

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

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3	WENDY B. DOLIN, Individually and as	)	
	Independent Executor of the Estate of	)	
4	STEWART DOLIN, deceased,	)	
		)	
5	Plaintiffs,	)	
		)	
6	vs.	)	No. 12 CV 6403
		)	
7	SMITHKLINE BEECHAM CORPORATION,	)	Chicago, Illinois
	d/b/a GLAXOSMITHKLINE, a Pennsylvania	)	
8	Corporation,	)	
		)	
9	Defendant.	)	April 3, 2017 1:30 p.m.

VOLUME 12-B

TRANSCRIPT OF PROCEEDINGS - trial

BEFORE THE HONORABLE WILLIAM T. HART, and a Jury

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1 (Proceedings heard in open court. Jury in.)

2 THE COURT: Thank you very much, ladies and  
3 gentlemen. Please be seated. We'll resume.

4 You may proceed.

5 MR. BAYMAN: Thank you, your Honor.

6 MICHAEL LOVALLO, PLAINTIFF'S WITNESS, PREVIOUSLY SWORN

7 CROSS-EXAMINATION (Resumed)

8 BY MR. BAYMAN:

9 Q. Mr. Lovallo, just a few more questions. Before we left  
10 for the lunch break, we were talking about Mr. Dolin's  
11 performance in 2010. I'm handing you what's been marked as  
12 Defendant's Exhibit 3039. And you're familiar with documents  
13 like this, correct?

14 A. Yes.

15 Q. These are, I guess the first page of the document says  
16 CRL-S, attorney statistics, correct?

17 A. Yes.

18 Q. And these are documents that are generated by Reed Smith  
19 in the ordinary course of business, correct?

20 A. Yes.

21 Q. And this is -- these are a series of documents that give  
22 certain statistics or data on Mr. Dolin in 2010 including his  
23 revenue, his billings, his billable hours, things like that,  
24 correct?

25 A. Yes.

1 MR. BAYMAN: Your Honor, I would at this time move to  
2 publish Defendant's Exhibit 3039 and to admit it into evidence.

3 MR. RAPOPORT: No objection.

4 THE COURT: It may be received.

5 (Defendant's Exhibit 3039 received in evidence.)

6 MR. BAYMAN: Can you put that up, Mr. Holtzen?

7 BY MR. BAYMAN:

8 Q. I'm not going to -- this has a lot of data in it, and I'm  
9 not going to get into it, but we were talking about the fact  
10 that in 2010, Mr. Dolin had revenues that he did not originate  
11 that were attributable to him because he was the client  
12 relationship lawyer, correct?

13 A. Attributable to his work, to his personal labor?

14 Q. No, no, no, to his -- in terms of his credit for revenue.  
15 There was revenue in 2010, significant revenue in 2010 on  
16 matters in which Mr. Dolin was not the originator nor was he  
17 doing any work on the matters, correct?

18 A. I think we were talking about 2009.

19 Q. We were, but I also am asking you about with respect to  
20 2010.

21 A. Let me look at the numbers.

22 Q. Sure.

23 A. Yes, there is a difference between his CRL number and his  
24 MOA number.

25 Q. And so that we're clear, what that means is there were

1 clients that he was the relationship partner, but the work for  
2 those clients had been originated by someone else and was  
3 being done by someone else, correct?

4 A. Again, I'd have to look at what's all beneath these  
5 numbers, but based on these relationships unlike the 2009  
6 differential, probably a lot of this was shared origination  
7 where he was the CRL but the MOA origination would have been  
8 shared, meaning that there may be some where he received no  
9 origination, but from the looks of this, there could be many  
10 matters that were shared but he didn't receive 100 percent of  
11 MOA. Again, CRL is one person, one designation, so that's  
12 always 100 percent.

13 Q. But if we look at his work and timekeeper statistics, we  
14 know that he was not, certainly on his own time, wasn't  
15 working on enough matter -- enough matters to generate the  
16 revenue that are reflected on his CRL, correct?

17 A. Well, no. When you're, to quote somebody here, rainmaker,  
18 by definition, you're not doing a lot of the work on the  
19 matters you bring in. I mean, you know, most of us who have a  
20 substantial amount of business have other people very much  
21 contributing to our original -- our origination number because  
22 they're on our teams and they work with us.

23 Q. His revenue was up in 2010 but his personal productivity  
24 was not, correct?

25 A. Compared to 2009 annualized, I think it was somewhat up.

1 Q. Well, but 2009 was 733 hours, correct?

2 A. Oh, in hours?

3 Q. Yes, sir.

4 A. 733 hours, yes.

5 MR. BAYMAN: Right. And if you look under -- could  
6 you pull up the working timekeeper statistics page? Can you  
7 pull that up, Mr. Holtzen? It's the last page of the document.

8 BY MR. BAYMAN:

9 Q. Do you see "billable hours worked"?

10 A. Yes.

11 Q. And that says 489.20?

12 A. Right. And that would have obviously been for a partial  
13 year.

14 Q. Right. Would have been through June and then a little bit  
15 in July, correct?

16 A. Yes.

17 Q. And that would have not been on pace to bill 1400 hours  
18 for the year, correct, annualized?

19 A. No.

20 Q. And with respect to -- you'll need your glasses for this  
21 one. I'm handing you now what's been marked as defense  
22 Exhibit 6281, and it's a document entitled "Timekeeper  
23 statistics." You're familiar with documents like this,  
24 correct?

25 A. Yes.

1 Q. And these are generated by Reed Smith in the ordinary  
2 course of business, correct?

3 A. Yes.

4 MR. BAYMAN: Your Honor, at this time, we'd move for  
5 admission of defense Exhibit 6281 and permission to publish it.

6 MR. RAPOPORT: No objection to either.

7 THE COURT: You may proceed.

8 MR. BAYMAN: Thank you, your Honor.

9 (Defendant's Exhibit 6281 received in evidence.)

10 BY MR. BAYMAN:

11 Q. Now, the print is very small here, and so we're going to  
12 show -- the document has been redacted to remove other  
13 timekeepers at Reed Smith, correct?

14 A. Uh-huh.

15 Q. But we have Mr. Dolin's line, correct?

16 A. Yes.

17 MR. BAYMAN: Can you blow that up a little?

18 BY MR. BAYMAN:

19 Q. This shows a number of different metrics including  
20 billable hours per month, correct, this document?

21 A. For February 2010.

22 Q. Okay. That's the first one.

23 A. Okay.

24 Q. And that also includes January, does it not?

25 A. In the year-to-date column.

1 Q. Yes. And then you have -- you have a number, again, if  
2 you look through to just the Stewart Dolin, you have numbers  
3 for March and April, May and June?

4 Why don't you show March.

5 A. Yes.

6 Q. So we know that through, year-to-date through February, he  
7 billed 75 hours, correct?

8 A. Hold on. I don't think that's right.

9 Q. I'm sorry. 75 hours in February.

10 A. In February.

11 Q. And he billed 49 hours in January if we look at  
12 year-to-date, correct?

13 A. Hold on. No, go back. Actual, 124. Yes.

14 Q. And then in March, it would be 156 hours, that was a  
15 relatively busy month, correct?

16 A. Yes.

17 Q. And back -- and then he was back down to 71 hours in  
18 April, correct?

19 A. Yes.

20 Q. And then back down to 51 hours in May, correct?

21 A. Yes.

22 Q. And then 58 hours in the month of June, correct?

23 A. Yes. I'm pretty -- it's fuzzy, but I think that's an 8.

24 Q. I've done a chart, Mr. Lovallo, just as -- because those  
25 numbers are indeed fuzzy. Do you see that?



1 A. I do.

2 Q. And so that's where we get the 460 hours, correct, that he  
3 billed through June?

4 A. Yes.

5 Q. And if he maintained that pace, he was not on pace to bill  
6 1400 hours, correct?

7 A. No.

8 Q. And --

9 MR. RAPOPORT: Your Honor, forgive me. Can we get an  
10 exhibit number on that last thing that was displayed to the  
11 jury both for our record and other purposes?

12 MR. BAYMAN: I'm sorry. Just for demonstrative  
13 purposes, that was 6281.

14 MR. RAPOPORT: Thank you.

15 BY MR. BAYMAN:

16 Q. Now, you talked some about bonuses for practice group  
17 leaders at Reed Smith for Mr. Rapoport, correct?

18 A. Yes.

19 Q. You'll agree that bonuses are not guaranteed at Reed  
20 Smith, are they?

21 A. No.

22 Q. And, in fact, the year that Mr. Dolin got his \$75,000  
23 bonus for his performance in 2009, you'll agree that the range  
24 was from 25,000 to 150,000 that year, correct?

25 A. It might have been more than that. In terms of the range

1 of all bonuses that were awarded?

2 Q. For being a practice group leader, office managing partner.

3 A. I -- I don't recall.

4 MR. RAPOPORT: Your Honor, pardon my interruption,  
5 but 6281 is not the summary chart that needed to be marked.  
6 6281 was clearly marked in already and moved into evidence.  
7 Counsel showed the jury something else on a white sheet of  
8 paper not marked at all that needs a trial exhibit number.

9 MR. BAYMAN: All right. We'll put a number on it.  
10 It's a demonstrative.

11 MR. RAPOPORT: Whatever it is.

12 BY MR. BAYMAN:

13 Q. You're not in a position to assume that Mr. Dolin would  
14 have continued to receive a bonus as the practice group leader  
15 of the corporate and securities group, are you?

16 A. I would never assume anything like that.

17 Q. In fact, you wouldn't even assume that Mr. Dolin was going  
18 to remain as a co-practice group leader, correct?

19 A. I would not assume that.

20 Q. And, in fact, after Mr. Dolin passed away, Mr. Jaskot  
21 became the sole practice group leader of the corporate and  
22 securities group, correct?

23 A. Yes.

24 Q. He did the job by himself, correct?

25 A. He did for -- yes. Well, he was the sole PGL. I'm sure

1 he had deputies or whatever. In fact, I know he had deputies.

2 Q. A new co-PG -- practice group leader wasn't appointed --

3 A. No.

4 Q. -- after Mr. Dolin's death?

5 A. No.

6 Q. Now, you talked earlier about Mr. Dolin's -- that Mr.  
7 Dolin's band was reduced for 2010 meaning his compensation was  
8 reduced, correct?

9 A. Yes.

10 Q. And, in fact, it was reduced from -- it was reduced by  
11 135,000, from 990,000 to 855,000, correct?

12 A. Uh-huh.

13 Q. Is that right?

14 A. Yes, I think so.

15 Q. Do you need -- would you like to refer to a document to  
16 confirm that?

17 A. I will -- if you give me a document, I'll be able to  
18 confirm that.

19 Q. I'm handing you what's been marked as defense Exhibit  
20 3129. You're familiar with these kinds of documents, correct?

21 A. I am. This is for 2008.

22 Q. And it is the -- it is the -- if you look at -- well, it's  
23 called an equity partner pro forma, correct?

24 A. Yes.

25 Q. And this lists the various bands of partner, equity

1 partners as well as what the budgeted compensation was to be,  
2 correct?

3 A. Yes. The change from 2007 to 2008.

4 Q. Yes. I -- go ahead.

5 A. Now, when I say I'm familiar, this is sorted by practice  
6 group, you know. What I would -- what I would see if there  
7 was a sort for me, it would be by the office, but it's similar.

8 Q. But Reed Smith generates these for the various practice  
9 groups, correct?

10 A. Yes, yes.

11 MR. BAYMAN: Your Honor, at this time, I would move  
12 for admission of defense Exhibit 3129 and ask permission to  
13 publish.

14 MR. RAPOPORT: Your Honor, I object because there's  
15 been no showing that this is the correct timeframe.

16 MR. BAYMAN: Well, I've tabbed Page 19, and I was  
17 just going to take him to that, your Honor, which shows 2009  
18 and 2010.

19 MR. RAPOPORT: Your Honor, counsel is testifying now.  
20 He needs to lay the foundation through the witness, and it  
21 hasn't been done to this point.

22 THE COURT: All right. You may inquire of the witness.

23 BY MR. BAYMAN:

24 Q. Sure. Turn, if you would, to the page I tabbed, Mr.  
25 Lovallo. I'm not trying to be tricky here.

1 MR. RAPOPORT: Objection, your Honor. It should just  
2 be questions.

3 THE COURT: Proceed.

4 BY MR. BAYMAN:

5 Q. Page 19.

6 A. Uh-huh.

7 Q. Do you see that? It says, does it not, at the top, "2009  
8 budget comp," and then there's a column for 2010 budget comp,  
9 and then there's a column for bonus and a bonus explanation;  
10 is that correct?

11 A. Uh-huh.

12 Q. So this would -- based on your experience as a partner at  
13 Reed Smith and the managing partner of the Chicago office,  
14 this document reflects what Mr. Dolin's budgeted compensation  
15 would be for 2010 as compared to 2009, correct?

16 A. Yes.

17 MR. BAYMAN: Your Honor, now may I --

18 THE COURT: Yes.

19 MR. BAYMAN: -- have permission --

20 MR. RAPOPORT: No objection.

21 THE COURT: Just put the question. Let's not --

22 MR. BAYMAN: Okay. Let's put that page up, Roger,  
23 please, Page 19.

24 BY MR. BAYMAN:

25 Q. And you said it would be helpful to look at a document and

1 compare. This shows, does it not, that in 2009 his budgeted  
2 compensation was 990,000; for 2010, it was reduced by 135,000  
3 which yields 855,000, correct?

4 A. Uh-huh.

5 Q. Thank you. And you mentioned before we took a break that  
6 after an equity partner passes away, the partner's beneficiary  
7 receives 36-month payments each in the amount of 3-1/3 percent  
8 of the budgeted compensation allocated to that partner at the  
9 time of his death?

10 MR. RAPOPORT: Objection, your Honor. That's  
11 collateral source.

12 THE COURT: Pardon me?

13 MR. RAPOPORT: Objection, collateral source.

14 MR. BAYMAN: I don't think it is, your Honor. It's  
15 compensation from the law firm.

16 THE COURT: Let's go to the sidebar.

17 (Proceedings heard at sidebar:)

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED] [REDACTED]  
2 [REDACTED] [REDACTED]  
3 [REDACTED] [REDACTED]  
4 [REDACTED] [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED] [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED] [REDACTED]  
13 [REDACTED] [REDACTED]  
14 [REDACTED] [REDACTED] [REDACTED]  
15 [REDACTED] [REDACTED]

16 (Proceedings heard in open court:)  
17 THE COURT: The objection is sustained to the last  
18 question. The reference will be struck.  
19 You may proceed, sir.  
20 MR. BAYMAN: Thank you, your Honor.  
21 BY MR. BAYMAN:  
22 Q. One last area, Mr. Lovallo. We had talked about the  
23 events of Mr. Dolin's last week, particularly with respect to  
24 Standard Parking and Miniatic. You recall that, correct?  
25 A. Yes.

1 MR. BAYMAN: Your Honor, I neglected to move for  
2 admission of Exhibit 3064-B which was Mr. Lovallo's email to  
3 Mr. Gallatin that the jury saw prior to the break, and I would  
4 just move for its admission. I'm not going to go back over it.

5 THE COURT: All right.

6 MR. RAPOPORT: No objection.

7 (Defendant's Exhibit 3064-B received in evidence.)

8 BY MR. BAYMAN:

9 Q. At any time during the years you knew Stewart Dolin, did  
10 he ever relay to you that he was ever experiencing anxiety?

11 A. No.

12 Q. Did he ever relay to you that he was having feelings of  
13 depression?

14 A. No.

15 Q. And he never told you that he had ever sought any  
16 treatment from a mental health professional, correct?

17 A. I believe that is correct.

18 Q. And --

19 THE COURT: I think that was covered.

20 BY MR. BAYMAN:

21 Q. On direct examination, you talked -- we talked about the  
22 events of the last week, and what I wanted to ask you is if he  
23 shared feelings of anxiety or insecurities with others either  
24 before Saturday, July 10, 2010, or during the final week of  
25 his life, he certainly didn't share them with you, correct?



1 A. Nothing notable. I mean, we were friends, you know. We  
2 shared some aspects of our lives. There was nothing particular.

3 Q. And if he shared feelings of losing a client or worries  
4 about keeping a client the evening of Wednesday, July 14th,  
5 with someone such as a therapy -- therapist, he did not share  
6 those feelings with you on Thursday morning when you met with  
7 him, correct?

8 A. No.

9 MR. BAYMAN: Your Honor, I have no further questions.

10 THE COURT: Any redirect?

11 MR. RAPOPORT: There is some redirect, your Honor.  
12 Thank you.

13 THE COURT: All right.

14 MR. RAPOPORT: To begin my redirect, your Honor, I  
15 will need the exhibit that doesn't have a number on it.

16 MR. BAYMAN: We've marked this demonstrative as  
17 defense Exhibit 7034.

18 MR. RAPOPORT: Thank you. I'm going to try to get  
19 the -- can you help me get the Elmo working?

20 MR. WISNER: It's up.

21 REDIRECT EXAMINATION

22 BY MR. RAPOPORT:

23 Q. Do you still have the various exhibits that you were  
24 handed up during that cross-examination nearby?

25 A. Yes, I do.

1 Q. Okay. What I'd like to do is have you turn to 3039, the  
2 one that looks like this.

3 Great. Do you have it in your hand there?

4 A. I do.

5 Q. And let's turn in 3039 to the last page. They're  
6 two-sided, but it's really the second-to-the-last page. Do  
7 you see that one?

8 A. December 10, Page 1 of 2?

9 Q. Yes. Now, this is the page where the statistics for the  
10 total year billable hours was drawn from, right?

11 A. Yes, for working attorney, working timekeeper.

12 Q. For working timekeeper. And working timekeeper that we're  
13 looking at here is Stu Dolin?

14 A. Yes.

15 Q. Now, also on here we have the non-billable hours that  
16 Mr. Dolin worked in the same timeframe just a few lines down,  
17 don't we?

18 A. Yes.

19 Q. Is that 706?

20 A. Yes.

21 Q. All right. So to get the billable hours and the  
22 non-billable hour total, we would add the figure 706 more  
23 hours, would we not?

24 A. Yes.

25 Q. And if we wanted -- so that, one way to do that would be

1 to write on here. I'm not going to ruin the exhibit, but we  
2 could add a column to this and show how much the man was  
3 working, both billable and non-billable, if we wanted to,  
4 couldn't we?

5 A. Yes.

6 Q. And if we did that, we would be adding 460 and 706 to  
7 get --

8 A. I think 489.2.

9 Q. Okay. So the actual numbers working is a little bit  
10 higher than what they put on the exhibit here?

11 A. The number I see for billable hours worked is 489.20.

12 MR. BAYMAN: Objection, your Honor. We pointed out  
13 there were hours in July. This is for six months.

14 THE WITNESS: Oh, okay. December -- I'm reading  
15 December '10 which you asked me to do.

16 BY MR. RAPOPORT:

17 Q. Okay. That's okay. I'm not so much focused on the  
18 difference between 489 and 460 as I am on leaving out all of  
19 the non-billable work that the guy was doing. So when we take  
20 into account the non-billable work and the billable work that  
21 is documented on this record, defense Exhibit 3039, it is fair  
22 to conclude that Stewart was working very long hours the  
23 entire year that he died, wouldn't you say?

24 A. He was working a full complement of workload. It was a  
25 full workload for an equity partner.

1 Q. There is no indication in the records that you have seen  
2 that Stu Dolin ever missed a single day of work because of any  
3 mental health condition, isn't that a fact?

4 A. I am not aware of any day that Stewart would have missed  
5 because of -- that he was in, whenever. You know, he was in  
6 except if he was on vacation, he was in.

7 Q. Would you agree with me that it would be an inaccurate  
8 characterization to suggest that Stu Dolin was working  
9 part-time?

10 MR. BAYMAN: Object to the leading, your Honor, and  
11 mischaracterizes the question.

12 THE COURT: You may answer.

13 You may answer.

14 THE WITNESS: Say it again, please. I'm sorry.

15 THE COURT: Read it back. -- why don't you rephrase  
16 it.

17 MR. RAPOPORT: Yes, I'll be happy to.

18 THE COURT: Why don't you just ask him directly.

19 BY MR. RAPOPORT:

20 Q. Yes, absolutely. So it's crystal clear that the man was  
21 working full-time and not part-time?

22 A. Yes, he was working full-time.

23 Q. One of the questions you were asked had to do with looking  
24 at the police report and whether that refreshed your  
25 recollection about the conversation with the police. Do you

1 remember those questions?

2 A. I do.

3 Q. And I want to call your attention to the same portion of  
4 the report that your attention was called to before, which was  
5 on Page 7, the third paragraph from the bottom.

6 A. Yes.

7 Q. Does that refresh your recollection about certain things  
8 that were discussed in the conversation with the police  
9 officer that nobody's asked you about yet today?

10 A. Yes.

11 Q. Please tell the jury about those.

12 A. May I read the pertinent sentence, the sentence that, you  
13 know, "Michael" --

14 MR. BAYMAN: He's reading now. He's reading now.  
15 It's not refreshing his recollection.

16 THE COURT: Yes, you have to refresh your  
17 recollection. You know we have these procedures, sir. You've  
18 got to tell us what you remember after you refresh your  
19 recollection.

20 THE WITNESS: I recall saying -- yes, my recollection  
21 has been refreshed, but I think I would recall this without  
22 this paper, that I pointed out the things, the client-related,  
23 practice-related matters that were causing stress and said  
24 that -- but that it was nothing that Stewart should have taken  
25 his life over.

1 BY MR. RAPOPORT:

2 Q. Thank you, sir. Now, you were asked a lot of questions  
3 about numbers, and I want to ask a few more that hopefully  
4 will cut to the bottom line here. Do you have the exhibits  
5 before you with different numbers in them so we can move  
6 through this very quickly?

7 A. I do. Just tell me which one.

8 Q. Great. So let's start with Plaintiff's 24, which is the  
9 thing with Stewart's picture on it. All right. Now, as -- I  
10 guess before we go through this, keep it in hand, I want to  
11 get a couple of other facts down.

12 THE COURT: Take this off the screen, sir.

13 MR. RAPOPORT: Oh, yes. Sure.

14 BY MR. RAPOPORT:

15 Q. So you mentioned something about layoffs since Mr. Dolin  
16 died. You were asked in particular about 2016. Have there  
17 been any layoffs since Mr. Dolin died where equity partners  
18 were laid off from Reed Smith?

19 A. I do not think so.

20 Q. And in general terms without meaningful detail at all, how  
21 have economic conditions been compared to, say, 2009?

22 A. They've been steadily improving. They probably, you know,  
23 got to the good level of improvement by 2011 and since then,  
24 things have been steady to positive.

25 Q. All right. If Mr. Dolin was still with us and had his

1 health otherwise, do you have any reason to believe that he  
2 would no longer be at Reed Smith at this point for any reason?

3 A. No reason at all.

4 Q. All right. Now, I want to come back to these numbers and  
5 understand what we can learn from them about his earnings and  
6 also the situation if he hadn't died. So a starting point is  
7 his 2009 actual compensation without bonus, correct?

8 A. Yes.

9 Q. And that, the jury has already heard, is \$1,089,000,  
10 agreed?

11 A. Again, are you referring to 2009?

12 Q. Yes, 2009 actual compensation because I want to get us  
13 started, and I want to try to get these numbers straight if we  
14 can. So to calculate the total earnings for 2009, we would  
15 add to that another \$75,000 for the bonus, agreed?

16 A. Yes.

17 Q. All right. Then in getting at the 2010 compensation, both  
18 the partial year that he worked and if he hadn't been killed  
19 and we just assumed he worked a full year, his band adjustment  
20 would have accounted for him receiving budgeted compensation  
21 of \$855,000, right?

22 MR. BAYMAN: Objection to the characterization, your  
23 Honor, "getting killed."

24 MR. RAPOPORT: Well, "died."

25 THE COURT: Proceed, please.

1 BY MR. RAPOPORT:

2 Q. So in any event, because of the band adjustment, if he had  
3 been alive in order for this kind of review process to occur  
4 for 2010, his budgeted payments would have been 855, correct?

5 A. Yes.

6 Q. And that means he would have drawn that out more or less  
7 in pay that was paid out in the year?

8 A. Or shortly thereafter the end of the year.

9 Q. Okay. Then the discussion at that point would have been  
10 both about bonus, but also there would have been a  
11 mathematical calculation to add money if the firm was  
12 profitable in 2010 --

13 A. Yes.

14 Q. -- right?

15 And so is it a reasonable --

16 MR. BAYMAN: Objection to leading, your Honor.

17 THE COURT: Proceed.

18 BY MR. RAPOPORT:

19 Q. Is it a reasonable calculation in order to take into  
20 account the band adjustment to take Mr. Dolin's 2009 total  
21 earnings and subtract 10 percent from it for the band  
22 adjustment and call that a reasonable or conservative estimate  
23 of what he would have or could have made at Reed Smith if he  
24 had lived?

25 MR. BAYMAN: Objection, your Honor. This is now



1 calling for an expert opinion and for speculation. This is  
2 beyond the scope of the witness's expertise.

3 THE COURT: I think it's within the range of this  
4 witness to say if he can.

5 THE WITNESS: Yes. Let me -- I think it's simpler  
6 than that.

7 BY MR. RAPOPORT:

8 Q. Okay.

9 A. If he had lived for the entire year, his compensation  
10 would have been 855 plus or minus our variance to budget. We  
11 were over budget that year because, you know, we're over  
12 budget most years. I don't remember by what percentage we  
13 were over budget that year, probably somewhere between 5 and  
14 10 percent. And then the -- and the bonus then, if any, would  
15 have been added to that. And, in fact, there was a bonus  
16 postmortem that was awarded in this case.

17 THE COURT: Keep your voice up, sir.

18 THE WITNESS: Yes.

19 BY MR. RAPOPORT:

20 Q. So are the -- we have fairly stable earnings, looking back  
21 in retrospect at the five years that we have here. Would  
22 averaging them as an estimate for what 2010 would have been  
23 delivered be a reasonable approach?

24 MR. BAYMAN: Objection, your Honor. This calls for  
25 speculation as to what the performance --

1 THE COURT: Overruled.

2 MR. BAYMAN: -- would have been in 2010.

3 THE COURT: Overruled.

4 BY THE WITNESS:

5 A. It's one approach. The reality is, I think -- I know that  
6 you can know with certainty but for perhaps some difference in  
7 the bonus had he lived the entire year exactly what he would  
8 have earned because we now know what the 2010 results were  
9 compared to budget. It's a direct calculation.

10 BY MR. RAPOPORT:

11 Q. So please give us your best figure that you can.

12 MR. BAYMAN: Same objection.

13 THE COURT: Overruled.

14 BY THE WITNESS:

15 A. Well, trying to unpack this 949,050 number from this  
16 exhibit and deducting what I think are some payments pursuant  
17 to the partnership agreement which I think would be, in my  
18 calculation, 147,500, his, you know, payment for the seven  
19 months, 7/12 of the year for 2010 would be then \$800,000.

20 Now, I don't know whether one should annualize that  
21 or not but, you know, I think, you know, it gives some  
22 framework. I think he would have, you know, in 2010, base --  
23 well, he did receive a bonus actually, would have received  
24 that, and then 2011 would have been a new determination.

25 MR. BAYMAN: Your Honor, now he's speculating for

1 future years, 2011, which is that speculation because  
2 compensation gets renewed at the end of the year.

3 THE COURT: We have actual numbers, I guess, for 2011.

4 THE WITNESS: No, we can't. We can't --

5 THE COURT: No?

6 MR. BAYMAN: No.

7 MR. RAPOPORT: So he knows more than anybody --

8 THE WITNESS: All I said is that it would have been  
9 reviewed naturally in the next term. Every year, we're  
10 reviewed.

11 THE COURT: There are no numbers for 2011?

12 MR. RAPOPORT: Well, it's not a question of no  
13 numbers. There are future damages, and so this is the  
14 evidence --

15 THE COURT: I understand that, sir, but are there --  
16 is there data that shows what happened in 2011?

17 MR. RAPOPORT: Oh, I understand your question. I  
18 don't think that's been within the scope of --

19 THE COURT: That's not -- there's no data in the  
20 record to show that. Proceed.

21 BY MR. RAPOPORT:

22 Q. Yes. So you are -- so I think what I'd like you to do,  
23 I'm not sure that we finalized 2010. Let's just stay there  
24 for the moment, which is, what is your best estimate about  
25 what his earnings would have been in 2010 taking everything

1 into account that you know. I heard you mention 800 for seven  
2 months.

3 A. Well, you would take the 855. You would add the 5 or 10  
4 percent overrun, whatever we had. So, you know, we'll make it  
5 925 for that. You would take 7/12 of that, of 925. And then  
6 we know at 100 for the bonus that he received, and beyond  
7 that, you know, we don't know. We don't know what the rest of  
8 the year would have been.

9 Q. So Mr. Dolin, based on his book of business and based on  
10 his knowledge, training, experience, and expertise, was  
11 marketable in the legal profession both at Reed Smith and  
12 elsewhere, correct?

13 MR. BAYMAN: Object to leading, your Honor.

14 THE COURT: Well, it's kind of compound.

15 BY MR. RAPOPORT:

16 Q. Okay. Was Mr. Dolin -- you've already testified about his  
17 value at Reed Smith. Would he be valuable to others in the  
18 marketplace as well?

19 A. Yes.

20 Q. And was his compensation over the last five, six years of  
21 his life a reasonable reflection of his value in that  
22 marketplace?

23 A. Yes.

24 Q. Are you aware of any factors that would have decreased his  
25 value in the marketplace in the years that have gone by since

1 then?

2 A. No.

3 Q. Or, for that matter, what you expect to happen in the  
4 years ahead?

5 MR. BAYMAN: Objection. "What you expect to happen  
6 in the years ahead," your Honor, is speculative.

7 THE COURT: Yes. Sustained.

8 MR. BAYMAN: I ask the jury to disregard that.

9 THE COURT: Disregard it.

10 BY MR. RAPOPORT:

11 Q. All right. And you were asked some questions about  
12 pedigrees, and I want to return to that briefly. So first of  
13 all, how was Stewart Dolin's pedigree?

14 A. What do you mean?

15 Q. I thought the word "pedigree" was used, but credentialing.  
16 So there were -- let me start again.

17 There were questions in the cross-examination asking  
18 you about whether his lack of an Ivy League set of  
19 qualifications makes any difference to anything. Let's start  
20 with your view that your face expresses.

21 A. I'm sorry. Stewart graduated from the University of  
22 Illinois undergraduate, I think, in 1974. I think he  
23 graduated --

24 THE COURT: We've been through all this now.

25 MR. RAPOPORT: Yes. So --

1 THE COURT: Let's not cover the same thing over and  
2 over again, gentlemen.

3 MR. RAPOPORT: Okay. Let me see what else I've got  
4 here. Maybe we can wrap up.

5 BY MR. RAPOPORT:

6 Q. You were asked some questions about different work  
7 situations and what stress it may have caused. I just want  
8 you to compare and contrast briefly the stresses in 2009 that  
9 Mr. Dolin and you and your colleagues would have faced and  
10 compare that to the stresses that Mr. Dolin was facing in the  
11 immediate period before his death.

12 MR. BAYMAN: He's asking for speculation now about  
13 what Mr. Dolin faced in 2009 and how he reacted.

14 THE COURT: Well, it's beyond the scope of the  
15 cross-examination. This is redirect.

16 MR. RAPOPORT: All right.

17 THE COURT: You must limit yourself to what you heard  
18 on cross.

19 BY MR. RAPOPORT:

20 Q. All right. Let me move forward to that email that  
21 contains two things with reference to one of the problems you  
22 told us about, what a nightmare and hanging on to the client  
23 by the fingernails. You won't need the specifics for this.  
24 So what -- did you discuss this language and this kind of  
25 terminology with Mr. Dolin?

1 A. No.

2 Q. Did you have an understanding of what it was that he was  
3 trying to communicate?

4 MR. BAYMAN: Your Honor, he said he didn't discuss it  
5 with him, and now he's trying to give his state of mind  
6 testimony.

7 MR. RAPOPORT: It's --

8 THE COURT: Put another question.

9 BY MR. RAPOPORT:

10 Q. What was the question? It's, with respect to -- let's  
11 take them one at a time. With respect to the statement,  
12 "hanging on by the fingernails," was that a literal reference,  
13 in your opinion?

14 MR. BAYMAN: Objection, your Honor.

15 THE COURT: Sustained.

16 MR. RAPOPORT: Do you have --

17 THE COURT: The jury will have to decide.

18 BY MR. RAPOPORT:

19 Q. What was Mr. Dolin trying to communicate in that email?

20 MR. BAYMAN: The same objection.

21 THE COURT: Overruled. Let's get on with it, please.

22 BY THE WITNESS:

23 A. My reading of it was that he was being -- using pretty  
24 aggressive, somewhat graphic language to make it clear that he  
25 was quite annoyed.

1 BY MR. RAPOPORT:

2 Q. Did these various figures that we've looked at for  
3 earnings include deferred compensation, too, in other words,  
4 the 401(k) or whatever else --

5 A. These numbers are all-in.

6 MR. RAPOPORT: All-in. Okay. I don't have any other  
7 questions. Thank you.

8 MR. BAYMAN: Briefly.

9 THE COURT: Very briefly. Very, very briefly.

10 MR. BAYMAN: Yes, sir.

11 RECROSS-EXAMINATION

12 BY MR. BAYMAN:

13 Q. You don't recall sitting here today how much Reed Smith  
14 exceeded its budget in 2010, correct?

15 A. I think it was between 5 and 10 percent but that, somebody  
16 could tell you that.

17 Q. That's just your estimate, correct?

18 A. Yes.

19 MR. BAYMAN: And can we put up PX 24? And bring up  
20 the second, under charge hours and non-chargeable. Highlight  
21 the first -- yes, there you go.

22 BY MR. BAYMAN:

23 Q. This shows Mr. Dolin's both chargeable and non-chargeable  
24 hours, correct?

25 A. Yes.



1 Q. And non-chargeable hours are not revenue to the law firm,  
2 correct?

3 A. They are not.

4 Q. In fact, the firm emphasizes billable or chargeable hours  
5 over non-chargeable hours in the main, correct?

6 A. I think the firm in general would certainly want there to  
7 be more chargeable hours than non-chargeable hours. It could  
8 vary depending on your role in the firm.

9 Q. And you know that equity partners were supposed to bill  
10 all told chargeable plus non-chargeable 2400 hours, correct?

11 A. That was the expressed goal.

12 Q. In 2007, in 20' -- certainly in 2009, Mr. Dolin did not do  
13 that, correct?

14 A. No.

15 Q. The combination of his non-billable and --

16 A. 2131.

17 Q. -- did not -- it fell below the firm's expectation, correct?

18 A. The stated expectations.

19 Q. And his pace in 2010 was below the stated expectation,  
20 correct?

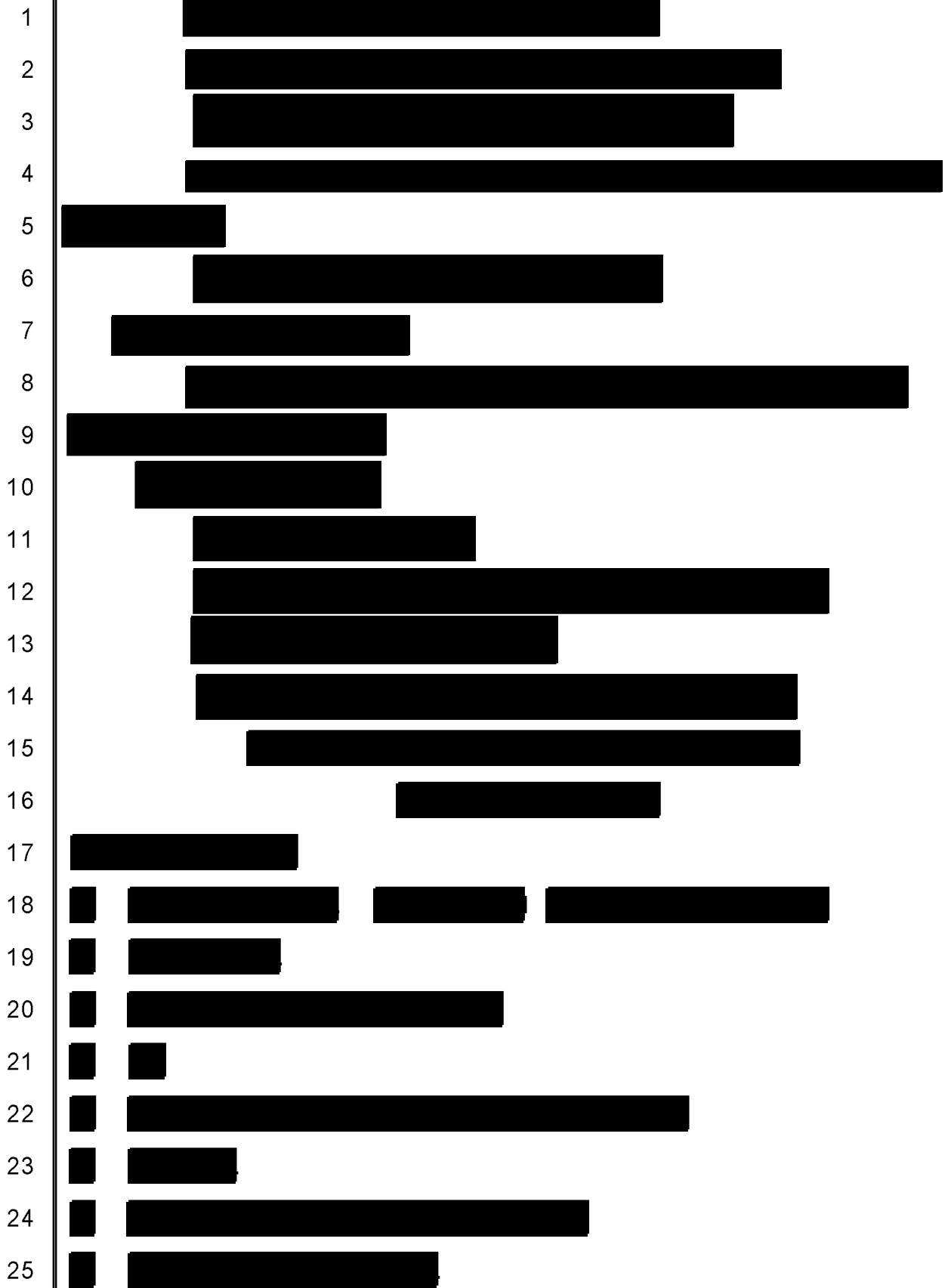
21 A. Yes.

22 MR. BAYMAN: Nothing further, your Honor.

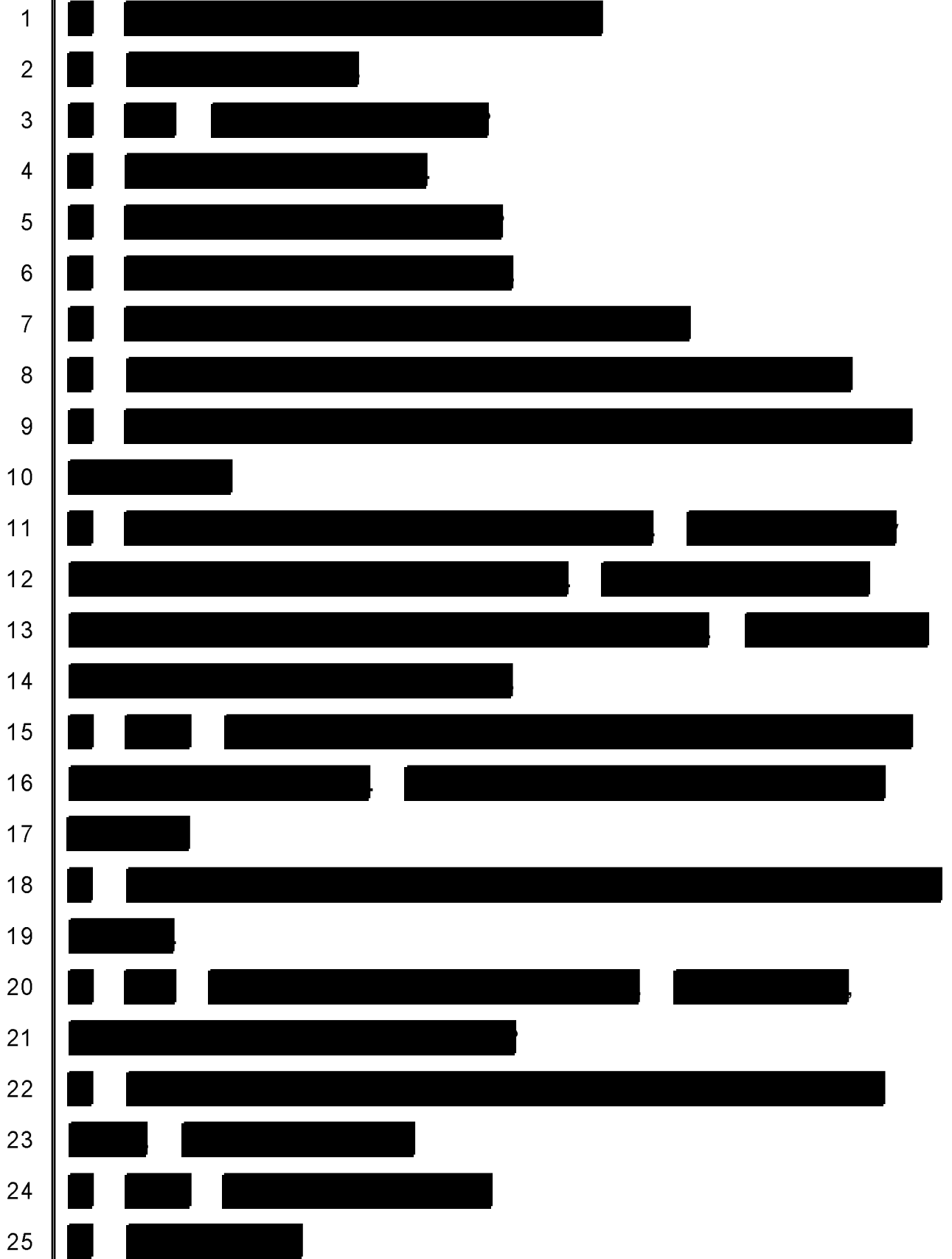
23 THE COURT: All right. Thank you, sir.

24 THE WITNESS: Thank you.

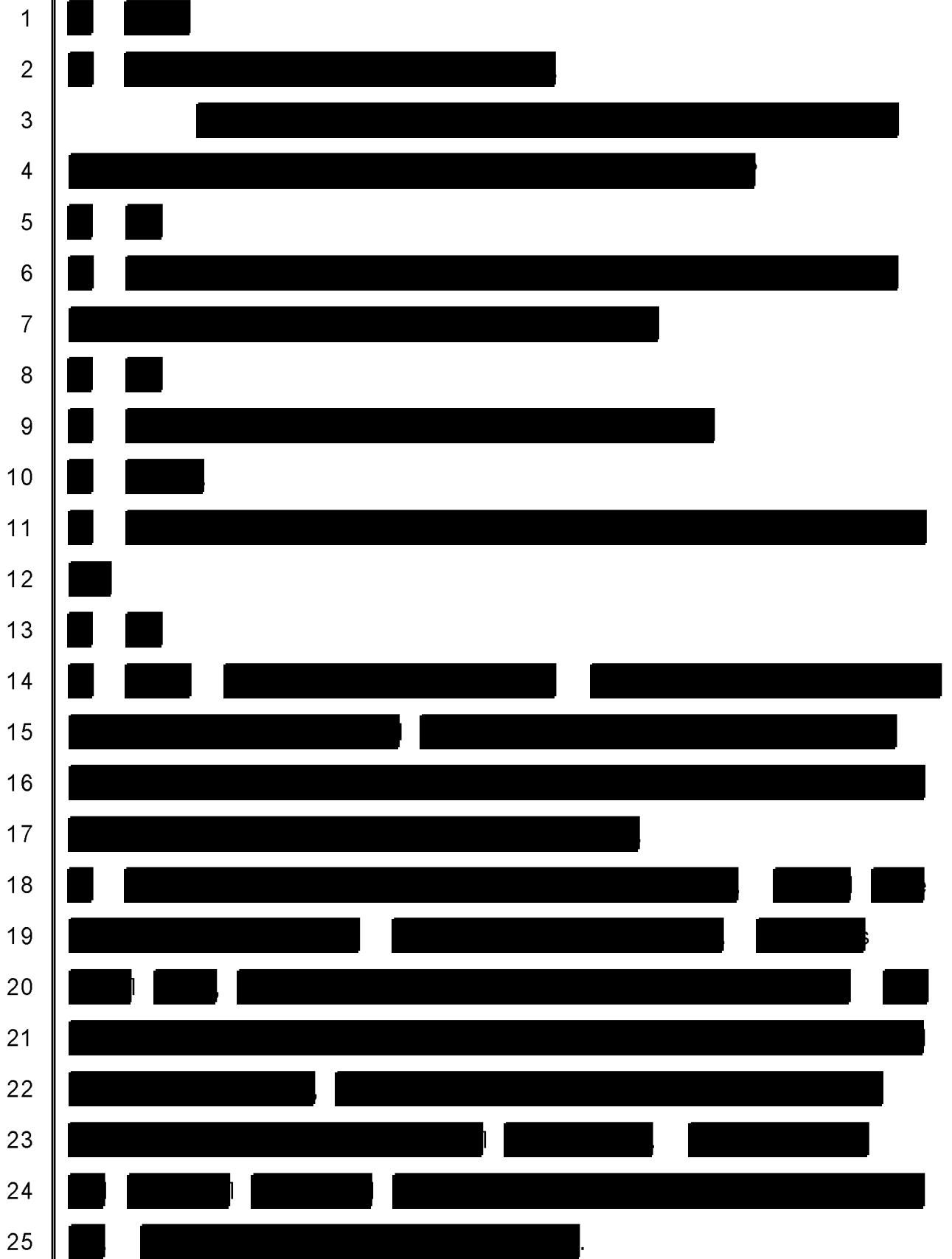
25 THE COURT: You may step down.

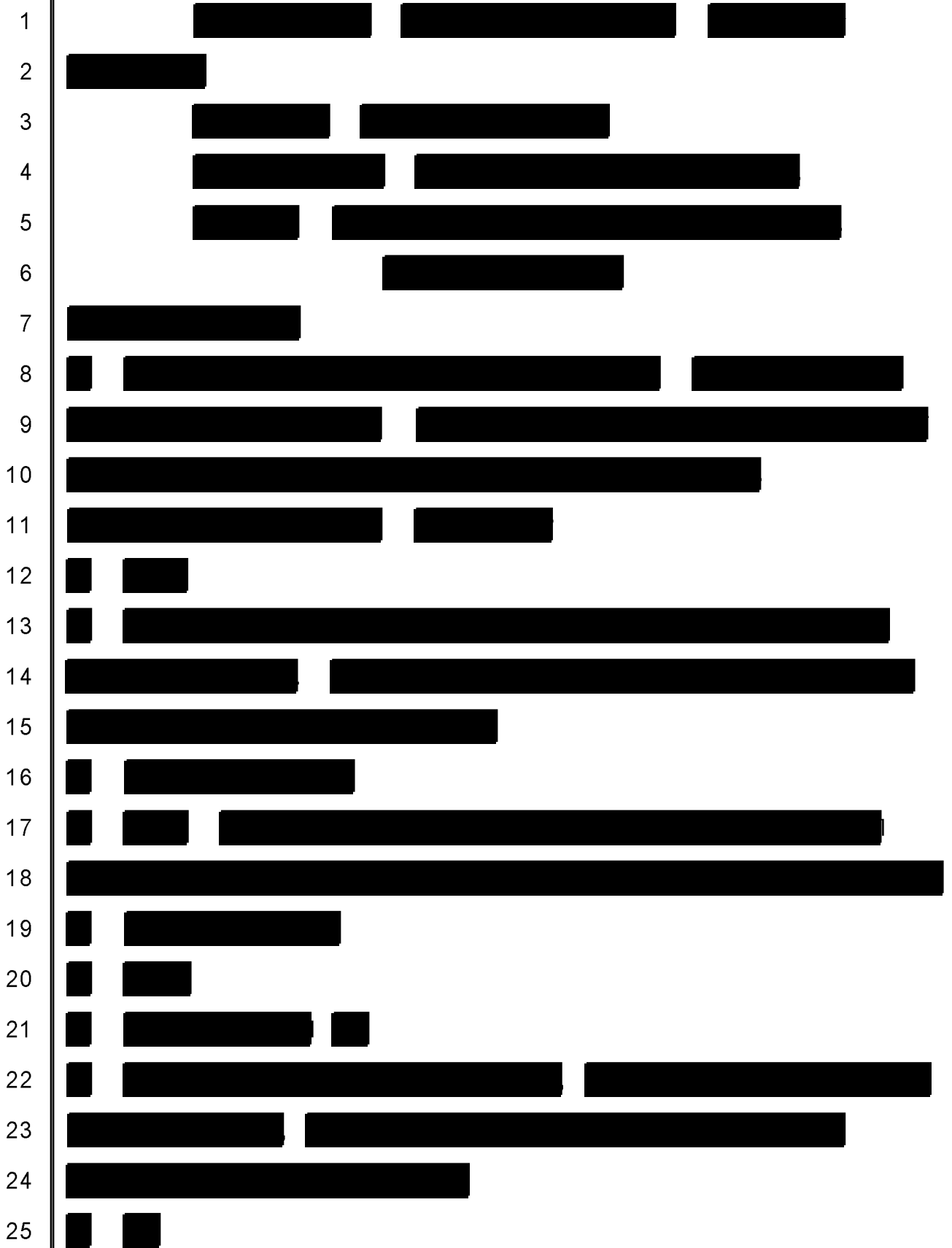


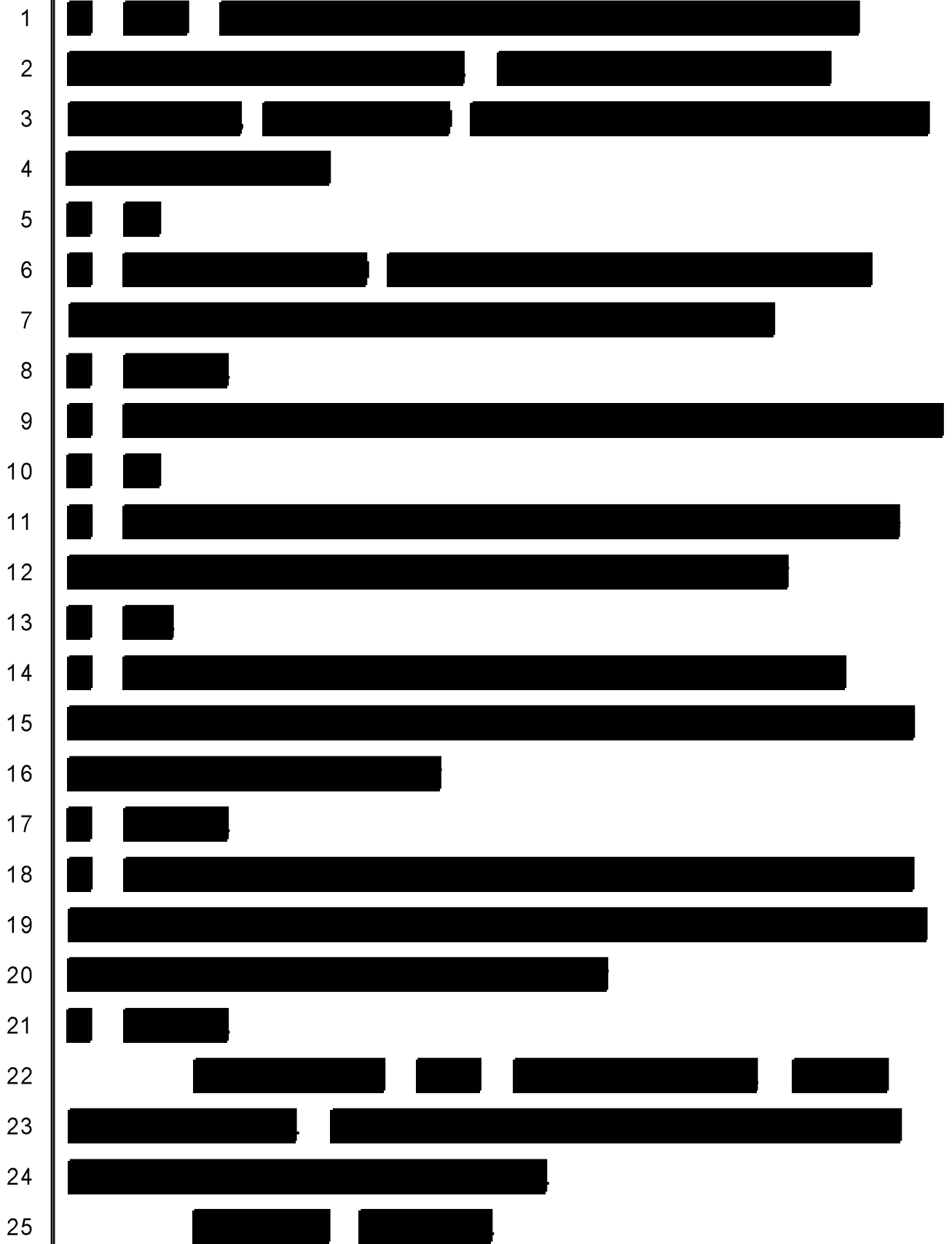
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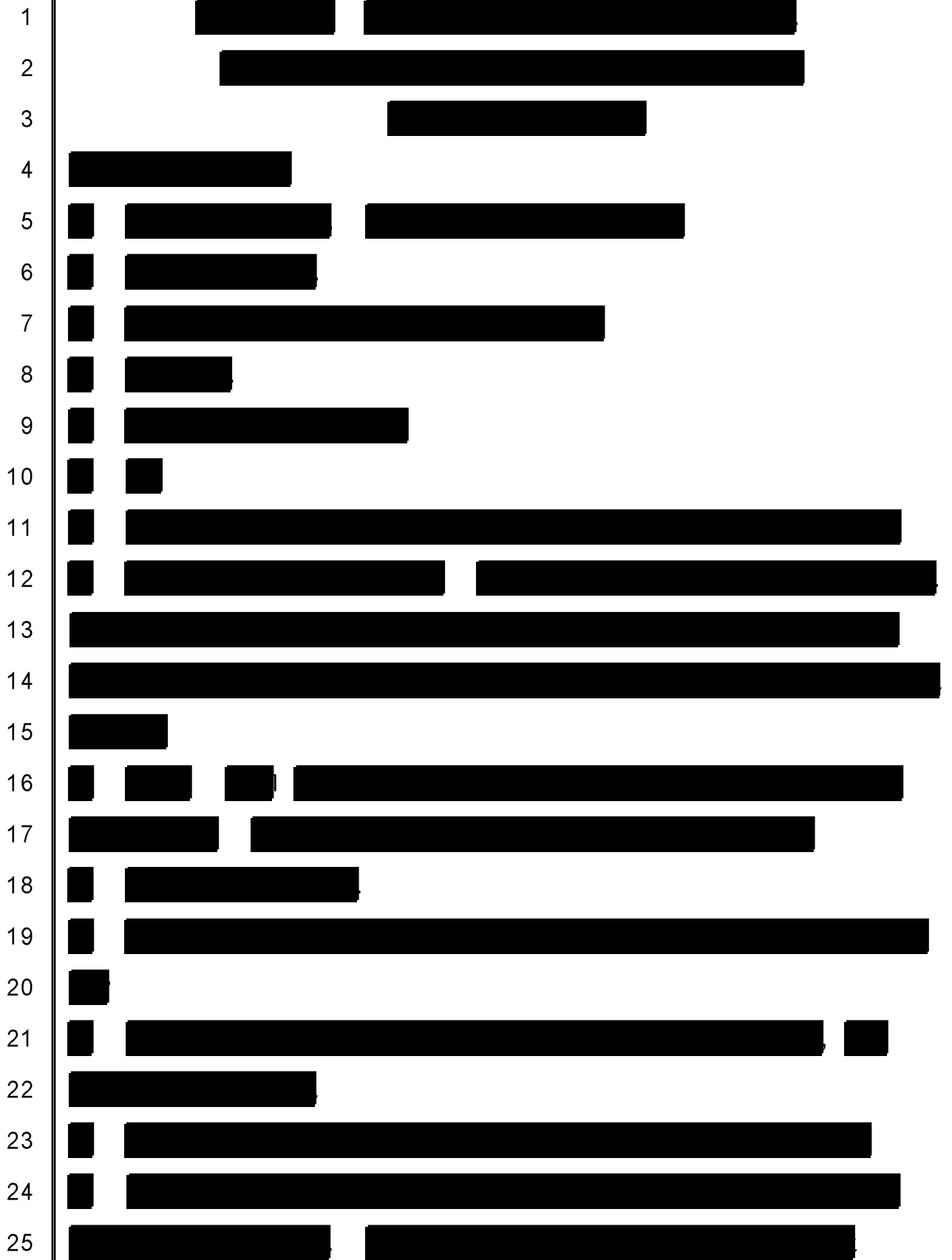


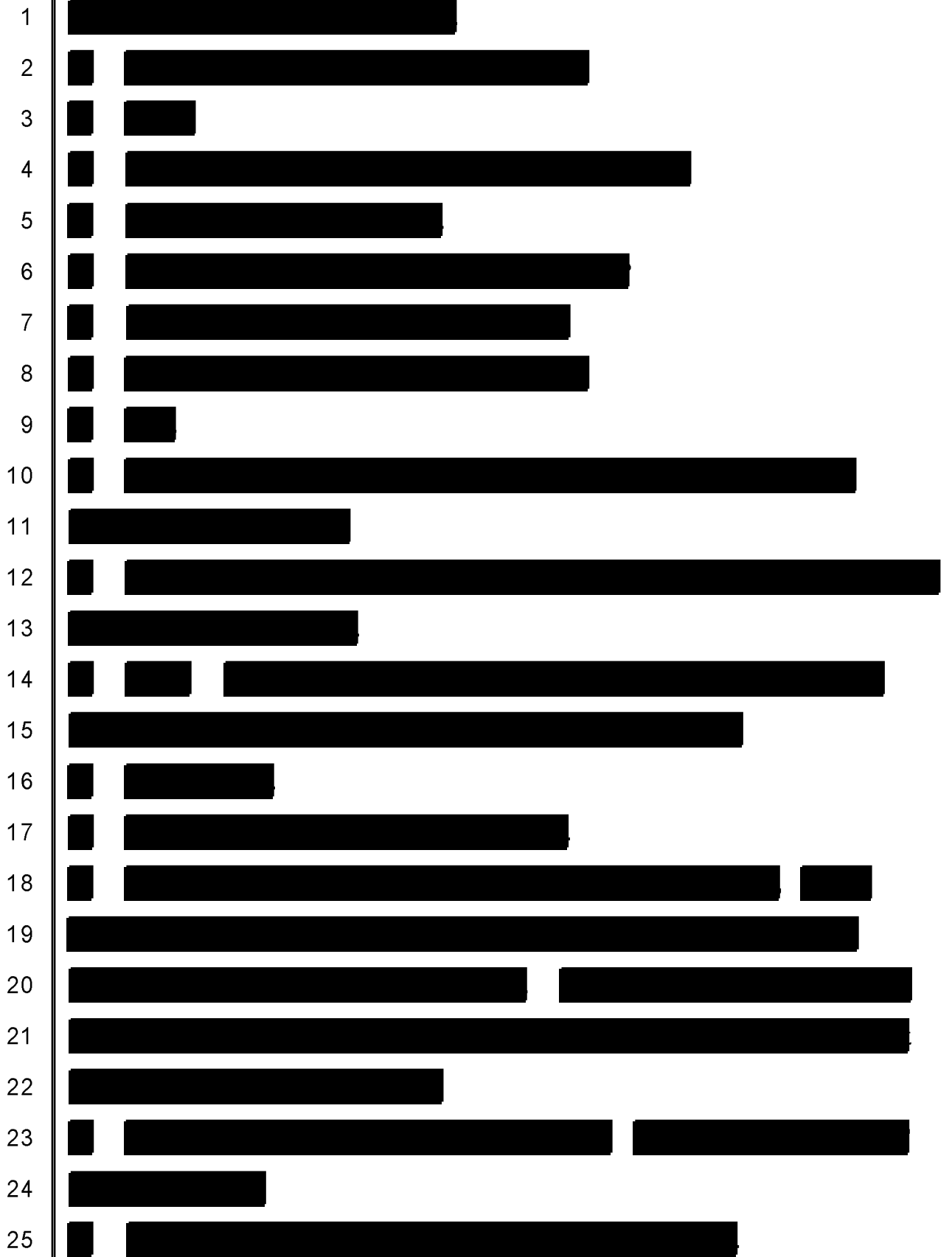
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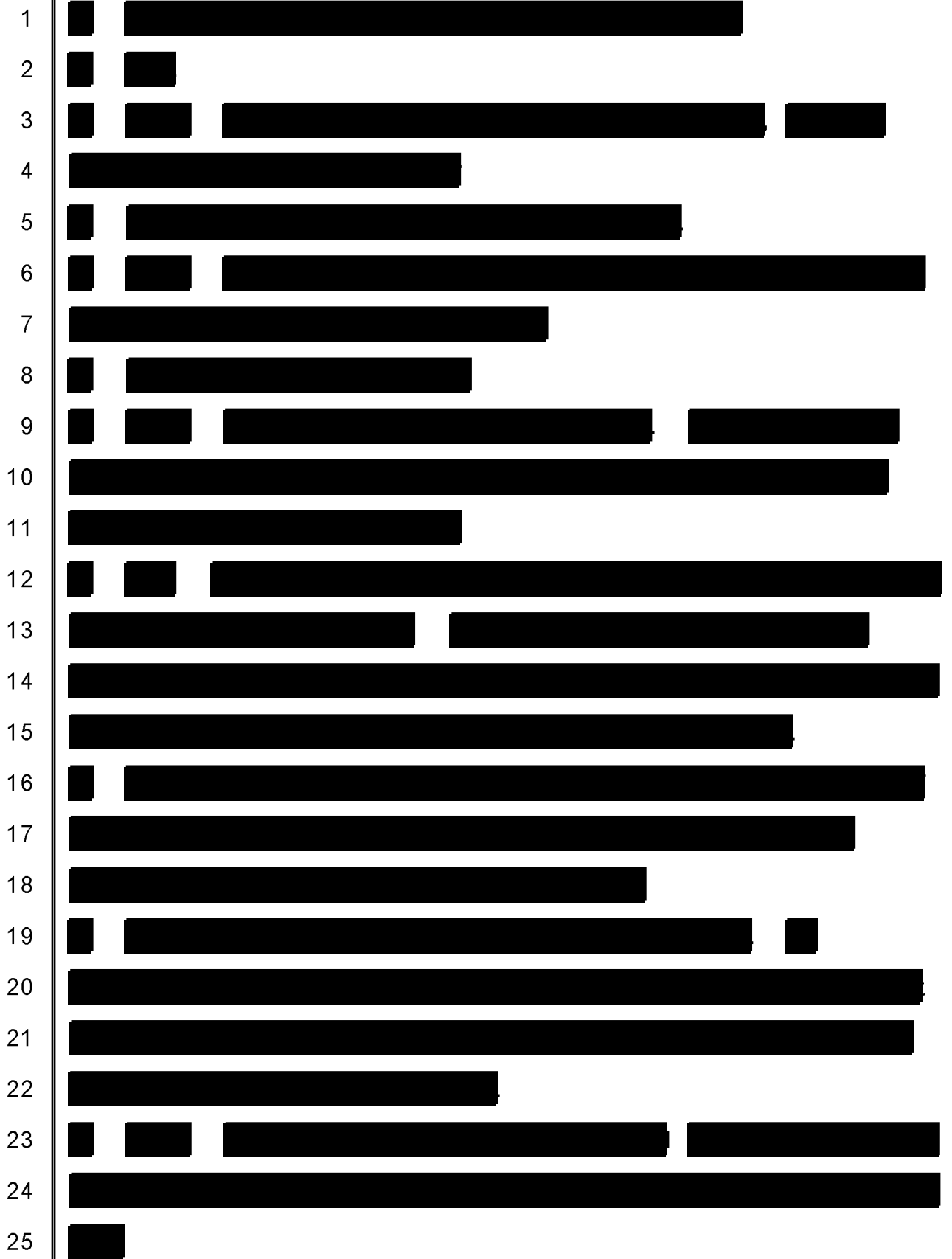
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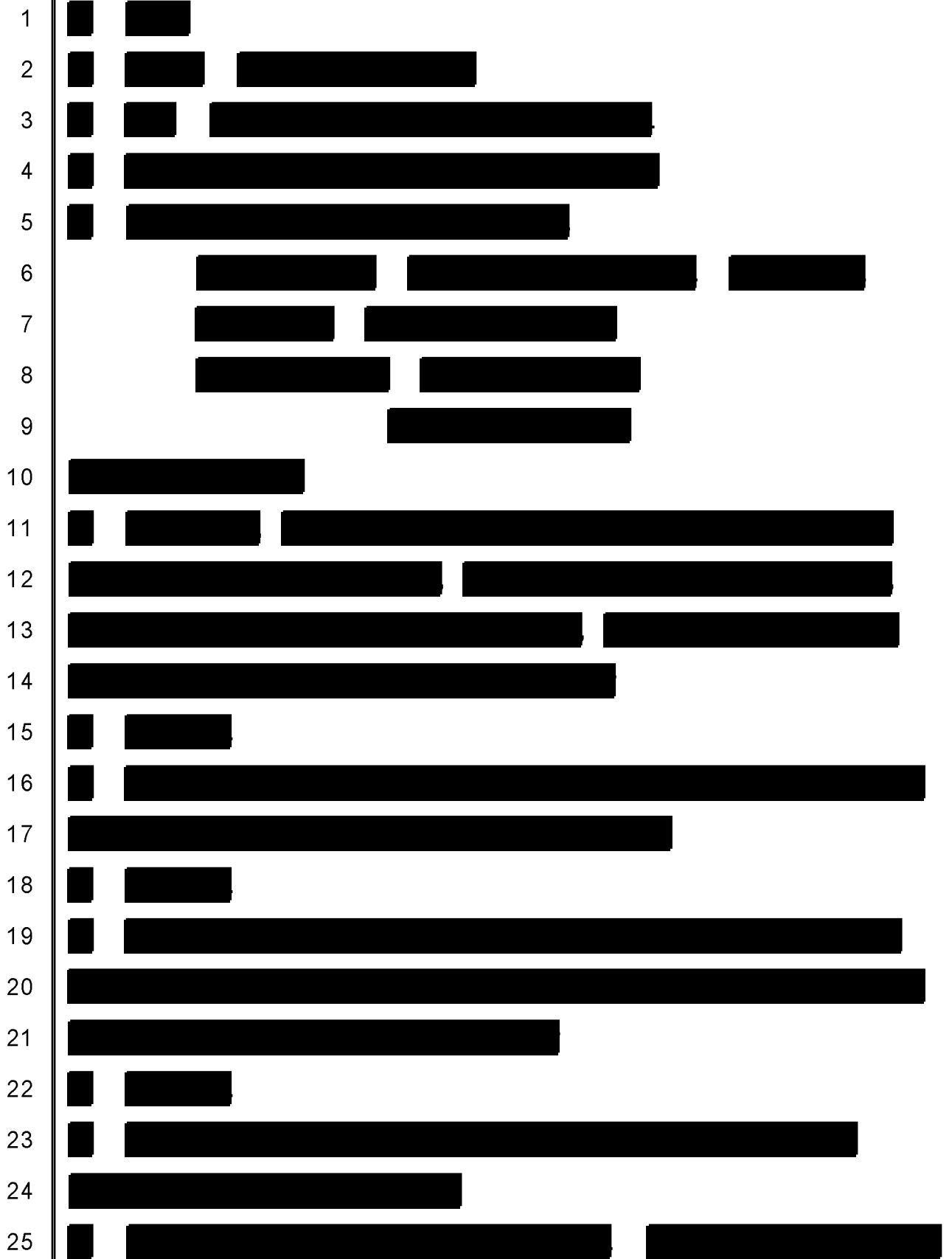




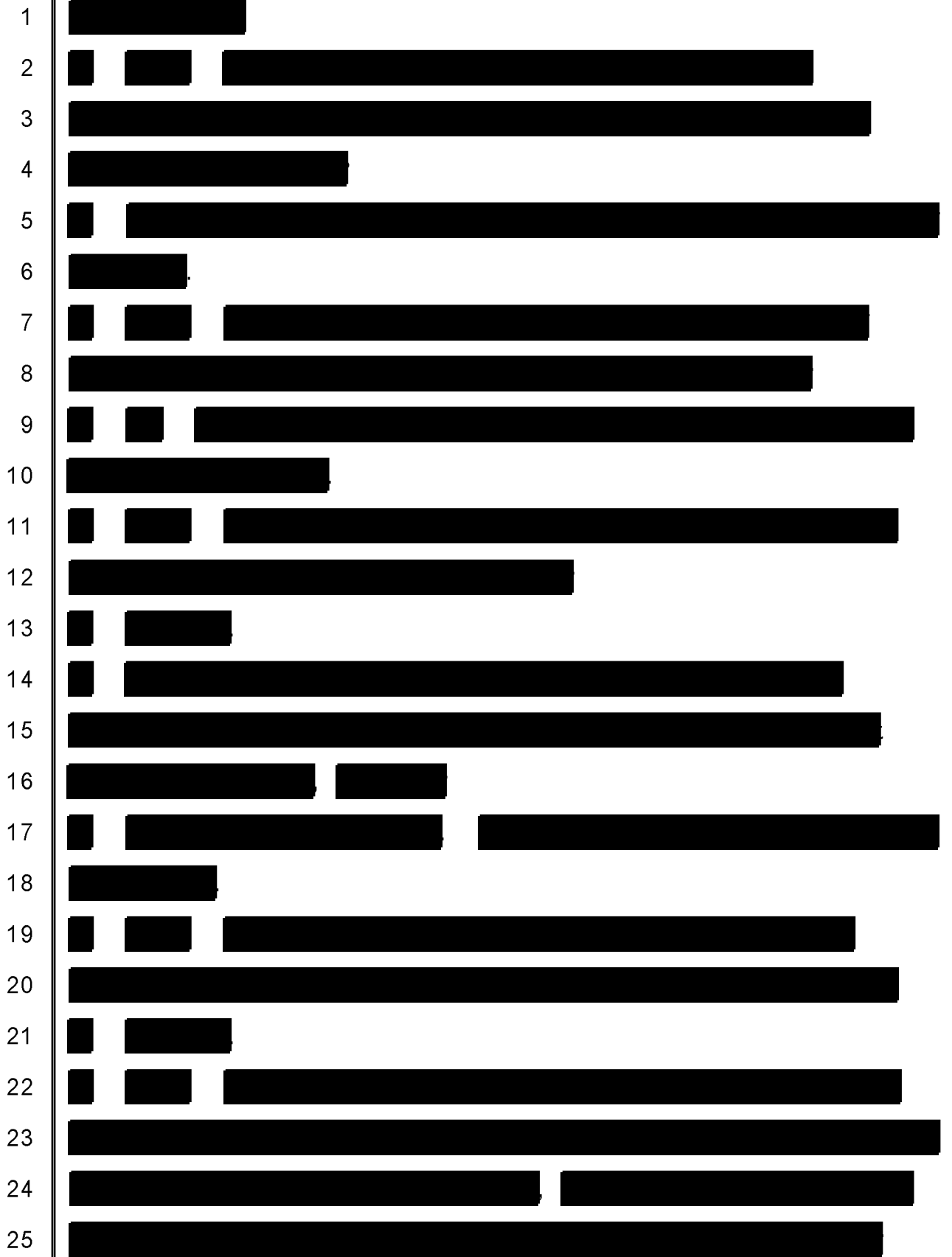
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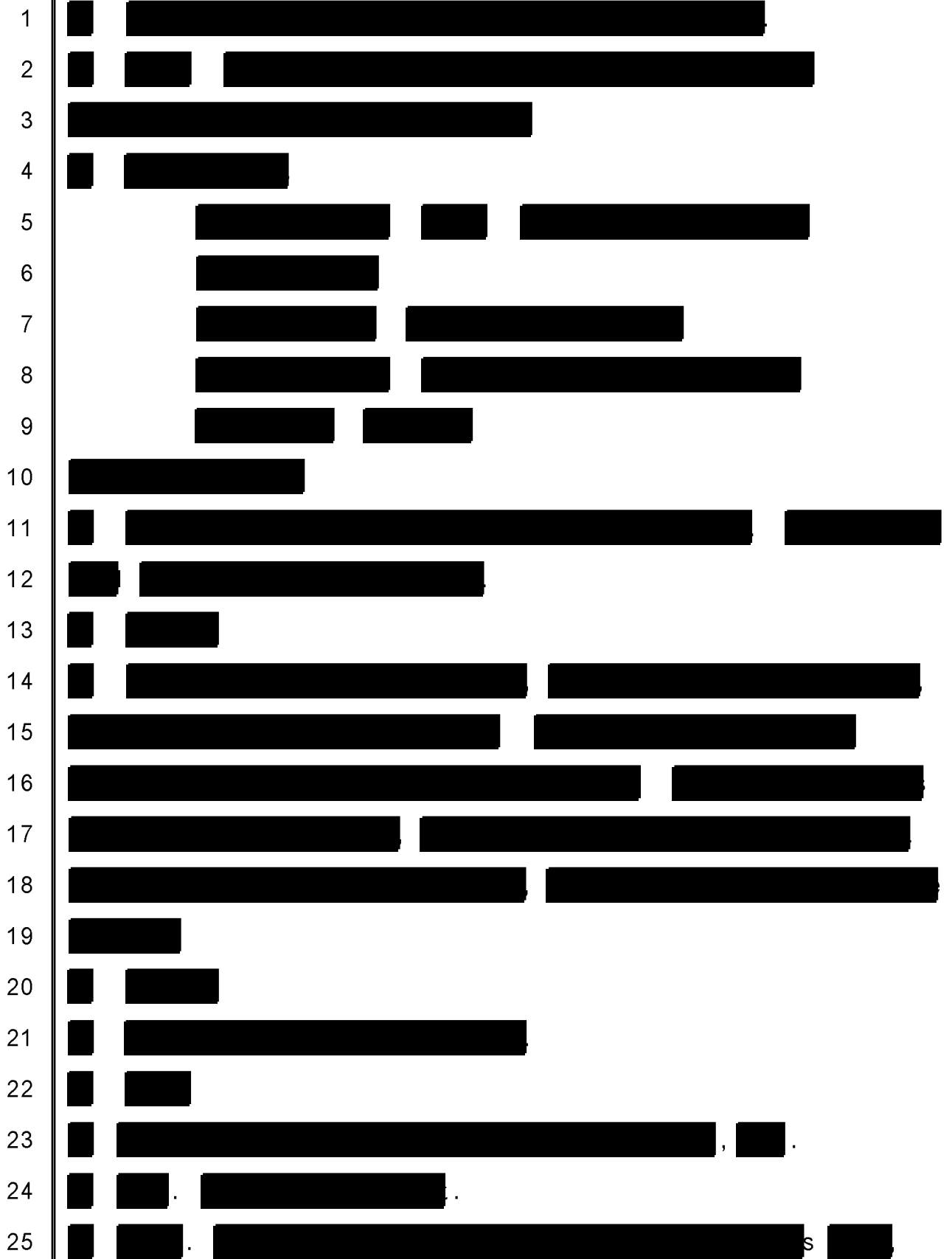


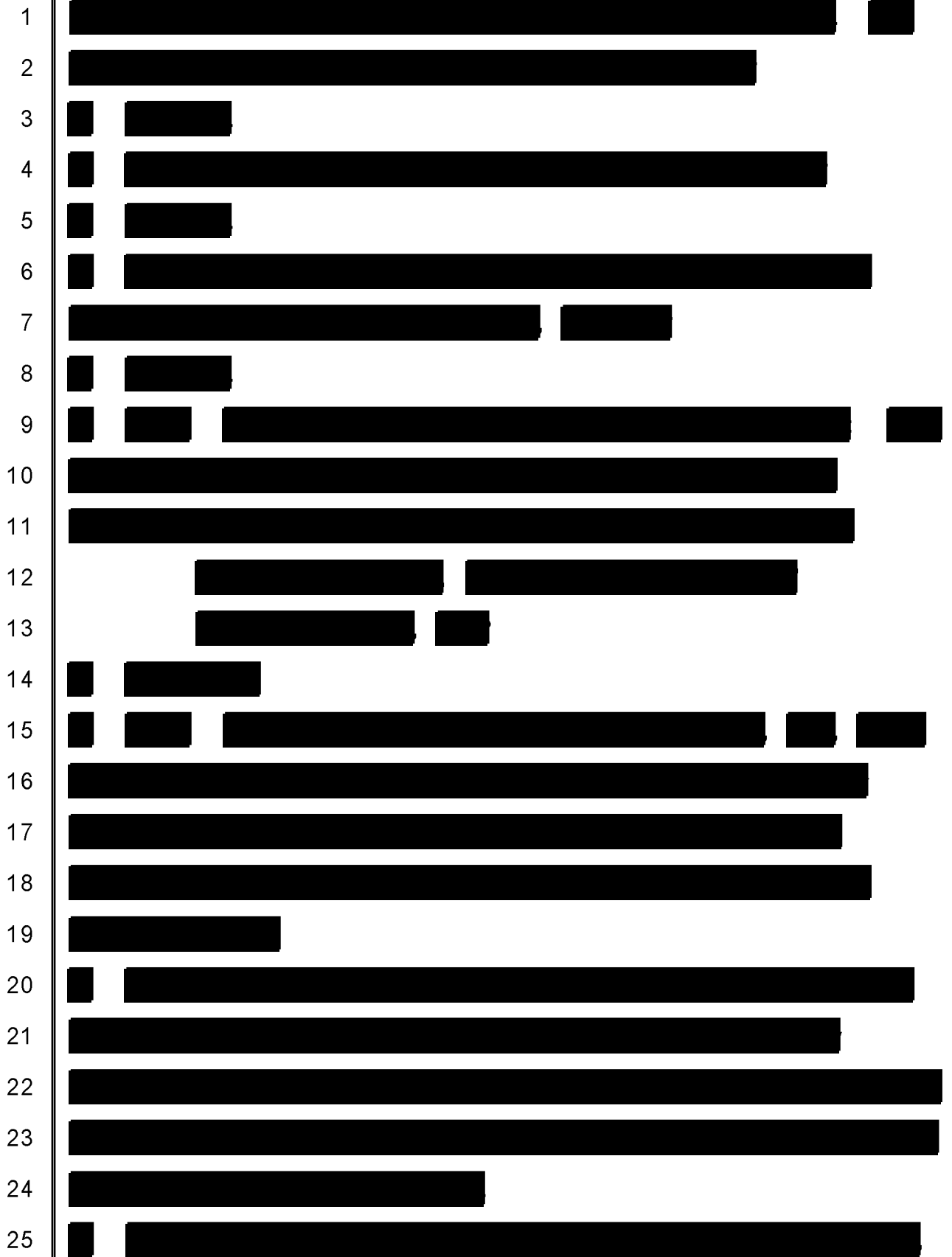
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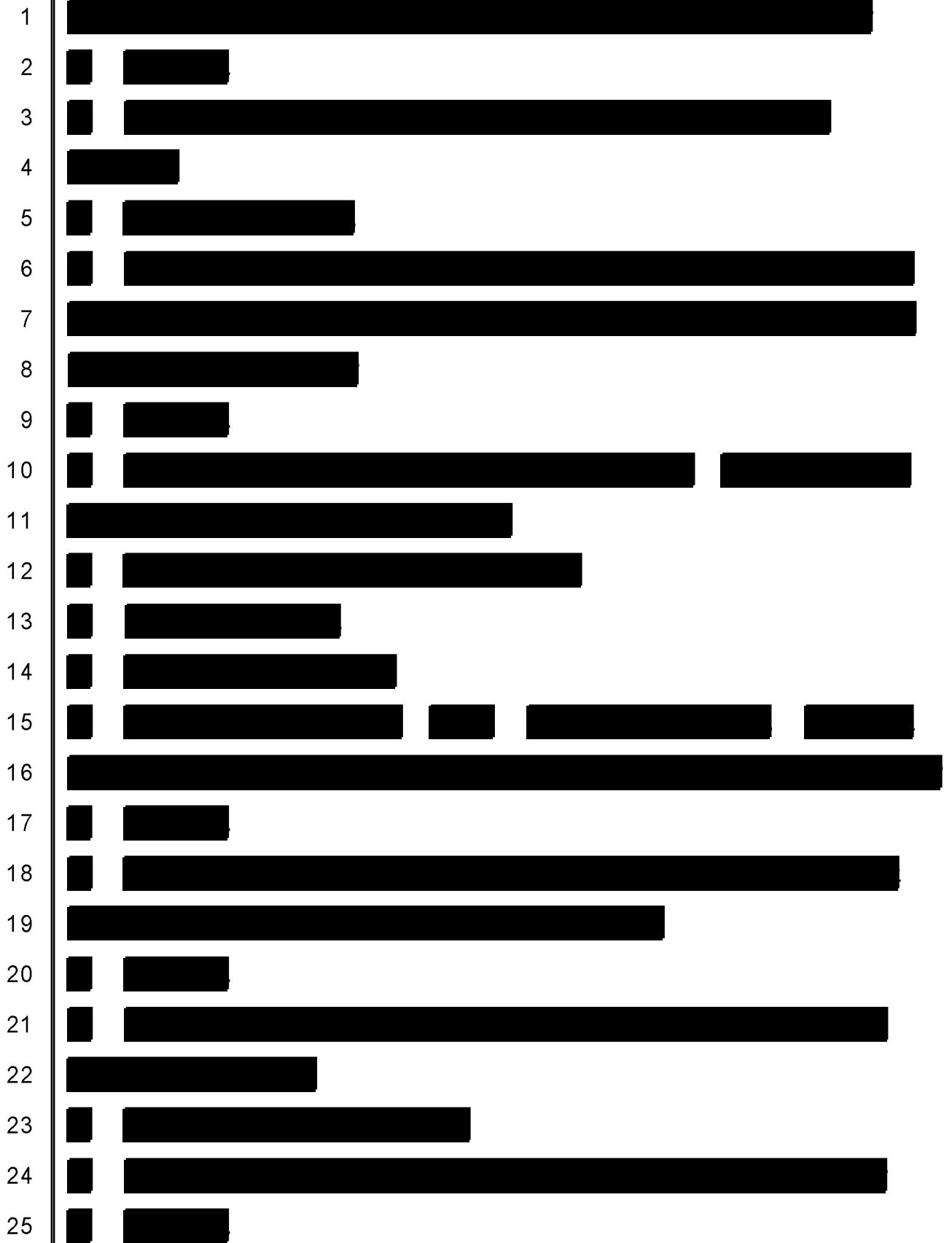


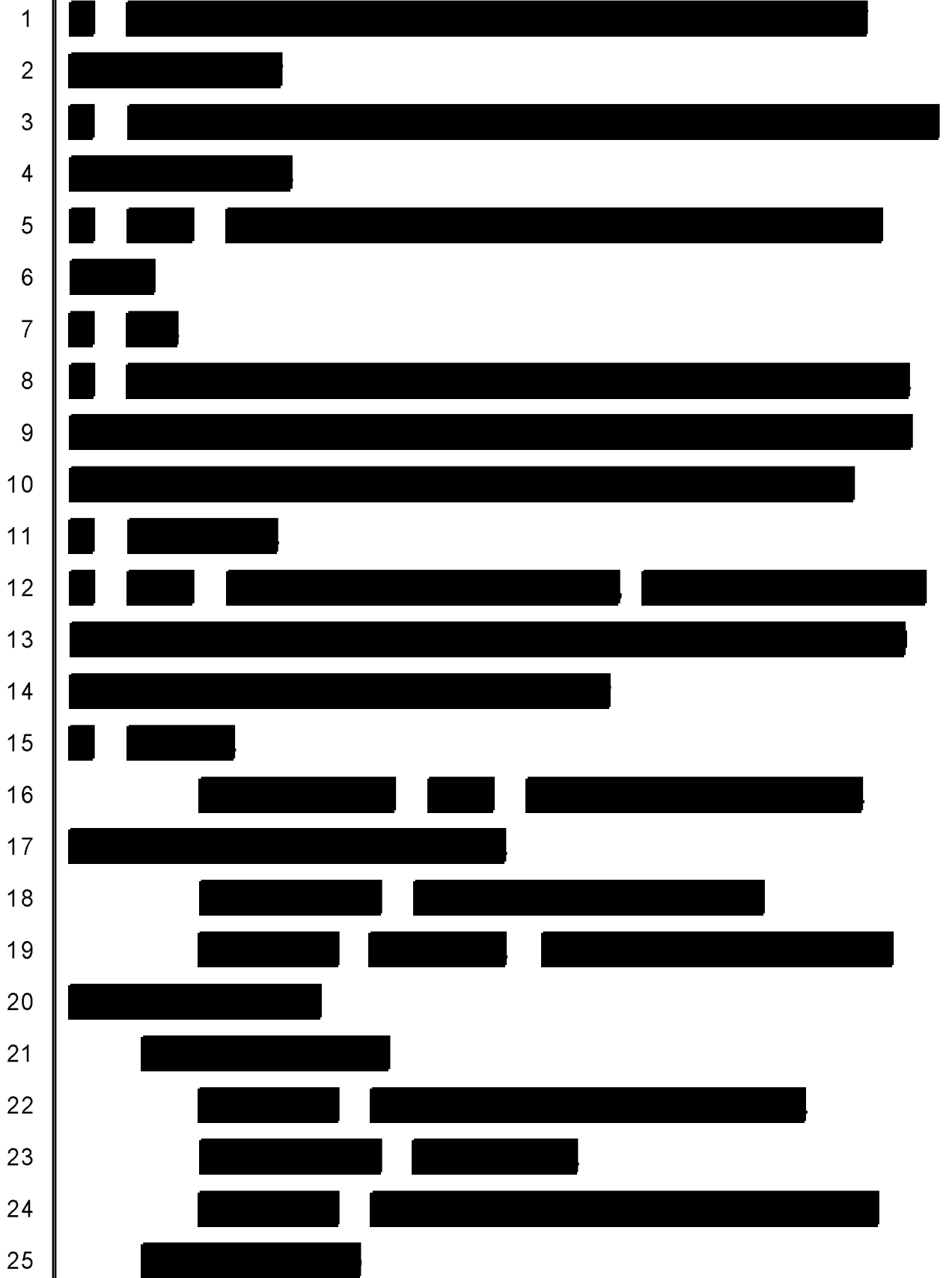












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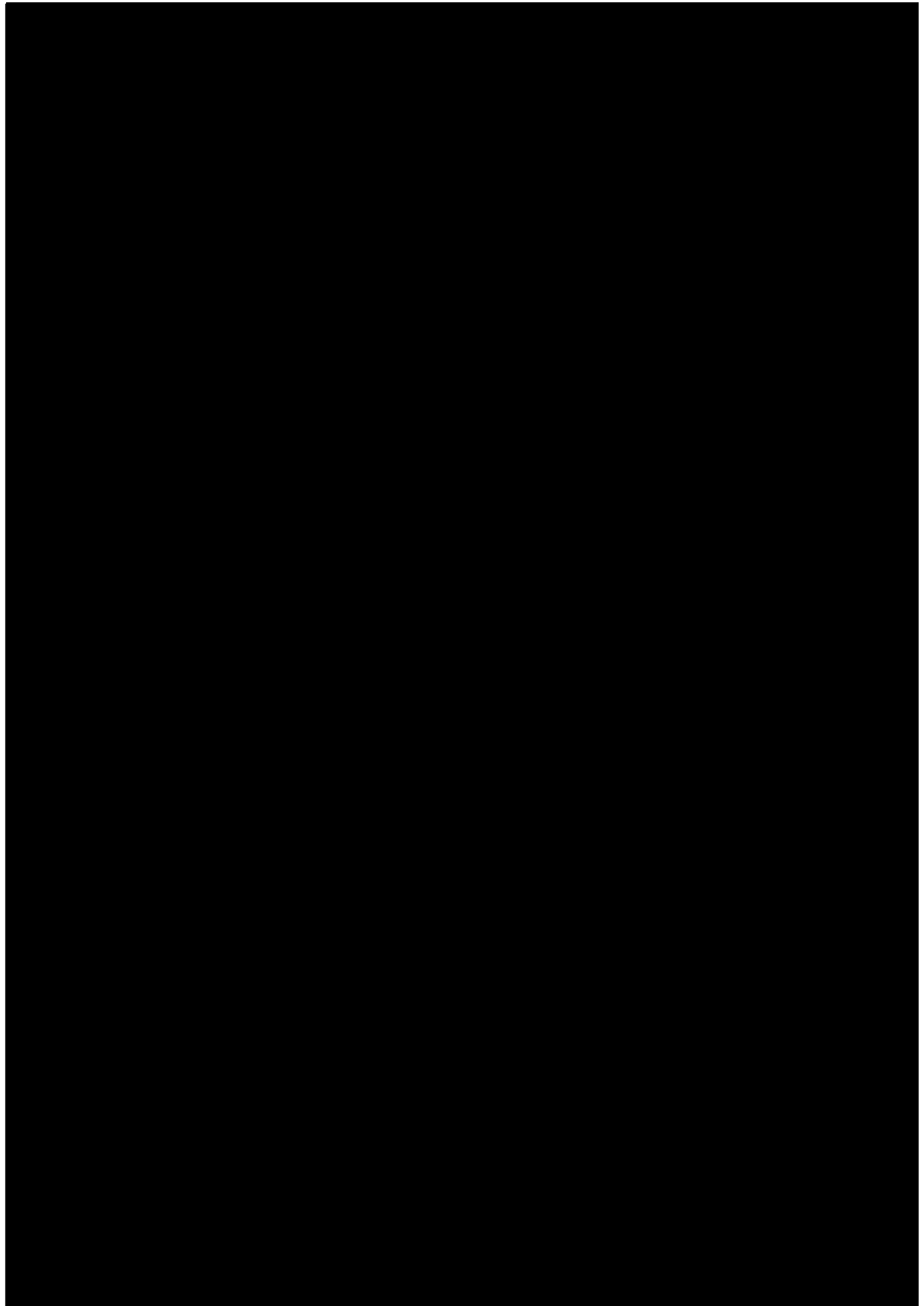
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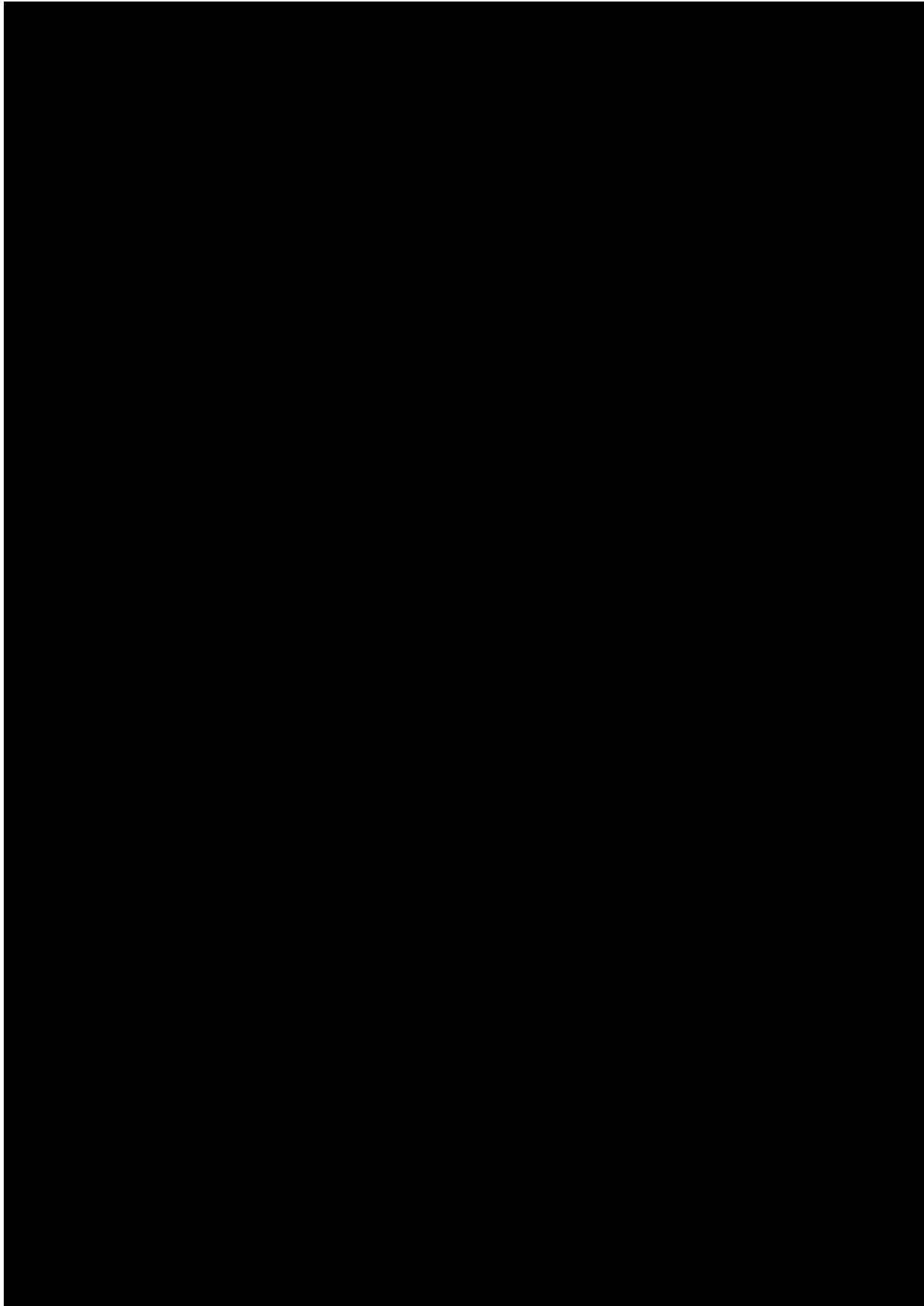
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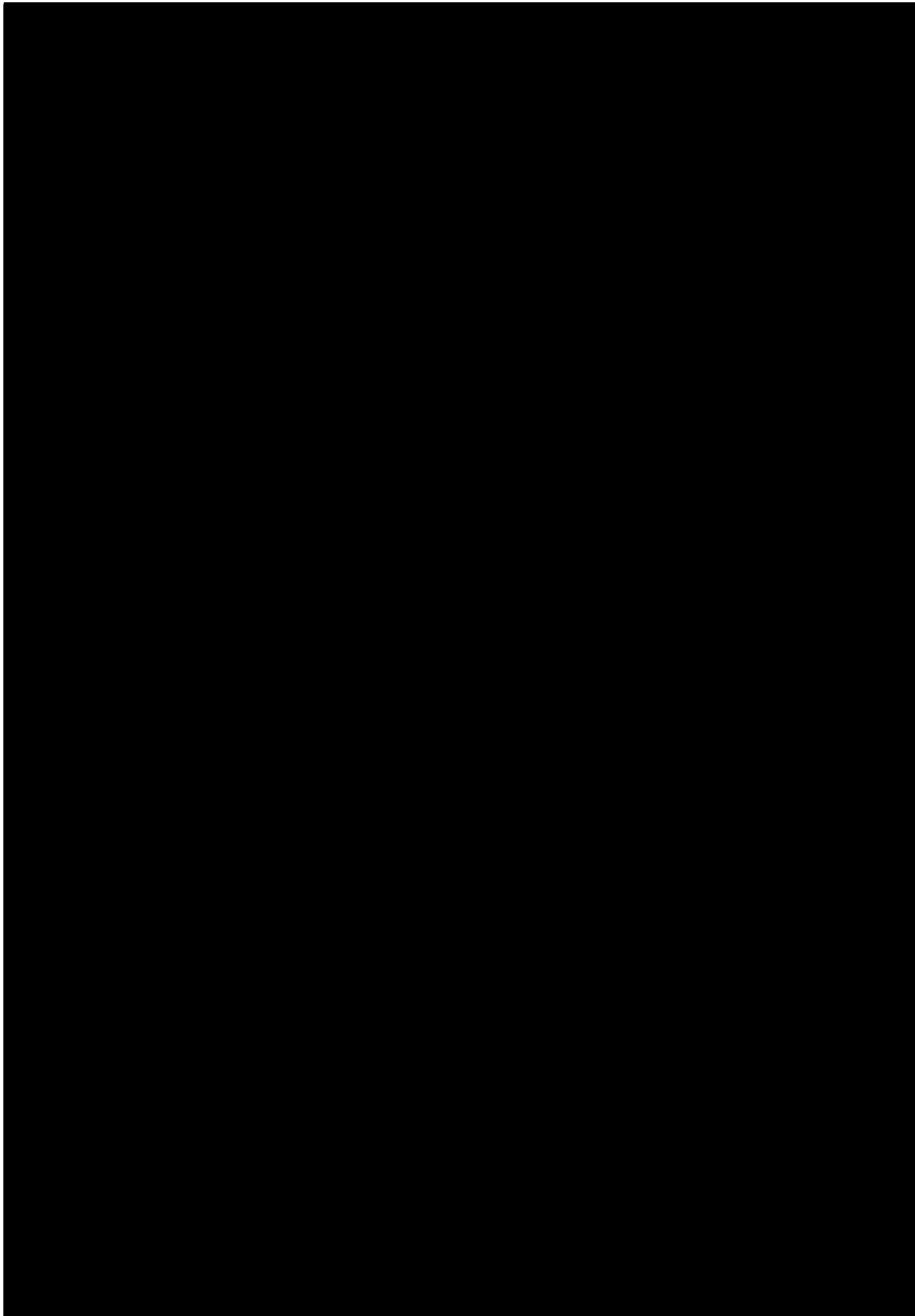


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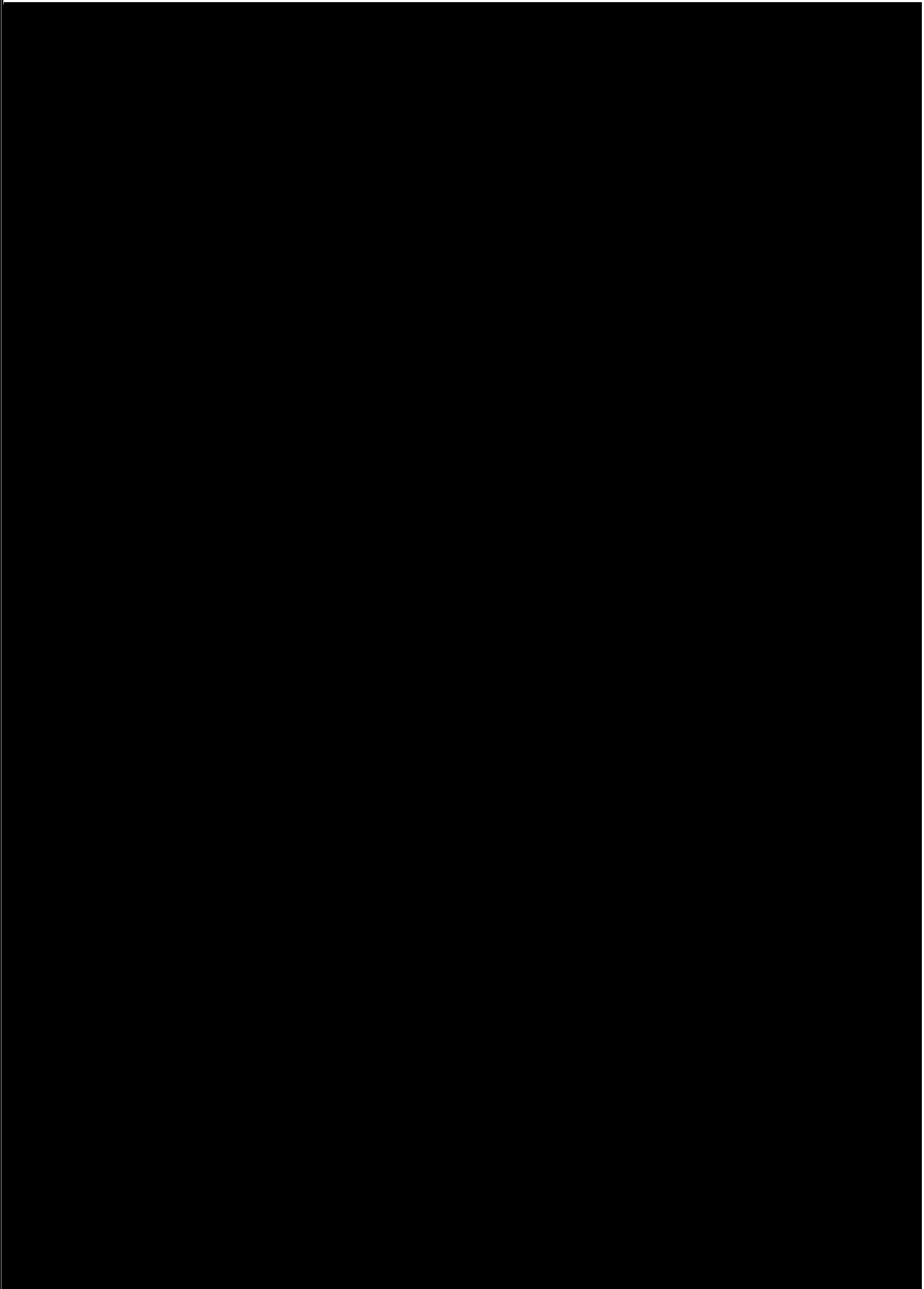




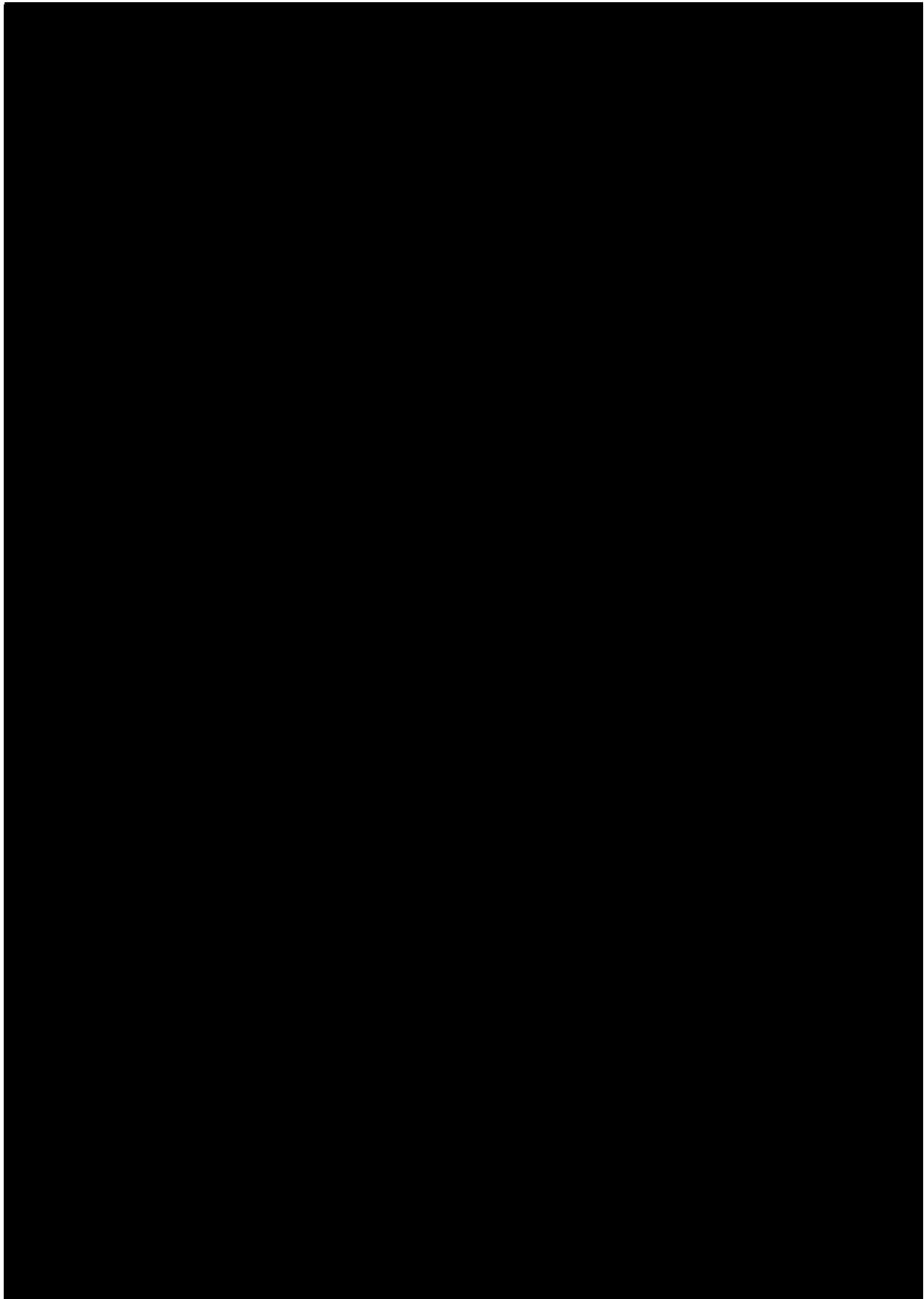
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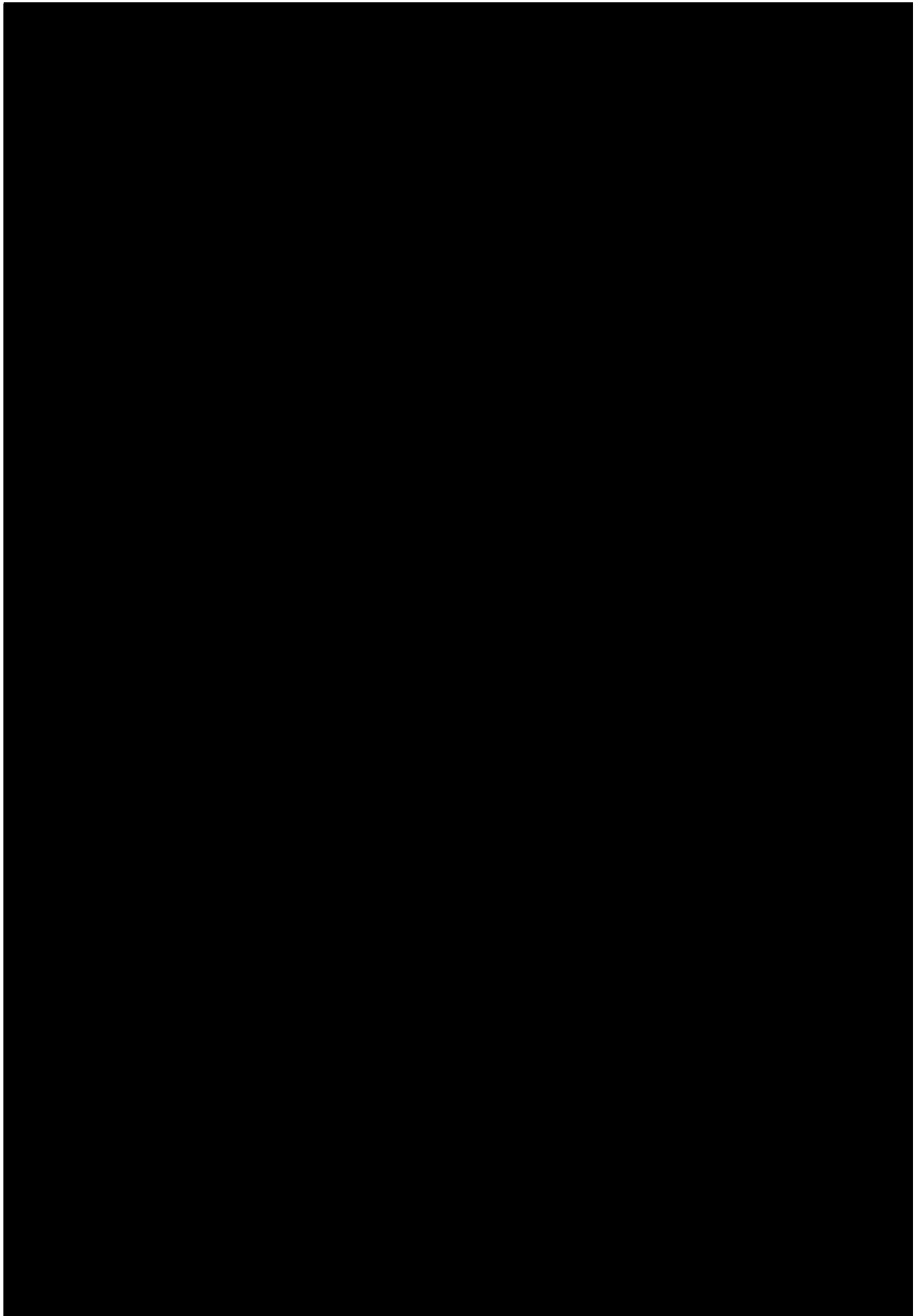
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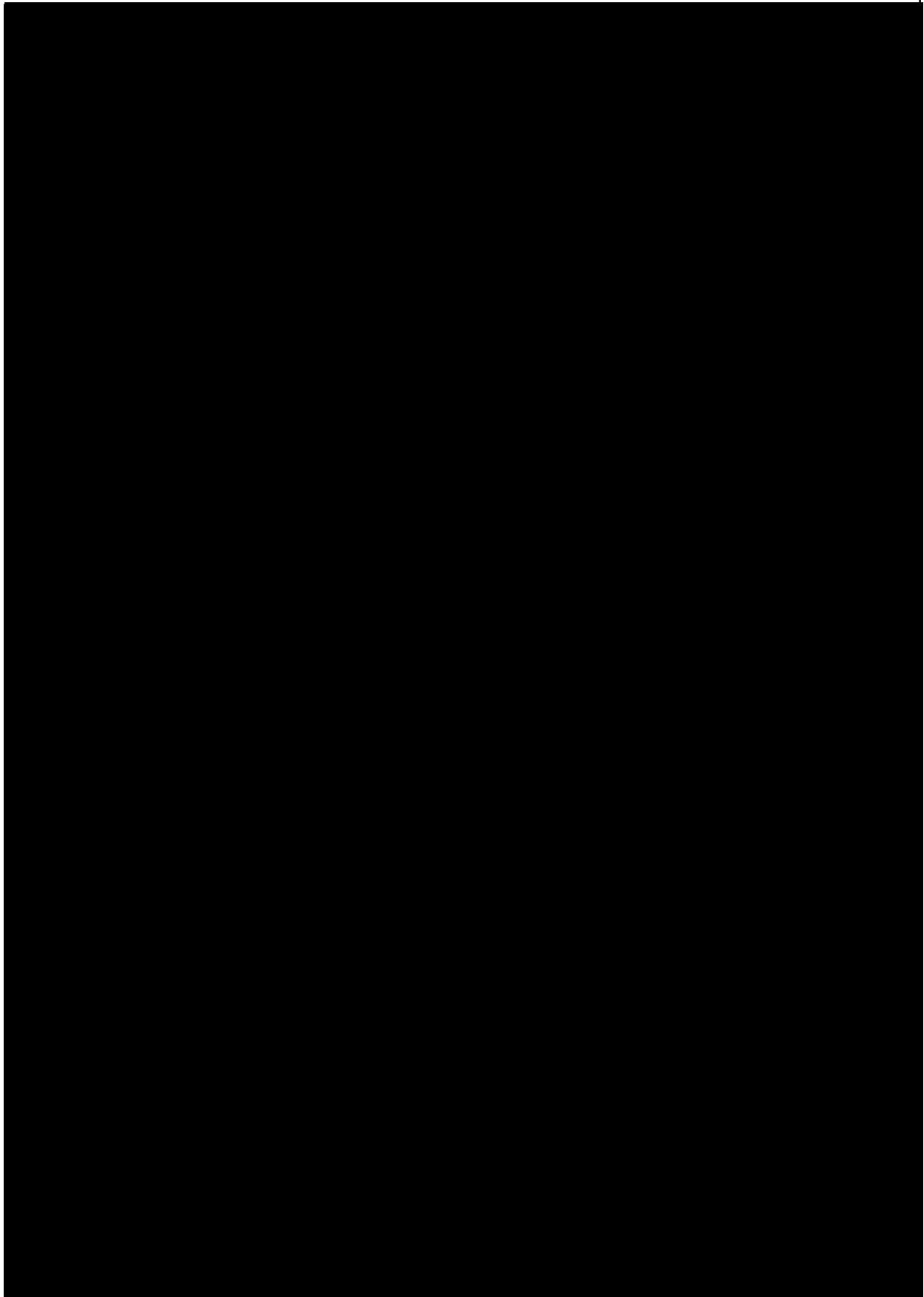
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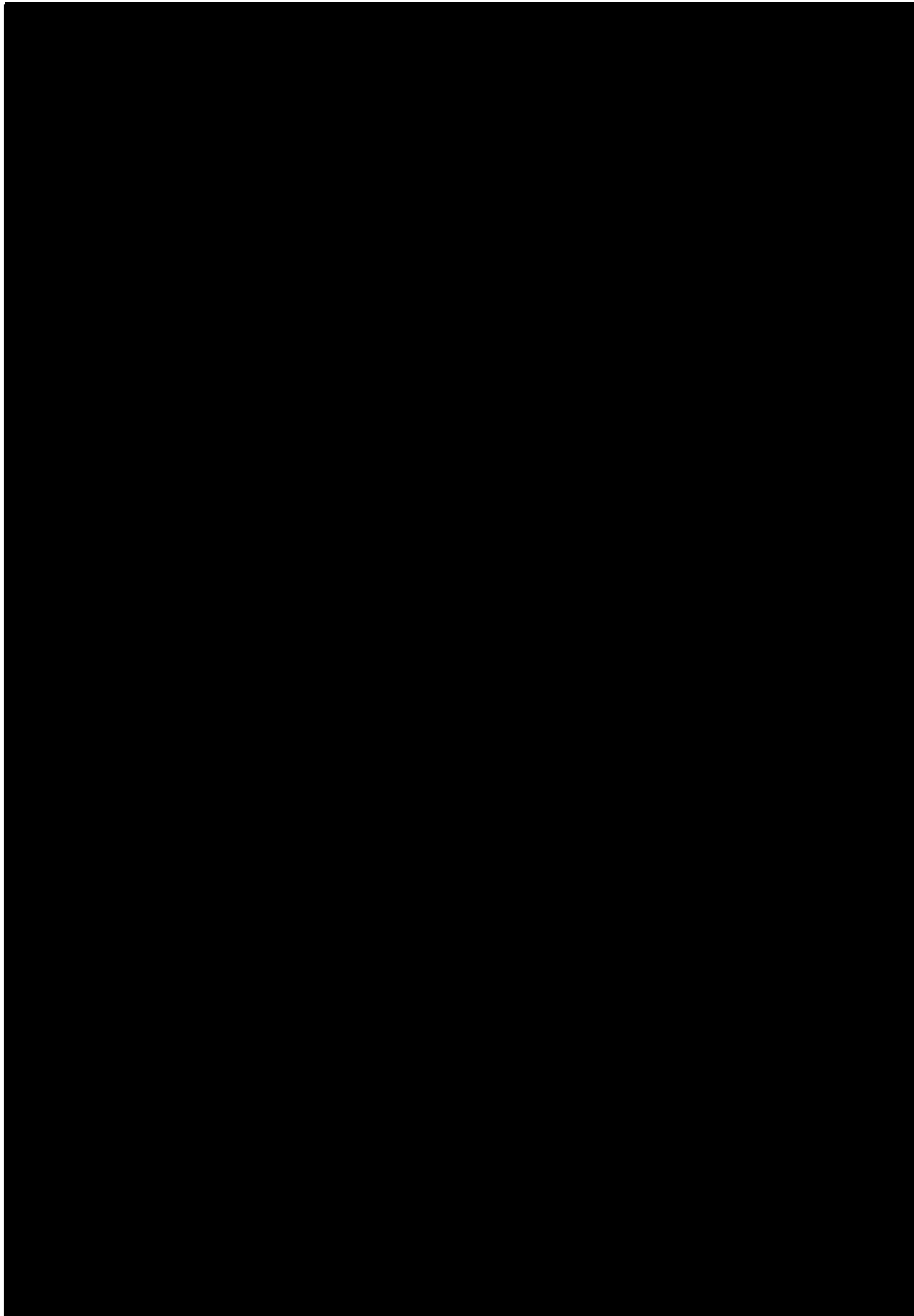
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(Change of reporters, Volume 12-C.)

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(Jury enters courtroom.)

THE COURT: All right. Thank you very much, ladies and gentlemen. Please be seated. We will resume.

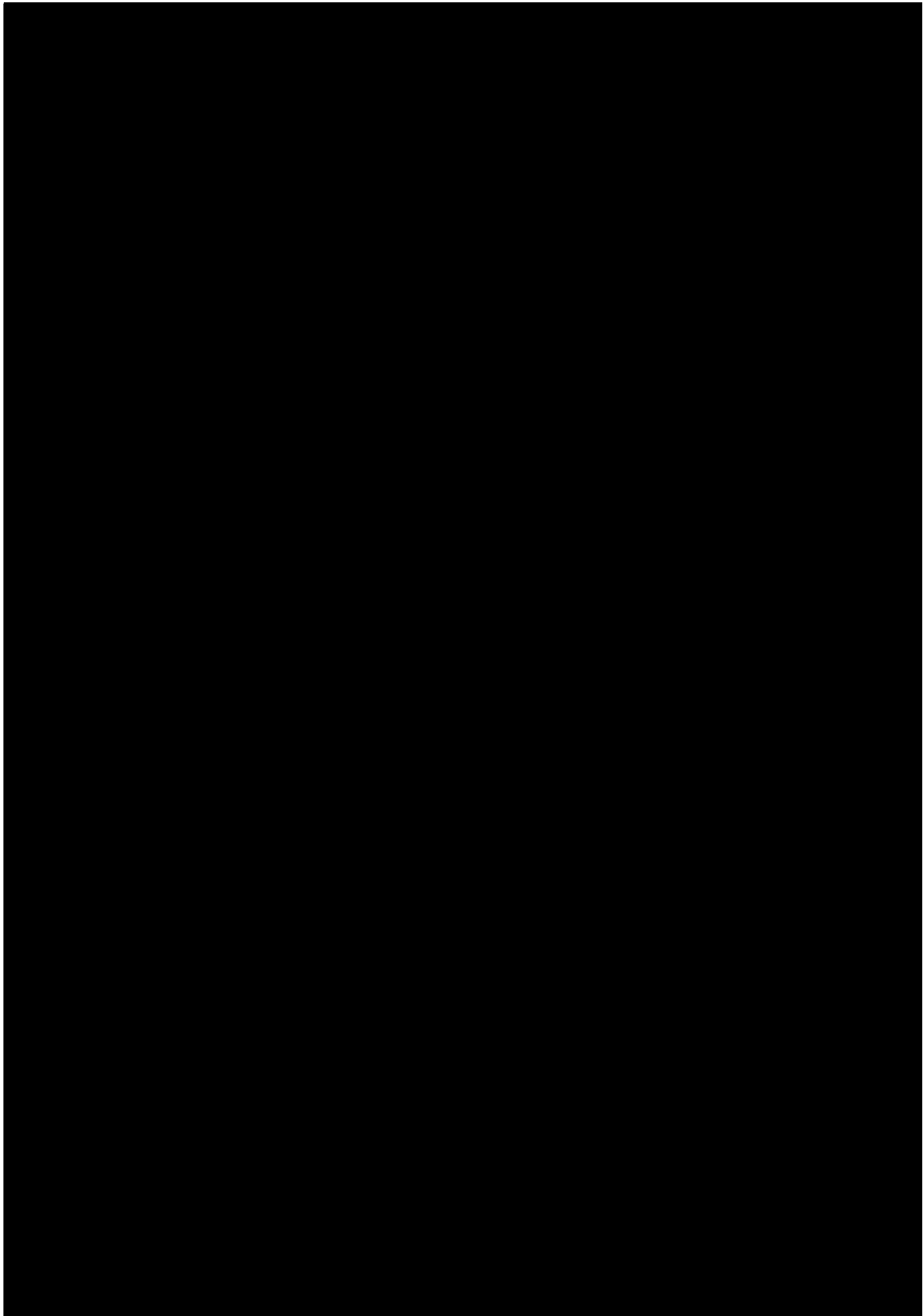
You may proceed, sir.

MR. RAPOPORT: Thank you, your Honor.

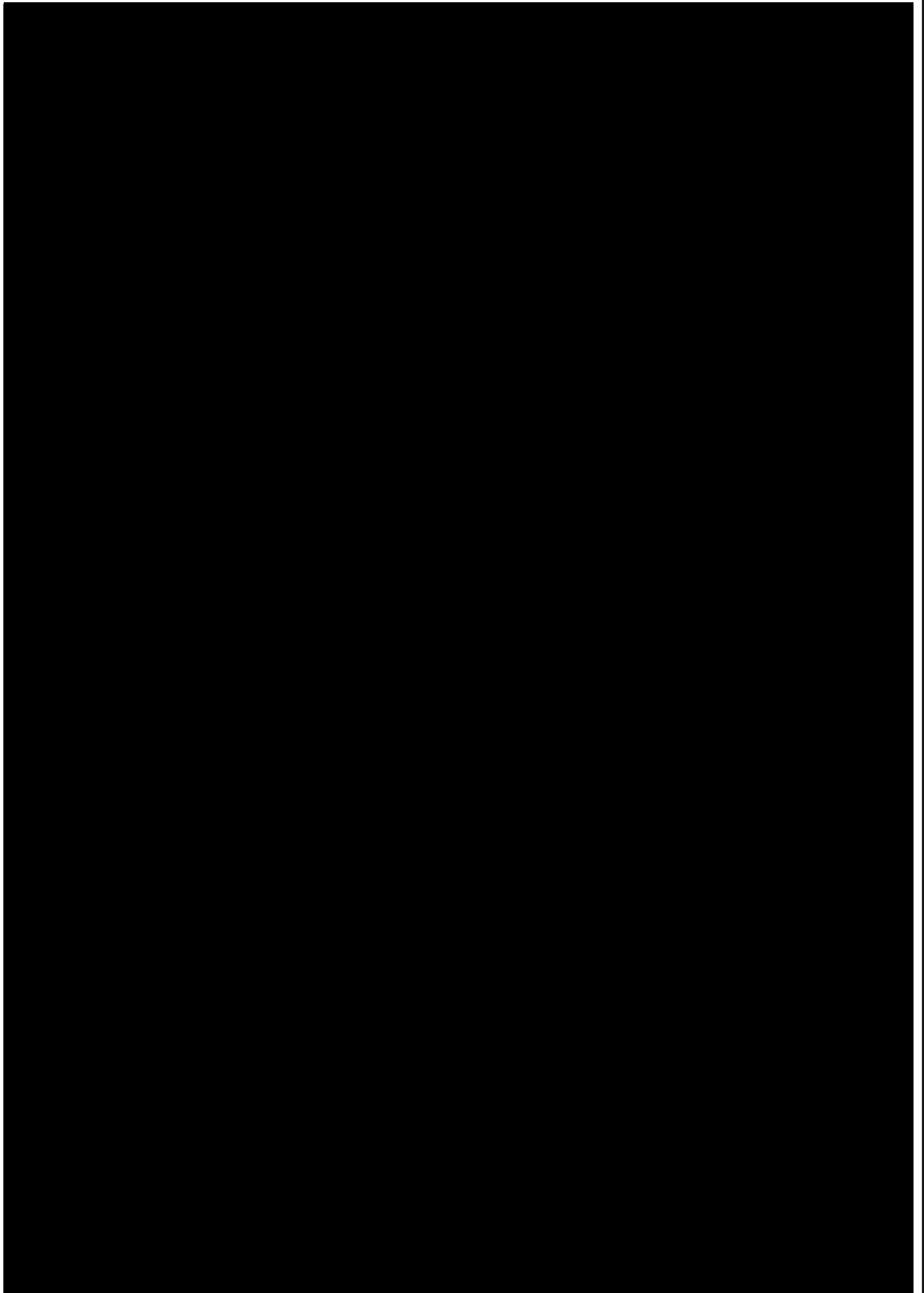
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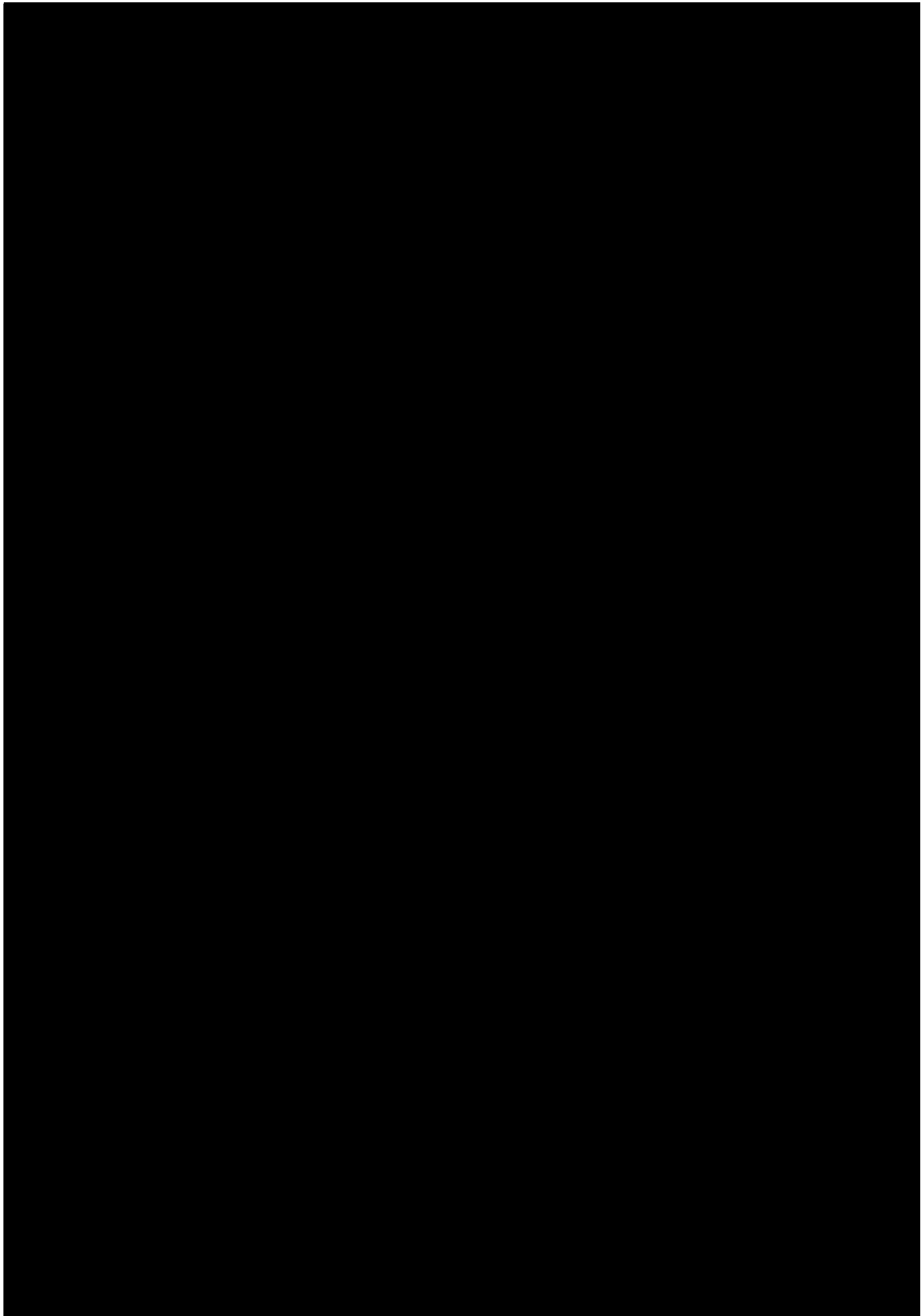
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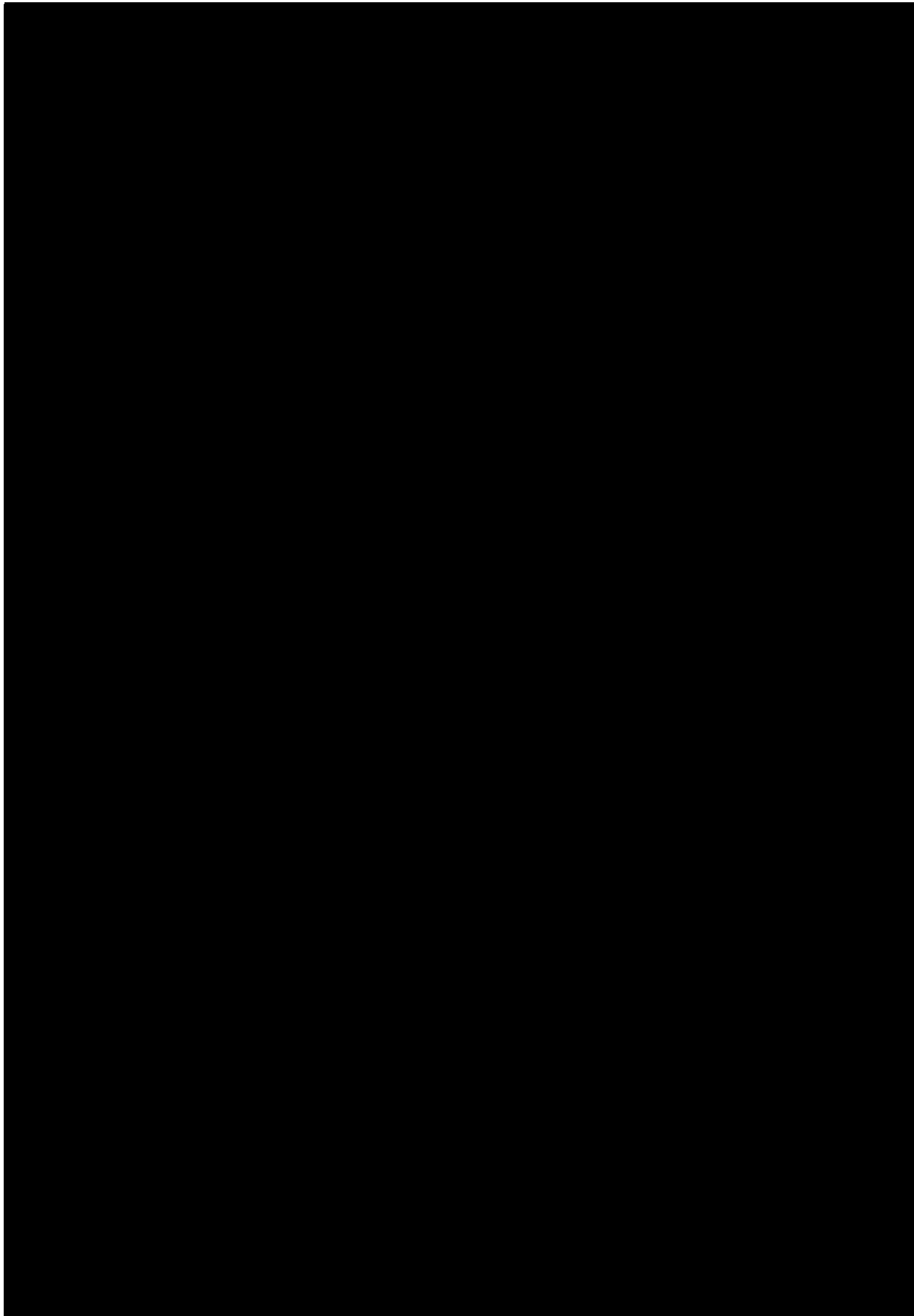
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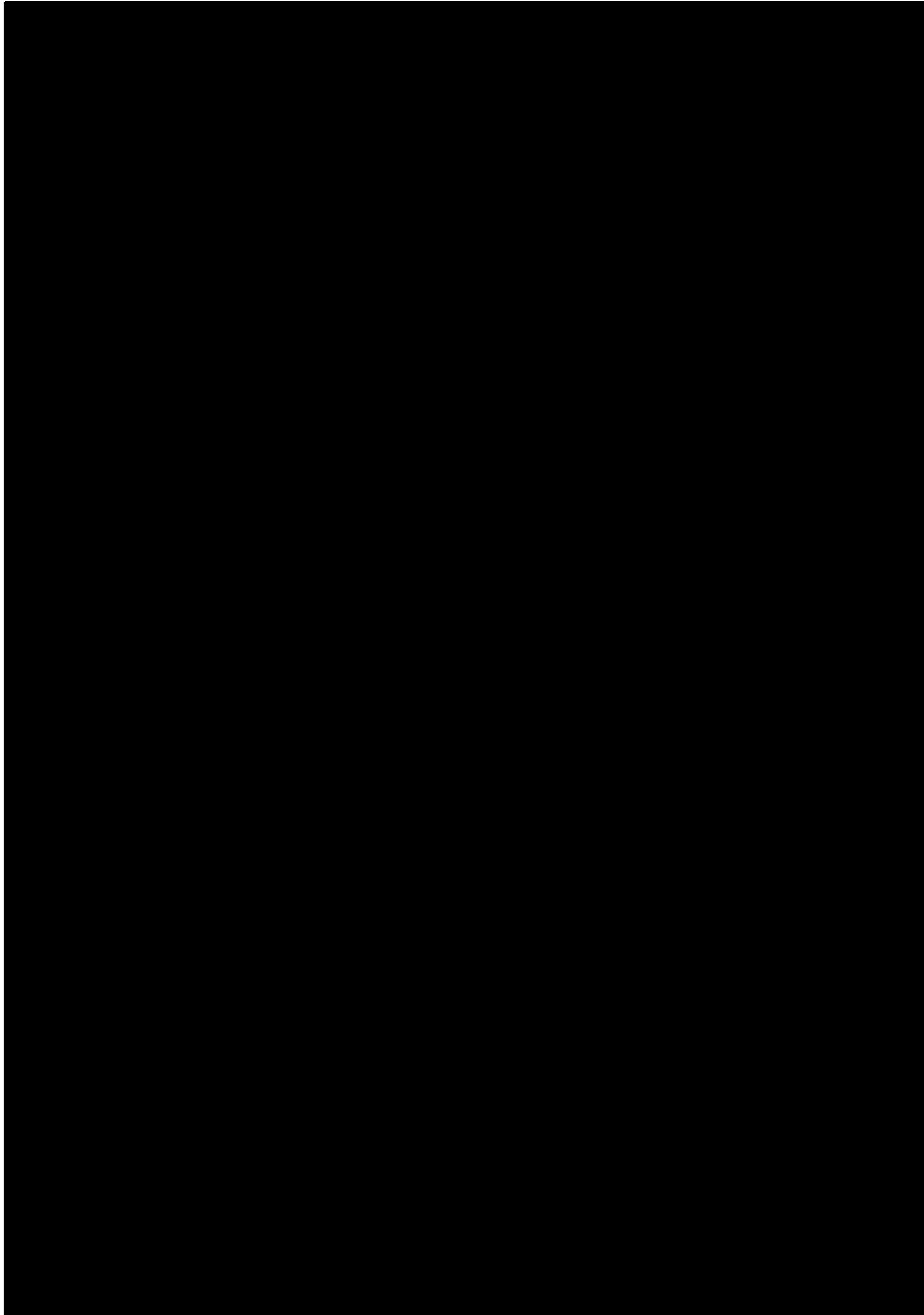
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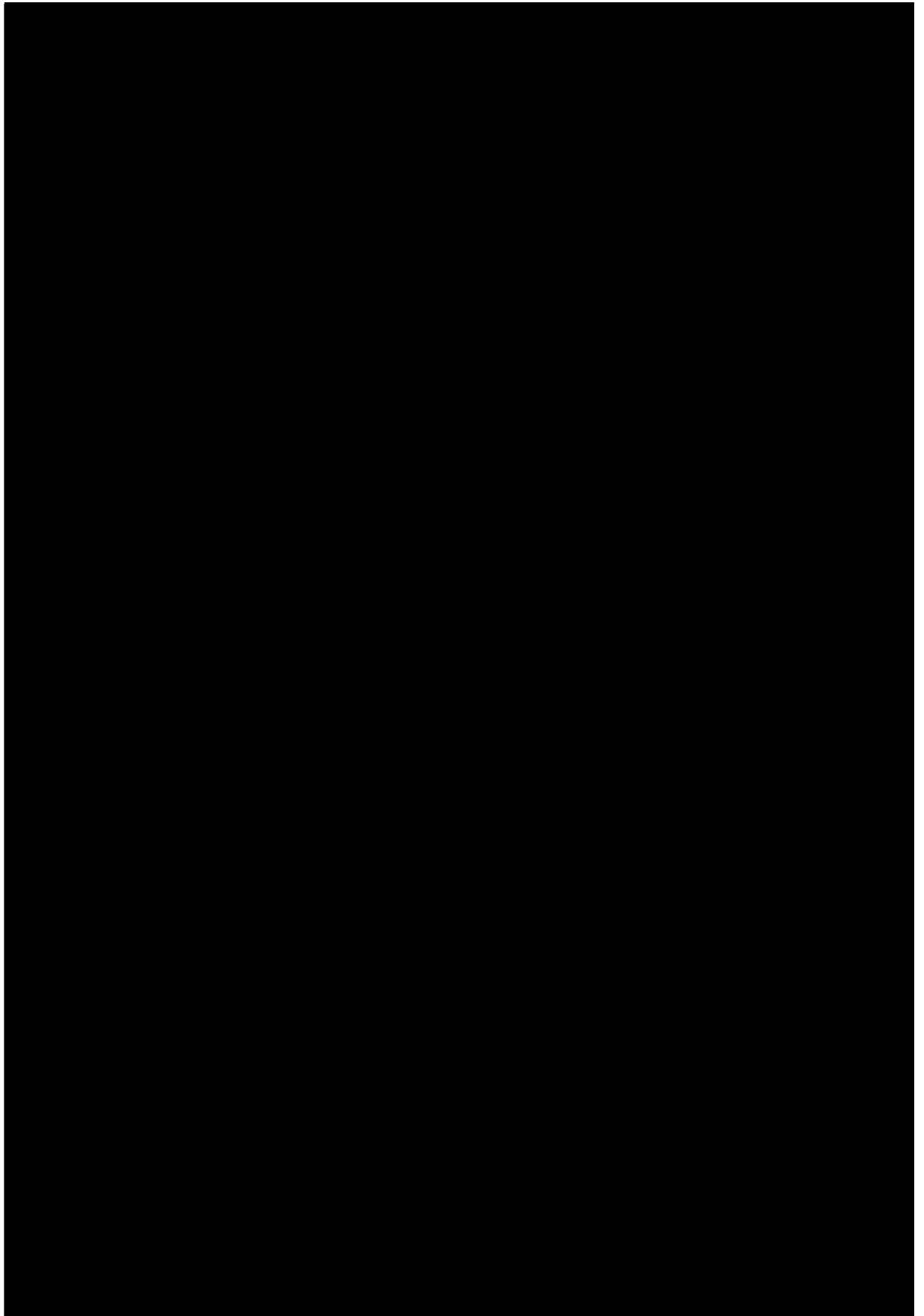
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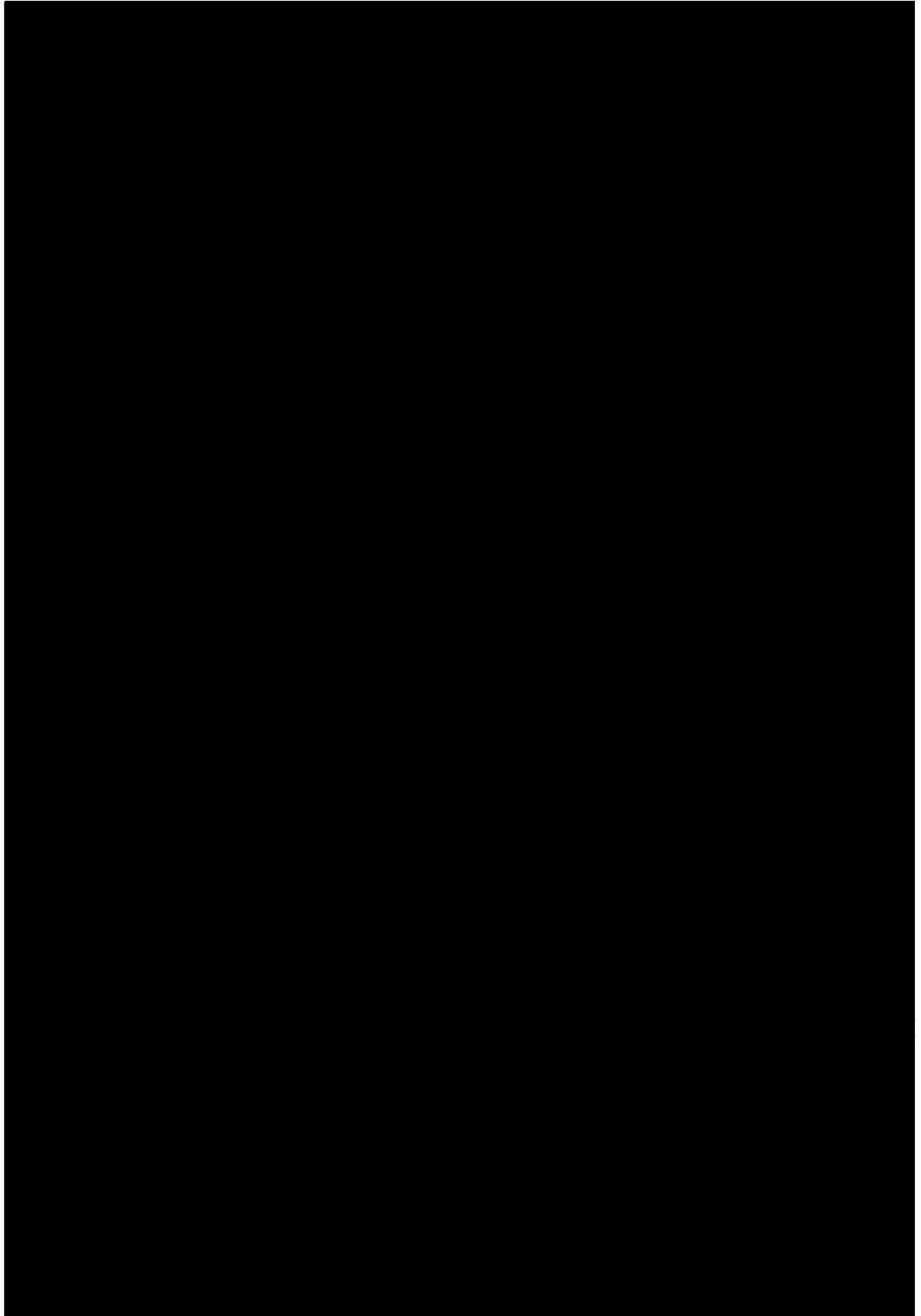
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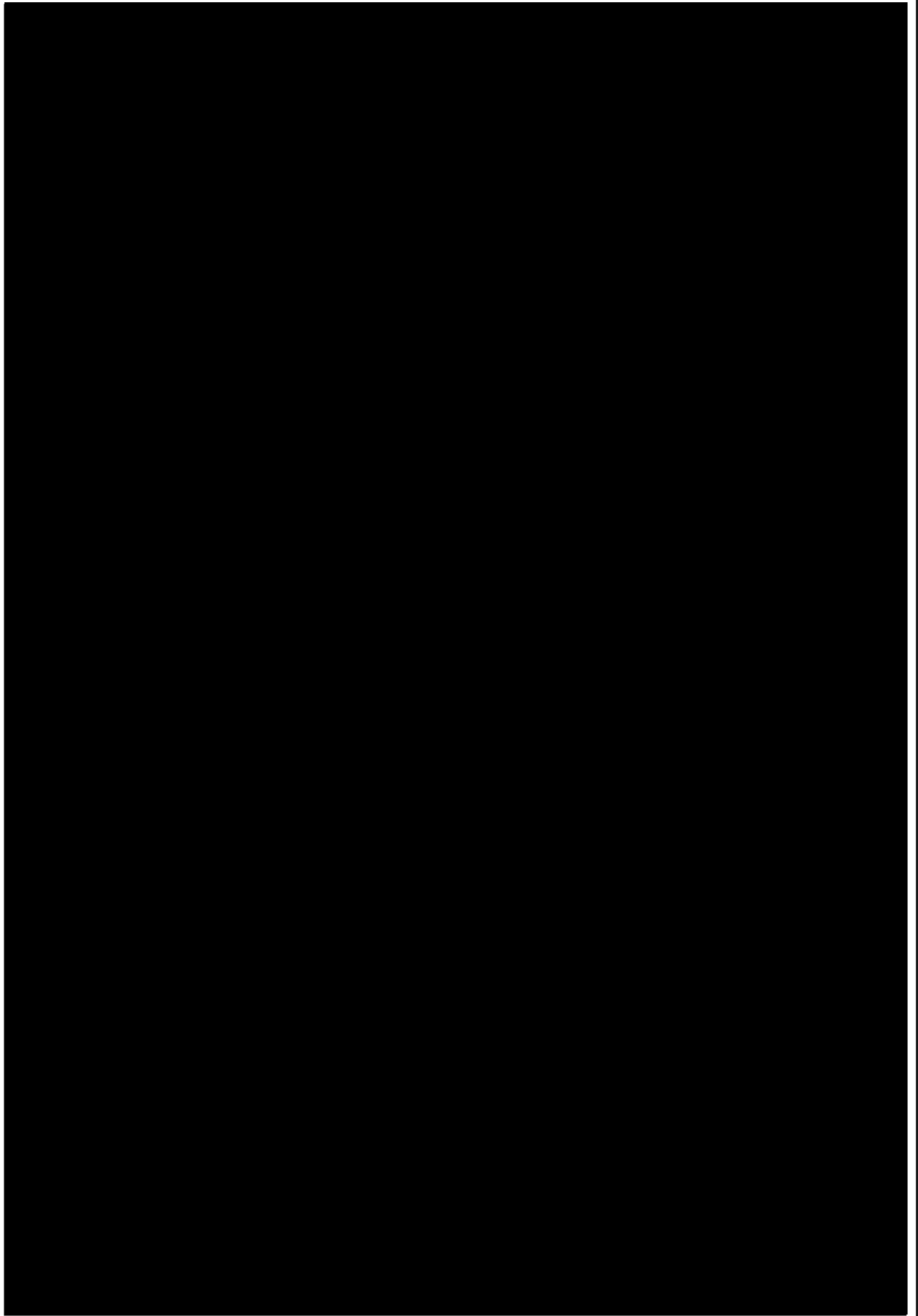
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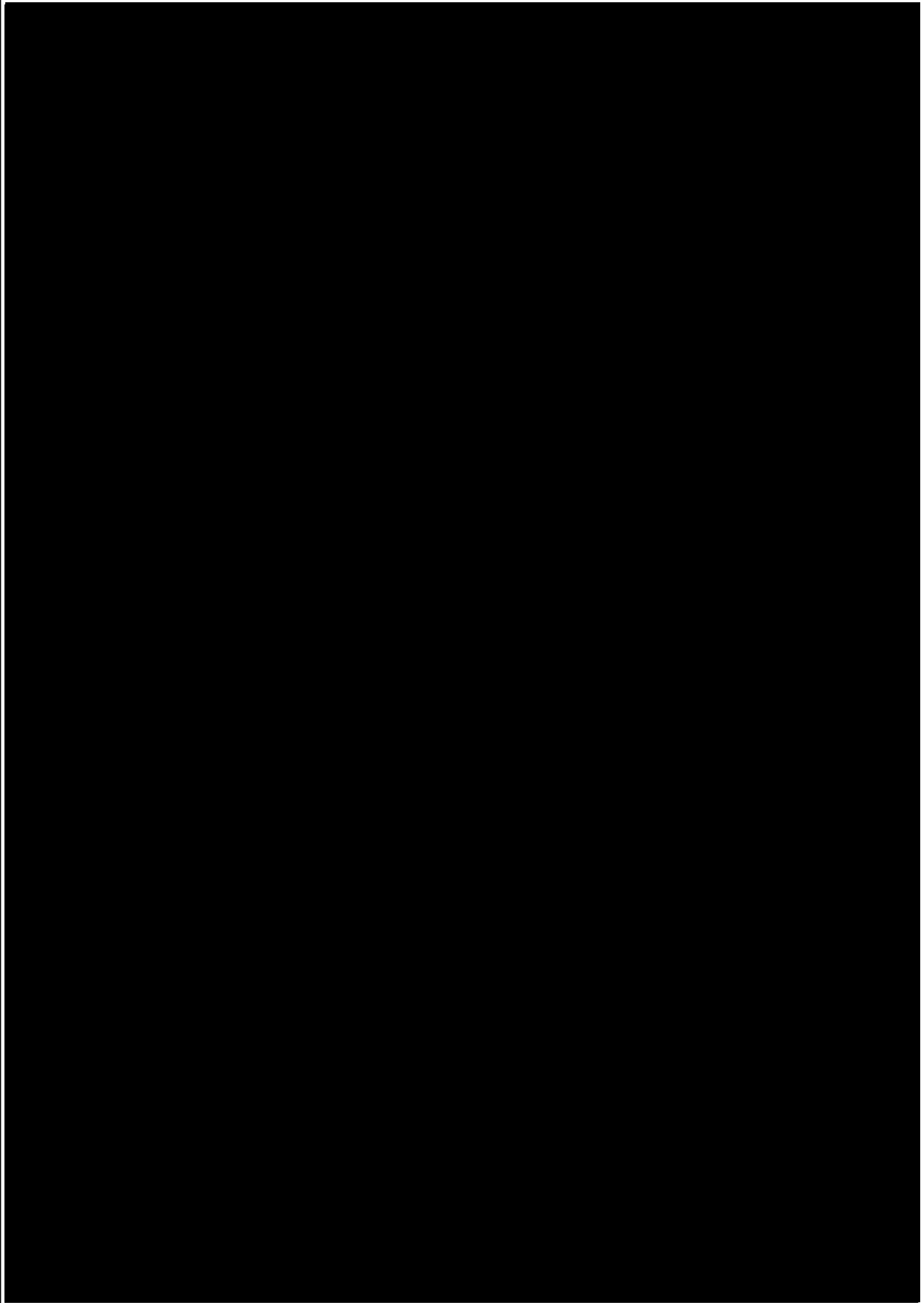


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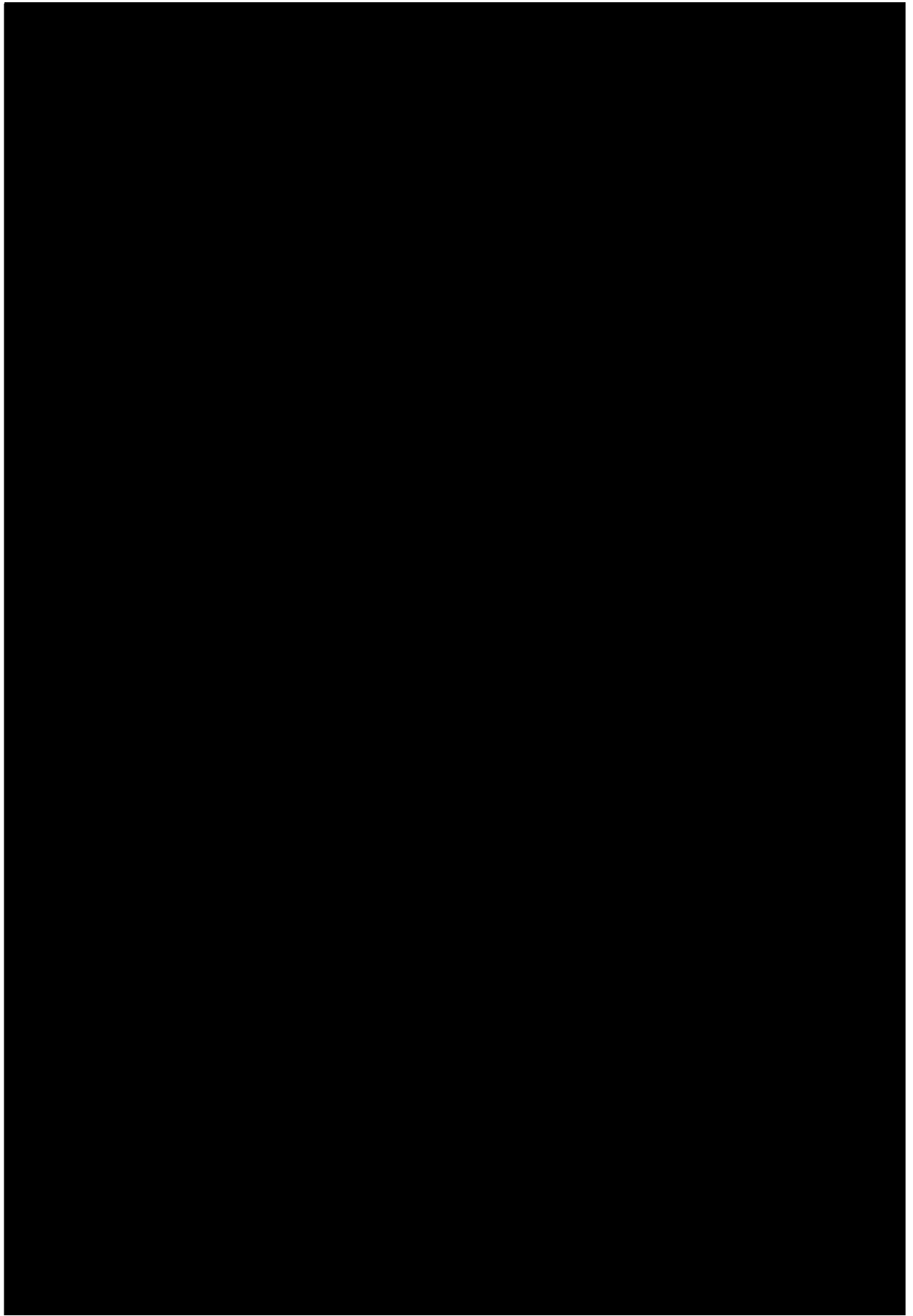




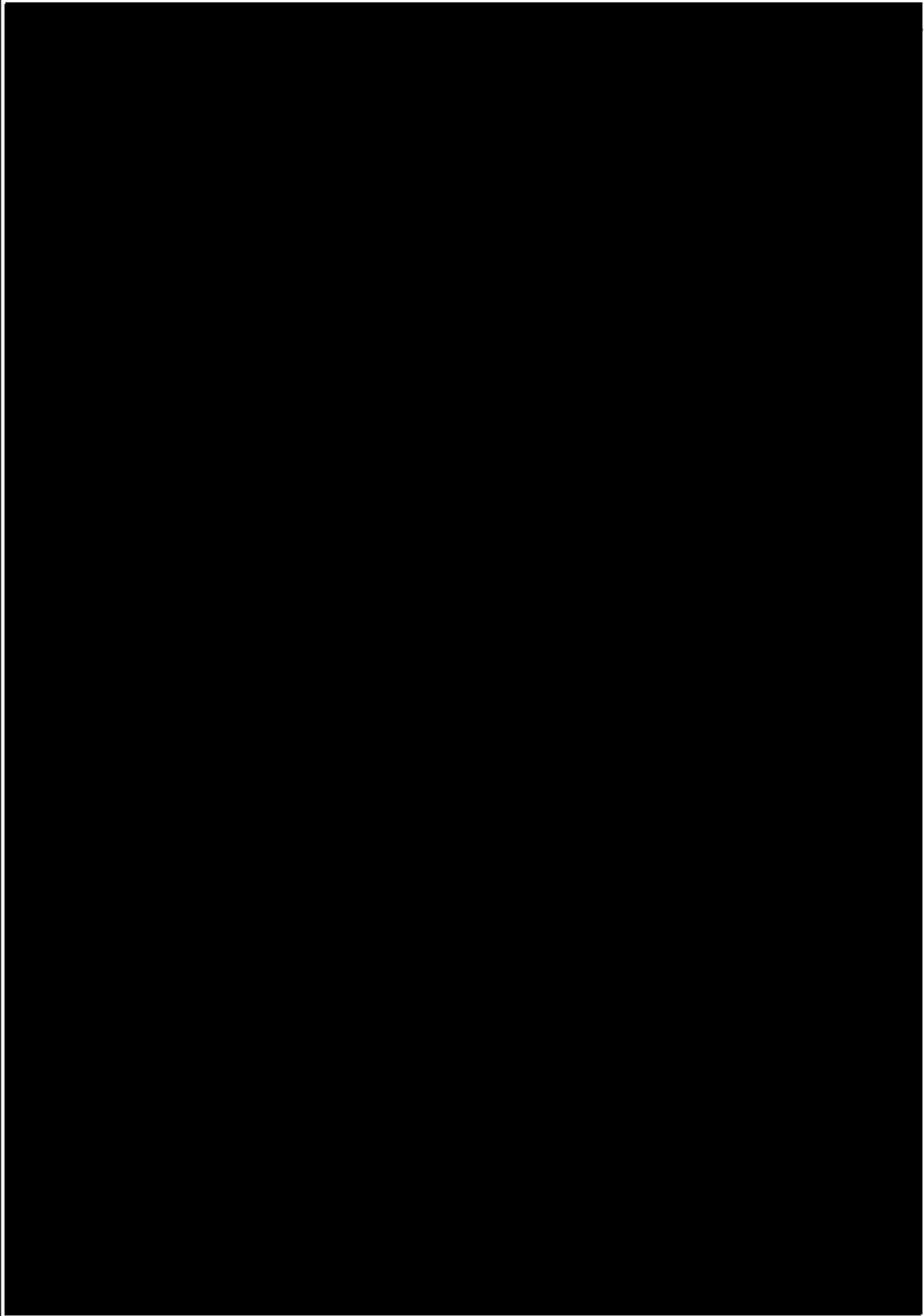
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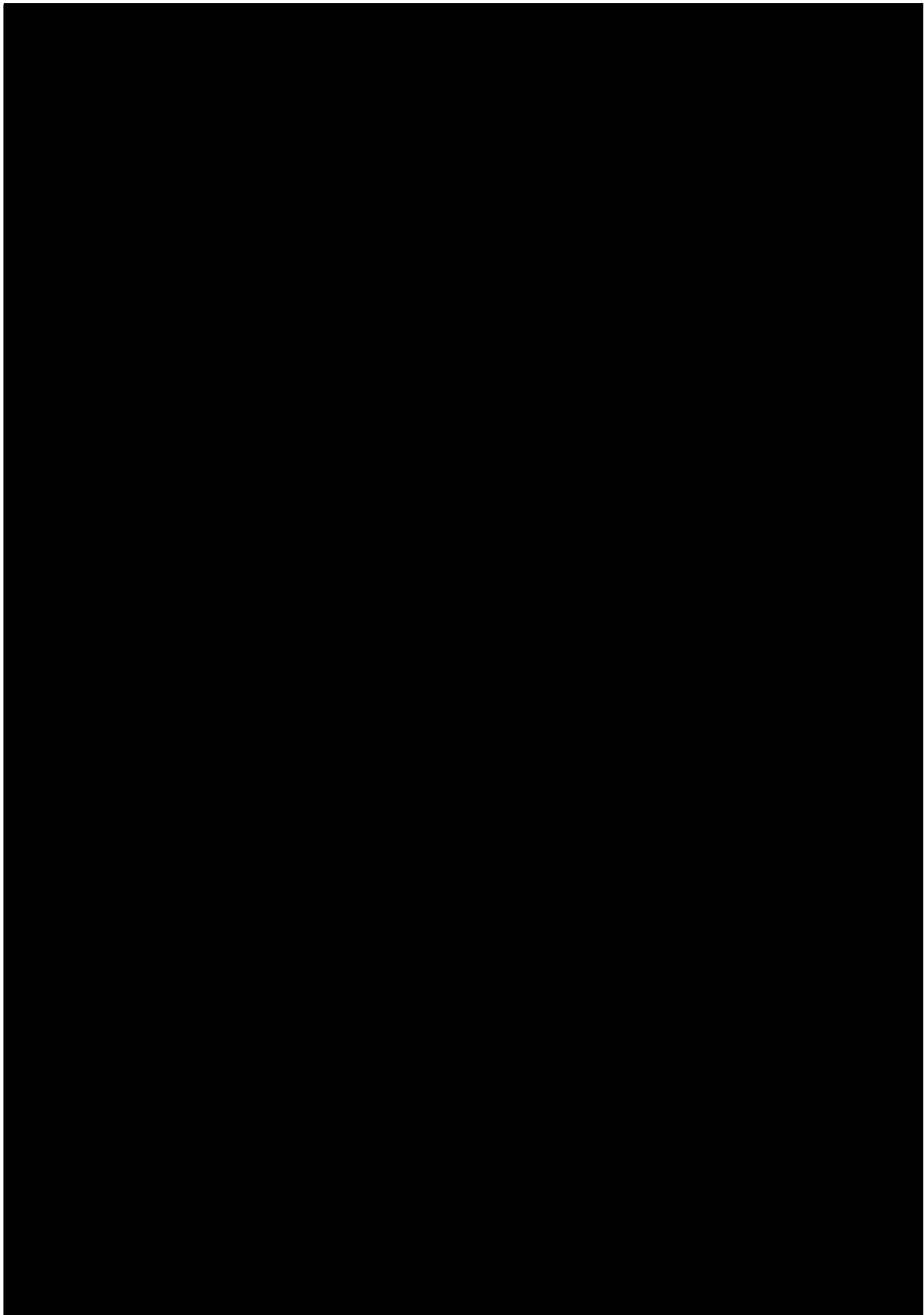
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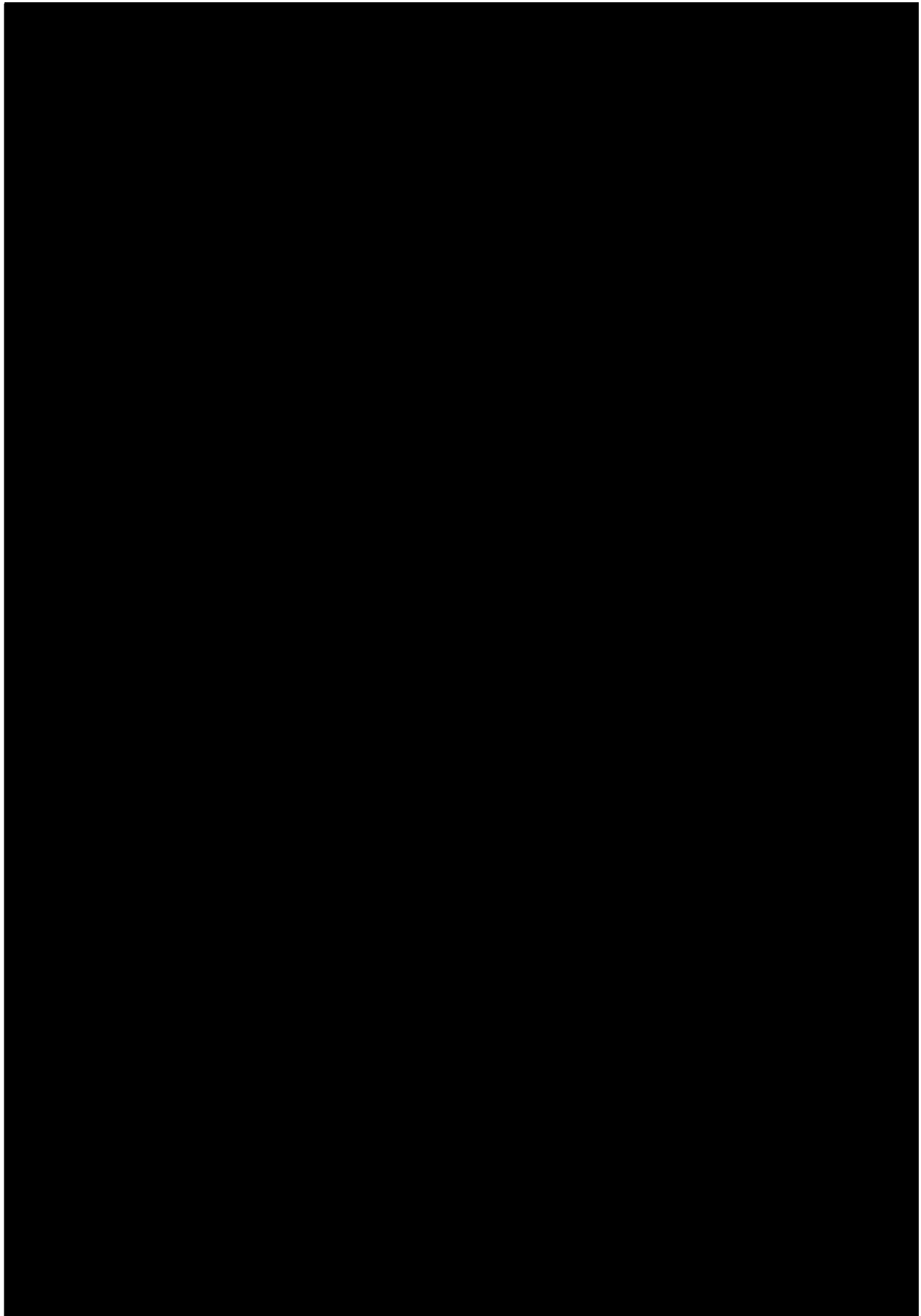
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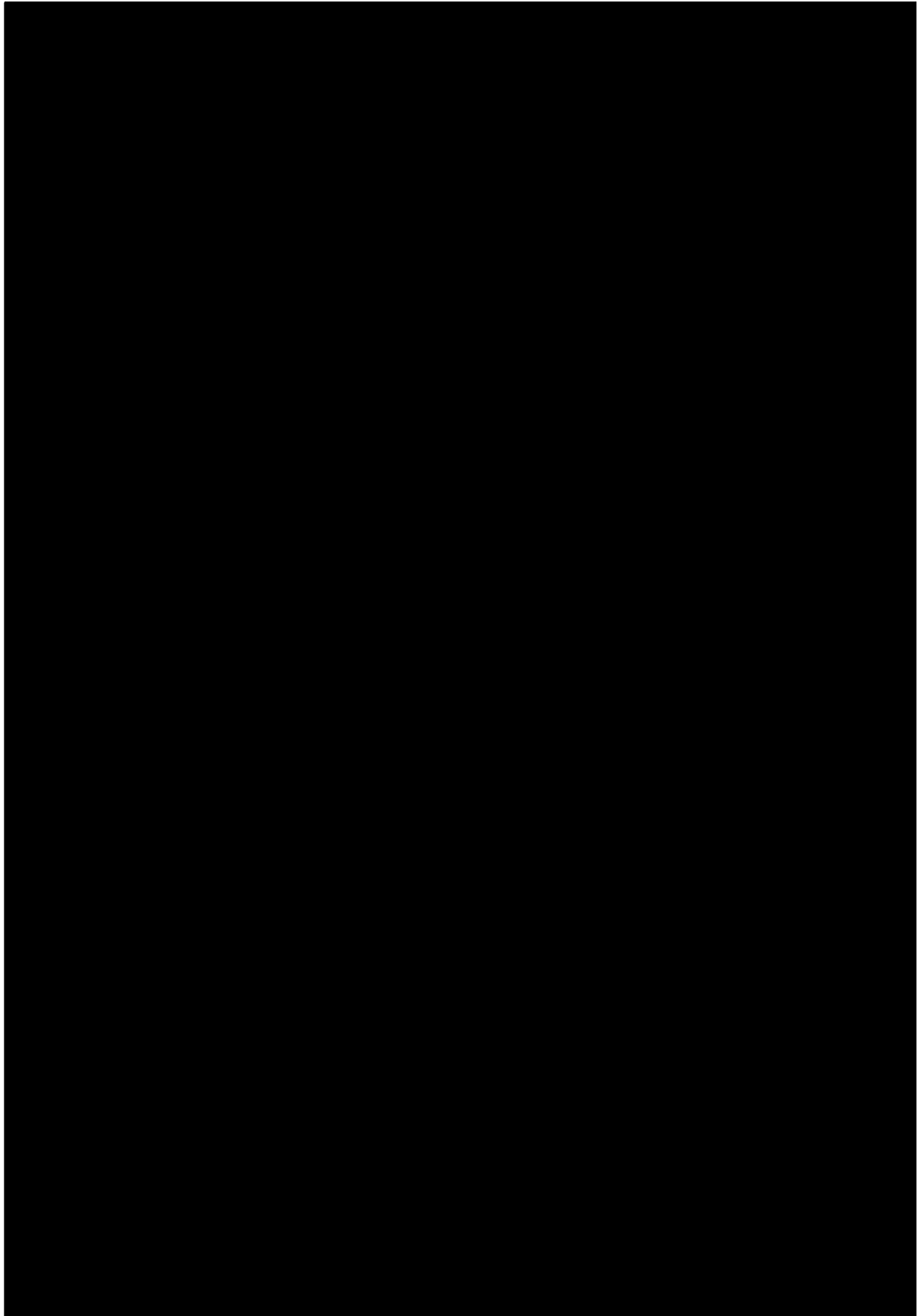
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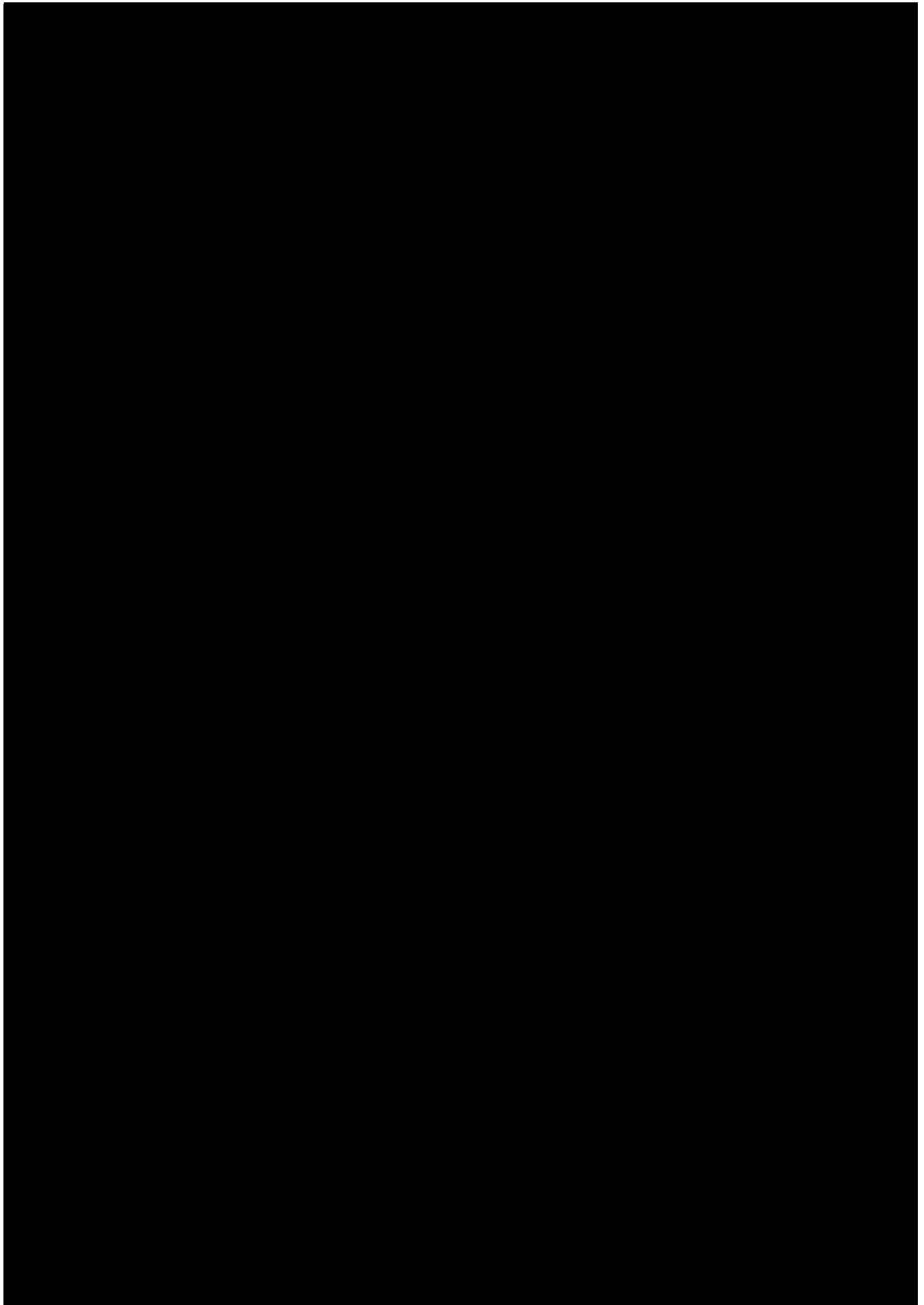
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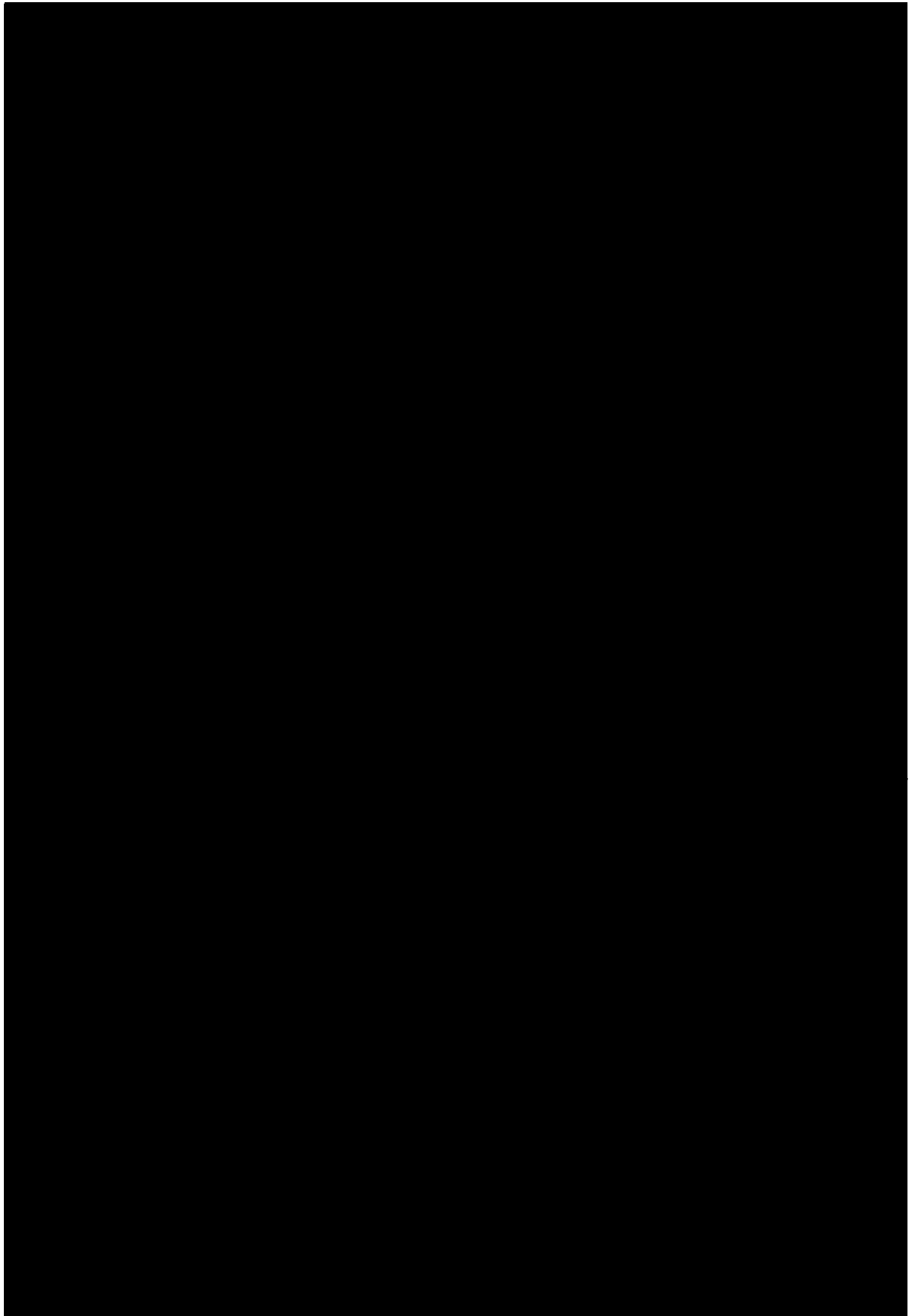
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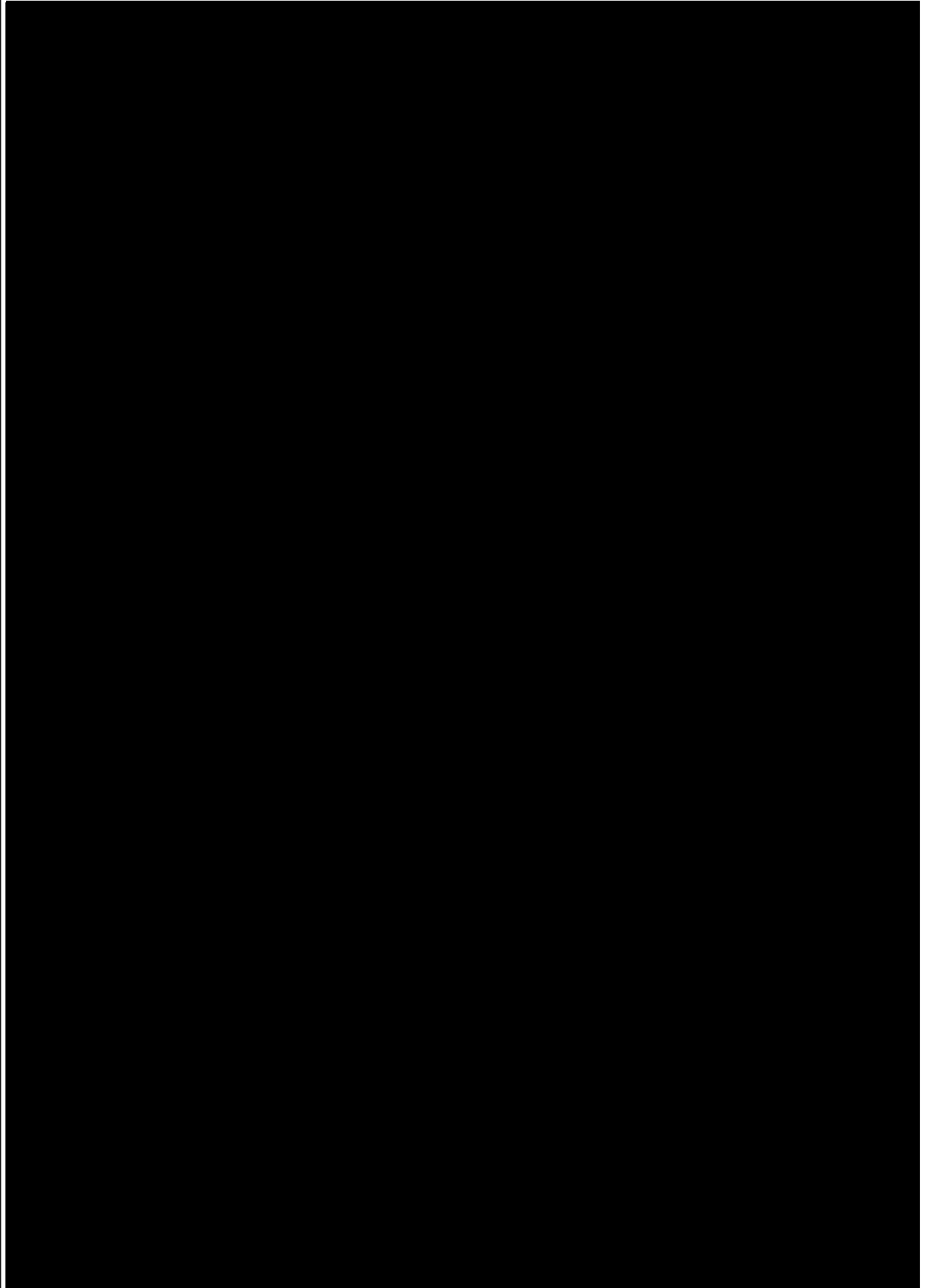


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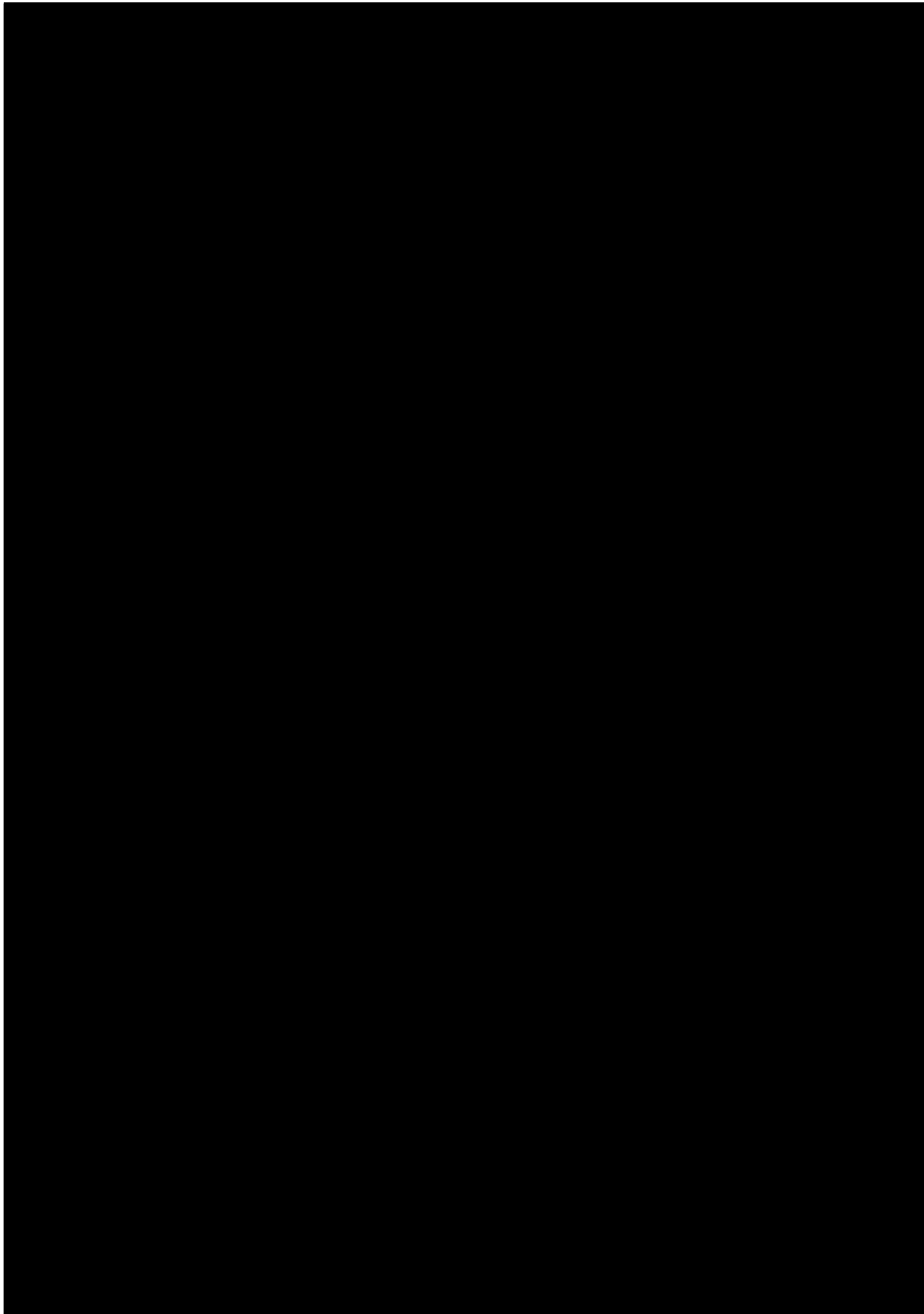




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1 MR. RAPOPORT: Your Honor, at this time, we -- I  
2 think it's already been moved into evidence before trial, and  
3 either now or after the break, it runs 11 minutes -- oh, we're  
4 done with our break. If this is a good time, I'm moving to  
5 show the montage.

6 THE COURT: Okay. Have you finished with the  
7 witness?

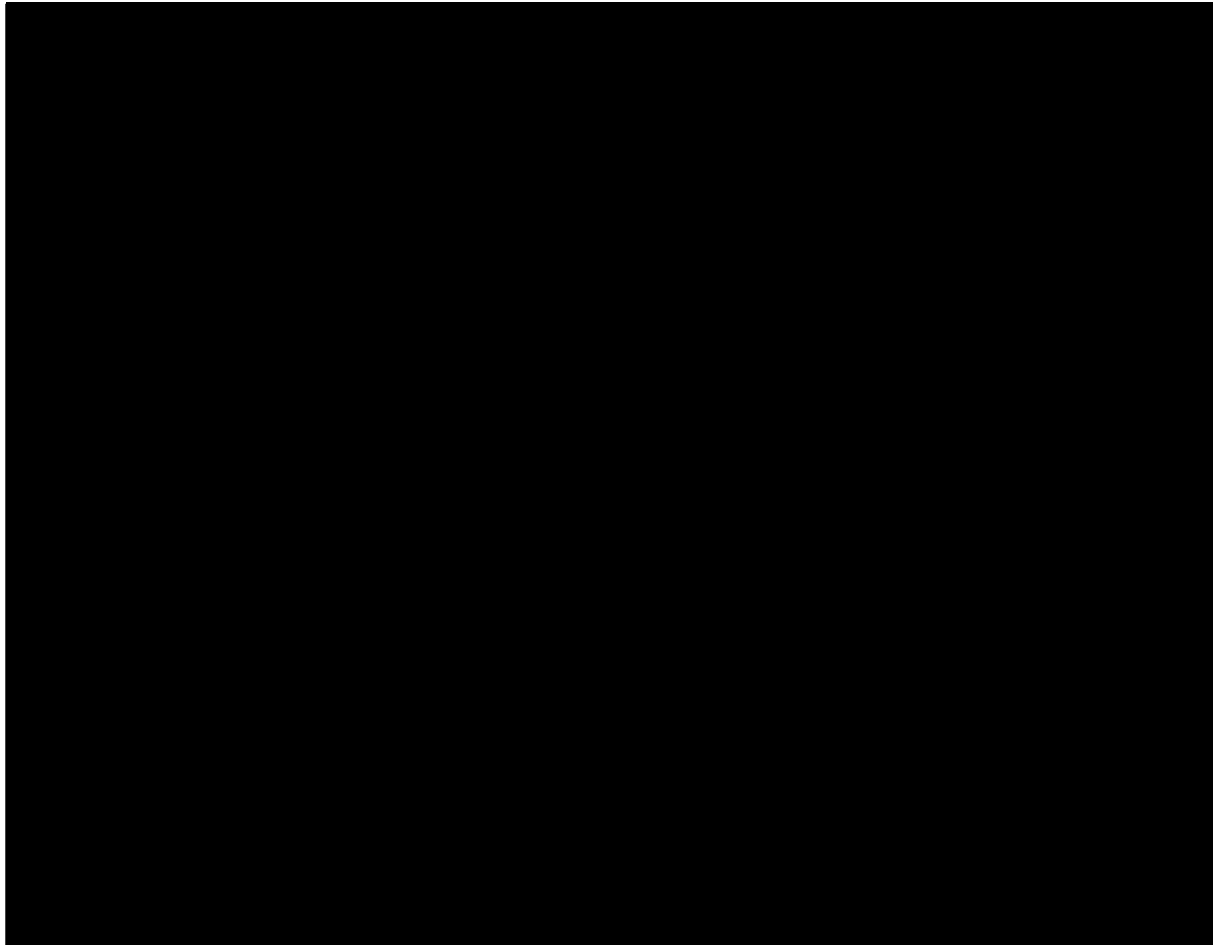
8 MR. WISNER: There will be a couple of questions  
9 after the montage, or I could do it the other way --

10 THE COURT: Why don't you finish with the witness.

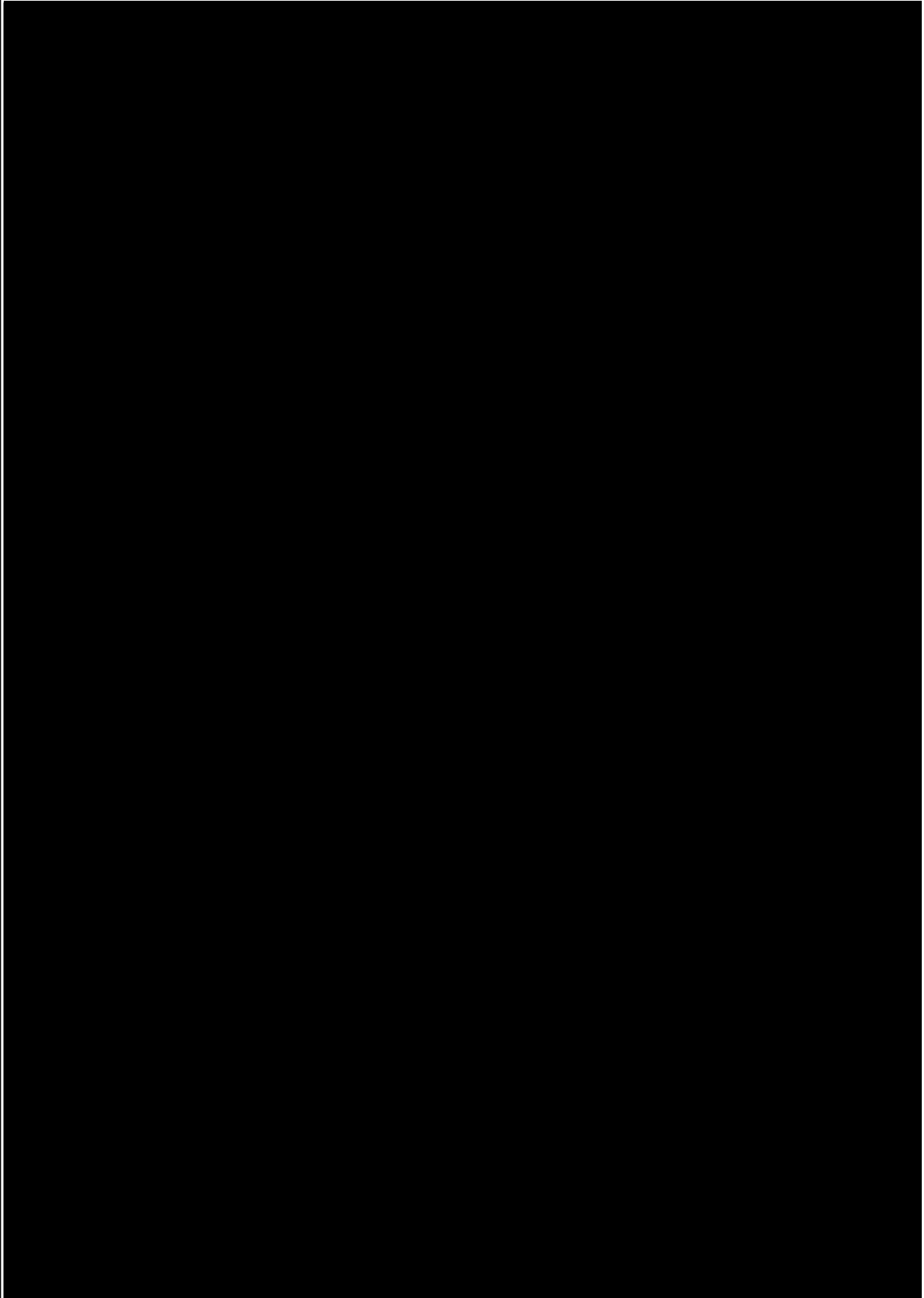
11 MR. RAPOPORT: Great. I'm happy to do that.

12 BY MR. RAPOPORT:

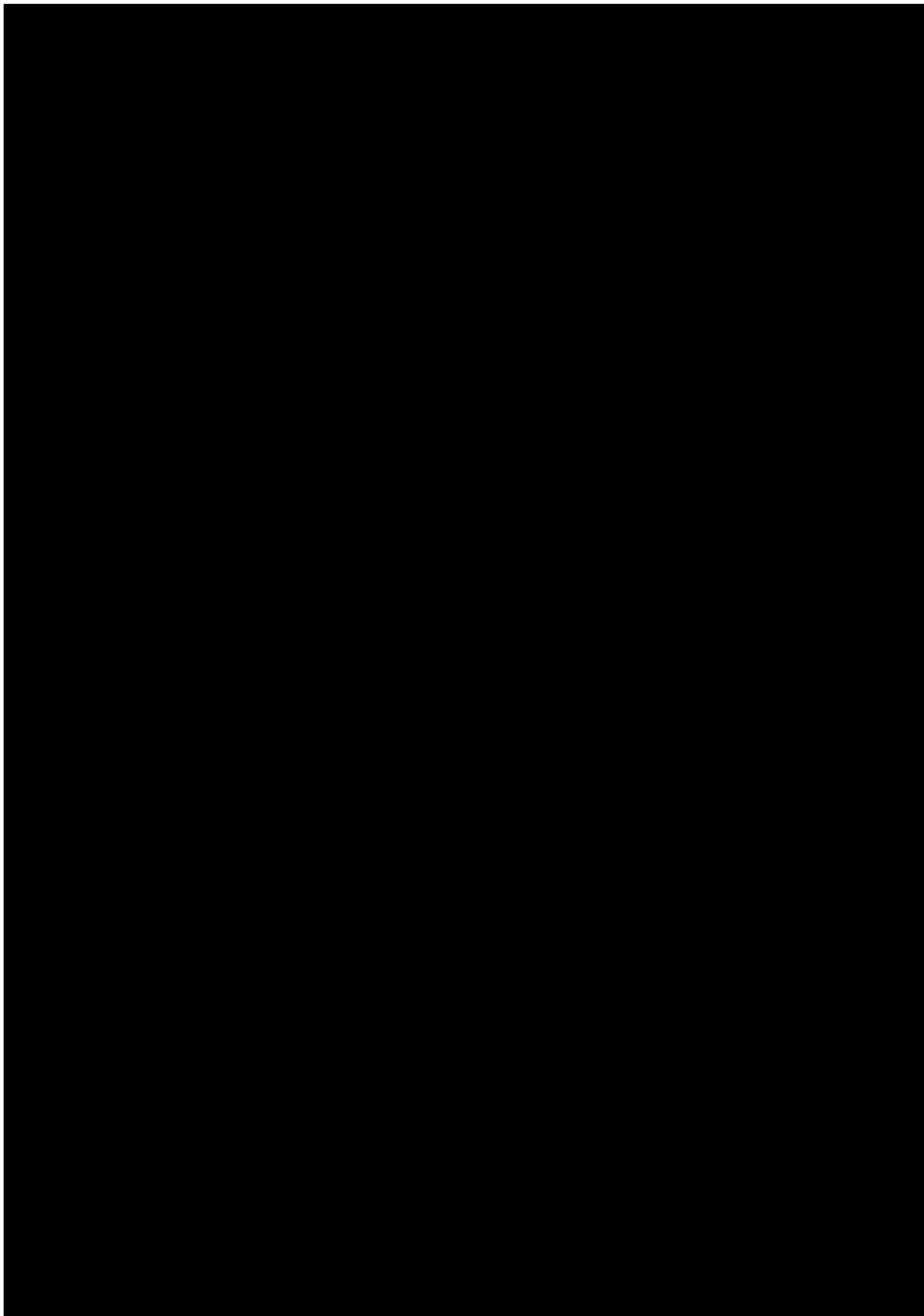
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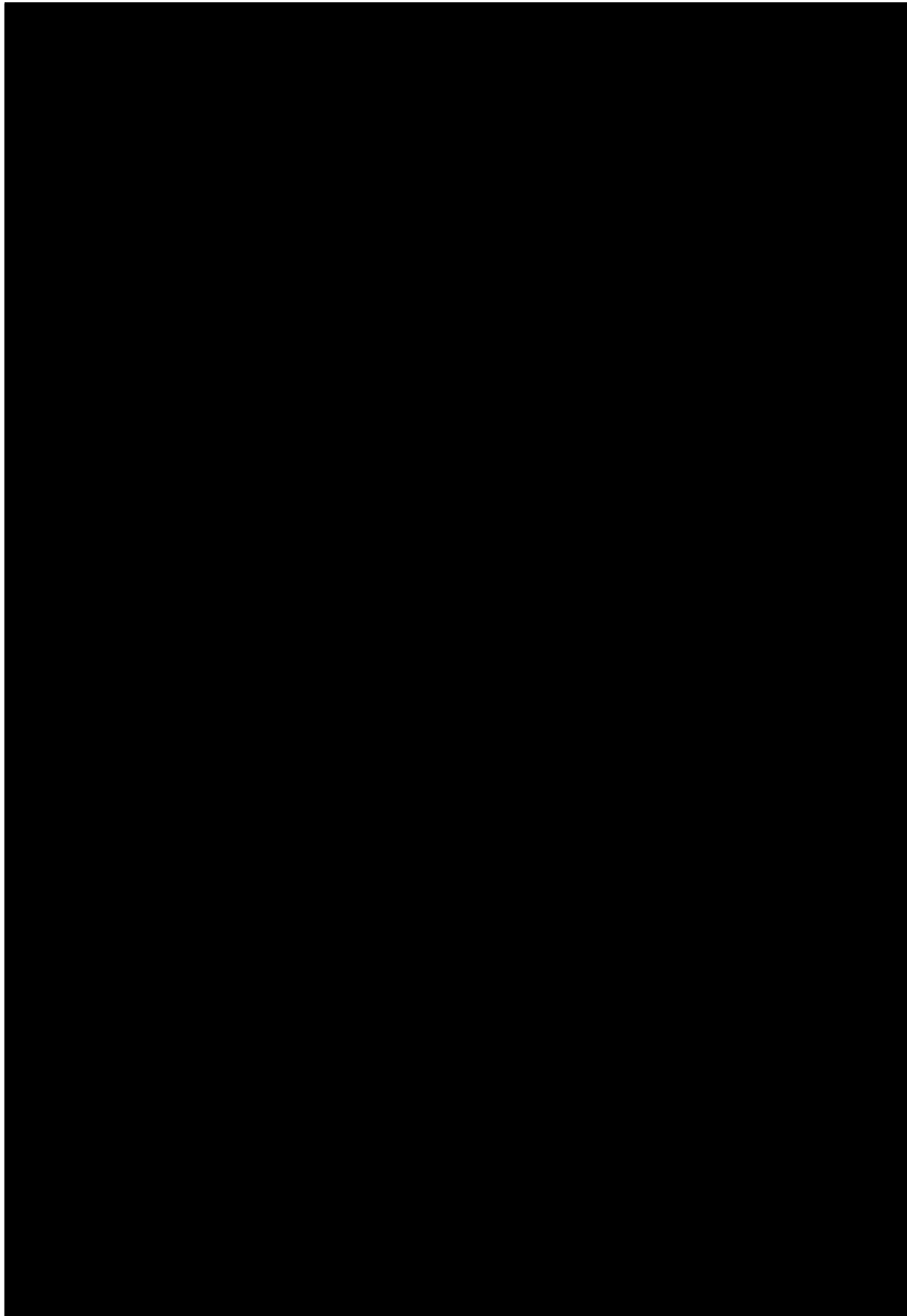
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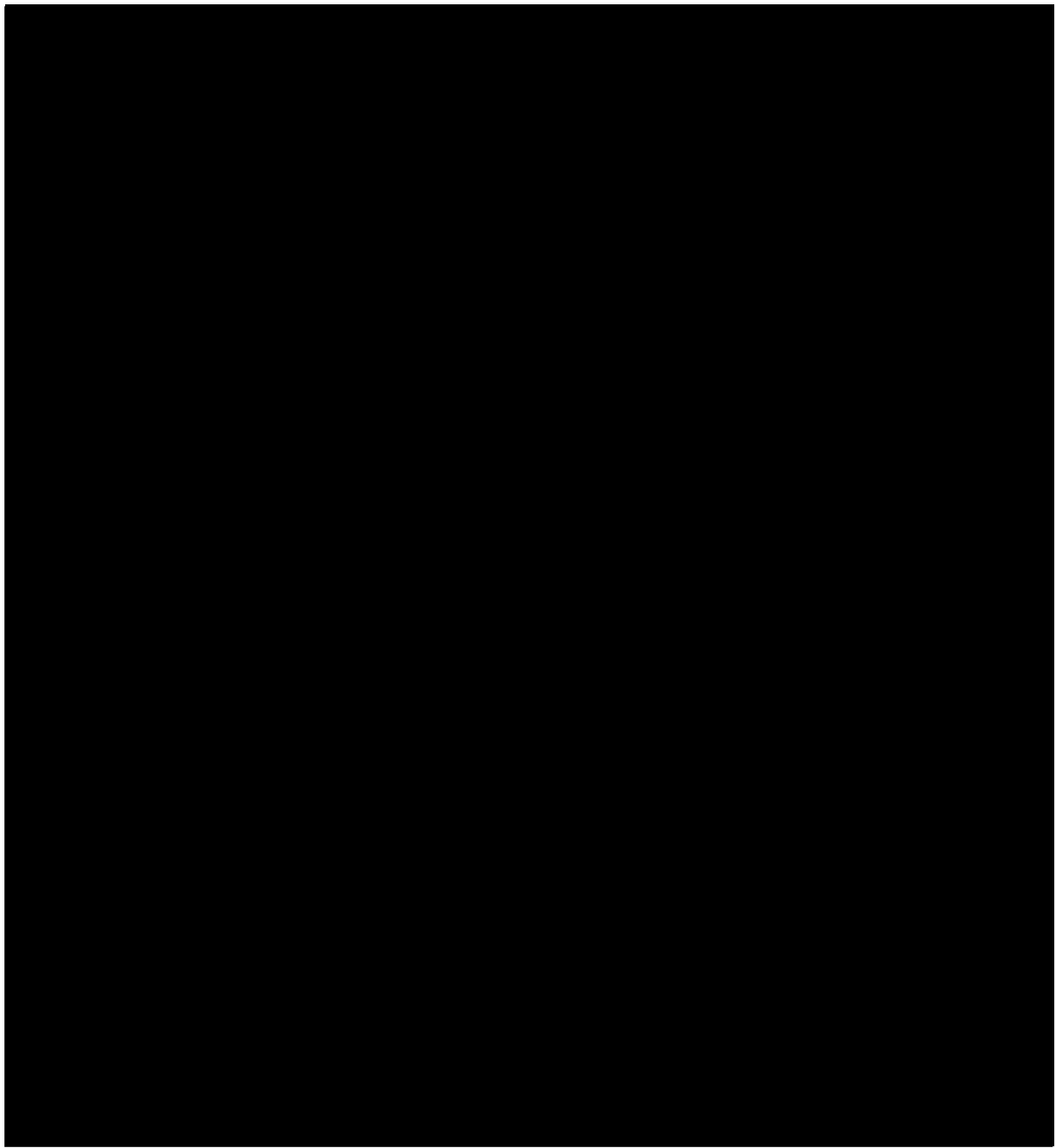
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ongoing source of sadness.

MR. RAPOPORT: Thank you. At this time, your Honor, I'd move to -- I have no further questions and move to play Exhibit 2.

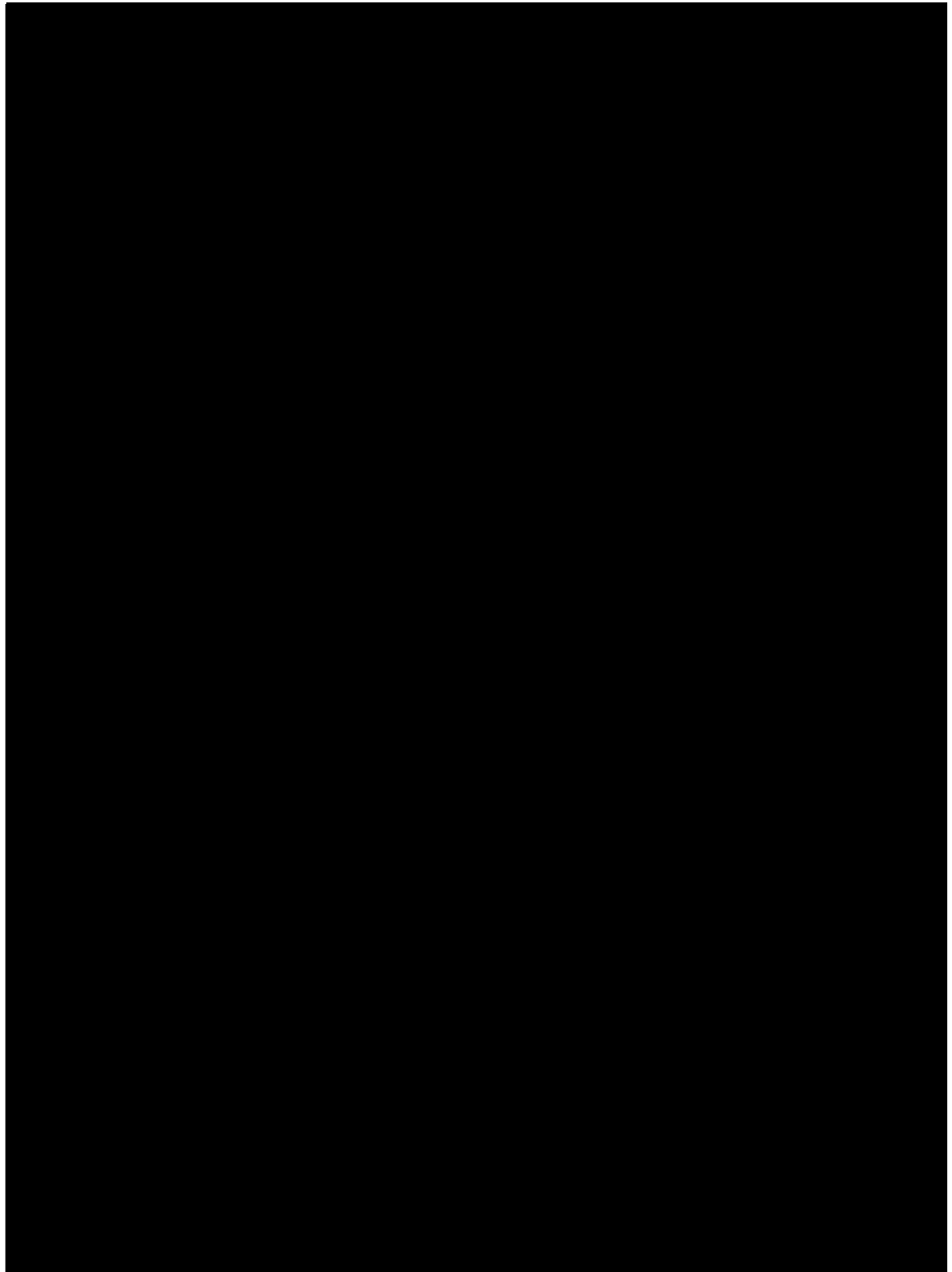
THE COURT: Cross-examination first, I think.

MS. HENNINGER: That's fine.

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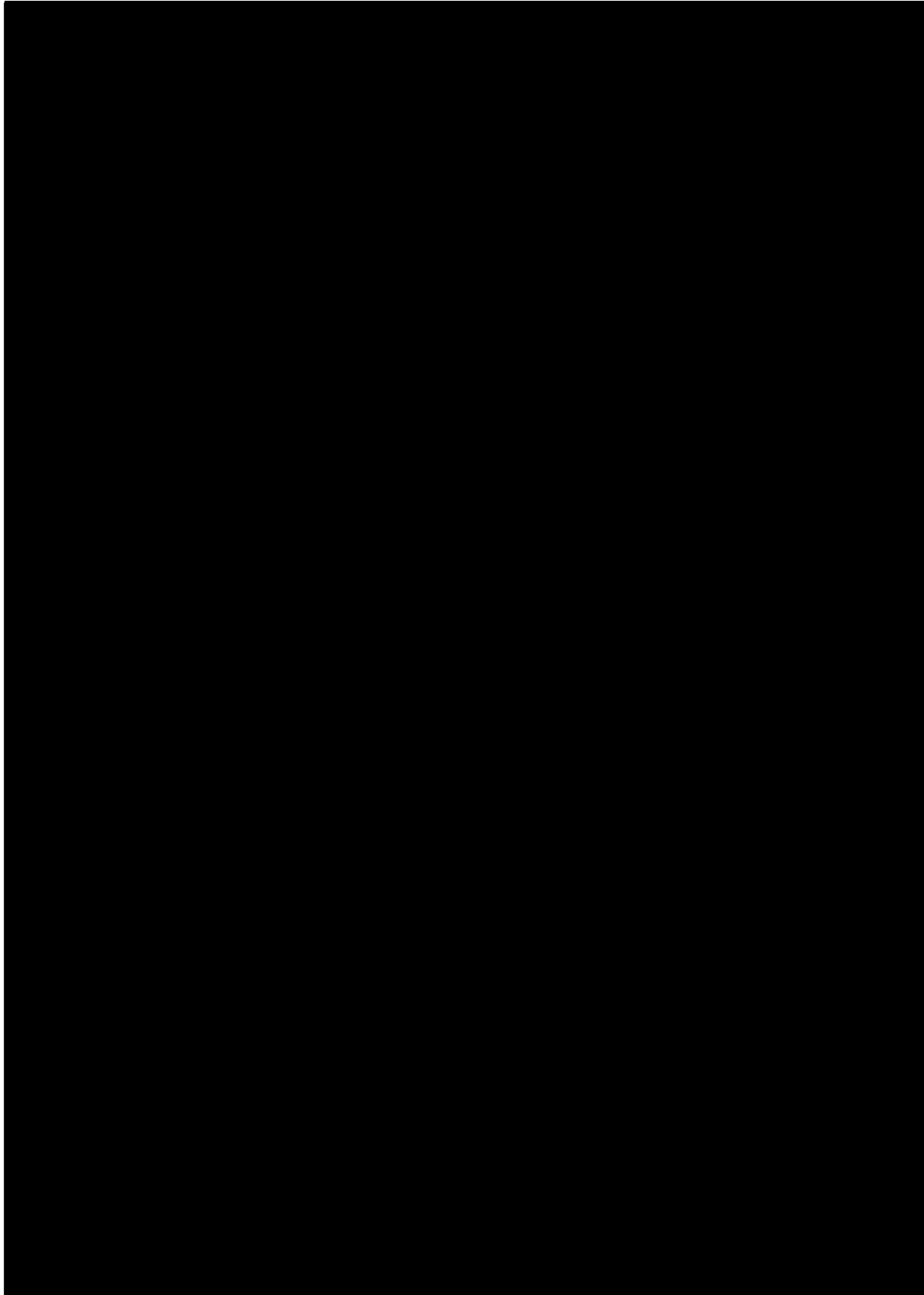
CROSS-EXAMINATION

BY MS. HENNINGER:

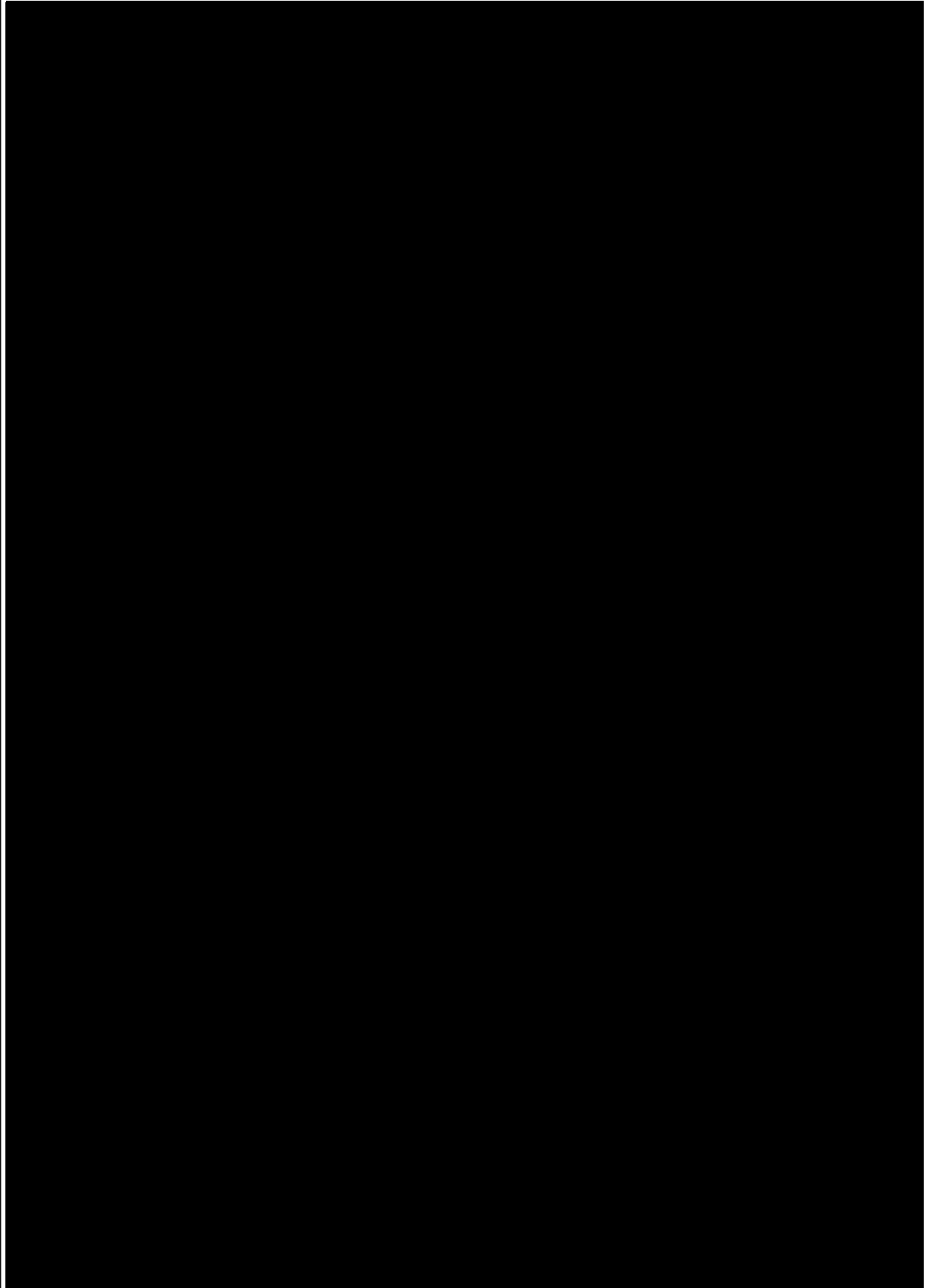




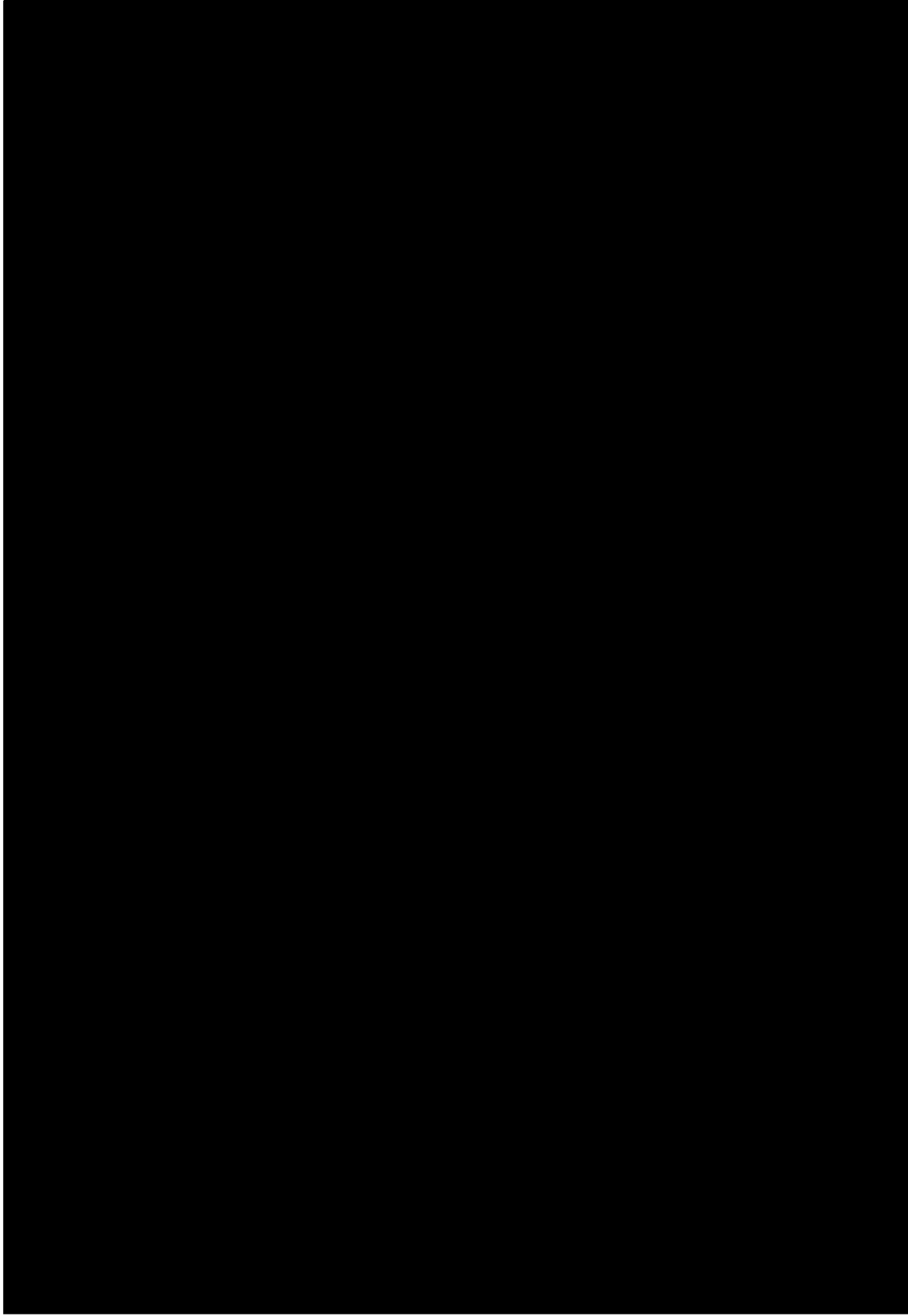
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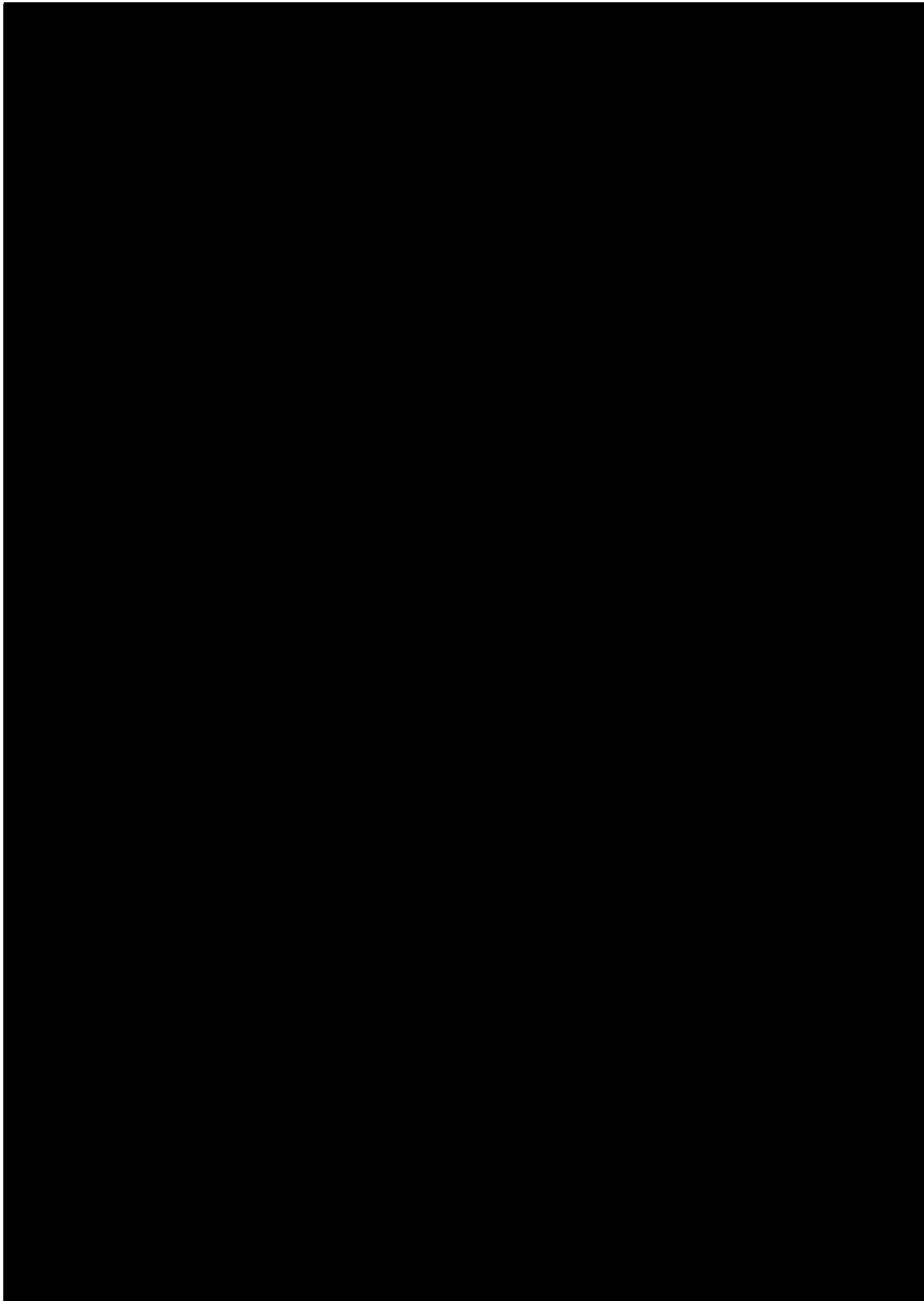
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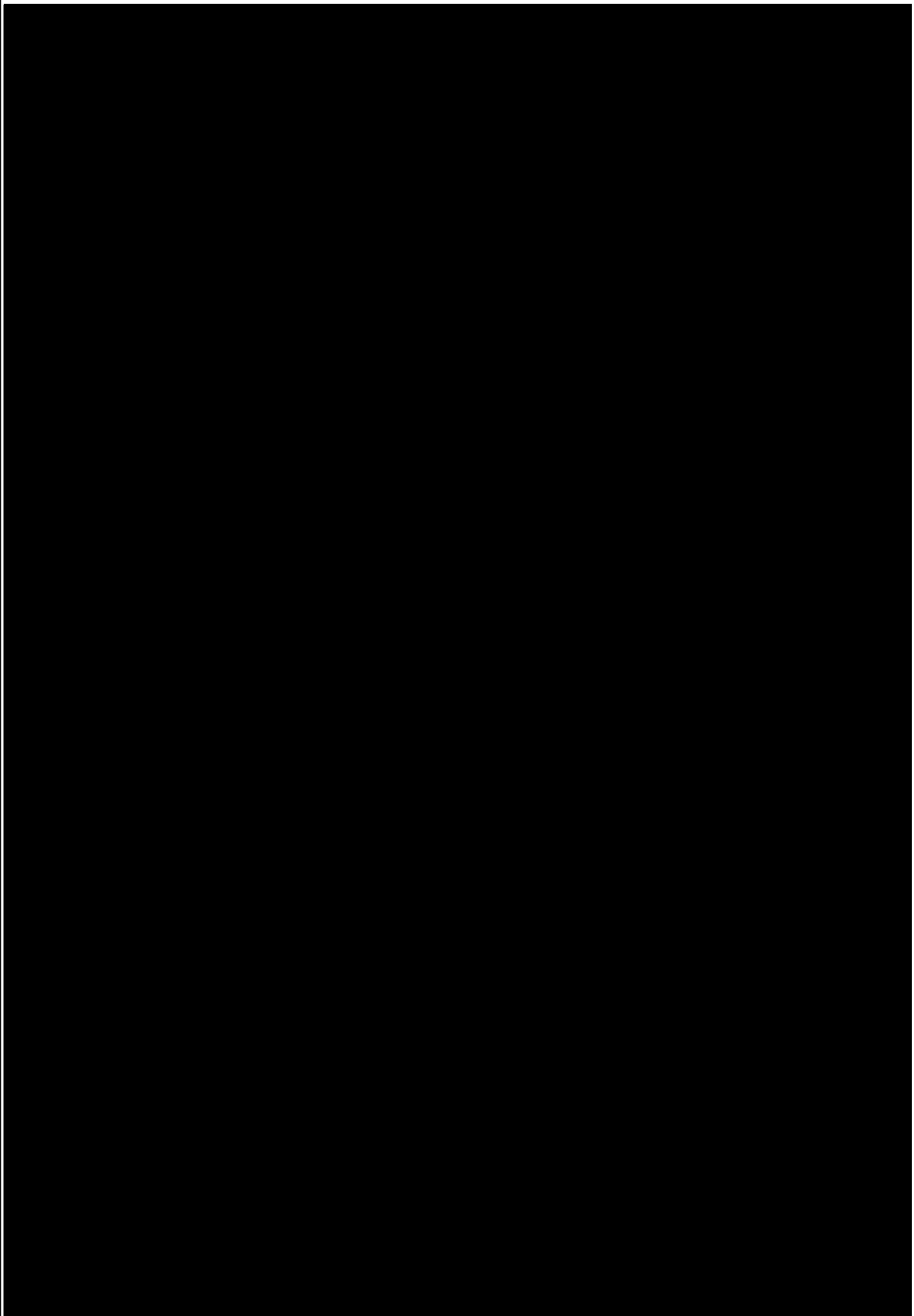
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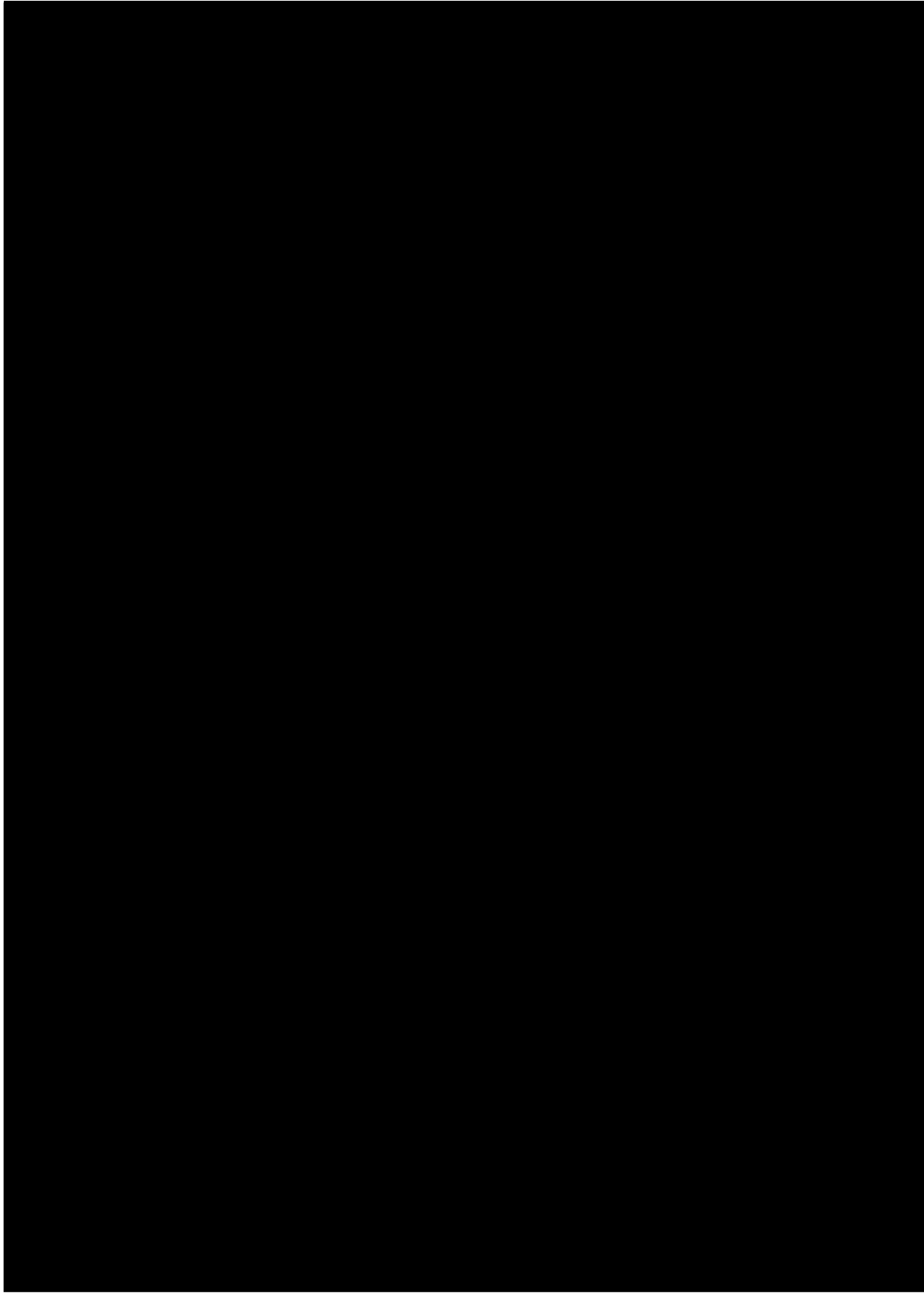
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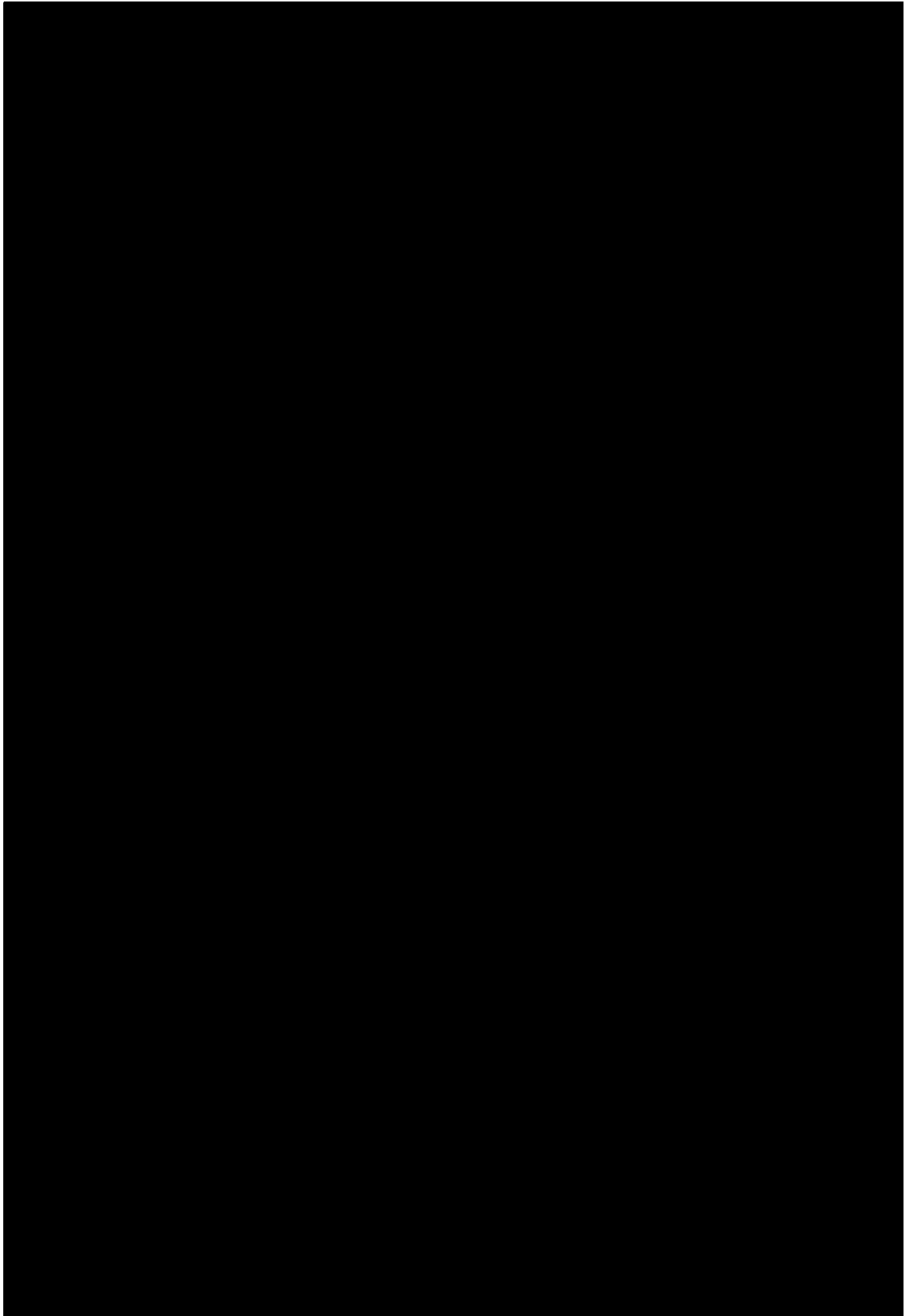
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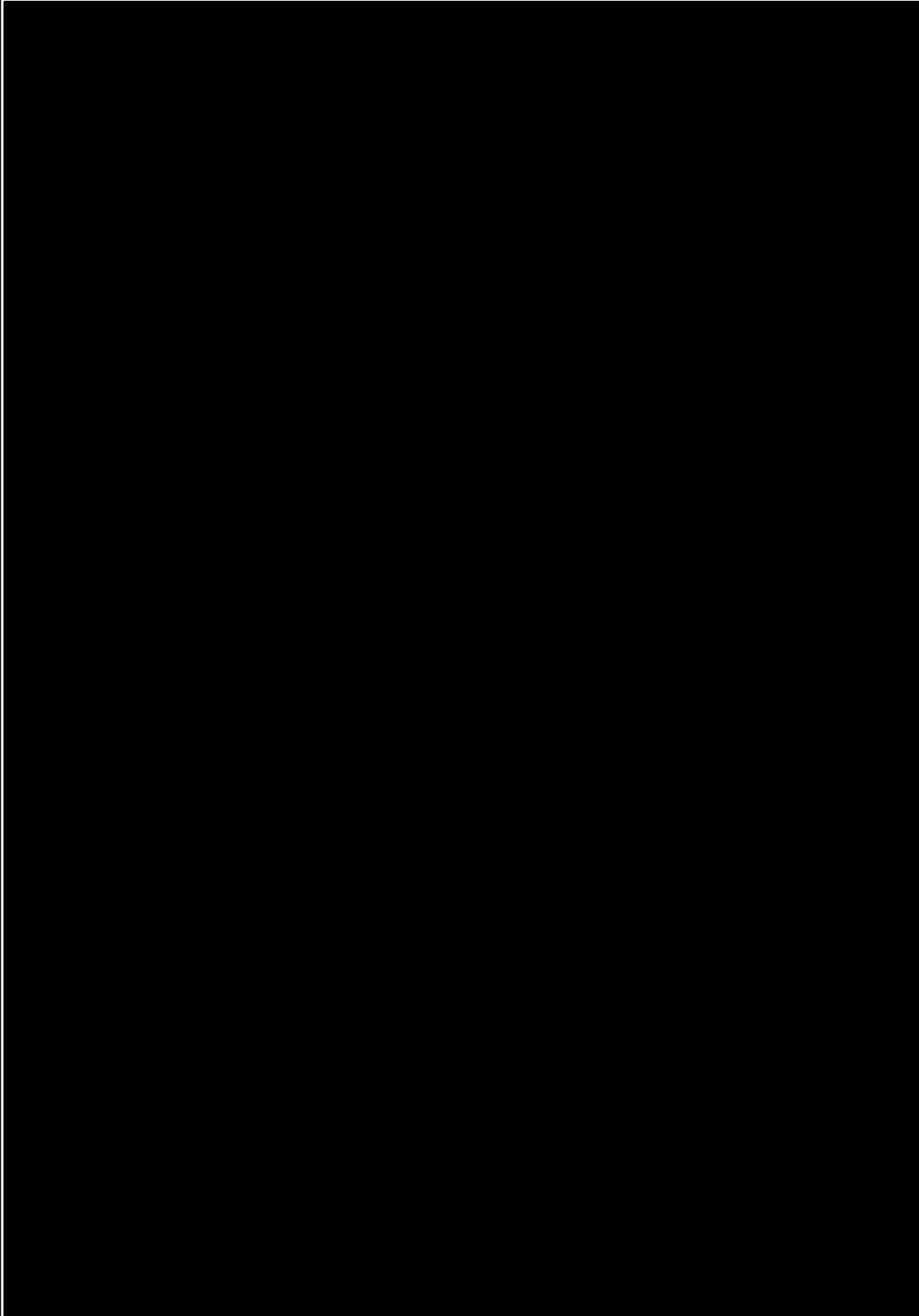
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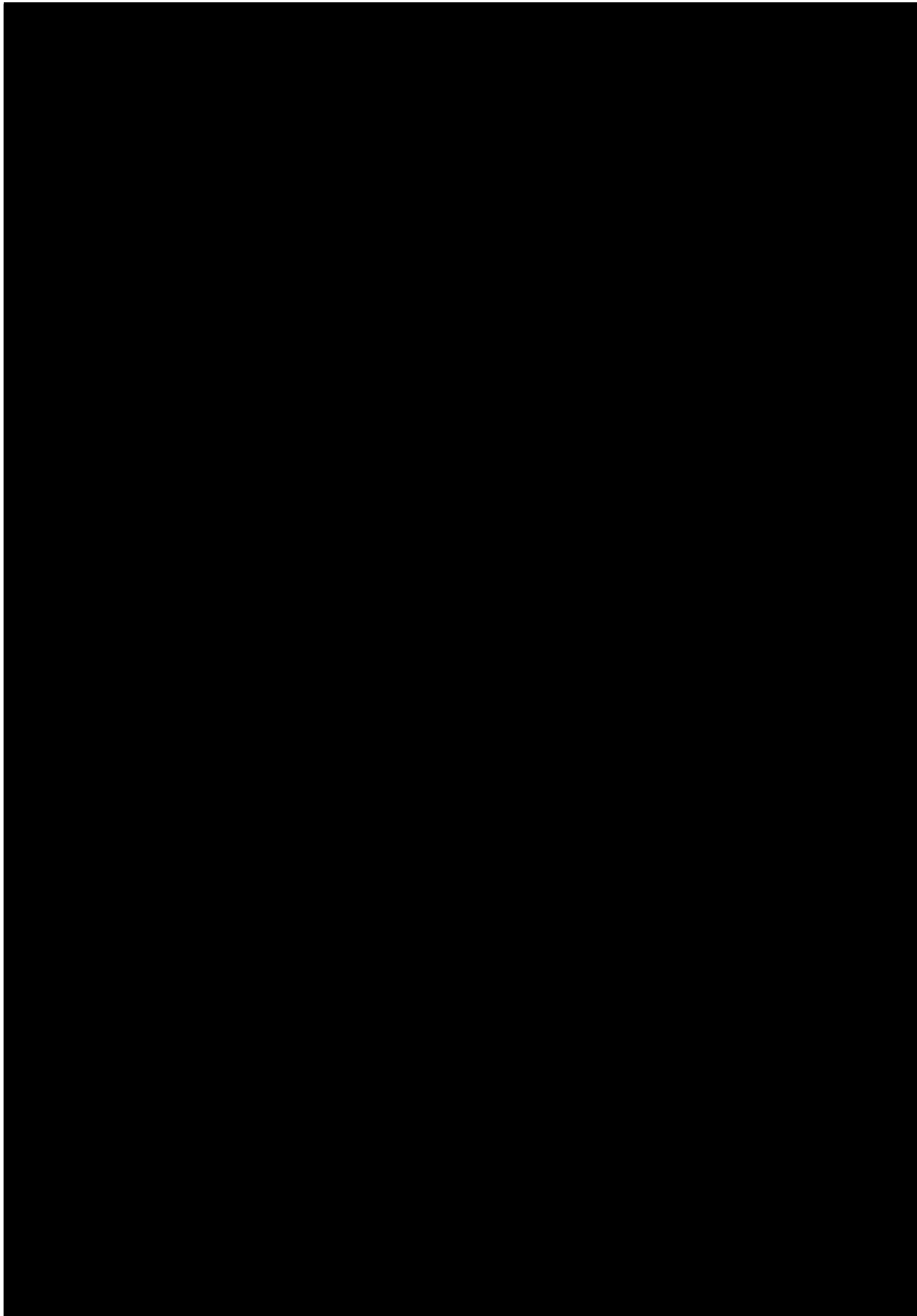


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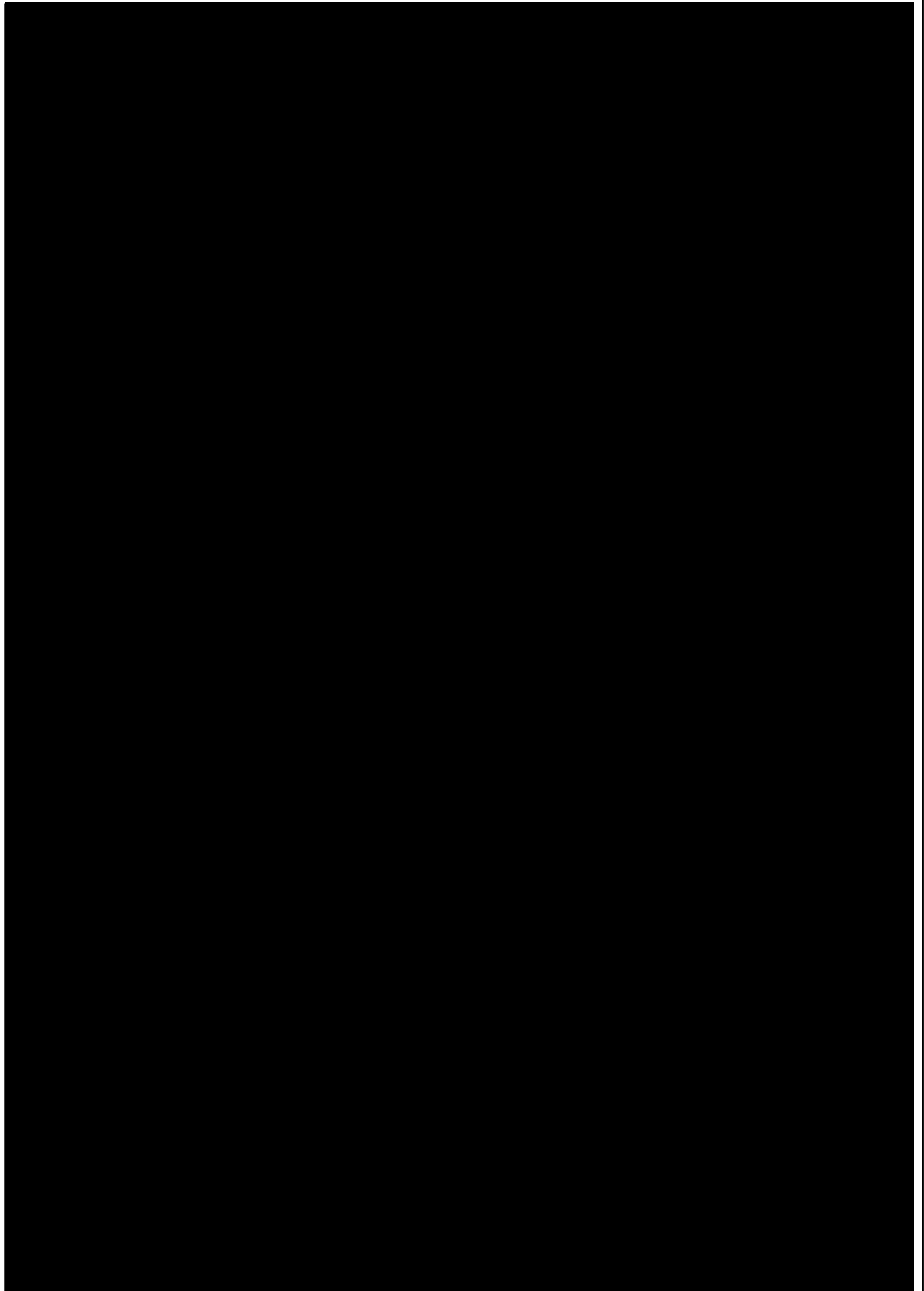




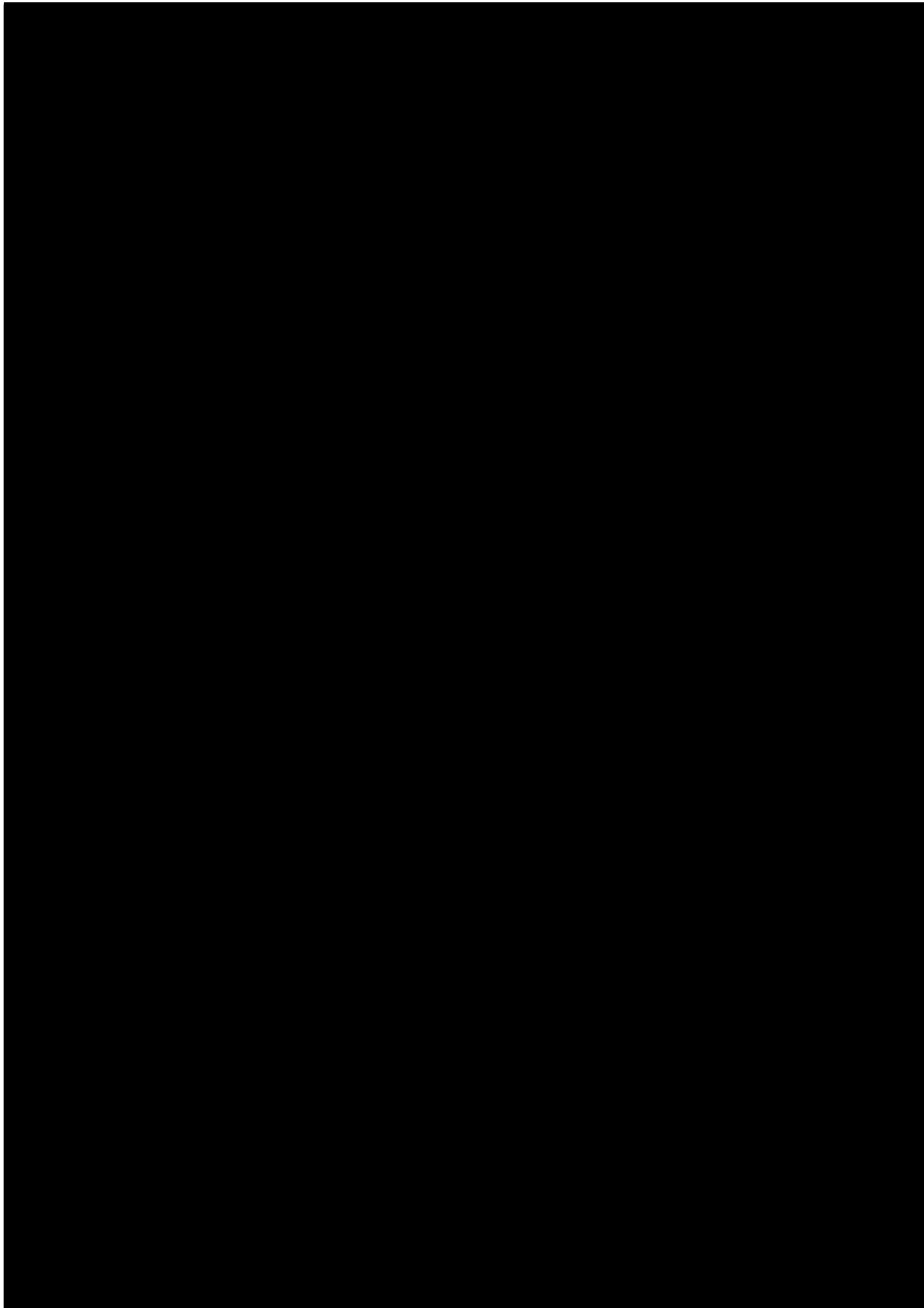
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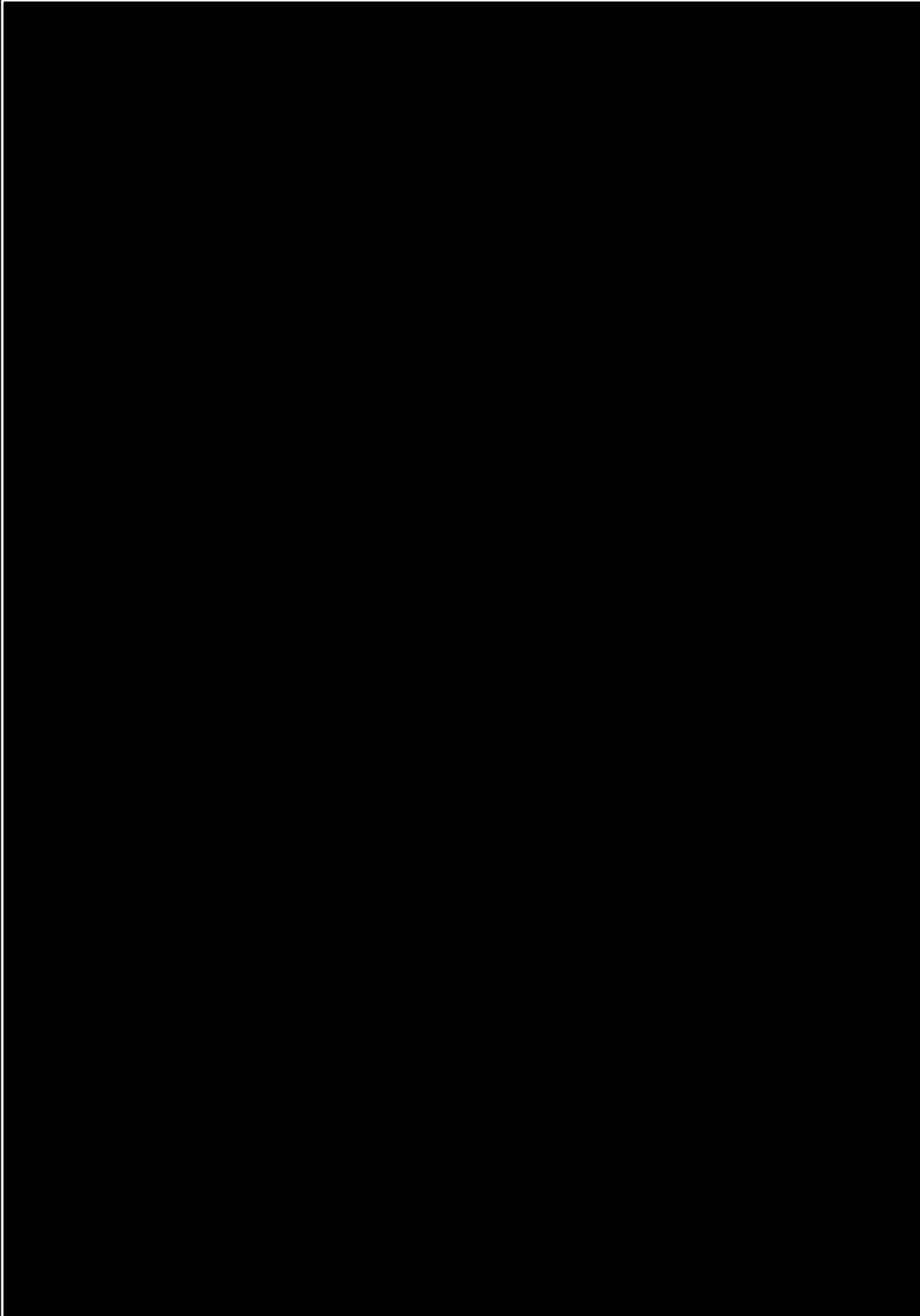
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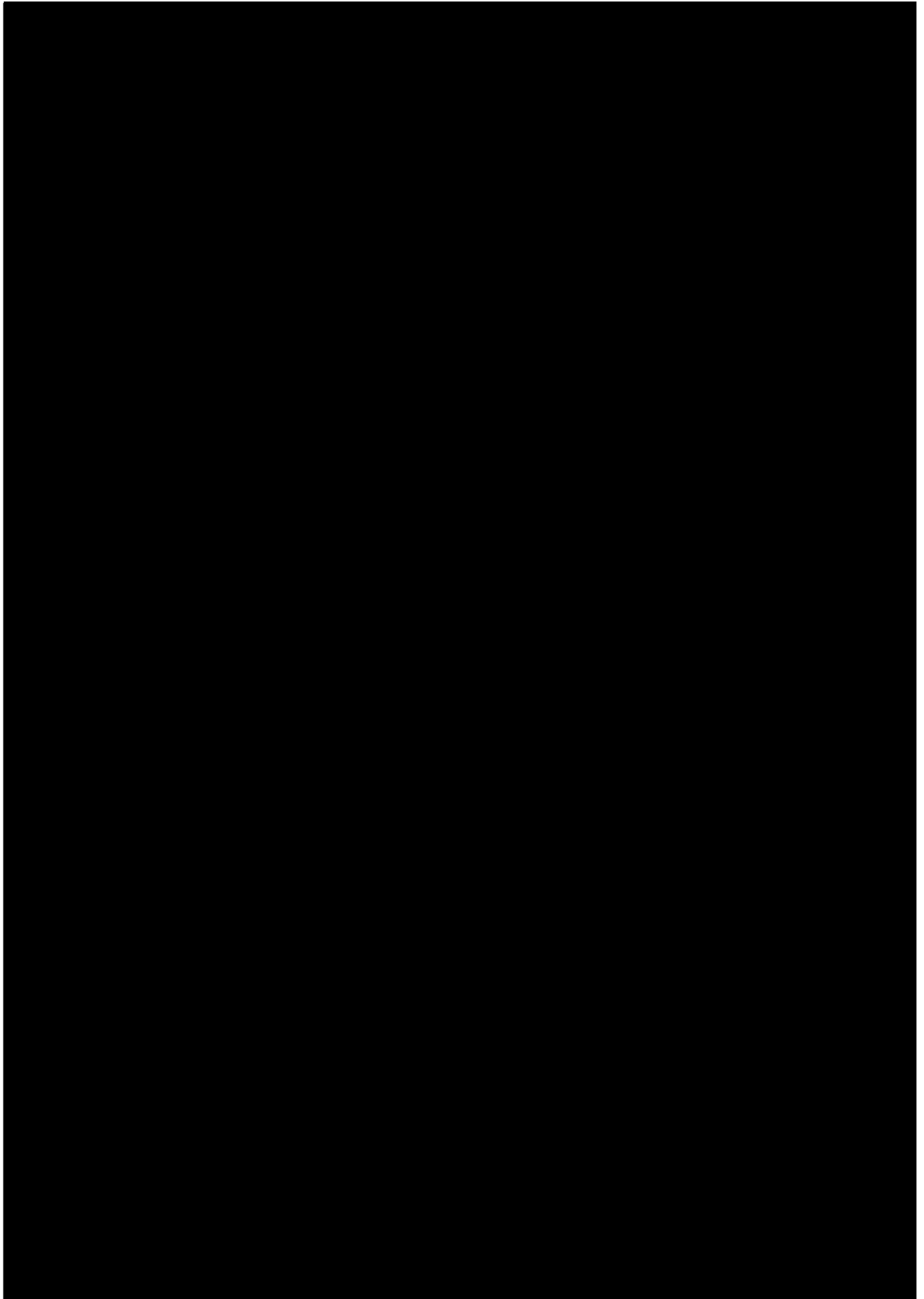
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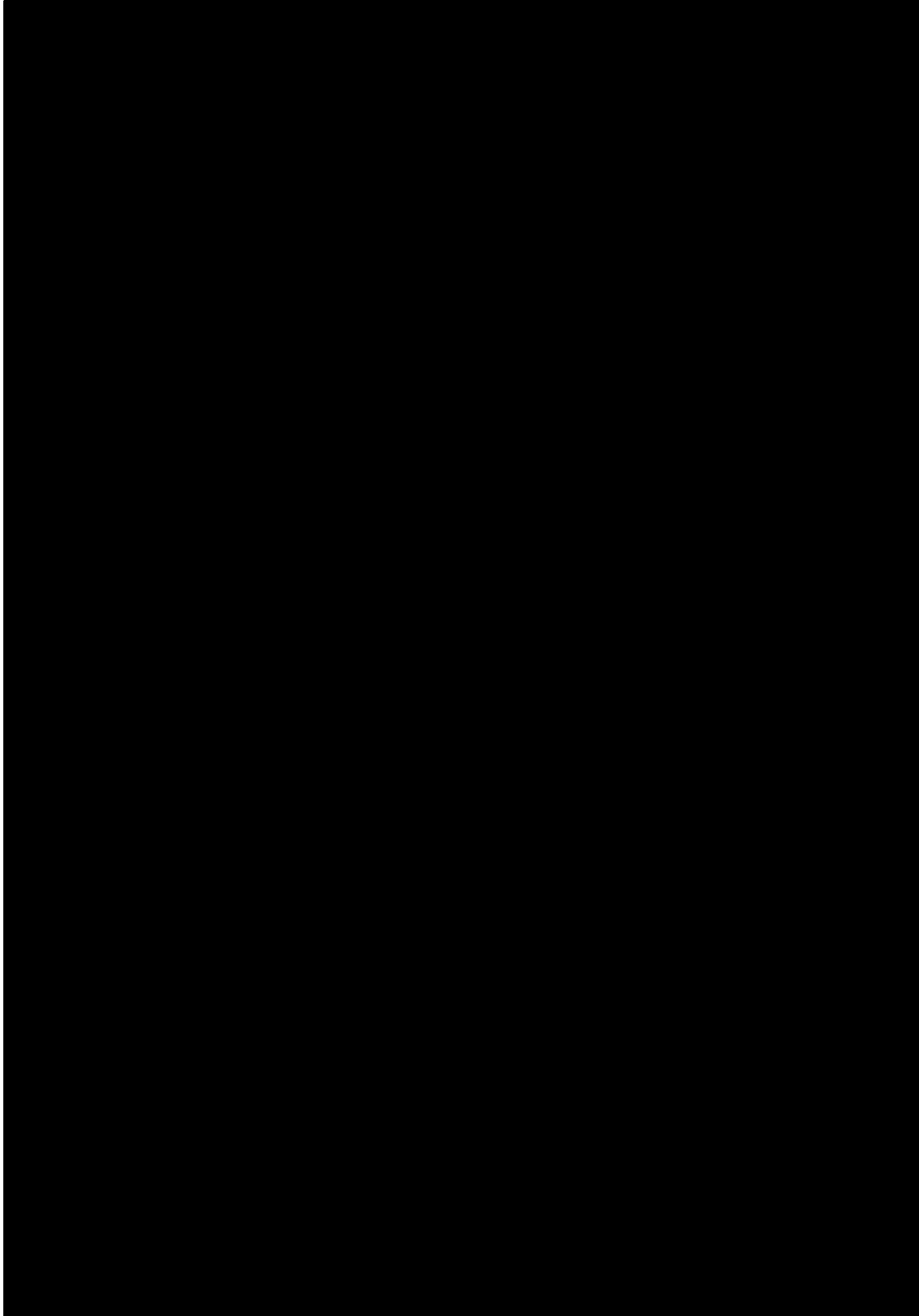
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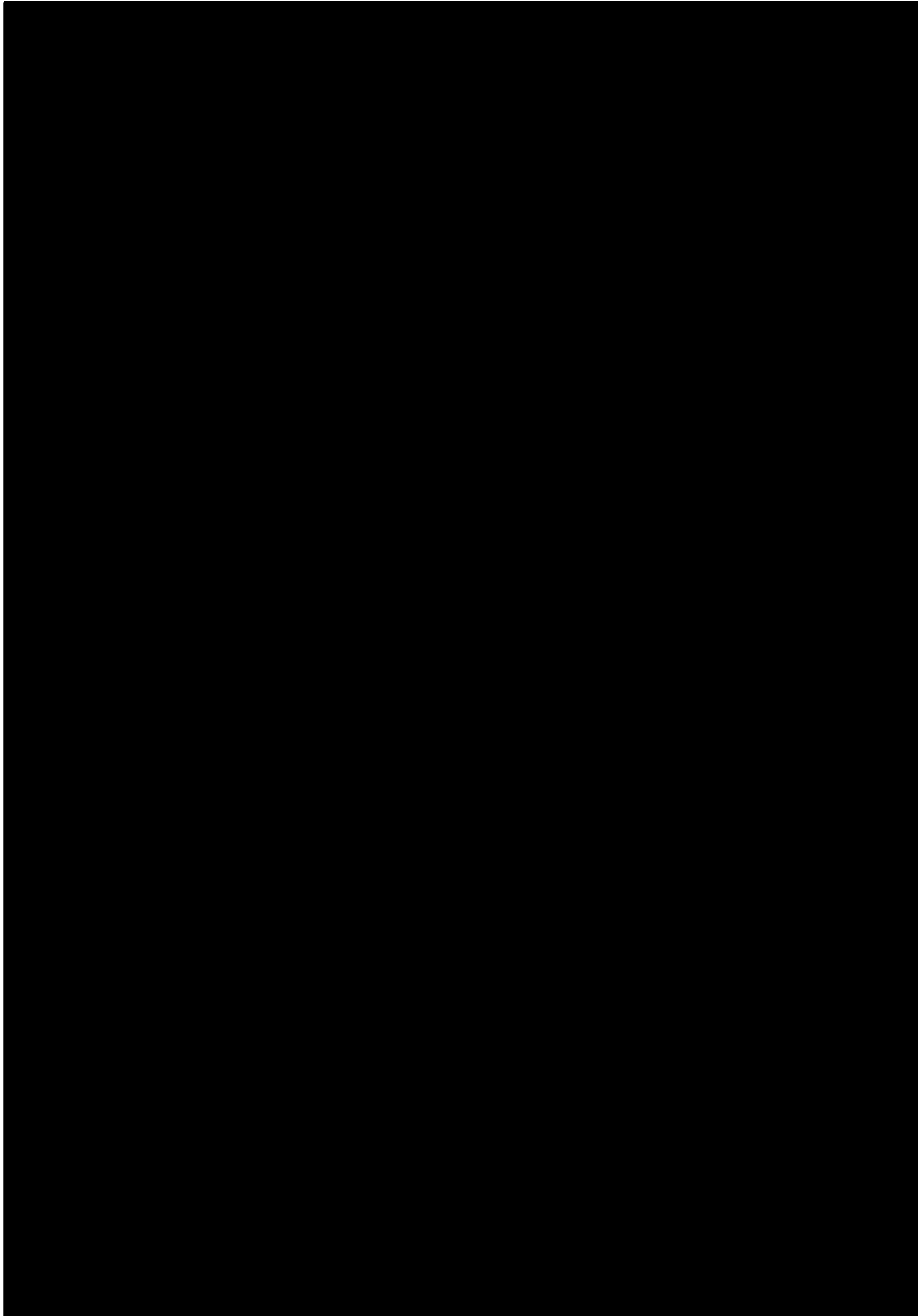
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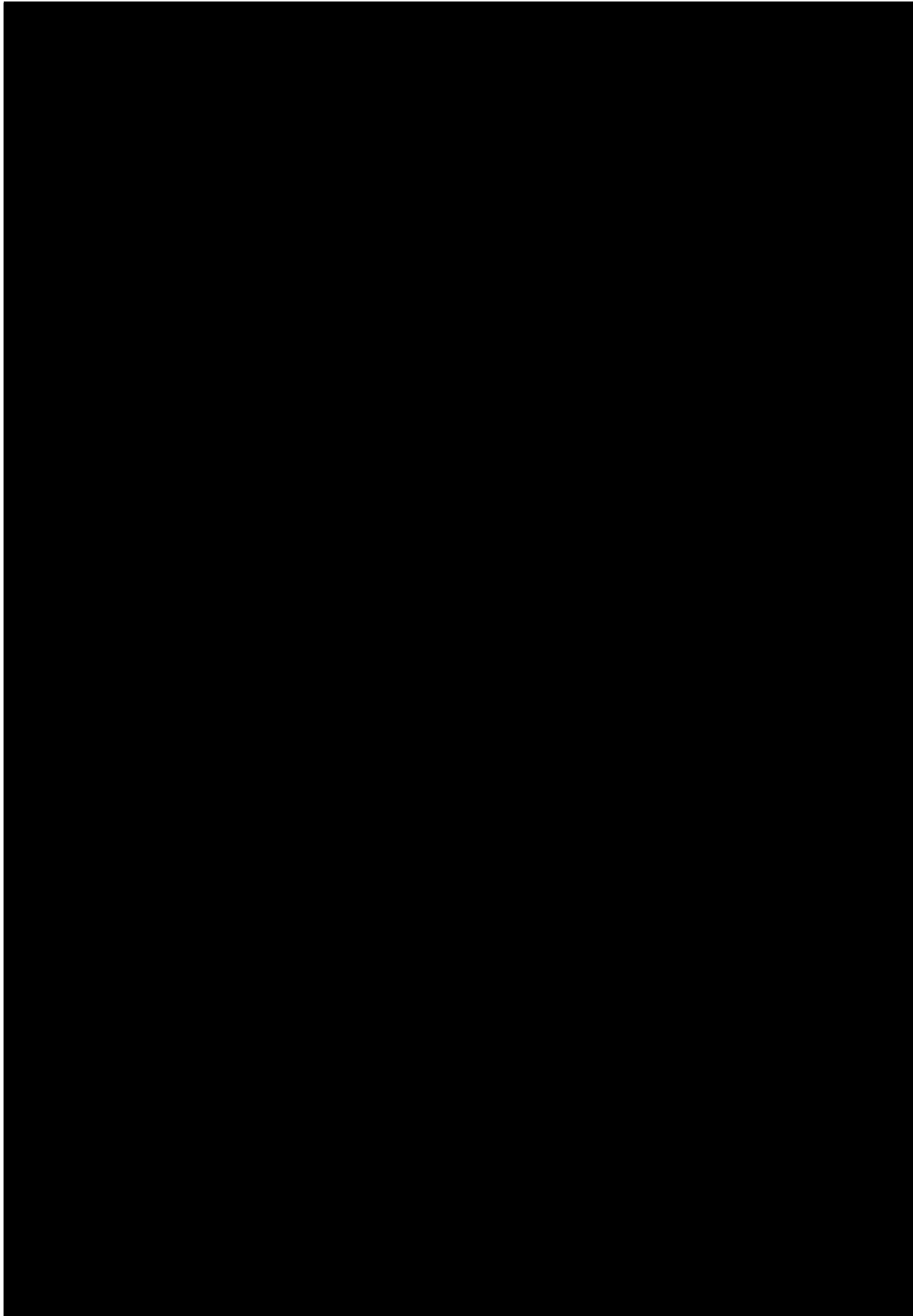
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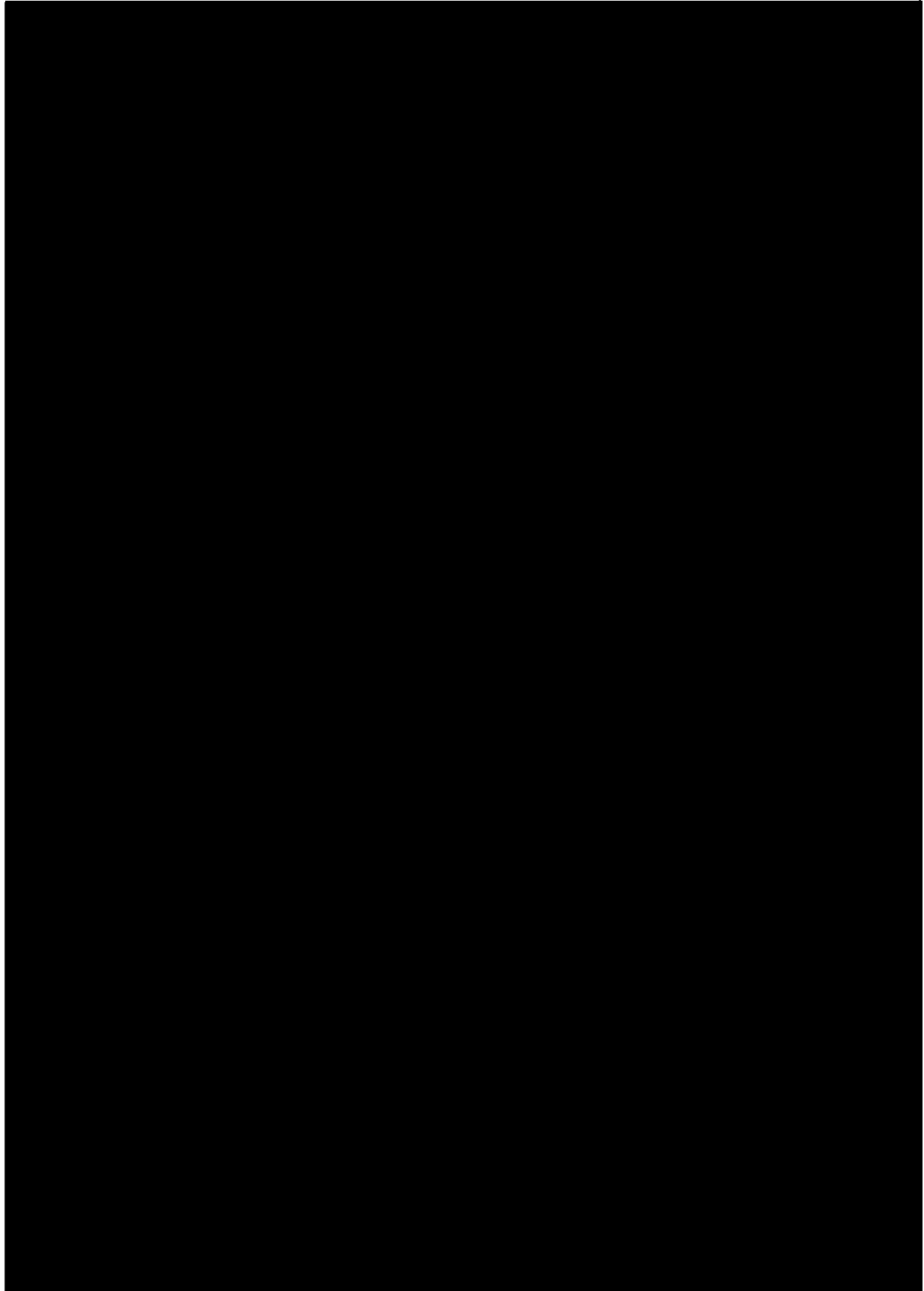


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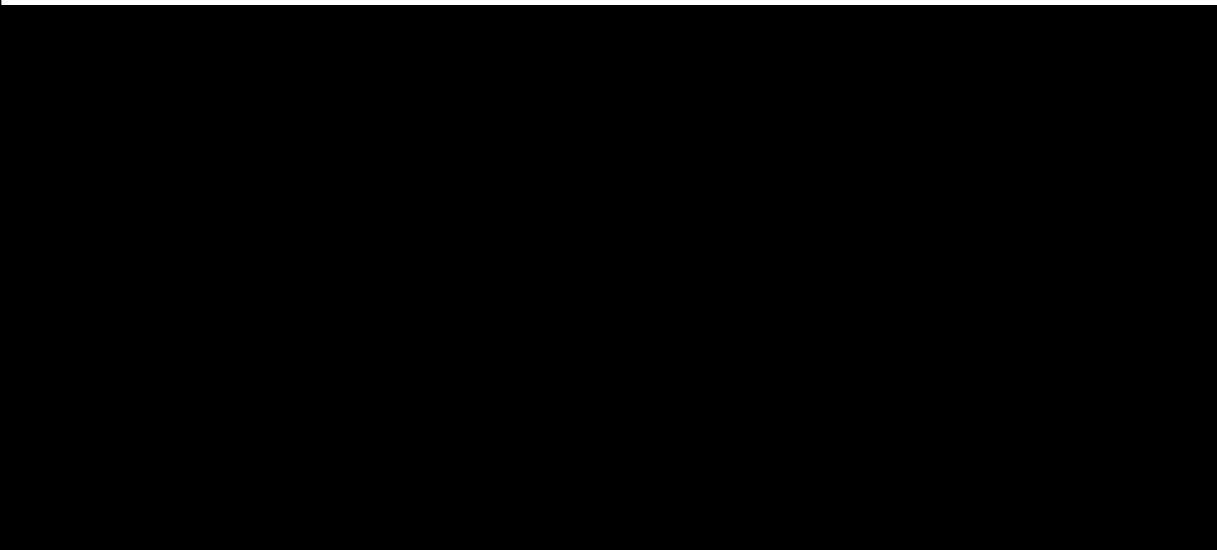
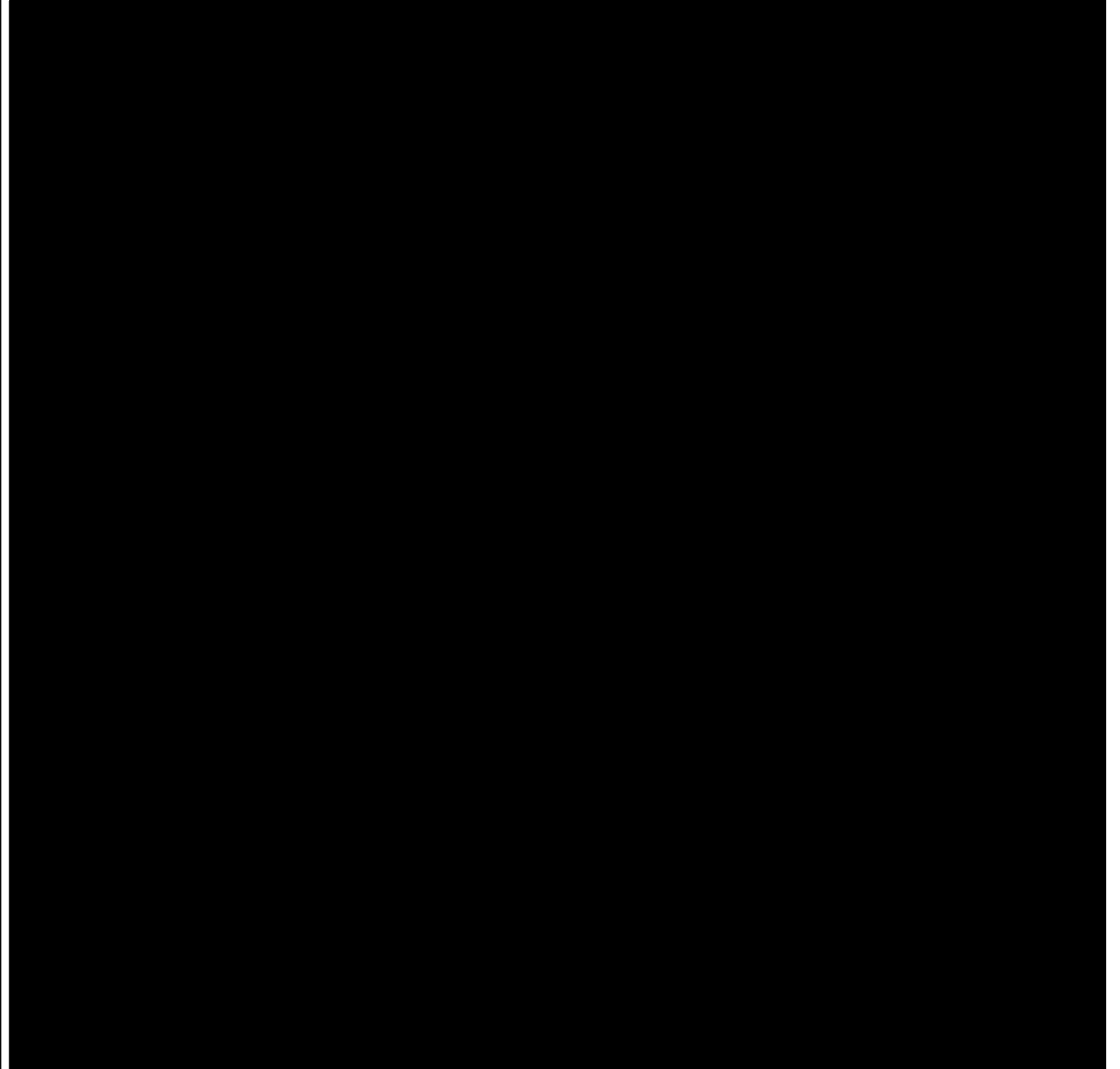




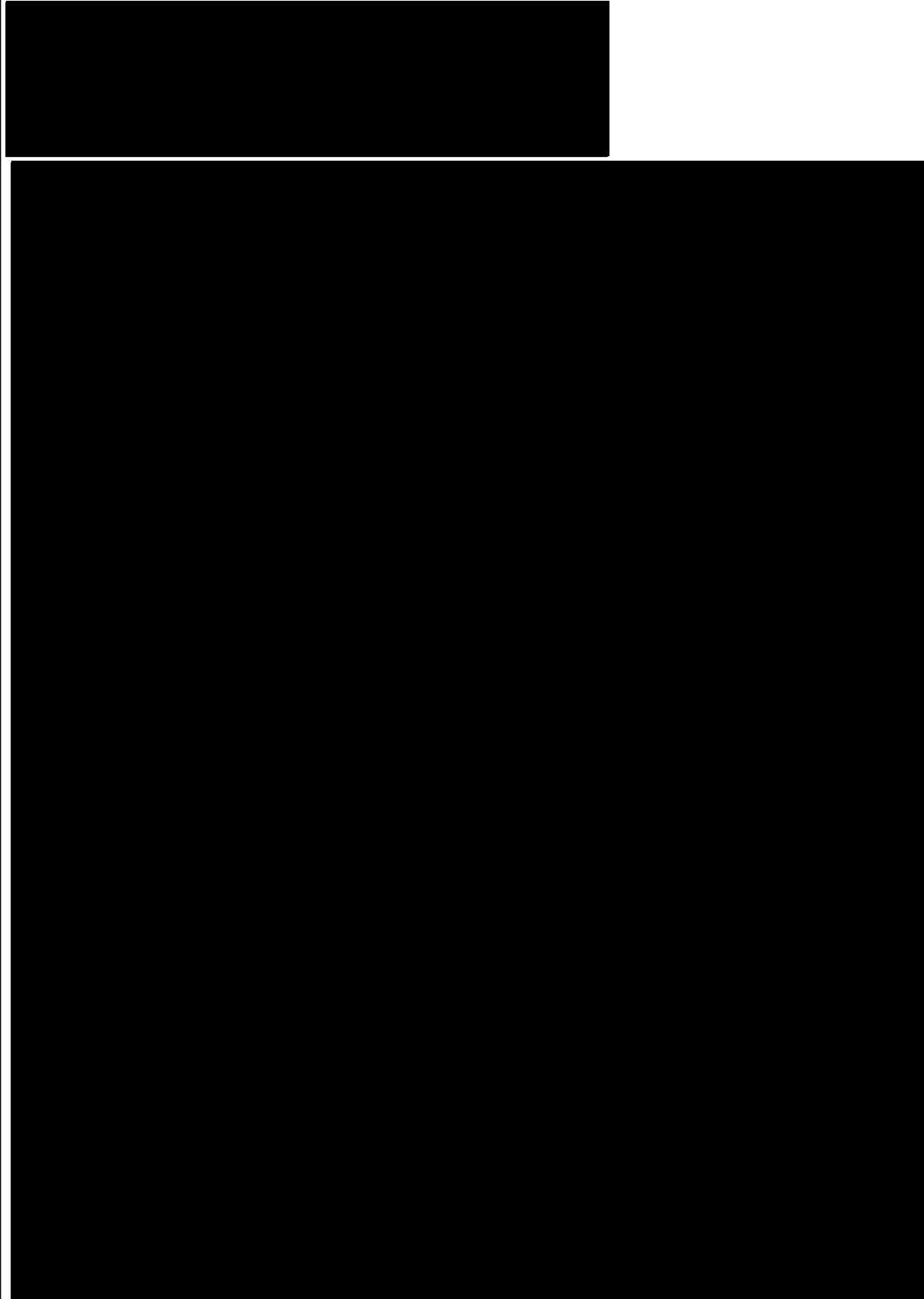
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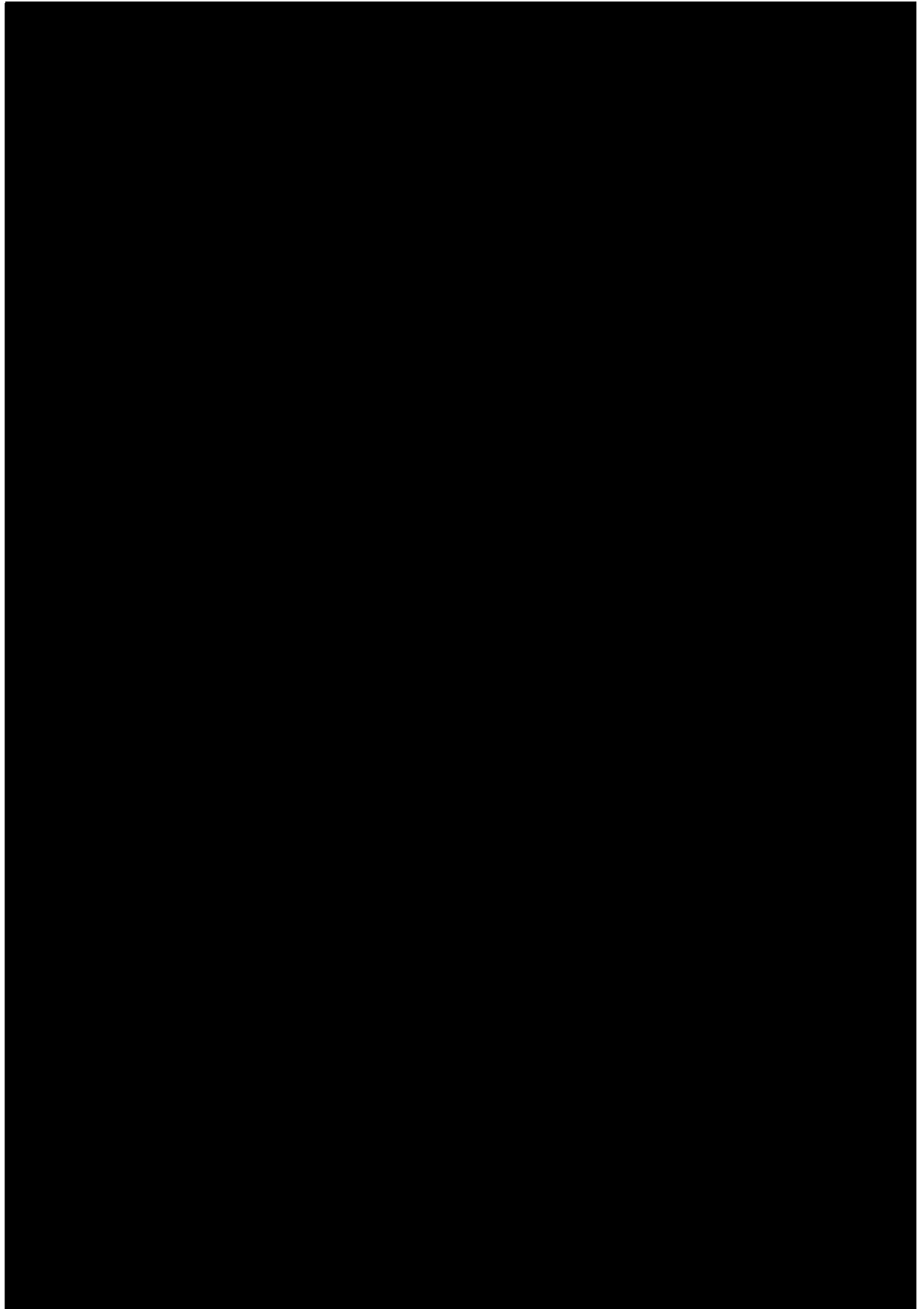
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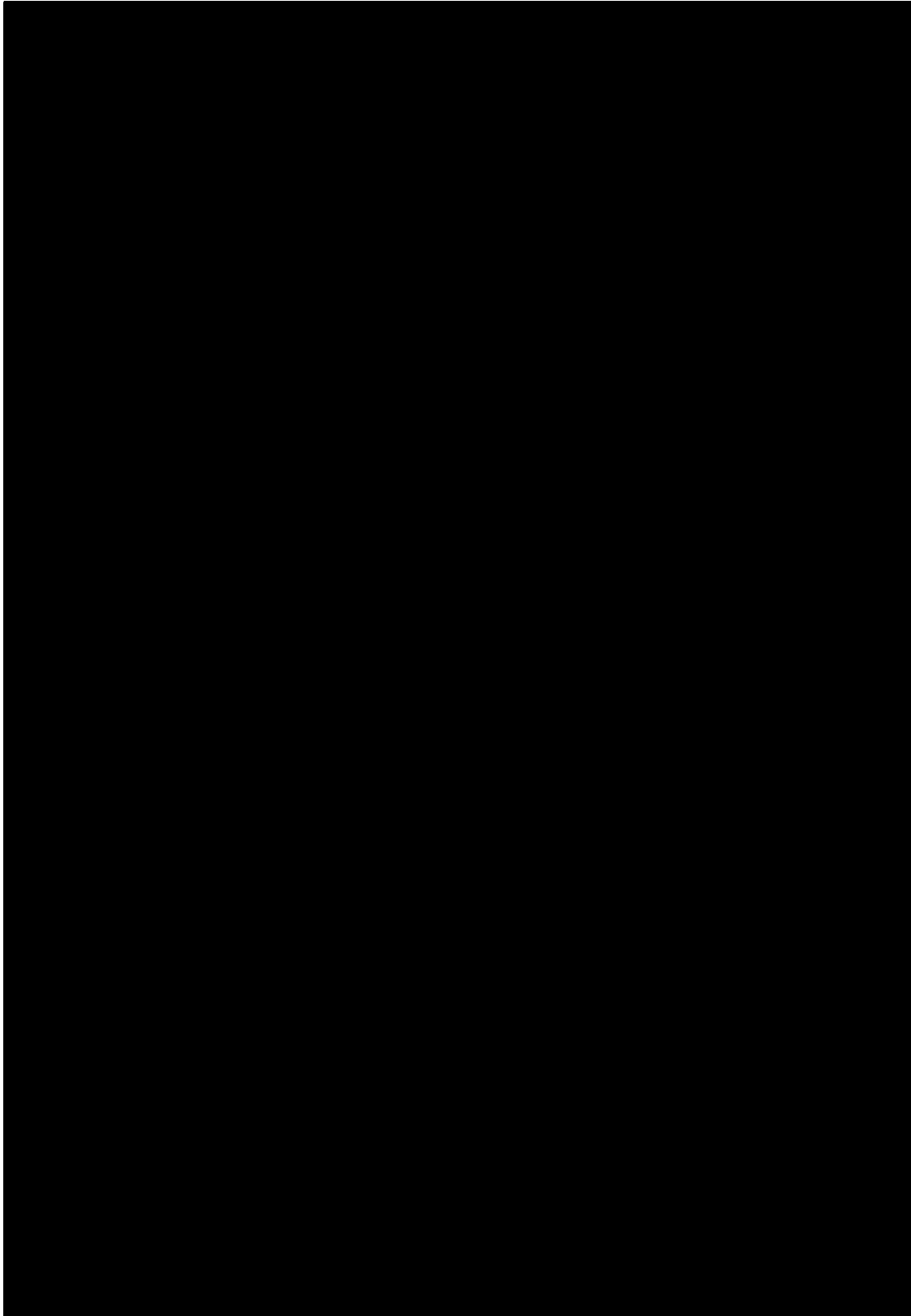
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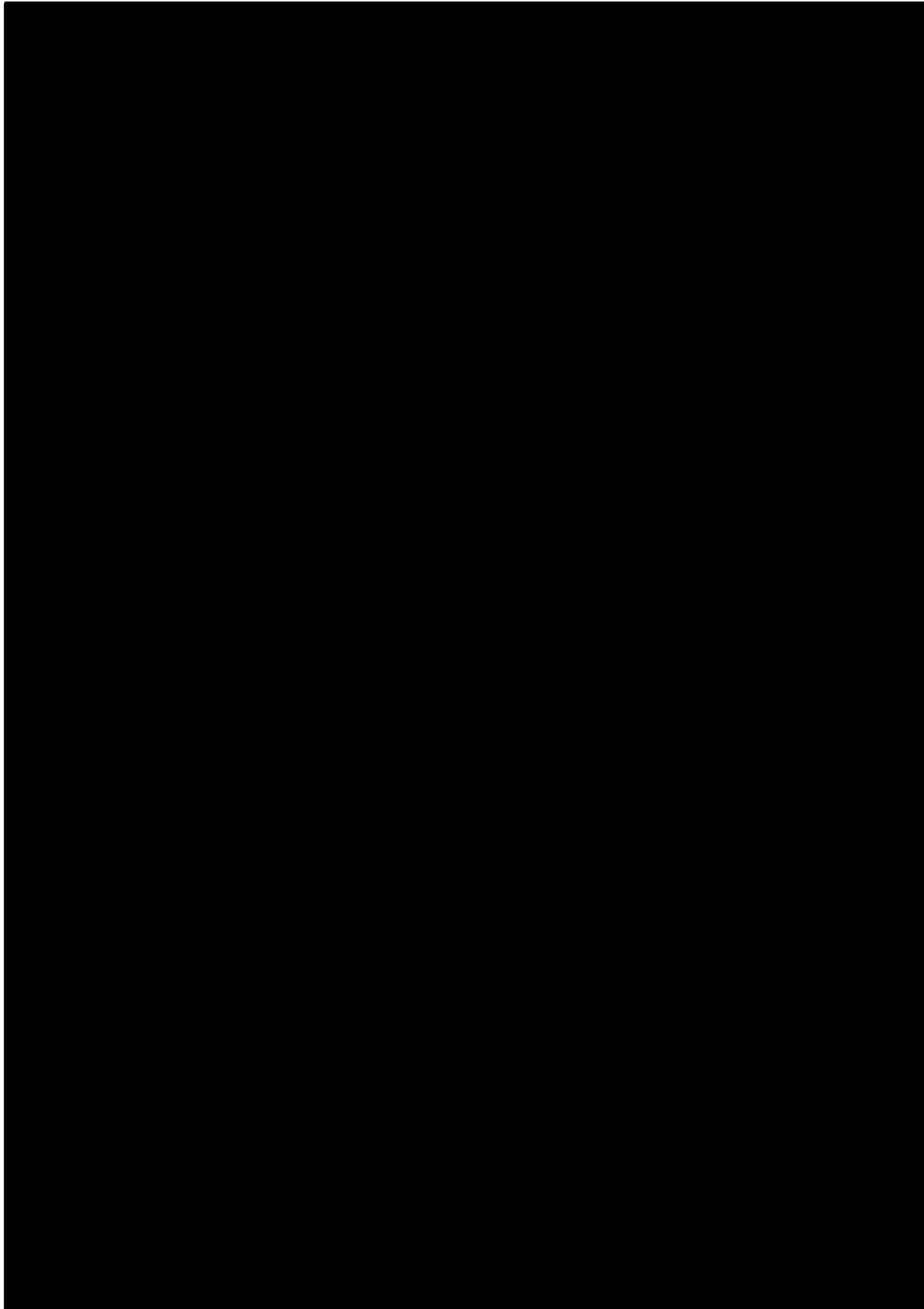
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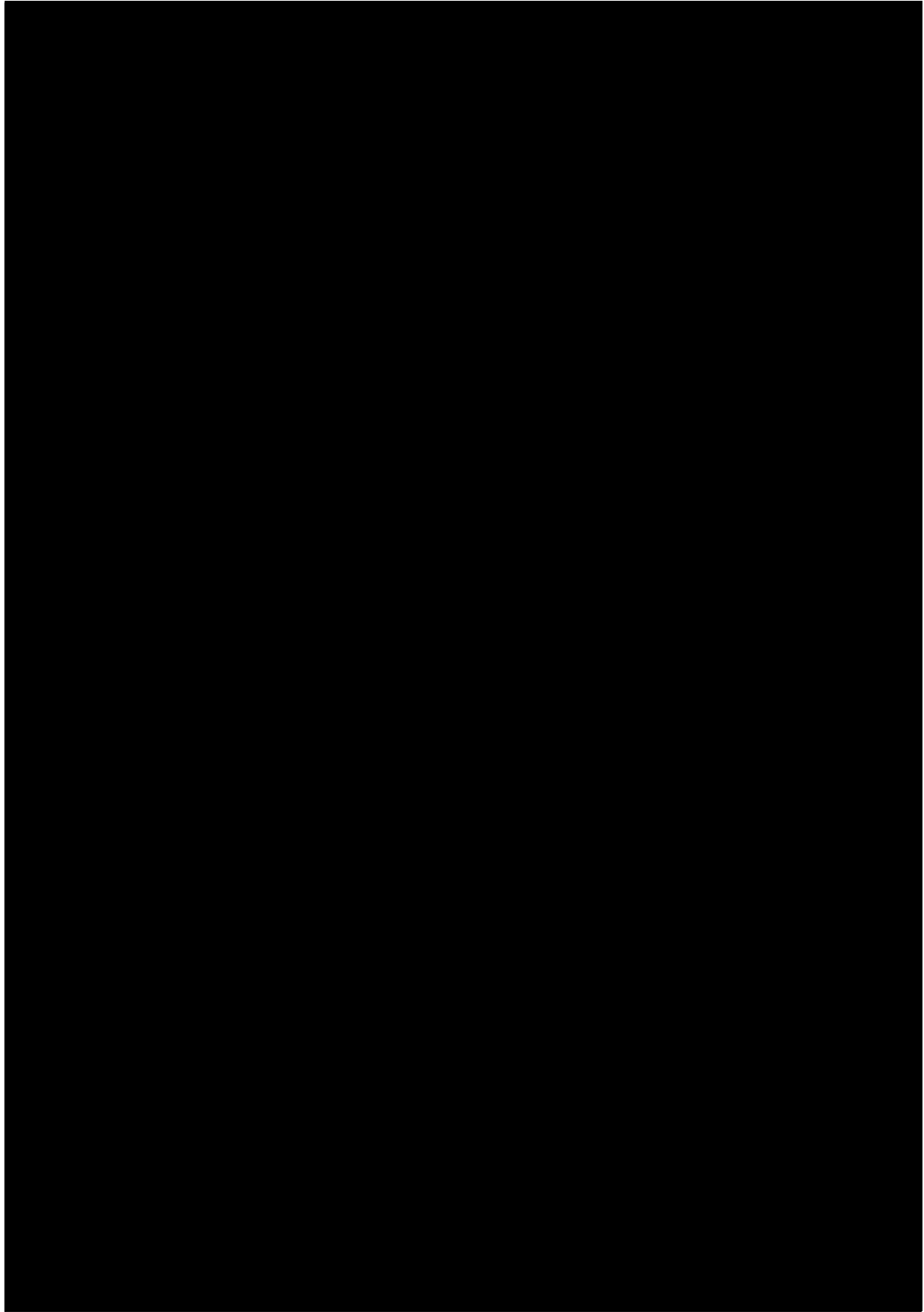
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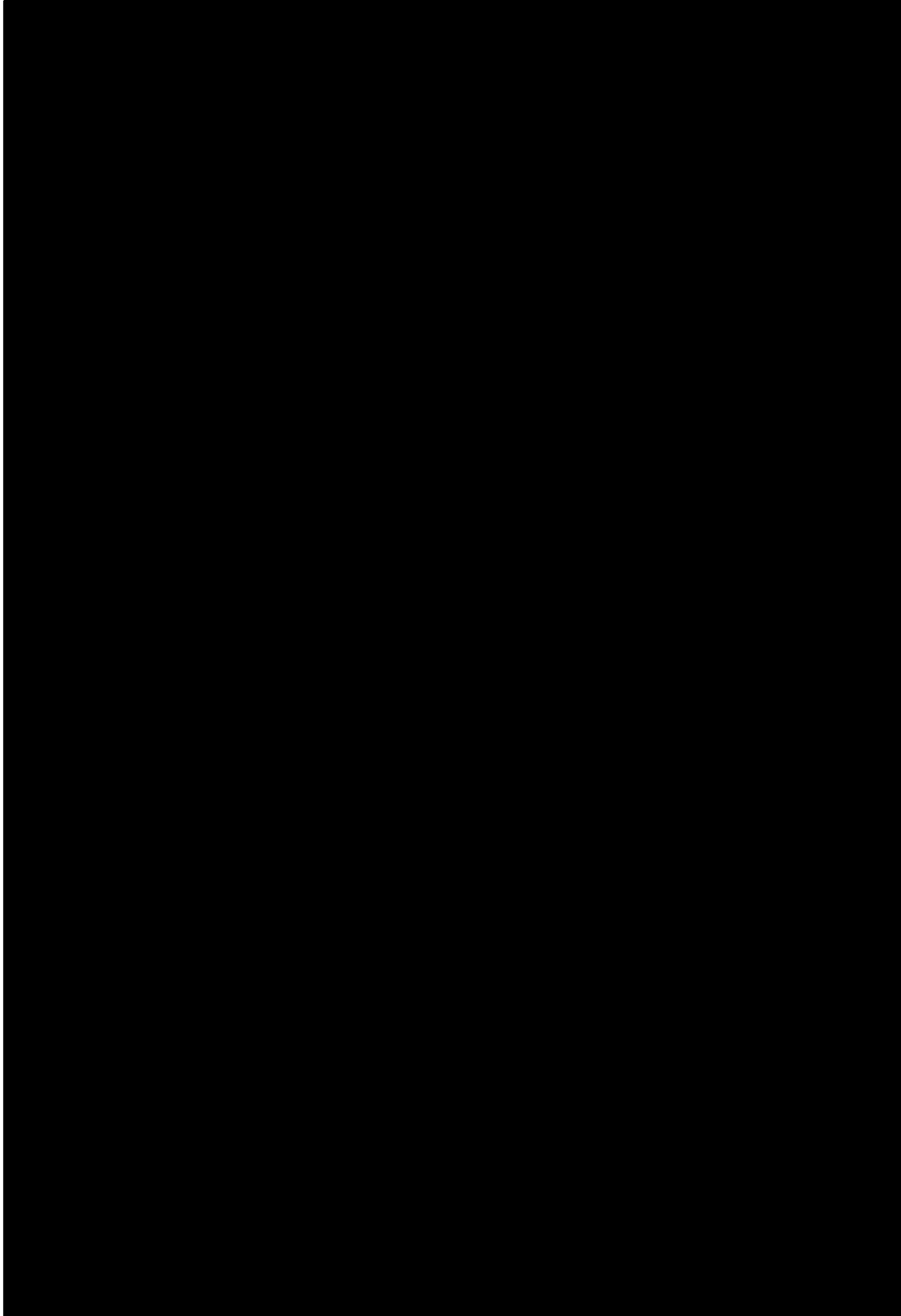
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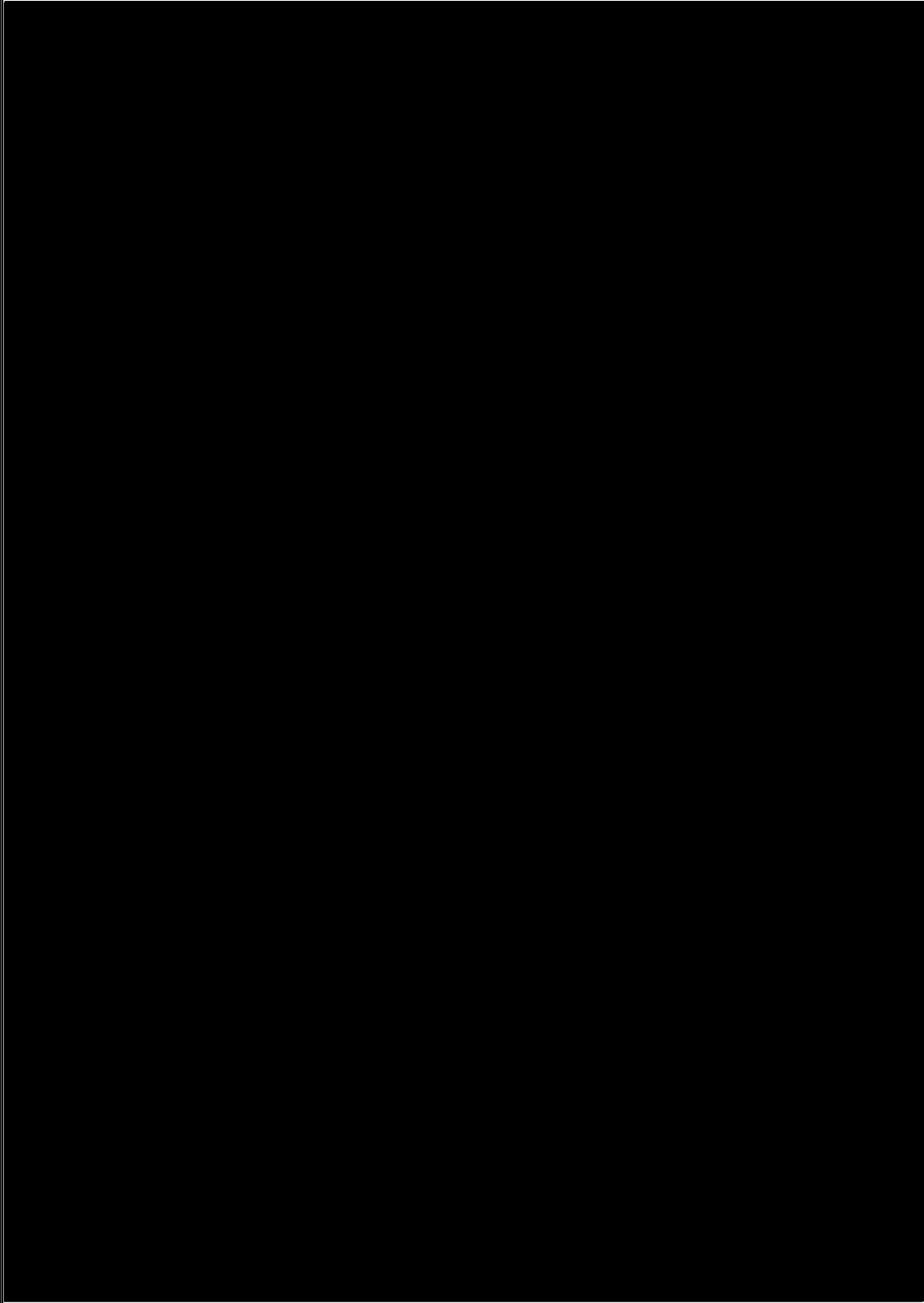


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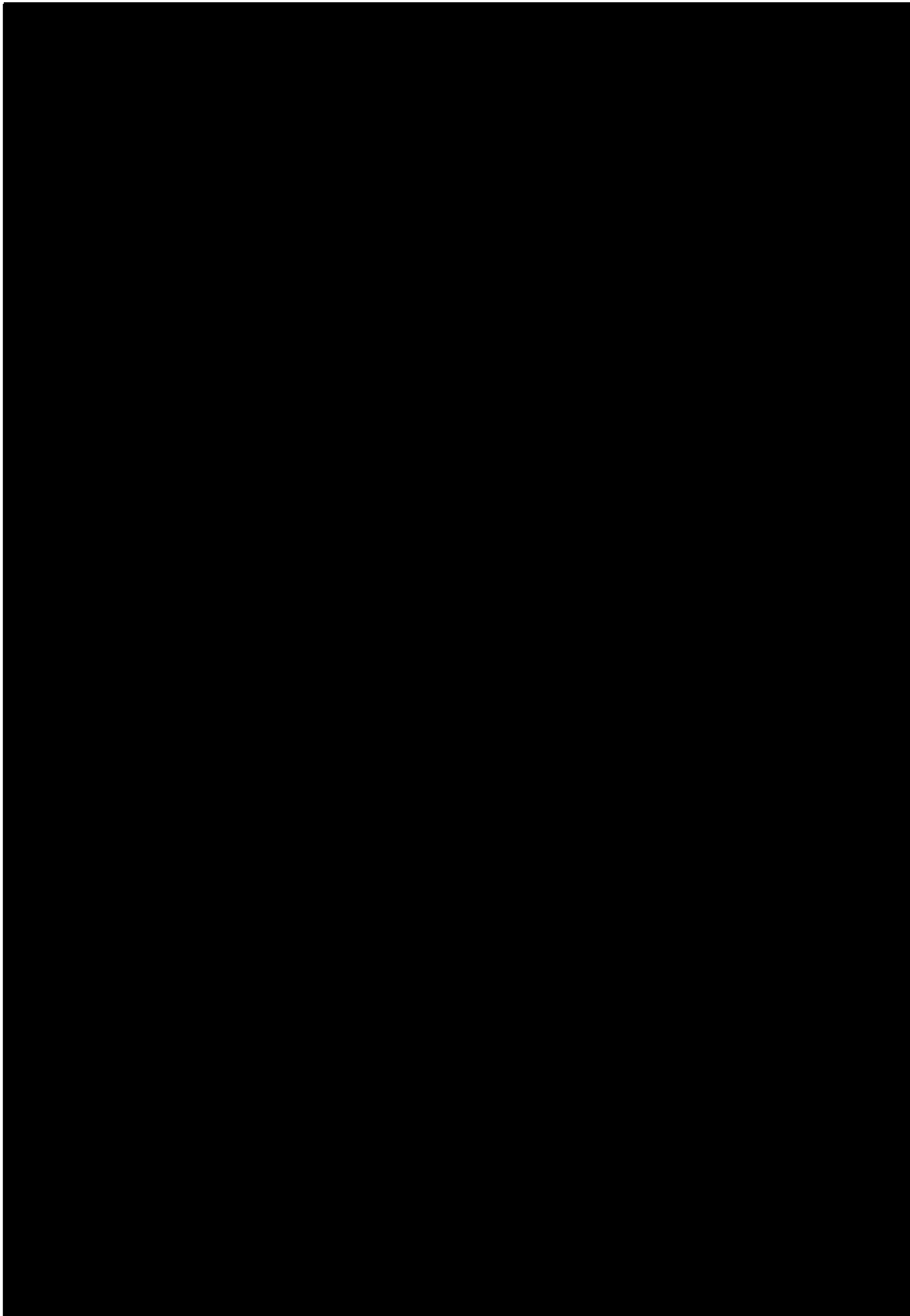




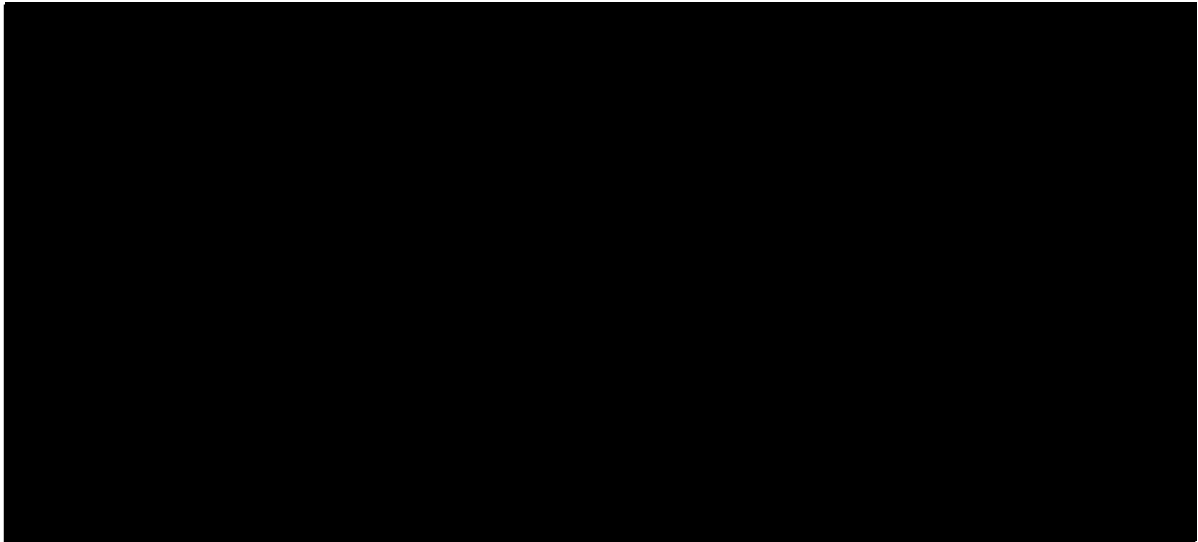
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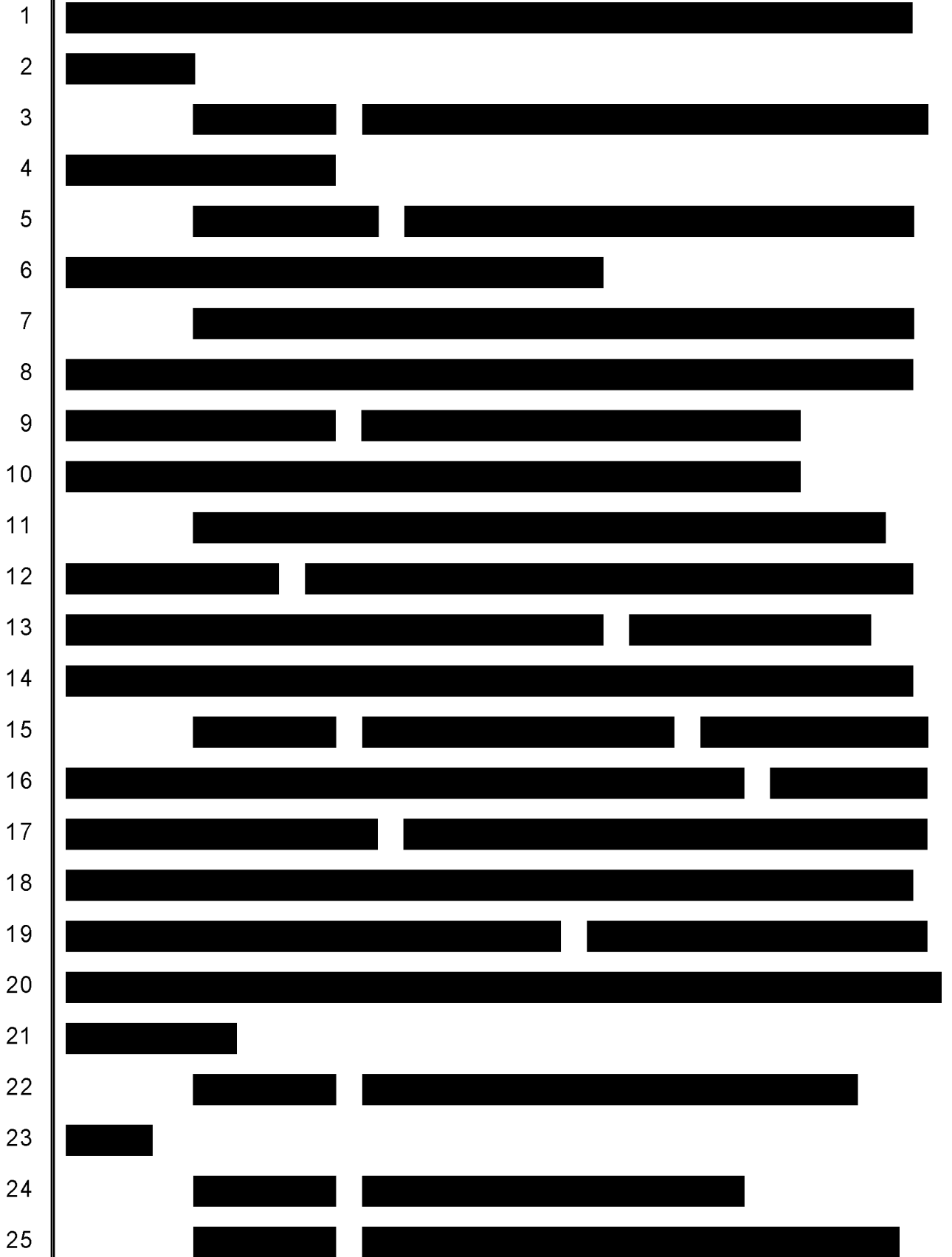


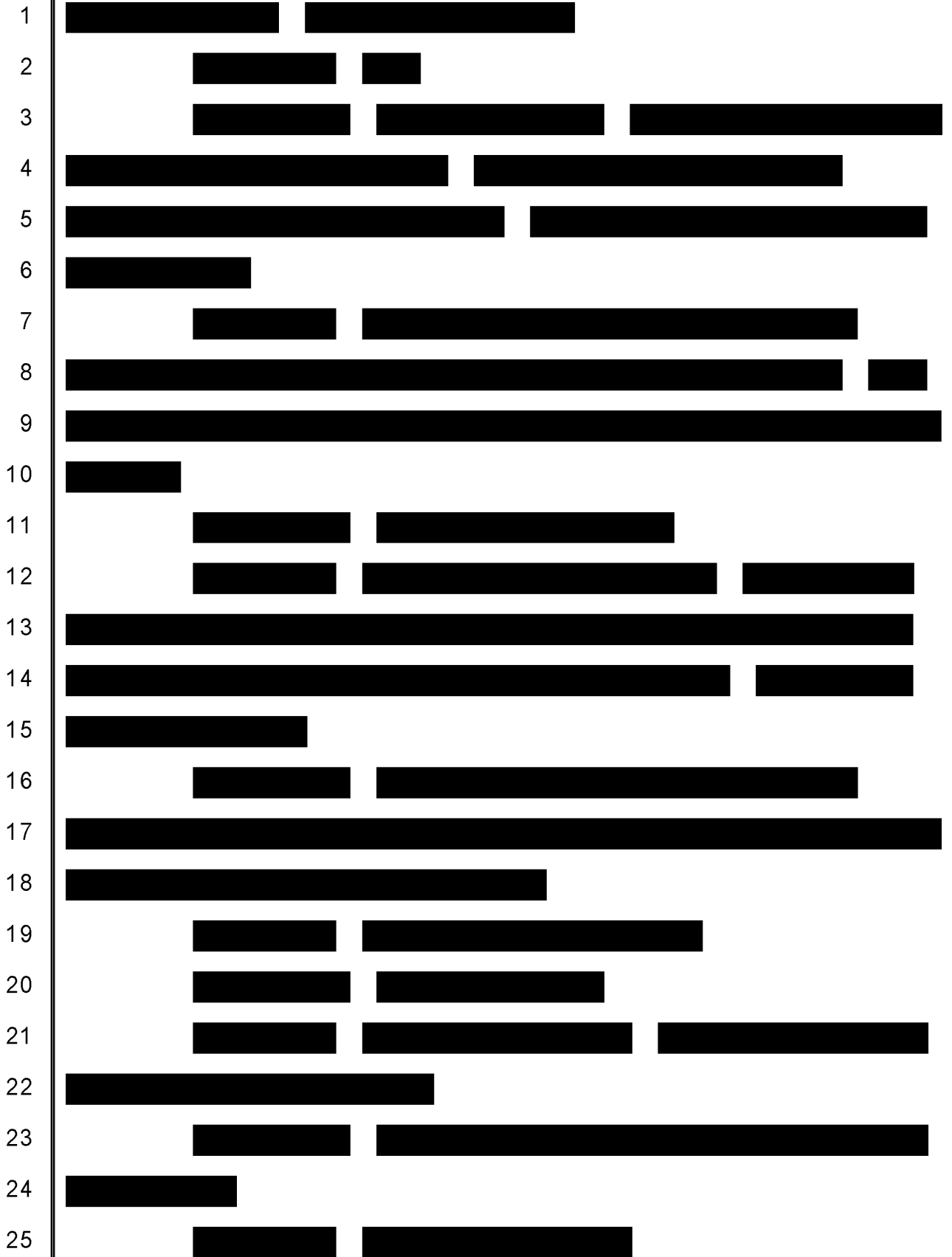
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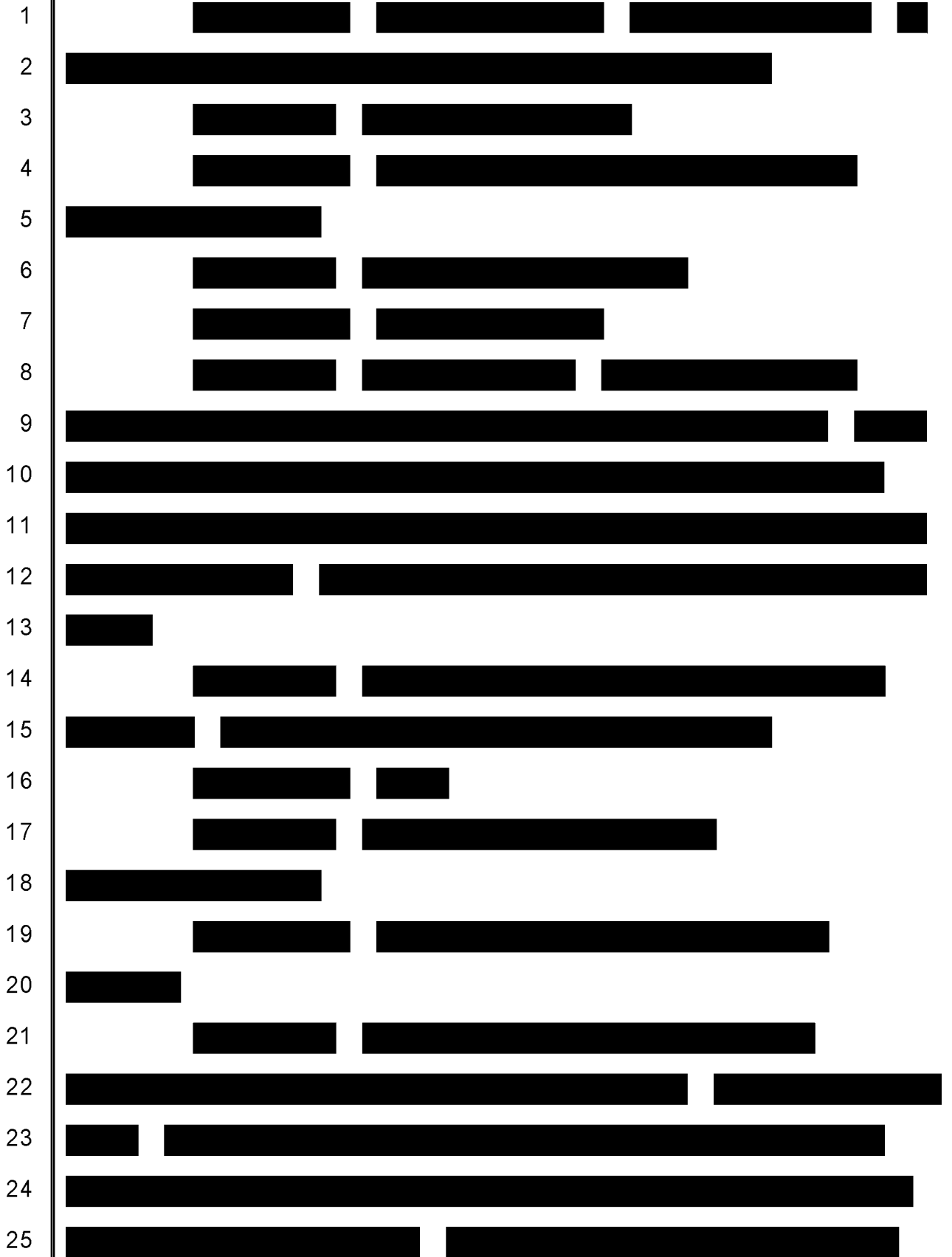


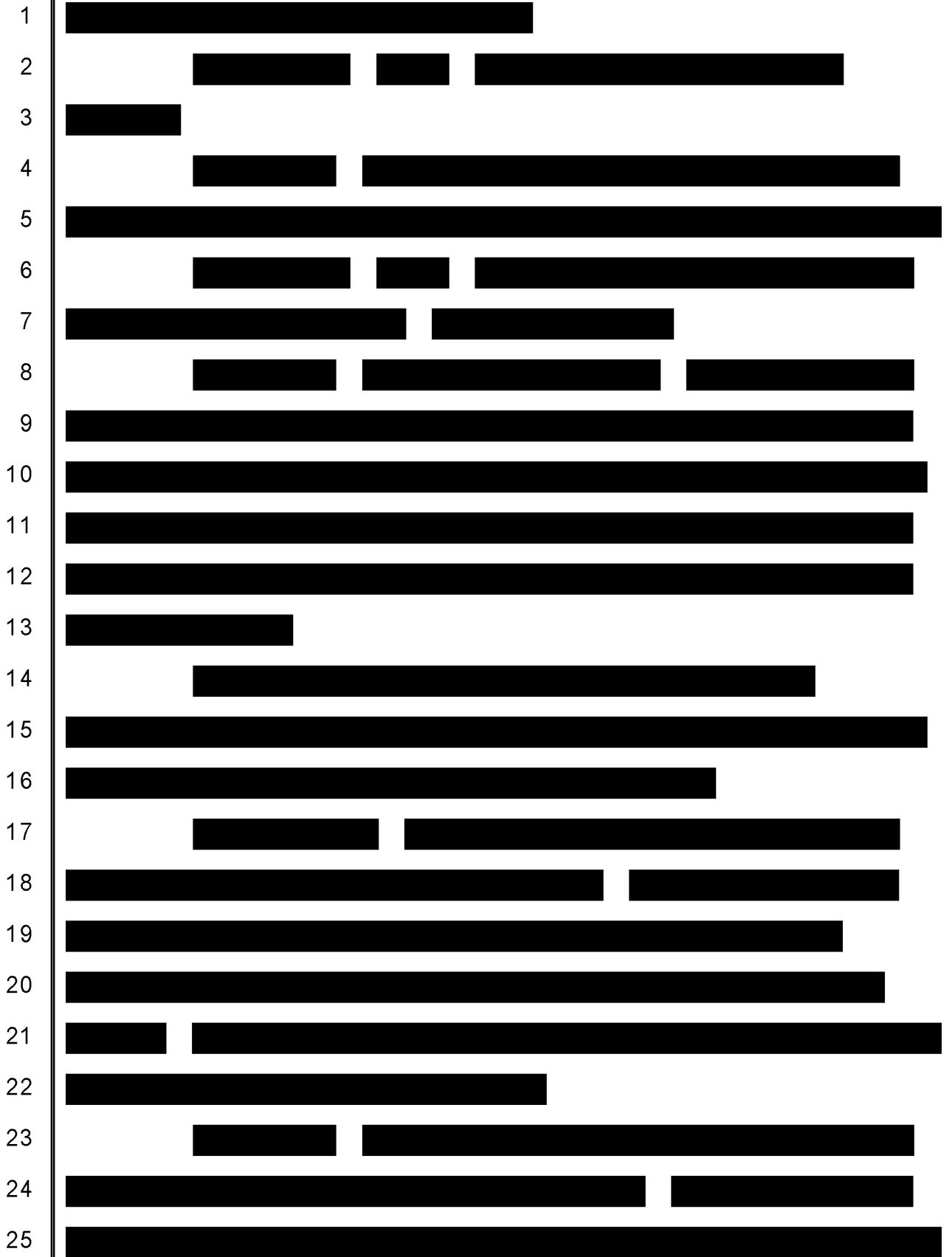
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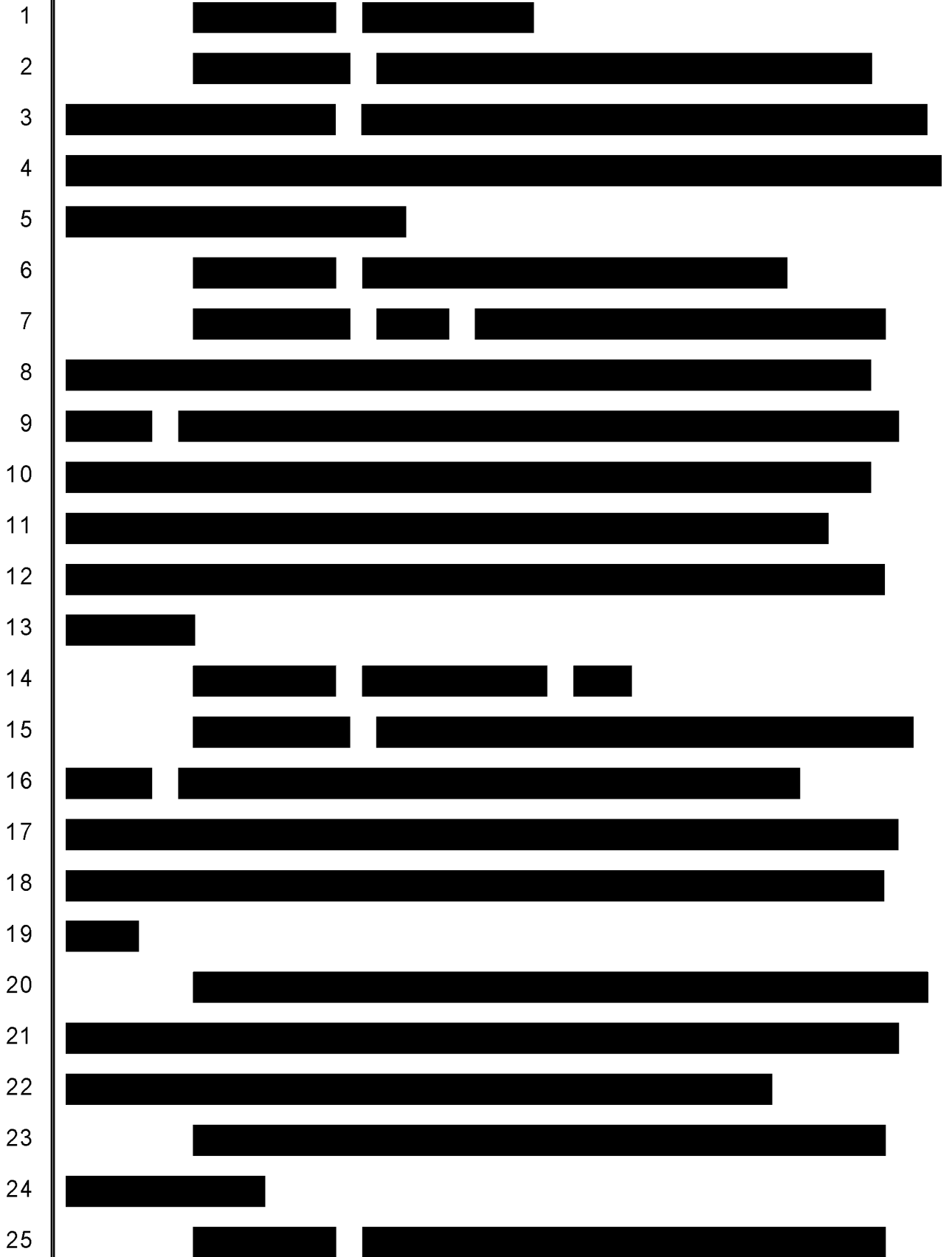


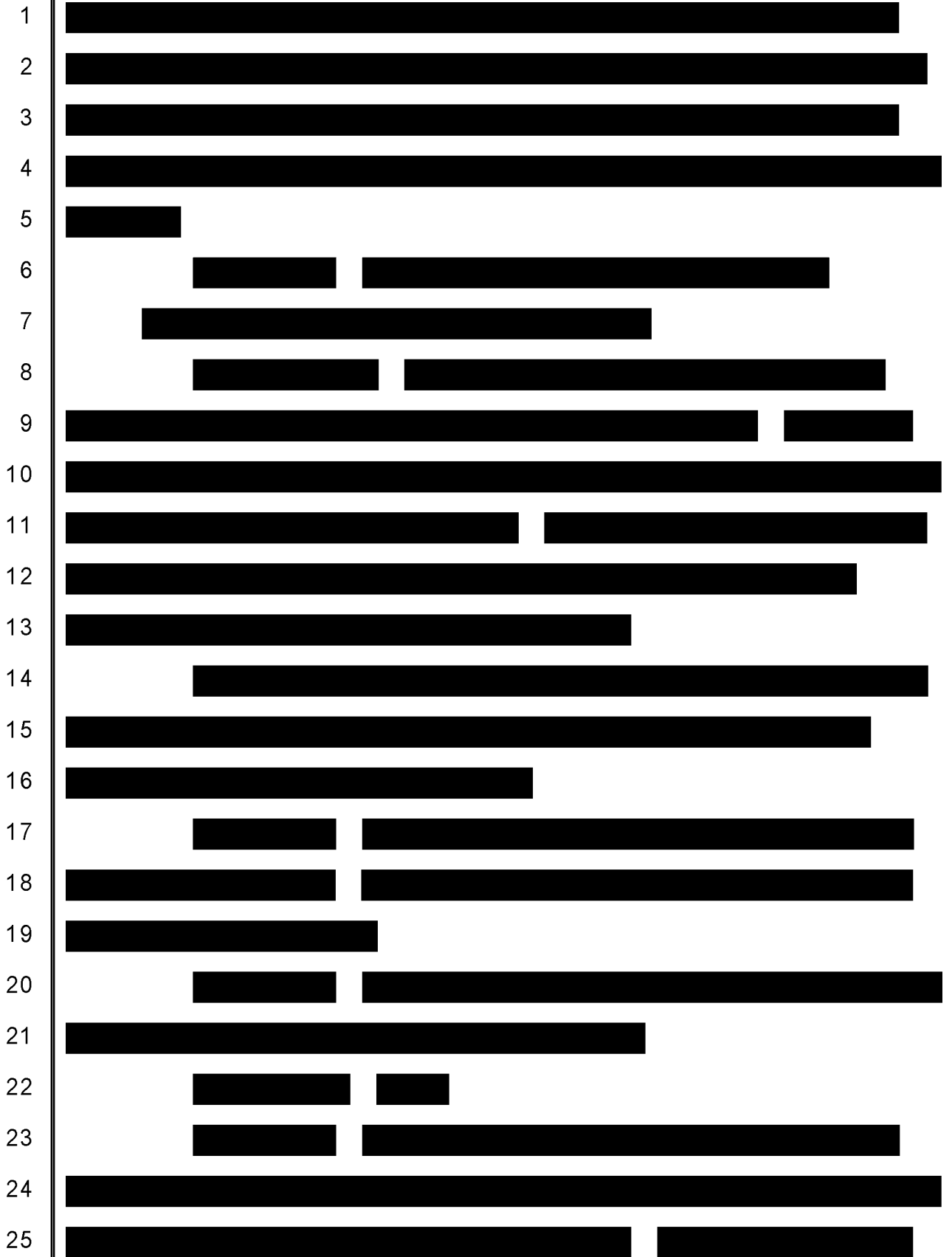


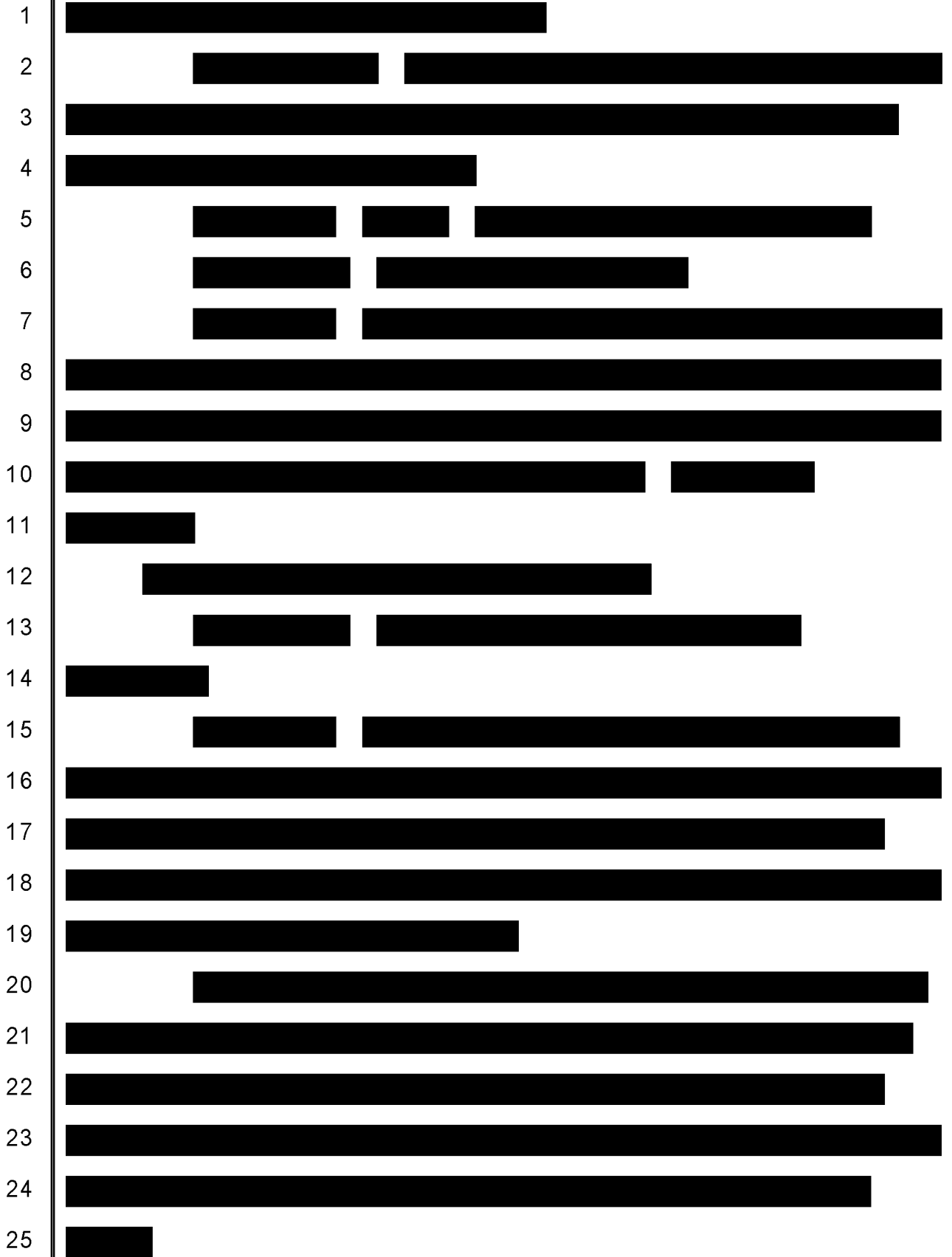


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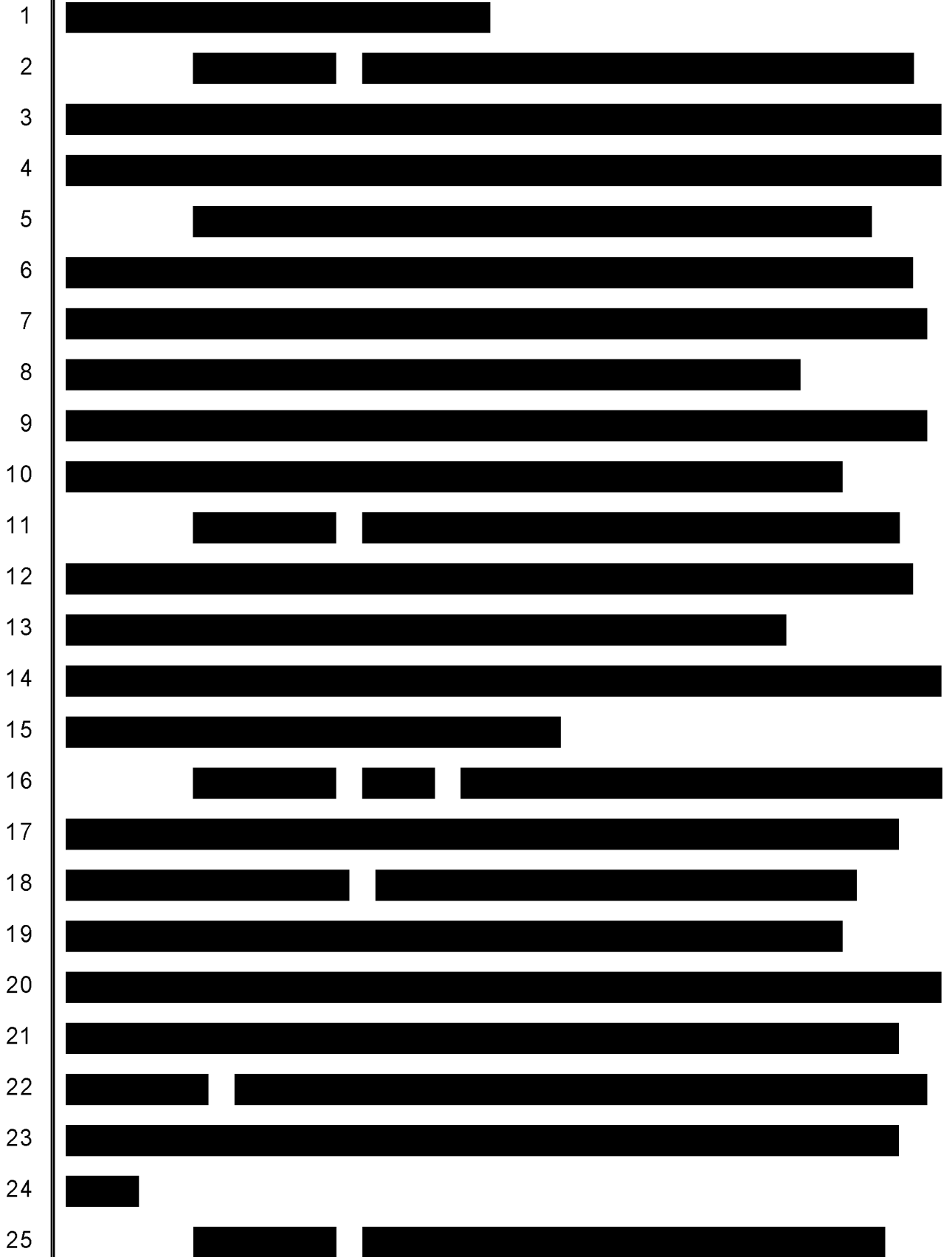


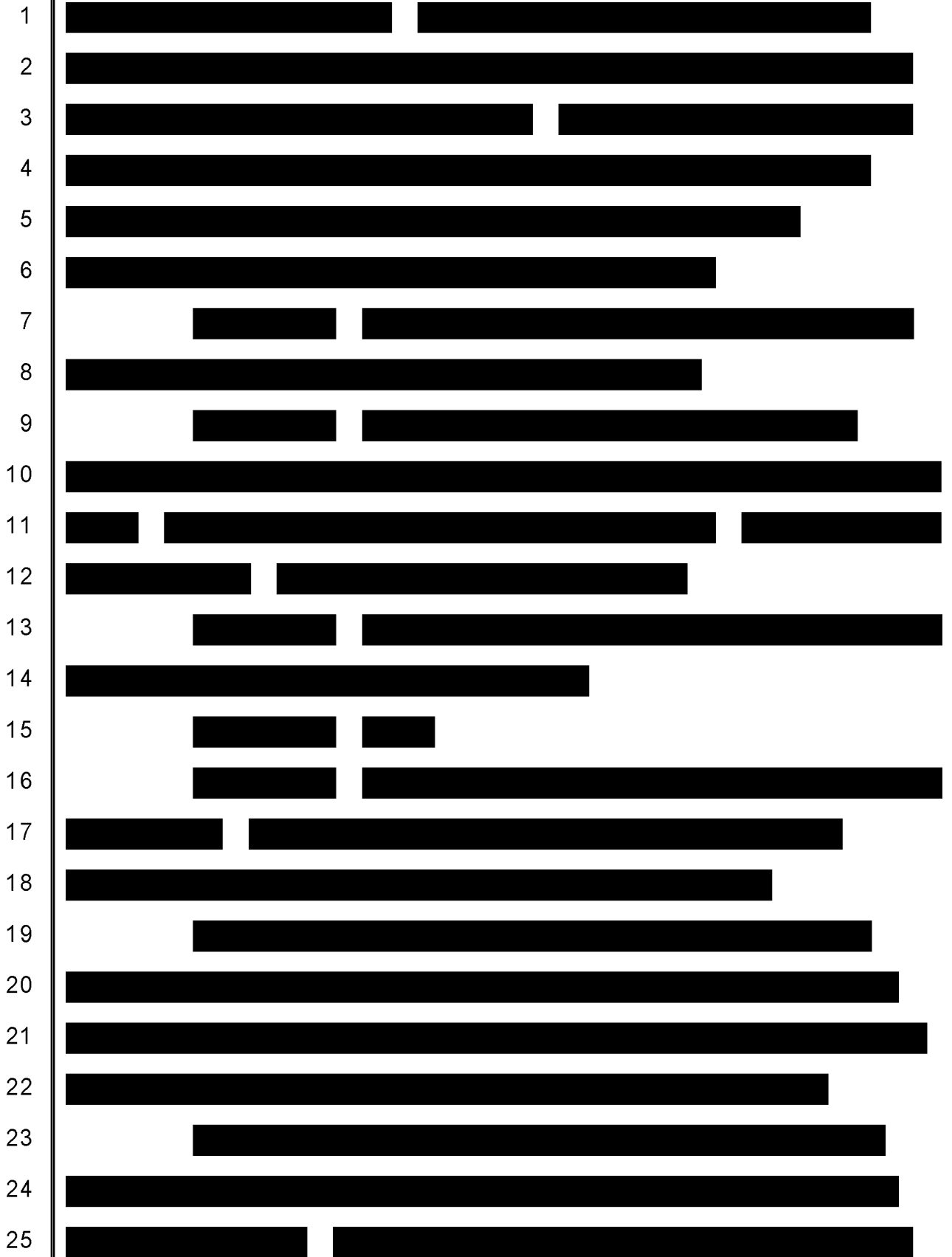


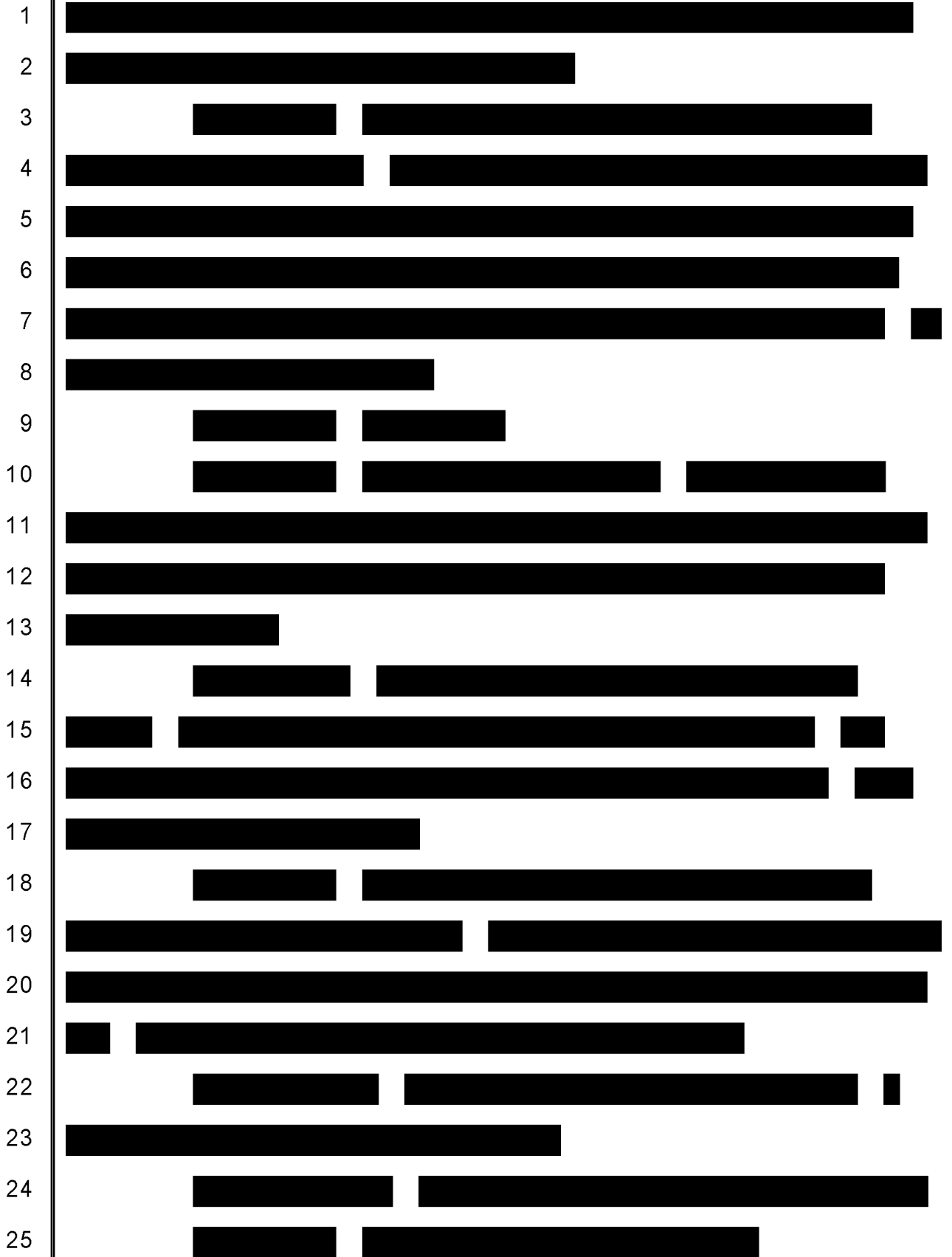


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(Court adjourned, to reconvene 4/4/17 at 9:30 a.m.)

CERTIFICATE

We certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

*/s/Judith A. Walsh*

*April 3, 2017*

\_\_\_\_\_  
Judith A. Walsh  
Official Court Reporter

\_\_\_\_\_  
Date

*/s/Charles R. Zandi*

*April 3, 2017*

\_\_\_\_\_  
Charles R. Zandi  
Official Court Reporter

\_\_\_\_\_  
Date