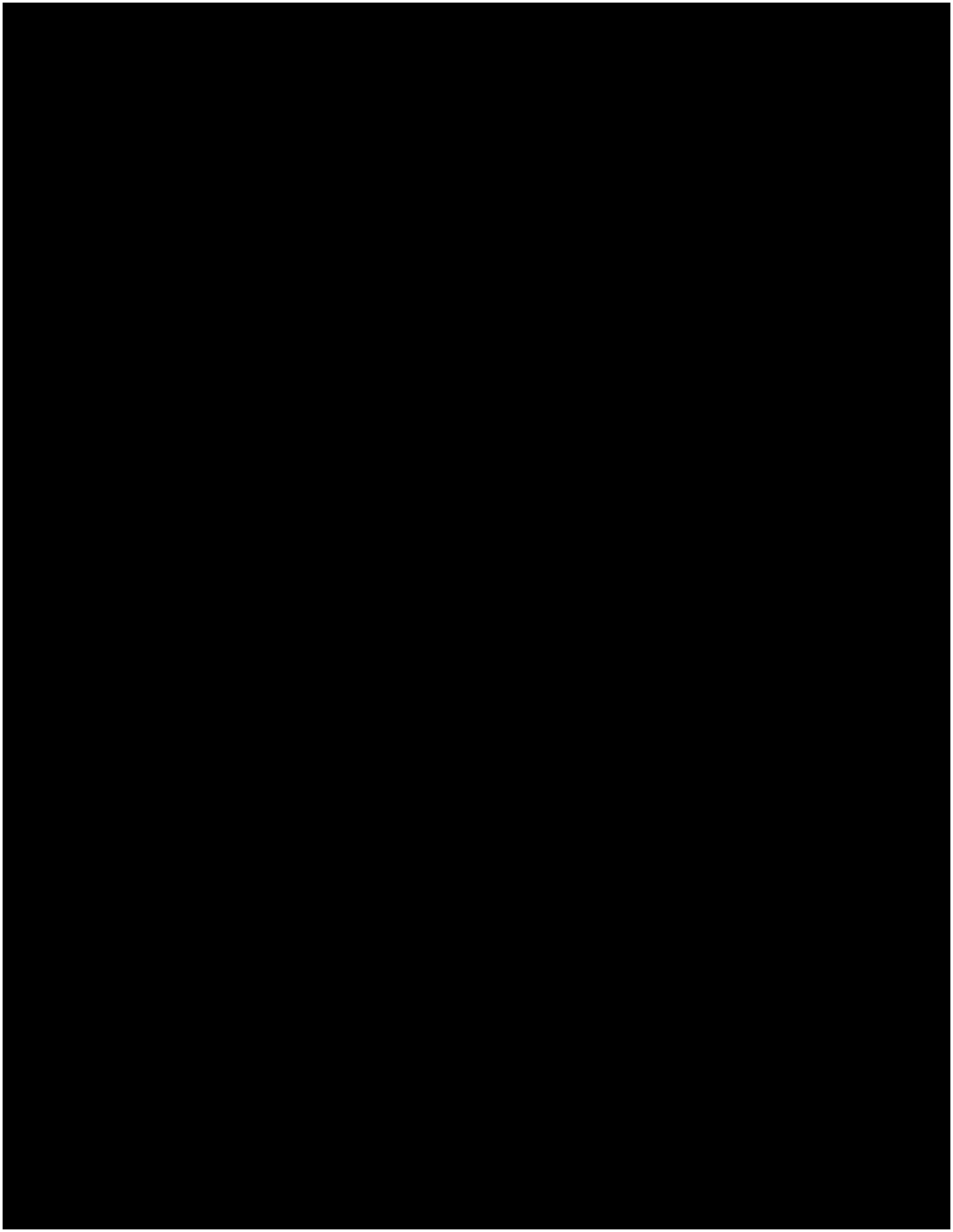


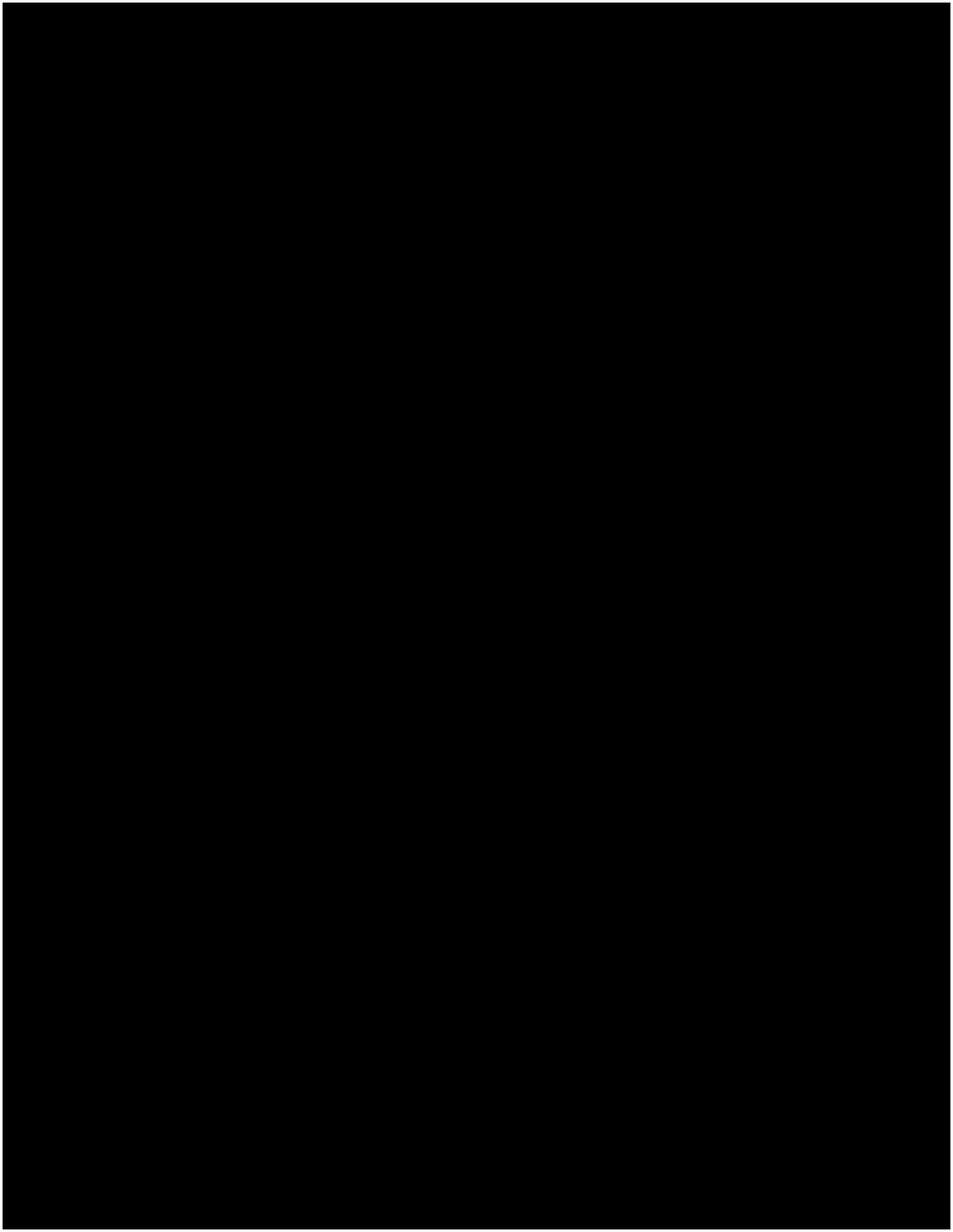


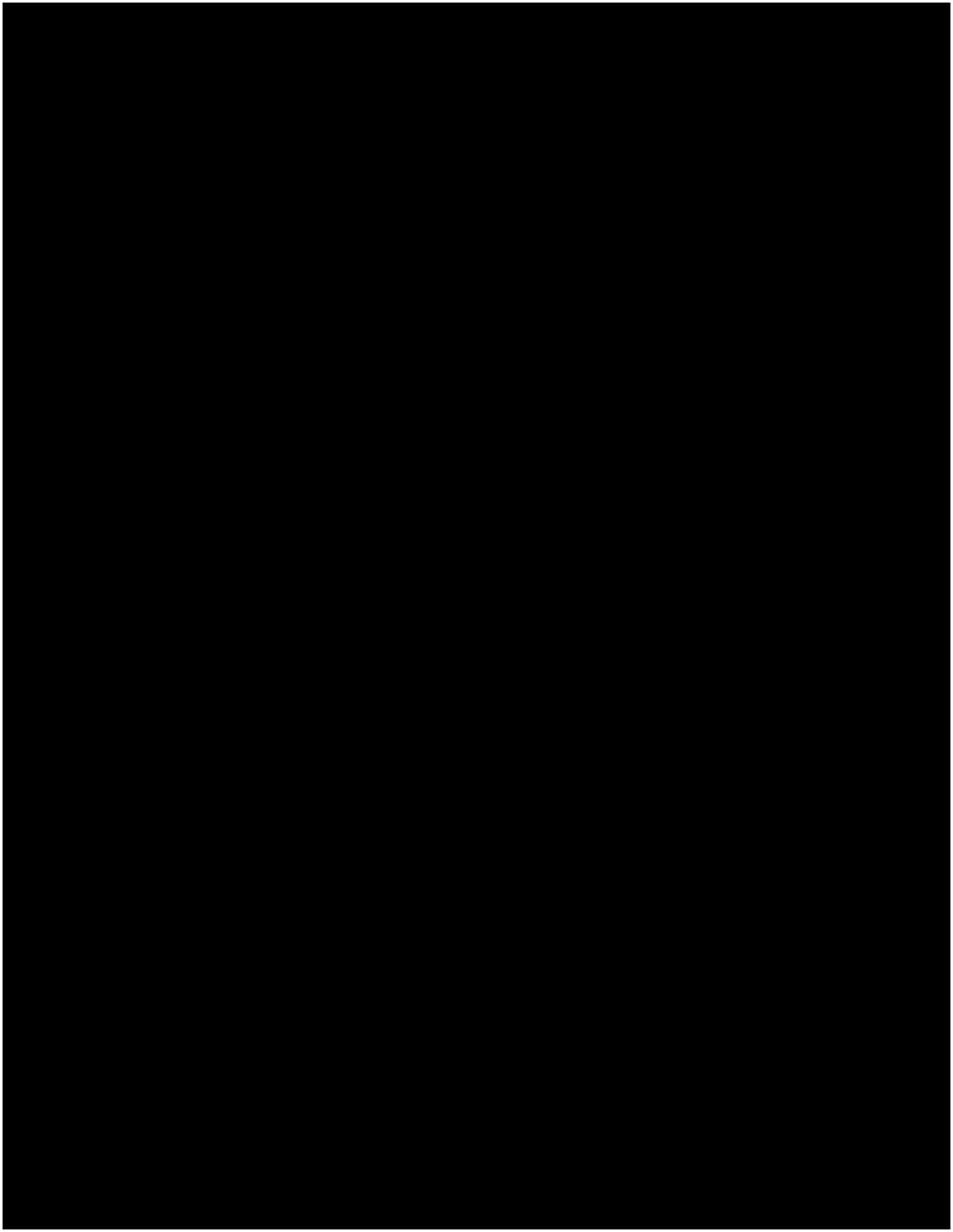


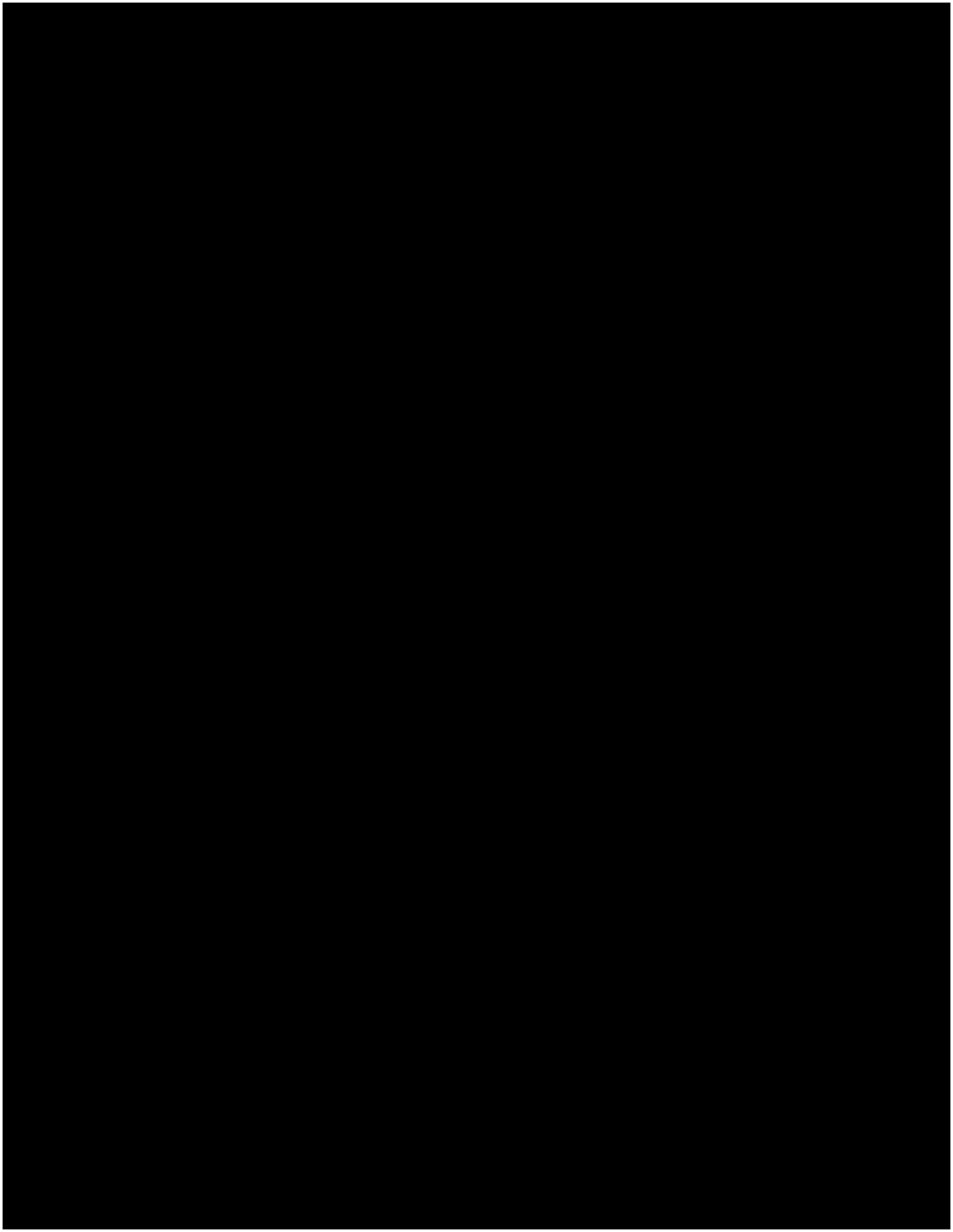


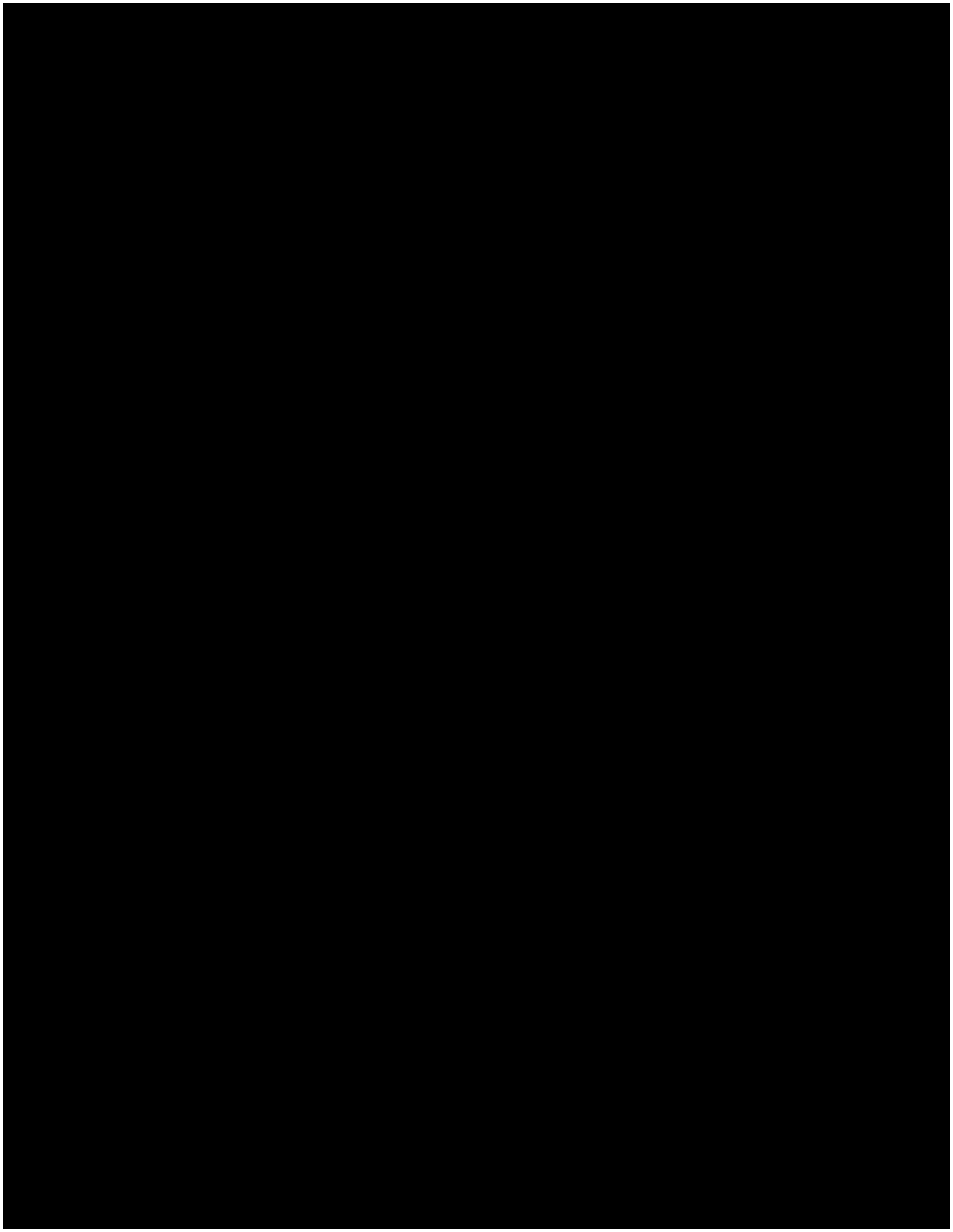












ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN,

CLAIMANT,

VS.

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES,

RESPONDENT.

CC NO. 230641

ORAL AND VIDEOTAPED DEPOSITION OF

KRISTEN SHELTON

May 16, 2023

ORAL AND VIDEOTAPED DEPOSITION OF KRISTEN SHELTON, produced as a witness at the instance of the CLAIMANT, and duly sworn, was taken in the above-styled and numbered cause on the 16th day of May, 2023, from 1:02 p.m. to 1:55 p.m., before Dana Hayden, CCR in and for the State of Arkansas, RMR, CRR, CRC, reported by machine shorthand, at the Arkansas Department of Human Services, 900 South Rogers Avenue, Clarksville, Arkansas, pursuant to the Arkansas Rules of Civil Procedure.

A. Correct. As the supervisor, there would have been staff below me that would have responded to emergency situations.
Q. Explain to me what -- your understanding of what Jennifer Wilkerson's job was on -- what was she hired as on June 11th?
A. She was hired as a program assistant.
Q. If I see the phrase "PA" in messages, is that what pro- -- is that what "PA" stands for?
A. Yes.
Q. And then what does a program assistant stand for -- I mean, what does a program assistant do?
A. They assist the family service workers in providing services to the families. So primarily supervising parent-child visits, transporting clients for services, et cetera.
Q. How long -- what's your understanding of how long Jennifer Wilkerson had been employed by DHS?
A. Ten days prior to the accident.
Q. What -- do you know what her background was to make her -- what would make her eligible to have that job?
A. The -- as far as the eligibility criteria, I don't recall what her specific background was.
Q. Okay. Thank you. That was going to be my

second question. What is the eligibility requirement?
A. The only eligibility requirement is a high school diploma. We prefer work experience, certain work experiences, but it's not an eligibility requirement.
Q. Okay. Are there anything that -- if a person has been arrested for a felony, does that make them ineligible to be a program assistant?
A. A person would have to be convicted of a crime before we would know about it.
Q. How did you find out that there had been a wreck on June 11th with the DHS employee involved?
A. The Logan County supervisor contacted me.
Q. Who is the Logan County supervisor?
A. Pamela Feemster.
Q. At that time, would Ms. Feemster have been working in Paris?
A. Yes.
Q. Okay. How did she first contact you?
A. I don't recall.
Q. Do you recall the nature of what Ms. Feemster told you had happened?
A. That one of her employees had been involved in an auto accident in the state car.
Q. Do you recall anything else she told you at that

initial call?
A. I don't.
Q. And you don't recall if it was by phone or text or --
A. I don't.
Q. Okay. What -- when you got that information, what did you do?
A. I honestly don't remember what I did on that day, or if I did anything on that day specifically.
Q. And my understanding is that this accident occurred on a Friday? Does that sound correct to you?
A. I don't know for sure.
Q. What -- based on your experience, what would be your operating procedure for you to tell the Logan County supervisor when you got that information?
A. I would ask if our worker was okay, if they were seeking medical treatment. I mean, that's what I would normally do.
Q. Okay. Do you re- -- what's the next information you recall receiving about this accident?
A. I honestly don't recall. It's been almost two years, so...
Q. Do you recall doing an investigation about Ms. Wilkerson and what happened and doing any interaction with Ms. Wilkerson?

A. I did an internal fact-finding to determine if she had violated any of the behavior expectations that we have.
Q. And describe -- describe for me what that internal fact-finding, what that process is, please.
A. It's a process where we determine if any of the behavior expectations have been violated by reaching out to the person involved and any other people that might have information to gather what information we could to determine if there needed to be any discipline action.
Q. Do you recall who all you obtained information from about this?
A. I believe I obtained information from -- I know Ms. Wilkerson, Ms. Feemster, Pamela Feemster, Brandy Ezell. Those are the only ones I remember off the top of my head that I talked to.
Q. Did you ever talk to the -- anybody with the Arkansas State Police?
A. I did not.
Q. Okay. Who is Brandy Ezell?
A. She's a family service worker in Logan County.
Q. Is she still in Logan County?
A. Yes.
Q. And would Jennifer Wilkerson have been directly

under Brandy Ezell?
A. No. She was directly under Pamela Feemster.
Q. Okay. In way of seniority, who has seniority between Pamela Feemster and Brandy Ezell?
A. Pam.
Q. Okay.
A. Both Jennifer and Brandy worked for Pam.
Q. Okay. Thank you. Who is Staci Miller?
A. She was our HR, our human resource manager, in central office at the time.
Q. Okay.
MR. GASPER: What was the name again, Jim?
MR. JACKSON: Staci Miller.
MR. GASPER: Okay.
Q. So she is the HR liaison out of the Little Rock?
A. She was our manager, our HR manager.
Q. Manager?
A. She was. She's no longer with us.
Q. Who is -- and I'm going to -- I've got some employee -- some names on here I just want to go over with you that I got from these emails. Who is Miranda Raines?
A. She is also part of our executive staff in Little Rock, and I can't tell you what her exact title

is.
Q. Okay. But she's in the Little Rock --
A. Yes.
Q. -- office?
Tiffany Wright?
A. Tiffany Wright was, at the time, my supervisor's supervisor. She was our assistant director over field operations for the Division of Children and Family Services.
Q. Would she also be in the central office?
A. Yes, sir.
Q. Sara Snead?
A. There -- I don't know who Sara Snead is.
Q. Okay.
A. There is no Sara Snead.
Q. There may be one; you just don't know who it is?
A. Okay.
MR. GASPER: She's with HR, central office.
MR. JACKSON: That's fine.
A. I don't know who that is.
Q. That's fine. That's a perfectly good answer.
You don't know Trooper James Ray?
A. No.
Q. Okay.

A. No.
Q. Do you know who Scott Lindstrom is?
A. No.
Q. Do you know of anyone else that would have been part of the fact-finding that you did?
A. I discussed it with my direct supervisor. Sarah Sharum was our area director -- or is our area director.
Q. How do you spell Sarah's last name?
A. S-h-a-r-u-m.
MR. GASPER: That's an M, correct?
THE WITNESS: M.
MR. GASPER: M, as in "mom"?
A. Sharum.
Q. And where does Ms. Sharum work?
A. Sebastian County office, Fort Smith.
Q. It appears to me from the documents that you ended up terminating Ms. Wilkerson from employment at DHS on Wednesday, June 16th, 2021. Does that sound correct?
A. Yes.
Q. Okay.
A. I don't know the exact date but, yes, I did terminate her employment.
Q. Have you -- I'm going to hand you what we'll

mark as Exhibit 1.

MR. GASPER: Is this a copy of it?

MR. JACKSON: Yes.

MR. GASPER: I don't object.

Q. If you could --

MR. GASPER: I have no objection.

(Exhibit 1 marked for identification.)

MR. JACKSON: Let me make sure I got that -- yeah.

Q. Have you seen that document, or those documents that are part of Exhibit 1?

A. I have seen some of these documents. I have not seen all of these documents.

Q. Can you take a look at those documents? I want to ask you some questions about them and your involvement with those documents.

MR. GASPER: Do you have any specific ones you're asking about, or do we need to take some time for her to look over them?

MR. JACKSON: Yeah, let's just take a -- let's just go off the record for a moment.

THE VIDEOGRAPHER: The time is 1:19. We're now off the record.

(Recess from 1:20 p.m. to 1:22 p.m.)

THE VIDEOGRAPHER: The time is 1:22.

We're now on the record.
Q. Ms. Shelton, have you had a chance to look at what -- the documents attached as Exhibit 1 to your deposition?
A. Yes.
Q. I want to ask you: What are the requirements that the department has for an employee before they are able to drive a state-issued car?
A. I don't -- I mean, I don't know specifically what that is off the top of my head.
Q. Is there any --
A. I mean, they have to be an employee and they have to have passed our background checks and all of that, and they have to -- there is a vehicle policy that they have to sign. I mean, I don't -- I don't have that in front of me. That's not part of this documentation, so I don't know the specifics.
Q. Is there a vehicle policy that employees are expected to adhere to when they drive?
A. Yes.
Q. And are you familiar -- how familiar are you with that policy?
A. I have not read that policy in a long -- I've been employed a long time, so it's been a while since I've read that.

Q. And what is the gist of that policy?
A. I mean, I honestly can't get into the specifics about it. There are a couple of different pages that employees have to sign off on acknowledging that they understand it.
Q. What is your understanding about where Jennifer Wilkerson's, what the mission of her route on June 11th, '21 was?
A. My understanding is that she was going to travel from Paris to Beebe to pick up a foster child and transport that child back to Clarksville to meet another worker.
Q. And when you say "Clarksville," would the transfer to the other worker have occurred here at this office?
A. Yes.
Q. Okay.
A. Well, no, I don't know that it would have occurred at this office. It was set to occur in this town.
Q. Okay.
A. But I don't know where.
Q. Okay. Thank you for clarifying.
As part of your internal fact-finding, tell me what steps you took to investigate

Ms. Wilkerson's actions.
A. I notified her of the fact-finding and sent her a list of questions and then I also asked for statements from Ms. Feemster and Ms. Ezell that I know for sure.
Q. And the questions that you sent to Ms. Wilkerson are on an email dated June 16, 2021, at 10:47 a.m.; is that correct?
A. Yes.
Q. And whose handwriting is that?
A. Ms. Wilkerson's.
Q. And then it looks like you had a follow-up email right after that; is that -- with Ms. Wilkerson; is that correct?
A. Yes, I believe so.
Q. And did you ever -- do you recall having a telephone call with Ms. Wilkerson as part of the fact-finding?
A. I would not have had a telephone call with Ms. Wilkerson. We are specifically instructed to conduct our fact-findings in writing.
Q. You indicated you also obtained information from Randy Ezell?
A. Yes.
Q. And is that information contained in Exhibit 1?

A. Yes.
Q. And where is the -- and it looks like that would have been the email sent to you from Brandy Ezell on June 16th of '21 at 2:03 p.m.?
A. Yes.
Q. Okay. And then the same question for Pamela Feemster. Was the information you received from her via email at 1:41 p.m.?
A. Yes.
Q. Okay. And the same would be true with getting information from Ms. Ezell and Ms. Feemster: Everything you would get from them would be in writing?
A. Everything that I used during the fact-finding is in writing.
Q. Okay.
A. I'm not saying I didn't have a phone conversation with Ms. Feemster. She was directly under me. I was her direct supervisor. But all of the information that I used for the fact-finding is in writing.
Q. Gotcha. That makes sense.
Do you recall anything that Ms. Feemster may have told you that's outside of what's in the email about the accident?

A. I don't think so.
Q. So on Page 2 of the exhibit, there's an email from you to Tiffany Wright and some others -- oh, if you need to take that.
A. I'm sorry. No, it's -- I didn't think to silence my phone because I didn't bring it into the room, so I didn't think about my watch going off. I apologize.
Q. And we certainly understand if you have an emergency.
A. No, it's fine.
Q. Could you read your email that you sent to Tiffany Wright?
A. "New Logan County PA Jennifer Wilkerson just had an accident in a state car. We believe she was at fault but don't have all the details yet. She is being transported to the hospital but was alert. She did not have any clients in the car with her. The car is totaled.

"Allegedly she crossed the centerline and clipped a mobile home that was being transported, then she rear-ended the car in front of her. Her supervisor went to the scene and said her boyfriend came to the scene as well, and he appeared to be under the influence. He is a past client. We are asking

state police if their investigation will involve a toxicology report; if not, is there a way we can drug-screen her."

Q. And where would you have obtained that information about the accident?

A. Probably by phone from Ms. Feemster.

Q. Okay. And the supervisor that went to the scene, do you know if that would have been Ms. Ezell or Ms. Feemster?

A. Ms. Ezell's not a supervisor.

Q. Okay.

A. Ms. Feemster is the only supervisor.

Q. Ms. Ezell is a co-employee, the same?

A. Correct.

Q. Okay.

A. Not the same level, but she's not a supervisor.

Q. Thank you. Okay. Were you -- do you know what happened as far as on your request for a drug screen for Ms. Wilkerson?

A. We -- I know that Ms. Feemster followed the ambulance to the hospital, but she was not allowed to get into the hospital because they had it on lockdown. But she did notify that we were requesting a drug screen, but I don't know if we ever -- I don't know if that happened. I never saw any results of a drug

screen.
Q. Okay.
A. That we -- that we requested.
Q. Okay. Did you see any results of a drug screen at all --
A. No.
Q. -- for Ms. Wilkerson?
A. No, I have not.
Q. What -- so walk me through how Ms. Wilkerson is told that there's an internal fact-finding going to occur and she's going to have to answer these questions. What's the procedure for that?
A. It's in that email attached to the questions. That's how she was notified of the fact-finding. It's the one where she wrote out the answers, that page.
Q. Was there anything else beforehand that her supervisors told, or somebody tells Ms. Shelton [sic], hey, you need to look for this email; it's going to be coming from --
A. No.
Q. -- from Clarksville and you need to be ready for it, or it's just --
A. Not to my knowledge, no.
Q. Okay. I want to ask you. Ms. Wilkerson's answers to question number 5 is -- the question is:

"While you were driving, what happened to cause the accident?"

Can you read what Ms. Wilkerson's answer is?

A. "I remember seeing a car up ahead but no brake lights or signal lights. That's all I remember until I came to."

Q. Do you know anything else about -- whether Ms. Wilkerson had said anything else about what happened to cause the wreck other than that statement?

A. No.

Q. Okay. And then the same for question number 10: "Is there anything else you would like -- that you would like for me to know about" -- let me start over.

Question number 10: "Is there anything else that you would like for me to know regarding this incident?"

What was her answer?

A. "I am devastated over what happened, but I really don't know what happened because I don't remember, it happened so fast."

Q. And then it looks like you had two emails from Pamela Feemster and one from Brandy -- I'm sorry, three emails from Pamela Feemster and one from Brandy Ezell. Did those three emails and Ms. Wilkerson's

answers and Ms. Wilkerson's subsequent email, is that what made up your fact-finding?
A. Yes. And the fact that she had only been employed for ten days and was still in probationary status.
Q. And then how was Ms. Wilkerson notified that she was terminated? Is that something you do, or do you have Ms. Feemster do that?
A. Normally the supervisor would do that. I may have done that myself, and we normally would do that in person, but I honestly don't recall how we notified her.
Q. Do you recall ever meeting Ms. Wilkerson in person?
A. I don't recall that, no. I don't know if I did or not.
Q. Did you ever go to the accident site?
A. No.
Q. Do you know -- I mean, at any point have you ever driven by and said, you know, that's where the accident occurred?
A. I mean, I drive that road all the time.
Q. Highway 22?
A. I don't have any firsthand knowledge, though, of where that accident occurred.

Q. Okay. Was -- at the time of the accident, the state trooper reports it being called in at 12:50 p.m., and it's my understanding that Ms. Wilkerson was supposed to be at Beebe at 2:00 p.m. to pick up the child?
A. That's --
Q. Does that sound correct?
A. That's my understanding.
Q. So if that's correct, she would have been about an hour behind schedule when the wreck occurred; is that right?
A. Yes.
Q. And you don't have any reason to dispute that?
A. No.
Q. Okay. There is an email from Jennifer Wilkerson to Pamela Feemster in that package, and it's got the name of a client blacked out. Do you see that email?
A. Yes.
Q. And what is that Bates stamp number of that one? Is it 419?
A. Yes.
Q. Can you read what Ms. Wilkerson's email stated?
A. "On 6/11/21, I was going to Beebe, Arkansas to pick up," blank, "for a sibling visit in Clarksville, Arkansas. I left Paris about 12:30 p.m. and was

supposed to be there around 2:00 p.m. in Midday" -- I think she meant Midway -- "Arkansas. There was a car stopped in the road. I didn't see a turn signal, and the -- I remember the air back deploying and nothing else until the car was stopped. When I was able to get out of the car, there were already several people on the scene. I was there until I went to the ambulance -- or went to in the ambulance to the emergency room in Booneville, Arkansas. I had minor cuts and bruises."

Q. Okay. Are -- have we gone over all of the statements that you're aware of that Jennifer Wilkerson has made to anyone at DHS regarding what happened in the accident?

A. I believe there might be one other follow-up email that she sent me. It's stamped 423.

Q. Okay.

A. Where she emailed me following the initial questions, and I, in possibly even my follow-up questions, she said -- she sent me an additional email.

Q. Can you read what that email, what she says in that email?

A. "I wanted to mention that it was prescribed to be for ADHD but was used for people with narcolepsy

but that it was something I should inform Pam about. That's why I sent the message."

And that -- and then I think you already asked me, but I did -- I sent her some additional follow-up questions, and she did answer those in a separate email as well.

Q. Looking through the exhibits, or the documents in Exhibit 1, are you aware of any other emails or statements by Jennifer Wilkerson related to this accident?

A. No.

Q. Okay. As you sit here today, are you aware of any facts that would indicate that Jennifer Wilkerson was not 100 percent responsible for this accident?

MR. GASPER: I'm going to object to that. That's speculation. That's way out of her wheelhouse.

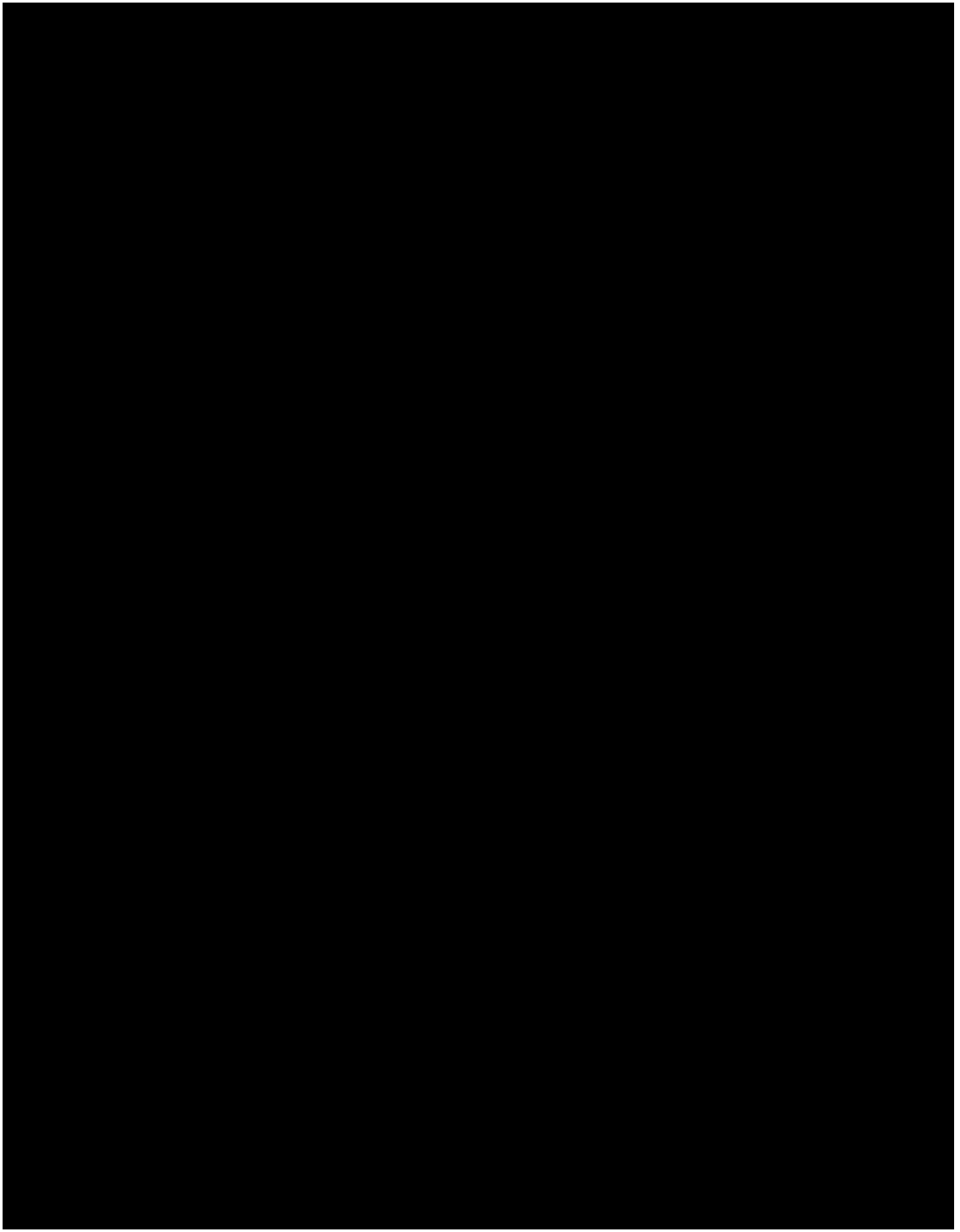
MR. JACKSON: Objection noted.

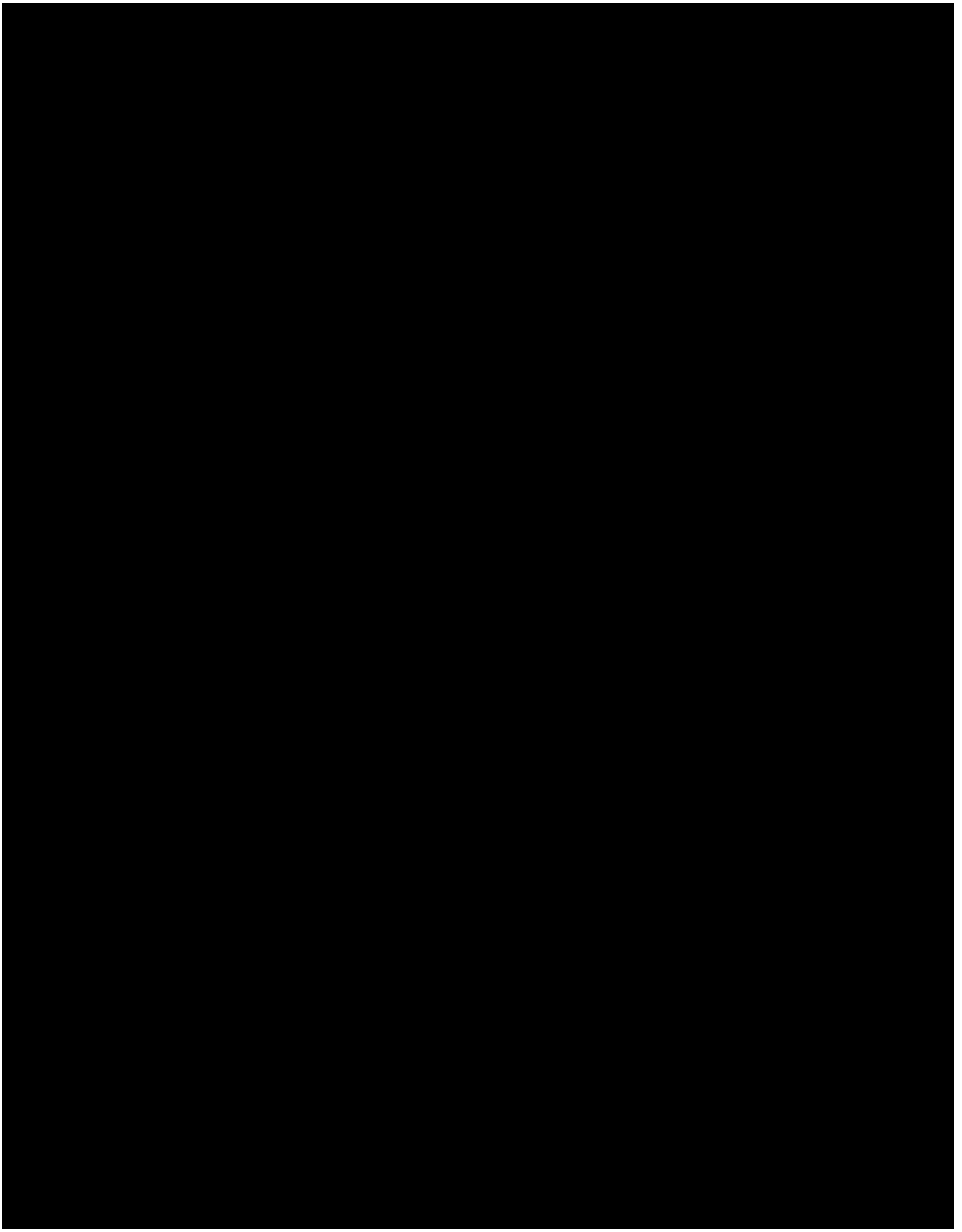
Q. Go ahead and answer the question to the best of your ability.

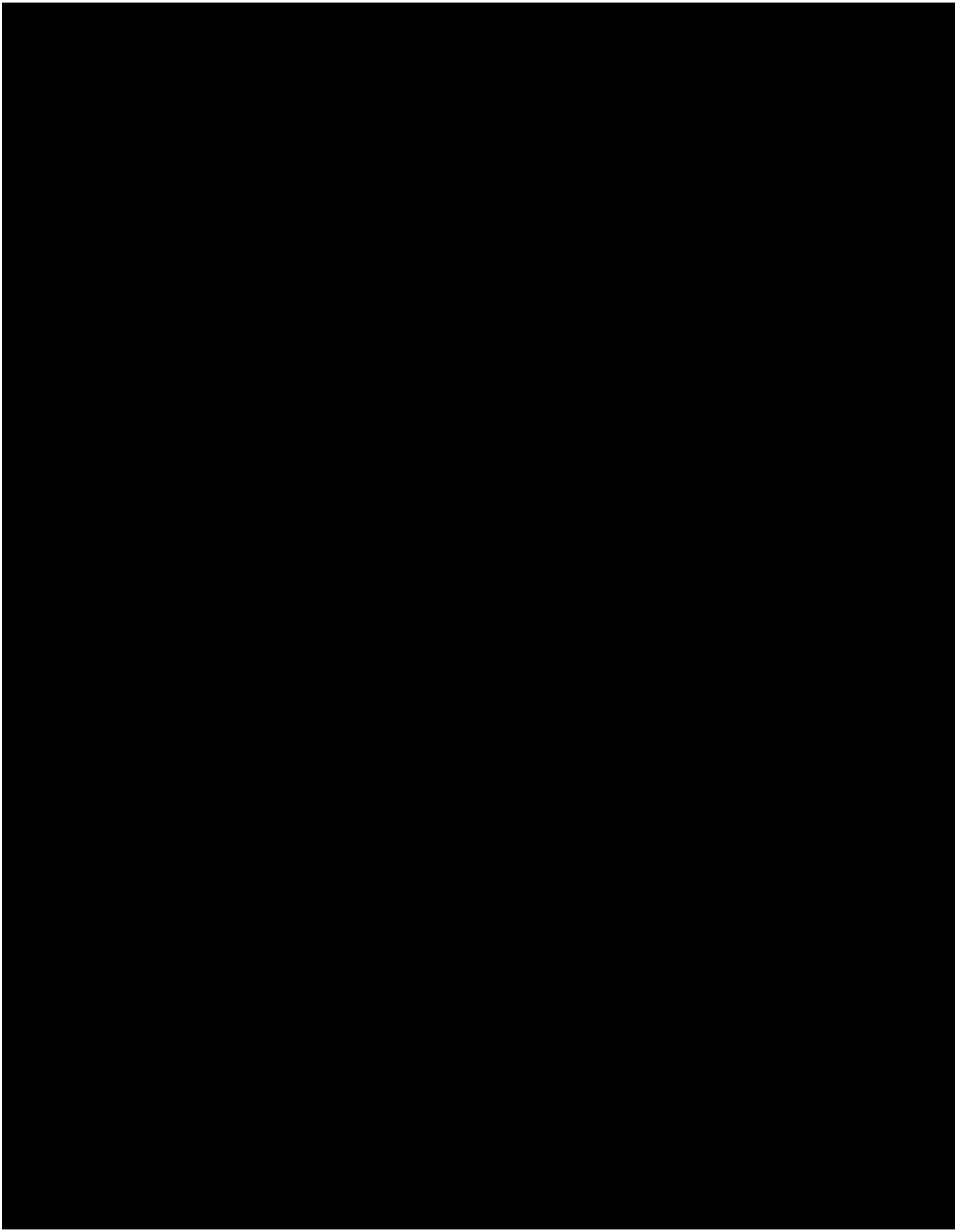
A. I did not do the investigation involving the accident, so I don't have any knowledge about what the outcome of that investigation was.

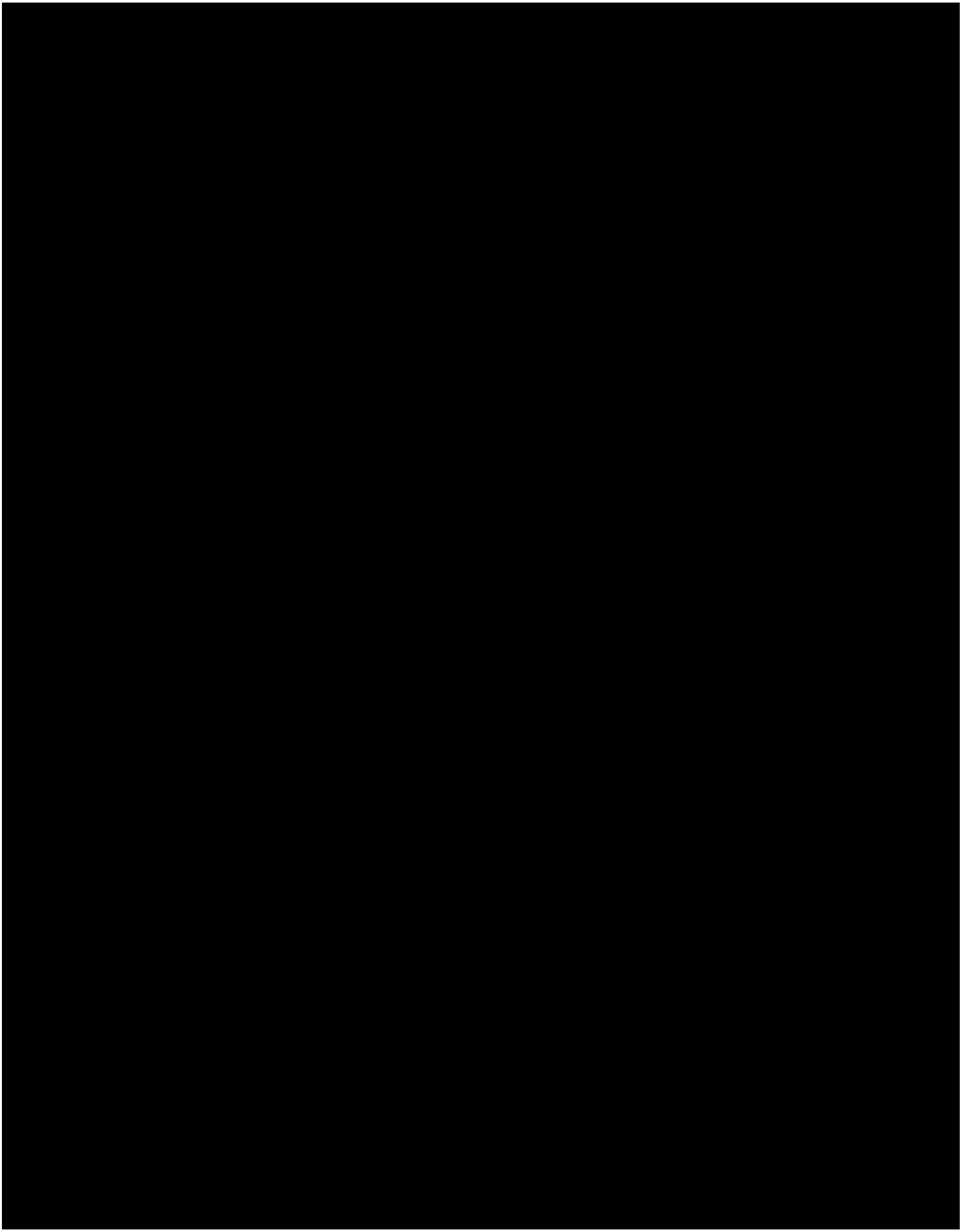
Q. Who would have been the person doing the investigation of the accident?

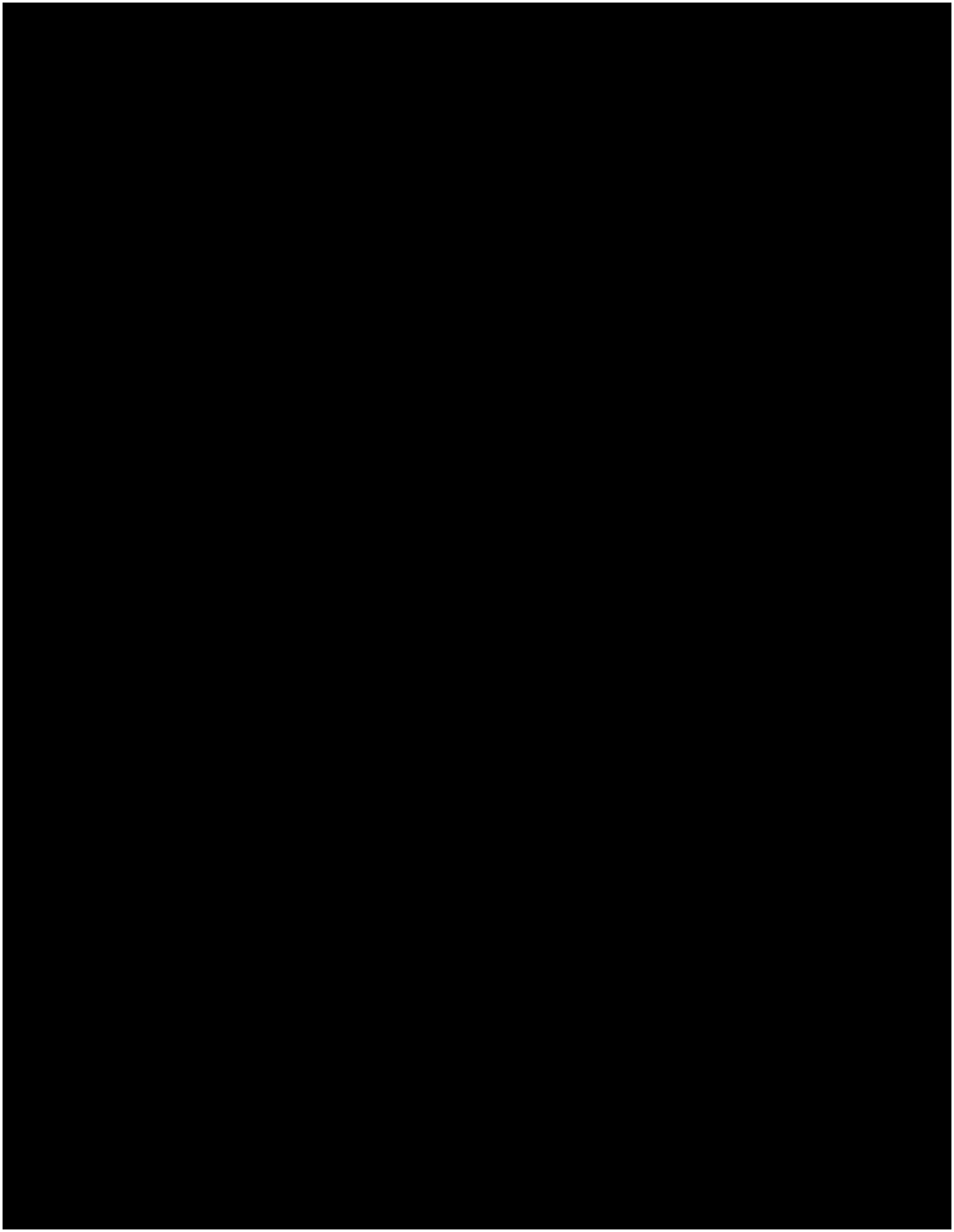
A. I believe the state police conducted the accident investigation.
Q. But as far as within the Department of Human Services, would there have been anybody else doing an investigation into the accident?
A. No. All we did was the fact-finding to determine if there was any violated behavior expectations that we needed to do discipline action on. We were not responsible for any investigation into the accident at all.
Q. Can you go through the list of actions that Ms. Wilkerson violated that would lead her to be terminated?
A. Well, because she was still on probation, it didn't take as much to terminate because technically we can terminate during that probationary period. So I was very concerned that she did not leave the office when she had been advised that she needed to leave the office. I was also concerned that she did admit during the fact-finding that she had taken a medication the day prior to the accident that she did not have a prescription for.
Q. Was there anything else that raised concerns to you?
A. No.

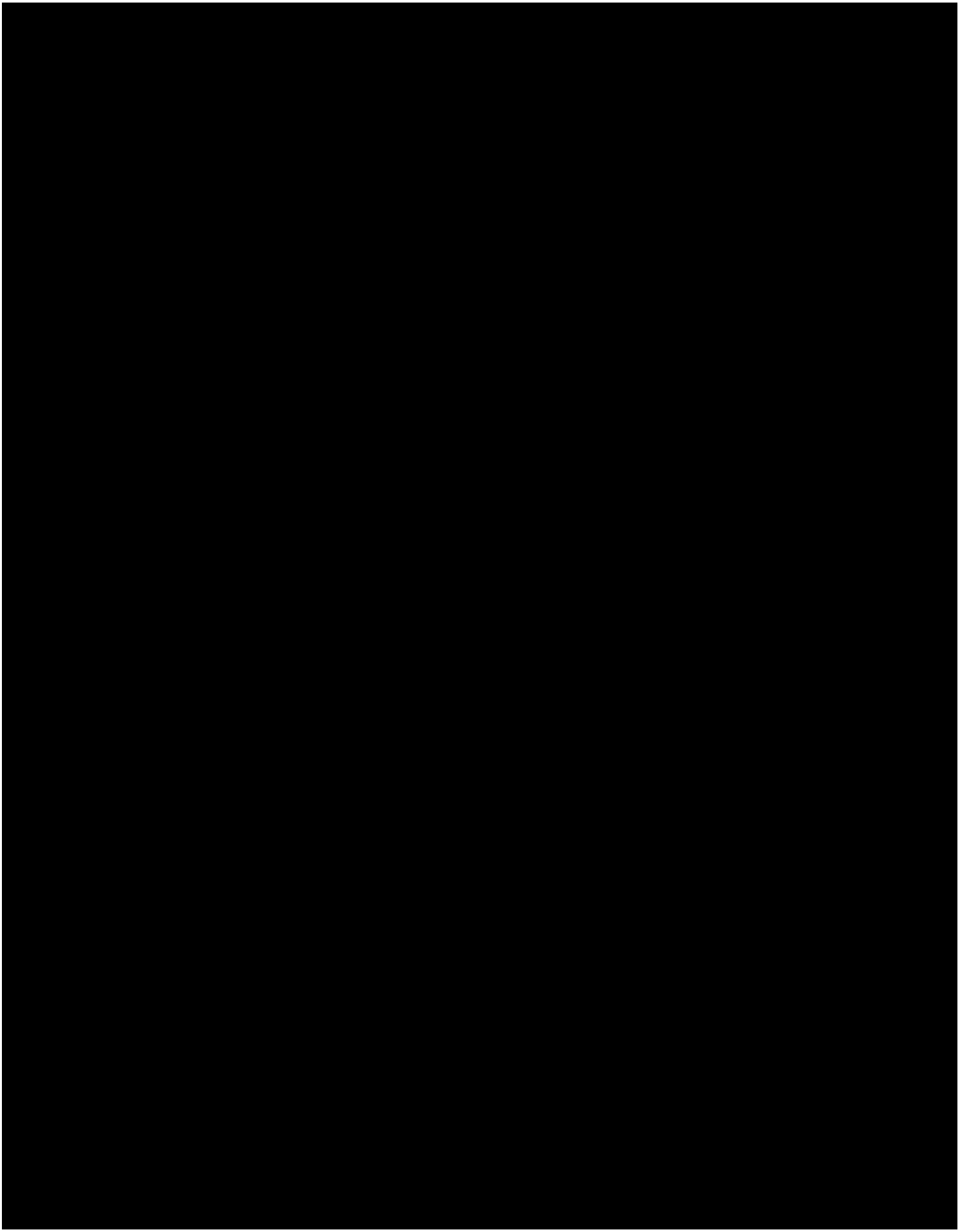


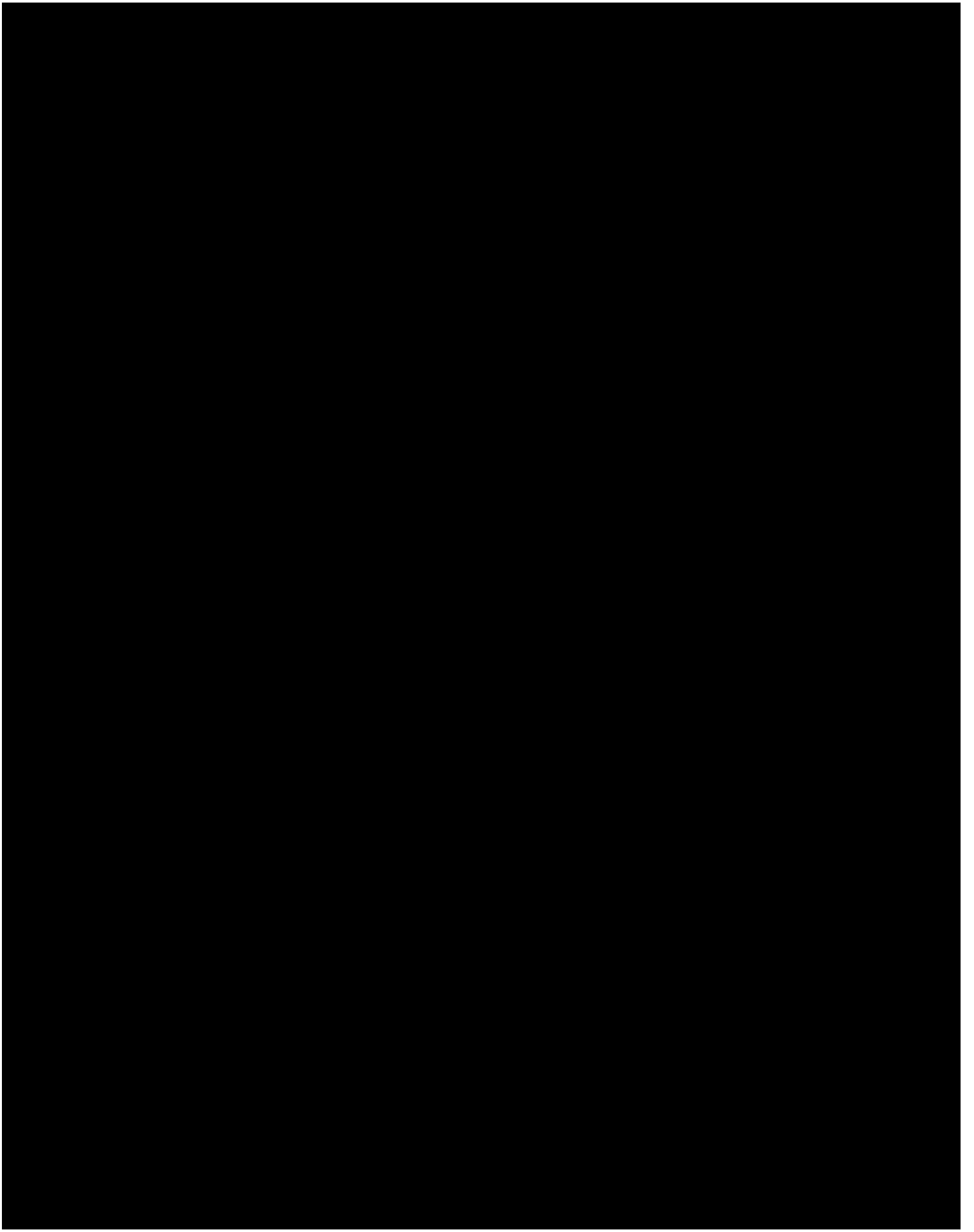


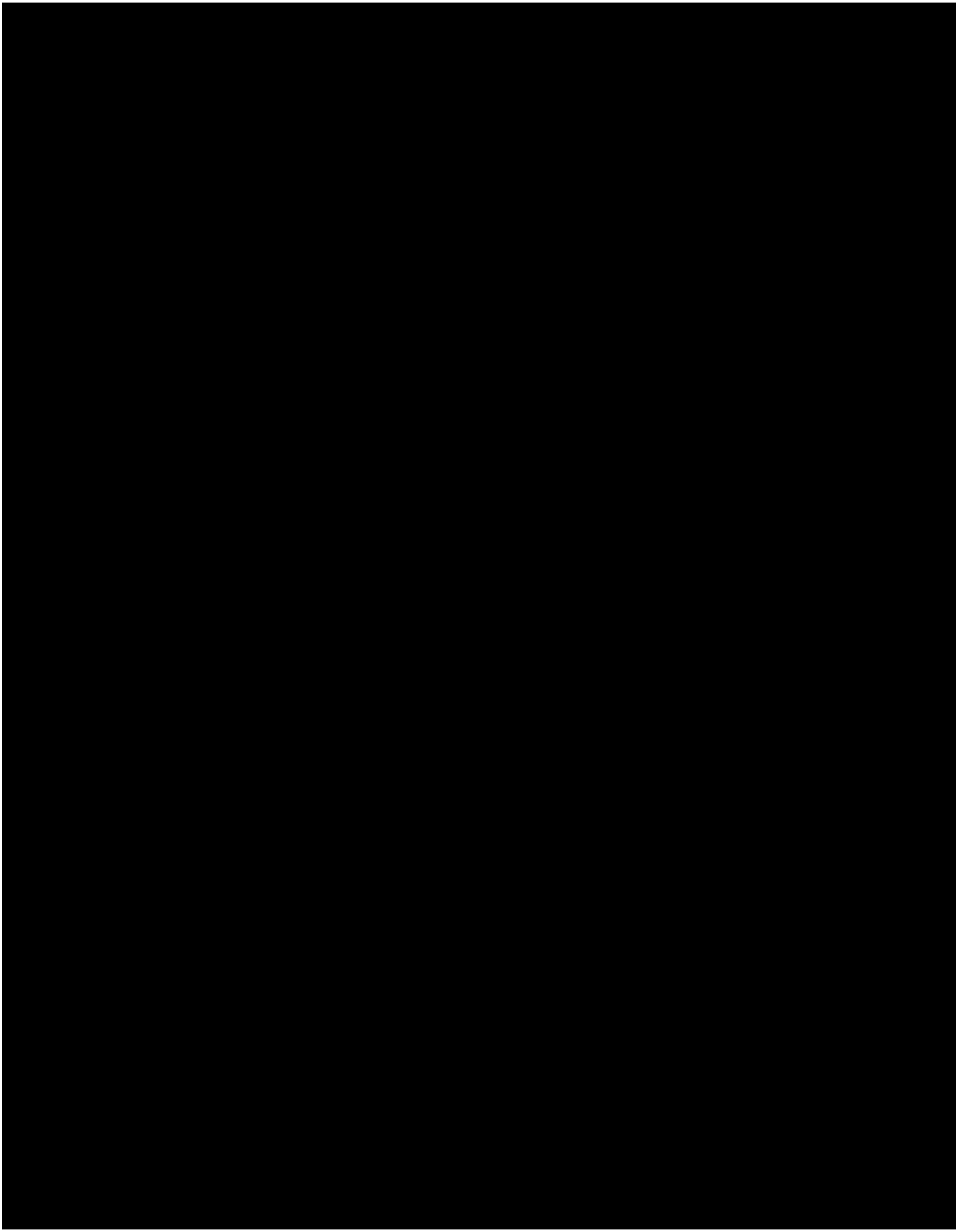


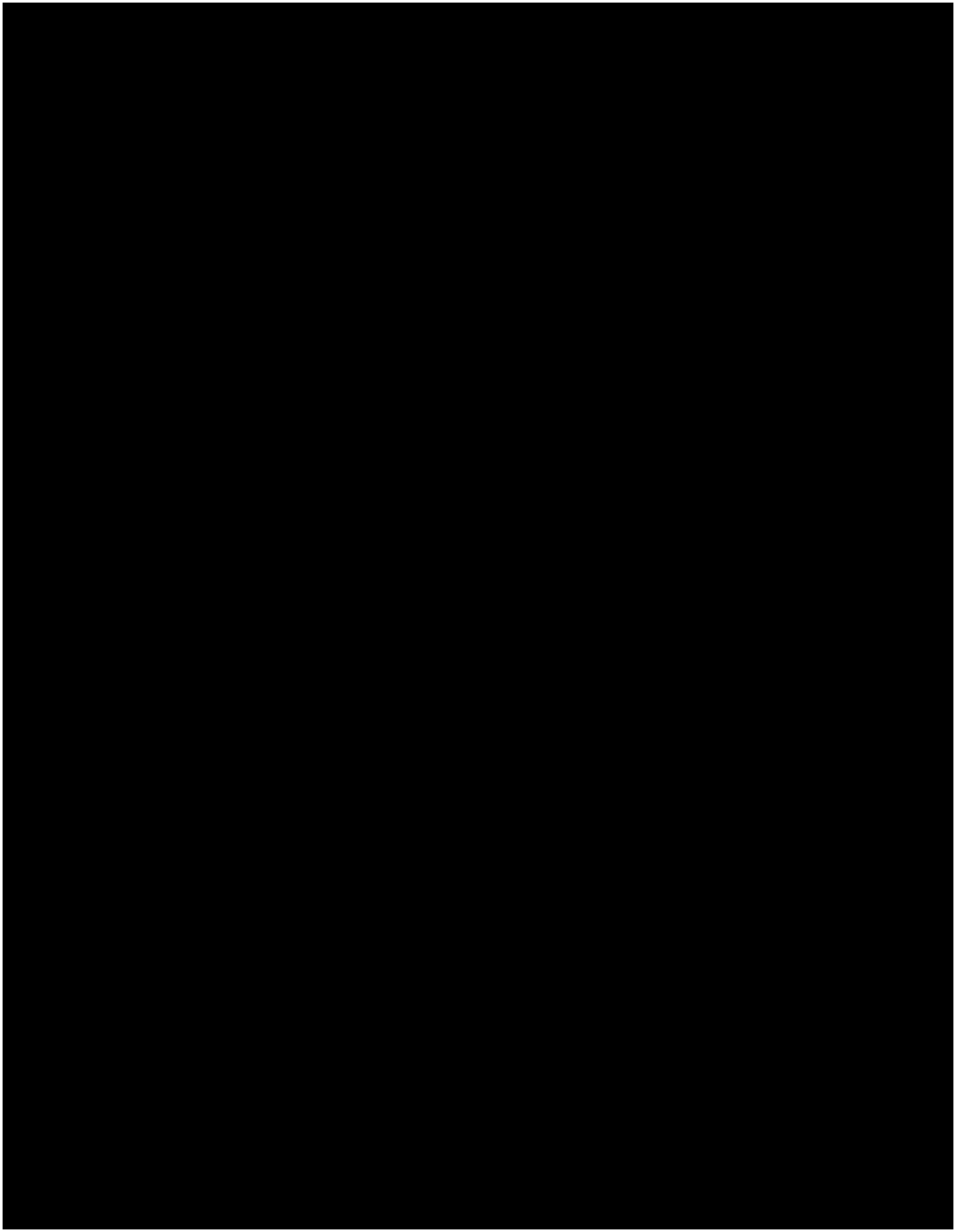


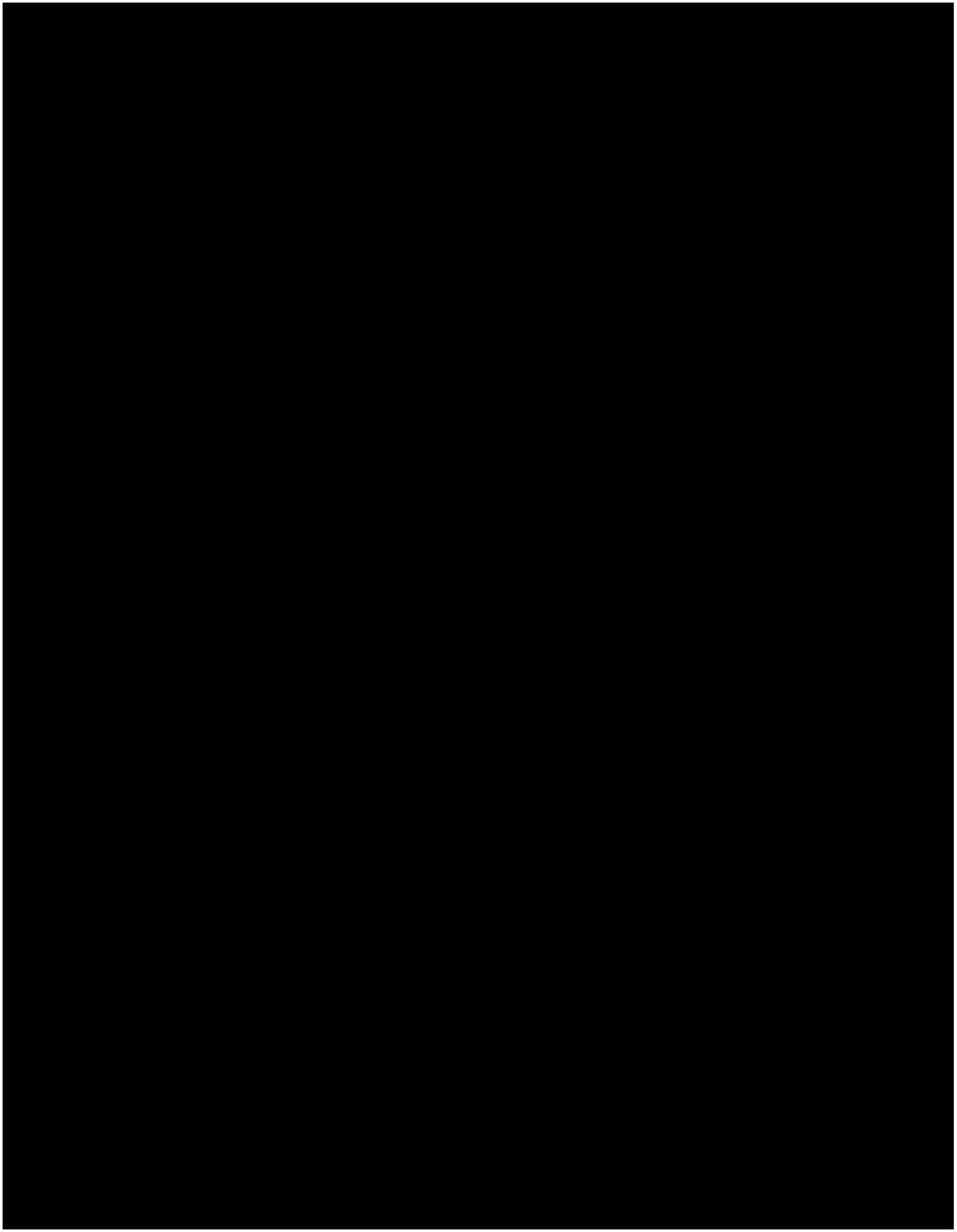


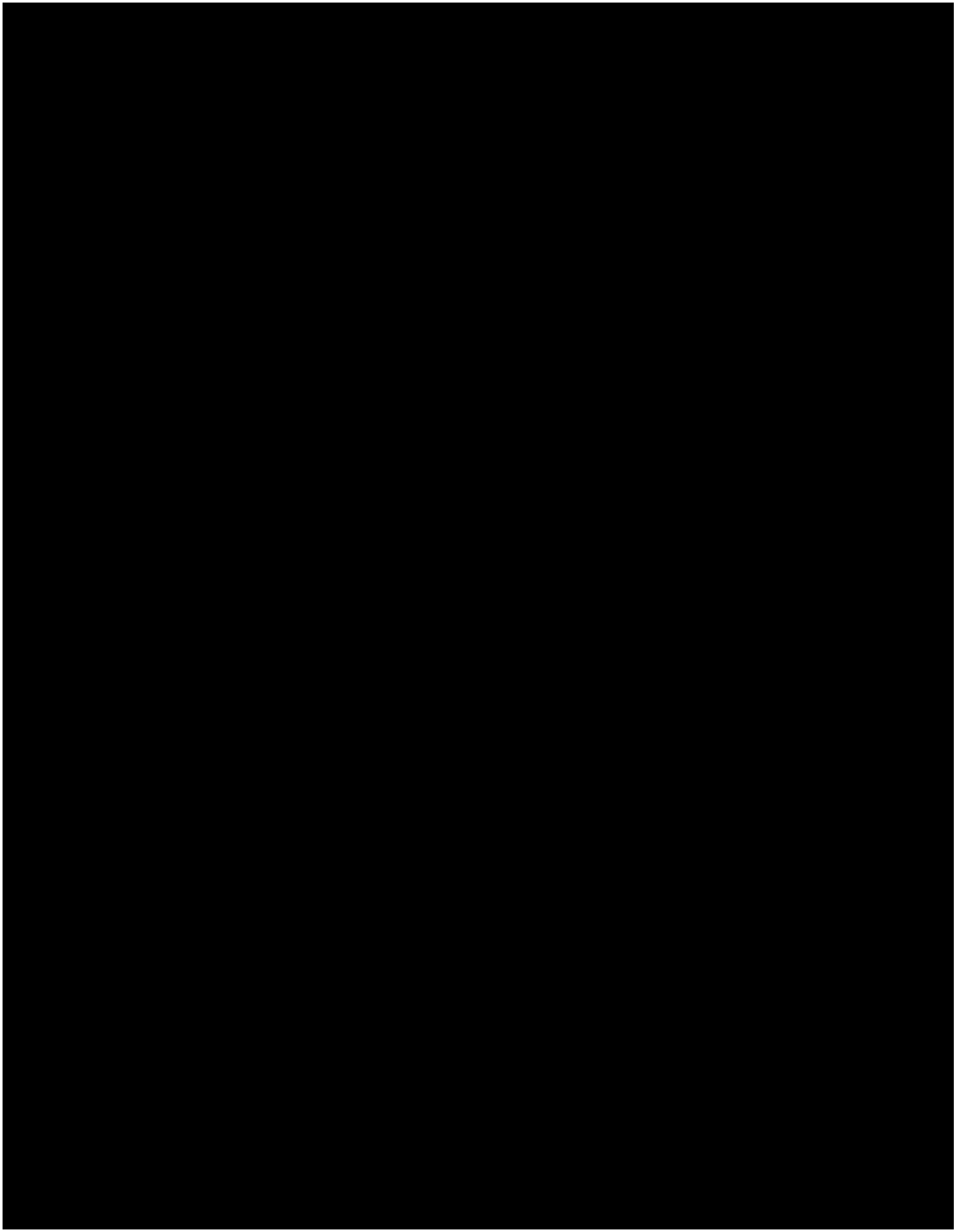


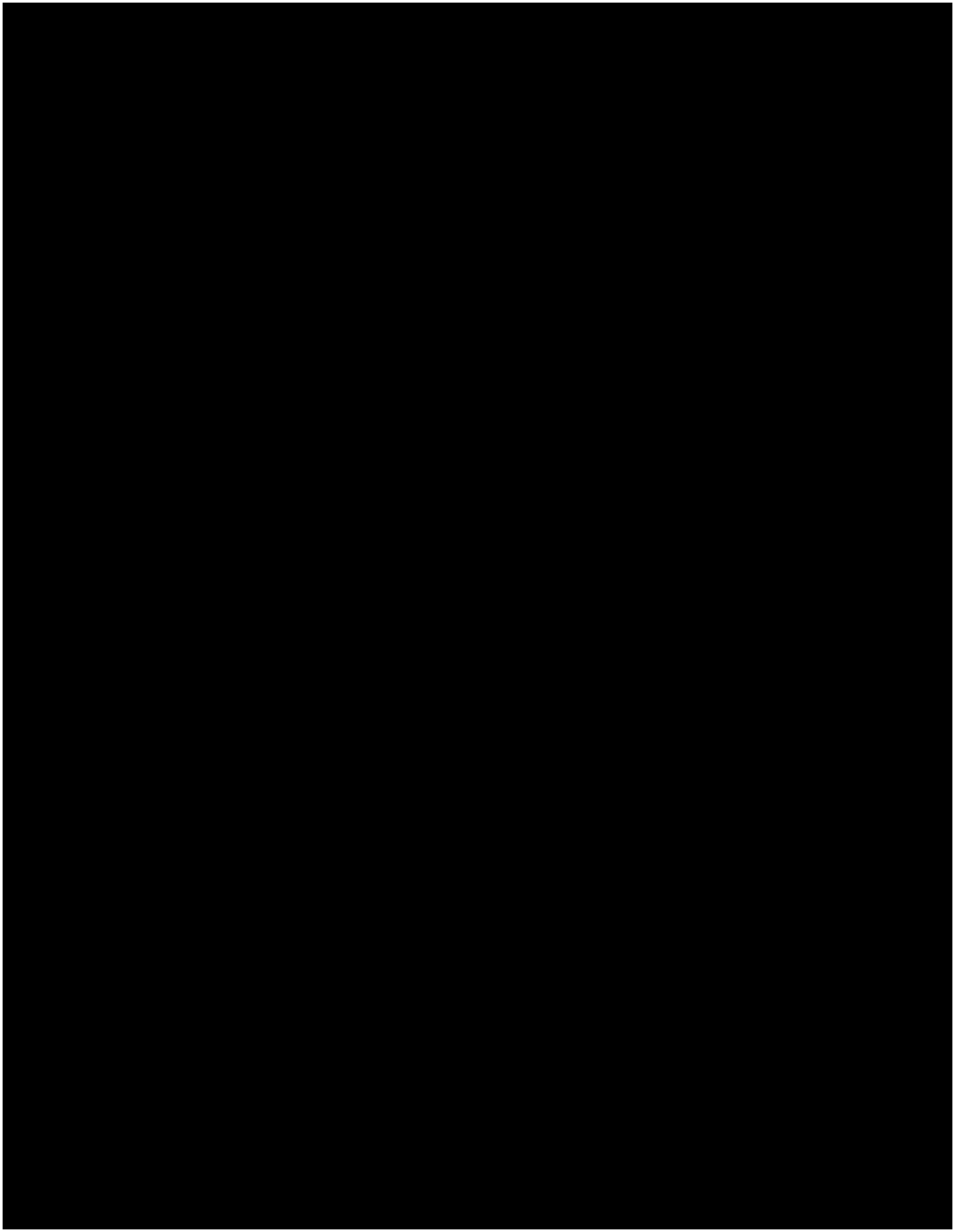


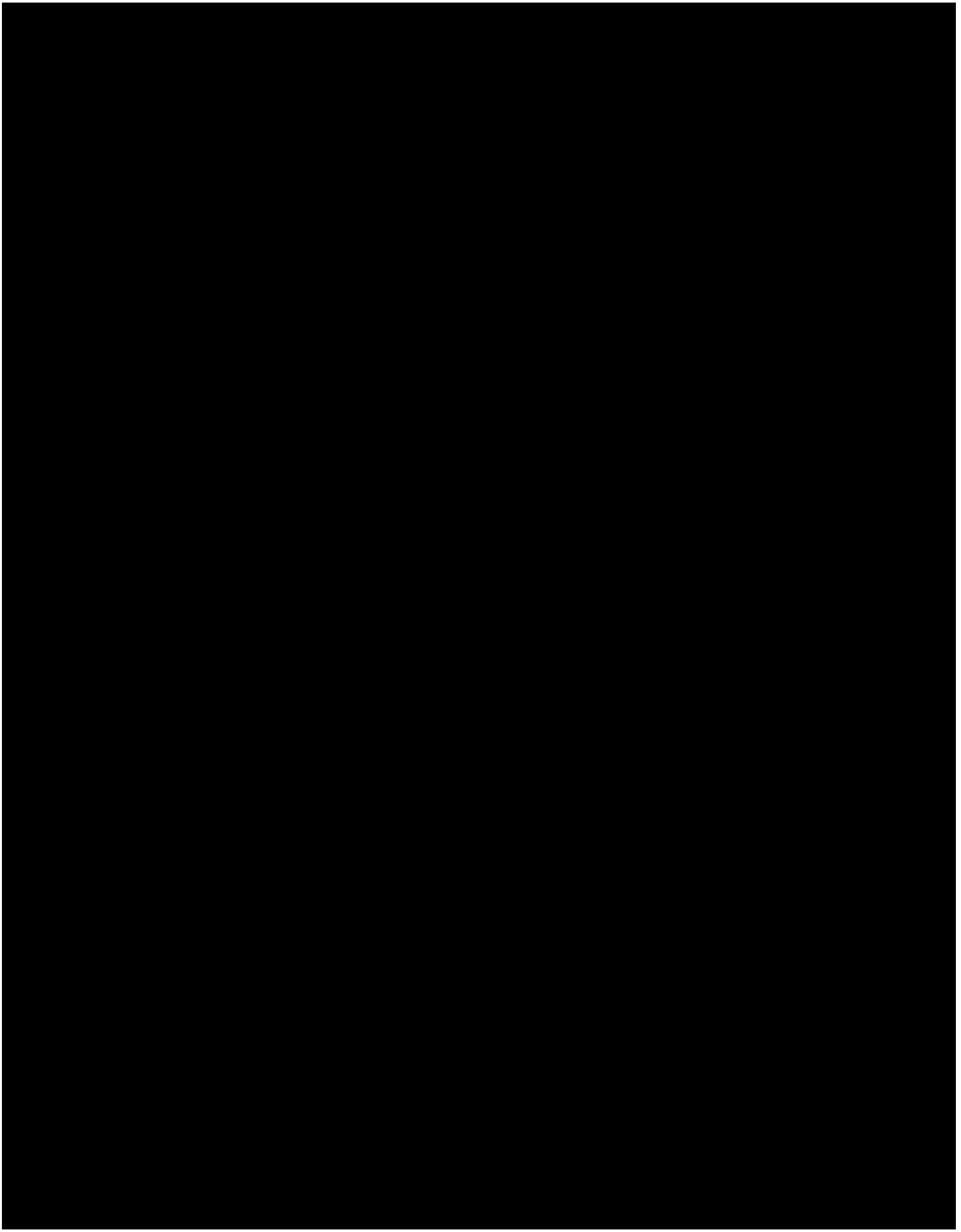


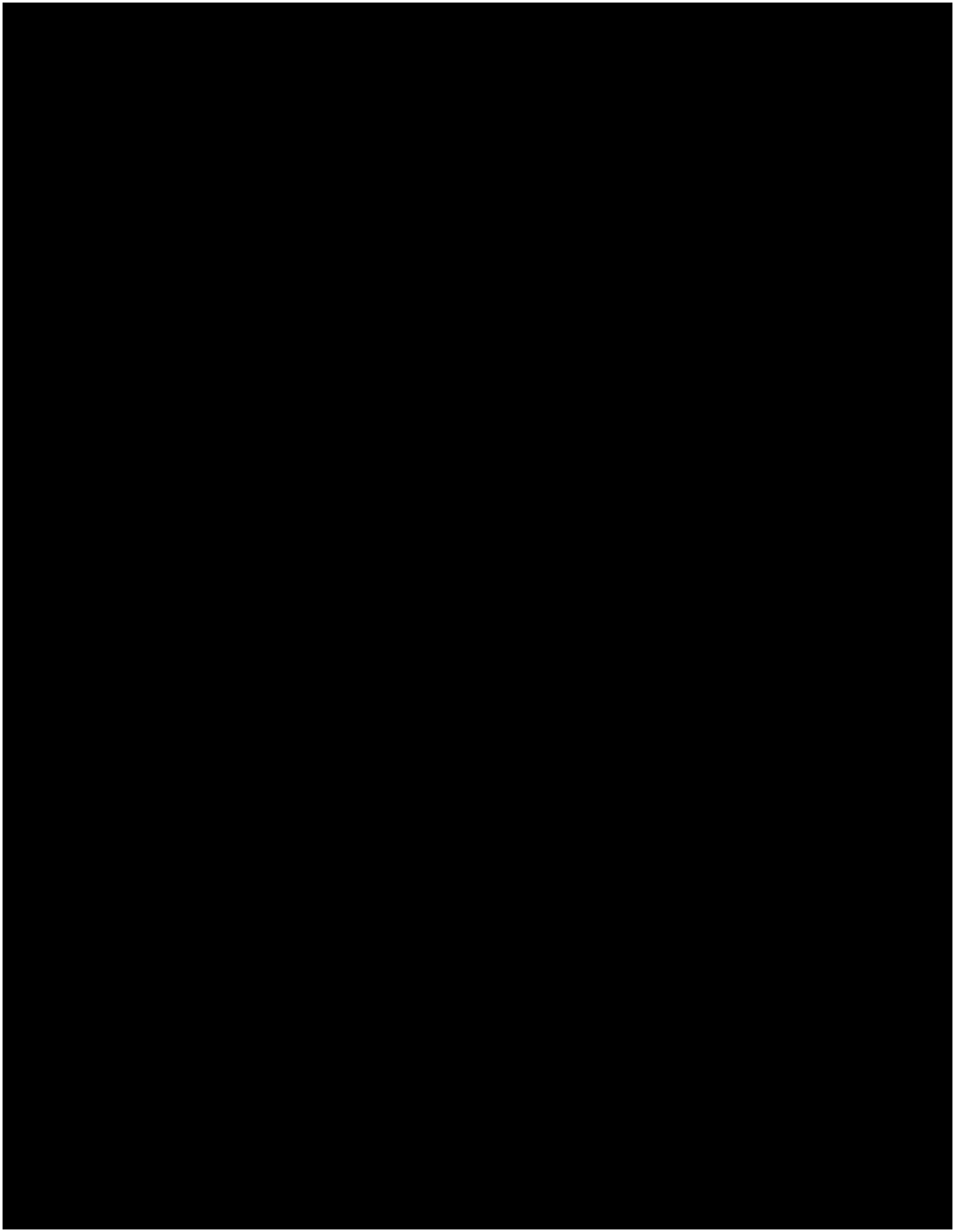


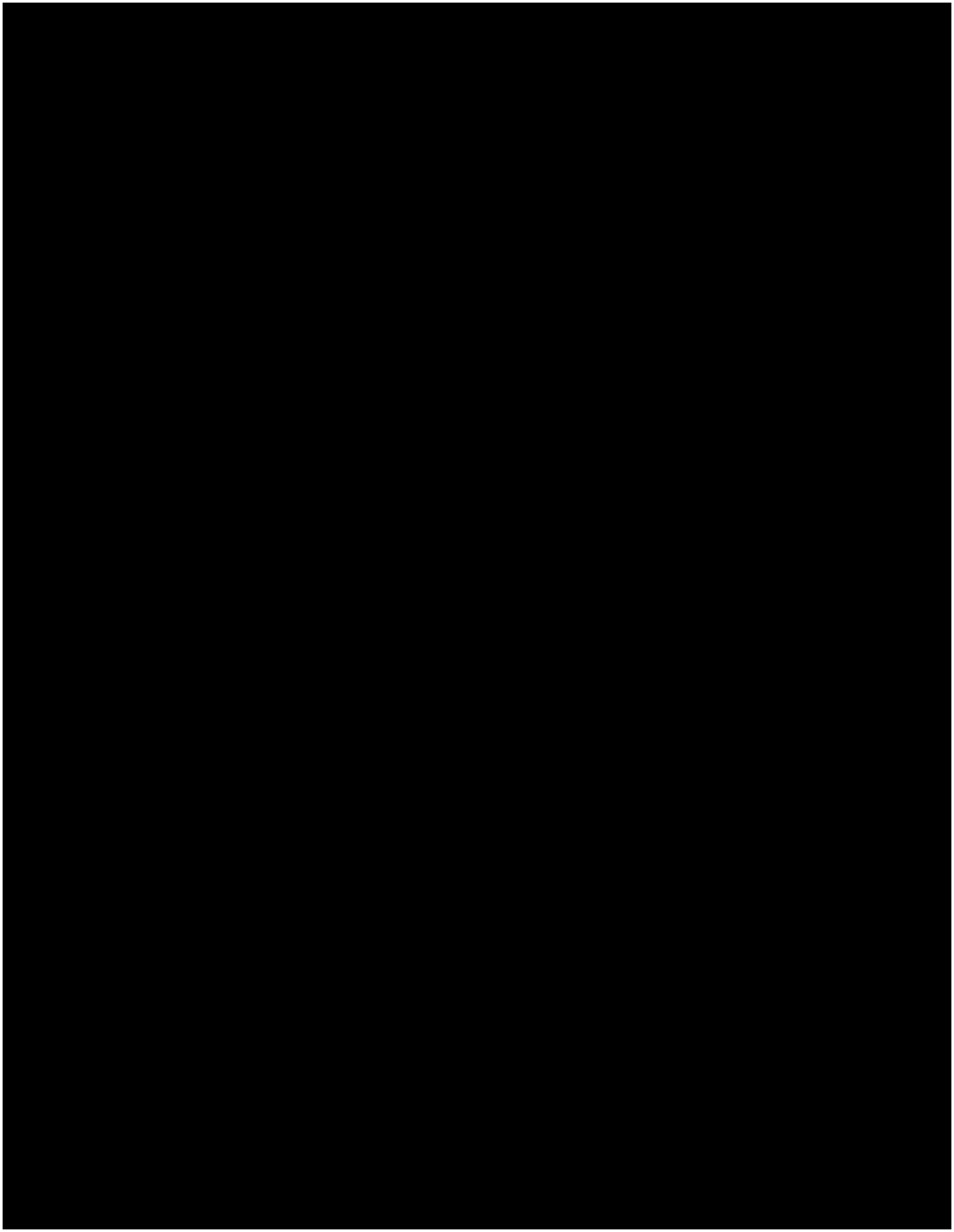


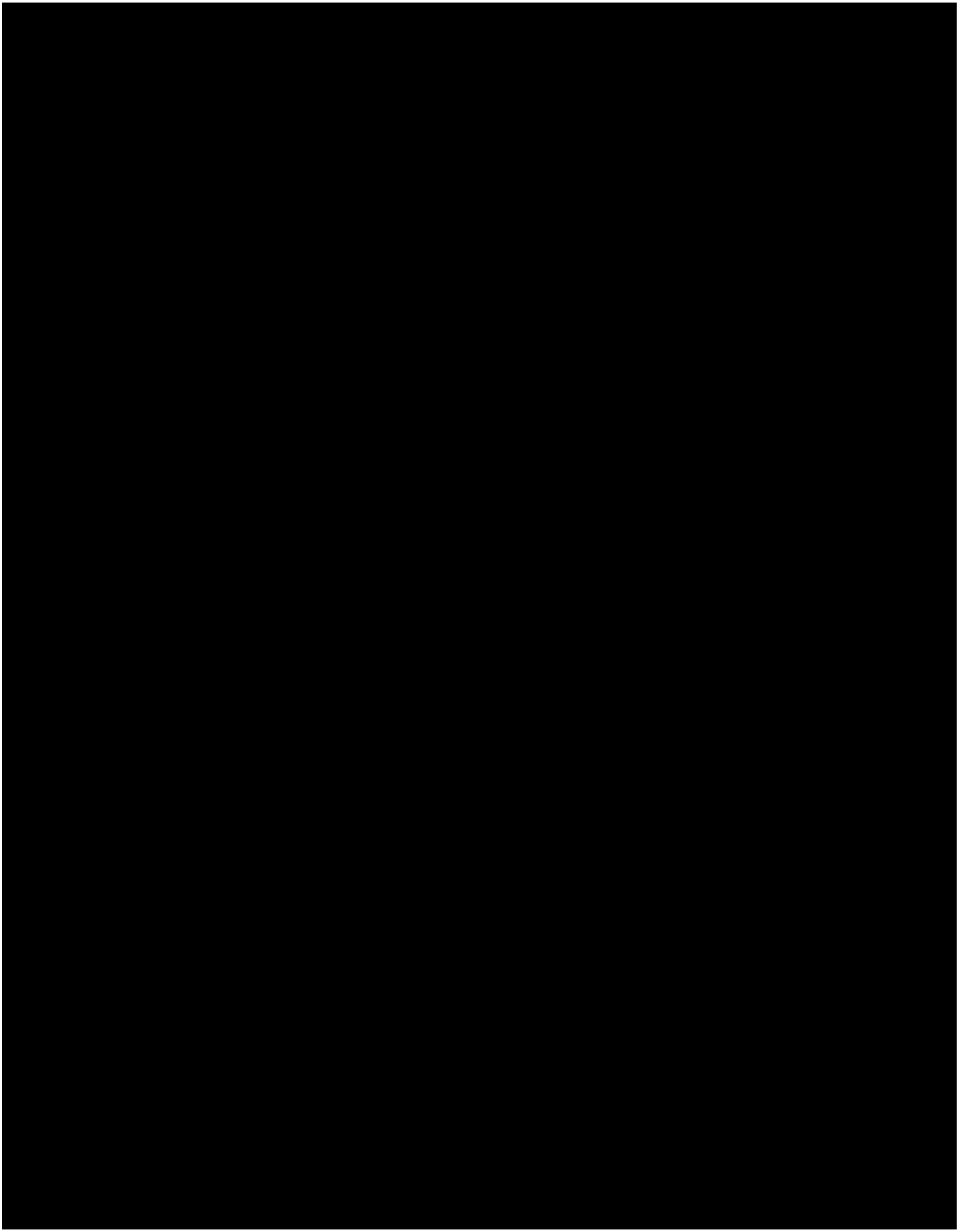


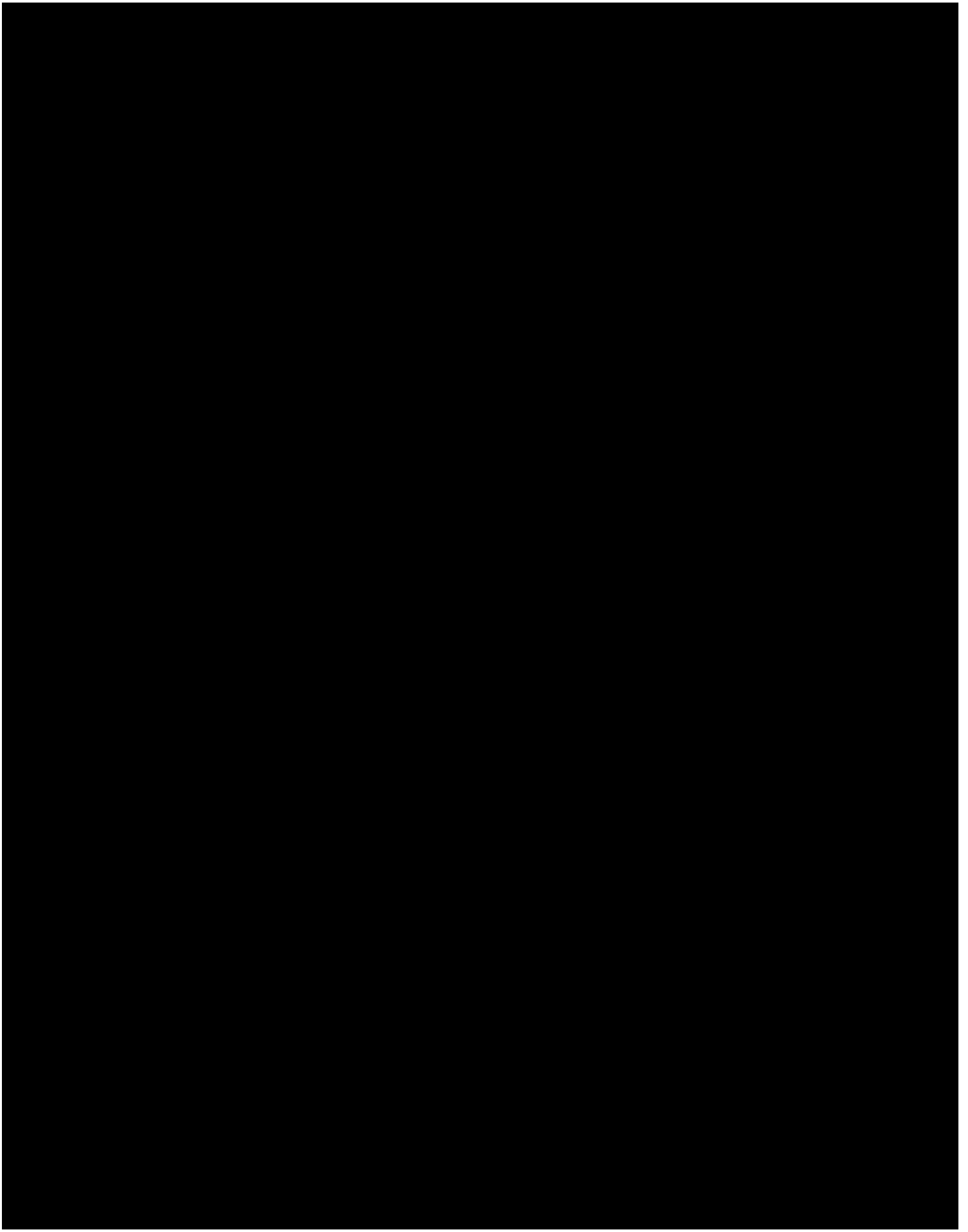


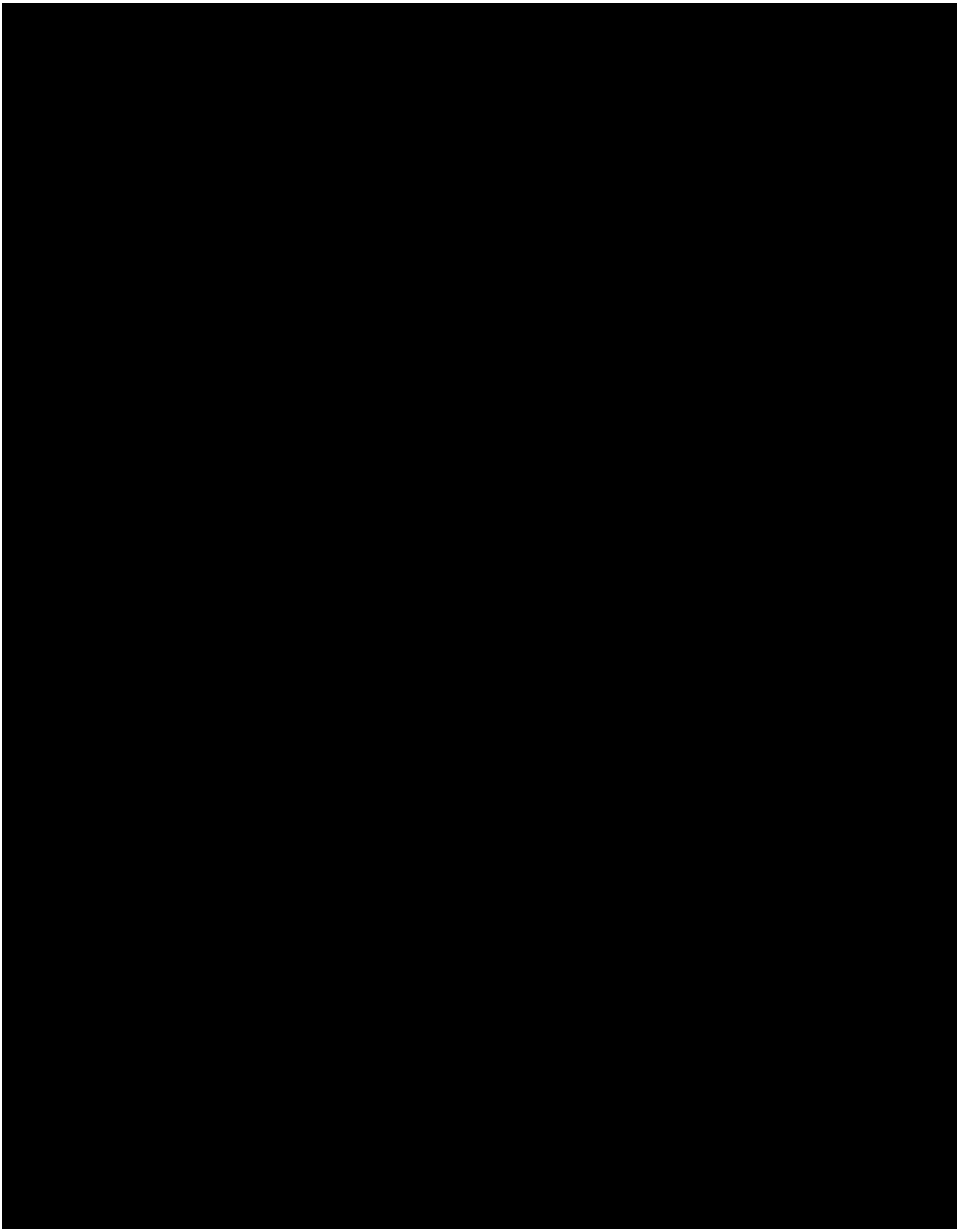


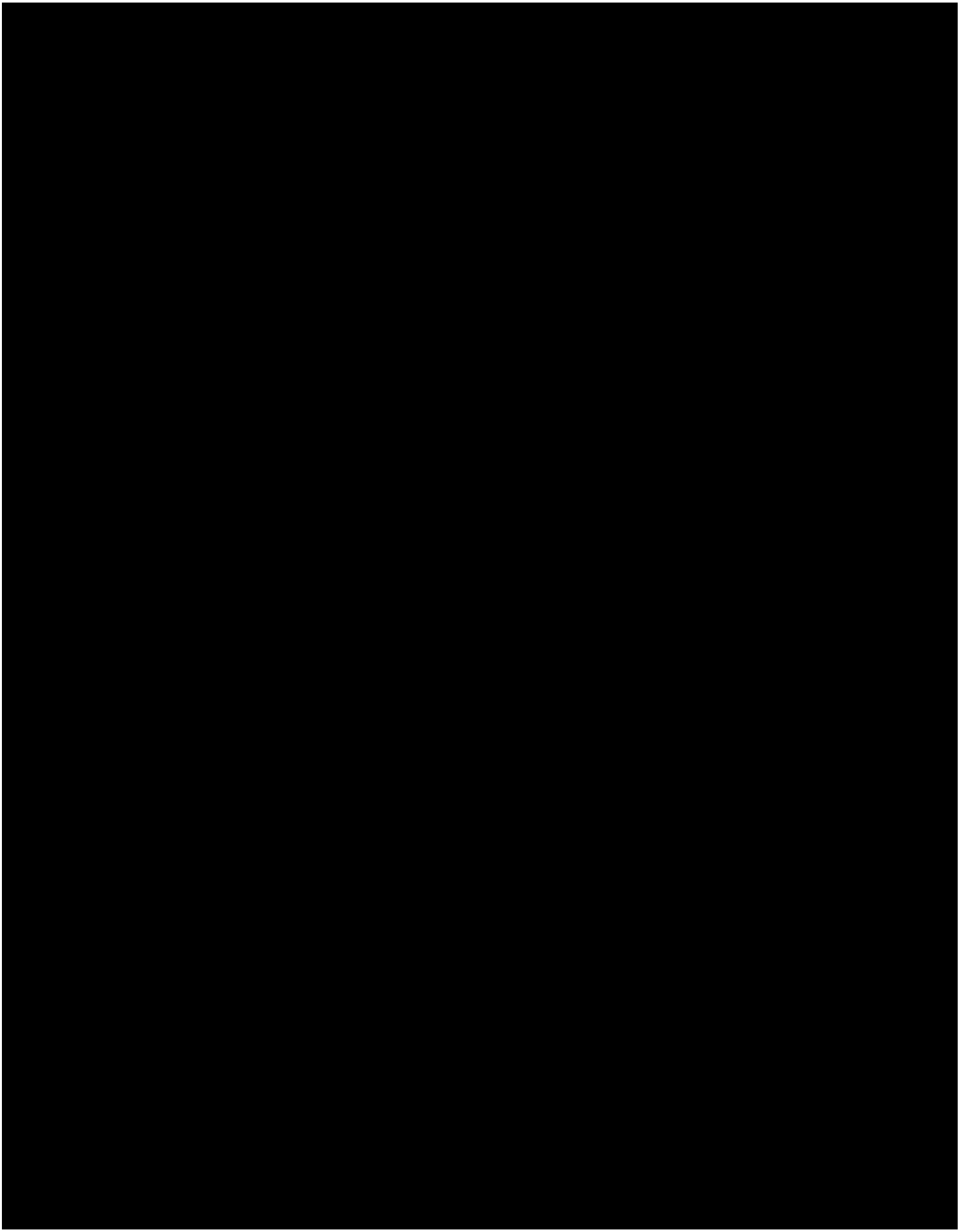


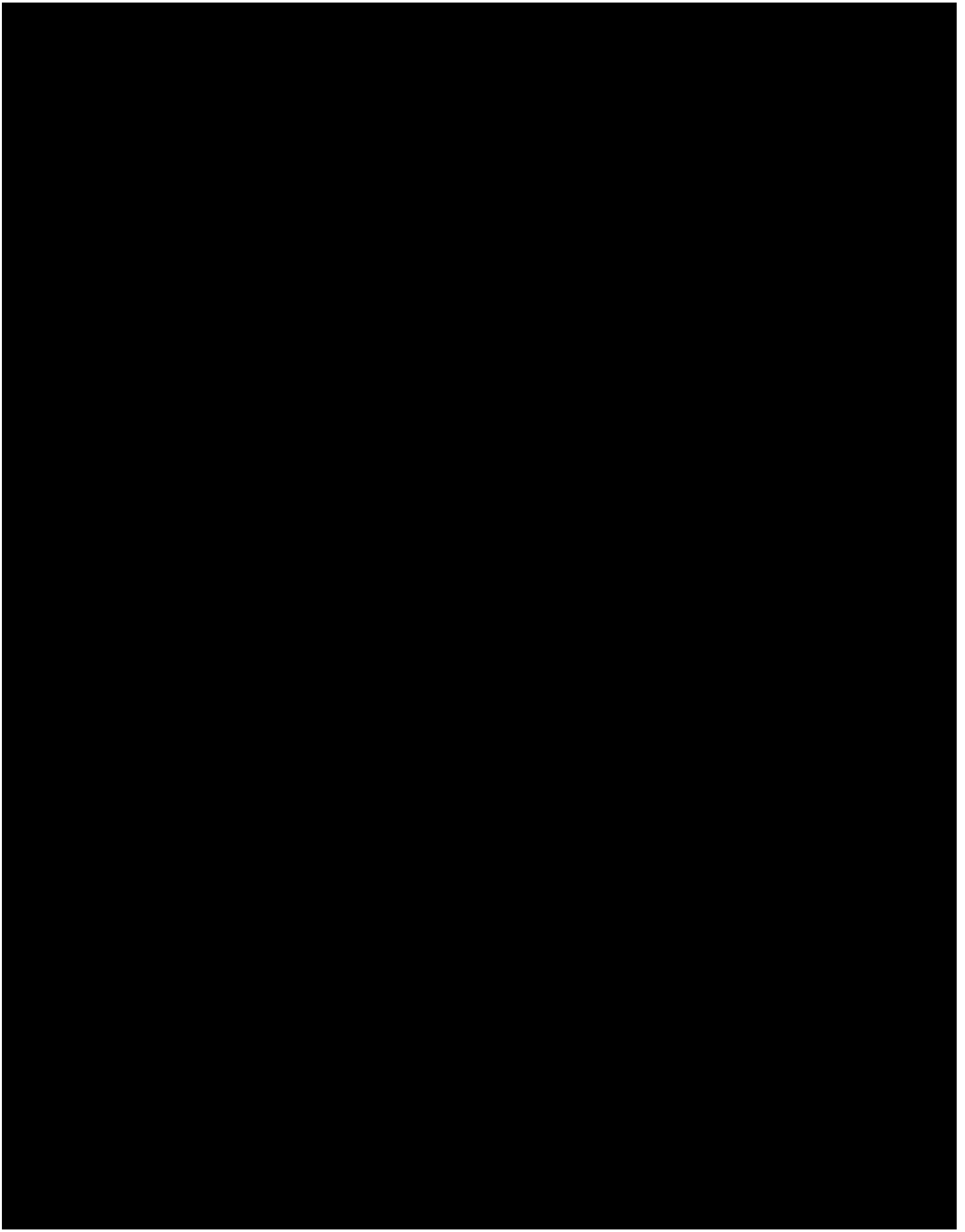


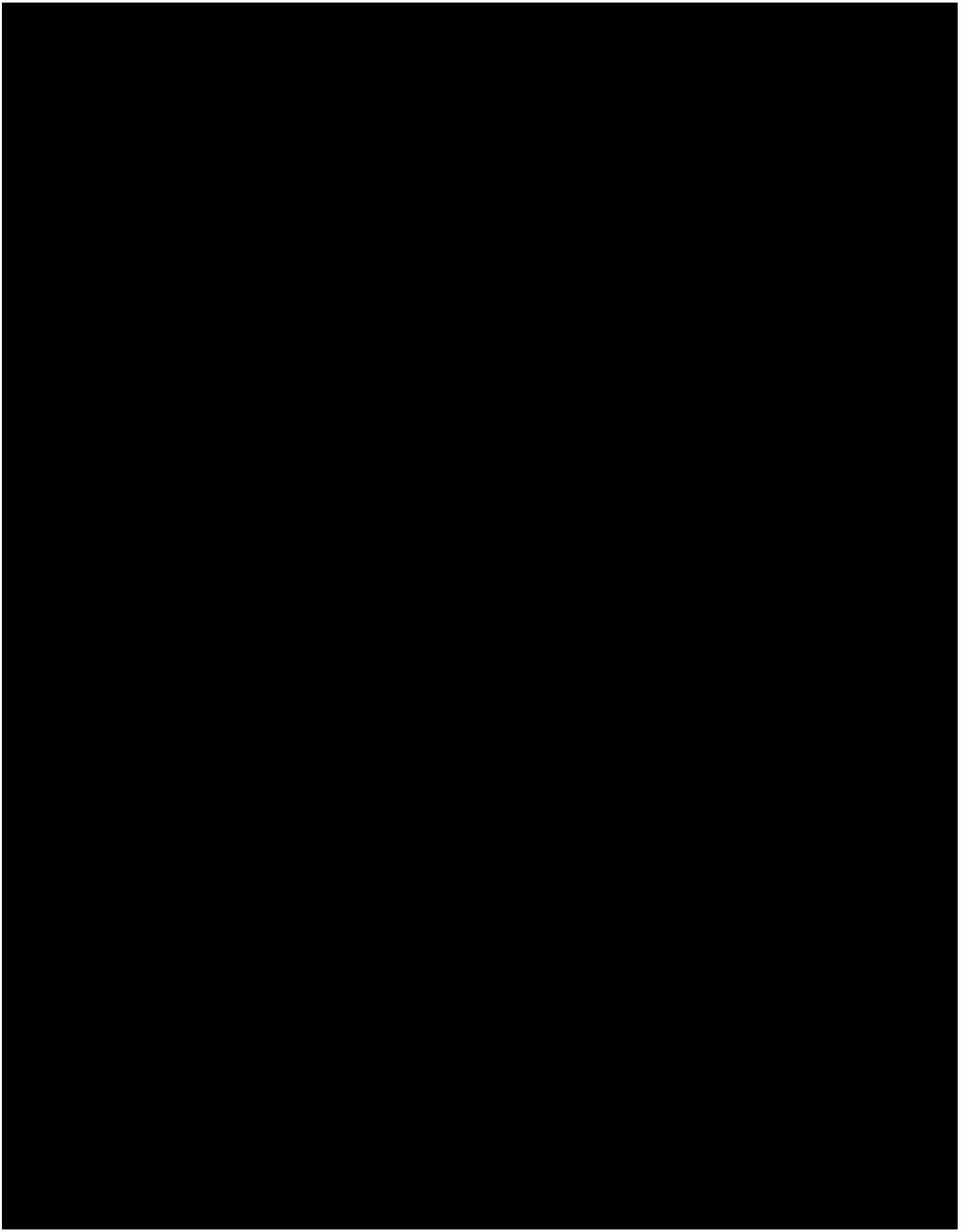












ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, As Special Administratrix of the Estate of JACQUELINE LYNN ASHCRAFT, Deceased, and as Permanent Legal Guardian of [redacted], A Minor,

CLAIMANT,

VS.

ARKANSAS DEPARTMENT OF HUMAN SERVICES,

RESPONDENT.

CC NUMBER 230641

ORAL AND VIDEOTAPED DEPOSITION OF

BRANDY EZELL

August 1, 2023

ORAL DEPOSITION OF BRANDY EZELL, produced as a witness at the instance of the CLAIMANT, and duly sworn, was taken in the above-styled and numbered cause on the 1st day of August, 2023, from 2:05 p.m. to 2:56 p.m., before Tammie L. Foreman, CCR in and for the State of Arkansas, RPR, CRR, reported by machine shorthand at the offices of Arkansas Department of Health and Human Services, 700 Main Street, Little Rock, Arkansas, pursuant to the Arkansas Rules of Civil Procedure.

Q. And what is your current job title?
A. Family service worker specialist.
Q. Family service?
A. Worker specialist.
02:07PM Q. What does that entail? Kind of give us a day-to-day what you do?
A. Primarily, I do foster care. I'm a foster care case worker. When a kid is removed and everything, I build a case plan with the family. We go to court.
02:08PM We -- there's testimony. And we work with the family to get the child back home safely.
Q. In June of 2021, when this accident occurred, is that basically what you were doing at that time?
A. Yes.
02:08PM Q. Now I'm going to shift my questions to June 2021. What was your relationship with Jennifer Wilkerson in June of 2021?
A. She was a coworker.
Q. And did you have any -- my understanding is that
02:08PM she was a new employee?
A. She had started the day after Memorial Day, was her first day. And she was hired on to be a program assistant, which is program assistants help us do visits, teach parenting classes, get a lot of the --
02:09PM some of the services done that we can't do because

we're in the field seeing children or having to get stuff keyed into CHRIS. So program assistants do a lot of -- a lot of the visits. They're usually on the road a lot more than we are.

02:09PM Q. Okay. Did you have any relationship with Ms. Wilkerson outside of her employment with Logan County?

A. No.

Q. Okay. So on June 11th, I want to focus now on 02:09PM that -- earlier, we were focused on kind of the month in general. Now I want to focus on that day. Walk us through -- and I've been provided some emails and different things about that day, so I know a little bit.

02:10PM But I want to hear you -- from you what you recall happening that morning, and specifically with you, your interaction with Ms. Wilkerson, and her going to Beebe.

A. Okay. That was the first day Jennifer was going 02:10PM to take the state car to do a visit by herself, where she would pick up a child and meet another worker by herself.

At about 11:15, me and Jennifer left to go to the Casey's General Store to get gas in the 02:10PM vehicle. Usually new employees, their personnel

number is not in the system yet. So I went with her. Her personnel number wasn't in the system, so I used mine to put gas in the vehicle.

And she asked me -- she wasn't for sure where she was meeting the other worker. So when we got back to the office, I -- well, I showed her how to do the logbook with the car, put her name, the mileage, the time she left, the time she picked up the child.

02:11PM And when I got back, the worker was in Bentonville and the child that she was bringing to the -- it was a sibling visit. The child she was bringing couldn't get out of counseling till 2:00. So the plan was to meet in Clarksville McDonald's at 4:00.

02:12PM The other worker was going to pick up that child in northwest Arkansas, bring her to -- bring him to Clarksville McDonald's, and Jennifer was going to Beebe and bring his brother from Beebe to Clarksville McDonald's. And it was right around the same time frame, they were going to meet.

Q. So they were trying to coordinate that meeting together at Clarksville at the McDonald's?

A. Yes.

Q. And if this accident -- if everything had gone as planned, would the two siblings have gone on from

Clarksville to somewhere else together or were they just going to play there together and have lunch at McDonald's and go back separately, or what was ultimately the plan?

02:12PM A. They would have had lunch together at McDonald's and then the case workers would have taken them back to their placements and then been done for the day.

Q. I saw some -- somewhere in reference to a Map Quest being done. Do you recall --

02:13PM A. Yes. I had done the Map Quest to see if it was -- with the other case worker being in northwest Arkansas, would it be closer to meet in Russellville or Clarksville. And it was the same time, pretty much the same time from northwest Arkansas to Clarksville as it was from Beebe to Clarksville.

Q. All right. And then did -- and then what did you do -- what did Ms. Wilkerson do to know her route of where she was to go from Beebe?

A. It was getting closer to noon about that time,

02:13PM and I told her she needed to leave around 12:00, 12:15 to be able to get to Beebe by 2:00. The foster parents were going to have the child ready around 2:00. And I told her she needed to leave around 12:00, 12:15, to get to Beebe in time to pick up the

02:14PM child and then by that time, she would get to

Clarksville around 4:00.

And I explained to her, you know, we understand, you know, road construction, car wrecks, stuff like that. And I just told her to keep in contact with the other case worker she was meeting to let each other know where you're at, if you're going to be early or late.

Q. Okay. And did Ms. Wilkerson appear to understand --

A. Yes.

Q. -- her task?

A. Yes.

Q. And then when was the last time that you saw Ms. Wilkerson before the wreck?

A. Me and my boss were pulling out of the DHS office right around 12:07 to go to lunch, and I watched Jennifer walk to the state car to get in it.

Q. And how do you know what -- that it's 12:07? Do you have a time card?

A. I'm always watching the time.

Q. Okay.

A. I'm always -- it's a -- I'm always watching the time. I'm always looking at my phone looking at the time. Because, I mean, I'm used to putting in contacts at the office and I have to know -- they want

to know exactly what time you did this, this, and this. What time did you get to this house and visit because if something happened, you know, they don't want -- you know, if you were there at 3:15 and
02:15PM something happened, they want to know what was going on, if something broke out at 4:00 and you were already gone.

Q. Gotcha. Okay.

A. So...

02:15PM Q. Who was your boss that went to lunch with you that day?

A. Pamela Feemster.

Q. Do you happen to recall where y'all went to lunch?

02:15PM A. The Thai restaurant there in Paris.

MR. GASPER: You want to spell that for the court reporter. Feemster.

THE WITNESS: F-E-E-M-S-T-E-R.

Q. (By Mr. Jackson:) Thank you for doing that. So
02:16PM you -- when you leave at 12:07, you see Ms. Wilkerson walking towards the state --

A. Walking to the car.

Q. Walking to the car. Okay. You and Ms. Feemster go to lunch?

02:16PM A. Yes.

Q. And then what happens next in this -- what do you recall happening next?
A. Me and Pam came back from lunch. We were at the office at 12:55. I got a phone call, and it was Jennifer stating that she had been in a wreck. And I was, like, where are you at? Where are you at? You know, me and Pam, we'll come right now. Where are you at. And she was like, I don't know. I don't know.

And I said, "Jennifer, I need to know where you're at." I was expecting her to be -- at least be in Dardanelle, Pottsville, somewhere between there by that time. And she said, "By the airport." I said, "By the airport?" I said, "In Paris?" And she said "Yes." I said, "Okay. Me and Pam will be right down there."
Q. Okay. Then what did you do next?
A. We got in my car. We went to the accident -- to the accident site. Jennifer was sitting next to the state car. I asked her what happened. She said she'd stopped by Dairy Delite to get something to drink, and the next thing she remembers is a car stopped in front of her.
Q. Was Ms. Feemster with you when that conversation occurred?
A. No. She was on the phone with Kristen Shelton

daughter knew her daughter from school, that her daughter was the same age or something. But I didn't know her or any of her children.

Q. And not being nosy, did your daughter go to Paris at the time?

A. Yes.

Q. Do you know where Scott Lindstrom is now?

A. No.

Q. Is he incarcerated or do you know?

02:48PM A. No. He was with Jennifer at the Dollar Tree when I saw them -- when I saw her, they were together.

Q. Did Mr. Lindstrom, did he appear intoxicated or under the influence of any controlled substances when you saw him on June 11th of 2021?

02:49PM A. He didn't appear, no.

Q. Do you have any idea what time you would have gotten to the accident scene?

A. 12:58, 12:59. Where that's located is probably three miles from the DHS office, so it would only took

02:50PM a couple of minutes.

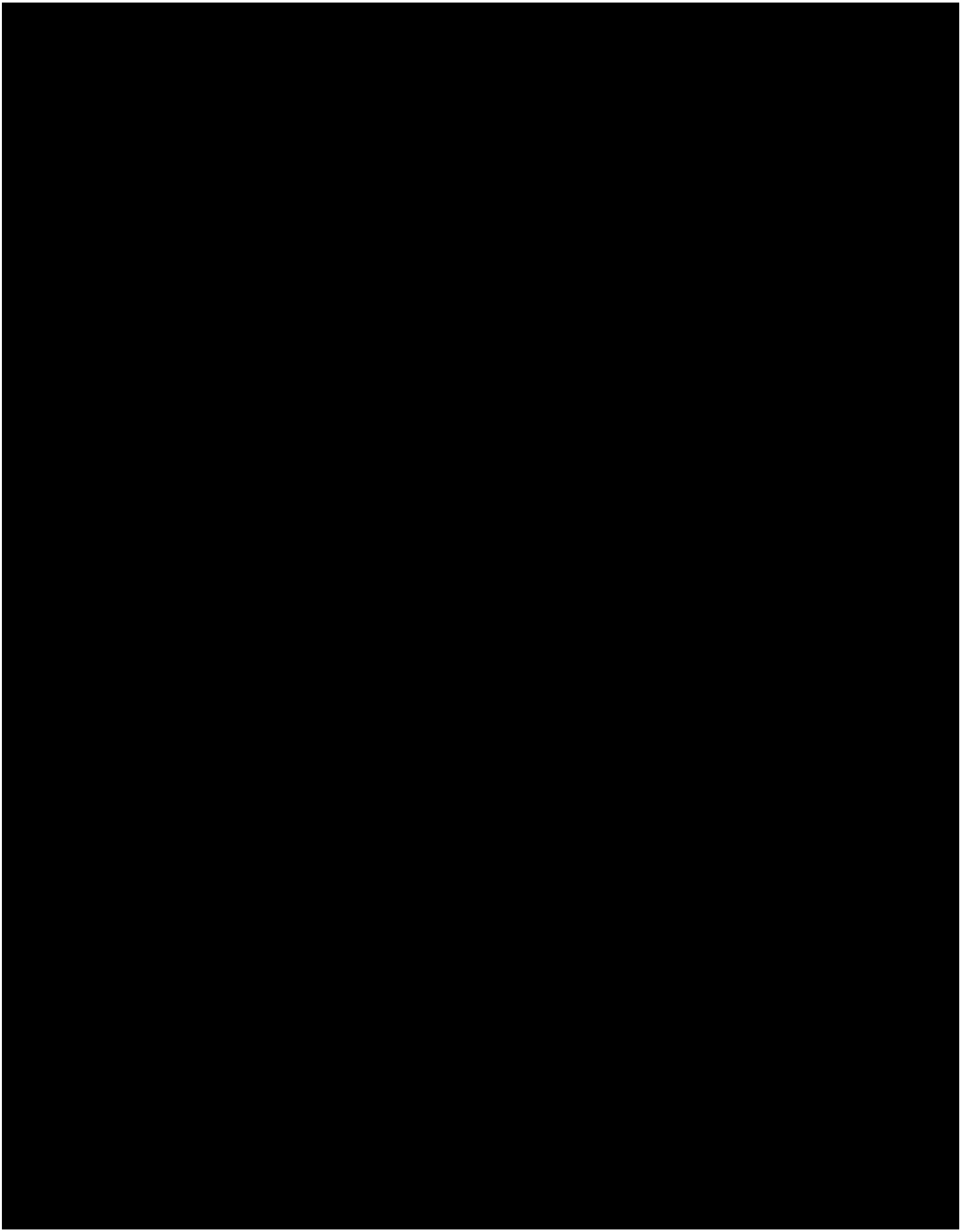
Q. I'm terrible with numbers, so I try to write them down when I hear them in a deposition. And I think you said you returned from lunch at 12:55?

A. No. I returned from lunch about 12:40.

02:50PM Q. 12:40. Okay.

A. I got the call from Jennifer at 12:55 that she was in a wreck.
Q. Thank you for clarifying that. I misunderstood. Thank you.
02:50PM A. You're welcome.
Q. The same question earlier, how you know it's 12:55, that's part of what your answer was earlier. You just know those things.
A. Well, I remember when I was writing this that I 02:50PM had looked at my phone and it had the time when Jennifer called me.
Q. Okay. So when you prepared your statement that is in Exhibit 3, you looked back at your phone for the time of that telephone call?
02:51PM A. Yes.
Q. Okay. And so that's why, in your statement, "She called me at 12:55," you know exactly --
A. Yes.
Q. -- when you got the call? And then you and 02:51PM Ms. Feemster went immediately to the accident site after you got the call?
A. Yes. Pam was asking me questions like, "What happened, where," and I was like, "I don't -- I don't know."
02:51PM Q. Just go towards the airport and see what

happens?
A. All I don't understand is she left at -- I know she would have had to pull out of the office. If we left at 12:07, she was walking to the car. I know she
02:51PM pulled out of the office in plenty of time. And to this day, it still bugs me why she wasn't three miles from the office a good 45 minutes later.
Q. And getting a soda at the Dairy Delite is on the way, shouldn't take more than five minutes if --
02:52PM A. Correct.
Q. And when you arrived, Mr. Lindstrom is present, getting Ms. Wilkerson's items out of the back of the car?
A. Yes.
02:52PM Q. Okay. And you only had conversation with Ms. Wilkerson and not Mr. Lindstrom?
A. I don't care too much for Mr. Lindstrom.
Q. I'll take that as a definitive no.
A. I did not have a conversation with him.
02:53PM Q. Okay. I may have asked this earlier and I apologize. Do you recall Mr. Lindstrom saying anything about what happened or what he observed?
A. I didn't stick around to listen if he did.
Q. Okay. I understand it may have been a one-way
02:53PM statement, but I just wondered if you did hear



ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES — RESPONDENT

VIDEOTAPED DEPOSITION

OF

JAMES RAY

Taken February 21st, 2023, at 1:03 P.M.

==========

EXHIBIT 6

become a -- a trooper?
A Twenty-one weeks of -- of training at the Arkansas State Police training center where I learned anything from accident reconstruction, active shooter, enforcement duties, and how to carry out my job as an Arkansas State Trooper.
Q At the time -- approximately how many automobile accidents have you investigated in your career?
A I could not put a number on that.
Q More than 50?
A Yes.
Q Okay. And I represent the family of Jacqueline Ashcraft, and it is my understanding that you were the trooper in charge of the investigation, and that as a result of that you prepared and filed report number 420621051F with the Arkansas State Police; is that -- that correct?
A Correct.
Q And what time did you receive a call from dispatch that an accident had occurred on East Highway 22 in Logan County?
A According to the report I was notified at 12:54 p.m.
Q And what time did you arrive at the accident scene?

questioning with Ms. Ashcraft, advised who I was, that I was the investigating officer for the accident, and just -- just was trying to figure out what exactly had happened.

I noticed something was a little off with the way she was acting. I didn't know if it was due to injuries sustained or if there was, you know, something -- something further that was going on. It became pretty concerning to me so I went ahead and notified EMS to come back and check Ms. Ashcraft again.

It was at that point where she was transported and then Med flighted to Mercy Fort Smith where she succumbed to the injuries sustained.

Q Okay. And that's the only interaction you had with Ms. Ashcraft?

A Correct.

Q And had you had any interaction with her prior to this?

A I had not.

Q Okay. What about Ms. Wilkerson, the driver of the Respondent's vehicle?

A I don't -- I don't recall ever being able to talk to her. I know that she was transported to Mercy Booneville where another trooper actually met her at

Mercy Booneville while I was still investigating the accident scene.

Q Okay. And I've got a -- and you were kind enough to bring your thumb drive today.

A Yes.

Q And I've got a series of photos that I have marked as Exhibits 1-6. And I'm going to show you these on the power point, and I'm going to go through these. If you could, one at a time. This is Exhibit No. 1. What is the significance of that photo?

A So obviously you have a large debris field. You can see gouges and skids in the roadway. A vehicle that's got, you know, just you can't -- can't necessarily see the entire front end of the vehicle, but you can see that's there a significant amount of damage. Appears to possibly be crushed. You've got, like I said, just a -- just a large debris field.

You've got skids, indicating, you know, a vehicle came through here, obviously, brakes were locked up, the tires were skidding this direction or that direction. Just based off of the picture and initial observation, that's something that I would notice and see.

Q And this is just another -- I assume this is safe to say, this is just another view of approaching this

A Yes.
Q And I'm going to attach as Exhibit 7-13 those photos.
MR. GASPER: No objection.
(WHEREUPON, the documents were marked for identification as Exhibit No. 7-13 and are attached hereto.)
BY MR. JACKSON:
Q And what was the significance of those photos to you when you're performing your investigation and determining what happened?
A When you see, obviously, it's going to be a front-to-rear collision whenever you see a rear impact like that.
Q And it's stating the obvious, but Ms. Ashcraft's vehicle was the one being rear ended in this --
A Yes.
Q -- collision?
A Yes.
Q Okay. And I'm going to show you a series of photos from the -- of the Respondent's vehicle and this is one of the ones I pulled off of the thumb drive that you just brought to us. It's going to be a little bit clearer.
A Yes, sir.

which it is pulled off to the western shoulder of the roadway.
Q And then going to diagram three, which we'll mark it as Exhibit 19 to your deposition.
(WHEREUPON, the document was marked for identification as Exhibit No. 19 and is attached hereto.)
BY MR. JACKSON:
Q It's got a lot of measurements. Would you explain the measurements of the roadway starting from the top to the bottom with the 7 1/2 foot shoulder.
A Okay. So that's just -- that's just dictating your shoulder and lane lets. So your western-most shoulder is 7 1/2 feet. The west lane of State Highway 22 is, I believe, that's 12.8 feet. Eastern lane is 11.5 feet, and your eastern shoulder is 7.10 feet of State Highway 22.
Q And when you -- the shoulder in this area, is it paved?
A Yes.
Q Okay. And based upon what you observed, did you see anything that would have prevented Ms. Wilkerson from seeing the vehicle in front of her at a stop?
A It is a very, very straight roadway.
Q Okay. And then the total distance traveled. We

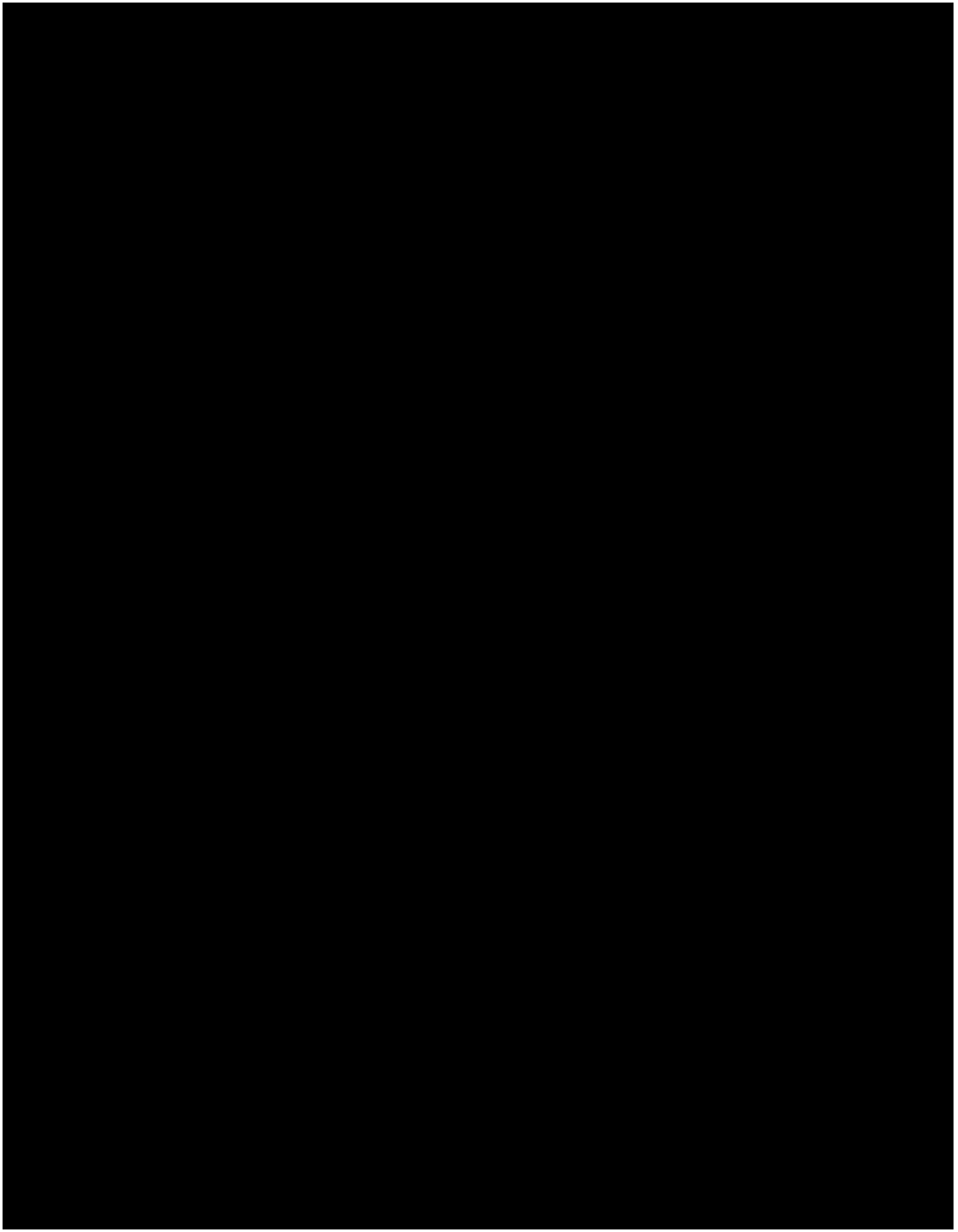
visited a little bit about that earlier.
A Yes.
Q Can you explain to us what the -- what the total distance traveled means?
A So total distance traveled is essentially going to be the -- the -- the total distance of the crash, essentially.
So V1 your total distance traveled is going to be 55 feet, 11 inches from the point of impact. After it got struck, it traveled 55 feet, 11 inches to the shoulder of the roadway.
V2 is skids included from where -- where V2 had locked it's brakes up prior to impact, traveled 194 feet, 11 inches.
V3 total distance traveled after impact was 410 feet, 10 inches.
Q Okay. And to the right of that is your measurements and your -- of showing where the different vehicles came to final rest, and -- and what the lettering indicates; is that correct?
A Correct.
Q Okay. And then the -- so I want to ask you some -- is there -- I want to ask you some more questions about the investigation. Do you recall seeing any children, small children, in the back of the Ashcraft

vehicle, which would be vehicle one?
A I do -- I do not recall.
Q Okay. Did anybody -- do you recall visiting with anybody who said they were an eyewitness other than the three drivers?
A I do not recall.
Q Okay. And did anybody -- one of the -- what is the speed limit in that area of Highway 22?
A Fifty-five miles an hour.
Q I'm going to show you what I'm going to mark as Exhibit No. 20, which would be the -- and I've highlighted a little bit of this to make it easier for you because it's hard to read.

The paramedics report, and I'll represent to you that this the Logan County EMS medical report and if this is -- if that's correct, they were the first ones that were there at the accident scene?
A I assume so. Yes.

(WHEREUPON, the document was marked for identification as Exhibit No. 20 and is attached hereto.)

BY MR. JACKSON:
Q And the -- at the bottom there is a -- not at the bottom, on the right-hand side of the narrative, it indicates about the restraint system that the driver



was being used. Can you see that?
A You're referring to safety devices?
Q Yes.
A Yes.
Q And if you could, tell us what that -- that part that's highlighted says.
BY MR. GASPER: Same objection, please. I would contend that the person who prepared that report should be the one testifying so I object to the form. You can go ahead and answer that question.
BY MR. JACKSON:
Q What does -- under airbag deployment, what does the -- what is noted?
A Airbags deployed. Front deployed.
Q And under safety devices, what does it state?
A Shoulder and lap belt used.
Q And based upon your recollection of this accident, do you have any reason to disagree with those findings by that paramedic?
A I'm going to look at my report. And might I add, who we are referring to here?
Q The vehicle one, Ms. Ashcraft.
A Ms. Ashcraft?
Q Yes.

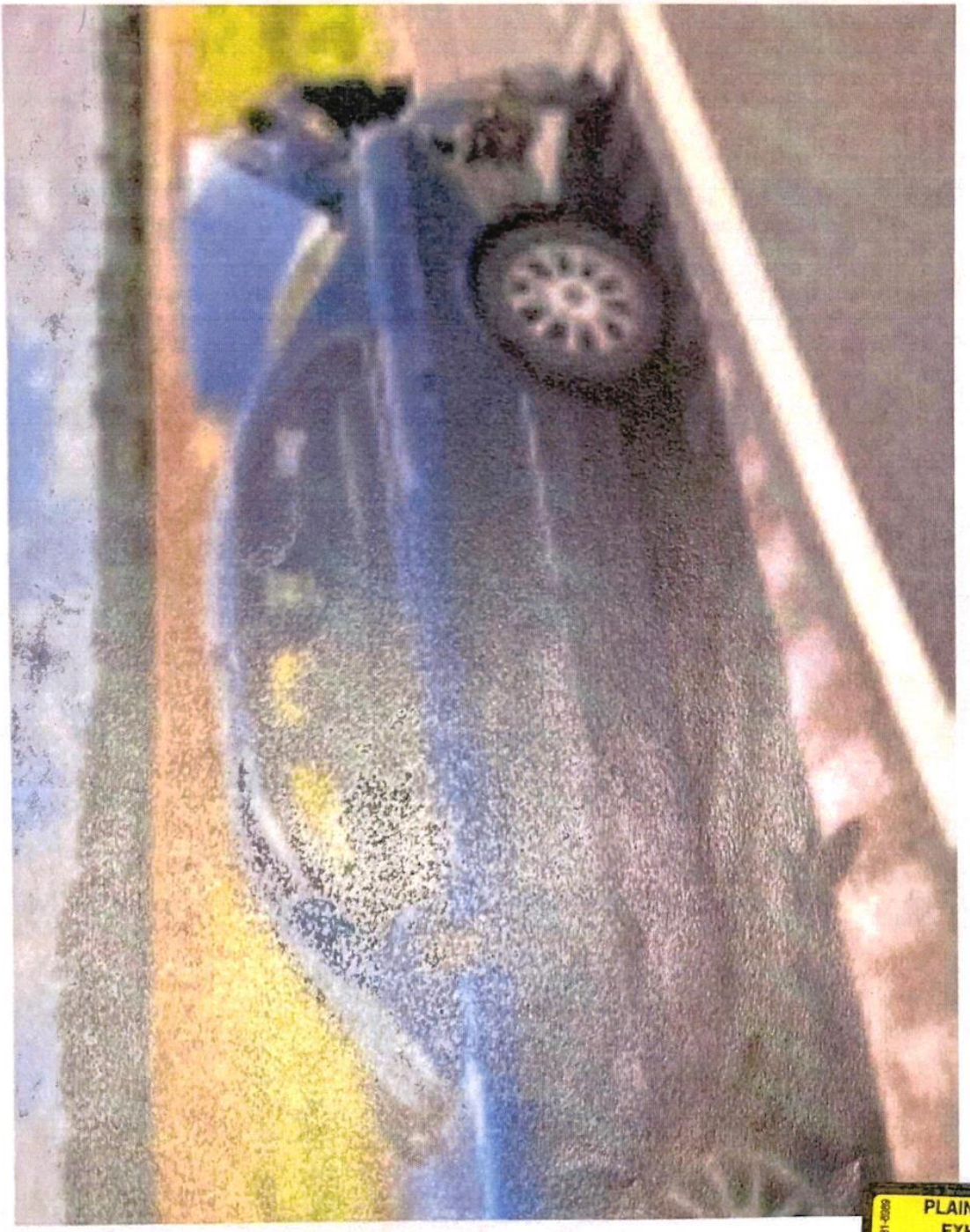
Q -- I used the wrong terminology. I apologize.
A Okay. I just -- I just wanted to correct that --
Q Yeah, yeah.
A -- and make sure I'm hearing you correctly.
Q I know. Okay. Okay. I'm just about done. Just let me just do some checking real quick.
In your training as a state trooper, did you do any training in regards to the effects of controlled substances on a human?
A I did.
Q Are you familiar with what's known as a benzodiazepine?
A I do know that it is listed on these. I do not know the exact effects of a benzodiazepine.
Q Okay. And also in regards to your drug training, you -- did you make -- ever make a drug arrest?
A Yes. Multiple.
Q Okay. Okay. And did you ever make an arrest of a person who was on -- under the influence of a controlled substance?
A Yes.
Q Okay. Have you ever made an arrest of a person who is under the influence of a person who is on amphetamines?
A Yes.

Q Okay. Did Jennifer Wilkerson -- you did not talk to her directly; correct?
A I do not recall if I did or not.
Q Did you see her at all?
A I do not recall if I did or not.
Q Okay. Are you familiar with false positives in regards to controlled substance testing?
A These are from the Arkansas State Crime Lab so they are assumed to be correct.
Q Okay. Maybe false positives is the wrong word? Are you familiar with substances that can cause a positive test for amphetamines that are -- are not in fact amphetamines?
A I'm not aware of them, no.
Q Okay. I think that's all I've got.
BY MR. JACKSON:
Q I've got a couple of follow-up questions.
On this, and I apologize for belaboring this point, but as far as Ms. Wilkerson traveling east on Highway 22, there is nothing to prevent her from seeing an oversized tractor-trailer rig coming -- traveling west or Ms. Ashcraft's vehicle stopping to make a left-hand turn --
A Correct.
Q -- is that correct?

And on page -- I want to ask you to turn to page six of your report. And that's on -- regarding motor vehicle number one, which was driven by Ms. Ashcraft. At the bottom, you -- there's a section that says driver actions at the time of the crash. What box did you check?
A You're referring to the very bottom of the page? Driver -- driver's action at the time of the crash?
Q Yes.
A No contributing action.
Q And I want to turn -- ask you to turn to page 11. I'm sorry, page 10. And that's the report on the driver of vehicle two, which is the Respondent's vehicle. On the driver actions at the time of the crash, what box did you check?
A Page 11?
Q Page 10.
A 10 --
Q 10 of 18.
A Inattentive, careless, negligent, or erratic operation.
Q But if you could, I know, I may have cut you off with my speaking. Can you say that -- answer that question again?
A Inattentive, careless, negligent, or erratic

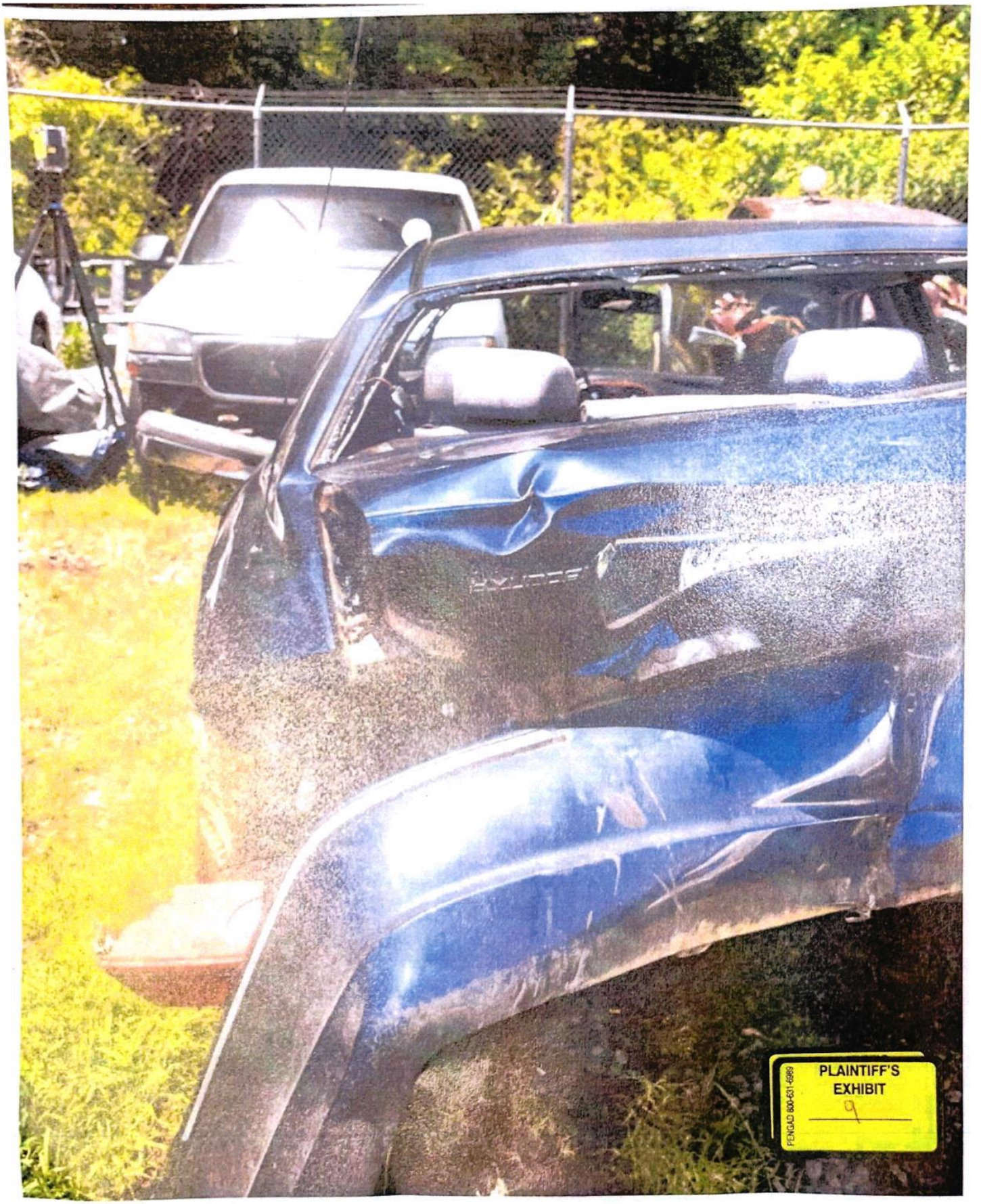
operation.
Q And for vehicle three, the same question is going to be on page 14. And what did you -- what was your finding on the vehicle -- on that driver's contributory actions?
A No contributing action.
Q And one bit of housekeeping matters.
MR. JACKSON: What's our last Exhibit number? 20? I'm going to mark as Exhibits 21-27, and represent to you that those are the photos that I've shown you previously in the slide as the Respondent's vehicle.
(WHEREUPON, the documents were marked for identification as Exhibit No. 21-27 and are attached hereto.)
BY MR. JACKSON:
Q And if you could look through that stack and verify that those are correct, I'll ask to attach them to your deposition.
A Correct.
Q And today you've brought a thumb drive with you to the -- to the deposition and tell us what is on that thumb drive.
A My photographs from the accident.
MR. JACKSON: And let's go off the

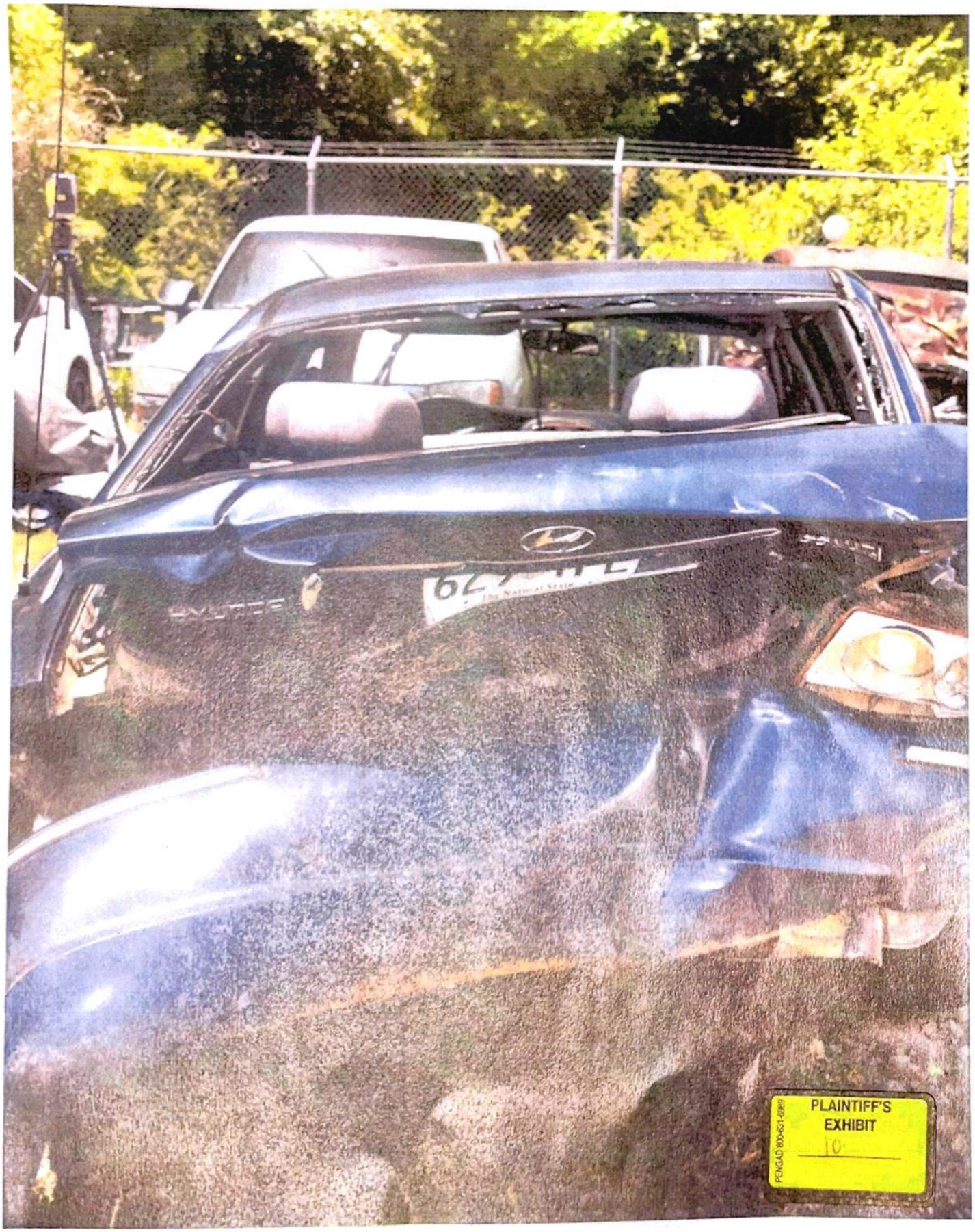

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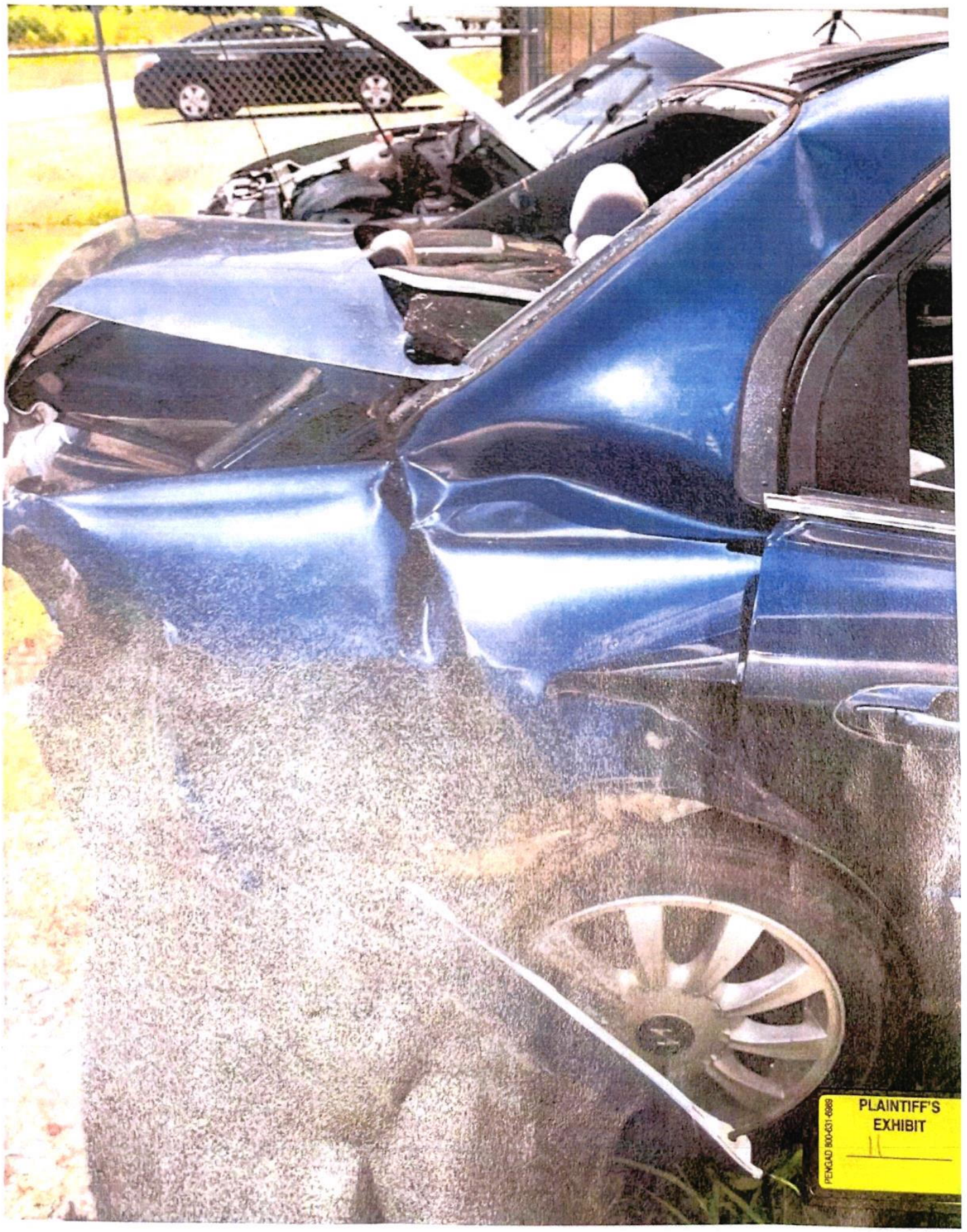


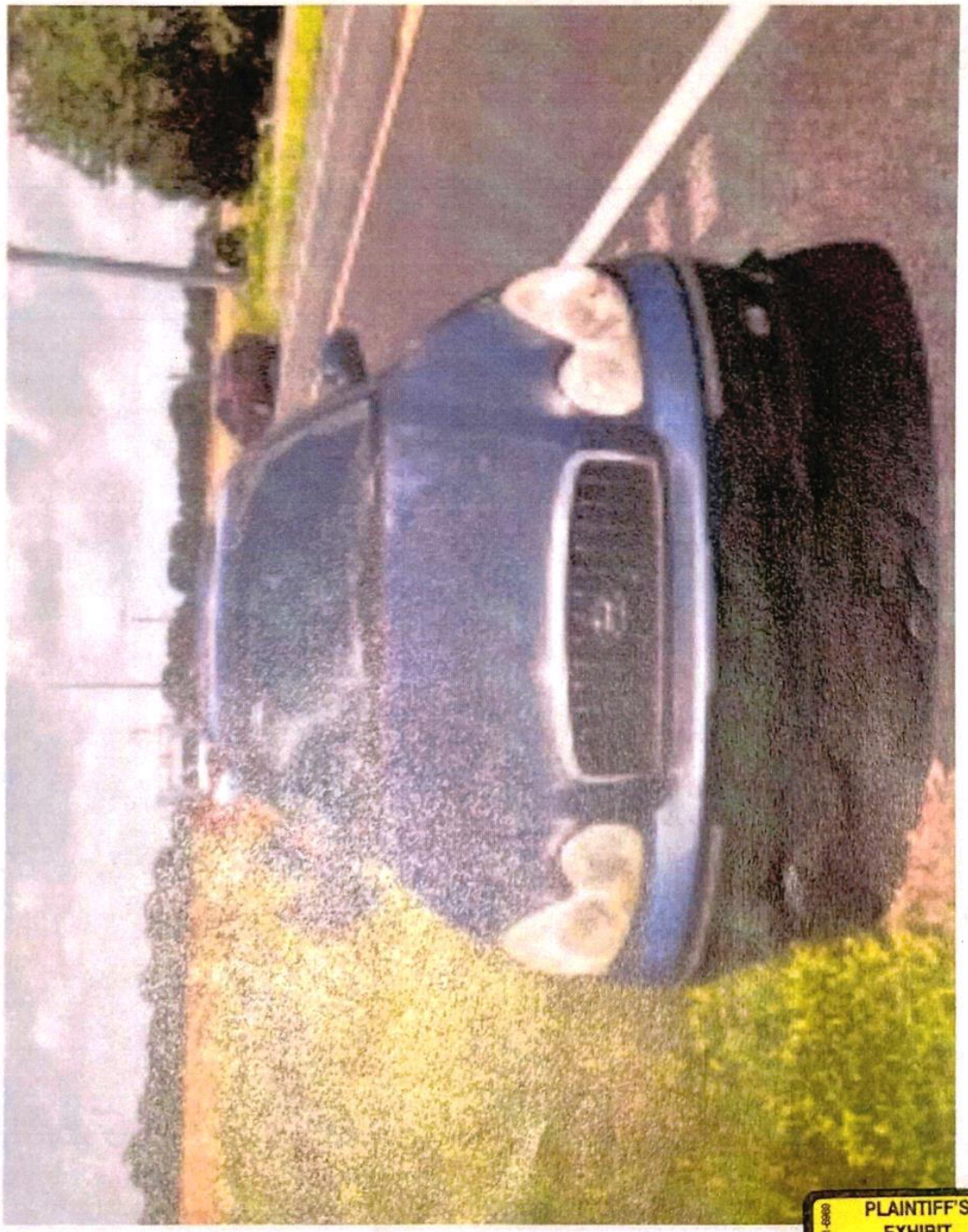
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EXHIBIT
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PLAINTIFF'S EXHIBIT 12

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PLAINTIFF'S EXHIBIT 13

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Q And so I'll just go through this set of photos here. And are you able to verify that those are all the photos of the other vehicle that rear ended the Ashcraft car?
A The other passenger car, yes.
Q And that was vehicle that was being driven by Jennifer Wilkerson that you labeled as V2 in your report and diagram?
A Correct.
Q And was that a -- what type of vehicle was that? Was that a Hyundai?

MR. GASPER: No. It was a -- No. Oh yeah, I'm sorry, Hyundai Sonata 2005? Is that a -- is that right? No, wait, that's -- no, no. That was Ms. Ashcraft's Sonata. A Hyundai Elantra.

MR. JACKSON: Elantra.

MR. GASPER: Okay, so just to be verified, it looks like the DHS car was the Hyundai Elantra. Ms. Ashcraft's was the Hyundai Sonata.

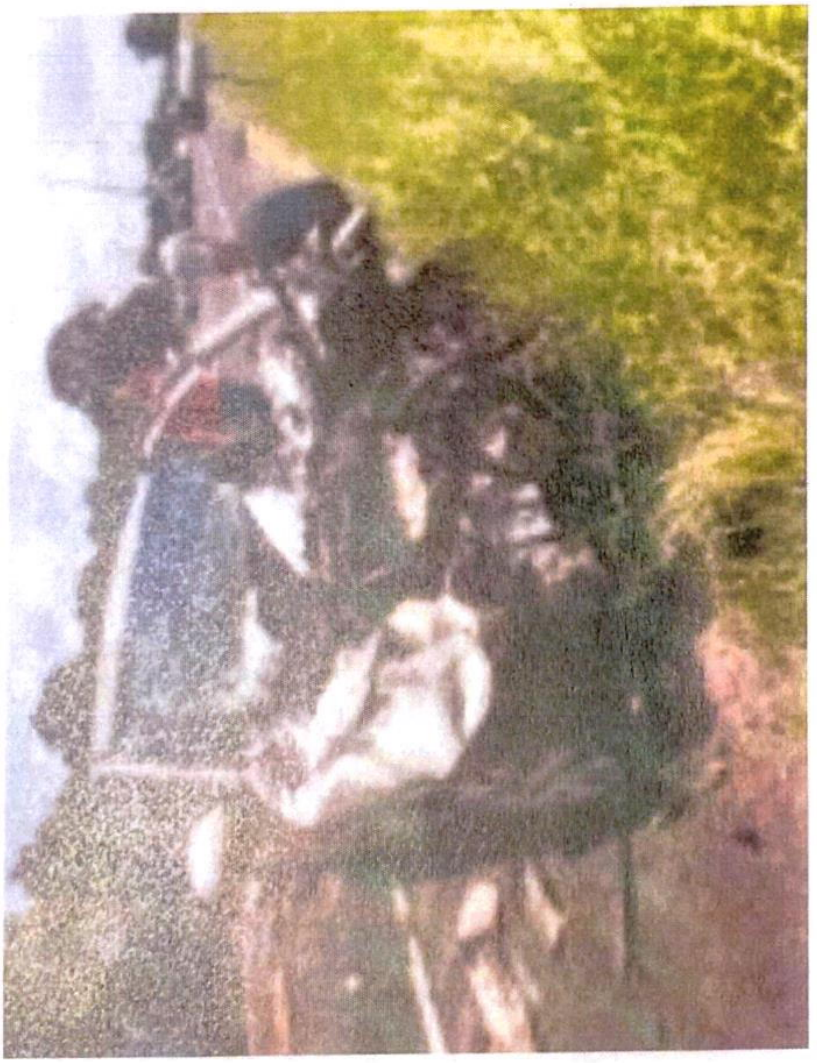
MR. JACKSON: Sonata. Yes, yes.

MR. GASPER: 2005 Hyundai Sonata driven by Ms. Ashcraft.

A Yes.

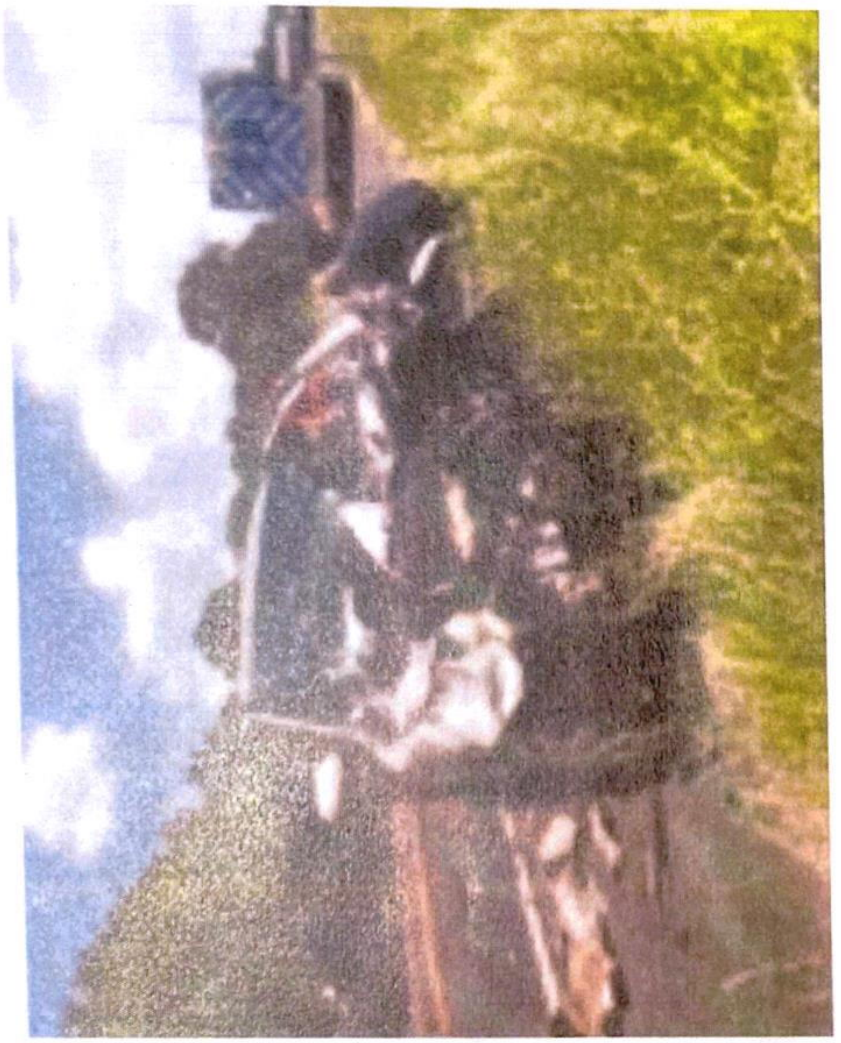
BY MR. JACKSON:
Q And what is the significance of -- sorry --
A Yes, okay. Yeah, that is -- my apologies, yes. V2 Hyundai Elantra.
Q In looking at the Hyundai Elantra's photos, what is the significance? What -- what information does that reveal to you as somebody who has investigated a number of accidents, and has been trained in accident reconstruction by Arkansas State Police?
A That is a significant front-to-rear collision.
Q And are you -- were you able to determine what the speed of that vehicle was at the point of impact?
A I am not. We are -- we are considered advanced accident investigators. However, we have our own accident investigation team, or accident reconstruction team, that would be responsible for calculating drag factor speeds and things of that nature.
Q But you would agree with the assertion that it was a significant impact?
A Significant impact, yes.
Q And then I want to show you two photos of the tractor-trailer rigs. The tractor part of the tractor-trailer rig that was involved in the accident. Do those photos show -- tell us what those photos

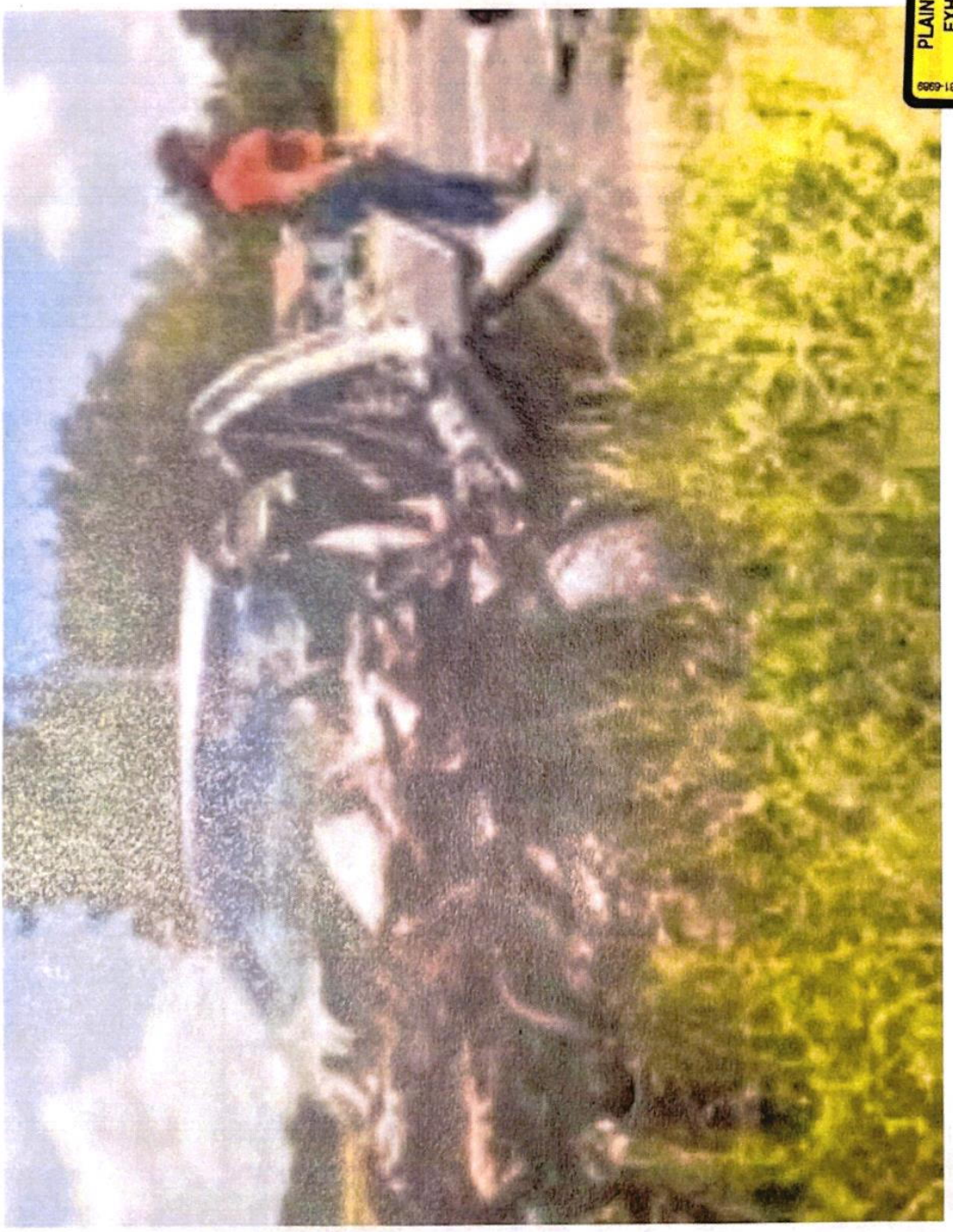

EXHIBIT
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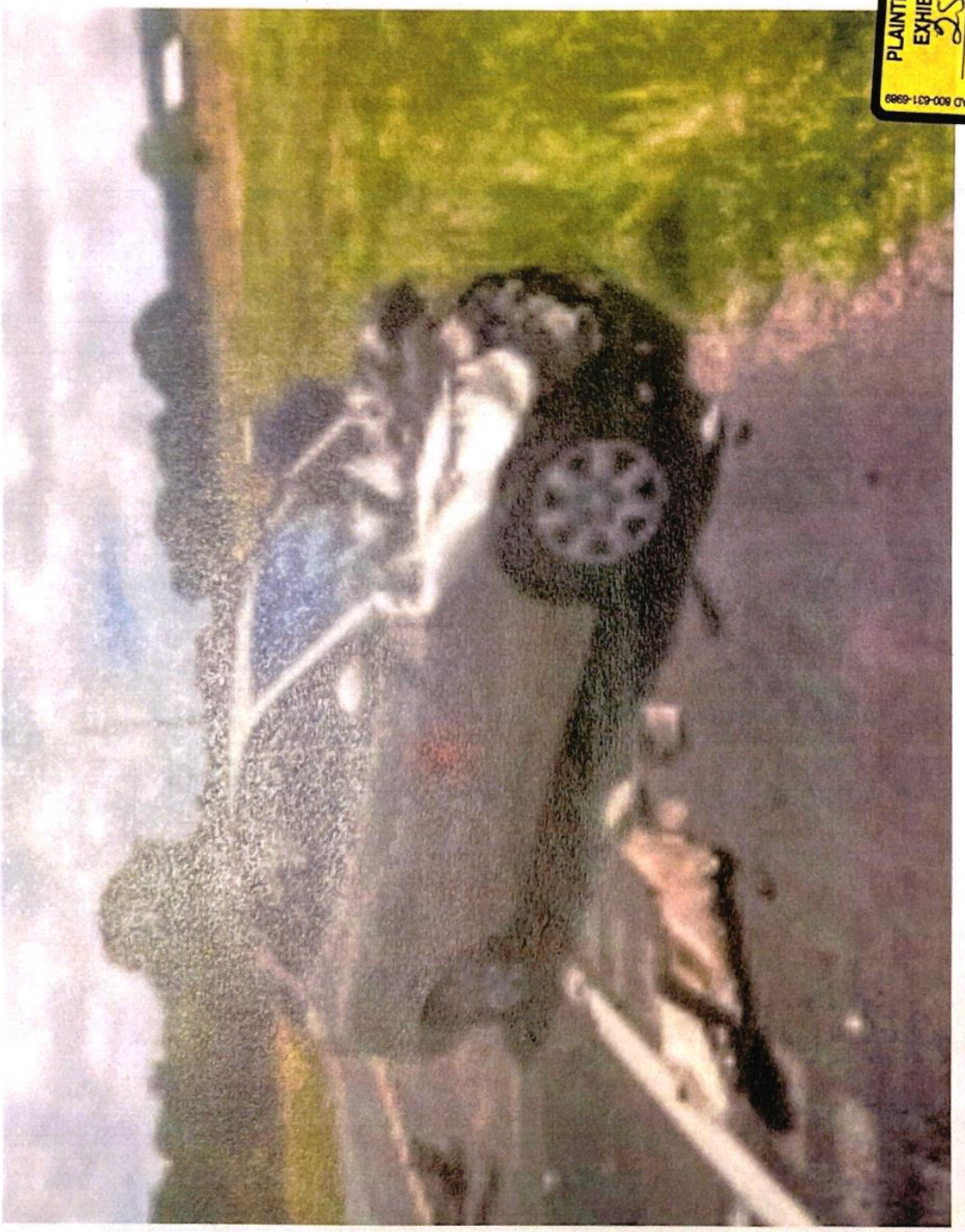


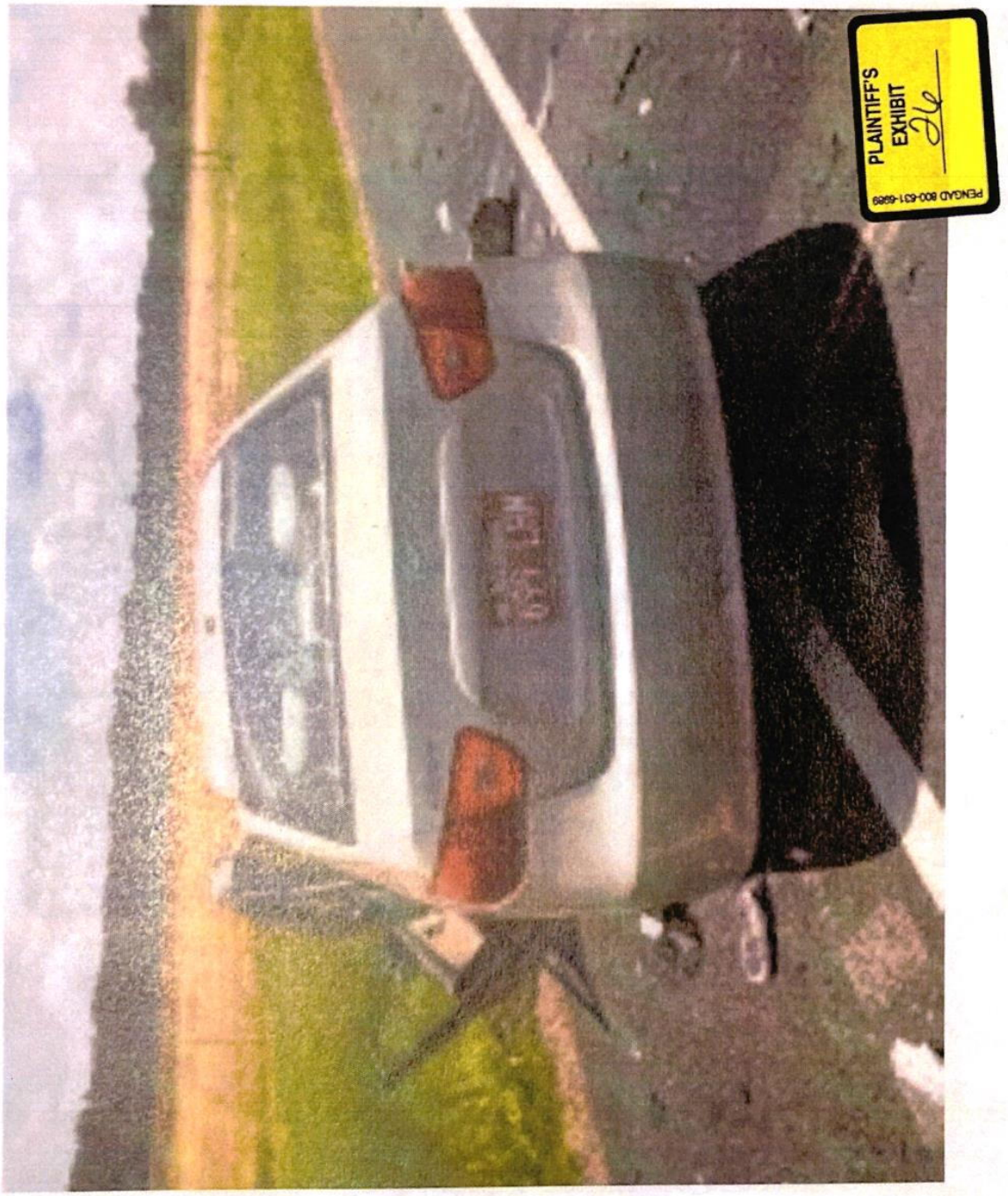

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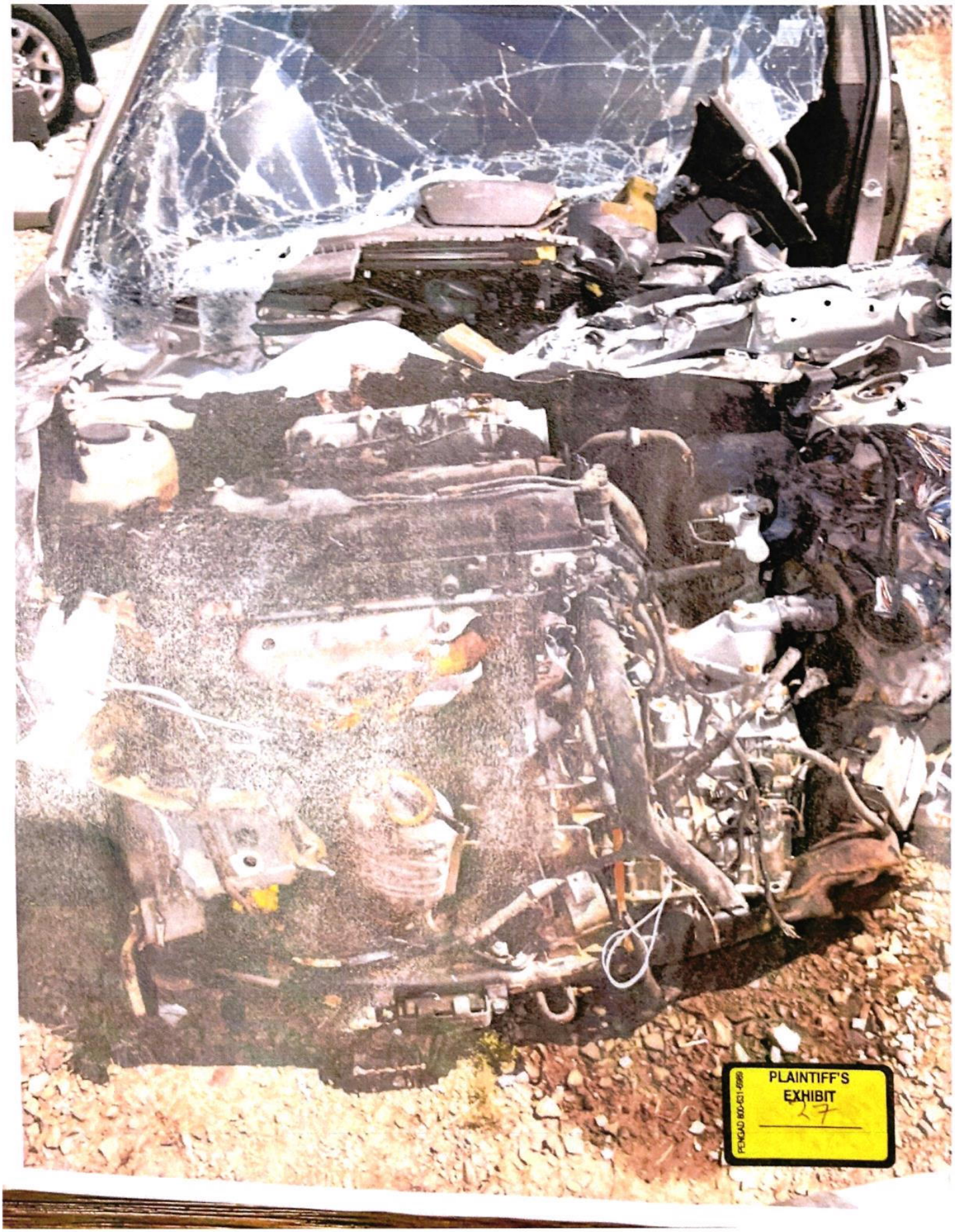

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BEFORE THE STATE CLAIMS COMMISSION
OF THE STATE OF ARKANSAS

HALEY HUDSON, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR, CLAIMANTS,	
VS.	CLAIM NO. 230641
THE ARKANSAS DEPARTMENT OF HUMAN SERVICES, RESPONDENTS.	

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DEPOSITION

OF

STANLEY B. CAIN

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THURSDAY, SEPTEMBER 14, 2023

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COURT REPORTER:

DONNA K. PETRE, CCR
P. O. Box 1027
Little Rock, Arkansas 72203

EXHIBIT
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PETRE'S STENOGRAPH SERVICE
(501) 376-1411

calculated. How fast did you say you thought Ms. Wilkerson's car was going at impact?
A I have ranged her speed from -- let me refer to my chart.
Q Sure.
A Based upon stationary movement by Ms. Ashcraft, I've ranged the impact speed from approximately 74 miles per hour down to 66 miles per hour.
Q Can you go back to that photograph again, sir?
A Yes, sir. (Witness complies.)
Q Okay. I'm about to move on from the skid marks, but I just want to make sure I understand. Based upon those speeds and that damage to both cars and the injury allegedly sustained by Ms. Ashcraft, it left no skid marks by Ms. Ashcraft's car?

MR. JACKSON: Object to the form of the question, in that there were two different presentations given by the witness, and I think you're asking about the assumption number two.

MR. GASPER: Yes. I'm sorry.

MR. JACKSON: I just wanted to clarify.

BY MR. GASPER:
Q Under the assumption that that small rectangle does not represent any mark made by the Ashcraft car.

cause of this accident was?
A His report found Ms. Wilkerson at fault for contributing factors.
Q And what was your opinion as to who was at fault for causing this accident?
A It was Ms. Wilkerson.
Q And you have had a chance to visit with Bobby Wilson. And who does he -- what was his statement?
A His statement was that -- during his statement he told me that he noticed -- of course, he noticed Ms. Ashcraft either stopped or moving slowly as he approached, then he observed Ms. Wilkerson approaching, and he said he noticed that she was looking down into the seat or her lap or something, and he knew something -- he had a bad feeling that something bad was going to happen, because, from what he could see, when she went past him, that she was not aware of the vehicle ahead of her that was stopped.
Q And what is the speed limit in this area of Highway 22 where this wreck occurred?
A It's 55 miles per hour.
Q And what was the range of the speed that you found Ms. Wilkerson traveling at the point of impact with the rear-end of the Ashcraft vehicle?

A From my calculations, I ranged her speed anywhere from approximately 74 miles per hour maybe down to as low as 66 miles per hour.
Q And would that be consistent with somebody who is late for an appointment, trying to get -- trying to make up time?
MR. GASPER: I'm going to object to the form. I know what you are going to say. It's fine. Go ahead. I mean, he can answer it. Whatever.
BY MR. JACKSON:
Q I mean, do you --
A I could definitely see where if someone is late for an appointment -- because things occur. And if someone is late for an appointment, that tends to make an individual to want to drive faster and to try to make up for as much lost time as they can.
Q And looking at this table, would it be fair to say that you have a total speed, and then whatever speed the Ashcraft vehicle is moving, whether it's stationary or moving -- if it's moving at ten miles an hour, you reduce the Wilkerson vehicle by ten; is that correct?
A Correct. And as you can see from the range of speed, it doesn't flow necessarily at ten miles per

IN THE ARKANSAS STATE CLAIMS COMMISSION

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HALEY HUDSON, SPECIAL ADMINISTRATRIX OF
THE ESTATE OF JAQUELINE LYNN ASHCRAFT,
DECEASED, AND HALEY HUDSON, AS PERMANENT
LEGAL GUARDIAN OF [redacted], MINOR CHILDREN** **CLAIMANTS**

vs. **CC No. 230641**

**ARKANSAS DEPARTMENT OF
HUMAN SERVICES** **RESPONDENT**

**BRIEF IN SUPPORT OF RESPONDENT'S
CROSS-MOTION FOR SUMMARY JUDGMENT**

I. INTRODUCTION

This claim involves the tragic and untimely death of Ms. Jaqueline Ashcraft. On Friday June 11, 2021, at approximately 12:50 p.m., Jennifer Wilkerson—who had only been a DHS employee for ***eleven (11) days***—rear-ended the vehicle that was driven by Ms. Jacquelin Ashcraft on State Highway 22 as Ms. Ashcraft attempted to turn left into a private drive. Two of Ms. Ashcraft's minor daughters were her vehicle when the accident occurred. Ms. Wilkerson was found to be driving at an excessive and criminal rate of speed when the collision occurred. As a result of this accident, Ms. Ashcraft lost her life. The estate of Jacqueline Ashcraft and the legal guardian for Ms. Ashcraft's two minor daughters involved in the accident, bring this claim alleging that DHS is liable that under the doctrine of *respondeat superior*. DHS respectfully disagrees that it is vicariously liable for the actions of Ms. Wilkerson as will be discussed in more details below.

The undisputed evidence as presented in Respondent's Statement of Undisputed Material Facts, will show that although Ms. Wilkerson was employed by DHS at the time of the accident, DHS is not vicariously liable because Ms. Wilkerson was outside the scope of her employment when the accident occurred. Ms. Wilkerson was hired by DHS on June 1, 2021, as a program

assistant. Accordingly, DHS respectfully requests the following: (1) for its cross motion for summary judgment be granted, (2) that Claimants' motion for partial summary judgment be denied, and (3) this claim against DHS be dismissed with prejudice.

II. STANDARD OF REVIEW

Summary judgment "shall be rendered forthwith if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, shows that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law on the issues specifically set forth in the motion." Ark. R. Civ. P. 56 (c)(2). Summary judgment should be granted only when it is clear that there are no genuine issues of material fact to be litigated, and the moving party is entitled to summary judgment as a matter of law. *Wilcox v. Wooley*, 2015 Ark. App. 56, 454 S.W. 3d 792 (quoting *Harvest Rice, Inc. v. Fritz & Mertice Lehman Elevator & Dryer, Inc.*, 365 Ark. 573, 575—76, 231 S.W. 3d 720 (2006)). The purpose of summary judgment is not to try the issues, but to determine whether there are any issues to be tried. *Id*. Once the moving party has established a *prima facie* entitlement to summary judgment, the opposing party must meet proof with proof and demonstrate the existence of a material issue of fact. *Id*.

III. ARGUMENT

A. DHS Is Not Liable under the Doctrine of *Respondeat Superior* Because Ms. Wilkerson Was Not Acting Within the Scope of Her Employment When the Accident Occurred.

In this claim, the undisputed material facts show that Ms. Wilkerson was not acting within the scope of her employment with DHS when she rearended Claimants' vehicle. Thus, DHS cannot be held liable under the doctrine of *respondeat superior*. Accordingly, DHS is entitled to summary judgment in this claim.

The Arkansas Supreme Court has long held that under the doctrine of *respondeat superior* an employer may be liable for the actions of its employee if the employee was acting within the scope of his or her employment at the time of the alleged incident. *Porter v. Harshfield*, 329 Ark. 130, 137, 948 S.W.2d 83 (1997). The doctrine of *respondeat superior* is derived from the theory of master-servant liability that Arkansas has followed since 1910. *Id*. at 136. In 1910, the Arkansas Supreme Court decided the case of *Sweeden v. Atkinson Improvement Co.*, 93 Ark. 397, 125 S.W. 439 (1910), in which it ruled that "[t]he act of the servant for which the master is liable must pertain to something that is incident to the employment for which he is hired, and which it is his duty to perform, or be for the benefit of the master." *Sweeden*, 93 Ark. at 402.

The fact that the action occurred during the employment does not automatically mean that the employer is vicariously liable; rather, the action must be proven to have been done to carry out the objective and purpose of the employer's business. *Orkin Exterminating Co. v. Wheeling Pipeline, Inc.*, 263 Ark. 711, 716-17, 567 S.W.2d 117 (1978) (citing *Van Dalsen v. Inman*, 238 Ark. 237, 379 S.W.2d 261 (1964)). "Scope of employment" is not synonymous with "during the period covered by his employment." *Hunter v. First State* Bank, 181 Ark. 907, 908-09, 28 S.W.2d 712 (1930). As the Arkansas Court of Appeals more succinctly stated, "employers are not always liable for any and all acts that an employee commits while on the job." *Coombs v. J.B. Hunt Transp., Inc.*, 2012 Ark. App. 24, at 8, 388 S.W.3d 456. Accordingly, "[t]he test for whether an employee is acting within the scope of his employment is whether the individual is carrying out the 'object and purpose of the enterprise,' as opposed to acting exclusively in his own interest." *Cooper Clinic, P.A. v. Barnes*, 366 Ark. 533, 541 237 S.W.3d 87 (2006) (citing *Porter v. Harshfield*, 329 Ark. 130, 137, 948 S.W.2d 83 (1997)).

As will be discussed below in more details, courts have found that an employee is outside the scope of employment: 1) when the employee deviates from the employer's business or acts in the employee's personal interest criminal acts, and 2) when the employee's actions are criminal or otherwise illegal, or not authorized or contrary to the employer's policies. For these reasons, Ms. Wilkerson was not acting within the scope of her employment with DHS at the time of the accident on June 11, 2021, in the claim-at-hand. Accordingly, DHS is entitled to summary judgment as a matter of law based upon the undisputed material facts.

1. DHS Is Not Vicariously Liable because Ms. Wilkerson Deviated from the Object and Purpose of DHS for Her Personal Interest.

The leading case on deviation of an employee from the scope of employment is *Healey v. Cockrill*,133 Ark. 327, 202 S.W. 299 (1918). In that case, the employee was hired to drive a car for his employer. The employer had instructed the employee to bring the vehicle to the front of the property, which only required the employee to drive three-sides of a block. "The driver, instead of obeying the directions of his employer, and without her knowledge, went on a trip to a drug store to buy cigarettes before placing the car in front of appellee's residence in accordance with her instructions." *Healey*, 133 Ark. At 330. The employee was returning to his employer when the accident occurred. *Id*. Although the employee had gone less than a few blocks away, the Arkansas Supreme Court found that the employer was not vicariously liable for the actions of the employee. *Id*. at 333. The Court ruled that "the relative distance was too great to be called a slight deviation, and the departure from the line of duty was so complete that the connection with the employer's service was completely broken." *Id*.

Similarly, when an employee deviates even temporarily from the route and time elapses, the employee may no longer be within the scope of employment depending on the extent and nature relative to the time, place, and circumstances. *Davis v. Kukar*, 253 Ark. 139, 145, 357

S.W.2d 275 (1962). In finding that the employer was not liable, the Court ruled that during the deviation, the employer is not liable. *Id*. at 146. Additionally, the Court noted that "the mere fact that he is returning thereto, does not of itself reinstate the servant, agent or agency in his master's employment and establish the engaging in the master's business so as to subject the master to liability and for damages resulting after the departure and before the return is accomplished as of fact." *Id*. (cleaned up).

Although this accident was tragic with the untimely death of Ms. Ashcraft, DHS should not and cannot be held vicariously liable for the actions of Ms. Wilkerson. The undisputed facts show that although Ms. Wilkerson left the Logan County DHS office around 12:07 p.m., she was only about three miles away over forty minutes later when the accident occurred. *SUMF* ¶¶ 12, 16, 32. Ms. Wilkerson admitted that she stopped and met her boyfriend at a restaurant. *SUMF* ¶¶ 14-15. Moreover, Ms. Wilkerson knew that she was on a tight deadline and that she needed to be in Beebe by 2:00 p.m., which was about a two-hour drive. *SUMF* ¶¶ 9-10. Ms. Wilkerson's stop was a significant deviation and departure from her duties as a DHS employee. *See Healey*, 133 Ark. at 333. Immediately upon learning that Ms. Wilkerson had been in a motor vehicle accident, Ms. Ezell "was expecting her to be at least be in Dardanelle, Pottsville, somewhere between there by that time." *SUMF* ¶ 28. Dardanelle, Arkansas is approximately 34 miles from the Logan County DHS office and Pottsville is approximately 40 miles from the office. In determining whether an employee deviation placed the employee outside the scope of employment, courts can take judicial notice of a map and the distance between places. *Van Dalsen v. Inman*, 238 Ark. 237, 239 fn. 1, 379 S.W.2d 261 (1964). Thus, according to the uncontroverted testimony of Ms. Ezell, Ms. Wilkerson was not only almost an hour behind schedule, but also she was at least thirty-one (31) miles from where she should have been when the accident occurred. *SUMF* ¶¶ 28-29. When

considering the time, place, and circumstances, Ms. Wilkerson's deviation was significant and placed her beyond the scope of her employment. *See Davis*, 253 Ark. at 145. And, at the time of the accident, Ms. Wilkerson had not reinstated herself within the scope of her employment, because she was still significantly behind schedule in both time and distance. Thus, DHS cannot be vicariously liable for this accident. *See Davis*, 253 Ark. at 146. Accordingly, DHS is entitled to summary judgment as a matter of law and respectfully request that this claim be dismissed with prejudice.

2. DHS Is Not Vicariously Liable for the Illegal Criminal Actions and Policy Violations of Ms. Wilkerson.

DHS is entitled to summary judgment because Claimants cannot show as a matter of law that the doctrine of *respondeat superior* applies, because the actions of the DHS employee, Ms. Wilkerson, were outside the scope of her employment. The Arkansas Supreme Court has repeatedly found that an employer is not vicariously liable for the illegal and criminal actions of an employee, even though the employee's actions were taken while the employee was "on the clock."

In *Porter v. Harshfield, supra*, a patient brought suit against a doctor (employer) after a radiology technician (employee) sexually assaulted the patient during a gallbladder ultrasound. 329 Ark. at 133. The trial court granted summary judgment in favor of the doctor (employer) and the patient appealed. *Id*. at 134. The Court reaffirmed that the doctrine of *respondeat superior* is the same legal standard that has long been applied in Arkansas for master-servant liability. *Id*. The Arkansas Supreme Court upheld the decision in favor of the doctor (employer). *Id*. at 137. It found that because the employee's actions were personal and not expected; therefore, the employer was not liable. *Id.* Thus, "*Porter* does indeed stand for the proposition that an employer is not

vicariously liable for the intentional, unexpectable, criminal acts of his employees." *Sparks Reg. Medical Cent. v. Smith*, 63 Ark. App. 131, 134-35, 976 S.W.2d 396 (1998).

The Arkansas Supreme Court has found that an employer was not vicariously liable for other types of criminal and illegal actions of an employee beyond sexual assault, including an employee's failure as a mandated reporter to report suspected child abuse and staff illegally accessing a patient's medical records.

The case of *Cooper Clinic, P.A. v. Barnes*, 366 Ark. 533, 237 S.W.3d 87 (2006) is instructive for this claim. In that case, a medical clinic was sued for the wrongful death of a child after the child had been seen at the Cooper Clinic by a doctor. *Id*. at 535. Although the doctor, who was employed by the Cooper Clinic, suspected and noted apparent child abuse, the doctor never made a report with the child abuse hotline as required by law for a mandated reporter. *Id*. at 534-35. After the child died as a result of the child abuse, a suit was brought by the estate of the child against Cooper Clinic claiming that the clinic was liable under the theory of *respondeat superior*. *Id*. The Arkansas Supreme Court ruled that the "Cooper Clinic is not vicariously liable for Dr. Staudt's failure to report the suspected child abuse." *Id*. at 540. In so doing, the Court ruled that "[t]he test for whether an employee is acting within the scope of his employment is whether the individual is carrying out the 'object and purpose of the enterprise,' as opposed to acting exclusively in his own interest." *Id*. at 541 (citing *Porter v. Harshfield*, 329 Ark. 130, 137, 948 S.W.2d 83 (1997)); *accord Isham v. Booneville Comm. Hospital*, 2015 U.S. Dist. Lexis 84705 (W.D. Ark. June 30, 2015)(the Court found that the hospital was not vicariously liable for the actions of a nurse, who issued prescriptions to a friend while the two were at work at the hospital). The Court reasoned that "Dr. Staudt's decision to report or not to report suspected child abuse is not the object and purpose of Cooper Clinic, but rather such a decision is exclusively in Dr. Staudt's

interests." *Id*. (cleaned up). Thus, an employer is not liable for the actions of an employee who violates the law that results in the death of another.

In *Cannady v. St. Vincent Infirmary*, the administratrix of the estate of Anne Pressly[1] sued St. Vincent under the doctrine of *respondeat superior* after two of its employees unlawfully accessed Anne Pressly's medical records. 2018 Ark. 35, 537 S.W.3d 529. The Arkansas Supreme Court rejected the argument that St. Vincent was vicariously liable because the actions of the employees were not unexpected and found that the employees acted outside the scope of their employment. 2018 Ark. at 9. "St. Vincent is therefore entitled to expect St. Vincent employees to obey hospital policy, to remain faithful to their agreements, and to not violate federal law. Therefore, the employees' actions were unexpected." *Id*. at 10. Most importantly, St. Vincent terminated the employees upon discovering their inappropriate actions; therefore, the Court found that St. Vincent "***did not ratify or endorse*** the improper actions." *Id*. (emphasis added).

DHS cannot be vicariously liable for the illegal and criminal actions of Ms. Wilkerson. *See Porter*, 329 Ark. at 133. Ms. Wilkerson was estimated to have been going over 70 mph, when the accident occurred. *SUMF* ¶24. The posted speed limit was 55 mph. *SUMF* ¶20. Thus, Ms. Wilkerson was traveling at a criminal rate of speed when the accident occurred. *See* Ark. Code Ann. §27-50-302(7)("speeding in excess of fifteen miles per hour over the posted limit is a Class C misdemeanor"). Consequently, given that Ms. Ashcraft died in this accident, Ms. Wilkerson could have been charged with negligent homicide. *See* Ark. Code Ann. §5-10-105; *see also Robinson v. State*, 98 Ark. App. 237, 254 S.W.3d 750 (2007).

[1] Anne Pressly was a famous local news anchor, who was brutally assaulted at her home and was hospitalized at St. Vincent where she died as a result of her injuries.

Moreover, Ms. Wilkerson admitted to taking Adderall—a Schedule II controlled substance[2]—***without a prescription***. *SUMF* ¶¶ 36-37. Prior to beginning her employment with DHS, Ms. Wilkerson had a clean drug test. *SUMF* ¶5. Thus, Ms. Wilkerson's actions of drug abuse could not have been expected by DHS; therefore, Ms. Wilkerson was outside the scope of her employment. *See Porter*, 329 Ark. at 137. Interestingly, under the Arkansas Workers' Compensation Act, injuries that occur to an employee who took illegal drugs or used prescription drugs in contravention of physicians' orders are not compensable. Ark. Code Ann. §11-9-102(4)(B)(iv).

Another important consideration is that Ms. Wilkerson—by illegally using drugs—was not carrying out the "object and purpose" of DHS; therefore, she was acting outside the scope of her employment with DHS and DHS cannot be vicariously liable for her actions. *See Cooper Clinic*, 366 Ark. at 541. A primary focus of DHS is on drug and substance abuse treatment and prevention through programs like the one promote the use and distribution of Narcan for opioid overdoses and peer recovery programs to just name a few. Thus, when Ms. Wilkerson illegally took a Schedule II controlled substance without at prescription, she was not furthering the "object and purpose" of DHS. Additionally, Ms. Wilkerson's decision to drive at an excessive rate of speed to the point that it was a criminal rate of speed in order to make up time for her decision to stop was exclusively in her own interest and not in the object and purpose of DHS. *See Porter*, 329 Ark. at 137. Accordingly, as the Arkansas Supreme Court found in *Cooper Clinic, supra*, the Arkansas State Claims Commission should also find that DHS is not vicariously liable for the actions of Ms.

[2] According to Arkansas Department of Health regulations, "Schedule II controlled substances are drugs that have a legitimate medical indication, but also have a high potential for abuse that may lead to severe psychological or physical dependence. Included in the list of Schedule II drugs are the stimulants: amphetamines and methamphetamines and their salts and optical isomers (e.g. ***Adderall***, Desoxyn, Dexedrine and Vyvanse)." Rule 7, 060 01 CARR 001.

Wilkerson, because she was not furthering the objectives and purposes of DHS at the time of the accident on June 11, 2021.

Finally, as illustrated by *Cannady v. St. Vincent Infirmary*, *supra*., DHS is not vicariously liable for Ms. Wilkerson's actions. Like St. Vincent, DHS is entitled to expect that its employees will follow policy and not violate the law. Similar to St. Vincent, DHS terminated Ms. Wilkerson shortly after the accident after conducting a fact finding investigation, which revealed that Ms. Wilkerson failed to follow instructions and policy and violated the law. *SUMF* ¶¶ 41-42. Thus, DHS did not ratify or endorse Ms. Wilkerson's actions; therefore, it cannot be held vicariously liable. *See Cannady*, 2018 Ark. at 10. Accordingly, DHS respectfully requests that its cross motion for summary judgment be granted and this claim be dismissed with prejudice.

B. <u>DHS Is Not Liable to Claimants for Negligent Hiring nor Negligent Supervision.</u>

Although the Claimants did not specifically raise a claim of negligent hiring nor of negligent supervision, but out of an abundance of caution and in an effort to provide the Claims Commission with a thorough legal analysis, Respondent will briefly address why these claims would also fail as a matter of law. Under these legal theories, an employer may be liable for the actions of an employee if the third party can show that the employer knew or should have known through ordinary care that the employee could posed an unreasonable risk of harm and that harm occurred to the third party. *Saine v. Comcast Cable*, 354 Ark. 492, 497, 126 S.W.3d 399 (2003). In order to prove a claim for negligent hiring or negligent supervision, a plaintiff must prove that the risk of harm to others was reasonably foreseeable. *Id*. Thus, "absent some form of notice that the employee posed a danger, such an act is not foreseeable." *Id*. at 498 (quoting *Regions Bank & Trust v. Stone Co. Nursing Facility, Inc.*, 345 Ark. 555, 569, 49 S.W.3d 107 (2001)). Specifically,

regarding the claim of negligent hiring, the Arkansas Supreme Court has held that a plaintiff must show the following:

> (1) that an inadequate background check was done or there was the complete absence of a background check; (2) that a proper background check would have revealed that the employee was not qualified for the position for which he or she was hired; and (3) that if the claim is based on a criminal act by the employee, there was a direct causal connection between an inadequate background check and the criminal act for which the plaintiff is attempting to hold the employer liable.

Paulino v. QHG of Springdale, Inc., 2012 Ark. 55, at 13, 386 S.W.3d 462.

Under either theory, the plaintiff must still show that the employer failed to exercise ordinary care in either its hiring or supervision of the employee. *Id*.

In the claim-at-hand, Claimants cannot show that DHS was negligent in its hiring of Ms. Wilkerson nor that DHS was negligent in its supervision of Ms. Wilkerson. The undisputed facts show that prior to her employment with DHS, Ms. Wilkerson passed a criminal background check, had a clean driving record, and passed a drug test. *SUMF* ¶¶ 5-6. Thus, Claimants cannot show that DHS was negligent in its hiring of Ms. Wilkerson. *See Paulino*, 2015 Ark. at 13. Additionally, there is no evidence to show that DHS could have reasonable foreseen the actions of Ms. Wilkerson, especially given that she had only been employed with DHS for eleven (11) days when the accident occurred. *See Saine*, 354 Ark. at 497. Thus, to the extent Claimants have raised or could raise that DHS was negligent in hiring or supervising Ms. Wilkerson, these claims also fail as matters of law. Accordingly, DHS is entitled to summary judgment on these potential claims as well.

IV. CONCLUSION

For the reasons stated above, Respondent respectfully requests that the Arkansas State Claims Commission grants their Cross-Motion for Summary Judgment and denies Claimants' motion for summary judgment and for all other just and proper relief to which it is entitled.

Respectfully submitted,

By: */s/ Vincent P. France*
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CERTIFICATE OF SERVICE

I, Vincent P. France, hereby certify that on January 29, 2024, I electronically filed the foregoing with the Arkansas State Claims Commission by emailing it to asccpleadings@arkansas.gov and by sending a copy to Claimant's attorney Jim Jackson via email as indicated below.

Jim Jackson
Jim@JimJacksonatty.com

/s/ Vincent P. France
Vincent P. France

IN THE ARKANSAS STATE CLAIMS COMMISSION

**HALEY HUDSON, INDIVIDUALLY
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF
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vs. **CC No. 230641**

**ARKANSAS DEPARTMENT OF
HUMAN SERVICES** **RESPONDENT**

RESPONDENT'S STATEMENT OF UNDISPUTED MATERIAL FACTS

COMES NOW, Respondent, Arkansas Department of Human Services, by and through its attorney, Vincent P. France Deputy Chief Counsel for the Arkansas Department of Human Services, and for its Statement of Undisputed Material Facts states the following:

1. This claim arises from a motor vehicle accident involving three vehicles that occurred on Friday, June 11, 2021, on State Highway 22 in Logan County, Arkansas near Paris, Arkansas. *See* Exhibit 1, Documents Produced in Discovery by Claimants, Accident Report bates number 0291-0308 ("hereinafter "Exhibit 1, Documents Produced by Claimants").

2. One of the vehicles involved in the accident was a vehicle owned by Respondent, Arkansas Department of Human Services (hereinafter "DHS"), which was being driven by Jennifer Wilkerson. *See* Exhibit 1, Documents Produced by Claimant, bates no. 0297.

3. On June 1, 2021, Jennifer Wilkerson began working for DHS. *See* Exhibit 2, Excerpts from Jennifer Wilkerson's Deposition, 10:2-6 (hereinafter "Exhibit 2, Wilkerson Depo."); Exhibit 3, Affidavit of Pamela Feemster, p. 2 ¶9 (hereinafter "Exhibit 3, Feemster Affidavit").

4. Ms. Wilkerson was hired by DHS after she was interviewed by Pamela Feemster. Exhibit 3, Feemster Affidavit, p. 2 ¶ 5.

5. Prior to starting her position with DHS, Ms. Wilkerson was required to pass a pre-employment drug test, which was clean, and she agreed to obey all traffic laws and follow DHS driving policies. Exhibit 3, Feemster Affidavit, p. 2 ¶¶ 6-7; Exhibit 4, Excerpts from Kristen Shelton's Deposition, 18:12-17 (hereinafter "Exhibit 4, Shelton Depo.").

6. Prior to beginning her employment with DHS, Ms. Wilkerson also had to pass a criminal background check. Exhibit 4, Shelton Depo. 11:1-10, 18:6-13.

7. Jennifer Wilkerson was hired as a Program Assistant for DCFS in Logan County, which is located at 17 W. McKeen Street, Paris, Arkansas 72855. Exhibit 2, Wilkerson Depo. 9:7-10; Exhibit 3, Feemster Affidavit, p. 2 ¶¶ 8, 10; Exhibit 4, Shelton Depo. 10:4-10; Exhibit 5, Excerpts from Brandy Ezell's Deposition, 6:19—7:4 (hereinafter "Exhibit 5, Ezell Depo.").

8. As a Program Assistant, Ms. Wilkerson's main responsibilities were transportation of children and to conduct supervised visitations. Exhibit 2, Wilkerson Depo. 10:10-16; Exhibit 3, Feemster Affidavit, p. 2 ¶ 11; Exhibit 4, Shelton Depo. 10:11-16; Exhibit 5, Ezell Depo. 6:19—7:4.

9. On June 11, 2021, Ms. Wilkerson was assigned to go to Beebe, Arkansas, to pick up a child at 2:00 p.m. and transport the child to Clarksville, Arkansas, for a sibling visit at 4:00 p.m. Exhibit 2, Wilkerson Depo. 10:10-22, 13:15-18; Exhibit 3, Feemster Affidavit, p. 2 ¶ 12; Exhibit 4, Shelton Depo. 19:6-12; Exhibit 5, Ezell Depo. 8:4—9:15.

10. In order for Ms. Wilkerson to arrive in Beebe by 2:00 p.m., she needed to leave Paris, Arkansas around noon because it takes approximately two (2) hours to drive from Paris to Beebe. Exhibit 2, Wilkerson Depo. 17:19-22; Exhibit 3, Feemster Affidavit, p. 2 ¶ 13; Exhibit 5, Ezell Depo. 9:16—10:1.

11. Brandy Ezell showed Ms. Wilkerson on a map where she needed to go in Beebe. Exhibit 2, Wilkerson Depo. 13:22—14:15, 17:19-22; Exhibit 5, Ezell Depo. 9:8-15.

12. At 12:07 p.m., Brandy Ezell and Pamela Feemster saw Ms. Wilkerson getting into the vehicle to head to Beebe. Exhibit 3, Feemster Affidavit, p. 3 ¶ 14; Exhibit 5, Ezell Depo. 10:13-17.

13. Wilkerson's undisputed testimony was that she needed to leave earlier. Exhibit 2, Wilkerson Depo. 17:19-22.

14. Rather than beginning her trip to Beebe, Arkansas, Ms. Wilkerson admits that she instead stopped, went inside, and ate at a restaurant called the Dari-Delite. Exhibit 2, Wilkerson Depo. 122:21—124:13.

15. Wilkerson admits that she met her boyfriend at Dari-Delite. Exhibit 2, Wilkerson Depo. 102:16-21.

The Accident

16. Around 12:50 p.m., near the intersection of 5033 State Highway 22, Ms. Wilkerson rear-ended a vehicle that was driven by Ms. Jacquelin Ashcraft and three passengers including two of Ms. Ashcraft's minor daughters, [redacted]. Exhibit 1, Documents Produced by Claimants, bates no. 291-308; *see also* Exhibit 6, Excerpts from Trooper Ray's Deposition, 8:12-23 (hereinafter "Exhibit 6, Ray Depo.")

17. Both Ms. Wilkerson's vehicle and Ms. Ashcraft's vehicle were traveling east on Highway 22. *Id.*; Exhibit 6, Ray Depo. 17:9—19:10, 55:17-24.

18. Ms. Ashcraft was attempting to turn left into a private residence. *Id.*

19. The force of the collision caused Ms. Wilkerson's vehicle to spin into the opposite lane of travel and strike an overside load trailering a mobile home. *Id.*

20. The speed limit where the accident occurred is 55 mph. Exhibit 6, Ray Depo. 28:7-9, 39:10-12; *see also* Exhibit 7, Excerpts from Stanley Cain's Deposition, 129:20-22 (hereinafter "Exhibit 6, Cain Depo.")

21. The weather was clear and the roadway was dry and neither was a factor in the accident. Exhibit 1, Documents Produced by Claimants bates no. 0291; *see also* Exhibit 1, Documents Produced by Claimants, photos taken at accident scene, bates no. 262-276.

22. This portion of Highway 22 is straight and flat. *See* Exhibit 1, Documents Produced by Claimants, photos taken at accident scene, bates no. 0262-0276; Exhibit 6, Ray Depo. 26:21-24.

23. Although Trooper Ray conducted the investigation into the accident, he never actually spoke with Ms. Wilkerson. Exhibit 6, Ray Depo. 8:12-18, 12:21—13:2, 55:1-5.

24. When the impact occurred between the vehicle Ms. Wilkerson was driving and the vehicle driven by Ms. Ashcraft, it is estimated that Ms. Wilkerson could have been going at least 70 mph. *See* Exhibit 7, Cain Depo. 43:1-8, 129:23—130:3; *see also* Exhibit 1, Documents Produced by Claimants, Stanley Cain Investigation, bates no. 0571-0605, specifically 0574.

25. Based upon Trooper Ray's investigation, he found that Ms. Wilkerson was responsible for the accident based upon her inattentive, careless, negligent, or erratic driving. Exhibit 6, Ray Depo. 56:11—57:1.

Post Accident

26. Following the accident, Ms. Wilkerson called Brandy Ezell, her boyfriend at the time, Scott Lindstrom, and her mother. Exhibit 2, Wilkerson Depo. 18:25—19:16.

27. As Brandy Ezell and Pamela Feemster were returning from lunch, Brandy Ezell received the call from Ms. Wilkerson concerning the accident at 12:55 p.m. Exhibit 3, Feemster Affidavit, p. 3 ¶15; Exhibit 5, Ezell Depo. 12:1-5, 31:1-18.

28. Immediately upon learning that Ms. Wilkerson had been in a motor vehicle accident, Ms. Ezell "was expecting her to be at least be in Dardanelle, Pottsville, somewhere between there by that time." Exhibit 5, Ezell Depo. 12:9-12.

29. Given the location of the accident and the time it occurred, Ms. Wilkerson was significantly behind schedule by approximately an hour behind. Exhibit 4, Shelton Depo. 27:1-14; *see also* Exhibit 5, Ezell Depo. 32:5-7 (In her deposition, Ms. Ezell testified to the following, "And to this day, it still bugs me why she wasn't [more than] three miles from the office a good 45 minutes later.")

30. Ms. Wilkerson informed Ms. Ezell that she thinks the accident occurred near the airport in Paris, Arkansas. Exhibit 5, Ezell Depo. 12:12-13.

31. Immediately, Ms. Ezell and Ms. Feemster headed to the accident. Exhibit 3, Feemster Affidavit, p. 3 ¶17; Exhibit 5, Ezell Depo. 12:14-15.

32. It only took Ms. Ezell and Ms. Feemster a few minutes to arrive at the scene, which was approximately 3 miles from the DHS office. Exhibit 3, Feemster Affidavit, p. 3 ¶18; Exhibit 5, Ezell Depo. 30:18-20.

33. Upon arriving at the scene, Ms. Ezell went over to check on Ms. Wilkerson and Ms. Feemster called her supervisor, Kristen Shelton. Exhibit 3, Feemster Affidavit, p. 4 ¶23; Exhibit 4, Shelton Depo. 13:25—14:2; Exhibit 5, Ezell Depo. 12:17-25.

34. Eventually, both Ms. Ashcraft and Ms. Wilkerson were taken by the same ambulance to the hospital in Booneville, Arkansas. Exhibit 2, Wilkerson Depo. 46:2-19, 47:7-13.

35. Although law enforcement was not going to conduct a drug screen on Ms. Wilkerson, Ms. Feemster requested that a drug screen be conducted on Ms. Wilkerson for DHS. Exhibit 3, Feemster Affidavit, p. 4 ¶¶24, 26, 31; *see also* Exhibit 4, Shelton Depo. 22:9—23:14; Exhibit 1, Documents Produced by Claimants, emails, bates no. 0408-0426.

36. On June 11, 2021, after the accident and after Ms. Wilkerson had arrived at the Booneville hospital, Ms. Feemster received a text message from Ms. Wilkerson in which Ms. Wilkerson informed her that she anticipated that the drug screen would come back positive because she had taken Adderall prior to the accident, but that she did not have a prescription for the medication. Exhibit 3, Feemster Affidavit, p. 5 ¶32; *see also* Exhibit 1, Documents Produced by Claimants, emails, bates no. 0420; Exhibit 2, Wilkerson Depo. 23:6-20.

37. The toxicology report for Ms. Wilkerson showed that she was positive for [redacted]. Exhibit 1, Documents Produced by Claimants, Wilkerson toxicology results, bates no. 0258-0259; *see also* Exhibit 6, Ray Depo. 54:7—55:14; Exhibit 2, Wilkerson Depo. 61:11—62:8.

DHS Investigation

38. It was on June 11, 2021, that Ms. Feemster first discussed the possibility of terminating Ms. Wilkerson after she learned from Ms. Wilkerson that Ms. Wilkerson had illegally used Adderall. Exhibit 3, Feemster Affidavit, p. 5 ¶33.

39. As required by DHS policy, a fact-finding investigation to determine if any policy violations occurred to determine whether to terminate an employee. Exhibit 4, Shelton Depo. 12:23—13:3; *see also* Exhibit 3, Feemster Affidavit, p. 5 ¶ 35.

40. Kristen Shelton conducted the fact-finding investigation, in which she sent emails to Brandy Ezell, Pamela Feemster, and Ms. Wilkerson asking about the accident. Exhibit 4, Shelton Depo. 17:10—35:18.

41. Following the conclusion of the fact-finding investigation, Ms. Wilkerson was officially fired from DHS on Wednesday, June 16, 2021. Exhibit 4, Shelton Depo. 16:18-21; *see also* Exhibit 3, Feemster Affidavit, p. 5 ¶ 35.

42. Ms. Wilkerson was fired from DHS because she did not leave on time for Beebe and was behind schedule, she admitted to taking drugs without a prescription, and she was still in her probationary period as an employee. Exhibit 4, Shelton Depo. 30:11-25; Exhibit 1, Documents Produced by Claimants, emails, bates no. 0408-0426.

WHEREFORE, Respondent respectfully submits its Statement of Undisputed Material Facts and respectfully requests that its Cross-Motion for Summary Judgment be granted, and that Claimants' motion for partial summary judgment be denied and this claim be dismissed with prejudice, along with any other just and proper relief to which it is entitled.

Respectfully submitted,

By: */s/ Vincent P. France*

Vincent P. France, Ark. Bar No. 2010063
Deputy Chief Counsel
Arkansas DHS
P.O. Box 1437, Slot S260
Little Rock, AR 72203
Phone: (501) 534-4127
Email: Vincent.P.France@DHS.Arkansas.gov
Attorney for Respondent

CERTIFICATE OF SERVICE

I, Vincent P. France, hereby certify that on January 29, 2024, I electronically filed the foregoing with the Arkansas State Claims Commission by emailing it to asccpleadings@arkansas.gov and by sending a copy to Claimant's attorney Jim Jackson via email as indicated below.

Jim Jackson
Jim@JimJacksonatty.com

/s/ Vincent P. France
Vincent P. France

IN THE ARKANSAS STATE CLAIMS COMMISSION

**HALEY HUDSON, INDIVIDUALLY
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF
THE ESTATE OF JAQUELINE LYNN ASHCRAFT,
DECEASED, AND HALEY HUDSON, AS PERMANENT
LEGAL GUARDIAN OF [redacted]
[redacted] MINOR CHILDREN** **CLAIMANTS**

vs. **CC No. 230641**

**ARKANSAS DEPARTMENT OF
HUMAN SERVICES** **RESPONDENT**

**RESPONDENT'S RESPONSE IN OPPOSITION TO
CLAIMANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

COMES NOW, Respondent, Arkansas Department of Human Services, by and through its attorney, Vincent P. France Deputy Chief Counsel for the Arkansas Department of Human Services, and for its Response in Opposition to Claimants' Motion for Partial Summary Judgment states the following:

1. In paragraph 4 of their motion for partial summary judgment, Claimants alleged that Jennifer Wilkerson and her negligence was the proximate cause of the accident, which is not disputed by Respondent.

2. Instead, DHS asserts that it is not liable under the doctrine of *respondeat superior*, because an employer is not liable for the actions of its employee if the employee was acting beyond the scope of his or her employment at the time of the alleged incident. *Porter v. Harshfield*, 329 Ark. 130, 137, 948 S.W.2d 83 (1997).

3. DHS has presented its arguments more fully in it its Cross Motion for Summary Judgment, Brief in Support, and Statement of Undisputed Material Facts, which are being filed contemporaneously herewith.

4. Accordingly, pursuant to Ark. R. Civ. P. 10(c), DHS adopts its arguments contained in the aforementioned filings as if stated here verbatim.

WHEREFORE, Respondent, DHS, respectfully requests that Claimants' Claimants' motion for partial summary judgment be denied, that its Cross-Motion for Summary Judgment be granted, and that and this claim be dismissed with prejudice, along with any other just and proper relief to which it is entitled.

Respectfully submitted,

By: */s/ Vincent P. France*
Vincent P. France, Ark. Bar No. 2010063
Deputy Chief Counsel
Arkansas DHS
P.O. Box 1437, Slot S260
Little Rock, AR 72203
Phone: (501) 534-4127
Email: Vincent.P.France@DHS.Arkansas.gov
Attorney for Respondent

CERTIFICATE OF SERVICE

I, Vincent P. France, hereby certify that on January 29, 2024, I electronically filed the foregoing with the Arkansas State Claims Commission by emailing it to asccpleadings@arkansas.gov and by sending a copy to Claimant's attorney Jim Jackson via email as indicated below.

Jim Jackson
Jim@JimJacksonatty.com

/s/ Vincent P. France
Vincent P. France

From: Martha Cox
To: Kathryn Irby; ASCC Pleadings
Cc: vincent.p.france@dha.arkansas.gov; Jim Jackson
Subject: Haley Hudson, Special Adm"x of the Estate of Jacqueline Ashcraft, deceased and Permanent Guardian of [redacted] a Minor Child v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incident Date: 6/11/2021 - Logan Cou
Date: Monday, February 12, 2024 4:40:15 PM
Attachments: Claimant"s Brief [redacted] to Cross MSJ.pdf
Claimant"s R[redacted] Cross MSJ.pdf
Claimant"[redacted] orities.pdf
Letter to Kathryn Irby with [redacted] Respondent"s Cross MSJ.pdf

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Please find attached a letter from Attorney Jim Jackson, with its enclosures, to be filed in the above-referenced case. The original and three copies of the claimant's Response, Brief, and Table of Authorities are being mailed to the Commission pursuant to the Rules.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

JACKSON
LAW FIRM

February 12, 2024

VIA E-Mail and US Mail

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, AR 72201

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Ashcraft, deceased and Permanent Guardian of* [redacted] *a Minor Child v. Arkansas Department of Human Services*
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Kathryn:

Please find enclosed an original and three copies of the following pleadings:

- Claimant's Response to Respondent's Motion for Summary Judgment;
- Brief in Support of Claimant's Response; and,
- Table of Authorities.

Please call me at (501) 823-3610 with any questions or suggestions.

Sincerely,

Jim Jackson

Jim R. Jackson

JRJ/mc
Enclosure
cc:w/enc. Vincent France, *Esq.*

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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR CHILD — CLAIMANT

VS. — CC NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES — RESPONDENT

CLAIMANT'S RESPONSE TO CROSS MOTION FOR SUMMARY JUDGMENT

Comes now the claimant, Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Permanent Legal Guardian of [redacted] a minor child, by and through her attorney, Jim Jackson, and for her Response to the Respondent's Cross-Motion for Summary Judgment, states:

1. *Respondeat superior* is a Latin term for "let the master answer." It is the legal doctrine for vicarious liability. This doctrine holds that an employer is legally responsible for the wrongful acts of an employee that occur within the scope of employment.

2. An employee is presumed to be within the course and scope of employment when driving his employer's car. *Nipper v. Brandon Co.*, 553 S.W.2d 27, 28, 262 Ark. 17, 20 (Ark. 1977).

3. Jennifer Wilkerson was within the course and scope of employment and furthering DHS's business at the time of the collision. Wilkerson had completed her personal errand of having lunch at the Dari-Delite and was several miles along her journey to Beebe to pick up a foster child for DHS when the wreck occurred. Wilkerson was driving a DHS car at all times relevant to this action.

4. The route that Jennifer Wilkerson traveled from the DHS office to Dari-Delite is attached as Exhibit 1.

5. Wilkerson's route from DHS office to Dari-Delite to the accident site is attached as Exhibit 2.

6. Exhibit 3 is the route that Jennifer Wilkerson would have completed if she had not been involved in the wreck.

7. Attached is the claimant's Brief in Support of her Response to the Cross Motion for Summary Judgment.

WHEREFORE, the claimant prays that the Commission enter an Order denying the respondent's Cross-Motion for Summary Judgment.

Respectfully submitted,

Jim Jackson, AR Bar #93209
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North Little Rock, AR 72114
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Fax: (501) 823-3611
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically transmitted the attached pleading via e-mail to the Clerk of the Arkansas State Claims Commission and to counsel for the Respondent by copy of the same e-mail transmission.

Jim Jackson



PLAINTIFF'S EXHIBIT 1

PENGAD 800-631-6989



EXHIBIT 2

PENGAD 800-631-6989

Route from DHS Office in Paris to Beebe



EXHIBIT
3

ARKANSAS STATE CLAIMS COMMISSION

CLAIMANT

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR CHILD

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES

RESPONDENT

CLAIMANT'S BRIEF IN RESPONSE TO
RESPONDENT'S CROSS MOTION FOR SUMMARY JUDGMENT

I. THE LAW IMPOSES A "PRESUMPTION OF FACT" THAT AN EMPLOYEE IS WITHIN THE COURSE AND SCOPE OF EMPLOYMENT WHEN DRIVING AN EMPLOYEE'S VEHICLE AT THE TIME OF A WRECK

It is presumed as a matter of fact that an employee is within the course and scope of employment when they are driving their employer's vehicle and cause a wreck. "When a regular employee is driving a vehicle owned by the employer, and an accident occurs, there is a *presumption of fact* that the employee is acting within the scope of his employment. It is a presumption of fact which imposes on the other party, against whom the presumption is directed, the burden of overcoming this presumption." *Nipper v. Brandon Co.*, 553 S.W.2d 27, 28, 262 Ark. 17, 20 (Ark. 1977). (emphasis added) *Nipper* is the Arkansas Supreme Court's leading case on determining the status of an employee who is driving an employer's vehicle. The holding in *Nipper, id.,* is the lead comment provided in Civil Jury Instructions *AMI* 702, 703 and 704.

The facts in *Nipper, supra,* also involve an employee who caused a rear-end collision while driving his employer's vehicle. Roosevelt Johnson was a delivery truck driver employed by Brandon Company. Johnson was driving on Cantrell Road to a warehouse complex when he

took a five-minute detour for a personal errand. Johnson drove back to to Cantrell Road where he rear-ended Jerry Nipper's vehicle about a half mile after he returned from his personal errand. Brandon claimed it was not vicariously liable for Johnson's negligence since he took a personal detour[1] prior to the collision.

The Supreme Court of Arkansas found that since Johnson had completed his personal errand at the time of the wreck, he was within the course and scope of his employment at the time of the wreck. *Nipper, id.* at 28. The Court clarified that when an employee is driving an employer's car at the time of a wreck, it is a *presumption of fact* that he is within the course and scope of employment.

Applying the legal standard set by the Supreme Court in *Nipper, id.*, the facts lead to only one reasonable conclusion about Jennifer Wilkerson's employment status at the time of the wreck. Jennifer Wilkerson was within the course and scope of her employment with DHS when the fatal wreck occurred. Furthermore, Jennifer Wilkerson was furthering the purpose of DHS at the time of the collision. Wilkerson was driving a DHS car to Beebe to pick up a foster child for a family visit.

DHS admits that Jennifer Wilkerson was a Program Assistant for the Division of Children and Family Services (DCFS) at DHS. "Her main responsibilities were transportation of children and to conduct supervised visitations. On June 11, 2021, Ms. Wilkerson was assigned to go to Beebe, Arkansas, to pick up a child at 2:00 p.m. and transport the child to Clarksville, Arkansas, for a sibling visit at 4:00 p.m." *See Feemster* Affidavit, ¶¶ 11-12. This collision occurred while Jennifer Wilkerson was driving a DHS car eastbound on State Highway 22 from Paris, Arkansas. This is the most direct route to travel from Paris

[1] Johnson had not quite returned to his original route when the wreck occurred.

to Beebe. *See* Exhibit 3 attached to the Claimant's Response which is a Google map with directions from the DHS office to Beebe.

The respondent seeks a "get out of jail free" card because Jennifer Wilkerson stopped at the Dari-Delite in Paris to have lunch at noon while traveling to Beebe. The Dari-Delite is on Wilkerson's route to Beebe. Attached to the Claimant's Response as Exhibit 1 is a map of the 1.3-mile drive from the DHS office in Paris to the Dari-Delite. Attached as Exhibit 2 is a map of the route from the DHS office to the Dari-Delite, and then concluding at 5033 SH 22, which was the location of the wreck. Attached as Exhibit 3 is a map showing the direct route from Paris to Beebe which is also along State Highway 22.

Wilkerson's action of stopping to have a lunch break on the way to Beebe does not relieve DHS from being vicariously liable for the negligence of Wilkerson when she completed her personal lunch break and returned to her route. The logical conclusion of this argument would lead to absurd results if an employer could escape vicarious liability whenever an employee that was involved in a wreck had taken a rest stop, bathroom break, re-fueling stop, water break, etc., while driving. For example, commercial truck drivers take unscheduled breaks such as these all day long. That does not relieve their employer of vicarious liability when they are involved in a wreck *after* they have completed their personal errand.

There can be no reasonable argument asserted that Jennifer Wilkerson was not in the course and scope of her job assignment. She had completed her lunch at Dari-Delite. She had traveled nearly three miles from Dari-Delite when the wreck occurred. Wilkerson was in the course and scope of employment the moment she left the Dari-Delite parking lot. But for the wreck, Wilkerson would have completed her task of taking the child to the family visit. Wilkerson may have been running behind schedule due to her lunch break, but that does not absolve DHS of the fact that Wilkerson was carrying out her assigned duty – driving to Beebe in a DHS car to pick up a foster child – at the time of the collision.

The respondent points out that Wilkerson was on Day 11 of her employment with DHS. The length of time of employment is not relevant. DHS would be vicariously liable for Wilkerson's negligent action if this accident had occurred on her first day of employment. The number of days of employment is not a factor to consider in determining if an employee is within the scope of employment.

The Arkansas Supreme Court adopted AMI 702, 703, and 704 as jury instructions for a finder of fact to consider in scope of authority issues when an employee is driving the employer's vehicle. These three jury instructions are the guiding principle for this case.

> **Scope of Authority – Scope of Employment**
> I have used the term "scope of employment" in these instructions. An employee is acting within the scope of her employment if she is engaged in the transaction of business which has been assigned to her by her employer or if she is doing anything which may reasonably be said to have been contemplated as a part of her employment and is in furtherance of her employer's interests. Even though it was not expressly authorized and may have been specifically forbidden.
> *AMI 702*

> **Scope of Employment – Employee Driving Employer's Vehicle**
> The vehicle driven by Jennifer Wilkerson was owned by DHS and Jennifer Wilkerson was a regular employee of DHS. You may consider these facts along with any other evidence in the case in deciding whether Jennifer Wilkerson was acting as an employee of DHS and within the scope of her employment at the time of the occurrence.
> *AMI 703*

> **Agency – Employment – Deviation from Route**
> If an employee abandons the business of her employer to perform an act or engage in an activity for her own exclusive purpose and not in furtherance of her employer's interests, that act or activity is not in the scope of employment.
> *AMI 704*

The facts and law on the issue overwhelmingly lead to one conclusion -- Jennifer Wilkerson was within the course and scope of her employment with DHS while she was driving a DHS car on SH22 when she negligently collided with the rear of Ashcraft's car.

Wilkerson had completed her personal errand of having lunch and was on her route to pick up a foster child in Beebe.

B. WILKERSON'S NEGLIGENT ACTS DO NOT ALLOW DHS TO ESCAPE VICARIOUS LIABILITY

The second argument raised by DHS is that because Jennifer Wilkerson violated the rules of the road, *i.e.*, following too closely and speeding, DHS is not vicariously liable because violating the rules of the road were not part of Wilkerson's job description. DHS' assertion would only permit vicarious liability claims for an agency or corporate defendant if a company's employee handbook contained a section advising their employees to violate the rules of the road. No injured party could ever make a claim under *respondeat superior/vicarious liability* if the requirement is that the agency or corporate defendant must expressly affirms that they are liable for an employee's negligence. The law does not require that negligent conduct be approved or ratified by an employer. No employer would ever create a policy of accepting liability for its employee's negligent conduct. The whole point of *respondeat superior/vicarious liability* is to permit an injured party to bring a claim against an employer when an employee is negligent while in the course and scope of employment. An employer cannot create its own regulations that exempt it from liability when an employee drives inattentively and causes a wreck. Again, commercial trucking companies would simply escape all responsibility for their negligent drivers' actions if they could simply write a handbook exempting them from acts of negligence by their drivers.

DHS's reliance on *Porter v. Harshfield*, 329 Ark. 130, 137, 948 S.W.2d 83 (1997), is misplaced. This case involves the sexual assault of a patient when the patient was alone in an exam room with an employee. Porter was a patient at Dr. Harshfield's radiology clinic. Porter was lying on his back on an exam table for an ultrasound when a male radiology technician began performing oral sex on him. The court found that the sexual assault was

such a deviation from the expected conduct of a radiology technician and for such personal reasons, that it could not be argued that he was carrying out any "object and purpose of the enterprise." The radiology technician, Joseph Pearrow, "was not, by any stretch of the imagination, acting within the scope of his duties as a radiology technician when he assaulted Porter. Rather, Pearrow's actions were purely personal. Because Pearrow's actions were not expectable in view of his duties as a radiology technician, we conclude that Dr. Harshfield may not be held liable for Pearrow's actions and was thus entitled to summary judgment as a matter of law." *Porter v. Harshfield*, 329 Ark. 130, 948 S.W.2d 83 (Ark. 1997).

Wilkerson's negligent acts of inattentive driving and speeding are a far cry from a sexual assault. There is no evidence that Wilkerson intentionally drove into the rear of Ashcraft's vehicle. Wilkerson's actions were garden-variety negligence of speeding and following to close. Wilkerson has not been charged with any criminal conduct. She was not issued a citation by the Arkansas State Police.

The respondent also argues that Wilkerson's actions may border on "criminal" conduct because she admitted to taking a non-prescribed "Adderall[2]" prior to the wreck. There has been no allegation or proof that Wilkerson was "impaired" or "under the influence" at the time of the wreck. State Trooper James Ray investigated the wreck where he interacted with

DRIVER CONDITION AND CIRCUMSTANCES

Condition at Time of Crash *Check all that apply:*	Driver Distracted By	999	Driver Vision Obscured By		000
☑ 000 Apparently normal	000 Not distracted		000 No obstruction noted	106 Not in-transport motor vehicle (parked, working)	
☐ 100 Physically impaired	100 Manually operating an electronic communication device (texting, typing, dialing)		100 Rain, snow, fog, smoke, sand, or dust	107 Splash or spray of passing vehicle	
☐ 101 Emotional (depressed, angry, disturbed, etc.)	101 Talking on hands-free electronic device		101 Reflected glare, bright sunlight, or headlights	108 Inadequate defrost or defog system	
☐ 102 Ill (sick) or fainted	102 Talking on hand-held electronic device		102 Curve, hill, or other roadway design feature	109 Inadequate vehicle lighting system	
☐ 103 Asleep or fatigued	103 Other activity with an electronic device		103 Building, billboard, or other structure	110 Obstruction interior to the vehicle	
☐ 104 Under the influence of medication or drugs	104 Passenger		104 Trees, crops, or vegetation	111 External mirrors	
☐ 105 Under the influence of alcohol	980 Other distraction inside the vehicle		105 In-transport motor vehicle (including load)	112 Broken or improperly cleaned windshield	
☐ 198 Other	981 Other distraction outside the vehicle		980 Other visual obstruction (describe below)	113 Obstructing angles on vehicle	
	999 Unknown if distracted			199 Vision obscured - no details	
☐ 999 Unknown	*If 980 or 981, describe below:*				

Wilkerson. The accident report contains a section where an officer can list the condition of a

[2] Adderall is a prescription medication that is used to treat attention deficit hyperactivity disorder (ADHD). It is also used to treat narcolepsy.

driver. Trooper Ray's report found the condition of Jennifer Wilkerson was "Apparently Normal."

The only reason a drug test was performed on Wilkerson was at the behest of Pamela Feemster. *See Feemster* Affidavit, ¶ 12. There has been no testimony or proof that Wilkerson was impaired by Adderall or that Adderall caused the wreck.

CONCLUSION

The respondent's Cross Motion for Summary Judgment should be denied as a matter of law. The claimant's Motion for Partial Summary Judgment on the issue of liability should be granted. This matter should be set for a hearing solely on damages.

Respectfully submitted,

Jim Jackson, AR Bar #93209
Jackson Law Firm
700 W. Broadway Street, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that on this date, February 12th, 2024, I electronically transmitted the foregoing pleading via email to the Clerk of the Arkansas Claims Commission and sent a copy to counsel for the Respondent via the same email transmission.

Jim Jackson

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR CHILD — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES — RESPONDENT

CLAIMANT'S TABLE OF AUTHORITIES

Cases

Nipper v. Brandon Co., 553 S.W.2d 27, 262 Ark. 17, (Ark. 1977) ..... Brief pg.1
Porter v. Harshfield, 329 Ark. 130, 137, 948 S.W.2d 83 (1997)..... Brief pg.5

Jury Instructions

AMI 702..... Brief pg. 4
AMI 703..... Brief pg. 4
AMI 704..... Brief pg. 4

Respectfully submitted,

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Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that on this date, February 12, 2024, I electronically transmitted the attached document via email to the Clerk of the Arkansas Claims Commission and sent a copy to counsel for the Respondent via the same e-mail transmission.

Jim Jackson

553 S.W.2d 27
262 Ark. 17
Jerry D. NIPPER, Appellant,
v.
BRANDON COMPANY and Roosevelt Johnson, Appellees.
No. 77-49.
Supreme Court of Arkansas, Division No. 2.
July 5, 1977.

[262 Ark. 18] McMath, Leatherman & Woods by James B. McMath, Little Rock, for appellant.

Gannaway, Darrow & Hanshaw, Little Rock, for appellees.

HICKMAN, Justice.

This is a case involving some finer points of the master-servant, or as we would say now, employer-employee relationship. The question presented is the legal and factual problems that arise when an employee causes an accident while driving his employer's vehicle. The finer points are: when does an employee return to the scope of his employment after deviating to perform a personal unauthorized errand; and, what is the law regarding the proof necessary to create a question of fact for the jury in such a situation.

The facts are not disputed. Roosevelt Johnson was a delivery truck driver for Brandon Company, a Little Rock wholesale company. He mostly delivered goods in the Little Rock-North Little Rock metropolitan area. His instructions were to deliver goods, taking the nearest and best route, but he had discretion in selecting the route. He had permission and did drive the company truck home after work. However, he was instructed never to use the truck for personal business. He was also told to never

run a personal errand with the truck during his regular working hours.

On the afternoon of the 5th of January in 1973 Johnson [262 Ark. 19] left Rose City in North Little Rock after making a delivery. He had one more delivery to make and that was to Quality Floor Covering Company in southwest Little Rock. Johnson testified that the nearest and best route from Rose City to Quality would have been to proceed to Interstate 30 and go south to the exit at Geyer Springs Road. Johnson proceeded to the interstate but instead of taking the Geyer Springs exit, he turned off the interstate onto Cantrell Road to run a personal errand. After he got on Cantrell Road he turned off into a warehouse complex about a mile or so west of the interstate. He was on a personal errand for about five minutes. He returned to Cantrell Road and turned back east to proceed to deliver the goods to Quality. He stated he could have turned west on Cantrell to go to Quality but he chose the eastern route because of traffic conditions at that time of day. After he turned onto Cantrell Road and had proceeded about a half mile, his truck struck the rear of Jerry Nipper's vehicle. Nipper was injured and sued Johnson and Brandon. Negligence and damages are not issues on appeal.

The trial court gave the jury standard instructions on the liability of an employer for the acts of an employee. The instructions, all taken from Arkansas Model Jury Instructions, defined scope of employment and pointed out certain evidence the jury could consider in determining whether or not Johnson was acting within the scope of his employment at the time of the accident. AMI 702 and 703.

The court explained with an instruction that if an employee abandons the business of his employer to perform an act or engage in an activity for his own exclusive purpose and not in furtherance of his employer's interests, then that act or activity is not in the scope of the employment. AMI 704.

These instructions were correct statements of the law. The jury found for Nipper and awarded him a $35,000.00 judgment against Brandon and Johnson. Brandon asked the trial court to set aside the judgment against it because, as a matter

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of law, Johnson was on a personal errand at the time of the accident, therefore outside of his scope of employment and, consequently, Brandon was not liable for Johnson's negligent act. The trial court did set aside the verdict.

[262 Ark. 20] Nipper appeals alleging one error: the trial court erred in setting aside the judgment because the jury was properly instructed on the law and there was substantial evidence upon which a jury could find that Roosevelt Johnson at the time of the accident was acting in the scope of his employment.

We agree the trial court erroneously set aside the verdict. The question of liability was properly submitted to the jury, the court improperly determined that it was a question of law as to Johnson's status at the time of the accident and the verdict is supported by substantial evidence.

The attorneys for the parties have submitted excellent briefs. Brandon relies on one of our cases decided in 1962, Davis v. Kukar, Adm'x, 235 Ark. 139, 357 S.W.2d 275. In the Davis case an employee-tractor driver had deviated from his mission to run a private errand. The employee was returning to the place from which he left his mission when he caused an accident. The accident occurred just forty-five feet from the point of departure. We held that the jury should have been told as a matter of law that the tractor driver was at the time of the accident outside the scope of his employment.

Here Johnson had returned to his mission to deliver the goods. He was no longer on a private errand. Although Johnson could have turned east or west on Cantrell to proceed to deliver the goods, he decided to go east which, according to his testimony, would have been the best and most convenient route from where he was. Although Johnson had not reached the place of deviation, he caused the accident while enroute to deliver his employer's

goods. In the Davis case, the employee could not continue on his mission until he reached the point of departure.

The jury could have found Johnson was acting in furtherance of his employer's interests based on these facts. It was for the jury to decide, not the trial court, whether at the time and at the place he was acting within the scope of his employment or acting for his own exclusive purpose.

The appellant argues that when a jury is given AMI 703 [262 Ark. 21] it may draw an inference that the employee is acting within the scope of employment at the time of the accident. The appellees argue that simply because a regular employee is driving a vehicle owned by the employer, this is not sufficient evidence to support a finding that the employee was acting within the scope of employment at the time of the accident.

When a regular employee is driving a vehicle owned by the employer, and an accident occurs, there is a presumption of fact that the employee is acting within the scope of his employment. It is a presumption of fact which imposes on the other party, against whom the presumption is directed, the burden of overcoming this presumption. Ark.Stats.Ann. § 28-1001, Rule 301 (Noncum.Supp., 1976).

When a plaintiff proves that a regular employee driving an employer's vehicle is involved in an accident, there exists a presumption of fact which must be overcome by the defendant-employer. If it is not uncontroverted that the employee was acting solely for his own benefit and not in furtherance of the interests of the employer, then it is a question for the jury. The testimony of an interested party may not be taken as uncontradicted because his testimony is contradicted as a matter of law. Cousins v. Cooper, 232 Ark. 605, 339 S.W.2d 316 (1960). We cannot say, as a matter of law, that it is uncontroverted that Johnson was acting solely for himself at the time of the accident.

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We feel it necessary to point out that some of the language in our previous cases describing this presumption of fact is not correct. It is not an "inference". Healey v. Cockrill, 133 Ark. 327, 202 S.W. 229 (1918). It is not an "inference or presumption of fact". Curtis Circulation Co. v. Henderson, 232 Ark. 1029, 342 S.W.2d 89 (1961). It is not a "temporary presumption". Ford & Son Sanitary Co. v. Ransom, 213 Ark. 390, 210 S.W.2d 508 (1948). It is not a "prima facie presumption". Brooks v. Bale Chevrolet Co., Inc., 198 Ark. 17, 127 S.W.2d 135 (1939). In other words, we have called this presumption by different names, but the precise description is a presumption of fact as defined in Ark.Stat.Ann. § 28-1001, Rule 301 (Noncum.Supp., 1976).

[262 Ark. 22] We reverse the decision of the trial court and remand the case with directions to reinstate the judgment against Brandon.

Reversed and remanded.

We agree: HARRIS, C. J., and FOGLEMAN and BYRD, JJ.

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948 S.W.2d 83
329 Ark. 130
Randy PORTER, Appellant,
v.
David HARSHFIELD, Jr., M.D., Appellee.
No. 96-940.
Supreme Court of Arkansas.
June 23, 1997.

[329 Ark. 132] James Gerard Schulze, William Gary Holt, Little Rock, for appellant.

Michael Angel, Little Rock, for appellee.

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ARNOLD, Chief Justice.

The appellant, Randy Porter, brought suit against appellee David L. Harshfield, Jr., [329 Ark. 133] M.D., d/b/a Riverside Radiology Group, to recover damages for injuries sustained when Dr. Harshfield's employee, Jerry Pearrow, a radiology technician, sexually assaulted Porter while conducting a gallbladder ultrasound. Porter's separate suit against Pearrow resulted in a default judgment and a subsequent award to Porter in the amounts of $15,000 in compensatory damages and $15,000 in punitive damages. In the present appeal, Porter challenges the trial court's granting of summary judgment in Dr. Harshfield's favor. We affirm.

The facts as set out in Porter's complaint are as follows. On October 4, 1993, Porter went to Riverside Radiology Group in North Little Rock for an ultrasound for suspected gallbladder problems. Pearrow escorted him to an examining room and requested that he partially disrobe, don a hospital gown, and lie on his back on the examining table. Pearrow put gel on Porter's stomach and proceeded to examine his side several times. He then unbuckled and unzipped Porter's pants, pulled them down, and examined around his testicles. Feeling something on his penis, Porter looked down to find Pearrow performing oral sex on him. Porter immediately got off the table, put on his clothes, and left the clinic.

In his complaint, Porter claimed that Pearrow's actions were within the course and scope of his employment and thus should be imputed to Dr. Harshfield. In his answer, Dr. Harshfield admitted that Porter had been referred to his clinic on the date in question, but denied any knowledge of the sexual assault. He pleaded affirmatively that, if Pearrow indeed committed the actions alleged, his actions were outside the scope of his employment.

Both parties filed motions for summary judgment. Attached to Dr. Harshfield's motion was the affidavit of Dr. Joseph Calhoun, the supervising radiologist at the clinic while Dr. Harshfield was the acting Chief of Radiology at the Veterans Administration Hospital. Dr. Calhoun averred that he had been practicing radiology in Little Rock since 1950. "Eminently familiar" with the standard of care in this area, Dr. Calhoun explained that it was standard procedure to allow radiology technicians to perform [329 Ark. 134] ultrasound tests unsupervised unless the examination was of an unusual nature. A routine gallbladder exam, according to Dr. Calhoun, was not of an unusual nature.

Dr. Harshfield also presented his own affidavit in which he stated that, at the time of the incident, he had no knowledge that Pearrow had the intent to touch or physically contact Porter in an inappropriate way, nor did he possess knowledge of any facts that would have alerted him to the probability that Pearrow would engage in such behavior. He further averred that Pearrow's actions were wholly outside his employment and beyond the duties and responsibilities of a radiology technician at the clinic. According to Dr. Harshfield, Pearrow's actions did not benefit him and were unexpectable.

In response to Dr. Harshfield's motion, Porter claimed that Dr. Harshfield had conducted virtually no background check on Pearrow. He

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further complained that Dr. Harshfield failed to supervise Pearrow; instead, he allowed Pearrow to "be his own boss." Porter also filed a motion for summary judgment, claiming that Dr. Harshfield had knowledge of Pearrow's past misconduct. In support of this contention, Porter submitted the affidavit of Little Rock Police Officer Sam Morshedi, who averred that he interviewed Pearrow on October 6, 1993, at which time Pearrow told him that he had previously engaged in homosexual conduct and had had a prior complaint filed against him at the clinic for sexually assaulting a female during a breast examination. After considering the pleadings, affidavits, discovery, and arguments of counsel, the trial court granted summary judgment in Dr. Harshfield's favor.

We have recently summarized our standards for summary judgment review in O'Mara v. Dykema, 328 Ark. 310, 315-316, 942 S.W.2d 854 (1997):

The standard of review for a grant of summary judgment is familiar. Summary judgment should only be granted when it is clear that there are no disputed issues of

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material fact. Franklin v. Osca, Inc., 308 Ark. 409, 825 S.W.2d 812 (1992). It is appropriate to sustain a grant of summary judgment if the evidence brought before the trial court by the moving party shows "that there is no [329 Ark. 135] genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Tullock v. Eck, 311 Ark. 564, 567, 845 S.W.2d 517, 519 (1993); Ark. R. Civ. P. 56(c).

Appellees, as movants for summary judgment, bear the burden of showing that there is no issue of material fact. Gleghorn v. Ford Motor Credit Co., 293 Ark. 289, 737 S.W.2d 451 (1987). All evidence must be viewed in the light most favorable to appellants, as they are the parties resisting the motion; and they are also entitled to have all doubts and inferences resolved in their favor. National Bank of Commerce v. Quirk, 323 Ark. 769, 918 S.W.2d 138 (1996). However, they may not rest upon the mere allegation of their pleadings; Ark. R. Civ. P. 56 requires their response, by affidavits or other evidence, to specifically show that there is a genuinely disputed issue of material fact. Guthrie v. Kemp, 303 Ark. 74, 793 S.W.2d 782 (1990). Once a movant makes a prima facie case for summary judgment, the respondent must then meet proof with proof by showing that there remains a genuine issue of material fact. Mt. Olive Water Ass'n v. City of Fayetteville, 313 Ark. 606, 856 S.W.2d 864 (1993).

Even if there are disputed facts, if reasonable minds would not differ as to the conclusion to be reached, then a grant of summary judgment is proper. Chalmers v. Toyota Motor Sales, 326 Ark. 895, 935 S.W.2d 258 (1996). Further, if a respondent to a motion for summary judgment cannot present proof on an essential element of the claim, the movant is entitled to summary judgment as a matter of law. Short v. Little Rock Dodge, Inc., 297 Ark. 104, 759 S.W.2d 553 (1988).

In asking us to reverse the trial court's granting of summary judgment, Porter suggests that we analyze his case under at least three different theories discussed in a recent law review article. See Jorgensen, Transference of Liability: Employer Liability for Sexual Misconduct by Therapists, 60 Brook. Law Rev. 1421 (1995). First, he asks that we apply the common-carrier theory of recovery to his case. According to Porter, as a patient, he was in a position at least as vulnerable as a passenger of a common carrier, and that, accordingly, Dr. Harshfield had a duty to protect him from willful assaults by his employee. Under this theory, which emerged from railroad passenger cases, liability is based on the exclusive control that the carrier has over the passenger. Id. at 1449. It calls for an extraordinary, non-delegable duty of care that imposes liability on the employer for any harm befalling the plaintiff. Id. at 1450. In a [329 Ark. 136] common-carrier analysis, the plaintiff is never obligated to prove that the employee was acting under the scope of his or her employment or even that the actor was the defendant's employee. Id.; see also Stropes v.

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Heritage House Childrens Ctr., 547 N.E.2d 244 (Ind.1989).

Another theory of liability propounded by Porter is one of "job-created power." Under this theory, employers are held vicariously liable for an employee's intentional torts. Jorgensen, 60 Brook. L.Rev. at 1435. Porter claims that, by giving Pearrow supervisory authority, Dr. Harshfield granted job-created power to Pearrow, who in turn abused this power when he sexually assaulted Porter while performing the ultrasound. Porter further suggests that "the scope of risks attributable to an employer increases with the amount of authority and freedom of action granted to the servant in performing his assigned tasks." Id. at 1437; quoting Samuels v. Southern Baptist Hospital, 594 So.2d 571 (La.App.1992), cert. denied 599 So.2d 316 (La.1992). However, courts have been generally reluctant to extend this theory of vicarious liability too far beyond the realm of police officers or those with special duties and powers associated with their positions. Id. at 1439.

Porter also asks us to examine his case on the basis of what was "reasonably incidental" to Pearrow's legitimate work activities. See Stropes v. Heritage House Childrens Ctr., supra; and Doe v. Samaritan Counseling

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Ctr., 791 P.2d 344 (Alaska 1990). He asserts that Pearrow's actions, while not desired or authorized by Dr. Harshfield, were reasonably incidental to Pearrow's job as a radiology technician.

Rather than analyze the present case under one of the aforementioned theories from other jurisdictions, we think that the better course is to adhere to the theory of master-servant liability that we have followed since 1910. See Sweeden v. Atkinson Imp. Co., 93 Ark. 397, 125 S.W. 439 (1910)(an act of an employee, in order to render the employer liable, must pertain to something that is incident to the employee's duties and which it is his duty to perform or for the benefit of the employer). Our test [329 Ark. 137] was further explained in Life & Cas. Ins. Co. of Tenn. v. Padgett, 241 Ark. 353, 355, 407 S.W.2d 728 (1966):

We think the law as it stands today is fairly summarized in the Restatement of Torts, where it is said that the master is subject to liability for his servant's intentional tort "if the act was not unexpectable in view of the duties of the servant." Restatement, Torts (2d), 245 (1958).

More recently, we reviewed our test, commonly referred to as the respondeat superior doctrine, in Gordon v. Planters & Merchants Bancshares, 326 Ark. 1046, 935 S.W.2d 544 (1996). There, we said that an employer may be held liable for punitive damages for the acts of his employee if the employee was acting within the scope of his or her employment at the time of the incident. Id.; J.B. Hunt Transp., Inc. v. Doss, 320 Ark. 660, 899 S.W.2d 464 (1995). Whether the employee's action is within the scope of the employment depends on whether the individual is carrying out the "object and purpose of the enterprise," as opposed to acting exclusively in his own interest. Id.

Applying these principles to the facts before us, we must agree with the trial court that Pearrow's sexual assault of Porter was unexpectable. Pearrow was not, by any stretch of the imagination, acting within the scope of his duties as a radiology technician when he assaulted Porter. Rather, Pearrow's actions were purely personal. Because Pearrow's actions were not expectable in view of his duties as a radiology technician, we conclude that Dr. Harshfield may not be held liable for Pearrow's actions and was thus entitled to summary judgment as a matter of law. See Life & Cas. Ins. Co. of Tenn. v. Padgett, 241 Ark. 353, 407 S.W.2d 728 (1966).

Dr. Harshfield contends that Porter's remaining claims for negligent hiring, retention, and supervision are procedurally barred because he failed to amend his complaint to include these theories of recovery. While it is true that Porter did not present these claims in his complaint, Dr. Harshfield acknowledged in his brief in support of

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his motion for summary judgment that Porter had raised three theories of recovery: negligent hiring and retention; negligent supervision; and respondeat superior. Under these [329 Ark. 138] circumstances, we must conclude that the negligence claims were tried by the express or implied consent of the parties and thus should be treated in all respects as if they had been raised in Porter's complaint. See Ark. R. Civ. P. 15(b).

Turning to the merits of Porter's negligent-hiring claim, Dr. Harshfield contends that our decision in St. Paul Fire & Marine Ins. Co. v. Knight, 297 Ark. 555, 764 S.W.2d 601 (1989) is dispositive. We agree. In that case, a patient argued that the hospital's background check on an employee who sexually molested him was very inadequate and that a proper investigation would have shown that he was not qualified for the position of psychiatric technician. The investigation conducted by the hospital revealed that the technician had received apprentice counselor's credentials, supervised a summer playground staff, completed a work-study program, and received an honorable discharge from the Air Force. Id. He had no criminal record and no history of violent acts or sexual misconduct. Id. On appeal, we concluded that there was no evidence that the hospital gained any information that would have led them to conclude that the employee might be predisposed to commit violent acts against anyone. Id., citing Williams v. Feather Sound, Inc., 386 So.2d 1238 (Fla.App.1980). We further surmised that "[i]t would take a vivid imagination to glean from this evidence

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any predisposition of appellant to molest adolescent males or commit sexual assault." Id.; citing Strauss v. Hotel Continental Co., Inc., 610 S.W.2d 109 (Mo.App.1980).

In thc present case, Dr. Harshfield stated in his deposition that Pearrow had the highest ultrasound degree available. He had known Pearrow for some eight years while the two worked together at Arkansas Children's Hospital before he hired him as a technician and described him as very dependable. Porter claims that Dr. Harshfield should have inquired as to why Pearrow left Arkansas Children's Hospital; however, he has not abstracted any evidence or testimony to show what, if anything, Dr. Harshfield would have discovered had he conducted a background check that would have led him to believe that Pearrow was predisposed to commit sexual assault. Porter further points to Dr. Harshfield's testimony in his deposition that Pearrow had described himself as "asexual." Yet Porter has stated no connection, and we know of [329 Ark. 139] none, between sexual orientation and a predisposition to commit sexual assault.

Regarding the negligent retention claim, Porter refers to Pearrow's statement to Officer Morshedi, made after the incident in question, that he had engaged in prior homosexual misconduct and had had a prior sexual-assault complaint against him stemming from a breast examination that he had conducted while employed at Dr. Harshfield's clinic. Again, the fact that Pearrow had engaged in homosexual conduct in no way indicates that he would commit a sexual assault. As to the prior complaint, Dr. Harshfield claimed that he was unaware that such a complaint existed. Officer Morshedi's affidavit did not address whether a complaint was made before the incident in question, much less whether Dr. Harshfield knew that such a complaint existed or whether the complaint had any validity. As such, Porter failed to meet proof with proof on this issue.

In support of his negligent supervision claim, Porter points to Dr. Harshfield's policy at the clinic of having a female employee in the room when a male employee examines a disrobed female patient. He claims that Dr. Harshfield should have had a similar policy in place for Pearrow since he was aware that Pearrow had described himself as asexual. However, he offers no convincing authority or argument in support of his contention. We do not consider assignments of error that are unsupported by convincing legal authority or argument. Berry v.

St. Paul Fire & Marine Ins. Co., 328 Ark. 553, 944 S.W.2d 838 (1997).

Finally, Porter asserts that public-policy considerations mandate reversal of the granting of summary judgment in his case. Particularly, he claims that Dr. Harshfield, who made a profit from his clinic while being employed by the VA Hospital, received an economic benefit by allowing Pearrow to be his own boss. Thus, according to Porter, Dr. Harshfield must bear the risks that go along with the economic benefit. In our view, the connection between Pearrow's authority as a radiology technician and the abuse of that authority to indulge in personal, sexual misconduct is simply too attenuated to include within those risks allocated to his [329 Ark. 140] employer. Based on the foregoing, we affirm the decision of the trial court.

Affirmed.

CORBIN, J., dissents.

CORBIN, Justice, dissenting.

The Appellant raises four possible theories that this court could utilize in order to place liability on the health-care provider--the ultimate person upon which blame should lie. I address only two of them, as the other two were not adequately developed by Appellant. I would be willing, however, to consider the remaining two theories in the future, in the event they are properly developed for appeal.

I would apply the common-carrier-liability theory to allow recovery in this case. True enough, that theory originated with companies that were in the business of transporting passengers, but I believe the reasons behind this theory could be applied to the situation presented in this case. The basis of the theory, as it relates to common carriers in Arkansas, is a recognition of an enhanced liability to passengers becausc they are most vulnerable due to the fact that they have entrusted the common carrier with their lives. Under this doctrine, common carriers are responsible for the intentional torts of their employees. The policy reason that militates such a high standard of care is the vulnerability of the patron.

I would extend this high standard of care to medical-care providers. I can think of no greater responsibility than the duty owed by medical-care providers to safely exercise their skills and maintain control and supervision over their support staff upon accepting a patient into their care. A patient entrusts his body to the physician and necessarily to any of the physician's support staff. The patient subjects himself to a loss of dignity by even divulging his personal thoughts as to what ails him. Who does not feel the most vulnerable when told to disrobe and put on one of those split-tail gowns? Nakedness makes one feel the weakest, the most vulnerable. In addition to these feelings of vulnerability, we are conditioned since childhood to do what the doctor or his staff say "if we want to get well." Do we refuse to follow or question the [329 Ark. 141] control of physicians or their staffs? No. We blindly obey their orders. Upon their direction, we bend over, we make a fist, we turn this way or that, we take a deep breath, and we even cough on command. We are essentially like sheep being led to slaughter, blindly doing as we are told. The reason for this blind faith lies within the trust we have for all medical-care providers, whom we are told will help us in our time of need.

I do not think it is proper for the medical-care provider, the authoritative figurehead, to be let off the hook of accountability because his employee's assault on his patient did not pertain to something that is incident to the employee's duties--that it was not foreseeable in view of the duties of the servant pursuant to our doctrine of respondeat superior. This is where I believe the majority is wrong. Certainly, the record reflects that Dr. Harshfield is a decent and fine physician, who employed Pearrow on the basis of his skills and reputation in the health-care field. The record further reflects that Dr. Harshfield did not in any manner desire or authorize Pearrow to make the

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sexual assault on his patient. But in this situation, control, trust, and vulnerability are the buzz words. This physician, acting through his radiology technician, Pearrow, to whom he had delegated the responsibility of solely caring for his patient, must and should bear the ultimate responsibility for the outrageous harm done to his patient, the Appellant herein. The majority's decision is very disturbing to me. After reading this decision, who will ever totally trust any health-care provider? If it happened once, it can do so again.

What makes the majority's decision even more disturbing is the fact that it is common practice that a male medical-care provider have a female medical-care provider present when he is examining a female patient. Although I suspect that the concern for the female patient is merely secondary to the male medical-care provider's desire to protect himself from unwarranted accusations arising from such intimate encounters, this decision has the potential of undermining such practice. Because if such acts by the employer are not foreseeable under the instant facts, then there is no need to continue this practice. It has a smack of gender bias. The bottom line is that if it is foreseeable that a one-on-one encounter between a male medical-care provider and a female [329 Ark. 142] patient could lead to improper sexual assaults being perpetrated on a female patient, then it is just as foreseeable that such assaults may be perpetrated on a male patient. The key to viewing such a situation lies not within a heterosexual-versus-homosexual attraction; rather, the situation turns on the fact that the vulnerable patient finds himself or herself alone with a stranger while the patient is in a submissive situation. In fact, I agree with the majority's observation that there is no connection between a person's sexual orientation and a predisposition to commit sexual assault. Thus, I can discern no valid reason for having a third party present in the examining room when the medical-care provider is male and the patient is female, all the while continuing to allow a male medical-care provider to be alone with a male patient.

My observations would just as easily support liability under the theory of job-created power. Under this theory, employers are

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held vicariously liable for an employee's intentional torts. Because Dr. Harshfield gave Pearrow supervisory control over his patient, he gave job-created power to Pearrow. The scope of risks attributable to a health-care provider should increase with the amount of authority and freedom of action granted to a servant in performing his assigned tasks. This is particularly true when those supervisory duties include one-on-one encounters with patients.

Based upon the foregoing reasons, I respectfully dissent.

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AMI 702

SCOPE OF AUTHORITY—SCOPE OF EMPLOYMENT—DEFINITION

I have used the term "scope of [authority] [employment]" in these instructions.

An [agent] [employee] is acting within the scope of his/her [authority] [employment] if he/she is engaged in the transaction of business which has been assigned to him/her by his/her [principal] [employer] or if he/she is doing anything which may reasonably be said to have been contemplated as a part of his/her [authority] [employment] and is in furtherance of his/her [principal's] [employer's] interests, [even though it was not expressly authorized] [and may have been specifically forbidden].

COMMENT

This instruction is a correct statement of the law. Nipper v. Brandon Co., 262 Ark. 17, 553 S.W.2d 27 (1977).

The acts or omissions charged as negligence against the servant were not acts or omissions occurring in the scope of the servant's employment; therefore, no claim was asserted against the principal. White v. Sims, 211 Ark. 499, 201 S.W.2d 21 (1947). The test of a master's liability for his servant's negligence is not whether the negligent act was committed while the servant was in his employ, but whether it was committed at a time when the servant was performing an act in furtherance of the master's business or in line with the servant's duty. Davis v. Kukar, 235 Ark. 139, 357 S.W.2d 275 (1962). In Kincaid v. Taylor, 247 Ark. 205, 445 S.W.2d 67 (1969), the employee owned the truck cab, and the employer owned the trailer; and under their business arrangement, the tractor-trailer combination was a unit under the employer's control. An accident occurred when the employee was driving the unit home for the night, but he was still within the course and scope of his employment.

The rules in worker's compensation cases on "arising out of and in the course of employment" are not determinative in master-

AMI 703

SCOPE OF EMPLOYMENT—EMPLOYEE DRIVING EMPLOYER'S VEHICLE

A. The vehicle driven by _____ (driver) was owned by _____ (employer) and _____ (driver) was a regular employee of _____ (employer). You may consider these facts [along with any other evidence in the case] in deciding whether _____ (driver) was acting as an employee of _____ (employer) and within the scope of his/her employment at the time of the occurrence.

B. If you find that the vehicle being driven by _____ (driver) was owned by _____ (alleged employer) and that _____ (driver) was a regular employee of _____ (alleged employer) you may consider these facts [along with any other evidence in the case] in deciding whether _____ (driver) was acting as an employee of _____ (alleged employer) and within the scope of his/her employment at the time of the occurrence.

NOTE ON USE

Use A when ownership of the vehicle and status of the employee are admitted; use B when they are in dispute.

COMMENT

This instruction is a correct statement of the law. Nipper v. Brandon Co., 262 Ark. 17, 553 S.W.2d 27 (1977). When an employee is driving a vehicle owned by the employer, and an accident occurs, there is a presumption of fact that the employee is acting within the scope of his employment. The party against whom the presumption is directed has the burden of overcoming this presumption. *Id. See* Ark.R.Evid. 301. In *Nipper*, the Supreme Court reviewed earlier cases which described this presumption by various terms and clarified that the proper description is a presumption of fact.

AMI 704

AGENCY—EMPLOYMENT—DEVIATION FROM ROUTE

If an [agent] [employee] abandons the business of his/her [principal] [employer] to perform an act or engage in an activity for his/her own exclusive purpose and not in furtherance of his/her [principal's] [employer's] interests, that act or activity is not in the scope of the [agent's authority] [employment].

NOTE ON USE

This instruction should be given with AMI 702 when deviation by the agent is an issue.

COMMENT

This instruction is a correct statement of the law. Nipper v. Brandon Co., 262 Ark. 17, 553 S.W.2d 27 (1977).

In Davis v. Kukar, 235 Ark. 139, 357 S.W.2d 275 (1962), the employee's deviation was so obvious that, as a matter of law, he was acting outside the scope of his employment. In Healey v. Cockrill, 133 Ark. 327, 202 S.W. 229 (1918), the employee was not mingling his own business with that of his employer, but he had completely departed from the employer's business.

Research References

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Automobiles ⇦246(15); Labor and Employment ⇦3106(3); Principal and Agent ⇦194(2)

Legal Encyclopedias
C.J.S., Agency § 581; Motor Vehicles §§ 1257, 1275, 1300

From: Vincent France
To: ASCC Pleadings; jim@jimjacksonatty.com
Cc: Daiquiri Carter; Kathryn Irby; Martha Cox
Subject: Haley Hudson, et al v. DHS, Claim No. 230641
Date: Friday, February 16, 2024 1:22:35 PM
Attachments: [redacted].pdf
[redacted].png
[redacted].png

To all,

Please find attached DHS's Reply to Claimants' Response to Its Cross Motion for Summary Judgment.

Hope you all have a good weekend.

Sincerely,

Vincent P. France
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PO Box 1437, Slot S260
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Vincent.P.France@dhs.arkansas.gov

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IN THE ARKANSAS STATE CLAIMS COMMISSION

**HALEY HUDSON, INDIVIDUALLY
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF
THE ESTATE OF JAQUELINE LYNN ASHCRAFT,
DECEASED, AND HALEY HUDSON, AS PERMANENT
LEGAL GUARDIAN OF [redacted]
MINOR CHILDREN** **CLAIMANTS**

vs. **CC No. 230641**

**ARKANSAS DEPARTMENT OF
HUMAN SERVICES** **RESPONDENT**

**RESPONDENT'S REPLY TO CLAIMANTS' RESPONSE TO
ITS CROSS MOTION FOR SUMMARY JUDGMENT**

COMES NOW, Respondent, Arkansas Department of Human Services, by and through its attorney, Vincent P. France Deputy Chief Counsel for the Arkansas Department of Human Services, and for its Reply to Claimants' Response to Its Cross Motion for Summary Judgment states the following:

Contrary to the argument made by Claimants in their Response, the fact that Ms. Wilkerson was driving a state vehicle is not the only fact dispositive of whether Ms. Wilkerson was acting within the scope of her employment when the accident occurred. In making this argument, Claimants rely upon *Nipper v. Brandon Co.*, 262 Ark. 17, 553 S.W.2d 27 (1977). The case is distinguishable from the claim at hand.

In *Nipper*, the employee had only been on the personal errand for about five (5) minutes and was about a half mile from the point of deviation. 262 Ark. at 19. Additionally, there is no indication in *Nipper* that the employee was on a tight deadline or that the employee was significantly behind schedule. *Id*. Moreover, in *Nipper*, the Court discusses and approvingly cites to *Davis v. Kukar*, 235 Ark. 139, 357 S.W.2d 275 (1962), which provides further insight into the proper consideration of whether an employee is within the scope of employment when the

employee deviates from their job. In *Davis*, the Court found that an employee who was just forty-five (45) feet away from the point at which the employee deviated from his route was outside the scope of his employer's business; therefore, as a matter of law the employee was outside the scope of his employment. 235 Ark. at 145. In *Nipper*, an employee who was half mile (approximately 2,640 feet) away from the point of deviation, the court determined to be a factual question for the jury to determine whether the employee was within the scope of employment. 262 Ark. at 19. Although *Davis* and *Nipper* reach opposite conclusions, the two cases must be read together and reconciled, which can be accomplished by looking at the decision in *Davis*. In *Davis*, the Court mentioned "time" approximately 19 times in the opinion. For example, in determining whether an employee was outside the scope of employment, the Court ruled that "the trier must take into account, not alone the mere fact of deviation, but its extent and nature relatively ***time*** and ***place*** and ***circumstances***." 235 Ark. at 145 (emphases added). The Court also states that "[w]e think that the ***time that elapsed*** between the departure from employment, when Davis, on his own, turned the tractor around and went east across highway 65, and the claimed resumption is a ***significant circumstance***." *Id*. (emphases added). The Court further reasoned that "it was Davis' use of that time on his own business that placed him at the scene of the accident." *Id*. at 146. Accordingly, *Davis and Nipper* are reconciled once time—specifically lapsed time—is considered in determining whether an employee is acting within the scope of employment.

In this claim, Ms. Wilkerson was acting beyond the scope of her employment, based not only upon the deviation, but also when considering the time, place, and circumstances of when the accident occurred. The accident occurred at 12:50 p.m.in Paris, Arkansas. *See DHS SUMF*, ¶16. On the day of the accident, Ms. Wilkerson was assigned to go to Beebe, Arkansas, to pick up a child at 2:00 p.m. and transport the child to Clarksville, Arkansas, for a sibling visit at 4:00 p.m.

See DHS SUMF, ¶9. To drive from Paris, Arkansas to Beebe Arkansas takes approximately two hours. *See DHS SUMF*, ¶10. Consequently, based upon the time and location of the accident, Ms. Wilkerson would not have arrived in Beebe until approximately 3:00 p.m., which means that she was an hour behind schedule. *See DHS SUMF*, ¶29. Ms. Wilkerson cannot be said to have reached the point of departure because she was behind schedule. *See Nipper*, 262 Ark. at 20 ("In the *Davis* case, the employee could not continue on his mission until he reached the point of departure"). Thus, it was Ms. Wilkerson's use of time for her own frolic and not the performance of her duties as a DHS employee that placed her at the scene of the accident; therefore, as a matter of law, she was not acting in the scope of her employment at the time of the accident, when considering the extent and nature and relatively time place and circumstances of her departure. *See Davis*, 235 Ark. at 145-46. Simply stated, until Ms. Wilkerson was back on schedule to arrive in Beebe at 2:00 p.m., she had not returned to being within the scope of her employment. Accordingly, DHS cannot be vicariously liable for Ms. Wilkerson's actions; therefore, DHS respectfully request that the Arkansas State Claims Commission grants its cross-motion for summary judgment, denies Claimants' motion for partial summary judgment, and dismisses with prejudice this entire claim against DHS.

The second argument raised by Claimants in their response is misplaced for a number of reasons. Claimants misconstrue that DHS is arguing that Ms. Wilkerson was intoxicated or impaired at the time of the accident. DHS is not making such an argument. Rather, DHS is arguing that Ms. Wilkerson was not carrying out the object and purpose of DHS at the time of the accident. In their Response, Claimants simply ignore the case of *Cooper Clinic, P.A. v. Barnes*, 366 Ark. 533, 237 S.W.3d 87 (2006), which is congruent with the facts at-hand.

In *Cooper Clinic*, the only illegal wrongdoing by the employee was not calling the child abuse hotline as a mandatory reporter. 366 Ark. at 534-35. The Arkansas Supreme Court ruled that the doctor's "decision to report or not to report suspected child abuse is not the object and purpose of Cooper Clinic, but rather such a decision is exclusively in [the doctor's] interests." *Id*. at 541. Thus, the Court found that the clinic was not vicariously liable for the employee. *Id*. Similarly, in *Cannady v. St. Vincent Infirmary*, 2018 Ark. 35, 537 S.W.3d 529, the Arkansas Supreme Court found that St. Vincent could not be held liable under the doctrine of *respondeat superior* after two of its employees unlawfully accessed Anne Pressly's medical records. 2018 Ark. at 9. The takeaway from both *Cooper Clinic* and *Cannady*, is twofold. First, an employer is not vicariously liable when an employee acts contrary to the objective and purpose of the employer. Second, the illegal actions of an employee do not have to be egregious to be outside the scope of employment.

In this claim, Ms. Wilkerson was not acting in furtherance of the object and purpose of DHS when she drove the vehicle at a criminal rate of speed and her illegal drug use. It is somewhat ironic and borderline disingenuous for Claimant's counsel to say or even suggest that this accident was of "garden-variety negligence." *See Claimants' Response*, p. 6. Ms. Ashcraft died because of this accident. Any motor vehicle accident that causes the death of another is not "garden-variety." According to Claimants' own expert, Ms. Wilkerson was traveling at least 70 m.p.h. on a highway with a posted speed limit of 55 m.p.h. when the accident occurred. *See DHS SUMF*, ¶¶ 20, 24. Thus, Ms. Wilkerson was traveling at a criminal rate of speed when the accident occurred. *See* Ark. Code Ann. §27-50-302(7). Driving at a criminal speed is contrary to the object and purpose of DHS; therefore, Ms. Wilkerson was beyond the scope of her employment. Consequently, DHS is not vicariously liable for her actions.

Likewise, Ms. Wilkerson was not acting in furtherance of the object and purpose of DHS when she used Adderall illegally without a prescription. As discussed in more detail in its brief, one primary objective and purpose of DHS is in substance abuse treatment and prevention; therefore, Ms. Wilkerson was acting outside the scope of her employment with DHS and DHS cannot be vicariously liable for her actions. *See Cooper Clinic*, 366 Ark. at 541.

WHEREFORE, Respondent respectfully requests that its Cross Motion for Summary Judgment be granted, and that Claimants' motion for partial summary judgment be denied and this claim be dismissed with prejudice, along with any other just and proper relief to which it is entitled.

Respectfully submitted,

By: */s/ Vincent P. France*

Vincent P. France, Ark. Bar No. 2010063
Deputy Chief Counsel
Arkansas DHS
P.O. Box 1437, Slot S260
Little Rock, AR 72203
Phone: (501) 534-4127
Email: Vincent.P.France@DHS.Arkansas.gov
Attorney for Respondent

CERTIFICATE OF SERVICE

I, Vincent P. France, hereby certify that on February 16, 2024, I electronically filed the foregoing with the Arkansas State Claims Commission by emailing it to asccpleadings@arkansas.gov and by sending a copy to Claimant's attorney Jim Jackson via email as indicated below.

Jim Jackson
Jim@JimJacksonatty.com

/s/ Vincent P. France
Vincent P. France

From: Jim Jackson
To: Vincent France; ASCC Pleadings
Cc: Daiquiri Carter; Kathryn Irby; Martha Cox
Subject: RE: Haley Hudson, et al v. DHS, Claim No. 230641
Date: Friday, February 16, 2024 1:29:22 PM
Attachments: [redacted]

Thank you Vincent.
And you too.
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

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North Little Rock, AR 72114
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F (501) 823-3611

From: Vincent France <Vincent.P.France@dhs.arkansas.gov>
Sent: Friday, February 16, 2024 1:23 PM
To: ASCC Pleadings <ASCCPleadings@arkansas.gov>; Jim Jackson <jim@jimjacksonatty.com>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Kathryn Irby <Kathryn.Irby@arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: Haley Hudson, et al v. DHS, Claim No. 230641

To all,

Please find attached DHS's Reply to Claimants' Response to Its Cross Motion for Summary Judgment.

Hope you all have a good weekend.

Sincerely,

Vincent P. France

Deputy Chief Counsel for Litigation
Office of Chief Counsel
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From: Martha Cox
To: Kathryn Irby; ASCC Pleadings
Cc: Vincent France; Jim Jackson
Subject: Haley Hudson, etc. v. Arkansas DHS; Arkansas State Claims Commission No. 230641
Date: Friday, February 23, 2024 10:44:44 AM
Attachments: [redacted]

Attached for filing in the above-referenced claim is the Claimant's Sur-Response to the Respondent's Cross Motion for Summary Judgment.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
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North Little Rock, AR 72114
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Fax: (501) 823-3611
mcox@jimjacksonatty.com

ARKANSAS STATE CLAIMS COMMISSION

CLAIMANT

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR CHILD

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

CLAIMANTS' BRIEF IN SUPPORT OF ITS SUR-RESPONSE TO RESPONDENT'S CROSS MOTION FOR SUMMARY JUDGMENT

The legal analysis to determine the scope of employment where an employee is driving an employer's vehicle is very straightforward. The first step is to answer the following question:

Was Jennifer Wilkerson driving a vehicle owned by DHS?

If yes, there is a presumption of fact that Wilkerson was within the course and scope of employment at the time of the collision with Ashcraft which shifts the burden of proof to DHS according the Supreme Court's holding in *Nipper v. Brandon Co.*, 553 S.W.2d 27, 28, 262 Ark. 17, 20 (Ark. 1977). The evidence clearly shows that Wilkerson was not only within the course and scope of employment, but she was furthering the interest of DHS even without the burden of proof being shifted. The respondent's answer to Interrogatory No. 22 unequivocally states: "At the time of the accident Jennifer Wilkerson was authorized to drive the DHS vehicle for employment purposes."

The next step in the analysis is to ask whether Wilkerson was conducting a personal errand or furthering the responsibility of DHS at the time of the collision. The facts clearly show that Wilkerson had completed her personal errand of having lunch at the Paris Dari-Delite. Wilkerson resumed her work journey the moment she left the diner's parking lot.

There is no question Wilkerson was on her route to Beebe to pick up a foster child for a family visit.

The respondent's argument that reading *Nipper* and *Davis v. Kukar*, 357 S.W.2d 275, 235 Ark. 139 (Ark. 1962) together will lead to a different conclusion is not correct. Both cases stand for the proposition that once an employee completes a personal errand and returns to his route for his employer, he is back within the course and scope of employment. Davis was a farm hand who was instructed by his employer to take a tractor to a muddy road and pull out a car and return to the farm when his task was completed. Davis pulled the car out of the mud and instead of returning to the farm, he drove to several different areas and pastures. Davis was eventually involved in a wreck on Highway 65. Davis was never supposed to be on Highway 65. Davis had abandoned his employer's purpose and was on his own personal errand at the time of the wreck. Davis was on his own personal frolic at the time of the wreck and therefore his employer was not vicariously liable for Davis' negligent conduct.

> The very basis of the rule of respondeat superior, as applied to automobile accidents as well as to other cases, is that the driver of the car is acting for the owner and not for himself personally at the time of the accident. When the servant steps outside of the master's business and enters upon the performance of some individual purpose of his own, he ceases to act as the servant of the owner, and the latter's responsibility for his acts terminates. *Davis v. Kukar*, 357 S.W.2d 275, 235 Ark. 139 (Ark. 1962) citing *Hunter v. First State Bank of Morrilton*, 181 Ark. 907, 28 S.W.2d 712.

The Wilkerson accident occurred on State Highway 22 approximately three to four miles east of Paris. This is the most direct route Wilkerson could take from Paris to Beebe. Wilkerson had completed her lunch break and resumed her work for DHS the moment she left the parking lot of Dari-Delite and began traveling east on State Highway 22. *See* three maps of Wilkerson's route attached to Claimant's Response marked as Exhibits 1 -3. The allegation that Wilkerson was behind schedule does not relieve DHS of being vicariously

liable for its employee's negligent action while she was driving to Beebe to pick up a foster child. Unlike Davis, Wilkerson resumed the business of her employer the moment she left Dari-Delite. She was furthering the mission of DHS by taking a foster child for a family visit.

The *Cooper Clinic* case is not applicable to our facts because the doctor's decision not to report an incident of suspected child abuse was solely in the doctor's interest. The doctor was not practicing medicine when she decided to not make a report to the hotline. In our case, Wilkerson was driving east on State Highway 22 for only one purpose – to pick up a foster child in Beebe for a family visit. Wilkerson's journey at the time of the wreck was not for a personal reason. Wilkerson's journey was solely to carry out DHS' interest in providing a family visit for the foster child.

Under the reasoning of *Nipper* and *Davis*, Wilkerson was within the course and scope of employment at the time of the wreck which makes DHS vicariously liable for her negligent action. DHS has not met its burden in proving that Wilkerson was not acting in furtherance of the job assigned by DHS to Wilkerson, to drive DHS's car to Beebe to transport a foster child to a family visit.

DHS PRIOR PLEADINGS CONFIRM EMPLOYMENT STATUS

DHS's pleadings from its initial Answer to the Complaint and answers to discovery confirm that Wilkerson was within the course and scope of employment. DHS has admitted that Wilkerson was in the course and scope of employment in multiple filings with the Commission. The status of Wilkerson was not in doubt until DHS filed an Amended Answer last month in which it changed its long-standing position that Wilkerson was within the course and scope of employment at the time of the wreck.

DHS's response to the initial written discovery admitted that Wilkerson was an employee who was authorized to drive the DHS vehicle for employment purposes. Most

importantly, DHS's response confirmed that Wilkerson was in the course of her duty at the time of the wreck.

INTERROGATORY NO. 23: Do you contend that Jennifer Wilkerson was not an employee or agent acting on your behalf at the time of the incident, which is the subject of this lawsuit? If your answer is anything other than an unqualified "No," please set forth the following:

(a) Set forth precisely the reason Jennifer Wilkerson was driving a vehicle owned by the respondent on the date in question.

(b) State the name and address of Jennifer Wilkerson's employer at the time of the incident, which is the subject of this lawsuit.

(c) State the name, address, and name of employer of the person who authorized Jennifer Wilkerson to drive the respondent's vehicle at the time of the incident, which is the subject of this lawsuit.

(d) State where Jennifer Wilkerson had been for one hour preceding the time of the accident, which is the subject of this lawsuit, and her intended destination.

(e) State whether or not you possess any information, facts, writings, or evidence whatsoever that either supports or contradicts your claim that you did not authorize or ratify the conduct of your employee, Jennifer Wilkerson, on the date of the subject incident.

(f) State whether or not you are you aware of any information, facts, writings, or evidence whatsoever relating to this litigation that either supports or contradicts your claim that you did not authorize or ratify the conduct of your employee, Jennifer Wilkerson, on the date of the subject incident. Identify and describe each such item of information, fact, writing, or evidence, and please state the name, address, and relationship to the parties of each person who possesses the information.

ANSWER: **Jennifer Wilkerson was at the time of the accident an employee of DHS engaging her job duties as assigned**.

(Emphasis Added)

DHS filed this response to discovery on January 10, 2023, more than a year prior to filing its Cross Motion for Summary Judgment.

In addition to its response to discovery, DHS's Answer to the Amended Complaint and Second Amended Complaint confirmed that Wilkerson was within the course and scope of employment at the time of the wreck. The claimant alleged in her Complaint, Amended Complaint and Second Amended Complaint that Jennifer Wilkerson was an employee of DHS and was operating within the course and scope of her employment at the time of the wreck. Paragraph 5 of the Amended Complaint and DHS's answer are:

> 5. The respondent Arkansas Department of Health (sic[1])and Human Services, is an agency of the State of Arkansas. Jennifer Wilkerson was an employee of the Arkansas Department of Health and Hunan Services and was engaged in the course and scope of her employment at all times relevant to this cause of action."
>
> **DHS' ANSWER: Respondent *admits* Paragraph No. 5 of the Complaint.**" (Emphasis added)

A Second Amended Complaint was filed on May 18, 2023, which contained additional details of the accident and liability based upon information obtained during discovery. The allegation that Wilkerson was acting within the course and scope of her employment was also made in the Second Amended Complaint. Again, the Respondent confirmed in its Answer filed on June 7, 2023, that Wilkerson acting was within the course and scope of employment of her employment with DHS.

The Claimant prepared Requests for Admissions with four (4) specific requests to confirm that Wilkerson was within the course and scope of employment which were served on January 19, 2023. These Requests were served prior to DHS filing its Answer to Interrogatories. The date in the body of the Requests inadvertently listed the date of the wreck as June 12 instead of June 11. This led to the denial of two of the four Requests for

[1] Claimant's counsel did not realize that this agency had recently changed its name.

Admissions by the Respondent. The respondent's Admission admitted Requests Nos. 1 and 3 and denied 2 and 4 on February 9, 2023.

An E-mail exchange with DHS's counsel pointed out that the incorrect date was used in the Requests. A second set of Requests with the correct date of June 11 was filed.

During this time, a review of the Respondent's response to written discovery and Answer to the Complaint eliminated any doubt that DHS did not contend that Wilkerson was not in the course and scope of employment at the time of the collision. This led to an email exchange with DHS's counsel which led the Claimant to file a Motion to Withdraw the Second Set of Requests for Admissions since they were not necessary. *See* attached Exhibit "1" the email exchange.

CONCLUSION

The applicable case law, the facts and circumstances of this wreck and the course of litigation lead to only one conclusion – Jennifer Wilkerson was solely within the course and scope of employment with DHS when she was driving a DHS vehicle three to four miles east of Paris on Highway 22 and negligently rearended Ashcraft's car. For these reasons, the respondent's Motion for Cross Summary Judgment should be denied and this matter should be set solely for a hearing for this Commission to determine the nature and extent of damages for both the Estate of Jacqueline Lynn Ashcraft, deceased and [redacted]

Respectfully submitted,

Jim Jackson, AR Bar #93209
Jackson Law Firm
700 W. Broadway Street, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that on this date, February 23, 2024, I electronically transmitted the foregoing pleading via email to the Clerk of the Arkansas Claims Commission and sent a copy to counsel for the Respondent via the same email transmission.

Jim Jackson

Jim Jackson

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Tuesday, February 14, 2023 3:18 PM
To: Jim Jackson
Subject: RE: Hudson discovery

Jim, did you file the 2nd request for admissions with the commission? If so, did you ever officially withdraw those? Just trying to verify whether my obligation to respond was alleviated in the official pleadings.

Thanks!

brent

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Friday, February 10, 2023 1:20 PM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Cc: Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: Hudson discovery

[EXTERNAL SENDER]
Brent & Sarah,
I just reviewed your client's response to discovery.
I believe the response eliminates the necessity of the claimant's 2nd Request for Admissions that we just served which was my attempt to confirm that Ms. Wilkerson was in the course and scope and not on a lunch break or personal errand.
If it would help, I would be glad to rescind the Second Set of Requests for Admissions.
I am always conscious of not trying to make duplicative work for anyone and for us to focus on the issue where we disagree.
Would it help your client if we rescinded our Second Set of Requests for Admissions?
Thank you,
Jim

JACKSON LAW FIRM

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From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Friday, February 10, 2023 10:46 AM

EXHIBIT 1

To: Jim Jackson <jim@jimjacksonatty.com>
Cc: Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>
Subject: RE: Hudson discovery

Jim, for our purposes could you submit your second requests for admission through the claims commission so we can point to a specific filing date?

Also, I am hoping to be able to file responses to your interrogatories today. I likewise hope to be able to send over the requested documentation next week sometime after we vet all the redacted information.

Thx!

Brent

Cc: Sarah

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Thursday, February 9, 2023 10:42 AM
To: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Cc: Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>
Subject: RE: Hudson discovery

[EXTERNAL SENDER]
Brent,
Sounds good.
I have reviewed the Requests and am submitting the Second Requests in Word Format.
Ralph Scott, Ph.D. is the economist that I have retained.
He has not yet rendered a report.
Haley does not have information on prior medical records as to who her mother might have seen.
I have sent a blanket medical request to medical clinics and pharmacies in Paris to see what information I discover.
Attached is a letter with a hyperlink to photos that I received from Mary Buckley, esq.
I believe these photos were probably taken by the truck driver who was involved.
Also attached is a copy of the Toxicology Report.
Thank you,
Jim

JACKSON
LAW FIRM

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Jackson Law Firm
JimJacksonAtty.com

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From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Thursday, February 9, 2023 10:13 AM

To: Jim Jackson <jim@jimjacksonatty.com>
Cc: Sarah Debusk <Sarah.Debusk@dhs.arkansas.gov>
Subject: Hudson discovery

Jim:

Thanks for being agreeable with my proposed way forward on this case. I especially appreciate the agreement to thirty (30) days for responding to the Amended Answer only. Holding up my end I'm going to try to get you your requested discovery soon, prior to our Answer.

To that end, you will soon be served with our responses to the Requests for Admission. I promise I'm not being obstinate but you used the date of June 12 instead of June 11 on the Requests so I felt obligated to respond accordingly. I have no issue with you resubmitting requests for admission with the correct date but that will necessitate resetting the clock on when they will be due.

I hope to file a response to the interrogatories tomorrow. However please note that we are still compiling information and documentation so there will be additional discovery coming your way after the interrogatories are formally filed. I just want to try to file our most current responses before any deadline hits.

I would also ask that if you have already received the drug and alcohol screen information re: Jennifer Wilkerson if you could go ahead and send it our way? I will formally request it in our interrogatories but if you would be willing to share earlier that would be great. Also, I will be inquiring as to Ms. Ashcrafts's medical history and what doctors she saw up to ten years prior to her death so I wanted to give you the heads up if you wanted to go ahead and start compiling that info. Same with any doctors or therapists seen by the minor children after the accident.

Last, you mentioned in our very first conversation that you were having an accounting done by an economist regarding your damage allegations. I will be asking for that in discovery as well so as soon as you have it and are willing to share prior to my interrogatories that would be greatly appreciated.

Thanks again,

Brent

Cc: Sarah

Brent P. Gasper
Assistant Deputy Chief Counsel
Department of Human Services, Office of Chief Counsel
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Donaghey Plaza South
PO Box 1437, Slot S-260
Little Rock, AR 72203
(501) 320-8950

Brent.Gasper@dhs.arkansas.gov

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From: Daiquiri Carter
To: ASCC Pleadings; jim@jimjacksonatty.com
Cc: Martha Cox; Vincent France; Daiquiri Carter
Subject: CC # 230641
Date: Tuesday, February 27, 2024 2:40:04 PM
Attachments: [redacted].pdf
[redacted].png
[redacted].png

Please find attached Respondent's Sur-Reply to Claimants' Sur-Response to its Cross Motion for Summary Judgment. I have included Claimants' attorney on this email.

Thank you,

Daiquiri D. Carter, M.Ed.
Legal Services Specialist
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
501-320-6338 phone
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Daiquiri.carter@dhs.arkansas.gov

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IN THE ARKANSAS STATE CLAIMS COMMISSION

**HALEY HUDSON, INDIVIDUALLY
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF
THE ESTATE OF JAQUELINE LYNN ASHCRAFT,
DECEASED, AND HALEY HUDSON, AS PERMANENT
LEGAL GUARDIAN OF [redacted]
MINOR CHILDREN** **CLAIMANTS**

vs. **CC No. 230641**

**ARKANSAS DEPARTMENT OF
HUMAN SERVICES** **RESPONDENT**

RESPONDENT'S SUR-REPLY TO CLAIMANTS' SUR-RESPONSE TO ITS CROSS MOTION FOR SUMMARY JUDGMENT

COMES NOW, Respondent, Arkansas Department of Human Services, by and through its attorney, Vincent P. France Deputy Chief Counsel for the Arkansas Department of Human Services, and for its Sur-Reply to Claimants' Sur-Response to Its Cross Motion for Summary Judgment states the following:

Claimants' sur-response is procedurally inappropriate and contrary to the rules; therefore, it should be disregarded. There are several issues with the sur-response that will be addressed. Fundamentally, the sur-response is a "Jekyll and Hyde" document, because it truly contains two legally distinct and somewhat contradictory parts, which require separate evaluations. The first part is the first two and three-quarters pages of the sur-response, which present arguments that are responsive to DHS's reply. Regarding Claimants' arguments therein, DHS maintains all of its previous arguments that Jennifer Wilkerson was not acting within the scope of her employment for DHS when the accident occurred; therefore, DHS cannot be liable. Accordingly, DHS is entitled to summary judgment as a matter of law based upon the undisputed material facts.

The second part of the sur-response begins with the heading "DHS Prior Pleadings Confirm Employment Status," which must be treated separately. In this section, Claimants are really

challenging and opposing DHS's Amended Answer to Claimants' Second Amended Complaint. This section of the sur-response is procedurally and substantively deficient. First, the sur-response is not the proper way to challenge DHS's Amended Answer under Ark. R. Civ. P. 15. Second, it is not timely under Rule 15. Third, Claimants have not alleged, nor can they show any prejudice. Accordingly, the arguments contained therein should not be considered.

According to Rule 15 of the Arkansas Rules of Civil Procedure, "a party may amend his pleadings at any time without leave of the court." Ark. R. Civ. P. 15(a). Moreover, Rule 15 allows a party to file a motion, within twenty (20) days, opposing the amended pleading if the amended pleading would cause prejudice or undue delay.

In *Seth v. St. Edward Mercy Med. Ctr.*, 375 Ark. 413, 291 S.W.3d 179 (2009), the Arkansas Supreme Court decided a case that is procedurally similar to the claim-at-hand. In *Seth*, the defendant hospital filed an amended answer to include the affirmative defense of charitable immunity. 375 Ark. at 415. The hospital filed its amended answer on the same day that it filed its motion for summary judgment. *Id*. The plaintiffs filed a response to the motion for summary judgment, in which they challenged the affirmative defense; however, they never filed a separate motion to strike the amended answer. *Id*. at 415-16. Quoting Ark. R. Civ. P. 15, the Court held that "'a party may amend his pleadings at any time without leave of the court,' unless, '*upon motion of an opposing party*, the court determines prejudice would result.'" *Id*. at 419 (emphasis by the Court). The Court found that the plaintiffs "only filed a response to the motion for summary judgment. They did not file a motion to strike the amended answer as prejudicial." *Id*. at 419-420. Accordingly, the Arkansas Supreme Court ruled that the hospital could assert its new defense it first raised in the amended answer. Similarly, the Arkansas Court of Appeals ruled , "[i]t is incumbent upon the opposing party to timely object to an amendment and assert that prejudice

or undue delay in the disposition of the case would result. Ark. R. Civ. P. 15(a). Here, rather than moving to strike the amendment, the appellees timely filed an answer." *Mullen v. Shockley*, 2009 Ark. App. 855, at 5. Thus, the Court held that the trial court erred in not allowing a party's amended pleadings. *Id*.

In opposing an amendment, the party challenging the amendment must file a motion within twenty (20) days. *See* Ark. R. Civ. P. 15(a). Additionally, the party opposing the amendment has the burden of showing either prejudice or an undue burden. *See Turner v. Stewart*, 330 Ark. 134, 952 S.W.2d 156 (1997). "[The] test to determine whether an amendment is prejudicial: 'whether the party opposing the motion will have a fair opportunity to defend after the amendment.'' *Cross v. Cross*, 2016 Ark. App. 327, at 7, 497 S.W.3d 712 (quoting *Travis v. Houk*, 307 Ark. 84, 86, 817 S.W.2d 207, 208 (1991)). Courts will consider whether the opposing party sought a continuance in determining whether the party was prejudiced by the amendment. *Turner*, 330 Ark. at 139. If the party did not seek a continuance nor show prejudice, then the amendment is allowed. *Id*.

In the claim-at-hand, Claimants' sur-response fails to comply with the procedurally and substantively. First, in *Seth v. St. Edward Mercy Med. Ctr.*, *supra.*, the Arkansas Supreme Court dealt with an almost identical situation as raised by Claimants' sur-response. DHS, like the hospital in *Seth*, filed an amended answer raising a new defense on the same day that it filed its cross motion for summary judgment. The only real procedural difference is that unlike the plaintiffs in *Seth*, Claimants waited until all arguments had been fully briefed to present their challenge to DHS's Amended Answer. Thus, like in *Seth*, Claimants' sur-response is not a proper means to challenge DHS's Amended Answer. *See Seth*, 375 Ark. at 420.

Even under Rule 15, Claimants' sur-response is not proper, because it was not timely filed and Claimants cannot show they were prejudiced by the filing of DHS's Amended Answer. In

Arkansas, courts look to the substance of a document rather than blindingly going by the title of the document, when determining the nature and purpose of the document. *See Cornett v. Prather*, 293 Ark. 108, 737 S.W.2d 159 (1987). Specifically, the Arkansas Court of Appeals found that although a party had filed a motion for relief from judgment pursuant to Ark. R. Civ. P. 60, the substance of the motion was for a new trial, which was governed by Ark. R. Civ. P. 59. *Stickels v. Heckel*, 2009 Ark. App. 829, at 5, 370 S.W.3d 857. Consequently, the Court found that the party failed "to file their motion within ten days means that the trial court was without jurisdiction to enter the subsequent order." *Id*. As noted above, Claimants had twenty (20) days to file a motion opposing DHS's Amended Answer pursuant to Ark. R. Civ. P. 15(a). DHS filed its Amended Answer on January 29, 2024; however, the sur-response was not filed by Claimants until February 23, 2024, some twenty-five (25) days later and—more importantly—after all the issues had been fully briefed. Thus, Claimants attempt to now challenge DHS's Amended Answer is time-barred. *See Mullen*, 2009 Ark. App. at 5. Moreover, instead of timely filing, Claimants have attempted to bypass Rule 15 by calling it a sur-response. Thus, as the Court found in *Stickels*, Claimants attempt to now oppose DHS's Amended Answer should be barred. 2009 Ark. App. at 5.

Finally, Claimants should also be barred from opposing DHS's Amended Answer because they cannot show prejudice nor undue delay. Based upon statements contained within their sur-response, Claimants knew from the beginning that whether Jennifer Wilkerson was acting within the scope of her employment could be a potential issue. Claimants cannot honestly argue to being surprised nor can they argue that they did not have a fair opportunity regarding this issue. *See Cross*, 2016 Ark. App. at 7. Essentially, Claimants are seeking a windfall by previous slipshod work. Moreover, Claimants did not ask for a continuance to conduct any additional discovery;

rather, they proceeded by filing a response to DHS's cross-motion for summary judgment. Thus, Claimants cannot show any prejudice. *See Turner*, 330 Ark. at 139.

Accordingly, DHS is entitled to summary judgment as a matter of law based upon all of the facts and arguments presented concerning its cross-motion for summary judgment. To recap, the undisputed evidence shows that Jennifer Wilkerson had only been employed with DHS for eleven (11) days when the accident occurred. *DHS SUMF* ¶¶ 3, 9. She was driving at a high rate of speed in excess of 70 m.p.h. when she rearended the vehicle in an effort to make up time after she had gone on a personal frolic and was at least an hour behind schedule when the accident occurred. *DHS SUMF* ¶¶ 24, 29. Consequently, Jennifer Wilkerson was acting outside the scope of her employment when the accident occurred. *See Davis v. Kukar*, 235 Ark. 139, 357 S.W.2d 275 (1962). Thus, DHS cannot be vicariously liable for her actions; therefore, Claimants' *respondeat superior* claim fails as a matter of law. Accordingly, DHS respectfully requests that its cross motion for summary judgment be granted, and this claim be dismissed with prejudice.

WHEREFORE, DHS respectfully requests that its Cross Motion for Summary Judgment be granted, and that Claimants' motion for partial summary judgment be denied and this claim be dismissed with prejudice, along with any other just and proper relief to which it is entitled.

Respectfully submitted,

By: */s/ Vincent P. France*

Vincent P. France, Ark. Bar No. 2010063
Deputy Chief Counsel
Arkansas DHS
P.O. Box 1437, Slot S260
Little Rock, AR 72203
Phone: (501) 534-4127
Email: Vincent.P.France@DHS.Arkansas.gov
Attorney for Respondent

CERTIFICATE OF SERVICE

I, Vincent P. France, hereby certify that on February 27, 2024, I electronically filed the foregoing with the Arkansas State Claims Commission by emailing it to asccpleadings@arkansas.gov and by sending a copy to Claimant's attorney Jim Jackson via email as indicated below.

Jim Jackson
Jim@JimJacksonatty.com

/s/ Vincent P. France
Vincent P. France

From: Martha Cox
To: Kathryn Irby; ASCC Pleadings
Cc: Vincent France; Jim Jackson
Subject: Haley Hudson, etc. v. AR DHS; Arkansas State Claims Commission No. 230641
Date: Monday, April 22, 2024 4:18:05 PM
Attachments: [redacted]
Notice of Filing of Deposition of Jennifer Wilkerson.pdf

Please find attached a letter from Attorney Jim Jackson and a Notice of Filing of Deposition of Jennifer Wilkerson for filing in the above-referenced case.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

JACKSON
LAW FIRM

April 22, 2024

VIA Email and First-Class Mail
ASCCPleadings@arkansas.gov

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, AR 72201

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Lynn Ashcraft, deceased and Permanent Guardian of* [redacted] *a minor vs. The Arkansas Department of Human Services*
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Kathryn:

Please find enclosed the original and three copies of the claimant's Notice of Filing of Deposition of Jennifer Wilkerson for filing in the above-referenced matter.

Thank you for your attention to this matter.

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosures

cc/enc.: Vincent France, Esq. (via e-mail only)

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528
501.823.3610
Fax: 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], MINOR CHILDREN — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES — RESPONDENT

NOTICE OF FILING OF DEPOSITION OF JENNIFER WILKERSON

To: Arkansas Department of Human Services
c/o Vincent France

You are hereby notified that the Claimant is filing the deposition of Jennifer Leann Wilkerson taken on October 20, 2023 with the Clerk of this Commission for inclusion with the papers in this cause of action. The claimant intends to introduce excerpts from this deposition into evidence. The deposition and Reporter Certification are contained in the hyperlink below. An original and three hard copies are being transmitted to the Commission by U.S. Mail.

WILKERSON, JENNIFER_fulltranscript indx (1).pdf [1]

[1] Contact Claimant's Counsel if you encounter difficulty opening this hyperlink.

Respectfully submitted;

/s/ Jim R. Jackson
Jim Jackson
Attorney for Claimant
Jackson Law Firm
700 W. Broadway Street, Suite 200
North Little Rock, AR 72114

CERTIFICATE OF SERVICE

I hereby certify that on this date, April 22,2 024, I electronically filed the attached document with the Clerk of the Arkansas Claims Court using e-mail and sending a true copy of such filing to all attorneys of record via e-mail.

/s/ Jim R. Jackson
Jim R. Jackson

From: Kathryn Irby
To: Vincent France
Cc: jim@jimjacksonatty.com; Daiquiri Carter; Martha Cox
Subject: RE: Haley Hudson, et al v. DHS, Claim No. 230641
Date: Thursday, May 2, 2024 11:48:00 AM
Attachments: image001.png
image002.png

Vincent, the Commission will consider all pending motions at the May hearing.

Thanks,
Kathryn

From: Vincent France <Vincent.P.France@dhs.arkansas.gov>
Sent: Thursday, May 2, 2024 11:20 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: jim@jimjacksonatty.com; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: Haley Hudson, et al v. DHS, Claim No. 230641

Kathryn,

In preparation for the hearing next week, I was reading the letter from the Commission dated December 12, 2023, which scheduled this hearing. For your convenience, I have attached a copy of the letter. The letter indicates that the hearing is for the Commission to consider Claimant's motion for partial summary judgment. My question is whether the Commission will also be considering DHS's cross-motion for summary judgment, which was filed on January 29, 2024. I would ask that the Commission considers both of the pending motions together. I also want to make sure that there is no confusion amongst anyone prior to the hearing next week. Will you please let me know whether the Commission is planning to consider both Claimant's motion for partial summary judgment and DHS's cross-motion for summary judgment at the hearing on May 9, 2024?

Sincerely,

Vincent P. France
Deputy Chief Counsel for Litigation
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
Office Phone: 501-534-4127
Vincent.P.France@dhs.arkansas.gov



□□□

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From: Vincent France
To: Kathryn Irby
Cc: jim@jimjacksonatty.com; Daiquiri Carter; Martha Cox
Subject: RE: Haley Hudson, et al v. DHS, Claim No. 230641
Date: Monday, May 6, 2024 2:23:12 PM
Attachments: image002.png
image003.png

Kathryn,

This afternoon, Jim Jackson and I visited about this case. The parties are in agreement that the only two motions that need to be considered at the hearing on Thursday are the Claimants' Partial Motion for Summary Judgment and DHS's Motion for Summary Judgment. To the extent that there are any other pending motions by DHS, those are withdrawn. I am sure Mr. Jackson will correct me if I have misstated anything and will add anything additional. If the Commission needs anything more formal from me, please let me know.

Sincerely,

Vincent P. France
Deputy Chief Counsel for Litigation
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
Office Phone: 501-534-4127
Vincent.P.France@dhs.arkansas.gov

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From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Thursday, May 2, 2024 11:49 AM

To: Vincent France <Vincent.P.France@dhs.arkansas.gov>
Cc: jim@jimjacksonatty.com; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: Haley Hudson, et al v. DHS, Claim No. 230641

Vincent, the Commission will consider all pending motions at the May hearing.

Thanks,
Kathryn

From: Vincent France <Vincent.P.France@dhs.arkansas.gov>
Sent: Thursday, May 2, 2024 11:20 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: jim@jimjacksonatty.com; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: Haley Hudson, et al v. DHS, Claim No. 230641

Kathryn,

In preparation for the hearing next week, I was reading the letter from the Commission dated December 12, 2023, which scheduled this hearing. For your convenience, I have attached a copy of the letter. The letter indicates that the hearing is for the Commission to consider Claimant's motion for partial summary judgment. My question is whether the Commission will also be considering DHS's cross-motion for summary judgment, which was filed on January 29, 2024. I would ask that the Commission considers both of the pending motions together. I also want to make sure that there is no confusion amongst anyone prior to the hearing next week. Will you please let me know whether the Commission is planning to consider both Claimant's motion for partial summary judgment and DHS's cross-motion for summary judgment at the hearing on May 9, 2024?

Sincerely,

Vincent P. France
Deputy Chief Counsel for Litigation
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
Office Phone: 501-534-4127
Vincent.P.France@dhs.arkansas.gov

□□□

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From: Jim Jackson
To: ASCC Pleadings; Vincent France
Cc: Martha Cox; Daiquiri Carter
Subject: Haley Hudson, Special Adm"x of the Estate of Jacqueline Ashcraft, deceased and Permanent Guardian of [redacted] a Minor Child v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incident Date: 6/11/2021
Date: Thursday, May 30, 2024 2:42:33 PM
Attachments: [redacted]
Cover Letter to Vincent [redacted] Response to Discovery.pdf
Claimant"s 5th Supplemental [redacted] Interrogatories .pdf

You don't often get email from jim@jimjacksonatty.com. Learn why this is important

Please find attached a cover letter and Claimant's 5th Supplemental Response to Interrogatories to be filed in the above referenced matter.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

JACKSON
LAW FIRM

May 30, 2024

VIA EMAIL

Mr. Vincent France
Arkansas Department of Human Services
Office of Chief Counsel
P.O. Box 1437, Slot S-260
Little Rock, AR 72203-1437

Re: *Haley Hudson, Special Adm'x of the Estate of Jacqueline Ashcraft, deceased and Permanent Guardian of* [redacted], *a Minor Child v. Arkansas Department of Human Services*
Arkansas State Claims Commission No. 230641
Incident Date: 6/11/2021 - Logan County

Dear Vincent:

Please find attached the Claimant's Fifth Supplemental Response to Discovery in the above referenced cause of action. Miss [redacted] received counseling services from [redacted] this school year. Hannah Booth is the LCSW who provided these services. Please let me know if you want to take Ms. Booth's deposition.

Sincerely,

Jim Jackson

Jim R. Jackson

JRJ/mc
Enclosure

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 2
North Little Rock, AR 72114-5528 • 501.823.3610 • Jim@JimJacksonAtty.com • www.JimJacksonAtty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR — **CLAIMANT**

v. — **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S FIFTH SUPPLEMENTAL RESPONSES TO RESPONDENT'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION

Comes the claimant, Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and Haley Hudson, as permanent legal guardian of [redacted], a minor, by and through her attorney, Jim R. Jackson, and for her Fifth Supplemental Responses to Respondent's First Set of Interrogatories and Requests for Production of Documents, states:

INTERROGATORY NO. 11: Please provide the name, address, email address, and telephone number of each expert who may be called as a witness, and for each such expert provide:

1. The subject matter concerning which the witness is expected to testify;
2. The material reviewed by each expert;
3. The facts known to the expert which relate to or form the basis of the mental impressions and opinions held by the expert;
4. The dates of all reports rendered by such experts, and the names and addresses of the persons having custody of same; and

5. The facts, opinions, and a summary of the findings upon which the expert witnesses concludes or generates.

RESPONSE TO INTERROGATORY NO 11: The claimant will call one of the medical doctors who provided palliative care at Mercy Hospital in Fort Smith to Ms. Ashcraft before she was pronounced dead. This witness will be deposed. A copy of Ms. Ashcraft's medical records from Mercy Hospital in Fort Smith, containing the names and contact information for these providers are contained therein, is attached in the following hyperlink. *Ashcraft Mercy Records Bates Stamped.pdf*

These records contain the EMS records and Mercy Booneville Medical Records.

The claimant will call Ralph Scott, Ph.D., 6[redacted] to testify on economic loss and loss of life. A copy of Dr. Scott's report is contained in a hyperlink which contains the facts, opinions, and a summary of his findings. Also attached is information regarding loss of life which will be presented to the Claims Commissioners with Dr. Scott's testimony. Also attached is a copy of his billing record. Below is a summary of the economic damages: *Ashcraft Response to Discovery.pdf*

LOSS OF EARNING CAPACITY

i. Past potential lifetime earnings: $40,494.47

ii. Future potential income earnings: $103,465.39 to $285,597.80

iii. Past potential Fringe benefits: $43,187

Total for projected income and & fringe benefits range: $187,147.82 to $423,919.95.

COST OF RAISING [redacted]

iv. Present Value Cost $161,866.43

v. Tuition of four-year college $113,300

COST OF RAISING [redacted]

vi. Present Value Cost $28,971.49

vii. Tuition of four-year college $113,300

LOSS OF LIFE CLAIM FOR ESTATE OF JACQUELINE ASHCRAFT, DEC.

viii. Annual Value of $278,711 x 33.6 years =$9,364,689.60

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 11:

Stanley B. Cain, P.O. Box 836, Waldron, AR 72958, [redacted]

1. Mr. Cain is a certified accident reconstructionist who will testify on the subject of liability and causation.
2. Please see the seven items listed in "Items Received" which is contained on page one of Mr. Cain's Investigative Report.
3. The facts known to Mr. Cain are contained in the attached Investigative Report with calculations and photographs.
4. June 23, 2023.
5. The facts, opinions, and a summary of the findings are contained in the investigative report which is attached.

Garrett Andrews, Ph.D., Arkansas Neuroscience Institute and Research Center Building, 6020 Warden Road, Suite 210, Sherwood, AR 72120; phone: (501) 537-1388.

1. Dr. Andrews will testify about the nature and extent of [redacted]' Traumatic Brain Injury.
2. Medical records of [redacted].
3. Please see attached a copy of Dr. Andrews' report which contains his opinions.
4. Please see the above response.
5. Please see the above response.

SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 11:

The claimant will call Ms. Hannah Booth, Mid South Health Systems, Inc,. 661 Addison Drive, Wynne, Arkansas 72396. Ms. Booth is a Licensed Clinical Social Worker "LCSW" who has treated [redacted] for issues related to the car wreck. Ms. Booth is a treating clinician for [redacted]. Ms. Booth has not produced an "expert report." Ms. Booth's testimony will be based upon her treatment of [redacted] in her clinic at [redacted].

REQUEST FOR PRODUCTION NO. 11: Please produce the following materials with respect to each expert witness Claimant may call at the trial of this case:

1. A copy of the witness's most recent curriculum vitae;
2. A copy of all pertinent sections or excerpts of books, texts, treatises, articles, statutes, rules, regulations, guidelines, or any material which has been or may be referred to or relied upon by any expert witness in forming or explaining his or her opinions in connection with this case, together with citations to specific passages or sections relied upon (a list of the items above with specific citations to the relied-upon material will suffice as an alternative);
3. A copy of any computer programs, spreadsheets, analytical programs, statistical programs of any other computer-based tool utilized by any expert witness in any manner with regard to his/her opinions in this case (a list of the items above with specific citations to the relied-upon material will suffice as an alternative);
4. Copies of each spreadsheet, program, algorithm, statistical model, macro program, or other computer-based files created by or at the direction of any expert witness which has been utilized in any manner regarding his or her opinions in this case;
5. Copies of reports, correspondence, notes, documents, writings, diagrams, charts, records, photographs, video or audio recordings of any type, computer files, emails

or tangible items of any kind that have been supplied to any expert witness by Claimant, attorneys for Claimant, and/or any representative of the Claimant or Claimant's attorney.

6. Copies of reports, correspondence, notes, documents, writings, diagrams, charts, records, photographs, video, or audio recordings of any type, computer files, emails, or tangible items of any kind that any expert witness has provided to the Claimant, attorneys for Claimant, and/or any representative of Claimant's attorney;

7. Copies of reports, correspondence, notes, documents, writings, diagrams, charts, records, photographs, video or audio recordings of any type, computer files, emails, or tangible items of any kind made or prepared by any expert witness in connection with this case regardless of whether such materials were provided to any other person; and

8. All billing records, bills, invoices, and fee schedule an expert witness has prepared or provided in connection with this case.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11: The claimant will provide this information as it becomes available.

SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

The report and supporting documentation from Dr. Ralph Scott has been previously provided in the claimant's original Response to Request for Production of Documents Nos. 9, 10, and 12.

Stanley B. Cain:

1. Please find attached a copy of Stanley Cain's C.V.
2. This information will be provided as discovery proceeds.

3. Attached to Mr. Cain's Investigative Report are 10 pages of analytical data produced by Mr. Cain's computer program.
4. Please see the attached Investigative Report prepared by Mr. Cain.
5. Please see the attached Investigative Report prepared by Mr. Cain with reference to "Items Received."
6. Please see the attached Investigative Report prepared by Mr. Cain.
7. Please see the attached Investigative Report prepared by Mr. Cain.
8. Please see the attached cover letter and copy of a retainer check.

Garrett Andrews, Ph.D.:

1. Please find attached a copy of Dr. Andrews' C.V.
2. This information will be provided as discovery proceeds.
3. Please see Dr. Andrews' report.
4. Not applicable.
5. Please find attached a cover letter and emails to Dr. Andrews.
6. Please find attached a copy of emails from Dr. Andrews and his report.
7. Please see attached a copy of Dr. Andrews' report.
8. Please see attached a copy of the retainer agreement and fee schedule from Dr. Andrews.

(The above referenced attachments can be found at the following hyperlink:

Attachments to Clmt's 2nd Supp Answers to Discovery Bates 442-632.pdf

SECOND SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

Hannah Booth

1. The claimant does not have a C.V. of Ms. Booth as she is a LCSW who provides counseling treatment to students such as [redacted].

2. Not applicable.

3. Ms. Booth's records have been requested and will be provided upon receipt.

4. Not applicable.

5. Not applicable.

6. Not applicable.

7. Not applicable.

8. Not applicable. Ms. Booth provides counseling to students at [redacted].

Respectfully Submitted,

Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
Phone: 501-823-3610
Fax: 501-823-3611
Jim@JimJacksonatty.com

BY: /s/ Jim Jackson
Jim R. Jackson
Arkansas Bar No. 93209

CERTIFICATE OF SERVICE

I, Jim R. Jackson, hereby certify that I have mailed a copy of the foregoing to the respondent's attorney, Vincent Frances, Esq. , by digital delivery via email transmission on May 30, 2024.

Mr. Vincent Frances
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437
Vincent.P.France@DHS.Arkansas.gov

/s/ Jim Jackson
Jim R. Jackson

From: Jim Jackson
To: ASCC Pleadings
Cc: Vincent France; Daiquiri Carter; tammie@arkansasrealtimereporting.com; support@arkansasrealtimereporting.com; Martha Cox; Arkansas Neuropsychology & Behavioral Health
Subject: Haley Hudson, Permanent Guardian of [redacted] v. Arkansas Department of Human Services, Arkansas State Claims Commission Matter 230641
Date: Tuesday, June 4, 2024 1:09:35 PM
Attachments: image001.png
image002.png
image003.png
Notice of Deposition upon Written Questions to Garrett Andrews.pdf
Expert Analysis - CV.pdf
Exhibit 2 - Garrett Andrews.pdf
Exhibit 3.pdf
Deposition upon Written Questions to Garrett Andrews.pdf

You don't often get email from jim@jimjacksonatty.com. Learn why this is important

Please find attached a Notice of Deposition upon Written Questions for Garrett Andrews with a copy of the deposition and Exhibits for filing in the above referenced matter.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], MINOR CHILDREN — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S NOTICE OF DEPOSITION UPON WRITTEN QUESTIONS

TO: Arkansas Department of Human Services
c/o Mr. Vincent France
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

NOTICE is hereby given that the plaintiff will take the Deposition Upon Written Questions pursuant to Rule 31 of the Arkansas Rules of Civil Procedure of Garrett Andrews, Arkansas Neuroscience Institute and Research Center Building, 6020 Warden Rd., Suite 210, Sherwood, AR 72120 (501) 537-1388 administered by Tammie Foreman, Certified Court Reporter, Arkansas Real-Time Reporting, 10310 W. Markham St., Little Rock, AR. All, for all purposes. Attached are the Deposition Questions submitted by the Claimant.

Respectfully submitted,

BY: /s/ *Jim Jackson*

Jim R. Jackson, AR Bar #93-209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
(501) 823-3610 phone
(501) 823-3611 facsimile
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Notice of Deposition Upon Written Questions was served on the following counsel of record by email on June 4, 2024, to:

Mr. Vincent France
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

/s/ Jim R. Jackson .
Jim R. Jackson

Curriculum Vitae

Garrett Andrews, PsyD, ABPP/CN
Board Certified Neuropsychologist

General Information

Office Address: Arkansas Neuropsychology & Behavioral Health located at the
Arkansas Neuroscience and Research Center
6020 Warden Rd, Suite 210
Sherwood, AR 72120
501.537.1388 (Office)
[redacted]

Education

2005: Doctorate in Psychology: Clinical Psychology, (Specialty area: Neuropsychology), APA Accredited Program

2001: Masters of Art: Sport/Exercise Psychology, APA Accredited Program

1998: Bachelors of Art: Major: Psychology, Minor: Physical Education

Board Certification

2010: Certified Forensic Examiner, Arkansas State Hospital, Division of Behavioral Health Services, (Completion of Forensic Competency and Responsibility Evaluation Training for Licensed Psychologists and Psychiatrists)

2009: Diplomate, American Board of Clinical Neuropsychology (American Academy of Clinical Neuropsychology)

2009: Certified Brain Injury Specialist Trainer (Brain Injury Association of America)

Licensure

2007: Arkansas State License (07-17P)

Active Hospital/Medical Appointments

St. Vincent North (Encompass Health Rehab), North Little Rock, AR
Pinnacle Point Behavioral Healthcare, Little Rock, AR
Bridgeway Behavioral Health, N. Little Rock, AR

Professional Positions

June 2009-Present	Chief of Staff, Arkansas Neuropsychology and Behavioral Health, Board Certified Neuropsychologist, Sherwood, AR
January 2015-Present	Medical Program Director, Neuropsychology, Encompass Health Rehabilitation, Sherwood, AR
October 2015-December 2019	Chief of Service, Vocational Rehabilitation and Neurocognitive Rehabilitation Services, Central Arkansas Veterans Healthcare Administration, North Little Rock, AR

EXHIBIT
1

October 2014-December 2019	Director of Post-Doctoral Neuropsychology Training, Central Arkansas Veterans Healthcare Administration, North Little Rock, AR
March 2011-June 2019	Director of Psychology Doctoral Training, Central Arkansas Veterans Healthcare Administration, North Little Rock, AR
March 2008-December 2019	Program Manager, North Little Rock VA Polytrauma Clinic, Neuropsychology, North Little Rock, AR
January 2012-April 2016	Adjunct Professor, University of Arkansas at Little Rock, Little Rock, AR
October 2011-October 2015	Program Manager, Neuropsychology and Rehabilitation Psychology Service, Central Arkansas Veterans Healthcare Administration, North Little Rock, AR
September 2009-Sept. 2012	Independent Consulting Neuropsychologist, Deer Oaks Behavioral Health, Little Rock, AR
September 2009-Jan. 2011	Adjunct Professor, Itawamba Community College, Fulton, MS
March 2008-Feburary 2011	Assistant Director of Psychology Doctoral Training, Central Arkansas VA, North Little Rock, AR
March 2008-October 2011	Staff Neuropsychologist, Mental Health Service Central Arkansas Veterans Administration, N. Little Rock, AR
July 2007-March 2008	Assistant Clinical Professor & Neuropsychologist University of Arkansas for Medical Sciences Department of Geriatrics, Little Rock, AR
August 2002-August 2003	Psychiatric Technician III Cox Hospital, North, Adult Inpatient Psychiatric Unit Springfield, MO
August 1998-May 1999	Parole and Probation Officer, Arkansas Department of Community Correction, El Dorado, AR.

Clinical Training

Sept 2005- Sept 2007	Geisinger Medical Center (Level I Trauma Center), Post-Doctoral Neuropsychology Fellowship, Danville, PA (APPCN Match)
Sept 2004-Sept 2005	Veterans Affairs Medical Center of the Black Hills (Intern), Neuropsychology and Geropsychology Internship Track, Fort Meade, SD (APA Accredited)

January 2004-June 2004	St. John's Regional Health Center (Practicum student), Neuropsychology and Rehabilitation, Physical Rehabilitation Services, Springfield, MO
July 2003-December 2003	Neuropsychological Associates of Southwest Missouri (Practicum student), Springfield, MO
January 2003-June 2004	Burrell Behavioral Health (Research student), Springfield, MO
July 2003-December 2003	United States Medical Center for Federal Prisoners (Practicum student), Springfield, MO
July 2003-December 2003	Piney Ridge Center, Inc. (Practicum student), Ft. Leonard Wood, MO
October 2003-Nov 2003	Pre-Employment Evaluations for Springfield Police Department (Practicum student), Springfield, MO
September 2002-July 2003	Health and Rehabilitation Laboratory (Practicum student), Forest Institute, Springfield, MO
August 2000-June 2001	Phoenix College Baseball Team (Sport Psychology Practicum student), Phoenix, AZ
Sept 1997-April 1998	Missouri State Prison (Undergraduate Intern), Fulton Reception and Diagnostic Center, Fulton, MO

Publications & Presentations

Andrews, G. (2019) *Neuropsychological Development in relation to the 2011 Miller v. Alabama Supreme Court Ruling.* Guest Lecture at UALR William H. Bowen School of Law.

Andrews, G. (2019) *How long does it take to recovery after a Traumatic Brain Injury?* American Academy of Clinical Neuropsychology, "Ask the Experts" Series.

Paulson, J., Oswald, T., Fazio, R., & **Andrews, G.** (2018) *Replication of the Embedded Performance Validity Index within the Memory Module of the Neuropsychological Assessment Battery (NAB).* 46th Annual Meeting of the International Neuropsychological Society, Washington, DC.

Andrews, G. (2017). 2017 VA Mental Health Summit. The Well-Rounded Veteran (Building Communities of Support for the Whole Veteran). Panel Speaker for Vocational Rehabilitation in the VA. Little Rock, AR

Oswald, T., Fazio, R, & **Andrews, G.** (2017). *Embedded Performance Validity Index within the Memory Module of the Neuropsychological Assessment Battery (NAB): A Pilot Study.* 45th Annual Meeting of the International Neuropsychological Society, New Orleans, LA.

Andrews, G. (2016). *Post-Traumatic Stress Disorder and Brain Injury.* Arkansas Trauma Rehabilitation Conference. Little Rock, AR

Andrews, G. (2014). *2014 VA Mental Health Summit.* The Well-Rounded Veteran (Building Communities of Support for the Whole Veteran). Panel Speaker for PTSD and TBI in the VA. Little Rock, AR

Andrews, G. (2014). *Traumatic Brain Injury Cases: Doctor and Attorney Perspectives.* NBI: National Business Institute Presentation Series. Little Rock, AR

Andrews, G., (2013). Keynote Speaker for UALR Psi Chi Annual Meeting. Little Rock, AR.

Andrews, G., (2012). Panel Speaker for Association of Black Psychologists of Arkansas. Little Rock, AR.

Andrews, G., Fahoum, Y., (2011). *Brain Injury and Cognitive Rehabilitation.* Presentation to the Brain Injury Association of Tennessee, Memphis Medical Center, Memphis, TN.

Andrews, G., (2011). *Geriatric Assessment of Dementia Syndromes.* Presentation to the AGEC - Arkansas Geriatric Education Collaborative.

Andrews, G., (2010). *Psychiatric sequelae following traumatic brain injury.* Arkansas Brain Injury Association Annual Conference, Little Rock, AR.

Andrews, G., (2010). Forensic Neuropsychological Evaluation in Moderate-to-Severe Brain Injury: Failed Symptom Validity Measures in the Presence of Credible Personality and Behavioral Changes. *Archives of Clinical Neuropsychology (ABSTRACTS), Volume 25, Issue 6,* 477-478.

Andrews, G., (2010), *Forensic Grand Rounds.* Forensic Neuropsychological Evaluation in Moderate-to-Severe Brain Injury: Failed Symptom Validity Measures in the Presence of Credible Personality and Behavioral Changes. Annual Conference for the National Academy of Neuropsychology, Vancouver, Canada.

Andrews, G., (2010), *Mild traumatic brain injury and psychiatric sequelae.* VA Social Workers' Annual Workshop. Central Arkansas Veterans Healthcare System.

Thaut, M.H., Gardiner, J.C., Holmberg, D., Horwitz, J.L. Kent, L., **Andrews, G.**, Donelan, B., & McIntosh, G.R. (2009). Neurologic Music Therapy Improves Executive Function and Emotional Adjustment in Traumatic Brain Injury Rehabilitation. *Annals of the New York Academy of Sciences, 1169(1),* 406-416.

Andrews, G., (2008) *Mild Traumatic Brain Injury and Post concussive symptoms.* Arkansas Affiliate of the Association on Higher Education and Disability (Ark-AHEAD) Fall Workshop. Pulaski Technical College.

Andrews, G., (2008) *Neuropsychological assessment with geriatric patients.* University of Arkansas for Medical Sciences, Department of Geriatrics, multi-disciplinary training week.

Andrews, G., Cassidy, S. (2007) *Neuropsychology consultation within a geriatric primary care setting.* Department of Geriatrics Grand Rounds, University of Arkansas for Medical Sciences.

Andrews, G., (2007). *Differential Diagnosis of Dementia Syndromes.* Psychiatry Grand Rounds, Geisinger Medical Center.

Andrews, G., Barry, D., Wilson, B. (2006). *Use of a Modified Average Impairment Rating: Substituting Symbol Search for Picture Arrangement.* North American Brain Injury Society, Conference of the Americas.

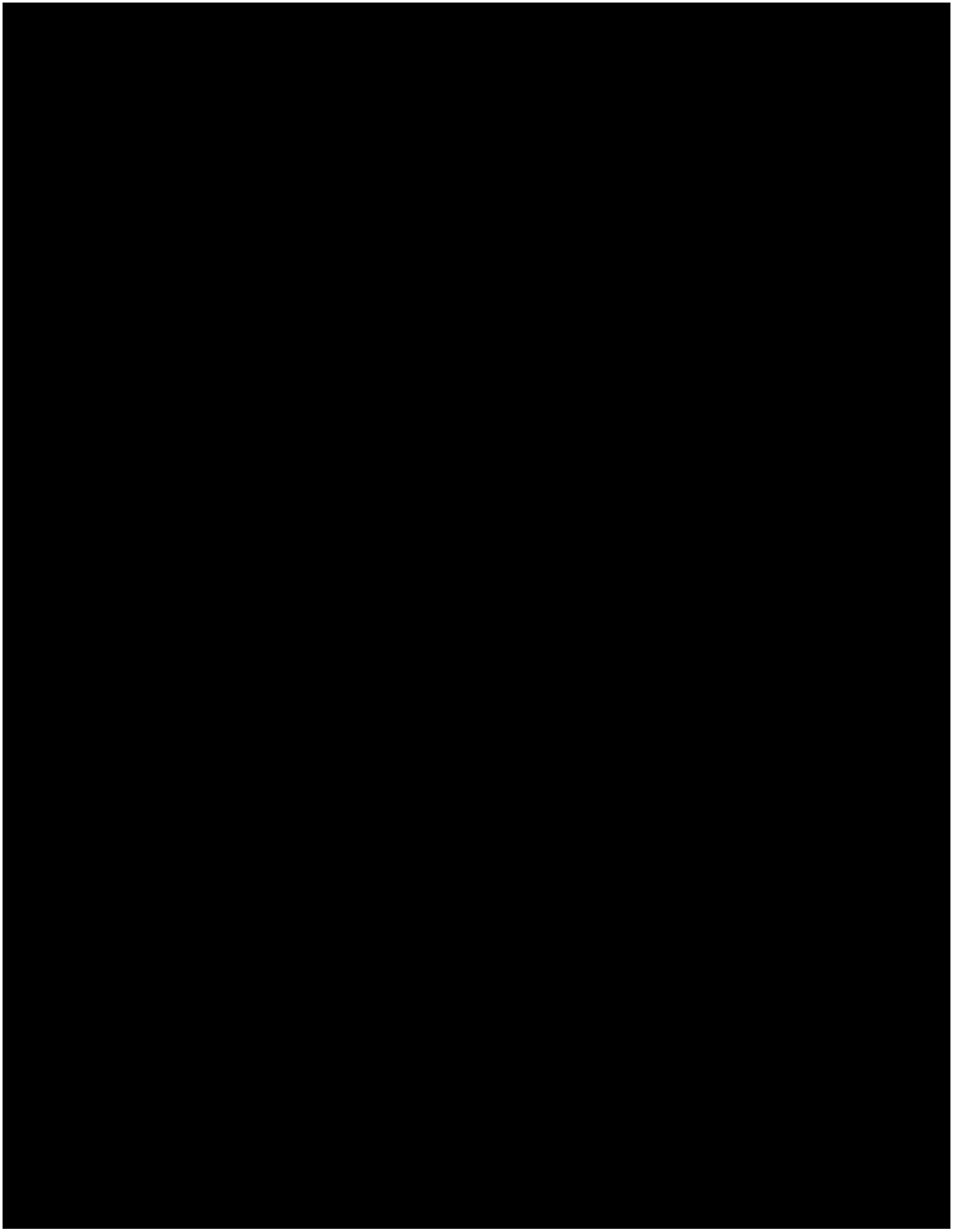
Andrews, G., (2004). *Concussion in Athletes: Post Concussive Syndrome.* Black Hills State University Seminar for Injury in Sport.

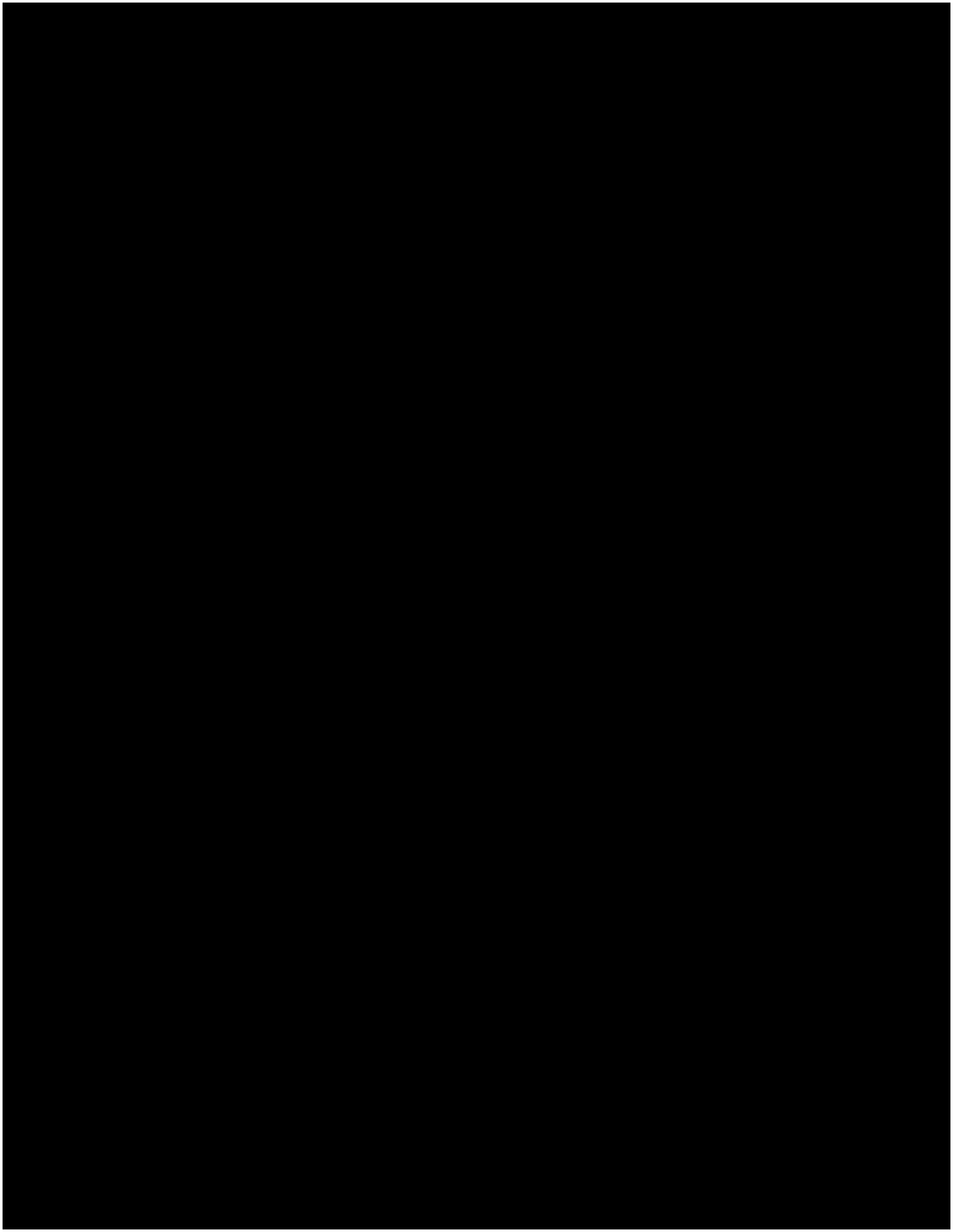
Andrews, G., Boling, E., Burns, K., Jones, D., (1998). *Soccer Players Hostility Levels as a Result of Gender, Game Outcome, and Game Preparation.* 17th Annual Mid-America Undergraduate Psychology Conference.

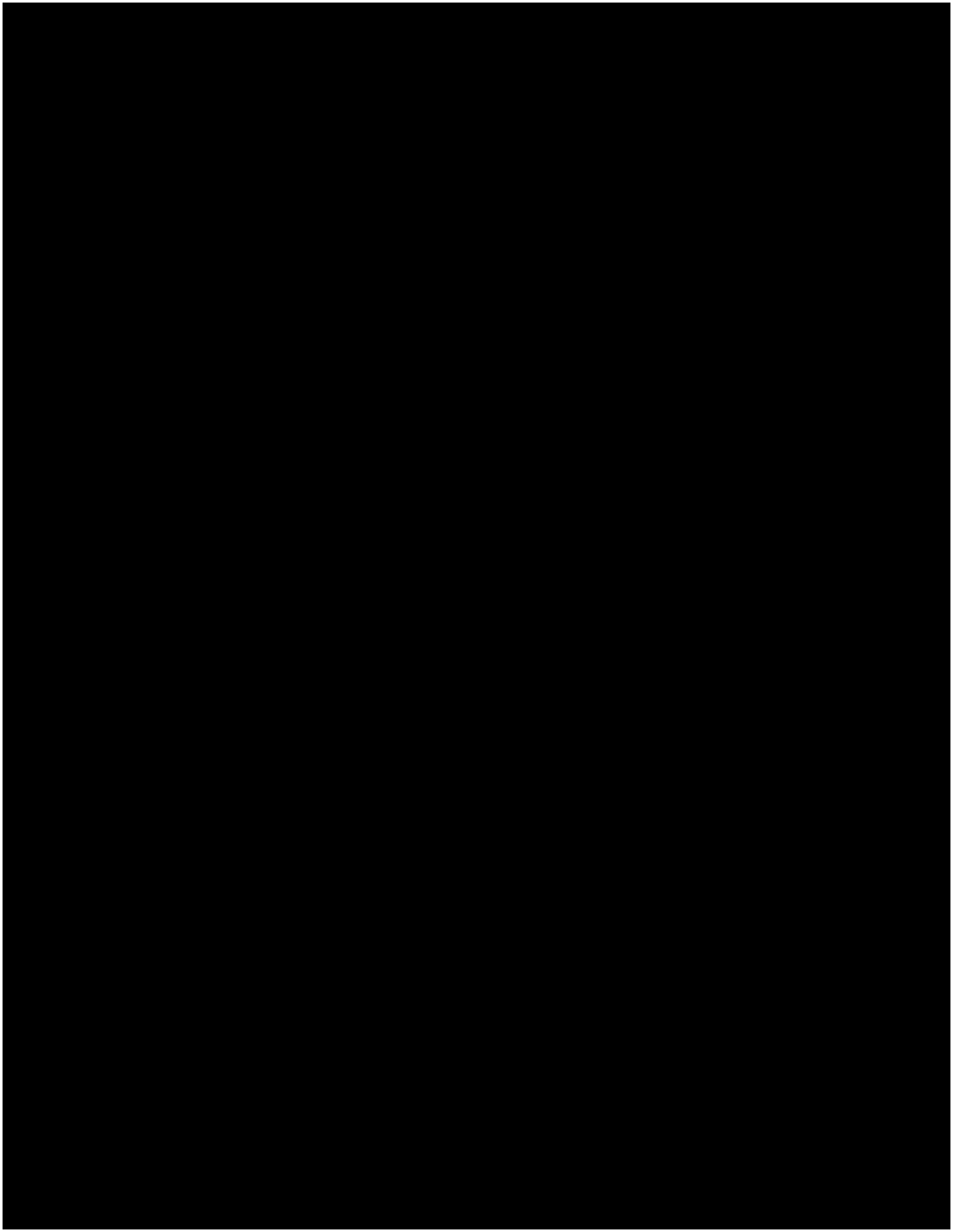
Gates, C., Drew, C., **Andrews, G.,** Jaeger, T., (1997). *Tracking and Static Acuity in Peripheral Vision.* 16th Annual Mid-America Undergraduate Psychology Conference.

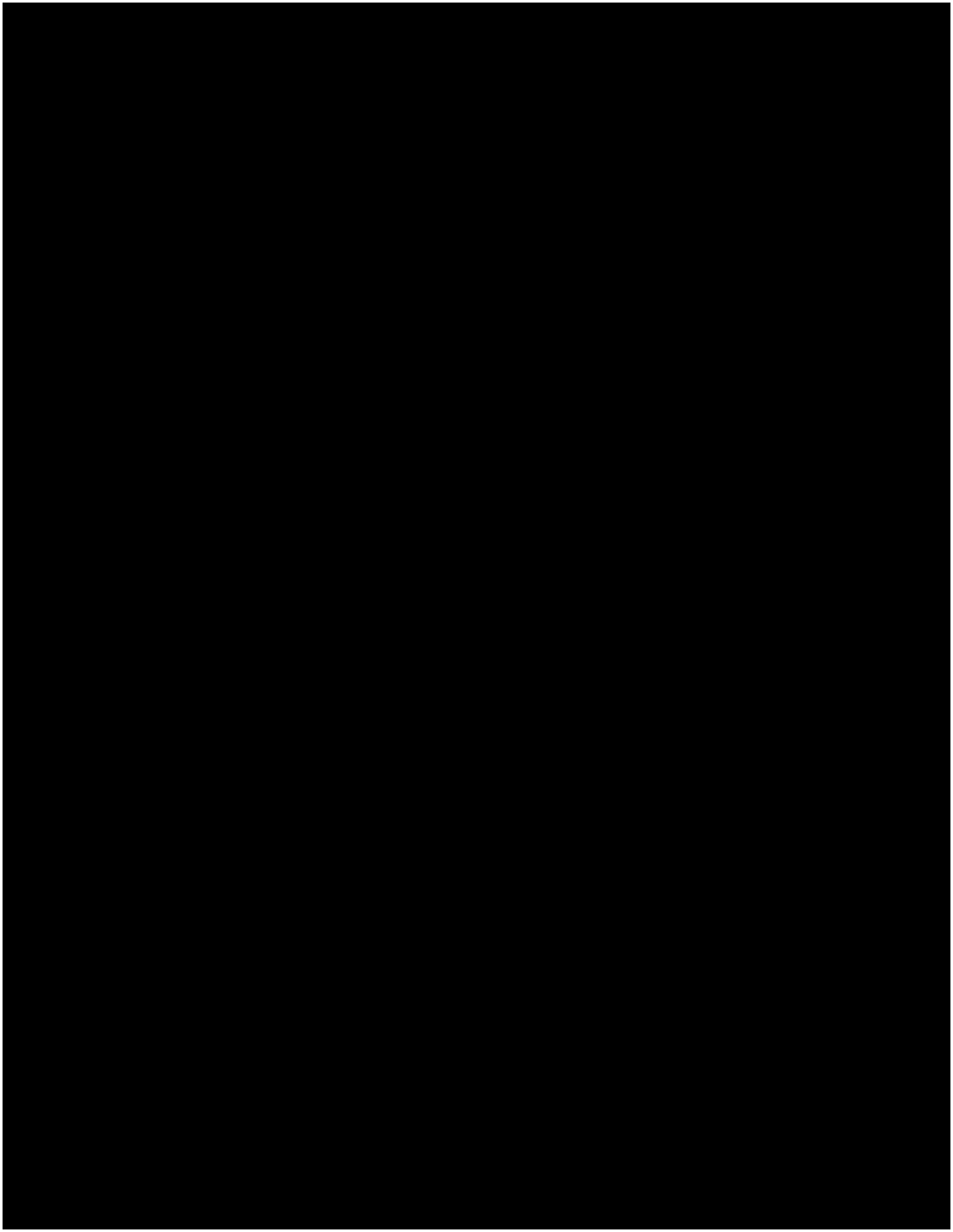
Professional Committees, Organizations & Awards

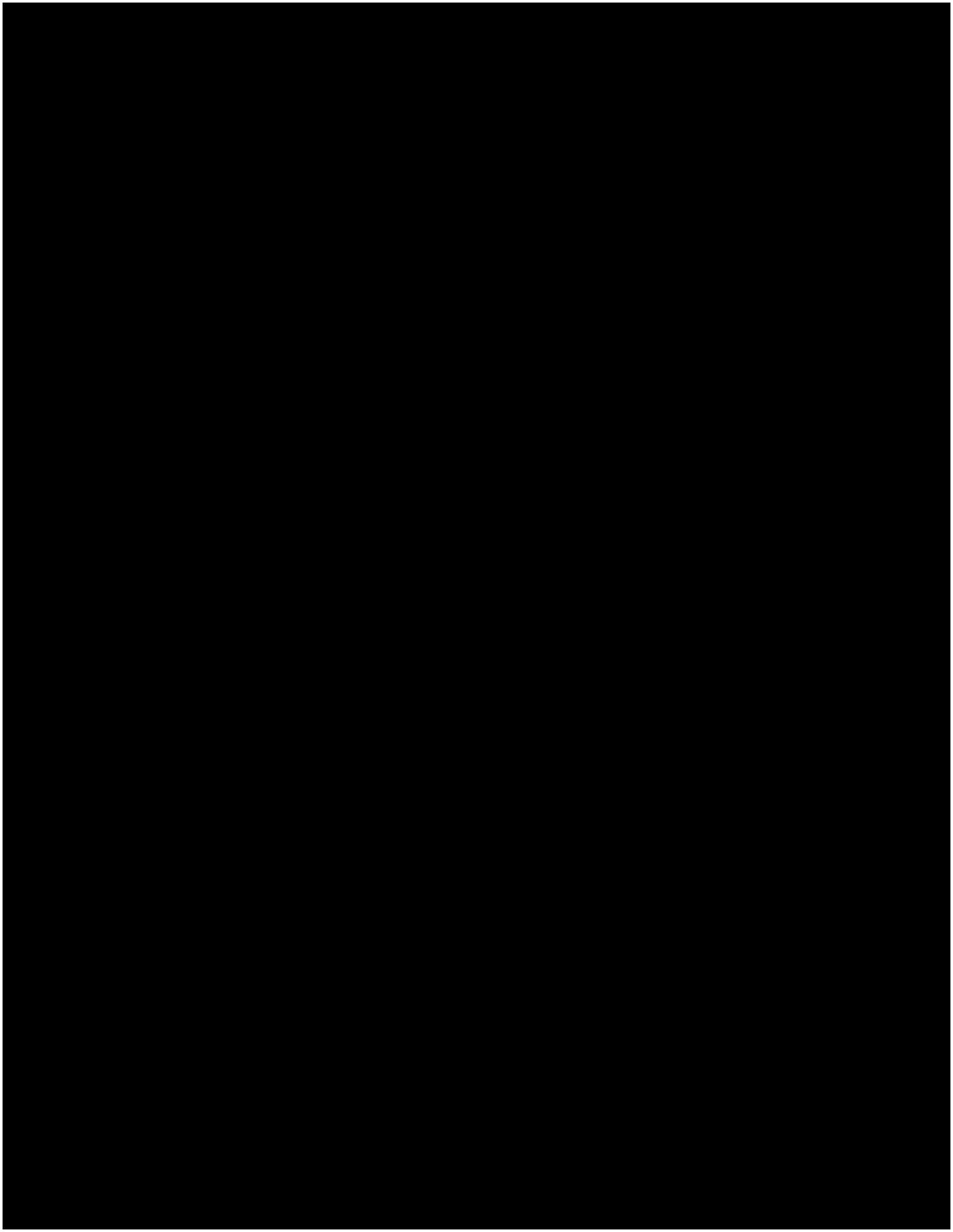
Arkansas Psychological Association (ArPA) Member
Green Belt (Lean Healthcare Training) (completed 2013)
American Board of Professional Psychology (Oct 2009-present)
Diplomate, American Board of Clinical Neuropsychology (Oct 2009-present)
National Association of Neuropsychology (2005)
Brain Injury Association of Arkansas (Board Member, March 2009-March 2011)
Brain Injury Association of Arkansas (Vice President, Jan 2010- Jan 2011)
Certified Brain Injury Specialist Trainer (Oct 2009), Brain Injury Association of America
CAVHS Evidence Based Assessment Lead
CAVHS Vocational Rehabilitation Resource Committee (Committee Member)
CAVHS Vocational Rehabilitation System Redesign Team (Committee Member)
CAVHS Early Career Psychologist Committee (Chair 2010)
CAVHS Awards Committee (Committee Member)
2008 CAVHS Community Service Award

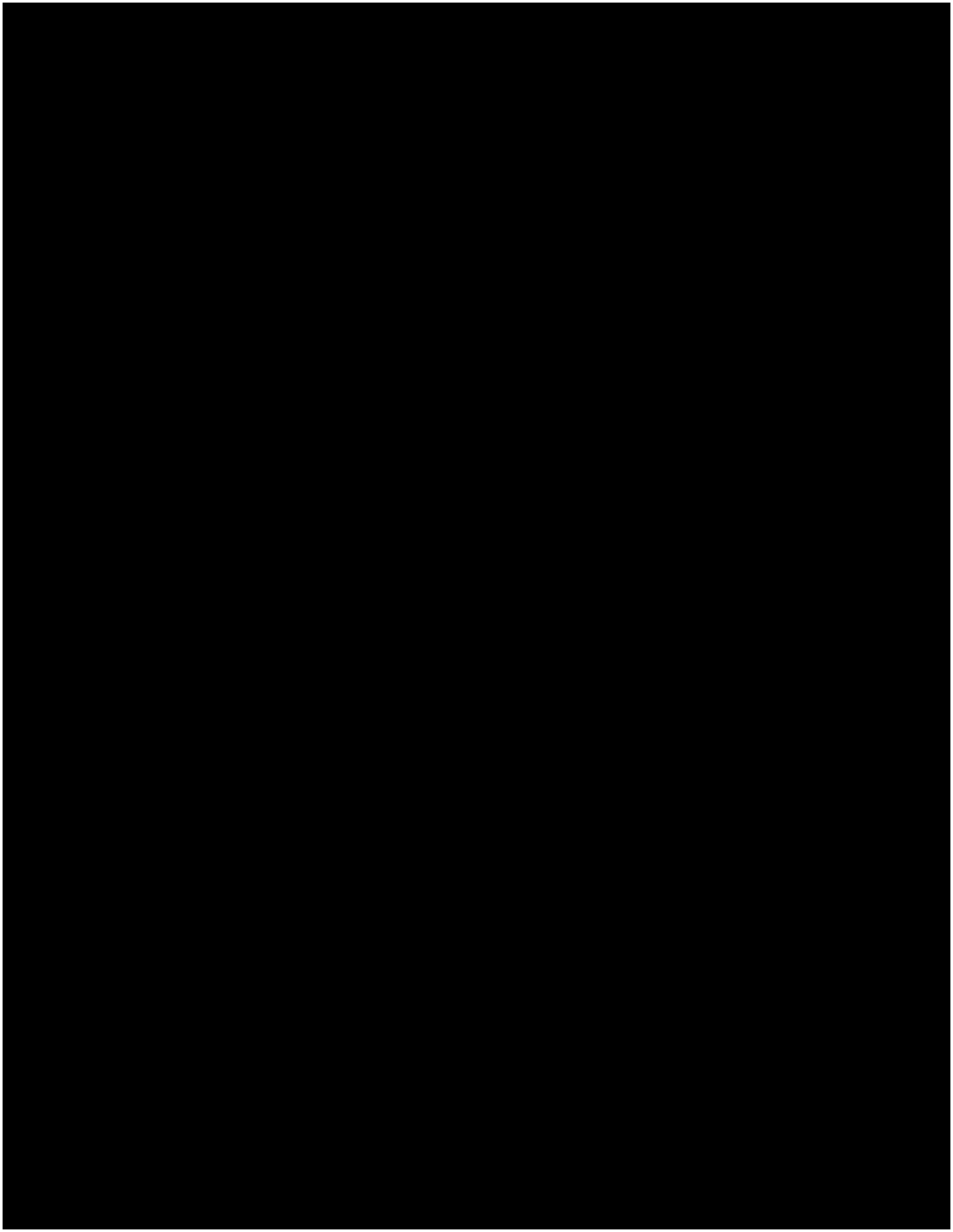


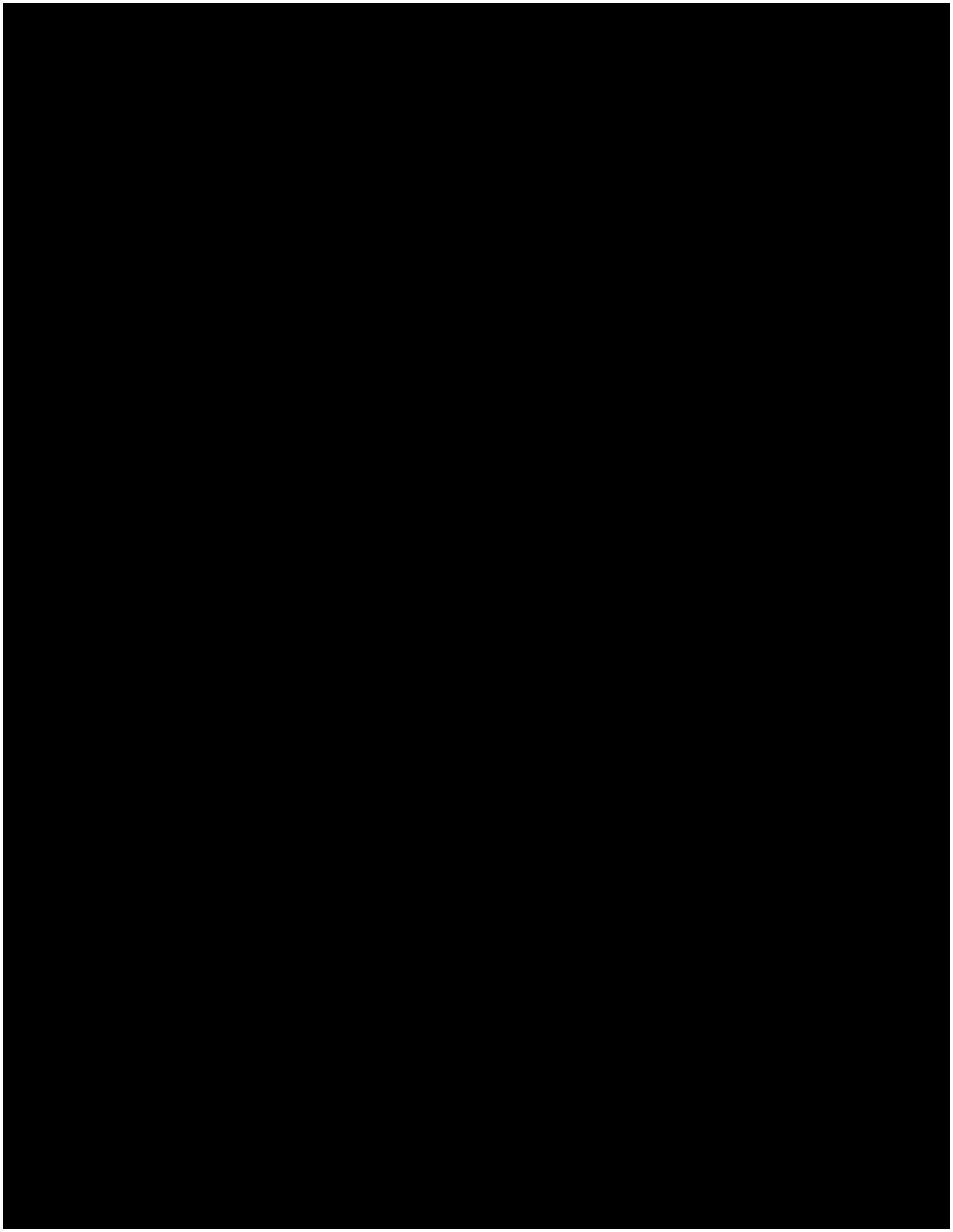


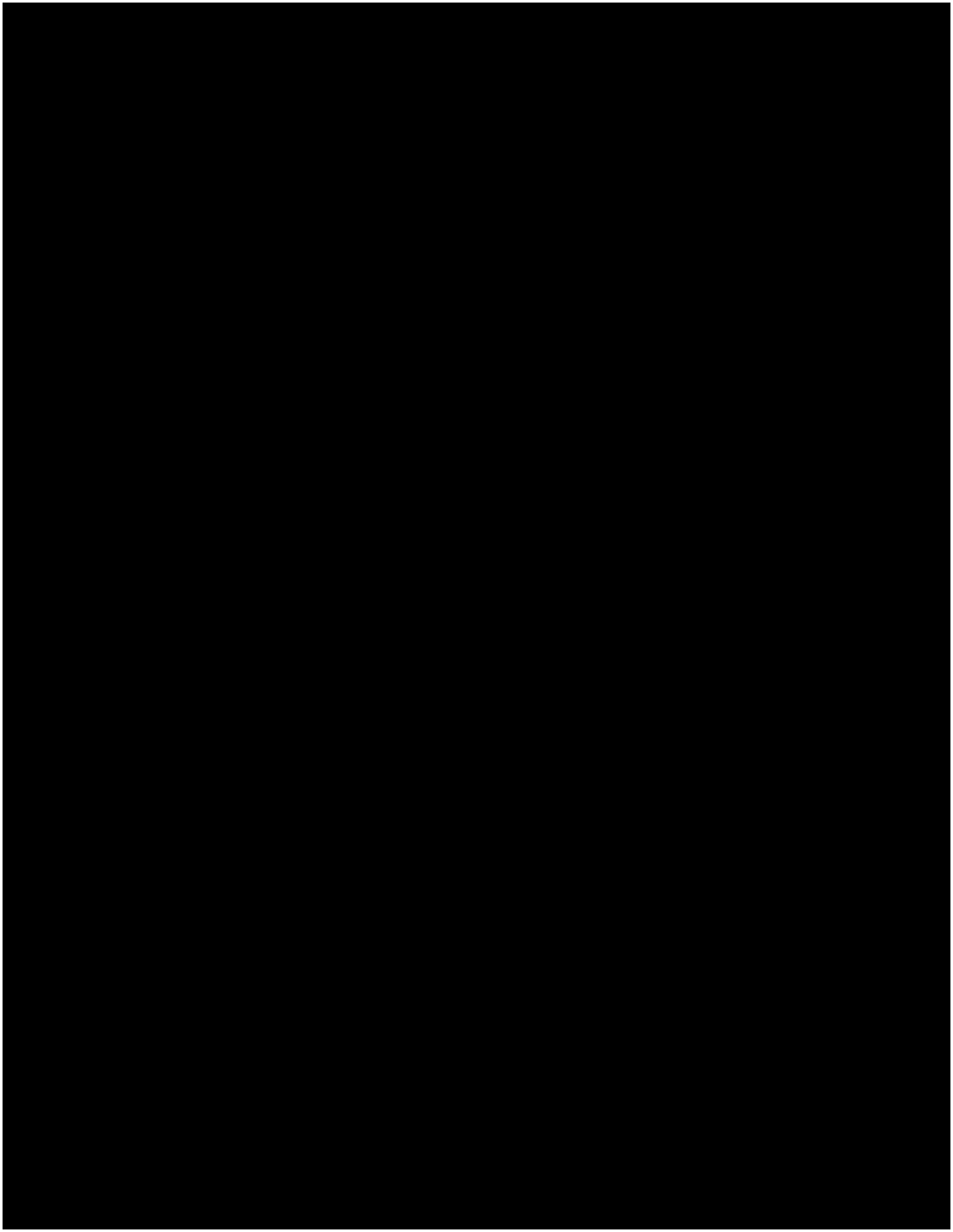


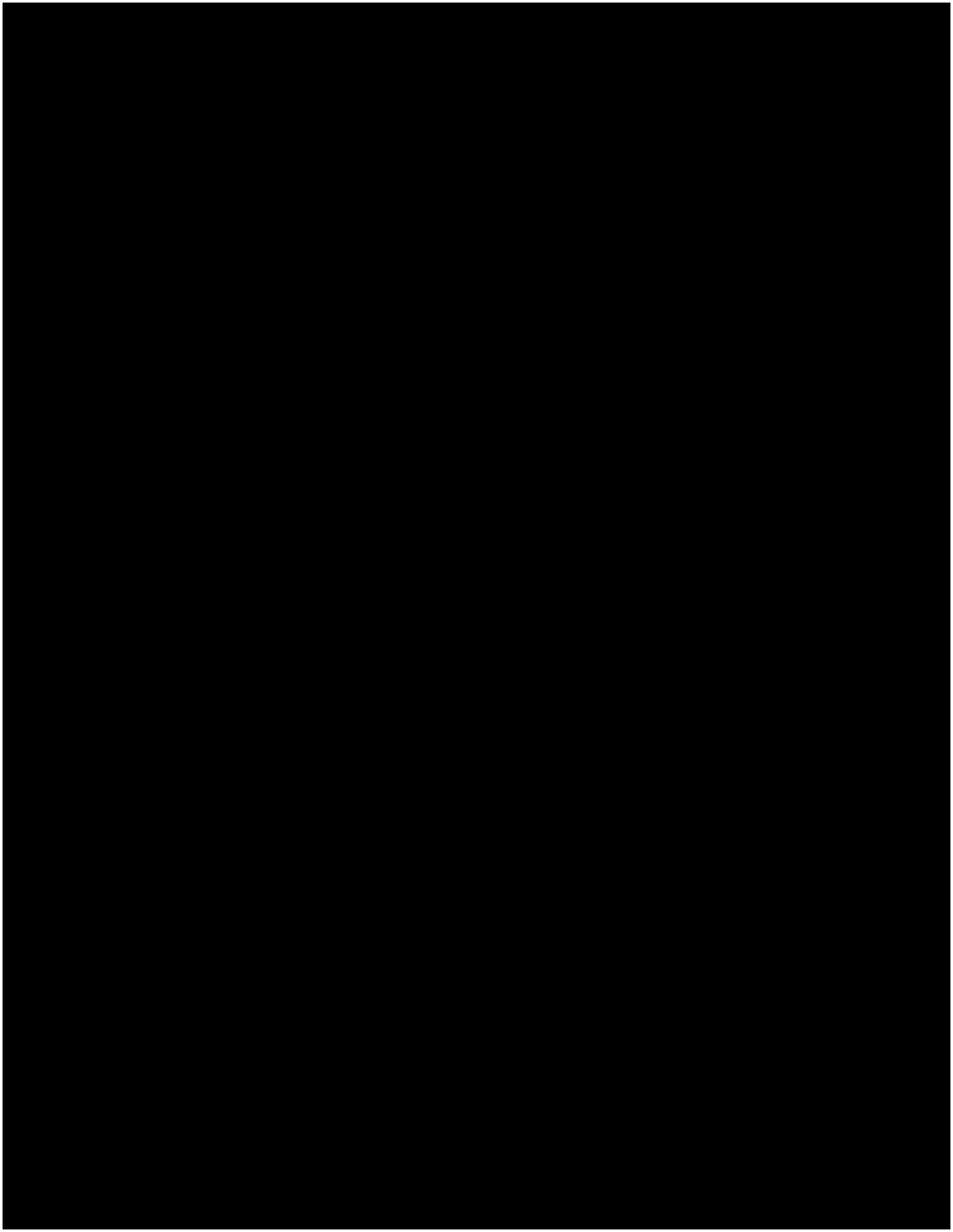


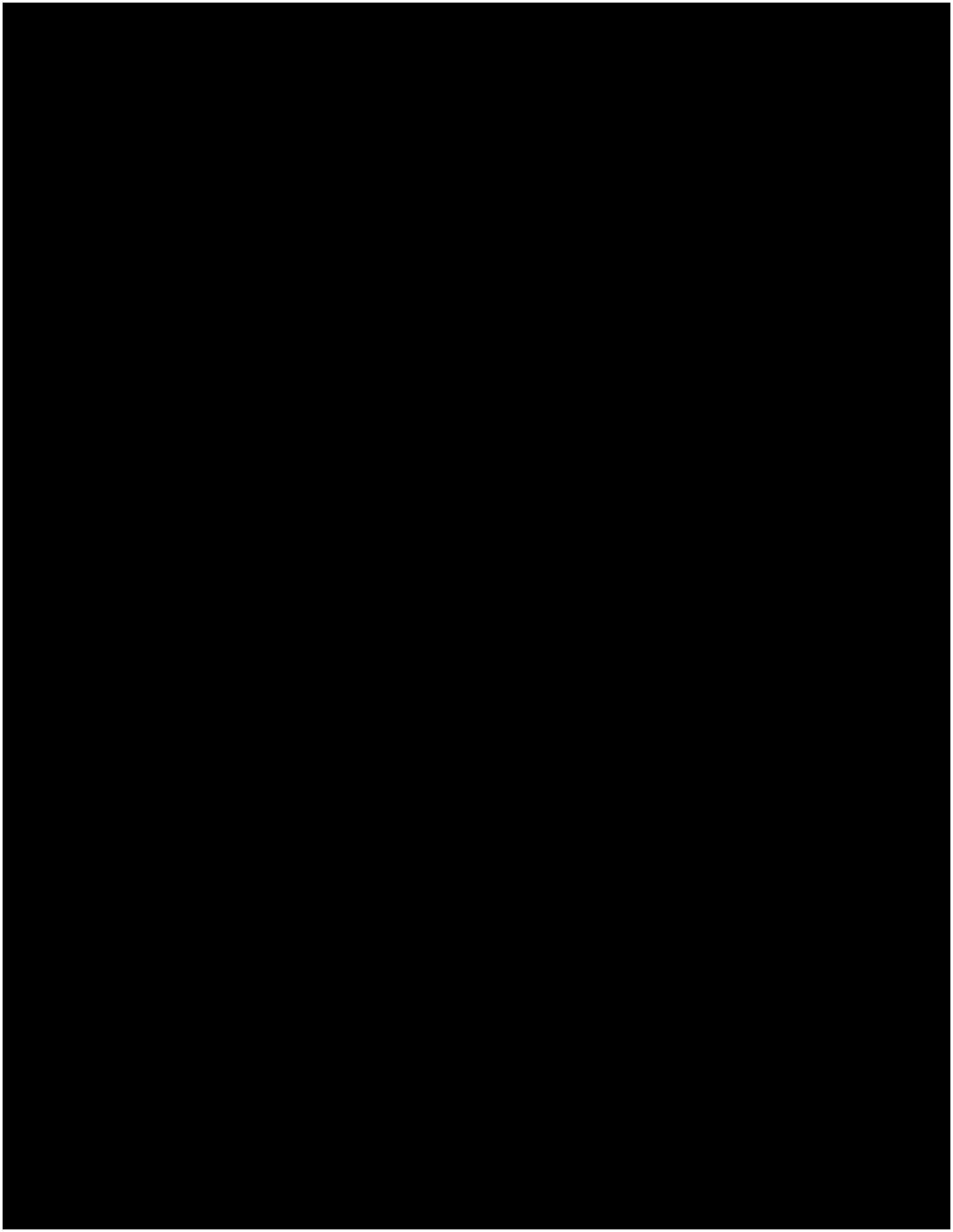


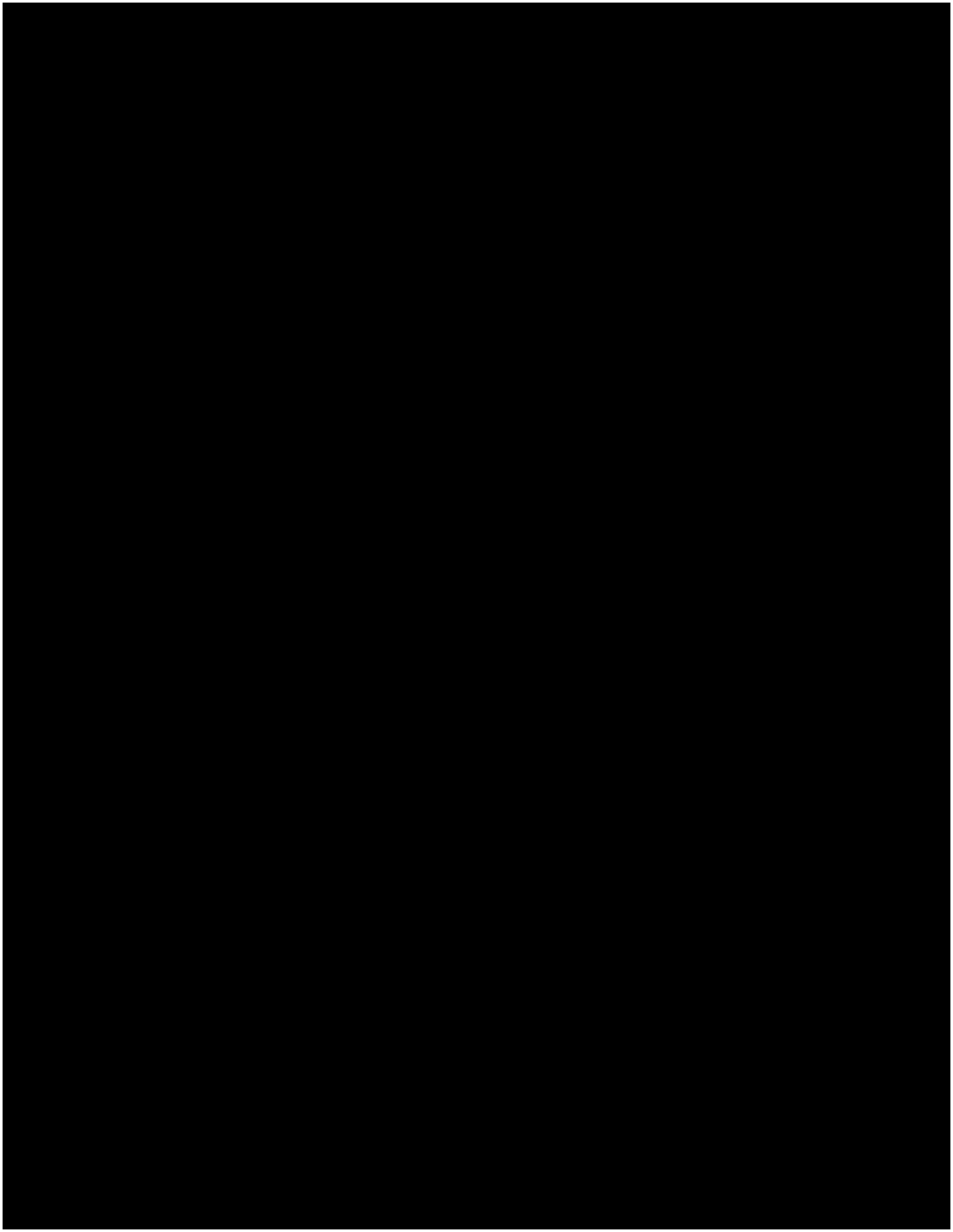


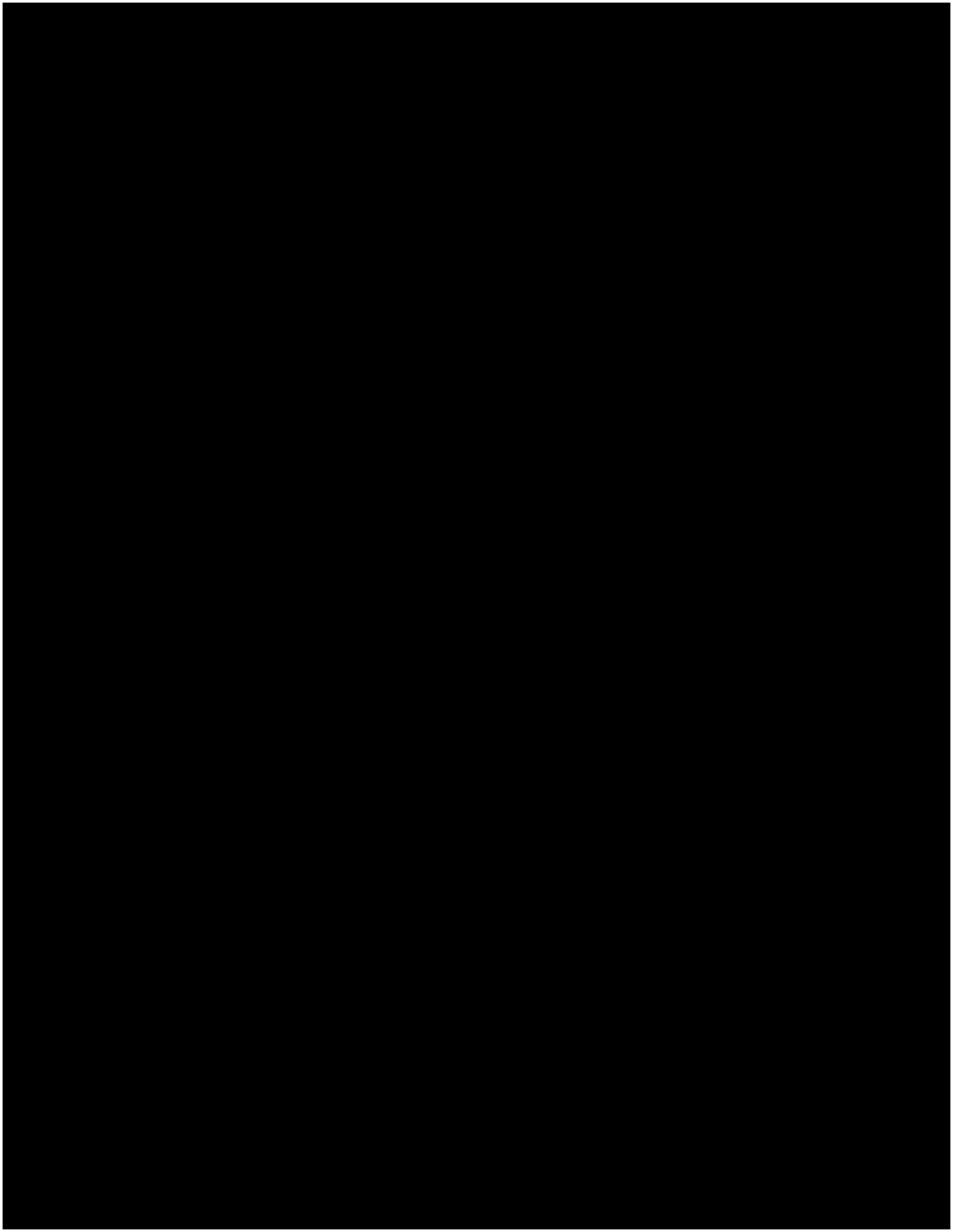


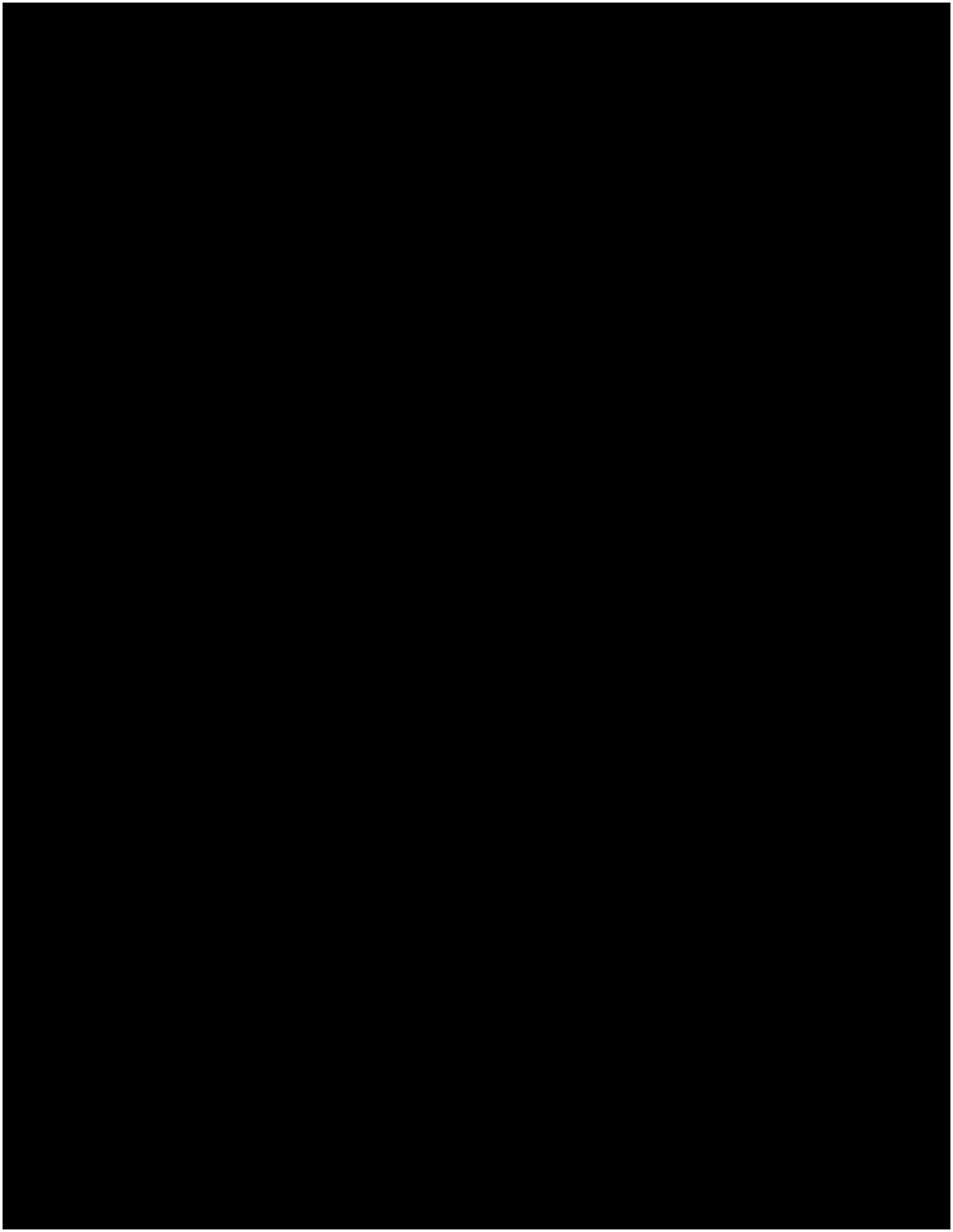












ARKANSAS STATE CLAIMS COMMISSION

CLAIMANT

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR CHILD

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

DEPOSITION OF GARRETT ANDREWS
UPON WRITTEN QUESTIONS BY CLAIMANT

Comes now Garrett Andrews, and after being duly sworn upon oath according to law, hereby states the following:

Q: Will you state your name and your place of employment?

A:

Q: Can you provide us with a copy of your CV which we will have marked as Exhibit 1 to your deposition?

A:

Q: Did attorney Jim Jackson refer [redacted] to your clinic for a Forensic Neuropsychological Examination that was performed on April 4, 2023?

A:

Q. Is $5,500.00 your standard retainer agreement for performing a Forensic Neuropsychological Examination?

A.

Q. I will represent to you that attached as Exhibit 2 is a 3- page cover letter from my law firm, an executed Retainer Agreement and a retainer check in the amount of $5,500.00. Did you receive the items listed in Exhibit 2 as part of your engagement to perform a Forensic Neuropsychological Examination on [redacted]?

A.

Q: Are the results of the Forensic Neuropsychological Examination that you performed on [redacted] contained in the document attached to this deposition as Exhibit 3?

A:

Q. Did you identify the name of the medical reports you relied upon for obtaining a history for [redacted] in your report?

A.

Q. Are the results of the testing you performed contained in the Forensic Neuropsychological Examination attached as Exhibit 2?

A.

Q. Are your findings, conclusions and recommendations in the Forensic Neuropsychological Examination report attached as Exhibit 2?

A.

Q. Based upon your education, medical training, history of treating patients who have experienced a [redacted]

A.

Q. What is your opinion?

A.

Q. Based upon your education, medical training, history of treating patients who have experienced [redacted]

A.

Q. What is your opinion?

A.

Q. Are all of your opinions given in this deposition given within a reasonable degree of medical probability?

A.

Thank you.

This concludes the deposition of Garrett Andrews, PsyD, ABPP.

COURT REPORTER CERTIFICATION

(TO BE COMPLETED BY COURT REPORTER)

From: Jim Jackson
To: ASCC Pleadings
Cc: Vincent France; Daiquiri Carter; Martha Cox; Kirk Dougherty
Subject: Ark. Claims Comm No. 230641 -
Date: Tuesday, June 11, 2024 3:01:42 PM
Attachments: [redacted]
Deposition upon [redacted] Bell, MD.pdf
Notice of Deposition [redacted] Bell MD.pdf

You don't often get email from jim@jimjacksonatty.com. Learn why this is important

Please find attached a Notice of Deposition Upon Written Questions to be filed in the above referenced matter.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], MINOR CHILDREN — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S NOTICE OF DEPOSITION UPON WRITTEN QUESTIONS

TO: Arkansas Department of Human Services
c/o Mr. Vincent France
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

NOTICE is hereby given that the plaintiff will take the Deposition Upon Written Questions pursuant to Rule 31 of the Arkansas Rules of Civil Procedure of Dr. Christopher Bell, care of Attorney Kirkman T. Dougherty, Hardin, Jesson & Terry, PLC, 5000 Rogers Avenue, Suite 500, Fort Smith, Arkansas 72917 (479) 452-2200. Said deposition to be administered by Arkansas Real Time Reporting, Certified Court Reporter. The deposition may be used for all purposes. Attached are the Deposition Questions submitted by the Claimant.

Respectfully submitted,

BY: ____/s/ *Jim Jackson*_____

Jim R. Jackson, AR Bar #93-209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
(501) 823-3610 phone
(501) 823-3611 facsimile
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Notice of Deposition Upon Written Questions was served on the following counsel of record by email on June 10, 2024, to:

Mr. Vincent France
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

*/s/ Jim R. Jackson*_____.
Jim R. Jackson

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

DEPOSITION UPON WRITTEN QUESTIONS BY CLAIMANT

Comes now Christopher Bell, M.D., and after being duly sworn upon oath according to law, hereby states the following:

Q: Will you state your name and your place of employment?

A:

Q: Can you provide us with a copy of your CV which we will have marked as Exhibit 1 to your deposition?

A:

Q: Was Jacqueline Ashcraft a patient of yours on June 11 and 12, 2021?

A:

Q: Attached as Exhibit 2 is Page 1 of Jacquelien Ashcraft's medical records from Mercy Hospital. I want to turn your attention to the section at the top of the page that states:

[redacted]

[redacted]

- [redacted]

My question to you after you review Exhibit 2 is: Do you have any reason to disagree with the description contained in the Chief Complaint?

A:

Q: Do you have any reason to disagree with the diagnosis of Jacqueline Ashcraft of having sustained [redacted]

A:

Q: Attached as Exhibit 3 to your deposition are pages 33, 34 & 35 of Jacqueline Ashcraft's medical records from Mercy Hospital. Do you have any reason to disagree with page 33 of the medical records where the notes state:

[redacted]

A:

Q: I want to turn your attention to the medical decision-making and plan of care beginning on page 34 of Ms. Ashcraft's medical records. The record states:

[redacted]

Is this your understanding of the course of the medical decision making and plan of care for Ms. Ashcraft when she was turned over to you as a patient?

A:

Q: I want to turn your attention to page 35. The final diagnoses states:

[redacted] Do you have any reason to disagree with this final diagnosis in Mercy's records?

A:

Q: Did you order the endotracheal tube to be removed from Jacqueline Ashcraft shortly after midnight on June 12, 2021?

A:

Q: Did Ms. Ashcraft die shortly after she was extubated from the mechanical ventilator?

A:

Q: Are you familiar with the contrecoup brain injury mechanism when a person is involved in a rear end motor vehicle accident?

A:

Q: I want to ask you to review a series of four (4) photographs which will be marked as Exhibit 4 to your deposition. I will represent to you that Ms. Ashcraft was the driver of the blue vehicle which was rear ended while slowing or stopping to make a left hand turn by the brown car. Testimony from experts indicate that the speed of the brown car ranged from 50-70 mph.

My question is this: Is the impact depicted in the four photographs of Exhibit 4 the type of impact that you would expect a person to sustain a Coup-Contrecoup brain injury?

A:

Q. Is a Coup-Contrecoup brain injury initially difficult to diagnose due to a lack of outward sign of trauma to the head?

A.

Q: Would it surprise you that a person involved in the collision depicted in the photographs marked as Exhibit 4 would sustain an [redacted]

A:

Q. I would like to turn your attention to Exhibit 5 which is the CT Scan Results from Mercy Hospital Booneville. Is a patient who was involved in a rear end car wreck at 12:50 p.m. and has a CT Scan at 2:21 pm, approximately 90 minutes after the wreck, which reveals a [redacted] consistent with a patient who experienced a brain trauma caused from the impact of a wreck?

A.

Q. I would like to ask you to review what has been marked as Exhibit 6 to your deposition which is the Death Certificate for Jacqueline Ashcraft issued by the Arkansas Department of Health. I want to turn your attention to the middle of Ms. Ashcraft's Death Certificate which has a section titled: "Cause of Death." The immediate cause states [redacted]."

My question to you is: Do you have any reason to disagree with the cause of death and underlying cause as stated in the Death Certificate for Jacqueline Ashcraft?

A.

Q. Has all of your testimony in this matter been based upon your medical education, medical training and treatment of patients presenting to the emergency room with medical conditions similar to Jacqueline Ashcraft's condition?

A.

Q. Have your opinions given in this deposition been given within a reasonable degree of medical probability?

A.

Thank you.
This concludes the deposition of Dr. Bell.

COURT REPORTER CERTIFICATION

(TO BE COMPLETED BY COURT REPORTER)

From: Jim Jackson
To: ASCC Pleadings
Cc: Vincent France; Daiquiri Carter; Martha Cox; Kirk Dougherty
Subject: RE: Ark. Claims Comm No. 230641 -
Date: Tuesday, June 11, 2024 3:19:35 PM
Attachments: [redacted]

Please add the attached Exhibit List for Christopher Bell, MD to the filing in this matter.
Thank you,
Jim



Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611



From: Jim Jackson
Sent: Tuesday, June 11, 2024 3:01 PM
To: ASCC Pleadings <asccpleadings@arkansas.gov>
Cc: Vincent France <Vincent.P.France@dhs.arkansas.gov>; Daiquiri.carter@dhs.arkansas.gov; Martha Cox <mcox@jimjacksonatty.com>; Kirk Dougherty <KDougherty@hardinlaw.com>
Subject: Ark. Claims Comm No. 230641 -

Please find attached a Notice of Deposition Upon Written Questions to be filed in the above referenced matter.
Thank you,
Jim



Jim Jackson

Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
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F (501) 823-3611

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], MINOR CHILDREN — **CLAIMANT**

VS. — **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

EXHIBIT LIST FOR DR. CHRIS BELL

TO: Dr. Chris Bell

Below is a Hyperlink contating Exhibits 2 – 6 to your deposition. Please contact the undersigned if you have any difficulties opening this hyperlink.

Bell, Chris MD

Respectfully submitted,

BY: /s/ *Jim Jackson*

Jim R. Jackson, AR Bar #93-209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
(501) 823-3610 phone
(501) 823-3611 facsimile
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Exhibit List for Dr. Chris Bell was served on the following counsel of record by email on June 11, 2024, to:

Mr. Vincent France
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

/s/ Jim R. Jackson.
Jim R. Jackson

From: Vincent France
To: ASCC Pleadings
Cc: Daiquiri Carter; jim@jimjacksonatty.com; Martha Cox
Subject: Hudson, et al v. DHS, Ark. Claims Comm No. 230641
Date: Wednesday, June 12, 2024 3:47:39 PM
Attachments: [redacted]

Please find attached DHS's Motion to Stay Discovery for filing in the above-referenced case.

Sincerely,

Vincent P. France
Deputy Chief Counsel for Litigation
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
Office Phone: 501-534-4127
Vincent.P.France@dhs.arkansas.gov

NOTE - This email may contain sensitive or confidential information.

CONFIDENTIALITY NOTICE: The information contained in this email message and any attachment(s) is the property of the State of Arkansas and may be protected by state and federal laws governing disclosure of private information. It is intended solely for the use of the entity to which this email is addressed. If you are not the intended recipient, you are hereby notified that reading, copying or distribution this transmission is STRICTLY PROHIBITED. The sender has not waived any applicable privilege by sending the accompanying transmission. If you have received this transmission in error, please notify the sender by return and delete the message and attachment(s) from your system.

IN THE ARKANSAS STATE CLAIMS COMMISSION

**HALEY HUDSON, INDIVIDUALLY
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF
THE ESTATE OF JAQUELINE LYNN ASHCRAFT,
DECEASED, AND HALEY HUDSON, AS PERMANENT
LEGAL GUARDIAN OF [redacted]
[redacted] MINOR CHILDREN** **CLAIMANTS**

vs. **CC No. 230641**

**ARKANSAS DEPARTMENT OF
HUMAN SERVICES** **RESPONDENT**

RESPONDENT'S MOTION TO STAY DISCOVERY

COMES NOW, Respondent, Arkansas Department of Human Services, by and through its attorney, Vincent P. France, Deputy Chief Counsel for the Arkansas Department of Human Services, and for its Motion to Stay Discovery states the following:

1. This claim arises from a motor vehicle accident that occurred on Friday, June 11, 2021, on State Highway 22 in Logan County, Arkansas near Paris, Arkansas.

2. On January 29, 2024, Respondent DHS filed a cross-motion for summary judgment and a brief in support of its motion. In its motion and brief, DHS argued that the doctrine of *respondeat superior* does not apply to the facts of this claim and that it cannot be vicariously liable to Claimants for the accident at issue in this claim.

3. After both sides fully briefed the issues raised by DHS, the Arkansas State Claims Commission held a hearing on May 9, 2024.

4. As of the filing of this motion, no decision has been made regarding DHS's motion for summary judgment, which if successful would be fully dispositive of this entire claim.

5. Since the hearing, counsel for Claimants has filed a Notice of Deposition Upon Written Questions to Dr. Garrett Andrews on June 4, 2024, and filed a Notice of Deposition Upon

Written Questions to Dr. Christopher Bell on June 11, 2024. These discovery requests are regarding causation of the injuries to the Claimants. These issues are secondary to the one raised by DHS in its motion for summary judgment that it is not vicariously liable.

6. Accordingly, discovery should be stayed until the threshold issues raised in Respondent's Cross-Motion for Summary Judgment regarding vicarious liability and *respondeat superior* are finally resolved.

7. Courts have broad discretion and inherent power to stay discovery until preliminary questions that may dispose of a case on the merits are determined. *See Bennett v. Lonoke Bancshares, Inc.*, 356 Ark. 371, 155 S.W.3d 15 (2004) ("A trial court has broad discretion in matters pertaining to discovery and the exercise of that discretion will not be reversed by this court absent an abuse of discretion that is prejudicial to the appeal party").

8. Imposing a stay would fulfill the goals of judicial economy and clearly falls within the discretionary power of this Commission. At this stage of the proceedings, a stay of discovery prevents unnecessary expenses for the State and undue burdens on Respondent.

9. This motion is being filed in good faith and not for any improper purposes.

WHEREFORE, Respondent respectfully requests that the Arkansas State Claims Commission stays discovery in this matter pending a ruling on Respondent's Cross Motion for Summary Judgment, and for any other just and proper relief to which it is entitled.

Respectfully submitted,

By: */s/ Vincent P. France*

Vincent P. France, Ark. Bar No. 2010063
Deputy Chief Counsel
Arkansas DHS
P.O. Box 1437, Slot S260
Little Rock, AR 72203
Phone: (501) 534-4127
Email: Vincent.P.France@DHS.Arkansas.gov

Attorney for Respondent

CERTIFICATE OF SERVICE

I, Vincent P. France, hereby certify that on June 12, 2024, I electronically filed the foregoing with the Arkansas State Claims Commission by emailing it to asccpleadings@arkansas.gov and by sending a copy to Claimant's attorney Jim Jackson via email as indicated below.

Jim Jackson
Jim@JimJacksonatty.com

/s/ Vincent P. France
Vincent P. France

From: Martha Cox
To: ASCC Pleadings; Kathryn Irby
Cc: Vincent France; Daiquiri Carter; Jim Jackson
Subject: Haley Hudson, Special Adm"x of the Estate of Jacqueline Ashcraft, dec"d and Permanent Guardian of [redacted] a Minor Child v. Arkansas Department of Human Services; Arkansas State Claims Commission No. 230641; Incident Date: 6/11/2021
Date: Monday, June 17, 2024 4:09:20 PM
Attachments: Claimant"s Respon[redacted]; 6-17-2024.pdf

Please find attached the Claimant's Response to the Respondent's Motion to Stay Discovery for filing in the above-referenced case.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR CHILD — **CLAIMANT**

VS. — **CC NO.** 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S RESPONSE TO MOTION TO STAY DISCOVERY

Comes now the claimant, Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and Guardian of [redacted] a minor child, by and through her attorney, Jim Jackson, and for her Response to the Motion to Stay Discovery, states:

1. This Commission issued a Scheduling Order which states that all discovery must be completed by July 1, 2024, and scheduled this matter for a one-day hearing on the merits on Thursday, September 19, 2024. (Attached as Exhibit 1 is the Commission's Scheduling Letter).

2. The claimant served a Notice of Deposition Upon Written Questions, with a copy of the questions attached to the Notice, to two medical providers to preserve their testimony prior to the July 1 cutoff.

3. The Respondent will not be prejudiced by following the Scheduling Order which was issued on October 11, 2023.

4. The Respondent must anticipate that its argument for Summary Judgment, in which it advocates that the Commission not follow the well-established doctrine of *respondeat*

superior for the negligent conduct of its employee will not be successful and that the damages portion of this matter will be heard on September 19, 2024.

WHEREFORE, the claimant, Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and Haley Hudson, as Permanent Guardian of [redacted] minor child, prays that the Respondent's Motion be denied.

Respectfully Submitted,

Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
Phone: 501-823-3610
Fax: 501-823-3611
Jim@JimJacksonatty.com

By: Jim Jackson
Jim R. Jackson
Arkansas Bar No. 93209

CERTIFICATE OF SERVICE

I, Jim Jackson, certify that on this date, consistent with the requirements of Ark. R. Civ. Pro. 5, and Arkansas Claims Commission Rule 1.5(b) a complete copy of the foregoing was electronically submitted with the Clerk of the Arkansas Claims Commission and electronically served on counsel for the Arkansas Department of Human Services via the same email transmission.

Jim R. Jackson
Jim R. Jackson

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823

KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

October 11, 2023

Mr. Jim Jackson (*via email*)
Jackson Law Firm
700 W. Broadway Street, Suite 200
North Little Rock, Arkansas 72114

Mr. Brent P. Gasper (*via email*)
Arkansas Department of Human Services
Post Office Box 1437
Little Rock, Arkansas 72203

RE: ***Haley Hudson, individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and as Permanent Guardian of*** [redacted] ***v. Arkansas Department of Human Services***
Claim No. 230641

Dear Mr. Jackson and Mr. Gasper,

The Commission has scheduled this claim for a one-day hearing on **Thursday, September 19, 2024**, beginning at 9:00 a.m. All parties will attend via Zoom. If either party objects to the Zoom format, a written objection must be submitted via email (kathryn.irby@arkansas.gov) or mail no later than October 16, 2023. The Zoom invitation is enclosed.

The Commission's October 6, 2023, Order "instructed the parties to complete discovery as to lay witnesses related to the issue of liability and as to Respondent's accident reconstruction expert witness" by December 4, 2023. The Commission herein instructs the parties that all other discovery must be completed on or before **July 1, 2024**.

The following prehearing materials are due on or before **July 1, 2024**:

- Each party's list of witnesses who will testify live at the hearing or via deposition;
- Each party's list of exhibits that may be introduced at the hearing;



The following prehearing materials are due on or before **August 22, 2024**:

- Deposition transcripts if any deposition testimony will be submitted in lieu of live testimony;
- Prehearing briefs if either party would like to submit for Commission review; and
- Subpoena requests (absent a showing of good cause, the Commission will not issue subpoenas for requests received after this deadline).

To the extent that either party intends to file a motion of any kind, absent a showing of good cause, the motion must be submitted in sufficient time to allow the motion to be fully briefed pursuant to the Arkansas Rules of Civil Procedure by **August 22, 2024**.

Please note that a copy of any filing must be served upon the opposing party in accordance with the Arkansas Rules of Civil Procedure.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Kathryn Irby

ES: kmirby

The Claims Commission is inviting you to a scheduled Zoom meeting.
Topic: Claims Commission -- hearings
Time: Sep 19, 2024 09:00 AM Central Time (US and Canada)

Join Zoom Meeting
https://us06web.zoom.us/j/89325174710?pwd=4OGhHVweZgNpCnPUsN3NfpH8gsgrns.1
Meeting ID: 893 2517 4710
Passcode: riH9Sn

Dial by your location
• +1 646 931 3860 US
• +1 312 626 6799 US (Chicago)

Meeting ID: 893 2517 4710
Passcode: 048773

Find your local number: https://us06web.zoom.us/u/kvRXLHStu

From: Jim Jackson
To: ASCC Pleadings; Vincent France
Cc: Martha Cox; Daiquiri Carter
Subject: Haley Hudson, Special Adm"x of the Estate of Jacqueline Ashcraft, deceased and Permanent Guardian of [redacted], a Minor Child v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incident Date: 6/11/2021 - Logan Cou
Date: Tuesday, June 25, 2024 4:27:35 PM
Attachments: [redacted]
Notice of Filing of Deposition of Dr Christopher Bell MD.pdf

Please find attached for filing the Notice of Filing of Deposition of Dr Christopher Bell.
Please let me know if you have any issues with opening the hyperlink.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], MINOR CHILDREN — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S NOTICE OF FILING OF
DEPOSITION OF CHRISTOPHER BELL UPON WRITTEN QUESTIONS

TO: Arkansas Department of Human Services
c/o Mr. Vincent France
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

NOTICE is hereby given that the Deposition Upon Written Questions of Dr. Christopher Bell is being filed pursuant to Rule 31(c) of the Arkansas Rules of Civil Procedure. Dr. Bell's deposition and exhibits can be found at this hyperlink: Bell, Chris MD

Respectfully submitted,

BY: /s/ *Jim Jackson*

Jim R. Jackson, AR Bar #93-209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
(501) 823-3610 phone
(501) 823-3611 facsimile
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Notice of Deposition Upon Written Questions was served on the following counsel of record by email on June 25, 2024, to:

Mr. Vincent France
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

/s/ Jim R. Jackson .
Jim R. Jackson

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S NOTICE OF FILING OF DEPOSITION OF DR. GARRETT ANDREWS

TO: Arkansas Department of Human Services
c/o Mr. Vincent France
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

NOTICE is hereby given that the Deposition Upon Written Questions of Neuropsychologist Garrett Andrews is being filed pursuant to Rule 31(c) of the Arkansas Rules of Civil Procedure. The deposition and exhibits can be accessed at this hyperlink:

Dr Garrett Andrews deposition with exhibits.pdf

Respectfully submitted,

BY: /s/ *Jim Jackson*

Jim R. Jackson, AR Bar #93-209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
(501) 823-3610 phone
(501) 823-3611 facsimile
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Notice of Deposition Upon Written Questions was served on the following counsel of record by email on July 1, 2024, to:

Mr. Vincent France
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

/s/ Jim R. Jackson .
Jim R. Jackson

From: Martha Cox
To: Kathryn Irby; ASCC Pleadings
Cc: Vincent France; Daiquiri Carter; Jim Jackson
Subject: Haley Hudson, etc. v. Arkansas Department of Human Services; Arkansas State Claims Commission No. 230641
Date: Monday, July 1, 2024 3:53:58 PM
Attachments: [redacted] Exhibit List.pdf

Please find attached for filing in the above-referenced claim the Claimant's Witness & Exhibit List.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR CHILD — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S WITNESS & EXHIBIT LIST

Comes now the claimant, Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and Guardian of [redacted] a minor child, by and through her attorney, Jim Jackson, and submits the following Witness and Exhibit List for the trial on September 19, 2024.

The Commission has not ruled on the outstanding Motion for Summary Judgment as of this date. The claimant anticipates that this matter will be heard on damages only and liability will not be contested. In an abundance of caution, the claimant is including liability witnesses and liability exhibits in addition to the damage exhibits.

Live Witnesses

Haley Hudson - Daughter
[redacted] - Daughter
[redacted] - Daughter
Dylan Ashcraft – Son
Cody Ashcraft – Son
Dr. Garrett Andrews
Ralph Scott, Ph.D. (Economist)
Stanley Cain

Witnesses by Deposition

Dr. Garrett Andrews
Christopher Bell, M.D.
Holly Newman (Paramedic)
Jennifer Wilkerson – Driver
Stanley Cain – Expert Witness
Michael Kerley – Expert Witness
Bobby D. Wilson – Truck Driver

EXHIBITS

1. Medical Records of Jacqueline Ashcraft from Mercy Medical Center
2. Arkansas Department of Health – Vital Records - Certificate of Death
3. Funeral Program/Obituary
4. Invoice from Brotherton Funeral Home for $1,195.95

5. Family photos and Facebook posting
6. Arkansas State Trooper James Ray's Diagram of accident scene
7. Photos of Crash Scene
8. Stanley Cain's Expert Report
9. [redacted] medical records
    a. Logan County EMS
    b. Mercy Clinic – Paris
    c. Scarbrough Clinic
    d. Belinga Clinic
    e. Wynne Medical Clinic
10. Dr. Ralph Scott's report on economic damages
11. Estimated Cost to Attend the University of Arkansas
12. Dr. Garrett Andrews' neuropsychology report
13. Michael Kerley's Expert Report – Liability
14. Mosaic/aerial photograph from Michael Kerley's deposition
15. Photos from Michael Kerley's file
16. Any exhibit contained in the Respondent's Exhibit List
17. Any exhibit attached to any deposition in this cause of action.

Respectfully submitted,

BY: /s/ Jim Jackson

Jim R. Jackson, AR Bar #93-209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
(501) 823-3610 phone
(501) 823-3611 facsimile
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Exhibit & Witness List was served on the following counsel of record by email on July 1, 2024:

Mr. Vincent France
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

/s/ Jim R. Jackson
Jim R. Jackson

From: Martha Cox
To: Kathryn Irby; ASCC Pleadings
Cc: Vincent France; Daiquiri Carter; Jim Jackson
Subject: Haley Hudson, etc. v. Arkansas Department of Human Services; Arkansas State Claims Commission No. 230641
Date: Monday, July 1, 2024 2:21:42 PM
Attachments: [redacted]

Please find attached for filing in the above-referenced claim the Claimant's Sixth Supplemental Answers to the Respondent's Interrogatories & Requests for Production of Documents.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED; AND HALEY HUDSON, PERMANENT LEGAL GUARDIAN OF [redacted]A MINOR CHILD — **CLAIMANT**

v. — **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S SIXTH SUPPLEMENTAL ANSWERS TO RESPONDENT'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

Comes now the Claimant, Haley Hudson, and for her Sixth Supplemental Answers to the respondent's First Set of Interrogatories and Requests for Production of Documents, states:

REQUEST FOR PRODUCTION NO. 12: Please produce all documents or exhibits which Claimant plans to use at the trial of this case, including without limitation documents or exhibits which Claimant plans on introducing into evidence and documents or exhibits which Claimant plans to or will use in the direct examination and cross-examination of witnesses at the trial of this case.

RESPONSE: Please see the exhibits attached to Trooper James Ray's deposition taken on February 21, 2023. The claimant has previously provided a copy of the medical records of Jacqueline Ashcraft and [redacted] The report of Dr. Scott will also be introduced as an exhibit. These items can be found in the following four hyperlinks:

Ashcraft Response to Discovery.pdf

Crash Scene Photos by Trooper James Ray.pdf

Ashcraft Mercy Records Bates Stamped.pdf

[redacted] Medical Records.pdf

SUPPLEMENTAL ANSWER TO REQUEST FOR PRODUCTION NO. 12: See attached medical records upon [redacted] from Logan County EMS. The claimant reserves the right to introduce or utilize at trial any exhibit attached to a deposition taken in this matter. The Investigative Report prepared by Stanley Cain will be introduced, along with the exhibits attached to his report. The report of Dr. Garrett Andrews and any exhibits thereto will also be utilized at trial. The reports of Stanley Cain and Dr. Garrett Andrews have been previously provided to the respondent. The claimant reserves the right to introduce or utilize at trial any document produced by either party during discovery or attached as an exhibit to any deposition taken by either party in this case.

See attached income tax information provided by the Arkansas Department of Finance and Administration upon Jacqueline Ashcraft for 2018, 2019, and 2020.

SECOND SUPPLEMENTAL ANSWER TO REQUEST FOR PRODUCTION NO. 12: The claimant will introduce the attached family photos and Facebook posting. The claimant reserves the right to introduce any exhibit on the Exhibit List that is submitted by either the claimant or the respondent.

Respectfully submitted,

Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
Phone: 501-823-3610
Fax: 501-823-3611
Jim@JimJacksonatty.com

By: /s/ Jim Jackson
Jim R. Jackson
Arkansas Bar No. 93209

CERTIFICATE OF SERVICE

I, Jim R. Jackson, hereby certify that I have filed a copy of the foregoing Claimant's Sixth Supplemental Answers to Respondent's Interrogatories and Requests for Production of Documents with the Arkansas Claims Commission and served a copy upon the respondent's attorney, Vincent France, via email.

/s/ Jim Jackson
Jim R. Jackson


NATURAL BORN
Weddingram




TFW LTE
7:21 AM
100%
Memories
On this day
1 year ago
Jackie Ashcraft
Dec 30, 2020 ·
Shouting a VERY happy birthday to my oldest daughter Haley Nicole Hudson. I am really struggling to think you are 29..but honestly you are my bff..my side kick..my compadre..my ride or die❤️❤️❤️❤️ALWAYS!!! I really wish I could be there with you...and not only cause I'm jealous that Ray is there😂😂😂
You are always there for me and the girls..and everyone else and truthfully you have pulled me through stuff that I'd didn't want to deal with..but you always did and for that I am grateful❤️❤️ I hope you have had the best birthday EVER...cause no more 20's😂😂. I'm so happy you have an amazing family life job kids...I thank God...but you deserve it and more!! Thank you for letting me be your mama...I couldn't have made it without you ❤️I love you with everything inside my heart and soul💋💋💋
Ladonna Jackson and 17 others
6 Comments
Send
Share
News Feed
Watch
9+
Groups
9+
News
5
Notifications
9+
Menu




Columbia

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD **CLAIMANT**

V. **CLAIM NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

ORDER

Now before the Arkansas State Claims Commission (the "Commission") are various motions filed by both parties. This claim was filed by Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and Haley Hudson, Permanent Legal Guardian of [redacted], a Minor Child (collectively referred to as the "Claimant") against the Arkansas Department of Human Services (the "Respondent"). The pending motions include: (1) a motion to dismiss filed (and later withdrawn) by Respondent; (2) a motion to quash filed (and later withdrawn) by Respondent; (3) a motion for partial summary judgment filed by Claimant; (4) a motion to strike filed by Respondent; (5) a motion to compel filed by Respondent; (6) a motion to substitute counsel filed by Respondent; and (7) a cross-motion for summary judgment filed by Respondent. At the motions hearing held on May 9, 2024, Jim Jackson appeared on Claimant's behalf, and Vincent France appeared on behalf of Respondent. Based upon a review of the claim file, the argument of the parties, and the law of the State of Arkansas, the Commission finds as follows:

1. Claimant filed the instant claim seeking damages after Jacqueline Lynn Ashcraft (the "Decedent") died following a motor vehicle accident with a vehicle owned by Respondent and operated by its (now former) employee, Jennifer Wilkerson.

2. Claimant subsequently amended her claim to address the issues raised in Respondent's motion to cure a defective complaint and for a more definite statement.

3. The Commission entered an order on February 13, 2023, following a hearing, in which the Commission denied Respondent's motion as moot and directed Respondent to answer the amended complaint.

4. Respondent thereafter filed an answer denying liability.

5. Respondent then filed a motion to dismiss, which was later withdrawn by Respondent.

6. Claimant filed a motion to nonsuit any individual claim by Ms. Hudson for bodily injury, and the Commission granted Claimant's motion in a July 21, 2023, order.

7. Respondent then filed a motion to compel related to Claimant's discovery responses, which the Commission denied on August 14, 2023, following a hearing.

8. Respondent also filed a motion to sever and motion to hold the claim in abeyance, both of which were denied by the Commission in the August 14, 2023, order.

9. Claimant filed a motion to withdraw its requests for admission, which the Commission granted in the August 14, 2023, order.

10. Respondent filed a motion to quash, which was later withdrawn by Respondent.

11. Claimant filed a motion for partial summary judgment on the issue of liability, arguing that Ms. Wilkerson was solely responsible for causing the accident. In response, Respondent argued that Ms. Wilkerson was acting beyond the course and scope of her employment.

12. Respondent filed a motion to strike Claimant's motion for partial summary judgment or, alternatively, motion for extension of time to respond to Claimant's motion, as well as a motion for expedited ruling. A July 21, 2023, order by the Commission memorialized the parties' decision to reschedule the hearing on Claimant's motion for partial summary judgment and to extend the parties' briefing schedule on the motion. In that order, the Commission found that the motion for extension and motion for expedited ruling were mooted by the parties' agreement. The Commission declined to rule on Respondent's motion to strike at that time.

13. Respondent filed another motion for extension to respond to Claimant's motion for partial summary judgment, which was granted by the Commission on October 6, 2023, following a hearing.

14. Respondent has also filed a motion to compel regarding Claimant's discovery responses and a motion to substitute counsel.

15. Claimant filed a second amended complaint, and Respondent filed an answer denying liability.

16. Respondent then filed its cross-motion for summary judgment, arguing that Ms. Wilkerson was acting outside the course and scope of her employment when the accident occurred. In response, Claimant argued that Ms. Wilkerson had finished her lunch and was driving to Beebe to pick up a foster child for Respondent when the accident occurred. This motion was fully briefed by the parties.

17. Prior to the May 9, 2024, hearing, counsel for Respondent notified the Commission of the parties' agreement that only Claimant's motion for partial summary judgment and Respondent's cross-motion for summary judgment need to be considered. In that correspondence, Respondent withdrew any other pending motions.

18. At the outset of the hearing, the Commission unanimously granted Respondent's motion to substitute counsel. The Commission also unanimously voted to dismiss the following motions as moot: (a) Respondent's withdrawn motion to dismiss, (b) Respondent's withdrawn motion to quash, (c) Respondent's withdrawn motion to strike, and (d) Respondent's withdrawn motion to compel.

19. Regarding the two remaining motions (Claimant's motion for partial summary judgment and Respondent's cross-motion for summary judgment), the Commission noted that the motions are somewhat interrelated.

20. Upon a question from Chairman Morris, Respondent confirmed its agreement that Ms. Wilkerson's negligence caused the accident. This agreement obviated any need for arguing Claimant's motion for partial summary judgment.

21. Regarding Respondent's cross-motion for summary judgment, Respondent argued that it is not liable for the accident under the doctrine of *respondeat superior*, given that Ms. Wilkerson was hired eleven days before the accident, that Ms. Wilkerson did not drive directly to Beebe but instead stopped for lunch with her boyfriend for at least 30 minutes, that Ms. Wilkerson was speeding approximately fifteen miles above the speed limit and should have been charged with negligent homicide, and that Ms. Wilkerson had taken some amphetamine medication. Respondent argued that its policies prohibit speeding and taking drugs. Respondent also noted that Ms. Wilkerson's employment was terminated after the accident.

22. Upon a question from Chairman Morris as to whether Respondent knew of a reported decision in Arkansas where an employer was found not responsible for an employee's actions in a company-owned vehicle due to speeding or drug usage, Respondent stated that there are Workers' Compensation claims finding that employees are not entitled to Workers'

Compensation benefits under these circumstances. Respondent noted that Ms. Wilkerson's speeding was not routine but instead should have resulted in a criminal citation.

23. Upon a question from Chairman Morris as to whether Ms. Wilkerson had resumed her drive on the road to Beebe when the accident occurred, Respondent stated that she was. Respondent conceded that this is one of the worst facts for Respondent, although Respondent takes issue with the fact that, had Ms. Wilkerson not stopped for lunch, she would have been much closer to Beebe and not at the accident site when the accident occurred.

24. Upon a question from Chairman Morris as to Respondent's lunch policy, given that Ms. Wilkerson got into the vehicle around lunchtime, Respondent stated that lunchtimes are flexible depending on what is scheduled on a particular day. Respondent said that it was incorrect that Ms. Wilkerson was simply on a lunch break.

25. Upon a question from Chairman Morris as to whether Respondent has a policy that prohibits an employee from driving and eating at the same time, Respondent did not know. When asked whether Ms. Wilkerson's options included stopping to eat, eating while driving (and possibly violating Respondent's policy, if it had one), or eating later in the afternoon following the trip, Respondent stated that Ms. Wilkerson should have eaten before leaving. Respondent noted that there is no requirement that lunch be taken between noon and 1:00 p.m.

26. Upon a question from Commissioner Graves, Respondent estimated that it has over 7,000 employees. When asked about the process for an employee to use one of Respondent's vehicles, Respondent stated that an employee must have a valid driver's license, acknowledge that the employee has read the policy manual, and agree to follow all traffic rules. Because Ms. Wilkerson was new to her employment, another employee of Respondent had to go with Ms. Wilkerson to add gasoline to the vehicle. Respondent stated that Ms. Wilkerson was told by her

supervisor that she could take a vehicle. Respondent also did a background check on Ms. Wilkerson.

27. Upon a question from Commissioner Holcomb, Respondent confirmed that the Arkansas State Police did not conduct a drug test on Ms. Wilkerson. Respondent did its own drug test on Ms. Wilkerson and investigation of the accident. Respondent noted that the trooper did not speak to Ms. Wilkerson. There was no alcohol in Ms. Wilkerson's system. The amphetamines in Ms. Wilkerson's system go to Respondent's argument that Ms. Wilkerson was acting outside the scope of her employment because Respondent provides education on the issue of drug abuse.

28. Upon a question from Commissioner Holcomb, Respondent confirmed that Ms. Wilkerson was taken to the hospital following the accident but was not significantly injured.

29. Upon a question from Commissioner Holcomb, Respondent argued that whether its insurance carrier paid out does not affect Respondent's liability.

30. Upon a question from Commissioner Graves, Respondent stated that, once it had the basic facts of the accident (and even before Respondent knew of the drugs in Ms. Wilkerson's system), Respondent first considered terminating Ms. Wilkerson.

31. Claimant responded to the cross-motion for summary judgment, arguing that Respondent cannot overcome the presumption that Ms. Wilkerson was acting in the course and scope of her employment. Claimant argued that *Nipper v. Brandon Co*., 262 Ark. 17, 553 S.W.2d 27 (1977), was directly on point. In *Nipper*, a truck driver deviated from his delivery route for a personal errand and, before the truck driver reached the place of deviation, he had an accident. 262 Ark. at 19–20, 553 S.W.2d at 28–29. The Arkansas Supreme Court found that the truck driver in *Nipper* was acting in the scope of his employment. *Id*. at 21–22, 553 S.W.2d at 29. In the instant claim, Ms. Wilkerson was within the course of scope of her employment because (a) she was in a vehicle owned by Respondent, (b) she was driving along the route provided to her by an

employee of Respondent, and (c) she resumed driving toward Beebe after stopping for lunch. Claimant's counsel utilized a map to show that Ms. Wilkerson's lunch stop was on the road toward Beebe. At the time that the accident occurred, Ms. Wilkerson was driving to Beebe for the purpose of picking up the foster child. Claimant took issue with the caselaw presented by Respondent regarding the question of liability when an employee is on a "frolic" outside the course of scope of the employee's employment. Regarding Respondent's argument that Ms. Wilkerson had not proceeded in such a way to be in Beebe by 2:00 p.m., Claimant argued that the timing of the sibling visit had changed numerous times that day, that the 2:00 p.m. timing of this sibling visit was a rough estimate (per Ms. Ezell's deposition), and that Ms. Wilkerson was told to leave at noon or 12:15 p.m., although the drive to Beebe was at least two hours and five minutes. Claimant noted that Ms. Wilkerson was told to keep in touch with the caseworker that was picking up the other sibling to coordinate the meeting times. Claimant also pointed to Respondent's discovery response to the question about whether Ms. Wilkerson was in the course and scope of her employment: "Jennifer Wilkerson was at the time of the accident an employee of DHS engaging her job duties as assigned." In Respondent's initial answer, Respondent admitted that Ms. Wilkerson was acting in the course and scope of her employment, although Respondent later amended its answer to remove this admission. Given that Ms. Wilkerson's day was scheduled to involve a two-hour drive to Beebe to pick up the foster child, a two-hour drive to Clarksville for the sibling visit, a two-hour drive back to Beebe to return the foster child, then a two-hour drive back to Paris, Claimant argued that, at some point, it was expected that Ms. Wilkerson was going to stop for food. Claimant also argued that Respondent's emphasis on the fact that Ms. Wilkerson was a new hire is irrelevant because Ms. Wilkerson was an employee.

32. Respondent disagreed that *Nipper* is on point because the personal errand in *Nipper* was five minutes, as opposed to Ms. Wilkerson's lengthy stop for lunch. Respondent

emphasized that Ms. Wilkerson was at least forty minutes behind schedule at the time of the accident. Respondent argued that Ms. Wilkerson was acting in her own interest, i.e. catching up on time spent at lunch with her boyfriend, when the accident occurred. Respondent also cited to *Healey v. Cockrill*, 133 Ark. 327, 202 S.W. 229 (1918), and *Cannady v. St. Vincent Infirmary*, 2018 Ark. 35, 537 S.W.3d 529.

33. Pursuant to Rule 56(c)(2), summary judgment is appropriate when there are no genuine issues as to any material fact, and the moving party is entitled to judgment as a matter of law. *See Hisaw v. State Farm Mut. Auto Ins. Co.*, 353 Ark. 668, 122 S.W.3d 1 (2003). Summary judgment motions are subject to a shifting burden, in that once the moving party has made a *prima facie* showing of entitlement to summary judgment, "the burden then shifts to the nonmoving party to show that material questions of fact remain." *Flentje v. First Nat'l Bank of Wynne*, 340 Ark. 563, 569, 11 S.W.3d 531, 536 (2000). Summary judgment is useful "when there is no real issue of fact to be decided." *Hughes W. World, Inc. v. Westmoor Mfg Co.*, 269 Ark. 300, 301, 601 S.W.2d 826, 826 (1980).

34. In keeping with Respondent's agreement that Ms. Wilkerson was acting in a negligent manner at the time of the accident, the Commission grants Claimant's motion for partial summary judgment and finds that Ms. Wilkerson was driving negligently at the time of the accident.

35. Regarding Respondent's cross-motion for summary judgment, the Commission finds that there is a presumption under Arkansas law that Ms. Wilkerson was acting within the scope of her employment when she was driving a vehicle owed by Respondent at the time of the accident. *Nipper*, 262 Ark. at 21, 553 S.W.2d at 29. The Commission further finds that fact questions remain about whether Respondent has rebutted that presumption, including that Respondent provided a vehicle for Ms. Wilkerson's use, that Ms. Wilkerson was on the road to

Beebe when the accident occurred, and that Respondent conducted its own drug test of Ms. Wilkerson following the accident. In light of these facts, which seem to reinforce the presumption that Ms. Wilkerson was acting in the course and scope of her employment, the Commission finds that Respondent's cross-motion for summary judgment must be denied.

36. Following the hearing, Respondent filed a motion to stay discovery, which was opposed by Claimant. The Commission finds that this motion is mooted by the Commission's denial of Respondent's cross-motion for summary judgment.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Solomon Graves



ARKANSAS STATE CLAIMS COMMISSION
Dee Holcomb



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair

DATE: July 25, 2024

Notice(s) which may apply to your claim

(1) A party has forty (40) days from transmission of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from transmission of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).

(2) If a Claimant is awarded less than $15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.

(3) Awards or negotiated settlement agreements of $15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

From: Kathryn Irby
To: Jim Jackson; Vincent France
Cc: Daiquiri Carter; Martha Cox; OCC Claims Commission Cases
Subject: ORDER: Hudson, et al v. DHS, Claim No. 230641
Date: Thursday, July 25, 2024 3:20:00 PM
Attachments: [redacted]

Mr. Jackson and Mr. France, please see attached order entered by the Commission.

Thanks,
Kathryn Irby

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Jim Jackson
To: Kathryn Irby
Cc: Vincent France; Daiquiri Carter; Martha Cox; OCC Claims Commission Cases
Subject: Re: ORDER: Hudson, et al v. DHS, Claim No. 230641
Date: Thursday, July 25, 2024 4:31:38 PM

Kathryn,

Thank you for sending.
Jim
Jim Jackson
Attorney at Law
700 West Broadway St: Suite 2
North Little Rock, AR 72114
(501) 823-3610

> On Jul 25, 2024, at 3:20 PM, Kathryn Irby <Kathryn.Irby@arkansas.gov> wrote:
>
> Mr. Jackson and Mr. France, please see attached order entered by the Commission.
>
> Thanks,
> Kathryn Irby
>
> **Kathryn Irby**
> **Arkansas State Claims Commission**
> 101 East Capitol Avenue, Suite 410
> Little Rock, Arkansas 72201
> (501) 682-2822
>
> <Hudson -- 230641 -- order.pdf>

From: Kathryn Irby
To: Jim Jackson; Vincent France
Cc: Martha Cox; Daiquiri Carter
Subject: ZOOM INVITATION AND EXHIBIT BINDERS: Hudson v. DHS, Claim No. 230641
Date: Friday, July 26, 2024 9:49:00 AM

Jim and Vincent, below is the hyperlink for the Zoom invitation. The same Zoom invite is on the second page of the hearing letter, but the below link may be easier to send to you witnesses.

Also, if the parties anticipate having a lot of exhibits, please submit four exhibit binders to the Commission for the commissioners to use during the hearing. I will have to ship the binders to the commissioners, so I need those by the prehearing material deadline. I also need the exhibits submitted electronically so that we can upload them to our database.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

Kathryn Irby -- Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings
Time: Sep 19, 2024 09:00 AM Central Time (US and Canada)

Join Zoom Meeting
https://us06web.zoom.us/j/89325174710?pwd=4OGhHVweZgNpCnPUsN3NfpH8gsgrns.1

Meeting ID: 893 2517 4710
Passcode: riH9Sn

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+19294362866,,89325174710#,,,,*048773# US (New York)

Dial by your location
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• +1 929 436 2866 US (New York)
• +1 301 715 8592 US (Washington DC)
• +1 305 224 1968 US
• +1 309 205 3325 US
• +1 312 626 6799 US (Chicago)
• +1 689 278 1000 US
• +1 719 359 4580 US
• +1 253 205 0468 US
• +1 253 215 8782 US (Tacoma)
• +1 346 248 7799 US (Houston)
• +1 360 209 5623 US
• +1 386 347 5053 US
• +1 507 473 4847 US
• +1 564 217 2000 US
• +1 669 444 9171 US
• +1 669 900 6833 US (San Jose)

Meeting ID: 893 2517 4710
Passcode: 048773

Find your local number: https://us06web.zoom.us/u/kvRXLHStu

From: Brent Gasper <Brent.Gasper@dhs.arkansas.gov>
Sent: Wednesday, October 11, 2023 1:47 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Subject: RE: CLAIM HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641

Received, thanks.

brent

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Wednesday, October 11, 2023 12:48 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Martha Cox <mcox@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: CLAIM HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641

Jim and Brent, please see attached hearing letter for the claim.

Thanks,

Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Jim Jackson
To: Kathryn Irby; Vincent France
Cc: Martha Cox; Daiquiri Carter
Subject: RE: ZOOM INVITATION AND EXHIBIT BINDERS: Hudson v. DHS, Claim No. 230641
Date: Friday, July 26, 2024 11:07:53 AM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg

Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Friday, July 26, 2024 9:50 AM
To: Jim Jackson <jim@jimjacksonatty.com>; Vincent France <Vincent.P.France@dhs.arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: ZOOM INVITATION AND EXHIBIT BINDERS: Hudson v. DHS, Claim No. 230641

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Kathryn Irby

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Meeting ID: 893 2517 4710
Passcode: riH9Sn

One tap mobile
+16469313860,,89325174710#,,,,*048773# US
+19294362866,,89325174710#,,,,*048773# US (New York)

Dial by your location
- +1 646 931 3860 US
- +1 929 436 2866 US (New York)
- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US
- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
- +1 689 278 1000 US
- +1 719 359 4580 US
- +1 253 205 0468 US
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 360 209 5623 US
- +1 386 347 5053 US
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 669 444 9171 US
- +1 669 900 6833 US (San Jose)

Meeting ID: 893 2517 4710
Passcode: 048773

Find your local number: https://us06web.zoom.us/u/kvRXLHStu

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Sent: Wednesday, October 11, 2023 1:47 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Subject: RE: CLAIM HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641

Received, thanks.

brent

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Wednesday, October 11, 2023 12:48 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Martha Cox <mcox@jimjacksonatty.com>; Brent Gasper <Brent.Gasper@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: CLAIM HEARING SCHEDULED: Hudson v. DHS, Claim No. 230641

Jim and Brent, please see attached hearing letter for the claim.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Martha Cox
To: Kathryn Irby; ASCC Pleadings
Cc: Vincent France; Daiquiri Carter; Jim Jackson
Subject: Haley Hudson, Special Adm"x of the Estate of Jacqueline Ashcraft, deceased and Permanent Guardian of [redacted], a Minor Child v. Arkansas Department of Human Services Arkansas State Claims Commission No. 230641 Incident Date: 6/11/2021 - Logan Cou
Date: Thursday, August 22, 2024 3:57:30 PM
Attachments: Pre-Hearing Brief.pdf
Letter to Arkansas State Claims Commission with Trial Exhibits 8-22-2024.pdf

Please find attached the claimant's Pre-Hearing Brief and a letter from Attorney Jim Jackson containing a hyperlink for the claimant's Trial Exhibits in the above-referenced claim. The hyperlink is also included in this email.

[redacted]

If you have any problem opening any of the documents or the hyperlink, please let us know.

Thanks.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

JACKSON
LAW FIRM

August 22, 2024

VIA EMAIL & FIRST CLASS MAIL

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, AR 72201

Re: Haley Hudson, Special Adm'x of the Estate of Jacqueline Ashcraft, deceased and Permanent Guardian of [redacted], a Minor Child
v. Arkansas Department of Human Services
Arkansas State Claims Commission No. 230641

Dear Kathryn:

Please find attached, in the hyperlink below, the claimant's Trial Exhibits in the above-referenced claim. The Trial Exhibits are divided into two sections: Trial Exhibits for Jacqueline Ashcraft, deceased, and Trial Exhibits for [redacted], a minor.

[redacted]

If you have any difficulty opening the link, please let us know. Also enclosed is the claimant's Pre-Hearing Brief. Four copies of the Trial Exhibits (in 3-ring binders) and four copies of the claimant's Pre-Hearing Brief will be delivered to the Claims Commission.

Please call me at (501) 823-3610 with any questions or suggestions. My e-mail address is *Jim@JimJacksonatty.com*.

Sincerely,

Jim Jackson

Jim R. Jackson

JRJ/mc
Enclosures

cc/enc.: Mr. Vincent France (via email only)

JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 2
North Little Rock, AR 72114-5528
501.823.3610
F 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, AR 72201

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED; AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR CHILD — **CLAIMANT**

VS. — **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

PRE-HEARING BRIEF

The sole issue at this trial is to determine the amount of damages to be awarded in a wrongful death claim and a bodily injury claim arising from a car wreck caused by a DHS employee. The respondent's liability for causing the death and injury has already been determined.

Jacqueline Ashcraft, was a 50-year-old mother of five children. Ashcraft was driving her [redacted] to the nephew's home on a Friday afternoon in June 2021 when her car was rear-ended at a high rate of speed by a DHS employee. The impact caused Jacqueline Ashcraft to sustain a traumatic hemorrhage of the right cerebrum. This brain bleed resulted in slurred speech and ultimately her death despite emergency medical intervention.

Paramedics rushed her to the hospital in Booneville where a CT Scan was immediately performed. The CT scan revealed a massive brain hemorrhage.

[redacted]

[1] Uncus is the innermost part of the temporal lobe.

See Ashcraft Exhibits Bates #36-37.

There was nothing that could be done to reverse the eventual outcome. By the time Jacqueline Ashcraft was admitted to Mercy Hospital in Fort Smith later that afternoon, she was on a ventilator and appeared to be "sleeping." The family was frantically called in for one last visit. The medical professionals did everything possible to keep her "alive" until all five children and her siblings and mother could arrive to say "goodbye." Dr. Christopher Bell removed Jacqueline Ashcraft from life support approximately 12 hours after the collision, and she was pronounced dead shortly thereafter. *See* Dr. Bell's deposition in Ashcraft Exhibits Bates 17-38. The coroner listed the cause of death as an [redacted] secondary to an automobile accident. *See* Ashcraft Bates 15.

The second claim is the bodily injury claim o[redacted] who was Ashcraft's [redacted] riding in the back seat of the car. [redacted] ustained a Traumatic Brain Injury in the collision. [redacted] was knocked unconscious in the wreck. She has no recollection of any events that occurred on June 11, 2021. [redacted]

Haley Hudson is the 29-year-old sister of [redacted] She lives in [redacted] with her two children and fiancé. Haley Hudson took [redacted] into her home immediately after the wreck. She was appointed Permanent Guardian of [redacted] by Logan County Probate Judge Christopher Morledge in an Order dated July 20, 2021.

DHS had liability insurance with Cincinnati Insurance Company for this collision. Haley Hudson, in her capacity as Special Administratrix and Permanent Guardian, received $150,000 from this insurance coverage.

Haley Hudson is seeking full compensation from the Arkansas Claims Commission for the wrongful death of Jacqueline Ashcraft and the bodily injury claim of [redacted]

The amount of damages for these two claims is the sole issue before this Commission. The issue of vicarious liability/*respondeat superior* has been previously determined. The respondent admitted that the negligence of its employee was the sole cause of the collision. The respondent contended that the employee was outside the scope of her employment at the time of the collision. The Commission was fully briefed on this issue and heard oral arguments on the respondent's Motion for Summary Judgment. The Commission found that the DHS employee, Jennifer Wilkerson, was working within the scope of her employment at the time of the collision in a decision handed down in an Oder dated July 25, 2024.

I. Wrongful Death of Jacquline Ashcraft

Jacqueline Ashcraft was living in an apartment in Paris, Arkansas, with her minor daughters [redacted] Her other three children, Dalton Ashcraft, Mark Hudson, and Haley Hudson, were all adults living with their own families. Jacqueline Ashcraft was extremely close to her children. Jacqueline and Haley Hudson had lengthy telephone calls every day. Jacqueline was solely responsible for clothing, feeding, and taking care of [redacted] enjoyed being in school and participating in sports in Paris, Arkansas [redacted] father was not involved in their life. Everything in this household was running smoothly until the wreck occurred.

The family had a big family reunion the weekend prior to the wreck. Jacqueline had a wonderful time being with her children, grandchildren, and siblings. The family will testify

that it was a blessing that they were able to spend a long family weekend with Jacqueline before she was killed in this wreck.

Life Expectancy

Jacqueline Ashcraft was born on [redacted] She was fifty years old at the time of her death. Ashcraft had a life expectancy of an additional 33.60 years at the time of her death according to the United States Life Tables, 2019 published by the Center for Disease Control. *See* Ashcraft Exhibits Bates 068-069.

Loss of Earning Capacity

Jacqueline Ashcraft was not employed at the time of the wreck. She had a work history of working for convenience stores. Dr. Ralph Scott is an economist, who will testify that Jacqueline had an earning capacity equal to the minimum wage of earnings, which are $22,880 per year. Jacqueline would also be able to earn fringe benefits, which are 30% of this income. The total valuation for income and fringe benefits is in the range of **$187,147.82** to **$423,919.95.** This is the measure of Jacqueline Ashcraft's earning capacity from the time of her death until she would have retired. *See* Ashcraft Exhibits Bates 068.

Loss of Life Claim

The value of life, also known as Loss of Life, is independent of earning capacity. We generally consider life to be "priceless." However, the law requires that the fact finder place a dollar value on an estate's Loss of Life claim. Dr. Scott will testify that economists at the U.S. Department of Transportation and the Environmental Protection Agency have studied the value of a statistical life and applying that methodology to assess the economic benefits of preventing a fatality. The prevention of injury and Loss of Life is a significant focus for both the DOT and EPA. The average annual evaluation is $278,711 and $255,769 for the DOT and EPA, respectively. Applying this methodology to Ms. Ashcraft's life expectancy of

33.60 years would result in a Loss of Life valuation of **$9,364,690** or $**8,593,838,** respectively. [33.6 x $278,711 = $9,364,690] [33.6 x $255,769 = $8,593,838].

The above is just one methodology that the Commission can use to put a dollar amount on the value of life.

Dr. Scott is also familiar with other Loss of Life verdicts in wrongful death cases in which he has testified. For example, a verdict of **$2,500,000** for the Loss of Life element was given in *Brown v. ARDOT*, Claim # 200809. Judge Mackie Pierce returned a Loss of Life verdict of **$10,311,479** in *Daniels v. Discount Zone, et al.*, Pulaski County Circuit No. 60CV-18-6611. Judge Dennis Sutterfield returned a Loss of Life verdict of **$9,700,000** in *Murdoch v. Cowger*, Pope County Circuit No. 58CV-18-638. Dr. Scott prepared an expert report in each of these cases.

The claimant will submit to this Commission that the annual value of Jacqueline Ashcraft's life is more than **$100,000**. Ultimately, it will be this Commission's decision to determine what annual amount to place on the value of Jacqueline Ashcraft's Loss of Life and to multiply that number by her life expectancy of 33.6 years.

Loss of Household Services

Dr. Scott will testify regarding the value of the loss of household services that Jacqueline Ashcraft provided for her two minor daughters, [redacted] The total amount of household services is **$89,725.28**. This would be projected over 5.47 years which is when the minor girls would reach the age of majority. *See* Ashcraft Exhibits Bates 069.

Cost of Raising Surviving Minor Children

Dr. Scott has researched the cost of raising children. This is an annual figure prepared by the United States Department of Agriculture. The present value of the total expenses to

raise a child is $**61,866.23** and **$28,971.49** for [redacted] respectively. *See* Ashcraft Exhibits Bates 070.

Cost of College

The claimant will request that the undergraduate college costs for the minor children be paid for by the respondent. The annual total cost to attend the University of Arkansas at Fayetteville is $28,300 per annum. This is a cost of **$226,400** for both girls to attend four years of college. *See* Ashcraft Exhibits Bates 144.

Elements of Damage for Wrongful Death

The elements of damages for the wrongful death of Jacqueline Ashcraft include:

(a) Compensatory damages for the severe pain, suffering, and mental anguish sustained by Jacqueline Lynn Ashcraft after the impact until her death;

(b) Pecuniary injuries sustained by [redacted]

(c) Pecuniary injuries sustained by

(d) Compensatory damages for Jacqueline Lynn Ashcraft's Loss of Life;

(e) Reimbursement of reasonable funeral expenses of **$1,195.96;** and

(f) Compensatory damages for the mental anguish sustained, and reasonably probable to be suffered in the future, by the statutory beneficiaries who are listed below:

Name	**Relationship**	**Address**
[redacted]	Minor Daughter	[redacted]
	Minor Daughter	
Dalton Cody Ashcraft	Adult Son	
Mark Hudson	Adult Son	

Haley Nicole Hudson	Adult Daughter
LaDonna Jackson[2]	Mother
Jeffrey Ashcraft[3]	Brother
Bobby Ashcraft	Brother
Jennifer Howard	Half-Sister
Joshua Jackson	Half-Brother

II. Bodily Injury and Mental Anguish Claim of

The fact that she is unable to recall any event about the day of the wreck haunts her daily.

It is difficult to separate pain and suffering from the mental anguish she experiences with the loss of her mother. For example, was named to the Homecoming Court last year. The announcer should have called out her mother's name as her escort to the 50-yard line. Instead, her sister, Haley Hudson, was her escort. and Haley Hudson talked at length about how proud mom would have been to walk onto the football field at homecoming.

[2] LaDonna Jackson passed away last summer. Her mental anguish claim was extinguished when she died.
[3] Jacqueline Ashcraft's siblings have waived any right of recovery for a mental anguish claim. Their focus is on the children.

Everything in [redacted] life changed on June 11, 2021. A 14-year-old girl losing her mother is a tragedy under any circumstance [redacted] relationship with her older sister was transformed from being a fun relationship into her sister being her supervisor and the one telling her when to go to bed, what chores to do, and when to complete homework. [redacted] had to switch schools after she had already established herself at Paris High School.

[redacted]

[redacted] bodily injury claim and mental anguish claims have a value of more than **$1,500,000.00**.

III. Mental Anguish Claim of [redacted]

[redacted] was also a passenger in the back seat of her mother's car. Fortunately, [redacted] did not sustain a major injury like [redacted] However, she remembers every single event of that day, which includes watching her mother's medical condition rapidly deteriorate right

in front of her eyes. Imagine the horror of a 10-year-old child witnessing her mother go from being able to fully communicate with first responders to being unable to talk and having to be physically carried to the ambulance, all within 30 minutes. On top of that, her sister, [redacted] was knocked unconscious and had no idea what was going on. [redacted] [redacted]grandfather arrived at the scene a few minutes after the wreck occurred. He took [redacted]to the emergency room in Paris, Arkansas, after the ambulance left with Jacqueline Ashcraft. [redacted]and her grandfather were in an absolute panic as to what to do after [redacted] was released from the hospital in Paris. [redacted]thought their mom was in the hospital in Booneville, Arkansas, but then found out she had been airlifted to a hospital in Fort Smith.

[redacted]mother, Jacqueline Ashcraft, was unresponsive and on life support when she arrived at Mercy Hospital in Fort Smith. [redacted]had to wait in the hospital waiting room for the rest of her family to arrive, knowing the wailing of tears that would occur as various family members hastily arrived from across the state.

[redacted]whispered her last "Goodbye Mom" and "I Love You" to her momma while holding hands with her sisters and brothers in the emergency room. This heart-breaking scene will stay with[redacted]for the rest of her life.

[redacted]was just 10 years old when she lost her mom. A child losing their mother at such a tender age is beyond words. This is the loss that no one ever speaks about in public. It is the second deepest fear of every parent. [redacted]loss of the guidance of her mom is another "priceless" element of damages to which this Commission must assign a dollar amount. [redacted]will each testify separately and independently about how the loss of their mother has affected them. You will be placed in the difficult position of trying to determine how to place a value on the mental anguish these two teenagers are

experiencing and will continue to experience as the result of the negligence of the respondent's employee.

[redacted] Mental Anguish claim for the loss of her mother has a value of more than **$1,000,000**.

CONCLUSION

The Second Amended Complaint seeks a total recovery of Five Million Dollars ($5,000,000.00) for all claims. A judgment for this amount would be conservative based on the various elements of damage that the law entitles this family to recover. There is no reason that the children should not be fully compensated for each and every element of damages being sought. The respondent has a budget of more than $11 Billion. The claimant will introduce overwhelming evidence to justify being fully compensated for this terrible tragedy.

/s/ Jim Jackson
Jim R. Jackson, AR Bar #: 93-209
Jackson Law Firm
700 West Broadway Street, Suite 200, North
Little Rock, AR 72114-5528
(501) 823-3610 phone
(501) 823-3611 facsimile
Jim@JimJacksonAtty.com email

CERTIFICATE OF SERVICE

A copy of the above and foregoing Pre-Hearing Brief has this 22nd day of August, 2024, been served on the following attorney of record via email:

Vincent P. France, *Esq.*
Arkansas Department of Human Services
P.O. Box 1437, Slot W-296
Little Rock, AR 72203-1437

/s/ Jim Jackson
Jim R. Jackson

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR CHILD — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

TRIAL EXHIBITS FOR PERSONAL INJURY CLAIM OF [redacted], A MINOR CHILD

Exhibit #	Description	Kadey Jones Exhibits Bates #
1	Deposition of Dr. Garrett Andrews	001 – 010
	Deposition Exhibits:	
1A	Curriculum Vitae for Dr. Garrett Andrews	011 – 015
1B	Engagement letter with retainer check	016 – 019
1B	Forensic Retainer Agreement for Andrew Neuropsychology	020
1B	Color photos of a blue Hyundai Sonata driven by Jacqueline Ashcraft. [redacted] was one of the three rear-seat passengers in this blue car	022 – 025
1B	Color photos of the front of the car that struck the rear of the Sonata at a high rate of speed. This car was driven by Jennifer Wilkerson	026 – 027
1B	[redacted] medical records – Mercy Hospital at Paris	029 – 073
1B	[redacted] medical records – Mercy Clinic at Paris	074 – 093
1B	[redacted] medical records – Scarbrough Clinic	094 – 102
1B	[redacted] medical records – Steve-Felix Belinga, M.D.	103 – 107
1B	[redacted] medical records – Wynne Medical Clinic – Jeremiah Nugent, M.D.	108 – 116
1C	Dr. Garrett Andrews medical report dated 5/31/2023	117 – 124
2	Expert Fee Schedule 2023 for Andrews Neuropsychology; Invoice from Dr. Garrett Andrews for testing and report dated June 7, 2024; and Invoice from Dr. Garrett Andrews for written deposition fee dated July 29, 2024	125 - 128

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, As Special Administratrix of the Estate of JACQUELINE LYNN ASHCRAFT, Deceased, and as Permanent Legal Guardian of [redacted], A Minor,	) CC NUMBER 230641
CLAIMANT,	
VS. ARKANSAS DEPARTMENT OF HUMAN SERVICES,	
RESPONDENT.	

DEPOSITION UPON WRITTEN QUESTIONS OF

GARRETT ANDREWS, PsyD, ABPP/CN

June 28, 2024

DEPOSITION UPON WRITTEN QUESTIONS OF GARRETT ANDREWS, produced as a witness at the instance of the CLAIMANT, and duly sworn, was taken in the above-styled and numbered cause on the 28th day of June, 2024, before Tammie L. Foreman, CCR in and for the State of Arkansas, RPR, CRR, reported by machine shorthand, at the office of Arkansas Neuropsychology & Behavioral Health, 6020 Warden Road, Suite 210, Sherwood, Arkansas, pursuant to the Arkansas Rules of Civil Procedure.

I N D E X

June 28, 2024

	PAGE:
Stipulations	1
Reporter Certification	7

WITNESS: GARRETT ANDREWS

PAGE:

EXHIBITS

NO.	DESCRIPTION	MARKED
Exhibit 1	Curriculum Vitae	3
Exhibit 2	Cover Letter, Retainer Agreement, check for $5,500, photographs, and medical records of [redacted]	3
Exhibit 3	Report of Neuropsychological Examination of [redacted]	4

GARRETT ANDREWS,

having been first duly sworn, testified as follows:

Q. Will you state your name and place of employment?

10:58AM A. Dr. Garrett Andrews, the Arkansas Neuropsychology Behavioral Health.

(Exhibit 1 marked for identification.)

Q. Can you provide us with a copy of your CV, which we will have marked as Exhibit 1 to your deposition?

11:01AM A. Okay. Yes.

Q. Did Attorney Jim Jackson refer [redacted] [redacted] to your clinic for a Forensic Neuropsychological Examination that was performed on April 4, 2023?

A. Yes.

11:02AM Q. Is $5,500.00 your standard retainer agreement for performing a Forensic Neuropsychological Examination?

A. Yes.

(Exhibit 2 marked for identification.)

11:02AM Q. I will represent to you that attached as Exhibit 2 is a three-page cover letter from my law firm dated March 20, 2023, an executed Retainer Agreement and a retainer check in the amount of $5,500, along with six photographs and [redacted] medical records from Mercy Hospital in Paris, Mercy

Clinic in Paris, Scarbrough Clinic in Wynne, the Belinga Clinic in Fort Smith, and Wynne Medical Clinic. Did you receive the items listed in Exhibit 2 as part of your engagement to perform a Forensic Neuropsychological Examination on [redacted]

A. Yes.

Q. Did you review and utilize the photographs and medical records attached in Exhibit 2 as part of your examination of [redacted]?

11:03AM A. Yes, I did.

(Exhibit 3 marked for identification.)

Q. Are the results of the Forensic Neuropsychological Examination that you performed on [redacted] contained in the document attached to this deposition as Exhibit 3?

A. Yes.

Q. Did you identify the name of the medical reports you relied upon for obtaining a history for [redacted] in your report?

11:03AM A. Yes. They are listed in -- by paragraph in "Review of Available Records" section.

Q. Are the results of the testing you performed contained in the Forensic Neuropsychological Examination attached as Exhibit 3?

11:03AM A. Yes.

Q. Are your findings, conclusions and recommendations in the Forensic Neuropsychological Examination report attached as Exhibit 3?

A. Yes.

Q. [redacted]

[redacted]

Q. Are all of your opinions given in this deposition given within a reasonable degree of medical probability?

A. Yes.

THE COURT REPORTER: Thank you. This concludes the deposition of Garrett Andrews, PsyD, ABPP.

(The deposition was concluded at 11:04 a.m.)

* * * * *

REPORTER CERTIFICATION

I, TAMMIE L. FOREMAN, Certified Court Reporter for the State of Arkansas, do hereby certify to the following:

1) that on 06/28/2024, the witness, GARRETT ANDREWS, was duly sworn by me prior to the taking of testimony as to the truth of the matters attested to and contained therein;

2) that the foregoing pages contain and are a true and correct transcription of the proceedings as reported verbatim by me via realtime stenography to the best of my ability and transcribed at or under my direction and supervision;

3) that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and that I am not a relative or employee of any attorney employed by the parties hereto;

4) that I am not financially interested or otherwise interested in the outcome of this action that affects or has substantial tendency to affect impartiality or requires me to relinquish control of an original or copies of a deposition transcript before it is certified, or that requires me to provide any service not made available to all parties to the

action; and

5) that I have no contract with the parties, attorneys, or persons with an interest in the action; and that I am not knowingly identified on a preferred provider list, whether written or oral, for any litigant, insurance company, or third-party administrator involved in this matter;

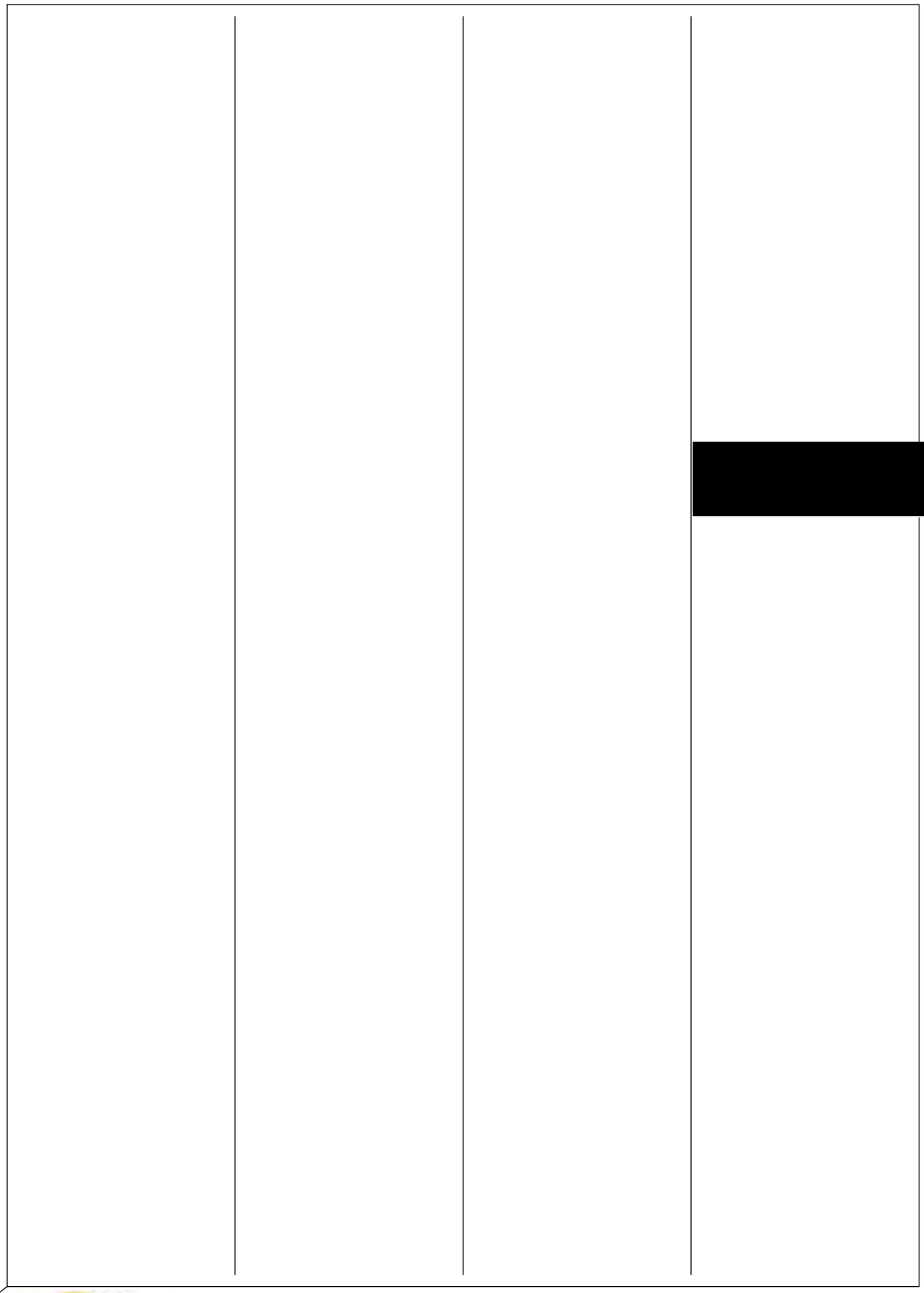
6) that signature of the witness is waived.

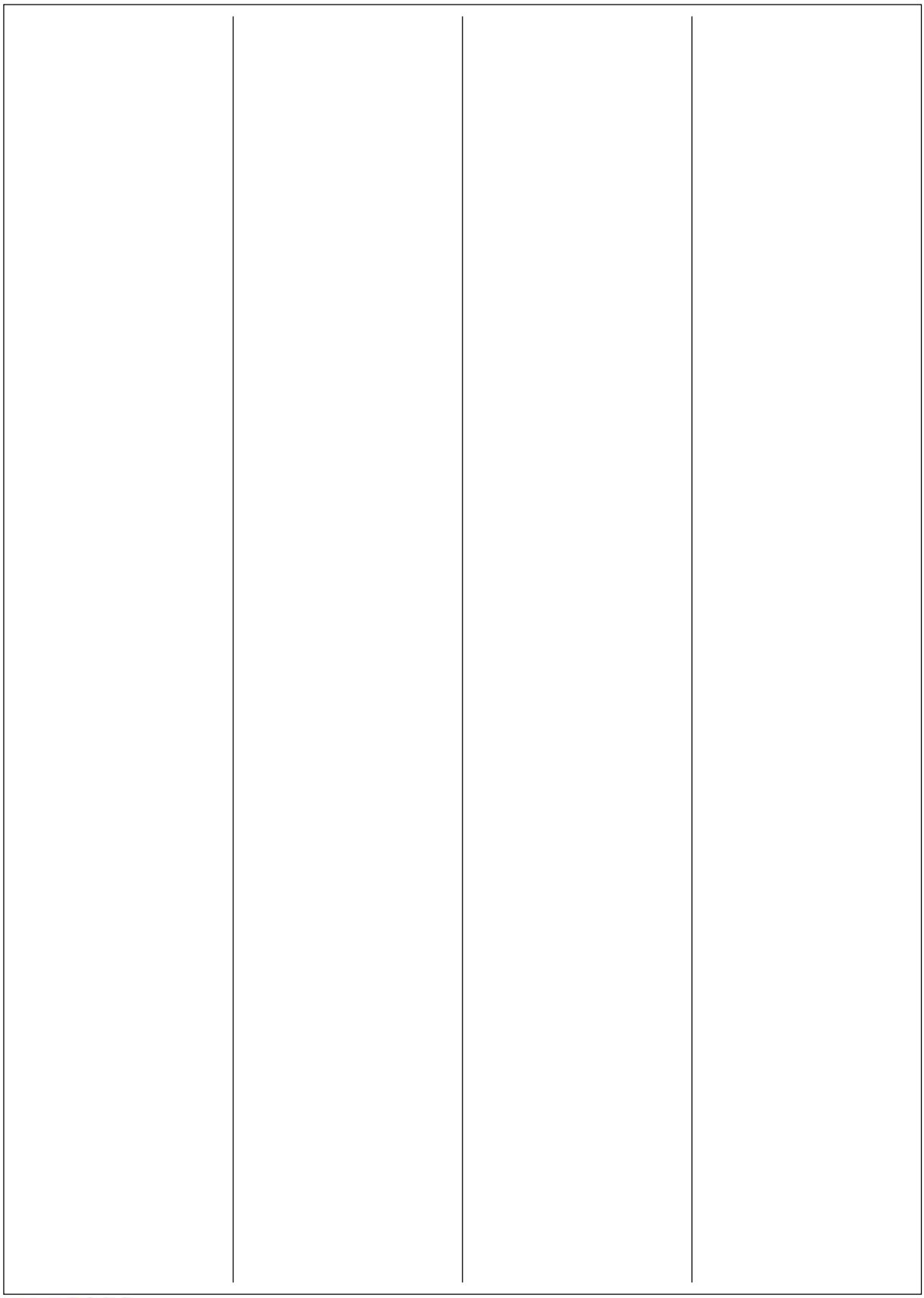
This transcript is prepared at request of counsel for CLAIMANT, and all fees are billed directly to them in compliance with Arkansas Board of Court Reporter Examiners Regulations Section 19.

Witness my hand and seal this 1st of July, 2024.



TAMMIE L. FOREMAN, CCR, CRR, RPR
LS Certificate #305, State of Arkansas
Arkansas Realtime Reporting
10310 West Markham, Suite 10
Little Rock, Arkansas 72205
501-725-7963
www.ArkansasRealtimeReporting.com





Curriculum Vitae

Garrett Andrews, PsyD, ABPP/CN
Board Certified Neuropsychologist

General Information

Office Address: Arkansas Neuropsychology & Behavioral Health located at the
Arkansas Neuroscience and Research Center
6020 Warden Rd, Suite 210
Sherwood, AR 72120
501-537-1388 (Office)
[redacted]

Education

2005: Doctorate in Psychology: Clinical Psychology, (Specialty area: Neuropsychology), APA Accredited Program

2001: Masters of Art: Sport/Exercise Psychology, APA Accredited Program

1998: Bachelor of Art: Major: Psychology, Minor: Physical Education

Board Certification

2010: Certified Forensic Examiner, Arkansas State Hospital, Division of Behavioral Health Services, (Completion of Forensic Competency and Responsibility Evaluation Training for Licensed Psychologists and Psychiatrists)

2009: Diplomate, American Board of Clinical Neuropsychology (American Academy of Clinical Neuropsychology)

2009: Certified Brain Injury Specialist Trainer (Brain Injury Association of America)

Licensure

2007: Arkansas State License (07-17P)

Active Hospital/Medical Appointments

St. Vincent North (Encompass Health Rehab), North Little Rock, AR
Pinnacle Point Behavioral Healthcare, Little Rock, AR
Bridgeway Behavioral Health, N. Little Rock, AR
Springwoods Behavioral Health, Fayetteville, AR

Professional Positions

June 2009-Present	Chief of Staff, Arkansas Neuropsychology and Behavioral Health, Board Certified Neuropsychologist, Sherwood, AR
January 2015-Present	Medical Program Director, Neuropsychology, Encompass Health Rehabilitation, Sherwood, AR
October 2015-December 2019	Chief of Service, Vocational Rehabilitation and Neurocognitive Rehabilitation Services, Central Arkansas Veterans Healthcare Administration, North Little Rock, AR

October 2014-December 2019	Director of Post-Doctoral Neuropsychology Training, Central Arkansas Veterans Healthcare Administration, North Little Rock, AR
March 2011-June 2019	Director of Psychology Doctoral Training, Central Arkansas Veterans Healthcare Administration, North Little Rock, AR
March 2008-December 2019	Program Manager, North Little Rock VA Polytrauma Clinic, Neuropsychology, North Little Rock, AR
January 2012-April 2016	Adjunct Professor, University of Arkansas at Little Rock, Little Rock, AR
October 2011-October 2015	Program Manager, Neuropsychology and Rehabilitation Psychology Service, Central Arkansas Veterans Healthcare Administration, North Little Rock, AR
September 2009-Sept. 2012	Independent Consulting Neuropsychologist, Deer Oaks Behavioral Health, Little Rock, AR
September 2009-Jan. 2011	Adjunct Professor, Itawamba Community College, Fulton, MS
March 2008-Feburary 2011	Assistant Director of Psychology Doctoral Training, Central Arkansas VA, North Little Rock, AR
March 2008-October 2011	Staff Neuropsychologist, Mental Health Service Central Arkansas Veterans Administration, N. Little Rock, AR
July 2007-March 2008	Assistant Clinical Professor & Neuropsychologist University of Arkansas for Medical Sciences Department of Geriatrics, Little Rock, AR
August 2002-August 2003	Psychiatric Technician III Cox Hospital, North, Adult Inpatient Psychiatric Unit Springfield, MO
August 1998-May 1999	Parole and Probation Officer, Arkansas Department of Community Correction, El Dorado, AR.

Clinical Training

Sept 2005- Sept 2007	Geisinger Medical Center (Level I Trauma Center), Post-Doctoral Neuropsychology Fellowship, Danville, PA (APPCN Match)
Sept 2004-Sept 2005	Veterans Affairs Medical Center of the Black Hills (Intern), Neuropsychology and Geropsychology Internship Track, Fort Meade, SD (APA Accredited)

January 2004-June 2004	St. John's Regional Health Center (Practicum student), Neuropsychology and Rehabilitation, Physical Rehabilitation Services, Springfield, MO
July 2003-December 2003	Neuropsychological Associates of Southwest Missouri (Practicum student), Springfield, MO
January 2003-June 2004	Burrell Behavioral Health (Research student), Springfield, MO
July 2003-December 2003	United States Medical Center for Federal Prisoners (Practicum student), Springfield, MO
July 2003-December 2003	Piney Ridge Center, Inc. (Practicum student), Ft. Leonard Wood, MO
October 2003-Nov 2003	Pre-Employment Evaluations for Springfield Police Department (Practicum student), Springfield, MO
September 2002-July 2003	Health and Rehabilitation Laboratory (Practicum student), Forest Institute, Springfield, MO
August 2000-June 2001	Phoenix College Baseball Team (Sport Psychology Practicum student), Phoenix, AZ
Sept 1997-April 1998	Missouri State Prison (Undergraduate Intern), Fulton Reception and Diagnostic Center, Fulton, MO

Publications & Presentations

Andrews, G. (2023) *Intro to neuropsychology & concussion.* Lecture at the University of Central Arkansas. Doctoral student roundtable series.

Andrews, G. (2019) *Neuropsychological development in relation to the 2011 Miller v. Alabama Supreme Court Ruling.* Guest Lecture at UALR William H. Bowen School of Law.

Andrews, G. (2019) *Are cognitive deficits common in multiple sclerosis?* American Academy of Clinical Neuropsychology, "Ask the Experts" Series.

Andrews, G. (2019) *How do neuropsychologists distinguish between PTSD and TBI?* American Academy of Clinical Neuropsychology, "Ask the Experts" Series.

Andrews, G. (2019) *How long does it take to recovery after a Traumatic Brain Injury?* American Academy of Clinical Neuropsychology, "Ask the Experts" Series.

Paulson, J., Oswald, T., Fazio, R., & **Andrews, G.** (2018) *Replication of the Embedded Performance Validity Index within the Memory Module of the Neuropsychological Assessment Battery (NAB).* 46th Annual Meeting of the International Neuropsychological Society, Washington, DC.

Andrews, G. (2017). 2017 VA Mental Health Summit. The Well-Rounded Veteran (Building Communities of Support for the Whole Veteran). Panel Speaker for Vocational Rehabilitation in the VA. Little Rock, AR

Oswald, T., Fazio, R, & **Andrews, G.** (2017). *Embedded Performance Validity Index within the Memory Module of the Neuropsychological Assessment Battery (NAB): A Pilot Study*. 45th Annual Meeting of the International Neuropsychological Society, New Orleans, LA.

Andrews, G. (2016). *Post-Traumatic Stress Disorder and Brain Injury*. Arkansas Trauma Rehabilitation Conference. Little Rock, AR

Andrews, G. (2014). *2014 VA Mental Health Summit*. The Well-Rounded Veteran (Building Communities of Support for the Whole Veteran). Panel Speaker for PTSD and TBI in the VA. Little Rock, AR

Andrews, G. (2014). *Traumatic Brain Injury Cases: Doctor and Attorney Perspectives*. NBI: National Business Institute Presentation Series. Little Rock, AR

Andrews, G., (2013). Keynote Speaker for UALR Psi Chi Annual Meeting. Little Rock, AR.

Andrews, G., (2012). Panel Speaker for Association of Black Psychologists of Arkansas. Little Rock, AR.

Andrews, G., Fahoum, Y., (2011). *Brain Injury and Cognitive Rehabilitation*. Presentation to the Brain Injury Association of Tennessee, Memphis Medical Center, Memphis, TN.

Andrews, G., (2011). *Geriatric Assessment of Dementia Syndromes*. Presentation to the AGEC - Arkansas Geriatric Education Collaborative.

Andrews, G., (2010). *Psychiatric sequelae following traumatic brain injury*. Arkansas Brain Injury Association Annual Conference, Little Rock, AR.

Andrews, G., (2010). Forensic Neuropsychological Evaluation in Moderate-to-Severe Brain Injury: Failed Symptom Validity Measures in the Presence of Credible Personality and Behavioral Changes. *Archives of Clinical Neuropsychology (ABSTRACTS), Volume 25, Issue 6,* 477-478.

Andrews, G., (2010), *Forensic Grand Rounds*. Forensic Neuropsychological Evaluation in Moderate-to-Severe Brain Injury: Failed Symptom Validity Measures in the Presence of Credible Personality and Behavioral Changes. Annual Conference for the National Academy of Neuropsychology, Vancouver, Canada.

Andrews, G., (2010), *Mild traumatic brain injury and psychiatric sequelae*. VA Social Workers' Annual Workshop. Central Arkansas Veterans Healthcare System.

Thaut, M.H., Gardiner, J.C., Holmberg, D., Horwitz, J.L. Kent, L., **Andrews, G**., Donelan, B., & McIntosh, G.R. (2009). Neurologic Music Therapy Improves Executive Function and Emotional Adjustment in Traumatic Brain Injury Rehabilitation. *Annals of the New York Academy of Sciences, 1169(1),* 406-416.

Andrews, G., (2008) *Mild Traumatic Brain Injury and Post concussive symptoms.* Arkansas Affiliate of the Association on Higher Education and Disability (Ark-AHEAD) Fall Workshop. Pulaski Technical College.

Andrews, G., (2008) *Neuropsychological assessment with geriatric patients.* University of Arkansas for Medical Sciences, Department of Geriatrics, multi-disciplinary training week.

Andrews, G., Cassidy, S. (2007) *Neuropsychology consultation within a geriatric primary care setting.* Department of Geriatrics Grand Rounds, University of Arkansas for Medical Sciences.

Andrews, G., (2007). *Differential Diagnosis of Dementia Syndromes.* Psychiatry Grand Rounds, Geisinger Medical Center.

Andrews, G., Barry, D., Wilson, B. (2006). *Use of a Modified Average Impairment Rating: Substituting Symbol Search for Picture Arrangement.* North American Brain Injury Society, Conference of the Americas.

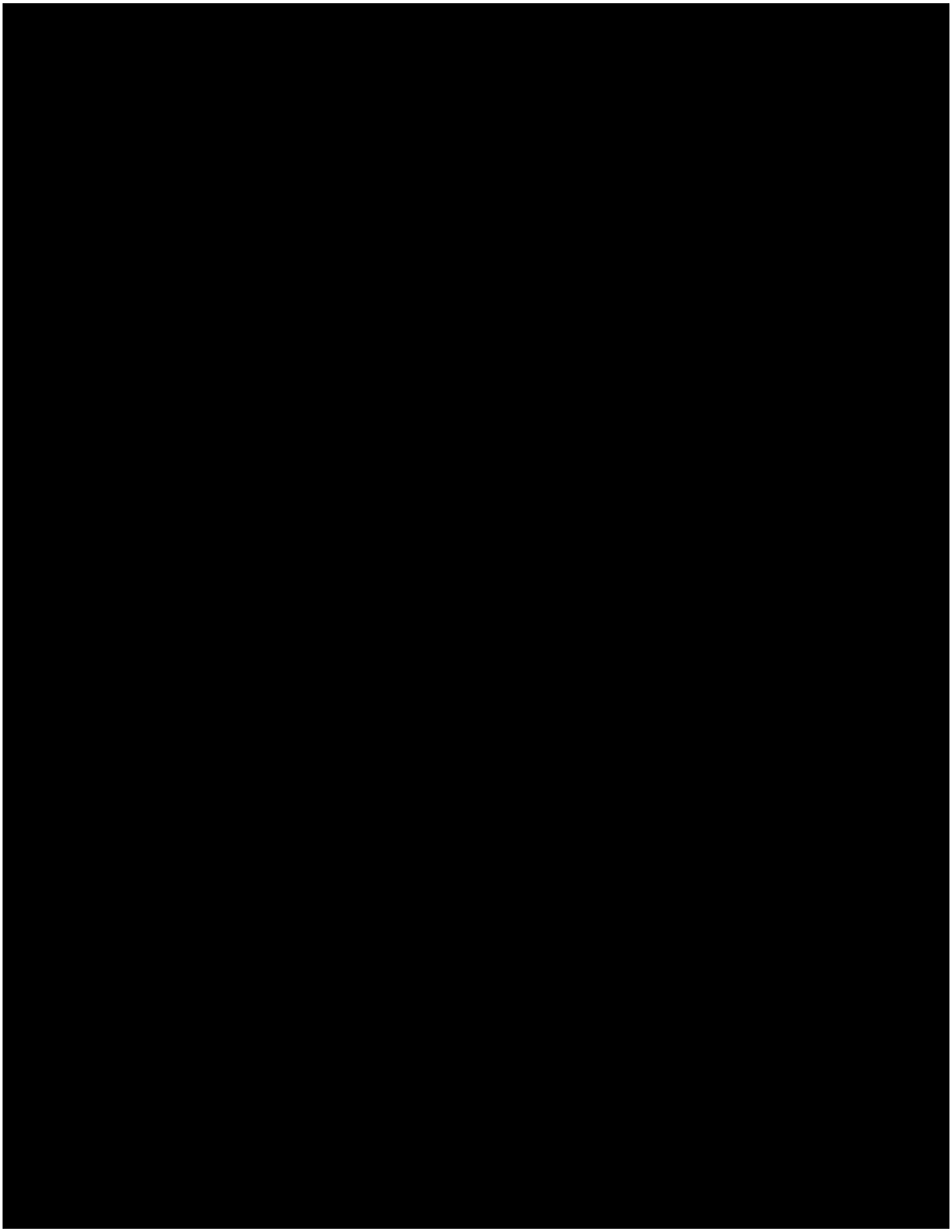
Andrews, G., (2004). *Concussion in Athletes: Post Concussive Syndrome.* Black Hills State University Seminar for Injury in Sport.

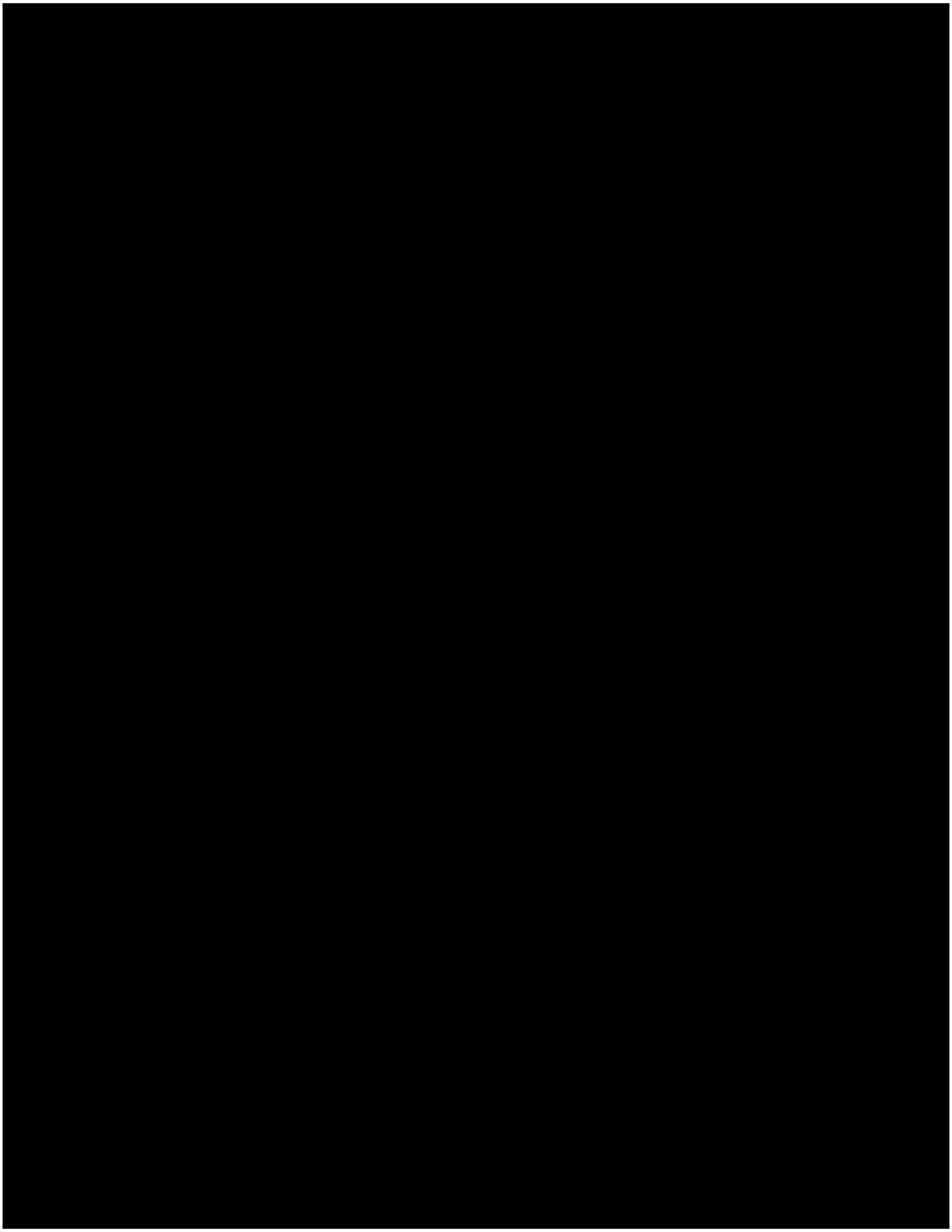
Andrews, G., Boling, E., Burns, K., Jones, D., (1998). *Soccer Players Hostility Levels as a Result of Gender, Game Outcome, and Game Preparation.* 17th Annual Mid-America Undergraduate Psychology Conference.

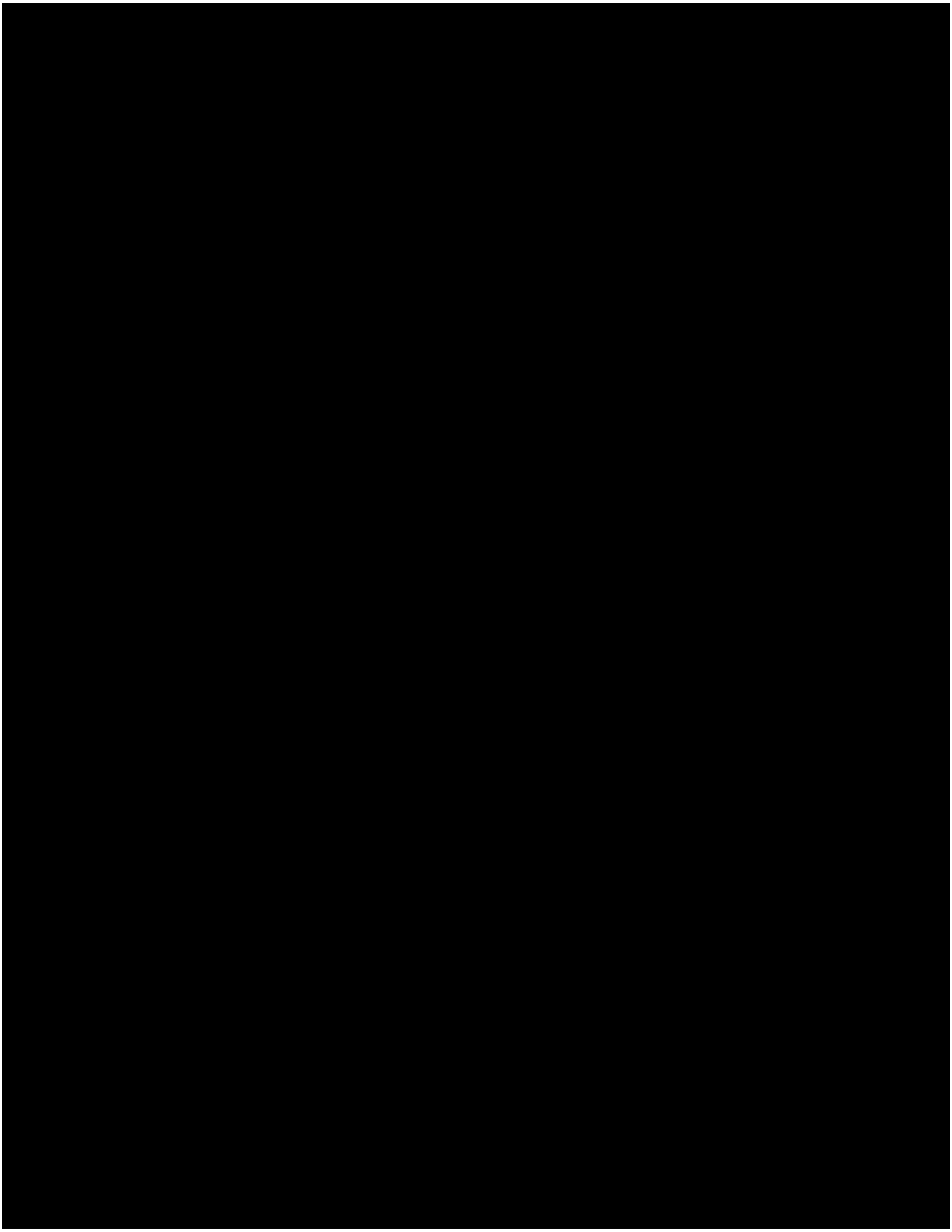
Gates, C., Drew, C., **Andrews, G.,** Jaeger, T., (1997). *Tracking and Static Acuity in Peripheral Vision.* 16th Annual Mid-America Undergraduate Psychology Conference.

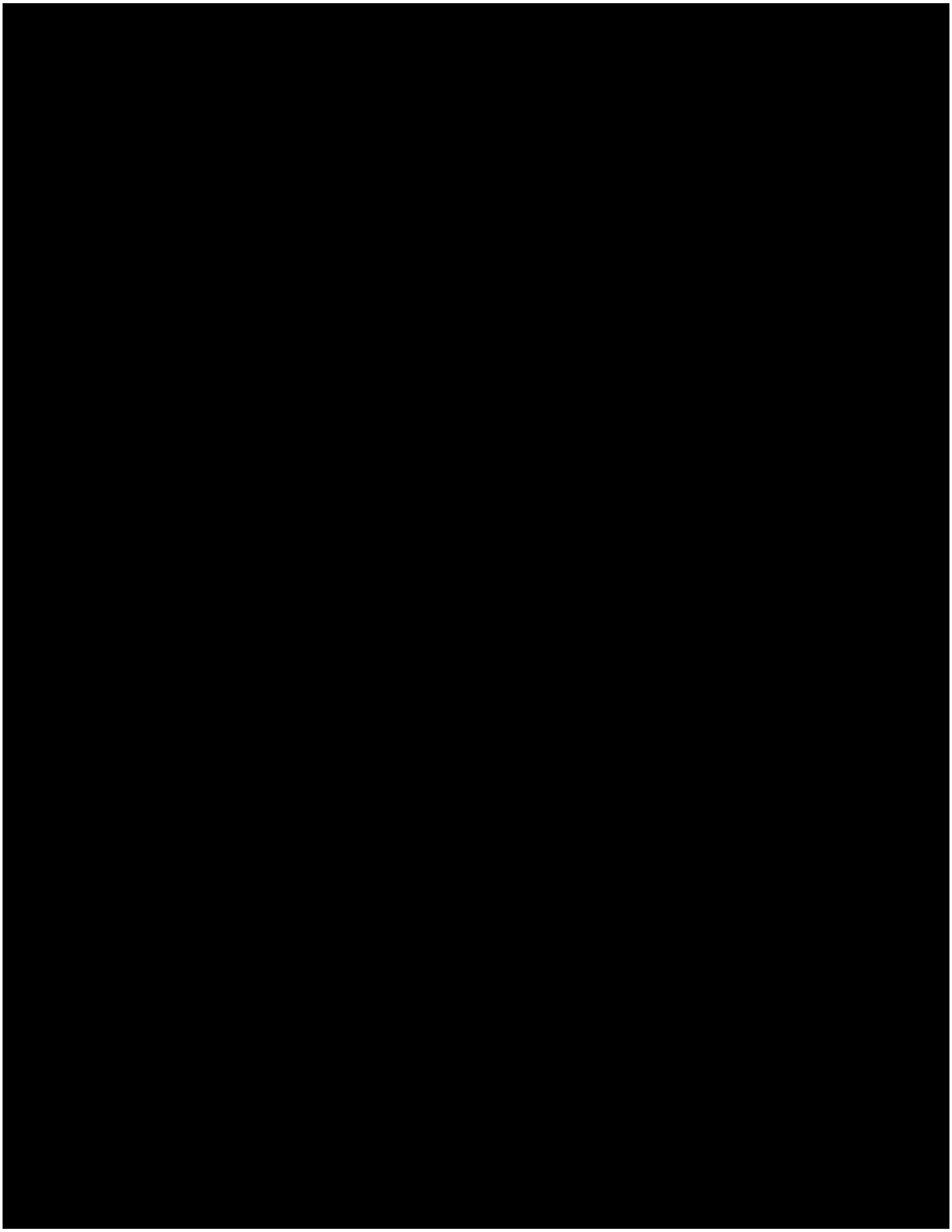
Professional Committees, Organizations & Awards

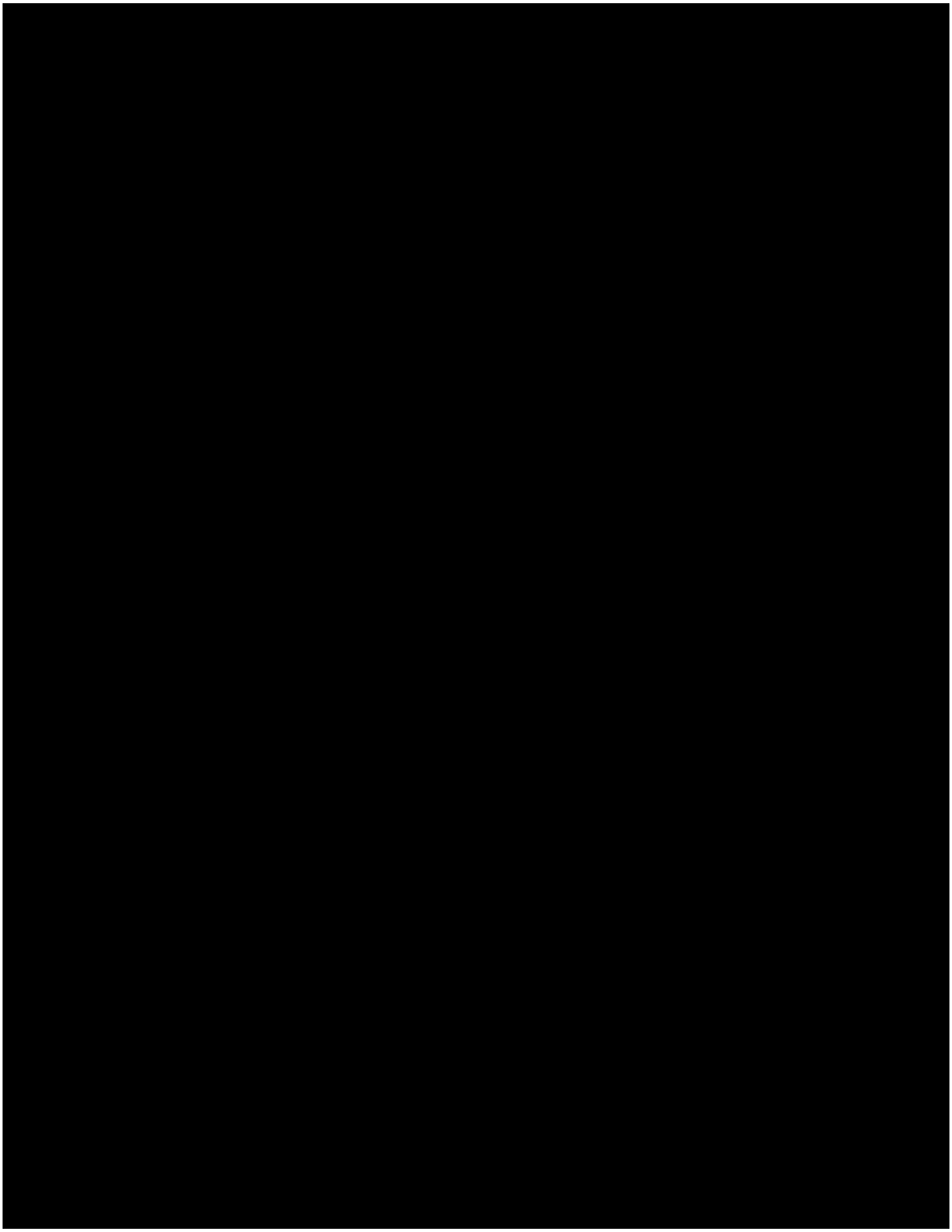
Green Belt (Lean Healthcare Training) (completed 2013)
American Board of Professional Psychology (Oct 2009-present)
Diplomate, American Board of Clinical Neuropsychology (Oct 2009-present)
National Association of Neuropsychology (2005)
Brain Injury Association of Arkansas (Board Member, March 2009-March 2011)
Brain Injury Association of Arkansas (Vice President, Jan 2010- Jan 2011)
Certified Brain Injury Specialist Trainer (Oct 2009), Brain Injury Association of America
CAVHS Evidence Based Assessment Lead
CAVHS Vocational Rehabilitation Resource Committee (Committee Member)
CAVHS Vocational Rehabilitation System Redesign Team (Committee Member)
CAVHS Early Career Psychologist Committee (Chair 2010)
CAVHS Awards Committee (Committee Member)
2008 CAVHS Community Service Award











ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, PERMANENT GUARDIAN OF [redacted], A MINOR CHILD, ET AL	CLAIMANT
v. CC No. 230641	
ARKANSAS DEPARTMENT OF HUMAN SERVICES	RESPONDENT

EXHIBITS FOR DR. GARRETT ANDREWS

EXHIBITS 1-4 Color photographs of a blue Hyundai Sonata driven by Jacqueline Ashcraft. [redacted] is one of three rear seat passengers in this blue car.

EXHIBITS 5-6 Color Photographs of the front of the car that struck the Rear of the Sonata at a high rate of speed. This car was driven by Jennifer Wilkerson

EXHIBIT 7 Medical Records Index with four sets of records from Mercy Hospital in Paris; Mercy Clinic in Paris, Scarbrough Clinic in Wynne, and The Belinga Clinic in Fort Smith.

Respectfully submitted,

BY: Jim Jackson

Jim R. Jackson, AR Bar #93-209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
(501) 823-3610 phone
(501) 823-3611 facsimile
Jim@JimJacksonatty.com

[redacted] 022

[redacted] 023

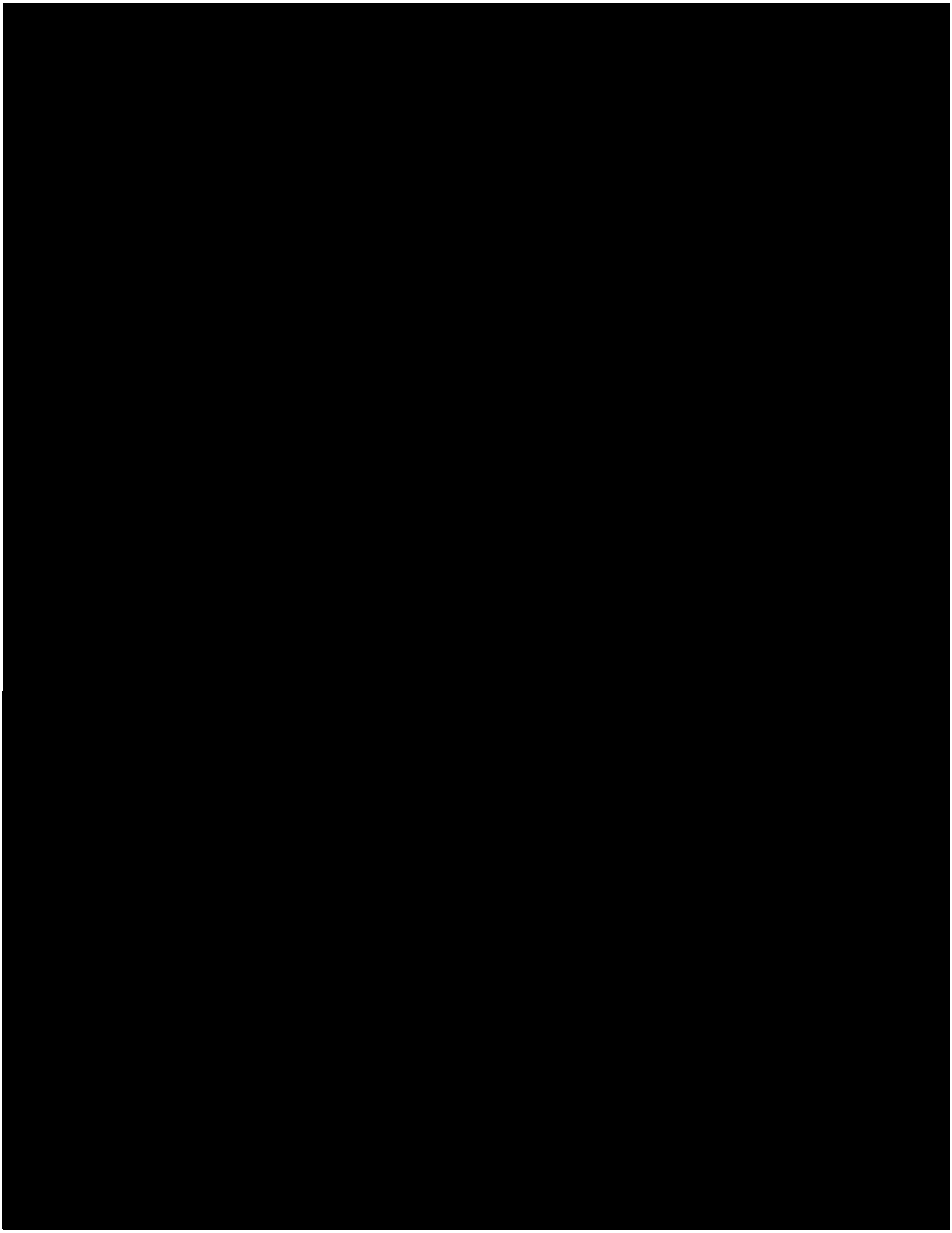
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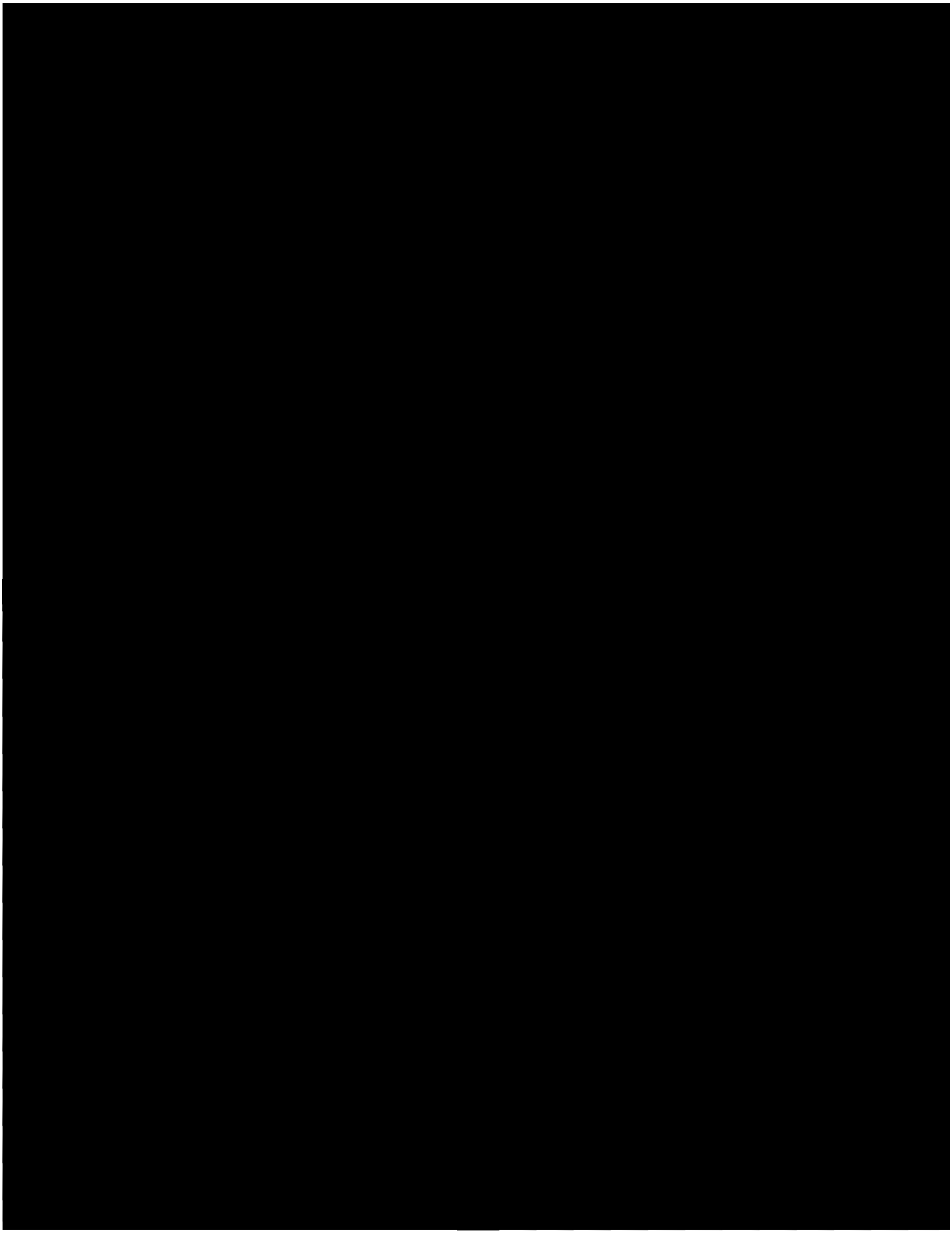
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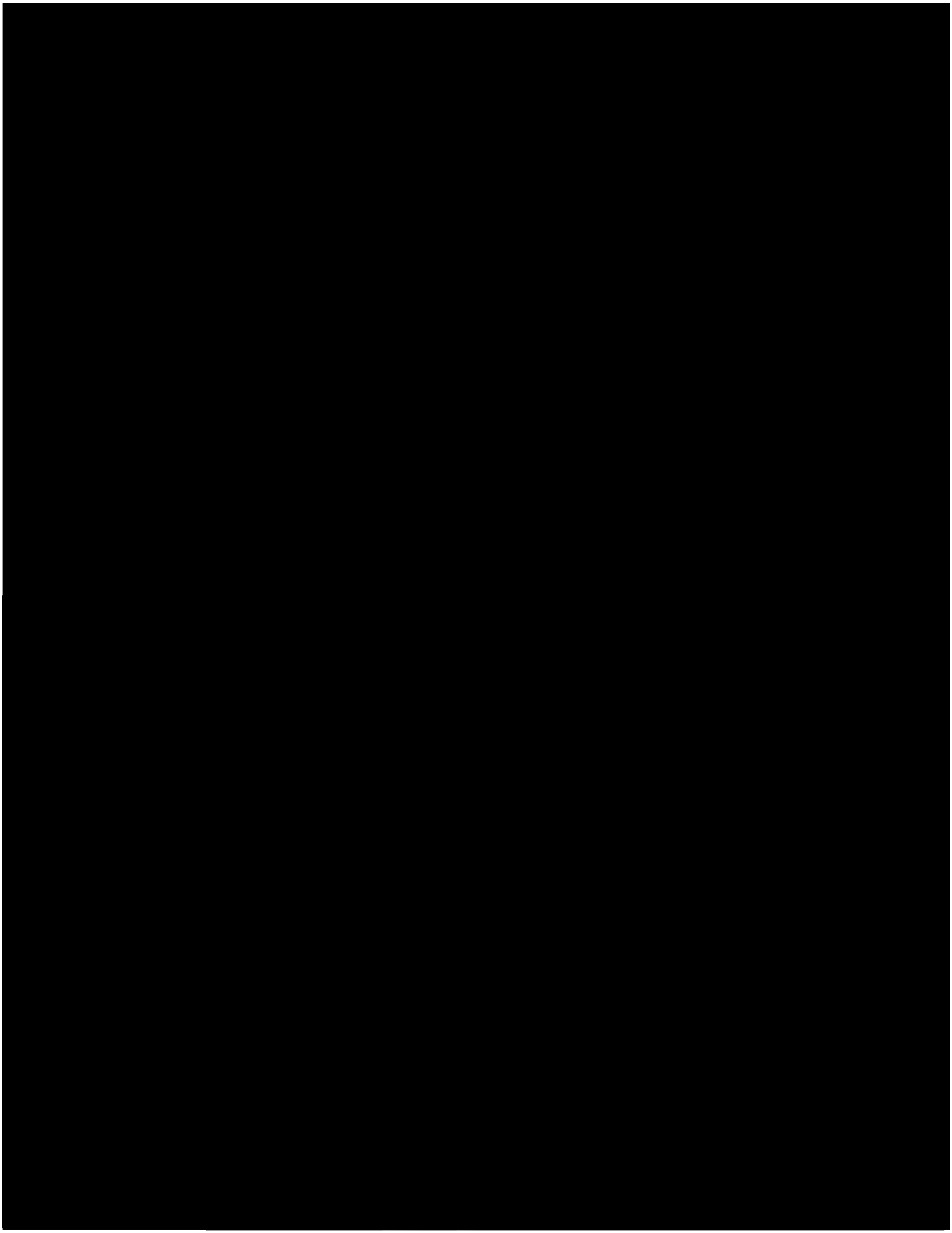
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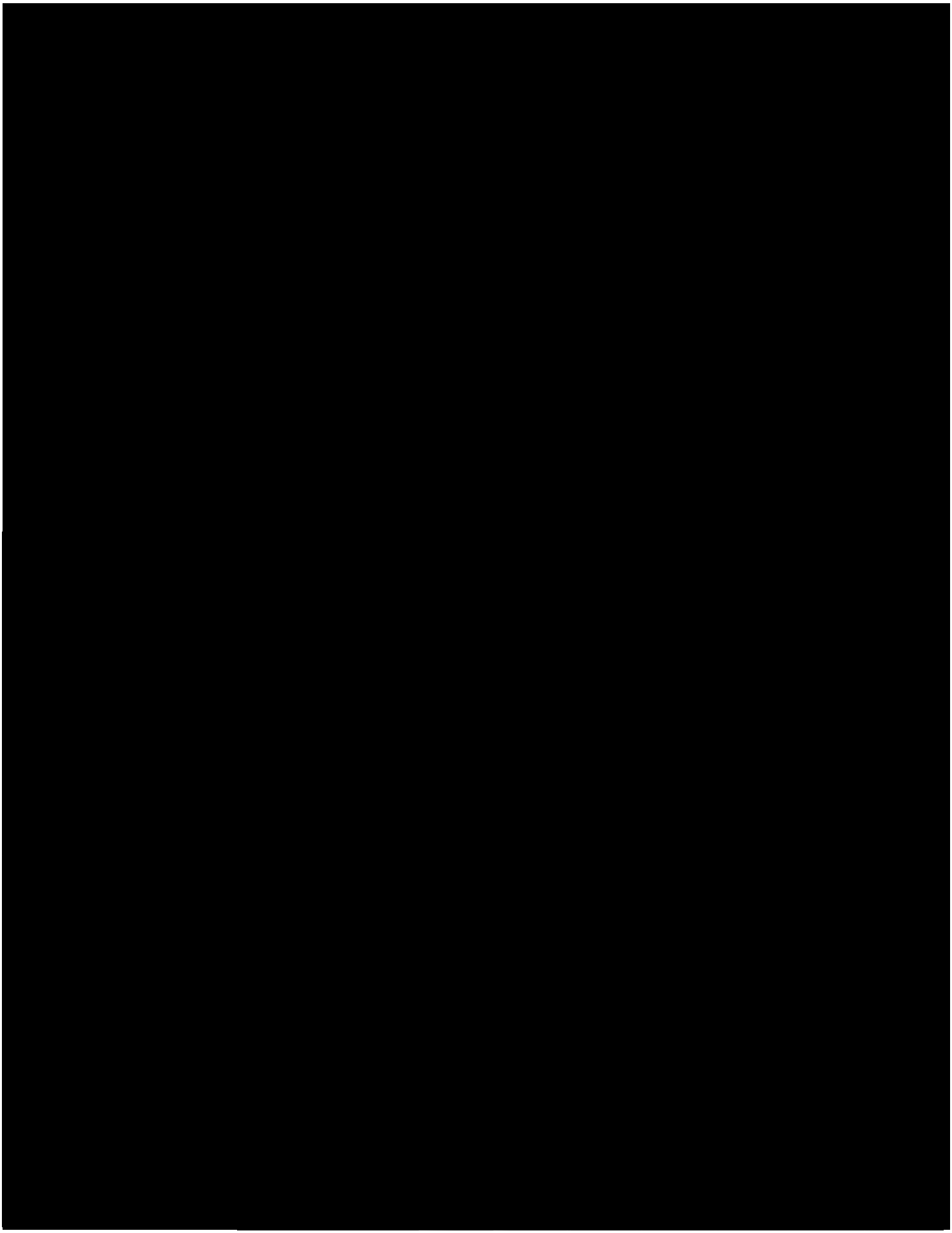


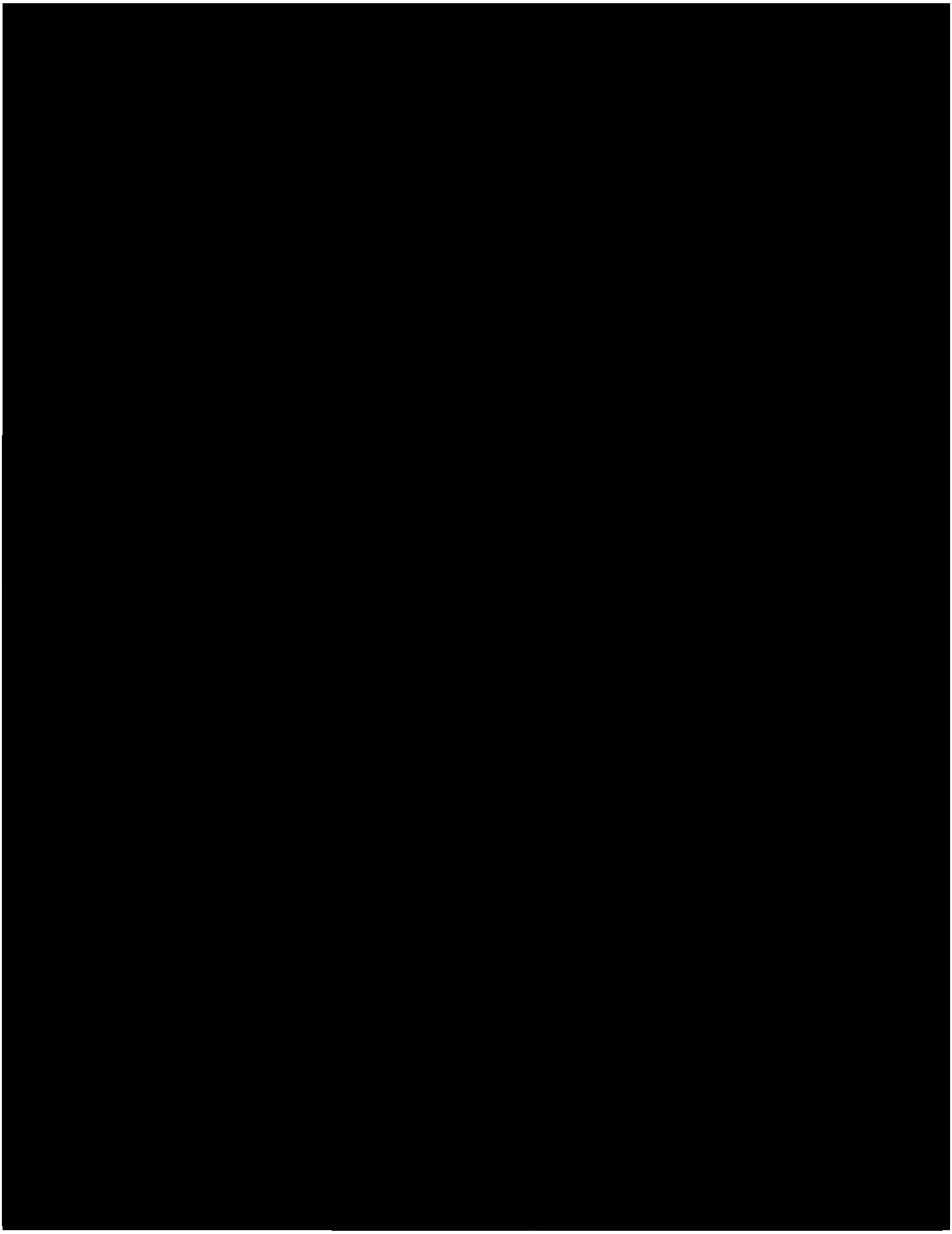
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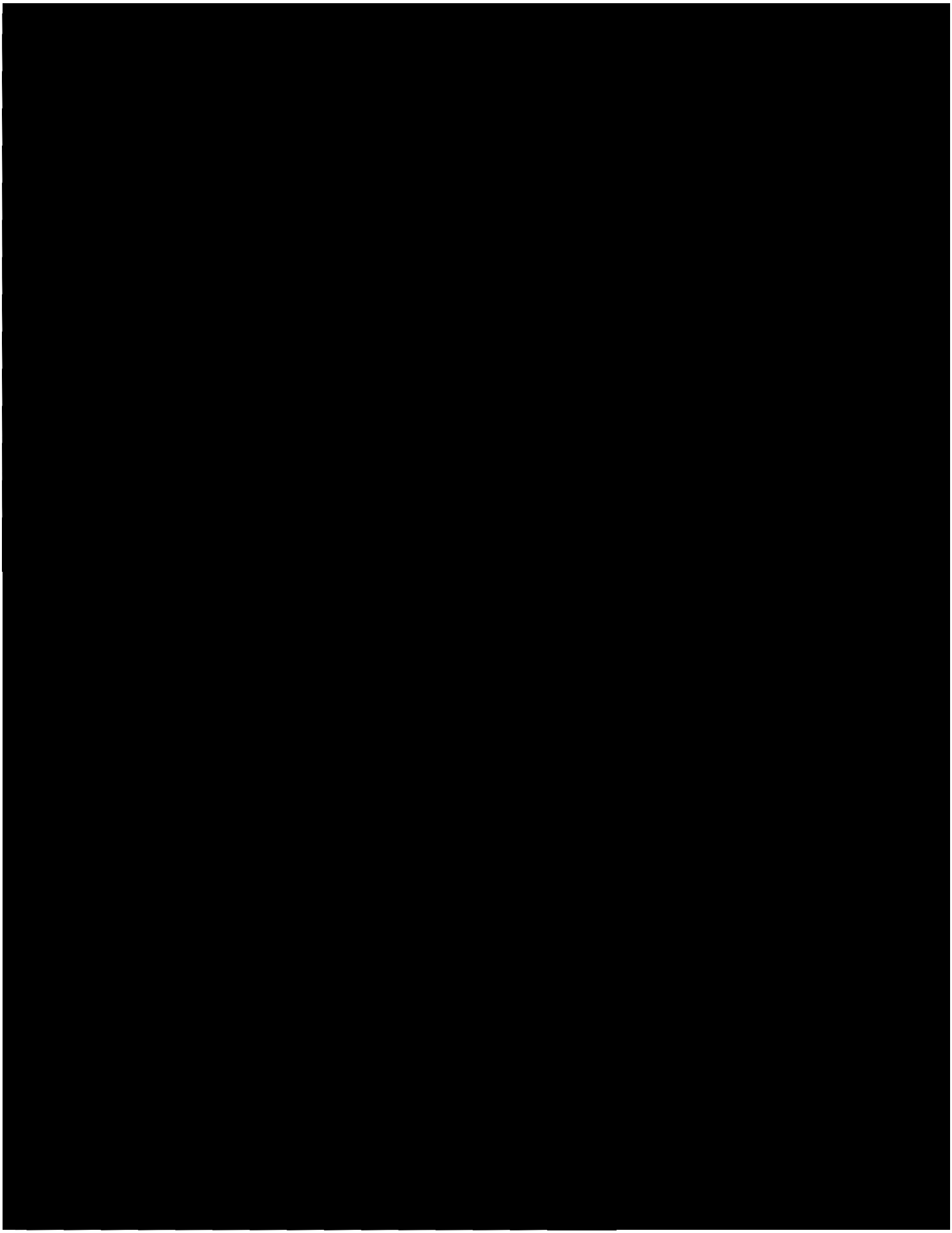


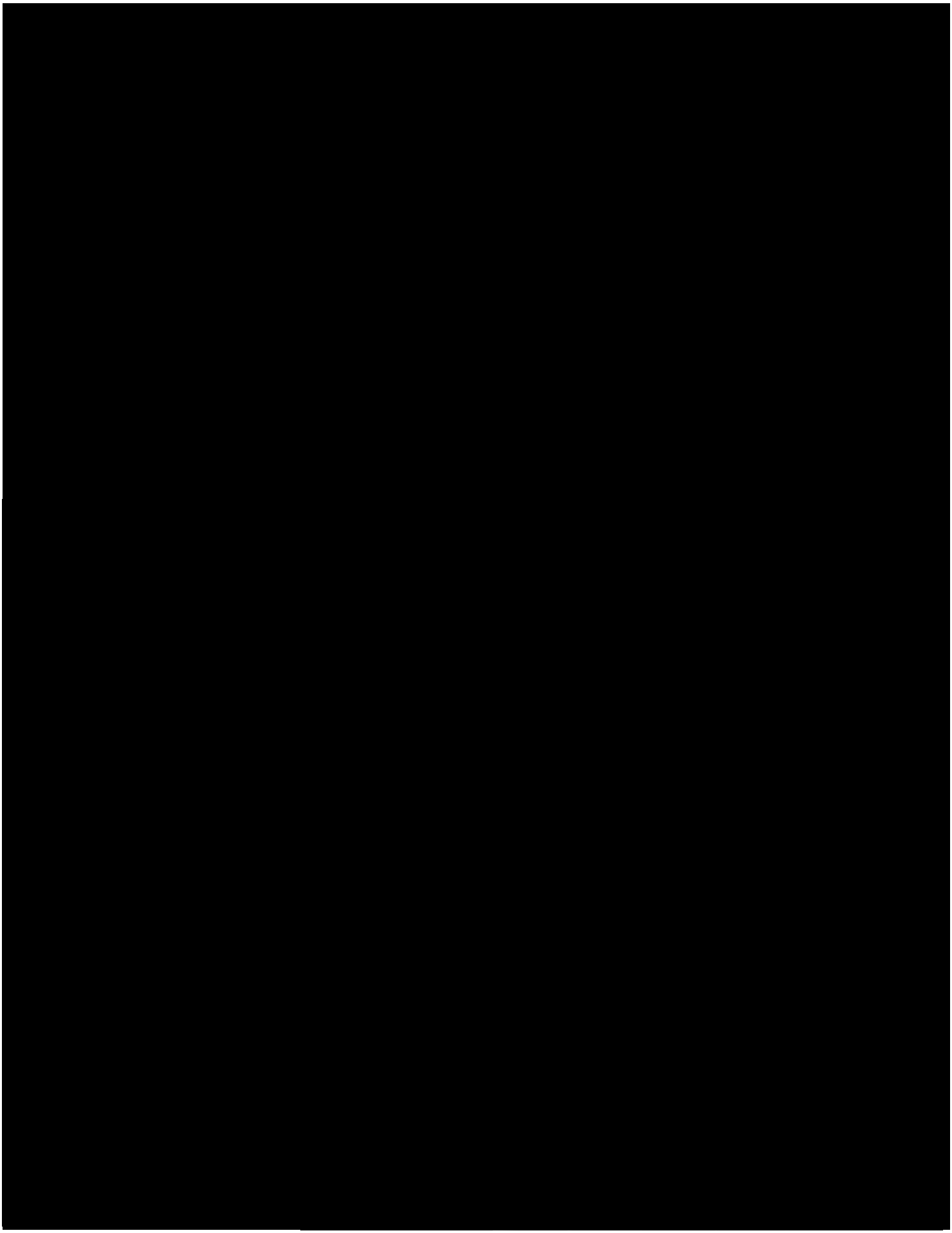


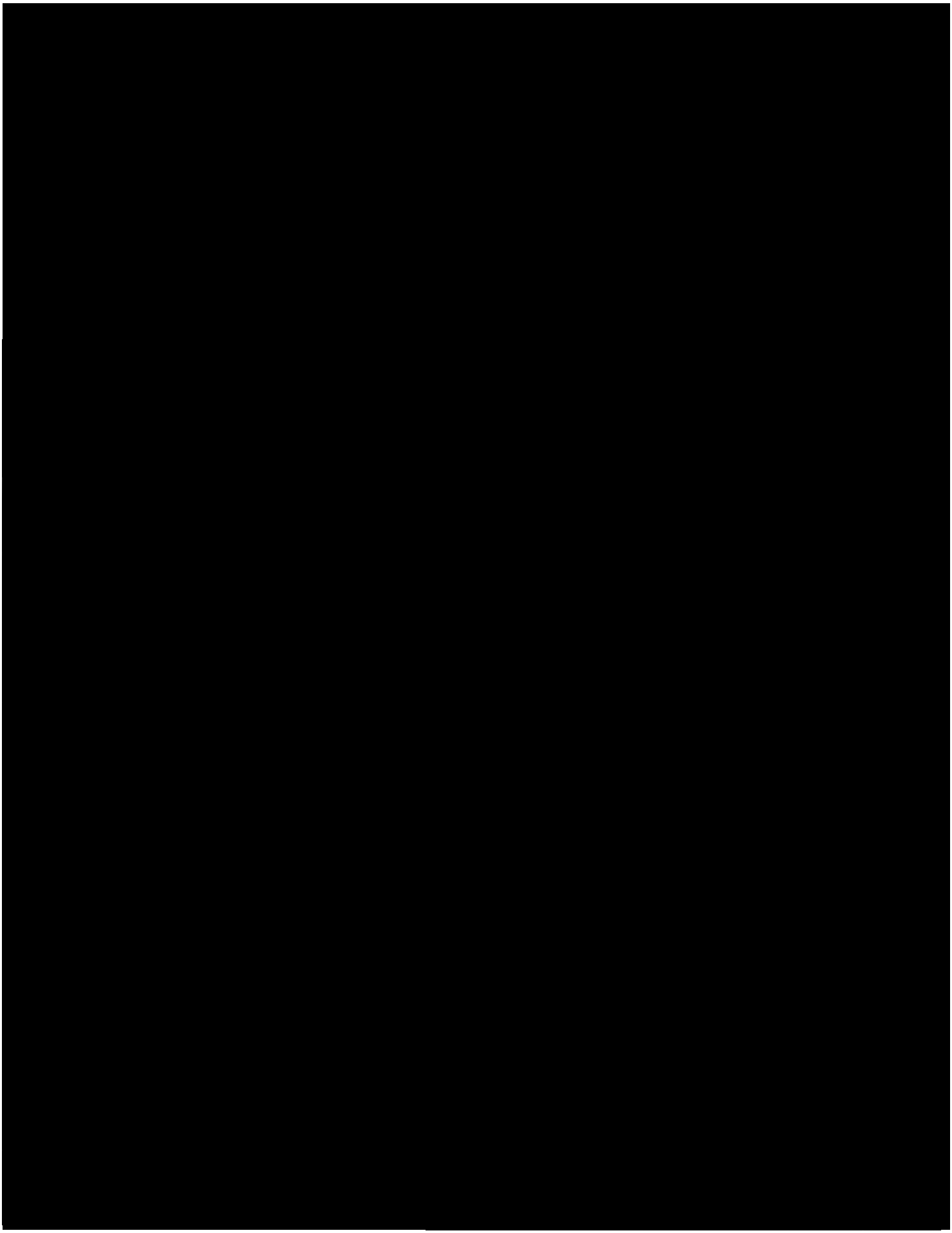


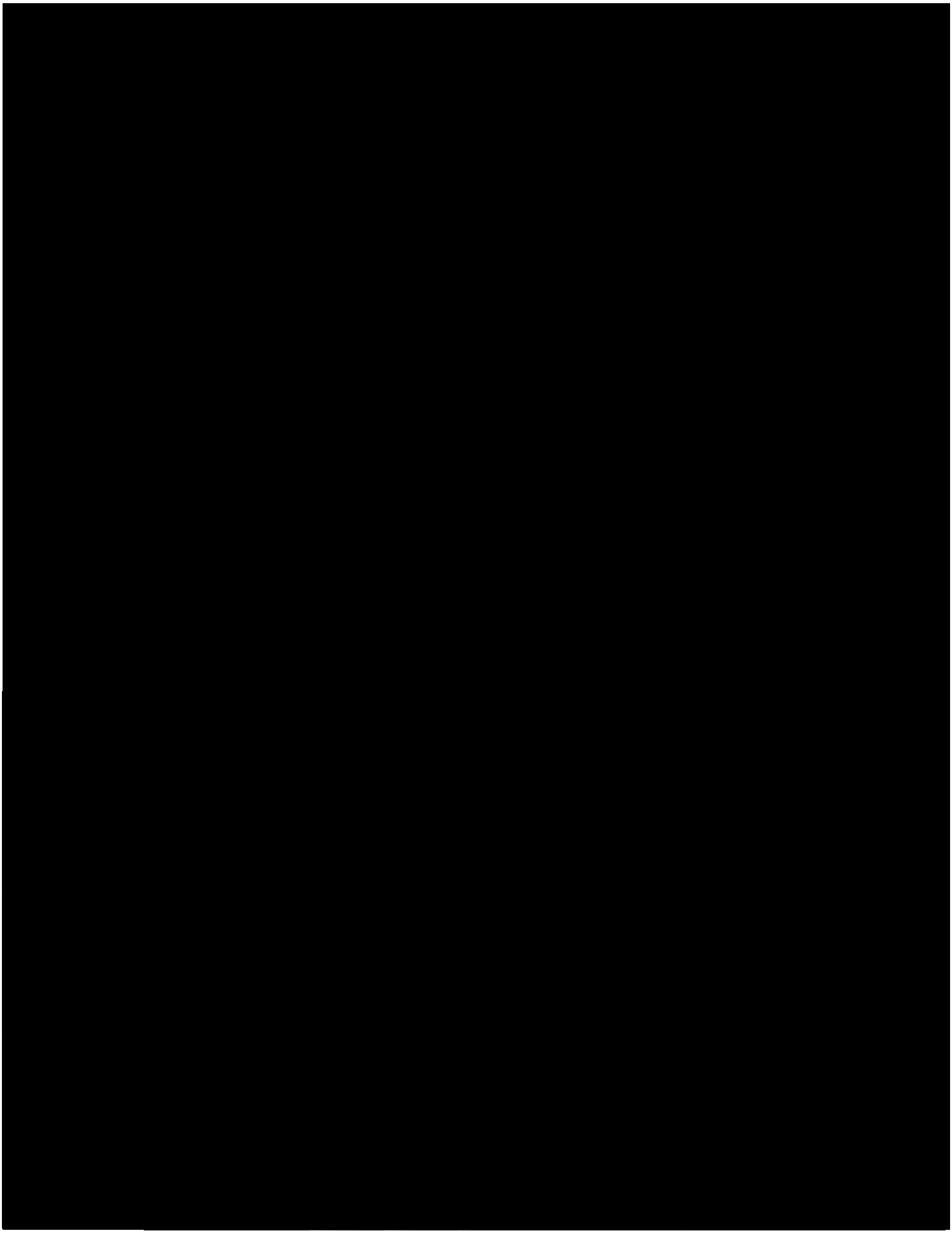


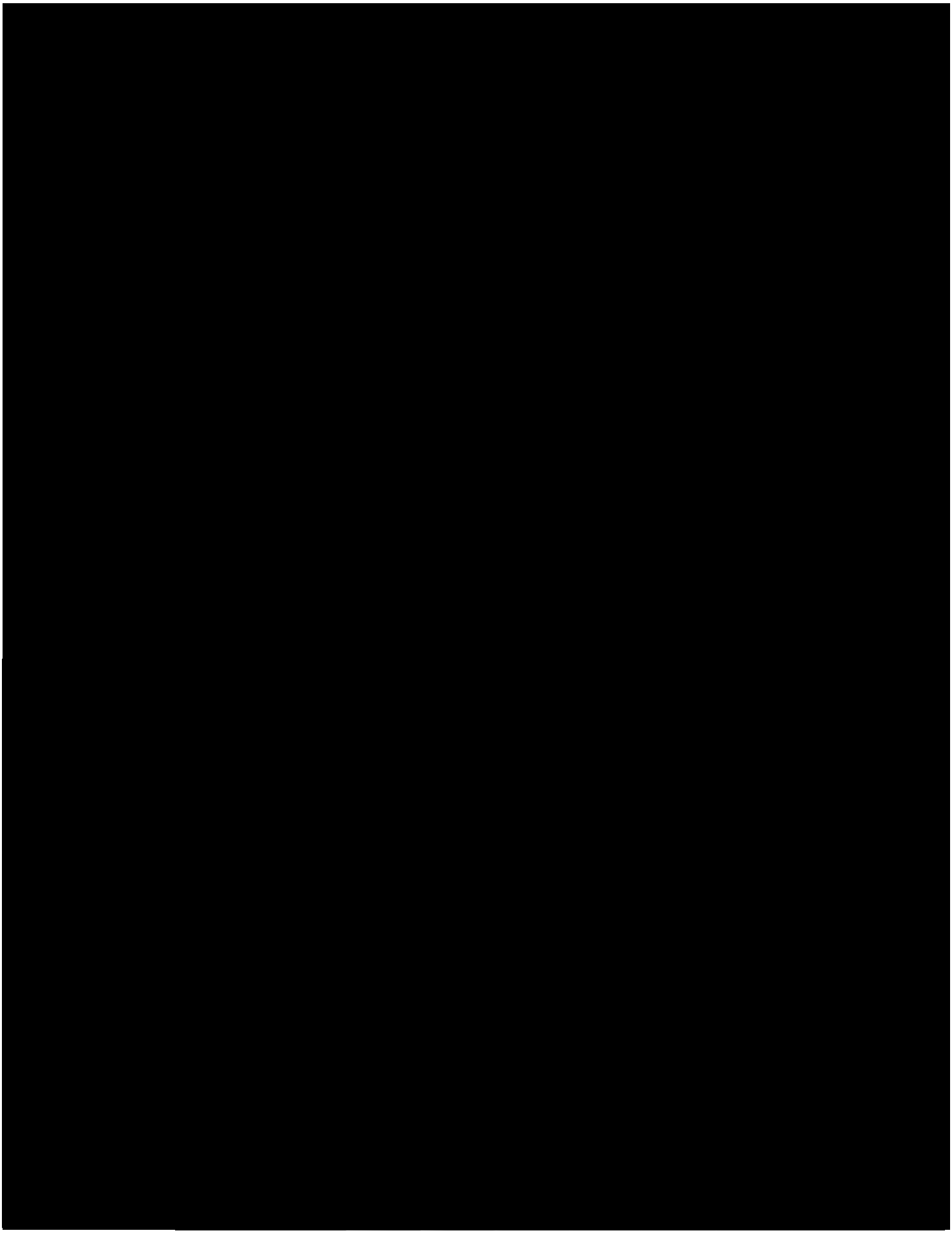


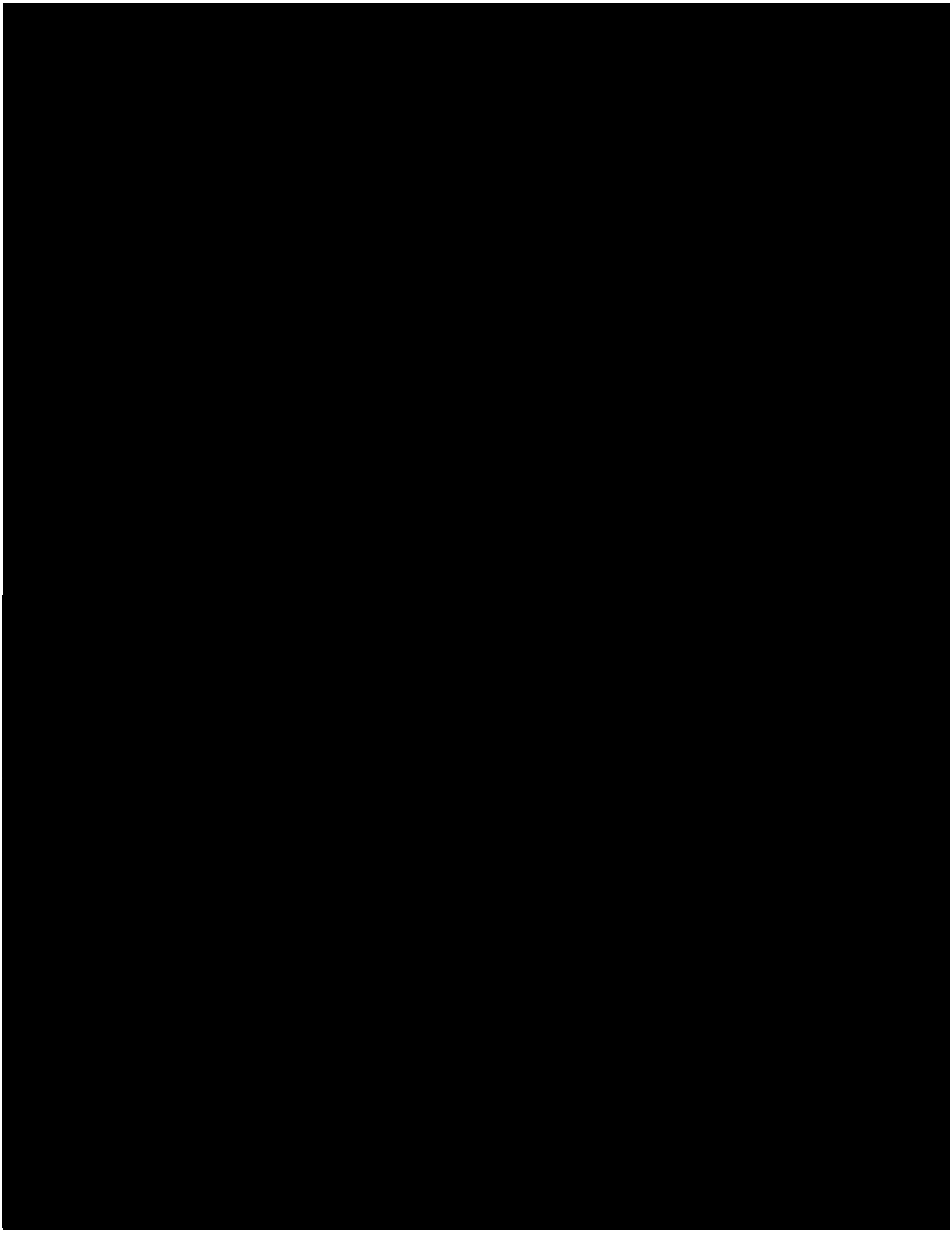


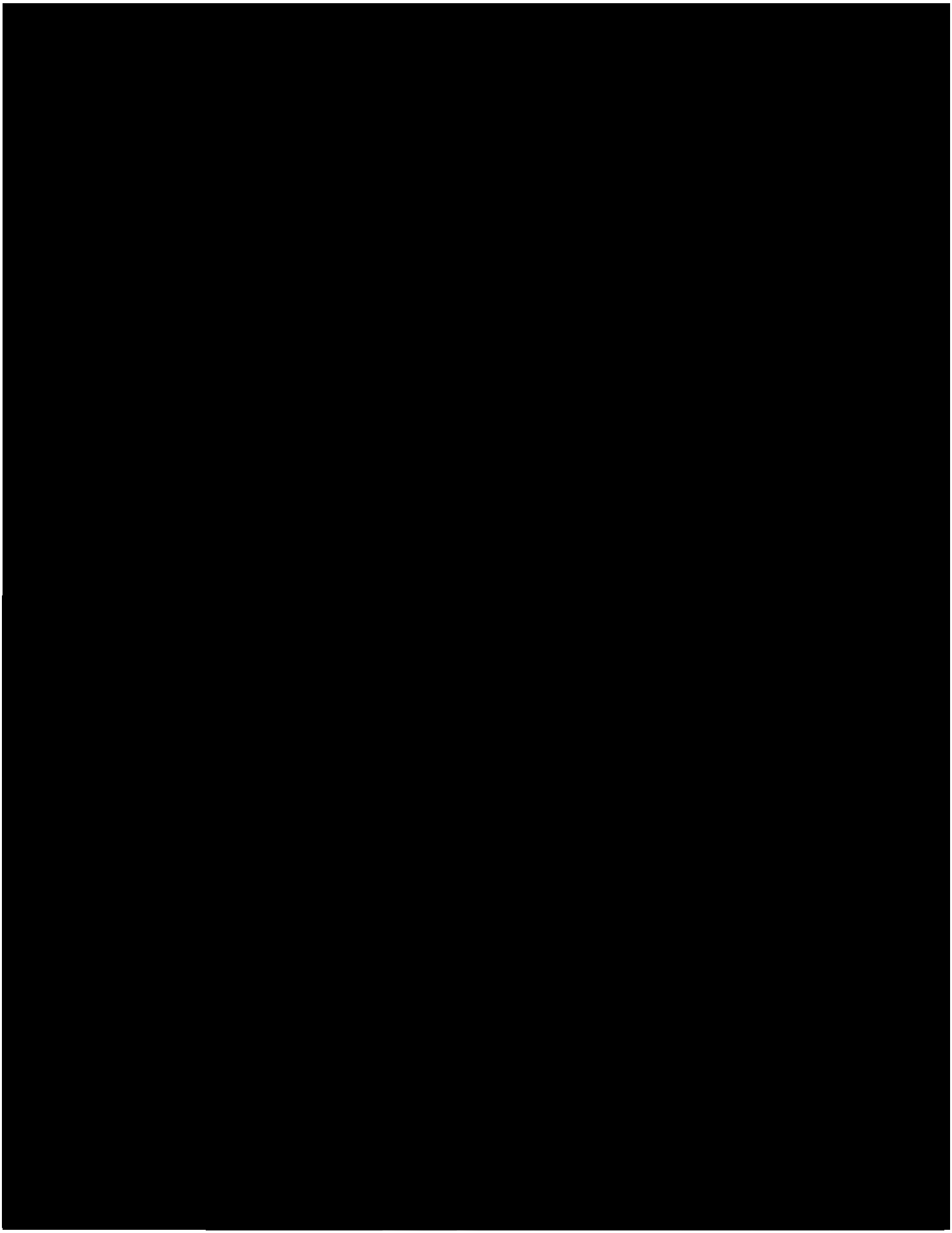


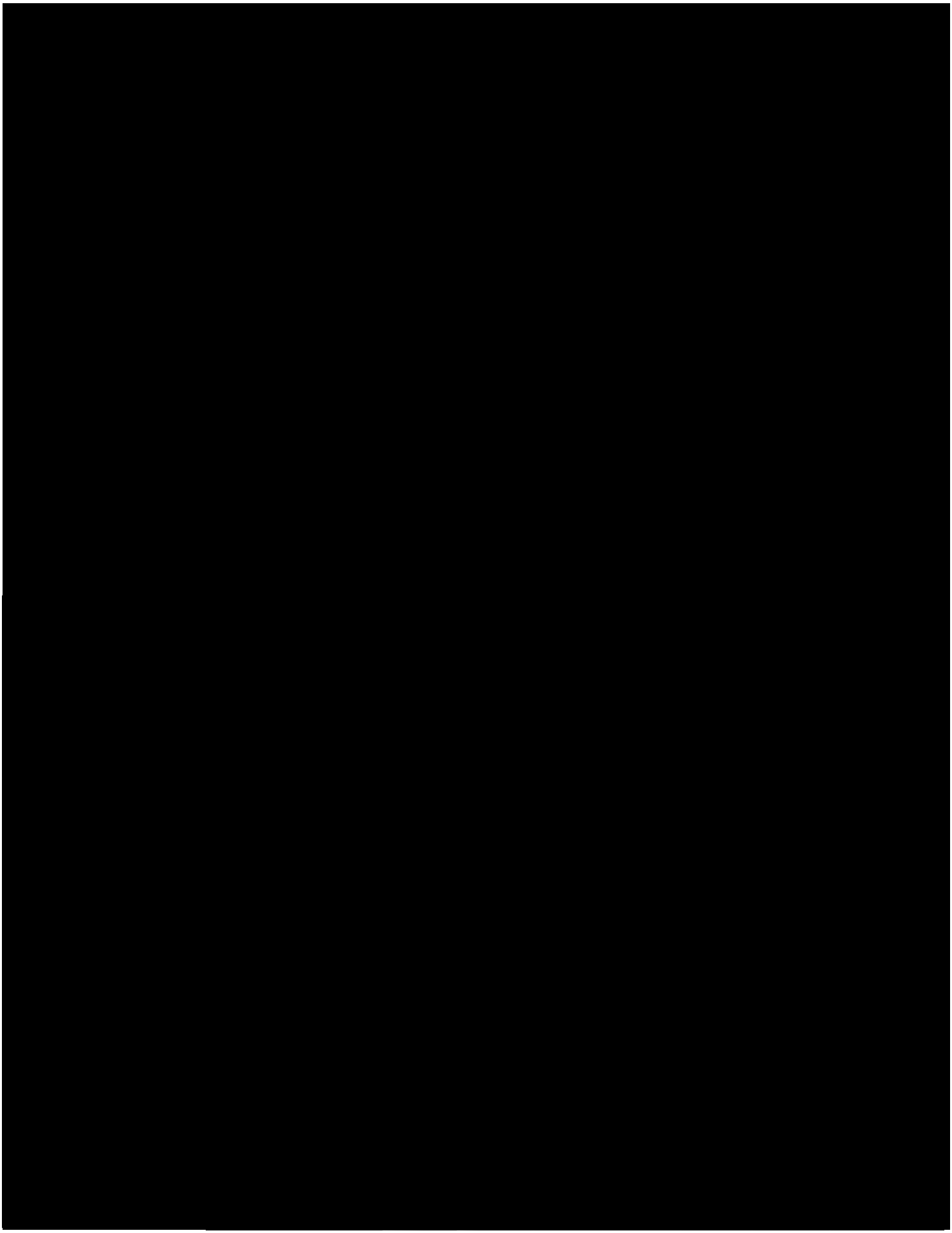


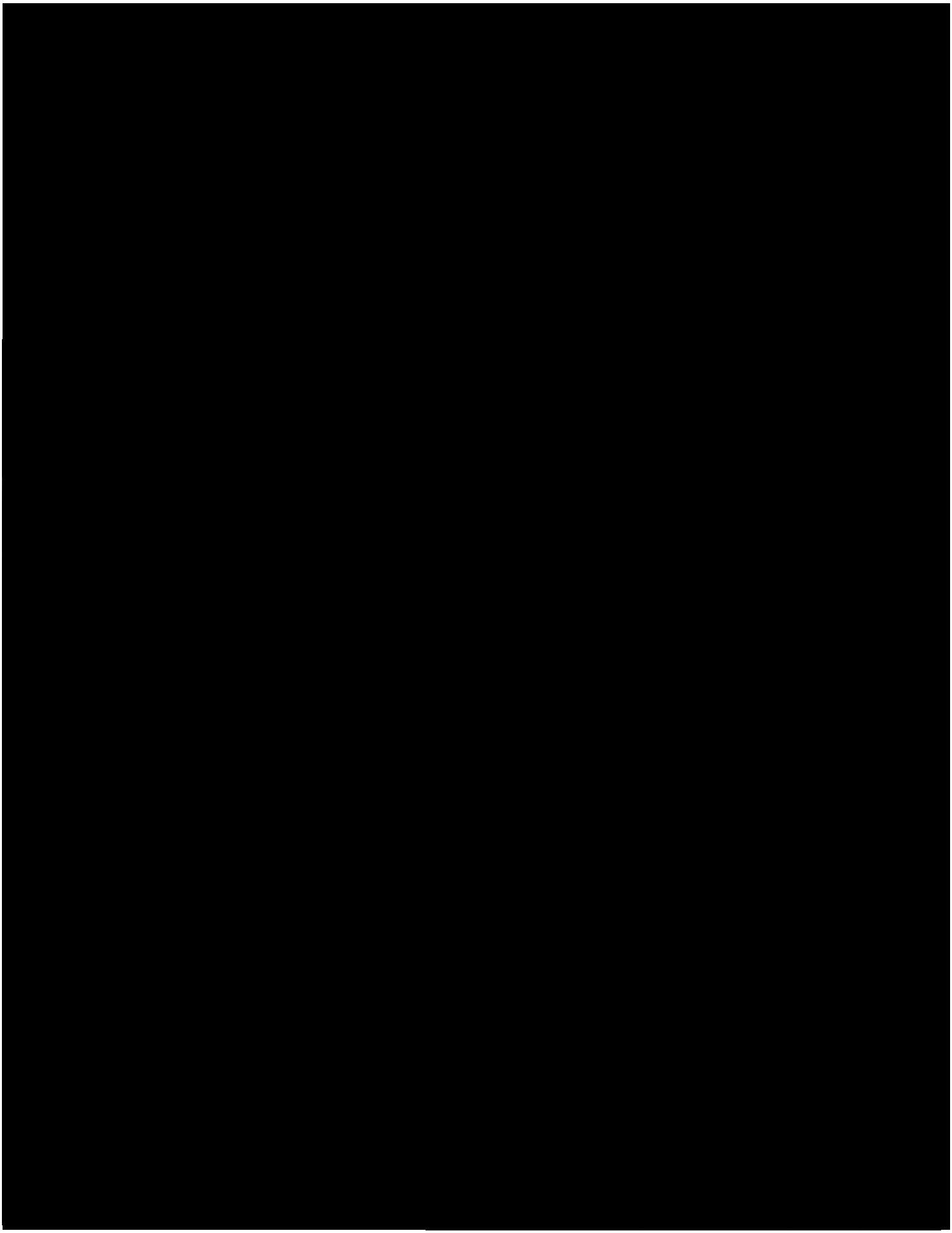


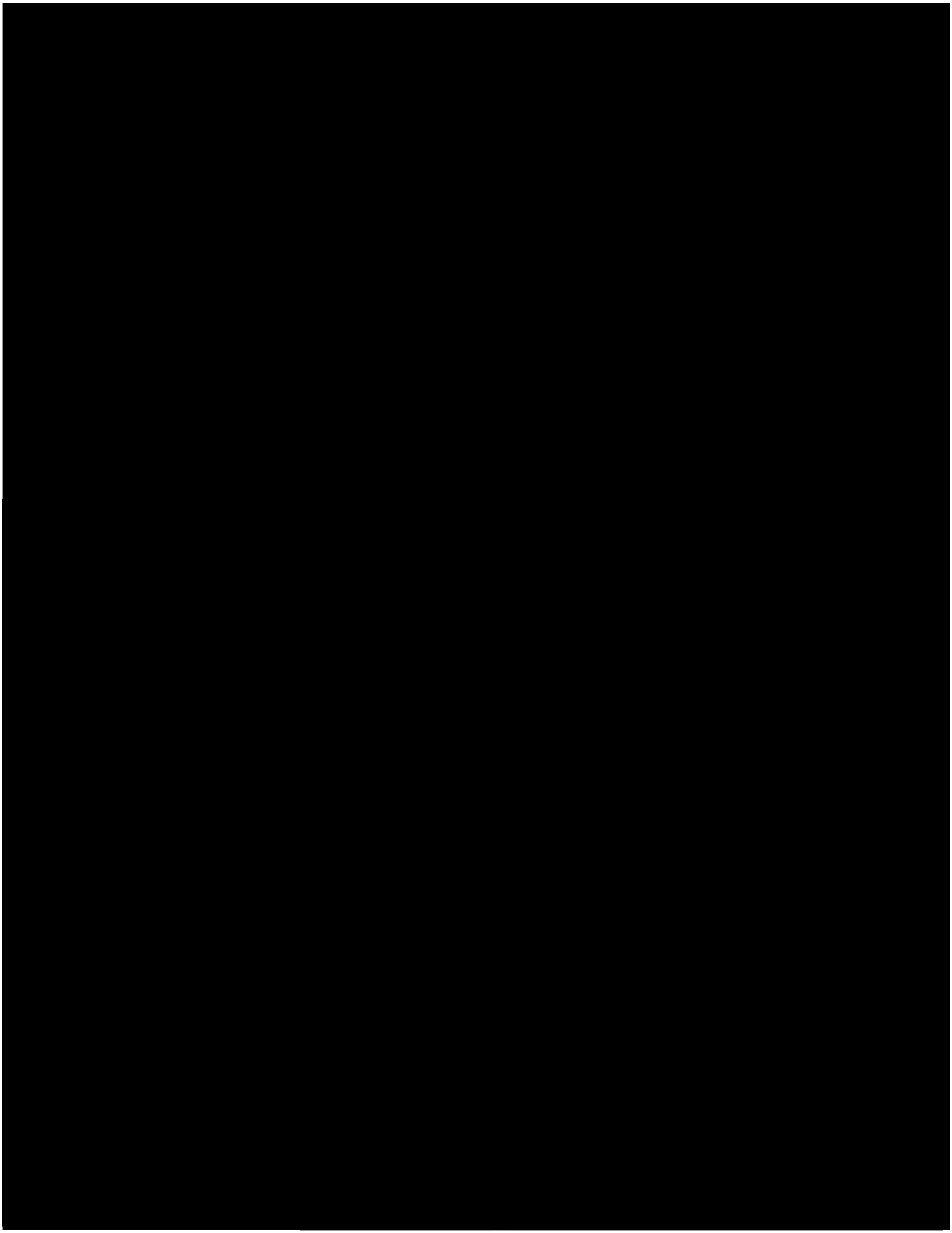


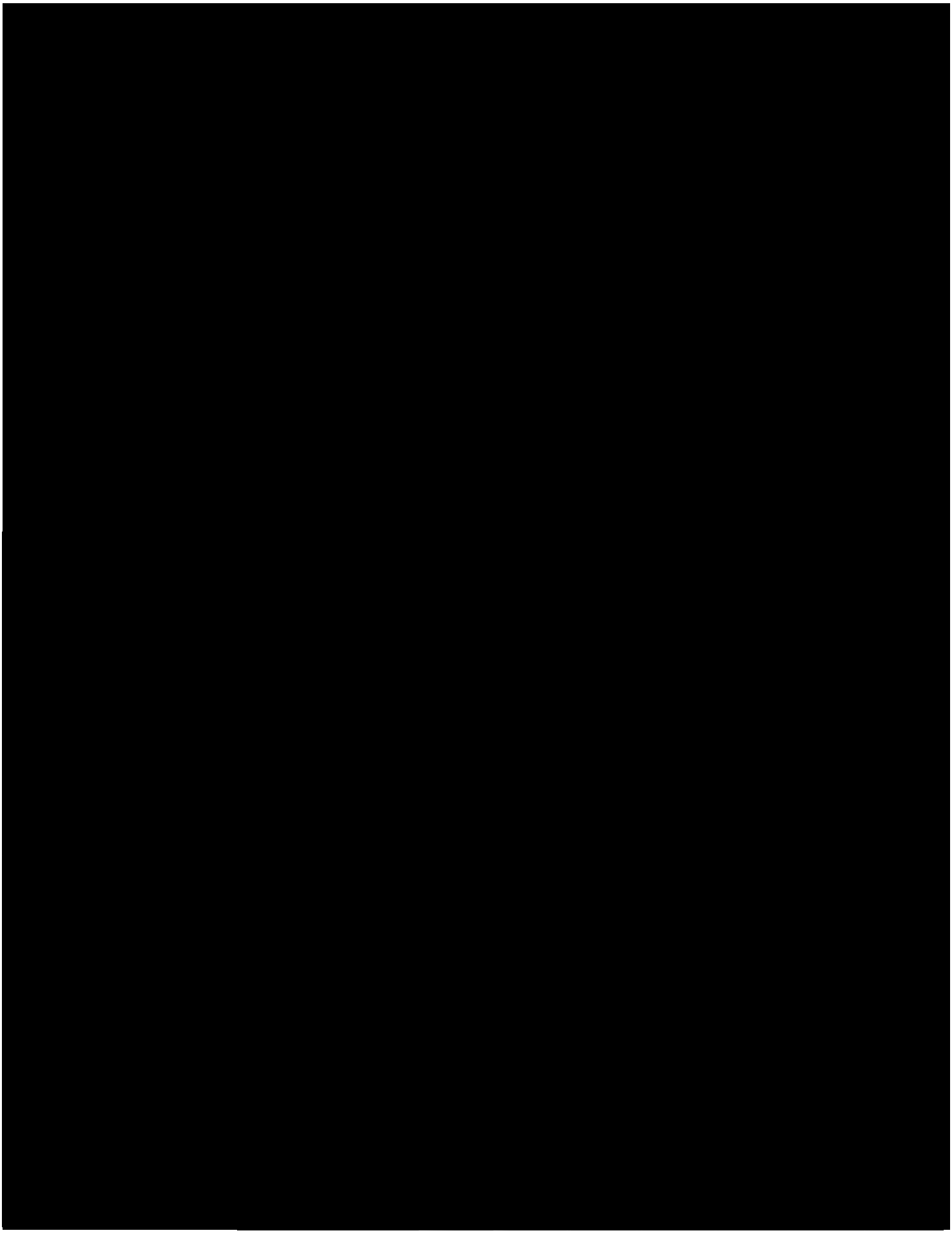


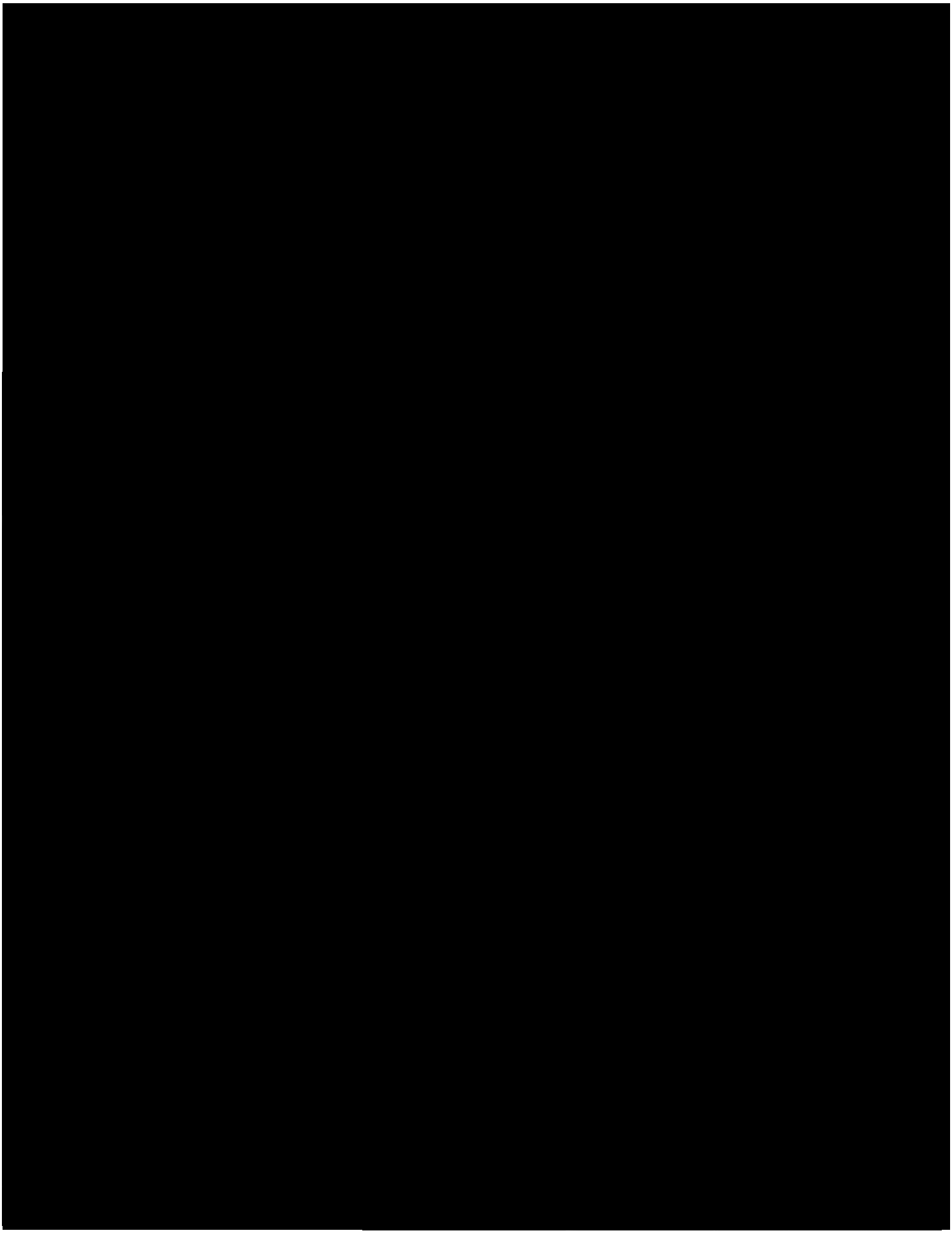


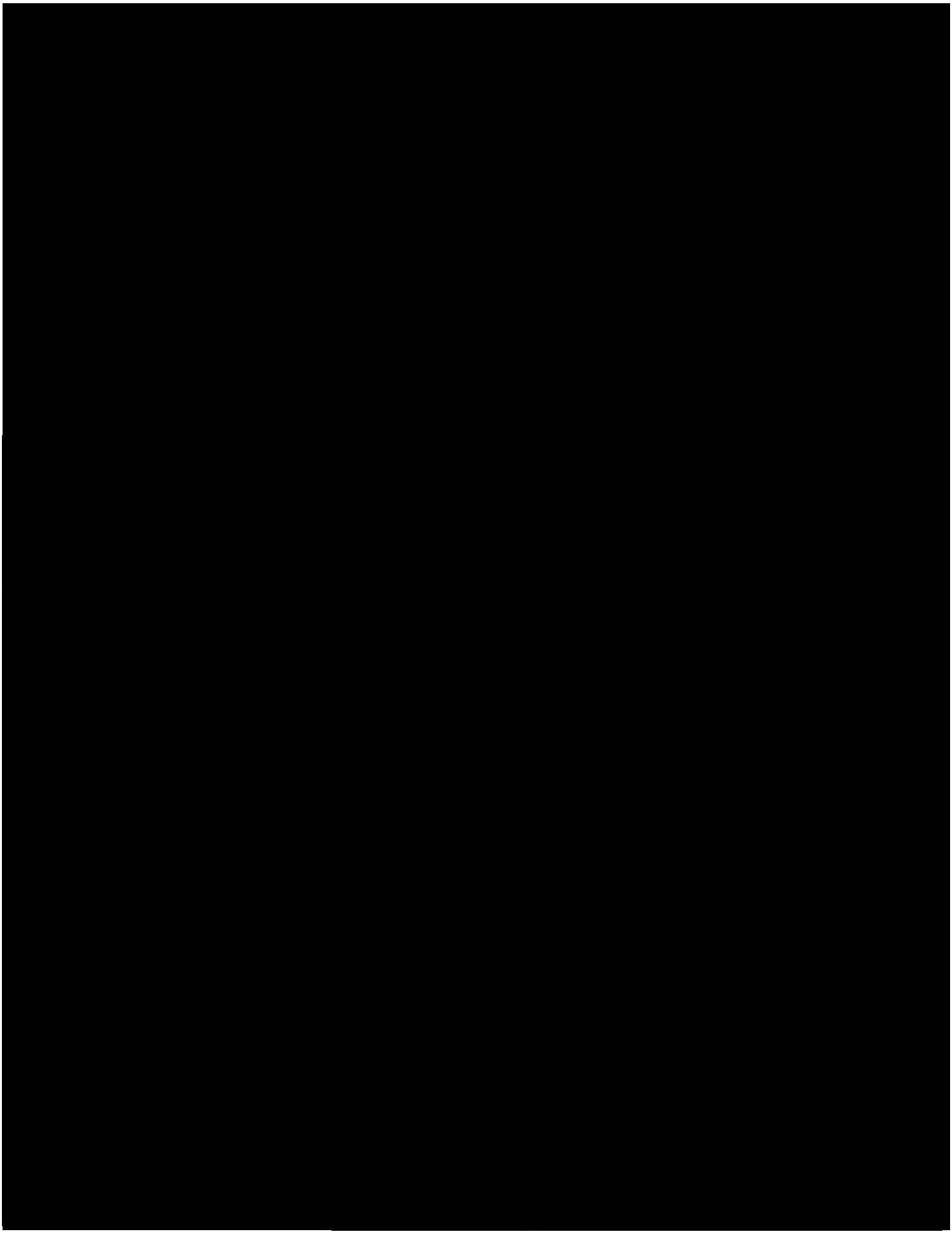


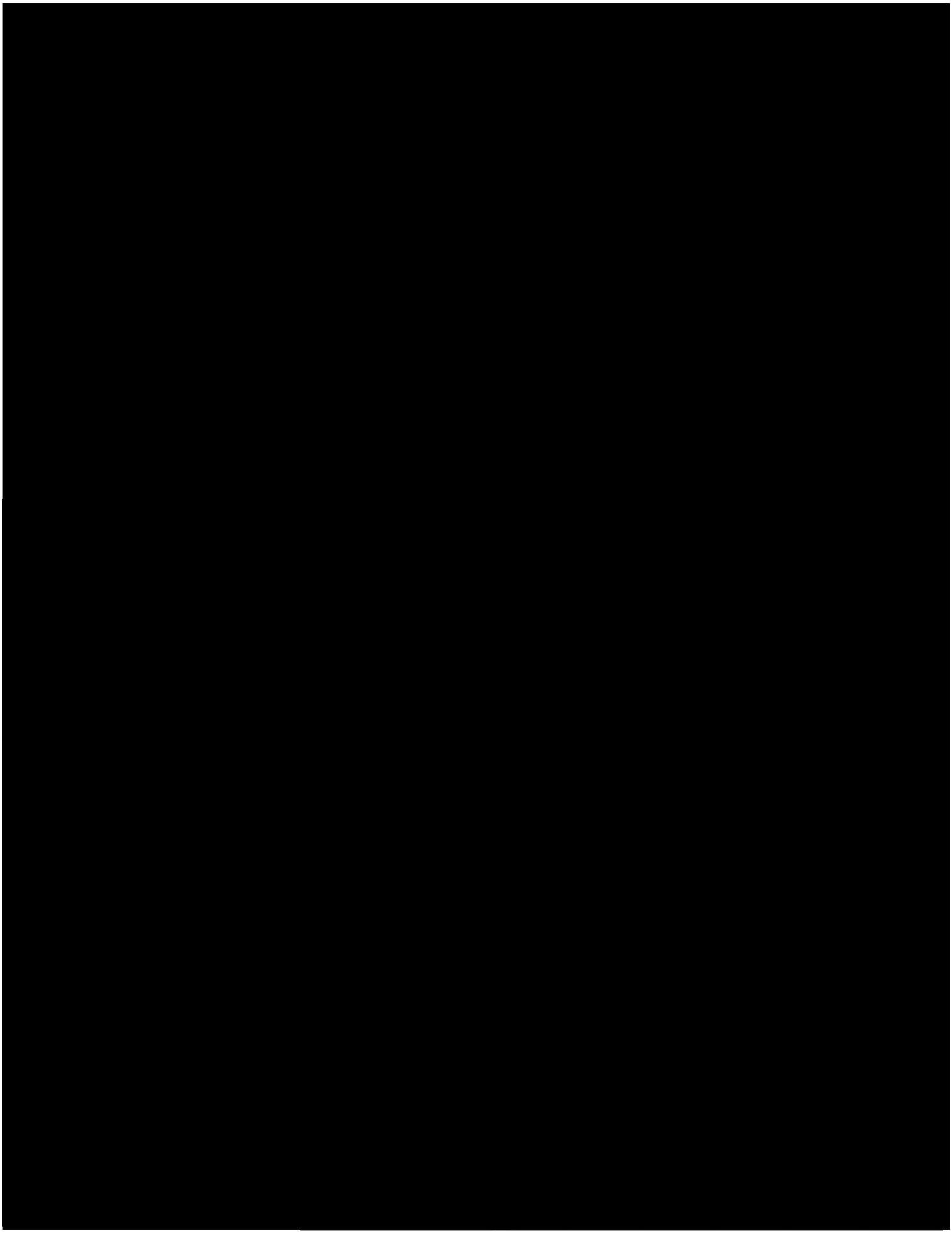


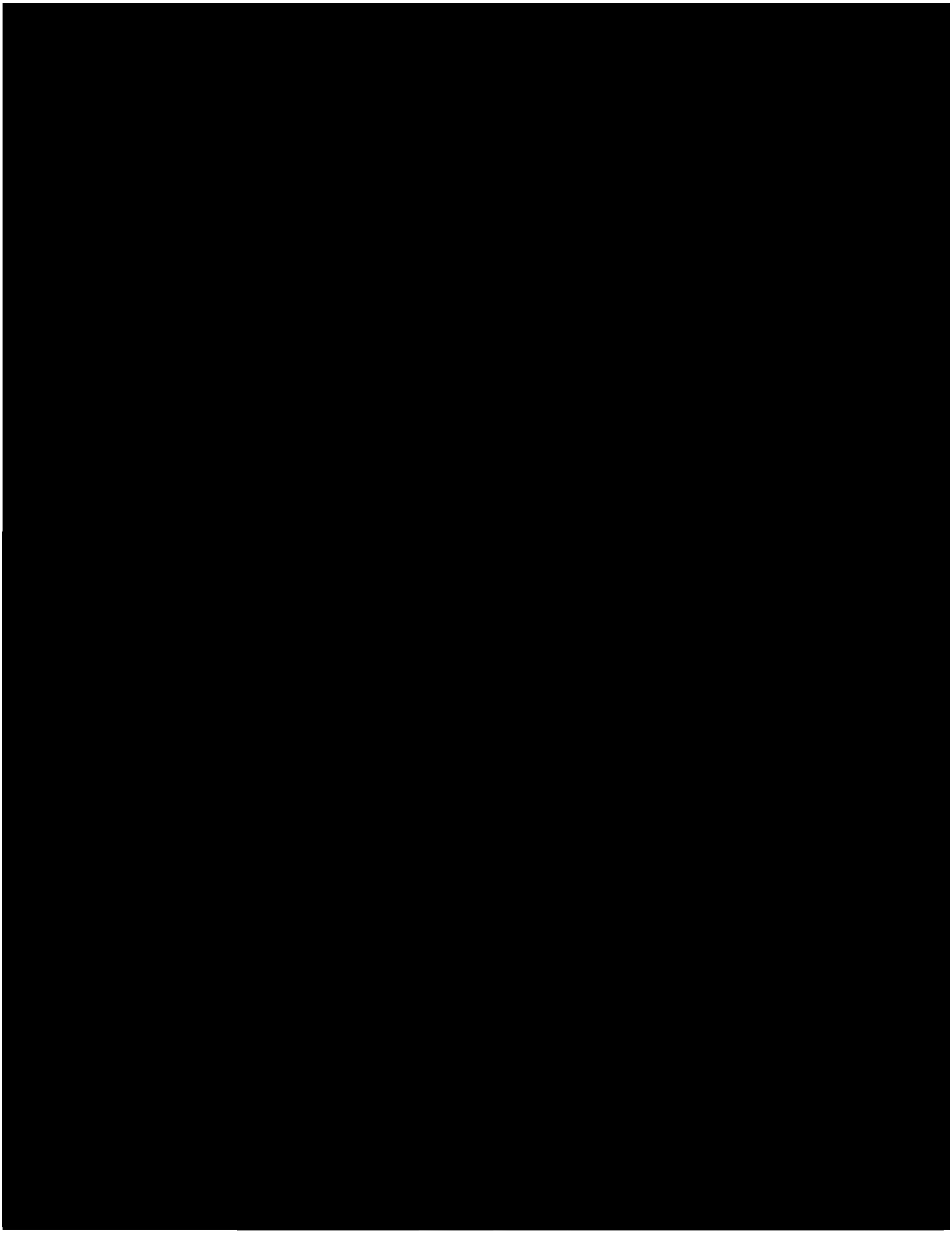


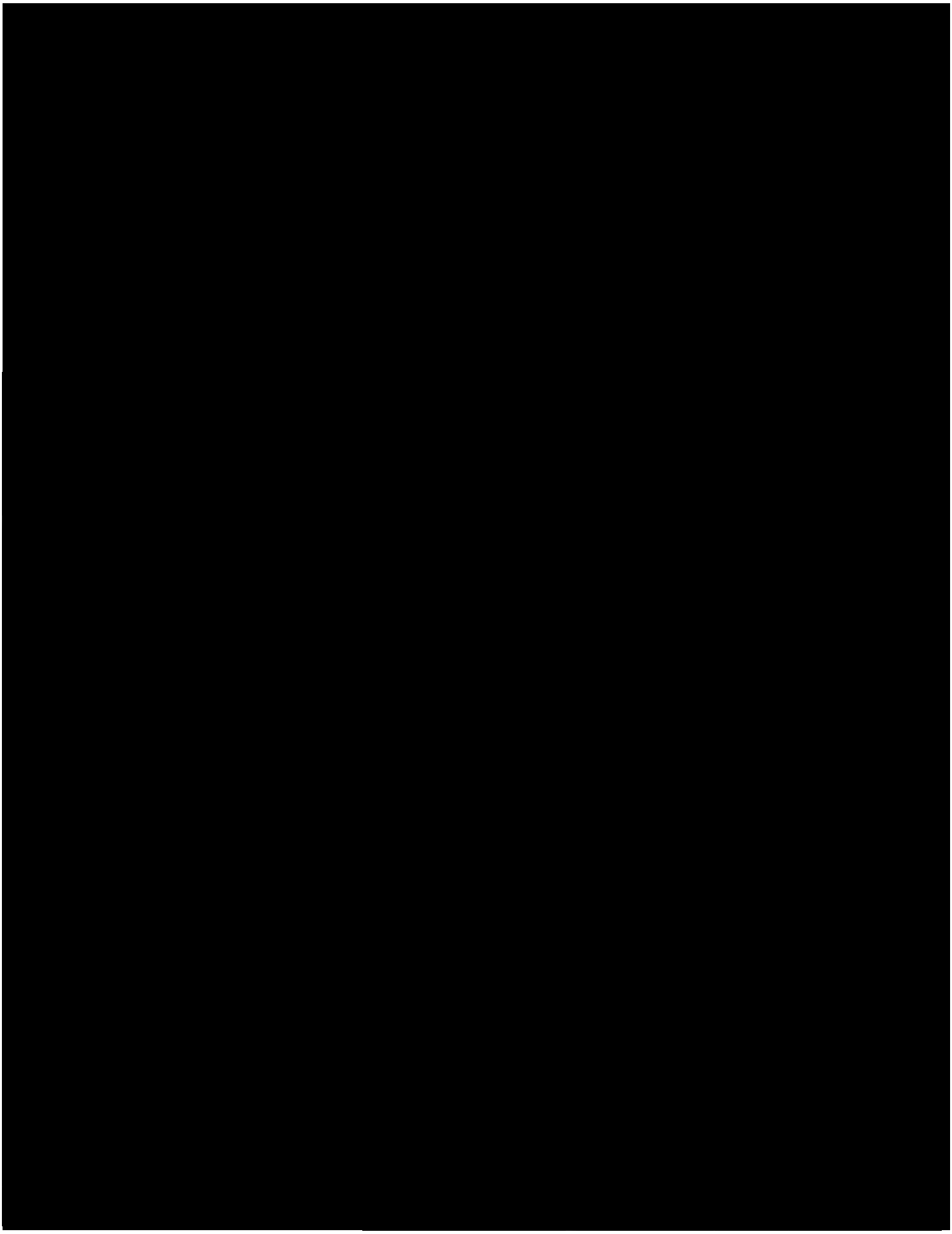


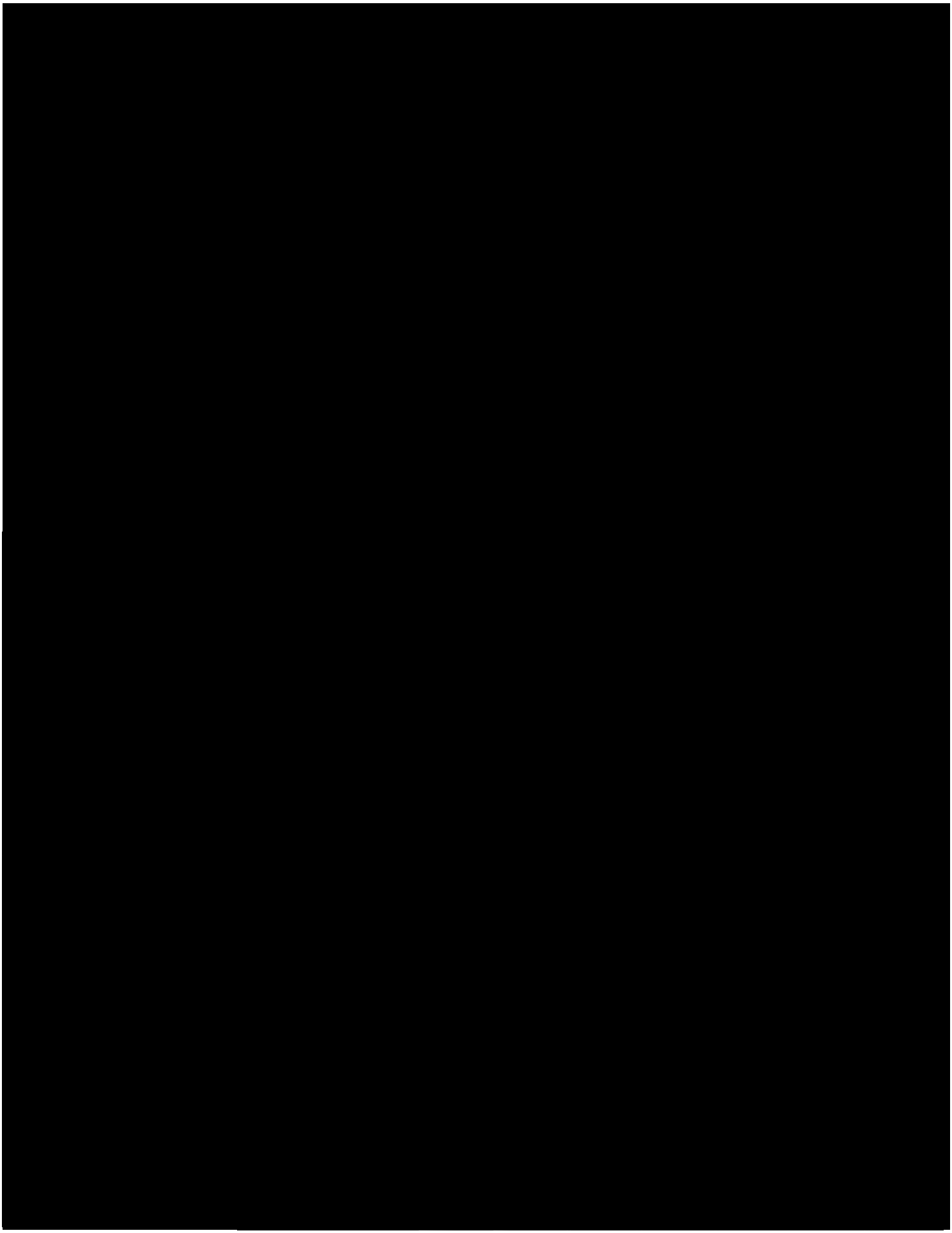


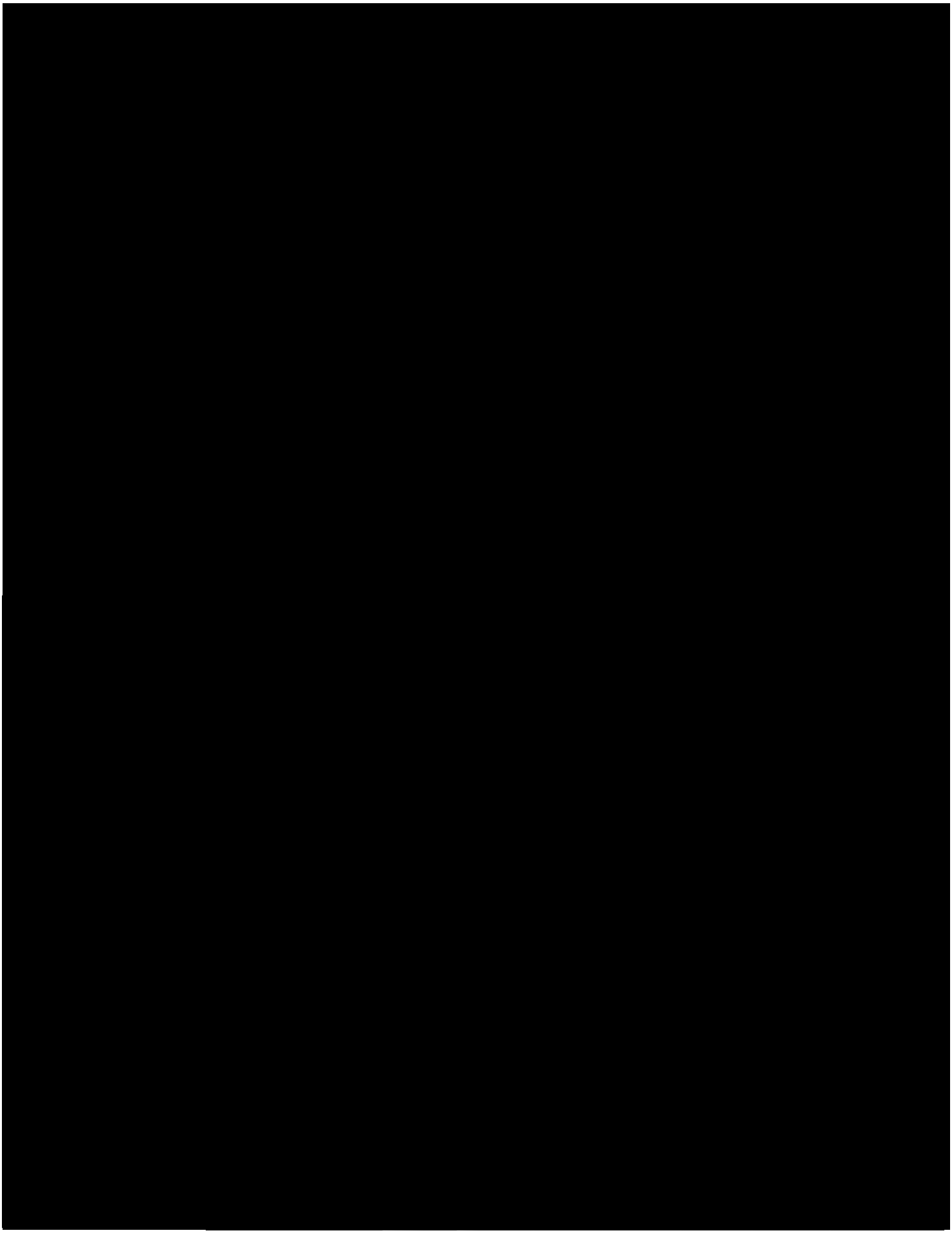


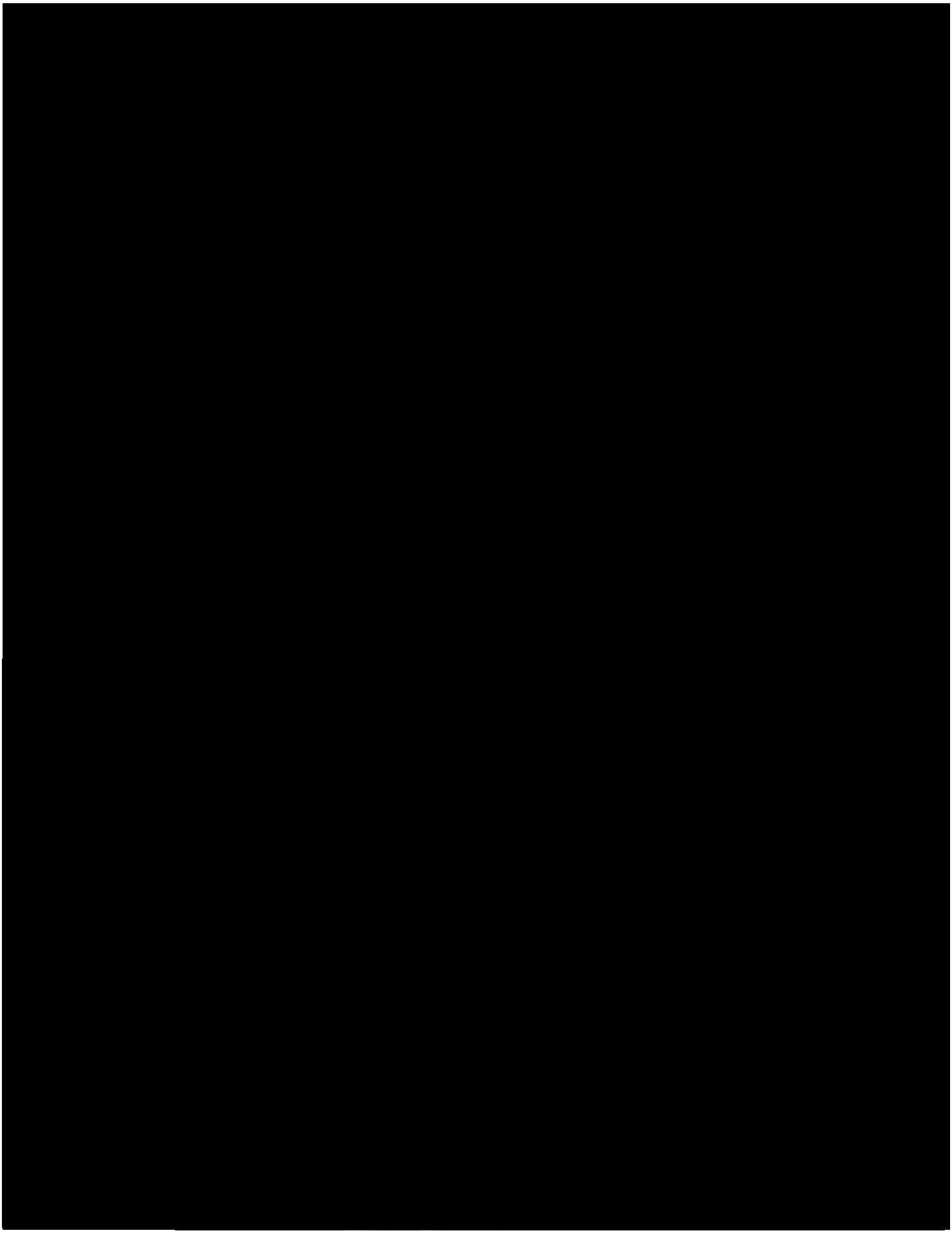


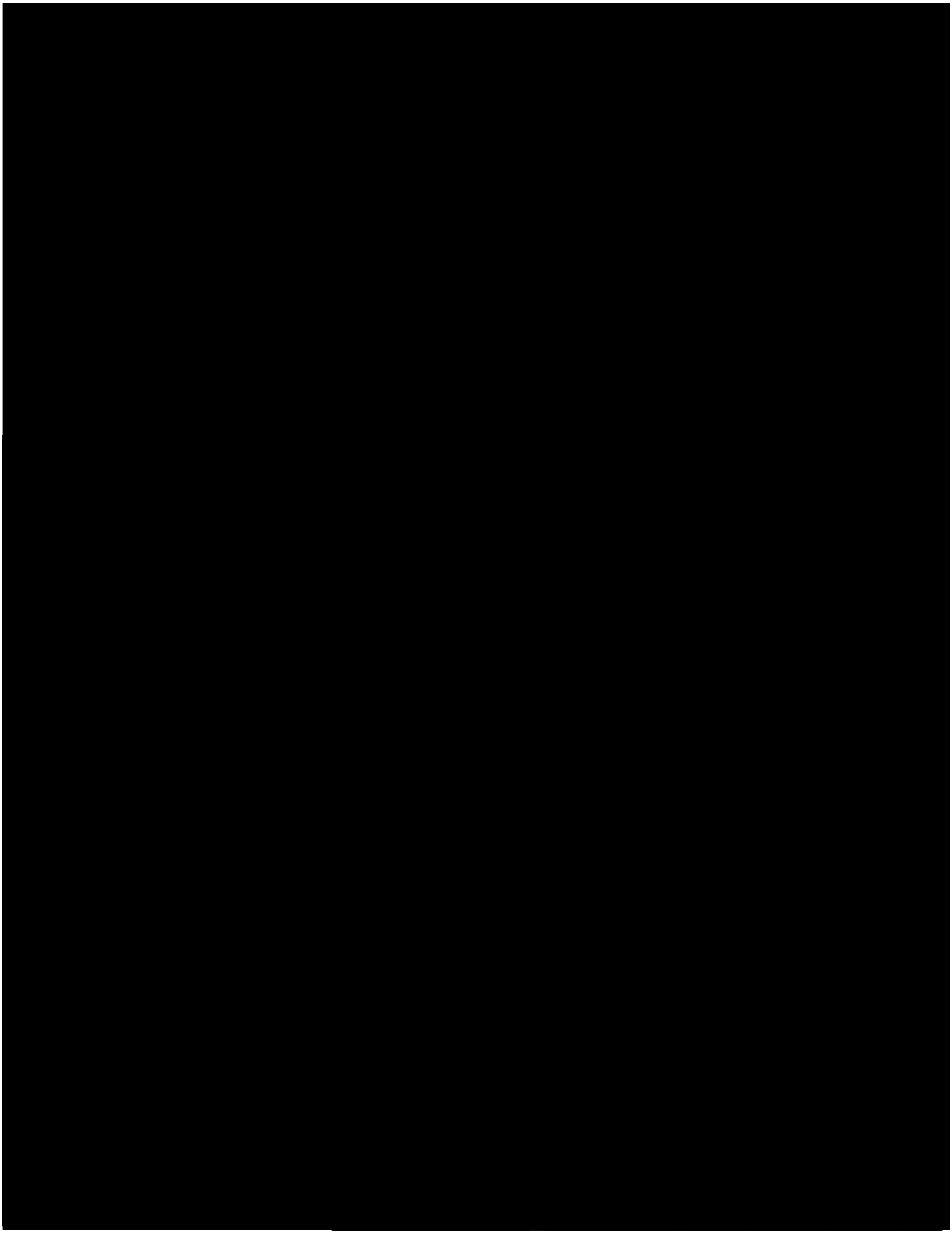


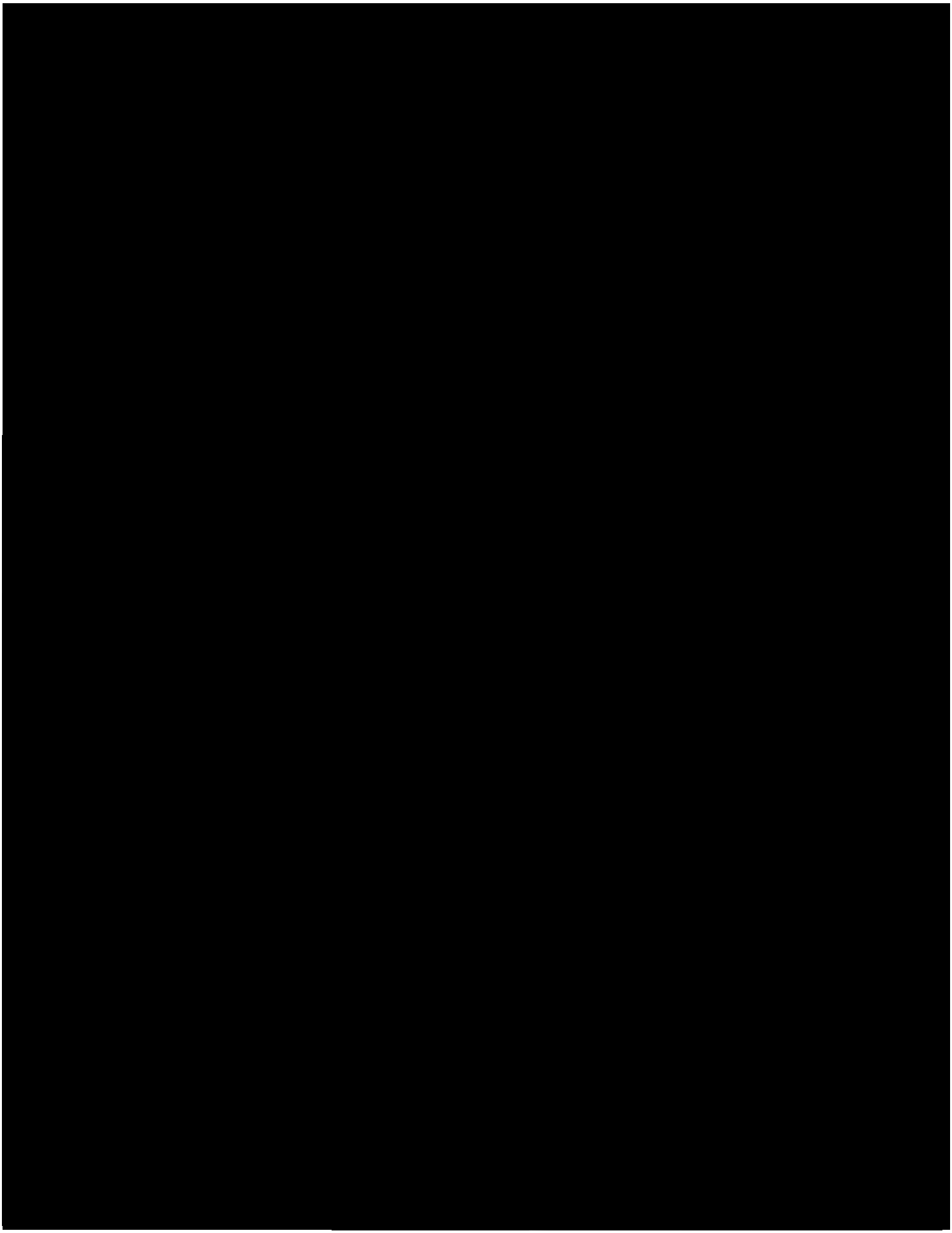


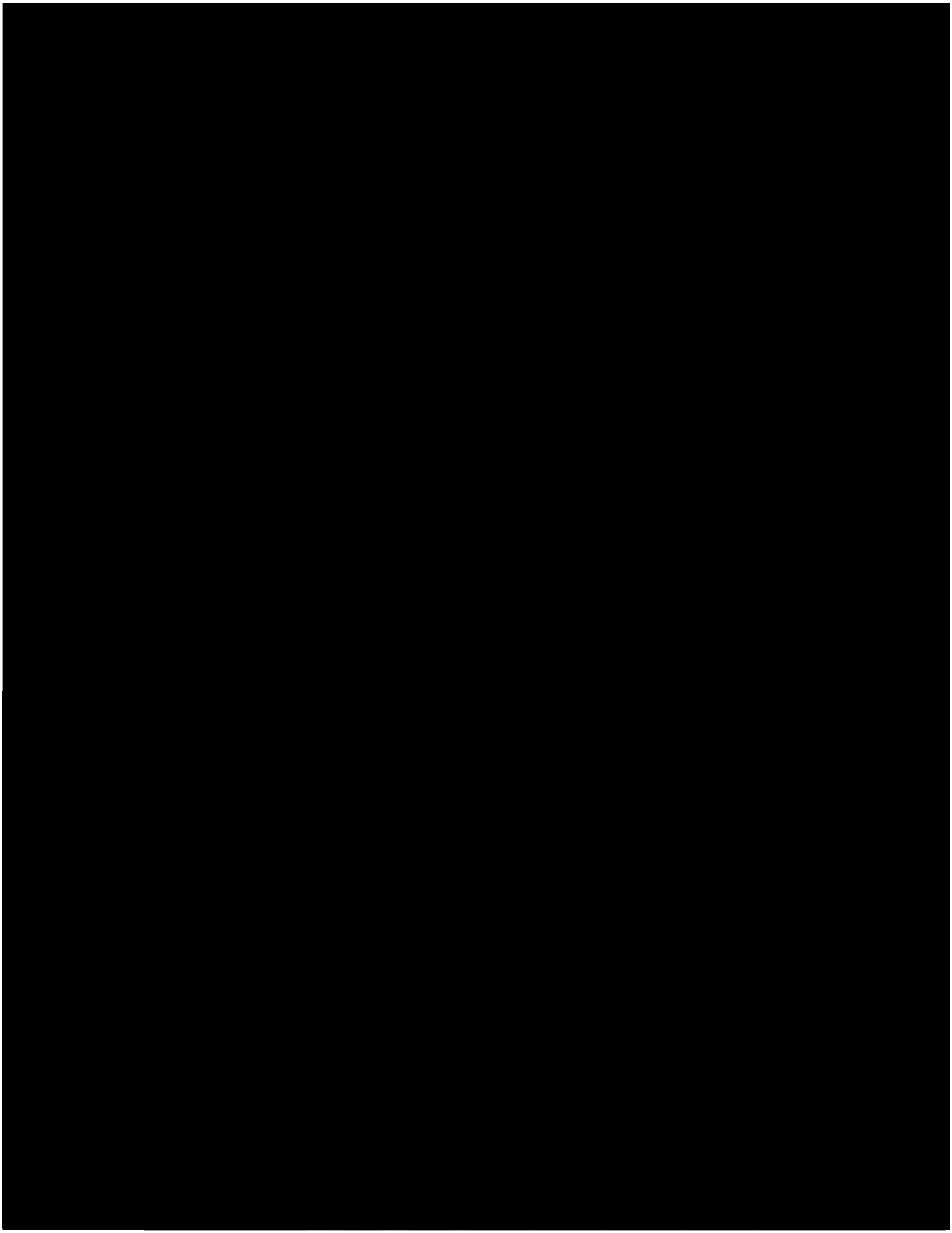


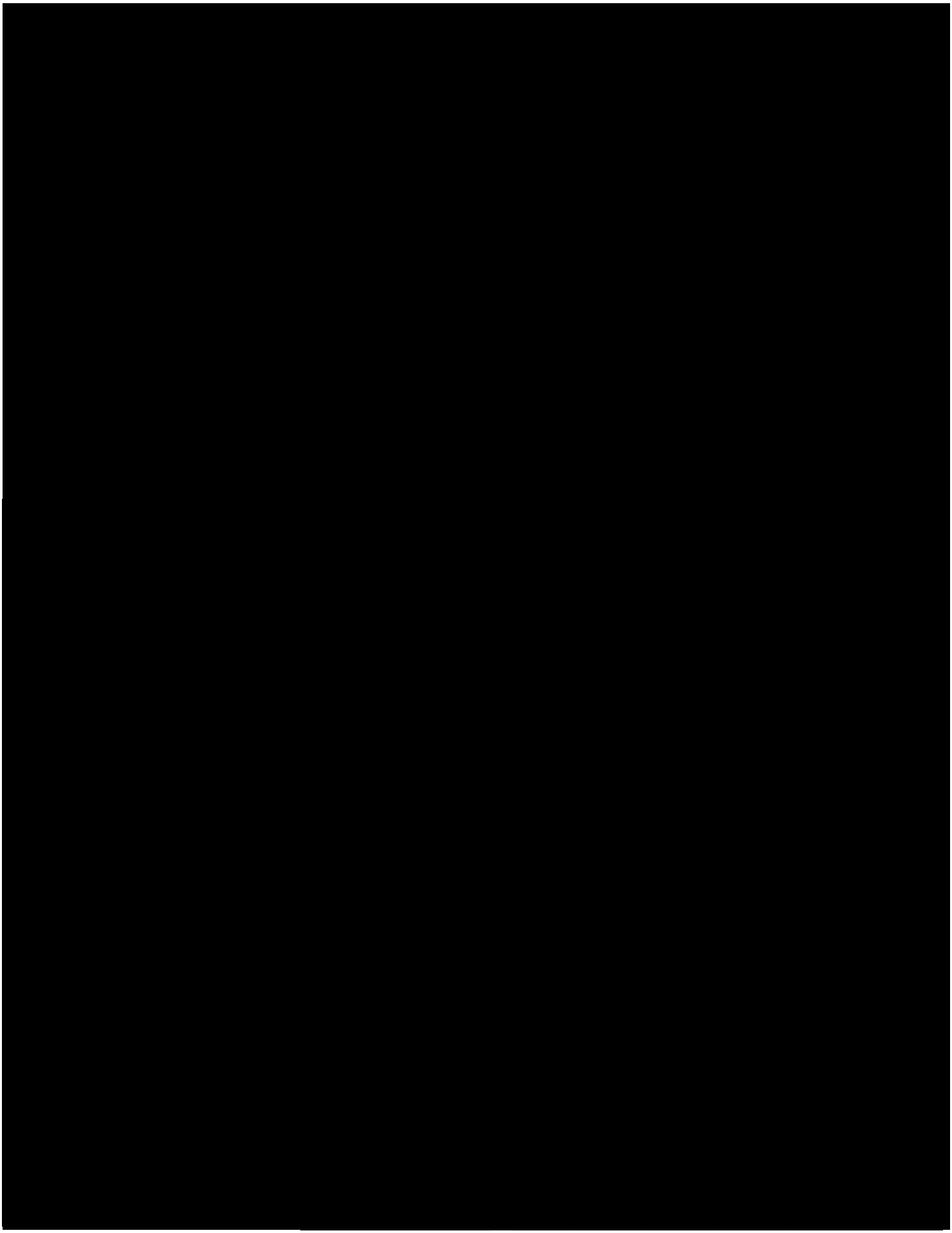


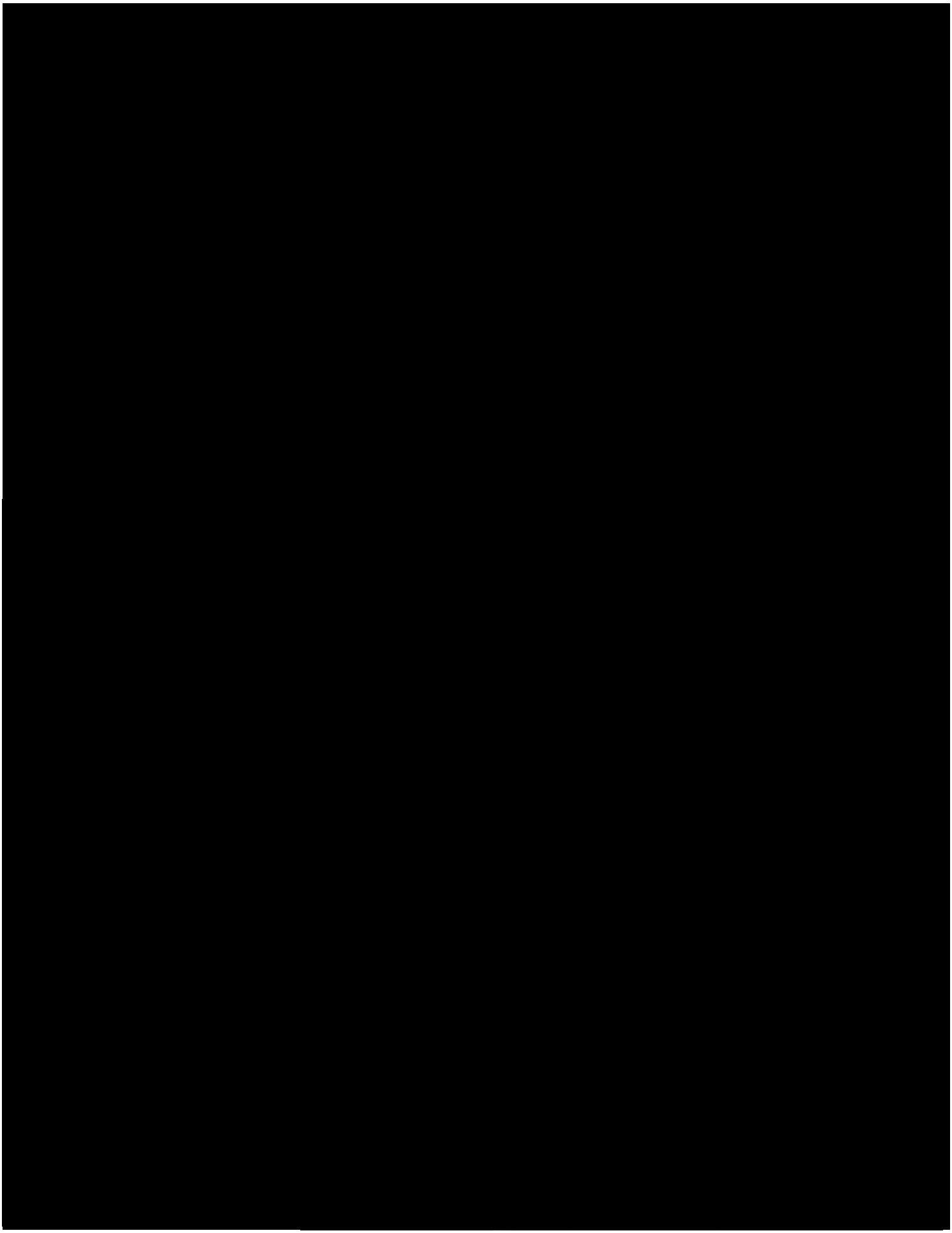


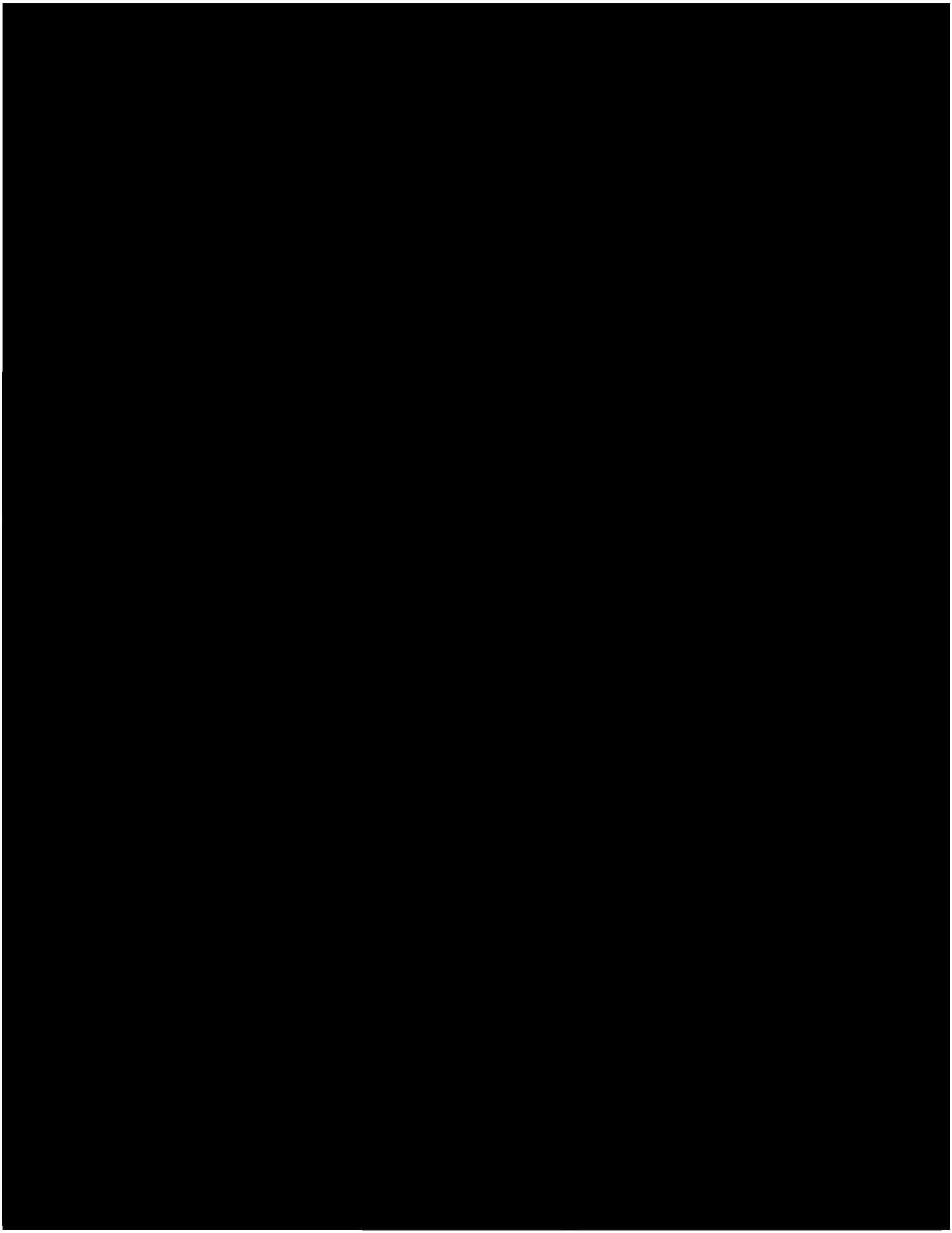


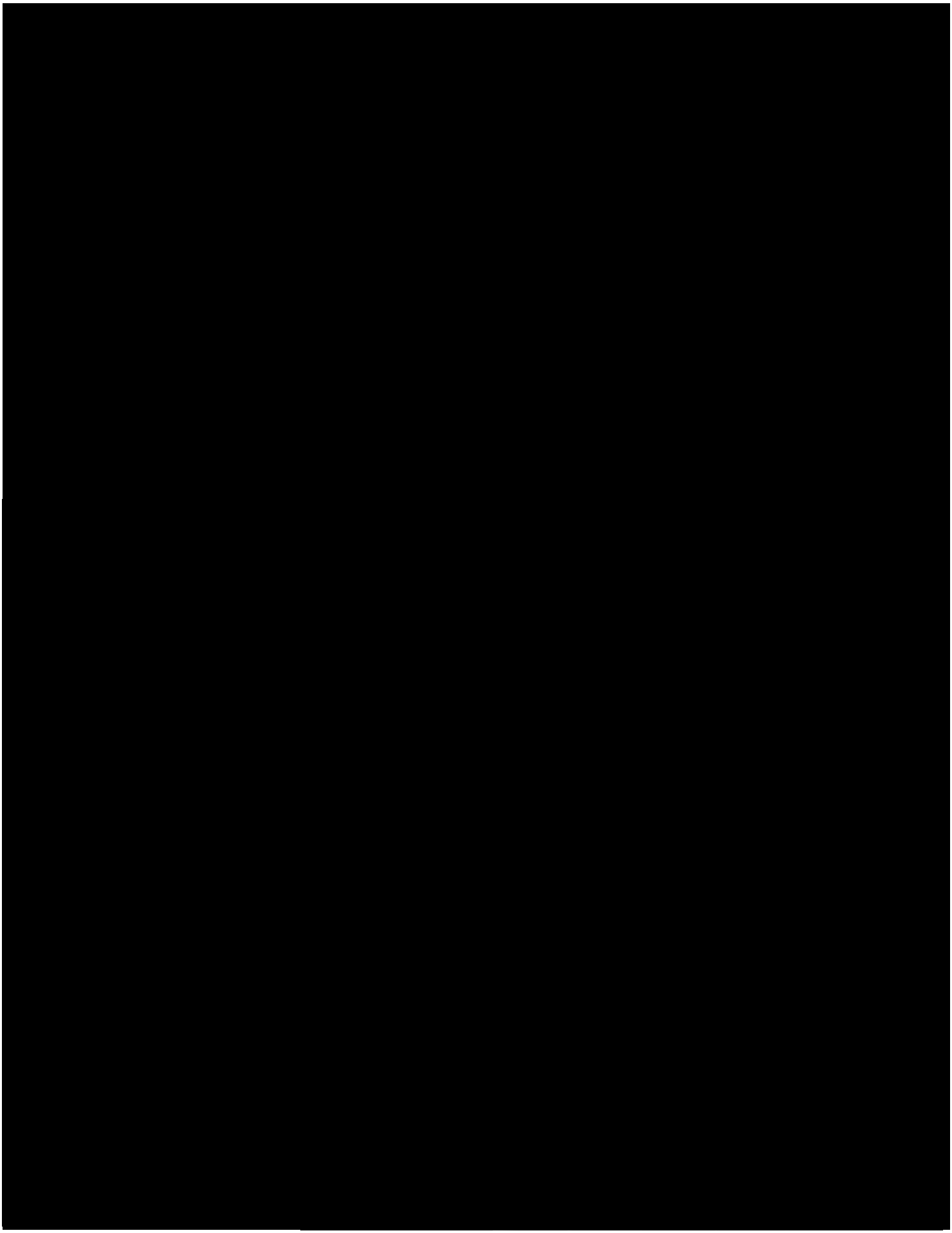


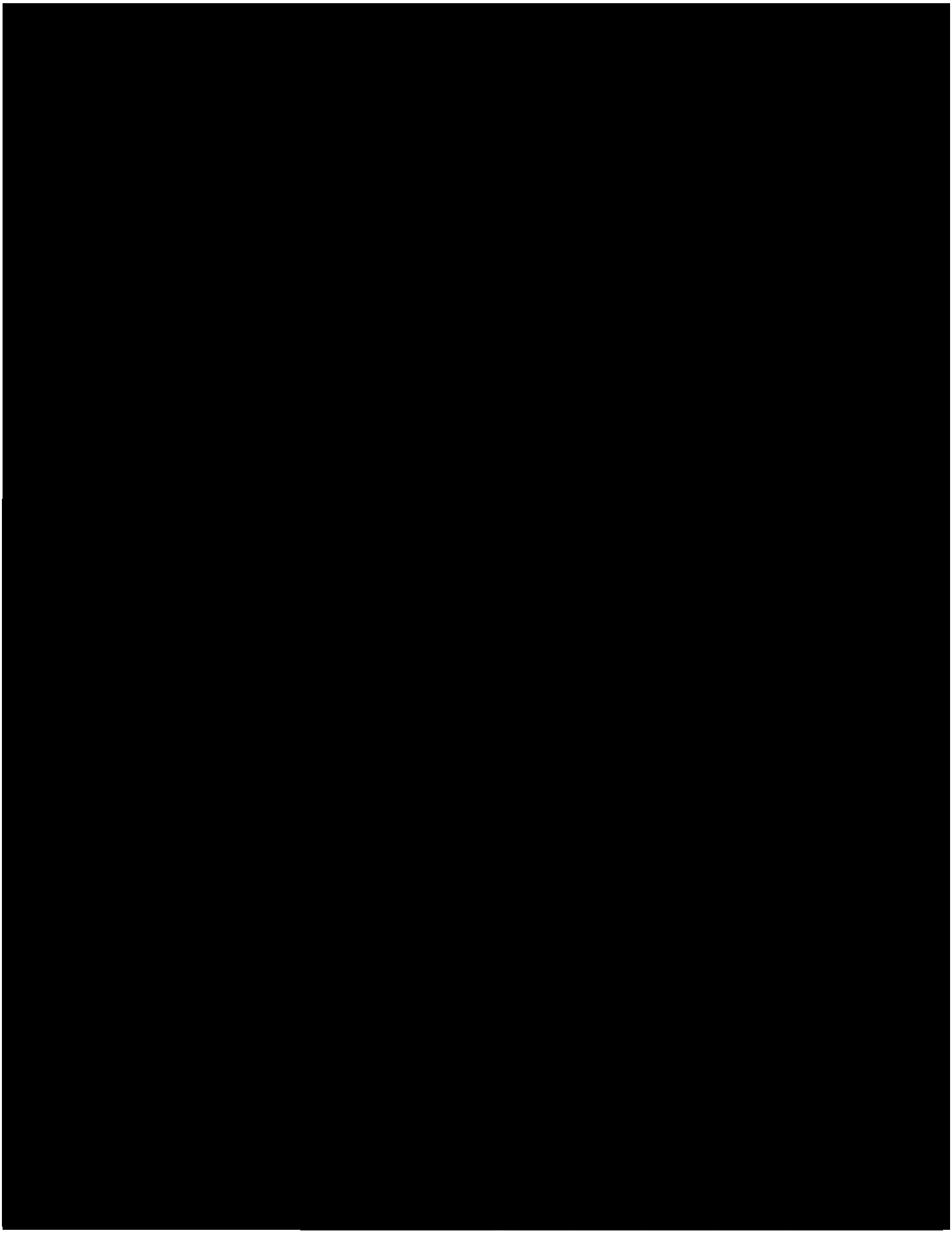


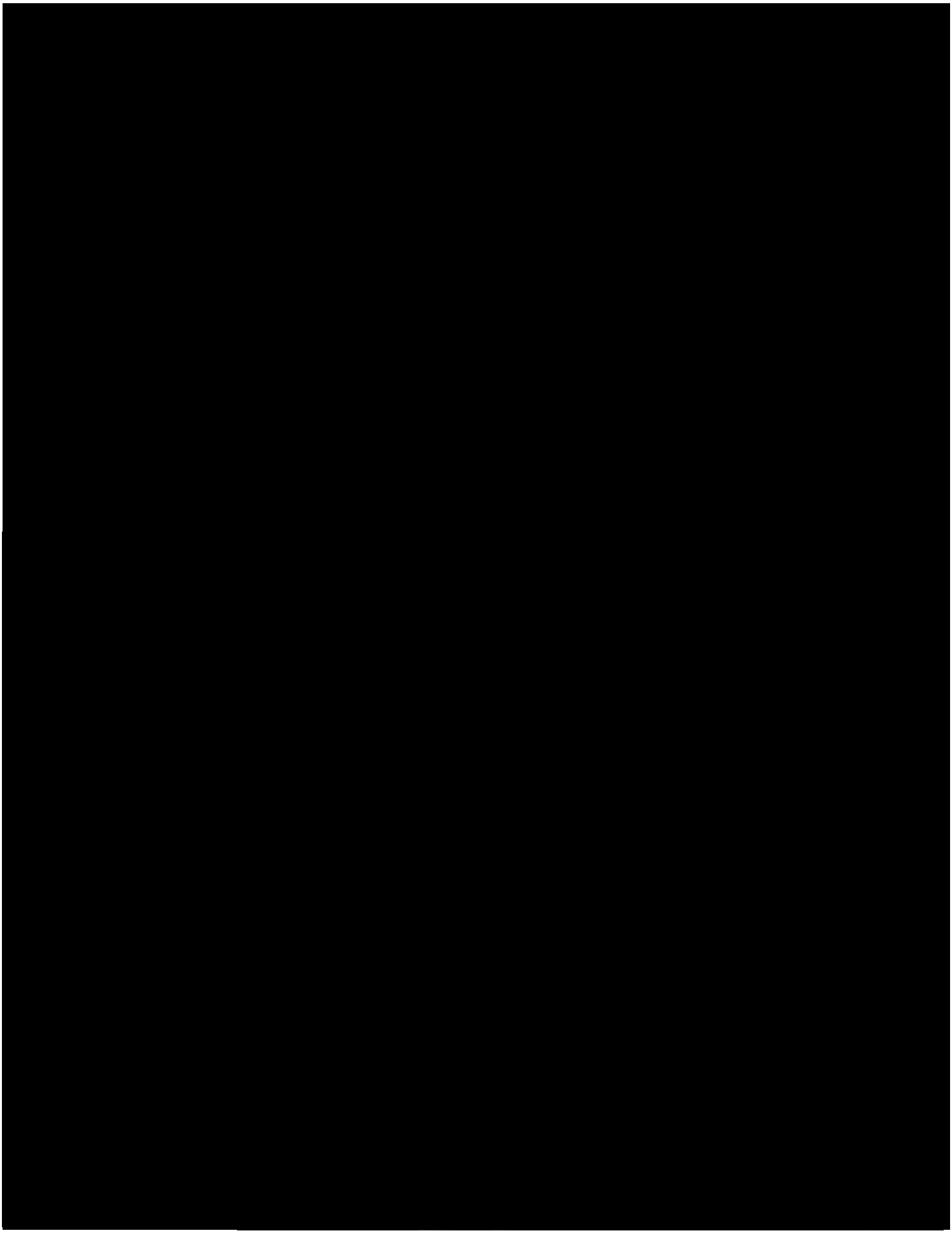


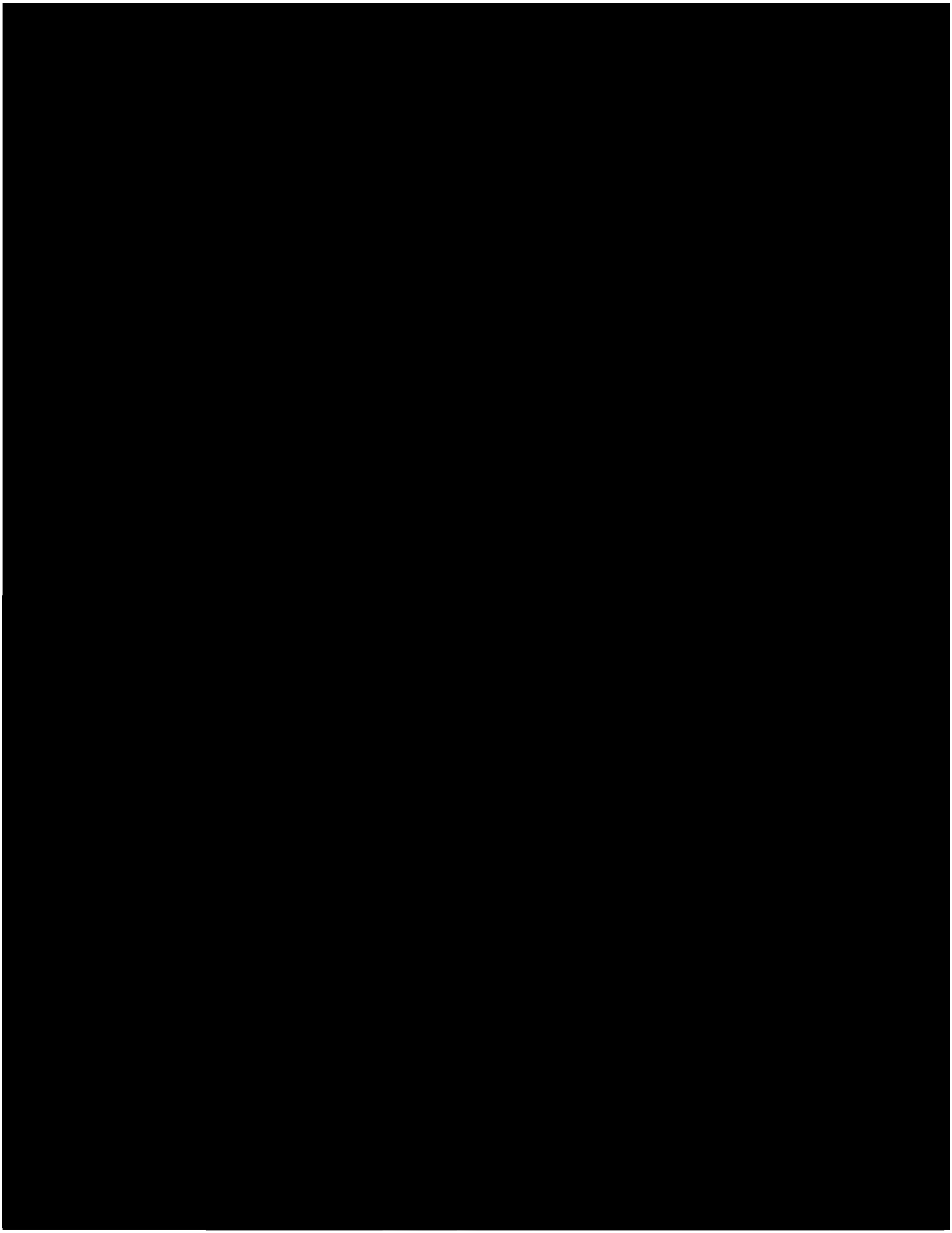


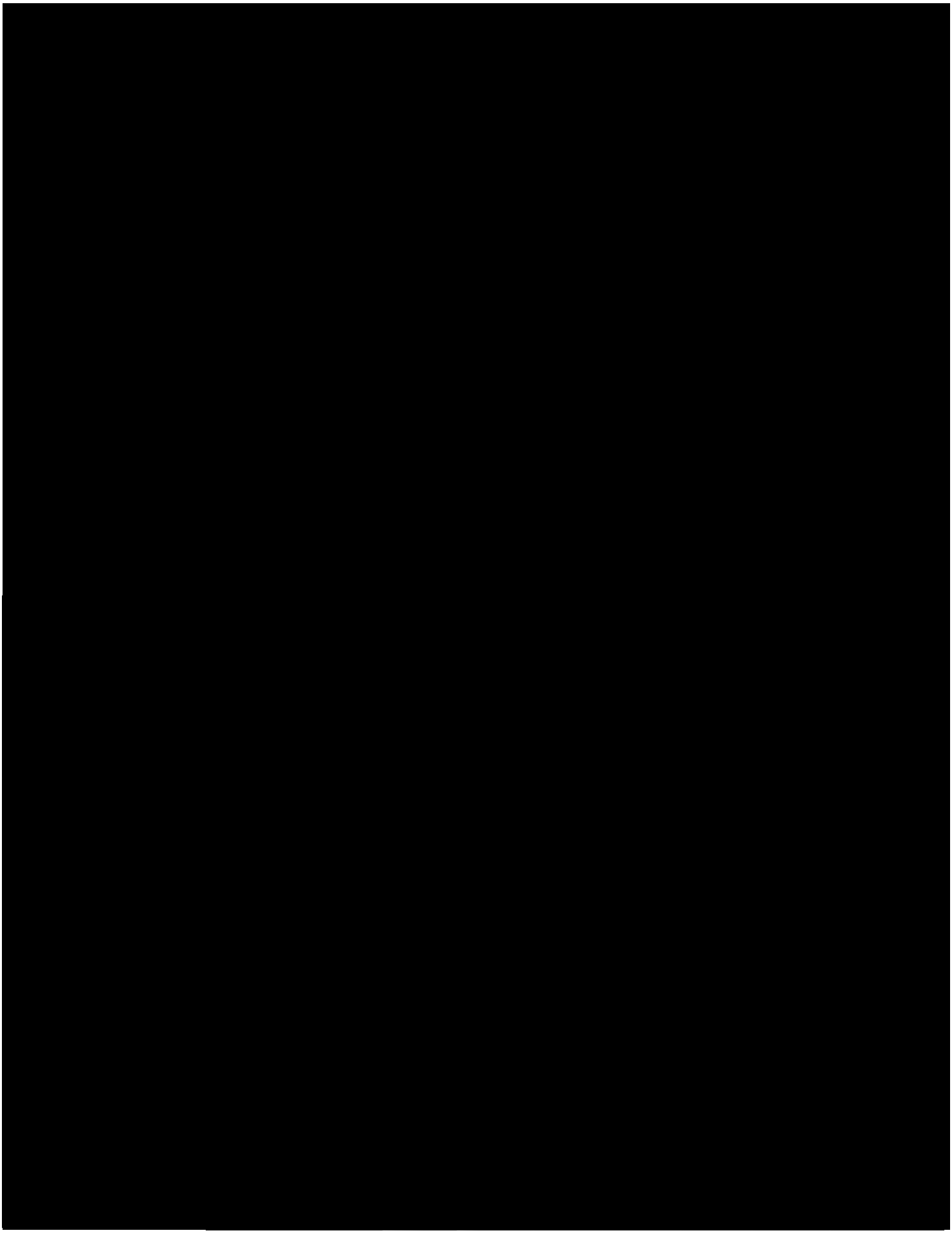


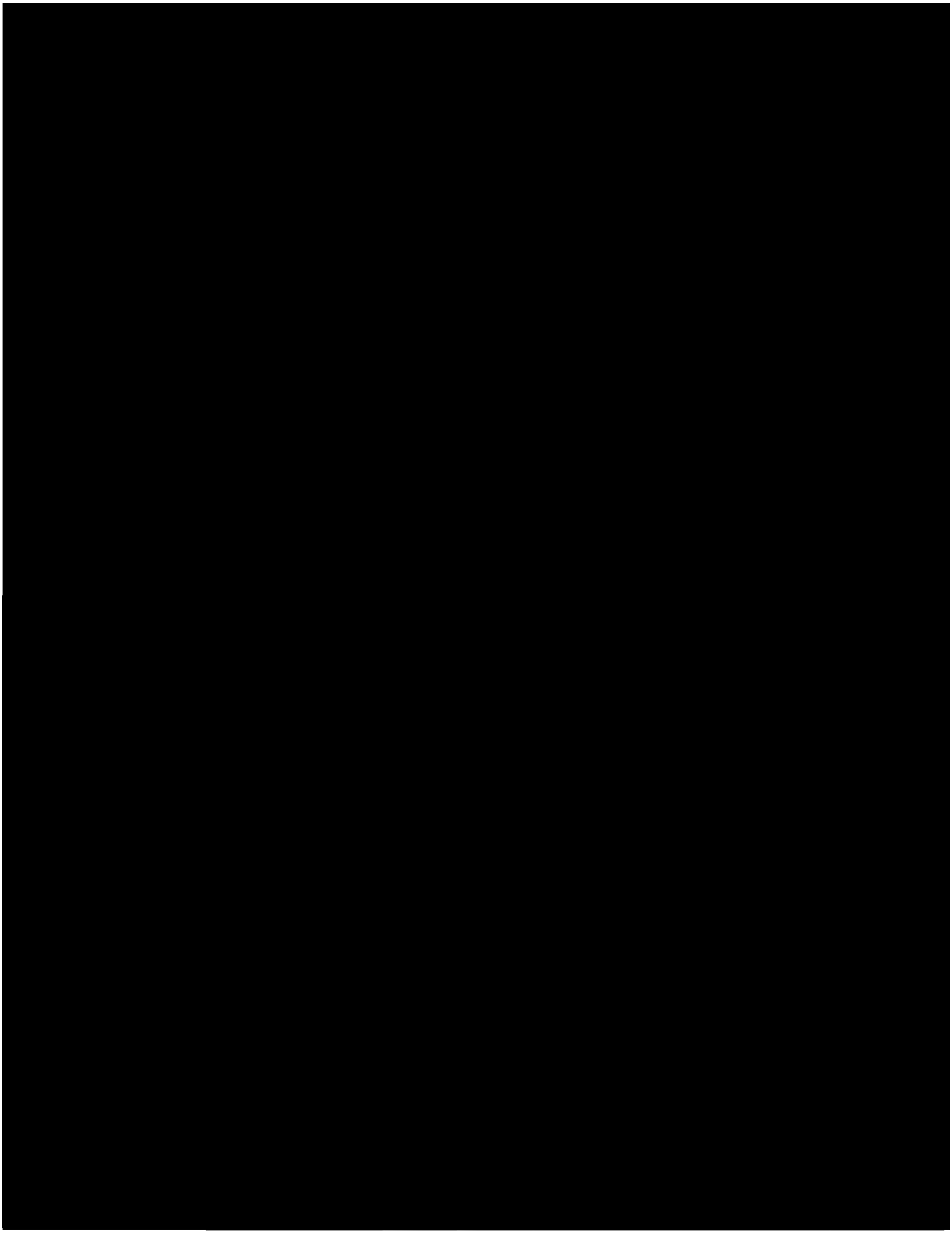


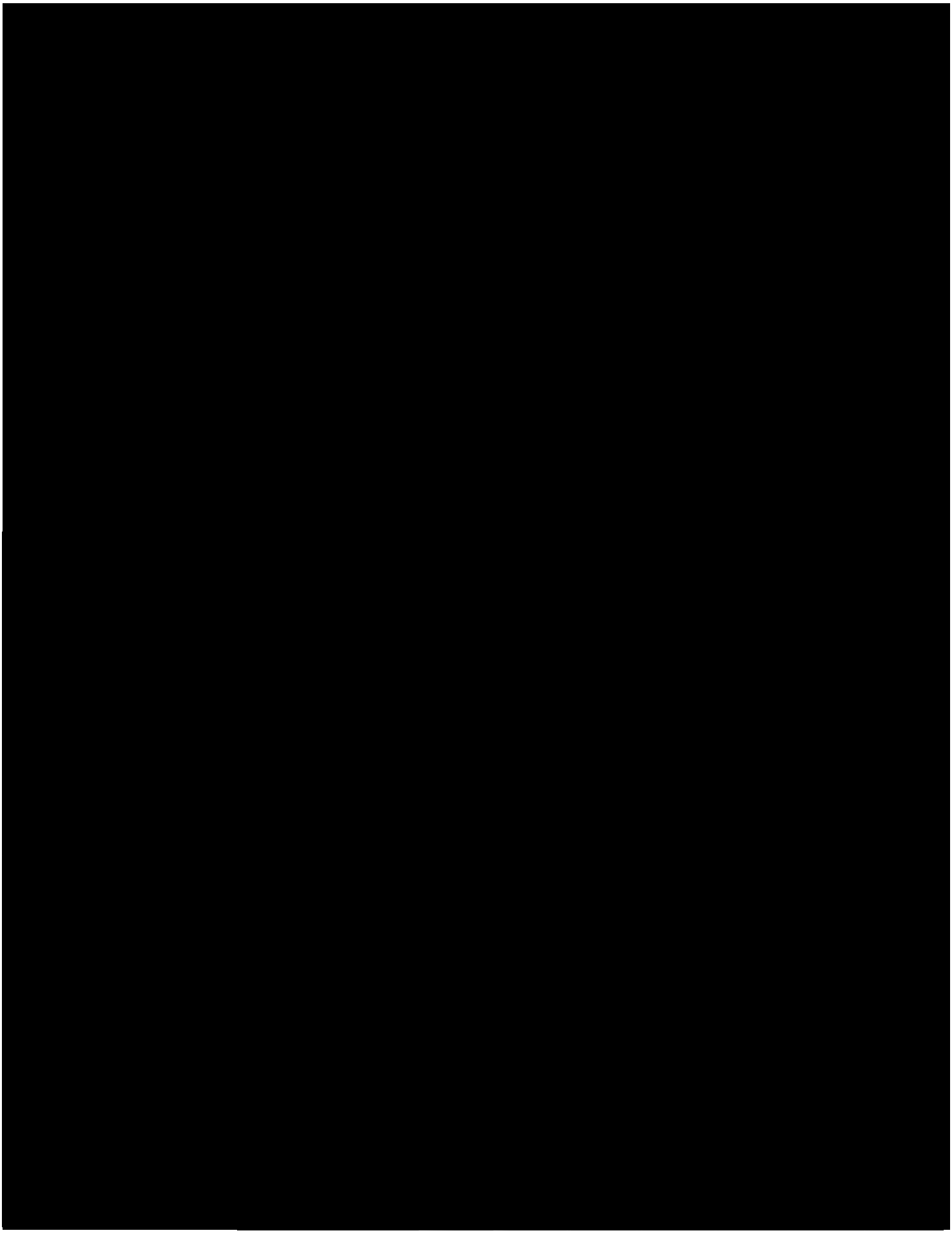


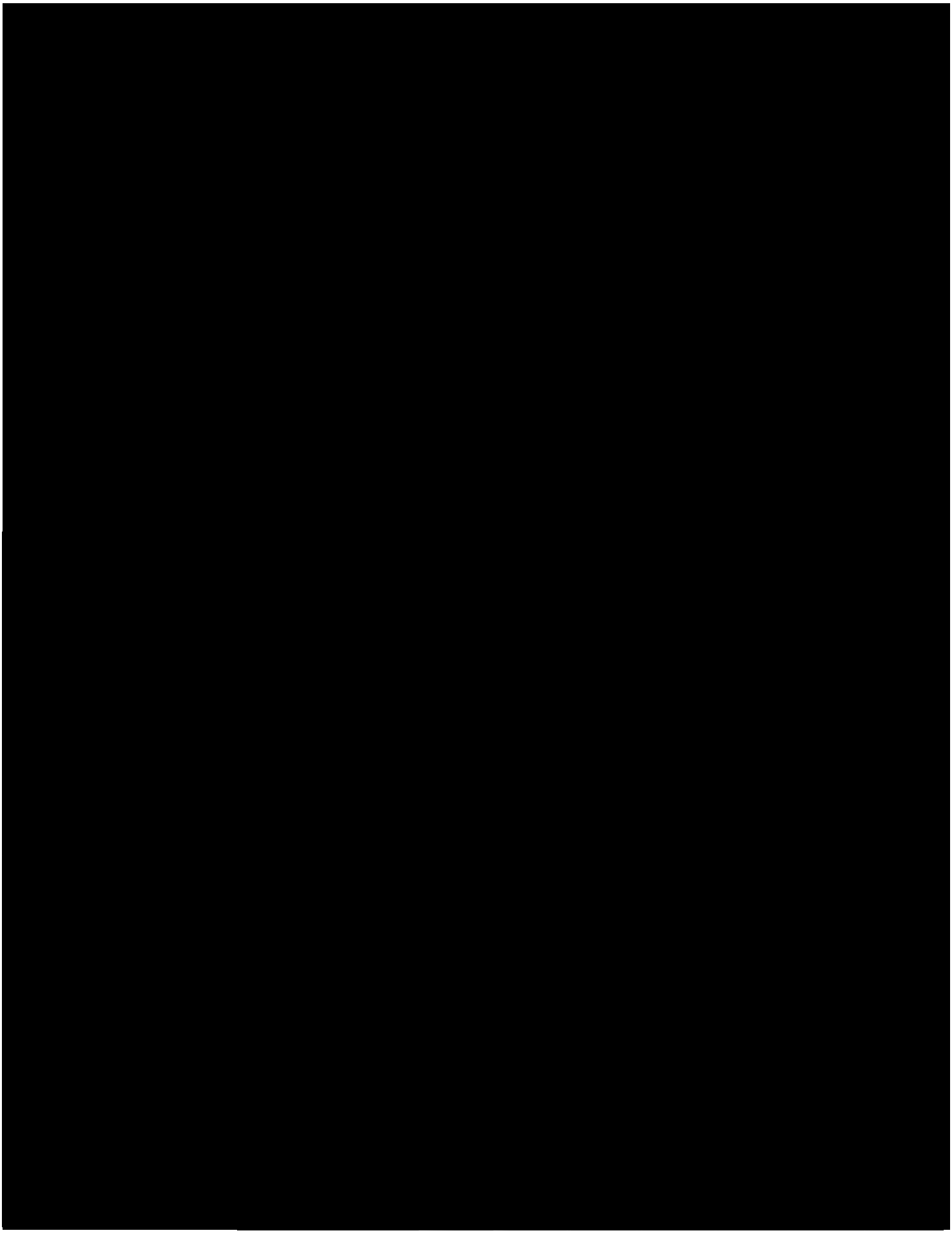


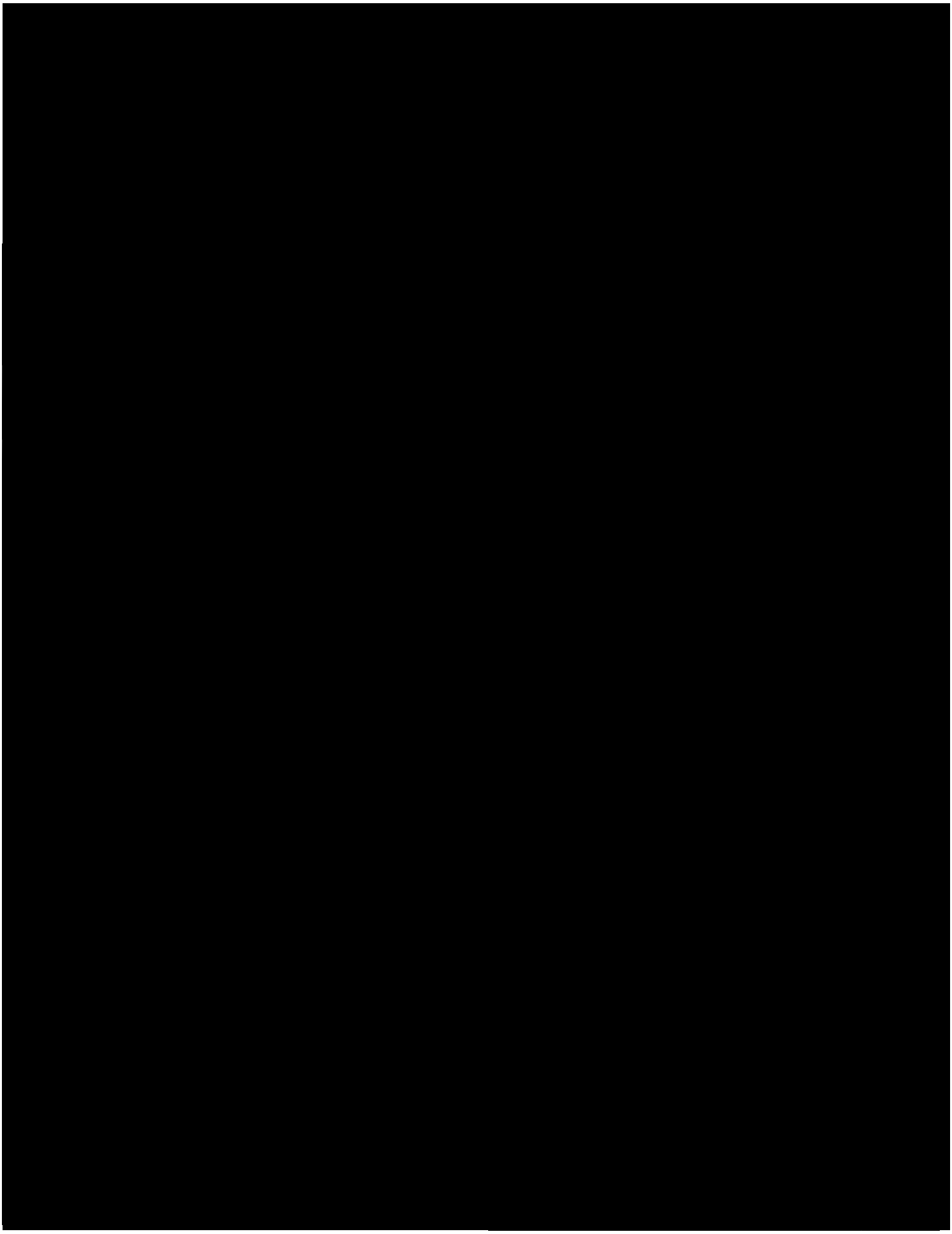


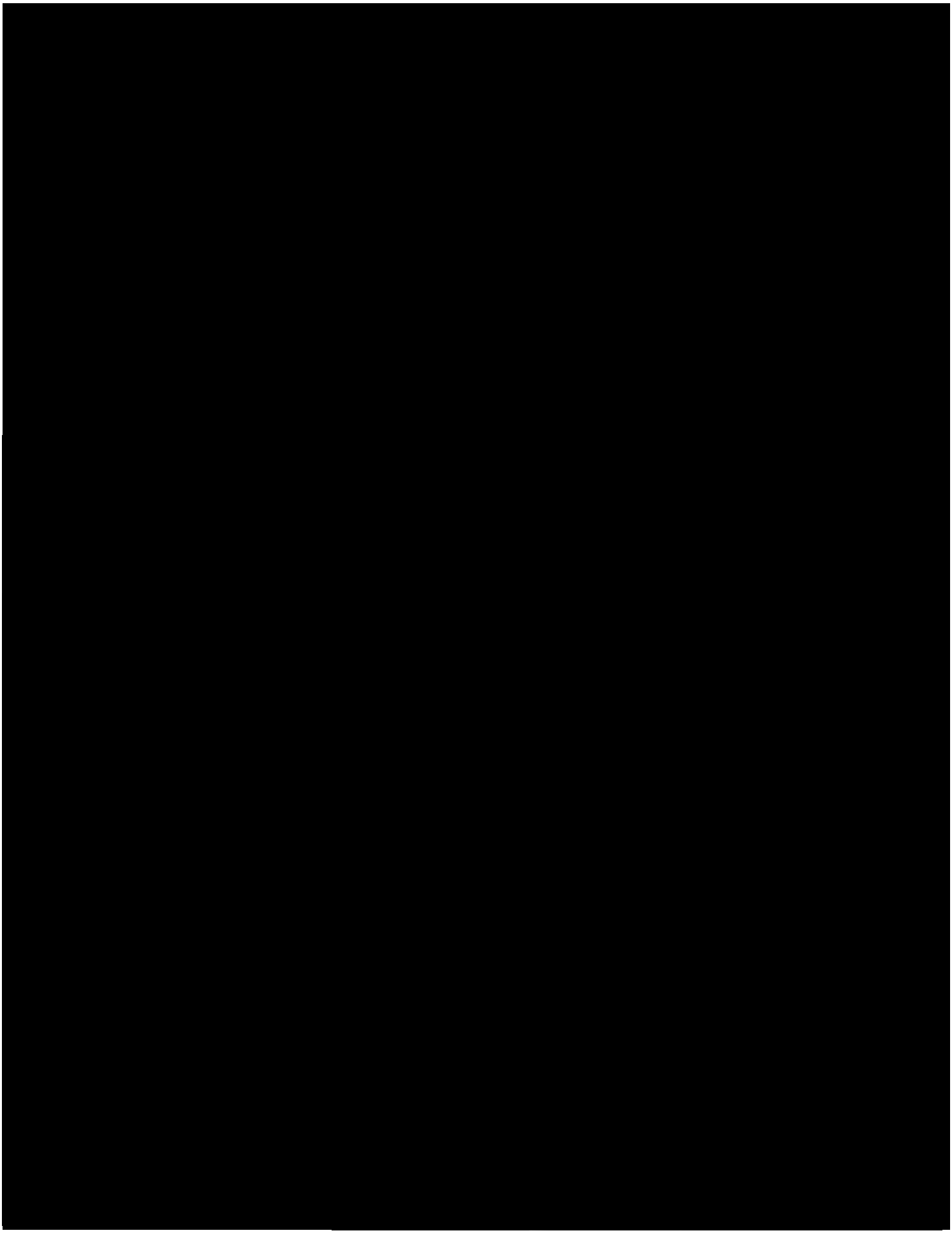


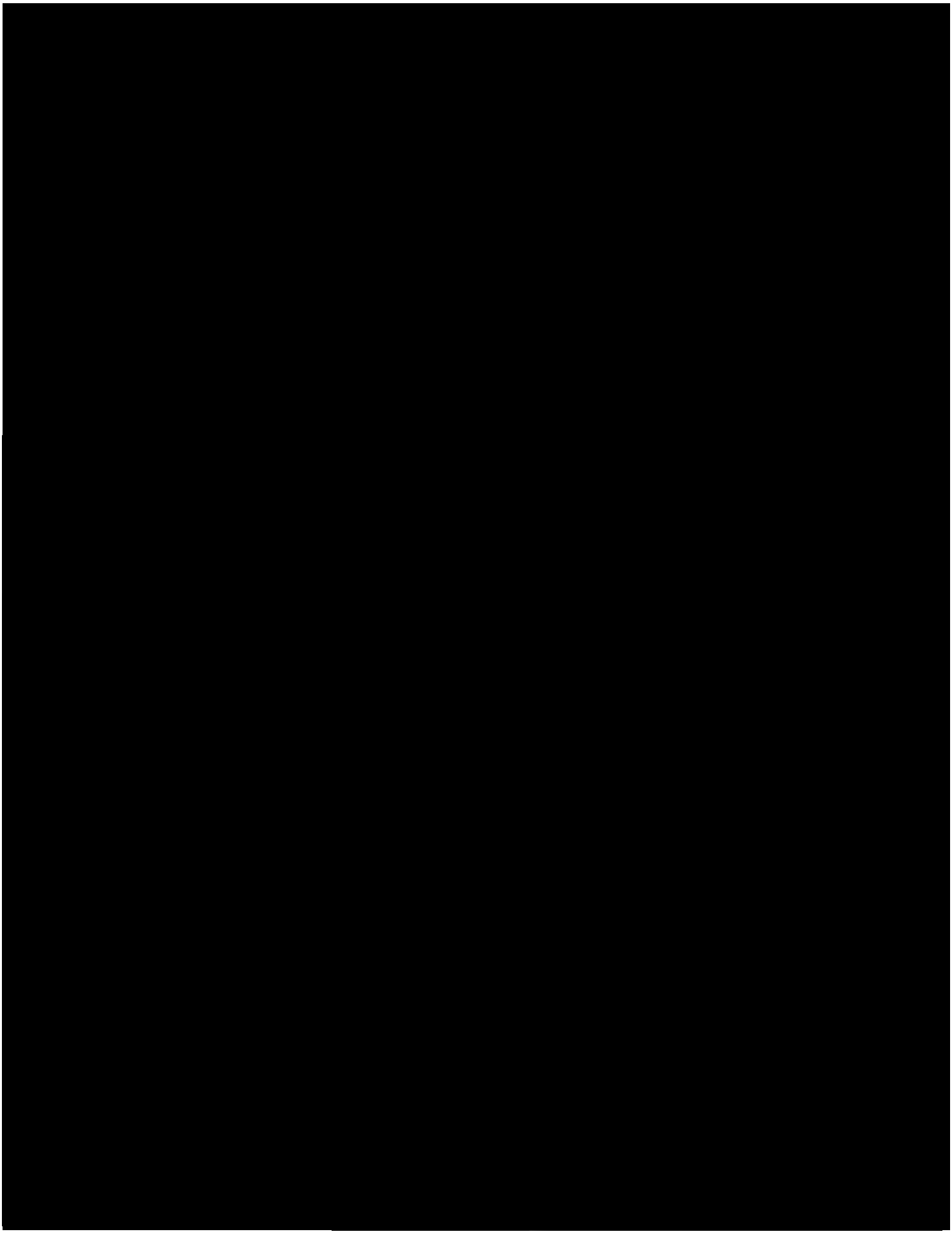


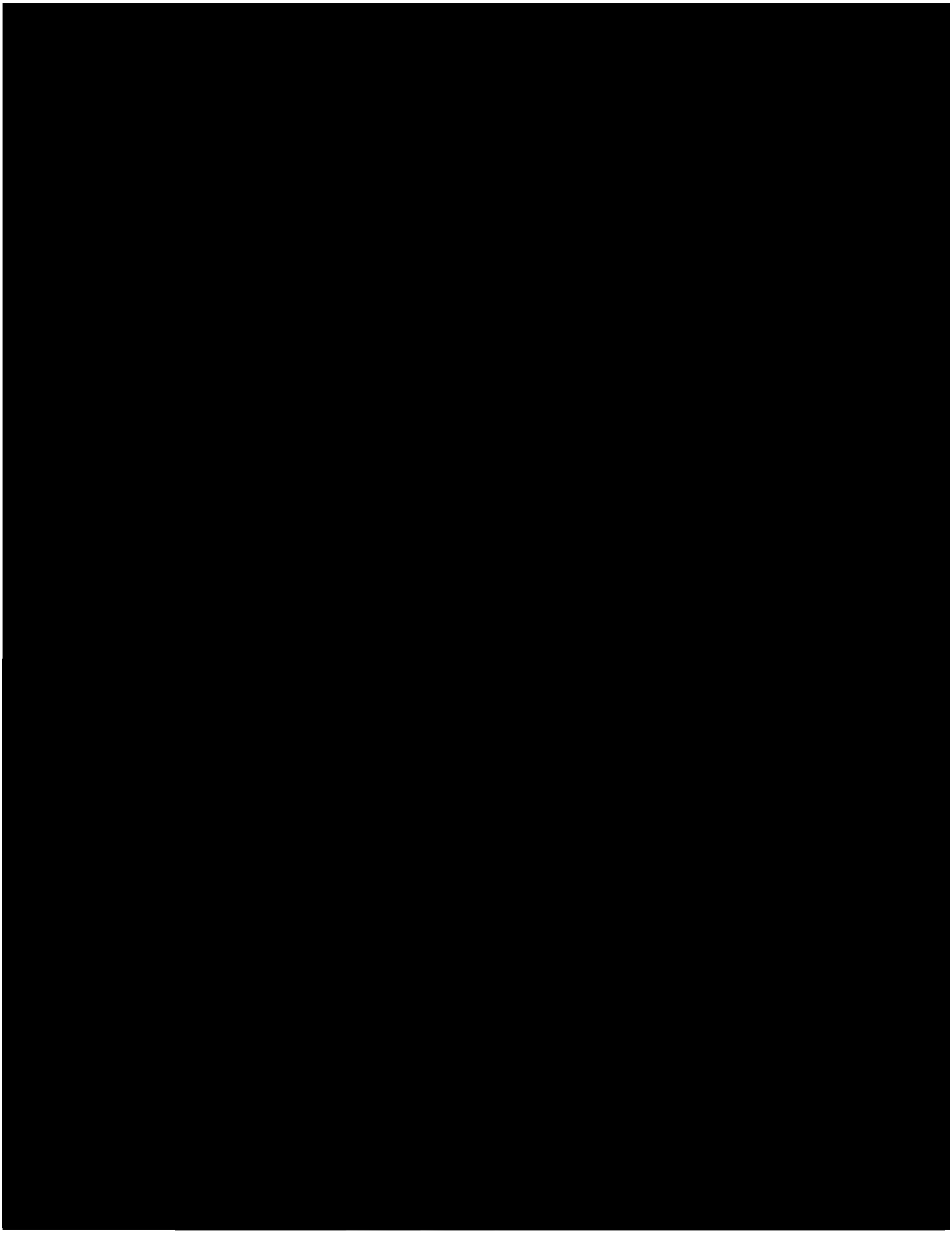


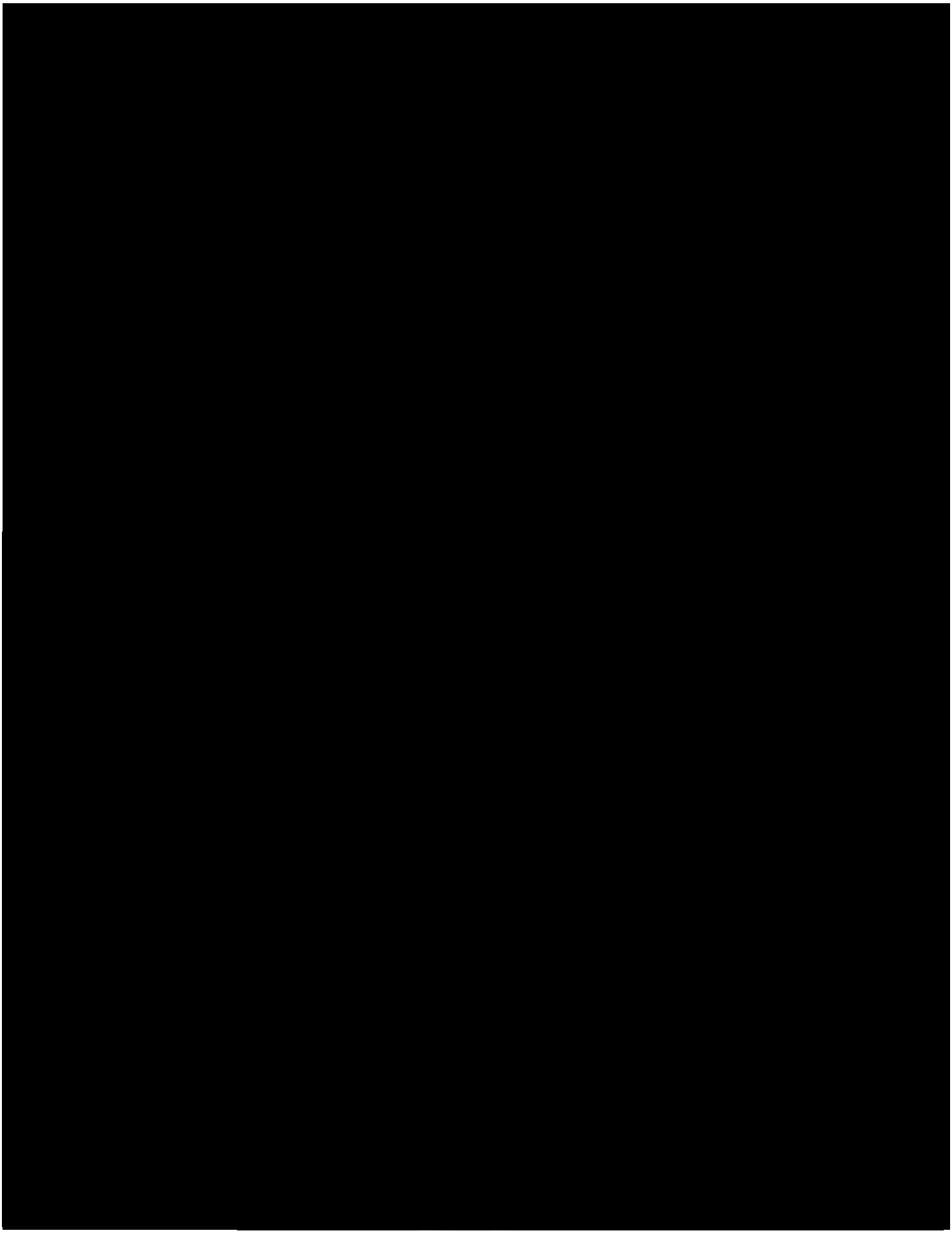


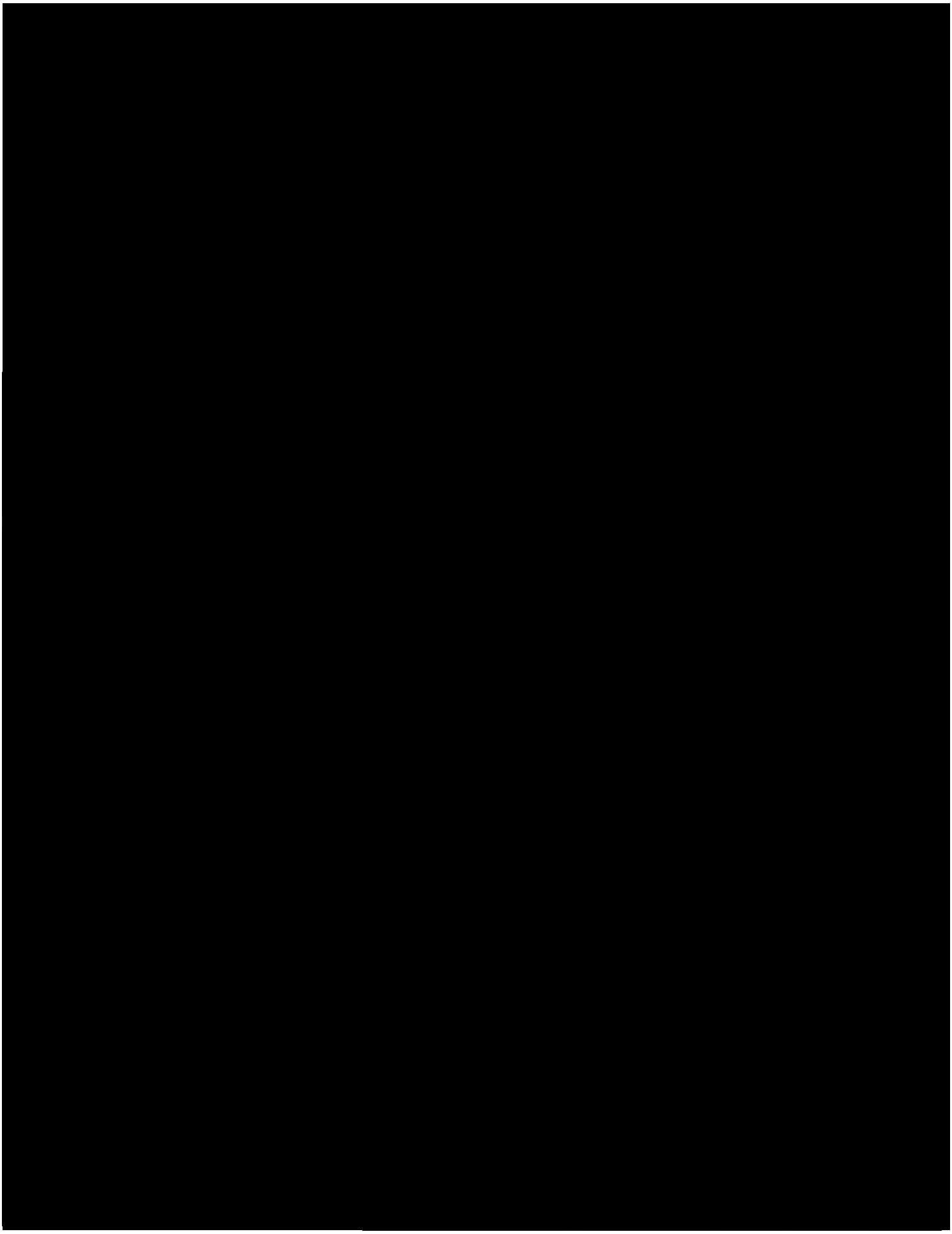


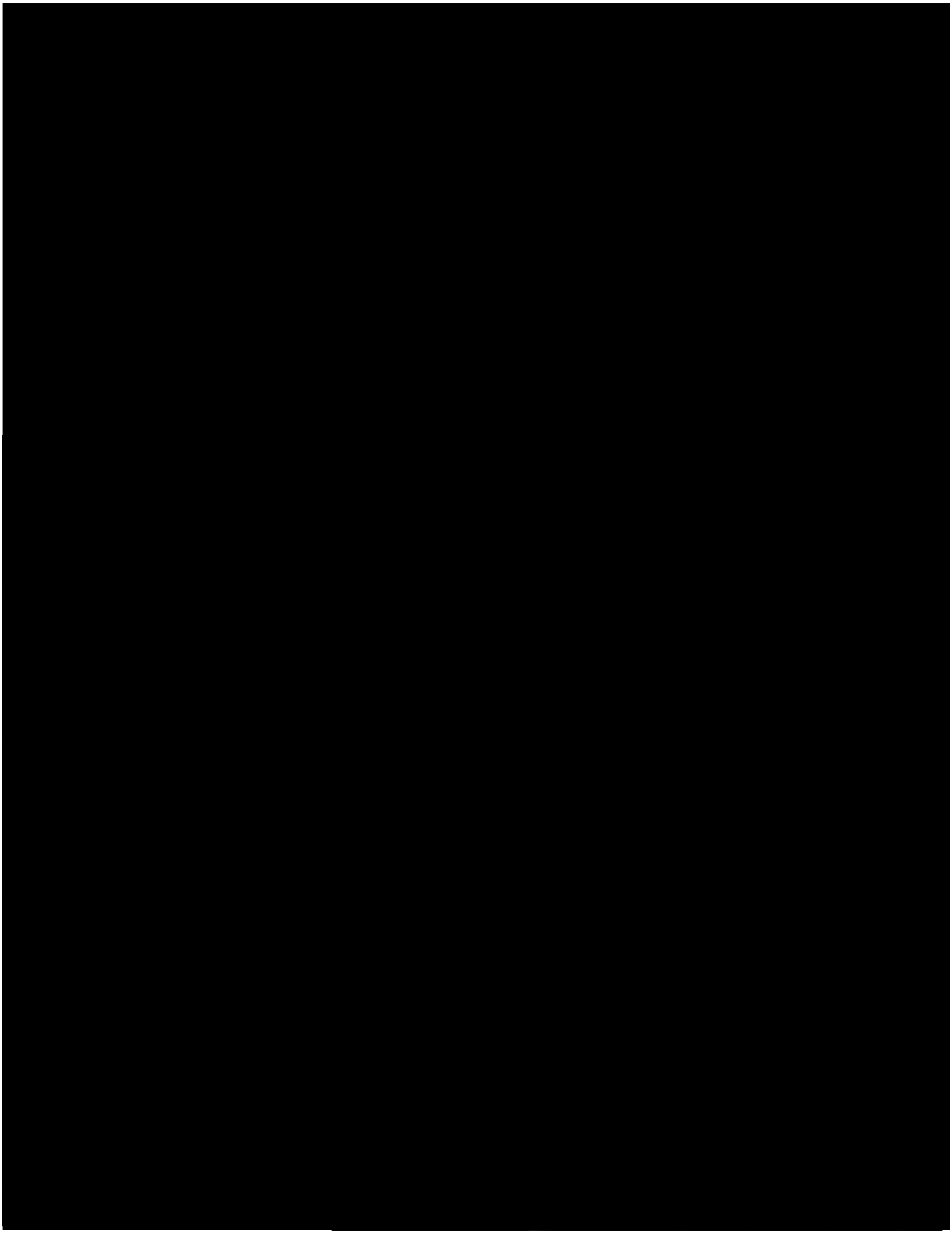


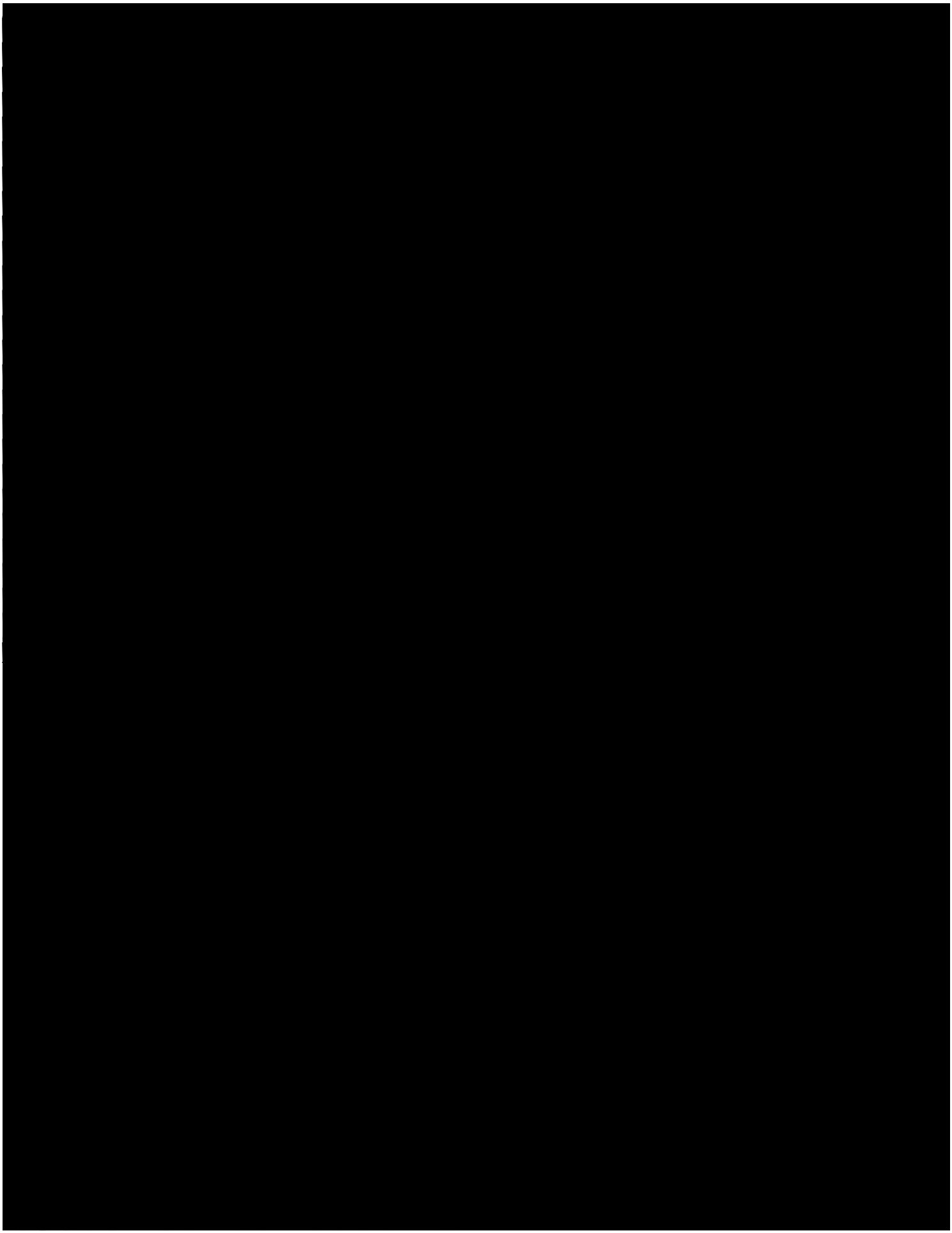


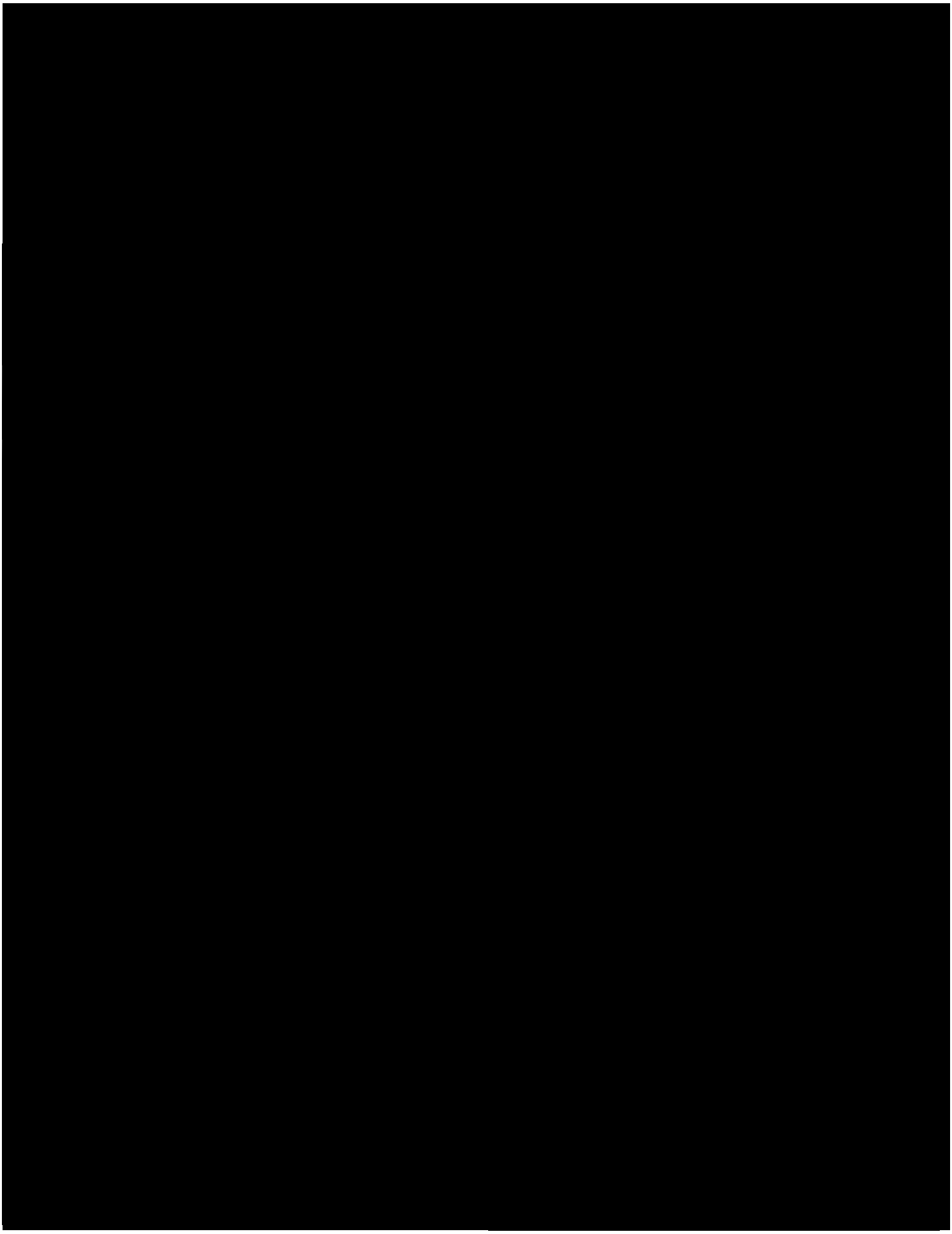


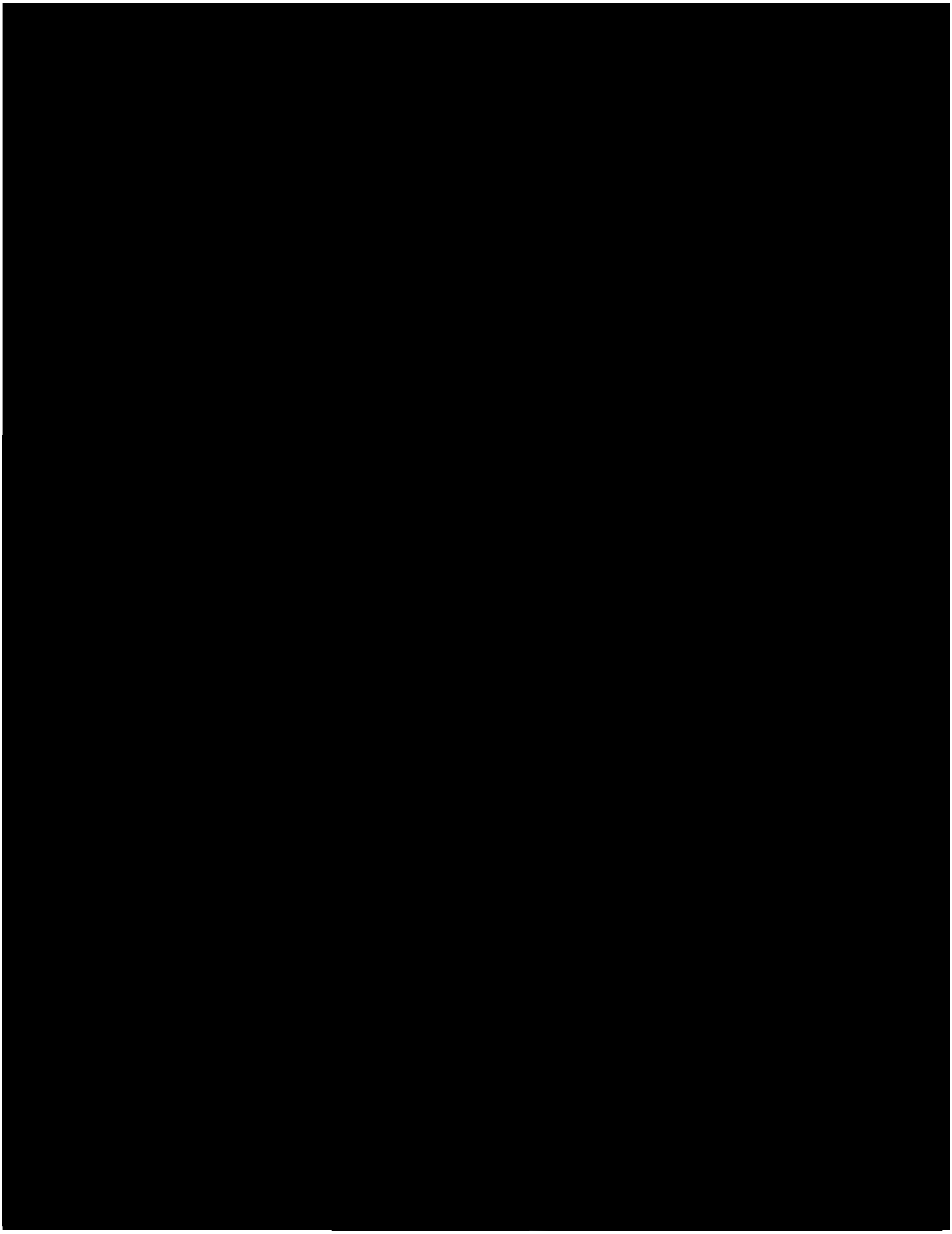


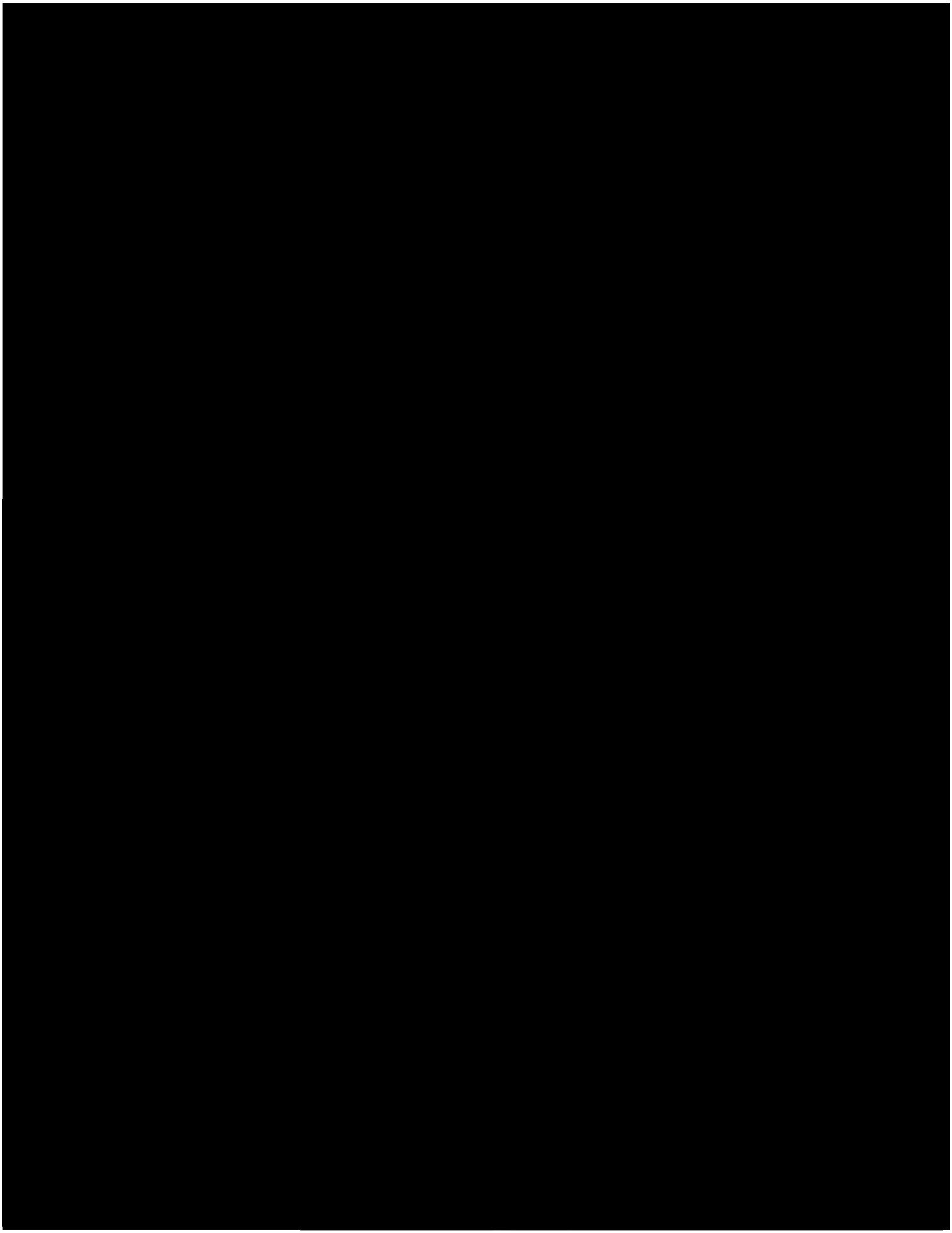


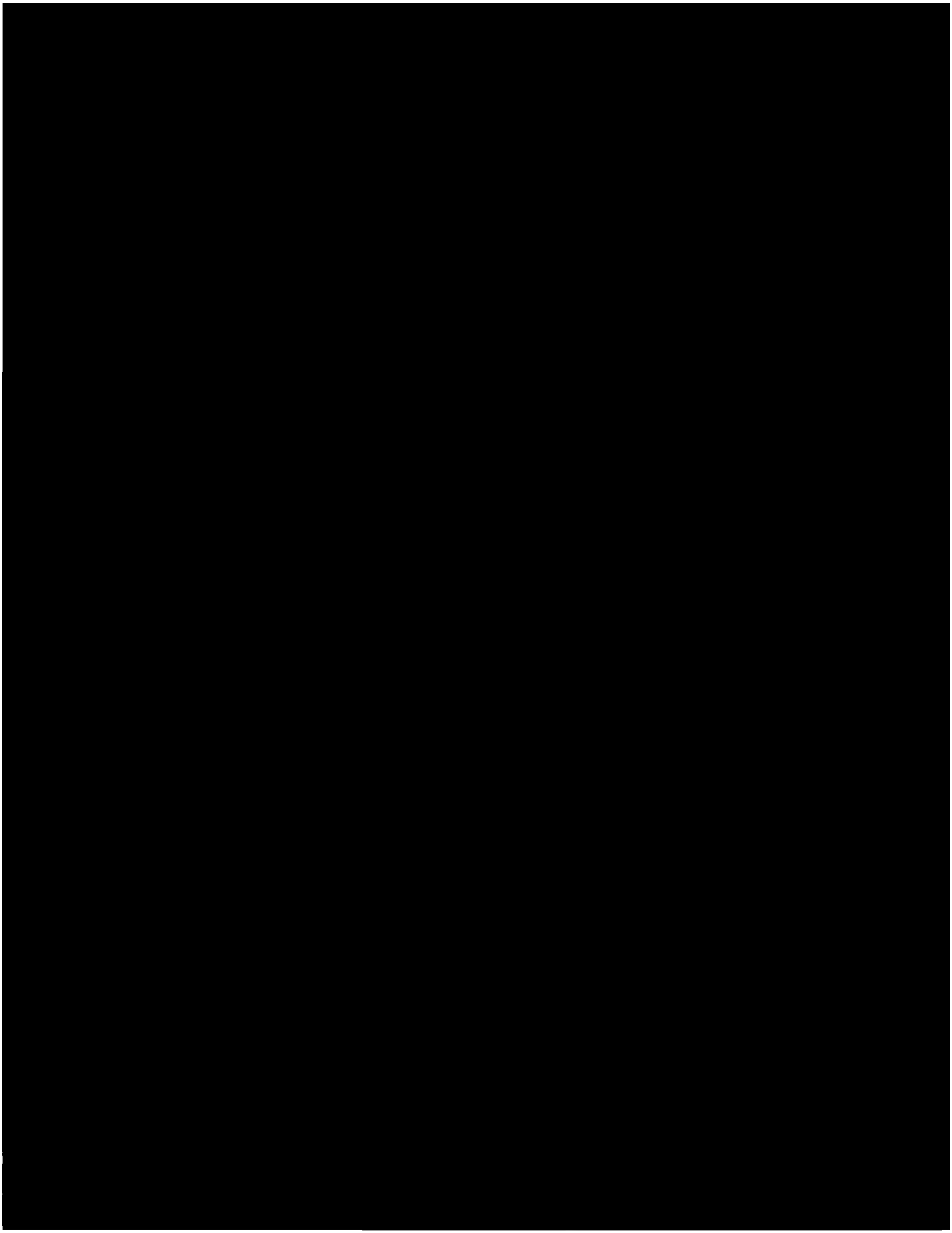


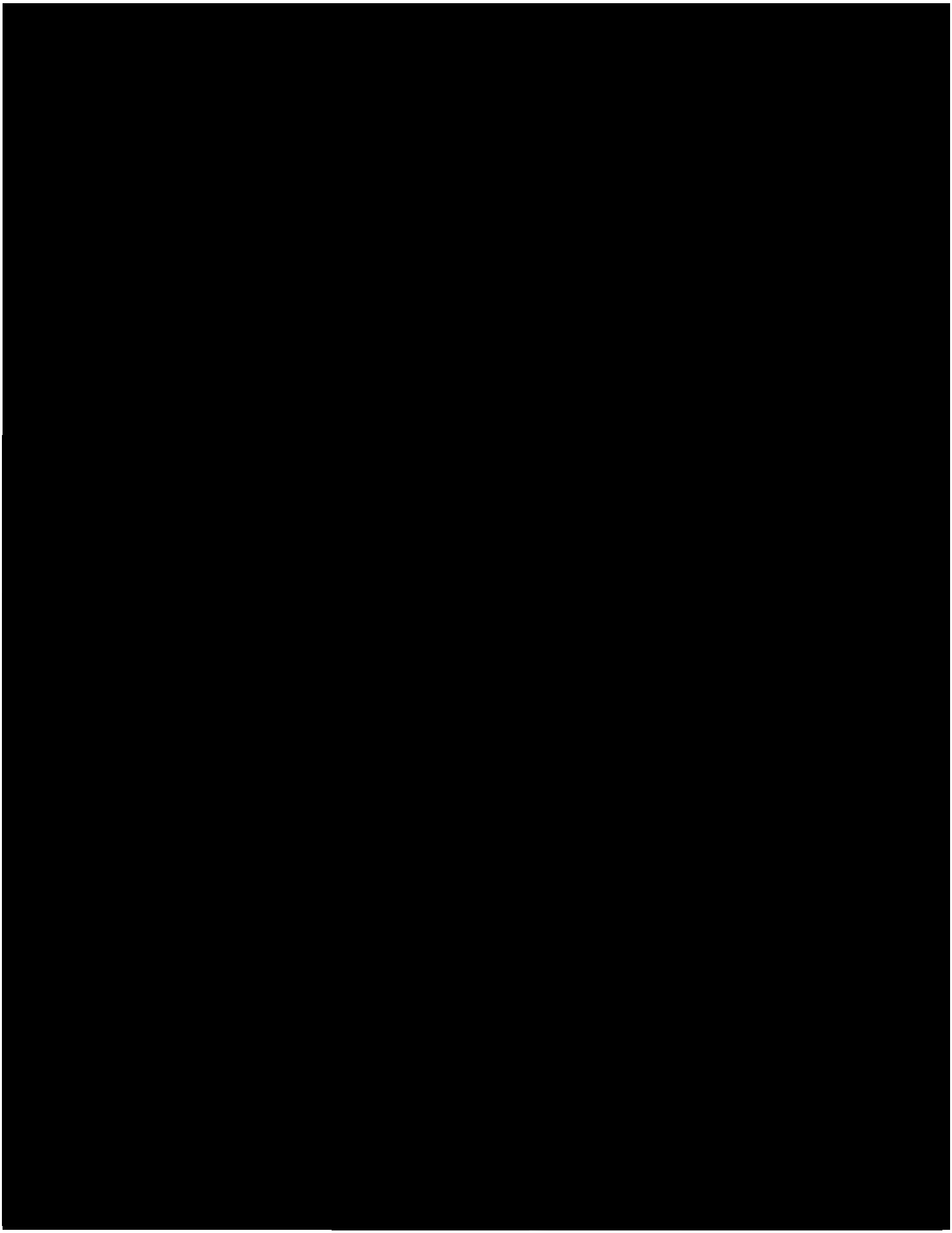


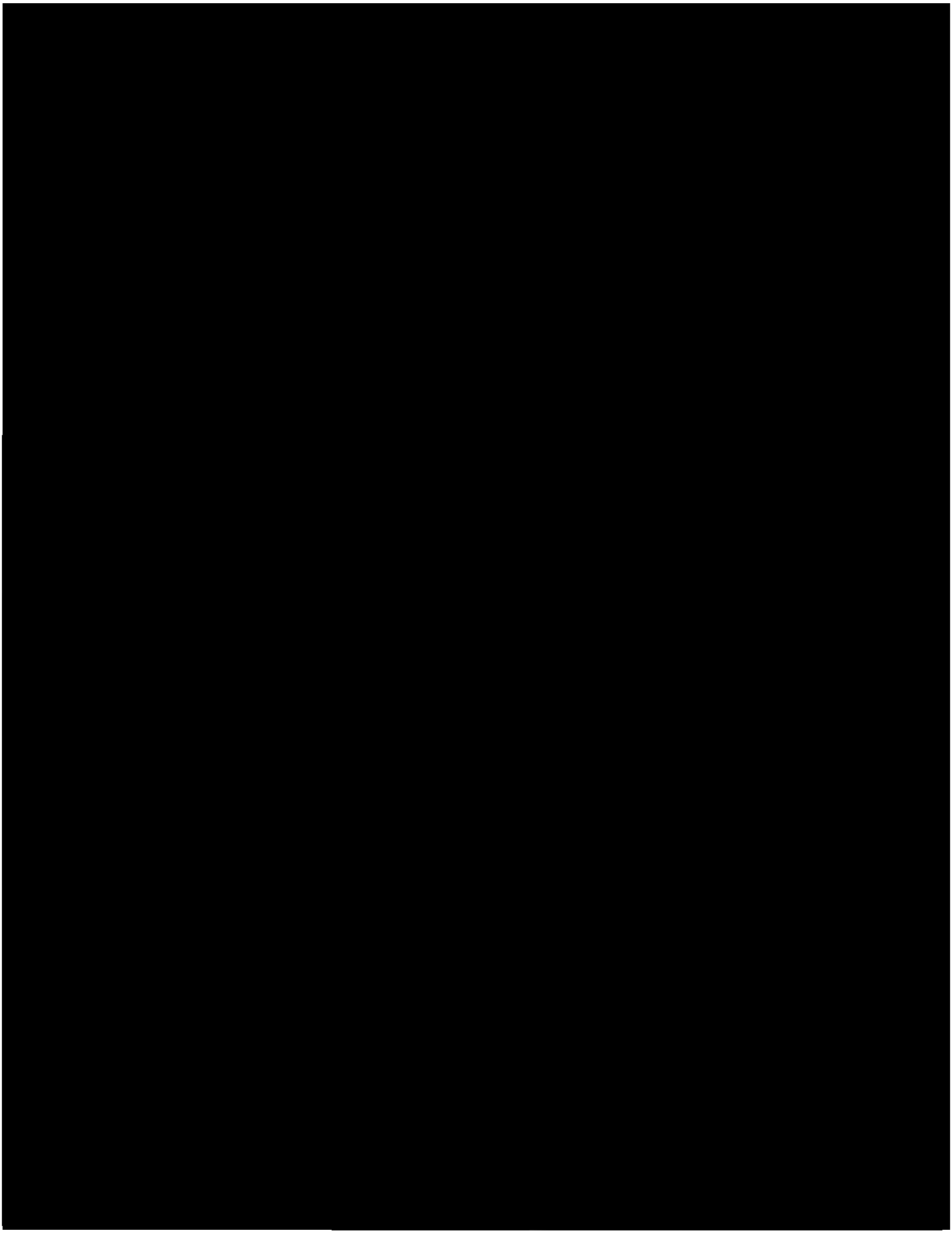


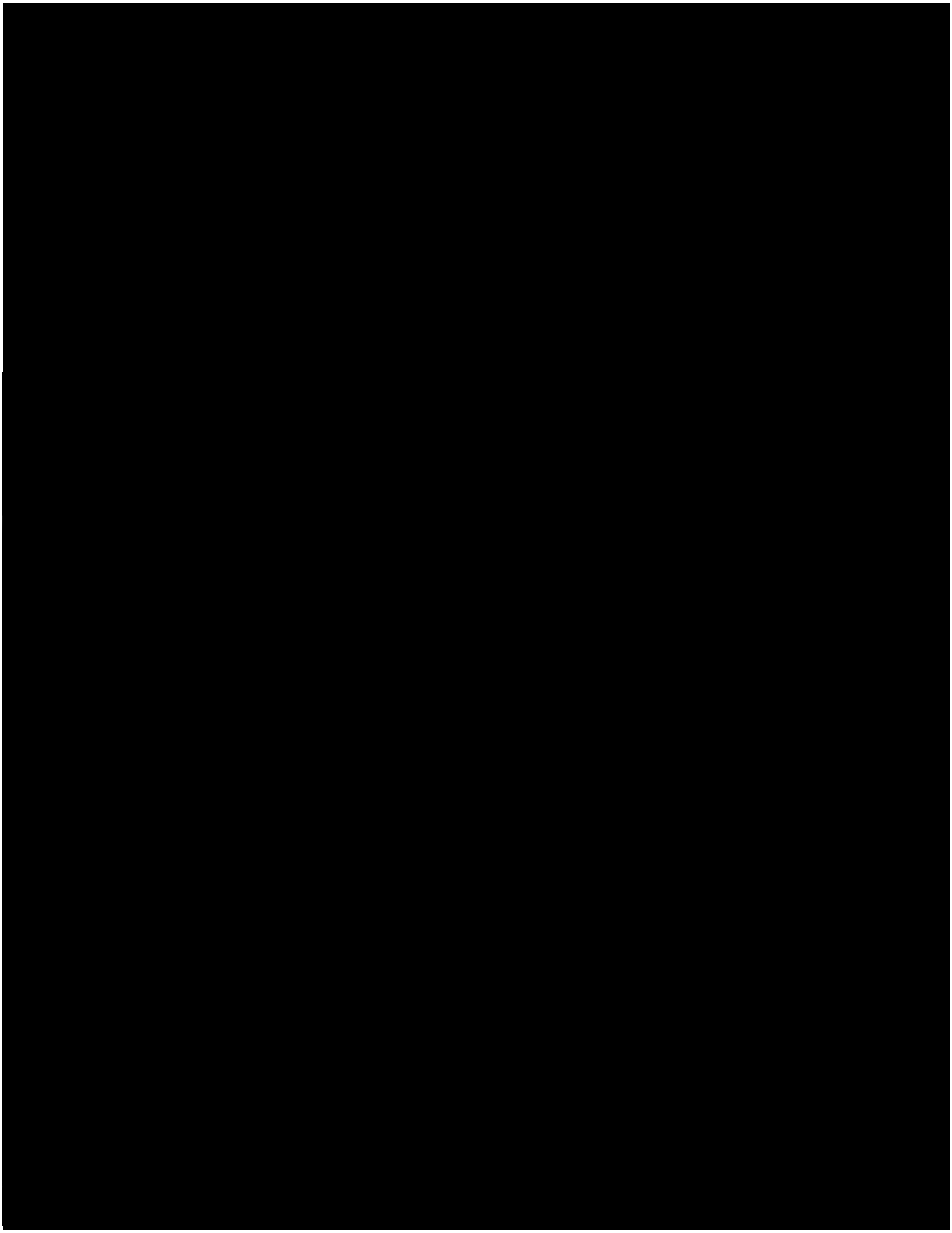


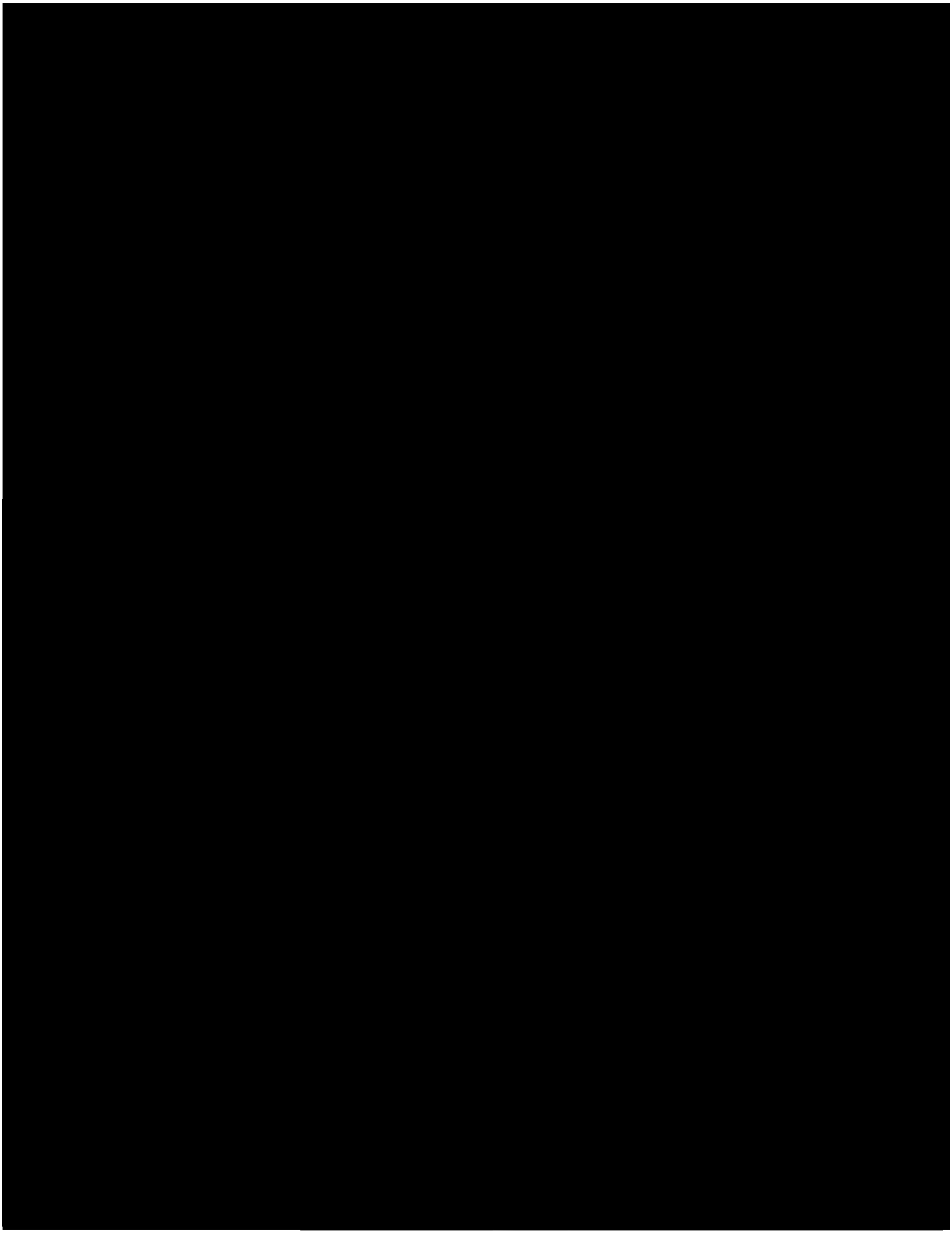


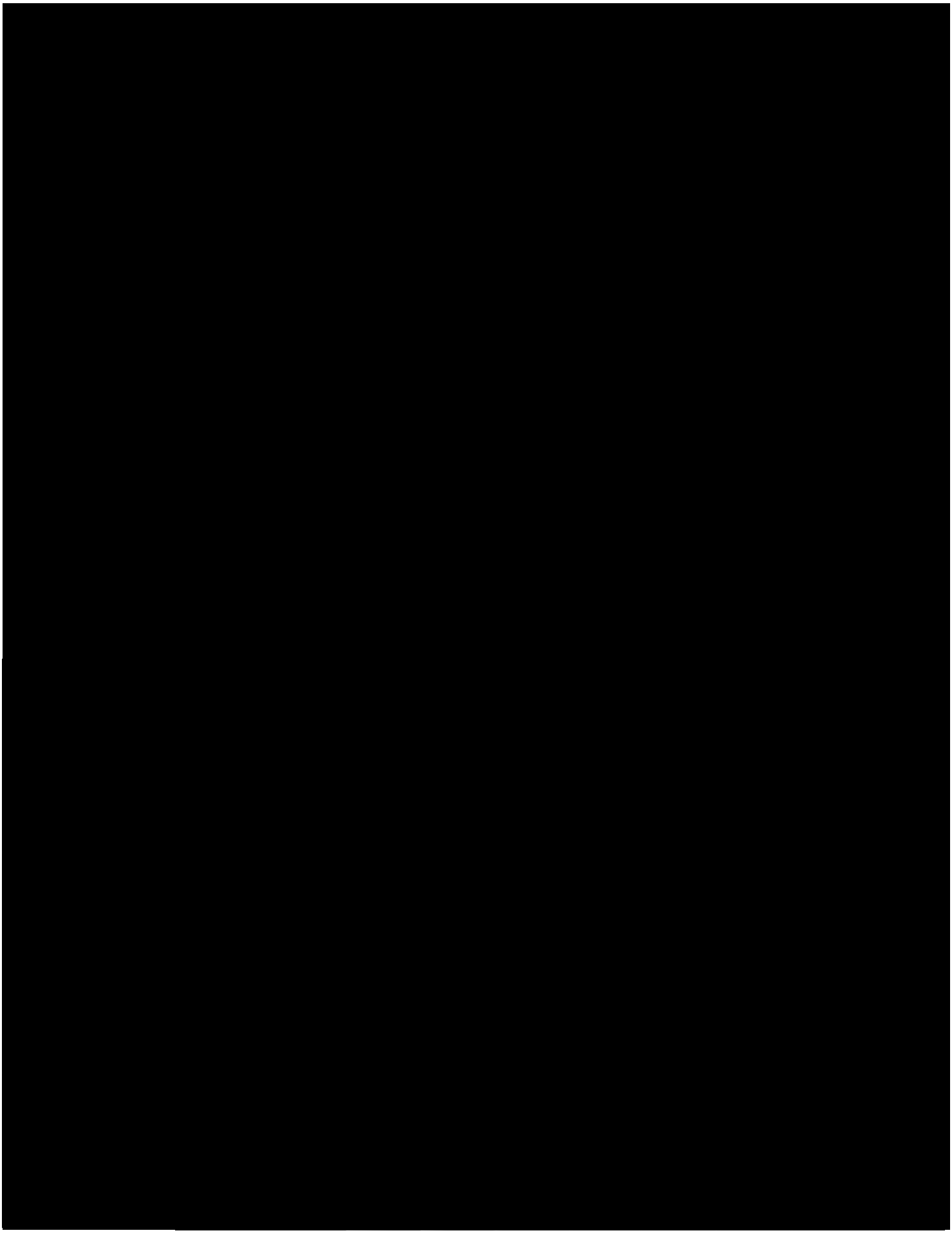


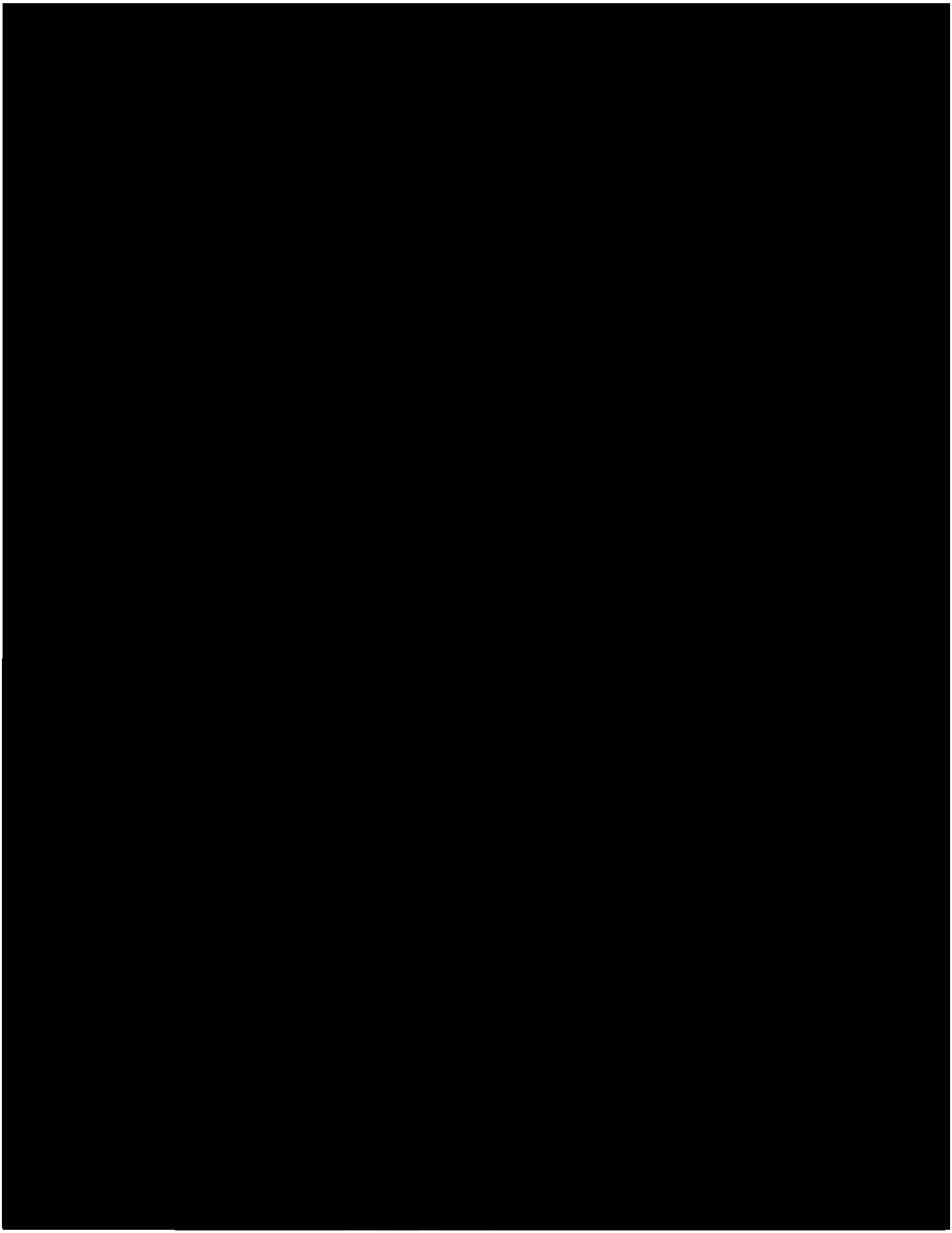


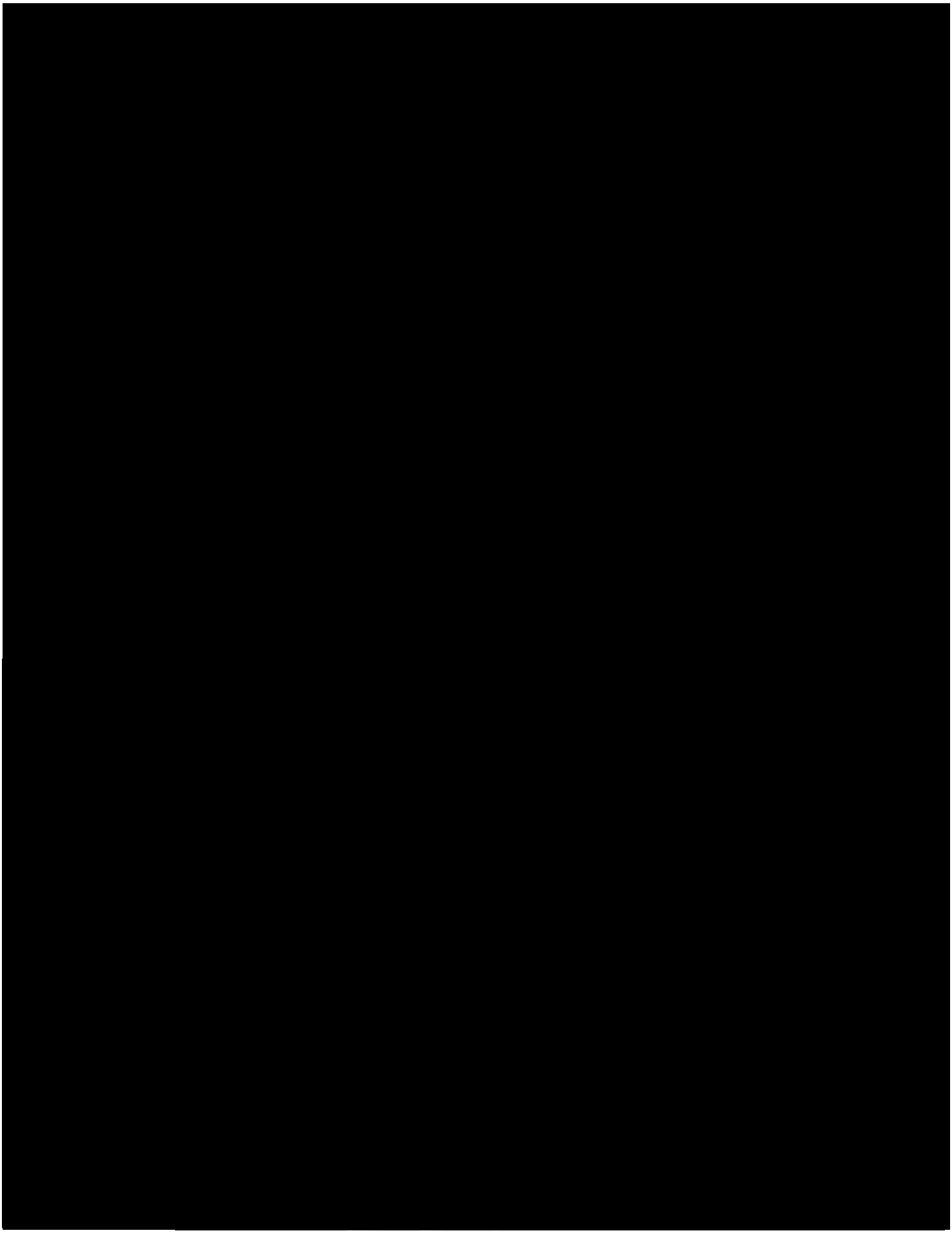


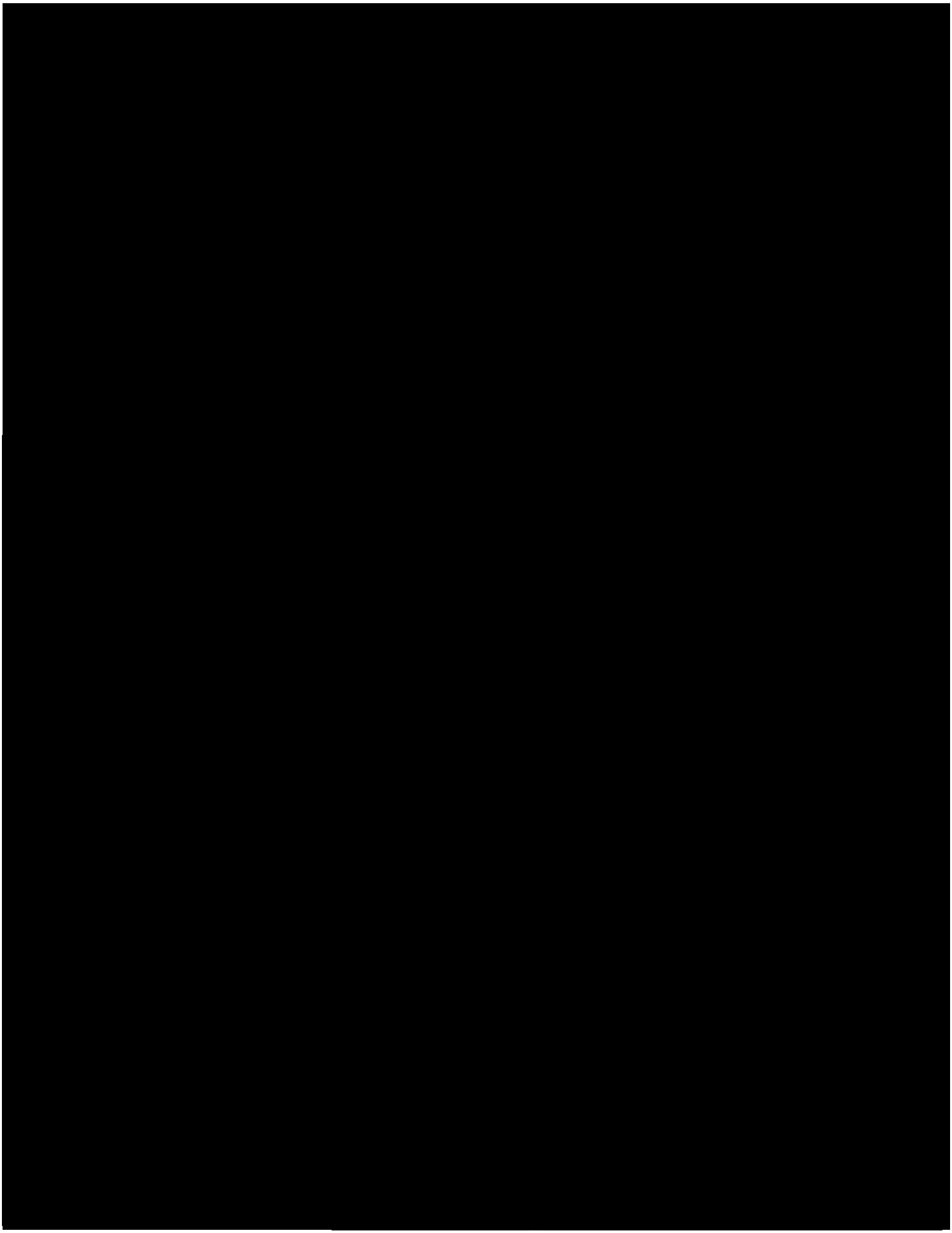


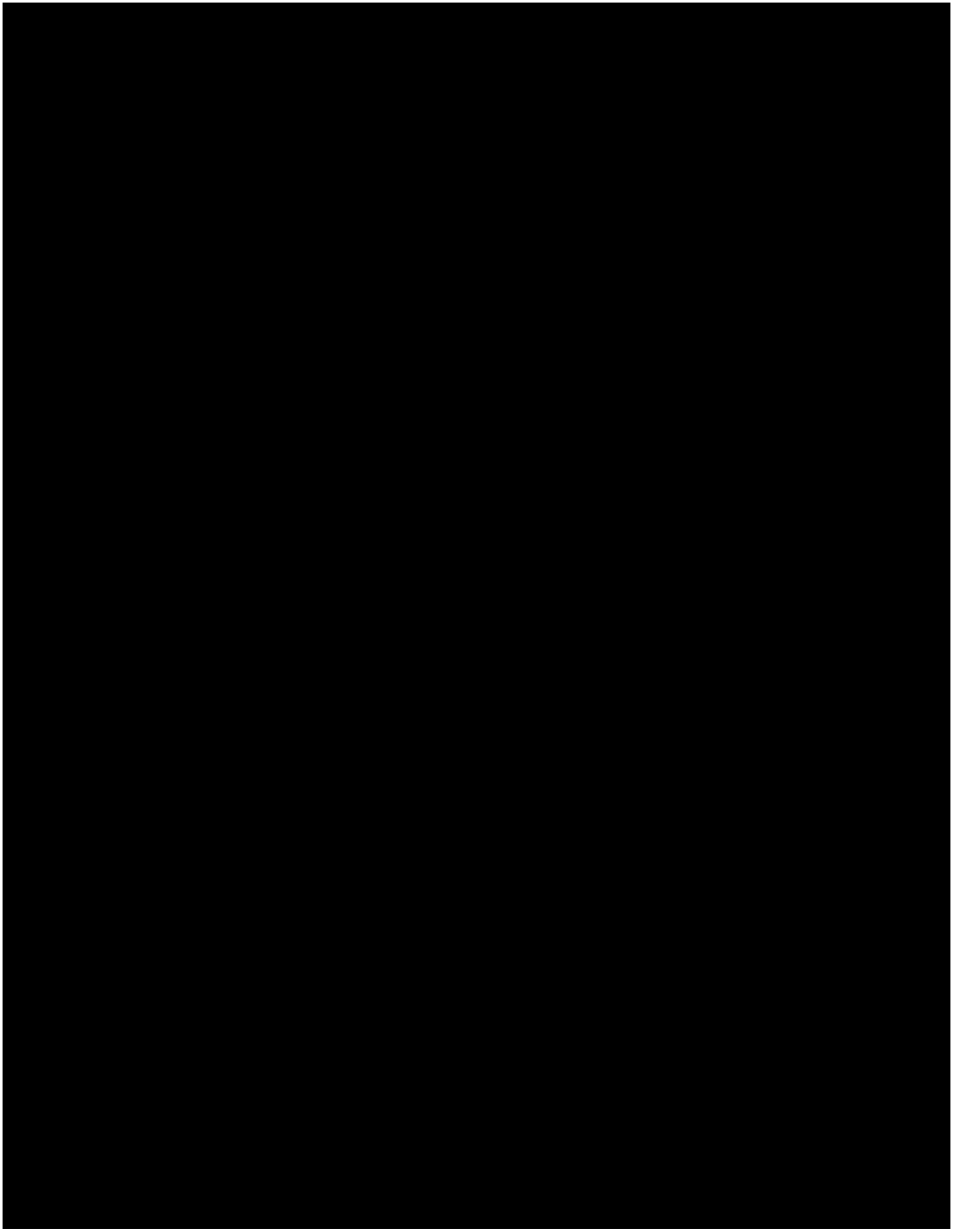


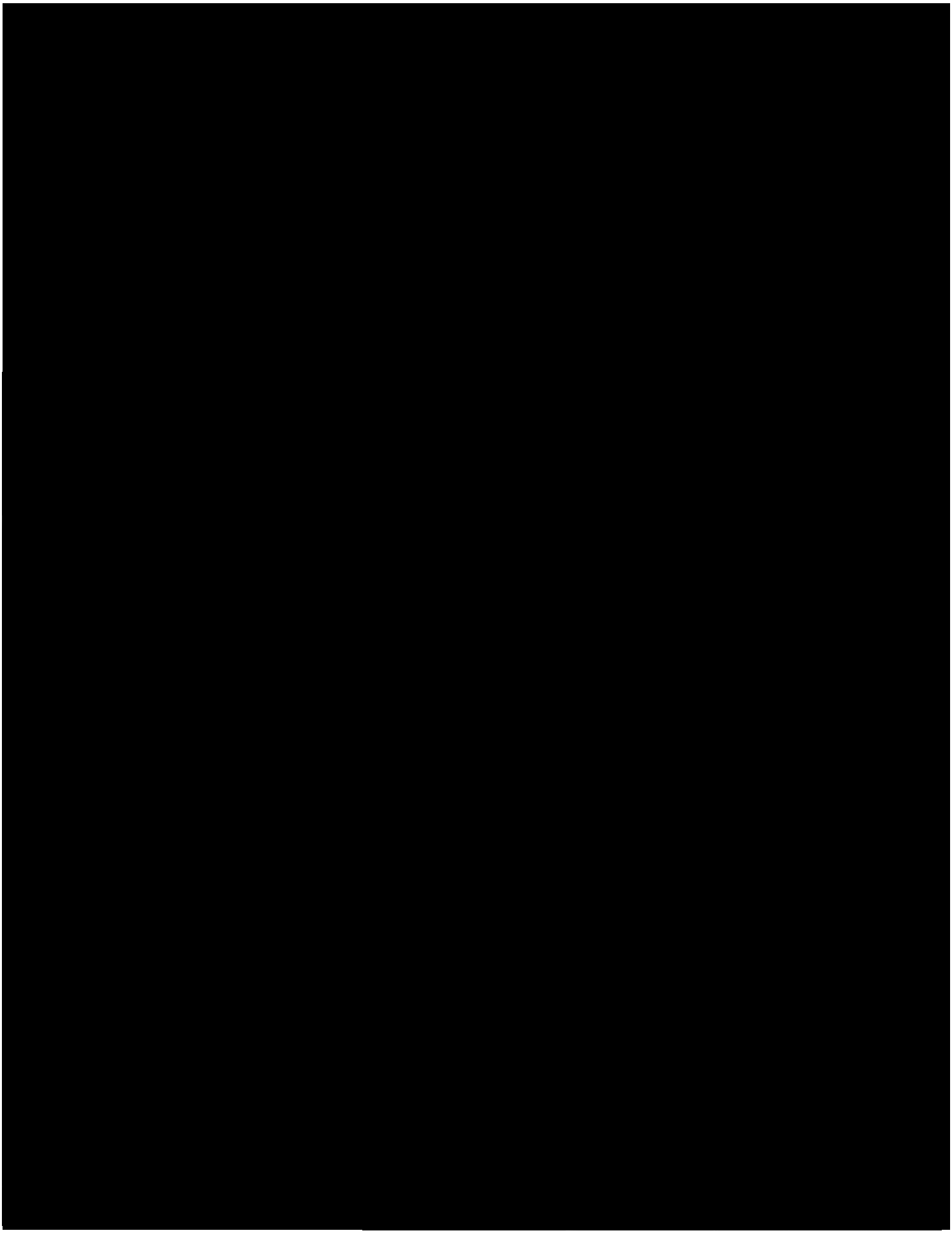


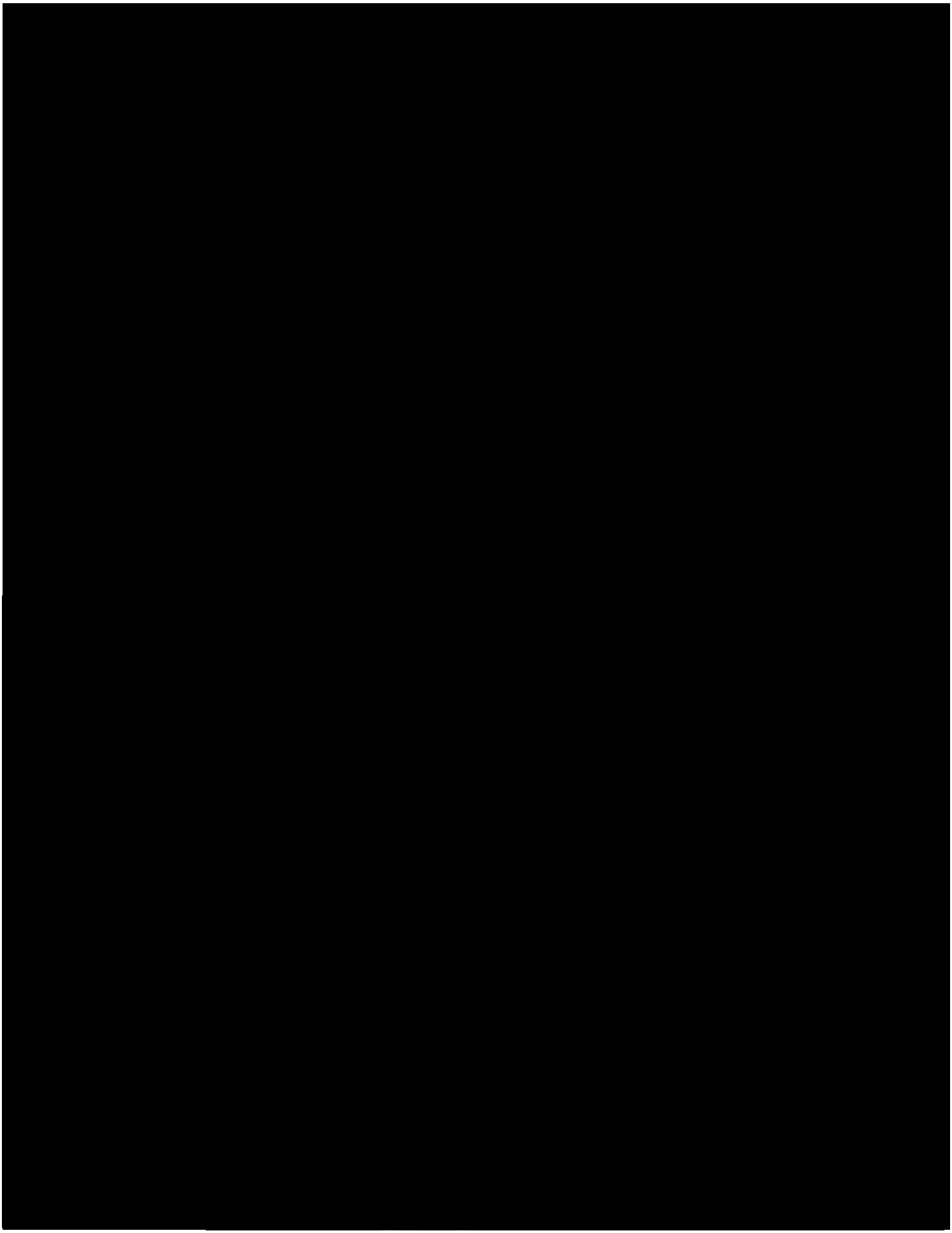


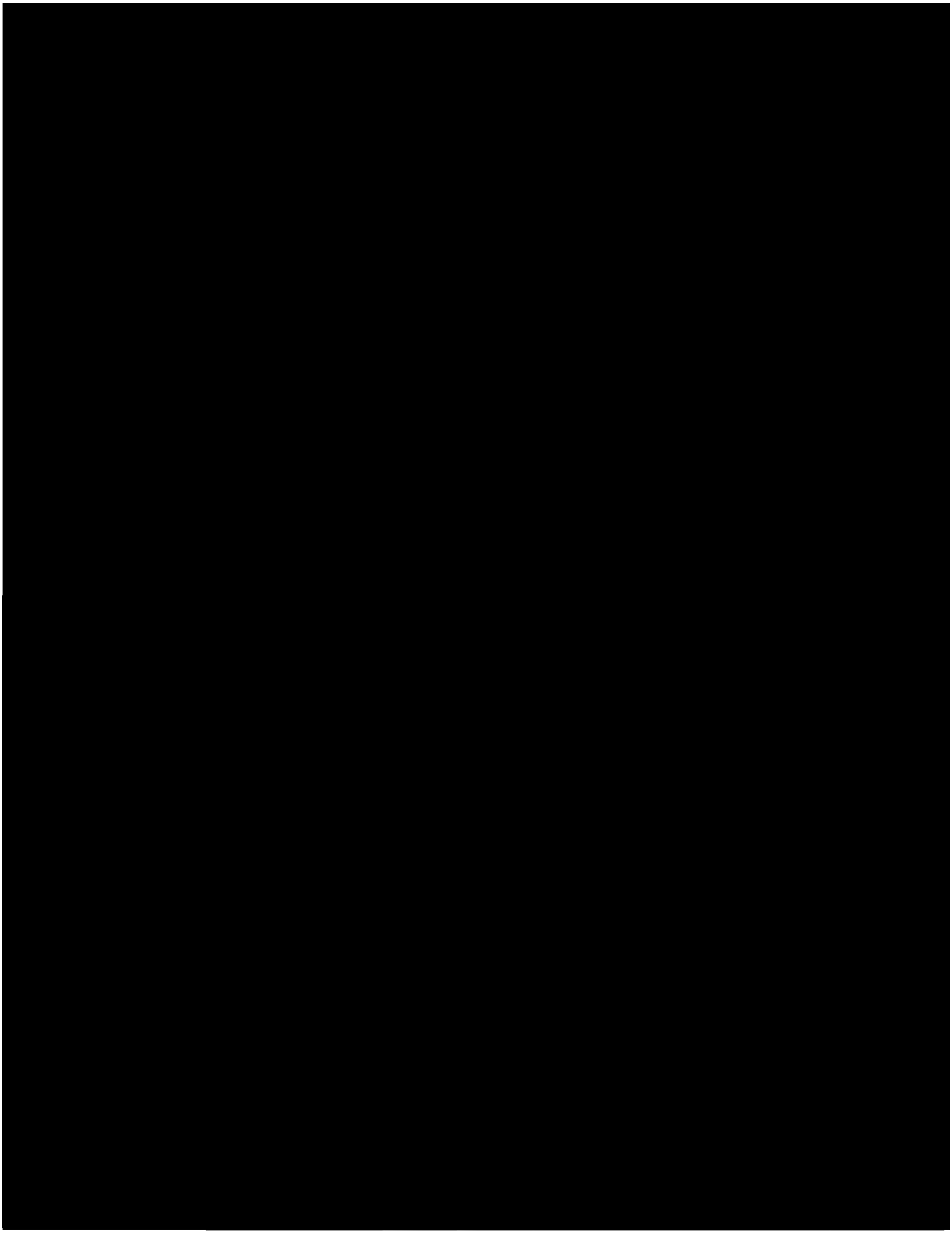


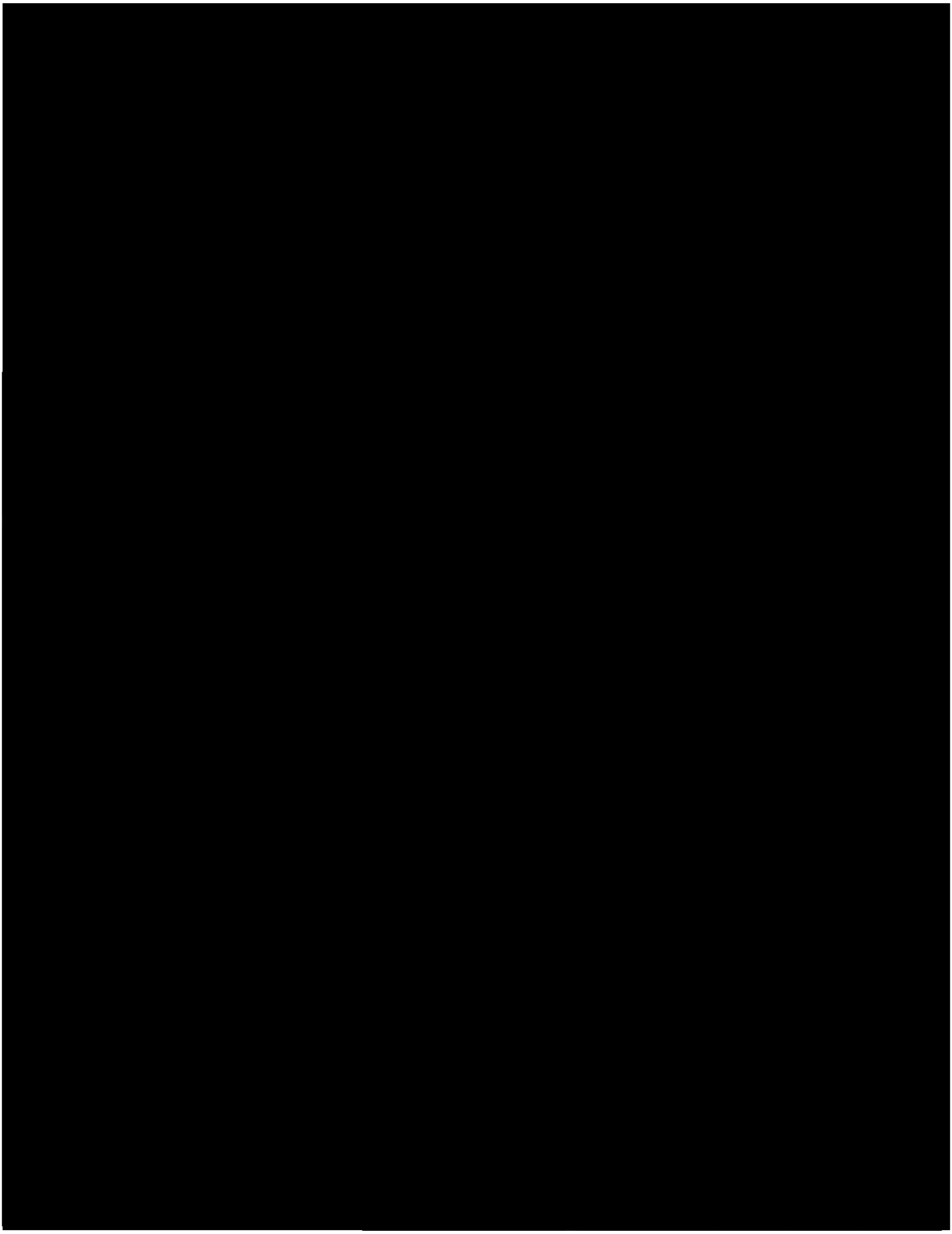


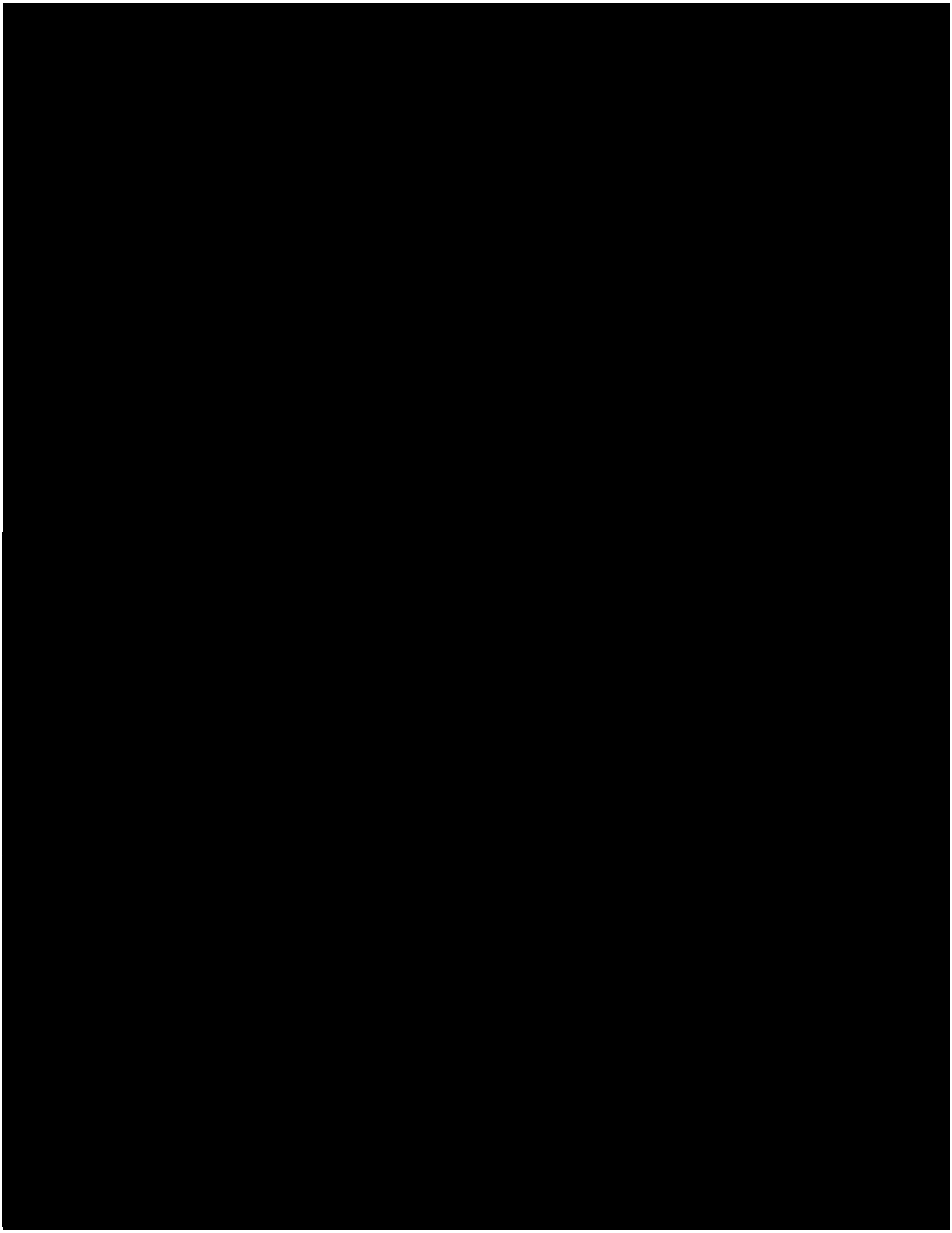


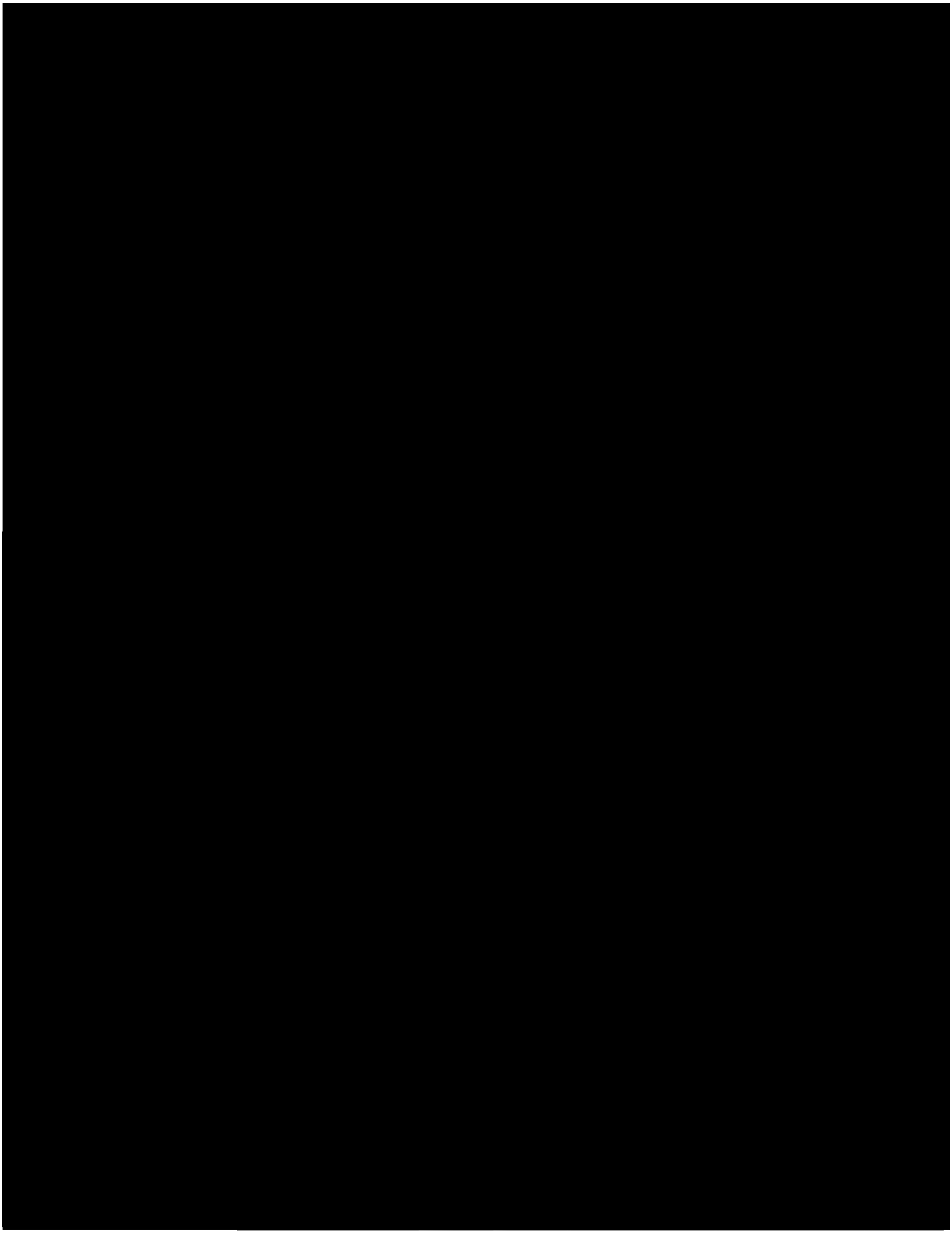


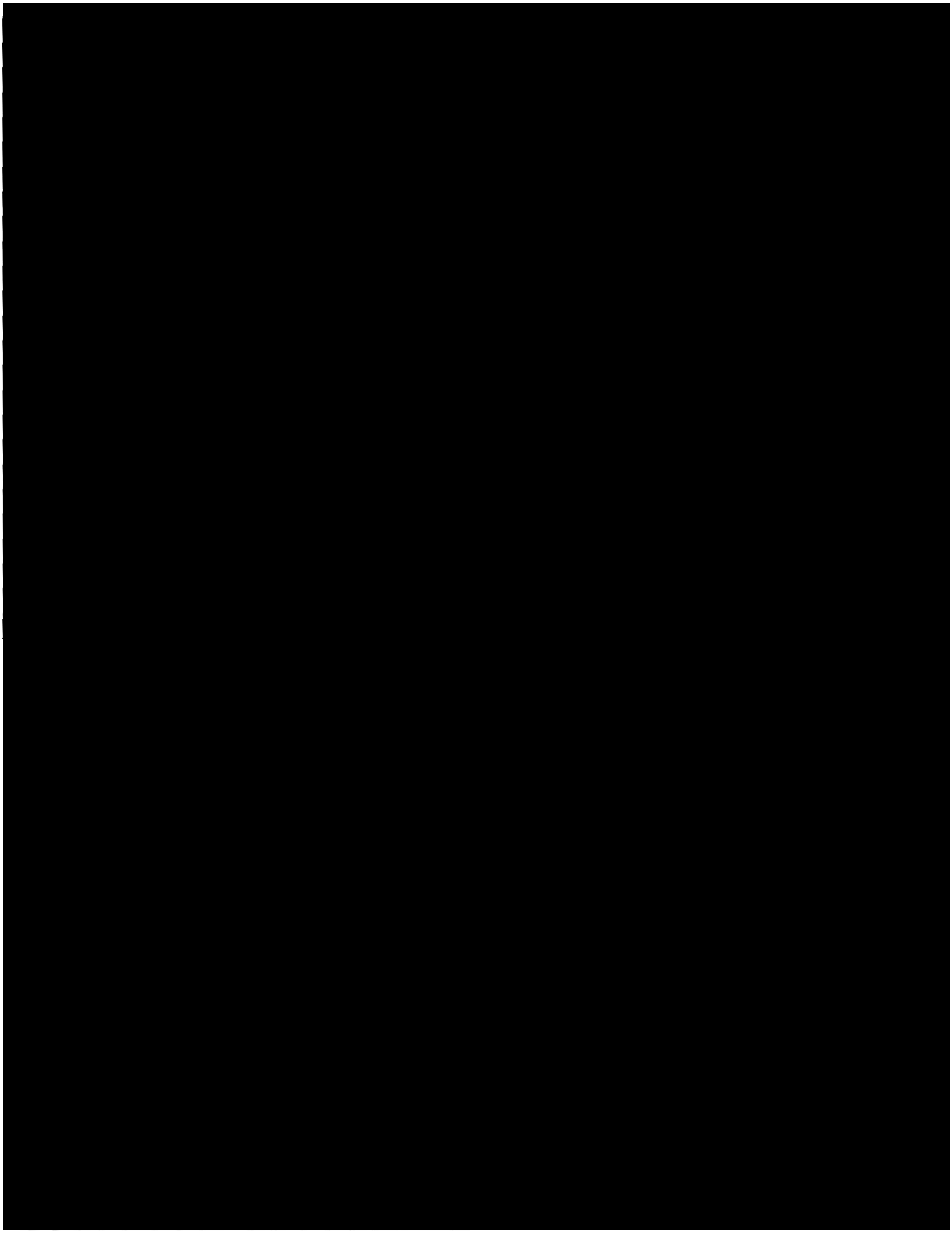


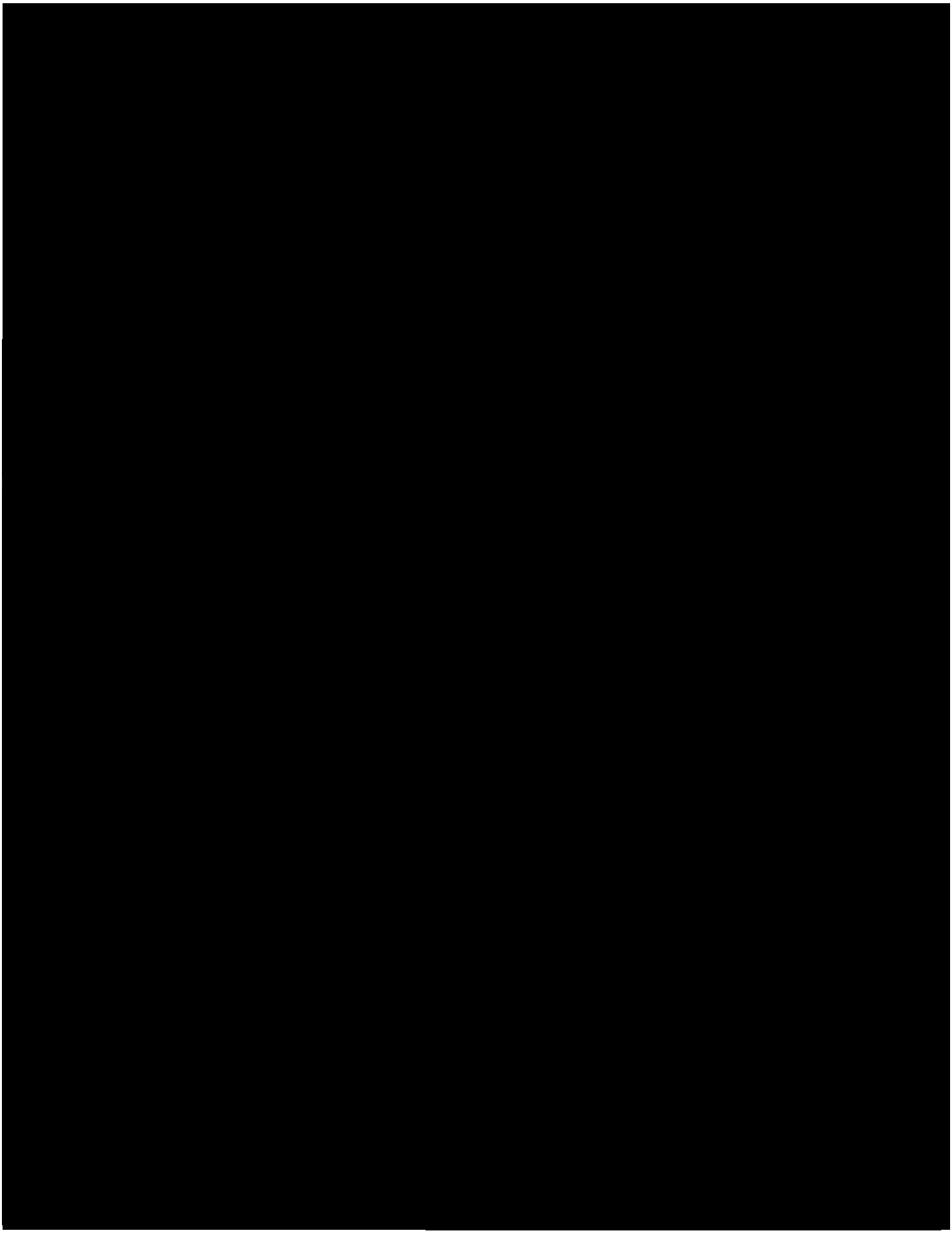


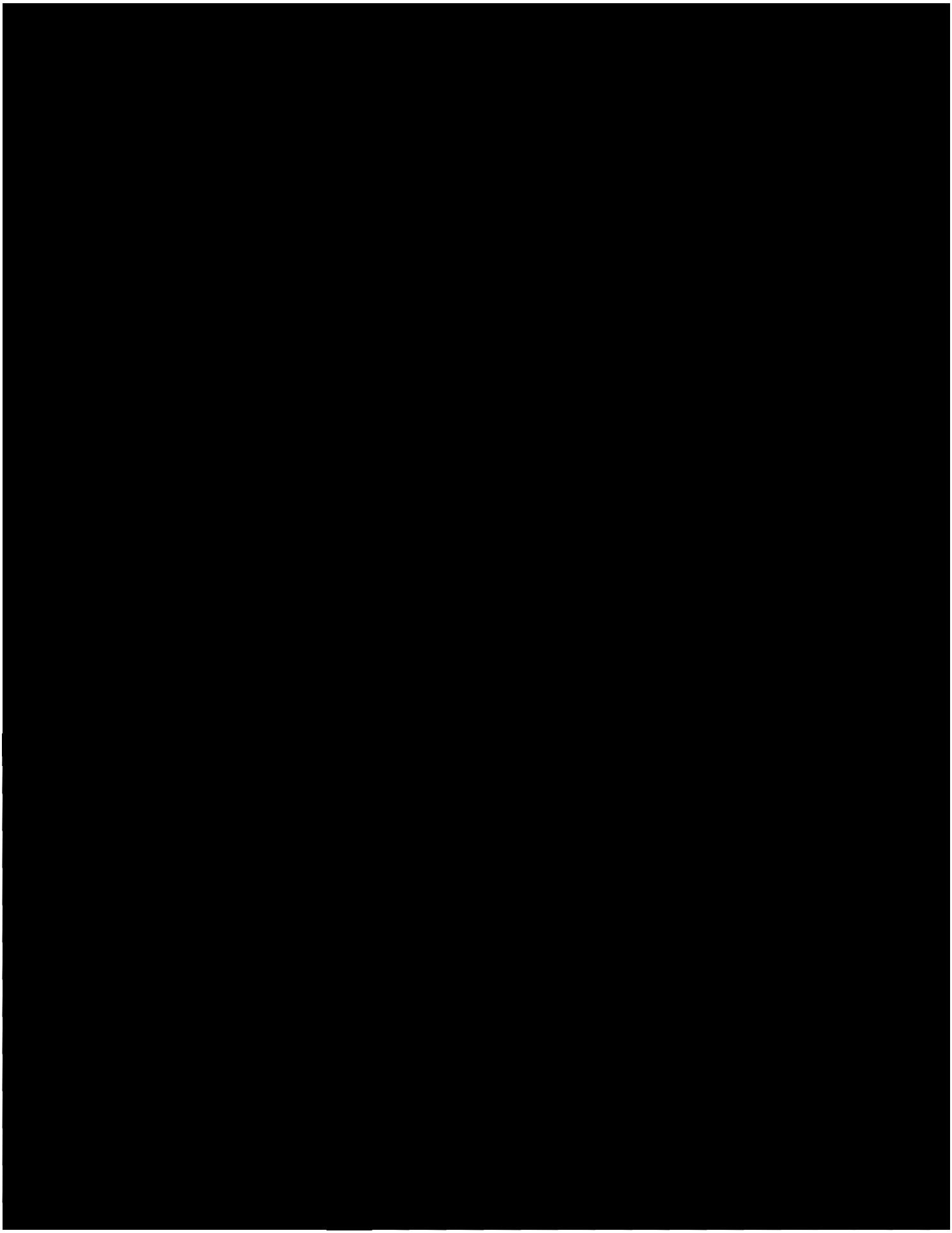


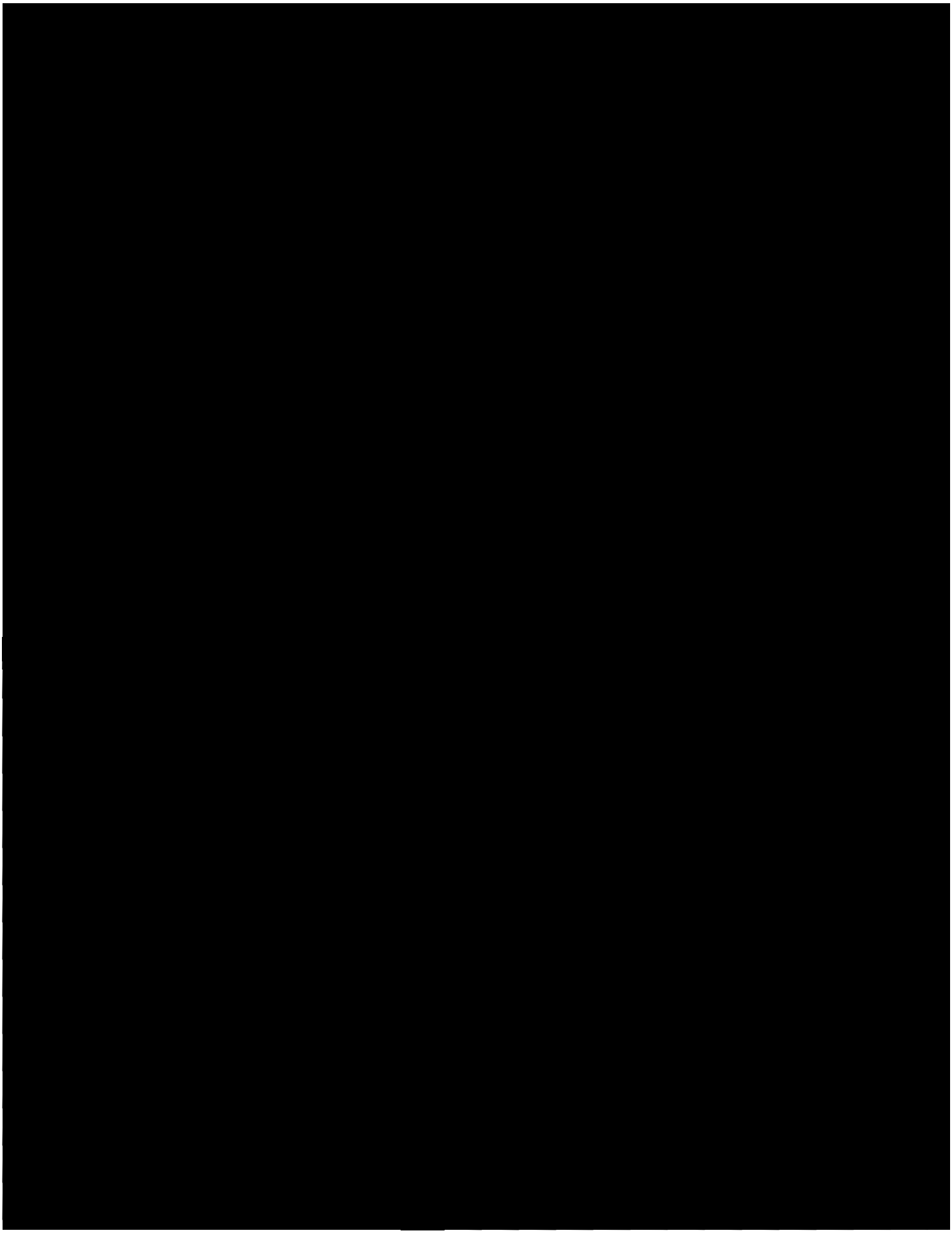


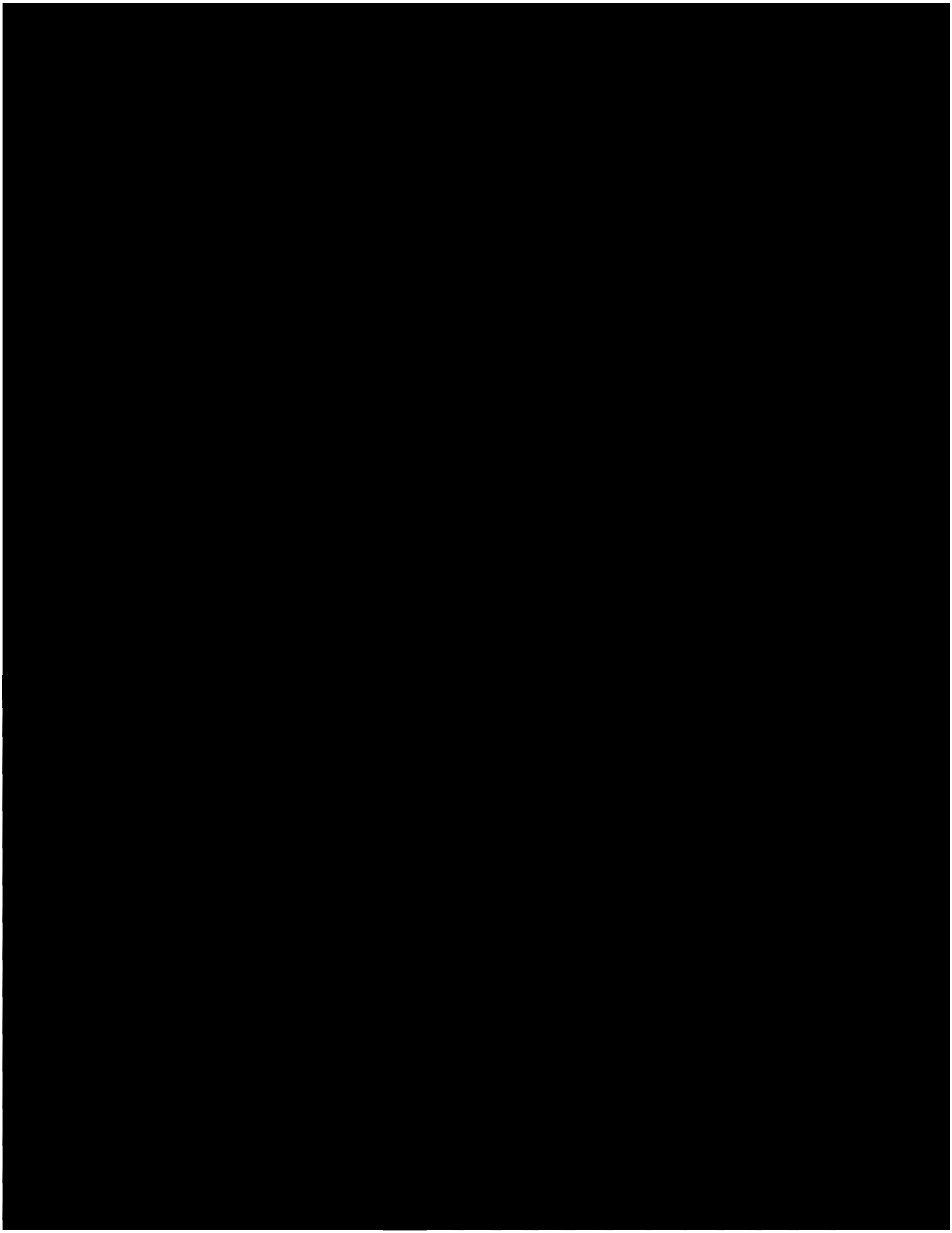


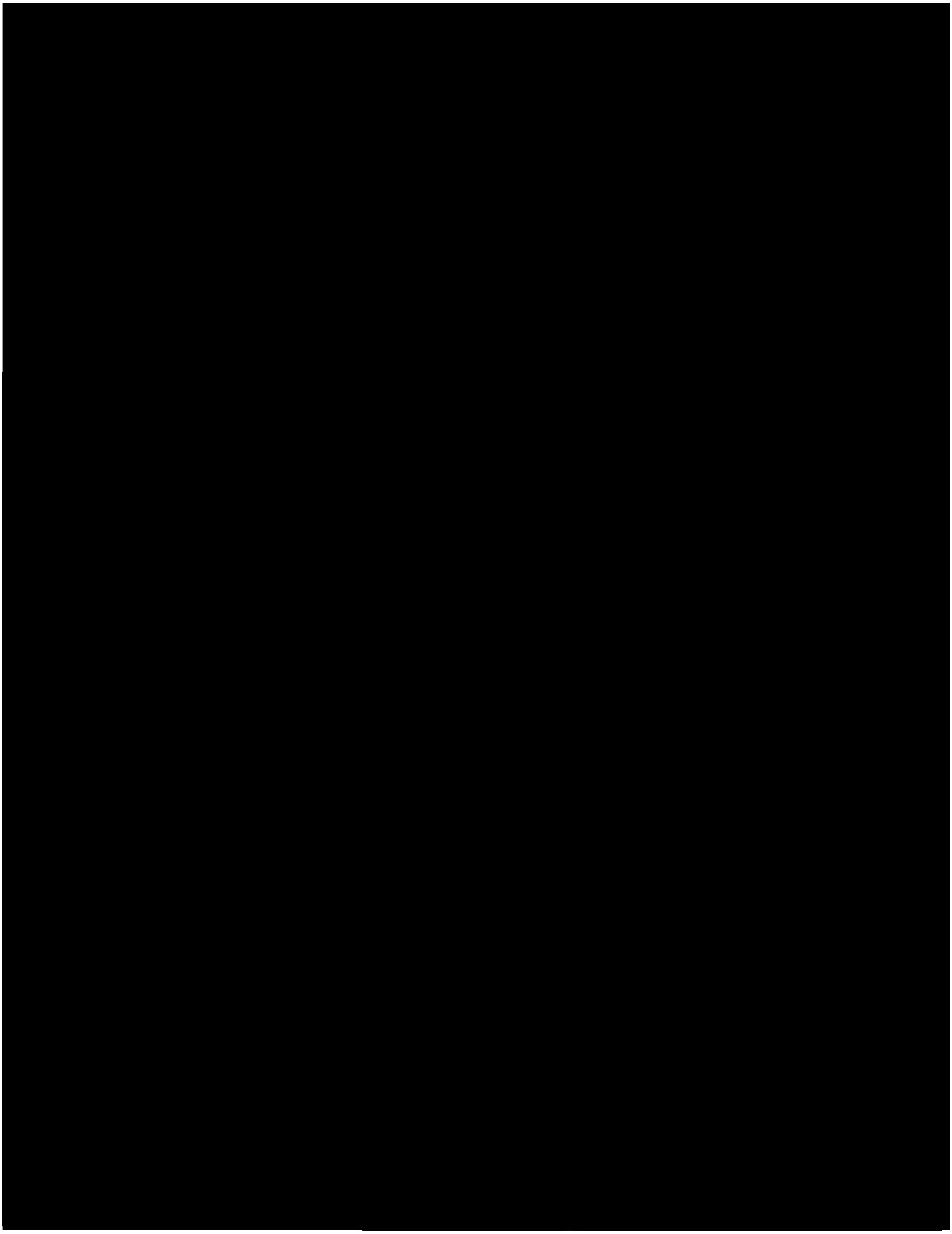


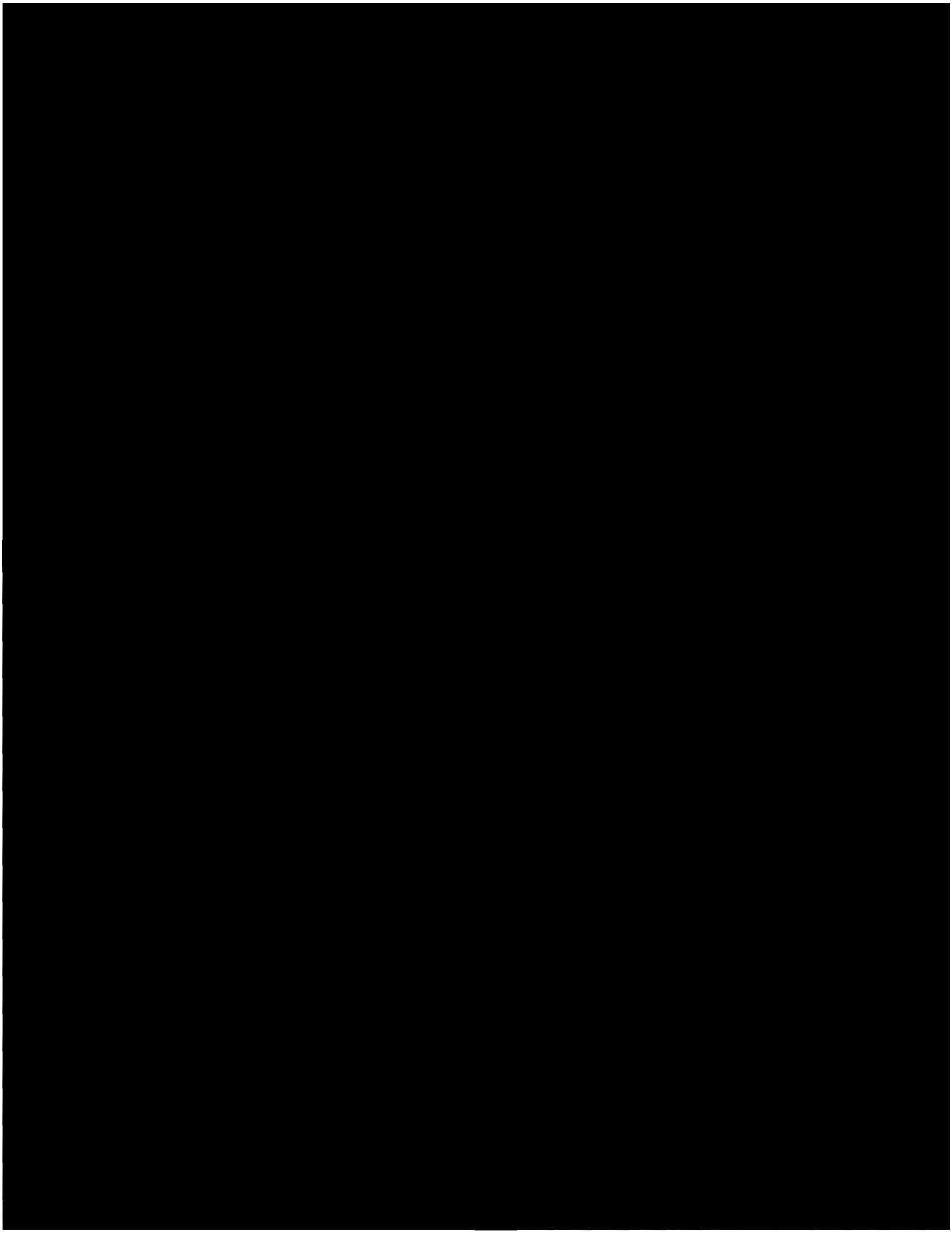


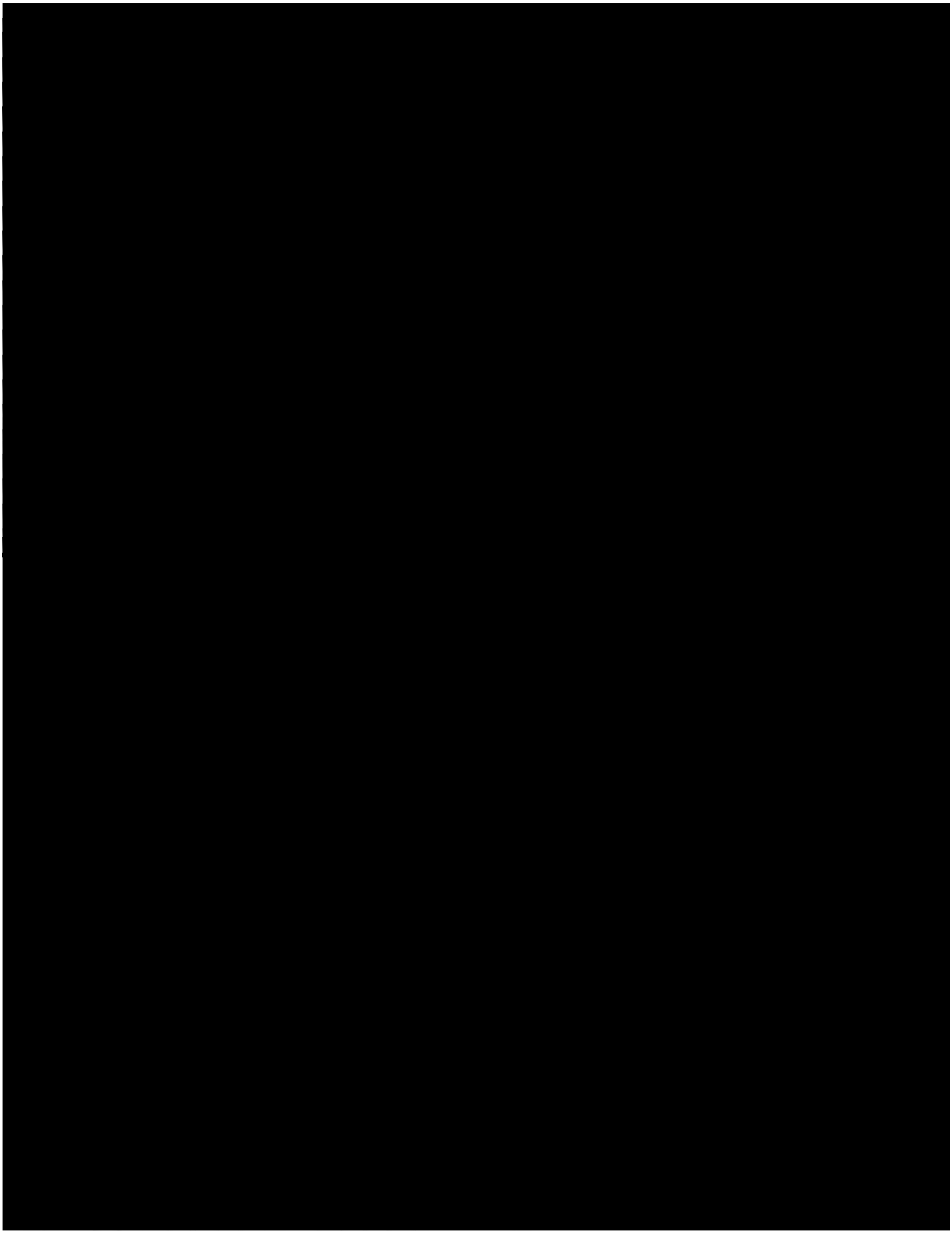


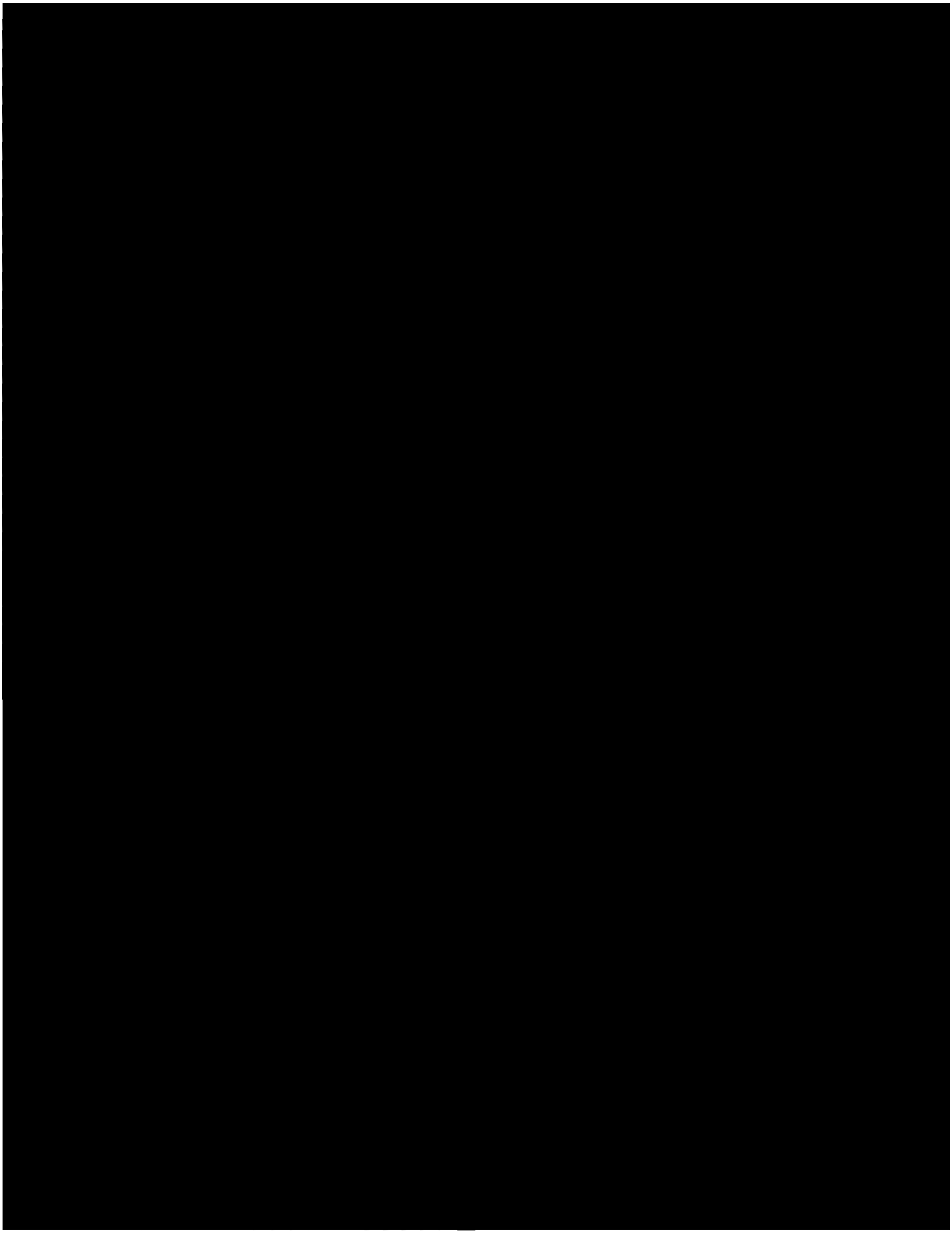


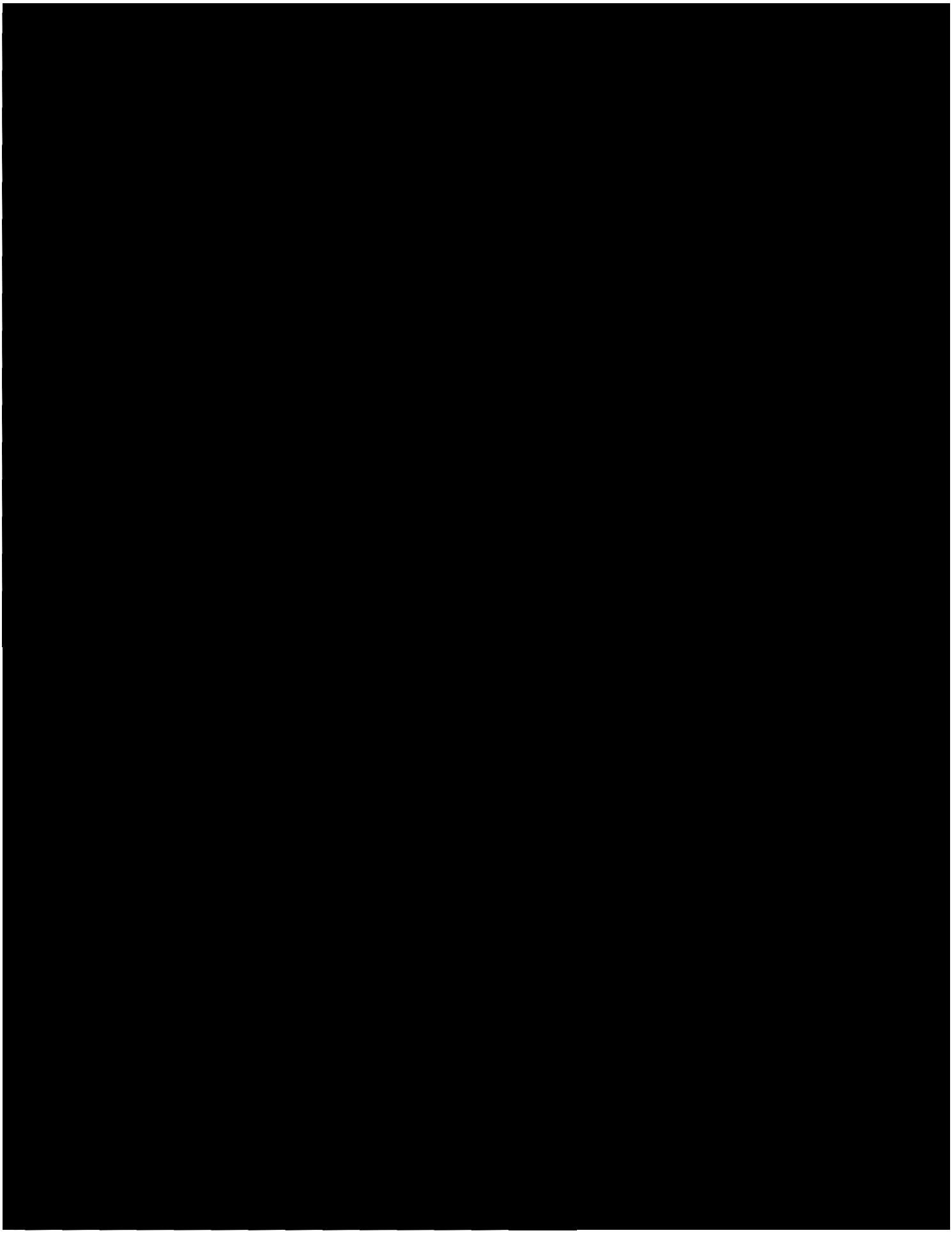


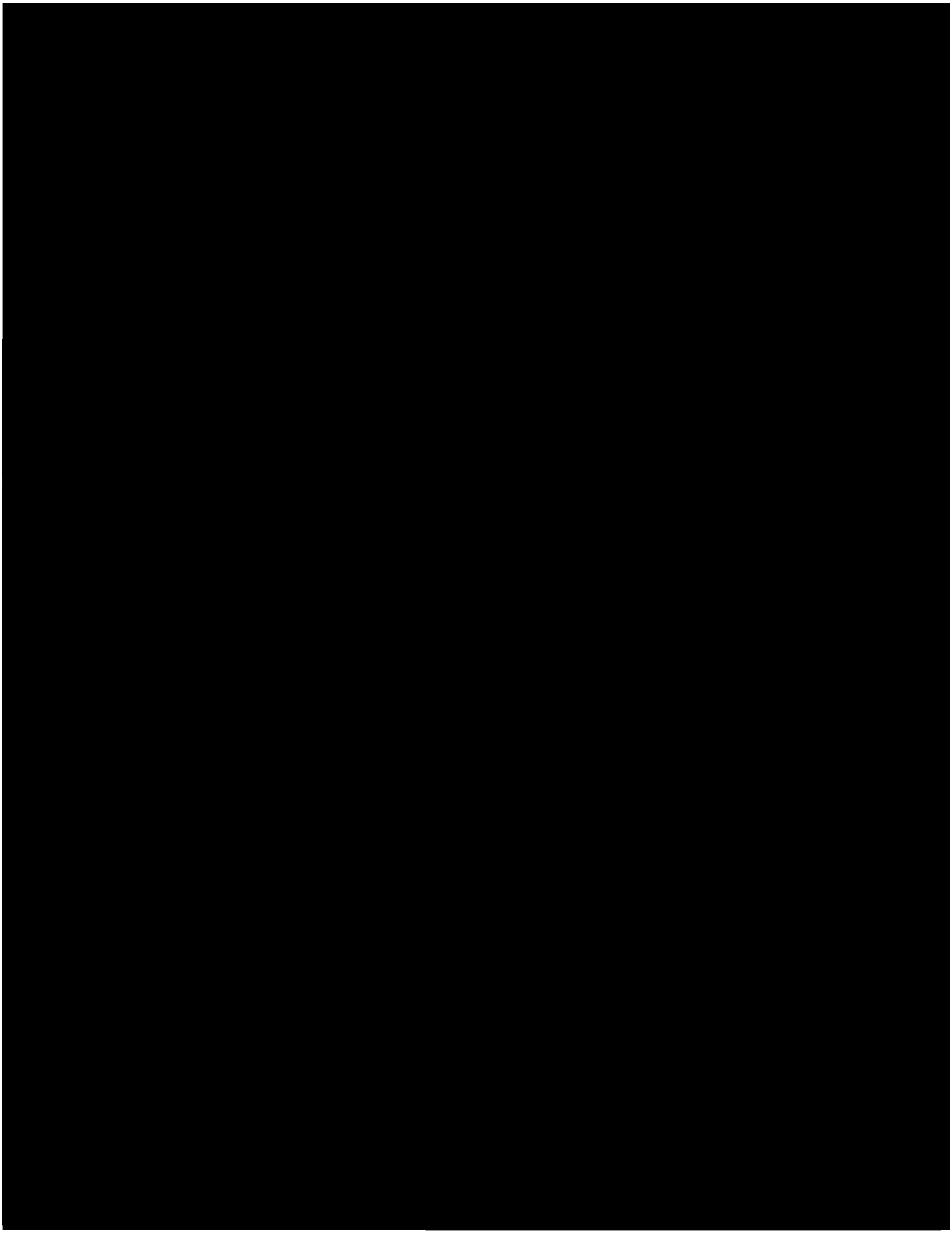


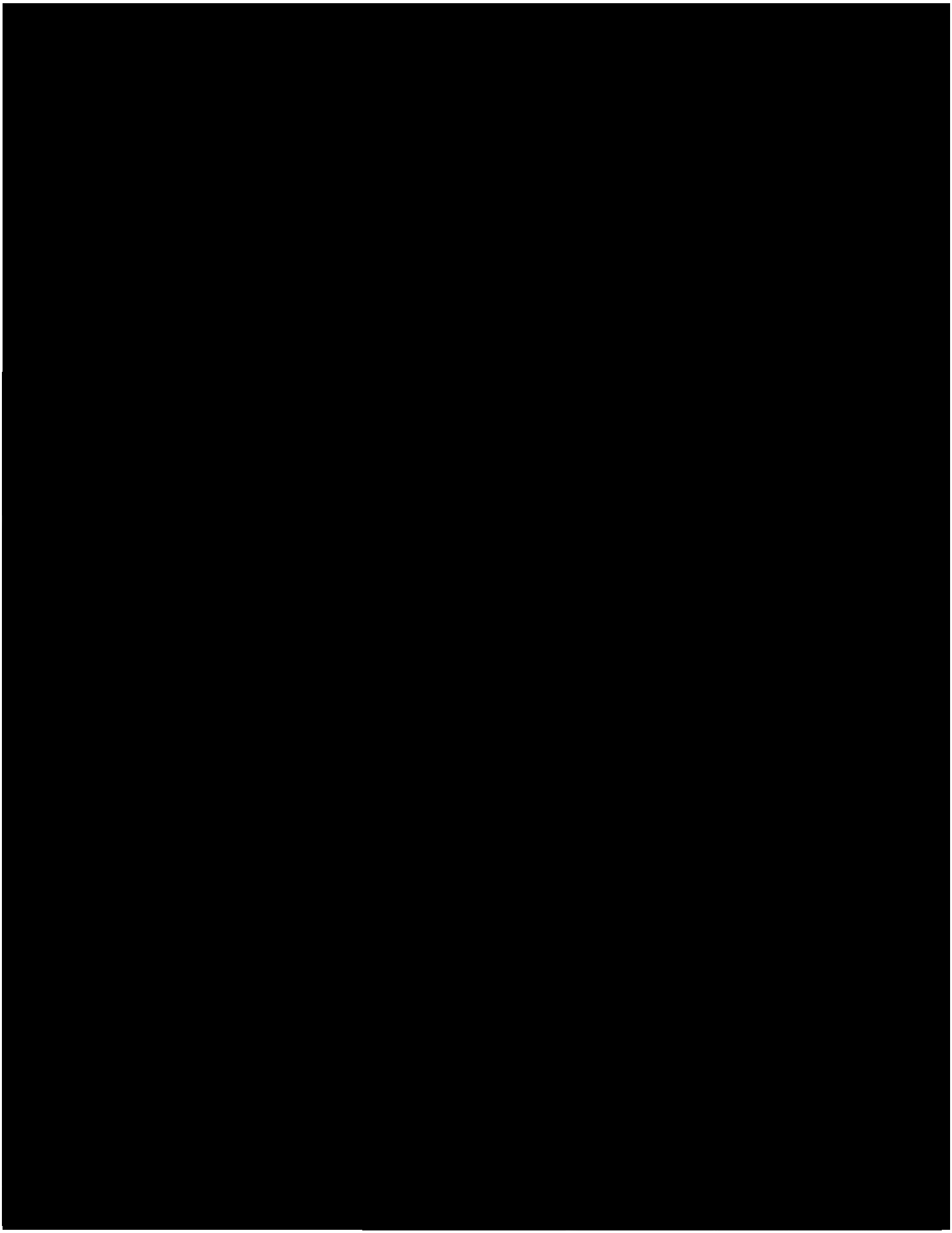


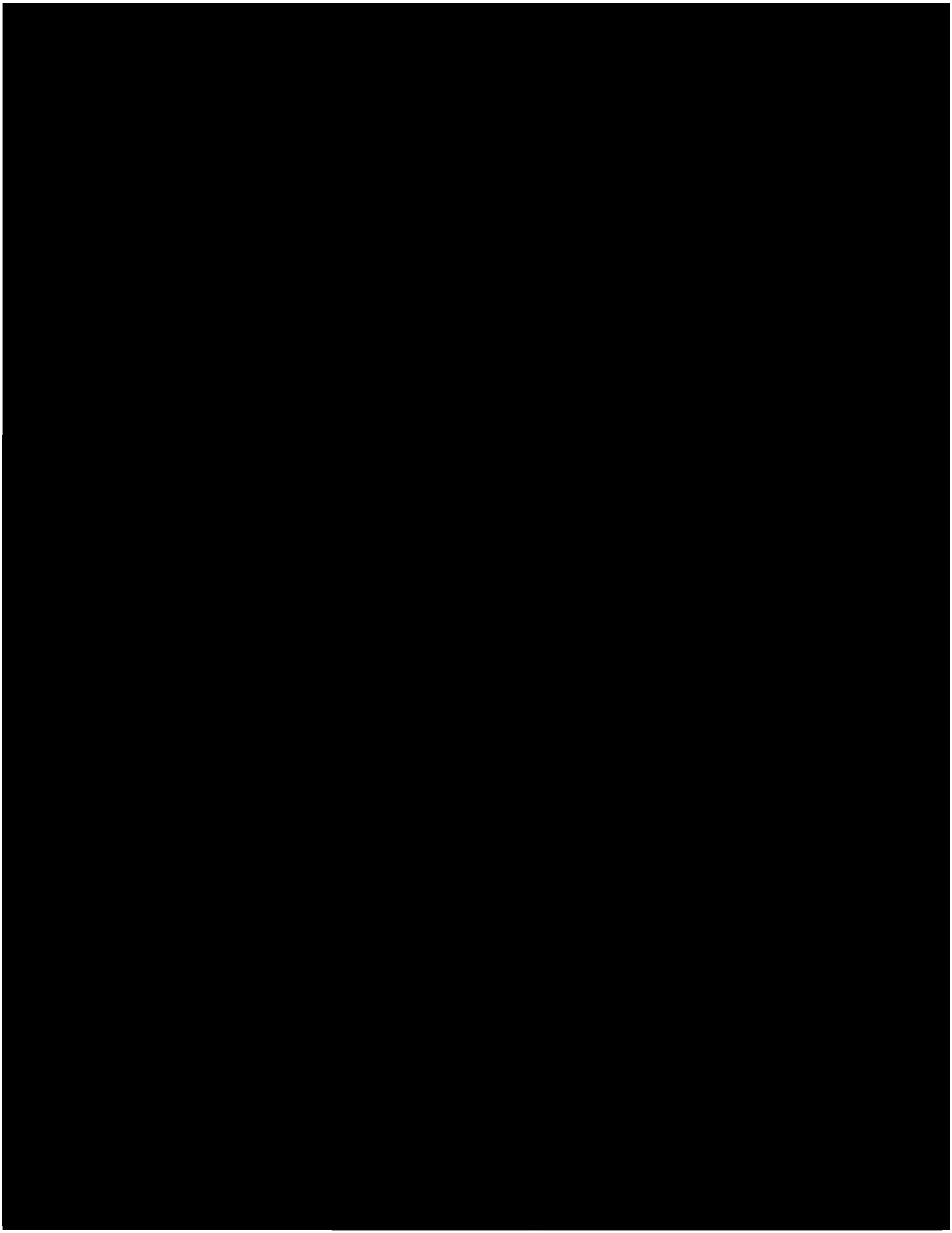


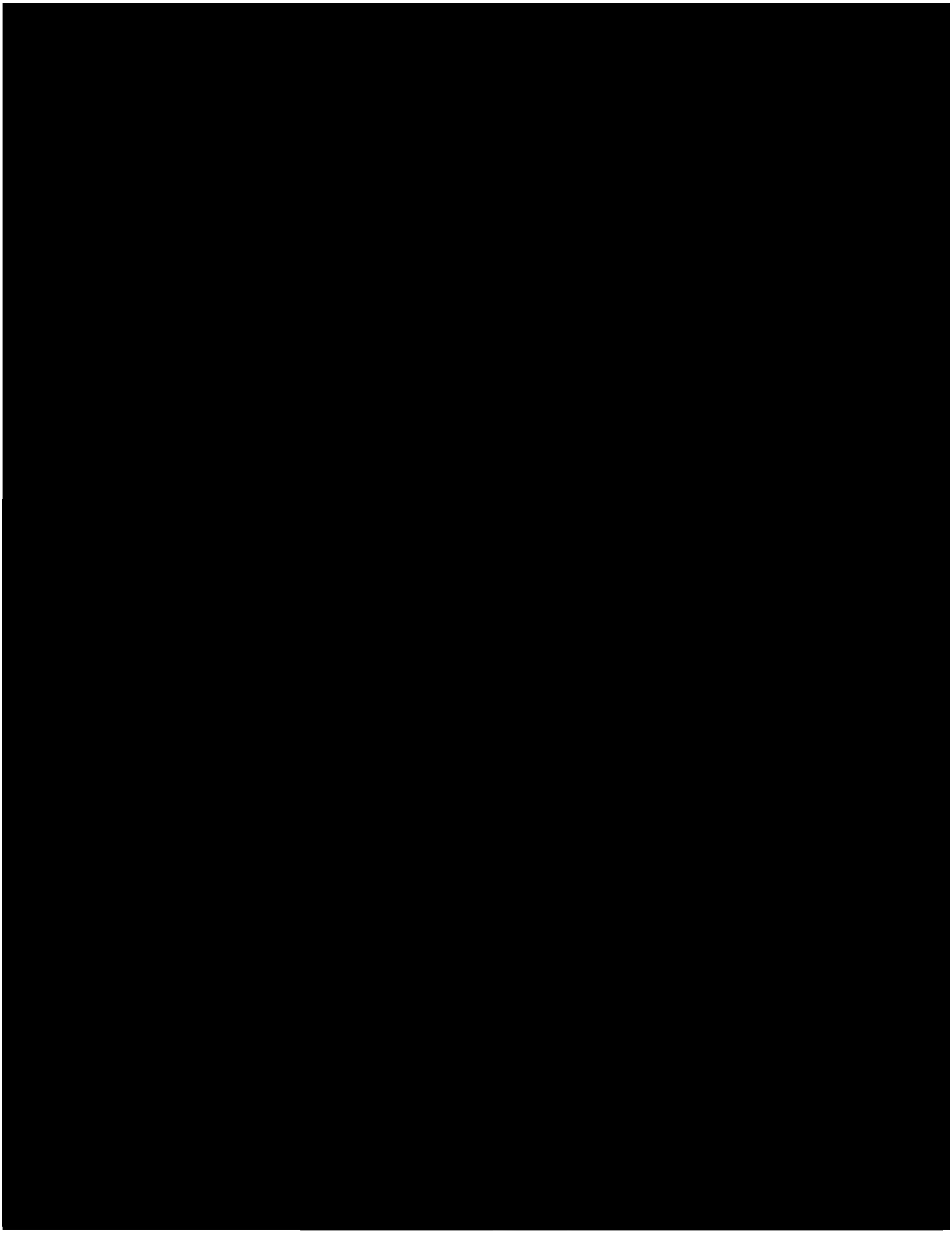


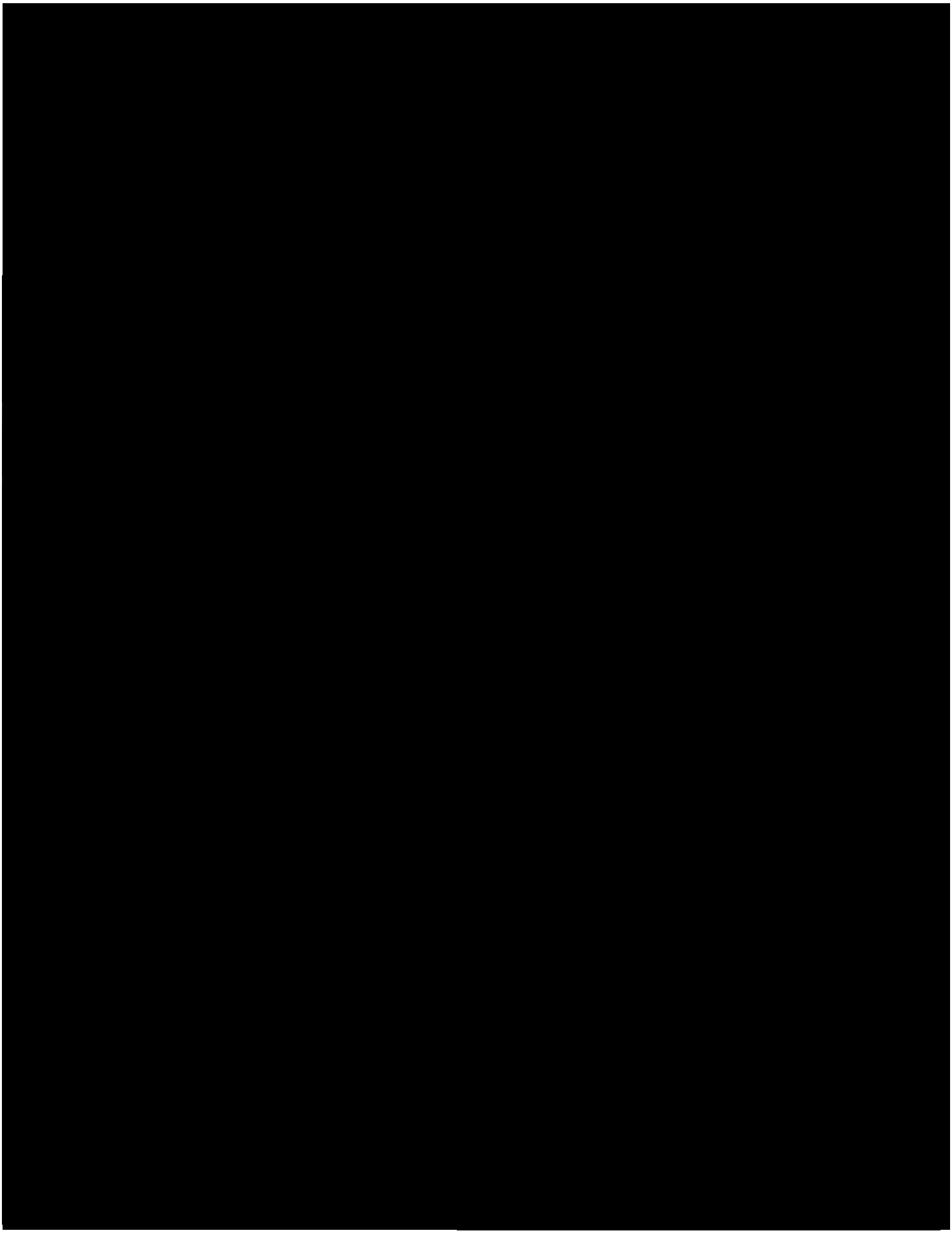


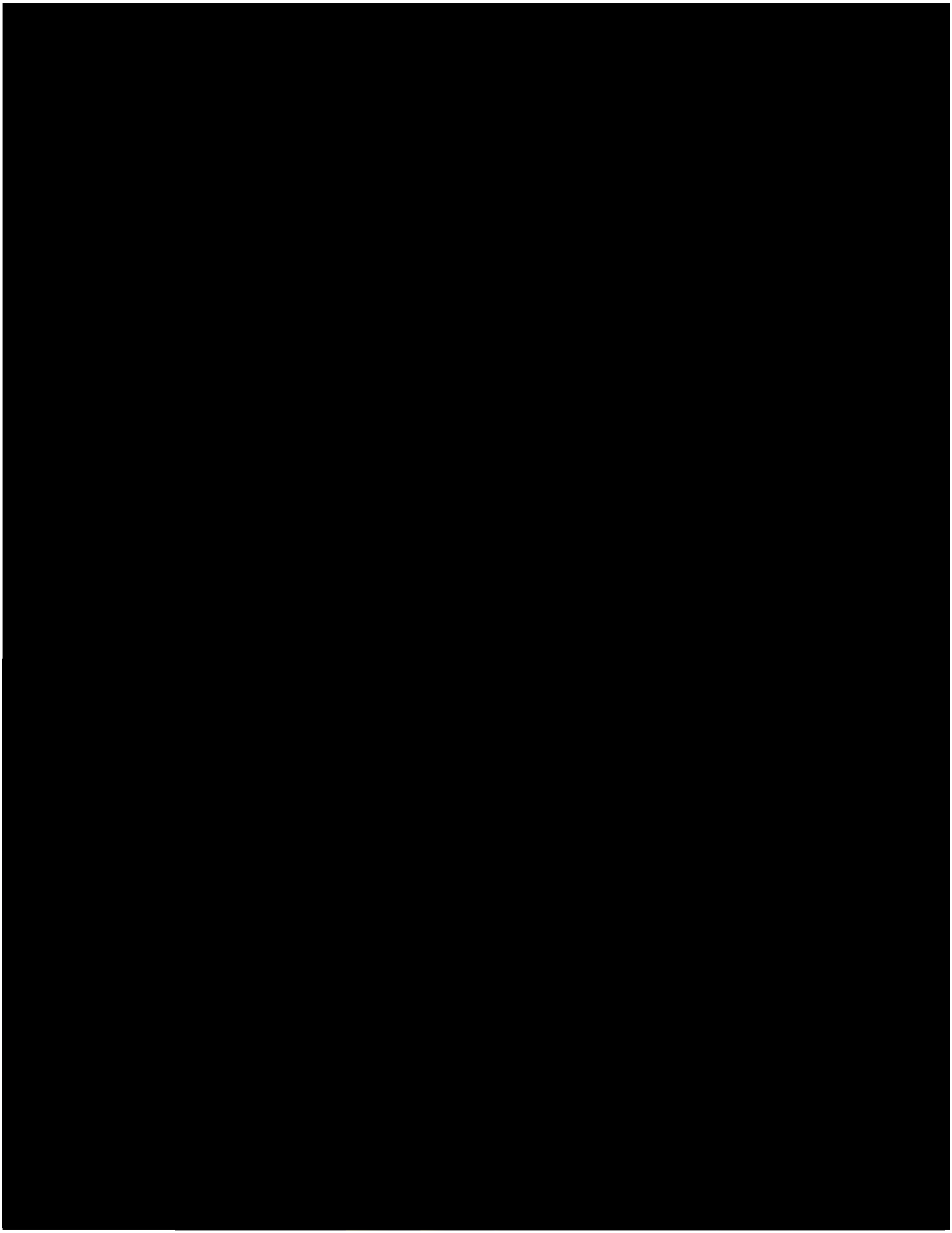


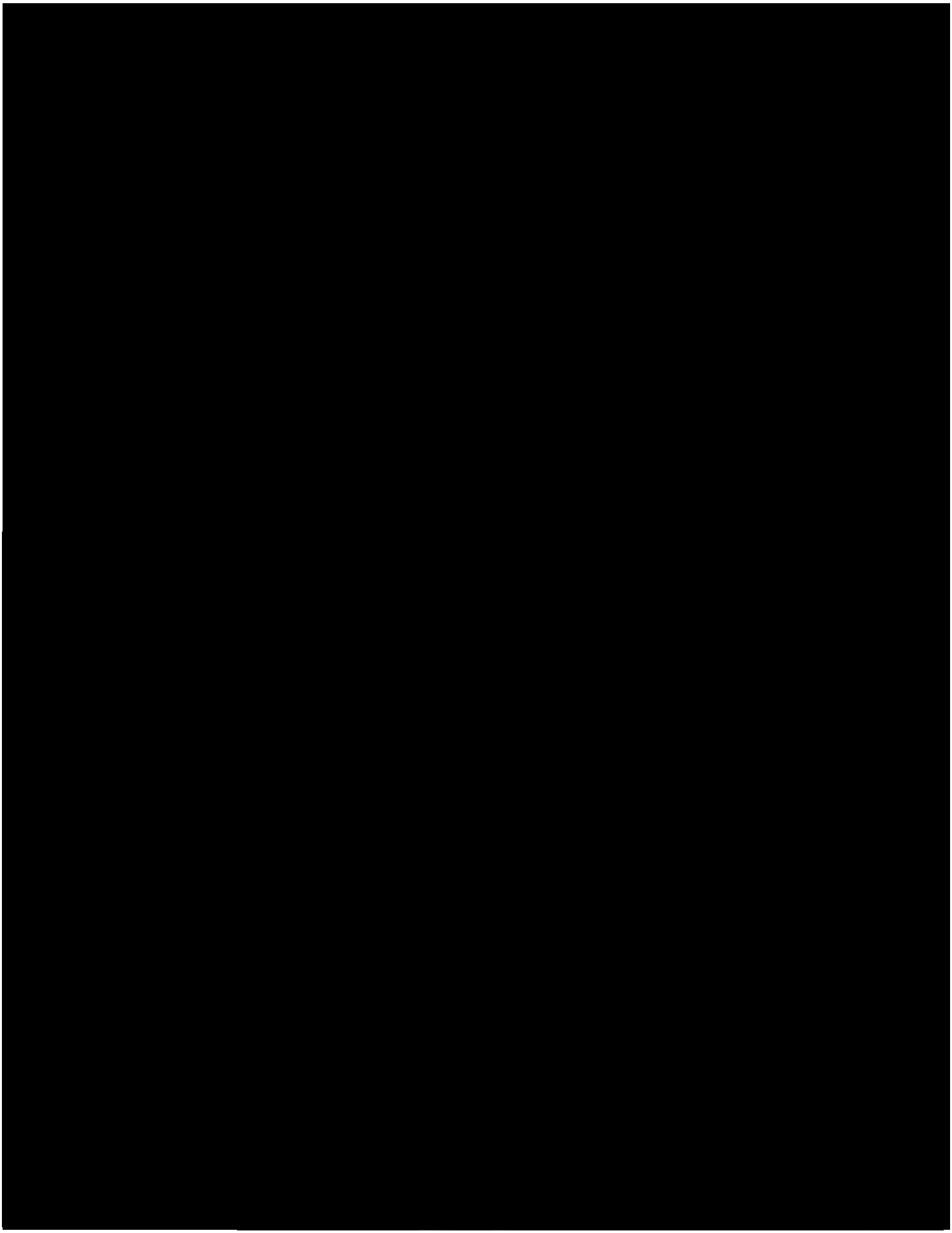


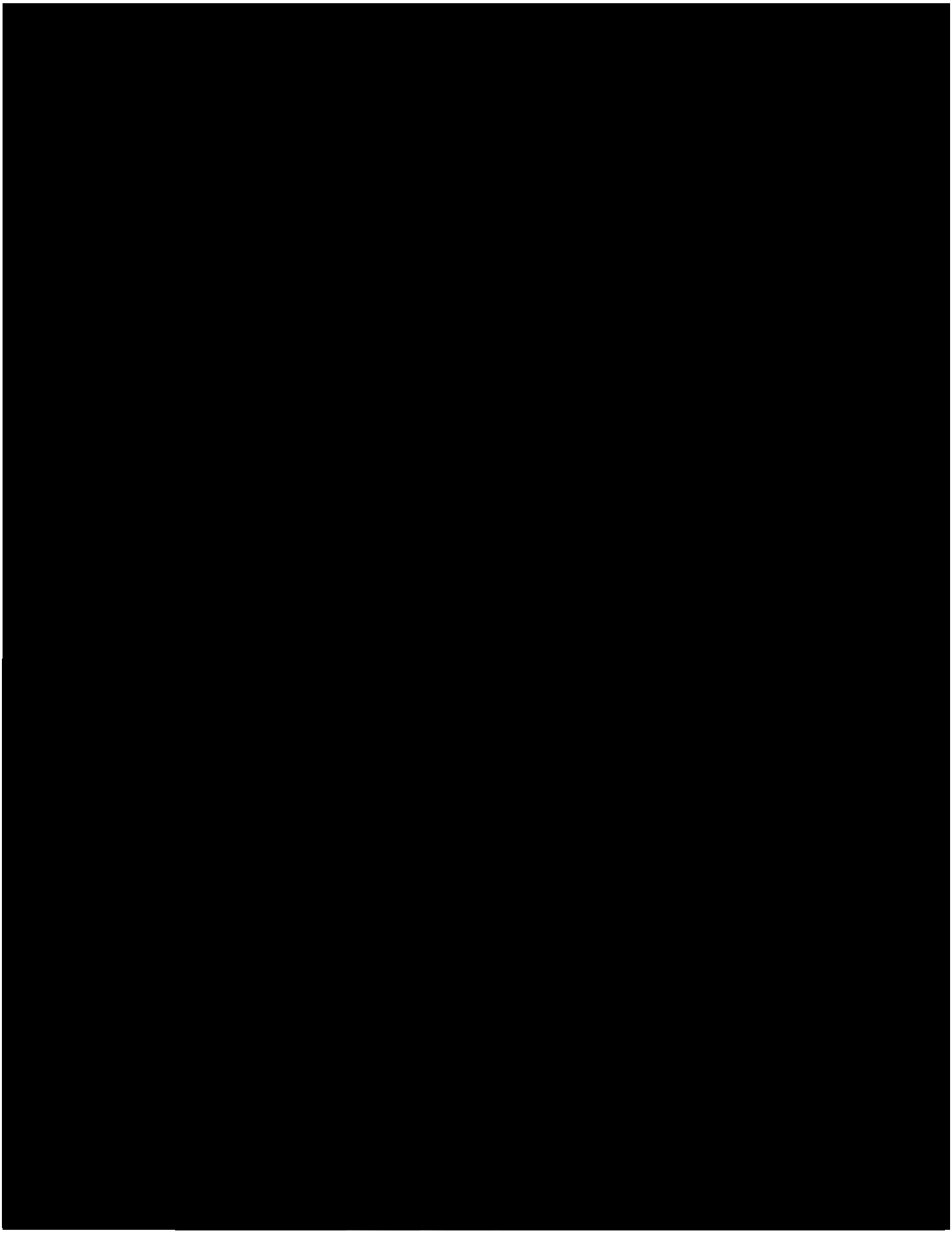


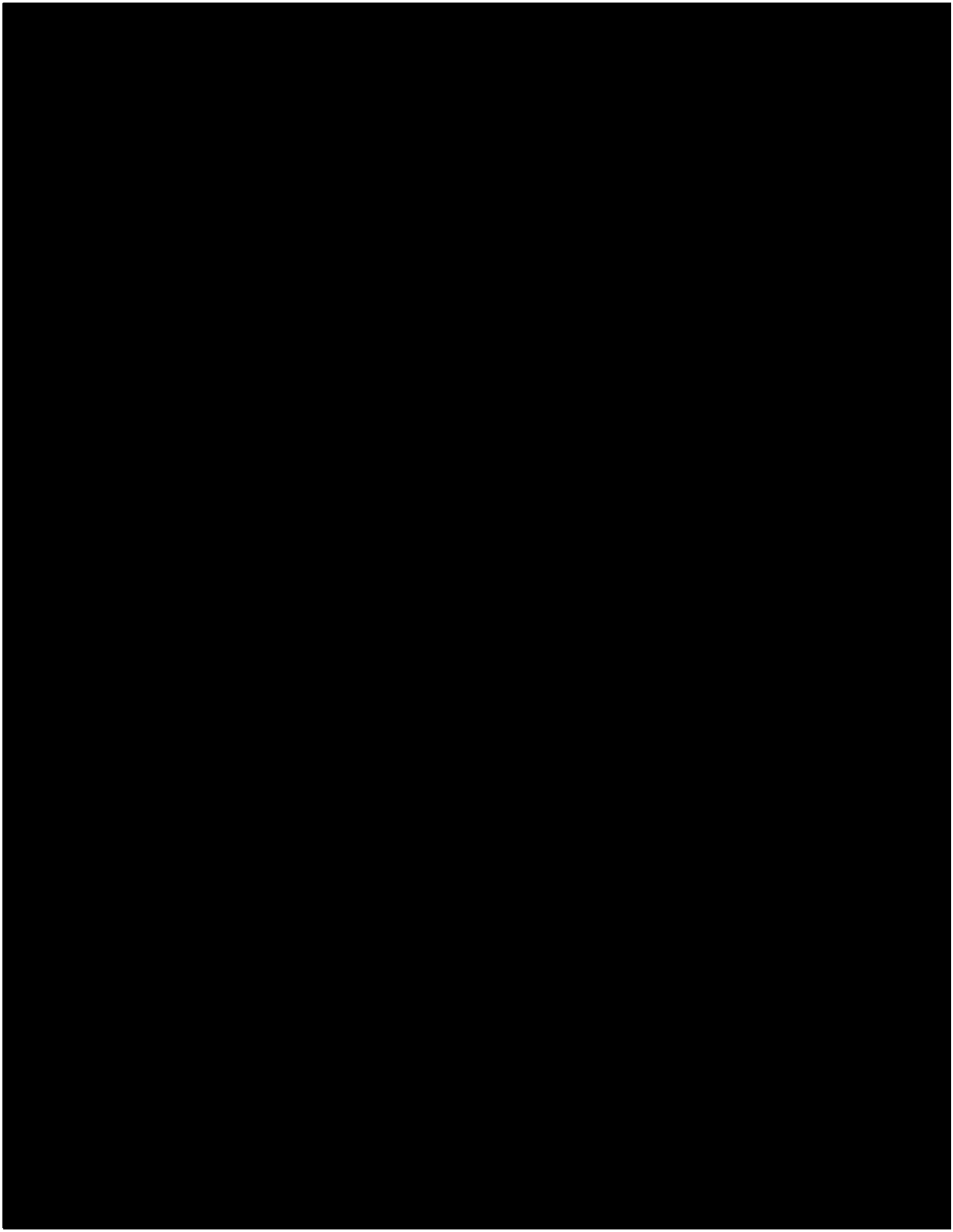


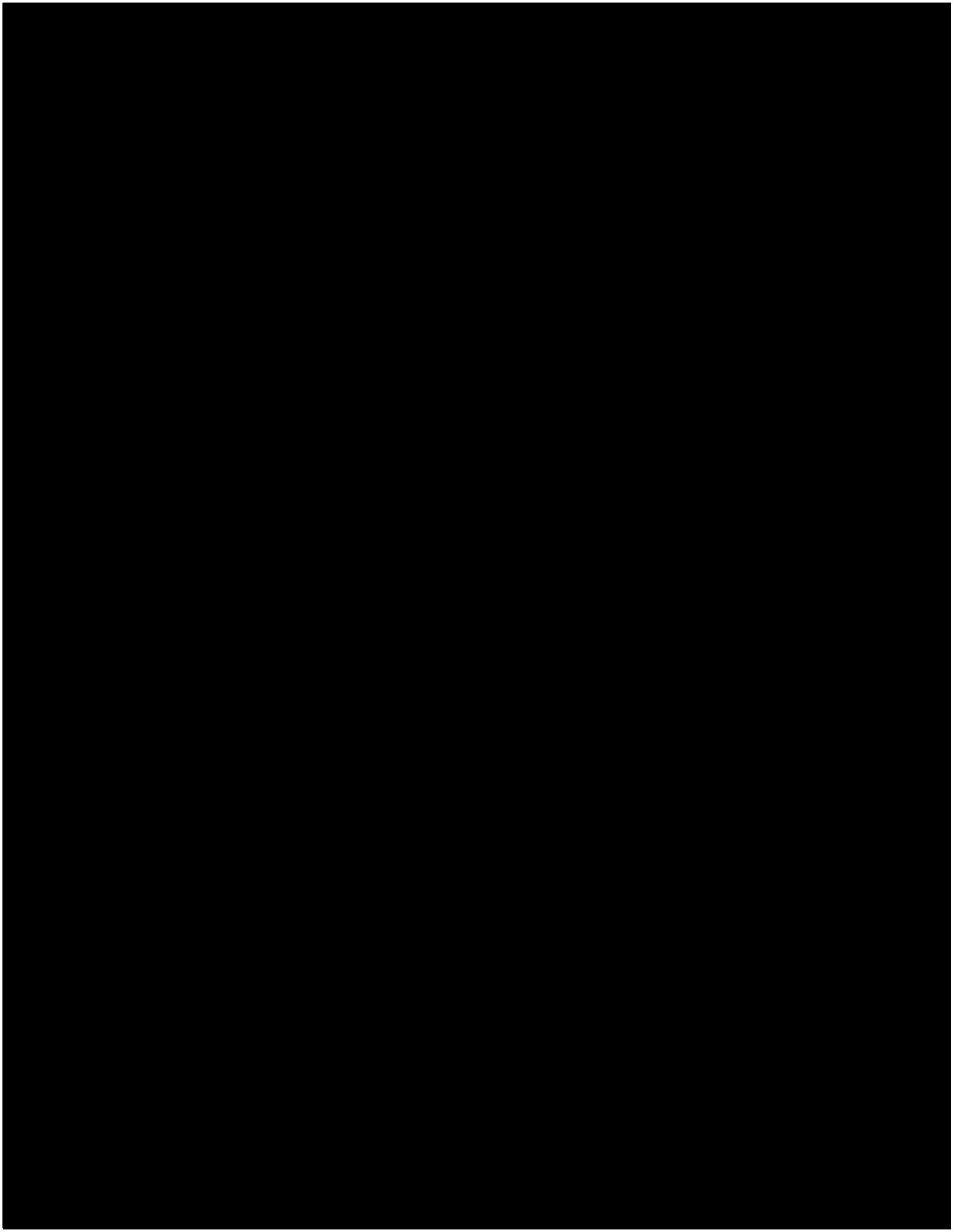


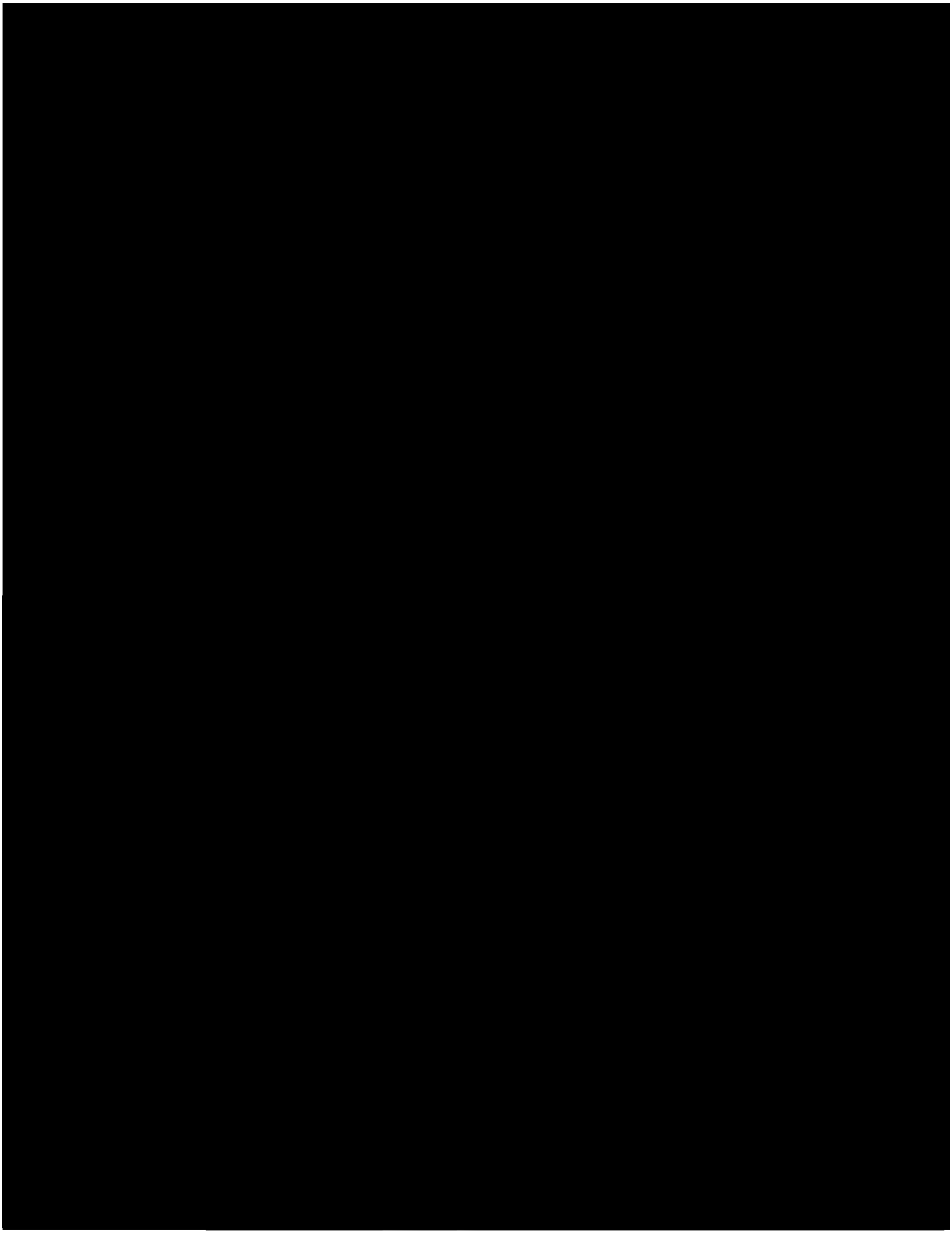


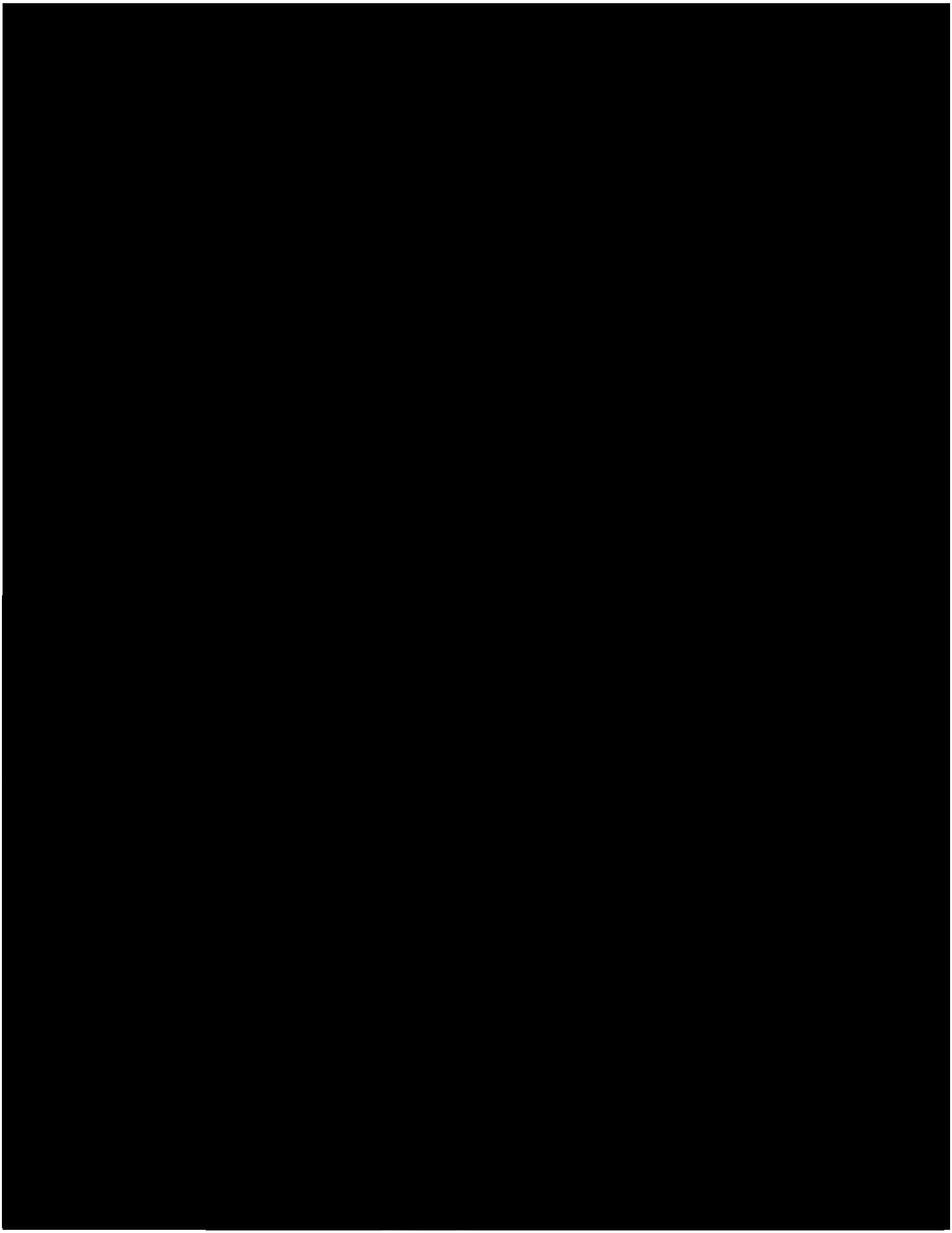


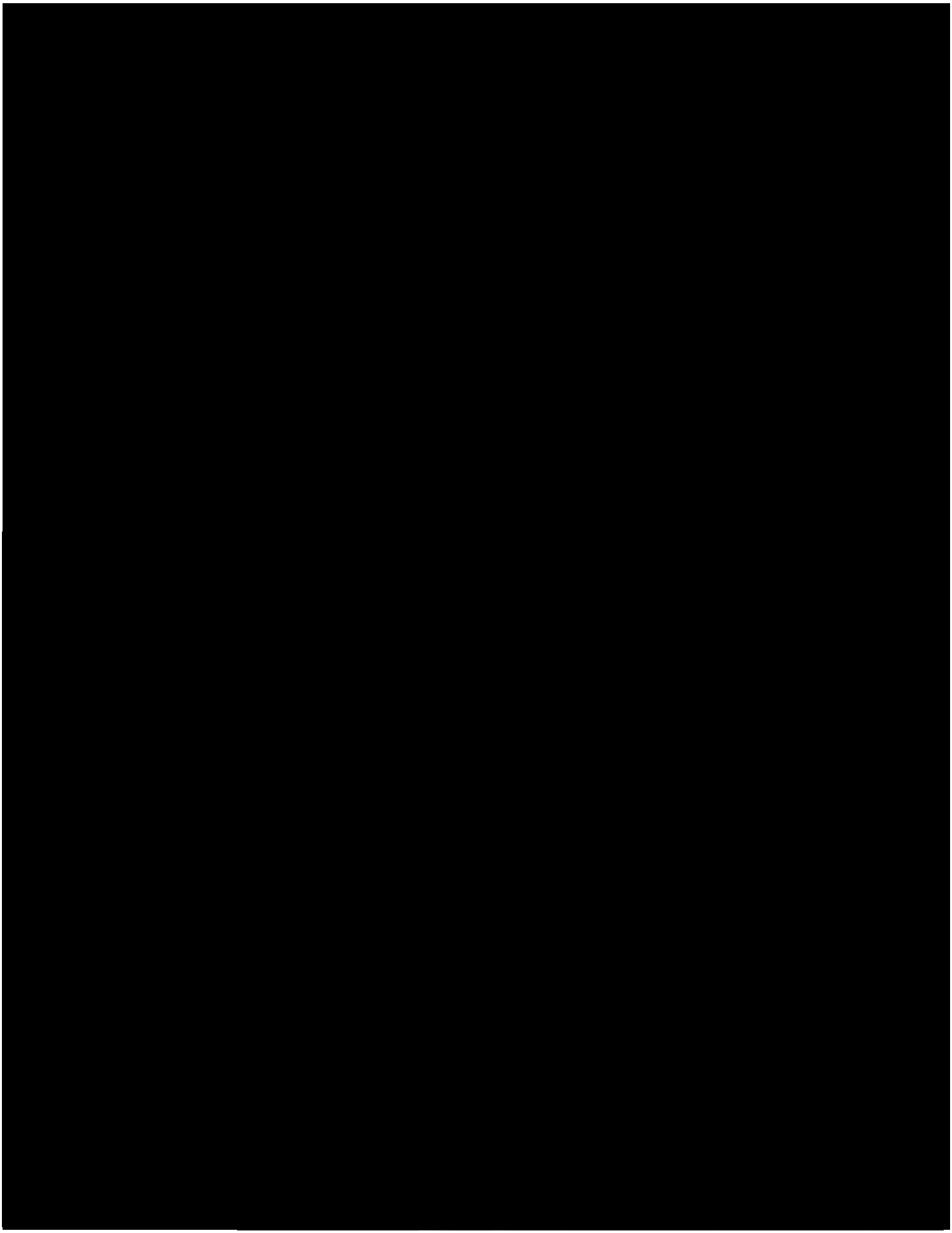


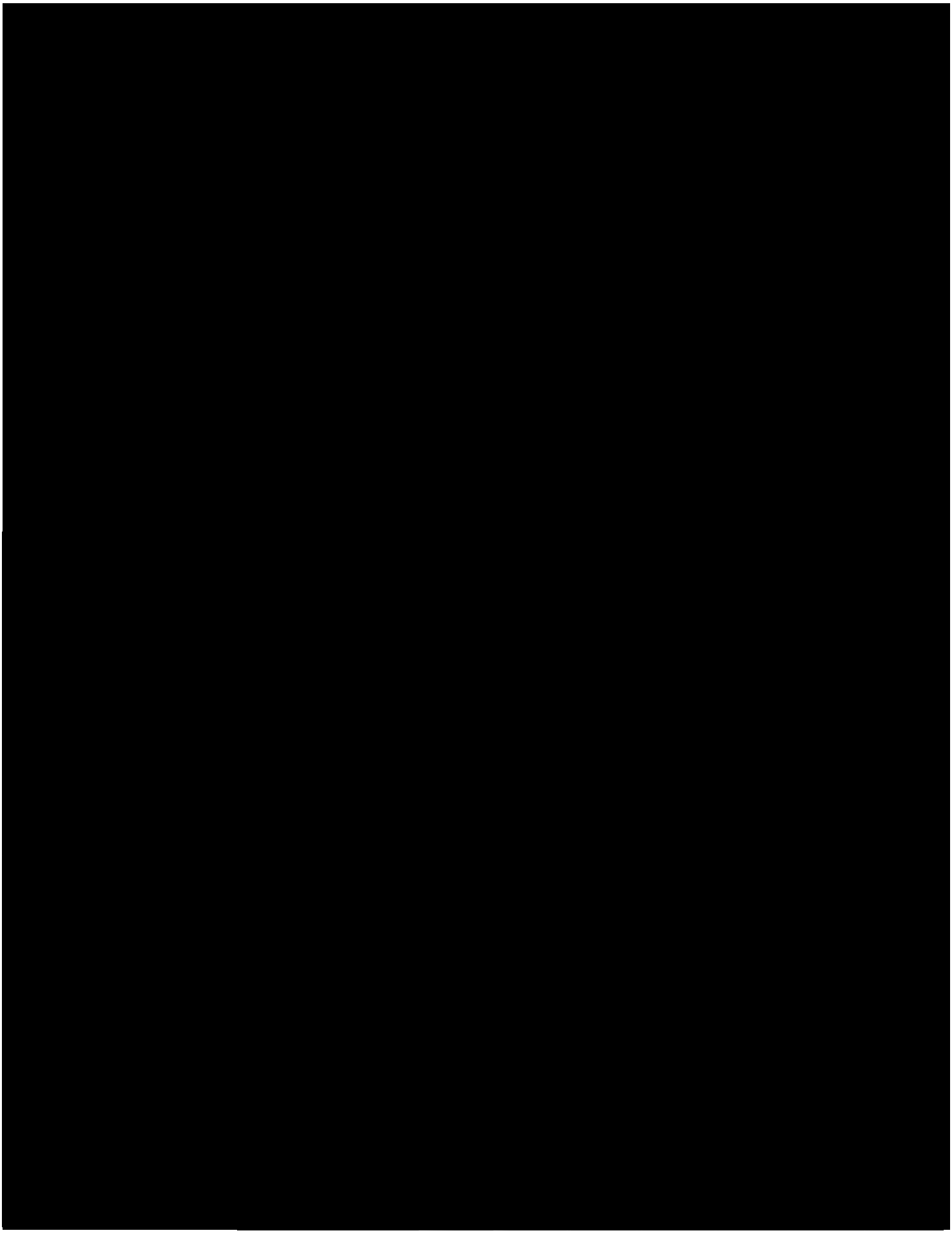


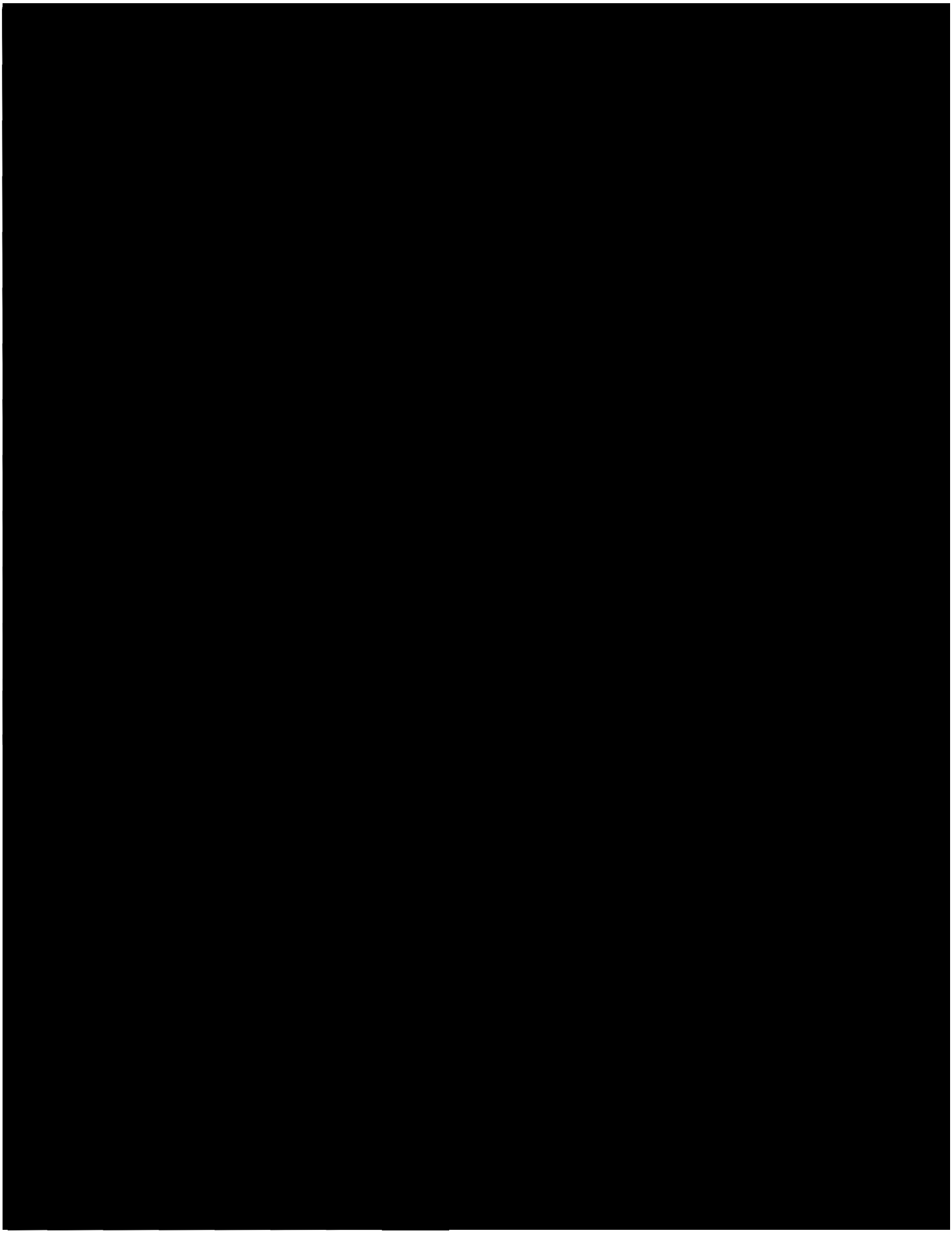


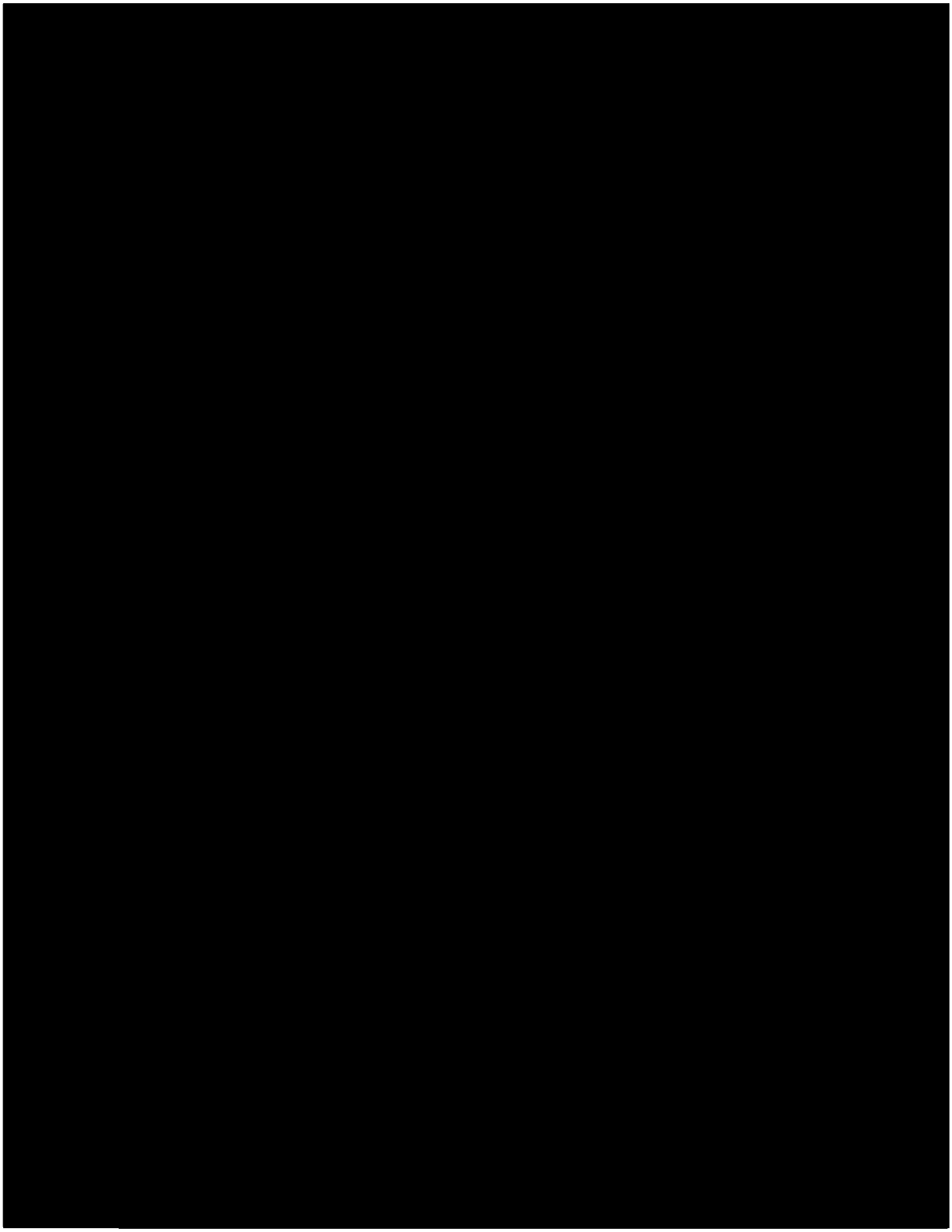


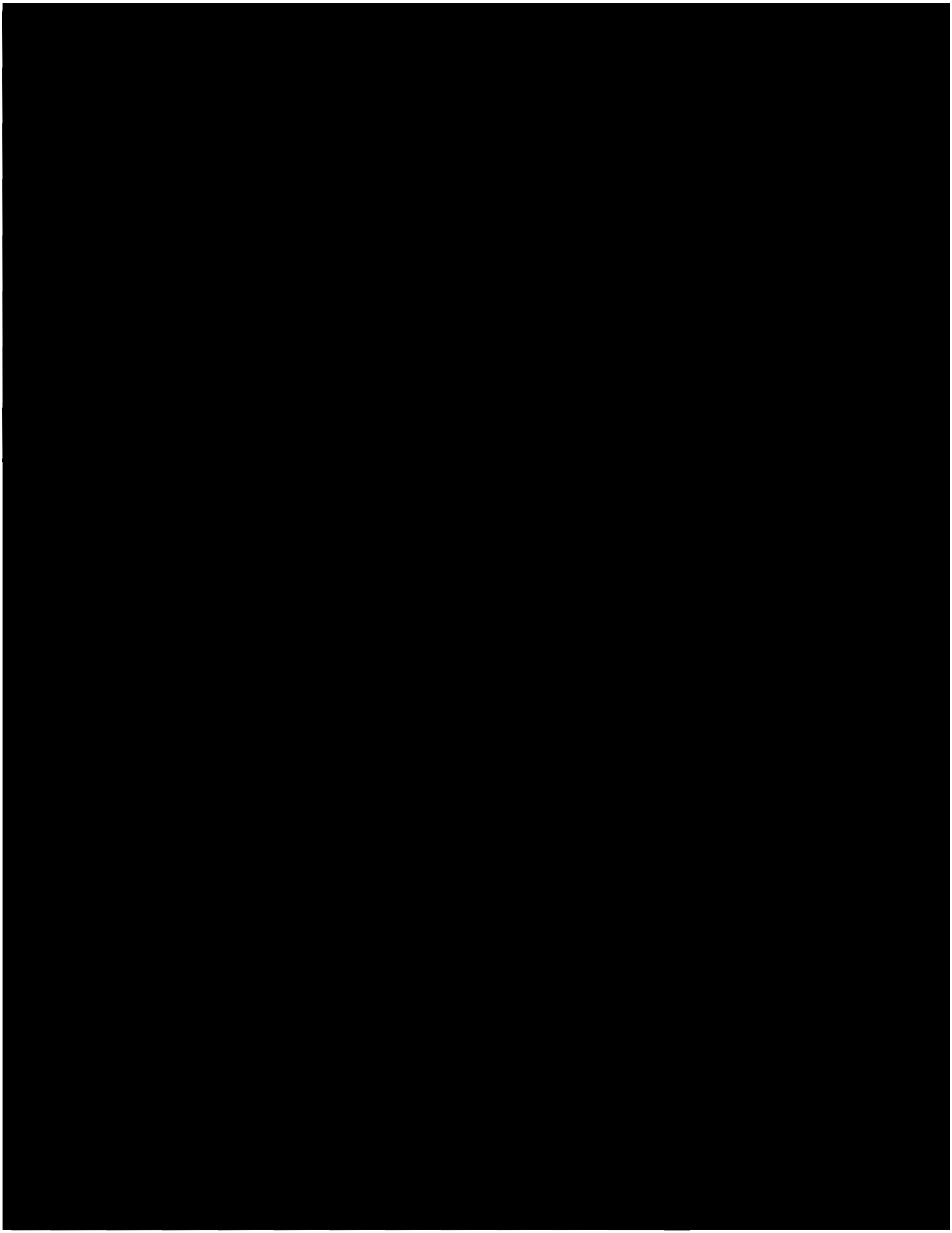


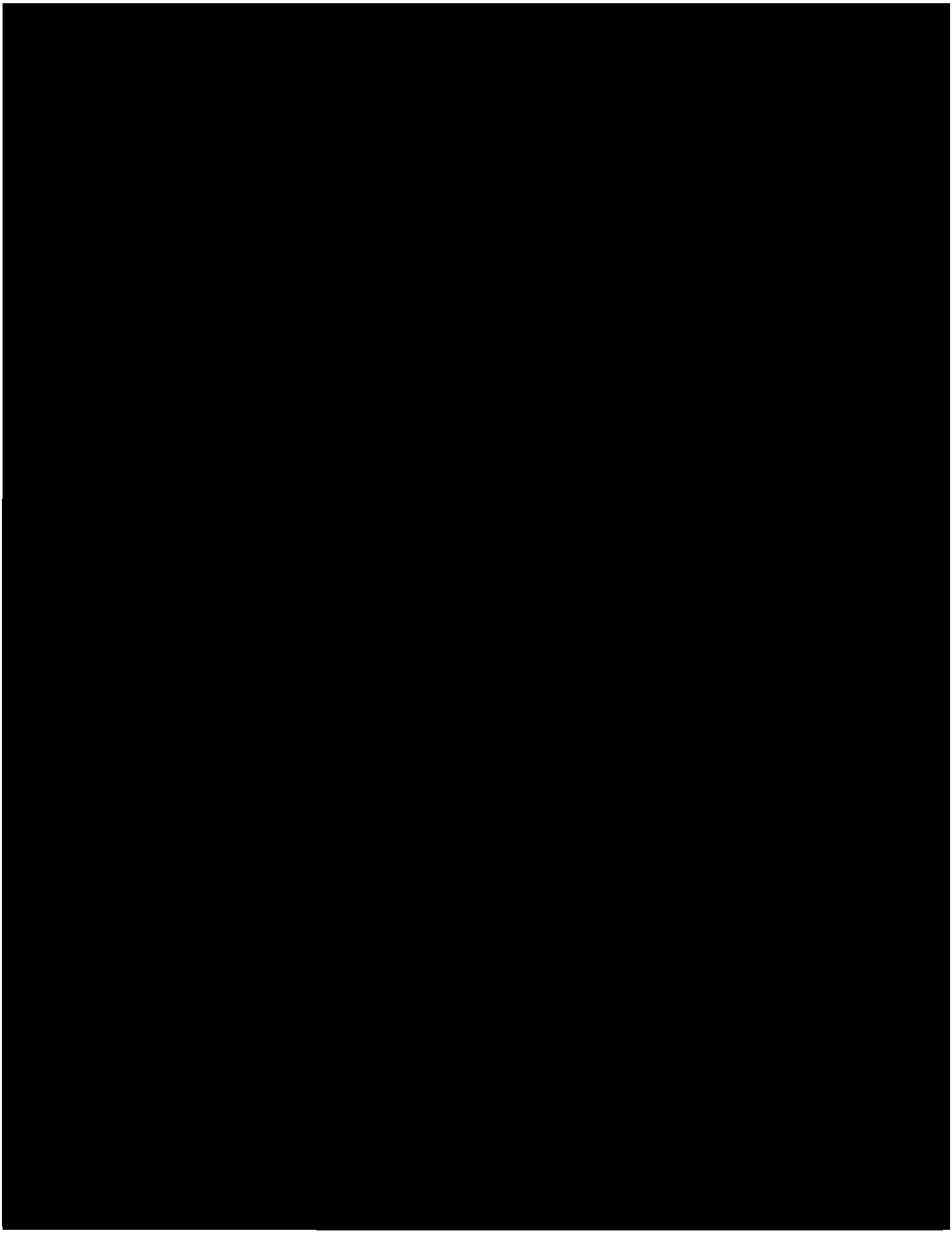


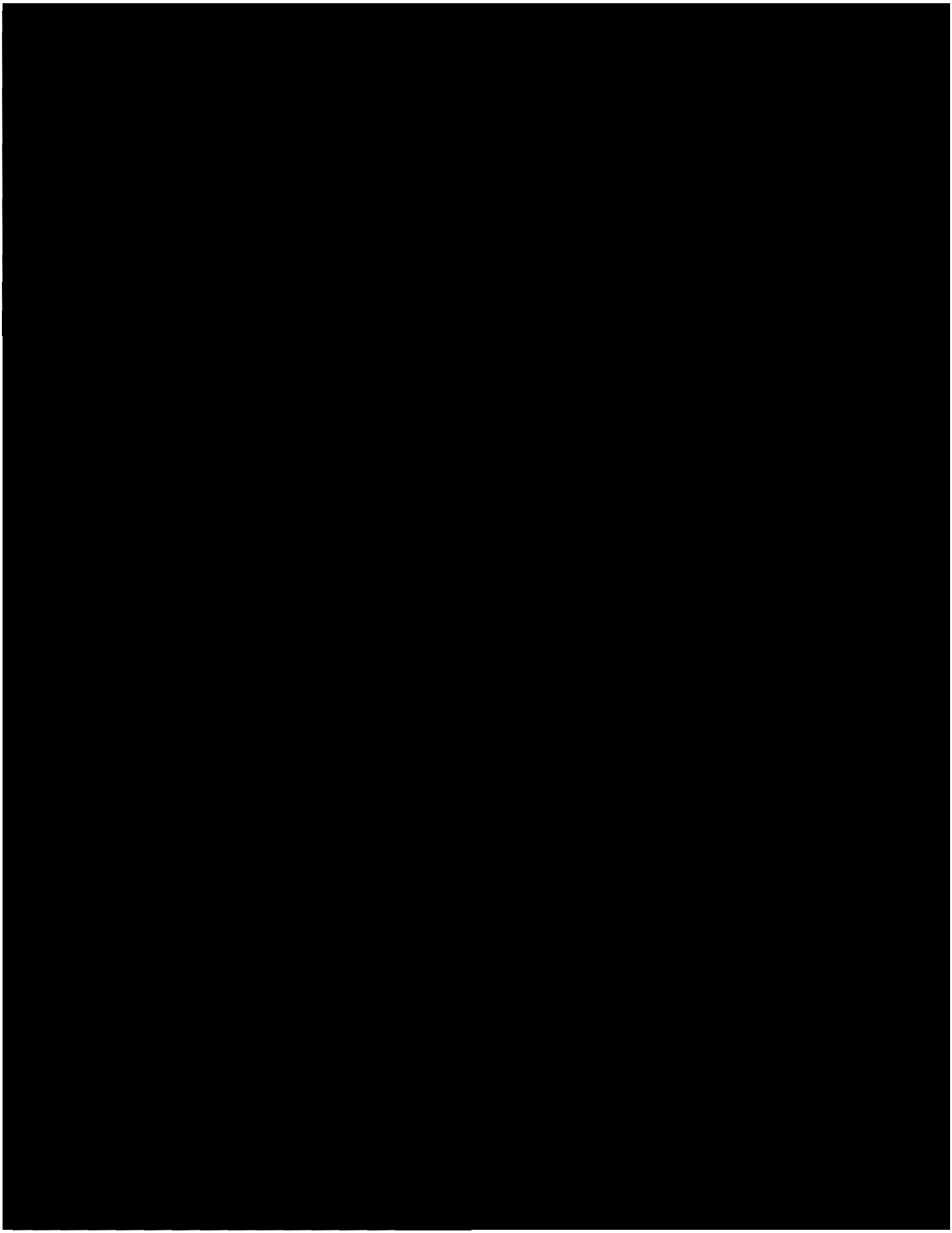


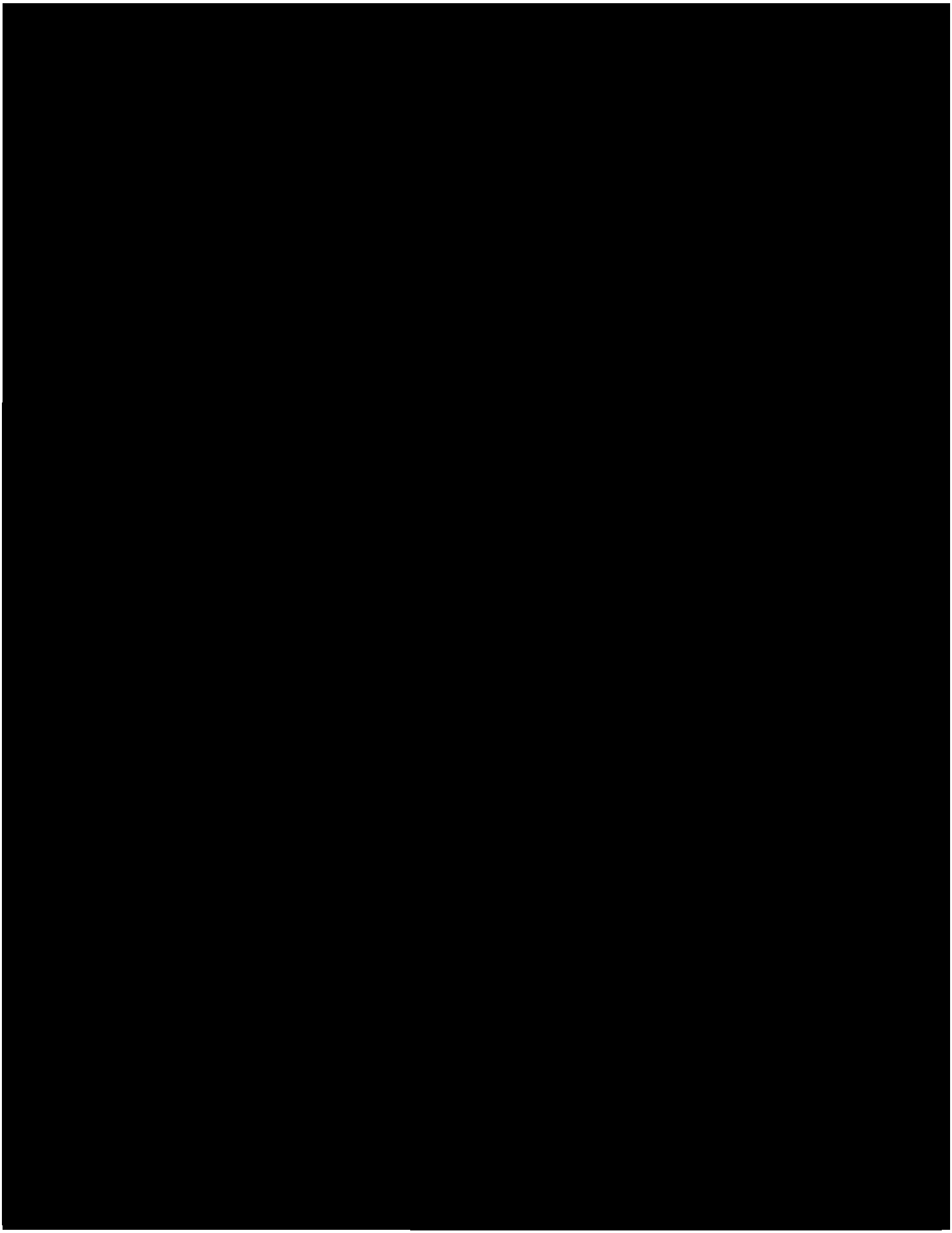


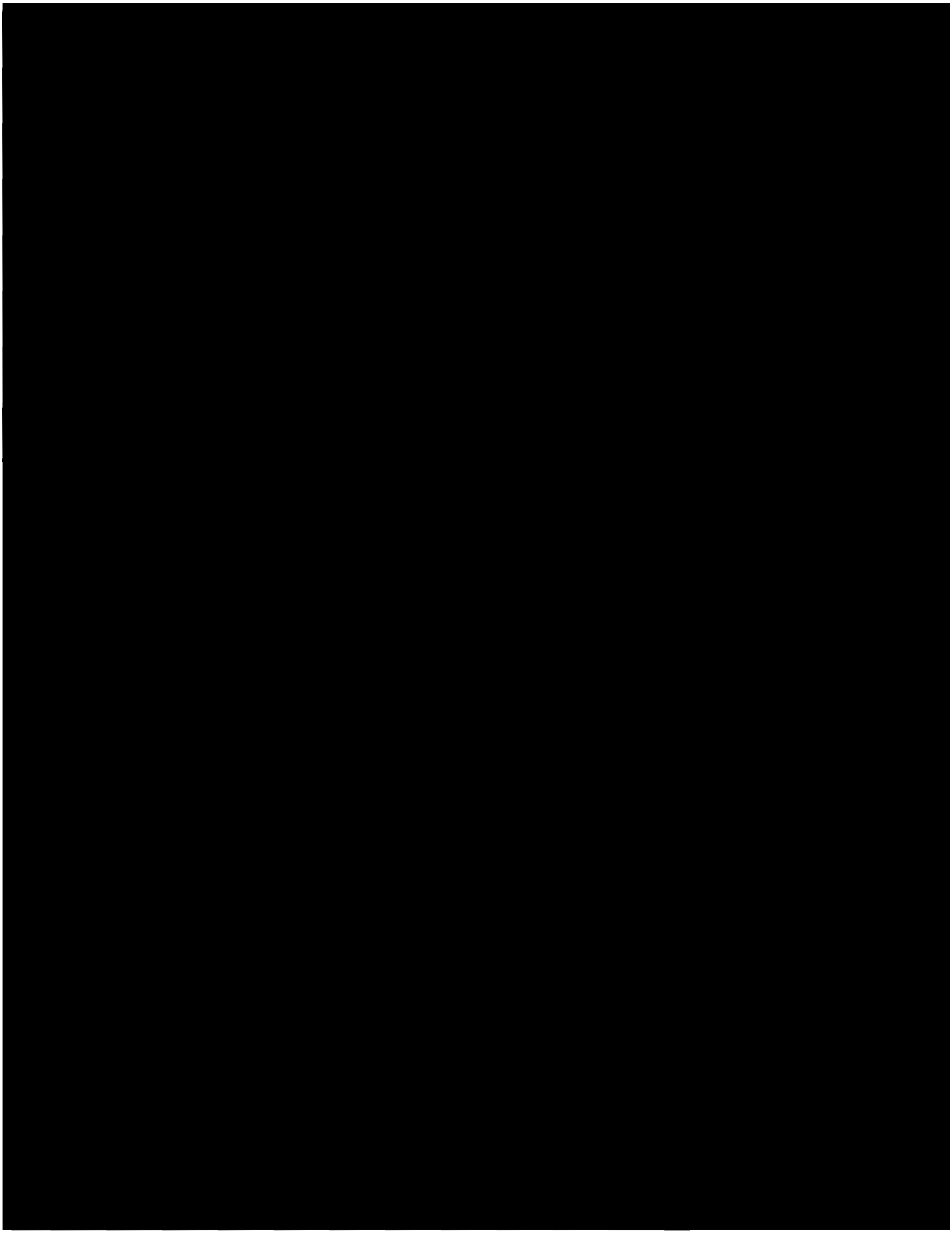


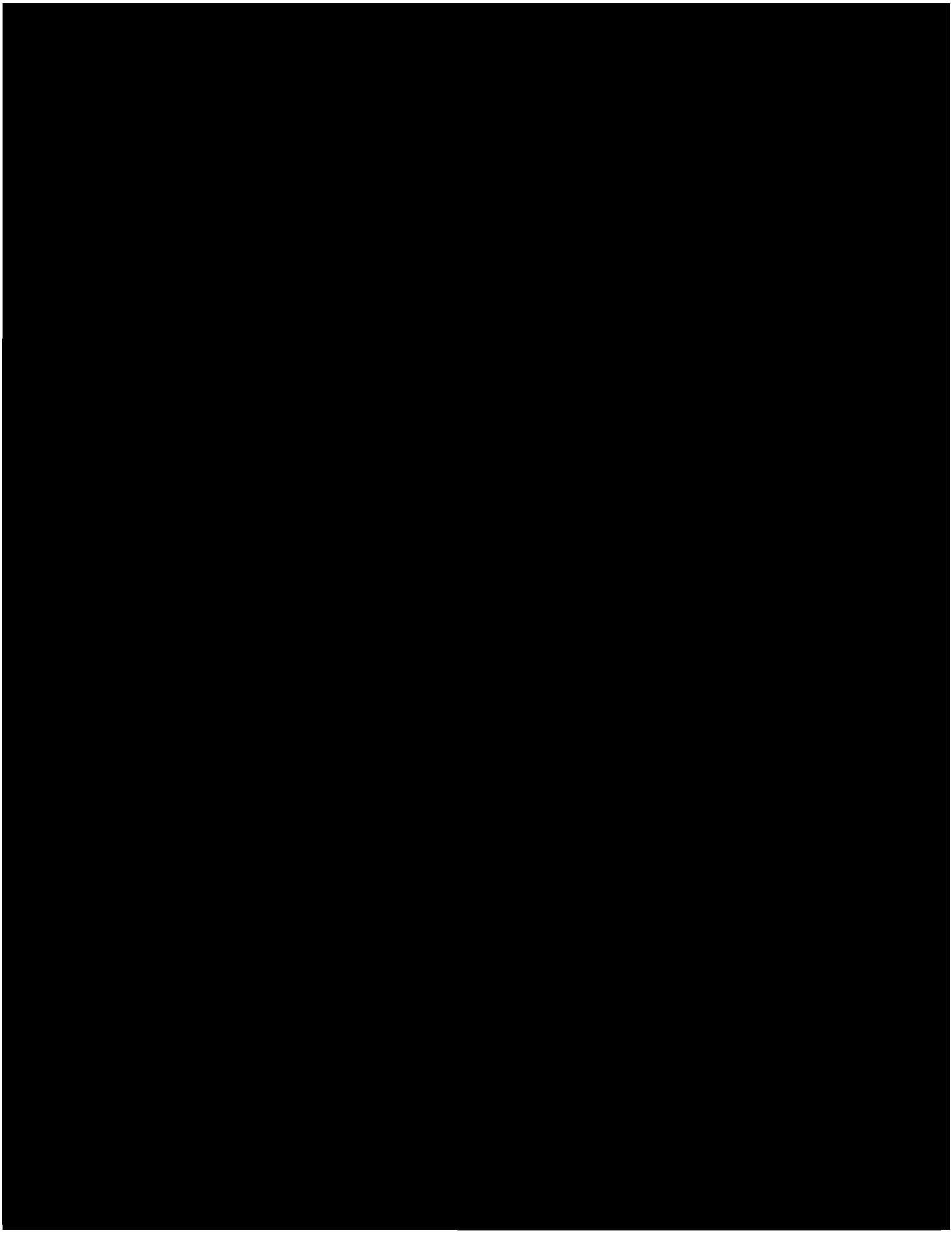


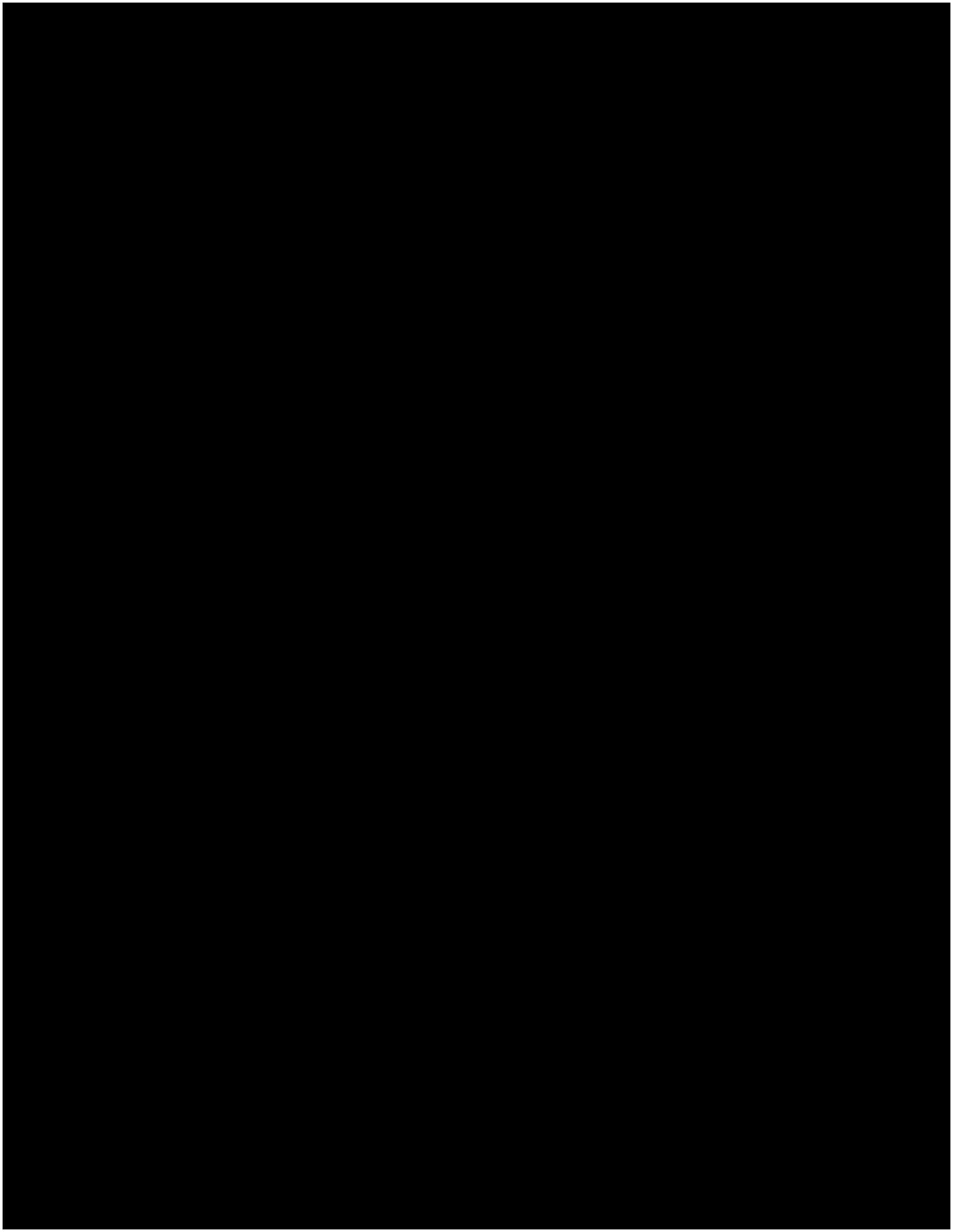


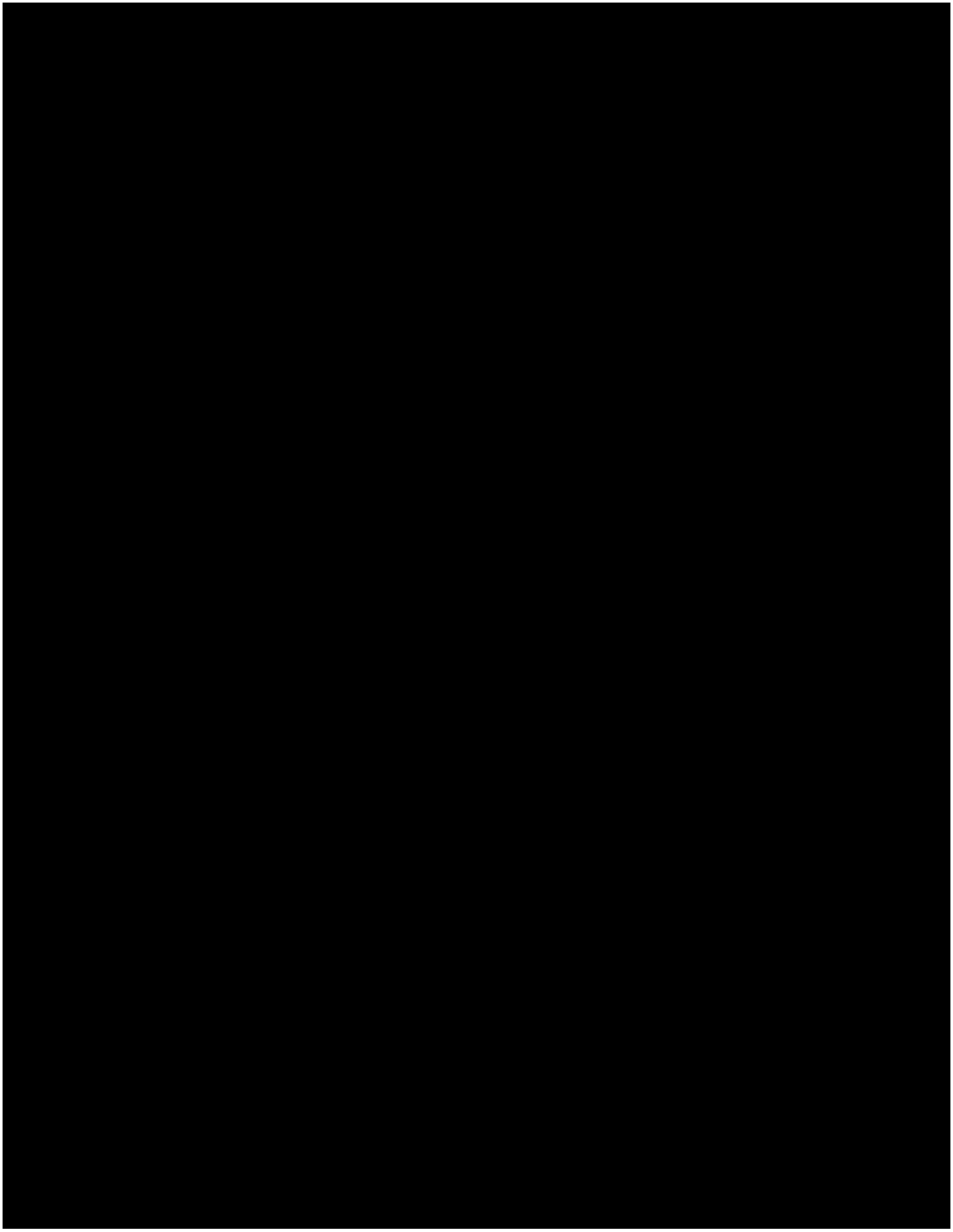


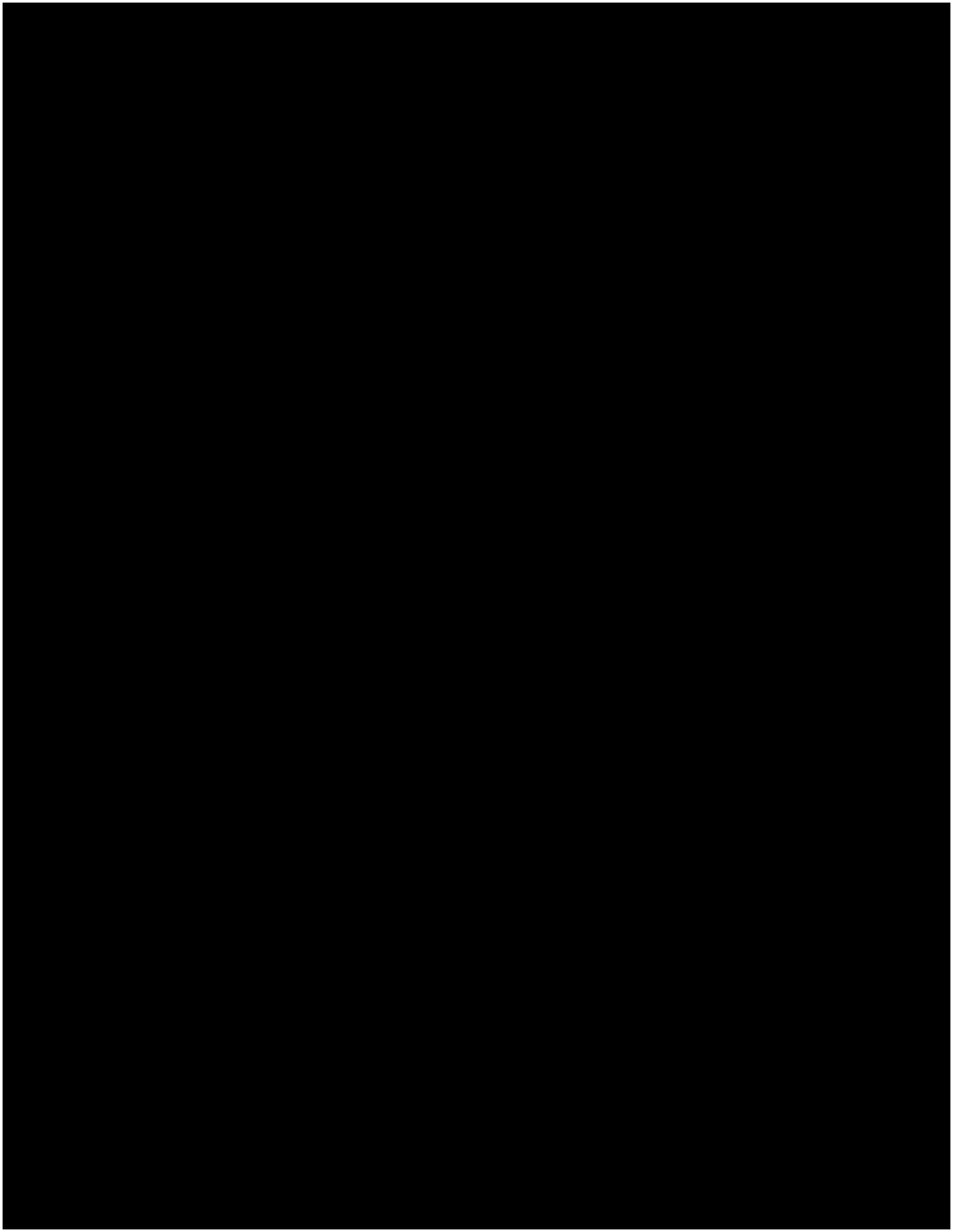


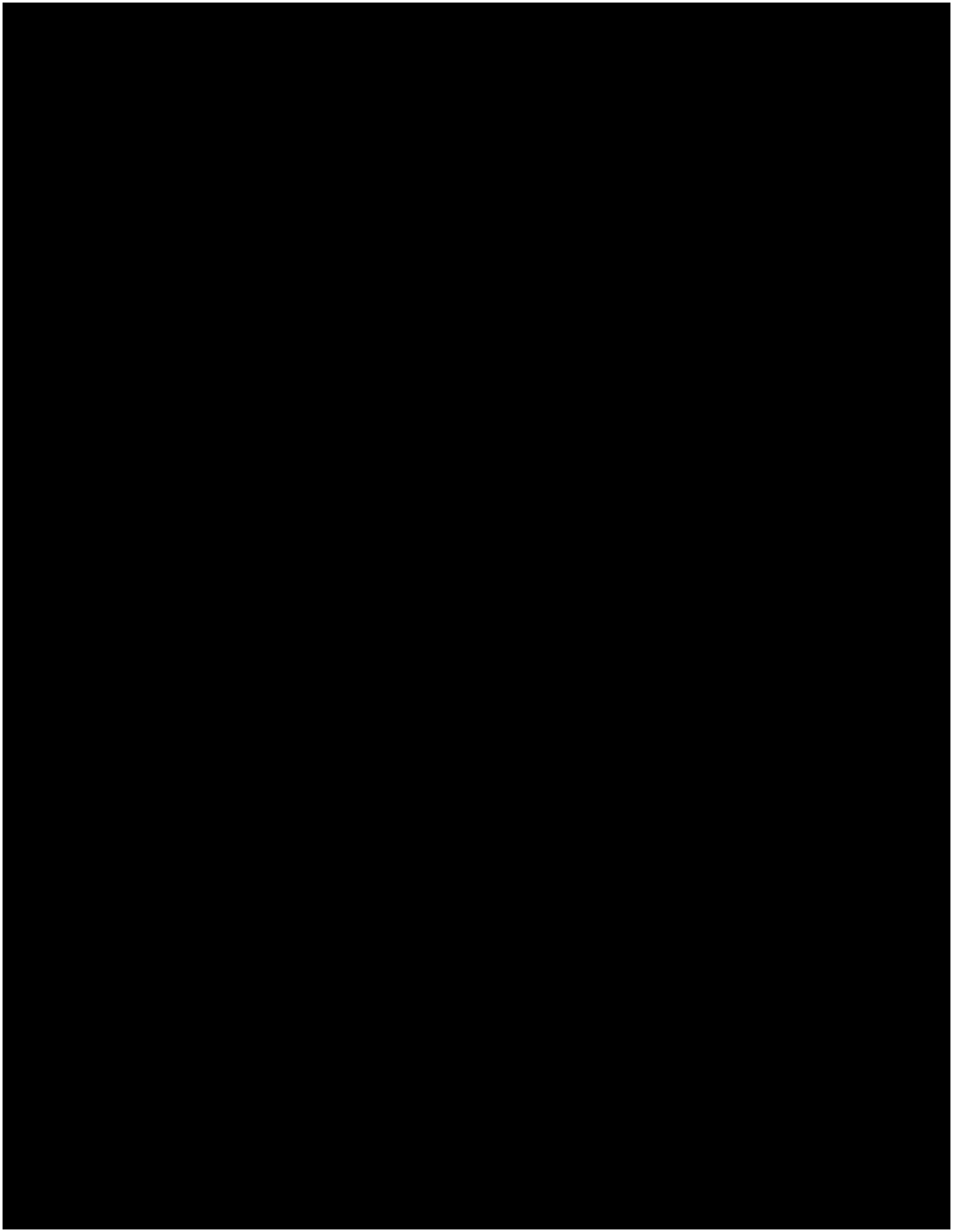












ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

TRIAL EXHIBITS FOR WRONGFUL DEATH CLAIM OF JACQUELINE LYNN ASHCRAFT, DECEASED

Exhibit #	Description	Bates #
1	Trooper James Ray Deposition Excerpt for Photographs	001-006
2	Photos of Ashcraft car after wreck	007
3	Photos of DHS car after wreck	008
4	Jacqueline Ashcraft Family Photographs	009-013
5	Funeral program for Jacqueline Ashcraft	014
6	Death Certificate for Jacqueline Ashcraft	015
7	Brotherton Funeral Home invoice	016
8	Deposition of Christopher Bell, M.D. with six exhibits	017 - 038
9	Deposition of Holly Newman (condensed transcript)	039 - 063
10	Dr. Ralph Scott's expert report with supporting documents	064 - 143
11	Cost of Tuition – University of Arkansas	144
12	Jacqueline Ashcraft's Medical Records with affidavit	145 - 184

[redacted]

EXHIBIT
1

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ALSO PRESENT:

RICHARD HAYDEN, VIDEOGRAPHER

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EXHIBITS

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24. Photograph.
25. Photograph.
26. Photograph.
27. Photograph.
28. Thumb Drive

(Court Reporter Note: Physical Copy of thumb drive Exhibit No. 28 mailed to each attorney.)

operation.
Q And for vehicle three, the same question is going to be on page 14. And what did you -- what was your finding on the vehicle -- on that driver's contributory actions?
A No contributing action.
Q And one bit of housekeeping matters.
MR. JACKSON: What's our last Exhibit number? 20? I'm going to mark as Exhibits 21-27, and represent to you that those are the photos that I've shown you previously in the slide as the Respondent's vehicle.
(WHEREUPON, the documents were marked for identification as Exhibit No. 21-27 and are attached hereto.)
BY MR. JACKSON:
Q And if you could look through that stack and verify that those are correct, I'll ask to attach them to your deposition.
A Correct.
Q And today you've brought a thumb drive with you to the -- to the deposition and tell us what is on that thumb drive.
A My photographs from the accident.
MR. JACKSON: And let's go off the

record for just a moment.

THE VIDEOGRAPHER: Sure. Off the record at 2:02.

(Break taken at 2:02 p.m.)

(Resume at 2:03 p.m.)

THE VIDEOGRAPHER: On the record at 2:03.

BY MR. JACKSON:

Q And you brought, we're going to attach as Exhibit No. 28, the thumb drive containing the images, and these are jpegs that you took as part of your investigation of the accident?

A Correct.

(WHEREUPON, the document was marked for identification as Exhibit No. 28 and is attached hereto.)

BY MR. JACKSON:

Q Thank you. And then how did you find out that Ms. Ashcraft passed away later that night?

A After being in contact with the hospital.

Q Okay. All right. And that's all the questions I have.

BY MR. GASPER:

Q Just a real-quick follow-up. You mentioned on -- on your report that there was a box that you've marked



Photos of Jacqueline Ashcraft's car taken by Arkansas State Trooper James Ray

EXHIBIT 2



Photos of Arkansas Department of Human Services car driven by employee Jennifer Wilkerson. These photos were taken by Arkansas State Trooper James Ray

EXHIBIT
3



EXHIBIT
4

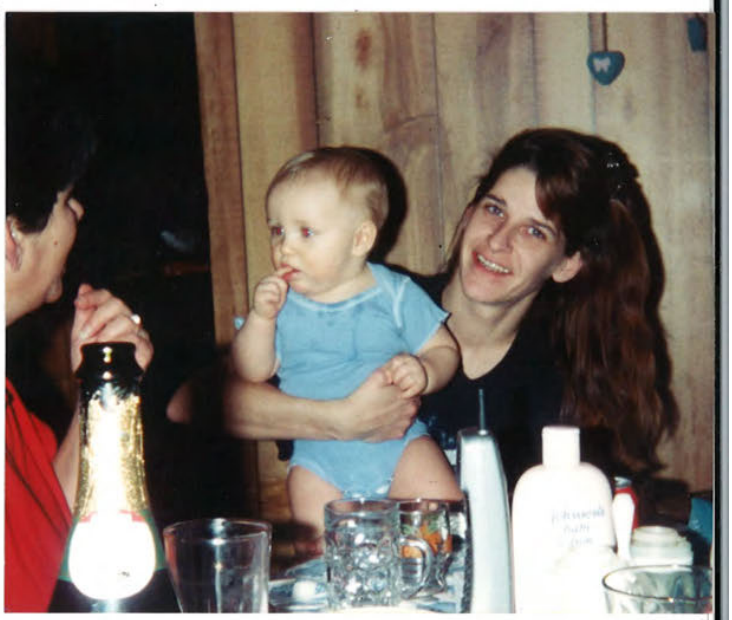

Pizza Hut
















TFW LTE
7:21 AM
100%
Memories
On this day
1 year ago
Jackie Ashcraft
Dec 30, 2020 ·
Shouting a VERY happy birthday to my oldest daughter Haley Nicole Hudson. I am really struggling to think you are 29..but honestly you are my bff..my side kick..my compadre..my ride or die❤️❤️❤️❤️ALWAYS!!! I really wish I could be there with you...and not only cause I'm jealous that Ray is there😂😂😂
You are always there for me and the girls..and everyone else and truthfully you have pulled me through stuff that I'd didn't want to deal with..but you always did and for that I am grateful❤️❤️ I hope you have had the best birthday EVER...cause no more 20's😂😂. I'm so happy you have an amazing family life job kids...I thank God...but you deserve it and more!! Thank you for letting me be your mama...I couldn't have made it without you ❤️I love you with everything inside my heart and soul💋💋💋
Ladonna Jackson and 17 others
6 Comments
Send
Share
News Feed
Watch
9+
Groups
9+
News
5
Notifications
9+
Menu

In Loving Memory



Jackie Lynn Ashcraft

May 27, 1971 - June 12, 2021

Jacqueline "Jackie" Lynn Ashcraft,

Jacqueline "Jackie" Lynn Ashcraft, who resided in Paris, Arkansas, passed away Saturday, June 12, 2021 in Fort Smith. She was born in Pine Bluff, Arkansas to the late Bobby Wayne Ashcraft and Ladonna Grice Jackson. She was 50 years old. She was preceded in death by her father and a sister, Kimberly Nicole Jackson.

Jackie was a homemaker, she was a great friend, a loving and caring soul, and was always there if you needed her. She was loved dearly by her friends and family.

Jackie is survived by her mother, Ladonna Jackson of Benton; stepmother Joanie Ashcraft of Pine Bluff; three daughters, Haley Hudson and Tyler Moore of Wynne [redacted] both of Paris; two sons, Dylan Hudson and wife Sunny of Ozark and Cody Ashcraft of Paris; two sisters, Jennifer Howard and husband Chad of Benton, Libby Handy and husband Jeff of Pine Bluff; four brothers, Jeff Ashcraft and wife Saundria of Batesville, Josh Jackson and wife Lisa of Paris, Bobby Ashcraft of Pine Bluff, and Jason May and wife Dray of Grapevine, Arkansas; and seven grandchildren [redacted]

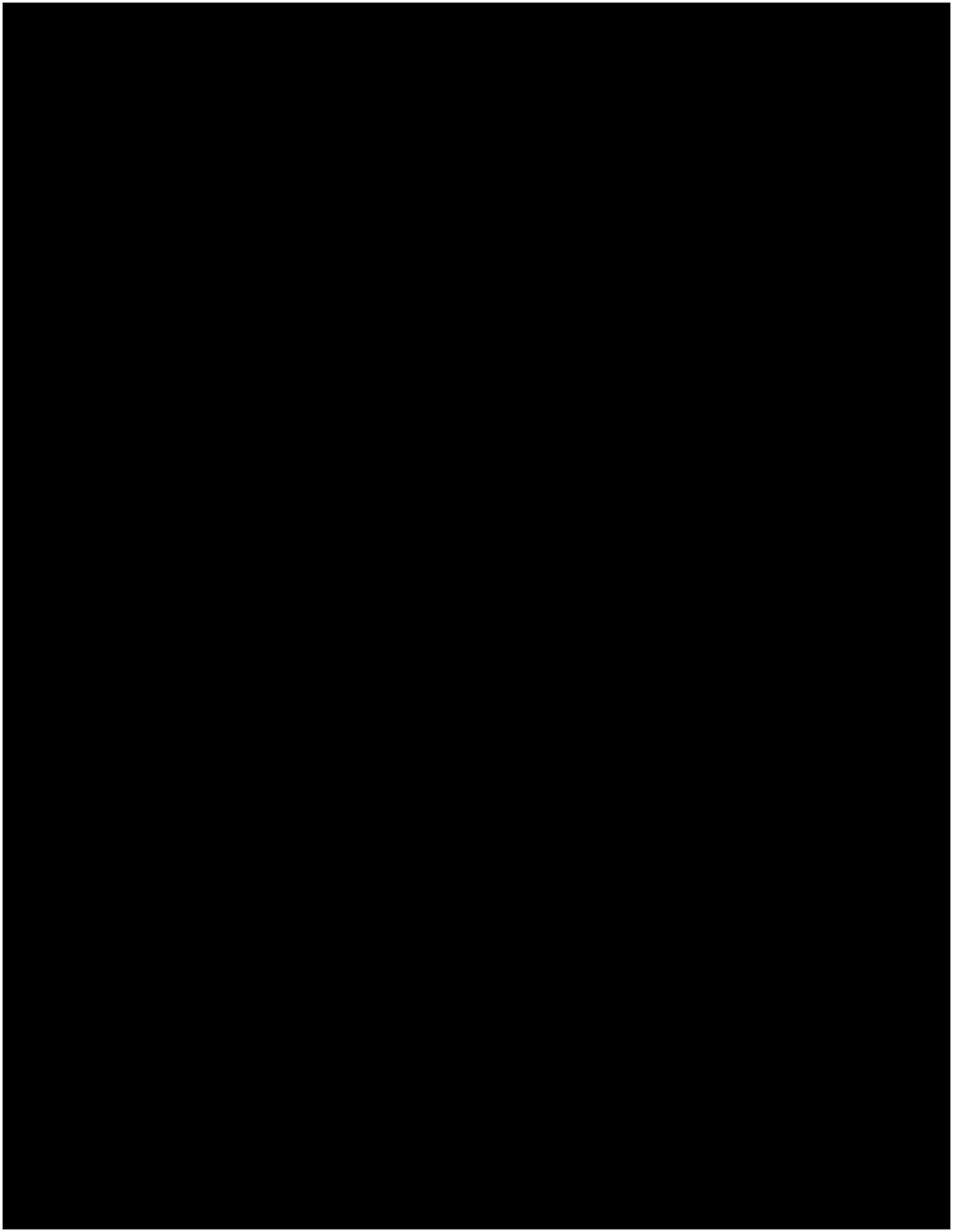
Jackie was a beloved Daughter, Sister, Mother, Aunt and Gammi. She was also a bonus mom to many kids in Cross County. Her house wasn't only the "Hang Out Spot", it was also a safe place where the kids could go and talk about things without any judgement. Her kindness and heart of gold is something we will forever cherish.

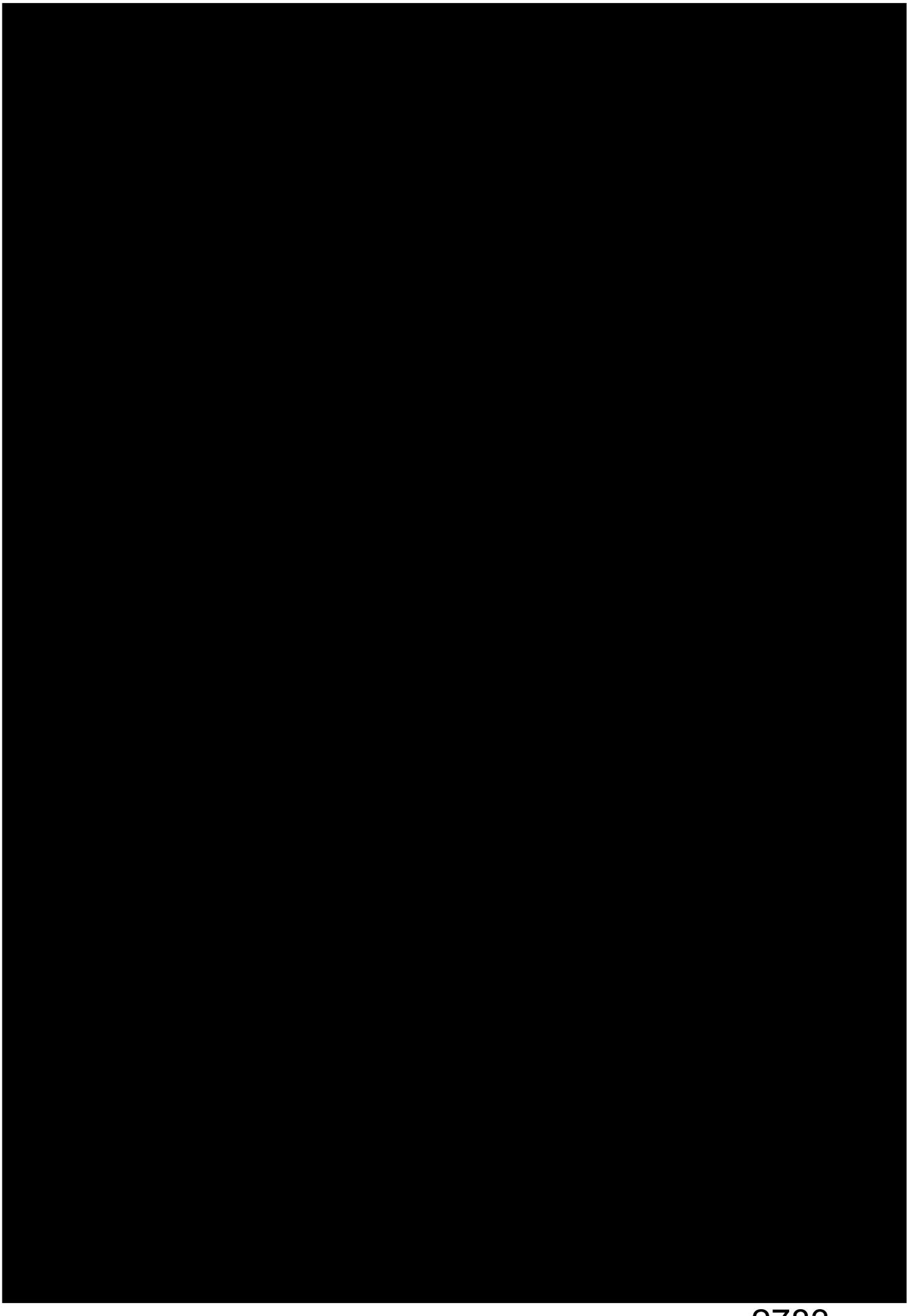
EXHIBIT 5

F.2

Ashcraft Exhibits 0014

2781





ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN,	)	
CLAIMANT,	)	CC NO. 230641
VS.	)	
ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES,	)	
RESPONDENT.	)	

DEPOSITION UPON WRITTEN QUESTIONS OF

CHRISTOPHER BELL, M.D.

June 19, 2024

ORAL DEPOSITION OF CHRISTOPHER BELL, M.D., produced as a witness at the instance of the CLAIMANT, and duly sworn, was taken in the above-styled and numbered cause on the 19th day of June 2024, from 1:35 p.m. to 1:43 p.m., before Dana Hayden, CCR in and for the State of Arkansas, RMR, CRR, CRC, reported by machine shorthand, at Hardin, Jesson & Terry, PLC, 5000 Rogers Avenue, Suite 500, Fort Smith, Arkansas, pursuant to the Arkansas Rules of Civil Procedure.

EXHIBIT 8

APPEARANCES

FOR THE WITNESS:

Mr. Kirkman T. Dougherty

Hardin, Jesson & Terry, PLC

5000 Rogers Avenue, Suite 500

Fort Smith, Arkansas 72901

(479) 452-2200

Kdougherty@hardinlaw.com

HALEY HUDSON vs ARKANSAS DEPARTMENT OF HEALTH
BELL, M.D., CHRISTOPHER on 06/19/2024

I N D E X

June 19, 2024

Appearances 2

Reporter Certification 10

HALEY HUDSON vs ARKANSAS DEPARTMENT OF HEALTH
BELL, M.D., CHRISTOPHER on 06/19/2024

WITNESS: CHRISTOPHER BELL, M.D.

Examination By Claimant 4

EXHIBITS

NO.	DESCRIPTION	MARKED
Exhibit 1	(Not Marked)	
Exhibit 2	Page 1 of Jacqueline Ashcraft's medical records from Mercy Hospital	4
Exhibit 3	Pages 33, 34 & 35 of Jacqueline Ashcraft's medical records from Mercy Hospital	5
Exhibit 4	Four photographs	7
Exhibit 5	CT scan results from Mercy Hospital Booneville	8
Exhibit 6	Death certificate for Jacqueline Ashcraft issued by the Arkansas Department of Health	8

CHRISTOPHER BELL, M.D.,
having been first duly sworn, testified as follows:

EXAMINATION

BY CLAIMANT:

Q. Will you state your name and your place of employment?

A. Chris Bell, Mercy, Fort Smith, Arkansas, emergency room.

Q. Okay. Can you provide us with a copy of your CV which we will have marked as Exhibit 1 to your deposition?

A. No.

MR. DOUGHERTY: "No, I don't have a CV."

A. I don't have a CV.

Q. Was Jacqueline Ashcraft a patient of yours on June 11 and 12, 2021?

A. According to the chart, Dr. Woolley was the attendee and then it was transferred to me.

(Exhibit 2 marked for identification.)

Q. Attached as Exhibit 2, which is right here, is Page 1 of Jacqueline Ashcraft's medical records from Mercy Hospital. I want to turn your attention to the section at the top of the page that states: "Reason for Visit. Chief Complaint: [redacted]

[redacted]

My question to you after you review Exhibit 2 is: Do you have any reason to disagree with the description contained in the Chief Complaint?

A. No.

Q. Do you have any reason to disagree with the diagnosis of Jacqueline Ashcraft of having sustained [redacted]

A. No.

Q. All right. Moving right along, Exhibit 3.

(Exhibit 3 marked for identification.)

Q. Attached as Exhibit 3 to your deposition are pages 33, 34 & 35 of Jacqueline Ashcraft's medical records from Mercy Hospital. Do you have any reason to disagree with page 33 of the medical records where the notes state: [redacted]

A. No.

Q. Next I want to turn your attention to the

medical decision-making and plan of care beginning on page 34 of Ms. Ashcraft's medical records. The record states: [redacted]

Is this your understanding of the course of the medical decision making and plan of care for Ms. Ashcraft when she was turned over to you as a patient?

A. According to Woolley's chart, yes.

Q. All right. The next question: I want to turn your attention to page 35. The final diagnoses states [redacted]

Do you have any reason to disagree with this final diagnosis in Mercy's records?

A. No.

Q. Did you order the endotracheal tube to be

removed from Jacqueline Ashcraft shortly after midnight on June 12, 2021?

A. Is there a place in the records that's going to state that? I don't even -- I don't recall.

HALEY HUDSON vs ARKANSAS DEPARTMENT OF HEALTH
BELL, M.D., CHRISTOPHER on 06/19/2024

01:39PM Q. Okay. Did Ms. Ashcraft die shortly after she was extubated from the mechanical ventilator?

A. I don't recall.

Q. Are you familiar with the contrecoup brain injury mechanism when a person is involved in a

01:40PM rear-end motor vehicle accident?

A. Yes.

Q. I want to ask you to review a series of four photographs which will be marked as Exhibit 4 to your deposition.

(Exhibit 4 marked for identification.)

Q. I will represent to you that Ms. Ashcraft was the driver of the blue vehicle which was rear-ended while slowing or stopping to make a left hand turn by the brown car. Testimony from experts indicate that the speed of the brown car ranged from 50 to 70 miles per hour.

My question is this: Is the impact depicted in the four photographs of Exhibit 4 the type of impact that you would expect a person to sustain a

01:41PM coup-contrecoup brain injury?

A. I don't have an opinion.
Q. Is a coup-contrecoup brain injury initially difficult to diagnose due to a lack of outward sign of trauma to the head?
A. I don't have an opinion.
Q. Would it surprise you that a person involved in the collision depicted in the photographs marked as Exhibit 4 would sustain an [redacted]?
A. I don't have an opinion.
(Exhibit 5 marked for identification.)
Q. I would like to turn your attention to Exhibit 5 which is the CT scan results from Mercy Hospital Booneville. Is a patient who was involved in a rear end car wreck at 12:50 p.m. and has a CT scan at 2:21 p.m., approximately 90 minutes after the wreck, which reveals [redacted], consistent with a patient who experienced a brain trauma caused from the impact of a wreck?
A. I don't have an opinion.
(Exhibit 6 marked for identification.)
Q. I would like to ask you to review what has been marked as Exhibit 6 to your deposition which is the death certificate for Jacqueline Ashcraft issued by the Arkansas Department of Health. I want to turn

your attention to the middle of Ms. Ashcraft's death certificate which has a section titled [redacted]

My question to you is: Do you have any reason to disagree with the cause of death and underlying cause as stated in the Death Certificate for Jacqueline Ashcraft?

A. No.

Q. Has all of your testimony in this matter been based upon your medical education, medical training and treatment of patients presenting to the emergency room with medical conditions similar to Jacqueline Ashcraft's condition?

A. My answers were based on the chart that I read.

Q. Have your opinions given in this deposition been given within a reasonable degree of medical probability?

A. I didn't provide any opinions.

Thank you. This concludes the deposition of Dr. Bell.

REPORTER CERTIFICATION

I, DANA HAYDEN, Certified Court Reporter for the State of Arkansas, do hereby certify to the following:

HALEY HUDSON vs ARKANSAS DEPARTMENT OF HEALTH
BELL, M.D., CHRISTOPHER on 06/19/2024

1) that on 06/19/2024, the witness, CHRISTOPHER BELL, M.D., was duly sworn by me prior to the taking of testimony as to the truth of the matters attested to and contained therein;

2) that the foregoing pages contain and are a true and correct transcription of the proceedings as reported verbatim by me via realtime stenography to the best of my ability and transcribed at or under my direction and supervision, and subject to appropriate changes submitted by witness, if any, during his/her requested reading and signing of this deposition according to the Arkansas Rules of Civil Procedure;

3) that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and that I am not a relative or employee of any attorney employed by the parties hereto;

4) that I am not financially interested or otherwise interested in the outcome of this action that affects or has substantial tendency to affect impartiality or requires me to relinquish control of

an original or copies of a deposition transcript before it is certified, or that requires me to provide any service not made available to all parties to the action; and

HALEY HUDSON vs ARKANSAS DEPARTMENT OF HEALTH
BELL, M.D., CHRISTOPHER on 06/19/2024

5) that I have no contract with the parties, attorneys, or persons with an interest in the action; and that I am not knowingly identified on a preferred provider list, whether written or oral, for any litigant, insurance company, or third-party administrator involved in this matter;

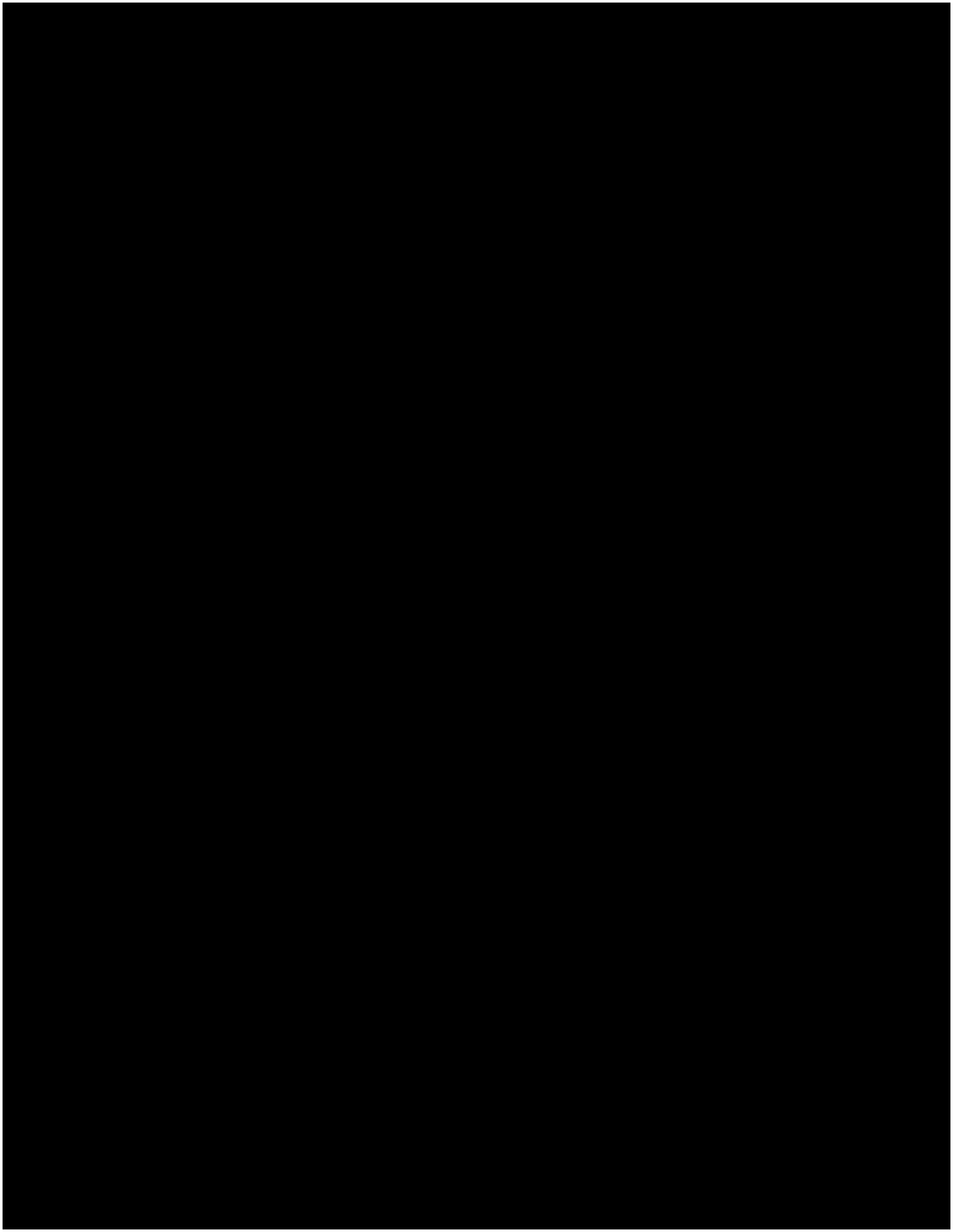
6) that signature of the witness is waived.

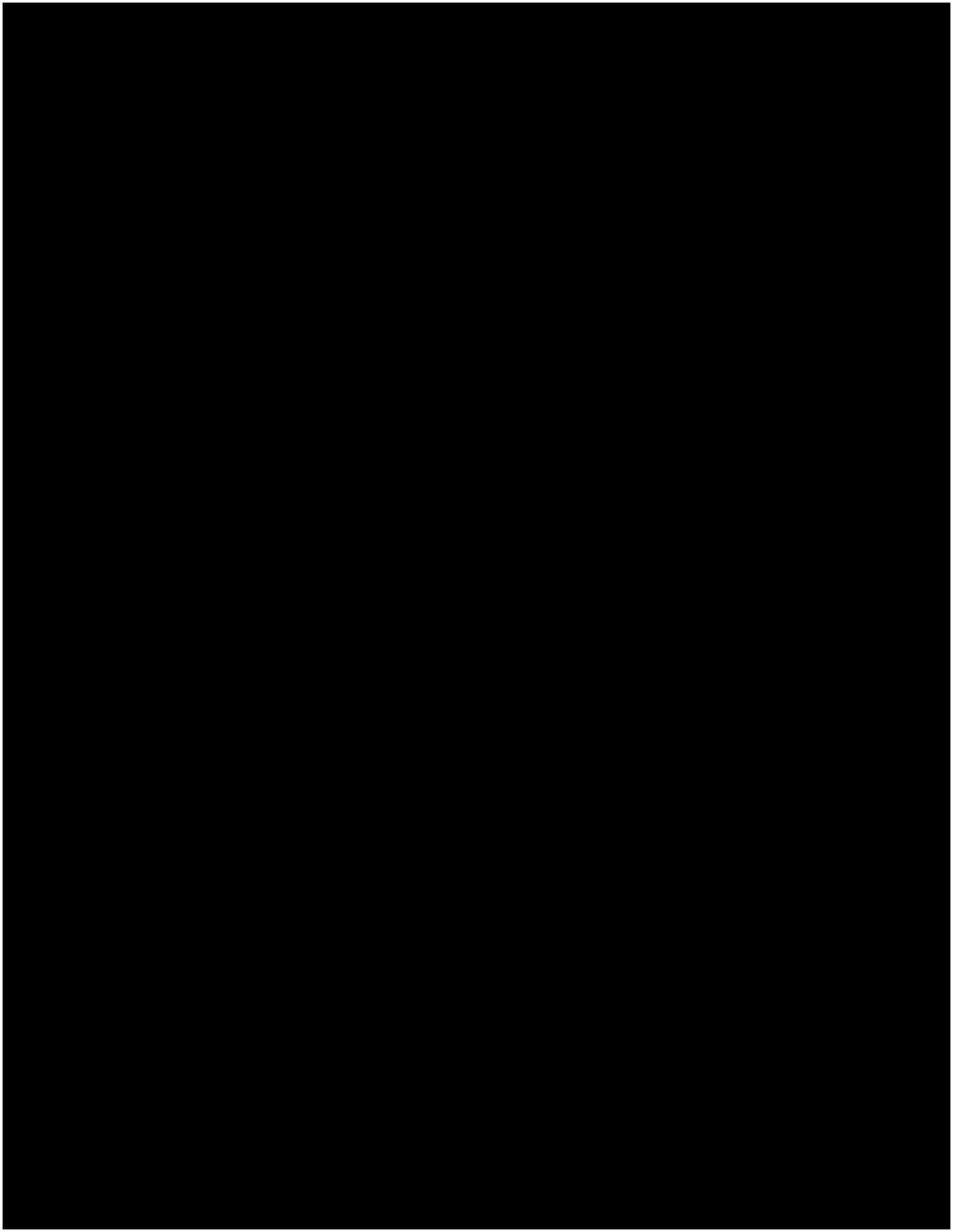
This transcript is prepared at request of counsel for CLAIMANT, and all fees are billed directly to them in compliance with Arkansas Board of Court Reporter Examiners Regulations Section 19.

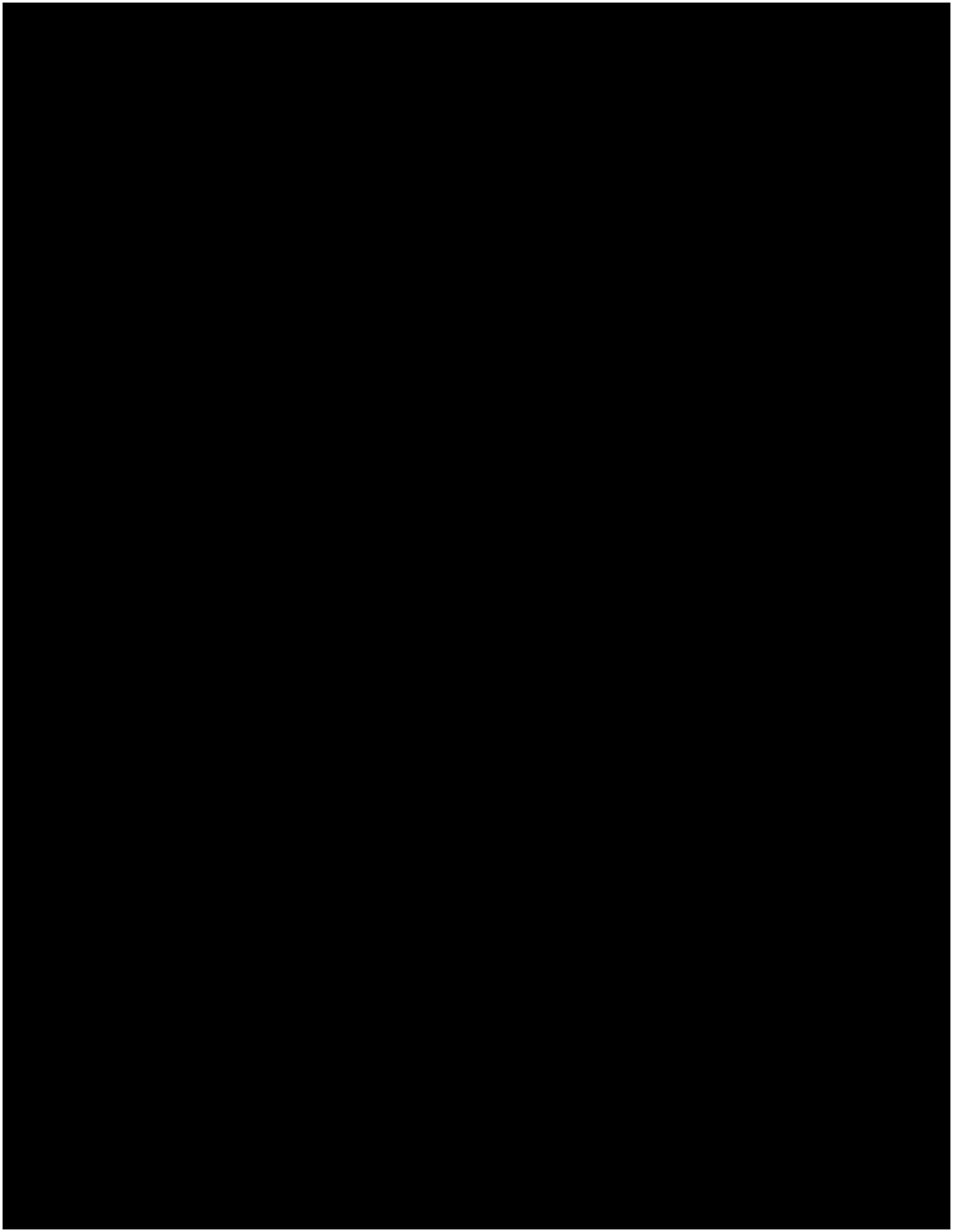
Witness my hand and seal this 21st of June, 2024.

DANA HAYDEN
CERTIFIED COURT REPORTER
ARKANSAS SUPREME COURT
LS NO. 714

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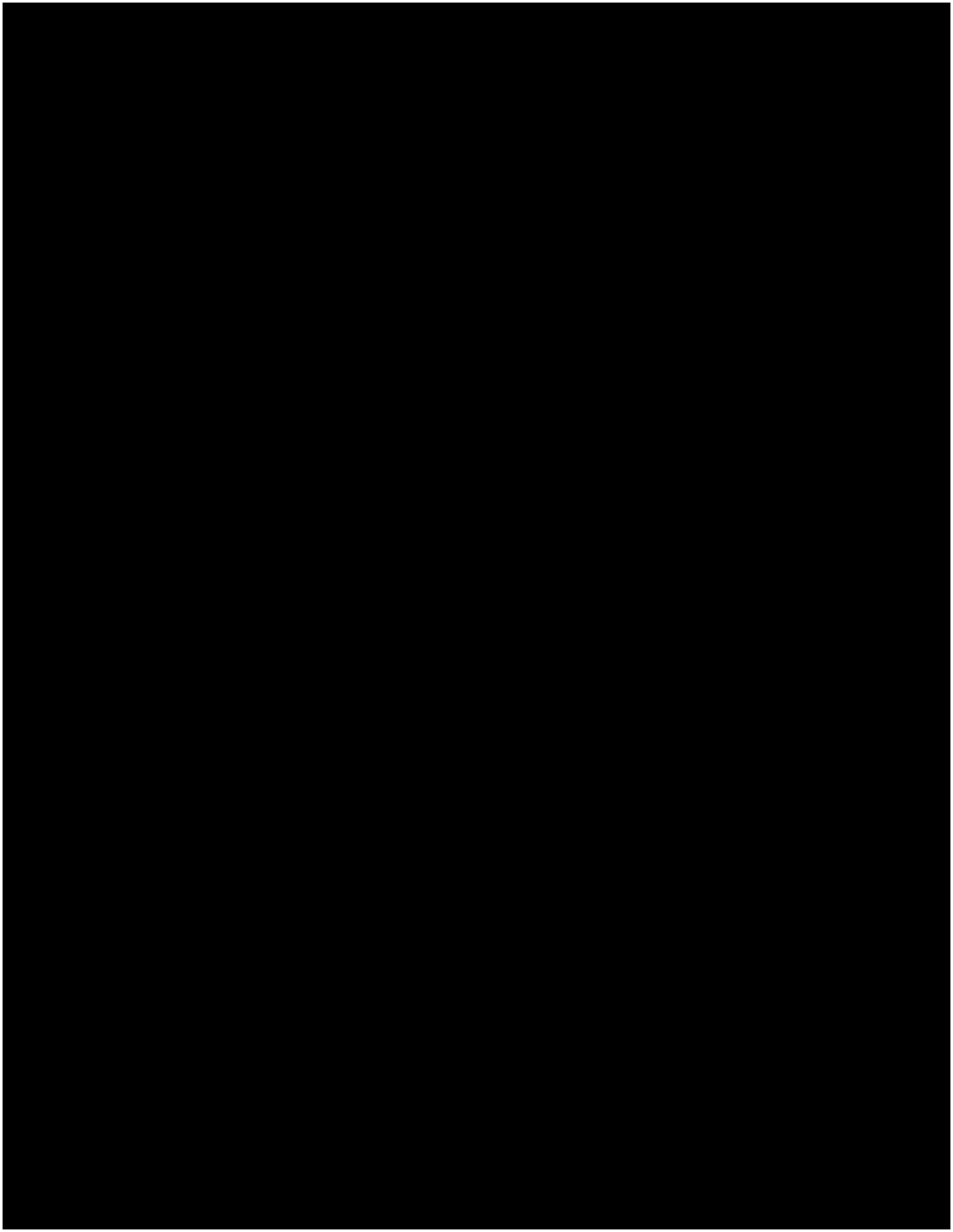
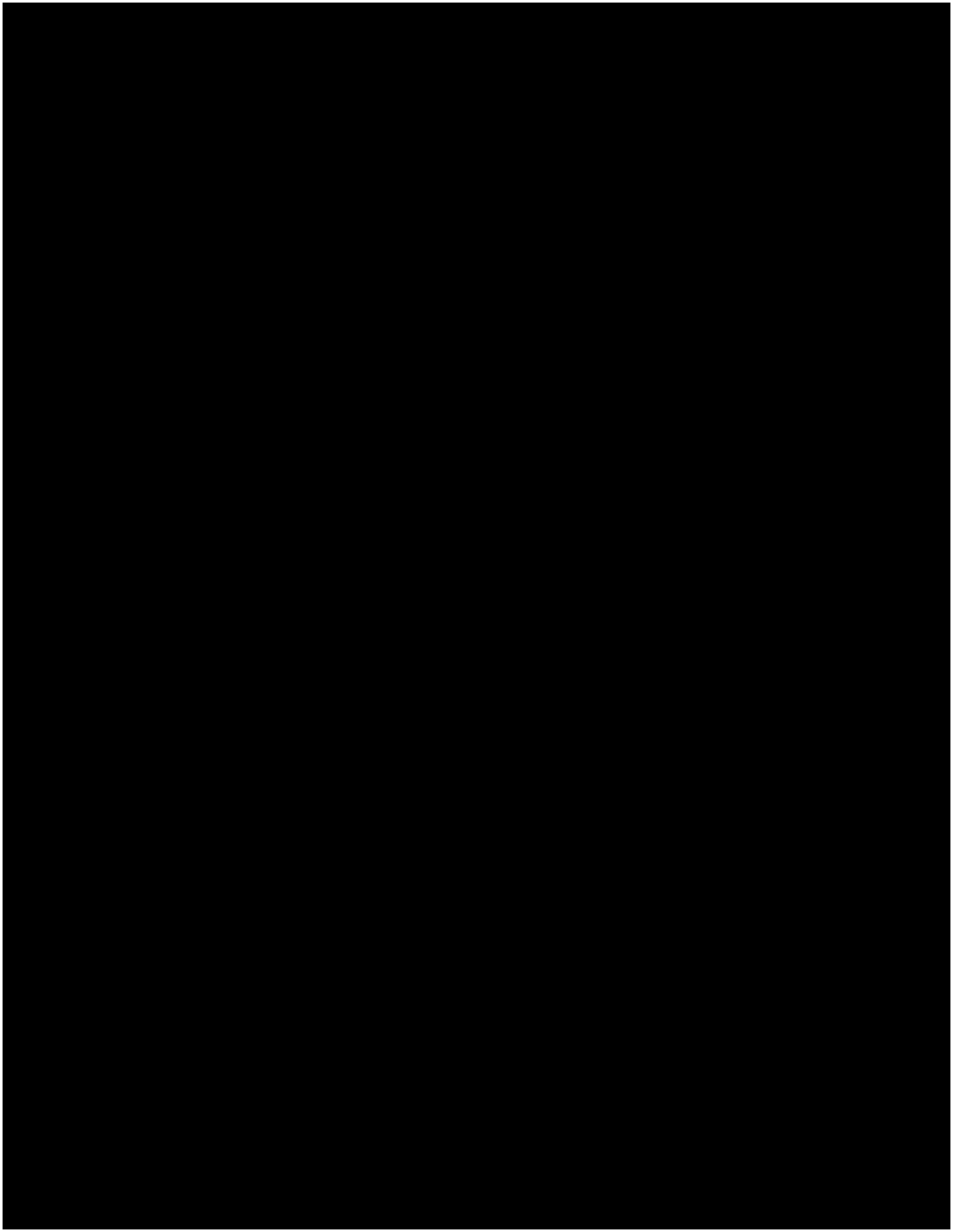


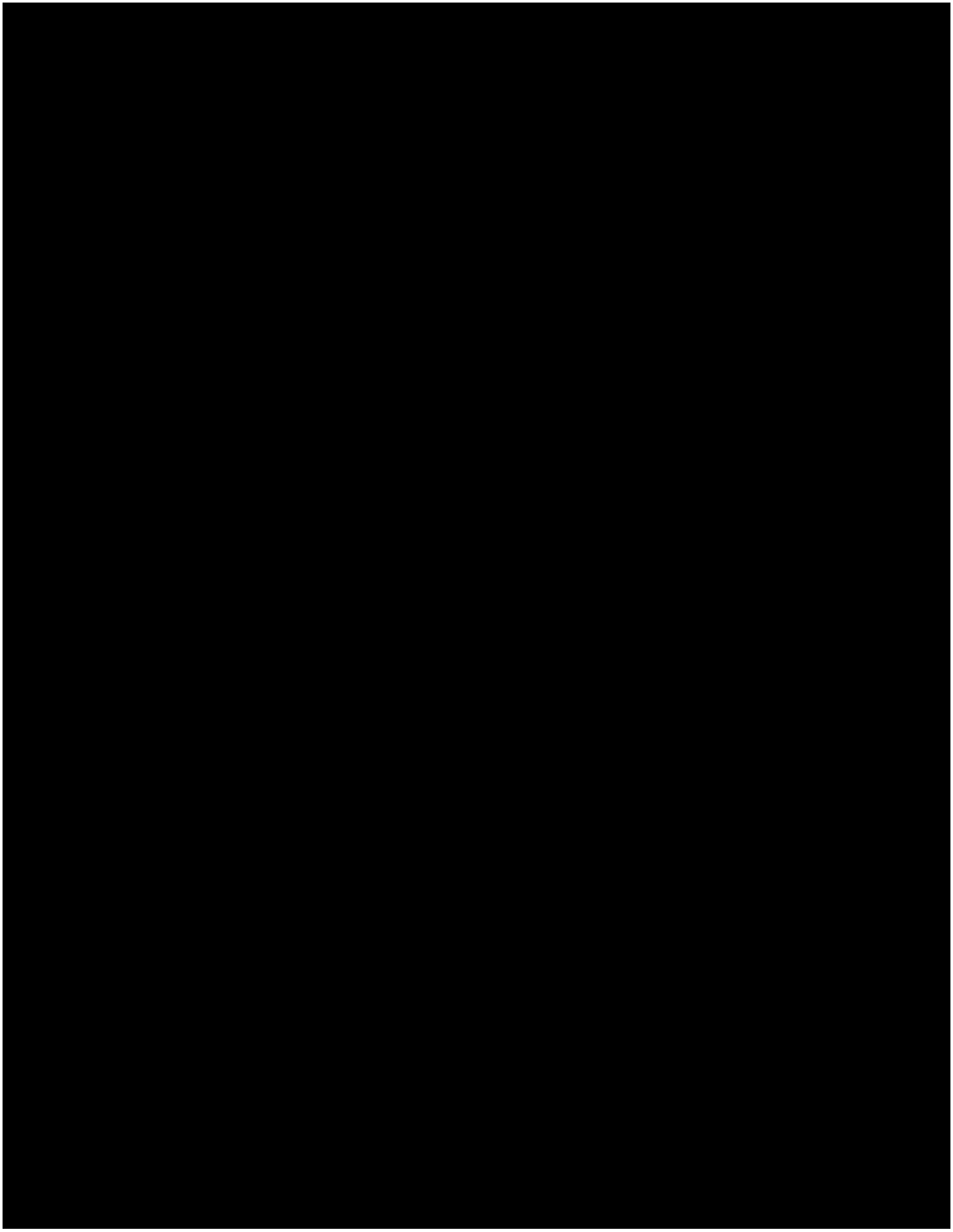

EXHIBIT
4

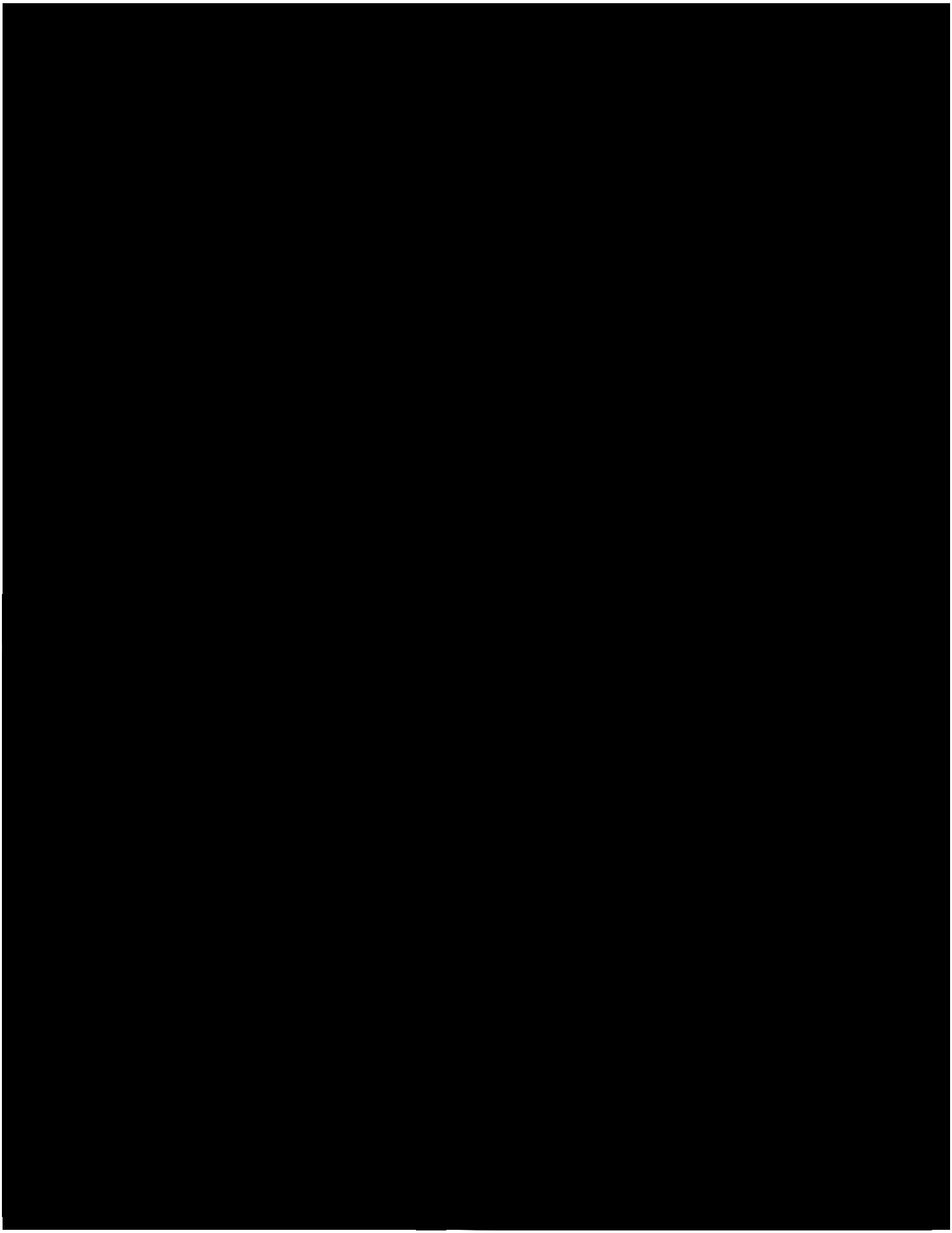



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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, As Special Administratrix of the Estate of JACQUELINE LYNN ASHCRAFT, Deceased, and as Permanent Legal Guardian of [redacted], A Minor,	)	CC NUMBER 230641
CLAIMANT,	)	
VS.	)	
ARKANSAS DEPARTMENT OF HUMAN SERVICES,	)	
RESPONDENT.	)	

ORAL AND VIDEOTAPED DEPOSITION OF

HOLLY NEWMAN

July 31, 2023

ORAL AND VIDEOTAPED DEPOSITION OF HOLLY NEWMAN, produced as a witness at the instance of the CLAIMANT, and duly sworn, was taken in the above-styled and numbered cause on the 31st day of July, 2023, from 9:58 a.m. to 12:07 p.m., before Tammie L. Foreman, CCR in and for the State of Arkansas, RPR, CRR, reported by machine shorthand via audio-videoconference, pursuant to the Arkansas Rules of Civil Procedure.

EXHIBIT 9

APPEARANCES

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ALSO PRESENT:
Richard Hayden, Videographer

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Examination By Mr. Gasper 36

Further Examination By Mr. Jackson 90

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EXHIBITS

NO. DESCRIPTION MARKED

Exhibit 1 Medical Records for Jacqueline Ashcraft 13

Exhibit 2 Medical Records for Kadey Jones 30

THE VIDEOGRAPHER: Good morning. I'm Richard Hayden. I will be your videographer this morning. The date is July 31st, 2023. The time is 9:58 a.m.

This deposition is taking place via Zoom. This is case number CC 230641 in the matter of Ashcraft versus Arkansas Department of Human Services. The deponent is Holly Newman. Our court reporter is Tammie Foreman. If counsel will introduce themselves, the witness will be sworn.

MR. JACKSON: Jim Jackson representing the claimant.

MR. GASPER: Brent Gasper representing the Department of Human Services.

HOLLY NEWMAN,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. JACKSON:

Q. Good morning, Ms. Newman. Would you introduce yourself to the members of the Claims Commission?

A. I'm Holly Newman. I was a paramedic and actually taking care of Ms. Ashcraft during her wreck.

Q. And Ms. Newman, if I call you Holly during the deposition, will that be okay?

A. Yes, sir.

Q. Okay. And what is your date of birth?

A. [redacted]

Q. And what is your current address?

A. I currently reside at [redacted]

Q. And what is your vocation, your profession?

A. Paramedic.

Q. Explain to us how one becomes a licensed paramedic and what those steps are.

A. Initially, you become an EMT, which is approximately a six-month course depending on what time the school starts. And then you test for National Registry.

Once you become an EMT, depending on the program that you go to, you can go straight through or you have to wait eight to nine years, which is set by the program itself. I happen just to wait three years due to family and my kids and the ages that they were when I became an EMT.

So during paramedic school, the program that I went to, we were allotted to -- we had to do 300 hours of clinical, which is all hospital-based. And then we did 300 hours on the ambulance, which was from August to December. We graduated in December and

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then we kept our National Registry.
Q. And that's a National Registry to become a paramedic?
A. Yes, sir. The NREMT, which is the National Registry Emergency Medical Technician, the program itself that every paramedic has to go to. Like, it's one nationally-set test that we all have to pass.
Q. And what year did you pass that test?
A. 2016.
Q. And where were you living and working in 2016 when you passed the test?
A. At Medtech in Conway County.
Q. And what does -- does that mean that you are able to do what is called Advanced Life Support work for an ambulance company?
A. Yes, sir.
Q. And how many ambulance runs do you think you've made since you got into the field, either as a EMT or as a paramedic?
A. At the end of next month, I'll be 10 years in. So I couldn't even a lot begin the amount of numbers. I can tell you all of last year here in New Orleans, I worked 2,265 hours alone just that year.
Q. That obviously is a large number.
A. Yes.

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Q. So Holly, I want to take you to the date of June 11th, 2021, which is the date of the accident that this claim is regarding. Where were you stationed physically when you -- when your ambulance received the call that you needed to be dispatched?
A. I believe we were at our station in Paris.
Q. Okay. And who was your employer on that date?
A. Logan County EMS.
Q. Okay. And you were employed as a paramedic on that date?
A. Yes, sir.
Q. Okay. And who was with you?
A. Zach Marry.
Q. Okay. And tell us, when you get a call -- I know you're not going to remember everything. But just typically, when you get a call, you're at the station, what do you -- what do you do and how do you respond?
A. Can you clarify a little more? Like, what you mean, like --
Q. Do you turn on your lights? Do you -- what -- what -- what information are you trying to get from dispatch and how do you know where to go, those type of things.
A. Okay. So once we're in the truck?

Page 8

Q. Yes.
A. Okay. So it is a legal obligation that we run lights and sirens together once we go on a 911 call. During the call, dispatch will, like, give us an update on how many vehicles or, for this particular instance, how many patients there were, and this and that.
Zach Marry is also s a paramedic, so we were running a double paramedic truck. I don't -- I didn't actually recall the events of the dispatch. I just knew we were going to a vehicle accident. And go ahead.
Q. And who was the driver to the accident, if you recall?
A. I believe I was driving.
Q. Okay.
A. I'm pretty sure I was driving because I remember pulling up.
Q. Go ahead. I didn't mean to cut you off. You remember driving, and I think you said pulled in or pulled up?
A. Yes, sir. Because I remember Zach being in the passenger's side and initially seeing the car, the DHS car.
Q. Okay. And you're coming from Paris towards

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Subiaco, which would be coming from the west traveling east on Highway 22; is that correct?
A. Sure. I'm not good with directions. I know I was headed to Subiaco area. Whether that's west or east...
Q. And where did you park your ambulance?
A. If I remember correctly, we pulled up slightly passed the DHS car because as Zach was looking at it, he went to her. And then I looked up and seen Ms. Ashcraft and the two kids above us. So we were parked in between them two still facing towards Subiaco.
Q. And then tell me -- tell us what you did when you arrived on the scene and you get out. Walk us through what -- your interaction with Ms. Ashcraft and her children.
A. So I walked up to Ms. Ashcraft and her children once Zach went to the other patient. I noticed that the two children were sitting on the ground and Ms. Ashcraft was standing up. She was smoking a cigarette at that time.
So initially, as I do every parent, I look at her, I make sure she's okay because all of them are breathing. So neither one of them needed my attention more than the other at that time.

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So I talked to Ms. Ashcraft and said, hey, you know, can I check out your children, get permission from her because they are minors. She said yes, that's fine. So I turn my attention to the children.

One was completely, utterly fine. She was talking and everything, answering all questions. And the other one had some slight repetitive questioning, which showed signs of possible concussion. So I talked to Ms. Ashcraft and her both back and forth.

Initially, she didn't want the children to go to the hospital, despite the efforts that I very much wanted them to. In our line of work, we can't physically take a child from a parent unless it's a true life threat. At that time, a concussion, it could be borderline, but it was not -- she was not considered a life threat because she had her own airway. She was able to talk. She was not showing signs of lack of oxygen. You know, she wasn't obviously bleeding everywhere. That would have turned into something else.

Q. Did you -- were you able to physically examine her head and her skull to see if she had any contusions or abrasions?

A. And she had none that I seen.

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Q. And if I represent to you that that child's name is [redacted], would that be consistent with your recollection?

A. I'm pretty sure, and I think her sister was named Haley?

Q. [redacted]

A. [redacted] Okay.

Q. And [redacted] was the sister -- I'll represent to you [redacted] was the sister that did not have any issues. And so what -- what did you do next -- what did you find on -- when you did the physical examination of [redacted]

A. To my recollection, I didn't find anything. There was no what we call depressed skull fracture, which would be, like, an indention in the back of her head. There was no tenderness, nothing. She just had the repetitive questioning. As we sat there with her, she started regaining her memory more and more as well.

Q. And that's a good sign, correct?

A. Yes. That's a very good sign.

Q. And then what did you turn your -- who did you turn your attention to next?

A. Ms. Ashcraft. She told us that they were actually trying to go to the house, that they

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happened -- that happened to be across the road. And it was a very hot day. And so between the conversation and her not -- adamantly not wanting the kids to go to the hospital, she signed a refusal form for them both. If I remember correctly, there was one done on [redacted] There should also be one done on Haley as well.

So she told me that she wanted to go across the road. So at that time, Zach didn't need my help with the other patient. He had all of that under control. So since they weren't going to go with us, I walked them across the road and into that house.

She walked just fine. Ms. Ashcraft, all of them had a steady gait. She sat herself on the couch along with the kids. And then the lady in there, I distinctly told the lady, I said, "If anything changes, come and get me" because at this point, nobody, to my recollection, had even checked on the -- the 18-wheeler.

Q. The tractor trailer driver?

A. Yes. So then that was in the back of my mind was, like, well, at least somebody needs to go lay eyes on him. And so that's -- after I took them to the house, that's where I went.

(Exhibit 1 marked for identification.)

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Q. Okay. And then I notice on what we've marked as Exhibit 1 to your deposition, there is an initial assessment for Jacqueline Ashcraft. And I assume that's something that you -- or is that something you create for every patient that you interact with?

A. Yes.

MR. GASPER: Jim, real quick, I had a pause on my video. Are you guys froze? I've got an unstable -- can you maybe go back and repeat the question that you asked 15 seconds ago?

MR. JACKSON: Is it the question where I asked about the initial assessment?

MR. GASPER: Maybe so. Yeah. I'm in my office. It's just my connection is bouncing in and out. So...

MR. JACKSON: Tammie, can you -- do you want to read it? Can you read it to us to?

THE COURT REPORTER: I can find it very quickly. The question at 10:09 was, "And then I notice on what we've marked as Exhibit 1 to your deposition, there is an initial assessment for Jacqueline Ashcraft. And I assume that's something that you -- or is that something you create for every

Page 14

patient that you interact with?"
MR. GASPER: In regards to the refusal, again, you're bouncing in and out, so refusal form, Jim?
MR. JACKSON: I can't hear you.
MR. GASPER: Hold on. My connection is -- again, it is intermittent. If you were asking her about a document, was that the refusal form?
MR. JACKSON: No. It's Exhibit 1 to her -- that we'll be attaching as Exhibit 1 to her deposition.
MR. GASPER: Oh, that's the medical records here?
MR. JACKSON: Yes.
MR. GASPER: Okay. I didn't know if you were referring to a specific document within that or the entire thing. Okay. I'll do the best I can to follow along. Go ahead.
Q. (By Mr. Jackson:) And Ms. Newman, are you able to see, on your Exhibit 1, which is the Jacqueline Ashcraft record from Logan County EMS what your initial assessment states about her mental -- about Ms. Ashcraft's mental status?
A. Is that something you can put on the screen? We

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haven't been in our house all weekend. Our AC went out. So I don't have those papers. I'm sorry.
Q. Oh, my gosh.
A. It's been a weekend, I'll just say that.
MR. JACKSON: Richard, it will be page 1 of the Exhibit 1. And when I say "page 1," the first page is that -- yes. That is page 1 of 9.
And Richard, can you enlarge the bottom third, please? Richard, can you enlarge the bottom third of that page?
THE VIDEOGRAPHER: Just a second. I'm working on it.
MR. JACKSON: Thank you.
Q. (By Mr. Jackson:) And Ms. Newman, can you see under the "mental status" the initial assessment?
A. I see the initial -- okay. This L, is that what you are talking about?
Q. Right above "skin" is the category of mental status.
A. Event oriented, person oriented, place oriented, time oriented.
Q. And is that something that you, as a paramedic, obtain from every initial encounter you have with a patient?

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A. Yes, sir.
Q. And do you do that multiple times when you interact with a patient?
A. Yes, sir.
Q. And how many times are you getting that event oriented, person oriented, place oriented, time oriented, what's your normal protocol that you do as a paramedic?
A. We assess all the time mental status. That just means she's alert to where she's at, who she is, what time it is, and certain events that are happening either past or current. We do it all the time.
And if there's any change. It's just like carrying on a conversation with somebody, you can tell when they're starting to not be normal or not normal as they were when you initially got to them. So --
Q. And we'll look and we'll see that in the ongoing assessment where those changes are noted; is that correct?
A. Yes, sir.
Q. And it looks like your records show that -- and then on your ALS assessment immediately above, tell us what the time is and what your initial assessment, and tell us what -- first, tell us what ALS means.
A. It's Advanced Life Support.

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Q. And that's something you're trained to do and that's your job as a paramedic, correct?
A. Yes, sir.
Q. And so my question is, tell us what the time -- at the time and what your description is on that flow chart prepared by you for Jacqueline Ashcraft.
A. That 1304 ALS assessment, patient is alert and oriented times four, which means down at the bottom, the initial assessment, oriented to person, place, time, event. She was walking around the car. She -- patient's response unchanged, successful; complication, none.
Q. And then I want to go on again, following on your initial assessment on the -- there at the bottom of the skin and what was the significance of the temperature and her skin?
A. It was hot outside. If I remember correctly, I don't think Ms. Ashcraft was every bit of 100 pounds. It was hot outside. Diaphoresis means sweating.
MR. JACKSON: And then I want to go, Richard, to the next page, which will be page 2 of 9. Where your initial assessment continues.
Q. Are you able to see that, Ms. Newman, or do you need for us to enlarge it?

Page 18

A. Just a tad. I can see it a little bit. Just maybe one or two clicks.
MR. JACKSON: Richard, can you enlarge it a little bit, that first bit? Yes.
A. That's good.
Q. All right. Under the category HEENT, tell us -- explain to us what that means.
A. Head, eyes, ears, nose, and throat.
Q. Thank you. And explain to us what you observed about her head and face.
A. There was no abnormalities. Her pupils were equal. The neck --
Q. Let me stop you right there. Her pupils being equal, what does that mean to you as a paramedic?
A. That means that there's nothing going on in her head at that time that I can tell. Again, I don't have x-ray. I don't have CT. But on the physical outside findings, that's something we look for. If they're unequal, that means something is going on.
Q. And I notice you have a measurement next to the eyes of the size of the pupils.
A. Yes.
Q. And what is that measurement?
A. That's two millimeters. That means they're on the smaller side.

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Q. And that's what you would expect for somebody who is out in the sun?
A. Yes, sir.
Q. And that's normal or -- of someone -- that's what you would expect for them to have or what you would hope to have is the same size pupils and for them to be small or constricted; is that right?
A. Well, I wouldn't say constricted. Constricted are really a lot smaller, kind of almost pinpoint. That would suggest other things. But you do want them on the smaller side out in the sun in that they're not --
Q. Oh, sorry. Go ahead.
A. No. Go ahead.
Q. Is two to four millimeters normal for a patient?
A. Yes, sir.
Q. Nothing there gave you any pause for concern when you observed her eyes?
A. Not at that time, no.
Q. During that initial assessment?
A. Correct.
Q. And then did you -- the chest and abdomen, were those things you checked for physically during that initial assessment, or was that just --
A. Yes.

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Q. Okay. Tell us what you would have done to check for her chest and abdomen there.
A. I would have done this to make sure there was no tenderness and slightly palpate her belly, which, again, Ms. Ashcraft was very thin. So if she had any kind of distention, you would have been able to see it without even touching.
Q. And when you say "I do this," just so if we look at it later on the record, it looks like you're pressing across your chest; is that -- is that correct?
A. No. I'm sorry. It's palpating, like, you touch.
Q. Okay.
A. Kind of like you would touch somebody's skin. Like, you touch here.
Q. Okay. And that's what I meant to say was, you're pressing against the skin of her upper chest to see if there's anything going on in that area; is that right?
A. Yes.
Q. And that was all normal?
A. Yes.
Q. What is the -- did you take a pulse of Ms. Ashcraft?

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A. Physically on her wrist, yes.
Q. Okay. And what is -- explain to us what your notes say about the pulse and what that means.
A. We're still under the initial, right?
Q. Yes. Yes. We're still at the initial on all these questions.
A. So it says plus two, plus, which is normal. So depending on your type of, like, the blood pressure or anything that's going on, you could feel a radial pulse. And if you have significant bleeding or something like that going on internally, it sometimes will be lower, which means your blood pressure is lowering. It becomes weaker. So with hers being two plus in a normal status, that she had a normal pulse.
Q. Explain to us the capillary refill section and what that means.
A. So it is less than two seconds, which is good. Again, if you're internally bleeding, you're going to start to shunt, which means everything is coming away from your peripheral, which is your hands, your feet, your toes, and it's going to push everything to the core, in trying to keep basically the lungs and the heart and the brain alive as long as it can. So the shorter amount of seconds for her capillary means good. If it was five or six, then that would mean

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it's delayed.
Q. And these are all items of this initial assessment that you made around that 1:04 time period, I assume, before you walked her over into the -- before she walked over across the street into the house?
A. I'm sorry. It froze at, like, the very first of your sentence.
Q. Sure. These were all the diagnostic assessments that you made initially and everything came back normal; is that correct?
A. Prior to walking her over, yes.
Q. Yes. All right. And then you were explaining to us that you -- when Ms. Ashcraft is seated in the house, do you do anything like does she get any ice, drink some water? Do you recall anything like that?
A. I want to say there may have been put a wet towel back on her neck. But other than that, I don't recall her drinking any water.
Q. And then what -- tell us, you were starting to tell us about you leave because there's a third driver in this accident?
A. Yes, sir.
Q. And go back and tell us what you were doing to assist that driver?

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A. So after I walked Ms. Ashcraft to the house, again, I turned around, walked out. And then I walked to the right and walked down the road a ways.
He was standing outside his 18-wheeler. And then I talked to him, and he presented to be fine and didn't want to go to the hospital. So after I got the information from him, I turned around and I walked back to my partner.
Q. And where was he, your partner, at that time?
A. In the ambulance.
Q. Okay.
A. With the other victim.
Q. Did he have the DHS driver, was she on a cot in the ambulance at that time?
A. I believe so, yes.
Q. Okay. And then what happens next?
A. So I climbed in the back of the ambulance to make sure he needed -- if he needed any assistance. And about that time, a state trooper knocked on the door, knocked on the back of the ambulance and said, hey, y'all are needed inside the house.
And I looked at Zach and I said, "Well, I'll go," since I had initial contact and he was with his patient. So I walked back in the house to go reassess Ms. Ashcraft.

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Q. And what did you find when you walked back into the house to reassess Ms. Ashcraft?
A. I found that she was laying her head on -- I cannot recall the person who she was laying or sitting next to. But she was not responding the way she was initially when I had left her. She was still able to respond to me, but it was not like she was.
Q. And what -- so what did -- as a paramedic, what do you do?
A. Well, initially, I thought she may have been dehydrated because it wasn't necessarily the coldest in that house either. So I started a IV on her, called for another unit.
And then that's when I was informed that we didn't have another unit. My partner come back in there and said, "Hey, we're it. We're going to have to take her as well." So there's nobody else. Everybody else was on calls. And I said okay. So my partner, he just picked her up and started carrying her.
Q. And where does Paramedic Marry take her to?
A. To the ambulance, the back of the ambulance, and laid her on the bench seat.
Q. And then what happens next on the transport?
A. I get in the driver's seat and we drive to the

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hospital. On the way there, Paris told us that their CT scanner was down, so our closest to divert to unfortunately was Booneville, which was clear across to the other side of the county.
Q. And what is -- are you -- what is Ms. Ashcraft's condition while you're in transport? Are you communicating with Medic Marry, or do you know?
A. We are a little bit back and forth. We're talking about the possibilities and what was going on. He had restarted an IV because mine got pulled out. So other than that, I don't know what kind of treatment. I'd have to look back at the report to see if he did any kind of treatment.
Q. One question I want to ask you about is -- that I forgot to ask you about earlier is did Ms. Ashcraft tell you what -- anything about the accident itself? Did she give you a history of what occurred?
A. From what I understand is my understanding is that she was sitting waiting to turn into the house when she got rear-ended.
Q. And where would you have gotten that information from?
A. Her.
Q. Okay. And that's information she would have told you there at the scene during that initial

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assessment?
A. Yes. And then her trunk being dented in kind of confirmed it.
Q. I want to ask you about page -- what is page 3 of 9 on Exhibit Number 1. And at the bottom, it's got a section called specialty patient motor vehicle collision. And I was going to ask Richard if he can enlarge that.
THE VIDEOGRAPHER: What page is that?
MR. JACKSON: It's going to be page 4. Yes. That page there. And at the bottom where it's black, yes. If you could highlight and enlarge all of that.
Q. (By Mr. Jackson:) Is this a normal section you fill out every time you respond to a motor vehicle collision with a patient?
A. For a motor vehicle, yes.
Q. And what is the collision indicators? Can you read that and tell us what those symbols mean and what the significance of the collision indicators are for a licensed paramedic?
A. So collision indicators and the motor, that is a trauma related. That's not necessarily set by paramedics itself. That is the Arkansas Trauma Comm. They set X amount of standards for different levels of

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trauma. So this particular one shows an intrusion greater than 12 inches, crash vehicle telemetry data consistent with high risk of injury in EMS provider judgment.
Q. And that's information you get from your observation of the vehicles that are involved in this collision, correct?
A. Correct.
Q. Okay. And then the passenger seating on seat row one meaning she's sitting in the front seat?
A. As she's the driver, yes.
Q. And she's the driver. Airbag deployment, does it tell us what you found on the airbags?
A. Front deployment.
Q. Okay. And then safety devices, what did you find on the safety devices?
A. She had shoulder and lap belt, which means the normal seatbelt.
Q. And then the initial vital signs -- well, tell us below what the specialty patient trauma criteria, what is that?
A. This is some of the stuff that would classify those different levels of trauma that I was explaining earlier. Her initial GCS would not have been below 13 either. Her second round, when I remade contact, then

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her GCS would be below that. The anatomy of the injury says none. Mechanism injury consistent with greater than 12 inches, which would have been the trunk part of hers. And then EMS provider judgment.
Q. And what was Ms. Ashcraft's condition when you got to the emergency room at Booneville?
A. When I opened up the back doors, she was still responding to that command. I'm pretty sure she still had motor function. I don't think she was talking clearly, but I did see her nod her head into a question we had asked her. So I knew she was still responding to him.
Q. And what did you -- I saw somewhere in the notes where it looks like you and Paramedic Marry stayed and helped the emergency room with the treatment or while she's being assessed?
A. You're breaking up. I heard me and Mr. Marry stayed.
Q. Let me rephrase that. Did you stay and assist the emergency room department with the assessment and treatment of Ms. Ms. Ashcraft?
A. We stayed, but I did not stay in the room with the hospital staff.
Q. Okay. So is it fair to say at that point, when you get to the emergency room at Booneville, you, as

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part of Logan County EMS, then transfer her care to the Booneville -- to the emergency room at Booneville?
A. Yes.
Q. Okay. Then do you go back to your vehicle and finish out writing out your report for the patient?
A. Either that or I stay in the lobby to obtain the face sheet from the clerical staff.
Q. And then while you were with -- and in part of medical record Exhibit 1, there's a refusal form that is on page 11 of Exhibit 1. And that's, I assume -- or tell me, is that a standard form that you ask parents to sign who deny -- who say we don't need to be taken to the emergency room?
A. That is Logan County's official form. And yes, Logan County unfortunately does everything by paper, or did while I was still there.
Q. And that is down at the bottom, the printed name and signature, that was done by Ms. Ashcraft, correct?
A. Correct.
Q. And then where -- and then you also had her do one for [redacted] as well?
A. Yes, sir.
Q. Okay.
MR. GASPER: Jim, real quick, I'm not sure if we got a verbal response to that

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question about whether or not Jackie signed and dated. All I saw was a head nod. Could you ask that question again?

MR. JACKSON: Sure.

Q. (By Mr. Jackson:) Ms. Newman, did Ms. Ashcraft herself sign the Logan County EMS patient refusal form?

A. Yes.

MR. GASPER: Thank you.

Q. (By Mr. Jackson:) And did she also sign one for her daughter Kadey as her mother?

A. Yes.

(Exhibit 2 marked for identification.)

Q. I want to turn your attention now to [redacted] which is the daughter, and that's going to be Exhibit Number 2.

MR. JACKSON: Richard, could you pull us Exhibit 2, please? And turn to the next page, please.

Q. And you went through on your initial assessment of [redacted] you talked about it earlier. One of the things you mentioned is that she had, I believe you called it, repetitive questioning. What is -- do you remember what her questions were or what they were?

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A. I know she kept asking what happened. She didn't remember -- I think the last thing she remembered, I think they had went to McDonald's and she had a McDonald's cup. She just kept asking what happened and that she didn't remember anything.

Q. And then as far as looking at her head, I know -- and the HEENT, it states there was a hematoma to the back of her head, no deformity noted. Is that, like, a hematoma I think of as a -- tell us what a hematoma is.

A. It's swelling. It's a swelling in the head -- on the outside of the head.

Q. And then her eyes, were they normal?

A. Yes. They were three millimeters.

Q. Okay. And then based on what you saw for her initial assessment, it looks like on the next page, on page 3 of 8 is your narrative. Have you had a chance to look at that narrative?

A. No, sir. Can you flip it over, please?

MR. JACKSON: Oh, Richard, the next page, which would be page 4 of the PDF, or page 3 of 8 of the records. Yes. At the top is the narrative.

Q. Take a moment and let you look over that narrative.

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A. Okay.

Q. The -- you've gone over some of this with us. What's -- but in the narrative of your assessment, it states that "Mom holds up finger for her to see." And is that the mother holding up two fingers or three fingers and saying how many fingers are you seeing?

A. Yes, sir. So with head trauma, that's the unequal pupils and blurred investigation and vomiting are signs of progressive head injuries. So I had mom -- not like right here, but in the peripheral part, hold up two fingers and she was able to identify both correctly on each side.

Q. And was Jacqueline Ashcraft able to assist you in holding up the fingers and doing what you were asking her to do?

A. Yes, sir.

Q. And so both Jacqueline Ashcraft and [redacted] were able to follow your commands and appeared normal after this accident; is that correct?

A. After my initial assessment.

Q. After your assessment. Yes. Okay. And then you were able to consult with Ms. Ashcraft to tell her what to look for and what to do if [redacted] had experienced any of these issues such as vomiting, nausea, blurred vision; is that correct?

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A. Severe headache. Yes.

Q. Okay. And Ms. Ashcraft seemed to understand and be able to appreciate and respond to you appropriately?

A. Yes, sir.

Q. Okay. And have you had a chance previously to look at Exhibit 2? I know you weren't able to bring it with you because of the air conditioning. But we mailed or emailed, I think, a copy of this to you. Have you had a chance to look at Exhibit 2?

A. I looked at it a little bit, but if you could put it up, I'll relook at it.

Q. It is a nine-page -- or it's an eight-page document. Does this all appear -- and I want to ask if it appears to be your records from -- well, let me just -- I'll let Richard go through slowly all eight pages.

A. So you're referencing her EMS report from Logan County? Is that what you are asking me?

Q. Yes. Yes.

A. That is from Logan County.

Q. Okay. All right. All right. So we are going to attach what's been marked as Exhibits 1 and 2 to your deposition. I've got one housekeeping -- a couple of housekeeping questions. Going back on Jacqueline Ashcraft, there was a mention of one of the

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children said that her mother had been nauseous for two X, which I assume is two days; do you recall that?
A. Yes. I want to make sure it was Haley.
Q. Haley is not there. So it's going to be either [redacted] or [redacted] And I'll represent to you [redacted] is the older.
A. I'm sorry.
Q. That's okay. It's very confusing. There's a lot of women names here. [redacted] is the oldest; [redacted] is the youngest, I believe.
A. I believe it was [redacted] that stated she had been vomiting for two days and has had a headache for two days.
Q. Okay. And was that something that you got during your initial assessment or during the ongoing assessment when you went back and she was having some issues.
A. The initial.
Q. The initial. Okay. And did Ms. Ashcraft comment on that, or do you recall her saying anything about being -- having headache or nausea?
A. I do not recall.
Q. And what does coup-contrecoup mean to somebody that is a paramedic, somebody who responds to motor vehicle accidents?

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A. That means that the patient's brain -- so our brain doesn't touch the skull at all times. It is slightly smaller than our skull. So it happens in rear-end collisions.
So when we get hit in the back of the head, the brain comes up, hits the front of the skull, and then hits the back of the skull and it kind of just plays bouncy ball.
Q. And do you have any criticism of Ms. Ashcraft or any of her medical decisions that she made during that initial assessment?
A. What do you mean criticisms?
Q. In that she was belligerent, refusing to take your advice, anything like that?
A. No. She was very nice, very understanding, very "Okay. I will. I understand."
Q. Did she appear to be a normal mother of two teenage daughters who are out going to see somebody on a -- on an afternoon?
A. To me, yes.
MR. JACKSON: Okay. That's all the questions I have. Pass the witness.
MR. GASPER: Jim, before we get started, can maybe we take a five-minute break, just so I can use the restroom and kind of

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stretch a little bit.
MR. JACKSON: Sure. Go off the record for a moment.
THE VIDEOGRAPHER: So off the record at 10:45.
(Recess from 10:45 a.m. to 10:50 a.m.)
THE VIDEOGRAPHER: On the record at 10:50.
EXAMINATION
BY MR. GASPER:
Q. Good morning, Holly.
A. Good morning.
Q. My name is Brent Gasper. Again, I represent the Department of Human Services. The estate of Jacqueline Ashcraft, I guess, has brought against the agency alleging that our employee, Jennifer Wilkerson, caused a wreck that, in turn, caused a head injury to Ms. Ashcraft, which ultimately led to her being deceased because of that wreck. You understand that your treatments, your medical -- the way you --- the treatment you provided is not being called into question; you understand that?
A. Yes, sir.
Q. We are trying to ascertain exactly what happened to her and kind of an understanding, fleshing out what

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your notes mean, what the records mean because you were there. We weren't there. So I am going to go over several topics with you. Some of these things Jim has touched on already.
Let's go back to your work history. You said you had been an EMT since -- did you say -- when were you first licensed as an EMT?
A. As an EMT in 2013.
Q. But before that, what was your vocation?
A. Before I become an EMT?
Q. Yes, ma'am.
A. Before I was an EMT, I was a ER clerk and technician at St. Mary's from 2011 to 2013.
Q. So when you were in school and in training to become an EMT, I'm assuming you took classes that were geared toward the types of calls you would see out in the field; is that correct?
A. You're really muffled. I'm having a real hard time understanding what you're saying.
Q. Okay. I'll maybe talk louder. Does that help at all?
A. A little bit.
Q. Okay. I don't know how to fix that. If I talk right here, does that help?
A. That's a lot better.

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Q. I'll pull my phone over here. Maybe that's what it was. Okay. Yes? Much better?
A. A lot clearer. It's not as muffled.
Q. Okay. Okay. Well, let me back up. Whenever you were training to become an EMT, taking classes and whatnot, you were -- I'm assuming you were given training instruction on the types of calls you would expect to see out in the field, correct? Like motor vehicle accidents, head injuries, gunshot wounds, that sort of thing?
A. Yes.
Q. Okay. So when it comes to -- so you know to expect generally when you arrive at a motor vehicle accident? You know, is there, like, a protocol that you -- that you go through when you arrive to a wreck such as this one?
A. Any -- we have the same protocol. It's a trauma assessment we go through.
Q. Okay. Okay. And were you ever given any training specific to head trauma?
A. Define specific.
Q. Well, like, I mean, today, class, we're going to look at head trauma, head wounds, and how they are caused and, you know, what to look for, symptoms to look for and that sort of thing, treatments like

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specific to --
A. Yes.
Q. Okay.
A. In the general area.
Q. Yeah. Right. Right. Okay. What about training in regards to when a person is under the influence of a controlled substance?
A. Such as narcotics?
Q. Yeah. Like when -- you know, if a person is in crisis or whatnot and you see them out in the field, you'd know how to treat them and what to look for, that sort of thing?
A. Yes.
Q. Okay. And in regards to -- are there standards that you're aware of or that you go by in regards to assessments you make to whether a person should be transported to the hospital or not? I understand they can refuse to go to the hospital. But is there some sort of this person displays X, Y, or Z, we need to advise them to go to the hospital? Are there standards that -- that you would go by?
A. Well, we always advise everybody to go to the hospital. But if you're asking me if they present with, like, altered mental status or alcohol or things like that, is it a guarantee that they have to go? Is

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that what you are asking me, if there's a final where they have on to or where we --
Q. No. Not a compulsory you have to go but a -- maybe you might have answered my question. You said that you advise everyone to go to the hospital who you see when you go out to a call?
A. Yes. Because we're not doctors. We aren't technically allowed to diagnose in the field. We have a general idea of what's happened and what is wrong with them. But that is for a doctor to completely utterly say, hey, this is what you have.
Q. Okay. So you would have advised Ms. Ashcraft to go to the hospital?
A. For that wreck, yes.
Q. Just due to the severity of the wreck?
A. Correct.
Q. So would you have advised the children, the girls, to have gone to a hospital?
A. Yes.
Q. And you, in fact, did do those things, correct? You said you guys should go to the hospital?
A. Right.
Q. Okay. Was a -- not to get too fine-toothed-comb here, but did you say you need to go or would you like to go to the hospital?

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A. I always ask for want first, do you want to go. And if they say no, then I'm like, well, this is what's happened, this is what I see. In this instance, I advise you do need to go, especially in [redacted] position at that time.
Q. Okay. So it was your -- as an EMT, at least, you made the determination that these three persons that were in the car wreck should have gone to the hospital?
A. Paramedic.
Q. Okay. I'm sorry.
A. EMT and paramedic are two different things.
Q. I'm sorry. I'm sorry. Yes. As a paramedic, you told them you should go to the hospital and they --
A. I told them --
Q. I'm sorry. Go ahead. What did you say?
A. I told Ms. Ashcraft [redacted] needed to go.
Q. What about Ms. Ashcraft herself?
A. She needed to get checked out. But at the time, she wasn't exhibiting any signs or symptoms of any kind of headache, trauma, nothing that would concern me more.
Q. Okay. Okay. Now, when you advised her that you thought she should go to the hospital or that [redacted]

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should go to the hospital, what was her reaction?
A. She said that they were -- that she knew what to look for and that if anything changed, she would call.
Q. Would you have characterized your -- let me back up. Was she adamant about not going or was it, "I got this"?
A. I asked her several times, so I would say adamant 'cause she had the same answer every time.
Q. Okay. Okay. Thank you. I'd like to go back to just to make sure that I have the timeline correct here. Under -- let's see. Exhibit 1.
MR. GASPER: Richard, can you pull up page 4?
THE VIDEOGRAPHER: Which was that?
MR. GASPER: Page 4 of Exhibit 1, please. Okay. Can you zoom in on the top half of that? Make sure you get that timeline in there on the right-hand side. Right there. That's great.
Q. (By Mr. Gasper:) Can you see that, Holly?
A. Yes, sir.
Q. Now, on the right-hand side, there's a column, incident times; do you see that?
A. Okay.
Q. PSAP call at 12:57. PSAP, what does that mean?

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What does that stand for?
A. The way this reads, I'm assuming that's when they called 911. That's the initial call that came in to dispatch.
Q. That is approximately or shortly thereafter, call received, 1257, dispatched 1257. So next after that is en route, 1258. Is that when you guys, you and Zach, got in the truck and headed that direction?
A. Yes, sir.
Q. Okay. And you arrived on the scene at 1303, which is 1:03 nonmilitary time; is that accurate? I couldn't hear you. Could you say that -- affirm that again?
A. Yes. Yes.
Q. Okay. And it says at patient at 1304. I'm assuming that patient is Ms. Ashcraft, correct?
A. If this is her report, yes.
Q. Okay. And then we've got care transferred is blank. 1344, it says depart scene. Now, when it says depart scene, what occurred at the accident scene had already occurred and she had gone downhill and you had gotten her in the truck. And at 1344, at 1:44, you or Zach hit the gas and you were on your way to the hospital; is that correct?
A. I was driving. Yes. That is the time we left

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for the hospital.
Q. Okay. So you were there approximately 41 minutes, from 1:03 to 1:44, correct?
A. Yes, sir.
Q. Okay. Great. Thank you. Let's see.
MR. GASPER: What page am I going to? Okay. Can we pull up page -- we'll start with page 1. Page 1 of Exhibit 1, Richard? The bottom half preferably. Great.
Q. Holly, can you see that? Holly, can you see that? I think maybe we've got some lag here on my Zoom because the video is not showing you guys' faces moving at all. Can you hear me? Okay. Maybe there? Okay. Yeah, Jim is swaying back and forth.
Okay. Can you hear me now, Holly?
A. Can anyone hear me?
THE VIDEOGRAPHER: I am hearing you. She has a lag. I think it's her connection.
Q. (By Mr. Gasper:) On her end. Okay. Holly, can you hear?
A. I can hear him. Yeah, I can hear you.
Q. You can hear me? Okay. Okay. So we're looking at page 1 of your report or, I guess, the incident report. And you see that the flow chart. We went over that earlier, or at least you and Jim went over

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it earlier where it says 1304 ALS assessment?
A. Yes.
Q. Okay. So that 1304 corresponds with the 1304 in the previous timeline that you arrived at the patient, correct?
A. Correct.
Q. Okay. So that was your initial assessment. Then at 1330, at 1:30, six minutes later, you've got a notation there that you talked about previously where the Ms. Ashcraft, her speech was slurred at that particular point; did you see that?
A. Correct. That was my second assessment.
Q. Okay. And that assessment was taken after she was in the house; is that correct?
A. Correct.
Q. Okay. And then at IV, IV. And then at 1348, you've got trauma alert, patient response unchanged, complication none. What does the -- go ahead.
A. If you look at the provider, that is Zach. That is when he took over patient care for her in the back of the truck.
Q. Okay. So you departed the scene at 1344, and then it looks like you ran an IV right after that, Zach did, at 1345. So you were on the road at that particular point, correct?

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A. Correct. I was driving at that point.
Q. Okay. 1350, it says Narcan. Can you tell us what Narcan is?
A. Narcan is an agent that reverse opiates.
Q. Okay. Why was it -- was it given here?
A. It says Zach did it. I wasn't the one who gave it.
Q. Why would it have been given?
A. Initially, it's given for altered mental status in case they're on any kind of opiates.
Q. Okay. Is it a normal protocol to give Narcan? Do you give Narcan at -- whenever there is any change in mental status?
A. Not every time. But again, I wasn't the one who gave it, so I don't know his reasoning behind it.
Q. Okay. Okay. That's fair.
MR. GASPER: Can we go to page -- Richard, can we go to page 2 of the Exhibit 1, please? And if you go down to from the very top, down to, like, where it says ongoing assessment mental status. And then underneath there, you can cut it off. That's fine. We can do that.
Q. Okay. Holly, I want to ask you about at the very top of the HEENT. Initial assessment, it says

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head/face, no abnormalities?
A. Correct.
Q. What would be -- what would you have considered an abnormal?
A. Swelling to the face. Any kind of lacerations. Any deformity.
Q. Okay. You said earlier that you noted the airbag had gone off?
A. That's what the report says, yes.
Q. Okay. Would an airbag have left any injury -- or let me rephrase that. In your experience, when you see an airbag deployed, does it usually leave an injury?
A. Not all the time.
Q. What would we have -- what would you look for or what would you expect to see if an airbag had been deployed?
A. Burns.
Q. Burns?
A. Yes, sir.
Q. Okay. Just from, like, I guess, heat from the air being inflated so quickly?
A. It's the particles that's inside the airbag.
Q. Okay. So it didn't -- did she have evidence that -- of burns on her face?

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A. Not to my recollection.
Q. Okay. Do you -- did you -- but that's not an everyday, every-time occurrence? Sometimes they don't have burns?
A. The airbags don't always cause deformity.
Q. And also, you've got eyes. We talked -- you talked about the eyes. Initially, they were, I guess, fine. Okay. Two millimeters. You suggested that that was a normal, within-range reaction or measurement of the eyes?
A. In light, they constrict. They get smaller in light.
Q. Okay. Okay. What -- in your experience of seeing people under the influence of a controlled substance, does that affect their eyes at all?
A. Under narcotics. Not every drug.
Q. Okay. Like, what type narcotics?
A. Opiates.
Q. Opiates? What do opiates do to a person's eyes?
A. They constrict them, make them smaller, nonreactive.
Q. Okay. Would her measurements have been consistent -- not saying that she was under the influence of opioids. But if she had been, would her eyes have been consistent with that finding?

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A. They would typically be smaller than the two.
Q. So, like, a one or something like that?
A. Correct. Or what we call pinpoint.
Q. Okay. Very good. I'd like to go down to where it says "abdomen" here. It says "general no abnormalities"; is that -- is that correct?
A. Correct.
Q. What -- did you find any evidence that she was -- of seatbelt marks on her body?
A. Not to my recollection, no.
Q. Okay. What --
A. Go ahead.
Q. Were you going to add something?
A. No. Go ahead.
Q. What type of injuries do seatbelts leave on a -- on a person in a motor vehicle accident?
A. Usually red marks.
Q. Red marks, like, across the torso, from the shoulder down to approximately where?
A. So if you're the driver, then it's going to come from this left shoulder, the patient's left shoulder.
Q. Okay.
A. So when you look at it, it looks like your right. So the patient's left shoulder down, then across the abdomen.

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Q. Okay. In a wreck of this magnitude or this size, would you have expected to see seatbelt marks?
A. Usually, yes.
Q. Okay. Was she wearing -- what was she wearing at the time; do you recall?
A. I think it was some kind of -- it wasn't jean shorts. I'm pretty sure it was just, like, what I call basketball shorts kind of fabric and a T-shirt, if I remember correctly.
Q. It was, like, extremely hot out there, so she wasn't wear a sweatshirt or anything along that line, correct?
A. Not that I remember.
Q. So there's no piece of clothing on her top that would have, I guess, absorbed the seatbelt so it wouldn't leave a mark. It was only one thin sheet of cloth across her shoulders, her shirt?
A. If I remember correctly. This was also very long ago.
Q. Okay. Okay. But she did not show any marks that you saw? Did you, like -- well, let me back up. Did you inspect her, like, skin at that area or did you see her bare skin around her shoulder?
A. I did not lift her shirt up, no.
Q. Okay. Did she complain about any pain

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associated with the, you know, seatbelt from being deployed, constricted in the wreck?
A. Not that I remember. And when I palpated her chest, she didn't complain of any pain.
Q. Okay. 'Cause seatbelts can cause injuries that would cause pain, correct?
A. They can cause pain, yes.
MR. GASPER: Okay. Richard, can we go down to the second half of that page, please?
Q. On this particular page, I want to -- this is the ongoing assessment, which we'll look at this page.
A. This is where --
Q. Go ahead.
A. This is where Zach would have taken over possibly.
Q. Okay. So at the assessment time were 1350, which we'll show on the next page, those would have been Zach's notes because you were driving at that point?
A. Correct.
Q. Okay. Let me just ask you a question about this, because you and I have spoken previously to this deposition, correct?
A. Correct.

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Q. And you mentioned at the time that she was scratching her head. Now, I see that there -- under mental status, Zach apparently put that the patient stopped scratching her head and relaxed her arm for me. Can you describe what the head scratching -- what you observed about the head scratching?
A. I don't know that I remember her scratching her head, honestly. But if she was to doing like this, then -- and he asked her to relax, that would mean that she was actually still able to follow commands.
Q. Okay.
A. The only thing I can think of is the reason she was scratching her his is that that was the side of the bleed.
Q. Okay. Okay.
A. Possibly. That's the only thing I could think of.
Q. Okay. So you didn't -- didn't remember her scratching her head at the time?
A. I don't think so 'cause at this -- so basically, when he put her in the back of the truck, like, I basically got back around and then drove off and turned around -- turned around and headed back the other way.
MR. GASPER: Okay. Richard, can we go

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to page 3? And then can you go from the top of the page down through that narrative, stop at the bottom of the narrative? Great.
Q. Okay. Yeah. There at the top, as you can see, it says assessment, 1350. So would that say to you that Zach took those notes?
A. Yes. Because we transported at 1344.
Q. Okay. One thing I wanted to ask you about is also, as you can see under extremities, it says, pulse radial two plus normal. I know that -- I understand that Zach may have been the person that took that note.
But you testified earlier that the pulse was indicative of blood being redirected, I guess, if there was an injury. Can you explain that a little bit further?
A. So anytime -- and it's not necessarily pertinent to a head injury. But anytime -- anytime you have an amount of blood loss, your body will start shunting. So basically, it automatically starts pushing all the blood to the core, the core meaning your heart, your lungs, your kidneys, and your brain to try to keep those main organs alive as long as possible.
And so the more that you are shunting, the less what we call peripheral, which is your hands,

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your fingers, you know, your pulses in the peripheral extremities, they will become weaker.
Q. Okay. But that did not -- at least according to this note, it does not appear that that was -- you or Zach observed that at the time, correct? At this point.
A. At this point, no.
Q. Okay. At this point, you would not have? What was that? Sorry?
A. I said it looks like they're still normal.
Q. Okay. Okay. But also, there is other neurological. It says facial droop, slurred speech, weakness left-sided. Would that be consistent with what you observed as well?
A. I did not show -- it did not show any kind of facial droop, slurred speech, or weakness with me. This was after she had been in the back of the truck.
Q. But she had only been in the back of the truck for six minutes by this point?
A. Six minutes.
Q. Okay. So in the space of that six minutes, she could have developed those -- developed those symptoms?
A. Possibly. And it could change -- so she could have possibly had it inside the house as well. When I

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called for the back-up unit, Zach overheard 'cause he had it -- we both carry a radio.
Q. Okay.
A. And so he knew -- he knew that there was no other unit. So when he come in the back of the house, he said, "We're just going to have to take her." We didn't give her the option to get up and walk.
Q. Okay.
A. With her being not very big and Zach is -- he's adamant heavy -- like, he works out adamantly. So yeah, he's a very strong man. So he just picked her up. Like, he didn't even give her a choice. He just picked her up and carried her.
Q. Okay. And at this point, her refusal to go to the hospital that she signed just went out the window? Like, your decision overrode that decision?
A. Yes. Because -- and the reason why is initially, she had a mental status that was alert, oriented times four, as you see, person, place, time, event. So she knew everything. Like, she's able to carry on a conversation with you and I right now.
Now, she has had a mental status change and it has not been for the better. So she had declined, so now she no longer can make those own decisions.

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Q. Okay. So reiterating what you just said, if someone had told you, Holly, she has a brain bleed going on right when you first encountered her, would anything have led you to believe that?
A. Not at that time. Not when I initially had contact with her. No.
Q. Okay. So she seemed fine. What about when she entered the house and she -- I guess you said maybe she was dehydrated or got tired or something?
A. No. It was really hot outside and she's, again, not a very big lady.
Q. Okay.
A. So with her sweating, you know, and if she really had been vomiting for the last two days, then yeah. She would have been dehydrated.
Q. Right. Right. But nothing at that point would have shown you, Holly, she's got a brain bleed? She just wasn't --
A. No.
Q. Okay. Great.
A. Correct.
Q. Now, if you had known she had a brain bleed, what would you have done?
A. We would have took her right then and there.
Q. Even if she had full mental status and was "I

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don't want to go," you know?
A. It would have been hard if she was alert and oriented as initially when I encountered her. It would have been a lot of begging and pleading on my knees.
Q. Yeah. Sure. Sure.
A. But unfortunately, once she had that turn of mental status, then she can no longer -- she no longer had -- medically no longer had control.
Q. Okay. That's fair. I don't -- and this is more out of curiosity than anything. But is there any way to treat a brain bleed out in the field?
A. No, sir.
Q. You've got to go to the hospital?
A. You have to have a head CT.
Q. Okay. Okay. And again, I know that you're not a doctor. But when you have a call that involves head injury, are you required or advised or suggested to take a patient to a place with a CT scan?
A. It's protocol.
Q. It is protocol? Okay. So from what I understand, the Paris hospital CT scan was not functioning at the time, correct?
A. Correct. And we didn't know that until we were on the way to Paris because they have a radio where

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they can listen to our traffic as well.
Q. Okay.
A. So they overheard us, you know, coming into them and then that's when they got on the radio and said, no, we don't have CT capability.
Q. Okay. Okay. So at that point, you had to divert to Booneville?
A. Correct. Because unfortunately, it was either Dardanelle or Mercy Fort Smith or Booneville. Those were our three closest, and Booneville is the closest.
Q. Right. If there had not been a CT scan available anywhere, what would -- what would you have done? What would -- what would your next best option have been?
A. On a helicopter or take her to Mercy Fort Smith.
Q. Okay. So the option to go to a hospital that did not have a CT scan was just not -- you just couldn't do that? I mean, there wasn't anything you could do without a CT scan?
A. Correct. There is no diagnosis without a CT.
Q. Okay. Okay. Okay.
A. We can suspect all day long.
Q. Sure.
A. But without -- without a head CT, without the imaging, it's like you can suspect a broken arm all

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day long. But until you have that x-ray, you can't get diagnose it.
Q. That's fair. I gotcha. So I want to go back and cover some points that maybe I overlooked. Let's see. We've got a timeline. When you arrived at the scene, I would imagine it was probably a pretty chaotic scene. But do you remember who was there?
A. The police officers or --
Q. Anybody. Yeah. Just -- I assume did you beat the state troopers there?
A. I think we did.
Q. And then?
A. Which is not --
Q. Which is not uncommon?
A. No.
Q. Okay. So you oftentimes are quicker to the scene than law enforcement?
A. I wouldn't say -- state troopers, yes. Sometimes county or city will cover an accident until troopers can get there.
Q. Okay. Okay. Aside from law enforcement and you and Zach and the parties to the wreck, I know that's a lot of people, could you identify any other people that were at the scene?
A. First responders may have been there. They

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typically get dispatched as well with us. The volunteer fire department --
Q. Okay.
A. -- they may have been there. But more than that, there was nobody initially on scene other than us.
Q. Were there any, like, civilians out helping -- helping people clear out the car or helping with -- that might have happened upon the scene? Do you recall seeing anybody like that?
A. Not that I recollect. But when we get on the scene, I know I focus in on the patient.
Q. Okay. Now, can we go back and maybe -- can you again describe the condition of Jackie Ashcraft when you first saw her?
A. When I first initially had encounter with her, she was alert, standing outside behind the car, alert and oriented. She was smoking her cigarette, and her two kids were sitting on the side.
Q. Okay. Any trouble with balance that you could tell?
A. No. She had a normal gait. Her speech wasn't slurred. She was able to carry on a full conversation.
Q. Okay. Did she tell you if any parts of her body were hurt or injured or achy due to the wreck?

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A. No. She was more worried about her kid and making sure she was okay first.
Q. Okay. Okay. And you said that [redacted] the youngest of the girls, was fine. And [redacted] the older of the girls, had a hematoma on the back of her head?
A. That's what the report says, yes.
Q. Okay. And that's a bump or -- I don't want to be too --
A. Yes. It's -- hematoma is a common name for swelling or a bump. And if you -- you know kind of how you bruise on your leg if you hit something. And your head, it kind of swells out.
Q. Okay.
A. If it swells in, then it's more a medical problem.
Q. Okay. So she would have gotten that injury presumably from hitting her head back on the headrest or the seats?
A. That's what I would assume.
Q. Okay. Did she complain about seatbelt injuries or being constricted by a seatbelt?
A. Not to my recollection.
Q. Okay. Did you examine [redacted] head to notice the hematoma?
A. I would have had to have touched it, yes.

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Q. Did you do something similar to Jackie Ashcraft? Did you examine her head at all?
A. I examined her neck, head -- yes, and her head. I didn't see anything.
Q. Okay. Okay. I'm just looking at my notes here. I'm sorry. You've had experience on the job with people that have had head trauma, correct?
A. Yes, I have.
Q. Have you been called out to scenes of traffic accidents such as this one where there was a rear-end collision?
A. Yes, sir.
Q. Is it -- did Ms. Ashcraft display any symptom that would have been inconsistent with what you normally see in these types of injuries or these types of accidents?
A. No, sir.
Q. So nothing struck you as unusual at this point?
A. No, sir.
Q. Okay. So at some point as we discussed, Jackie said she wanted to go into the house, correct?
A. Correct.
Q. Do you remember how many people were in the house?
A. I want to say it was a female, maybe two kids

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'cause when I walked in, the female was sitting, like, right at the kitchen area, standing. And then I want to say there was one or two people on the couch. But other than that, I didn't notice anything else.
Q. People as in children or as adults?
A. As adults, children. Maybe -- there may have been two kids there. But there again, it may have been [redacted] and [redacted] with me.
Q. Okay. I'm just trying to -- so there was one female adult and were there any other adults in there?
A. I honestly cannot be 100 percent sure.
Q. Okay. Okay. Do you know the identity of those people that were in there?
A. I do not.
Q. Do you know how they would have been, if at all, related to Ms. Ashcraft?
A. I do not. I just know that was the house they were going to visit.
Q. Okay. So once you left her on the couch, you exited the house yourself, correct?
A. Correct.
Q. Were there any medical professionals or anybody else that were in the house once you left?
A. No, sir.
Q. Any law enforcement in the house after you left?

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A. No, sir. The only thing -- only person I seen as I was coming out of the house was the red truck that had pulled in which ended up being her dad.
Q. Okay. Actually, I think her father -- okay. Never mind. So the red truck and there was a male in the red truck, correct?
A. (Witness nodding head.)
Q. Okay. I'm not sure if you can answer this or not, but I'm going to go ahead and answer it -- ask it. Considering her condition the next time you saw her 26 minutes later, do you have any estimate as to what time the onset of the serious reaction started?
A. No, sir.
Q. Like, she was X number of minutes along already when they came and got you when she started -- do you have any way of knowing that?
A. No.
Q. Okay. And Jim asked you if you spoke to her and she could communicate with you initially, correct?
A. Correct. Initially, and when I went back into the house, she was still able to nod her head.
Q. Did she say any words to you at that point?
A. Not that I remember.
Q. Okay. Did anyone else say anything to you in there?

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A. Not that I remember. I think her dad was in there by that point, after I got back in.
Q. Okay. But no one said she said she wasn't feeling good and then she did this? Or there was no statement that you can recall?
A. Not that I remember because I honed in on her because me being the original provider to be with her, this was not how I left her.
Q. Okay.
A. So I knew something was going on.
Q. Okay. And then you -- Zach and his muscles picked her up and took her to the ambulance, right?
A. Yeah.
Q. Was -- you said was she alone on the ambulance? Was there another patient or another person in there with her?
A. The DHS worker was in there.
Q. Jennifer Wilkerson? Okay. At some point, Jennifer got out of the ambulance, correct?
A. After we took Ms. Ashcraft in.
Q. Okay. So you were hitting the road and so Jennifer had -- you were just going to leave her at the scene, correct?
A. No. We took her to the hospital as well.
Q. In a different ambulance?

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A. No. In the same ambulance.
Q. Oh, okay. I was confused there. So Ms. Wilkerson and Ms. Ashcraft were both in the ambulance?
A. Yes, sir.
Q. When you went to Paris -- or tried to go to Paris and then went to Booneville?
A. Yes, sir.
Q. Okay. So Ms. Wilkerson, when you got to Booneville, she presumably was checked into the hospital as well, or the ER?
A. Correct. Yes. We checked them both in.
Q. Okay. Did you have any conversations or discussions with Ms. Wilkerson while you were --
A. I did not.
Q. Okay. Zach was in the back with her; you were driving, correct?
A. Right.
Q. Okay. Now, how was Jackie positioned in the ambulance? Was she laying down?
A. She was laying supine on the bench seat.
Q. Supine meaning vertical?
A. On her back. On her back.
Q. Okay. Okay.
A. Sorry.

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Q. And she had an IV in and all that at that point, correct?
A. It looked like Zach redid it, so yes.
Q. Okay. Okay. Now, do you know approximately how long you were in the ambulance, how long it took you to get to Booneville?
A. You would have to pull up the times again.
Q. Okay. I'm sure it's probably written down in these records. I'm sure it's written down in these records. We'll reference those later. So once you got to Booneville, the ER took over and you basically transferred the -- transferred the patients, correct?
A. Yes, sir.
Q. Okay.
A. Because there's a doctor in the ER, so we have to transfer care to them.
MR. GASPER: Jim, can you pull up -- Jim. Richard, can you pull up page 6 of Exhibit 1, please? Next one, I think. There you go.
Q. Holly, do you recognize this page?
A. Yeah. That's our signature page.
Q. Okay. What am I looking at here? Like, specifically section 3, where the signatures are, what -- what does this mean?

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A. That part? So that means I'm the -- like, I signed her patient care report so -- because I was the one who initially had contact with Jennifer -- I mean, with Ms. Ashcraft. Then I was the one who originally started her CPR. Sorry. I went blank for a second. The signature below is the nurse's signature who we give report to.
Q. Dustin Keeter, verbal consent to sign. So Dustin would have been the nurse?
A. Dustin is the nurse.
Q. Okay. This under your signature, it says signed on 6/11, 1633. That would be 4:33, which would be some time later, several hours later than when you arrived?
A. Correct.
Q. When you eventually signed it, you signed it at 4:33?
A. That's when we submitted it and signed it and it was done.
Q. But Ms. Ashcraft was already in the ER by that 4:33?
A. Oh, yes, sir.
Q. You weren't treating her by then?
A. No. We were gone.
Q. Okay. But 1444, which would be 1:44 --

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A. Be 2:44.
Q. That's when they took over? The nurse took over at that point?
A. At 2:44, yes.
Q. So you arrived at the hospital and she -- it was assumed treatment in the hospital at 1:44 -- 2:44? Sorry. Military time just throws me just a little bit. 2:44.
So as we referenced earlier, on page 4, you depart scene at 1344 and arrive, I guess, at 1434. So it took about an hour in the ambulance?
A. I guess so.
Q. Is that fair?
A. If that is what the dispatch time says 'cause when we call on the radio, we call en route to the hospital, dispatch keeps the times. We don't keep the times.
Q. Okay. But does that sound like it would be accurate or close to accurate, about an hour in the ambulance?
A. Give or take, 'cause we had to go over the mountain.
Q. Okay. It wasn't, like, freeway the whole way there?
A. No. No.

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Q. No?
A. No.
Q. Rural Arkansas, right?
A. Yes. There's a -- it's either a lake or river that splits the county in half. So you have a north side and south side. Paris is the north side, which is where we were at and where this took place at, and then the south side is Booneville.
MR. GASPER: Okay. Let's see, Richard, I'm not sure which page this is. It's page 10 maybe, or 11 of Exhibit 1. It says "Logan County EMS 911 dispatch form" at the top. That one. That's the one I'm looking for.
Q. Did you fill this out or is this someone else?
A. No. That is dispatch.
Q. Okay. So you didn't record any of this information?
A. No. That is all the 911 taker. So when you call 911, our dispatcher takes all of this. I can explain it to you if you need me to.
Q. Sure. I'd like for you to do that. Specifically, let's start at the top. It says 911, and then what do I see there?
A. So we'll just go from my left where it says

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6/11. Then we'll go to the right.
Q. Okay. Great.
A. 6/11 is the date that it happened. The source of the call is the 911 call. The dispatcher is Hyatt. Unit 1, which we were squad 1. The top right-hand corner, I believe that would be our run number. The 1470. So that's run number for the month. So by the 11th of June, we had already run 1,470 calls that month.
Q. Oh, wow.
A. It's a busy service. It is.
Q. Okay.
A. So squad 1, so we got the call at 1257. She called us at 1257. And we were en route at 1258. We got on scene at 1303. The patient on board, which means we were transporting to the hospital, was 1344.
Q. You would have -- like, that's when you would have, like, left the scene, 1344, right?
A. Correct. Yes. We left the scene at 1344. We got to the hospital at 2:12.
Q. Let me stop you real quick. I just want to make sure, 'cause that Dustin's note says that he took over -- the ER took over at 2:24 as opposed to 2:12. Do you know why there would have been, like, a different of time there?
A. So I know I can tell you what happened when we

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got to the hospital.
Q. Okay.
A. It may clear a lot this time frame. So when we get there, Zach and I take -- so we made Ms. Jennifer get off the stretcher because that's how she rode in on the ambulance. So once she got off the stretcher, she got into the captain's chair and she hung out in the back of the ambulance while we picked Ms. Ashcraft up, put her on the stretcher, and took her into the hospital.
Q. Okay.
A. We did that, Dustin and the ER doc both met us, like, right inside the door.
Q. Okay.
A. And then they allotted to intubate her and then take her to head CT. In the meantime, I don't know if Zach stayed there with them and went back to CT with them, but I went up front to the medical clerk.
Q. Okay.
A. And in the meantime, while they're back there, I was getting my face sheet for Ms. Ashcraft, getting her checked in, you know, giving them the information.
And in the meantime, the father called, and I ended up talking to him because initially, he thought we were going to Paris. He had no idea we

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diverted to Booneville.
Q. Okay.
A. And the hospitals weren't being very cooperative with him.
Q. Okay.
A. So I made him identify who he was by the red truck.
Q. Okay.
A. By the events prior, you know, while we were on scene. So I knew -- personally, I knew who he was.
Q. Okay.
A. I'm pretty sure the hospital got kind of mad at me. But -- and then I'm there for the family and I'm there for the patient. You know, that's --
Q. Sure. Okay.
A. That's what I'm for. So that's where I was. I don't know what Zach did. I don't know what happened in the back. So it's very possible that once they intubated her, Zach went to CT with them and then come back 'cause if I'm not mistaken, CT takes about 20 minutes.
Q. Okay.
A. And then he could put his signature then.
Q. Okay. So he would have -- okay. So you signed it over at a much later time. But you believe that

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Zach did not fully turn the patient over until 1444?
A. So it's kind of a -- I don't know legally how you guys would portray it. But once we hit those hospital doors and that patient gets on that hospital bed, regardless of the signatures, that is their patient.
Q. Okay. Okay. So --
A. So once the doctor intubated her, that's all on them.
Q. Okay.
A. That is the hospital's patient.
Q. Okay. So it may just be kind of an administrative delay to get the signature from Dustin?
A. Correct. Because I know when I have critical patients like that, I don't make the nurse stop to interrupt care to sign my paper.
Q. Okay.
A. Especially if they're going straight to CT, I would wait until after CT. And then Booneville is such a small hospital that we had an agreement with them, and Paris as well, that if they needed an extra set of hands, paramedics would go start IVs, you know, do things to help them.
Q. Okay. Okay. Great. I'm sorry to interrupt you there. So we've got 1412, so maybe that's a more

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accurate range of time when the hospital took over as opposed to 1440. What does the 1507 mean there?
A. That is the time we got back to in service.
Q. Okay. You had completed your business and you were ready to be redirected to another call?
A. Correct.
Q. Okay. What's these other numbers mean underneath -- a little further down that chart?
A. Where? Under squad 1 where it says 5:17?
Q. Yes.
A. That could be a first responder. That could be -- that's an additional resource that's dispatched sooner.
Q. Okay.
A. I do not know what the one under it, where it says NS re -- I don't know what that stands for. But LC9 is county officers. Logan County officer 9 and who responded.
Q. Like a sheriff's deputy or something like that?
A. Correct.
Q. Okay. Moving on down to the mutual aid, air or ground. What's -- I'm assuming this has to do with the helicopter?
A. Okay. So there's, like, a gray box cutting off half of that. But yes, the helicopter was at 1359, if

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they're available. And they got a 25-minute ETA. So that means while we were en route to the hospital, probably right as Paris diverted us, we called to see if the helicopter was available.
Q. Helicopter to go to Booneville or to go to --
A. No, sir. To a higher level of care.
Q. Like Fort Smith?
A. Or Washington Regional.
Q. Okay.
A. Because by that time frame, she would have been -- she could have been flown to Washington Regional, where there is actually neurosurgery.
Q. But that wasn't necessarily your call, was it?
A. No, sir. No, sir. We -- so how we work ground-wise is -- 'cause we know Booneville and Paris are the lowest level of hospitals there are.
Q. Okay.
A. But by protocol, we had to take her to the closest head CT, which after Paris diverted would have been Booneville.
Q. Okay.
A. In the meantime, we always like to call for the helicopter because being a rural area, sometimes it's better and faster. Sometimes. Not all the time.
Q. Okay.

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A. So this initial definitive, she needed a head CT as quick as possible. So by putting her on that helicopter, it would have delayed the head CT.
Q. Okay.
A. Does that make sense?
Q. Yeah. No, it does. Thank you. Okay. Next to that 25, it says Subiaco. What does that mean?
A. Fire department, first responders? Is that where you are looking at?
Q. Yes. Yes, ma'am.
A. That would be that area. That's the area that it happened in.
Q. Okay. The mileage, what, is that your mileage in the truck?
A. Yes. That is the beginning mileage for us.
Q. So beginning mileage for when you were called to the scene or when you left the scene?
A. I want to say that they do it as we were leaving. So when I call dispatch, I'm like, you know, I'm headed en route to the hospital, beginning mileage is this.
Q. Okay. Okay.
A. And when I get to the hospital, my ending mileage is this.
Q. Okay. So the beginning mileage is when you've

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got the patient in the truck and you are leaving?
A. Correct.
Q. So the ending mileage would be when you got to Booneville?
A. Correct.
Q. So that's 25.4 miles? Is that -- does that sound about right?
A. Sure. I'd have to get my phone to get a calculator out.
Q. That's fine. Then it says patient's name unknown. I guess you knew who the patient was but unknown at the time to dispatch?
A. Correct.
Q. Okay.
A. And this is at the time of the call too. So a lot of this is taken so it may -- she may not have known at that time either.
Q. Okay. Caller's name. What does that mean?
A. That's whoever called it in.
Q. Tray, I guess, Low? Is that is -- that is that --
A. I don't know. I have no idea.
Q. Okay.
A. No idea.
Q. But whoever called it, the time next to it would

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presumably be that person's contact number?
A. Presumably.
Q. Okay. October. Over there to the right-hand side, it says destination/transport code. Can you tell us what that means?
A. That is -- and forgive me. I'm not -- it's been two years since I worked there.
Q. Sure. Sure.
A. And every ambulance service is different, how they run their code 1s and code 2, 3, which is how emergent is it. Hers, we would have ran this with lights and sirens to the hospital.
Q. Okay.
A. And then it says changed/diverted to, changed to 706, which means we were going to Booneville.
Q. Okay. Gotcha.
A. 706 is Paris.
Q. Okay. Going down to notes, do you know what the -- it looks like kind of shorthand of abbreviations. Can you decipher any of that for us?
A. It looks like Troop H was en route at 1300. I don't know what 10-96 means. We don't use 10 codes. So I don't know what this "2-Code 11 needed per lc9" that would be a dispatch question. That would be their -- their thing.

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Q. All right.
A. I don't know who was 10-22 at 14 -- oh, I do know. That would be Mercy Life Flight. So we requested them at 1359. They had a 25-minute ETA, and we canceled them at 1406.
Q. Okay. Okay. Gotcha.
A. Yeah. So between -- so as requesting at 1359 to 1406, we went back and forth with dispatch, you know, seeing what their ETA was, if they're available, that kind of thing. So at 1406, we would have been six minutes outside of the hospital at Booneville.
MR. GASPER: Okay. Richard, can you pull up -- I think it might be the next page. It's got "ADH" at the top. There.
A. Okay. That's --
Q. Yes. Go ahead, please.
A. Oh, that is a paper PCR report that we fill out on the patient.
Q. Okay.
A. We are required to give it to them -- to the hospital upon our arrival. This particular form was filled out by Zach and I both. I'm pretty sure I was the one who signed it though.
Q. Okay.
A. The gray box at the bottom is kind of covering

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it.
Q. Okay. Can you just kind of take a quick look at this and see if there's anything on this particular piece of paper that we haven't already covered?
A. Not really -- there we go. No. I mean, other than the trauma band, which is how Arkansas tracks all of their traumas. Even if you just stumped your toe and went to the hospital by ambulance, you would get a trauma band.
Q. Okay.
A. So -- so that particular number is how they identify patients. They don't use name, date of birth, nothing like that.
Q. Go ahead.
A. I'm sorry.
Q. I don't want to interrupt you. I'm sorry. Go ahead.
A. Oh, the ATCC, which is Arkansas Trauma Comm, they were contacted because of the trauma alert. And she was obviously in the wreck, so she is a trauma alert. That's what that means in that bottom box.
Q. What time -- is this noted, like, 1447 what time you signed this; is that right?
A. That -- yeah. That would be the time that everything --

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Q. That you filled out the form?
A. Right. Well, yeah. That we got it all completed, because this is not a priority that we do when we have a critical patient.
Q. Okay. Gotcha.
A. Yeah. We treat them first and fill out the form later.
Q. I am approaching the end here, but let me just make sure I've got everything. I'm going to bounce around a little bit here.
So whenever the youngest girl said that her mom, Jackie, had been vomiting and -- for two days, did she elaborate on that at all?
A. No, sir.
Q. She has the flu or something along that line?
A. She didn't elaborate.
Q. Okay. A couple more questions. So you -- Jackie was in the house for about 26 minutes without you or any law enforcement being there that you know of; is that correct?
A. I didn't see law enforcement pull up, so I don't know what time they got --
Q. Okay. Then you. You didn't see her for about 26 minutes?
A. Correct.

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Q. Do you have any idea what occurred during that particular time period?
A. No, sir.
Q. Okay. Is it possible that something could have happened in the house that caused her head injury?
A. I mean, anything is possible. I can't contest --
Q. If she had got up to go use the bathroom and slipped on the floor and hit her head on the sink or on the toilet, would that have --
MR. JACKSON: Let me make an objection. Let me know when you're finished. I am going to make an objection and then you'll answer the question. Okay, Holly?
I didn't mean to cut you off just because of the Zoom and everything. So go ahead and finish your question, Brent.
Q. (By Mr. Gasper:) Could something have happened in the house or -- resulting from a slip and fall that would have caused a head injury at this time?
MR. JACKSON: Object to the form of the question in that it calls for speculation by the witness. Ms. Newman, you can answer as best as you can.
A. Well, I just want to clarify, you're asking me

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if, theoretically, she slipped and fell in the bathroom and hit her head, would it cause her to bleed?
Q. (By Mr. Gasper:) Yeah. Or could it have caused her to bleed?
A. It could have, but --
Q. Okay.
A. If she would have hit her head on the sink or something, she would have had some kind of swelling, laceration, or something to the back of wherever she would have hit, there would have been some kind of trauma.
Q. Okay.
A. If she had hit hard to make her bleed.
Q. Okay. But she was in a car wreck that caused it to bleed, correct, but there wasn't any mark?
A. I didn't say that it caused her to bleed because that is a million dollar question.
Q. Oh, okay.
A. I cannot answer.
Q. Okay. That's fair. But nothing you saw was inconsistent -- like if I said Holly, we actually had a video camera in there and here's what happened. She slipped and fell hit her head on a table. Was there anything that would be inconsistent with that

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statement that you saw or that you know of?
A. Like, repeat in a different --
Q. Okay. I'm sorry. Knowing what you know or what you saw and observed that day, if proof had later come out that she did, in fact, slip, you know, hit her head in a manner that caused the bleed, would you say that couldn't have happened? Was there anything inconsistent? That couldn't have happened because of X, Y, or Z, or I saw X, Y, or Z first? Is there anything inconsistent with that statement?
A. No, because I didn't see her -- I didn't see her.
Q. Right. There was a 26-minute gap and you don't really know what happened?
A. Right. No. I do not.
Q. If someone had slapped her very hard on the back of the head, could that have caused something of injury of this sort?
A. I don't feel like a slap would. I think it had to be more force than just a slap.
Q. Like a closed fist?
A. Again, you're asking questions that I --
Q. No. No. I understand you're not a doctor. Just based upon your --
A. No, I'm not.

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Q. Based upon your experience out in the field, responding to calls of MVAs or domestic situations, could, you know, injuries of this sort, could they be caused by, you know, a slap or a hit or another -- a book being hit in the back of the head?
A. Medically, there's always a possibility it could cause. Is it likely? No.
Q. Okay.
A. If she was -- and I would be -- I would feel comfortable saying if she was hit at the time that I was not there, then she would have some kind of swelling, some kind of deformity that Zach would have seen when he reassessed her when he got in the back of that ambulance.
Q. Okay. So you think that any injury that -- if she had sustained an injury in the house, it would have left marks or evidence of some sort?
A. I would feel comfortable saying yes.
Q. Okay. But the same amount of force that caused -- or that may have caused a brain bleed, that they're alleging caused the brain bleed, in a car did not leave a mark, correct?
A. Well, no. Because it was the contre -- the coup-contrecoup inside her brain that would have caused -- if the force -- the amount of force that the

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car hit her in the back --
Q. Right. Okay.
A. -- is different. So if you take a baseball bat, a book, you know, something of that sort and hit somebody in the back of the head, that's a more direct to the skull.
Q. Okay.
A. There is not -- there's force in a MVA when you're rear-ended, there's more force that causes the inside of the brain to do the coup-contrecoup. Does that make sense?
Q. No. I follow you. Sure. Sure. But you still -- something that would have occurred inside the house you don't believe could have caused that type of an injury?
A. I don't believe, no. Not without having another physical evidence.
Q. Okay. But if there were evidence, nothing is inconsistent with the fact that maybe that occurred if, like, other evidence had showed up or was there?
A. What -- if you're saying -- if, theoretically, you're saying there's other evidence to say, hey, maybe possibly she got hit inside the house, then I would -- I would not argue with that.
Q. Okay.

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A. Okay.
Q. Okay. Are you familiar with shaken baby syndrome?
A. I mean, it's -- yeah. It's where you shake --
Q. You cause a head injury in a child, correct?
A. You can.
Q. Yeah. Okay. So could she have been shaken really hard to have her head bob back and forth? Is that -- is there anything inconsistent with that that you would have seen?
A. There' nothing inconsistent, no.
Q. Okay.
A. Because that doesn't leave marks.
Q. Okay. Last questions I want to ask, you are just -- based on your own perception. Like, did this incident, your whole response to it, what you observed and your involvement in this, does this leave you with any questions? Like, that's curious or something like that, did it leave you with any kind of lingering question or issue?
A. What do you mean by that? Like --
Q. You certainly responded as a professional, as a professional medical provider?
A. Correct.
Q. And you've been on these calls for hundreds and

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thousands of times, correct?
A. Correct.
Q. And you've probably seen stuff that Jim or I couldn't even imagine.
A. Some of it, yes.
Q. Yeah. Does this incident stand out at all? Is there something that when you think about this, you think I have to say that doesn't seem right, that doesn't sit right, or that just doesn't make sense? Is there anything that is evident here to you?
A. No.
Q. So it seems just pretty -- like a routine call?
A. Pretty much. Unfortunately, she ended up having a head bleed that costed her her life.
Q. Okay. So it did not leave any question to you that you felt you -- that went unanswered in your brain to you?
A. No.
MR. GASPER: Okay. Well, Holly, I really appreciate you taking the time to meet with us today. I know Jim probably has some follow-up questions. And I apologize also if I went longer than maybe I suspected, but I wanted to make sure I was thorough. I am going to pass the witness.

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I believe Jim has some questions for you. Thanks.

FURTHER EXAMINATION

BY MR. JACKSON:

Q. Holly, I know we've been going for a little bit. I've just got a couple of follow-up questions. Okay?

A. We just need to get it done real quick, though. Kids called an hour ago, so they're outside waiting on me.

Q. I am going to be real quick.

A. My kids and my husband.

Q. Okay. So my records are showing that your -- some of these things on the timing. My records show that you left at 1:44 and arrived at Booneville at 2:12. And that would be 28 minutes. Do you have any reason to disagree with that, if that's what's shown on page 4 of 9 of your Logan County EMS records?

A. No, sir. Because it takes us about 30 minutes or so to get over that mountain, 'cause it's not a straight shot.

Q. Right. And then when you talk about 1304, you went through -- that's when you do your initial -- is that when your -- that's when you start your initial assessment of Ms. Ashcraft and her children?

A. Yes.

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Q. And that takes -- I would assume that takes several minutes to do, and then you walk with her across the street into the house. You see her and then you advise her one more time if there's any more issues with [redacted] please let somebody know. So really, 1304 is when you started. You don't know for sure the time that you left the house; is that correct?

A. That's correct.

Q. And just 'cause of the cutout, I think you said that is correct, yes?

A. Yes. That is correct.

Q. Okay. And you don't know what time Trooper Ray, who came to the van and notified you that there's an issue, you don't know what time he arrived into the house and interacted with Ms. Ashcraft and realized that she needed a paramedic's care immediately; is that correct?

A. That is correct. You would be able to get that time, should be able to get that time from his report.

Q. And then he would have -- okay. You just know what time the second assessment began of when you were able to get out of the ambulance and go inside and see her, that's your -- that's when you start that second assessment at -- of Ms. Ashcraft, correct?

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A. Correct.

Q. Okay. And then one little thing. Earlier, when you were -- when Mr. Gasper was asking you about Ms. Ashcraft's refusal for [redacted] there was -- there was a phrase adamant or I've got this.

And when I tell my teenagers to take out the trash and I may have to do it a couple of times, I may be adamant in that perhaps my voice drops. I stop what I'm doing. I'm staring at them to know that there's some punishment coming if they don't finally respond to their father, or was it more of repeated, hey, it's okay, I've got this?

I just want to make sure we understand or the record shows Ms. Ashcraft's demeanor to you during your initial assessment interaction regarding [redacted] and Ms. Ashcraft.

A. Her demeanor never changed. I used the word "adamant" because she consistently said the same thing over and over. She was never -- she never got aggressive. She never got frustrated. She just kept the same demeanor. She was like, "No. I understand."

Q. I just want -- that's what I thought. I just wanted to make sure. Okay.

A. Yes.

MR. JACKSON: I think we'll let you

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get -- I'm finished. I think Mr. Gasper May have one more follow-up question.

FURTHER EXAMINATION

BY MR. GASPER:

Q. Just that you were about to say something at the very end there, Holly. You wanted to add -- it sounded like you were not quite finished with your answer to that question, or not?

A. No. Her demeanor never changed.

Q. Pardon me?

A. Her demeanor never changed.

Q. I was making sure that we didn't get you cut off and you wanted to add something.

MR. GASPER: No, I do not have anything further. Again, thank you so much for taking your time today.

THE WITNESS: You're welcome.

MR. JACKSON: Thank you, Ms. Newman. I know it took a lot longer than what we thought, so thank you very much.

THE WITNESS: Thank you.

THE VIDEOGRAPHER: This concludes the video deposition of Holly Newman. The time is 12:07 p.m. We are now off the record.

(The deposition was concluded at 12:07 p.m.)

REPORTER CERTIFICATION

I, TAMMIE L. FOREMAN, Certified Court Reporter for the State of Arkansas, do hereby certify to the following:

1) that on 07/31/2023, the witness, HOLLY NEWMAN, was duly sworn by me prior to the taking of testimony as to the truth of the matters attested to and contained therein;

2) that the foregoing pages contain and are a true and correct transcription of the proceedings as reported verbatim by me via realtime stenography to the best of my ability and transcribed at or under my direction and supervision, and subject to appropriate changes submitted by witness, if any, during his/her requested reading and signing of this deposition according to the Arkansas Rules of Civil Procedure;

3) that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and that I am not a relative or employee of any attorney employed by the parties hereto;

4) that I am not financially interested or otherwise interested in the outcome of this action that affects or has substantial tendency to affect impartiality or requires me to relinquish control of

an original or copies of a deposition transcript before it is certified, or that requires me to provide any service not made available to all parties to the action; and

5) that I have no contract with the parties, attorneys, or persons with an interest in the action; and that I am not knowingly identified on a preferred provider list, whether written or oral, for any litigant, insurance company, or third-party administrator involved in this matter;

6) that signature of the witness is waived.

This transcript is prepared at request of counsel for CLAIMANT, and all fees are billed directly to them in compliance with Arkansas Board of Court Reporter Examiners Regulations Section 19.

Witness my hand and seal this 19th of August, 2023.

_____

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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR CHILD — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

DR. RALPH SCOTT'S TRIAL EXHIBITS

Respectfully submitted,

BY: /s/ *Jim Jackson*

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Dr Ralph Scott's Trial Binder was served on the following counsel of record by email on August 22, 2024:

Mr. Vincent France
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

/s/ Jim R. Jackson.
Jim R. Jackson

EXHIBIT 10

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ECONOMIC AND FINANCIAL CONSULTING GROUP, INC.

[redacted]

March 20, 2023

Mr. Jim Jackson
Attorney at Law
Jackson Law Firm
700 West Broadway Street, Suite 2
North Little Rock, AR 72114-5528

RE: **Estate of Jacqueline Lynn Ashcraft**

Dear Mr. Jackson:

At your request, I have performed calculations concerning the value of the loss of life of Jacqueline Lynn Ashcraft (Ashcraft) in connection with the wrongful death lawsuit resulting from her death on June 12, 2021. I am also providing data concerning the statistical value of life utilized by government agencies in cost/benefit studies. In addition to loss of life damages, I have also calculated the value of the household services that Ashcraft would have provided for her surviving children and the cost of raising her surviving children that will now be incurred by her surviving sister and brother-in-law. My computations are discussed in detail below.

LOSS OF LIFE

Running through the history of economic thought, there has been a general consensus that the monetary value of life can, *at a minimum*, be determined by the present value of projected lifetime compensation. Present value represents the amount of money that would be needed at a point in time so that with appropriate financial investments a flow of lifetime compensation could be duplicated. The present value of projected lifetime compensation is commonly called "human capital" in economic literature. Conceptually, human capital is identically equal to the concept of "earning capacity" that appears in tort litigation. The present value of projected lifetime compensation can be simultaneously interpreted as a measure of the loss of life suffered by the decedent because it represents the loss of human capital or earning capacity that would

have provided the basis for lifetime personal expenditures and also a societal loss because of the elimination of the decedent's productive efforts from which society would have derived benefit. It should be stressed that the valuation of human capital is identical to computations of lost earning capacity which arise in personal injury litigation and can be calculated with equal precision. As stated above, this approach should be construed as yielding a *minimum* measure of the value of life because it focuses exclusively on lifetime earnings and ignores many other aspects of the value of life. Given these comments, a starting point for my analysis of loss of life would entail a consideration of the present value of the income flows that could have been potentially generated by Ashcraft had she remained alive. This component of loss of life as well as the residual value of life in excess of earning capacity is discussed below.

Present Value of Potential Lifetime Earnings

The evaluation of the present value of Ashcraft's potential lifetime earnings, which represents her human capital, entails a consideration of the income flows that she could have generated had she remained alive. Although Ashcraft was not working at the time of her death, I have conservatively assumed that she had an earning capacity at least equal to annualized minimum wage earnings, $22,880.00 per year. In assigning a value to these income flows, a distinction should be made between past and projected future magnitudes. Past potential earnings are not discounted; however future potential earnings should be discounted and converted into present value terms. Past earnings are calculated in accordance with equation (1), below:

(1) Past Earnings = (Base Income)(Time Interval Between Date of Death and Current Date)

In the present instance base income is assumed to be $22,880.00 per year based on annualized minimum wage earnings. As discussed above, this figure is a minimal measure of Ashcraft's earning capacity at the time of her death. The time interval amounts to 1.77 years. Performing the computation indicated by equation (1), based on the assumptions above, yields a past value of income amounting to **$40,494.47**.

The present value of future income, which represents Ashcraft's human capital or earning capacity, is calculated by projecting her base income over her remaining work life expectancy and discounting in accordance with equation (2), below:

$$\text{(2) Present Value of Future Income} = \sum_{t=1}^{T} \text{Base income}/(1+r)^t$$

where T = work life expectancy, which is alternatively assumed to be 4.86 additional years, Scenario (1), or 15.15 additional years, Scenario (2). Scenario (1) is based on Ashcraft's statistical work life expectancy based on Gary R. Skoog, James E. Ciecka, and Kurt V. Krueger: "The Markov Process Model of Years to Final Separation From the Labor Force 2012-2017: Extended Tables of Central

Tendency, Shape, Percentile Points, and Bootstrap Standard Errors", *Journal of Forensic Economics* 28(1-2), 2019 (based on her inactive status at the time of her death). Scenario (2) is based on an assumed retirement at age 67.

Base Income = $22,880.00 per year as discussed above.

r = discount factor used to convert future magnitudes into present value terms. For computational purposes, I have assumed r to be equal to 2.5% to reflect the real rate of return (interest minus inflation) on inflation indexed government bonds. These bonds would be a financial instrument almost perfectly suited to protecting against the effects of future inflation.

Performing the calculation indicated by equation (2), based on the assumptions above, yields a present value of projected future income in the range **$103,465.39** to **$285,597.80**. Adding the values of past and projected future income yields an earning capacity in the range **$143,959.86** to **$326,092.27**. This range should be interpreted as a measure Ashcraft's human capital or earning capacity. My computations are presented on a year-by year basis in the attached Table (1).

Fringe Benefits

For computational purposes, fringe benefits are assumed to amount to 30.0% of income. This figure is based on data contained in the United States Department of Labor publication: *Employer Costs for Employee Compensation – September 2022* which indicates that fringe benefits, net of paid vacation and time off, on average amount to 30.0% of income for civilian employees in the United States. Applying this percentage to the present value of potential lifetime earnings, calculated above, yields fringe benefit valuations in the range **$43,187.96** to **$97,827.68**. Fringe benefit losses can be computed on a year-by-year basis by multiplying the figures in Table (1) by the assumed fringe benefit percentage.

Adding the values of projected income and fringe benefits yields a total valuation in the range **$187,147.82** to **$423,919.95**. This range should be interpreted as a measure Ashcraft's human capital or earning capacity.

Residual Value of Life in Excess of Earning Capacity

As discussed above, the present value of lifetime earnings would represent a minimum valuation of the loss of life because it focuses exclusively on productivity and ignores other aspects of the value of life. Many of life's joys, pleasures and services, which are independent of earning capacity and are generally considered to be "priceless", have been lost as a result of Ashcraft's death. Consequently, my figures should not be interpreted as capturing the total value of loss of life but rather those aspects of loss of life that are readily quantifiable. In the attached Table (5), I have noted that additional figures for the residual value of life are to be determined by the jury. I have provided information on Ashcraft's statistical life expectancy, 33.60 additional years at the

time of her death based on the Center for Disease Control publication: *United States Life Tables, 2019*, to assist the jury in this determination. I have also provided computations, summarized in the attached Table (6), in which future residual value of life figures can be reduced to present value. Reducing future amounts to present value is consistent with the methodology advocated by the United States Government, Office of Management and Budget (OMB) in *Circular A-4*, September 17, 2003, in which guidelines for incorporating statistical value of life into cost/benefit analysis are established. This approach provides a more fairly determined measure of damages for defendants determined to be liable. The methodology encompassed in my computations could be utilized for any annual value determined by the jury.

Since the jury will be instructed and charged to arrive at a figure for loss of life damages, I have researched this issue and can assist the jury by providing for their consideration the value that government agencies place on the statistical value of life. The attached documents, published by the United States Department of Transportation (DOT) and the Environmental Protection Agency (EPA), suggest statistical values of life amounting to $11,705,859.00 and $10,742,297.00, respectively. The DOT and EPA valuations have been adjusted to the current price level. United States Census Bureau data documents a median age across the United States population amounting to 37.2 years. Life expectancy, based on this age, amounts to 43.3 additional years. Dividing the statistical values of life identified above by remaining life expectancy, yields average annual evaluations of $278,711.00 and $255,769.00 for DOT and EPA statistical values of life, respectively. The OMB, as well as other government agencies, have suggested guidelines and endorsed statistical values of life for various cost/benefit analyses that have been performed. Total and implicit annual statistical values of life for these government studies, adjusted to current price levels, are presented in the attached Table (4). I additionally attach recent *Wall Street Journal* and *New York Times* articles on this topic.

In summary, Ashcraft's loss of life would be worth at least **$187,147.82** to **$423,919.95**, the present value of her expected lifetime earnings or human capital. Losses associated with the residual value of life should be considered in addition to this amount in order to arrive at a more accurate valuation of the loss of life suffered by Ashcraft.

Lost Household Services

Because of her death, Ashcraft is no longer able to provide for her family the services she previously performed. I have assumed a value for these services amounting to $13,154.33 per year based on Expectancy Data, *The Dollar Value of the Day: 2020 Dollar Valuation* (Table 333). Calculating past and projected future losses in accordance with the methodology explained above yields loss amounts of **$23,281.36** and **$66,443.92**, respectively. Future losses are projected over the next 5.47 additional years based on the remaining time interval until Ashcraft's youngest child will reach age 18. Adding past and projected future losses yields a total loss of household services amounting to **$89,725.28.** My computations are presented on a year-by-year basis in the attached Table (2).

Cost of Raising Surviving Children

The attached Tables (3) and (4) present the annual costs, present value, and cumulative present value of the costs associated with raising Ashcraft's surviving children, [redacted] and [redacted] respectively, to age 18. Annual cost figures are based on the United States Department of Agriculture Study: *Expenditures on Children by Families, 2015*. The figures presented in that study are adjusted to 2021 price levels in accordance with historical inflation rates over the period since 2015. Present values are calculated in accordance with the methodology explained above. The present values of total expenses amount to **$61,866.43** and **$28,971.49** for [redacted] respectively. My computations are presented on a year-by-year basis in the attached Tables (3) and (4), respectively.

Please be advised that my calculations do not address the costs of college or vocational education for Ashcraft's children.

My computations of economic loss are summarized in the attached tables.

This report reflects information and opinions as of the date of the report and may be amended if additional data or information becomes available. If I can be of further service in this matter, please do not hesitate to contact me.

Yours very truly,

Ralph D. Scott, Jr.

RALPH D. SCOTT, JR., Ph.D.

TABLE 1

ESTATE OF JACQUELINE LYNN ASHCRAFT
CALCULATION OF HUMAN CAPITAL / EARNING CAPACITY

Year	Base Income	Year Fraction	Lost Earnings	Present Value Factor	Economic Loss	Cumulative Economic Loss
PAST:						
2021	22,880.00	0.5562	12,725.04	1.0000	12,725.04	12,725.04
2022	22,880.00	1.0000	22,880.00	1.0000	22,880.00	35,605.04
2023	22,880.00	0.2137	4,889.42	1.0000	4,889.42	40,494.47
Total		1.7699	40,494.47		40,494.47	40,494.47
FUTURE:						
2023/24	22,880.00	1.0000	22,880.00	0.9756	22,321.95	22,321.95
2024/25	22,880.00	1.0000	22,880.00	0.9518	21,777.51	44,099.46
2025/26	22,880.00	1.0000	22,880.00	0.9286	21,246.35	65,345.82
2026/27	22,880.00	1.0000	22,880.00	0.9060	20,728.15	86,073.97
2027/28	22,880.00	0.8600	19,676.80	0.8839	17,391.42	103,465.39
Total (Scenario 1)		4.8600	111,196.80		103,465.39	103,465.39
2027/28	22,880.00	1.0000	22,880.00	0.8839	20,222.59	106,296.56
2028/29	22,880.00	1.0000	22,880.00	0.8623	19,729.35	126,025.91
2029/30	22,880.00	1.0000	22,880.00	0.8413	19,248.15	145,274.06
2030/31	22,880.00	1.0000	22,880.00	0.8207	18,778.68	164,052.74
2031/32	22,880.00	1.0000	22,880.00	0.8007	18,320.66	182,373.40
2032/33	22,880.00	1.0000	22,880.00	0.7812	17,873.82	200,247.22
2023/24	22,880.00	1.0000	22,880.00	0.7621	17,437.87	217,685.10
2024/25	22,880.00	1.0000	22,880.00	0.7436	17,012.56	234,697.65
2025/26	22,880.00	1.0000	22,880.00	0.7254	16,597.62	251,295.27
2026/27	22,880.00	1.0000	22,880.00	0.7077	16,192.80	267,488.07
2027/28	22,880.00	1.0000	22,880.00	0.6905	15,797.85	283,285.92
2028/29	22,880.00	0.1500	3,432.00	0.6736	2,311.88	285,597.80
Total (Scenario 2)		15.1500	$ 346,632.00		$ 285,597.80	285,597.80

TOTAL HUMAN CAPITAL / EARNING CAPACITY (SCENARIO 1) $ 143,959.86

TOTAL HUMAN CAPITAL / EARNING CAPACITY (SCENARIO 2) $ 326,092.27

TABLE 2

ESTATE OF JACQUELINE LYNN ASHCRAFT
CALCULATION OF LOST HOUSEHOLD SERVICES

Year	Base Annual Value	Year Fraction	Annual Loss	Present Value Factor	Economic Loss	Cumulative Economic Loss
PAST:						
2021	$ 13,154.33	0.5562	$ 7,315.97	1.0000	$ 7,315.97	$ 7,315.97
2022	13,154.33	1.0000	13,154.33	1.0000	13,154.33	20,470.29
2023	13,154.33	0.2137	2,811.06	1.0000	2,811.06	23,281.36
Total		1.7699	23,281.36		23,281.36	23,281.36
FUTURE:						
2023/24	13,154.33	1.0000	13,154.33	0.9756	12,833.49	12,833.49
2024/25	13,154.33	1.0000	13,154.33	0.9518	12,520.48	25,353.97
2025/26	13,154.33	1.0000	13,154.33	0.9286	12,215.10	37,569.07
2026/27	13,154.33	1.0000	13,154.33	0.9060	11,917.17	49,486.24
2027/28	13,154.33	1.0000	13,154.33	0.8839	11,626.51	61,112.74
2028/29	13,154.33	0.4700	6,182.53	0.8623	5,331.18	66,443.92
Total		5.4700	71,954.16		66,443.92	66,443.92

TOTAL LOST HOUSEHOLD SERVICES $ 89,725.28

TABLE 3

ESTATE OF JACQUELINE LYNN ASHCRAFT
COST TO RAISE [redacted]

Age	Base Annual Expense	Year Fraction	Projected Expense	Present Value Factor	Present Value	Cumulative Present Value
PAST:						
10	$ 8,516.08	0.2466	$ 2,099.86	1.0000	$ 2,099.86	$ 2,099.86
11	8,516.08	1.0000	8,516.08	1.0000	8,516.08	10,615.93
12	9,015.45	0.5233	4,717.67	1.0000	4,717.67	15,333.61
Total		1.7699	15,333.61		15,333.61	15,333.61
FUTURE:						
12	9,015.45	1.0000	9,015.45	0.9756	8,795.56	8,795.56
13	9,015.45	1.0000	9,015.45	0.9518	8,581.04	17,376.60
14	9,180.33	1.0000	9,180.33	0.9286	8,524.85	25,901.45
15	9,398.90	1.0000	9,398.90	0.9060	8,514.94	34,416.39
16	9,398.90	1.0000	9,398.90	0.8839	8,307.26	42,723.64
17	9,398.90	0.4700	4,417.48	0.8623	3,809.18	46,532.83
Total		5.4700	$ 50,426.51		$ 46,532.83	$ 46,532.83

TOTAL EXPENSE (PRESENT VALUE) $ 61,866.43

TABLE 4

ESTATE OF JACQUELINE LYNN ASHCRAFT
COST TO RAISE [redacted]

Age	Base Annual Expense	Year Fraction	Projected Expense	Present Value Factor	Present Value	Cumulative Present Value
PAST:						
14	$ 8,654.83	0.2767	$ 2,394.90	1.0000	$ 2,394.90	$ 2,394.90
15	9,034.93	1.0000	9,034.93	1.0000	9,034.93	11,429.83
16	9,034.93	0.4932	4,455.58	1.0000	4,455.58	15,885.41
Total		1.7699	15,885.41		15,885.41	15,885.41
FUTURE:						
16	9,015.45	1.0000	9,015.45	0.9756	8,795.56	8,795.56
17	9,015.45	0.5000	4,507.73	0.9518	4,290.52	13,086.08
Total		1.5000	$ 13,523.18		$ 13,086.08	$ 13,086.08

TOTAL EXPENSE (PRESENT VALUE) $ 28,971.49

TABLE 5

ESTATE OF JACQUELINE LYNN ASHCRAFT
SUMMARY OF ECONOMIC LOSS

	Scenario 1	Scenario 2
LOSS OF LIFE		
HUMAN CAPITAL		
Earning Capacity		
Past	$ 40,494.47	$ 40,494.47
Projected Future	103,465.39	285,597.80
Total	143,959.86	326,092.27
Fringe Benefits		
Past	12,148.34	12,148.34
Projected Future	31,039.62	85,679.34
Total	43,187.96	97,827.68
Total Human Capital	187,147.82	423,919.95
RESIDUAL VALUE OF LIFE IN EXCESS OF EARNING CAPACITY	To Be Determined	
_____ X 33.6 =		
Annual Value X Life Expectancy =		
TOTAL LOSS OF LIFE	$ 187,147.82 +	$ 423,919.95 +
LOST HOUSEHOLD SERVICES		
Past	23,281.36	23,281.36
Projected Future	66,443.92	66,443.92
Total	89,725.28	89,725.28
COSTS OF RAISING SURVIVING CHILDRTEN		
[redacted]	61,866.43	61,866.43
	28,971.49	28,971.49
Total	90,837.92	90,837.92
TOTAL ECONOMIC LOSS	$ 367,711.02 +	$ 604,483.16 +

TABLE 6

ESTATE OF JACQUELINE LYNN ASHCRAFT
SUMMARY OF ECONOMIC LOSS

LOSS OF LIFE	Scenario 1	Scenario 2
HUMAN CAPITAL		
Lost Earning Capacity		
Past	$ 40,494.47	$ 40,494.47
Projected Future	103,465.39	285,597.80
Total	143,959.86	326,092.27
Fringe Benefits		
Past	12,148.34	12,148.34
Projected Future	31,039.62	85,679.34
Total	43,187.96	97,827.68
Total Human Capital	187,147.82	423,919.95
RESIDUAL VALUE OF LIFE IN EXCESS OF EARNING CAPACITY	To Be Determined	
_____ X 33.6 X 0.7006 =		
Annual Value / Life Expectancy / Present Value Factor		
TOTAL LOSS OF LIFE	187,147.82 +	423,919.95 +
LOST HOUSEHOLD SERVICES		
Past	23,281.36	23,281.36
Projected Future	66,443.92	66,443.92
Total	89,725.28	89,725.28
COSTS OF RAISING SURVIVING CHILDRTEN		
[redacted]	61,866.43	61,866.43
	28,971.49	28,971.49
Total	90,837.92	90,837.92
TOTAL ECONOMIC LOSS	$ 187,147.82 +	$ 423,919.95 +

Departmental Guidance

Treatment of the Value of Preventing Fatalities and Injuries in Preparing Economic Analyses

March 2021

This guidance describes the Department of Transportation's recommended methodology for calculating the value of a statistical life (VSL) and applying it in analyses that assess the economic benefits of preventing fatalities. It also establishes policies for assigning comparable values to the prevention of injuries.

Background

Prevention of injury, illness, and loss of life is a significant factor in many private economic decisions, including job choices and consumer product purchases. When government makes direct investments or controls external market impacts by regulation, it also pursues these benefits, often while also imposing costs on society. The Office of the Secretary of Transportation and other DOT administrations are required by Executive Order 13563, Executive Order 12866, Executive Order 12893, OMB Circular A-4, and DOT Order 2100.5 to evaluate in monetary terms the costs and benefits of their regulations, investments, and administrative actions, in order to demonstrate the faithful execution of their responsibilities to the public. Since 1993, the Office of the Secretary of Transportation has periodically reviewed the published research on the value of safety and updated guidance for all administrations. The benefit of preventing a fatality is measured by what is conventionally called the Value of a Statistical Life, defined as the additional cost that individuals would be willing to bear for improvements in safety (that is, reductions in risks) that, in the aggregate, reduce the expected number of fatalities by one. This conventional terminology has often provoked misunderstanding on the part of both the public and decision-makers. What is involved is not the valuation of life as such, but the valuation of reductions in risks. While new terms have been proposed to avoid misunderstanding, we will maintain the common usage of the research literature and OMB Circular A-4 in referring to VSL.

Most regulatory actions involve the reduction of risks of low probability (as in, for example, a one-in-10,000 annual chance of dying in an automobile crash). For these low-probability risks, we shall assume that the willingness to pay to avoid the risk of a fatal injury increases proportionately with growing risk. That is, when an individual is willing to pay $1,000 to reduce the annual risk of death by one in 10,000, she is said to have a VSL of $10 million. The assumption of a linear relationship between risk and willingness to pay therefore implies that she would be willing to pay $2,000 to reduce risk by two in 10,000 or $5,000 to reduce risk by five in 10,000. The assumption of a linear relationship between risk and willingness to pay (WTP) breaks down when the annual WTP becomes a substantial portion of annual income, so the assumption of a constant VSL is not appropriate for substantially larger risks.

When first applied to benefit-cost analysis in the 1960s and 1970s, the value of saving a life was measured by the potential victim's expected earnings, measuring the additional product society might have lost. These lost earnings were widely believed to understate the real costs of loss of

life, because the value that we place on the continued life of our family and friends is not based entirely, or even principally, on their earning capacity. In recent decades, studies based on estimates of individuals' willingness to pay for improved safety have become widespread, and offer a way of measuring the value of reduced risk in a more comprehensive way. These estimates of the individual's value of safety are then treated as the ratio of the individual marginal utility of safety to the marginal utility of wealth. These estimates of the individual values of changes in safety can then be aggregated to produce estimates of social benefits of changes in safety, which can then be compared with the costs of these changes.

Studies estimating the willingness to pay for safety fall into two categories. Some analyze subjects' responses in real markets, and are referred to as revealed preference (RP) studies, while others analyze subjects' responses in hypothetical markets, and are described as stated preference (SP) studies. Revealed preference studies in turn can be divided into studies based on consumer purchase decisions and studies based on employment decisions (usually referred to as hedonic wage studies). Even in revealed preference studies, safety is not purchased directly, so the value that consumers place upon it cannot be measured directly. Instead, the value of safety can be inferred from market decisions that people make in which safety is one factor in their decisions. In the case of consumer purchase decisions, since goods and services usually display multiple attributes, and are purchased for a variety of reasons, there is no guarantee that safety will be the conclusive factor in any purchasing decision (note that even products like bicycle helmets, which are purchased primarily for safety, also vary in style, comfort, and durability). Similarly, in employment decisions, safety is one of many considerations in the decision of which job offer to accept. Statistical techniques must therefore be used to identify the relative influence of price (or wage), safety, and other qualitative characteristics of the product or job on the consumer's or worker's decision on which product to buy or which job to accept.

An additional complication in RP studies is that, even if the real risks confronted by individuals can be estimated accurately by the analyst, the consumer or employee may not estimate these risks accurately. It is possible for individuals, through lack of relevant information or limited ability to analyze risks, to assign an excessively low or high probability to fatal risks. Alternatively, detailed familiarity with the hazards they face and their own skills may allow individuals to form more accurate estimates of risk at, for example, a particular job-site than those derived by researchers, which inevitably are based on more aggregate data.

In the SP approach, market alternatives incorporating hypothetical risks are presented to test subjects, who respond with what they believe would be their choices. Answers to hypothetical questions may provide helpful information, but they remain hypothetical. Although great pains are usually taken to communicate probabilities and measure the subjects' understanding, there is no assurance that individuals' predictions of their own behavior would be observed in practice. Against this weakness, the SP method can evaluate many more alternatives than those for which market data are available, and it can guarantee that risks are described objectively to subjects. With indefinitely large potential variations in cost and risk and no uncontrolled variation in any other dimension, some of the objections to RP models are obviated. Despite procedural safeguards, however, SP studies have not proven consistently successful in estimating measures of WTP that increase proportionally with greater risks.

RP studies involving decisions to buy and/or use various consumer products have focused on decisions such as buying cars with better safety equipment, wearing seat belts or helmets, or buying and installing smoke detectors. These studies often lack a continuum of price-risk opportunities, so that the price paid for a safety feature (such as a bicycle helmet) does not necessarily represent the value that the consumer places on the improvement in safety that the helmet provides. In the case of decisions to use a product (like a seatbelt) rather than to buy the product, the "price" paid by the consumer must be inferred from the amount of time and degree of inconvenience involved in using the product, rather than the directly observable price of buying the product. The necessity of making these inferences introduces possible sources of error. Studies of purchases of automobiles probably are less subject to these problems than studies of other consumer decisions, because the price of the safety equipment is directly observable, and there are usually a variety of more or less expensive safety features that provide more of a range of price-risk trade-offs for consumers to make.

While there are many examples of SP studies and RP studies involving consumer product purchases, the most widely cited body of research comprises hedonic wage studies, which estimate the wage differential that employers must pay workers to accept riskier jobs, taking other factors into account. Besides the problem of identifying and quantifying these factors, researchers must have a reliable source of data on fatality and injury risks and also assume that workers' psychological risk assessment conforms to the objective data. The accuracy of hedonic wage studies has improved over the last decade with the availability of more complete data from the Bureau of Labor Statistics' (BLS) Census of Fatal Occupational Injuries (CFOI), supported by advances in econometric modeling, including the use of panel data from the Panel Study of Income Dynamics (PSID). The CFOI data are, first of all, a complete census of occupational fatalities, rather than a sample, so they allow more robust statistical estimation. Second, they classify occupational fatalities by both industry and occupation, allowing variations in fatalities across both dimensions to be compared with corresponding variations in wage rates. Some of the new studies use panel data to analyze the behavior of workers who switch from one job to another, where the analysis can safely assume that any trade-off between wage levels and risk reflects the preferences of a single individual, and not differences in preferences among individuals.

VSL estimates are based on studies of groups of individuals that are covered by the study, but those VSL estimates are then applied to other groups of individuals who were not the subjects of the original studies. This process is called benefit transfer. One issue that has arisen in studies of VSL is whether this benefit transfer process should be applied broadly over the general population of people that are affected by a rulemaking, or whether VSL should be estimated for particular subgroups, such as workers in particular industries, and people of particular ages, races, and genders. Advances in data and econometric techniques have allowed specialized estimates of VSL for these population subgroups. Safety regulations issued by the Department of Transportation typically affect a broad cross-section of people, rather than more narrowly defined subgroups. For that, and other policy reasons, we do not consider variations in VSL among different population groups in this guidance.

Principles and policies of this guidance

This guidance for the conduct of Department of Transportation analyses is a synthesis of empirical estimates, practical adaptations, and social policies. We continue to explore new empirical literature as it appears and to give further consideration to the policy resolutions embodied in this guidance. Although our current approach is unchanged from previous guidance, the numbers and their sources are new, consistent with OMB guidance in Circular A-4 and with the use of the best available evidence. The methods we adopt are:

1. Prevention of an expected fatality is assigned a single, nationwide value in each year, regardless of the age, income, or other distinct characteristics of the affected population, the mode of travel, or the nature of the risk. When Departmental actions have distinct impacts on infants, disabled passengers, or the elderly, no adjustment to VSL should be made, but analysts should call the attention of decision-makers to the special character of the beneficiaries.
2. Analyses conducted by DOT operating administrations should adjust the VSL to the base year used in the analysis by applying the methodology described in this guidance to account for changes in prices and real income levels.
3. Sensitivity analyses applying alternative high and low safety benefit estimates should use a range of VSLs, as described in the section below on recognizing uncertainty.

2008 VSL Guidance Update

In Circular A-4 (2003), the Office of Management and Budget endorsed VSL values between $1 million and $10 million, drawing on two then recently completed VSL meta-analyses.[1] The basis for our 2008 guidance comprised five studies, four of which were meta-analyses that synthesized many primary studies, identifying their sources of variation and estimating the most likely common parameters. These studies were written by Ted R. Miller;[2] Ikuho Kochi, Bryan Hubbell, and Randall Kramer;[3] W. Kip Viscusi;[4] Janusz R. Mrozek and Laura O. Taylor;[5] and W. Kip Viscusi and Joseph Aldy.[6] They narrowed VSL estimates to the $2 million to $7 million range in dollar values of the original data, between 1995 and 2000 (about $3 million to $9 million at current prices). Miller and Viscusi and Aldy also estimated income elasticities for VSL (the percent increase in VSL per one percent increase in income). Miller's estimates were close to 1.0, while Viscusi and Aldy estimated the elasticity to be between 0.5 and 0.6. DOT

[1] Viscusi, W. K. and J.E. Aldy (2003). "The Value of a Statistical Life: A Critical Review of Market Estimates Throughout the World." *Journal of Risk and Uncertainty*, 27(1): 5-76; and Mrozek, J.R. and L. O. Taylor (2002). "What Determines the Value of a Life? A Meta-Analysis." *Journal of Policy Analysis and Management*. 21(2).
[2] Miller, T. R. (2000). "Variations between Countries in Values of Statistical Life." *Journal of Transport Economics and Policy*. 34(2): 169-188. http://www.bath.ac.uk/e-journals/jtep/pdf/Volume_34_Part_2_169-188.pdf
[3] Kochi, I., B. Hubbell, and R. Kramer (2006). "An Empirical Bayes Approach to Combining and Comparing Estimates of the Value of a Statistical Life for Environmental Policy Analysis." *Environmental and Resource Economics.* 34(3): 385-406.
[4] Viscusi, W. K. (2004). "The Value of Life: Estimates with Risks by Occupation and Industry." *Economic Inquiry.* 42(1): 29-48.
[5] Mrozek, J. R., and L. O. Taylor (2002). "What Determines the Value of Life? A Meta-Analysis." *Journal of Policy Analysis and Management.* 21(2).
[6] Viscusi, W. K. and J. E. Aldy (2003). "The Value of a Statistical Life: A Critical Review of Market Estimates Throughout the World." *Journal of Risk and Uncertainty*. 27(1): 5-76.

used the Viscusi and Aldy elasticity estimate (averaged to 0.55), along with the Wages and Salaries component of the Employer Cost for Employee Compensation, as well as price levels represented by the Consumer Price Index, to project these estimates to a 2007 VSL estimate of $5.8 million.

2013 VSL Guidance Update

Since these studies were published, the credibility of these meta-analyses has been qualified by recognition of weaknesses in the data used by the earlier primary studies whose results are synthesized in the meta-analyses. We now believe that the most recent primary research, using improved data (particularly the CFOI data discussed above) and specifications, provides more reliable results. This conclusion is based in part on the advice of a panel of expert economists that we convened to advise us on this issue. The panel consisted of Maureen Cropper (University of Maryland), Alan Krupnick (Resources for the Future), Al McGartland (Environmental Protection Agency), Lisa Robinson (independent consultant), and W. Kip Viscusi (Vanderbilt University). The Panel unanimously concluded that we should base our guidance only on hedonic wage studies completed within the past 10 years that made use of the CFOI database and used appropriate econometric techniques.

A white paper prepared for the U.S. Environmental Protection Agency (EPA) in 2010 identified eight hedonic wage studies using the CFOI data;[7] we also identified seven additional studies, including five published since the EPA White Paper was issued (see Table 1). Some of these studies focus on estimating VSL values for narrowly defined economic, demographic, or occupational categories, or use inappropriate econometric techniques, resulting in implausibly high VSL estimates. We therefore focused on nine studies that we think are useful for informing an appropriate estimate of VSL. There is broad agreement among researchers that these newer hedonic wage studies provide an improved basis for policy-making.[8]

The 15 hedonic wage studies we have identified that make use of the CFOI database to estimate VSL are listed in Table 1. Some of these studies do not estimate an overall "full-sample" VSL, instead estimating VSL values only for specific categories of people. Some of the studies, as the authors themselves sometimes acknowledge, arrive at implausibly high values of VSL, because of econometric specifications which appear to bias the results, or because of a focus on a narrowly-defined occupational group. Moreover, these papers generally offer multiple model specifications, and it is often not clear (even to the authors) which specification most accurately represents the actual VSL. We have generally chosen the specification that the author seems to believe is best. In cases where the author does not express a clear preference, we have had to average estimates based on alternative models within the paper to get a representative estimate for the paper as a whole.

[7] U.S. Environmental Protection Agency (2010), *Valuing Mortality Risk Reductions for Environmental Policy: A White Paper (Review Draft)*. Prepared by the National Center for Environmental Economics for consultation with the Science Advisory Board – Environmental Economics Advisory Committee.

[8] A current survey of theoretical and empirical research on VSL may be found in: Cropper, M., J.K. Hammitt, and L.A. Robinson (2011). "Valuing Mortality Risk Reductions: Progress and Challenges." *Annual Review of Resource Economics.* 3: 313-336.
http://www.annualreviews.org/doi/abs/10.1146/annurev.resource.012809.103949

Table 1: VSL Studies Using CFOI Database

(VSLs in millions of dollars)

	Study	Year of Study $	VSL in Study-Year $	VSL in 2012$	Comments
1.	Viscusi (2003) *	1997	$14.185M	$21.65M	Implausibly high; industry-only risk measure
2.	Leeth and Ruser (2003) *	2002	$7.04M	$8.90M	Occupation-only risk measure
3.	Viscusi (2004)	1997	$4.7M	$7.17M	Industry/occupation risk measure
4.	Kniesner and Viscusi (2005)	1997	$4.74M	$7.23M	Industry/occupation risk measure
5.	Kniesner *et al*. (2006) *	1997	$23.70M	$36.17M	Implausibly high; industry/occupation risk measure
6.	Viscusi and Aldy (2007) *	2000			Industry-only risk measure; no full-sample VSL estimate
7.	Aldy and Viscusi (2008) *	2000			Industry-only risk measure, no full-sample VSL estimate
8.	Evans and Smith (2008)	2000	$9.6M	$12.84M	Industry-only risk measure
9.	Viscusi and Hersch (2008)	2000	$7.37M	$9.86M	Industry-only risk measure
10.	Evans and Schaur (2010)	1998	$6.7M	$9.85M	Industry-only risk measure
11.	Hersch and Viscusi (2010)	2003	$6.8M	$8.43M	Industry/occupation risk measure
12.	Kniesner *et al*. (2010)	2001	$7.55M	$9.76M	Industry/occupation risk measure
13.	Kochi and Taylor (2011)*	2004			VSL estimated only for occupational drivers
14.	Scotton and Taylor (2011)	1997	$5.27M	$8.04M	Industry/occupation risk measure; VSL is mean of estimates from three preferred specifications
15.	Kniesner *et al*. (2012)	2001	$4M - $10M	$5.17M - $12.93M	Industry/occupation risk measure; mean VSL estimate is $9.05M

* Studies shown in grayed-out rows were not used in determining the VSL Guidance value.

We found that nine of these studies provided usable estimates of VSL for a broad cross-section of the population.[9] We excluded Viscusi (2003) and Kniesner *et al*. (2006) on the grounds that their estimates of VSL were implausibly high (Viscusi acknowledges that the estimated VSLs in his study are very high). We excluded Leeth and Ruser (2003) because it used only variations in occupation for estimating variation in risk (the occupational classifications are generally regarded as less accurate than the industry classifications). We excluded Viscusi and Aldy (2007) and Aldy and Viscusi (2008) because they did not estimate overall "full-sample" VSLs (they focused instead on estimating VSLs for various subgroups). We excluded Kochi and Taylor (2011) because it estimated VSL only for a narrow occupational group (occupational drivers). For Scotton and Taylor (2011) and Kniesner *et al*. (2012) we calculated average values for VSL from what appeared to be the preferred model specifications. For our 2013 guidance update, we adopted the average of the VSLs estimated in the remaining nine studies, updated to 2012 dollars (based both on changes in the price level and changes in real incomes from the year for which the VSL was originally estimated), which yielded a recommended value of $9.1 million.

Adjustments for Inflation and Real Income Growth

In order to apply the VSL in analyses using a base year beyond the original base year of 2012, the value should be adjusted for inflation and real incomes over the intervening years. Specifically, the formula to be used is:

$$VSL_T = VSL_0 * (P_T / P_0) * (I_T / I_0)^{\varepsilon}$$

where

0 = Original Base Year
T = Current Base Year
P_t = Price Index in Year t
I_t = Real Incomes in Year t
ε = Income Elasticity of VSL

[9] These include Viscusi (2004) [cited in footnote 4]; Viscusi, W.K. and J. Hersch (2008). "The Mortality Cost to Smokers." *Journal of Health Economics*. 27: 943-958; Evans, M.F. and G. Schaur (2010). "A Quantile Estimation Approach to Identify Income and Age Variation in the Value of a Statistical Life." *Journal of Environmental Economics and Management*. 59: 260-270; Hersch, J. and W.K. Viscusi (2010). "Immigrant Status and the Value of Statistical Life." *Journal of Human Resources*. 45(3): 749-77; Scotton, C.R. and L.O. Taylor. "Valuing Risk Reductions: Incorporating Risk Heterogrneity into a Revealed Preference Framework." *Resource and Energy Economics*. 33 and Kochi, I and L.O. Taylor (2011). "Risk Heterogeneity and the Value of Reducing Fatal Risks: Further Market-Based Evidence." *Journal of Benefit-Cost Analysis*. 2(3): 381-397; Kniesner, T.J. and W.K. Viscusi (2005). "Value of a Statistical Life: Relative Position vs. Relative Age." *AEA Papers and Proceedings*. 95(2): 142-146; Evans, M.F. and V.K. Smith (2008). "Complementarity and the Measurement of Individual Risk Tradeoffs: Accounting for Quantity and Quality of Life Effects." National Bureau of Economic Research Working Paper 13722; Kniesner, T.J., W.K. Viscusi, and J.P. Ziliak (2010). "Policy Relevant Heterogeneity in the Value of Statistical Life: New Evidence from Panel Data Quantile Regressions." *Journal of Risk and Uncertainty*. 40: 15-31; and Kniesner, T.J., W.K. Viscusi, C. Woock, and J.P. Ziliak (2012). "The Value of a Statistical; Life: Evidence from Panel Data." *Review of Economics and Statistics*. 94(1): 74-87.

Inflation. The Consumer Price Index for All Urban Consumers (CPI-U)[10] should be used to adjust for inflation over time, as this price index is deemed to be representative of changes in the value of money that would be considered by a typical worker making decisions corresponding to his income level.

Real Incomes. The index recommended for use to measure real income growth as it affects VSL is the Median Usual Weekly Earnings (MUWE), in constant (1982-84) dollars, derived by BLS from the Current Population Survey.[11] This series is more appropriate than the Wages and Salaries component of the Employment Cost Index (ECI), which was used prior to the 2013 guidance revision, because the ECI applies fixed weights to employment categories, while the weekly earnings series uses a median employment cost for wage and salary workers over the age of 16. A median value is preferred because it should better reflect the factors influencing a typical traveler affected by DOT actions (very high incomes would cause an increase in the mean, but not affect the median). In contrast to a median, an average value over all income levels might be unduly sensitive to factors that are less prevalent among actual travelers. Similarly, we do not take into account changes in non-wage income, on the grounds that this non-wage income is not likely to be significant for the average person affected by our rules.

Income Elasticity. The VSL literature is generally in agreement that VSL increases with real incomes, but the exact rate at which it does so is subject to some debate. In our 2011 guidance, we cited research by Viscusi and Aldy (2003) that estimated the elasticity of VSL with respect to increases in real income as being between 0.5 and 0.6 (i.e., a one-percent increase in real income results in an increase in VSL of 0.5 to 0.6 percent). We accordingly increased VSL by 0.55 percent for every one-percent increase in real income. More recent research by Kniesner, Viscusi, and Ziliak (2010) has derived more refined income elasticity estimates ranging from 2.24 at low incomes to 1.23 at high incomes, with an overall figure of 1.44.[12] An alternative specification yielded an overall elasticity of 1.32. Similarly, Costa and Kahn (2004) estimated the income-elasticity of VSL to be between 1.5 and 1.6.[13] These empirical results are consistent with theoretical arguments suggesting that the income-elasticity of VSL should be greater than 1.0.[14]

In view of the large increase in the income elasticity of VSL that would be suggested by these empirical results, and because the literature seems somewhat unsettled, we decided in our 2013 guidance update to increase our suggested income-elasticity figure only to 1.0. While this figure is lower than the elasticity estimates of Kniesner *et al.* and Costa and Kahn, it is higher

[10] BLS Series CUUR0000SA0. Available at https://data.bls.gov/timeseries/CUUR0000SA0
[11] BLS Series LEU0252881600. Available at https://data.bls.gov/timeseries/LEU0252881600
[12] Kniesner, T.J., W.K. Viscusi, and J.P. Ziliak (2010). "Policy Relevant Heterogeneity in the Value of Statistical Life: New Evidence from Panel Data Quantile Regressions." *Journal of Risk and Uncertainty*. 40(1):15–31.
[13] Costa, D.L. and M.E. Kahn (2004). "Changes in the Value of Life, 1940-1980." *Journal of Risk and Uncertainty*. 29(2): 159-180.
[14] Eeckhoudt, L.R. and J.K. Hammitt (2001). "Background Risks and the Value of a Statistical Life." *Journal of Risk and Uncertainty*. 23(3): 261-279; Kaplow, L. (2005). "The Value of a Statistical Life and the Coefficient of Relative Risk Aversion." *Journal of Risk and Uncertainty*, 31(1); Murphy, K.M. and R.H. Topel (2006). "The Value of Health and Longevity." *Journal of Political Economy*. 114(5): 871-904; and Hammitt, J.K. and L.A. Robinson (2011). "The Income Elasticity of the Value per Statistical Life: Transferring Estimates between High and Low Income Populations." *Journal of Benefit-Cost Analysis*. 2(1): 1-27.

than that of Viscusi and Aldy, the basis for our previous guidance. It is difficult to state with confidence whether a cross-sectional income elasticity (such as those estimated in these empirical analyses), representing the difference in sensitivity to fatality risks between low-income and high-income workers in a given population, corresponds to a longitudinal elasticity, representing the way in which VSL is affected by growth in income over time for an overall population. Consequently, this guidance adopts this more moderate figure, pending more comprehensive documentation.

Value of Preventing Injuries

Nonfatal injuries are far more common than fatalities and vary widely in severity, as well as probability. In principle, the resulting losses in quality of life, including both pain and suffering and reduced income, should be estimated by potential victims' WTP for personal safety. While estimates of WTP to avoid injury are available, often as part of a broader analysis of factors influencing VSL, these estimates are generally only available for an average injury resulting in a lost workday, and not for a range of injuries varying in severity. Because detailed WTP estimates covering the entire range of potential disabilities are unobtainable, we use an alternative standardized method to interpolate values of expected outcomes, scaled in proportion to VSL. Each type of accidental injury is rated (in terms of severity and duration) on a scale of quality-adjusted life years (QALYs), in comparison with the alternative of perfect health. These scores are grouped, according to the Maximum Abbreviated Injury Scale (MAIS), yielding coefficients that can be applied to VSL to assign each injury class a value corresponding to a fraction of a fatality.

In our 2011 guidance, the values of preventing injuries were updated by new estimates from a study by Spicer and Miller.[15]The measure adopted was the quality-adjusted percentage of remaining life lost for median utility weights, based on QALY research considered "best," as presented in Table 9 of the cited study. The rate at which disability is discounted over a victim's lifespan causes these percentages to vary slightly, and the study shows estimates for 0, 3, 4, 7, and 10 percent discount rates. These differences are minor in comparison with other sources of variation and uncertainty, which we recognize by sensitivity analysis. Since OMB recommends the use of alternative discount rates of 3 and 7 percent, we present the scale corresponding to an intermediate rate of 4 percent for use in all analyses. The fractions shown should be multiplied by the current VSL to obtain the values of preventing injuries of the types affected by the government action being analyzed.

Note that these factors represent an average disutility of all injuries sustained by persons with a given MAIS. Although injured persons normally have multiple injuries, only one disutility factor should be applied to each injured person. For example, if the analyst were seeking to estimate the value for an injured person whose highest-level injury was rated "Serious" (MAIS 3), he or she would multiply the Fraction of VSL for a serious injury (0.105) by the VSL to calculate the value of the serious injury.

[15] Rebecca S. Spicer and Ted R. Miller. "Final Report to the National Highway Traffic Safety Administration: Uncertainty Analysis of Quality Adjusted Life Years Lost." Pacific Institute for Research and Evaluation. February 5, 2010. https://www.transportation.gov/office-policy/transportation-policy/uncertainty-analysis-quality-adjusted-life-years-lost.

Table 2: Relative Disutility Factors by Injury Severity Level (MAIS)

MAIS Level	Severity	Fraction of VSL
MAIS 1	Minor	0.003
MAIS 2	Moderate	0.047
MAIS 3	Serious	0.105
MAIS 4	Severe	0.266
MAIS 5	Critical	0.593
MAIS 6	Unsurvivable	1.000

These factors have two direct applications in analyses. The first application is as a basis for establishing the value of preventing nonfatal injuries in benefit-cost analysis. The total value of preventing injuries and fatalities can be combined with the value of other economic benefits not measured by VSLs, and then compared to costs to determine either a benefit/cost ratio or an estimate of net benefits.

The second application stems from the requirement in OMB Circular A-4 that evaluations of major regulations for which safety is the primary outcome include cost-effectiveness analysis, in which the cost of a government action is compared with a non-monetary measure of benefit. The values in the above table may be used to translate nonfatal injuries into fatality equivalents which, when added to fatalities, can be divided into costs to determine the cost per equivalent fatality. This ratio may also be seen as a "break-even" VSL, the value that would have to be assumed if benefits of a proposed action were to equal its costs. It would illustrate whether the costs of the action can be justified by a VSL that is well within the accepted range or, instead, would require a VSL approaching the upper limit of plausibility. Because the values assigned to prevention of injuries and fatalities are derived in part by using different methodologies, it is useful to understand their relative importance in drawing conclusions. Consequently, in analyses where benefits from reducing both injuries and fatalities are present, the estimated values of injuries and fatalities prevented should be stated separately, as well as in the aggregate.

Recognizing Uncertainty

Regulatory and investment decisions must be made by officials informed of the limitations of their information. The values we adopt here do not establish a threshold dividing justifiable from unjustifiable actions; they only suggest a region where officials making these decisions can have relatively greater or lesser confidence that their decisions will generate positive net benefits. To convey the sensitivity of this confidence to changes in assumptions, OMB Circular A-4 and Departmental policy require analysts to prepare estimates using alternative values. We have previously encouraged the use of probabilistic methods such as Monte Carlo analysis to synthesize the many uncertain quantities determining net benefits.

While the individual estimates of VSL reported in the studies cited above are often accompanied by estimates of confidence intervals, we do not, at this time, have any reliable method for estimating the overall probability distribution of the average VSL that we have calculated from these various studies. Consequently, alternative VSL values can only illustrate the conclusions that would result if the true VSL actually equaled the higher or lower alternative values. Analysts should not imply a known probability that the true VSL would exceed or fall short of either the primary VSL figure or the alternative values used for sensitivity analysis. Kniesner *et al*. (2012) suggest that a reasonable range of values for VSL is between $4 million and $10 million (in 2001 dollars), or about $5.2 million to $12.9 million when escalated to 2012 dollars. This range of values includes all the estimates from the eight other studies on which this guidance is based, and are approximately 40 percent higher and lower than the recommended 2012 base year VSL of $9.1 million. Thus, for illustrative purposes, analysts may wish to calculate high and low alternative estimates of the values of fatalities and injuries prevented by using alternative VSLs that are 40 percent above or below the base value used in the analysis.

This guidance and other relevant documents will be posted on the Office of Transportation Policy website, https://www.transportation.gov/policy/transportation-policy/economy. Questions should be addressed to Darren Timothy, Chief Economist, at (202) 366-4051, or darren.timothy@dot.gov.

MEMORANDUM TO: SECRETARIAL OFFICERS
MODAL ADMINISTRATORS

From: John Putnam
Acting General Counsel

Christopher Coes
Acting Assistant Secretary for Transportation Policy

Subject: Guidance on the Treatment of the Economic Value of a Statistical Life (VSL) in U.S. Department of Transportation Analyses – 2021 Update

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Departmental guidance on valuing the reduction of fatalities and injuries by regulations or investments has been published periodically by the Office of the Secretary since 1993. We issued a comprehensive update to our guidance in 2013, and indicated at that time that we planned to issue annual updates to adjust for changes in prices and real incomes in the intervening years.

With this update of the Department's VSL guidance (attached as a separate document to this memorandum), we have removed references to specific monetary values beyond the 2012 values used in the 2013 comprehensive update. Instead, going forward, analysts should apply the methodology described in the guidance to calculate the VSL, including by applying values for inflation and changes in real income using the data series specified in the guidance. The Office of the Secretary will also continue to provide the corresponding adjusted values to the DOT Modal Administrations as the relevant price and income data for the previous year become available. The VSL guidance document will only be updated when more significant changes are made to the methodology used to calculate the value of reducing fatalities and injuries.

Based on the methodology adopted in the 2013 guidance, price and real income changes since 2012 yield a current **VSL estimate of $11.6 million for analyses using a base year of 2020**. Values for years prior to 2020 are also shown in the table below:

Current and Prior Year VSL

Value (million $)	Base year
11.6	2020
10.9	2019
10.5	2018
10.2	2017
9.9	2016
9.6	2015
9.4	2014
9.2	2013
9.1	2012

This memorandum, as well as the updated VSL guidance and other relevant documents, will be posted on the Office of Transportation Policy website, http://www.dot.gov/policy/transportation-policy/economy , and on the General Counsel's regulatory information website, http://www.transportation.gov/regulations. Questions should be addressed to Darren Timothy, Chief Economist, at (202) 366-4051 or darren.timothy@dot.gov.

cc: Regulations officers and liaison officers

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

DEBBIE BROWN, AS ADMINISTRATRIX OF THE ESTATE OF CHRIS BROWN, AND JOE BROWN **CLAIMANT**

V. **CLAIM NO. 200809**

ARKANSAS DEPARTMENT OF TRANSPORTATION **RESPONDENT**

ORDER

Now before the Arkansas State Claims Commission (the "Claims Commission") is the claim of Debbie Brown, as Administratrix of the Estate of Chris Brown, and Joe Brown (collectively referred to herein as the "Claimant") against the Arkansas Department of Transportation (the "Respondent"). At the hearing held August 19, 2022, Claimant was represented by Brandon Lacy and Megan Henry. Trella Sparks and Amanda Andrews appeared on behalf of Respondent.

Procedural History, Prehearing Matters, and Witness Testimony

1. Claimant filed this claim against Respondent on February 10, 2020, seeking $2,000,000.00 in damages related to the March 13, 2019, death of Chris Brown (the "Decedent"). The Decedent passed away following a single-vehicle rollover accident on State Highway 316 North ("Highway 316"). Claimant alleged in the complaint that the accident occurred because Highway 316 was flooded due to issues with the ditch next to the roadway.

2. Respondent filed an Answer denying liability.

3. The Claims Commission previously entered two orders in this claim: (1) a March 25, 2022, order granting Respondent's motion to substitute counsel; and (2) a May 13, 2022, order granting Respondent's motion to continue the hearing until August 19, 2022; denying Claimant's

motion to exclude expert testimony of Stan Andrews and Dr. Chandra Thorbole; and providing a scheduling order for the parties.

4. At the beginning of the hearing, the Claims Commission considered Claimant's prehearing motion to exclude Respondent's Exhibit No. 4. However, Claimant's counsel confirmed that he was withdrawing the motion. As such, the motion was dismissed as moot.

5. At the beginning of the hearing, the Claims Commission considered Claimant's prehearing motion to exclude the expert opinion by Dr. Chandra Thorbole, which was disclosed outside of the time frame permitted in the scheduling order. Dr. Thorbole's opinion related to whether the Decedent would have survived the crash had he been wearing his seatbelt. Claimant argued that Dr. Thorbole is not a medical doctor and that his opinion is based on statistics, not specific facts in this claim. Respondent argued that, in March 2022, Respondent was still trying to get an unredacted copy of the coroner's report and that Dr. Thorbole supplemented his findings following receipt of the unredacted report. Respondent also argued that, as a biomechanical engineer with significant medical training, Dr. Thorbole can determine to a degree of biomechanical certainty whether the roof intrusion would have injured the Decedent or would have contributed to his death. The Claims Commission found that, while the attorneys representing Respondent at the hearing were not involved prior to March 2022, Respondent had already been given significant latitude with regard to Respondent's untimely expert witness disclosures. The Claims Commission also found that Dr. Thorbole's new opinion was disclosed after the extended time set for Claimant to identify any rebuttal witnesses, such that it would have been highly prejudicial to Claimant to allow Dr. Thorbole to testify regarding this untimely disclosed opinion. As such, the Claims Commission unanimously voted to GRANT Claimant's motion to exclude

testimony related to Dr. Thorbole's opinion regarding whether the Decedent would have survived the accident if he had been wearing his seatbelt.

6. At the beginning of the hearing, Respondent orally moved to exclude photos of the Decedent following the accident. Claimant's counsel agreed that he did not plan to introduce the photos (which were listed as Claimant's Exhibit No. 20). As such, the Claims Commission dismissed the motion as moot.

7. At the beginning of the hearing, the Claims Commission considered Claimant's motion to exclude certain opinion testimony of Stan Andrews and advised the parties that Mr. Andrews' testimony will be given the weight deemed appropriate by the Claims Commission, if not outright rejected.

8. At the beginning of the hearing, the Claims Commission considered Respondent's motion to exclude the affidavit of Tina Morrow. The Claims Commission found that Respondent's motion was mooted by Ms. Morrow's appearance at the hearing.

9. At the beginning of the hearing, the Claims Commission considered Respondent's motion to exclude Dr. Ralph Scott's use of VSL data. Claimant's counsel stated that the VSL tables would be removed from Dr. Scott's report and that a revised report would be circulated to Respondent and the Claims Commission, which Respondent agreed mooted its motion.

10. The Claims Commission admitted Respondent's Exhibit Nos. 1–5 (without Dr. Thorbole's supplemental report in Respondent's Exhibit No. 3) without objection, aside from Claimant's standing objection to Mr. Andrews' report. The Claims Commission admitted Claimant's Exhibit Nos. 1–19 and 21 without objection.[1]

11. The parties agreed to rely upon the pretrial briefs in lieu of opening statements.

[1] Claimant's Exhibit No. 20 was not introduced by Claimant, as explained further in Paragraph 6.

12. The witnesses were sworn in by the chair commissioner.

Testimony of Debbie Brown

13. Claimant called Debbie Brown to testify.

14. Mrs. Brown testified that she has lived in Marvell, Arkansas, for 30 years. She is a medical staff coordinator for Helena Regional Medical Center. Mrs. Brown has three children. The Decedent was her youngest child. Mrs. Brown described the Decedent as very studious, a leader in his class, and a volunteer firefighter. He loved to hunt and fish. He had a 4.0 grade point average and was attending Phillips Community College with a plan to become a nurse anesthetist. Claimant's Exhibit No. 6 includes Claimant's transcripts and information about the induction ceremony for his collegiate honor society.

15. Mrs. Brown and her husband have a family farm. The Decedent helped with the farm.

16. Claimant's Exhibit No. 5 is a drone image of the roads involved in the accident. Mrs. Brown pointed out where the accident occurred near the intersection of Highway 316 and County Road 261 (the "Intersection"). Highway 316 runs north-to-south in the image. County Road 261 ("CR 261") runs west-to-east. On March 13, 2019, Mrs. Brown was at home not feeling well. The Decedent had attended classes that day. Mrs. Brown last saw the Decedent before he went to town to the firefighter gathering. After Mr. Brown came home with food from the firefighter gathering, he got a phone call to go to the accident scene.

17. When Mr. and Mrs. Brown got to the accident scene, there were other vehicles there. Water was running down the road. Mrs. Brown was stopped by a firefighter who told her that the Decedent had passed away. Someone took Mrs. Brown back to her vehicle.

18. Claimant's Exhibit No. 1 at 263–264 has photographs that Mrs. Brown took.

19. Claimant's Exhibit No. 14 is a video that Mrs. Brown took, which shows water running down the highway on the night of the accident.

20. The following day, Mrs. Brown went back to the accident scene because it was where the Decedent was last alive. She looked at the accident scene and the debris of what had come out of the Decedent's truck. Mrs. Brown picked up a soda can, fishing lures, a tackle box, a debit card, and a piece of the windshield. Mrs. Brown went back to the accident scene every day afterwards. Someone put a cross up. After the accident, and before Respondent widened the ditch, Mrs. Brown saw the road flood many times. It just took a little bit of rain to cause the road to flood. Claimant's Exhibit No. 2 includes photographs of the road flooded.

21. Mrs. Brown learned that Respondent made repairs to the ditch when she heard an employee of Respondent talking in a restaurant. Claimant's Exhibit No. 4 is a photograph of the ditch being widened. Mrs. Brown has not seen the road flooded as much since the ditch was widened.

22. The Decedent's funeral was held in a gym because the original planned location was not large enough to accommodate all of people attending the funeral.

23. The Decedent was well liked, and he valued his life. Losing the Decedent has changed Mrs. Brown's world. Claimant's Exhibit No. 21 shows the amount of work that Mrs. Brown has missed since the Decedent passed away. She took FMLA leave and used all of her sick leave. Mrs. Brown has gone to grief counseling in Jonesboro and had three days of in-patient treatment in Little Rock. Currently, Mrs. Brown battles depression and noted that it is a "roller coaster."

24. The Decedent was a careful driver. He knew that Mrs. Brown worried, so he would call to let her know when he arrived somewhere. As an example, Mrs. Brown recalled a time where the Decedent called her to say that he was okay after getting caught in a rainstorm.

25. Mrs. Brown noted that it is hard to go to church without the Decedent there.

26. On cross-examination, Mrs. Brown confirmed that she has received $100,000.00 in insurance payouts related to the Decedent's death: (1) $50,000.00 from a fire department policy; (2) $10,000.00 policy from Mrs. Brown's employer; and (3) $40,000.00 accidental death insurance policy from Mrs. Brown's employer. Mrs. Brown said that she is seeking to be reimbursed for the lost wages listed in Claimant's Exhibit No. 21, as well as her medical bills from Bridgeway. In reviewing Claimant's Exhibit No. 5 showing the aerial drone footage of the accident location, Mrs. Brown said that the dark line showed David Carruth's field (the "Carruth Property") draining into the ditch. She stated that the Decedent would have been able to help with the farm for awhile after he started his nurse anesthetist training but acknowledged that, in her deposition, she testified that the nursing program would be very strenuous. On the day of the accident, the Decedent left the house between 7:00–7:30 p.m. It was not raining when he left. The Decedent went to the location where Mr. Brown was cooking, then left to go to a friend's house.

27. Respondent then orally moved to exclude Mrs. Brown's claims for reimbursement of lost wages or medical bills. Claimant's counsel confirmed that Claimant is not seeking those damages. As such, the Claims Commission found that the motion was dismissed as moot.

Testimony of Joe Brown

28. Claimant called Joe Brown to testify.

29. Mr. Brown testified that he has lived in a ten-mile area for his entire life. He has a 700-acre farm. He farms beans and corn and does it pretty much by himself. The Decedent helped

a lot when he had time. His older son, Nathan, has come back from Jonesboro to help with the farm since the Decedent's death.

30. Mr. Brown explained that Claimant's Exhibit No. 7 is a picture of the Decedent with Governor Asa Hutchinson taken after the Decedent sold Governor Hutchinson a t-shirt while the Decedent was volunteering at a festival.

31. On March 13, 2019, Mr. Brown was grilling for three volunteer fire departments. As everyone was heading home, the Decedent drove up to see if there was any food left for Mrs. Brown. Mr. Brown said that he was going home and would take some food to her. The Decedent ate and then said he was going out to the derby car shop. Mr. Brown told him to be careful, and that was the last thing Mr. Brown said to the Decedent.

32. When Mr. Brown arrived at home, he carried some food inside, then he got a phone call from someone telling him that the Decedent had been involved in an accident. Mr. Brown knew at that time that the Decedent had not survived the accident and regrets not telling Mrs. Brown then.

33. When Mr. and Mrs. Brown arrived at the accident scene, he recalls seeing an overturned vehicle, different colored lights, and rescue vehicles. Mr. Brown went to take pictures, but when he realized that his phone was dead, he asked Mrs. Brown to take pictures. Another firefighter saw Mr. Brown running toward the Decedent's vehicle, told him that the Decedent had passed away, and asked Mr. Brown to let the emergency workers do their jobs. Mr. Brown could not do anything to help, so he prayed.

34. Claimant's Exhibit No. 14 shows the water in the roadway. Mr. Brown said that it was over his feet. He was wearing boots, but if he had been wearing dress shoes, the shoes would

have been full of water. The video shows flowing water, not standing water. The water was flowing south.

35. Claimant's Exhibit No. 1 at 302 shows the headlight from the Decedent's vehicle in the water. Mr. Brown noted that you can see the white line of the roadway under the water.

36. Claimant's Exhibit No. 1 at 303 shows the bumper from the Decedent's vehicle near the white line of the roadway. Claimant's Exhibit No. 1 at 298–299 shows the same bumper near the Carruth Property.

37. The following day, Mr. Brown went back to the accident scene with Mrs. Brown to look for anything that belonged to the Decedent, including the Decedent's Apple watch. They found the Decedent's debit card. Items had been carried down the road by the flowing water. There was still standing water the following day.

38. Claimant's Exhibit No. 2 at 372 shows part of the headlight from the Decedent's vehicle. Rocky Ford took the picture. Mr. Brown and others had picked up pieces of the headlight and piled them up in this location. He did not know that those pieces would be used to say that the Decedent was speeding at the time of the accident. Mr. Brown has been back to the accident scene many times.

39. Claimant's Exhibit No. 2 at 238 is a photograph Mr. Brown took of water on the roadway at the accident scene. This photograph shows a truck coming in the same area where the Decedent's accident occurred. He is not sure how much rain had fallen when the photograph was taken, but he stated that one-half inch of rain would bring the water over the highway.

40. Claimant's Exhibit No. 2 at 192 is another photograph taken by Mr. Brown. He noted the sunny skies and the ditch still full of water. Mr. Brown stated that this photograph shows the grass blocking the flow of water and that the water goes across the highway near the sign.

41. Losing the Decedent has been a struggle. It is difficult seeing a truck the same color as the Decedent's vehicle and not having the Decedent available to help on the farm. Before the accident, the Decedent helped a lot on the farm. But in 2019, the farm lost money, which Mr. Brown approximated at $50,000.00. Nathan Brown helped when he could, and Mr. Brown had to hire a couple of guys but could not find good tractor drivers like the Decedent because the good tractor drivers all already had employment. In 2020, the farm did a little better, but 2022 was a "catastrophe."

42. Mr. Brown takes medicine to help with the pain of losing the Decedent. He has been to his family doctor several times, and the family doctor has increased Mr. Brown's dosage. Mr. Brown has not been able to afford counseling.

43. Claimant's Exhibit No. 6 at 1059 is the funeral home invoice for $7,287.47. Mr. Brown testified that he also had a $600.00 gravedigging expense.

44. Claimant's Exhibit No. 16 is the estimate for the Decedent's headstone, although Mr. Brown clarified that the estimate for $11,864.48 has since expired.

45. Mr. Brown stated that the loss of the Decedent is not something you get over. Mr. Brown only has his wife, two of his children, and a sister left. He got to say goodbye to his parents and one of his brothers. The last words that the Decedent heard Mr. Brown say were "be careful." The Decedent would help anyone, and Mr. Brown called him "little man."

46. On cross-examination, Mr. Brown clarified that it was not raining when the Decedent left the cookout because they were sitting on the tailgate. It may have been drizzling. The Decedent was headed to the derby car shop, which is a place that he went three times per week or whenever he had time. The Decedent and others were working on derby cars there. Mr. Brown would help prep the packed dirt for the area, and the Decedent would mow the grass. The Decedent

wanted to build his own derby car. Regarding Claimant's Exhibit No. 5, Mr. Brown is not sure whether CR 261 is at a higher elevation, but CR 261 must drain into the ditch alongside Highway 316. The resting point of the Decedent's vehicle was near the road sign, and the pile of headlight pieces was south of the accident scene. Referring to Claimant's Exhibit No. 1 at 372, Mr. Brown cannot identify which pieces of the headlight were moved to that spot. He noted that other people were there before Mr. Brown arrived. Mr. Brown does not think he would have picked up the pieces of the headlight that were very small. Mr. Brown confirmed that he is not making a claim for damages based upon his farm losses. Mr. Brown does not know if NEA Counseling would have been free or low cost, but he stated that there was always a co-pay. He was focusing on his wife's counseling. Mr. Brown preferred to sit on a tailgate in a field to grieve the Decedent. Regarding Claimant's Exhibit No. 2 at 238, Mr. Brown stated that this photograph was taken after the Decedent's accident, but he does not know exactly when. He noted that the blue truck in the photograph made it through the water without rolling over, but he clarified that this photograph was taken during the day and that the water in the roadway is not visible at night.

47. On redirect, Mr. Brown testified that the Decedent was a careful driver. Mr. Brown took the Decedent to accident scenes with the fire department to show him the consequences of driving recklessly.

48. Upon a question from a commissioner, Mr. Brown confirmed that the Decedent was living at home prior to the accident.

Testimony of Tina Morrow

49. Claimant called Tina Morrow to testify.

50. Ms. Morrow lives in Lexa, Arkansas, and she used to be a bus driver for the school district. She knows who the Decedent was. Ms. Morrow was a bus driver when the accident

occurred. She saw the area of the Intersection flooded prior to the Decedent's accident. Ms. Morrow called Respondent to report the flooding before the accident, but no one did anything to address the flooding until after the Decedent's accident.

51. On cross-examination, Ms. Morrow stated that she does not know who she spoke with when she called Respondent. She told Respondent that there is a ditch beside the road that needs to be dug out because water would stand on the road when the ditch filled up. Ms. Morrow clarified that the flooding occurred near the Intersection. Ms. Morrow lives on CR 261, so she goes through the Intersection daily. She has never had an accident due to the flooding in the roadway. Ms. Morrow only called Respondent once to report the flooding. She does not know anyone who works for Respondent. The flooding happened by the Carruth Property. Ms. Morrow did not send any documentation to Respondent regarding her concerns.

Testimony of Clay Young

52. Claimant called Clay Young to testify.

53. Mr. Young lives in Lexa, Arkansas, on Highway 316. He is familiar with the area of the Decedent's accident. His land (the "Young Property") is northeast of the Intersection. He has owned the Young Property for 31 years and has observed the flooding. Respondent performed repairs on the ditch near the Young Property by digging it out in 2014, but the digging stopped at the end of his property line. Respondent came back to dig out the ditch after the Decedent's accident. After 2014, Mr. Young saw flooding along the Carruth Property. Mr. Young has never talked to anyone at Respondent about the flooding but said that everyone knew it was a problem.

54. On cross-examination, Mr. Young stated that his house sits in the middle of the Young Property. His house is a quarter mile from the Intersection. Respondent has worked on ditch issues around Mr. Young's house and put in a culvert when Mr. Young built his house. CR

261 is the southern border of Mr. Young's farm. He has seen CR 261 drain onto Highway 316. Mr. Young knows James Wallace, who used to work for Respondent, as well as another employee named Tony. Mr. Young had general conversations with Respondent's workers about the flooding, but it has flooded so many years that everyone knew it was a problem. He talked with Respondent about an issue one quarter mile north of the Intersection, and Respondent fixed that issue. He did not talk to Respondent about that Intersection.

Testimony of Lauren Reeves

55. Claimant called Lauren Reeves to testify.

56. Ms. Reeves lives on Highway 316 in Poplar Grove, Arkansas. She has lived there since 2014 and is familiar with the area of the Decedent's accident. Looking at Claimant's Exhibit No. 5, Ms. Reeves lives one mile north of the Intersection. She drives that road all the time and observed flooding before the Decedent's accident.

57. Claimant's Exhibit No. 8 is a video taken by Ms. Reeves on June 1, 2018. She took the video showing the flooded Intersection to show her frustration in trying to get home. Ms. Reeves complained to Respondent about the flooding. She called Respondent in 2016 and later wrote a letter about the continued flooding. Ms. Reeves mailed that letter to Respondent's address on I-49. She never received a follow up call from Respondent, and nothing was done to address the flooding until after the Decedent's accident. Ms. Reeves does not have a copy of the letter that she sent to Respondent.

58. On cross-examination, Ms. Reeves stated that she did not send the video to Respondent. She used the video to show her family and friends the condition of the road. She does not recall the name of the person she spoke with at Respondent's office. Ms. Reeves said that her letter was addressed to Respondent, not to a specific person. She did not follow up on her letter

with another phone call. Ms. Reeves does not know anyone who works for Respondent. CR 261 spills water onto Highway 316. There are a lot of farms on this road, and farms will drain into roadside ditches sometimes.

59. On redirect, Ms. Reeves noted that at the eight-second mark in the video found at Claimant's Exhibit No. 8, the water is flowing from the ditch onto Highway 316. Ms. Reeves called Respondent prior to the Decedent's accident and sent the letter to Respondent after the Decedent's accident.

60. On re-cross, Ms. Reeves confirmed that after the eight-second mark of the video, the water seen at the bottom of the screen is in the ditch.

Testimony of Bernie Auld

61. Claimant called Bernie Auld to testify.

62. Mr. Auld is an expert witness on hydrology issues. Claimant's Exhibit No. 10 is Mr. Auld's curriculum vitae. He has 30–40 years of experience in water safety. He has helped with roadway design for states, including Arkansas, as well as the federal government. Mr. Auld is a professional engineer in Arkansas.

63. In connection with this claim, Mr. Auld reviewed photographs, depositions, and videos. He is familiar with the guidelines for roadways.

64. Mr. Auld stated that Respondent deviated from the applicable standards and guidelines with respect to the Intersection.

65. Claimant's Exhibit No. 11 is a copy of Mr. Auld's presentation. The first slides show the cross-section of the road and ditch. The standard for highway ditches is a minimum of two feet. Respondent is responsible for the maintenance. The minimum culvert size is eighteen inches. One of the slides shows a buildup of grass and other materials preventing drainage from

the roadway. The inset photograph shows water in the roadway even after a rain event because the water is not able to overcome the buildup of grass. Mr. Auld stated that the right-of-way goes up to the power poles in the photographs.

66. The next slide shows how the height of soil and grass built up on the side of the roadway affects how much rain is required for the roadway to be inundated with water. Where the buildup of soil and grass is one inch tall, water will inundate four feet of the roadway. Where the buildup is two and one-half inches tall, water will cover the roadway. Where the buildup is three inches, the roadway will be overtopped by three-eights of an inch of water. The buildup of material evident from the photographs in the slide forces water into the roadway.

67. In discussing a slide showing the "proper standard of care conditions," Mr. Auld explained the importance of maintaining the ditch to ensure positive run-off.

68. Mr. Auld set out one of Respondent's maintenance standards titled "Inspect, Clean and Repair Minor Drainage Structures" (referred to as Function 441) in a slide, noting the following language:

> Emphasis to be placed on regular inspection and cleaning of all minor drainage facilities with repairs and replacement as necessary to prevent catastrophes and emergencies as much as possible. Work may be accomplished more efficiently and skillfully before it is under water, plugged up, or partially washed out.
> …
> Inspection and cleaning will be performed by proceeding along the roadway checking each drainage feature in sequence.
> …
> Inspections should be made during rains to locate trouble spots and insure [sic] that trash doesn't block necessary drainage facilities.

Mr. Auld stated that Respondent did not follow the Function 441 maintenance standard.

69. Mr. Auld set out another of Respondent's maintenance standards titled "Clean and Reshape Ditches" (referred to as Function 442) in a slide, noting the following language:

> Definition[:] Machine Cleaning and reshaping of roadside ditches and other side ditches with excess material loaded, hauled and disposed of.
>
> Guide[:] When normal drainage flow in ditches is obstructed or impeded because of erosion of back slopes, inslopes, ditches or natural channels deposit silt, sand, vegetation and other materials therein, cleaning is required to restore proper drainage pattern.

Mr. Auld stated that Respondent did not follow the Function 442 maintenance standard. When normal drainage flow is obstructed, ditches should be cleaned to restore proper drainage pattern. You should not see standing water in a ditch or water being forced onto the pavement. Mr. Auld stated that whether these maintenance standards were met is easily observable.

70. Another slide shows the ditch filled in, and water forced across the roadway. Without a continuous ditch, there is nowhere for the water to go except the roadway. Once water is in the roadway, Mr. Auld asserted that it is Respondent's job to convey the water in a safe manner. Any water that enters the right-of-way is Respondent's job to handle. The root cause of the drainage issues in this photograph is the obstruction south of the Intersection.

71. Another slide shows the ditch holding water. This demonstrates a lack of maintenance.

72. 'Overtopping' refers to water going over the crest of the road. From the previous slide calculating the amount of roadside buildup necessary to inundate the roadway with water, it is known that the water on the side of the roadway is at least two and one-half inches deep. That is known to a mathematical certainty. In this photograph, there is a significant amount of roadway inundation.

73. Mr. Auld pointed out that the lanes did not have retroreflective lighting. Respondent objected to this testimony but conceded that Mr. Auld discussed this at his deposition. The chair commissioner instructed Claimant's counsel to move on from this point.

74. Another slide shows water "unravelling" the shoulder, which could create a drop-off and cause a driver to lose control of his or her vehicle. Mr. Auld noted that this photograph also shows water present after a rain event.

75. Another slide compares the rainfall recorded by three nearby National Oceanic and Atmospheric Administration (NOAA) rain gauges in Marianna, Helena, and west of Marvell. The average rainfall for those three gauges on March 13, 2019, was 0.02 inches.

76. In another slide, the average of the three NOAA rain gauges would suggest that the roadway at the accident scene would have been overtopped by water twice in February 2019, twice in January 2019, and four times in December 2018.

77. Mr. Auld provided excerpts from Respondent's drainage manual. Section 1-200 states that the gutter should limit the ponding of water so that at least one lane of traffic can travel safely. When this standard cannot be met, Respondent should notify law enforcement and have barricades and signage placed to warn motorists.

78. Mr. Auld included slides on Arkansas's storm water law and the glossary from the drainage manual.

79. Mr. Auld also included the federal Geometric Design Criteria for Non-Freeway Resurfacing, Restoration, and Rehabilitation Projects, which were adopted by Respondent. These guidelines are sometimes referred to as "RRR" or the "Three Rs." The purpose of these guidelines is to "preserve and extend the surface life of existing highways and to enhance safety." Mr. Auld stated that the accident scene does not meet Sections 4.2 (regarding the cross-section of the roadway) or 5.1 (regarding the pavement drop off) of the RRR.

80. Mr. Auld included a photograph from the accident scene, which shows a portion of the Decedent's vehicle in the ditch. He stated that this photograph shows the buildup on the side

of the roadway and water in the roadway from a lack of proper maintenance. Even if Respondent did not have the funding to fix the problem, Respondent had a duty to notify the motoring public with barriers. Had Respondent properly maintained the road, Claimant would not have had to file this claim.

81. Mr. Auld concluded that Respondent failed to comply with the applicable guidelines and standards for the maintenance and drainage of Highway 316 by not maintaining at least one lane of travel and failing to notify the public.

82. On cross-examination, Mr. Auld confirmed that he has not scheduled maintenance for highways. He also confirmed that the Marvell and Helena rain gauges did not register any rain on March 13, 2019. He has not been to the accident site to measure the buildup on the edge of the roadway. He acknowledged that some of the recent work by Respondent was completed by the time he became involved in this matter. Mr. Auld stated that, because of the inundation of the road, he can determine the height of the ridge. It is possible that CR 261 also has drainage issues, and he does not know who maintains that road. Functions 441–442 are maintenance standards, not requirements or directives. There is no maintenance schedule provided. Mr. Auld created the cross-section of the roadway and the ditch. That information was not part of the roadway design plan. Mr. Auld does not know the original design of the road. He is not offering an opinion as the cause of the accident or the cause of the Decedent's death. It is up to the state to determine what road projects are to be designated as RRR projects. Highway 316 has not been approved for such funding to Mr. Auld's knowledge.

83. On redirect, Mr. Auld stated that Respondent took over Highway 316 in the 1970s. There is no dispute that the Decedent's accident was caused by hydroplaning. Mr. Auld's testimony is that there was at least two and one-half inches of water in the roadway because

Respondent failed to maintain the right-of-way or to notify the public of the hazardous condition. If there was a drainage problem with CR 261, Respondent would have to take care of any water that came onto Highway 316 under state guidelines. Respondent objected to Mr. Auld offering a legal opinion, and the Claims Commission sustained Respondent's objection.

84. On re-cross, Mr. Auld confirmed that he did not have the reference for the county road drainage issue with him.

Testimony of Nathan Brown

85. Claimant called Nathan Brown to testify.

86. Mr. Brown has lived in Jonesboro, Arkansas, since 2011. He is married with one child. Mr. Brown was ten years old when the Decedent was born. Mr. Brown and the Decedent became close as the Decedent got older. They talked multiple times each week.

87. On March 13, 2019, Mr. Brown received a phone call from a friend while he was at work telling him to go to the accident scene. As he was coming into Wynne, Arkansas, he received another phone call from his father telling him to slow down because the Decedent had passed away.

88. Mr. Brown has days when he does not want to get out of bed. He said that his work ethic has plummeted and that he cannot take his mind off the loss of the Decedent.

89. Mr. Brown said that his sister is not present at the hearing because she is a school counselor and had to be at work. She was a mother hen to him and to the Decedent. Mr. Brown has observed his sister's grief and stated that she was in counseling for a period of time but prefers dark silence to grieve.

90. Mr. Brown noted that the Decedent was not an average teenager. This accident could have been prevented. The Decedent was an extraordinary kid and honor student. He woke up ready to help people.

91. Respondent declined to cross-examine Mr. Brown.

Testimony of Dr. Ralph Scott

92. Claimant's counsel proffered a revised report by Dr. Ralph Scott to replace Claimant's Exhibit No. 13. Claimant's counsel confirmed that the revised report is restricted to lost earnings and that only Tables 1–2 need to be considered. Respondent stipulated to the admission of the revised report but not to the validity of the revised report.

Testimony of Montae Hernandez

93. Respondent called Trooper Montae Hernandez to testify.

94. Trooper Hernandez works for the Arkansas State Police. As a state trooper, he patrols state highways. In 2019, he was assigned to Troop D covering several counties including Phillips County. He is familiar with the Decedent's accident.

95. When Trooper Hernandez was dispatched to the accident scene, that was the first time he had been on Highway 316. Upon arrival at the scene, he saw a Toyota Tundra in the eastbound ditch. Referring to the accident report, the vehicle was 59 feet south of the Intersection on its side facing the western side of the road. It was raining when he arrived and throughout his investigation.

96. Trooper Hernandez looked at the damage to the vehicle and walked down the south portion of Highway 316, where he saw two separate locations where the vehicle had impacted the ditch.

97. Trooper Hernandez stated that the roadway was covered in water.

98. He saw the Decedent facedown in the water with the vehicle on top of him. The Decedent was not wearing a seatbelt because there was no slack in the seatbelt.

99. In the accident report, Trooper Hernandez provided measurements to show how far the vehicle was off the roadway. He took photographs of the accident scene.

100. On cross-examination, Trooper Hernandez stated that his boots were submerged in the water at some spots. He was on the scene for at least one hour. He saw water flowing in the roadway but cannot recall which direction the water was flowing. Claimant's Exhibit No. 1 at 298 is a photograph taken by Trooper Hernandez. There is a beer bottle visible in the picture, but there is no evidence that the Decedent was drinking, and the toxicology report came back negative. Claimant's Exhibit No. 1 at 299–314 are additional photographs taken by Trooper Hernandez.

Testimony of Robert Gray

101. In Claimant's case-in-chief, Claimant proffered the deposition of Robert Gray, which was received without objection.

102. Respondent called Mr. Gray to testify.

103. Mr. Gray is Respondent's area maintenance supervisor in Phillips County and has served in that role since 2017. He has worked for Respondent in maintenance for 24 years. He is familiar with the accident scene. The topography of CR 261 slopes down toward Highway 316.

104. Mr. Gray stated that farmers can clean out the ditches adjacent to their property, but there is a process involving the farmer putting up a bond. Farmers cannot change the slope of the ditch. To the best of his knowledge, neither David Carruth nor Clay Young ever went through this process.

105. He noted that Respondent is not responsible for water coming from the farms. Highway 316 was not designed by Respondent. It was a county road that Respondent took over at some point.

106. Mr. Gray said that, to his knowledge, no one at his office ever received a call about flooding on Highway 316 prior to the Decedent's accident. His office keeps a record of people that call with complaints.

107. Respondent digs out ditches as needed. There is no set policy. If a landowner complains, or if one of Respondent's employees sees a blockage, the maintenance crew brings out equipment. Mr. Gray is familiar with Functions 441 and 442. There is no time frame for that maintenance.

108. Mr. Gray tries to go down every road in Phillips County at least once per week. He never saw too much grass in the ditches and never saw water overtopping the roadway south of the Intersection.

109. On cross-examination, Mr. Gray said that he is not aware of any standard for measuring the ditches. If water is flowing, the ditch must be deep enough. Mr. Gray acknowledged that Claimant's Exhibit No. 2 at 192 shows standing water and that the ditch is out of compliance. Mr. Gray interprets Functions 441 and 442 as standards that he follows and that are applicable to his job. He does not document when he inspects a roadway, but he does document when he finds a concern. He could look at the GPS to confirm whether he went by this stretch of highway, but he has not done that. Mr. Gray acknowledged that it is his responsibility to fix a problem before it results in a catastrophe whenever possible. Mr. Gray went to the Intersection the day after the accident and did not see any water on the road. "Mopping out" a ditch falls under Function 441, and machining the ditch to reestablish flow falls under Function 442. Respondent reshaped the

ditch ten months after the Decedent's accident. This reshaping was done because of a complaint by Clay Young, not because of the Decedent's accident. When Mr. Gray finds a problem, he talks to the maintenance crew supervisor to schedule a trackhoe. Mr. Gray has never seen flooding in the area of the accident. He has never seen an issue with water coming off of CR 261 onto Highway 316.

110. On redirect, Mr. Gray looked at Claimant's Exhibit No. 2 at 192 and said that the work done on the ditch was done to reshape the entire ditch from CR 261 to the next cross-drain.

Testimony of Matthew Emberton

111. In Claimant's case-in-chief, Claimant proffered the deposition of Matthew Emberton, which was received without objection.

112. Respondent called Mr. Emberton to testify.

113. Mr. Emberton is Respondent's district maintenance engineer for District 1. He has worked for Respondent since 2008 and in maintenance since 2015. District 1 covers multiple counties, including Phillips County. He oversees area maintenance supervisors.

114. Mr. Emberton tries to get over every part of the highway system in his district every two months. Other folks do, as well.

115. Functions 441 and 442 are functions that Respondent performs. There is a maintenance manual, as well. A chart in the back sets out the schedule for Function 441 and 442. Those functions are expected to be performed in March, April, or May. The chart allows crews to build a workplan.

116. Mr. Emberton is familiar with the Intersection. The topography of the highway is relatively straight. There is good visibility.

117. He is not aware of any complaints of water in the roadway near the Intersection. Those complaints are typically fielded at the local level by the area maintenance supervisor. If Mr. Gray had scheduled work to be done, Mr. Emberton would know about it.

118. Mr. Emberton is aware of two phone calls from Ms. Morrow, one of which was regarding the Barton school.

119. CR 261 and adjacent farmland flow into Highway 316.

120. It is quite a process if a farmer wants to clean out the ditches adjacent to his or her land. A formal letter must be issued by Respondent. Depending on circumstances, a farmer may have to have traffic control in place.

121. On cross-examination, Mr. Gray confirmed that for a farmer to clean out the ditches, the farmer must put up a bond, meaning that money is spent upfront. The approval can be as quick as a week, but if it involves a lane closure, it can take longer. Mr. Gray stated that the accident site was on Respondent's right-of-way. Mr. Gray saw videos of water overtopping the road and agreed that Respondent should proactively try to fix problems. He did not personally know about the flooding issue but agreed that if ditches cannot flow, they need to be fixed. Referring to Claimant's Exhibit No. 2 at 192, Mr. Emberton stated that he cannot tell if there is a ditch from the photograph but confirmed that there should be a ditch. He has been unable to find any engineering plans for this section of roadway and could not find any measurements to see if the ditch fits the standards. The buildup seen in Claimant's Exhibit No. 2 at 192 happens over time and prevents proper drainage.

122. On redirect, Mr. Emberton testified that he does not know the design flood stage for Highway 316. If a design flood stage is exceeded, there will be water in the road. Depending on the intensity of the rainfall, it can happen. The design flood stage refers to the maximum that

the ditches, culverts, cross-drains, and side drains are designed to handle. It is not the responsibility of Respondent to keep all water off the road at all times.

123. Upon a question from a commissioner, Mr. Emberton confirmed that efforts are made by Respondent to see the roadways in various weather conditions.

Testimony of Cannon Callicott

124. In Claimant's case-in-chief, Claimant proffered the deposition of Cannon Callicott, which was received without objection.

125. Respondent called Mr. Callicott to testify.

126. Mr. Callicott is Respondent's district engineer for District 1. He has been employed by Respondent for 26 years and has held a variety of engineering positions. His role is largely administrative.

127. Highway 316 has been a state highway since 1974. In the 1960s and 1970s, there were a lot of unimproved county roads that were made part of the state highway system because the state had more money for road improvements. There is a difference between an 'inherited' county road and a road built by Respondent. Inherited county roads are not brought up to current standards using maintenance funds because bringing a road up to current standards is considered a rebuild.

128. When Respondent designs a ditch on a highway, the side drains and ditches are designed for a 'two-year-storm.' If the road is inherited, the ditch is just shaped and fit to what is there.

129. If the ditch is not sufficient, Mr. Callicott stated that water could overtop the road.

130. Counties maintain county roads. Respondent has no responsibility or maintenance rights for county roads. If the county road is a gravel road, the county will grade the road.

131. There are a variety of ways for Respondent to receive complaints, including telephone calls to one of Respondent's offices, notification by law enforcement, and the reporting option through Respondent's website. There may also be options through social media. As much as possible, the local offices handle maintenance issues. Mr. Gray could handle pothole repairs or tree issues. If a ditch needed to be regraded, though, a trackhoe would be scheduled through the district.

132. Each office handles complaints with its own system. The records available might depend on the way the complaint comes into the office. If there is a flooding complaint, Respondent sends folks out to verify and to put up signs and barricades.

133. The district did not receive any road issue reports the night of the Decedent's accident. That same night, however, Lee County had two reports.

134. Mr. Callicott has seen water running into the right-of-way from farms. Grading and crop choice can all affect water coming into the ditches, although not typically to the extent seen in this situation.

135. There was some ditch work completed on Highway 316 before Mr. Callicott started in his position. Some additional work was done recently.

136. 'Mopping out' means cleaning out the drain. This is usually minimal. Usually, a 'mop out' is triggered by complaints by the public. A mop out is done by a district maintenance crew. Minor work with a backhoe can be done by a county crew.

137. RRR projects came about in the late 1980s and 1990s. When Respondent constructs a roadway, it must meet those standards in order to get the funding.

138. Mr. Callicott is not aware of any complaint from flooding on Highway 316.

139. In the videos showing the accident scene, the water is moving, so that indicates drainage because the water is going somewhere. The water is not leaving the roadway as quickly as everyone would like. There is more flow than there is capacity to drain.

140. Respondent must use maintenance funds to maintain the capacity of a highway when it was built, meaning a two-year storm.

141. On cross-examination, Mr. Callicott stated that the flowing water makes sense given the topography of the Intersection. Highway 316 is not an RRR project because acquisition of the highway happened prior to the start of the RRR program in the 1980s. Highway 316 cannot become an RRR project until Respondent reconstructs the highway. Mr. Callicott is not testifying that Respondent has no responsibility for an inherited highway until the highway is rebuilt. He does not know the particular design for Highway 316. The intensity of the rainfall matters more than the amount of rain. The ditch at issue here met the two-year storm requirement. This requirement means that, on average, a two-year storm will exceed the capacity of the ditch. Referring to Claimant's Exhibit No. 2 at 192, this ditch would meet a two-year design storm, although it does show water ponding south of the Intersection. Claimant's Exhibit No. 2 at 106 is another two-year rain event, as is Claimant's Exhibit No. 2 at 116. However, Claimant's Exhibit No. 2 at 116 has water pooling south of the Intersection that must be from CR 261. Claimant's Exhibit No. 2 at 112 shows water going over the road where the deeper part of the ditch ends. Claimant's Exhibit No. 3 is dated June 2014 and shows work being performed north of the Intersection on the Young Property. If someone reported an issue to one of the people working for Mr. Gray, it would not necessarily get back to Mr. Gray. People are prone to hyperbole, such as saying that a certain road is the worst in the state. If Mr. Young told workers about the flooding, those workers do not have to report every complaint to their supervisor. That is not a requirement

in the personnel manual. Mr. Callicott has no evidence regarding whether Ms. Morrow or Mr. Young were or were not telling the truth.

142. On redirect, Mr. Callicott stated that CR 261 goes uphill from Highway 316. On the aerial picture, you can see drainage coming from the Carruth Property. The mop out of the ditch adjacent to the Young Property was not continued south of the Intersection because it was beyond the scope of the complaint received by Respondent, and Respondent did not want to disturb the vegetation (a ditch with no vegetation will wash out).

143. On re-cross, Mr. Callicott testified that he is not sure of the date of the work done on the Carruth Property. He knows that it was regraded based on the Google Earth images.

Testimony of Stan Andrews

144. Respondent called Stan Andrews to testify.

145. Mr. Andrews is an accident reconstructionist. He has a bachelor's degree in biological and agricultural engineering and a master's degree in engineering. He has worked mostly in the field of mechanical engineering. Mr. Andrews worked at Tyson for seven years designing and building equipment. He has been working in the field of accident reconstruction for 22 years.

146. Mr. Andrews did a reconstruction of the Decedent's accident. He visited the accident scene, did a laser scan of the scene and the Decedent's vehicle, inspected the vehicle, and documented the condition and impact marks. An investigation done four weeks after the accident resulted in photographs, drone imagery, and a scan of the area that Mr. Andrews was able to view. He also reviewed the police report, the accident scene photographs, and the aerial photo taken by Rocky Ford.

147. Referring to his reconstruction report, found at Respondent's Exhibit No. 2, Mr. Andrews testified that the Decedent was traveling 53–60 miles per hour when he left the roadway and 49-54 miles per hour during the rollover. The Decedent's vehicle rolled over three and three-quarter times. The tires on the Decedent's vehicle were inadequate for the existing conditions. The Decedent was traveling too fast for the existing conditions. The Decedent was trapped underneath the vehicle when it came to rest. The Decedent drove through the water-covered roadway for some time before losing control, so he had warning about the water and, if he had slowed down, could have avoided the accident.

148. It is common for an accident reconstructionist to rely on photographs taken by other people because it is rare for an accident reconstructionist to get to the accident scene right after the accident occurs.

149. Referring to Respondent's Exhibit No. 2 at p. 11, Mr. Andrews testified that he worked backwards based on where the vehicle came to rest. He personally looked at the scratch marks on the vehicle. Mr. Ford had highlighted the headlight debris in his photographs, so Mr. Andrews could calculate based on that point. The headlights are important for the calculation. At 50 feet per rollover and three and three-quarter rolls, the vehicle traveled roughly 180 feet. With or without the headlight debris, the rollover distance is within nine feet of error. Looking at the photographs found in Respondent's Exhibit No. 2 at p. 7, Mr. Andrews is comfortable relying on the pile of headlight debris as a point of impact because of the tiny pieces embedded in the ground, which are typical of what he would expect to see.

150. 'Yaw' refers to a vehicle rotating but the direction of travel staying the same. You see 'yaw marks' when this happened. The yaw marks, in addition to the rollover distance, allow Mr. Andrews to calculate the speed of the vehicle.

151. The speed limit for this stretch of road was 55 miles per hour. The Decedent was traveling 53–60 miles per hour.

152. Looking at the tires on the Decedent's vehicle, the lack of tread depth was a contributing factor to the accident. The minimum tread depth means that hydroplaning and a loss of control is more likely. The tires on the front of the vehicle were better than the tires on the back.

153. On cross-examination, Mr. Andrews confirmed that he is not a professional engineer. He is not licensed in Arkansas or other states. He is being paid by Respondent to be here ($31,659.00 had been billed prior to Mr. Andrews' attendance at the hearing). The crash data recorder was not required to be accessible to the public for a 2004 Toyota Tundra. Mr. Ford tried to download that information but could not get it. Toyota does not make that information available voluntarily. Mr. Andrews looked at the vehicle's resting point, headlights, and scratch marks. Without the headlight location, the speed range would be slightly faster. The headlight location adds accuracy to his calculation. The scratch marks show the number of rolls. In this case, the Decedent's vehicle had four types of scratches. There were lots of people at the accident scene, and, by walking around, those people could have compressed debris into the ground. Water was flowing north to south, but the headlight debris pile is consistent with where Mr. Andrews would expect it to be. Mr. Andrews conceded that people moved the bumper, but he does not think that people moved the tiny pieces of the headlight. Any scratches on the vehicle from the recovery process would be squiggly and would not run from front to back. When the road surface is wet, you do not get yaw marks as distinct as when the road surface is dry. If the Decedent went through the water for 300 feet and was still going 53–60 miles per hour when he left the roadway, his initial speed would have been astronomical. If there was no water on the roadway, the Decedent would

not have hydroplaned, and if he did not hydroplane, then he would not have lost control of his vehicle.

154. On redirect, Mr. Andrews testified that if the Decedent was traveling below 45 miles per hour, it is a lot less likely that he would have hydroplaned, especially if he had good tread on his tires.

Testimony of Dr. Chandra Thorbole

155. Respondent called Dr. Chandra Thorbole to testify.

156. Dr. Thorbole has a doctorate degree in engineering with an emphasis in crash dynamics and biomechanics. He analyzes accidents and how people are injured. Most of his work is directed at helping manufacturers prevent certain types of injuries.

157. Dr. Thorbole was hired by Respondent to do a biomechanical analysis of the accident and to determine whether the Decedent was wearing his seatbelt at the time of the accident. He inspected the vehicle, including the seatbelt hardware.

158. The Decedent's ejection kinematics caused him to be thrown in front of the rolling vehicle, such that the vehicle landed on the Decedent. The ejection portal was the driver's side window. The Decedent was ejected with a lot of energy. The ejection is the cause of his death.

159. The roof intrusion into the passenger space of the vehicle likely occurred after the Decedent was ejected.

160. The Decedent's vehicle did not have rollover-activated belt pretensioner or a curtain airbag.

161. All of Dr. Thorbole's opinions were given to a reasonable degree of biomechanical certainty.

162. On cross-examination, Dr. Thorbole confirmed that he relied upon Mr. Andrews' conclusions for the vehicle motion. If there was no rollover, there would be no roof intrusion. If there was no rollover, there would be no ejection.

Testimony of David Carruth

163. Claimant called David Carruth as a rebuttal witness.

164. Mr. Carruth is a lawyer in Clarendon, Arkansas. He manages his family's farm, which is owned by the Carruth Family Trust.

165. He has observed flooding on Highway 316 in the area of the Intersection.

166. Respondent took over Highway 316 in the early 1970s. Mr. Carruth remembers Respondent doing some work on the ditches next to the Young Property, which caused flooding by the Intersection. There was a lot of complaining. Mr. Carruth stated that his father said he was going to tell Respondent about the flooding in the early 1990s. Mr. Carruth went to the local office in 2015 or 2016 to complain about the flooding. The water was bad because the ditch had not been cleaned out.

167. Following this accident, Respondent did a lot of work on this highway.

168. Regarding the issue of runoff from the Carruth Property, Mr. Carruth stated that every highway in Arkansas has property adjoining that highway. When the Carruth Property was converted into tillable land in the late 1970s, Mr. Carruth's family allowed trees to grow up along the border and put hay bales there to stop the erosion and the water running off the property. However, Respondent took out that vegetation.

169. Mr. Carruth's tenant has done a lot of work to stop the runoff since Respondent removed that vegetation five or six years ago.

170. On cross-examination, Mr. Carruth stated that he has not seen water flowing down CR 261 because the ditches on the county road are very deep. He does not recall who he spoke with at the Respondent's local office when he complained about the flooding. He described the person as a white male approximately 50 years old. Mr. Carruth clarified that Respondent cleared the vegetation on the Carruth Property's side of the ditch embankment in probably 2013 or 2014.

Closing Arguments

171. Claimant argued that pursuant to Ark. Code Ann. § 27-67-207, Respondent has a duty to keep the state highways in good repair. There is no exception to this statute for inherited roads. Under the negligence standard, the evidence shows that Respondent knew or should have known about the flooding on Highway 316. Witnesses who have no interest in this claim testified that they notified Respondent of the flooding. Mr. Young and Mr. Carruth testified that Respondent's own actions caused the problem or made it worse. Respondent's employees provided explanations but not legal excuses why Respondent did not satisfy its statutory duty with respect to Highway 316. Even if Respondent's employees did not see the flooded road, they could have seen the standing water in the ditch on the sunny days. Respondent did not provide an expert to rebut Claimant's hydrology expert, Mr. Auld. Regarding the issue of comparative fault, Respondent's accident reconstruction testified that the Decedent was going 53–60 miles per hour, which is not speeding when the speed limit is 55 miles per hour. Mr. Andrews' analysis is not believable because of the astronomical speed the Decedent would have had to be traveling if the Decedent was going 53–60 miles per hour after traveling through 300 feet of water. The damages in this claim are twofold, as the Decedent's estate can recoup damage for loss of life and lost wages and the beneficiaries can recover for mental anguish. Dr. Scott's report gives a framework and

guidelines for evaluating lost wages. Claimant's damage claim is very conservative considering Dr. Scott's report.

172. Respondent argued that the question is whether it knew or should have known of the flooding near the Intersection. The specific location matters because of the topography. Respondent's employees testified that they did not violate any specific written standards. Per Mr. Callicott, Respondent's responsibility is to keep the ditches where they can handle a two-year storm. Respondent inherited Highway 316, and the maintenance funds do not include road improvements. The work done in 2014 by Respondent did not and could not have caused flooding. There was a lot of other testimony about other sources of water not in Respondent's control. Mr. Andrews talked about the issue of causation, including the fact that the Decedent's tires were in poor repair and that the Decedent should have been going ten miles per hour under the speed limit due to the rain. Dr. Thorbole testified that the cause of death was the Decedent's ejection from the vehicle. The Decedent knew this road and should have been on the lookout. The stretch of Highway 316 is a straight road, so the water should have been visible. The Claims Commission is charged with apportioning fault and damages. If the Decedent was 51 percent at fault, then Claimant cannot recover. If the Decedent was less than 51 percent at fault, then the damages must be weighed. Insurance payments received by Claimant should be put on Respondent's side of the apportionment of damages.

173. In rebuttal, Claimant argued that while Mr. Callicott said that the ditch met the design requirements, he also said that each picture of water on the road must be showing a two-year storm. Claimant also argued that the Decedent was not speeding.

Relevant Statutes and Caselaw

174. The elements of a negligence claim are duty, breach of duty, and damages proximately caused by the breach. *See Union Pac. R. Co. v. Sharp*, 330 Ark. 174, 180, 952 S.W.2d 658, 661 (1997).

175. Ark. Code Ann. § 27-67-101 provides that the "the policy of the state [is] to . . . repair, maintain, and control all the public roads in this state comprising state highways. . . ." (emphasis added).

176. Ark. Code Ann. § 27-67-207 provides, in pertinent part:

> (a) As used in this chapter, unless the context otherwise requires, "maintenance" means the constant making of all repairs necessary to preserve a smooth surface on the roads and to keep the bridges and culverts in a safe condition and shall include drainage work, the building of bridges and culverts, and the making of cuts and fills as the commission deems necessary to accomplish these purposes.
>
> (b) It shall be the duty of the State Highway Commission to begin as soon as practicable and continue the maintenance of all roads that are properly designated as state highways, to the end that every part of the state highways shall be properly, fairly, and equitably maintained and kept in repair.
>
> (c) So far as practicable, maintenance and repair shall be according to what is known as the patrol system. Laborers as are deemed necessary may be employed and kept continually on the roads, with the force, equipment, and materials that are necessary to perform the work.

(emphasis added).

Findings of Fact and Conclusions of Law

Based upon a review of the pleadings, testimony, evidence, and the law of the State of Arkansas, the Claims Commission unanimously finds as follows:

177. The Claims Commission has jurisdiction to hear this claim pursuant to Ark. Code Ann. § 19-10-204.

178. The Claims Commission finds that Claimant's claim is based upon Respondent's alleged negligent maintenance of Highway 316 and its drainage system.

179. The Claims Commission finds that, pursuant to Ark. Code Ann. §§ 27-67-101 and 27-67-207(b), Respondent had a duty to maintain Highway 316 and its drainage system.

180. The Claims Commission finds that Respondent knew or should have known of the flooding problem on Highway 316. Based on the evidence presented by Claimant, including the testimony of Ms. Morrow, Mr. Young, Ms. Reeves, and Mr. Carruth, complaints had been made to Respondent about flooding in the very location that this incident occurred.[2] The Claims Commission notes that Ms. Morrow, Mr. Young, Ms. Reeves, and Mr. Carruth have nothing to gain from the outcome of this claim, and there was otherwise no evidence of bias on their part. Moreover, the Claims Commission finds the numerous photographs and videos presented by Claimant showing Highway 316 flooded or the ditch overgrown and/or the ditch full of water to be significant in light of Respondent's witnesses' testimony regarding the frequency that Highway 316 was traveled looking for road issues. The Claims Commission finds that the standard that Respondent consistently argues should apply to Respondent in claims for potholes or other hazardous road conditions should apply to the instant claim as well. *See, e.g.*, *Nwanonyiri v. Ark. Dept. of Transportation*, Claim No. 220326. As such, where Respondent had prior knowledge of a hazardous road condition and failed to remedy it within a reasonable amount of time, Respondent is liable for the damages that occur from that condition.

[2] The Claims Commission notes its concern with Respondent's practice of allowing each local office to determine its own system of cataloguing reported complaints, given Respondent's position in this claim regarding notice despite the testimony of multiple witnesses.

181. The Claims Commission notes an incompatibility with Respondent's simultaneous arguments that the Decedent had traveled that road previously, such that he should have known to travel cautiously, and that Respondent's employees were unaware of the problem on Highway 316 despite checking that road every week (as Mr. Gray stated) and every two months (as Mr. Emberton stated that he and others did, as well).

182. However, pursuant to Ark. Code Ann. § 16-64-122, the Claims Commission must also consider the fault of the Decedent. The plain language of Ark. Code Ann. § 16-64-122 states that it applies to "… all actions for damages for … wrongful death … in which recovery is predicated upon fault." (emphasis added). The Arkansas Court of Appeals discussed the applicability of the "broad language" in this statute in *Bishop v. Tariq*, 2011 Ark. App. 445, 384 S.W.3d 659. In the instant claim, while there was no evidence presented that the Decedent was speeding,[3] it is undisputed that the Decedent was not wearing his seatbelt at the time of the accident. The Claims Commission also finds that the condition of Decedent's rear tires was a factor in the accident. Additionally, based on Mr. Brown's testimony regarding the number of times that the Decedent traveled in this area, the Claims Commission finds that the Decedent was familiar with this roadway.

183. As such, the Claims Commission assigns fault as follows:

(a) Decedent: 35%

(b) Respondent: 65%

[3] While the Claims Commission notes some concerns with Mr. Andrews' calculations and conclusions, the Claims Commission finds it significant that Respondent's own expert witness calculated the Decedent's speed at 53–60 miles per hour in a 55 mile per hour zone.

184. As for damages, the Claims Commission must consider the damages for the Decedent's estate as well as the mental anguish damages for the Decedent's wrongful death beneficiaries (his parents and siblings).

185. Regarding the Decedent's estate, the Claims Commission finds that the estate is entitled to recover the funeral expenses for the Decedent ($7,287.47), as well as the burial costs ($600.00) and headstone ($11,864.48), for a total of $19,751.95. Additionally, considering the persuasive testimony of the Decedent's family members regarding how the Decedent valued his life, the Claims Commission finds that the damages associated with the Decedent's loss of life are $2,500,000.00. The Claims Commission finds that this number is consistent with the conclusions of Dr. Scott regarding the Decedent's lost earning capacity (which ranged from $1.52 million to over $3 million given various scenarios), which were admitted in revised form without objection. As such, the Claims Commission finds that the Decedent's estate's total damages are $2,519,751.95, of which Respondent is liable for 65 percent, equaling $1,637,838.77. The Claims Commission further finds that the $100,000 in insurance proceeds recovered by Claimant should be subtracted from the award, for a total award to the Decedent's estate of $1,537,838.77.

186. The Claims Commission finds that the testimony about the help the Decedent would have been able to provide on the family farm to be too speculative and declines to make an award for such damages.

187. Regarding the Decedent's parents, the Claims Commission finds the testimony presented by Debbie Brown and Joe Brown regarding the mental anguish experienced following the Decedent's death to be moving and persuasive. As such, the Claims Commission finds that Debbie Brown and Joe Brown should be each awarded mental anguish damages of $300,000.00, of which Respondent is liable for 65%, equaling $195,000.00 to each.

188. Regarding the Decedent's siblings, the Claims Commission finds the testimony presented by Nathan Brown regarding the mental anguish experienced by him and his sister, Samantha Brown, to be moving and persuasive. As such, the Claims Commission finds that Nathan Brown and Samantha Brown should be each awarded mental anguish damages of $50,000.00, of which Respondent is liable for 65%, equaling $32,500 to each.

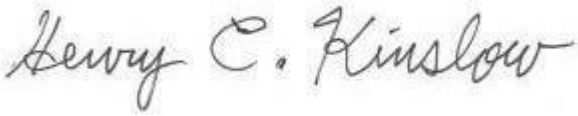
Conclusion

189. The Claims Commission AWARDS the Estate of Chris Brown a total of $1,537,838.77. The Claims Commission further AWARDS Debbie Brown and Joe Brown $195,000.00 each and Nathan Brown and Samantha Brown $32,500.00 each. Pursuant to Ark. Code Ann. § 19-10-215(b), the Claims Commission refers this total award of $1,992,838.77 to the General Assembly for review, approval, and, if approved, placement on an appropriations bill.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Courtney Baird



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair

DATE: November 10, 2022

Notice(s) which may apply to your claim

(1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).

(2) If a Claimant is awarded less than $15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.

(3) Awards or negotiated settlement agreements of $15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

IN THE CIRCUIT COURT OF POPE COUNTY, ARKANSAS	)
	)
TIMOTHY MURDOCH, in his capacity as Special Administrator to the Estate of Julie LeFevre, deceased	)
	)
PLAINTIFF	)
	)
v. CASE NO. 58CV-18-638	)
	)
PHILLIP COWGER, and SHARON BARNETT, in her capacity as Special Administrator of the ESTATE OF PHILLIP COWGER, Deceased	)
DEFENDANT	)

FILED
2019 JUL 10 AM 10:36
RACHEL L. BERTLING
POPE COUNTY CIRCUIT CLERK
BY:

JUDGMENT

On this 8 JU day of ~~June~~ July, 2019, came on the Plaintiff, Timothy Murdoch, is his capacity as Special Administrator to the Estate of Julie LeFevre, deceased, by counsel, Hall and Taylor Law Partners, PLLC, upon the Complaint, and the Court, upon consideration of the evidence presented, FINDS, ORDERS, ADJUDGES, AND DECREES THE FOLLOWING:

1. Timothy Murdoch is the duly appointed Special Administrator to the Estate of Julie LeFevre, deceased.

2. Sharon Barnett is the duly appointed Special Administrator of the Estate of Phillip Cowger, deceased.

3. The Defendants were duly served with process in this matter, notice of this hearing and have otherwise failed and refused to appear and defend this matter.

4. Plaintiff made an oral motion for default judgment. A judgment of default on all issues of liability is proper in this action. Plaintiff is hereby granted a judgment of the issue of liability on each basis requested in the Complaint.

5. A hearing was conducted on the issue of damages.

6. The decedent, Julie LeFevre, died leaving three minor children, a surviving spouse and both her parents. The Court finds that these persons are the statutory beneficiaries of the decedent.

7. The decedent's parents were provided with notice of this hearing and have declined to appear herein. The decedent's parents filed for record an Assignment of Interest of any rights herein to the decedent's children.

8. The minor children and the surviving spouse appeared herein by and through counsel to wit: James Dunham (attorney for Scott Greathouse, court appointed guardian of the [redacted]

[redacted], Allen Laws (counsel for [redacted] and John Peel (counsel for court appointed guardian Ron Campbell and his minor child, [redacted]. Counsel for the statutory beneficiaries announced that they reached an agreement as to the division of any future proceeds received by and between the statutory beneficiaries of Decedent.

9. According to the agreement announced by counsel, any proceeds from this judgment are to be allocated as follows:

Minor children of Scott Greathouse:	56%
Minor child of Ron Campbell:	28%
Kile LeFevre:	16%
	=======
Total:	100%.

6. After a hearing, upon consideration of the evidence before the Court, Plaintiff is hereby awarded the following compensatory damages:

Funeral Expenses:	$11,557.00
Lost Earnings:	$991,705.00
Lost of Life and Enjoyment of Life:	$9,700,000.00
Conscious Pain and Suffering:	$2,000,000.00
Mental Anguish of Survivors:	$4,000.000.00

==========

Total: $16,703,262.00

7. Upon consideration of the evidence, the Court awards punitive damages in the amount of $3,000,000.00. The clear and convincing evidence in support of this finding includes, but is not limited to, the following:

a) The pilot, Phillip Cowger, was a commercially rated pilot who departed from Russellville, Arkansas, having last checked the weather forecast at 5:18 a.m. prior to a 7:54 a.m. departure. Testimony from another commercial pilot indicated that a safe and aware pilot should constantly check the weather up to the point of departure. The evidence indicated that visibility on the day of the crash was decreasing. The weather was an obvious and dangerous factor for flying on the day of the fatal crash.

b) The pilot, Phillip Cowger, previously failed a simulator course whereby the instructor concluded that he had "instrument saturation issues". The NTSB found the cause of this crash was "pilot error" caused by "workload management" and "aircraft control." The prior simulator issues which the pilot, Phillip

Cowger, encountered were very similar to the cause of the crash in this instance. Therefore, it was a reckless disregard for the safety of the decedent when the pilot ignored his own limitation under the circumstances of the case.

c) A commercial pilot with similar experience to the pilot, Phillip Cowger, was scheduled to depart the same morning in a similar aircraft (also with passengers) but declined to depart due to the danger involved caused by the weather and the type of aircraft he was piloting.

d) On the date of the accident, winds were calm and the pilot, Phillip Cowger, could have chosen to take off to the southwest, where terrain was low for several miles, instead of taking off towards the northeast, where there was elevated terrain one mile away that the aircraft ultimately struck. The far safer alternative was to take off to the southwest instead of the northeast. Had Phillip Cowger done so, it is extremly unlikely the crash would have occurred.

e) The pilot, Phillip Cowger, had been prescribed drugs that cause fatigue, muscle weakness, dizziness, blurred vision and

other side effects which impact his ability to safely fly the aircraft. A pilot has a duty to always be aware of the drugs he takes and the side effects of those drugs as they may impact his ability to safely fly an aircraft; as well as a duty not to undertake risks to his passengers while so medicated.

f) Every pilot has a duty and is charged with control of his aircraft, and the ultimate responsibility for the decision to depart is with the pilot.

g) Each pilot must enter into a risk assessment prior to departure considering the weather, his own past experiences, his health, the side effects of any medications, the type and abilities of the aircraft and other factors.

h) Every pilot must take every action necessary to decrease or minimize, or eliminate the risk to his or her passengers.

i) The pilot, Phillip Cowger, was a commercial pilot that was being compensated for his flight time.

j) The aircraft being piloted during the crash was a "cadillac" aircraft, and the avionics equipment in the aircraft were above average.

k) the NTSB report indicated that the aircraft was in good mechanical condition and there were no defects in the aircraft which contributed to the cause of the crash.

Based upon the testimony and other evidence before the Court, the Court finds that the pilot in command of the aircraft, Phillip Cowger, knew or should have known, in light of the surrounding circumstances, that the dangers posed to his passengers from his decision to depart would naturally and probably result in injuries to his passengers, but in reckless disregard of those risks and the likely consequences he continued to depart, which resulted in the damages to the decedent.

8. The Court hereby awards judgment in the total amount of $19,703,262.09.

9. Pursuant to Ark. Code Ann. Section 16-66-221, the judgment debtor is hereby ordered, within 45 days of the entry of this judgment, to prepare a schedule, verified by affidavit, of all of his other property both real and personal, including moneys, bank accounts, rights, credits, and choses in action held by himself or herself or others for him or her and specify the particular property which he or she claims as exempt under the provisions of the Arkansas law. The judgment debtor shall file the schedule with the Clerk of this Court within 45 days of the entry of this Judgment.

IT IS SO ORDERED.

Dennis C. Sutterfield
JUDGE DENNIS SUTTERFIELD
POPE COUNTY CIRCUIT JUDGE
July 8, 2019
DATE

Prepared by:
Randy Hall ABA # 89093
415 North McKinely Suite 1000
Little Rock AR 72205

ELECTRONICALLY
FILED
MAY 10 2021
TIME:
CASE #:

IN THE CIRCUIT COURT OF PULAKSI COUNTY, ARKANSAS
17TH DIVISION

JENNIFER DANIELS, Individually and as Administratix of the ESTATE OF JALEN FAULKNER, deceased — **PLAINTIFFS**

VS. **NO. 60CV-18-6611**

DISCOUNT ZONE, INC. d/b/a WOODROW DISCOUNT STORE; SHAREEF NAJI QUATTOM; CALVIN C. STEPHENS; JOHN DOES 1-3; and JOHN DOE ENTITIES 1-3 — **DEFENDANT**

ORDER

On this 10th day of May, 2021, came on the Plaintiff, Jennifer Daniels, in her capacity as Special Administratrix to the Estate of Jalen Faulkner, deceased, by counsel, Denise Reid Hoggard, of RAINWATER, HOLT & SEXTON, P.A., upon the Complaint, and the Cout, upon consideration of the evidence presented, FINDS, ORDERS, ADJUDGES, AND DECREES THE FOLLOWING:

1. The Defendants were duly served with process in this matter, and failed and refused to appear and defend this matter.

2. A default judgment granting Plaintiff judgment on the issue of liability on each basis requested in the Complaint was entered on April 13, 2021 by this Court.

3. The Defendants were duly served with notice of this hearing.

4. A hearing was conducted on the issue of damages.

5. The decedent, Jalen Faulkner, died at the age of 18, leaving no surviving children, both his parents and three half-brothers and one half-sister. The Court finds that these persons are statutory beneficiaries of the decedent.

6. After a hearing, upon consideration of the evidence before the Court, Plaintiff is hereby awarded the following compensatory damages:

a) Funeral Expenses: $5,000

b) Lost earnings: $3,353,880.43

c) Loss of Life and Enjoyment of Life: $10,311,579

d) Conscious Pain and Suffering: $1,000,000

e) Medical Expenses: $15,269.08

f) Mental Anguish of Survivors: $4,000,000

TOTAL: $18,685,728.51

7. The Court hereby awards judgment in the total amount of $18,685,728.51.

8. Pursuant to Ark. Code Ann. Section 16-66-221, the judgment debtor is hereby ordered, within 45 days of the entry of this judgment, to prepare a scheduled, verified by Affidavit of all property both real and personal, including moneys, bank accounts, rights, credits, and choses in action held by or for Defendants and specify the particular property which they claim as exempt under the provisions of Arkansas law. The judgment debtor shall file the

schedule with the Clerk of this Court within 45 days of the entry of this judgment.

IT IS SO ORDERED.

HONORABLE MACKIE PIERCE

May 10, 2021

Prepared by:

Denise Hoggard (ABN 84072)
RAINWATER, HOLT & SEXTON, P.A.
P.O. Box 17250
801 Technology Drive
Little Rock, AR 72223
Telephone (501) 868-2500
Telefax (501) 868-2505
Email: hoggard@rainfirm.com

RALPH D. SCOTT, JR., Ph.D.



Professor of Economics
Department of Economics and Business
Hendrix College
Conway, Arkansas 72032
(501) 450-1306 (voice and fax)

President
Economic and Financial
Consulting Group, Inc.
Conway, Arkansas 72034

EDUCATION

Ph.D., Tulane University School of Economics, New Orleans, Louisiana (1983)

B.A., Hendrix College, Conway, Arkansas (1973)
Major in Economics and Business

ECONOMIC BACKGROUND

Primary Area of Interest: Macroeconomics, Monetary Theory

Field Examinations: Taken and passed in Microeconomics, Macroeconomics, Mathematical Economics, Statistics, International Economics, Monetary Theory and Econometrics

Dissertation Title: *Rational Expectations, Aggregate Supply and Fiscal Policy*

In my dissertation, I integrated fiscal parameters into the Lucas-Rapping theory of labor supply to obtain a theory of aggregate supply in which the effectiveness of fiscal policy could be analyzed. In addition I developed and estimated an empirical model for the aggregate economy incorporating developments in expectational theory into supply and demand side relationships to analyze the effectiveness of fiscal policy within a broader context.

TEACHING EXPERIENCE

Professor of Economics (tenured), Hendrix College, Conway, Arkansas 1979 to present

Instructor, Tulane University, New Orleans, Louisiana, Summer 1978-Spring 1979

Instructor, St. Mary's Dominican College, New Orleans, Louisiana, Fall 1977-Summer 1978

Current Teaching Responsibilities: I teach several sections of introductory level Microeconomics and Macroeconomics as well as upper level theory courses in Microeconomics, Macroeconomics, Money Banking and Credit and International Economics. I have also taught courses and directed independent study projects in Mathematical Economics, Finance, Monetary Theory, and Investment Analysis.

CONSULTING EXPERIENCE

Consultation in economic and financial matters is conducted through the Economic and Financial Consulting Group, Inc., of which I am a principal. Over the past 37 years, I have developed extensive experience in personal injury and wrongful death lawsuits. I have been called on by defense as well as plaintiff attorneys in this regard and have been qualified as an expert witness in Federal, State and Local Courts in Arkansas and adjacent states.

Additional consulting expertise entails business and franchise evaluations. My qualifications also extend to statistical and econometric analysis, as well as financial analysis.

List of deposition and courtroom testimony, client list and professional references available upon request.

SEMINARS AND PUBLICATIONS

Evaluation of Damages in Personal Injury Lawsuits, presented in conjunction with the Professional Education Systems, Inc.'s seminar and subsequent publication: *How to Evaluate and Settle Personal Injury Claims in Arkansas, November 1989*.

The Role of the Economist in Personal Injury Lawsuits, seminar presented to the Pulaski County Bar Association, Little Rock, Arkansas, October 1989.

Presentation to CLE seminar on recent developments in the evaluation of economic loss in personal injury lawsuits. Little Rock, Arkansas, April 1999.

SJR8 Some Economic Implications (*Arkansas Lawyer* – Summer 2017)

PERSONAL

Married to Robin M. Scott and father of Ralph D. Scott, III and Kathryn Elise Scott.

ECONOMIC AND FINANCIAL CONSULTING GROUP, INC.

[redacted]

February 20, 2023

Mr. Jim Jackson
Attorney at Law
Jackson Law Firm
700 West Broadway Street, Suite 2
North Little Rock, AR 72114-5528

RE: **Estate of Jacqueline Lynn Ashraft**

STATEMENT

Economic Consultation: 3.5 hours @ $300	$1,050.00

Federal ID# [redacted]

Estimated Expenses

Estimated Necessary Expenses for an Academic Year

Estimates of necessary expenses listed below are for the 2022-23 academic year for a typical undergraduate student taking 30 credit hours per academic year at the University of Arkansas.

Name	Undergraduate Resident	Undergraduate Non-Resident
Tuition*	$7,666.00	$25,420.00
University Fees**	$1,990.00	$1,990.00
Books	$1,100.00	$1,100.00
Personal Expenses	$2,938.00	$2,938.00
Transportation	$2,238.00	$2,238.00
Room***	$7,968.00	$7,968.00
Board***	$4,400.00	$4,400.00
TOTAL****	$28,300.00	$46,054.00

* The standard undergraduate in-state tuition rate is $255.51 per credit hour. Students enrolled in College of Business courses are charged $339.83 per credit hour in-state tuition. Students in the School of Architecture and Design are charged $287.45 per credit hour in-state tuition. Students enrolled in College of Engineering courses are charged $302.40 per credit hour in-state tuition. Nursing students are charged $302.04 per credit hour in-state tuition.

** University fees per year include the following student-initiated and student-approved fees:

- Student Activity fee calculated at $2.78/credit hour — $83.40
- Student Health fee, calculated at $7.47/credit hour — $230.70
- Media fee, calculated at $0.90/credit hour — $27.00
- Transit fee, calculated at $3.15/credit hour — $101.40
- Network Infrastructure and Data Systems fee at $11.10/credit hour — $333.00
- Facilities Fee, calculated at $20.35/credit hour — $655.50
- College of Arts and Sciences Fee at $14.41/credit hour — $432.30
- Library Fee, calculated at $3.41/credit hour — $124.80

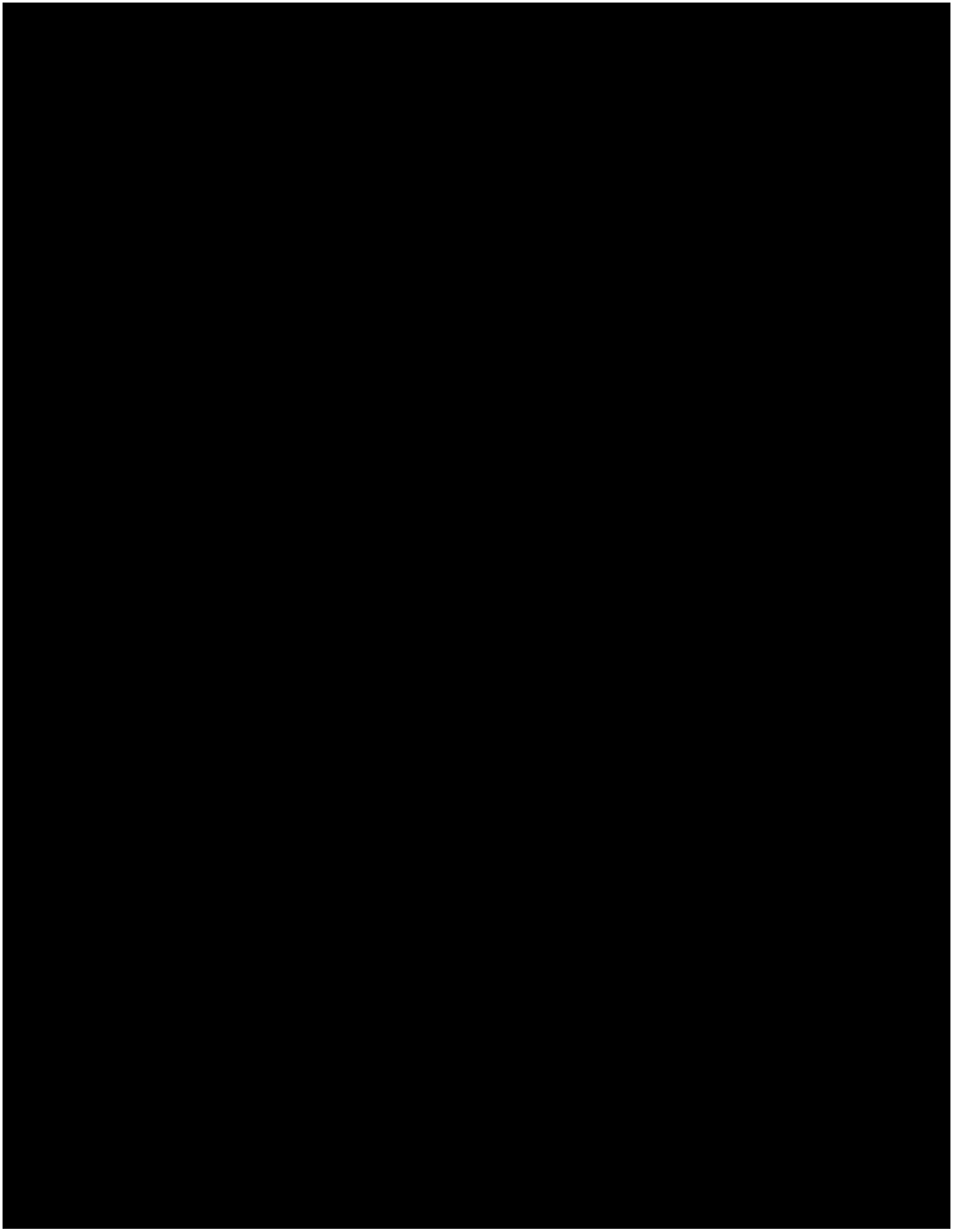
*** Weighted average expenses for living in a residence hall, double occupancy, with an unlimited meal plan. Actual room and board fees vary.

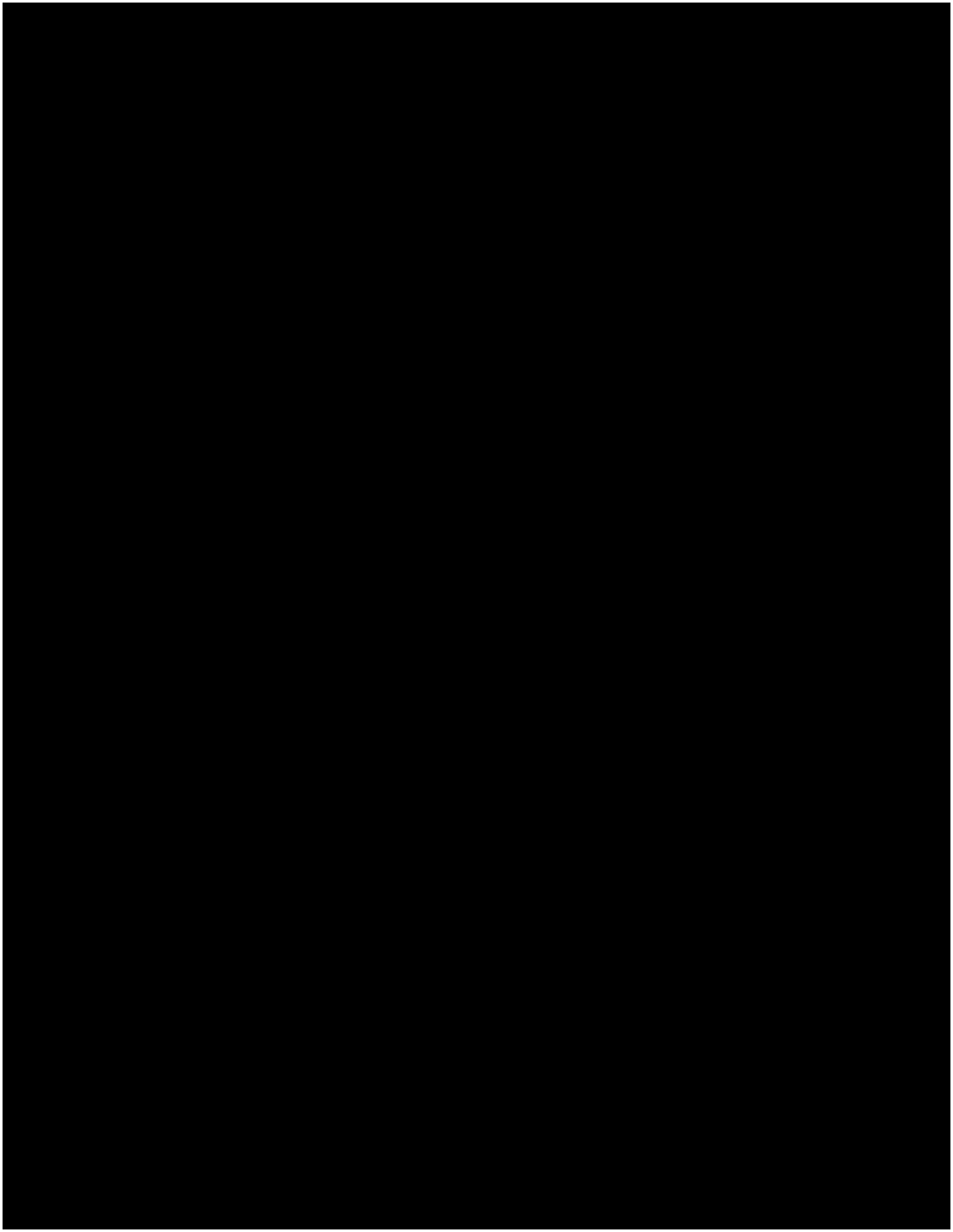
**** Budget amounts were adjusted for rounding to accommodate UAConnect budgetary rules.

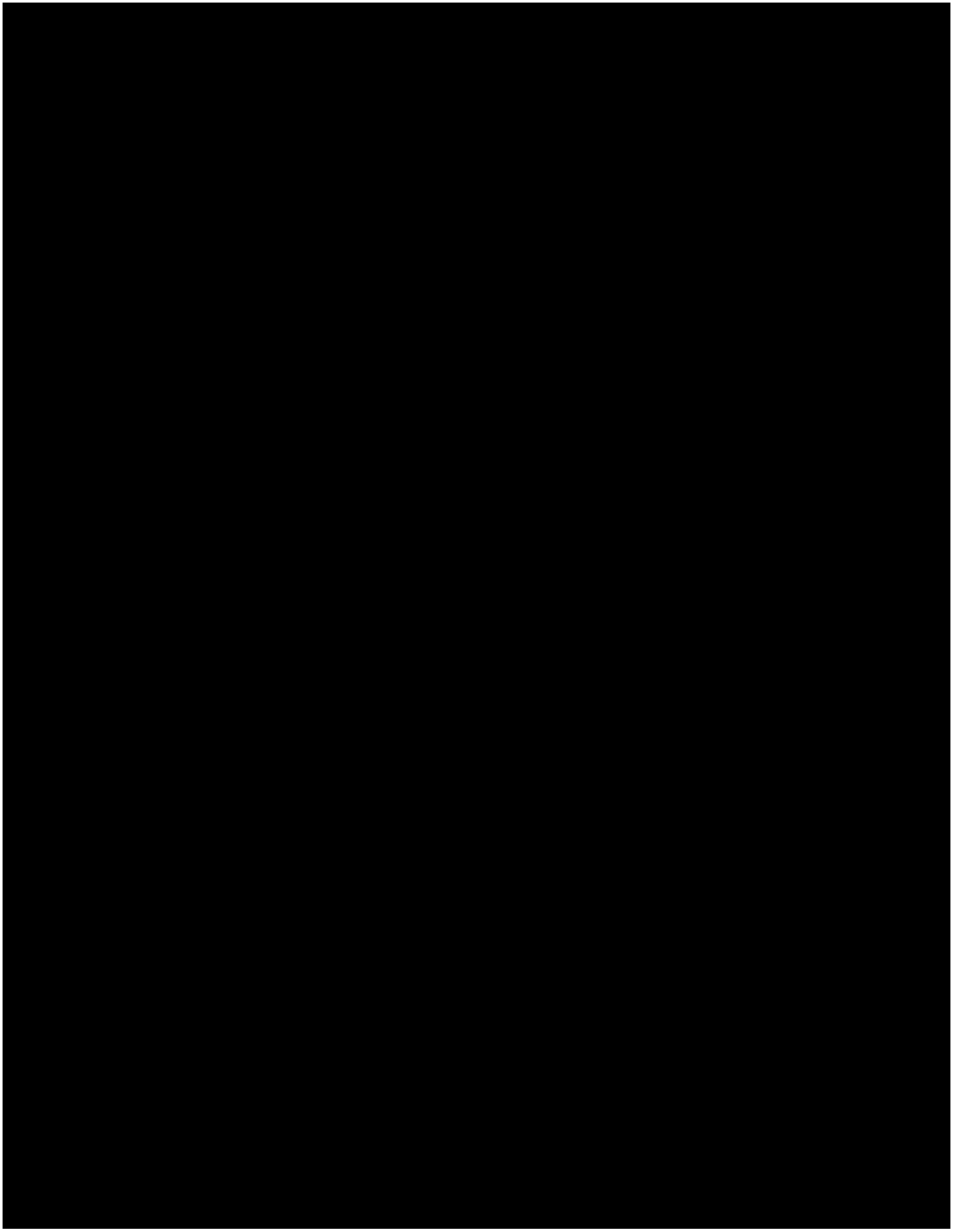
When paying tuition, room and board, and associated fees, anticipated financial aid for a current semester may be deducted when it is listed as anticipated aid on the student's account. Students receiving financial aid are strongly encouraged to have sufficient personal funds available to purchase books and to meet necessary expenses for at least one month at the start of school as some aid funds may not be available for disbursement.

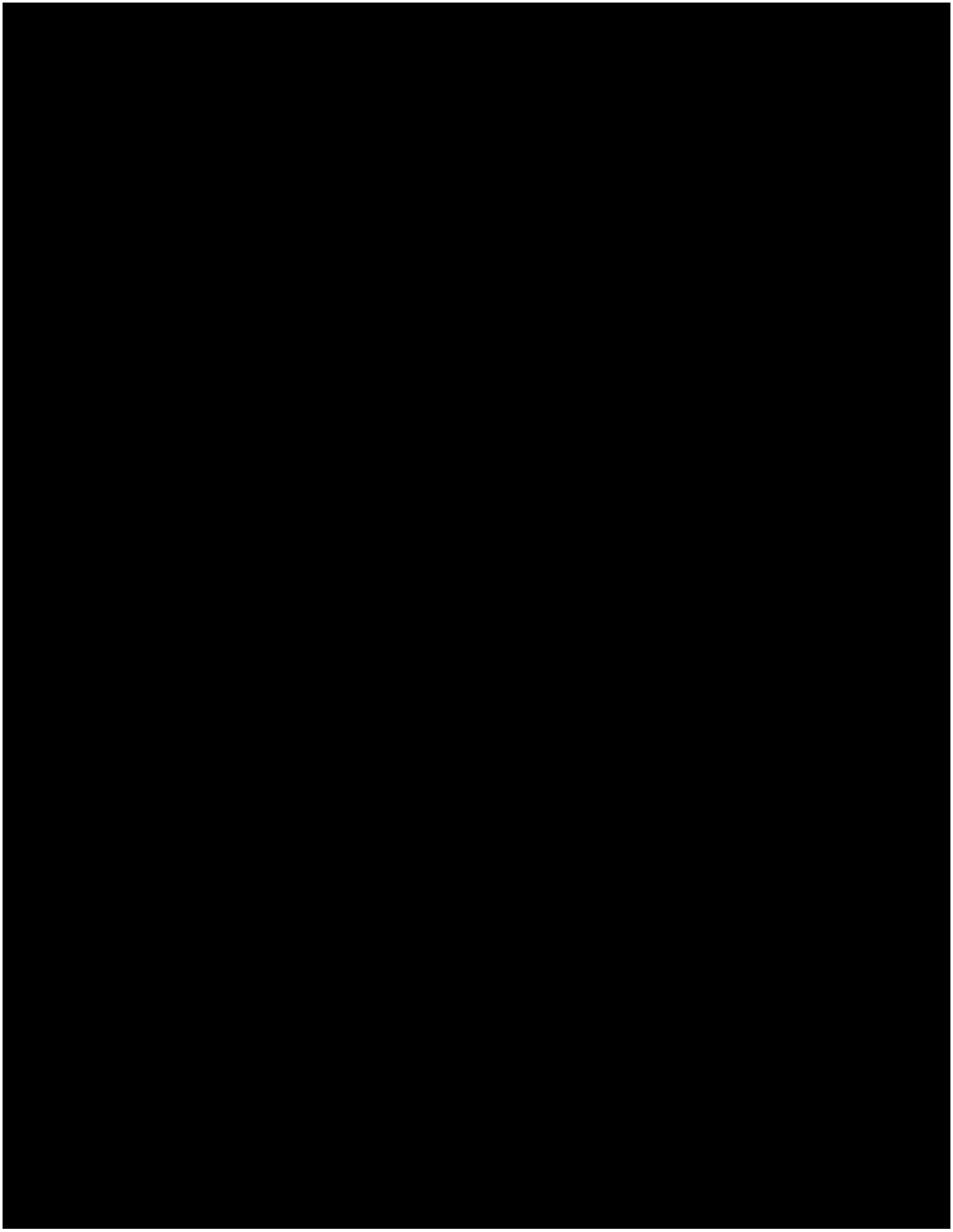
The latest information regarding costs and other aspects of university life may be obtained by calling or writing the Office of Admissions, 200 Hunt Hall, University of Arkansas, Fayetteville, AR 72701. In Arkansas call 1-800-377-8632; from outside of Arkansas call 479-575-5346.

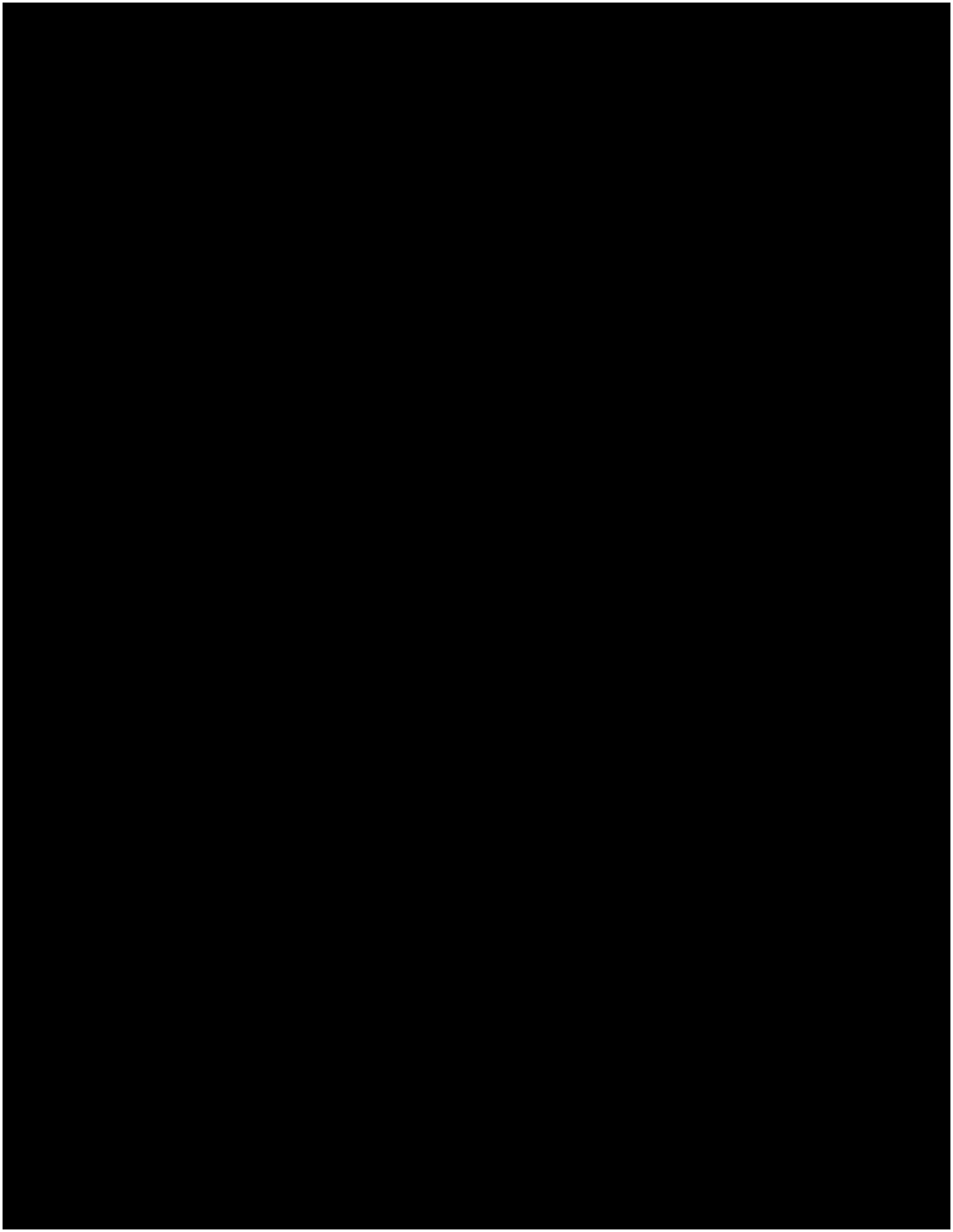
EXHIBIT 11

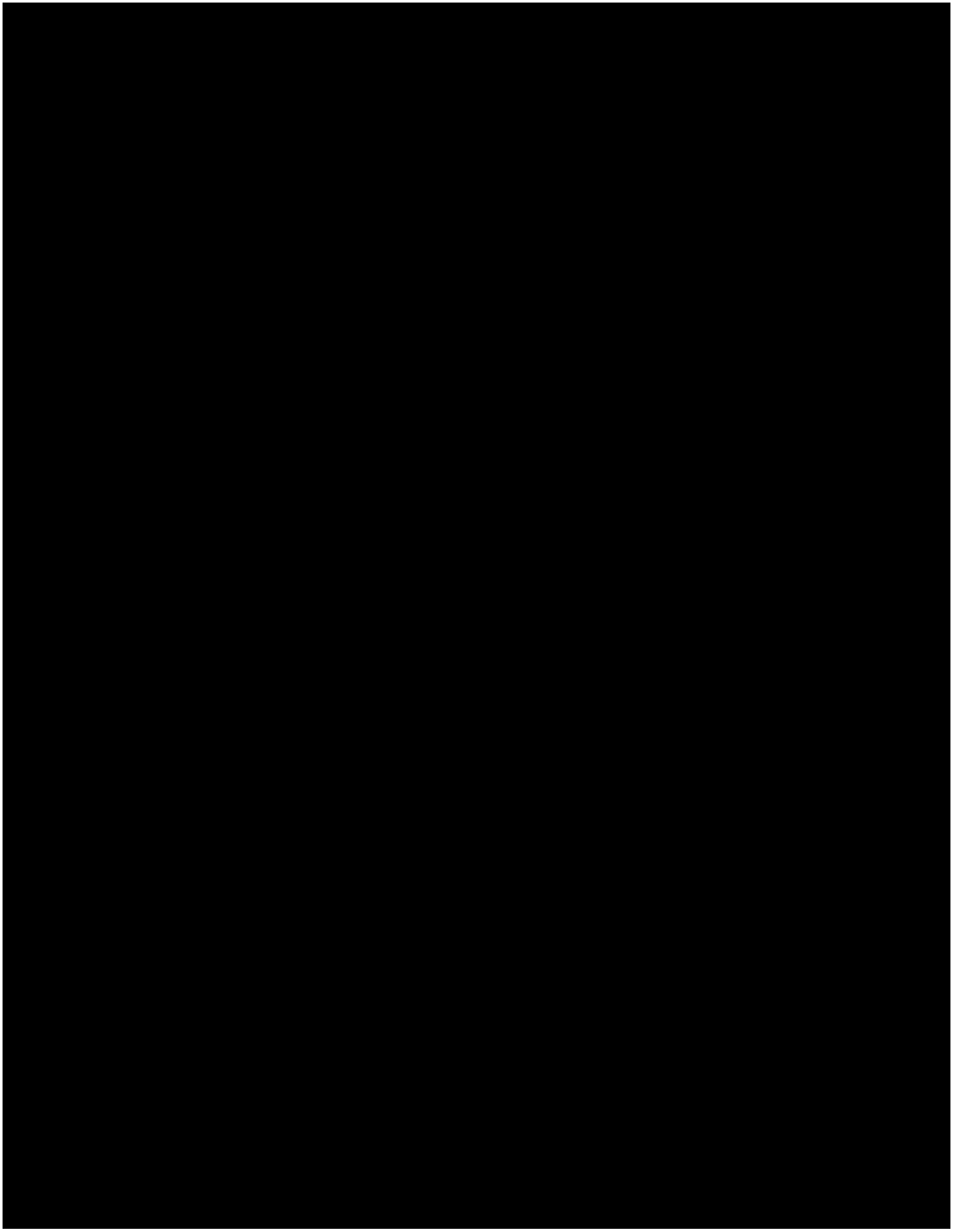


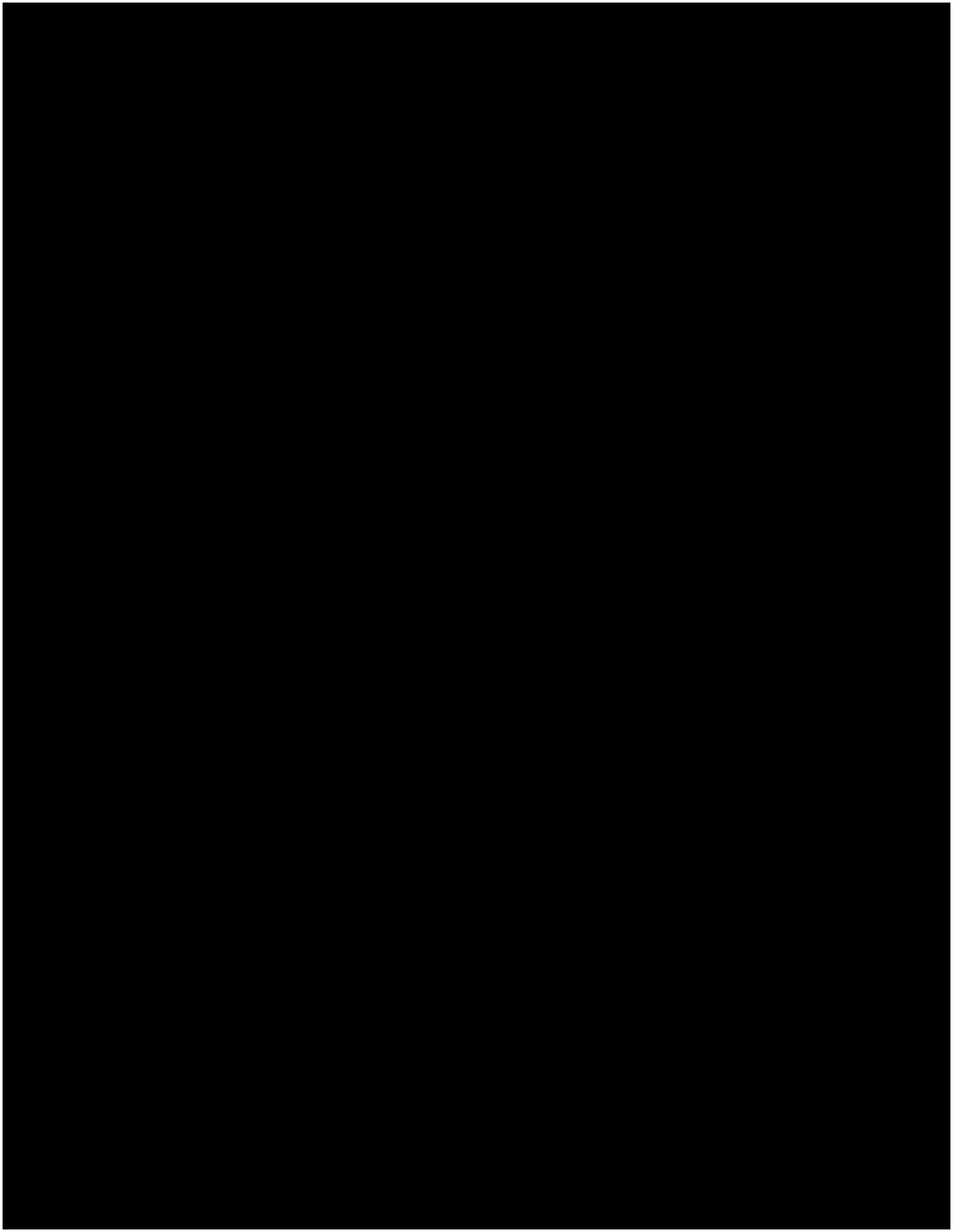


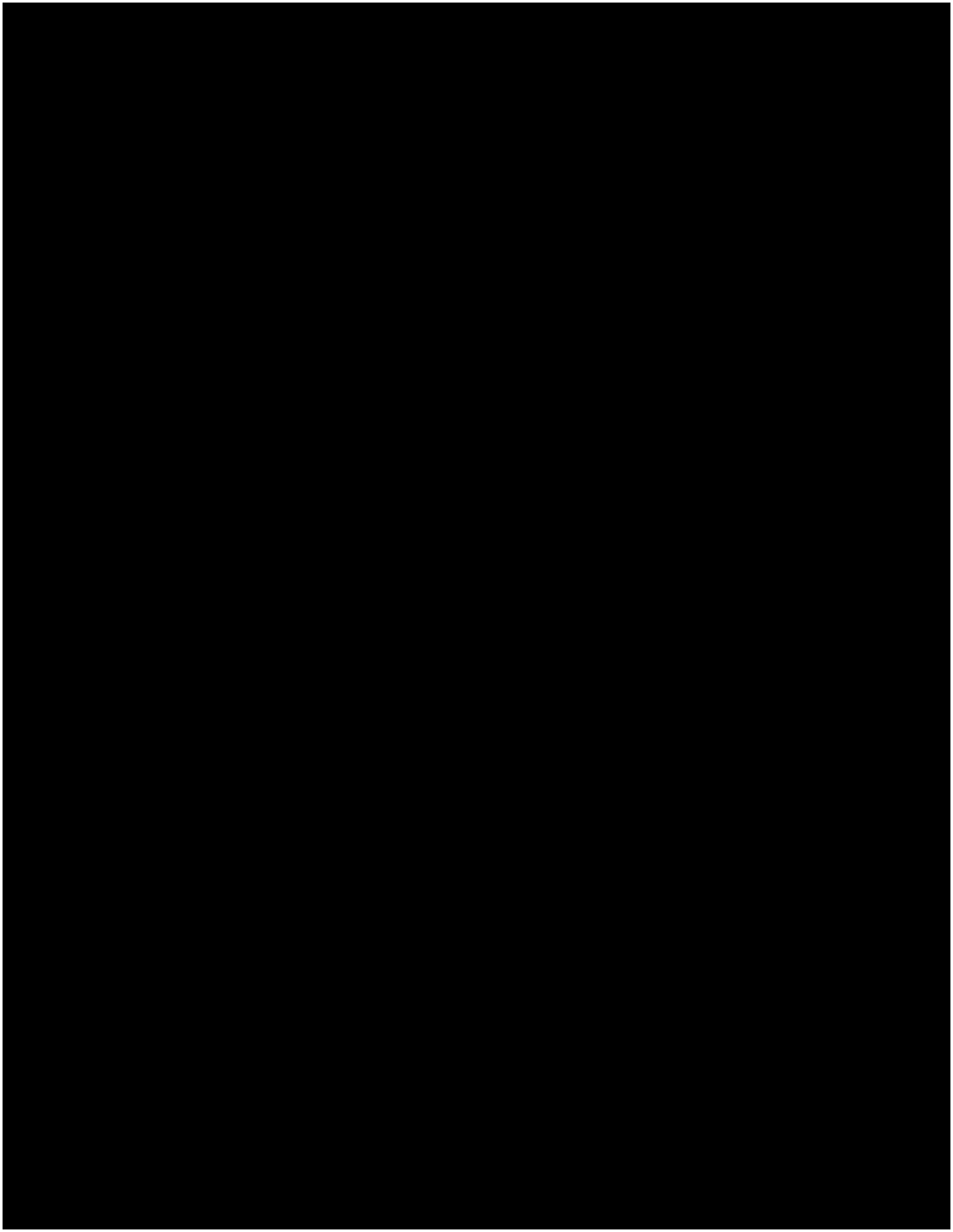


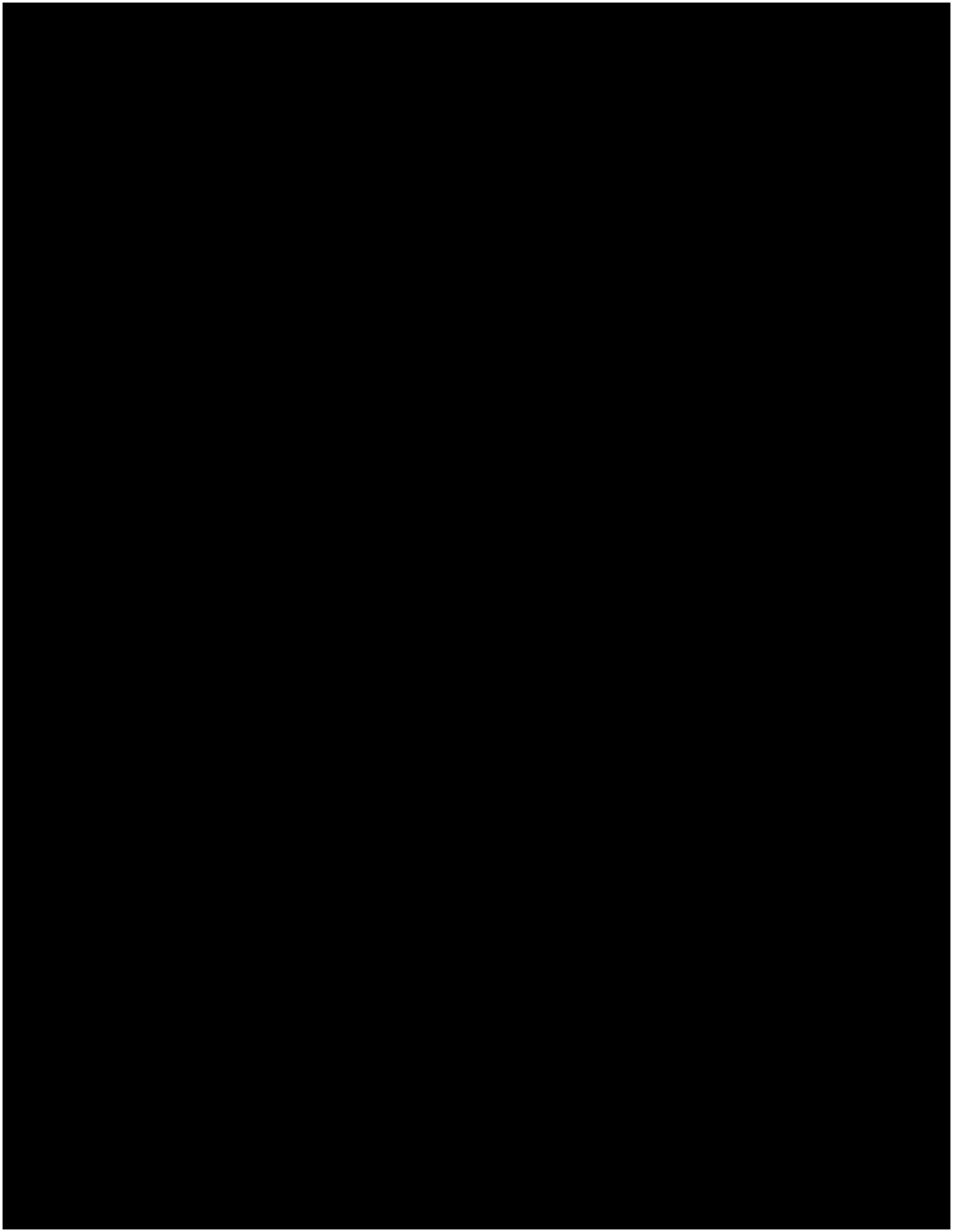


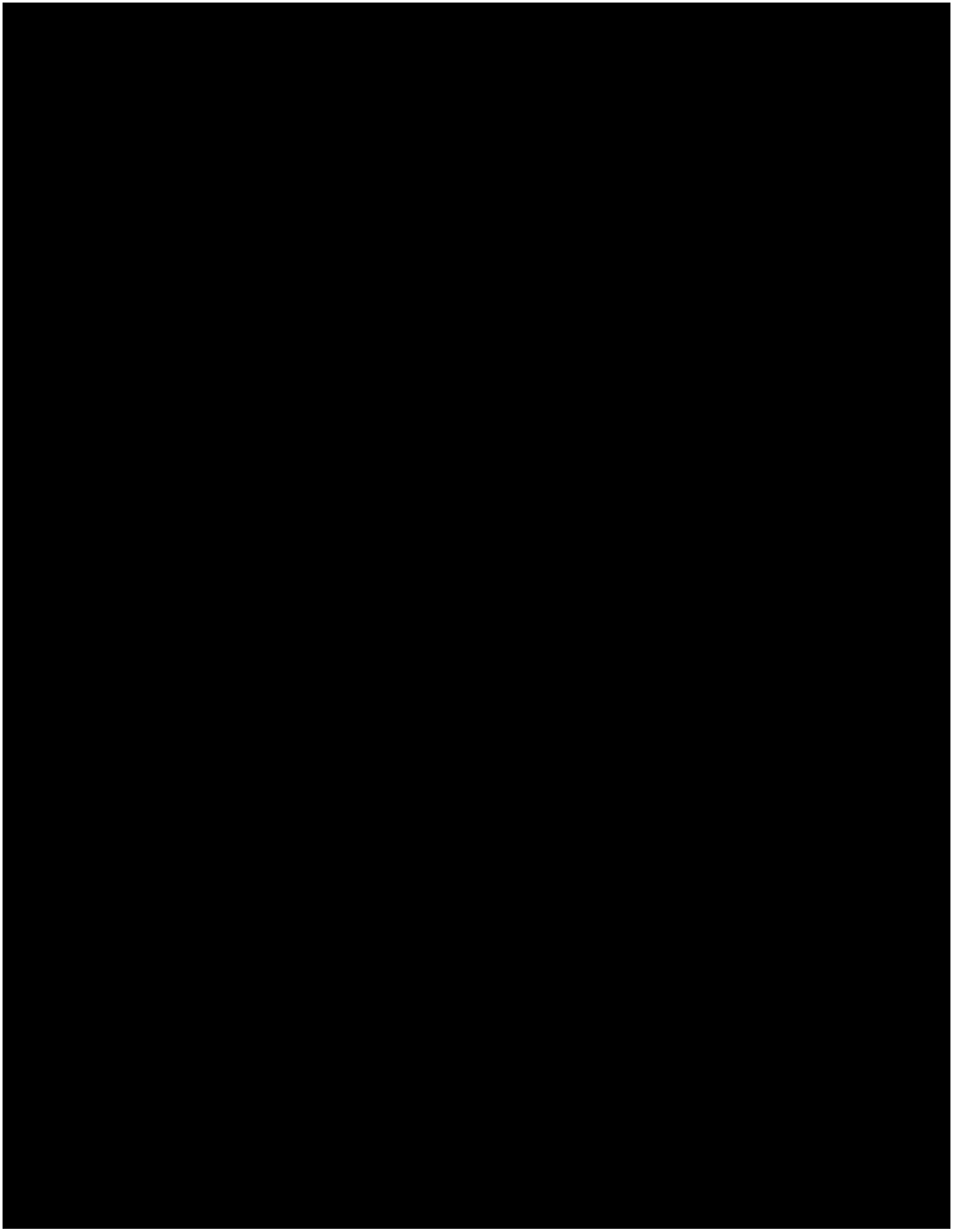


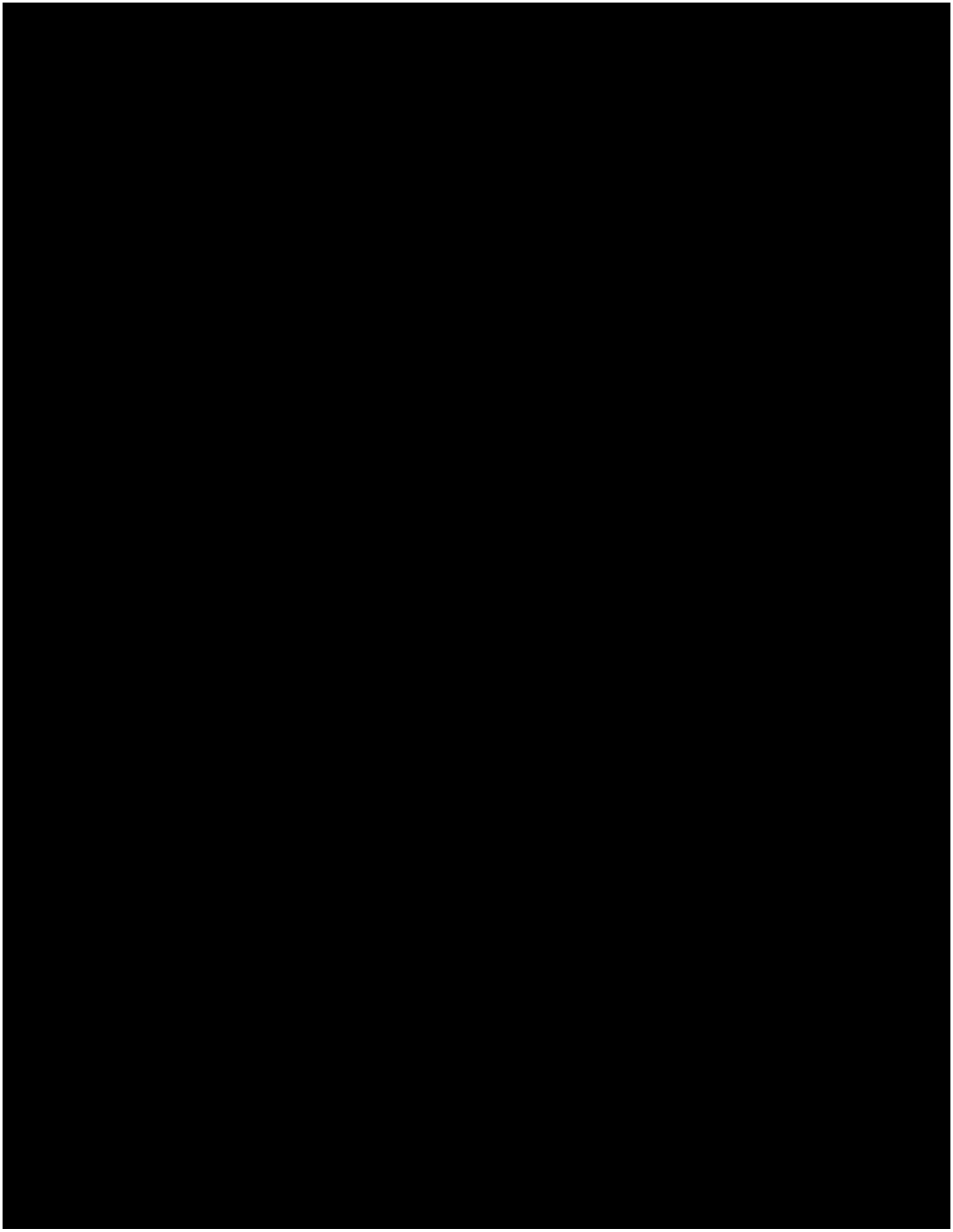


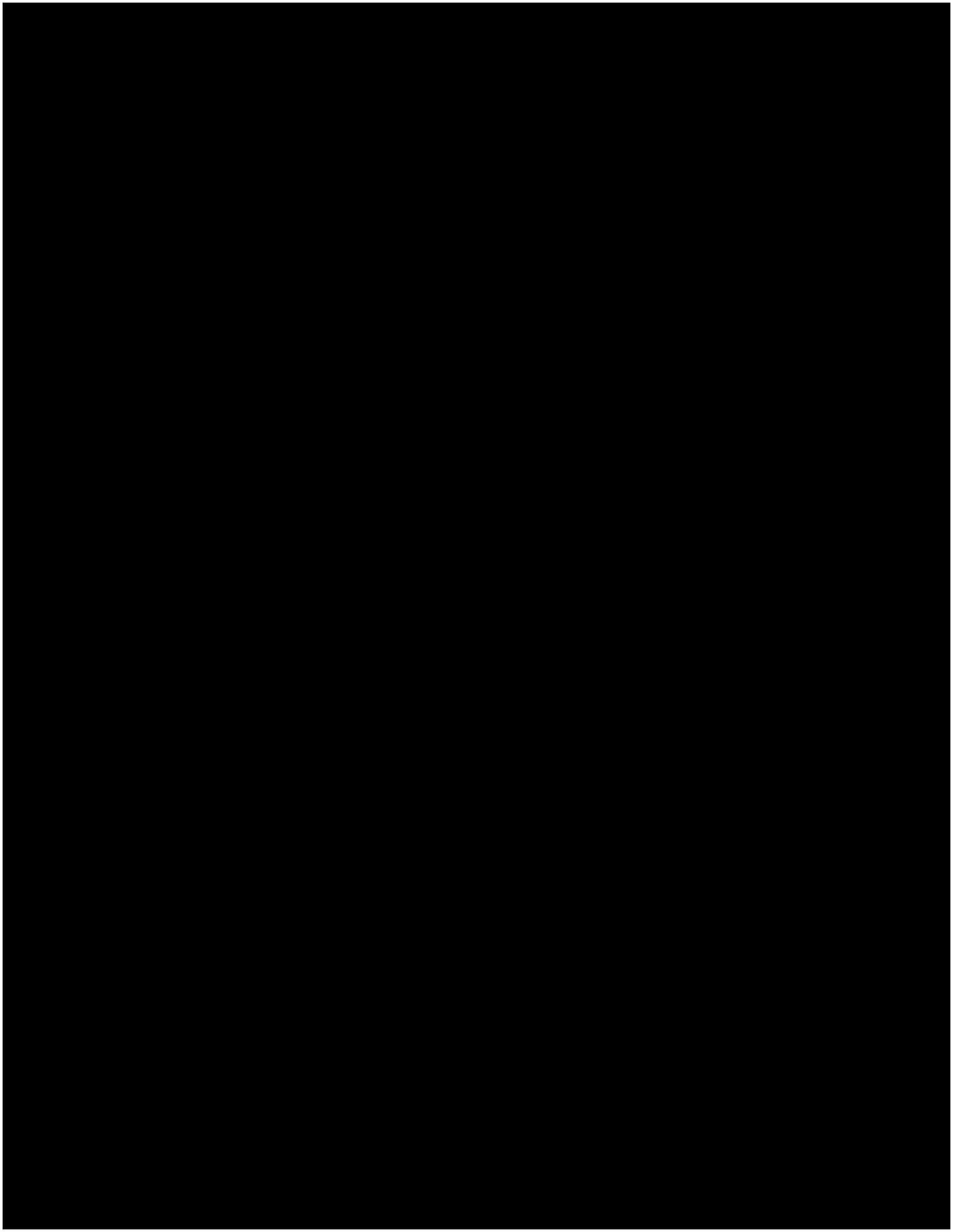


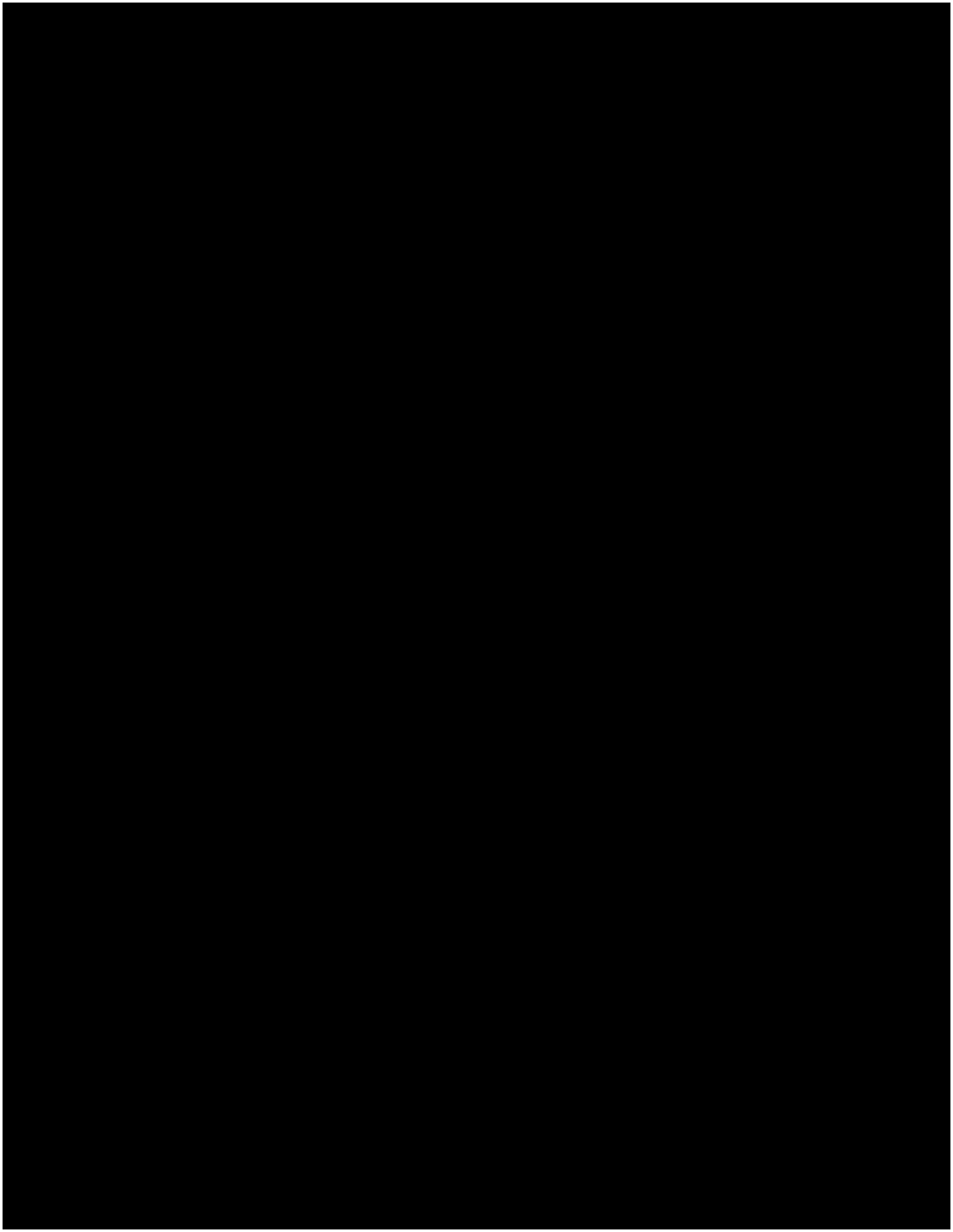


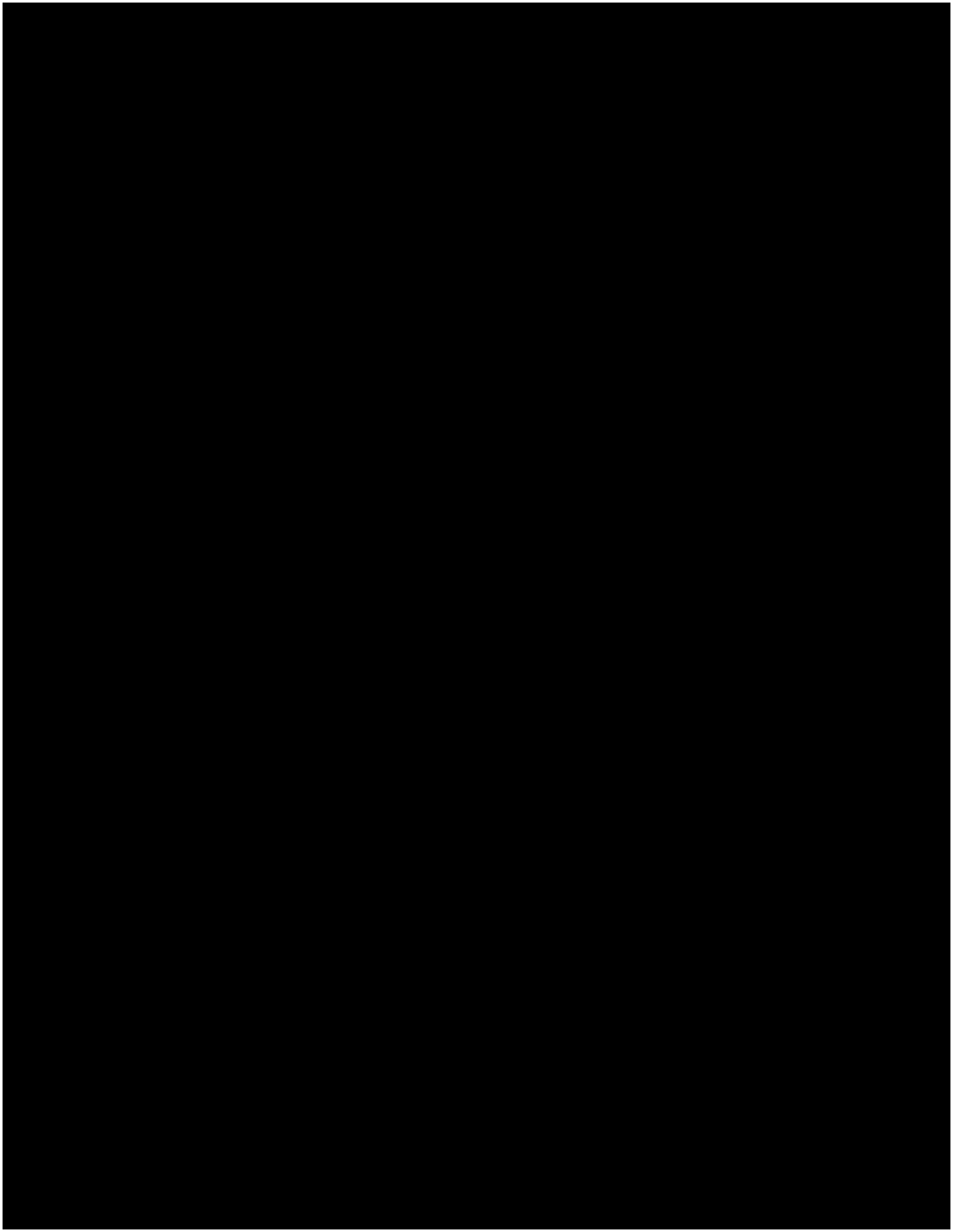


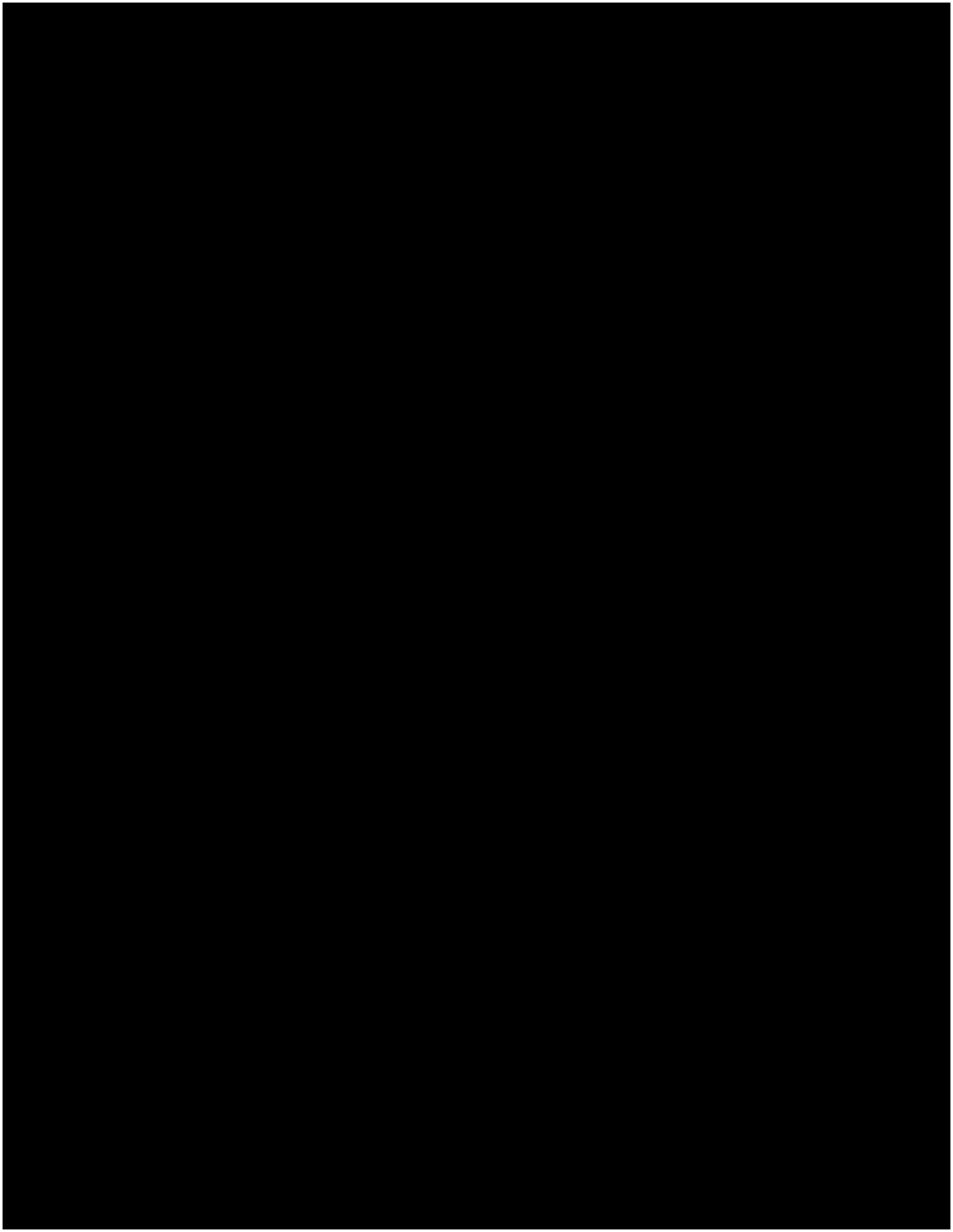


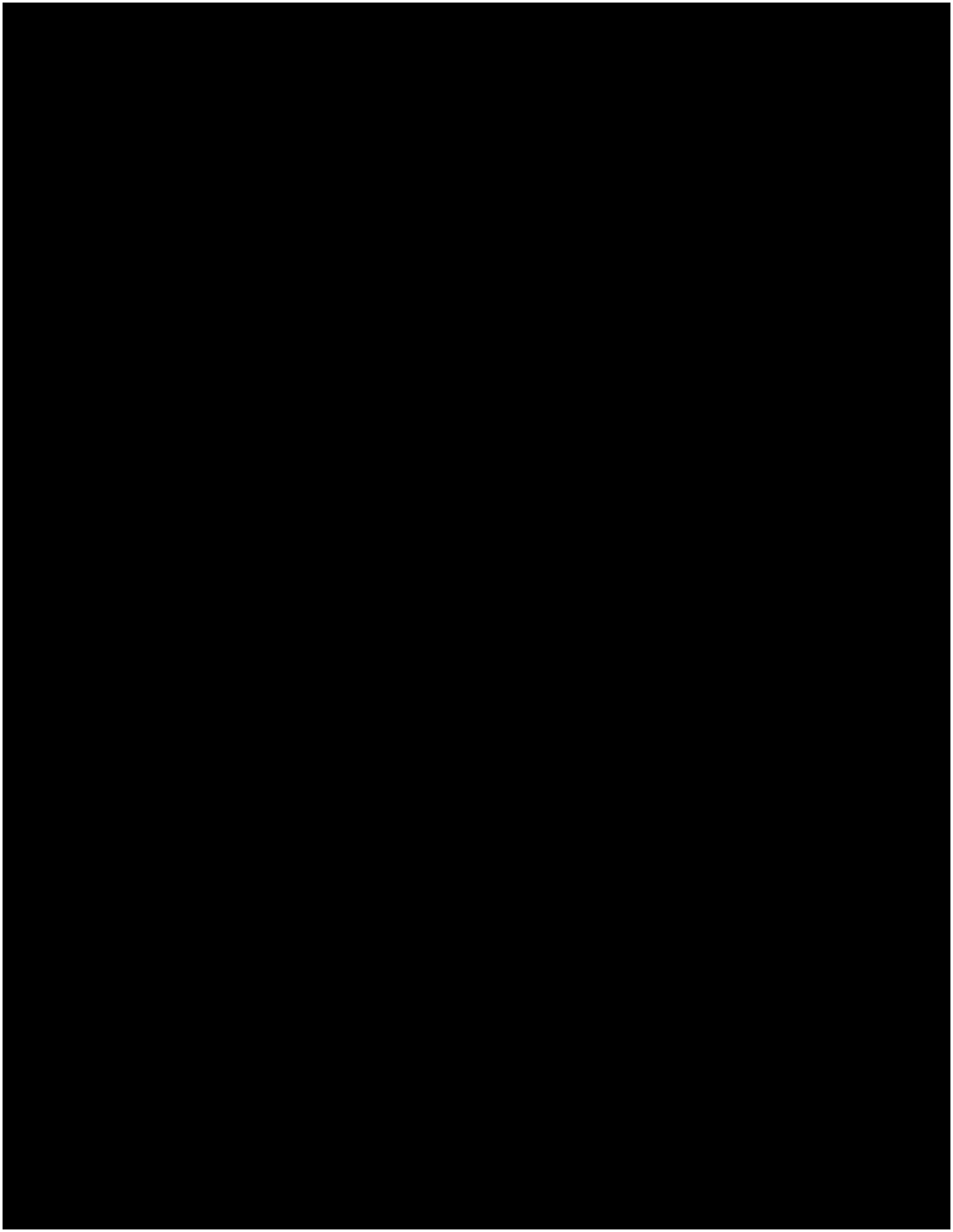


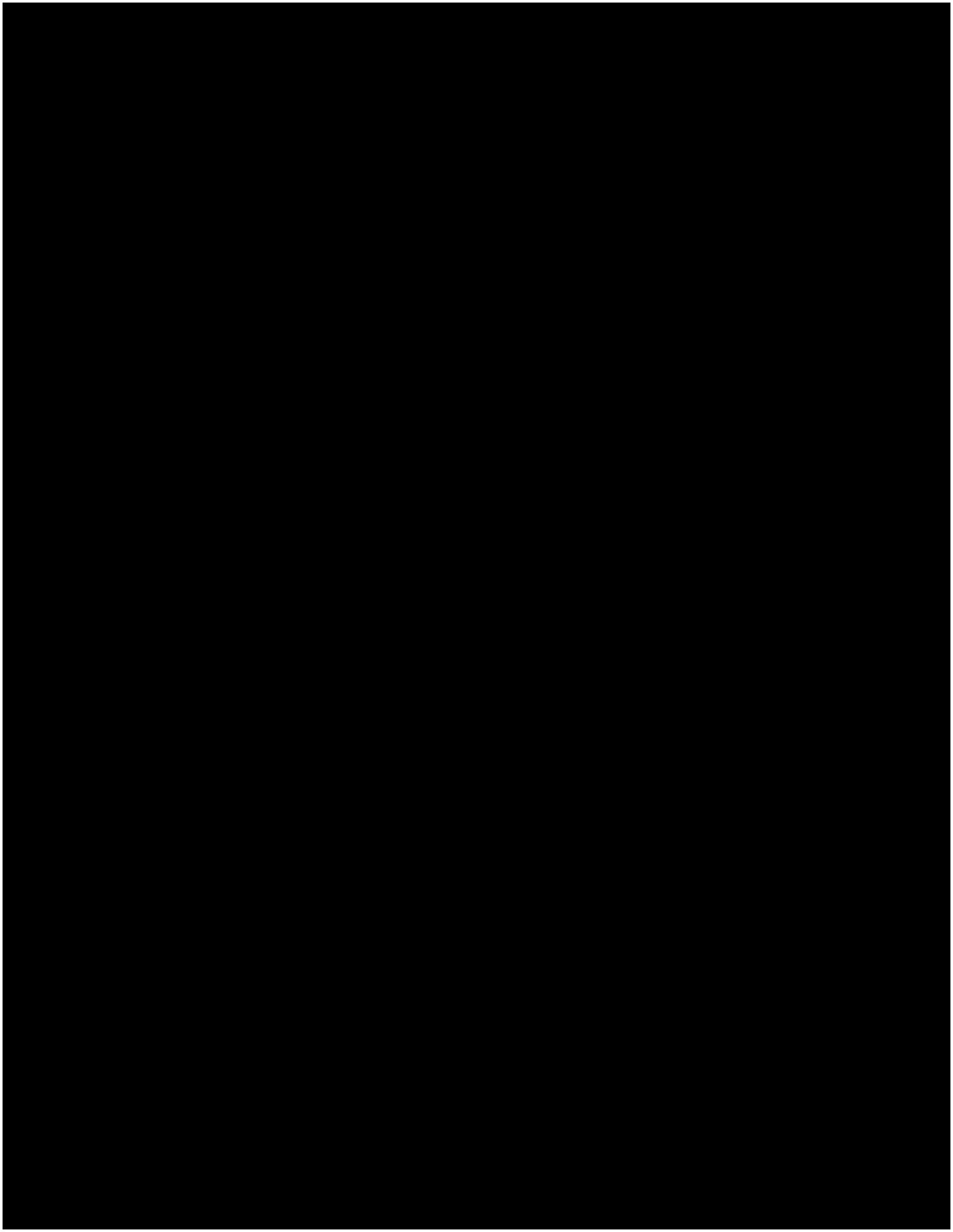


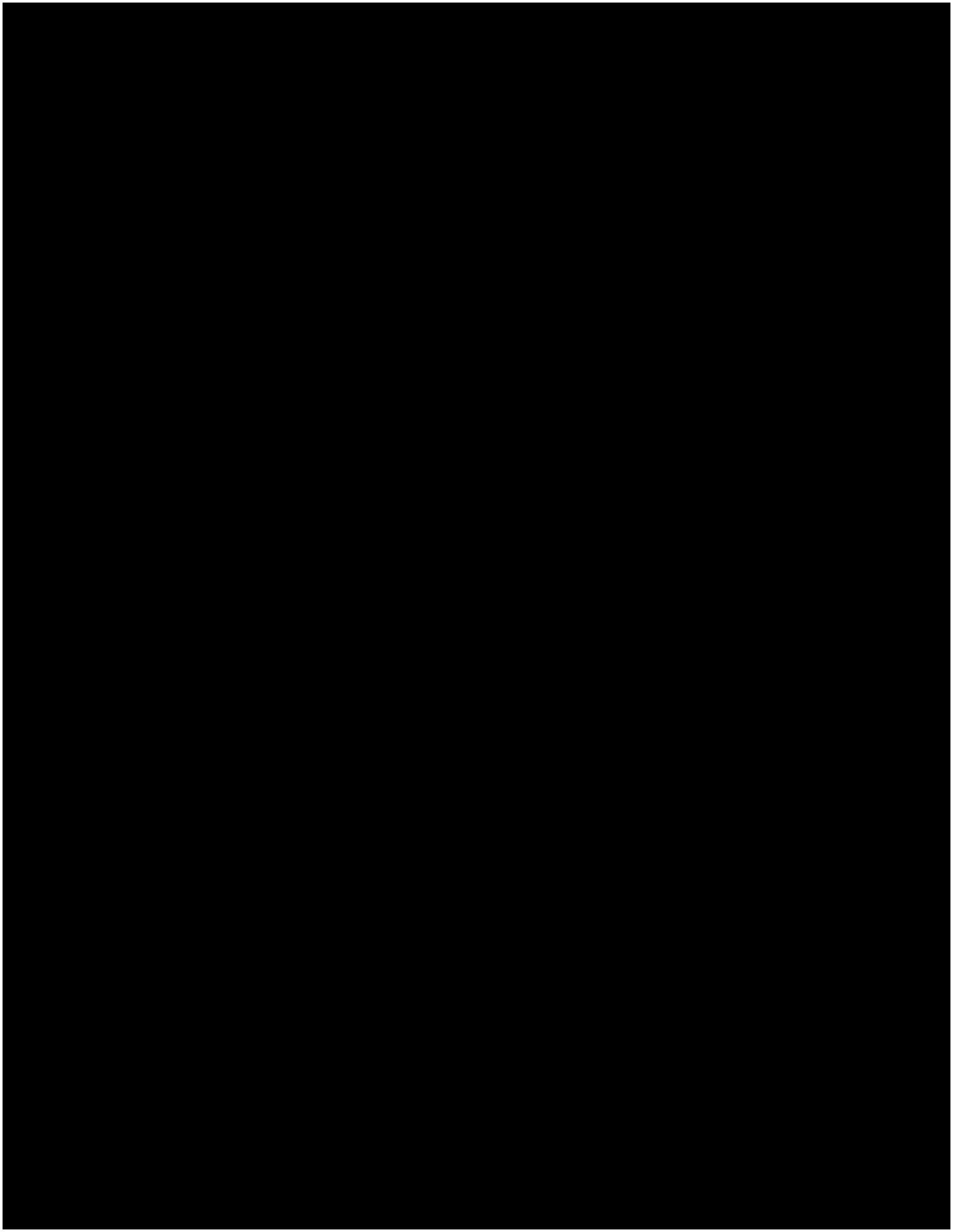


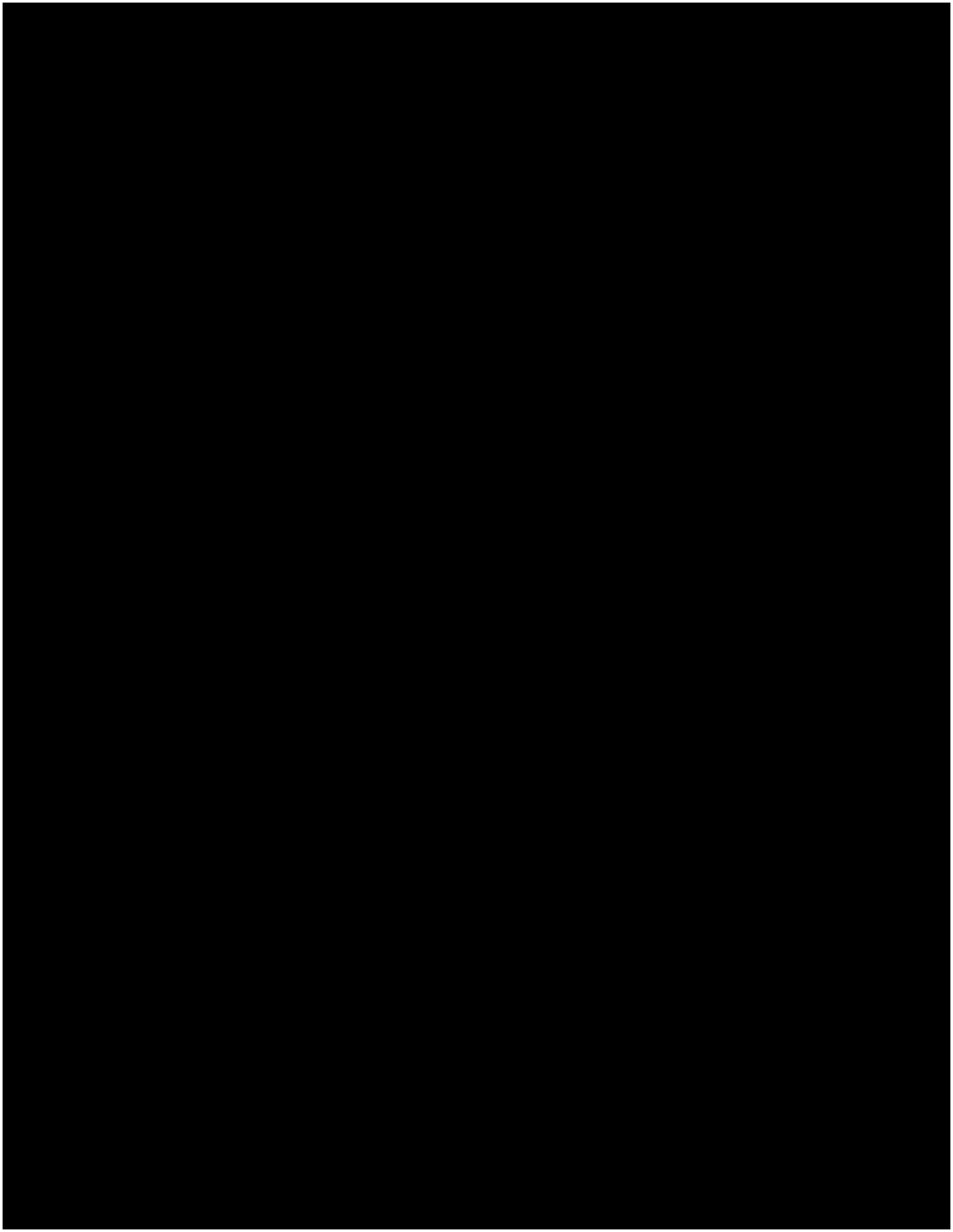


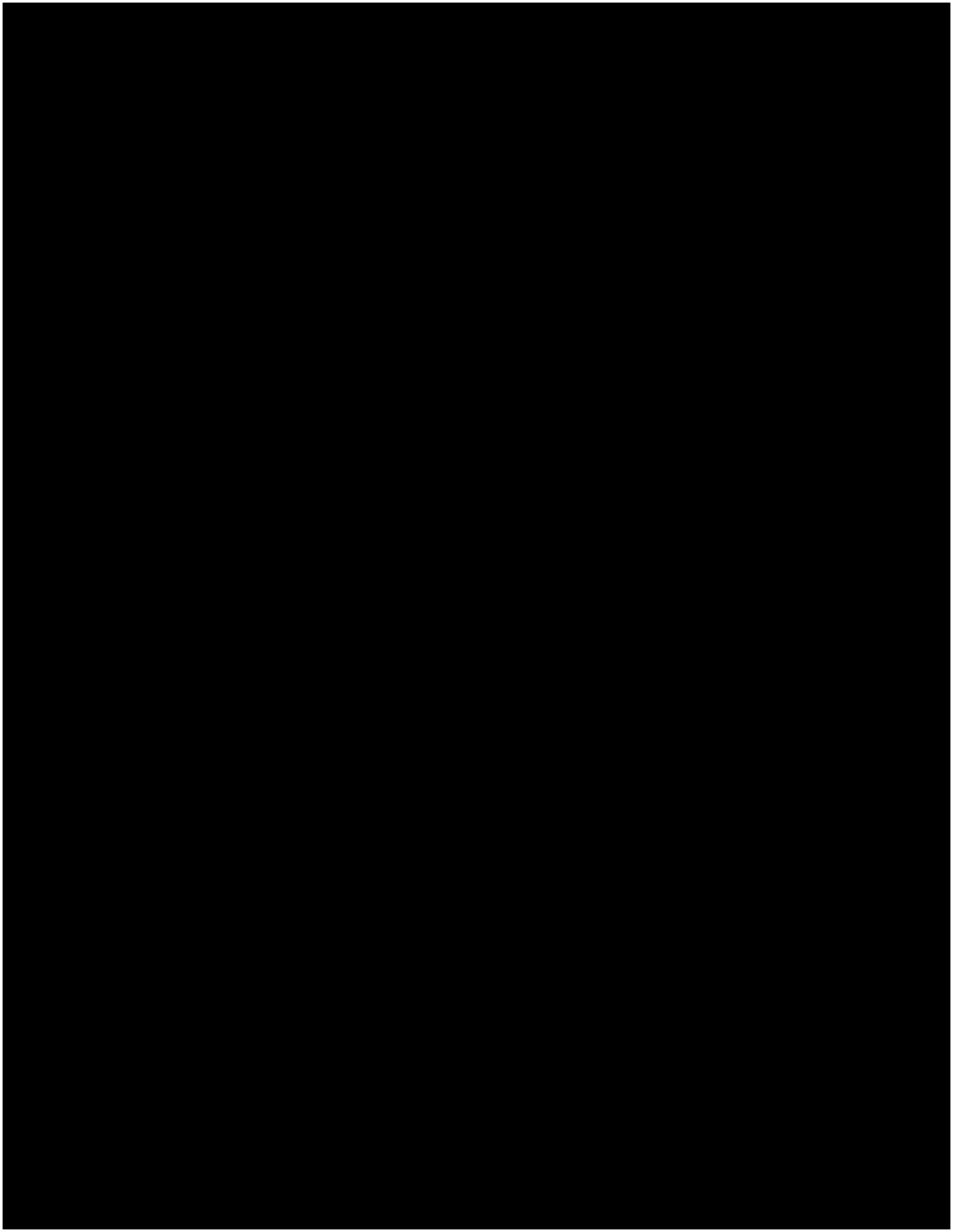


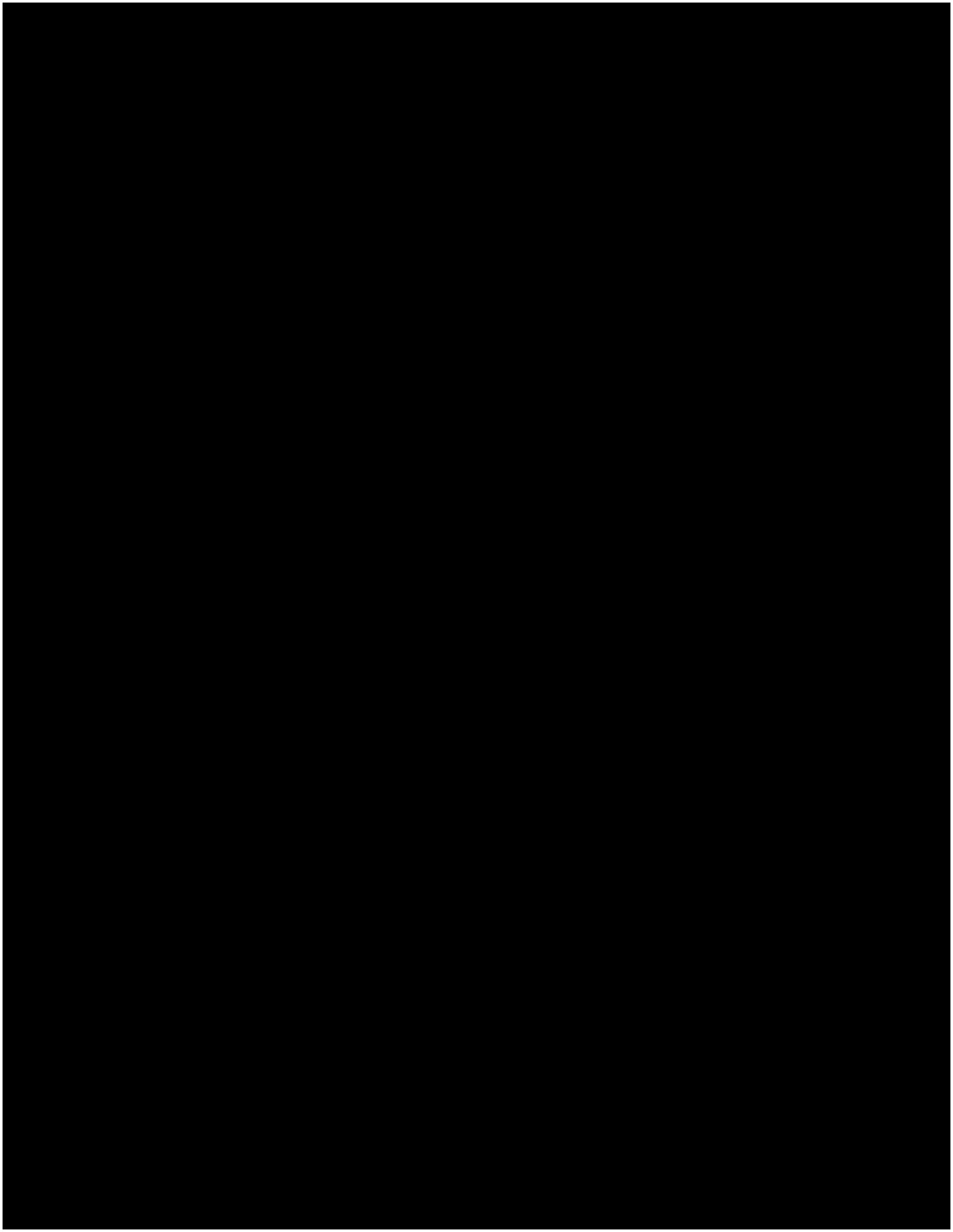


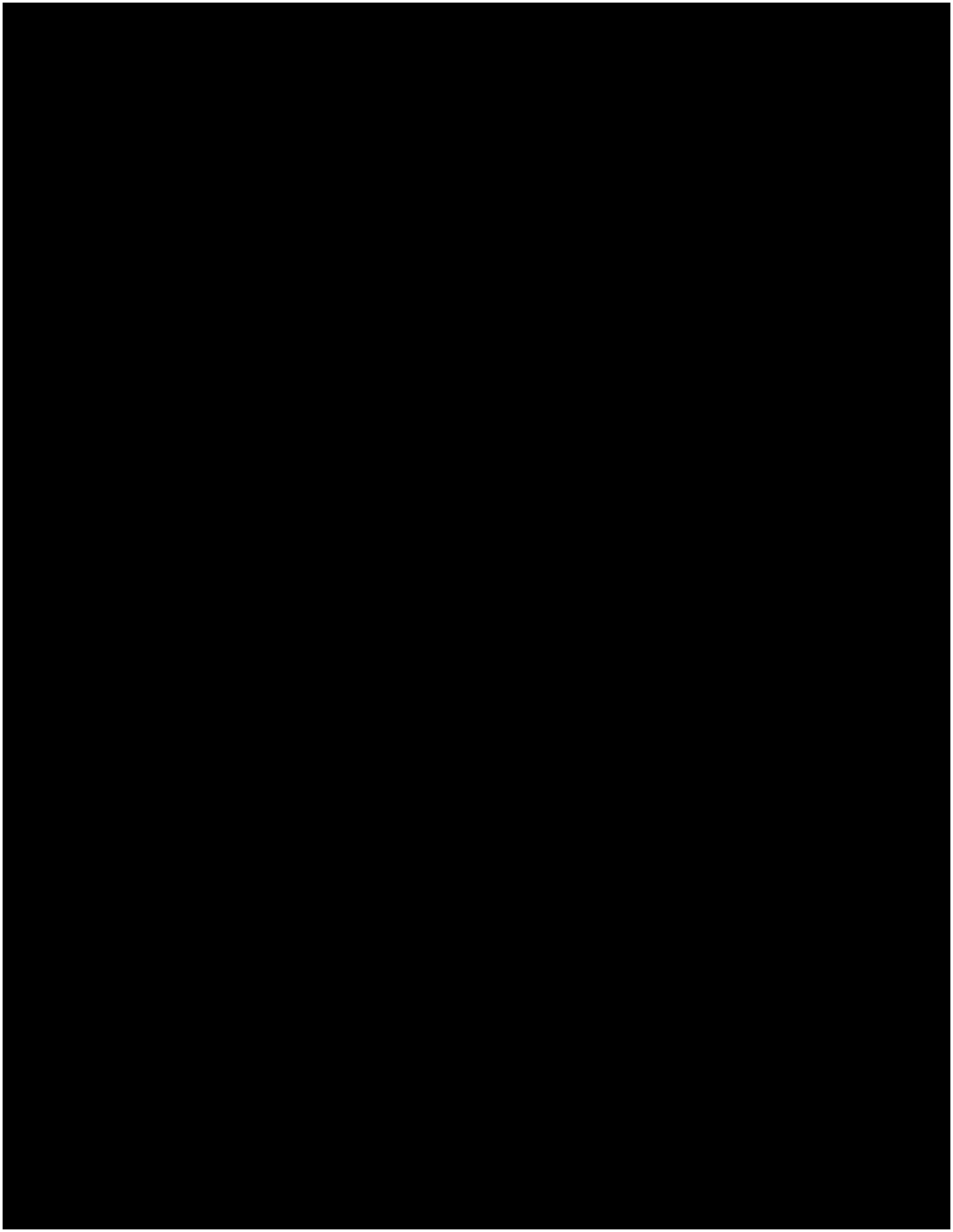


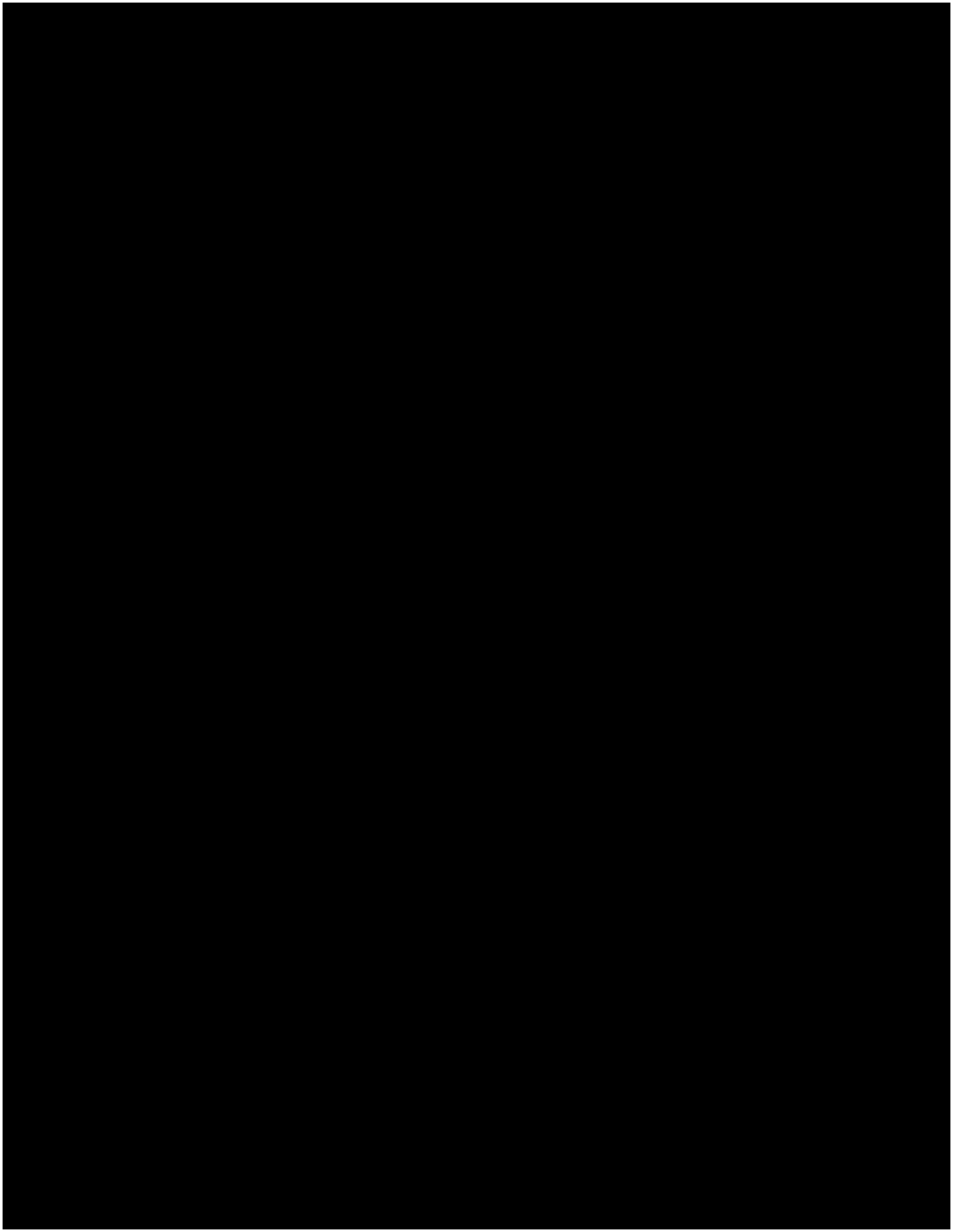


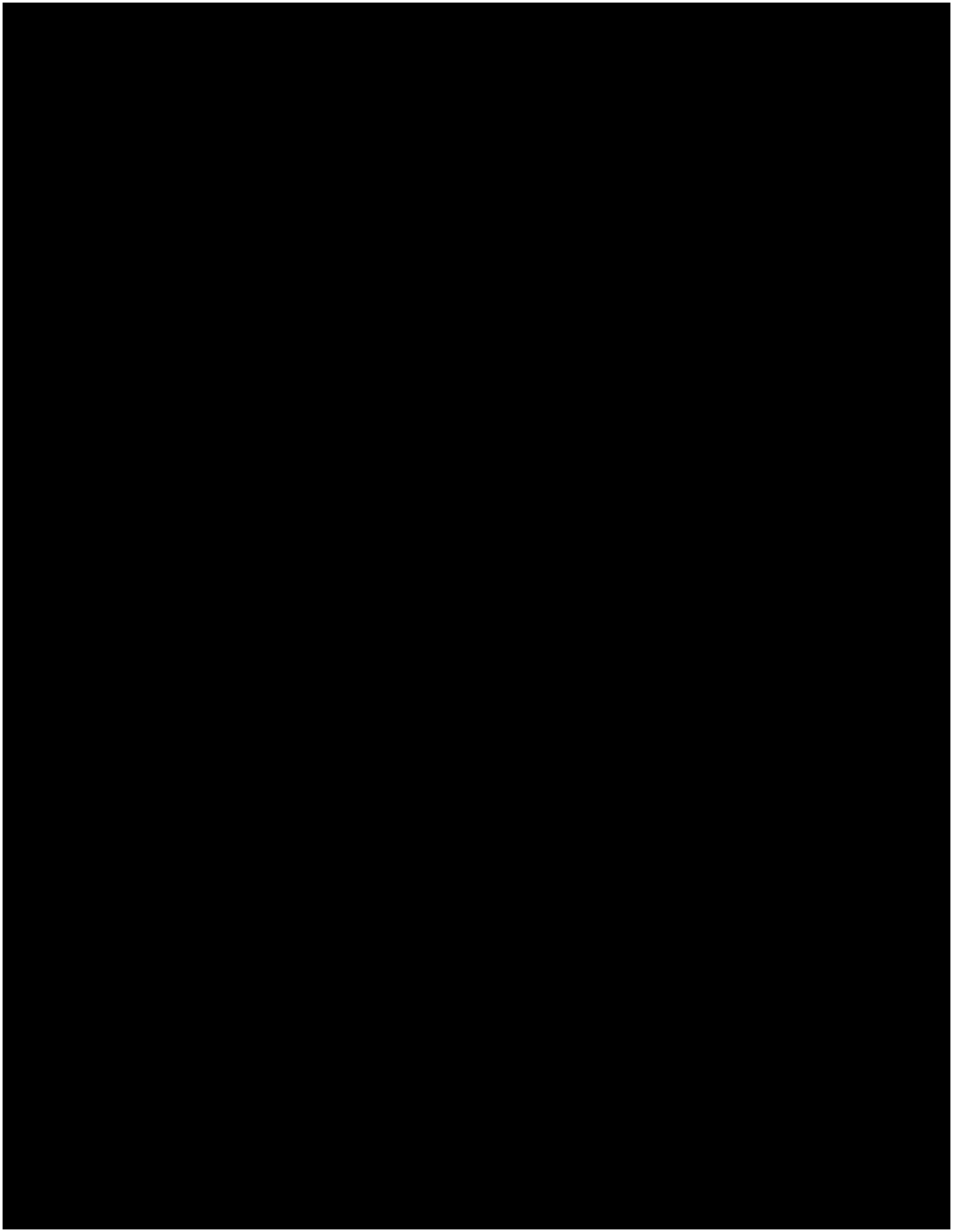


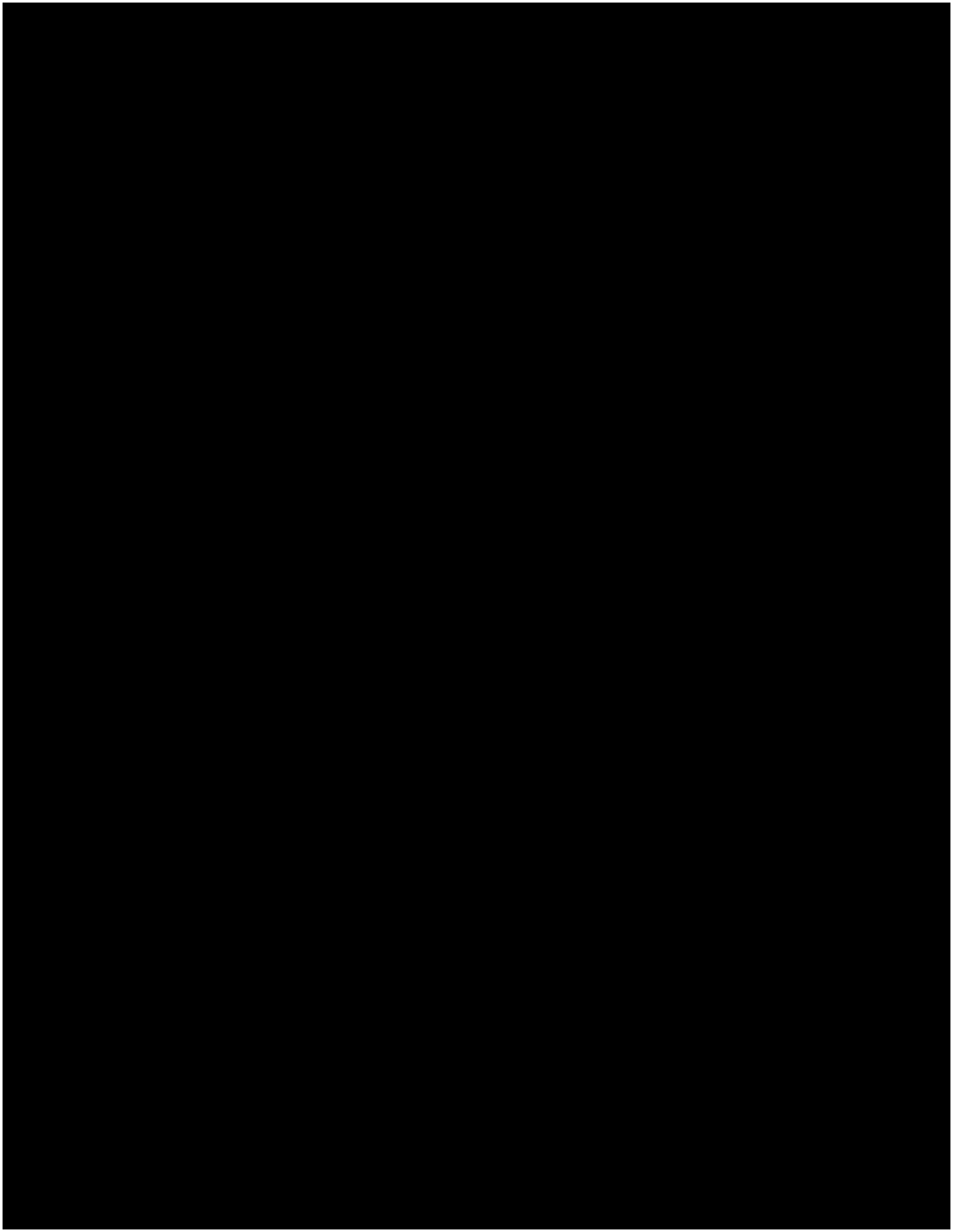


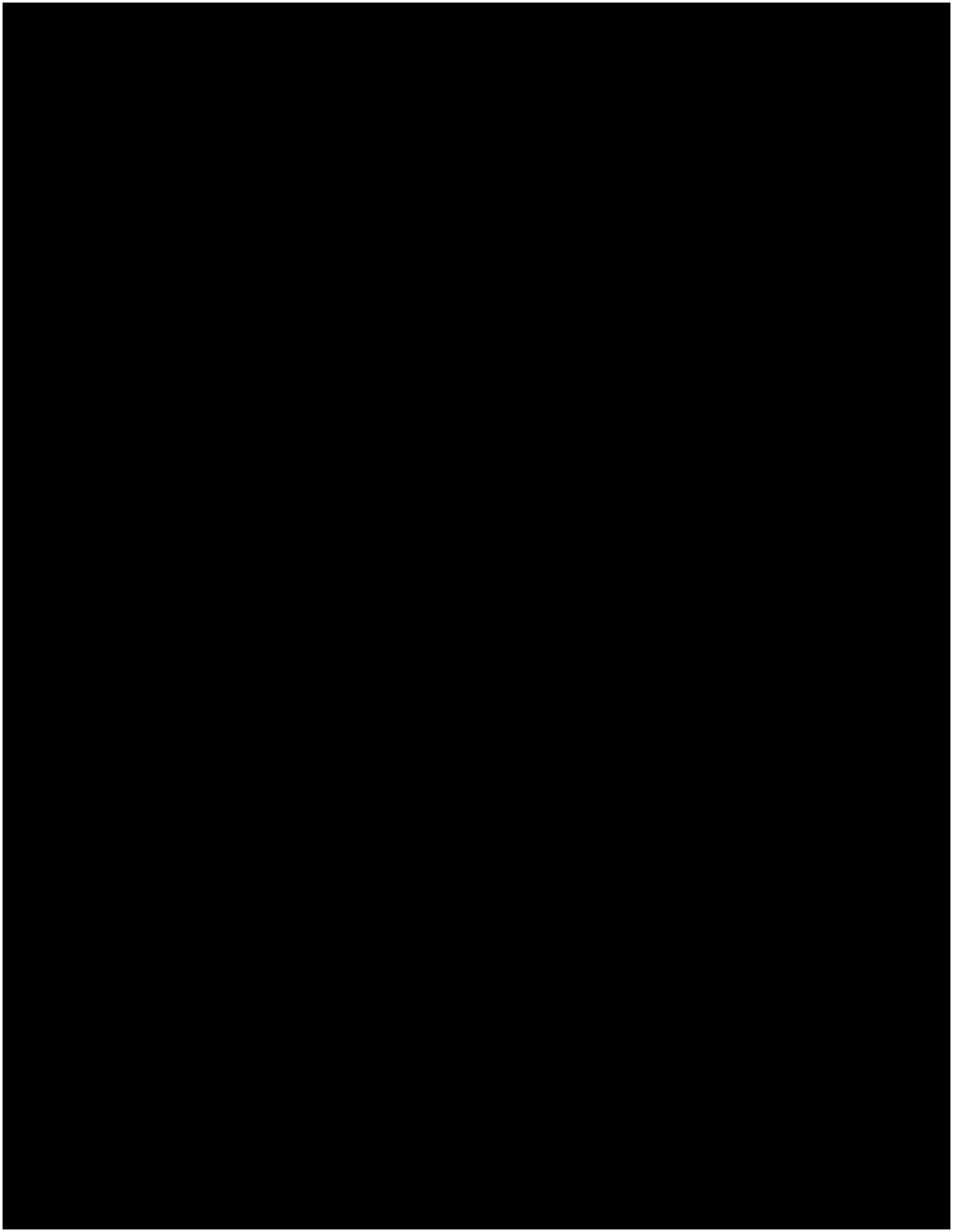


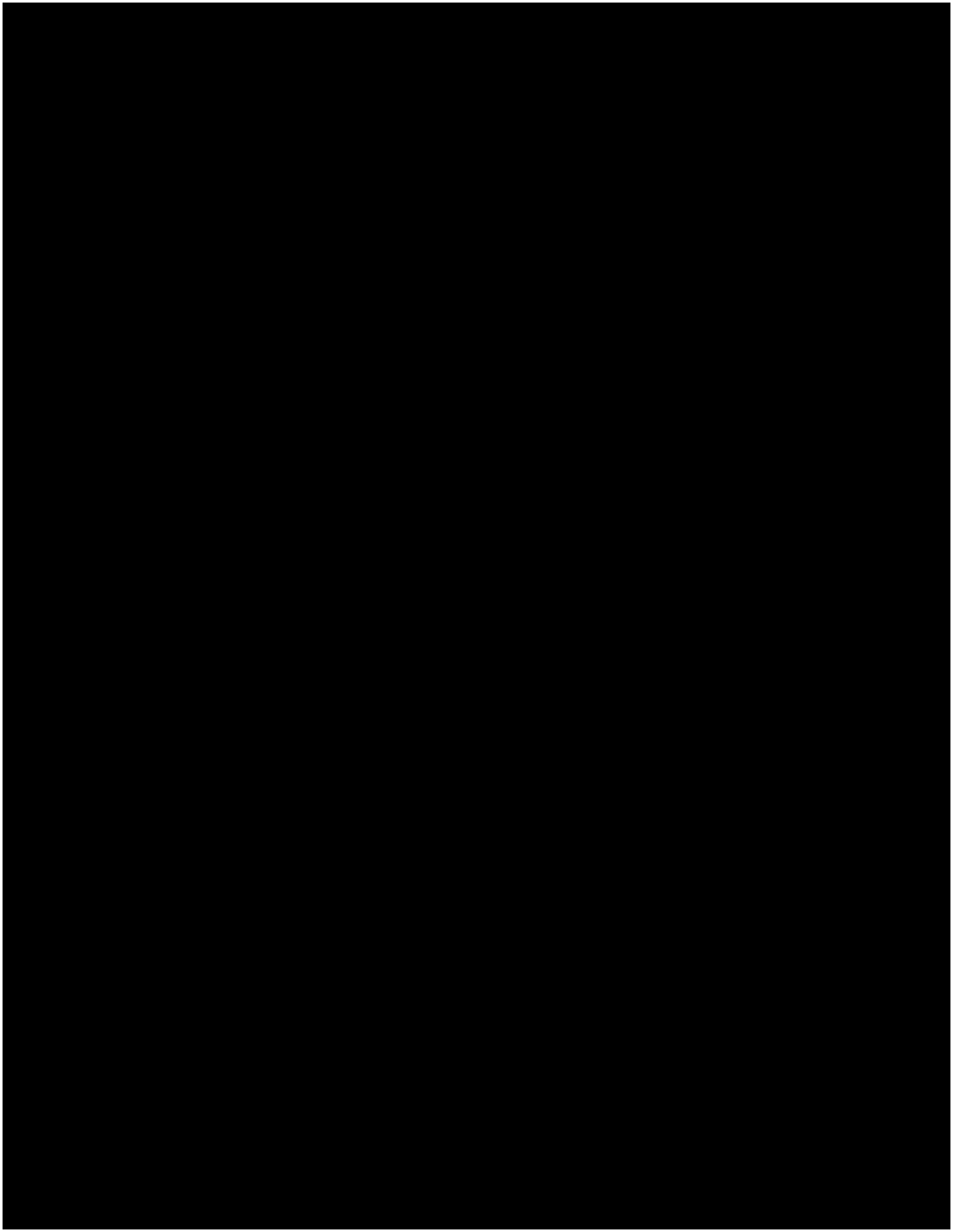


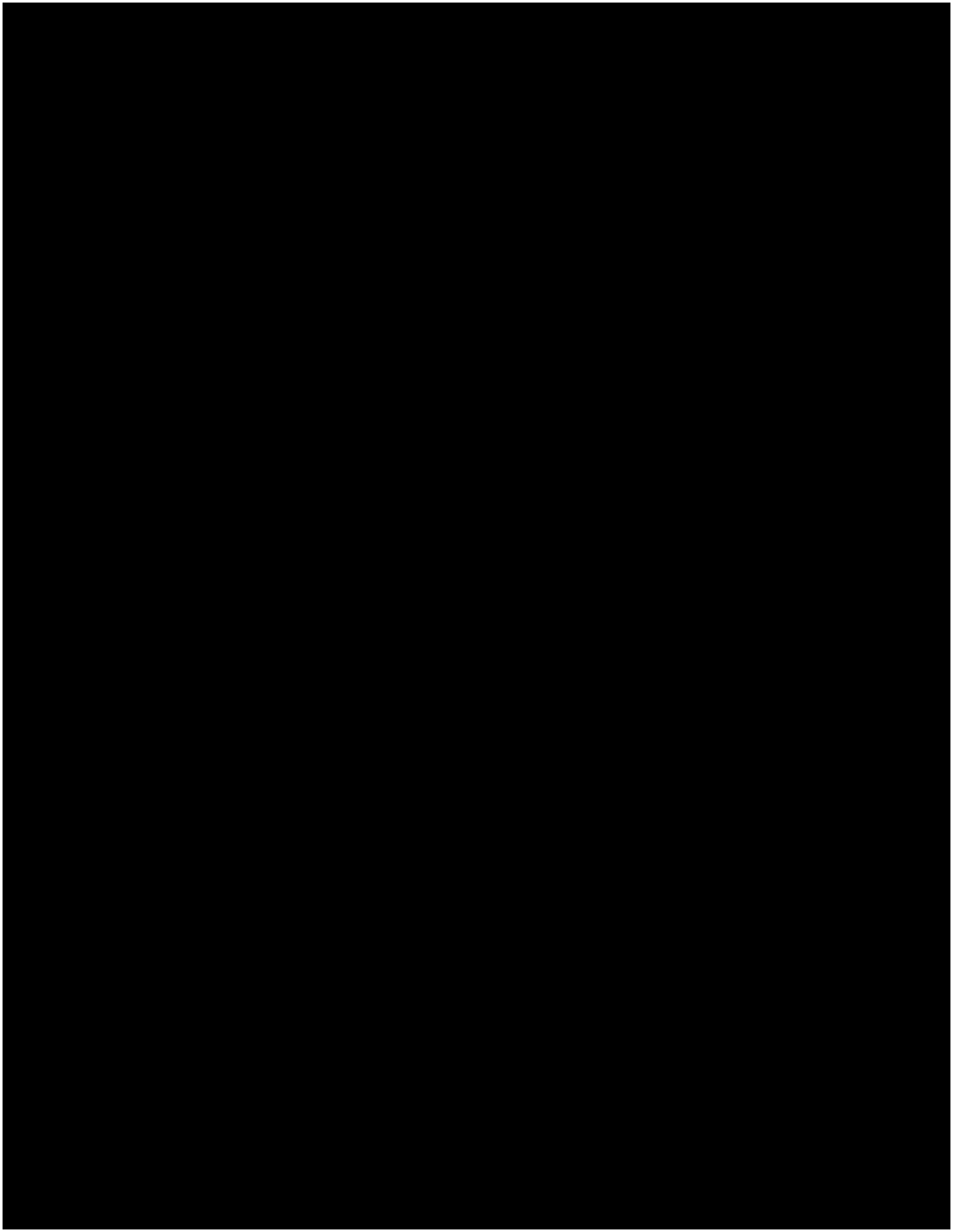


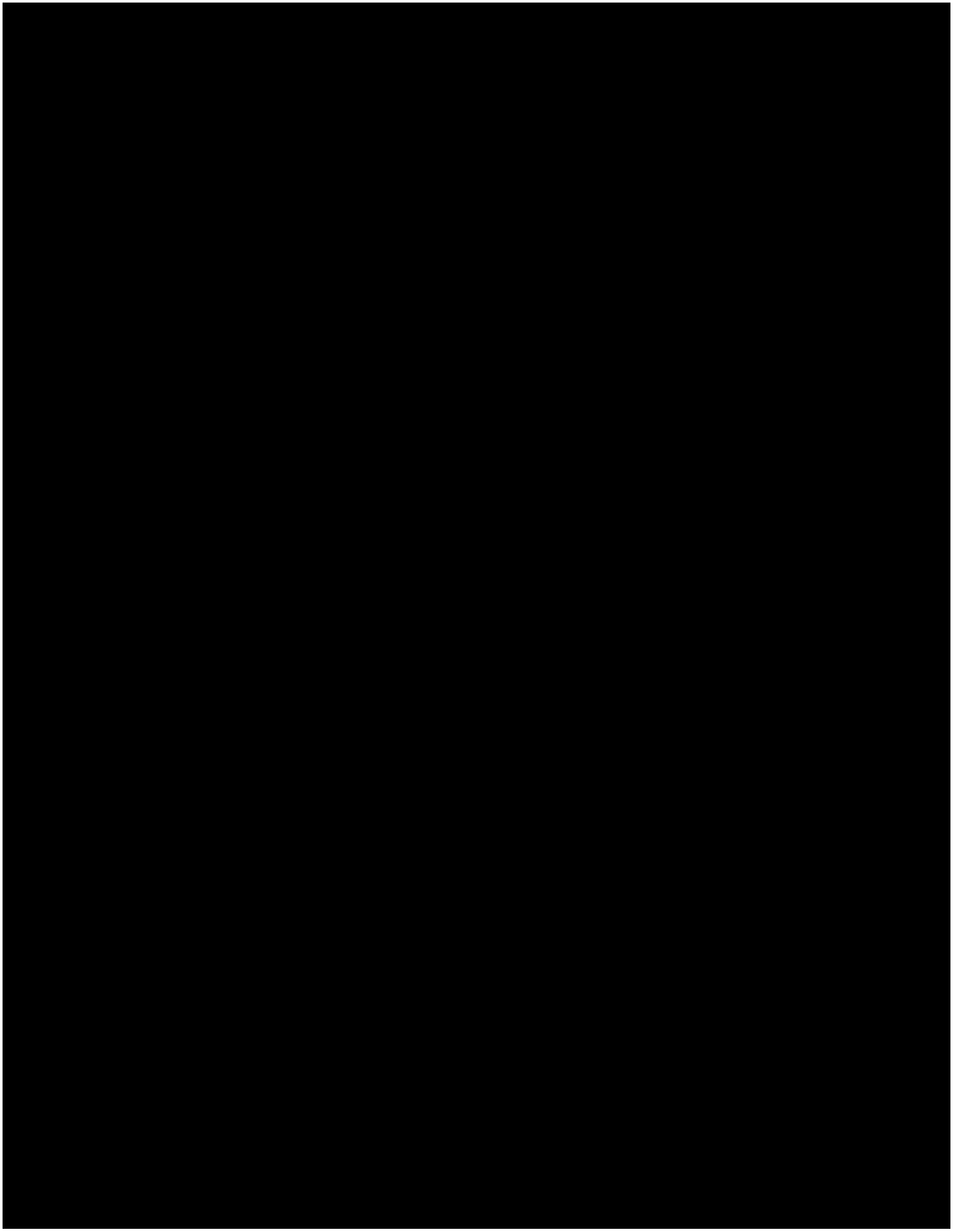


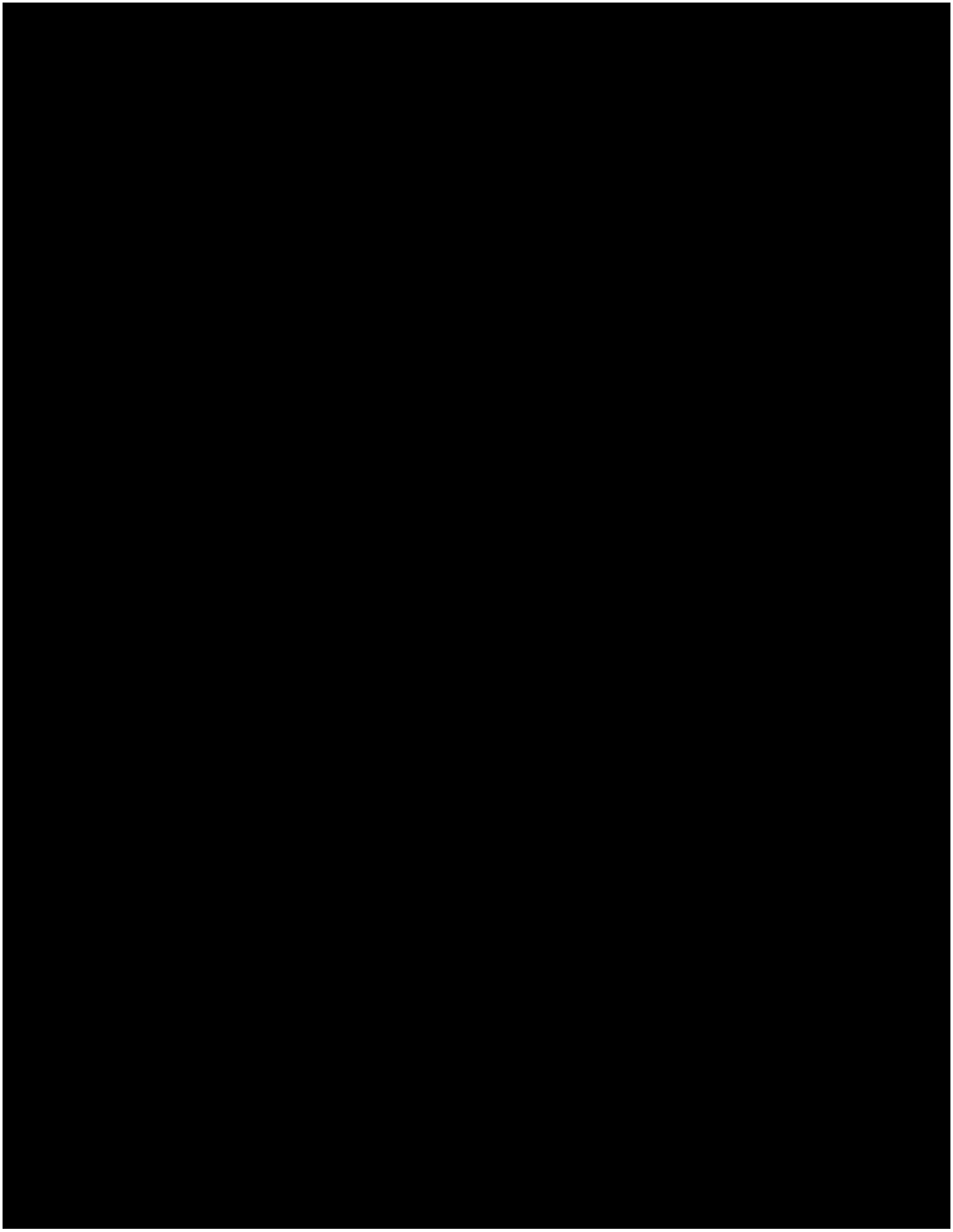


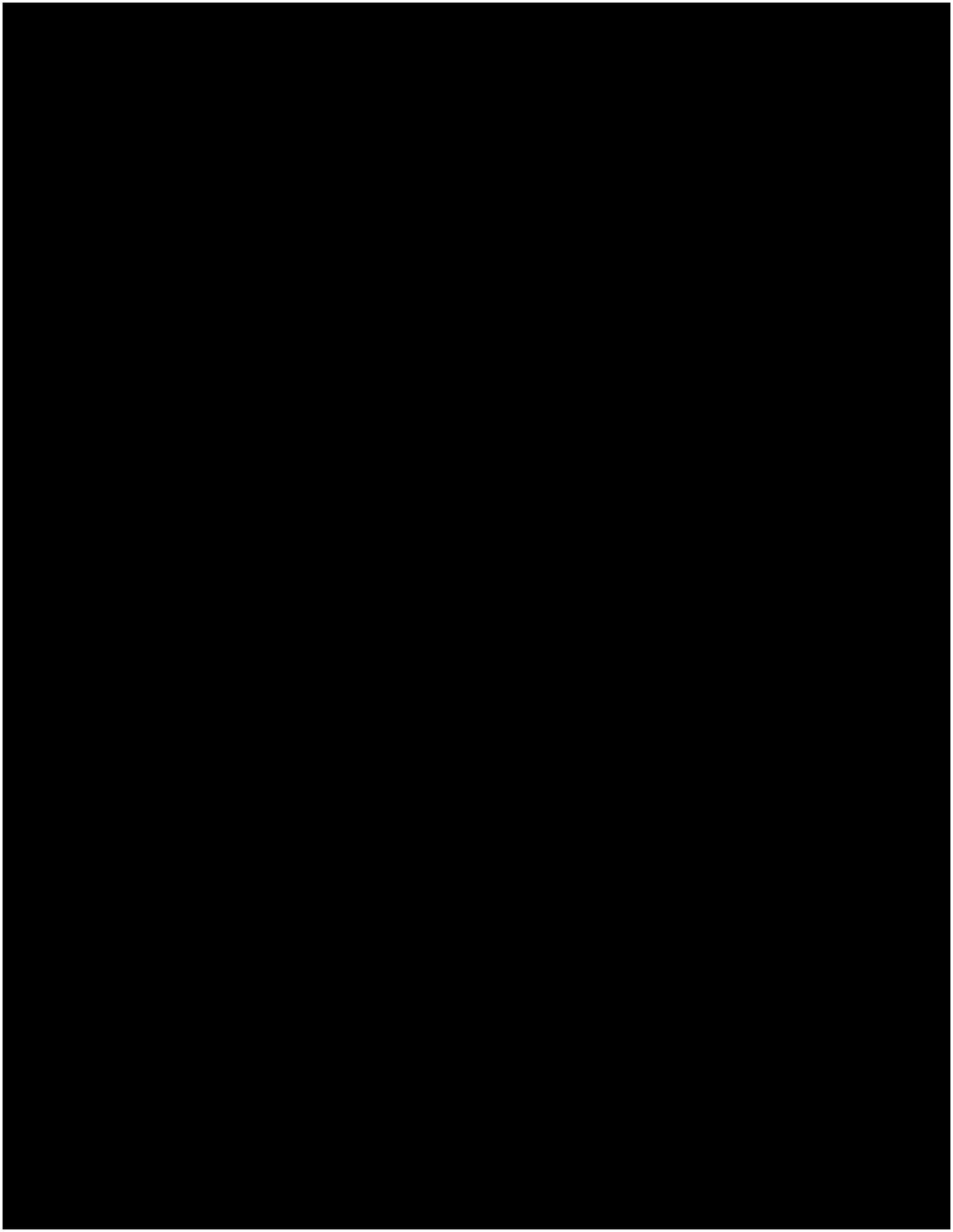


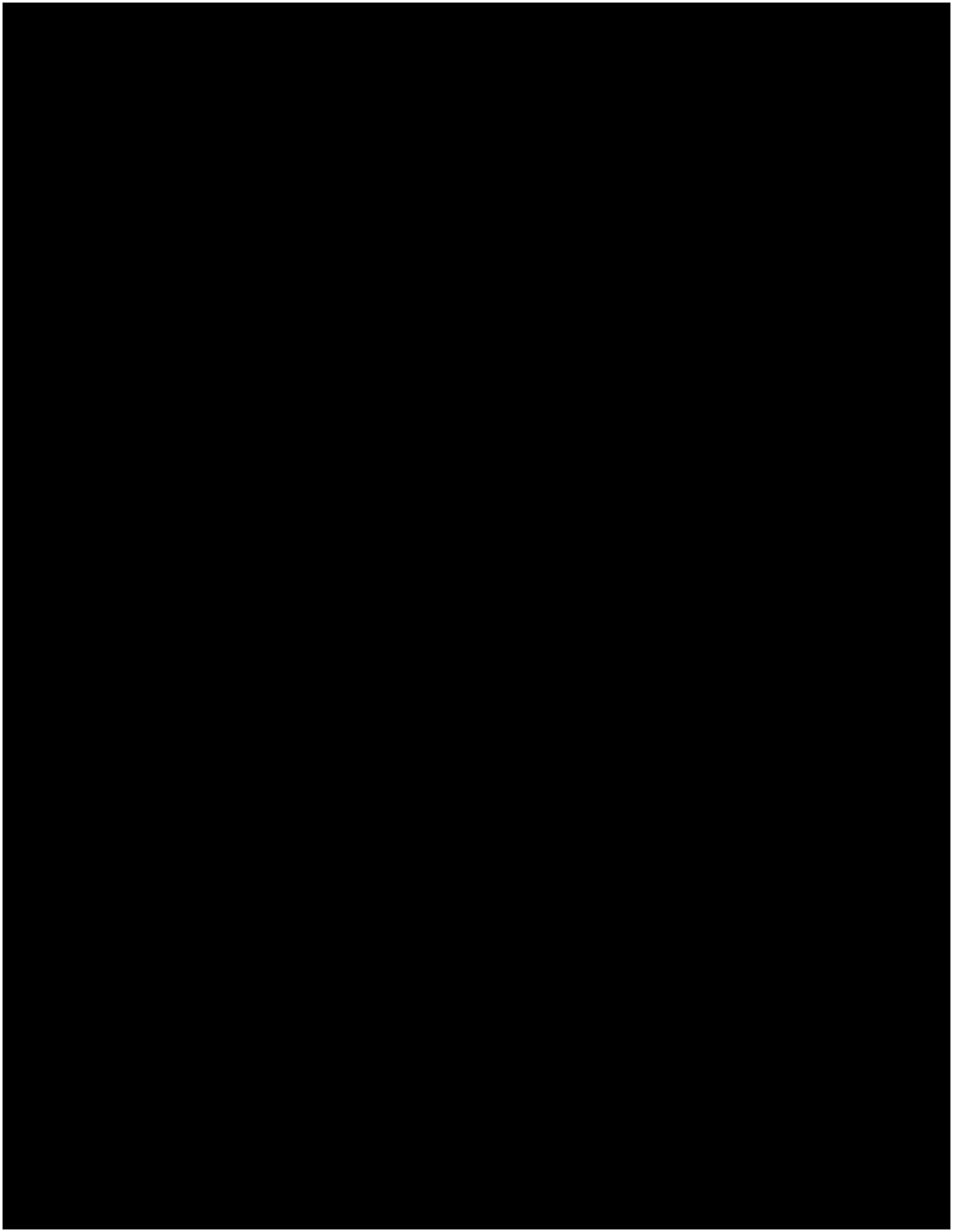


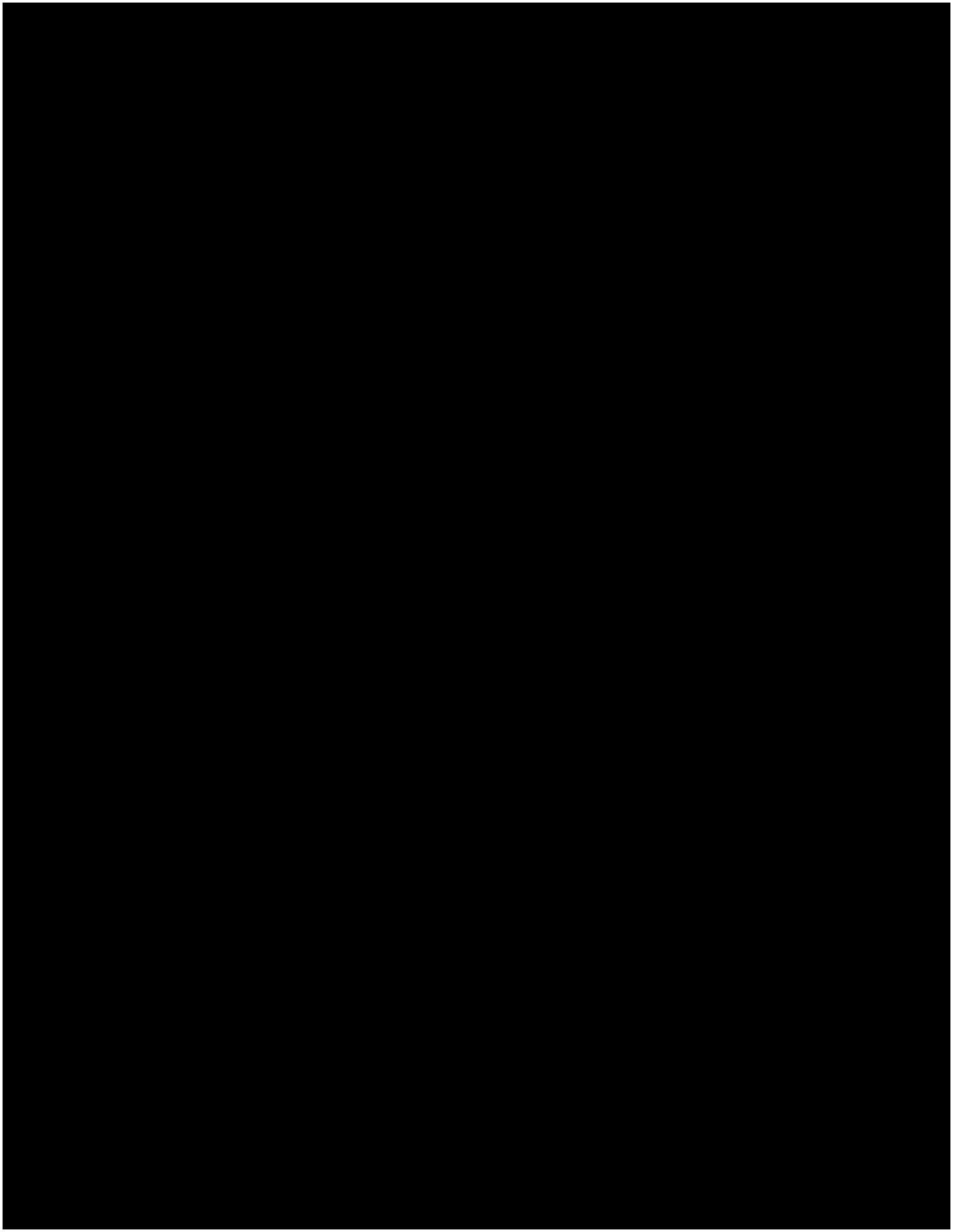


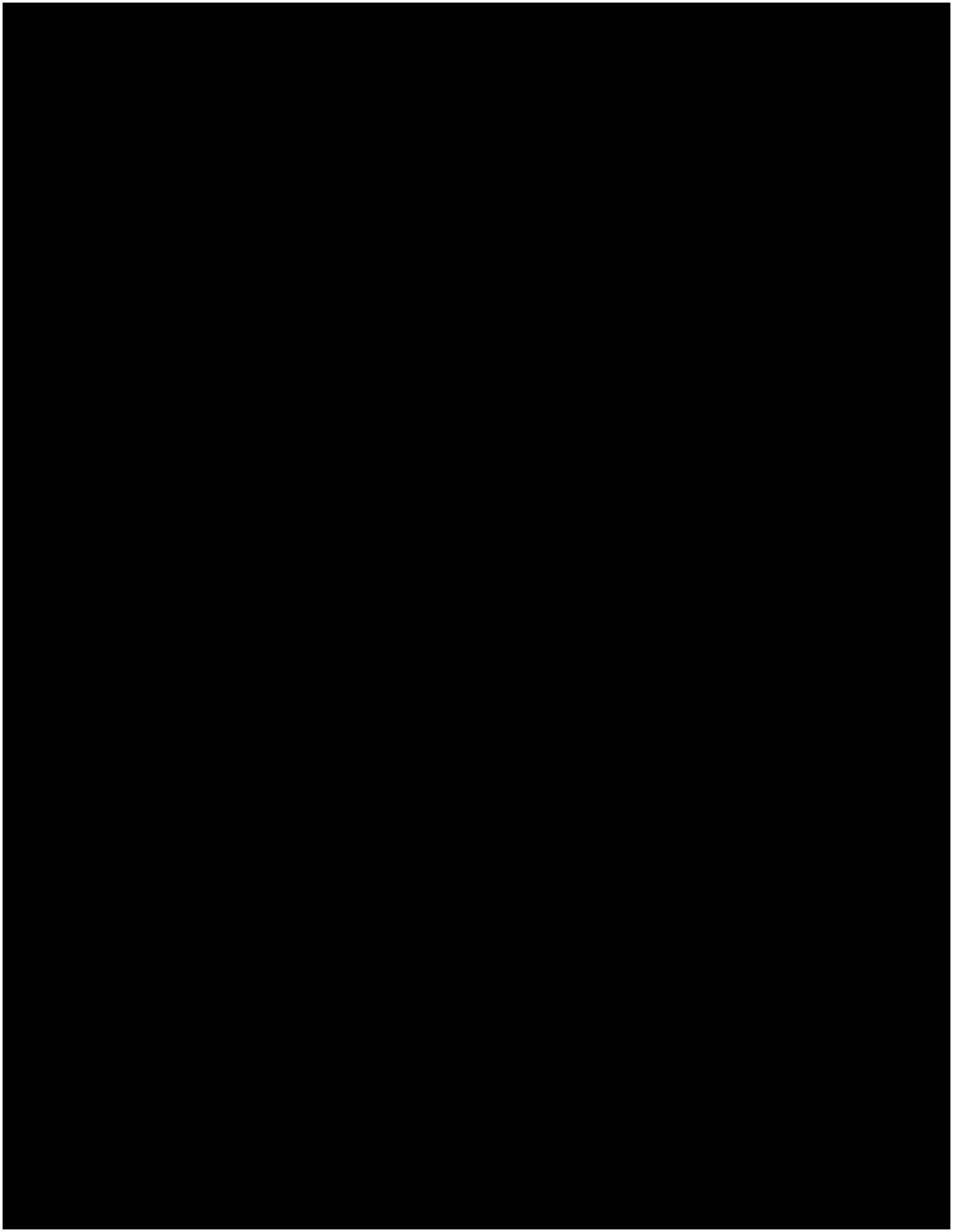


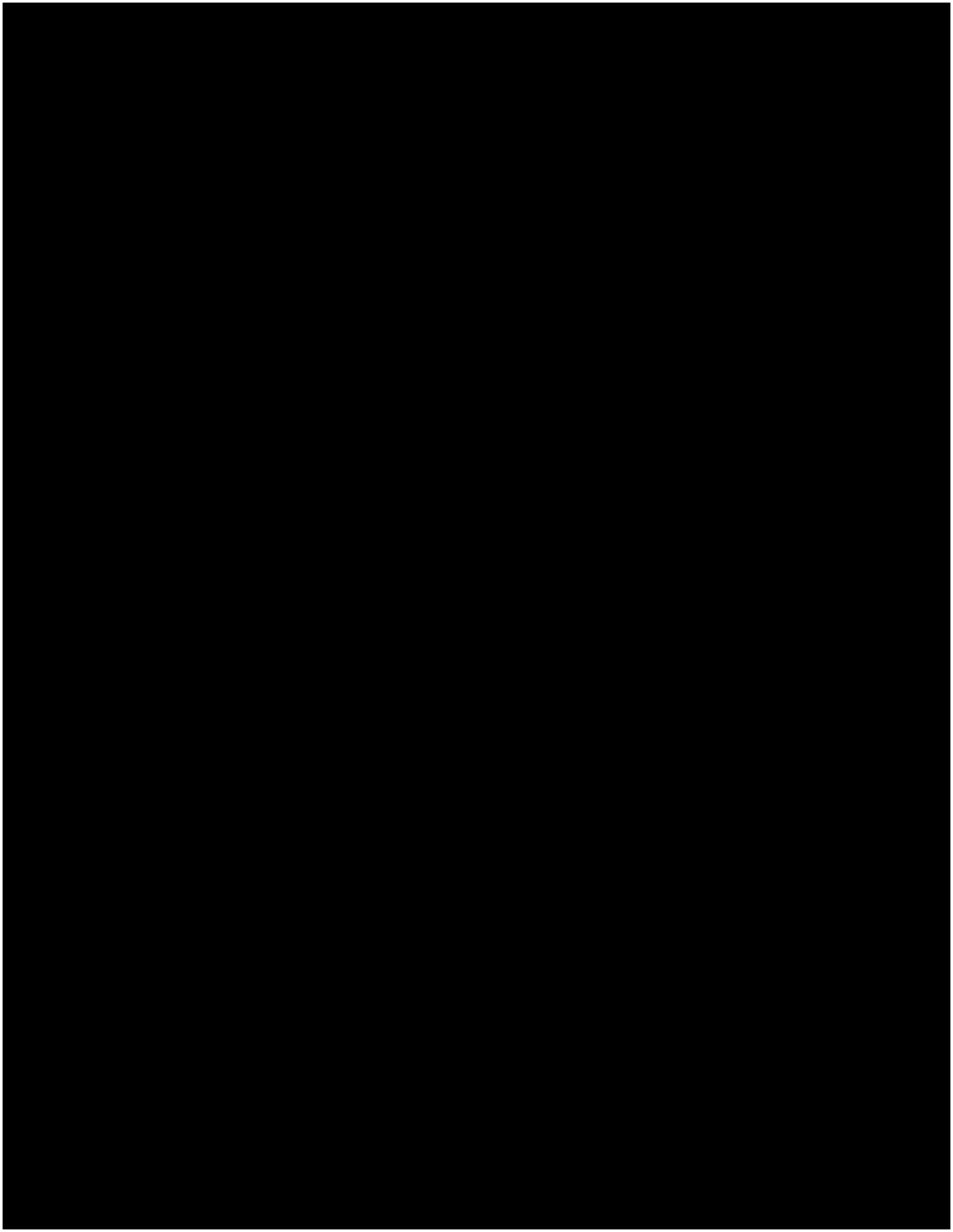


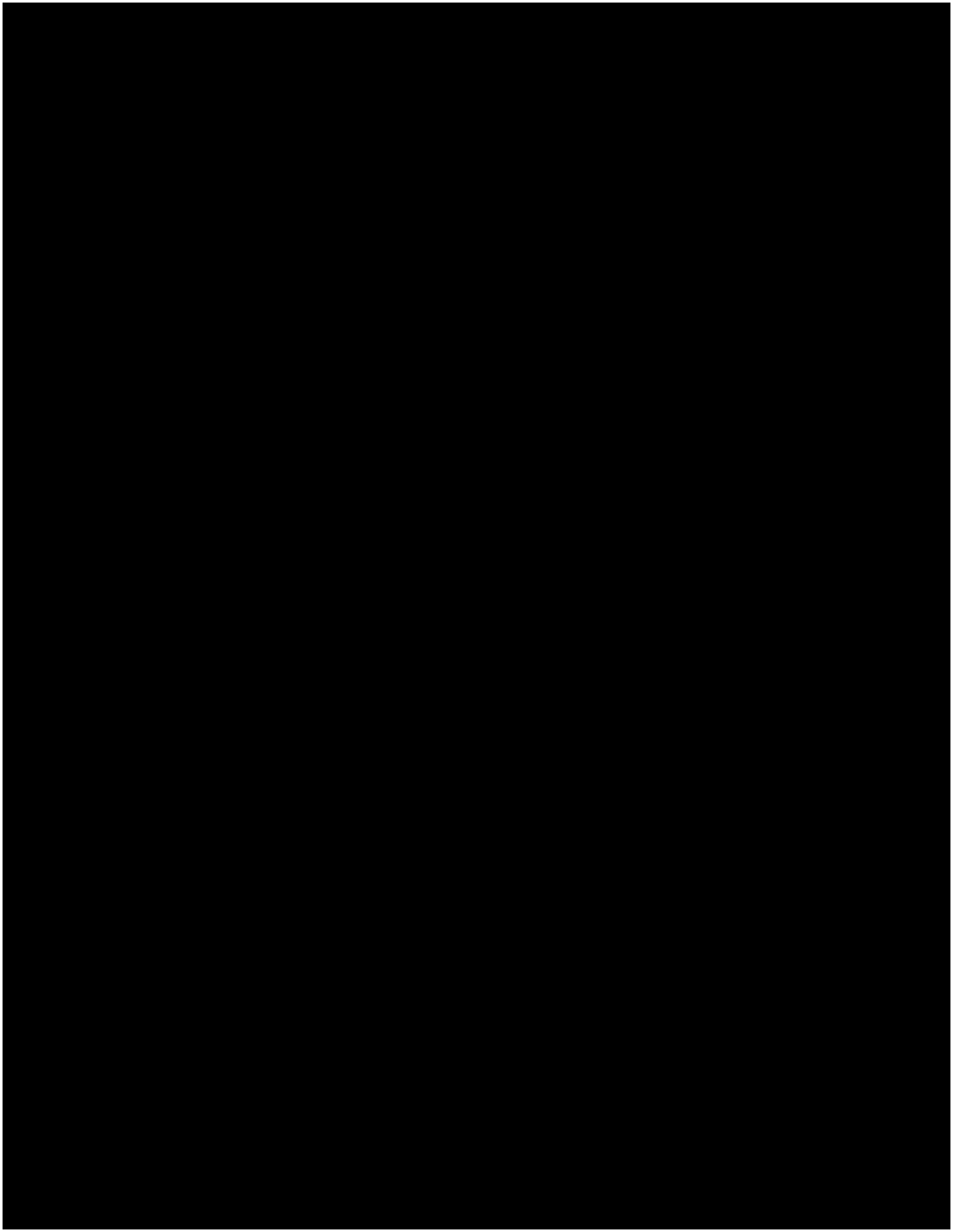


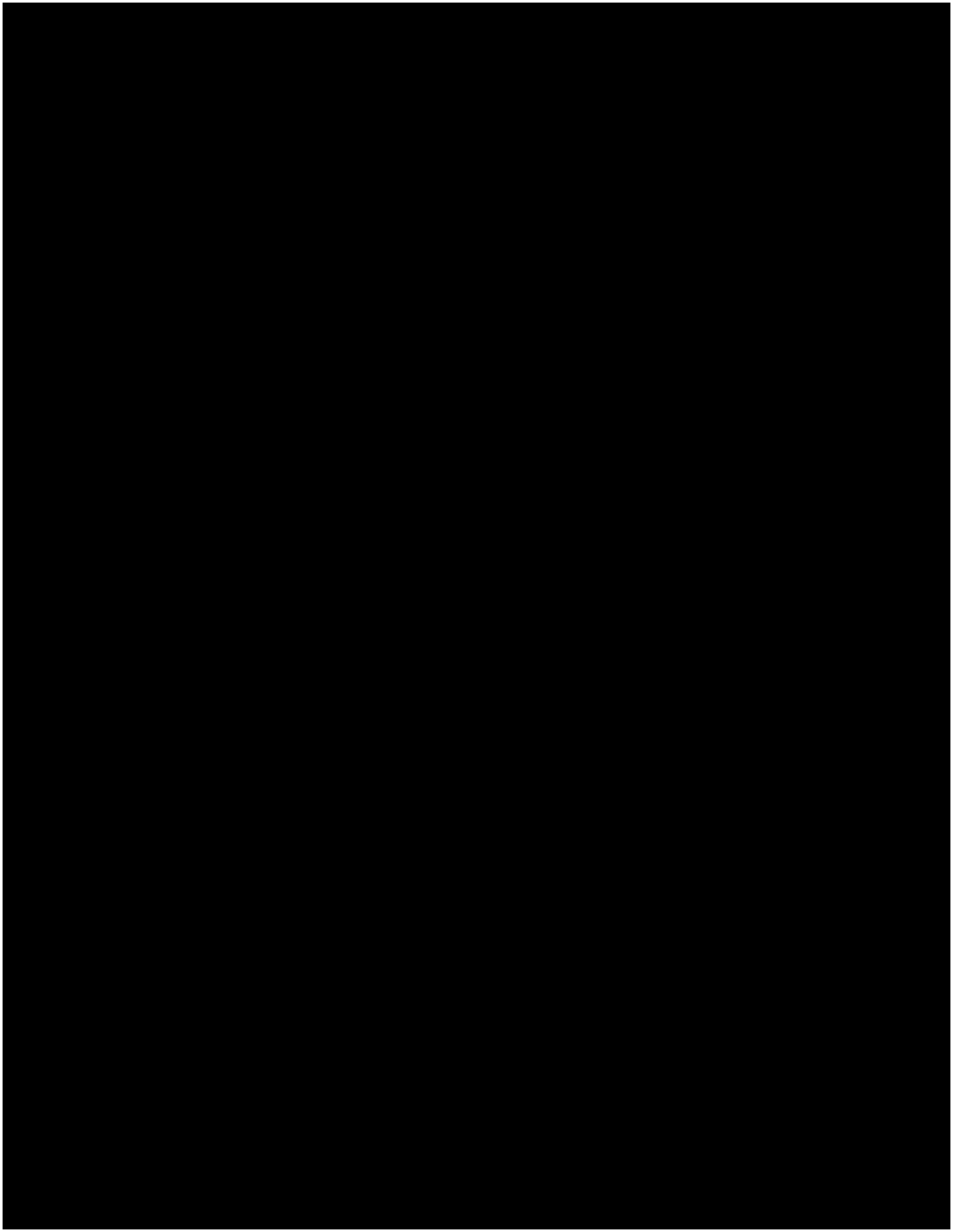


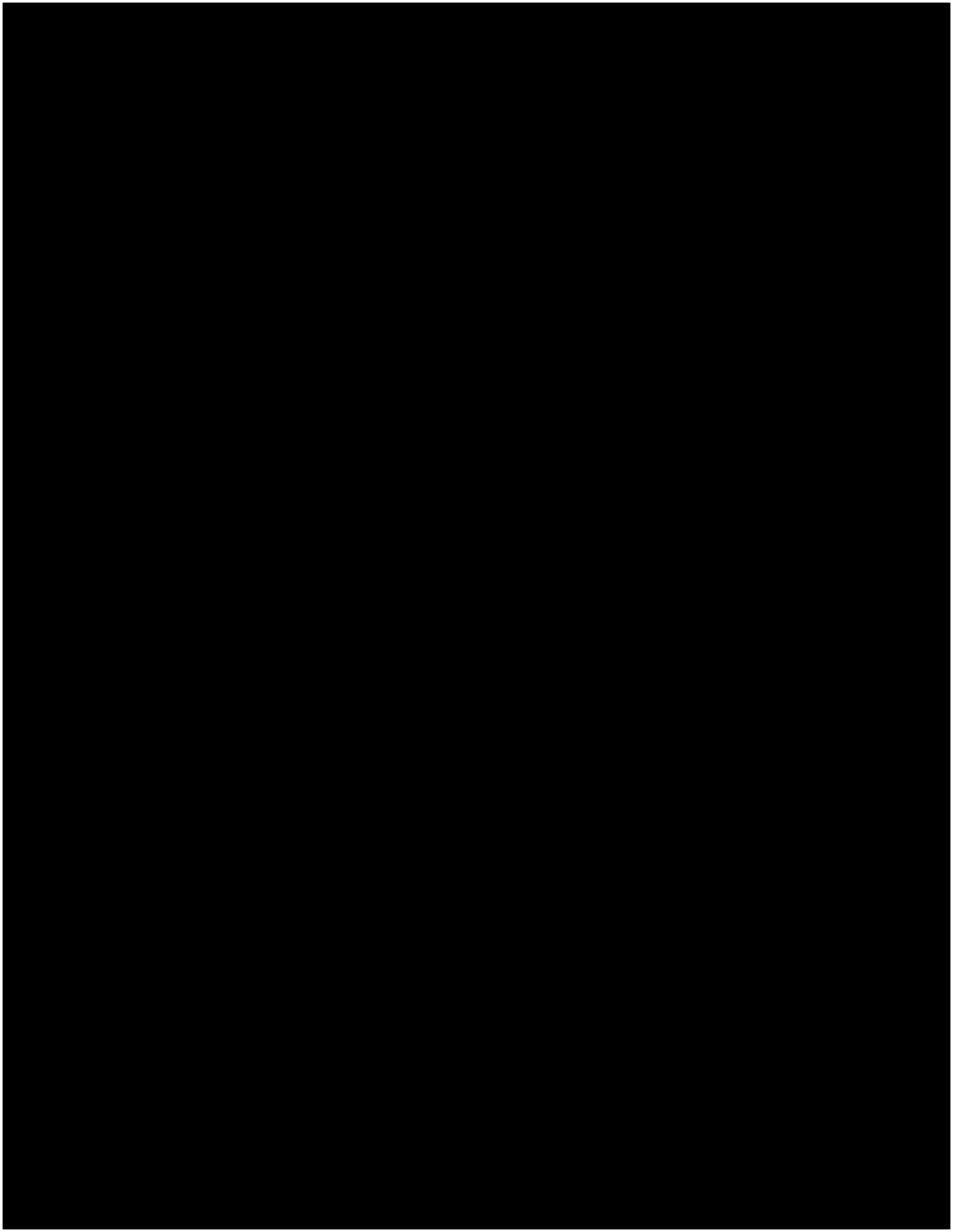


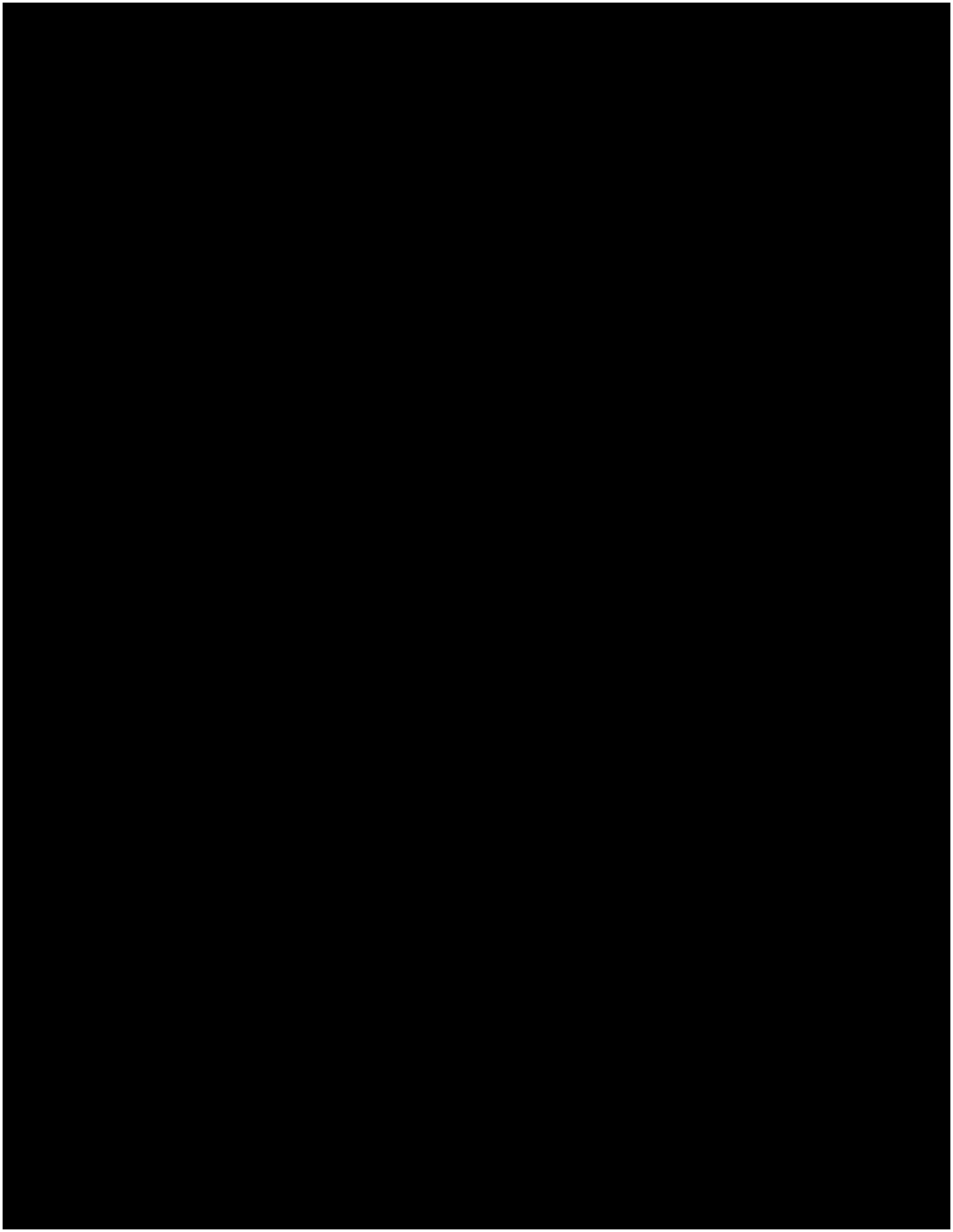


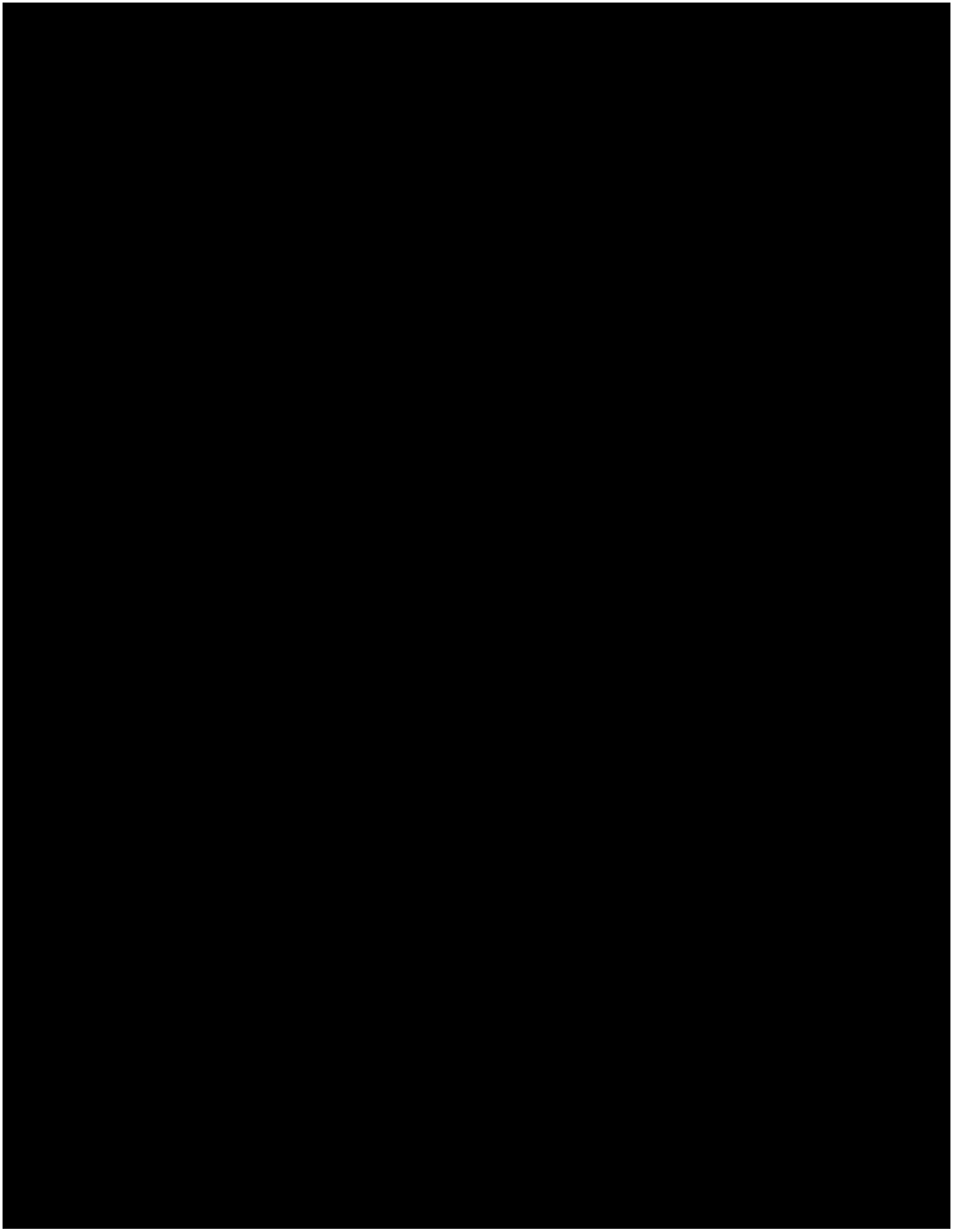












From: Vincent France
To: Kathryn Irby
Cc: Daiquiri Carter; jim@jimjacksonatty.com; Martha Cox
Subject: Haley Hudson, et al v. Arkansas DHS CC230641
Date: Monday, August 26, 2024 10:23:42 AM
Attachments: [redacted] Hearing.pdf
[redacted]
[redacted]

Kathryn,

Please see the attached letter for the Arkansas State Claims Commission regarding the matter of *Haley Hudson, et al v. Arkansas DHS,* CC230641.

Sincerely,

Vincent P. France
Deputy Chief Counsel for Litigation
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
Office Phone: 501-534-4127
Vincent.P.France@dhs.arkansas.gov





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ARKANSAS DEPARTMENT OF HUMAN SERVICES

Office of Chief Counsel
Vincent France
vincent.p.france@dhs.arkansas.gov
P.O. Box 1437, Slot S260 · Little Rock, AR 72203-1437
501-534-4127

August 26, 2024

Via Email: kathryn.irby@arkansas.gov
jim@jimjacksonatty.com

Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, AR 72201

Jim Jackson
700 West Broadway, Suite 200
North Little Rock, AR 72114
Attorney for Claimants

RE: *Haley Hudson, et. al v. Arkansas DHS*,
Claim No. 230641

To the Arkansas State Claims Commission,

The final hearing in *Haley Hudson, et. al v. Arkansas DHS* is set for Thursday, September 19, 2024. It is my understanding that this hearing is currently scheduled to be conducted via Zoom. Following the Commission's decision dated July 25, 2024, and given the magnitude of this claim, I am respectfully requesting that the final hearing for this claim be held in person. If the hearing needs to be continued to accommodate this request, then please consider this letter as a motion for a continuance so that the hearing can be conducted in person.

Sincerely,

Vincent P. France
Deputy Chief Counsel
Arkansas DHS

From: Kathryn Irby
To: Vincent France
Cc: Daiquiri Carter; jim@jimjacksonatty.com; Martha Cox
Subject: RE: INFO NEEDED: Haley Hudson, et al v. Arkansas DHS CC230641
Date: Wednesday, August 28, 2024 12:21:00 PM
Attachments: [redacted].pdf
[redacted].png
[redacted].png

Vincent, the witness and exhibit lists were due July 1, and the remainder of the prehearing materials were due August 22. As I emphasized in my July 26 email to the parties (one day after transmitting the July 25 order to the parties), the exhibits (and exhibit binders, if the parties anticipated using a lot of exhibits) were due to the Commission by August 22. I have Jim's submissions.

Please submit your witness list and exhibit list ASAP, with the rest of your prehearing materials to follow by Friday.

Kathryn

From: Vincent France <Vincent.P.France@dhs.arkansas.gov>
Sent: Wednesday, August 28, 2024 9:19 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; jim@jimjacksonatty.com; Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: INFO NEEDED: Haley Hudson, et al v. Arkansas DHS CC230641

Kathryn,

I was under the impression that the Claims Commission was going to issue a new letter regarding the September hearing following its decision on July 25, 2024. I will provide a witness list, exhibit lists, and a pretrial brief by the close of business on Friday.

Sincerely,

Vincent P. France
Deputy Chief Counsel for Litigation
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
Office Phone: 501-534-4127
Vincent.P.France@dhs.arkansas.gov



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From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Tuesday, August 27, 2024 4:13 PM
To: Vincent France <Vincent.P.France@dhs.arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; jim@jimjacksonatty.com; Martha Cox <mcox@jimjacksonatty.com>
Subject: INFO NEEDED: Haley Hudson, et al v. Arkansas DHS CC230641

Jim, do you object to Vincent's request for an in-person hearing? I have confirmed with the panel that a continuance will not be needed to change the hearing format on September 19.

Vincent, in reviewing the database, I do not see that DHS submitted a witness/exhibit list (due on or before July 1) or any prehearing materials (due on or before Aug 22) as instructed in the Commission's hearing letter. If these items have already been submitted, please forward those emails to me, so I can determine why they are not in the database.

Kathryn

From: Vincent France <Vincent.P.France@dhs.arkansas.gov>
Sent: Monday, August 26, 2024 10:24 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; jim@jimjacksonatty.com; Martha Cox <mcox@jimjacksonatty.com>
Subject: Haley Hudson, et al v. Arkansas DHS CC230641

Kathryn,

Please see the attached letter for the Arkansas State Claims Commission regarding the matter of *Haley Hudson, et al v. Arkansas DHS,* CC230641.

Sincerely,

Vincent P. France
Deputy Chief Counsel for Litigation
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
Office Phone: 501-534-4127
Vincent.P.France@dhs.arkansas.gov





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From: Jim Jackson
To: Kathryn Irby
Cc: Vincent France; Daiquiri Carter; Martha Cox
Subject: Re: INFO NEEDED: Haley Hudson, et al v. Arkansas DHS CC230641
Date: Wednesday, August 28, 2024 8:30:08 AM

Kathryn
I have no objection to this being conducted in person. I would prefer it to be in person on September 19 due to the magnitude of the damages and the age of the children who will be testifying.
Jim

Jim Jackson
Attorney at Law
700 West Broadway St: Suite 2
North Little Rock, AR 72114
(501) 823-3610

On Aug 27, 2024, at 4:13 PM, Kathryn Irby <Kathryn.Irby@arkansas.gov> wrote:

Jim, do you object to Vincent's request for an in-person hearing? I have confirmed with the panel that a continuance will not be needed to change the hearing format on September 19.

Vincent, in reviewing the database, I do not see that DHS submitted a witness/exhibit list (due on or before July 1) or any prehearing materials (due on or before Aug 22) as instructed in the Commission's hearing letter. If these items have already been submitted, please forward those emails to me, so I can determine why they are not in the database.

Kathryn

From: Vincent France <Vincent.P.France@dhs.arkansas.gov>
Sent: Monday, August 26, 2024 10:24 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; jim@jimjacksonatty.com; Martha Cox <mcox@jimjacksonatty.com>
Subject: Haley Hudson, et al v. Arkansas DHS CC230641

Kathryn,

Please see the attached letter for the Arkansas State Claims Commission regarding the matter of *Haley Hudson, et al v. Arkansas DHS,* CC230641.

Sincerely,

Vincent P. France
Deputy Chief Counsel for Litigation
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
Office Phone: 501-534-4127
Vincent.P.France@dhs.arkansas.gov

<image001.png>

<image002.png>

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From: Vincent France
To: ASCC Pleadings; Kathryn Irby; jim@jimjacksonatty.com
Cc: Daiquiri Carter; Martha Cox
Subject: Haley Hudson et al v. DHS CC 230641
Date: Friday, August 30, 2024 1:27:43 PM
Attachments: [redacted].pdf
[redacted].pdf
[redacted].png
[redacted].png

To all,

Please find attached two documents (1) DHS's Witness and Exhibit Lists and (2) DHS's Pre-Hearing Brief. In a separate email, I will provide everyone with actual copies of DHS's exhibits.

Sincerely,

Vincent P. France
Deputy Chief Counsel for Litigation
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
Office Phone: 501-534-4127
Vincent.P.France@dhs.arkansas.gov

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IN THE ARKANSAS STATE CLAIMS COMMISSION

**HALEY HUDSON, INDIVIDUALLY
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF
THE ESTATE OF JAQUELINE LYNN ASHCRAFT,
DECEASED, AND HALEY HUDSON, AS PERMANENT
LEGAL GUARDIAN OF [redacted], MINOR CHILDREN** **CLAIMANTS**

vs. **CC No. 230641**

**ARKANSAS DEPARTMENT OF
HUMAN SERVICES** **RESPONDENT**

RESPONDENT'S WITNESS & EXHIBIT LISTS

COMES NOW, Respondent, Arkansas Department of Human Services, by and through its attorney, Vincent P. France Deputy Chief Counsel for the Arkansas Department of Human Services, submits the following Witness and Exhibit Lists:

Witness List

1. Pamela Feemster;
2. Kristen Shelton;
3. Brandy Ezell*, via deposition*; and
4. Jennifer Wilkerson, *via deposition*.

Exhibit List

1. Pamela Feemster Affidavit & Exhibits attached thereto;
2. Aerial Photographs produced by DHS (bates number 85-91);
3. Accident Scene Photographs produced by DHS (bates number 19-37);
4. Wilkerson Toxicology Report (Ashcraft bates number 258-259);
5. DHS Emails RE Wilkerson's termination (Ashcraft bates number 408-428);
6. Wilkerson's termination document;

7. Kristen Shelton's Deposition and exhibits attached thereto;

8. Brandy Ezell's Deposition and exhibits attached thereto;

9. Jennifer Wilkerson's Deposition and exhibits attached thereto;

10. DHS Vehicle Policy;

11. ASP Accident Report (Ashcraft bates number 291-308) *if necessary*;

12. Ashcraft Insurance policy;

13. Ashcraft toxicology report.

Respectfully submitted,

By: */s/ Vincent P. France*

Vincent P. France, Ark. Bar No. 2010063
Deputy Chief Counsel
Arkansas DHS
P.O. Box 1437, Slot S260
Little Rock, AR 72203
Phone: (501) 534-4127
Email: Vincent.P.France@DHS.Arkansas.gov
Attorney for Respondent

CERTIFICATE OF SERVICE

I, Vincent P. France, hereby certify that on August 30, 2024, I electronically filed the foregoing with the Arkansas State Claims Commission by emailing it to asccpleadings@arkansas.gov and by sending a copy to Claimant's attorney Jim Jackson via email as indicated below.

Jim Jackson
Jim@JimJacksonatty.com

/s/ Vincent P. France
Vincent P. France

IN THE ARKANSAS STATE CLAIMS COMMISSION

**HALEY HUDSON, INDIVIDUALLY
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF
THE ESTATE OF JAQUELINE LYNN ASHCRAFT,
DECEASED, AND HALEY HUDSON, AS PERMANENT
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[redacted] MINOR CHILDREN** **CLAIMANTS**

vs. **CC No. 230641**

**ARKANSAS DEPARTMENT OF
HUMAN SERVICES** **RESPONDENT**

RESPONDENT'S PRE-HEARING BRIEF

COMES NOW, Respondent, Arkansas Department of Human Services, by and through its attorney, Vincent P. France Deputy Chief Counsel for the Arkansas Department of Human Services, for its Pre-Hearing Brief states the following:

In its Order dated July 25, 2024, the Arkansas State Claims Commission expressed concerns about whether DHS could rebut the presumption that Ms. Wilkerson was acting beyond the scope of her employment when the accident occurred. DHS will focus on presenting evidence and testimony to show that indeed Ms. Wilkerson was acting beyond the scope of her employment. Specifically, DHS anticipates that it will present evidence and testimony that easily distinguishes the facts at-hand from those presented in the case of *Nipper v. Brandon Co.*, 262 Ark. 17, 553 S.W.2d 27 (1977). More importantly, DHS will present evidence that shows that the facts at-hand are more align with the facts contained in *Davis v. Kukar*, 235 Ark. 139, 357 S.W.2d 275 (1962), in which the Arkansas Supreme Court found that an employee who was just forty-five (45) feet away from the point at which the employee deviated from his route was outside the scope of his employer's business; therefore, as a matter of law the employee was outside the scope of his

employment. 235 Ark. at 145. DHS will present evidence that Ms. Wilkerson had sufficiently deviated from her route because she was 34 miles to 40 miles behind where she should have been when the accident occurred. *See Healey v. Cockrill*, 133 Ark. 327, 202 S.W. 299 (1918) ("the relative distance was too great to be called a slight deviation, and the departure from the line of duty was so complete that the connection with the employer's service was completely broken").

DHS will also present evidence and testimony to show that the path of terminating Ms. Wilkerson began the day of the accident. Thus, DHS began the process of terminating Ms. Wilkerson almost immediately. DHS will show that Ms. Wilkerson was not carrying out the object and purpose of DHS at the time of the accident; therefore, she was outside the scope of her employment and DHS cannot be liable. *See* 366 Ark. 533, 237 S.W.3d 87 (2006). DHS will show that Ms. Wilkerson had illegal drugs in her system at the time of the accident, which violated DHS policy. Additionally, the evidence will show that Ms. Wilkerson was traveling at least 70 m.p.h. on a highway with a posted speed limit of 55 m.p.h. when the accident occurred. Thus, Ms. Wilkerson was traveling at a criminal rate of speed when the accident occurred. *See* Ark. Code Ann. §27-50-302(7). Driving at a criminal speed is contrary to the object and purpose of DHS; therefore, Ms. Wilkerson was beyond the scope of her employment. Consequently, DHS is not vicariously liable for her actions.

As to the issue of whether Claimants are entitled to damages, DHS respectfully requests that the Arkansas State Claims Commission finds that it is not vicariously liable for the actions of Ms. Wilkerson; therefore, the Claimants are not entitled to any damages from DHS. Assuming *arguendo* that the Claims Commission decides to award damages to Claimants, then the amount awarded must be significantly reduced from the $5,000,000.00 sought by Claimants. The Arkansas Legislature's Joint Budget Committee Claims Review Committee, which oversees the Arkansas

State Claims Commission, has provide guidance on the amount of damages that should be awarded in the claim of *Dayong Yang v. State*, Claim No. 16-0496-CC. In the *Yang* case, the legislature awarded Mr. Yang $100,000.00 following the death of his son and wife in a tragic accident. Thus, to the extent that Claimants are entitled to any damages from DHS, then they should be awarded no more than $100,000.00, which is consistent with the precedents set by the legislature in *Dayong Yang v. State*. Frankly, the government should be very cautious of awarding value of one life more than another life. Every life should be valued the same by the government. Accordingly, if the Claims Commission decides to award any damages, then at most it should only award $100,000.00 as authorized by the legislature in the *Yang* case.

WHEREFORE, DHS respectfully requests that the Arkansas State Claims Commission finds that DHS has rebutted the presumption and finds that Ms. Wilkerson was acting outside the course and scope of her employment when the accident occurred; therefore, DHS is not vicariously liable for the actions of Ms. Wilkerson. Thus, DHS respectfully requests a favorable finding on its behalf by the Claims Commission and dismisses this claim with prejudice, along with any other just and proper relief to which it is entitled.

Respectfully submitted,

By: */s/ Vincent P. France*

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Little Rock, AR 72203
Phone: (501) 534-4127
Email: Vincent.P.France@DHS.Arkansas.gov
Attorney for Respondent

CERTIFICATE OF SERVICE

I, Vincent P. France, hereby certify that on August 30, 2024, I electronically filed the foregoing with the Arkansas State Claims Commission by emailing it to asccpleadings@arkansas.gov and by sending a copy to Claimant's attorney Jim Jackson via email as indicated below.

Jim Jackson
Jim@JimJacksonatty.com

/s/ Vincent P. France
Vincent P. France

IN THE ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JAQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, AS PERMANENT LEGAL GUARDIAN OF [redacted] AND [redacted] MINOR CHILDREN **CLAIMANT**

vs. **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

AFFIDAVIT OF PAMELA FEEMSTER

I, Pamela Feemster, am competent to testify and have personal knowledge regarding the statements contained in this affidavit, do hereby declare, under the penalty of perjury to the following:

1. I am currently employed with the Arkansas Department of Humans Services (DHS), Division of Children and Family Services (DCFS) as a Family Service Supervisor in Logan County, Arkansas, a position that I have held since December 2, 2019.

2. I have worked for DHS for over 11 years.

3. In June 2021, I was working as a Family Service Supervisor in Logan County, Arkansas.

4. As a Family Service Supervisor, my duties include: assigning work to staff including program assistants, conducting consults, preparing monthly reports, participate in the hiring process by conducting interviews and submitting hiring packets for individuals that I recommend should be hired, I can also recommend that a employee be terminated from DHS.

5. In 2021, I interviewed Jennifer Wilkerson and submitted a hiring packet for her to human resources and Central Office in Little Rock for approval. *See attached hereto* Exhibit A, Selected Records from Wilkerson's Personnel File (redacted) (hereinafter "Exhibit A").

6. After receiving approval to hire Ms. Wilkerson, I informed her that she would need to submit to a pre-employment drug test that is required for all new hires at DHS. Exhibit A, p. 9-10. Ms. Wilkerson passed her drug screen. Exhibit A, p. 11.

7. Ms. Wilkerson was also required to agree to all traffic laws and the driving policies for DHS. *See* Exhibit A, p. 5-6, 21-24.

8. Jennifer Wilkerson was hired as a Program Assistant for DCFS in Logan County. *See* Exhibit A, 17-19.

9. On June 1, 2021, Ms. Wilkerson began working as a Program Assistant and I was her direct supervisor.

10. Ms. Wilkerson and I both worked at the Logan County DHS office, which is located at 17 W. McKeen Street, Paris, Arkansas 72855.

11. As a Program Assistant, Ms. Wilkerson's main responsibilities were transportation of children and to conduct supervised visitations.

12. On June 11, 2021, Ms. Wilkerson was assigned to go to Beebe, Arkansas to pick up a child at 2:00 p.m. and transport the child to Clarksville, Arkansas for a sibling visit at 4:00 p.m.

13. In order for Ms. Wilkerson to arrive in Beebe by 2:00 p.m., she needed to leave Paris, Arkansas around noon because it takes approximately two (2) hours to drive from Paris to Beebe.

14. Prior to the accident on June 11, 2021, the last time that I saw Ms. Wilkerson was when Brandy Ezell and I were leaving to go to lunch a few minutes after noon and I saw Ms. Wilkerson heading to the state vehicle to head Beebe, Arkansas.

Wilkerson Calls Ezell to Report the Accident

15. As Brandy and I were returning from lunch and pulling into the parking lot at the Logan County DHS office, Brandy received a call from Ms. Wilkerson that she had been in a motor vehicle accident.

16. Brandy and I were still in Brandy's personal vehicle when Ms. Wilkerson called Brandy and told her about the accident.

17. As Brandy and I drove to the accident, Brandy expressed concern to me that Ms. Wilkerson was still near the office when the accident occurred.

18. It only took about 5 to 10 minutes for us to arrive at the accident scene.

Actions at the Scene

19. When we arrived, we had to park some distance from the actual accident.

20. When we got close to the ambulance, I observed Ms. Wilkerson was being loaded into the ambulance.

21. At the scene, I observed a male individual, whom I learned later was Ms. Wilkerson's boyfriend, Scott Lindstrom, get into the state vehicle and remove some bags from the vehicle.

[redacted]

23. While at the scene of the accident, I also called Kristen Shelton, who was my supervisor, to inform her about the accident.

24. At the scene, I did ask one of the state troopers about whether they would be drug testing Ms. Wilkerson, but I was informed at that point that there was no plan to conduct a drug test of Ms. Wilkerson.

25. Brandy and I were at the accident scene for approximately thirty (30) minutes before we left to go to the hospital to ask that Ms. Wilkerson be given a drug test.

26. After learning that the state police were not planning on performing a drug test on Ms. Wilkerson, Brandy and I decided to go to the hospital and ask the hospital staff to drug test Ms. Wilkerson.

After Leaving Accident Scene

27. At some point, Brandy and I were informed that Ms. Wilkerson had been taken to the hospital in Booneville, Arkansas.

28. Upon arriving at the hospital in Booneville, we were informed that the hospital was on lockdown because of an incident involving Scott Lindstrom, Ms. Wilkerson's boyfriend.

29. Brandy saw Jennifer Wilkerson's mother standing by the door of the hospital and the two of us went over to speak with her.

30. Jennifer's mother informed Brandy and I that prior to the accident, Jennifer had met up with her boyfriend at Dairy-Delite for lunch.

31. Given my work as a DCFS worker, I was familiar with the staff at the hospital in Booneville; therefore, while at the hospital, I asked the staff to conduct a drug test on Ms. Wilkerson.

32. After I had left the hospital, I received a text message from Ms. Wilkerson in which she informed me that although she did not have a prescription for Adderall, she had taken Adderall prior to the accident.

Termination of Ms. Wilkerson

33. I first discussed terminating Ms. Wilkerson on June 11, 2021, after I received the text message from Ms. Wilkerson regarding her using Adderall without a prescription, combined with her inconsistent statements, and the fact Ms. Wilkerson was a new hire.

34. Beyond the text message I received from Ms. Wilkerson, any communications I had with her regarding the accident was done through email.

35. Kristen Shelton conducted a fact-finding investigation as required by DHS policy.

36. Following the investigation, Ms. Wilkerson was fired from DHS on Wednesday, June 16, 2021, by Kristen Shelton.

I declare under the penalty of perjury that the foregoing is true and correct.

Pamela Feemster

01/26/2024
DATE

STATE OF Arkansas)
)
COUNTY OF Logan)

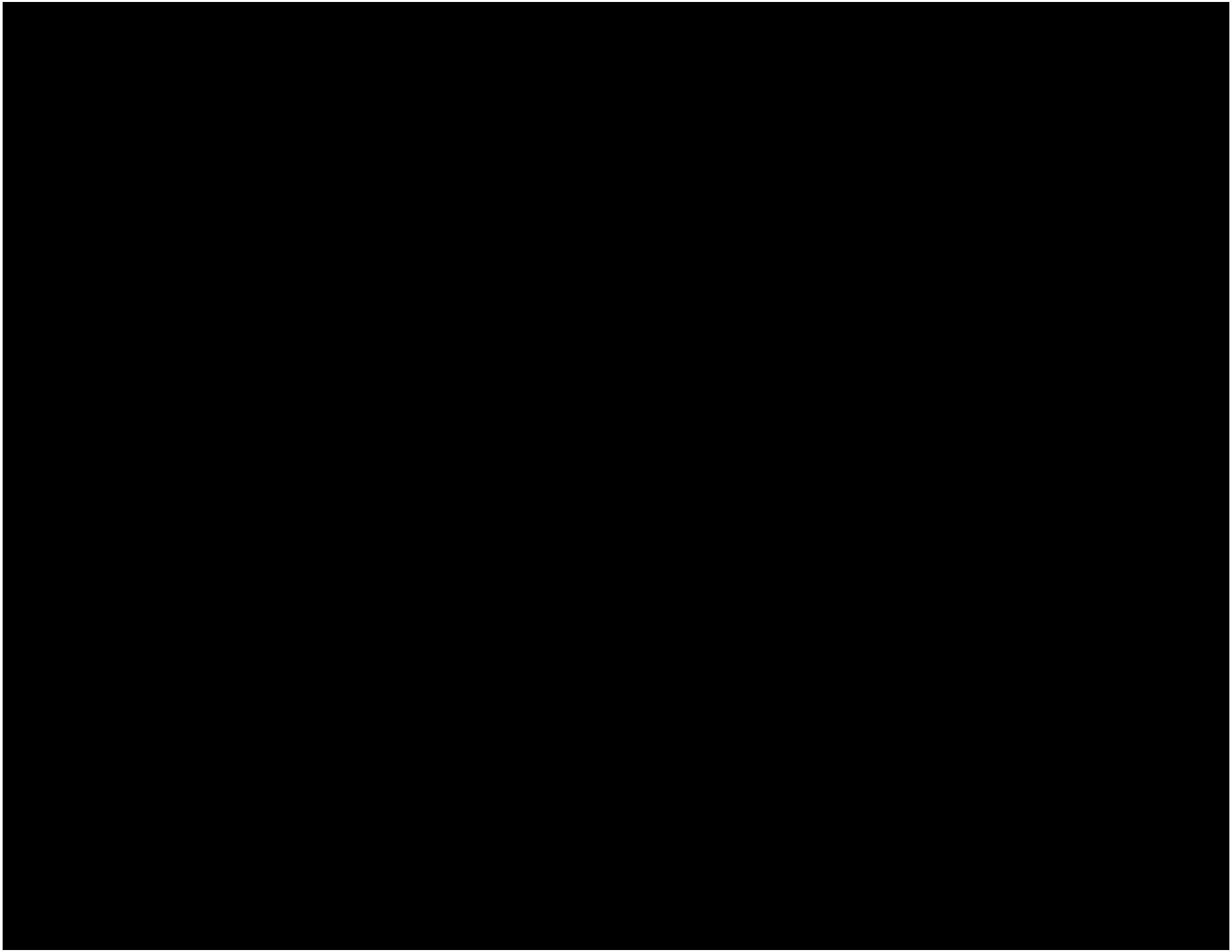
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Notary Public-Arkansas
Franklin County
My Commission Expires 08-15-2027
Commission # 12362100

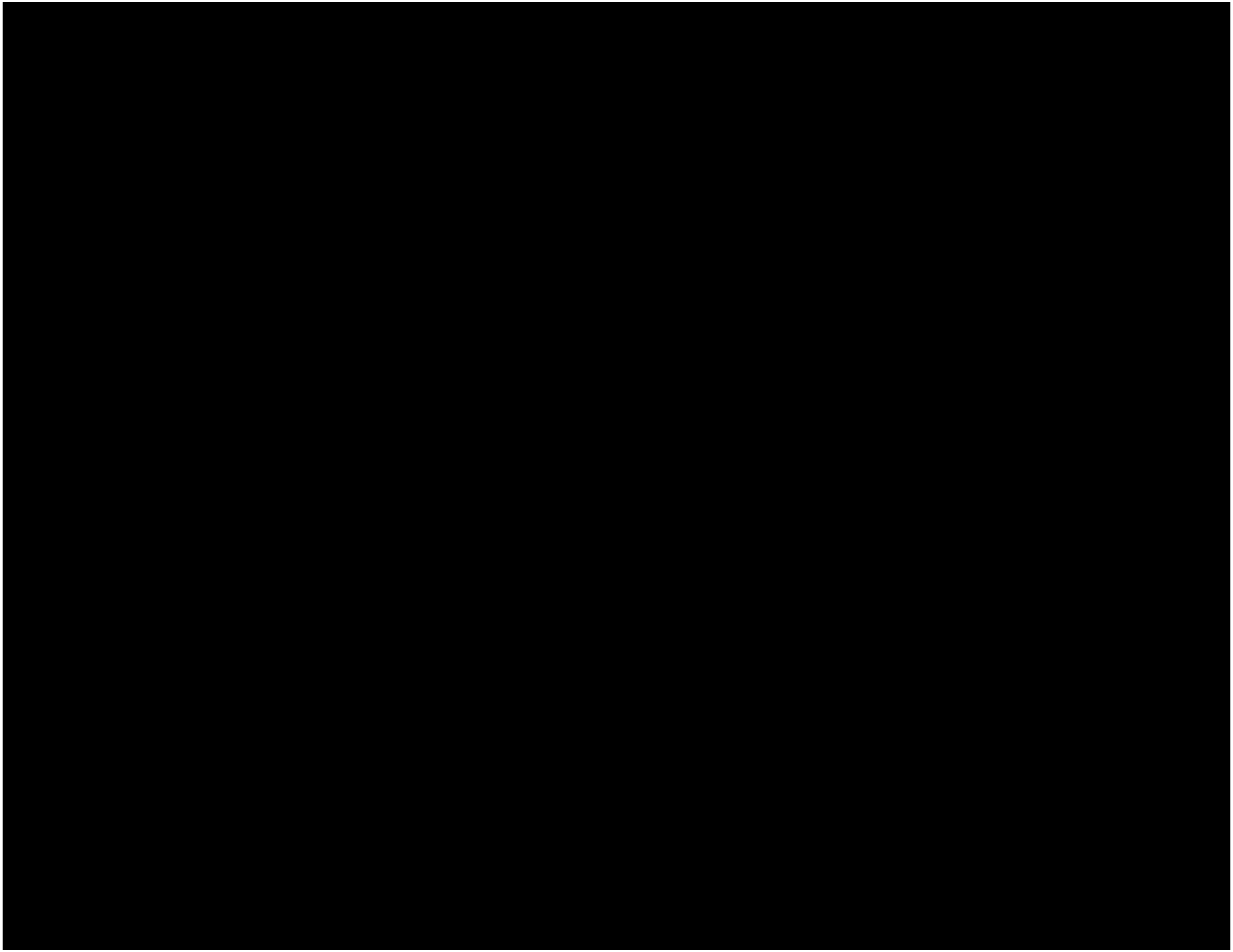
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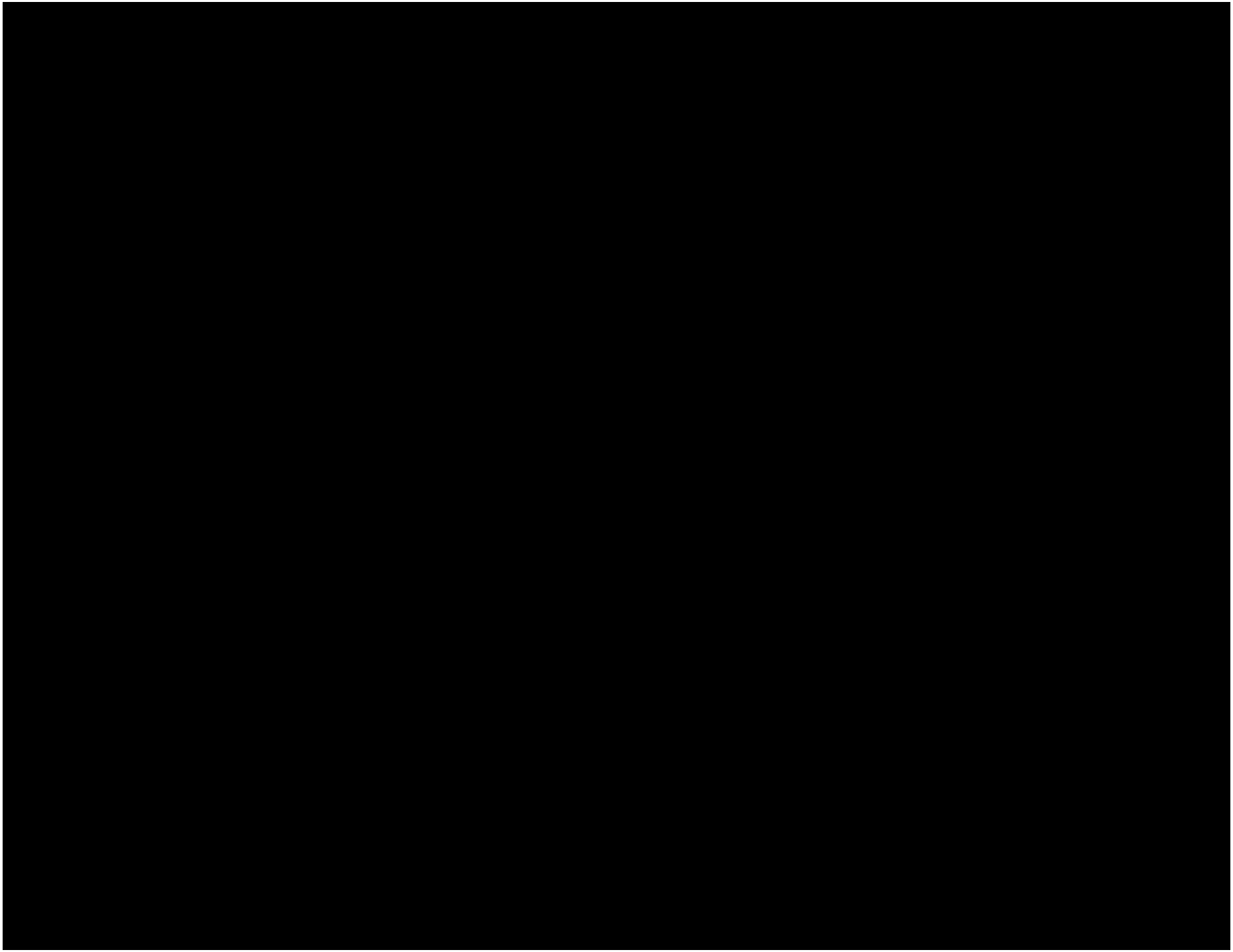
Veronica Elliott
Notary Public

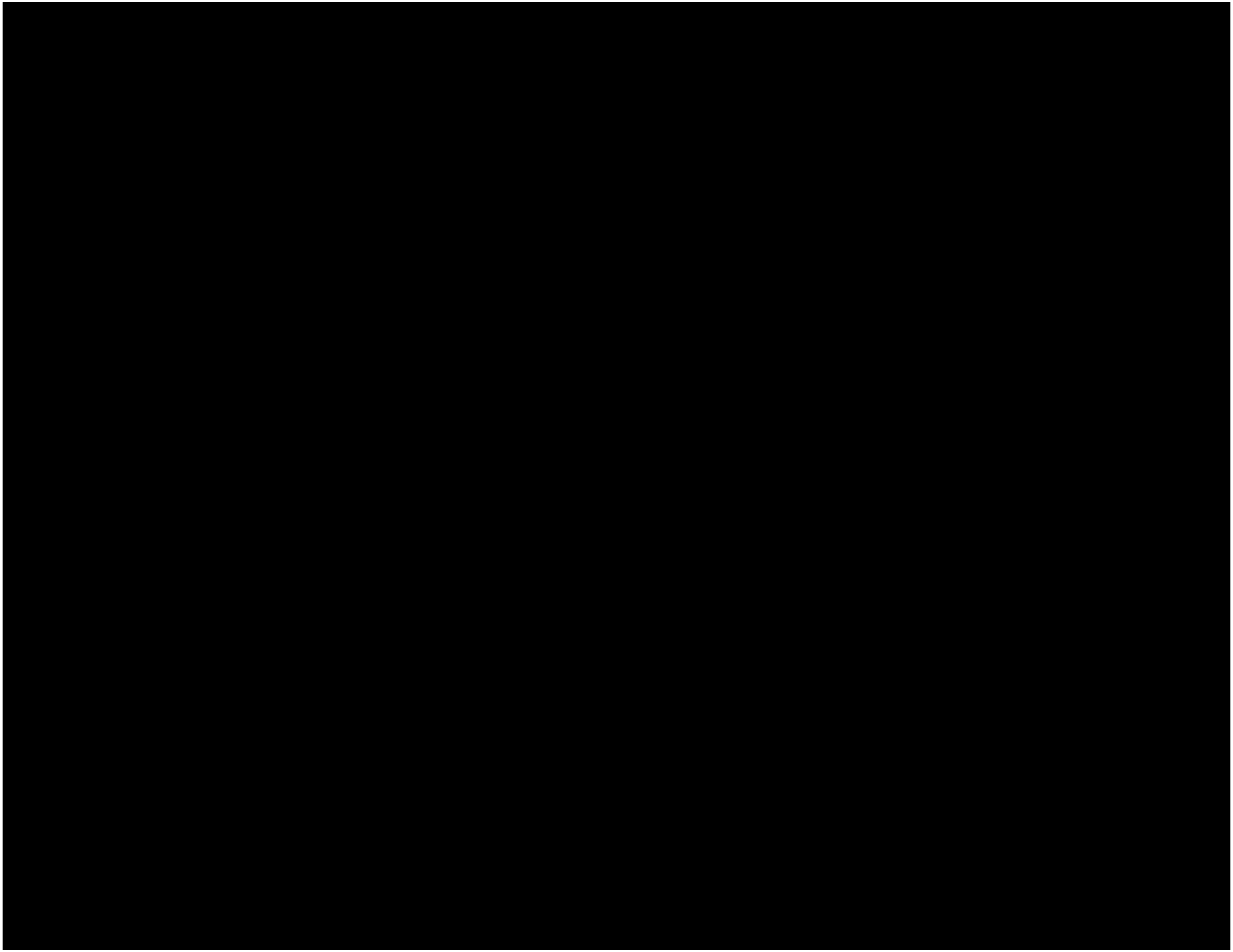
My Commission Expires:
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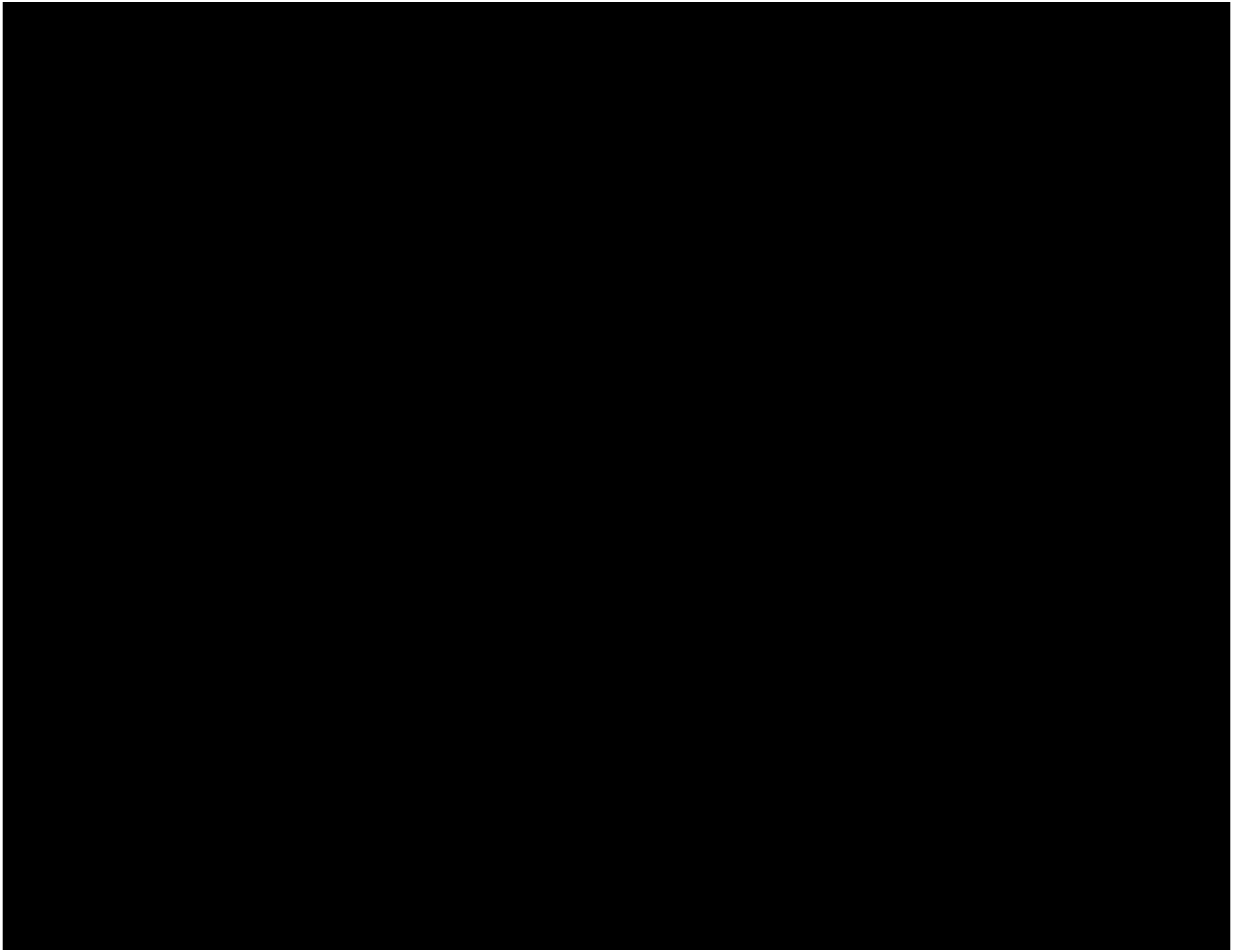
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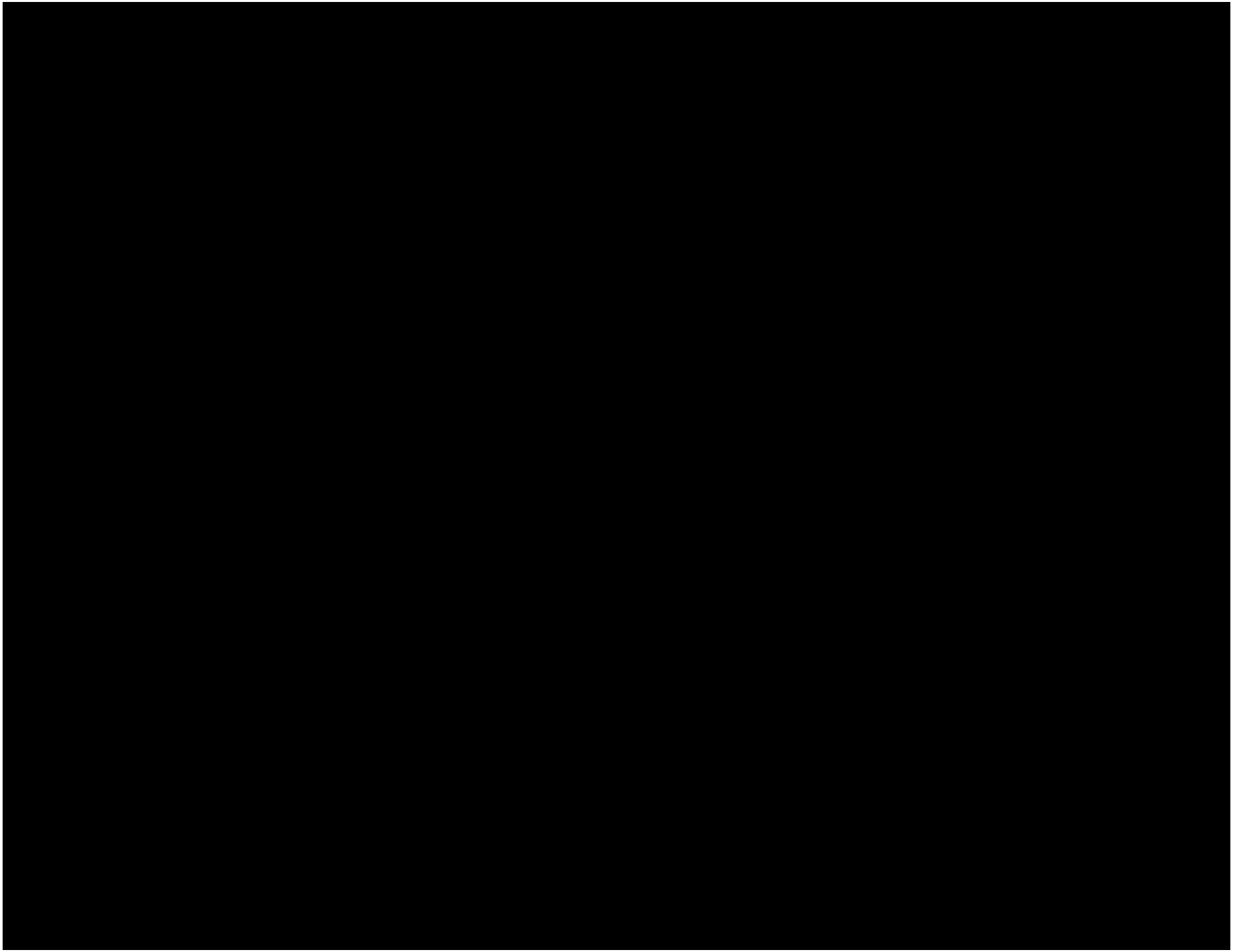


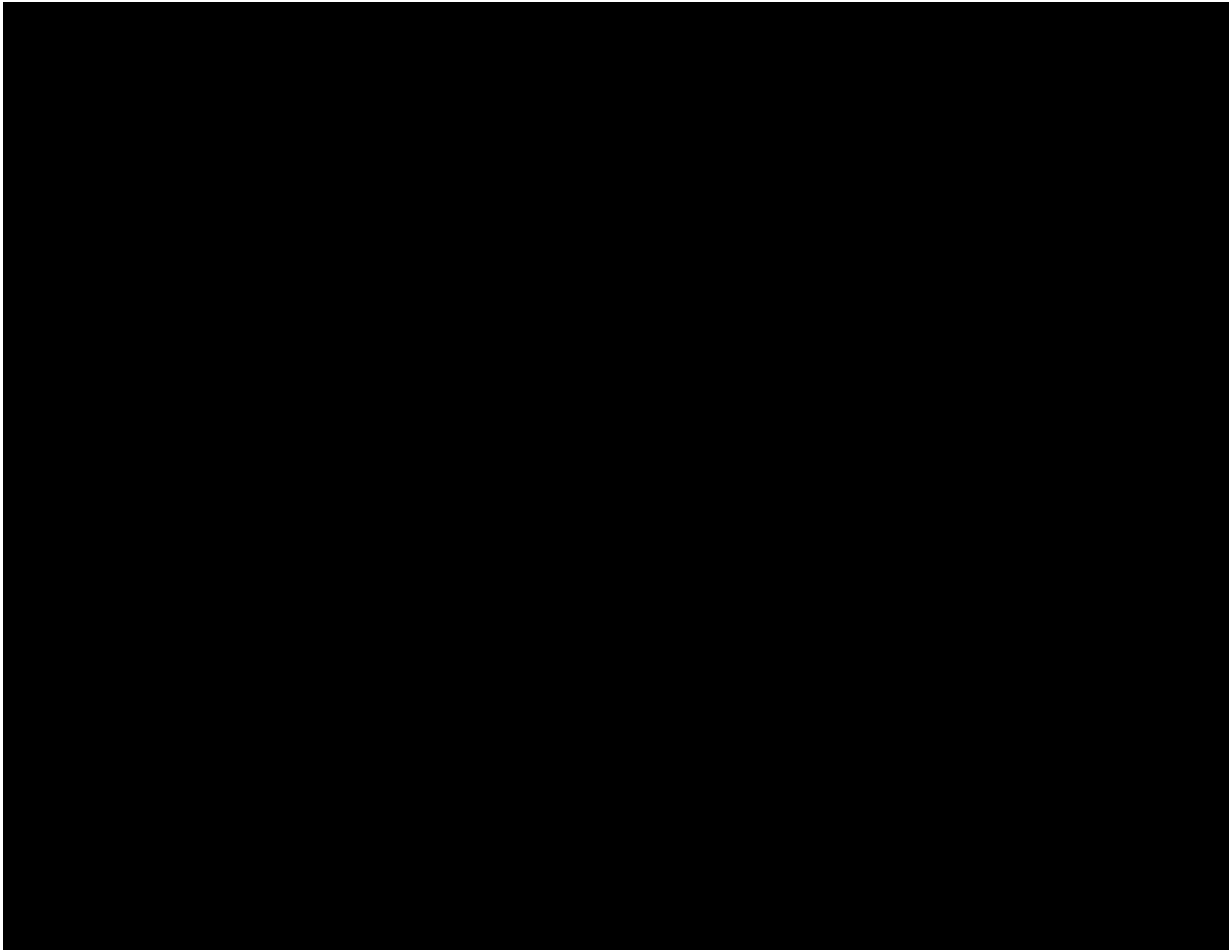


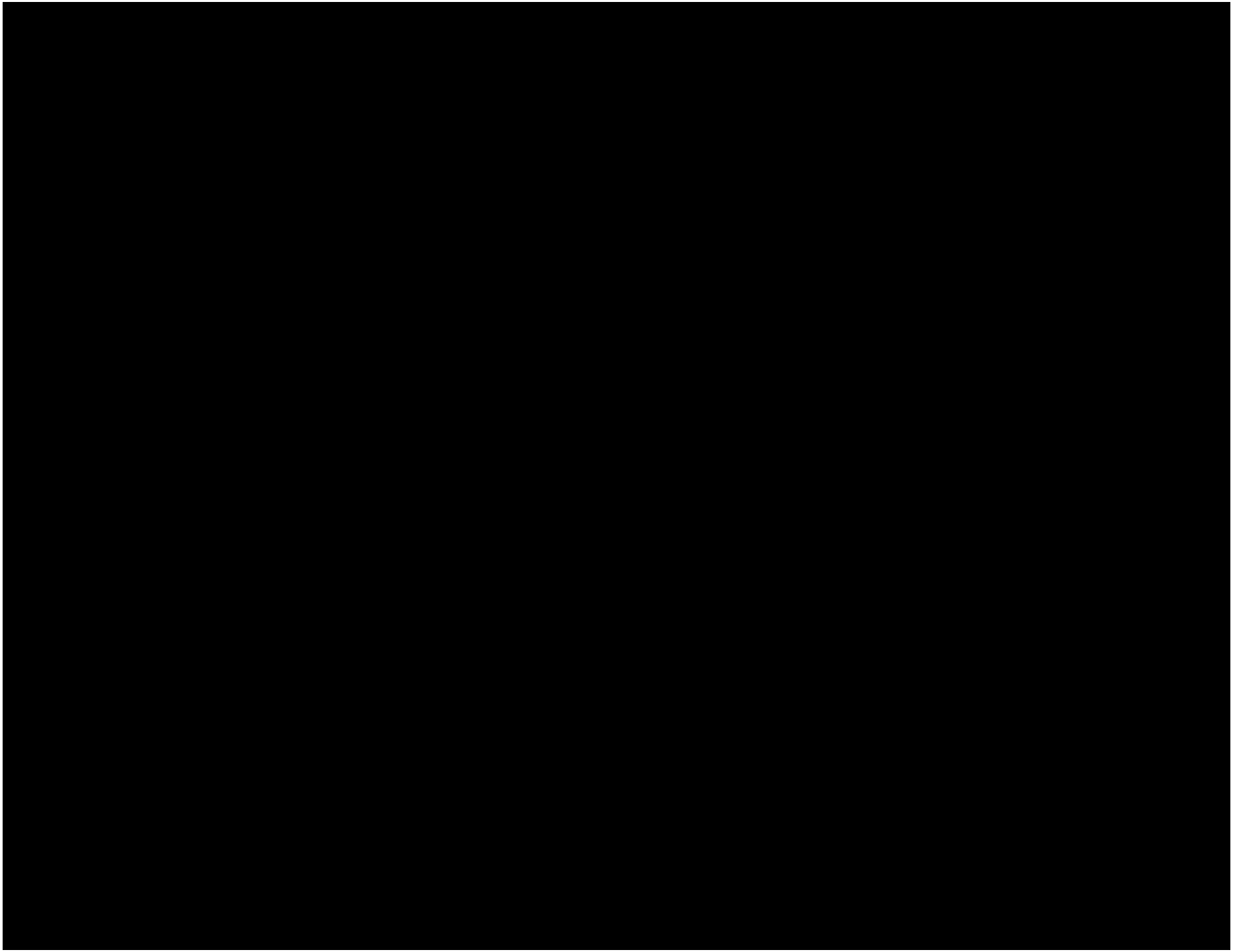


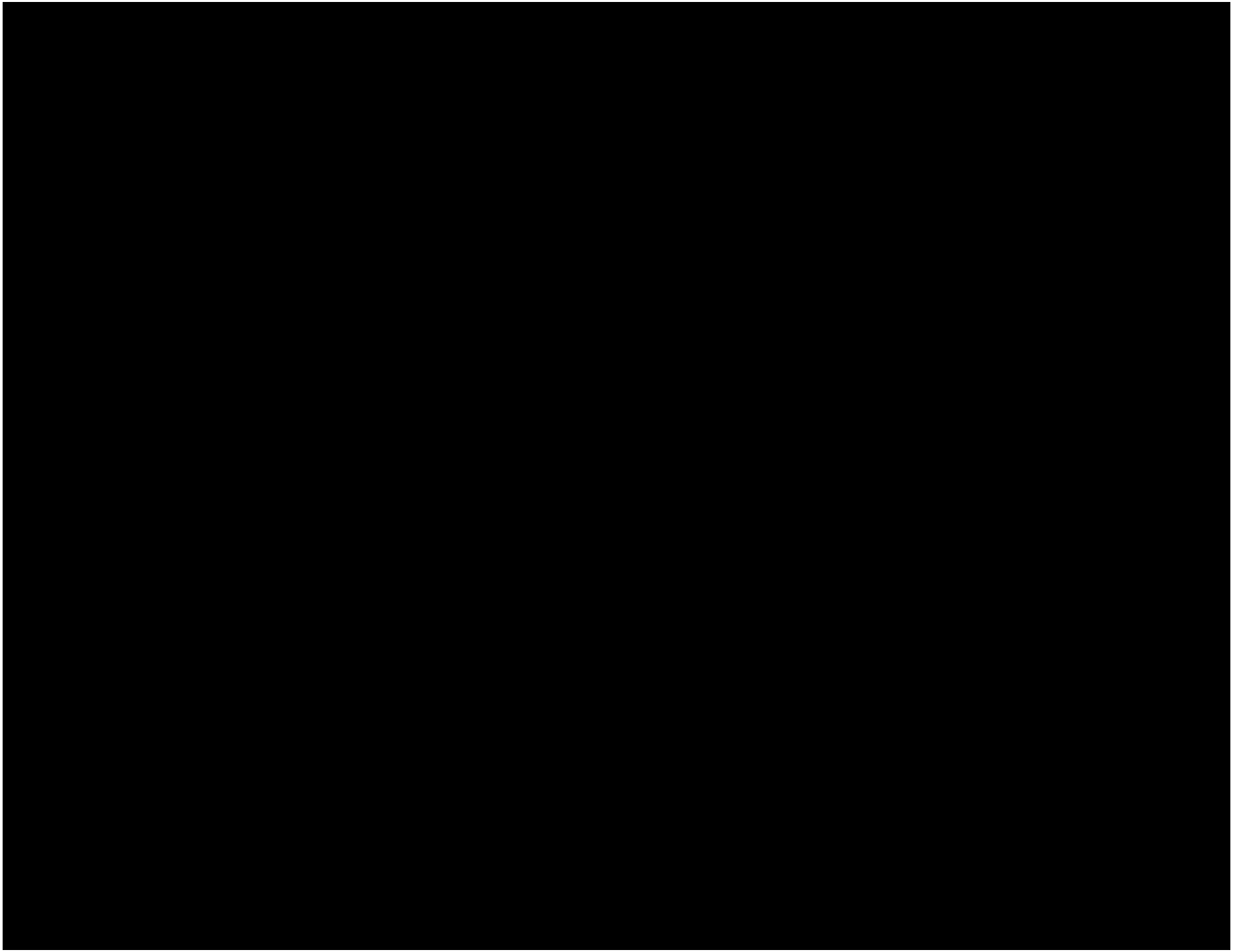


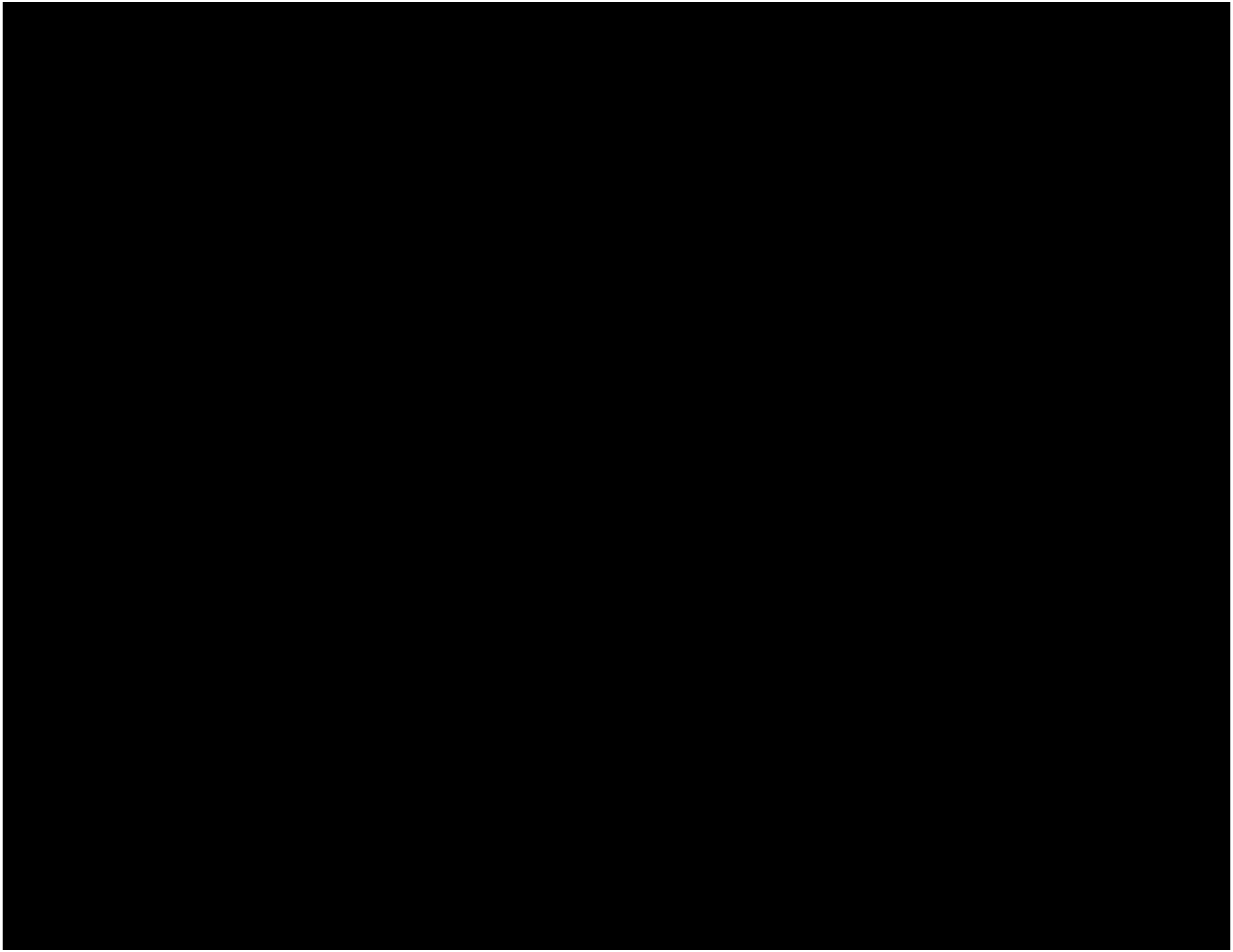


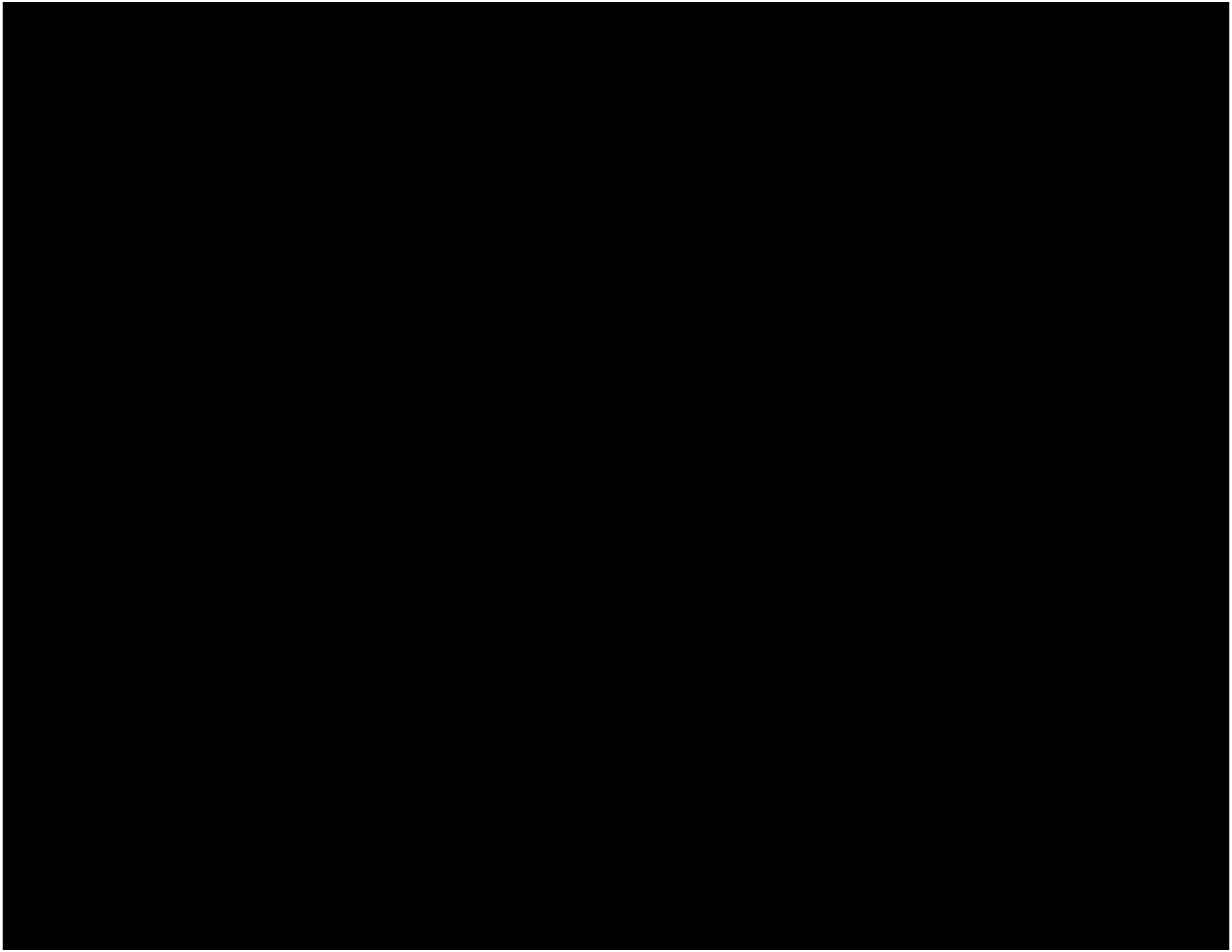


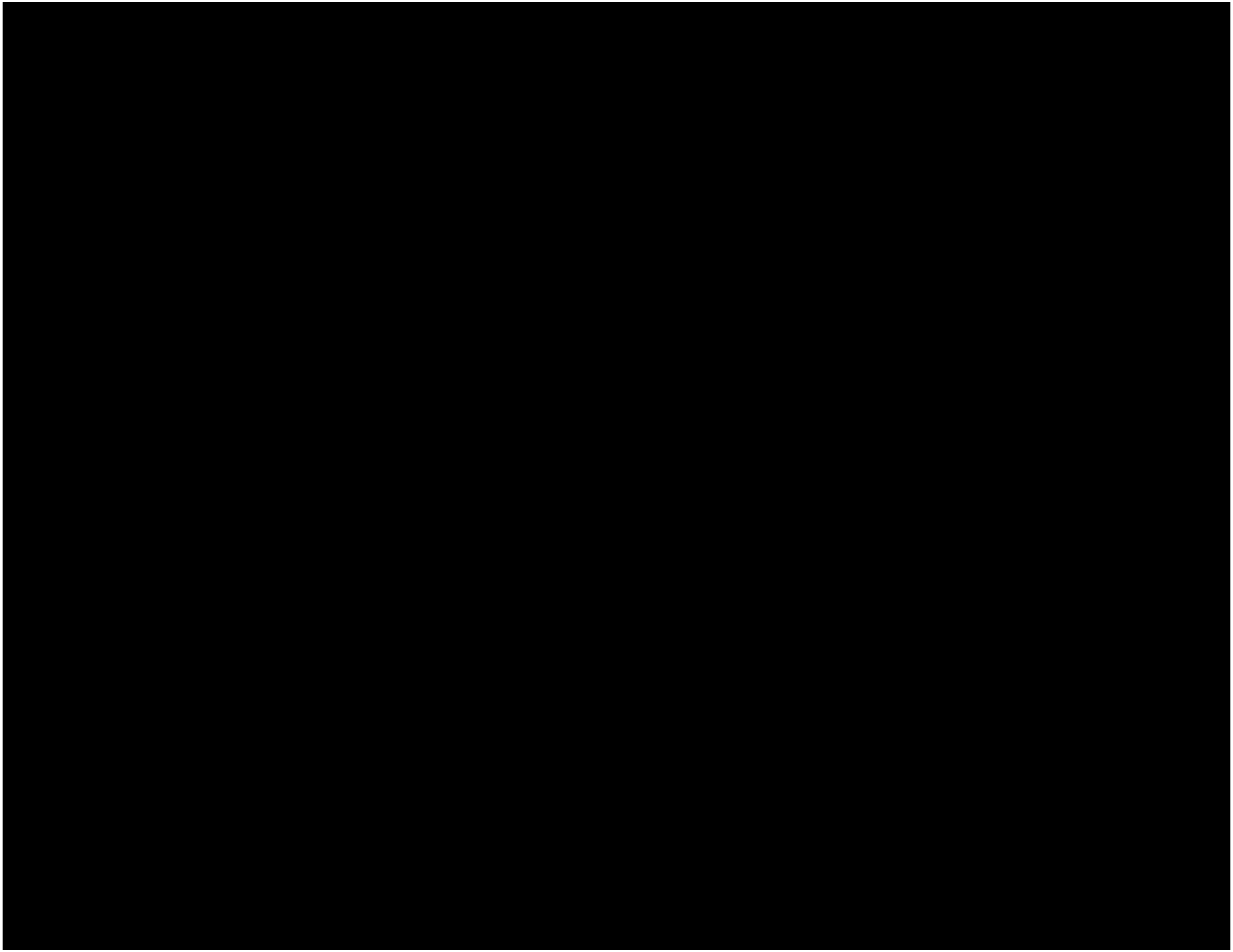


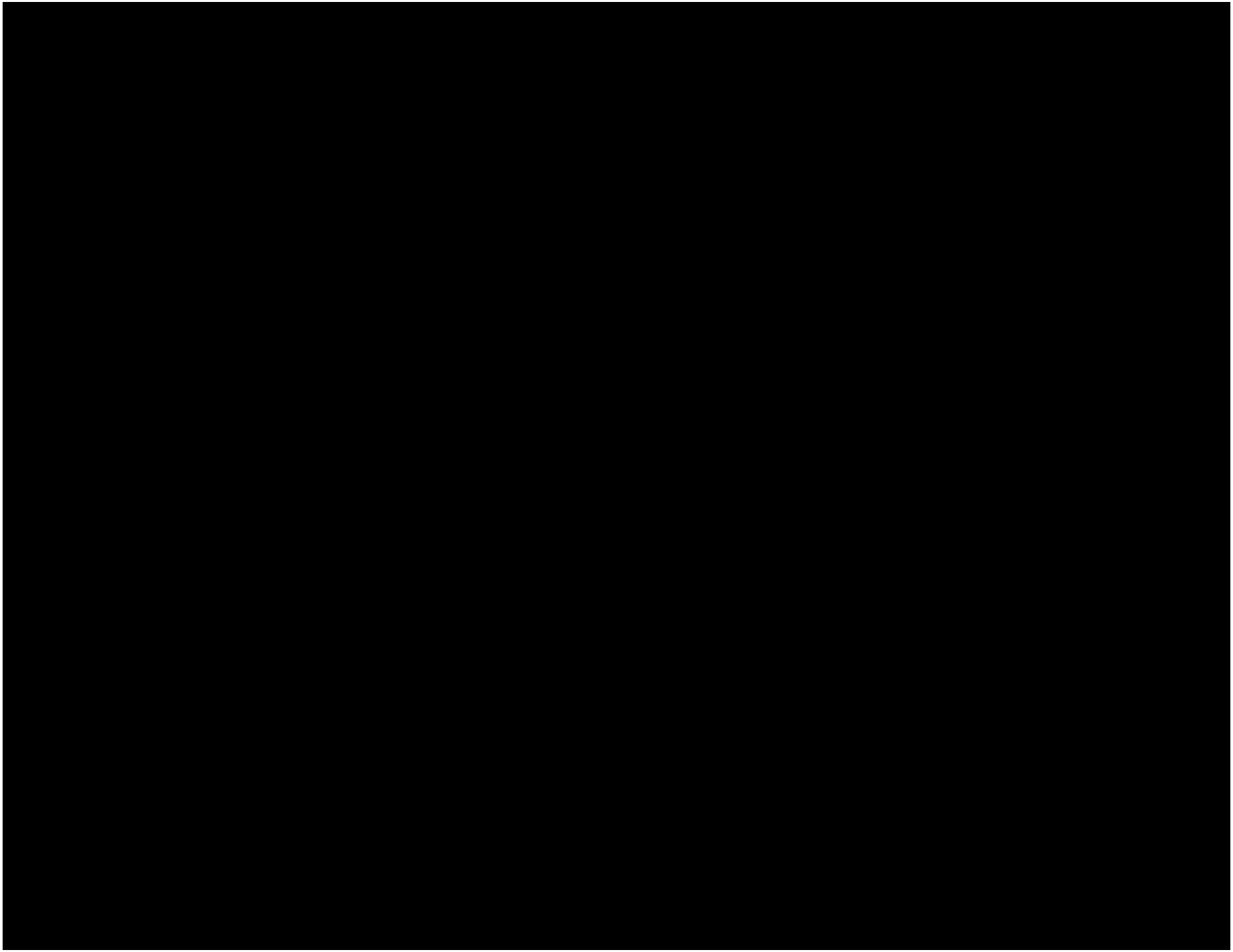


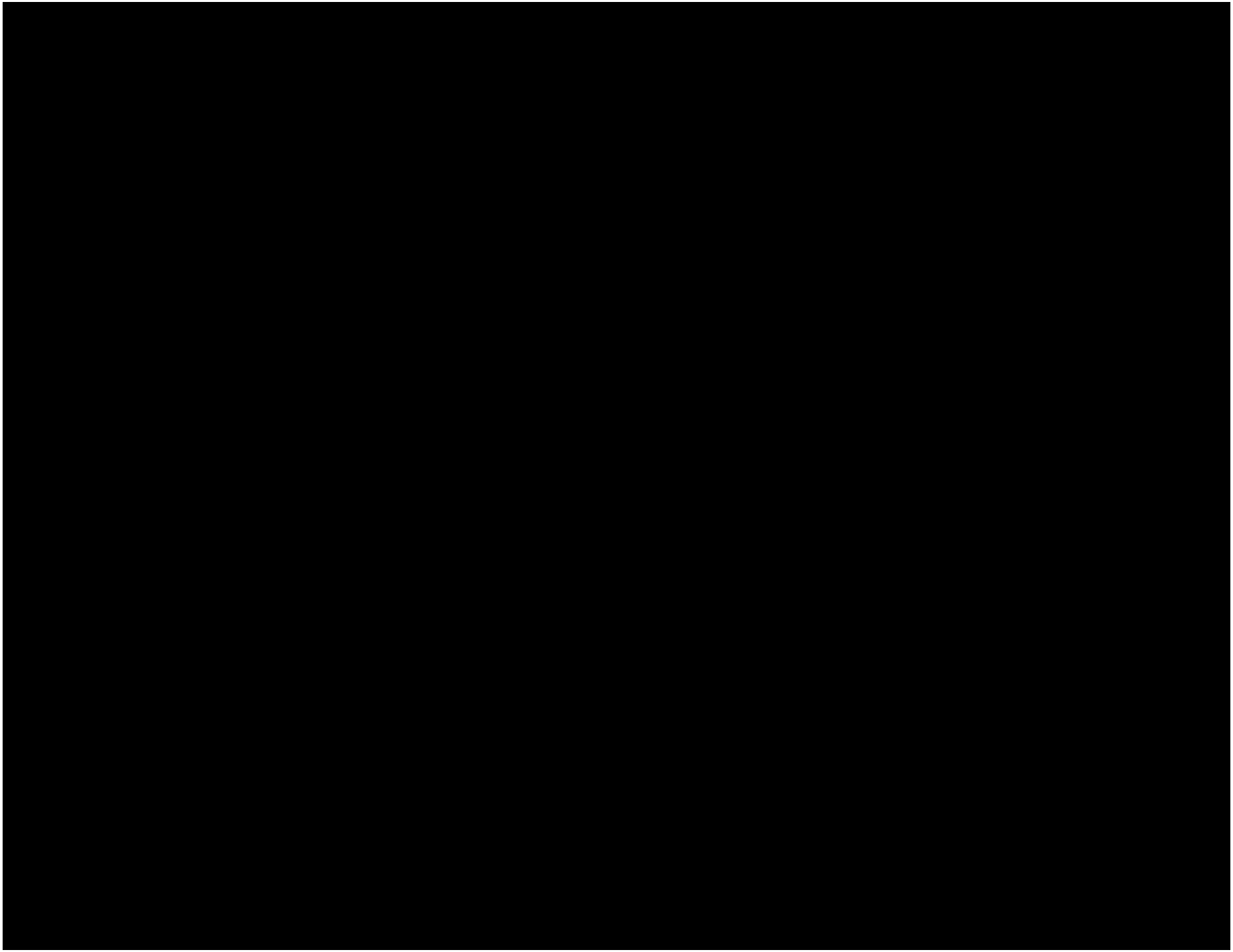


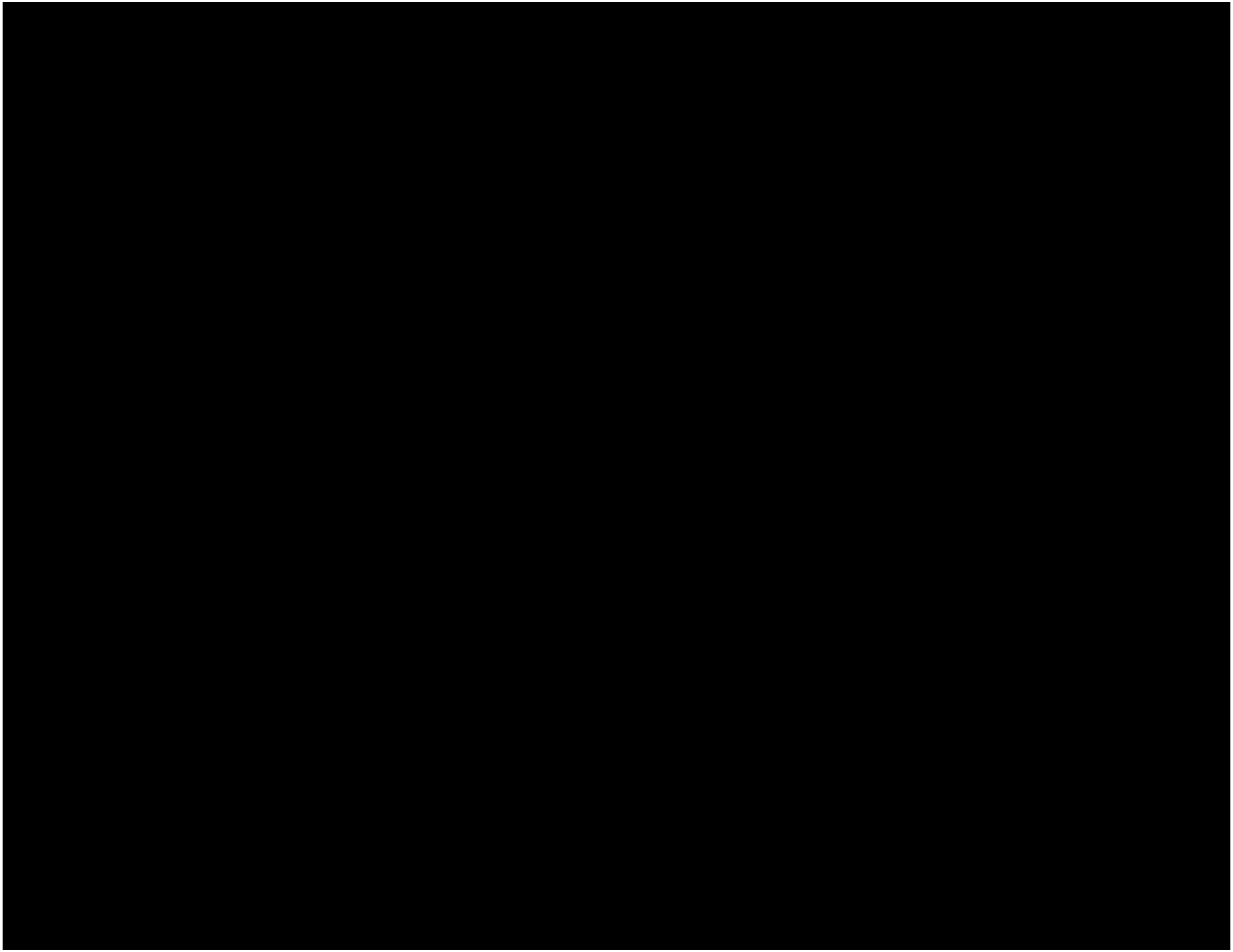


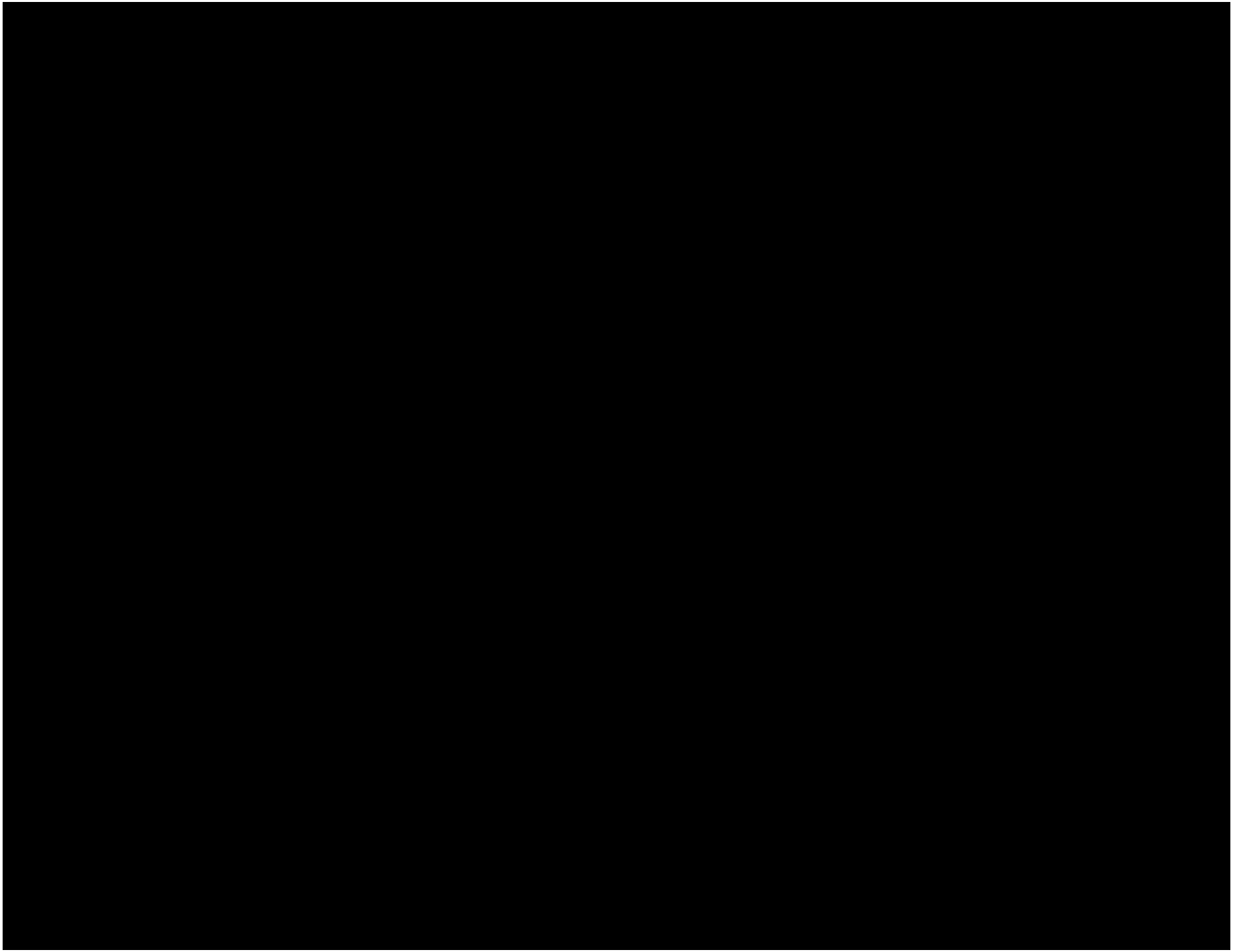


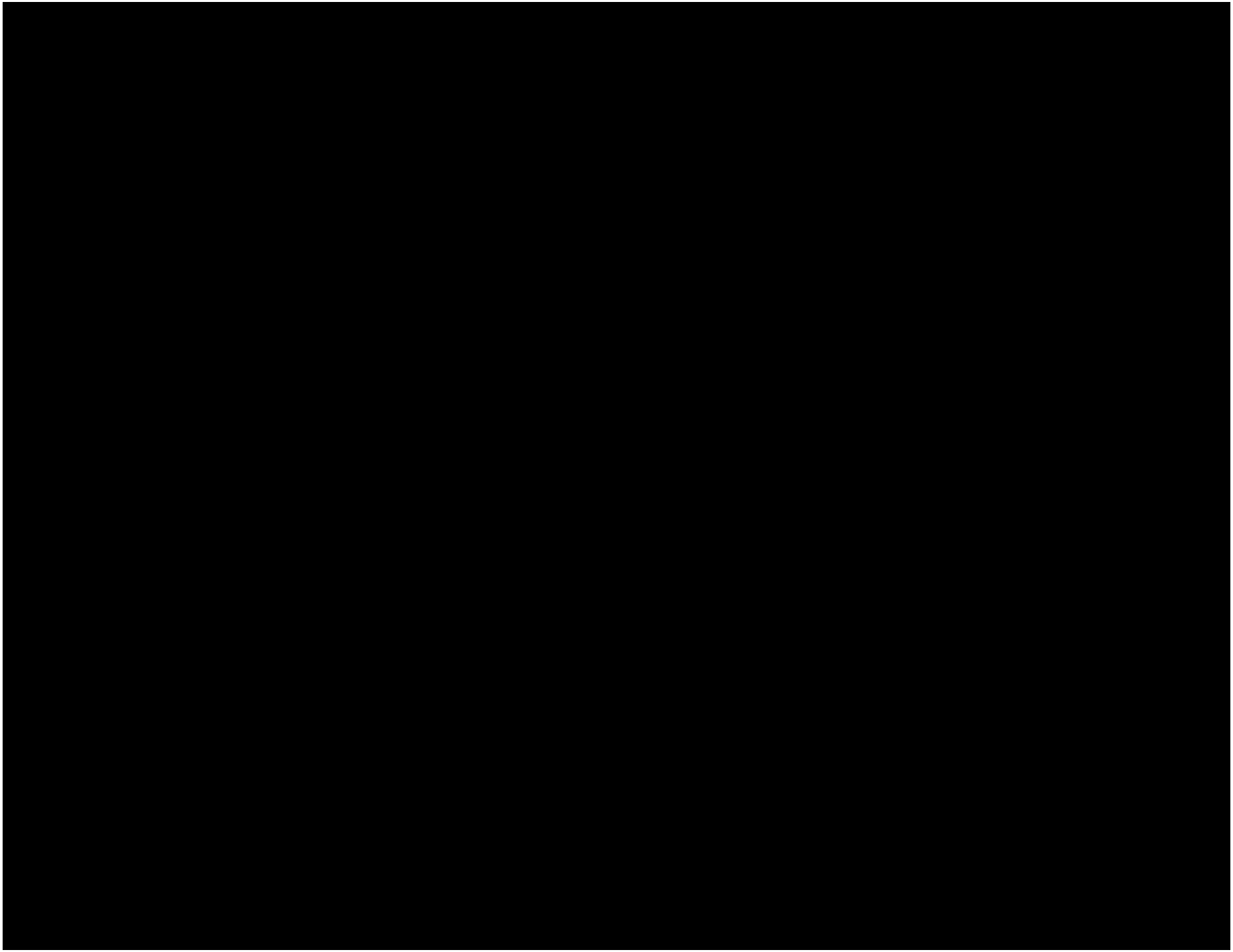


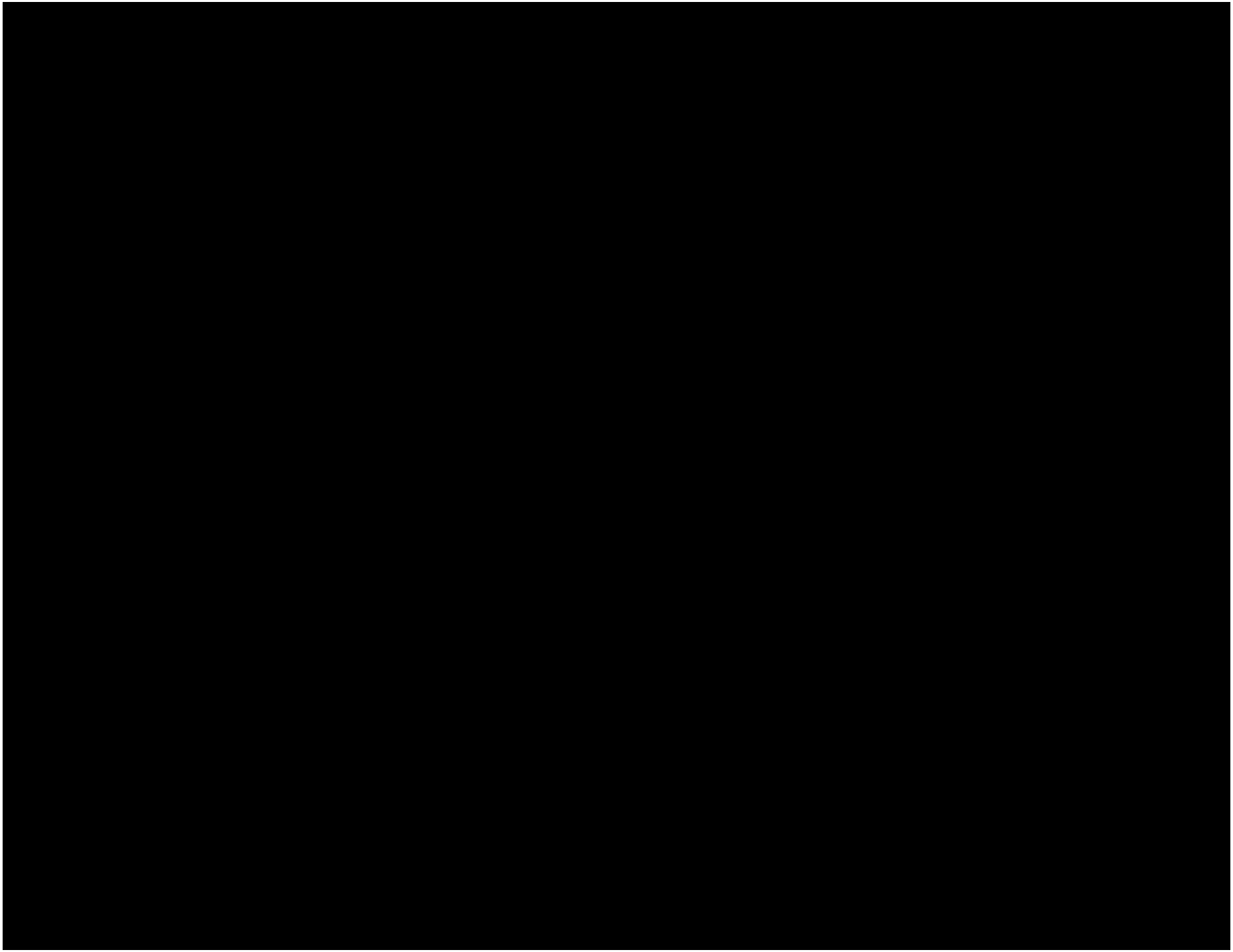


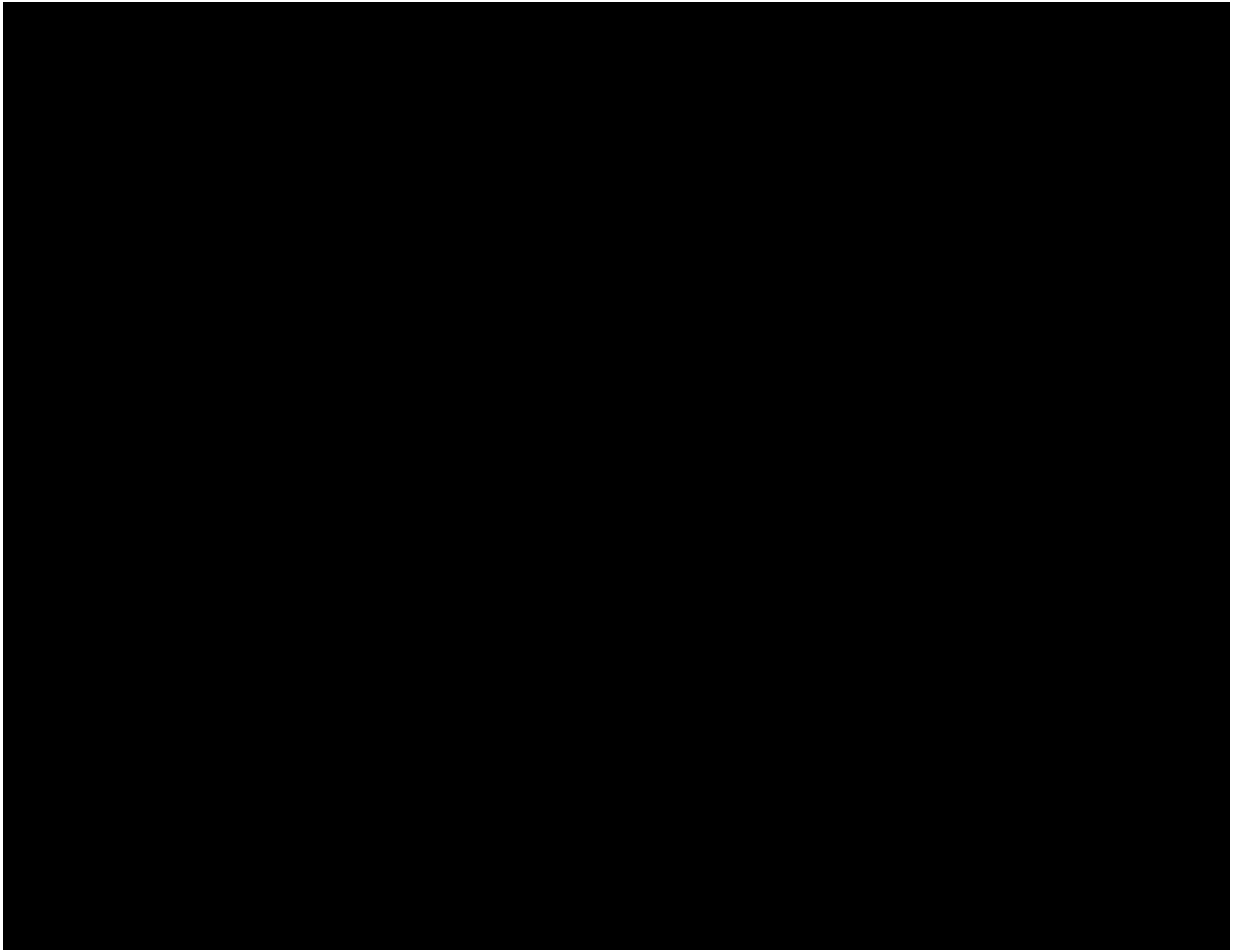


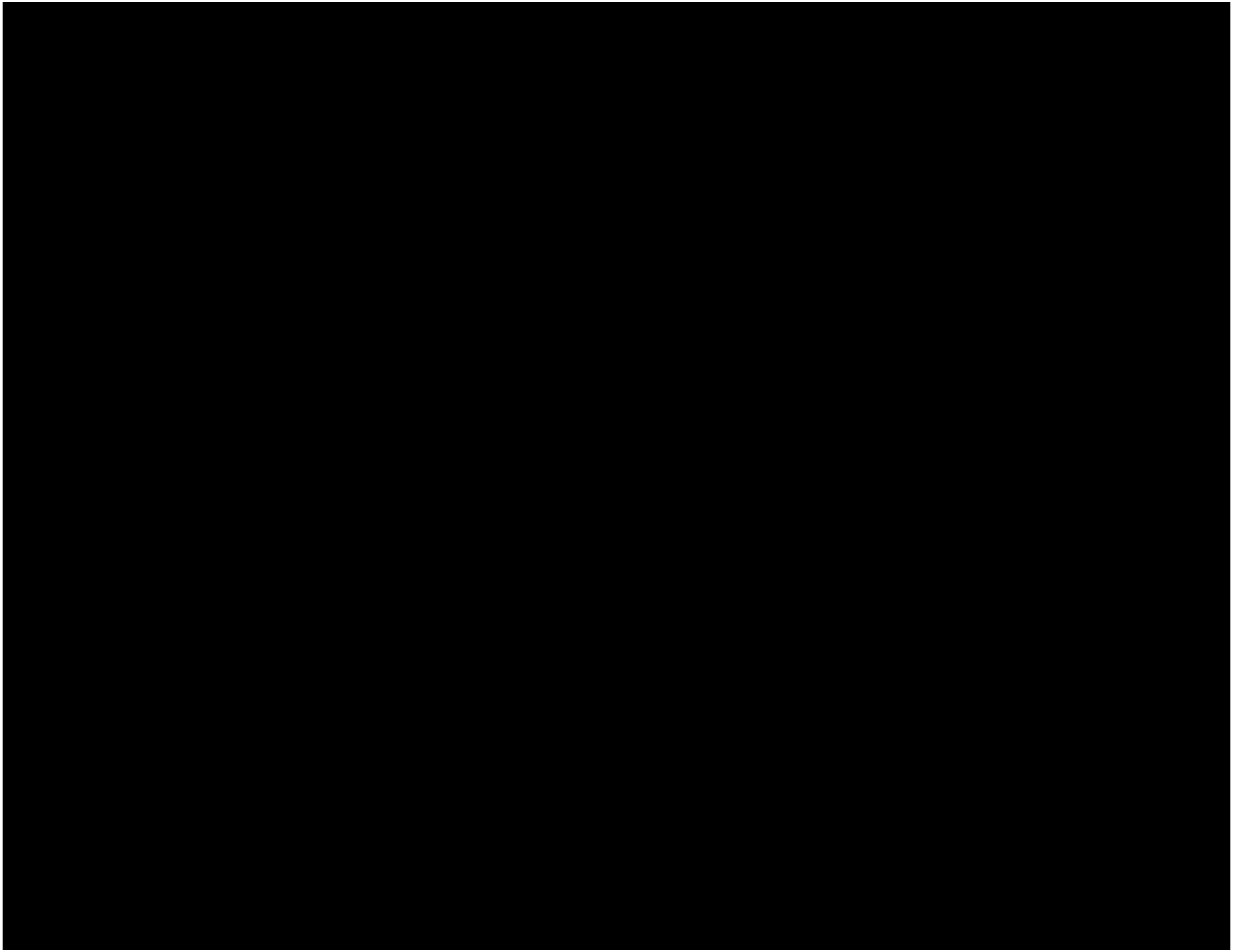


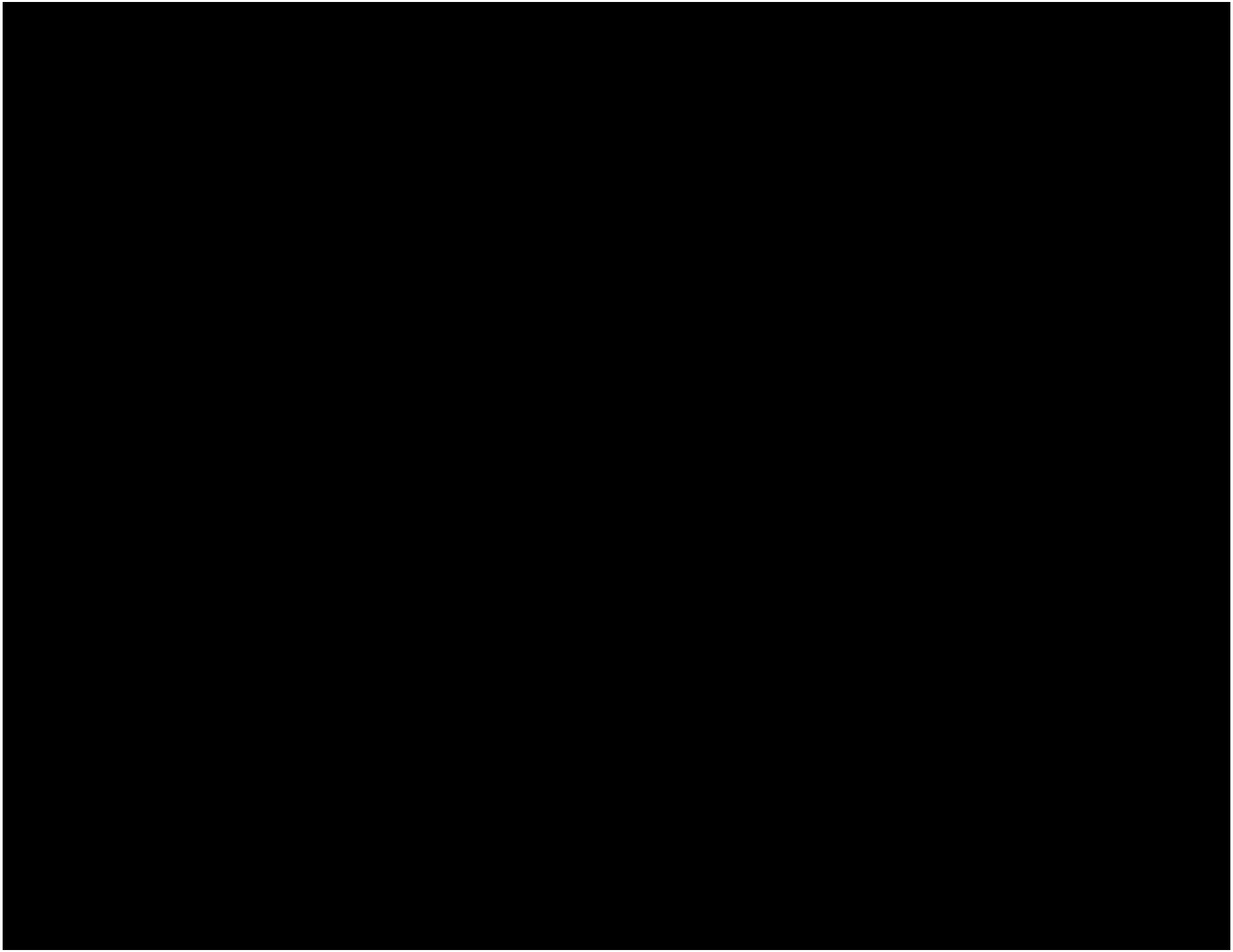


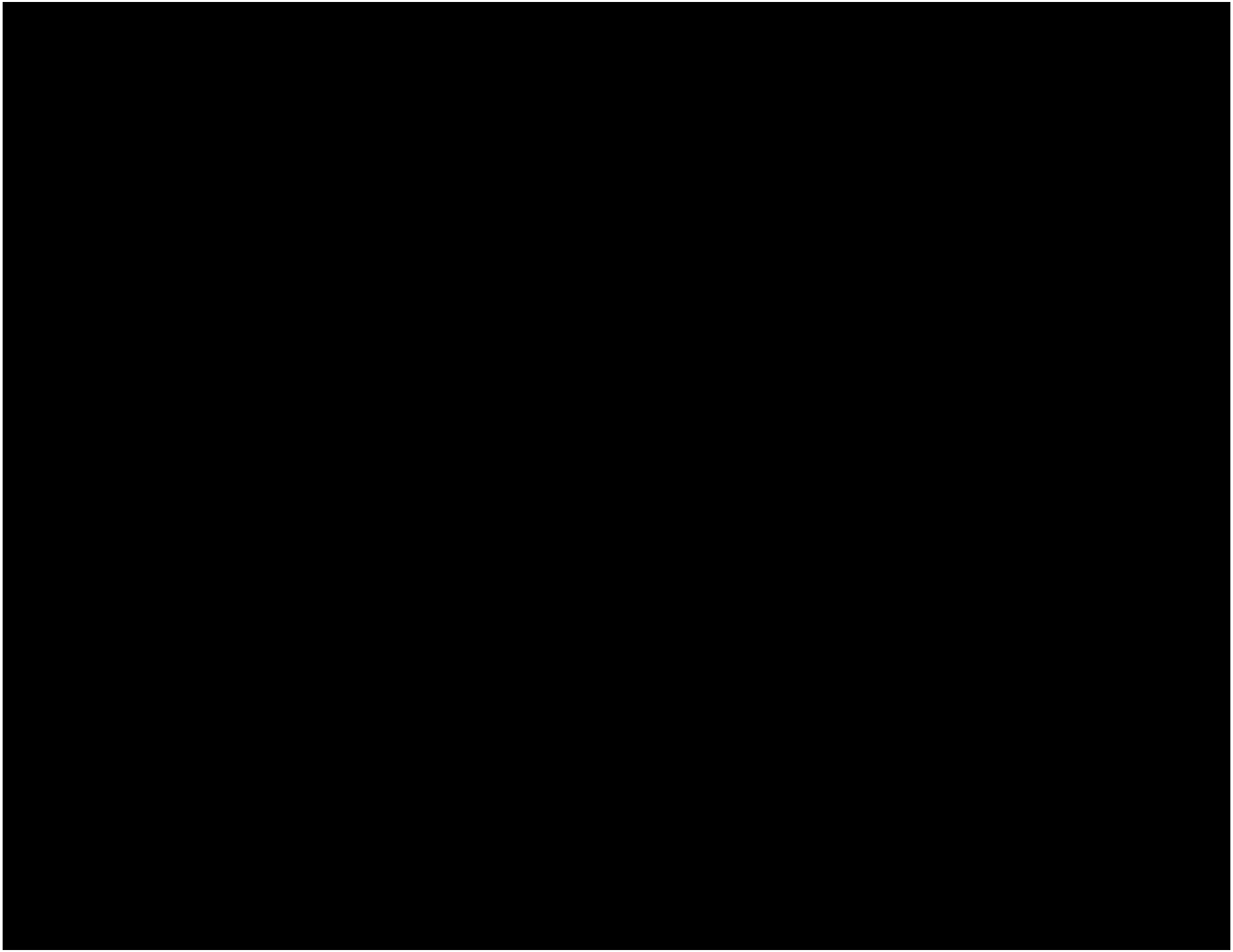


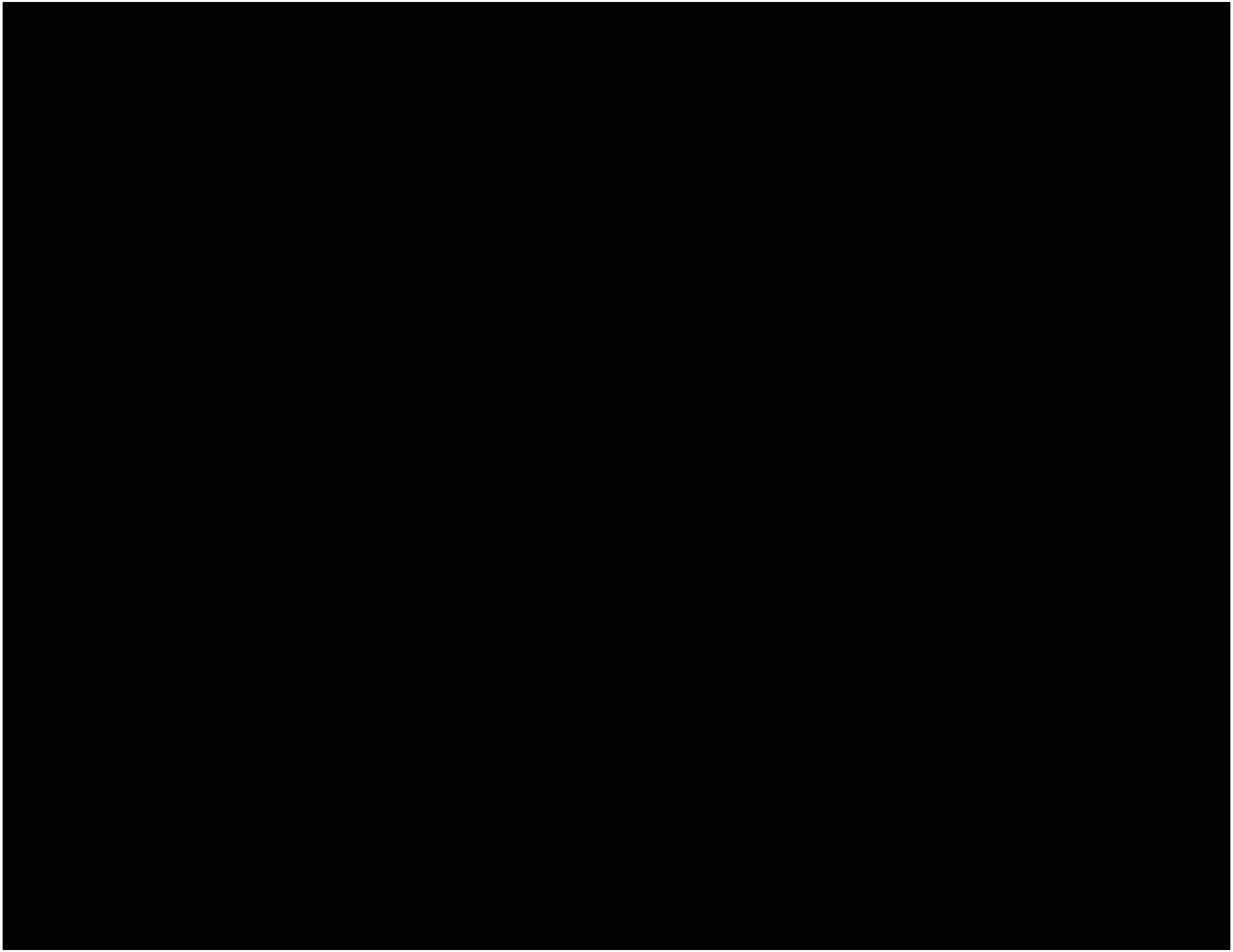


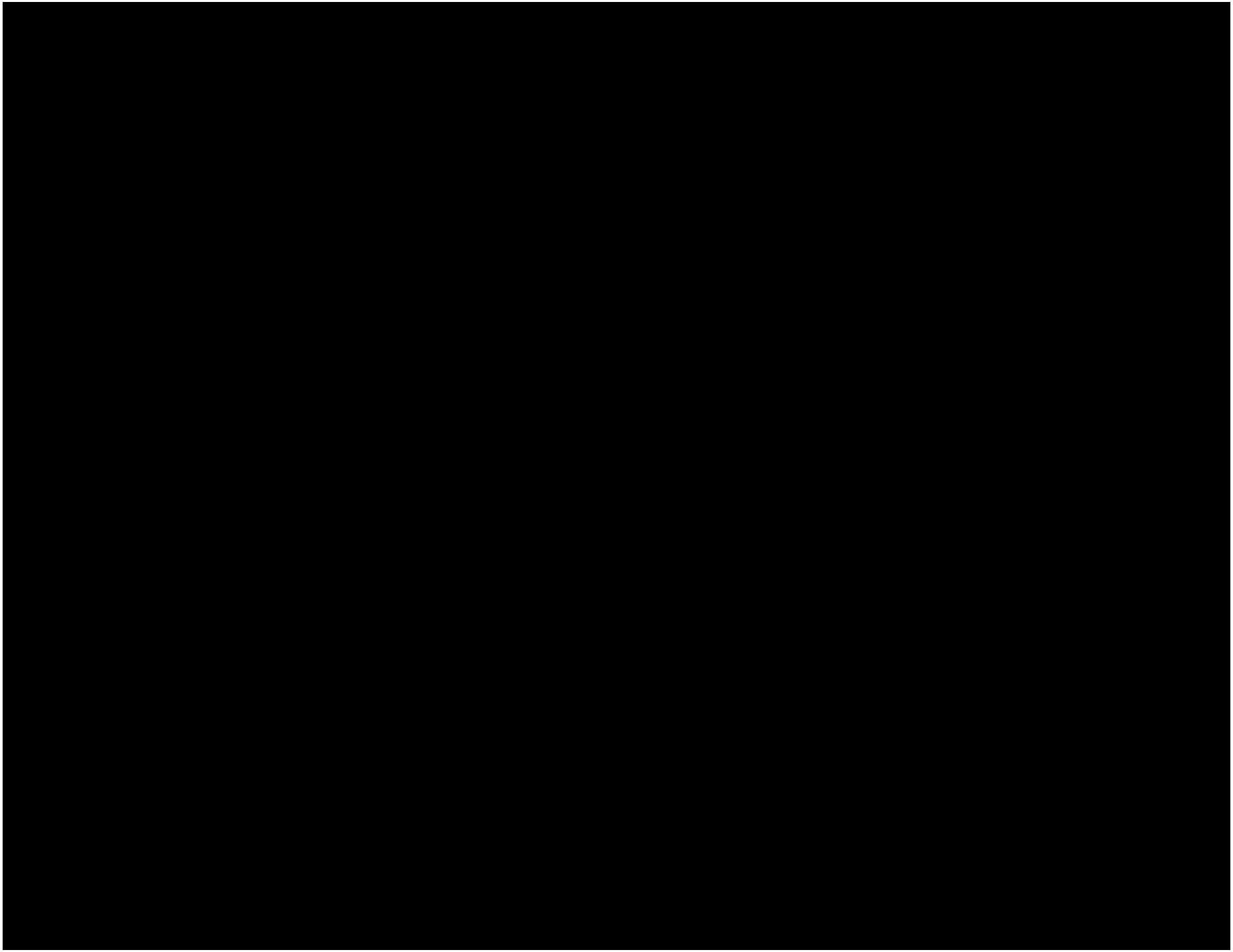


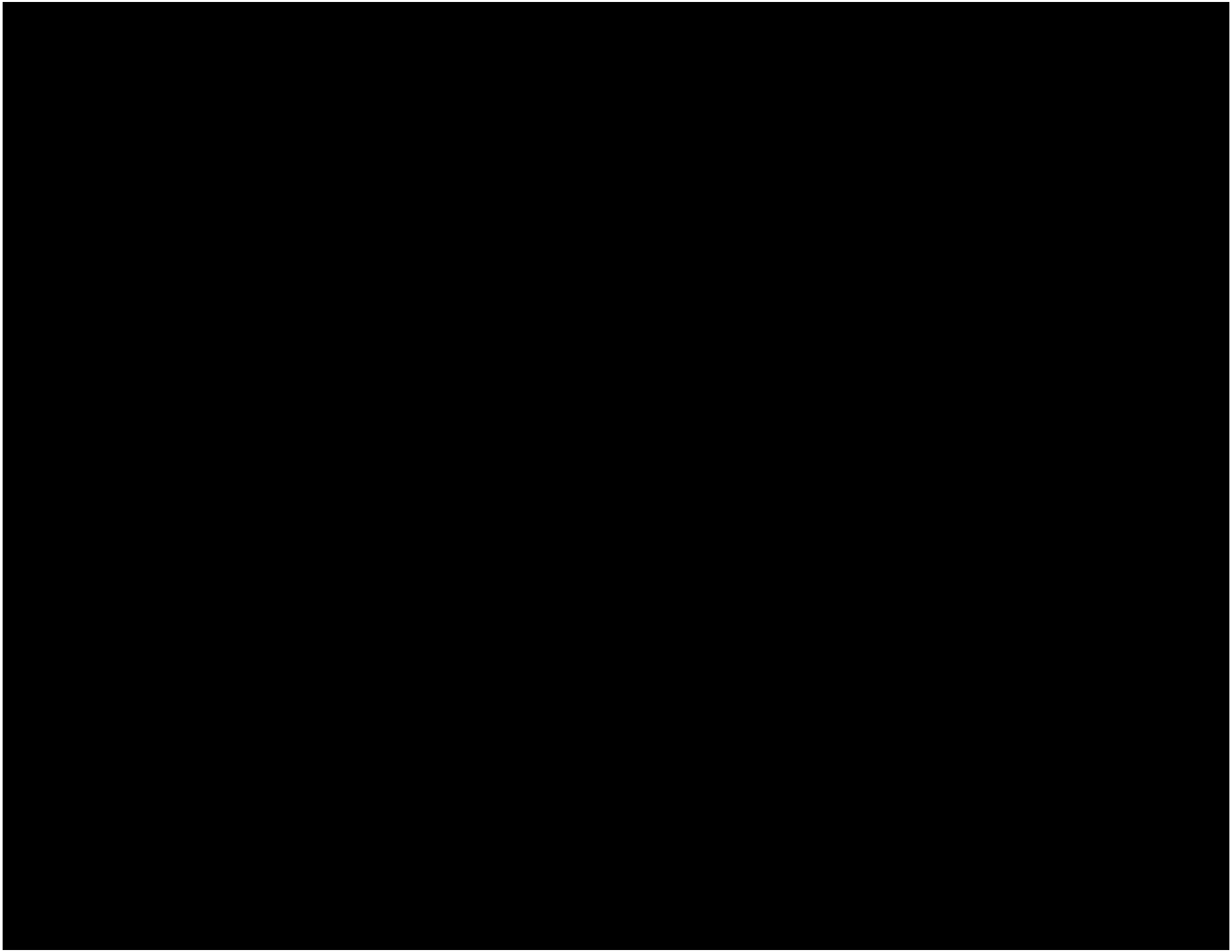


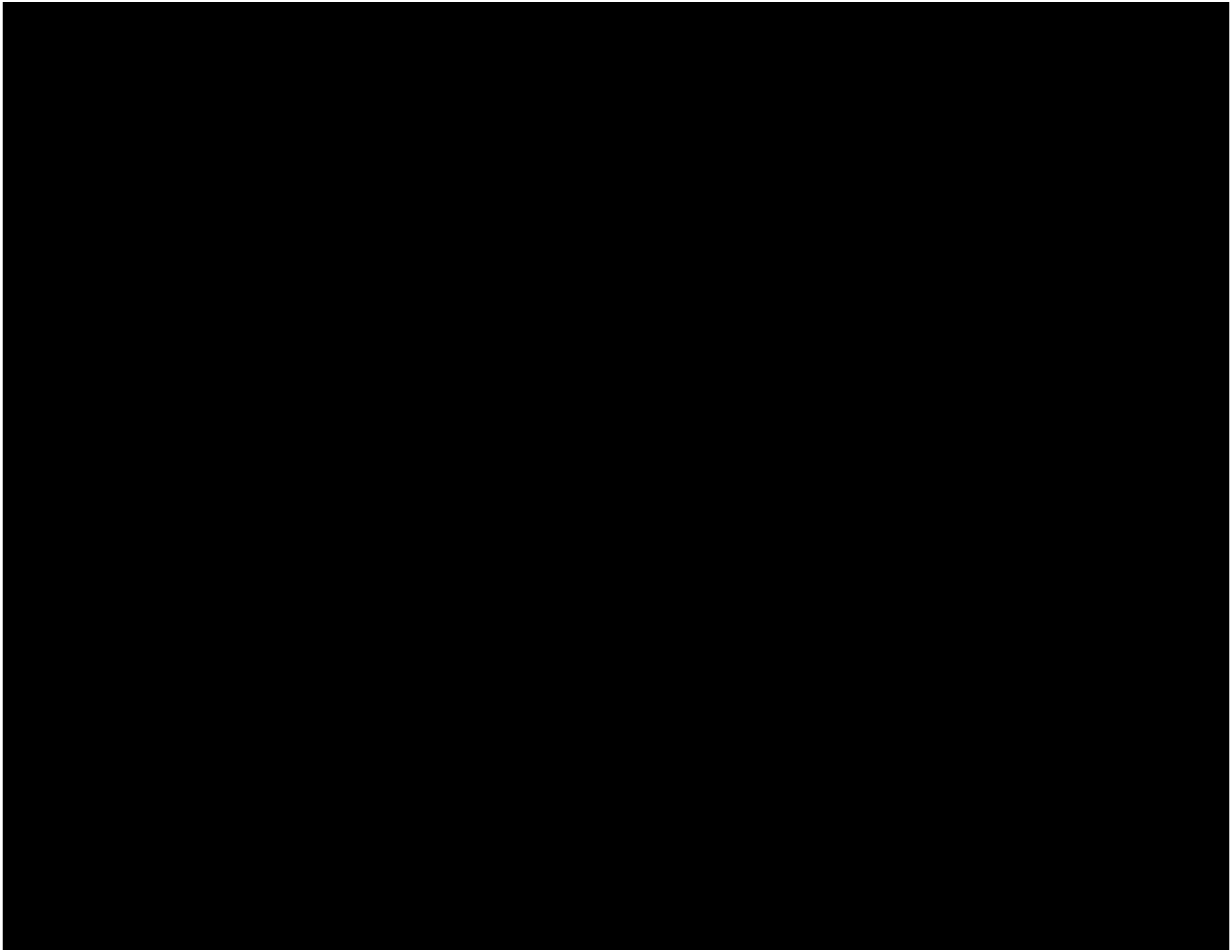


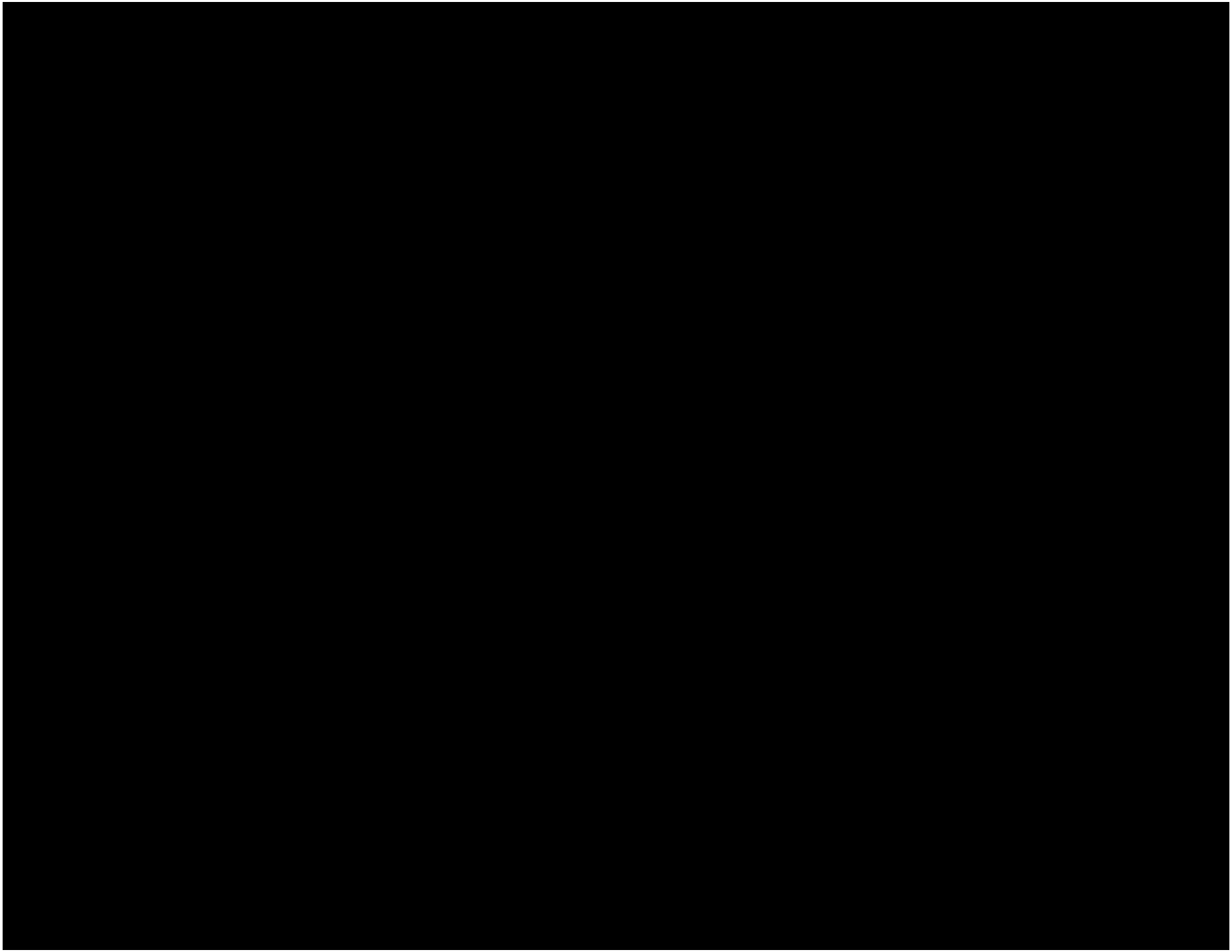


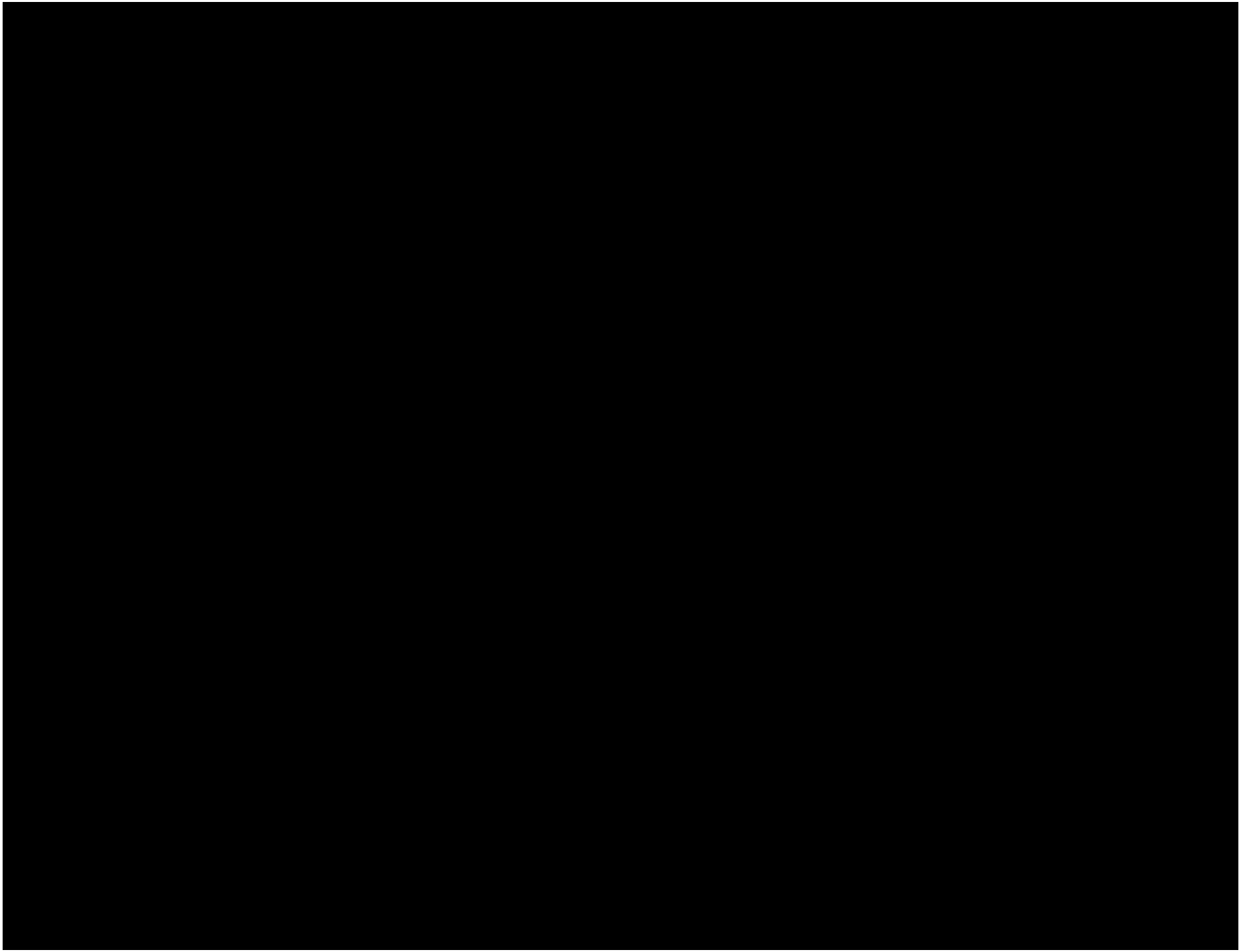


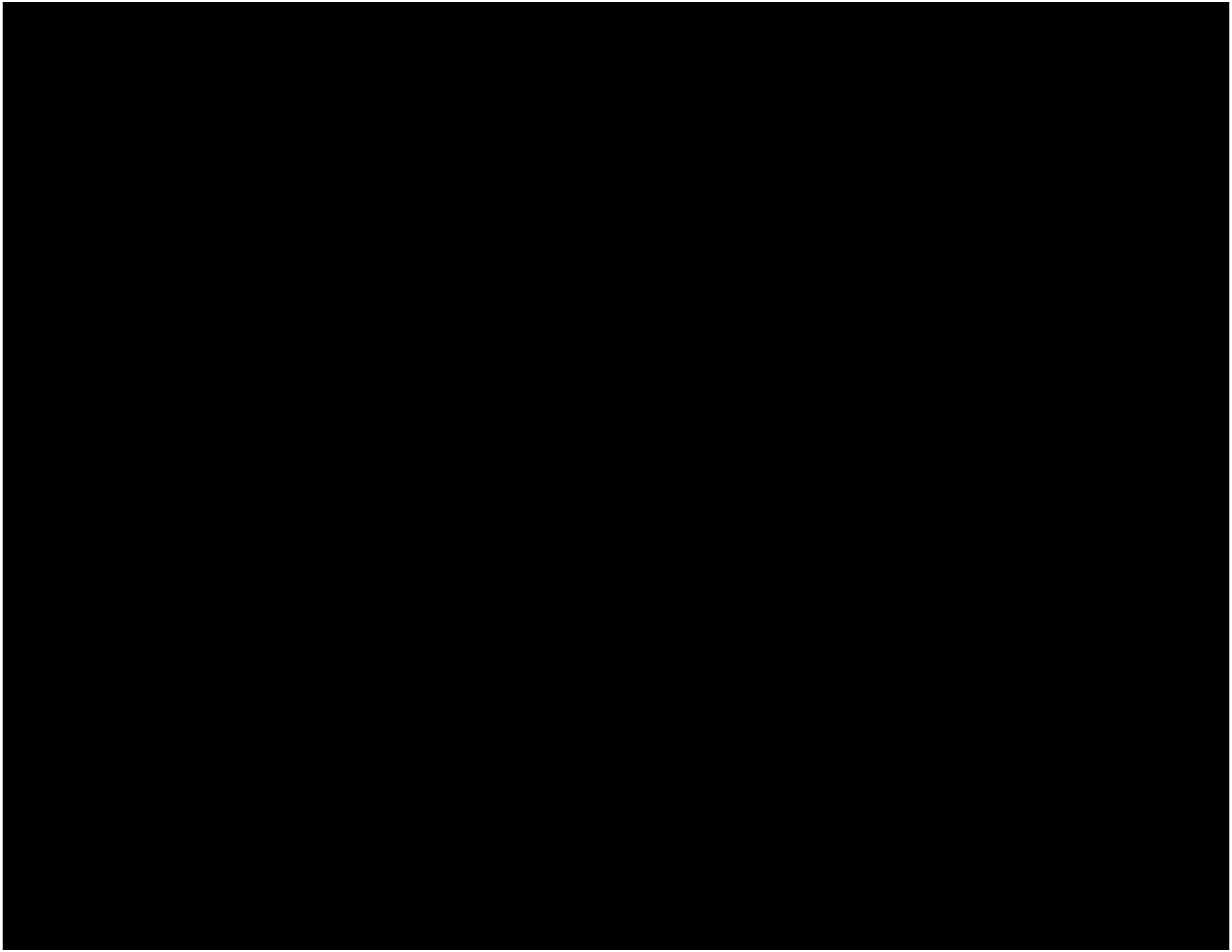


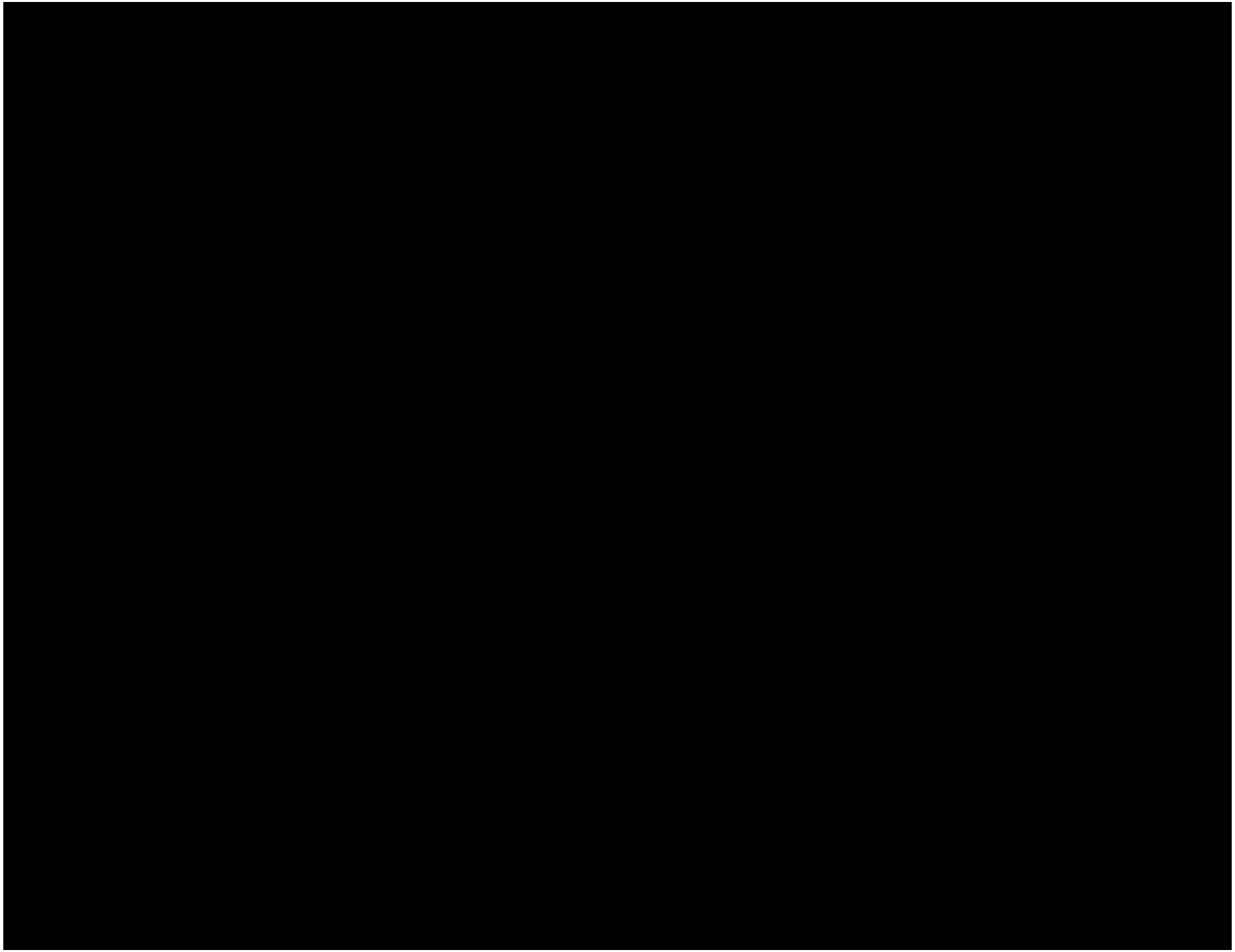


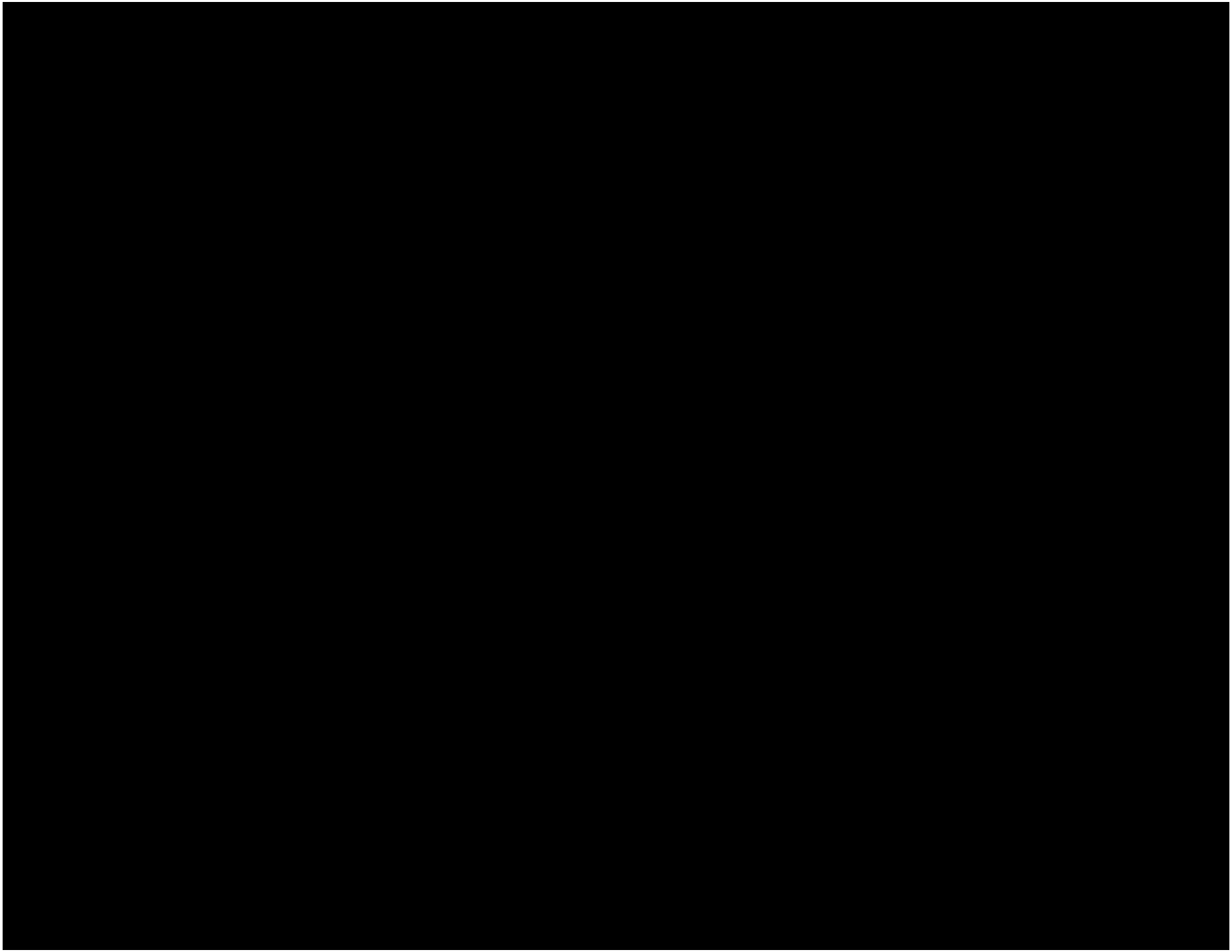













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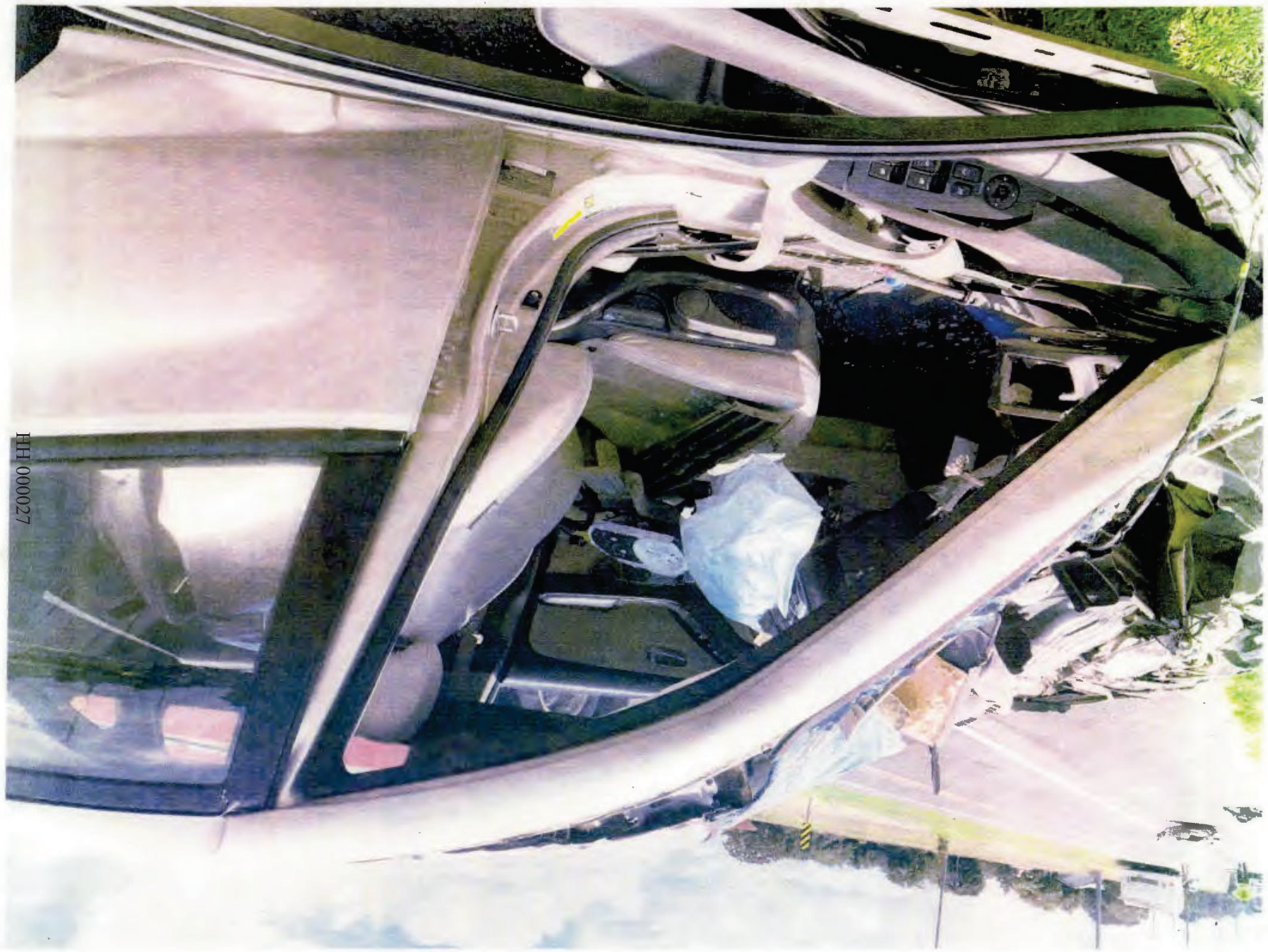
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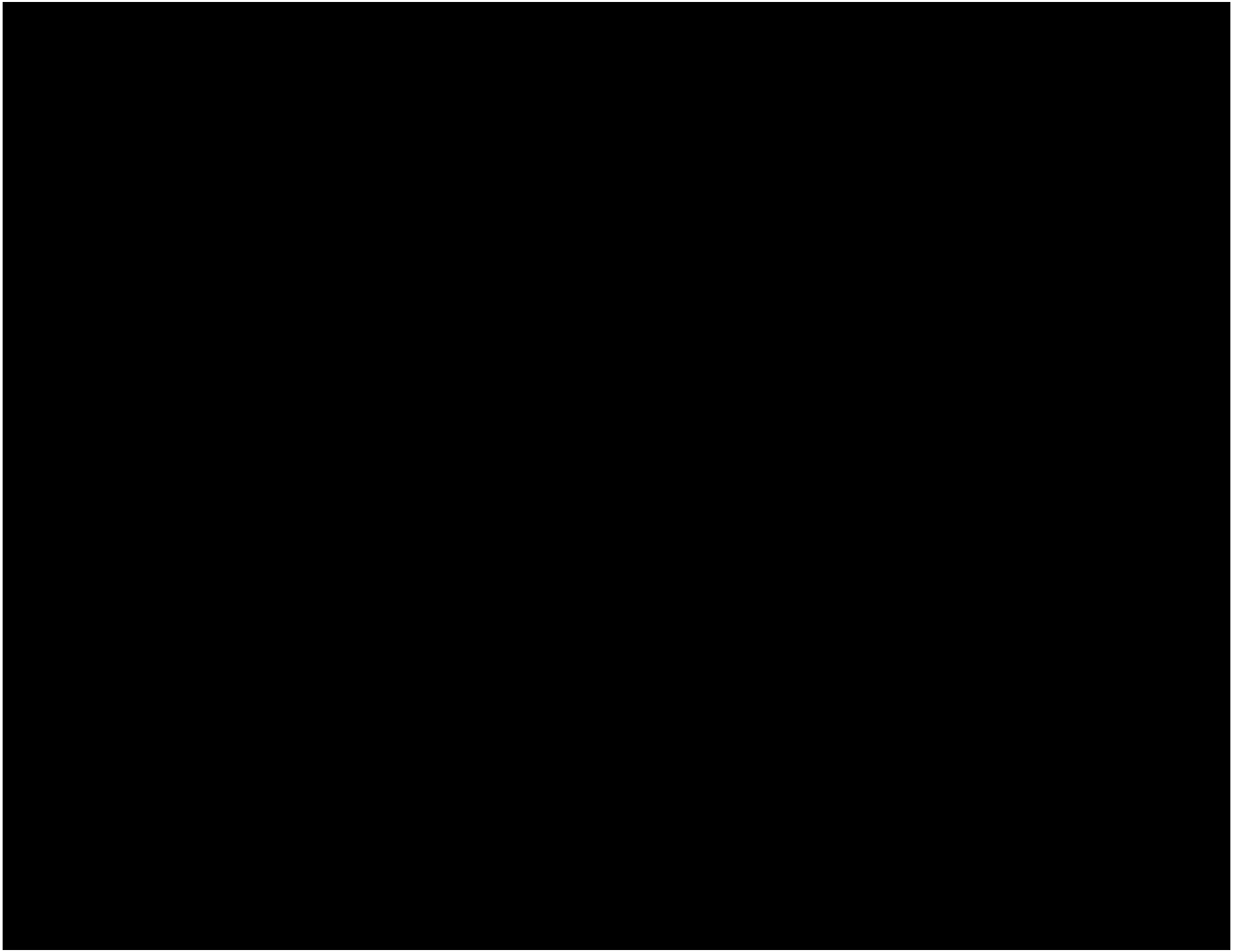
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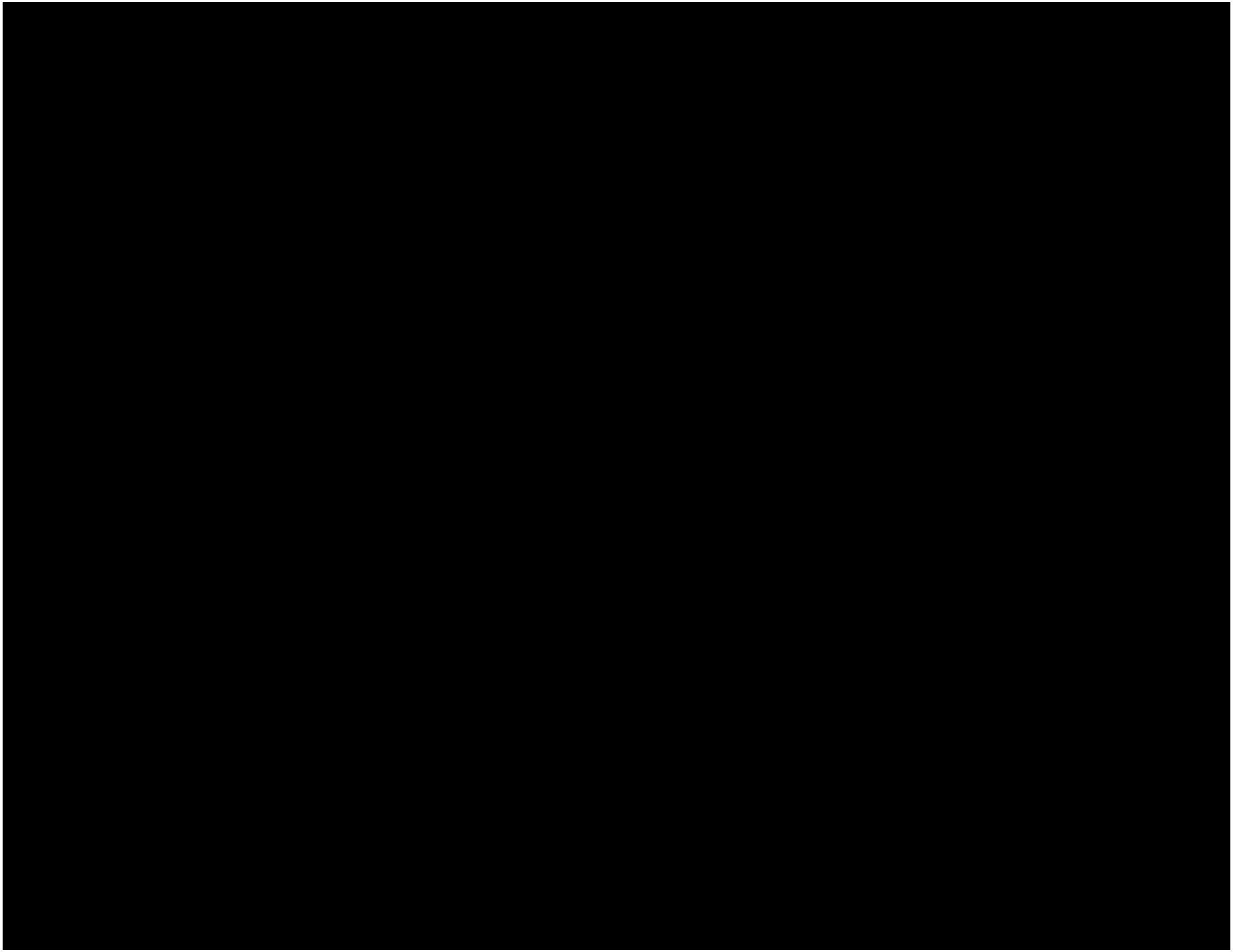


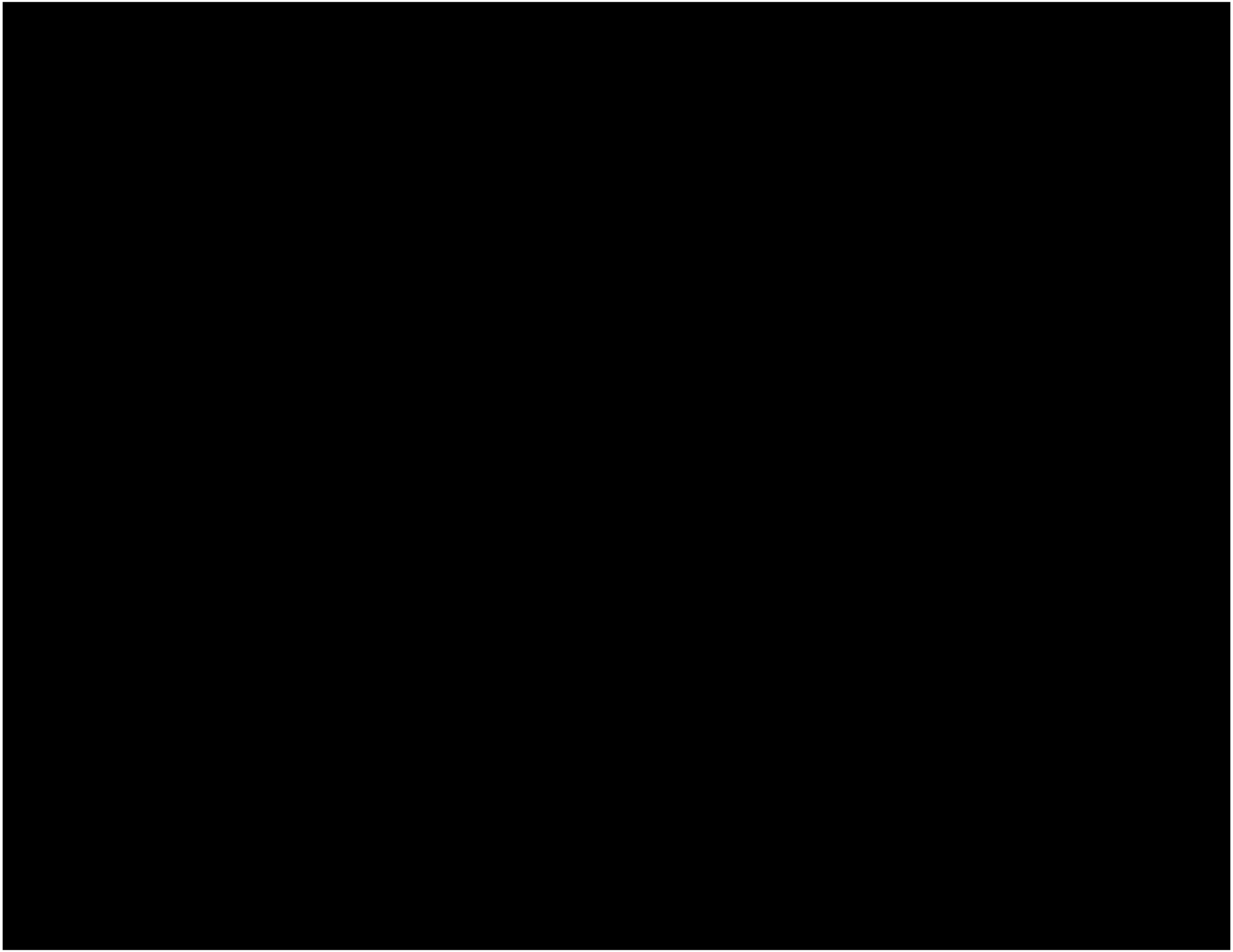
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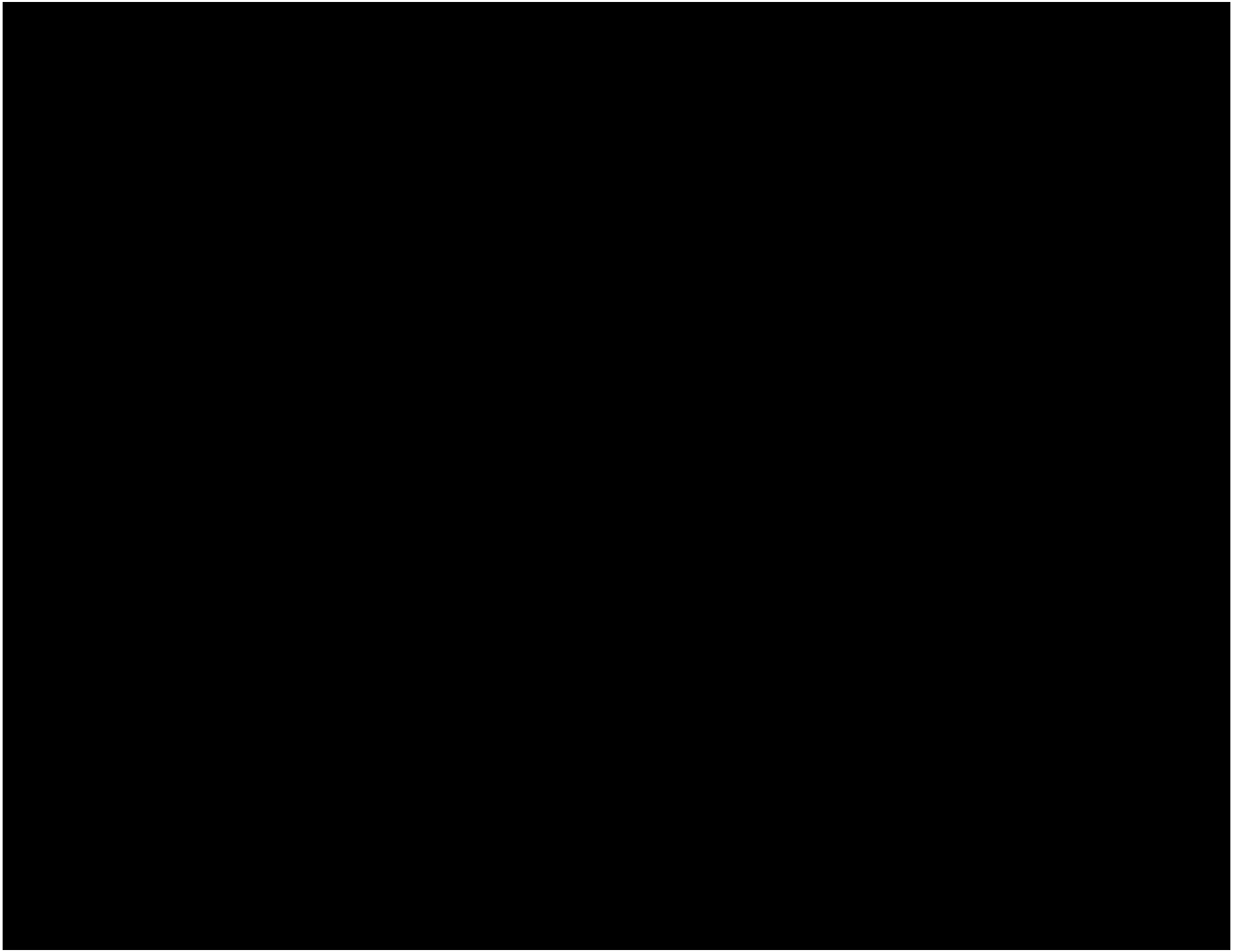


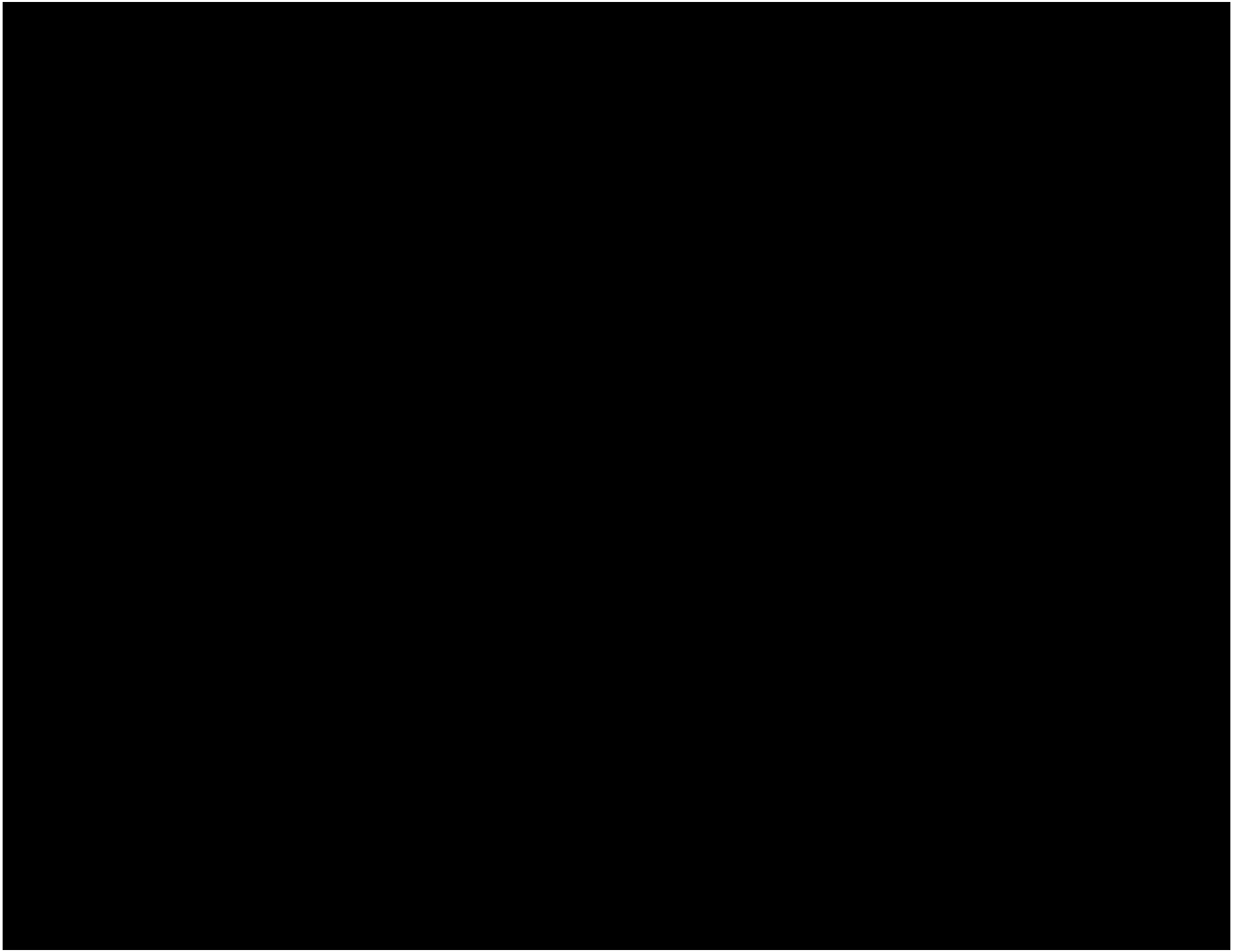
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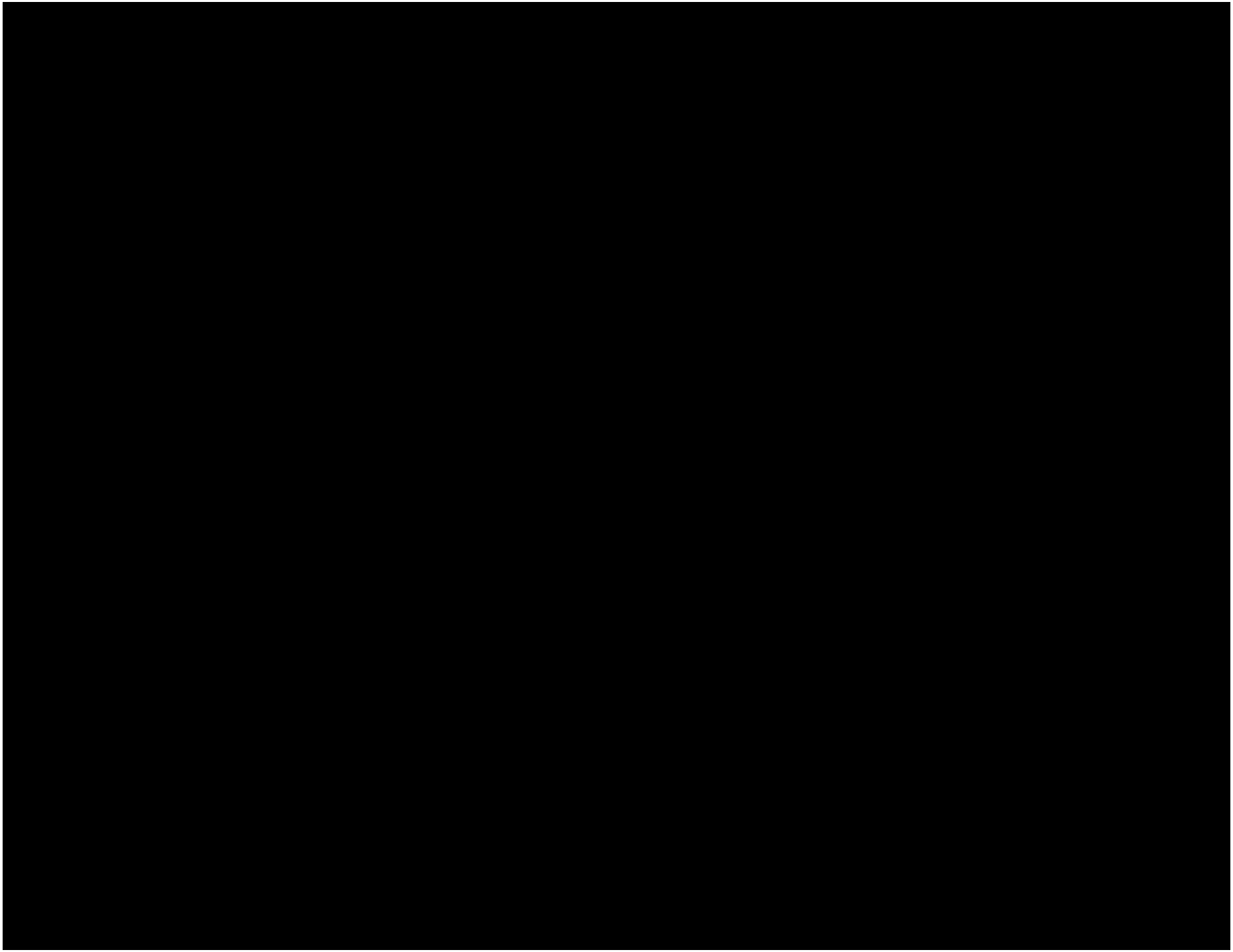


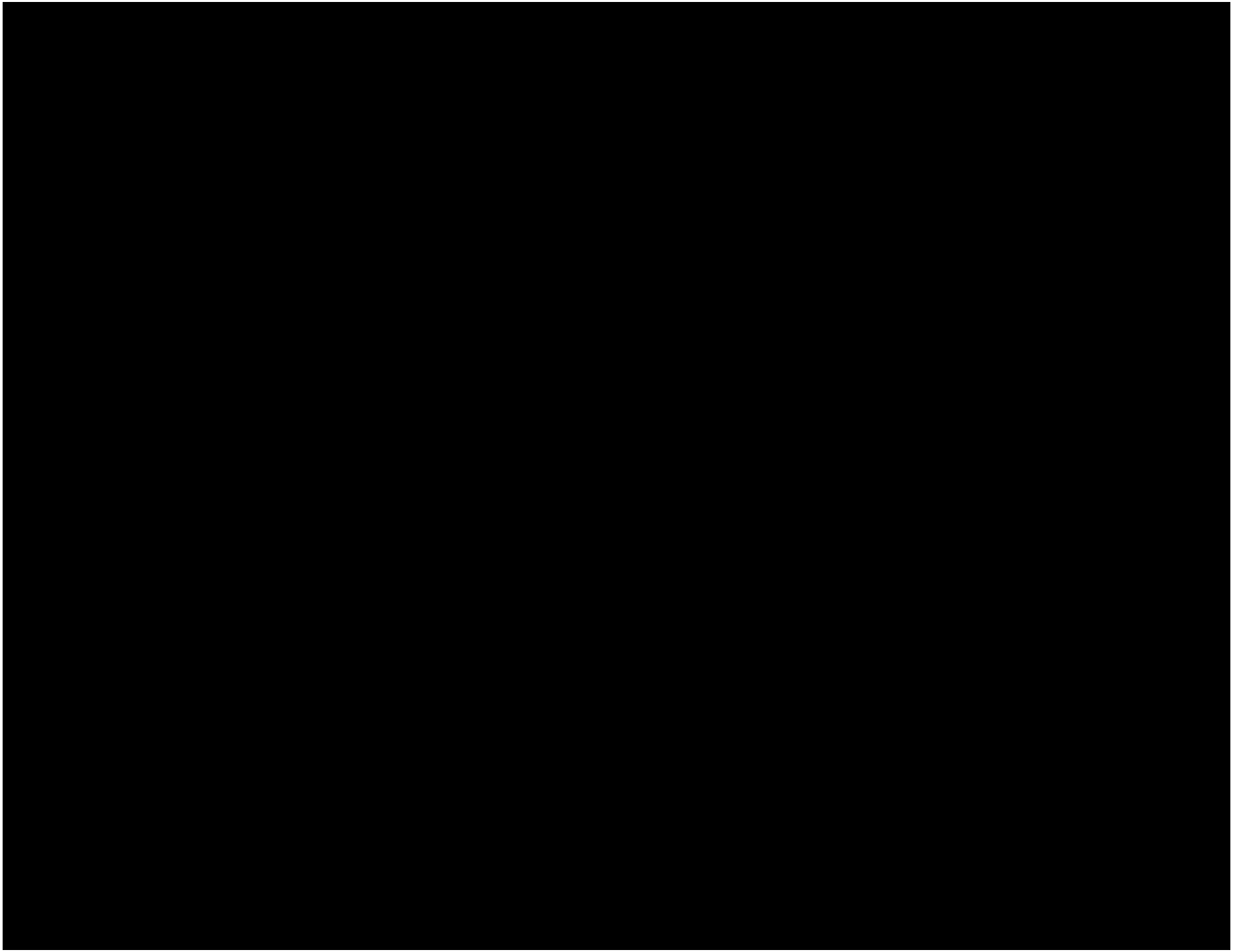


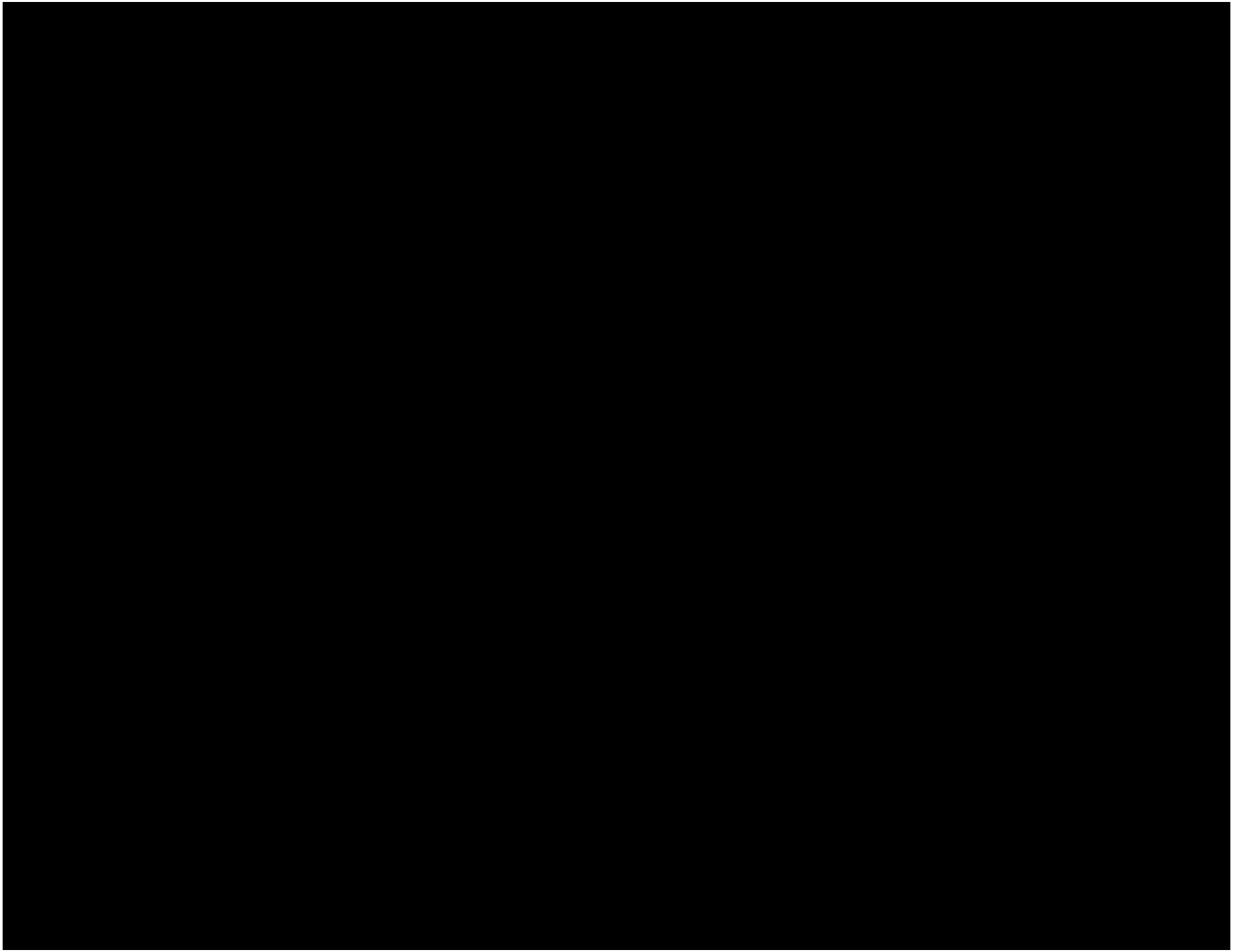


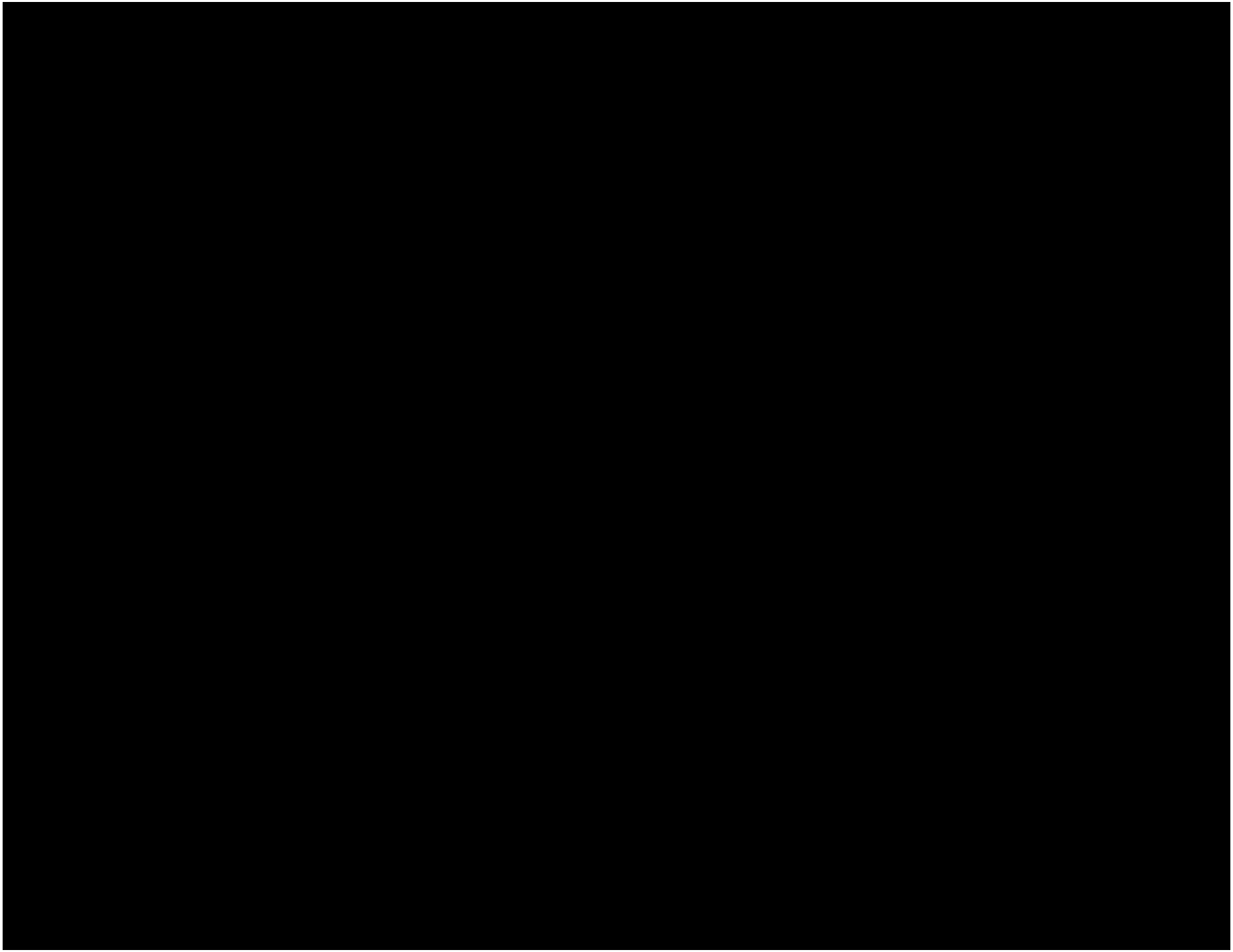


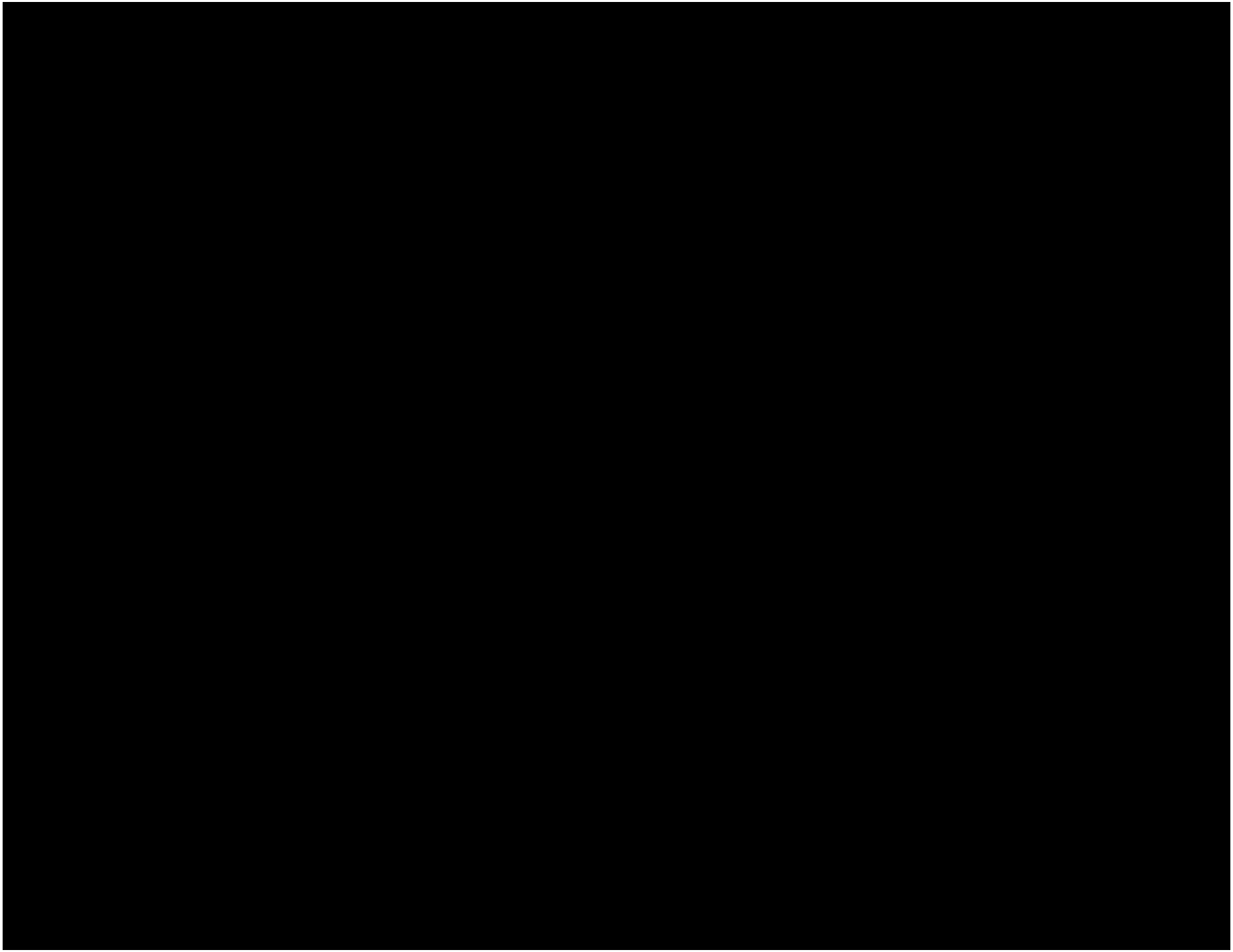


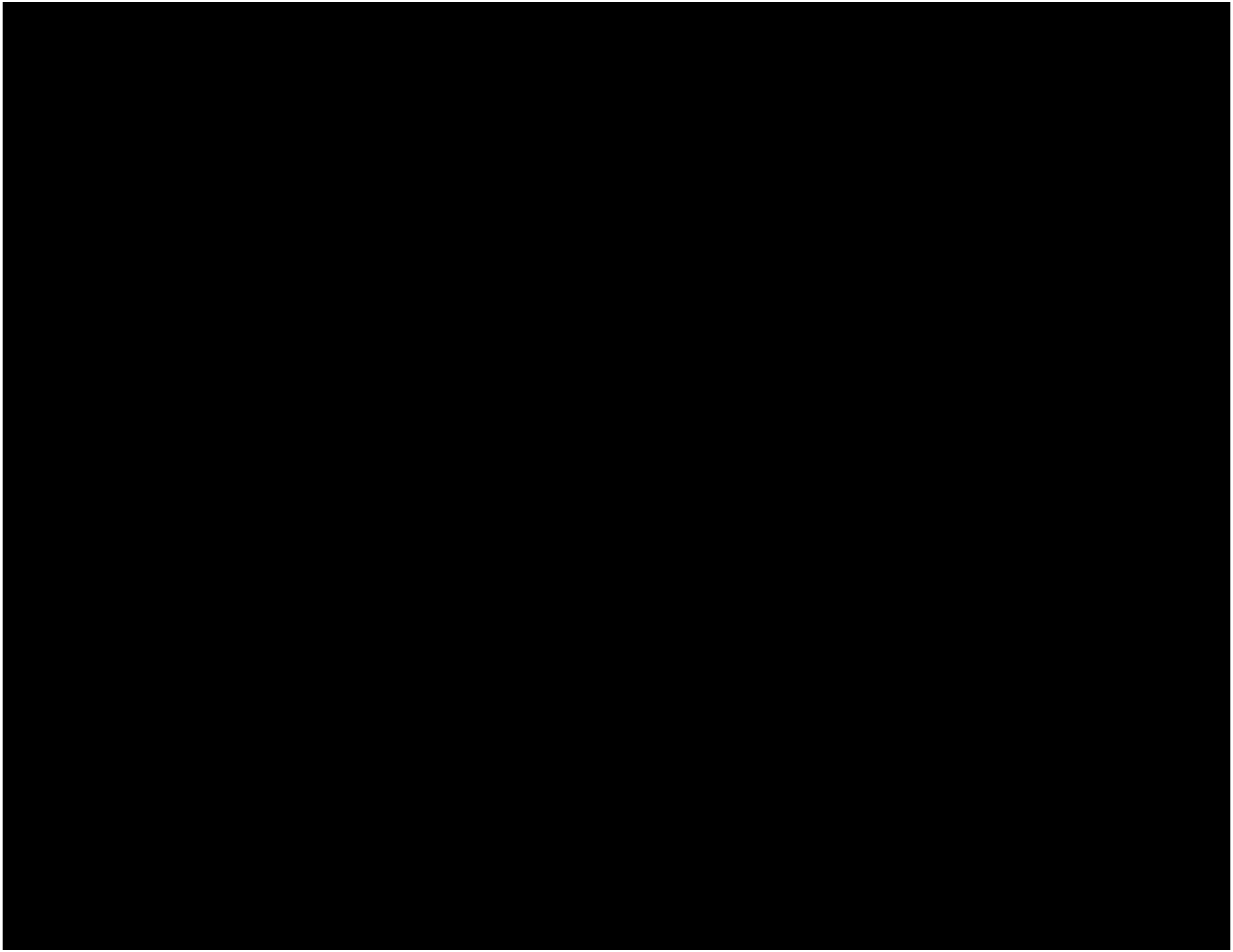


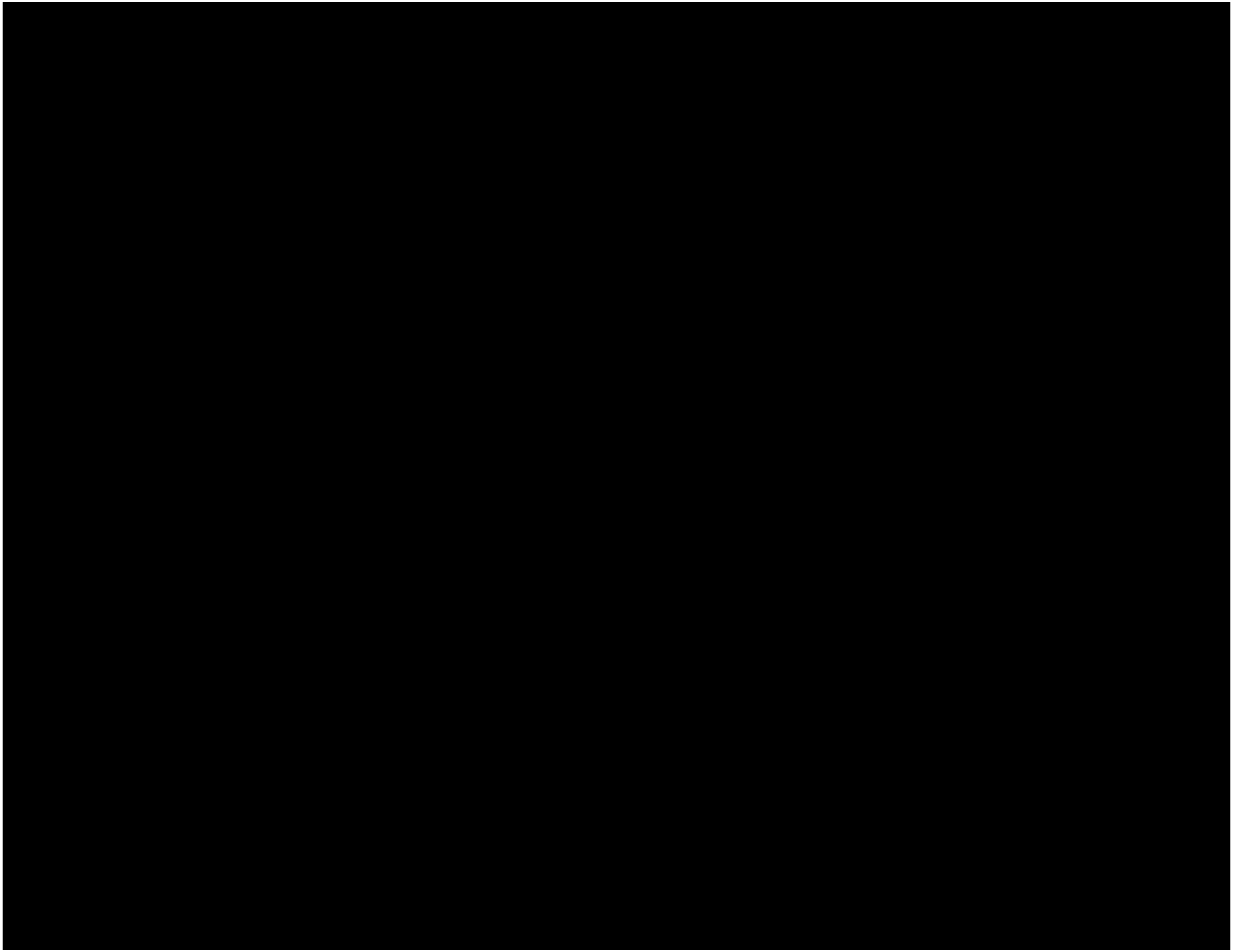


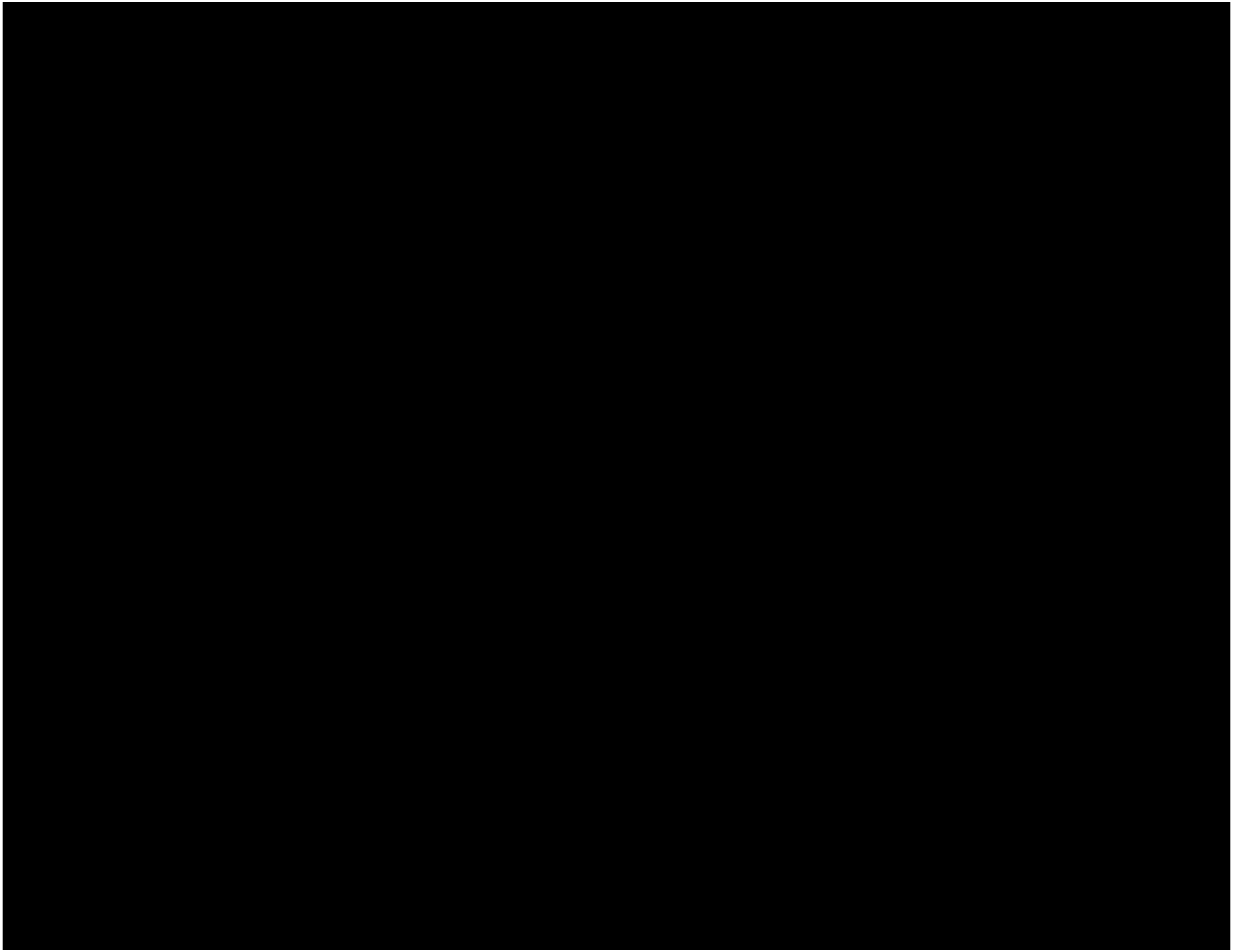


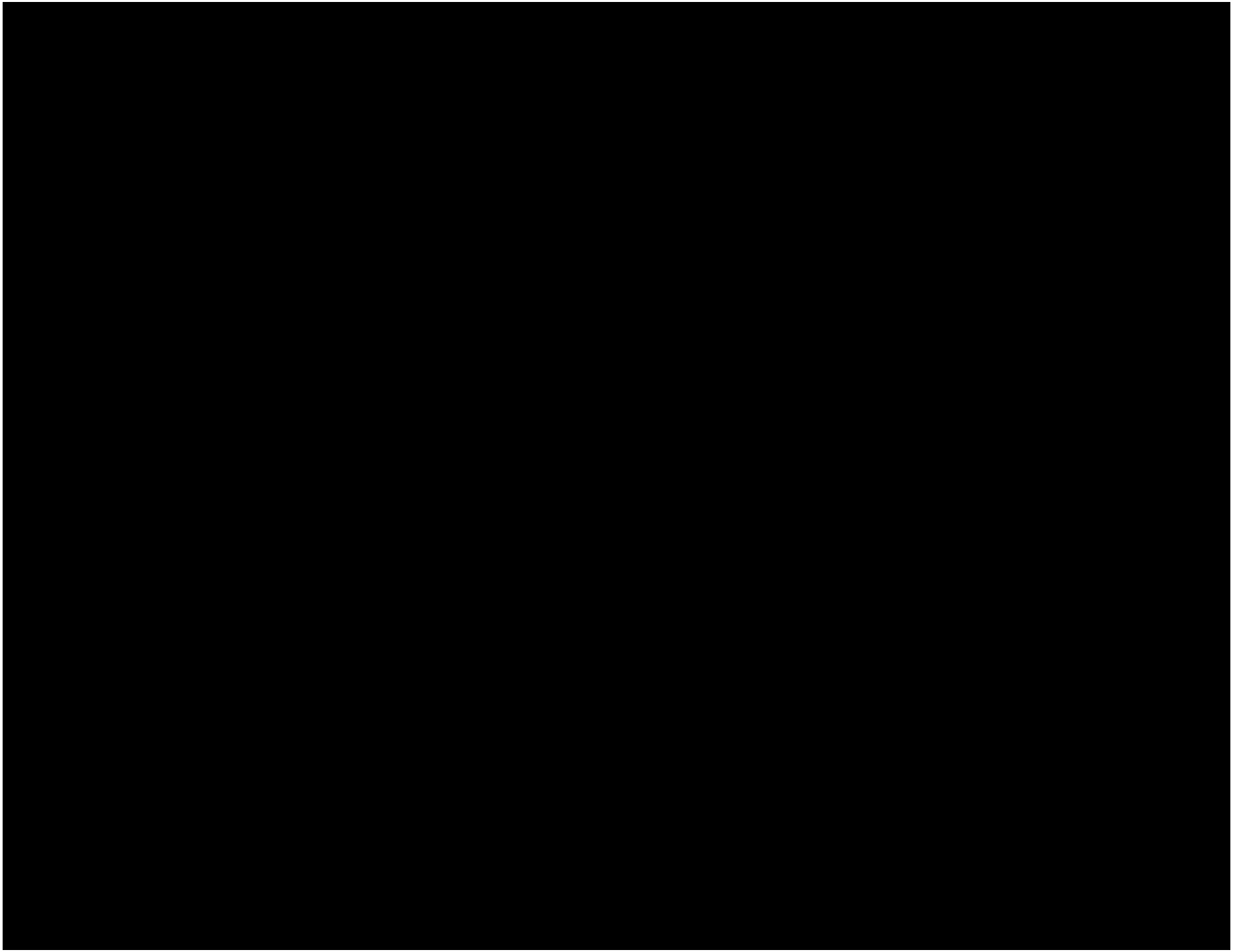


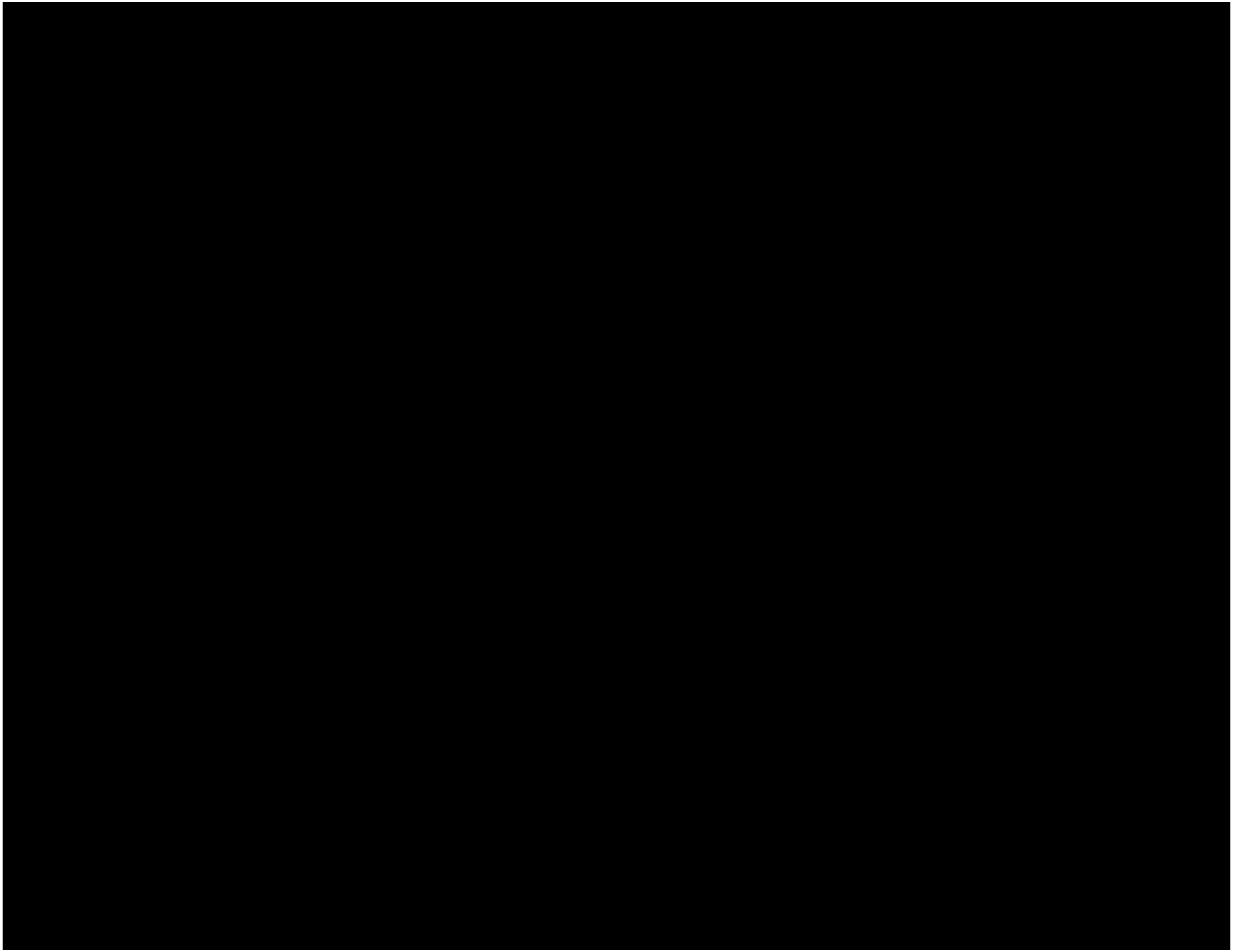


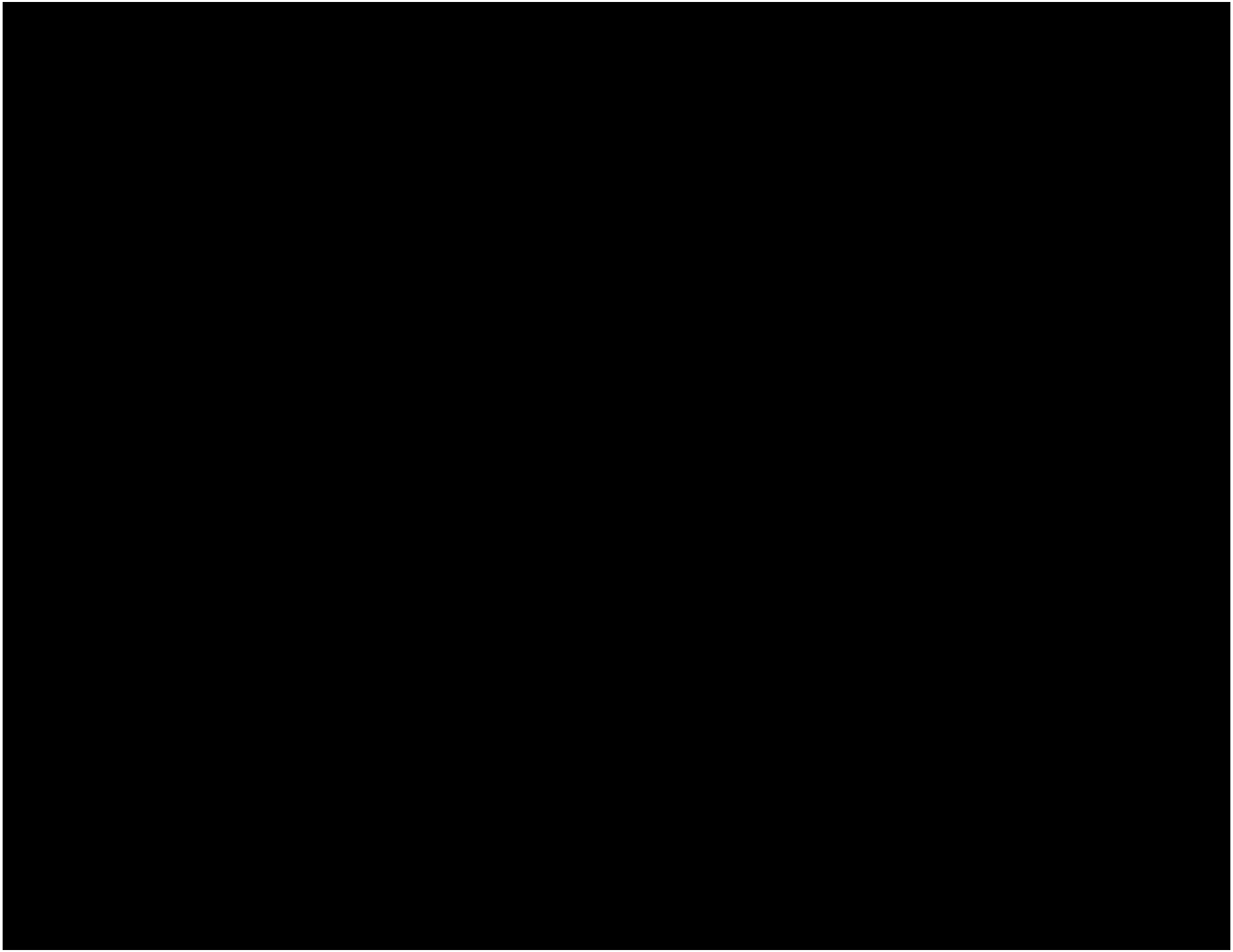


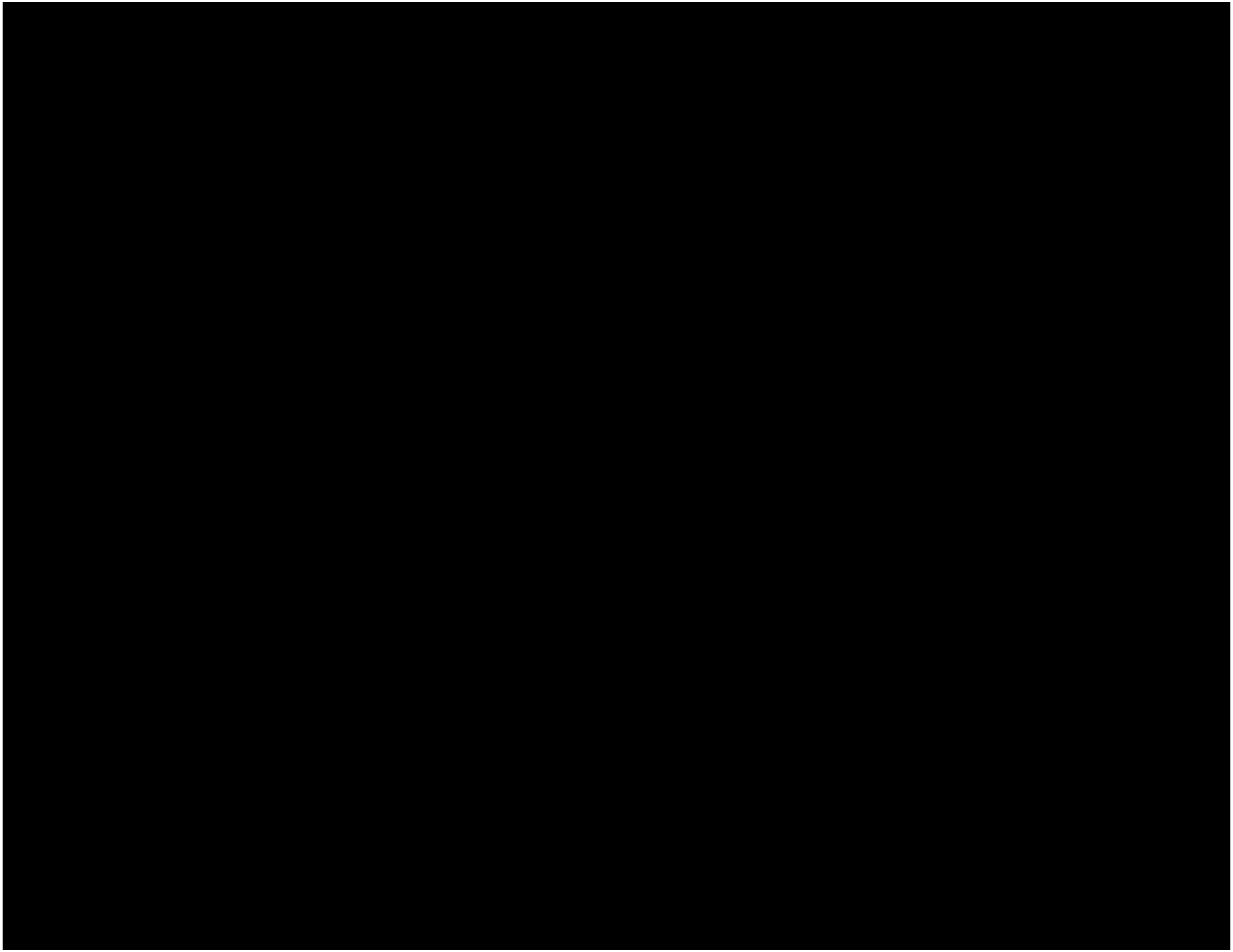


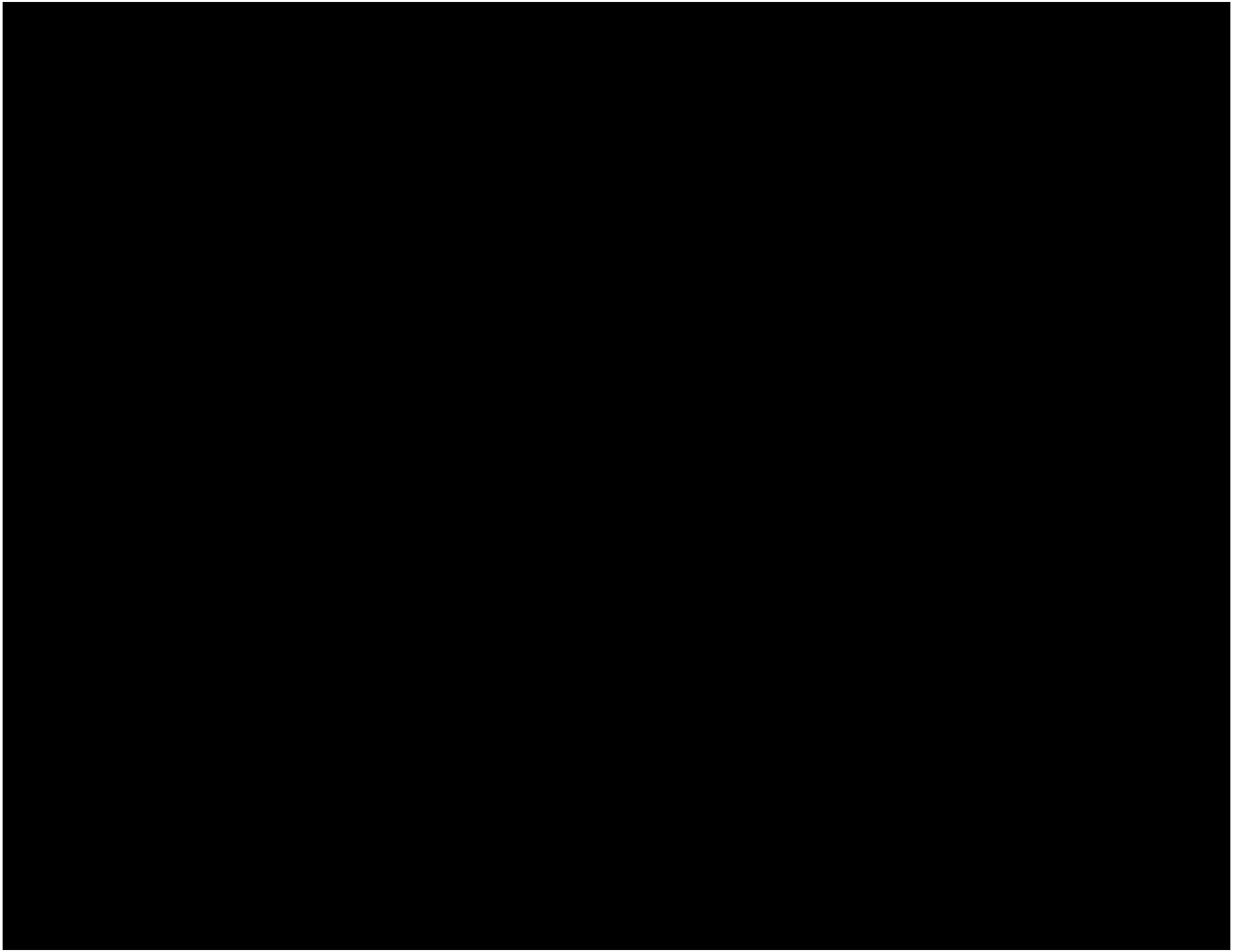


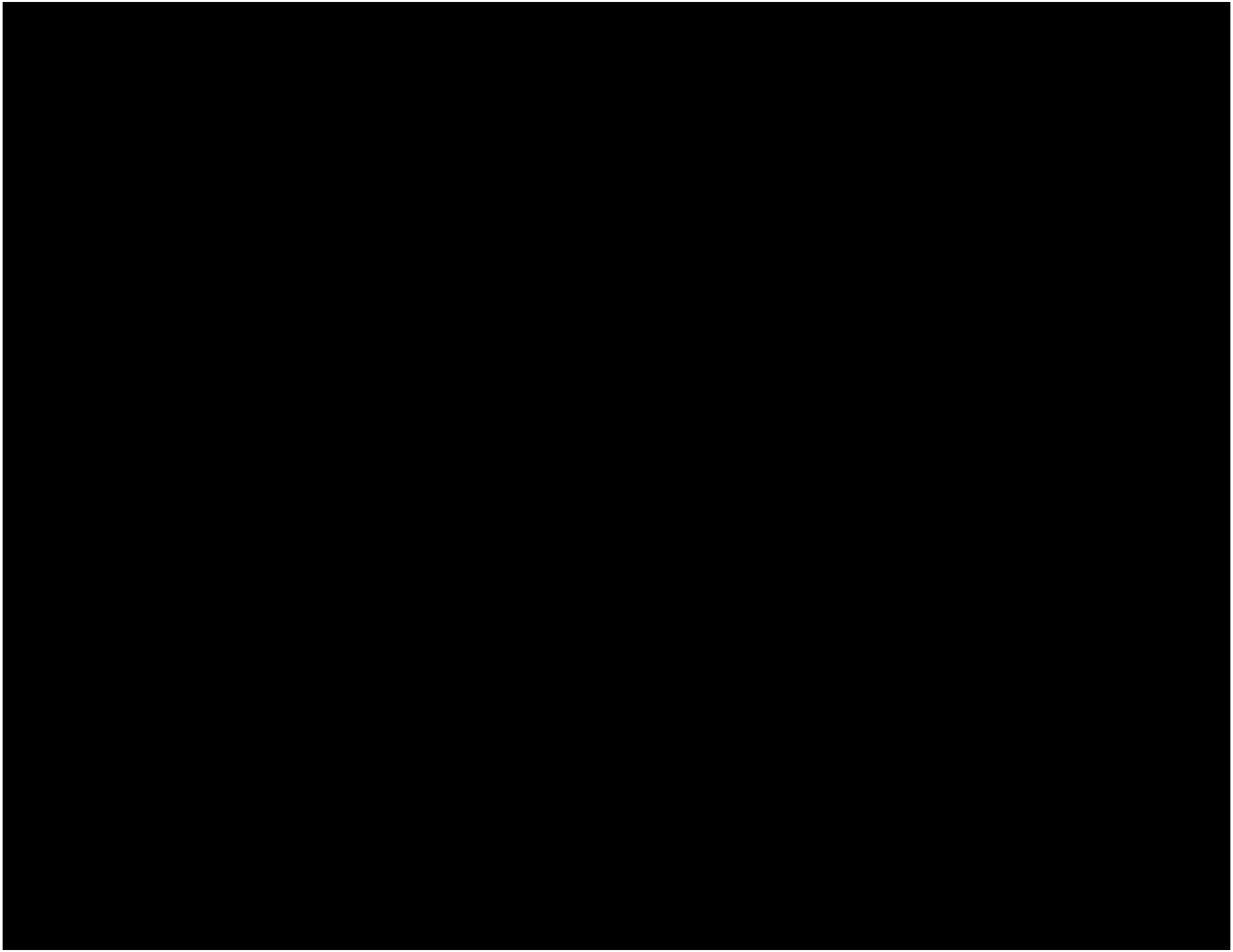


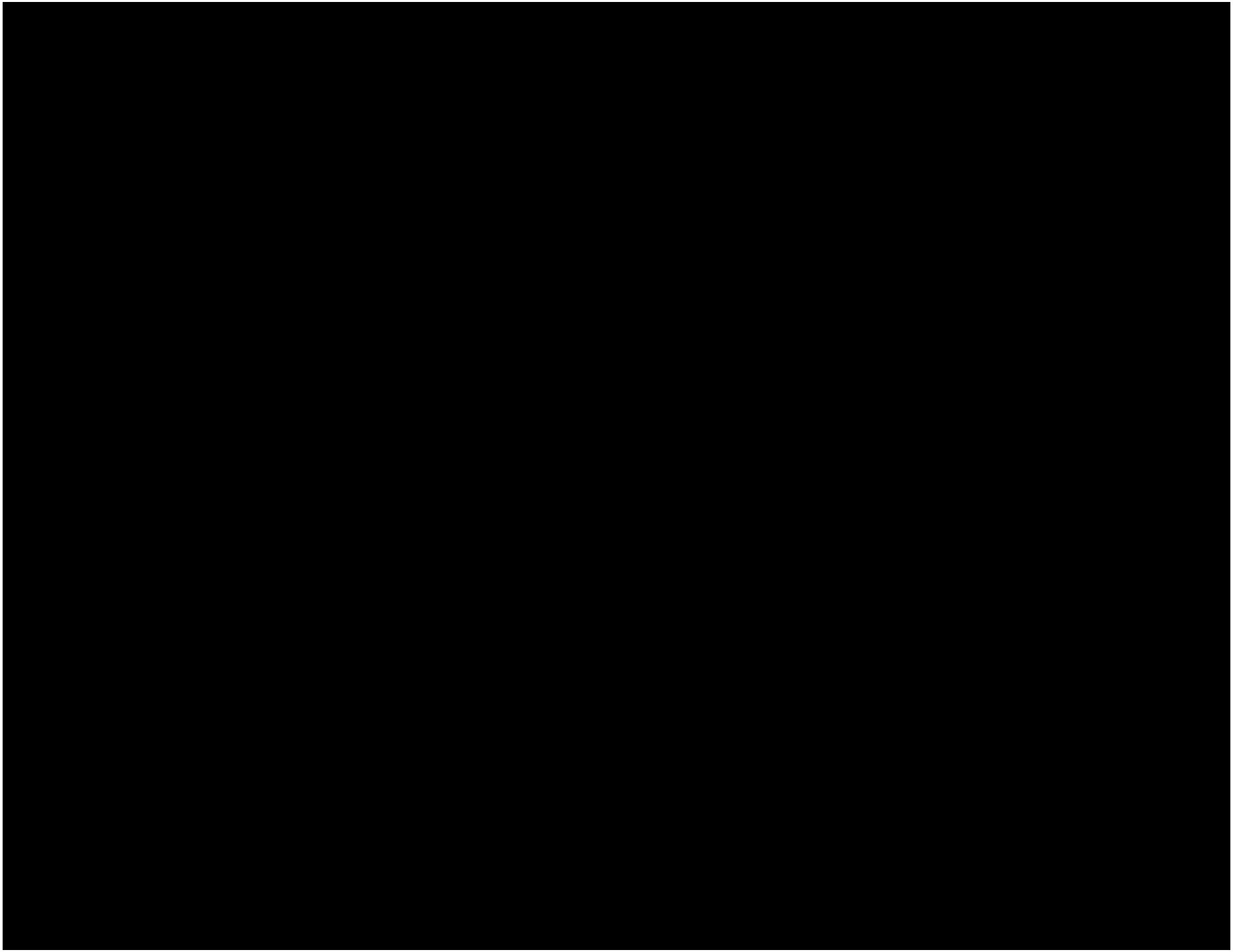


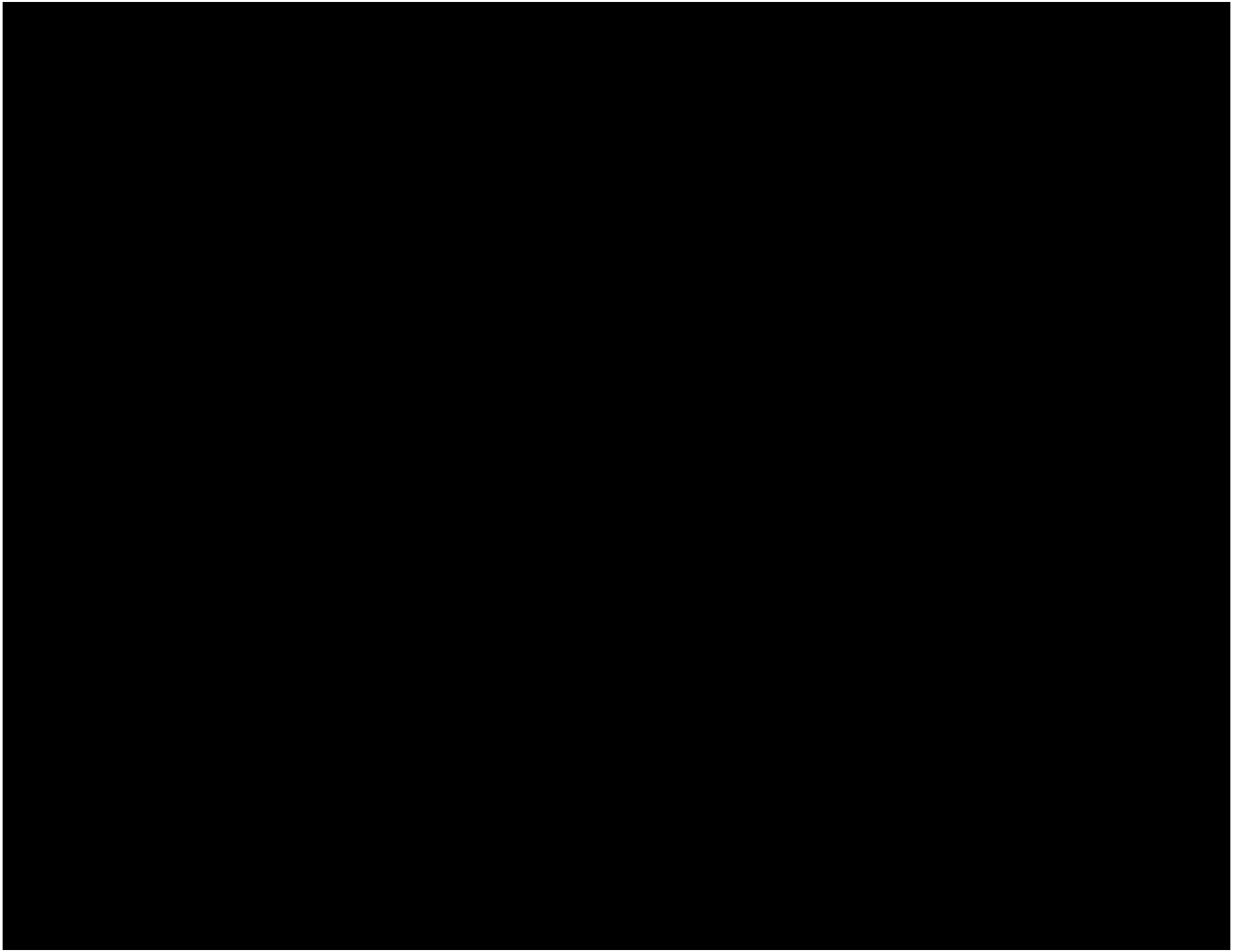


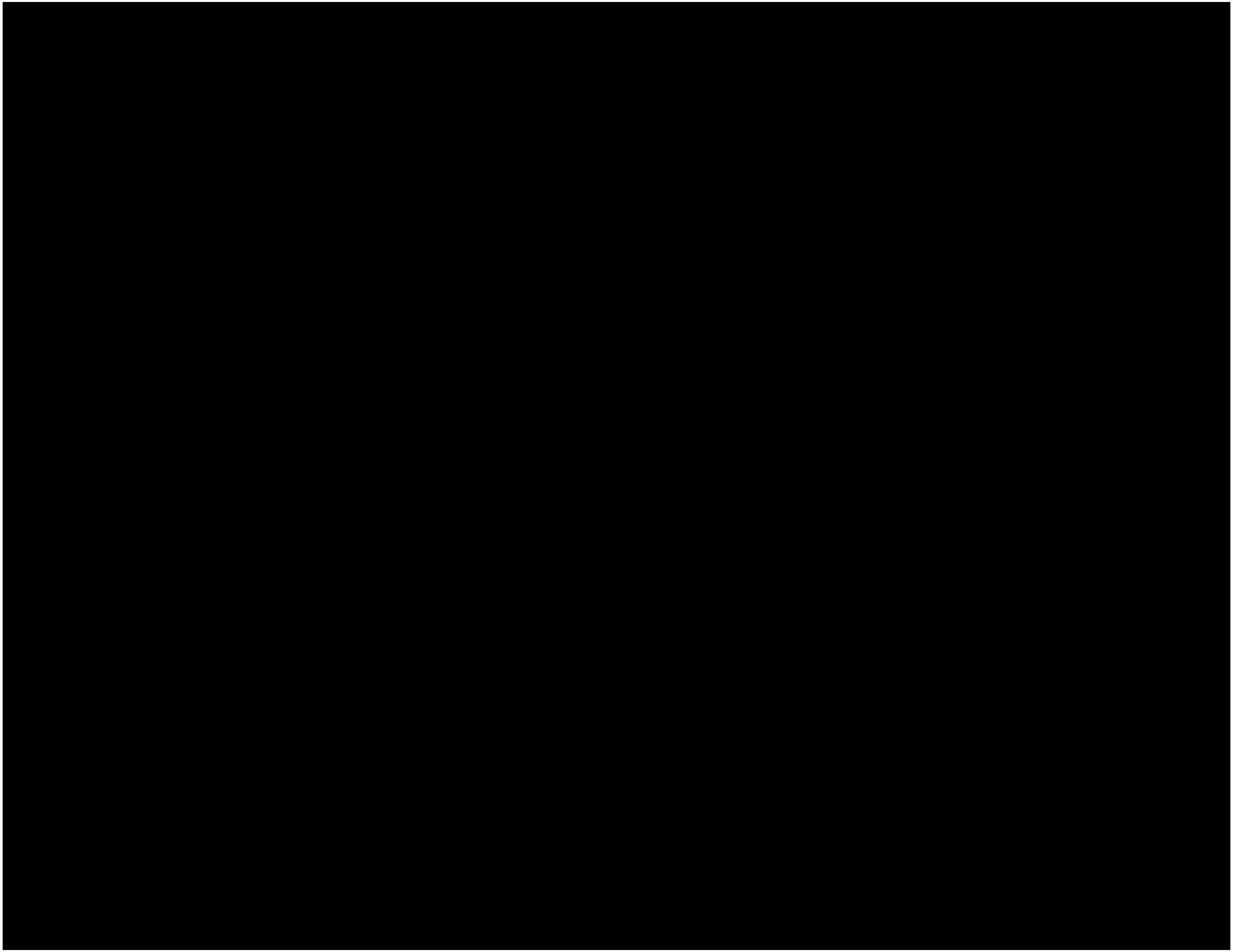


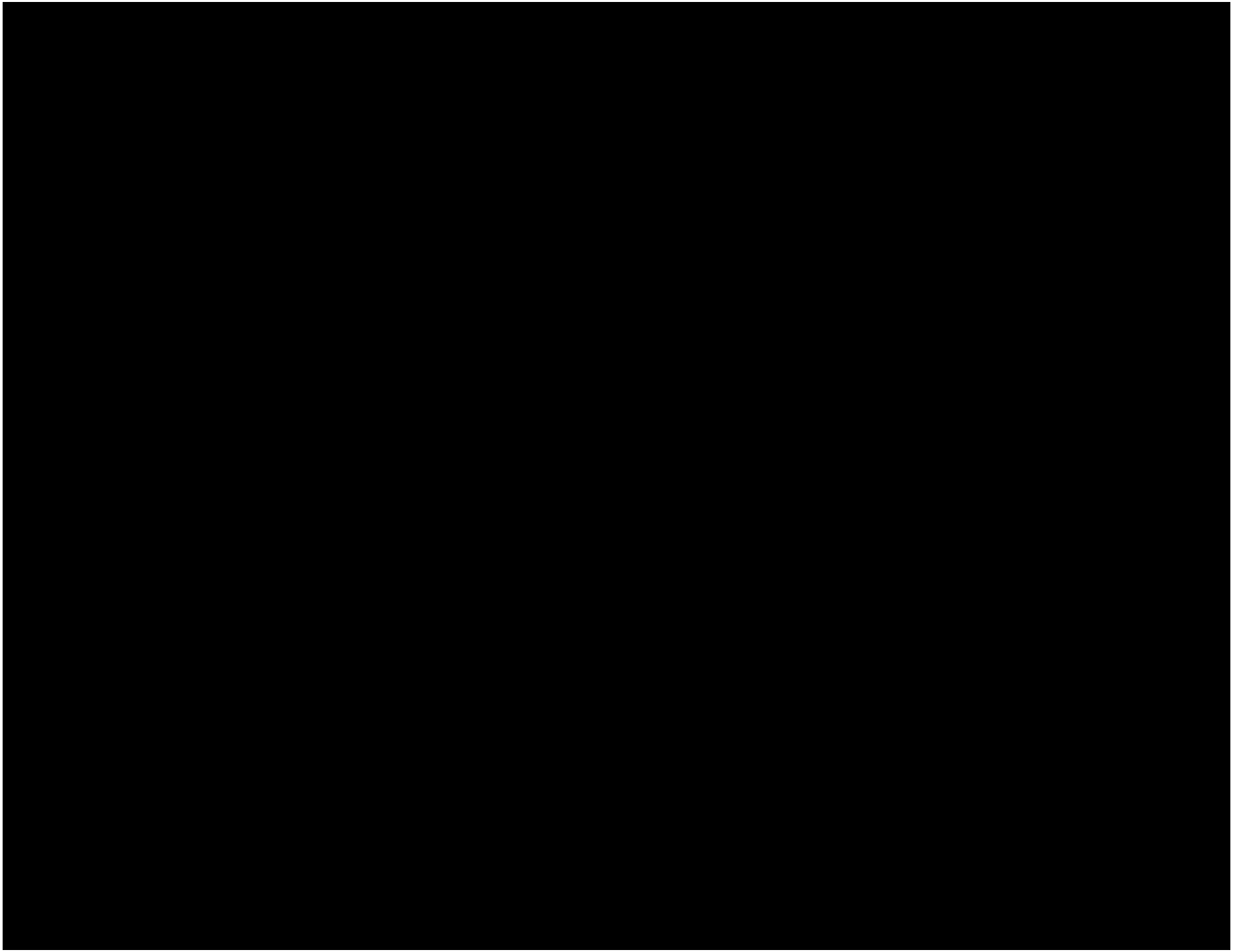


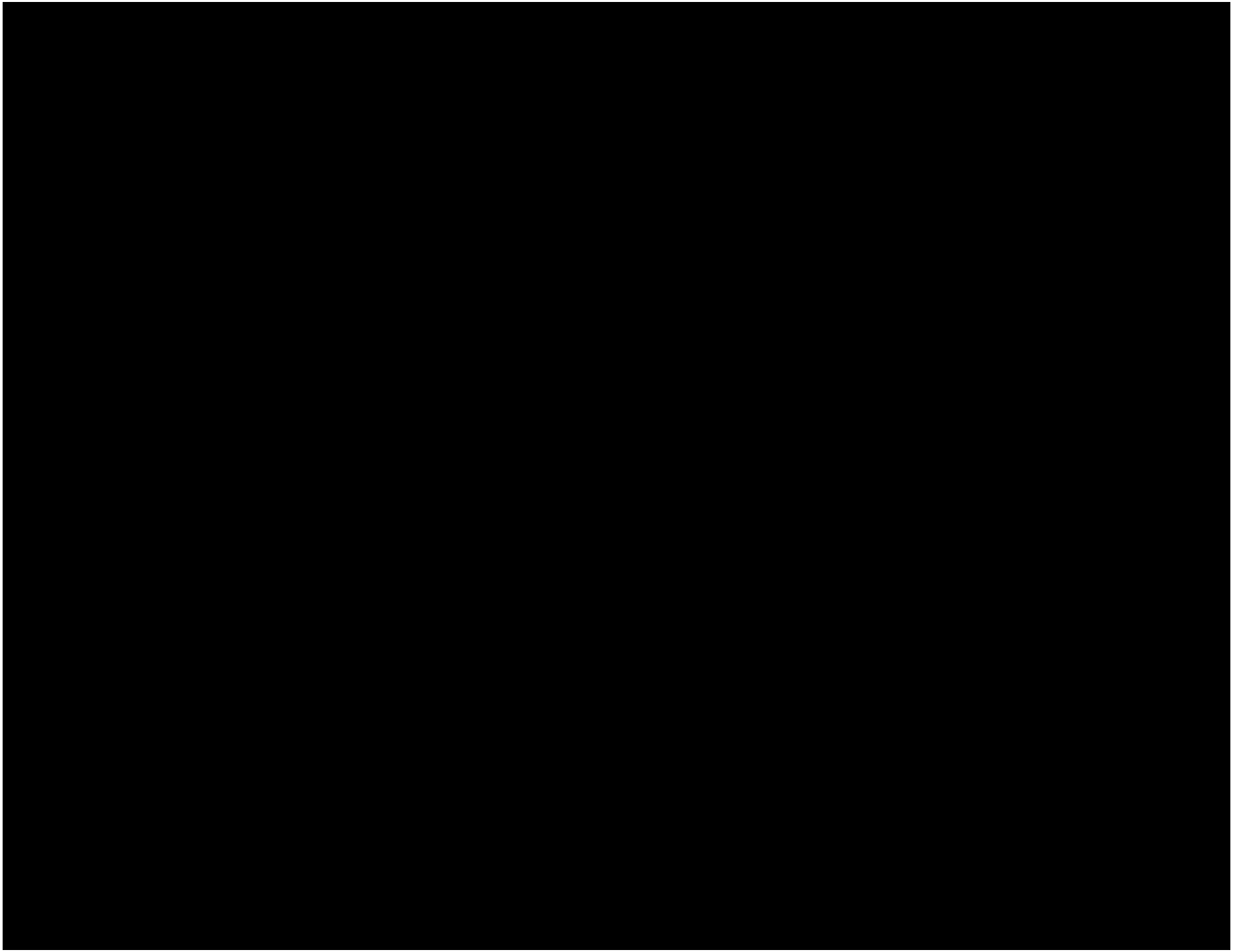


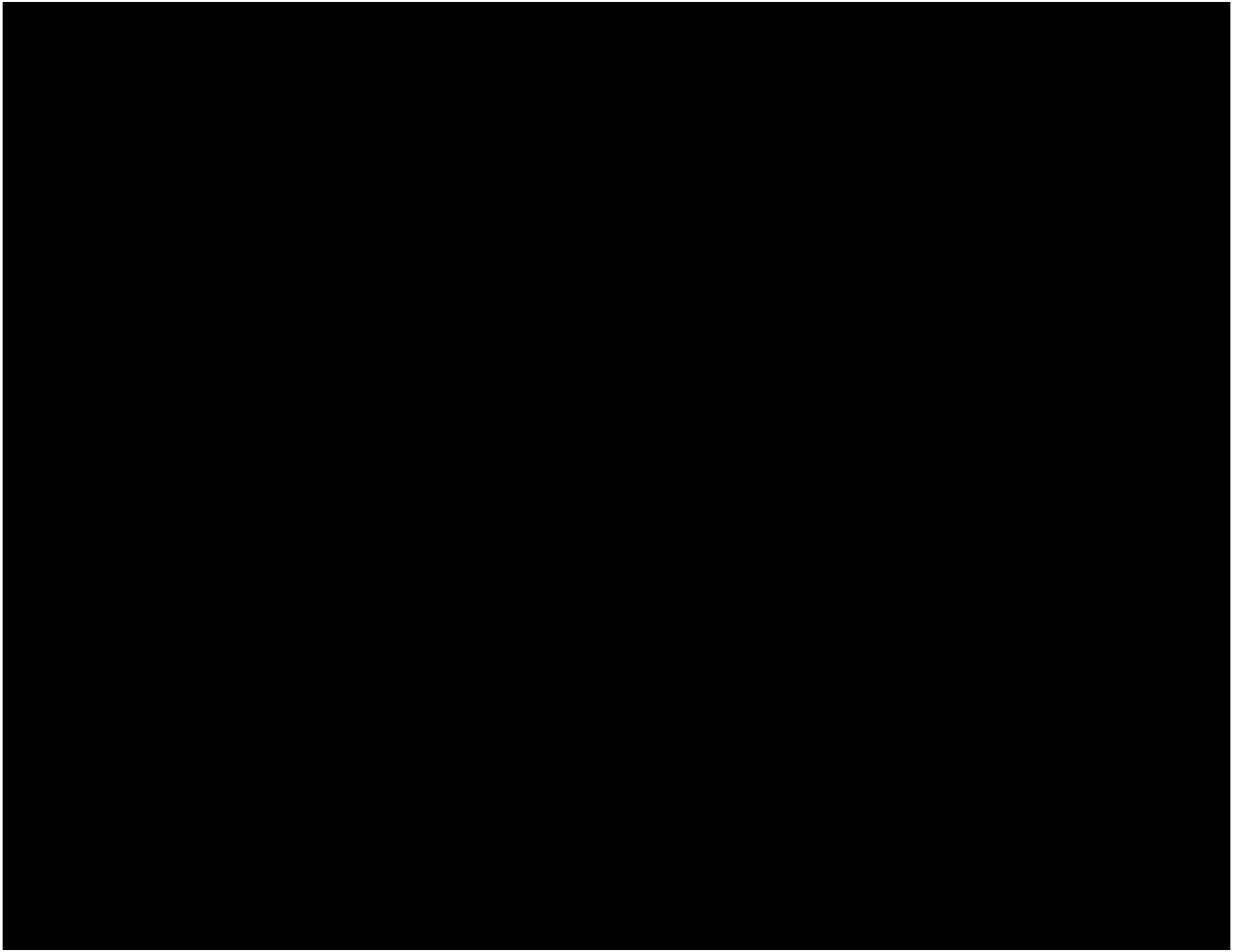












ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] AND [redacted] MINOR CHILDREN,	)
CLAIMANT,	) CC NO. 230641
VS.	)
ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES,	)
RESPONDENT.	)

ORAL AND VIDEOTAPED DEPOSITION OF

KRISTEN SHELTON

May 16, 2023

ORAL AND VIDEOTAPED DEPOSITION OF KRISTEN SHELTON, produced as a witness at the instance of the CLAIMANT, and duly sworn, was taken in the above-styled and numbered cause on the 16th day of May, 2023, from 1:02 p.m. to 1:55 p.m., before Dana Hayden, CCR in and for the State of Arkansas, RMR, CRR, CRC, reported by machine shorthand, at the Arkansas Department of Human Services, 900 South Rogers Avenue, Clarksville, Arkansas, pursuant to the Arkansas Rules of Civil Procedure.

APPEARANCES

FOR THE CLAIMANT:

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ALSO PRESENT:

Mr. Garrett Smelley,
Certified Legal Video Specialist

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I N D E X

May 16, 2023

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WITNESS: KRISTEN SHELTON	
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EXHIBITS

NO.	DESCRIPTION	MARKED
Exhibit 1	Documents Bates-stamped Ashcraft Rsp to Production 408 through 428	17
Exhibit 2	Fact-finding packet Bates-stamped 417 through 426	36

***** PROCEEDINGS *****

THE VIDEOGRAPHER: We are now on the record. Today's date is May 16th, 2023, and the time is 1:01. This deposition is taking place at 900 South Rogers Street in Clarksville, Arkansas, in the matter of Haley Hudson, et al. versus Arkansas Department of Human Services, Number 230641, in the Arkansas State Claims Commission.

The deponent is Kristen Shelton, and if counsel will introduce themselves, the witness will be sworn.

MR. JACKSON: Jim Jackson, attorney for the claimant.

MR. GASPER: Brent Gasper, attorney for the department.

THE STENOGRAPHER: Ma'am, if you'll raise your right hand.

KRISTEN SHELTON,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. JACKSON:

Q. Ms. Shelton, my name is Jim Jackson. We had a chance to meet just briefly beforehand. And as you know, I'm the attorney for the estate and for the

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guardian of the two children that were involved in the accident on June 11th, 2021. And I've brought a claim before the Arkansas Claims Commission, and I'm here to ask you -- or get information from you on what information you might have regarding Jennifer Wilkerson and the events that occurred that day.

A. (Nods head up and down.)

Q. And I see you nodded your head affirmatively --

A. Mm-hmm.

Q. -- but here in this, in this proceeding with a court reporter and a videographer, we have to have audible answers. So if you wouldn't mind, when I ask you questions, of saying "yes" or "no" or "Please repeat the question," okay?

A. Yes.

Q. And at any time -- I want to go over some of the ground rules of a deposition. Have you ever given a deposition before?

A. I have not.

Q. Okay. One of the -- we have to communicate with one another. I want to make sure you understand my question, and I want to make sure I understand your answer. So if at any time you don't understand my question, please ask me to restate it or rephrase it. I will be glad to do so, okay?

A. Okay.
Q. And if at any time during the deposition you think back to an answer you provided and you have additional information about that because time went by or something else came up and made you think about it, you can always go back and supplement your answer at the end of -- during the deposition, okay?
A. Okay.
Q. And one thing is I want you to be relaxed. This is not a marathon contest. It shouldn't last for more than an hour. But at any time you need to take a break, you want to have some of your Pepsi or step outside for any reason, visit with your attorney, feel free to do so. You are in charge of the proceeding of this deposition, okay?
A. Okay.
Q. What -- I want to ask you some questions about your background. Where did you go to high school?
A. Paris High School.
Q. And what year did you graduate from Paris?
A. 1993.
Q. Did you play volleyball back then?
A. No.
Q. And then what did you do after you graduated from high school?

A. I went to college.
Q. And where did you go?
A. Arkansas Tech University.
Q. And did you -- what year did you graduate from ATU?
A. 1997.
Q. And what was your major?
A. Psychology.
Q. And what did you do after you graduated in 1997? Did you continue in education, or did you start employment?
A. No. I started employment.
Q. And where did you start?
A. I worked for International Paper, Incorporated.
Q. Where was that?
A. I worked at the Russellville location.
Q. And just out of curiosity, what were you doing at IP in Russellville?
A. I was an administrative assistant for their production manager.
Q. And then what did you do next professionally?
A. I came to work for the Department of Human Services as a family service worker here in Johnson County.
Q. Do you recall what year that was?

A. 2000.
Q. And from 2000 to today, have you continued to be employed with Department of Human Services?
A. Yes.
Q. And I'm not expecting you to remember everything, but kind of walk me through what your career has been from a family service worker to what you're doing today.
A. I started as a family service worker primarily doing casework. I transitioned to what we called our resource unit, which was responsible for recruiting and licensing foster homes and then I was promoted to the county supervisor in Franklin County. I was there approximately ten years.

Also while I was there, I also took over supervision of our adoptions unit and our resource unit. We got a new supervisor position added, so then I became just the adoption and resource unit supervisor.
Q. In Franklin County or --
A. Well, no. For a seven-county area.
Q. Okay.
A. And then I was promoted to the position I'm in now.
Q. What is that position, ma'am?

A. I'm a DHS program administrator, so I supervise the supervisors for a six-county area of the Division of Children and Family Services.
Q. And was that your job on June 11th of '21 --
A. Yes.
Q. -- when this accident happened? Okay.
What are the six counties?
A. Crawford, Franklin, Johnson, Scott, Logan, Yell.
Q. And what is the county seat of Franklin County? Do you know?
A. There's two county seats in Franklin County, Ozark and Charleston.
Q. Ozark and Charleston? Okay. Did you live in Charleston or Ozark within that time?
A. No.
Q. Okay. Were you the person that got called at 1:00 in the morning to be -- have children in place with you when a drug bust occurred, when you -- back in that time period?
A. When I was the Franklin County supervisor?
Q. (Nods head up and down.)
A. No.
Q. I understand that sometimes the placement of children can occur at some very difficult hours; is that --

A. Correct. As the supervisor, there would have been staff below me that would have responded to emergency situations.
Q. Explain to me what -- your understanding of what Jennifer Wilkerson's job was on -- what was she hired as on June 11th?
A. She was hired as a program assistant.
Q. If I see the phrase "PA" in messages, is that what pro- -- is that what "PA" stands for?
A. Yes.
Q. And then what does a program assistant stand for -- I mean, what does a program assistant do?
A. They assist the family service workers in providing services to the families. So primarily supervising parent-child visits, transporting clients for services, et cetera.
Q. How long -- what's your understanding of how long Jennifer Wilkerson had been employed by DHS?
A. Ten days prior to the accident.
Q. What -- do you know what her background was to make her -- what would make her eligible to have that job?
A. The -- as far as the eligibility criteria, I don't recall what her specific background was.
Q. Okay. Thank you. That was going to be my

second question. What is the eligibility requirement?
A. The only eligibility requirement is a high school diploma. We prefer work experience, certain work experiences, but it's not an eligibility requirement.
Q. Okay. Are there anything that -- if a person has been arrested for a felony, does that make them ineligible to be a program assistant?
A. A person would have to be convicted of a crime before we would know about it.
Q. How did you find out that there had been a wreck on June 11th with the DHS employee involved?
A. The Logan County supervisor contacted me.
Q. Who is the Logan County supervisor?
A. Pamela Feemster.
Q. At that time, would Ms. Feemster have been working in Paris?
A. Yes.
Q. Okay. How did she first contact you?
A. I don't recall.
Q. Do you recall the nature of what Ms. Feemster told you had happened?
A. That one of her employees had been involved in an auto accident in the state car.
Q. Do you recall anything else she told you at that

initial call?
A. I don't.
Q. And you don't recall if it was by phone or text or --
A. I don't.
Q. Okay. What -- when you got that information, what did you do?
A. I honestly don't remember what I did on that day, or if I did anything on that day specifically.
Q. And my understanding is that this accident occurred on a Friday? Does that sound correct to you?
A. I don't know for sure.
Q. What -- based on your experience, what would be your operating procedure for you to tell the Logan County supervisor when you got that information?
A. I would ask if our worker was okay, if they were seeking medical treatment. I mean, that's what I would normally do.
Q. Okay. Do you re- -- what's the next information you recall receiving about this accident?
A. I honestly don't recall. It's been almost two years, so...
Q. Do you recall doing an investigation about Ms. Wilkerson and what happened and doing any interaction with Ms. Wilkerson?

A. I did an internal fact-finding to determine if she had violated any of the behavior expectations that we have.
Q. And describe -- describe for me what that internal fact-finding, what that process is, please.
A. It's a process where we determine if any of the behavior expectations have been violated by reaching out to the person involved and any other people that might have information to gather what information we could to determine if there needed to be any discipline action.
Q. Do you recall who all you obtained information from about this?
A. I believe I obtained information from -- I know Ms. Wilkerson, Ms. Feemster, Pamela Feemster, Brandy Ezell. Those are the only ones I remember off the top of my head that I talked to.
Q. Did you ever talk to the -- anybody with the Arkansas State Police?
A. I did not.
Q. Okay. Who is Brandy Ezell?
A. She's a family service worker in Logan County.
Q. Is she still in Logan County?
A. Yes.
Q. And would Jennifer Wilkerson have been directly

under Brandy Ezell?
A. No. She was directly under Pamela Feemster.
Q. Okay. In way of seniority, who has seniority between Pamela Feemster and Brandy Ezell?
A. Pam.
Q. Okay.
A. Both Jennifer and Brandy worked for Pam.
Q. Okay. Thank you. Who is Staci Miller?
A. She was our HR, our human resource manager, in central office at the time.
Q. Okay.
MR. GASPER: What was the name again, Jim?
MR. JACKSON: Staci Miller.
MR. GASPER: Okay.
Q. So she is the HR liaison out of the Little Rock?
A. She was our manager, our HR manager.
Q. Manager?
A. She was. She's no longer with us.
Q. Who is -- and I'm going to -- I've got some employee -- some names on here I just want to go over with you that I got from these emails. Who is Miranda Raines?
A. She is also part of our executive staff in Little Rock, and I can't tell you what her exact title

is.
Q. Okay. But she's in the Little Rock --
A. Yes.
Q. -- office?
Tiffany Wright?
A. Tiffany Wright was, at the time, my supervisor's supervisor. She was our assistant director over field operations for the Division of Children and Family Services.
Q. Would she also be in the central office?
A. Yes, sir.
Q. Sara Snead?
A. There -- I don't know who Sara Snead is.
Q. Okay.
A. There is no Sara Snead.
Q. There may be one; you just don't know who it is?
A. Okay.
MR. GASPER: She's with HR, central office.
MR. JACKSON: That's fine.
A. I don't know who that is.
Q. That's fine. That's a perfectly good answer.
You don't know Trooper James Ray?
A. No.
Q. Okay.

A. No.
Q. Do you know who Scott Lindstrom is?
A. No.
Q. Do you know of anyone else that would have been part of the fact-finding that you did?
A. I discussed it with my direct supervisor. Sarah Sharum was our area director -- or is our area director.
Q. How do you spell Sarah's last name?
A. S-h-a-r-u-m.
MR. GASPER: That's an M, correct?
THE WITNESS: M.
MR. GASPER: M, as in "mom"?
A. Sharum.
Q. And where does Ms. Sharum work?
A. Sebastian County office, Fort Smith.
Q. It appears to me from the documents that you ended up terminating Ms. Wilkerson from employment at DHS on Wednesday, June 16th, 2021. Does that sound correct?
A. Yes.
Q. Okay.
A. I don't know the exact date but, yes, I did terminate her employment.
Q. Have you -- I'm going to hand you what we'll

mark as Exhibit 1.

MR. GASPER: Is this a copy of it?

MR. JACKSON: Yes.

MR. GASPER: I don't object.

Q. If you could --

MR. GASPER: I have no objection.

(Exhibit 1 marked for identification.)

MR. JACKSON: Let me make sure I got that -- yeah.

Q. Have you seen that document, or those documents that are part of Exhibit 1?

A. I have seen some of these documents. I have not seen all of these documents.

Q. Can you take a look at those documents? I want to ask you some questions about them and your involvement with those documents.

MR. GASPER: Do you have any specific ones you're asking about, or do we need to take some time for her to look over them?

MR. JACKSON: Yeah, let's just take a -- let's just go off the record for a moment.

THE VIDEOGRAPHER: The time is 1:19. We're now off the record.

(Recess from 1:20 p.m. to 1:22 p.m.)

THE VIDEOGRAPHER: The time is 1:22.

We're now on the record.
Q. Ms. Shelton, have you had a chance to look at what -- the documents attached as Exhibit 1 to your deposition?
A. Yes.
Q. I want to ask you: What are the requirements that the department has for an employee before they are able to drive a state-issued car?
A. I don't -- I mean, I don't know specifically what that is off the top of my head.
Q. Is there any --
A. I mean, they have to be an employee and they have to have passed our background checks and all of that, and they have to -- there is a vehicle policy that they have to sign. I mean, I don't -- I don't have that in front of me. That's not part of this documentation, so I don't know the specifics.
Q. Is there a vehicle policy that employees are expected to adhere to when they drive?
A. Yes.
Q. And are you familiar -- how familiar are you with that policy?
A. I have not read that policy in a long -- I've been employed a long time, so it's been a while since I've read that.

Q. And what is the gist of that policy?
A. I mean, I honestly can't get into the specifics about it. There are a couple of different pages that employees have to sign off on acknowledging that they understand it.
Q. What is your understanding about where Jennifer Wilkerson's, what the mission of her route on June 11th, '21 was?
A. My understanding is that she was going to travel from Paris to Beebe to pick up a foster child and transport that child back to Clarksville to meet another worker.
Q. And when you say "Clarksville," would the transfer to the other worker have occurred here at this office?
A. Yes.
Q. Okay.
A. Well, no, I don't know that it would have occurred at this office. It was set to occur in this town.
Q. Okay.
A. But I don't know where.
Q. Okay. Thank you for clarifying.
As part of your internal fact-finding, tell me what steps you took to investigate

Ms. Wilkerson's actions.
A. I notified her of the fact-finding and sent her a list of questions and then I also asked for statements from Ms. Feemster and Ms. Ezell that I know for sure.
Q. And the questions that you sent to Ms. Wilkerson are on an email dated June 16, 2021, at 10:47 a.m.; is that correct?
A. Yes.
Q. And whose handwriting is that?
A. Ms. Wilkerson's.
Q. And then it looks like you had a follow-up email right after that; is that -- with Ms. Wilkerson; is that correct?
A. Yes, I believe so.
Q. And did you ever -- do you recall having a telephone call with Ms. Wilkerson as part of the fact-finding?
A. I would not have had a telephone call with Ms. Wilkerson. We are specifically instructed to conduct our fact-findings in writing.
Q. You indicated you also obtained information from Randy Ezell?
A. Yes.
Q. And is that information contained in Exhibit 1?

A. Yes.
Q. And where is the -- and it looks like that would have been the email sent to you from Brandy Ezell on June 16th of '21 at 2:03 p.m.?
A. Yes.
Q. Okay. And then the same question for Pamela Feemster. Was the information you received from her via email at 1:41 p.m.?
A. Yes.
Q. Okay. And the same would be true with getting information from Ms. Ezell and Ms. Feemster: Everything you would get from them would be in writing?
A. Everything that I used during the fact-finding is in writing.
Q. Okay.
A. I'm not saying I didn't have a phone conversation with Ms. Feemster. She was directly under me. I was her direct supervisor. But all of the information that I used for the fact-finding is in writing.
Q. Gotcha. That makes sense.
Do you recall anything that Ms. Feemster may have told you that's outside of what's in the email about the accident?

A. I don't think so.
Q. So on Page 2 of the exhibit, there's an email from you to Tiffany Wright and some others -- oh, if you need to take that.
A. I'm sorry. No, it's -- I didn't think to silence my phone because I didn't bring it into the room, so I didn't think about my watch going off. I apologize.
Q. And we certainly understand if you have an emergency.
A. No, it's fine.
Q. Could you read your email that you sent to Tiffany Wright?
A. "New Logan County PA Jennifer Wilkerson just had an accident in a state car. We believe she was at fault but don't have all the details yet. She is being transported to the hospital but was alert. She did not have any clients in the car with her. The car is totaled.

"Allegedly she crossed the centerline and clipped a mobile home that was being transported, then she rear-ended the car in front of her. Her supervisor went to the scene and said her boyfriend came to the scene as well, and he appeared to be under the influence. He is a past client. We are asking

state police if their investigation will involve a toxicology report; if not, is there a way we can drug-screen her."

Q. And where would you have obtained that information about the accident?

A. Probably by phone from Ms. Feemster.

Q. Okay. And the supervisor that went to the scene, do you know if that would have been Ms. Ezell or Ms. Feemster?

A. Ms. Ezell's not a supervisor.

Q. Okay.

A. Ms. Feemster is the only supervisor.

Q. Ms. Ezell is a co-employee, the same?

A. Correct.

Q. Okay.

A. Not the same level, but she's not a supervisor.

Q. Thank you. Okay. Were you -- do you know what happened as far as on your request for a drug screen for Ms. Wilkerson?

A. We -- I know that Ms. Feemster followed the ambulance to the hospital, but she was not allowed to get into the hospital because they had it on lockdown. But she did notify that we were requesting a drug screen, but I don't know if we ever -- I don't know if that happened. I never saw any results of a drug

screen.
Q. Okay.
A. That we -- that we requested.
Q. Okay. Did you see any results of a drug screen at all --
A. No.
Q. -- for Ms. Wilkerson?
A. No, I have not.
Q. What -- so walk me through how Ms. Wilkerson is told that there's an internal fact-finding going to occur and she's going to have to answer these questions. What's the procedure for that?
A. It's in that email attached to the questions. That's how she was notified of the fact-finding. It's the one where she wrote out the answers, that page.
Q. Was there anything else beforehand that her supervisors told, or somebody tells Ms. Shelton [sic], hey, you need to look for this email; it's going to be coming from --
A. No.
Q. -- from Clarksville and you need to be ready for it, or it's just --
A. Not to my knowledge, no.
Q. Okay. I want to ask you. Ms. Wilkerson's answers to question number 5 is -- the question is:

"While you were driving, what happened to cause the accident?"

Can you read what Ms. Wilkerson's answer is?

A. "I remember seeing a car up ahead but no brake lights or signal lights. That's all I remember until I came to."

Q. Do you know anything else about -- whether Ms. Wilkerson had said anything else about what happened to cause the wreck other than that statement?

A. No.

Q. Okay. And then the same for question number 10: "Is there anything else you would like -- that you would like for me to know about" -- let me start over.

Question number 10: "Is there anything else that you would like for me to know regarding this incident?"

What was her answer?

A. "I am devastated over what happened, but I really don't know what happened because I don't remember, it happened so fast."

Q. And then it looks like you had two emails from Pamela Feemster and one from Brandy -- I'm sorry, three emails from Pamela Feemster and one from Brandy Ezell. Did those three emails and Ms. Wilkerson's

answers and Ms. Wilkerson's subsequent email, is that what made up your fact-finding?

A. Yes. And the fact that she had only been employed for ten days and was still in probationary status.

Q. And then how was Ms. Wilkerson notified that she was terminated? Is that something you do, or do you have Ms. Feemster do that?

A. Normally the supervisor would do that. I may have done that myself, and we normally would do that in person, but I honestly don't recall how we notified her.

Q. Do you recall ever meeting Ms. Wilkerson in person?

A. I don't recall that, no. I don't know if I did or not.

Q. Did you ever go to the accident site?

A. No.

Q. Do you know -- I mean, at any point have you ever driven by and said, you know, that's where the accident occurred?

A. I mean, I drive that road all the time.

Q. Highway 22?

A. I don't have any firsthand knowledge, though, of where that accident occurred.

Q. Okay. Was -- at the time of the accident, the state trooper reports it being called in at 12:50 p.m., and it's my understanding that Ms. Wilkerson was supposed to be at Beebe at 2:00 p.m. to pick up the child?
A. That's --
Q. Does that sound correct?
A. That's my understanding.
Q. So if that's correct, she would have been about an hour behind schedule when the wreck occurred; is that right?
A. Yes.
Q. And you don't have any reason to dispute that?
A. No.
Q. Okay. There is an email from Jennifer Wilkerson to Pamela Feemster in that package, and it's got the name of a client blacked out. Do you see that email?
A. Yes.
Q. And what is that Bates stamp number of that one? Is it 419?
A. Yes.
Q. Can you read what Ms. Wilkerson's email stated?
A. "On 6/11/21, I was going to Beebe, Arkansas to pick up," blank, "for a sibling visit in Clarksville, Arkansas. I left Paris about 12:30 p.m. and was

supposed to be there around 2:00 p.m. in Midday" -- I think she meant Midway -- "Arkansas. There was a car stopped in the road. I didn't see a turn signal, and the -- I remember the air back deploying and nothing else until the car was stopped. When I was able to get out of the car, there were already several people on the scene. I was there until I went to the ambulance -- or went to in the ambulance to the emergency room in Booneville, Arkansas. I had minor cuts and bruises."

Q. Okay. Are -- have we gone over all of the statements that you're aware of that Jennifer Wilkerson has made to anyone at DHS regarding what happened in the accident?

A. I believe there might be one other follow-up email that she sent me. It's stamped 423.

Q. Okay.

A. Where she emailed me following the initial questions, and I, in possibly even my follow-up questions, she said -- she sent me an additional email.

Q. Can you read what that email, what she says in that email?

A. "I wanted to mention that it was prescribed to be for ADHD but was used for people with narcolepsy

but that it was something I should inform Pam about. That's why I sent the message."

And that -- and then I think you already asked me, but I did -- I sent her some additional follow-up questions, and she did answer those in a separate email as well.

Q. Looking through the exhibits, or the documents in Exhibit 1, are you aware of any other emails or statements by Jennifer Wilkerson related to this accident?

A. No.

Q. Okay. As you sit here today, are you aware of any facts that would indicate that Jennifer Wilkerson was not 100 percent responsible for this accident?

MR. GASPER: I'm going to object to that. That's speculation. That's way out of her wheelhouse.

MR. JACKSON: Objection noted.

Q. Go ahead and answer the question to the best of your ability.

A. I did not do the investigation involving the accident, so I don't have any knowledge about what the outcome of that investigation was.

Q. Who would have been the person doing the investigation of the accident?

A. I believe the state police conducted the accident investigation.
Q. But as far as within the Department of Human Services, would there have been anybody else doing an investigation into the accident?
A. No. All we did was the fact-finding to determine if there was any violated behavior expectations that we needed to do discipline action on. We were not responsible for any investigation into the accident at all.
Q. Can you go through the list of actions that Ms. Wilkerson violated that would lead her to be terminated?
A. Well, because she was still on probation, it didn't take as much to terminate because technically we can terminate during that probationary period. So I was very concerned that she did not leave the office when she had been advised that she needed to leave the office. I was also concerned that she did admit during the fact-finding that she had taken a medication the day prior to the accident that she did not have a prescription for.
Q. Was there anything else that raised concerns to you?
A. No.

Q. Have you heard from any other source of how the accident may have occurred other than what's in the -- what you've already gone over?
A. No.
Q. What is your understanding of which DHS employees would have gone to the accident scene besides the ones that we've previously discussed, which is Brandy Ezell and Mrs. Feemster?
A. To my knowledge, those are the only employees of the Division of Children and Family Services that went to the scene.
Q. How did you -- what is your understanding of what Ms. Wilkerson did after the accident when she left from the Booneville hospital?
A. My understanding from what the trooper reported to Ms. Feemster is that she was asked to follow the trooper for a drug screen, stopped at McDonald's along the way, and the trooper had to go back and find her. And then I don't have any more knowledge after that.
Q. Do you know how far of a distance the hospital at Booneville is from the sheriff's department?
A. No.
Q. Okay.
A. I can -- I have them pictured in my mind, but I'm not good. I mean, it's -- I would say it's just a

few miles.
Q. Okay.
THE WITNESS: Could we take a quick break?
MR. JACKSON: Oh, yes. Yes, please.
THE WITNESS: Is that okay?
MR. JACKSON: Yes, yes. Certainly, yes.
THE VIDEOGRAPHER: The time is 1:46. We're now off the record.
(Recess from 1:46 p.m. to 1:49 p.m.)
THE VIDEOGRAPHER: The time is 1:49. We're now on the record.
Q. And I want to ask you some questions about Jacqueline Ashcraft. Did you know who she was?
A. No.
Q. Do you know -- have you heard of anything she did to cause this accident?
A. No.
Q. What about Bobby Wilson?
A. I don't know that name.
Q. The -- and I'll represent to you that Bobby Wilson is the name of the driver of the tractor-trailer rig that was hauling the modular home that was approaching, traveling west on Highway 22, when this accident happened. Have you heard of

anything that he may have done to cause this accident?
A. No.
Q. Do you know if anybody looked at Jennifer Wilkerson's -- well, let me back up.
What type of mobile device would DHS issue to somebody like Jennifer Wilkerson who was going to drive to Beebe to pick up a client, if any?
A. We issue state phones. I don't know if Jennifer Wilkerson had been issued one or not. That's -- I doubt she would have had one with only being employed ten days, but I don't know for sure.
Q. Are you aware of anybody looking at her phone records to see what she was doing at that time?
A. I'm not.
Q. Okay. I'm going to represent to you that the state trooper James Ray in his investigative report, he found that Jennifer Wilkerson's actions were, quote, inattentive, careless, negligent, or erratic operation, close quote, at the time of the crash.
Do you have any reason to disagree with Trooper Ray?
MR. GASPER: Object as to form.
You can answer that question, but this is not the witness to answer that question.
Go ahead.

A. No, I don't have any knowledge.
Q. Ms. Shelton, I want to go back and ask you an all-encompassing question which is as we've sat here today and I've asked you questions, is there anything that, at the end of this deposition, that you have thought of, of any information that you haven't told me about the accident, such as any telephone calls or additional email exchanges?
A. No, not anything that I can recall.
Q. Okay. Is -- attached to Exhibit 1 at the end are two photographs. Do you know what those -- do you have any knowledge about those two photographs?
A. I assume that they are of our state vehicle.
Q. But just as far as knowing, not assuming, but as far as you personally knowing?
A. No. I do think I -- I do think I was sent photos of the state car, but I don't -- I mean, I can't recall what they looked like or -- that I recognize as one of our employees in the photo. That's Ms. Ezell.
Q. Okay. And you're look -- you're pointing to a person in the right-hand side of Bates-stamped 427?
A. Yes.
Q. Okay. And as far as you're aware, everything that is in Exhibit 1 consists of your -- it may

consist of additional information, but it has your fact-finding efforts and results in it, correct?
A. Yes.
Q. Okay. I should have broken these up into separate exhibits, but the fact-finding would consist of the email from Pamela Feemster. That begins on what's Bates-stamped as?
A. The -- my fact-finding packet begins with the Notice of Disciplinary Action date that is stamped as 417.
Q. 417?
A. Yes.
Q. Okay. And then that would go through, from 417 through?
A. 426.
Q. 426?
A. Yes. I believe -- I believe all of those were included in my fact-finding packet.
MR. JACKSON: Brent, if you don't mind, can we attach 417 through 426 as Exhibit 2?
MR. GASPER: So as an additional exhibit?
MR. JACKSON: Let's do those -
MR. GASPER: Kind of pull them out?
MR. JACKSON: Yeah, let's just do that

as an additional exhibit.

MR. GASPER: That's fine.

(Exhibit 2 marked for identification.)

MR. JACKSON: I'm going to hand you, Madam Court Reporter, Exhibit 2.

Q. And we'll attach that as your exhibit to your deposition. And the two photographs that are attached, you don't know where they came from; you just recognize Brandy Ezell in one of the two photographs?

A. Correct.

Q. Okay. All right. Thank you. I'm finished.

MR. GASPER: I don't have anything.

THE VIDEOGRAPHER: This concludes the video deposition of Kristen Shelton. The time is 1:55. We're now off the record.

(Proceedings adjourned at 1:55 p.m.)

REPORTER CERTIFICATION

I, DANA HAYDEN, Certified Court Reporter for the State of Arkansas, do hereby certify to the following:

1) that on 05/16/2023, the witness, KRISTEN SHELTON, was duly sworn by me prior to the taking of testimony as to the truth of the matters attested to and contained therein;

2) that the foregoing pages contain and are a true and correct transcription of the proceedings as reported verbatim by me via realtime stenography to the best of my ability and transcribed at or under my direction and supervision, and subject to appropriate changes submitted by witness, if any, during his/her requested reading and signing of this deposition according to the Arkansas Rules of Civil Procedure;

3) that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and that I am not a relative or employee of any attorney employed by the parties hereto;

4) that I am not financially interested or otherwise interested in the outcome of this action that affects or has substantial tendency to affect impartiality or requires me to relinquish control of

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an original or copies of a deposition transcript before it is certified, or that requires me to provide any service not made available to all parties to the action; and

5) that I have no contract with the parties, attorneys, or persons with an interest in the action; and that I am not knowingly identified on a preferred provider list, whether written or oral, for any litigant, insurance company, or third-party administrator involved in this matter;

6) that signature of the witness is waived.

This transcript is prepared at request of counsel for PLAINTIFF, and all fees are billed directly to them in compliance with Arkansas Board of Court Reporter Examiners Regulations Section 19.

Witness my hand and seal this 24th of May, 2023.

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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, As Special Administratrix of the Estate of JACQUELINE LYNN ASHCRAFT, Deceased, and as Permanent Legal Guardian of [redacted] A Minor,

CLAIMANT,

VS.

ARKANSAS DEPARTMENT OF HUMAN SERVICES,

RESPONDENT.

CC NUMBER 230641

ORAL AND VIDEOTAPED DEPOSITION OF

BRANDY EZELL

August 1, 2023

ORAL DEPOSITION OF BRANDY EZELL, produced as a witness at the instance of the CLAIMANT, and duly sworn, was taken in the above-styled and numbered cause on the 1st day of August, 2023, from 2:05 p.m. to 2:56 p.m., before Tammie L. Foreman, CCR in and for the State of Arkansas, RPR, CRR, reported by machine shorthand at the offices of Arkansas Department of Health and Human Services, 700 Main Street, Little Rock, Arkansas, pursuant to the Arkansas Rules of Civil Procedure.

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WITNESS: BRANDY EZELL

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EXHIBITS

NO.	DESCRIPTION	MARKED

BRANDY EZELL,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. JACKSON:

02:05PM Q. Ms. Ezell, my name is Jim Jackson. We met just before you were sworn in. And I'm the attorney for the Estate of Jacqueline Ashcraft, and I'm here to ask you questions regarding what happened on June 11th, 2021. And this -- the point of my questions is to 02:05PM gather information from you of what you know or saw or heard or observed. And have you ever given a deposition before?

A. No.

Q. Okay. I want to give you a couple of ground 02:05PM rules, and one of them is, give verbal answers. And in a normal conversation, you and I might shake our head or use a phrase of uh-huhs or huh-uhs. We'll know what each other is talking about at that time.

Because we have a court reporter, we'd 02:06PM like for you to verbally say yes or no. So if at any point I ask you is that a yes or a no, I'm not trying to be rude. I'm just trying to help the court reporter so Mr. Gasper and I can have a record later on to look at and we'll know that was an affirmative 02:06PM or negative response. Okay?

A. Okay.
Q. The other thing is, wait till -- you will know the answer to my question before I finish it. In normal conversation, you would start to answer it. We would have a flowing conversation. Here, it would be better if you would just wait for just a moment for me to complete my question before you respond. That allows the court reporter to take an accurate transcription of what is said. Okay?
A. Okay.
Q. And then if I ask any question that you don't understand or you want me to clarify, please ask me to do so. I'll try to be as clear as possible. But if at any point it will not offend me whatsoever if you ask me to rephrase or restate any question. Okay?
A. Okay.
Q. Okay. What is your residential address?
A. [redacted]
Q. And by whom are you employed?
A. State of Arkansas.
Q. And by what agency?
A. Logan County DHS.
Q. And how long have you been employed by Logan County DHS?
A. January 14th of 2019.

Q. And what is your current job title?
A. Family service worker specialist.
Q. Family service?
A. Worker specialist.
02:07PM Q. What does that entail? Kind of give us a day-to-day what you do?
A. Primarily, I do foster care. I'm a foster care case worker. When a kid is removed and everything, I build a case plan with the family. We go to court.
02:08PM We -- there's testimony. And we work with the family to get the child back home safely.
Q. In June of 2021, when this accident occurred, is that basically what you were doing at that time?
A. Yes.
02:08PM Q. Now I'm going to shift my questions to June 2021. What was your relationship with Jennifer Wilkerson in June of 2021?
A. She was a coworker.
Q. And did you have any -- my understanding is that
02:08PM she was a new employee?
A. She had started the day after Memorial Day, was her first day. And she was hired on to be a program assistant, which is program assistants help us do visits, teach parenting classes, get a lot of the --
02:09PM some of the services done that we can't do because

we're in the field seeing children or having to get stuff keyed into CHRIS. So program assistants do a lot of -- a lot of the visits. They're usually on the road a lot more than we are.

02:09PM Q. Okay. Did you have any relationship with Ms. Wilkerson outside of her employment with Logan County?

A. No.

Q. Okay. So on June 11th, I want to focus now on 02:09PM that -- earlier, we were focused on kind of the month in general. Now I want to focus on that day. Walk us through -- and I've been provided some emails and different things about that day, so I know a little bit.

02:10PM But I want to hear you -- from you what you recall happening that morning, and specifically with you, your interaction with Ms. Wilkerson, and her going to Beebe.

A. Okay. That was the first day Jennifer was going 02:10PM to take the state car to do a visit by herself, where she would pick up a child and meet another worker by herself.

At about 11:15, me and Jennifer left to go to the Casey's General Store to get gas in the 02:10PM vehicle. Usually new employees, their personnel

number is not in the system yet. So I went with her. Her personnel number wasn't in the system, so I used mine to put gas in the vehicle.

And she asked me -- she wasn't for sure where she was meeting the other worker. So when we got back to the office, I -- well, I showed her how to do the logbook with the car, put her name, the mileage, the time she left, the time she picked up the child.

And when I got back, the worker was in Bentonville and the child that she was bringing to the -- it was a sibling visit. The child she was bringing couldn't get out of counseling till 2:00. So the plan was to meet in Clarksville McDonald's at 4:00.

The other worker was going to pick up that child in northwest Arkansas, bring her to -- bring him to Clarksville McDonald's, and Jennifer was going to Beebe and bring his brother from Beebe to Clarksville McDonald's. And it was right around the same time frame, they were going to meet.

Q. So they were trying to coordinate that meeting together at Clarksville at the McDonald's?

A. Yes.

Q. And if this accident -- if everything had gone as planned, would the two siblings have gone on from

Clarksville to somewhere else together or were they just going to play there together and have lunch at McDonald's and go back separately, or what was ultimately the plan?

02:12PM A. They would have had lunch together at McDonald's and then the case workers would have taken them back to their placements and then been done for the day.

Q. I saw some -- somewhere in reference to a Map Quest being done. Do you recall --

02:13PM A. Yes. I had done the Map Quest to see if it was -- with the other case worker being in northwest Arkansas, would it be closer to meet in Russellville or Clarksville. And it was the same time, pretty much the same time from northwest Arkansas to Clarksville as it was from Beebe to Clarksville.

Q. All right. And then did -- and then what did you do -- what did Ms. Wilkerson do to know her route of where she was to go from Beebe?

A. It was getting closer to noon about that time,

02:13PM and I told her she needed to leave around 12:00, 12:15 to be able to get to Beebe by 2:00. The foster parents were going to have the child ready around 2:00. And I told her she needed to leave around 12:00, 12:15, to get to Beebe in time to pick up the

02:14PM child and then by that time, she would get to

Clarksville around 4:00.

And I explained to her, you know, we understand, you know, road construction, car wrecks, stuff like that. And I just told her to keep in contact with the other case worker she was meeting to let each other know where you're at, if you're going to be early or late.

Q. Okay. And did Ms. Wilkerson appear to understand --

02:14PM A. Yes.

Q. -- her task?

A. Yes.

Q. And then when was the last time that you saw Ms. Wilkerson before the wreck?

02:14PM A. Me and my boss were pulling out of the DHS office right around 12:07 to go to lunch, and I watched Jennifer walk to the state car to get in it.

Q. And how do you know what -- that it's 12:07? Do you have a time card?

02:14PM A. I'm always watching the time.

Q. Okay.

A. I'm always -- it's a -- I'm always watching the time. I'm always looking at my phone looking at the time. Because, I mean, I'm used to putting in

02:15PM contacts at the office and I have to know -- they want

to know exactly what time you did this, this, and this. What time did you get to this house and visit because if something happened, you know, they don't want -- you know, if you were there at 3:15 and something happened, they want to know what was going on, if something broke out at 4:00 and you were already gone.

Q. Gotcha. Okay.

A. So...

Q. Who was your boss that went to lunch with you that day?

A. Pamela Feemster.

Q. Do you happen to recall where y'all went to lunch?

A. The Thai restaurant there in Paris.

MR. GASPER: You want to spell that for the court reporter. Feemster.

THE WITNESS: F-E-E-M-S-T-E-R.

Q. (By Mr. Jackson:) Thank you for doing that. So you -- when you leave at 12:07, you see Ms. Wilkerson walking towards the state --

A. Walking to the car.

Q. Walking to the car. Okay. You and Ms. Feemster go to lunch?

A. Yes.

Q. And then what happens next in this -- what do you recall happening next?
A. Me and Pam came back from lunch. We were at the office at 12:55. I got a phone call, and it was
02:16PM Jennifer stating that she had been in a wreck. And I was, like, where are you at? Where are you at? You know, me and Pam, we'll come right now. Where are you at. And she was like, I don't know. I don't know.
And I said, "Jennifer, I need to know
02:17PM where you're at." I was expecting her to be -- at least be in Dardanelle, Pottsville, somewhere between there by that time. And she said, "By the airport." I said, "By the airport?" I said, "In Paris?" And she said "Yes." I said, "Okay. Me and Pam will be
02:17PM right down there."
Q. Okay. Then what did you do next?
A. We got in my car. We went to the accident -- to the accident site. Jennifer was sitting next to the state car. I asked her what happened. She said she'd
02:17PM stopped by Dairy Delite to get something to drink, and the next thing she remembers is a car stopped in front of her.
Q. Was Ms. Feemster with you when that conversation occurred?
02:18PM A. No. She was on the phone with Kristen Shelton

at that time.
Q. And did you drive a state car or your personal car?
A. My personal vehicle.
02:18PM Q. Was -- do you recall if the ambulance had arrived when you got there?
A. Yes, they have.
Q. Okay. Was a paramedic working with Ms. Wilkerson at the time; do you remember?
02:18PM A. No.
Q. Were you there when a paramedic came to work with her?
A. No. I was not sitting next to her when they put her in the ambulance.
02:19PM Q. Okay. Where did you -- so let me strike that. Start over. Back after she said a car stopped in front of me, what did you do next?
A. I didn't ask her any more questions. I walked back. I took some pictures of the car, of the state
02:19PM car. And me and -- me and Pam sat there and waited. They said they were having the state police work it, so we waited till the state police officer showed up.
Q. What type of medical condition was Ms. Wilkerson in?
02:19PM A. I mean, she was coherent.

MR. GASPER: Can I just pause real quick? Can you rephrase? I don't think she can say what kind of medical condition she was in. I think she can probably say what did she observe her acting like.

Q. (By Mr. Jackson:) Yeah. I mean, did you observe her grabbing her arm, being in pain?

A. No.

Q. Or anything?

02:20PM A. She appeared upset.

Q. But you didn't see any lacerations, blood, anything like that --

A. No.

Q. -- on Ms. Wilkerson?

02:20PM A. No.

Q. Did you go and speak to Jacqueline Ashcraft?

A. No.

Q. Did you go -- did you ever speak with Bobby Wilson, who I'll represent to you is the name of

02:20PM the driver of the tractor trailer rig?

A. No.

Q. Okay. Do you recall speaking to the paramedics at any time?

A. No.

02:20PM Q. And where -- how close to the accident scene

were you able to get before you parked and got out to her; do you recall?

A. Probably -- a woman doing feet.

Q. Let's -- let's use something like, maybe, car lengths. How many cars. How many seconds would it have taken you to walk. You give me --

A. I ran. I ran.

Q. Okay.

A. I was scared for Jennifer when I got there. I didn't know what condition she was in. Between the state car and where I parked was probably seven to ten car lengths.

Q. Were there other cars between your car and Jennifer's car?

A. Police vehicles, yes.

Q. Okay. And what -- do you recall who was with Ms. Wilkerson when you -- when you left to go back to your car?

A. No one, I believe.

Q. Okay. And I -- do you remember her saying anything else at the accident scene in addition to what you testified to earlier about her stopping at the Dairy Delite?

A. It's a dairy cream in Paris. Dairy Delite.

Q. To get a drink and the next thing is she

remembers a car stopped in front of me?
A. Yes.
Q. Do you recall anything else that was said by Ms. Wilkerson?
02:23PM A. No.
Q. Okay. Did you overhear her talking to anyone else such as the state trooper or any of the people assisting the state trooper with the investigation?
A. No.
02:23PM Q. And the same question as far as with the paramedics, did you overhear her having any conversation with the paramedics?
A. No.
Q. What was your conversation that you and
02:23PM Ms. Feemster had in the car when you went back to the car; do you recall?
A. Rephrase that.
Q. So when you went back -- let me understand -- or clarify this for me. When you leave from
02:23PM Jennifer's -- from talking with Jennifer --
A. Yes.
Q. -- you go back to your car?
A. No. I stood around. Me and Ms. Feemster stood by one of the police vehicles. The state trooper, we
02:24PM were there about probably ten minutes before the state

trooper that was actually from Troop H that actually worked the scene arrived.

Q. Okay. And then when he arrived, what did you do next, if you recall?

02:24PM A. Me and Pam talked about the wreck, talked about how -- what was going on between the time I watched her get in the state car to leave the office to the time she called me. Pam was on the phone with Kristen, sending her pictures of the vehicle.

02:24PM Q. Do you --

A. I mean, we were both just in shock what had happened, 'cause the vehicle -- there was pieces -- I mean, there was a part of the bumper, there was part of the bumper in the grass. I mean, there was pieces

02:25PM in the grass on the eastbound and the westbound lane.

(Exhibit 1 marked for identification.)

Q. I am going to hand you what we'll mark as Exhibit 1. Does that appear to be a photograph of the car?

02:25PM A. Yes. Yes.

Q. And did you do anything to see if Ms. Wilkerson did go to Dairy Delite during that time period after she left and before the wreck?

A. Did I do --

02:26PM Q. See if she had a receipt from there or what --

A. That was not on my mind at that time.
Q. Okay. I mean, but since then, since that time? I mean, later that afternoon or any --
A. No.
02:26PM Q. Okay.
A. The ambulances were parked on that side of the car and the police officers were parked on this side and the semi was parked off the road, off the middle of the highway, heading westbound, like, over here.
02:26PM Q. Did you or Ms. Feemster go and do anything to check on any of the people -- I know you probably didn't know their names, but the people in the car, the blue car?
A. No. After the state trooper arrived, one of
02:27PM the -- his name is Chris Eley, I watched him, the state trooper, walk to the house, 'cause there's a -- you can see the driveway, walk to this house. And I saw him come out and yell for Chris Eley. I don't know if Chris -- I thought he -- I don't know if he
02:27PM was a paramedic or just a volunteer. I know him from town.
Q. Uh-huh. Yes.
A. And I watched Chris walk in there and carry a woman to the ambulance.
02:27PM Q. And there's -- okay. Did you overhear, either

that day or later, anybody saying I was a witness to the accident and I saw what happened?

A. No.

Q. When the paramedics transported Ms. Wilkerson and Ms. Ashcraft from the scene, what did you and Ms. Feemster do?

A. Ms. Feemster asked the state trooper if he was going to be doing a drug screen on Jennifer, and he said he usually didn't. We went to the Paris hospital and checked, and they didn't take her to Paris. So -- and we found out she went to Booneville, so we drove to Booneville. The hospital was locked down.

Q. Is that because of COVID?

A. No. The hospital was locked down due to, I guess, another guy showing up to visit Jennifer. And her boyfriend, I guess, at the time getting into an altercation.

Q. There at the --

A. Booneville hospital. When we pulled up, the boyfriend was getting out of a cop car.

Q. Out of a what car?

A. Cop car.

Q. Police car?

A. Police car. Police SUV. Jennifer's mom was there and the cop was there, and they had the doors

locked. And Jennifer's mom told me that Jennifer had went through Dairy Delite and then was heading on that visit. And I asked her why the cop was dropping off the boyfriend, Scott Lindstrom. And she told me that Scott and, I guess, another guy that had shown up had got in an altercation.

Q. Do you know if Mr. Lindstrom was at the accident scene on Highway 22?

A. Yes, he was.

Q. What about do you know who Sandra Wilkerson is? Is that Jennifer's mother?

A. That's Jennifer's mother.

Q. Did Ms. Sandra Wilkerson come on the accident scene on Highway 22; do you recall?

A. I don't remember seeing her.

Q. What did -- did you know Mr. Lindstrom before this?

A. Yes.

Q. And was it through your work you knew him or did you know him socially?

A. My ex-boyfriend that I have a daughter with, when we split up, he got with Scott's ex-wife. And after I did start at the State, there was -- both Scott and the ex-wife both had dealings with DCFS in Logan County.

Q. What was Mr. Lindstrom's presentation at the accident scene?
A. I saw him get in Jennifer's purse out of the back seat of the vehicle.
02:32PM Q. What did -- what else did you observe?
A. He was there when me and Pam arrived and the -- I just watched him get her stuff out of the vehicle. And afterwards, Pam asked me if -- did I see what Scott -- what vehicle Scott left in and I wasn't
02:33PM paying attention. But he was at Booneville when we got there.
Q. Did you talk to Mr. Lindstrom any at the accident scene?
A. No.
02:33PM Q. Okay. Sounds like he got to the accident scene before you and Ms. Feemster did?
A. Yes.
Q. And you didn't interact with -- do you recall -- do you recall overhearing him say anything while you
02:33PM were there at the accident scene, whether he was talking to you or Jennifer or anybody else?
A. No. I don't have a lot of conversations with him.
Q. What was he -- was he acting normal? What was
02:34PM he doing?

A. He was just getting her purse and her belongings out of the car.
Q. Then the lockdown, you believe, at the hospital -- I want to now shift over to the hospital and the lockdown.
02:34PM
A. Yes.
Q. Do you believe that the lockdown occurred because of a altercation between Mr. Lindstrom and one of the law enforcement officers or was it an ex-boyfriend? I didn't understand who you --
02:35PM
A. Sandra told me it was because Scott Lindstrom and another guy, I don't know if he was an ex-boyfriend or a friend or what. But some kind of friend of Jennifer's had got into it.
Q. Okay.
02:35PM
A. At the hospital, and that's why they locked it down and wouldn't let anybody else in the hospital.
Q. Okay.
A. To see Jennifer or to talk to her.
Q. Okay. And so what did you and Ms. Feemster do after you found out the hospital was in a lockdown?
02:35PM
A. Ms. Feemster went and talked to one of the nurses about Jennifer's condition and we left.
Q. Okay. I assume this but just clarify, did you and Ms. Feemster ride together from the scene to the

Paris hospital and from the Paris hospital to the Booneville hospital?

A. Yes.

Q. Okay. Still you driving your personal car?

02:36PM A. Yes.

Q. Okay. After you left from Booneville, where did you -- I assume you went back to Paris?

A. Yes.

Q. And where did you go?

02:36PM A. Back to the office.

Q. And then what did you do -- what did you do next; do you recall?

A. I was -- I was on call that night, so at that time our on call was a week at a time. So, I mean --

02:36PM Q. And when you do on call, is that something you go to your home and you're waiting for a phone call or are you at the office? How does that work?

A. On call is anything after about 4:00, if there's any hot line reports or police need an assistance,

02:36PM they call the on-call phone number and we go there and assist. Or if there's a hot line call, we talk to the on-call supervisor and go to the home or whatever they tell us to do.

Q. Okay. Have you discussed this accident with

02:37PM Jennifer Wilkerson since June 11th of '21?

A. No.
Q. Did she -- I know she was terminated the following week. Did you -- did she come into the office any the following week and where you would have
02:37PM interacted with her any?
A. She was on desk duty. And no, I did not talk to her at all.
Q. Okay. Would it be accurate to say that everything that Jennifer -- that you heard Jennifer
02:37PM talk about the wreck you have told us about and testified about earlier?
A. Yes.
Q. Okay. And if you need to correct -- you know, that was one of the rules I forgot is if we get to the
02:38PM deposition and you say hey, there's something else I remember, you can always go back and supplement, you know, something. Say hey, one of your questions reminded me I forgot something. Okay?
A. Okay.
02:38PM Q. The telephone system, when you -- in your position at Logan County DHS, do you have two telephones, a personal one and a work phone?
A. I did. Jennifer didn't at that time.
Q. Okay. When you took the photos of when you were
02:38PM at the accident scene, where are those photos and

would they -- which phone would you have taken them on?
A. They were on my work phone, and I had sent the photos to Kristen Shelton.
02:38PM Q. Ballpark, how many photos would you have taken?
A. I don't know. Twenty maybe.
Q. Okay.
A. Just like -- just like this.
(Exhibit 2 marked for identification.)
02:39PM (Exhibit 2A marked for identification.)
Q. And you're just showing Exhibit 1. I want to hand you -- this is a terrible, terrible photos. They're the same photos. Do you know who that -- we'll mark that as Exhibit 2 and 2A. Do you know if
02:39PM that would be a photo that you would have taken? And I'm going to ask you two questions in one while you're looking at it. And do you know who that person is?
A. I took a photo like this. And no, I don't know who that is.
02:40PM Q. And would you have sent those photos to Ms. Shelton by email or how would you --
A. Text.
Q. Text. Okay. Do you know if you happened to still have those photos?
02:40PM A. No, I do not. When I -- they sent me a new

phone, I didn't download any of them. When they sent me that phone, I literally had to put in -- I lost a lot of my foster contacts and all of my photos. The only pictures I usually download are pictures of kids and to update their pictures in our computer system.

Q. Do you know if Ms. Feemster happened to have taken any photos? Did you see her?

A. Yes, I believe she did.

Q. Do you know if she would have taken those on her personal phone or work phone, or do you have any way to know?

A. I'm not for sure.

(Exhibit 3 marked for identification.)

Q. Okay. Ms. Shelton did an investigation, and I believe she asked you some questions by email. I want to hand you what we'll mark as Exhibit 3 to your deposition.

A. Yes.

Q. Is that -- take a moment to look over that.

A. Yes.

Q. Okay. So that is your response?

A. To Ms. Shelton's email.

Q. Okay.

A. Ms. Shelton had asked -- she was doing a fact-finding with everything, so she'd ask to -- well,

you can see what she asked.
Q. Yes. Yes. So it's self-explanatory, Exhibit 3?
A. Yes.
(Exhibit 4 marked for identification.)
02:42PM Q. Would -- I am going to mark this as Exhibit 4. It's a photograph. Is that you in that photograph?
A. Yes, it is.
Q. Okay.
MR. GASPER: Can I see that?
02:43PM A. Ms. Feemster probably took that picture.
Q. (By Mr. Jackson:) I want to ask you a couple of housekeeping questions, probably seem kind of silly but I need to ask them. You didn't go back and do an investigation to find out what happened?
02:43PM A. No.
Q. That's not part of your responsibility at all?
A. No.
Q. While we've been sitting here asking all these questions, have you thought of anything else that
02:43PM Jennifer Wilkerson told you about what occurred in the wreck?
A. No.
Q. Have you thought of any names of any witnesses who may have told you that they observed what
02:43PM happened?

A. The only one I can think of is Scott, which I don't -- because he was there awfully fast. So I don't know. And I did ask the state trooper what time the accident happened, or what time -- yes, what time
02:44PM the accident happened. It had just happened when Jennifer called me.
Q. Do you think Mr. Lindstrom was in the car with her?
A. I've thought about that and --
02:44PM Q. That's something that has crossed your mind?
A. That's something that has crossed my mind, yes.
Q. And that would definitely be a violation of policies and procedures for --
A. Yes.
02:45PM Q. Any text messages between you and Ms. Wilkerson about what happened?
A. No.
Q. I know -- I think I asked you this earlier. I just want to make sure. Since Ms. Wilkerson was
02:46PM terminated, you haven't had any contact with her about this accident?
A. No.
Q. Have you had any contact with her about anything else?
02:46PM A. I --

Q. And I know it's a small town.
A. I've seen her at the Dollar Tree and at Walmart, but no.
Q. Okay. Nothing else other than just in passing?
02:46PM A. No.
Q. What -- did you know Jacqueline Ashcraft or her children?
A. No, I did not. But it is a small town. The next morning after the accident, I did get a call
02:46PM where I had to go out, and my daughter was 13, 14 when this accident happened. And I was gone for a couple of hours.

And I got home, and my daughter comes up to me and is like, "Mom, were you at a car accident
02:47PM this morning?" I said, "No. She's like, "You weren't at a car accident?" I said, "No."

And she's like, "Well, why is your vehicle on the Logan County Sheriff's page?" And, I mean, not very many people would know my vehicle but my
02:47PM daughter. And there was a picture of where my vehicle was parked with the accident. And she said, "That's your car." And I looked at it and I said, "Yeah." She's like, "This accident." I said, "That happened yesterday."

02:47PM And the woman that passed away, I guess my

daughter knew her daughter from school, that her daughter was the same age or something. But I didn't know her or any of her children.

Q. And not being nosy, did your daughter go to Paris at the time?

02:48PM

A. Yes.

Q. Do you know where Scott Lindstrom is now?

A. No.

Q. Is he incarcerated or do you know?

02:48PM

A. No. He was with Jennifer at the Dollar Tree when I saw them -- when I saw her, they were together.

Q. Did Mr. Lindstrom, did he appear intoxicated or under the influence of any controlled substances when you saw him on June 11th of 2021?

02:49PM

A. He didn't appear, no.

Q. Do you have any idea what time you would have gotten to the accident scene?

A. 12:58, 12:59. Where that's located is probably three miles from the DHS office, so it would only took

02:50PM

a couple of minutes.

Q. I'm terrible with numbers, so I try to write them down when I hear them in a deposition. And I think you said you returned from lunch at 12:55?

A. No. I returned from lunch about 12:40.

02:50PM

Q. 12:40. Okay.

A. I got the call from Jennifer at 12:55 that she was in a wreck.
Q. Thank you for clarifying that. I misunderstood. Thank you.
02:50PM A. You're welcome.
Q. The same question earlier, how you know it's 12:55, that's part of what your answer was earlier. You just know those things.
A. Well, I remember when I was writing this that I
02:50PM had looked at my phone and it had the time when Jennifer called me.
Q. Okay. So when you prepared your statement that is in Exhibit 3, you looked back at your phone for the time of that telephone call?
02:51PM A. Yes.
Q. Okay. And so that's why, in your statement, "She called me at 12:55," you know exactly --
A. Yes.
Q. -- when you got the call? And then you and
02:51PM Ms. Feemster went immediately to the accident site after you got the call?
A. Yes. Pam was asking me questions like, "What happened, where," and I was like, "I don't -- I don't know."
02:51PM Q. Just go towards the airport and see what

happens?
A. All I don't understand is she left at -- I know she would have had to pull out of the office. If we left at 12:07, she was walking to the car. I know she
02:51PM pulled out of the office in plenty of time. And to this day, it still bugs me why she wasn't three miles from the office a good 45 minutes later.
Q. And getting a soda at the Dairy Delite is on the way, shouldn't take more than five minutes if --
02:52PM A. Correct.
Q. And when you arrived, Mr. Lindstrom is present, getting Ms. Wilkerson's items out of the back of the car?
A. Yes.
02:52PM Q. Okay. And you only had conversation with Ms. Wilkerson and not Mr. Lindstrom?
A. I don't care too much for Mr. Lindstrom.
Q. I'll take that as a definitive no.
A. I did not have a conversation with him.
02:53PM Q. Okay. I may have asked this earlier and I apologize. Do you recall Mr. Lindstrom saying anything about what happened or what he observed?
A. I didn't stick around to listen if he did.
Q. Okay. I understand it may have been a one-way
02:53PM statement, but I just wondered if you did hear

anything.
A. No.
Q. Okay. Did you see or observe anything that the driver of the blue car may have done to cause this
02:53PM wreck?
A. All I know is that road is right there in front of the airport. It's a straight stretch. You can see in this -- in Exhibit 1 where this is Subi, Subiaco Hill. And, I mean, it's a straight stretch road. It
02:54PM appeared that the driver of -- or Ms. Ashcraft was turning -- going eastbound, turning left into that house.
Q. Ms. Ezell, thank you for your time. I know it was a pain for you to come down here for this, and I
02:54PM appreciate you coming down and providing your testimony. I know it's not pleasant.
A. Thank you.
MR. JACKSON: I pass you to Mr. Gasper.
MR. GASPER: I just have one or two real
02:55PM quick ones.

EXAMINATION

BY MR. GASPER:
Q. Brandy, the answer you just provided to Mr. Jackson about your observations about the wreck
02:55PM itself, you said that it appeared that she was turning

left into a driveway?
A. Yes.
Q. You don't know that?
A. No.
02:55PM Q. That's just what it kind of looked like to you?
A. Yes.
Q. You didn't -- the accident itself was not part of any kind of DHS investigation?
A. No.
02:55PM Q. Those are just personal, like, that's what it looked like to me?
A. Yes.
Q. Okay. And I just want to clear up, you don't know that Scott was in the car, Scott Lindstrom?
02:55PM A. No.
Q. This is kind of you've always just kind of wondered it?
A. I've always kind of wondered it because he was already there.
02:56PM Q. And it wasn't that far from Paris?
A. No.
Q. I mean, he could have been there in a couple of minutes?
A. Yes.
02:56PM Q. He could have just happened to be there?

A. Yes.

MR. GASPER: Okay. That's all I have.

MR. JACKSON: Thank you.

(The deposition was concluded at 2:56 p.m.)

* * * * *

REPORTER CERTIFICATION

I, TAMMIE L. FOREMAN, Certified Court Reporter for the State of Arkansas, do hereby certify to the following:

1) that on 08/01/2023, the witness, BRANDY EZELL, was duly sworn by me prior to the taking of testimony as to the truth of the matters attested to and contained therein;

2) that the foregoing pages contain and are a true and correct transcription of the proceedings as reported verbatim by me via realtime stenography to the best of my ability and transcribed at or under my direction and supervision, and subject to appropriate changes submitted by witness, if any, during his/her requested reading and signing of this deposition according to the Arkansas Rules of Civil Procedure;

3) that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and that I am not a relative or employee of any attorney employed by the parties hereto;

4) that I am not financially interested or otherwise interested in the outcome of this action that affects or has substantial tendency to affect impartiality or requires me to relinquish control of

an original or copies of a deposition transcript before it is certified, or that requires me to provide any service not made available to all parties to the action; and

5) that I have no contract with the parties, attorneys, or persons with an interest in the action; and that I am not knowingly identified on a preferred provider list, whether written or oral, for any litigant, insurance company, or third-party administrator involved in this matter;

6) that signature of the witness is waived.

This transcript is prepared at request of counsel for CLAIMANT, and all fees are billed directly to them in compliance with Arkansas Board of Court Reporter Examiners Regulations Section 19.

Witness my hand and seal this 20th of August, 2023.

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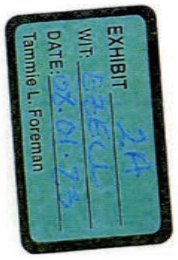
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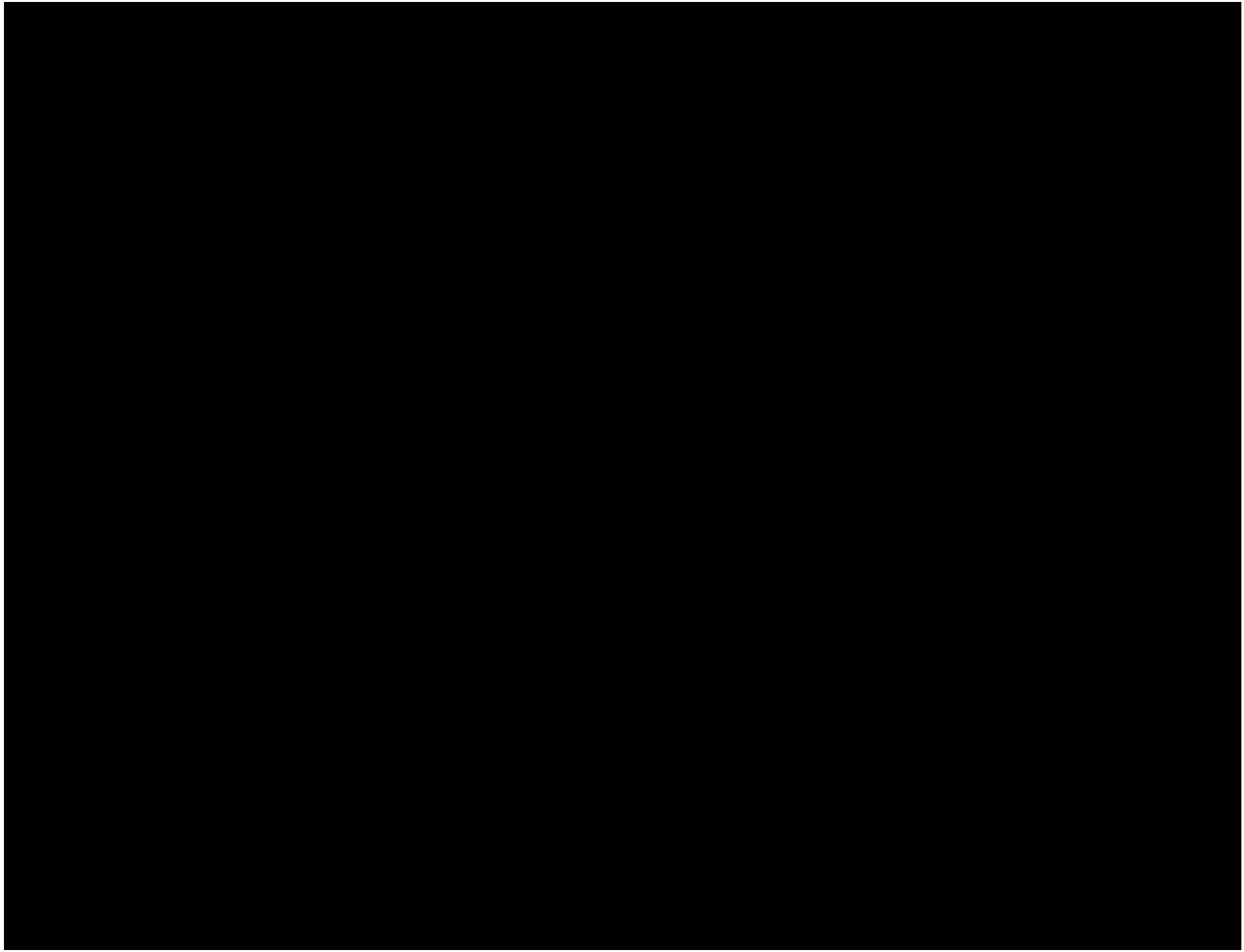
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EXHIBIT
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DATE: 8-9-23
Tammie L. Foreman


EXHIBIT 2.
WIT. Eric
DATE: 08.01.23
Tammie L. Foreman




EXHIBIT 2A
WIT. BAECL
DATE: 09.01.23
Tammie L. Foreman



F.2



DHS Response to RFP 020

3136

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, As Special Administratrix of the Estate of JACQUELINE LYNN ASHCRAFT, Deceased, and as Permanent Legal Guardian of [redacted] A Minor,

CLAIMANT,

VS.

ARKANSAS DEPARTMENT OF HUMAN SERVICES,

RESPONDENT.

CC NUMBER 230641

ORAL AND VIDEOTAPED DEPOSITION OF

BRANDY EZELL

August 1, 2023

ORAL DEPOSITION OF BRANDY EZELL, produced as a witness at the instance of the CLAIMANT, and duly sworn, was taken in the above-styled and numbered cause on the 1st day of August, 2023, from 2:05 p.m. to 2:56 p.m., before Tammie L. Foreman, CCR in and for the State of Arkansas, RPR, CRR, reported by machine shorthand at the offices of Arkansas Department of Health and Human Services, 700 Main Street, Little Rock, Arkansas, pursuant to the Arkansas Rules of Civil Procedure.

APPEARANCES

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I N D E X

August 1, 2023

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WITNESS: BRANDY EZELL

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EXHIBITS

NO.	DESCRIPTION	MARKED

BRANDY EZELL,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. JACKSON:

02:05PM Q. Ms. Ezell, my name is Jim Jackson. We met just before you were sworn in. And I'm the attorney for the Estate of Jacqueline Ashcraft, and I'm here to ask you questions regarding what happened on June 11th, 2021. And this -- the point of my questions is to 02:05PM gather information from you of what you know or saw or heard or observed. And have you ever given a deposition before?

A. No.

Q. Okay. I want to give you a couple of ground 02:05PM rules, and one of them is, give verbal answers. And in a normal conversation, you and I might shake our head or use a phrase of uh-huhs or huh-uhs. We'll know what each other is talking about at that time.

Because we have a court reporter, we'd 02:06PM like for you to verbally say yes or no. So if at any point I ask you is that a yes or a no, I'm not trying to be rude. I'm just trying to help the court reporter so Mr. Gasper and I can have a record later on to look at and we'll know that was an affirmative 02:06PM or negative response. Okay?

A. Okay.
Q. The other thing is, wait till -- you will know the answer to my question before I finish it. In normal conversation, you would start to answer it. We would have a flowing conversation. Here, it would be better if you would just wait for just a moment for me to complete my question before you respond. That allows the court reporter to take an accurate transcription of what is said. Okay?
A. Okay.
Q. And then if I ask any question that you don't understand or you want me to clarify, please ask me to do so. I'll try to be as clear as possible. But if at any point it will not offend me whatsoever if you ask me to rephrase or restate any question. Okay?
A. Okay.
Q. Okay. What is your residential address?
A. [redacted]
Q. And by whom are you employed?
A. State of Arkansas.
Q. And by what agency?
A. Logan County DHS.
Q. And how long have you been employed by Logan County DHS?
A. January 14th of 2019.

Q. And what is your current job title?
A. Family service worker specialist.
Q. Family service?
A. Worker specialist.
02:07PM Q. What does that entail? Kind of give us a day-to-day what you do?
A. Primarily, I do foster care. I'm a foster care case worker. When a kid is removed and everything, I build a case plan with the family. We go to court.
02:08PM We -- there's testimony. And we work with the family to get the child back home safely.
Q. In June of 2021, when this accident occurred, is that basically what you were doing at that time?
A. Yes.
02:08PM Q. Now I'm going to shift my questions to June 2021. What was your relationship with Jennifer Wilkerson in June of 2021?
A. She was a coworker.
Q. And did you have any -- my understanding is that
02:08PM she was a new employee?
A. She had started the day after Memorial Day, was her first day. And she was hired on to be a program assistant, which is program assistants help us do visits, teach parenting classes, get a lot of the --
02:09PM some of the services done that we can't do because

we're in the field seeing children or having to get stuff keyed into CHRIS. So program assistants do a lot of -- a lot of the visits. They're usually on the road a lot more than we are.

02:09PM Q. Okay. Did you have any relationship with Ms. Wilkerson outside of her employment with Logan County?

A. No.

Q. Okay. So on June 11th, I want to focus now on 02:09PM that -- earlier, we were focused on kind of the month in general. Now I want to focus on that day. Walk us through -- and I've been provided some emails and different things about that day, so I know a little bit.

02:10PM But I want to hear you -- from you what you recall happening that morning, and specifically with you, your interaction with Ms. Wilkerson, and her going to Beebe.

A. Okay. That was the first day Jennifer was going 02:10PM to take the state car to do a visit by herself, where she would pick up a child and meet another worker by herself.

At about 11:15, me and Jennifer left to go to the Casey's General Store to get gas in the 02:10PM vehicle. Usually new employees, their personnel

number is not in the system yet. So I went with her. Her personnel number wasn't in the system, so I used mine to put gas in the vehicle.

And she asked me -- she wasn't for sure where she was meeting the other worker. So when we got back to the office, I -- well, I showed her how to do the logbook with the car, put her name, the mileage, the time she left, the time she picked up the child.

And when I got back, the worker was in Bentonville and the child that she was bringing to the -- it was a sibling visit. The child she was bringing couldn't get out of counseling till 2:00. So the plan was to meet in Clarksville McDonald's at 4:00.

The other worker was going to pick up that child in northwest Arkansas, bring her to -- bring him to Clarksville McDonald's, and Jennifer was going to Beebe and bring his brother from Beebe to Clarksville McDonald's. And it was right around the same time frame, they were going to meet.

Q. So they were trying to coordinate that meeting together at Clarksville at the McDonald's?

A. Yes.

Q. And if this accident -- if everything had gone as planned, would the two siblings have gone on from

Clarksville to somewhere else together or were they just going to play there together and have lunch at McDonald's and go back separately, or what was ultimately the plan?

02:12PM A. They would have had lunch together at McDonald's and then the case workers would have taken them back to their placements and then been done for the day.

Q. I saw some -- somewhere in reference to a Map Quest being done. Do you recall --

02:13PM A. Yes. I had done the Map Quest to see if it was -- with the other case worker being in northwest Arkansas, would it be closer to meet in Russellville or Clarksville. And it was the same time, pretty much the same time from northwest Arkansas to Clarksville as it was from Beebe to Clarksville.

Q. All right. And then did -- and then what did you do -- what did Ms. Wilkerson do to know her route of where she was to go from Beebe?

A. It was getting closer to noon about that time,

02:13PM and I told her she needed to leave around 12:00, 12:15 to be able to get to Beebe by 2:00. The foster parents were going to have the child ready around 2:00. And I told her she needed to leave around 12:00, 12:15, to get to Beebe in time to pick up the

02:14PM child and then by that time, she would get to

Clarksville around 4:00.

And I explained to her, you know, we understand, you know, road construction, car wrecks, stuff like that. And I just told her to keep in contact with the other case worker she was meeting to let each other know where you're at, if you're going to be early or late.

Q. Okay. And did Ms. Wilkerson appear to understand --

02:14PM A. Yes.

Q. -- her task?

A. Yes.

Q. And then when was the last time that you saw Ms. Wilkerson before the wreck?

02:14PM A. Me and my boss were pulling out of the DHS office right around 12:07 to go to lunch, and I watched Jennifer walk to the state car to get in it.

Q. And how do you know what -- that it's 12:07? Do you have a time card?

02:14PM A. I'm always watching the time.

Q. Okay.

A. I'm always -- it's a -- I'm always watching the time. I'm always looking at my phone looking at the time. Because, I mean, I'm used to putting in

02:15PM contacts at the office and I have to know -- they want

to know exactly what time you did this, this, and this. What time did you get to this house and visit because if something happened, you know, they don't want -- you know, if you were there at 3:15 and something happened, they want to know what was going on, if something broke out at 4:00 and you were already gone.

Q. Gotcha. Okay.

A. So...

Q. Who was your boss that went to lunch with you that day?

A. Pamela Feemster.

Q. Do you happen to recall where y'all went to lunch?

A. The Thai restaurant there in Paris.

MR. GASPER: You want to spell that for the court reporter. Feemster.

THE WITNESS: F-E-E-M-S-T-E-R.

Q. (By Mr. Jackson:) Thank you for doing that. So you -- when you leave at 12:07, you see Ms. Wilkerson walking towards the state --

A. Walking to the car.

Q. Walking to the car. Okay. You and Ms. Feemster go to lunch?

A. Yes.

Q. And then what happens next in this -- what do you recall happening next?
A. Me and Pam came back from lunch. We were at the office at 12:55. I got a phone call, and it was
02:16PM Jennifer stating that she had been in a wreck. And I was, like, where are you at? Where are you at? You know, me and Pam, we'll come right now. Where are you at. And she was like, I don't know. I don't know.
And I said, "Jennifer, I need to know
02:17PM where you're at." I was expecting her to be -- at least be in Dardanelle, Pottsville, somewhere between there by that time. And she said, "By the airport." I said, "By the airport?" I said, "In Paris?" And she said "Yes." I said, "Okay. Me and Pam will be
02:17PM right down there."
Q. Okay. Then what did you do next?
A. We got in my car. We went to the accident -- to the accident site. Jennifer was sitting next to the state car. I asked her what happened. She said she'd
02:17PM stopped by Dairy Delite to get something to drink, and the next thing she remembers is a car stopped in front of her.
Q. Was Ms. Feemster with you when that conversation occurred?
02:18PM A. No. She was on the phone with Kristen Shelton

at that time.
Q. And did you drive a state car or your personal car?
A. My personal vehicle.
02:18PM Q. Was -- do you recall if the ambulance had arrived when you got there?
A. Yes, they have.
Q. Okay. Was a paramedic working with Ms. Wilkerson at the time; do you remember?
02:18PM A. No.
Q. Were you there when a paramedic came to work with her?
A. No. I was not sitting next to her when they put her in the ambulance.
02:19PM Q. Okay. Where did you -- so let me strike that. Start over. Back after she said a car stopped in front of me, what did you do next?
A. I didn't ask her any more questions. I walked back. I took some pictures of the car, of the state
02:19PM car. And me and -- me and Pam sat there and waited. They said they were having the state police work it, so we waited till the state police officer showed up.
Q. What type of medical condition was Ms. Wilkerson in?
02:19PM A. I mean, she was coherent.

MR. GASPER: Can I just pause real quick? Can you rephrase? I don't think she can say what kind of medical condition she was in. I think she can probably say what did she observe her acting like.

Q. (By Mr. Jackson:) Yeah. I mean, did you observe her grabbing her arm, being in pain?

A. No.

Q. Or anything?

A. She appeared upset.

Q. But you didn't see any lacerations, blood, anything like that --

A. No.

Q. -- on Ms. Wilkerson?

A. No.

Q. Did you go and speak to Jacqueline Ashcraft?

A. No.

Q. Did you go -- did you ever speak with Bobby Wilson, who I'll represent to you is the name of the driver of the tractor trailer rig?

A. No.

Q. Okay. Do you recall speaking to the paramedics at any time?

A. No.

Q. And where -- how close to the accident scene

were you able to get before you parked and got out to her; do you recall?

A. Probably -- a woman doing feet.

Q. Let's -- let's use something like, maybe, car lengths. How many cars. How many seconds would it have taken you to walk. You give me --

A. I ran. I ran.

Q. Okay.

A. I was scared for Jennifer when I got there. I didn't know what condition she was in. Between the state car and where I parked was probably seven to ten car lengths.

Q. Were there other cars between your car and Jennifer's car?

A. Police vehicles, yes.

Q. Okay. And what -- do you recall who was with Ms. Wilkerson when you -- when you left to go back to your car?

A. No one, I believe.

Q. Okay. And I -- do you remember her saying anything else at the accident scene in addition to what you testified to earlier about her stopping at the Dairy Delite?

A. It's a dairy cream in Paris. Dairy Delite.

Q. To get a drink and the next thing is she

remembers a car stopped in front of me?
A. Yes.
Q. Do you recall anything else that was said by Ms. Wilkerson?
02:23PM A. No.
Q. Okay. Did you overhear her talking to anyone else such as the state trooper or any of the people assisting the state trooper with the investigation?
A. No.
02:23PM Q. And the same question as far as with the paramedics, did you overhear her having any conversation with the paramedics?
A. No.
Q. What was your conversation that you and
02:23PM Ms. Feemster had in the car when you went back to the car; do you recall?
A. Rephrase that.
Q. So when you went back -- let me understand -- or clarify this for me. When you leave from
02:23PM Jennifer's -- from talking with Jennifer --
A. Yes.
Q. -- you go back to your car?
A. No. I stood around. Me and Ms. Feemster stood by one of the police vehicles. The state trooper, we
02:24PM were there about probably ten minutes before the state

trooper that was actually from Troop H that actually worked the scene arrived.

Q. Okay. And then when he arrived, what did you do next, if you recall?

02:24PM A. Me and Pam talked about the wreck, talked about how -- what was going on between the time I watched her get in the state car to leave the office to the time she called me. Pam was on the phone with Kristen, sending her pictures of the vehicle.

02:24PM Q. Do you --

A. I mean, we were both just in shock what had happened, 'cause the vehicle -- there was pieces -- I mean, there was a part of the bumper, there was part of the bumper in the grass. I mean, there was pieces

02:25PM in the grass on the eastbound and the westbound lane.

(Exhibit 1 marked for identification.)

Q. I am going to hand you what we'll mark as Exhibit 1. Does that appear to be a photograph of the car?

02:25PM A. Yes. Yes.

Q. And did you do anything to see if Ms. Wilkerson did go to Dairy Delite during that time period after she left and before the wreck?

A. Did I do --

02:26PM Q. See if she had a receipt from there or what --

A. That was not on my mind at that time.
Q. Okay. I mean, but since then, since that time? I mean, later that afternoon or any --
A. No.
02:26PM Q. Okay.
A. The ambulances were parked on that side of the car and the police officers were parked on this side and the semi was parked off the road, off the middle of the highway, heading westbound, like, over here.
02:26PM Q. Did you or Ms. Feemster go and do anything to check on any of the people -- I know you probably didn't know their names, but the people in the car, the blue car?
A. No. After the state trooper arrived, one of
02:27PM the -- his name is Chris Eley, I watched him, the state trooper, walk to the house, 'cause there's a -- you can see the driveway, walk to this house. And I saw him come out and yell for Chris Eley. I don't know if Chris -- I thought he -- I don't know if he
02:27PM was a paramedic or just a volunteer. I know him from town.
Q. Uh-huh. Yes.
A. And I watched Chris walk in there and carry a woman to the ambulance.
02:27PM Q. And there's -- okay. Did you overhear, either

that day or later, anybody saying I was a witness to the accident and I saw what happened?

A. No.

Q. When the paramedics transported Ms. Wilkerson and Ms. Ashcraft from the scene, what did you and Ms. Feemster do?

A. Ms. Feemster asked the state trooper if he was going to be doing a drug screen on Jennifer, and he said he usually didn't. We went to the Paris hospital and checked, and they didn't take her to Paris. So -- and we found out she went to Booneville, so we drove to Booneville. The hospital was locked down.

Q. Is that because of COVID?

A. No. The hospital was locked down due to, I guess, another guy showing up to visit Jennifer. And her boyfriend, I guess, at the time getting into an altercation.

Q. There at the --

A. Booneville hospital. When we pulled up, the boyfriend was getting out of a cop car.

Q. Out of a what car?

A. Cop car.

Q. Police car?

A. Police car. Police SUV. Jennifer's mom was there and the cop was there, and they had the doors

locked. And Jennifer's mom told me that Jennifer had went through Dairy Delite and then was heading on that visit. And I asked her why the cop was dropping off the boyfriend, Scott Lindstrom. And she told me that Scott and, I guess, another guy that had shown up had got in an altercation.

Q. Do you know if Mr. Lindstrom was at the accident scene on Highway 22?

A. Yes, he was.

Q. What about do you know who Sandra Wilkerson is? Is that Jennifer's mother?

A. That's Jennifer's mother.

Q. Did Ms. Sandra Wilkerson come on the accident scene on Highway 22; do you recall?

A. I don't remember seeing her.

Q. What did -- did you know Mr. Lindstrom before this?

A. Yes.

Q. And was it through your work you knew him or did you know him socially?

A. My ex-boyfriend that I have a daughter with, when we split up, he got with Scott's ex-wife. And after I did start at the State, there was -- both Scott and the ex-wife both had dealings with DCFS in Logan County.

Q. What was Mr. Lindstrom's presentation at the accident scene?
A. I saw him get in Jennifer's purse out of the back seat of the vehicle.
02:32PM Q. What did -- what else did you observe?
A. He was there when me and Pam arrived and the -- I just watched him get her stuff out of the vehicle. And afterwards, Pam asked me if -- did I see what Scott -- what vehicle Scott left in and I wasn't
02:33PM paying attention. But he was at Booneville when we got there.
Q. Did you talk to Mr. Lindstrom any at the accident scene?
A. No.
02:33PM Q. Okay. Sounds like he got to the accident scene before you and Ms. Feemster did?
A. Yes.
Q. And you didn't interact with -- do you recall -- do you recall overhearing him say anything while you
02:33PM were there at the accident scene, whether he was talking to you or Jennifer or anybody else?
A. No. I don't have a lot of conversations with him.
Q. What was he -- was he acting normal? What was
02:34PM he doing?

A. He was just getting her purse and her belongings out of the car.
Q. Then the lockdown, you believe, at the hospital -- I want to now shift over to the hospital and the lockdown.
A. Yes.
Q. Do you believe that the lockdown occurred because of a altercation between Mr. Lindstrom and one of the law enforcement officers or was it an ex-boyfriend? I didn't understand who you --
A. Sandra told me it was because Scott Lindstrom and another guy, I don't know if he was an ex-boyfriend or a friend or what. But some kind of friend of Jennifer's had got into it.
Q. Okay.
A. At the hospital, and that's why they locked it down and wouldn't let anybody else in the hospital.
Q. Okay.
A. To see Jennifer or to talk to her.
Q. Okay. And so what did you and Ms. Feemster do after you found out the hospital was in a lockdown?
A. Ms. Feemster went and talked to one of the nurses about Jennifer's condition and we left.
Q. Okay. I assume this but just clarify, did you and Ms. Feemster ride together from the scene to the

Paris hospital and from the Paris hospital to the Booneville hospital?

A. Yes.

Q. Okay. Still you driving your personal car?

02:36PM A. Yes.

Q. Okay. After you left from Booneville, where did you -- I assume you went back to Paris?

A. Yes.

Q. And where did you go?

02:36PM A. Back to the office.

Q. And then what did you do -- what did you do next; do you recall?

A. I was -- I was on call that night, so at that time our on call was a week at a time. So, I mean --

02:36PM Q. And when you do on call, is that something you go to your home and you're waiting for a phone call or are you at the office? How does that work?

A. On call is anything after about 4:00, if there's any hot line reports or police need an assistance,

02:36PM they call the on-call phone number and we go there and assist. Or if there's a hot line call, we talk to the on-call supervisor and go to the home or whatever they tell us to do.

Q. Okay. Have you discussed this accident with

02:37PM Jennifer Wilkerson since June 11th of '21?

A. No.
Q. Did she -- I know she was terminated the following week. Did you -- did she come into the office any the following week and where you would have
02:37PM interacted with her any?
A. She was on desk duty. And no, I did not talk to her at all.
Q. Okay. Would it be accurate to say that everything that Jennifer -- that you heard Jennifer
02:37PM talk about the wreck you have told us about and testified about earlier?
A. Yes.
Q. Okay. And if you need to correct -- you know, that was one of the rules I forgot is if we get to the
02:38PM deposition and you say hey, there's something else I remember, you can always go back and supplement, you know, something. Say hey, one of your questions reminded me I forgot something. Okay?
A. Okay.
02:38PM Q. The telephone system, when you -- in your position at Logan County DHS, do you have two telephones, a personal one and a work phone?
A. I did. Jennifer didn't at that time.
Q. Okay. When you took the photos of when you were
02:38PM at the accident scene, where are those photos and

would they -- which phone would you have taken them on?
A. They were on my work phone, and I had sent the photos to Kristen Shelton.
02:38PM Q. Ballpark, how many photos would you have taken?
A. I don't know. Twenty maybe.
Q. Okay.
A. Just like -- just like this.
(Exhibit 2 marked for identification.)
02:39PM (Exhibit 2A marked for identification.)
Q. And you're just showing Exhibit 1. I want to hand you -- this is a terrible, terrible photos. They're the same photos. Do you know who that -- we'll mark that as Exhibit 2 and 2A. Do you know if
02:39PM that would be a photo that you would have taken? And I'm going to ask you two questions in one while you're looking at it. And do you know who that person is?
A. I took a photo like this. And no, I don't know who that is.
02:40PM Q. And would you have sent those photos to Ms. Shelton by email or how would you --
A. Text.
Q. Text. Okay. Do you know if you happened to still have those photos?
02:40PM A. No, I do not. When I -- they sent me a new

phone, I didn't download any of them. When they sent me that phone, I literally had to put in -- I lost a lot of my foster contacts and all of my photos. The only pictures I usually download are pictures of kids and to update their pictures in our computer system.

Q. Do you know if Ms. Feemster happened to have taken any photos? Did you see her?

A. Yes, I believe she did.

Q. Do you know if she would have taken those on her personal phone or work phone, or do you have any way to know?

A. I'm not for sure.

(Exhibit 3 marked for identification.)

Q. Okay. Ms. Shelton did an investigation, and I believe she asked you some questions by email. I want to hand you what we'll mark as Exhibit 3 to your deposition.

A. Yes.

Q. Is that -- take a moment to look over that.

A. Yes.

Q. Okay. So that is your response?

A. To Ms. Shelton's email.

Q. Okay.

A. Ms. Shelton had asked -- she was doing a fact-finding with everything, so she'd ask to -- well,

you can see what she asked.
Q. Yes. Yes. So it's self-explanatory, Exhibit 3?
A. Yes.
(Exhibit 4 marked for identification.)
02:42PM Q. Would -- I am going to mark this as Exhibit 4. It's a photograph. Is that you in that photograph?
A. Yes, it is.
Q. Okay.
MR. GASPER: Can I see that?
02:43PM A. Ms. Feemster probably took that picture.
Q. (By Mr. Jackson:) I want to ask you a couple of housekeeping questions, probably seem kind of silly but I need to ask them. You didn't go back and do an investigation to find out what happened?
02:43PM A. No.
Q. That's not part of your responsibility at all?
A. No.
Q. While we've been sitting here asking all these questions, have you thought of anything else that
02:43PM Jennifer Wilkerson told you about what occurred in the wreck?
A. No.
Q. Have you thought of any names of any witnesses who may have told you that they observed what
02:43PM happened?

A. The only one I can think of is Scott, which I don't -- because he was there awfully fast. So I don't know. And I did ask the state trooper what time the accident happened, or what time -- yes, what time the accident happened. It had just happened when Jennifer called me.

Q. Do you think Mr. Lindstrom was in the car with her?

A. I've thought about that and --

Q. That's something that has crossed your mind?

A. That's something that has crossed my mind, yes.

Q. And that would definitely be a violation of policies and procedures for --

A. Yes.

Q. Any text messages between you and Ms. Wilkerson about what happened?

A. No.

Q. I know -- I think I asked you this earlier. I just want to make sure. Since Ms. Wilkerson was terminated, you haven't had any contact with her about this accident?

A. No.

Q. Have you had any contact with her about anything else?

A. I --

Q. And I know it's a small town.
A. I've seen her at the Dollar Tree and at Walmart, but no.
Q. Okay. Nothing else other than just in passing?
02:46PM A. No.
Q. What -- did you know Jacqueline Ashcraft or her children?
A. No, I did not. But it is a small town. The next morning after the accident, I did get a call
02:46PM where I had to go out, and my daughter was 13, 14 when this accident happened. And I was gone for a couple of hours.

And I got home, and my daughter comes up to me and is like, "Mom, were you at a car accident
02:47PM this morning?" I said, "No. She's like, "You weren't at a car accident?" I said, "No."

And she's like, "Well, why is your vehicle on the Logan County Sheriff's page?" And, I mean, not very many people would know my vehicle but my
02:47PM daughter. And there was a picture of where my vehicle was parked with the accident. And she said, "That's your car." And I looked at it and I said, "Yeah." She's like, "This accident." I said, "That happened yesterday."

02:47PM And the woman that passed away, I guess my

daughter knew her daughter from school, that her daughter was the same age or something. But I didn't know her or any of her children.

Q. And not being nosy, did your daughter go to Paris at the time?

02:48PM

A. Yes.

Q. Do you know where Scott Lindstrom is now?

A. No.

Q. Is he incarcerated or do you know?

02:48PM

A. No. He was with Jennifer at the Dollar Tree when I saw them -- when I saw her, they were together.

Q. Did Mr. Lindstrom, did he appear intoxicated or under the influence of any controlled substances when you saw him on June 11th of 2021?

02:49PM

A. He didn't appear, no.

Q. Do you have any idea what time you would have gotten to the accident scene?

A. 12:58, 12:59. Where that's located is probably three miles from the DHS office, so it would only took

02:50PM

a couple of minutes.

Q. I'm terrible with numbers, so I try to write them down when I hear them in a deposition. And I think you said you returned from lunch at 12:55?

A. No. I returned from lunch about 12:40.

02:50PM

Q. 12:40. Okay.

A. I got the call from Jennifer at 12:55 that she was in a wreck.
Q. Thank you for clarifying that. I misunderstood. Thank you.
02:50PM A. You're welcome.
Q. The same question earlier, how you know it's 12:55, that's part of what your answer was earlier. You just know those things.
A. Well, I remember when I was writing this that I
02:50PM had looked at my phone and it had the time when Jennifer called me.
Q. Okay. So when you prepared your statement that is in Exhibit 3, you looked back at your phone for the time of that telephone call?
02:51PM A. Yes.
Q. Okay. And so that's why, in your statement, "She called me at 12:55," you know exactly --
A. Yes.
Q. -- when you got the call? And then you and
02:51PM Ms. Feemster went immediately to the accident site after you got the call?
A. Yes. Pam was asking me questions like, "What happened, where," and I was like, "I don't -- I don't know."
02:51PM Q. Just go towards the airport and see what

happens?
A. All I don't understand is she left at -- I know she would have had to pull out of the office. If we left at 12:07, she was walking to the car. I know she
02:51PM pulled out of the office in plenty of time. And to this day, it still bugs me why she wasn't three miles from the office a good 45 minutes later.
Q. And getting a soda at the Dairy Delite is on the way, shouldn't take more than five minutes if --
02:52PM A. Correct.
Q. And when you arrived, Mr. Lindstrom is present, getting Ms. Wilkerson's items out of the back of the car?
A. Yes.
02:52PM Q. Okay. And you only had conversation with Ms. Wilkerson and not Mr. Lindstrom?
A. I don't care too much for Mr. Lindstrom.
Q. I'll take that as a definitive no.
A. I did not have a conversation with him.
02:53PM Q. Okay. I may have asked this earlier and I apologize. Do you recall Mr. Lindstrom saying anything about what happened or what he observed?
A. I didn't stick around to listen if he did.
Q. Okay. I understand it may have been a one-way
02:53PM statement, but I just wondered if you did hear

anything.
A. No.
Q. Okay. Did you see or observe anything that the driver of the blue car may have done to cause this
02:53PM wreck?
A. All I know is that road is right there in front of the airport. It's a straight stretch. You can see in this -- in Exhibit 1 where this is Subi, Subiaco Hill. And, I mean, it's a straight stretch road. It
02:54PM appeared that the driver of -- or Ms. Ashcraft was turning -- going eastbound, turning left into that house.
Q. Ms. Ezell, thank you for your time. I know it was a pain for you to come down here for this, and I
02:54PM appreciate you coming down and providing your testimony. I know it's not pleasant.
A. Thank you.
MR. JACKSON: I pass you to Mr. Gasper.
MR. GASPER: I just have one or two real
02:55PM quick ones.

EXAMINATION

BY MR. GASPER:
Q. Brandy, the answer you just provided to Mr. Jackson about your observations about the wreck
02:55PM itself, you said that it appeared that she was turning

left into a driveway?
A. Yes.
Q. You don't know that?
A. No.
02:55PM Q. That's just what it kind of looked like to you?
A. Yes.
Q. You didn't -- the accident itself was not part of any kind of DHS investigation?
A. No.
02:55PM Q. Those are just personal, like, that's what it looked like to me?
A. Yes.
Q. Okay. And I just want to clear up, you don't know that Scott was in the car, Scott Lindstrom?
02:55PM A. No.
Q. This is kind of you've always just kind of wondered it?
A. I've always kind of wondered it because he was already there.
02:56PM Q. And it wasn't that far from Paris?
A. No.
Q. I mean, he could have been there in a couple of minutes?
A. Yes.
02:56PM Q. He could have just happened to be there?

A. Yes.

MR. GASPER: Okay. That's all I have.

MR. JACKSON: Thank you.

(The deposition was concluded at 2:56 p.m.)

* * * * *

REPORTER CERTIFICATION

I, TAMMIE L. FOREMAN, Certified Court Reporter for the State of Arkansas, do hereby certify to the following:

1) that on 08/01/2023, the witness, BRANDY EZELL, was duly sworn by me prior to the taking of testimony as to the truth of the matters attested to and contained therein;

2) that the foregoing pages contain and are a true and correct transcription of the proceedings as reported verbatim by me via realtime stenography to the best of my ability and transcribed at or under my direction and supervision, and subject to appropriate changes submitted by witness, if any, during his/her requested reading and signing of this deposition according to the Arkansas Rules of Civil Procedure;

3) that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and that I am not a relative or employee of any attorney employed by the parties hereto;

4) that I am not financially interested or otherwise interested in the outcome of this action that affects or has substantial tendency to affect impartiality or requires me to relinquish control of

an original or copies of a deposition transcript before it is certified, or that requires me to provide any service not made available to all parties to the action; and

5) that I have no contract with the parties, attorneys, or persons with an interest in the action; and that I am not knowingly identified on a preferred provider list, whether written or oral, for any litigant, insurance company, or third-party administrator involved in this matter;

6) that signature of the witness is waived.

This transcript is prepared at request of counsel for CLAIMANT, and all fees are billed directly to them in compliance with Arkansas Board of Court Reporter Examiners Regulations Section 19.

Witness my hand and seal this 20th of August, 2023.

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CERTIFIED COURT REPORTER

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Exhibits

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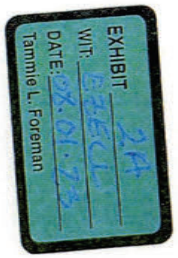
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EXHIBIT
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DATE: 8-9-23
Tammie L. Foreman


EXHIBIT 2.
WIT. Eric
DATE: 08.01.23
Tammie L. Foreman




EXHIBIT 2A
WIT. BAECL
DATE: 09.01.23
Tammie L. Foreman

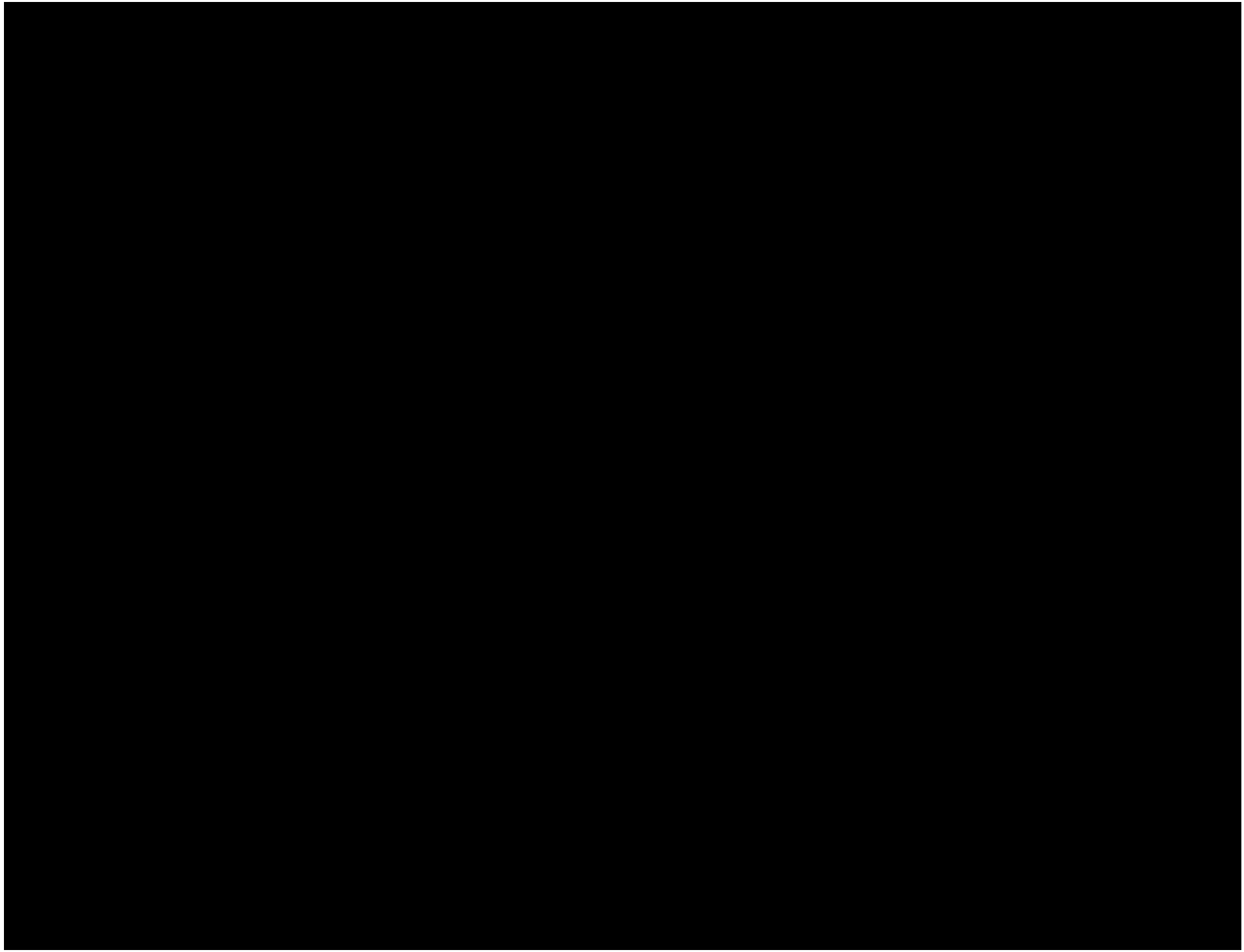



EXHIBIT 4
WIT:
DATE: 08-01-23
Tammie L. Foreman

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, As Special Administratrix of the Estate of JACQUELINE LYNN ASHCRAFT, Deceased, and as Permanent Legal Guardian of [redacted], A Minor,

CLAIMANT,

VS.

ARKANSAS DEPARTMENT OF HUMAN SERVICES,

RESPONDENT.

CC NUMBER 230641

ORAL AND VIDEOTAPED DEPOSITION OF

JENNIFER LEANN WILKERSON

October 20, 2023

ORAL AND VIDEOTAPED DEPOSITION OF JENNIFER LEANN WILKERSON, produced as a witness at the instance of the CLAIMANT, and duly sworn, was taken in the above-styled and numbered cause on the 20th day of October, 2023, from 12:54 p.m. to 4:05 p.m., before Tammie L. Foreman, CCR in and for the State of Arkansas, RPR, CRR, reported by machine shorthand at the Logan County Courthouse, 25 West Walnut Street, Paris, Arkansas, pursuant to the Arkansas Rules of Civil Procedure.

APPEARANCES

FOR THE CLAIMANT:

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FOR THE RESPONDENT:

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ALSO PRESENT:
Garrett Smelley, Videographer
Sandra Wilkerson

I N D E X

October 20, 2023

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WITNESS: JENNIFER LEANN WILKERSON

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EXHIBITS

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Exhibit 3	A Series of emails between Kristen Shelton and Jennifer Wilkerson	23
Exhibit 4	Diagram from Trooper Ray's crash report, labeled as page 17 of 18	33
Exhibit 5	Diagram from Trooper Ray's crash report, labeled as page 18 of 18	33
Exhibit 6	Arkansas State Police Accident Supplement Form Driver Statement/Witness Statement of Jennifer Wilkerson	38
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(Exhibit 1 premarked for identification.)

THE VIDEOGRAPHER: We're now on the record. Today's date is October 20th, 2023; and the time is 12:54. This deposition is taking place at 25 West Walnut Street in Paris, Arkansas, in the matter of Haley Hudson versus Arkansas Department of Human Services.

12:54PM

12:54PM

12:55PM

The deponent is Jennifer Leann Wilkerson. And if counsel will introduce themselves, the witness will then be sworn.

MR. JACKSON: Jim Jackson, attorney for the claimant.

MR. GASPER: My name is Brent Gasper. I'm an attorney for the Department of Human Services.

THE COURT REPORTER: Would you raise your right hand, please, to be sworn?

JENNIFER LEANN WILKERSON,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. JACKSON:

Q. State your name for the record.

12:55PM

MR. GASPER: Can we -- can we take care

of some preliminary matters first, Jim, if you don't mind?

Ms. Wilkerson, my name is Brent Gasper. I'm the attorney for the Department of Human Services.

12:55PM

I am not your lawyer. I just need to make sure that you understand this.

THE WITNESS: Oh, yeah. I do.

MR. GASPER: Okay. I do not represent you.

12:55PM

THE WITNESS: I knew -- I knew that.

MR. GASPER: Okay. I just wanted to make sure that we were all on the same page, that you did -- at the time this occurred, you were employed at DHS. But you are no longer; therefore, you are not my client and you cannot rely on --

12:55PM

THE WITNESS: Yeah. I had a lawyer.

MR. GASPER: Okay. Very good. Have you -- are you aware of your constitutional right to self-incrimination, to prevent self-incrimination?

12:56PM

THE WITNESS: I am now.

MR. GASPER: Okay. Go ahead.

Q. (By Mr. Jackson:) Okay. Ms. Wilkerson, I am

12:56PM

going to ask -- I just met you in person a few moments ago. And one of the things I told you was, we want to explain this process and procedure to you.

A. Yes.

12:56PM Q. So a deposition is a chance for us to make a record of what a witness saw, heard, observed in a -- in a incident. And so I want to be asking you -- we're going to ask you a series of questions. In a normal conversation, you would start -- you would know

12:56PM what my question is and you would start answering it before I was finished.

Today, we have a court reporter. So if you would, just give me a moment to finish my question and then answer it so that the court reporter can keep

12:56PM up with you and me.

A. Okay.

Q. And that way, we don't have two -- what we're trying to avoid is have two people speak simultaneously. Okay?

12:57PM A. (Witness nodding head.)

Q. And then one thing that we've got to do is to make a record, we've got to have yeses or noes, or verbal answers. And so nodding of heads, when we look back later and the court reporter writes "Witness

12:57PM nodded head," we don't know if that's a yes or a no.

Okay?
A. Okay.
Q. So if, at any point, Mr. Gasper or I ask you, is that a yes or a no, in normal conversation, that would be something rude and would be offensive. But here, we're trying to help make a record, so we're not trying to offend you or pick at you. Okay?
A. Yes, sir.
Q. And then at any time, if you don't understand my question, feel free to ask me to rephrase it, restate it, at any time. Okay?
A. Okay.
Q. And what we're trying to -- what I want to get from you or learn from you is what happened on June 11th and what you recall and don't recall. Okay?
A. Yes, sir.
Q. And then also, if, at any point, you need to take a break -- I know your mother is here with you. But if you ever need to step out, talk to your mom, or smoke a cigarette, whatever, please feel free to do so. I would like to ask you to go ahead and answer if there's a question pending, go ahead and answer it and then say let's take a break. Okay?
A. Okay.
Q. And we'll try to be as quickly as possible with

this. Okay?
A. Okay.
Q. It's not a marathon session at all. My understanding is the accident occurred on Friday, June
12:58PM 11th, 2021. Does that sound correct to you?
A. Yes.
Q. And what was your job description for DHS? Do you recall the title? Does the phrase "program assistant" mean anything to you?
12:58PM A. Yes. Yes. Yes.
Q. What is a -- when did you start working for the Arkansas Department of Human Services?
A. I think it was exactly -- I got in the wreck exactly two weeks since I had started. So, you know,
12:59PM the date?
Q. And we need for you -- if you don't know something, just say I don't know, so you don't have to ask your mom or anything. This is not like school, where an answer of "I don't know" gets you an F.
12:59PM A. Yeah.
Q. Here, if you don't know, you don't know. Okay?
A. I know I've sent you -- I've talked to you, so I've sent you that. I just don't remember the exact dates. That was two years ago.
12:59PM Q. Certainly. So I looked back at the calendar.

It looks like Memorial Day was on Monday, the 31st, and that maybe you may have started on June 1st?
A. Yes.
Q. And then the accident happened on Friday, June 11th?
12:59PM
A. Correct.
Q. Was this your first time to leave Paris to go on a child visit?
A. Yes.
01:00PM
Q. Okay. Just briefly explain what -- what your understanding of what you were supposed to do on that afternoon. What was your responsibility?
A. Well, I was supposed to go on an eight and a half hour, I guess, trip to go pick up a child. I don't have a child, so I don't even know how to use a car seat or anything like that.
01:00PM
I had never -- I didn't have a gas card. I guess you have to have -- I didn't even know all the procedures yet 'cause I was -- I had no training or anything like that. So it was just -- I mean, to go and pick up the kid and then bring them back to Clarksville -- well, it changed so much 'cause I -- and it wasn't planned out. Okay?
01:00PM
So it was the night -- the night before, I was with Brandy Ezell, and she had told me to be
01:01PM

there -- it was going to be at night, and -- or be there at 8:00 in the morning.

Q. At the office?

A. Yes.

01:01PM Q. At the Logan County DHS office?

A. Yes.

Q. Okay.

A. And I was going to leave then. Then before I even left the parking lot, it was don't come in till 01:01PM 9:00. And there was no set hour, set time that I was supposed to leave.

And I'm pretty sure the policy -- I mean, I didn't know anything I was supposed to be doing. I know I was sent with no gas card so if I had ran out 01:01PM of gas, I had to call Brandy because she used hers to put gas in there.

Q. Did she help you fill up the car on the morning of -- that Friday morning?

A. Yes. She -- that was the first time I had ever 01:02PM been in that car, 'cause they drive their private vehicles, personal vehicles everywhere. And so they -- we went to see -- so she could show me then for the first time, and my number didn't work.

Q. Was this at Casey's Fuel Station?

01:02PM A. Yes, it was at Casey's. So she used her number

and filled the car up, and then we went back. And at that time, I should have already left, I mean, if you're going to do the math and all that. And that's what I've been trying to say all morning, you know, 'cause I like to plan, you know. Why are you going to send someone that doesn't even know what they're doing?

01:02PM

And I -- that was the first job I had in a long time. I was -- you know, and they knew that. And that is not really what they told me my job description was when I -- in the interview.

01:03PM

Q. So did you and -- I'll call her, Brandy, Ms. Ezell. Did you and Ms. Ezell come up with a map for your directions of where you were to go?

A. I didn't even have the person's phone number. I had, I guess, an address. And we didn't do that until after the gas.

01:03PM

Q. You didn't -- you got the address after you got the fuel?

A. Yeah. On what time to leave, 'cause there was another lady that was going to Fayetteville and to get another kid. And I was going to go -- I was supposed to go to Beebe and get a kid. And then it was for a 30-minute visit in the middle.

01:03PM

Q. Was the other lady who left to Fayetteville, was

01:04PM

she working in the Paris office?
A. Yes. Yes. And she had told me she didn't -- she didn't know what time that she was going to -- the kid had counseling or something like that, and that
01:04PM she didn't know. And then I'm, like, trying to tell Brandy, you know, well, she -- I need to know what time to leave, like, all morning. And then -- so either way, a professional to me is, you would have had -- I should have left, like, in time for -- if I
01:04PM ran out of gas or -- so yeah. I don't know.
Q. What's the name of the lady that went to Fayetteville; do you recall?
A. I would know if I heard it. I can't remember.
Q. Okay. That's fine. So --
01:05PM A. And then -- but it changed from first it was meet at -- we were supposed to meet in Russellville or -- yeah, in Russellville; then it went to Clarksville.
Q. Okay. Did you or Brandy Ezell print out
01:05PM anything on paper to show you your route?
A. No.
Q. How did you know what route to take to go to Beebe?
A. I didn't really. She got on map -- one of the
01:05PM map things and I was supposed to go by that.

Q. And so I have a map on my telephone, Google Maps, and I use that. Is that what you are talking about?
A. That's not what I -- what we were using -- what she used.
Q. Was it on a handheld device or was it on a computer that's --
A. No. It was --
Q. -- desktop?
A. Well, I didn't have a State phone yet, so I had my personal iPhone. And she was using hers, so...
Q. How -- what -- what device or object map were you going to use to get to Beebe? Was it the map on your iPhone?
A. Yes. That's what I was supposed to use.
Q. Okay. And did you type in the address of your destination and put search and find a route? Is that how it worked at the time?
A. That's -- Brandy did that. Brandy did that.
Q. On your phone or her phone?
A. On -- well, on -- I guess on hers and then I had -- I did it on mine.
Q. All right. Ms. Ezell testified that she and Ms. Feemster left about 12:07 p.m. on Friday from the DHS office, and that was about the same time that you

were getting ready to leave or maybe you were leaving at the same time. Does that sound correct?
A. Can you repeat that?
Q. Sure. Ms. Ezell testified that she and
01:07PM Pamela Feemster went to lunch at 12:07 on Friday, June 11th; and that at approximately that same time, you were either in the parking lot or going to the parking lot getting ready to leave to go. Does that sound correct?
01:07PM A. I don't know what's -- they were not in the parking lot with me 'cause we had just got back from the gas -- getting gas at that time. And so we got gas and then she's like, "Okay. You need to go." It was not planned ahead of time.
01:08PM Q. Okay. And so then after y'all get back, I assume -- you say you got back, you went back from Casey's back to the DHS office?
A. Correct.
Q. And Ms. Ezell was riding with you to Casey's and
01:08PM back in that car, correct?
A. Correct.
Q. And y'all had -- and had you driven the State car to Casey's?
A. I didn't drive it; she drove it.
01:08PM Q. Okay. So then when she gets out of -- tell me,

when you pull back in, kind of what happens next kind of up to the wreck. Okay?

A. Okay. So when I got to the DHS office?

Q. Yes. Back from Casey's.

01:08PM A. Okay.

Q. And is Brandy driving back from Casey's to the DHS office?

A. Yes. She drove the whole -- she drove that whole time.

01:08PM Q. You were the front seat passenger, correct?

A. Yes.

Q. Okay.

A. Okay. So we got back there, and then we went inside and my -- the concession was, you know, my card

01:09PM didn't work. Okay. And she said, well, not to use my personal -- my own gas money on any -- I think I would have ran out of gas on a eight and a half our trip. But -- so I was nervous about that. And -- but then that's when she did the directions.

01:09PM Q. On her phone?

A. Yeah. Well, she called -- she called that other lady and asked to talk to her 'cause I tried to tell her that -- what she told me. And Brandy is not -- wasn't even my supervisor, for one.

01:09PM And she was -- I had been going with

Brandy, like, every day to do her visits, like, in her personal car on her visits. And she smoked in her car. I guess that's why they don't take -- they want to use their personal vehicles because you can smoke in your vehicle. You can go -- they go and eat during their sessions and leave early and stuff like that.

Q. Okay. So I'd like for us to focus on --

A. Yeah.

Q. -- what happened on Friday.

A. Okay.

Q. You and Ms. Ezell returned from Casey's to the DHS parking lot, correct?

A. Yes. And then --

Q. You're in the passenger's seat, correct?

A. Uh-huh.

Q. You go inside with Ms. Ezell, correct?

A. Yes.

Q. Tell me what happens next.

A. Okay. That's when she figures out on the maps, when I needed to leave, and it was I needed to leave then because I needed to leave earlier than that really.

And so I left, and I had called in some food at Dari-Delite because I knew that's what she does, and this is a eight-hour trip with no -- no gas

already. And then I was driving, and that's when -- okay.

Q. So I want to stop you before you --

A. Oh, yeah. Okay. So I went -- okay.

01:11PM Q. So you went to Dari-Delite?

A. Yes. Pick up, just, something to eat because I hadn't had anything.

Q. Okay.

A. And that's what I thought -- I mean, Brandy, 01:11PM that's -- if I was -- she was training me. I mean, that was what I --

Q. Did you go inside and sit down and eat or was it a drive-through? I don't know how that works at Dari-Delite.

01:11PM A. You can do either way.

Q. What did you do?

A. I went and picked it up. I went in and got it.

Q. Okay. After the accident occurred, do you remember who came to the accident scene?

01:12PM A. Like, Brandy?

Q. (Nodding head.)

A. Brandy and Pam.

Q. Yes. Who else? Who did you call and who came to the accident scene? Those are two separate 01:12PM questions, so let me back up. Did you call anyone?

A. I called Brandy.
Q. And what did you tell her?
A. That I'd just got in a car accident.
Q. Okay. And then who else did you call after
01:12PM that?
A. I called my boyfriend at that time. He's not my
boyfriend anymore.
Q. And then --
A. And then I called my mom.
01:12PM MR. GASPER: Can we -- can we get a
name?
Q. (By Mr. Jackson:) Yeah. What's the name of
your boyfriend?
A. Ex-boyfriend.
01:12PM Q. Ex-boyfriend, I mean.
A. Scott Thomas Lindstrom.
Q. Okay. And did all -- did you call -- do you
remember calling anybody else other than those three?
A. I called my mom.
01:13PM Q. You said your mom. You said Scott Lindstrom.
And you said Brandy Ezell. Were there any other calls
you made that you recollect?
A. No. I don't -- I don't think so.
Q. Did all three of those people come pretty
01:13PM quickly to the accident scene?

A. No. Well, my mom, she didn't have a vehicle. And Scott, he got there first. And then Brandy, I just remember her yelling, screaming at me, and, you know, I didn't know what even happened.

01:13PM Q. What was she screaming?

A. Just -- I don't even -- just, "Which way were you going?" Like -- like -- you know, I guess I didn't know -- I didn't know that I hit a semi trailer truck. I didn't know that at all until someone told

01:14PM me.

Q. Okay. So when she was screaming at you, was that on the telephone or when she was there in person?

A. No. In -- in person.

Q. Okay. All right. So do you remember talking to

01:14PM the Arkansas State Police who came and investigated at the scene?

A. I -- I don't remember talking to anyone there. But everyone -- I know that -- I might have. I just know that there was -- there were so many police there

01:14PM that not even the county cops or city cops that I knew, they didn't ask me one question. They didn't even talk to me. No "how are you doing? Are you okay?"

Q. Did you know any of the city police officers

01:15PM that were there?

A. Yeah.
Q. Okay. Who -- who? Can you give us names?
A. Yeah. Well, I mean, every one of them. The sheriff, Jason Massey. Officer Hayden, he actually
01:15PM peeked his head in the ambulance when I was in there and looked around.
And I didn't think anyone -- spoke to -- they wasn't supposed to be in there because the State had already picked that up. If you are going to do
01:15PM that, we went to school together. He could have said, "I'm glad you're okay," or something. But I didn't get no none of that. So --
Q. What was his name again?
A. Chris Hayden. Officer Hayden.
01:15PM Q. And who is -- who is he employed by?
A. The -- or I don't know if he's even employed. The city police.
Q. City, you mean the City of Paris, correct?
A. Yeah.
01:15PM Q. Okay. And where --
A. Oh, yes. This is from my doctor. I didn't know if I --
(Exhibit 2 marked for identification.)
Q. Okay. We'll mark that as Exhibit Number 1 --
01:16PM Number 2, I'm sorry, to your deposition. It's a note

from your physician.

[redacted]

01:17PM [redacted]

[redacted].

01:17PM Q. Do you remember giving -- the week after the accident, do you recall -- do you know who -- do you recall the name Kristen Shelton?

A. Yes.

Q. Who is she?

01:18PM A. I've never -- I don't think I've ever met her. But I got an email. I guess -- I think that was from her.

Q. And --

A. And I -- I had actually broke my back in that

01:18PM car accident.

Q. I didn't understand you. Can you --

A. I broke my back in that car accident.

Q. On June 11th, 2021?

A. Yes.

01:18PM Q. Okay.

A. But they didn't do anything -- anything then, so I didn't know for two months that my back was broke. And I was in so much pain that they made me come in to work just to do that thing, and I didn't even know what it was.

01:18PM

(Exhibit 3 marked for identification.)

Q. I am going to hand you a document. We'll mark it as Exhibit Number 3 to your deposition. Is that what you are talking about?

A. Yes.

01:19PM

Q. Okay. So this is part of where we need to make a record. That document is -- looks like an email from Kristen Shelton to you that was printed out, 10 questions, and then there's handwritten responses under each question. Is that your handwritten -- handwriting?

01:19PM

A. Yes.

Q. And is that your statement that you gave to DHS as to what happened?

A. I guess -- I guess so. I didn't know what it was. I just got -- I wasn't explaining anything. Pam just said, "Fill it out."

01:19PM

Q. Will you look over --

A. Yes.

Q. Can you just take a moment and look over the

01:19PM

questions and your answers before we --
A. Yeah.
Q. Take your time.
A. A lot of the answers are -- I was -- I was
01:19PM confused.
Q. I tell you what, why don't you silently read the questions and then read your answers, and then I'll ask you and then you can elaborate. Okay?
A. Okay. Number 1 --
01:20PM Q. No, I want you to read all 10 of them, please.
A. Oh. I've read over this a -- quite a bit of times, so I kind of know what my answers are and --
Q. And those --
A. Yeah.
01:20PM Q. -- are -- you've had a moment to look over this?
A. Yes.
Q. Is that what happened?
A. No.
Q. Okay. Go -- so let's start with question --
01:20PM your answer to number 1.
A. Well, the question, for one, I wasn't assigned to pick up a child in Beebe at 2:00 p.m. I was assigned -- I think you have to be assigned -- from the policy, it said -- for one, I had no training. It
01:21PM had to be documented, and you have to have gas card to

train. So if it was assigned at 2:00 p.m., and it takes -- every map, every different thing, it doesn't say 100 -- or an hour and 57 minutes.

So when I got on my thing, I mean, I didn't have a scheduled time. And I don't think I would have made it there by 2:00. And why would you have someone get there just at -- on -- on the wreck, you know, at that time instead of early, especially after I didn't have no gas.

01:22PM Q. Okay. Your answer to question number 1 is, "I did not have a scheduled time. This was my first time going anywhere myself."

A. Okay.

Q. Well, is that correct?

01:22PM A. It was not my first time going anywhere by myself. It was my first, like, actual, you know, going somewhere, like, a distance. Like, I went in my personal car to Booneville and met someone there and I was never alone, so -- and is that --

01:23PM Q. So --

A. But it was my first, you know --

Q. Was this your first time to go in a State car by yourself?

A. Yes.

01:23PM Q. Question number 5, "While you were driving, what

happened to cause the accident?" Do you see that question?
A. Yes.
Q. Do you see your answer?
01:23PM A. Yes.
Q. Is there anything else that you recall about -- that you would like to add to your response to question number 5?
A. I still don't know what happened. It's, like, 01:23PM she was idling. And so if I was driving the speed limit, which I'm pretty sure that I had my thingy -- cruise on, so I know I was driving the speed limit, lower than the speed limit.
And there was -- and, you know, so if I 01:24PM was going that -- it's, like, she was -- I didn't know if she was stopped. And then -- and traffic -- I mean, I just don't know what happened at all.
Q. Okay. When did you first recognize that there was a tractor trailer rig carrying a modular home?
01:24PM Was that before or after --
A. After.
Q. Let me finish my question.
A. I'm sorry.
Q. I'm sorry. It helps us to make a record. Okay?
01:24PM A. Yes. Go ahead.

Q. Was it before the wreck, after the wreck, or during the wreck?
A. Okay. I didn't -- I didn't know that I had hit a tractor trailer till after the wreck.
01:25PM Q. That's not my question. My question is, when did you first observe the tractor trailer rig carrying the modular home, before the accident, after the accident, or during the accident?
A. Not until I stood up.
01:25PM Q. When did you stood up? What's that mean?
A. To get -- to get on the -- to get in the ambulance.
Q. Okay. So I'm going to ask you this question one more time. So you got in the ambulance after the
01:25PM wreck obviously, correct?
A. Yes.
Q. So when did you first observe the tractor trailer rig carrying the modular home, before the accident, during the accident, or after the accident?
01:25PM A. After the accident.
Q. Okay. Did you ever notice an escort car? Do you know what an escort vehicle is for a oversized load?
A. Yes.
01:26PM Q. Did you notice an escort car that day?

A. No. And -- that I -- there was one in the back, I guess. Not in front.
Q. Is that what you saw after the accident when you got out of your car?
01:26PM A. No. Actually, I got that from -- I researched it on their research and it showed up.
Q. So let's --
A. But no, I didn't see.
Q. Let's talk about what you, yourself, saw and
01:26PM observed on June 11th and not what you did research on later.
A. No.
Q. And thank you for letting me know that you did the research later because that -- we need to know --
01:26PM I want to know when you learned different things. Okay?
A. Okay.
Q. I want to go back to the -- I want to start back with the escort car question. When did you -- did you
01:26PM ever -- did you ever see an escort car on Friday, June 11th, with your eyes?
A. I don't recall.
Q. Okay. And that's a fine answer. I mean, you know, like I said earlier, you don't have to -- if you
01:27PM don't know something, you don't know. Okay?

A. (Witness nodding head.)
Q. Your answer to question number 10, can you look at that, please?
A. Yes.
01:28PM Q. Is that still true and correct as of today?
A. Yeah.
Q. And your answer is, "I am devastated over what happened but I really don't know what happened."
A. And I --
01:28PM Q. "Because I don't remember. It happened so fast."
A. I didn't really -- I didn't even know what the question -- they weren't described to me, so I didn't know what kind of answer I was supposed to write.
01:28PM Q. I mean, well, look at it today and take your time. And is that accurate today?
A. No. There was a lot more to this.
Q. Okay. What is what more to it?
A. Well, like, everything leading up to it, how
01:28PM long I worked there, just the -- I mean, they want to get their own policies and procedures, I feel like.
Q. So we'll go back into policies and procedures a little bit later, but I'm just talking about generally on what caused the accident or what you recall about
01:29PM the accident, the impact, and the vehicles that day.

Okay? That's what I'm talking about, when the impact occurred.

A. That all I saw was the vehicle in front of me, and I didn't -- I didn't even -- I didn't know if she was stopped because there was no lights on. I didn't see no lights or anything. So if you're going down a highway, I mean...

Q. How far away from -- it was a blue car that was in front of you, correct? Does that sound right?

01:29PM A. Blue or -- blue or green, something like that.

Q. How far in front of your car was it the first time you saw it?

A. I mean, it was really bright. Okay. So it was -- I mean, I saw it but not saw it stopped until I

01:30PM slammed on my brakes, and then that knocked me out. And then I woke -- I guess I woke up during the second wreck and thought I was dead, or it was just like it was never ending.

And then when it stopped, there was still

01:30PM those people that were stopped there, and I couldn't, like, talk. I couldn't say anything. And -- 'cause I guess that's -- that's why I had a compression fracture, someone told me, squashed my --

Q. Did -- is that -- did your airbags in your

01:30PM vehicle go off?

A. Yes. Like, my bracelet was on the ground I picked up while I was sitting there. And I had glass in my head that they got out at the hospital. But they didn't even get all the glass out. My mom had to
01:31PM get it out later.
Q. Do you recall where in the lane of travel -- you were headed --
A. From Paris towards Russellville.
Q. This is a diagram that Trooper James Ray
01:31PM attached to his report, and I'll represent to you that he has V2 as your vehicle.
A. Uh-huh.
Q. Here is Paris and the airport would be here. And this is Subiaco. And this is the truck, and
01:32PM that's V1 is Jacqueline Ashcraft's vehicle.
A. Okay. Yes.
Q. Do you see anything in that diagram that you disagree with as far as the arrows pointing which direction the vehicles were traveling or the name of
01:32PM the highway or anything?
MR. GASPER: Can we note that that is a not-to-scale drawing, Jim?
MR. JACKSON: Yes. It says "not to scale" right here.
01:32PM A. What does that mean?

Q. (By Mr. Jackson:) It means the scale of one inch to one mile is not exactly -- is not correct.
A. Oh, yeah. We were both going that same way, and I guess that -- I didn't really see that person.
01:32PM Q. When we say "that person," you're talking about what is marked as V3, which is the tractor trailer rig?
A. Yes.
Q. Okay. Is that correct?
01:32PM A. Yes.
Q. Okay.
A. She was -- I guess she was turning in to a house.
Q. I don't want you to try to guess. Just --
01:33PM A. Well, that -- she was 'cause they walked her in -- they walked her around.
Q. And that was after the accident?
A. Yes.
Q. Okay. Do you know who they -- who it was that
01:33PM walked her around?
A. The EMS driver, 'cause they said that she was fine. I mean, she was fine and then she said she didn't feel good. I was in the ambulance at this time, and so I was just hearing what -- hearing. And
01:33PM then I had to see all that that no one else saw. But

they walked her in to that house, which was --
Q. Would it be right here next to that private driveway?
A. Yes. Adam Capo, I believe who that was.
01:33PM Q. His wife's name is Jessica, or his daughter's name Jessica?
A. I don't know.
Q. Okay.
A. I mean, I just know who they are.
01:34PM Q. At the -- before you got into the -- before the paramedics put you in the ambulance, did you talk to Jacqueline Ashcraft?
A. No -- I don't recall, no.
Q. Okay. Had you ever spoken to Jacqueline Ashcraft before this?
01:34PM A. No. I didn't know her.
(Exhibit 4 marked for identification.)
MR. JACKSON: Okay. We'll mark this as Exhibit Number 4 to your deposition.
01:34PM MR. GASPER: Number 4, you said?
MR. JACKSON: Yes.
(Exhibit 5 marked for identification.)
Q. (By Mr. Jackson:) We'll mark page 2 of the diagram. And -- as Exhibit 5. And I'll represent to you that this is Trooper Ray's illustration showing

how the impact occurred, and the arrows right here showing a vehicle going counterclockwise after hitting the modular home tractor trailer rig, and that would be your vehicle. Does that sound correct?

01:35PM A. Sorry. This is final rest?

Q. That would be final rest on that one, yes. Where it's shaded. The dark color and then you have the light color. The light color would be the final rest of V2, which would be the vehicle driven by

01:36PM Jennifer Wilkerson.

A. I think that's right. That's where I was so confused. That's why I was so confused when Brandy was screaming at me.

Q. 'Cause your vehicle was pointed back towards

01:36PM Paris?

A. Yes.

Q. Okay.

A. And I didn't know. I didn't know that.

Q. Okay. I see what you meant earlier. I didn't

01:36PM understand. So okay.

A. Yeah.

Q. 'Cause your vehicle -- the front of your vehicle was pointed --

A. 'Cause I was -- yes. I was still sitting on the

01:36PM highway.

Q. Uh-huh. What was the temperature like that day; do you recall?
A. It was hot.
Q. Okay. This arrow right here where it shows where V2 impacts V1, or the point of -- POI, point of impact, can you look at that and let us know if you disagree with any part of that diagram, based upon what you observed?
A. That's me?
Q. Correct.
A. I mean, like, I am supposed to be that close?
Q. Yeah. Yes. Does that seem approximately where the vehicles were at that point of impact?
A. I don't know if I was that close. I don't know. I don't recall.
Q. Okay. Do you recall -- if the evidence is that Ms. Ashcraft was getting ready to make a left-hand turn into the driveway, do you have any reason to disagree with that evidence?
A. I wouldn't have known that.
Q. But based on what you saw that day, and recall, do you have any reason to disagree with that?
A. There was no lights on, I mean, or else I would have saw that. I mean, so she was idling or --
Q. And we know an accident occurred.

A. Yes.
Q. And so what I'm trying to -- so what I want to make sure of, as I understand what -- as best as we can as to what happened. And I heard evidence that
01:38PM Ms. Ashcraft was going to take --
MR. GASPER: I am going to object to the form of this question. You're putting words -- you're suggesting evidence to her at this point.
01:38PM MR. JACKSON: I think --
MR. GASPER: You can produce it.
Q. (By Mr. Jackson:) That Ms. Ashcraft was going to make a left-hand turn into that drive. Would you have any reason to disagree with that?
01:38PM A. Can he say what --
Q. Sure. He objected to the form of the question, and then his objection is noted. And then you can answer the question, if you can.
A. Okay. Can you say it one more time? I'm sorry.
01:39PM Q. Do you have any reason to disagree with the assertion that Jacqueline Ashcraft was going -- was attempting to make a left-hand turn into that driveway when the accident occurred?
A. No. I believe that's what she was doing.
01:39PM Q. I mean -- okay.

A. Is that --
Q. That's fine. I mean, it's not a trick question. Do you recall where in the roadway her vehicle was right before you first saw it?
01:39PM A. Right in front of me.
Q. Okay. I sent you -- did you get that affidavit I mailed to you?
A. Yes.
Q. Okay. Did you have a chance to look over it?
01:40PM A. Yes. Yes. And I tried to call you and then -- 'cause I didn't know -- I couldn't never get ahold of the --
Q. Notary public?
A. No. Ernie told me not to -- not to do anything.
01:40PM Q. Okay.
A. And so I just went by what he said.
Q. Sure.
A. And then he decided that he didn't want to -- isn't going to be my lawyer anymore.
01:40PM Q. Here's what I was looking for earlier when I was going through all my papers. Trooper Ray and Trooper Quinton Porter, do you know either one of them?
A. Is that Tyler Porter?
Q. Yes.
01:41PM A. I didn't know it was Quinton Porter. I know --

I don't "know" know him. I know of him.
Q. Okay. I am going to ask you to look at this, the --
MR. GASPER: Can I see that first, please? Okay. That's fine.
(Exhibit 6 marked for identification.)
Q. (By Mr. Jackson:) We'll mark that as -- this as Exhibit Number 6. And I'll represent to you that this is a statement that was attached to Trooper Ray's report, and it has your name. It's called a driver's statement/witness statement. And can you read the handwriting, beginning from here?
A. "Hit car that stopped in front. All I remember."
Q. And I believe that may be Trooper Porter's signature, and it says, "Transcribed by Trooper Porter." Is that -- do you know if that's correct or not?
A. I don't know. I didn't remember Tyler Porter being there, but I don't know. I just know that I didn't talk to any troopers until the hospital, and one of the troopers had gave me a piece of paper to write a statement on. And then before -- and then another one came back and said -- and took it and said he didn't -- they didn't need it.

Q. Okay. As far as this statement that is written here that was attached, is that correct?
A. I mean, it's correct that I don't know -- I didn't -- I don't know if I said that. I don't
01:43PM remember talking to anyone there.
Q. Okay. All right. We'll attach this as Exhibit 6 to your deposition. We're going to attach this as Exhibit 7. That's the affidavit I believe that I sent to you.
01:43PM MR. GASPER: Can I see that, please? Was this ever notarized or attested to? You did not sign this? This is not your statement?
THE WITNESS: (Witness shaking head.)
01:44PM MR. GASPER: Okay.
THE WITNESS: No.
Q. (By Mr. Jackson:) Can you look at this exhibit? And take your time and read it, and then I want to ask you what -- after you've finished reading it, I want
01:44PM to ask you what parts of it are incorrect.
A. Well, for one, okay -- before I answer that question, if I didn't give a statement then and this was hearsay, so [redacted]
01:44PM [redacted]

F.2

3223

A. [redacted]

01:45PM [redacted]

01:45PM [redacted]

Q. All right.

01:45PM A. And I -- I have wondered why I didn't get to write my statement to begin with after the wreck, you know.

Q. But we went over your statement in Exhibit 2. What else would you like to -- I'm not talking about

01:45PM the policies and procedures. I'm talking about --

A. No. I'm talking about the actual written statement that I was supposed to have filled out.

Q. What would you like to -- what would you like to -- would you like to fill one out now?

01:46PM A. No. It's been two years.

Q. What else about the wreck do you recall? I'm talking about the actual five seconds before impact until the vehicles came to rest.
A. That I was dead, going to die.
01:46PM Q. You thought you were dead after the accident?
A. Well, yeah.
Q. Or during the accident?
A. Well, I mean, since my -- okay. I know you don't want to hear about my past trauma. But my dad
01:46PM was dead, and then my boyfriend --
Q. It's not our business. It's not our business.
A. I know.
Q. But if you want to tell us, I just don't want. You thinking we are prying into your past?
01:46PM A. No. That's -- that's what I'm saying. Okay. I've had people tell me that they know this about my -- they know this about me. And I'm like, okay. My dad, he was -- he died in 2010, or -- and then my fiance was killed by a drunk driver a year after that.
01:47PM [redacted] It's just over and over again.
And then so I got fired from this job. Broke my back. Paid for -- end up paying for all of these ambulance bills, doctors' bills, and paying for
01:47PM my prescriptions because DHS says I make too much

money as the head of household. I'm confused on that because I don't have -- I can't get employment. The last job that I got was funded by DHS at Western Guidance Center, and I got terminated the second day of training.

01:48PM

Q. And was that after this June 11th, 2021?

A. Yes.

Q. Okay. All right. So you just gave us a lot of information.

01:48PM

A. I'm sorry.

Q. I appreciate it. And sometimes it makes it hard for us when we go back -- when Mr. Gasper and I go back and look at this, we're going to be, well, we started here and we ended up, you know, somewhere else.

01:48PM

So I want to go back and ask you, from the five seconds before the impact until the vehicles come to rest, is there anything else you recall about the wreck that you have not told us?

01:48PM

A. No. Not that I recall. I mean --

Q. Okay. Attached to your affidavit -- put this exhibit, which is Exhibit Number 6, which is the state police one that says, "Hit car --

A. Yes.

01:49PM

Q. "-- stopped in front. All I remember."

A. Uh-huh.
Q. And then the other one was your answers to Kristen Shelton you had handwritten.
A. Yes.
01:49PM Q. And then you've also told us about your feeling that you were dying or --
A. I mean, not dying. You know, I didn't know what happened.
Q. The loudness of the -- I know it was a loud
01:49PM noise.
A. Well, I was -- I guess I got knocked out as soon as it happened.
Q. And you had the airbags deploy?
A. Yes.
01:50PM Q. And that's what you recollect about this accident?
A. Yes. And then when I stopped, my seatbelt, I couldn't get it off. I couldn't even -- I couldn't talk. I guess that's because of the car -- that's
01:50PM where the compression fracture come in.
Q. Okay. What happened after you gave the handwritten statement to Kristen Shelton the following week -- now I'm moving to the following week. After you gave the handwritten statement to Ms. Shelton,
01:51PM were you fired that day?

A. No. I didn't go to -- I was in so much pain, I didn't go to work Monday or Tuesday. And they -- she told me that I had to come in.

Q. On Wednesday?

01:51PM A. Yeah. And just to do that. And I didn't know what that -- I don't know -- didn't have -- don't know who Kristen Shelton is. I didn't know what that was or anything.

And, you know, no one -- no one talked to

01:51PM me there. It was just, like -- so I was just, you know -- it's like I had already kind of knew the way they acted.

Q. So were you terminated that day?

A. No, I was not.

01:52PM Q. When were you discharged?

A. I was terminated, I believe, that -- the Friday.

Q. Two days later?

A. Yeah. That I didn't go to work the Monday and Tuesday. So I worked Wednesday, Thursday, and got

01:52PM terminated Friday.

Q. All right. What were your -- you were transported to the emergency room at Booneville, correct?

A. Correct.

01:52PM Q. And were you in the -- in the gurney in the back

of the ambulance the entire time?
A. Yes.
Q. Okay. And what do you recall? Do you remember that trip?
01:52PM A. Yes.
Q. Something you'll never forget?
A. Uh-huh.
Q. A lot of -- I don't want to go into the details, but tell us generally what you recollect about that.
01:53PM A. So I was the only one that was in there.
Q. Well, there had to be a driver.
A. Well, I mean, at the -- I was the only one that they were going to transport. And that's -- Brandy said I had to go. And then the EMS guy at first, you
01:53PM know, he thought that I needed to go. And then after being there for so long, I wasn't, you know, in as much pain.
I don't know exactly how long we were there, but they -- I know -- I remember Jacqueline
01:54PM walking around and talking with her kids, and, you know, why were y'all walking around. I mean, if they had -- if they had done -- you know, it was just -- it seemed like so much negligence. And she said she didn't feel good. I heard them talk, say they walked
01:54PM her around or into the house, that she was going to go

to get some air.

And then -- -then all of a sudden, she's in the ambulance, and it just got worse throughout that whole process. They gave her -- and they said 01:54PM they thought that -- they gave her a Narcan shot because they thought that she was having withdrawals, drug withdrawals or something.

And they couldn't -- they couldn't get an IV or anything in there. So -- and they couldn't get 01:55PM one in me, so I had bruises all over, and we wasn't even driving then. And it just got worse. She was getting worse.

And they said they thought that she had a brain -- had a brain aneurysm and that it was -- that 01:55PM they couldn't say that it wasn't -- that's not -- wasn't happening before the wreck. I mean, that it -- that's not -- that she wasn't having the brain aneurysm, you know, at that time before I even hit her.

01:55PM MR. GASPER: That she was or was not?

Q. (By Mr. Jackson:) Yeah. I didn't understand that last sentence you just said.

A. That that was -- that it was possible that she was stopped because she was having that brain 01:56PM aneurysm.

F.2

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MR. GASPER: Stopped -- I'm sorry. This is Jim's question. I'm just trying to --

THE WITNESS: Or that it triggered or that it was going on.

01:56PM Q. (By Mr. Jackson:) Where were you when you heard this?

A. In the EMS. In the ambulance. It was just us on the way -- there was another wreck that day, so that -- we couldn't go to Paris. It would be a longer 01:56PM wait, is what --

Q. So you went to -- they transported you to Booneville?

A. Yes.

Q. And there was a female medic driving, correct?

01:56PM A. Yes.

Q. And there was a male medic in the back?

A. Yes.

Q. Okay. Do you know either one of them?

A. No.

01:56PM Q. Okay. And where -- when you got to the emergency room, I assume all the attention was being put on Jacqueline Ashcraft and you were secondary; would that be fair to say? Or did they have a ER doctor there for you? How did that work?

01:57PM A. I -- I didn't know. I was just -- I would say

that that's probably correct because I was by myself for a long time, not knowing what was going on. My mom wasn't allowed to go in there.

Q. Somebody said the hospital was in a lockdown. Do you know what that was about?

A. No.

Q. Did you ever hear anything about the hospital being put in a lockdown?

A. No. I just know that they -- she couldn't come -- they couldn't come inside.

Q. Why could -- what's your understanding as to why your mom wasn't allowed to come inside?

A. I don't know.

Q. She never told you what was -- happened or anything like that?

A. I was under the impression she -- she didn't know.

Q. Okay. Then what tests were done on you at Booneville hospital?

A. None.

Q. X-rays of any sort?

A. No.

Q. And you said that you -- later, you got diagnosed with a compression fracture?

A. Yes.

Q. In what part of your body?
A. My T11 vertebra.
Q. And that was a couple of weeks after the accident?
01:58PM A. Two months afterwards.
Q. Two months later?
A. Yeah.
Q. Okay. And then who paid for your ambulance bill and your emergency room treatment at Booneville?
01:58PM A. My mom.
Q. Did you ever make a workers' comp. claim with DHS for that? Don't look at your mother.
A. No.
Q. If you don't know, you don't know.
01:58PM A. No. I didn't know to.
Q. Have you ever spoken to anyone who claims to have witnessed the wreck?
A. I don't think -- not anyone that witnessed it. Just people that think that -- have stuff to say about
01:59PM it.
Q. So elaborate. I don't understand what you mean.
A. Just that I -- I mean, how did any information from DHS even get out? Like --
Q. I don't understand what you're saying.
01:59PM A. Slander. Brandy Ezell, my boyfriend at that

time, Scott Thomas Lindstrom, his ex-wife was Brandy Lindstrom. And Brandy Ezell and -- has a kid -- has kids with -- how do you say it, with his ex-wife. So she couldn't be on his case because of a conflict of interest.

And -- but my uncle was -- she was his case worker and took his kids away. And I think that would be conflict of interest 'cause my mom should have got those kids.

02:00PM Q. Have you spoken with anyone who claims to have witnessed the wreck?

A. No. I didn't talk to anyone.

Q. Since the wreck happened, in the next week or two or months later, has anybody come up to you and said Jennifer --

02:01PM A. Oh, yes.

Q. "Were you in that bad wreck? I saw it."

A. No. They said, "Oh, I heard you killed someone and you're going to -- you'll be going to prison."

02:01PM Q. I'm talking about people who claims that they saw the wreck.

A. Someone -- Brandy Ezell's daughter supposedly is -- which that would be -- was -- said that she saw me or something, and I was going from Booneville. I don't know. Some elaborate -- some story that I have

no idea. That's the only thing.
Q. Okay. I am going to ask you one more time. Have you spoken to anyone who claims that they witnessed the wreck on June 11th, 2021?
02:02PM A. No.
Q. Have you received a message through any social media saying, hey, Jennifer, I saw the wreck, how are you doing, anything like that?
A. No.
02:02PM Q. Are you aware of the identity of any eyewitnesses to the wreck?
A. No.
MR. GASPER: Excuse me.
A. Well, I don't know. Adam Copo said his wife saw
02:02PM it. I don't know if that's true though.
Q. (By Mr. Jackson:) And that's what I'm looking for, if anybody said, hey, I saw it or my daughter saw the wreck, anything like that. So Adam Copo told you that his wife may have seen it, may have been a
02:03PM witness?
A. He said -- he says that she was his -- that they were related --
Q. Listen to my question. Listen to my question.
A. Yes. That he -- no one told me. But, like,
02:03PM they -- my boyfriend at that time, his friends have

heard and messaged him about it.
Q. I'm talking about people who saw the wreck.
A. Oh, no.
Q. I'm not talking about heard about the wreck.
02:03PM I'm talking about witnesses. Eyewitnesses.
A. No.
Q. Okay. Adam Copo told you that maybe his wife may have seen it?
A. Yeah.
02:03PM Q. Anybody else?
A. (Witness shaking head.)
Q. Please speak up.
A. No. Not that I recall.
Q. How many cellular telephones were in your car at
02:04PM the time of the wreck?
A. One.
Q. And that was your personal cellular phone?
A. Yes.
Q. And were you using that as your guide of where
02:04PM to go?
A. Yes. But it wasn't going on -- it wasn't going -- I mean, I didn't have it talking to me or anything.
Q. Was it -- I know this was an older car. I
02:04PM forget what year it was. So was your -- I can connect

my cell phone to my wire and it connects and I can see a map come up on my screen. Do you know what I'm talking about?

A. Yes.

02:05PM Q. Did that car have that capability?

A. Not that I know of.

Q. Okay. Where was your cell phone at the time three seconds before the wreck?

A. It was sitting -- it was sitting in the seat, I

02:05PM guess. I couldn't find it. It was not on, like --

Q. Were you looking at your cell phone prior to the wreck occurring?

A. No. No.

Q. Was there anything that would have blocked your

02:05PM visibility on Highway 22 on June 11th of '21?

A. No. I've lived here all my life. So that's just -- still today, I don't even know how that even happened.

Q. Is that because it's such a straight stretch of

02:06PM the road?

A. I mean, yeah. I mean, I've drove on that road every day to college and, you know, it was really -- it was right in the middle of the day. I don't know. If I -- I told them that I didn't want to do this, to

02:07PM do it because I didn't know -- you know, I hadn't

drove that far in forever. It was the first job that I had had in quite a long time because I had -- I was -- I had clinical depression. And so that was my -- so I was just taking -- you know, I took my job seriously, you know.

Q. You took the what job?

A. My job seriously. Like, you know, I was -- so I wanted to make sure everything went perfect. You know, things were planned out, you know.

They wouldn't even show me how to put a car seat in. I know that sounds stupid, but I don't know how to put a car seat in because I don't have kids.

Q. What is your date of birth?

A. [redacted].

Q. How old are you currently?

A. 35.

Q. You were 33 at the time of the wreck?

A. Yes.

Q. What was -- what was the job you had immediately prior to this job? You said there was a period where you weren't employed. What was your prior job?

A. I worked at the lodge at Mount Magazine.

Q. And I'm not -- this is not a memory test but just kind of, like, what year would you have done

that?
A. It was --
Q. If you don't know, just tell me.
A. It was --
02:08PM Q. Let's do this. What year did you graduate from high school?
A. 2006.
Q. What high school did you graduate from?
A. Paris High School.
02:08PM Q. And did you go to college after that?
A. Yes.
Q. Where did you go?
A. I first went to UCA in Conway.
Q. And then where did you go after that?
02:09PM A. At Russellville, Arkansas Tech University, where I graduated.
Q. What year did you graduate?
A. 2011.
Q. And that's right around the time you had a lot a
02:09PM of trauma in your life?
A. Yes.
Q. Then after you graduated, what did you -- from Arkansas Tech, what was your degree in?
A. Psychology.
02:09PM Q. What did you start doing after that?

A. Well, my dad died while I was in -- still in college, and I graduated on my birthday. And then I worked at the Bank of the Ozarks.
Q. Where? Paris?
02:09PM A. In Ozark. And you want me to keep going?
Q. Yes.
A. Okay. I worked there, and then I got a different job opportunity here at Stark Manufacturing.
Q. Stark Manufacturing?
02:10PM A. Yes.
Q. Is that in Paris?
A. Yes. And I was --
Q. Did you take that opportunity?
A. Yes.
02:10PM Q. How long were you there?
A. I was not there for very long. I was there about three -- probably three months. I -- the lady who hired me, it was because I was dating her son. We broke up; she fired me.
02:10PM Q. And where did you go after Stark?
A. After Stark's, I -- well, my boyfriend got killed by a drunk driver in 2011.
Q. Where did you go after working at Stark's?
A. Okay. So then I went through a -- like, a
02:11PM depression. And so for the two years, I don't

remember, like, two years throughout that time. I didn't work for --

Q. So where did you go to work after you came out of your depression?

02:11PM A. I worked at Dick's Sporting Goods.

Q. Where?

A. In Fort Smith as a door greeter.

Q. Where did you work after that?

A. Then I -- I worked for Work Force, the temp agency.

02:11PM Q. Uh-huh.

A. And then various jobs.

Q. Where was that temp agency?

A. In Fort Smith.

02:11PM Q. And then --

A. And I was going to John Brown University.

Q. Is that in Siloam Springs?

A. It was in Fort Smith at the time.

Q. Okay. And then after the temp agency jobs, what did you do?

02:11PM A. I worked at Valley Behavioral Health.

Q. Is that in Fort Smith?

A. Yes.

Q. And then where did you go after that?

02:12PM A. I went back into a depression -- depressive

state 'cause I got in a wreck and wrecked my car.
Q. And we're not talking about the wreck that's the subject of this?
A. Correct. No. A different wreck.
02:12PM Q. So where did you go to work after you came out of your depression?
A. Well, I applied for many jobs. And the lodge.
Q. At Mount Magazine?
A. Yeah.
02:12PM Q. What did you do there?
A. I was a -- I was a hostess.
Q. And how long were you there?
A. And then I was a front desk clerk. I was there for over a year and then I -- I quit or I put in my --
02:12PM I quit 'cause it was miserable, and then I tried to retract my statement and then they -- they just let me go.
Q. And then you didn't work for a while and then got a job with DHS as a program assistant?
02:13PM A. Yes. After -- and I had applied with DHS since I got out of college over hundreds of times. Even with the same -- with the same people over and over again.
Q. Tell me -- earlier in the deposition, we talked
02:13PM about policies and procedures, and I said we'd get a

chance to come back to that.
A. Uh-huh.
Q. You were -- indicated that some policies and procedures you felt like weren't followed. Can you
02:13PM tell -- elaborate on that?
A. Well, I don't have the -- they took all the -- everything from me that I had and -- except the key -- I still have the key because I guess they forgot that they gave me two keys. So when they were trying to
02:14PM rush me out of there, I mean, but I don't even know where that's at, but --
Q. A key to the office or to the car?
A. To the office.
MR. JACKSON: Okay. Do you mind if we
02:14PM take a break for a minute?
THE WITNESS: No.
MR. JACKSON: Go off the record.
THE VIDEOGRAPHER: The time is 2:14. We're now off the record.
02:18PM (Recess from 2:14 p.m. to 2:21 p.m.)
THE VIDEOGRAPHER: Time is 2:21. We're now on the record.
Q. (By Mr. Jackson:) Ms. Wilkerson, I've just got a couple of follow-up questions on some things that
02:21PM happened after the accident. Do you recall a trooper

escorting you to the sheriff's office to give a urine sample?

A. Yes.

Q. And did you get the results of that urinalysis?

02:22PM A. Huh-uh.

Q. Have you heard what the results were?

A. Huh-uh.

Q. [redacted]

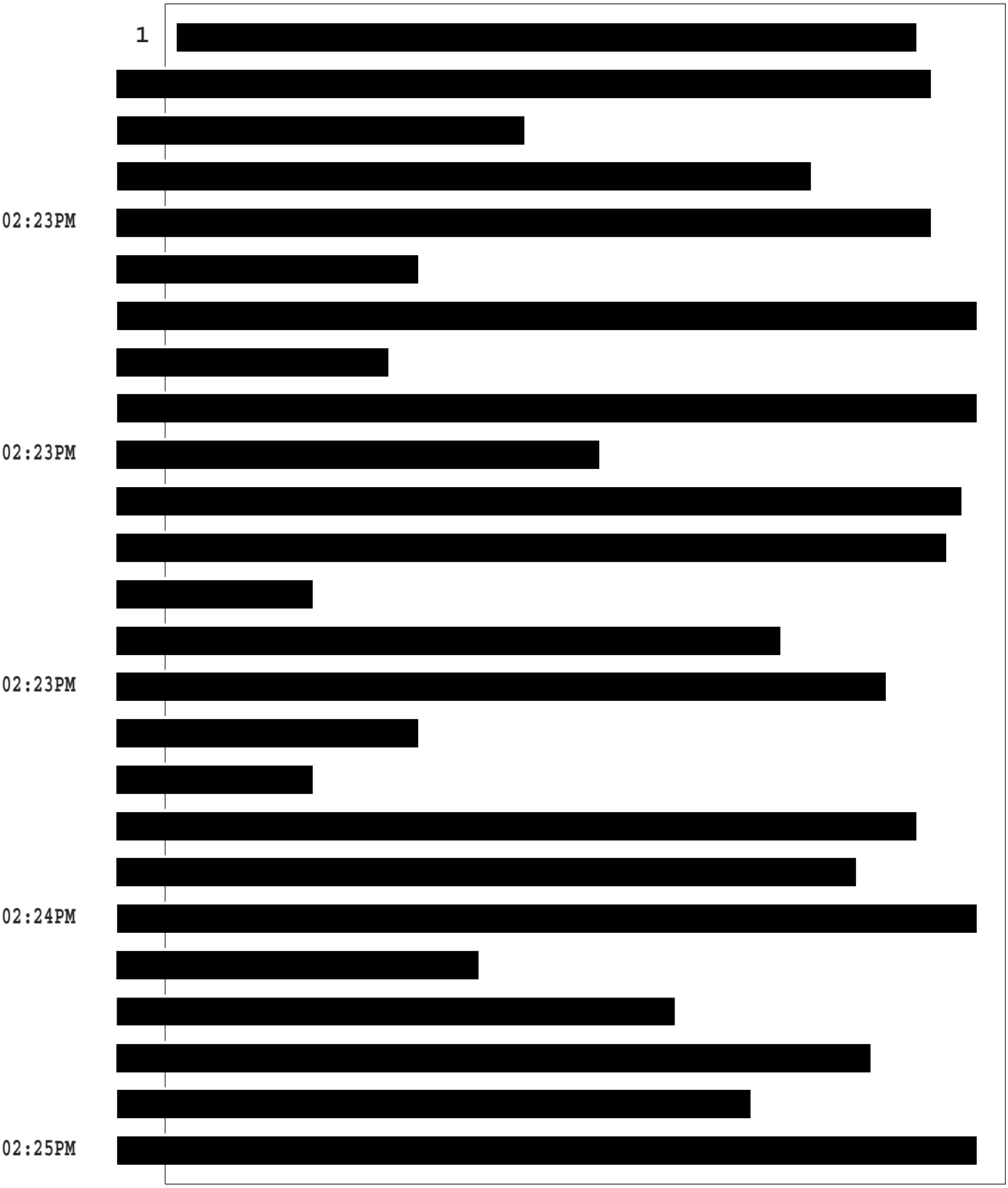
02:22PM [redacted]

Q. [redacted]

02:22PM [redacted]

02:22PM [redacted]

02:23PM [redacted]


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02:23PM
02:23PM
02:23PM
02:24PM
02:25PM

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[redacted]

02:25PM

Q. Okay. And have you applied for Social Security disability?

A. I -- I don't know how. I've tried to start it, but I didn't know how. And that's -- my mom said that I wouldn't -- she didn't think that was a good idea. I don't know.

02:25PM Q. Jennifer, you've -- we've sat here today, started a little bit before 1:00, and thank you for coming in. I'm about at the end of my questions. Mr. Gasper may have some questions for you.

But as you sit here, is there anything

02:26PM else you recall about the wreck, and from that five seconds till the vehicles came to impact that you haven't already told us?

A. Can you say that again?

Q. Sure. We took a break. You've been asked a lot

02:26PM of questions --

A. Uh-huh.
Q. -- about the five seconds till the time of rest. Have you thought of anything else about that time period that you haven't already shared with us?
02:26PM A. Not before the wreck.
Q. I'm talking about that five seconds before the wreck until the vehicles come to rest.
A. Not -- not anything before the wreck.
Q. Okay. Any other policies and procedures leading
02:27PM up to days before the wreck that you can think of that you haven't shared with us that may have been not exactly followed by the DHS?
A. I had no idea what my job was even to do. They had me doing everything. I was riding around with
02:28PM Brandy every day, and -- instead of learning what I was supposed to do. And if I had -- that's not the job that I thought it was going to be.
Q. What did you think it was going to be?
A. I thought I was going to be working for the
02:28PM place that actually cares about their job, and they told me that I -- they didn't tell me that I would be driving all the time, like, constantly; that -- that I was just basically there doing what they didn't want to do.
02:28PM MR. JACKSON: That's all the questions

I've got.

MR. GASPER: Okay.

MR. JACKSON: Mr. Gasper may have some questions for you.

02:29PM MR. GASPER: Yes.

EXAMINATION

BY MR. GASPER:

Q. Again, my name is Brent Gasper -- put it on? Yeah. Sorry. You got me? Again, my name is 02:29PM Brent Gasper. I am an attorney in Little Rock for the Department of Human Services.

As I explained at the very beginning of this, you do understand I am not your lawyer?

A. Yes.

02:29PM Q. I represent the Department of Human Services in this case and in other cases as well. Now, do you mind if I call you Jennifer?

A. No. That's fine.

Q. Just so I have this, can you state your current 02:29PM address and phone number?

A. [redacted].

Q. Okay.

A. [redacted].

02:30PM Q. Thank you. Do you have any social media

accounts or handles, Twitter, Snapchat, Finsta, any of those? Do you do any of those?

A. I have Facebook.

Q. Facebook? Do you know what your Facebook handle is? Your ID? Like, what do you go by under Facebook?

A. Well, I think I have multiple ones.

Q. Okay.

A. And then some that I can't get in.

Q. Okay.

A. But [redacted]

Q. One word? What, no spaces? Just one word?

A. Oh, I don't know what the actual --

Q. That's fine.

A. I can look. That's just my name on there. You can look it up.

Q. Now, Jennifer, do you know what we're doing here? Has anyone explained to you what we are doing here right now? If so, can you please let me know what you understand is going on?

A. That this wreck triggered something to do with my dad --

Q. No.

A. -- is what I was told. I don't know.

Q. Who told you that?

A. Michelle Kreager.
Q. I don't know. Who is that?
A. Michelle Grigsby.
Q. Michelle Grigsby? Who is that?
02:31PM A. This has to do with Chris Grigsby.
Q. I don't know who Chris Grigsby is.
A. Oh, I don't -- I mean, I went to school with him.
Q. Okay. No. This does not involve that at all.
02:31PM A. Oh.
Q. This involves the wreck that we've been talking about. Because you were employed by DHS at the time, Jim's clients, who are the estate of Jacqueline Ashcraft, the car in front of you, and her daughter [redacted] are suing DHS for $5 million because you -- they are alleging that what you did caused the death, you directly attributable to the death of Jacqueline Ashcraft. That when you hit her from the rear, something, I don't know, banged her head or something like that and caused the brain bleed.
Because -- this is their allegation. Because of that, she died. The but-for. It's called the but-for. But for the wreck, she might not have died. They're saying that we're on the hook. Not you yet. We are on the hook for $5 million. Okay?

That's why we are here.
A. Okay.
Q. And you are being deposed because you were not only a participant but also an eyewitness, clearly. You were involved in the wreck. It's what you call in law, called respondeat superior. I might have mispronounced that. Which means DHS is liable for the actions of its employees. And you were an employee at the time. Therefore, what you do is imputed to the agency. Okay. And because of something complicated called sovereign immunity --
A. Uh-huh.
Q. -- they are filing a lawsuit against the Department of Human Services based upon what they say you did in the Arkansas Claims Commission. It's basically a court. Not really a court, but more or less.
A. Yeah. I was going to -- I just figured out that I should have filed a claim against them, but --
Q. Can I -- I will let you finish. Can I finish though?
A. Yes.
Q. Okay. So that's why you're here. Michelle Grigsby or whomever, I don't know what that's about. Does it have anything to do with this wreck?

A. No. I mean, no.
Q. Okay. Fine. Then that's your business. It's not our business. We don't care about that. But I wanted to understand if you were aware of a lawsuit against DHS. Before I just told you what I did, were you aware that's why we were all here?
A. I knew I was here for the wreck.
Q. Okay. How did you know that?
A. Just because that's what --
Q. Did someone tell you that?
A. Yeah.
Q. Who told you that? I'm not trying to be accusatory. I'm just trying to figure out who told you we were here because of the wreck?
A. Jim Jackson.
Q. The gentleman across?
A. (Witness nodding head.)
Q. Okay. You and I have never spoken, correct?
A. Not that I know of. No.
Q. Okay. But you had spoken with Jim prior to being here today?
A. Yes.
Q. What did you guys talk about?
A. Not much. He sent me an email and he just asked me if -- the first time, and I asked my -- talked to

my lawyer, 'cause I had a lawyer. And he said that he just -- that DHS -- all they said was that I worked there at that time and I no longer work there.

I mean, I have the emails. And so -- and so I said I worked -- yes, I did work there because I was driving the car. And then he wanted me to go sign this affidavit.

Q. How long ago was this?

A. Which?

02:36PM Q. Like, this -- when did he first contact you?

A. It was, like, a year ago or, I mean, it was -- I don't know. I mean --

Q. He contacted you a year ago?

A. He contacted me quite a while ago, yeah.

02:36PM Q. Okay.

A. By email.

Q. Okay. You said you have copies of these emails?

A. Yes, I do.

Q. Like, on you right now?

02:36PM A. Yeah.

Q. Can you forward those to me?

A. Yeah.

Q. Okay.

A. And then I have a bunch of calls from him.

02:36PM Q. Okay.

A. And text messages.
Q. Oh, okay. Yeah, I'd love to see those. Whenever you get the email up, can you just -- I can give you my email just at DHS, and you can forward it to me.

MR. GASPER: I'm going to need all the correspondence with Ms. Wilkerson that you have with Ms. Wilkerson, James.

MR. JACKSON: I don't know if you're entitled to that.

MR. GASPER: I believe -- she's not your client. She's a statement of a witness that you have knowledge of. You have not disclosed that -- well, still haven't disclosed that to me. And she is not your client. I don't understand under what theory I would not be able to get that information. If so, we can ask the claims commission.

MR. JACKSON: We can visit with the claims commission about it. She is going to forward that to you.

MR. GASPER: Yeah. But I don't know -- I don't know what she might have filled you in on the accident. I think that probably

you should turn it over very, very soon.
Yes.
Q. My email is Brent.gasper --B-R-E-N-T.
A. B-R-E-N-T?
02:38PM Q. Yes. At.
A. Brent Gasper?
Q. Yes.
A. G-A-S.
Q. P-E-R @dhs. Arkansas is spelled out. .gov.
02:38PM A. There's another -- okay. I feel like there's another one, but I would have to -- I can look. It's hard to find it on the -- this might be the same one, but I'm sending it to you anyways. Okay.
Q. Okay. You say he called you as well?
02:39PM A. Yes.
Q. Can you give us the dates that he would have started doing that?
A. Let me see if I can --
Q. I don't know if you can filter those on that, 02:40PM make it easier.
A. Okay. I found the one.
Q. Okay.
A. Messages.
Q. Is it a voicemail?
02:40PM A. I have -- I had voicemails, but this is actually

to my text message.
Q. Okay. Can you screenshot that and email it to me? Or forward the text to my email? I'm kind of a -- I'm not sure how you can do things. My daughter knows how to do all those things, but --
A. Okay.
Q. When was that? Is there a date on that?
A. September 11th at 9:38 a.m.
Q. Of this year?
A. And then September 14th. Yes.
Q. Okay. Do you remember any text messages prior to that?
A. I believe that I blocked him because he was calling me a whole lot.
Q. Oh, really? Like, how many times, you think?
A. Quite a bit.
Q. Okay. Did you ever talk to him?
A. No, I didn't -- I think I answered -- I don't know if I answered. I don't know if I ever talked to him.
Q. Okay. So you received letters from Mr. Jackson?
A. I received that affidavit.
Q. Okay. We'll get to that. But prior to the affidavit, did you receive letters?
A. I don't think any letter.

Q. Emails?
A. Emails, yeah.
Q. Yes. Okay. And while I'm thinking about it, after the deposition, can you look through your emails
02:42PM and forward anything that he sent to you to that email address?
A. Yeah.
Q. You don't have to do it right now.
A. Okay.
02:42PM Q. We can go ahead. But afterward. And also, I'll need -- if you have screen shots of any, like, times he called, like if you have a call log or anything like that. Okay.
A. Okay. I think you can get a call log.
02:43PM Q. Okay. Maybe we'll do it at the break. Now, has Mr Jackson ever represented to you that he's your lawyer?
A. No. After that wreck, after -- I went to a lawyer myself.
02:43PM Q. Who is that?
A. Ernie Witt.
Q. Ernie Witt? W-H-I-T-T or W-I-T-T?
A. I think it's W-I-T-T.
Q. Okay. Is he local in Paris?
02:43PM A. He is in Ozark.

Q. Okay. Has he represented you in the past?
A. Yes.
Q. Okay. In what capacity?
A. We've -- when we --
02:43PM Q. Like, did you have charges against you or domestic issues or probate or, I mean, I just --
A. He -- well, when I was 18, I shoplifted a flask, and --
THE COURT REPORTER: You what?
02:44PM THE WITNESS: I shoplifted a flask.
Q. (By Mr. Gasper:) When you were 18?
A. Yes.
Q. Okay.
A. And my dad took me to him. And then he was my
02:44PM lawyer that -- I mean, he didn't do anything, but --
Q. Okay.
A. But --
Q. Is he your lawyer now?
A. He was, but -- until I told him to come -- or I
02:44PM went to him.
Q. Okay.
A. -- about --
Q. The affidavit?
A. Yes. And he took copies of it and he told me I
02:44PM would hear from him before the day -- or the next day

for sure, and I never heard from him. And I spoke -- I did speak with him on the phone and I told him that I had an attorney and --

Q. You told this to Mr. Jackson?

02:45PM A. Yes.

Q. Okay.

A. And then he sent me a message and said to -- he talked to Ernie's secretary in person.

Q. Uh-huh.

02:45PM A. And to go down there, to go to the office and sign the affidavit. Well, I had the actual affidavit with me, so why would I go down there.

Q. Okay. Did you ask him to make an affidavit for you?

02:45PM A. No.

Q. He just sent it to you?

A. Yeah.

Q. Did you know it was coming?

A. No.

02:45PM Q. Okay. So -- okay. Did you talk to anybody else about this testimony, today's testimony, prior to today?

A. (Witness shaking head.)

Q. Mr. Witt, does he know that you were going to

02:45PM have a deposition today?

A. He knew the same day that I found out.
Q. Okay. All right.
A. Or right before. And he said he wasn't showing up unless I had money.
02:46PM Q. Okay.
A. And then yesterday, I told him, I was like, well, I've got money. You just wouldn't tell me what it was. And he said he couldn't be here 'cause he was in Booneville.
02:46PM Q. Okay. Have you spoken with Mr. Jackson about your testimony today?
A. No. I've not spoke to anyone except Ernie.
Q. Okay. I am going to be kind of blunt here. Do you understand that you might be liable personally for
02:46PM this wreck? Do you understand that? Do you know what that means?
A. Yeah. It says no fault on my police report.
Q. Okay. That's --
A. And --
02:47PM Q. That is not the allegation that Jim is making for his client --
A. Well, I do know that.
Q. Let -- okay. I'm sorry. Go ahead. I'll let you finish. I tend to talk over people. It's my
02:47PM problem. I'm working on it.

A. Me too. I'm sorry. I know that -- and Ernie said that that didn't matter. But my aunt works -- or she knows the nurse at the Booneville hospital, and she said that she had been in there every week for her brain aneurysms and all -- there's court records or those documents. I mean, I don't --

Q. Wait. Wait. Who had been in there every week for a brain aneurysm?

A. Jacqueline Ashcraft.

Q. Had been to the hospital?

A. At Booneville, yes.

Q. About her head?

A. Yes.

Q. This is before she passed?

A. Yes.

Q. What's the name of your aunt?

A. Marlena Fulmer.

Q. Is she a nurse, or what does she do at the hospital?

A. She lives -- I guess she goes -- that's where she goes to the -- she lives in Booneville.

Q. Oh, so she doesn't work at the hospital?

A. No.

Q. She just goes to the hospital?

A. I guess.

Q. Like, for her own -- for her own reasons, her own business?
A. I guess so, yeah.
Q. And she had seen Jackie Ashcraft --
02:48PM A. No. She knows a nurse there.
Q. Oh, she knows a nurse that saw Jacqueline Ashcraft?
A. Well, that told her that.
Q. That was going to -- okay. So --
02:48PM A. And then -- yeah. And Billy -- I don't know if you know Billy Warnock.
Q. I do not. Who is Billy?
A. Billy Warnock lives in this town, and he was a bondsman.
02:48PM Q. Uh-huh.
A. And his daughter -- he has a daughter that works for DHS.
Q. Okay.
A. In Conway.
02:48PM Q. Uh-huh.
A. Meagan Warnock.
Q. Okay.
A. And she -- I do know that 'cause my mom used to work for Billy.
02:49PM Q. Okay.

A. And his girlfriend, Angie, came in and asked her about the wreck.
Q. Angie who? Do you know her last name?
A. Angie Shelton.
02:49PM Q. Okay.
A. Because she -- Meagan sent her pictures of all -- of the accident.
Q. Uh-huh.
A. And told her all this -- told her all this
02:49PM stuff.
Q. And what?
A. What did she tell you, Mom? I mean, Angie showed her pictures --
Q. Yeah.
02:49PM A. -- of the accident.
Q. Of the accident that you were in?
A. Yes.
Q. And?
A. And I don't know what she -- what told that --
02:49PM what she told them. That that's kind of not -- that's confidentiality.
Q. Oh, okay. All right. I'm not sure I understand -- I fully understand. I'm sorry. Is this in relation to Ms. Ashcraft going to Booneville prior
02:50PM to --

A. No. It's just it's -- there was so much negligence on the ambulance and the hospital and the City --

Q. Oh, okay.

02:50PM A. -- that I don't -- she shouldn't -- I don't think that she should have died.

Q. Oh, okay.

A. And I had -- I see that. Why would they walk her around, you know? They should have -- and why

02:50PM didn't they have two ambulances? Why was there just one?

Q. I don't know the answers to those questions, but I have very curious about Jackie Ashcraft going to the doctor prior to her wreck. And you say -- could you

02:50PM repeat again the names of those people?

A. Yes. Marlene Faulk.

Q. Do you know how to get ahold of Marlene? Do you have a number or anything?

A. Yeah.

02:51PM Q. Can you just read it into the record? Who is she? Is she a friend of yours?

A. She is married to my mom's brother.

Q. Okay. Marlene Fox? Can you --

A. Marlene Fulmer.

02:51PM Q. Fulmer. Can you give me her number?

A. [redacted]--
Q. Wait. Wait. Whoop, whoop, whoop. [redacted] --
A. -- [redacted]
Q. All right. Good. And the other person?
02:51PM A. I don't know the name of the nurse.
Q. It was a nurse. A nurse told Marlene?
A. That's what I was understanding.
Q. In Booneville. Booneville hospital. Okay. Gosh. Well, let's get back to this. You
02:52PM understand -- you know what -- you know what personal liability means? I sue you; you pay me. Right?
A. (Witness nodding head.)
Q. Jim's client can sue you; do you understand that?
02:52PM A. I mean, yeah.
Q. He can sue DHS. He has chosen to sue DHS. But he can come after you personally as well, or his client can personally.
So I just say that as if he's offering to
02:52PM do you any favors or getting you to sign a thing, it may not be purely for your benefit.
A. That's kind of why I never talk to anyone.
Q. Do you understand what criminal liability means?
A. No.
02:52PM Q. I shoplift a flask; I'm going to be arrested and

I'm going to pay a fine. I'm criminally liable. All right?

A. (Witness nodding head.)

Q. Negligent homicide in Arkansas.

02:53PM A. I know what that is.

Q. Okay. Do you know what the B felony version of negligent homicide? If you are under the influence at the time of an intoxicating substance to cause the death of another person, it's a B felony in Arkansas.

02:53PM B felony statute of limitations is three years. It has not run yet.

So if a person is asking you to make some signatures about a thing, that could be used against you by the prosecuting attorney. You have not escaped

02:53PM criminal liability yet if, in fact, you did -- you were under the influence of an intoxicant at the time of the wreck. So I just say that for your own edification. Whatever Mr Jackson is telling you is not for your benefit.

02:53PM A. Okay.

Q. Criminally or civilly. He is not your friend. He's a perfectly nice man, but he's doing a job. He's got clients. Okay?

So let's go back to the notary thing.

02:54PM What did you understand when you got the notary -- the

affidavit in the mail?
A. Well, it was opposite of -- I was -- didn't really know. I haven't heard anything about the wreck, you know, since then. And Ernie, he didn't
02:54PM even know the wreck even happened, which is weird 'cause he's a criminal lawyer.
Q. Uh-huh.
A. I know that the cops have been following me around, and other people that are around me, for a
02:54PM long -- especially the past few days.
Q. Why do you think that is?
A. I don't -- I don't know.
Q. All right. But you got this letter in the mail, and you did not know it was coming?
02:55PM A. No.
Q. Did it surprise you that it came in the mail?
A. Yeah. I mean, because I -- you know, it was a big deal, I mean, the accident was. And no one told me anything.
02:55PM Q. Well, was there any accompanying letter or anything that said, maybe you should get a lawyer to look at this with you?
A. No.
Q. No? Okay. But Ernie was your lawyer in the
02:55PM past and you consulted him about this. But it had

nothing to do with Mr Jackson; Ernie is a completely different lawyer doing his own little thing?
A. Well, I went to him actually for the wreck to begin with.
02:55PM Q. Okay.
A. And paid for -- he's, like, basically, you're paying me for a peace of mind.
Q. Okay.
A. And he had -- he told me that there -- it was --
02:56PM the police report said she was stopped in the middle of the road.
Q. And --
A. So if she was just stopped in the middle of the road, why would you stop in the middle of the road
02:56PM with no blinkers?
Q. Okay. That's a good question. We're going to come to that. But as far as Ernie goes --
A. So yeah. Then I get this affidavit.
Q. This is, like, years later or --
02:56PM A. No. This affidavit -- or yeah. It's been two years.
Q. Since the wreck?
A. Yeah.
Q. So you talked to Ernie back then?
02:56PM A. Yes.

Q. Okay.
A. And there was a, I guess, DHS lawyer is who he dealt with then.
Q. It's possible. Yeah, I know that there were some insurance issues. Maybe that was it.
A. Yes. Yes.
Q. Okay.
A. And so he was -- I called him about this and made an appointment and went in there, went and talked to him. And he had said, "Are you ready for this to stop?" He said --
Q. He said this to you or you said this to him?
A. He said this to me. And, you know, I mean, yeah, I'm ready for it to -- this nightmare to stop.
Q. Okay.
A. But I don't know what he's exactly talking about, 'cause he's not here.
Q. "He" being who is not here?
A. Ernie.
Q. Okay. Okay. Wait. I'm confused.
A. Because Ernie has been my lawyer on the -- for the wreck.
Q. Uh-huh.
A. I mean, it's on the --
Q. Who said, "Are you ready for this to stop?"

A. Ernie.
Q. Okay.
A. He said, "When you mess with people like Brandy Ezell," I don't know what that means.
02:58PM Q. Okay.
A. But he didn't really say anything.
Q. So you told him about the affidavit and --
A. Yeah. She took -- he took copies of it.
Q. Okay.
02:58PM A. And then Jim apparently went down to his office and talked to his secretary.
Q. Okay.
A. And he called me and told me to go to Ernie's office and sign that.
02:58PM Q. Okay. Jim told you to go to Ernie's office?
A. Yes.
Q. Okay. Okay.
A. Yes. And, well, for one, why would I go there to sign it because I had it?
02:58PM Q. Okay.
A. And Ernie is my lawyer.
Q. Uh-huh.
A. He should be telling me.
Q. Right. My guess is, he probably wanted you to
02:58PM go sign it under oath. That way, you're locked into

the statement. And if you decide you've changed your mind or he would probably threaten you with perjury.
A. Yeah. That's what I figured, 'cause, you know, I didn't write that statement. He said it was based off of the knowledge that he got from the state troopers. So...
Q. Okay. Well, now -- I'm sorry. Go ahead.
A. No. You go ahead.
Q. I was going to say, now, do you understand what all this is?
A. I mean, I figured it was something like this. Yeah.
Q. Okay. A major lawsuit with a lot of money at stake. You're still a player in this. So in the future, if anyone reaches out to you like Mr. Jackson or anybody else about this case, I would maybe suggest calling Ernie or letting someone know because there's a lot more here than just a fender bender where someone got hurt.
A. Well, I let Ernie know, and then he couldn't come. He's not here. So...
Q. It's food for thought. So --
A. No lawyers around here want to do anything.
Q. Okay. I'm not from here, so I don't know anyone that practices in Logan County.

A. That's a good thing.
Q. All right. So let's kind of move on a little bit to make sure. You said you didn't talk to anybody else about this except for Ernie.
03:00PM You had correspondence multiple times with Jim, where he corresponded with you. Did you talk to a doctor about this, therapists or --
A. Oh, yes, sir.
Q. Can you go into that? And I don't want to pick at a scab. I know this is a major traumatic event. However, if there's anything that is -- you know, that you might have told the doctor or a therapist or something, that might shed some light on this case, we want to know about it. So...
03:00PM A. I mean, I did, like, [redacted] which is trying to remember.
Q. Sure.
A. Go back and remember your trauma.
Q. Did you remember anything that you didn't remember beforehand?
03:01PM A. Well, that didn't really work out.
Q. Okay.
A. Because it's -- I go -- it started going further back to my original traumas.
03:01PM Q. Okay. Okay. So that was -- you went to a

therapist for that or a psychiatrist or a doctor?

A. [redacted]

03:01PM [redacted]

Q. I don't think we'll need to talk to them, but perhaps in the future I wanted to ask -- talk to them about just this case. I'm not really concerned about your past or anything. But just about this case, would that be something I could do?

A. Would you be --

Q. I would need your permission to do so.

03:02PM A. They can't even -- it's a breach of confidentiality.

Q. Oh, yeah. But you can waive it. You have the ability to say, you can talk to Mr. Gasper, talk to Mr. Jackson, or talk to whomever. It's your

03:02PM privilege. It's not theirs.

So -- but anyway, we can maybe cross that bridge later. Again, I doubt I'll need to speak to them about that, but you just never know. This case has thrown so many curve balls our way so far. Here's

03:02PM one today. I couldn't believe it.

So anyway, let's move on. I am going to ask -- I think I know the answer to this, but I haven't heard you answer it. Were you alone in the car when this happened?

03:02PM A. Yes.

Q. Okay. You said -- I quoted this. I'm not sure I knew what you were talking about. You said, "The car didn't work." Do you remember saying that earlier today? I think you did. Maybe you didn't.

03:03PM A. The card.

Q. Oh, card.

A. The gas card.

Q. Oh, okay. It wasn't the car. It wasn't the automobile.

03:03PM A. No. No. No. It was -- I guess you have a gas -- everyone that works there has a gas card.

Q. Okay.

A. And I didn't know anything about it. I just didn't know anything about any of that.

03:03PM Q. Okay. Well, about the car, was it in -- it looked like an older car, but was it in good shape?

A. The car?

Q. The car you were driving.

A. The car was, I guess, fine. I was talking about the gas card.

Q. Right. I'm not too concerned about the gas card.
A. Okay.
Q. Just the car itself. The automobile.
03:03PM A. I mean, as far as -- I mean, I guess.
Q. Maybe it was easy to drive?
A. I never drove it before.
Q. Okay.
A. So -- I mean, and I hadn't drove in a long time, so...
03:03PM Q. You hadn't driven in a long time?
A. Well, not a long distance, especially eight hours and something.
Q. Okay. Did you notice anything about the brakes or steering or anything like that that would have, like, oh, that's weird?
03:04PM A. No.
Q. Okay. Just a normal car. That's fine. But it was the first time that you had ever driven that car?
A. Yes.
03:04PM Q. Okay. Now, I have heard you say multiple times, and I haven't heard anything ever to the contrary, that you say you did not see brake lights or a turning signal; is that correct?
A. Yes.

Q. Okay. So at all times that you recall -- I know this all happened pretty quick. But there was never, like, you know -- you know, what I'm talking about, brake lights on the side and then the one in the
03:04PM middle, right?
A. Yes.
Q. Like the cyclops, we used to call it back in the older days. And you know what a turn signal is?
A. Yes.
03:04PM Q. You know, it blinks? You never saw any of that?
A. No.
Q. Okay. One thing you did say that I thought was interesting, you said you thought the car was idling. What does that word mean to you? What does that mean,
03:05PM idling?
A. I mean, I didn't see the semi either.
Q. Right. Right. But you said you thought --
A. That she was -- so if she was turning --
Q. Yeah.
03:05PM A. You know, if you're -- so she was -- she must have -- she may have saw the semi.
Q. Uh-huh.
A. And -- or I don't know. Idling, not stepping on the brake.
03:05PM Q. Yeah. So the -- yeah. If her foot was on the

brake, you would think the brake lights would have been on, right?
A. Yes.
Q. Now, you said you didn't see the truck until
03:05PM after the fact; is that right?
A. Yeah. I didn't even know that -- I didn't know there was even -- until someone said that.
Q. Okay. So you didn't see -- I think Jim asked you this before. You didn't see a flagging vehicle in
03:05PM front of it, like, a flag -- you know what Jim's talking about?
A. No. Yes.
Q. The flags and --
A. There wasn't one in the front.
03:06PM Q. You did not see one?
A. No.
Q. Okay. Now, you said something else interesting about maybe she wasn't moving. I mean, is it possible that she had pulled over to the shoulder if a truck is
03:06PM coming on? Maybe that's why you didn't see something in front of you?
A. I --
Q. Is it possible?
A. I guess. I mean, I just -- I don't understand
03:06PM how my car went to the left.

Q. I know. It's weird. You know what, we hired a person to look into it, and that's a question I've always had. And what happened apparently -- this is kind of an aside, is, when you hit the back of
03:06PM Ms. Ashcraft's car, you know how the oversized load hangs over really far, you know? 'Cause there's the truck and they're holding, like, half a house. And there's kind of -- it hangs over.
A. Uh-huh.
03:07PM Q. Apparently, your car got caught in the front corner of that and it spun it. It pushed it forward. It's really interesting. Do you remember any of this?
A. No.
Q. Okay. But yeah, I had always -- asked myself,
03:07PM how did she go in the other direction. But apparently, there is an explanation for that. So -- but let's get back to the shoulder.

Like, so you don't know, she very well could have been on the shoulder or over all the way
03:07PM off on the shoulder or halfway on the shoulder, right?
A. Yeah. Yes.
Q. Okay. And like, for instance, it's possible that she saw the truck coming, the big 14-feet-wide truck, and pulled over. And then maybe kind of waited
03:07PM for it to start coming by, then moved back into

traffic and you hit her from the rear. Would that be maybe a possibility of what happened?
A. Yes.
Q. Yes? Okay. Or perhaps Ms. Ashcraft's car just
03:08PM was moving very slowly? Would you agree that's a possibility?
A. Yes.
Q. Yes? Now, you also made a mention of it being very bright outside. You were traveling eastbound,
03:08PM right? Was the sun in your eyes? I'm trying to think of where -- do you know?
A. I just know it was during the daylight. And I don't really get a lot of sun out a lot, and so it was just, like, you know -- it was just, like, you know,
03:08PM things were -- you know, there should have been no, just easy, easy way and then all of a sudden this happens out of nowhere.
Q. Okay.
A. And I still don't even know didn't know how it
03:09PM happened. I didn't understand how, you know -- it just didn't still doesn't make sense to me.
Q. Okay.
A. I mean, but you -- what you said, that -- those could make sense of why that --
03:09PM Q. What, when you say what I said?

A. Just a couple of examples.
Q. Like, maybe her being on the shoulder or something like that, or I'm not sure I understand.
A. Yeah. And there was no flagger.
03:09PM Q. Okay. Maybe that was -- maybe that's why you didn't -- weren't aware or looking out for the truck, 'cause there wasn't a flagger or --
A. I mean, I don't remember seeing it at all.
Q. Okay.
03:09PM A. And I didn't even know I went through it, so I got in two wrecks. So I woke up -- I got knocked out. I guess I woke up before the second wreck was over.
Q. And got -- and then the semi hit you?
A. Well --
03:10PM Q. Or you hit the semi, I should say?
A. Yeah.
Q. Or during the collision of some sort. Yeah.
A. And so I didn't even know that until someone told me.
03:10PM Q. So you can't -- you don't even know how far over the truck was in the lane?
A. No.
Q. Or you -- relative to where the lanes were, you don't have any -- any knowledge of where a truck might
03:10PM have been?

A. No.
Q. Over this far? Over this far? Or you don't even know?
A. No.
03:10PM Q. Okay. You said that you were using your phone as a guide? Like a map, like the maps app basically? Is that what you're talking about? Or Google Maps or --
A. One of those apps that Brandy set up that -- I
03:10PM mean, I knew how to get to -- I knew how to get to where I -- at least Russellville and get on the interstate. So I didn't need that.
Q. Okay. Now, if there was an allegation that you were looking at your cell phone at the time of the
03:11PM accident, would that be true or false?
A. False.
Q. So you are saying you were not looking at your cell phone at the time of the accident?
A. I was not looking at my cell phone.
03:11PM Q. Okay. Where was your cell phone located?
A. In the --
Q. Like, at the time, where was it sitting? Where did you have it?
A. In the console. I mean, I don't recall.
03:11PM Q. Okay.

A. But that's where I would say it was, in the console.
Q. Okay. And you say it got knocked around somewhere. Where did it get knocked around at?
03:11PM A. I found it somewhere either in the back -- in the floorboard, maybe, on the passenger's side.
Q. Okay. But that's going to be, in this particular case, probably a real point of argument, whether or not you were looking at your cell phone.
03:12PM And you are telling us, me and Mr. Jackson, here today that you were not looking at your cell phone?
A. Correct.
Q. Okay. Thank you for that. I want to talk about briefly when you were in the ambulance with
03:12PM Ms. Ashcraft. I don't think I understood. Did she say anything to you while you were in the ambulance?
A. No. She had just -- she started getting worse and worse.
Q. Okay. So you did not have a conversation?
03:12PM A. No.
Q. And did she -- she didn't say anything, like --
A. She couldn't say anything. She just kept, like --
Q. She was in bad condition?
03:12PM A. Yeah. I didn't want to even look over there.

Q. Okay. Okay. Now, you said, I believe, that while you were in the ambulance, you overheard the EMS folks talking about Ms. Ashcraft's aneurysm or something like that? Can you explain that, flesh that out a little more for us?

A. They said that she said, you know, she was fine, and then the girl had said she walked her into that Copo's house --

Q. Okay.

A. So she could get some air.

Q. Okay.

A. And then, you know, I was in the ambulance. So I just remember -- I know she was fine. I heard her talking and stuff.

Q. Her being?

A. Jacqueline. After the wreck.

Q. Oh, not in the ambulance but just after --

A. No. Not in the ambulance. And then she was -- they said -- I don't know what -- what -- I only know what she was like inside the ambulance. I don't know if it started outside or how that was other than she felt sick.

Q. Okay.

A. But they did gave her -- they gave her a Narcan shot.

Q. Okay.
A. And they didn't know what was going on. They couldn't get an IV in her arm.
Q. Uh-huh.
03:14PM A. And they thought that it was -- that it was maybe a brain aneurysm.
Q. Okay.
A. And that she was -- she could have been having that before the wreck.
03:14PM Q. Like, it could have occurred prior to the accident?
A. Correct. Going -- like, there was no way that they can tell if that --
Q. If the wreck caused it or if it was already
03:14PM occurring?
A. Yes.
Q. Okay.
A. And then I found out that she -- she had been in the Booneville hospital for, I guess --
03:14PM Q. Treatment of some sort?
A. Yes.
Q. Okay. Do you remember, was it a male or a female who was saying about the aneurysm before? Maybe before, maybe during? Do you remember?
03:15PM A. It was the female.

Q. The female?
A. Or -- well, the female was driving.
Q. Okay.
A. So it was just both.
03:15PM Q. They were having a conversation?
A. Yeah.
Q. Okay. But you don't know who made that particular statement?
A. I think the girl.
03:15PM Q. Okay. That's fine.
A. 'Cause she was the one I remember, I'm pretty sure, that had walked her around.
Q. Okay. Okay. I am going to ask you about Scott. You probably don't want to talk about Scott, do you?
03:15PM A. No.
Q. Okay. I've got to talk about Scott, so I'm sorry for that.
A. Uh-huh.
Q. He was one of the people who came to the scene; 03:15PM is that correct?
A. (Witness nodding head.)
Q. Okay. You were in a relationship with him at that particular point in time?
A. (Witness nodding head.)
03:16PM Q. Like, boyfriend/girlfriend? Fiance?

A. Boyfriend and girlfriend, I guess.
Q. Just a -- you weren't engaged or married?
A. No.
Q. Okay. And you say Scott got there first; is
03:16PM that right? That's what I've got written down. I may
have written it down wrong. Who arrived first? Your
mom?
A. No. My mom didn't -- no one -- my mom didn't
come there at all.
03:16PM Q. Oh, she didn't? Okay. It was just --
A. Scott was the only person that --
Q. Were you talking to your mom on the phone?
A. I talked -- talked with her. Yes.
Q. Scott came and got you?
03:16PM A. No. He came to the wreck.
Q. Right. Now, you had been with Scott prior to
that, right? Like, at Dari-Delite?
A. Yes, I saw him.
Q. You saw him there or did you meet him there?
03:16PM A. I mean, he was there, and that's where I got
food.
Q. Okay. Was it prearranged to meet there or just
bumped into him?
A. I mean, I was going there --
03:17PM Q. Okay.

A. -- already.
Q. Okay. Did you have an argument or anything?
A. No.
Q. No? Okay. And -- okay. Well, we can skip --
03:17PM we can move on from Scott then. I want to know, do you know Jason Massey, the Sheriff Massey? And Officer Hayden is someone you went to school with?
A. Yes.
Q. He's with Paris PD?
03:17PM A. Yes.
Q. And Tyler Porter is a trooper. Did you say you knew him?
A. Game & Fish. He's Game & Fish is what Ernie said now.
03:17PM Q. I don't know if Tyler Porter is Game & Fish or not. But Mr. Porter dictated -- you dictated a statement, allegedly, to a trooper. He wrote it down. I'm trying to ascertain who that was that you gave a statement to.
03:18PM A. Well, he's one of those people that I said was following me.
Q. Oh, is he?
A. I mean, I have a radar detector.
Q. Okay.
03:18PM A. And it started going off. It's never went off

like that ever.
Q. Okay. Well, the statement -- it's one of these over here.
A. But I don't remember.
03:18PM Q. This right here. Plaintiff's Exhibit 2, it says James Ray at the bottom of it. Okay. James Ray. I got it. I was mixed up. Do you remember talking to -- James Ray is at Game & Fish now. Do you remember talking to him?
03:18PM A. I don't know. I don't remember. I don't think Tyler -- I don't remember Tyler Porter. I know Scott knows Tyler Porter, and --
Q. Okay.
A. I think Tyler Porter, is that who you talked
03:18PM to when I got pulled over that once?
Q. You don't need to bring your mom into this. So --
A. So --
Q. About that, about that -- what you've got right
03:19PM in front of you, is that your handwriting?
A. No.
Q. Okay. That's James Ray's handwriting -- the trooper's handwriting as far as you know, right? That's who signed it.
03:19PM A. I don't know James Ray. But yeah.

Q. You did not write that?
A. No.
Q. Did you give a statement to a state trooper about this wreck?
03:19PM A. No.
Q. You didn't -- go ahead. I'm sorry.
A. When I was in the hospital.
Q. Uh-huh.
A. One of the state troopers came in and gave me 03:19PM one of these to fill out.
Q. Uh-huh.
A. And then -- but I didn't have time. Then they were -- released me. And another trooper came in and took -- said he didn't -- they didn't need my 03:19PM statement.
Q. Okay. So I'm just trying to make sure we are clear for the record here. You --
A. But I --
Q. I'm sorry.
03:20PM A. I never gave any statement to anyone.
Q. Okay. No law enforcement?
A. No.
Q. Okay. Never -- okay. You did write those to Kristen -- is that Kristen Shelton or Brandy Ezell?
03:20PM This right here. This is your handwriting, right?

A. Yes. And my answers are not really correct.
Q. Okay. But that is yours? You did write those out?
A. Yes. There was more to it, though, than that though, 'cause we emailed back and forth.
Q. Right. And we've seen the emails.
A. Okay. Yeah.
Q. As far as that particular document goes, that's your handwriting?
A. Yes.
Q. Okay.
A. Yes. Correct.
Q. Okay. So did anyone ever get your side of the story?
A. No.
Q. No one ever contacted you -- aside from DHS doing their investigation here -- about -- about -- no one ever contacted you about this accident?
A. (Witness shaking head.)
Q. Okay.
A. I just knew she died because she was -- she posted on Facebook and I saw that, and then I saw it again. And then Scott, he apparently had a relationship with her -- I don't know, her aunt, some girl, Danielle Jackson.

Q. So Scott had a relationship with Danielle Jackson?
A. That was supposedly her aunt.
Q. Okay. Is this at the time or before that or after that? When was that?
A. Who knows? Probably the whole time.
Q. Oh.
A. I don't know.
Q. But it happened -- did it occur prior to the wreck, as far as you know?
A. Yeah.
Q. Okay. Well, I mean, I think we probably have piecemealed your side of the story here. But is there a statement you want to say about what -- what -- is there anything we've not gone over about this that you want to say?
A. I just -- I'm so dumbfounded about what's going on.
Q. Okay. Well, like I said, I still have some more questions, but we are -- we're kind of moving toward the end here. Okay?

I do want to ask you -- and I'm sorry. Again, I am going to pick a scab.

A. I don't know what to even say because no one has ever asked me anything.

1 Q. Okay. Well, can we go on? Can I ask you about
2 [redacted]

03:23PM [redacted]

03:23PM [redacted]

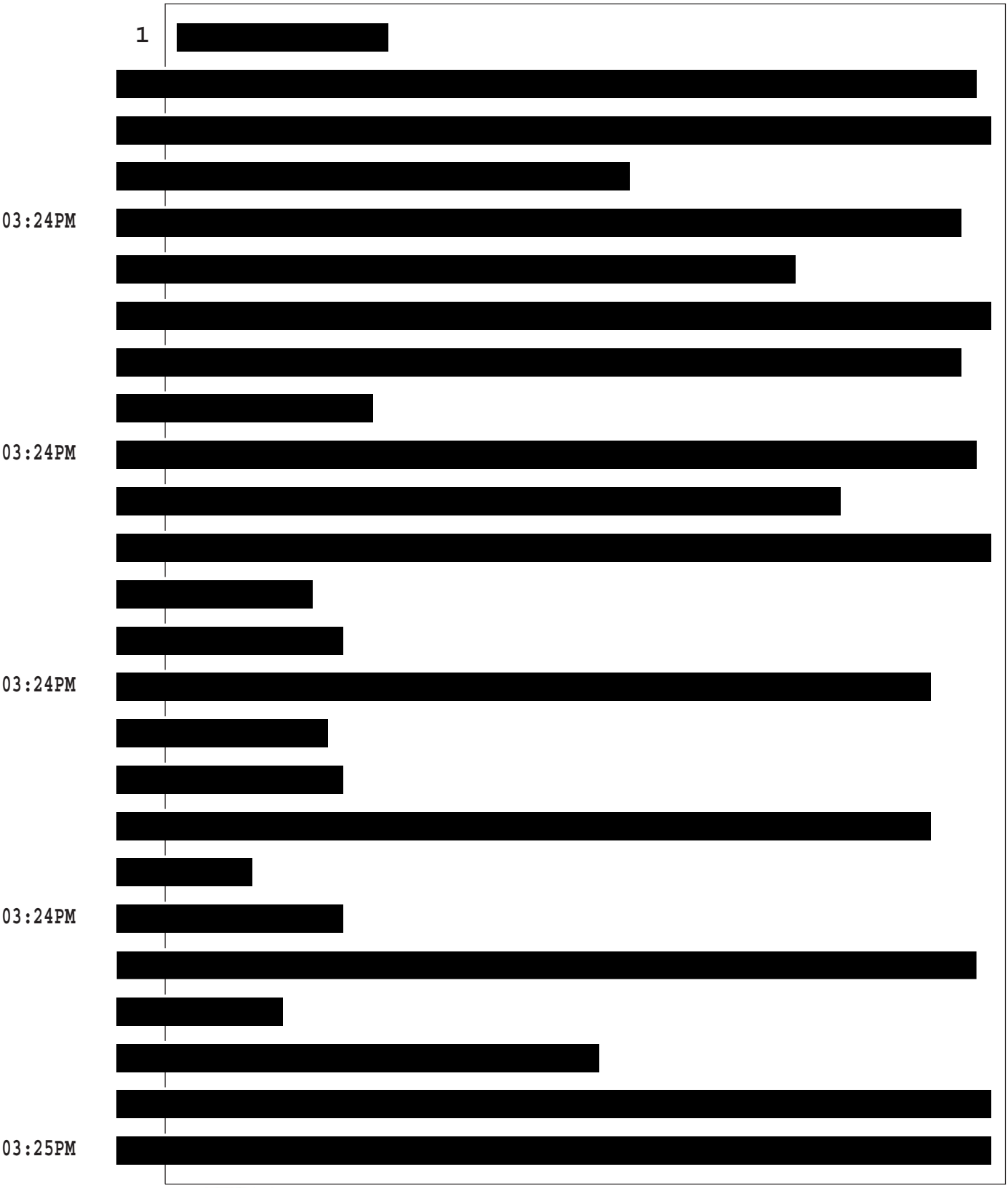
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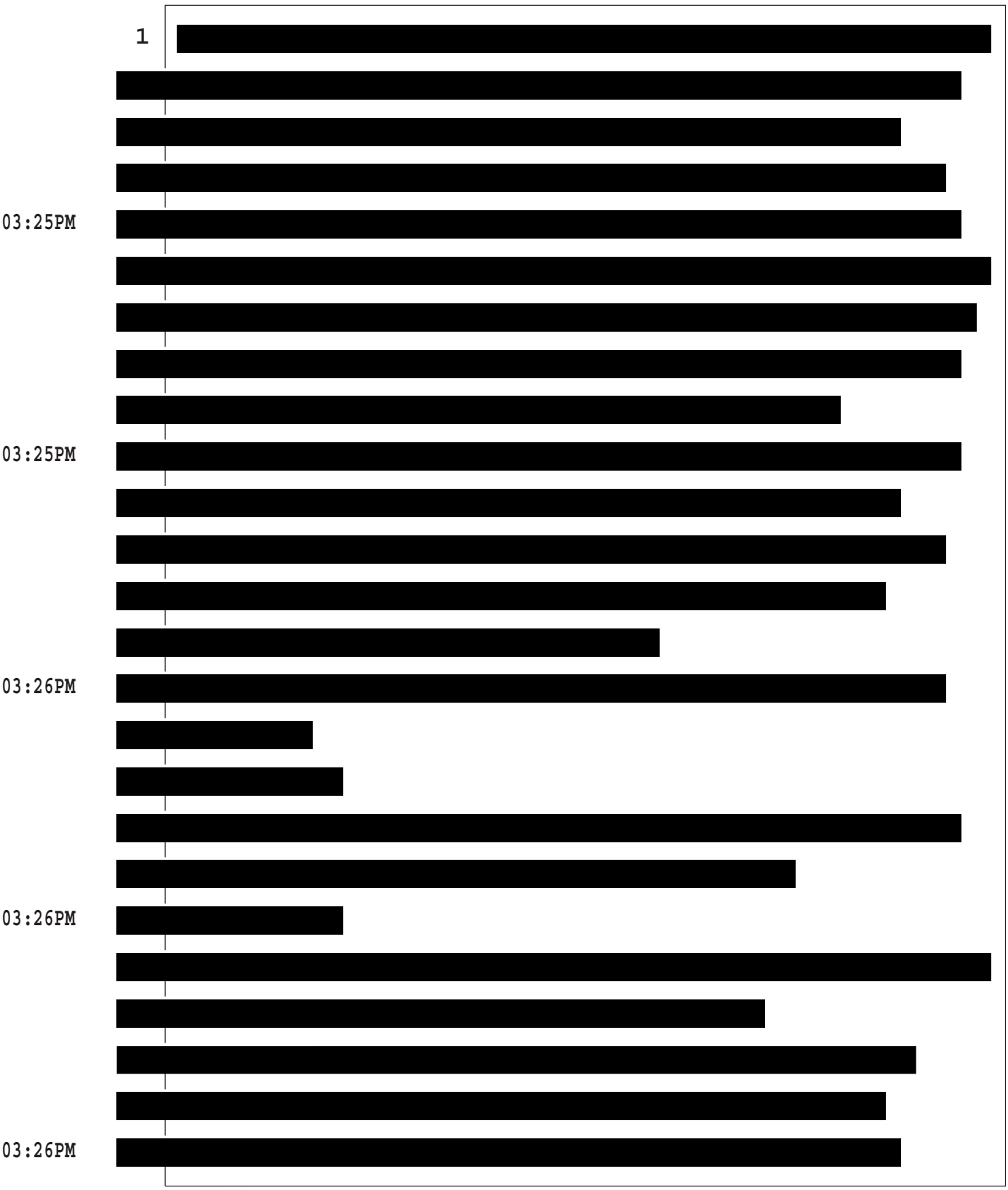
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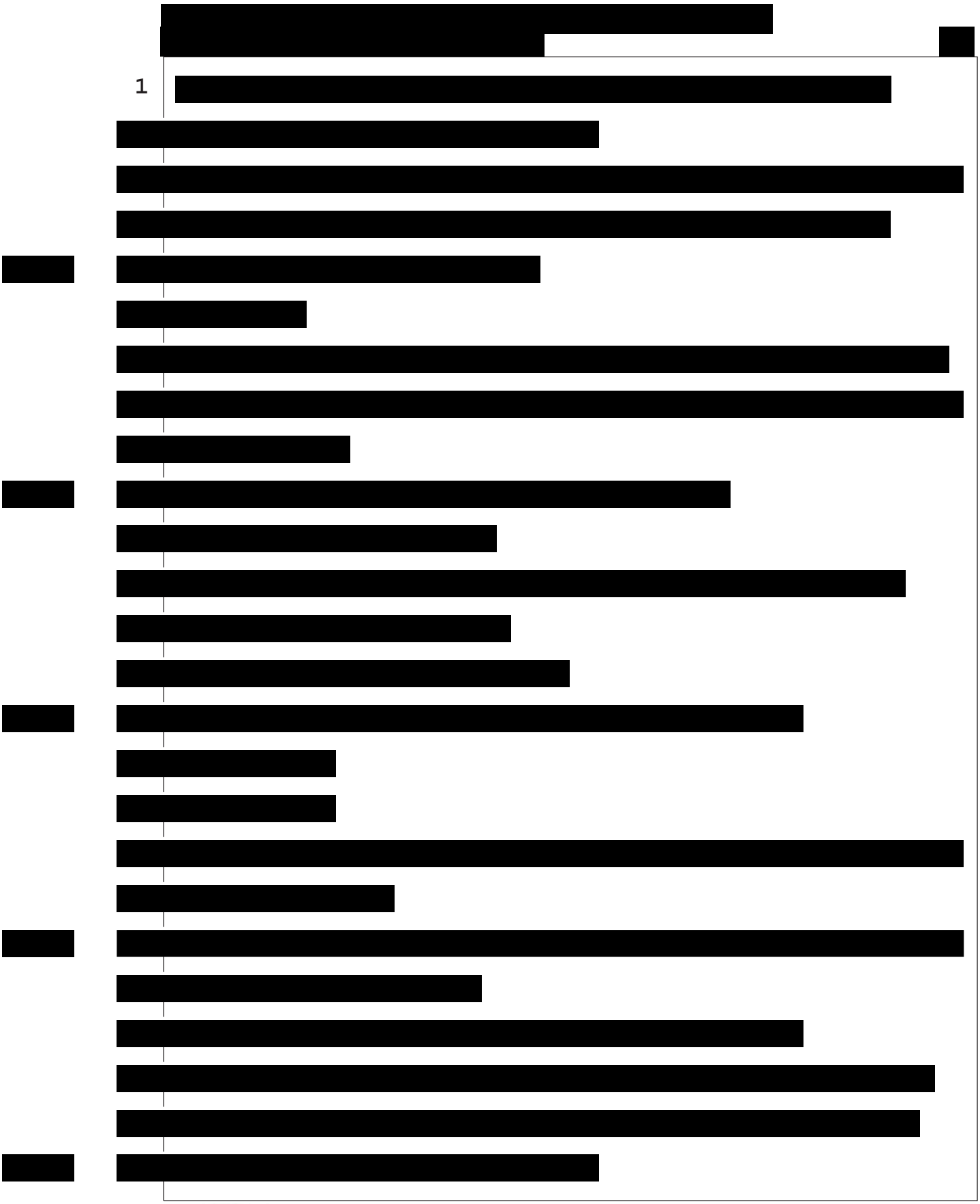
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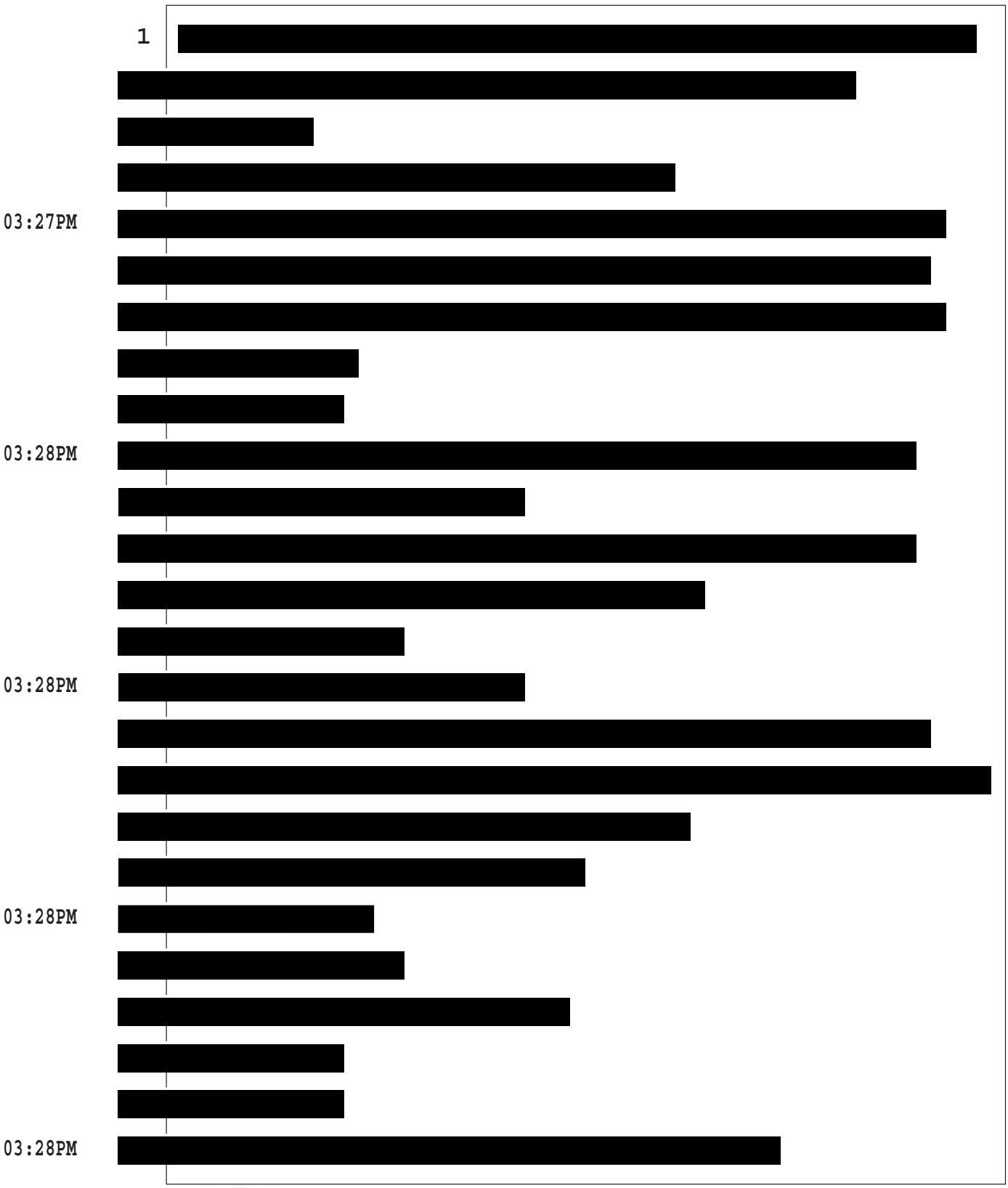

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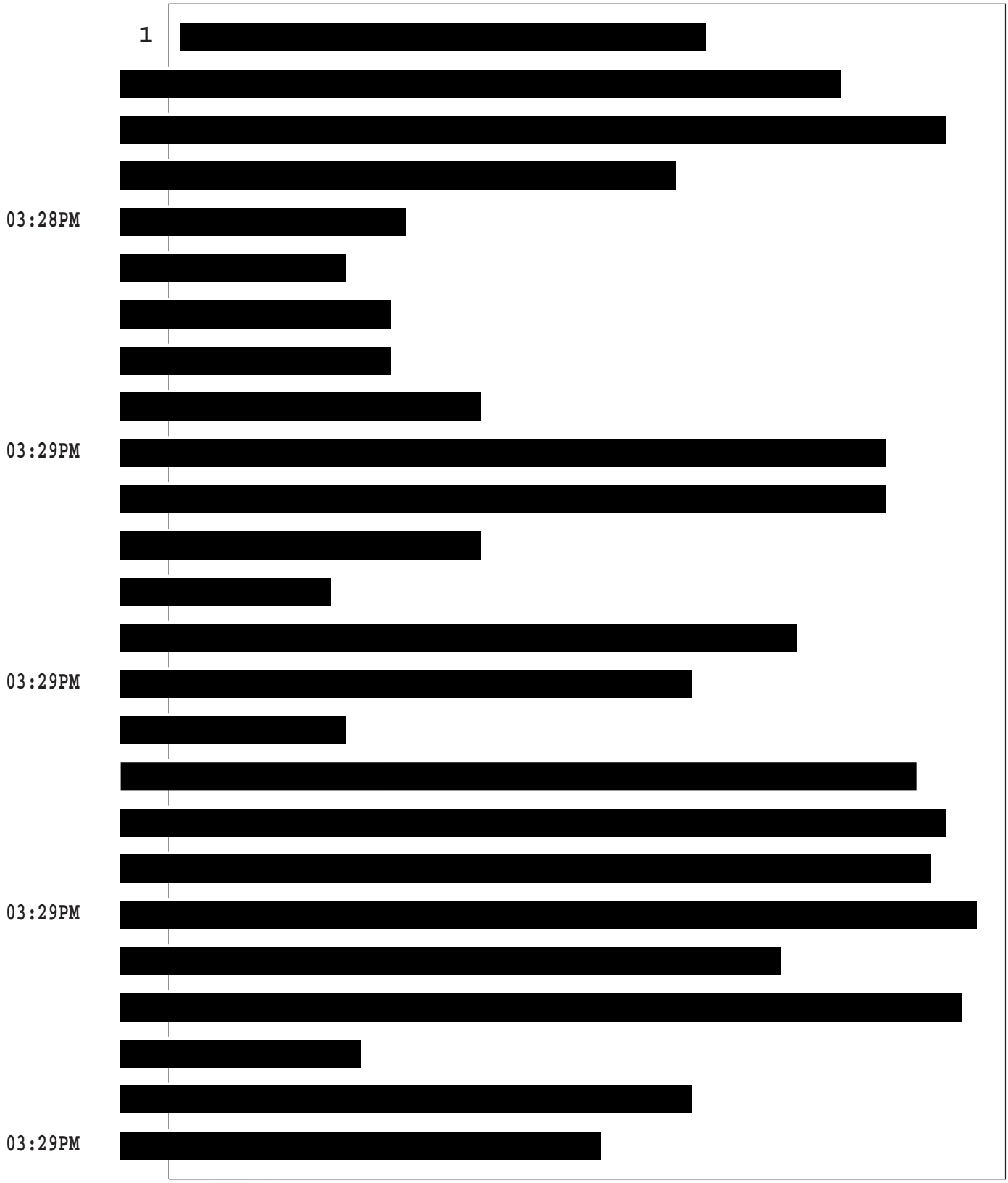
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[redacted]

03:30PM [redacted]

03:30PM [redacted]

Q. Okay.

A. I don't know what caffeine is. Maybe I had coffee.

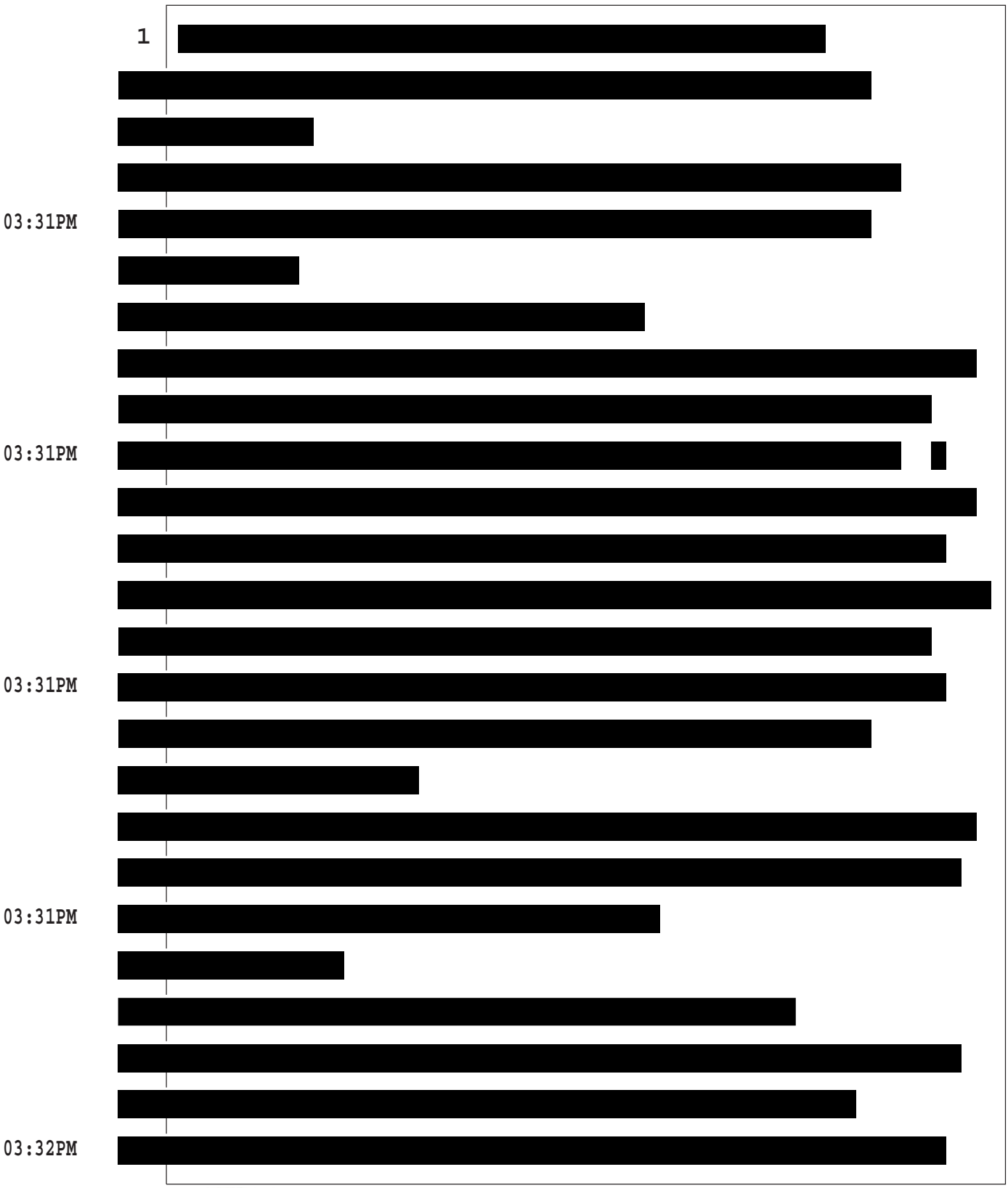
03:30PM

Q. Yeah. Coffee or a soda, even a Coke or a Dr. Pepper?

[redacted]

03:30PM [redacted]

03:30PM [redacted]


1
03:31PM
03:31PM
03:31PM
03:31PM
03:32PM

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[redacted]

03:32PM [redacted]

[redacted]

03:32PM [redacted]

[redacted] I mean, or did -- I mean, some medications can cause, you know --

A. Not -- not at that time.

03:32PM Q. Okay.

A. Not that I -- not that I was aware of.

Q. Okay. So you felt okay driving that day?

A. Yeah.

Q. Okay. This is going to be kind of a silly

03:33PM question, but have you ever tried to go -- undergo, like, a hypnosis or, like, a memory recollection or anything like that? You kind of mentioned something about that earlier, but is that ever something you tried?

03:33PM A. MDR.

F.2

3300

1 Q. [redacted]

03:33PM [redacted]

03:33PM 10 Q. Okay. Gotcha. You are wearing glasses. Is
11 that -- how is your vision?
12 A. Oh, it's actually perfect.
13 Q. Are those, like, stylish glasses you wear?
14 A. No. I have 20/20 vision, but they say they can
03:33PM 15 always improve your vision.
16 Q. Okay.
17 A. I don't think --
18 Q. There's nothing wrong? You don't have any
19 issues driving vision-wise?
03:34PM 20 A. Uh-huh.
21 Q. Do you wear contacts or prescription glasses?
22 A. No. I mean, these are prescription.
23 Q. Very light? Like, a light prescription?
24 A. Yeah.
03:34PM 25 Q. Okay. Do you normally wear glasses when you

drive, or do you just --
A. No.
Q. Okay. Not counting sunglasses. But, like, prescription lenses? When I do this (indicating),
03:34PM you're blurry so I have to put these on.
A. No. I see better without them.
Q. Okay. I'm sorry. I've got some notes I'm just going through here. Okay. [redacted]

[redacted]
03:34PM [redacted]
[redacted]
03:34PM [redacted]
03:35PM [redacted]
03:35PM [redacted]

F.2

3302

[redacted]

Q. Okay. I've seen the pictures. You're lucky to be alive. I don't want to sound glib, but those are some really devastating pictures. [redacted]

03:35PM [redacted]

03:36PM [redacted]

03:36PM [redacted]

03:36PM [redacted]

and I couldn't get my seatbelt off. I couldn't even talk. And I remember some guy saying don't -- he cut the seatbelt off of me, and they -- and then some people that I didn't know, I got my phone and then I

03:37PM called Brandy. And they stopped. And I guess I was

bleeding out of my head, and I remember some girl saying that she used to be a nurse or something. I don't --

Q. Okay. Were you able to fill out forms or write anything?

03:37PM

A. Huh?

Q. Were you able to fill out any forms or write anything?

A. I wasn't asked to.

03:37PM

Q. Could you have?

A. Uh-huh.

Q. Okay. It wasn't debilitating to the point you couldn't, like --

A. No. Actually, the pain -- I didn't feel the

03:37PM

pain until the next -- like, really, after -- I mean, I couldn't -- it hurt. Well, no. Actually, I do remember, I was in a lot of pain. That's why I didn't -- they didn't do x-rays or anything.

Q. Okay.

03:38PM

A. And then finally, you know, it just -- it was so bad, I went to my doctor and they had to do -- [redacted]

[redacted]

Q. I am going to ask you -- I've only got two --

03:38PM

one or two more questions. They're about the Copos,

Adam Copo lived at that house. Are you familiar with him? Do you know who he is?

A. Uh-huh.

Q. Who is Adam Copo? Can you describe him?

03:38PM A. He's not someone that I hang out with. I just happen to have heard right before that that [redacted]

Q. Okay. Do you know anything about his wife, Jessica?

03:39PM A. I don't know. I know who she is. I've never met her.

Q. You've never met her?

A. No.

Q. You just know of her?

03:39PM A. I've seen her at -- yeah. Them together.

Q. And someone told you, I guess, that Adam said his wife saw the accident?

A. Well, Adam said that she -- that that was his kids's aunt.

03:39PM Q. Yes. Yeah. Yeah. There was relations there. But one of his children was in the car. Was fine, but --

A. And I've seen him recently and it was -- it's been weird.

03:39PM Q. Okay.

A. Like, random places. Like, I was driving with someone, and he was trying to get her to go meet him somewhere.

MR. GASPER: Okay. Well, Jennifer, that is all I have today. Pending if Jim probably has some follow-ups for you. I may have some follow-ups. If he has follow-ups, generally, I think that you answered most of my questions and gave us a lot of good information. I appreciate you showing up today. So I'll pass the witness to Jim.

MR. JACKSON: Jennifer, just a few follow-up questions.

FURTHER EXAMINATION

BY MR. JACKSON:

Q. Did you still have your meal with you from the Dari-Delite?

A. No.

Q. Did you eat your meal at -- where did you eat the meal?

A. I think I did have -- actually, I -- I think I had some coffee in there. I had my drink in there.

Q. So where did you eat? Where did you eat your meal from the Dari-Delite?

A. I'm trying to recall. I ate -- I guess I ate

it -- it was when I went in and then I threw it away there.

Q. So you went inside and sat at a booth or a table?

03:41PM A. No. I went inside to pick up my meal, like I said earlier.

Q. Okay.

A. So instead of waiting through the drive-through.

Q. Okay.

03:41PM A. And I went ahead and ate it. I didn't sit down at the booth 'cause I didn't get very much to eat.

Q. So you -- just -- I'm not trying to be difficult, but just to help me understand. So you went in, you would have had a sack or something? You

03:41PM would have picked it up and gone back to your car and eaten?

A. Well, Scott was there. He knew that I was going to be there, so he was there. It was not -- that was not planned. And that's -- that's how it --

03:42PM Q. What was the meal? Was it a hamburger? What -- I heard you say coffee.

A. Yeah. A hamburger.

Q. Okay. And by the time of the wreck, had you eaten the hamburger or thrown it away?

03:42PM A. Yeah. I had already ate it.

Q. Okay. Where were you physically when you ate -- when you consumed the hamburger?
A. At the Dari-Delite.
Q. Were you at a booth or at a table or in the parking lot?
A. I was in the -- standing inside.
Q. Okay. So you just went in and ate your hamburger standing there inside the Dari-Delite?
A. Yeah. That's kind of how it is around here.
Q. Okay. So that's why you looked at me odd when I asked you if you were sitting at a booth. You were standing?
A. Yeah.
Q. All right. The person that cut the seatbelt, do you know who he is?
A. No. I didn't know who any of them were.
Q. So the person that -- any of the women that were there right afterwards, you don't know who they were?
A. No. I was not even paying attention. I just know that there was blood and I was sitting. I was out of it.
Q. All right. And then now I want to go back to what -- some of the things that Mr. Gasper asked you at the very beginning of his questions. He said Mr. Jackson is not your friend and then he went

through some questions. Have I ever done anything to ask you to do anything other than tell the truth?

A. You -- no. You asked me to sign an affidavit that I didn't -- which is -- as I take it, it's a statement that I should have wrote and I didn't write it. So that right there is confusing -- would confuse someone if they're trying to tell me, you know, did this happen. It's like manipulation.

(Exhibit 9 marked for identification.)

03:44PM Q. And can you look at that exhibit -- I am going to represent to you this is a copy of the cover letter that went with it. It's dated July 25 of this year. We'll mark that as Exhibit Number 9 to your deposition.

03:44PM MR. GASPER: Can I see that after you're finished looking at it, Jennifer?

THE WITNESS: Yes.

Q. (By Mr. Jackson:) Do you recall that letter being with the affidavit?

03:44PM A. Yeah. And, I mean, I don't understand why you said the courthouse to go pay for it because I know I have a notary that I would go to. And Tyler Porter, that's just -- that's just -- that's a name that -- why did you want me to go to the courthouse

03:45PM specifically where his wife works?

Q. And if I represented to you that I have no idea who Tyler Porter's wife is or where she works. I don't know where notary publics are in Paris, Arkansas. But I knew there would be one here at the courthouse in one of these offices, would that be reasonable to you? Do you have any reason to disagree with that statement?

A. No. That could be possible. Yeah.

Q. And does the letter say that if the affidavit is correct, for you to review it and ask you to --

A. I tried to call you and talk to you about it, and you said just take it to the courthouse and get it signed. So then that set off a red flag because I tried to call you to tell you some information.

Q. Can you look at the affidavit and tell us what part of it is not correct?

A. What part of it is not correct is, I didn't write it.

Q. Well, just because you didn't write it doesn't mean -- I mean, look at paragraph one.

A. Okay.

Q. Is paragraph one --

A. I mean, am I mentally competent? I don't know.

[redacted]

[redacted]

Q. And that's a good -- good -- you know, if you're not mentally competent --
A. I mean, I believe I'm -- I believe I'm mentally competent because I'm smart and very intelligent. I'm not stupid.
Q. Okay. So anything else on paragraph one that you would disagree with or raise questions about? I'm talking about paragraph one only right now.
A. For one -- okay. Paragraph one is correct.
Q. Okay. And you didn't write paragraph one but it's still to be correct; is that right?
A. Could be.
Q. It is correct, isn't it?
A. Yeah. I mean, that's where I reside.
Q. Okay. Now, go through paragraph two. Is that correct?
A. Yes.
Q. Okay.
A. But I had no idea who I was meeting, no phone number to call anyone. No nothing.
Q. There are things you'd like to add to the affidavit; is that what you are saying?
A. No. I was traumatized by the event because both personal automobiles were totaled. Okay. One was a State vehicle, not a personal automobile.

Q. That's a good point. Okay. Thank you for pointing that out. One was owned by DHS.
A. Yes.
Q. Okay. All right. Go through that -- and what
03:48PM paragraph is that in, Jennifer?
A. Four.
Q. Okay.
A. Or -- yes. Four.
Q. Okay. Let's go up to paragraph three. Can you
03:48PM look at it?
A. I mean, I don't know if it was -- I've never heard tractor trailer rig and modular home. It was a different way. I'm not sure exactly what it was.
Q. Okay. Anything else about paragraph three of
03:49PM you not knowing whether it's a modular home? Anything else about paragraph three?
A. I mean, I thought it was a semi trailer truck. Is that the same thing?
Q. If I represent to you tractor trailer rig and
03:49PM semi trucks are used interchangeably; they have the same meaning?
A. Are they? I mean, I don't know that.
Q. Okay. All right. So you have an issue with not knowing whether paragraph three was a modular home --
03:49PM whether or not it was a modular home was on the back;

is that correct?
A. I mean, there was a -- it was carrying a mobile home.
Q. Okay.
03:50PM A. So --
Q. So --
A. I guess on there.
Q. So that is correct then?
A. I mean, I guess so.
03:50PM Q. I mean, you were -- you just said it was carrying a mobile home.
A. I mean, I don't -- I didn't know. I don't know that. I didn't never -- I didn't even see it.
Q. But you saw it after the wreck though, correct?
03:50PM A. Not really. Didn't they keep their names under -- off the record? Certain people's names off the record?
Q. What are you talking about, Jennifer? I don't understand.
03:50PM A. Well, one of the guys -- I went to criminal traffic court over not being in his town because he was supposed to be in front of the thing, I believe.
MR. GASPER: I'm not sure I understand either.
03:51PM A. I'm confused.

Q. (By Mr. Jackson:) I'm confused also, Jennifer.
A. I've been confused for so long.
Q. Were you in a wreck on June 11th, 2021?
A. Yes, I was in a wreck.
03:51PM Q. Was there a vehicle that you -- that your car rear-ended?
A. Yes. And there was also an email from you. And I asked you does this have anything to do with me specifically, and you said no. Not at all.
03:51PM Q. And as to you --
A. And you called me so many times, it was harassment.
Q. Jennifer, we've been trying to get your statement about what happened.
03:51PM A. I've been trying to give a statement for -- since -- for two years.
Q. Well, this is your chance to give it.
A. Two years later. I mean, and you want me to remember everything. This is like -- this is, like, 03:51PM other investigations where you say, you know, put people in a room. Kind of like Morgan Nick. She was murdered, and -- okay. And you put someone -- was it a red vehicle or was it not a red vehicle. Well, now it goes back to, it wasn't that color red.
03:52PM So everyone has been saying stuff to me,

trying to make me believe things that aren't even real. Messing with my head. Manipulation. And so that's -- that's exactly what I feel like.

Q. You know, you were -- at the very beginning of this deposition, you were asked to tell the truth. And have you been trying to do so --

A. Yeah.

Q. -- today? Okay. You were involved in a wreck on June 11th, 2021, correct?

A. Correct.

Q. Do you remember a mobile home or modular home being involved in that wreck?

A. I know there was one.

Q. How did you get that knowledge?

A. It was -- I was told.

Q. Did you ever -- after the wreck, before you were transported by ambulance, did you ever see --

A. I do not recall.

Q. Okay. And that's a fine answer. That's what I want. So your knowledge about the modular home is something that you got secondhand from other people telling you about the wreck?

A. No. There was a modular home.

Q. Okay. And I'm sorry. I am confused.

A. I sat there on the ground for hours. Okay?

Q. Waiting on a ambulance?
A. The ambulance was there.
Q. Okay.
A. So, I mean, why wasn't this -- why wasn't the
03:54PM lady transported --
Q. Jennifer, let's say focused on the modular home.
While you were there on the ground, did you see a
modular home?
A. No. Not while I was sitting on the ground at
03:54PM all. I didn't even see a police officer until I stood
up.
Q. So I'm confused. How did you find out that a
modular home was involved in the wreck?
A. Because I got up and was just -- I mean, how do
03:54PM I know if I was passed out and knocked out from one
vehicle and then wake up during the other one? It
lasted so long.
Q. So my question is, where did you get the
knowledge that a modular home was involved? Was it
03:54PM something --
A. Because it was.
Q. Okay. After the wreck, did you see it or --
A. I mean, I'm sure I saw it when I stood up. And
Scott told me, "You hit a mobile home."
03:55PM Q. Okay. So --

A. So, I mean, that's my -- I got -- I have suffered -- I have to be the one that suffered. I can't get a job because they want to retaliate against me, the State of Arkansas.

03:55PM Q. Okay.

A. It was, I mean --

Q. So in paragraph --

A. It just wasn't my -- I mean, I didn't sign this.

Q. I know it.

03:55PM A. You said you got the information from the state troopers, and that's hearsay. That is -- I wasn't going to -- unless I wrote that --

Q. I'm trying to find out what is wrong in that affidavit. And so --

03:56PM A. Well, for one, there was not a -- it was not -- it was not both personal automobiles.

Q. Okay. We've gone over that.

A. And -- well, how do you know how I felt? And I don't know. Obviously, he told me that it was

03:56PM possible that different scenarios that make a lot of -- a lot of sense now.

Q. So can you look at your answer to question number 10 on the -- where is that? Where you gave your handwritten -- yeah. It says, "I am devastated."

03:57PM A. Yeah, I'm devastated 'cause someone is dead and

my life -- I have to deal with that because my boyfriend was killed by a drunk driver, got negligent -- fifteen years negligent homicide and was up for parole within two years.

03:57PM Okay. I had it published on Citizens against Homicide because accidental death, so that's a lot of trauma.

Q. So --

A. And Brandy Ezell, she committed fraud from there

03:58PM and everything else.

Q. I'm not talking about Brandy Ezell.

A. Okay. Well, that has to do with it, the job.

Q. Tell us how it has to do with it.

A. Because I was working for them. It wasn't

03:58PM her -- she wasn't my boss. Pam was.

Q. What did she do, Brandy? How did she commit fraud?

A. I mean, it was in the -- look in the court records. I mean, look at the law. You're a lawyer.

03:58PM I mean, she frauded her own DHS and then got to keep her job.

Q. Was this on June 11th of '21, that she did this?

A. I mean, it was going on at that time, on Court Connect.

03:58PM Q. What -- can you look through that affidavit,

tell me what else is wrong with it?
A. What's wrong with it? It is not signed. It's not --
Q. I understand, it's not signed. That's clear, it's not signed. We can see that.
03:59PM
A. Okay. And --
Q. So what in the wording besides the personal vehicle versus State vehicle?
A. I was in a traumatic event that you're telling me I did all this. This happened. This happened.
03:59PM
Q. Is it not -- well, tell me what's not correct in that affidavit besides the personal vehicle and it was a State vehicle.
A. "I do not recall any additional details about this collision other than the information contained in the statements that I have previously provided in Exhibit 2 and 3." What's that mean?
04:00PM
Q. That was the statement, your handwritten statement for --
A. I didn't give no handwritten statement. I never gave a handwritten statement to one person. That is not my handwriting. That is -- this is not my handwriting.
Q. Whose handwriting is that?
04:00PM
A. That is my handwriting, but where's the rest of

the -- where's the rest of the paper? I mean, 'cause my answers are wrong on here because I was in a traumatic event. I was not explained anything.

Q. There's your -- these --

04:01PM A. I mean, there was -- we talked back and forth to one another. And aren't they supposed to --

Q. I am going to hand you a packet. Is that what you are talking about?

A. No. I'm just not -- I'm just not on the same 04:01PM page with them on things.

(Exhibit 10 marked for identification.)

Q. Okay. We'll mark that as Exhibit Number 10 to your deposition.

A. Okay.

04:01PM Q. As far as your recollection of the accident, is there anything else that you remember about the accident that you have not told us today? And I'm talking about the five seconds before the impact until the vehicles came to rest.

04:02PM A. No.

Q. And before Mr. Gasper gave you these different possibilities scenarios, had you ever thought about those scenarios before today?

A. I knew something wasn't -- didn't add up, that 04:02PM I -- I mean, that's the only -- that -- actually, for

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the first time, that makes sense.

MR. JACKSON: That's all the questions I've got.

MR. GASPER: I only have one question and one thing to say.

FURTHER EXAMINATION

BY MR. GASPER:

Q. Do you feel like you're being manipulated into signing that affidavit?

A. Yes.

Q. Do you feel like you're being pushed around?

A. Yes.

Q. Do you feel like you're being bullied?

A. Yes.

Q. I am right now going to ask you for your phone number.

A. [redacted]

Q. This is my DHS phone. It does not belong to me. This is -- so I'm going to send you a message on this phone. It says Brent. See if it gets there.

I'm going to ask you -- you are not

obligated to do this at all. But I'm going to ask you to forward me any emails, screen shots, text messages, or anything else you might have received from Mr. Jackson. Again, I am not your lawyer. But this could be evidence in this case. So that's why I am asking you to do this. Jim will be able to get copies of anything you send me under the rules of discovery.

You can do this today, do it tomorrow, do it next week, wait a month, or you can never do it at all. It is up to you. But if you choose to do so, this is my phone number. Did you receive my text message?

A. (Witness nodding head.)

MR. GASPER: Okay. Gotcha. That's all the questions I have.

FURTHER EXAMINATION

BY MR. JACKSON:

Q. Ms. Wilkerson, you just answered that you feel like you were being bullied. Can you elaborate on that?

A. I don't have anything else to say. Can I say that?

Q. Your answer is your answer. Have you understood our questions today?

A. Yeah.

Q. Are you under the influence of anything that would make you not able to truthfully answer the questions that were propounded to you today?
A. No.

04:05PM MR. JACKSON: That's all the questions I've got.

THE VIDEOGRAPHER: This concludes the videotape deposition of Jennifer Leann Wilkerson. The time is 4:05. We are now 04:05PM off the record.

(The deposition was concluded at 4:05 p.m.)

* * * * *

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REPORTER CERTIFICATION

I, TAMMIE L. FOREMAN, Certified Court Reporter for the State of Arkansas, do hereby certify to the following:

1) that on 10/20/2023, the witness, JENNIFER LEANN WILKERSON, was duly sworn by me prior to the taking of testimony as to the truth of the matters attested to and contained therein;

2) that the foregoing pages contain and are a true and correct transcription of the proceedings as reported verbatim by me via realtime stenography to the best of my ability and transcribed at or under my direction and supervision;

3) that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and that I am not a relative or employee of any attorney employed by the parties hereto;

4) that I am not financially interested or otherwise interested in the outcome of this action that affects or has substantial tendency to affect impartiality or requires me to relinquish control of an original or copies of a deposition transcript before it is certified, or that requires me to provide any service not made available to all parties to the

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action; and

5) that I have no contract with the parties, attorneys, or persons with an interest in the action; and that I am not knowingly identified on a preferred provider list, whether written or oral, for any litigant, insurance company, or third-party administrator involved in this matter;

6) that signature of the witness is waived.

This transcript is prepared at request of counsel for CLAIMANT, and all fees are billed directly to them in compliance with Arkansas Board of Court Reporter Examiners Regulations Section 19.

Witness my hand and seal this 6th of November, 2023.

TAMMIE L. FOREMAN ARKANSAS SUPREME COURT No. 305 CERTIFIED COURT REPORTER

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F.2

3340

Issued by the
ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, Individually and as Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and HALEY HUDSON as Permanent Legal Guardian of Kadey Lynn Jones, a Minor Child, Claimant

V.

ARKANSAS DEPARTMENT OF HUMAN SERVICES, Respondent

SUBPOENA

CLAIM NO. 230641

TO: Ms. Jennifer Leann Wilkerson
[redacted]

____ YOU ARE COMMANDED to appear at the Arkansas State Claims Commission at the place, date, and time specified below to testify in the above case.

_X___ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the taking of a deposition in the above case.

Date: Friday, October 20, 2023
Time: 1:00 p.m.
Location: Logan County Courthouse
25 West Walnut Street
Paris, AR 72855

____ YOU ARE COMMANDED, at the time of trial, hearing, or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

____ YOU ARE COMMANDED, no more than 3 business days after receiving this subpoena, to produce and permit inspection and copying of the following documents or objects (list documents of objects):

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201

October 5, 2023
Date

RECEIVED
OCT 16 2023
JASON W. MASSEY, SHERIFF
LOGAN COUNTY, PARIS ARKANSAS

EXHIBIT
WIT Wilkerson
DATE 10.20.23
Tammie L. Foreman

F.2

3341

PROOF OF SERVICE

Jennifer Wilkerson
SERVED ON (Print Name)

10/16/23
DATE

[redacted]

Personal Service
MANNER OF SERVICE

Charlie M. Edmonson
SERVED BY (Print Name)

Deputy LC/4
TITLE

DECLARATION OF SERVER

I declare, under penalty of perjury under the laws of the State of Arkansas, that the foregoing information contained in the Proof of Service is true and correct.

Executed on 10/16/23 Dep Charlie M. Edmonson
DATE

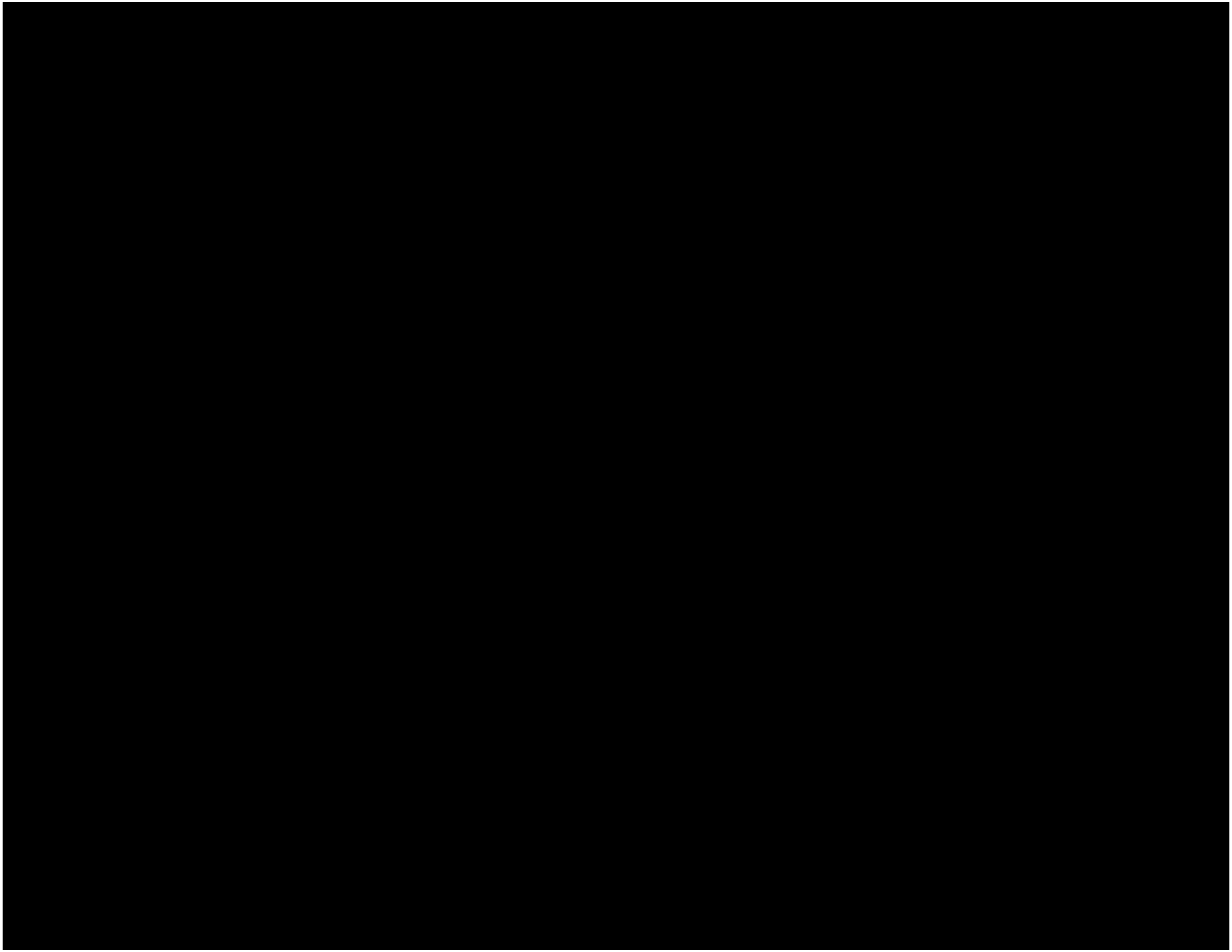
[redacted]

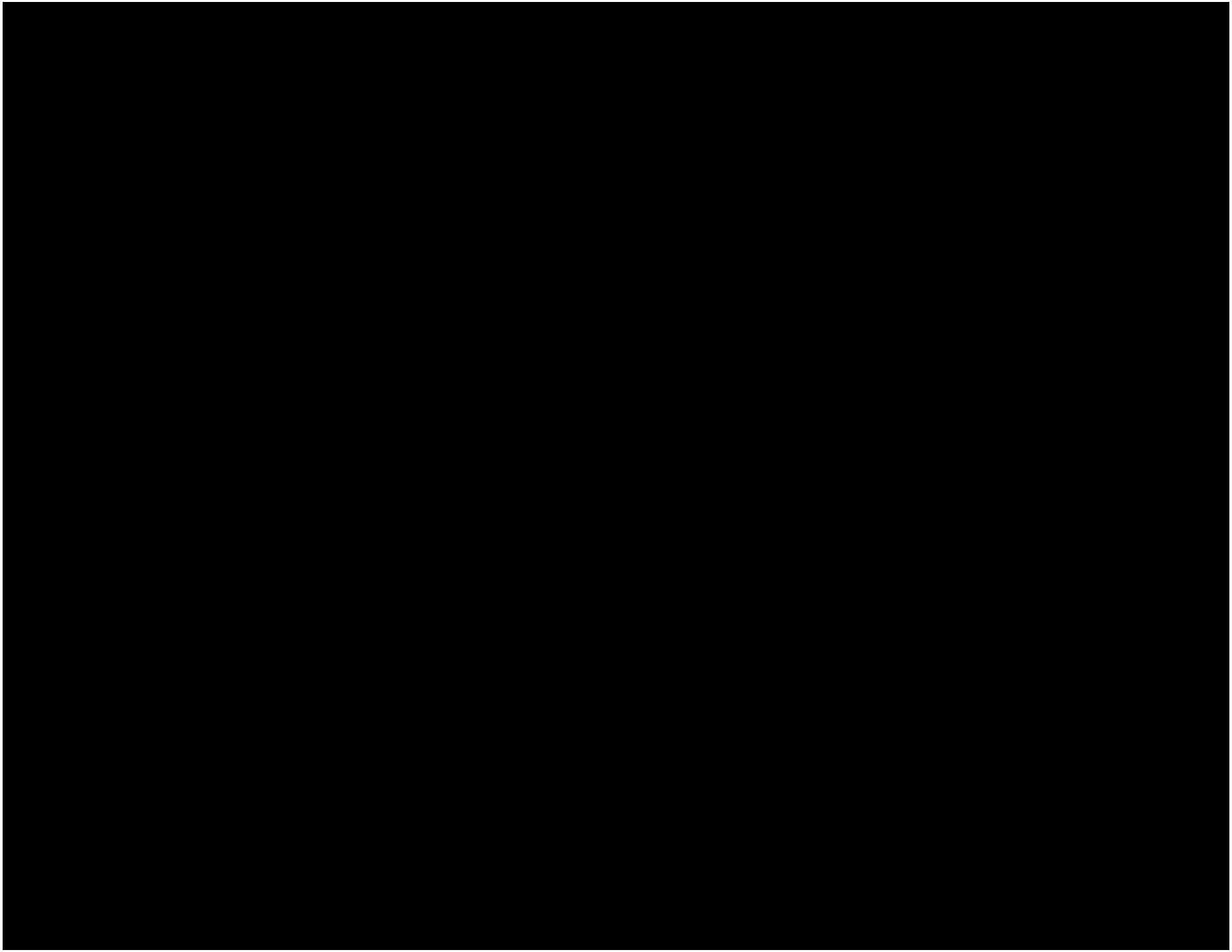
NOTICE TO PERSONS SUBJECT TO SUBPOENAS

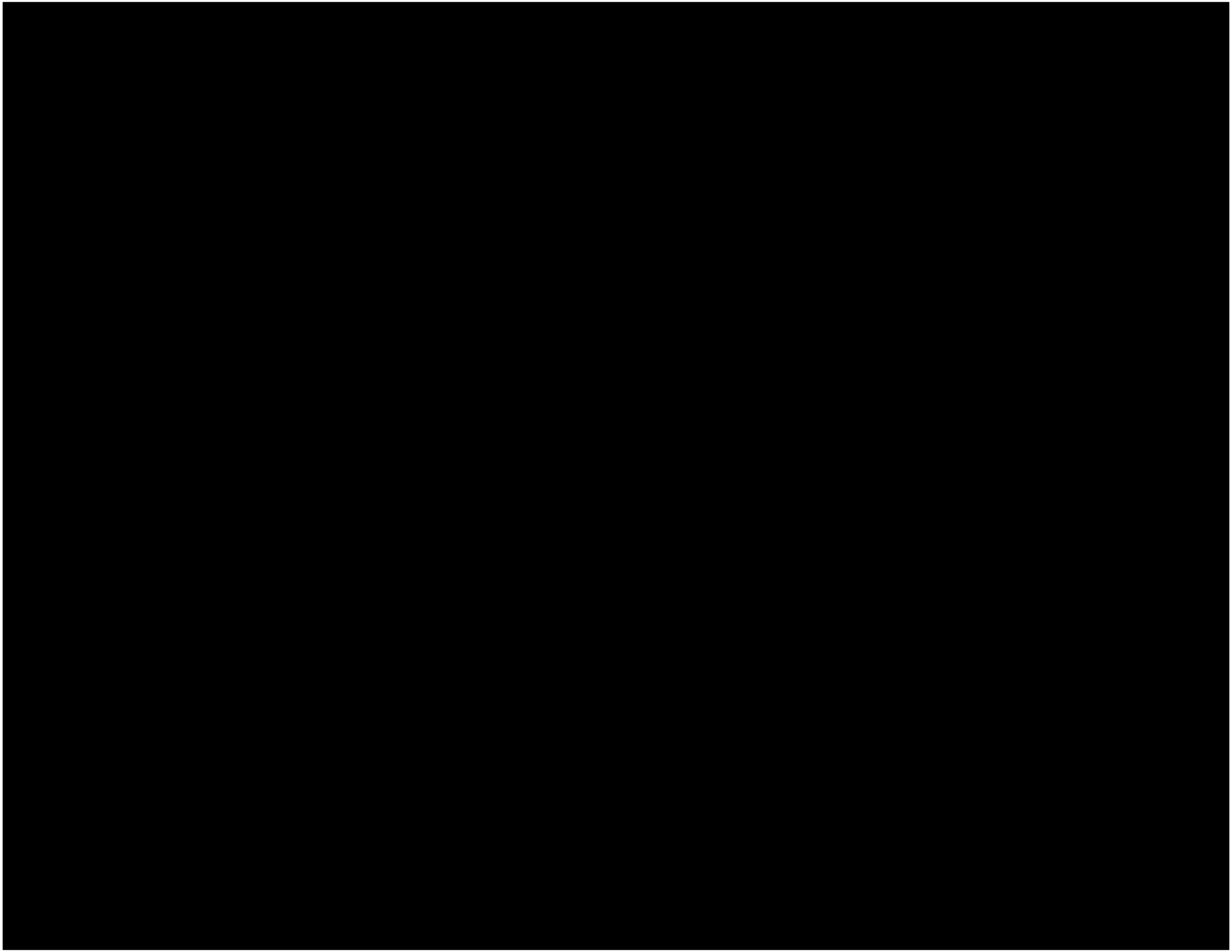
Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing. Ark. R. Civ. Proc. 45(d), Claims Commission Rule 3.2(d)

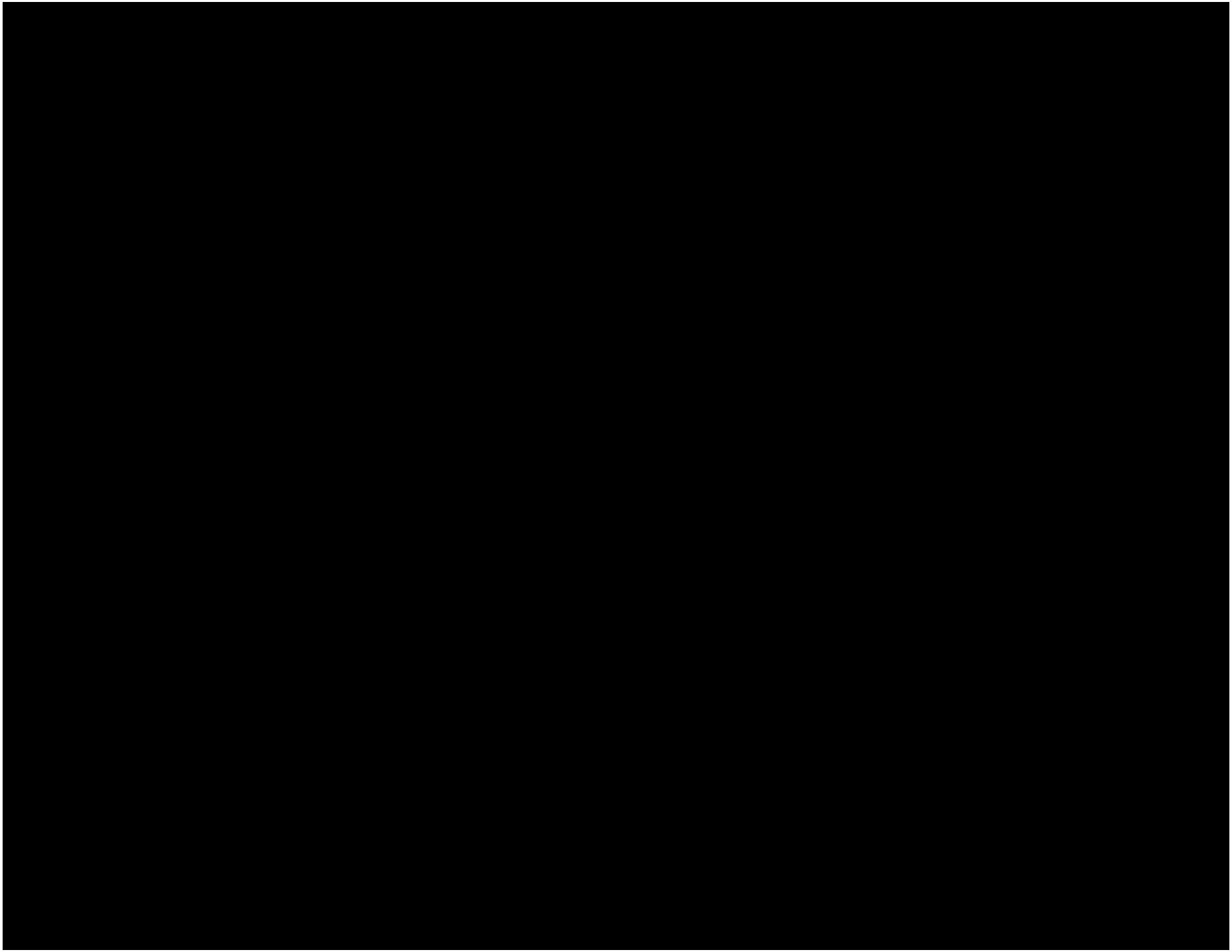
A witness subpoenaed in connection with a deposition must be properly served with a subpoena at least five business days prior to a deposition, or within a shorter time if the court so orders. The witness is required to attend a deposition at any place within 100 miles of where he or she resides, is employed, or transacts business in person, or at such other convenient place set by court order. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the deposition. Ark. R. Civ. Proc. 45(e), Claims Commission Rule 3.3

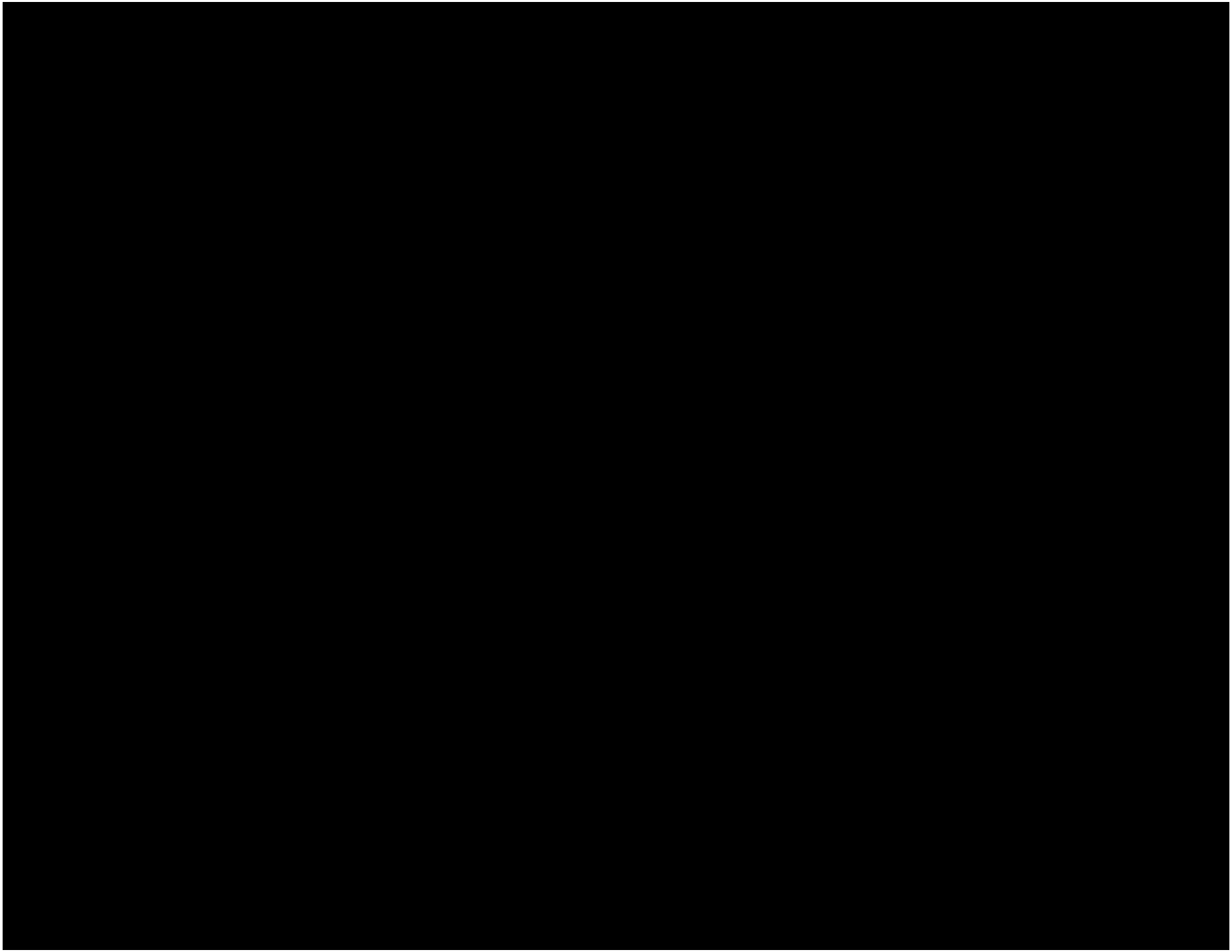
A subpoena may command the person to whom it is directed to produce for inspection any books, papers, documents, or tangible things designated in the subpoena. The person subpoenaed may ask the court to quash or modify the subpoena if it is unreasonable or oppressive or to require that the person on whose behalf the subpoena is issued pay the reasonable cost of such production. Ark. R. Civ. Proc. 45(b). The person subpoenaed may also object in writing to inspection or copying of any or all of the designated materials or seek a protective order from the Claims Commission. If a written objection is made within ten days of service of the subpoena or on or before the time specified for compliance if such time is less than ten days, the party causing the subpoena to be issued is not entitled to inspect the materials unless the court so orders. Ark. R. Civ. Proc. 45(e). When a witness fails to attend in obedience to a subpoena or intentionally evades the service of a subpoena by concealment or otherwise, the Claims Commission may enforce the subpoena pursuant to Ark. Code Ann. § 19-10-207(d).

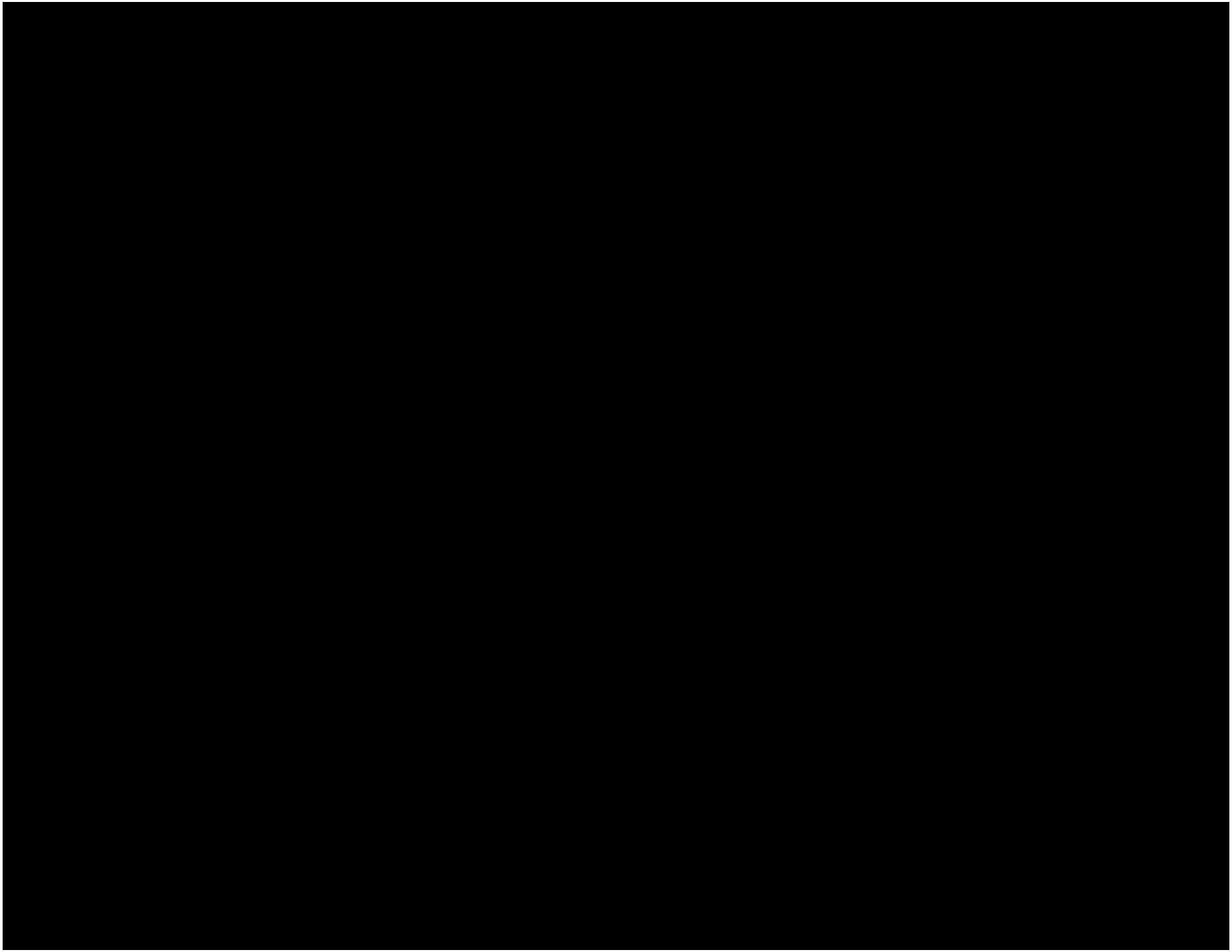












ARKANSAS CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF KADEY LYNN JONES, A MINOR CHILD — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES — RESPONDENT

AFFIDAVIT OF JENNIFER WILKERSON

Comes now Jennifer Wilkerson, and for her Affidavit, states:

1. My name is Jennifer Wilkerson. I reside a [redacted] My date of birth is [redacted] I am over the age of 18 and am mentally competent to make this affidavit.

2. I was traveling from Paris to Beebe on June 11, 2021, on State Highway 22.

3. I was involved in a car accident in which my vehicle rear-ended another car and then spun into a tractor trailer rig that was transporting a modular home.

4. I was traumatized by the event because both personal automobiles were totaled from the wreck. Attached as Exhibit 1 is a photo of the car I was driving.

5. The investigating officers asked me at the scene what happened, and he wrote down my statement.

6. Attached as Exhibit 2 is a copy of the Witness Statement which reflects what I told the officers.

7. The following week, I was given a series of questions by Kristen Shelton who is a DHS official in Clarksville investigating the circumstances of the car wreck.



8. Attached is Exhibit 3 is my handwritten response to the series of questions about what happened in the wreck.

9. I do not recall any additional details about this collision other than the information contained in the statements that I have previously provided in Exhibits 2 and 3.

Further Affiant saveth not

Jennifer Wilkerson

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF)

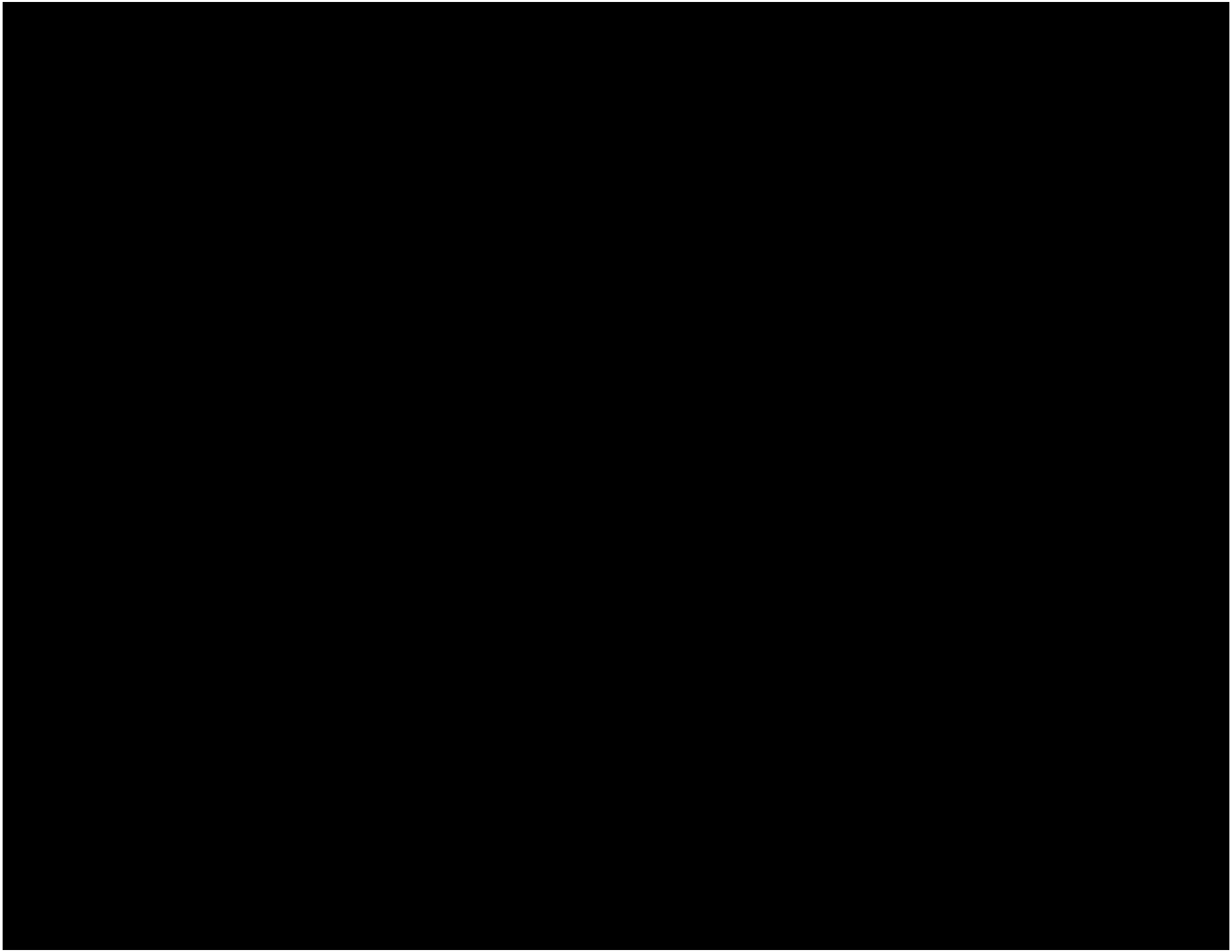
SUBSCRIBED AND SWORN to before me, a Notary Public, on this ___ day of _____, 2023.

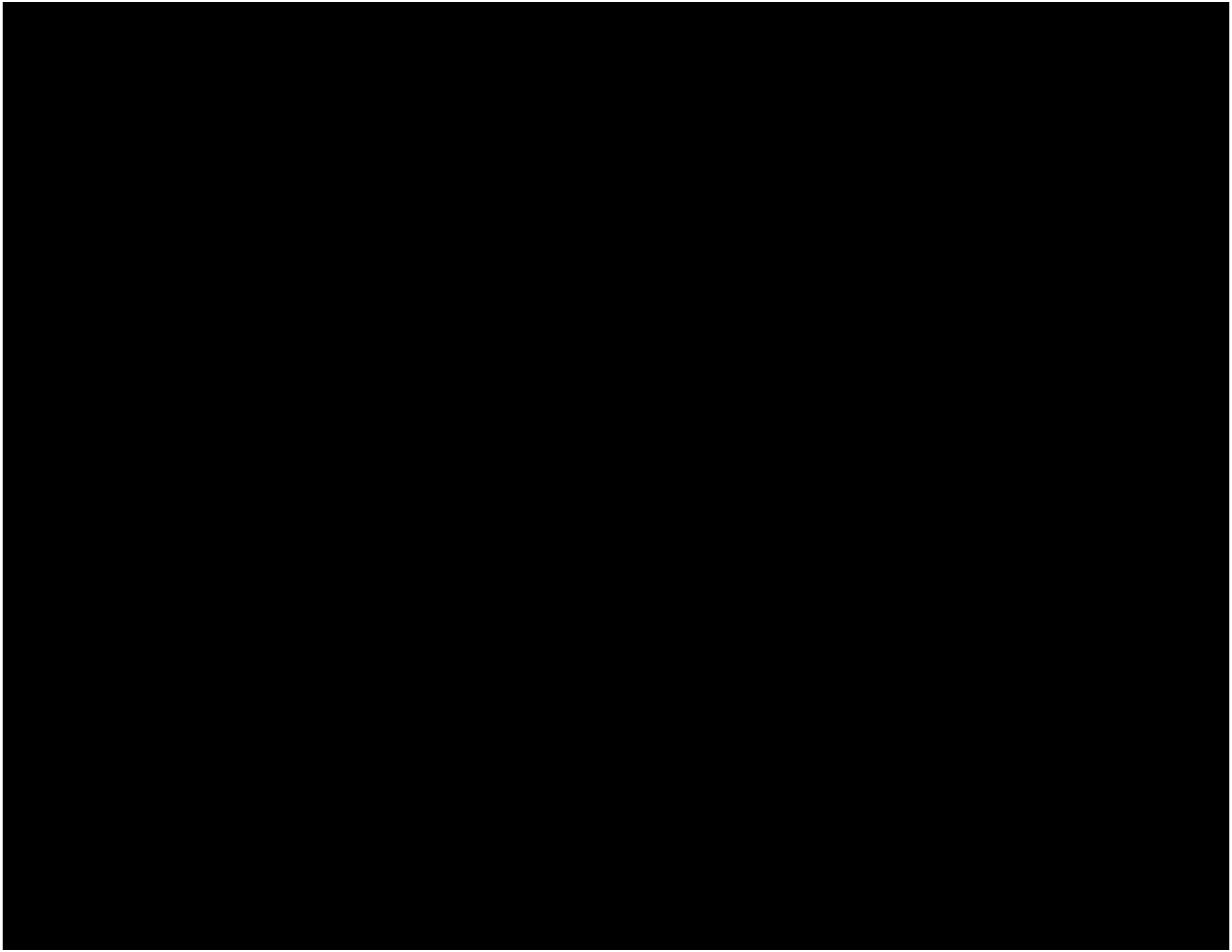
NOTARY PUBLIC

My Commission Expires:

_____

SEAL





F.2

3352

JACKSON
LAW FIRM

July 25, 2023

Ms. Jennifer L. Wilkerson
[redacted]

Re: Incident Date: 6/11/2021 - Logan County

Dear Jennifer:

I hope this letter finds you doing well. I am an attorney representing the family involved in the wreck. We have a hearing before the Arkansas Claims Commission this fall.

I am enclosing an Affidavit for you to review. If the Affidavit is true and correct, please sign it in front of a Notary Public and return it to my office in the enclosed self-addressed, pre-stamped envelope. A Notary Public can be found at your bank, your insurance office or at the courthouse.

IF ANY CHANGES NEED TO BE MADE TO MAKE THIS A TRUTHFUL AFFIDAVIT, PLEASE E-MAIL ME IMMEDIATELY WITH THE LINE NUMBER AND THE CHANGE AND WE WILL MAKE IT IMMEDIATELY.

Please call me at (501) 823-3610 with any questions or suggestions. My e-mail address is *Jim@JimJacksonAtty.com*.

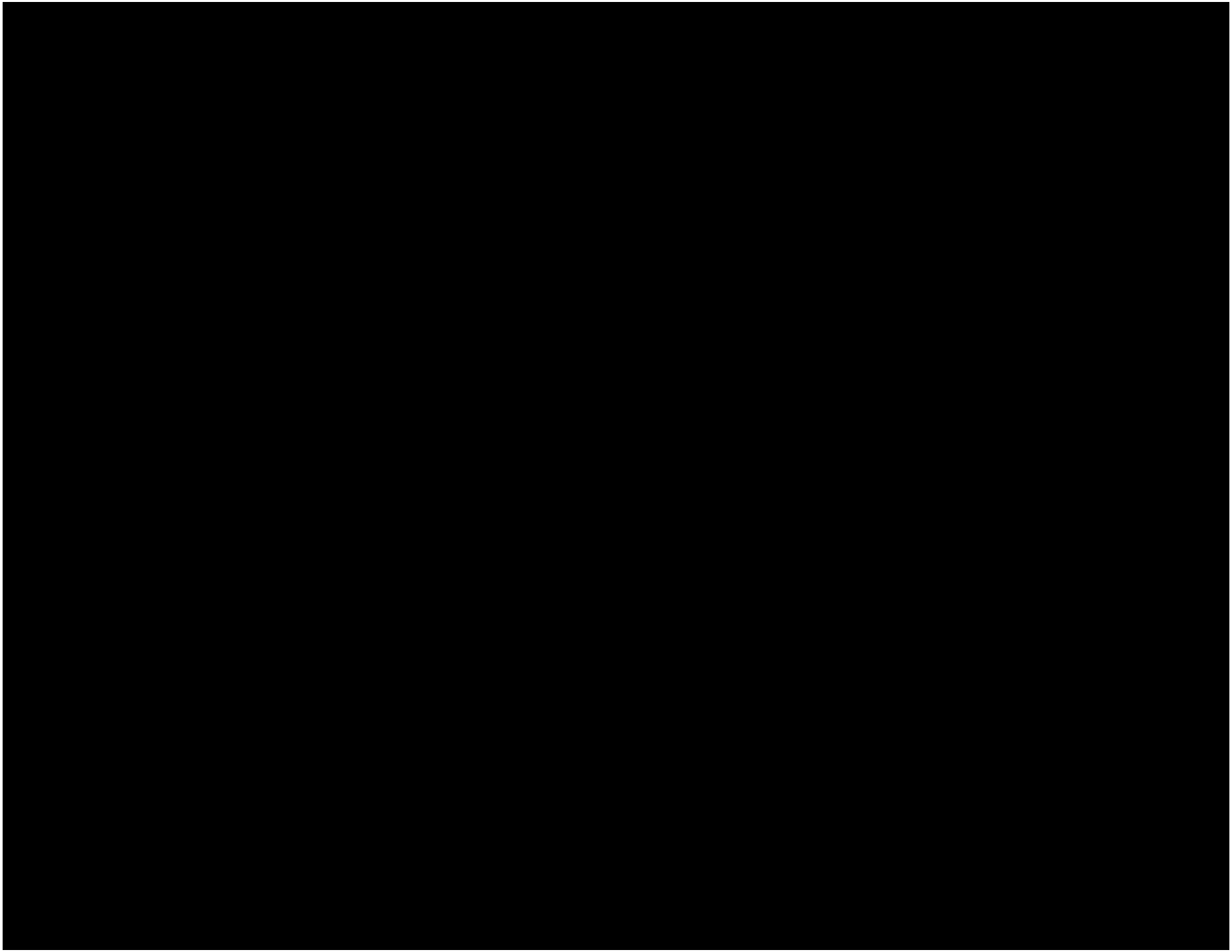
Sincerely,

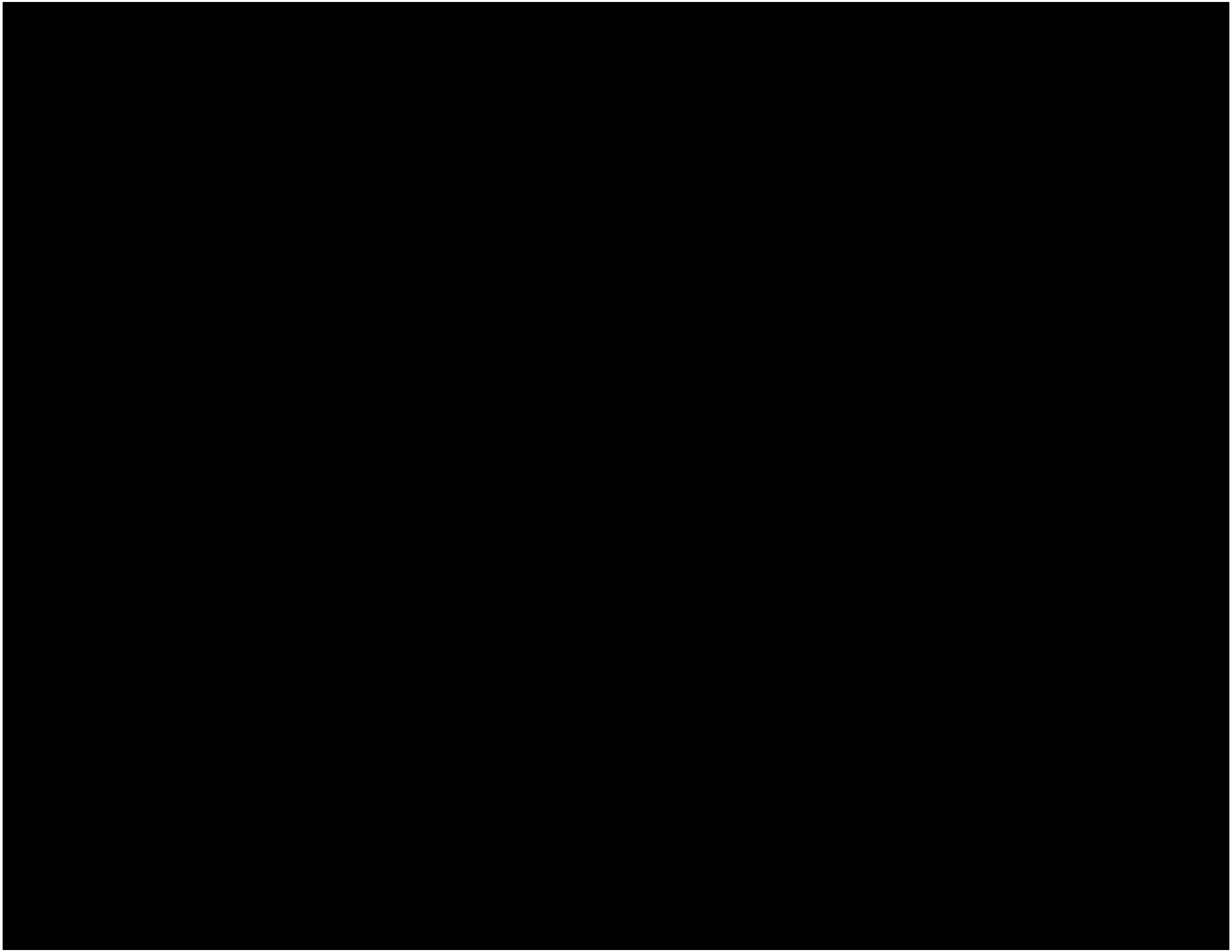
Jim R. Jackson

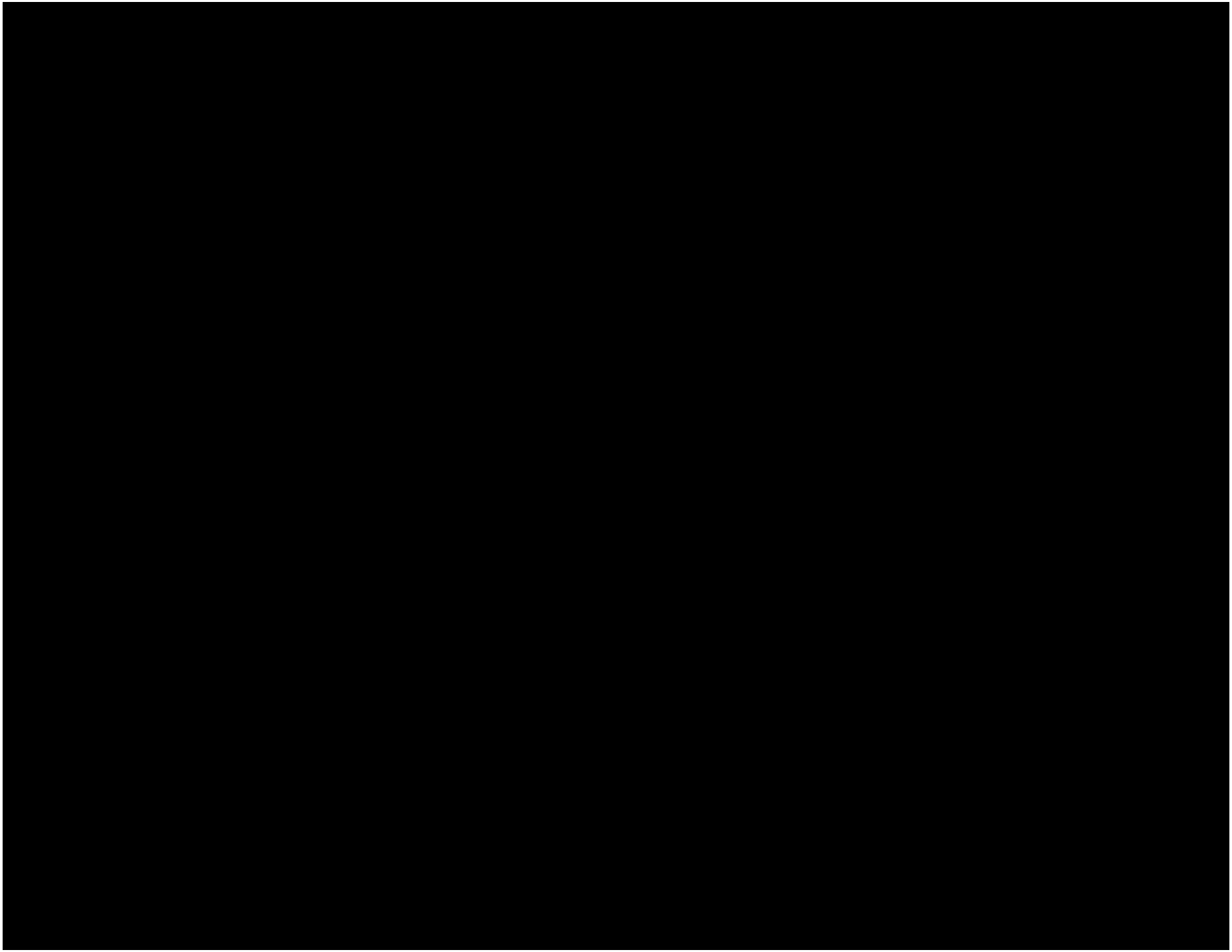
JRJ/mc
Enclosure

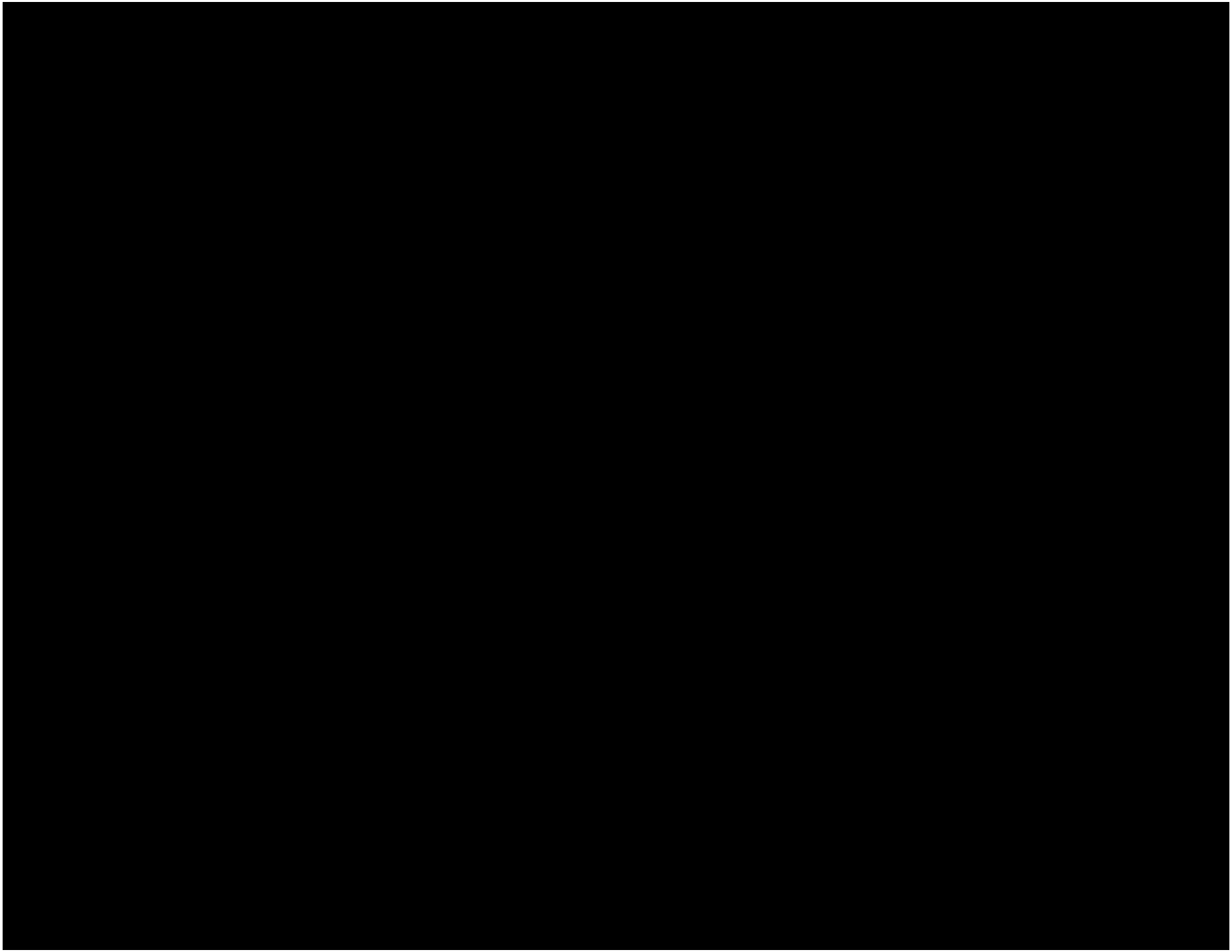
EXHIBIT
WIT:
DATE:
Tammie L. Foreman

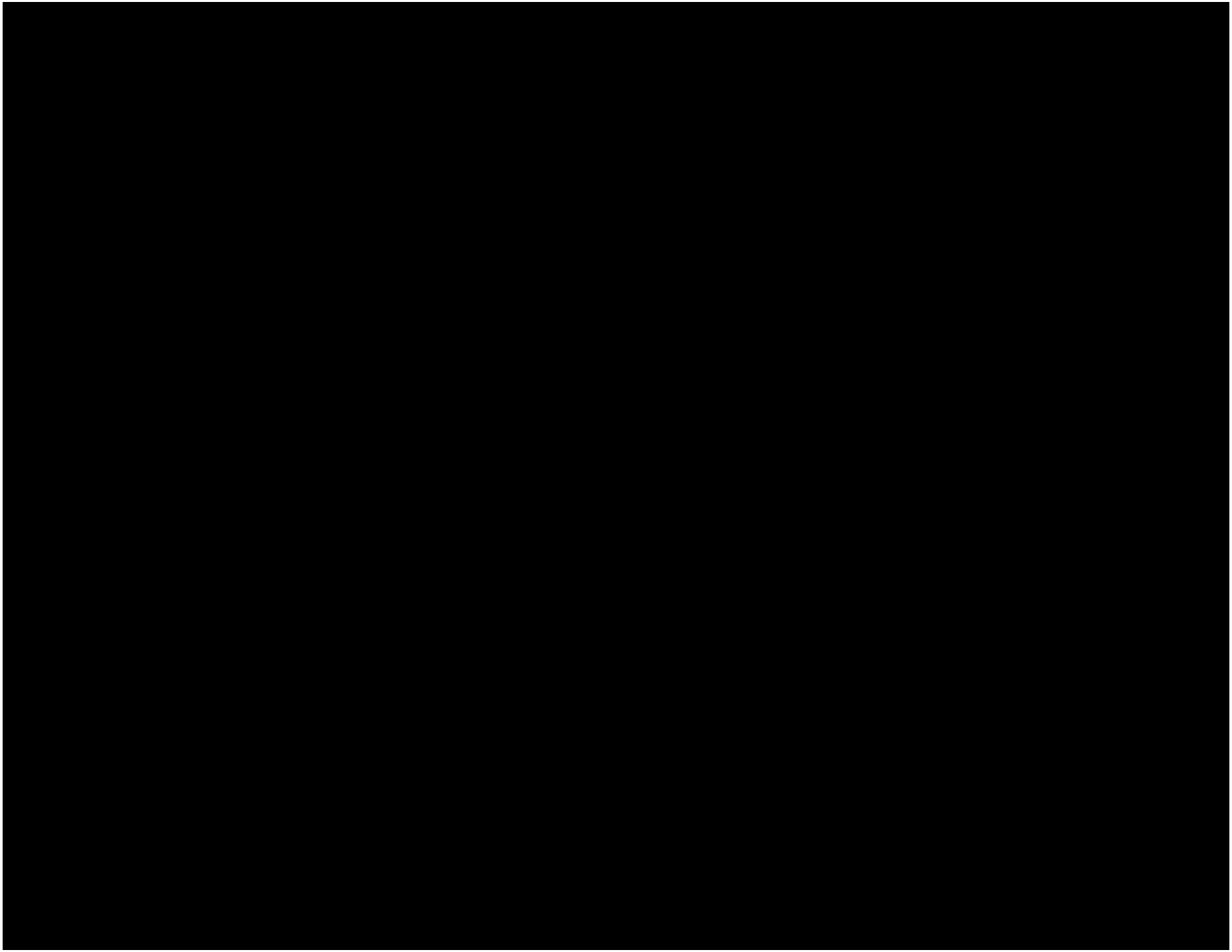
JIM JACKSON // Attorney at Law
700 W. Broadway Street; Suite 200
North Little Rock, AR 72114-5528
501.823.3610
Fax 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

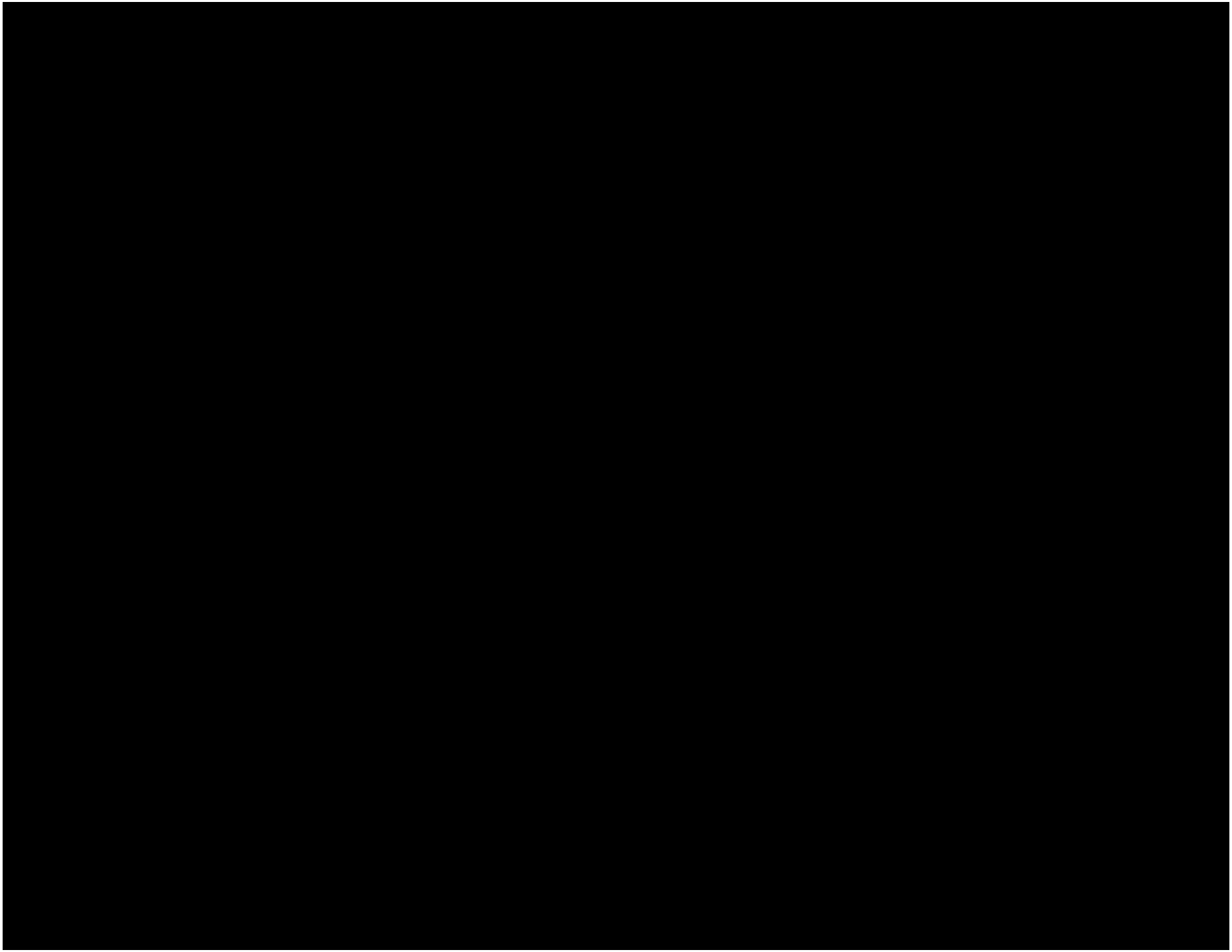


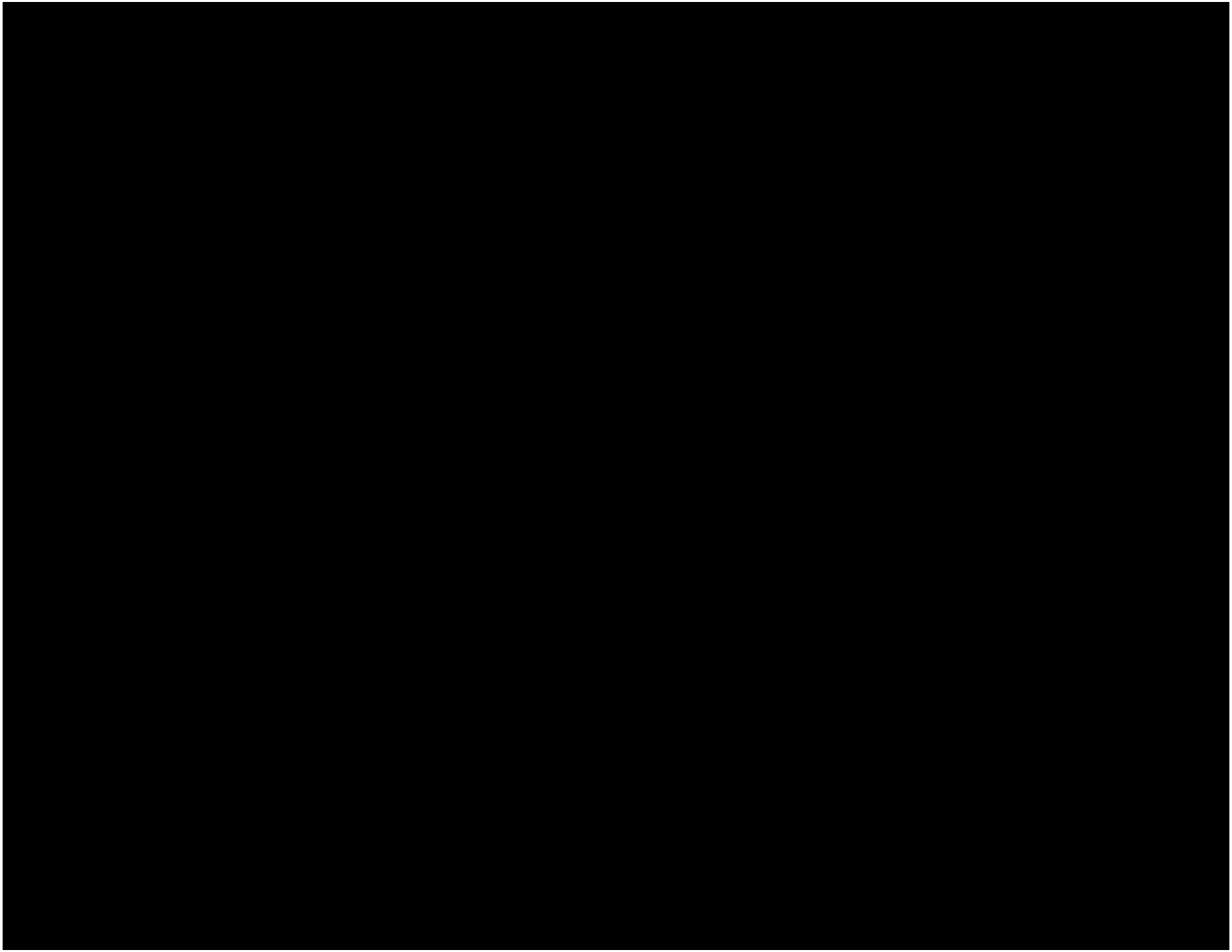


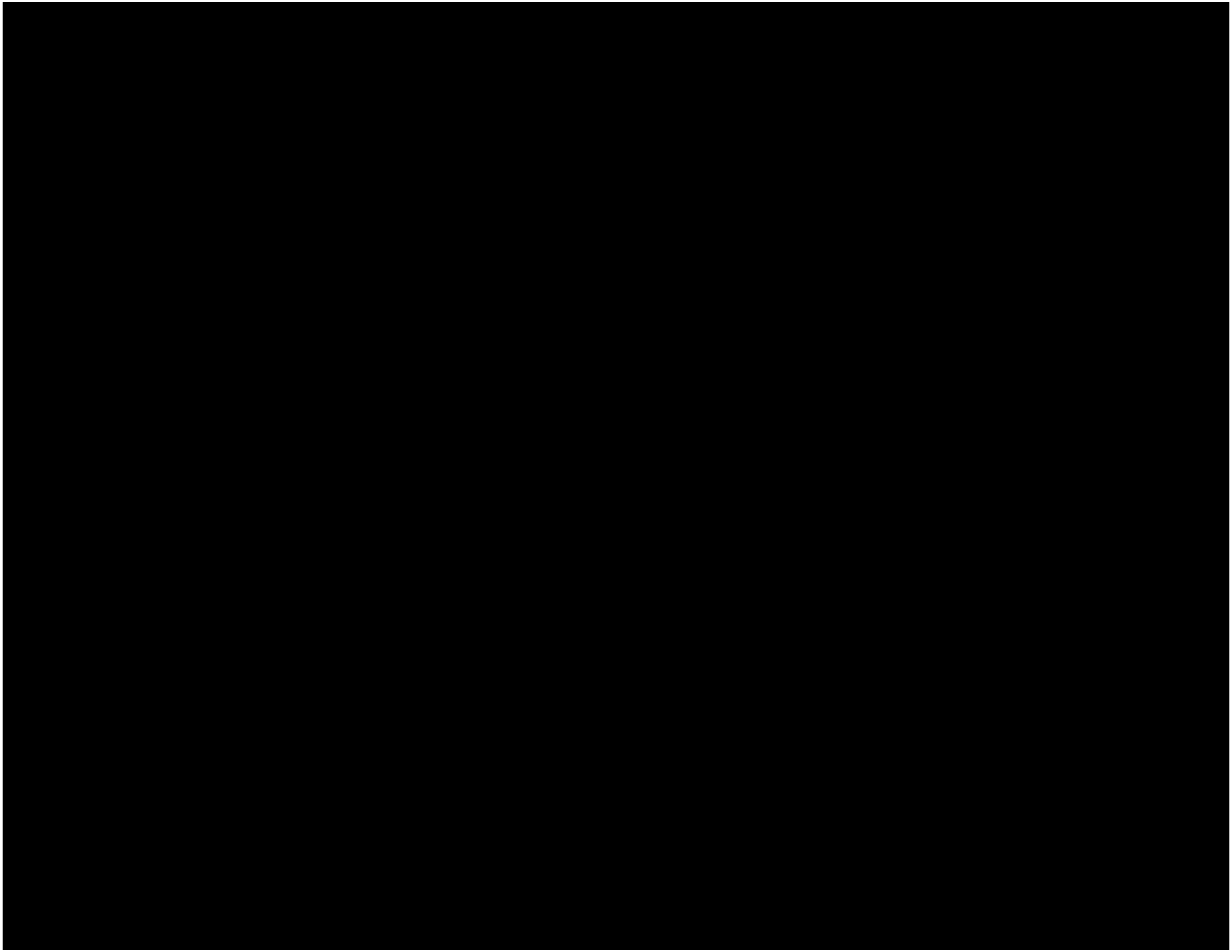


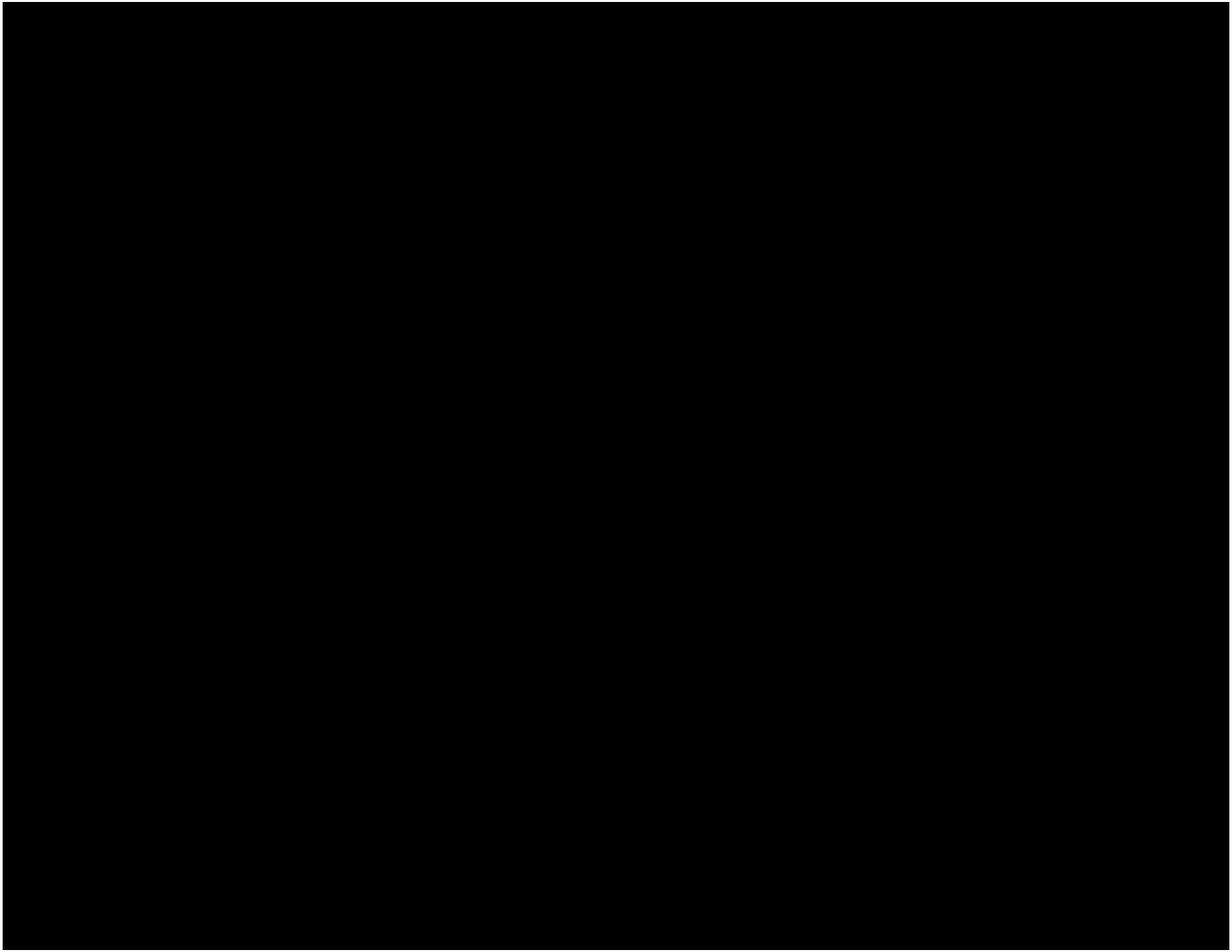


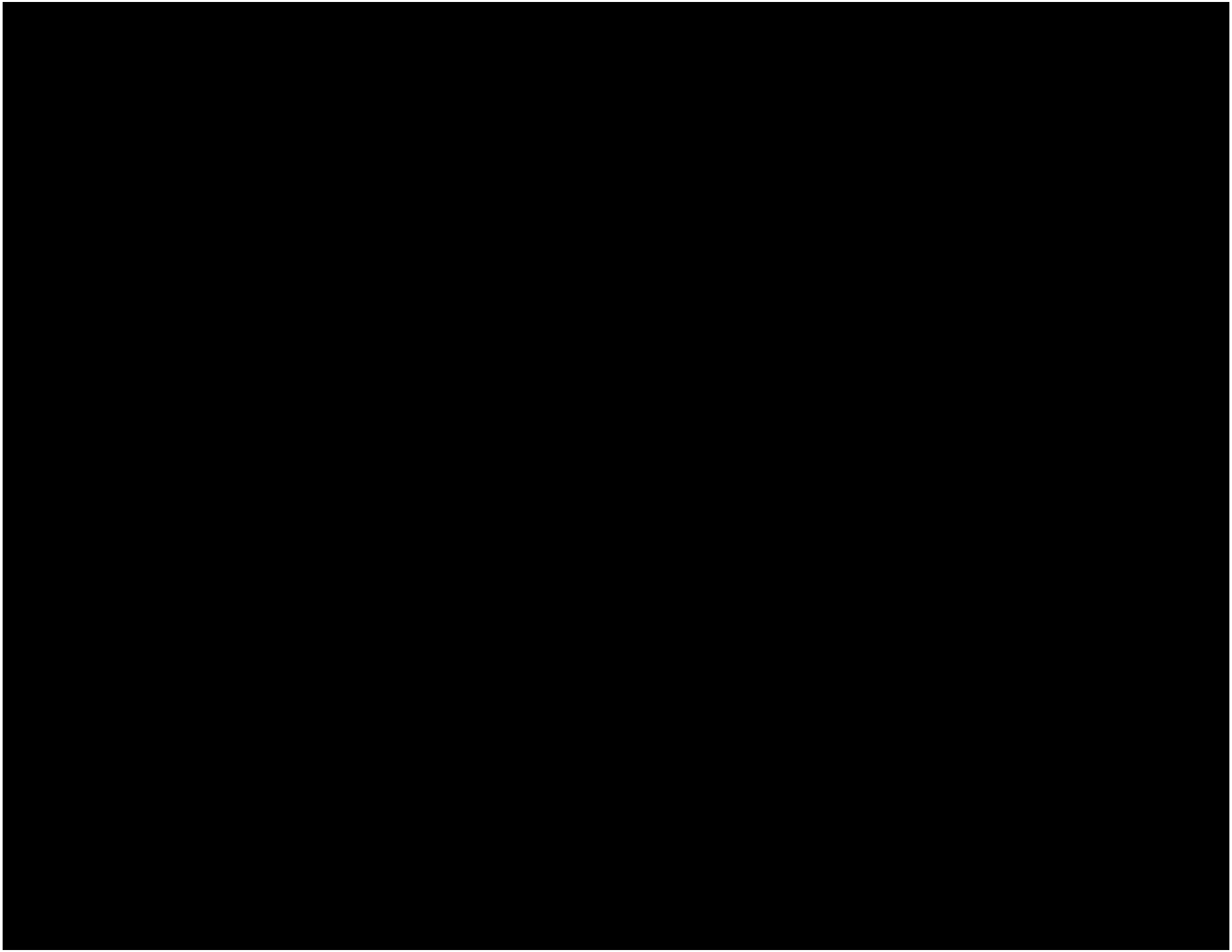


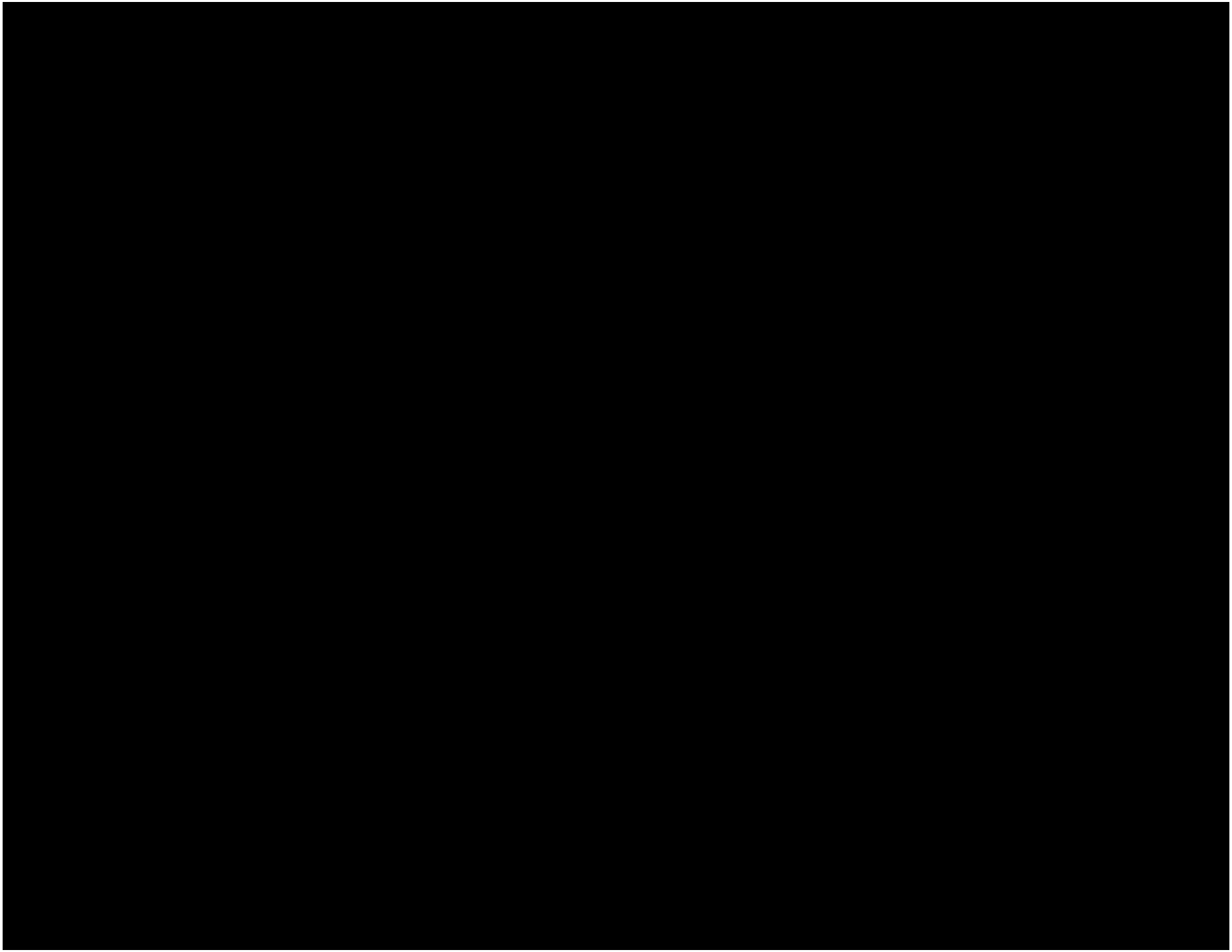


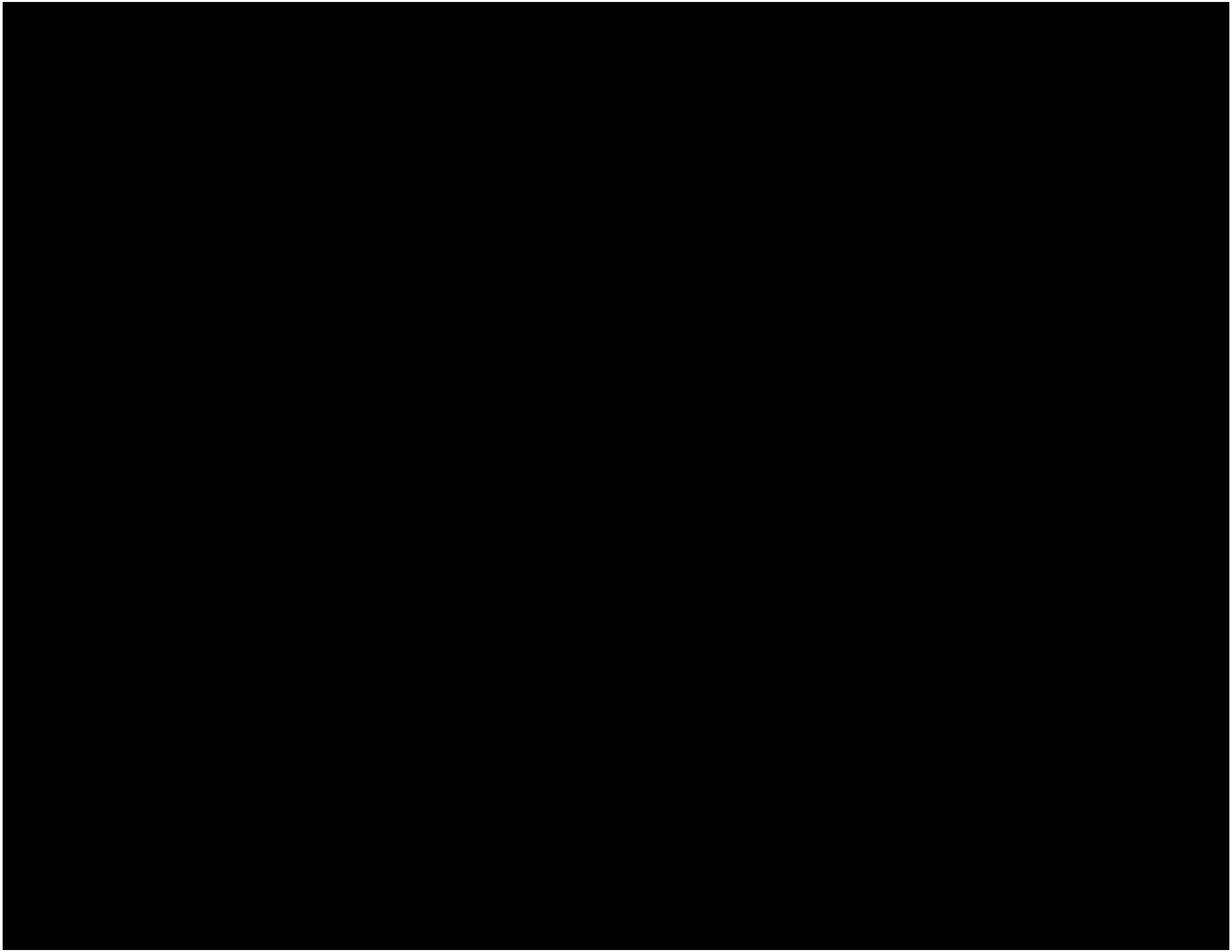


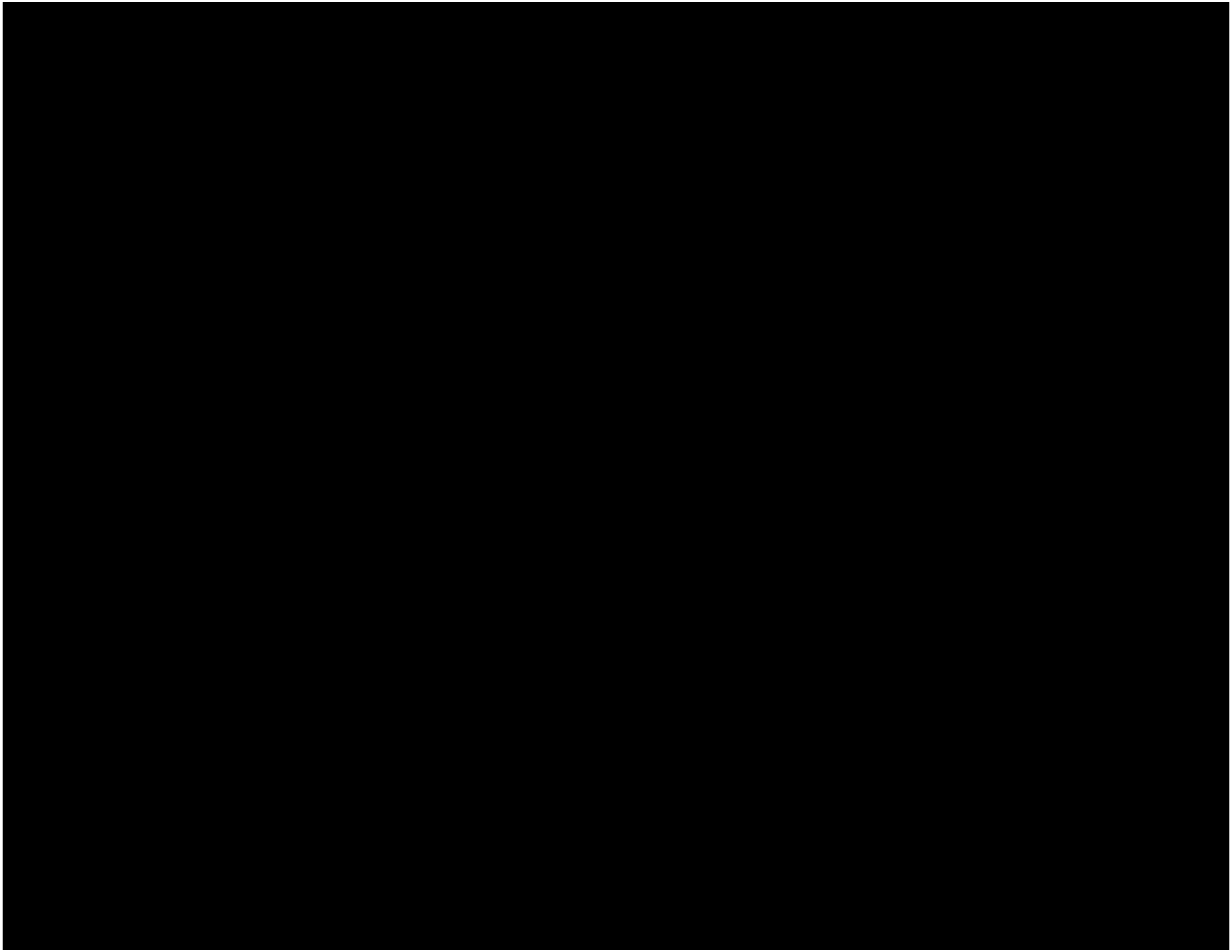


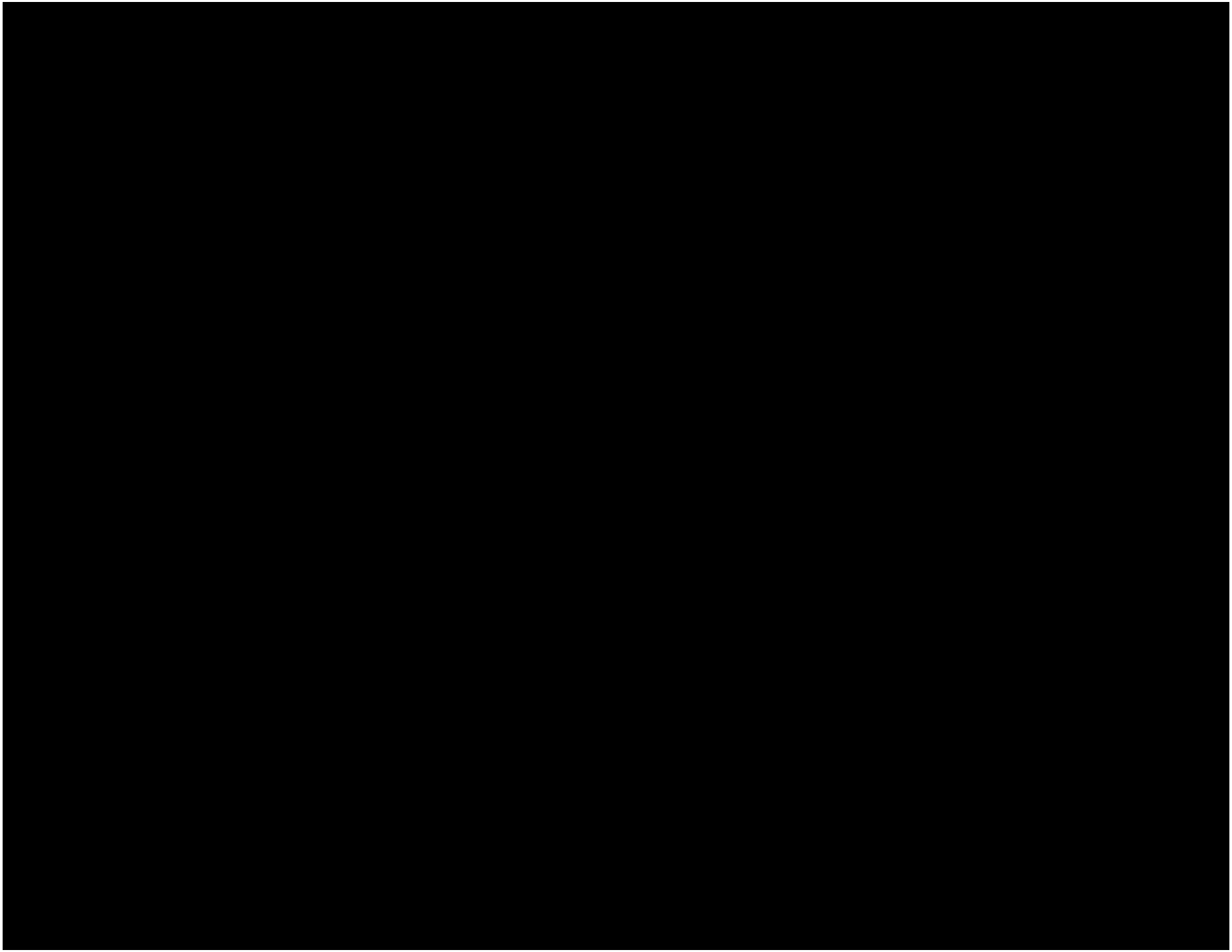


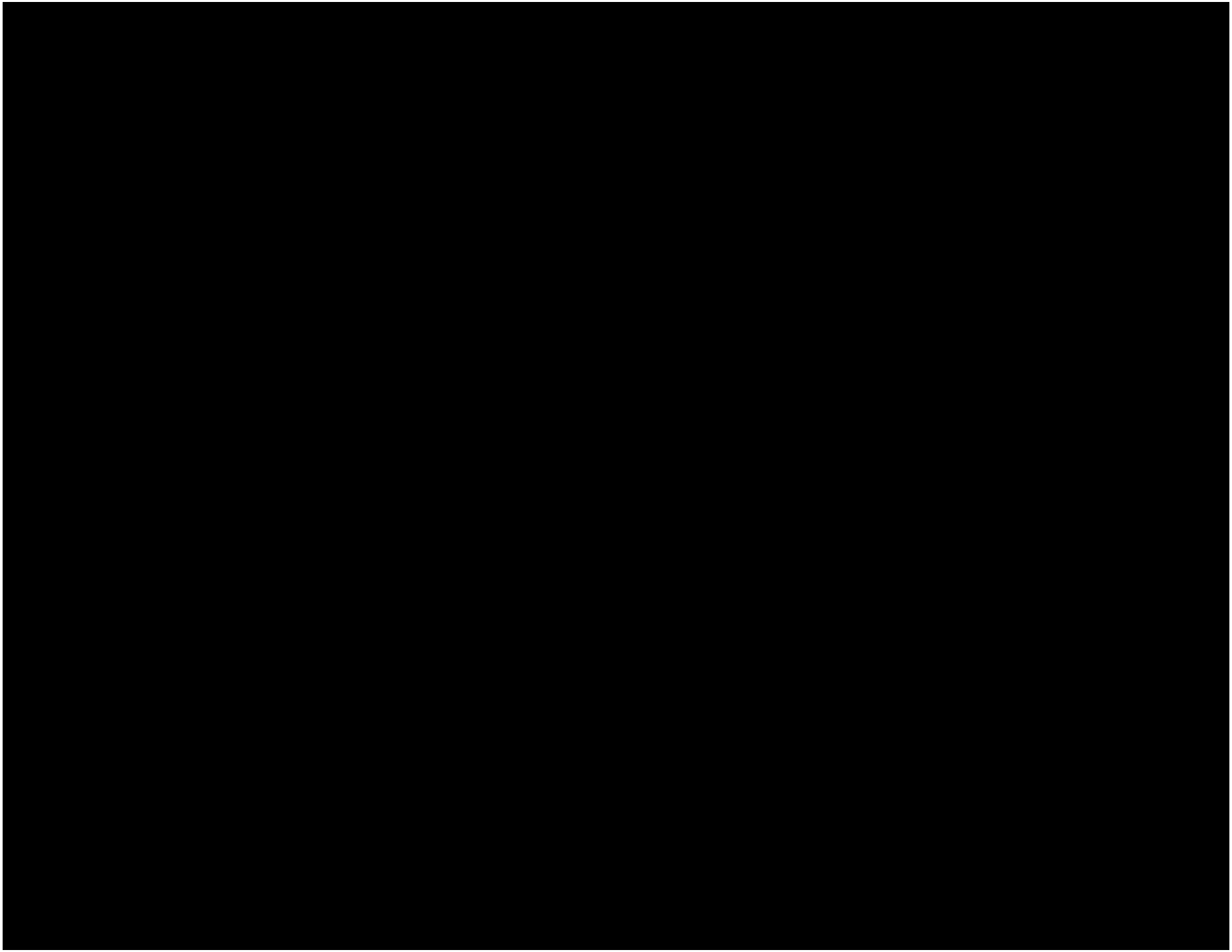


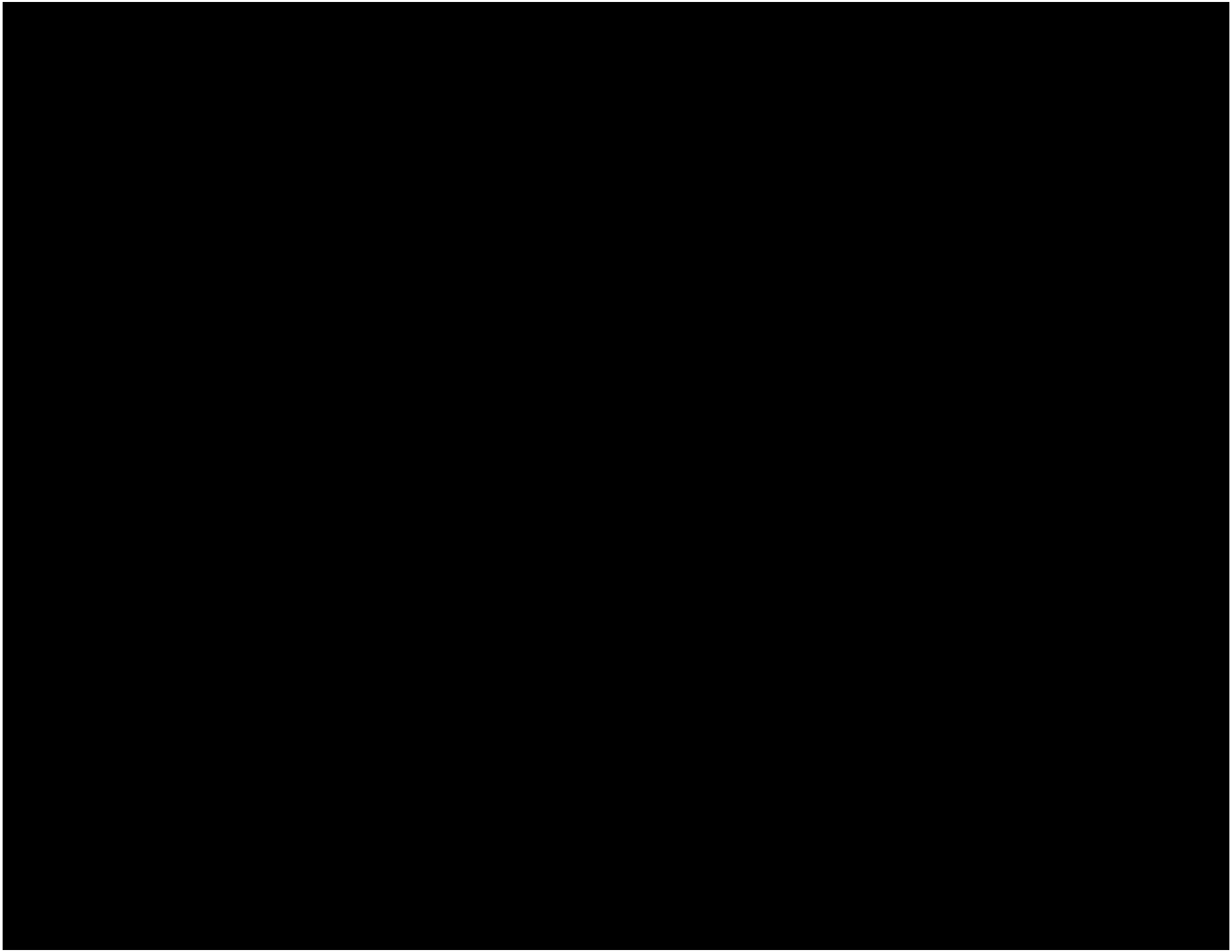


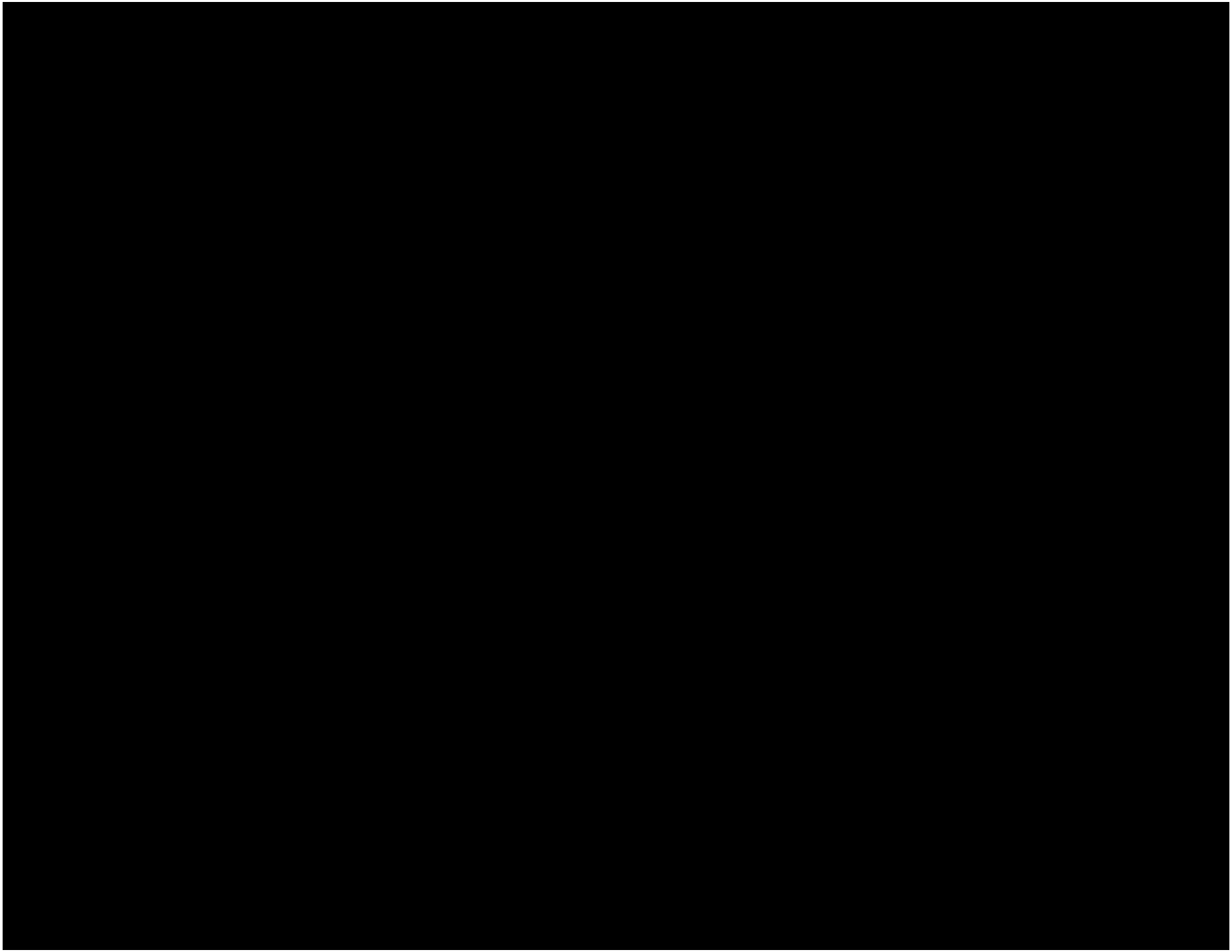


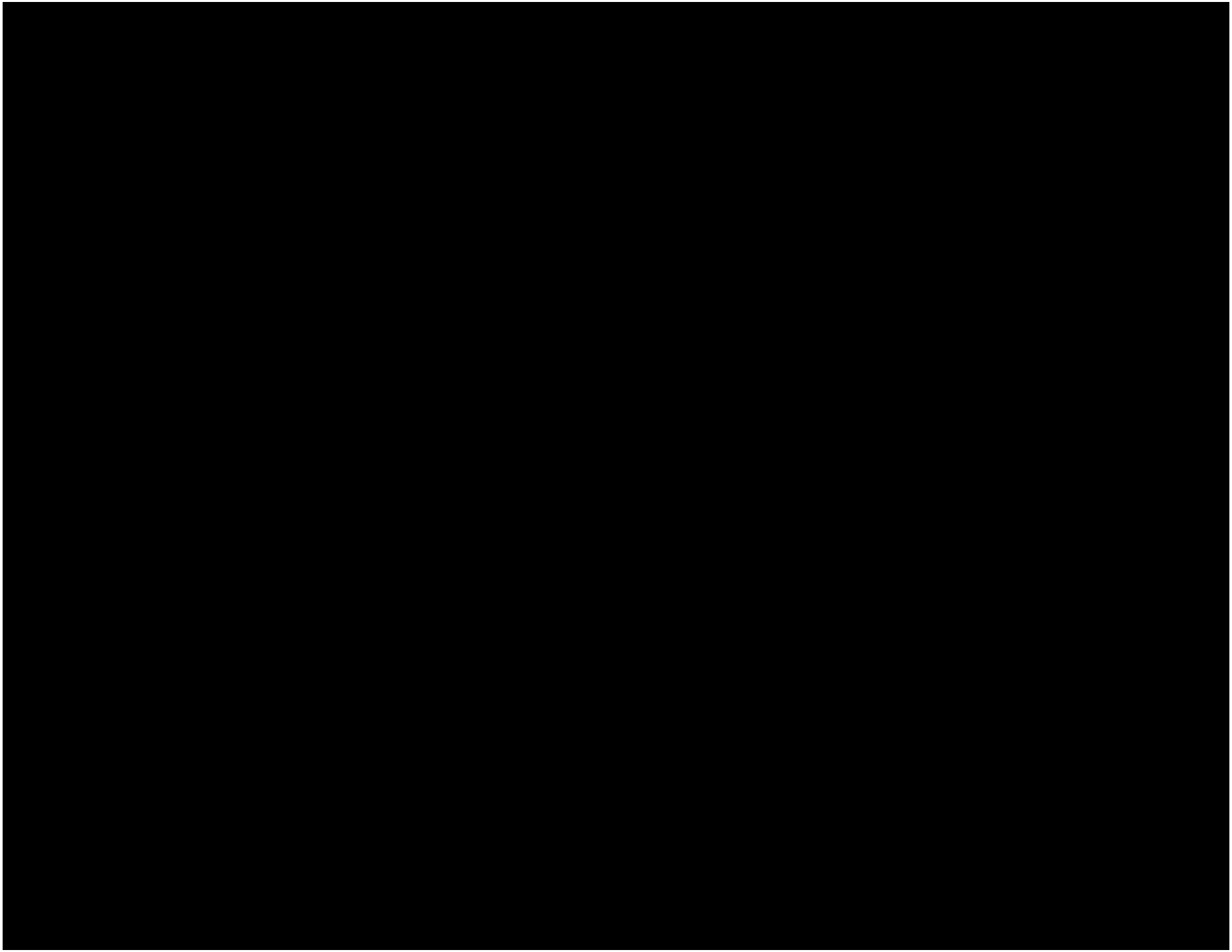


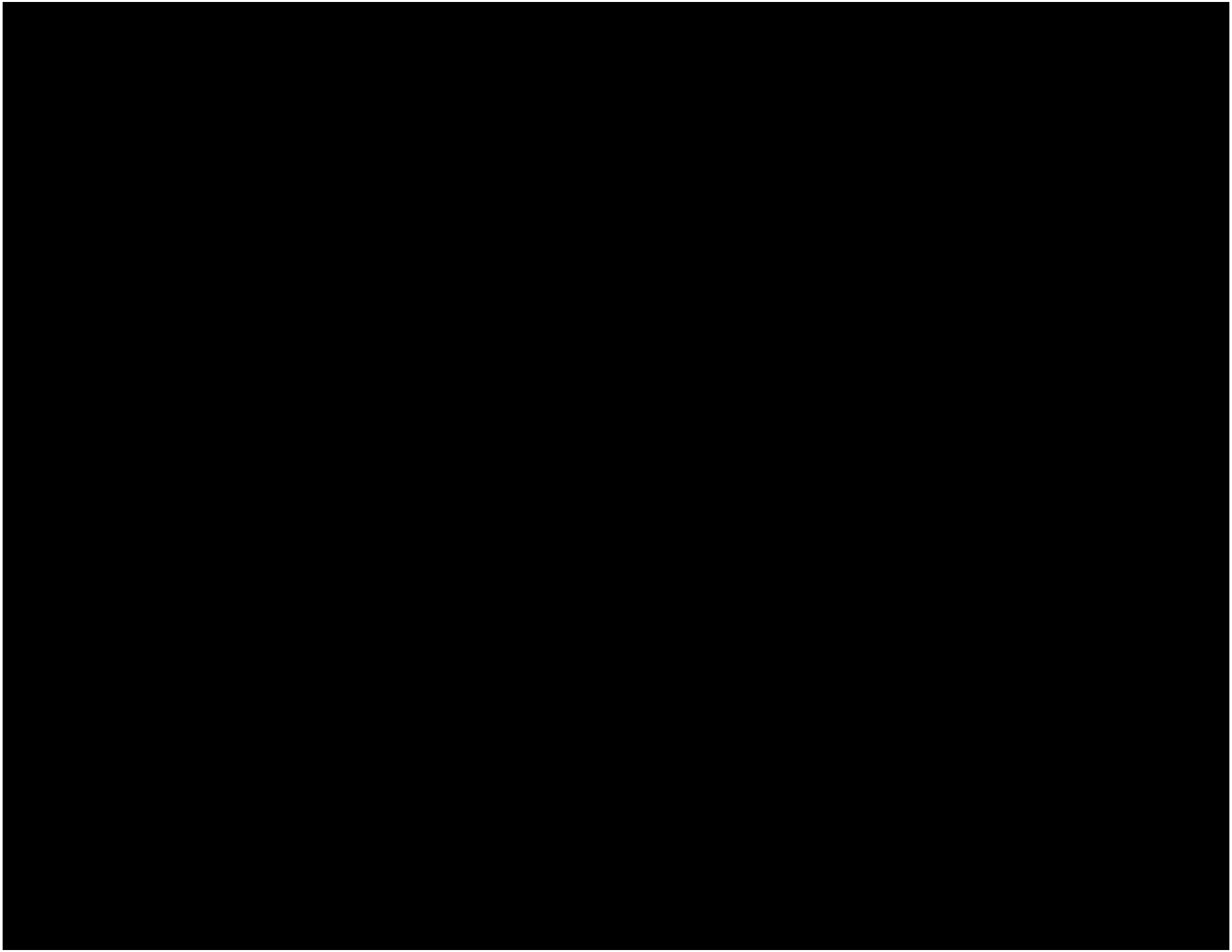


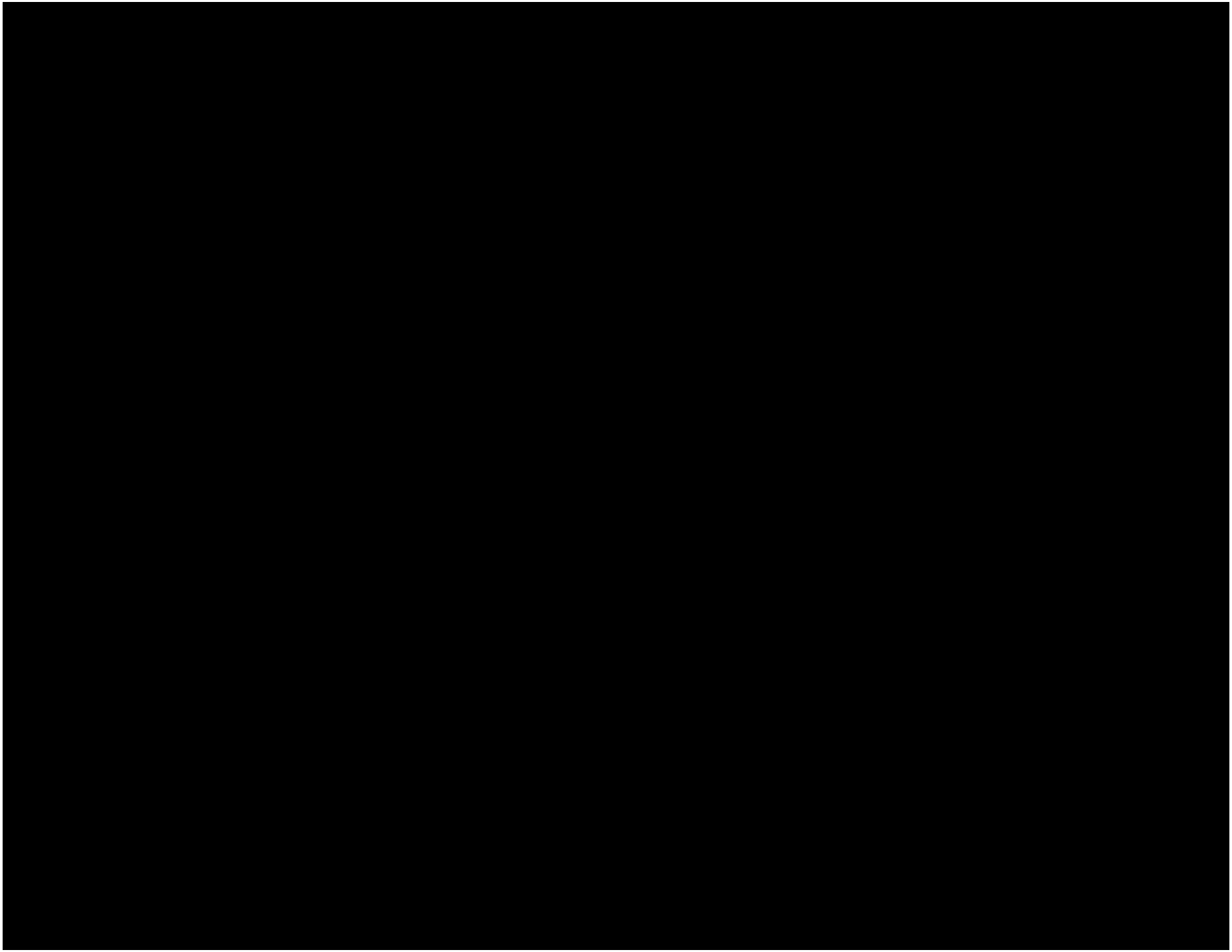


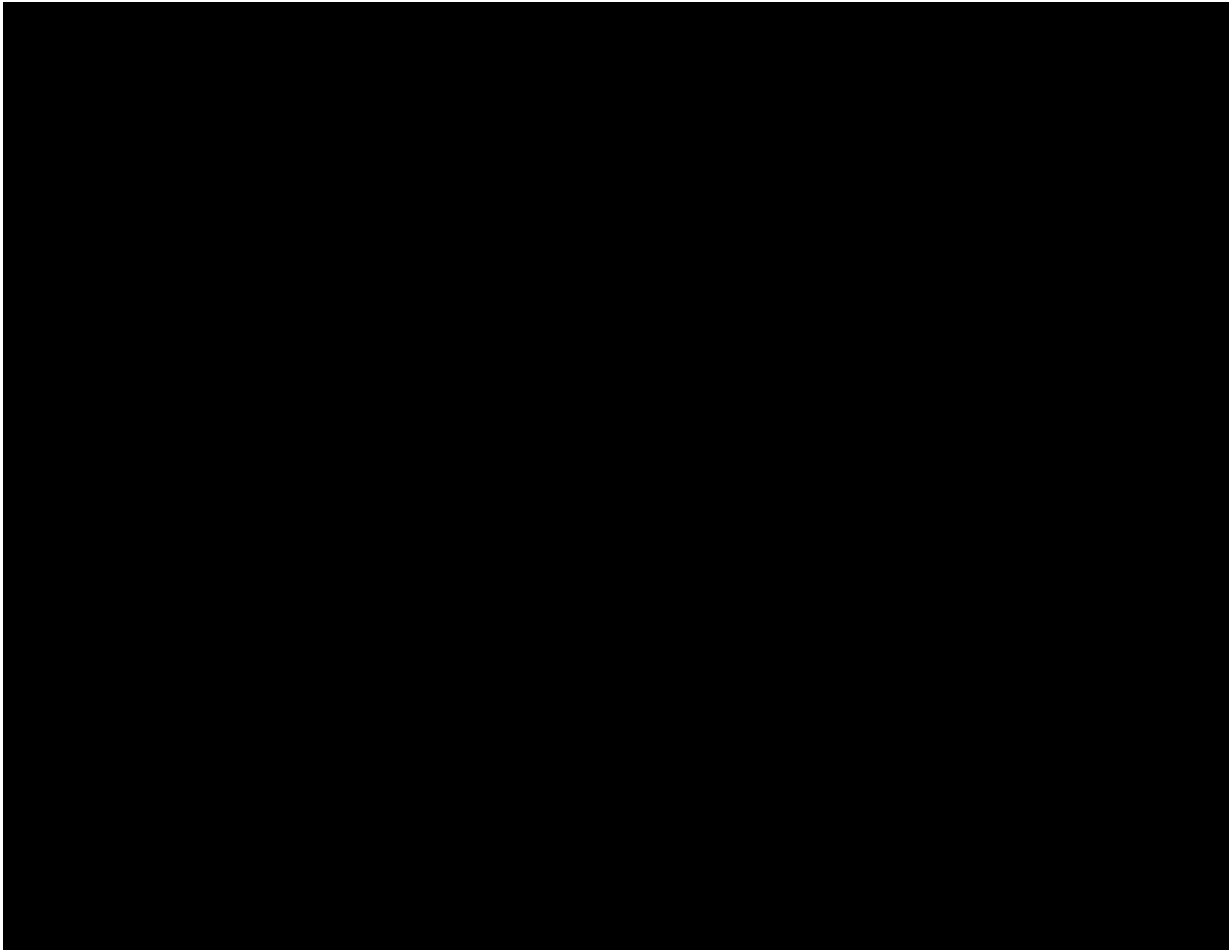












ARKANSAS CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted]A MINOR CHILD — CLAIMANT

VS. CC NO. 230641

ARKANSAS DEPARTMENT OF HUMAN SERVICES — RESPONDENT

AFFIDAVIT OF JENNIFER WILKERSON

Comes now Jennifer Wilkerson, and for her Affidavit, states:

1. My name is Jennifer Wilkerson. I reside at [redacted] My date of birth i[redacted] I am over the age of 18 and am mentally competent to make this affidavit.

2. I was traveling from Paris to Beebe on June 11, 2021, on State Highway 22.

3. I was involved in a car accident in which my vehicle rear-ended another car and then spun into a tractor trailer rig that was transporting a modular home.

4. I was traumatized by the event because both personal automobiles were totaled from the wreck. Attached as Exhibit 1 is a photo of the car I was driving.

5. The investigating officers asked me at the scene what happened, and he wrote down my statement.

6. Attached as Exhibit 2 is a copy of the Witness Statement which reflects what I told the officers.

7. The following week, I was given a series of questions by Kristen Shelton who is a DHS official in Clarksville investigating the circumstances of the car wreck.

8. Attached is Exhibit 3 is my handwritten response to the series of questions about what happened in the wreck.

9. I do not recall any additional details about this collision other than the information contained in the statements that I have previously provided in Exhibits 2 and 3.

Further Affiant sayeth not

Jennifer Wilkerson

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF _____)

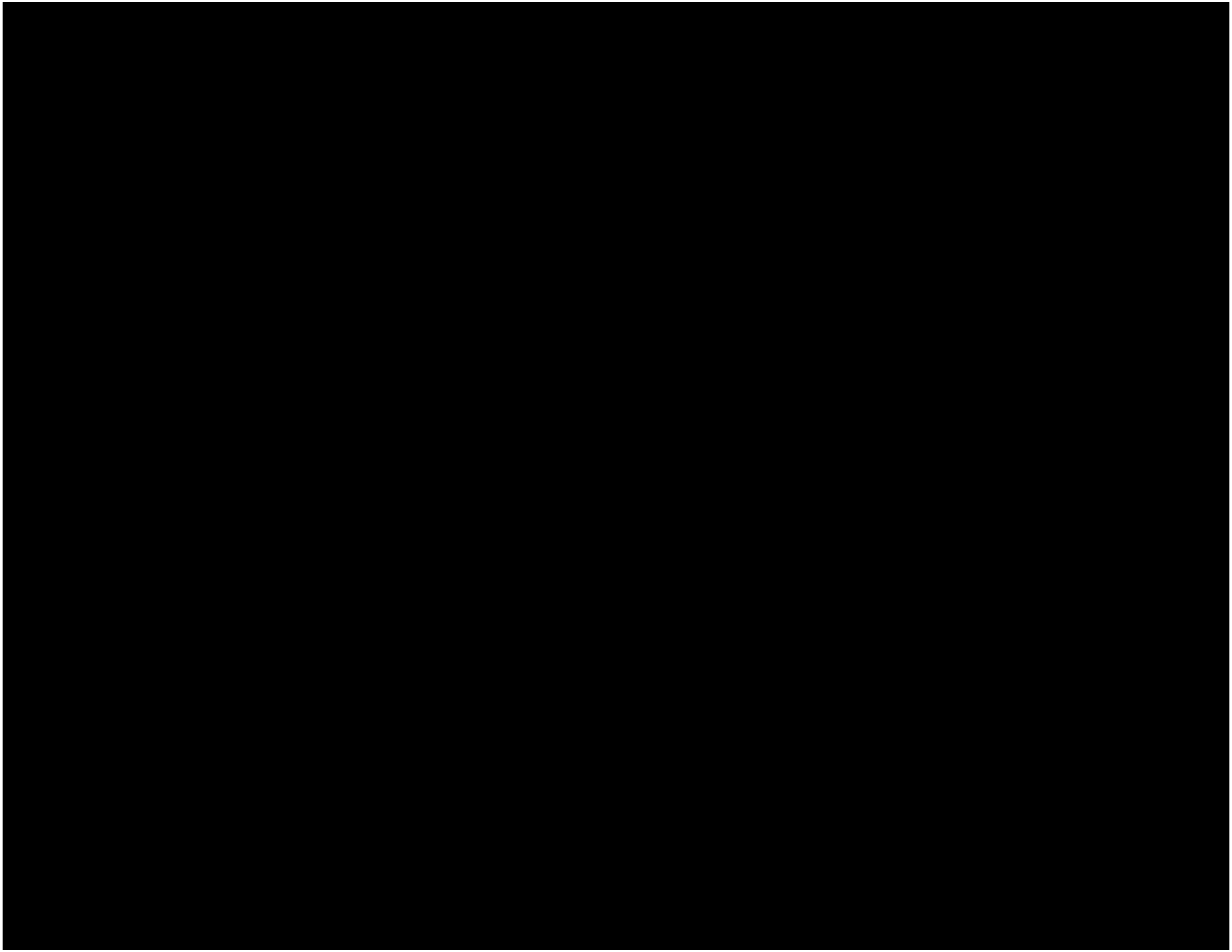
SUBSCRIBED AND SWORN to before me, a Notary Public, on this ___ day of _____, 2023.

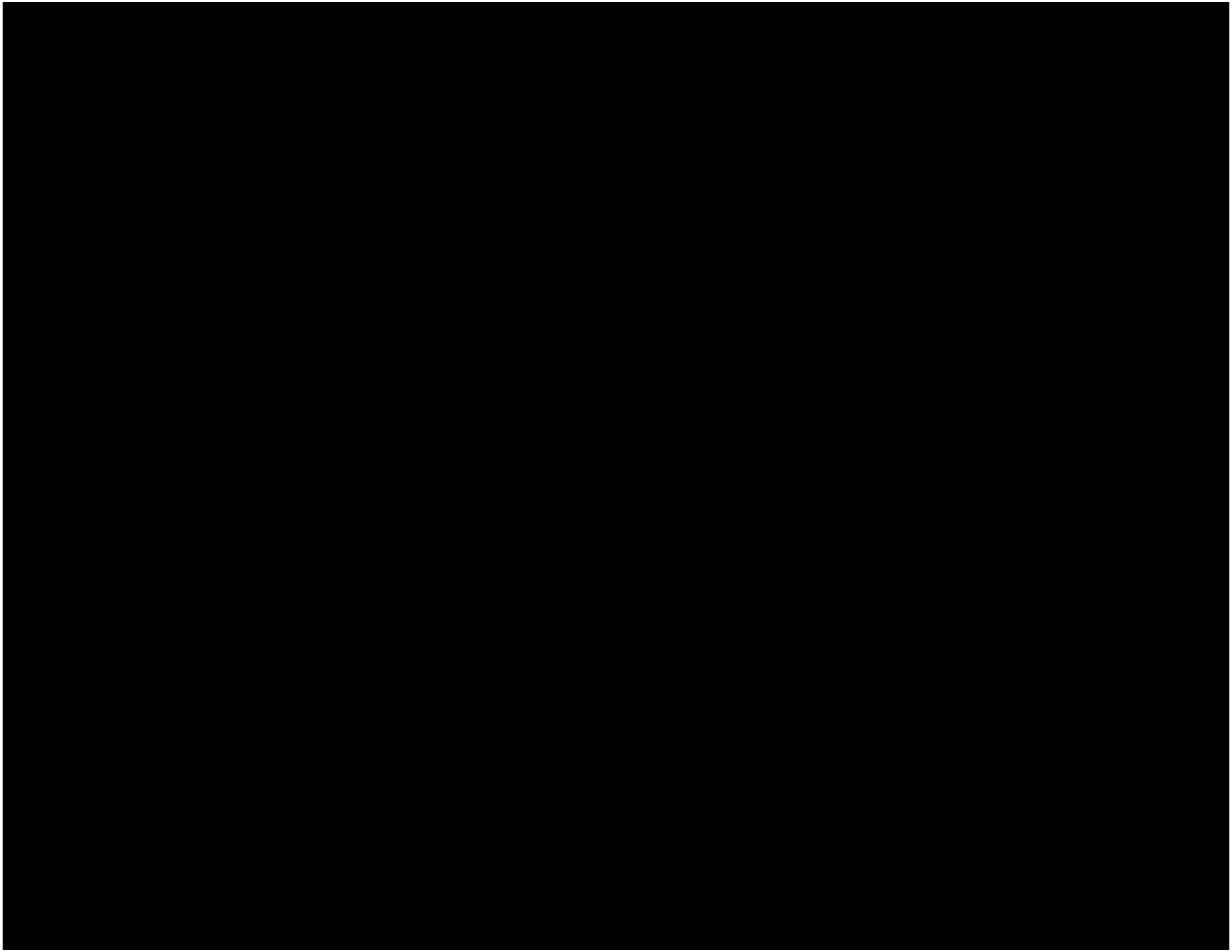
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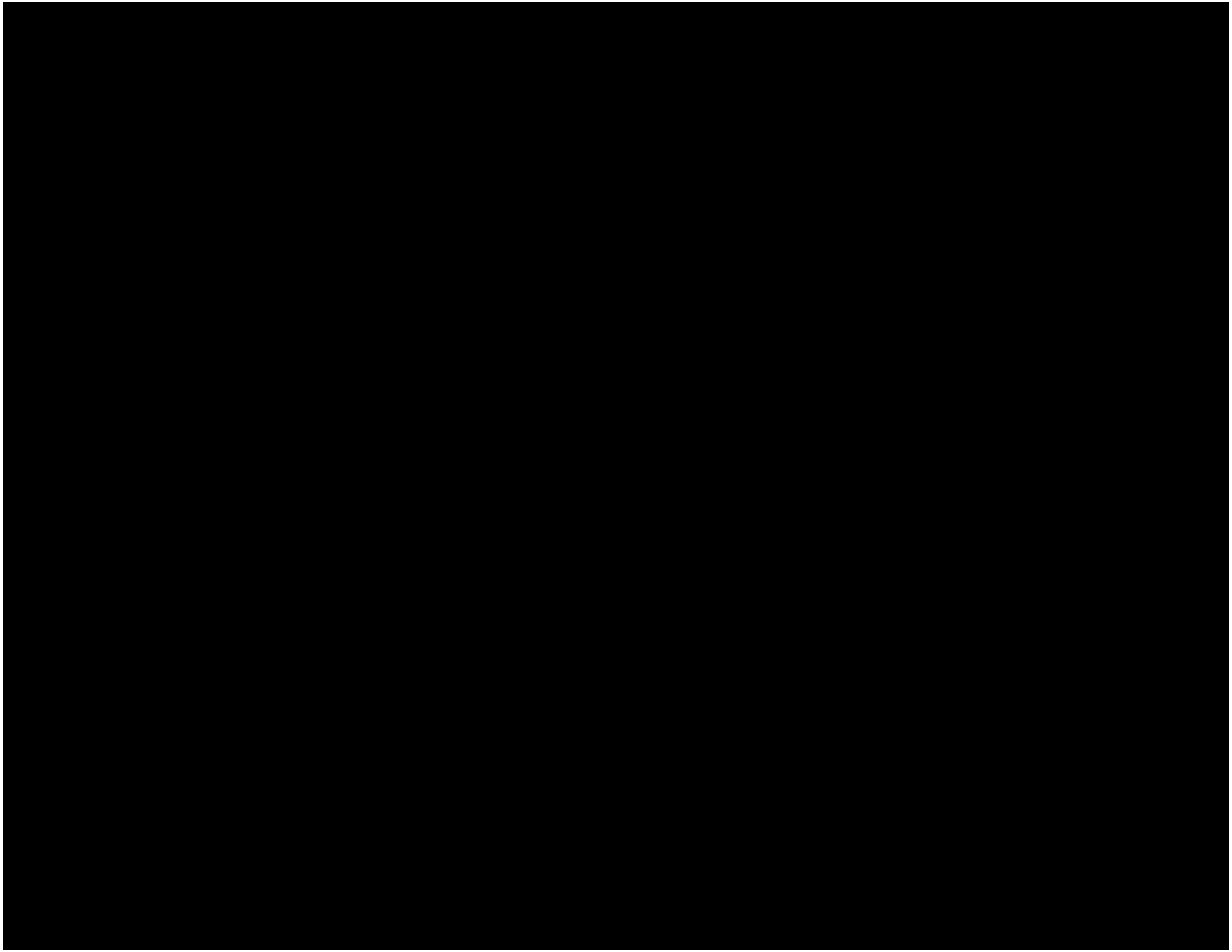
My Commission Expires:

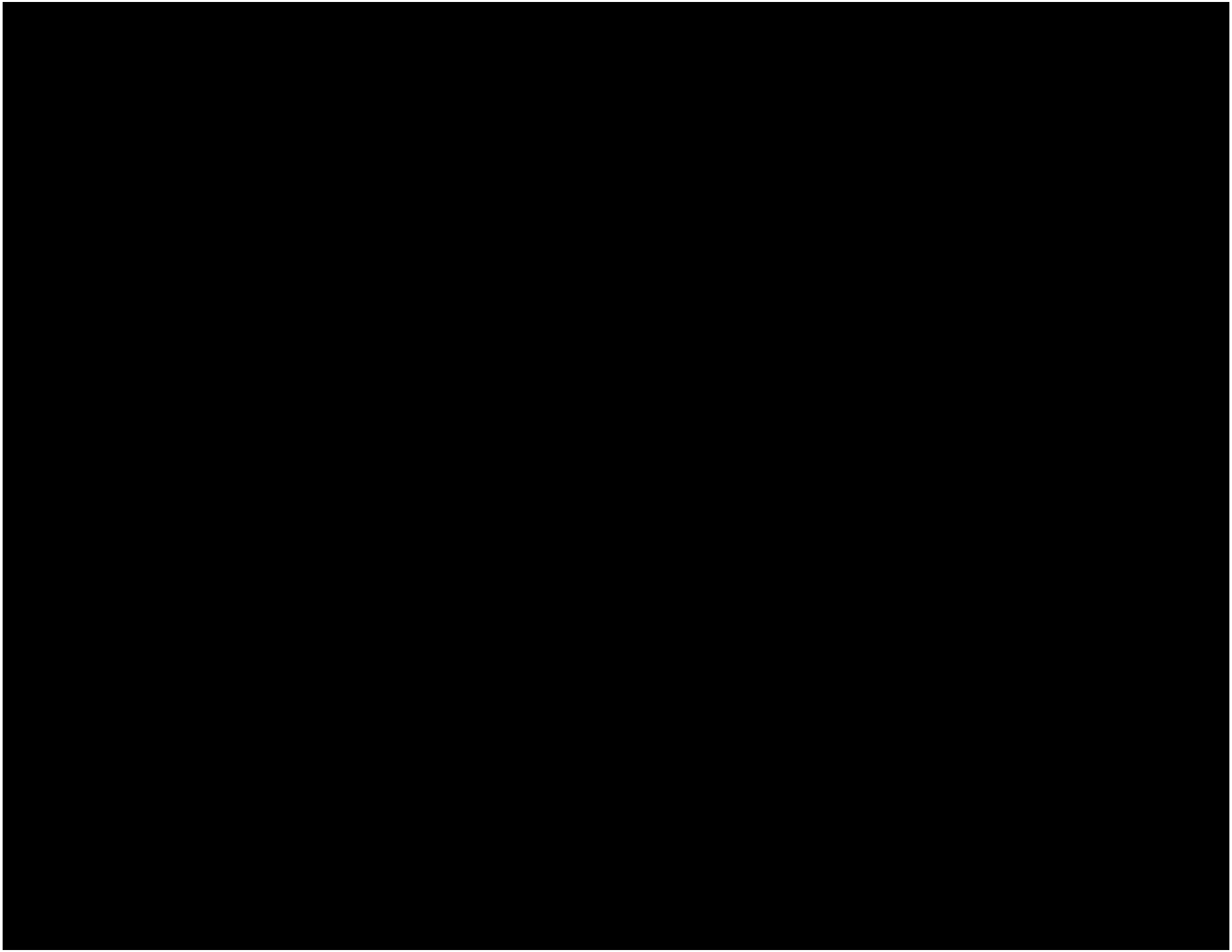
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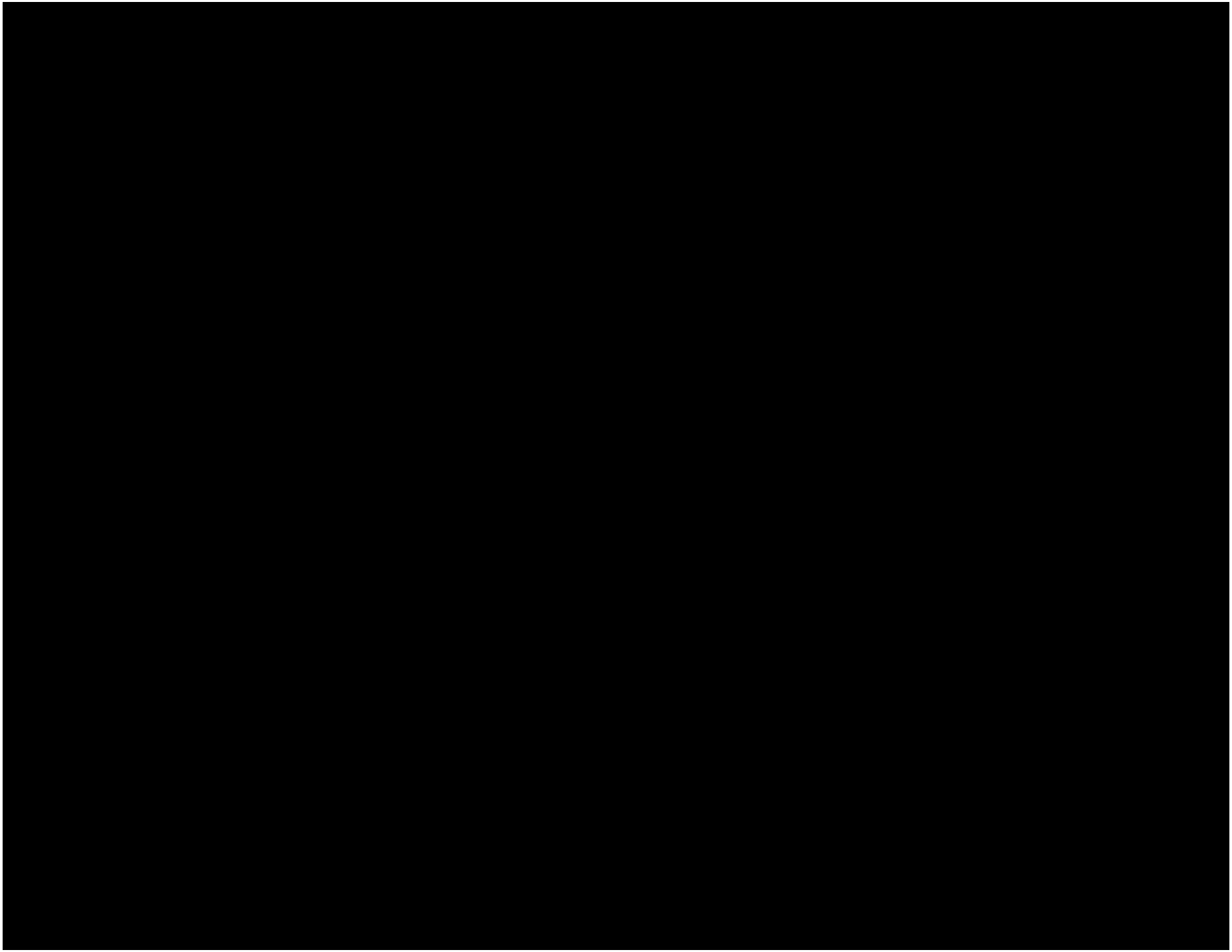
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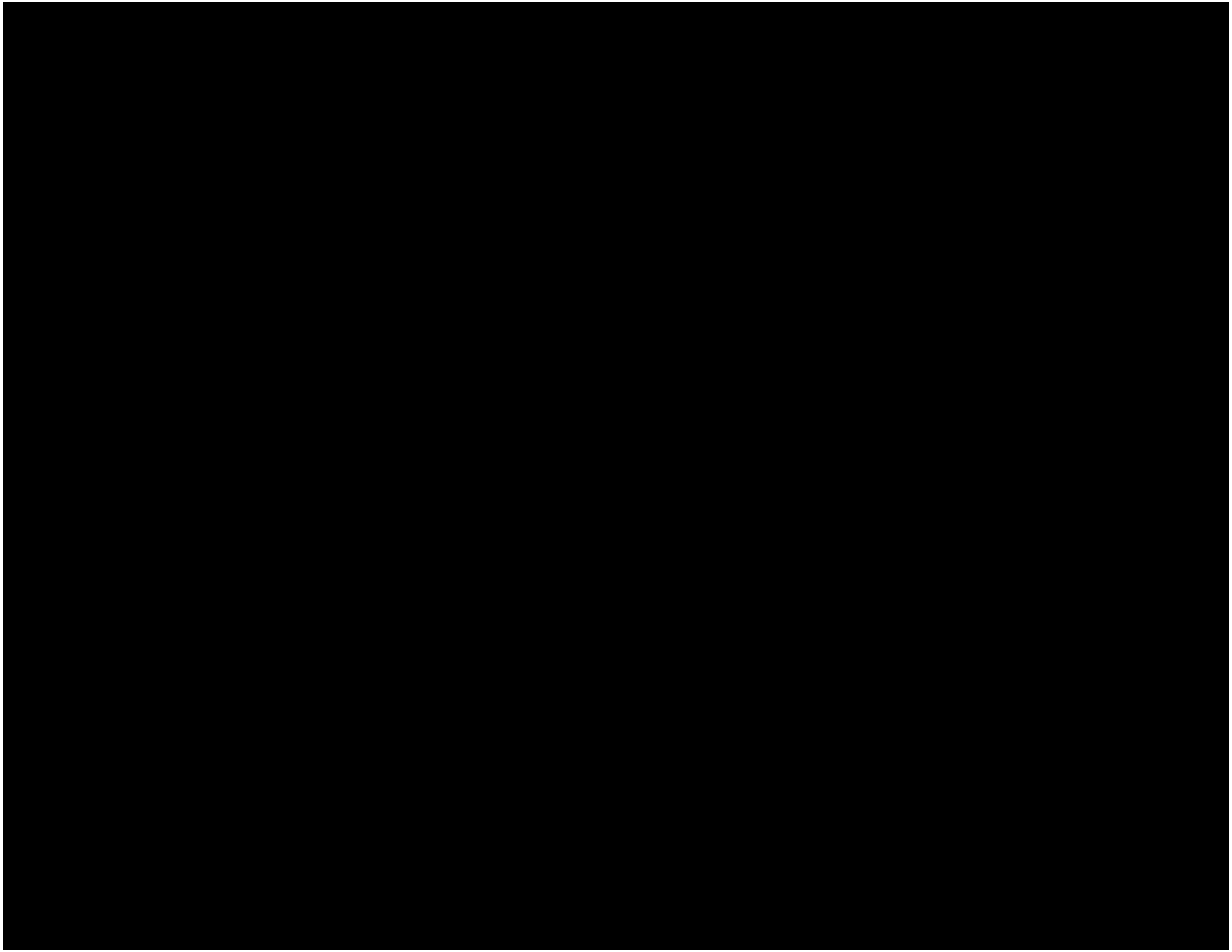


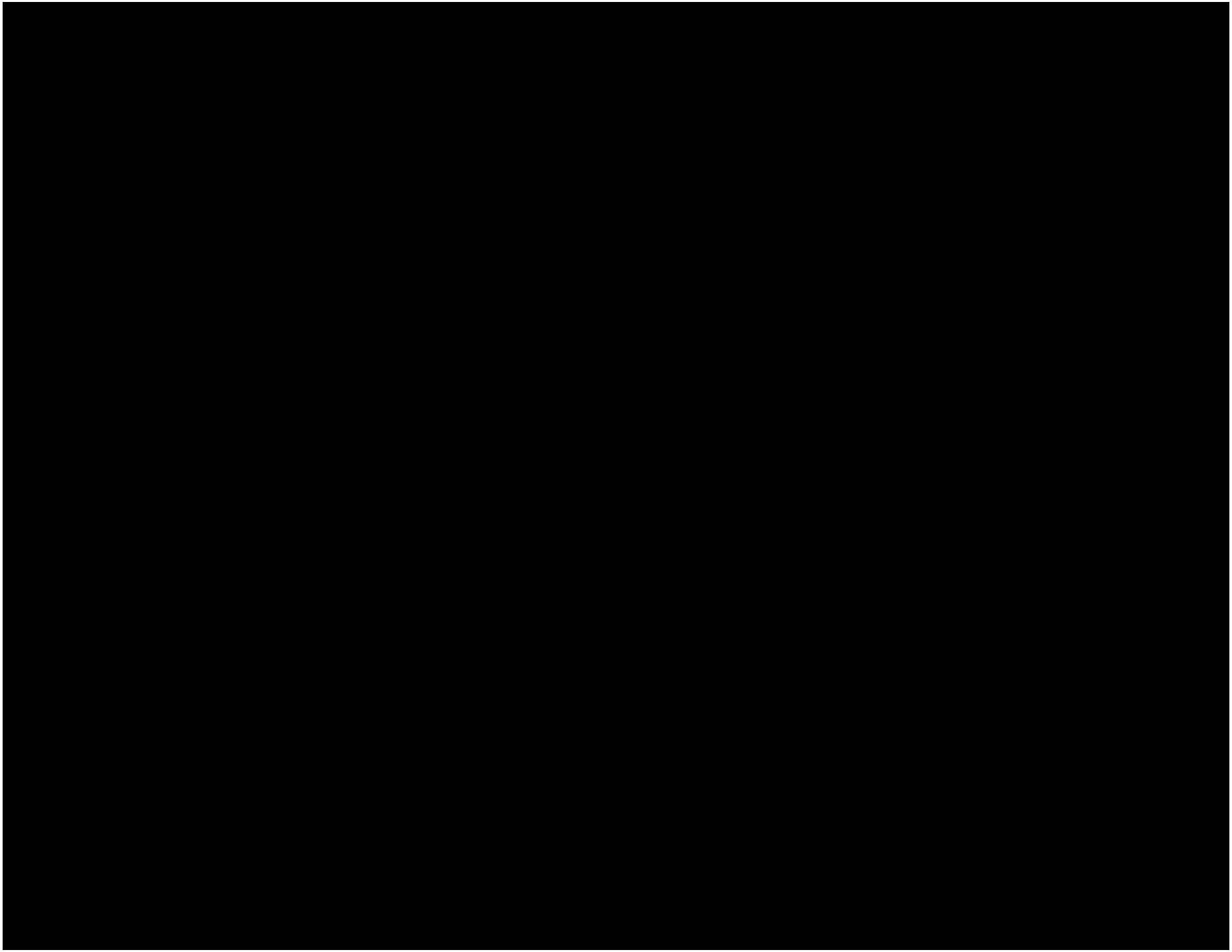


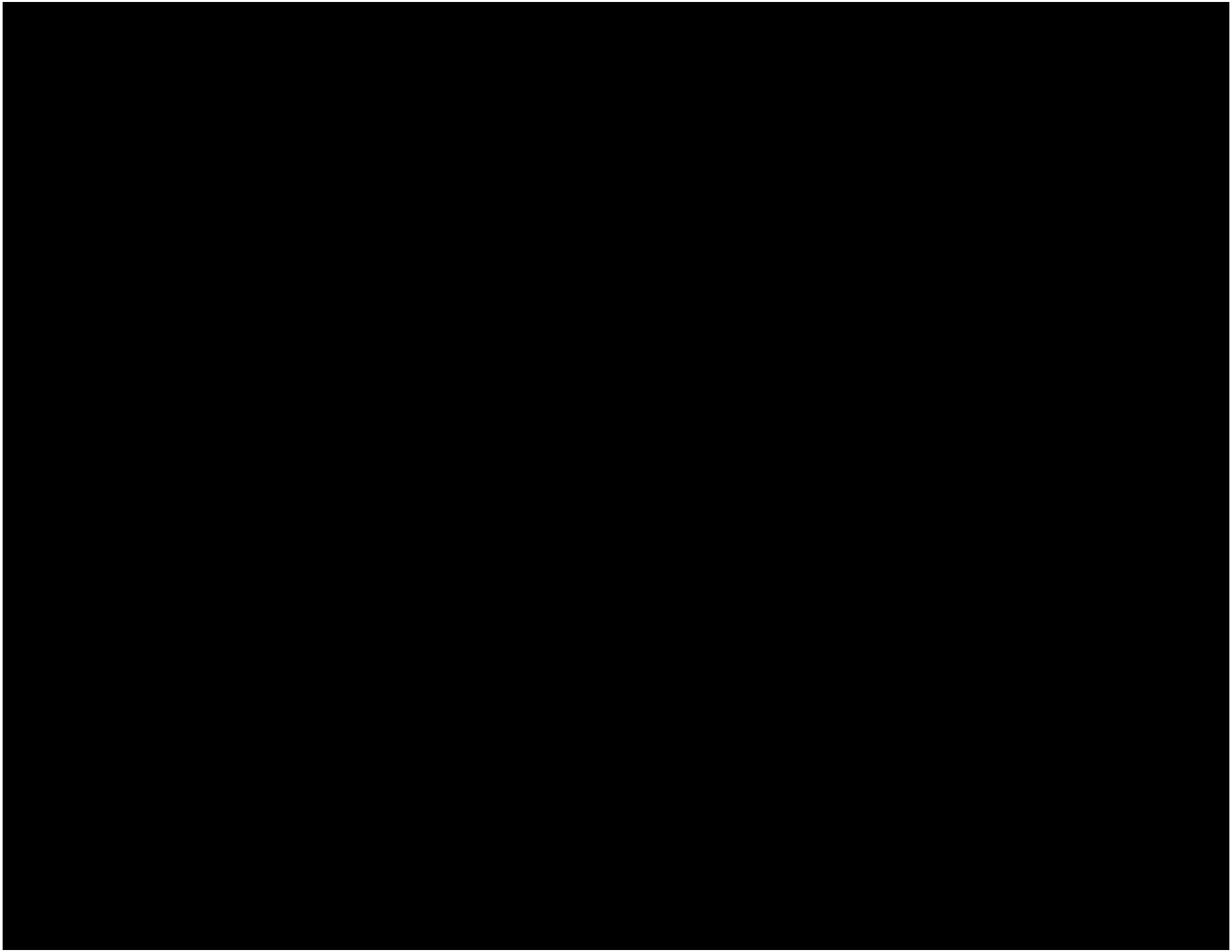


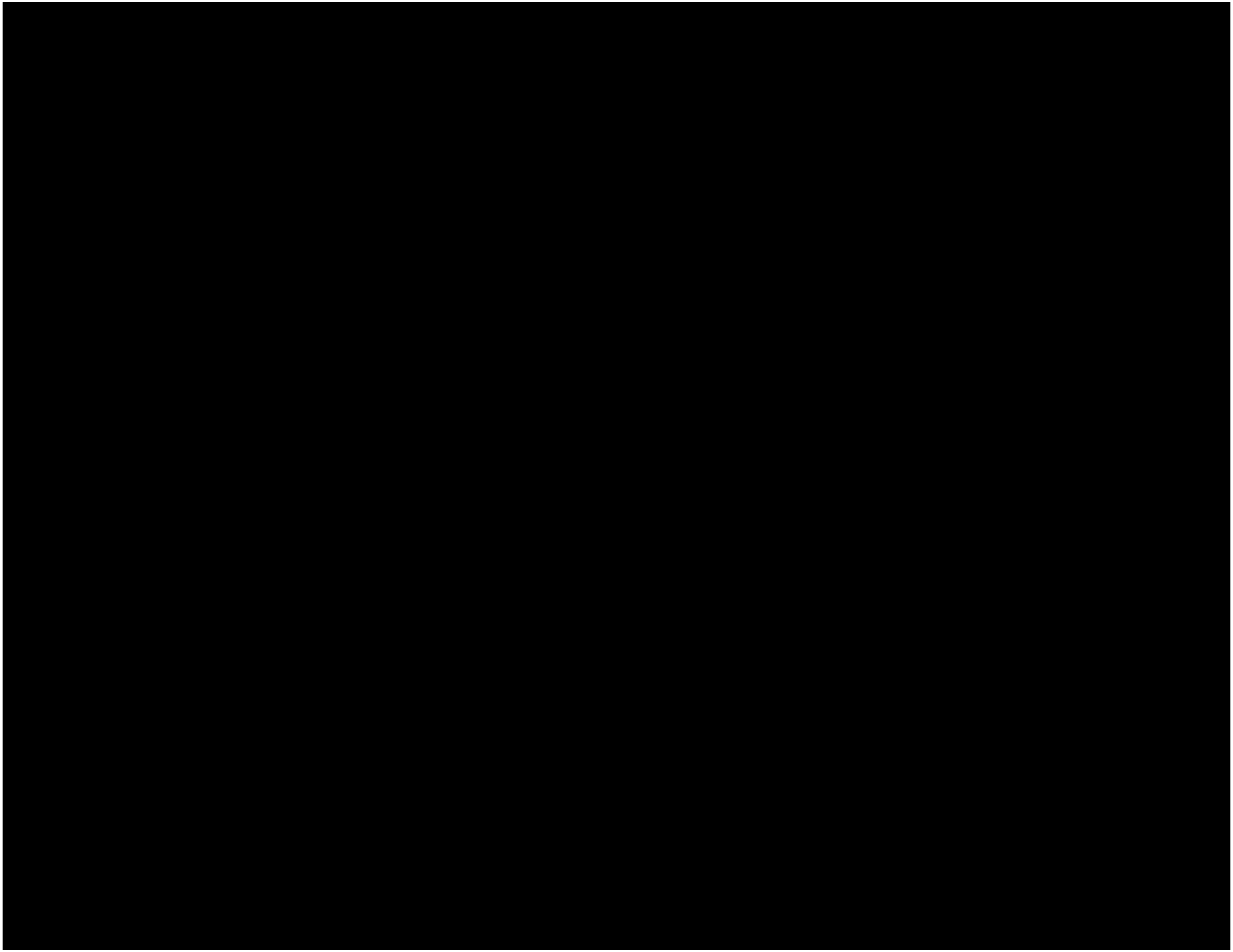


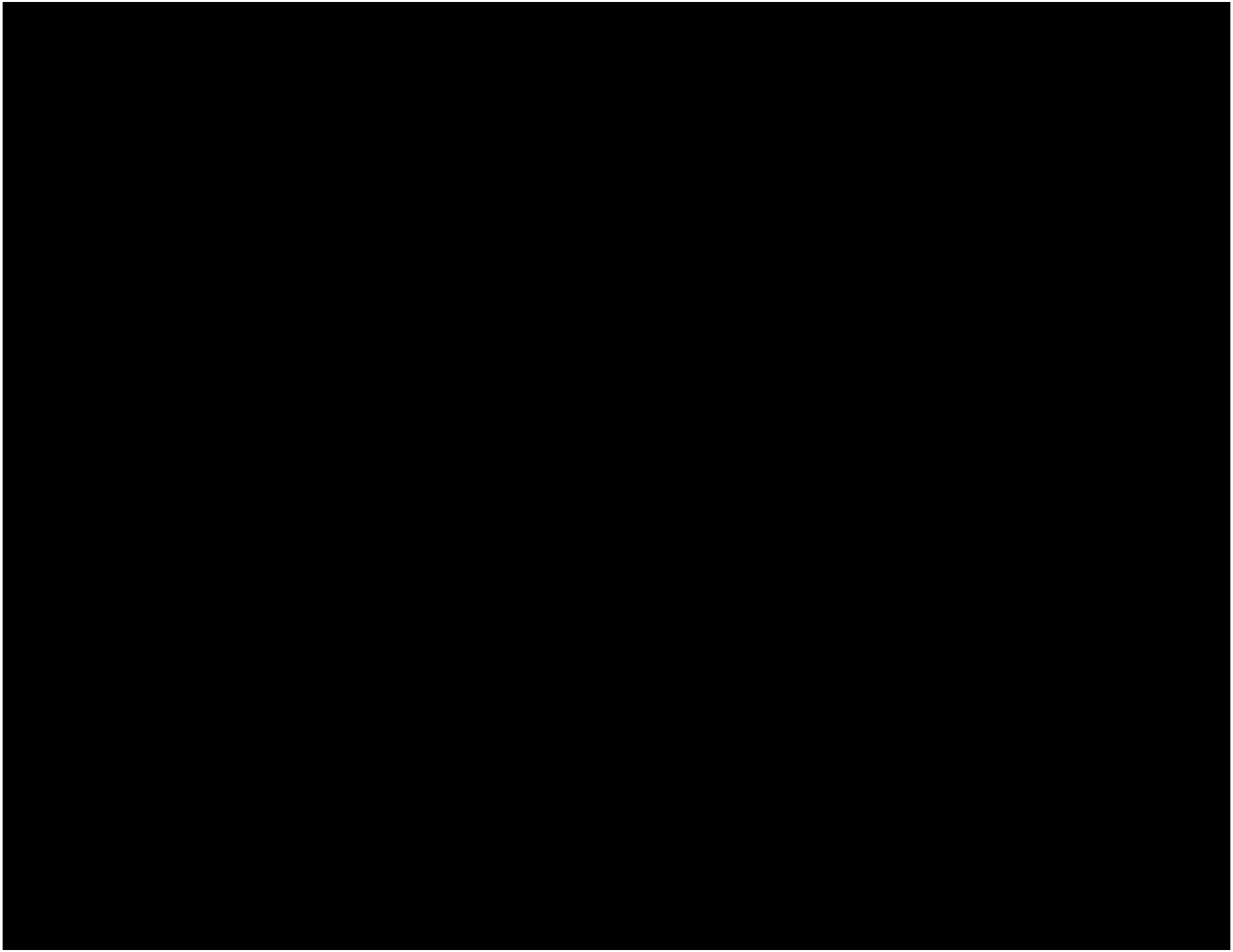


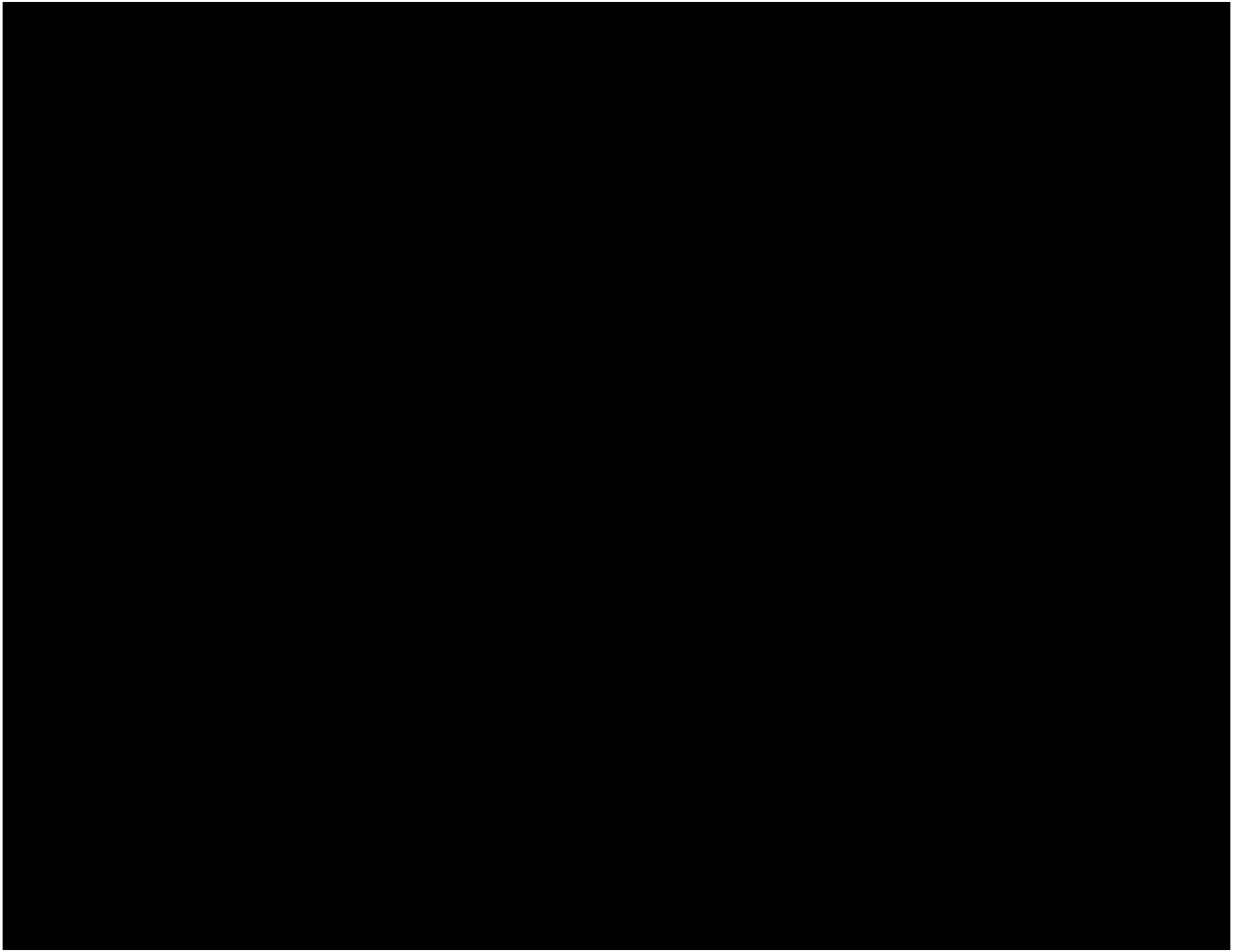


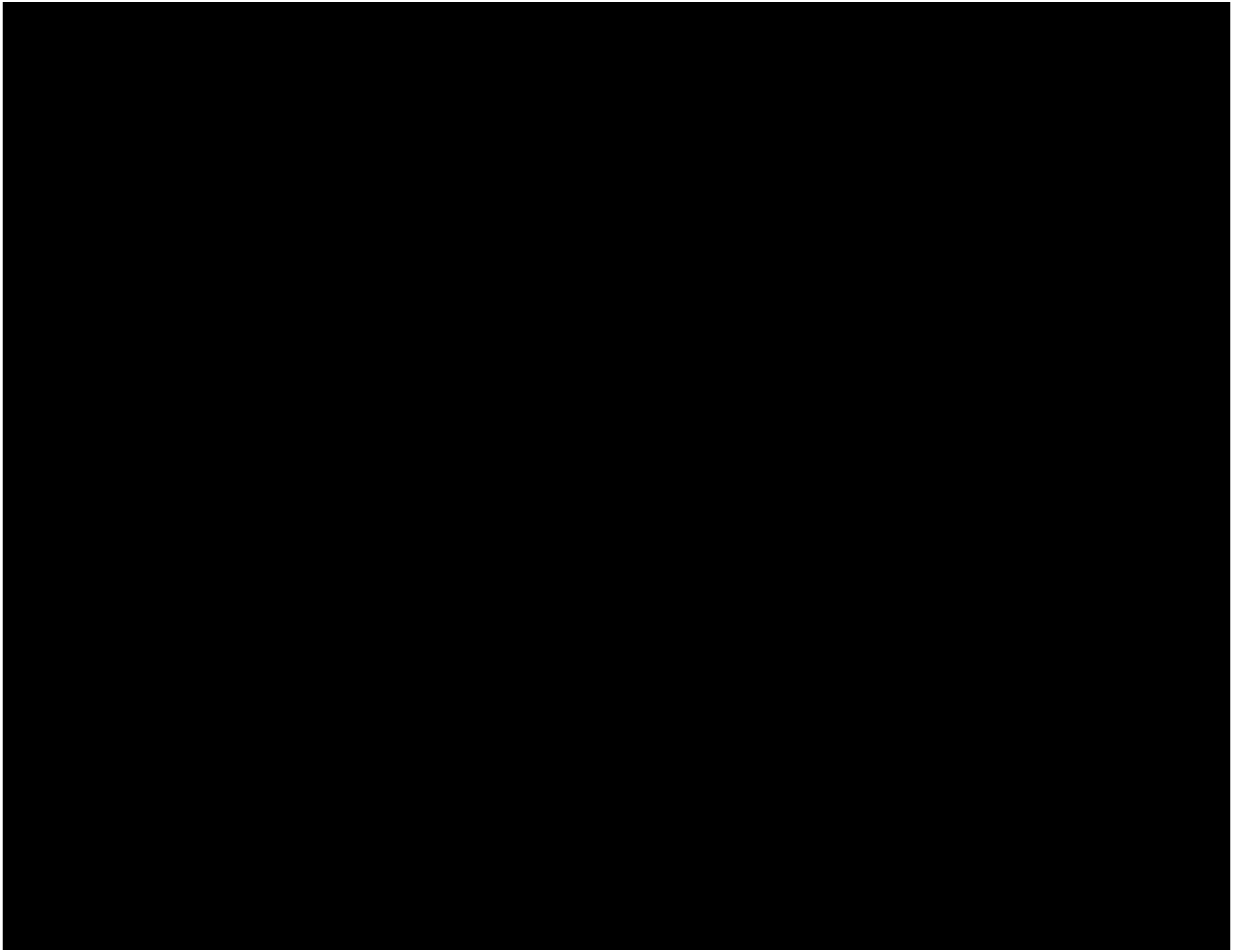


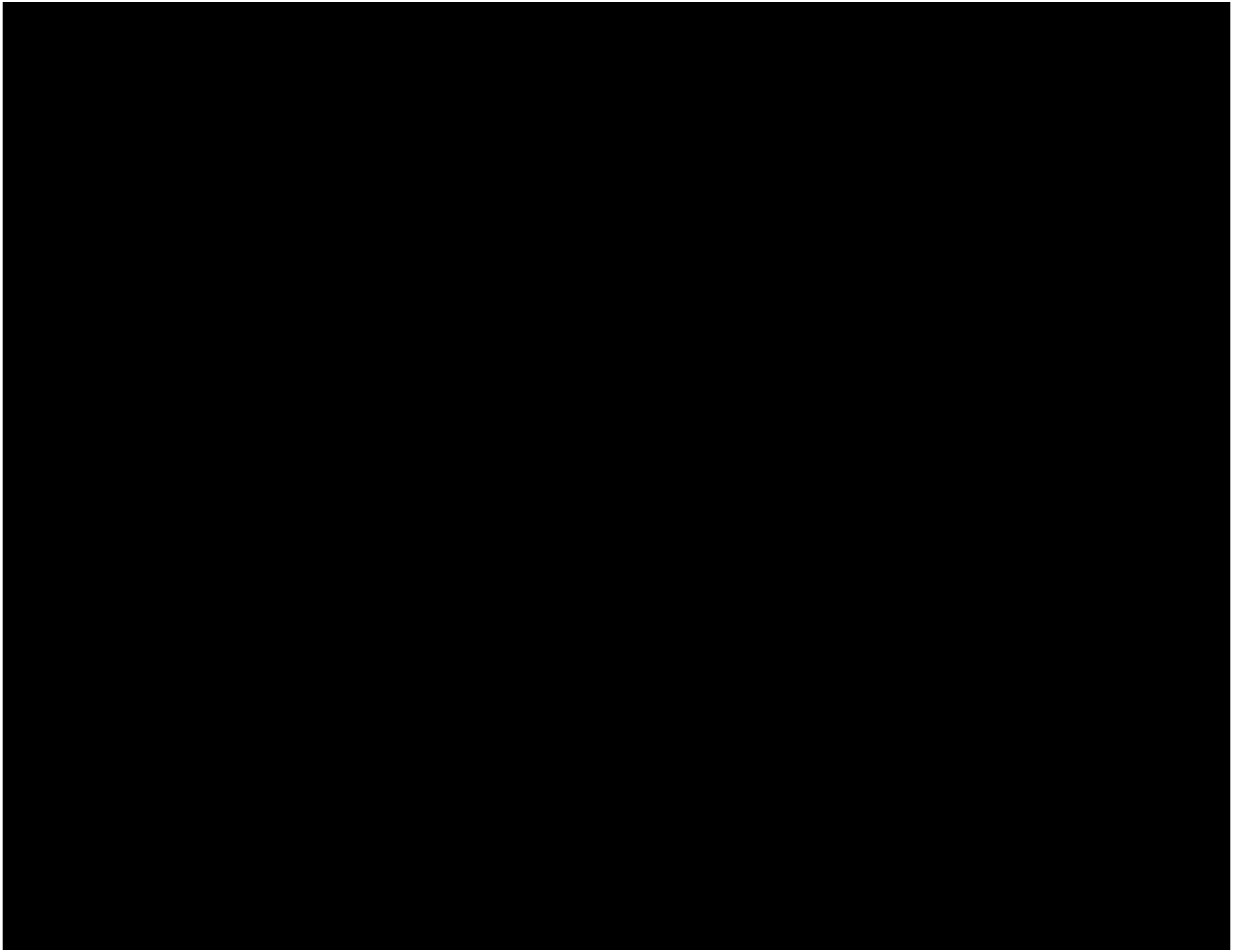


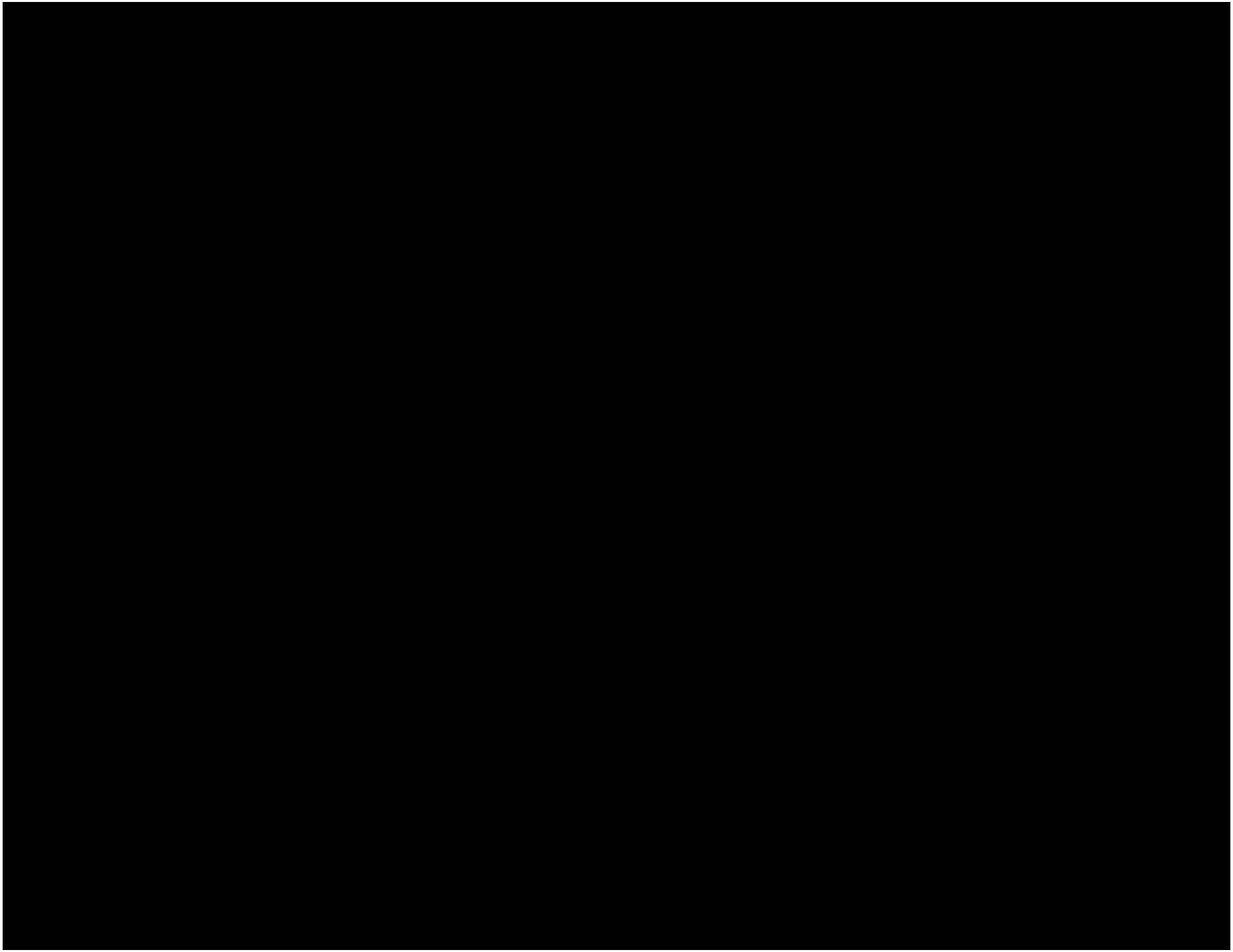


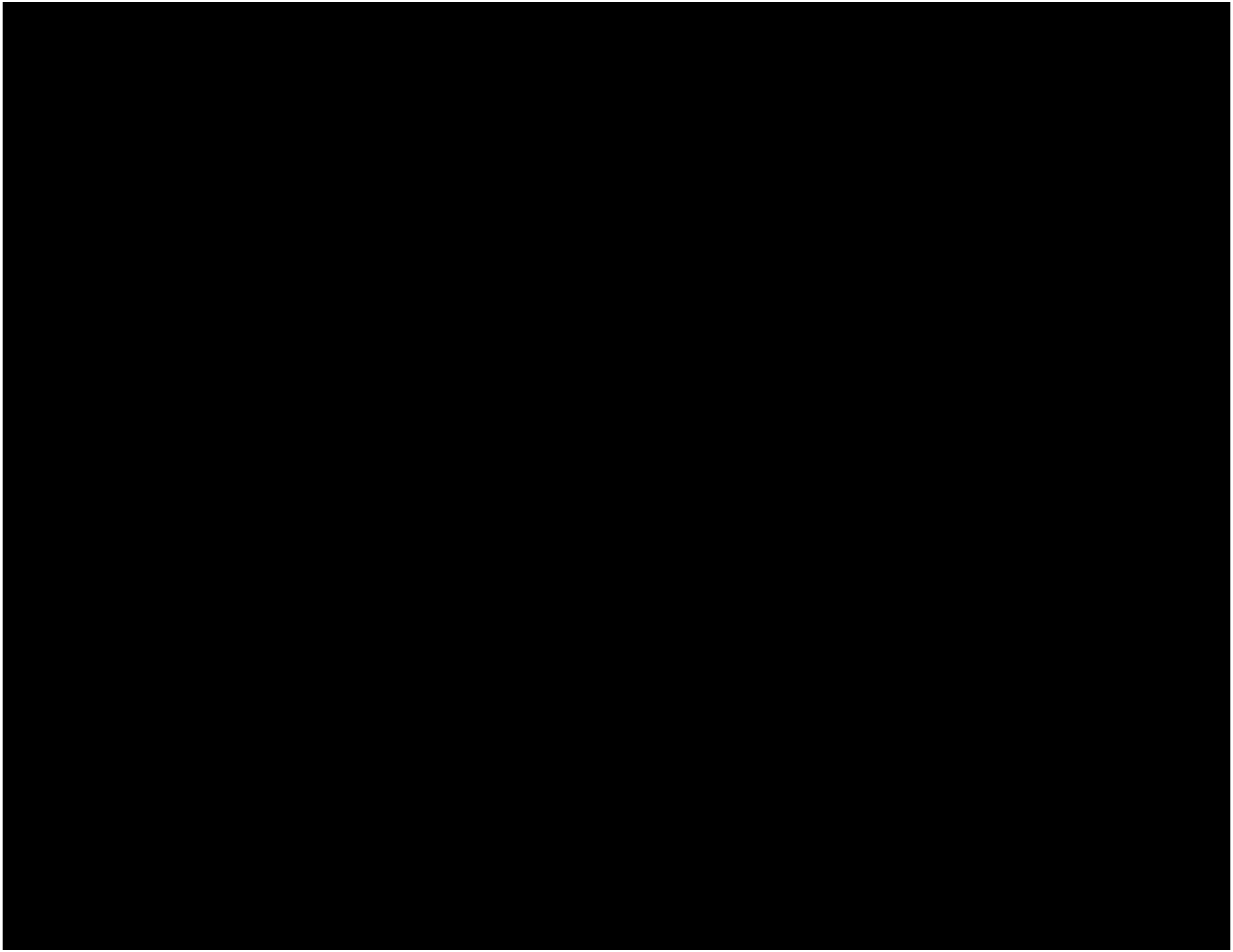


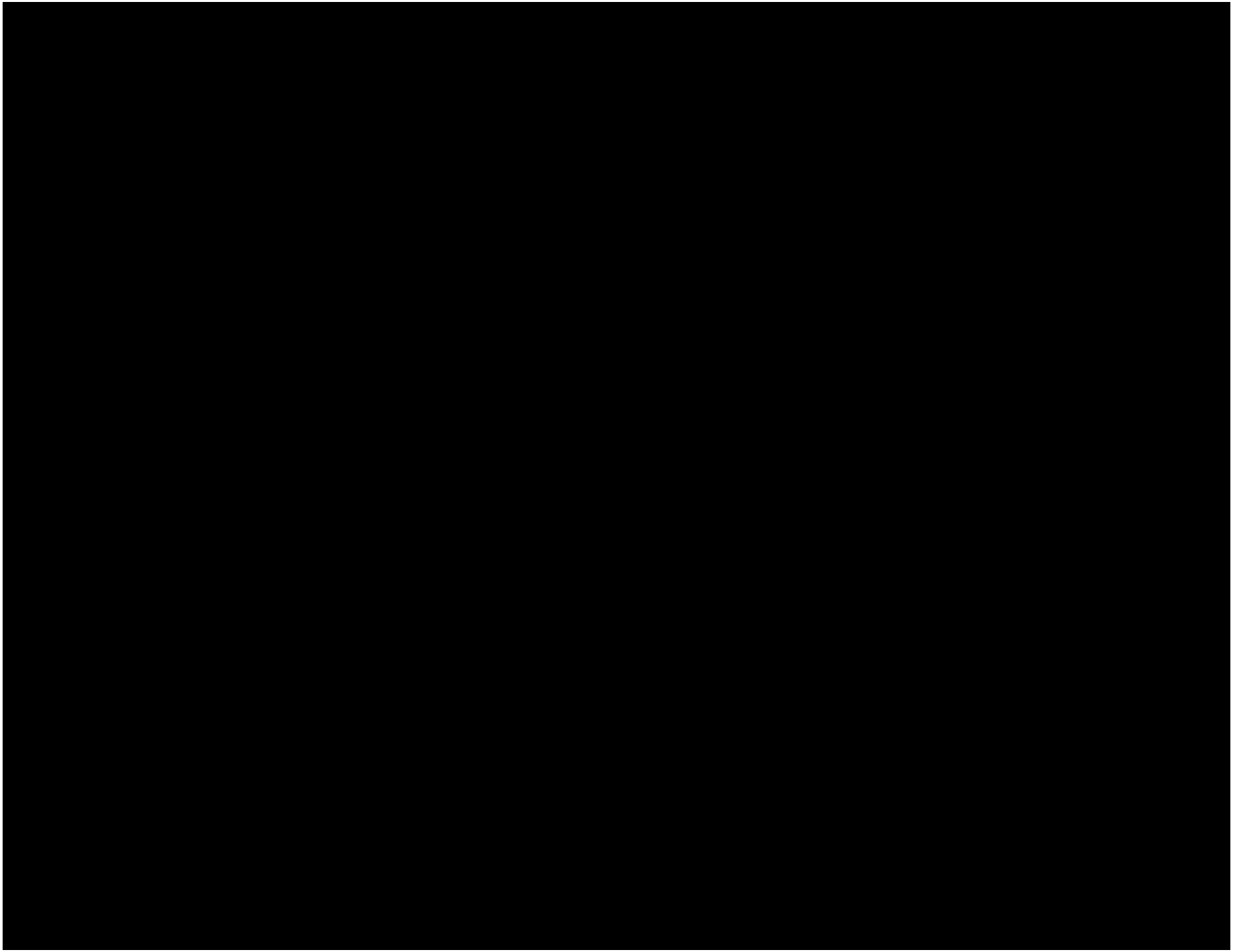


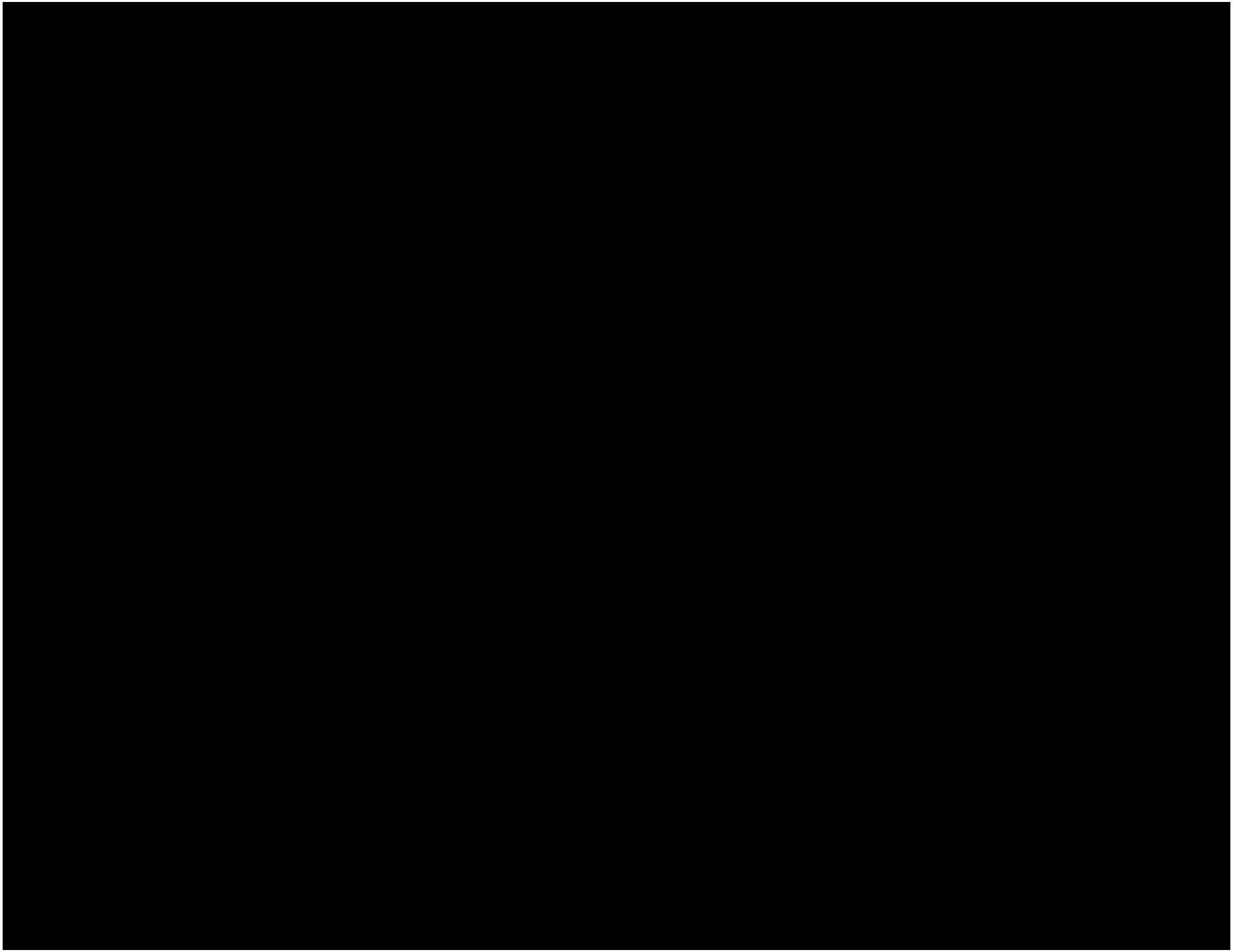


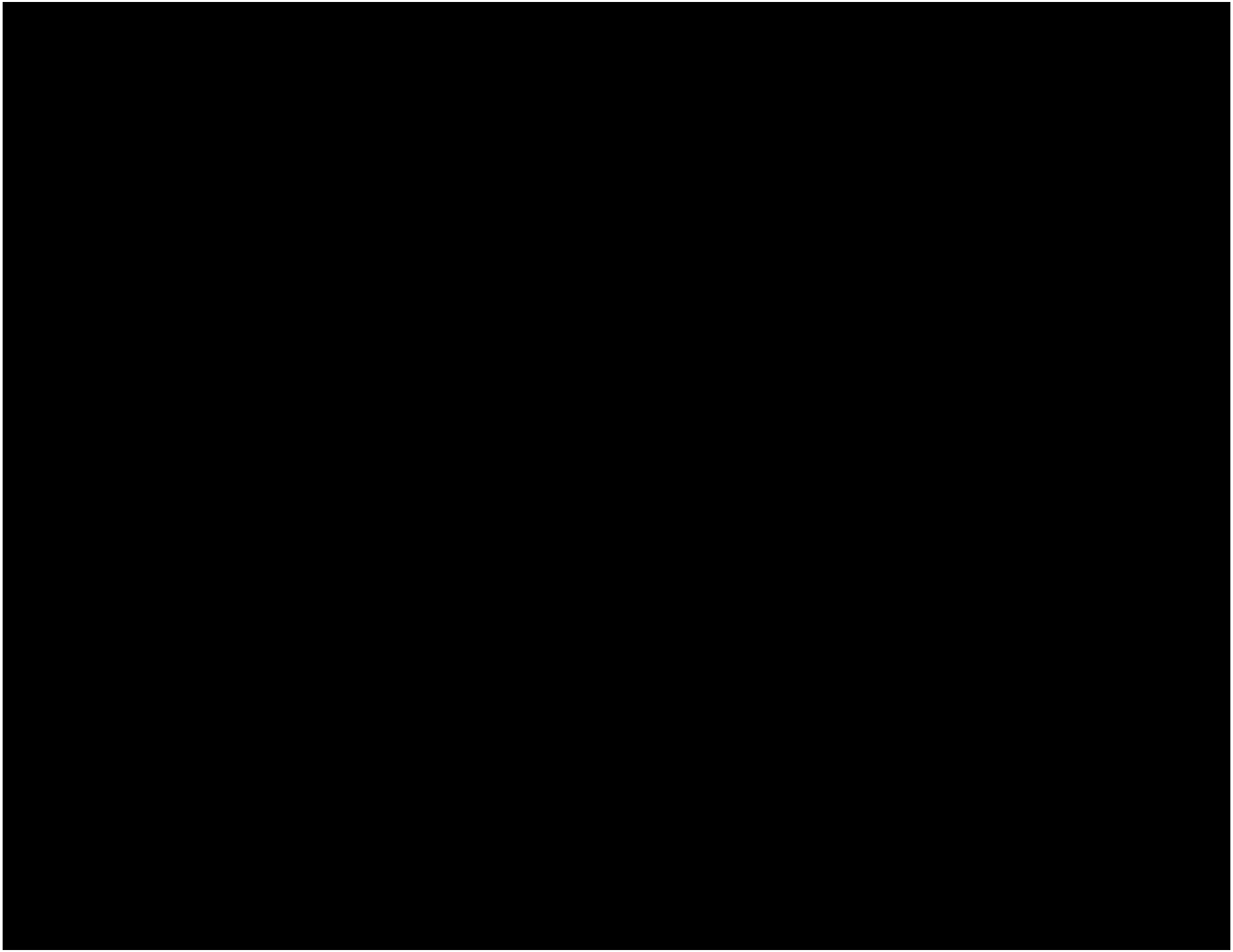


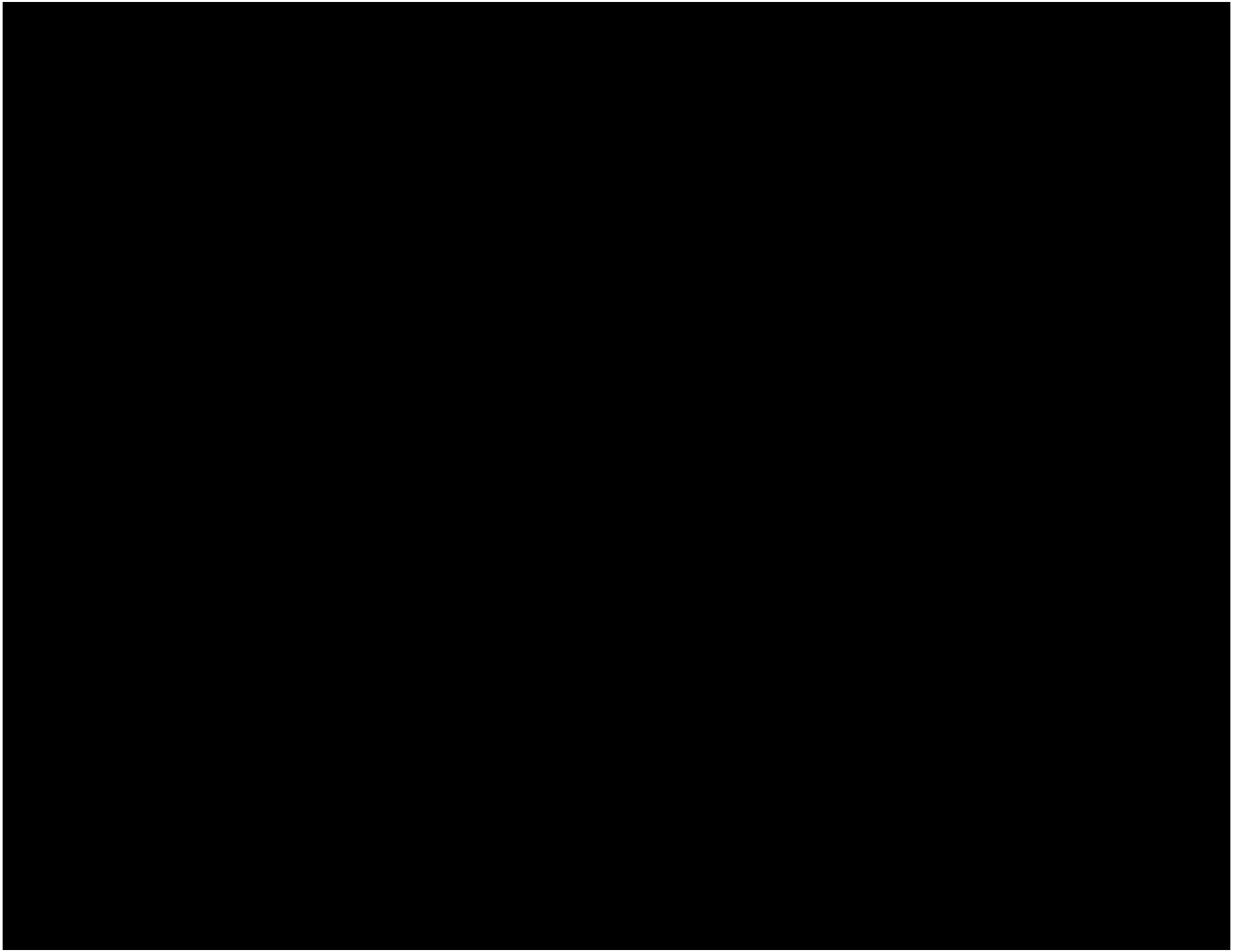


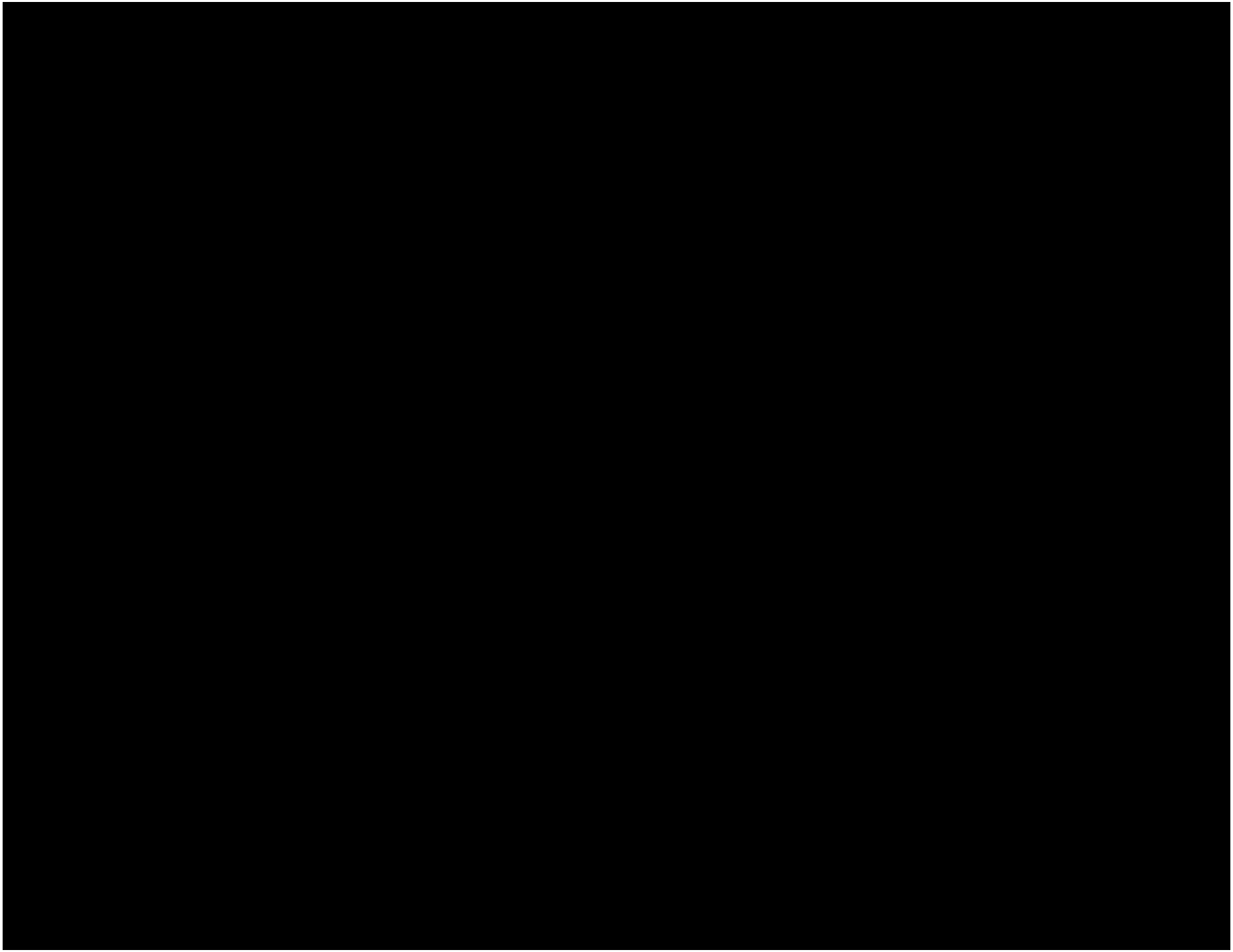


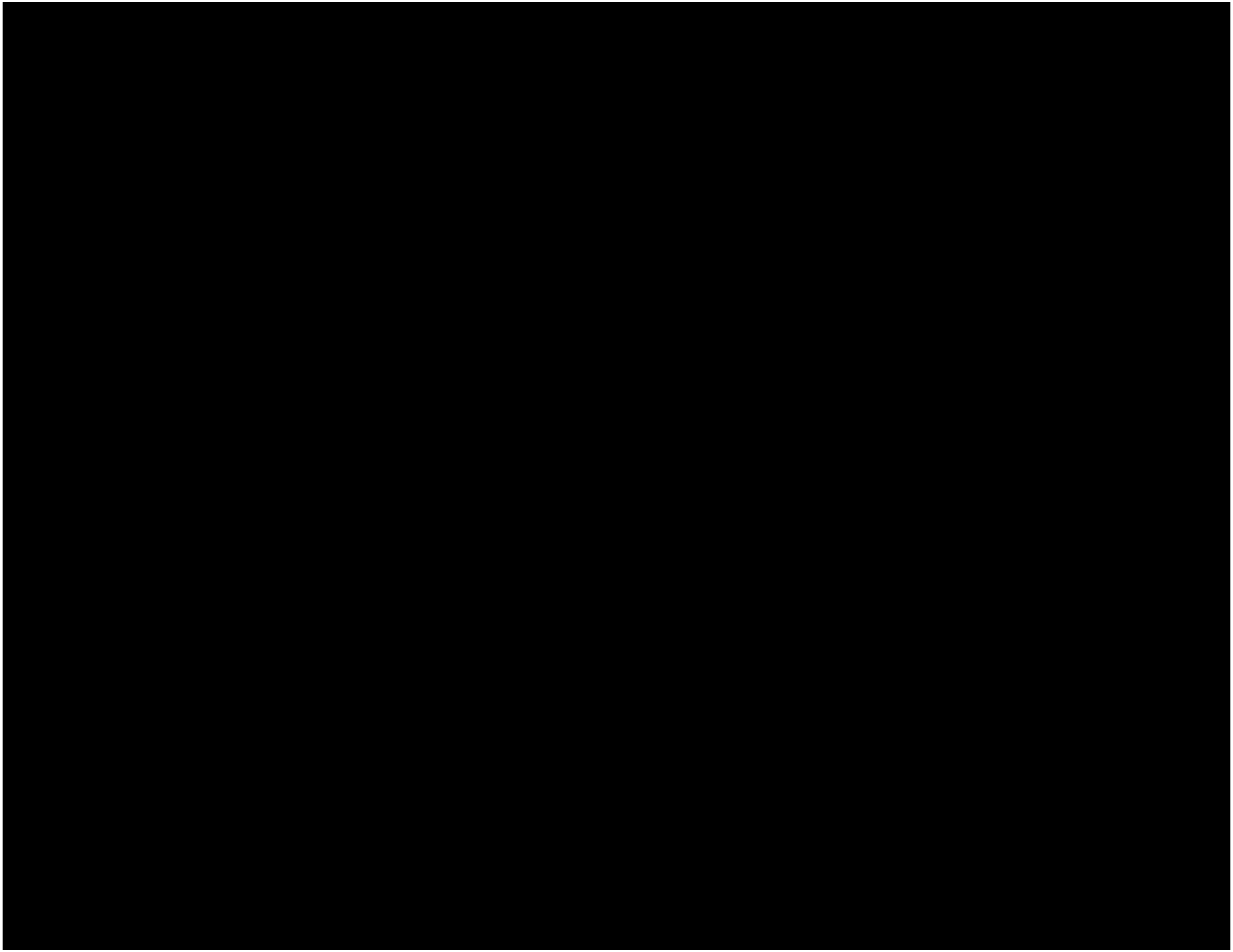


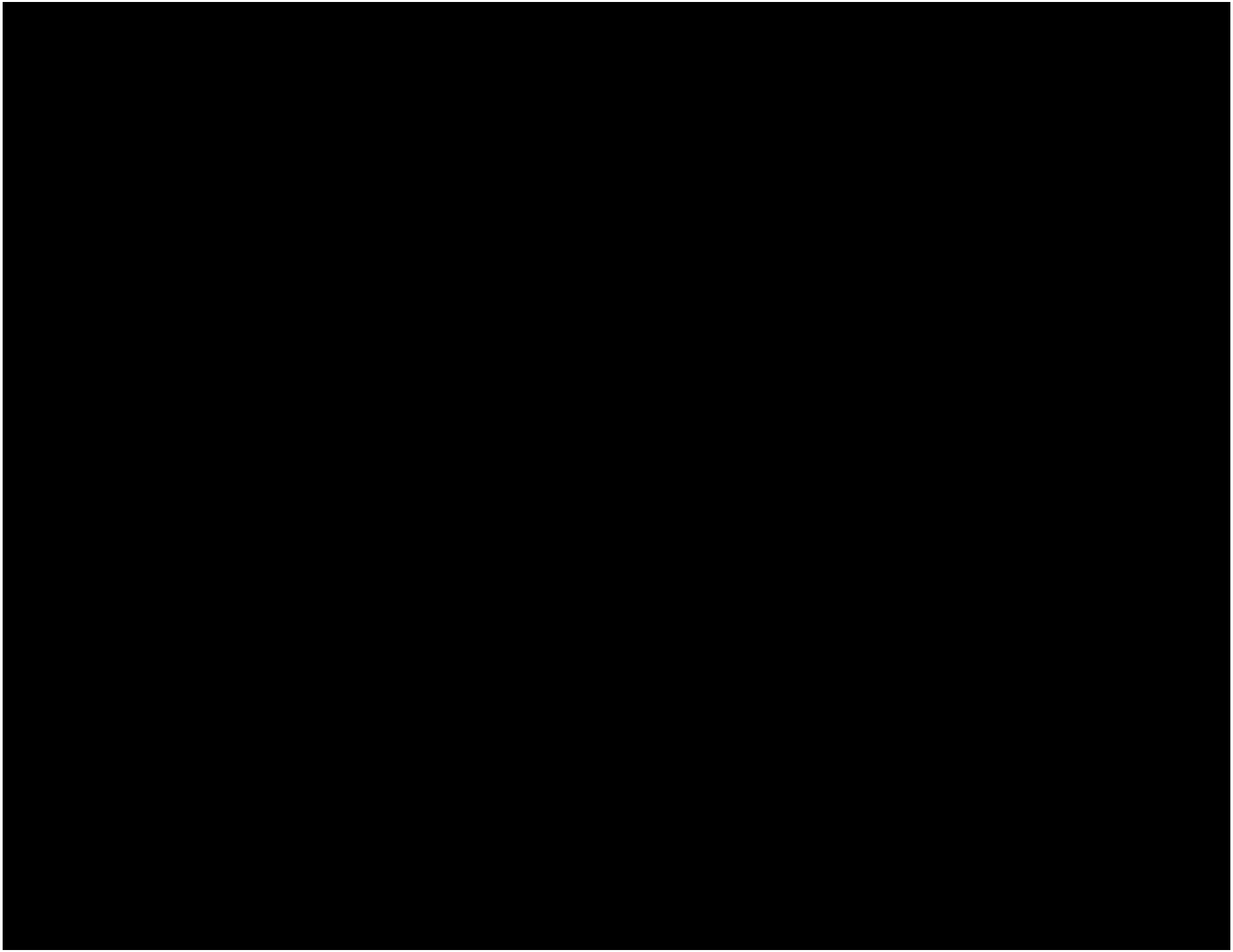


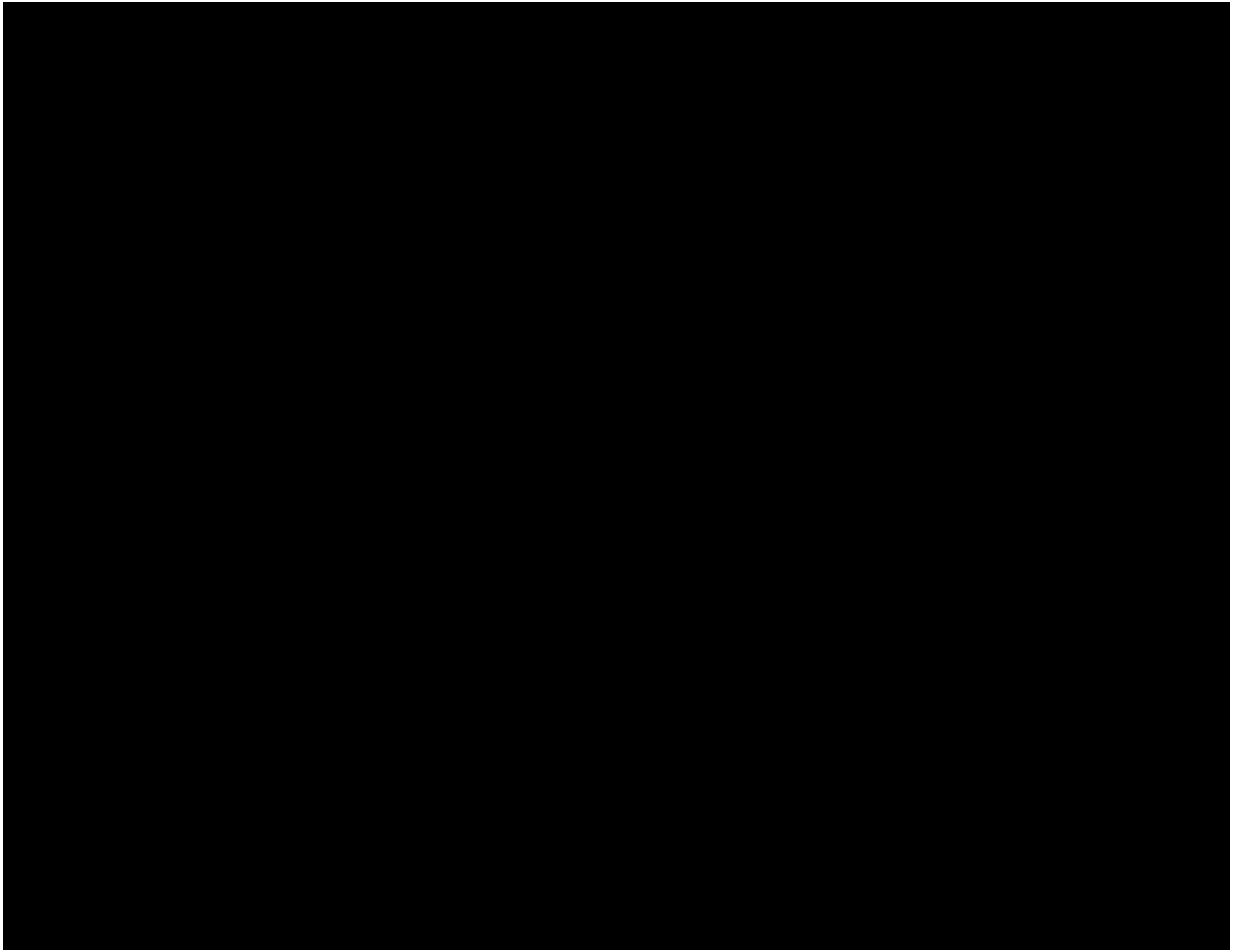


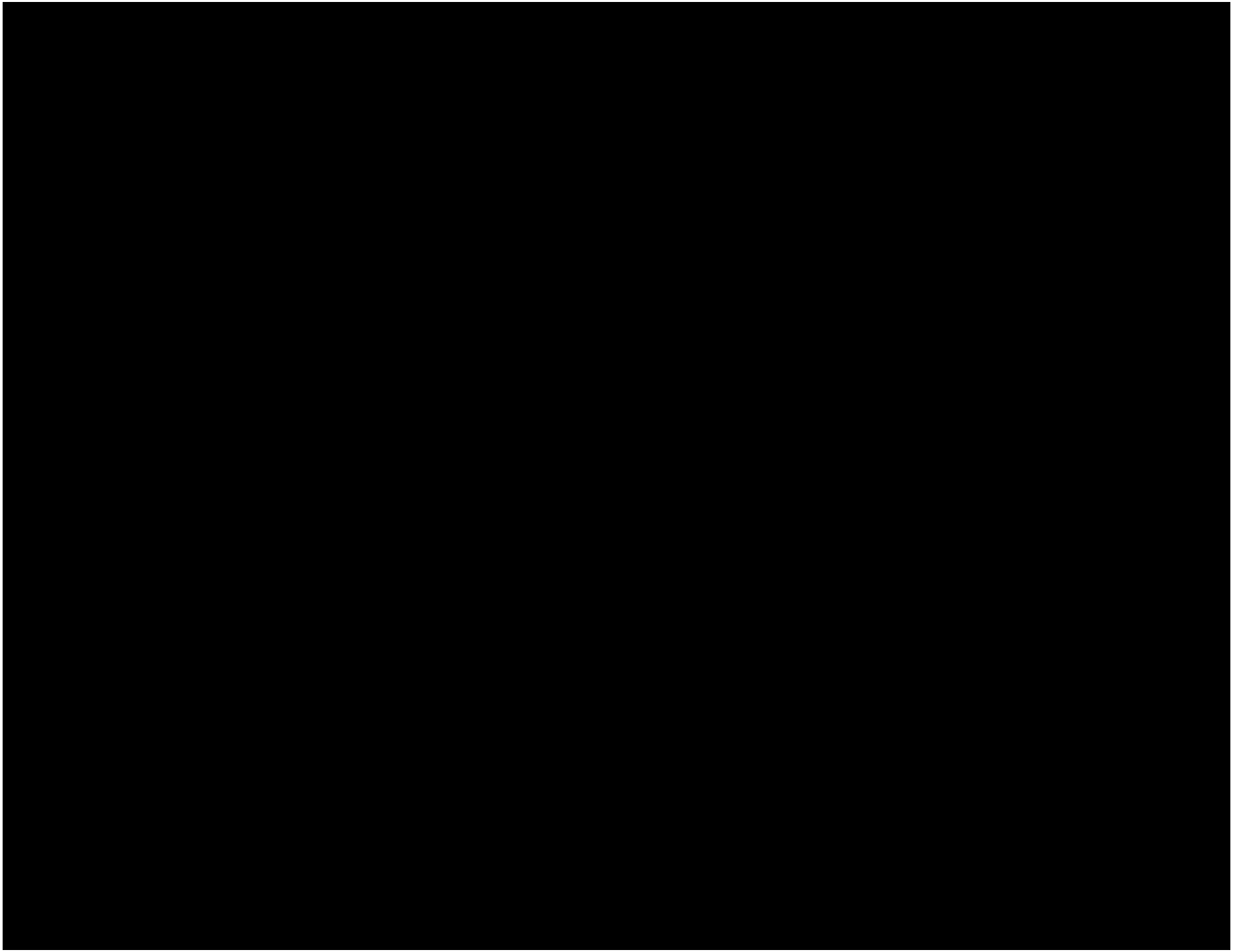


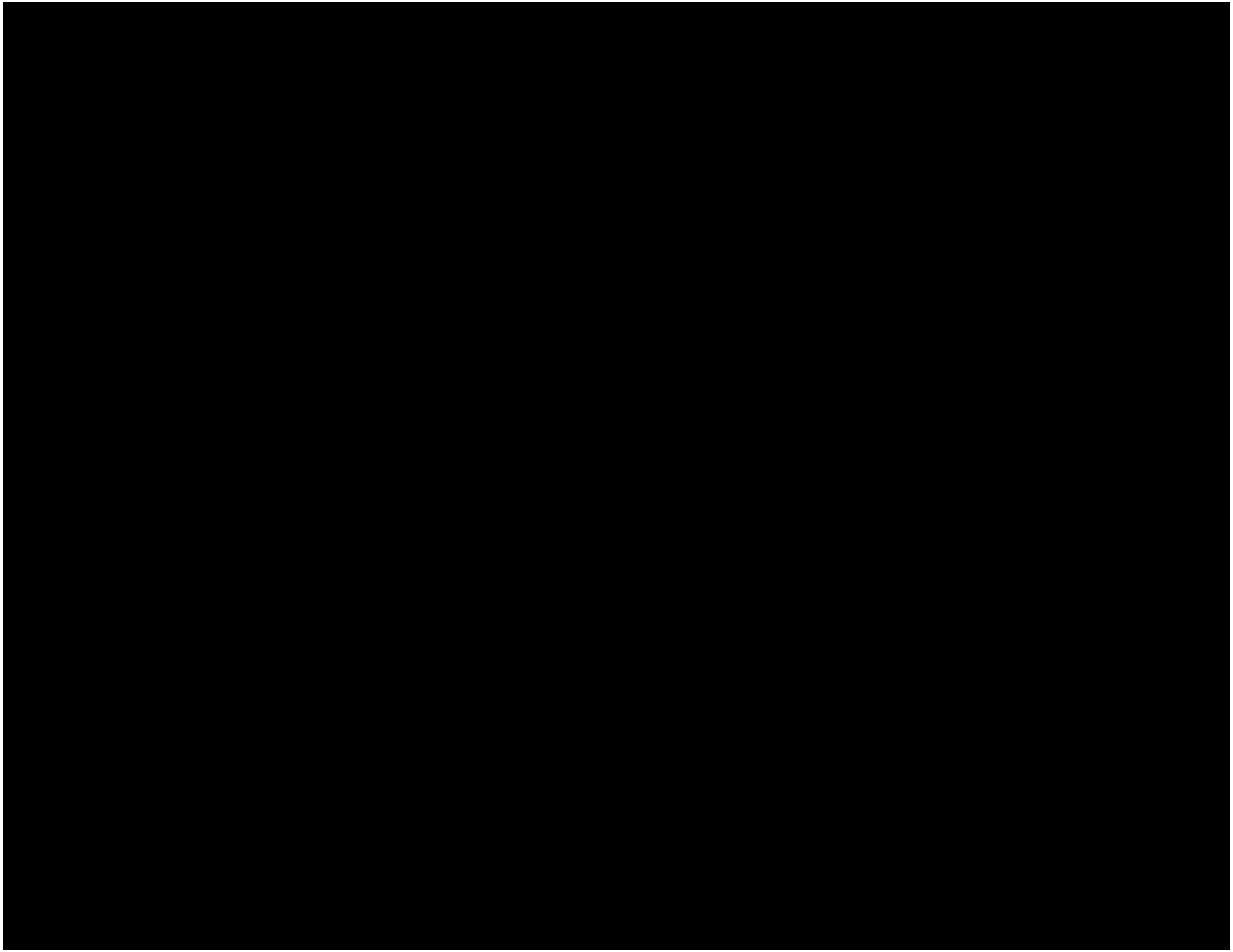


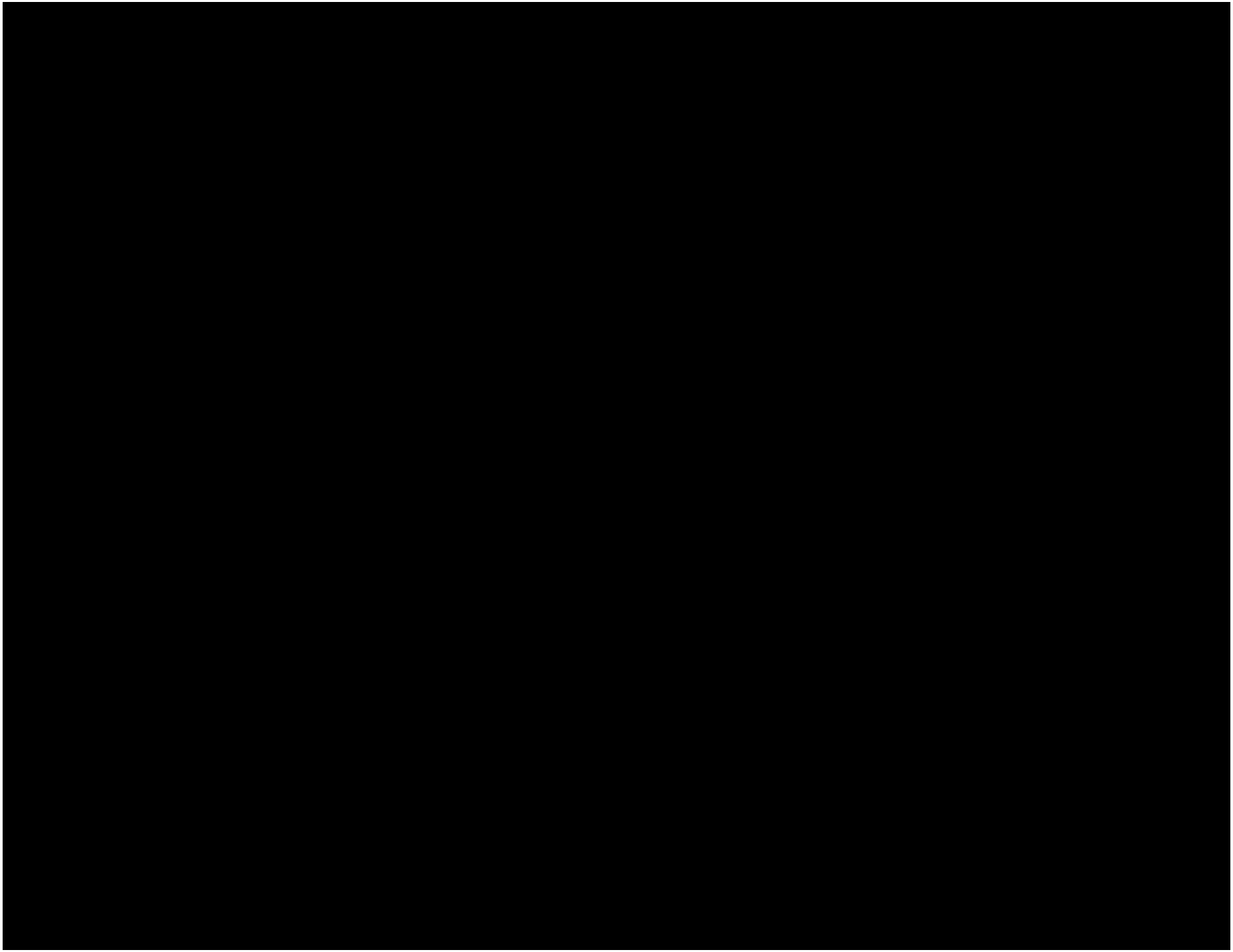


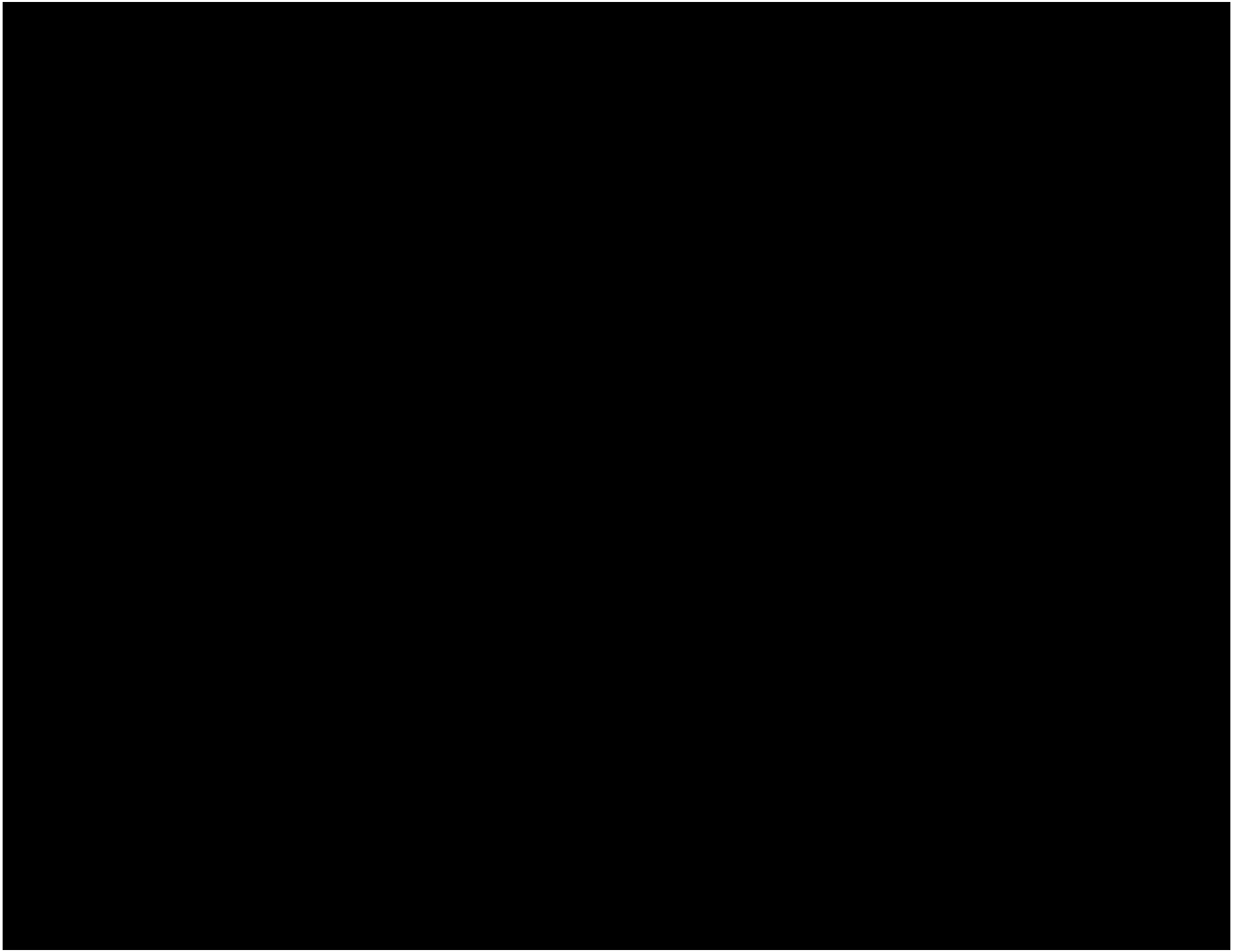


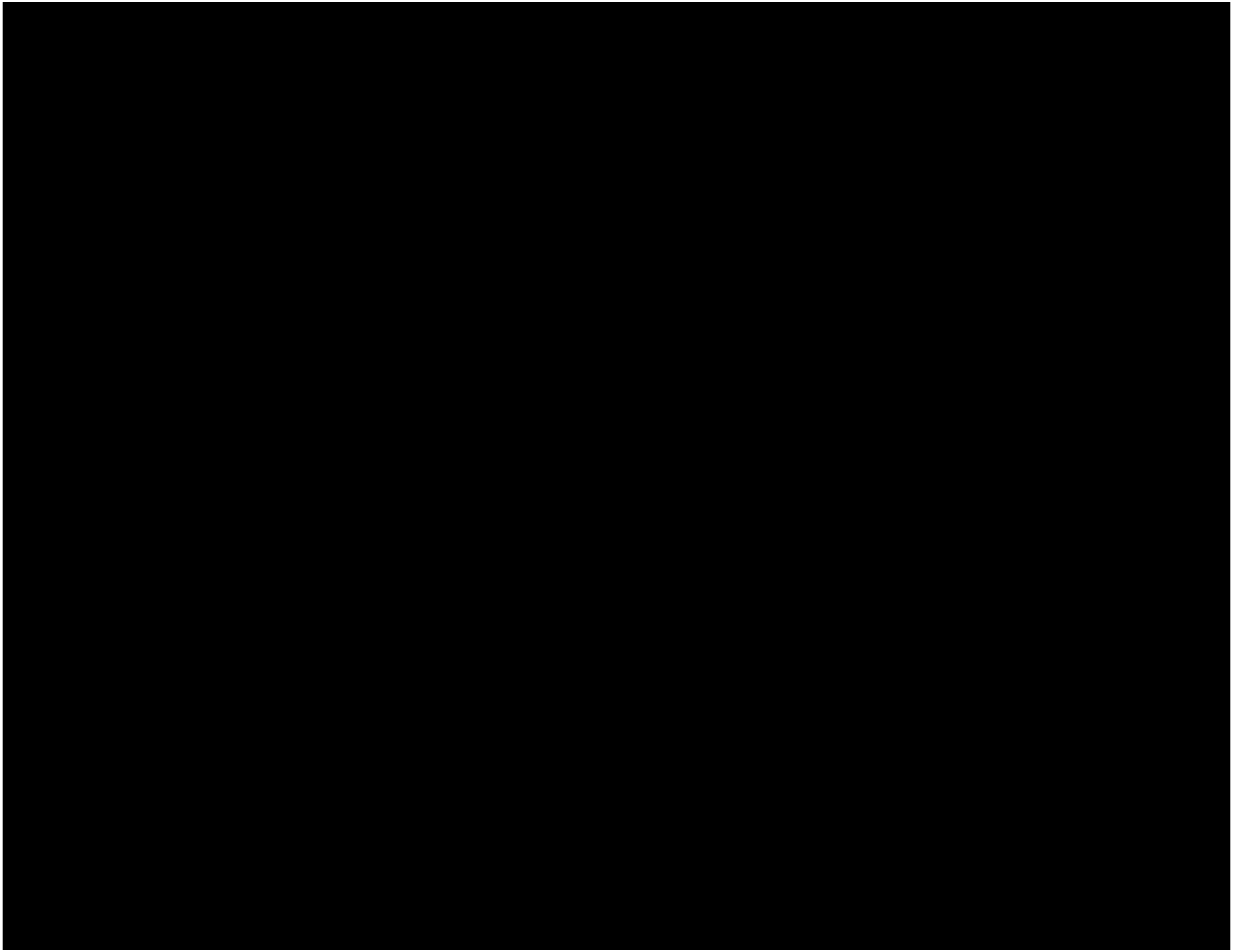


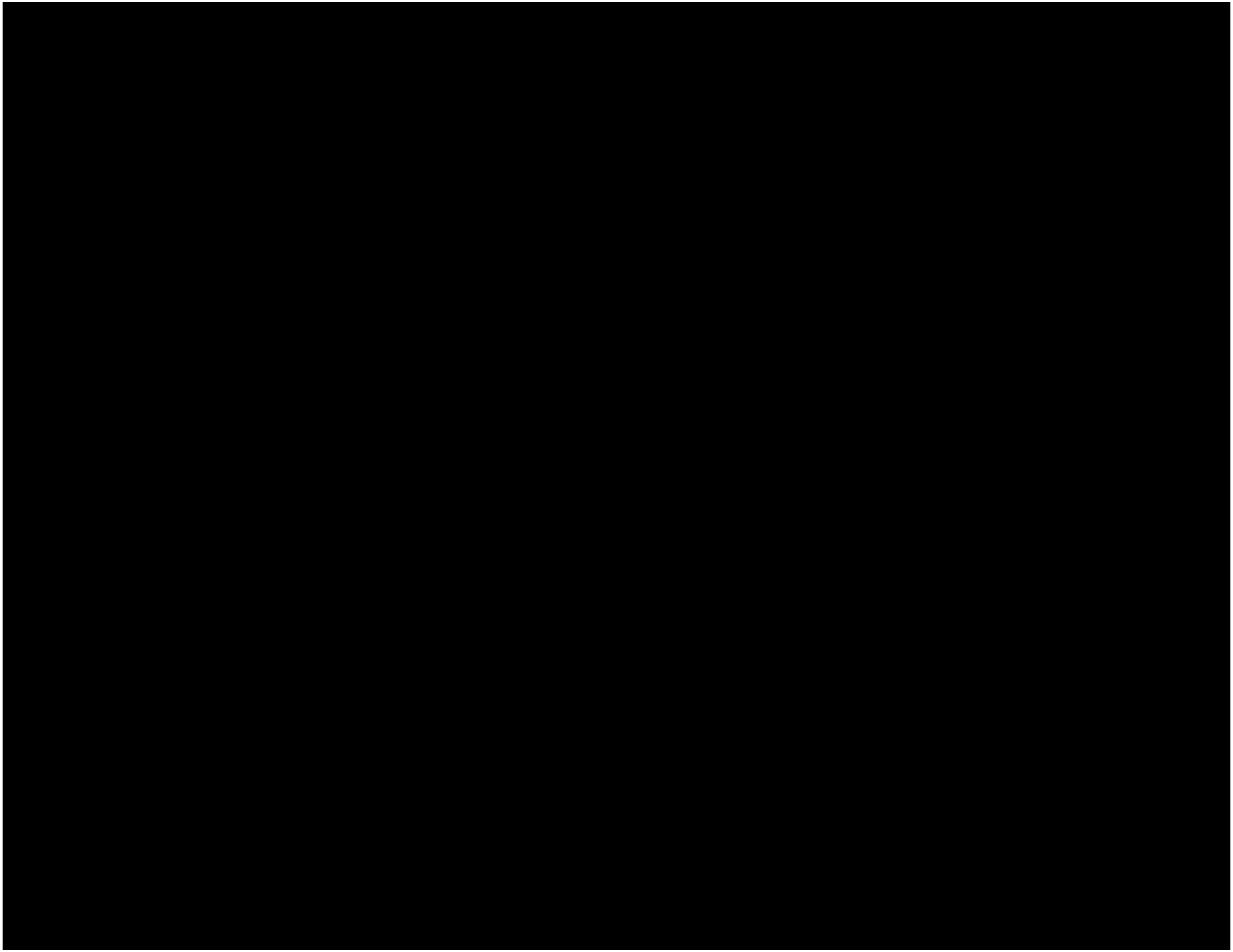


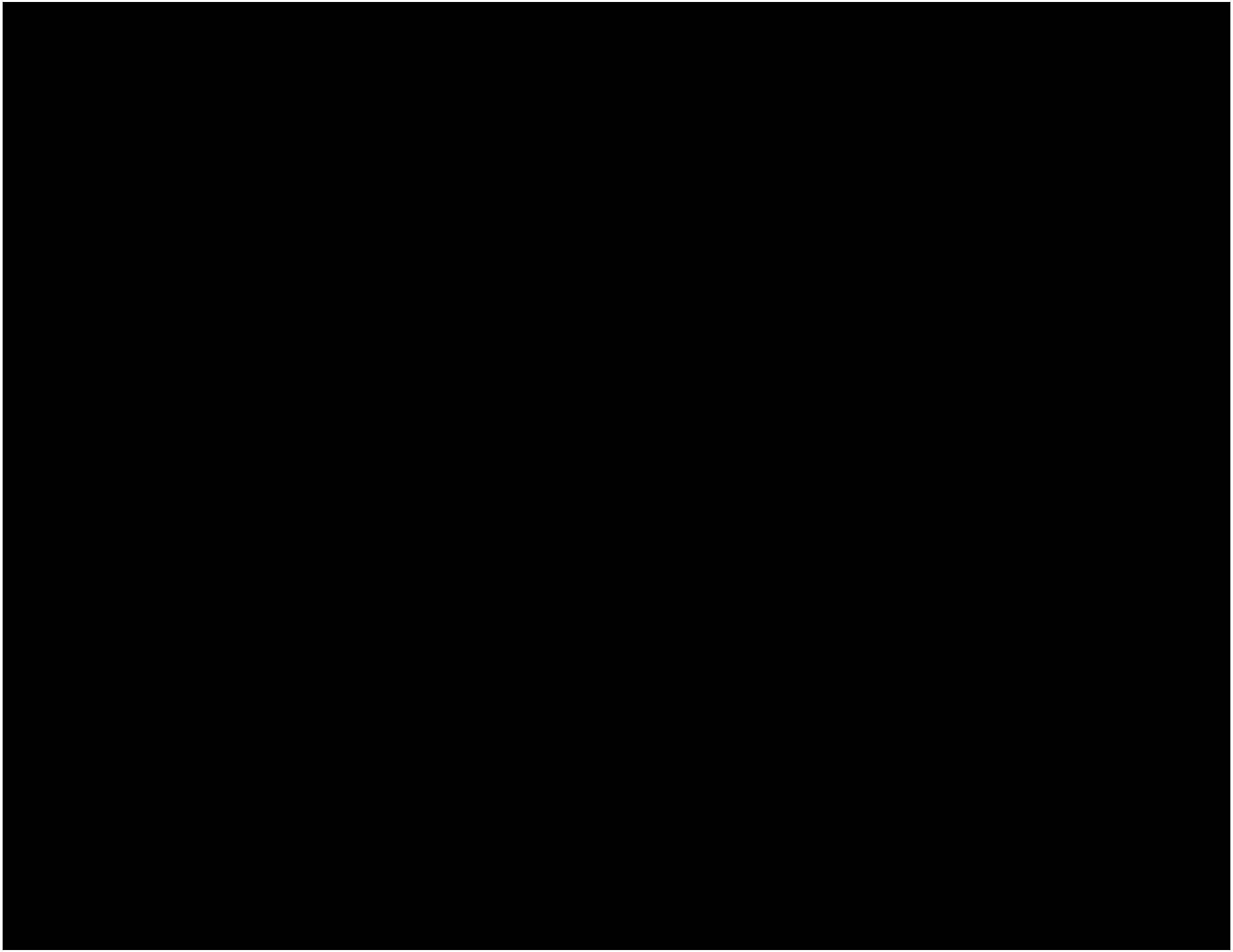


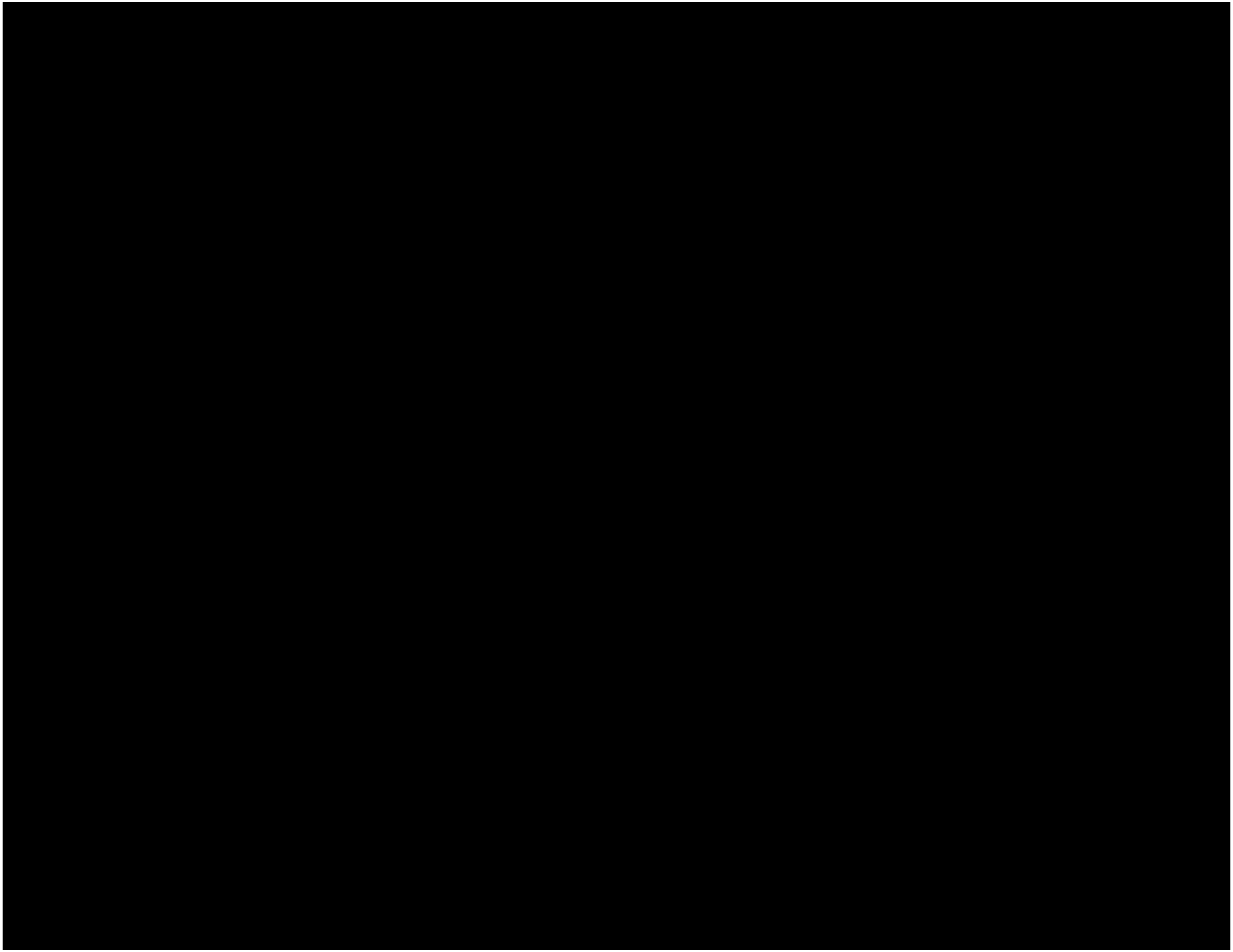


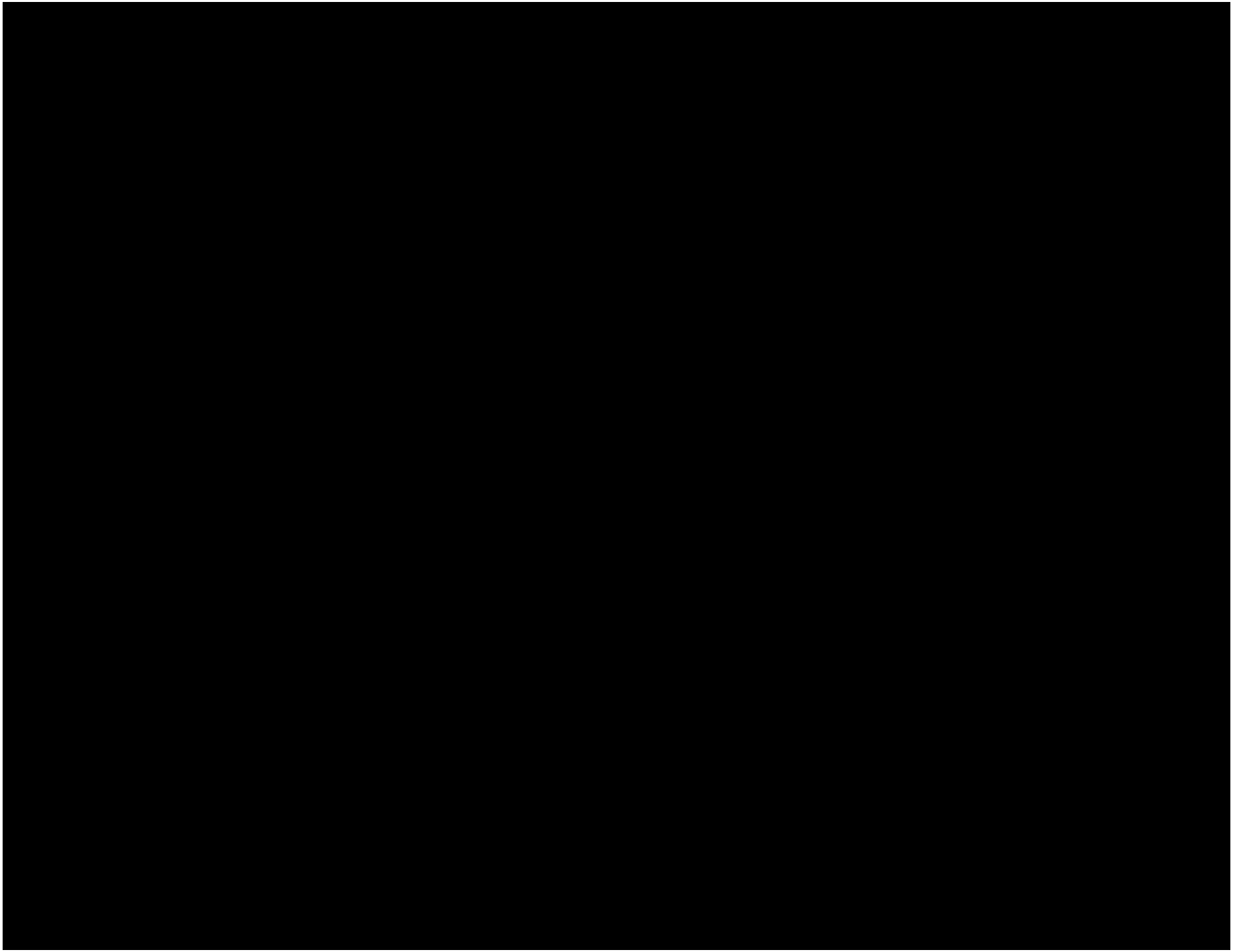


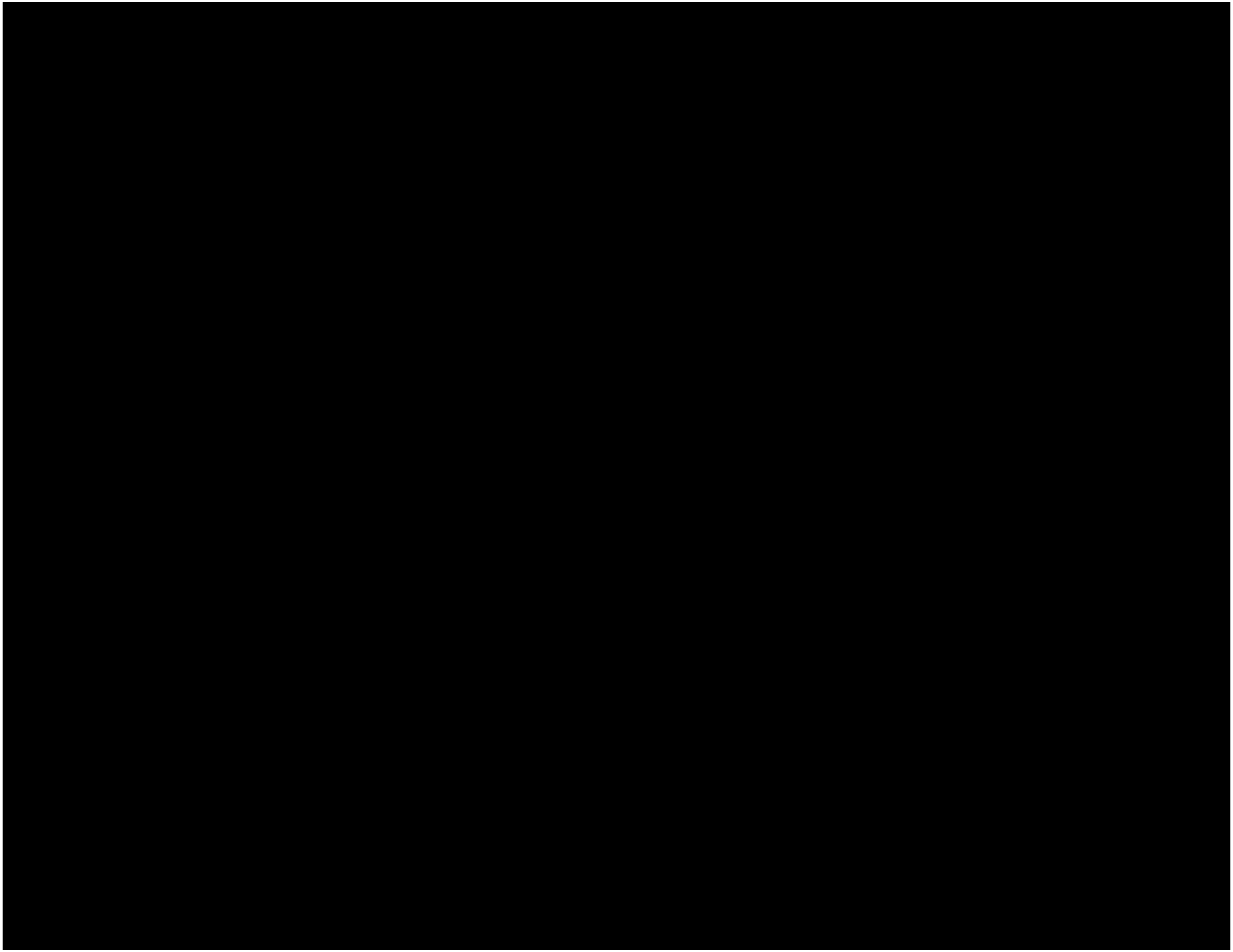


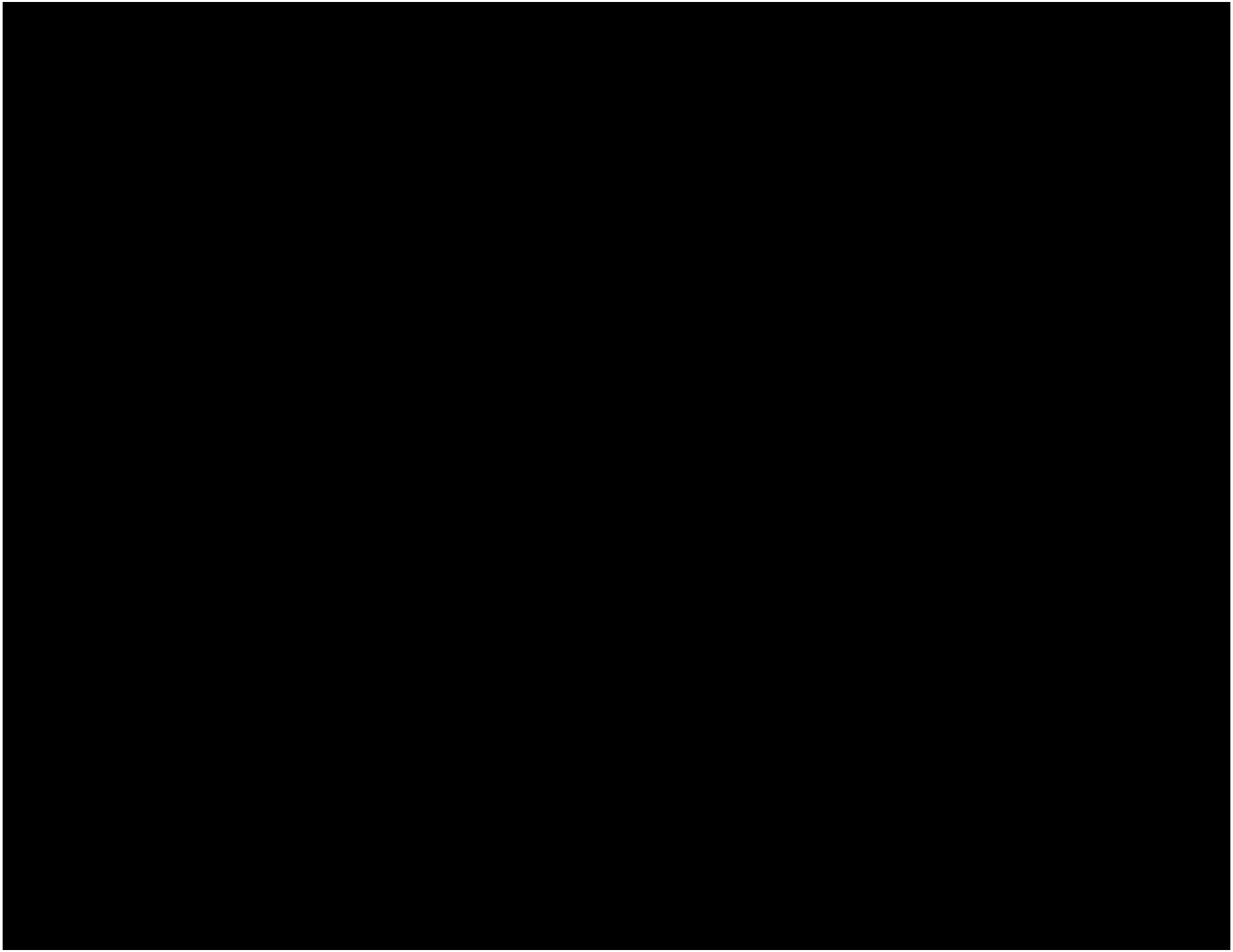


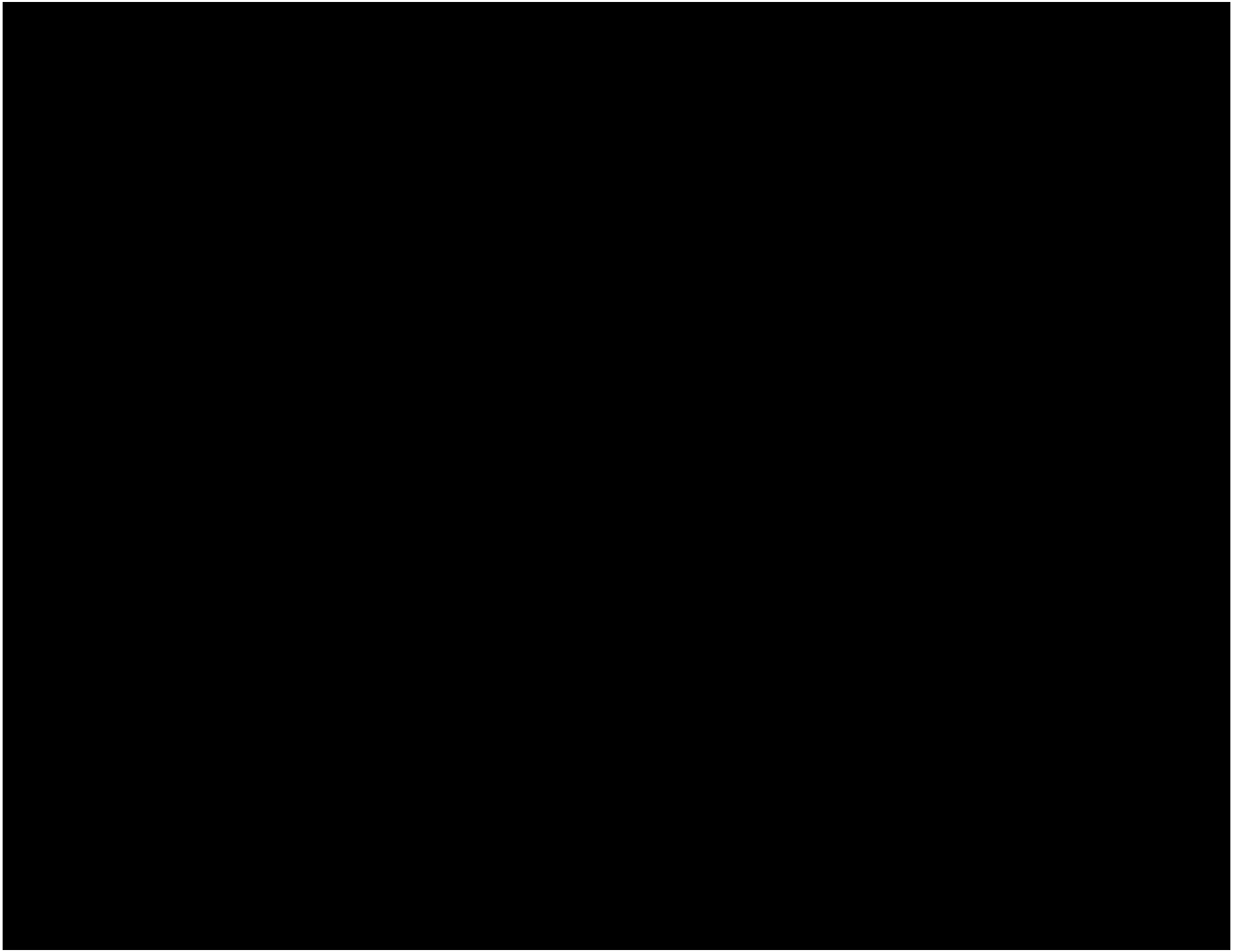


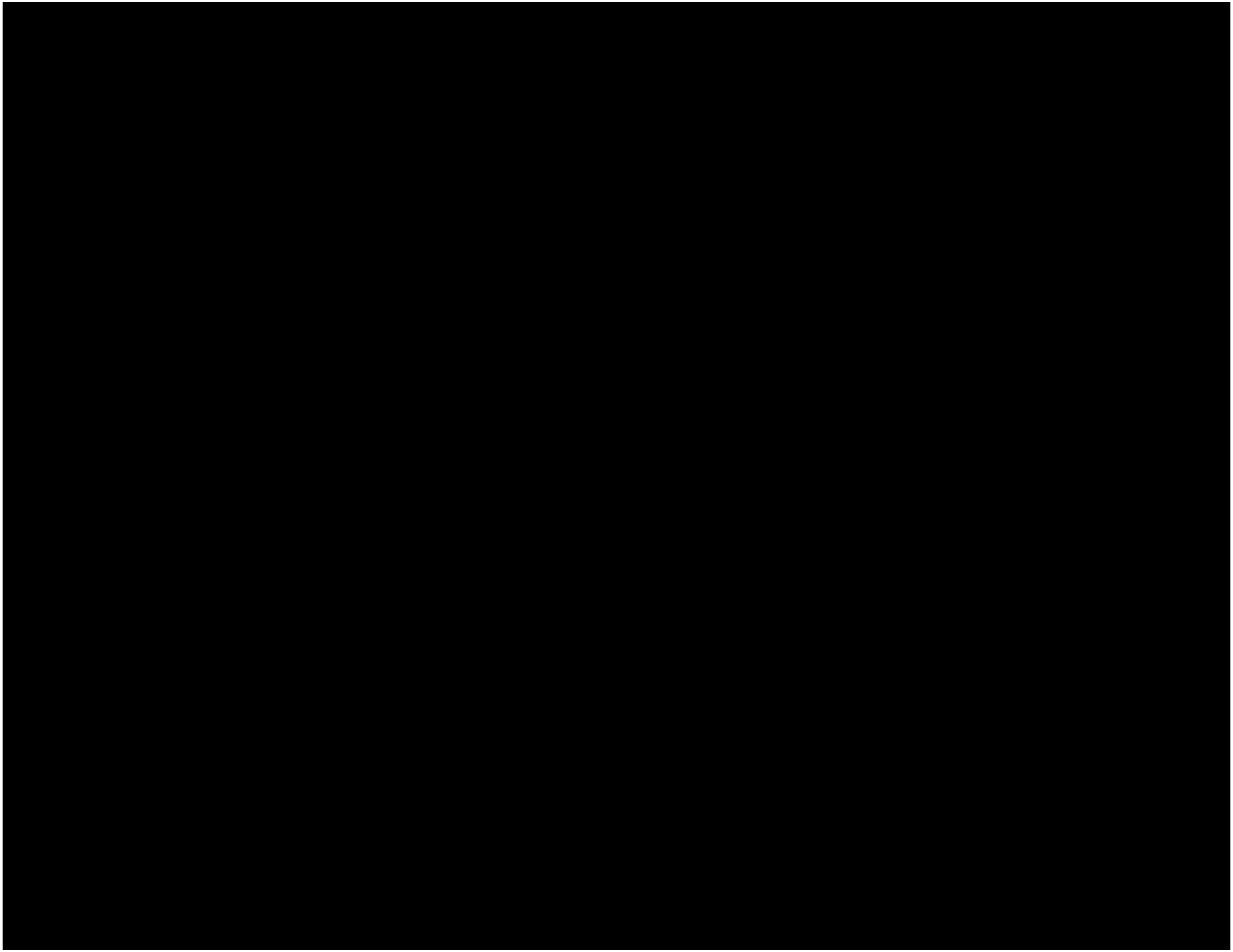


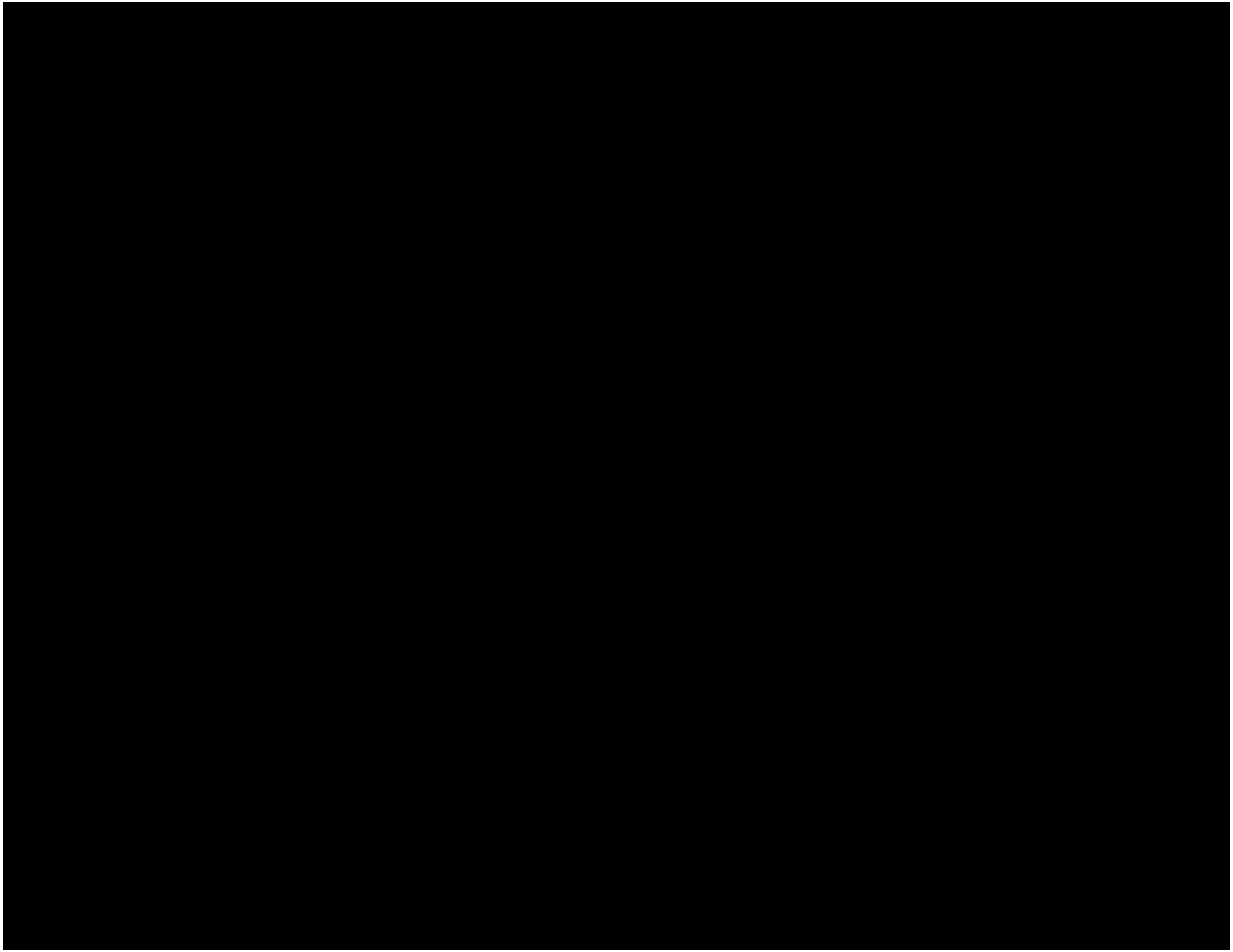


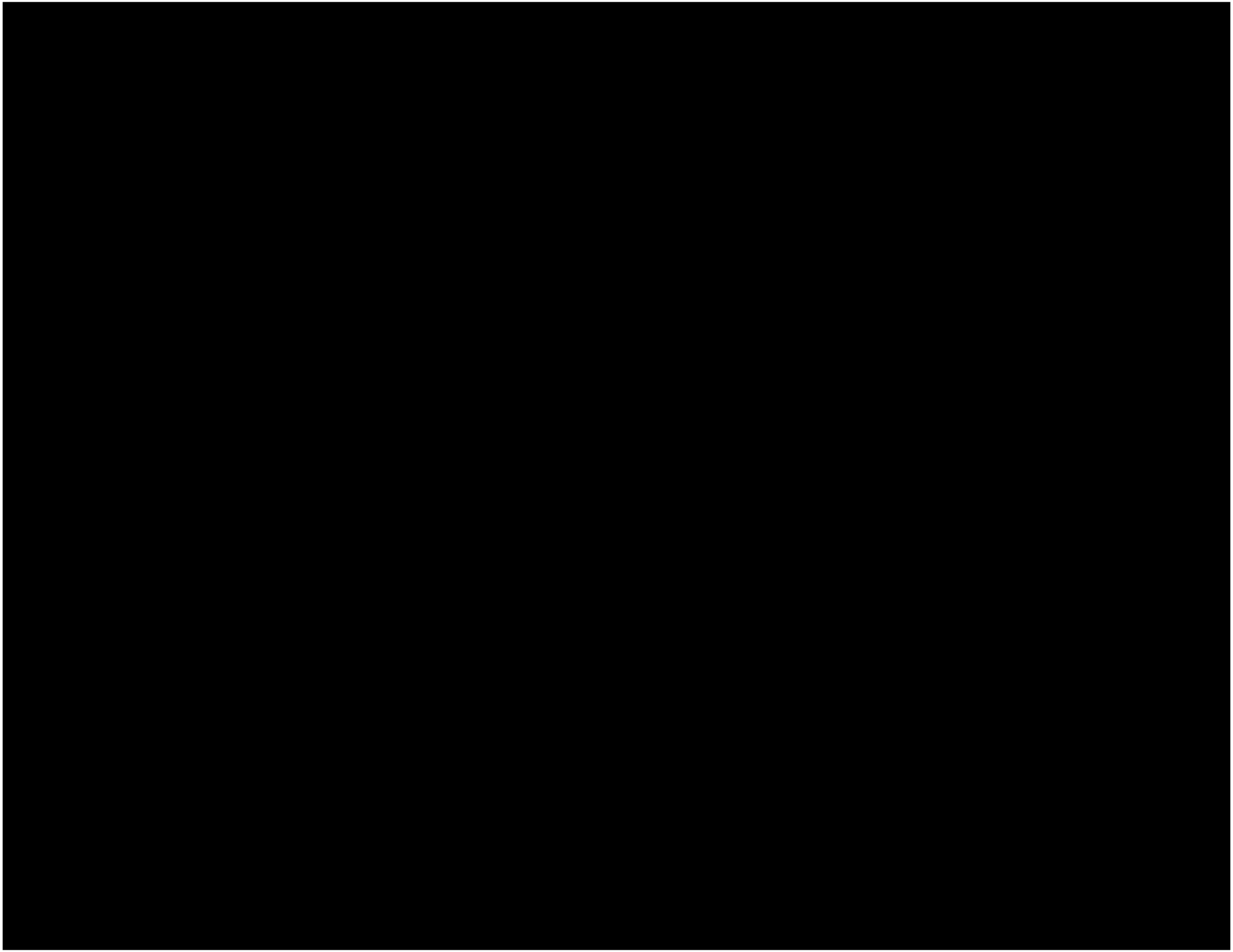


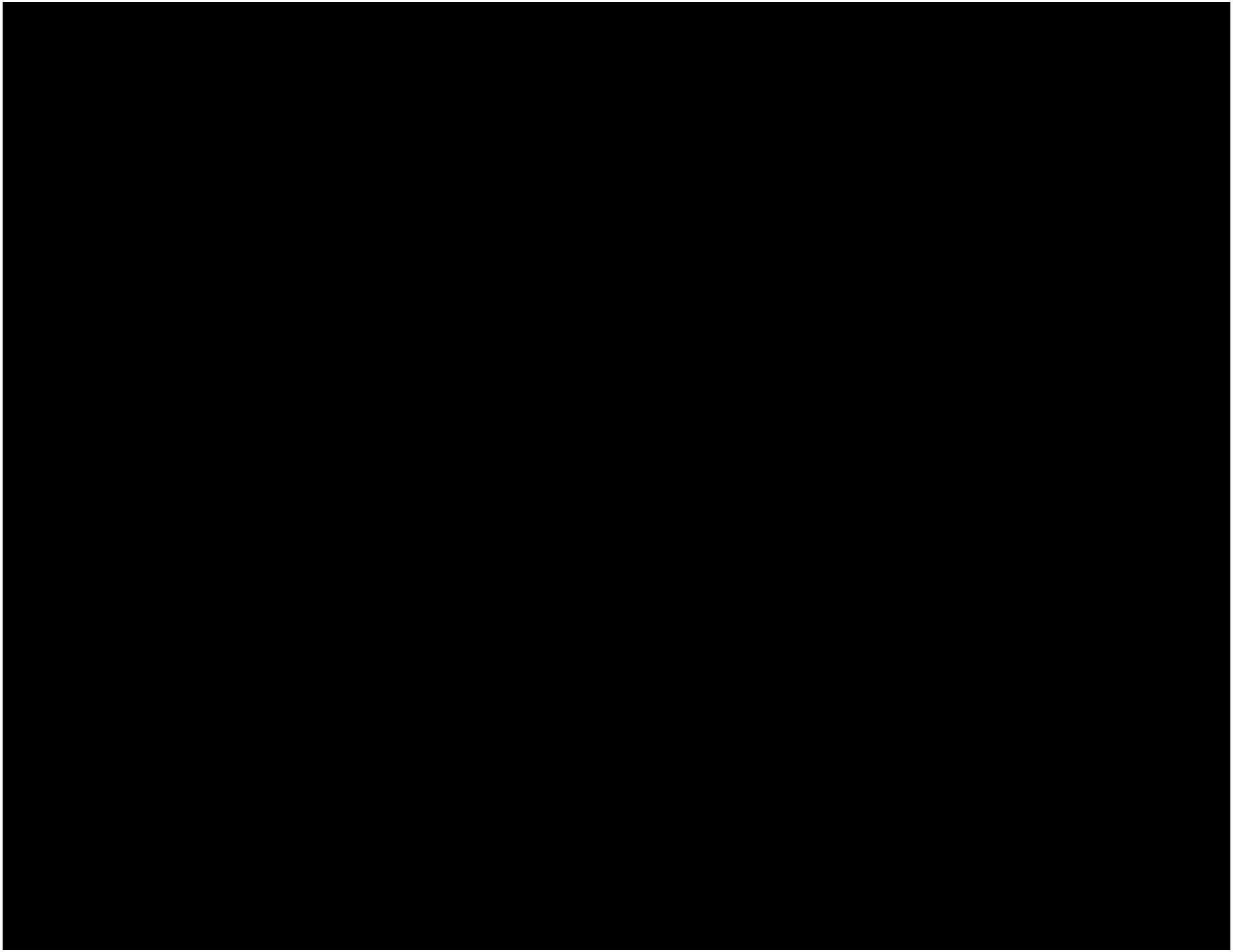


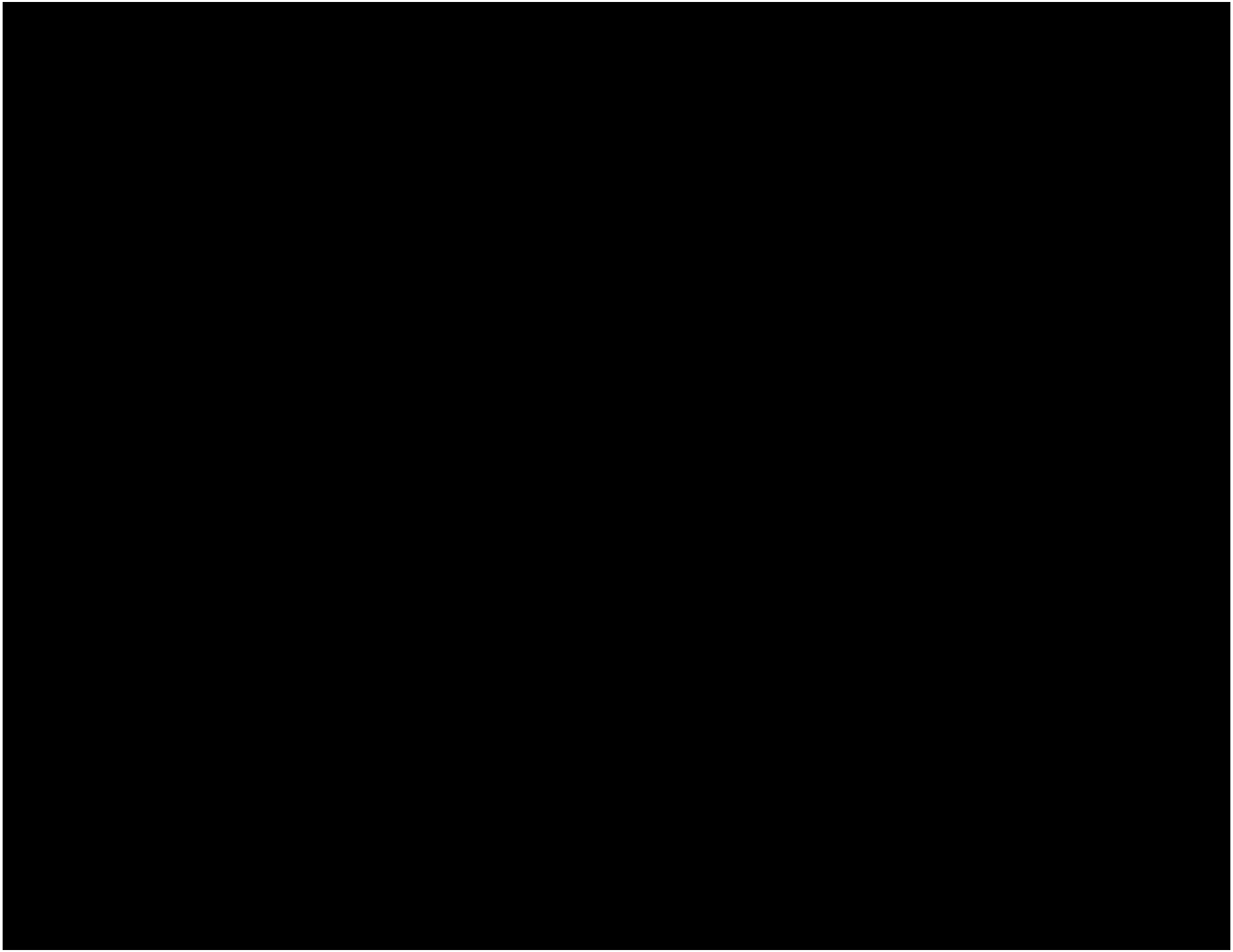


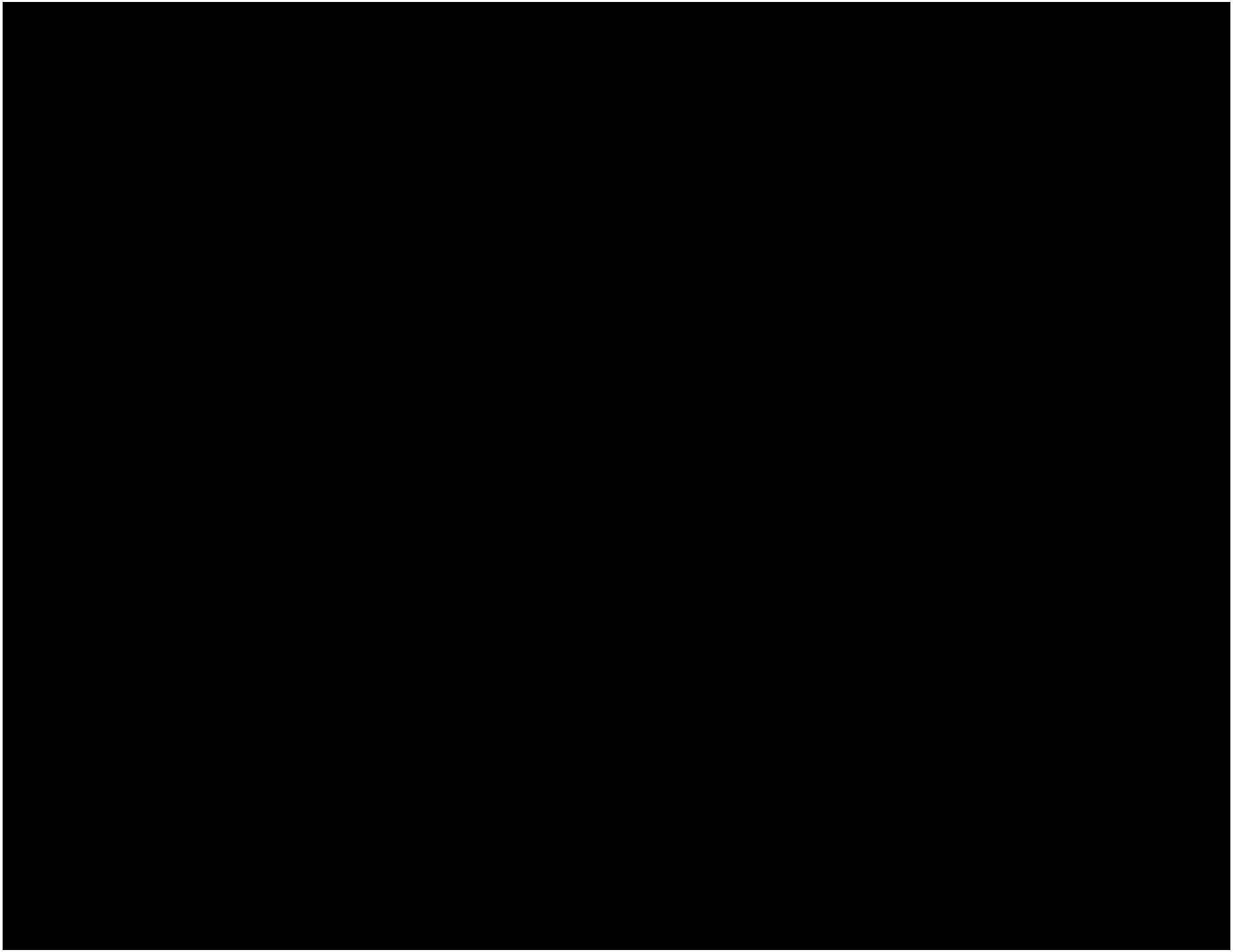


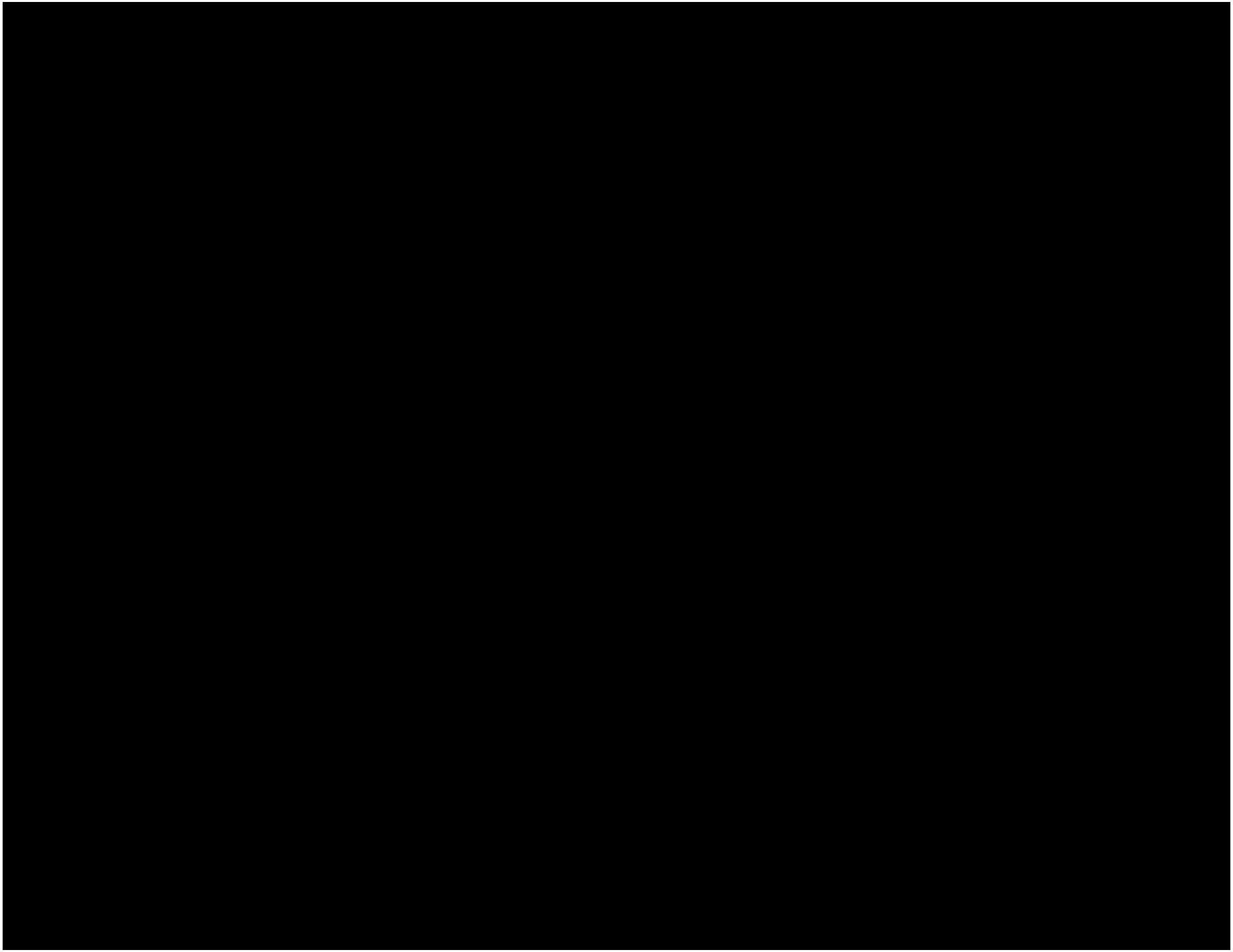


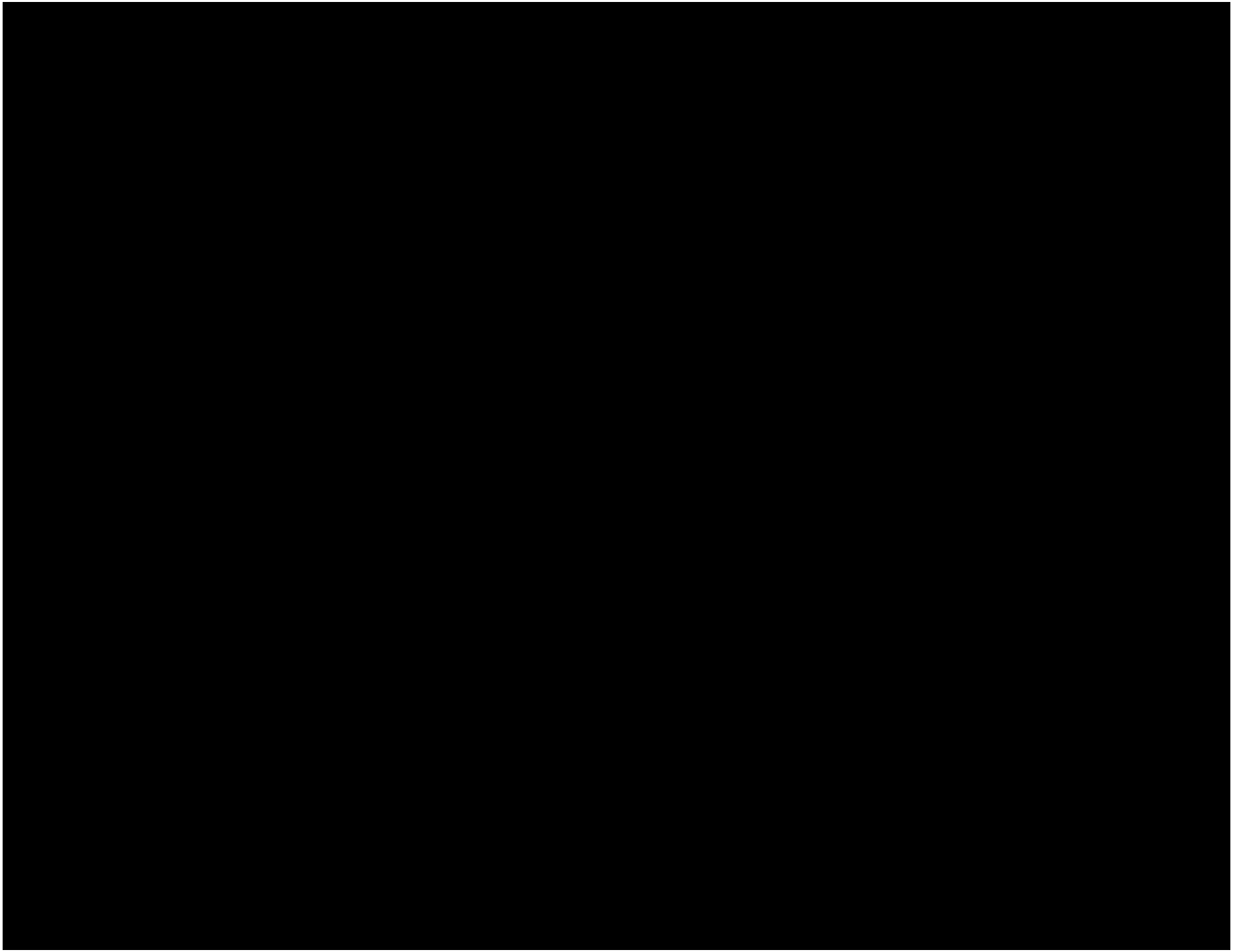


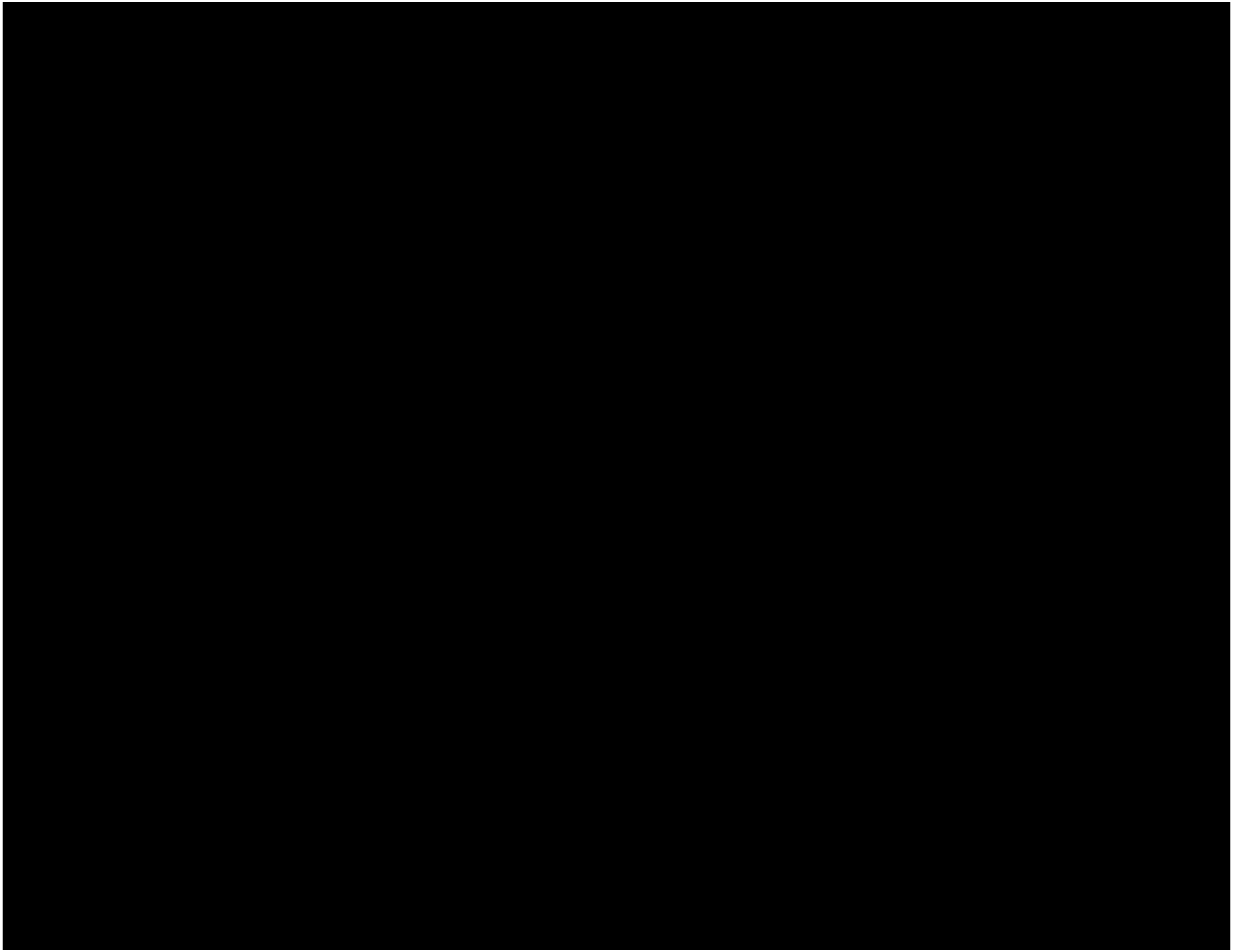


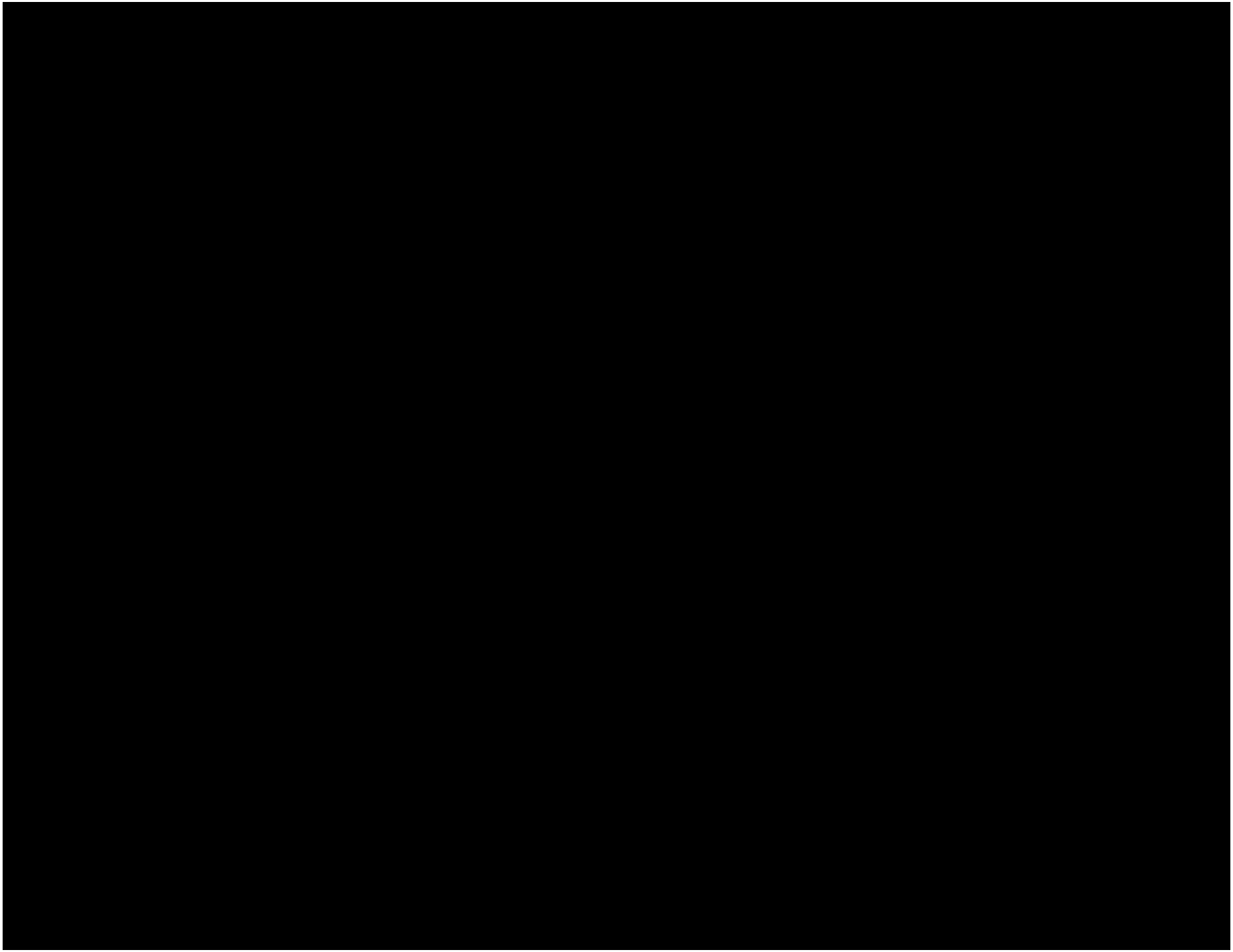


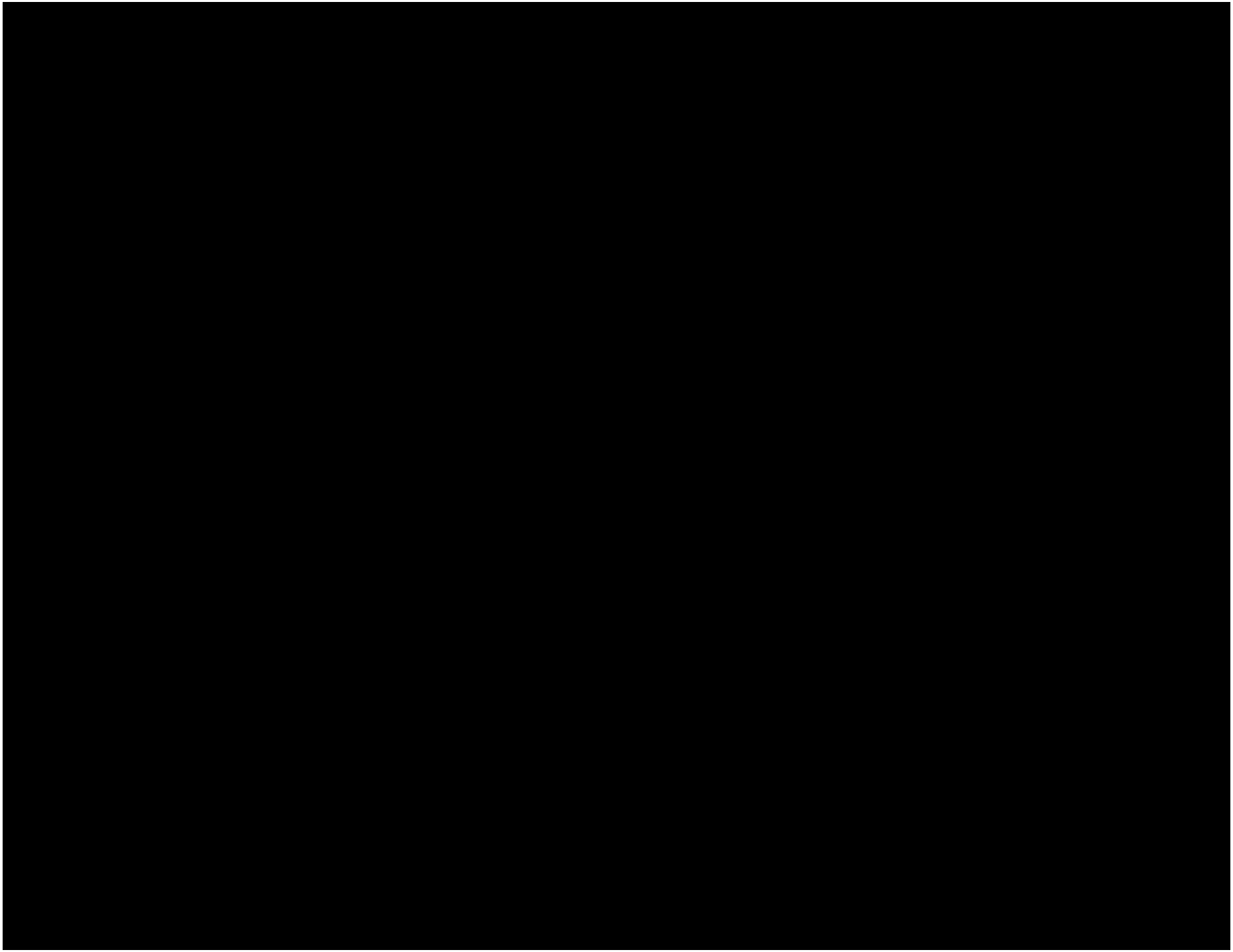


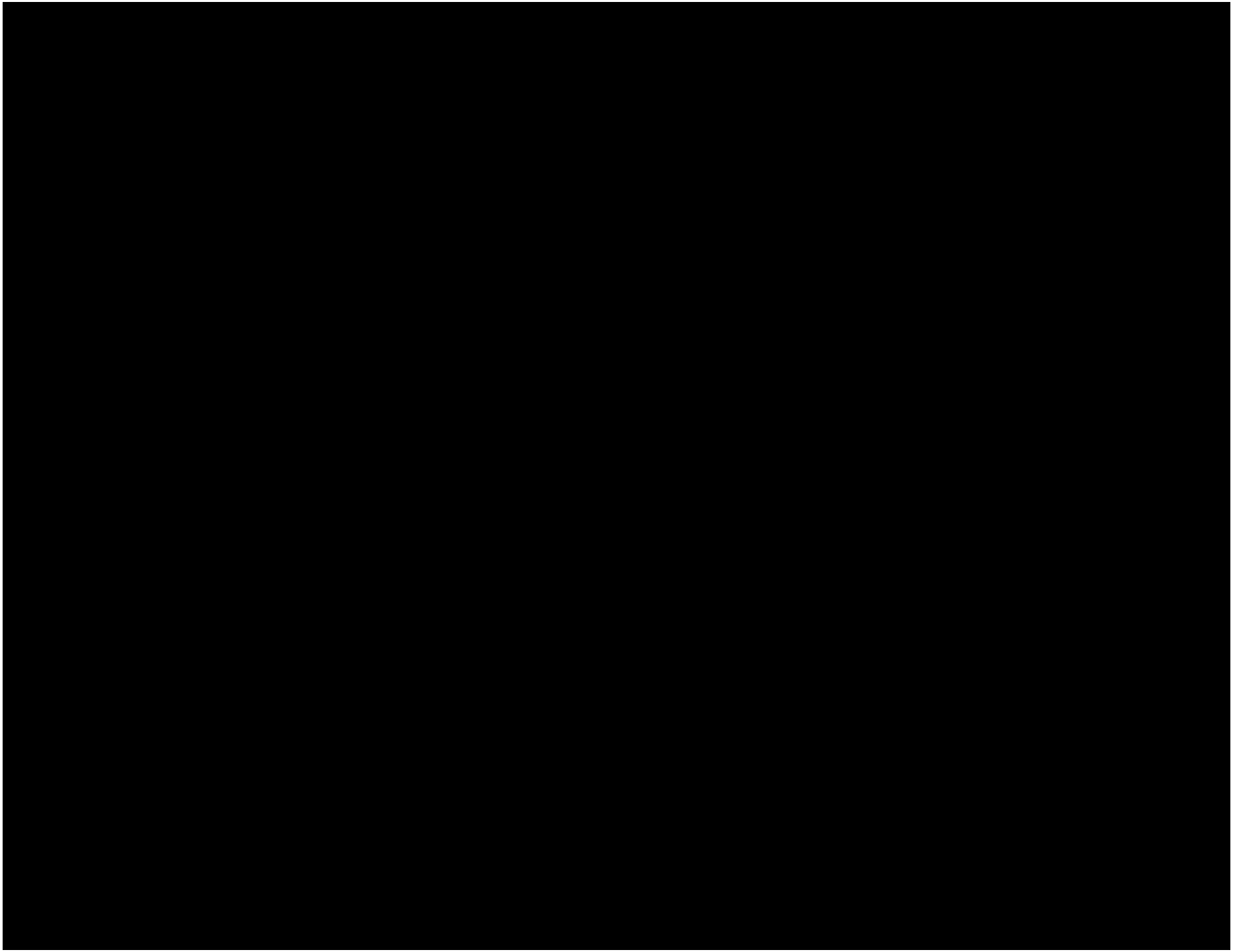


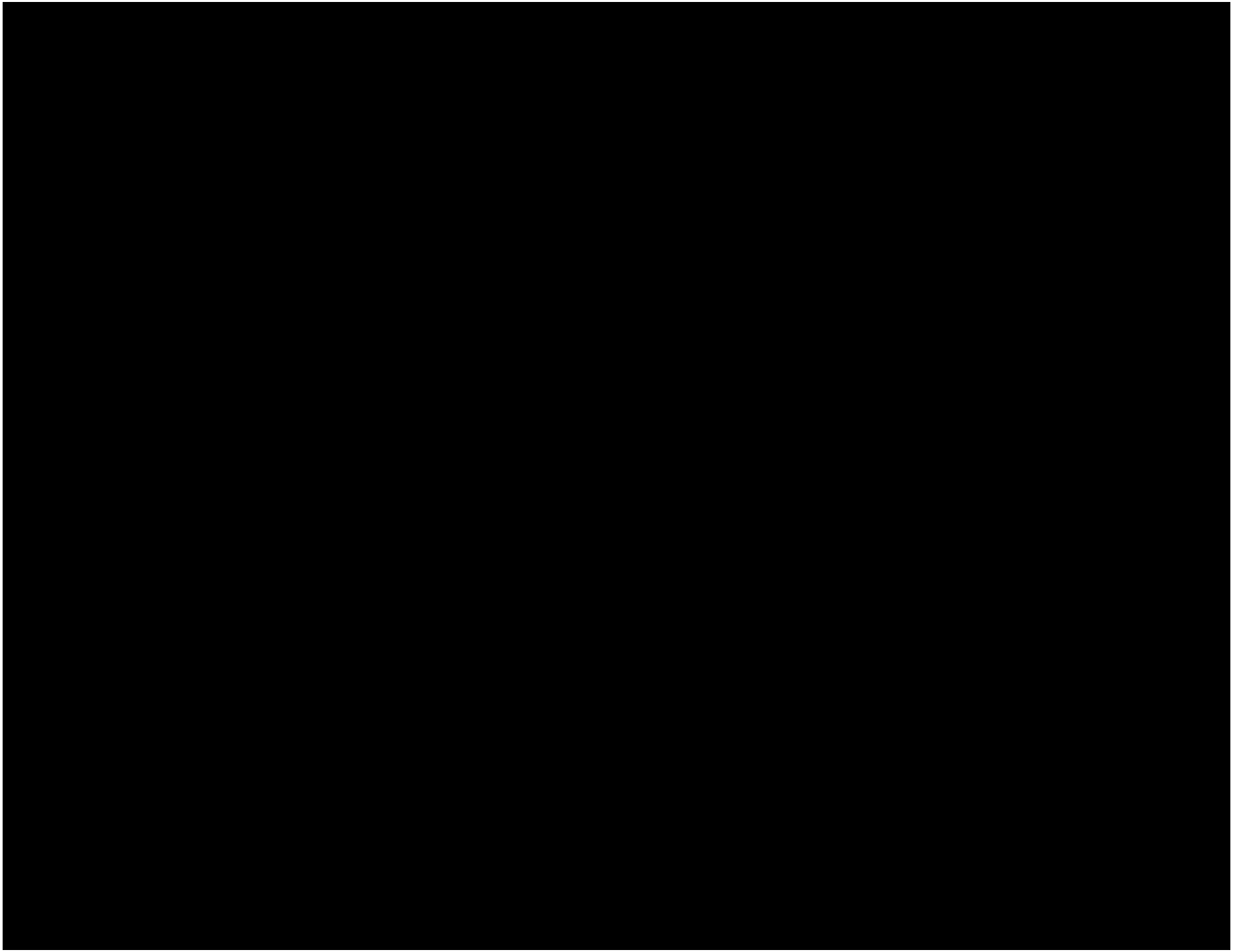


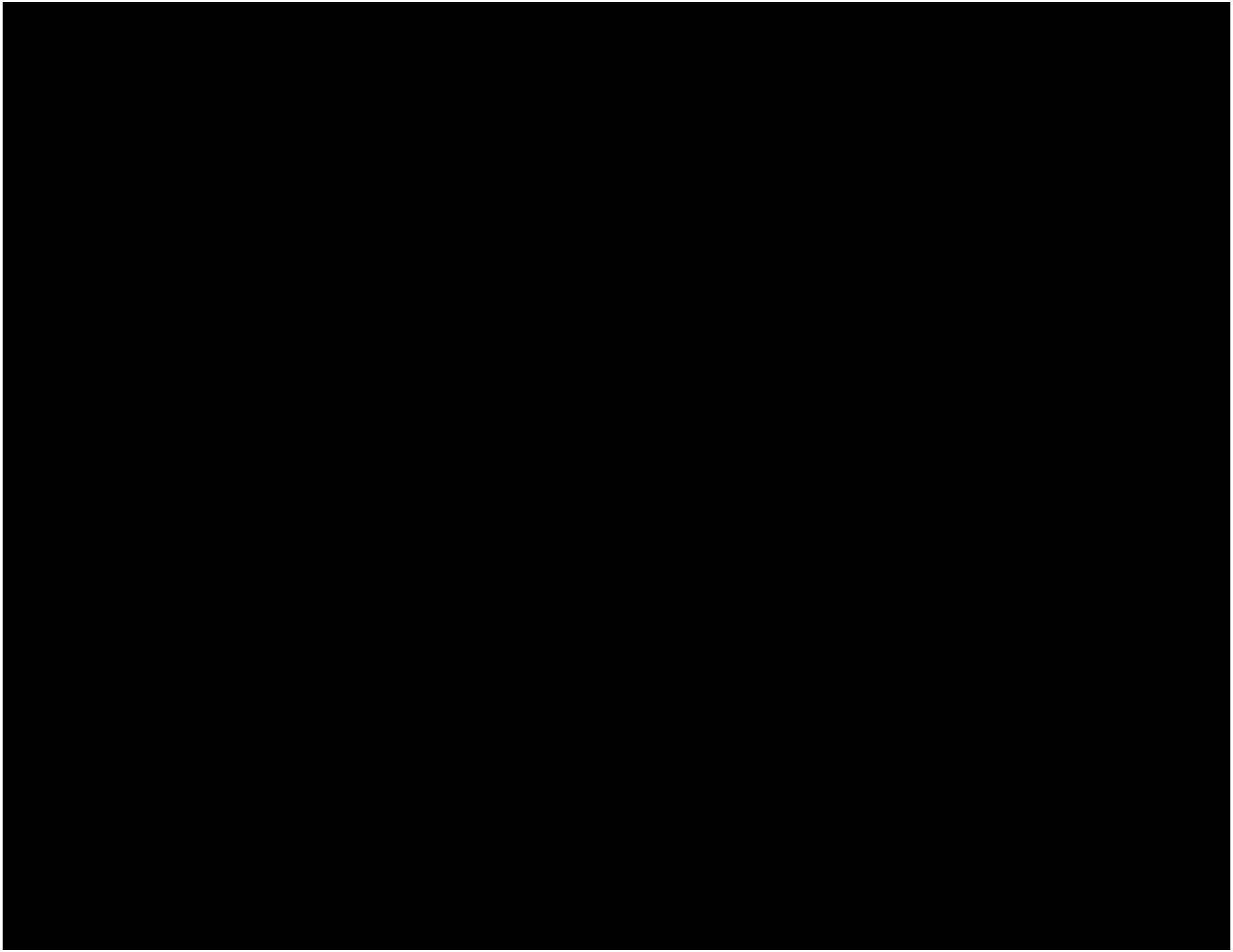


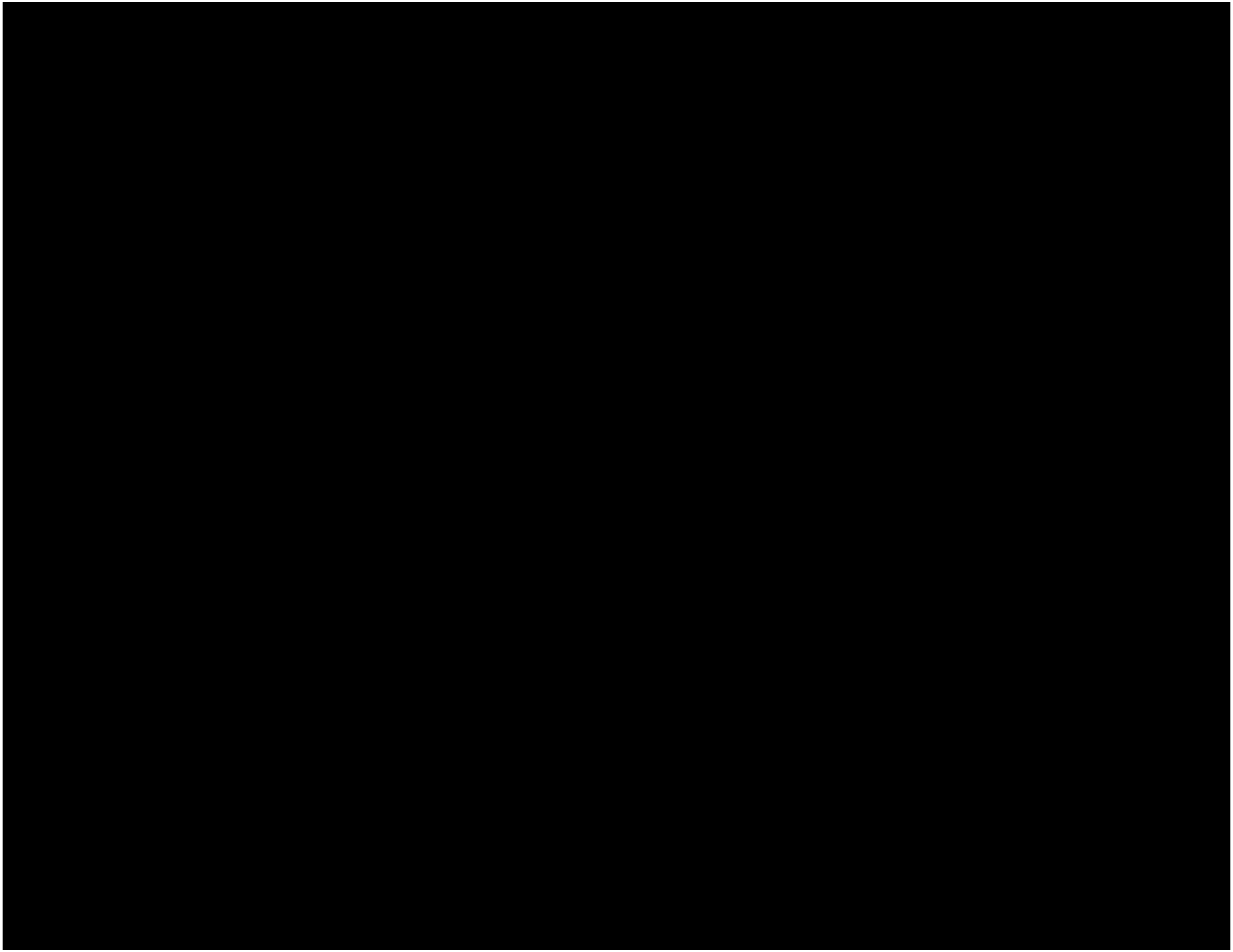


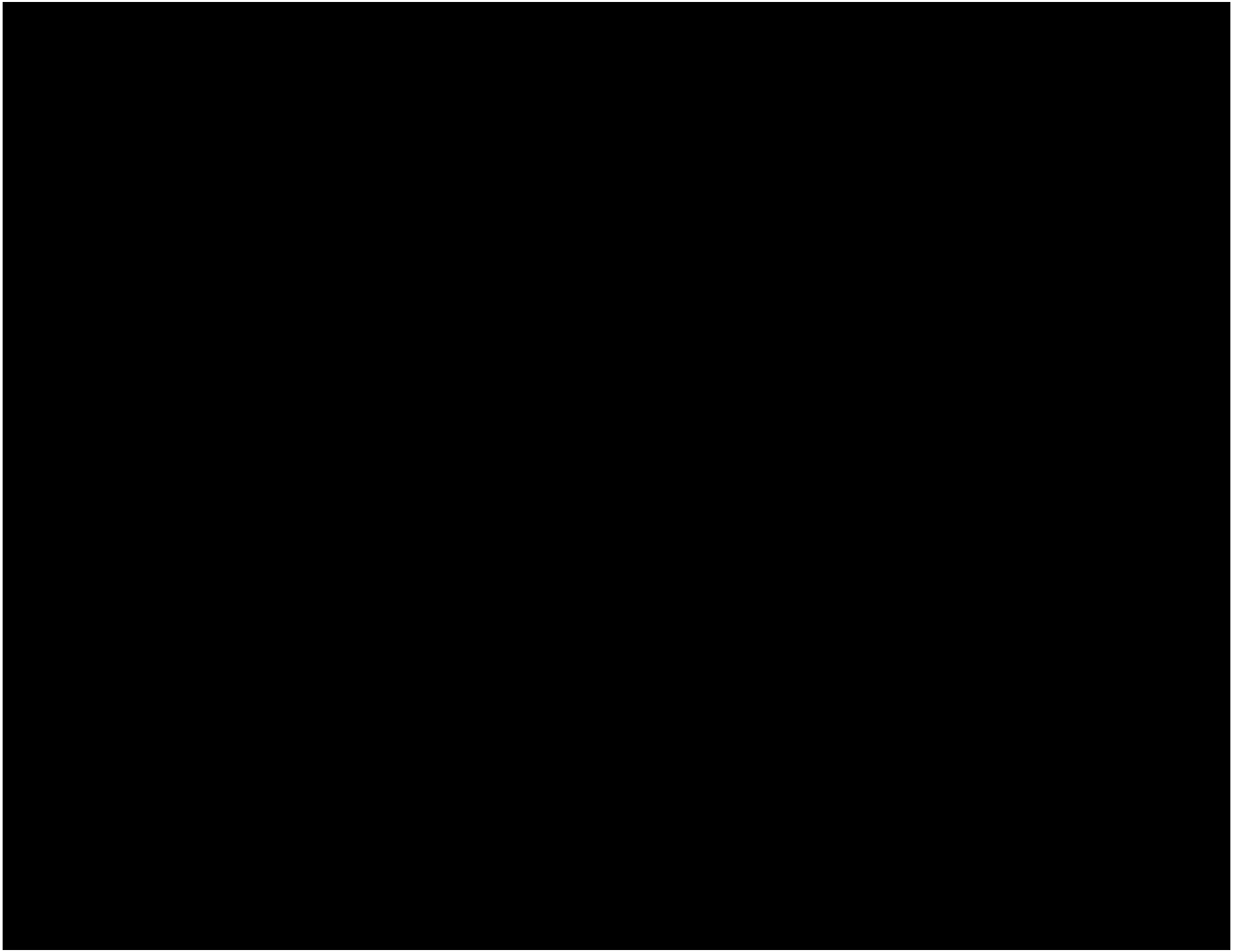


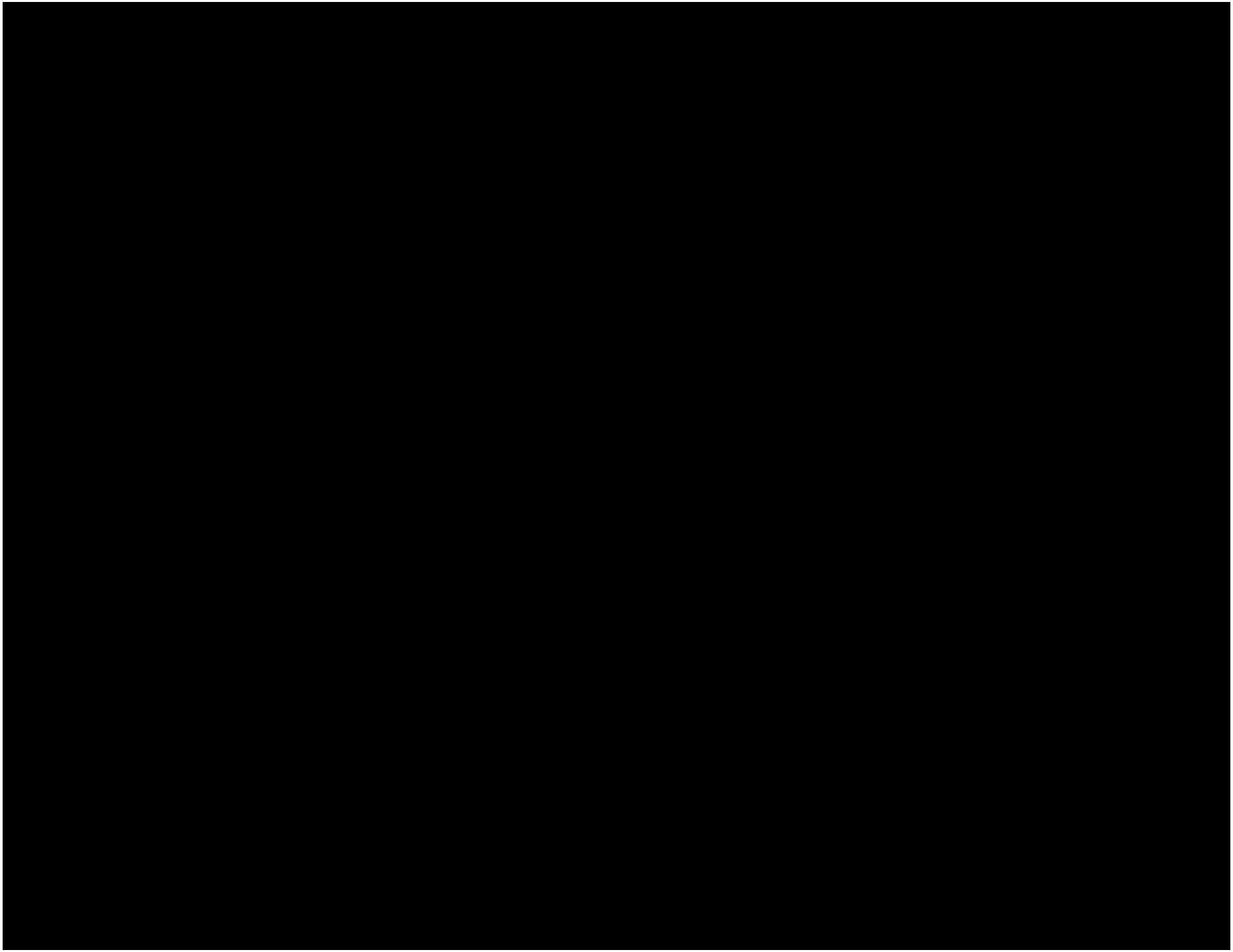


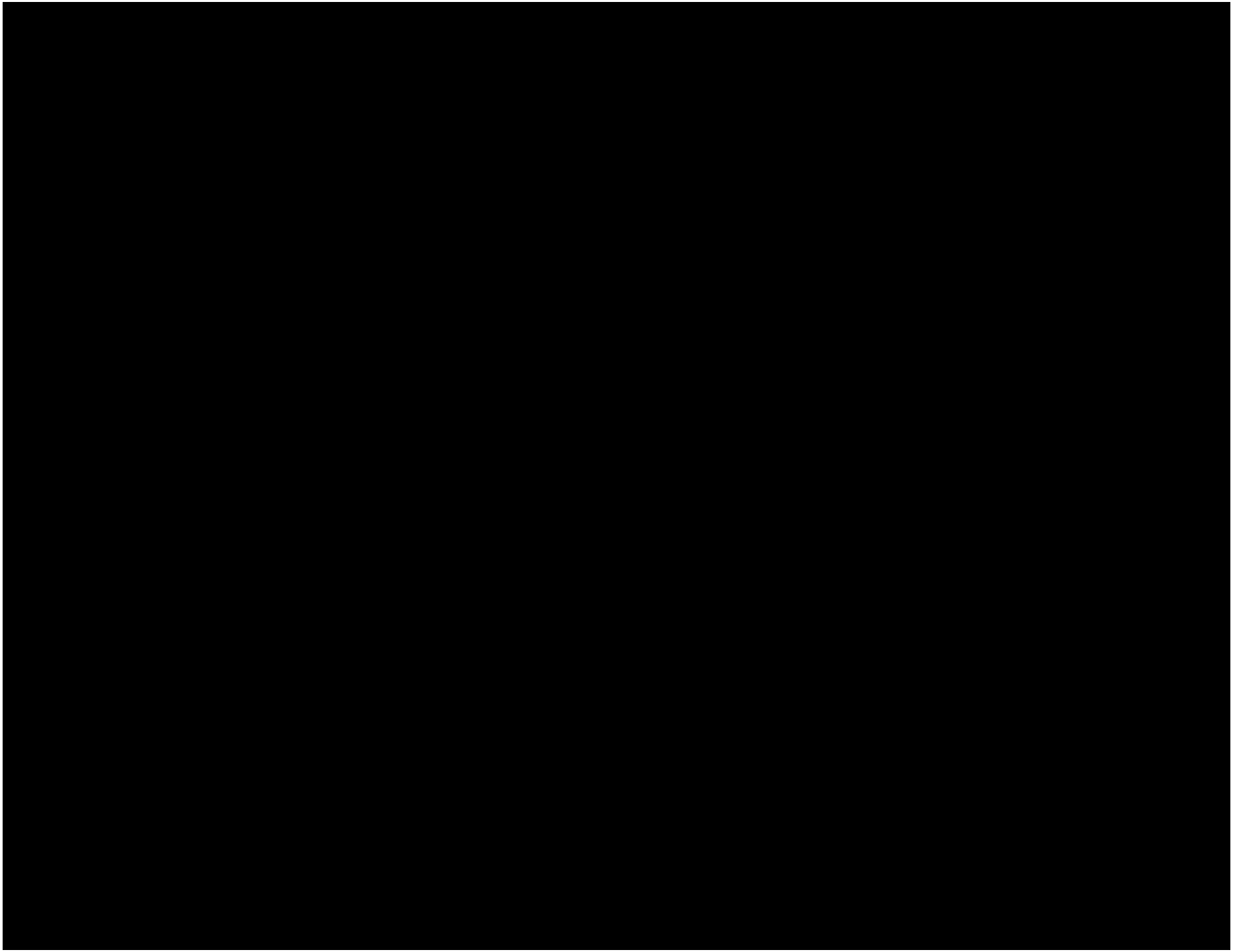


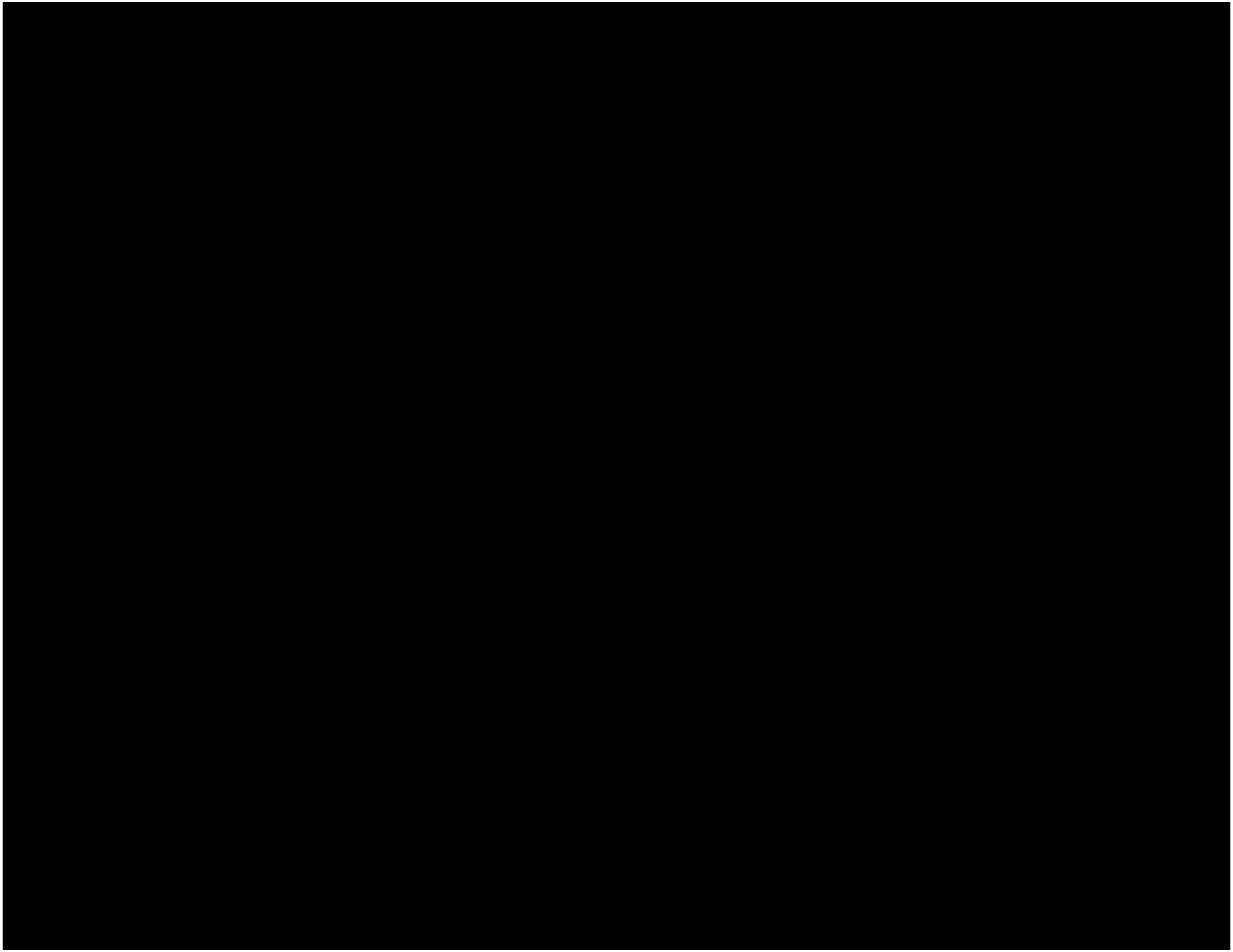


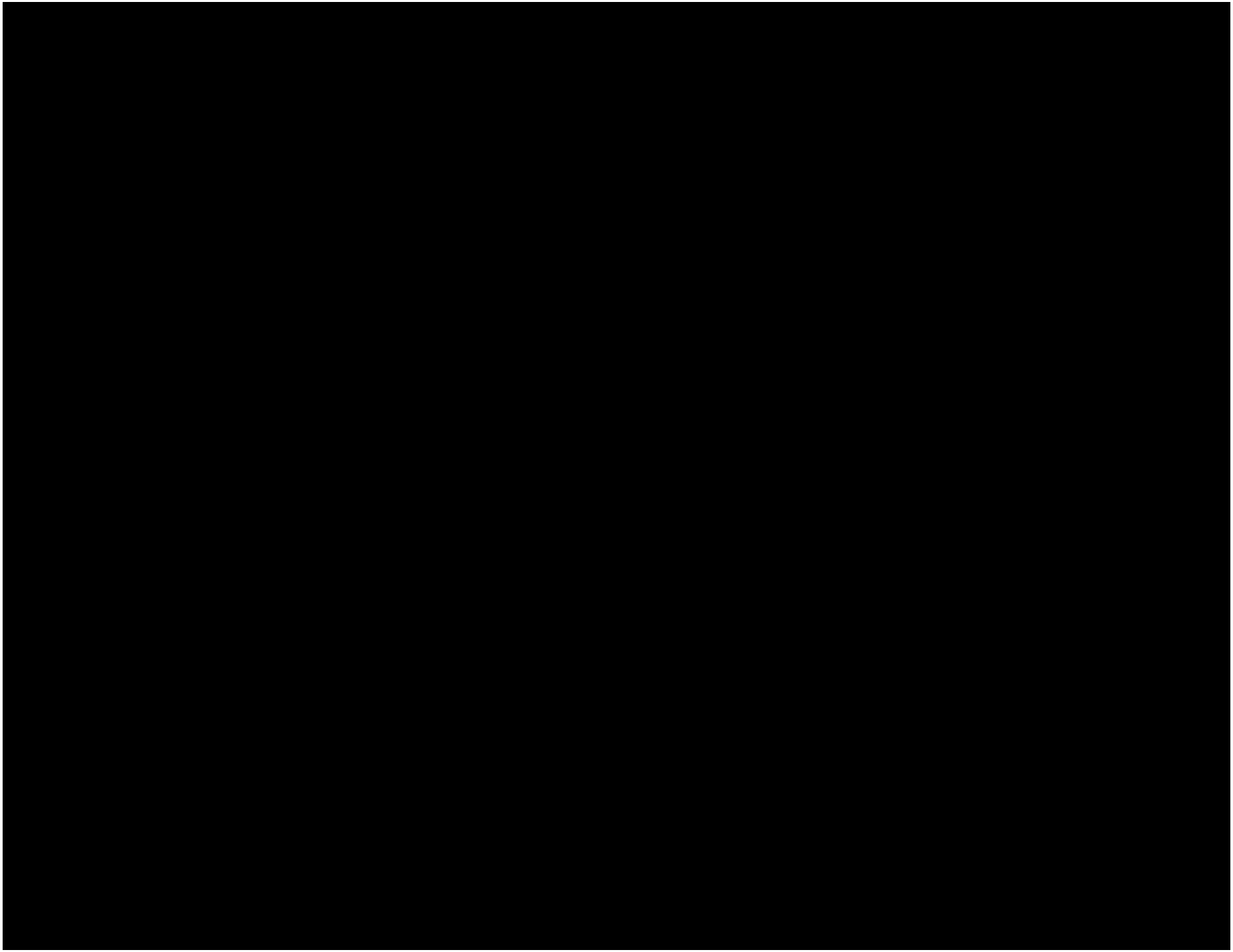


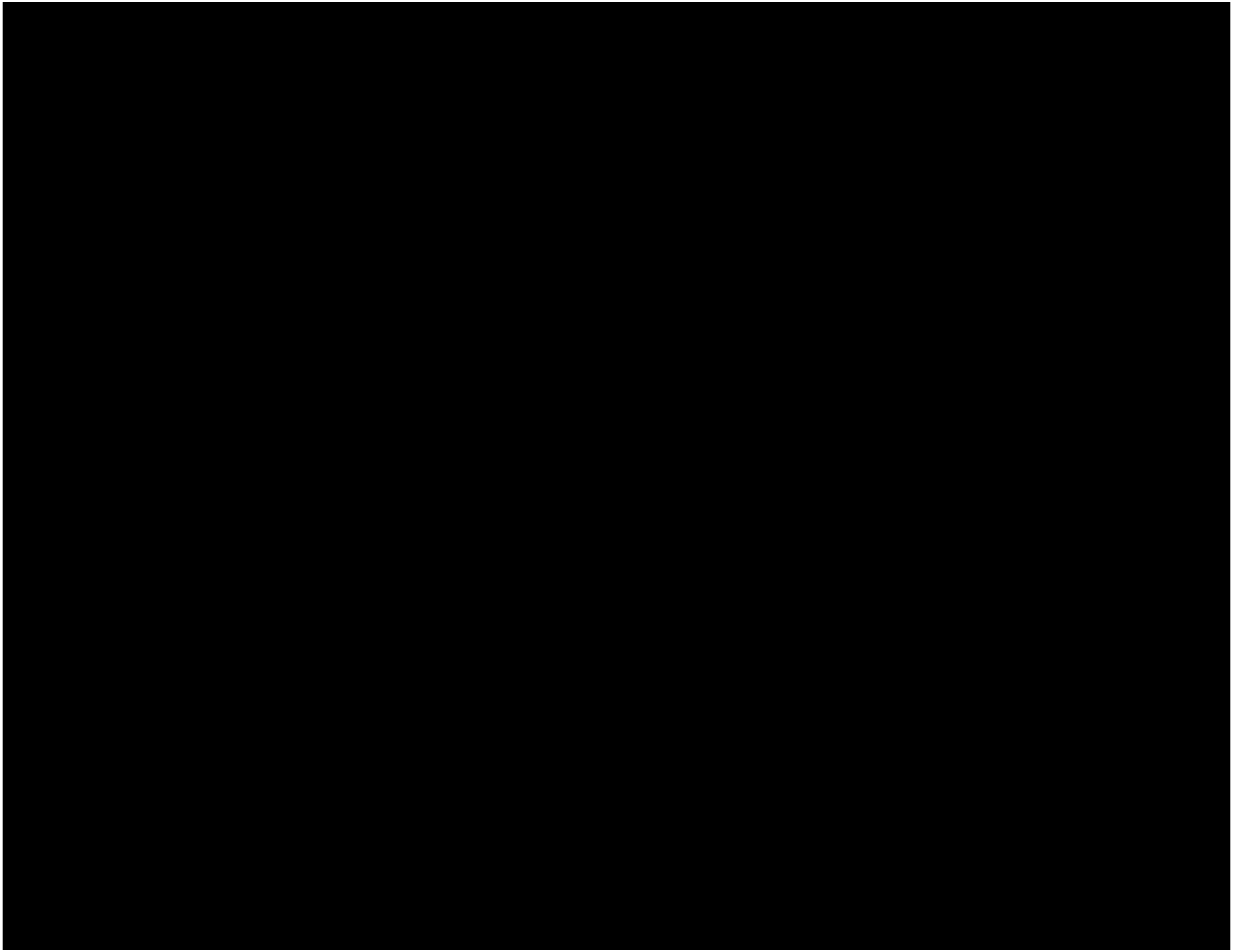


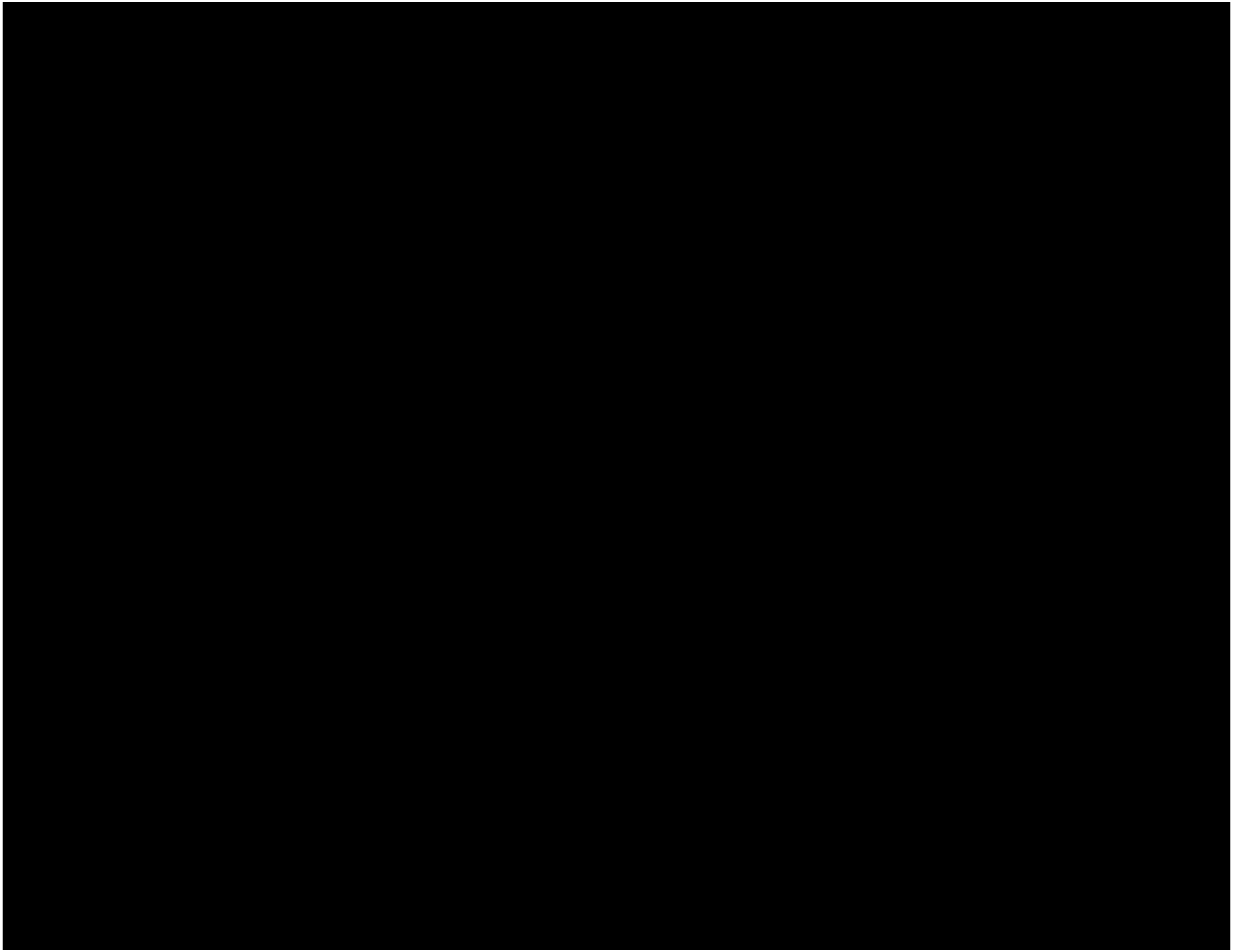


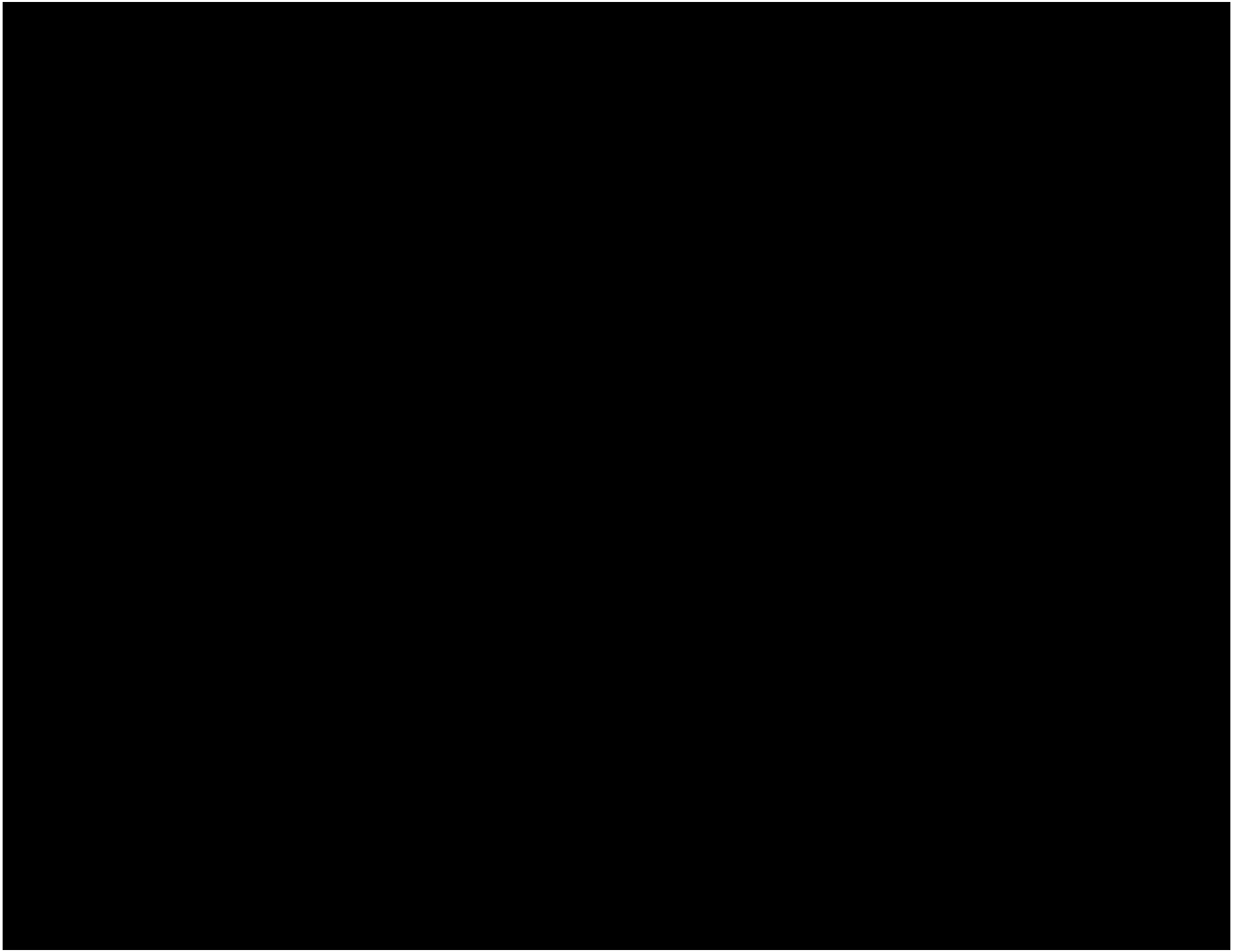


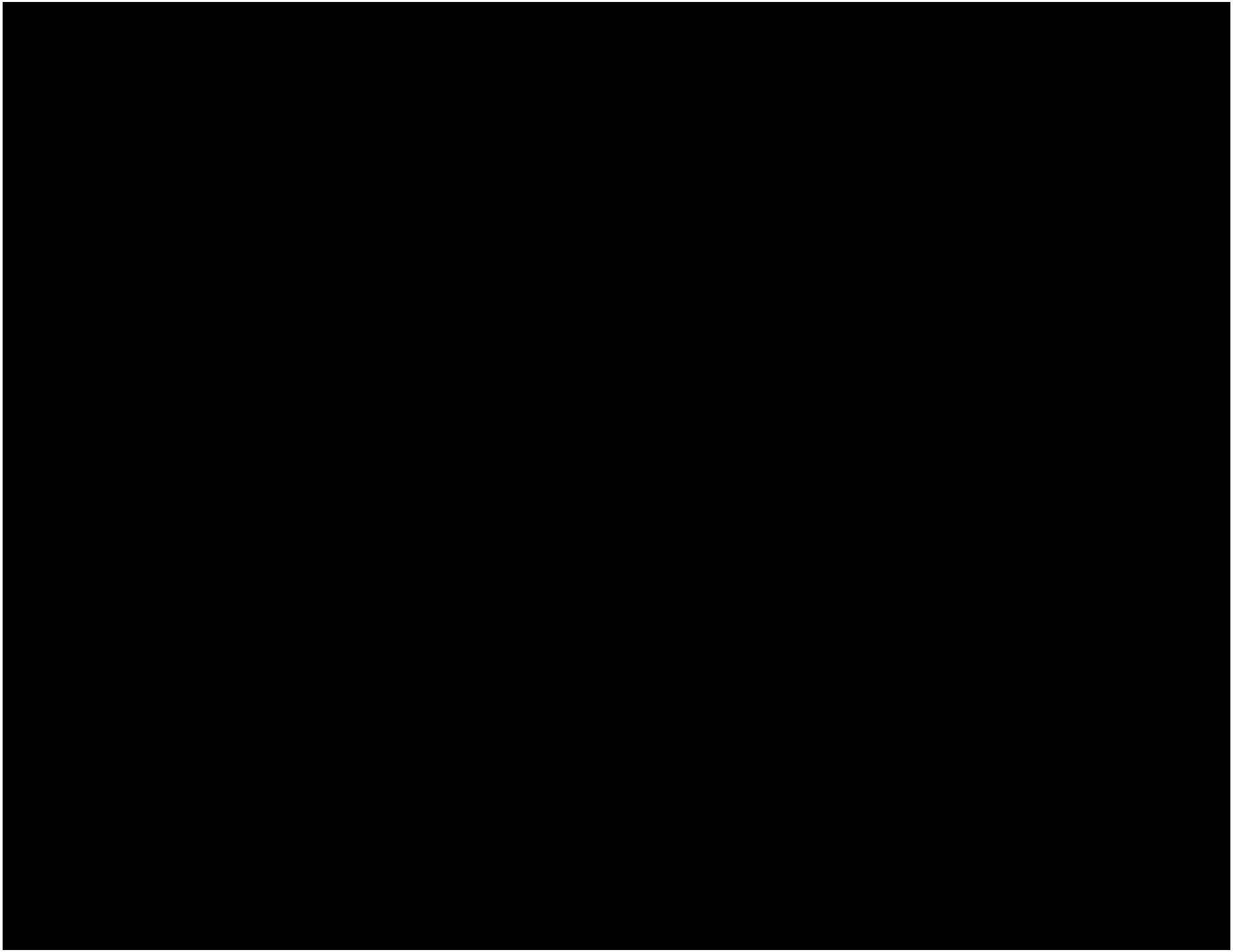


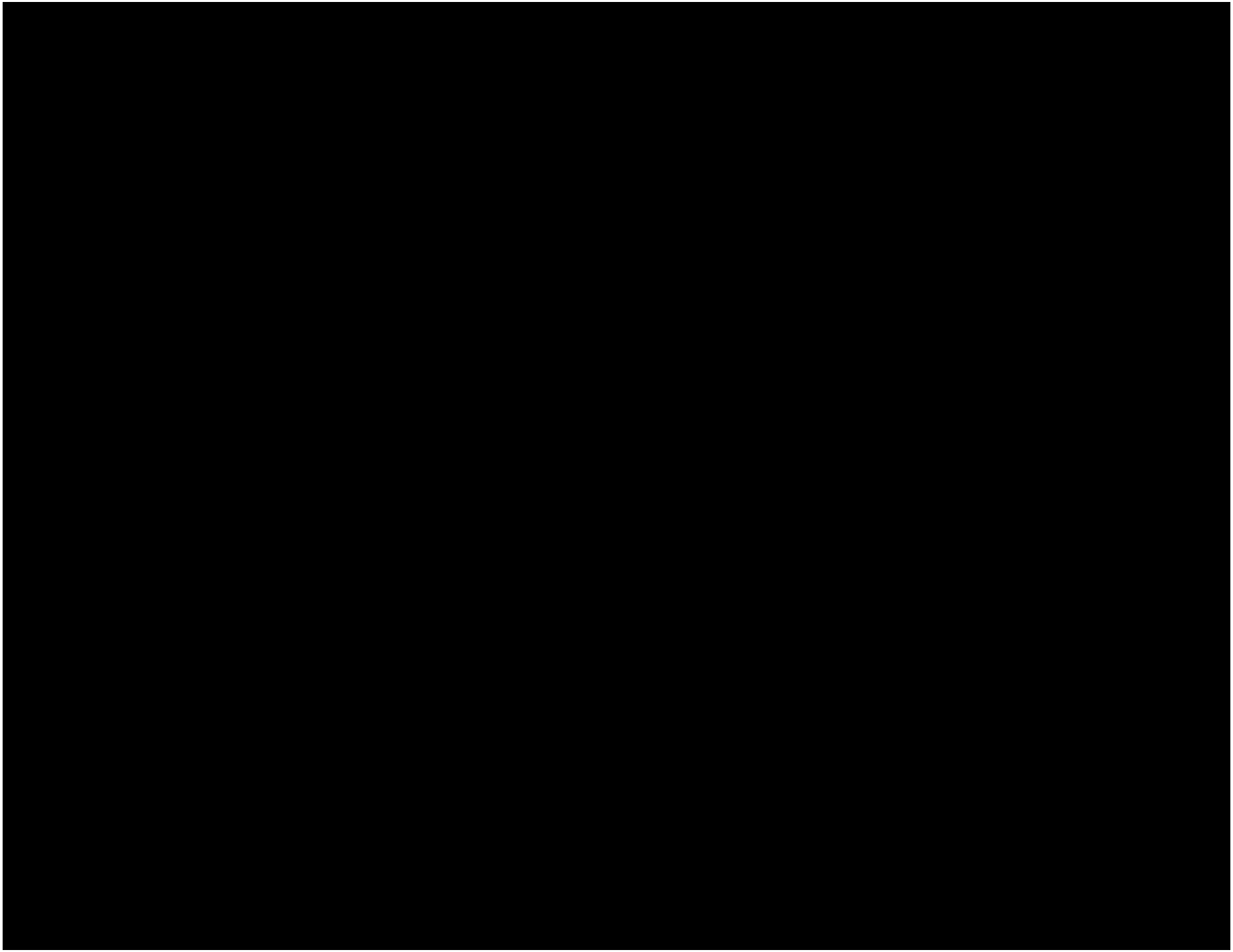


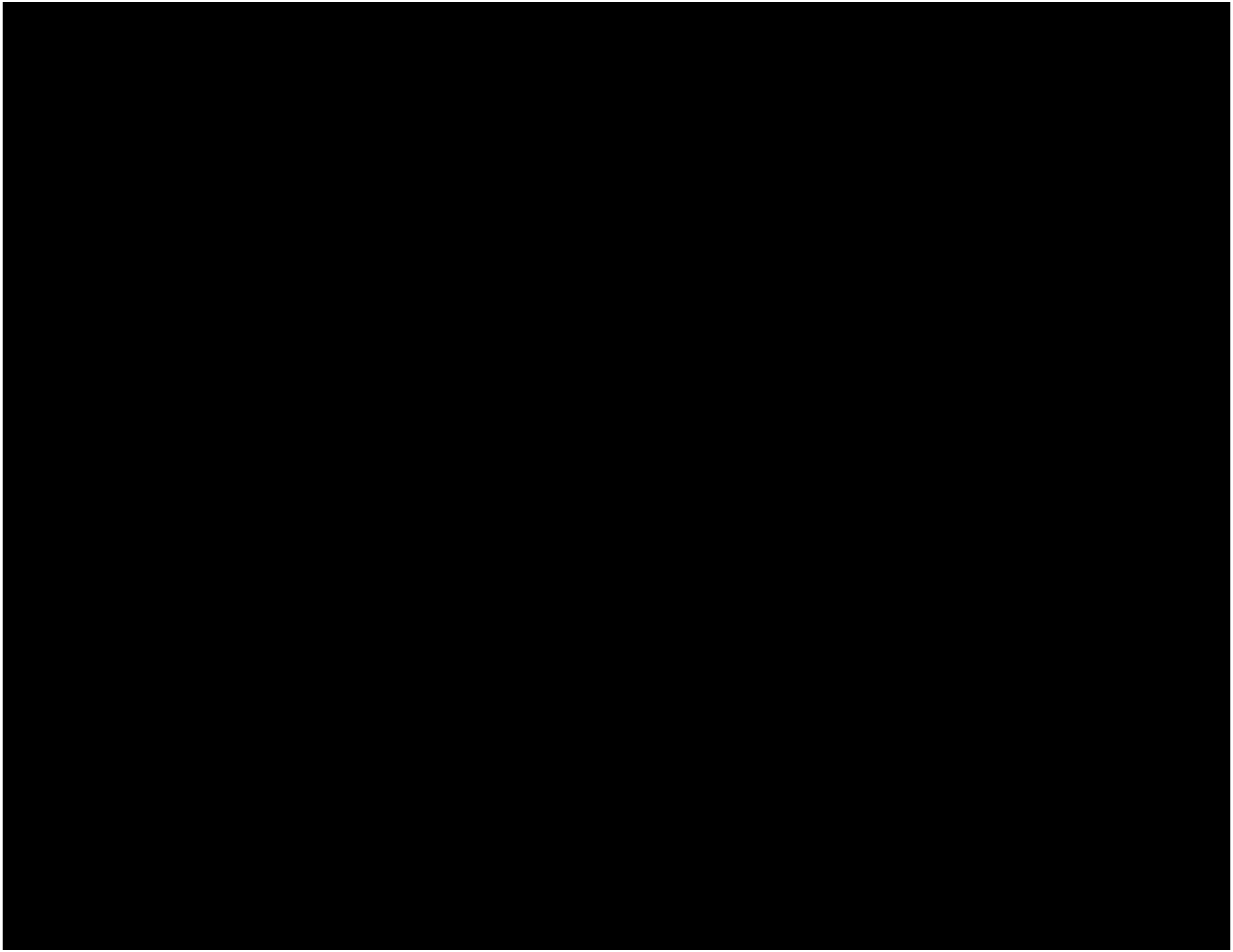


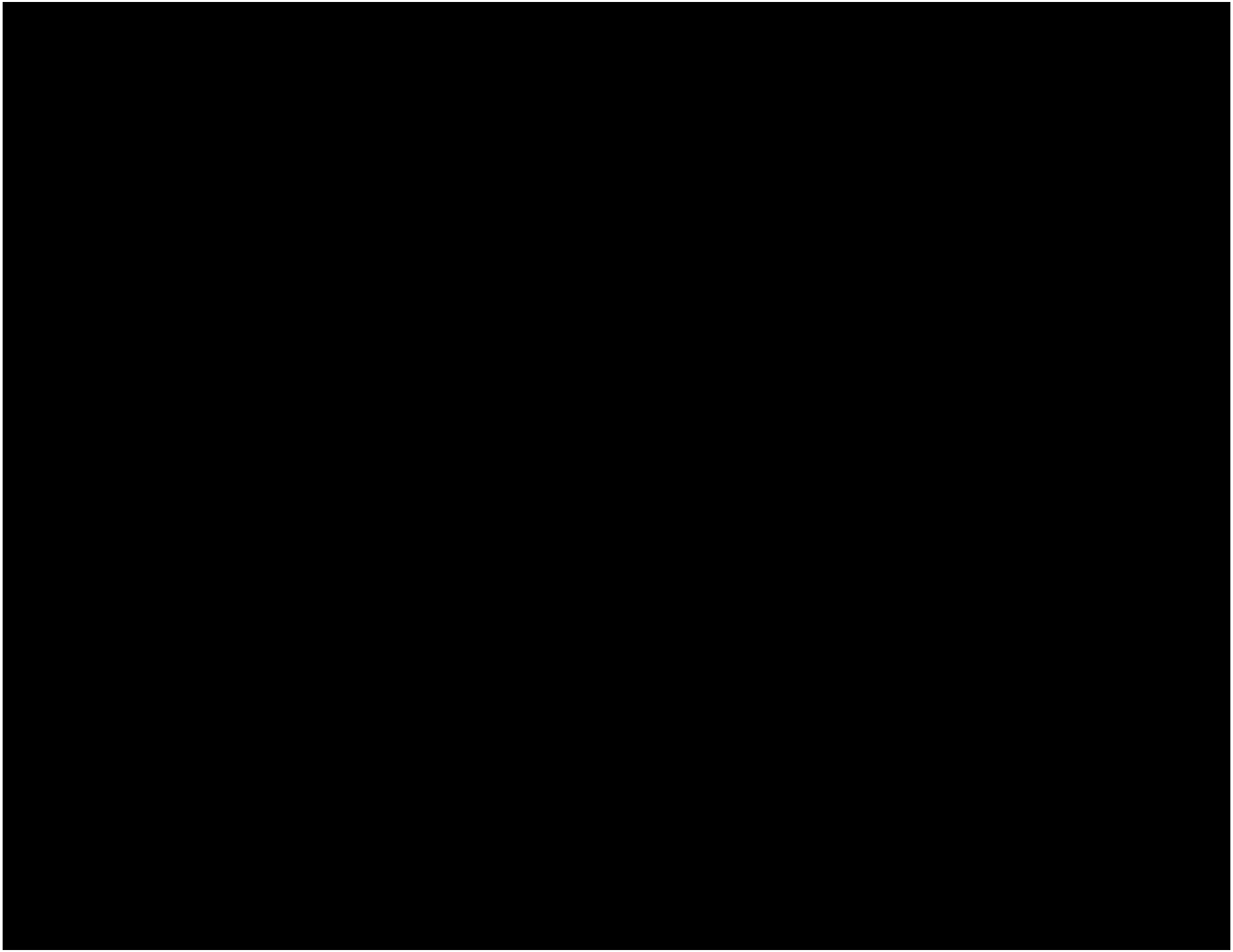


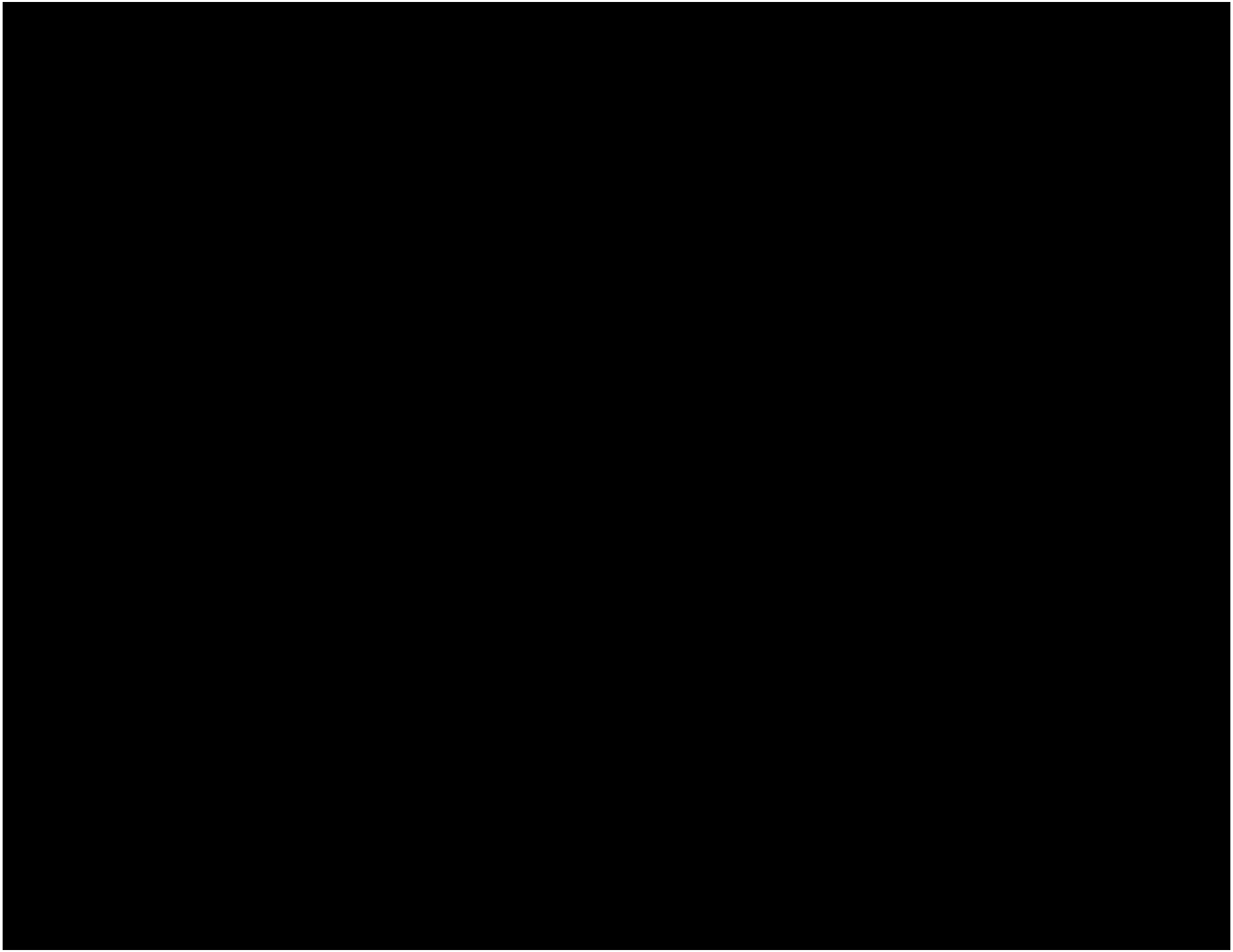


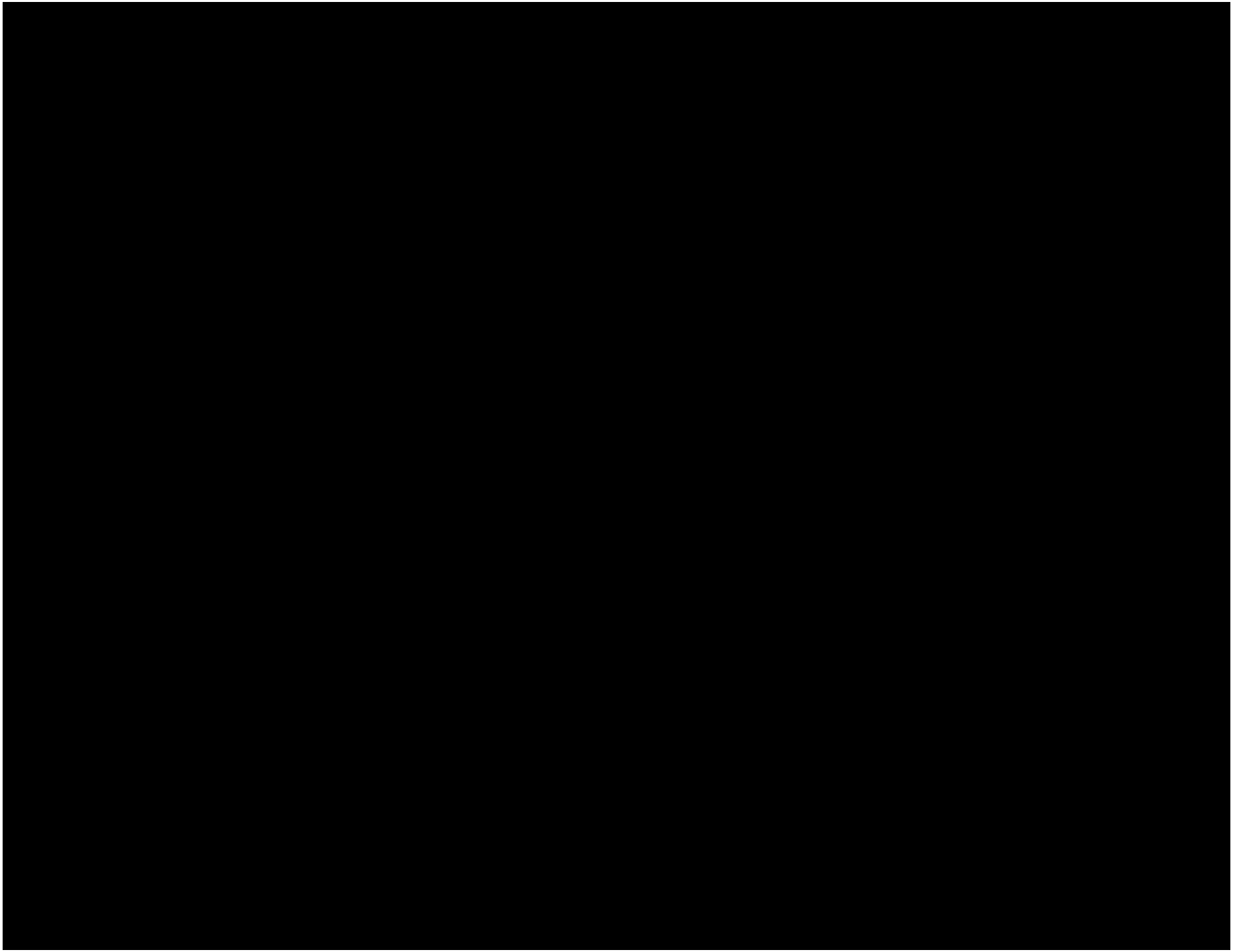


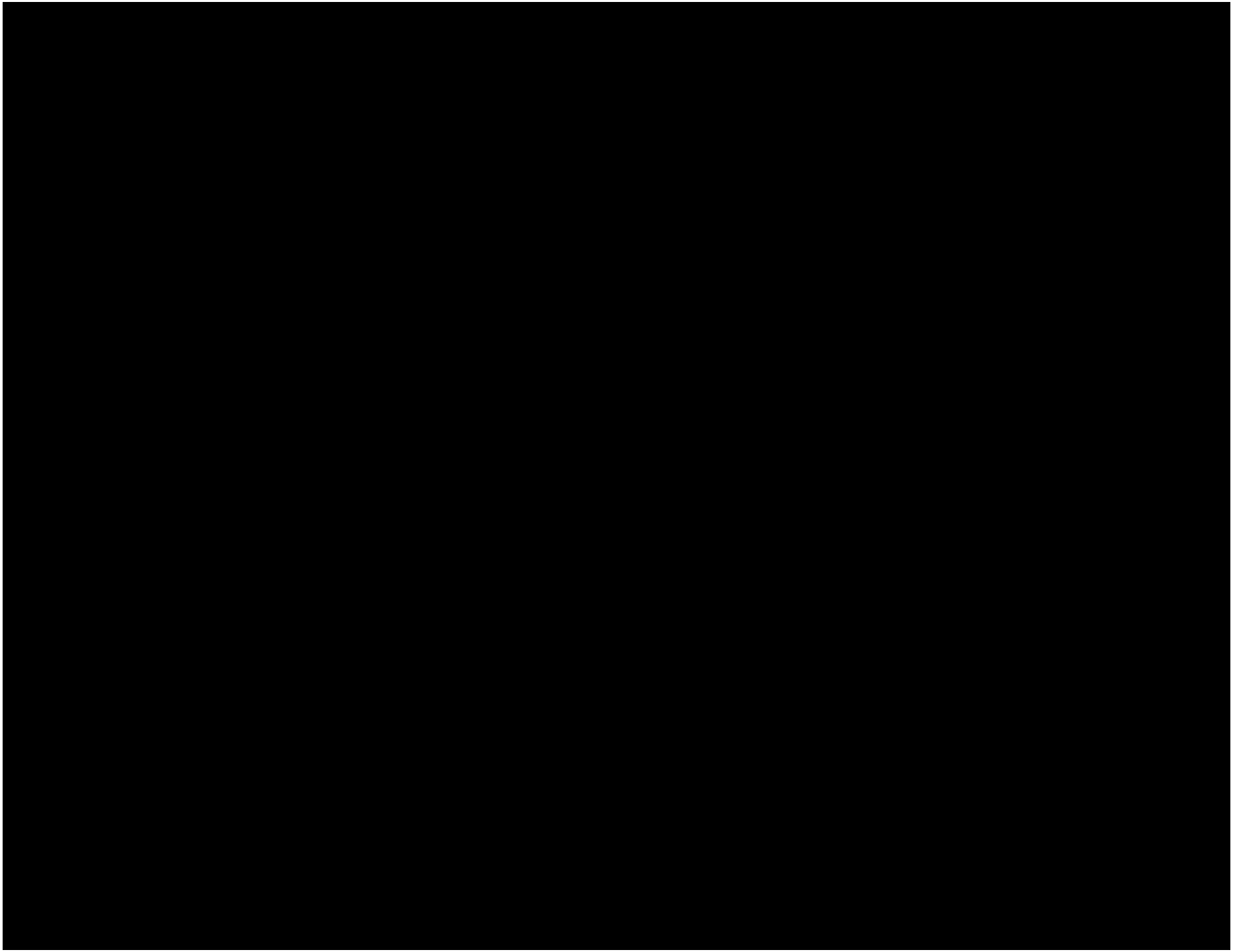


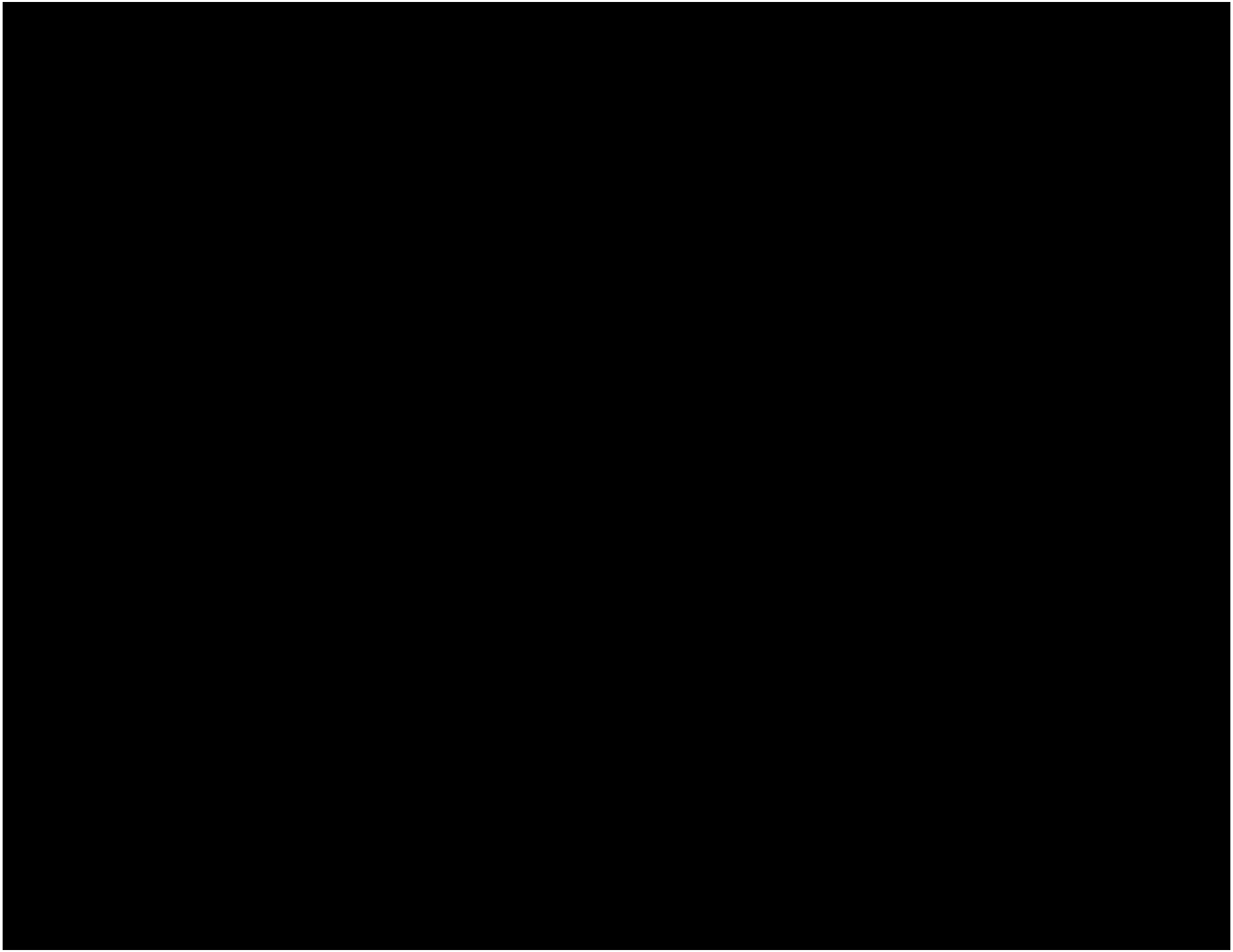












From: Kathryn Irby
To: Jim Jackson; Vincent France
Cc: Martha Cox; Daiquiri Carter
Subject: INFO NEEDED: Hudson v. DHS, Claim No. 230641
Date: Tuesday, September 3, 2024 11:14:26 AM
Attachments: [redacted]

Jim and Vincent, have the parties conferred about the expected witness testimony? Is everyone confident that this hearing can be completed in one day? I have a full day of hearings on Friday, so we do not have a second day available for this hearing.

On a related note, **Jim**, can you please confirm whether you are still expecting to call all of the witnesses on the attached list? I know that your witness list was filed before the Commission entered its order on the MSJs.

Thanks,
Kathryn Irby

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Jim Jackson
To: Kathryn Irby; Vincent France
Cc: Martha Cox; Daiquiri Carter
Subject: RE: INFO NEEDED: Hudson v. DHS, Claim No. 230641
Date: Wednesday, September 4, 2024 5:21:57 PM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg

Kathryn,
I will send the witness list on Friday.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Wednesday, September 4, 2024 5:20 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Vincent France <Vincent.P.France@dhs.arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: INFO NEEDED: Hudson v. DHS, Claim No. 230641

Jim, thanks for this information. If you can send me that amended witness list this week, that will be helpful to the Commission when reviewing the file in preparation for the hearing on September 19.

Jim and Vincent, on September 19, the office will be open by 8am, if not before. Please give yourself plenty of time with parking, as the parking deck is on the south side of 6th Street, and the entrance to the building is near the Capitol/Main intersection. There may also be street parking available, but you may have to feed the meter periodically. If you can arrive near 8am, that will allow everyone to get set up, so that we can begin as close to 9am as possible.

Thanks,
Kathryn

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Tuesday, September 3, 2024 1:20 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Vincent France <Vincent.P.France@dhs.arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: RE: INFO NEEDED: Hudson v. DHS, Claim No. 230641

Kathryn,
I need to submit an amended list based on the July 25 decision.
My understanding of the trial will be that since Wilkerson's negligence is not an issue, the claimant will present damage testimony and then the respondent will present an affirmative defense of outside of scope of employment.
I do not see any reason that this cannot be done in one day.
I will confer with Vincent.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Tuesday, September 3, 2024 11:14 AM
To: Jim Jackson <jim@jimjacksonatty.com>; Vincent France <Vincent.P.France@dhs.arkansas.gov>
Cc: Martha Cox <mcox@jimjacksonatty.com>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>
Subject: INFO NEEDED: Hudson v. DHS, Claim No. 230641

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Thanks,
Kathryn Irby

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Jim Jackson
To: ASCC Pleadings; Kathryn Irby; Vincent France; Daiquiri Carter
Cc: Martha Cox
Subject: Haley Hudson, v DHS Arkansas State Claims Commission No. 230641
Date: Friday, September 6, 2024 3:43:18 PM
Attachments: [redacted]
Holly Newman Deposition Summary by Jim Jackson.pdf
Updated Claimant's Witness & Exhibit List.pdf

All,
Attached for filing is the Claimant's Updated Witness & Exhibit List and a Deposition Summary for witness Holly Newman who is a paramedic.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S UPDATED WITNESS & EXHIBIT LIST

Comes now the claimant and submits the following Updated Witness and Exhibit List for trial on September 19, 2024. This list is updated based on the oral arguments made during the hearing on May 29, and the Claims Commission's ruling handed down on July 25. The Claimant anticipates putting on testimony solely regarding damages since the allegation of negligence of Jennifer Wilkerson has been admitted to by counsel for the respondent. The Claimant understands that the respondent will present an affirmative defense of whether Jennifer Wilkerson was acting outside the scope of her employment with the respondent at the time of the collision.

The claimant's witnesses and exhibits for damages are:

Live Witnesses

Haley Hudson - Daughter
[redacted] Daughter
[redacted] - Daughter
Dylan Ashcraft – Son
Cody Ashcraft – Son
Dr. Garrett Andrews
Ralph Scott, Ph.D. (Economist)

Witnesses by Deposition

Christopher Bell, M.D.
Holly Newman (Paramedic)[1]

[1] Attached is a summary of Holly Newman's deposition.

CLAIMANT'S EXHIBITS ON DAMAGES

1. Medical Records of Jacqueline Ashcraft from Mercy Medical Center
2. Arkansas Department of Health – Vital Records - Certificate of Death
3. Funeral Program/Obituary
4. Invoice from Brotherton Funeral Home for $1,195.95
5. Family photos and Facebook posting
6. ~~Arkansas State Trooper James Ray's Diagram of accident scene~~
7. ~~Photos of Crash Scene~~
8. ~~Stanley Cain's Expert Report~~
9. [redacted]' medical records
    a. Logan County EMS
    b. Mercy Clinic – Paris
    c. Scarbrough Clinic
    d. Belinga Clinic
    e. Wynne Medical Clinic
10. Dr. Ralph Scott's report on economic damages
11. Estimated Cost to Attend the University of Arkansas
12. Dr. Garrett Andrews' neuropsychology report
13. ~~Michael Kerley's Expert Report – Liability~~
14. ~~Mosaic/aerial photograph from Michael Kerley's deposition~~n
15. ~~Photos from Michael Kerley's file~~
16. Any exhibit contained in the Respondent's Exhibit List
17. Any exhibit attached to any deposition in this cause of action.

Respectfully submitted,

BY: /s/ *Jim Jackson*

Jim R. Jackson, AR Bar #93-209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
(501) 823-3610 phone
(501) 823-3611 facsimile
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Updated Exhibit & Witness List was served on the following counsel of record by email on September _____, 2024:

Mr. Vincent France
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

/s/ Jim R. Jackson.
Jim R. Jackson

Summary of Deposition of Holly Newman

- **Role**: Paramedic employed by Logan County EMS at the time of the incident.

Key Points:

- **Introduction and Background (Page 4-6)**

- Holly Newman introduced herself and provided her professional background and licensing details. Newman passed the national test that every paramedic takes in 2016. She does Advanced Life Support ambulance care for the last ten years.

Incident Description (Page 7, Lines 1-25; Page 8, Lines 1-25)

- Newman's ambulance was dispatched from Paris, Arkansas, to the accident site near Subiaco.
- Describes arriving and parking near the wrecked vehicles, identifying Ms. Ashcraft and her children.

- **Initial Assessment (Page 10, Lines 1-25; Page 11, Lines 1-25)**

- Newman conducted an initial assessment of Ms. Ashcraft and noted that Ashcraft seemed fine initially.
- On initial assessment, no complaints of chest pain from Ashcraft when her chest was palpated (p. 51, lines 3-4).

- Ashcraft was wearing a shoulder and lap belt and the airbags deployed. **Page 27, Line 12-18.**

- Ashcraft's pupils were 2 millimeters at the time of the initial assessment which is what is to be expected. (**Page 19, lines 1-16**)
- [redacted] had signs of a possible concussion but both children were not in immediate life-threatening conditions.

- **Interaction with Ms. Ashcraft (Page 13, Lines 1-25; Page 14, Lines 1-25)**

- Newman explained procedures and her insistence on medical evaluations for the children.

- **Initial Medical Details (Page 17, Lines 1-25; Page 18, Lines 1-25)**

- Documented medical assessments of Ms. Ashcraft and [redacted].
- Describes initial evaluations such as mental status orientation, pupil measurements, and physical examinations. All within normal range. However, Newman explains that they do not have a portable CT Scanner with their ambulance.

- Newman walked with Ashcraft to the house across the street from the accident site. Newman then walked to check on Bobby Wilson who was the truck driver. He was ok. Newman then went to the ambulance to assist the other paramedic who was working on Jennifer Wilkerson. That is when a State Trooper knocked on the door of the ambulance to inform them that Ashcraft needed emergency care. (Pages 23-24)

- **Subsequent Developments (Page 24, Lines 1-25; Page 25, Lines 1-25)**

- Neurological symptoms like facial droop or left-sided weakness emerged post-accident but were not evident during Newman's initial encounter **(p. 54, lines 12-15).**

- Noted significant mental status changes in Ashcraft, indicating possible brain bleed, which could not be detected initially without a CT scan (**p. 56, lines 1-25; p. 57, lines 23-24)**

- Describes Ms. Ashcraft's deteriorating condition at the house near the accident scene.

- Newman started an IV and requested another ambulance unit, but ultimately transported Ms. Ashcraft to the hospital after paramedic Marry assisted.

- **Transport to Hospital (Page 27, Lines 1-25; Page 28, Lines 1-25)**

- Discussed transport logistics and medical actions taken en route to Booneville since the nearest facility (Paris) had a down CT scanner.
- Mentioned re-evaluations and continuous medical assistance provided during transport.

- Jennifer Wilkerson,was transported in the same ambulance (**p. 65, lines 15-25; p. 66, lines 1-13).**

Coup-Contrecoup Injuries:

- **Coup-Contrecoup Explanation:**

- Newman explained that the force of a motor vehicle accident can cause the brain to move rapidly back and forth within the skull, resulting in injuries on the site of impact (coup) and the opposite side (contrecoup) (**p. 86, lines 1-11).**

- **Impact of the Accident:**

- Newman suggests that the force from the rear-end collision likely caused internal brain injuries (coup-contrecoup effect) that contributed to the symptoms observed in Haley Hudson later **(p. 86, lines 1-11).**

- This concept helps explain why visible external signs were not evident during the initial assessment but severe internal damage was present.

- **Comparison with Other Injury Mechanisms:**

- Newman emphasized that blunt force trauma from an accident (e.g., the car impact) differs from injuries caused by direct blows (e.g., hitting with an object) (p. 86, lines 12-25).

- Newman highlighted the higher likelihood of internal brain injury from the high-force dynamics of a car crash compared to other types of head trauma (p. 87, lines 1-24).

- **Definition of Coup-Contrecoup**:

- **Testimony**: The coup-contrecoup injury is explained as the brain hitting the front of the skull and then the back of the skull during a rear-end collision.
- **Reference**: pp. 35, lines 1-8 **Newman, Holly (2) page 1-50.pdf.**

- **Cause of Brain Bleed**:

- **Testimony**: The force of the car hitting the back of the head is described. The force inside a motor vehicle accident (MVA) is often what causes the coup-contrecoup injury.
- **Reference**: pp. 87, lines 1-11 **Newman, Holly (3) page 51-95.pdf.**

- **Comparison to Other Injuries**:

- **Testimony**: Comparing the force of an MVA to other types of impacts, like being hit with a baseball bat or a book, is discussed. These other impacts are more direct to the skull, as opposed to the coup-contrecoup which results from the force in an MVA.
- **Reference**: **pp. 87, lines 3-15 page 51-95.pdf.**

TIMELINE

- Paramedics arrived at scene at 1:04 p.m. Paramedics departed the scene at 1:44 p.m. and arrived at Booneville Hospital 28 minutes later which is when they transferred Ashcraft's care to Mercy Medical. **Page 90**

Arkansas
State Claims Commission
SEP 06 2024
RECEIVED

IN THE ARKANSAS STATE CLAIMS COMMISSION

**HALEY HUDSON, INDIVIDUALLY
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF
THE ESTATE OF JAQUELINE LYNN ASHCRAFT,
DECEASED, AND HALEY HUDSON, AS PERMANENT
LEGAL GUARDIAN OF [redacted]
MINOR CHILDREN** **CLAIMANTS**

vs. **CC No. 230641**

**ARKANSAS DEPARTMENT OF
HUMAN SERVICES** **RESPONDENT**

RESPONDENT'S EXHIBIT LISTS

1. Pamela Feemster Affidavit & Exhibits attached thereto;
2. Aerial Photographs produced by DHS (bates number 85-91);
3. Accident Scene Photographs produced by DHS (bates number 19-37);
4. Wilkerson Toxicology Report (Ashcraft bates number 258-259);
5. DHS Emails RE Wilkerson's termination (Ashcraft bates number 408-428);
6. Wilkerson's termination document;
7. Kristen Shelton's Deposition and exhibits attached thereto;
8. Brandy Ezell's Deposition and exhibits attached thereto;
9. Jennifer Wilkerson's Deposition and exhibits attached thereto;
10. DHS Vehicle Policy;
11. ASP Accident Report (Ashcraft bates number 291-308) *if necessary*;
12. Ashcraft Insurance policy;
13. Ashcraft toxicology report.

From: Jim Jackson
To: Vincent France; Kathryn Irby
Cc: Daiquiri Carter; Martha Cox
Subject: Haley Hudson v. DHS - Arkansas State Claims Commission No. 230641 Incident Date: 6/11/2021
Date: Friday, September 6, 2024 10:29:11 AM
Attachments: [redacted]

Vincent,
I enjoyed visiting with you this morning about the witnesses and exhibits and the expected Trial Testimony.
Please find attached the claimant's updated Witness & Exhibit list.
I am still working on the summary of Holly Newman's deposition and will send it later in the day.
I stipulated to the admission of your Exhibits #1-12.
I know you are looking at which exhibits of the claimant you can stipulate to.
I believe we are comfortable that we can present both the case in chief and your affirmative defense in one day.
I am cc'ing Kathryn so she knows that we have conferenced on this matter and knows that we are actively working together to streamline the testimony and exhibits.

Please feel free to correct any errors if my understanding of our call is not the same as yours.

Thank you,

Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Jim Jackson
To: Vincent France; Kathryn Irby
Cc: Daiquiri Carter; Martha Cox
Subject: Haley Hudson v. DHS - Arkansas State Claims Commission No. 230641 Incident Date: 6/11/2021
Date: Friday, September 6, 2024 10:29:11 AM
Attachments: [redacted]
Updated Claimant's [redacted] & Exhibit List.docx

Vincent,
I enjoyed visiting with you this morning about the witnesses and exhibits and the expected Trial Testimony.
Please find attached the claimant's updated Witness & Exhibit list.
I am still working on the summary of Holly Newman's deposition and will send it later in the day.
I stipulated to the admission of your Exhibits #1-12.
I know you are looking at which exhibits of the claimant you can stipulate to.
I believe we are comfortable that we can present both the case in chief and your affirmative defense in one day.
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Thank you,

Jim

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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD	**CLAIMANT**
VS. **CC NO. 230641**	
ARKANSAS DEPARTMENT OF HUMAN SERVICES	**RESPONDENT**

CLAIMANT'S UPDATED WITNESS & EXHIBIT LIST

Comes now the claimant and submits the following Updated Witness and Exhibit List for trial on September 19, 2024. This list is updated based on the oral arguments made during the hearing on May 29, and the Claims Commission's ruling handed down on July 25. The Claimant anticipates putting on testimony solely regarding damages since the allegation of negligence of Jennifer Wilkerson has been admitted to by counsel for the respondent. The Claimant understands that the respondent will present an affirmative defense of whether Jennifer Wilkerson was acting outside the scope of her employment with the respondent at the time of the collision.

The claimant's witnesses and exhibits for damages are:

Live Witnesses

Haley Hudson - Daughter
[redacted] - Daughter
[redacted] - Daughter
Dylan Ashcraft – Son
Cody Ashcraft – Son
Dr. Garrett Andrews
Ralph Scott, Ph.D. (Economist)

Witnesses by Deposition

Christopher Bell, M.D.
Holly Newman (Paramedic)[1]

[1] Attached is a summary of Holly Newman's deposition.

CLAIMANT'S EXHIBITS ON DAMAGES

1. Medical Records of Jacqueline Ashcraft from Mercy Medical Center
2. Arkansas Department of Health – Vital Records - Certificate of Death
3. Funeral Program/Obituary
4. Invoice from Brotherton Funeral Home for $1,195.95
5. Family photos and Facebook posting
6. ~~Arkansas State Trooper James Ray's Diagram of accident scene~~
7. ~~Photos of Crash Scene~~
8. ~~Stanley Cain's Expert Report~~
9. [redacted] medical records
   a. Logan County EMS
   b. Mercy Clinic – Paris
   c. Scarbrough Clinic
   d. Belinga Clinic
   e. Wynne Medical Clinic
10. Dr. Ralph Scott's report on economic damages
11. Estimated Cost to Attend the University of Arkansas
12. Dr. Garrett Andrews' neuropsychology report
13. ~~Michael Kerley's Expert Report – Liability~~
14. ~~Mosaic/aerial photograph from Michael Kerley's deposition~~
15. ~~Photos from Michael Kerley's file~~
16. Any exhibit contained in the Respondent's Exhibit List
17. Any exhibit attached to any deposition in this cause of action.

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Respectfully submitted,

BY: ____/s/ *Jim Jackson*_____

Jim R. Jackson, AR Bar #93-209
Jackson Law Firm
700 West Broadway Street, Suite 200
North Little Rock, AR 72114-5528
(501) 823-3610 phone
(501) 823-3611 facsimile
Jim@JimJacksonatty.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Updated Exhibit & Witness List was served on the following counsel of record by email on September _____, 2024:

Mr. Vincent France
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

*/s/ Jim R. Jackson*_____.
Jim R. Jackson

From: Kathryn Irby
To: "Jim Jackson"; Vincent France
Cc: Daiquiri Carter; Martha Cox
Bcc: Kathryn Irby
Subject: INFO NEEDED: Haley Hudson v. DHS - Arkansas State Claims Commission No. 230641 Incident Date: 6/11/2021
Date: Saturday, September 14, 2024 11:56:00 AM
Attachments: image001.jpg image002.jpg image003.jpg image004.jpg

Jim and Vincent, do you have an update on the below email re stipulations?

Thanks,
Kathryn

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Friday, September 6, 2024 10:29 AM
To: Vincent France <vincent.p.france@dhs.arkansas.gov>; Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: Haley Hudson v. DHS - Arkansas State Claims Commission No. 230641 Incident Date: 6/11/2021

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Please find attached the claimant's updated Witness & Exhibit list.
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Thank you,

Jim

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North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611



From: Jim Jackson
To: Kathryn Irby; Vincent France
Cc: Daiquiri Carter; Martha Cox
Subject: RE: INFO NEEDED: Haley Hudson v. DHS - Arkansas State Claims Commission No. 230641 Incident Date: 6/11/2021
Date: Saturday, September 14, 2024 12:14:13 PM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg

Kathryn,
Vincent and I visited Friday about the testimony of Jennifer Wilkerson.
We are going to use excerpts from her deposition and create a video clip from it.
Vincent and I have created a page number and line number list which greatly reduces the amount of time it will take for Wilkerson's testimony.
I know Vincent was reviewing the Claimants' Exhibit List and was going to get with me as soon as possible on stipulations.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

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North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Kathryn Irby <kathryn.irby@arkansas.gov>
Sent: Saturday, September 14, 2024 11:57 AM
To: Jim Jackson <jim@jimjacksonatty.com>; Vincent France <Vincent.P.France@dhs.arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: INFO NEEDED: Haley Hudson v. DHS - Arkansas State Claims Commission No. 230641 Incident Date: 6/11/2021

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Kathryn

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Sent: Friday, September 6, 2024 10:29 AM
To: Vincent France <vincent.p.france@dhs.arkansas.gov>; Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: Haley Hudson v. DHS - Arkansas State Claims Commission No. 230641 Incident Date: 6/11/2021

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Thank you,

Jim

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700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Kathryn Irby
To: Jim Jackson
Subject: RE: Prior order
Date: Monday, September 16, 2024 9:01:00 AM
Attachments: [redacted]

Jim, please see attached order entered by the Commission in September 2020. The Claims Review Subcommittee ultimately voted to award the claimant $100,000 in March 2021.

Thanks,
Kathryn

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Monday, September 16, 2024 8:52 AM
To: Kathryn Irby <kathryn.irby@arkansas.gov>
Subject: Prior order

Kathryn,
Vincent referenced a decision in the case of:
Dayong Yang v State
Claim No. 16-0496

I would like to request a copy of the Commission's Order.

Thank you,

Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

DAYONG YANG, AS SPECIAL ADMINISTRATOR OF THE ESTATE OF LE YANG, DECEASED **CLAIMANT**

V. **CLAIM NO. 16-0496-CC**

ARKANSAS DEPARTMENT OF EMERGENCY MANAGEMENT **RESPONDENT**

ORDER

Now before the Arkansas State Claims Commission (the "Claims Commission") is the renewed motion filed by the Arkansas Department of Emergency Management (the "Respondent") for judgment on the pleadings filed by Dayong Yang, as special administrator of the Estate of Le Yang, deceased (the "Claimant"). At the hearing on the motion, Carter C. Stein appeared on Claimant's behalf, and Vincent P. France appeared on behalf of Respondent. Based upon a review of the motion, the arguments made therein, and the law of Arkansas, the Claims Commission hereby finds as follows:

1. The Claims Commission has jurisdiction to hear this claim pursuant to Ark. Code Ann. § 19-10-204(a).

2. Claimant filed his indemnification claim on January 12, 2016, pursuant to Ark. Code Ann. § 21-9-304(a). At the time of filing, Claimant requested that the claim be held in abeyance until the underlying litigation was concluded. This claim relates to the failure of a City of Little Rock dispatcher, Candace Middleton, to send police and fire units to the scene of a one-vehicle accident, in which Jinglei Yi and her young son, Le Yang, ended up in a vehicle submerged in a pond. Jinglei Yi died as a result, and Le Yang suffered an anoxic brain injury and died two years later. As part of the underlying litigation, the Pulaski County Circuit Court entered a default judgment against Ms. Middleton in the amount of $17,627,638.04.

3. After the underlying litigation was concluded, Respondent filed the instant motion, arguing that Claimant's claim is (1) barred by the doctrine of collateral estoppel, (2) prohibited by the Arkansas Constitution, and (3) not permitted by Ark. Code Ann. § 21-9-304.

4. Claimant filed a response, arguing that Respondent's collateral estoppel argument fails due to Respondent's inconsistent positions (Respondent argued to the circuit court that the Claims Commission has jurisdiction to determine Respondent's liability under Ark. Code Ann. § 21-9-304, and Respondent is now arguing to the Claims Commission that the circuit court had jurisdiction of the indemnification issue and adjudicated that issue) and the fact that the indemnification issue was not litigated or dismissed by the circuit court. As to the constitutional argument, Article 12 § 12 of the Arkansas Constitution provides an applicable exception to the rule against the state paying cities' liabilities. As to Respondent's argument regarding Ark. Code Ann. § 21-9-304, the facts in this claim satisfy the statutory requirements because the 911 system is a statewide system coordinated by and carried out under the supervision of State employees.

5. Respondent replied, arguing that it did not take inconsistent positions in the underlying litigation and the instant claim. If the circuit court had found that the facts supported state indemnification, Claimant's claim would be "ripe for adjudication" by the Claims Commission. In the underlying litigation, the City of Little Rock, its employees, and Ms. Middleton were not represented by the Arkansas Attorney General's Office because these defendants were not assisting the state and acting under the supervision of a state employee. Had they been, the Arkansas Attorney General would have been "statutorily obligated" to represent them.

6. At the hearing, Respondent argued that there is no statewide 911 operating system and pointed to Ark. Code Ann. §§ 12-10-302(e)(3)[1] and 12-10-304 as evidence that 911 systems are local. Respondent is not responsible for maintaining, operating, or running 911 centers. Ark. Code Ann. § 21-9-304 pertains to situations where the State calls for the assistance of local officials for help with a state issue and the local officials are sued as a result of assisting the state. Ms. Middleton was not assisting the state, and Respondent did not oversee her work. To permit Claimant to recover would open Pandora's box.

7. Claimant responded, arguing that Respondent is trying to read "direct supervision" into the requirements of Ark. Code Ann. § 21-9-304. The City of Little Rock was called upon by the state to operate a 911 center. Respondent wants the state to have a statewide 911 system for the benefits (David Maxwell, who was appointed to be the state's 911 coordinator, applied for and received federal funding for the state's 911 programs) but not the liabilities. The facts of this claim show a statewide 911 system, in that when Jinglei Yi called 911, Pulaski County dispatch answered the call and then transferred it to the City of Little Rock. The Claims Commission is the conscience of the State of Arkansas.

8. Upon a question by a commissioner, Claimant confirmed that Mr. Maxwell is the only state employee identified in this claim, although Claimant referenced some other state employees identified in the underlying litigation.

9. Upon a question by a commissioner as to the indicia of supervision by Mr. Maxwell over Ms. Middleton and whether Claimant's counsel could amend his complaint to provide any

[1] Ark. Code Ann. § 12-10-302(e)(3) provides that "It is found and declared necessary to [e]ncourage the political subdivisions to implement public safety answering points . . . ." Ark. Code Ann. § 12-10-304 permits the "chief executive of a political subdivision" to "[r]etain a dispatch center to serve both public safety answering point and dispatch functions."

further details regarding supervision, Claimant confirmed that Mr. Maxwell did not directly supervise Ms. Middleton and probably did not know her name.

10. Upon a question by a commissioner as to whether Claimant believes the state to be responsible for any negligence on the part of a 911 response, Claimant stated that an analysis must be done through Ark. Code Ann. §§ 21-9-301 and 21-9-304. As to the amount of the judgment, Claimant also noted that the state extricated itself from the underlying litigation and could have stayed in.

11. Upon a question from a commissioner as to the permissive language in Ark. Code Ann. § 12-10-302, Claimant stated that the permissiveness of the language does not matter because the City of Little did decide to operate a 911 center.

12. Ark. Code Ann. § 21-9-304 provides, in pertinent part, that:

> (a) When any city of the first class, city of the second class, incorporated town, county, and its employees are called upon to assist the state and its employees and, as a result, are sued for their actions performed under the supervision of a state official or employee, the Attorney General shall defend the city of the first class, city of the second class, incorporated town, county, and its employees.
>
> (b) Should a judgment be rendered against the city of the first class, city of the second class, incorporated town, county, or its employees, the state shall pay actual, but not punitive, damages adjudged by a state or federal court, or entered by the court as a result of a compromise settlement approved and recommended by the Attorney General, based on an act or omission by the officer or employee while acting without malice and in good faith within the course and scope of his or her employment and in performance of his or her official duties

(emphasis added).

13. The Claims Commission finds that there are no facts pled to support a claim that Mr. Maxwell was supervising Ms. Middleton. While the Claims Commission appreciates Claimant's counsel's diligent representation of his client, without specific guidance from the

Arkansas General Assembly, the Claims Commission is unwilling to find that the existence of a 911 coordinator means that the state is supervising every 911 dispatcher and emergency responder.

14. Because the Claims Commission finds that dismissal is appropriate pursuant to Ark. R. Civ. Proc. 12(c), it need not reach Respondent's collateral estoppel and constitutional arguments.

15. As such, the Claims Commission GRANTS Respondent's motion for judgment on the pleadings and DISMISSES Claimant's claim.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Courtney Baird



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair



ARKANSAS STATE CLAIMS COMMISSION
Sylvester Smith

DATE: September 15, 2020

Notice(s) which may apply to your claim

(1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).

(2) If a Claimant is awarded less than $15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.

(3) Awards or negotiated settlement agreements of $15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

From: Jim Jackson
To: Vincent France; Kathryn Irby
Cc: Daiquiri Carter; Martha Cox
Subject: Haley Hudson v.DHS, Arkansas State Claims Commission No. 230641
Date: Monday, September 16, 2024 8:00:27 AM
Attachments: [redacted]

Vincent,
Below is a Hyperlink that contains the Jennifer Wilkerson video excerpts from the pages and lines we have emailed about.
The videos are identical.
One is a MPEG 4 format.
The other is in PowerPoint.
[redacted]
There is a third file in this folder.
It is a Word Document which contains the Transcript verbatim that matches the Video Testimony.
I plan on printing this 25 page Word document and giving a copy to the Commission so they can refer to it while the video is played.
Below are the Wilkerson deposition pages for your reference.

- Page 9, line 3 through page 19, Line 20
- Page 22, line 10 through page 26, line 17
- Page 43, Line 21 through Page 44, Line 20
- Page 122, Line 16 through Page 124, Line 13.
- Page 60 line 13 through page 62 line 8, which includes Exhibit 8 of her deposition;
- Page 83 line 24 through page 86 line 23
- Page 108, lines 10 through 16. (Added by Jim)

Please review and let me know if you have any questions/suggestions.
The Wilkerson video is 29 minutes long and it has the transcript playing as the witness speaks.

Witness Holly Newman

Attached is a PDF file with Deposition excerpts from paramedic Holly Newman who provided initial assessment of Ms. Ashcraft and her children.
It is 15 pages.

I am copying Kathryn on this email so she knows we are working to condense the trial presentation.

Thank you,

Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

Newman, Holly, (Pages 9:6 to 12:24)

Page 9

Q. And where did you park your ambulance?
A. If I remember correctly, we pulled up slightly passed the DHS car because as Zach was looking at it, he went to her. And then I looked up and seen Ms. Ashcraft and the two kids above us. So we were parked in between them two still facing towards Subiaco.
Q. And then tell me -- tell us what you did when you arrived on the scene and you get out. Walk us through what -- your interaction with Ms. Ashcraft and her children.
A. So I walked up to Ms. Ashcraft and her children once Zach went to the other patient. I noticed that the two children were sitting on the ground and Ms. Ashcraft was standing up. She was smoking a cigarette at that time.
So initially, as I do every parent, I look at her, I make sure she's okay because all of them are breathing. So neither one of them needed my attention more than the other at that time.

Page 10

So I talked to Ms. Ashcraft and said, hey, you know, can I check out your children, get permission from her because they are minors. She said yes, that's fine. So I turn my attention to the children.

One was completely, utterly fine. She was talking and everything, answering all questions. And the other one had some slight repetitive questioning, which showed signs of possible concussion. So I talked to Ms. Ashcraft and her both back and forth.

Initially, she didn't want the children to go to the hospital, despite the efforts that I very much wanted them to. In our line of work, we can't physically take a child from a parent unless it's a true life threat. At that time, a concussion, it could be borderline, but it was not -- she was not considered a life threat because she had her own airway. She was able to talk. She was not showing signs of lack of oxygen. You know, she wasn't obviously bleeding everywhere. That would have turned into something else.

Q. Did you -- were you able to physically examine her head and her skull to see if she had any contusions or abrasions?

A. And she had none that I seen.

Q. And if I represent to you that that child's name is [redacted] would that be consistent with your recollection?
A. I'm pretty sure, and I think her sister was named Haley?
Q. [redacted]
A. [redacted] Okay.
Q. And [redacted] was the sister -- I'll represent to you [redacted] was the sister that did not have any issues. And so what -- what did you do next -- what did you find on -- when you did the physical examination of [redacted]
A. To my recollection, I didn't find anything. There was no what we call depressed skull fracture, which would be, like, an indention in the back of her head. There was no tenderness, nothing. She just had the repetitive questioning. As we sat there with her, she started regaining her memory more and more as well.
Q. And that's a good sign, correct?
A. Yes. That's a very good sign.
Q. And then what did you turn your -- who did you turn your attention to next?
A. Ms. Ashcraft. She told us that they were actually trying to go to the house, that they

happened -- that happened to be across the road. And it was a very hot day. And so between the conversation and her not -- adamantly not wanting the kids to go to the hospital, she signed a refusal form for them both. If I remember correctly, there was one done on [redacted] There should also be one done on Haley as well.

So she told me that she wanted to go across the road. So at that time, Zach didn't need my help with the other patient. He had all of that under control. So since they weren't going to go with us, I walked them across the road and into that house.

She walked just fine. Ms. Ashcraft, all of them had a steady gait. She sat herself on the couch along with the kids. And then the lady in there, I distinctly told the lady, I said, "If anything changes, come and get me" because at this point, nobody, to my recollection, had even checked on the -- the 18-wheeler.

Q. The tractor trailer driver?

A. Yes. So then that was in the back of my mind was, like, well, at least somebody needs to go lay eyes on him. And so that's -- after I took them to the house, that's where I went.

Newman, Holly, (Page 17:4 to 17:12)

page 17

Q. And so my question is, tell us what the time -- at the time and what your description is on that flow chart prepared by you for Jacqueline Ashcraft.

A. That 1304 ALS assessment, patient is alert and oriented times four, which means down at the bottom, the initial assessment, oriented to person, place, time, event. She was walking around the car. She -- patient's response unchanged, successful; complication, none.

Newman, Holly, (Pages 18:6 to 19:21)

Page 18

Q. All right. Under the category HEENT, tell us -- explain to us what that means.

A. Head, eyes, ears, nose, and throat.

Q. Thank you. And explain to us what you observed about her head and face.

A. There was no abnormalities. Her pupils were equal. The neck --

Q. Let me stop you right there. Her pupils being equal, what does that mean to you as a paramedic?

A. That means that there's nothing going on in her head at that time that I can tell. Again, I don't have x-ray. I don't have CT. But on the physical outside findings, that's something we look for. If they're unequal, that means something is going on.

Q. And I notice you have a measurement next to the eyes of the size of the pupils.
A. Yes.
Q. And what is that measurement?
A. That's two millimeters. That means they're on the smaller side.

Page 19

Q. And that's what you would expect for somebody who is out in the sun?
A. Yes, sir.
Q. And that's normal or -- of someone -- that's what you would expect for them to have or what you would hope to have is the same size pupils and for them to be small or constricted; is that right?
A. Well, I wouldn't say constricted. Constricted are really a lot smaller, kind of almost pinpoint. That would suggest other things. But you do want them on the smaller side out in the sun in that they're not --
Q. Oh, sorry. Go ahead.
A. No. Go ahead.
Q. Is two to four millimeters normal for a patient?
A. Yes, sir.
Q. Nothing there gave you any pause for concern when you observed her eyes?
A. Not at that time, no.

Q. During that initial assessment?
A. Correct.

Newman, Holly, (Pages 23:16 to 25:13)

Page 23

Q. Okay. And then what happens next?
A. So I climbed in the back of the ambulance to make sure he needed -- if he needed any assistance. And about that time, a state trooper knocked on the door, knocked on the back of the ambulance and said, hey, y'all are needed inside the house.

And I looked at Zach and I said, "Well, I'll go," since I had initial contact and he was with his patient. So I walked back in the house to go reassess Ms. Ashcraft.

Page 24

Q. And what did you find when you walked back into the house to reassess Ms. Ashcraft?
A. I found that she was laying her head on -- I cannot recall the person who she was laying or sitting next to. But she was not responding the way she was initially when I had left her. She was still able to respond to me, but it was not like she was.
Q. And what -- so what did -- as a paramedic, what do you do?
A. Well, initially, I thought she may have been dehydrated because it wasn't necessarily the coldest

in that house either. So I started a IV on her, called for another unit.

And then that's when I was informed that we didn't have another unit. My partner come back in there and said, "Hey, we're it. We're going to have to take her as well." So there's nobody else. Everybody else was on calls. And I said okay. So my partner, he just picked her up and started carrying her.

Q. And where does Paramedic Marry take her to?

A. To the ambulance, the back of the ambulance, and laid her on the bench seat.

Q. And then what happens next on the transport?

A. I get in the driver's seat and we drive to the

Page 25

hospital. On the way there, Paris told us that their CT scanner was down, so our closest to divert to unfortunately was Booneville, which was clear across to the other side of the county.

Q. And what is -- are you -- what is Ms. Ashcraft's condition while you're in transport? Are you communicating with Medic Marry, or do you know?

A. We are a little bit back and forth. We're talking about the possibilities and what was going on. He had restarted an IV because mine got pulled out. So other than that, I don't know what kind of

12 treatment. I'd have to look back at the report to see
13 if he did any kind of treatment.

Newman, Holly, (Page 27:12 to 27:18)

27

12 Q. And she's the driver. Airbag deployment, does
13 it tell us what you found on the airbags?
14 A. Front deployment.
15 Q. Okay. And then safety devices, what did you
16 find on the safety devices?
17 A. She had shoulder and lap belt, which means the
18 normal seatbelt.

Newman, Holly, (Page 28:5 to 28:12)

Page 28

5 Q. And what was Ms. Ashcraft's condition when you
6 got to the emergency room at Booneville?
7 A. When I opened up the back doors, she was still
8 responding to that command. I'm pretty sure she still
9 had motor function. I don't think she was talking
10 clearly, but I did see her nod her head into a
11 question we had asked her. So I knew she was still
12 responding to him.

Newman, Holly, (Pages 30:20 to 31:14)

Page 30

Q. And you went through on your initial assessment of [redacted] you talked about it earlier. One of the things you mentioned is that she had, I believe you called it, repetitive questioning. What is -- do you remember what her questions were or what they were?

Page 31

A. I know she kept asking what happened. She didn't remember -- I think the last thing she remembered, I think they had went to McDonald's and she had a McDonald's cup. She just kept asking what happened and that she didn't remember anything.
Q. And then as far as looking at her head, I know -- and the HEENT, it states there was a hematoma to the back of her head, no deformity noted. Is that, like, a hematoma I think of as a -- tell us what a hematoma is.
A. It's swelling. It's a swelling in the head -- on the outside of the head.
Q. And then her eyes, were they normal?
A. Yes. They were three millimeters.

Newman, Holly, (Pages 32:3 to 33:4)

Page 32

in the narrative of your assessment, it states that "Mom holds up finger for her to see." And

is that the mother holding up two fingers or three fingers and saying how many fingers are you seeing?

A. Yes, sir. So with head trauma, that's the unequal pupils and blurred investigation and vomiting are signs of progressive head injuries. So I had mom -- not like right here, but in the peripheral part, hold up two fingers and she was able to identify both correctly on each side.

Q. And was Jacqueline Ashcraft able to assist you in holding up the fingers and doing what you were asking her to do?

A. Yes, sir.

Q. And so both Jacqueline Ashcraft and [redacted] were able to follow your commands and appeared normal after this accident; is that correct?

A. After my initial assessment.

Q. After your assessment. Yes. Okay. And then you were able to consult with Ms. Ashcraft to tell her what to look for and what to do if [redacted] had experienced any of these issues such as vomiting, nausea, blurred vision; is that correct?

Page 33

A. Severe headache. Yes.

Q. Okay. And Ms. Ashcraft seemed to understand and be able to appreciate and respond to you appropriately?

A. Yes, sir.

Newman, Holly, (Pages 34:23 to 35:19)

34

Q. And what does coup-contrecoup mean to somebody that is a paramedic, somebody who responds to motor vehicle accidents?

Page 35

A. That means that the patient's brain -- so our brain doesn't touch the skull at all times. It is slightly smaller than our skull. So it happens in rear-end collisions.

So when we get hit in the back of the head, the brain comes up, hits the front of the skull, and then hits the back of the skull and it kind of just plays bouncy ball.

Q. And do you have any criticism of Ms. Ashcraft or any of her medical decisions that she made during that initial assessment?

A. What do you mean criticisms?

Q. In that she was belligerent, refusing to take your advice, anything like that?

A. No. She was very nice, very understanding, very "Okay. I will. I understand."

Q. Did she appear to be a normal mother of two teenage daughters who are out going to see somebody on a -- on an afternoon?

Newman, Holly, (Pages 48:6 to 49:3)

Page 48

We talked -- you talked about the eyes. Initially, they were, I guess, fine. Okay. Two millimeters. You suggested that that was a normal, within-range reaction or measurement of the eyes?

A. In light, they constrict. They get smaller in light.

Q. Okay. Okay. What -- in your experience of seeing people under the influence of a controlled substance, does that affect their eyes at all?

A. Under narcotics. Not every drug.

Q. Okay. Like, what type narcotics?

A. Opiates.

Q. Opiates? What do opiates do to a person's eyes?

A. They constrict them, make them smaller, nonreactive.

Q. Okay. Would her measurements have been consistent -- not saying that she was under the influence of opioids. But if she had been, would her eyes have been consistent with that finding?

Page 49

A. They would typically be smaller than the two.

Q. So, like, a one or something like that?

A. Correct. Or what we call pinpoint.

Newman, Holly, (Pages 60:13 to 61:19)

Page 60

Q. Okay. Now, can we go back and maybe -- can you again describe the condition of Jackie Ashcraft when you first saw her?

A. When I first initially had encounter with her, she was alert, standing outside behind the car, alert and oriented. She was smoking her cigarette, and her two kids were sitting on the side.

Q. Okay. Any trouble with balance that you could tell?

A. No. She had a normal gait. Her speech wasn't slurred. She was able to carry on a full conversation.

Q. Okay. Did she tell you if any parts of her body were hurt or injured or achy due to the wreck?

Page 61

A. No. She was more worried about her kid and making sure she was okay first.

Q. Okay. Okay. And you said that [redacted] the youngest of the girls, was fine. And [redacted] the older of the girls, had a hematoma on the back of her head?

A. That's what the report says, yes.

Q. Okay. And that's a bump or -- I don't want to be too --

A. Yes. It's -- hematoma is a common name for swelling or a bump. And if you -- you know kind of how you bruise on your leg if you hit something. And

your head, it kind of swells out.

Q. Okay.

A. If it swells in, then it's more a medical problem.

Q. Okay. So she would have gotten that injury presumably from hitting her head back on the headrest or the seats?

A. That's what I would assume.

From: Jim Jackson
To: Kathryn Irby; Vincent France
Cc: Daiquiri Carter; Martha Cox
Subject: RE: Haley Hudson v.DHS, Arkansas State Claims Commission No. 230641
Date: Monday, September 16, 2024 9:19:13 AM
Attachments: image001.jpg
image002.jpg
image003.jpg
image004.jpg
image005.png

Yes. I will have it all printed and on a flash drive.
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Kathryn Irby <kathryn.irby@arkansas.gov>
Sent: Monday, September 16, 2024 9:16 AM
To: Jim Jackson <jim@jimjacksonatty.com>; Vincent France <Vincent.P.France@dhs.arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: Haley Hudson v.DHS, Arkansas State Claims Commission No. 230641

Jim, thank you for this information. On Thursday, will you bring a flash drive that contains the documents in the link? That will help me upload those docs to our database. When I tried to download the video, my computer did not have the software to open and play it (although it did play through your OneDrive link). To the extent that this Legislature may review this claim at some point, I need to be have all of the materials in a transferable format.

Thanks,
Kathryn

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Monday, September 16, 2024 8:00 AM
To: Vincent France <vincent.p.france@dhs.arkansas.gov>; Kathryn Irby <kathryn.irby@arkansas.gov>

Cc: Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: Haley Hudson v.DHS, Arkansas State Claims Commission No. 230641

Vincent,
Below is a Hyperlink that contains the Jennifer Wilkerson video excerpts from the pages and lines we have emailed about.
The videos are identical.
One is a MPEG 4 format.
The other is in PowerPoint.
[redacted]
There is a third file in this folder.
It is a Word Document which contains the Transcript verbatim that matches the Video Testimony.
I plan on printing this 25 page Word document and giving a copy to the Commission so they can refer to it while the video is played.
Below are the Wilkerson deposition pages for your reference.

- Page 9, line 3 through page 19, Line 20
- Page 22, line 10 through page 26, line 17
- Page 43, Line 21 through Page 44, Line 20
- Page 122, Line 16 through Page 124, Line 13.
- Page 60 line 13 through page 62 line 8, which includes Exhibit 8 of her deposition;
- Page 83 line 24 through page 86 line 23
- Page 108, lines 10 through 16. (Added by Jim)

Please review and let me know if you have any questions/suggestions.
The Wilkerson video is 29 minutes long and it has the transcript playing as the witness speaks.

Witness Holly Newman

Attached is a PDF file with Deposition excerpts from paramedic Holly Newman who provided initial assessment of Ms. Ashcraft and her children.
It is 15 pages.

I am copying Kathryn on this email so she knows we are working to condense the trial presentation.

Thank you,

Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611



From: Jim Jackson
To: Kathryn Irby
Cc: SaBreana Hyche
Subject: RE: Haley Hudson v.DHS, Arkansas State Claims Commission No. 230641
Date: Monday, September 16, 2024 9:26:44 AM
Attachments: image001.jpg image002.jpg image003.jpg image004.jpg image005.png

---

Perfect.
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Kathryn Irby <kathryn.irby@arkansas.gov>
Sent: Monday, September 16, 2024 9:25 AM
To: Jim Jackson <jim@jimjacksonatty.com>
Cc: SaBreana Hyche <SaBreana.Hyche@arkansas.gov>
Subject: RE: Haley Hudson v.DHS, Arkansas State Claims Commission No. 230641

Jim, that is perfectly fine. Copying SaBreana Hyche on this email. If you will let her know when you plan to come by, that would be great. She can get you set up.

The Hudson hearing is the only one set for Thursday, so you are welcome to set up anything you need on Wednesday.

Kathryn

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Monday, September 16, 2024 9:20 AM
To: Kathryn Irby <kathryn.irby@arkansas.gov>
Subject: RE: Haley Hudson v.DHS, Arkansas State Claims Commission No. 230641

Kathryn,
If possible, I would like to come to the room Wednesday and rehearse and get everything organized.
I can bring all of these on Wednesday with me.
Will that be an issue?
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
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F (501) 823-3611

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Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
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It is 15 pages.

I am copying Kathryn on this email so she knows we are working to condense the trial presentation.

Thank you,

Jim

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Jackson Law Firm

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700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611



From: Jim Jackson
To: Kathryn Irby; Vincent France
Cc: Daiquiri Carter; Martha Cox
Subject: Haley Hudson v. Arkansas DHS; Claims Comm. No. 230641, DOI: 6/11/2021
Date: Monday, September 16, 2024 3:30:33 PM
Attachments: [redacted]
Trial Exhibits Bates [redacted] Strikeouts.pdf

Kathryn,
Vincent and I just visited and we have nearly everything agreed upon.
For the Claimant's Exhibits on Jacqueline Ashcraft:
I am going to withdraw Bates #: 90-139 & 144
Vincent is still reviewing the Holly Newman Deposition excerpts and will get back with me as soon as possible.
We will remove Bates # 39-63 and replace it with excerpts.

For [redacted] exhibits
We will remove Bates 001-010 which is the deposition of Garrett Andrews.
Dr. Andrews is testifying in person so his deposition is not admissible.
Vincent had no objections to the remainder of the [redacted] Exhibits

The Respondent's Exhibits
Vincent has 13 exhibits.
I stipulate to the admissibility of Exhibits 1-12.
I will file a Motion with Brief objecting to the relevancy of Exhibit 13 which is the Toxicology Report of Ashcraft.

Thank you,

Jim

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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

TRIAL EXHIBITS FOR WRONGFUL DEATH CLAIM OF JACQUELINE LYNN ASHCRAFT, DECEASED

Exhibit #	Description	Bates #
1	Trooper James Ray Deposition Excerpt for Photographs	001-006
2	Photos of Ashcraft car after wreck	007
3	Photos of DHS car after wreck	008
4	Jacqueline Ashcraft Family Photographs	009-013
5	Funeral program for Jacqueline Ashcraft	014
6	Death Certificate for Jacqueline Ashcraft	015
7	Brotherton Funeral Home invoice	016
8	Deposition of Christopher Bell, M.D. with six exhibits	017 - 038
9	Deposition of Holly Newman (condensed transcript)	039 - 063
10	Dr. Ralph Scott's expert report with supporting documents	064-89, 140[1] - 143
~~11~~	~~Cost of Tuition – University of Arkansas~~	~~144~~
12	Jacqueline Ashcraft's Medical Records with affidavit	145 - 184

[1] Bates Numbers 90-139 will be excluded. Not relevant.

From: Martha Cox
To: Kathryn Irby; ASCC Pleadings
Cc: Vincent France; Daiquiri Carter; Jim Jackson
Subject: Haley Hudson v. Arkansas DHS; CCNo. 230641
Date: Tuesday, September 17, 2024 10:06:23 AM
Attachments: [redacted] Exhibit 13.pdf
[redacted] Ex. 13 9-17-2024.pdf

Please find attached a letter from Attorney Jim Jackson and the claimant's Objection to Respondent's Exhibit 13 for filing in the above-referenced claim.

The original and three copies of the claimant's Objection to Respondent's Exhibit 13 is being hand-delivered today to the Claims Commission.

Thank you.

Martha Cox, PP, PLS
Paralegal for The Jackson Law Firm
700 West Broadway, Suite 200
North Little Rock, AR 72114
Phone: (501) 823-3610
Fax: (501) 823-3611
mcox@jimjacksonatty.com

JACKSON
LAW FIRM

September 16, 2024

VIA E-Mail and Hand Delivery

Ms. Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, AR 72201

Re: Haley Hudson v. Arkansas DHS;
Claims Commission No. 230641

Dear Kathryn,

Please find enclosed an original and three copies of the Claimant's Objection to Respondent's Exhibit 13 along with a copy of the cases cited in the objection.

My office will put this on a flash drive for Thursday.

Please call me at (501) 823-3610 with any questions or suggestions.

Sincerely,

Jim R. Jackson

JRJ/mc
Enclosure
cc:w/enc. Mr. Vincent France

JIM JACKSON / Attorney at Law
700 W. Broadway Street; Suite 2
North Little Rock, AR 72114-5528
501.823.3610
F 501.823.3611
Jim@JimJacksonAtty.com
www.JimJacksonAtty.com

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD — **CLAIMANT**

VS. — **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S OBJECTION TO RESPONDENT'S EXHIBIT 13

The claimant stipulates the admissibility of respondent's Exhibit numbers 1 through 12. However, the claimant objects to the introduction of Exhibit 13, which is the toxicology report for Jacqueline Ashcraft. It is standard practice for the Arkansas State Police to obtain urine samples from all parties involved in a fatal motor vehicle collision. Both Jennifer Wilkerson and Jacqueline Ashcraft's toxicology reports tested positive for methamphetamine.

Liability in this case has already been determined, making the toxicology reports for both drivers irrelevant. Even if liability were still at issue, the toxicology reports do not indicate whether or not either driver was legally intoxicated at the time of the collision.

Under Rule 402 of the Arkansas Rules of Evidence, irrelevant evidence is inadmissible: "Evidence which is not relevant is not admissible." Furthermore, Rule 403 of the Arkansas Rules of Evidence allows for the exclusion of relevant evidence if its probative value is substantially outweighed by the danger of unfair prejudice, confusion, or waste of time: "Although relevant, evidence may be excluded if its probative value is substantially

outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence."

The toxicology reports are not relevant, as they do not assist in understanding the issue of liability. The only purpose of attempting to introduce Ashcraft's toxicology report is to cause prejudice to the claim and lead to needless embarrassment for her family.

Even if deemed relevant, the test results are prejudicial and confusing. No employee from the Arkansas Crime Lab is identified as a witness to elaborate on the two toxicology reports. Therefore, it is unknown if the results were

- "False positives"
- The half-life of the drug,
- Of the substance detected could be a by-product of a prescription drug such as Adderall which is a mixture of dextroamphetamine and amphetamine.

Most importantly, there is no testimony that Ashcraft was impaired. There has been no testimony that Ashcraft was driving erratically or under the influence. Paramedic Holly Newman provided testimony that Ashcraft appeared normal following the collision. Ashcraft responded appropriately to questions and her pupils dilated to the normal range, suggesting she was not under the influence of an opiate. Paramedic Newman testified that Ashcraft did not have "Pin Prick" pupils, which are a tell-tale sign that a person is under the influence of an opiate.

The Arkansas Supreme Court, in *Wade v. Grace*, 321 Ark. 482, 902 S.W.2d 785 (1995), asserted that evidence of alcohol or drug usage must demonstrate legal intoxication or impairment to be admissible. In *Wade v. Grace*, *supra*, the Arkansas Supreme Court considered a boating accident where the plaintiff sought to introduce evidence of alcohol use on the part of another boat driver, Grace. The alcohol usage evidence consisted of:

1. Seeing "six beer cans in the water immediately after the accident,"
2. Grace admitting to Game and Fish Officer Hatch that "he had one beer,"
3. Game and Fish Officer Hatch's testimony that he could smell a "medium" odor of alcohol,
4. Game and Fish Officer Rowlett's testimony that Rowlett could smell a "moderate" odor of alcohol.

With these facts, the Arkansas Supreme Court recognized, "the mere fact of drinking intoxicating liquor is not admissible, being unfairly prejudicial, unless it reasonably establishes a degree of intoxication which proves unfitness to drive." *Wade v. Grace*, 321 Ark. at 489. The Supreme Court also affirmed trial Court's exclusion of the beer cans based on the trial judge's assessment that jurors would be unfairly prejudiced by such testimony.

In the case *City of Little Rock v. Cameron*, 320 Ark. 444, 897 S.W.2d 562 (1995), the court concluded that mere evidence of alcohol consumption is not sufficient to establish negligence unless it shows intoxication affecting behavior and causing the plaintiff's injuries. The City's evidence suggesting that Defendant was negligent because of alcohol use consisted of:

1. Before the accident, Defendant had left Bobbisox Lounge where he admittedly drank alcoholic beverages;
2. Defendant was unaware of contact between the two vehicles; and
3. LRPD Officer Howard gave Defendant a portable breathalyzer which revealed a blood alcohol level of .05 percent.

There the Court stated at page 448, 449:

> The mere fact that Cameron had been drinking alcoholic beverages is not sufficient evidence of negligence, standing alone, for this claim, to withstand a directed verdict. Cameron was not legally intoxicated based on his percentage of blood/alcohol content. See Ark. Code Ann. § 5-65-103(b) (Repl. 1994), But even had he been intoxicated, a distinguished treatise on torts concludes that the fact of intoxication is not negligence in itself, but it must be shown to have caused the actor's behavior to have deviated from that of a reasonable person and to have caused the Plaintiff's injuries. *See Prosser and Keaton on Torts* § 32, pp. 178-179 (5th Ed. 1984); see also *Restatement (Second) of Torts* § 283C, Comment D. In this vein, we have stated that

> voluntary intoxication may be a factor to be considered by the trier of fact in determining negligence. *Jernigan v. Cash*, 298 Ark. 347, 767 S.W.2d 517 (1989).
>
> We can readily agree with Officer Howard that drinking alcoholic beverages may impair one's ability to drive. Here, though, there was no evidence that Cameron was intoxicated or otherwise impaired at the time of the accident or that his liquor consumption either evidenced a lack of reasonable care on Cameron's part or caused the wreck in any way. In sum, we agree that the City's proof does not give rise to an inference of negligence but only to conjecture and speculation. See *Sanford v. Ziegler*, 312 Ark. 524, 851 S.W.2d 418 (1993). The trial court did not err in granting the directed verdict.

Similarly, the Eighth Circuit was faced with a test that allegedly showed the existence of cocaine in a defendant in *Simco v. Ellis*, 393 F.3d 929 (8th Cir. 2002). In that case, a plaintiff proffered blood test evidence that the plaintiff contended showed that the defendant driver had ingested cocaine on the morning of the accident. The trial court noted that the test was incomplete and further that there was no evidence that the driver was intoxicated or impaired at the time of the accident and that "the mere mention of cocaine would inflame the jury and be extremely prejudicial to the defendants." *Id*. at 933. The Eighth Circuit affirmed the decision of the trial judge.

CONCLUSION

Given the fact that liability is not an issue and the lack of evidence on the validity or reliability of the toxicology reports, and the absence of any indication that Ms. Ashcraft was impaired, the introduction of these reports would be irrelevant, inflammatory and prejudicial. Therefore, the toxicology reports for Ashcraft should be excluded.

Respectfully submitted,

BY: */s/ Jim R. Jackson*

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Objection was served on September 17, 2024, on the following counsel of record by electronic service, E-Mail, to:

Mr. Vincent France
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

/s/ Jim R. Jackson .
Jim R. Jackson

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902 S.W.2d 785
321 Ark. 482
Barbara WADE and Charles Wade,
Appellants,
v.
Geoffrey P. GRACE and Greer Grace,
Appellees.
No. 95-102.
Supreme Court of Arkansas.
July 17, 1995.

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[321 Ark. 484] James F. Swindou, Little Rock, for appellant.

Overton S. Anderson, Little Rock, for appellees.

ROAF, Justice.

This case arises from a boating accident which occurred on Lake Hamilton. Appellants Barbara Wade and Charles Wade filed an action to recover for injuries sustained as a result of the accident. The jury returned a verdict in favor of the appellees, Geoffrey and Greer Grace. We affirm.

On the evening of May 23, 1992, Barbara Wade was operating a party barge owned by her and her husband, Charles. Mrs. Janet Cameron was a passenger on the party barge. At approximately 10:00 p.m., the party barge was involved in a collision with a ski boat operated by Geoffrey Phillip Grace and owned by his stepmother, Greer Grace. Geoffrey Grace was seventeen years old at the time of the accident, and seven other teenagers were riding in the boat.

Janet Cameron and her husband, Chester Cameron, brought suit against Geoffrey and Greer Grace. Geoffrey and Greer Grace answered the Camerons' complaint, filed a counterclaim against the Camerons, and filed a third-party complaint against Barbara and Charles Wade. Subsequently, the Wades filed a third-party counterclaim against Geoffrey and Greer Grace. The Wades principally asserted that Geoffrey Grace was operating the ski boat in a negligent manner. The Wades' claims against the Graces, which are the subject of this appeal, were the sole claims tried to the jury. The record reflects that the remaining claims were dismissed with prejudice.

The appellants raise four points on appeal: (1) the trial court wrongly excluded testimony and law regarding good boating practices on Lake Hamilton; (2) the trial court wrongly excluded evidence that the minors involved were in possession of alcohol and were drinking alcohol at the time of the accident; (3) the trial court improperly restricted Officer Richard Rowlett from [321 Ark. 485] giving expert testimony with regard to deformation of light filaments; and (4) appellants were wrongly denied the opportunity to put on expert testimony through John Bentley either in their case-in-chief or in rebuttal of appellees' expert witness.

I. Good Boating Practices

Robert Charlesworth, the Marine Patrol Supervisor with the Garland County Police Department and an investigating officer on the scene of the accident, was called as a witness by the appellants. Officer Charlesworth testified that the purpose of navigation lights is to alert other boaters of the position of your boat. He stated the red lens is on the left side of a boat, the green lens is on the right side, and the white light is commonly called the stern (rear of boat) or anchor light.

Officer Charlesworth testified that if you are approaching a boat and see the red light,

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that boat has the right-of-way. Counsel for the appellees objected to the testimony on the basis that it was improper for the witness to inform the jury which boat had the right-of-way. Counsel for the appellants asserted the witness was simply testifying to "general boating practice" on the lake and how you know to go to the right, or toward

the stern of the boat that is approaching when the red light is displayed. The trial court sustained the appellees' objection.

On appeal, the appellants assert the trial court erred in excluding the testimony because appellants were simply attempting to establish the "rules of the road" for good boating practice, which are not as familiar to all jurors as the rules of the road for automobiles. The appellants rely upon Parker v. Price, 241 Ark. 940, 411 S.W.2d 12 (1967), where the appellant asserted the jury should have been instructed that the standard of care imposed on a boat operator is the exercise of "due diligence and maritime skill" rather than simply ordinary care. In affirming the circuit court's decision, we noted that the appellant's requested instruction was simply another way of stating the operator should act as a reasonably careful person would act under the circumstances. Further, we commented:

In the case at bar, the trial court properly permitted two witnesses of considerable experience with watercraft to testify concerning facts constituting good or poor seamanship. [321 Ark. 486] They were also permitted to give opinion testimony based on hypothetical questions.

Thus, the jury had for its consideration testimony going to the main issue--whether the boats in question were operated with reasonable care under all the circumstances, including, but not limited to, maritime skill.

In the instant case, the appellants place significance on our statement regarding the testimony concerning good or poor seamanship.

Arkansas Rule of Evidence 702 provides expert testimony may be admissible if such specialized knowledge will aid the trier of fact in understanding the evidence or in determining a fact in issue. Williams v. Ingram, 320 Ark. 615, 899 S.W.2d 454 (1995). Whether a witness may give expert testimony rests largely within the sound discretion of the trial court, and that determination will not be reversed absent an abuse of discretion. Id. On appeal, the appellant must demonstrate that the trial court has abused its discretion. Id.

In Williams, supra, the appellant asserted the trial court erred in excluding testimony from a maritime and marine safety expert regarding the requisite standard of care and the danger of river currents. In affirming the decision of the trial court, we concluded that nothing in the expert's deposition indicated that the knowledge he displayed was so specialized that it was beyond the ability of the trier of fact to understand and draw its own conclusions. We noted the potential dangers of the Arkansas River's currents were not beyond the comprehension of the jury.

In the instant case, the appellants have failed to establish that the trial court abused its discretion. The appellants simply assert the officer would testify regarding the general boating practices on Lake Hamilton. At one point, counsel for the appellants even stated the testimony would simply confirm "what everybody uses as ordinary care." Further, counsel for the appellants asserted the officer's testimony was not "even really an opinion ... that's what you do on the lake." Thus, there is no indication that the witness had specialized knowledge that went beyond the general knowledge of an average person. Even assuming Charlesworth was not testifying as an expert, it is within the [321 Ark. 487] discretion of the trial court to limit the testimony of witnesses and that decision will not be reversed absent a manifest abuse of that discretion. Garner v. Kees, 312 Ark. 251, 848 S.W.2d 423 (1993).

Further, it is the duty of the judge to review the evidence presented, decide what the applicable law is, and instruct the jury. Whitlock v. Smith, 297 Ark. 399, 762 S.W.2d 782 (1989); See also Montgomery v. Butler, 309 Ark. 491, 834 S.W.2d 148 (1992). The jury was instructed that there was in force a statute which provided "every motorboat shall have a light sufficient to make the

fastcase
Smarter legal research.

motorboat's presence and location [known] to any and all other vessels when in operation during the hours of darkness." See Ark.Code Ann. § 27-101-203(a)(2) (Repl.1994). The jury was further instructed that "the boat must have a red light on the left side of the bow, a green light on the right side with a horizon--a white horizon light aft." Because the judge should instruct the jury regarding the applicable law, the officer was properly prohibited from testifying as to the "rules of the lake" and who had the right-of-way.

The appellants further assert the trial court erred in refusing to instruct the jury regarding the federal law on navigable waters. Counsel for the appellants did argue that federal law applied; however, the appellants' requested jury instructions are not in the abstract or the record. It is well established that a party cannot complain about the failure to give an instruction when he did not proffer the instruction. ARCP Rule 51; Quinney v. Pittman, 320 Ark. 177, 895 S.W.2d 538 (1995). Further, we have said that the proffered instruction must be included in the record and in the abstract to enable the appellate court to consider it. Mings v. State, 318 Ark. 201, 884 S.W.2d 596 (1994). Consequently, we will not address this issue.

II. Evidence of Intoxication

At trial, counsel for the appellants sought to admit evidence that Geoffrey Grace was intoxicated at the time of the collision. Counsel for the appellants asserted there were six beer cans in the water immediately after the accident, and counsel for the appellees stated Geoffrey Grace would testify he had one beer. In addition, the appellants proffered the testimony of Officer Paul Hatch of the Arkansas Game and Fish Commission, who inspected the Grace boat on the night of the accident. Officer Hatch stated [321 Ark. 488] that he observed Geoffrey Grace and smelled alcohol. He described the smell as a medium odor--"not heavy and not light or not excessive." However, Hatch observed Grace walk and speak, and he could not say that Grace was under the influence of alcohol. The appellants also proffered the testimony of Officer Richard Rowlett of the Arkansas Game and Fish Commission. Officer Rowlett testified he smelled the odor of intoxicants on Geoffrey Grace. Rowlett described the level as moderate, and he testified he did not observe any other evidence of intoxication.

The trial court stated the evidence regarding alcohol was not admissible unless there was some evidence that Geoffrey Grace was in fact intoxicated, and the trial court concluded there was no such evidence. The court found that even the testimony regarding beer cans found in the water was inadmissible because it was prejudicial. Further, the court concluded the fact that the teenagers may have been drinking underage had nothing to do with whether they were intoxicated or negligent.

We have stated that voluntary intoxication may be a factor to be considered by the trier of fact in determining negligence. City of Little Rock v. Cameron, 320 Ark. 444, 897 S.W.2d 562 (1995). Further, Ark.Code Ann. § 27-101-202(7) (Repl.1994) provides no person shall operate any motorboat while intoxicated. However, Arkansas Rule of Evidence 403 allows a trial court to exclude relevant evidence if its probative value is substantially outweighed by the danger of unfair prejudice or possibility of confusion of issues. The balancing of probative value against prejudice is a matter left to the sound discretion of the trial judge and his decision on such a matter will not be reversed absent a manifest abuse of discretion. Gipson v. Garrison, 308 Ark. 344, 824 S.W.2d 829 (1992).

We hold the appellants have failed to establish that the trial court abused its discretion. The trial court found there was simply no evidence that Geoffrey Grace was intoxicated, and, as to beer cans both in the water and on the party barge, the trial court noted that "we have jurors that when they hear the word beer cans, it's all over for either side. And I don't admit those unless there's evidence of intoxication."

It has been stated that courts are divided as to whether, in traffic accident cases, evidence that

one of the motorists had [321 Ark. 489] recently consumed an alcoholic beverage should be admitted in the absence of evidence that it

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rendered him or her unfit to drive. Clifford S. Fishman, Jones on Evidence: Civil and Criminal § 11:15 (7th ed. 1994). In Fisher v. Dye, 386 Pa. 141, 125 A.2d 472 (1956), the Supreme Court of Pennsylvania recognized that "while proof of intoxication is relevant where reckless or careless driving of an automobile is the matter at issue, the mere fact of drinking intoxicating liquor is not admissible, being unfairly prejudicial, unless it reasonably establishes a degree of intoxication which provides unfitness to drive." See also Hannon v. City of Philadelphia, 138 Pa.Cmwlth. 166, 587 A.2d 845 (1991). Further, it is within the discretion of a trial court to refuse to admit evidence that a driver ejected from his vehicle after an accident an open whiskey bottle because it could be determined that the marginal probative value of such evidence was substantially outweighed by the possibility of unfair prejudice. Gardner v. Smith's Transfer Corp., 610 F.2d 810, 5 Fed.Evid.Rep. 67 (4th Cir.1979).

III. Testimony of Officer Rowlett

One issue contested at trial was whether the white light on the aft of the party barge (stern/anchor light) was on at the time of the collision. The appellants sought to present the testimony of Officer Rowlett, one of the investigating officers, who was trained in filament deformation. The appellees contended Rowlett should not be allowed to testify that he examined the filaments in the white bulb from the party barge and, in his opinion, the light was on at the time of the collision. The appellees asserted they did not learn of Rowlett's testimony until the opening statement by counsel for appellants and the failure to disclose was a violation of ARCP Rule 26 regarding discovery.

In response to an interrogatory requesting the names of persons who would offer opinions, expert or otherwise, the Wades stated that other than physicians who were expected to testify regarding medical treatment, "no other expert witnesses have yet to be determined." The response further stated that "Lay witnesses are expected to testify as to their observations which may include some opinions based upon observations or mixed questions of opinion or observation." The trial judge commented that "this is not the way to try a lawsuit," and he determined the fair thing was to only allow Rowlett to testify as to what he observed [321 Ark. 490] when he made his investigation. The trial court held that Rowlett could not give an opinion as to whether the light was on or off.

At trial, Rowlett testified he attended a school regarding the investigation of boating accidents. Officer Rowlett testified he observed the aft light and retained the bulb; he stated "the light is deformed." At an in camera hearing, counsel for the appellants proffered additional testimony from Officer Rowlett. Rowlett stated that the bulb was deformed or distorted, and such deformation indicated the bulb was on at the time of the collision.

Although Rowlett was listed as a witness, he was not disclosed as an expert. Counsel for the appellants stated he visited with the officer the day before the trial and found that the officer was in possession of the bulb recovered from the accident. The appellants principally assert that the disclosure of Rowlett as a witness was sufficient, and that according to Banks v. Jackson, 312 Ark. 232, 848 S.W.2d 408 (1993), there must be "at least a passive concealment before any imposition of a sanction." Further, the appellants submit the appellees presented no reason for their failure to depose Officer Rowlett.

Arkansas Rule of Civil Procedure 26(e)(1) provides:

A party is under a duty to seasonably supplement his response with respect to any questions directly addressed to ... the identity and location of each person expected to be called as a witness at trial, and in the case of expert witnesses, the subject

matter on which he is expected to testify, and the substance of his testimony.

Further, we have stated that a trial court has broad discretion in matters pertaining to discovery, and that discretion will not be second-guessed by the appellate court absent an abuse of discretion that is prejudicial to the appealing party. Banks, supra; Morris v.

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Cullipher, 306 Ark. 646, 816 S.W.2d 878 (1991).

As to the requirement of a concealment, the Banks case addressed a violation of ARCP Rule 26(e)(2)(B). Rule 26(e)(2)(B) provides a party is under a duty to seasonably amend a prior response if he obtains information which would make the prior response, though correct when made, no longer true and the circumstances are such that a failure to amend the response [321 Ark. 491] is in substance a knowing concealment. There is no requirement that the trial court make a finding of concealment under Rule 26(e)(1).

Under the circumstances, we cannot say the trial court abused its discretion by allowing the witness to testify as to his observations and prohibiting him from providing his opinion regarding whether the light was on at the time of the collision.

IV. Testimony of John Bentley

The appellants sought to present the testimony of John Bentley, an expert in accident reconstruction. Once again, the appellees objected to such testimony based upon a failure to respond to discovery requests. The trial of this matter began on July 12, 1994. At an in camera hearing, it was determined that the counsel for the appellees received a letter on June 21, 1994, stating that Bentley might be used as an expert witness to rebut the testimony of Lonnie Buie, an accident expert expected to be called as a witness by the Graces. Counsel for the appellees asserted that the week before the trial the appellees asked for the opportunity to take Bentley's deposition, but he was out of town. Mr. Bentley's deposition was taken the night before the trial.

Counsel for the appellants stated he was hired "last Tuesday to try this lawsuit" and "we invited John [Bentley] as soon as we could." The trial court concluded it was unfair to wait until the day before trial and provide an expert in this type of case. The trial court commented that it had become a fad for plaintiff's lawyers to "hire an expert and call him a consultant and play a game until right up before trial." Subsequently, the appellants attempted to present the testimony of Bentley in rebuttal of the testimony of Lonnie Buie.

Lonnie Buie, Jr., an electrical engineer, testified that based upon the lack of deformation of the filament within the bulb, it was his opinion the white stern light on the party barge was not on at the time of the collision. Buie stated that a heated filament is more pliable, and tests have established that on impact, if the light is on, it will elongate. During cross-examination by counsel for the appellants, Buie testified that if a bulb filament is deformed, then it was on at the time of the accident. Buie further stated that when the ski boat hit the canopy of the party [321 Ark. 492] barge, the element of the light would have deformed had it been on. The appellants asserted that the testimony of Bentley would rebut the testimony of Lonnie Buie with respect to whether the force applied to the canopy was sufficient to deform the bulb.

First, the appellants assert that the appellees knew nineteen days before trial that Bentley would be called as an expert witness, and the appellees did in fact take Bentley's deposition. The appellants rely upon Banks v. Jackson, supra, where we noted that last-minute depositions are not unique in trial preparation. In Banks, however, we simply held the trial court's decision allowing the testimony was not an abuse of discretion. The trial court has broad discretion in matters pertaining to discovery. Id. Also, the opposing party in Banks was informed of the substance of the testimony which would be offered by the expert, including his opinions.

Second, rebuttal testimony must rebut the testimony advanced by the other side and should not consist of testimony which might have been advanced as proof in chief. Phillips v. McAuley, 297 Ark. 563, 764 S.W.2d 424 (1989). The exclusion of testimony offered on rebuttal is within the discretion of the trial court. See Wilkins v. El Dorado & Wesson R.R., 282 Ark. 236, 668 S.W.2d 6 (1984).

More significantly, the appellants did not make a proffer of the testimony which Mr. Bentley would have presented. Counsel for appellants simply asserted that Bentley's testimony would rebut the testimony

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of Lonnie Buie. It is well established that in order to challenge a ruling excluding evidence, an appellant must proffer the excluded evidence so we can review the trial court's decision, unless the substance of the evidence is apparent from the context. A.R.E.Rule 103(a)(2); Davis v. State, 319 Ark. 460, 892 S.W.2d 472 (1995). In the instant case, there was no proffer and the substance of the answer is not apparent. There is no way of even knowing if Mr. Bentley's testimony would have been inconsistent with Mr. Buie's testimony. Accordingly, this argument is not preserved for review.

Affirmed.

HOLT, C.J., and BROWN, J., concur.

DUDLEY, J., not participating.

[321 Ark. 493] BROWN, Justice, concurring.

I concur in the result but believe the trial court used the wrong standard in excluding all evidence of alcohol consumption by appellee Geoffrey Philip Grace in this case. However, because the correct standard was not argued to the trial court, I cannot say that the court abused its discretion in excluding the evidence.

This case appears to raise an issue which this court has not addressed directly in the past. The circuit court excluded evidence of Grace's consumption on the basis that it was not relevant "unless there's evidence of intoxication." Without intoxication, the court concluded that evidence of mere consumption of alcohol would be too prejudicial. I disagree that a person must be drunk or legally intoxicated for proof of alcohol consumption to be relevant. Rather, the proper test is that alcohol consumption is relevant when accompanied by other evidence of impairment. See Clement v. Consolidated Rail Corp., 130 F.R.D. 530 (D.N.J.1990); Kaeo v. Davis, 68 Haw. 447, 719 P.2d 387 (1986).

In Kaeo v. Davis, supra, the Hawaii Supreme Court vacated a judgment in favor of the defendant, who was driving the car with the injured party as a passenger, and remanded for a new trial when the trial court had excluded evidence of the driver's drinking. The driver had consumed "several beers" that afternoon before the accident at dusk. The trial court in Kaeo had concluded, similar to the instant case, that any evidence of drinking regardless of the amount would raise undue prejudice against the driver. The Supreme Court concluded that this analysis was error and constituted an abuse of discretion:

Granted, the evidence of drinking was prejudicial. Still, evidence with a capacity for unfair prejudice cannot be equated with testimony simply adverse to the opposing party; for evidence is only material if it is prejudicial in some relevant respect. 1 J. Weinstein and M. Berger, Evidence p 403 (1985) (citation omitted). We are not willing to assume "any indication of drinking" is so unfair to the drinking driver that the opposing party must be denied his right to have relevant and material evidence considered by the trier of fact. Nor are we willing to concede the trial juries, with guidance from the trial court, are incapable of rendering objective fact determinations in trials of negligence actions in which drinking is involved.

[321 Ark. 494] The judge's ruling of inadmissibility, it appears, was influenced by

representations that in pre-trial depositions Miss Kido and Samuel Taupo testified Davis was sober prior to the accident and the investigating officer detected none of the tell-tale signs of drunkenness when he questioned Davis at the accident scene. These, however, were matters that could have been offered instead for assessment by the trier of fact along with the evidence of drinking by the driver. The trial judge's decision not to permit the jury to hear such evidence was an abuse of discretion amounting to error, and we cannot say it had no effect upon the outcome of the trial. Since our conclusion compels a retrial of the action, we proceed to the issue raised by the plaintiff in her cross-appeal.

Kaeo, 719 P.2d at 392.

The Supreme Court in Kaeo did state that had the driving of the car been wholly beyond criticism, the trial court's ruling would have been correct. But there was evidence of speeding and the driver's taking his eyes off the road while attempting to round a

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curve. The Supreme Court observed that there was enough from which the jury could conclude that the driver was impaired in his ability to perceive the damages with clarity, make decisions with prudence, and operate the vehicle with the skill and caution required by law.

It is clear that mere alcohol consumption by itself cannot be equated to unfitness to drive. City of Little Rock v. Cameron, 320 Ark. 444, 897 S.W.2d 562 (1995); Clement v. Consolidated Rail Corp., supra. But when coupled with other evidence of impairment and unfitness to drive, such as erratic driving, it is relevant. Jones v. Freese, 743 S.W.2d 454 (Mo.App.1987); McCall v. Liberty, 248 Ark. 618, 453 S.W.2d 24 (1970). That is what we have in the matter before us.

The circumstances of this case were that it occurred at about 10:00 p.m. Eight teenage boys were in a ski boat operated by Grace on Lake Hamilton. Grace was 17 at the time and admitted to drinking one beer before the accident. According to two investigatory officers, Grace was not intoxicated but had a "moderate" or "medium" smell of alcohol about him at some point after the collision. There were six empty beer cans around the [321 Ark. 495] scene of the accident. Grace at some time after the collision tested at .04 blood/alcohol content on a field breathalyzer test, according to the proffered testimony of Officer Richard Rowlett, but admittedly field breathalyzer tests are of questionable probative value. The complaint by the Wades alleged that the ski boat was speeding and that the driver had failed to keep a proper lookout. Grace admitted to driving 30 miles per hour. The Wades' theory of the case was that the ski boat attempted to pass the party barge on the wrong side.

To be sure, the central issue in this case was whether the party barge had the appropriate lighting. But any impairment of the driver, due to alcohol consumption, coupled with allegations of speeding was an appropriate matter for the jury to weigh.

I am fearful that this case will be precedent for the proposition that only proof of legal intoxication is relevant in a negligence case involving reckless driving of cars or boats. That should not be the law. Nevertheless, because our trial courts are granted great discretion in this area, and because the correct standard was not argued to the trial court and, indeed, was not argued on appeal, I cannot say that the trial court abused its discretion.

HOLT, C.J., joins in this concurrence.

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897 S.W.2d 562
320 Ark. 444
CITY OF LITTLE ROCK, Appellant,
v.
Kevin Scott CAMERON, Appellee.
No. 94-1334.
Supreme Court of Arkansas.
May 8, 1995.

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[320 Ark. 445] Thomas M. Carpenter, Anthony W. Black, Little Rock, for appellant.

Sarah Presson, Julia L. Busfield, Little Rock, for appellee.

BROWN, Justice.

This case involves an appeal from a grant of a directed verdict in favor of the appellee, Kevin Scott Cameron. The City of Little Rock, as appellant, contends that the trial court erred in its ruling. We do not agree and affirm.

At approximately midnight on March 5, 1992, Cameron left the Bobbisox Lounge at the Holiday Inn by the Little Rock Airport. He had been drinking alcoholic beverages. He went to a Waffle House across the street and left there at about 2:00 a.m. He drove into downtown Little Rock. It was raining. At the intersection of West Markham and McKinley, his car struck a traffic [320 Ark. 446] signal pole and destroyed it. The City sued Cameron for negligence and for damages in the amount of $4,562.70 for the destruction of the pole.

At the resulting jury trial, the City called Officer Linda Barron as a witness. Officer Barron testified that she was the investigating officer and that two vehicles were involved in the accident: Cameron's 1987 Ford Taurus and a 1989 G.M.C. pickup driven by Othlea Patterson. Officer Barron testified that she smelled alcohol on Cameron's breath. She stated that Cameron told her that the pickup truck had entered his lane and that he had swerved to miss it and struck the pole. She noted that Cameron's vehicle had hit the pickup but stated that Cameron was unaware of this at the time. No citations were issued to the driver of either vehicle, and the police officer's accident report noted no contributing causes for the wreck.

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Officer Roy Howard of the Little Rock Police Department testified that he administered a portable breathalyzer test to Cameron at the scene and that Cameron tested for a blood/alcohol level of .05 percent. He stated that he did not believe that Cameron was "impaired to an extreme point," though he did state he believed that drinking alcoholic beverages does impair one's ability to drive.

The City rested its case after providing proof of its damages. Cameron moved for a directed verdict, and it was granted.

The City urges on appeal that the trial court erred in granting Cameron's motion for directed verdict. In determining the correctness of the trial court's ruling, we view the evidence in the light most favorable to the party against whom the verdict is sought and give it the highest probative value, taking into account all reasonable inferences deducible from it. Bice v. Hartford Acc. & Indem. Co., 300 Ark. 122, 777 S.W.2d 213 (1989). A motion for directed verdict should be granted only if the evidence so viewed would be so insubstantial as to require a jury verdict for the party to be set aside. Id.; Campbell Soup Co. v. Gates, 319 Ark. 54, 889 S.W.2d 750 (1994). Evidence is insubstantial when it is not of sufficient force or character to compel a conclusion one way or the other or if it does not force a conclusion to pass beyond suspicion or conjecture. See Allred v. [320 Ark. 447] Demuth, 319 Ark. 62, 890 S.W.2d 578 (1994); Moore v. State, 315 Ark. 131, 864 S.W.2d 863 (1993).

In the case before us, the trial court found that there was insufficient evidence to support a claim of negligence. To establish a prima facie case in tort, a plaintiff must show that damages

were sustained, that the defendant was negligent, and that such negligence was a proximate cause of the damages. Arkansas Kraft v. Cottrell, 313 Ark. 465, 855 S.W.2d 333 (1993). We reiterated our definition of negligence in Cottrell:

Negligence is the failure to do something which a reasonably careful person would do. A negligent act arises from a situation where an ordinarily prudent person in the same situation would foresee such an appreciable risk of harm to others that he would not act or at least would act in a more careful manner. White River Rural Water Dist. v. Moon, 310 Ark. 624, 839 S.W.2d 211 (1992).

313 Ark. at 470, 855 S.W.2d at 337. While a party can establish negligence by direct or circumstantial evidence, he cannot rely upon inferences based on conjecture or speculation. Id.

The mere fact that Cameron had been drinking alcoholic beverages is not sufficient evidence of negligence, standing alone, for this claim, to withstand a directed verdict. Cameron was not legally intoxicated based on his percentage of blood/alcohol content. See Ark.Code Ann. § 5-65-103(b) (Repl.1994). But even had he been intoxicated, a distinguished treatise on torts concludes that the fact of intoxication is not negligence in itself, but it must be shown to have caused the actor's behavior to have deviated from that of a reasonable person and to have caused the plaintiff's injuries. See Prosser and Keaton on Torts § 32, pp. 178-179 (5th Ed.1984); see also Restatement (Second) of Torts § 283C, Comment D. In this vein, we have stated that voluntary intoxication may be a factor to be considered by the trier of fact in determining negligence. Jernigan v. Cash, 298 Ark. 347, 767 S.W.2d 517 (1989).

We can readily agree with Officer Howard that drinking alcoholic beverages may impair one's ability to drive. Here, though, there was no evidence that Cameron was intoxicated or otherwise impaired at the time of the accident or that his liquor [320 Ark. 448] consumption either evidenced a lack of reasonable care on Cameron's part or caused the wreck in any way. In sum, we agree that the City's proof does not give rise to an inference of negligence but only to conjecture and speculation. See Sanford v. Ziegler, 312 Ark. 524, 851 S.W.2d 418 (1993). The trial court did not err in granting the directed verdict.

Affirmed.

GLAZE and CORBIN, JJ., dissent.

CORBIN, Justice, dissenting.

I dissent.

The case should have been submitted to the jury for decision. The facts of the appellee's

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drinking mixed with a collision with another vehicle he did not know he hit and his collision with a traffic light pole should have been submitted to the jury to resolve whether he was negligent in the operation of his vehicle. One does not have to be intoxicated under a legal definition of 0.10% before having his mental and reaction time slowed down by the drink. See Stephens v. State, 320 Ark. 426, 898 S.W.2d 435 (1995). When all of this is coupled with rain slicked streets, it would be a proper issue for a jury to draw upon their individual experiences to determine if, under all of these conditions, negligence existed. I would reverse and remand for trial.

GLAZE, J., joins in this dissent.

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303 F.3d 929
Geraldine SIMCO, Administratrix of the Estate of Doris M. Smith, Deceased; Patti Lynn Bradley; Dan David Bradley, Appellees/Cross-Appellants,
v.
Willie R. ELLIS, doing business as Ellis Trucking; Andrew L. McCalpin, Appellants/Cross-Appellees.
No. 01-2095.
No. 01-2167.
United States Court of Appeals, Eighth Circuit.
Submitted: May 13, 2002.
Filed: September 17, 2002.
Rehearing and Rehearing En Banc Denied: October 23, 2002.

Page 930

D. Keith Fortner, Little Rock, AR, for appellants/cross-appellees, McCalpin and Ellis.

James Melvin Dunn, Fort Smith, AR, for appellees/cross-appellants, Dan and Patti Bradley.

Ronald W. Metcalf, Fort Smith, AR, for appellee/cross-appellant, Geraldine Simco.

Before BOWMAN and BYE, Circuit Judges, and NANGLE,[1] District Judge.

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BOWMAN, Circuit Judge.

In this negligence case, Willie R. Ellis, doing business as Ellis Trucking, and Andrew McCalpin appeal from the judgment of the District Court[2] in favor of plaintiffs Geraldine Simco, administratrix of the estate of Doris Smith, and Patti Lynn Bradley and her husband, Dan David Bradley. Simco cross appeals, raising an evidentiary issue. We affirm.

On a March morning in 1999, a tractor-trailer flat-bed truck loaded with lumber and driven by McCalpin[3] overturned on a rain-soaked Arkansas state highway as the truck approached the second part of a sharp downhill s-curve. The truck and its load slid across the center line and smashed into a pickup truck driven by Doris Smith, who had pulled her truck over to the guardrail in an attempt to avoid the collision. Smith was killed and her passenger, Patti Bradley, was injured. In October 1999, the plaintiffs brought a state-court lawsuit, which was timely removed to the District Court, against Ellis, the owner of the truck and McCalpin's employer at the time of the accident, and against McCalpin, alleging that McCalpin's negligence was the cause of the accident.

At the end of a three-day trial, the jury found for the defendants on the question of McCalpin's negligence. The District Court granted the plaintiffs' motion for a new trial "solely on the grounds that the verdict was against the great weight of the evidence." *Simco v. Ellis,* No. 99-2194, Memorandum & Order at 5 (W.D.Ark. July 21, 2000) (granting motion for new trial). After a second trial, a different jury awarded $60,000 to Smith's estate, $225,000 to Patti Bradley, and $25,000 to Dan Bradley. McCalpin appeals, challenging the District Court's decision to grant a new trial and raising several issues related to the second trial. In a cross appeal, Simco challenges the exclusion of evidence relating to a drug test performed on a blood sample taken from McCalpin shortly after the accident.

We will reverse a district court's decision to grant a motion for a new trial only if it reflects a clear abuse of the court's broad discretion. *Walzer v. St. Joseph State Hosp.,* 231 F.3d 1108, 1111 (8th Cir.2000). We do require from the district court, however, an articulation of the basis for granting the motion "to permit meaningful review of its decision." *Children's Broad. Corp. v. Walt Disney Co.,* 245 F.3d 1008, 1017 (8th Cir.2001). Here, the District Court in its order granting a new trial carefully laid out the evidence that was before the jury and clearly spelled out the reasons for granting the motion. Recognizing the import of a decision to abrogate a jury verdict, the court

nevertheless concluded that such a course of action was warranted in this case. We agree.

The transcript of the first trial included the following evidence. McCalpin was twenty-one years old and had been licensed as a truck driver for a few months at the time of the accident. He had never before driven a load for a long distance unaccompanied by his boss, and when he left Port Gibson, Mississippi, the evening before the accident, he was unfamiliar with the roads he was to take to his final destination, Kansas City, Missouri. In fact, McCalpin missed the turnoff to a route

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that would have avoided altogether the perilous stretch of road where the accident occurred. McCalpin was accompanied on the trip by his brother and a younger cousin.

The scene of the accident was an s-curve on old highway 71 near Mountainburg, Arkansas. Because of a steep hill, there were two lanes southbound, one of which served as a lane for vehicles to use in order to pass slower-moving traffic ascending the hill. There was only one northbound lane. The weather shortly after 8 a.m. on March 8, 1999, was cloudy and rainy. As McCalpin's northbound truck approached the first part of the curve, it was traveling at a speed exceeding the recommended twenty miles per hour, despite the signs and flashing lights posted along the highway warning of the approaching dangerous curves and steep descent. McCalpin testified that he was blinded by a flash of light (although the length of time this visual impairment lasted is unclear) as he approached the first curve, yet he continued to drive without attempting to slow down. McCalpin lost control of the truck, and it turned over and slid across the center line into the southbound pickup truck driven by Doris Smith, which she had pulled over as far from the tractor-trailer as she could when she first saw it approaching, as McCalpin's truck already had crossed the center line and was tipped up on its left wheels.

The court advised the jury of the duty incumbent upon drivers of motor vehicles on the roads in Arkansas to keep a lookout, to keep their vehicles under control, and to drive at a reasonable and prudent speed under the circumstances, and the jury was instructed that the failure to conform to these rules was negligence. *See* Instruction No. 14 (Common Law Rules of Road). Negligence also was defined for the jurors as "the failure to do something which a reasonably careful person would do, or the doing of something which a reasonably careful person would not do, under circumstances similar to those shown by the evidence in this case." Instruction No. 15 (Negligence-Definition). The jury was further instructed that it is negligence to fail to exercise ordinary care — "how a reasonably careful person would act under [the] circumstances." Instruction No. 16 (Ordinary Care).

Notwithstanding this evidence and these instructions, the first jury to hear the evidence in the case determined that McCalpin was not negligent. The District Court, in its review of the record upon the plaintiffs' motion for new trial, determined that "all of the evidence presented indicated that the accident was caused by McCalpin's negligence.... [I]t was a miscarriage of justice for the jury to conclude that the defendants were not at fault in causing the fatal crash or that the accident was unavoidable." Simco, No. 99-2194, Memorandum & Order at 5 (granting motion for new trial). The court granted the motion, and McCalpin contends that decision was an abuse of the court's discretion.

Ironically, McCalpin faults the District Court for relying solely on his, McCalpin's, description of events that day, while ignoring the supposedly contrary testimony of his passengers. According to McCalpin, his own sworn testimony was "implausible," and the passengers' versions were "much more logical." Br. of Appellant at 50. But when a district court is considering a new trial motion on the grounds that the verdict is against the great weight of the evidence, the court "is entitled to interpret the evidence and judge the credibility of witnesses" for itself. *Van Steenburgh*

v. Rival Co., 171 F.3d 1155, 1160 (8th Cir.1999). This is not a case where the court has "usurp[ed] the role of the jury by granting a new trial simply because it believes other inferences

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and conclusions are more reasonable." *Id.* Instead, the District Court reviewed the evidence and determined that Doris Smith and Patti Bradley had no responsibility for the accident and that the accident was not unavoidable in the absence of McCalpin's negligence — negligence that was readily apparent from the uncontroverted evidence at trial. There is ample record support for these conclusions. The District Court did not abuse its discretion in deciding that a new trial was required to avoid a miscarriage of justice in this case.

McCalpin's remaining issues on appeal arise from the second trial, where the jury found for the plaintiffs and awarded damages. First, McCalpin contends there was insufficient evidence to submit to the jury the issues of Bradley's permanency of injury, her future pain and suffering, her future medical expenses, and her future lost earnings and Smith's conscious pain and suffering. Because he failed to raise these sufficiency issues in his motions under Federal Rule of Civil Procedure 50(b), we review only for plain error, *see Broadus v. O.K. Indus., Inc.,* 238 F.3d 990, 991 (8th Cir.2001) (per curiam), and find none. Likewise, McCalpin's claim that the verdict was excessive as to the Bradleys was not raised in post-trial motions and so is subject to review only for plain error. *See Loehr v. Walton,* 242 F.3d 834, 837 (8th Cir.2001). Under the plain-error standard of review, we will reverse only if the amount of damages is so disproportionate that it would be a miscarriage of justice to affirm it. *See id.* The $250,000 in damages awarded to the Bradleys does not meet that standard.

McCalpin also claims that the submission of punitive damages (which the jury declined to award) was error because there was insufficient evidence to merit such an instruction. But even if the District Court abused its discretion in giving the instruction, a question we need not decide, any error was harmless and the defendants cannot show otherwise. *See Warren v. Prejean,* 301 F.3d 893, 899-900 (8th Cir. 2002).

Finally, McCalpin argues that the District Court should not have permitted Arkansas State Trooper Brian Davis, who investigated the accident, to testify on certain matters because he was not qualified as an expert. Davis's testimony had to do with his observations at the scene of the accident and his conclusions drawn from those observations as to a possible load shift and the speed of the truck before the accident. It is not entirely clear to us that all the testimony in question was that of an expert. But to the extent the evidence is properly classified as expert testimony, we do not think the District Court abused its discretion in allowing Davis to testify as he did. *See Lloyd v. Am. Airlines, Inc. (In re Air Crash at Little Rock Ark., on June 1, 1999*), 291 F.3d 503, 509 (8th Cir.2002) (standard of review), *petition for cert. filed,* ___ U.S. ___, ___ S.Ct. ___, ___ L.Ed2d ___ (2002).

In her cross appeal, Simco challenges the District Court's decision to exclude blood-test evidence that she claims shows McCalpin had ingested cocaine on the morning of the accident. After a lengthy hearing on McCalpin's motion in limine, filed before the first trial, the District Court concluded that the drug test was incomplete and the inference to be drawn from it — that McCalpin had used cocaine the morning of the accident — therefore was unreliable. Further, the court noted there was no evidence that McCalpin was intoxicated or impaired at the time of the accident and "the mere mention of cocaine would inflame the jury and be extremely prejudicial to the defendants." *Simco v. Ellis,* No. 99-CV-2194, Order at 3 (W.D. Ark. June 1, 2000) (granting defendants' motion in limine), *reconsideration*

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denied, Simco v. Ellis, No. 99-CV-2194 (W.D.Ark. Mar. 22, 2001). We see no clear abuse of

discretion in the District Court's carefully considered order. *See Stafne v. Unicare Homes,* 266 F.3d 771, 776 (8th Cir.2001) (standard of review).

The District Court is affirmed in all respects.

Notes:

1. The Honorable John F. Nangle, United States District Judge for the Eastern District of Missouri, sitting by designation.

2. The Honorable Robert T. Dawson, United States District Judge for the Western District of Arkansas.

3. Following the lead of the parties and the District Court in this case, we will generally refer to the defendants collectively as McCalpin. It should be clear from the context when we are referring to McCalpin individually as the driver of the truck in question.

From: Jim Jackson
To: Kathryn Irby; Vincent France
Cc: Daiquiri Carter; Martha Cox
Subject: Undisputed Facts
Date: Tuesday, September 17, 2024 4:32:57 PM
Attachments: [redacted]
Joint Stipulated Facts [redacted] both parties.pdf

Kathryn,
Attached is a pleading titled “Undisputed Facts Submitted by both Parties” which was mostly prepared by Vincent.
Can you add this pleading to the docket?
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Jim Jackson
Sent: Tuesday, September 17, 2024 4:17 PM
To: 'Kathryn Irby' <kathryn.irby@arkansas.gov>; Vincent France <Vincent.P.France@dhs.arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: Haley Hudson v. Arkansas DHS; Claims Comm. No. 230641, DOI: 6/11/2021

Kathryn,
Holly Newman will just be a transcript.
No video of her deposition.
Here it is as Bates 185-199 of the claimant’s Trial Exhibits.

Thx,
Jim



Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611



From: Kathryn Irby <kathryn.irby@arkansas.gov>
Sent: Tuesday, September 17, 2024 3:23 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Vincent France <Vincent.P.France@dhs.arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: Haley Hudson v. Arkansas DHS; Claims Comm. No. 230641, DOI: 6/11/2021

Thanks, Jim. Is this a video deposition that you're putting on a flash drive? If so, will you send me a link (and bring me a flash drive on Thursday)? I can forward the video link to the commissioners to review prior to Thursday, and I can use the flash drive to upload the video to our database.

That make sense?

Kathryn

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Tuesday, September 17, 2024 3:19 PM
To: Kathryn Irby <kathryn.irby@arkansas.gov>; Vincent France <Vincent.P.France@dhs.arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: Haley Hudson v. Arkansas DHS; Claims Comm. No. 230641, DOI: 6/11/2021

Kathryn,
We have agreed upon Holly Newman's deposition Excerpts.
I will bring four copies and have it on a Flash Drive.
Thank you,
Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Kathryn Irby <kathryn.irby@arkansas.gov>
Sent: Tuesday, September 17, 2024 2:54 PM
To: Jim Jackson <jim@jimjacksonatty.com>; Vincent France <Vincent.P.France@dhs.arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: Haley Hudson v. Arkansas DHS; Claims Comm. No. 230641, DOI: 6/11/2021

Received on 9/16, thanks

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Monday, September 16, 2024 3:30 PM
To: Kathryn Irby <kathryn.irby@arkansas.gov>; Vincent France <vincent.p.france@dhs.arkansas.gov>
Cc: Daiquiri Carter <daiquiri.carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: Haley Hudson v. Arkansas DHS; Claims Comm. No. 230641, DOI: 6/11/2021

Kathryn,
Vincent and I just visited and we have nearly everything agreed upon.
For the Claimant's Exhibits on Jacqueline Ashcraft:
I am going to withdraw Bates #: 90-139 & 144
Vincent is still reviewing the Holly Newman Deposition excerpts and will get back with me as soon as possible.
We will remove Bates # 39-63 and replace it with excerpts.

For [redacted] [redacted] exhibits
We will remove Bates 001-010 which is the deposition of Garrett Andrews.
Dr. Andrews is testifying in person so his deposition is not admissible.
Vincent had no objections to the remainder of the [redacted] [redacted] Exhibits

The Respondent's Exhibits
Vincent has 13 exhibits.

I stipulate to the admissibility of Exhibits 1-12.
I will file a Motion with Brief objecting to the relevancy of Exhibit 13 which is the Toxicology Report of Ashcraft.

Thank you,

Jim

Jim Jackson
Jackson Law Firm
JimJacksonAtty.com

700 W. Broadway
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

IN THE ARKANSAS STATE CLAIMS COMMISSION

**HALEY HUDSON, INDIVIDUALLY
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF
THE ESTATE OF JAQUELINE LYNN ASHCRAFT,
DECEASED, AND HALEY HUDSON, AS PERMANENT
LEGAL GUARDIAN OF [redacted]
[redacted] MINOR CHILDREN** **CLAIMANTS**

vs. **CC No. 230641**

**ARKANSAS DEPARTMENT OF
HUMAN SERVICES** **RESPONDENT**

JOINT STIPULATED FACTS

COME NOW, the Parties, by and through their respective counsel, and provide the Arkansas State Claims Commission with this Joint Set of Stipulated Facts, which are as follows:

Note, the Parties are providing the Commission with these Joint Stipulated Facts so that the Commissioners can have a clear comprehensive set of facts in an effort to streamline the hearing on the merits of this case. Although some of these facts will be presented at the hearing, the parties agree that all of these facts are sufficiently supported by evidence and testimony that is already contained in the record.

1. This claim arises from a motor vehicle accident involving three vehicles that occurred on Friday, June 11, 2021, on State Highway 22 in Logan County, Arkansas near Paris, Arkansas. Subsequently, Jacqueline Ashcraft, the driver of one of the vehicles, died on the early morning of June 12, 2021.

2. One of the vehicles involved in the accident was a vehicle owned by Respondent, Arkansas Department of Human Services (hereinafter "DHS"), which was being driven by Jennifer Wilkerson.

3. On June 1, 2021, Jennifer Wilkerson began working for DHS.

4. Ms. Wilkerson was hired by DHS after she was interviewed by Pamela Feemster.

5. Prior to starting her position with DHS, Ms. Wilkerson was required to pass a pre-employment drug test, which was clean, and she agreed to obey all traffic laws and follow DHS driving policies.

6. Prior to beginning her employment with DHS, Ms. Wilkerson also passed a criminal background check.

7. Jennifer Wilkerson was hired as a Program Assistant for DCFS in Logan County, which is located at 17 W. McKeen Street, Paris, Arkansas 72855.

8. As a Program Assistant, Ms. Wilkerson's main responsibilities were transportation of children and to conduct supervised visitations.

9. On June 11, 2021, Ms. Wilkerson was scheduled to go to Beebe, Arkansas, to pick up a child and transport the child to Clarksville, Arkansas, for a sibling visit.

10. It takes approximately two (2) hours to drive from Paris to Beebe.

11. Brandy Ezell showed Ms. Wilkerson on a map where she needed to go in Beebe.

12. At 12:07 p.m., Brandy Ezell and Pamela Feemster saw Ms. Wilkerson getting into the vehicle to head to Beebe.

13. Ms. Wilkerson's undisputed testimony was that she needed to leave earlier.

14. Rather than beginning her trip to Beebe, Arkansas, Ms. Wilkerson admits that she instead stopped, went inside, and ate at a restaurant called the Dari-Delite.

15. Ms. Wilkerson admits that she met her boyfriend at Dari-Delite.

The Accident

16. Around 12:50 p.m., near the intersection of 5033 State Highway 22, Ms. Wilkerson rear-ended a vehicle that was driven by Ms. Jacquelin Ashcraft and three passengers including two of Ms. Ashcraft's minor daughters, [redacted].

17. Both Ms. Wilkerson's vehicle and Ms. Ashcraft's vehicle were facing east on Highway 22.

18. Ms. Ashcraft was attempting to turn left into a private residence.

19. The force of the collision caused Ms. Wilkerson's vehicle to spin into the opposite lane of travel and strike an overside load trailering a mobile home.

20. DHS is not challenging how the accident occurred.

21. The speed limit where the accident occurred is 55 mph.

22. The weather was clear and the roadway was dry and neither was a factor in the accident.

23. This portion of Highway 22 is straight and flat.

24. When the impact occurred between the vehicle Ms. Wilkerson was driving and the vehicle driven by Ms. Ashcraft, it is estimated that Ms. Wilkerson could have been going at least 70 mph according to an accident reconstruction expert Stanley Cain hired by Claimants.

25. Based upon Trooper Ray's investigation, he found that Ms. Wilkerson was responsible for the accident based upon her inattentive, careless, negligent, or erratic driving.

Post Accident

26. Following the accident, Ms. Wilkerson called Brandy Ezell, her boyfriend at the time, Scott Lindstrom, and her mother.

27. As Brandy Ezell and Pamela Feemster were returning from lunch, Brandy Ezell received the call from Ms. Wilkerson concerning the accident at 12:55 p.m.

28. Immediately upon learning that Ms. Wilkerson had been in a motor vehicle accident, Ms. Ezell "was expecting her to be at least be in Dardanelle, Pottsville, somewhere between there by that time."

29. Given the location of the accident and the time it occurred, Ms. Wilkerson was significantly behind schedule, by approximately an hour behind. In her deposition, Ms. Ezell testified to the following, "And to this day, it still bugs me why she wasn't [more than] three miles from the office a good 45 minutes later."

30. Ms. Wilkerson informed Ms. Ezell that she thinks the accident occurred near the airport in Paris, Arkansas.

31. Immediately, Ms. Ezell and Ms. Feemster headed to the accident.

32. It only took Ms. Ezell and Ms. Feemster a few minutes to arrive at the scene, which was approximately 3 miles from the DHS office.

33. Upon arriving at the scene, Ms. Ezell went over to check on Ms. Wilkerson and Ms. Feemster called her supervisor, Kristen Shelton.

34. Eventually, both Ms. Ashcraft and Ms. Wilkerson were taken by the same ambulance to the hospital in Booneville, Arkansas.

35. On June 11, 2021, after the accident and after Ms. Wilkerson had arrived at the Booneville hospital, Ms. Feemster received a text message from Ms. Wilkerson in which Ms. Wilkerson informed her that she anticipated that the drug screen would come back positive because she had taken Adderall prior to the accident, but that she did not have a prescription for the medication.

36. The toxicology report for Ms. Wilkerson showed that she was positive for amphetamine, methamphetamine, and benzodiazepines.

DHS Investigation

37. On June 11, 2021, Ms. Feemster and Ms. Shelton first considered the possibility of terminating Ms. Wilkerson based upon the facts known to them.

38. As required by DHS policy, a fact-finding investigation to determine if any policy violations occurred to determine whether to terminate an employee.

39. Kristen Shelton conducted the fact-finding investigation, in which she sent emails to Brandy Ezell, Pamela Feemster, and Ms. Wilkerson asking about the accident.

40. Following the conclusion of the fact-finding investigation, Kristen Shelton made the decision on Wednesday, June 16, 2021, to terminate Ms. Wilkerson.

41. Kristen Shelton decided to terminate Ms. Wilkerson from DHS because she did not leave on time for Beebe and was behind schedule, she admitted to taking drugs without a prescription, and she was still in her probationary period as an employee.

Jointly submitted,

By: */s/ Jim Jackson*__
For Claimant

By: */s/ Vincent P. France*
Vincent P. France, Ark. Bar No. 2010063
Deputy Chief Counsel
Arkansas DHS
P.O. Box 1437, Slot S260
Little Rock, AR 72203
Phone: (501) 534-4127
Email: Vincent.P.France@DHS.Arkansas.gov
Attorney for Respondent

CERTIFICATE OF SERVICE

I, Vincent P. France, hereby certify that on September 17, 2024, I electronically filed the foregoing with the Arkansas State Claims Commission by emailing it to asccpleadings@arkansas.gov and by sending a copy to Claimant's attorney Jim Jackson via email as indicated below.

Jim Jackson
Jim@JimJacksonatty.com

/s/ Vincent P. France
Vincent P. France

From: Vincent France
To: ASCC Pleadings; Kathryn Irby
Cc: jim@jimjacksonatty.com; Martha Cox; Daiquiri Carter
Subject: Haley Hudson v. Arkansas DHS; Claims Comm. No. 230641
Date: Wednesday, September 18, 2024 9:01:23 AM
Attachments: [redacted] to Ex 13.pdf
[redacted].png
[redacted].png

Please find attached DHS's Response to Claimants Objections.

Sincerely,

Vincent P. France
Deputy Chief Counsel for Litigation
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
Office Phone: 501-534-4127
Vincent.P.France@dhs.arkansas.gov





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IN THE ARKANSAS STATE CLAIMS COMMISSION

**HALEY HUDSON, INDIVIDUALLY
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF
THE ESTATE OF JAQUELINE LYNN ASHCRAFT,
DECEASED, AND HALEY HUDSON, AS PERMANENT
LEGAL GUARDIAN OF [redacted], MINOR CHILDREN** **CLAIMANTS**

vs. **CC No. 230641**

**ARKANSAS DEPARTMENT OF
HUMAN SERVICES** **RESPONDENT**

**RESPONDENT'S RESPONSE IN OPPOSITION TO
CLAIMANTS' OBJECTION TO RESPONDENT'S EXHIBIT 13**

COMES NOW, Respondent, Arkansas Department of Human Services, by and through its attorney, Vincent P. France Deputy Chief Counsel for the Arkansas Department of Human Services, and for its Response in Opposition to Claimants' Objection to Respondent's Exhibit 13, states the following:

To begin, DHS agrees with Claimants' position that the toxicology report of Jacqueline Ashcraft is irrelevant for the purposes of liability. Furthermore, DHS does not plan on presenting the toxicology report for such a purpose. Rather, DHS intends to use the toxicology report of Ms. Ashcraft to refute and/or mitigate the prospect of damages, if the Commission finds in favor of the Claimants. In a case involving a motor vehicle accident and the consideration of the appellant's life expectancy, the Arkansas Supreme Court found that evidence of the appellant's habit of consuming alcohol was relevant and admissible to the jury. *Oxford v. Hamilton*, 297 Ark. 512, 515, 763 S.W.2d 83, 85 (1989). The Arkansas Supreme Court explained that "[g]iven the fact that evidence of the appellant's habits was useful and ***even necessary*** to assist the jury in determining his life expectancy." *Id*. (emphasis added). Additionally, in *Burnett v. Fowler*, a medical malpractice case, the Arkansas Supreme Court noted that the plaintiff's use of marijuana was

relevant regarding damages that were based upon the plaintiff's future employability and life expectancy. 315 Ark. 646, 650, 869 S.W.2d 694, 697 (1994). In fact, the Arkansas Supreme Court has historically allowed evidence of drug and alcohol use to be used to provide the fact-finder with an accurate picture of a plaintiff's damages. In *Biddle v. Riley*, 118 Ark. 206, 219, 176 S.W. 134, 138 (1915), the Arkansas Supreme Court held that "it was not improper to present to the jury proof of the plaintiff's … habits of sobriety and industry, for the purpose of drawing a picture before the jury of the earning capacity of which he had been permanently deprived."

In the claim-at-hand, DHS plans to submit Exhibit 13, the toxicology report of Jacqueline Ashcraft, to the Arkansas State Claims Commission for the purposes of arguing damages. Specifically, the toxicology report is relevant to show that Jacqueline Ashcraft had a habit of using drugs that would have caused a decrease to her earnings capacity, impacted her future employability, and lessened her life expectancy. *See Oxford*, 297 Ark. at 515, 763 S.W.2d at 85. Thus, the toxicology report is relevant under Ark. R. Evid. 401, admissible in accordance with Ark. R. Evid. 402, and is not unfairly prejudicial under Ark. R. Evid. 403. Accordingly, DHS should be allowed to introduce the toxicology report of Jacqueline Ashcraft to rebut any claims for damages by her estate especially regarding her earnings capacity and her life expectancy.

WHEREFORE, DHS respectfully requests that Claimants' Objection to Respondent's Exhibit 13 be denied and overruled, along with any other just and proper relief to which it is entitled.

Respectfully submitted,

By: */s/ Vincent P. France*

Vincent P. France, Ark. Bar No. 2010063
Deputy Chief Counsel
Arkansas DHS
P.O. Box 1437, Slot S260
Little Rock, AR 72203

Phone: (501) 534-4127
Email: Vincent.P.France@DHS.Arkansas.gov
Attorney for Respondent

CERTIFICATE OF SERVICE

I, Vincent P. France, hereby certify that on September 18, 2024, I electronically filed the foregoing with the Arkansas State Claims Commission by emailing it to asccpleadings@arkansas.gov and by sending a copy to Claimant's attorney Jim Jackson via email as indicated below.

Jim Jackson
Jim@JimJacksonatty.com

/s/ Vincent P. France
Vincent P. France

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

TRIAL EXHIBITS FOR WRONGFUL DEATH CLAIM OF JACQUELINE LYNN ASHCRAFT, DECEASED

Exhibit #	Description	Bates #
1	Trooper James Ray Deposition Excerpt for Photographs	001-006
2	Photos of Ashcraft car after wreck	007
3	Photos of DHS car after wreck	008
4	Jacqueline Ashcraft Family Photographs	009-013
5	Funeral program for Jacqueline Ashcraft	014
6	Death Certificate for Jacqueline Ashcraft	015
7	Brotherton Funeral Home invoice	016
8	Deposition of Christopher Bell, M.D. with six exhibits	017 - 038
~~9~~	~~Deposition of Holly Newman (condensed transcript)~~	~~039 - 063~~
10	Dr. Ralph Scott's expert report with supporting documents	064-89, 140[1] - 143
~~11~~	~~Cost of Tuition – University of Arkansas~~	~~144~~
12	Jacqueline Ashcraft's Medical Records with affidavit	145 - 184
13	Holly Newman (Paramedic) Deposition excerpts	185 - 199

[1] Bates Numbers 90-139 will be excluded. Not relevant.

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

TRIAL EXHIBITS FOR WRONGFUL DEATH CLAIM OF JACQUELINE LYNN ASHCRAFT, DECEASED

Exhibit #	Description	Bates #
1	Trooper James Ray Deposition Excerpt for Photographs	001-006
2	Photos of Ashcraft car after wreck	007
3	Photos of DHS car after wreck	008
4	Jacqueline Ashcraft Family Photographs	009-013
5	Funeral program for Jacqueline Ashcraft	014
6	Death Certificate for Jacqueline Ashcraft	015
7	Brotherton Funeral Home invoice	016
8	Deposition of Christopher Bell, M.D. with six exhibits	017 - 038
9	Deposition of Holly Newman (condensed transcript)	039 - 063
10	Dr. Ralph Scott's expert report with supporting documents	064 - 143
11	Cost of Tuition – University of Arkansas	144
12	Jacqueline Ashcraft's Medical Records with affidavit	145 - 184

[redacted]

EXHIBIT
1

APPEARANCES

ON BEHALF OF THE CLAIMANT:

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ALSO PRESENT:

RICHARD HAYDEN, VIDEOGRAPHER

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18. Diagram Pg. 16 of 18
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19. Diagram Pg. 18 of 18
20. Paramedic report.
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23. Photograph.
24. Photograph.
25. Photograph.
26. Photograph.
27. Photograph.
28. Thumb Drive

(Court Reporter Note: Physical Copy of thumb drive Exhibit No. 28 mailed to each attorney.)

operation.
Q And for vehicle three, the same question is going to be on page 14. And what did you -- what was your finding on the vehicle -- on that driver's contributory actions?
A No contributing action.
Q And one bit of housekeeping matters.
MR. JACKSON: What's our last Exhibit number? 20? I'm going to mark as Exhibits 21-27, and represent to you that those are the photos that I've shown you previously in the slide as the Respondent's vehicle.
(WHEREUPON, the documents were marked for identification as Exhibit No. 21-27 and are attached hereto.)
BY MR. JACKSON:
Q And if you could look through that stack and verify that those are correct, I'll ask to attach them to your deposition.
A Correct.
Q And today you've brought a thumb drive with you to the -- to the deposition and tell us what is on that thumb drive.
A My photographs from the accident.
MR. JACKSON: And let's go off the

record for just a moment.

THE VIDEOGRAPHER: Sure. Off the record at 2:02.

(Break taken at 2:02 p.m.)

(Resume at 2:03 p.m.)

THE VIDEOGRAPHER: On the record at 2:03.

BY MR. JACKSON:

Q And you brought, we're going to attach as Exhibit No. 28, the thumb drive containing the images, and these are jpegs that you took as part of your investigation of the accident?

A Correct.

(WHEREUPON, the document was marked for identification as Exhibit No. 28 and is attached hereto.)

BY MR. JACKSON:

Q Thank you. And then how did you find out that Ms. Ashcraft passed away later that night?

A After being in contact with the hospital.

Q Okay. All right. And that's all the questions I have.

BY MR. GASPER:

Q Just a real-quick follow-up. You mentioned on -- on your report that there was a box that you've marked



Photos of Jacqueline Ashcraft's car taken by Arkansas State Trooper James Ray

EXHIBIT
2



Photos of Arkansas Department of Human Services car driven by employee Jennifer Wilkerson. These photos were taken by Arkansas State Trooper James Ray

EXHIBIT
3



EXHIBIT
4

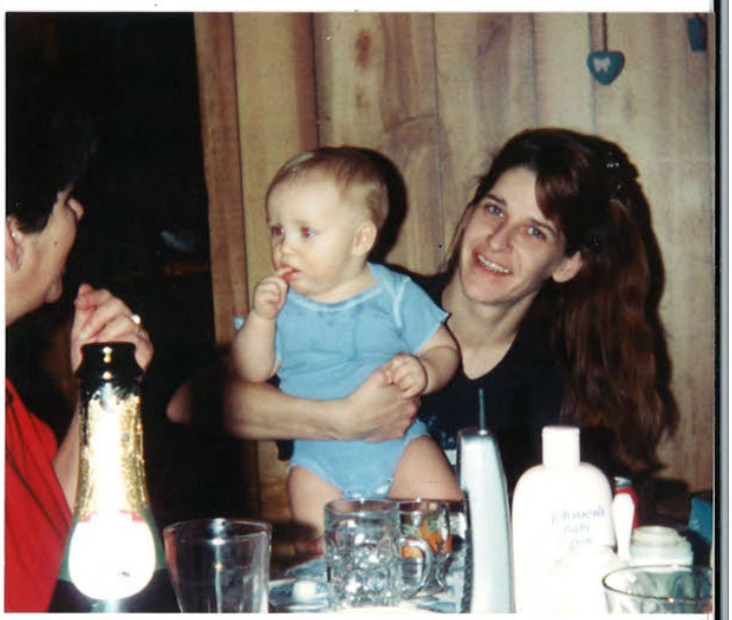

Pizza Hut














Columbia


TFW LTE
7:21 AM
100%
Memories
On this day
1 year ago
Jackie Ashcraft
Dec 30, 2020 ·
Shouting a VERY happy birthday to my oldest daughter Haley Nicole Hudson. I am really struggling to think you are 29..but honestly you are my bff..my side kick..my compadre..my ride or die❤️❤️❤️❤️ALWAYS!!! I really wish I could be there with you...and not only cause I'm jealous that Ray is there😂😂😂
You are always there for me and the girls..and everyone else and truthfully you have pulled me through stuff that I'd didn't want to deal with..but you always did and for that I am grateful❤️❤️ I hope you have had the best birthday EVER...cause no more 20's😂😂. I'm so happy you have an amazing family life job kids...I thank God...but you deserve it and more!! Thank you for letting me be your mama...I couldn't have made it without you ❤️I love you with everything inside my heart and soul💋💋💋
Ladonna Jackson and 17 others
6 Comments
Send
Share
News Feed
Watch
9+
Groups
9+
News
5
Notifications
9+
Menu

In Loving Memory



Jackie Lynn Ashcraft

May 27, 1971 - June 12, 2021

F.2

Jacqueline "Jackie" Lynn Ashcraft,

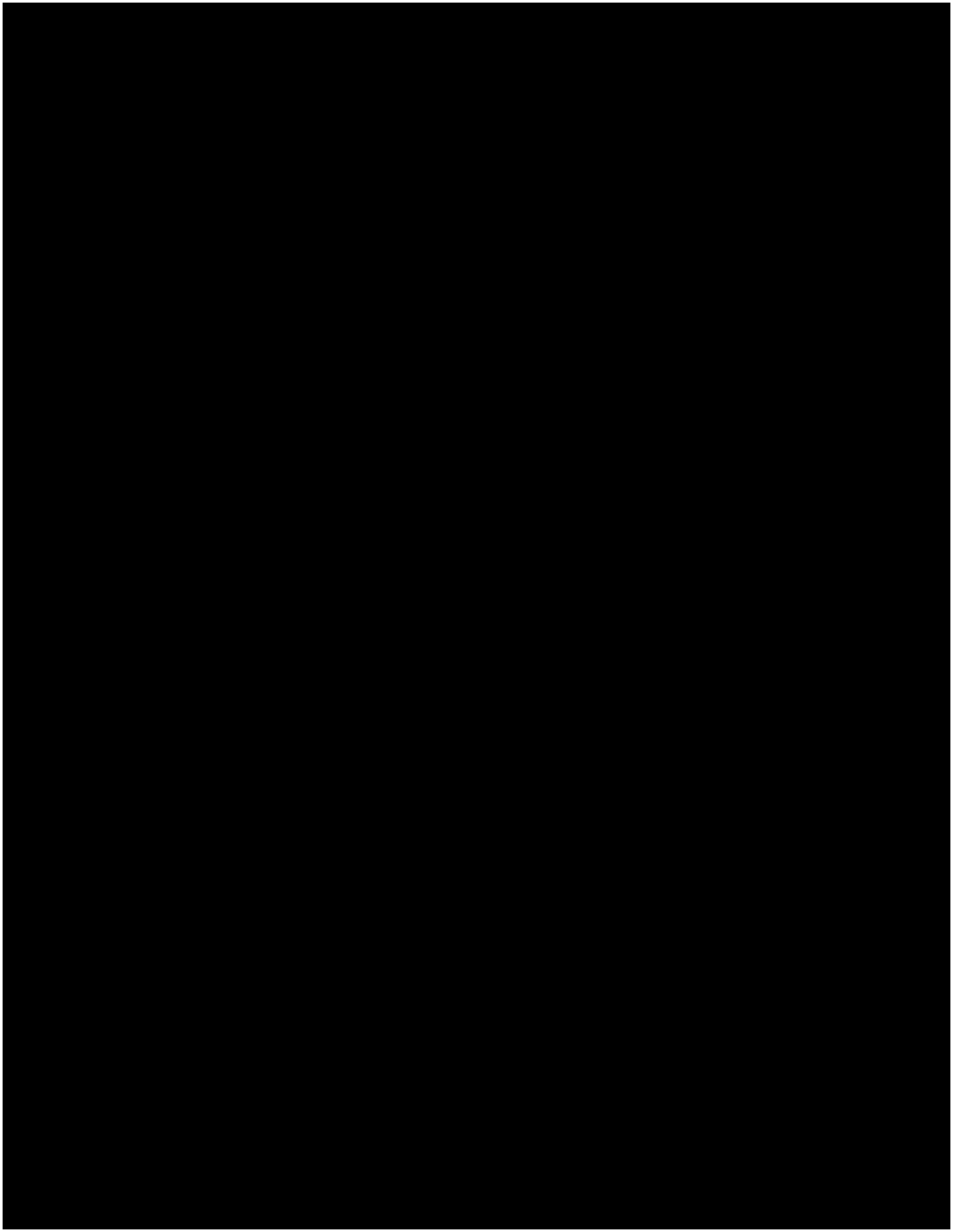
Jacqueline "Jackie" Lynn Ashcraft, who resided in Paris, Arkansas, passed away Saturday, June 12, 2021 in Fort Smith. She was born in Pine Bluff, Arkansas to the late Bobby Wayne Ashcraft and Ladonna Grice Jackson. She was 50 years old. She was preceded in death by her father and a sister, Kimberly Nicole Jackson.

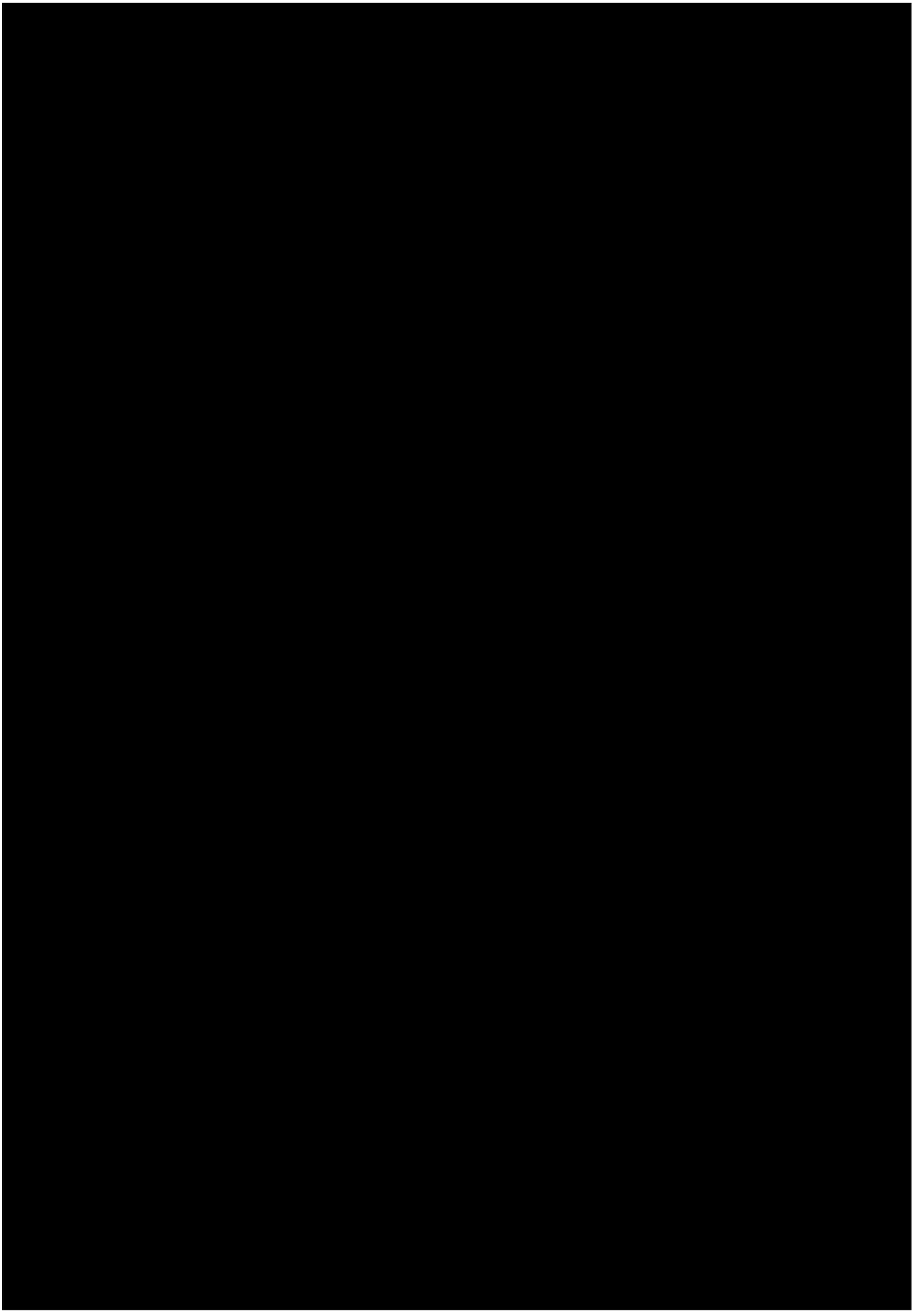
Jackie was a homemaker, she was a great friend, a loving and caring soul, and was always there if you needed her. She was loved dearly by her friends and family.

Jackie is survived by her mother, Ladonna Jackson of Benton; stepmother Joanie Ashcraft of Pine Bluff; three daughters, Haley Hudson and Tyler Moore of Wynne, Kadey Jones and Carley Jones both of Paris; two sons, Dylan Hudson and wife Sunny of Ozark and Cody Ashcraft of Paris; two sisters, Jennifer Howard and husband Chad of Benton, Libby Handy and husband Jeff of Pine Bluff; four brothers, Jeff Ashcraft and wife Saundria of Batesville, Josh Jackson and wife Lisa of Paris, Bobby Ashcraft of Pine Bluff, and Jason May and wife Dray of Grapevine, Arkansas; and seven grandchildren, Rayleigh Hudson, Bentlei Moore, Makynzi Moore, Braxton Graham, Jackson Graham, Kayden Graham, and Emerson Waits.

Jackie was a beloved Daughter, Sister, Mother, Aunt and Gammi. She was also a bonus mom to many kids in Cross County. Her house wasn't only the "Hang Out Spot", it was also a safe place where the kids could go and talk about things without any judgement. Her kindness and heart of gold is something we will forever cherish.

EXHIBIT 5





ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY AND AS ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN,

CLAIMANT,

VS.

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES,

RESPONDENT.

CC NO. 230641

DEPOSITION UPON WRITTEN QUESTIONS OF

CHRISTOPHER BELL, M.D.

June 19, 2024

ORAL DEPOSITION OF CHRISTOPHER BELL, M.D., produced as a witness at the instance of the CLAIMANT, and duly sworn, was taken in the above-styled and numbered cause on the 19th day of June 2024, from 1:35 p.m. to 1:43 p.m., before Dana Hayden, CCR in and for the State of Arkansas, RMR, CRR, CRC, reported by machine shorthand, at Hardin, Jesson & Terry, PLC, 5000 Rogers Avenue, Suite 500, Fort Smith, Arkansas, pursuant to the Arkansas Rules of Civil Procedure.

EXHIBIT 8

APPEARANCES

FOR THE WITNESS:

Mr. Kirkman T. Dougherty

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HALEY HUDSON vs ARKANSAS DEPARTMENT OF HEALTH
BELL, M.D., CHRISTOPHER on 06/19/2024

I N D E X

June 19, 2024

Appearances 2

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HALEY HUDSON vs ARKANSAS DEPARTMENT OF HEALTH
BELL, M.D., CHRISTOPHER on 06/19/2024

WITNESS: CHRISTOPHER BELL, M.D.

Examination By Claimant 4

EXHIBITS

NO.	DESCRIPTION	MARKED
Exhibit 1	(Not Marked)	
Exhibit 2	Page 1 of Jacqueline Ashcraft's medical records from Mercy Hospital	4
Exhibit 3	Pages 33, 34 & 35 of Jacqueline Ashcraft's medical records from Mercy Hospital	5
Exhibit 4	Four photographs	7
Exhibit 5	CT scan results from Mercy Hospital Booneville	8
Exhibit 6	Death certificate for Jacqueline Ashcraft issued by the Arkansas Department of Health	8

CHRISTOPHER BELL, M.D.,
having been first duly sworn, testified as follows:

EXAMINATION

BY CLAIMANT:

Q. Will you state your name and your place of employment?

A. Chris Bell, Mercy, Fort Smith, Arkansas, emergency room.

Q. Okay. Can you provide us with a copy of your CV which we will have marked as Exhibit 1 to your deposition?

A. No.

MR. DOUGHERTY: "No, I don't have a CV."

A. I don't have a CV.

Q. Was Jacqueline Ashcraft a patient of yours on June 11 and 12, 2021?

A. According to the chart, Dr. Woolley was the attendee and then it was transferred to me.

(Exhibit 2 marked for identification.)

Q. Attached as Exhibit 2, which is right here, is Page 1 of Jacqueline Ashcraft's medical records from Mercy Hospital. I want to turn your attention to the section at the top of the page that states: [redacted]

[redacted]

My question to you after you review Exhibit 2 is: Do you have any reason to disagree with the description contained in the Chief Complaint?

A. No.

Q. Do you have any reason to disagree with the diagnosis of Jacqueline Ashcraft of having sustained [redacted]"?

A. No.

Q. All right. Moving right along, Exhibit 3.

(Exhibit 3 marked for identification.)

Q. Attached as Exhibit 3 to your deposition are pages 33, 34 & 35 of Jacqueline Ashcraft's medical records from Mercy Hospital. Do you have any reason to disagree with page 33 of the medical records where the notes state: [redacted]

A. No.

Q. Next I want to turn your attention to the

medical decision-making and plan of care beginning on page 34 of Ms. Ashcraft's medical records. The record states: [redacted]

Is this your understanding of the course of the medical decision making and plan of care for Ms. Ashcraft when she was turned over to you as a patient?

A. According to Woolley's chart, yes.

Q. All right. The next question: I want to turn your attention to page 35. The final diagnoses states [redacted]."

Do you have any reason to disagree with this final diagnosis in Mercy's records?

A. No.

Q. Did you order the endotracheal tube to be

removed from Jacqueline Ashcraft shortly after midnight on June 12, 2021?

A. Is there a place in the records that's going to state that? I don't even -- I don't recall.

HALEY HUDSON vs ARKANSAS DEPARTMENT OF HEALTH
BELL, M.D., CHRISTOPHER on 06/19/2024

01:39PM Q. Okay. Did Ms. Ashcraft die shortly after she was extubated from the mechanical ventilator?

A. I don't recall.

Q. Are you familiar with the contrecoup brain injury mechanism when a person is involved in a

01:40PM rear-end motor vehicle accident?

A. Yes.

Q. I want to ask you to review a series of four photographs which will be marked as Exhibit 4 to your deposition.

(Exhibit 4 marked for identification.)

Q. I will represent to you that Ms. Ashcraft was the driver of the blue vehicle which was rear-ended while slowing or stopping to make a left hand turn by the brown car. Testimony from experts indicate that the speed of the brown car ranged from 50 to 70 miles per hour.

My question is this: Is the impact depicted in the four photographs of Exhibit 4 the type of impact that you would expect a person to sustain a

01:41PM coup-contrecoup brain injury?

A. I don't have an opinion.
Q. Is a coup-contrecoup brain injury initially difficult to diagnose due to a lack of outward sign of trauma to the head?
A. I don't have an opinion.
Q. Would it surprise you that a person involved in the collision depicted in the photographs marked as Exhibit 4 would sustain an intraparenchymal hemorrhage of brain?
A. I don't have an opinion.
(Exhibit 5 marked for identification.)
Q. I would like to turn your attention to Exhibit 5 which is the CT scan results from Mercy Hospital Booneville. Is a patient who was involved in a rear end car wreck at 12:50 p.m. and has a CT scan at 2:21 p.m., approximately 90 minutes after the wreck, [redacted], consistent with a patient who experienced a brain trauma caused from the impact of a wreck?
A. I don't have an opinion.
(Exhibit 6 marked for identification.)
Q. I would like to ask you to review what has been marked as Exhibit 6 to your deposition which is the death certificate for Jacqueline Ashcraft issued by the Arkansas Department of Health. I want to turn

your attention to the middle of Ms. Ashcraft's death certificate which has a section titled "Cause of Death." [redacted]

My question to you is: Do you have any reason to disagree with the cause of death and underlying cause as stated in the Death Certificate for Jacqueline Ashcraft?

A. No.

Q. Has all of your testimony in this matter been based upon your medical education, medical training and treatment of patients presenting to the emergency room with medical conditions similar to Jacqueline Ashcraft's condition?

A. My answers were based on the chart that I read.

Q. Have your opinions given in this deposition been given within a reasonable degree of medical probability?

A. I didn't provide any opinions.

Thank you. This concludes the deposition of Dr. Bell.

REPORTER CERTIFICATION

I, DANA HAYDEN, Certified Court Reporter for the State of Arkansas, do hereby certify to the following:

HALEY HUDSON vs ARKANSAS DEPARTMENT OF HEALTH
BELL, M.D., CHRISTOPHER on 06/19/2024

1) that on 06/19/2024, the witness, CHRISTOPHER BELL, M.D., was duly sworn by me prior to the taking of testimony as to the truth of the matters attested to and contained therein;

2) that the foregoing pages contain and are a true and correct transcription of the proceedings as reported verbatim by me via realtime stenography to the best of my ability and transcribed at or under my direction and supervision, and subject to appropriate changes submitted by witness, if any, during his/her requested reading and signing of this deposition according to the Arkansas Rules of Civil Procedure;

3) that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and that I am not a relative or employee of any attorney employed by the parties hereto;

4) that I am not financially interested or otherwise interested in the outcome of this action that affects or has substantial tendency to affect impartiality or requires me to relinquish control of

an original or copies of a deposition transcript before it is certified, or that requires me to provide any service not made available to all parties to the action; and

HALEY HUDSON vs ARKANSAS DEPARTMENT OF HEALTH
BELL, M.D., CHRISTOPHER on 06/19/2024

5) that I have no contract with the parties, attorneys, or persons with an interest in the action; and that I am not knowingly identified on a preferred provider list, whether written or oral, for any litigant, insurance company, or third-party administrator involved in this matter;

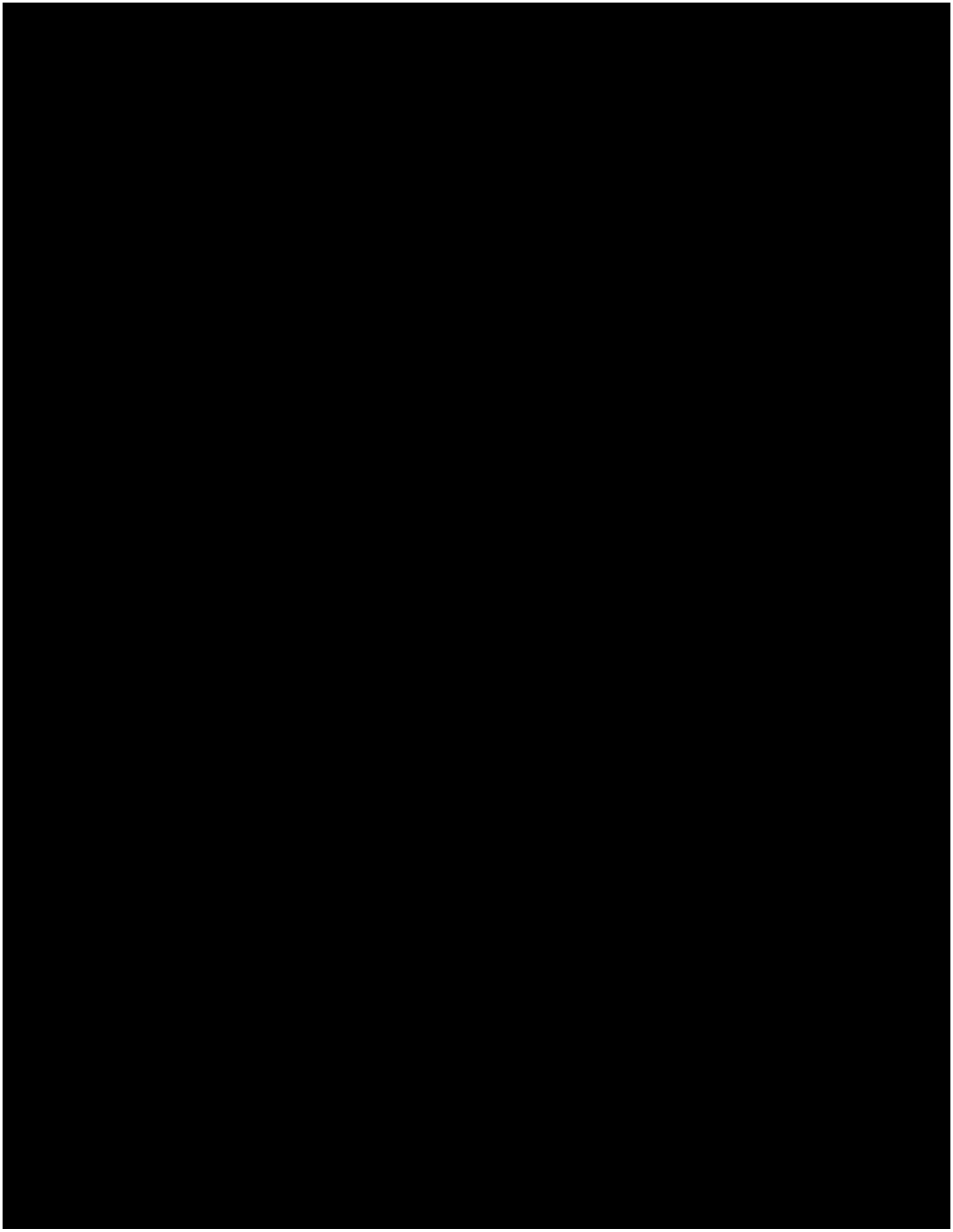
6) that signature of the witness is waived.

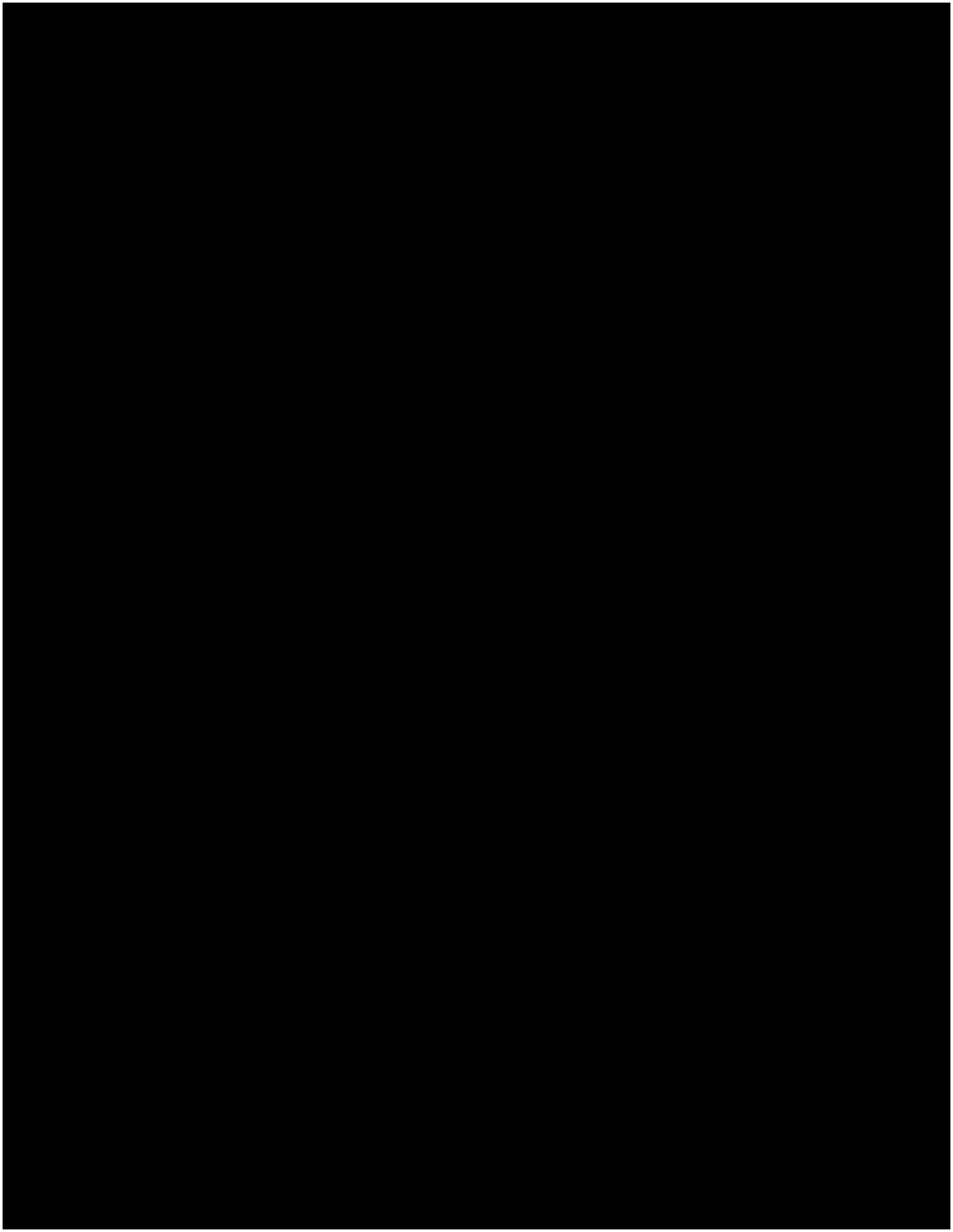
This transcript is prepared at request of counsel for CLAIMANT, and all fees are billed directly to them in compliance with Arkansas Board of Court Reporter Examiners Regulations Section 19.

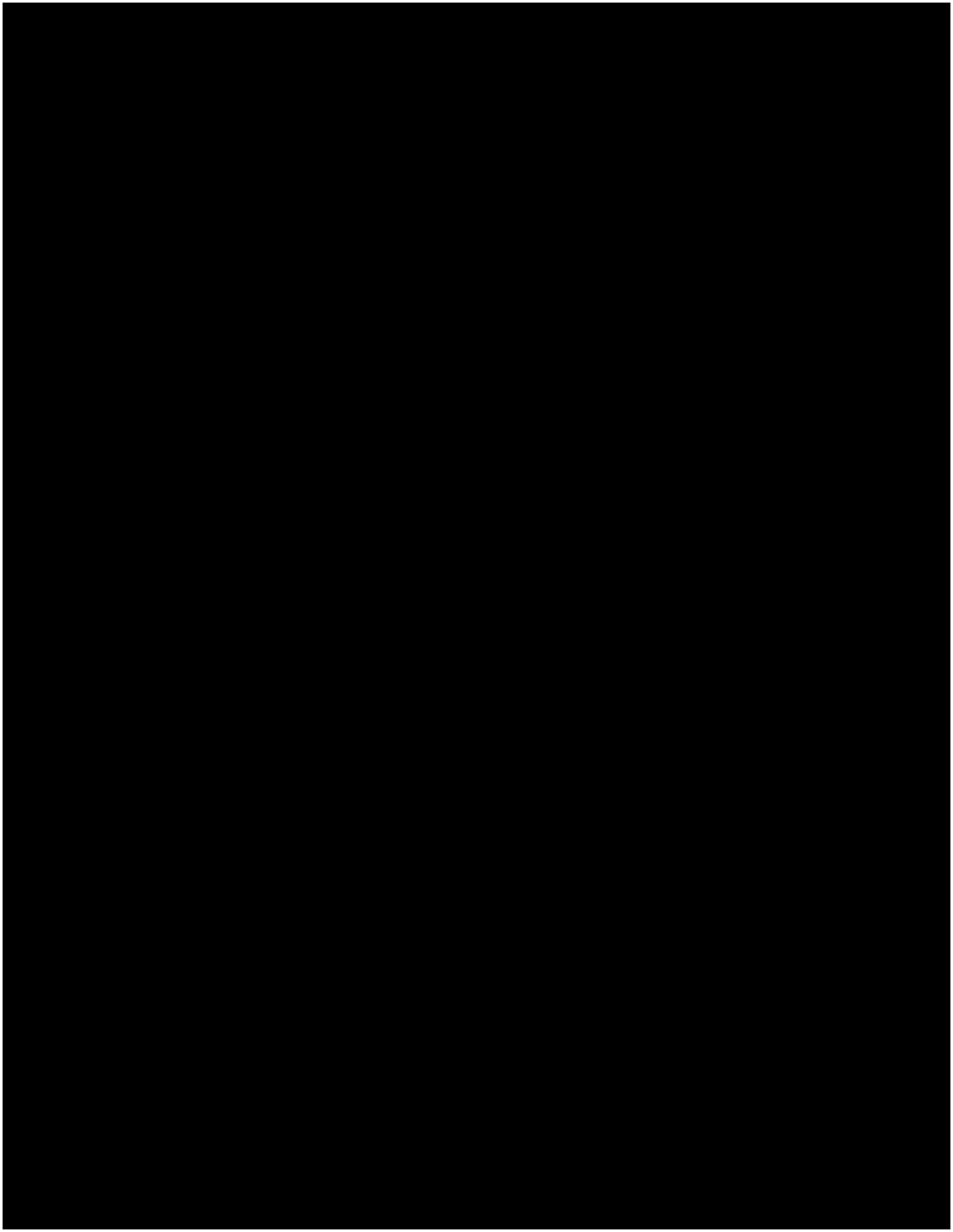
Witness my hand and seal this 21st of June, 2024.

DANA HAYDEN
CERTIFIED COURT REPORTER
ARKANSAS SUPREME COURT
LS NO. 714

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LS Certificate #714, State of Arkansas
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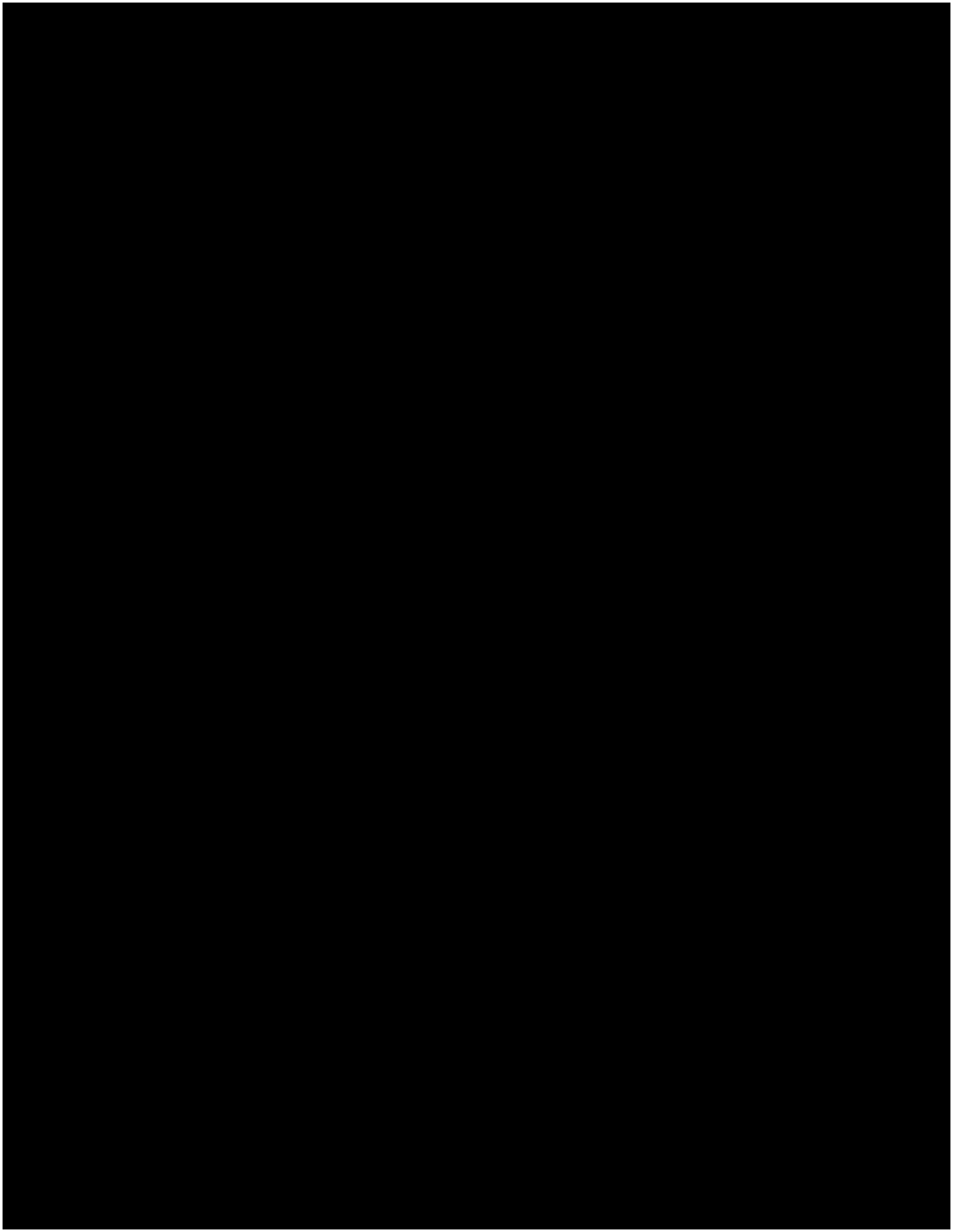
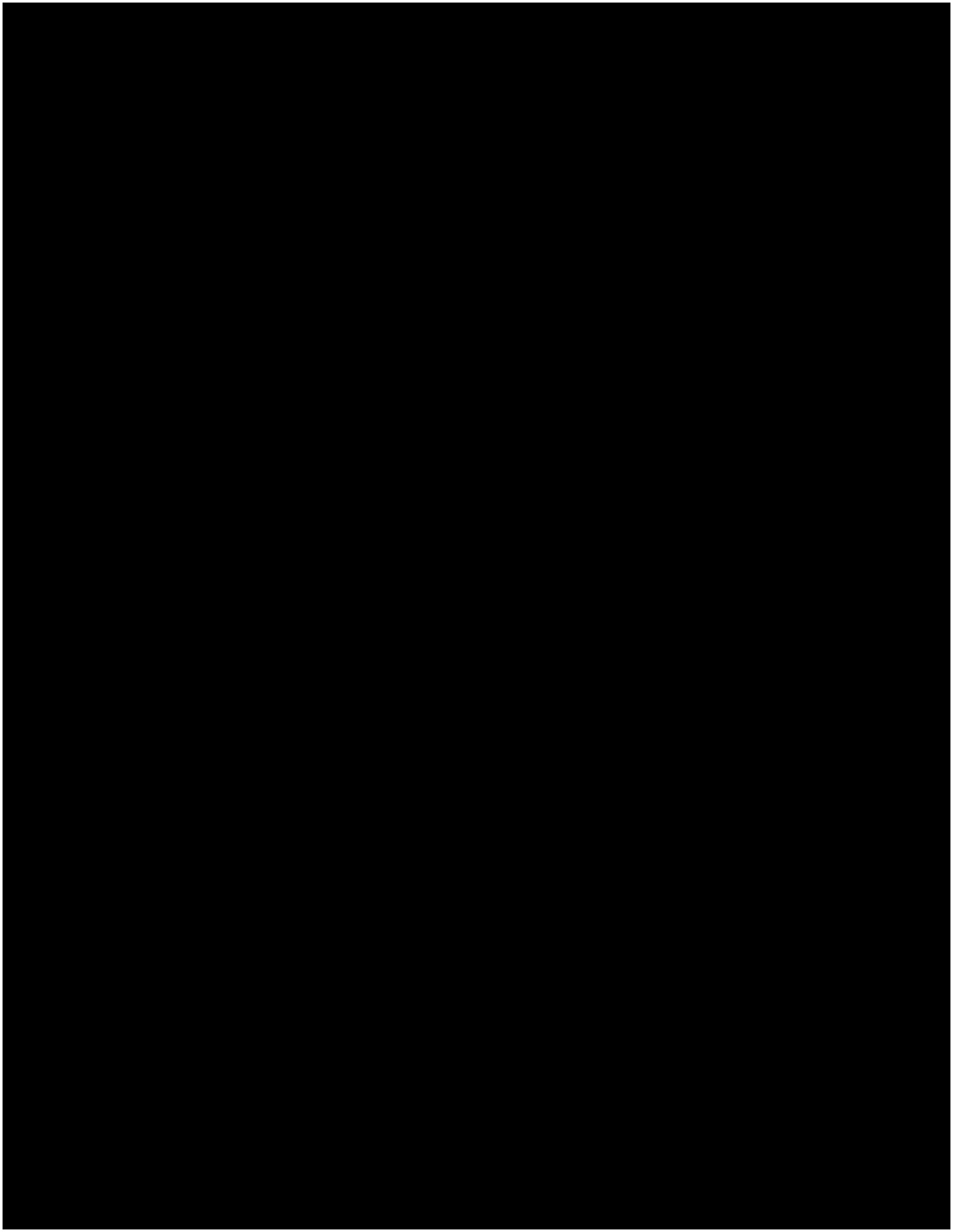


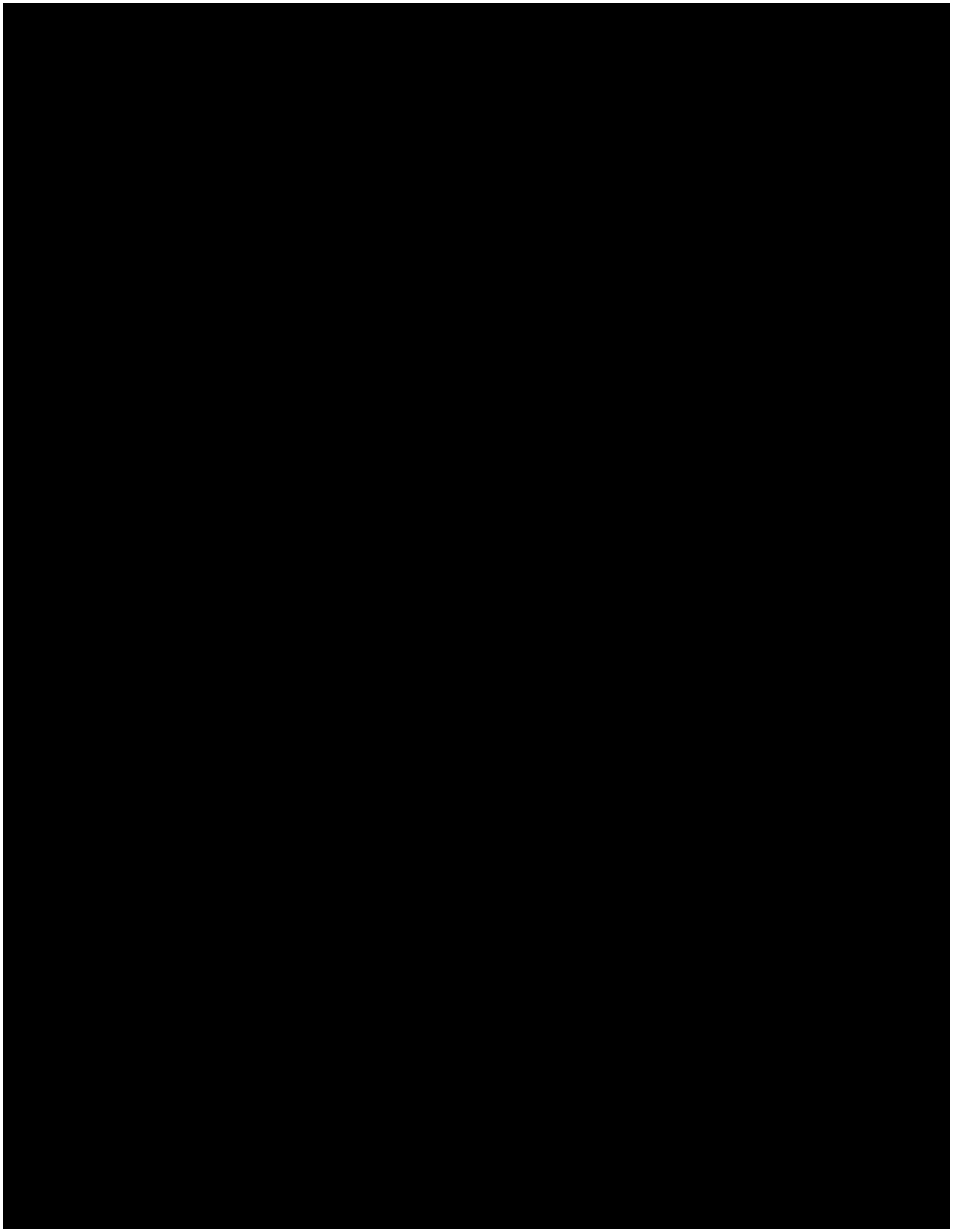

EXHIBIT
4

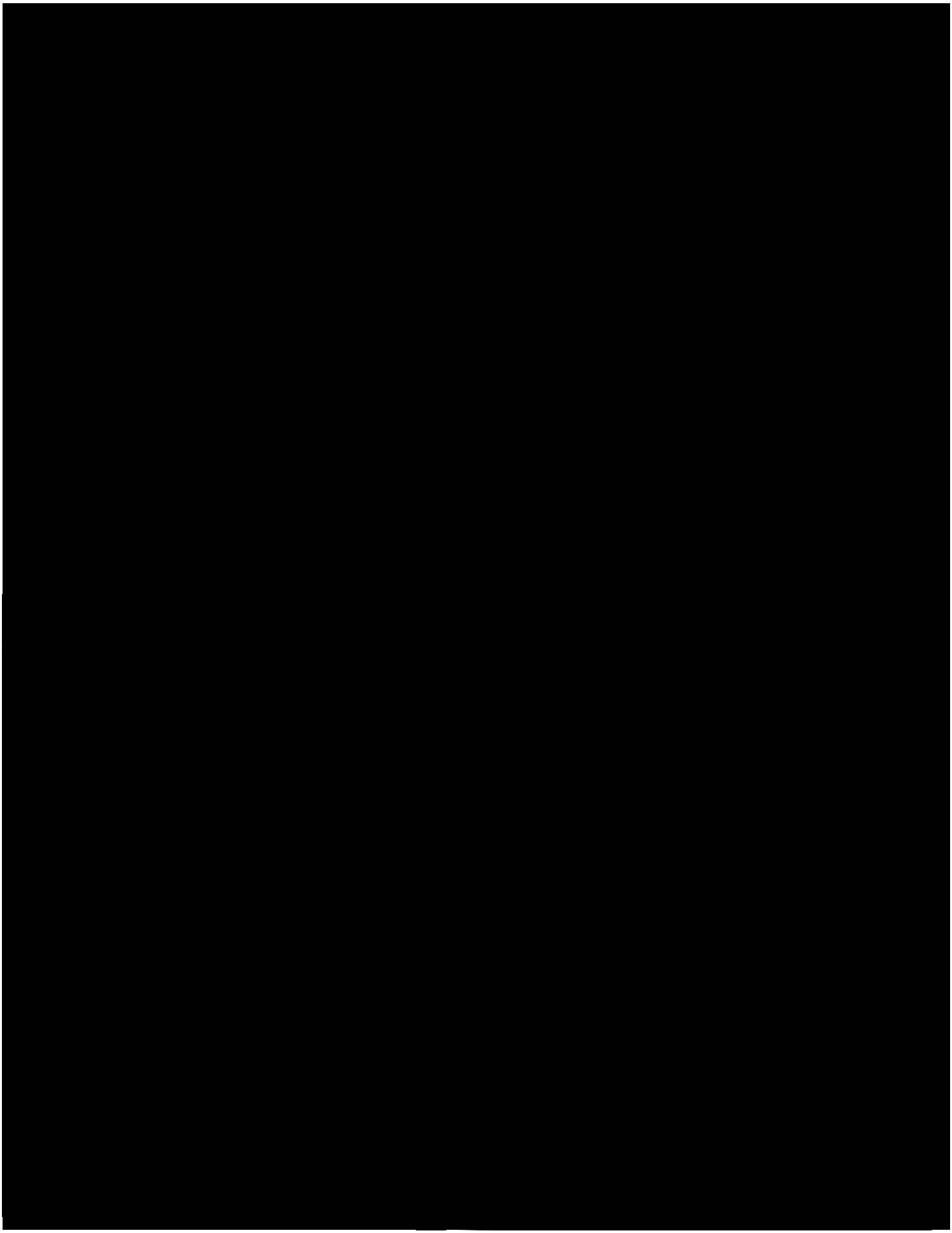



Arkansas
629 YPE
The Natural State
SONATA









ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, As Special Administratrix of the Estate of JACQUELINE LYNN ASHCRAFT, Deceased, and as Permanent Legal Guardian of [redacted], A Minor,	)	CC NUMBER 230641
CLAIMANT,	)	
VS.	)	
ARKANSAS DEPARTMENT OF HUMAN SERVICES,	)	
RESPONDENT.	)	

ORAL AND VIDEOTAPED DEPOSITION OF

HOLLY NEWMAN

July 31, 2023

ORAL AND VIDEOTAPED DEPOSITION OF HOLLY NEWMAN, produced as a witness at the instance of the CLAIMANT, and duly sworn, was taken in the above-styled and numbered cause on the 31st day of July, 2023, from 9:58 a.m. to 12:07 p.m., before Tammie L. Foreman, CCR in and for the State of Arkansas, RPR, CRR, reported by machine shorthand via audio-videoconference, pursuant to the Arkansas Rules of Civil Procedure.

EXHIBIT 9

APPEARANCES

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ALSO PRESENT:
Richard Hayden, Videographer

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July 31, 2023

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Examination 36
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Further Examination 90
By Mr. Jackson

Further Examination 93
By Mr. Gasper

EXHIBITS

NO. DESCRIPTION MARKED
Exhibit 1 Medical Records for Jacqueline Ashcraft 13
Exhibit 2 Medical Records for Kadey Jones 30

THE VIDEOGRAPHER: Good morning. I'm Richard Hayden. I will be your videographer this morning. The date is July 31st, 2023. The time is 9:58 a.m.

This deposition is taking place via Zoom. This is case number CC 230641 in the matter of Ashcraft versus Arkansas Department of Human Services. The deponent is Holly Newman. Our court reporter is Tammie Foreman. If counsel will introduce themselves, the witness will be sworn.

MR. JACKSON: Jim Jackson representing the claimant.

MR. GASPER: Brent Gasper representing the Department of Human Services.

HOLLY NEWMAN,
having been first duly sworn, testified as follows:

EXAMINATION

BY MR. JACKSON:

Q. Good morning, Ms. Newman. Would you introduce yourself to the members of the Claims Commission?

A. I'm Holly Newman. I was a paramedic and actually taking care of Ms. Ashcraft during her wreck.

Q. And Ms. Newman, if I call you Holly during the deposition, will that be okay?

A. Yes, sir.

Q. Okay. And what is your date of birth?

A. [redacted]

Q. And what is your current address?

A. I currently reside at [redacted]

Q. And what is your vocation, your profession?

A. Paramedic.

Q. Explain to us how one becomes a licensed paramedic and what those steps are.

A. Initially, you become an EMT, which is approximately a six-month course depending on what time the school starts. And then you test for National Registry.

Once you become an EMT, depending on the program that you go to, you can go straight through or you have to wait eight to nine years, which is set by the program itself. I happen just to wait three years due to family and my kids and the ages that they were when I became an EMT.

So during paramedic school, the program that I went to, we were allotted to -- we had to do 300 hours of clinical, which is all hospital-based. And then we did 300 hours on the ambulance, which was from August to December. We graduated in December and

Page 6

then we kept our National Registry.
Q. And that's a National Registry to become a paramedic?
A. Yes, sir. The NREMT, which is the National Registry Emergency Medical Technician, the program itself that every paramedic has to go to. Like, it's one nationally-set test that we all have to pass.
Q. And what year did you pass that test?
A. 2016.
Q. And where were you living and working in 2016 when you passed the test?
A. At Medtech in Conway County.
Q. And what does -- does that mean that you are able to do what is called Advanced Life Support work for an ambulance company?
A. Yes, sir.
Q. And how many ambulance runs do you think you've made since you got into the field, either as a EMT or as a paramedic?
A. At the end of next month, I'll be 10 years in. So I couldn't even a lot begin the amount of numbers. I can tell you all of last year here in New Orleans, I worked 2,265 hours alone just that year.
Q. That obviously is a large number.
A. Yes.

Page 7

Q. So Holly, I want to take you to the date of June 11th, 2021, which is the date of the accident that this claim is regarding. Where were you stationed physically when you -- when your ambulance received the call that you needed to be dispatched?
A. I believe we were at our station in Paris.
Q. Okay. And who was your employer on that date?
A. Logan County EMS.
Q. Okay. And you were employed as a paramedic on that date?
A. Yes, sir.
Q. Okay. And who was with you?
A. Zach Marry.
Q. Okay. And tell us, when you get a call -- I know you're not going to remember everything. But just typically, when you get a call, you're at the station, what do you -- what do you do and how do you respond?
A. Can you clarify a little more? Like, what you mean, like --
Q. Do you turn on your lights? Do you -- what -- what -- what information are you trying to get from dispatch and how do you know where to go, those type of things.
A. Okay. So once we're in the truck?

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Q. Yes.
A. Okay. So it is a legal obligation that we run lights and sirens together once we go on a 911 call. During the call, dispatch will, like, give us an update on how many vehicles or, for this particular instance, how many patients there were, and this and that.
Zach Marry is also s a paramedic, so we were running a double paramedic truck. I don't -- I didn't actually recall the events of the dispatch. I just knew we were going to a vehicle accident. And go ahead.
Q. And who was the driver to the accident, if you recall?
A. I believe I was driving.
Q. Okay.
A. I'm pretty sure I was driving because I remember pulling up.
Q. Go ahead. I didn't mean to cut you off. You remember driving, and I think you said pulled in or pulled up?
A. Yes, sir. Because I remember Zach being in the passenger's side and initially seeing the car, the DHS car.
Q. Okay. And you're coming from Paris towards

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Subiaco, which would be coming from the west traveling east on Highway 22; is that correct?
A. Sure. I'm not good with directions. I know I was headed to Subiaco area. Whether that's west or east...
Q. And where did you park your ambulance?
A. If I remember correctly, we pulled up slightly passed the DHS car because as Zach was looking at it, he went to her. And then I looked up and seen Ms. Ashcraft and the two kids above us. So we were parked in between them two still facing towards Subiaco.
Q. And then tell me -- tell us what you did when you arrived on the scene and you get out. Walk us through what -- your interaction with Ms. Ashcraft and her children.
A. So I walked up to Ms. Ashcraft and her children once Zach went to the other patient. I noticed that the two children were sitting on the ground and Ms. Ashcraft was standing up. She was smoking a cigarette at that time.
So initially, as I do every parent, I look at her, I make sure she's okay because all of them are breathing. So neither one of them needed my attention more than the other at that time.

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So I talked to Ms. Ashcraft and said, hey, you know, can I check out your children, get permission from her because they are minors. She said yes, that's fine. So I turn my attention to the children.

One was completely, utterly fine. She was talking and everything, answering all questions. And the other one had some slight repetitive questioning, which showed signs of possible concussion. So I talked to Ms. Ashcraft and her both back and forth.

Initially, she didn't want the children to go to the hospital, despite the efforts that I very much wanted them to. In our line of work, we can't physically take a child from a parent unless it's a true life threat. At that time, a concussion, it could be borderline, but it was not -- she was not considered a life threat because she had her own airway. She was able to talk. She was not showing signs of lack of oxygen. You know, she wasn't obviously bleeding everywhere. That would have turned into something else.

Q. Did you -- were you able to physically examine her head and her skull to see if she had any contusions or abrasions?

A. And she had none that I seen.

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Q. And if I represent to you that that child's name is [redacted] would that be consistent with your recollection?

A. I'm pretty sure, and I think her sister was named Haley?

Q. [redacted]

A. [redacted] Okay.

Q. And [redacted] was the sister -- I'll represent to you [redacted] was the sister that did not have any issues. And so what -- what did you do next -- what did you find on -- when you did the physical examination of [redacted]

A. To my recollection, I didn't find anything. There was no what we call depressed skull fracture, which would be, like, an indention in the back of her head. There was no tenderness, nothing. She just had the repetitive questioning. As we sat there with her, she started regaining her memory more and more as well.

Q. And that's a good sign, correct?

A. Yes. That's a very good sign.

Q. And then what did you turn your -- who did you turn your attention to next?

A. Ms. Ashcraft. She told us that they were actually trying to go to the house, that they

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happened -- that happened to be across the road. And it was a very hot day. And so between the conversation and her not -- adamantly not wanting the kids to go to the hospital, she signed a refusal form for them both. If I remember correctly, there was one done on [redacted] There should also be one done on Haley as well.

So she told me that she wanted to go across the road. So at that time, Zach didn't need my help with the other patient. He had all of that under control. So since they weren't going to go with us, I walked them across the road and into that house.

She walked just fine. Ms. Ashcraft, all of them had a steady gait. She sat herself on the couch along with the kids. And then the lady in there, I distinctly told the lady, I said, "If anything changes, come and get me" because at this point, nobody, to my recollection, had even checked on the -- the 18-wheeler.

Q. The tractor trailer driver?

A. Yes. So then that was in the back of my mind was, like, well, at least somebody needs to go lay eyes on him. And so that's -- after I took them to the house, that's where I went.

(Exhibit 1 marked for identification.)

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Q. Okay. And then I notice on what we've marked as Exhibit 1 to your deposition, there is an initial assessment for Jacqueline Ashcraft. And I assume that's something that you -- or is that something you create for every patient that you interact with?

A. Yes.

MR. GASPER: Jim, real quick, I had a pause on my video. Are you guys froze? I've got an unstable -- can you maybe go back and repeat the question that you asked 15 seconds ago?

MR. JACKSON: Is it the question where I asked about the initial assessment?

MR. GASPER: Maybe so. Yeah. I'm in my office. It's just my connection is bouncing in and out. So...

MR. JACKSON: Tammie, can you -- do you want to read it? Can you read it to us to?

THE COURT REPORTER: I can find it very quickly. The question at 10:09 was, "And then I notice on what we've marked as Exhibit 1 to your deposition, there is an initial assessment for Jacqueline Ashcraft. And I assume that's something that you -- or is that something you create for every

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patient that you interact with?"
MR. GASPER: In regards to the refusal, again, you're bouncing in and out, so refusal form, Jim?
MR. JACKSON: I can't hear you.
MR. GASPER: Hold on. My connection is -- again, it is intermittent. If you were asking her about a document, was that the refusal form?
MR. JACKSON: No. It's Exhibit 1 to her -- that we'll be attaching as Exhibit 1 to her deposition.
MR. GASPER: Oh, that's the medical records here?
MR. JACKSON: Yes.
MR. GASPER: Okay. I didn't know if you were referring to a specific document within that or the entire thing. Okay. I'll do the best I can to follow along. Go ahead.
Q. (By Mr. Jackson:) And Ms. Newman, are you able to see, on your Exhibit 1, which is the Jacqueline Ashcraft record from Logan County EMS what your initial assessment states about her mental -- about Ms. Ashcraft's mental status?
A. Is that something you can put on the screen? We

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haven't been in our house all weekend. Our AC went out. So I don't have those papers. I'm sorry.
Q. Oh, my gosh.
A. It's been a weekend, I'll just say that.
MR. JACKSON: Richard, it will be page 1 of the Exhibit 1. And when I say "page 1," the first page is that -- yes. That is page 1 of 9.
And Richard, can you enlarge the bottom third, please? Richard, can you enlarge the bottom third of that page?
THE VIDEOGRAPHER: Just a second. I'm working on it.
MR. JACKSON: Thank you.
Q. (By Mr. Jackson:) And Ms. Newman, can you see under the "mental status" the initial assessment?
A. I see the initial -- okay. This L, is that what you are talking about?
Q. Right above "skin" is the category of mental status.
A. Event oriented, person oriented, place oriented, time oriented.
Q. And is that something that you, as a paramedic, obtain from every initial encounter you have with a patient?

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A. Yes, sir.
Q. And do you do that multiple times when you interact with a patient?
A. Yes, sir.
Q. And how many times are you getting that event oriented, person oriented, place oriented, time oriented, what's your normal protocol that you do as a paramedic?
A. We assess all the time mental status. That just means she's alert to where she's at, who she is, what time it is, and certain events that are happening either past or current. We do it all the time.
And if there's any change. It's just like carrying on a conversation with somebody, you can tell when they're starting to not be normal or not normal as they were when you initially got to them. So --
Q. And we'll look and we'll see that in the ongoing assessment where those changes are noted; is that correct?
A. Yes, sir.
Q. And it looks like your records show that -- and then on your ALS assessment immediately above, tell us what the time is and what your initial assessment, and tell us what -- first, tell us what ALS means.
A. It's Advanced Life Support.

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Q. And that's something you're trained to do and that's your job as a paramedic, correct?
A. Yes, sir.
Q. And so my question is, tell us what the time -- at the time and what your description is on that flow chart prepared by you for Jacqueline Ashcraft.
A. That 1304 ALS assessment, patient is alert and oriented times four, which means down at the bottom, the initial assessment, oriented to person, place, time, event. She was walking around the car. She -- patient's response unchanged, successful; complication, none.
Q. And then I want to go on again, following on your initial assessment on the -- there at the bottom of the skin and what was the significance of the temperature and her skin?
A. It was hot outside. If I remember correctly, I don't think Ms. Ashcraft was every bit of 100 pounds. It was hot outside. Diaphoresis means sweating.
MR. JACKSON: And then I want to go, Richard, to the next page, which will be page 2 of 9. Where your initial assessment continues.
Q. Are you able to see that, Ms. Newman, or do you need for us to enlarge it?

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A. Just a tad. I can see it a little bit. Just maybe one or two clicks.
MR. JACKSON: Richard, can you enlarge it a little bit, that first bit? Yes.
A. That's good.
Q. All right. Under the category HEENT, tell us -- explain to us what that means.
A. Head, eyes, ears, nose, and throat.
Q. Thank you. And explain to us what you observed about her head and face.
A. There was no abnormalities. Her pupils were equal. The neck --
Q. Let me stop you right there. Her pupils being equal, what does that mean to you as a paramedic?
A. That means that there's nothing going on in her head at that time that I can tell. Again, I don't have x-ray. I don't have CT. But on the physical outside findings, that's something we look for. If they're unequal, that means something is going on.
Q. And I notice you have a measurement next to the eyes of the size of the pupils.
A. Yes.
Q. And what is that measurement?
A. That's two millimeters. That means they're on the smaller side.

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Q. And that's what you would expect for somebody who is out in the sun?
A. Yes, sir.
Q. And that's normal or -- of someone -- that's what you would expect for them to have or what you would hope to have is the same size pupils and for them to be small or constricted; is that right?
A. Well, I wouldn't say constricted. Constricted are really a lot smaller, kind of almost pinpoint. That would suggest other things. But you do want them on the smaller side out in the sun in that they're not --
Q. Oh, sorry. Go ahead.
A. No. Go ahead.
Q. Is two to four millimeters normal for a patient?
A. Yes, sir.
Q. Nothing there gave you any pause for concern when you observed her eyes?
A. Not at that time, no.
Q. During that initial assessment?
A. Correct.
Q. And then did you -- the chest and abdomen, were those things you checked for physically during that initial assessment, or was that just --
A. Yes.

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Q. Okay. Tell us what you would have done to check for her chest and abdomen there.
A. I would have done this to make sure there was no tenderness and slightly palpate her belly, which, again, Ms. Ashcraft was very thin. So if she had any kind of distention, you would have been able to see it without even touching.
Q. And when you say "I do this," just so if we look at it later on the record, it looks like you're pressing across your chest; is that -- is that correct?
A. No. I'm sorry. It's palpating, like, you touch.
Q. Okay.
A. Kind of like you would touch somebody's skin. Like, you touch here.
Q. Okay. And that's what I meant to say was, you're pressing against the skin of her upper chest to see if there's anything going on in that area; is that right?
A. Yes.
Q. And that was all normal?
A. Yes.
Q. What is the -- did you take a pulse of Ms. Ashcraft?

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A. Physically on her wrist, yes.
Q. Okay. And what is -- explain to us what your notes say about the pulse and what that means.
A. We're still under the initial, right?
Q. Yes. Yes. We're still at the initial on all these questions.
A. So it says plus two, plus, which is normal. So depending on your type of, like, the blood pressure or anything that's going on, you could feel a radial pulse. And if you have significant bleeding or something like that going on internally, it sometimes will be lower, which means your blood pressure is lowering. It becomes weaker. So with hers being two plus in a normal status, that she had a normal pulse.
Q. Explain to us the capillary refill section and what that means.
A. So it is less than two seconds, which is good. Again, if you're internally bleeding, you're going to start to shunt, which means everything is coming away from your peripheral, which is your hands, your feet, your toes, and it's going to push everything to the core, in trying to keep basically the lungs and the heart and the brain alive as long as it can. So the shorter amount of seconds for her capillary means good. If it was five or six, then that would mean

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it's delayed.
Q. And these are all items of this initial assessment that you made around that 1:04 time period, I assume, before you walked her over into the -- before she walked over across the street into the house?
A. I'm sorry. It froze at, like, the very first of your sentence.
Q. Sure. These were all the diagnostic assessments that you made initially and everything came back normal; is that correct?
A. Prior to walking her over, yes.
Q. Yes. All right. And then you were explaining to us that you -- when Ms. Ashcraft is seated in the house, do you do anything like does she get any ice, drink some water? Do you recall anything like that?
A. I want to say there may have been put a wet towel back on her neck. But other than that, I don't recall her drinking any water.
Q. And then what -- tell us, you were starting to tell us about you leave because there's a third driver in this accident?
A. Yes, sir.
Q. And go back and tell us what you were doing to assist that driver?

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A. So after I walked Ms. Ashcraft to the house, again, I turned around, walked out. And then I walked to the right and walked down the road a ways.
He was standing outside his 18-wheeler. And then I talked to him, and he presented to be fine and didn't want to go to the hospital. So after I got the information from him, I turned around and I walked back to my partner.
Q. And where was he, your partner, at that time?
A. In the ambulance.
Q. Okay.
A. With the other victim.
Q. Did he have the DHS driver, was she on a cot in the ambulance at that time?
A. I believe so, yes.
Q. Okay. And then what happens next?
A. So I climbed in the back of the ambulance to make sure he needed -- if he needed any assistance. And about that time, a state trooper knocked on the door, knocked on the back of the ambulance and said, hey, y'all are needed inside the house.
And I looked at Zach and I said, "Well, I'll go," since I had initial contact and he was with his patient. So I walked back in the house to go reassess Ms. Ashcraft.

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Q. And what did you find when you walked back into the house to reassess Ms. Ashcraft?
A. I found that she was laying her head on -- I cannot recall the person who she was laying or sitting next to. But she was not responding the way she was initially when I had left her. She was still able to respond to me, but it was not like she was.
Q. And what -- so what did -- as a paramedic, what do you do?
A. Well, initially, I thought she may have been dehydrated because it wasn't necessarily the coldest in that house either. So I started a IV on her, called for another unit.
And then that's when I was informed that we didn't have another unit. My partner come back in there and said, "Hey, we're it. We're going to have to take her as well." So there's nobody else. Everybody else was on calls. And I said okay. So my partner, he just picked her up and started carrying her.
Q. And where does Paramedic Marry take her to?
A. To the ambulance, the back of the ambulance, and laid her on the bench seat.
Q. And then what happens next on the transport?
A. I get in the driver's seat and we drive to the

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hospital. On the way there, Paris told us that their CT scanner was down, so our closest to divert to unfortunately was Booneville, which was clear across to the other side of the county.
Q. And what is -- are you -- what is Ms. Ashcraft's condition while you're in transport? Are you communicating with Medic Marry, or do you know?
A. We are a little bit back and forth. We're talking about the possibilities and what was going on. He had restarted an IV because mine got pulled out. So other than that, I don't know what kind of treatment. I'd have to look back at the report to see if he did any kind of treatment.
Q. One question I want to ask you about is -- that I forgot to ask you about earlier is did Ms. Ashcraft tell you what -- anything about the accident itself? Did she give you a history of what occurred?
A. From what I understand is my understanding is that she was sitting waiting to turn into the house when she got rear-ended.
Q. And where would you have gotten that information from?
A. Her.
Q. Okay. And that's information she would have told you there at the scene during that initial

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assessment?
A. Yes. And then her trunk being dented in kind of confirmed it.
Q. I want to ask you about page -- what is page 3 of 9 on Exhibit Number 1. And at the bottom, it's got a section called specialty patient motor vehicle collision. And I was going to ask Richard if he can enlarge that.
THE VIDEOGRAPHER: What page is that?
MR. JACKSON: It's going to be page 4. Yes. That page there. And at the bottom where it's black, yes. If you could highlight and enlarge all of that.
Q. (By Mr. Jackson:) Is this a normal section you fill out every time you respond to a motor vehicle collision with a patient?
A. For a motor vehicle, yes.
Q. And what is the collision indicators? Can you read that and tell us what those symbols mean and what the significance of the collision indicators are for a licensed paramedic?
A. So collision indicators and the motor, that is a trauma related. That's not necessarily set by paramedics itself. That is the Arkansas Trauma Comm. They set X amount of standards for different levels of

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trauma. So this particular one shows an intrusion greater than 12 inches, crash vehicle telemetry data consistent with high risk of injury in EMS provider judgment.
Q. And that's information you get from your observation of the vehicles that are involved in this collision, correct?
A. Correct.
Q. Okay. And then the passenger seating on seat row one meaning she's sitting in the front seat?
A. As she's the driver, yes.
Q. And she's the driver. Airbag deployment, does it tell us what you found on the airbags?
A. Front deployment.
Q. Okay. And then safety devices, what did you find on the safety devices?
A. She had shoulder and lap belt, which means the normal seatbelt.
Q. And then the initial vital signs -- well, tell us below what the specialty patient trauma criteria, what is that?
A. This is some of the stuff that would classify those different levels of trauma that I was explaining earlier. Her initial GCS would not have been below 13 either. Her second round, when I remade contact, then

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her GCS would be below that. The anatomy of the injury says none. Mechanism injury consistent with greater than 12 inches, which would have been the trunk part of hers. And then EMS provider judgment.
Q. And what was Ms. Ashcraft's condition when you got to the emergency room at Booneville?
A. When I opened up the back doors, she was still responding to that command. I'm pretty sure she still had motor function. I don't think she was talking clearly, but I did see her nod her head into a question we had asked her. So I knew she was still responding to him.
Q. And what did you -- I saw somewhere in the notes where it looks like you and Paramedic Marry stayed and helped the emergency room with the treatment or while she's being assessed?
A. You're breaking up. I heard me and Mr. Marry stayed.
Q. Let me rephrase that. Did you stay and assist the emergency room department with the assessment and treatment of Ms. Ms. Ashcraft?
A. We stayed, but I did not stay in the room with the hospital staff.
Q. Okay. So is it fair to say at that point, when you get to the emergency room at Booneville, you, as

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part of Logan County EMS, then transfer her care to the Booneville -- to the emergency room at Booneville?
A. Yes.
Q. Okay. Then do you go back to your vehicle and finish out writing out your report for the patient?
A. Either that or I stay in the lobby to obtain the face sheet from the clerical staff.
Q. And then while you were with -- and in part of medical record Exhibit 1, there's a refusal form that is on page 11 of Exhibit 1. And that's, I assume -- or tell me, is that a standard form that you ask parents to sign who deny -- who say we don't need to be taken to the emergency room?
A. That is Logan County's official form. And yes, Logan County unfortunately does everything by paper, or did while I was still there.
Q. And that is down at the bottom, the printed name and signature, that was done by Ms. Ashcraft, correct?
A. Correct.
Q. And then where -- and then you also had her do one for [redacted] as well?
A. Yes, sir.
Q. Okay.
MR. GASPER: Jim, real quick, I'm not sure if we got a verbal response to that

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question about whether or not Jackie signed and dated. All I saw was a head nod. Could you ask that question again?

MR. JACKSON: Sure.

Q. (By Mr. Jackson:) Ms. Newman, did Ms. Ashcraft herself sign the Logan County EMS patient refusal form?

A. Yes.

MR. GASPER: Thank you.

Q. (By Mr. Jackson:) And did she also sign one for her daughter [redacted] as her mother?

A. Yes.

(Exhibit 2 marked for identification.)

Q. I want to turn your attention now to [redacted] which is the daughter, and that's going to be Exhibit Number 2.

MR. JACKSON: Richard, could you pull us Exhibit 2, please? And turn to the next page, please.

Q. And you went through on your initial assessment of [redacted] you talked about it earlier. One of the things you mentioned is that she had, I believe you called it, repetitive questioning. What is -- do you remember what her questions were or what they were?

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A. I know she kept asking what happened. She didn't remember -- I think the last thing she remembered, I think they had went to McDonald's and she had a McDonald's cup. She just kept asking what happened and that she didn't remember anything.

Q. And then as far as looking at her head, I know -- and the HEENT, it states there was a hematoma to the back of her head, no deformity noted. Is that, like, a hematoma I think of as a -- tell us what a hematoma is.

A. It's swelling. It's a swelling in the head -- on the outside of the head.

Q. And then her eyes, were they normal?

A. Yes. They were three millimeters.

Q. Okay. And then based on what you saw for her initial assessment, it looks like on the next page, on page 3 of 8 is your narrative. Have you had a chance to look at that narrative?

A. No, sir. Can you flip it over, please?

MR. JACKSON: Oh, Richard, the next page, which would be page 4 of the PDF, or page 3 of 8 of the records. Yes. At the top is the narrative.

Q. Take a moment and let you look over that narrative.

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A. Okay.

Q. The -- you've gone over some of this with us. What's -- but in the narrative of your assessment, it states that "Mom holds up finger for her to see." And is that the mother holding up two fingers or three fingers and saying how many fingers are you seeing?

A. Yes, sir. So with head trauma, that's the unequal pupils and blurred investigation and vomiting are signs of progressive head injuries. So I had mom -- not like right here, but in the peripheral part, hold up two fingers and she was able to identify both correctly on each side.

Q. And was Jacqueline Ashcraft able to assist you in holding up the fingers and doing what you were asking her to do?

A. Yes, sir.

Q. And so both Jacqueline Ashcraft and [redacted] were able to follow your commands and appeared normal after this accident; is that correct?

A. After my initial assessment.

Q. After your assessment. Yes. Okay. And then you were able to consult with Ms. Ashcraft to tell her what to look for and what to do if [redacted] had experienced any of these issues such as vomiting, nausea, blurred vision; is that correct?

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A. Severe headache. Yes.

Q. Okay. And Ms. Ashcraft seemed to understand and be able to appreciate and respond to you appropriately?

A. Yes, sir.

Q. Okay. And have you had a chance previously to look at Exhibit 2? I know you weren't able to bring it with you because of the air conditioning. But we mailed or emailed, I think, a copy of this to you. Have you had a chance to look at Exhibit 2?

A. I looked at it a little bit, but if you could put it up, I'll relook at it.

Q. It is a nine-page -- or it's an eight-page document. Does this all appear -- and I want to ask if it appears to be your records from -- well, let me just -- I'll let Richard go through slowly all eight pages.

A. So you're referencing her EMS report from Logan County? Is that what you are asking me?

Q. Yes. Yes.

A. That is from Logan County.

Q. Okay. All right. All right. So we are going to attach what's been marked as Exhibits 1 and 2 to your deposition. I've got one housekeeping -- a couple of housekeeping questions. Going back on Jacqueline Ashcraft, there was a mention of one of the

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children said that her mother had been nauseous for two X, which I assume is two days; do you recall that?
A. Yes. I want to make sure it was Haley.
Q. Haley is not there. So it's going to be either [redacted] or [redacted] And I'll represent to you [redacted] is the older.
A. I'm sorry.
Q. That's okay. It's very confusing. There's a lot of women names here. [redacted] is the oldest; [redacted] is the youngest, I believe.
A. I believe it was [redacted] that stated she had been vomiting for two days and has had a headache for two days.
Q. Okay. And was that something that you got during your initial assessment or during the ongoing assessment when you went back and she was having some issues.
A. The initial.
Q. The initial. Okay. And did Ms. Ashcraft comment on that, or do you recall her saying anything about being -- having headache or nausea?
A. I do not recall.
Q. And what does coup-contrecoup mean to somebody that is a paramedic, somebody who responds to motor vehicle accidents?

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A. That means that the patient's brain -- so our brain doesn't touch the skull at all times. It is slightly smaller than our skull. So it happens in rear-end collisions.
So when we get hit in the back of the head, the brain comes up, hits the front of the skull, and then hits the back of the skull and it kind of just plays bouncy ball.
Q. And do you have any criticism of Ms. Ashcraft or any of her medical decisions that she made during that initial assessment?
A. What do you mean criticisms?
Q. In that she was belligerent, refusing to take your advice, anything like that?
A. No. She was very nice, very understanding, very "Okay. I will. I understand."
Q. Did she appear to be a normal mother of two teenage daughters who are out going to see somebody on a -- on an afternoon?
A. To me, yes.
MR. JACKSON: Okay. That's all the questions I have. Pass the witness.
MR. GASPER: Jim, before we get started, can maybe we take a five-minute break, just so I can use the restroom and kind of

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stretch a little bit.
MR. JACKSON: Sure. Go off the record for a moment.
THE VIDEOGRAPHER: So off the record at 10:45.
(Recess from 10:45 a.m. to 10:50 a.m.)
THE VIDEOGRAPHER: On the record at 10:50.
EXAMINATION
BY MR. GASPER:
Q. Good morning, Holly.
A. Good morning.
Q. My name is Brent Gasper. Again, I represent the Department of Human Services. The estate of Jacqueline Ashcraft, I guess, has brought against the agency alleging that our employee, Jennifer Wilkerson, caused a wreck that, in turn, caused a head injury to Ms. Ashcraft, which ultimately led to her being deceased because of that wreck. You understand that your treatments, your medical -- the way you --- the treatment you provided is not being called into question; you understand that?
A. Yes, sir.
Q. We are trying to ascertain exactly what happened to her and kind of an understanding, fleshing out what

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your notes mean, what the records mean because you were there. We weren't there. So I am going to go over several topics with you. Some of these things Jim has touched on already.
Let's go back to your work history. You said you had been an EMT since -- did you say -- when were you first licensed as an EMT?
A. As an EMT in 2013.
Q. But before that, what was your vocation?
A. Before I become an EMT?
Q. Yes, ma'am.
A. Before I was an EMT, I was a ER clerk and technician at St. Mary's from 2011 to 2013.
Q. So when you were in school and in training to become an EMT, I'm assuming you took classes that were geared toward the types of calls you would see out in the field; is that correct?
A. You're really muffled. I'm having a real hard time understanding what you're saying.
Q. Okay. I'll maybe talk louder. Does that help at all?
A. A little bit.
Q. Okay. I don't know how to fix that. If I talk right here, does that help?
A. That's a lot better.

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Q. I'll pull my phone over here. Maybe that's what it was. Okay. Yes? Much better?
A. A lot clearer. It's not as muffled.
Q. Okay. Okay. Well, let me back up. Whenever you were training to become an EMT, taking classes and whatnot, you were -- I'm assuming you were given training instruction on the types of calls you would expect to see out in the field, correct? Like motor vehicle accidents, head injuries, gunshot wounds, that sort of thing?
A. Yes.
Q. Okay. So when it comes to -- so you know to expect generally when you arrive at a motor vehicle accident? You know, is there, like, a protocol that you -- that you go through when you arrive to a wreck such as this one?
A. Any -- we have the same protocol. It's a trauma assessment we go through.
Q. Okay. Okay. And were you ever given any training specific to head trauma?
A. Define specific.
Q. Well, like, I mean, today, class, we're going to look at head trauma, head wounds, and how they are caused and, you know, what to look for, symptoms to look for and that sort of thing, treatments like

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specific to --
A. Yes.
Q. Okay.
A. In the general area.
Q. Yeah. Right. Right. Okay. What about training in regards to when a person is under the influence of a controlled substance?
A. Such as narcotics?
Q. Yeah. Like when -- you know, if a person is in crisis or whatnot and you see them out in the field, you'd know how to treat them and what to look for, that sort of thing?
A. Yes.
Q. Okay. And in regards to -- are there standards that you're aware of or that you go by in regards to assessments you make to whether a person should be transported to the hospital or not? I understand they can refuse to go to the hospital. But is there some sort of this person displays X, Y, or Z, we need to advise them to go to the hospital? Are there standards that -- that you would go by?
A. Well, we always advise everybody to go to the hospital. But if you're asking me if they present with, like, altered mental status or alcohol or things like that, is it a guarantee that they have to go? Is

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that what you are asking me, if there's a final where they have on to or where we --
Q. No. Not a compulsory you have to go but a -- maybe you might have answered my question. You said that you advise everyone to go to the hospital who you see when you go out to a call?
A. Yes. Because we're not doctors. We aren't technically allowed to diagnose in the field. We have a general idea of what's happened and what is wrong with them. But that is for a doctor to completely utterly say, hey, this is what you have.
Q. Okay. So you would have advised Ms. Ashcraft to go to the hospital?
A. For that wreck, yes.
Q. Just due to the severity of the wreck?
A. Correct.
Q. So would you have advised the children, the girls, to have gone to a hospital?
A. Yes.
Q. And you, in fact, did do those things, correct? You said you guys should go to the hospital?
A. Right.
Q. Okay. Was a -- not to get too fine-toothed-comb here, but did you say you need to go or would you like to go to the hospital?

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A. I always ask for want first, do you want to go. And if they say no, then I'm like, well, this is what's happened, this is what I see. In this instance, I advise you do need to go, especially in [redacted] position at that time.
Q. Okay. So it was your -- as an EMT, at least, you made the determination that these three persons that were in the car wreck should have gone to the hospital?
A. Paramedic.
Q. Okay. I'm sorry.
A. EMT and paramedic are two different things.
Q. I'm sorry. I'm sorry. Yes. As a paramedic, you told them you should go to the hospital and they --
A. I told them --
Q. I'm sorry. Go ahead. What did you say?
A. I told Ms. Ashcraft [redacted] needed to go.
Q. What about Ms. Ashcraft herself?
A. She needed to get checked out. But at the time, she wasn't exhibiting any signs or symptoms of any kind of headache, trauma, nothing that would concern me more.
Q. Okay. Okay. Now, when you advised her that you thought she should go to the hospital or that [redacted]

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should go to the hospital, what was her reaction?
A. She said that they were -- that she knew what to look for and that if anything changed, she would call.
Q. Would you have characterized your -- let me back up. Was she adamant about not going or was it, "I got this"?
A. I asked her several times, so I would say adamant 'cause she had the same answer every time.
Q. Okay. Okay. Thank you. I'd like to go back to just to make sure that I have the timeline correct here. Under -- let's see. Exhibit 1.
MR. GASPER: Richard, can you pull up page 4?
THE VIDEOGRAPHER: Which was that?
MR. GASPER: Page 4 of Exhibit 1, please. Okay. Can you zoom in on the top half of that? Make sure you get that timeline in there on the right-hand side. Right there. That's great.
Q. (By Mr. Gasper:) Can you see that, Holly?
A. Yes, sir.
Q. Now, on the right-hand side, there's a column, incident times; do you see that?
A. Okay.
Q. PSAP call at 12:57. PSAP, what does that mean?

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What does that stand for?
A. The way this reads, I'm assuming that's when they called 911. That's the initial call that came in to dispatch.
Q. That is approximately or shortly thereafter, call received, 1257, dispatched 1257. So next after that is en route, 1258. Is that when you guys, you and Zach, got in the truck and headed that direction?
A. Yes, sir.
Q. Okay. And you arrived on the scene at 1303, which is 1:03 nonmilitary time; is that accurate? I couldn't hear you. Could you say that -- affirm that again?
A. Yes. Yes.
Q. Okay. And it says at patient at 1304. I'm assuming that patient is Ms. Ashcraft, correct?
A. If this is her report, yes.
Q. Okay. And then we've got care transferred is blank. 1344, it says depart scene. Now, when it says depart scene, what occurred at the accident scene had already occurred and she had gone downhill and you had gotten her in the truck. And at 1344, at 1:44, you or Zach hit the gas and you were on your way to the hospital; is that correct?
A. I was driving. Yes. That is the time we left

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for the hospital.
Q. Okay. So you were there approximately 41 minutes, from 1:03 to 1:44, correct?
A. Yes, sir.
Q. Okay. Great. Thank you. Let's see.
MR. GASPER: What page am I going to? Okay. Can we pull up page -- we'll start with page 1. Page 1 of Exhibit 1, Richard? The bottom half preferably. Great.
Q. Holly, can you see that? Holly, can you see that? I think maybe we've got some lag here on my Zoom because the video is not showing you guys' faces moving at all. Can you hear me? Okay. Maybe there? Okay. Yeah, Jim is swaying back and forth.
Okay. Can you hear me now, Holly?
A. Can anyone hear me?
THE VIDEOGRAPHER: I am hearing you. She has a lag. I think it's her connection.
Q. (By Mr. Gasper:) On her end. Okay. Holly, can you hear?
A. I can hear him. Yeah, I can hear you.
Q. You can hear me? Okay. Okay. So we're looking at page 1 of your report or, I guess, the incident report. And you see that the flow chart. We went over that earlier, or at least you and Jim went over

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it earlier where it says 1304 ALS assessment?
A. Yes.
Q. Okay. So that 1304 corresponds with the 1304 in the previous timeline that you arrived at the patient, correct?
A. Correct.
Q. Okay. So that was your initial assessment. Then at 1330, at 1:30, six minutes later, you've got a notation there that you talked about previously where the Ms. Ashcraft, her speech was slurred at that particular point; did you see that?
A. Correct. That was my second assessment.
Q. Okay. And that assessment was taken after she was in the house; is that correct?
A. Correct.
Q. Okay. And then at IV, IV. And then at 1348, you've got trauma alert, patient response unchanged, complication none. What does the -- go ahead.
A. If you look at the provider, that is Zach. That is when he took over patient care for her in the back of the truck.
Q. Okay. So you departed the scene at 1344, and then it looks like you ran an IV right after that, Zach did, at 1345. So you were on the road at that particular point, correct?

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A. Correct. I was driving at that point.
Q. Okay. 1350, it says Narcan. Can you tell us what Narcan is?
A. Narcan is an agent that reverse opiates.
Q. Okay. Why was it -- was it given here?
A. It says Zach did it. I wasn't the one who gave it.
Q. Why would it have been given?
A. Initially, it's given for altered mental status in case they're on any kind of opiates.
Q. Okay. Is it a normal protocol to give Narcan? Do you give Narcan at -- whenever there is any change in mental status?
A. Not every time. But again, I wasn't the one who gave it, so I don't know his reasoning behind it.
Q. Okay. Okay. That's fair.
MR. GASPER: Can we go to page -- Richard, can we go to page 2 of the Exhibit 1, please? And if you go down to from the very top, down to, like, where it says ongoing assessment mental status. And then underneath there, you can cut it off. That's fine. We can do that.
Q. Okay. Holly, I want to ask you about at the very top of the HEENT. Initial assessment, it says

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head/face, no abnormalities?
A. Correct.
Q. What would be -- what would you have considered an abnormal?
A. Swelling to the face. Any kind of lacerations. Any deformity.
Q. Okay. You said earlier that you noted the airbag had gone off?
A. That's what the report says, yes.
Q. Okay. Would an airbag have left any injury -- or let me rephrase that. In your experience, when you see an airbag deployed, does it usually leave an injury?
A. Not all the time.
Q. What would we have -- what would you look for or what would you expect to see if an airbag had been deployed?
A. Burns.
Q. Burns?
A. Yes, sir.
Q. Okay. Just from, like, I guess, heat from the air being inflated so quickly?
A. It's the particles that's inside the airbag.
Q. Okay. So it didn't -- did she have evidence that -- of burns on her face?

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A. Not to my recollection.
Q. Okay. Do you -- did you -- but that's not an everyday, every-time occurrence? Sometimes they don't have burns?
A. The airbags don't always cause deformity.
Q. And also, you've got eyes. We talked -- you talked about the eyes. Initially, they were, I guess, fine. Okay. Two millimeters. You suggested that that was a normal, within-range reaction or measurement of the eyes?
A. In light, they constrict. They get smaller in light.
Q. Okay. Okay. What -- in your experience of seeing people under the influence of a controlled substance, does that affect their eyes at all?
A. Under narcotics. Not every drug.
Q. Okay. Like, what type narcotics?
A. Opiates.
Q. Opiates? What do opiates do to a person's eyes?
A. They constrict them, make them smaller, nonreactive.
Q. Okay. Would her measurements have been consistent -- not saying that she was under the influence of opioids. But if she had been, would her eyes have been consistent with that finding?

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A. They would typically be smaller than the two.
Q. So, like, a one or something like that?
A. Correct. Or what we call pinpoint.
Q. Okay. Very good. I'd like to go down to where it says "abdomen" here. It says "general no abnormalities"; is that -- is that correct?
A. Correct.
Q. What -- did you find any evidence that she was -- of seatbelt marks on her body?
A. Not to my recollection, no.
Q. Okay. What --
A. Go ahead.
Q. Were you going to add something?
A. No. Go ahead.
Q. What type of injuries do seatbelts leave on a -- on a person in a motor vehicle accident?
A. Usually red marks.
Q. Red marks, like, across the torso, from the shoulder down to approximately where?
A. So if you're the driver, then it's going to come from this left shoulder, the patient's left shoulder.
Q. Okay.
A. So when you look at it, it looks like your right. So the patient's left shoulder down, then across the abdomen.

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Q. Okay. In a wreck of this magnitude or this size, would you have expected to see seatbelt marks?
A. Usually, yes.
Q. Okay. Was she wearing -- what was she wearing at the time; do you recall?
A. I think it was some kind of -- it wasn't jean shorts. I'm pretty sure it was just, like, what I call basketball shorts kind of fabric and a T-shirt, if I remember correctly.
Q. It was, like, extremely hot out there, so she wasn't wear a sweatshirt or anything along that line, correct?
A. Not that I remember.
Q. So there's no piece of clothing on her top that would have, I guess, absorbed the seatbelt so it wouldn't leave a mark. It was only one thin sheet of cloth across her shoulders, her shirt?
A. If I remember correctly. This was also very long ago.
Q. Okay. Okay. But she did not show any marks that you saw? Did you, like -- well, let me back up. Did you inspect her, like, skin at that area or did you see her bare skin around her shoulder?
A. I did not lift her shirt up, no.
Q. Okay. Did she complain about any pain

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associated with the, you know, seatbelt from being deployed, constricted in the wreck?
A. Not that I remember. And when I palpated her chest, she didn't complain of any pain.
Q. Okay. 'Cause seatbelts can cause injuries that would cause pain, correct?
A. They can cause pain, yes.
MR. GASPER: Okay. Richard, can we go down to the second half of that page, please?
Q. On this particular page, I want to -- this is the ongoing assessment, which we'll look at this page.
A. This is where --
Q. Go ahead.
A. This is where Zach would have taken over possibly.
Q. Okay. So at the assessment time were 1350, which we'll show on the next page, those would have been Zach's notes because you were driving at that point?
A. Correct.
Q. Okay. Let me just ask you a question about this, because you and I have spoken previously to this deposition, correct?
A. Correct.

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Q. And you mentioned at the time that she was scratching her head. Now, I see that there -- under mental status, Zach apparently put that the patient stopped scratching her head and relaxed her arm for me. Can you describe what the head scratching -- what you observed about the head scratching?
A. I don't know that I remember her scratching her head, honestly. But if she was to doing like this, then -- and he asked her to relax, that would mean that she was actually still able to follow commands.
Q. Okay.
A. The only thing I can think of is the reason she was scratching her his is that that was the side of the bleed.
Q. Okay. Okay.
A. Possibly. That's the only thing I could think of.
Q. Okay. So you didn't -- didn't remember her scratching her head at the time?
A. I don't think so 'cause at this -- so basically, when he put her in the back of the truck, like, I basically got back around and then drove off and turned around -- turned around and headed back the other way.
MR. GASPER: Okay. Richard, can we go

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to page 3? And then can you go from the top of the page down through that narrative, stop at the bottom of the narrative? Great.
Q. Okay. Yeah. There at the top, as you can see, it says assessment, 1350. So would that say to you that Zach took those notes?
A. Yes. Because we transported at 1344.
Q. Okay. One thing I wanted to ask you about is also, as you can see under extremities, it says, pulse radial two plus normal. I know that -- I understand that Zach may have been the person that took that note.
But you testified earlier that the pulse was indicative of blood being redirected, I guess, if there was an injury. Can you explain that a little bit further?
A. So anytime -- and it's not necessarily pertinent to a head injury. But anytime -- anytime you have an amount of blood loss, your body will start shunting. So basically, it automatically starts pushing all the blood to the core, the core meaning your heart, your lungs, your kidneys, and your brain to try to keep those main organs alive as long as possible.
And so the more that you are shunting, the less what we call peripheral, which is your hands,

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your fingers, you know, your pulses in the peripheral extremities, they will become weaker.
Q. Okay. But that did not -- at least according to this note, it does not appear that that was -- you or Zach observed that at the time, correct? At this point.
A. At this point, no.
Q. Okay. At this point, you would not have? What was that? Sorry?
A. I said it looks like they're still normal.
Q. Okay. Okay. But also, there is other neurological. It says facial droop, slurred speech, weakness left-sided. Would that be consistent with what you observed as well?
A. I did not show -- it did not show any kind of facial droop, slurred speech, or weakness with me. This was after she had been in the back of the truck.
Q. But she had only been in the back of the truck for six minutes by this point?
A. Six minutes.
Q. Okay. So in the space of that six minutes, she could have developed those -- developed those symptoms?
A. Possibly. And it could change -- so she could have possibly had it inside the house as well. When I

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called for the back-up unit, Zach overheard 'cause he had it -- we both carry a radio.
Q. Okay.
A. And so he knew -- he knew that there was no other unit. So when he come in the back of the house, he said, "We're just going to have to take her." We didn't give her the option to get up and walk.
Q. Okay.
A. With her being not very big and Zach is -- he's adamant heavy -- like, he works out adamantly. So yeah, he's a very strong man. So he just picked her up. Like, he didn't even give her a choice. He just picked her up and carried her.
Q. Okay. And at this point, her refusal to go to the hospital that she signed just went out the window? Like, your decision overrode that decision?
A. Yes. Because -- and the reason why is initially, she had a mental status that was alert, oriented times four, as you see, person, place, time, event. So she knew everything. Like, she's able to carry on a conversation with you and I right now.
Now, she has had a mental status change and it has not been for the better. So she had declined, so now she no longer can make those own decisions.

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Q. Okay. So reiterating what you just said, if someone had told you, Holly, she has a brain bleed going on right when you first encountered her, would anything have led you to believe that?
A. Not at that time. Not when I initially had contact with her. No.
Q. Okay. So she seemed fine. What about when she entered the house and she -- I guess you said maybe she was dehydrated or got tired or something?
A. No. It was really hot outside and she's, again, not a very big lady.
Q. Okay.
A. So with her sweating, you know, and if she really had been vomiting for the last two days, then yeah. She would have been dehydrated.
Q. Right. Right. But nothing at that point would have shown you, Holly, she's got a brain bleed? She just wasn't --
A. No.
Q. Okay. Great.
A. Correct.
Q. Now, if you had known she had a brain bleed, what would you have done?
A. We would have took her right then and there.
Q. Even if she had full mental status and was "I

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don't want to go," you know?
A. It would have been hard if she was alert and oriented as initially when I encountered her. It would have been a lot of begging and pleading on my knees.
Q. Yeah. Sure. Sure.
A. But unfortunately, once she had that turn of mental status, then she can no longer -- she no longer had -- medically no longer had control.
Q. Okay. That's fair. I don't -- and this is more out of curiosity than anything. But is there any way to treat a brain bleed out in the field?
A. No, sir.
Q. You've got to go to the hospital?
A. You have to have a head CT.
Q. Okay. Okay. And again, I know that you're not a doctor. But when you have a call that involves head injury, are you required or advised or suggested to take a patient to a place with a CT scan?
A. It's protocol.
Q. It is protocol? Okay. So from what I understand, the Paris hospital CT scan was not functioning at the time, correct?
A. Correct. And we didn't know that until we were on the way to Paris because they have a radio where

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they can listen to our traffic as well.
Q. Okay.
A. So they overheard us, you know, coming into them and then that's when they got on the radio and said, no, we don't have CT capability.
Q. Okay. Okay. So at that point, you had to divert to Booneville?
A. Correct. Because unfortunately, it was either Dardanelle or Mercy Fort Smith or Booneville. Those were our three closest, and Booneville is the closest.
Q. Right. If there had not been a CT scan available anywhere, what would -- what would you have done? What would -- what would your next best option have been?
A. On a helicopter or take her to Mercy Fort Smith.
Q. Okay. So the option to go to a hospital that did not have a CT scan was just not -- you just couldn't do that? I mean, there wasn't anything you could do without a CT scan?
A. Correct. There is no diagnosis without a CT.
Q. Okay. Okay. Okay.
A. We can suspect all day long.
Q. Sure.
A. But without -- without a head CT, without the imaging, it's like you can suspect a broken arm all

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day long. But until you have that x-ray, you can't get diagnose it.
Q. That's fair. I gotcha. So I want to go back and cover some points that maybe I overlooked. Let's see. We've got a timeline. When you arrived at the scene, I would imagine it was probably a pretty chaotic scene. But do you remember who was there?
A. The police officers or --
Q. Anybody. Yeah. Just -- I assume did you beat the state troopers there?
A. I think we did.
Q. And then?
A. Which is not --
Q. Which is not uncommon?
A. No.
Q. Okay. So you oftentimes are quicker to the scene than law enforcement?
A. I wouldn't say -- state troopers, yes. Sometimes county or city will cover an accident until troopers can get there.
Q. Okay. Okay. Aside from law enforcement and you and Zach and the parties to the wreck, I know that's a lot of people, could you identify any other people that were at the scene?
A. First responders may have been there. They

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typically get dispatched as well with us. The volunteer fire department --
Q. Okay.
A. -- they may have been there. But more than that, there was nobody initially on scene other than us.
Q. Were there any, like, civilians out helping -- helping people clear out the car or helping with -- that might have happened upon the scene? Do you recall seeing anybody like that?
A. Not that I recollect. But when we get on the scene, I know I focus in on the patient.
Q. Okay. Now, can we go back and maybe -- can you again describe the condition of Jackie Ashcraft when you first saw her?
A. When I first initially had encounter with her, she was alert, standing outside behind the car, alert and oriented. She was smoking her cigarette, and her two kids were sitting on the side.
Q. Okay. Any trouble with balance that you could tell?
A. No. She had a normal gait. Her speech wasn't slurred. She was able to carry on a full conversation.
Q. Okay. Did she tell you if any parts of her body were hurt or injured or achy due to the wreck?

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A. No. She was more worried about her kid and making sure she was okay first.
Q. Okay. Okay. And you said that [redacted] the youngest of the girls, was fine. And [redacted] the older of the girls, had a hematoma on the back of her head?
A. That's what the report says, yes.
Q. Okay. And that's a bump or -- I don't want to be too --
A. Yes. It's -- hematoma is a common name for swelling or a bump. And if you -- you know kind of how you bruise on your leg if you hit something. And your head, it kind of swells out.
Q. Okay.
A. If it swells in, then it's more a medical problem.
Q. Okay. So she would have gotten that injury presumably from hitting her head back on the headrest or the seats?
A. That's what I would assume.
Q. Okay. Did she complain about seatbelt injuries or being constricted by a seatbelt?
A. Not to my recollection.
Q. Okay. Did you examine [redacted] head to notice the hematoma?
A. I would have had to have touched it, yes.

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Q. Did you do something similar to Jackie Ashcraft? Did you examine her head at all?
A. I examined her neck, head -- yes, and her head. I didn't see anything.
Q. Okay. Okay. I'm just looking at my notes here. I'm sorry. You've had experience on the job with people that have had head trauma, correct?
A. Yes, I have.
Q. Have you been called out to scenes of traffic accidents such as this one where there was a rear-end collision?
A. Yes, sir.
Q. Is it -- did Ms. Ashcraft display any symptom that would have been inconsistent with what you normally see in these types of injuries or these types of accidents?
A. No, sir.
Q. So nothing struck you as unusual at this point?
A. No, sir.
Q. Okay. So at some point as we discussed, Jackie said she wanted to go into the house, correct?
A. Correct.
Q. Do you remember how many people were in the house?
A. I want to say it was a female, maybe two kids

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'cause when I walked in, the female was sitting, like, right at the kitchen area, standing. And then I want to say there was one or two people on the couch. But other than that, I didn't notice anything else.
Q. People as in children or as adults?
A. As adults, children. Maybe -- there may have been two kids there. But there again, it may have been [redacted] and [redacted] with me.
Q. Okay. I'm just trying to -- so there was one female adult and were there any other adults in there?
A. I honestly cannot be 100 percent sure.
Q. Okay. Okay. Do you know the identity of those people that were in there?
A. I do not.
Q. Do you know how they would have been, if at all, related to Ms. Ashcraft?
A. I do not. I just know that was the house they were going to visit.
Q. Okay. So once you left her on the couch, you exited the house yourself, correct?
A. Correct.
Q. Were there any medical professionals or anybody else that were in the house once you left?
A. No, sir.
Q. Any law enforcement in the house after you left?

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A. No, sir. The only thing -- only person I seen as I was coming out of the house was the red truck that had pulled in which ended up being her dad.
Q. Okay. Actually, I think her father -- okay. Never mind. So the red truck and there was a male in the red truck, correct?
A. (Witness nodding head.)
Q. Okay. I'm not sure if you can answer this or not, but I'm going to go ahead and answer it -- ask it. Considering her condition the next time you saw her 26 minutes later, do you have any estimate as to what time the onset of the serious reaction started?
A. No, sir.
Q. Like, she was X number of minutes along already when they came and got you when she started -- do you have any way of knowing that?
A. No.
Q. Okay. And Jim asked you if you spoke to her and she could communicate with you initially, correct?
A. Correct. Initially, and when I went back into the house, she was still able to nod her head.
Q. Did she say any words to you at that point?
A. Not that I remember.
Q. Okay. Did anyone else say anything to you in there?

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A. Not that I remember. I think her dad was in there by that point, after I got back in.
Q. Okay. But no one said she said she wasn't feeling good and then she did this? Or there was no statement that you can recall?
A. Not that I remember because I honed in on her because me being the original provider to be with her, this was not how I left her.
Q. Okay.
A. So I knew something was going on.
Q. Okay. And then you -- Zach and his muscles picked her up and took her to the ambulance, right?
A. Yeah.
Q. Was -- you said was she alone on the ambulance? Was there another patient or another person in there with her?
A. The DHS worker was in there.
Q. Jennifer Wilkerson? Okay. At some point, Jennifer got out of the ambulance, correct?
A. After we took Ms. Ashcraft in.
Q. Okay. So you were hitting the road and so Jennifer had -- you were just going to leave her at the scene, correct?
A. No. We took her to the hospital as well.
Q. In a different ambulance?

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A. No. In the same ambulance.
Q. Oh, okay. I was confused there. So Ms. Wilkerson and Ms. Ashcraft were both in the ambulance?
A. Yes, sir.
Q. When you went to Paris -- or tried to go to Paris and then went to Booneville?
A. Yes, sir.
Q. Okay. So Ms. Wilkerson, when you got to Booneville, she presumably was checked into the hospital as well, or the ER?
A. Correct. Yes. We checked them both in.
Q. Okay. Did you have any conversations or discussions with Ms. Wilkerson while you were --
A. I did not.
Q. Okay. Zach was in the back with her; you were driving, correct?
A. Right.
Q. Okay. Now, how was Jackie positioned in the ambulance? Was she laying down?
A. She was laying supine on the bench seat.
Q. Supine meaning vertical?
A. On her back. On her back.
Q. Okay. Okay.
A. Sorry.

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Q. And she had an IV in and all that at that point, correct?
A. It looked like Zach redid it, so yes.
Q. Okay. Okay. Now, do you know approximately how long you were in the ambulance, how long it took you to get to Booneville?
A. You would have to pull up the times again.
Q. Okay. I'm sure it's probably written down in these records. I'm sure it's written down in these records. We'll reference those later. So once you got to Booneville, the ER took over and you basically transferred the -- transferred the patients, correct?
A. Yes, sir.
Q. Okay.
A. Because there's a doctor in the ER, so we have to transfer care to them.
MR. GASPER: Jim, can you pull up -- Jim. Richard, can you pull up page 6 of Exhibit 1, please? Next one, I think. There you go.
Q. Holly, do you recognize this page?
A. Yeah. That's our signature page.
Q. Okay. What am I looking at here? Like, specifically section 3, where the signatures are, what -- what does this mean?

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A. That part? So that means I'm the -- like, I signed her patient care report so -- because I was the one who initially had contact with Jennifer -- I mean, with Ms. Ashcraft. Then I was the one who originally started her CPR. Sorry. I went blank for a second. The signature below is the nurse's signature who we give report to.
Q. Dustin Keeter, verbal consent to sign. So Dustin would have been the nurse?
A. Dustin is the nurse.
Q. Okay. This under your signature, it says signed on 6/11, 1633. That would be 4:33, which would be some time later, several hours later than when you arrived?
A. Correct.
Q. When you eventually signed it, you signed it at 4:33?
A. That's when we submitted it and signed it and it was done.
Q. But Ms. Ashcraft was already in the ER by that 4:33?
A. Oh, yes, sir.
Q. You weren't treating her by then?
A. No. We were gone.
Q. Okay. But 1444, which would be 1:44 --

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A. Be 2:44.
Q. That's when they took over? The nurse took over at that point?
A. At 2:44, yes.
Q. So you arrived at the hospital and she -- it was assumed treatment in the hospital at 1:44 -- 2:44? Sorry. Military time just throws me just a little bit. 2:44.
So as we referenced earlier, on page 4, you depart scene at 1344 and arrive, I guess, at 1434. So it took about an hour in the ambulance?
A. I guess so.
Q. Is that fair?
A. If that is what the dispatch time says 'cause when we call on the radio, we call en route to the hospital, dispatch keeps the times. We don't keep the times.
Q. Okay. But does that sound like it would be accurate or close to accurate, about an hour in the ambulance?
A. Give or take, 'cause we had to go over the mountain.
Q. Okay. It wasn't, like, freeway the whole way there?
A. No. No.

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Q. No?
A. No.
Q. Rural Arkansas, right?
A. Yes. There's a -- it's either a lake or river that splits the county in half. So you have a north side and south side. Paris is the north side, which is where we were at and where this took place at, and then the south side is Booneville.
MR. GASPER: Okay. Let's see, Richard, I'm not sure which page this is. It's page 10 maybe, or 11 of Exhibit 1. It says "Logan County EMS 911 dispatch form" at the top. That one. That's the one I'm looking for.
Q. Did you fill this out or is this someone else?
A. No. That is dispatch.
Q. Okay. So you didn't record any of this information?
A. No. That is all the 911 taker. So when you call 911, our dispatcher takes all of this. I can explain it to you if you need me to.
Q. Sure. I'd like for you to do that. Specifically, let's start at the top. It says 911, and then what do I see there?
A. So we'll just go from my left where it says

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6/11. Then we'll go to the right.
Q. Okay. Great.
A. 6/11 is the date that it happened. The source of the call is the 911 call. The dispatcher is Hyatt. Unit 1, which we were squad 1. The top right-hand corner, I believe that would be our run number. The 1470. So that's run number for the month. So by the 11th of June, we had already run 1,470 calls that month.
Q. Oh, wow.
A. It's a busy service. It is.
Q. Okay.
A. So squad 1, so we got the call at 1257. She called us at 1257. And we were en route at 1258. We got on scene at 1303. The patient on board, which means we were transporting to the hospital, was 1344.
Q. You would have -- like, that's when you would have, like, left the scene, 1344, right?
A. Correct. Yes. We left the scene at 1344. We got to the hospital at 2:12.
Q. Let me stop you real quick. I just want to make sure, 'cause that Dustin's note says that he took over -- the ER took over at 2:24 as opposed to 2:12. Do you know why there would have been, like, a different of time there?
A. So I know I can tell you what happened when we

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got to the hospital.
Q. Okay.
A. It may clear a lot this time frame. So when we get there, Zach and I take -- so we made Ms. Jennifer get off the stretcher because that's how she rode in on the ambulance. So once she got off the stretcher, she got into the captain's chair and she hung out in the back of the ambulance while we picked Ms. Ashcraft up, put her on the stretcher, and took her into the hospital.
Q. Okay.
A. We did that, Dustin and the ER doc both met us, like, right inside the door.
Q. Okay.
A. And then they allotted to intubate her and then take her to head CT. In the meantime, I don't know if Zach stayed there with them and went back to CT with them, but I went up front to the medical clerk.
Q. Okay.
A. And in the meantime, while they're back there, I was getting my face sheet for Ms. Ashcraft, getting her checked in, you know, giving them the information.
And in the meantime, the father called, and I ended up talking to him because initially, he thought we were going to Paris. He had no idea we

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diverted to Booneville.
Q. Okay.
A. And the hospitals weren't being very cooperative with him.
Q. Okay.
A. So I made him identify who he was by the red truck.
Q. Okay.
A. By the events prior, you know, while we were on scene. So I knew -- personally, I knew who he was.
Q. Okay.
A. I'm pretty sure the hospital got kind of mad at me. But -- and then I'm there for the family and I'm there for the patient. You know, that's --
Q. Sure. Okay.
A. That's what I'm for. So that's where I was. I don't know what Zach did. I don't know what happened in the back. So it's very possible that once they intubated her, Zach went to CT with them and then come back 'cause if I'm not mistaken, CT takes about 20 minutes.
Q. Okay.
A. And then he could put his signature then.
Q. Okay. So he would have -- okay. So you signed it over at a much later time. But you believe that

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Zach did not fully turn the patient over until 1444?
A. So it's kind of a -- I don't know legally how you guys would portray it. But once we hit those hospital doors and that patient gets on that hospital bed, regardless of the signatures, that is their patient.
Q. Okay. Okay. So --
A. So once the doctor intubated her, that's all on them.
Q. Okay.
A. That is the hospital's patient.
Q. Okay. So it may just be kind of an administrative delay to get the signature from Dustin?
A. Correct. Because I know when I have critical patients like that, I don't make the nurse stop to interrupt care to sign my paper.
Q. Okay.
A. Especially if they're going straight to CT, I would wait until after CT. And then Booneville is such a small hospital that we had an agreement with them, and Paris as well, that if they needed an extra set of hands, paramedics would go start IVs, you know, do things to help them.
Q. Okay. Okay. Great. I'm sorry to interrupt you there. So we've got 1412, so maybe that's a more

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accurate range of time when the hospital took over as opposed to 1440. What does the 1507 mean there?
A. That is the time we got back to in service.
Q. Okay. You had completed your business and you were ready to be redirected to another call?
A. Correct.
Q. Okay. What's these other numbers mean underneath -- a little further down that chart?
A. Where? Under squad 1 where it says 5:17?
Q. Yes.
A. That could be a first responder. That could be -- that's an additional resource that's dispatched sooner.
Q. Okay.
A. I do not know what the one under it, where it says NS re -- I don't know what that stands for. But LC9 is county officers. Logan County officer 9 and who responded.
Q. Like a sheriff's deputy or something like that?
A. Correct.
Q. Okay. Moving on down to the mutual aid, air or ground. What's -- I'm assuming this has to do with the helicopter?
A. Okay. So there's, like, a gray box cutting off half of that. But yes, the helicopter was at 1359, if

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they're available. And they got a 25-minute ETA. So that means while we were en route to the hospital, probably right as Paris diverted us, we called to see if the helicopter was available.
Q. Helicopter to go to Booneville or to go to --
A. No, sir. To a higher level of care.
Q. Like Fort Smith?
A. Or Washington Regional.
Q. Okay.
A. Because by that time frame, she would have been -- she could have been flown to Washington Regional, where there is actually neurosurgery.
Q. But that wasn't necessarily your call, was it?
A. No, sir. No, sir. We -- so how we work ground-wise is -- 'cause we know Booneville and Paris are the lowest level of hospitals there are.
Q. Okay.
A. But by protocol, we had to take her to the closest head CT, which after Paris diverted would have been Booneville.
Q. Okay.
A. In the meantime, we always like to call for the helicopter because being a rural area, sometimes it's better and faster. Sometimes. Not all the time.
Q. Okay.

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A. So this initial definitive, she needed a head CT as quick as possible. So by putting her on that helicopter, it would have delayed the head CT.
Q. Okay.
A. Does that make sense?
Q. Yeah. No, it does. Thank you. Okay. Next to that 25, it says Subiaco. What does that mean?
A. Fire department, first responders? Is that where you are looking at?
Q. Yes. Yes, ma'am.
A. That would be that area. That's the area that it happened in.
Q. Okay. The mileage, what, is that your mileage in the truck?
A. Yes. That is the beginning mileage for us.
Q. So beginning mileage for when you were called to the scene or when you left the scene?
A. I want to say that they do it as we were leaving. So when I call dispatch, I'm like, you know, I'm headed en route to the hospital, beginning mileage is this.
Q. Okay. Okay.
A. And when I get to the hospital, my ending mileage is this.
Q. Okay. So the beginning mileage is when you've

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got the patient in the truck and you are leaving?
A. Correct.
Q. So the ending mileage would be when you got to Booneville?
A. Correct.
Q. So that's 25.4 miles? Is that -- does that sound about right?
A. Sure. I'd have to get my phone to get a calculator out.
Q. That's fine. Then it says patient's name unknown. I guess you knew who the patient was but unknown at the time to dispatch?
A. Correct.
Q. Okay.
A. And this is at the time of the call too. So a lot of this is taken so it may -- she may not have known at that time either.
Q. Okay. Caller's name. What does that mean?
A. That's whoever called it in.
Q. Tray, I guess, Low? Is that is -- that is that --
A. I don't know. I have no idea.
Q. Okay.
A. No idea.
Q. But whoever called it, the time next to it would

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presumably be that person's contact number?
A. Presumably.
Q. Okay. October. Over there to the right-hand side, it says destination/transport code. Can you tell us what that means?
A. That is -- and forgive me. I'm not -- it's been two years since I worked there.
Q. Sure. Sure.
A. And every ambulance service is different, how they run their code 1s and code 2, 3, which is how emergent is it. Hers, we would have ran this with lights and sirens to the hospital.
Q. Okay.
A. And then it says changed/diverted to, changed to 706, which means we were going to Booneville.
Q. Okay. Gotcha.
A. 706 is Paris.
Q. Okay. Going down to notes, do you know what the -- it looks like kind of shorthand of abbreviations. Can you decipher any of that for us?
A. It looks like Troop H was en route at 1300. I don't know what 10-96 means. We don't use 10 codes. So I don't know what this "2-Code 11 needed per lc9" that would be a dispatch question. That would be their -- their thing.

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Q. All right.
A. I don't know who was 10-22 at 14 -- oh, I do know. That would be Mercy Life Flight. So we requested them at 1359. They had a 25-minute ETA, and we canceled them at 1406.
Q. Okay. Okay. Gotcha.
A. Yeah. So between -- so as requesting at 1359 to 1406, we went back and forth with dispatch, you know, seeing what their ETA was, if they're available, that kind of thing. So at 1406, we would have been six minutes outside of the hospital at Booneville.
MR. GASPER: Okay. Richard, can you pull up -- I think it might be the next page. It's got "ADH" at the top. There.
A. Okay. That's --
Q. Yes. Go ahead, please.
A. Oh, that is a paper PCR report that we fill out on the patient.
Q. Okay.
A. We are required to give it to them -- to the hospital upon our arrival. This particular form was filled out by Zach and I both. I'm pretty sure I was the one who signed it though.
Q. Okay.
A. The gray box at the bottom is kind of covering

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it.
Q. Okay. Can you just kind of take a quick look at this and see if there's anything on this particular piece of paper that we haven't already covered?
A. Not really -- there we go. No. I mean, other than the trauma band, which is how Arkansas tracks all of their traumas. Even if you just stumped your toe and went to the hospital by ambulance, you would get a trauma band.
Q. Okay.
A. So -- so that particular number is how they identify patients. They don't use name, date of birth, nothing like that.
Q. Go ahead.
A. I'm sorry.
Q. I don't want to interrupt you. I'm sorry. Go ahead.
A. Oh, the ATCC, which is Arkansas Trauma Comm, they were contacted because of the trauma alert. And she was obviously in the wreck, so she is a trauma alert. That's what that means in that bottom box.
Q. What time -- is this noted, like, 1447 what time you signed this; is that right?
A. That -- yeah. That would be the time that everything --

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Q. That you filled out the form?
A. Right. Well, yeah. That we got it all completed, because this is not a priority that we do when we have a critical patient.
Q. Okay. Gotcha.
A. Yeah. We treat them first and fill out the form later.
Q. I am approaching the end here, but let me just make sure I've got everything. I'm going to bounce around a little bit here.
So whenever the youngest girl said that her mom, Jackie, had been vomiting and -- for two days, did she elaborate on that at all?
A. No, sir.
Q. She has the flu or something along that line?
A. She didn't elaborate.
Q. Okay. A couple more questions. So you -- Jackie was in the house for about 26 minutes without you or any law enforcement being there that you know of; is that correct?
A. I didn't see law enforcement pull up, so I don't know what time they got --
Q. Okay. Then you. You didn't see her for about 26 minutes?
A. Correct.

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Q. Do you have any idea what occurred during that particular time period?
A. No, sir.
Q. Okay. Is it possible that something could have happened in the house that caused her head injury?
A. I mean, anything is possible. I can't contest --
Q. If she had got up to go use the bathroom and slipped on the floor and hit her head on the sink or on the toilet, would that have --
MR. JACKSON: Let me make an objection. Let me know when you're finished. I am going to make an objection and then you'll answer the question. Okay, Holly?
I didn't mean to cut you off just because of the Zoom and everything. So go ahead and finish your question, Brent.
Q. (By Mr. Gasper:) Could something have happened in the house or -- resulting from a slip and fall that would have caused a head injury at this time?
MR. JACKSON: Object to the form of the question in that it calls for speculation by the witness. Ms. Newman, you can answer as best as you can.
A. Well, I just want to clarify, you're asking me

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if, theoretically, she slipped and fell in the bathroom and hit her head, would it cause her to bleed?
Q. (By Mr. Gasper:) Yeah. Or could it have caused her to bleed?
A. It could have, but --
Q. Okay.
A. If she would have hit her head on the sink or something, she would have had some kind of swelling, laceration, or something to the back of wherever she would have hit, there would have been some kind of trauma.
Q. Okay.
A. If she had hit hard to make her bleed.
Q. Okay. But she was in a car wreck that caused it to bleed, correct, but there wasn't any mark?
A. I didn't say that it caused her to bleed because that is a million dollar question.
Q. Oh, okay.
A. I cannot answer.
Q. Okay. That's fair. But nothing you saw was inconsistent -- like if I said Holly, we actually had a video camera in there and here's what happened. She slipped and fell hit her head on a table. Was there anything that would be inconsistent with that

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statement that you saw or that you know of?
A. Like, repeat in a different --
Q. Okay. I'm sorry. Knowing what you know or what you saw and observed that day, if proof had later come out that she did, in fact, slip, you know, hit her head in a manner that caused the bleed, would you say that couldn't have happened? Was there anything inconsistent? That couldn't have happened because of X, Y, or Z, or I saw X, Y, or Z first? Is there anything inconsistent with that statement?
A. No, because I didn't see her -- I didn't see her.
Q. Right. There was a 26-minute gap and you don't really know what happened?
A. Right. No. I do not.
Q. If someone had slapped her very hard on the back of the head, could that have caused something of injury of this sort?
A. I don't feel like a slap would. I think it had to be more force than just a slap.
Q. Like a closed fist?
A. Again, you're asking questions that I --
Q. No. No. I understand you're not a doctor. Just based upon your --
A. No, I'm not.

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Q. Based upon your experience out in the field, responding to calls of MVAs or domestic situations, could, you know, injuries of this sort, could they be caused by, you know, a slap or a hit or another -- a book being hit in the back of the head?
A. Medically, there's always a possibility it could cause. Is it likely? No.
Q. Okay.
A. If she was -- and I would be -- I would feel comfortable saying if she was hit at the time that I was not there, then she would have some kind of swelling, some kind of deformity that Zach would have seen when he reassessed her when he got in the back of that ambulance.
Q. Okay. So you think that any injury that -- if she had sustained an injury in the house, it would have left marks or evidence of some sort?
A. I would feel comfortable saying yes.
Q. Okay. But the same amount of force that caused -- or that may have caused a brain bleed, that they're alleging caused the brain bleed, in a car did not leave a mark, correct?
A. Well, no. Because it was the contre -- the coup-contrecoup inside her brain that would have caused -- if the force -- the amount of force that the

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car hit her in the back --
Q. Right. Okay.
A. -- is different. So if you take a baseball bat, a book, you know, something of that sort and hit somebody in the back of the head, that's a more direct to the skull.
Q. Okay.
A. There is not -- there's force in a MVA when you're rear-ended, there's more force that causes the inside of the brain to do the coup-contrecoup. Does that make sense?
Q. No. I follow you. Sure. Sure. But you still -- something that would have occurred inside the house you don't believe could have caused that type of an injury?
A. I don't believe, no. Not without having another physical evidence.
Q. Okay. But if there were evidence, nothing is inconsistent with the fact that maybe that occurred if, like, other evidence had showed up or was there?
A. What -- if you're saying -- if, theoretically, you're saying there's other evidence to say, hey, maybe possibly she got hit inside the house, then I would -- I would not argue with that.
Q. Okay.

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A. Okay.
Q. Okay. Are you familiar with shaken baby syndrome?
A. I mean, it's -- yeah. It's where you shake --
Q. You cause a head injury in a child, correct?
A. You can.
Q. Yeah. Okay. So could she have been shaken really hard to have her head bob back and forth? Is that -- is there anything inconsistent with that that you would have seen?
A. There' nothing inconsistent, no.
Q. Okay.
A. Because that doesn't leave marks.
Q. Okay. Last questions I want to ask, you are just -- based on your own perception. Like, did this incident, your whole response to it, what you observed and your involvement in this, does this leave you with any questions? Like, that's curious or something like that, did it leave you with any kind of lingering question or issue?
A. What do you mean by that? Like --
Q. You certainly responded as a professional, as a professional medical provider?
A. Correct.
Q. And you've been on these calls for hundreds and

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thousands of times, correct?
A. Correct.
Q. And you've probably seen stuff that Jim or I couldn't even imagine.
A. Some of it, yes.
Q. Yeah. Does this incident stand out at all? Is there something that when you think about this, you think I have to say that doesn't seem right, that doesn't sit right, or that just doesn't make sense? Is there anything that is evident here to you?
A. No.
Q. So it seems just pretty -- like a routine call?
A. Pretty much. Unfortunately, she ended up having a head bleed that costed her her life.
Q. Okay. So it did not leave any question to you that you felt you -- that went unanswered in your brain to you?
A. No.
MR. GASPER: Okay. Well, Holly, I really appreciate you taking the time to meet with us today. I know Jim probably has some follow-up questions. And I apologize also if I went longer than maybe I suspected, but I wanted to make sure I was thorough. I am going to pass the witness.

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I believe Jim has some questions for you. Thanks.

FURTHER EXAMINATION

BY MR. JACKSON:

Q. Holly, I know we've been going for a little bit. I've just got a couple of follow-up questions. Okay?

A. We just need to get it done real quick, though. Kids called an hour ago, so they're outside waiting on me.

Q. I am going to be real quick.

A. My kids and my husband.

Q. Okay. So my records are showing that your -- some of these things on the timing. My records show that you left at 1:44 and arrived at Booneville at 2:12. And that would be 28 minutes. Do you have any reason to disagree with that, if that's what's shown on page 4 of 9 of your Logan County EMS records?

A. No, sir. Because it takes us about 30 minutes or so to get over that mountain, 'cause it's not a straight shot.

Q. Right. And then when you talk about 1304, you went through -- that's when you do your initial -- is that when your -- that's when you start your initial assessment of Ms. Ashcraft and her children?

A. Yes.

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Q. And that takes -- I would assume that takes several minutes to do, and then you walk with her across the street into the house. You see her and then you advise her one more time if there's any more issues with [redacted] please let somebody know. So really, 1304 is when you started. You don't know for sure the time that you left the house; is that correct?

A. That's correct.

Q. And just 'cause of the cutout, I think you said that is correct, yes?

A. Yes. That is correct.

Q. Okay. And you don't know what time Trooper Ray, who came to the van and notified you that there's an issue, you don't know what time he arrived into the house and interacted with Ms. Ashcraft and realized that she needed a paramedic's care immediately; is that correct?

A. That is correct. You would be able to get that time, should be able to get that time from his report.

Q. And then he would have -- okay. You just know what time the second assessment began of when you were able to get out of the ambulance and go inside and see her, that's your -- that's when you start that second assessment at -- of Ms. Ashcraft, correct?

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A. Correct.

Q. Okay. And then one little thing. Earlier, when you were -- when Mr. Gasper was asking you about Ms. Ashcraft's refusal for [redacted] there was -- there was a phrase adamant or I've got this.

And when I tell my teenagers to take out the trash and I may have to do it a couple of times, I may be adamant in that perhaps my voice drops. I stop what I'm doing. I'm staring at them to know that there's some punishment coming if they don't finally respond to their father, or was it more of repeated, hey, it's okay, I've got this?

I just want to make sure we understand or the record shows Ms. Ashcraft's demeanor to you during your initial assessment interaction regarding [redacted] and Ms. Ashcraft.

A. Her demeanor never changed. I used the word "adamant" because she consistently said the same thing over and over. She was never -- she never got aggressive. She never got frustrated. She just kept the same demeanor. She was like, "No. I understand."

Q. I just want -- that's what I thought. I just wanted to make sure. Okay.

A. Yes.

MR. JACKSON: I think we'll let you

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get -- I'm finished. I think Mr. Gasper May have one more follow-up question.

FURTHER EXAMINATION

BY MR. GASPER:

Q. Just that you were about to say something at the very end there, Holly. You wanted to add -- it sounded like you were not quite finished with your answer to that question, or not?

A. No. Her demeanor never changed.

Q. Pardon me?

A. Her demeanor never changed.

Q. I was making sure that we didn't get you cut off and you wanted to add something.

MR. GASPER: No, I do not have anything further. Again, thank you so much for taking your time today.

THE WITNESS: You're welcome.

MR. JACKSON: Thank you, Ms. Newman. I know it took a lot longer than what we thought, so thank you very much.

THE WITNESS: Thank you.

THE VIDEOGRAPHER: This concludes the video deposition of Holly Newman. The time is 12:07 p.m. We are now off the record.

(The deposition was concluded at 12:07 p.m.)

REPORTER CERTIFICATION

I, TAMMIE L. FOREMAN, Certified Court Reporter for the State of Arkansas, do hereby certify to the following:

1) that on 07/31/2023, the witness, HOLLY NEWMAN, was duly sworn by me prior to the taking of testimony as to the truth of the matters attested to and contained therein;

2) that the foregoing pages contain and are a true and correct transcription of the proceedings as reported verbatim by me via realtime stenography to the best of my ability and transcribed at or under my direction and supervision, and subject to appropriate changes submitted by witness, if any, during his/her requested reading and signing of this deposition according to the Arkansas Rules of Civil Procedure;

3) that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and that I am not a relative or employee of any attorney employed by the parties hereto;

4) that I am not financially interested or otherwise interested in the outcome of this action that affects or has substantial tendency to affect impartiality or requires me to relinquish control of

an original or copies of a deposition transcript before it is certified, or that requires me to provide any service not made available to all parties to the action; and

5) that I have no contract with the parties, attorneys, or persons with an interest in the action; and that I am not knowingly identified on a preferred provider list, whether written or oral, for any litigant, insurance company, or third-party administrator involved in this matter;

6) that signature of the witness is waived.

This transcript is prepared at request of counsel for CLAIMANT, and all fees are billed directly to them in compliance with Arkansas Board of Court Reporter Examiners Regulations Section 19.

Witness my hand and seal this 19th of August, 2023.

_____

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ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted] A MINOR CHILD — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

DR. RALPH SCOTT'S TRIAL EXHIBITS

Respectfully submitted,

BY: /s/ *Jim Jackson*

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Dr Ralph Scott's Trial Binder was served on the following counsel of record by email on August 22, 2024:

Mr. Vincent France
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

/s/ Jim R. Jackson.
Jim R. Jackson

EXHIBIT 10

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ECONOMIC AND FINANCIAL CONSULTING GROUP, INC.

[redacted]

March 20, 2023

Mr. Jim Jackson
Attorney at Law
Jackson Law Firm
700 West Broadway Street, Suite 2
North Little Rock, AR 72114-5528

RE: **Estate of Jacqueline Lynn Ashcraft**

Dear Mr. Jackson:

At your request, I have performed calculations concerning the value of the loss of life of Jacqueline Lynn Ashcraft (Ashcraft) in connection with the wrongful death lawsuit resulting from her death on June 12, 2021. I am also providing data concerning the statistical value of life utilized by government agencies in cost/benefit studies. In addition to loss of life damages, I have also calculated the value of the household services that Ashcraft would have provided for her surviving children and the cost of raising her surviving children that will now be incurred by her surviving sister and brother-in-law. My computations are discussed in detail below.

LOSS OF LIFE

Running through the history of economic thought, there has been a general consensus that the monetary value of life can, *at a minimum*, be determined by the present value of projected lifetime compensation. Present value represents the amount of money that would be needed at a point in time so that with appropriate financial investments a flow of lifetime compensation could be duplicated. The present value of projected lifetime compensation is commonly called "human capital" in economic literature. Conceptually, human capital is identically equal to the concept of "earning capacity" that appears in tort litigation. The present value of projected lifetime compensation can be simultaneously interpreted as a measure of the loss of life suffered by the decedent because it represents the loss of human capital or earning capacity that would

have provided the basis for lifetime personal expenditures and also a societal loss because of the elimination of the decedent's productive efforts from which society would have derived benefit. It should be stressed that the valuation of human capital is identical to computations of lost earning capacity which arise in personal injury litigation and can be calculated with equal precision. As stated above, this approach should be construed as yielding a *minimum* measure of the value of life because it focuses exclusively on lifetime earnings and ignores many other aspects of the value of life. Given these comments, a starting point for my analysis of loss of life would entail a consideration of the present value of the income flows that could have been potentially generated by Ashcraft had she remained alive. This component of loss of life as well as the residual value of life in excess of earning capacity is discussed below.

Present Value of Potential Lifetime Earnings

The evaluation of the present value of Ashcraft's potential lifetime earnings, which represents her human capital, entails a consideration of the income flows that she could have generated had she remained alive. Although Ashcraft was not working at the time of her death, I have conservatively assumed that she had an earning capacity at least equal to annualized minimum wage earnings, $22,880.00 per year. In assigning a value to these income flows, a distinction should be made between past and projected future magnitudes. Past potential earnings are not discounted; however future potential earnings should be discounted and converted into present value terms. Past earnings are calculated in accordance with equation (1), below:

(1) Past Earnings = (Base Income)(Time Interval Between Date of Death and Current Date)

In the present instance base income is assumed to be $22,880.00 per year based on annualized minimum wage earnings. As discussed above, this figure is a minimal measure of Ashcraft's earning capacity at the time of her death. The time interval amounts to 1.77 years. Performing the computation indicated by equation (1), based on the assumptions above, yields a past value of income amounting to **$40,494.47**.

The present value of future income, which represents Ashcraft's human capital or earning capacity, is calculated by projecting her base income over her remaining work life expectancy and discounting in accordance with equation (2), below:

$$\text{(2) Present Value of Future Income} = \sum_{t=1}^{T} \text{Base income}/(1+r)^t$$

where T = work life expectancy, which is alternatively assumed to be 4.86 additional years, Scenario (1), or 15.15 additional years, Scenario (2). Scenario (1) is based on Ashcraft's statistical work life expectancy based on Gary R. Skoog, James E. Ciecka, and Kurt V. Krueger: "The Markov Process Model of Years to Final Separation From the Labor Force 2012-2017: Extended Tables of Central

Tendency, Shape, Percentile Points, and Bootstrap Standard Errors", *Journal of Forensic Economics* 28(1-2), 2019 (based on her inactive status at the time of her death). Scenario (2) is based on an assumed retirement at age 67.

Base Income = $22,880.00 per year as discussed above.

r = discount factor used to convert future magnitudes into present value terms. For computational purposes, I have assumed r to be equal to 2.5% to reflect the real rate of return (interest minus inflation) on inflation indexed government bonds. These bonds would be a financial instrument almost perfectly suited to protecting against the effects of future inflation.

Performing the calculation indicated by equation (2), based on the assumptions above, yields a present value of projected future income in the range **$103,465.39** to **$285,597.80**. Adding the values of past and projected future income yields an earning capacity in the range **$143,959.86** to **$326,092.27**. This range should be interpreted as a measure Ashcraft's human capital or earning capacity. My computations are presented on a year-by year basis in the attached Table (1).

Fringe Benefits

For computational purposes, fringe benefits are assumed to amount to 30.0% of income. This figure is based on data contained in the United States Department of Labor publication: *Employer Costs for Employee Compensation – September 2022* which indicates that fringe benefits, net of paid vacation and time off, on average amount to 30.0% of income for civilian employees in the United States. Applying this percentage to the present value of potential lifetime earnings, calculated above, yields fringe benefit valuations in the range **$43,187.96** to **$97,827.68**. Fringe benefit losses can be computed on a year-by-year basis by multiplying the figures in Table (1) by the assumed fringe benefit percentage.

Adding the values of projected income and fringe benefits yields a total valuation in the range **$187,147.82** to **$423,919.95**. This range should be interpreted as a measure Ashcraft's human capital or earning capacity.

Residual Value of Life in Excess of Earning Capacity

As discussed above, the present value of lifetime earnings would represent a minimum valuation of the loss of life because it focuses exclusively on productivity and ignores other aspects of the value of life. Many of life's joys, pleasures and services, which are independent of earning capacity and are generally considered to be "priceless", have been lost as a result of Ashcraft's death. Consequently, my figures should not be interpreted as capturing the total value of loss of life but rather those aspects of loss of life that are readily quantifiable. In the attached Table (5), I have noted that additional figures for the residual value of life are to be determined by the jury. I have provided information on Ashcraft's statistical life expectancy, 33.60 additional years at the

time of her death based on the Center for Disease Control publication: *United States Life Tables, 2019*, to assist the jury in this determination. I have also provided computations, summarized in the attached Table (6), in which future residual value of life figures can be reduced to present value. Reducing future amounts to present value is consistent with the methodology advocated by the United States Government, Office of Management and Budget (OMB) in *Circular A-4*, September 17, 2003, in which guidelines for incorporating statistical value of life into cost/benefit analysis are established. This approach provides a more fairly determined measure of damages for defendants determined to be liable. The methodology encompassed in my computations could be utilized for any annual value determined by the jury.

Since the jury will be instructed and charged to arrive at a figure for loss of life damages, I have researched this issue and can assist the jury by providing for their consideration the value that government agencies place on the statistical value of life. The attached documents, published by the United States Department of Transportation (DOT) and the Environmental Protection Agency (EPA), suggest statistical values of life amounting to $11,705,859.00 and $10,742,297.00, respectively. The DOT and EPA valuations have been adjusted to the current price level. United States Census Bureau data documents a median age across the United States population amounting to 37.2 years. Life expectancy, based on this age, amounts to 43.3 additional years. Dividing the statistical values of life identified above by remaining life expectancy, yields average annual evaluations of $278,711.00 and $255,769.00 for DOT and EPA statistical values of life, respectively. The OMB, as well as other government agencies, have suggested guidelines and endorsed statistical values of life for various cost/benefit analyses that have been performed. Total and implicit annual statistical values of life for these government studies, adjusted to current price levels, are presented in the attached Table (4). I additionally attach recent *Wall Street Journal* and *New York Times* articles on this topic.

In summary, Ashcraft's loss of life would be worth at least **$187,147.82** to **$423,919.95**, the present value of her expected lifetime earnings or human capital. Losses associated with the residual value of life should be considered in addition to this amount in order to arrive at a more accurate valuation of the loss of life suffered by Ashcraft.

Lost Household Services

Because of her death, Ashcraft is no longer able to provide for her family the services she previously performed. I have assumed a value for these services amounting to $13,154.33 per year based on Expectancy Data, *The Dollar Value of the Day: 2020 Dollar Valuation* (Table 333). Calculating past and projected future losses in accordance with the methodology explained above yields loss amounts of **$23,281.36** and **$66,443.92**, respectively. Future losses are projected over the next 5.47 additional years based on the remaining time interval until Ashcraft's youngest child will reach age 18. Adding past and projected future losses yields a total loss of household services amounting to **$89,725.28.** My computations are presented on a year-by-year basis in the attached Table (2).

Cost of Raising Surviving Children

The attached Tables (3) and (4) present the annual costs, present value, and cumulative present value of the costs associated with raising Ashcraft's surviving children [redacted] and [redacted] respectively, to age 18. Annual cost figures are based on the United States Department of Agriculture Study: *Expenditures on Children by Families, 2015*. The figures presented in that study are adjusted to 2021 price levels in accordance with historical inflation rates over the period since 2015. Present values are calculated in accordance with the methodology explained above. The present values of total expenses amount to **$61,866.43** and **$28,971.49** for [redacted] respectively. My computations are presented on a year-by-year basis in the attached Tables (3) and (4), respectively.

Please be advised that my calculations do not address the costs of college or vocational education for Ashcraft's children.

My computations of economic loss are summarized in the attached tables.

This report reflects information and opinions as of the date of the report and may be amended if additional data or information becomes available. If I can be of further service in this matter, please do not hesitate to contact me.

Yours very truly,

Ralph D. Scott, Jr.

RALPH D. SCOTT, JR., Ph.D.

TABLE 1

ESTATE OF JACQUELINE LYNN ASHCRAFT
CALCULATION OF HUMAN CAPITAL / EARNING CAPACITY

Year	Base Income	Year Fraction	Lost Earnings	Present Value Factor	Economic Loss	Cumulative Economic Loss
PAST:						
2021	22,880.00	0.5562	12,725.04	1.0000	12,725.04	12,725.04
2022	22,880.00	1.0000	22,880.00	1.0000	22,880.00	35,605.04
2023	22,880.00	0.2137	4,889.42	1.0000	4,889.42	40,494.47
Total		1.7699	40,494.47		40,494.47	40,494.47
FUTURE:						
2023/24	22,880.00	1.0000	22,880.00	0.9756	22,321.95	22,321.95
2024/25	22,880.00	1.0000	22,880.00	0.9518	21,777.51	44,099.46
2025/26	22,880.00	1.0000	22,880.00	0.9286	21,246.35	65,345.82
2026/27	22,880.00	1.0000	22,880.00	0.9060	20,728.15	86,073.97
2027/28	22,880.00	0.8600	19,676.80	0.8839	17,391.42	103,465.39
Total (Scenario 1)		4.8600	111,196.80		103,465.39	103,465.39
2027/28	22,880.00	1.0000	22,880.00	0.8839	20,222.59	106,296.56
2028/29	22,880.00	1.0000	22,880.00	0.8623	19,729.35	126,025.91
2029/30	22,880.00	1.0000	22,880.00	0.8413	19,248.15	145,274.06
2030/31	22,880.00	1.0000	22,880.00	0.8207	18,778.68	164,052.74
2031/32	22,880.00	1.0000	22,880.00	0.8007	18,320.66	182,373.40
2032/33	22,880.00	1.0000	22,880.00	0.7812	17,873.82	200,247.22
2023/24	22,880.00	1.0000	22,880.00	0.7621	17,437.87	217,685.10
2024/25	22,880.00	1.0000	22,880.00	0.7436	17,012.56	234,697.65
2025/26	22,880.00	1.0000	22,880.00	0.7254	16,597.62	251,295.27
2026/27	22,880.00	1.0000	22,880.00	0.7077	16,192.80	267,488.07
2027/28	22,880.00	1.0000	22,880.00	0.6905	15,797.85	283,285.92
2028/29	22,880.00	0.1500	3,432.00	0.6736	2,311.88	285,597.80
Total (Scenario 2)		15.1500	$ 346,632.00		$ 285,597.80	285,597.80

TOTAL HUMAN CAPITAL / EARNING CAPACITY (SCENARIO 1) $ 143,959.86

TOTAL HUMAN CAPITAL / EARNING CAPACITY (SCENARIO 2) $ 326,092.27

TABLE 2

ESTATE OF JACQUELINE LYNN ASHCRAFT
CALCULATION OF LOST HOUSEHOLD SERVICES

Year	Base Annual Value	Year Fraction	Annual Loss	Present Value Factor	Economic Loss	Cumulative Economic Loss
PAST:						
2021	$ 13,154.33	0.5562	$ 7,315.97	1.0000	$ 7,315.97	$ 7,315.97
2022	13,154.33	1.0000	13,154.33	1.0000	13,154.33	20,470.29
2023	13,154.33	0.2137	2,811.06	1.0000	2,811.06	23,281.36
Total		1.7699	23,281.36		23,281.36	23,281.36
FUTURE:						
2023/24	13,154.33	1.0000	13,154.33	0.9756	12,833.49	12,833.49
2024/25	13,154.33	1.0000	13,154.33	0.9518	12,520.48	25,353.97
2025/26	13,154.33	1.0000	13,154.33	0.9286	12,215.10	37,569.07
2026/27	13,154.33	1.0000	13,154.33	0.9060	11,917.17	49,486.24
2027/28	13,154.33	1.0000	13,154.33	0.8839	11,626.51	61,112.74
2028/29	13,154.33	0.4700	6,182.53	0.8623	5,331.18	66,443.92
Total		5.4700	71,954.16		66,443.92	66,443.92

TOTAL LOST HOUSEHOLD SERVICES $ 89,725.28

TABLE 3

ESTATE OF JACQUELINE LYNN ASHCRAFT
COST TO RAISE [redacted]

Age	Base Annual Expense	Year Fraction	Projected Expense	Present Value Factor	Present Value	Cumulative Present Value
PAST:						
10	$ 8,516.08	0.2466	$ 2,099.86	1.0000	$ 2,099.86	$ 2,099.86
11	8,516.08	1.0000	8,516.08	1.0000	8,516.08	10,615.93
12	9,015.45	0.5233	4,717.67	1.0000	4,717.67	15,333.61
Total		1.7699	15,333.61		15,333.61	15,333.61
FUTURE:						
12	9,015.45	1.0000	9,015.45	0.9756	8,795.56	8,795.56
13	9,015.45	1.0000	9,015.45	0.9518	8,581.04	17,376.60
14	9,180.33	1.0000	9,180.33	0.9286	8,524.85	25,901.45
15	9,398.90	1.0000	9,398.90	0.9060	8,514.94	34,416.39
16	9,398.90	1.0000	9,398.90	0.8839	8,307.26	42,723.64
17	9,398.90	0.4700	4,417.48	0.8623	3,809.18	46,532.83
Total		5.4700	$ 50,426.51		$ 46,532.83	$ 46,532.83

TOTAL EXPENSE (PRESENT VALUE) $ 61,866.43

TABLE 4

ESTATE OF JACQUELINE LYNN ASHCRAFT
COST TO RAISE [redacted]

Age	Base Annual Expense	Year Fraction	Projected Expense	Present Value Factor	Present Value	Cumulative Present Value
PAST:						
14	$ 8,654.83	0.2767	$ 2,394.90	1.0000	$ 2,394.90	$ 2,394.90
15	9,034.93	1.0000	9,034.93	1.0000	9,034.93	11,429.83
16	9,034.93	0.4932	4,455.58	1.0000	4,455.58	15,885.41
Total		1.7699	15,885.41		15,885.41	15,885.41
FUTURE:						
16	9,015.45	1.0000	9,015.45	0.9756	8,795.56	8,795.56
17	9,015.45	0.5000	4,507.73	0.9518	4,290.52	13,086.08
Total		1.5000	$ 13,523.18		$ 13,086.08	$ 13,086.08

TOTAL EXPENSE (PRESENT VALUE) $ 28,971.49

TABLE 5

ESTATE OF JACQUELINE LYNN ASHCRAFT
SUMMARY OF ECONOMIC LOSS

	Scenario 1	Scenario 2
LOSS OF LIFE		
HUMAN CAPITAL		
Earning Capacity		
Past	$ 40,494.47	$ 40,494.47
Projected Future	103,465.39	285,597.80
Total	143,959.86	326,092.27
Fringe Benefits		
Past	12,148.34	12,148.34
Projected Future	31,039.62	85,679.34
Total	43,187.96	97,827.68
Total Human Capital	187,147.82	423,919.95
RESIDUAL VALUE OF LIFE IN EXCESS OF EARNING CAPACITY	To Be Determined	
_____ (Annual Value) X 33.6 (Life Expectancy) =		
TOTAL LOSS OF LIFE	$ 187,147.82 +	$ 423,919.95 +
LOST HOUSEHOLD SERVICES		
Past	23,281.36	23,281.36
Projected Future	66,443.92	66,443.92
Total	89,725.28	89,725.28
COSTS OF RAISING SURVIVING CHILDRTEN		
[redacted]	61,866.43	61,866.43
	28,971.49	28,971.49
Total	90,837.92	90,837.92
TOTAL ECONOMIC LOSS	$ 367,711.02 +	$ 604,483.16 +

TABLE 6

ESTATE OF JACQUELINE LYNN ASHCRAFT
SUMMARY OF ECONOMIC LOSS

	Scenario 1	Scenario 2
LOSS OF LIFE		
HUMAN CAPITAL		
Lost Earning Capacity		
Past	$ 40,494.47	$ 40,494.47
Projected Future	103,465.39	285,597.80
Total	143,959.86	326,092.27
Fringe Benefits		
Past	12,148.34	12,148.34
Projected Future	31,039.62	85,679.34
Total	43,187.96	97,827.68
Total Human Capital	187,147.82	423,919.95
RESIDUAL VALUE OF LIFE IN EXCESS OF EARNING CAPACITY	To Be Determined	
_____ X 33.6 X 0.7006 =		
Annual Value / Life Expectancy / Present Value Factor		
TOTAL LOSS OF LIFE	187,147.82 +	423,919.95 +
LOST HOUSEHOLD SERVICES		
Past	23,281.36	23,281.36
Projected Future	66,443.92	66,443.92
Total	89,725.28	89,725.28
COSTS OF RAISING SURVIVING CHILDRTEN		
[redacted]	61,866.43	61,866.43
	28,971.49	28,971.49
Total	90,837.92	90,837.92
TOTAL ECONOMIC LOSS	$ 187,147.82 +	$ 423,919.95 +

Departmental Guidance

Treatment of the Value of Preventing Fatalities and Injuries in Preparing Economic Analyses

March 2021

This guidance describes the Department of Transportation's recommended methodology for calculating the value of a statistical life (VSL) and applying it in analyses that assess the economic benefits of preventing fatalities. It also establishes policies for assigning comparable values to the prevention of injuries.

Background

Prevention of injury, illness, and loss of life is a significant factor in many private economic decisions, including job choices and consumer product purchases. When government makes direct investments or controls external market impacts by regulation, it also pursues these benefits, often while also imposing costs on society. The Office of the Secretary of Transportation and other DOT administrations are required by Executive Order 13563, Executive Order 12866, Executive Order 12893, OMB Circular A-4, and DOT Order 2100.5 to evaluate in monetary terms the costs and benefits of their regulations, investments, and administrative actions, in order to demonstrate the faithful execution of their responsibilities to the public. Since 1993, the Office of the Secretary of Transportation has periodically reviewed the published research on the value of safety and updated guidance for all administrations. The benefit of preventing a fatality is measured by what is conventionally called the Value of a Statistical Life, defined as the additional cost that individuals would be willing to bear for improvements in safety (that is, reductions in risks) that, in the aggregate, reduce the expected number of fatalities by one. This conventional terminology has often provoked misunderstanding on the part of both the public and decision-makers. What is involved is not the valuation of life as such, but the valuation of reductions in risks. While new terms have been proposed to avoid misunderstanding, we will maintain the common usage of the research literature and OMB Circular A-4 in referring to VSL.

Most regulatory actions involve the reduction of risks of low probability (as in, for example, a one-in-10,000 annual chance of dying in an automobile crash). For these low-probability risks, we shall assume that the willingness to pay to avoid the risk of a fatal injury increases proportionately with growing risk. That is, when an individual is willing to pay $1,000 to reduce the annual risk of death by one in 10,000, she is said to have a VSL of $10 million. The assumption of a linear relationship between risk and willingness to pay therefore implies that she would be willing to pay $2,000 to reduce risk by two in 10,000 or $5,000 to reduce risk by five in 10,000. The assumption of a linear relationship between risk and willingness to pay (WTP) breaks down when the annual WTP becomes a substantial portion of annual income, so the assumption of a constant VSL is not appropriate for substantially larger risks.

When first applied to benefit-cost analysis in the 1960s and 1970s, the value of saving a life was measured by the potential victim's expected earnings, measuring the additional product society might have lost. These lost earnings were widely believed to understate the real costs of loss of

life, because the value that we place on the continued life of our family and friends is not based entirely, or even principally, on their earning capacity. In recent decades, studies based on estimates of individuals' willingness to pay for improved safety have become widespread, and offer a way of measuring the value of reduced risk in a more comprehensive way. These estimates of the individual's value of safety are then treated as the ratio of the individual marginal utility of safety to the marginal utility of wealth. These estimates of the individual values of changes in safety can then be aggregated to produce estimates of social benefits of changes in safety, which can then be compared with the costs of these changes.

Studies estimating the willingness to pay for safety fall into two categories. Some analyze subjects' responses in real markets, and are referred to as revealed preference (RP) studies, while others analyze subjects' responses in hypothetical markets, and are described as stated preference (SP) studies. Revealed preference studies in turn can be divided into studies based on consumer purchase decisions and studies based on employment decisions (usually referred to as hedonic wage studies). Even in revealed preference studies, safety is not purchased directly, so the value that consumers place upon it cannot be measured directly. Instead, the value of safety can be inferred from market decisions that people make in which safety is one factor in their decisions. In the case of consumer purchase decisions, since goods and services usually display multiple attributes, and are purchased for a variety of reasons, there is no guarantee that safety will be the conclusive factor in any purchasing decision (note that even products like bicycle helmets, which are purchased primarily for safety, also vary in style, comfort, and durability). Similarly, in employment decisions, safety is one of many considerations in the decision of which job offer to accept. Statistical techniques must therefore be used to identify the relative influence of price (or wage), safety, and other qualitative characteristics of the product or job on the consumer's or worker's decision on which product to buy or which job to accept.

An additional complication in RP studies is that, even if the real risks confronted by individuals can be estimated accurately by the analyst, the consumer or employee may not estimate these risks accurately. It is possible for individuals, through lack of relevant information or limited ability to analyze risks, to assign an excessively low or high probability to fatal risks. Alternatively, detailed familiarity with the hazards they face and their own skills may allow individuals to form more accurate estimates of risk at, for example, a particular job-site than those derived by researchers, which inevitably are based on more aggregate data.

In the SP approach, market alternatives incorporating hypothetical risks are presented to test subjects, who respond with what they believe would be their choices. Answers to hypothetical questions may provide helpful information, but they remain hypothetical. Although great pains are usually taken to communicate probabilities and measure the subjects' understanding, there is no assurance that individuals' predictions of their own behavior would be observed in practice. Against this weakness, the SP method can evaluate many more alternatives than those for which market data are available, and it can guarantee that risks are described objectively to subjects. With indefinitely large potential variations in cost and risk and no uncontrolled variation in any other dimension, some of the objections to RP models are obviated. Despite procedural safeguards, however, SP studies have not proven consistently successful in estimating measures of WTP that increase proportionally with greater risks.

RP studies involving decisions to buy and/or use various consumer products have focused on decisions such as buying cars with better safety equipment, wearing seat belts or helmets, or buying and installing smoke detectors. These studies often lack a continuum of price-risk opportunities, so that the price paid for a safety feature (such as a bicycle helmet) does not necessarily represent the value that the consumer places on the improvement in safety that the helmet provides. In the case of decisions to use a product (like a seatbelt) rather than to buy the product, the "price" paid by the consumer must be inferred from the amount of time and degree of inconvenience involved in using the product, rather than the directly observable price of buying the product. The necessity of making these inferences introduces possible sources of error. Studies of purchases of automobiles probably are less subject to these problems than studies of other consumer decisions, because the price of the safety equipment is directly observable, and there are usually a variety of more or less expensive safety features that provide more of a range of price-risk trade-offs for consumers to make.

While there are many examples of SP studies and RP studies involving consumer product purchases, the most widely cited body of research comprises hedonic wage studies, which estimate the wage differential that employers must pay workers to accept riskier jobs, taking other factors into account. Besides the problem of identifying and quantifying these factors, researchers must have a reliable source of data on fatality and injury risks and also assume that workers' psychological risk assessment conforms to the objective data. The accuracy of hedonic wage studies has improved over the last decade with the availability of more complete data from the Bureau of Labor Statistics' (BLS) Census of Fatal Occupational Injuries (CFOI), supported by advances in econometric modeling, including the use of panel data from the Panel Study of Income Dynamics (PSID). The CFOI data are, first of all, a complete census of occupational fatalities, rather than a sample, so they allow more robust statistical estimation. Second, they classify occupational fatalities by both industry and occupation, allowing variations in fatalities across both dimensions to be compared with corresponding variations in wage rates. Some of the new studies use panel data to analyze the behavior of workers who switch from one job to another, where the analysis can safely assume that any trade-off between wage levels and risk reflects the preferences of a single individual, and not differences in preferences among individuals.

VSL estimates are based on studies of groups of individuals that are covered by the study, but those VSL estimates are then applied to other groups of individuals who were not the subjects of the original studies. This process is called benefit transfer. One issue that has arisen in studies of VSL is whether this benefit transfer process should be applied broadly over the general population of people that are affected by a rulemaking, or whether VSL should be estimated for particular subgroups, such as workers in particular industries, and people of particular ages, races, and genders. Advances in data and econometric techniques have allowed specialized estimates of VSL for these population subgroups. Safety regulations issued by the Department of Transportation typically affect a broad cross-section of people, rather than more narrowly defined subgroups. For that, and other policy reasons, we do not consider variations in VSL among different population groups in this guidance.

Principles and policies of this guidance

This guidance for the conduct of Department of Transportation analyses is a synthesis of empirical estimates, practical adaptations, and social policies. We continue to explore new empirical literature as it appears and to give further consideration to the policy resolutions embodied in this guidance. Although our current approach is unchanged from previous guidance, the numbers and their sources are new, consistent with OMB guidance in Circular A-4 and with the use of the best available evidence. The methods we adopt are:

1. Prevention of an expected fatality is assigned a single, nationwide value in each year, regardless of the age, income, or other distinct characteristics of the affected population, the mode of travel, or the nature of the risk. When Departmental actions have distinct impacts on infants, disabled passengers, or the elderly, no adjustment to VSL should be made, but analysts should call the attention of decision-makers to the special character of the beneficiaries.
2. Analyses conducted by DOT operating administrations should adjust the VSL to the base year used in the analysis by applying the methodology described in this guidance to account for changes in prices and real income levels.
3. Sensitivity analyses applying alternative high and low safety benefit estimates should use a range of VSLs, as described in the section below on recognizing uncertainty.

2008 VSL Guidance Update

In Circular A-4 (2003), the Office of Management and Budget endorsed VSL values between $1 million and $10 million, drawing on two then recently completed VSL meta-analyses.[1] The basis for our 2008 guidance comprised five studies, four of which were meta-analyses that synthesized many primary studies, identifying their sources of variation and estimating the most likely common parameters. These studies were written by Ted R. Miller;[2] Ikuho Kochi, Bryan Hubbell, and Randall Kramer;[3] W. Kip Viscusi;[4] Janusz R. Mrozek and Laura O. Taylor;[5] and W. Kip Viscusi and Joseph Aldy.[6] They narrowed VSL estimates to the $2 million to $7 million range in dollar values of the original data, between 1995 and 2000 (about $3 million to $9 million at current prices). Miller and Viscusi and Aldy also estimated income elasticities for VSL (the percent increase in VSL per one percent increase in income). Miller's estimates were close to 1.0, while Viscusi and Aldy estimated the elasticity to be between 0.5 and 0.6. DOT

[1] Viscusi, W. K. and J.E. Aldy (2003). "The Value of a Statistical Life: A Critical Review of Market Estimates Throughout the World." *Journal of Risk and Uncertainty*, 27(1): 5-76; and Mrozek, J.R. and L. O. Taylor (2002). "What Determines the Value of a Life? A Meta-Analysis." *Journal of Policy Analysis and Management*. 21(2).
[2] Miller, T. R. (2000). "Variations between Countries in Values of Statistical Life." *Journal of Transport Economics and Policy*. 34(2): 169-188. http://www.bath.ac.uk/e-journals/jtep/pdf/Volume_34_Part_2_169-188.pdf
[3] Kochi, I., B. Hubbell, and R. Kramer (2006). "An Empirical Bayes Approach to Combining and Comparing Estimates of the Value of a Statistical Life for Environmental Policy Analysis." *Environmental and Resource Economics.* 34(3): 385-406.
[4] Viscusi, W. K. (2004). "The Value of Life: Estimates with Risks by Occupation and Industry." *Economic Inquiry.* 42(1): 29-48.
[5] Mrozek, J. R., and L. O. Taylor (2002). "What Determines the Value of Life? A Meta-Analysis." *Journal of Policy Analysis and Management.* 21(2).
[6] Viscusi, W. K. and J. E. Aldy (2003). "The Value of a Statistical Life: A Critical Review of Market Estimates Throughout the World." *Journal of Risk and Uncertainty*. 27(1): 5-76.

used the Viscusi and Aldy elasticity estimate (averaged to 0.55), along with the Wages and Salaries component of the Employer Cost for Employee Compensation, as well as price levels represented by the Consumer Price Index, to project these estimates to a 2007 VSL estimate of $5.8 million.

2013 VSL Guidance Update

Since these studies were published, the credibility of these meta-analyses has been qualified by recognition of weaknesses in the data used by the earlier primary studies whose results are synthesized in the meta-analyses. We now believe that the most recent primary research, using improved data (particularly the CFOI data discussed above) and specifications, provides more reliable results. This conclusion is based in part on the advice of a panel of expert economists that we convened to advise us on this issue. The panel consisted of Maureen Cropper (University of Maryland), Alan Krupnick (Resources for the Future), Al McGartland (Environmental Protection Agency), Lisa Robinson (independent consultant), and W. Kip Viscusi (Vanderbilt University). The Panel unanimously concluded that we should base our guidance only on hedonic wage studies completed within the past 10 years that made use of the CFOI database and used appropriate econometric techniques.

A white paper prepared for the U.S. Environmental Protection Agency (EPA) in 2010 identified eight hedonic wage studies using the CFOI data;[7] we also identified seven additional studies, including five published since the EPA White Paper was issued (see Table 1). Some of these studies focus on estimating VSL values for narrowly defined economic, demographic, or occupational categories, or use inappropriate econometric techniques, resulting in implausibly high VSL estimates. We therefore focused on nine studies that we think are useful for informing an appropriate estimate of VSL. There is broad agreement among researchers that these newer hedonic wage studies provide an improved basis for policy-making.[8]

The 15 hedonic wage studies we have identified that make use of the CFOI database to estimate VSL are listed in Table 1. Some of these studies do not estimate an overall "full-sample" VSL, instead estimating VSL values only for specific categories of people. Some of the studies, as the authors themselves sometimes acknowledge, arrive at implausibly high values of VSL, because of econometric specifications which appear to bias the results, or because of a focus on a narrowly-defined occupational group. Moreover, these papers generally offer multiple model specifications, and it is often not clear (even to the authors) which specification most accurately represents the actual VSL. We have generally chosen the specification that the author seems to believe is best. In cases where the author does not express a clear preference, we have had to average estimates based on alternative models within the paper to get a representative estimate for the paper as a whole.

[7] U.S. Environmental Protection Agency (2010), *Valuing Mortality Risk Reductions for Environmental Policy: A White Paper (Review Draft)*. Prepared by the National Center for Environmental Economics for consultation with the Science Advisory Board – Environmental Economics Advisory Committee.

[8] A current survey of theoretical and empirical research on VSL may be found in: Cropper, M., J.K. Hammitt, and L.A. Robinson (2011). "Valuing Mortality Risk Reductions: Progress and Challenges." *Annual Review of Resource Economics.* 3: 313-336.
http://www.annualreviews.org/doi/abs/10.1146/annurev.resource.012809.103949

Table 1: VSL Studies Using CFOI Database

(VSLs in millions of dollars)

	Study	Year of Study $	VSL in Study-Year $	VSL in 2012$	Comments
1.	Viscusi (2003) *	1997	$14.185M	$21.65M	Implausibly high; industry-only risk measure
2.	Leeth and Ruser (2003) *	2002	$7.04M	$8.90M	Occupation-only risk measure
3.	Viscusi (2004)	1997	$4.7M	$7.17M	Industry/occupation risk measure
4.	Kniesner and Viscusi (2005)	1997	$4.74M	$7.23M	Industry/occupation risk measure
5.	Kniesner *et al*. (2006) *	1997	$23.70M	$36.17M	Implausibly high; industry/occupation risk measure
6.	Viscusi and Aldy (2007) *	2000			Industry-only risk measure; no full-sample VSL estimate
7.	Aldy and Viscusi (2008) *	2000			Industry-only risk measure, no full-sample VSL estimate
8.	Evans and Smith (2008)	2000	$9.6M	$12.84M	Industry-only risk measure
9.	Viscusi and Hersch (2008)	2000	$7.37M	$9.86M	Industry-only risk measure
10.	Evans and Schaur (2010)	1998	$6.7M	$9.85M	Industry-only risk measure
11.	Hersch and Viscusi (2010)	2003	$6.8M	$8.43M	Industry/occupation risk measure
12.	Kniesner *et al*. (2010)	2001	$7.55M	$9.76M	Industry/occupation risk measure
13.	Kochi and Taylor (2011)*	2004			VSL estimated only for occupational drivers
14.	Scotton and Taylor (2011)	1997	$5.27M	$8.04M	Industry/occupation risk measure; VSL is mean of estimates from three preferred specifications
15.	Kniesner *et al*. (2012)	2001	$4M - $10M	$5.17M - $12.93M	Industry/occupation risk measure; mean VSL estimate is $9.05M

* Studies shown in grayed-out rows were not used in determining the VSL Guidance value.

We found that nine of these studies provided usable estimates of VSL for a broad cross-section of the population.[9] We excluded Viscusi (2003) and Kniesner *et al*. (2006) on the grounds that their estimates of VSL were implausibly high (Viscusi acknowledges that the estimated VSLs in his study are very high). We excluded Leeth and Ruser (2003) because it used only variations in occupation for estimating variation in risk (the occupational classifications are generally regarded as less accurate than the industry classifications). We excluded Viscusi and Aldy (2007) and Aldy and Viscusi (2008) because they did not estimate overall "full-sample" VSLs (they focused instead on estimating VSLs for various subgroups). We excluded Kochi and Taylor (2011) because it estimated VSL only for a narrow occupational group (occupational drivers). For Scotton and Taylor (2011) and Kniesner *et al*. (2012) we calculated average values for VSL from what appeared to be the preferred model specifications. For our 2013 guidance update, we adopted the average of the VSLs estimated in the remaining nine studies, updated to 2012 dollars (based both on changes in the price level and changes in real incomes from the year for which the VSL was originally estimated), which yielded a recommended value of $9.1 million.

Adjustments for Inflation and Real Income Growth

In order to apply the VSL in analyses using a base year beyond the original base year of 2012, the value should be adjusted for inflation and real incomes over the intervening years. Specifically, the formula to be used is:

$$VSL_T = VSL_0 * (P_T / P_0) * (I_T / I_0)^{\varepsilon}$$

where

0 = Original Base Year
T = Current Base Year
P_t = Price Index in Year t
I_t = Real Incomes in Year t
ε = Income Elasticity of VSL

[9] These include Viscusi (2004) [cited in footnote 4]; Viscusi, W.K. and J. Hersch (2008). "The Mortality Cost to Smokers." *Journal of Health Economics*. 27: 943-958; Evans, M.F. and G. Schaur (2010). "A Quantile Estimation Approach to Identify Income and Age Variation in the Value of a Statistical Life." *Journal of Environmental Economics and Management*. 59: 260-270; Hersch, J. and W.K. Viscusi (2010). "Immigrant Status and the Value of Statistical Life." *Journal of Human Resources*. 45(3): 749-77; Scotton, C.R. and L.O. Taylor. "Valuing Risk Reductions: Incorporating Risk Heterogrneity into a Revealed Preference Framework." *Resource and Energy Economics*. 33 and Kochi, I and L.O. Taylor (2011). "Risk Heterogeneity and the Value of Reducing Fatal Risks: Further Market-Based Evidence." *Journal of Benefit-Cost Analysis*. 2(3): 381-397; Kniesner, T.J. and W.K. Viscusi (2005). "Value of a Statistical Life: Relative Position vs. Relative Age." *AEA Papers and Proceedings*. 95(2): 142-146; Evans, M.F. and V.K. Smith (2008). "Complementarity and the Measurement of Individual Risk Tradeoffs: Accounting for Quantity and Quality of Life Effects." National Bureau of Economic Research Working Paper 13722; Kniesner, T.J., W.K. Viscusi, and J.P. Ziliak (2010). "Policy Relevant Heterogeneity in the Value of Statistical Life: New Evidence from Panel Data Quantile Regressions." *Journal of Risk and Uncertainty*. 40: 15-31; and Kniesner, T.J., W.K. Viscusi, C. Woock, and J.P. Ziliak (2012). "The Value of a Statistical; Life: Evidence from Panel Data." *Review of Economics and Statistics*. 94(1): 74-87.

Inflation. The Consumer Price Index for All Urban Consumers (CPI-U)[10] should be used to adjust for inflation over time, as this price index is deemed to be representative of changes in the value of money that would be considered by a typical worker making decisions corresponding to his income level.

Real Incomes. The index recommended for use to measure real income growth as it affects VSL is the Median Usual Weekly Earnings (MUWE), in constant (1982-84) dollars, derived by BLS from the Current Population Survey.[11] This series is more appropriate than the Wages and Salaries component of the Employment Cost Index (ECI), which was used prior to the 2013 guidance revision, because the ECI applies fixed weights to employment categories, while the weekly earnings series uses a median employment cost for wage and salary workers over the age of 16. A median value is preferred because it should better reflect the factors influencing a typical traveler affected by DOT actions (very high incomes would cause an increase in the mean, but not affect the median). In contrast to a median, an average value over all income levels might be unduly sensitive to factors that are less prevalent among actual travelers. Similarly, we do not take into account changes in non-wage income, on the grounds that this non-wage income is not likely to be significant for the average person affected by our rules.

Income Elasticity. The VSL literature is generally in agreement that VSL increases with real incomes, but the exact rate at which it does so is subject to some debate. In our 2011 guidance, we cited research by Viscusi and Aldy (2003) that estimated the elasticity of VSL with respect to increases in real income as being between 0.5 and 0.6 (i.e., a one-percent increase in real income results in an increase in VSL of 0.5 to 0.6 percent). We accordingly increased VSL by 0.55 percent for every one-percent increase in real income. More recent research by Kniesner, Viscusi, and Ziliak (2010) has derived more refined income elasticity estimates ranging from 2.24 at low incomes to 1.23 at high incomes, with an overall figure of 1.44.[12] An alternative specification yielded an overall elasticity of 1.32. Similarly, Costa and Kahn (2004) estimated the income-elasticity of VSL to be between 1.5 and 1.6.[13] These empirical results are consistent with theoretical arguments suggesting that the income-elasticity of VSL should be greater than 1.0.[14]

In view of the large increase in the income elasticity of VSL that would be suggested by these empirical results, and because the literature seems somewhat unsettled, we decided in our 2013 guidance update to increase our suggested income-elasticity figure only to 1.0. While this figure is lower than the elasticity estimates of Kniesner *et al.* and Costa and Kahn, it is higher

[10] BLS Series CUUR0000SA0. Available at https://data.bls.gov/timeseries/CUUR0000SA0
[11] BLS Series LEU0252881600. Available at https://data.bls.gov/timeseries/LEU0252881600
[12] Kniesner, T.J., W.K. Viscusi, and J.P. Ziliak (2010). "Policy Relevant Heterogeneity in the Value of Statistical Life: New Evidence from Panel Data Quantile Regressions." *Journal of Risk and Uncertainty*. 40(1):15–31.
[13] Costa, D.L. and M.E. Kahn (2004). "Changes in the Value of Life, 1940-1980." *Journal of Risk and Uncertainty*. 29(2): 159-180.
[14] Eeckhoudt, L.R. and J.K. Hammitt (2001). "Background Risks and the Value of a Statistical Life." *Journal of Risk and Uncertainty*. 23(3): 261-279; Kaplow, L. (2005). "The Value of a Statistical Life and the Coefficient of Relative Risk Aversion." *Journal of Risk and Uncertainty*, 31(1); Murphy, K.M. and R.H. Topel (2006). "The Value of Health and Longevity." *Journal of Political Economy*. 114(5): 871-904; and Hammitt, J.K. and L.A. Robinson (2011). "The Income Elasticity of the Value per Statistical Life: Transferring Estimates between High and Low Income Populations." *Journal of Benefit-Cost Analysis*. 2(1): 1-27.

than that of Viscusi and Aldy, the basis for our previous guidance. It is difficult to state with confidence whether a cross-sectional income elasticity (such as those estimated in these empirical analyses), representing the difference in sensitivity to fatality risks between low-income and high-income workers in a given population, corresponds to a longitudinal elasticity, representing the way in which VSL is affected by growth in income over time for an overall population. Consequently, this guidance adopts this more moderate figure, pending more comprehensive documentation.

Value of Preventing Injuries

Nonfatal injuries are far more common than fatalities and vary widely in severity, as well as probability. In principle, the resulting losses in quality of life, including both pain and suffering and reduced income, should be estimated by potential victims' WTP for personal safety. While estimates of WTP to avoid injury are available, often as part of a broader analysis of factors influencing VSL, these estimates are generally only available for an average injury resulting in a lost workday, and not for a range of injuries varying in severity. Because detailed WTP estimates covering the entire range of potential disabilities are unobtainable, we use an alternative standardized method to interpolate values of expected outcomes, scaled in proportion to VSL. Each type of accidental injury is rated (in terms of severity and duration) on a scale of quality-adjusted life years (QALYs), in comparison with the alternative of perfect health. These scores are grouped, according to the Maximum Abbreviated Injury Scale (MAIS), yielding coefficients that can be applied to VSL to assign each injury class a value corresponding to a fraction of a fatality.

In our 2011 guidance, the values of preventing injuries were updated by new estimates from a study by Spicer and Miller.[15]The measure adopted was the quality-adjusted percentage of remaining life lost for median utility weights, based on QALY research considered "best," as presented in Table 9 of the cited study. The rate at which disability is discounted over a victim's lifespan causes these percentages to vary slightly, and the study shows estimates for 0, 3, 4, 7, and 10 percent discount rates. These differences are minor in comparison with other sources of variation and uncertainty, which we recognize by sensitivity analysis. Since OMB recommends the use of alternative discount rates of 3 and 7 percent, we present the scale corresponding to an intermediate rate of 4 percent for use in all analyses. The fractions shown should be multiplied by the current VSL to obtain the values of preventing injuries of the types affected by the government action being analyzed.

Note that these factors represent an average disutility of all injuries sustained by persons with a given MAIS. Although injured persons normally have multiple injuries, only one disutility factor should be applied to each injured person. For example, if the analyst were seeking to estimate the value for an injured person whose highest-level injury was rated "Serious" (MAIS 3), he or she would multiply the Fraction of VSL for a serious injury (0.105) by the VSL to calculate the value of the serious injury.

[15] Rebecca S. Spicer and Ted R. Miller. "Final Report to the National Highway Traffic Safety Administration: Uncertainty Analysis of Quality Adjusted Life Years Lost." Pacific Institute for Research and Evaluation. February 5, 2010. https://www.transportation.gov/office-policy/transportation-policy/uncertainty-analysis-quality-adjusted-life-years-lost.

Table 2: Relative Disutility Factors by Injury Severity Level (MAIS)

MAIS Level	Severity	Fraction of VSL
MAIS 1	Minor	0.003
MAIS 2	Moderate	0.047
MAIS 3	Serious	0.105
MAIS 4	Severe	0.266
MAIS 5	Critical	0.593
MAIS 6	Unsurvivable	1.000

These factors have two direct applications in analyses. The first application is as a basis for establishing the value of preventing nonfatal injuries in benefit-cost analysis. The total value of preventing injuries and fatalities can be combined with the value of other economic benefits not measured by VSLs, and then compared to costs to determine either a benefit/cost ratio or an estimate of net benefits.

The second application stems from the requirement in OMB Circular A-4 that evaluations of major regulations for which safety is the primary outcome include cost-effectiveness analysis, in which the cost of a government action is compared with a non-monetary measure of benefit. The values in the above table may be used to translate nonfatal injuries into fatality equivalents which, when added to fatalities, can be divided into costs to determine the cost per equivalent fatality. This ratio may also be seen as a "break-even" VSL, the value that would have to be assumed if benefits of a proposed action were to equal its costs. It would illustrate whether the costs of the action can be justified by a VSL that is well within the accepted range or, instead, would require a VSL approaching the upper limit of plausibility. Because the values assigned to prevention of injuries and fatalities are derived in part by using different methodologies, it is useful to understand their relative importance in drawing conclusions. Consequently, in analyses where benefits from reducing both injuries and fatalities are present, the estimated values of injuries and fatalities prevented should be stated separately, as well as in the aggregate.

Recognizing Uncertainty

Regulatory and investment decisions must be made by officials informed of the limitations of their information. The values we adopt here do not establish a threshold dividing justifiable from unjustifiable actions; they only suggest a region where officials making these decisions can have relatively greater or lesser confidence that their decisions will generate positive net benefits. To convey the sensitivity of this confidence to changes in assumptions, OMB Circular A-4 and Departmental policy require analysts to prepare estimates using alternative values. We have previously encouraged the use of probabilistic methods such as Monte Carlo analysis to synthesize the many uncertain quantities determining net benefits.

While the individual estimates of VSL reported in the studies cited above are often accompanied by estimates of confidence intervals, we do not, at this time, have any reliable method for estimating the overall probability distribution of the average VSL that we have calculated from these various studies. Consequently, alternative VSL values can only illustrate the conclusions that would result if the true VSL actually equaled the higher or lower alternative values. Analysts should not imply a known probability that the true VSL would exceed or fall short of either the primary VSL figure or the alternative values used for sensitivity analysis. Kniesner *et al*. (2012) suggest that a reasonable range of values for VSL is between $4 million and $10 million (in 2001 dollars), or about $5.2 million to $12.9 million when escalated to 2012 dollars. This range of values includes all the estimates from the eight other studies on which this guidance is based, and are approximately 40 percent higher and lower than the recommended 2012 base year VSL of $9.1 million. Thus, for illustrative purposes, analysts may wish to calculate high and low alternative estimates of the values of fatalities and injuries prevented by using alternative VSLs that are 40 percent above or below the base value used in the analysis.

This guidance and other relevant documents will be posted on the Office of Transportation Policy website, https://www.transportation.gov/policy/transportation-policy/economy. Questions should be addressed to Darren Timothy, Chief Economist, at (202) 366-4051, or darren.timothy@dot.gov.

MEMORANDUM TO: SECRETARIAL OFFICERS
MODAL ADMINISTRATORS

From: John Putnam
Acting General Counsel

Christopher Coes
Acting Assistant Secretary for Transportation Policy

Subject: Guidance on the Treatment of the Economic Value of a Statistical Life (VSL) in U.S. Department of Transportation Analyses – 2021 Update

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Departmental guidance on valuing the reduction of fatalities and injuries by regulations or investments has been published periodically by the Office of the Secretary since 1993. We issued a comprehensive update to our guidance in 2013, and indicated at that time that we planned to issue annual updates to adjust for changes in prices and real incomes in the intervening years.

With this update of the Department's VSL guidance (attached as a separate document to this memorandum), we have removed references to specific monetary values beyond the 2012 values used in the 2013 comprehensive update. Instead, going forward, analysts should apply the methodology described in the guidance to calculate the VSL, including by applying values for inflation and changes in real income using the data series specified in the guidance. The Office of the Secretary will also continue to provide the corresponding adjusted values to the DOT Modal Administrations as the relevant price and income data for the previous year become available. The VSL guidance document will only be updated when more significant changes are made to the methodology used to calculate the value of reducing fatalities and injuries.

Based on the methodology adopted in the 2013 guidance, price and real income changes since 2012 yield a current **VSL estimate of $11.6 million for analyses using a base year of 2020**. Values for years prior to 2020 are also shown in the table below:

Current and Prior Year VSL

Value (million $)	Base year
11.6	2020
10.9	2019
10.5	2018
10.2	2017
9.9	2016
9.6	2015
9.4	2014
9.2	2013
9.1	2012

This memorandum, as well as the updated VSL guidance and other relevant documents, will be posted on the Office of Transportation Policy website, http://www.dot.gov/policy/transportation-policy/economy , and on the General Counsel's regulatory information website, http://www.transportation.gov/regulations. Questions should be addressed to Darren Timothy, Chief Economist, at (202) 366-4051 or darren.timothy@dot.gov.

cc: Regulations officers and liaison officers

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

DEBBIE BROWN, AS ADMINISTRATRIX OF THE ESTATE OF CHRIS BROWN, AND JOE BROWN **CLAIMANT**

V. **CLAIM NO. 200809**

ARKANSAS DEPARTMENT OF TRANSPORTATION **RESPONDENT**

ORDER

Now before the Arkansas State Claims Commission (the "Claims Commission") is the claim of Debbie Brown, as Administratrix of the Estate of Chris Brown, and Joe Brown (collectively referred to herein as the "Claimant") against the Arkansas Department of Transportation (the "Respondent"). At the hearing held August 19, 2022, Claimant was represented by Brandon Lacy and Megan Henry. Trella Sparks and Amanda Andrews appeared on behalf of Respondent.

Procedural History, Prehearing Matters, and Witness Testimony

1. Claimant filed this claim against Respondent on February 10, 2020, seeking $2,000,000.00 in damages related to the March 13, 2019, death of Chris Brown (the "Decedent"). The Decedent passed away following a single-vehicle rollover accident on State Highway 316 North ("Highway 316"). Claimant alleged in the complaint that the accident occurred because Highway 316 was flooded due to issues with the ditch next to the roadway.

2. Respondent filed an Answer denying liability.

3. The Claims Commission previously entered two orders in this claim: (1) a March 25, 2022, order granting Respondent's motion to substitute counsel; and (2) a May 13, 2022, order granting Respondent's motion to continue the hearing until August 19, 2022; denying Claimant's

motion to exclude expert testimony of Stan Andrews and Dr. Chandra Thorbole; and providing a scheduling order for the parties.

4. At the beginning of the hearing, the Claims Commission considered Claimant's prehearing motion to exclude Respondent's Exhibit No. 4. However, Claimant's counsel confirmed that he was withdrawing the motion. As such, the motion was dismissed as moot.

5. At the beginning of the hearing, the Claims Commission considered Claimant's prehearing motion to exclude the expert opinion by Dr. Chandra Thorbole, which was disclosed outside of the time frame permitted in the scheduling order. Dr. Thorbole's opinion related to whether the Decedent would have survived the crash had he been wearing his seatbelt. Claimant argued that Dr. Thorbole is not a medical doctor and that his opinion is based on statistics, not specific facts in this claim. Respondent argued that, in March 2022, Respondent was still trying to get an unredacted copy of the coroner's report and that Dr. Thorbole supplemented his findings following receipt of the unredacted report. Respondent also argued that, as a biomechanical engineer with significant medical training, Dr. Thorbole can determine to a degree of biomechanical certainty whether the roof intrusion would have injured the Decedent or would have contributed to his death. The Claims Commission found that, while the attorneys representing Respondent at the hearing were not involved prior to March 2022, Respondent had already been given significant latitude with regard to Respondent's untimely expert witness disclosures. The Claims Commission also found that Dr. Thorbole's new opinion was disclosed after the extended time set for Claimant to identify any rebuttal witnesses, such that it would have been highly prejudicial to Claimant to allow Dr. Thorbole to testify regarding this untimely disclosed opinion. As such, the Claims Commission unanimously voted to GRANT Claimant's motion to exclude

testimony related to Dr. Thorbole's opinion regarding whether the Decedent would have survived the accident if he had been wearing his seatbelt.

6. At the beginning of the hearing, Respondent orally moved to exclude photos of the Decedent following the accident. Claimant's counsel agreed that he did not plan to introduce the photos (which were listed as Claimant's Exhibit No. 20). As such, the Claims Commission dismissed the motion as moot.

7. At the beginning of the hearing, the Claims Commission considered Claimant's motion to exclude certain opinion testimony of Stan Andrews and advised the parties that Mr. Andrews' testimony will be given the weight deemed appropriate by the Claims Commission, if not outright rejected.

8. At the beginning of the hearing, the Claims Commission considered Respondent's motion to exclude the affidavit of Tina Morrow. The Claims Commission found that Respondent's motion was mooted by Ms. Morrow's appearance at the hearing.

9. At the beginning of the hearing, the Claims Commission considered Respondent's motion to exclude Dr. Ralph Scott's use of VSL data. Claimant's counsel stated that the VSL tables would be removed from Dr. Scott's report and that a revised report would be circulated to Respondent and the Claims Commission, which Respondent agreed mooted its motion.

10. The Claims Commission admitted Respondent's Exhibit Nos. 1–5 (without Dr. Thorbole's supplemental report in Respondent's Exhibit No. 3) without objection, aside from Claimant's standing objection to Mr. Andrews' report. The Claims Commission admitted Claimant's Exhibit Nos. 1–19 and 21 without objection.[1]

11. The parties agreed to rely upon the pretrial briefs in lieu of opening statements.

[1] Claimant's Exhibit No. 20 was not introduced by Claimant, as explained further in Paragraph 6.

12. The witnesses were sworn in by the chair commissioner.

Testimony of Debbie Brown

13. Claimant called Debbie Brown to testify.

14. Mrs. Brown testified that she has lived in Marvell, Arkansas, for 30 years. She is a medical staff coordinator for Helena Regional Medical Center. Mrs. Brown has three children. The Decedent was her youngest child. Mrs. Brown described the Decedent as very studious, a leader in his class, and a volunteer firefighter. He loved to hunt and fish. He had a 4.0 grade point average and was attending Phillips Community College with a plan to become a nurse anesthetist. Claimant's Exhibit No. 6 includes Claimant's transcripts and information about the induction ceremony for his collegiate honor society.

15. Mrs. Brown and her husband have a family farm. The Decedent helped with the farm.

16. Claimant's Exhibit No. 5 is a drone image of the roads involved in the accident. Mrs. Brown pointed out where the accident occurred near the intersection of Highway 316 and County Road 261 (the "Intersection"). Highway 316 runs north-to-south in the image. County Road 261 ("CR 261") runs west-to-east. On March 13, 2019, Mrs. Brown was at home not feeling well. The Decedent had attended classes that day. Mrs. Brown last saw the Decedent before he went to town to the firefighter gathering. After Mr. Brown came home with food from the firefighter gathering, he got a phone call to go to the accident scene.

17. When Mr. and Mrs. Brown got to the accident scene, there were other vehicles there. Water was running down the road. Mrs. Brown was stopped by a firefighter who told her that the Decedent had passed away. Someone took Mrs. Brown back to her vehicle.

18. Claimant's Exhibit No. 1 at 263–264 has photographs that Mrs. Brown took.

19. Claimant's Exhibit No. 14 is a video that Mrs. Brown took, which shows water running down the highway on the night of the accident.

20. The following day, Mrs. Brown went back to the accident scene because it was where the Decedent was last alive. She looked at the accident scene and the debris of what had come out of the Decedent's truck. Mrs. Brown picked up a soda can, fishing lures, a tackle box, a debit card, and a piece of the windshield. Mrs. Brown went back to the accident scene every day afterwards. Someone put a cross up. After the accident, and before Respondent widened the ditch, Mrs. Brown saw the road flood many times. It just took a little bit of rain to cause the road to flood. Claimant's Exhibit No. 2 includes photographs of the road flooded.

21. Mrs. Brown learned that Respondent made repairs to the ditch when she heard an employee of Respondent talking in a restaurant. Claimant's Exhibit No. 4 is a photograph of the ditch being widened. Mrs. Brown has not seen the road flooded as much since the ditch was widened.

22. The Decedent's funeral was held in a gym because the original planned location was not large enough to accommodate all of people attending the funeral.

23. The Decedent was well liked, and he valued his life. Losing the Decedent has changed Mrs. Brown's world. Claimant's Exhibit No. 21 shows the amount of work that Mrs. Brown has missed since the Decedent passed away. She took FMLA leave and used all of her sick leave. Mrs. Brown has gone to grief counseling in Jonesboro and had three days of in-patient treatment in Little Rock. Currently, Mrs. Brown battles depression and noted that it is a "roller coaster."

24. The Decedent was a careful driver. He knew that Mrs. Brown worried, so he would call to let her know when he arrived somewhere. As an example, Mrs. Brown recalled a time where the Decedent called her to say that he was okay after getting caught in a rainstorm.

25. Mrs. Brown noted that it is hard to go to church without the Decedent there.

26. On cross-examination, Mrs. Brown confirmed that she has received $100,000.00 in insurance payouts related to the Decedent's death: (1) $50,000.00 from a fire department policy; (2) $10,000.00 policy from Mrs. Brown's employer; and (3) $40,000.00 accidental death insurance policy from Mrs. Brown's employer. Mrs. Brown said that she is seeking to be reimbursed for the lost wages listed in Claimant's Exhibit No. 21, as well as her medical bills from Bridgeway. In reviewing Claimant's Exhibit No. 5 showing the aerial drone footage of the accident location, Mrs. Brown said that the dark line showed David Carruth's field (the "Carruth Property") draining into the ditch. She stated that the Decedent would have been able to help with the farm for awhile after he started his nurse anesthetist training but acknowledged that, in her deposition, she testified that the nursing program would be very strenuous. On the day of the accident, the Decedent left the house between 7:00–7:30 p.m. It was not raining when he left. The Decedent went to the location where Mr. Brown was cooking, then left to go to a friend's house.

27. Respondent then orally moved to exclude Mrs. Brown's claims for reimbursement of lost wages or medical bills. Claimant's counsel confirmed that Claimant is not seeking those damages. As such, the Claims Commission found that the motion was dismissed as moot.

Testimony of Joe Brown

28. Claimant called Joe Brown to testify.

29. Mr. Brown testified that he has lived in a ten-mile area for his entire life. He has a 700-acre farm. He farms beans and corn and does it pretty much by himself. The Decedent helped

a lot when he had time. His older son, Nathan, has come back from Jonesboro to help with the farm since the Decedent's death.

30. Mr. Brown explained that Claimant's Exhibit No. 7 is a picture of the Decedent with Governor Asa Hutchinson taken after the Decedent sold Governor Hutchinson a t-shirt while the Decedent was volunteering at a festival.

31. On March 13, 2019, Mr. Brown was grilling for three volunteer fire departments. As everyone was heading home, the Decedent drove up to see if there was any food left for Mrs. Brown. Mr. Brown said that he was going home and would take some food to her. The Decedent ate and then said he was going out to the derby car shop. Mr. Brown told him to be careful, and that was the last thing Mr. Brown said to the Decedent.

32. When Mr. Brown arrived at home, he carried some food inside, then he got a phone call from someone telling him that the Decedent had been involved in an accident. Mr. Brown knew at that time that the Decedent had not survived the accident and regrets not telling Mrs. Brown then.

33. When Mr. and Mrs. Brown arrived at the accident scene, he recalls seeing an overturned vehicle, different colored lights, and rescue vehicles. Mr. Brown went to take pictures, but when he realized that his phone was dead, he asked Mrs. Brown to take pictures. Another firefighter saw Mr. Brown running toward the Decedent's vehicle, told him that the Decedent had passed away, and asked Mr. Brown to let the emergency workers do their jobs. Mr. Brown could not do anything to help, so he prayed.

34. Claimant's Exhibit No. 14 shows the water in the roadway. Mr. Brown said that it was over his feet. He was wearing boots, but if he had been wearing dress shoes, the shoes would

have been full of water. The video shows flowing water, not standing water. The water was flowing south.

35. Claimant's Exhibit No. 1 at 302 shows the headlight from the Decedent's vehicle in the water. Mr. Brown noted that you can see the white line of the roadway under the water.

36. Claimant's Exhibit No. 1 at 303 shows the bumper from the Decedent's vehicle near the white line of the roadway. Claimant's Exhibit No. 1 at 298–299 shows the same bumper near the Carruth Property.

37. The following day, Mr. Brown went back to the accident scene with Mrs. Brown to look for anything that belonged to the Decedent, including the Decedent's Apple watch. They found the Decedent's debit card. Items had been carried down the road by the flowing water. There was still standing water the following day.

38. Claimant's Exhibit No. 2 at 372 shows part of the headlight from the Decedent's vehicle. Rocky Ford took the picture. Mr. Brown and others had picked up pieces of the headlight and piled them up in this location. He did not know that those pieces would be used to say that the Decedent was speeding at the time of the accident. Mr. Brown has been back to the accident scene many times.

39. Claimant's Exhibit No. 2 at 238 is a photograph Mr. Brown took of water on the roadway at the accident scene. This photograph shows a truck coming in the same area where the Decedent's accident occurred. He is not sure how much rain had fallen when the photograph was taken, but he stated that one-half inch of rain would bring the water over the highway.

40. Claimant's Exhibit No. 2 at 192 is another photograph taken by Mr. Brown. He noted the sunny skies and the ditch still full of water. Mr. Brown stated that this photograph shows the grass blocking the flow of water and that the water goes across the highway near the sign.

41. Losing the Decedent has been a struggle. It is difficult seeing a truck the same color as the Decedent's vehicle and not having the Decedent available to help on the farm. Before the accident, the Decedent helped a lot on the farm. But in 2019, the farm lost money, which Mr. Brown approximated at $50,000.00. Nathan Brown helped when he could, and Mr. Brown had to hire a couple of guys but could not find good tractor drivers like the Decedent because the good tractor drivers all already had employment. In 2020, the farm did a little better, but 2022 was a "catastrophe."

42. Mr. Brown takes medicine to help with the pain of losing the Decedent. He has been to his family doctor several times, and the family doctor has increased Mr. Brown's dosage. Mr. Brown has not been able to afford counseling.

43. Claimant's Exhibit No. 6 at 1059 is the funeral home invoice for $7,287.47. Mr. Brown testified that he also had a $600.00 gravedigging expense.

44. Claimant's Exhibit No. 16 is the estimate for the Decedent's headstone, although Mr. Brown clarified that the estimate for $11,864.48 has since expired.

45. Mr. Brown stated that the loss of the Decedent is not something you get over. Mr. Brown only has his wife, two of his children, and a sister left. He got to say goodbye to his parents and one of his brothers. The last words that the Decedent heard Mr. Brown say were "be careful." The Decedent would help anyone, and Mr. Brown called him "little man."

46. On cross-examination, Mr. Brown clarified that it was not raining when the Decedent left the cookout because they were sitting on the tailgate. It may have been drizzling. The Decedent was headed to the derby car shop, which is a place that he went three times per week or whenever he had time. The Decedent and others were working on derby cars there. Mr. Brown would help prep the packed dirt for the area, and the Decedent would mow the grass. The Decedent

wanted to build his own derby car. Regarding Claimant's Exhibit No. 5, Mr. Brown is not sure whether CR 261 is at a higher elevation, but CR 261 must drain into the ditch alongside Highway 316. The resting point of the Decedent's vehicle was near the road sign, and the pile of headlight pieces was south of the accident scene. Referring to Claimant's Exhibit No. 1 at 372, Mr. Brown cannot identify which pieces of the headlight were moved to that spot. He noted that other people were there before Mr. Brown arrived. Mr. Brown does not think he would have picked up the pieces of the headlight that were very small. Mr. Brown confirmed that he is not making a claim for damages based upon his farm losses. Mr. Brown does not know if NEA Counseling would have been free or low cost, but he stated that there was always a co-pay. He was focusing on his wife's counseling. Mr. Brown preferred to sit on a tailgate in a field to grieve the Decedent. Regarding Claimant's Exhibit No. 2 at 238, Mr. Brown stated that this photograph was taken after the Decedent's accident, but he does not know exactly when. He noted that the blue truck in the photograph made it through the water without rolling over, but he clarified that this photograph was taken during the day and that the water in the roadway is not visible at night.

47. On redirect, Mr. Brown testified that the Decedent was a careful driver. Mr. Brown took the Decedent to accident scenes with the fire department to show him the consequences of driving recklessly.

48. Upon a question from a commissioner, Mr. Brown confirmed that the Decedent was living at home prior to the accident.

Testimony of Tina Morrow

49. Claimant called Tina Morrow to testify.

50. Ms. Morrow lives in Lexa, Arkansas, and she used to be a bus driver for the school district. She knows who the Decedent was. Ms. Morrow was a bus driver when the accident

occurred. She saw the area of the Intersection flooded prior to the Decedent's accident. Ms. Morrow called Respondent to report the flooding before the accident, but no one did anything to address the flooding until after the Decedent's accident.

51. On cross-examination, Ms. Morrow stated that she does not know who she spoke with when she called Respondent. She told Respondent that there is a ditch beside the road that needs to be dug out because water would stand on the road when the ditch filled up. Ms. Morrow clarified that the flooding occurred near the Intersection. Ms. Morrow lives on CR 261, so she goes through the Intersection daily. She has never had an accident due to the flooding in the roadway. Ms. Morrow only called Respondent once to report the flooding. She does not know anyone who works for Respondent. The flooding happened by the Carruth Property. Ms. Morrow did not send any documentation to Respondent regarding her concerns.

Testimony of Clay Young

52. Claimant called Clay Young to testify.

53. Mr. Young lives in Lexa, Arkansas, on Highway 316. He is familiar with the area of the Decedent's accident. His land (the "Young Property") is northeast of the Intersection. He has owned the Young Property for 31 years and has observed the flooding. Respondent performed repairs on the ditch near the Young Property by digging it out in 2014, but the digging stopped at the end of his property line. Respondent came back to dig out the ditch after the Decedent's accident. After 2014, Mr. Young saw flooding along the Carruth Property. Mr. Young has never talked to anyone at Respondent about the flooding but said that everyone knew it was a problem.

54. On cross-examination, Mr. Young stated that his house sits in the middle of the Young Property. His house is a quarter mile from the Intersection. Respondent has worked on ditch issues around Mr. Young's house and put in a culvert when Mr. Young built his house. CR

261 is the southern border of Mr. Young's farm. He has seen CR 261 drain onto Highway 316. Mr. Young knows James Wallace, who used to work for Respondent, as well as another employee named Tony. Mr. Young had general conversations with Respondent's workers about the flooding, but it has flooded so many years that everyone knew it was a problem. He talked with Respondent about an issue one quarter mile north of the Intersection, and Respondent fixed that issue. He did not talk to Respondent about that Intersection.

Testimony of Lauren Reeves

55. Claimant called Lauren Reeves to testify.

56. Ms. Reeves lives on Highway 316 in Poplar Grove, Arkansas. She has lived there since 2014 and is familiar with the area of the Decedent's accident. Looking at Claimant's Exhibit No. 5, Ms. Reeves lives one mile north of the Intersection. She drives that road all the time and observed flooding before the Decedent's accident.

57. Claimant's Exhibit No. 8 is a video taken by Ms. Reeves on June 1, 2018. She took the video showing the flooded Intersection to show her frustration in trying to get home. Ms. Reeves complained to Respondent about the flooding. She called Respondent in 2016 and later wrote a letter about the continued flooding. Ms. Reeves mailed that letter to Respondent's address on I-49. She never received a follow up call from Respondent, and nothing was done to address the flooding until after the Decedent's accident. Ms. Reeves does not have a copy of the letter that she sent to Respondent.

58. On cross-examination, Ms. Reeves stated that she did not send the video to Respondent. She used the video to show her family and friends the condition of the road. She does not recall the name of the person she spoke with at Respondent's office. Ms. Reeves said that her letter was addressed to Respondent, not to a specific person. She did not follow up on her letter

with another phone call. Ms. Reeves does not know anyone who works for Respondent. CR 261 spills water onto Highway 316. There are a lot of farms on this road, and farms will drain into roadside ditches sometimes.

59. On redirect, Ms. Reeves noted that at the eight-second mark in the video found at Claimant's Exhibit No. 8, the water is flowing from the ditch onto Highway 316. Ms. Reeves called Respondent prior to the Decedent's accident and sent the letter to Respondent after the Decedent's accident.

60. On re-cross, Ms. Reeves confirmed that after the eight-second mark of the video, the water seen at the bottom of the screen is in the ditch.

Testimony of Bernie Auld

61. Claimant called Bernie Auld to testify.

62. Mr. Auld is an expert witness on hydrology issues. Claimant's Exhibit No. 10 is Mr. Auld's curriculum vitae. He has 30–40 years of experience in water safety. He has helped with roadway design for states, including Arkansas, as well as the federal government. Mr. Auld is a professional engineer in Arkansas.

63. In connection with this claim, Mr. Auld reviewed photographs, depositions, and videos. He is familiar with the guidelines for roadways.

64. Mr. Auld stated that Respondent deviated from the applicable standards and guidelines with respect to the Intersection.

65. Claimant's Exhibit No. 11 is a copy of Mr. Auld's presentation. The first slides show the cross-section of the road and ditch. The standard for highway ditches is a minimum of two feet. Respondent is responsible for the maintenance. The minimum culvert size is eighteen inches. One of the slides shows a buildup of grass and other materials preventing drainage from

the roadway. The inset photograph shows water in the roadway even after a rain event because the water is not able to overcome the buildup of grass. Mr. Auld stated that the right-of-way goes up to the power poles in the photographs.

66. The next slide shows how the height of soil and grass built up on the side of the roadway affects how much rain is required for the roadway to be inundated with water. Where the buildup of soil and grass is one inch tall, water will inundate four feet of the roadway. Where the buildup is two and one-half inches tall, water will cover the roadway. Where the buildup is three inches, the roadway will be overtopped by three-eights of an inch of water. The buildup of material evident from the photographs in the slide forces water into the roadway.

67. In discussing a slide showing the "proper standard of care conditions," Mr. Auld explained the importance of maintaining the ditch to ensure positive run-off.

68. Mr. Auld set out one of Respondent's maintenance standards titled "Inspect, Clean and Repair Minor Drainage Structures" (referred to as Function 441) in a slide, noting the following language:

> Emphasis to be placed on regular inspection and cleaning of all minor drainage facilities with repairs and replacement as necessary to prevent catastrophes and emergencies as much as possible. Work may be accomplished more efficiently and skillfully before it is under water, plugged up, or partially washed out.
> …
> Inspection and cleaning will be performed by proceeding along the roadway checking each drainage feature in sequence.
> …
> Inspections should be made during rains to locate trouble spots and insure [sic] that trash doesn't block necessary drainage facilities.

Mr. Auld stated that Respondent did not follow the Function 441 maintenance standard.

69. Mr. Auld set out another of Respondent's maintenance standards titled "Clean and Reshape Ditches" (referred to as Function 442) in a slide, noting the following language:

> Definition[:] Machine Cleaning and reshaping of roadside ditches and other side ditches with excess material loaded, hauled and disposed of.
>
> Guide[:] When normal drainage flow in ditches is obstructed or impeded because of erosion of back slopes, inslopes, ditches or natural channels deposit silt, sand, vegetation and other materials therein, cleaning is required to restore proper drainage pattern.

Mr. Auld stated that Respondent did not follow the Function 442 maintenance standard. When normal drainage flow is obstructed, ditches should be cleaned to restore proper drainage pattern. You should not see standing water in a ditch or water being forced onto the pavement. Mr. Auld stated that whether these maintenance standards were met is easily observable.

70. Another slide shows the ditch filled in, and water forced across the roadway. Without a continuous ditch, there is nowhere for the water to go except the roadway. Once water is in the roadway, Mr. Auld asserted that it is Respondent's job to convey the water in a safe manner. Any water that enters the right-of-way is Respondent's job to handle. The root cause of the drainage issues in this photograph is the obstruction south of the Intersection.

71. Another slide shows the ditch holding water. This demonstrates a lack of maintenance.

72. 'Overtopping' refers to water going over the crest of the road. From the previous slide calculating the amount of roadside buildup necessary to inundate the roadway with water, it is known that the water on the side of the roadway is at least two and one-half inches deep. That is known to a mathematical certainty. In this photograph, there is a significant amount of roadway inundation.

73. Mr. Auld pointed out that the lanes did not have retroreflective lighting. Respondent objected to this testimony but conceded that Mr. Auld discussed this at his deposition. The chair commissioner instructed Claimant's counsel to move on from this point.

74. Another slide shows water "unravelling" the shoulder, which could create a drop-off and cause a driver to lose control of his or her vehicle. Mr. Auld noted that this photograph also shows water present after a rain event.

75. Another slide compares the rainfall recorded by three nearby National Oceanic and Atmospheric Administration (NOAA) rain gauges in Marianna, Helena, and west of Marvell. The average rainfall for those three gauges on March 13, 2019, was 0.02 inches.

76. In another slide, the average of the three NOAA rain gauges would suggest that the roadway at the accident scene would have been overtopped by water twice in February 2019, twice in January 2019, and four times in December 2018.

77. Mr. Auld provided excerpts from Respondent's drainage manual. Section 1-200 states that the gutter should limit the ponding of water so that at least one lane of traffic can travel safely. When this standard cannot be met, Respondent should notify law enforcement and have barricades and signage placed to warn motorists.

78. Mr. Auld included slides on Arkansas's storm water law and the glossary from the drainage manual.

79. Mr. Auld also included the federal Geometric Design Criteria for Non-Freeway Resurfacing, Restoration, and Rehabilitation Projects, which were adopted by Respondent. These guidelines are sometimes referred to as "RRR" or the "Three Rs." The purpose of these guidelines is to "preserve and extend the surface life of existing highways and to enhance safety." Mr. Auld stated that the accident scene does not meet Sections 4.2 (regarding the cross-section of the roadway) or 5.1 (regarding the pavement drop off) of the RRR.

80. Mr. Auld included a photograph from the accident scene, which shows a portion of the Decedent's vehicle in the ditch. He stated that this photograph shows the buildup on the side

of the roadway and water in the roadway from a lack of proper maintenance. Even if Respondent did not have the funding to fix the problem, Respondent had a duty to notify the motoring public with barriers. Had Respondent properly maintained the road, Claimant would not have had to file this claim.

81. Mr. Auld concluded that Respondent failed to comply with the applicable guidelines and standards for the maintenance and drainage of Highway 316 by not maintaining at least one lane of travel and failing to notify the public.

82. On cross-examination, Mr. Auld confirmed that he has not scheduled maintenance for highways. He also confirmed that the Marvell and Helena rain gauges did not register any rain on March 13, 2019. He has not been to the accident site to measure the buildup on the edge of the roadway. He acknowledged that some of the recent work by Respondent was completed by the time he became involved in this matter. Mr. Auld stated that, because of the inundation of the road, he can determine the height of the ridge. It is possible that CR 261 also has drainage issues, and he does not know who maintains that road. Functions 441–442 are maintenance standards, not requirements or directives. There is no maintenance schedule provided. Mr. Auld created the cross-section of the roadway and the ditch. That information was not part of the roadway design plan. Mr. Auld does not know the original design of the road. He is not offering an opinion as the cause of the accident or the cause of the Decedent's death. It is up to the state to determine what road projects are to be designated as RRR projects. Highway 316 has not been approved for such funding to Mr. Auld's knowledge.

83. On redirect, Mr. Auld stated that Respondent took over Highway 316 in the 1970s. There is no dispute that the Decedent's accident was caused by hydroplaning. Mr. Auld's testimony is that there was at least two and one-half inches of water in the roadway because

Respondent failed to maintain the right-of-way or to notify the public of the hazardous condition. If there was a drainage problem with CR 261, Respondent would have to take care of any water that came onto Highway 316 under state guidelines. Respondent objected to Mr. Auld offering a legal opinion, and the Claims Commission sustained Respondent's objection.

84. On re-cross, Mr. Auld confirmed that he did not have the reference for the county road drainage issue with him.

Testimony of Nathan Brown

85. Claimant called Nathan Brown to testify.

86. Mr. Brown has lived in Jonesboro, Arkansas, since 2011. He is married with one child. Mr. Brown was ten years old when the Decedent was born. Mr. Brown and the Decedent became close as the Decedent got older. They talked multiple times each week.

87. On March 13, 2019, Mr. Brown received a phone call from a friend while he was at work telling him to go to the accident scene. As he was coming into Wynne, Arkansas, he received another phone call from his father telling him to slow down because the Decedent had passed away.

88. Mr. Brown has days when he does not want to get out of bed. He said that his work ethic has plummeted and that he cannot take his mind off the loss of the Decedent.

89. Mr. Brown said that his sister is not present at the hearing because she is a school counselor and had to be at work. She was a mother hen to him and to the Decedent. Mr. Brown has observed his sister's grief and stated that she was in counseling for a period of time but prefers dark silence to grieve.

90. Mr. Brown noted that the Decedent was not an average teenager. This accident could have been prevented. The Decedent was an extraordinary kid and honor student. He woke up ready to help people.

91. Respondent declined to cross-examine Mr. Brown.

Testimony of Dr. Ralph Scott

92. Claimant's counsel proffered a revised report by Dr. Ralph Scott to replace Claimant's Exhibit No. 13. Claimant's counsel confirmed that the revised report is restricted to lost earnings and that only Tables 1–2 need to be considered. Respondent stipulated to the admission of the revised report but not to the validity of the revised report.

Testimony of Montae Hernandez

93. Respondent called Trooper Montae Hernandez to testify.

94. Trooper Hernandez works for the Arkansas State Police. As a state trooper, he patrols state highways. In 2019, he was assigned to Troop D covering several counties including Phillips County. He is familiar with the Decedent's accident.

95. When Trooper Hernandez was dispatched to the accident scene, that was the first time he had been on Highway 316. Upon arrival at the scene, he saw a Toyota Tundra in the eastbound ditch. Referring to the accident report, the vehicle was 59 feet south of the Intersection on its side facing the western side of the road. It was raining when he arrived and throughout his investigation.

96. Trooper Hernandez looked at the damage to the vehicle and walked down the south portion of Highway 316, where he saw two separate locations where the vehicle had impacted the ditch.

97. Trooper Hernandez stated that the roadway was covered in water.

98. He saw the Decedent facedown in the water with the vehicle on top of him. The Decedent was not wearing a seatbelt because there was no slack in the seatbelt.

99. In the accident report, Trooper Hernandez provided measurements to show how far the vehicle was off the roadway. He took photographs of the accident scene.

100. On cross-examination, Trooper Hernandez stated that his boots were submerged in the water at some spots. He was on the scene for at least one hour. He saw water flowing in the roadway but cannot recall which direction the water was flowing. Claimant's Exhibit No. 1 at 298 is a photograph taken by Trooper Hernandez. There is a beer bottle visible in the picture, but there is no evidence that the Decedent was drinking, and the toxicology report came back negative. Claimant's Exhibit No. 1 at 299–314 are additional photographs taken by Trooper Hernandez.

Testimony of Robert Gray

101. In Claimant's case-in-chief, Claimant proffered the deposition of Robert Gray, which was received without objection.

102. Respondent called Mr. Gray to testify.

103. Mr. Gray is Respondent's area maintenance supervisor in Phillips County and has served in that role since 2017. He has worked for Respondent in maintenance for 24 years. He is familiar with the accident scene. The topography of CR 261 slopes down toward Highway 316.

104. Mr. Gray stated that farmers can clean out the ditches adjacent to their property, but there is a process involving the farmer putting up a bond. Farmers cannot change the slope of the ditch. To the best of his knowledge, neither David Carruth nor Clay Young ever went through this process.

105. He noted that Respondent is not responsible for water coming from the farms. Highway 316 was not designed by Respondent. It was a county road that Respondent took over at some point.

106. Mr. Gray said that, to his knowledge, no one at his office ever received a call about flooding on Highway 316 prior to the Decedent's accident. His office keeps a record of people that call with complaints.

107. Respondent digs out ditches as needed. There is no set policy. If a landowner complains, or if one of Respondent's employees sees a blockage, the maintenance crew brings out equipment. Mr. Gray is familiar with Functions 441 and 442. There is no time frame for that maintenance.

108. Mr. Gray tries to go down every road in Phillips County at least once per week. He never saw too much grass in the ditches and never saw water overtopping the roadway south of the Intersection.

109. On cross-examination, Mr. Gray said that he is not aware of any standard for measuring the ditches. If water is flowing, the ditch must be deep enough. Mr. Gray acknowledged that Claimant's Exhibit No. 2 at 192 shows standing water and that the ditch is out of compliance. Mr. Gray interprets Functions 441 and 442 as standards that he follows and that are applicable to his job. He does not document when he inspects a roadway, but he does document when he finds a concern. He could look at the GPS to confirm whether he went by this stretch of highway, but he has not done that. Mr. Gray acknowledged that it is his responsibility to fix a problem before it results in a catastrophe whenever possible. Mr. Gray went to the Intersection the day after the accident and did not see any water on the road. "Mopping out" a ditch falls under Function 441, and machining the ditch to reestablish flow falls under Function 442. Respondent reshaped the

ditch ten months after the Decedent's accident. This reshaping was done because of a complaint by Clay Young, not because of the Decedent's accident. When Mr. Gray finds a problem, he talks to the maintenance crew supervisor to schedule a trackhoe. Mr. Gray has never seen flooding in the area of the accident. He has never seen an issue with water coming off of CR 261 onto Highway 316.

110. On redirect, Mr. Gray looked at Claimant's Exhibit No. 2 at 192 and said that the work done on the ditch was done to reshape the entire ditch from CR 261 to the next cross-drain.

Testimony of Matthew Emberton

111. In Claimant's case-in-chief, Claimant proffered the deposition of Matthew Emberton, which was received without objection.

112. Respondent called Mr. Emberton to testify.

113. Mr. Emberton is Respondent's district maintenance engineer for District 1. He has worked for Respondent since 2008 and in maintenance since 2015. District 1 covers multiple counties, including Phillips County. He oversees area maintenance supervisors.

114. Mr. Emberton tries to get over every part of the highway system in his district every two months. Other folks do, as well.

115. Functions 441 and 442 are functions that Respondent performs. There is a maintenance manual, as well. A chart in the back sets out the schedule for Function 441 and 442. Those functions are expected to be performed in March, April, or May. The chart allows crews to build a workplan.

116. Mr. Emberton is familiar with the Intersection. The topography of the highway is relatively straight. There is good visibility.

117. He is not aware of any complaints of water in the roadway near the Intersection. Those complaints are typically fielded at the local level by the area maintenance supervisor. If Mr. Gray had scheduled work to be done, Mr. Emberton would know about it.

118. Mr. Emberton is aware of two phone calls from Ms. Morrow, one of which was regarding the Barton school.

119. CR 261 and adjacent farmland flow into Highway 316.

120. It is quite a process if a farmer wants to clean out the ditches adjacent to his or her land. A formal letter must be issued by Respondent. Depending on circumstances, a farmer may have to have traffic control in place.

121. On cross-examination, Mr. Gray confirmed that for a farmer to clean out the ditches, the farmer must put up a bond, meaning that money is spent upfront. The approval can be as quick as a week, but if it involves a lane closure, it can take longer. Mr. Gray stated that the accident site was on Respondent's right-of-way. Mr. Gray saw videos of water overtopping the road and agreed that Respondent should proactively try to fix problems. He did not personally know about the flooding issue but agreed that if ditches cannot flow, they need to be fixed. Referring to Claimant's Exhibit No. 2 at 192, Mr. Emberton stated that he cannot tell if there is a ditch from the photograph but confirmed that there should be a ditch. He has been unable to find any engineering plans for this section of roadway and could not find any measurements to see if the ditch fits the standards. The buildup seen in Claimant's Exhibit No. 2 at 192 happens over time and prevents proper drainage.

122. On redirect, Mr. Emberton testified that he does not know the design flood stage for Highway 316. If a design flood stage is exceeded, there will be water in the road. Depending on the intensity of the rainfall, it can happen. The design flood stage refers to the maximum that

the ditches, culverts, cross-drains, and side drains are designed to handle. It is not the responsibility of Respondent to keep all water off the road at all times.

123. Upon a question from a commissioner, Mr. Emberton confirmed that efforts are made by Respondent to see the roadways in various weather conditions.

Testimony of Cannon Callicott

124. In Claimant's case-in-chief, Claimant proffered the deposition of Cannon Callicott, which was received without objection.

125. Respondent called Mr. Callicott to testify.

126. Mr. Callicott is Respondent's district engineer for District 1. He has been employed by Respondent for 26 years and has held a variety of engineering positions. His role is largely administrative.

127. Highway 316 has been a state highway since 1974. In the 1960s and 1970s, there were a lot of unimproved county roads that were made part of the state highway system because the state had more money for road improvements. There is a difference between an 'inherited' county road and a road built by Respondent. Inherited county roads are not brought up to current standards using maintenance funds because bringing a road up to current standards is considered a rebuild.

128. When Respondent designs a ditch on a highway, the side drains and ditches are designed for a 'two-year-storm.' If the road is inherited, the ditch is just shaped and fit to what is there.

129. If the ditch is not sufficient, Mr. Callicott stated that water could overtop the road.

130. Counties maintain county roads. Respondent has no responsibility or maintenance rights for county roads. If the county road is a gravel road, the county will grade the road.

131. There are a variety of ways for Respondent to receive complaints, including telephone calls to one of Respondent's offices, notification by law enforcement, and the reporting option through Respondent's website. There may also be options through social media. As much as possible, the local offices handle maintenance issues. Mr. Gray could handle pothole repairs or tree issues. If a ditch needed to be regraded, though, a trackhoe would be scheduled through the district.

132. Each office handles complaints with its own system. The records available might depend on the way the complaint comes into the office. If there is a flooding complaint, Respondent sends folks out to verify and to put up signs and barricades.

133. The district did not receive any road issue reports the night of the Decedent's accident. That same night, however, Lee County had two reports.

134. Mr. Callicott has seen water running into the right-of-way from farms. Grading and crop choice can all affect water coming into the ditches, although not typically to the extent seen in this situation.

135. There was some ditch work completed on Highway 316 before Mr. Callicott started in his position. Some additional work was done recently.

136. 'Mopping out' means cleaning out the drain. This is usually minimal. Usually, a 'mop out' is triggered by complaints by the public. A mop out is done by a district maintenance crew. Minor work with a backhoe can be done by a county crew.

137. RRR projects came about in the late 1980s and 1990s. When Respondent constructs a roadway, it must meet those standards in order to get the funding.

138. Mr. Callicott is not aware of any complaint from flooding on Highway 316.

139. In the videos showing the accident scene, the water is moving, so that indicates drainage because the water is going somewhere. The water is not leaving the roadway as quickly as everyone would like. There is more flow than there is capacity to drain.

140. Respondent must use maintenance funds to maintain the capacity of a highway when it was built, meaning a two-year storm.

141. On cross-examination, Mr. Callicott stated that the flowing water makes sense given the topography of the Intersection. Highway 316 is not an RRR project because acquisition of the highway happened prior to the start of the RRR program in the 1980s. Highway 316 cannot become an RRR project until Respondent reconstructs the highway. Mr. Callicott is not testifying that Respondent has no responsibility for an inherited highway until the highway is rebuilt. He does not know the particular design for Highway 316. The intensity of the rainfall matters more than the amount of rain. The ditch at issue here met the two-year storm requirement. This requirement means that, on average, a two-year storm will exceed the capacity of the ditch. Referring to Claimant's Exhibit No. 2 at 192, this ditch would meet a two-year design storm, although it does show water ponding south of the Intersection. Claimant's Exhibit No. 2 at 106 is another two-year rain event, as is Claimant's Exhibit No. 2 at 116. However, Claimant's Exhibit No. 2 at 116 has water pooling south of the Intersection that must be from CR 261. Claimant's Exhibit No. 2 at 112 shows water going over the road where the deeper part of the ditch ends. Claimant's Exhibit No. 3 is dated June 2014 and shows work being performed north of the Intersection on the Young Property. If someone reported an issue to one of the people working for Mr. Gray, it would not necessarily get back to Mr. Gray. People are prone to hyperbole, such as saying that a certain road is the worst in the state. If Mr. Young told workers about the flooding, those workers do not have to report every complaint to their supervisor. That is not a requirement

in the personnel manual. Mr. Callicott has no evidence regarding whether Ms. Morrow or Mr. Young were or were not telling the truth.

142. On redirect, Mr. Callicott stated that CR 261 goes uphill from Highway 316. On the aerial picture, you can see drainage coming from the Carruth Property. The mop out of the ditch adjacent to the Young Property was not continued south of the Intersection because it was beyond the scope of the complaint received by Respondent, and Respondent did not want to disturb the vegetation (a ditch with no vegetation will wash out).

143. On re-cross, Mr. Callicott testified that he is not sure of the date of the work done on the Carruth Property. He knows that it was regraded based on the Google Earth images.

Testimony of Stan Andrews

144. Respondent called Stan Andrews to testify.

145. Mr. Andrews is an accident reconstructionist. He has a bachelor's degree in biological and agricultural engineering and a master's degree in engineering. He has worked mostly in the field of mechanical engineering. Mr. Andrews worked at Tyson for seven years designing and building equipment. He has been working in the field of accident reconstruction for 22 years.

146. Mr. Andrews did a reconstruction of the Decedent's accident. He visited the accident scene, did a laser scan of the scene and the Decedent's vehicle, inspected the vehicle, and documented the condition and impact marks. An investigation done four weeks after the accident resulted in photographs, drone imagery, and a scan of the area that Mr. Andrews was able to view. He also reviewed the police report, the accident scene photographs, and the aerial photo taken by Rocky Ford.

147. Referring to his reconstruction report, found at Respondent's Exhibit No. 2, Mr. Andrews testified that the Decedent was traveling 53–60 miles per hour when he left the roadway and 49-54 miles per hour during the rollover. The Decedent's vehicle rolled over three and three-quarter times. The tires on the Decedent's vehicle were inadequate for the existing conditions. The Decedent was traveling too fast for the existing conditions. The Decedent was trapped underneath the vehicle when it came to rest. The Decedent drove through the water-covered roadway for some time before losing control, so he had warning about the water and, if he had slowed down, could have avoided the accident.

148. It is common for an accident reconstructionist to rely on photographs taken by other people because it is rare for an accident reconstructionist to get to the accident scene right after the accident occurs.

149. Referring to Respondent's Exhibit No. 2 at p. 11, Mr. Andrews testified that he worked backwards based on where the vehicle came to rest. He personally looked at the scratch marks on the vehicle. Mr. Ford had highlighted the headlight debris in his photographs, so Mr. Andrews could calculate based on that point. The headlights are important for the calculation. At 50 feet per rollover and three and three-quarter rolls, the vehicle traveled roughly 180 feet. With or without the headlight debris, the rollover distance is within nine feet of error. Looking at the photographs found in Respondent's Exhibit No. 2 at p. 7, Mr. Andrews is comfortable relying on the pile of headlight debris as a point of impact because of the tiny pieces embedded in the ground, which are typical of what he would expect to see.

150. 'Yaw' refers to a vehicle rotating but the direction of travel staying the same. You see 'yaw marks' when this happened. The yaw marks, in addition to the rollover distance, allow Mr. Andrews to calculate the speed of the vehicle.

151. The speed limit for this stretch of road was 55 miles per hour. The Decedent was traveling 53–60 miles per hour.

152. Looking at the tires on the Decedent's vehicle, the lack of tread depth was a contributing factor to the accident. The minimum tread depth means that hydroplaning and a loss of control is more likely. The tires on the front of the vehicle were better than the tires on the back.

153. On cross-examination, Mr. Andrews confirmed that he is not a professional engineer. He is not licensed in Arkansas or other states. He is being paid by Respondent to be here ($31,659.00 had been billed prior to Mr. Andrews' attendance at the hearing). The crash data recorder was not required to be accessible to the public for a 2004 Toyota Tundra. Mr. Ford tried to download that information but could not get it. Toyota does not make that information available voluntarily. Mr. Andrews looked at the vehicle's resting point, headlights, and scratch marks. Without the headlight location, the speed range would be slightly faster. The headlight location adds accuracy to his calculation. The scratch marks show the number of rolls. In this case, the Decedent's vehicle had four types of scratches. There were lots of people at the accident scene, and, by walking around, those people could have compressed debris into the ground. Water was flowing north to south, but the headlight debris pile is consistent with where Mr. Andrews would expect it to be. Mr. Andrews conceded that people moved the bumper, but he does not think that people moved the tiny pieces of the headlight. Any scratches on the vehicle from the recovery process would be squiggly and would not run from front to back. When the road surface is wet, you do not get yaw marks as distinct as when the road surface is dry. If the Decedent went through the water for 300 feet and was still going 53–60 miles per hour when he left the roadway, his initial speed would have been astronomical. If there was no water on the roadway, the Decedent would

not have hydroplaned, and if he did not hydroplane, then he would not have lost control of his vehicle.

154. On redirect, Mr. Andrews testified that if the Decedent was traveling below 45 miles per hour, it is a lot less likely that he would have hydroplaned, especially if he had good tread on his tires.

Testimony of Dr. Chandra Thorbole

155. Respondent called Dr. Chandra Thorbole to testify.

156. Dr. Thorbole has a doctorate degree in engineering with an emphasis in crash dynamics and biomechanics. He analyzes accidents and how people are injured. Most of his work is directed at helping manufacturers prevent certain types of injuries.

157. Dr. Thorbole was hired by Respondent to do a biomechanical analysis of the accident and to determine whether the Decedent was wearing his seatbelt at the time of the accident. He inspected the vehicle, including the seatbelt hardware.

158. The Decedent's ejection kinematics caused him to be thrown in front of the rolling vehicle, such that the vehicle landed on the Decedent. The ejection portal was the driver's side window. The Decedent was ejected with a lot of energy. The ejection is the cause of his death.

159. The roof intrusion into the passenger space of the vehicle likely occurred after the Decedent was ejected.

160. The Decedent's vehicle did not have rollover-activated belt pretensioner or a curtain airbag.

161. All of Dr. Thorbole's opinions were given to a reasonable degree of biomechanical certainty.

162. On cross-examination, Dr. Thorbole confirmed that he relied upon Mr. Andrews' conclusions for the vehicle motion. If there was no rollover, there would be no roof intrusion. If there was no rollover, there would be no ejection.

Testimony of David Carruth

163. Claimant called David Carruth as a rebuttal witness.

164. Mr. Carruth is a lawyer in Clarendon, Arkansas. He manages his family's farm, which is owned by the Carruth Family Trust.

165. He has observed flooding on Highway 316 in the area of the Intersection.

166. Respondent took over Highway 316 in the early 1970s. Mr. Carruth remembers Respondent doing some work on the ditches next to the Young Property, which caused flooding by the Intersection. There was a lot of complaining. Mr. Carruth stated that his father said he was going to tell Respondent about the flooding in the early 1990s. Mr. Carruth went to the local office in 2015 or 2016 to complain about the flooding. The water was bad because the ditch had not been cleaned out.

167. Following this accident, Respondent did a lot of work on this highway.

168. Regarding the issue of runoff from the Carruth Property, Mr. Carruth stated that every highway in Arkansas has property adjoining that highway. When the Carruth Property was converted into tillable land in the late 1970s, Mr. Carruth's family allowed trees to grow up along the border and put hay bales there to stop the erosion and the water running off the property. However, Respondent took out that vegetation.

169. Mr. Carruth's tenant has done a lot of work to stop the runoff since Respondent removed that vegetation five or six years ago.

170. On cross-examination, Mr. Carruth stated that he has not seen water flowing down CR 261 because the ditches on the county road are very deep. He does not recall who he spoke with at the Respondent's local office when he complained about the flooding. He described the person as a white male approximately 50 years old. Mr. Carruth clarified that Respondent cleared the vegetation on the Carruth Property's side of the ditch embankment in probably 2013 or 2014.

Closing Arguments

171. Claimant argued that pursuant to Ark. Code Ann. § 27-67-207, Respondent has a duty to keep the state highways in good repair. There is no exception to this statute for inherited roads. Under the negligence standard, the evidence shows that Respondent knew or should have known about the flooding on Highway 316. Witnesses who have no interest in this claim testified that they notified Respondent of the flooding. Mr. Young and Mr. Carruth testified that Respondent's own actions caused the problem or made it worse. Respondent's employees provided explanations but not legal excuses why Respondent did not satisfy its statutory duty with respect to Highway 316. Even if Respondent's employees did not see the flooded road, they could have seen the standing water in the ditch on the sunny days. Respondent did not provide an expert to rebut Claimant's hydrology expert, Mr. Auld. Regarding the issue of comparative fault, Respondent's accident reconstruction testified that the Decedent was going 53–60 miles per hour, which is not speeding when the speed limit is 55 miles per hour. Mr. Andrews' analysis is not believable because of the astronomical speed the Decedent would have had to be traveling if the Decedent was going 53–60 miles per hour after traveling through 300 feet of water. The damages in this claim are twofold, as the Decedent's estate can recoup damage for loss of life and lost wages and the beneficiaries can recover for mental anguish. Dr. Scott's report gives a framework and

guidelines for evaluating lost wages. Claimant's damage claim is very conservative considering Dr. Scott's report.

172. Respondent argued that the question is whether it knew or should have known of the flooding near the Intersection. The specific location matters because of the topography. Respondent's employees testified that they did not violate any specific written standards. Per Mr. Callicott, Respondent's responsibility is to keep the ditches where they can handle a two-year storm. Respondent inherited Highway 316, and the maintenance funds do not include road improvements. The work done in 2014 by Respondent did not and could not have caused flooding. There was a lot of other testimony about other sources of water not in Respondent's control. Mr. Andrews talked about the issue of causation, including the fact that the Decedent's tires were in poor repair and that the Decedent should have been going ten miles per hour under the speed limit due to the rain. Dr. Thorbole testified that the cause of death was the Decedent's ejection from the vehicle. The Decedent knew this road and should have been on the lookout. The stretch of Highway 316 is a straight road, so the water should have been visible. The Claims Commission is charged with apportioning fault and damages. If the Decedent was 51 percent at fault, then Claimant cannot recover. If the Decedent was less than 51 percent at fault, then the damages must be weighed. Insurance payments received by Claimant should be put on Respondent's side of the apportionment of damages.

173. In rebuttal, Claimant argued that while Mr. Callicott said that the ditch met the design requirements, he also said that each picture of water on the road must be showing a two-year storm. Claimant also argued that the Decedent was not speeding.

Relevant Statutes and Caselaw

174. The elements of a negligence claim are duty, breach of duty, and damages proximately caused by the breach. *See Union Pac. R. Co. v. Sharp*, 330 Ark. 174, 180, 952 S.W.2d 658, 661 (1997).

175. Ark. Code Ann. § 27-67-101 provides that the "the policy of the state [is] to . . . repair, maintain, and control all the public roads in this state comprising state highways. . . ." (emphasis added).

176. Ark. Code Ann. § 27-67-207 provides, in pertinent part:

> (a) As used in this chapter, unless the context otherwise requires, "maintenance" means the constant making of all repairs necessary to preserve a smooth surface on the roads and to keep the bridges and culverts in a safe condition and shall include drainage work, the building of bridges and culverts, and the making of cuts and fills as the commission deems necessary to accomplish these purposes.
>
> (b) It shall be the duty of the State Highway Commission to begin as soon as practicable and continue the maintenance of all roads that are properly designated as state highways, to the end that every part of the state highways shall be properly, fairly, and equitably maintained and kept in repair.
>
> (c) So far as practicable, maintenance and repair shall be according to what is known as the patrol system. Laborers as are deemed necessary may be employed and kept continually on the roads, with the force, equipment, and materials that are necessary to perform the work.

(emphasis added).

Findings of Fact and Conclusions of Law

Based upon a review of the pleadings, testimony, evidence, and the law of the State of Arkansas, the Claims Commission unanimously finds as follows:

177. The Claims Commission has jurisdiction to hear this claim pursuant to Ark. Code Ann. § 19-10-204.

178. The Claims Commission finds that Claimant's claim is based upon Respondent's alleged negligent maintenance of Highway 316 and its drainage system.

179. The Claims Commission finds that, pursuant to Ark. Code Ann. §§ 27-67-101 and 27-67-207(b), Respondent had a duty to maintain Highway 316 and its drainage system.

180. The Claims Commission finds that Respondent knew or should have known of the flooding problem on Highway 316. Based on the evidence presented by Claimant, including the testimony of Ms. Morrow, Mr. Young, Ms. Reeves, and Mr. Carruth, complaints had been made to Respondent about flooding in the very location that this incident occurred.[2] The Claims Commission notes that Ms. Morrow, Mr. Young, Ms. Reeves, and Mr. Carruth have nothing to gain from the outcome of this claim, and there was otherwise no evidence of bias on their part. Moreover, the Claims Commission finds the numerous photographs and videos presented by Claimant showing Highway 316 flooded or the ditch overgrown and/or the ditch full of water to be significant in light of Respondent's witnesses' testimony regarding the frequency that Highway 316 was traveled looking for road issues. The Claims Commission finds that the standard that Respondent consistently argues should apply to Respondent in claims for potholes or other hazardous road conditions should apply to the instant claim as well. *See, e.g.*, *Nwanonyiri v. Ark. Dept. of Transportation*, Claim No. 220326. As such, where Respondent had prior knowledge of a hazardous road condition and failed to remedy it within a reasonable amount of time, Respondent is liable for the damages that occur from that condition.

[2] The Claims Commission notes its concern with Respondent's practice of allowing each local office to determine its own system of cataloguing reported complaints, given Respondent's position in this claim regarding notice despite the testimony of multiple witnesses.

181. The Claims Commission notes an incompatibility with Respondent's simultaneous arguments that the Decedent had traveled that road previously, such that he should have known to travel cautiously, and that Respondent's employees were unaware of the problem on Highway 316 despite checking that road every week (as Mr. Gray stated) and every two months (as Mr. Emberton stated that he and others did, as well).

182. However, pursuant to Ark. Code Ann. § 16-64-122, the Claims Commission must also consider the fault of the Decedent. The plain language of Ark. Code Ann. § 16-64-122 states that it applies to "… all actions for damages for … wrongful death … in which recovery is predicated upon fault." (emphasis added). The Arkansas Court of Appeals discussed the applicability of the "broad language" in this statute in *Bishop v. Tariq*, 2011 Ark. App. 445, 384 S.W.3d 659. In the instant claim, while there was no evidence presented that the Decedent was speeding,[3] it is undisputed that the Decedent was not wearing his seatbelt at the time of the accident. The Claims Commission also finds that the condition of Decedent's rear tires was a factor in the accident. Additionally, based on Mr. Brown's testimony regarding the number of times that the Decedent traveled in this area, the Claims Commission finds that the Decedent was familiar with this roadway.

183. As such, the Claims Commission assigns fault as follows:

(a) Decedent: 35%

(b) Respondent: 65%

[3] While the Claims Commission notes some concerns with Mr. Andrews' calculations and conclusions, the Claims Commission finds it significant that Respondent's own expert witness calculated the Decedent's speed at 53–60 miles per hour in a 55 mile per hour zone.

184. As for damages, the Claims Commission must consider the damages for the Decedent's estate as well as the mental anguish damages for the Decedent's wrongful death beneficiaries (his parents and siblings).

185. Regarding the Decedent's estate, the Claims Commission finds that the estate is entitled to recover the funeral expenses for the Decedent ($7,287.47), as well as the burial costs ($600.00) and headstone ($11,864.48), for a total of $19,751.95. Additionally, considering the persuasive testimony of the Decedent's family members regarding how the Decedent valued his life, the Claims Commission finds that the damages associated with the Decedent's loss of life are $2,500,000.00. The Claims Commission finds that this number is consistent with the conclusions of Dr. Scott regarding the Decedent's lost earning capacity (which ranged from $1.52 million to over $3 million given various scenarios), which were admitted in revised form without objection. As such, the Claims Commission finds that the Decedent's estate's total damages are $2,519,751.95, of which Respondent is liable for 65 percent, equaling $1,637,838.77. The Claims Commission further finds that the $100,000 in insurance proceeds recovered by Claimant should be subtracted from the award, for a total award to the Decedent's estate of $1,537,838.77.

186. The Claims Commission finds that the testimony about the help the Decedent would have been able to provide on the family farm to be too speculative and declines to make an award for such damages.

187. Regarding the Decedent's parents, the Claims Commission finds the testimony presented by Debbie Brown and Joe Brown regarding the mental anguish experienced following the Decedent's death to be moving and persuasive. As such, the Claims Commission finds that Debbie Brown and Joe Brown should be each awarded mental anguish damages of $300,000.00, of which Respondent is liable for 65%, equaling $195,000.00 to each.

188. Regarding the Decedent's siblings, the Claims Commission finds the testimony presented by Nathan Brown regarding the mental anguish experienced by him and his sister, Samantha Brown, to be moving and persuasive. As such, the Claims Commission finds that Nathan Brown and Samantha Brown should be each awarded mental anguish damages of $50,000.00, of which Respondent is liable for 65%, equaling $32,500 to each.

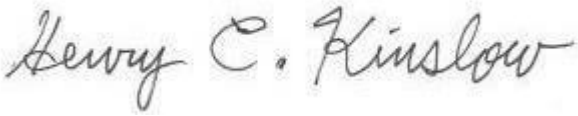
Conclusion

189. The Claims Commission AWARDS the Estate of Chris Brown a total of $1,537,838.77. The Claims Commission further AWARDS Debbie Brown and Joe Brown $195,000.00 each and Nathan Brown and Samantha Brown $32,500.00 each. Pursuant to Ark. Code Ann. § 19-10-215(b), the Claims Commission refers this total award of $1,992,838.77 to the General Assembly for review, approval, and, if approved, placement on an appropriations bill.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Courtney Baird



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair

DATE: November 10, 2022

Notice(s) which may apply to your claim

(1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).

(2) If a Claimant is awarded less than $15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.

(3) Awards or negotiated settlement agreements of $15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

IN THE CIRCUIT COURT OF POPE COUNTY, ARKANSAS	)
	)
TIMOTHY MURDOCH, in his capacity as Special Administrator to the Estate of Julie LeFevre, deceased	)
	)
PLAINTIFF	)
	)
v. CASE NO. 58CV-18-638	)
	)
PHILLIP COWGER, and SHARON BARNETT, in her capacity as Special Administrator of the ESTATE OF PHILLIP COWGER, Deceased	)
DEFENDANT	)

FILED
2019 JUL 10 AM 10:36
RACHEL L. BERTLING
POPE COUNTY CIRCUIT CLERK
BY:

JUDGMENT

On this 8 JU day of ~~June~~ July, 2019, came on the Plaintiff, Timothy Murdoch, is his capacity as Special Administrator to the Estate of Julie LeFevre, deceased, by counsel, Hall and Taylor Law Partners, PLLC, upon the Complaint, and the Court, upon consideration of the evidence presented, FINDS, ORDERS, ADJUDGES, AND DECREES THE FOLLOWING:

1. Timothy Murdoch is the duly appointed Special Administrator to the Estate of Julie LeFevre, deceased.

2. Sharon Barnett is the duly appointed Special Administrator of the Estate of Phillip Cowger, deceased.

3. The Defendants were duly served with process in this matter, notice of this hearing and have otherwise failed and refused to appear and defend this matter.

4. Plaintiff made an oral motion for default judgment. A judgment of default on all issues of liability is proper in this action. Plaintiff is hereby granted a judgment of the issue of liability on each basis requested in the Complaint.

5. A hearing was conducted on the issue of damages.

6. The decedent, Julie LeFevre, died leaving three minor children, a surviving spouse and both her parents. The Court finds that these persons are the statutory beneficiaries of the decedent.

7. The decedent's parents were provided with notice of this hearing and have declined to appear herein. The decedent's parents filed for record an Assignment of Interest of any rights herein to the decedent's children.

8. The minor children and the surviving spouse appeared herein by and through counsel to wit: James Dunham (attorney for Scott Greathouse, court appointed guardian of the [redacted]

[redacted]), Allen Laws (counsel for Kile LeFevre) and John Peel (counsel for court appointed guardian Ron Campbell and his minor child, [redacted] Counsel for the statutory beneficiaries announced that they reached an agreement as to the division of any future proceeds received by and between the statutory beneficiaries of Decedent.

9. According to the agreement announced by counsel, any proceeds from this judgment are to be allocated as follows:

Minor children of Scott Greathouse:	56%
Minor child of Ron Campbell:	28%
Kile LeFevre:	16%
	=======
Total:	100%.

6. After a hearing, upon consideration of the evidence before the Court, Plaintiff is hereby awarded the following compensatory damages:

Funeral Expenses:	$11,557.00
Lost Earnings:	$991,705.00
Lost of Life and Enjoyment of Life:	$9,700,000.00
Conscious Pain and Suffering:	$2,000,000.00
Mental Anguish of Survivors:	$4,000.000.00

==========

Total: $16,703,262.00

7. Upon consideration of the evidence, the Court awards punitive damages in the amount of $3,000,000.00. The clear and convincing evidence in support of this finding includes, but is not limited to, the following:

a) The pilot, Phillip Cowger, was a commercially rated pilot who departed from Russellville, Arkansas, having last checked the weather forecast at 5:18 a.m. prior to a 7:54 a.m. departure. Testimony from another commercial pilot indicated that a safe and aware pilot should constantly check the weather up to the point of departure. The evidence indicated that visibility on the day of the crash was decreasing. The weather was an obvious and dangerous factor for flying on the day of the fatal crash.

b) The pilot, Phillip Cowger, previously failed a simulator course whereby the instructor concluded that he had "instrument saturation issues". The NTSB found the cause of this crash was "pilot error" caused by "workload management" and "aircraft control." The prior simulator issues which the pilot, Phillip

Cowger, encountered were very similar to the cause of the crash in this instance. Therefore, it was a reckless disregard for the safety of the decedent when the pilot ignored his own limitation under the circumstances of the case.

c) A commercial pilot with similar experience to the pilot, Phillip Cowger, was scheduled to depart the same morning in a similar aircraft (also with passengers) but declined to depart due to the danger involved caused by the weather and the type of aircraft he was piloting.

d) On the date of the accident, winds were calm and the pilot, Phillip Cowger, could have chosen to take off to the southwest, where terrain was low for several miles, instead of taking off towards the northeast, where there was elevated terrain one mile away that the aircraft ultimately struck. The far safer alternative was to take off to the southwest instead of the northeast. Had Phillip Cowger done so, it is extremly unlikely the crash would have occurred.

e) The pilot, Phillip Cowger, had been prescribed drugs that cause fatigue, muscle weakness, dizziness, blurred vision and

other side effects which impact his ability to safely fly the aircraft. A pilot has a duty to always be aware of the drugs he takes and the side effects of those drugs as they may impact his ability to safely fly an aircraft; as well as a duty not to undertake risks to his passengers while so medicated.

f) Every pilot has a duty and is charged with control of his aircraft, and the ultimate responsibility for the decision to depart is with the pilot.

g) Each pilot must enter into a risk assessment prior to departure considering the weather, his own past experiences, his health, the side effects of any medications, the type and abilities of the aircraft and other factors.

h) Every pilot must take every action necessary to decrease or minimize, or eliminate the risk to his or her passengers.

i) The pilot, Phillip Cowger, was a commercial pilot that was being compensated for his flight time.

j) The aircraft being piloted during the crash was a "cadillac" aircraft, and the avionics equipment in the aircraft were above average.

k) the NTSB report indicated that the aircraft was in good mechanical condition and there were no defects in the aircraft which contributed to the cause of the crash.

Based upon the testimony and other evidence before the Court, the Court finds that the pilot in command of the aircraft, Phillip Cowger, knew or should have known, in light of the surrounding circumstances, that the dangers posed to his passengers from his decision to depart would naturally and probably result in injuries to his passengers, but in reckless disregard of those risks and the likely consequences he continued to depart, which resulted in the damages to the decedent.

8. The Court hereby awards judgment in the total amount of $19,703,262.09.

9. Pursuant to Ark. Code Ann. Section 16-66-221, the judgment debtor is hereby ordered, within 45 days of the entry of this judgment, to prepare a schedule, verified by affidavit, of all of his other property both real and personal, including moneys, bank accounts, rights, credits, and choses in action held by himself or herself or others for him or her and specify the particular property which he or she claims as exempt under the provisions of the Arkansas law. The judgment debtor shall file the schedule with the Clerk of this Court within 45 days of the entry of this Judgment.

IT IS SO ORDERED.

Dennis C. Sutterfield
JUDGE DENNIS SUTTERFIELD
POPE COUNTY CIRCUIT JUDGE
July 8, 2019
DATE

Prepared by:
Randy Hall ABA # 89093
415 North McKinely Suite 1000
Little Rock AR 72205

ELECTRONICALLY
FILED
MAY 10 2021
TIME:
CASE #:

IN THE CIRCUIT COURT OF PULAKSI COUNTY, ARKANSAS
17TH DIVISION

JENNIFER DANIELS, Individually and as Administratix of the ESTATE OF JALEN FAULKNER, deceased — **PLAINTIFFS**

VS. **NO. 60CV-18-6611**

DISCOUNT ZONE, INC. d/b/a WOODROW DISCOUNT STORE; SHAREEF NAJI QUATTOM; CALVIN C. STEPHENS; JOHN DOES 1-3; and JOHN DOE ENTITIES 1-3 — **DEFENDANT**

ORDER

On this 10th day of May, 2021, came on the Plaintiff, Jennifer Daniels, in her capacity as Special Administratrix to the Estate of Jalen Faulkner, deceased, by counsel, Denise Reid Hoggard, of RAINWATER, HOLT & SEXTON, P.A., upon the Complaint, and the Cout, upon consideration of the evidence presented, FINDS, ORDERS, ADJUDGES, AND DECREES THE FOLLOWING:

1. The Defendants were duly served with process in this matter, and failed and refused to appear and defend this matter.

2. A default judgment granting Plaintiff judgment on the issue of liability on each basis requested in the Complaint was entered on April 13, 2021 by this Court.

3. The Defendants were duly served with notice of this hearing.

4. A hearing was conducted on the issue of damages.

5. The decedent, Jalen Faulkner, died at the age of 18, leaving no surviving children, both his parents and three half-brothers and one half-sister. The Court finds that these persons are statutory beneficiaries of the decedent.

6. After a hearing, upon consideration of the evidence before the Court, Plaintiff is hereby awarded the following compensatory damages:

a) Funeral Expenses: $5,000

b) Lost earnings: $3,353,880.43

c) Loss of Life and Enjoyment of Life: $10,311,579

d) Conscious Pain and Suffering: $1,000,000

e) Medical Expenses: $15,269.08

f) Mental Anguish of Survivors: $4,000,000

TOTAL: $18,685,728.51

7. The Court hereby awards judgment in the total amount of $18,685,728.51.

8. Pursuant to Ark. Code Ann. Section 16-66-221, the judgment debtor is hereby ordered, within 45 days of the entry of this judgment, to prepare a scheduled, verified by Affidavit of all property both real and personal, including moneys, bank accounts, rights, credits, and choses in action held by or for Defendants and specify the particular property which they claim as exempt under the provisions of Arkansas law. The judgment debtor shall file the

schedule with the Clerk of this Court within 45 days of the entry of this judgment.

IT IS SO ORDERED.

HONORABLE MACKIE PIERCE

May 10, 2021

Prepared by:

Denise Hoggard (ABN 84072)
RAINWATER, HOLT & SEXTON, P.A.
P.O. Box 17250
801 Technology Drive
Little Rock, AR 72223
Telephone (501) 868-2500
Telefax (501) 868-2505
Email: hoggard@rainfirm.com

RALPH D. SCOTT, JR., Ph.D.



Professor of Economics
Department of Economics and Business
Hendrix College
Conway, Arkansas 72032
(501) 450-1306 (voice and fax)

President
Economic and Financial
Consulting Group, Inc.
Conway, Arkansas 72034

EDUCATION

Ph.D., Tulane University School of Economics, New Orleans, Louisiana (1983)

B.A., Hendrix College, Conway, Arkansas (1973)
Major in Economics and Business

ECONOMIC BACKGROUND

Primary Area of Interest: Macroeconomics, Monetary Theory

Field Examinations: Taken and passed in Microeconomics, Macroeconomics, Mathematical Economics, Statistics, International Economics, Monetary Theory and Econometrics

Dissertation Title: *Rational Expectations, Aggregate Supply and Fiscal Policy*

In my dissertation, I integrated fiscal parameters into the Lucas-Rapping theory of labor supply to obtain a theory of aggregate supply in which the effectiveness of fiscal policy could be analyzed. In addition I developed and estimated an empirical model for the aggregate economy incorporating developments in expectational theory into supply and demand side relationships to analyze the effectiveness of fiscal policy within a broader context.

TEACHING EXPERIENCE

Professor of Economics (tenured), Hendrix College, Conway, Arkansas
1979 to present

Instructor, Tulane University, New Orleans, Louisiana, Summer 1978-
Spring 1979

Instructor, St. Mary's Dominican College, New Orleans, Louisiana, Fall
1977-Summer 1978

Current Teaching Responsibilities: I teach several sections of introductory level Microeconomics and Macroeconomics as well as upper level theory courses in Microeconomics, Macroeconomics, Money Banking and Credit and International Economics. I have also taught courses and directed independent study projects in Mathematical Economics, Finance, Monetary Theory, and Investment Analysis.

CONSULTING EXPERIENCE

Consultation in economic and financial matters is conducted through the Economic and Financial Consulting Group, Inc., of which I am a principal. Over the past 37 years, I have developed extensive experience in personal injury and wrongful death lawsuits. I have been called on by defense as well as plaintiff attorneys in this regard and have been qualified as an expert witness in Federal, State and Local Courts in Arkansas and adjacent states.

Additional consulting expertise entails business and franchise evaluations. My qualifications also extend to statistical and econometric analysis, as well as financial analysis.

List of deposition and courtroom testimony, client list and professional references available upon request.

SEMINARS AND PUBLICATIONS

Evaluation of Damages in Personal Injury Lawsuits, presented in conjunction with the Professional Education Systems, Inc.'s seminar and subsequent publication: *How to Evaluate and Settle Personal Injury Claims in Arkansas, November 1989*.

The Role of the Economist in Personal Injury Lawsuits, seminar presented to the Pulaski County Bar Association, Little Rock, Arkansas, October 1989.

Presentation to CLE seminar on recent developments in the evaluation of economic loss in personal injury lawsuits. Little Rock, Arkansas, April 1999.

SJR8 Some Economic Implications (*Arkansas Lawyer* – Summer 2017)

PERSONAL

Married to Robin M. Scott and father of Ralph D. Scott, III and Kathryn Elise Scott.

ECONOMIC AND FINANCIAL CONSULTING GROUP, INC.

[redacted]

February 20, 2023

Mr. Jim Jackson
Attorney at Law
Jackson Law Firm
700 West Broadway Street, Suite 2
North Little Rock, AR 72114-5528

RE: **Estate of Jacqueline Lynn Ashraft**

STATEMENT

Economic Consultation: 3.5 hours @ $300	$1,050.00

Federal ID# 71-0684271

Estimated Expenses

Estimated Necessary Expenses for an Academic Year

Estimates of necessary expenses listed below are for the 2022-23 academic year for a typical undergraduate student taking 30 credit hours per academic year at the University of Arkansas.

Name	Undergraduate Resident	Undergraduate Non-Resident
Tuition*	$7,666.00	$25,420.00
University Fees**	$1,990.00	$1,990.00
Books	$1,100.00	$1,100.00
Personal Expenses	$2,938.00	$2,938.00
Transportation	$2,238.00	$2,238.00
Room***	$7,968.00	$7,968.00
Board***	$4,400.00	$4,400.00
TOTAL****	$28,300.00	$46,054.00

* The standard undergraduate in-state tuition rate is $255.51 per credit hour. Students enrolled in College of Business courses are charged $339.83 per credit hour in-state tuition. Students in the School of Architecture and Design are charged $287.45 per credit hour in-state tuition. Students enrolled in College of Engineering courses are charged $302.40 per credit hour in-state tuition. Nursing students are charged $302.04 per credit hour in-state tuition.

** University fees per year include the following student-initiated and student-approved fees:

- Student Activity fee calculated at $2.78/credit hour — $83.40
- Student Health fee, calculated at $7.47/credit hour — $230.70
- Media fee, calculated at $0.90/credit hour — $27.00
- Transit fee, calculated at $3.15/credit hour — $101.40
- Network Infrastructure and Data Systems fee at $11.10/credit hour — $333.00
- Facilities Fee, calculated at $20.35/credit hour — $655.50
- College of Arts and Sciences Fee at $14.41/credit hour — $432.30
- Library Fee, calculated at $3.41/credit hour — $124.80

*** Weighted average expenses for living in a residence hall, double occupancy, with an unlimited meal plan. Actual room and board fees vary.

**** Budget amounts were adjusted for rounding to accommodate UAConnect budgetary rules.

When paying tuition, room and board, and associated fees, anticipated financial aid for a current semester may be deducted when it is listed as anticipated aid on the student's account. Students receiving financial aid are strongly encouraged to have sufficient personal funds available to purchase books and to meet necessary expenses for at least one month at the start of school as some aid funds may not be available for disbursement.

The latest information regarding costs and other aspects of university life may be obtained by calling or writing the Office of Admissions, 200 Hunt Hall, University of Arkansas, Fayetteville, AR 72701. In Arkansas call 1-800-377-8632; from outside of Arkansas call 479-575-5346.

EXHIBIT 11

Mercy

7301 Rogers Avenue
Fort Smith, AR 72903

Affidavit of Custodian of Health Information Services

I, **Brenda Bourg, RHIA** am the Custodian of Records for **Mercy Hospital Fort Smith**.

The attached records of Jacquelin Ashcraft (202 pages(s)) are kept in the regular course of hospital's business and it is the regular practice for our employees or representatives with knowledge of the act, event, condition, opinion, or diagnosis recorded to make the record or to transmit information thereof to be included in such record; and the record was made at or near the time or reasonably soon thereafter.

The copy of the medical records provided with this Affidavit are exact duplicates of all records requested.

The Affiant states that the facts and matters contained and set forth in this Affidavit are true and correct to the best of his/her knowledge, information and belief.

Brenda Bourg
Signature of the Affiant

4-11-2023
Date

STATE OF ARKANSAS
COUNTY OF SEBASTIAN

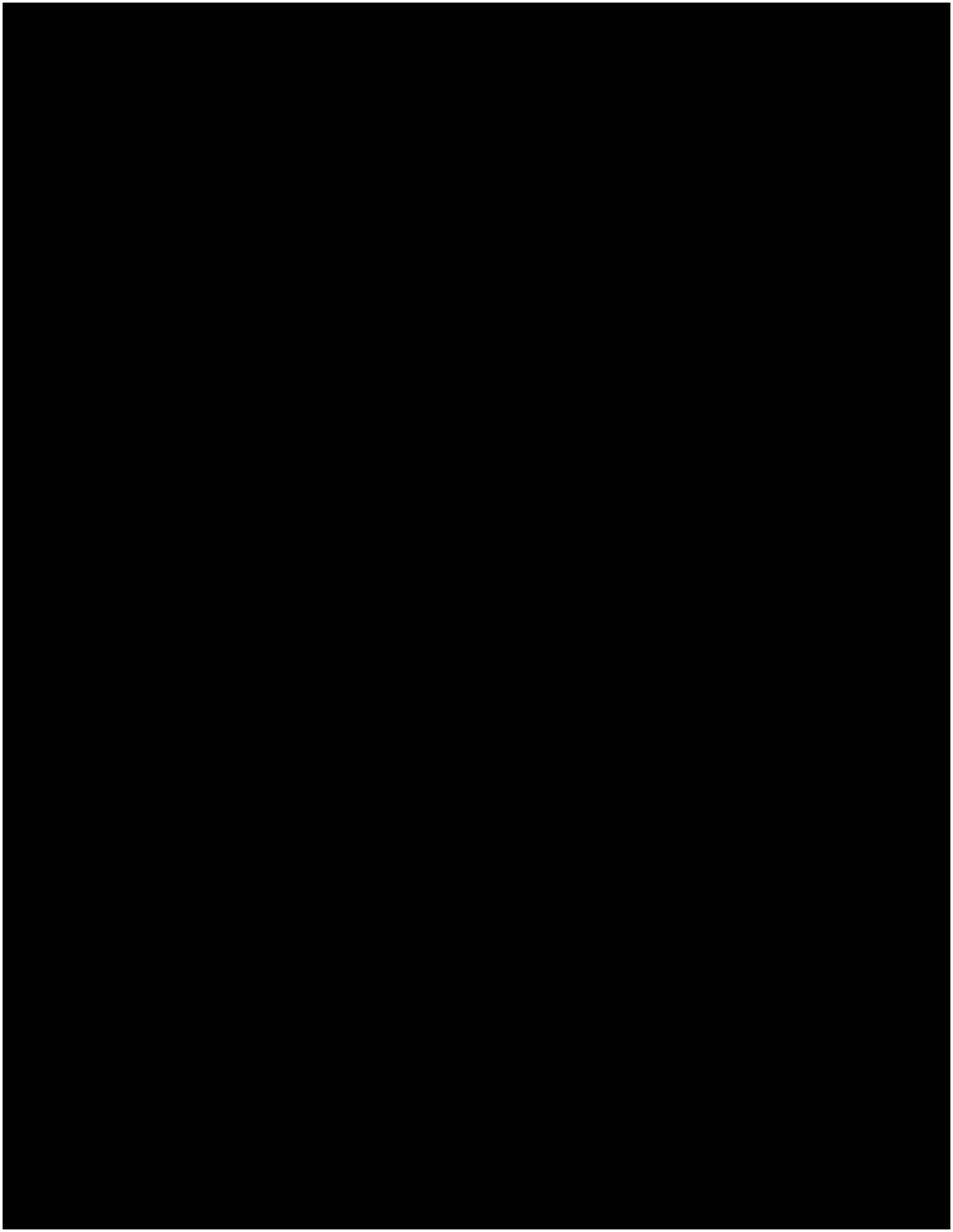
SUBSCRIBED AND SWORN TO before me this 11th day of April, 2023

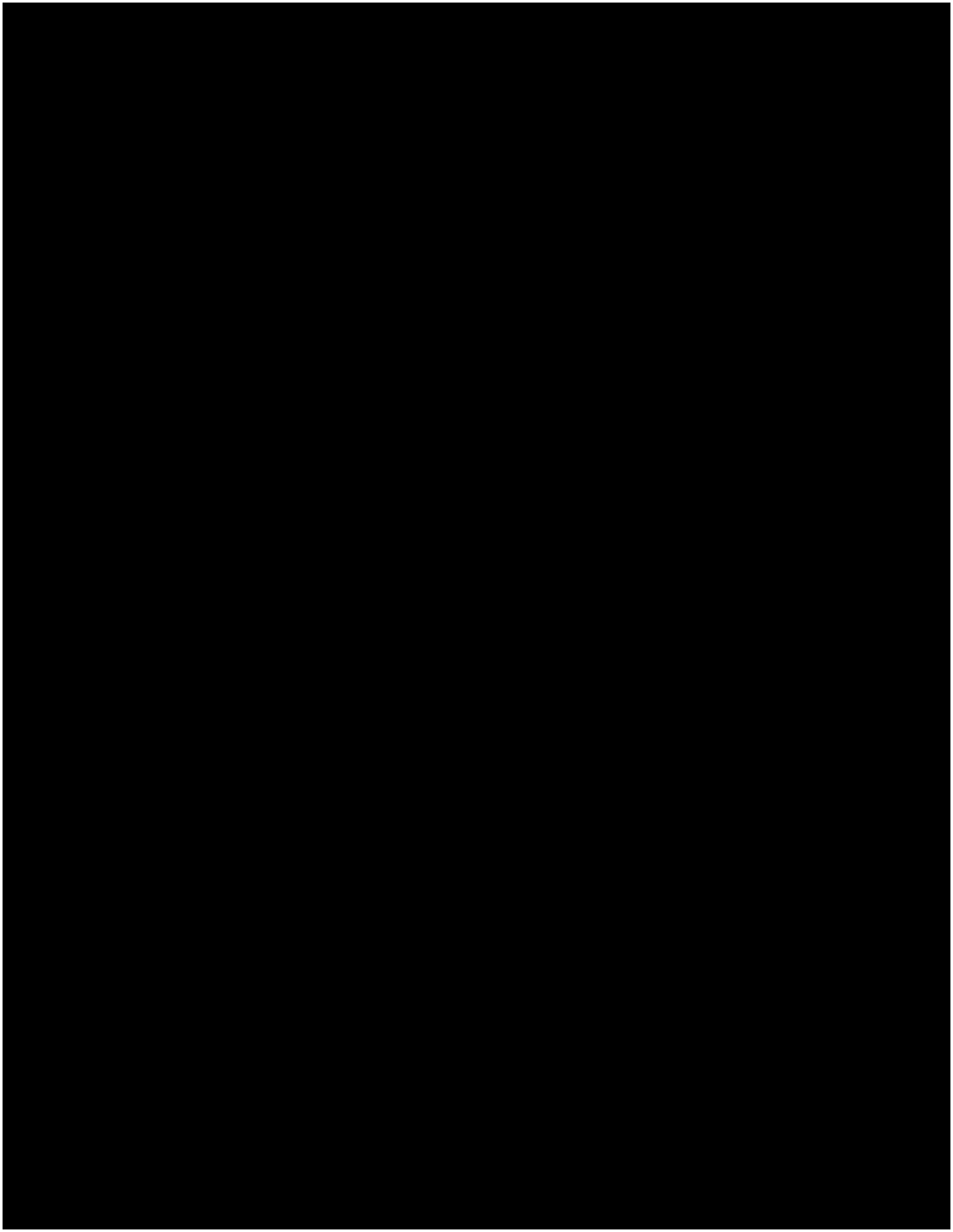
MY COMMISSION EXPIRES:
04-04-2024
Seal

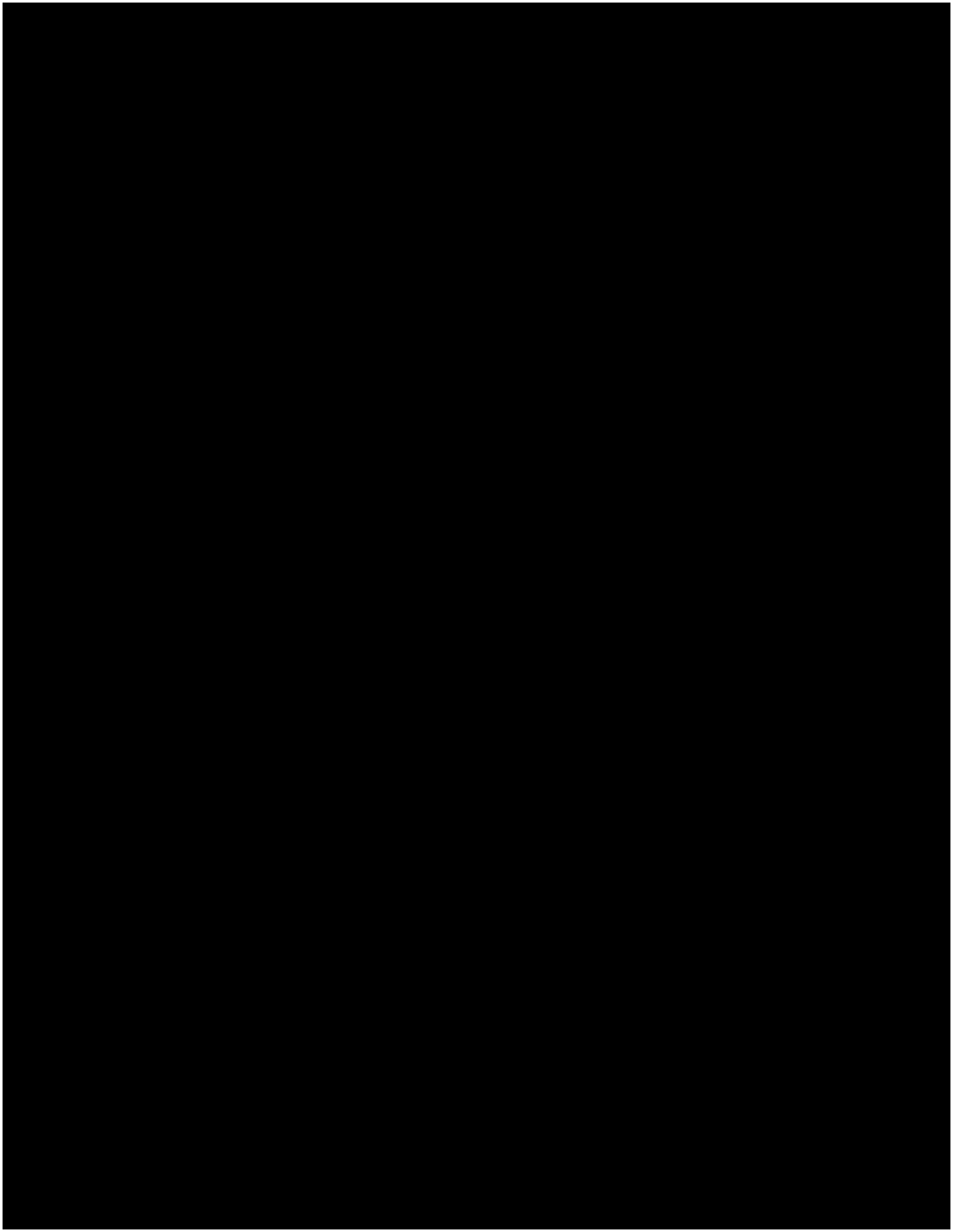
Sandra Huggins
Notary Public

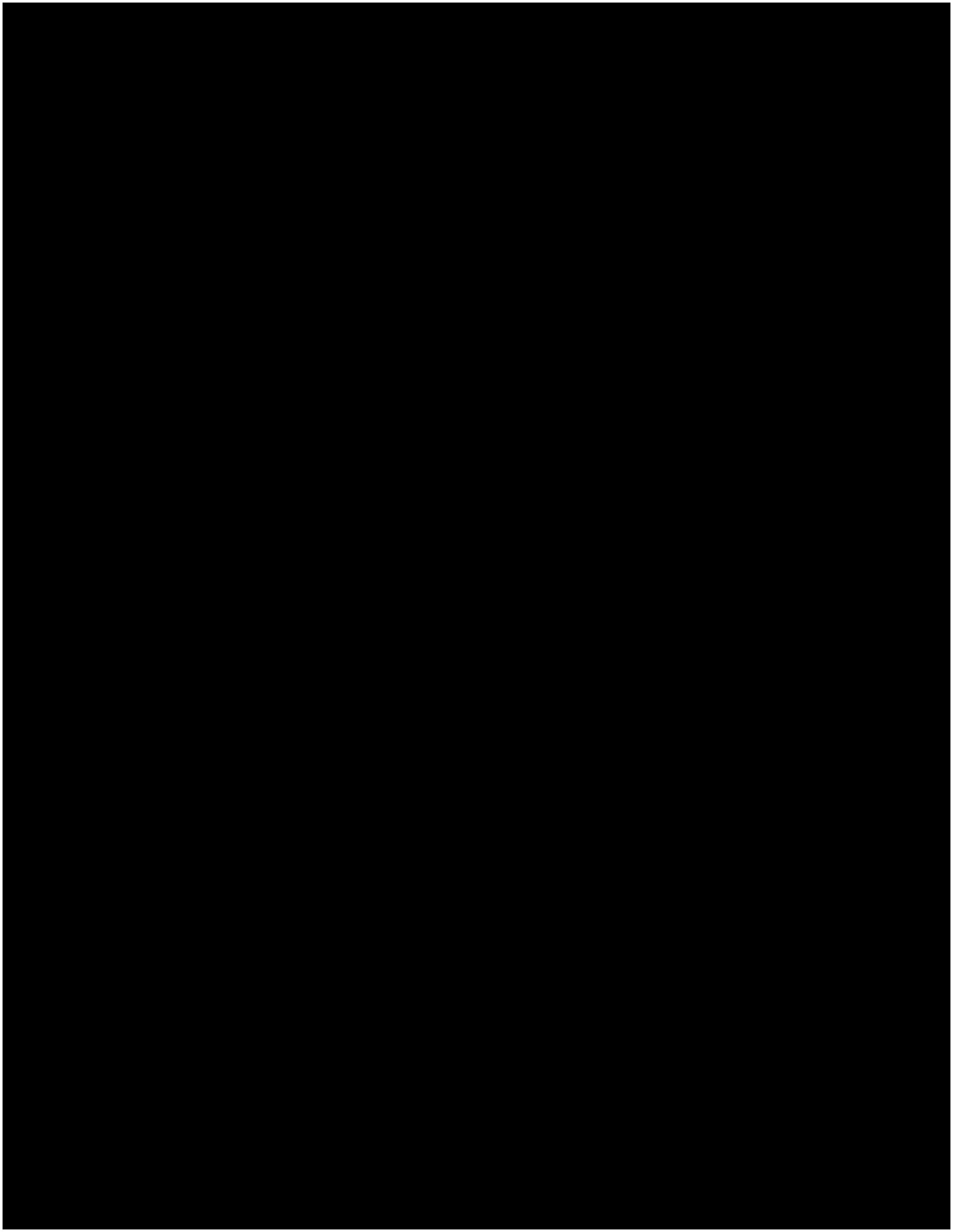
SANDRA HUGGINS Comm. Exp. 04-04-24 NOTARY PUBLIC Comm. No. 12398071 SEBASTIAN COUNTY, ARKANSAS

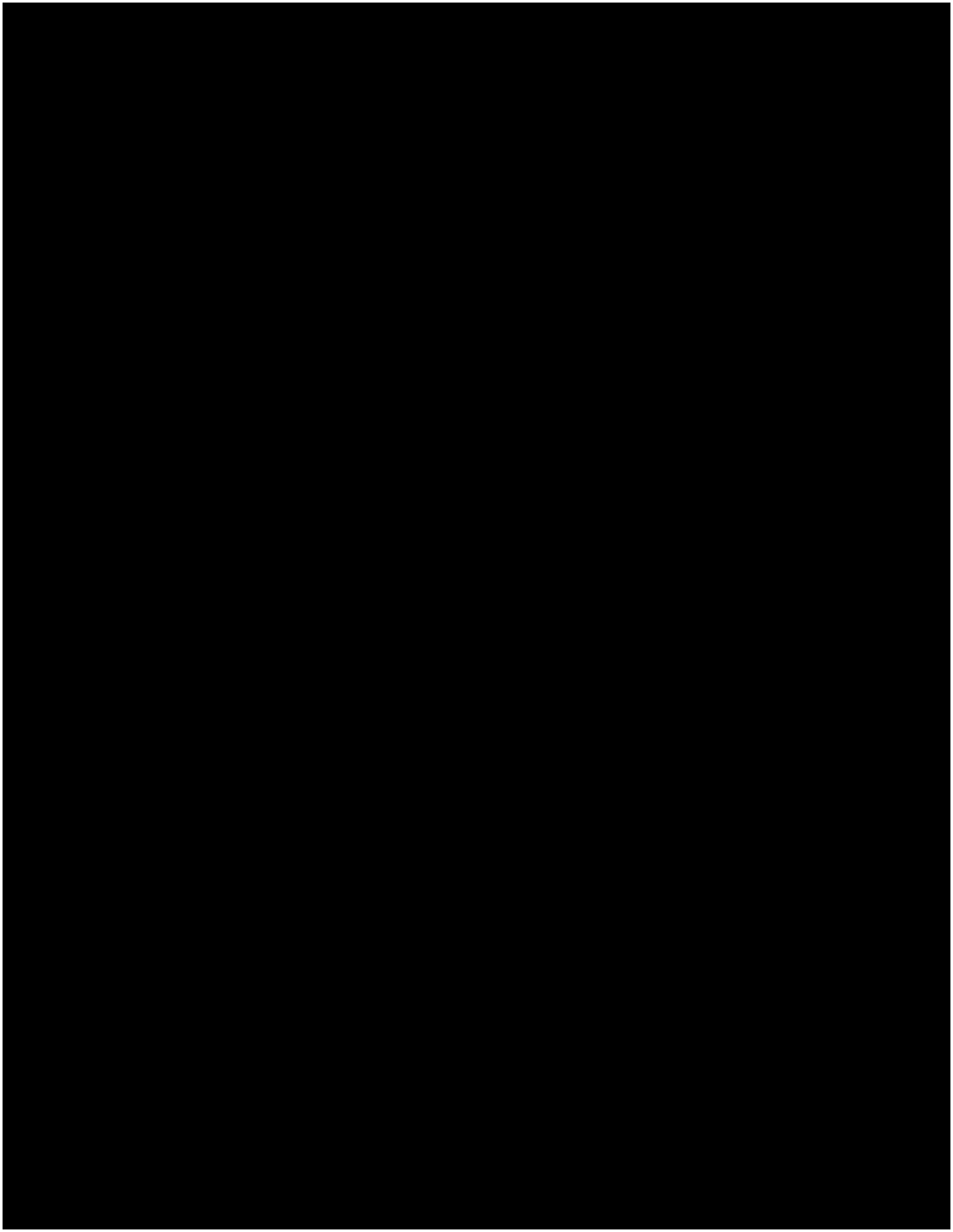
EXHIBIT 12

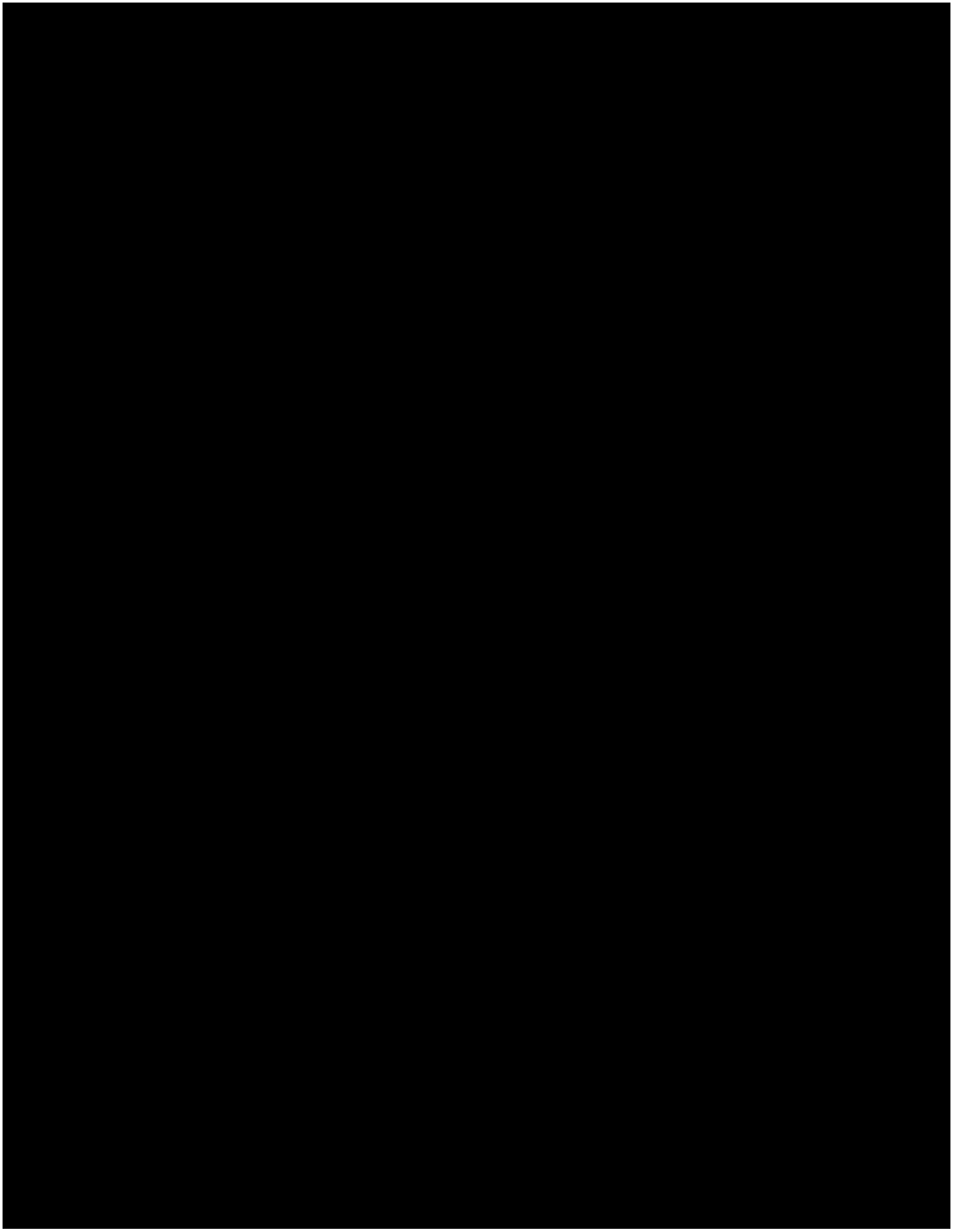


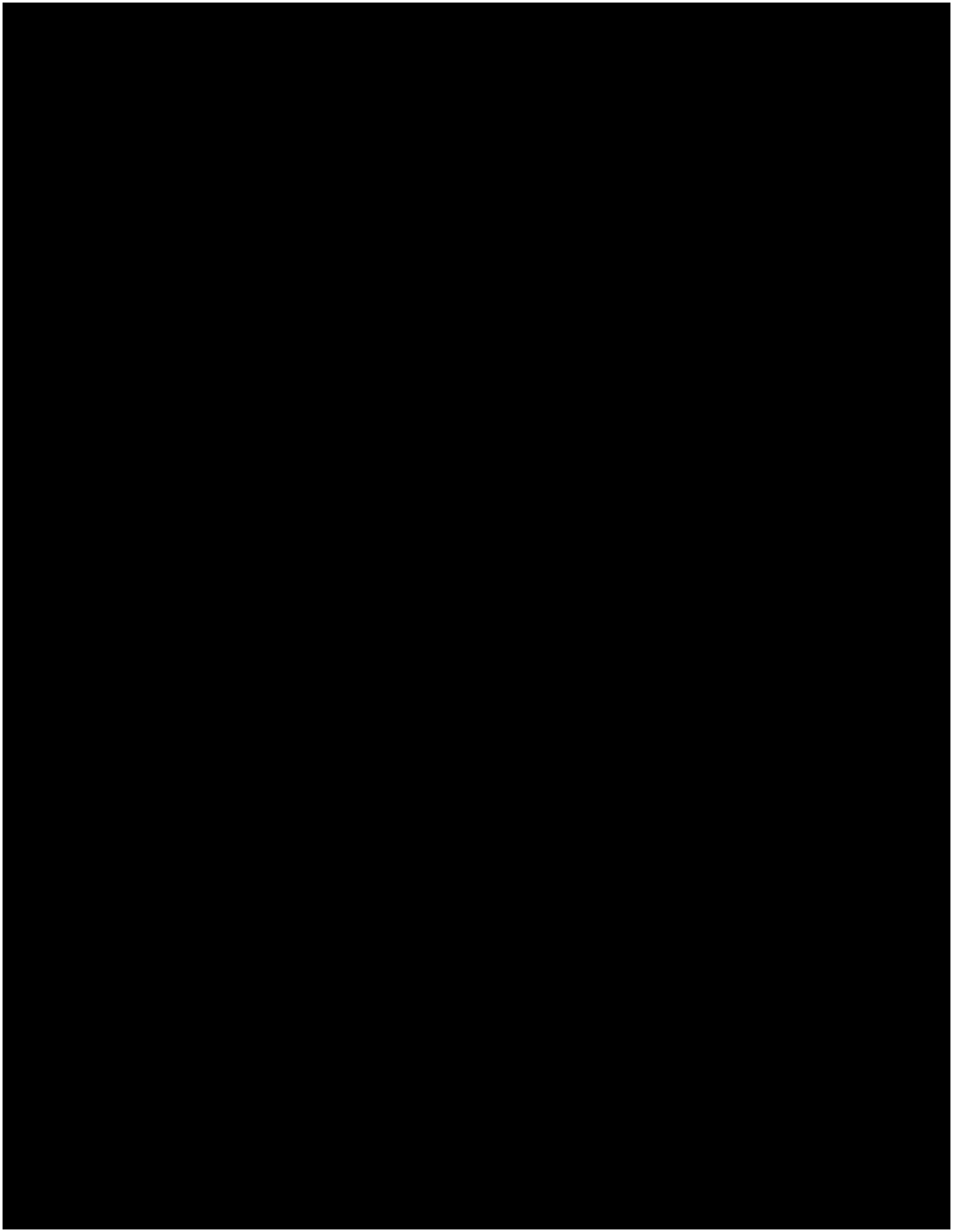


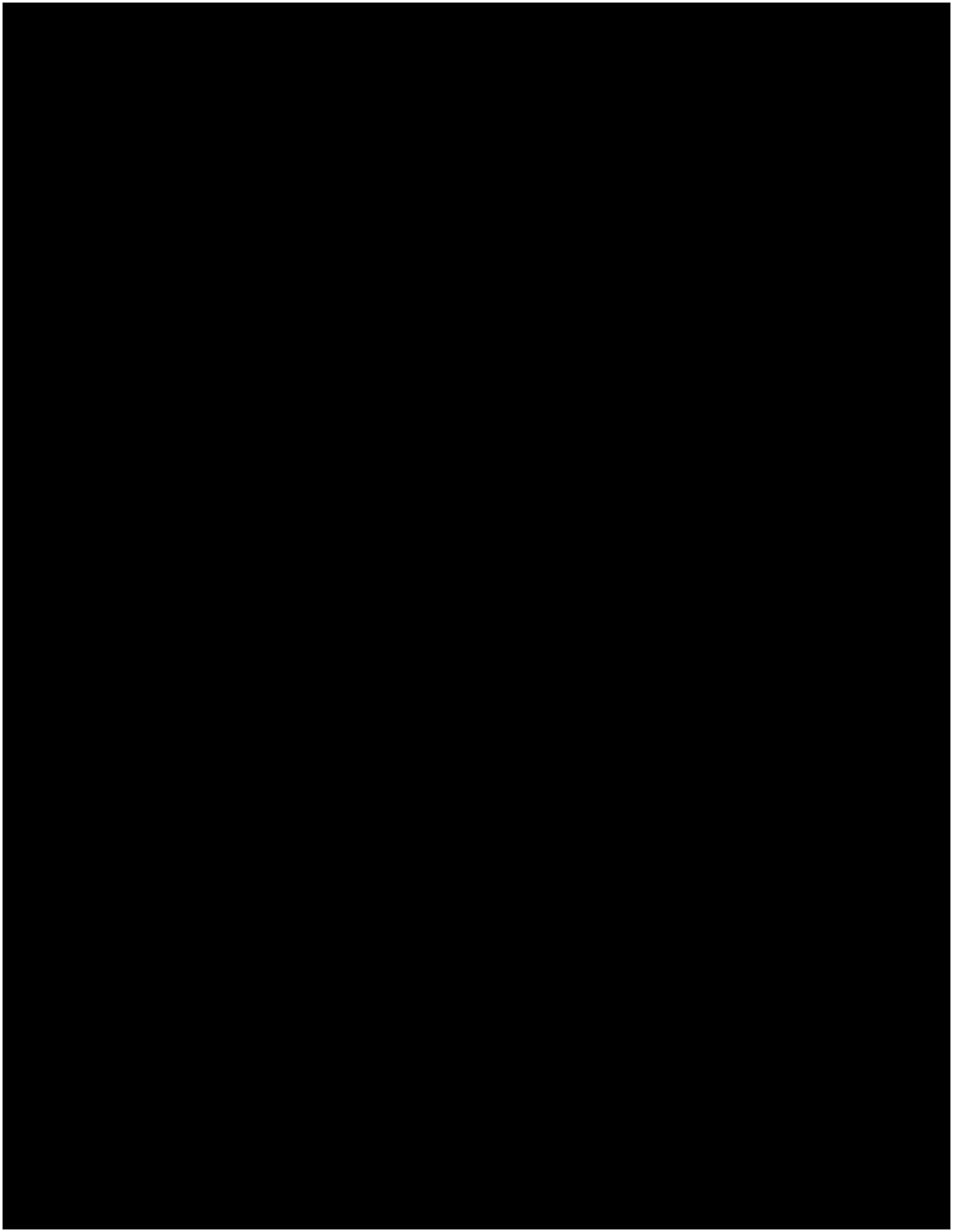


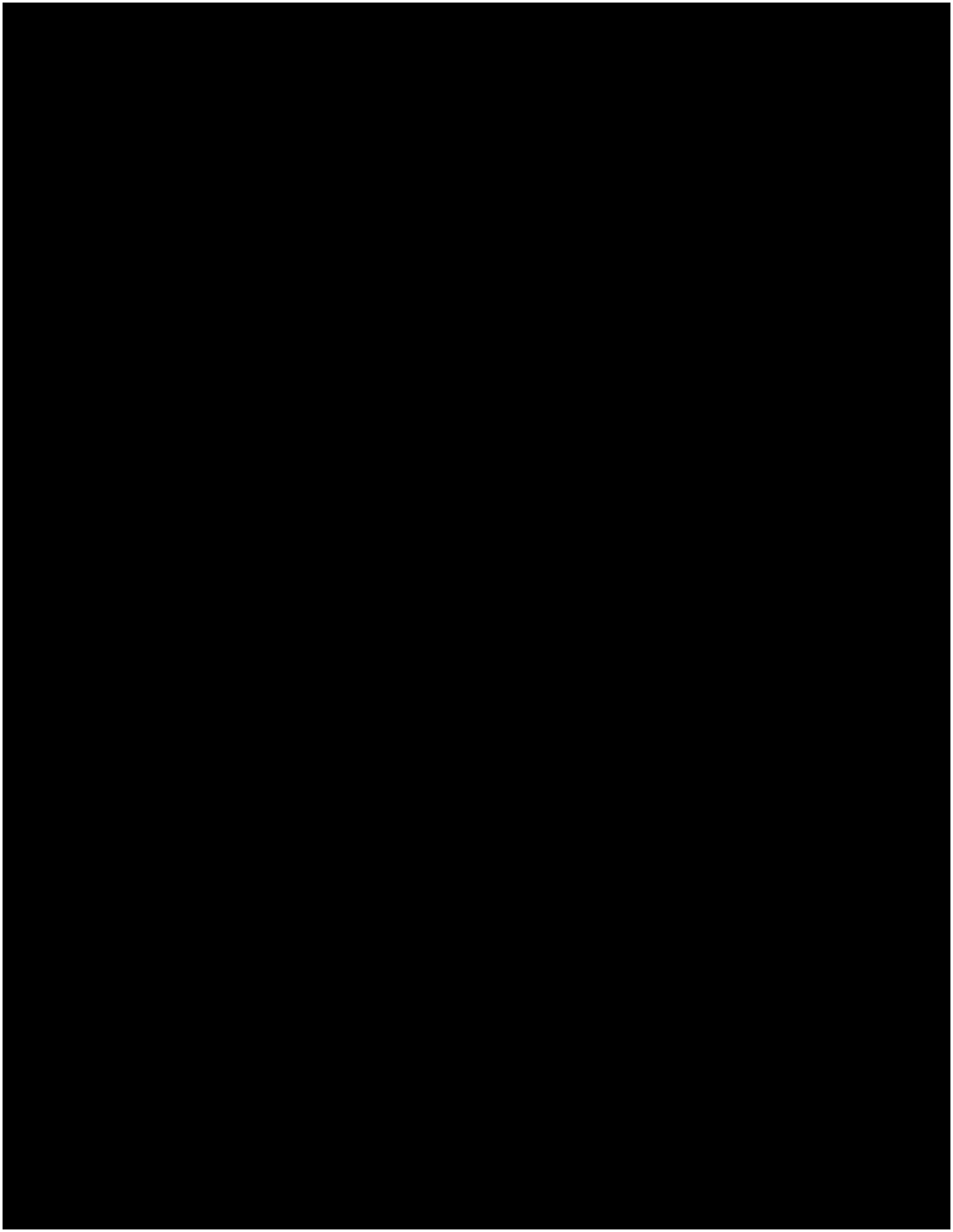


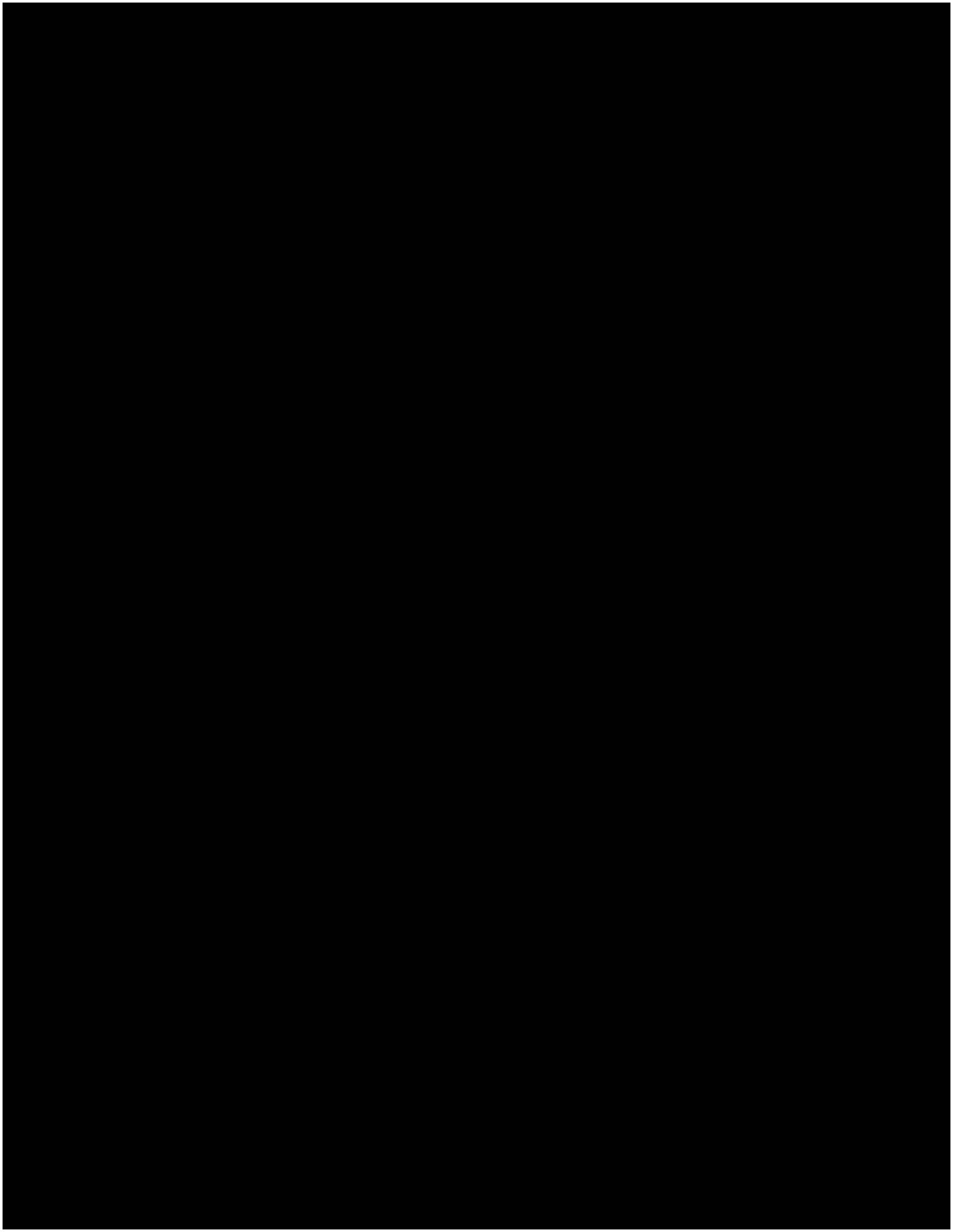


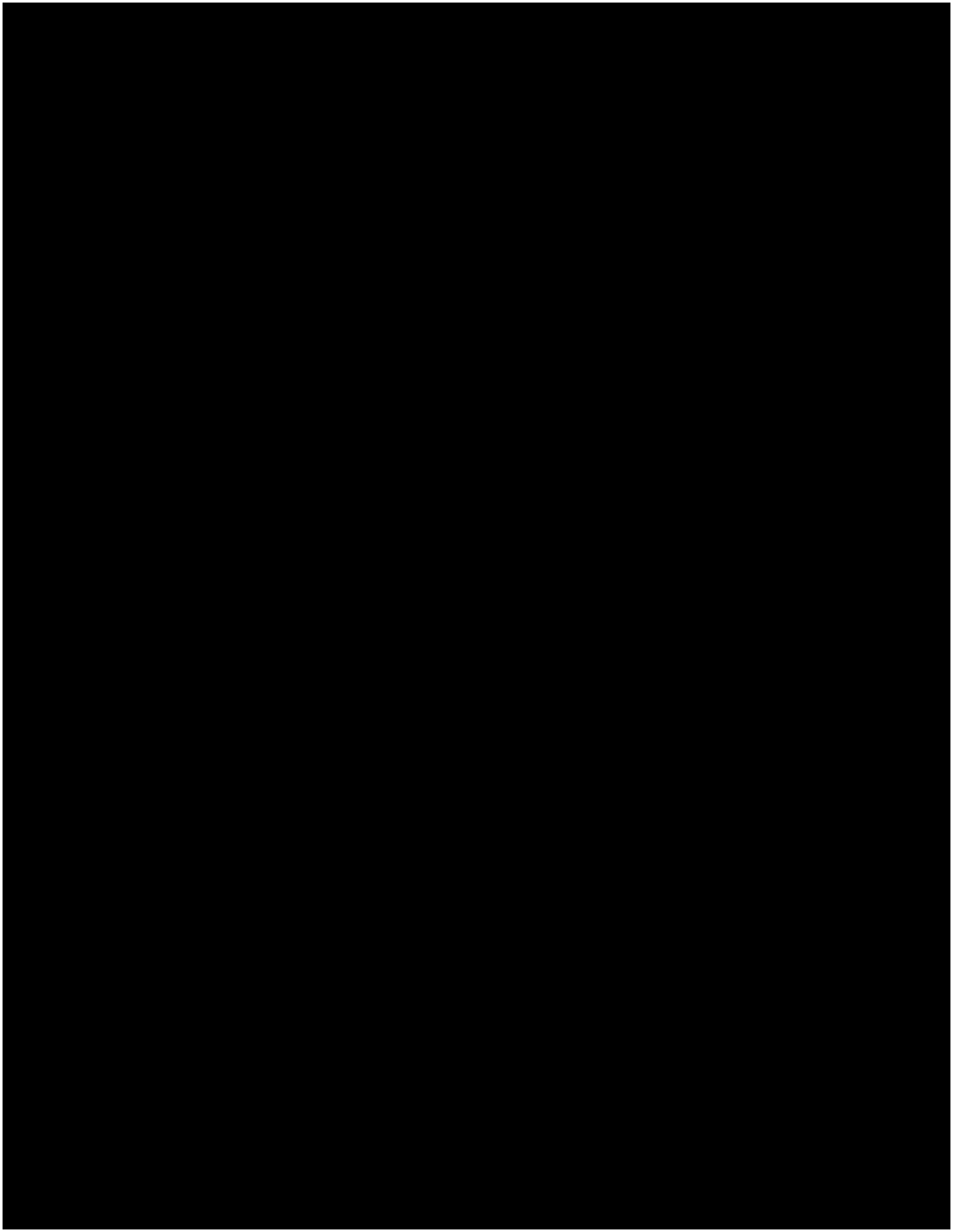


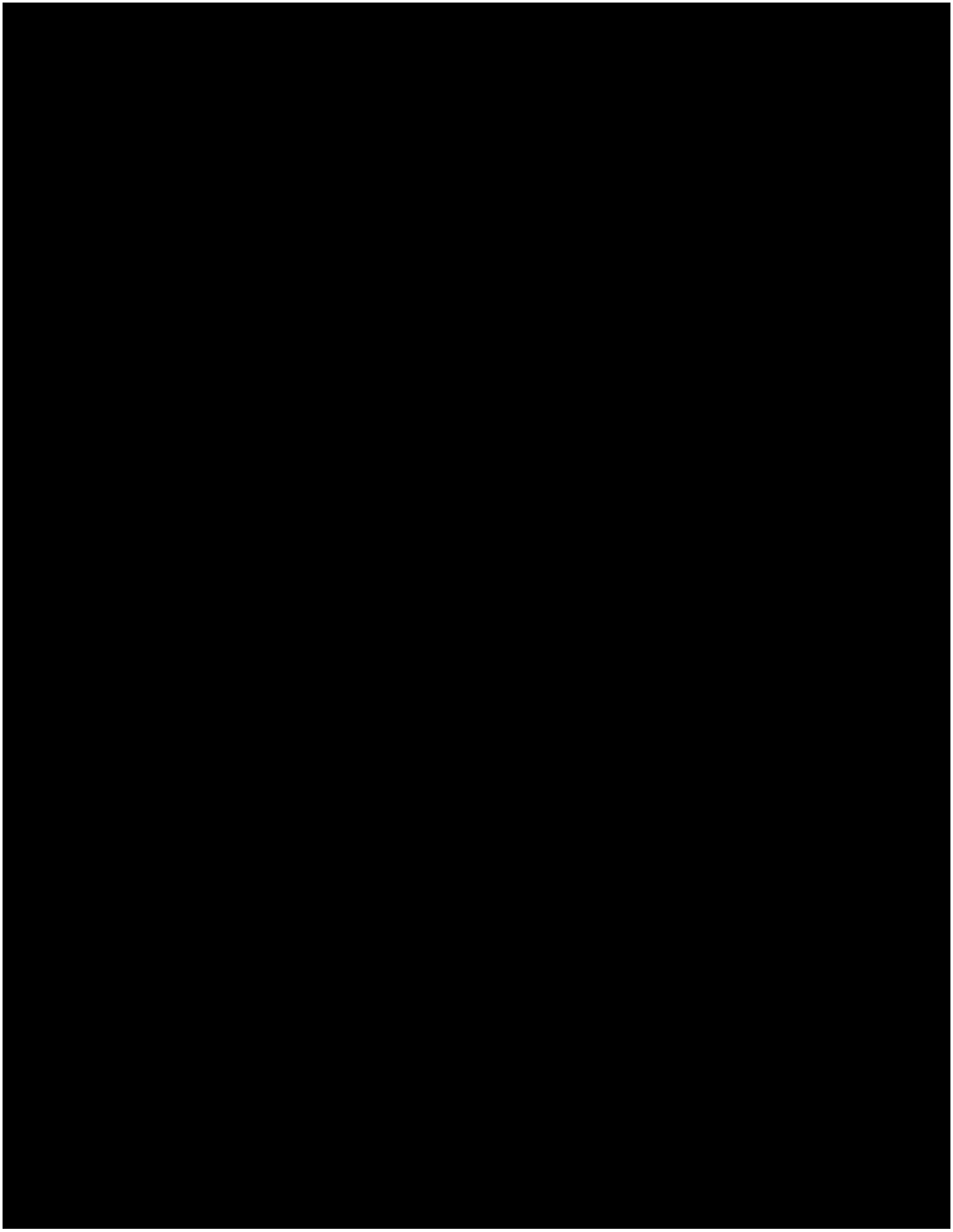


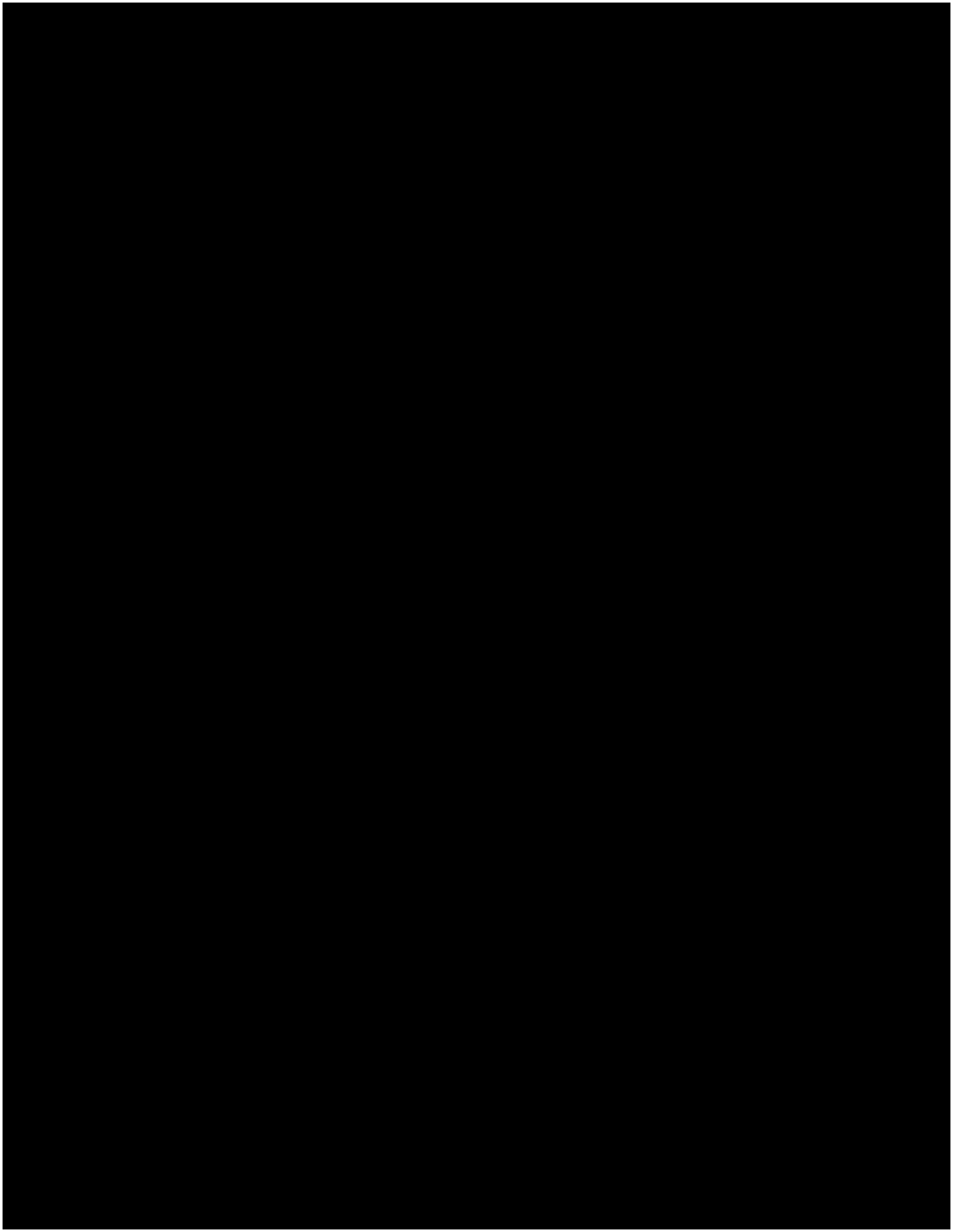


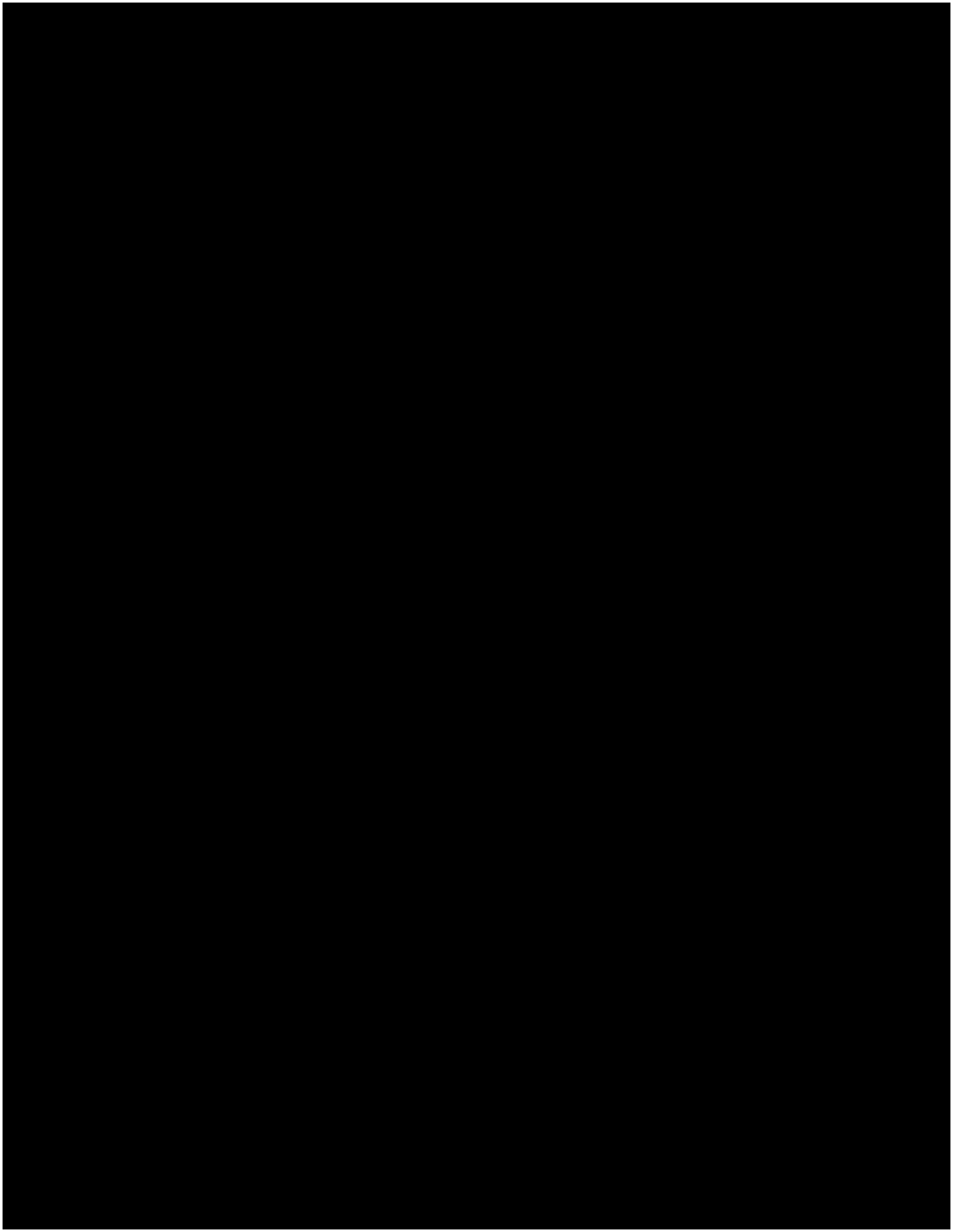


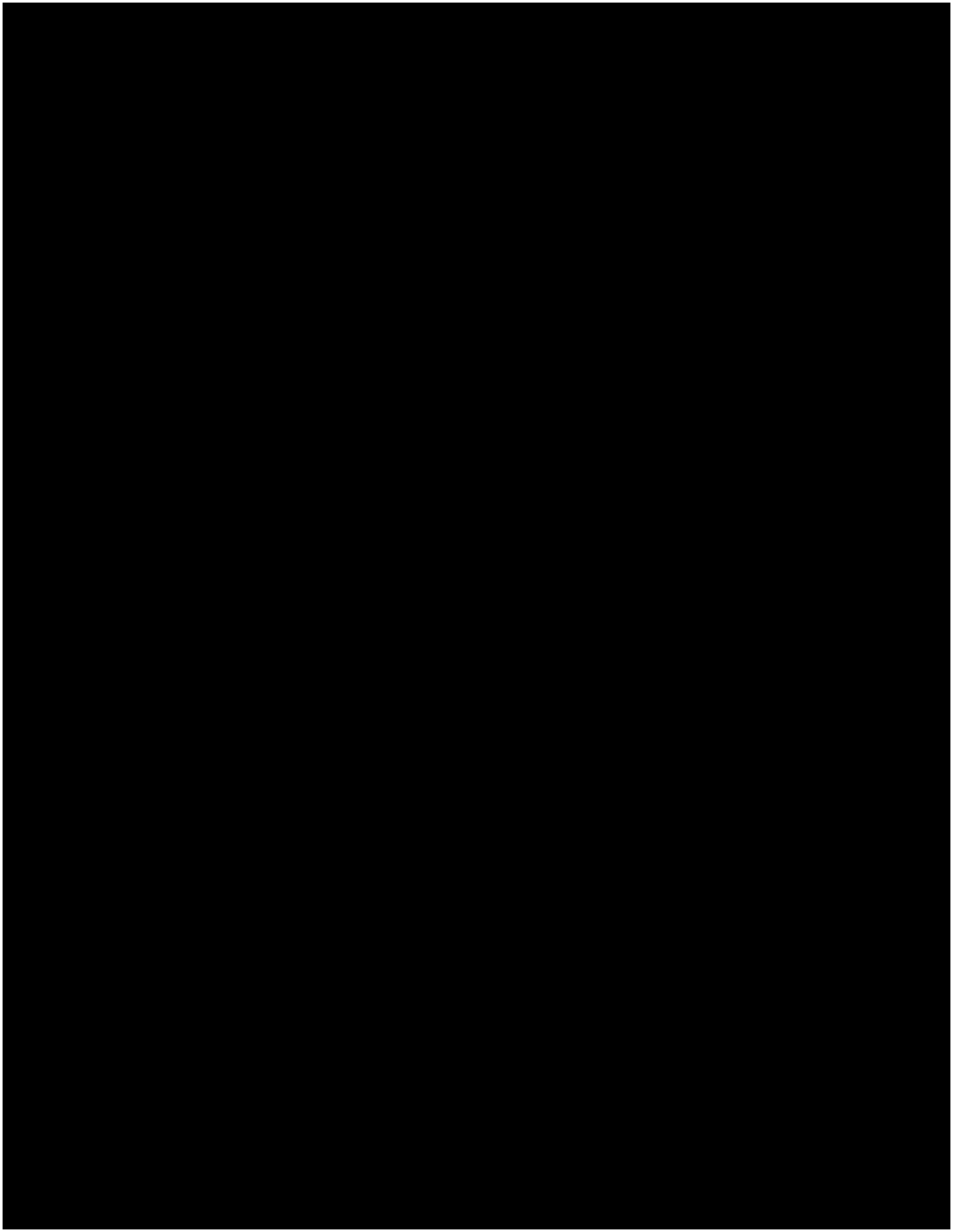


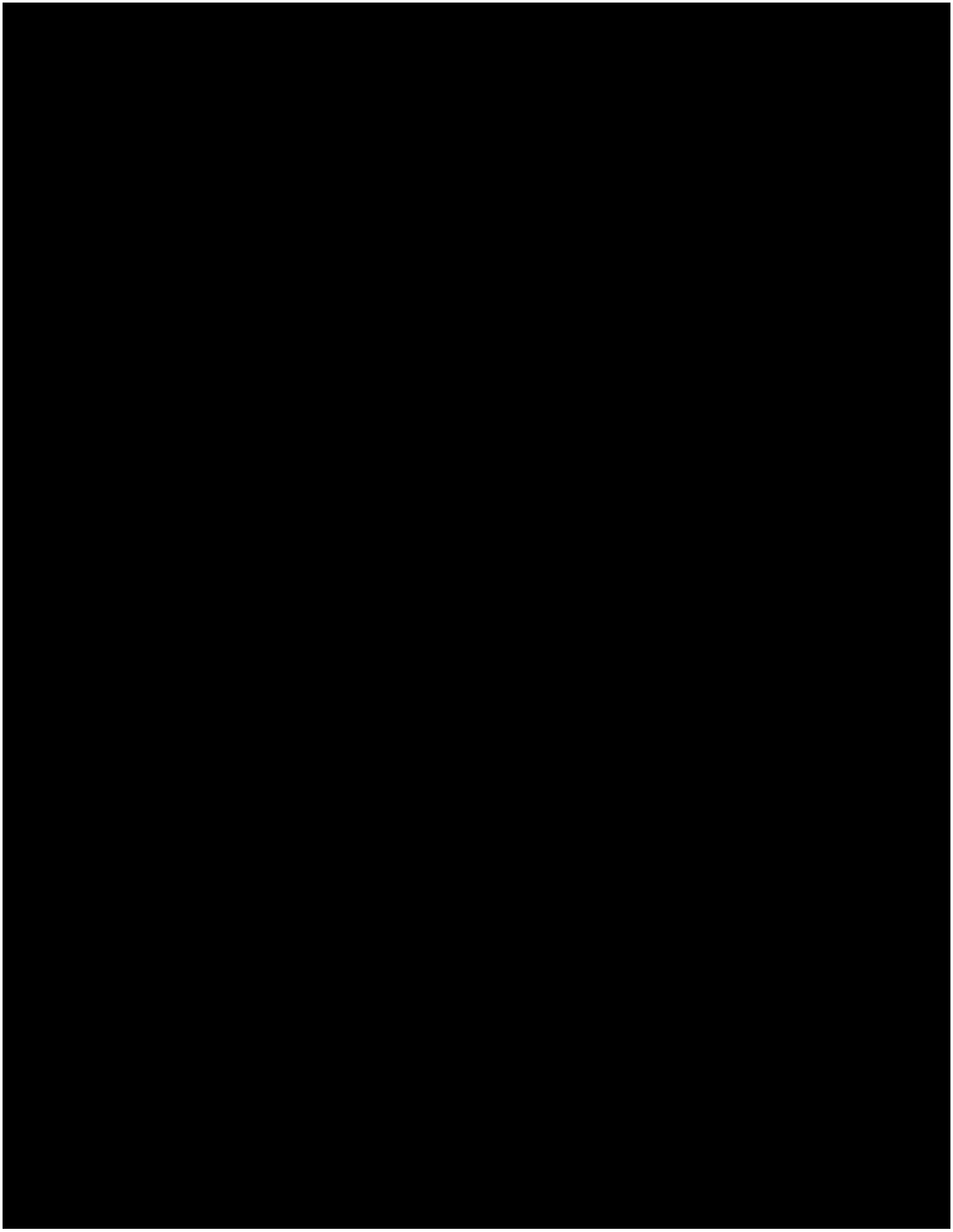


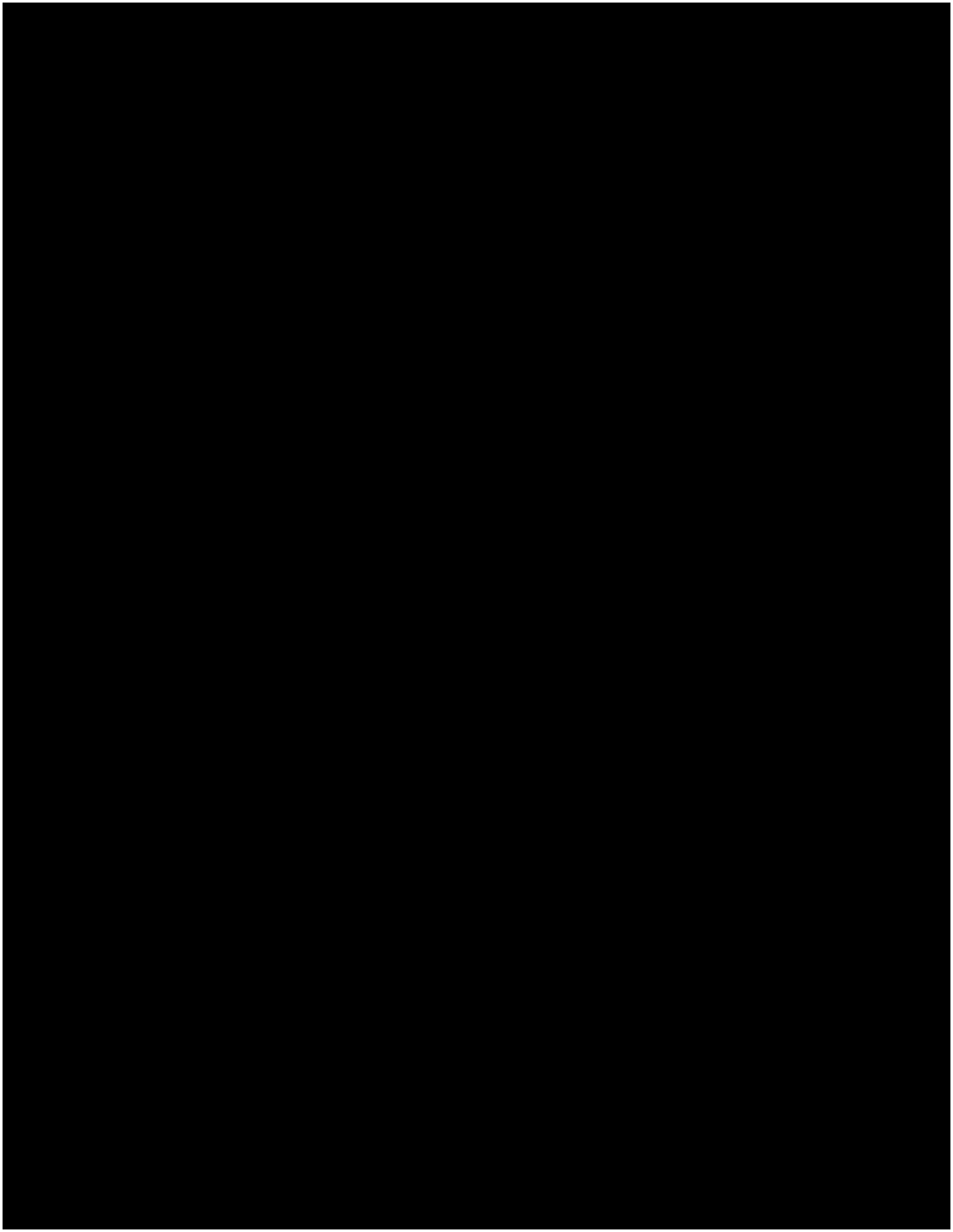


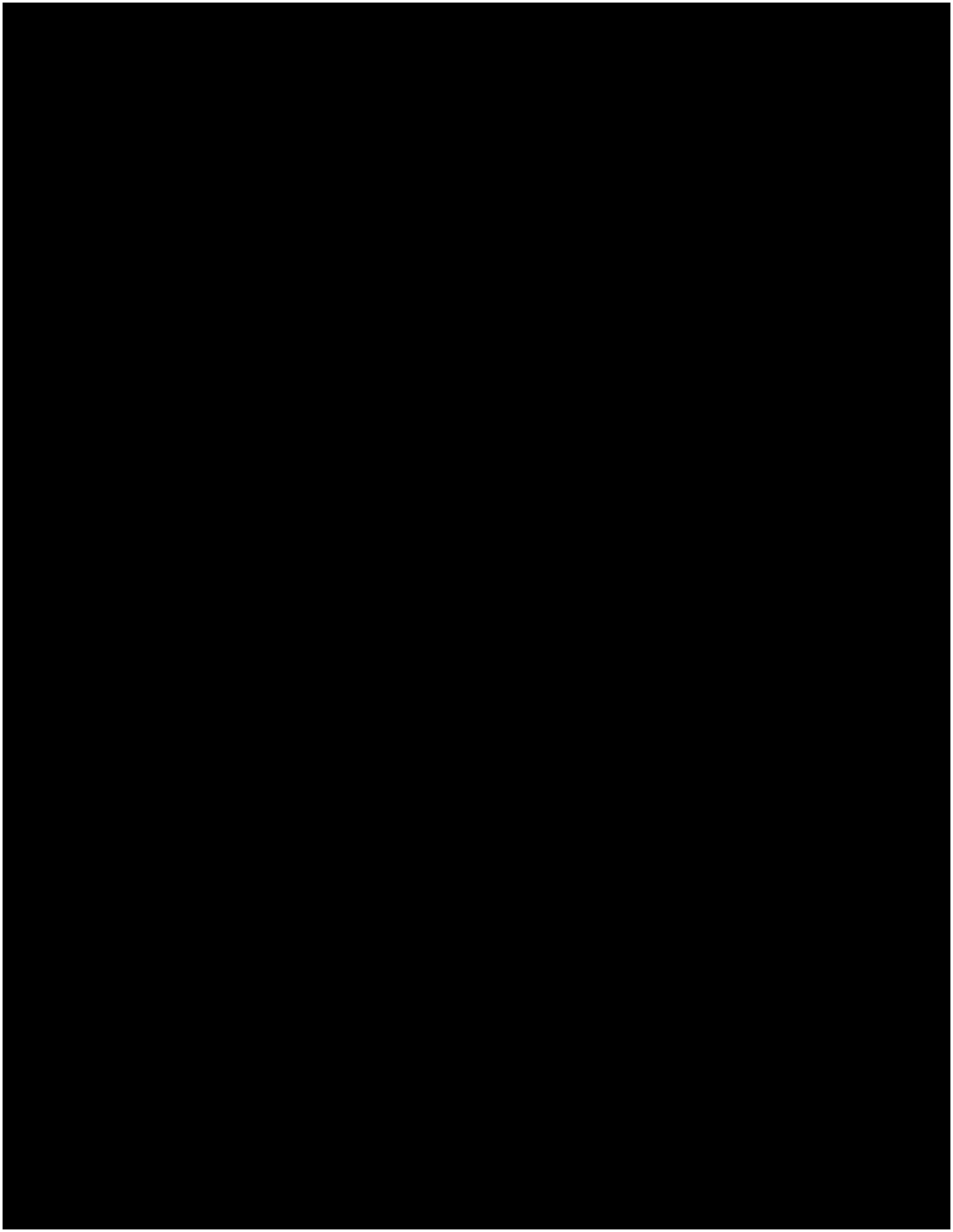


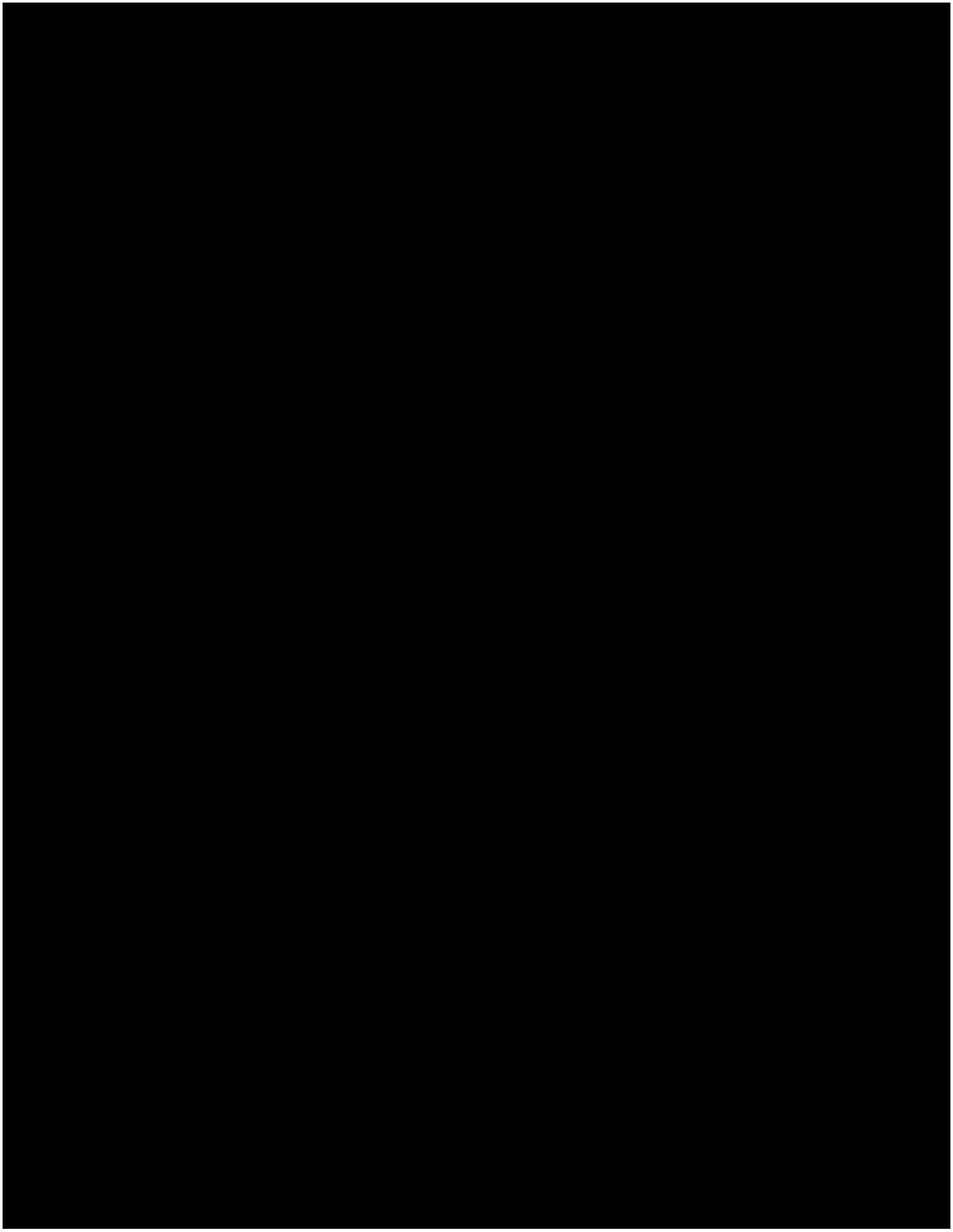


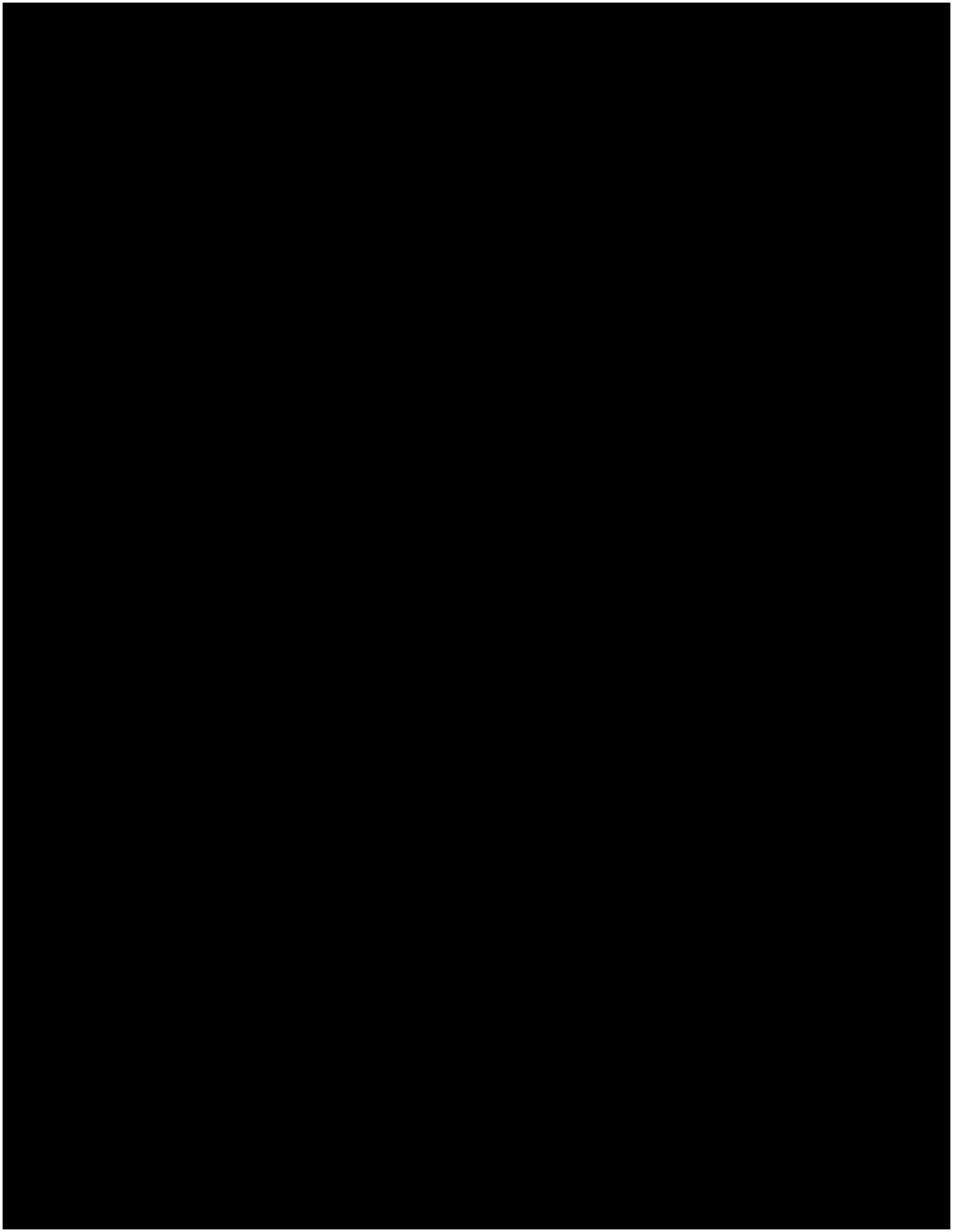


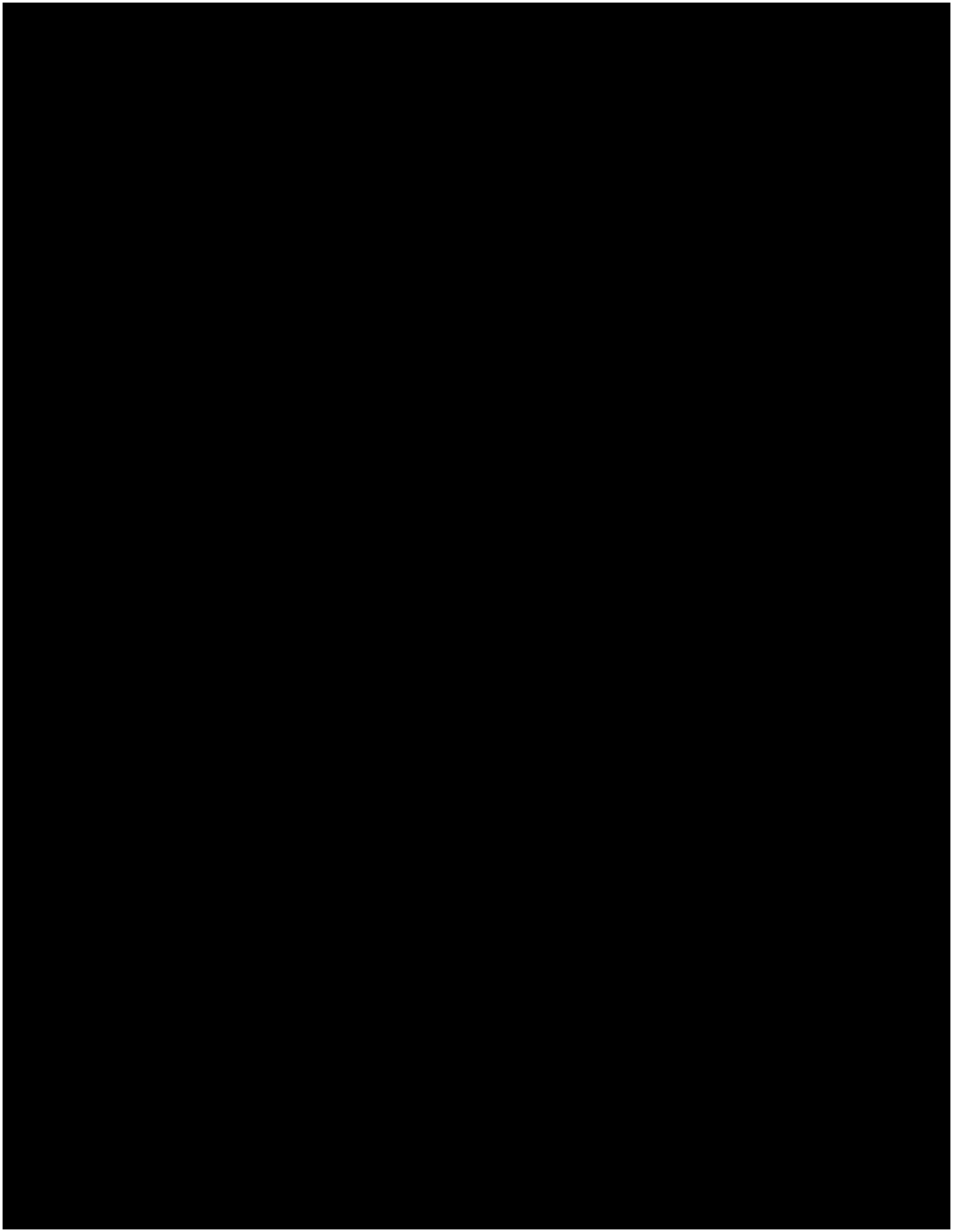


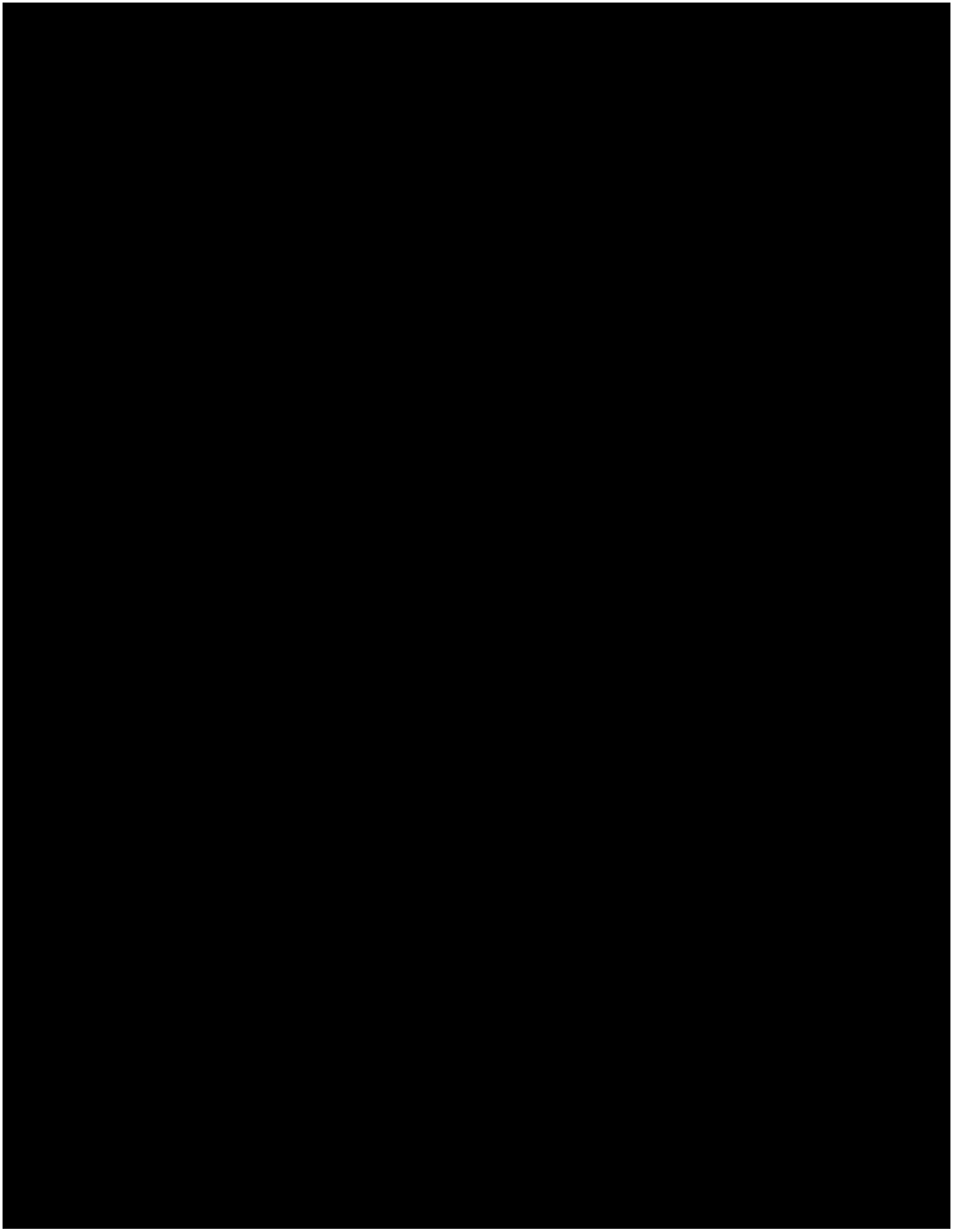


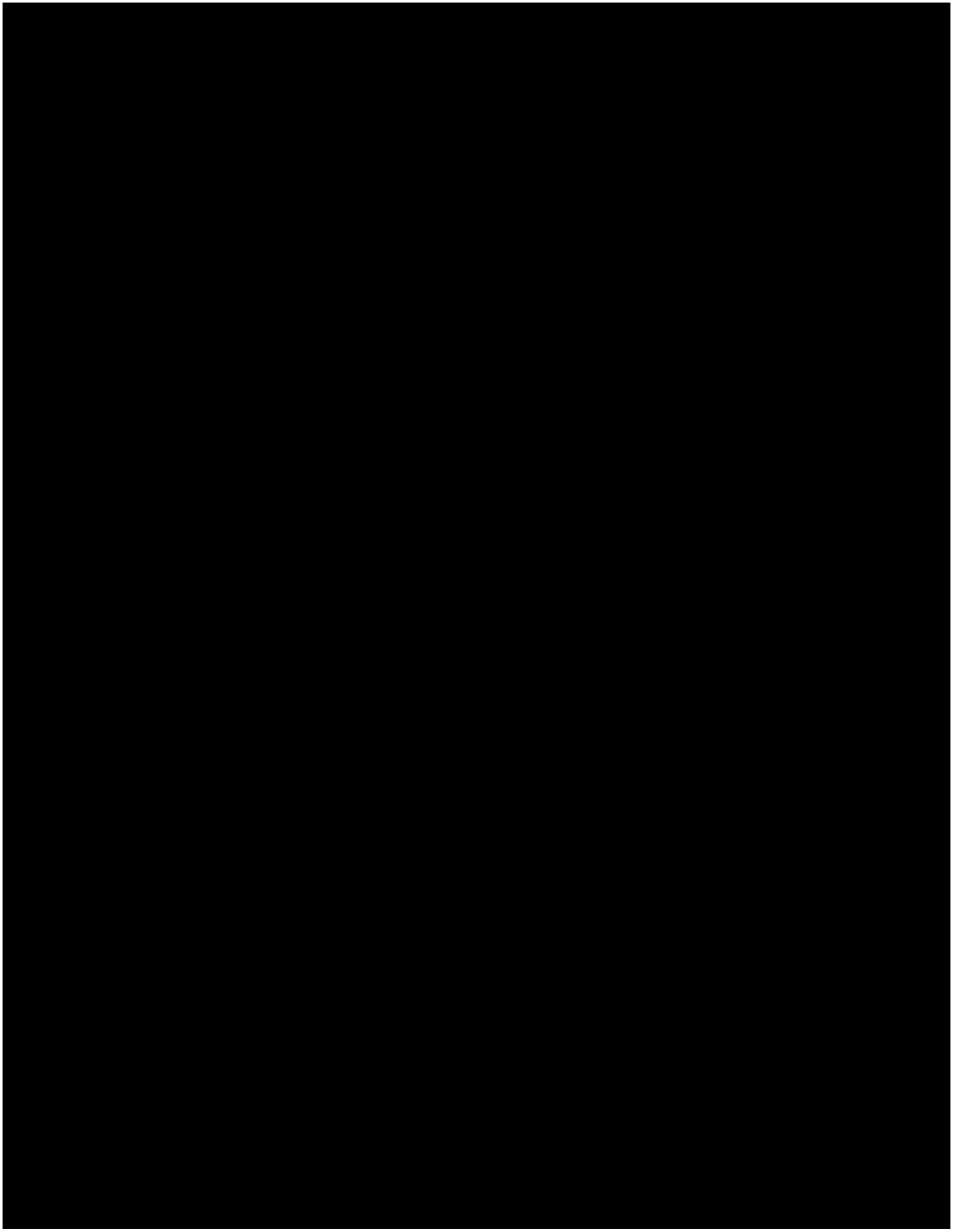


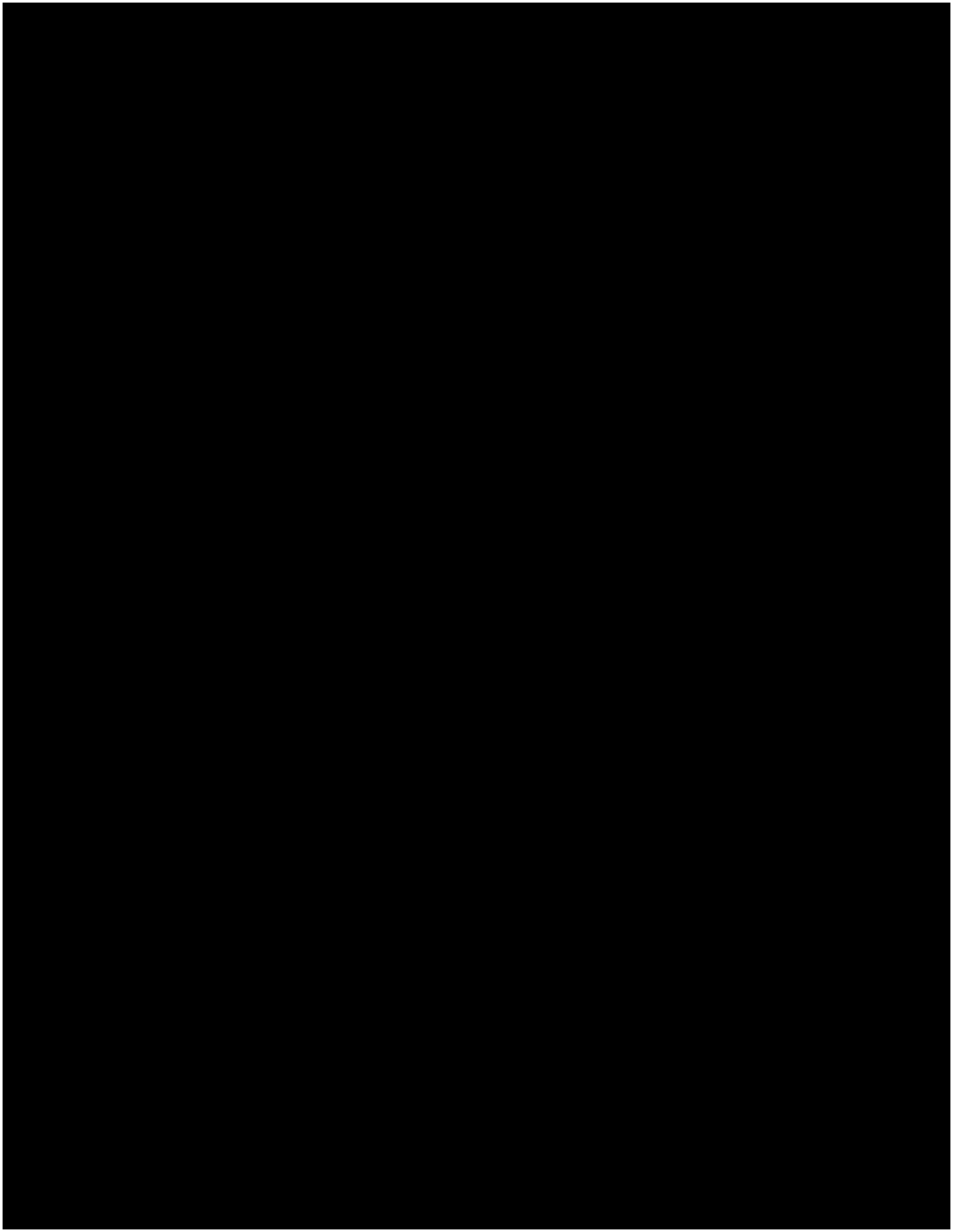


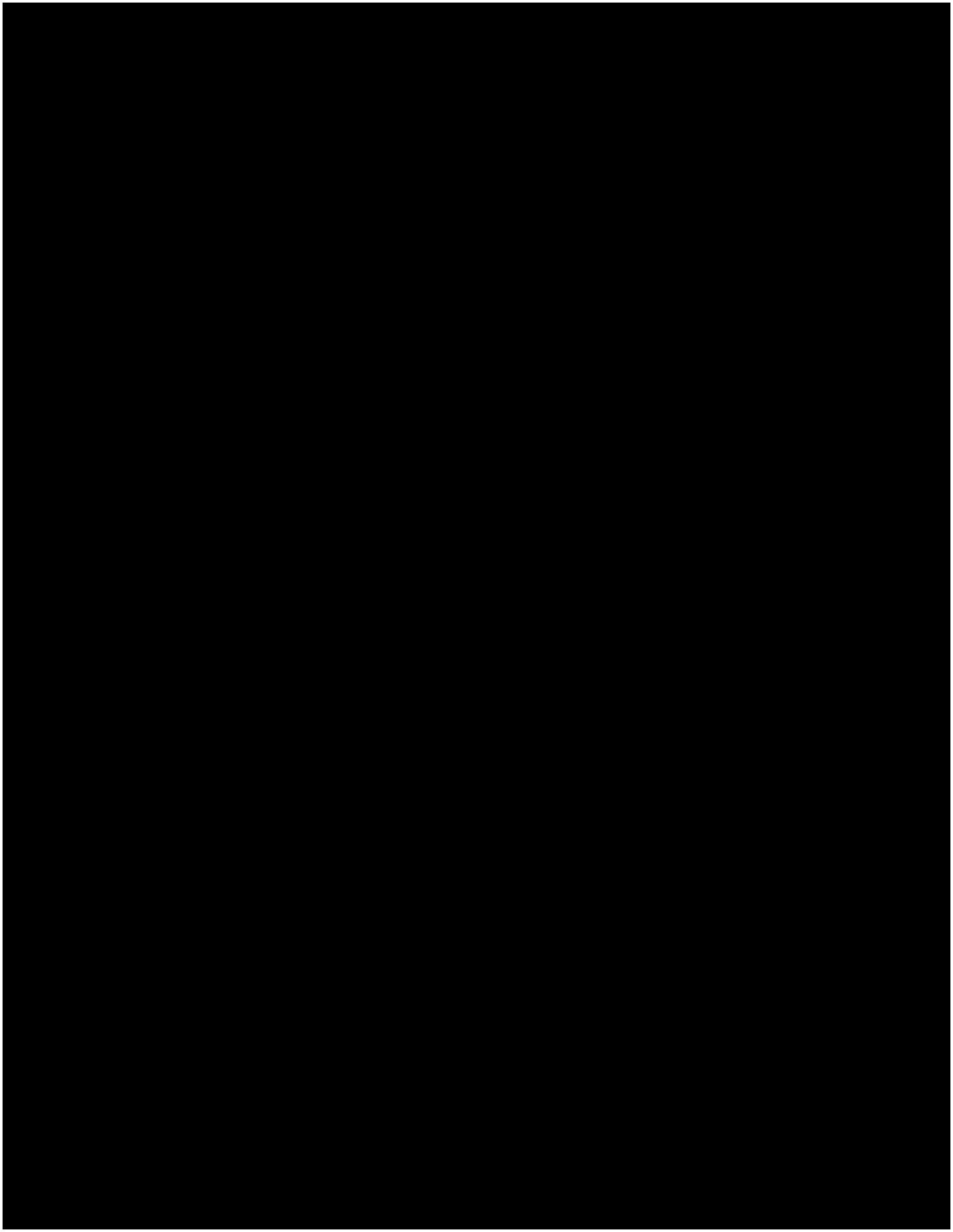


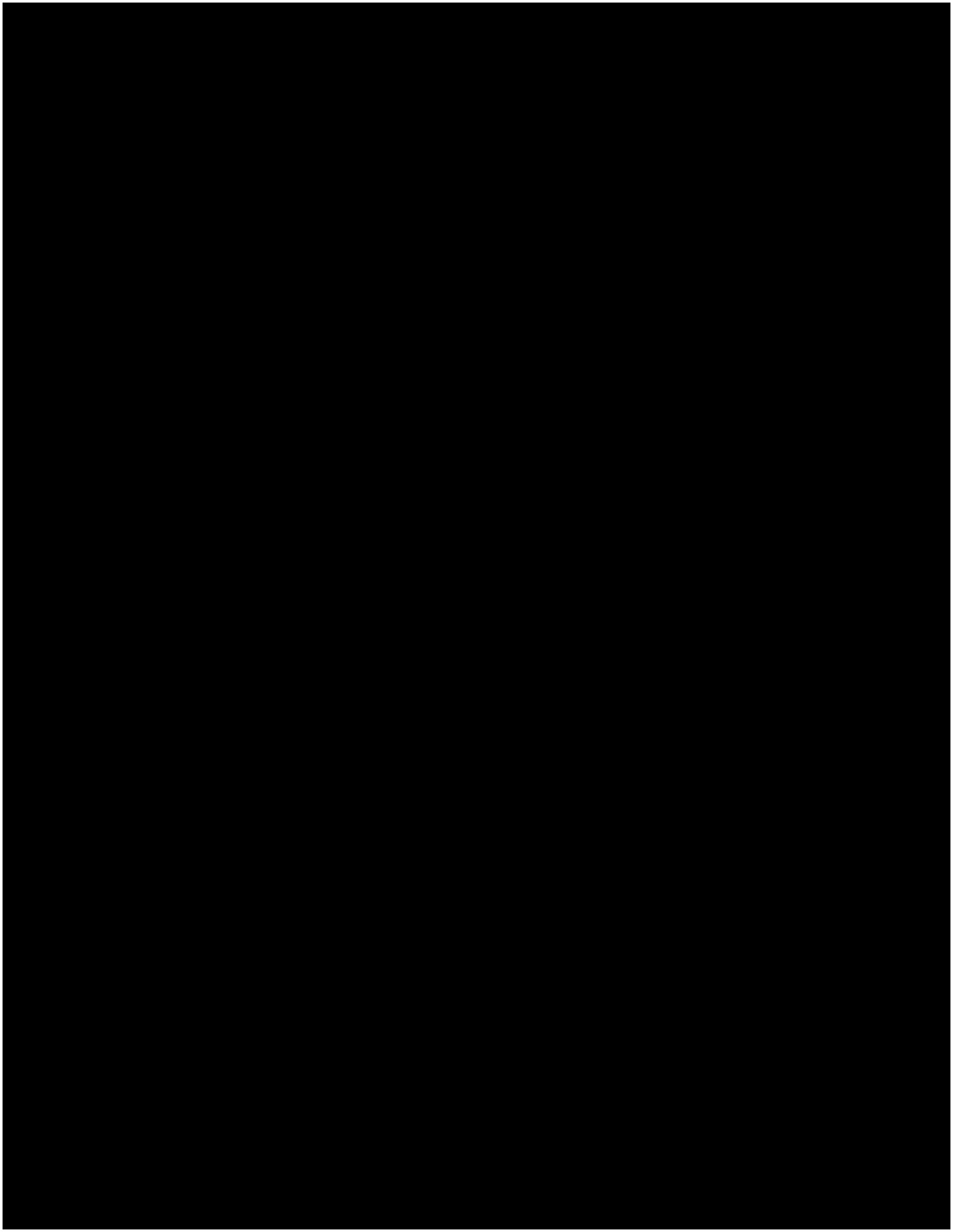


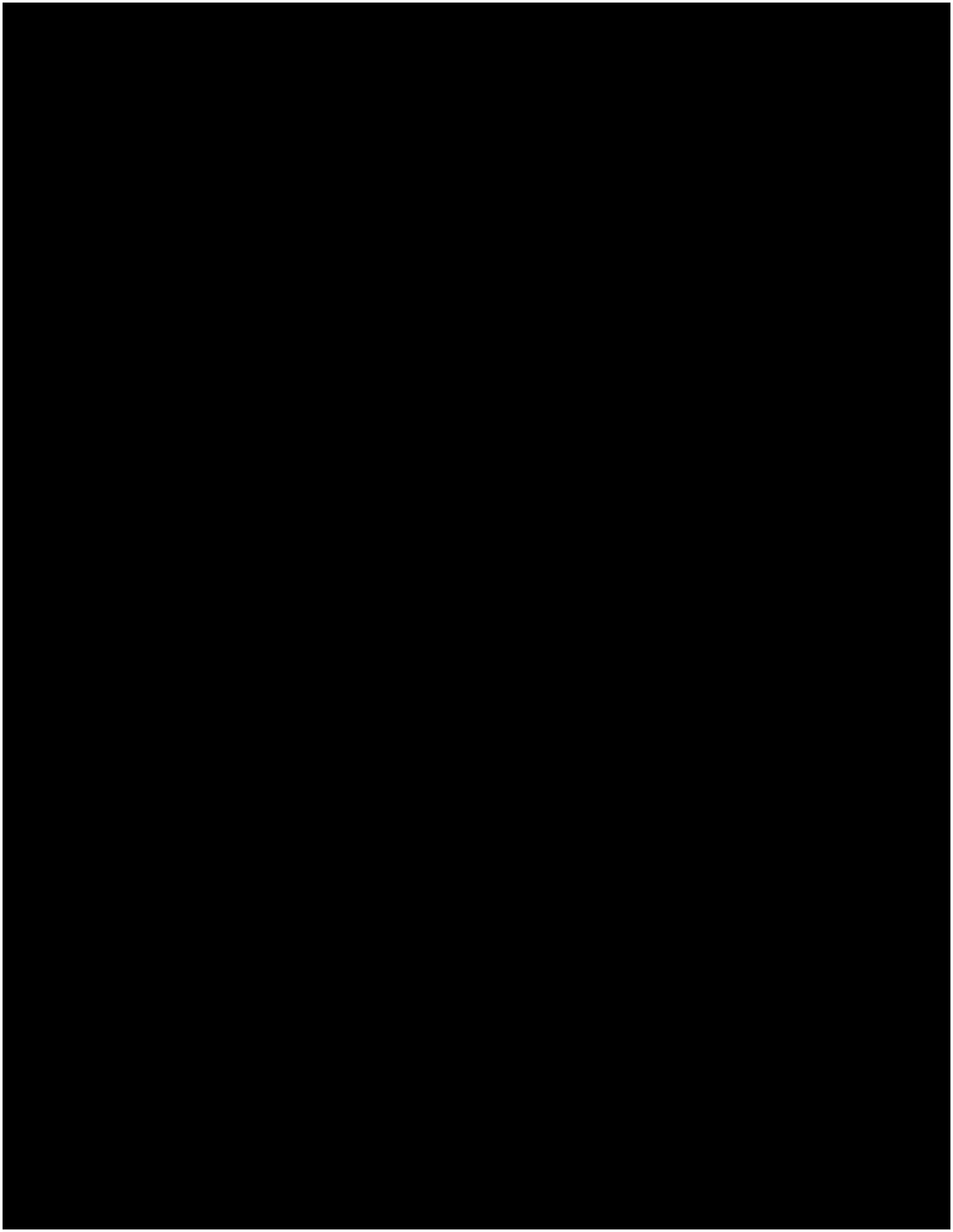


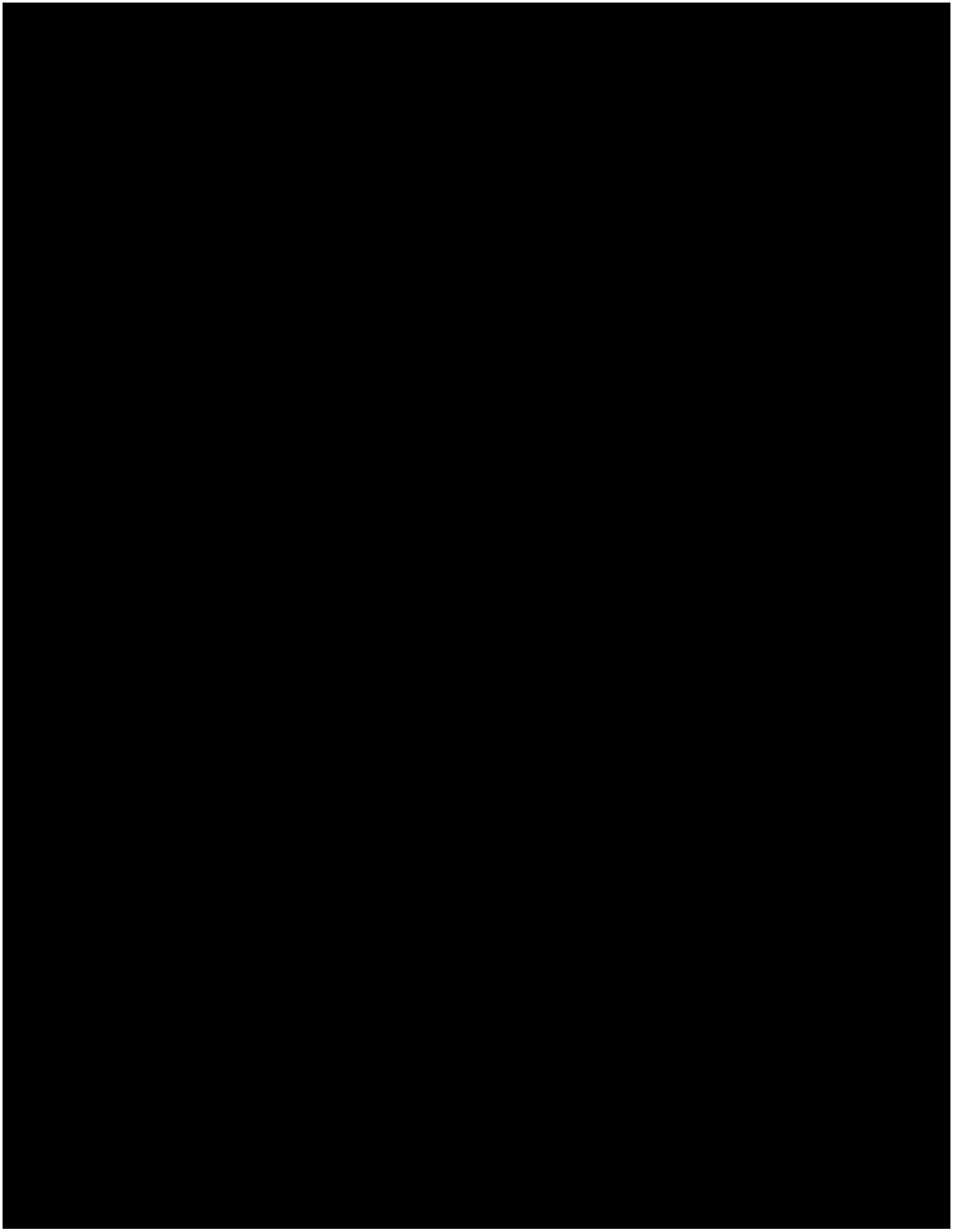


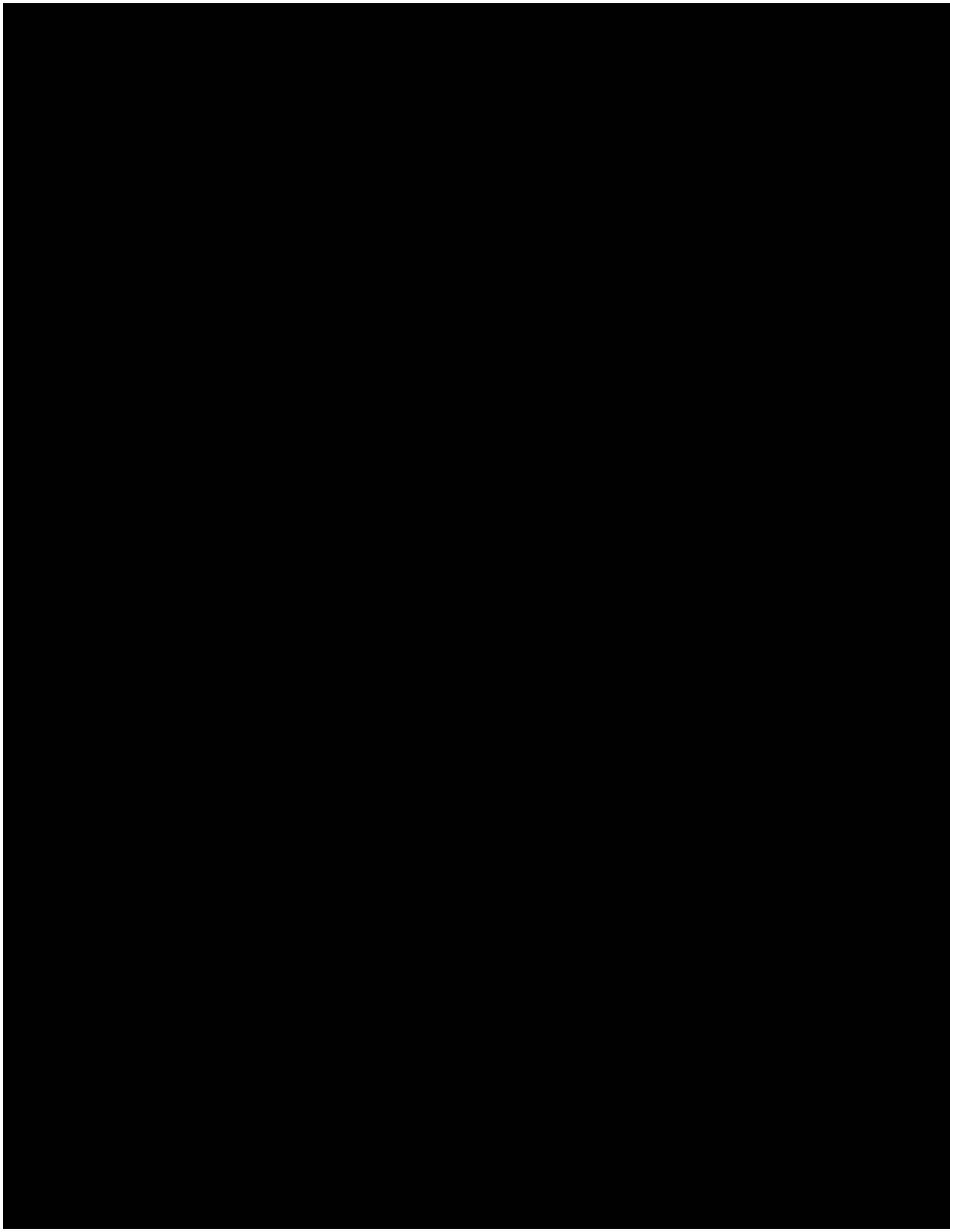


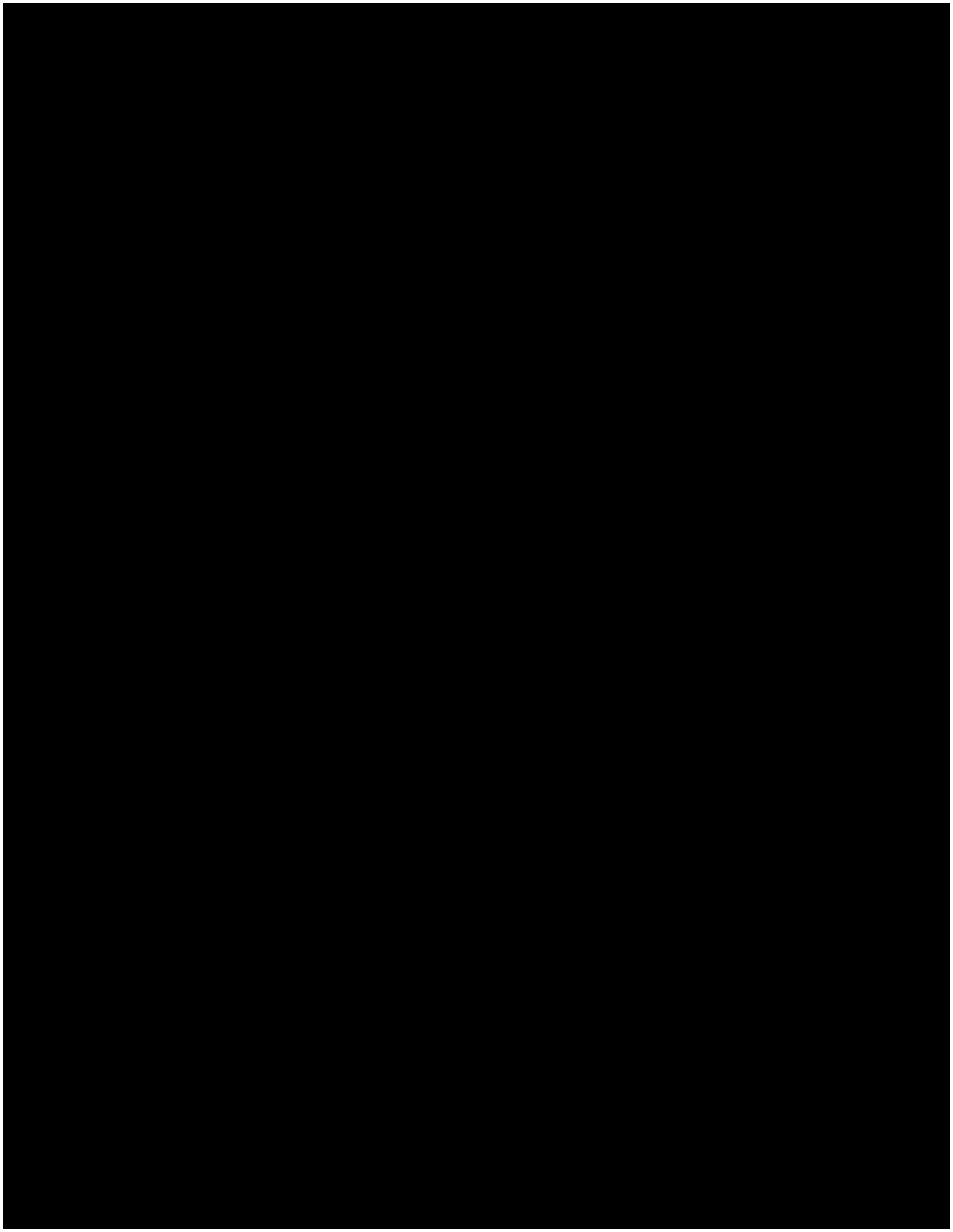


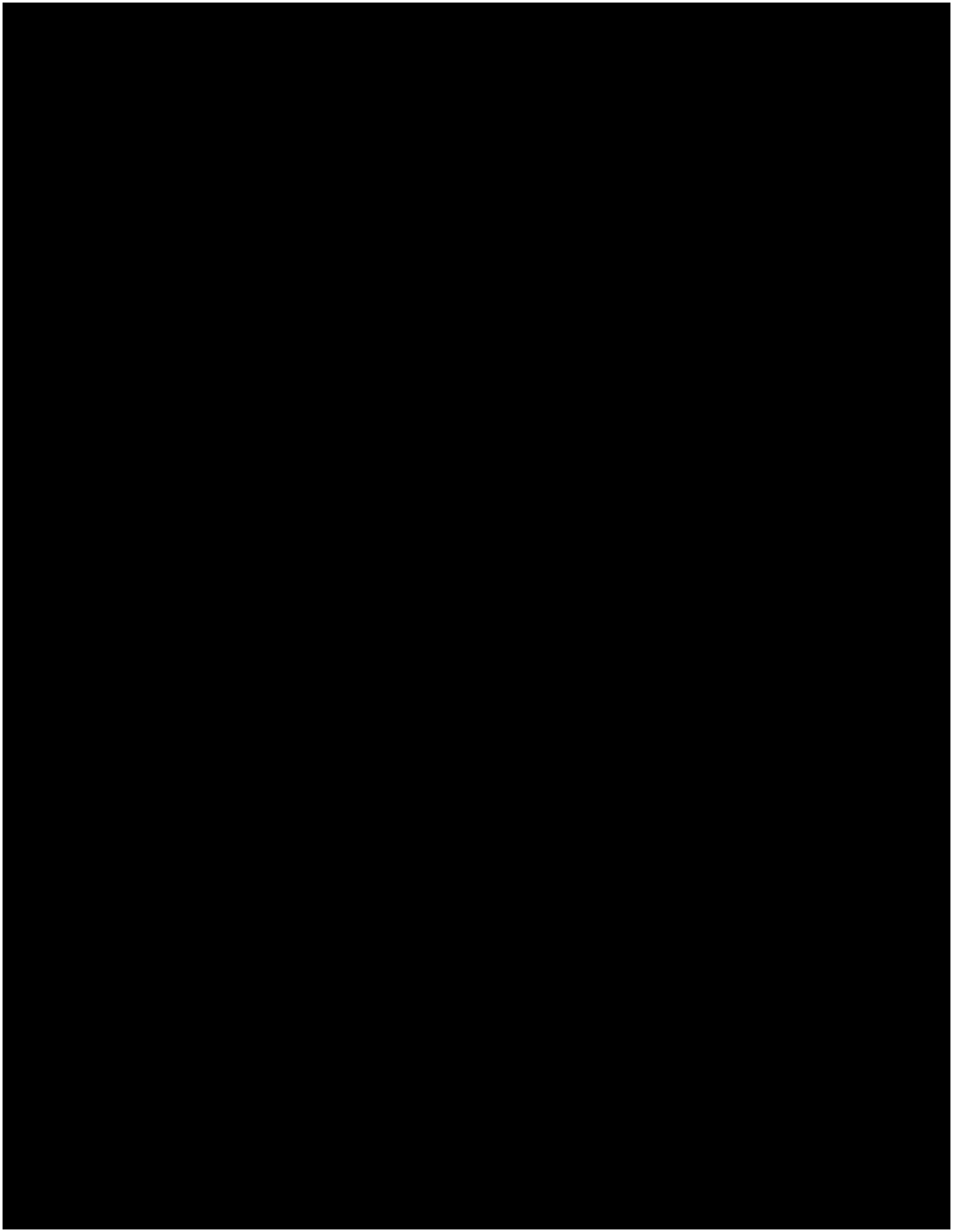


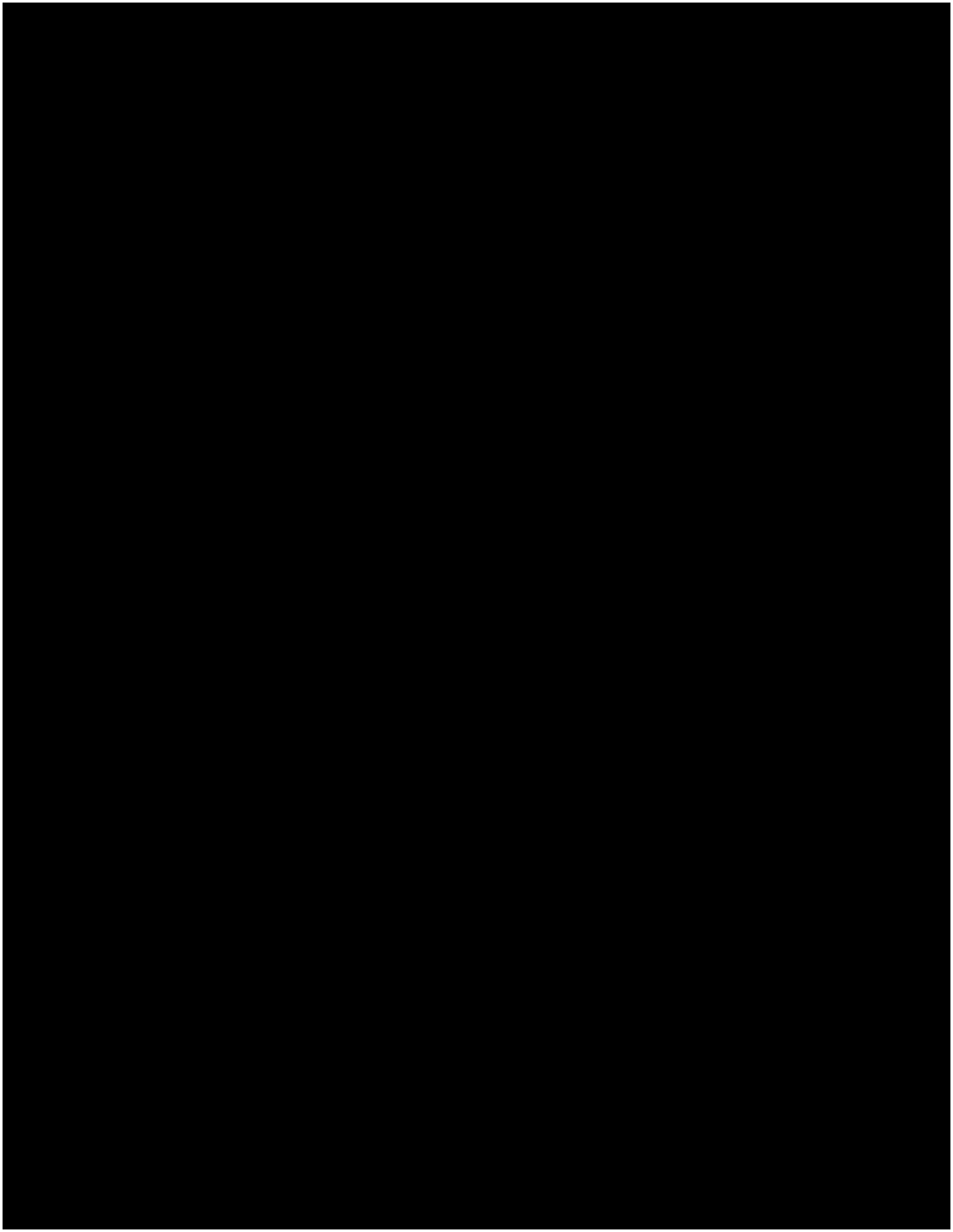


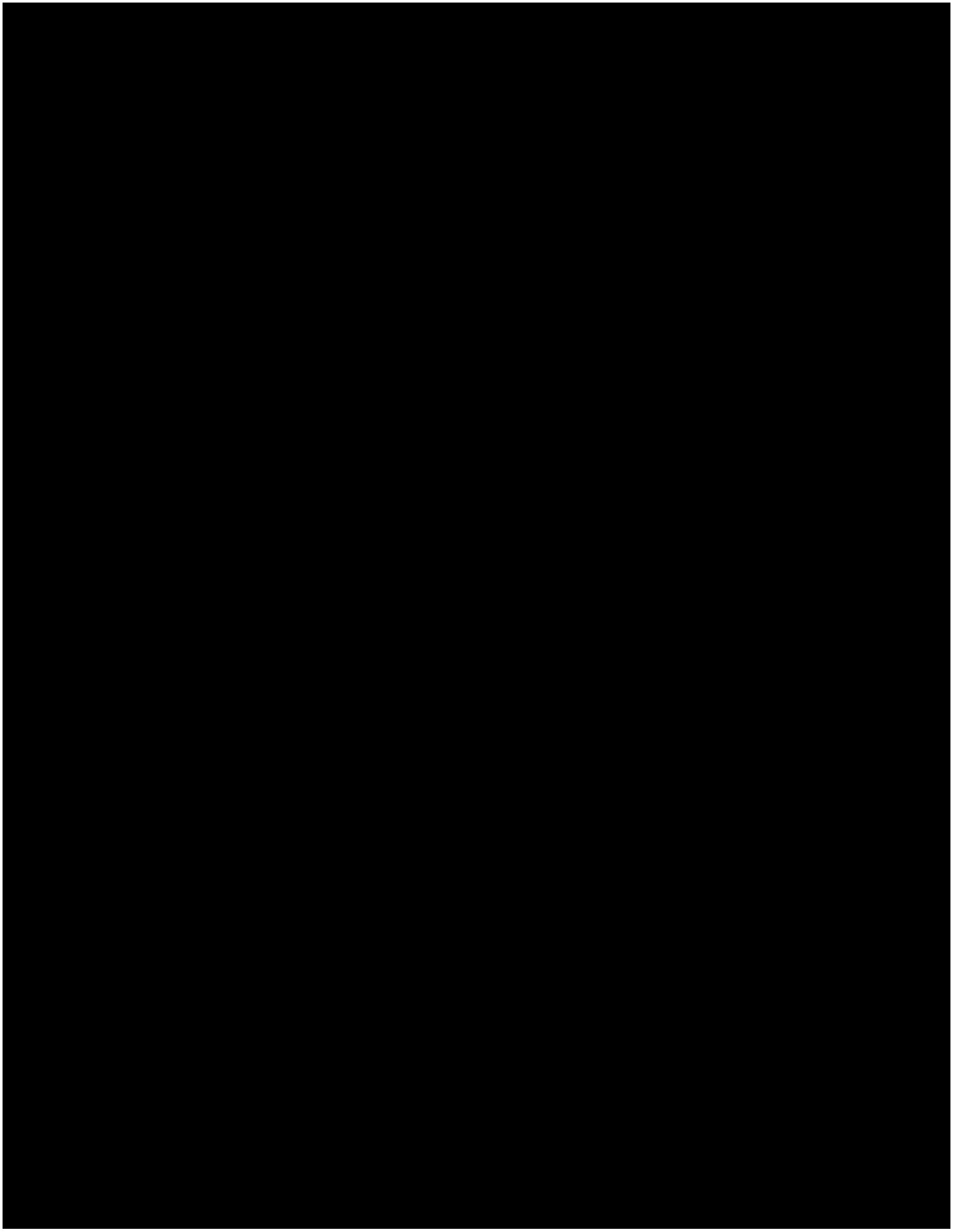


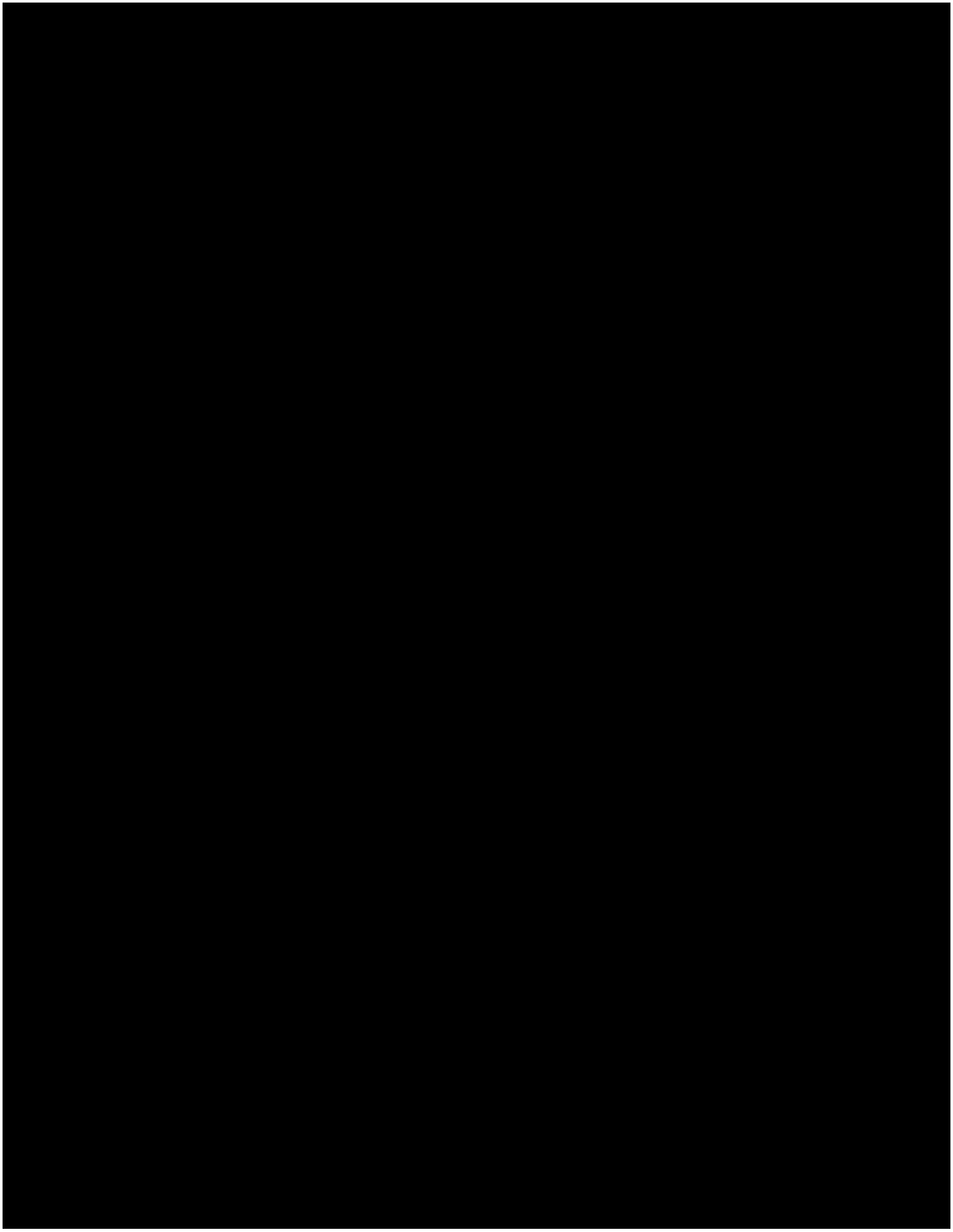


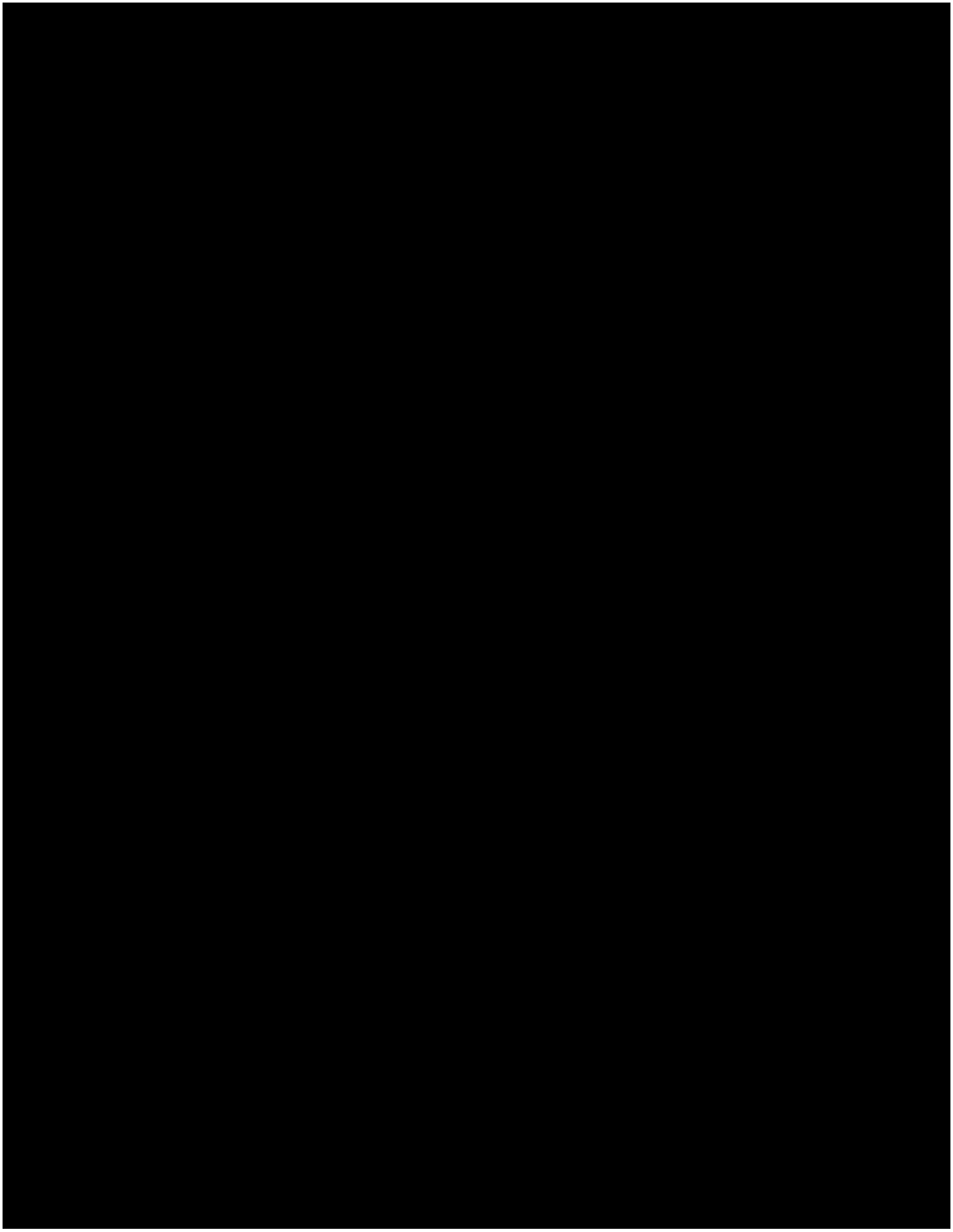


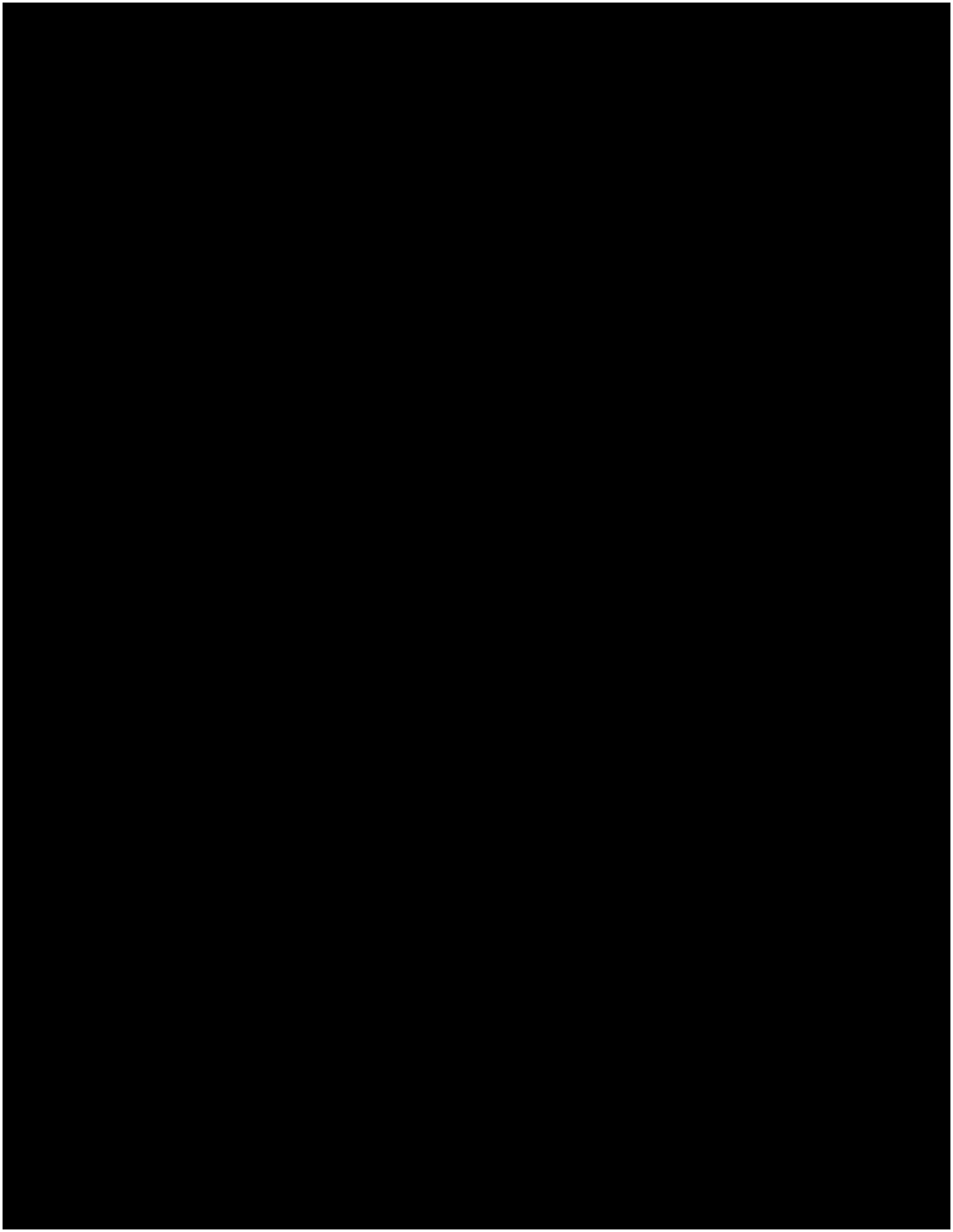


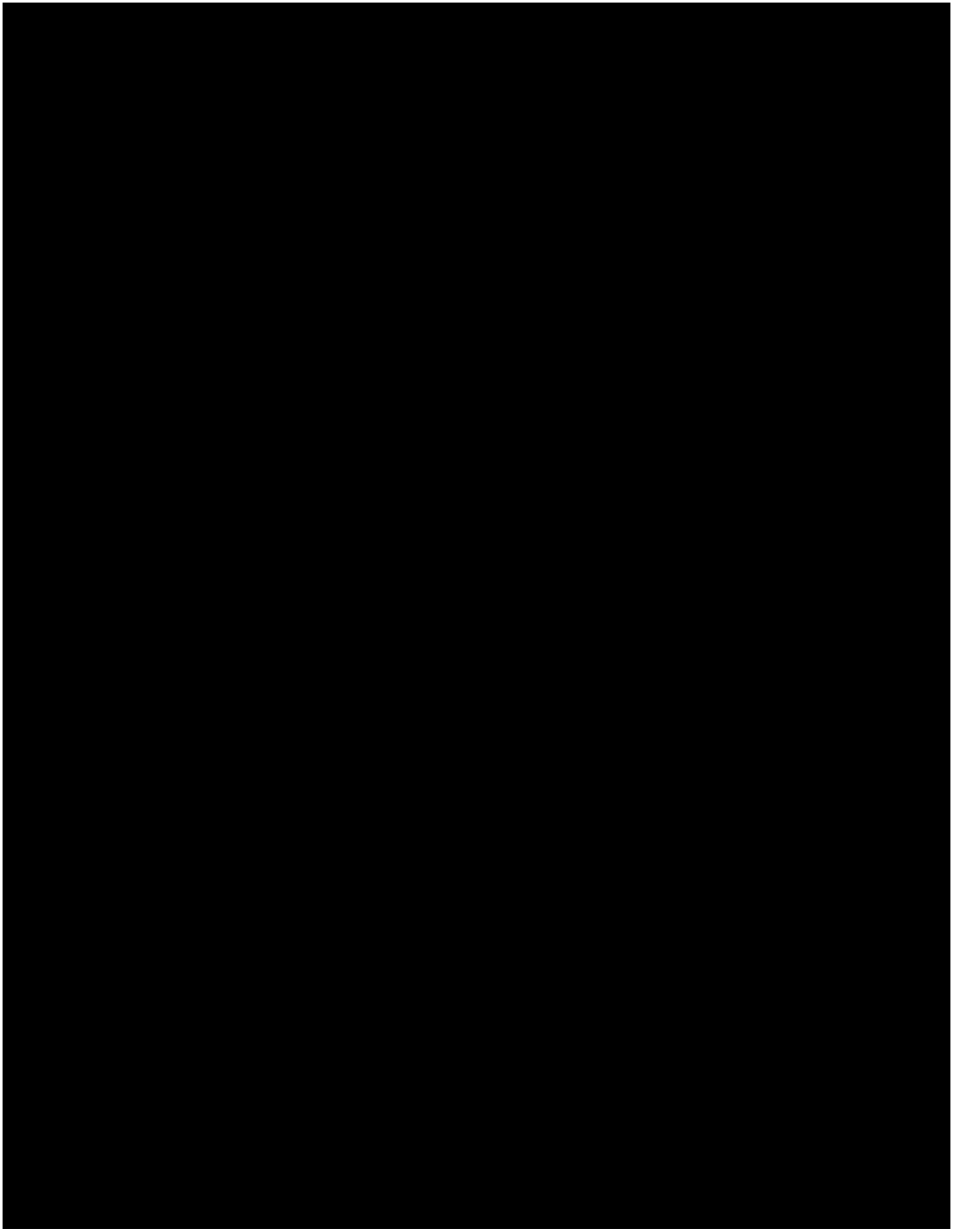


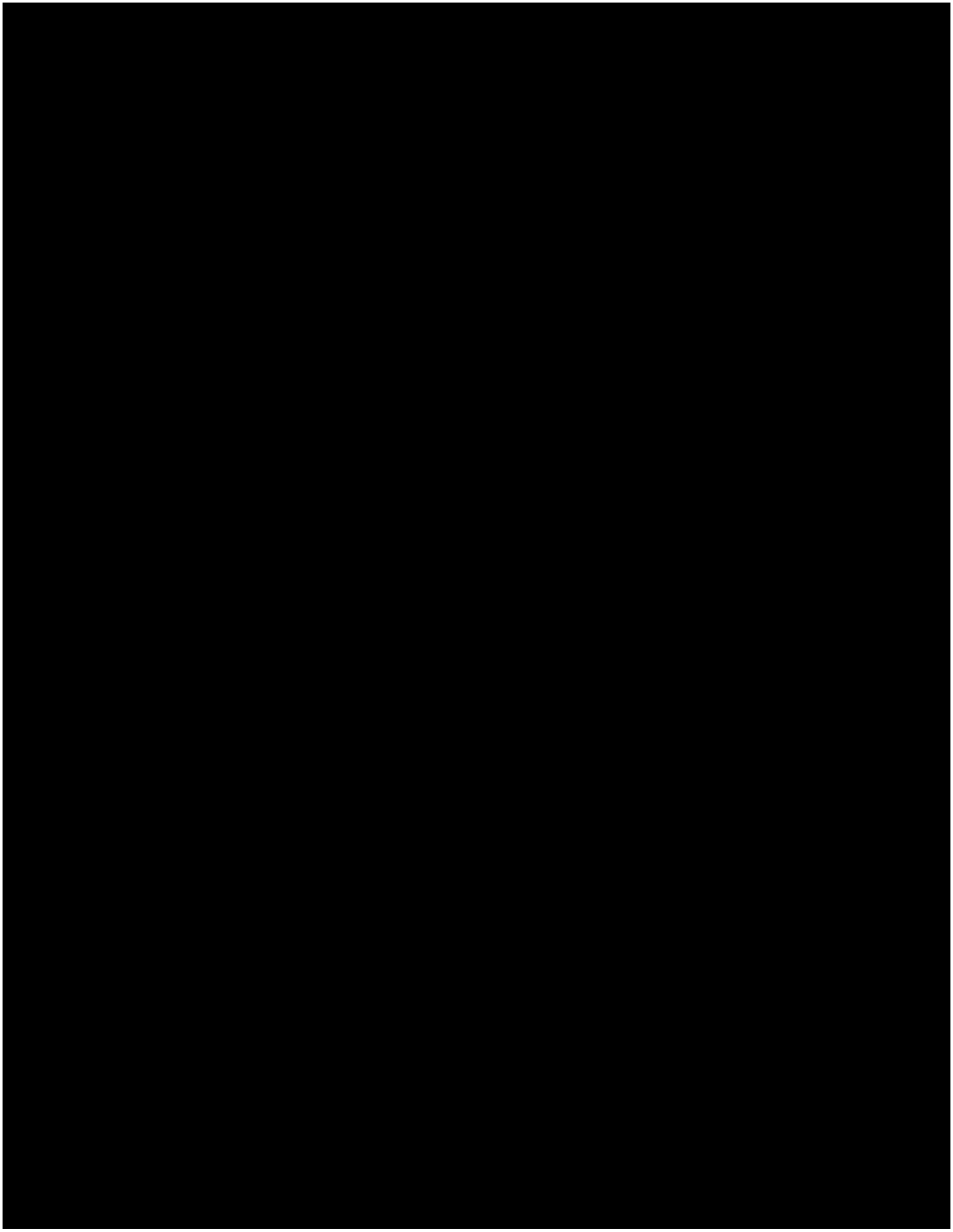


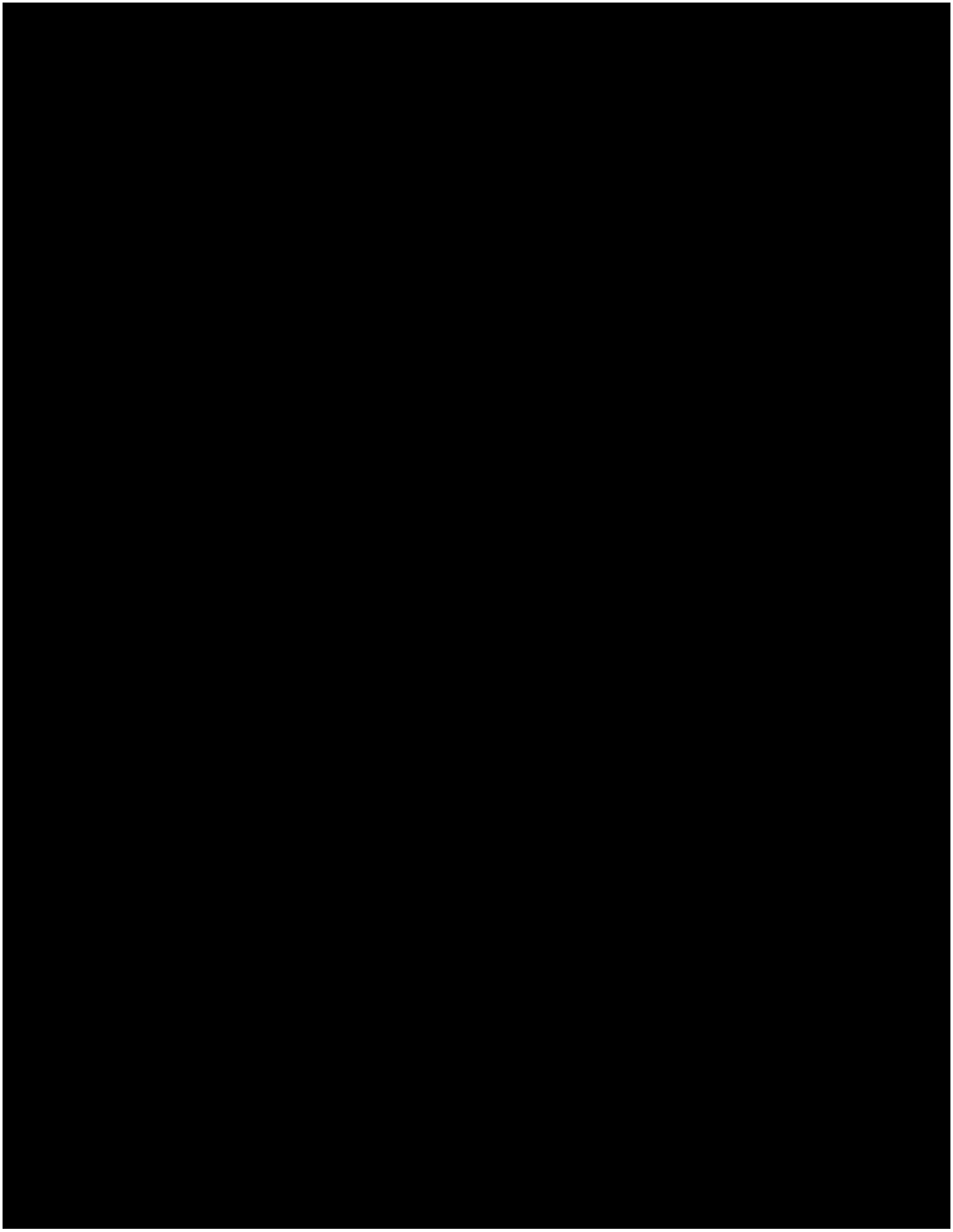












ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD — **CLAIMANT**

VS. **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

DEPOSITION EXCERPTS OF HOLLY NEWMAN

Holly Newman is a paramedic who provided initial assessment to Jacqueline Ashcraft and [redacted] [redacted]

Newman, Holly, (Pages 9:6 to 12:24)

Page 9

Q. And where did you park your ambulance?

A. If I remember correctly, we pulled up slightly passed the DHS car because as Zach was looking at it, he went to her. And then I looked up and seen Ms. Ashcraft and the two kids above us. So we were parked in between them two still facing towards Subiaco.

Q. And then tell me -- tell us what you did when you arrived on the scene and you get out. Walk us through what -- your interaction with Ms. Ashcraft and her children.

A. So I walked up to Ms. Ashcraft and her children once Zach went to the other patient. I noticed that the two children were sitting on the ground and

Ms. Ashcraft was standing up. She was smoking a cigarette at that time.

So initially, as I do every parent, I look at her, I make sure she's okay because all of them are breathing. So neither one of them needed my attention more than the other at that time.

Page 10

So I talked to Ms. Ashcraft and said, hey, you know, can I check out your children, get permission from her because they are minors. She said yes, that's fine. So I turn my attention to the children.

One was completely, utterly fine. She was talking and everything, answering all questions. And the other one had some slight repetitive questioning, which showed signs of possible concussion. So I talked to Ms. Ashcraft and her both back and forth.

Initially, she didn't want the children to go to the hospital, despite the efforts that I very much wanted them to. In our line of work, we can't physically take a child from a parent unless it's a true life threat. At that time, a concussion, it could be borderline, but it was not -- she was not considered a life threat because she had her own airway. She was able to talk. She was not showing signs of lack of oxygen. You know, she wasn't

obviously bleeding everywhere. That would have turned into something else.

Q. Did you -- were you able to physically examine her head and her skull to see if she had any contusions or abrasions?

A. And she had none that I seen.

Page 11

Q. And if I represent to you that that child's name is [redacted] would that be consistent with your recollection?

A. I'm pretty sure, and I think her sister was named Haley?

Q. [redacted]

A. [redacted] Okay.

Q. And [redacted] was the sister -- I'll represent to you [redacted] was the sister that did not have any issues. And so what -- what did you do next -- what did you find on -- when you did the physical examination of [redacted]

A. To my recollection, I didn't find anything. There was no what we call depressed skull fracture, which would be, like, an indention in the back of her head. There was no tenderness, nothing. She just had the repetitive questioning. As we sat there with her, she started regaining her memory more and more as well.

Q. And that's a good sign, correct?
A. Yes. That's a very good sign.
Q. And then what did you turn your -- who did you turn your attention to next?
A. Ms. Ashcraft. She told us that they were actually trying to go to the house, that they

Page 12

happened -- that happened to be across the road. And it was a very hot day. And so between the conversation and her not -- adamantly not wanting the kids to go to the hospital, she signed a refusal form for them both. If I remember correctly, there was one done on [redacted] There should also be one done on Haley as well.

So she told me that she wanted to go across the road. So at that time, Zach didn't need my help with the other patient. He had all of that under control. So since they weren't going to go with us, I walked them across the road and into that house.

She walked just fine. Ms. Ashcraft, all of them had a steady gait. She sat herself on the couch along with the kids. And then the lady in there, I distinctly told the lady, I said, "If anything changes, come and get me" because at this point, nobody, to my recollection, had even checked on the -- the 18-wheeler.

Q. The tractor trailer driver?
A. Yes. So then that was in the back of my mind was, like, well, at least somebody needs to go lay eyes on him. And so that's -- after I took them to the house, that's where I went.

Newman, Holly, (Page 17:4 to 17:12)

page 17

Q. And so my question is, tell us what the time -- at the time and what your description is on that flow chart prepared by you for Jacqueline Ashcraft.
A. That 1304 ALS assessment, patient is alert and oriented times four, which means down at the bottom, the initial assessment, oriented to person, place, time, event. She was walking around the car. She -- patient's response unchanged, successful; complication, none.

Newman, Holly, (Pages 18:6 to 19:21)

Page 18

Q. All right. Under the category HEENT, tell us -- explain to us what that means.
A. Head, eyes, ears, nose, and throat.
Q. Thank you. And explain to us what you observed about her head and face.
A. There was no abnormalities. Her pupils were equal. The neck --

Q. Let me stop you right there. Her pupils being equal, what does that mean to you as a paramedic?
A. That means that there's nothing going on in her head at that time that I can tell. Again, I don't have x-ray. I don't have CT. But on the physical outside findings, that's something we look for. If they're unequal, that means something is going on.
Q. And I notice you have a measurement next to the eyes of the size of the pupils.
A. Yes.
Q. And what is that measurement?
A. That's two millimeters. That means they're on the smaller side.

Page 19

Q. And that's what you would expect for somebody who is out in the sun?
A. Yes, sir.
Q. And that's normal or -- of someone -- that's what you would expect for them to have or what you would hope to have is the same size pupils and for them to be small or constricted; is that right?
A. Well, I wouldn't say constricted. Constricted are really a lot smaller, kind of almost pinpoint. That would suggest other things. But you do want them on the smaller side out in the sun in that they're not --

Q. Oh, sorry. Go ahead.
A. No. Go ahead.
Q. Is two to four millimeters normal for a patient?
A. Yes, sir.
Q. Nothing there gave you any pause for concern when you observed her eyes?
A. Not at that time, no.
Q. During that initial assessment?
A. Correct.

Newman, Holly, (Pages 23:16 to 25:13)

Page 23

Q. Okay. And then what happens next?
A. So I climbed in the back of the ambulance to make sure he needed -- if he needed any assistance. And about that time, a state trooper knocked on the door, knocked on the back of the ambulance and said, hey, y'all are needed inside the house.

And I looked at Zach and I said, "Well, I'll go," since I had initial contact and he was with his patient. So I walked back in the house to go reassess Ms. Ashcraft.

Page 24

Q. And what did you find when you walked back into the house to reassess Ms. Ashcraft?
A. I found that she was laying her head on -- I cannot recall the person who she was laying or sitting

next to. But she was not responding the way she was initially when I had left her. She was still able to respond to me, but it was not like she was.

Q. And what -- so what did -- as a paramedic, what do you do?

A. Well, initially, I thought she may have been dehydrated because it wasn't necessarily the coldest in that house either. So I started a IV on her, called for another unit.

And then that's when I was informed that we didn't have another unit. My partner come back in there and said, "Hey, we're it. We're going to have to take her as well." So there's nobody else. Everybody else was on calls. And I said okay. So my partner, he just picked her up and started carrying her.

Q. And where does Paramedic Marry take her to?

A. To the ambulance, the back of the ambulance, and laid her on the bench seat.

Q. And then what happens next on the transport?

A. I get in the driver's seat and we drive to the

Page 25

hospital. On the way there, Paris told us that their CT scanner was down, so our closest to divert to unfortunately was Booneville, which was clear across to the other side of the county.

Q. And what is -- are you -- what is Ms. Ashcraft's condition while you're in transport? Are you communicating with Medic Marry, or do you know?
A. We are a little bit back and forth. We're talking about the possibilities and what was going on. He had restarted an IV because mine got pulled out. So other than that, I don't know what kind of treatment. I'd have to look back at the report to see if he did any kind of treatment.

Newman, Holly, (Page 27:12 to 27:18)

27

Q. And she's the driver. Airbag deployment, does it tell us what you found on the airbags?
A. Front deployment.
Q. Okay. And then safety devices, what did you find on the safety devices?
A. She had shoulder and lap belt, which means the normal seatbelt.

Newman, Holly, (Page 28:5 to 28:12)

Page 28

Q. And what was Ms. Ashcraft's condition when you got to the emergency room at Booneville?
A. When I opened up the back doors, she was still responding to that command. I'm pretty sure she still

had motor function. I don't think she was talking clearly, but I did see her nod her head into a question we had asked her. So I knew she was still responding to him.

Newman, Holly, (Pages 30:20 to 31:14)

Page 30

Q. And you went through on your initial assessment of [redacted] you talked about it earlier. One of the things you mentioned is that she had, I believe you called it, repetitive questioning. What is -- do you remember what her questions were or what they were?

Page 31

A. I know she kept asking what happened. She didn't remember -- I think the last thing she remembered, I think they had went to McDonald's and she had a McDonald's cup. She just kept asking what happened and that she didn't remember anything.

Q. And then as far as looking at her head, I know -- and the HEENT, it states there was a hematoma to the back of her head, no deformity noted. Is that, like, a hematoma I think of as a -- tell us what a hematoma is.

A. It's swelling. It's a swelling in the head -- on the outside of the head.

13 Q. And then her eyes, were they normal?
14 A. Yes. They were three millimeters.

Newman, Holly, (Pages 32:3 to 33:4)

Page 32

3 in the narrative of your assessment, it
4 states that "Mom holds up finger for her to see." And
5 is that the mother holding up two fingers or three
6 fingers and saying how many fingers are you seeing?
7 A. Yes, sir. So with head trauma, that's the
8 unequal pupils and blurred investigation and vomiting
9 are signs of progressive head injuries. So I had
10 mom -- not like right here, but in the peripheral
11 part, hold up two fingers and she was able to identify
12 both correctly on each side.
13 Q. And was Jacqueline Ashcraft able to assist you
14 in holding up the fingers and doing what you were
15 asking her to do?
16 A. Yes, sir.
17 Q. And so both Jacqueline Ashcraft and [redacted]
18 were able to follow your commands and appeared normal
19 after this accident; is that correct?
20 A. After my initial assessment.
21 Q. After your assessment. Yes. Okay. And then
22 you were able to consult with Ms. Ashcraft to tell her
23 what to look for and what to do if [redacted] had

24 experienced any of these issues such as vomiting,
25 nausea, blurred vision; is that correct?

Page 33

1 A. Severe headache. Yes.
2 Q. Okay. And Ms. Ashcraft seemed to understand and
3 be able to appreciate and respond to you appropriately?
4 A. Yes, sir.

Newman, Holly, (Pages 34:23 to 35:19)

34

23 Q. And what does coup-contrecoup mean to somebody
24 that is a paramedic, somebody who responds to motor
25 vehicle accidents?

Page 35

1 A. That means that the patient's brain -- so our
2 brain doesn't touch the skull at all times. It is
3 slightly smaller than our skull. So it happens in
4 rear-end collisions.
5 So when we get hit in the back of the
6 head, the brain comes up, hits the front of the skull,
7 and then hits the back of the skull and it kind of
8 just plays bouncy ball.
9 Q. And do you have any criticism of Ms. Ashcraft or
10 any of her medical decisions that she made during that
11 initial assessment?
12 A. What do you mean criticisms?
13 Q. In that she was belligerent, refusing to take

your advice, anything like that?
A. No. She was very nice, very understanding, very "Okay. I will. I understand."
Q. Did she appear to be a normal mother of two teenage daughters who are out going to see somebody on a -- on an afternoon?

Newman, Holly, (Pages 48:6 to 49:3)

Page 48

We talked -- you talked about the eyes. Initially, they were, I guess, fine. Okay. Two millimeters. You suggested that that was a normal, within-range reaction or measurement of the eyes?
A. In light, they constrict. They get smaller in light.
Q. Okay. Okay. What -- in your experience of seeing people under the influence of a controlled substance, does that affect their eyes at all?
A. Under narcotics. Not every drug.
Q. Okay. Like, what type narcotics?
A. Opiates.
Q. Opiates? What do opiates do to a person's eyes?
A. They constrict them, make them smaller, nonreactive.
Q. Okay. Would her measurements have been consistent -- not saying that she was under the

24 influence of opioids. But if she had been, would her
25 eyes have been consistent with that finding?

Page 49

1 A. They would typically be smaller than the two.
2 Q. So, like, a one or something like that?
3 A. Correct. Or what we call pinpoint.

Newman, Holly, (Pages 60:13 to 61:19)

Page 60

13 Q. Okay. Now, can we go back and maybe -- can you
14 again describe the condition of Jackie Ashcraft when
15 you first saw her?
16 A. When I first initially had encounter with her,
17 she was alert, standing outside behind the car, alert
18 and oriented. She was smoking her cigarette, and her
19 two kids were sitting on the side.
20 Q. Okay. Any trouble with balance that you could
21 tell?
22 A. No. She had a normal gait. Her speech wasn't
23 slurred. She was able to carry on a full conversation.
24 Q. Okay. Did she tell you if any parts of her body
25 were hurt or injured or achy due to the wreck?

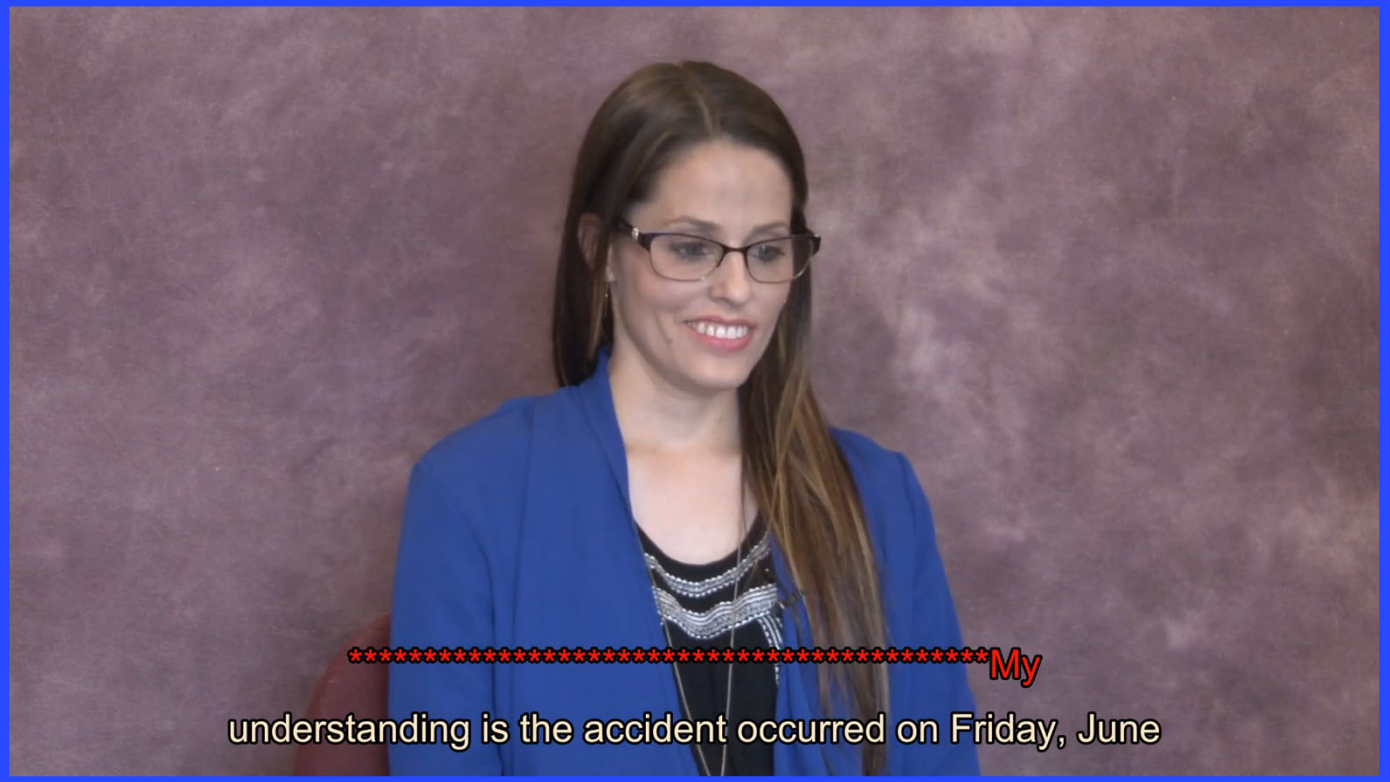
Page 61

1 A. No. She was more worried about her kid and
2 making sure she was okay first.
3 Q. Okay. Okay. And you said that [redacted] the
4 youngest of the girls, was fine. And [redacted] the older

of the girls, had a hematoma on the back of her head?
A. That's what the report says, yes.
Q. Okay. And that's a bump or -- I don't want to be too --
A. Yes. It's -- hematoma is a common name for swelling or a bump. And if you -- you know kind of how you bruise on your leg if you hit something. And your head, it kind of swells out.
Q. Okay.
A. If it swells in, then it's more a medical problem.
Q. Okay. So she would have gotten that injury presumably from hitting her head back on the headrest or the seats?
A. That's what I would assume.

Jennifer Wilkerson Deposition Excerpts

Jennifer Wilkerson



- Page 9, line 3 through page 19, Line 20
- Page 22, line 10 through page 26, line 17
- Page 43, Line 21 through Page 44, Line 20
- Page 122, Line 16 through Page 124, Line 13.
- Page 60 line 13 through page 62 line 8, which includes Exhibit 8 of her deposition;
- Page 108, lines 10 through 16.
- Page 83 line 24 through page 86 line 23

IN THE ARKANSAS STATE CLAIMS COMMISSION

**HALEY HUDSON, INDIVIDUALLY
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF
THE ESTATE OF JAQUELINE LYNN ASHCRAFT,
DECEASED, AND HALEY HUDSON, AS PERMANENT
LEGAL GUARDIAN OF [redacted]
[redacted] MINOR CHILDREN** **CLAIMANTS**

vs. **CC No. 230641**

**ARKANSAS DEPARTMENT OF
HUMAN SERVICES** **RESPONDENT**

**RESPONDENT'S RESPONSE IN OPPOSITION TO
CLAIMANTS' OBJECTION TO RESPONDENT'S EXHIBIT 13**

COMES NOW, Respondent, Arkansas Department of Human Services, by and through its attorney, Vincent P. France Deputy Chief Counsel for the Arkansas Department of Human Services, and for its Response in Opposition to Claimants' Objection to Respondent's Exhibit 13, states the following:

To begin, DHS agrees with Claimants' position that the toxicology report of Jacqueline Ashcraft is irrelevant for the purposes of liability. Furthermore, DHS does not plan on presenting the toxicology report for such a purpose. Rather, DHS intends to use the toxicology report of Ms. Ashcraft to refute and/or mitigate the prospect of damages, if the Commission finds in favor of the Claimants. In a case involving a motor vehicle accident and the consideration of the appellant's life expectancy, the Arkansas Supreme Court found that evidence of the appellant's habit of consuming alcohol was relevant and admissible to the jury. *Oxford v. Hamilton*, 297 Ark. 512, 515, 763 S.W.2d 83, 85 (1989). The Arkansas Supreme Court explained that "[g]iven the fact that evidence of the appellant's habits was useful and ***even necessary*** to assist the jury in determining his life expectancy." *Id*. (emphasis added). Additionally, in *Burnett v. Fowler*, a medical malpractice case, the Arkansas Supreme Court noted that the plaintiff's use of marijuana was

relevant regarding damages that were based upon the plaintiff's future employability and life expectancy. 315 Ark. 646, 650, 869 S.W.2d 694, 697 (1994). In fact, the Arkansas Supreme Court has historically allowed evidence of drug and alcohol use to be used to provide the fact-finder with an accurate picture of a plaintiff's damages. In *Biddle v. Riley*, 118 Ark. 206, 219, 176 S.W. 134, 138 (1915), the Arkansas Supreme Court held that "it was not improper to present to the jury proof of the plaintiff's … habits of sobriety and industry, for the purpose of drawing a picture before the jury of the earning capacity of which he had been permanently deprived."

In the claim-at-hand, DHS plans to submit Exhibit 13, the toxicology report of Jacqueline Ashcraft, to the Arkansas State Claims Commission for the purposes of arguing damages. Specifically, the toxicology report is relevant to show that Jacqueline Ashcraft had a habit of using drugs that would have caused a decrease to her earnings capacity, impacted her future employability, and lessened her life expectancy. *See Oxford*, 297 Ark. at 515, 763 S.W.2d at 85. Thus, the toxicology report is relevant under Ark. R. Evid. 401, admissible in accordance with Ark. R. Evid. 402, and is not unfairly prejudicial under Ark. R. Evid. 403. Accordingly, DHS should be allowed to introduce the toxicology report of Jacqueline Ashcraft to rebut any claims for damages by her estate especially regarding her earnings capacity and her life expectancy.

WHEREFORE, DHS respectfully requests that Claimants' Objection to Respondent's Exhibit 13 be denied and overruled, along with any other just and proper relief to which it is entitled.

Respectfully submitted,

By: */s/ Vincent P. France*

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CERTIFICATE OF SERVICE

I, Vincent P. France, hereby certify that on September 18, 2024, I electronically filed the foregoing with the Arkansas State Claims Commission by emailing it to asccpleadings@arkansas.gov and by sending a copy to Claimant's attorney Jim Jackson via email as indicated below.

Jim Jackson
Jim@JimJacksonatty.com

/s/ Vincent P. France
Vincent P. France

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD	**CLAIMANT**
VS.	**CC NO. 230641**
ARKANSAS DEPARTMENT OF HUMAN SERVICES	**RESPONDENT**

JENNIFER WILKERSON'S TESTIMONY

The following are verbatim excerpts from Jennifer Wilkerson's deposition. These excerpts follow the video testimony that will be presented. The testimony is found at the following:

- Page 9, line 3 through page 19, Line 20
- Page 22, line 10 through page 26, line 17
- Page 43, Line 21 through Page 44, Line 20
- Page 122, Line 16 through Page 124, Line 13.
- Page 60 line 13 through page 62 line 8, which includes Exhibit 8 of her deposition;
- Page 108, lines 10 through 16.
- Page 83 line 24 through page 86 line 23

Wilkerson, Jennifer, (Pages 9:3 to 19:19)

. . . . . My understanding is the accident occurred on Friday, June 11th, 2021. Does that sound correct to you?

A. Yes.

Q. And what was your job description for DHS? Do you recall the title? Does the phrase "program assistant" mean anything to you?

A. Yes. Yes. Yes.

Q. What is a -- when did you start working for the Arkansas Department of Human Services?

A. I think it was exactly -- I got in the wreck exactly two weeks since I had started. So, you know, the date?

Q. And we need for you -- if you don't know something, just say I don't know, so you don't have to ask your mom or anything. This is not like school, where an answer of "I don't know" gets you an F.

A. Yeah.

Q. Here, if you don't know, you don't know. Okay?

A. I know I've sent you -- I've talked to you, so I've sent you that. I just don't remember the exact dates. That was two years ago.

Q. Certainly. So I looked back at the calendar.

It looks like Memorial Day was on Monday, the 31st, and that maybe you may have started on June 1st?

A. Yes.

Q. And then the accident happened on Friday, June 11th?

A. Correct.

Q. Was this your first time to leave Paris to go on a child visit?

A. Yes.

Q. Okay. Just briefly explain what -- what your understanding of what you were supposed to do on that afternoon. What was your responsibility?

A. Well, I was supposed to go on an eight and a half hour, I guess, trip to go pick up a child. I don't have a child, so I don't even know how to use a car seat or anything like that.

I had never -- I didn't have a gas card. I guess you have to have -- I didn't even know all the procedures yet 'cause I was -- I had no training or anything like that. So it was just -- I mean, to go and pick up the kid and then bring them back to Clarksville -- well, it changed so much 'cause I -- and it wasn't planned out. Okay?

So it was the night -- the night before, I was with Brandy Ezell, and she had told me to be

there -- it was going to be at night, and -- or be there at 8:00 in the morning.

Q. At the office?

A. Yes.

Q. At the Logan County DHS office?

A. Yes.

Q. Okay.

A. And I was going to leave then. Then before I even left the parking lot, it was don't come in till 9:00. And there was no set hour, set time that I was supposed to leave.

And I'm pretty sure the policy -- I mean, I didn't know anything I was supposed to be doing. I know I was sent with no gas card so if I had ran out of gas, I had to call Brandy because she used hers to put gas in there.

Q. Did she help you fill up the car on the morning of -- that Friday morning?

A. Yes. She -- that was the first time I had ever been in that car, 'cause they drive their private vehicles, personal vehicles everywhere. And so

they -- we went to see -- so she could show me then for the first time, and my number didn't work.

Q. Was this at Casey's Fuel Station?

A. Yes, it was at Casey's. So she used her number

and filled the car up, and then we went back. And at that time, I should have already left, I mean, if you're going to do the math and all that. And that's what I've been trying to say all morning, you know, 'cause I like to plan, you know. Why are you going to send someone that doesn't even know what they're doing?

And I -- that was the first job I had in a long time. I was -- you know, and they knew that. And that is not really what they told me my job description was when I -- in the interview.

Q. So did you and -- I'll call her, Brandy, Ms. Ezell. Did you and Ms. Ezell come up with a map for your directions of where you were to go?

A. I didn't even have the person's phone number. I had, I guess, an address. And we didn't do that until after the gas.

Q. You didn't -- you got the address after you got the fuel?

A. Yeah. On what time to leave, 'cause there was another lady that was going to Fayetteville and to get another kid. And I was going to go -- I was supposed to go to Beebe and get a kid. And then it was for a 30-minute visit in the middle.

Q. Was the other lady who left to Fayetteville, was

Page 13

she working in the Paris office?

A. Yes. Yes. And she had told me she didn't -- she didn't know what time that she was going to -- the kid had counseling or something like that, and that she didn't know. And then I'm, like, trying to tell Brandy, you know, well, she -- I need to know what time to leave, like, all morning. And then -- so either way, a professional to me is, you would have had -- I should have left, like, in time for -- if I ran out of gas or -- so yeah. I don't know.

Q. What's the name of the lady that went to Fayetteville; do you recall?

A. I would know if I heard it. I can't remember.

Q. Okay. That's fine. So --

A. And then -- but it changed from first it was meet at -- we were supposed to meet in Russellville or -- yeah, in Russellville; then it went to

Clarksville.
Q. Okay. Did you or Brandy Ezell print out anything on paper to show you your route?
A. No.
Q. How did you know what route to take to go to Beebe?
A. I didn't really. She got on map -- one of the map things and I was supposed to go by that.

14

Q. And so I have a map on my telephone, Google Maps, and I use that. Is that what you are talking about?
A. That's not what I -- what we were using -- what she used.
Q. Was it on a handheld device or was it on a computer that's --
A. No. It was --
Q. -- desktop?
A. Well, I didn't have a State phone yet, so I had my personal iPhone. And she was using hers, so...
Q. How -- what -- what device or object map were you going to use to get to Beebe? Was it the map on your iPhone?
A. Yes. That's what I was supposed to use.

Q. Okay. And did you type in the address of your destination and put search and find a route? Is that how it worked at the time?
A. That's -- Brandy did that. Brandy did that.
Q. On your phone or her phone?
A. On -- well, on -- I guess on hers and then I had -- I did it on mine.
Q. All right. Ms. Ezell testified that she and Ms. Feemster left about 12:07 p.m. on Friday from the DHS office, and that was about the same time that you

Page 15

were getting ready to leave or maybe you were leaving at the same time. Does that sound correct?
A. Can you repeat that?
Q. Sure. Ms. Ezell testified that she and Pamela Feemster went to lunch at 12:07 on Friday, June 11th; and that at approximately that same time, you were either in the parking lot or going to the parking lot getting ready to leave to go. Does that sound correct?
A. I don't know what's -- they were not in the parking lot with me 'cause we had just got back from the gas -- getting gas at that time. And so we got gas and then she's like, "Okay. You need to go." It

was not planned ahead of time.
Q. Okay. And so then after y'all get back, I assume -- you say you got back, you went back from Casey's back to the DHS office?
A. Correct.
Q. And Ms. Ezell was riding with you to Casey's and back in that car, correct?
A. Correct.
Q. And y'all had -- and had you driven the State car to Casey's?
A. I didn't drive it; she drove it.
Q. Okay. So then when she gets out of -- tell me,

Page 16

when you pull back in, kind of what happens next kind of up to the wreck. Okay?
A. Okay. So when I got to the DHS office?
Q. Yes. Back from Casey's.
A. Okay.
Q. And is Brandy driving back from Casey's to the DHS office?
A. Yes. She drove the whole -- she drove that whole time.
Q. You were the front seat passenger, correct?
A. Yes.

Q. Okay.
A. Okay. So we got back there, and then we went inside and my -- the concession was, you know, my card didn't work. Okay. And she said, well, not to use my personal -- my own gas money on any -- I think I would have ran out of gas on a eight and a half our trip. But -- so I was nervous about that. And -- but then that's when she did the directions.
Q. On her phone?
A. Yeah. Well, she called -- she called that other lady and asked to talk to her 'cause I tried to tell her that -- what she told me. And Brandy is not -- wasn't even my supervisor, for one.
And she was -- I had been going with

Page 17

Brandy, like, every day to do her visits, like, in her personal car on her visits. And she smoked in her car. I guess that's why they don't take -- they want to use their personal vehicles because you can smoke in your vehicle. You can go -- they go and eat during their sessions and leave early and stuff like that.
Q. Okay. So I'd like for us to focus on --
A. Yeah.
Q. -- what happened on Friday.

A. Okay.
Q. You and Ms. Ezell returned from Casey's to the DHS parking lot, correct?
A. Yes. And then --
Q. You're in the passenger's seat, correct?
A. Uh-huh.
Q. You go inside with Ms. Ezell, correct?
A. Yes.
Q. Tell me what happens next.
A. Okay. That's when she figures out on the maps, when I needed to leave, and it was I needed to leave then because I needed to leave earlier than that really.

And so I left, and I had called in some food at Dari-Delite because I knew that's what she does, and this is a eight-hour trip with no -- no gas

already. And then I was driving, and that's when -- okay.
Q. So I want to stop you before you --
A. Oh, yeah. Okay. So I went -- okay.
Q. So you went to Dari-Delite?
A. Yes. Pick up, just, something to eat because I hadn't had anything.

Q. Okay.
A. And that's what I thought -- I mean, Brandy, that's -- if I was -- she was training me. I mean, that was what I --
Q. Did you go inside and sit down and eat or was it a drive-through? I don't know how that works at Dari-Delite.
A. You can do either way.
Q. What did you do?
A. I went and picked it up. I went in and got it.
Q. Okay. After the accident occurred, do you remember who came to the accident scene?
A. Like, Brandy?
Q. (Nodding head.)
A. Brandy and Pam.
Q. Yes. Who else? Who did you call and who came to the accident scene? Those are two separate questions, so let me back up. Did you call anyone?

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A. I called Brandy.
Q. And what did you tell her?
A. That I'd just got in a car accident.
Q. Okay. And then who else did you call after that?

A. I called my boyfriend at that time. He's not my boyfriend anymore.
Q. And then --
A. And then I called my mom.
MR. GASPER: Can we -- can we get a name?
Q. (By Mr. Jackson:) Yeah. What's the name of your boyfriend?
A. Ex-boyfriend.
Q. Ex-boyfriend, I mean.
A. Scott Thomas Lindstrom.
Q. Okay. And did all -- did you call -- do you remember calling anybody else other than those three?
A. I called my mom.

Wilkerson, Jennifer, (Pages 22:10 to 26:17)

Page 22

Q. Do you remember giving -- the week after the accident, do you recall -- do you know who -- do you recall the name Kristen Shelton?
A. Yes.
Q. Who is she?
A. I've never -- I don't think I've ever met her. But I got an email. I guess -- I think that was from her.
Q. And --

A. And I -- I had actually broke my back in that car accident.
Q. I didn't understand you. Can you --
A. I broke my back in that car accident.
Q. On June 11th, 2021?
A. Yes.
Q. Okay.

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A. But they didn't do anything -- anything then, so I didn't know for two months that my back was broke. And I was in so much pain that they made me come in to work just to do that thing, and I didn't even know what it was.

(Exhibit 3 marked for identification.)

Q. I am going to hand you a document. We'll mark it as Exhibit Number 3 to your deposition. Is that what you are talking about?
A. Yes.
Q. Okay. So this is part of where we need to make a record. That document is -- looks like an email from Kristen Shelton to you that was printed out, 10 questions, and then there's handwritten responses under each question. Is that your handwritten -- handwriting?
A. Yes.
Q. And is that your statement that you gave to DHS

as to what happened?
A. I guess -- I guess so. I didn't know what it was. I just got -- I wasn't explaining anything. Pam just said, "Fill it out."
Q. Will you look over --
A. Yes.
Q. Can you just take a moment and look over the

questions and your answers before we --
A. Yeah.
Q. Take your time.
A. A lot of the answers are -- I was -- I was confused.
Q. I tell you what, why don't you silently read the questions and then read your answers, and then I'll ask you and then you can elaborate. Okay?
A. Okay. Number 1 --
Q. No, I want you to read all 10 of them, please.
A. Oh. I've read over this a -- quite a bit of times, so I kind of know what my answers are and --
Q. And those --
A. Yeah.
Q. -- are -- you've had a moment to look over this?
A. Yes.
Q. Is that what happened?
A. No.

Q. Okay. Go -- so let's start with question -- your answer to number 1.

A. Well, the question, for one, I wasn't assigned to pick up a child in Beebe at 2:00 p.m. I was assigned -- I think you have to be assigned -- from the policy, it said -- for one, I had no training. It had to be documented, and you have to have gas card to

train. So if it was assigned at 2:00 p.m., and it takes -- every map, every different thing, it doesn't say 100 -- or an hour and 57 minutes.

So when I got on my thing, I mean, I didn't have a scheduled time. And I don't think I would have made it there by 2:00. And why would you have someone get there just at -- on -- on the wreck, you know, at that time instead of early, especially after I didn't have no gas.

Q. Okay. Your answer to question number 1 is, "I did not have a scheduled time. This was my first time going anywhere myself."

A. Okay.

Q. Well, is that correct?

A. It was not my first time going anywhere by myself. It was my first, like, actual, you know, going somewhere, like, a distance. Like, I went in my personal car to Booneville and met someone there and I

was never alone, so -- and is that --

Q. So --

A. But it was my first, you know --

Q. Was this your first time to go in a State car by yourself?

A. Yes.

Q. Question number 5, "While you were driving, what

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happened to cause the accident?" Do you see that question?

A. Yes.

Q. Do you see your answer?

A. Yes.

Q. Is there anything else that you recall about -- that you would like to add to your response to question number 5?

A. I still don't know what happened. It's, like, she was idling. And so if I was driving the speed limit, which I'm pretty sure that I had my thingy -- cruise on, so I know I was driving the speed limit, lower than the speed limit.

And there was -- and, you know, so if I was going that -- it's, like, she was -- I didn't know if she was stopped. And then -- and traffic -- I mean, I just don't know what happened at all.

Wilkerson, Jennifer, (Pages 43:21 to 44:20)

Page 43

Q. Okay. What happened after you gave the handwritten statement to Kristen Shelton the following week -- now I'm moving to the following week. After you gave the handwritten statement to Ms. Shelton, were you fired that day?

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A. No. I didn't go to -- I was in so much pain, I didn't go to work Monday or Tuesday. And they -- she told me that I had to come in.

Q. On Wednesday?

A. Yeah. And just to do that. And I didn't know what that -- I don't know -- didn't have -- don't know who Kristen Shelton is. I didn't know what that was or anything.

And, you know, no one -- no one talked to me there. It was just, like -- so I was just, you know -- it's like I had already kind of knew the way they acted.

Q. So were you terminated that day?

A. No, I was not.

Q. When were you discharged?

A. I was terminated, I believe, that -- the Friday.

Q. Two days later?

A. Yeah. That I didn't go to work the Monday and Tuesday. So I worked Wednesday, Thursday, and got terminated Friday.

Wilkerson, Jennifer, (Pages 122:15 to 124:13)

Page 122

BY MR. JACKSON:
Q. Did you still have your meal with you from the Dari-Delite?
A. No.
Q. Did you eat your meal at -- where did you eat the meal?
A. I think I did have -- actually, I -- I think I had some coffee in there. I had my drink in there.
Q. So where did you eat? Where did you eat your meal from the Dari-Delite?
A. I'm trying to recall. I ate -- I guess I ate

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it -- it was when I went in and then I threw it away there.
Q. So you went inside and sat at a booth or a table?
A. No. I went inside to pick up my meal, like I said earlier.
Q. Okay.
A. So instead of waiting through the drive-through.
Q. Okay.
A. And I went ahead and ate it. I didn't sit down at the booth 'cause I didn't get very much to eat.
Q. So you -- just -- I'm not trying to be difficult, but just to help me understand. So you went in, you would have had a sack or something? You would have picked it up and gone back to your car and eaten?

A. Well, Scott was there. He knew that I was going to be there, so he was there. It was not -- that was not planned. And that's -- that's how it --
Q. What was the meal? Was it a hamburger? What -- I heard you say coffee.
A. Yeah. A hamburger.
Q. Okay. And by the time of the wreck, had you eaten the hamburger or thrown it away?
A. Yeah. I had already ate it.

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Q. Okay. Where were you physically when you ate -- when you consumed the hamburger?
A. At the Dari-Delite.
Q. Were you at a booth or at a table or in the parking lot?
A. I was in the -- standing inside.
Q. Okay. So you just went in and ate your hamburger standing there inside the Dari-Delite?
A. Yeah. That's kind of how it is around here.
Q. Okay. So that's why you looked at me odd when I asked you if you were sitting at a booth. You were standing?
A. Yeah.

Wilkerson, Jennifer, (Pages 60:13 to 62:8)

Page 60

Q. Were you under the influence of any illegal narcotics at the time of the accident?
A. [redacted]

A. [redacted]

MR. GASPER: How do you spell that?

THE WITNESS: [redacted]

MR. GASPER: [redacted]

THE WITNESS: [redacted]

MR. GASPER: Thank you.

A. [redacted]

MR. GASPER: Did or did not?

THE WITNESS: I mean, he said I did, but --

[redacted]

(Exhibit 8 marked for identification.)

Q. I want to hand you what we'll mark as Exhibit Number 8.

MR. GASPER: I've seen it.

Q. (By Mr. Jackson:) And have you seen that document before?

A. No.

[redacted]

21 [redacted]

[redacted]

Wilkerson, Jennifer, (Page 108:10 to 108:16)

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10 [redacted]

[redacted]

Wilkerson, Jennifer, (Pages 83:24 to 86:23)

Page 83

24 Q. No? Okay. But Ernie was your lawyer in the
25 past and you consulted him about this. But it had

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1 nothing to do with Mr Jackson; Ernie is a completely

different lawyer doing his own little thing?
A. Well, I went to him actually for the wreck to begin with.
Q. Okay.
A. And paid for -- he's, like, basically, you're paying me for a peace of mind.
Q. Okay.
A. And he had -- he told me that there -- it was -- the police report said she was stopped in the middle of the road.
Q. And --
A. So if she was just stopped in the middle of the road, why would you stop in the middle of the road with no blinkers?
Q. Okay. That's a good question. We're going to come to that. But as far as Ernie goes --
A. So yeah. Then I get this affidavit.
Q. This is, like, years later or --
A. No. This affidavit -- or yeah. It's been two years.
Q. Since the wreck?
A. Yeah.
Q. So you talked to Ernie back then?
A. Yes.

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Q. Okay.
A. And there was a, I guess, DHS lawyer is who he dealt with then.
Q. It's possible. Yeah, I know that there were some insurance issues. Maybe that was it.

A. Yes. Yes.
Q. Okay.
A. And so he was -- I called him about this and made an appointment and went in there, went and talked to him. And he had said, "Are you ready for this to stop?" He said --
Q. He said this to you or you said this to him?
A. He said this to me. And, you know, I mean, yeah, I'm ready for it to -- this nightmare to stop.
Q. Okay.
A. But I don't know what he's exactly talking about, 'cause he's not here.
Q. "He" being who is not here?
A. Ernie.
Q. Okay. Okay. Wait. I'm confused.
A. Because Ernie has been my lawyer on the -- for the wreck.
Q. Uh-huh.
A. I mean, it's on the --
Q. Who said, "Are you ready for this to stop?"

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A. Ernie.
Q. Okay.
A. He said, "When you mess with people like Brandy Ezell," I don't know what that means.
Q. Okay.
A. But he didn't really say anything.
Q. So you told him about the affidavit and --
A. Yeah. She took -- he took copies of it.
Q. Okay.

A. And then Jim apparently went down to his office and talked to his secretary.
Q. Okay.
A. And he called me and told me to go to Ernie's office and sign that.
Q. Okay. Jim told you to go to Ernie's office?
A. Yes.
Q. Okay. Okay.
A. Yes. And, well, for one, why would I go there to sign it because I had it?
Q. Okay.
A. And Ernie is my lawyer.
Q. Uh-huh.
A. He should be telling me.

ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON AS PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD — **CLAIMANT**

VS. — **CC NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES — **RESPONDENT**

CLAIMANT'S OBJECTION TO RESPONDENT'S EXHIBIT 13

The claimant stipulates the admissibility of respondent's Exhibit numbers 1 through 12. However, the claimant objects to the introduction of Exhibit 13, which is the toxicology report for Jacqueline Ashcraft. It is standard practice for the Arkansas State Police to obtain urine samples from all parties involved in a fatal motor vehicle collision. Both Jennifer Wilkerson and Jacqueline Ashcraft's toxicology reports tested positive for methamphetamine.

Liability in this case has already been determined, making the toxicology reports for both drivers irrelevant. Even if liability were still at issue, the toxicology reports do not indicate whether or not either driver was legally intoxicated at the time of the collision.

Under Rule 402 of the Arkansas Rules of Evidence, irrelevant evidence is inadmissible: "Evidence which is not relevant is not admissible." Furthermore, Rule 403 of the Arkansas Rules of Evidence allows for the exclusion of relevant evidence if its probative value is substantially outweighed by the danger of unfair prejudice, confusion, or waste of time: "Although relevant, evidence may be excluded if its probative value is substantially

outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence."

The toxicology reports are not relevant, as they do not assist in understanding the issue of liability. The only purpose of attempting to introduce Ashcraft's toxicology report is to cause prejudice to the claim and lead to needless embarrassment for her family.

Even if deemed relevant, the test results are prejudicial and confusing. No employee from the Arkansas Crime Lab is identified as a witness to elaborate on the two toxicology reports. Therefore, it is unknown if the results were

- "False positives"
- The half-life of the drug,
- Of the substance detected could be a by-product of a prescription drug such as Adderall which is a mixture of dextroamphetamine and amphetamine.

Most importantly, there is no testimony that Ashcraft was impaired. There has been no testimony that Ashcraft was driving erratically or under the influence. Paramedic Holly Newman provided testimony that Ashcraft appeared normal following the collision. Ashcraft responded appropriately to questions and her pupils dilated to the normal range, suggesting she was not under the influence of an opiate. Paramedic Newman testified that Ashcraft did not have "Pin Prick" pupils, which are a tell-tale sign that a person is under the influence of an opiate.

The Arkansas Supreme Court, in *Wade v. Grace*, 321 Ark. 482, 902 S.W.2d 785 (1995), asserted that evidence of alcohol or drug usage must demonstrate legal intoxication or impairment to be admissible. In *Wade v. Grace*, *supra*, the Arkansas Supreme Court considered a boating accident where the plaintiff sought to introduce evidence of alcohol use on the part of another boat driver, Grace. The alcohol usage evidence consisted of:

1. Seeing "six beer cans in the water immediately after the accident,"
2. Grace admitting to Game and Fish Officer Hatch that "he had one beer,"
3. Game and Fish Officer Hatch's testimony that he could smell a "medium" odor of alcohol,
4. Game and Fish Officer Rowlett's testimony that Rowlett could smell a "moderate" odor of alcohol.

With these facts, the Arkansas Supreme Court recognized, "the mere fact of drinking intoxicating liquor is not admissible, being unfairly prejudicial, unless it reasonably establishes a degree of intoxication which proves unfitness to drive." *Wade v. Grace*, 321 Ark. at 489. The Supreme Court also affirmed trial Court's exclusion of the beer cans based on the trial judge's assessment that jurors would be unfairly prejudiced by such testimony.

In the case *City of Little Rock v. Cameron*, 320 Ark. 444, 897 S.W.2d 562 (1995), the court concluded that mere evidence of alcohol consumption is not sufficient to establish negligence unless it shows intoxication affecting behavior and causing the plaintiff's injuries. The City's evidence suggesting that Defendant was negligent because of alcohol use consisted of:

1. Before the accident, Defendant had left Bobbisox Lounge where he admittedly drank alcoholic beverages;
2. Defendant was unaware of contact between the two vehicles; and
3. LRPD Officer Howard gave Defendant a portable breathalyzer which revealed a blood alcohol level of .05 percent.

There the Court stated at page 448, 449:

> The mere fact that Cameron had been drinking alcoholic beverages is not sufficient evidence of negligence, standing alone, for this claim, to withstand a directed verdict. Cameron was not legally intoxicated based on his percentage of blood/alcohol content. See Ark. Code Ann. § 5-65-103(b) (Repl. 1994), But even had he been intoxicated, a distinguished treatise on torts concludes that the fact of intoxication is not negligence in itself, but it must be shown to have caused the actor's behavior to have deviated from that of a reasonable person and to have caused the Plaintiff's injuries. *See Prosser and Keaton on Torts* § 32, pp. 178-179 (5th Ed. 1984); see also *Restatement (Second) of Torts* § 283C, Comment D. In this vein, we have stated that

> voluntary intoxication may be a factor to be considered by the trier of fact in determining negligence. *Jernigan v. Cash*, 298 Ark. 347, 767 S.W.2d 517 (1989).
>
> We can readily agree with Officer Howard that drinking alcoholic beverages may impair one's ability to drive. Here, though, there was no evidence that Cameron was intoxicated or otherwise impaired at the time of the accident or that his liquor consumption either evidenced a lack of reasonable care on Cameron's part or caused the wreck in any way. In sum, we agree that the City's proof does not give rise to an inference of negligence but only to conjecture and speculation. See *Sanford v. Ziegler*, 312 Ark. 524, 851 S.W.2d 418 (1993). The trial court did not err in granting the directed verdict.

Similarly, the Eighth Circuit was faced with a test that allegedly showed the existence of cocaine in a defendant in *Simco v. Ellis*, 393 F.3d 929 (8th Cir. 2002). In that case, a plaintiff proffered blood test evidence that the plaintiff contended showed that the defendant driver had ingested cocaine on the morning of the accident. The trial court noted that the test was incomplete and further that there was no evidence that the driver was intoxicated or impaired at the time of the accident and that "the mere mention of cocaine would inflame the jury and be extremely prejudicial to the defendants." *Id*. at 933. The Eighth Circuit affirmed the decision of the trial judge.

CONCLUSION

Given the fact that liability is not an issue and the lack of evidence on the validity or reliability of the toxicology reports, and the absence of any indication that Ms. Ashcraft was impaired, the introduction of these reports would be irrelevant, inflammatory and prejudicial. Therefore, the toxicology reports for Ashcraft should be excluded.

Respectfully submitted,

BY: */s/ Jim R. Jackson*

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Objection was served on September 17, 2024, on the following counsel of record by electronic service, E-Mail, to:

Mr. Vincent France
Assistant Deputy Chief Counsel
Arkansas Department of Human Services
P.O. Box 1437
Little Rock, AR 72203-1437

/s/ Jim R. Jackson .
Jim R. Jackson

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902 S.W.2d 785
321 Ark. 482
Barbara WADE and Charles Wade,
Appellants,
v.
Geoffrey P. GRACE and Greer Grace,
Appellees.
No. 95-102.
Supreme Court of Arkansas.
July 17, 1995.

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[321 Ark. 484] James F. Swindou, Little Rock, for appellant.

Overton S. Anderson, Little Rock, for appellees.

ROAF, Justice.

This case arises from a boating accident which occurred on Lake Hamilton. Appellants Barbara Wade and Charles Wade filed an action to recover for injuries sustained as a result of the accident. The jury returned a verdict in favor of the appellees, Geoffrey and Greer Grace. We affirm.

On the evening of May 23, 1992, Barbara Wade was operating a party barge owned by her and her husband, Charles. Mrs. Janet Cameron was a passenger on the party barge. At approximately 10:00 p.m., the party barge was involved in a collision with a ski boat operated by Geoffrey Phillip Grace and owned by his stepmother, Greer Grace. Geoffrey Grace was seventeen years old at the time of the accident, and seven other teenagers were riding in the boat.

Janet Cameron and her husband, Chester Cameron, brought suit against Geoffrey and Greer Grace. Geoffrey and Greer Grace answered the Camerons' complaint, filed a counterclaim against the Camerons, and filed a third-party complaint against Barbara and Charles Wade. Subsequently, the Wades filed a third-party counterclaim against Geoffrey and Greer Grace. The Wades principally asserted that Geoffrey Grace was operating the ski boat in a negligent manner. The Wades' claims against the Graces, which are the subject of this appeal, were the sole claims tried to the jury. The record reflects that the remaining claims were dismissed with prejudice.

The appellants raise four points on appeal: (1) the trial court wrongly excluded testimony and law regarding good boating practices on Lake Hamilton; (2) the trial court wrongly excluded evidence that the minors involved were in possession of alcohol and were drinking alcohol at the time of the accident; (3) the trial court improperly restricted Officer Richard Rowlett from [321 Ark. 485] giving expert testimony with regard to deformation of light filaments; and (4) appellants were wrongly denied the opportunity to put on expert testimony through John Bentley either in their case-in-chief or in rebuttal of appellees' expert witness.

I. Good Boating Practices

Robert Charlesworth, the Marine Patrol Supervisor with the Garland County Police Department and an investigating officer on the scene of the accident, was called as a witness by the appellants. Officer Charlesworth testified that the purpose of navigation lights is to alert other boaters of the position of your boat. He stated the red lens is on the left side of a boat, the green lens is on the right side, and the white light is commonly called the stern (rear of boat) or anchor light.

Officer Charlesworth testified that if you are approaching a boat and see the red light,

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that boat has the right-of-way. Counsel for the appellees objected to the testimony on the basis that it was improper for the witness to inform the jury which boat had the right-of-way. Counsel for the appellants asserted the witness was simply testifying to "general boating practice" on the lake and how you know to go to the right, or toward

the stern of the boat that is approaching when the red light is displayed. The trial court sustained the appellees' objection.

On appeal, the appellants assert the trial court erred in excluding the testimony because appellants were simply attempting to establish the "rules of the road" for good boating practice, which are not as familiar to all jurors as the rules of the road for automobiles. The appellants rely upon Parker v. Price, 241 Ark. 940, 411 S.W.2d 12 (1967), where the appellant asserted the jury should have been instructed that the standard of care imposed on a boat operator is the exercise of "due diligence and maritime skill" rather than simply ordinary care. In affirming the circuit court's decision, we noted that the appellant's requested instruction was simply another way of stating the operator should act as a reasonably careful person would act under the circumstances. Further, we commented:

In the case at bar, the trial court properly permitted two witnesses of considerable experience with watercraft to testify concerning facts constituting good or poor seamanship. [321 Ark. 486] They were also permitted to give opinion testimony based on hypothetical questions.

Thus, the jury had for its consideration testimony going to the main issue--whether the boats in question were operated with reasonable care under all the circumstances, including, but not limited to, maritime skill.

In the instant case, the appellants place significance on our statement regarding the testimony concerning good or poor seamanship.

Arkansas Rule of Evidence 702 provides expert testimony may be admissible if such specialized knowledge will aid the trier of fact in understanding the evidence or in determining a fact in issue. Williams v. Ingram, 320 Ark. 615, 899 S.W.2d 454 (1995). Whether a witness may give expert testimony rests largely within the sound discretion of the trial court, and that determination will not be reversed absent an abuse of discretion. Id. On appeal, the appellant must demonstrate that the trial court has abused its discretion. Id.

In Williams, supra, the appellant asserted the trial court erred in excluding testimony from a maritime and marine safety expert regarding the requisite standard of care and the danger of river currents. In affirming the decision of the trial court, we concluded that nothing in the expert's deposition indicated that the knowledge he displayed was so specialized that it was beyond the ability of the trier of fact to understand and draw its own conclusions. We noted the potential dangers of the Arkansas River's currents were not beyond the comprehension of the jury.

In the instant case, the appellants have failed to establish that the trial court abused its discretion. The appellants simply assert the officer would testify regarding the general boating practices on Lake Hamilton. At one point, counsel for the appellants even stated the testimony would simply confirm "what everybody uses as ordinary care." Further, counsel for the appellants asserted the officer's testimony was not "even really an opinion ... that's what you do on the lake." Thus, there is no indication that the witness had specialized knowledge that went beyond the general knowledge of an average person. Even assuming Charlesworth was not testifying as an expert, it is within the [321 Ark. 487] discretion of the trial court to limit the testimony of witnesses and that decision will not be reversed absent a manifest abuse of that discretion. Garner v. Kees, 312 Ark. 251, 848 S.W.2d 423 (1993).

Further, it is the duty of the judge to review the evidence presented, decide what the applicable law is, and instruct the jury. Whitlock v. Smith, 297 Ark. 399, 762 S.W.2d 782 (1989); See also Montgomery v. Butler, 309 Ark. 491, 834 S.W.2d 148 (1992). The jury was instructed that there was in force a statute which provided "every motorboat shall have a light sufficient to make the

fastcase

motorboat's presence and location [known] to any and all other vessels when in operation during the hours of darkness." See Ark.Code Ann. § 27-101-203(a)(2) (Repl.1994). The jury was further instructed that "the boat must have a red light on the left side of the bow, a green light on the right side with a horizon--a white horizon light aft." Because the judge should instruct the jury regarding the applicable law, the officer was properly prohibited from testifying as to the "rules of the lake" and who had the right-of-way.

The appellants further assert the trial court erred in refusing to instruct the jury regarding the federal law on navigable waters. Counsel for the appellants did argue that federal law applied; however, the appellants' requested jury instructions are not in the abstract or the record. It is well established that a party cannot complain about the failure to give an instruction when he did not proffer the instruction. ARCP Rule 51; Quinney v. Pittman, 320 Ark. 177, 895 S.W.2d 538 (1995). Further, we have said that the proffered instruction must be included in the record and in the abstract to enable the appellate court to consider it. Mings v. State, 318 Ark. 201, 884 S.W.2d 596 (1994). Consequently, we will not address this issue.

II. Evidence of Intoxication

At trial, counsel for the appellants sought to admit evidence that Geoffrey Grace was intoxicated at the time of the collision. Counsel for the appellants asserted there were six beer cans in the water immediately after the accident, and counsel for the appellees stated Geoffrey Grace would testify he had one beer. In addition, the appellants proffered the testimony of Officer Paul Hatch of the Arkansas Game and Fish Commission, who inspected the Grace boat on the night of the accident. Officer Hatch stated [321 Ark. 488] that he observed Geoffrey Grace and smelled alcohol. He described the smell as a medium odor--"not heavy and not light or not excessive." However, Hatch observed Grace walk and speak, and he could not say that Grace was under the influence of alcohol. The appellants also proffered the testimony of Officer Richard Rowlett of the Arkansas Game and Fish Commission. Officer Rowlett testified he smelled the odor of intoxicants on Geoffrey Grace. Rowlett described the level as moderate, and he testified he did not observe any other evidence of intoxication.

The trial court stated the evidence regarding alcohol was not admissible unless there was some evidence that Geoffrey Grace was in fact intoxicated, and the trial court concluded there was no such evidence. The court found that even the testimony regarding beer cans found in the water was inadmissible because it was prejudicial. Further, the court concluded the fact that the teenagers may have been drinking underage had nothing to do with whether they were intoxicated or negligent.

We have stated that voluntary intoxication may be a factor to be considered by the trier of fact in determining negligence. City of Little Rock v. Cameron, 320 Ark. 444, 897 S.W.2d 562 (1995). Further, Ark.Code Ann. § 27-101-202(7) (Repl.1994) provides no person shall operate any motorboat while intoxicated. However, Arkansas Rule of Evidence 403 allows a trial court to exclude relevant evidence if its probative value is substantially outweighed by the danger of unfair prejudice or possibility of confusion of issues. The balancing of probative value against prejudice is a matter left to the sound discretion of the trial judge and his decision on such a matter will not be reversed absent a manifest abuse of discretion. Gipson v. Garrison, 308 Ark. 344, 824 S.W.2d 829 (1992).

We hold the appellants have failed to establish that the trial court abused its discretion. The trial court found there was simply no evidence that Geoffrey Grace was intoxicated, and, as to beer cans both in the water and on the party barge, the trial court noted that "we have jurors that when they hear the word beer cans, it's all over for either side. And I don't admit those unless there's evidence of intoxication."

It has been stated that courts are divided as to whether, in traffic accident cases, evidence that

one of the motorists had [321 Ark. 489] recently consumed an alcoholic beverage should be admitted in the absence of evidence that it

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rendered him or her unfit to drive. Clifford S. Fishman, Jones on Evidence: Civil and Criminal § 11:15 (7th ed. 1994). In Fisher v. Dye, 386 Pa. 141, 125 A.2d 472 (1956), the Supreme Court of Pennsylvania recognized that "while proof of intoxication is relevant where reckless or careless driving of an automobile is the matter at issue, the mere fact of drinking intoxicating liquor is not admissible, being unfairly prejudicial, unless it reasonably establishes a degree of intoxication which provides unfitness to drive." See also Hannon v. City of Philadelphia, 138 Pa.Cmwlth. 166, 587 A.2d 845 (1991). Further, it is within the discretion of a trial court to refuse to admit evidence that a driver ejected from his vehicle after an accident an open whiskey bottle because it could be determined that the marginal probative value of such evidence was substantially outweighed by the possibility of unfair prejudice. Gardner v. Smith's Transfer Corp., 610 F.2d 810, 5 Fed.Evid.Rep. 67 (4th Cir.1979).

III. Testimony of Officer Rowlett

One issue contested at trial was whether the white light on the aft of the party barge (stern/anchor light) was on at the time of the collision. The appellants sought to present the testimony of Officer Rowlett, one of the investigating officers, who was trained in filament deformation. The appellees contended Rowlett should not be allowed to testify that he examined the filaments in the white bulb from the party barge and, in his opinion, the light was on at the time of the collision. The appellees asserted they did not learn of Rowlett's testimony until the opening statement by counsel for appellants and the failure to disclose was a violation of ARCP Rule 26 regarding discovery.

In response to an interrogatory requesting the names of persons who would offer opinions, expert or otherwise, the Wades stated that other than physicians who were expected to testify regarding medical treatment, "no other expert witnesses have yet to be determined." The response further stated that "Lay witnesses are expected to testify as to their observations which may include some opinions based upon observations or mixed questions of opinion or observation." The trial judge commented that "this is not the way to try a lawsuit," and he determined the fair thing was to only allow Rowlett to testify as to what he observed [321 Ark. 490] when he made his investigation. The trial court held that Rowlett could not give an opinion as to whether the light was on or off.

At trial, Rowlett testified he attended a school regarding the investigation of boating accidents. Officer Rowlett testified he observed the aft light and retained the bulb; he stated "the light is deformed." At an in camera hearing, counsel for the appellants proffered additional testimony from Officer Rowlett. Rowlett stated that the bulb was deformed or distorted, and such deformation indicated the bulb was on at the time of the collision.

Although Rowlett was listed as a witness, he was not disclosed as an expert. Counsel for the appellants stated he visited with the officer the day before the trial and found that the officer was in possession of the bulb recovered from the accident. The appellants principally assert that the disclosure of Rowlett as a witness was sufficient, and that according to Banks v. Jackson, 312 Ark. 232, 848 S.W.2d 408 (1993), there must be "at least a passive concealment before any imposition of a sanction." Further, the appellants submit the appellees presented no reason for their failure to depose Officer Rowlett.

Arkansas Rule of Civil Procedure 26(e)(1) provides:

A party is under a duty to seasonably supplement his response with respect to any questions directly addressed to ... the identity and location of each person expected to be called as a witness at trial, and in the case of expert witnesses, the subject

matter on which he is expected to testify, and the substance of his testimony.

Further, we have stated that a trial court has broad discretion in matters pertaining to discovery, and that discretion will not be second-guessed by the appellate court absent an abuse of discretion that is prejudicial to the appealing party. Banks, supra; Morris v.

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Cullipher, 306 Ark. 646, 816 S.W.2d 878 (1991).

As to the requirement of a concealment, the Banks case addressed a violation of ARCP Rule 26(e)(2)(B). Rule 26(e)(2)(B) provides a party is under a duty to seasonably amend a prior response if he obtains information which would make the prior response, though correct when made, no longer true and the circumstances are such that a failure to amend the response [321 Ark. 491] is in substance a knowing concealment. There is no requirement that the trial court make a finding of concealment under Rule 26(e)(1).

Under the circumstances, we cannot say the trial court abused its discretion by allowing the witness to testify as to his observations and prohibiting him from providing his opinion regarding whether the light was on at the time of the collision.

IV. Testimony of John Bentley

The appellants sought to present the testimony of John Bentley, an expert in accident reconstruction. Once again, the appellees objected to such testimony based upon a failure to respond to discovery requests. The trial of this matter began on July 12, 1994. At an in camera hearing, it was determined that the counsel for the appellees received a letter on June 21, 1994, stating that Bentley might be used as an expert witness to rebut the testimony of Lonnie Buie, an accident expert expected to be called as a witness by the Graces. Counsel for the appellees asserted that the week before the trial the appellees asked for the opportunity to take Bentley's deposition, but he was out of town. Mr. Bentley's deposition was taken the night before the trial.

Counsel for the appellants stated he was hired "last Tuesday to try this lawsuit" and "we invited John [Bentley] as soon as we could." The trial court concluded it was unfair to wait until the day before trial and provide an expert in this type of case. The trial court commented that it had become a fad for plaintiff's lawyers to "hire an expert and call him a consultant and play a game until right up before trial." Subsequently, the appellants attempted to present the testimony of Bentley in rebuttal of the testimony of Lonnie Buie.

Lonnie Buie, Jr., an electrical engineer, testified that based upon the lack of deformation of the filament within the bulb, it was his opinion the white stern light on the party barge was not on at the time of the collision. Buie stated that a heated filament is more pliable, and tests have established that on impact, if the light is on, it will elongate. During cross-examination by counsel for the appellants, Buie testified that if a bulb filament is deformed, then it was on at the time of the accident. Buie further stated that when the ski boat hit the canopy of the party [321 Ark. 492] barge, the element of the light would have deformed had it been on. The appellants asserted that the testimony of Bentley would rebut the testimony of Lonnie Buie with respect to whether the force applied to the canopy was sufficient to deform the bulb.

First, the appellants assert that the appellees knew nineteen days before trial that Bentley would be called as an expert witness, and the appellees did in fact take Bentley's deposition. The appellants rely upon Banks v. Jackson, supra, where we noted that last-minute depositions are not unique in trial preparation. In Banks, however, we simply held the trial court's decision allowing the testimony was not an abuse of discretion. The trial court has broad discretion in matters pertaining to discovery. Id. Also, the opposing party in Banks was informed of the substance of the testimony which would be offered by the expert, including his opinions.

Second, rebuttal testimony must rebut the testimony advanced by the other side and should not consist of testimony which might have been advanced as proof in chief. Phillips v. McAuley, 297 Ark. 563, 764 S.W.2d 424 (1989). The exclusion of testimony offered on rebuttal is within the discretion of the trial court. See Wilkins v. El Dorado & Wesson R.R., 282 Ark. 236, 668 S.W.2d 6 (1984).

More significantly, the appellants did not make a proffer of the testimony which Mr. Bentley would have presented. Counsel for appellants simply asserted that Bentley's testimony would rebut the testimony

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of Lonnie Buie. It is well established that in order to challenge a ruling excluding evidence, an appellant must proffer the excluded evidence so we can review the trial court's decision, unless the substance of the evidence is apparent from the context. A.R.E.Rule 103(a)(2); Davis v. State, 319 Ark. 460, 892 S.W.2d 472 (1995). In the instant case, there was no proffer and the substance of the answer is not apparent. There is no way of even knowing if Mr. Bentley's testimony would have been inconsistent with Mr. Buie's testimony. Accordingly, this argument is not preserved for review.

Affirmed.

HOLT, C.J., and BROWN, J., concur.

DUDLEY, J., not participating.

[321 Ark. 493] BROWN, Justice, concurring.

I concur in the result but believe the trial court used the wrong standard in excluding all evidence of alcohol consumption by appellee Geoffrey Philip Grace in this case. However, because the correct standard was not argued to the trial court, I cannot say that the court abused its discretion in excluding the evidence.

This case appears to raise an issue which this court has not addressed directly in the past. The circuit court excluded evidence of Grace's consumption on the basis that it was not relevant "unless there's evidence of intoxication." Without intoxication, the court concluded that evidence of mere consumption of alcohol would be too prejudicial. I disagree that a person must be drunk or legally intoxicated for proof of alcohol consumption to be relevant. Rather, the proper test is that alcohol consumption is relevant when accompanied by other evidence of impairment. See Clement v. Consolidated Rail Corp., 130 F.R.D. 530 (D.N.J.1990); Kaeo v. Davis, 68 Haw. 447, 719 P.2d 387 (1986).

In Kaeo v. Davis, supra, the Hawaii Supreme Court vacated a judgment in favor of the defendant, who was driving the car with the injured party as a passenger, and remanded for a new trial when the trial court had excluded evidence of the driver's drinking. The driver had consumed "several beers" that afternoon before the accident at dusk. The trial court in Kaeo had concluded, similar to the instant case, that any evidence of drinking regardless of the amount would raise undue prejudice against the driver. The Supreme Court concluded that this analysis was error and constituted an abuse of discretion:

Granted, the evidence of drinking was prejudicial. Still, evidence with a capacity for unfair prejudice cannot be equated with testimony simply adverse to the opposing party; for evidence is only material if it is prejudicial in some relevant respect. 1 J. Weinstein and M. Berger, Evidence p 403 (1985) (citation omitted). We are not willing to assume "any indication of drinking" is so unfair to the drinking driver that the opposing party must be denied his right to have relevant and material evidence considered by the trier of fact. Nor are we willing to concede the trial juries, with guidance from the trial court, are incapable of rendering objective fact determinations in trials of negligence actions in which drinking is involved.

[321 Ark. 494] The judge's ruling of inadmissibility, it appears, was influenced by

representations that in pre-trial depositions Miss Kido and Samuel Taupo testified Davis was sober prior to the accident and the investigating officer detected none of the tell-tale signs of drunkenness when he questioned Davis at the accident scene. These, however, were matters that could have been offered instead for assessment by the trier of fact along with the evidence of drinking by the driver. The trial judge's decision not to permit the jury to hear such evidence was an abuse of discretion amounting to error, and we cannot say it had no effect upon the outcome of the trial. Since our conclusion compels a retrial of the action, we proceed to the issue raised by the plaintiff in her cross-appeal.

Kaeo, 719 P.2d at 392.

The Supreme Court in Kaeo did state that had the driving of the car been wholly beyond criticism, the trial court's ruling would have been correct. But there was evidence of speeding and the driver's taking his eyes off the road while attempting to round a

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curve. The Supreme Court observed that there was enough from which the jury could conclude that the driver was impaired in his ability to perceive the damages with clarity, make decisions with prudence, and operate the vehicle with the skill and caution required by law.

It is clear that mere alcohol consumption by itself cannot be equated to unfitness to drive. City of Little Rock v. Cameron, 320 Ark. 444, 897 S.W.2d 562 (1995); Clement v. Consolidated Rail Corp., supra. But when coupled with other evidence of impairment and unfitness to drive, such as erratic driving, it is relevant. Jones v. Freese, 743 S.W.2d 454 (Mo.App.1987); McCall v. Liberty, 248 Ark. 618, 453 S.W.2d 24 (1970). That is what we have in the matter before us.

The circumstances of this case were that it occurred at about 10:00 p.m. Eight teenage boys were in a ski boat operated by Grace on Lake Hamilton. Grace was 17 at the time and admitted to drinking one beer before the accident. According to two investigatory officers, Grace was not intoxicated but had a "moderate" or "medium" smell of alcohol about him at some point after the collision. There were six empty beer cans around the [321 Ark. 495] scene of the accident. Grace at some time after the collision tested at .04 blood/alcohol content on a field breathalyzer test, according to the proffered testimony of Officer Richard Rowlett, but admittedly field breathalyzer tests are of questionable probative value. The complaint by the Wades alleged that the ski boat was speeding and that the driver had failed to keep a proper lookout. Grace admitted to driving 30 miles per hour. The Wades' theory of the case was that the ski boat attempted to pass the party barge on the wrong side.

To be sure, the central issue in this case was whether the party barge had the appropriate lighting. But any impairment of the driver, due to alcohol consumption, coupled with allegations of speeding was an appropriate matter for the jury to weigh.

I am fearful that this case will be precedent for the proposition that only proof of legal intoxication is relevant in a negligence case involving reckless driving of cars or boats. That should not be the law. Nevertheless, because our trial courts are granted great discretion in this area, and because the correct standard was not argued to the trial court and, indeed, was not argued on appeal, I cannot say that the trial court abused its discretion.

HOLT, C.J., joins in this concurrence.

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897 S.W.2d 562
320 Ark. 444
CITY OF LITTLE ROCK, Appellant,
v.
Kevin Scott CAMERON, Appellee.
No. 94-1334.
Supreme Court of Arkansas.
May 8, 1995.

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[320 Ark. 445] Thomas M. Carpenter, Anthony W. Black, Little Rock, for appellant.

Sarah Presson, Julia L. Busfield, Little Rock, for appellee.

BROWN, Justice.

This case involves an appeal from a grant of a directed verdict in favor of the appellee, Kevin Scott Cameron. The City of Little Rock, as appellant, contends that the trial court erred in its ruling. We do not agree and affirm.

At approximately midnight on March 5, 1992, Cameron left the Bobbisox Lounge at the Holiday Inn by the Little Rock Airport. He had been drinking alcoholic beverages. He went to a Waffle House across the street and left there at about 2:00 a.m. He drove into downtown Little Rock. It was raining. At the intersection of West Markham and McKinley, his car struck a traffic [320 Ark. 446] signal pole and destroyed it. The City sued Cameron for negligence and for damages in the amount of $4,562.70 for the destruction of the pole.

At the resulting jury trial, the City called Officer Linda Barron as a witness. Officer Barron testified that she was the investigating officer and that two vehicles were involved in the accident: Cameron's 1987 Ford Taurus and a 1989 G.M.C. pickup driven by Othlea Patterson. Officer Barron testified that she smelled alcohol on Cameron's breath. She stated that Cameron told her that the pickup truck had entered his lane and that he had swerved to miss it and struck the pole. She noted that Cameron's vehicle had hit the pickup but stated that Cameron was unaware of this at the time. No citations were issued to the driver of either vehicle, and the police officer's accident report noted no contributing causes for the wreck.

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Officer Roy Howard of the Little Rock Police Department testified that he administered a portable breathalyzer test to Cameron at the scene and that Cameron tested for a blood/alcohol level of .05 percent. He stated that he did not believe that Cameron was "impaired to an extreme point," though he did state he believed that drinking alcoholic beverages does impair one's ability to drive.

The City rested its case after providing proof of its damages. Cameron moved for a directed verdict, and it was granted.

The City urges on appeal that the trial court erred in granting Cameron's motion for directed verdict. In determining the correctness of the trial court's ruling, we view the evidence in the light most favorable to the party against whom the verdict is sought and give it the highest probative value, taking into account all reasonable inferences deducible from it. Bice v. Hartford Acc. & Indem. Co., 300 Ark. 122, 777 S.W.2d 213 (1989). A motion for directed verdict should be granted only if the evidence so viewed would be so insubstantial as to require a jury verdict for the party to be set aside. Id.; Campbell Soup Co. v. Gates, 319 Ark. 54, 889 S.W.2d 750 (1994). Evidence is insubstantial when it is not of sufficient force or character to compel a conclusion one way or the other or if it does not force a conclusion to pass beyond suspicion or conjecture. See Allred v. [320 Ark. 447] Demuth, 319 Ark. 62, 890 S.W.2d 578 (1994); Moore v. State, 315 Ark. 131, 864 S.W.2d 863 (1993).

In the case before us, the trial court found that there was insufficient evidence to support a claim of negligence. To establish a prima facie case in tort, a plaintiff must show that damages

were sustained, that the defendant was negligent, and that such negligence was a proximate cause of the damages. Arkansas Kraft v. Cottrell, 313 Ark. 465, 855 S.W.2d 333 (1993). We reiterated our definition of negligence in Cottrell:

Negligence is the failure to do something which a reasonably careful person would do. A negligent act arises from a situation where an ordinarily prudent person in the same situation would foresee such an appreciable risk of harm to others that he would not act or at least would act in a more careful manner. White River Rural Water Dist. v. Moon, 310 Ark. 624, 839 S.W.2d 211 (1992).

313 Ark. at 470, 855 S.W.2d at 337. While a party can establish negligence by direct or circumstantial evidence, he cannot rely upon inferences based on conjecture or speculation. Id.

The mere fact that Cameron had been drinking alcoholic beverages is not sufficient evidence of negligence, standing alone, for this claim, to withstand a directed verdict. Cameron was not legally intoxicated based on his percentage of blood/alcohol content. See Ark.Code Ann. § 5-65-103(b) (Repl.1994). But even had he been intoxicated, a distinguished treatise on torts concludes that the fact of intoxication is not negligence in itself, but it must be shown to have caused the actor's behavior to have deviated from that of a reasonable person and to have caused the plaintiff's injuries. See Prosser and Keaton on Torts § 32, pp. 178-179 (5th Ed.1984); see also Restatement (Second) of Torts § 283C, Comment D. In this vein, we have stated that voluntary intoxication may be a factor to be considered by the trier of fact in determining negligence. Jernigan v. Cash, 298 Ark. 347, 767 S.W.2d 517 (1989).

We can readily agree with Officer Howard that drinking alcoholic beverages may impair one's ability to drive. Here, though, there was no evidence that Cameron was intoxicated or otherwise impaired at the time of the accident or that his liquor [320 Ark. 448] consumption either evidenced a lack of reasonable care on Cameron's part or caused the wreck in any way. In sum, we agree that the City's proof does not give rise to an inference of negligence but only to conjecture and speculation. See Sanford v. Ziegler, 312 Ark. 524, 851 S.W.2d 418 (1993). The trial court did not err in granting the directed verdict.

Affirmed.

GLAZE and CORBIN, JJ., dissent.

CORBIN, Justice, dissenting.

I dissent.

The case should have been submitted to the jury for decision. The facts of the appellee's

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drinking mixed with a collision with another vehicle he did not know he hit and his collision with a traffic light pole should have been submitted to the jury to resolve whether he was negligent in the operation of his vehicle. One does not have to be intoxicated under a legal definition of 0.10% before having his mental and reaction time slowed down by the drink. See Stephens v. State, 320 Ark. 426, 898 S.W.2d 435 (1995). When all of this is coupled with rain slicked streets, it would be a proper issue for a jury to draw upon their individual experiences to determine if, under all of these conditions, negligence existed. I would reverse and remand for trial.

GLAZE, J., joins in this dissent.

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303 F.3d 929

Geraldine SIMCO, Administratrix of the Estate of Doris M. Smith, Deceased; Patti Lynn Bradley; Dan David Bradley, Appellees/Cross-Appellants,

v.

Willie R. ELLIS, doing business as Ellis Trucking; Andrew L. McCalpin, Appellants/Cross-Appellees.

No. 01-2095.

No. 01-2167.

United States Court of Appeals, Eighth Circuit.

Submitted: May 13, 2002.

Filed: September 17, 2002.

Rehearing and Rehearing En Banc Denied: October 23, 2002.

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D. Keith Fortner, Little Rock, AR, for appellants/cross-appellees, McCalpin and Ellis.

James Melvin Dunn, Fort Smith, AR, for appellees/cross-appellants, Dan and Patti Bradley.

Ronald W. Metcalf, Fort Smith, AR, for appellee/cross-appellant, Geraldine Simco.

Before BOWMAN and BYE, Circuit Judges, and NANGLE,[1] District Judge.

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BOWMAN, Circuit Judge.

In this negligence case, Willie R. Ellis, doing business as Ellis Trucking, and Andrew McCalpin appeal from the judgment of the District Court[2] in favor of plaintiffs Geraldine Simco, administratrix of the estate of Doris Smith, and Patti Lynn Bradley and her husband, Dan David Bradley. Simco cross appeals, raising an evidentiary issue. We affirm.

On a March morning in 1999, a tractor-trailer flat-bed truck loaded with lumber and driven by McCalpin[3] overturned on a rain-soaked Arkansas state highway as the truck approached the second part of a sharp downhill s-curve. The truck and its load slid across the center line and smashed into a pickup truck driven by Doris Smith, who had pulled her truck over to the guardrail in an attempt to avoid the collision. Smith was killed and her passenger, Patti Bradley, was injured. In October 1999, the plaintiffs brought a state-court lawsuit, which was timely removed to the District Court, against Ellis, the owner of the truck and McCalpin's employer at the time of the accident, and against McCalpin, alleging that McCalpin's negligence was the cause of the accident.

At the end of a three-day trial, the jury found for the defendants on the question of McCalpin's negligence. The District Court granted the plaintiffs' motion for a new trial "solely on the grounds that the verdict was against the great weight of the evidence." *Simco v. Ellis,* No. 99-2194, Memorandum & Order at 5 (W.D.Ark. July 21, 2000) (granting motion for new trial). After a second trial, a different jury awarded $60,000 to Smith's estate, $225,000 to Patti Bradley, and $25,000 to Dan Bradley. McCalpin appeals, challenging the District Court's decision to grant a new trial and raising several issues related to the second trial. In a cross appeal, Simco challenges the exclusion of evidence relating to a drug test performed on a blood sample taken from McCalpin shortly after the accident.

We will reverse a district court's decision to grant a motion for a new trial only if it reflects a clear abuse of the court's broad discretion. *Walzer v. St. Joseph State Hosp.,* 231 F.3d 1108, 1111 (8th Cir.2000). We do require from the district court, however, an articulation of the basis for granting the motion "to permit meaningful review of its decision." *Children's Broad. Corp. v. Walt Disney Co.,* 245 F.3d 1008, 1017 (8th Cir.2001). Here, the District Court in its order granting a new trial carefully laid out the evidence that was before the jury and clearly spelled out the reasons for granting the motion. Recognizing the import of a decision to abrogate a jury verdict, the court

nevertheless concluded that such a course of action was warranted in this case. We agree.

The transcript of the first trial included the following evidence. McCalpin was twenty-one years old and had been licensed as a truck driver for a few months at the time of the accident. He had never before driven a load for a long distance unaccompanied by his boss, and when he left Port Gibson, Mississippi, the evening before the accident, he was unfamiliar with the roads he was to take to his final destination, Kansas City, Missouri. In fact, McCalpin missed the turnoff to a route

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that would have avoided altogether the perilous stretch of road where the accident occurred. McCalpin was accompanied on the trip by his brother and a younger cousin.

The scene of the accident was an s-curve on old highway 71 near Mountainburg, Arkansas. Because of a steep hill, there were two lanes southbound, one of which served as a lane for vehicles to use in order to pass slower-moving traffic ascending the hill. There was only one northbound lane. The weather shortly after 8 a.m. on March 8, 1999, was cloudy and rainy. As McCalpin's northbound truck approached the first part of the curve, it was traveling at a speed exceeding the recommended twenty miles per hour, despite the signs and flashing lights posted along the highway warning of the approaching dangerous curves and steep descent. McCalpin testified that he was blinded by a flash of light (although the length of time this visual impairment lasted is unclear) as he approached the first curve, yet he continued to drive without attempting to slow down. McCalpin lost control of the truck, and it turned over and slid across the center line into the southbound pickup truck driven by Doris Smith, which she had pulled over as far from the tractor-trailer as she could when she first saw it approaching, as McCalpin's truck already had crossed the center line and was tipped up on its left wheels.

The court advised the jury of the duty incumbent upon drivers of motor vehicles on the roads in Arkansas to keep a lookout, to keep their vehicles under control, and to drive at a reasonable and prudent speed under the circumstances, and the jury was instructed that the failure to conform to these rules was negligence. *See* Instruction No. 14 (Common Law Rules of Road). Negligence also was defined for the jurors as "the failure to do something which a reasonably careful person would do, or the doing of something which a reasonably careful person would not do, under circumstances similar to those shown by the evidence in this case." Instruction No. 15 (Negligence-Definition). The jury was further instructed that it is negligence to fail to exercise ordinary care — "how a reasonably careful person would act under [the] circumstances." Instruction No. 16 (Ordinary Care).

Notwithstanding this evidence and these instructions, the first jury to hear the evidence in the case determined that McCalpin was not negligent. The District Court, in its review of the record upon the plaintiffs' motion for new trial, determined that "all of the evidence presented indicated that the accident was caused by McCalpin's negligence.... [I]t was a miscarriage of justice for the jury to conclude that the defendants were not at fault in causing the fatal crash or that the accident was unavoidable." Simco, No. 99-2194, Memorandum & Order at 5 (granting motion for new trial). The court granted the motion, and McCalpin contends that decision was an abuse of the court's discretion.

Ironically, McCalpin faults the District Court for relying solely on his, McCalpin's, description of events that day, while ignoring the supposedly contrary testimony of his passengers. According to McCalpin, his own sworn testimony was "implausible," and the passengers' versions were "much more logical." Br. of Appellant at 50. But when a district court is considering a new trial motion on the grounds that the verdict is against the great weight of the evidence, the court "is entitled to interpret the evidence and judge the credibility of witnesses" for itself. *Van Steenburgh*

v. Rival Co., 171 F.3d 1155, 1160 (8th Cir.1999). This is not a case where the court has "usurp[ed] the role of the jury by granting a new trial simply because it believes other inferences

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and conclusions are more reasonable." *Id.* Instead, the District Court reviewed the evidence and determined that Doris Smith and Patti Bradley had no responsibility for the accident and that the accident was not unavoidable in the absence of McCalpin's negligence — negligence that was readily apparent from the uncontroverted evidence at trial. There is ample record support for these conclusions. The District Court did not abuse its discretion in deciding that a new trial was required to avoid a miscarriage of justice in this case.

McCalpin's remaining issues on appeal arise from the second trial, where the jury found for the plaintiffs and awarded damages. First, McCalpin contends there was insufficient evidence to submit to the jury the issues of Bradley's permanency of injury, her future pain and suffering, her future medical expenses, and her future lost earnings and Smith's conscious pain and suffering. Because he failed to raise these sufficiency issues in his motions under Federal Rule of Civil Procedure 50(b), we review only for plain error, *see Broadus v. O.K. Indus., Inc.,* 238 F.3d 990, 991 (8th Cir.2001) (per curiam), and find none. Likewise, McCalpin's claim that the verdict was excessive as to the Bradleys was not raised in post-trial motions and so is subject to review only for plain error. *See Loehr v. Walton,* 242 F.3d 834, 837 (8th Cir.2001). Under the plain-error standard of review, we will reverse only if the amount of damages is so disproportionate that it would be a miscarriage of justice to affirm it. *See id.* The $250,000 in damages awarded to the Bradleys does not meet that standard.

McCalpin also claims that the submission of punitive damages (which the jury declined to award) was error because there was insufficient evidence to merit such an instruction. But even if the District Court abused its discretion in giving the instruction, a question we need not decide, any error was harmless and the defendants cannot show otherwise. *See Warren v. Prejean,* 301 F.3d 893, 899-900 (8th Cir. 2002).

Finally, McCalpin argues that the District Court should not have permitted Arkansas State Trooper Brian Davis, who investigated the accident, to testify on certain matters because he was not qualified as an expert. Davis's testimony had to do with his observations at the scene of the accident and his conclusions drawn from those observations as to a possible load shift and the speed of the truck before the accident. It is not entirely clear to us that all the testimony in question was that of an expert. But to the extent the evidence is properly classified as expert testimony, we do not think the District Court abused its discretion in allowing Davis to testify as he did. *See Lloyd v. Am. Airlines, Inc. (In re Air Crash at Little Rock Ark., on June 1, 1999*), 291 F.3d 503, 509 (8th Cir.2002) (standard of review), *petition for cert. filed,* ___ U.S. ___, ___ S.Ct. ___, ___ L.Ed2d ___ (2002).

In her cross appeal, Simco challenges the District Court's decision to exclude blood-test evidence that she claims shows McCalpin had ingested cocaine on the morning of the accident. After a lengthy hearing on McCalpin's motion in limine, filed before the first trial, the District Court concluded that the drug test was incomplete and the inference to be drawn from it — that McCalpin had used cocaine the morning of the accident — therefore was unreliable. Further, the court noted there was no evidence that McCalpin was intoxicated or impaired at the time of the accident and "the mere mention of cocaine would inflame the jury and be extremely prejudicial to the defendants." *Simco v. Ellis,* No. 99-CV-2194, Order at 3 (W.D. Ark. June 1, 2000) (granting defendants' motion in limine), *reconsideration*

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denied, Simco v. Ellis, No. 99-CV-2194 (W.D.Ark. Mar. 22, 2001). We see no clear abuse of

discretion in the District Court's carefully considered order. *See Stafne v. Unicare Homes,* 266 F.3d 771, 776 (8th Cir.2001) (standard of review).

The District Court is affirmed in all respects.

Notes:

1. The Honorable John F. Nangle, United States District Judge for the Eastern District of Missouri, sitting by designation.

2. The Honorable Robert T. Dawson, United States District Judge for the Western District of Arkansas.

3. Following the lead of the parties and the District Court in this case, we will generally refer to the defendants collectively as McCalpin. It should be clear from the context when we are referring to McCalpin individually as the driver of the truck in question.

[redacted] Statement:

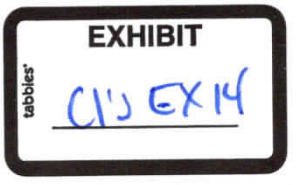
I was 10 when my mom died. My life changed forever that day. One minute everything was normal, and the next my mom was being put in an ambulance and the next time I would see her would be in a hospital bed where she couldn't talk to me. [redacted] and I lived with our mom. She was the only person that we could depend on to take care of us and make us happy and feel comfortable with starting a new school. The day of the wreck I didn't know what was going on, everything happened so fast. I knew something wasn't right when my aunt Lisa told [redacted] and I that "mama was going to pass away and we needed to go to the hospital" I was so sad, I didn't know what was going to happen without my mom. We met my brothers and sister at the hospital, the whole night seemed like a blur. There were so many people who came to see her and check on us, some of them i didnt even know. Since then, my sister has been the one who we live with and she is the one who takes care of us.

Growing up without my mom is so hard. I was starting 5th grade then, and now I'm in 8th grade. She didn't get to see me be a cheerleader, basketball player, softball player, or be a homecoming maid. She isn't here to celebrate my accomplishments or good grades. It's hard to think that she is never going to come back. When all of my friends talk about going shopping with their mom, or that their mom is going to come and watch them do things, I don't get to say that. I have to say My sister is going shopping with me or my sister will be here. I love Haley, but it's not the same. I feel like I am the odd one because I don't have a mom.

[redacted] Statement:

Losing my mom at the age of 14 was one of the most traumatizing things to ever happen to me. I have no memory of my mom on the day of the wreck, all I know is how that day went based on what my siblings have told me. My mom was my best friend. We didn't know a lot of people in Paris other than family, but we had each other and life was perfect in my eyes. I have no memory of the wreck itself or even going to the hospital afterwards, the only thing i know about that day is waking up at my aunt lisa's house and being told i needed to go take a shower so we could go see my mom for the last time.

I don't remember the ride to fort smith but i do remember walking into the hospital room and seeing my 3 older siblings bawling their eyes out while my mom lay on the hospital bed with tubes all over her. I was 14 at the time and I'll be turning 18 in 6 days. I have done so many things in these 3 and a half years that she has had to miss such as Basketball, Softball, being on the bowling team, traveling to different colleges, going to Washington, being a homecoming maid, going to prom, starting high school, the list goes on and on. Not only has she missed important events, she will also miss things in



future such as graduation, going to college, having a career, getting married and starting a family of my own. Growing up without my mom has been one of the hardest things I will ever have to do. It's not fair that I don't get to have a sisterly relationship with my big sister because she has stepped more into the parental role. I will forever be grateful for Haley for taking on that role but she's not my mom and I'll never have my mom back.

[redacted] Statement for her head injury:

Not only has the accident affected me mentally and emotionally but it has also affected me physically. Since the day of the [redacted]

Haley's Statement:

June 11, 2021 was the last time I heard my moms voice. The last thing she said to me was "I'll call you when I get back from taking Ny home" Unfortunately, she never made that phone call back to me because she never made it back home. I called her though, over 50 times begging her to answer and praying that the only reason she wasn't answering was because she was getting checked out by EMS or something.

I live almost 4 hours away from Fort Smith, So i called my brothers and told them they needed to go to the hospital to be with our mom. After they arrived at the hospital, the doctor told them the horrific news that our mom wasn't going to survive. That phone call they made to me from that hospital room was the worst phone call I've ever received. I'll never forget it. I screamed so loud and fell to the floor, I was numb. Even though I was 29 years old at the time I felt like a little kid just wanting my mom to come and pick me up and tell me everything was going to be alright.

When i made it to my moms bedside I didn't want to be the one who made all the decisions, I didn't want to let go, and neither did the other 29 people who drove across the state of arkansas just to tell my mom they loved her and say their final goodbyes.

June 12th, 2021 at 1234 am, my mom took her last breath.

My mom was my best friend, I called her so many times throughout the day. If I was happy, mad, sad, or just needed to talk, I called her because she knew exactly what to

say. There were times I would call her just to be on the phone with her because I missed her so much. Our mom was all we ever had growing up, She raised us to be strong, respectful, independent individuals all by herself being a single parent. We never could have imagined that not even 2 weeks after her 50th birthday we would be planning her funeral.

3 and a half years later, my two minor sisters who were with her in the accident are growing up to be beautiful young ladies and I've gotten to witness it first hand because July of 2021 I got permanent guardianship over them. I also have a family of my own, a fiance and two little girls, so taking on the role of not only a big sister but also a parent to [redacted] and [redacted] has been hard on all of us to say the least. Before the accident my sisters lived in a cute little apartment with my mom and my daughters had their own room, their own space. But now that is no longer an option because my house is too small for everyone to have their own space. Before the accident my daughters didn't have to share me with anyone and now my time and attention are divided between 4 kids. I've had to purchase a new vehicle just so we could all fit when we go places. Going from a family of 4 to a family of 6 has been difficult. Our grocery bill has increased, we now buy school clothes and supplies for 4 kids, not just 2. We are always busy. We are still grieving, with every big moment that happens in my sister life such as sports, homecoming, prom, birthdays, and graduation this year we always take a moment to cry bc the woman who was always our biggest cheerleader and our biggest supporter can't be here to witness all the great things they accomplish. She doesn't get to see her last 2 babies grow into adults. She doesn't get to watch and enjoy her 7 grandchildren grow up, she doesn't get to see her nieces and nephews become great parents. My mom was supposed to be here with all of us for a very long time and that was taken from us.

I don't regret taking in my sisters one bit, but I would be lying if I said it was easy. Living without our mom in general is hard, but taking on the responsibility of two other kids while we are all still grieving is extremely hard. Everything I do, I do for them. I try to give them the best life they can have. They still needed their mom to finish raising them and they were robbed of that. At the ages of 10 and 14 they had to witness their mom laying in a hospital bed with tubes all on her and had to tell her goodbye for the last time. We talk about our mom all the time, we always look at pictures of her. But the hurt doesn't go away, the hole in our hearts is still there. But I am doing my best to raise my sisters the same way our mom raised us, to be strong, respectful, independent individuals.

Talking about my mom is very hard for me. I was one of the reasons she moved to Paris in the first place. Her and I were always very close, so when I moved to Paris it wasn't very long after that her and my little sisters moved to paris. There wasn't a day that would go by where we didn't see or at least talk to each other. Walking to that hospital room on June 11, 2021 was gut wrenching. I have never seen my mom like that. I sat by her side and watched my aunts and uncles cry over their sister, and watched my grandma tell her daughter that she loved her a million times. I sat and watched all of my siblings, including myself break down so many times because we knew that there was nothing we could do to save her. I watched as my mom took her last breath and that is something that will be burned into my memory forever. My mom was my backbone, and I miss her so much. Time doesn't make it any easier, I wish I could call her, I wish all of this was a nightmare, I wish that after all of this was said and done that she could just come back. But that's not going to happen. We have to live everyday without her, we have to live with hurt and sadness instead of our loving and caring mom. I just miss her so much.



When my mom died, a huge piece of me died. My mom was the only person I could ever count on. On June 11, 2021.. 30 mins after I got off work, my sister Haley called to tell me to get to fort smith because my mom had been in a car accident and that's where they transported her. I was never expecting for the doctor to tell me that she was unconscious and surgery wasn't an option because the bleeding in her brain was too bad. I was the one who had to make the phone calls to the rest of the family, and that alone was heartbreaking. Saying goodbye to my mom for the last time is a memory that will haunt me forever. Not only was my mom the best mom but she was one of my best friends, biggest supporter, and always just a phone call away. Since she passed, grief gets the best of me on most days. It has caused my wife and I to separate because people who haven't lost their mom don't really understand the cloud of sadness that seems to follow you around. Losing my mom is something that i can't begin to put into words, everything i do, i do it to make her proud.

Mark Hudson

From: Kathryn Irby
To: Jim Jackson; Vincent France
Cc: Daiquiri Carter; Martha Cox
Subject: ORDER: Hudson v. DHS, Claim No. 230641
Date: Monday, March 31, 2025 11:21:00 AM
Attachments: [redacted] order.pdf

Jim and Vincent, please see attached order entered by the Commission.

Thanks,
Kathryn Irby

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD **CLAIMANT**

V. **CLAIM NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

AMENDED AND SUBSTITUTED ORDER

Now before the Arkansas State Claims Commission (the "Commission") is the claim filed by Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and Haley Hudson, Permanent Legal Guardian of [redacted], a Minor Child (collectively referred to as the "Claimant") against the Arkansas Department of Human Services (the "Respondent"). At the hearing held on September 19, 2024, Jim Jackson appeared on Claimant's behalf, and Vincent France and Nicholas Langham appeared on behalf of Respondent.

As detailed below, the Commission finds Jennifer Wilkerson to be acting in the course and scope of her employment with Respondent at the time of the accident, such that Respondent is liable for the accident that resulted in the death of Jacquelyn Lynn Ashcraft (the "Decedent") and injured [redacted]. The Commission awards a total of $851,500.00 to the Decedent's estate and $1,500,00.00 to the Decedent's wrongful death beneficiaries, for a total award of $2,351,500.00.

Procedural History, Prehearing Matters, and Witness Testimony

1. Claimant filed the instant claim seeking damages after Jacqueline Lynn Ashcraft (the "Decedent") died following a motor vehicle accident with a vehicle owned by Respondent

and operated by its (now former) employee, Jennifer Wilkerson. The Decedent's minor children, [redacted], were in the Decedent's vehicle when the accident occurred.

2. In response to Respondent's motion to cure a defective complaint and for a more definite statement, Claimant amended the claim to address the issues raised in Respondent's motion. Following a hearing, the Commission entered an order on February 13, 2023, denying Respondent's motion as moot and directing Respondent to answer the amended complaint.

3. Respondent thereafter filed an answer denying liability.

4. Respondent filed a motion to dismiss, which was subsequently withdrawn.

5. Claimant filed an unopposed motion to nonsuit any individual claim by Ms. Hudson for bodily injury, which was granted by the Commission in a July 21, 2023, order.

6. Respondent filed a motion to compel related to Claimant's discovery responses, a motion to sever, and a motion to hold the claim in abeyance, all of which were denied by the Commission on August 14, 2023, following a hearing.

7. Claimant filed a motion to withdraw its requests for admission, which was granted by the Commission in its August 14, 2023, order.

8. Respondent filed a motion to quash, which was subsequently withdrawn.

9. Respondent filed a motion to compel regarding Claimant's discovery responses, which was subsequently withdrawn.

10. Respondent filed a motion to substitute counsel, which was granted by the Commission at the May 9, 2024, motions hearing.

11. Claimant filed a second amended complaint, and Respondent filed an answer denying liability.

12. Claimant filed a motion for partial summary judgment on the issue of liability. Respondent file a response in opposition to the motion.[1] Respondent filed a cross-motion for summary judgment on the issue of liability, and the cross-motion was fully briefed by the parties. In keeping with Respondent's agreement that Ms. Wilkerson was acting in a negligent manner at the time of the accident,[2] the Commission granted Claimant's motion for partial summary judgment and found in an order entered July 25, 2024, that Ms. Wilkerson was driving negligently at the time of the accident. The Commission also denied Respondent's cross-motion, finding that a presumption exists under Arkansas law that Ms. Wilkerson was acting within the scope of her employment when she was driving a vehicle owned by Respondent at the time of the accident[3] and that fact questions remain about whether Respondent had rebutted that presumption.

13. Respondent filed a motion to stay discovery, which the Commission denied as moot based on the Commission's denial of Respondent's cross-motion for summary judgment.

[1] Respondent also filed (1) a motion to strike Claimant's motion for partial summary judgment or, alternatively, motion for extension of time to respond to the motion and (2) a motion for expedited ruling. On July 21, 2023, the Commission entered an order memorializing the parties' decision to reschedule the hearing on Claimant's motion for partial summary judgment and to extend the parties' briefing schedule on the motion; finding that the motion for extension and motion for expedited ruling was mooted by the parties' agreement; and declining to rule on Respondent's motion to strike. After Respondent filed another motion for extension of time to respond to Claimant's motion for partial summary judgment, the Commission entered an order on October 6, 2023, granting Respondent an extension.

[2] Respondent argued that Ms. Wilkerson's driving was negligent and specifically that Ms. Wilkerson could have been charged with negligent homicide. *See* Respondent's brief in support of cross-motion for summary judgment at p. 8. At the May 9, 2024, motions hearing, Respondent also "confirmed its agreement that Ms. Wilkerson's negligence caused the accident," as recorded in the Commission's July 25, 2024, order.

[3] *Nipper v. Brandon Co.*, 262 Ark. 17, 21, 553 S.W.2d 27, 29 (1977) ("When a plaintiff proves that a regular employee driving an employer's vehicle is involved in an accident, there exists a presumption of fact which must be overcome by the defendant-employer").

14. At the beginning of the hearing, the parties confirmed the submission of the following depositions in lieu of live testimony:

- Submitted by Claimant:
  - Christopher Bell, M.D.
  - Holly Newman

- Submitted by Respondent:
  - Brandy Ezell
  - Jennifer Wilkerson

15. At the beginning of the hearing, the Commission admitted the following exhibits without objection:

- Claimant's Exhibit Nos. 1–5, 9–10, and 12–13; and
- Respondent's Exhibit Nos. 1–13.[4]

16. The Commission confirmed that it had received a joint stipulation of facts by the parties.

17. Both parties presented opening statements.

18. Following the submission of testimony, both parties presented closing arguments.

Testimony of Christopher Bell, M.D.

19. Claimant introduced the deposition testimony of Dr. Christopher Bell in lieu of live testimony.

20. After being sworn in, Dr. Bell stated that the Decedent was his patient on June 11–12, 2021. The Decedent was transferred to Mercy Hospital in Fort Smith for "[i]ntraparenchymal hemorrhage of brain." Dr. Bell agreed that, prior to him taking over the Decedent's care, the physician who first examined the Decedent upon arrival determined that the Decedent's injury was not survivable and that the Decedent was to receive comfort measures only.

[4] Regarding Claimant's objection to Respondent's Exhibit No. 13, Claimant agreed to rest on the briefing of the objection, such that the Commission could receive the exhibit and give the exhibit the weight to which it is entitled.

21. Dr. Bell agreed that the Decedent's immediate cause of death on her death certificate was "[i]ntracranial [h]emorrhage." He did not disagree with the cause of death.

Testimony of Holly Newman

22. Claimant introduced the deposition testimony of Holly Newman in lieu of live testimony.

23. After being sworn in, Ms. Newman testified that she is a paramedic. She became a paramedic in 2016. She has been an EMT or a paramedic for ten years.

24. When she arrived at the scene of the accident, Ms. Newman went over to the Decedent and her children. The Decedent was smoking a cigarette when Ms. Newman saw her. The children were sitting on the ground. Ms. Newman asked the Decedent for permission to check over the children because the children were minors, and the Decedent agreed. The Decedent did not complain about any injury to Ms. Newman and was more worried about having her children checked for injuries. Ms. Newman determined that one child ([redacted] was fine and that the other ([redacted] showed signs of a possible concussion. Ms. Newman recalled that [redacted] kept asking what had happened. There was swelling on the back of her head.

25. The Decedent wanted to go to the house across the road. She signed forms refusing to allow the children to go to the hospital. Ms. Newman walked with the Decedent and the children across the road and into the house. Ms. Newman told the woman in the house to come get her if anything changed with regard to the Decedent or the children.

26. Ms. Newman reviewed and described the records of her assessment of the Decedent, including her pupils, chest, abdomen, pulse, and capillary refill. Ms. Newman stated that the diagnostic assessments all came back normal.

27. After Ms. Newman went back to the scene to assist the other paramedic, a state trooper told Ms. Newman that she was needed back in the house. At that point, the Decedent was

still able to respond but not like she previously had. Ms. Newman started an IV and another paramedic carried the Decedent back to the ambulance. When the ambulance got to the emergency room at Booneville, Ms. Newman saw the Decedent nod her head in response to a question.

28. The Paris hospital did not have a working CT, so the paramedics had to take the Decedent to the next closest hospital with a working CT, which was Booneville.

Testimony of Ralph Scott, Ph.D.

29. Claimant called Dr. Ralph Scott to testify. After being sworn in, Dr. Scott testified that he is an economics professor at Hendrix College. He also works as an economic consultant and presents testimony on economic issues in personal injury cases.

30. In the instant claim, Dr. Scott calculated damages related to the death of the Decedent.[5] These damages include loss of earning capacity, lost household services, and the cost of raising the Decedent's surviving minor children. These damages do not include a valuation of the Decedent's loss of life aside from the quantifiable aspects.

31. Dr. Scott testified that the Decedent's remaining life expectancy at the time of her death was 33.6 years. Dr. Scott calculated the loss of the Decedent's earning capacity, with fringe benefits, ranged from $187,147.82 and $423,919.95. Dr. Scott clarified that lost earning capacity refers to the opportunity to earn.

32. Dr. Scott testified that the term "household services" includes the services that the Decedent would have provided to her household and to her daughters between the date of her death and the Decedent's youngest child reaching the age of eighteen. Dr. Scott calculated the loss of these services at $89,725.28.

[5] Claimant's Exhibit 10 is Dr. Scott's expert report. This report contains his calculations and explanations.

33. Dr. Scott testified as to the cost of raising the Decedent's two minor children and noted that his calculations do not include the cost of travel sports that the two minor children participate in or the cost of college. Dr. Scott calculated the cost of raising [redacted] to be $61,866.43 and the cost of raising [redacted] to be $28,971.49.

34. Dr. Scott testified that the total economic loss related to the death of Decedent ranged from $367,711.02 and $604,483.16.

35. Dr. Scott testified that an average person's non-economic value of life per year is $278,711. He clarified that this number could be adjusted up or down based upon the testimony. Dr. Scott provided equations in Tables 5 and 6 in his report to allow the Commission to calculate the non-economic value of the Decedent's life. Dr. Scott testified that this yearly value was in keeping with Judge Timothy Brooks' decision in *Kolpek v. United States*, United States District Court for the Western District of Arkansas, Case No. 5:21-CV-05116.

36. On cross-examination, Dr. Scott stated that he reviewed the Decedent's age and date of birth. He knew that she was not working at the time of her death. Dr. Scott typically uses a questionnaire to elicit information about a decedent. He does not believe that he had an employment history when he made these calculations. Since the Decedent was not working at the time of her death, Dr. Scott's earning capacity computation did not include a loss of financial support to the Decedent's two minor children. Dr. Scott agreed that his calculations are based upon assumptions. The US Life Tables were used to calculate the Decedent's remaining life expectancy. Dr. Scott did not look for life expectancy data specific to the State of Arkansas. Dr. Scott did not consider whether the Decedent was a smoker and testified that he does not have the expertise to evaluate any comorbidities. Regarding the Decedent's lost earning capacity, Dr. Scott testified that he provided a conservative measure of what the Decedent could have earned. He also testified that this measure is not speculative. Dr. Scott stated that, under the Affordable Care

Act, there are more full-time jobs paying minimum wage that offer fringe benefits. Dr. Scott clarified that lost household services represented the loss of unpaid services that the Decedent provided to her household. Regarding the cost of raising the minor children, Dr. Scott testified that the costs in his report were based on a single parent household. Dr. Scott did not review tax returns in this case because the Decedent was not employed at the time of her death. He noted that if a person exits the labor force to raise children with the intent to go back to work at some point in the future, past performance would not be the best indicator of future performance.

Testimony of Haley Hudson

37. Claimant called Haley Hudson to testify. After being sworn in, Ms. Hudson testified that she is 32 years old and that the Decedent was her mother. She was 29 years old when the Decedent died. Ms. Hudson currently lives in Wynne, Arkansas, with her fiancé, two daughters, as well as [redacted] and [redacted]

38. Before the accident, Ms. Hudson worked at Stallings Aircraft Propeller. She had a great relationship with her mom and her two sisters. Ms. Hudson testified that she talked to and texted with the Decedent multiple times per day.

39. When the Decedent separated from [redacted] and [redacted] father, the Decedent moved in with Ms. Hudson. The Decedent later moved to Paris, Arkansas, with [redacted] and [redacted] about two years before the accident.

40. Ms. Hudson testified that the Decedent previously worked at gas stations, restaurants, a Family Dollar, grocery stores, and a factory making gas caps. The Decedent liked to spend her time with her family, including grandchildren. Ms. Hudson observed the Decedent being a loving mother to [redacted] and [redacted] Ms. Hudson stated that the Decedent got them out of a terrible situation with [redacted] and [redacted] father and brought them to Wynne. The Decedent

sent pictures of Paris, Arkansas, to Ms. Hudson and wanted Ms. Hudson and her family to move there.

41. Ms. Hudson testified that the family gathered before the accident to celebrate the Decedent's birthday.

42. Ms. Hudson observed [redacted] and [redacted] flourishing after they moved to Paris. They had friends and were enjoying life with the Decedent.

43. On June 11, 2021, Ms. Hudson spoke with the Decedent several times. Ms. Hudson's daughter had a state softball tournament in Benton, and the Decedent was going to come watch her play. The Decedent seemed especially excited about the tournament because Ms. Hudson had played softball when she was younger. The Decedent told Ms. Hudson that she would call her back after the Decedent took Ms. Hudson's cousin's son home.

44. Ms. Hudson learned about the accident while she was at work. She received a telephone call from the Decedent's mother. Ms. Hudson learned that the Decedent was being taken to the hospital because she had answered some questions as though she might have amnesia. Ms. Hudson got another call from her aunt telling her to pack a bag and to go to Fort Smith because the Decedent was not going to make it. Ms. Hudson called her brothers and told them to go check on the Decedent. Ms. Hudson's brothers called and told her that there was nothing to be done. Ms. Hudson's employer flew her to Fort Smith on his plane. Her brother (and the Decedent's son), Cody Ashcraft, met her and drove her to the hospital.

45. Ms. Hudson and her two younger brothers were at the hospital with the Decedent. [redacted] and [redacted] came up to the hospital after [redacted] had been checked out for her concussion. The doctors asked Ms. Hudson for directions regarding the Decedent's end-of-life instructions. Only four people were permitted in the hospital room at one time, so the people present when the

Decedent died were Ms. Hudson, Cody Ashcraft, Ms. Hudson's aunt, and Ms. Hudson's grandmother.

46. Ms. Hudson made the funeral home arrangements and paid the funeral costs in the amount of $1,195.95, plus another amount for the urn. She estimated this additional amount to be $250–$350.

47. Ms. Hudson became the permanent legal guardian of [redacted] and [redacted] and enrolled them in school in the [redacted]. [redacted] did not like moving from the Paris schools to the [redacted] because Paris offered more sports and because she was thriving in the Paris schools. [redacted] was also thriving in her art class in Paris and loved living there. Moving back to [redacted] was difficult for both girls.

48. Regarding [redacted] injuries, Ms. Hudson understood that [redacted] was sitting in the middle of the backseat during the accident and hit her head and passed out during the accident. Ms. Hudson has taken [redacted] to several doctors for the headaches that she suffers from, including a neurologist. [redacted] was diagnosed with a traumatic brain injury and prescribed migraine medicine for her. Ms. Hudson noted that the migraine medicine does not appear to help. Out of every seven days, Kadey [redacted] three to four headaches. [redacted] has missed school and missed games due to her headaches. She prefers to stay in darkness to help the headaches. [redacted] did not have headaches prior to the accident. Right after the accident, [redacted] did not sleep well and had frequent nightmares.

49. Regarding [redacted] Ms. Hudson testified that [redacted] does not like to talk about the accident or the loss of the Decedent.

50. Ms. Hudson and her fiancé are responsible for school clothes, school pictures, and all expenses for [redacted] and [redacted] Ms. Hudson's relationship with [redacted] and [redacted] has changed because she is now a mother to them, not a sister.

51. Ms. Hudson has taken both girls shopping for dresses for homecoming court, and she testified how difficult it was for both girls to hear their mother's name when they walked onto the field.

52. Ms. Hudson testified that [redacted] has been accepted to Arkansas State University and North Arkansas College. [redacted] wants to attend the University Arkansas. Ms. Hudson did not know the exact cost of attending the University of Arkansas.

53. Ms. Hudson stated that she brought this claim to help her sisters and to make sure that they are okay. She testified that raising her sisters is hard but that she could not have let them go to foster care.

54. Regarding Ms. Hudson's brother, Mark Hudson, Ms. Hudson stated that grief is hard. She has seen him lose his job and separate from his wife due to grief. She testified that losing the Decedent has caused him a lot of pain.

55. Regarding Ms. Hudson's brother, Cody Ashcraft, Ms. Hudson stated that he was with her in the hospital room when the Decedent died.

56. Ms. Hudson read a statement that she prepared detailing her sorrow about the loss of the Decedent and her recollection of the date of the accident.[6]

57. Ms. Hudson stated that she is no longer working because of the demands on her time with her sisters' therapy appointments.

58. On cross-examination, Ms. Hudson testified that the Decedent dropped out of high school to help her mother pay the bills, and Ms. Hudson does not know whether the Decedent got her GED certificate. Ms. Hudson estimated that the Decedent smoked one-half pack of cigarettes per day. When the Decedent lived with Ms. Hudson, the Decedent worked at a restaurant and at

[6] This statement was admitted without objection as part of Claimant's Exhibit No. 14.

Family Dollar. Ms. Hudson does not receive child support from [redacted] and [redacted] father and has not pursued child support from him. The girls receive Social Security survivor benefits. Before the Decedent moved in with Ms. Hudson, Ms. Hudson suspected that the Decedent had used drugs. Because [redacted] and [redacted] father is a drug user, Ms. Hudson insisted that the Decedent take drug tests during the two to two and one-half years that the Decedent lived with Ms. Hudson. When the Decedent first moved to Paris, the Decedent lived with [redacted] and [redacted] in a camper on some family land for a short time. The Decedent worked at a grocery store in Paris but left because some items were stolen from her and because the deli was closing due to Covid. The Decedent received food stamps. The Decedent worked for a neighbor's housecleaning business to pay her rent at the apartment.

Testimony of Garrett Andrews, Psy.D.

59. Claimant called Dr. Garrett Andrews to testify.[7] After being sworn in, Dr. Andrews testified that he works at Arkansas Neuropsychology Behavioral Health. Dr. Andrews has a clinical psychology degree and is board-certified in neuropsychology.[8]

60. Neuropsychology is the evaluation of neurocognition and how the brain functions.

61. Dr. Andrews' standard retaining agreement is $5,500 for a forensic neuropsychological evaluation.

62. Dr. Andrews evaluated [redacted] on April 4, 2023. As part of the evaluation, Dr. Andrews reviewed [redacted] developmental and medical history, and [redacted] was interviewed for a patient history. After gathering that information, [redacted] brain was tested for attention,

[7] Claimant also submitted Dr. Andrews' deposition transcript with the results of [redacted] forensic neuropsychological evaluation attached as an exhibit.

[8] Per Dr. Andrews' curriculum vitae, he earned a doctorate in psychology in 2005.

processing speed, memory, learning, visual-spatial perception, and problem solving. [redacted] was also tested for behavioral and emotional function.

63. Dr. Andrews' evaluation was designed to determine whether [redacted] had suffered a traumatic brain injury and how [redacted] is functioning after the accident.

64. Referring to his May 31, 2023, report following [redacted] evaluation, Dr. Andrews testified that [redacted] neurocognitive data was mostly within normal limits. However, [redacted] emotional testing showed significant mood dysfunction, as well as issues with survivor guilt, self-confidence, anxiety, and suicidal ideation. Dr. Andrews concluded that [redacted] has developed PTSD and has a mild traumatic brain injury. There are treatments for PTSD, but triggers can always cause issues. Dr. Andrews expects that Kadey will have PTSD for her entire life. A trigger can cause a patient with PTSD to have an "over response." He testified that [redacted] PTSD is still active and is not currently in remission.

65. Dr. Andrews stated that his opinions are within a reasonable degree of medical certainty.

66. On cross-examination, Dr. Andrews testified that treatment of the mental health issues would help the physical issues that [redacted] is experiencing. Regarding the headaches that [redacted] is experiencing, Dr. Andrews reiterated his recommendations that the headaches may improve with physical therapy and if her sleep issues can be addressed.

67. Upon a question from Commissioner Graves, Dr. Andrews stated that he recommended usage of an SSRI medication, which is a selective serotonin reuptake inhibitor. An SSRI is an antidepressant medication. There are several medications that fall into that category. Lexapro is a good medication for anxiety and depression and is usually well tolerated. With adolescents, these medications are typically prescribed in connection with therapy to make sure that someone is talking to the adolescent frequently to look out for any increase in suicidal risk.

SSRIs do not impact fertility but should not be taken while pregnant or breastfeeding. However, postpartum women who have taken SSRIs may need to be extra cautious about postpartum depression issues.

68. Upon a question from Commissioner Graves, Dr. Andrews stated that treating PTSD usually requires twelve weeks of therapy and at least one year of an SSRI. After that initial twelve weeks of therapy, the patient can usually move to monthly therapy sessions.

Testimony of Cody Ashcraft

69. Claimant called one of the Decedent's sons, Cody Ashcraft, to testify. After being sworn in, Mr. Ashcraft stated that he currently lives in Northwest Arkansas. He currently works at Butterball. He does not disagree with any part of Ms. Hudson's testimony.

70. Mr. Ashcraft said that a lot of people said that he was the Decedent's favorite. He said that the Decedent was his favorite. Mr. Ashcraft could not count on his father, but he could count on the Decedent.

71. Mr. Ashcraft testified that he blames himself for the wreck because if he had not moved to Paris, he did not think that that the Decedent would have moved there. He stated that he stopped living and started surviving after the Decedent's death. He stated that the day in the hospital was the worst day of his life.

72. Mr. Ashcraft described the Decedent as selfless and said that she tried to make everyone around her happy.

73. When asked about [redacted] and [redacted] Mr. Ashcraft said that he has seen them cry and knows that they have been in therapy. He knows that he should seek out therapy, but he has not.

74. Claimant submitted a statement written by Mr. Ashcraft detailing his relationship with the Decedent and describing how the loss of the Decedent has impacted his life.[9]

75. Upon a question from Commissioner Graves as to whether Mr. Ashcraft has the financial means to obtain therapy, Mr. Ashcraft stated that he did not.

Testimony of Mark Hudson

76. Claimant called one of the Decedent's sons, Mark Hudson, to testify. After being sworn in, Mr. Hudson stated that he is 30 years old. He lives with his brother. He developed depression after the Decedent's death and lost his job and separated from his wife as a result. Mr. Hudson stated that he was married for two and one-half years. He has biological children and stepchildren.

77. Mr. Hudson stated that the Decedent was always there for him.

78. Mr. Hudson stated that he does not have the financial means to obtain therapy.

79. Claimant submitted a statement written by Mr. Hudson detailing his relationship with the Decedent and describing how the loss of the Decedent has impacted his life.[10]

Testimony of [redacted]

80. Claimant called [redacted] to testify. After being sworn in, [redacted] testified that she is 17 years old and a senior in high school.

81. [redacted] testified that her life was great when she lived in Paris. She played basketball, softball, and volleyball. The Paris School District is much better than the [redacted]. She did not want to go to the [redacted].

[9] This statement was admitted without objection as part of Claimant's Exhibit No. 14.

[10] This statement was admitted without objection as part of Claimant's Exhibit No. 14.

82. [redacted] testified that all four of the girls in Ms. Hudson's house ([redacted] and Ms. Hudson's two daughters) are very active.

83. [redacted] stated that she does not sleep well and has constant headaches. She does not know the specific requirements of her health insurance to receive therapy.

84. [redacted] read a statement about how her head injury has affected her life and the treatment that she has sought for the headaches. Claimant later submitted a copy of the statement, along with another statement about how the loss of the Decedent has impacted [redacted] life.[11]

85. On cross-examination, [redacted] testified that the Decedent did not always have full-time employment when they lived in Paris.

86. Upon a question from Chairman Morris, [redacted] stated that she is planning to get her driver's license soon.

87. Upon a question from Commissioner Graves as to [redacted] career aspirations, [redacted] stated that she wants to study radiology.

Testimony of [redacted]

88. Claimant called [redacted] to testify. After being sworn in, [redacted] testified that she is in eighth grade. She wants to be a teacher or an orthodontist. She stated that she has all As and Bs and that she is the most outgoing person in her family.

89. Claimant submitted a statement written by [redacted] detailing her relationship with the Decedent and describing how the loss of the Decedent has impacted [redacted] life.[12]

[11] This statement was admitted without objection as part of Claimant's Exhibit No. 14.

[12] This statement was admitted without objection as part of Claimant's Exhibit No. 14.

Testimony of Jennifer Wilkerson

90. Respondent played a selection of video deposition clips of Jennifer Wilkerson. Respondent also submitted Ms. Wilkerson's entire deposition transcript in lieu of live testimony. After being sworn in, Ms. Wilkerson stated that he was hired by Respondent to be a program assistant.[13]

91. She had been working for Respondent for approximately two weeks when the accident happened.[14] When asked for her understanding of her job responsibilities on the afternoon of the accident, Ms. Wilkerson stated:[15]

> Well, I was supposed to go on an eight and a half hour, I guess, trip to go pick up a child. I don't have a child, so I don't even know how to use a car seat or anything like that. I had never – I didn't have a gas card. I guess you have to have – I didn't even know all the procedures yet 'cause I was – I had no training or anything like that. So it was just – I mean, to go and pick up the kid and then bring them back to Clarksville . . . and it wasn't planned out.

This trip was Ms. Wilkerson's first time to go in a state car by herself.[16] The night before the accident, Brandy Ezell told Ms. Wilkerson to be at Respondent's Logan County office at 8:00 a.m. the following morning.[17] Before Ms. Wilkerson left the parking lot, Ms. Ezell changed her arrival time to 9:00 a.m. Ms. Wilkerson stated that "there was no set hour, set time that I was supposed to leave."[18]

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[13] Wilkerson deposition transcript at p. 9.

[14] *Id*. at p. 9–10.

[15] *Id*. at p. 10.

[16] *Id*. at p. 25.

[17] *Id*. at p. 10–11.

[18] Wilkerson deposition transcript at p. 11.

92. Ms. Ezell helped Ms. Wilkerson fill Ms. Wilkerson's state vehicle with gasoline because Ms. Wilkerson's gas card did not work.[19] After Ms. Ezell completed the gas stop, she drove Ms. Wilkerson back to the office in the state vehicle, gave Ms. Wilkerson an address of where she was supposed to go, and told her to go.[20]

93. Ms. Wilkerson called in some food at a restaurant called Dairy Delite because she knew she was beginning an eight-hour trip.[21] She went in, picked up the food, and ate with her then-boyfriend, who was also at the Dairy Delite.[22]

94. After the accident, Ms. Wilkerson called Ms. Ezell to tell her, and then she called her then-boyfriend.[23] Ms. Ezell, Pamela Feemster, and Ms. Wilkerson's then-boyfriend came to the scene of the accident.[24] Ms. Wilkerson guessed that Ms. Ezell was screaming at her because her vehicle came to its final resting place turned around and pointing back toward Paris, Arkansas.[25]

95. Ms. Wilkerson broke her back in the accident.[26] She was diagnosed with a compression fracture of her T11 vertebra two months after the accident.[27]

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[19] *Id*. at p. 11–12.

[20] *Id*. at p. 12, 15.

[21] *Id*. at p. 17–18.

[22] *Id*. at p. 18, 102–03, 122-23.

[23] Wilkerson deposition transcript at p. 18–19.

[24] *Id*. at p. 18, 102.

[25] *Id*. at p. 33–34.

[26] *Id*. at p. 22.

[27] *Id*. at p. 48–49.

96. Ms. Wilkerson had prescriptions for Adderall, Zoloft, Xanax, Klonopin, Lamictal, blood pressure medicine, and naproxen and was taking these medications on the day of the accident.[28]

97. Kristen Shelton, an employee of Respondent, sent Ms. Wilkerson an email with ten questions that Ms. Wilkerson responded to by printing and writing the answers to Ms. Shelton's questions.[29]

98. Ms. Wilkerson testified that she was terminated by Respondent the Friday following the accident.[30]

Testimony of Brandy Ezell

99. Respondent introduced the deposition testimony of Brandy Ezell in lieu of live testimony.

100. After being sworn in, Ms. Ezell testified that she has been employed at Respondent's Logan County office since January 2019.[31] Ms. Ezell is a family service worker specialist, which she described as a "foster care case worker."[32]

101. Ms. Wilkerson was a coworker of Ms. Ezell.[33] Ms. Ezell understood Ms. Wilkerson's job as a program assistant to include helping with family visits and teaching parenting classes.[34]

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[28] Wilkerson deposition transcript at p. 60–62, 109–14.

[29] *Id*. at p. 23

[30] *Id*. at p. 44.

[31] Ezell deposition transcript at p. 5.

[32] *Id*. at p. 6.

[33] *Id*.

[34] *Id*. at p. 6–7.

102. Ms. Ezell testified that, on the day of the accident, Ms. Wilkerson was going to take a state vehicle to do a sibling visit by herself for the first time.[35] That visit would involve Ms. Wilkerson picking up one sibling in Beebe and meeting another worker with the other sibling in Clarksville at 4:00 p.m.[36] Following the sibling visit, the two workers would return the siblings to their placements and then go home.[37]

103. Ms. Ezell went with Ms. Wilkerson to put gasoline in the state vehicle because Ms. Wilkerson's personnel number was not in the system yet.[38] Ms. Ezell also showed Ms. Wilkerson how to do the logbook in the state vehicle.[39]

104. Ms. Ezell testified that she told Ms. Wilkerson to leave around noon or 12:15 p.m. to get the child in Beebe at 2:00 p.m. and to be in Clarksville by 4:00 p.m.[40] Ms. Ezell saw Ms. Wilkerson leave Respondent's office parking lot at 12:07 p.m. and remembers the time because she is used to providing exact times in her job.[41]

105. After Ms. Ezell returned from lunch with Ms. Feemster, Ms. Ezell received a telephone call from Ms. Wilkerson at 12:55 p.m. stating that Ms. Wilkerson had been in an

[35] *Id*. at p. 7–8.

[36] Ezell deposition transcript at p. 7–8.

[37] *Id*. at p. 9.

[38] *Id*. at p. 7–8.

[39] *Id* at p. 8.

[40] *Id*. at p. 9–10.

[41] Ezell deposition transcript at p. 10–11.

accident.[42] Ms. Ezell was expecting Ms. Wilkerson to say that she was in Dardanelle or Pottsville at that time and was surprised to learn that Ms. Wilkerson was still in Paris.[43]

106. When Ms. Ezell and Ms. Feemster arrived at the accident scene, an ambulance was there.[44] Ms. Ezell testified that Ms. Wilkerson appeared upset but did not have any visible injuries.[45] Ms. Wilkerson told Ms. Ezell that Ms. Wilkerson had stopped at the Dairy Delite to get something to drink.[46] Ms. Wilkerson's then-boyfriend came to the accident scene and got Ms. Wilkerson's purse and belongings out of the state vehicle.[47]

107. Ms. Ezell testified that Ms. Feemster asked the state trooper at the accident scene if he was going to do a drug screen on Ms. Wilkerson, and the state trooper said that he usually would not.[48] Ms. Ezell and Ms. Feemster went to the Booneville hospital, but the hospital was locked down due to an altercation between Ms. Wilkerson's then-boyfriend and another person.[49]

Testimony of Pamela Feemster

108. Respondent called Pamela Feemster to testify. After being sworn in, Ms. Feemster testified that she is Respondent's family service supervisor for Logan County. She has worked for Respondent for approximately fifteen years. She supervises other employees, including

[42] *Id*. at p. 12, 30–31.

[43] *Id*. at p. 12.

[44] *Id*. at p. 13.

[45] *Id*. at p. 13–14.

[46] Ezell deposition transcript at p. 12, 15–16.

[47] *Id*. at p. 20–22.

[48] *Id*. at p. 19.

[49] *Id*. at p. 19.

program assistants, and hires new employees. Program assistants help the family service workers, including with family visits, parenting classes, and transportation.

109. Respondent is a drug-free workplace, and new employees are required to pass a drug test before being hired. Ms. Feemster recommended Ms. Wilkerson for hire and sent Ms. Wilkerson's file to Ms. Feemster's supervisor and then to the central office for a background check.

110. Referring to Respondent's Exhibit No. 1, Ms. Feemster testified that this document includes Respondent's personnel hire packet checklist for the hire of Ms. Wilkerson.[50] As stated on the form, Ms. Wilkerson's hire date was May 30, 2021, and her official start date was June 1, 2021. This form also shows that Ms. Wilkerson signed off on Form DHS-1956 regarding the notice of the preemployment drug test.[51] At the time of hire, Ms. Wilkerson testified negative for amphetamines, cocaine, extended opioids, marijuana, and phencyclidine.[52] If Ms. Wilkerson started taking medicine that could show up as amphetamines on a drug test, she should have reported that to Respondent. Ms. Feemster testified that Ms. Wilkerson completed and signed the vehicle safety form regarding her obligations while operating a state vehicle.[53]

111. Ms. Feemster testified that an eight and one-half hour day is not unusual for someone in Ms. Wilkerson's position. Ms. Feemster explained that during Ms. Wilkerson's interview.

[50] Respondent's Exhibit No. 1 at Exhibit A at p. 5.

[51] A copy of the preemployment drug test notice can be found at Respondent's Exhibit No. 1 at Exhibit A at p. 9–10.

[52] A copy of the preemployment drug test results can be found at Respondent's Exhibit No. 1 at Exhibit A at p. 11.

[53] A copy of this form can be found at Respondent's Exhibit No. 1 at Exhibit A at p. 21.

112. Ms. Feemster was Ms. Wilkerson's direct supervisor while employed by Respondent. Ms. Ezell did a lot of Ms. Wilkerson's training because Ms. Wilkerson was shadowing Ms. Ezell.

113. Referring to Respondent's Exhibit No. 10, Ms. Feemster testified that this document is part of Respondent's policies regarding employees driving state vehicles.

114. Ms. Wilkerson was informed on June 10, 2021, that she would need to go to Beebe to facilitate the sibling visit the next day. On June 11, 2021, Ms. Feemster had Ms. Ezell accompany Ms. Wilkerson to the gas station to see if Ms. Wilkerson's personnel number was working. Ms. Wilkerson was supposed to pick up the child in Beebe around 2:00 p.m.

115. Ms. Feemster saw Ms. Wilkerson leaving around noon when Ms. Feemster and Ms. Ezell were leaving for lunch.

116. Ms. Feemster learned about the accident when Ms. Wilkerson called Ms. Ezell around 12:50-12:55 p.m. Ms. Feemster and Ms. Ezell were still sitting in the vehicle following lunch when Ms. Ezell received the telephone call. They immediately left the office and went to the accident scene. It took about ten minutes to get to the accident scene.

117. Ms. Feemster was concerned about the location of the accident because Ms. Wilkerson had left the office nearly an hour before and had only made it a few miles outside of Paris.

118. Ms. Feemster testified that a program assistant does not have a typical 8:00 a.m. to 5:00 p.m. job. A program assistant finds out what needs to happen that day and then makes her schedule for the day. There is no set time for lunch.

119. When Ms. Feemster arrived on the accident scene, she saw a lot of pieces of vehicles. Ms. Ezell ran up to the accident scene. Ms. Feemster noticed Ms. Wilkerson's then-boyfriend getting a purse and a bag out of the state vehicle and walking off.

120. Ms. Feemster called her direct supervisor, Kristen Shelton, while at the accident scene. Ms. Feemster asked Ms. Shelton about drug testing Ms. Wilkerson because she learned at the accident scene the identity of Ms. Wilkerson's then-boyfriend, who has a history of drug abuse. Ms. Feemster talked to a Paris city officer at the accident scene and learned that Ms. Wilkerson had a history of arrests involving substance abuse. Had Ms. Feemster known of these arrests, which did not appear on the criminal background check, that would have affected Ms. Feemster's decision whether to hire Ms. Wilkerson.

121. Ms. Feemster received a text message from Ms. Wilkerson later that day advising that Ms. Wilkerson had taken an Adderall for narcolepsy and wanted to try it out to see if she was going to ask her doctor for a prescription.

122. Referring to Respondent's Exhibit No. 5, which includes emails regarding Ms. Wilkerson's termination, Ms. Feemster stated that she sent an email to Ms. Wilkerson on June 16, 2021, asking for a statement regarding the incident. Ms. Feemster testified that this was her first factfinding investigation. In response, Ms. Wilkerson stated that she was going to Beebe to pick up a child for a sibling visit in Clarksville. Ms. Wilkerson stated that she was supposed to pick up the child in Beebe at 2:00 p.m.

123. The decision to terminate Ms. Wilkerson was ultimately the decision of Ms. Shelton, although Ms. Feemster supported the decision because Ms. Wilkerson was using substances and apparently speeding in violation of Respondent's policies. Ms. Feemster noted that Ms. Wilkerson had only worked for Respondent for eleven days and was already showing these behaviors.

124. Claimant declined to cross-examine Ms. Feemster.

Testimony of Kristen Shelton

125. Respondent called Kristen Shelton to testify. After being sworn in, Ms. Shelton testified that she is Respondent's program administrator. In that role, her responsibilities include supervising the county supervisors. She has been employed by Respondent over 24 years.

126. Ms. Shelton is the supervisor of Ms. Feemster.

127. Ms. Shelton testified that Ms. Wilkerson began working for Respondent on June 1, 2021, as a program assistant. Ms. Shelton agreed with Ms. Feemster's description of the job responsibilities for a program assistant. Ms. Shelton agreed with Ms. Feemster that a program assistant may have a day that lasts eight and one-half hours. Ms. Shelton testified that the bulk of a program assistant's job involves transportation.

128. Ms. Shelton stated that program assistants have to take a lunch break when there is a break in the schedule. Ms. Shelton suggested that when Ms. Wilkerson met the other worker, Ms. Wilkerson could have taken a lunch break while the sibling visit was taking place.

129. Ms. Feemster notified Ms. Shelton of the accident. Ms. Feemster told Ms. Shelton that the state vehicle was damaged, perhaps totaled, that Ms. Wilkerson may have been speeding, and that Ms. Wilkerson's then-boyfriend was present at the scene.

130. Referring to Respondent's Exhibit No. 5, Ms. Shelton testified that the exhibit includes an email that Ms. Shelton sent on June 11, 2021, to her supervisor's supervisor to notify her of the accident.[54] Ms. Shelton guessed that her supervisor must have been out of the office that day, which is why she emailed her supervisor's supervisor. In that email, Ms. Shelton asked if Respondent could drug test Ms. Wilkerson if the state police were not going to conduct a drug screen. Ms. Shelton received a response stating that Respondent could request a drug screen.

[54] A copy of these emails can be found at Respondent's Exhibit No. 5 at bates p. 408–09.

131. Ms. Shelton conducted a factfinding investigation after the accident and notified Ms. Wilkerson about the investigation. Ms. Shelton sent questions to Ms. Wilkerson to answer and sent some additional follow-up questions after receiving Ms. Wilkerson's responses.[55] In the initial set of questions, Ms. Wilkerson stated that she used to take Adderall for narcolepsy and was deciding if she wanted it to be prescribed by her doctor.[56] Ms. Shelton also had the preliminary statement that Ms. Wilkerson sent to Ms. Feemster.[57] Ms. Shelton asked Ms. Feemster for information about how Ms. Wilkerson had been prepared for her June 11, 2021, trip to Beebe, and Ms. Feemster and Ms. Ezell separately responded with the details about the address for the pickup in Beebe, the process for refilling the state vehicle, and the analysis of determining the meeting point in Clarksville.[58]

132. Ms. Shelton made the decision to terminate Ms. Wilkerson. Ms. Shelton noted that Ms. Wilkerson was still a probationary employee, had failed to leave when instructed, was speeding in a state vehicle, had totaled a state vehicle, and was taking medication without a prescription. Ms. Shelton testified that Respondent's Exhibit No. 6 is the termination notice for Ms. Wilkerson.

133. Ms. Shelton is familiar with the location of the accident. If Ms. Wilkerson left Respondent's Logan County office at 12:07 p.m., she should have been on the other side of Russellville at the time of the accident. Ms. Shelton testified that she feels like Ms. Wilkerson

[55] These emails can be found at Respondent's Exhibit No. 5 at bates p. 422–26.

[56] *See id*. at Question No. 9.

[57] This email can be found at Respondent's Exhibit No. 5 at bates p. 419.

[58] This email can be found at Respondent's Exhibit No. 5 at bates p. 420–21.

was acting outside the scope of her job duties.[59] Ms. Shelton testified that she did not receive notification of the results of Ms. Wilkerson's drug test.

134. On cross-examination, Ms. Shelton agreed that the route Ms. Wilkerson was traveling was the most direct route from Paris to Beebe. Ms. Shelton stated that she did not believe that Respondent had a policy about whether employees could eat in state vehicles.

135. Upon a question from Chairman Morris, Ms. Shelton testified that Ms. Wilkerson could have taken her lunch break at 3:30 p.m. or 4:00 p.m. when the sibling visit was taking place.

136. Upon a question from Chairman Morris as to whether Respondent had a policy about distracted driving, Ms. Shelton stated that Respondent's vehicle safety program requires employees to follow traffic laws.

137. Upon a question from Chairman Morris as to whether Ms. Wilkerson would have been terminated if the sibling visit occurred thirty minutes later than planned, Ms. Shelton stated that Ms. Wilkerson would not likely have been terminated if that was the only issue.

Relevant Statutes and Caselaw

138. The elements of a negligence claim are duty, breach of duty, and damages proximately caused by the breach. *See Union Pac. R. Co. v. Sharp,* 330 Ark. 174, 180, 952 S.W.2d 658, 661 (1997).

139. Arkansas' wrongful death statute is found in Ark. Code Ann. § 16-62-102, which provides, in pertinent part:

> (a)(1) Whenever the death of a person . . . is caused by a wrongful act, neglect, or default and the act, neglect, or default would have entitled the party injured to maintain an action and recover damages in respect thereof if death had not ensued, then and in every such case, the person or company or corporation that would have been liable if death had not ensued shall be liable to an action for damages,

[59] Ms. Shelton provided this testimony after Claimant's objection was overruled by the Commission. Chairman Morris noted that the decision as to whether Ms. Wilkerson was acting outside the scope of her employment was one for the Commission, as trier of fact, to make.

> notwithstanding the death of the person . . . and although the death may have been caused under such circumstances as amount in law to a felony.
> . . .
> (b) Every action shall be brought by and in the name of the personal representative of the deceased person. If there is no personal representative, then the action shall be brought by the heirs at law of the deceased person.
>
> (c)(1) Every action authorized by this section shall be commenced within three (3) years after the death of the person alleged to have been wrongfully killed . . .
>
> (d) The beneficiaries of the action created in this section are:
> (1) The surviving spouse, children, father, mother, brothers, and sisters of the deceased person;
> (2) Persons, regardless of age, standing in loco parentis to the deceased; and
> (3) Persons, regardless of age, to whom the deceased stood in loco parentis at any time during the life of the deceased.
> . . .
> (f)(1) The jury or the court, in cases tried without a jury, may fix such damages as will be fair and just compensation for pecuniary injuries, including a spouse's loss of the services and companionship of a deceased spouse and any mental anguish resulting from the death to the surviving spouse and beneficiaries of the deceased.
> (2) When mental anguish is claimed as a measure of damages under this section, mental anguish will include grief normally associated with the loss of a loved one.
> (g) The judge of the court in which the claim or cause of action for wrongful death is tried . . . by judgment or order and upon the evidence presented during trial or in connection with any submission for approval of a compromise settlement, shall fix the share of each beneficiary, and distribution shall be made accordingly. . . .
> (i) It is not the responsibility of the personal representative of a deceased person to locate anyone in loco parentis who is not known to the personal representative to be in loco parentis to the deceased person.

140. The Arkansas Supreme Court held in *Nipper v. Brandon Co.* that "[w]hen a regular employee is driving a vehicle owned by the employer, and an accident occurs, there is a presumption of fact that the employee is acting within the scope of his employment."[60] The *Nipper* Court also held that this presumption of fact imposes "the burden of overcoming this presumption"

[60] 262 Ark. 17, 21, 553 S.W.2d 27, 29 (1977).

on the party "against whom the presumption is directed."[61] As such, Respondent bears the burden of rebutting this presumption.

Findings of Fact and Conclusions of Law

Based upon a review of the claim file, the testimony and evidence presented by the parties, and the law of the State of Arkansas, the Commission finds as follows:

141. The Commission has jurisdiction over this claim pursuant to Ark. Code Ann. § 19-10-204.

142. In keeping with Respondent's agreement, the Commission previously found in its July 25, 2024, order, that Ms. Wilkerson was driving negligently at the time of the accident. As such, this was not at issue in this hearing.

143. However, at issue was whether Ms. Wilkerson was acting within the scope of her employment at the time of the accident. The Commission advised the parties in its July 25, 2024, order, of the presumption under Arkansas law that Ms. Wilkerson was acting within the scope of her employment and that there are questions about whether Respondent had rebutted that presumption.

144. The Commission finds that the testimony and evidence presented by Respondent did not rebut the presumption, such that Ms. Wilkerson was acting within the scope of her employment at the time of the accident. This finding is based on the following factors:

- Respondent provided a vehicle for Ms. Wilkerson's use on June 11, 2021;
- Respondent's employee, Ms. Ezell, directed Ms. Wilkerson to travel to Beebe to pick up a child, and Ms. Wilkerson was traveling the most direct route to Beebe when the accident occurred;

[61] *Id*.

- Respondent's employee, Ms. Ezell, directed Ms. Wilkerson to depart Respondent's Logan County office at noon or 12:15 p.m. (and Ms. Wilkerson left at 12:07 p.m. per Ms. Ezell);
- Respondent did not set a lunch break for its program assistants, like Ms. Wilkerson, and instead expected them to determine the appropriate time for lunch breaks each day;
- Respondent's employees had scheduled the sibling visit for an approximate time on the afternoon of June 11, 2021, and Ms. Shelton testified that had the visit occurred somewhat after its scheduled time, that alone would not have been cause for Ms. Wilkerson's termination; and
- Respondent conducted its own drug test of Ms. Wilkerson following the accident.

145. The Commission specifically disagrees with Respondent that *Davis v. Kukar*[62] supports Respondent's defense in this claim. In *Davis*, the owner of a vehicle was sued after his employee got into an accident, and the Arkansas Supreme Court determined that the case "hinge[d]" upon the question of whether the driver was engaged in the business of his employer "at the time of the accident."[63] In *Davis*, the accident occurred before the driver had resumed the task that his employer had given him. In the instant claim, the accident occurred when Ms. Wilkerson was on her way to Beebe to pick up a child as part of her employment. As the Arkansas Supreme Court stated in *Davis*:[64]

[62] 235 Ark. 139, 357 S.W.2d 275 (1962). This case was cited by Respondent in its prehearing brief.

[63] 235 Ark. 139, 142, 357 S.W.2d 275, 577 (1962) (emphasis added).

[64] *Id*. (emphasis added).

> The law of respondeat superior is well settled. The doctrine of respondeat superior rests upon the proposition that in doing the acts out of which the accident arose, the servant was representing the master at the time and engaged in his business. It is conceded that the doctrine cannot be invoked unless, at the time of the negligent act causing the injury, the servant was engaged in performing a service for the master or [an act] incidental thereto. It is generally stated by textwriters and in judicial decisions that the test of the liability of the master for his servant[']s acts is whether the latter was at the time acting within the scope of his employment. The phrase 'in the scope of his employment or authority,' when used relative to the acts of the servant, means while engaged in the service of his master or while about his master's business. It is not synonymous with 'during the period covered by his employment.'

This analysis of the doctrine of respondeat superior defines the relevant point of time as the time when the accident occurred. It is undisputed that at the time of the accident, Ms. Wilkerson was on a direct route to Beebe.

146. Likewise, the Commission finds that *Healey v. Cockrill*[65] does not support Respondent's position, as it involved an employee who had "complete[ly] abandon[ed]" his employer's business and was acting wholly for his own purposes when an accident happened. Unlike the driver in *Healey*, Ms. Wilkerson was underway on her journey to Beebe, as directed by Respondent, when the accident occurred.

147. The Commission finds that Respondent's defense appears to mostly rest on the fact that Ms. Wilkerson's stop at Dairy Delite changed the timeline of her afternoon by some number of minutes, such that anything that occurred after her stop at Dairy Delite (including the accident) must be outside the course and scope of her employment. This is not the conclusion of the Arkansas Supreme Court in *Davis* or *Healey*, and the Commission rejects Respondent's argument as an unreasonable limitation of the doctrine of respondeat superior and not supported by Arkansas law.

[65] 133 Ark. 327, 202 S.W. 229 (1918). This case was cited by Respondent in its prehearing brief.

148. The Commission finds that even if Ms. Wilkerson's stop at Dairy Delite (which, significantly, occurred at lunch time and during which she ate lunch) constituted a deviation from her employer-directed task, the deviation was reasonable (given the time of day, the fact that the Dairy Delite was directly on her way to Beebe,[66] and the discretion allowed to Ms. Wilkerson to determine her lunch break) and was a slight deviation not affecting whether Ms. Wilkerson was acting in the course and scope of her employment. Ms. Wilkerson testified that she ate a hamburger standing up at the Dairy Delite. The Commission is unpersuaded that the presence of Ms. Wilkerson's then-boyfriend at the Dairy Delite transforms her lunch stop into something more than eating a hamburger while standing up in a restaurant.

149. The Commission notes that if the accident had occurred while Ms. Wilkerson was deviating from or returning to her path to Beebe, that would have perhaps presented a thornier issue regarding whether she was acting within the scope of employment, but that was not the case here.

150. The Commission also finds that Respondent's arguments regarding Ms. Wilkerson's speed at the time of the collision do not rebut the presumption that she was acting in the course and scope of her employment at the time of the accident. As the Arkansas Supreme Court found in *Campbell Baking Co. v. Clark*, the employer of a driver who is speeding is liable for the injuries that result from an accident caused by the driver.[67]

---

[66] Claimant attached maps to its response to Respondent's cross-motion for summary judgment showing the path from Respondent's Logan County office to Beebe. These maps also showed the location of the Dairy Delite, which was right on Ms. Wilkerson's path.

[67] 175 Ark. 899, 1 S.W.2d 35, 35–36 (1927). In *Clark*, a truck driver collided with another vehicle while traveling his "regular route at a reckless rate of speed." *Id*. The Arkansas Supreme Court found the truck driver to be acting in the course and scope of his employment despite the fact that the truck driver was also towing another vehicle as a favor to someone other than his employer when the accident happened. *Id*. Because the driver was still driving his regular route, the Arkansas Supreme Court found that the exception to liability discussed in *Healey* was not applicable because the driver had not "turned completely aside from his employer's business to attend to business entirely his own." *Id*.

151. As for damages, the Commission must consider the damages for the Decedent's estate as well as the mental anguish damages for the Decedent's wrongful death beneficiaries (her children).

152. Regarding the Decedent's estate, the Commission finds that the estate is entitled to recover the $1,500.00 in funeral expenses for the Decedent. Additionally, considering the persuasive testimony of the Decedent's family members regarding how the Decedent valued her life, the Commission finds that the damages associated with the Decedent's loss of life are $1,000,000.00. The Commission finds that this number is consistent with Dr. Scott's calculations, as well as Judge Brooks' decision in *Kolpek v. United States,* United States District Court for the Western District of Arkansas, Case No. 5:21-CV-05116. As such, the Commission finds that the Decedent's estate's total damages are $1,001,500.00. The Commission further finds that the $150,000 in insurance proceeds recovered by Claimant from Respondent's liability insurer should be subtracted from the award, for a total award to the Decedent's estate of $851,500.00.

153. Regarding Mark Hudson and Cody Ashcraft, the Commission finds the testimony presented regarding the mental anguish experienced following the Decedent's death to be moving and persuasive, especially the emotional testimony presented by both brothers regarding their strong ties with Decedent prior to her death and the issues that both have experienced following her death. As such, the Commission finds that Mark Hudson and Cody Ashcraft should be awarded mental anguish damages of $125,000.00 each.

154. Regarding Haley Hudson, [redacted] and [redacted] Commission finds the testimony presented regarding the mental anguish experienced following the Decedent's death to be moving and persuasive. The testimony presented by the Decedent's three daughters evidenced a remarkably close, meaningful relationship between the daughters and the Decedent and the painful, continual repercussions in the daughters' lives regarding the loss of the Decedent. As

such, the Commission finds that Haley Hudson, [redacted] and [redacted] should be awarded mental anguish damages of $250,000.00 each.

155. Regarding the personal injury claim of [redacted] the Commission finds the testimony of Dr. Andrews regarding the future medical expenses that she will incur, as well as the lifelong nature of her PTSD diagnosis, to be persuasive and unrebutted, as Respondent put on no evidence to the contrary, let alone expert testimony. As such, the Commission finds that [redacted] should be awarded damages related to this separate claim in the amount of $500,000.00.

Conclusion

156. The Commission AWARDS the Estate of Jacquelyn Lynn Ashcraft a total of $851,500.00. The Commission further AWARDS Mark Hudson and Cody Ashcraft $125,000.00 each and Haley Hudson, [redacted] and [redacted] $250,000.00 each. The Commission also awards [redacted] $500,000.00 for her separate personal injury claim. Pursuant to Ark. Code Ann. § 19-10-215(b), the Claims Commission refers this total award of $2,351,500.00 to the General Assembly for review, approval, and, if approved, placement on an appropriations bill.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Solomon Graves



ARKANSAS STATE CLAIMS COMMISSION
Dee Holcomb



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair

DATE: March 31, 2025

Notice(s) which may apply to your claim

(1) A party has forty (40) days from transmission of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from transmission of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).

(2) If a Claimant is awarded less than $15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.

(3) Awards or negotiated settlement agreements of $15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

From: Kathryn Irby
To: Jim Jackson
Cc: Vincent France; Daiquiri Carter; Martha Cox
Subject: AMENDED AND SUBSTITUTED ORDER: Hudson v. DHS, Claim No. 230641
Date: Monday, March 31, 2025 1:53:00 PM
Attachments: Hudson v. DHS, 230641 - amended and substituted order.pdf

Jim and Vincent, please see attached amended and substituted order, which was entered to address the discrepancies between the amounts listed in Paragraphs 153 and 154 and the Conclusion section.

Please let me know if there are any questions.

Thanks,
Kathryn Irby

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Monday, March 31, 2025 1:03 PM
To: Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Vincent France <Vincent.P.France@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: Re: ORDER: Hudson v. DHS, Claim No. 230641

Kathryn
Thank you for your hard work in drafting this well written Order.
I will forward it to the family this afternoon.
I'm in mediation at the moment.
Jim

Jim Jackson
Attorney at Law
700 West Broadway St: Suite 2
North Little Rock, AR 72114
(501) 823-3610

On Mar 31, 2025, at 11:21 AM, Kathryn Irby <kathryn.irby@arkansas.gov> wrote:

Jim and Vincent, please see attached order entered by the Commission.

Thanks,
Kathryn Irby

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

<Hudson v. DHS, 230641 -- order.pdf>

From: Jim Jackson
To: Kathryn Irby
Cc: Vincent France; Daiquiri Carter; Martha Cox
Subject: Re: AMENDED AND SUBSTITUTED ORDER: Hudson v. DHS, Claim No. 230641
Date: Monday, March 31, 2025 4:29:26 PM

Kathryn
Thank you very much for clarifying.
I will let the Ashcraft family know of the correction.
Jim

Jim Jackson
Attorney at Law
700 West Broadway St: Suite 2
North Little Rock, AR 72114
(501) 823-3610

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>
> <Hudson v. DHS, 230641 -- order.pdf>

<Hudson v. DHS, 230641 -- amended and substituted order.pdf>

From: Kathryn Irby
To: Jim Jackson
Cc: Vincent France; Daiquiri Carter; Martha Cox
Subject: RE: AMENDED AND SUBSTITUTED ORDER: Hudson v. DHS, Claim No. 230641
Date: Wednesday, April 2, 2025 12:13:00 PM

Jim, at the end of the 40 days referenced in the text box at the end of the order, I will send the entire claim file to the Legislature. If this award is approved by the Legislature sometime this year, it will be included on the appropriation bill that comes out of the 2026 fiscal session (there won't be time for it to be included on the 2025 appropriation bill).

I will copy you on my email to the Bureau of Legislative Research when this claim file is sent over, so you'll know it's been sent. I expect it will be sent around the middle of May. If you have not seen anything from me by May 15, please feel free to follow up.

Thanks,
Kathryn

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Tuesday, April 1, 2025 2:31 PM
To: Kathryn Irby <kathryn.irby@arkansas.gov>
Cc: Vincent France <Vincent.P.France@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: AMENDED AND SUBSTITUTED ORDER: Hudson v. DHS, Claim No. 230641

Kathryn,
I visited with my clients yesterday in Wynne.
They did not have any questions.
Will this Amended Order be forwarded to the Legislative Subcommittee on Claims?
Thank you,
Jim

From: Kathryn Irby <kathryn.irby@arkansas.gov>
Sent: Monday, March 31, 2025 1:54 PM
To: Jim Jackson <jim@jimjacksonatty.com>
Cc: Vincent France <Vincent.P.France@dhs.arkansas.gov>; Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: AMENDED AND SUBSTITUTED ORDER: Hudson v. DHS, Claim No. 230641

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Please let me know if there are any questions.

Thanks,
Kathryn Irby

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> Kathryn Irby
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> **Kathryn Irby**
> **Arkansas State Claims Commission**

101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

<Hudson v. DHS, 230641 -- order.pdf>

From: Vincent France
To: ASCC Pleadings; Jim Jackson; Kathryn Irby
Cc: Daiquiri Carter; Nicholas Langham
Subject: Hudson v. DHS, Claim No. 230641
Date: Thursday, May 8, 2025 2:03:53 PM
Attachments: [redacted].png
[redacted].png
Motion for Reconsideration.pdf

Please find attached DHS's Motion for Reconsideration of the above-referenced claim.

Sincerely,

Vincent P. France
Deputy Chief Counsel for Litigation
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
Office Phone: 501-534-4127
Vincent.P.France@dhs.arkansas.gov

NOTE - This email may contain sensitive or confidential information.

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IN THE ARKANSAS STATE CLAIMS COMMISSION

**HALEY HUDSON, INDIVIDUALLY
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF
THE ESTATE OF JAQUELINE LYNN ASHCRAFT,
DECEASED, AND HALEY HUDSON, AS PERMANENT
LEGAL GUARDIAN OF [redacted]
MINOR CHILDREN** **CLAIMANTS**

vs. **CC No. 230641**

**ARKANSAS DEPARTMENT OF
HUMAN SERVICES** **RESPONDENT**

DHS'S MOTION FOR RECONSIDERATION

COMES NOW, Respondent, Arkansas Department of Human Services, by and through its attorney, Vincent P. France, Deputy Chief Counsel for the Arkansas Department of Human Services, and for its Motion for Reconsideration states the following:

I. INTRODUCTION

The decision by the Arkansas State Claims Commission in the matter-at-hand creates a dangerous precedent that a state agency will be vicariously liable for any illegal, criminal, or other action that is contrary to the agency's policy so long as the state employee commits those acts while on the job, regardless of the nature of the employee's conduct, or the delay caused by such conduct. Thus, the ruling in this matter is contrary to Arkansas law.

More importantly, at the time of the accident, Ms. Wilkerson had only been employed with DHS for ***eleven (11) days***, and she had passed the background checks and pre-employment drug testing. **What more could DHS or any state agency have done?**

The overarching reason that this claim should be reconsidered is that the evidence in this claim does not support the finding that Ms. Wilkerson was within the course and scope of her employment at the time of the accident. First, the evidence shows that Ms. Wilkerson was not

where she should have been when the accident occurred because she had delayed her travel for personal reasons and she had not resumed being within the scope of her employment. Second, the Claims Commission failed to consider that Ms. Wilkerson had ***illegally*** taken amphetamine, which was present in her body at the time of the accident. Third, the facts and circumstances surrounding the accident caused DHS to immediately begin the termination process of Ms. Wilkerson, which included conducting a post-accident drug test; therefore, the decision by DHS to conduct a post accident drug test of Ms. Wilkerson should not have been considered as a factor for finding that Ms. Wilkerson was within the scope of her employment at the time of the accident. Finally, the amount of damages awarded are excessive and the Claims Commission failed to consider how the award will be paid and the impact such an award will have on DHS's abilities to operate and provide for the citizens of Arkansas. Accordingly, DHS respectfully requests that the Commission grants its Motion for Reconsideration.

II. ARGUMENT

The Arkansas Supreme Court has long held that under the doctrine of *respondeat superior* an employer may be liable for the actions of its employee if the employee was acting within the scope of his or her employment at the time of the alleged incident. *Porter v. Harshfield*, 329 Ark. 130, 137, 948 S.W.2d 83 (1997). The fact that the action occurred during the employment does not automatically mean that the employer is vicariously liable; rather, the action must be proven to have been done to carry out the objective and purpose of the employer's business. *Orkin Exterminating Co. v. Wheeling Pipeline, Inc.*, 263 Ark. 711, 716-17, 567 S.W.2d 117 (1978) (citing *Van Dalsen v. Inman*, 238 Ark. 237, 379 S.W.2d 261 (1964)). "Scope of employment" is not synonymous with "during the period covered by his employment." *Hunter v. First State* Bank, 181 Ark. 907, 908-09, 28 S.W.2d 712 (1930). As the Arkansas Court of Appeals more succinctly stated,

"employers are not always liable for any and all acts that an employee commits while on the job." *Coombs v. J.B. Hunt Transp., Inc.*, 2012 Ark. App. 24, at 8, 388 S.W.3d 456. Accordingly, "[t]he test for whether an employee is acting within the scope of his employment is whether the individual is carrying out the object and purpose of the enterprise." *Cooper Clinic, P.A. v. Barnes*, 366 Ark. 533, 541, 237 S.W.3d 87 (2006).

A. Ms. Wilkerson Had Not Returned to the Scope of Her Employment When the Accident Occurred.

When an employee deviates even temporarily from the route and time elapses, the employee may no longer be within the scope of employment depending on the extent and nature relative to the time, place, and circumstances. *Davis v. Kukar*, 253 Ark. 139, 145, 357 S.W.2d 275 (1962). In finding that the employer was not liable, the Court ruled that during the deviation, the employer is not liable. *Id*. at 146. Additionally, the Court noted that "the mere fact that he is ***returning*** thereto, does not of itself ***reinstate*** the servant, agent or agency in his master's employment and establish the engaging in the master's business so as to subject the master to liability and for damages resulting after the departure and before the return is accomplished as of fact." *Id*. (emphases added).

Reliance on *Nipper v. Brandon Co.*, 262 Ark. 17, 553 S.W.2d 27 (1977) was improper. In *Nipper*, the employee had only been on the personal errand for about five (5) minutes and was about a half mile from the point of deviation. 262 Ark. at 19. Additionally, there is no indication in *Nipper* that the employee was on a tight deadline or that the employee was significantly behind schedule. *Id*. Moreover, in *Nipper*, the Court discusses and approvingly cites to *Davis v. Kukar*, which provides further insight into the proper consideration of whether an employee is within the scope of employment when the employee deviates from their job. In *Davis*, the Court found that an employee who was just forty-five (45) feet away from the point at which the employee deviated

from his route was outside the scope of his employer's business; therefore, as a matter of law the employee was outside the scope of his employment. 235 Ark. at 145. In *Nipper*, when an employee was half mile (approximately 2,640 feet) away from the point of deviation, the court determined that it was a factual question for the jury to determine whether the employee was within the scope of employment. 262 Ark. at 19. Although *Davis* and *Nipper* reach opposite conclusions, the two cases must be read together and reconciled, which can be accomplished by looking at the decision in *Davis*. In *Davis*, the Court mentioned "time" approximately 19 times in the opinion. For example, in determining whether an employee was outside the scope of employment, the Court ruled that "the trier must take into account, not alone the mere fact of deviation, but its extent and nature relatively ***time*** and ***place*** and ***circumstances***." 235 Ark. at 145 (emphases added). The Court also states that "[w]e think that the ***time that elapsed*** between the departure from employment, when Davis, on his own, turned the tractor around and went east across highway 65, and the claimed resumption is a ***significant circumstance***." *Id*. (emphases added). The Court further reasoned that "it was Davis' use of that time on his own business that placed him at the scene of the accident." *Id*. at 146. Accordingly, *Davis and Nipper* are reconciled once time—specifically lapsed time—is considered in determining whether an employee is acting within the scope of employment.

Immediately upon learning that Ms. Wilkerson had been in a motor vehicle accident, Ms. Ezell "was expecting her to be at least be in Dardanelle, Pottsville, somewhere between there by that time." *See* DHS's Hearing Exhibit 8, Ezell Depo. 12:9-12. Dardanelle, Arkansas is approximately 34 miles from the Logan County DHS office and Pottsville is approximately 40 miles from the office. In determining whether an employee deviation placed the employee outside the scope of employment, courts can take judicial notice of a map and the distance between places.

Van Dalsen v. Inman, 238 Ark. 237, 239 fn. 1, 379 S.W.2d 261 (1964). Thus, according to the uncontroverted testimony of Ms. Ezell, Ms. Wilkerson was not only almost an hour behind schedule, but also she was at least thirty-one (31) miles from where she should have been when the accident occurred. Absent Ms. Wilkerson's frolic, she would not have been at the scene of the accident at the time it occurred.

More importantly, DHS presented evidence that showed that the facts at-hand are more align with the facts contained in *Davis v. Kukar*, *supra*., in which the Arkansas Supreme Court found that an employee who was just forty-five (45) feet away from the point at which the employee deviated from his route was outside the scope of his employer's business; therefore, as a matter of law the employee was outside the scope of his employment. 235 Ark. at 145. DHS presented evidence that Ms. Wilkerson had sufficiently deviated from her route because she was over 30 miles behind where she should have been when the accident occurred and an hour late. *See Healey v. Cockrill*, 133 Ark. 327, 202 S.W. 299 (1918) ("the relative distance was too great to be called a slight deviation, and the departure from the line of duty was so complete that the connection with the employer's service was completely broken"). Thus, Ms. Wilkerson had not returned to being within the scope of her employment when the accident occurred. *See Davis*, 235 Ark. at 145. Accordingly, DHS should not have been found to be vicariously liable for her actions.

B. <u>Ms. Wilkerson Having Illegally Used Amphetamine Prior to the Accident Is Further Evidence that She Was Beyond the Scope of Her Employment at the Time of the Accident.</u>

DHS is entitled to have this claim reconsidered because the Claims Commission failed to consider that Ms. Wilkerson had ***illegally*** taken amphetamine, which was present in her body at the time of the accident. "The test for whether an employee is acting within the scope of his employment is whether the individual is carrying out the 'object and purpose of the enterprise,' as

opposed to acting exclusively in his own interest." *Cooper Clinic, P.A. v. Barnes*, 366 Ark. 533, 541, 237 S.W.3d 87 (2006)

Moreover, Ms. Wilkerson admitted to taking Adderall—a Schedule II controlled substance[1]—***without a prescription***. *See* DHS's Hearing Exhibit 1, Feemster Affidavit, p. 5 ¶32 and DHS Hearing Exhibit 9, Wilkerson Depo. 23:6-20. Prior to beginning her employment with DHS, Ms. Wilkerson had a clean drug test. *See* DHS's Hearing Exhibit 1, Feemster Affidavit, p. 2 ¶¶ 6-7. Thus, Ms. Wilkerson's actions of drug abuse could not have been expected by DHS; therefore, Ms. Wilkerson was outside the scope of her employment. *See Porter*, 329 Ark. at 137. Interestingly, under the Arkansas Workers' Compensation Act, injuries that occur to an employee who took illegal drugs or used prescription drugs in contravention of physicians' orders are not compensable. Ark. Code Ann. §11-9-102(4)(B)(iv).

Another important consideration is that Ms. Wilkerson—by illegally using drugs—was not carrying out the "object and purpose" of DHS; therefore, she was acting outside the scope of her employment with DHS and DHS cannot be vicariously liable for her actions. *See Cooper Clinic*, 366 Ark. at 541. A primary focus of DHS is on drug and substance abuse treatment and prevention through programs like the one that promotes the use and distribution of Narcan for opioid overdoses and peer recovery programs to just name a few. Thus, when Ms. Wilkerson illegally took a Schedule II controlled substance without at prescription, she was not furthering the "object and purpose" of DHS. *See Porter*, 329 Ark. at 137. Accordingly, as the Arkansas Supreme Court found in *Cooper Clinic, supra*, the Arkansas State Claims Commission should also have found that

[1] According to Arkansas Department of Health regulations, "Schedule II controlled substances are drugs that have a legitimate medical indication, but also have a high potential for abuse that may lead to severe psychological or physical dependence. Included in the list of Schedule II drugs are the stimulants: amphetamines and methamphetamines and their salts and optical isomers (e.g. ***Adderall***, Desoxyn, Dexedrine and Vyvanse)." Rule 7, 060 01 CARR 001.

DHS was not vicariously liable for the actions of Ms. Wilkerson, because she was not furthering the objectives and purposes of DHS at the time of the accident on June 11, 2021. Accordingly, DHS is entitled to have this claim reconsidered because DHS should not have been found to be vicariously liable in this claim.

C. DHS Began the Process of Terminating Ms. Wilkerson Immediately.

DHS presented evidence and testimony showing that the process of terminating Ms. Wilkerson began the day of the accident. Thus, DHS began the process of terminating Ms. Wilkerson almost immediately. According to the evidence, Ms. Wilkerson was not carrying out the object and purpose of DHS at the time of the accident; therefore, she was outside the scope of her employment and DHS cannot be liable. *See Cooper Clinic*, 366 Ark. 533, 237 S.W.3d 87 (2006). As noted above, DHS presented evidence that showed that Ms. Wilkerson had illegal drugs in her system at the time of the accident, which violated DHS policy. Additionally, the evidence showed that Ms. Wilkerson was traveling at least 70 m.p.h. on a highway with a posted speed limit of 55 m.p.h. when the accident occurred. Thus, Ms. Wilkerson was traveling at a criminal rate of speed when the accident occurred. *See* Ark. Code Ann. §27-50-302(7). Driving at a criminal speed is contrary to the object and purpose of DHS; therefore, Ms. Wilkerson was beyond the scope of her employment. Consequently, DHS is not vicariously liable for her actions because DHS could have terminated her for any one of the following reasons: excessive speeding, for her causing a major motor vehicle accident, and for having illegal drugs in her system.

D. The Amount of Damages Awarded Are Excessive.

The amount of damages awarded are excessive and the Claims Commission failed to consider how the award will be paid and the impact such an award will have on DHS's abilities to operate and provide for the citizens of Arkansas. Specifically, the Claims Commission should have

considered Jacqueline Ashcraft's toxicology report in valuing the total amount of loss of life damages. The Arkansas Supreme Court has repeatedly found that drug and alcohol use by an individual is relevant in determining life expectancy and damages. *See Burnett v. Fowler*, 315 Ark. 646, 869 S.W.2d 694 (1994); *Oxford v. Hamilton*, 297 Ark. 512, 763 S.W.2d 83 (1989). According to Ms. Ashcraft's toxicology report, she tested positive for the following: Benzodiazepines, Cannabinoids, Amphetamine, Methamphetamine, Nicotine, Caffeine, and Delta-9 Carboxy THC. *See* DHS's Hearing Exhibit 13. Moreover, Ms. Ashcraft's daughter testified that her mother smoked a half pack of cigarettes per day and that she was drug testing her mother. *See* Amended and Substituted Order, ¶58. Moreover, the amount of compensatory damages for loss of life are excessive because the evidence shows that Ms. Ashcraft had limited work history. *See Id*. Further, Ms. Ashcraft's obituary does not mention any employment and states that she was only a homemaker. *See* Claimant's Hearing Exhibit 5. Consequently, Ms. Ashcraft's drug usage would have lessened her life expectancy, negatively impacted her ability to obtain and maintain gainful employment, and negatively impacted her intra-personal relationships with her children, the damages awarded in this claim were excessive. *See Advocat, Inc. v. Sauer*, 353 Ark. 29, 111 S.W.3d 346 (2003) (the Arkansas Supreme Court found that compensatory damages of $15 million to be excessive and reduced the amount by two-thirds). Accordingly, at a minimum, the amount of damages awarded should be reduced by two-thirds and should only be $800,000.00.

Lastly, awarding $2,351,500.00 is extremely excessive when considering the financial impact such an award would have on DHS. The financial burden of paying the award would fall specifically to the Division of Children and Family Services, which is responsible for child-abuse prevention and protection, foster care, and adoption programs. According to the appropriations bill for the Department of Human Services—Division of Children and Family Services ("DCFS") for

fiscal year 2025-2026, the Arkansas General Assembly only allocated $17,191,660 for DCFS's state maintenance and general operations. *See* Act 889 of the 95th General Assembly (attached hereto). Consequently, an award of $2,351,500.00 would account for almost 14% of state appropriated maintenance and general operation funds to DCFS. The impact such an award will likely cause DCFS to have to cut services elsewhere. Under the public finance laws, when there are insufficient funds available the state agency may be required by the Chief Financial Officer of the State to implement financial reductions. *See* Ark. Code Ann. §19-4-1210(b)(3); *see also* Ark. Code Ann. §19-4-608. Thus, the amount awarded in this case will have a direct adverse impact on DHS's abilities to operate and provide for the citizens of Arkansas. Accordingly, DHS is entitled to have this claim reconsidered because the amount of damages awarded are excessive.

III. CONCLUSION

WHEREFORE, DHS respectfully requests that the Arkansas State Claims Commission grants its Motion for Reconsideration, thereby vacating its previous decision found in its Amended and Substituted Order, and finds that DHS is not liable under the doctrine of *respondeat superior* and for any other just and proper relief to which it is entitled.

Respectfully submitted,

By: */s/ Vincent P. France*

Vincent P. France, Ark. Bar No. 2010063
Deputy Chief Counsel
Arkansas DHS
P.O. Box 1437, Slot S260
Little Rock, AR 72203
Phone: (501) 534-4127
Email: Vincent.P.France@DHS.Arkansas.gov
Attorney for Respondent

CERTIFICATE OF SERVICE

I, Vincent P. France, hereby certify that on May 8, 2025, I electronically filed the foregoing with the Arkansas State Claims Commission by emailing it to asccpleadings@arkansas.gov and by sending a copy to Claimant's attorney Jim Jackson via email as indicated below.

Jim Jackson
Jim@JimJacksonatty.com

/s/ Vincent P. France
Vincent P. France

Stricken language would be deleted from and underlined language would be added to present law.
Act 889 of the Regular Session

State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

SENATE BILL 35

By: Joint Budget Committee

For An Act To Be Entitled

AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES AND OPERATING EXPENSES FOR THE DEPARTMENT OF HUMAN SERVICES - DIVISION OF CHILDREN AND FAMILY SERVICES FOR THE FISCAL YEAR ENDING JUNE 30, 2026; AND FOR OTHER PURPOSES.

Subtitle

AN ACT FOR THE DEPARTMENT OF HUMAN SERVICES - DIVISION OF CHILDREN AND FAMILY SERVICES APPROPRIATION FOR THE 2025-2026 FISCAL YEAR.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. REGULAR SALARIES - OPERATIONS. There is hereby established for the Department of Human Services - Division of Children and Family Services for the 2025-2026 fiscal year, the following maximum number of regular employees.

Item No.	Class Code	Title	Maximum No. of Employees	Maximum Annual Salary Rate Fiscal Year 2025-2026
(1)	N249N	DHS DIVISION DIRECTOR	1	GRADE SE02
(2)	N016N	DHS DEP DIR ADMINISTRATIVE SVCS	1	GRADE GS15
(3)	N134N	DHS/DCFS ASSISTANT DIRECTOR	4	GRADE GS14

(4)	N121N	DHS/DCFS DEPUTY DIRECTOR	2	GRADE GS14
(5)	G101C	DHS AREA MANAGER	10	GRADE GS12
(6)	G027N	DHS RESEARCH ANALYSIS MANAGER	1	GRADE GS11
(7)	G100C	DHS COUNTY ADMINISTRATOR III	2	GRADE GS10
(8)	E013C	EDUCATION PROGRAM MANAGER	1	GRADE GS10
(9)	G099C	DHS PROGRAM ADMINISTRATOR	19	GRADE GS09
(10)	M011C	FAMILY SERVICE WORKER COUNTY SUPV	29	GRADE GS09
(11)	M016C	DHS FIELD MANAGER	1	GRADE GS08
(12)	G152C	DHS PROGRAM MANAGER	6	GRADE GS08
(13)	M010C	FAMILY SERVICE WORKER CLINICAL SPEC	26	GRADE GS08
(14)	M015C	FAMILY SERVICE WORKER SUPERVISOR	162	GRADE GS08
(15)	X062C	QUALITY ASSURANCE COORDINATOR	2	GRADE GS08
(16)	E023C	TRAINING PROJECT MANAGER	1	GRADE GS08
(17)	R024C	ASSISTANT PERSONNEL MANAGER	1	GRADE GS07
(18)	G183C	DHS PROGRAM COORDINATOR	11	GRADE GS07
(19)	G267C	DHS PROGRAM ELIGIBILITY ANALYST	2	GRADE GS07
(20)	M027C	FAMILY SERVICE WORKER SPECIALIST	670	GRADE GS07
(21)	M040C	FAMILY SERVICES PROGRAM COORDINATOR	1	GRADE GS07
(22)	X095C	QUALITY ASSURANCE ANALYST	3	GRADE GS07
(23)	C037C	ADMINISTRATIVE ANALYST	16	GRADE GS06
(24)	G210C	DHS PROGRAM SPECIALIST	3	GRADE GS06
(25)	M051C	FAMILY SERVICE WORKER	40	GRADE GS06
(26)	M066C	PROGRAM ELIGIBILITY SPECIALIST	4	GRADE GS06
(27)	A091C	FISCAL SUPPORT ANALYST	10	GRADE GS05
(28)	C056C	ADMINISTRATIVE SPECIALIST III	26	GRADE GS04
(29)	L078C	FAMILY SERVICES ASSISTANT	6	GRADE GS04
(30)	A098C	FISCAL SUPPORT SPECIALIST	1	GRADE GS04
(31)	C046C	LEGAL SUPPORT SPECIALIST	2	GRADE GS04
(32)	C073C	ADMINISTRATIVE SPECIALIST II	1	GRADE GS03
(33)	M090C	DHS PROGRAM ASSISTANT	338	GRADE GS03
(34)	C062C	LOCAL OFFICE ADMINISTRATIVE ASST	17	GRADE GS03
		MAX. NO. OF EMPLOYEES	1,420	

SECTION 2. EXTRA HELP - OPERATIONS. There is hereby authorized, for the Department of Human Services - Division of Children and Family Services for the 2025-2026 fiscal year, the following maximum number of part-time or

temporary employees, to be known as "Extra Help", payable from funds appropriated herein for such purposes: sixty-five (65) temporary or part-time employees, when needed, at rates of pay not to exceed those provided in the Uniform Classification and Compensation Act, or its successor, or this act for the appropriate classification.

SECTION 3. APPROPRIATION - OPERATIONS. There is hereby appropriated, to the Department of Human Services, to be payable from the paying account as determined by the Chief Fiscal Officer of the State, for personal services and operating expenses of the Department of Human Services - Division of Children and Family Services for the fiscal year ending June 30, 2026, the following:

ITEM NO.		FISCAL YEAR 2025-2026
(01)	REGULAR SALARIES	$62,586,466
(02)	EXTRA HELP	1,231,570
(03)	PERSONAL SERVICES MATCHING	27,002,960
(04)	OVERTIME	5,061,305
(05)	MAINT. & GEN. OPERATION	
	(A) OPER. EXPENSE	17,191,660
	(B) CONF. & TRAVEL	39,011
	(C) PROF. FEES	33,236,462
	(D) CAP. OUTLAY	0
	(E) DATA PROC.	0
(06)	DATA PROCESSING SERVICES	1,595,570
	TOTAL AMOUNT APPROPRIATED	$147,945,004

SECTION 4. APPROPRIATION - GRANTS - STATE. There is hereby appropriated, to the Department of Human Services, to be payable from the Children and Family Services Fund Account, for grant payments of the Department of Human Services - Division of Children and Family Services - Grants - State for the fiscal year ending June 30, 2026, the following:

ITEM NO.	FISCAL YEAR 2025-2026

(01)	FOSTER CARE	$54,006,830
(02)	STATE RESIDENTIAL TREATMENT	10,647,249
	TOTAL AMOUNT APPROPRIATED	$64,654,079

SECTION 5. APPROPRIATION - TANF - FOSTER CARE. There is hereby appropriated, to the Department of Human Services, to be payable from the paying account as determined by the Chief Fiscal Officer of the State, for grant payments of the Department of Human Services - Division of Children and Family Services - TANF - Foster Care for the fiscal year ending June 30, 2026, the following:

ITEM NO.		FISCAL YEAR 2025-2026
(01)	FOSTER CARE	$102,907,999

SECTION 6. APPROPRIATION - CHILD ABUSE AND NEGLECT PREVENTION OPERATIONS. There is hereby appropriated, to the Department of Human Services, to be payable from the Children's Trust Fund, for operating expenses and grants or loans for the development or operation of child abuse prevention programs of the Department of Human Services - Division of Children and Family Services - Child Abuse and Neglect Prevention Board for the fiscal year ending June 30, 2026, the following:

ITEM NO.		FISCAL YEAR 2025-2026
(01)	MAINT. & GEN. OPERATION	
	(A) OPER. EXPENSE	$17,770
	(B) CONF. & TRAVEL	0
	(C) PROF. FEES	0
	(D) CAP. OUTLAY	0
	(E) DATA PROC.	0
(02)	CHILD ABUSE AND NEGLECT PREVENTION GRANT AND AID/LOANS	197,029
	TOTAL AMOUNT APPROPRIATED	$214,799

SECTION 7. APPROPRIATION - SAFE HARBOR GRANTS. There is hereby

appropriated, to the Department of Human Services, to be payable from the Safe Harbor Fund for Sexually Exploited Children, for grants to Children's Advocacy Centers statewide for services and treatment for sexually exploited children by the Department of Human Services - Division of Children and Family Services - Safe Harbor Grants for the fiscal year ending June 30, 2026, the following:

ITEM NO.		FISCAL YEAR 2025-2026
(01)	SAFE HARBOR GRANTS	$50,000

SECTION 8. COMPLIANCE WITH OTHER LAWS. Disbursement of funds authorized by this act shall be limited to the appropriation for such agency and funds made available by law for the support of such appropriations; and the restrictions of the State Procurement Law, the General Accounting and Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary Procedures and Restrictions Act, or their successors, and other fiscal control laws of this State, where applicable, and regulations promulgated by the Department of Finance and Administration, as authorized by law, shall be strictly complied with in disbursement of said funds.

SECTION 9. LEGISLATIVE INTENT. It is the intent of the General Assembly that any funds disbursed under the authority of the appropriations contained in this act shall be in compliance with the stated reasons for which this act was adopted, as evidenced by the Agency Requests, Executive Recommendations and Legislative Recommendations contained in the budget manuals prepared by the Department of Finance and Administration, letters, or summarized oral testimony in the official minutes of the Arkansas Legislative Council or Joint Budget Committee which relate to its passage and adoption.

SECTION 10. EMERGENCY CLAUSE. It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2025 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the

effective date of this Act beyond July 1, 2025 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2025.

APPROVED: 4/18/25

From: Jim Jackson
To: ASCC Pleadings; Kathryn Irby
Cc: Vincent France; Martha Cox; Daiquiri Carter
Subject: Haley Hudson v. Arkansas DHS; Claims Comm. No. 230641, DOI: 6/11/2021
Date: Friday, May 16, 2025 3:08:48 PM
Attachments: [redacted]
Response to Motion for Reconsideration.pdf

All,
Please find attached the Claimant's Response to the Respondent's Motion for Reconsideration.
Thank you,
Jim

Jackson Law Firm
700 W. Broadway, Suite 200
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

IN THE ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, INDIVIDUALLY
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JAQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, AS PERMANENT LEGAL GUARDIAN OF [redacted] MINOR CHILDREN **CLAIMANTS**

vs. **CC No. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

RESPONSE TO DHS'S MOTION FOR RECONSIDERATION

COMES NOW, Claimant, by and through her attorney of record, and submits this Response to Respondent's Motion for Reconsideration, stating as follows:

I. INTRODUCTION

The Arkansas State Claims Commission ("Commission") rendered a thorough, well-reasoned, and legally sound decision in its Amended and Substituted Order dated March 31, 2025, finding Respondent, Arkansas Department of Human Services ("DHS"), vicariously liable for the negligent actions of its employee, Jennifer Wilkerson. Respondent's Motion for Reconsideration does not present new arguments, evidence, or valid legal grounds to challenge the Commission's findings of fact or conclusions of law. Instead, Respondent attempts to rehash previously litigated points and introduces speculative assertions that were adequately addressed by the Commission. Claimants urge the Commission to reject the Motion for Reconsideration and affirm its prior decision.

II. ARGUMENT

A. Ms. Wilkerson Was Acting Within the Scope of Her Employment at the Time of the Accident.

The Commission correctly applied Arkansas law governing *respondeat superior,* including the pivotal case of *Nipper v. Brandon Co.*[1] The doctrine provides that when an employee is driving a vehicle owned by their employer, there exists a presumption that the employee is acting within the scope of their employment unless the employer can rebut that presumption. DHS failed to meet its burden of rebutting this presumption during the hearing.

The Commission's decision properly detailed the factors supporting its finding that Ms. Wilkerson was acting within the scope of her employment. These facts included:

- Wilkerson was a full-time Program Assistant for DHS at the time of the wreck.
- DHS provided the state-owned vehicle for Ms. Wilkerson's work-related trip.
- DHS instructed Ms. Wilkerson to pick up a child in Beebe as part of her duties.
- DHS provided Ms. Wilkerson with the route of travel from Paris to Beebe.
- Ms. Wilkerson was traveling the most direct route to Beebe when the accident occurred.
- DHS supervisors acknowledged that Program Assistants, like Ms. Wilkerson, had discretion to determine their appropriate lunch break times during long work-related trips.
- The wreck occurred at 12:50 pm, minutes after she left lunch at Dairy Delite and was driving to Beebe.

Respondent misconstrues the legal precedents that it cites, including *Davis v. Kukar*[2]. Unlike the facts in *Davis*, Ms. Wilkerson was actively traveling for work purposes at the time of the accident. The Commission correctly determined that any slight deviation, such as stopping for lunch at noon at Dairy Delite while on her assigned route, did not sever the connection between her DHS directed purpose and her employment activities. The conclusion

[1] 262 Ark. 17, 553 S.W.2d 27 (1977)
[2] 357 S.W.2d 275, 235 Ark. 139 (1963)

that she remained within the scope of her employment is manifestly supported by the evidence in the record.

Moreover, Respondent's argument that the timeline of Ms. Wilkerson's taking a noon lunch break at Dairy Delite undermines the scope-of-employment finding is without merit. The Commission appropriately considered the testimony regarding the discretionary nature of Program Assistants' schedules, lack of rigid departure timelines, and failure of DHS policies to prohibit modest deviations. The presumption established by *Nipper* remains unrebutted, particularly as Ms. Wilkerson had returned to her direct route to Beebe at the time of the collision.

B. Negligent Acts Do Not Exclude DHS's Liability Under Respondeat Superior.

Respondent asserts that Ms. Wilkerson's alleged speeding and improper use of Adderall/amphetamines took her outside the scope of employment. This argument misapprehends the principle of respondeat superior and ignores Arkansas precedent, including *Campbell Baking Co. v. Clark*[3]. The test for liability focuses on whether the employee's actions were performed in furtherance of their employer's business, even if those actions involved negligence. "As we understand the law applicable to cases of this character, although an agent may exceed his authority to the extent even of violating instructions, if, at the time, he is engaged in the business he was employed to perform by his regular employer, his employer would be responsible for injuries resulting from his torts."[4]

The Commission correctly found that Ms. Wilkerson's alleged misconduct—speeding and following too close — constituted instances of negligence. These actions, while improper, occurred during her performance of duties assigned by DHS and do not absolve DHS of vicarious liability. Arkansas courts have repeatedly held that employers are liable for their

[3] 1 S.W.2d 35 (1927)
[4] Id.

employees' negligent acts if committed within the scope of employment. DHS's assertion of drug use as being inconsistent with its policies may provide grounds for disciplinary action but does not meet the legal standard to rebut liability under the doctrine of *respondeat superior*.

C. DHS's Post-Accident Employment Actions Are Irrelevant to Liability Analysis.

Respondent contends that the initiation of termination proceedings against Ms. Wilkerson demonstrates that she was acting outside the scope of employment. The Commission appropriately rejected this argument. Liability under *respondeat superior* is determined by an analysis of the employee's actions *at the time of the negligent event*—not subsequent employment actions or employer penalties.

Ms. Wilkerson's speeding, while troubling, were incidental to her task of transporting a child as directed by DHS. Respondent's post-accident termination proceedings do not alter the factual findings regarding scope of employment at the time of the collision. The Commission was correct to exclude any weight for DHS's post-accident actions on this issue.

D. The Damages Awarded Were Reasonable and Supported by Substantial Evidence.

Respondent's argument that the damages awarded were excessive is without merit. The Commission meticulously reviewed the evidence presented, including expert testimony and economic calculations, before arriving at the damages awarded to the Decedent's estate and beneficiaries.

Regarding loss of life damages, the Commission considered persuasive testimony from the Decedent's family members about her value to her household, her contributions to her children, and her non-economic value of life. In determining these damages, the Commission relied on Dr. Ralph Scott's expert calculations, which were rooted in accepted methodologies for assessing economic and non-economic damages. The Commission was also guided by

Judge Brooks' ruling in *Kolpek v. United States*, which similarly recognized $278,711 as the average annual non-economic value of life. The one-million-dollar verdict for the Loss of Life element of damages is in line with previous Loss of Life decisions by the Commission and is certainly well below recent wrongful death jury verdicts in Arkansas Circuit Courts.

Regarding mental anguish damages of the decedent's five surviving children, the Commission considered the compelling testimony of the Decedent's beneficiaries, including her children and family members. Their testimony described their close, meaningful relationship with the Decedent and the profound emotional repercussions of her loss. Each beneficiary's verdict was tailored to reflect the evidence presented, and the amounts appropriately reflect fair and just compensation under Ark. Code Ann. § 16-62-102. The total amount of wrongful death damages was $1,851,000 which is certainly justified by the overwhelming proof of damages that was submitted to the Commission.

E. Damages awarded to [redacted] for her Traumatic Brain Injury

The Commission rendered a separate verdict of $500,000 to [redacted] for the traumatic brain injury she sustained during the accident. This decision was firmly grounded in medical evidence, the testimony presented, and applicable Arkansas law that supports recovery for long-term injuries and their profound impacts on a claimant's life.

The Commission noted that the medical testimony provided by Dr. Garrett Andrews was "persuasive and unrebutted." Dr. Andrews, a qualified medical expert, testified on the severity of [redacted] traumatic brain injury and its lasting effects on her ability to function and maintain a normal lifestyle. The Commission relied heavily on his detailed evaluation, which outlined the future medical expenses [redacted] will incur as a direct consequence of the injury. The expert predictions regarding lifelong care needs, rehabilitation expenses, and accompanying mental health challenges, particularly the PTSD diagnosis, form the basis for the $500,000 verdict.

Additionally, the Commission appropriately assigned significant weight to the testimony regarding [redacted] inability to perform routine activities and engage fully in education and social interactions as a result of the traumatic brain injury. The long-term impact of these limitations on [redacted] mental and physical development was carefully considered and documented by the Commission.

Notably, the Respondent's Motion for Reconsideration does not challenge this separate verdict. By their omission, the Respondent implicitly acknowledges that [redacted] verdict for her traumatic brain injury is justifiable and supported by substantial evidence. The lack of contention on this point underscores the strength of the testimony and expert evidence backing the Commission's decision.

F. DHS' Budgetary Constraints

Furthermore, the Respondent's argument that budgetary constraints should limit its ability to fund the wrongful death verdict is without merit and contradictory in light of the available financial information. The Arkansas Department of Human Services (DHS) oversees an $8 billion annual budget allocated for fulfilling its public responsibilities. Within this substantial budget, the $1,851,000 wrongful death verdict and the $500,000 verdict for [redacted] represents only a minuscule fraction—less than 0.01%—of DHS's yearly expenditures. To assert that this verdict would impose undue financial hardship on DHS undermines the legitimacy of its spending priorities and ignores its obligation to compensate individuals harmed by its negligence.

The Commission also correctly rejected attempts to use speculative administrative impacts to justify altering its ruling. It is imperative to hold DHS accountable when negligence by its employees results in severe injury or loss. These two claims are not just a monetary figure but a reflection of the suffering and long-term challenges this family will face due to DHS's employee's actions. To deny or reduce an already well-calculated verdict

based on vague claims about budgetary constraints would be an unjust dismissal of this family's right to a fair remedy. Upholding this verdict is essential in delivering justice for Jacqueline Ashcraft's family and ensuring accountability for the negligent actions that caused this tragedy.

III. CONCLUSION

The Commission's Amended and Substituted Order of March 31, 2025, is a thorough, factually supported, and legally sound resolution of this matter. Respondent's Motion for Reconsideration fails to offer any valid basis for reversing the Commission's findings or modifying its wrongful death verdict of $1,851,000 for the wrongful death of Jacqueline Ashcraft. The Respondent does not contest the verdict of $500,000 for the personal injury claim of [redacted]

WHEREFORE, Claimant respectfully requests that the Commission deny Respondent's Motion for Reconsideration in its entirety and affirm its Amended and Substituted Order without modification.

/s/ *Jim Jackson*
Jim R. Jackson
Jackson Law Firm
Jacqueline Lynn Ashcraft, Haley Nicole Hudson, Carley Raye Jones, and Kadey Lynn Jones
700 West Broadway Street, Suite 200,
North Little Rock, AR 72114-5528
(501) 823-3610
AR Bar #: 93-209

CERTIFICATE OF SERVICE

I, certify that on this date, May 16, 2205, consistent with the requirements of Ark. R. Civ. P. 5, a complete copy of the foregoing Claimant's Motion in Response for Reconsideration was filed via email with the Clerk of the Commission and electronically served on all parties of record in this matter, specifically to:

Vincent P France; Esquire
Arkansas Department of Human Services
P.O. Box 1437,
Little Rock, AR 72203-1437

_/s/ *Jim Jackson*_____
Jim Jackson



Expenditures

Overview | By Agency | By Vendor | By Classification | By Function | Agency Details | Other Transactions

Expenditures by agency

Select an agency to see the appropriations

Filter:

Agency	Expenditure
AR DEPT OF HUMAN SERVICES	$8,525,628,247.47
DEPARTMENT OF EDUCATION	$3,901,352,210.12
AR DEPT OF TRANSPORTATION	$2,202,223,888.26
STATEWIDE SHARED SERVICES	$756,956,056.00
DFA - OFC OF ARKANSAS LOTTERY	$196,417,158.77
AR DEPARTMENT OF HEALTH	$193,672,115.58
DEPARTMENT OF HIGHER EDUCATION	$164,303,655.58
DEPARTMENT OF CORRECTION	$134,969,537.46
AR TEACHER RETIREMENT SYSTEM	$125,609,403.15
DEPT OF CORRECTIONS	$109,968,796.88

Showing 1 to 10 of 137 entries

Show 10 entries

First Previous 1 2 3 4 5 Next Last



From: Vincent France
To: ASCC Pleadings; Kathryn Irby; Jim Jackson
Cc: Martha Cox; Daiquiri Carter
Subject: Haley Hudson v. DHS; Claim No. 230641
Date: Tuesday, May 20, 2025 3:26:10 PM
Attachments: [redacted].pdf
image001.png
image002.png

To all,

Please find attached DHS Reply to Claimants' Response to DHS's Motion for Reconsideration.

Sincerely,

Vincent P. France
Deputy Chief Counsel for Litigation
Office of Chief Counsel
PO Box 1437, Slot S260
Little Rock, AR 72203-1437
Office Phone: 501-534-4127
Vincent.P.France@dhs.arkansas.gov

NOTE - This email may contain sensitive or confidential information.

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IN THE ARKANSAS STATE CLAIMS COMMISSION

**HALEY HUDSON, INDIVIDUALLY
HALEY HUDSON, SPECIAL ADMINISTRATRIX OF
THE ESTATE OF JAQUELINE LYNN ASHCRAFT,
DECEASED, AND HALEY HUDSON, AS PERMANENT
LEGAL GUARDIAN OF [redacted]
[redacted] MINOR CHILDREN** **CLAIMANTS**

vs. **CC No. 230641**

**ARKANSAS DEPARTMENT OF
HUMAN SERVICES** **RESPONDENT**

**DHS'S REPLY TO CLAIMANTS' RESPONSE
TO DHS'S MOTION FOR RECONSIDERATION**

COMES NOW, Respondent, Arkansas Department of Human Services, by and through its attorney, Vincent P. France, Deputy Chief Counsel for the Arkansas Department of Human Services, and for Reply to Claimants' Response to its Motion for Reconsideration states the following:

DHS will not belabor the point that it should not be responsible for the actions of newly hired employee—who goes rogue without warning—and who chose to drive at a high rate of speed with drugs in her system and slammed into the rear-end of a vehicle in front of her. Thus, Ms. Wilkerson was acting outside the course and scope of her employment when the accident happened; therefore, DHS should not have been found liable in the claim-at-hand.

Moreover, Claimants in their Response to DHS's Motion for Reconsideration present a legally incorrect argument to the Claims Commission that must be addressed. Claimants wrongfully assert that DHS has a global "$8 billion annual budget allocated for fulfilling its public responsibilities;" therefore, they claim that the amount awarded only equates to "less than 0.01% of DHS's yearly expenditures." *See* Response, p. 6. This argument is contrary to Arkansas law. The Department of Human Services consists of seven separate and unique divisions, plus the

Office of the Secretary, with each having unique programs and responsibilities assigned to them. Ark. Code Ann. §25-10-102. The seven divisions are defined as the following: (1) Division of Aging, Adult, and Behavioral Health Services; (2) Division of Medical Services; (3) Division of Developmental Disabilities Services; (4) Division of County Operations; (5) Division of Youth Services; (6) Division of Children and Family Services; and (7) Division of Provider Services and Quality Assurance. Ark. Code Ann. §25-10-102(a)(1-7). Each of these divisions has its own budget. *See* Ark. Code Ann. §25-10-111. In the most recent legislative session, the 95th General Assembly for the State of Arkansas, the legislature approved and passed the following acts to appropriate funds for each separate entity within DHS:

- Act 890, appropriations for the Division of Aging, Adult, and Behavioral Health Services;
- Act 887, appropriations for the Division of Medical Services;
- Act 888, appropriations for the Division of Developmental Disabilities Services;
- Act 788, appropriations for the Division of County Operations;
- Act 886, appropriations for the Division of Youth Services;
- Act 889, appropriations for the Division of Children and Family Services;
- Act 785, appropriations for the Division of Provider Services and Quality Assurance; and,
- Act 1004, appropriations for the DHS Office of the Secretary.

Moreover, the Arkansas Constitution unequivocally states that "no money shall be paid out of the treasury until the same shall have been appropriated by law; and then only in accordance with said appropriations." Ark. Const. art. 16 §12. If any state agency violates this section, then it may be subject to an illegal exaction claim brought against it pursuant to Ark. Const. art. 16 §13. *See Buonauito v. Gibson*, 2020 Ark. 352, at 5, 609 S.W.3d 381, 385 ("An illegal exaction is…the

expenditure of public funds that is not authorized or which is contrary to law"). Consequently, DHS cannot use funds appropriated for one division to pay for the liabilities of another division.

As a result, the burden of paying the award of $2,351,500.00 rests ***solely*** on the Division of Children and Family Services. As noted by DHS in its Motion for Reconsideration, the Arkansas General Assembly only allocated $17,191,660 for DCFS's state maintenance and general operations. *See* Act 889 of the 95th General Assembly. Consequently, an award of $2,351,500.00 would account for almost 14% of state appropriated maintenance and general operation funds to DCFS. The impact such an award will likely cause DCFS to have to cut services elsewhere. *See* Ark. Code Ann. §19-4-1210(b)(3); *see also* Ark. Code Ann. §19-4-608. Given that DCFS is responsible for child-abuse prevention and protection, foster care, and adoption programs, funds for these programs will have to be diverted to pay the $2,351,500.00 awarded in this matter. Thus, the amount awarded in this case is excessive and will have a direct adverse impact on DHS's abilities to operate and provide for the citizens of Arkansas. Accordingly, DHS is entitled to have this claim reconsidered because the damages awarded are excessive.

WHEREFORE, DHS respectfully requests that the Arkansas State Claims Commission grants its Motion for Reconsideration, thereby vacating its previous decision found in its Amended and Substituted Order, and finds that DHS is not liable under the doctrine of *respondeat superior* or at a minimum significantly reduces the amount of damages awarded in this matter and for any other just and proper relief to which it is entitled.

Respectfully submitted,

By: */s/ Vincent P. France*

Vincent P. France, Ark. Bar No. 2010063
Deputy Chief Counsel
Arkansas DHS
P.O. Box 1437, Slot S260
Little Rock, AR 72203

Phone: (501) 534-4127
Email: Vincent.P.France@DHS.Arkansas.gov
Attorney for Respondent

CERTIFICATE OF SERVICE

I, Vincent P. France, hereby certify that on May 20, 2025, I electronically filed the foregoing with the Arkansas State Claims Commission by emailing it to asccpleadings@arkansas.gov and by sending a copy to Claimant's attorney Jim Jackson via email as indicated below.

Jim Jackson
Jim@JimJacksonatty.com

/s/ Vincent P. France
Vincent P. France

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

HALEY HUDSON, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JACQUELINE LYNN ASHCRAFT, DECEASED, AND HALEY HUDSON, PERMANENT LEGAL GUARDIAN OF [redacted], A MINOR CHILD **CLAIMANT**

V. **CLAIM NO. 230641**

ARKANSAS DEPARTMENT OF HUMAN SERVICES **RESPONDENT**

ORDER

Now before the Arkansas State Claims Commission (the "Commission") is the motion filed by the Arkansas Department of Human Services (the "Respondent") seeking reconsideration of the Commission's March 31, 2025, order regarding the claim filed by Haley Hudson, Special Administratrix of the Estate of Jacqueline Lynn Ashcraft, deceased, and Haley Hudson, Permanent Legal Guardian of [redacted], a Minor Child (collectively referred to as the "Claimant").

As detailed below, the Commission denies Respondent's motion as being entirely without merit and contrary to Arkansas law, such that the Commission's March 31, 2025, order remains in effect.

1. This claim was filed by Claimant after Jacquelyn Lynn Ashcraft (the "Decedent") died following an automobile accident with an employee of Respondent, Jennifer Wilkerson. The Decedent's minor child, [redacted], was also injured in the accident.

2. Following extensive discovery by the parties and a claim hearing, the Commission determined that Ms. Wilkerson was acting in the course and scope of her employment with Respondent at the time of the accident, such that Respondent is liable for the accident that resulted

in the death of the Decedent and the injury to [redacted]. The Commission awarded a total of $851,500.00 to the Decedent's estate and $1,500,000 to the Decedent's wrongful death beneficiaries, for a total award of $2,351,500.00.

3. Respondent filed the instant motion, arguing that the Commission erred in awarding damages because (1) Ms. Wilkerson had only been employed by Respondent for eleven days as of the date of the accident and that she had passed the background checks and drug testing; (2) Ms. Wilkerson had not returned to the scope of her employment when the accident occurred; (3) Ms. Wilkerson's positive test result for amphetamines following the accident is evidence that she was beyond the scope of her employment at the time of the accident; (4) Respondent immediately began termination proceedings following the accident; and (5) the Commission's award is excessive in light of Respondent's budget.

4. Claimant filed a response opposing the motion.

5. Respondent filed a reply brief detailing Respondent's budget breakdown.

6. Regarding Respondent's argument about the amount of time that Ms. Wilkerson had been employed by Respondent, the Commission finds in the strongest terms that this fact is wholly irrelevant to the application of the doctrine of respondeat superior. Ms. Wilkerson was either employed by Respondent on June 11, 2021, or she was not—here, it is undisputed that she was.[1] To the extent that Respondent is hinting at an argument that employer liability does not attach until an employee has been employed for a certain amount of time (that apparently exceeds eleven days), the Commission finds that this argument is completely unsupported by Arkansas law. Whether Ms. Wilkerson had been employed by Respondent for eleven minutes, eleven days, or eleven years prior to the accident, it is undisputed that she was an employee of Respondent on

[1] *See* Joint Stipulated Facts submitted by the parties at ¶3 ("On June 1, 2021, Jennifer Wilkerson began working for DHS").

the date of the accident. Moreover, Arkansas law is clear that "[w]hen a regular employee is driving a vehicle owned by the employer, and an accident occurs, there is a presumption of fact that the employee is acting within the scope of his employment."[2]

7. Regarding Respondent's argument that Ms. Wilkerson had not returned to the scope of her employment when the accident occurred, the Commission finds that Respondent continues to misunderstand and/or misconstrue Arkansas law. *Nipper* established the presumption that Ms. Wilkerson was acting within the scope of her employment, as well as the burden upon Respondent to overcome or rebut that presumption.[3] *Davis v. Kukar*[4] clarified that the important point at time to evaluate whether Ms. Wilkerson was acting in the scope of her employment was

[2] *Nipper v. Brandon Co*., 262 Ark. 17, 21, 553 S.W.2d 27, 29 (1977) (emphasis added).

[3] *Id*.

[4] 235 Ark. 139, 357 S.W.2d 275 (1962).

at the time of the accident.[5] In light of the shifting schedule for Ms. Wilkerson's day,[6] the fact that Ms. Wilkerson was embarking on a trip ultimately totaling eight and one half hours,[7] and the lack of information given to Ms. Wilkerson about what she was going to be doing,[8] the Commission found in its March 31, 2025, order that it was reasonable for Ms. Wilkerson to call in a food order on her way out of town, given that (1) it was lunch time; (2) the restaurant was directly on her route from Respondent's Logan County office to Beebe; and (3) Ms. Wilkerson

[5] 235 Ark. 139, 142, 357 S.W.2d 275, 577 (1962). The Arkansas Supreme Court stated that the law of the doctrine of respondeat superior is "well settled," explaining that:

> The doctrine of respondeat superior rests upon the proposition that in doing the acts out of which the accident arose, the servant was representing the master at the time and engaged in his business. It is conceded that the doctrine cannot be invoked unless, at the time of the negligent act causing the injury, the servant was engaged in performing a service for the master or [an act] incidental thereto. It is generally stated by textwriters and in judicial decisions that the test of the liability of the master for his servant[']s acts is whether the latter was at the time acting within the scope of his employment. The phrase 'in the scope of his employment or authority,' when used relative to the acts of the servant, means while engaged in the service of his master or while about his master's business.

(emphasis added).

The *Davis* Court also quoted favorably from an Alabama case where the Alabama Supreme Court determined that an employee who abandoned his or her employment does not resume his employment until he or she "return[s] to the place of such abandonment . . . [to] commence carrying out what he was hired to do." 235 Ark. 139, 146, 357 S.W.2d 275, 279 (1977) (quoting *Bell v. Martin*, 241 Ala. 182, 1 So.2d 906 (1941)).

The portion of the Alabama case quoted by Respondent in its motion is incomplete, as it leaves out the Alabama Supreme Court's emphasis on returning to the *place* of abandonment, as opposed to the time that an employee spent on personal business. That omission is likely due to the (undisputed) fact that Ms. Wilkerson was on the route to Beebe when the accident occurred, such that any deviation of her employment had ended.

[6] Ms. Wilkerson was originally told to arrive at Respondent's Logan County office at 8:00 a.m. by Brandy Ezell, but the time was later changed to 9:00 a.m. Wilkerson Deposition Transcript at p. 10–11.

[7] Ms. Wilkerson testified in her deposition that she was "supposed to go on an eight and a half hour, I guess, trip, to go pick up a child." Wilkerson Deposition Transcript at p. 10.

[8] Ms. Wilkerson testified in her deposition that she did not know how to use a car seat, did not have a gas card, and had no training on what she was supposed to do. Wilkerson Deposition Transcript at p. 10. She testified that "it wasn't planned out." *Id.*

was given discretion to determine her lunch break.[9] Respondent presented no evidence that Brandy Ezell or another employee of Respondent directed Ms. Wilkerson to wait to eat lunch until she had driven to Beebe to pick up one child and driven to Clarksville to allow the child to visit with his or her sibling.[10] It is also undisputed that June 11, 2021, was Ms. Wilkerson's first solo sibling visit.[11] Despite this lack of evidence, Respondent appears to continue to argue that Ms. Wilkerson's actions in stopping to get food at the Dairy Delite were so outrageous that anything that occurred after her stop at the Dairy Delite (including the accident) had to be outside the course and scope of her employment. The Commission rejected this argument in its March 31, 2025, order, as contrary to Arkansas caselaw and as an unreasonable limitation on the doctrine of respondeat superior. Applying the Arkansas Supreme Court's holding in *Richards v. McCall*[12] to the instant claim, if an accident occurs after an employee resumes the performance of duties for an employer, "it is immaterial whether she had just previously to that time performed an errand of her own."[13] Likewise, in the instant claim, to the extent that Ms. Wilkerson's lunch stop constituted a deviation from her employment (and it is questionable, at best, if it did), the Commission finds that Ms. Wilkerson was on the route to Beebe, such that any previous errand is immaterial.

[9] Commission's March 31, 2025, order at ¶ 148. Pamela Feemster testified that there was no set time for lunch. Commission's March 31, 2025, order at ¶ 118.

[10] Kristen Shelton testified that Ms. Wilkerson could have taken a lunch break while the sibling visit was taking place, but there was no testimony that this suggestion was communicated to Ms. Wilkerson. Commission's March 31, 2025, order at ¶ 128.

[11] Ezell Deposition Transcript at p. 7–8.

[12] 187 Ark. 61, 58 S.W.2d 432 (1933).

[13] 187 Ark. 61, 65, 58 S.W.2d 432, 433 (1933) (emphasis added).

8. Regarding Respondent's argument that Ms. Wilkerson's positive test result following the accident meant that she was acting outside the course and scope of her employment, the Commission finds that this argument is without merit. First, Respondent presented absolutely no evidence that controlled substances played any role in the accident, and the Arkansas State Police did not cite Ms. Wilkerson for driving under the influence. Furthermore, Respondent is fortunate that there no such evidence. Far from being the free pass for an employer that Respondent apparently believes it to be, the use of an intoxicant by an employee involved in an automobile accident can result in the enhancement of damages and certainly does not absolve an employer, as argued by Respondent.[14]

9. Regarding Respondent's argument that Respondent terminated Ms. Wilkerson's employment following the accident, the Commission finds that this argument is completely irrelevant to an analysis of respondeat superior.

10. Regarding Respondent's argument that the Commission's award will place constraints on Respondent's budget, the Commission finds that this argument is without merit. Respondent was aware of the amount sought[15] by Claimant upon service of the original complaint on November 17, 2022, as well as the increased amount sought[16] by Claimant in its second amended complaint, which was sent to Respondent on May 18, 2023. Despite this knowledge, Respondent did not introduce any specific, detailed evidence at the hearing regarding

[14] *See J.B. Hunt Transp., Inc. v. Doss*, 320 Ark. 660, 899 S.W.2d 464 (1995) (finding employer liable not only for compensatory damages resulting from an automobile accident but also for punitive damages where employee failed a breathalyzer and smelled of alcohol after accident). The Commission has traditionally been skeptical that it can award punitive damages against a state agency, and this citation is not a suggestion that the Commission's position is changing.

[15] Claimant sought $4,000,000 in its original complaint.

[16] In the second amended complaint, Claimant increased the amount of compensatory damages sought to $5,000,000.

Respondent's budget constraints or financial hardship or how an award in Claimant's favor of any size, let alone 47 percent of the final amount sought, would affect Respondent's budget. Respondent is now asking the Commission to set aside its order based simply on the statements of counsel. To the extent that Respondent is concerned about its budget in light of the award, the Commission notes that the Arkansas General Assembly will review the award and, should it be affirmed, can make budgetary adjustments as it deems necessary.

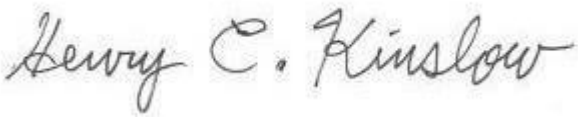
IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Solomon Graves



ARKANSAS STATE CLAIMS COMMISSION
Dee Holcomb



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow, chair



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris

DATE: June 5, 2025

Notice(s) which may apply to your claim

(1) A party has forty (40) days from transmission of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from transmission of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).

(2) If a Claimant is awarded less than $15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.

(3) Awards or negotiated settlement agreements of $15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

From: Kathryn Irby
To: Jim Jackson; Vincent France
Cc: Daiquiri Carter; Martha Cox
Subject: ORDER: Hudson v. DHS, Claim No. 230641
Date: Thursday, June 5, 2025 9:47:00 AM
Attachments: [redacted] order.pdf

Jim and Vincent, please see attached order entered by the Commission.

Thanks,
Kathryn Irby

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Jim Jackson
To: Kathryn Irby; Vincent France
Cc: Daiquiri Carter; Martha Cox
Subject: RE: ORDER: Hudson v. DHS, Claim No. 230641
Date: Thursday, June 5, 2025 10:54:43 AM

Kathryn,
I acknowledge receipt of the Commission's detailed analysis and application of Arkansas law in its well-reasoned Order on the Motion for Reconsideration.
Thank you the effort put into crafting such a meticulous order.
I am sure this Order assist the General Assembly when they review this matter.
It is greatly appreciated.
Jim

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Thursday, June 5, 2025 9:47 AM
To: Jim Jackson <jim@jimjacksonatty.com>; Vincent France <Vincent.P.France@dhs.arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: ORDER: Hudson v. DHS, Claim No. 230641

Jim and Vincent, please see attached order entered by the Commission.

Thanks,
Kathryn Irby

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Jim Jackson
To: Kathryn Irby
Subject: Haley Hudson v. Arkansas DHS; ACC No. 230641
Date: Thursday, June 5, 2025 2:27:29 PM
Attachments: [redacted].pdf
[redacted].pdf

Kathryn,
Thank you again for circulating the Commission's Order denying the Reconsideration.
I see one technical issue that may need to be addressed regarding the traumatic brain injury claim of [redacted].

Paragraph 2 states that the decedent's wrongful death beneficiaries received a verdict of $1,500,000

I would suggest that paragraph 2 should be amended to read:

"The Commission awarded a total of $851,000 to the Decedent's estate, $1,000,000 to the Decedent's wrongful death beneficiaries and $500,000 for [redacted]' traumatic brain injury claim, for a total award of $2,251,500."

I have attached a copy of the original Opinion & Order for your review.

Jim

From: Jim Jackson
To: Kathryn Irby
Cc: Vincent France
Subject: Re: Haley Hudson v. Arkansas DHS; ACC No. 230641
Date: Friday, June 6, 2025 8:44:59 AM

Kathryn,
Thank you for clarifying and helping me understand.
I appreciate your guidance.
This will assist if the Legislative Committee has a question.
Thank you
Jim

Jim Jackson
Attorney at Law
700 West Broadway St: Suite 2
North Little Rock, AR 72114
(501) 823-3610

On Jun 6, 2025, at 8:10 AM, Kathryn Irby <Kathryn.Irby@arkansas.gov> wrote:

Jim,

It appears that Vincent was inadvertently left off of your email yesterday. I am copying him here.

The Commission cannot take action based on an email.

I would note that the summary paragraphs are intended to be just that – summaries. The Conclusion section of the March 31 order (Paragraph 156) correctly and specifically details the Commission's award. Likewise, the June 5 order specifies on page one that "the Commission's March 31, 2025, order remains in effect."

To the extent that you are asking about the math, I believe that $851,500 + $1,000,000 + $500,000 does equal $2,351,500, which is the total amount listed in both orders.

Thanks,
Kathryn Irby

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201
(501) 682-2822

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Thursday, June 5, 2025 2:27 PM
To: Kathryn Irby <kathryn.irby@arkansas.gov>
Subject: Haley Hudson v. Arkansas DHS; ACC No. 230641

Kathryn,
Thank you again for circulating the Commission's Order denying the Reconsideration.
I see one technical issue that may need to be addressed regarding the traumatic brain injury claim of [redacted].

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I have attached a copy of the original Opinion & Order for your review.

Jim
<Hudson v. DHS, Claim No. 230641 -- order Denying respondent's Motion for Reconsideration.pdf>
<Opinion & Order - amended and substituted - filed 3-31-2025.pdf>

From: Kathryn Irby
To: Jim Jackson; Vincent France
Cc: Daiquiri Carter; Martha Cox
Subject: RE: ORDER: Hudson v. DHS, Claim No. 230641
Date: Wednesday, July 16, 2025 12:53:00 PM
Attachments: image001.jpg
image002.jpg
image003.jpg

Jim, I will send this claim file to the Legislature soon. That's the next step. I expect to have it prepped and sent by the end of August.

Kathryn Irby

From: Jim Jackson <jim@jimjacksonatty.com>
Sent: Tuesday, July 15, 2025 3:25 PM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; Vincent France <Vincent.P.France@dhs.arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: RE: ORDER: Hudson v. DHS, Claim No. 230641

Kathryn,
Since more than 20 days have lapsed since the Commission denied the respondent's Motion for Reconsideration, what is the next step procedurally?
Thank you for your assistance.
Jim

Jackson Law Firm
700 W. Broadway, Suite 200
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Thursday, June 5, 2025 9:47 AM
To: Jim Jackson <jim@jimjacksonatty.com>; Vincent France <Vincent.P.France@dhs.arkansas.gov>
Cc: Daiquiri Carter <Daiquiri.Carter@dhs.arkansas.gov>; Martha Cox <mcox@jimjacksonatty.com>
Subject: ORDER: Hudson v. DHS, Claim No. 230641

Jim and Vincent, please see attached order entered by the Commission.

Thanks,
Kathryn Irby

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Jim Jackson
To: Kathryn Irby
Cc: Vincent France
Subject: Haley Hudson v. Arkansas DHS; ACC No. 230641
Date: Wednesday, September 17, 2025 11:37:19 AM
Attachments: image001.jpg
image002.jpg
image003.jpg

Kathryn,
I hope you are doing well.
My client has asked me to inquire regarding the status of this claim being sent to the BLR.
Thank you for your time on this request.
Jim

Jackson Law Firm
700 W. Broadway, Suite 200
North Little Rock, AR 72114
P (501) 823-3610
F (501) 823-3611