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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

DEWAYNE JOHNSON,

Plaintiff,

vs.

Case No. CGC-16-550128

MONSANTO COMPANY, et al.,

Defendants.

-----/

Proceedings held on Monday, July 23, 2018,  
Volume 14, Morning Session, before the Honorable  
Suzanne R. Bolanos, at 9:05 a.m.

REPORTED BY:

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Job No. 2965319A

Pages 3070 - 3196

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Monday, July 23, 2018

9:05 a.m.

Volume 14

Morning Session

San Francisco, California

Department 504

Judge Suzanne Ramos Bolanos

PROCEEDINGS

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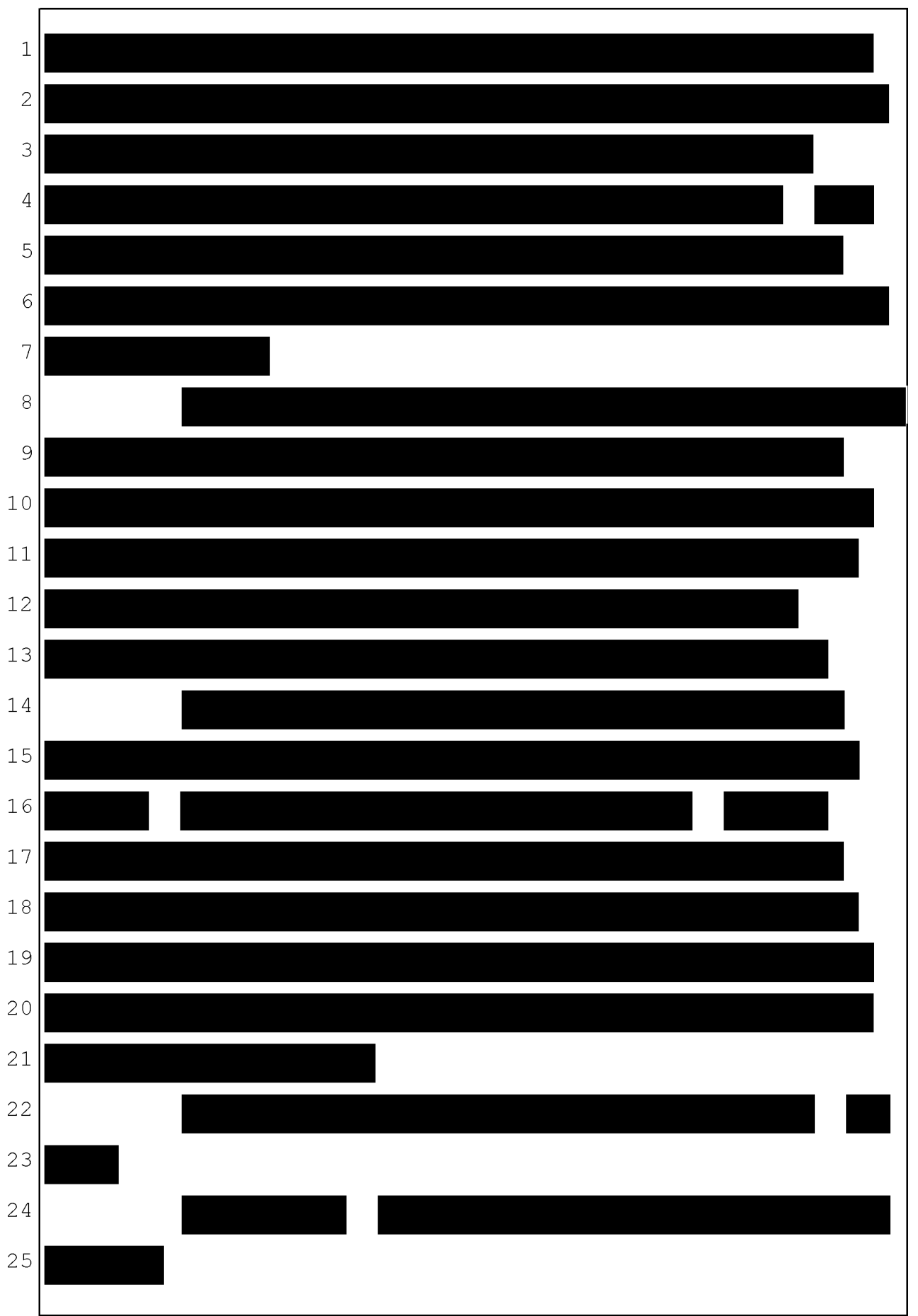
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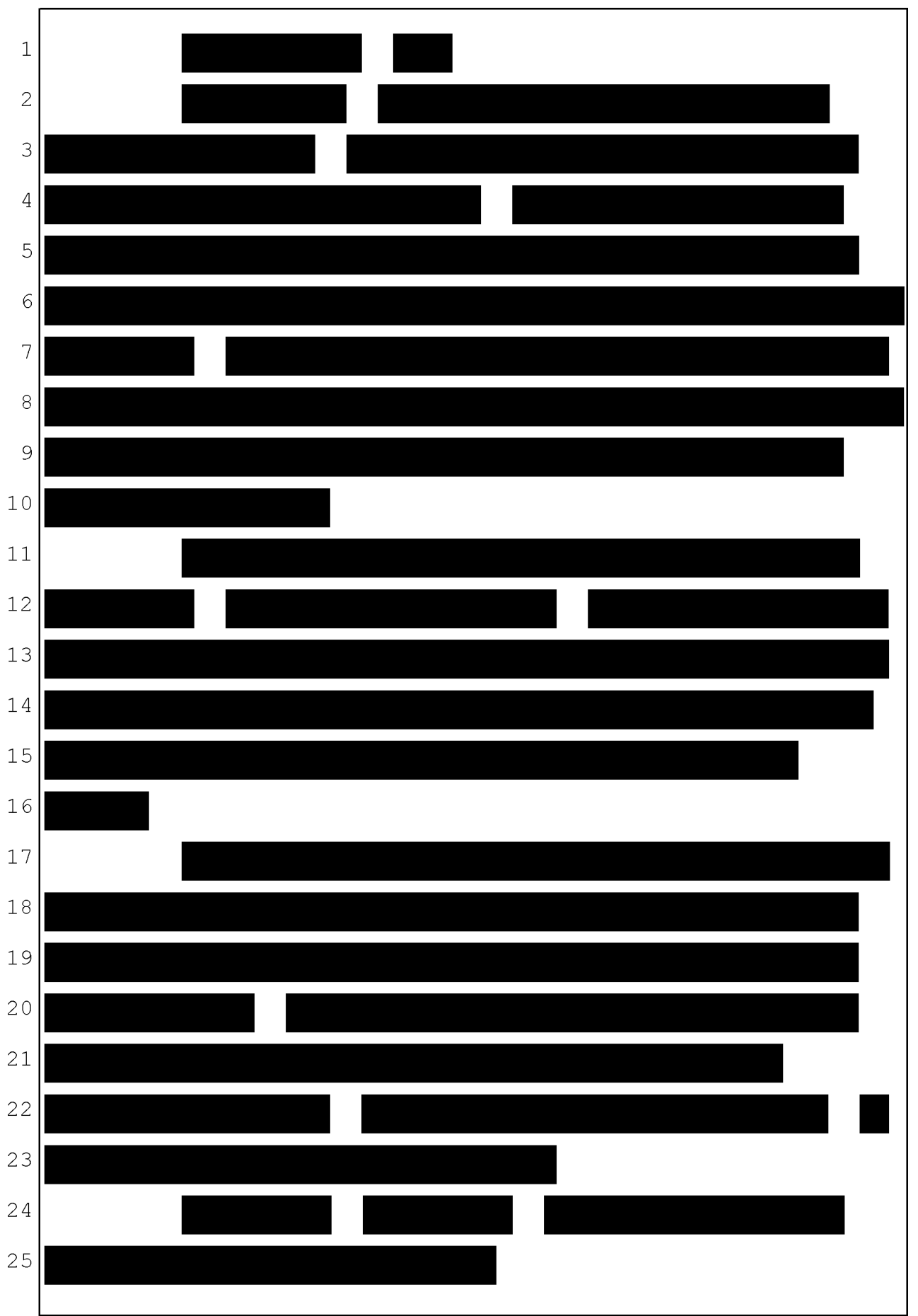
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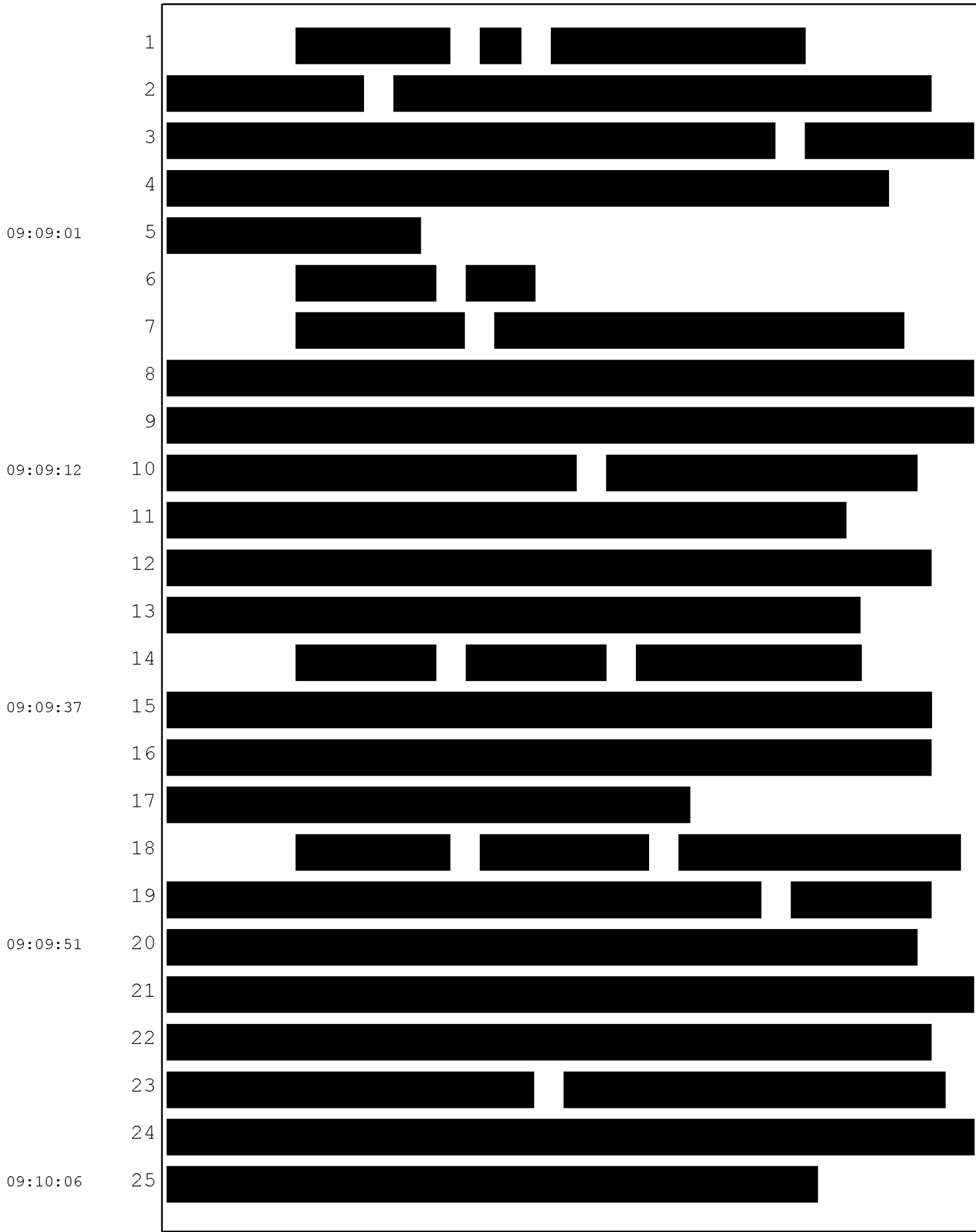
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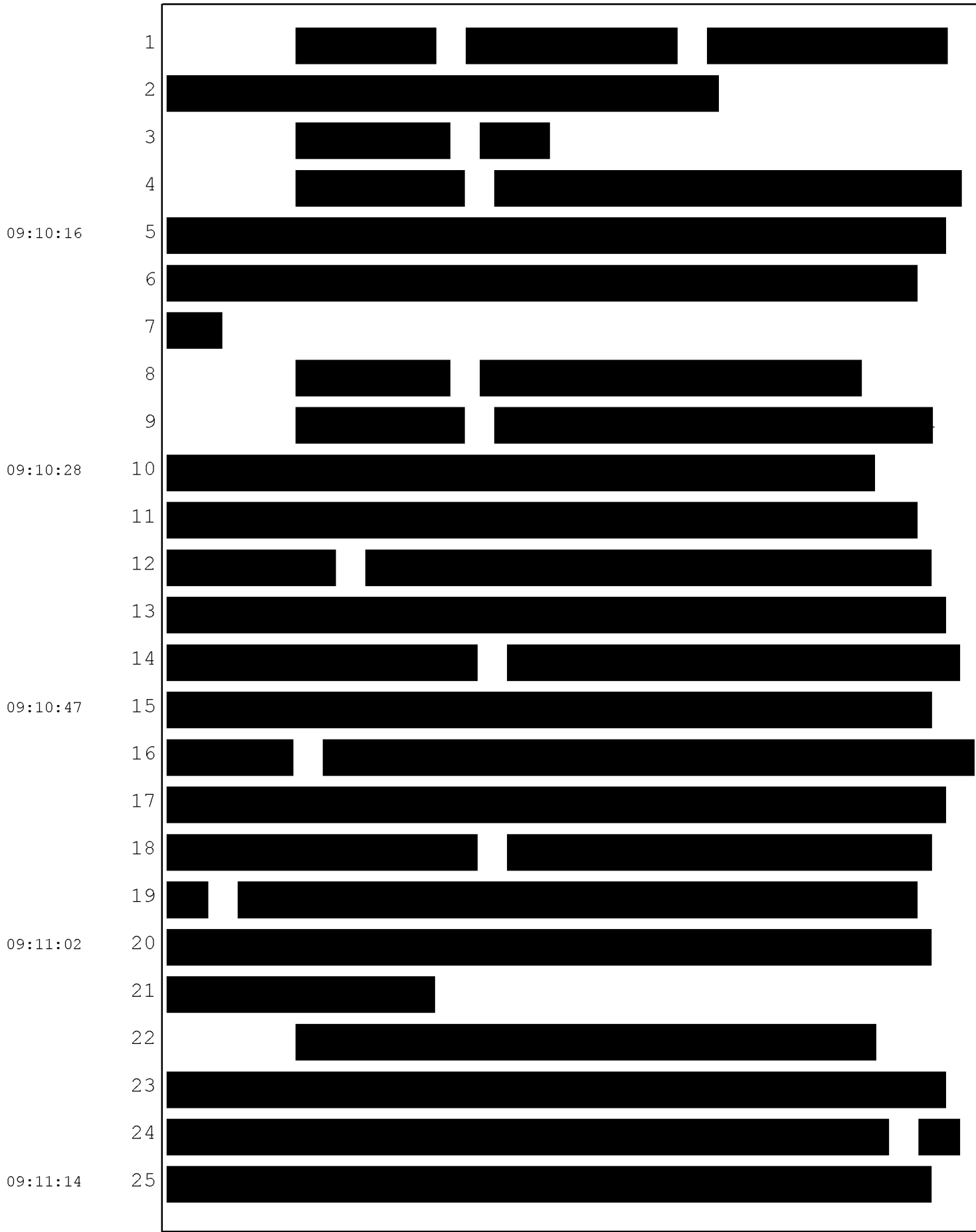
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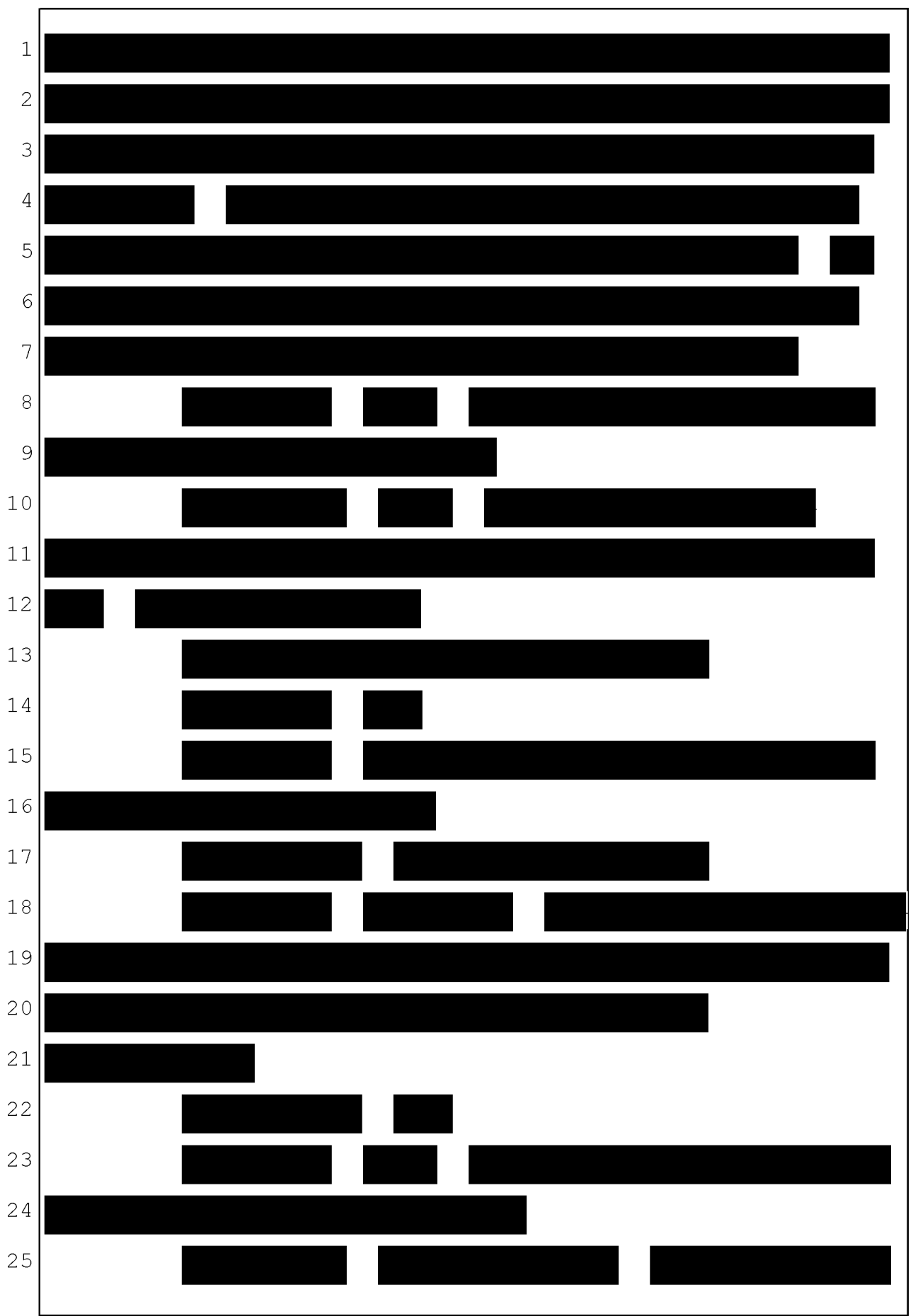
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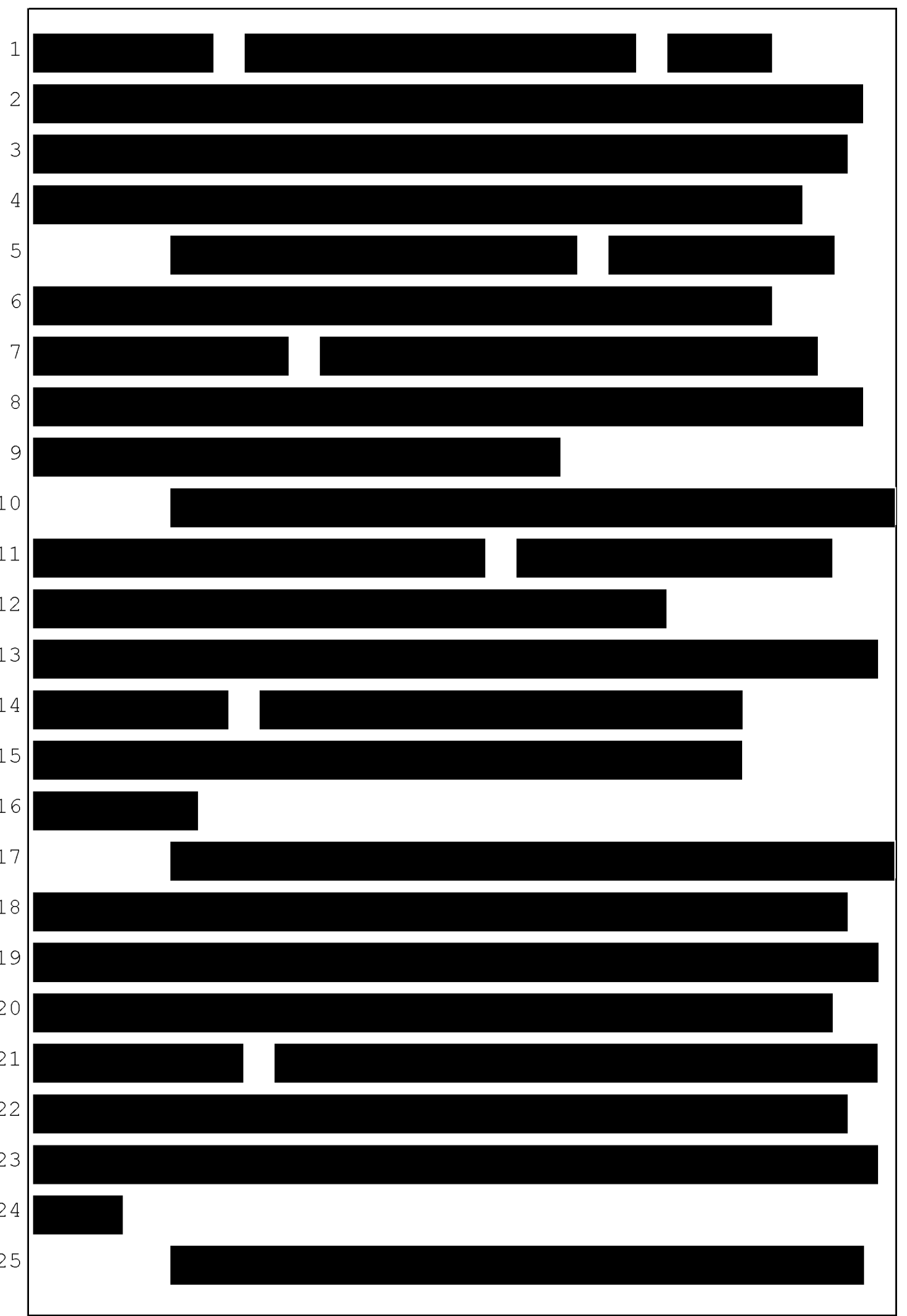
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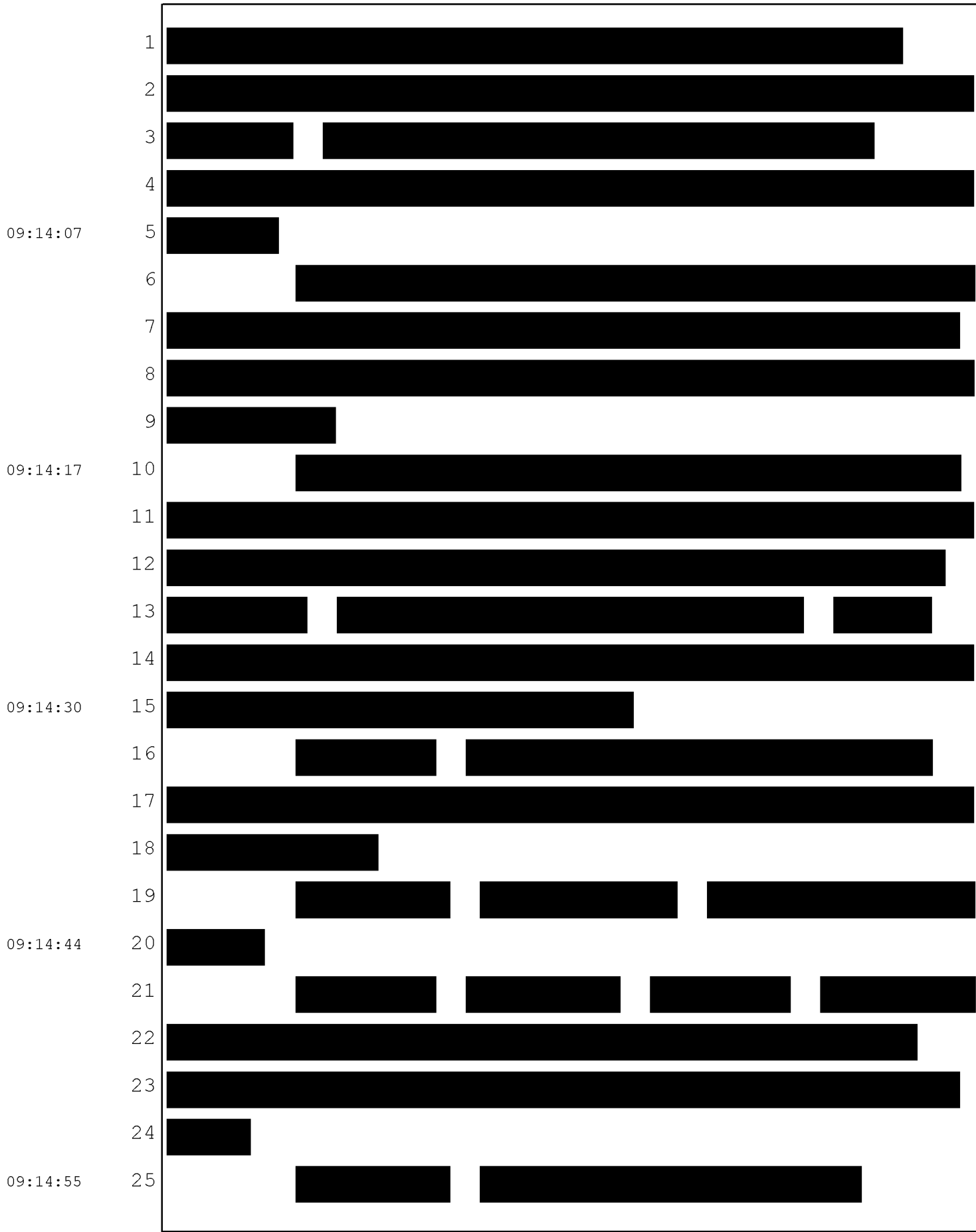
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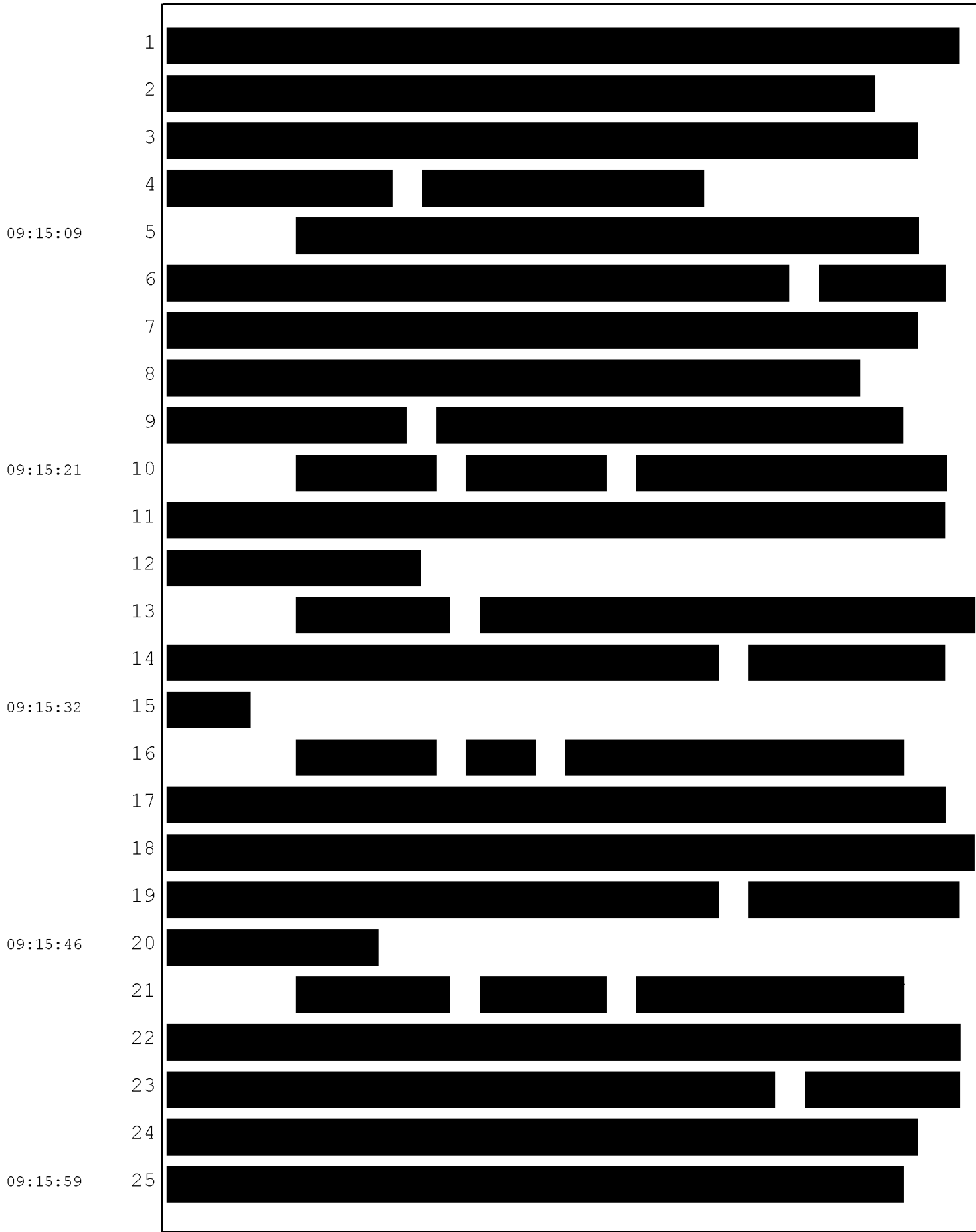
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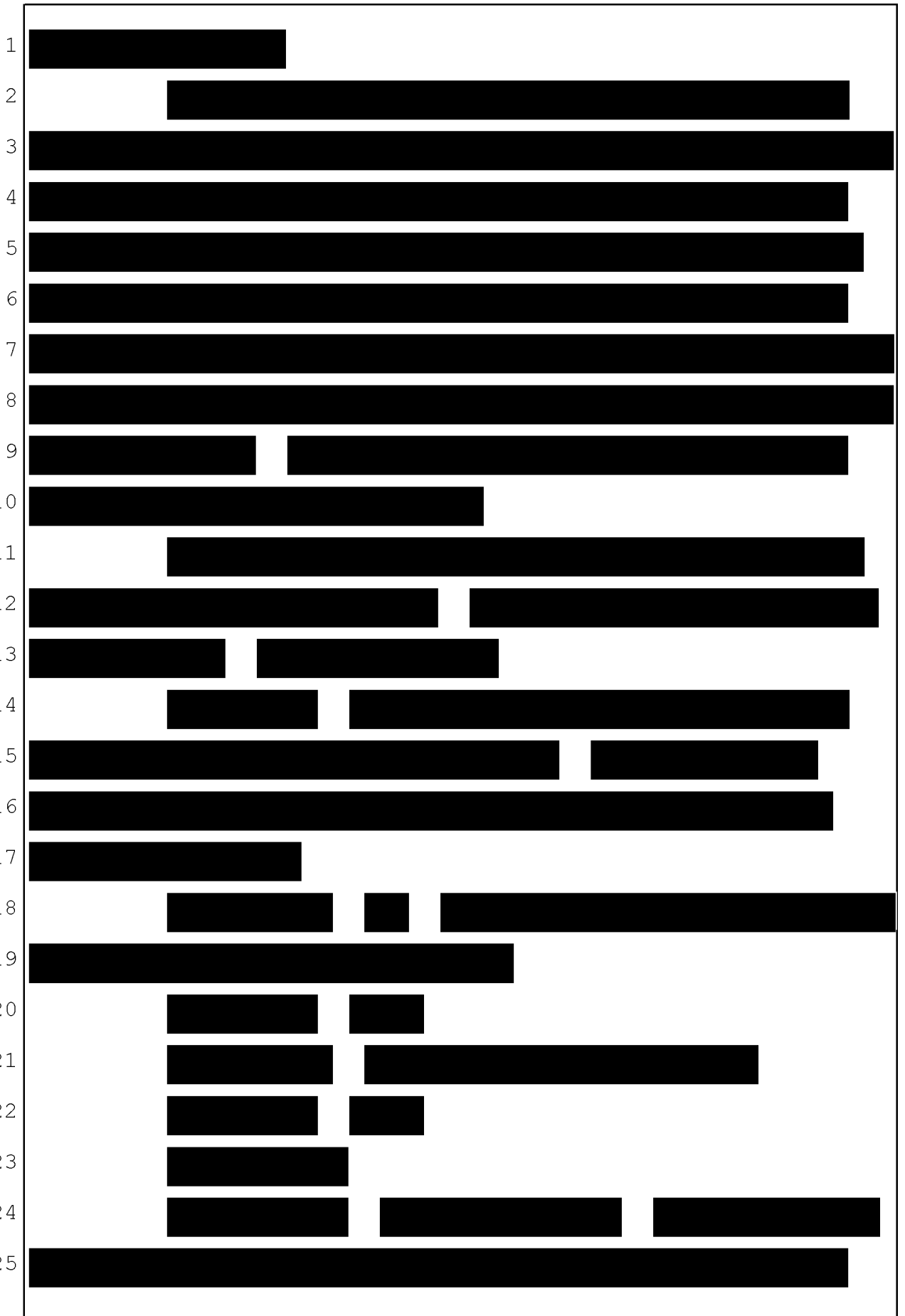


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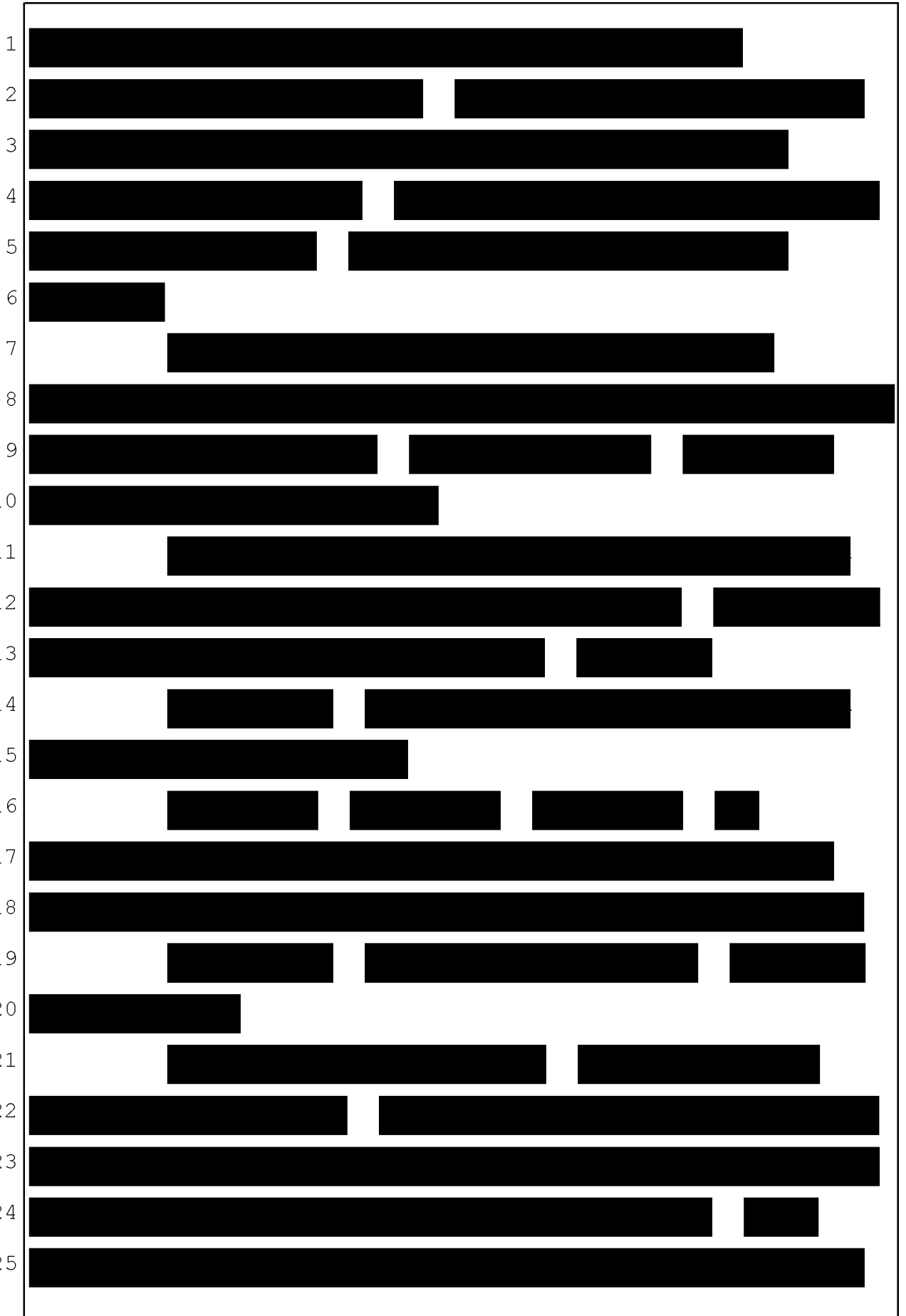
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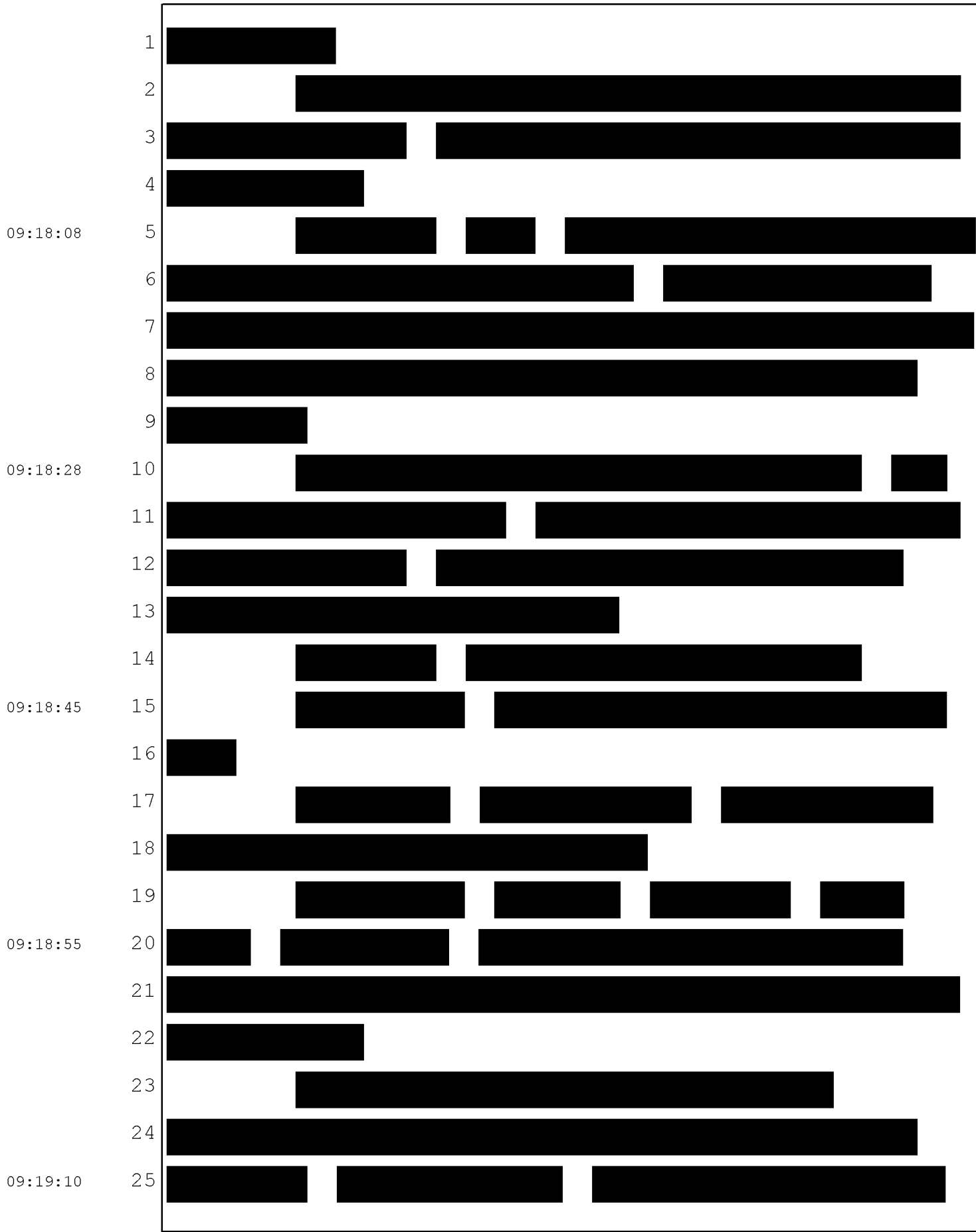
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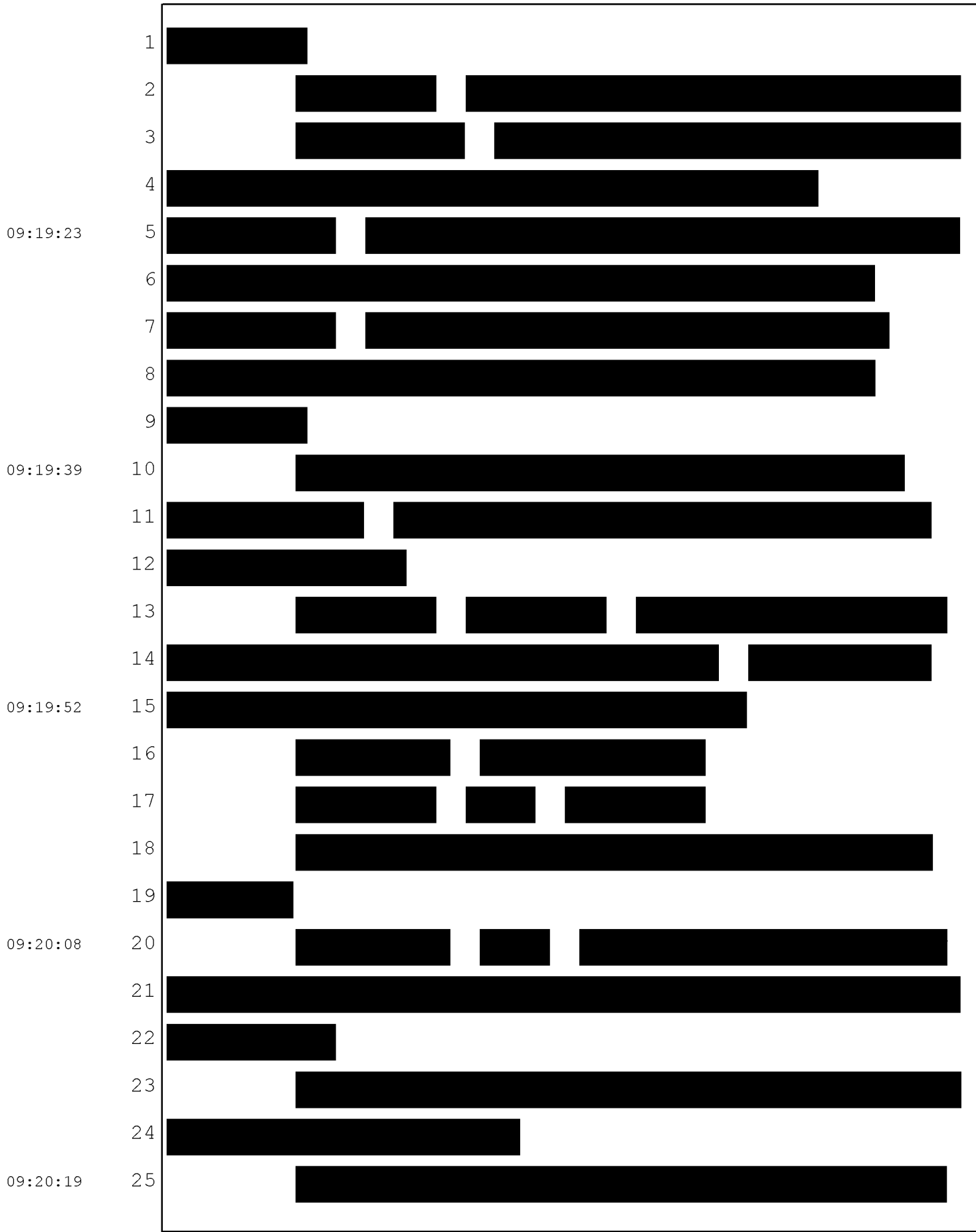
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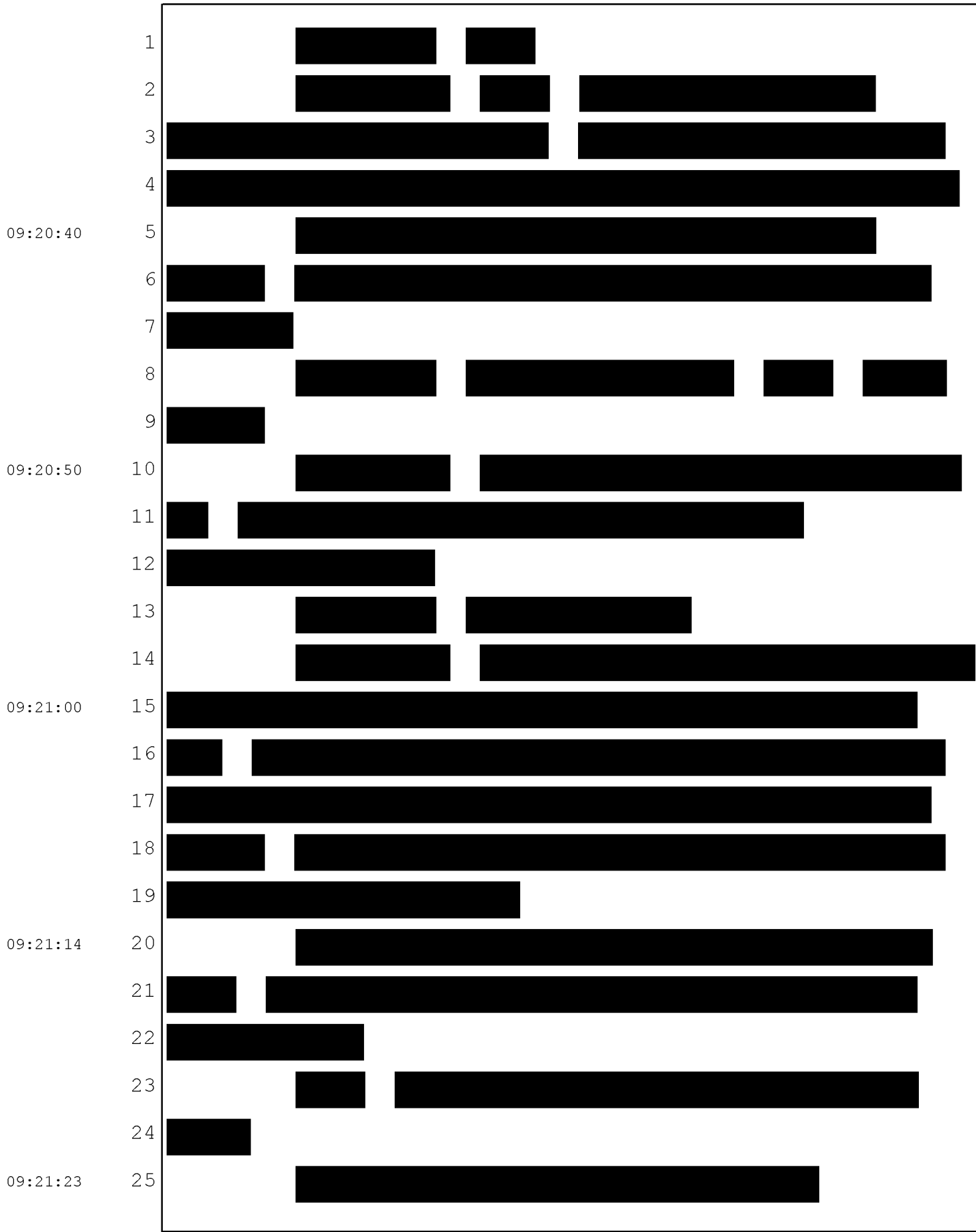
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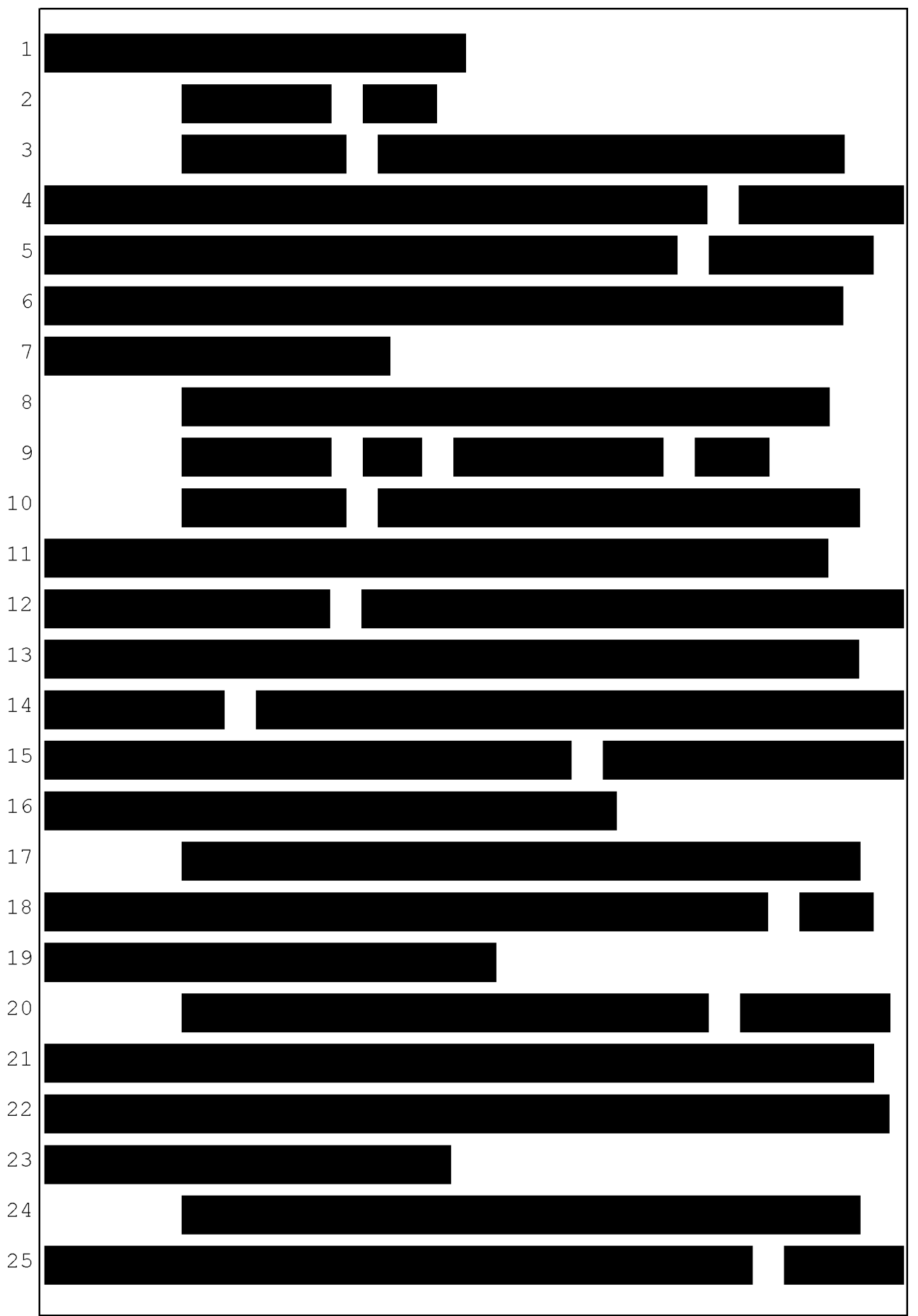
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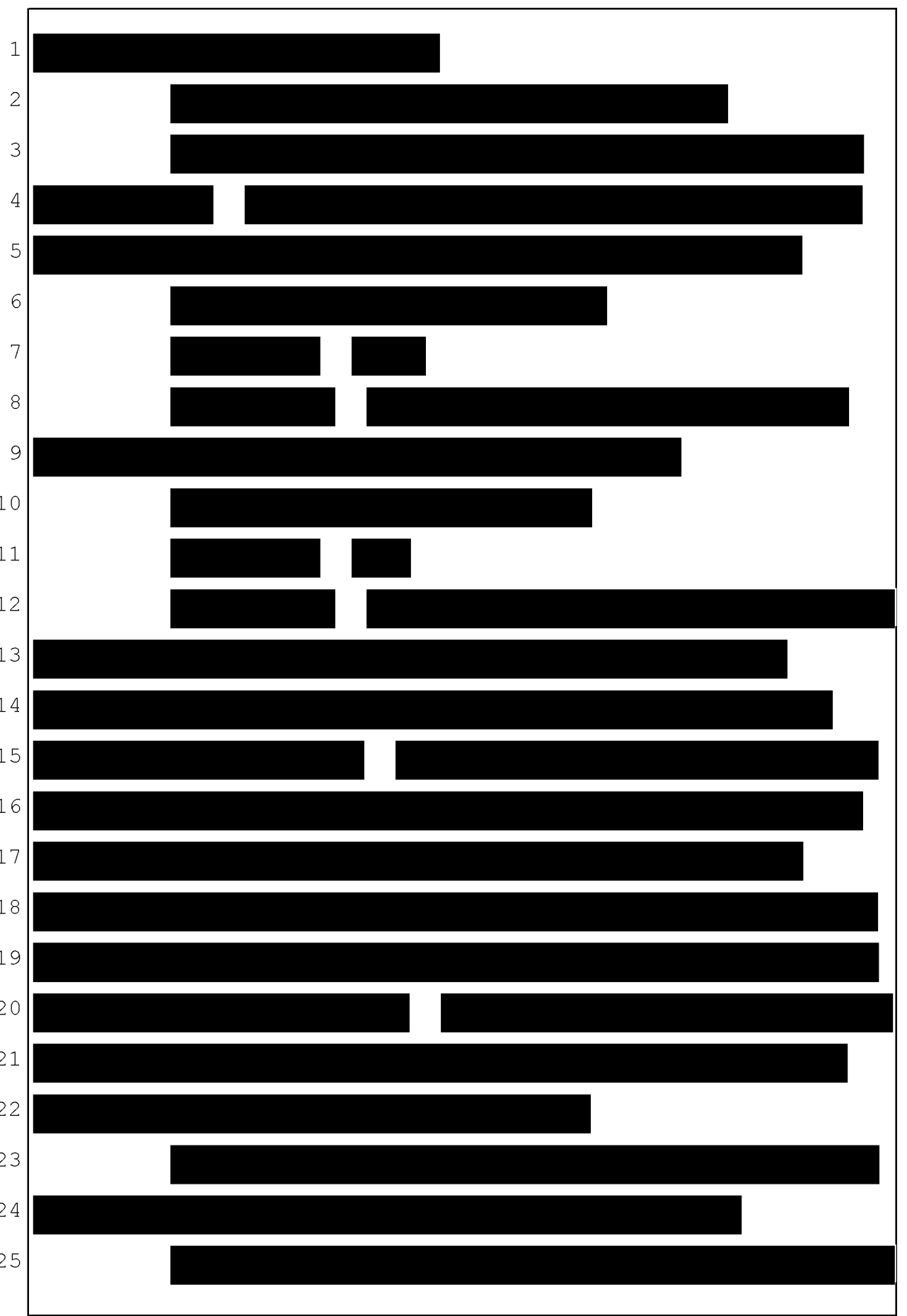
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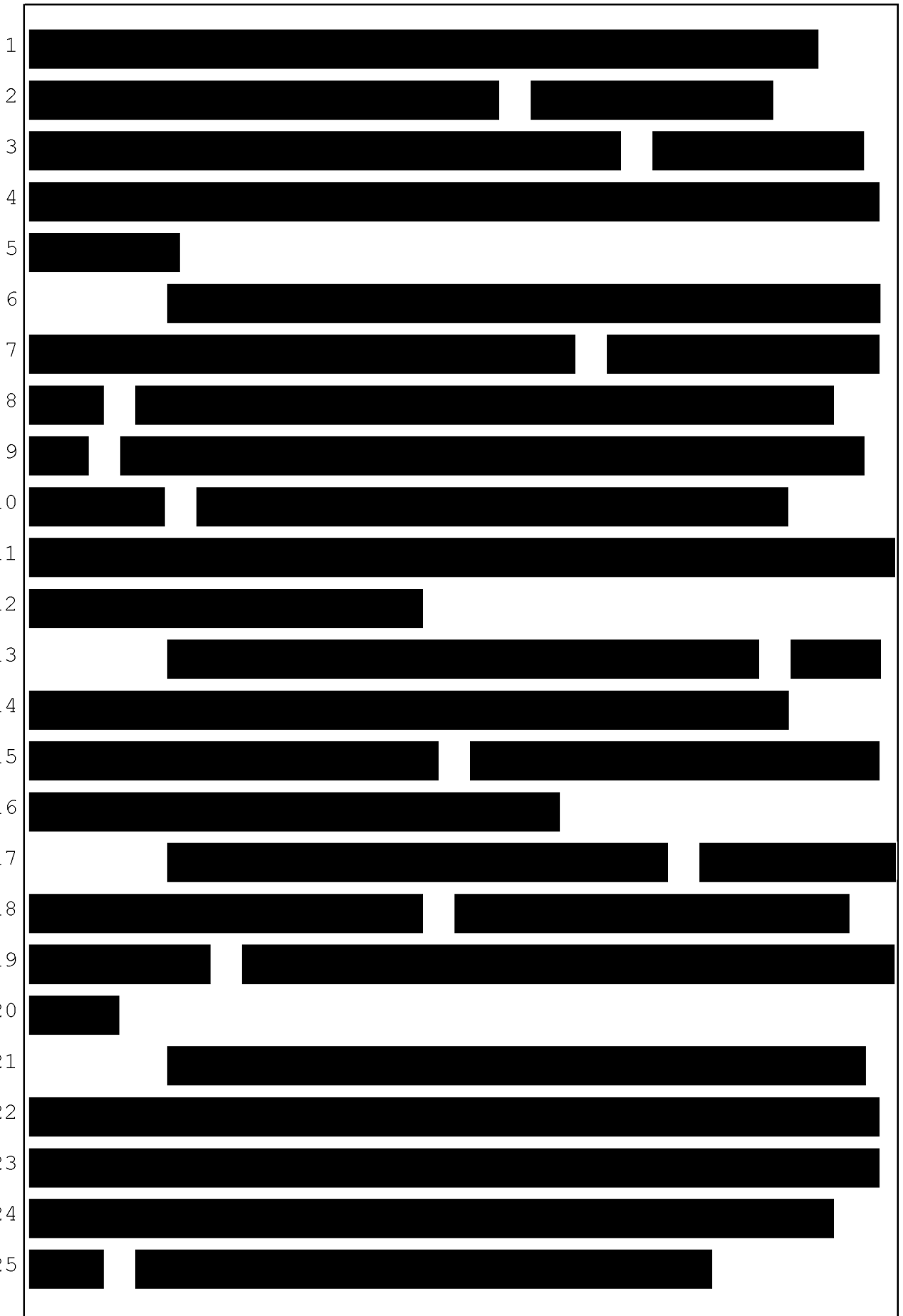


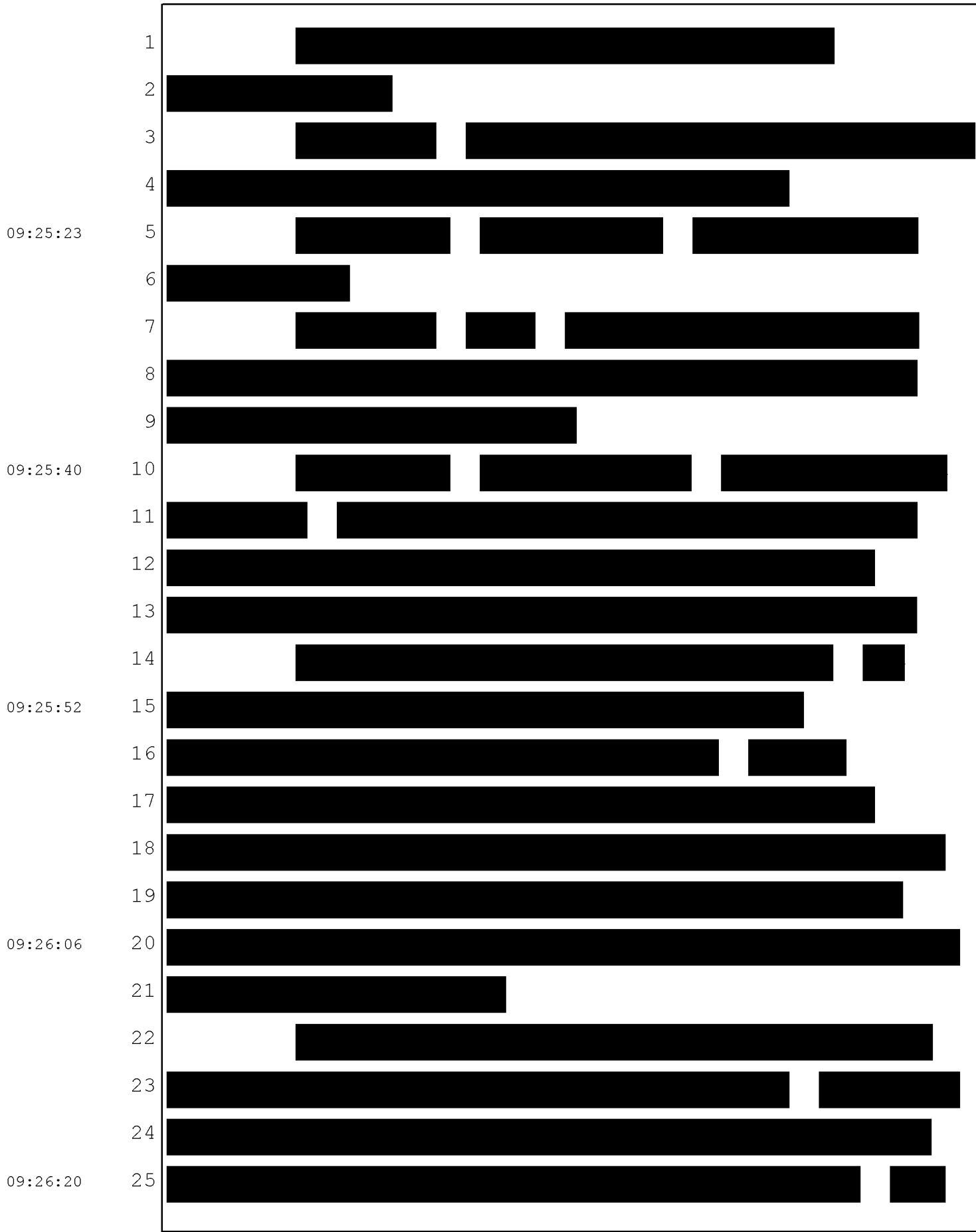
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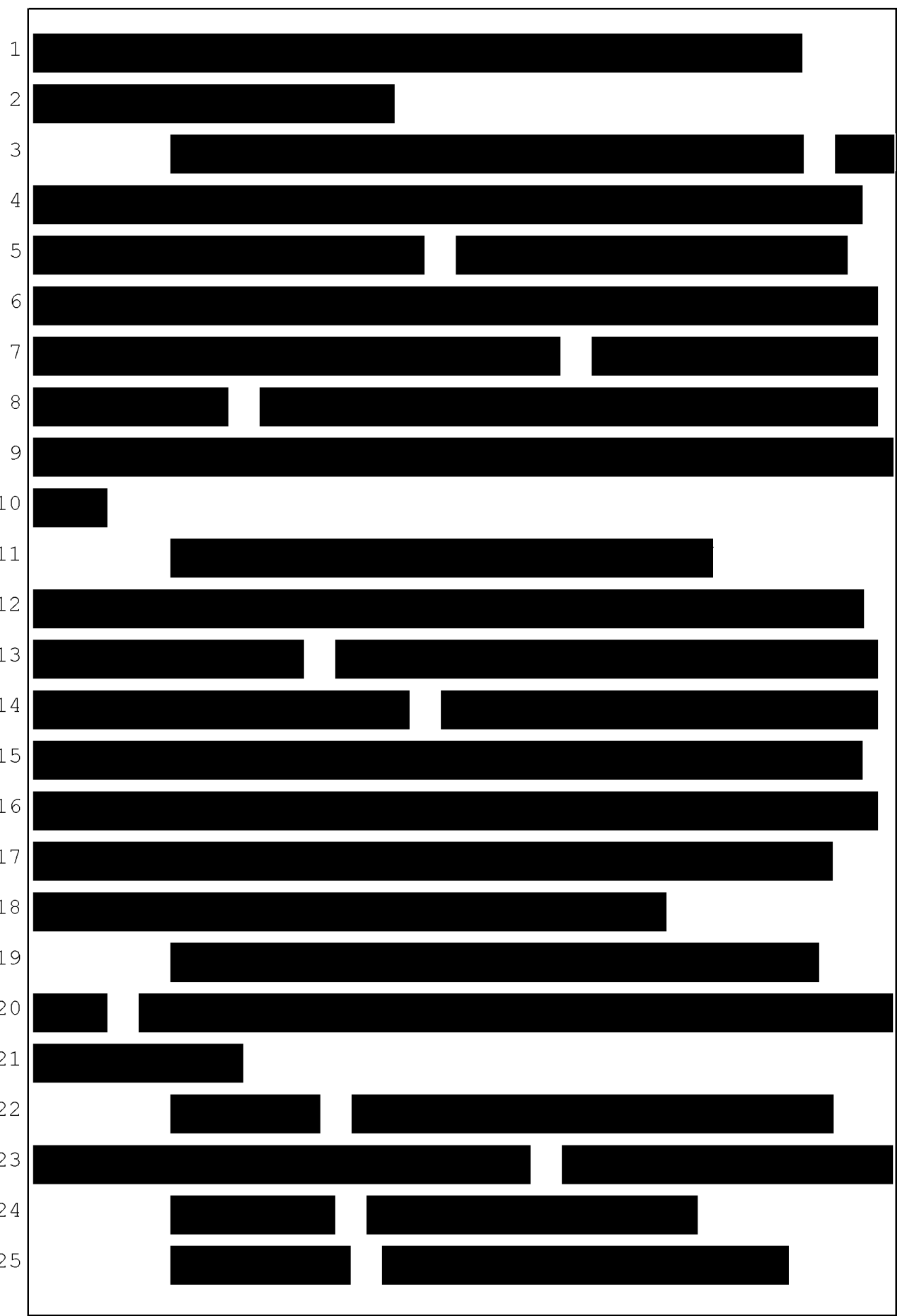
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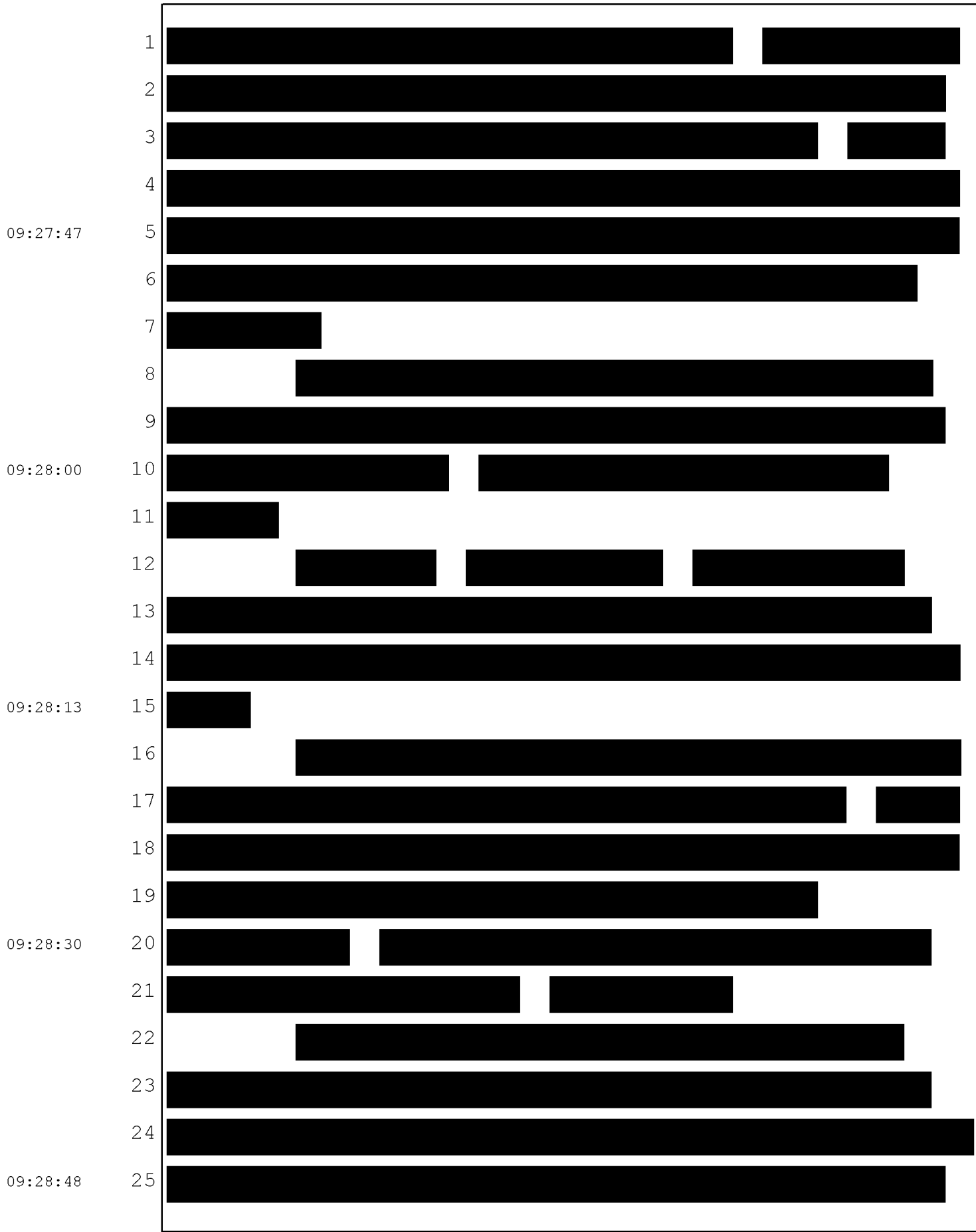
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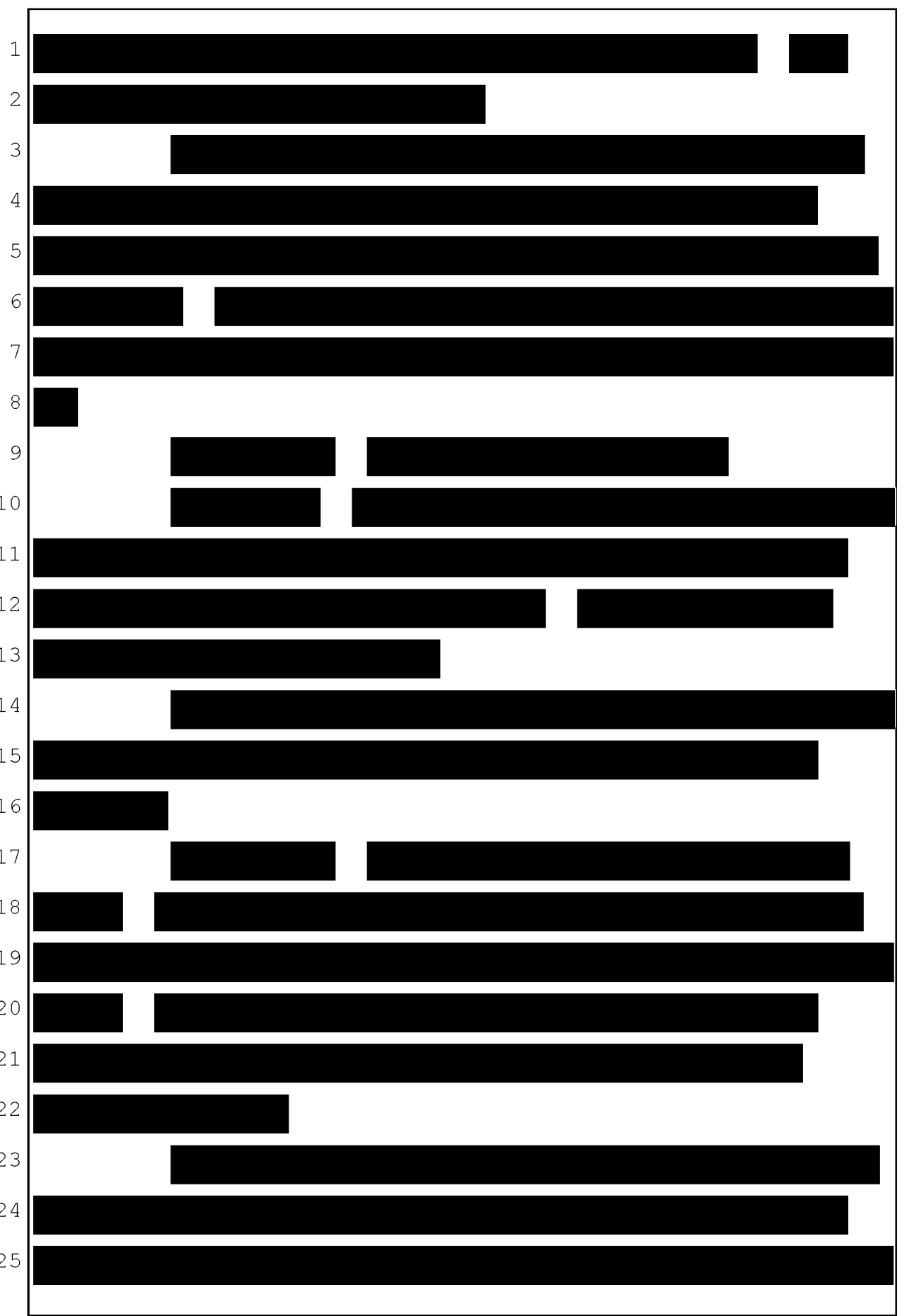
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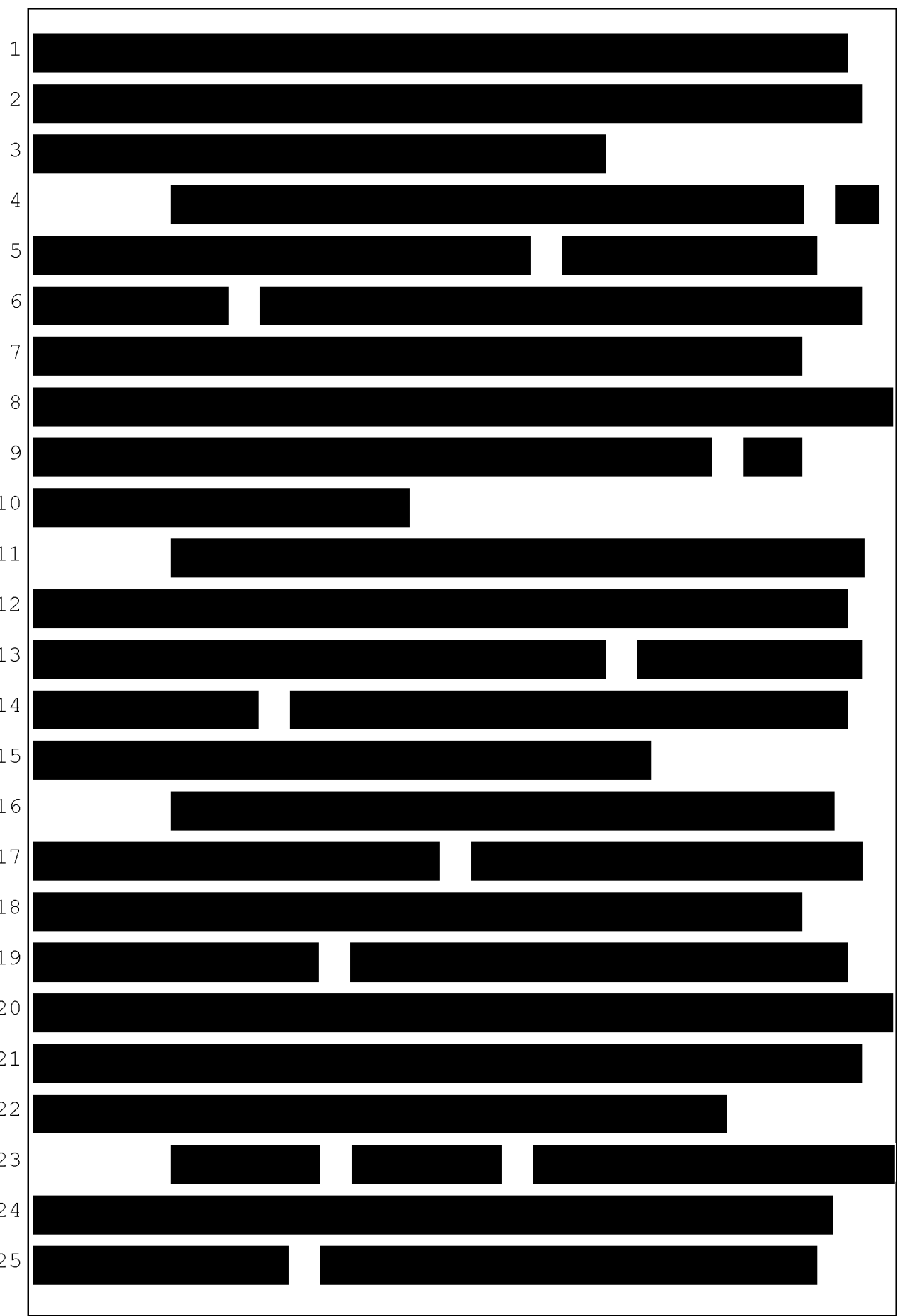
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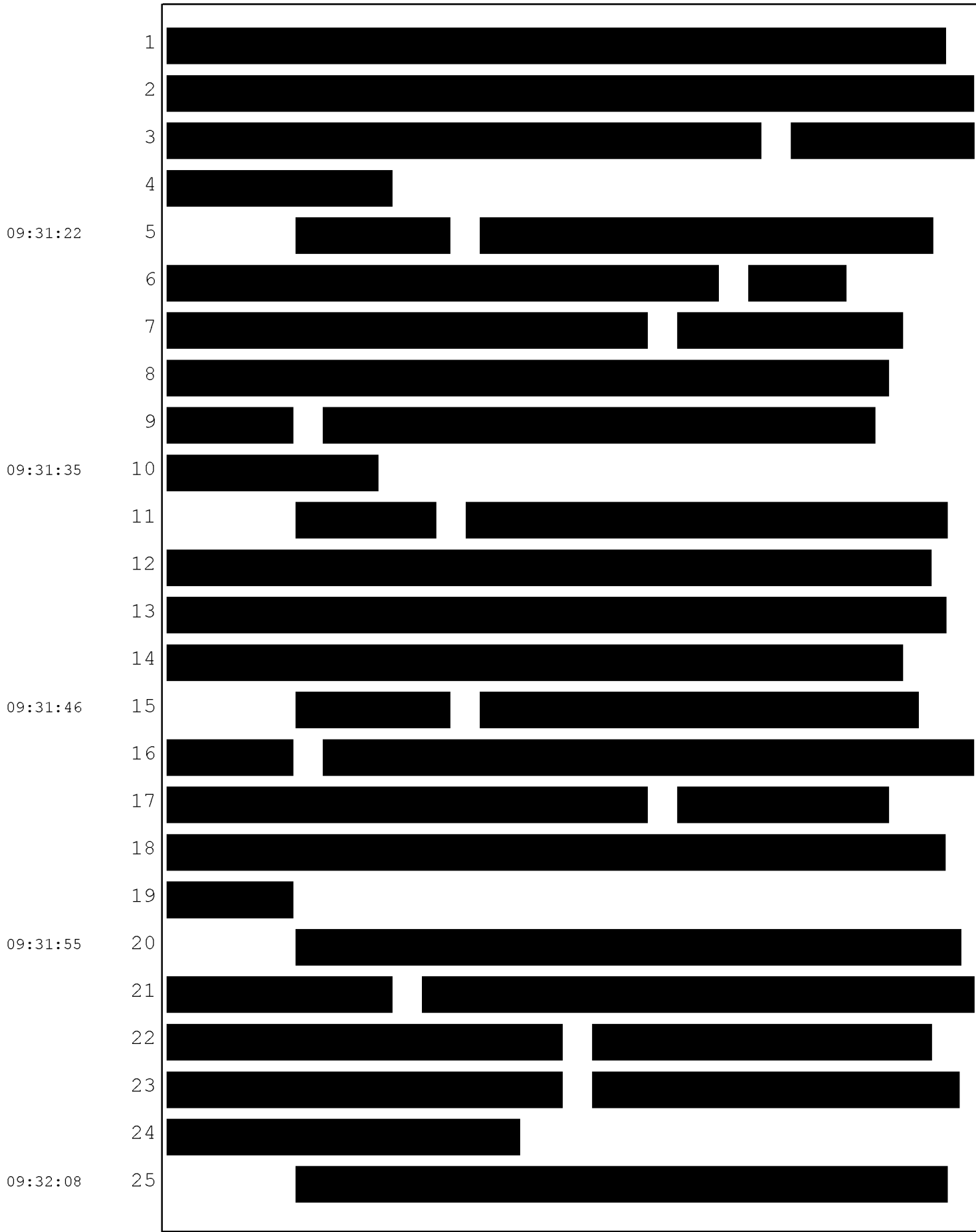
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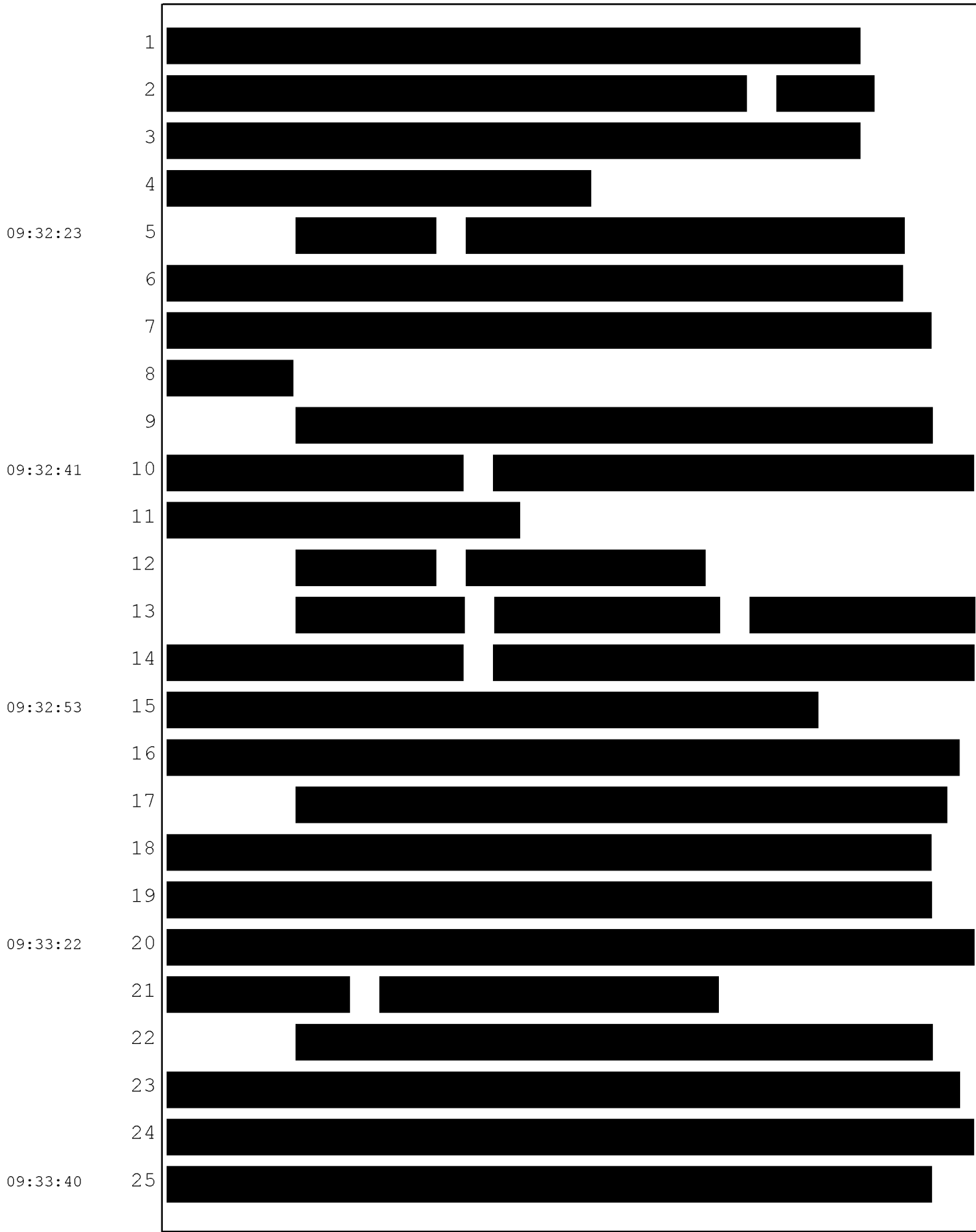
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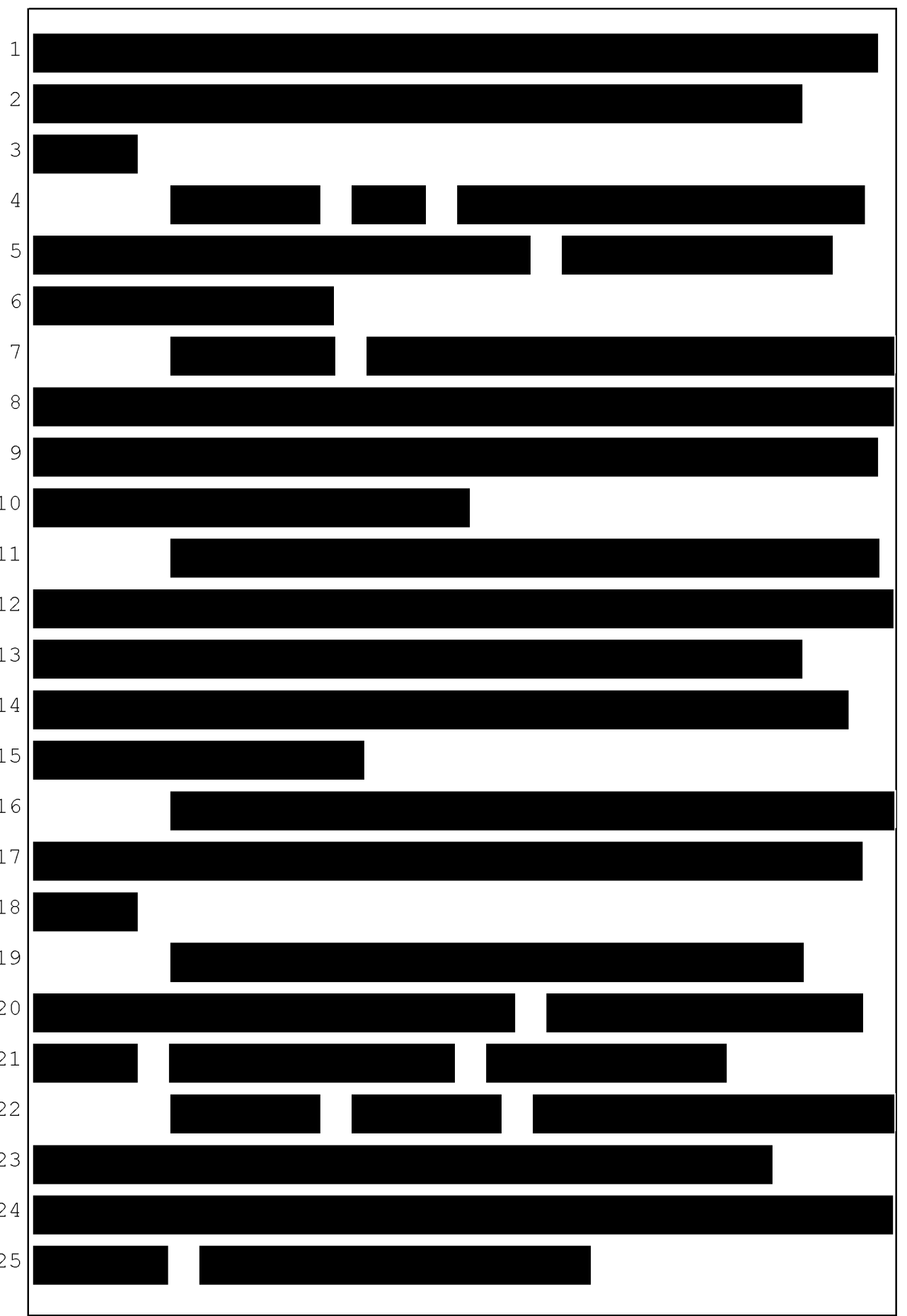
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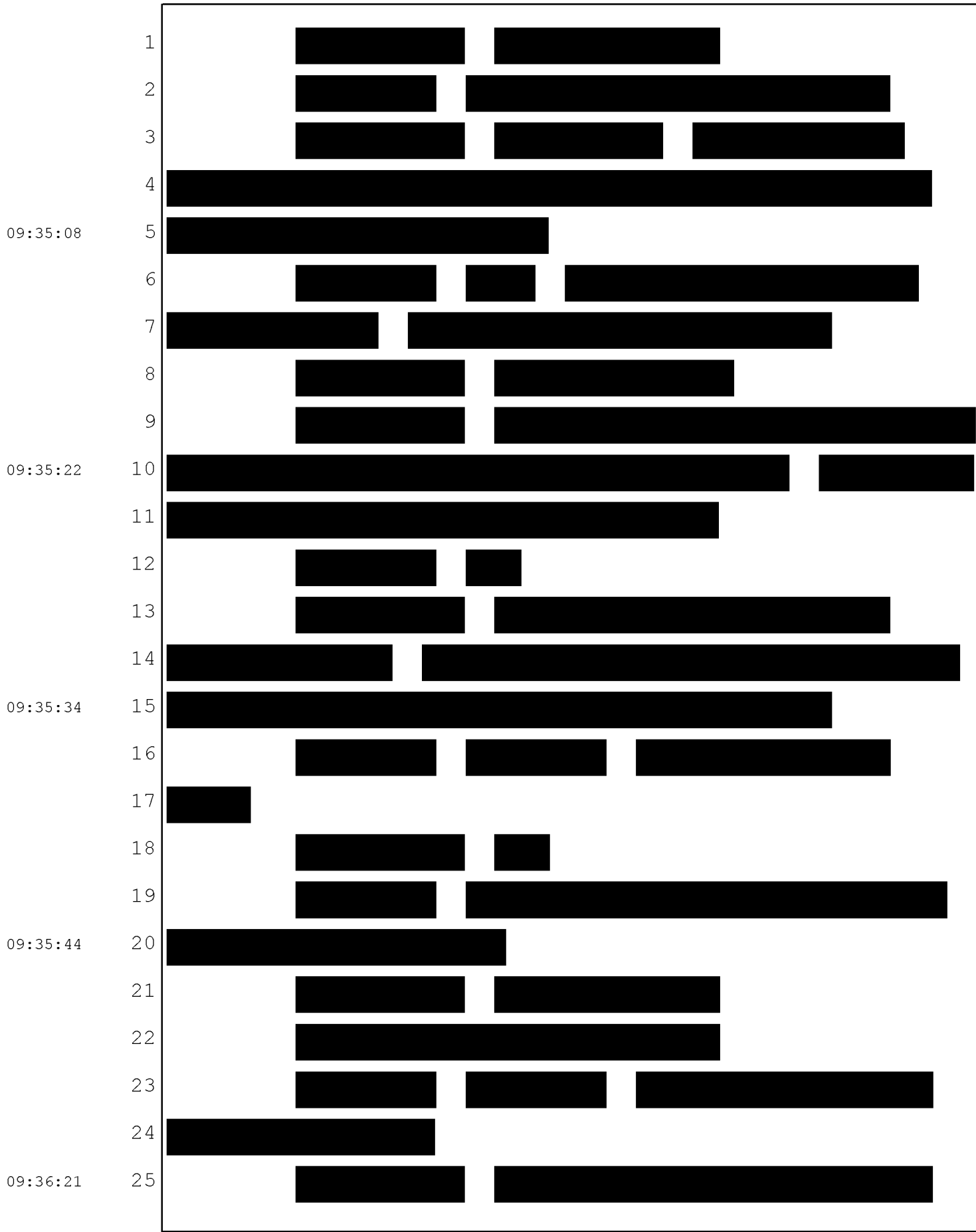
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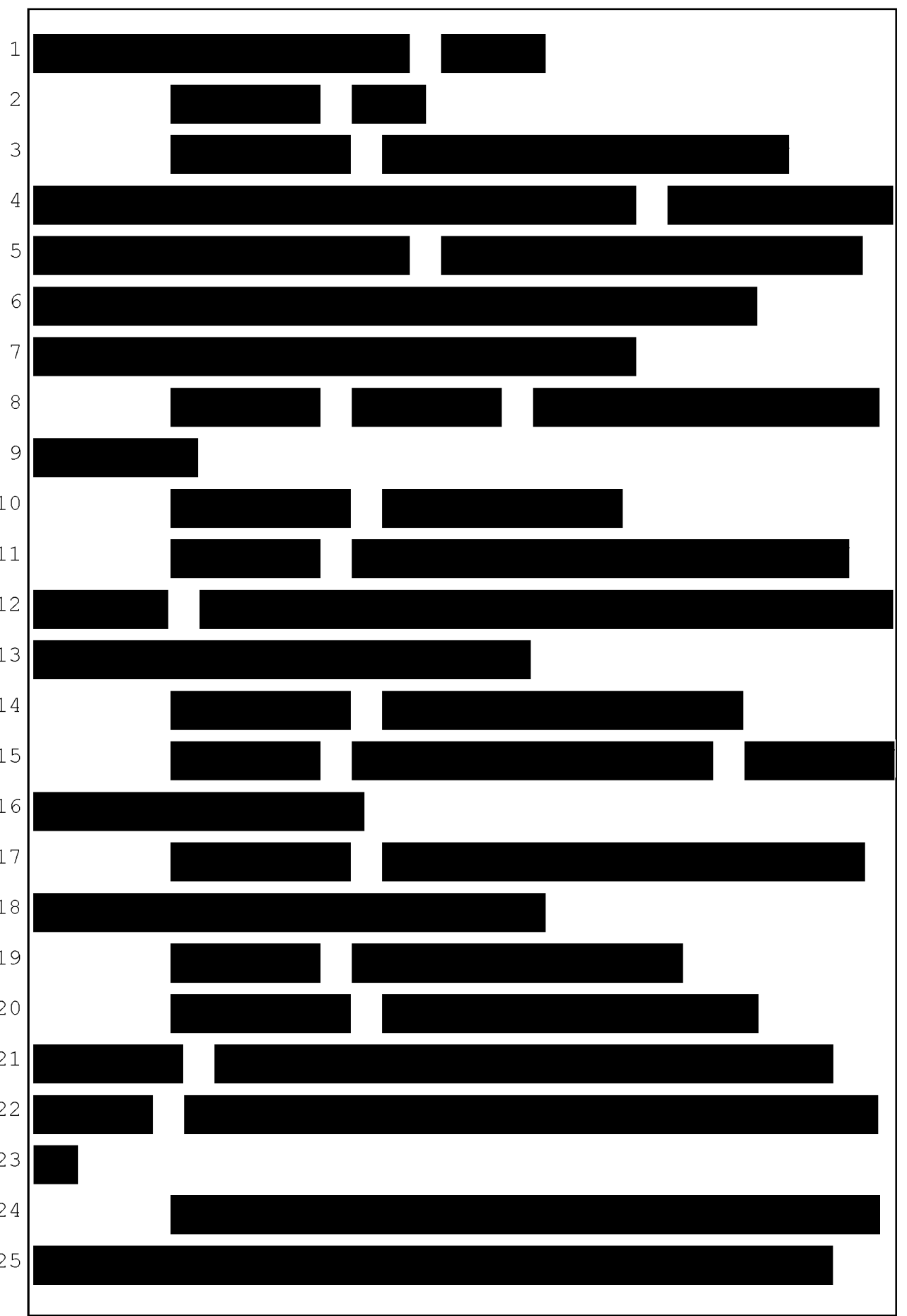
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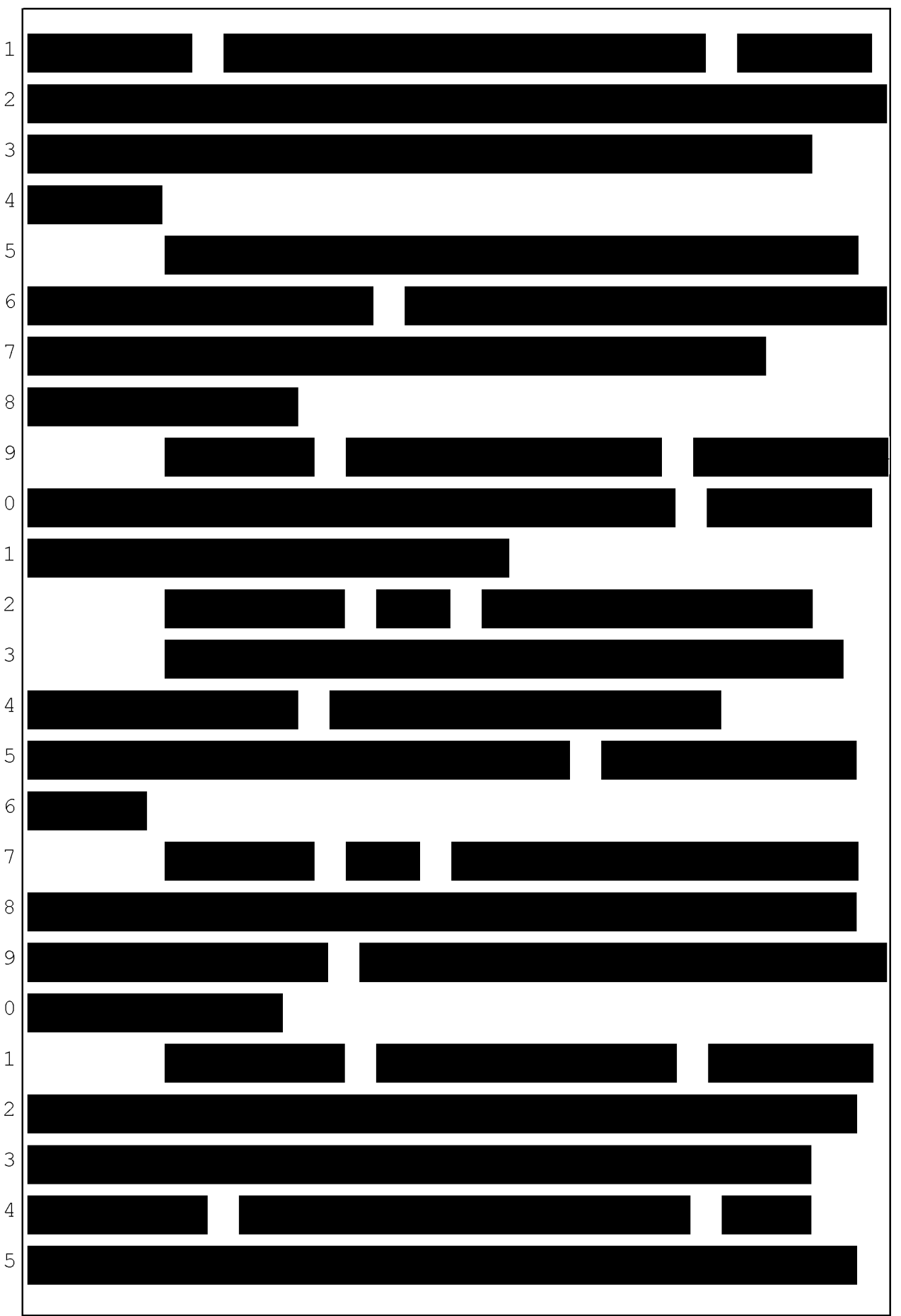
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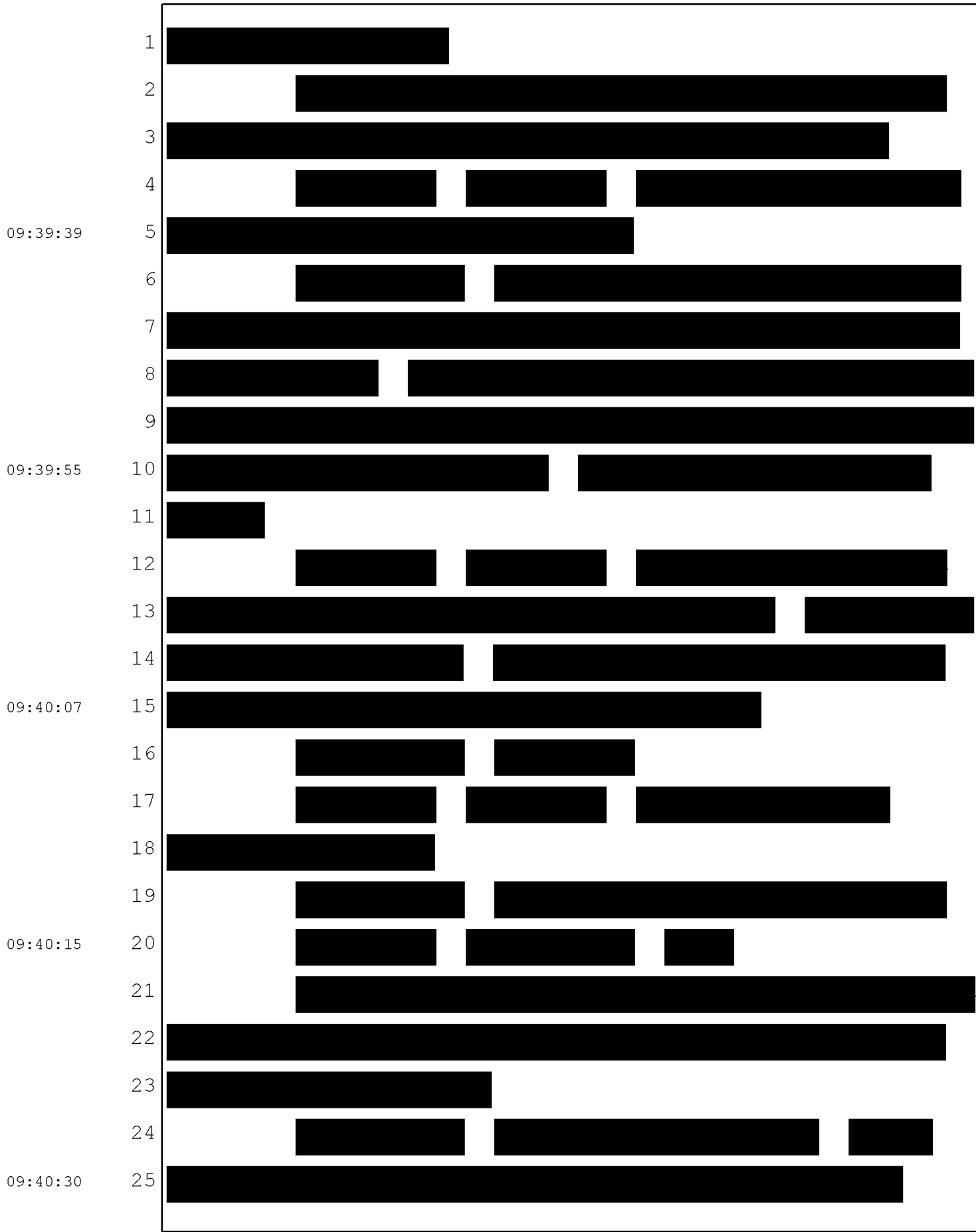
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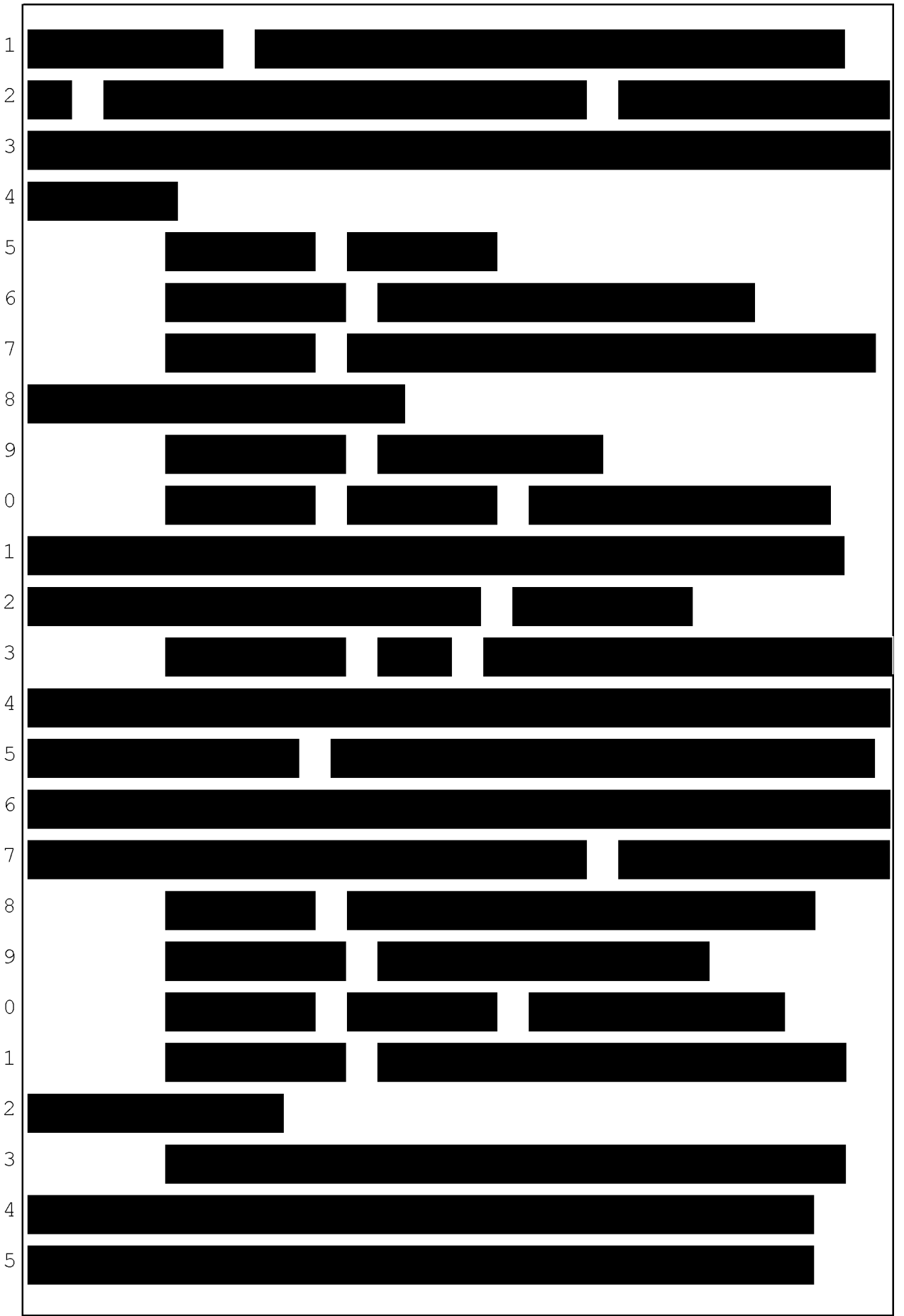


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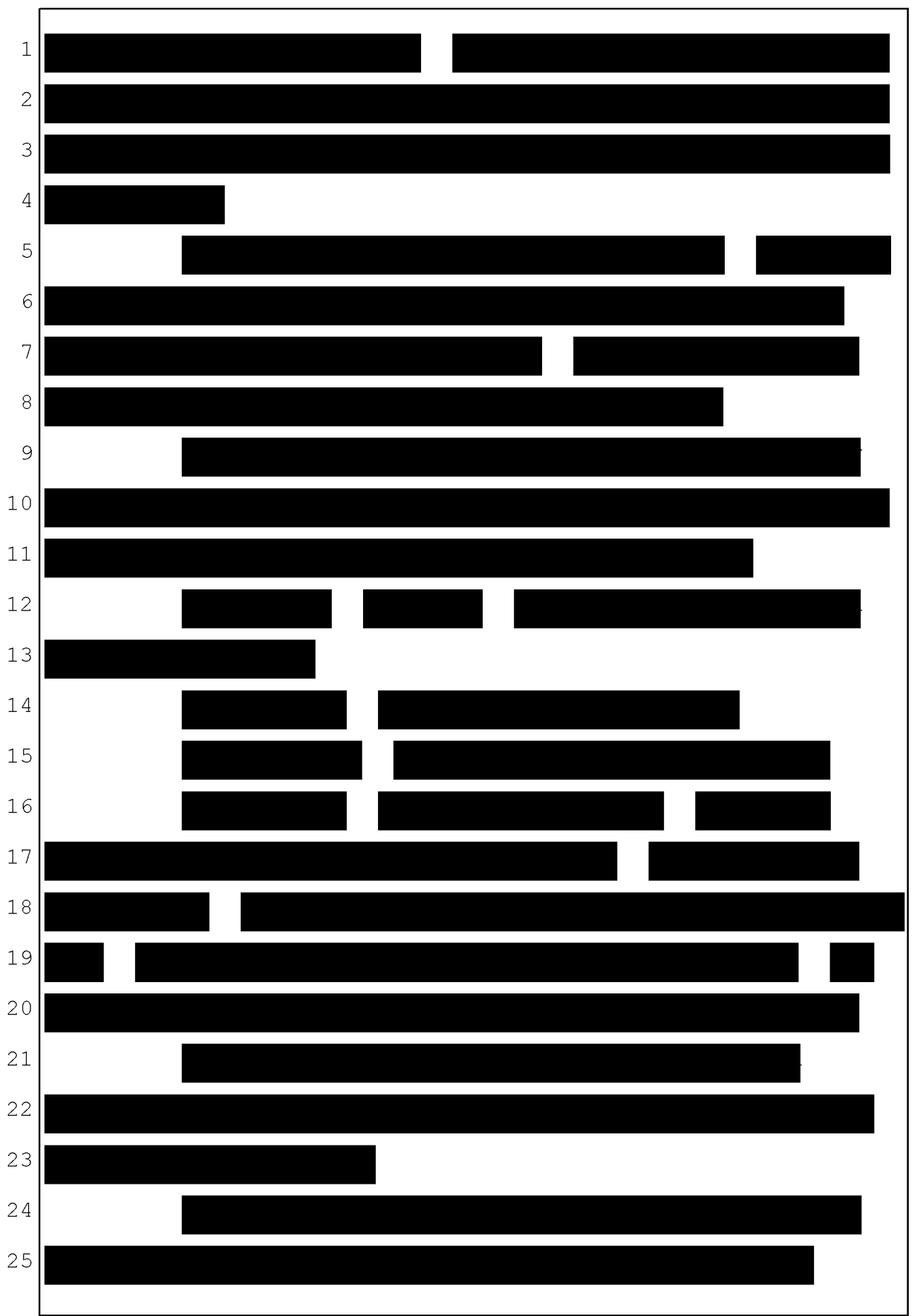


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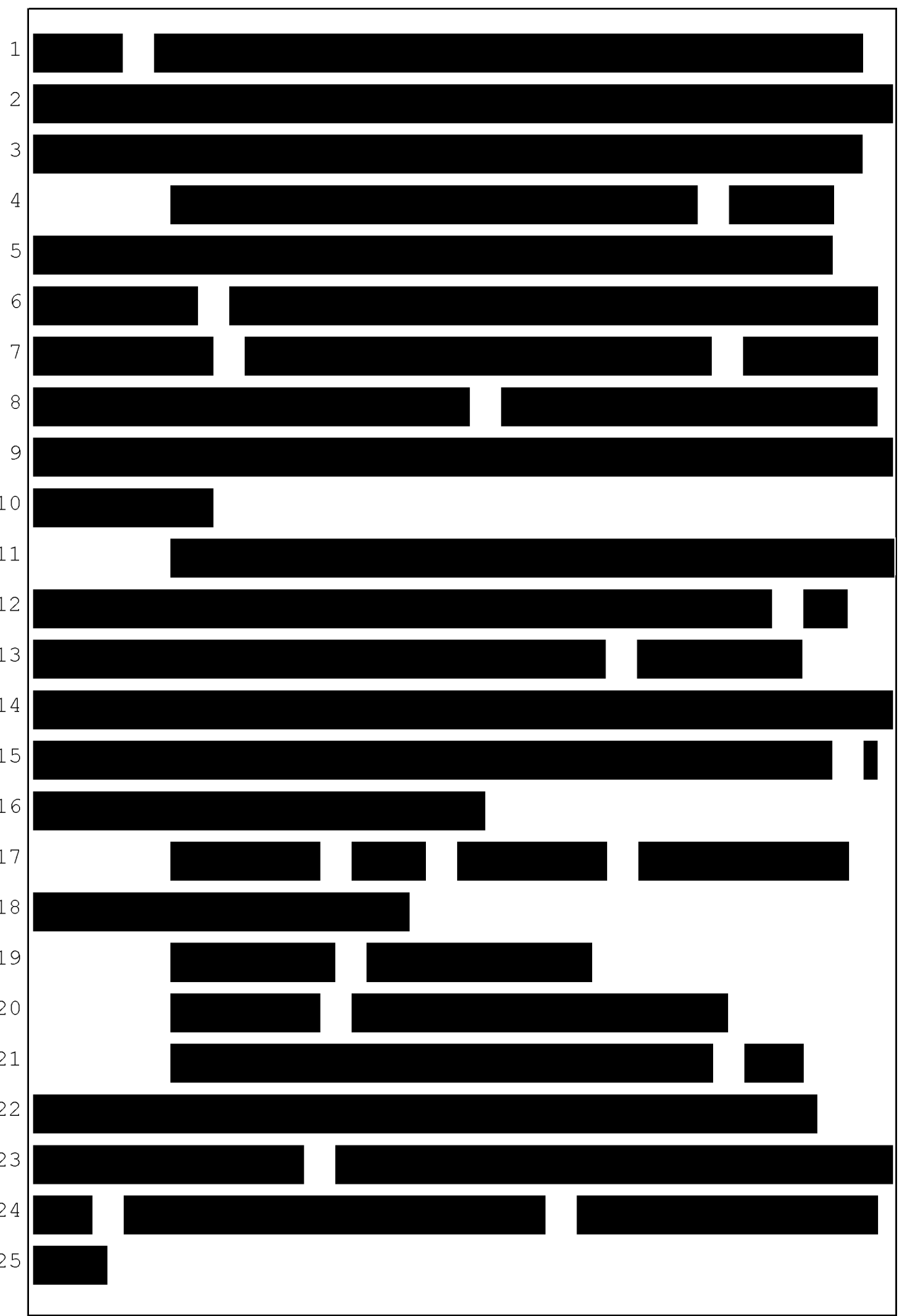
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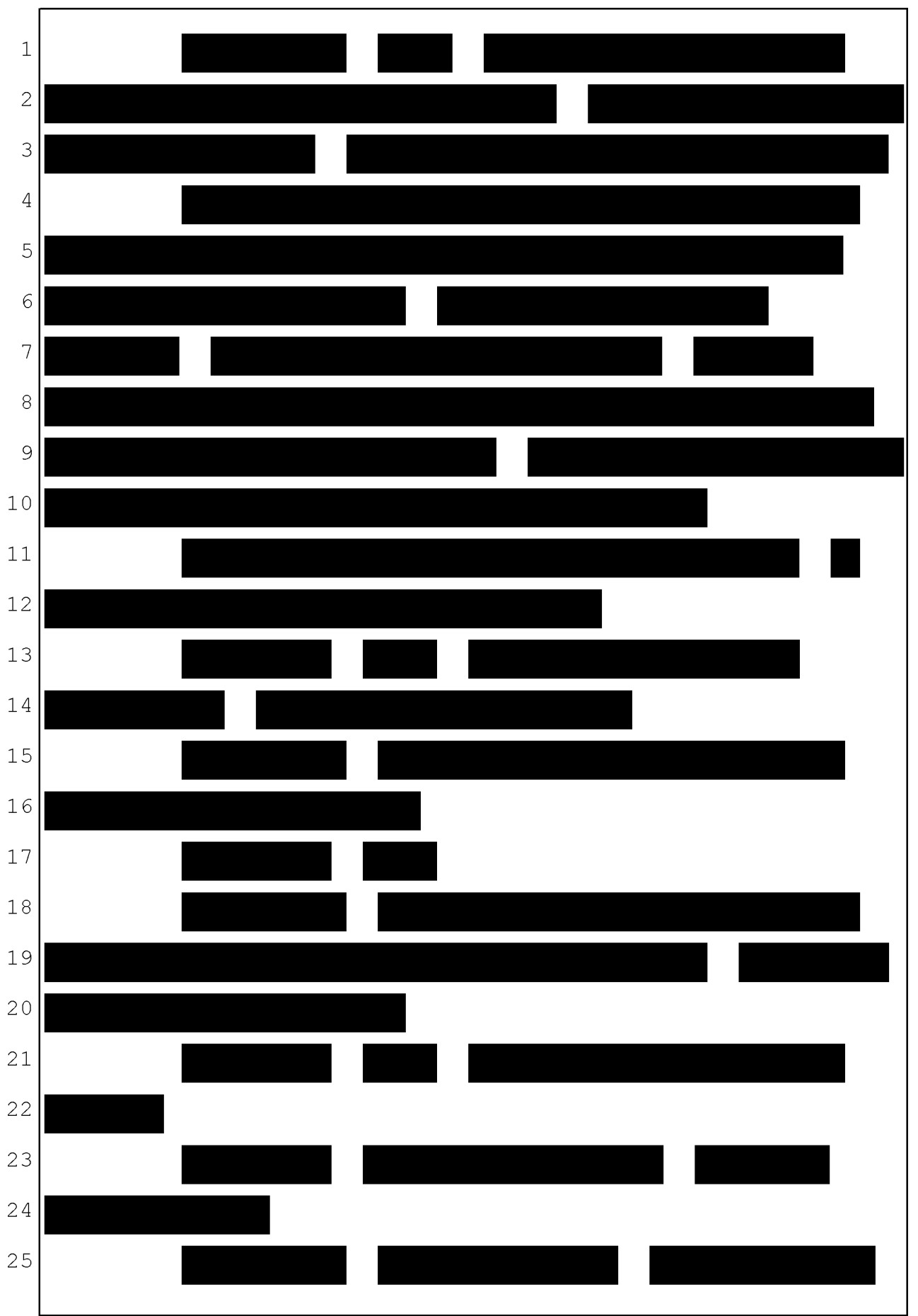
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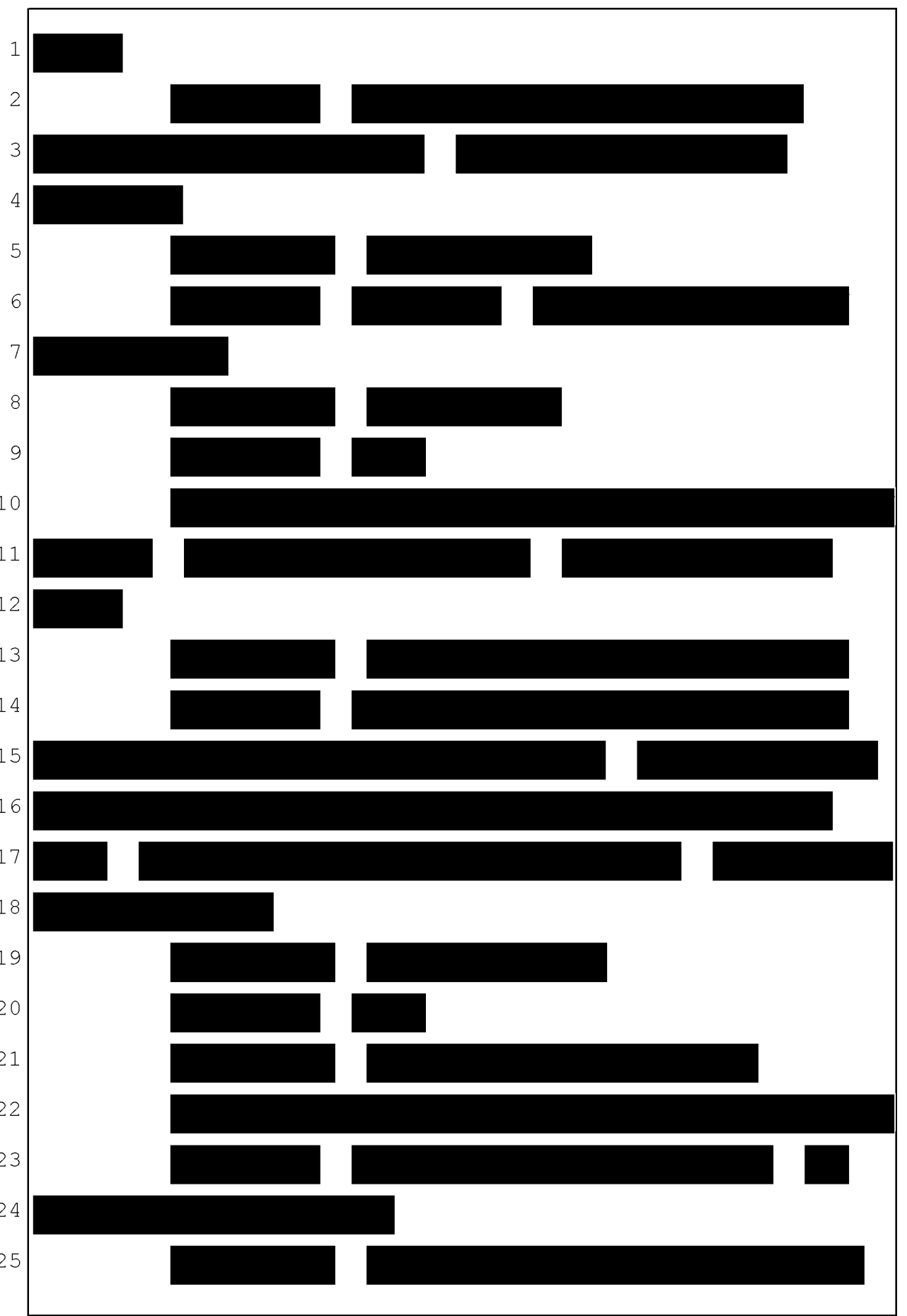
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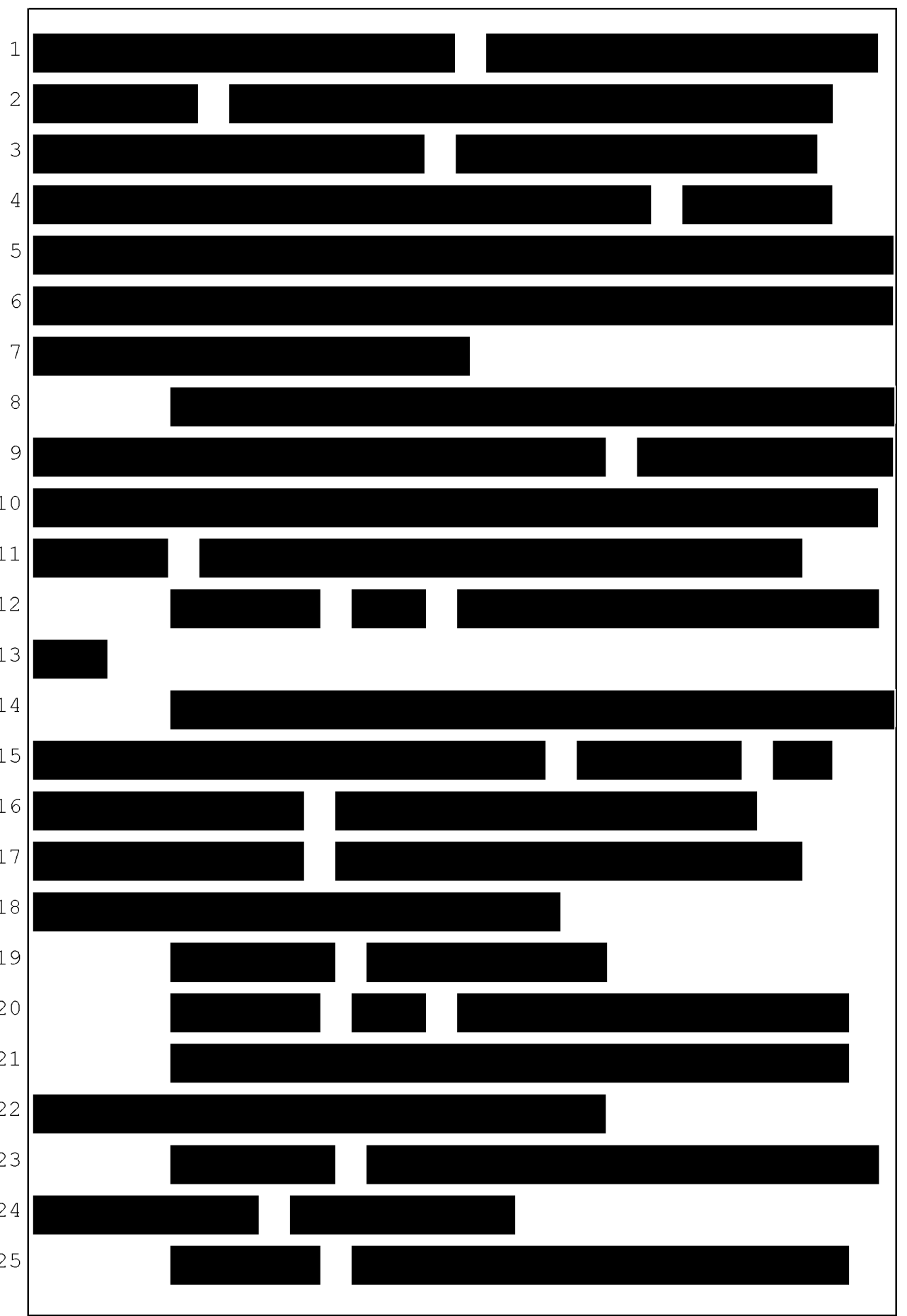
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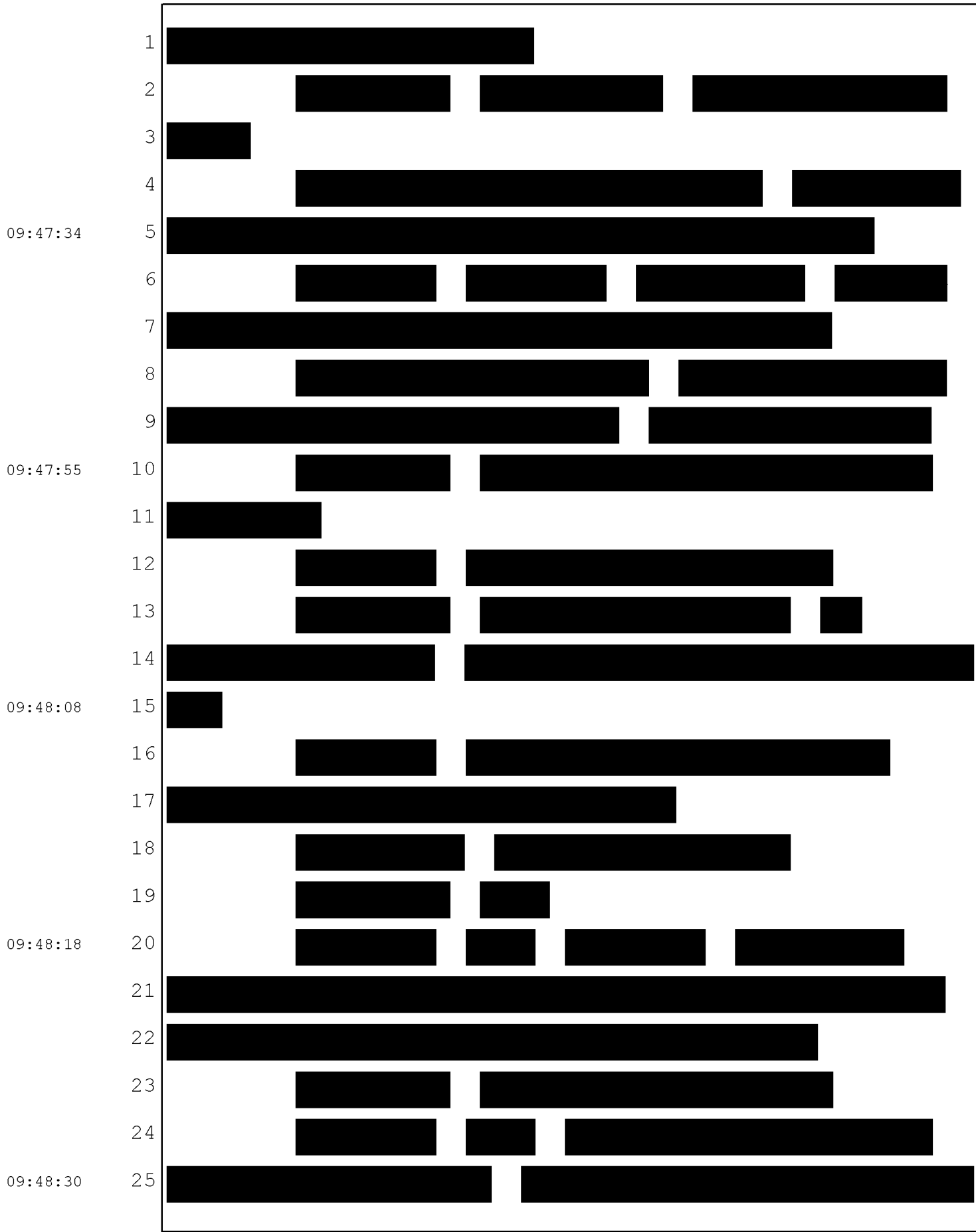
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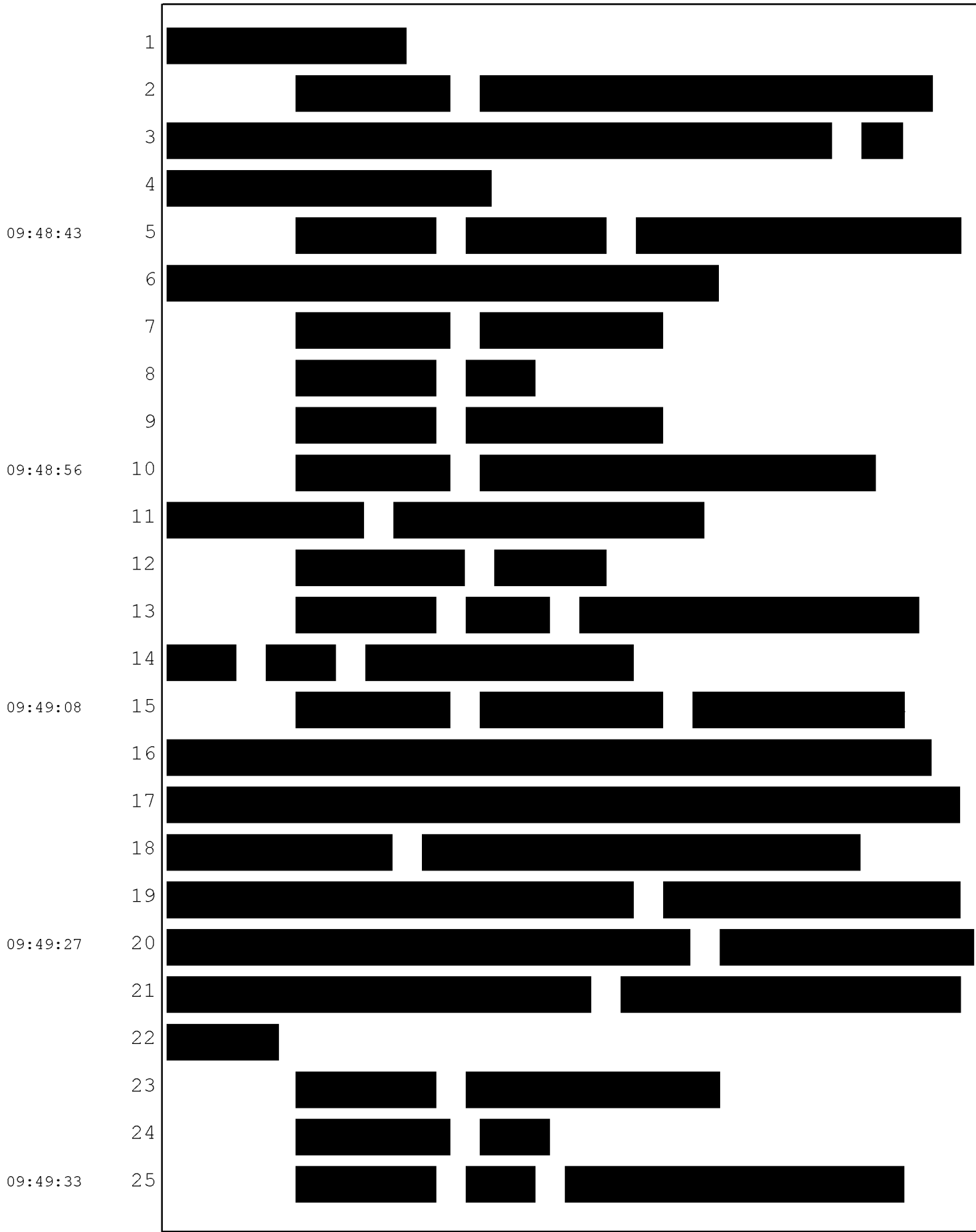
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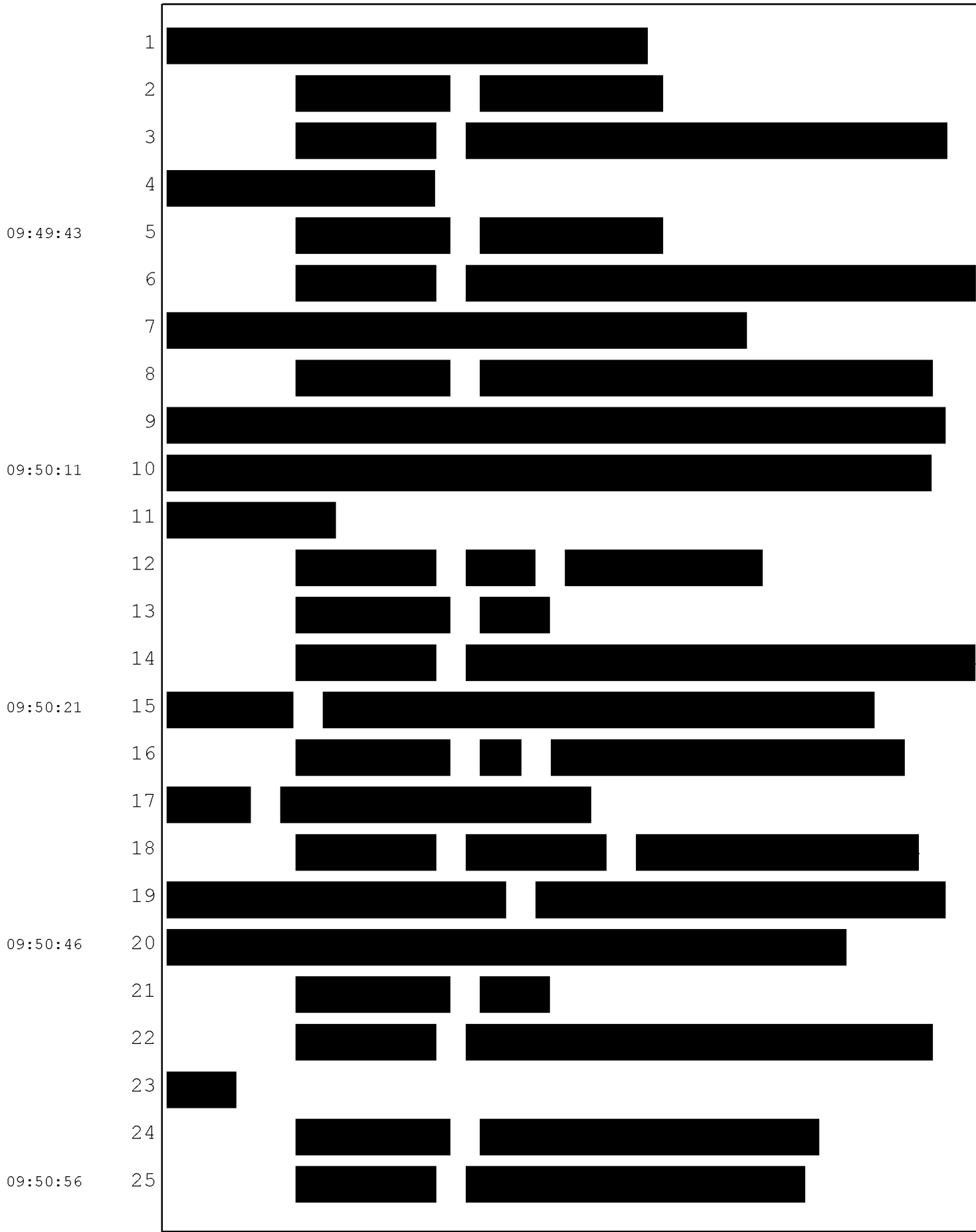
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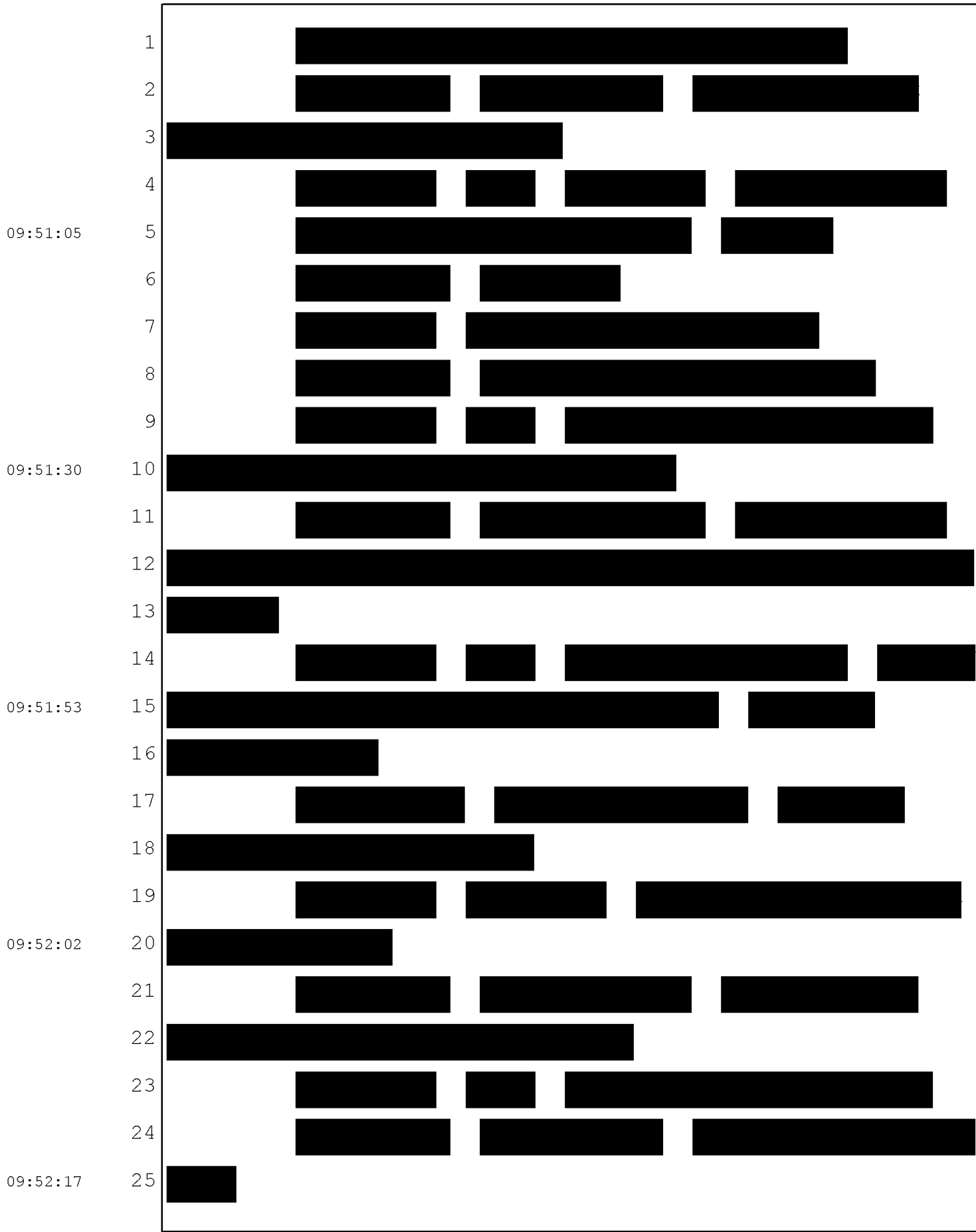


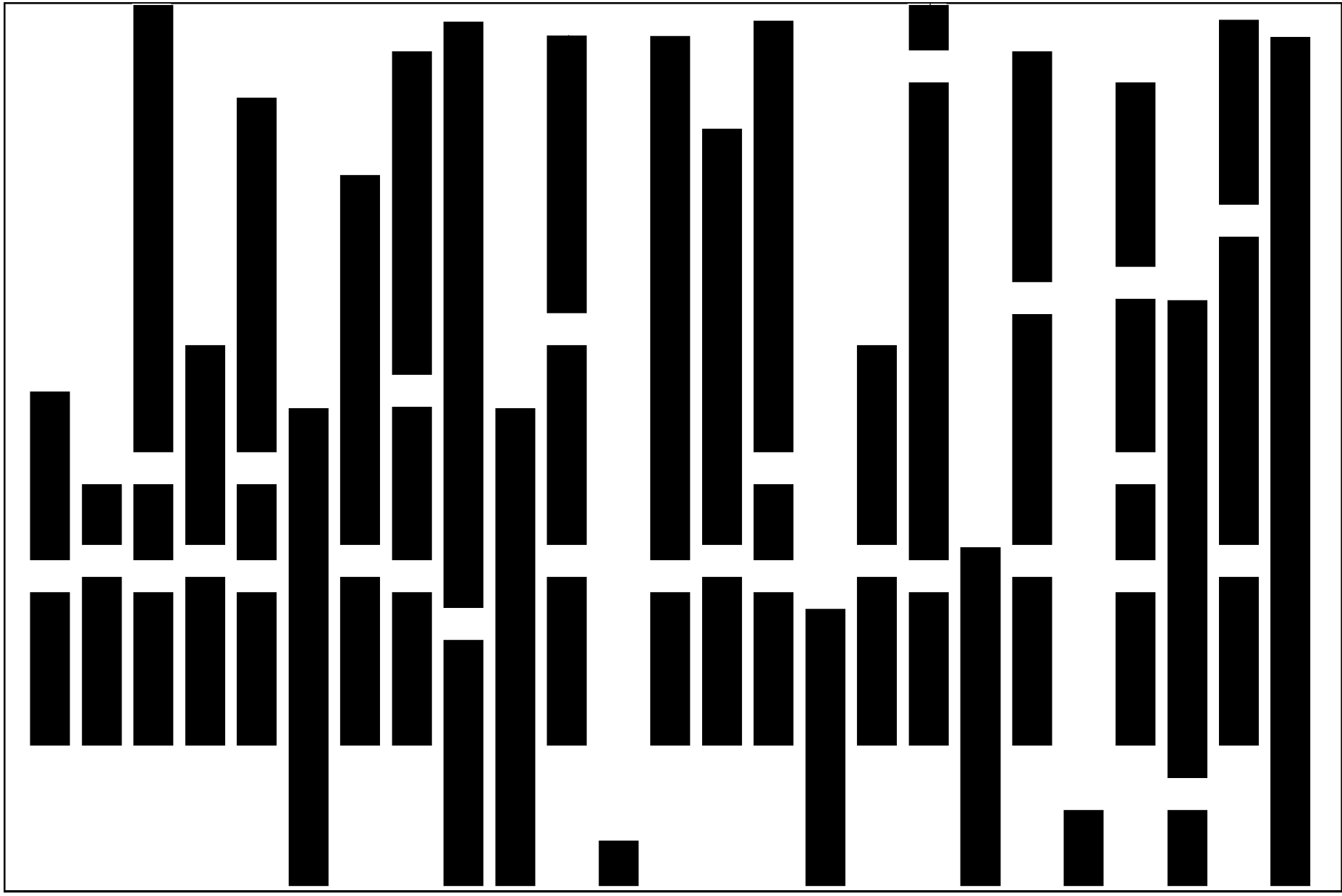












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(Jury enters courtroom.)

THE COURT: Please be seated, Ladies and Gentlemen. Good morning, Ladies and Gentlemen. Welcome back. I apologize for the delay in getting started, but we are now prepared to resume.

And, Mr. Wisner, you may call your next witness.

MR. WISNER: Thank you, your Honor.

At this time, the plaintiffs call Dr. Ope Ofodile to the stand.

OPE OFODILE,

having been first duly sworn, was examined and testified as follows:

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THE CLERK: Would you please state and spell your name for the record.

10:01:22

THE WITNESS: My name is Dr. Ope Ofodile. Ope is spelled O-P-E. Ofodile is spelled O-F-O-D-I-L-E.

THE COURT: Thank you. You may proceed, Mr. Wisner.

DIRECT EXAMINATION

BY MR. WISNER:

Q. Good morning, Doctor. How are you?

A. Good morning. Doing well.

Q. I hope you had a good weekend. I hope everyone else in the jury had a good weekend.

10:01:34

I'd like to talk to you a little bit about your relationship with this case. But before we do that, do you know Mr. Johnson?

A. I do.

Q. How do you know him?

10:01:40

A. Mr. Johnson was my patient while I was working at Kaiser from the end of 2014 until I left Kaiser around middle of 2016.

Q. And what were you treating Mr. Johnson for during that several year period?

10:01:53

A. So I'm a dermatologist, and I was treating him

1 for cutaneous T-cell carcinoma.

2 MR. WISNER: Permission to publish a slide from  
3 Mr. Lombardi's opening?

4 THE COURT: Any objection?

10:02:08 5 MR. GRIFFIS: No objection.

6 THE COURT: Very well.

7 Q. BY MR. WISNER: Doctor, this was a slide that  
8 Monsanto's attorney presented to the jury in opening  
9 statements, and it says, "These are Mr. Johnson's  
10:02:16 10 treating doctors." Are you on that slide?

11 A. I am not.

12 Q. Did you play a significant role in the treatment  
13 of Mr. Johnson?

14 A. I did. I was Mr. Johnson's primary  
10:02:24 15 dermatologist. I was the one that made the referral to  
16 Dr. Kim and Dr. Hope at Stanford. And I also referred  
17 his care to Dr. Truong, who is also at Kaiser. I'm not  
18 familiar with Dr. Pincus at UCSF, but I know she dealt  
19 with some of his initial slides. But I was the primary  
10:02:47 20 coordinator of all of Mr. Johnson's care, and if there  
21 were treatments or something that I felt were, kind of,  
22 out of my scope, I then made the referral to the  
23 following physicians.

24 Q. Thank you, Doctor.

10:02:56 25 Let's talk about your background and education.

1 Did you go to college?

2 A. I did.

3 Q. Where'd you go to?

4 A. Spelman College in Atlanta, Georgia.

10:03:02 5 Q. What'd you study there?

6 A. I studied biological sciences.

7 Q. And at some point I assume you went to medical  
8 school?

9 A. I did.

10:03:10 10 Q. Where'd you go to medical school?

11 A. I went to medical school at Duke University.

12 Q. And I understand you also got a master's degree;  
13 is that right?

14 A. I did. I got my master's in public health and  
10:03:19 15 had that at University of North Carolina in Chapel Hill.

16 Q. So you're somewhere in between a Blue Devil and  
17 a Tar Heel; is that right?

18 A. Probably more Blue Devil, but, yes, somewhere in  
19 between.

10:03:29 20 Q. I won't tell Dr. Portier about that.

21 A. Okay.

22 Q. Well, Doctor, let's talk a little bit about what  
23 you did after med school. What's the -- what's the  
24 process of becoming a dermatologist? What's the next  
10:03:39 25 step?



1 A. Yeah, so after completing four years of medical  
2 school, you do one year of general internship, and that's  
3 where you, kind of, learn -- usually it's in internal  
4 medicine, so you, kind of, learn about general medical  
10:03:52 5 care. And then following that one year of internship,  
6 you do three years of dermatology residency, and that's  
7 where you focus primarily only on dermatology. So I did  
8 my dermatology residency at the University of Washington  
9 in Seattle, and I did my internship at the Mount Sinai in  
10:04:12 10 New York.

11 Q. And then at some point, did you start working  
12 for Kaiser here in San Francisco?

13 A. Correct, yes. So once I completed my residency  
14 in 2014, I joined the Kaiser group in Vallejo,  
10:04:23 15 California. And that's how I came in contact with  
16 Mr. Johnson.

17 Q. And are there any board certifications involved  
18 in becoming a dermatologist?

19 A. Yes, there is. You can be board certified in  
10:04:34 20 dermatology, which I am, and I'm also a fellow of the  
21 American Academy of Dermatology.

22 Q. Now, you mentioned you had a master's degree in  
23 public health; is that right?

24 A. Correct.

10:04:41 25 Q. Did that master's degree involve looking at

1 epidemiology?

2           A. It did. It was a master's program that I had  
3 that was specific for clinicians. So what it really  
4 focused on was giving us a more in-depth way of how to  
10:04:56 5 review the literature. You know, most of what we  
6 practice is evidence-based medicine, so knowing how to  
7 take that evidence, review it and apply it to clinical  
8 care.

9           Q. And is that something that you apply in your  
10:05:10 10 practice?

11           A. Yeah. I mean, you know, I -- I often review  
12 journal articles for, kind of, new changes in the  
13 standard of care or new developments in different aspects  
14 of what I'm taking care of. And it's important to kind  
10:05:25 15 of know what is -- you know, how a study is constructed,  
16 what the power of the study means and how to best  
17 interpret what the results the study's showing. So it's  
18 one that I use on a daily basis and one that I also use  
19 to explain to patients in terms of how to interpret  
10:05:41 20 certain research articles.

21           Q. So it would be fair to say, then, that you look  
22 at these journal articles and try to incorporate them  
23 into your clinical practice; is that right?

24           A. Yes, for sure.

10:05:52 25           Q. Now, you're not an oncologist; right?

1 A. I'm not. I am a dermatologist.

2 Q. So then how is it that you could be the primary  
3 care physician for Mr. Johnson in his -- in his mycosis  
4 fungoides?

10:06:02

5 A. So generally, cutaneous T-cell lymphoma is one  
6 that dermatologists are primarily responsible for taking  
7 care of. You know, most patients with cutaneous T-cell  
8 lymphoma, it's not considered a high grade malignancy. I  
9 have several patients that I take care of with this, and  
10 most of the time we treat them with narrow band UVB  
11 treatment or even with just topical treatments.

10:06:22

12 So dermatology is probably the entry point where  
13 most of these patients come into. We often make the  
14 diagnosis, and oftentimes, we take care of them  
15 primarily. It's only in select cases in which the  
16 disease is more advanced that we then, kind of, recruit  
17 the help of our, you know, oncologist or other  
18 dermatologists that have a particular focus in CTCL.

10:06:38

19 Q. And would it be fair to say when you first  
20 started treating Mr. Johnson, it was in that, sort of,  
21 initial capacity?

10:06:55

22 A. Correct, yes. When I first saw Mr. Johnson, he  
23 had already been diagnosed with cutaneous T-cell  
24 lymphoma, and you're definitely -- first referred to our  
25 oncology group, and then they contacted us saying, you

10:07:09

1 know, "I think dermatology would be better suited to take  
2 care of this since it was only a cutaneous problem at  
3 that time."

4           So I took ownership of his care in the end of --  
10:07:22 5 I think around October or November of 2014, and I  
6 primarily was the majority one taking care of him, and  
7 only when he didn't respond to some of the treatments  
8 that we had tried did I enlist the help of, you know,  
9 other dermatologists that had a focus in CTCL. And then  
10:07:37 10 that's also when we made the referral out to Stanford,  
11 because they had clinical trials and other things that  
12 were going on that we thought Mr. Johnson would benefit  
13 from since he wasn't responding to our initial  
14 treatments.

10:07:50 15           Q. And are you still currently at Kaiser in  
16 Vallejo?

17           A. I am not. My family relocated to Georgia, so  
18 now I'm working for a different group in Georgia.

19           Q. Are you still treating patients today?

10:08:03 20           A. Yes. Yeah, definitely. I treat a lot of  
21 patients.

22           Q. When did you get into town?

23           A. I got in last night. I flew in last night, and  
24 got in early -- I got in, like, midnight.

10:08:14 25           Q. Oh, okay. Well, I really appreciate you being

1 here. I know Mr. Johnson appreciates you taking the time  
2 out of your busy schedule, so thank you for that, Doctor.

3 A. You're welcome.

4 Q. So let's talk about that first visit with

10:08:25

5 Mr. Johnson. You have a binder in front of you. If you  
6 could turn to the binder that is Tab 25A. It should be  
7 the first one.

8 Do you see that, Doctor?

9 A. I do.

10:08:40

10 Q. And is this one of your medical records from  
11 October of 2014?

12 A. It is.

13 MR. WISNER: Permission to publish, your Honor?

14 THE COURT: Any objection?

10:08:47

15 MR. GRIFFIS: No objection.

16 THE COURT: Very well.

17 MR. WISNER: All right. It's on the screen.

18 Q. And there should be a screen in front of you as  
19 well.

10:08:55

20 All right. Doctor, I'm just going to walk  
21 through, basically, what this record shows so we know how  
22 to read it. So at the top here, we have the Permanente  
23 Medical Group. Is that Kaiser?

24 A. Correct.

10:09:04

25 Q. Okay. And then we have the encounter date.

1 Do you see that?

2 A. Uh-huh.

3 Q. Oh, I have the wrong -- sorry. I was publishing  
4 the wrong record.

10:09:21 5 So here we go. This is the encounter date of  
6 October 3rd, 2014.

7 Do you see that?

8 A. Correct, uh-huh.

9 Q. All right. And then, obviously, there's your  
10:09:30 10 name here.

11 Do you see that?

12 A. I do.

13 Q. And then if we go down, it sort of discusses why  
14 he's there. And you can see right here there's a  
10:09:38 15 diagnosis of cutaneous T-cell lymphoma.

16 Do you see that?

17 A. I do.

18 Q. Now, at this time, were you aware of whether or  
19 not Mr. Johnson had any other types of carcinoma or  
10:09:50 20 ailments at this time?

21 A. No. All I was aware of at this visit was -- I  
22 think he -- like I said, he initially presented to  
23 oncology, and then he was referred to us that he had  
24 cutaneous T-cell lymphoma, and they wanted us to take  
10:10:03 25 ownership of his care.

1 Q. And when he presented, what do you recall about  
2 how Mr. Johnson presented at this meeting, to the best of  
3 your recollection?

4 A. Yeah, I mean, if I can remember, I think,  
10:10:13 5 actually, I got a call towards the end of the day. It's,  
6 like, 4 o'clock, and we usually end around 4:30. I got  
7 the call that there was a patient with diffuse melanoma,  
8 and, you know, you need to see him right away. And this  
9 was at the end of the day, so we agreed to see him first  
10:10:37 10 on the following morning, because we wanted to get all of  
11 the records. And, thankfully, it was not melanoma, and  
12 it was CTCL.

13 So when I saw him, I don't recall if I had other  
14 records from his prior biopsy, but based on the way his  
10:10:53 15 skin looked, I knew it was not melanoma and that it was  
16 CTCL. I believe he had already seen our oncology group,  
17 and they had done, you know, extensive imaging. They  
18 also, I believe, did some biopsies of his lymph nodes.

19 So my first visit with him wasn't really to  
10:11:13 20 change anything. It was more so trying to gather as much  
21 data as we could to figure out, kind of, how to stage him  
22 and then go ahead with the treatment course.

23 Q. And as we see right here, there's actually a  
24 time. Do you see that? It says 4:23 p.m.

10:11:26 25 A. Oh, okay. So I may have been wrong. We may

1 have seen him that day, you know, because I think he  
2 wasn't -- he didn't have an appointment with me.

3 Q. Yeah.

4 A. I just got a call saying, "This guy has  
10:11:36 5 metastatic melanoma. You must see him now." And  
6 metastatic melanoma is serious, you know, so I probably  
7 said, "Sure. Bring him up. We're happy to see him."

8 Q. Okay. And then if we go up the next page, this  
9 says it's your progress notes.

10:11:52 10 Do you see that?

11 A. Uh-huh.

12 Q. And it looks like this was made, if you see  
13 here, at 4:54 p.m.

14 Do you see that?

10:12:02 15 A. Correct.

16 Q. So the office had already closed by this point;  
17 is that right?

18 A. Yes.

19 Q. Okay. And so you -- based on this record, can  
10:12:09 20 you tell how much time you actually spent with him in  
21 this meeting or no?

22 A. So it's hard to tell, but I would assume that it  
23 was probably about 30 minutes, from the time he checked  
24 in, you know -- you know, I'm pretty sure, just because  
10:12:21 25 it was at end of the day. There really were no other



1 patients ahead of him. Usually our last patient is  
2 anywhere from around 3:45 to 4:00, so if I was in clinic  
3 still finishing up notes -- so I'm pretty sure I would  
4 have said, "Let me get to him right away, just so we  
10:12:36 5 don't prolong this anymore," but, you know, I would say  
6 30 minutes, would roughly be an estimate.

7 Q. And based on this time, do you think you would  
8 have had the opportunity to carefully study his records  
9 before seeing him?

10:12:50 10 A. You know, I -- I don't know how much I had. I  
11 may have -- I don't know if Mr. Johnson came with  
12 records, but I -- I know I definitely didn't have an  
13 extensive amount of time looking through it. I think I  
14 probably, you know, tried to look at what the recent PET  
10:13:08 15 showed, just so I know what diagnosis I'm dealing with,  
16 but beyond that, you know, I'm pretty sure it was a quick  
17 review of what I had.

18 Q. All right. And if we go down here, it says,  
19 "Interval history." And it says -- it's become a bit of  
10:13:24 20 contention in this case, but it says right here, "Dewayne  
21 A Johnson is a 42-year old male with one-year history of  
22 progressive patchy squamous eruption."

23 Do you see that?

24 A. I do.

10:13:37 25 Q. What does that sentence mean?

1 A. Well, it means that he was presented to me with,  
2 kind of, a worsening rash that had been going on for a  
3 year.

4 Q. And when you spoke with Mr. Johnson at this  
10:13:47 5 time, do you recall being of the impression that he had  
6 had it for a whole year or that it had erupted in the  
7 last several months?

8 A. You know, it's somewhat difficult to say, you  
9 know. You know, my -- my impression, just looking at the  
10:14:05 10 whole -- the whole treatment course, was that we had --  
11 it worsened over the last couple months, and that's why  
12 he presented to Solano Dermatology in August, and then  
13 came and saw me in October.

14 You know, I would be surprised that he would  
10:14:21 15 have been having this worsening rash for the whole year  
16 and didn't present until August. I know he was quite  
17 frightened by, kind of, how bad his skin was getting, so  
18 based on his level of, kind of, anxiety about it, I would  
19 be surprised that he would wait a whole year to present.

10:14:43 20 But, you know, based on what I wrote, you know, it sounds  
21 like perhaps he reported at the beginning of the year or  
22 what, so it's hard to say. You know, my understanding is  
23 that there probably was a worsening of recent.

24 Q. Okay. So this was in October of 2014, so  
10:14:59 25 probably it would be helpful to look at his medical

1 records in the fall of 2014 to see if he reported any  
2 rash; right?

3 A. Correct.

10:15:13

4 Q. Okay. Let's do that. Please turn to  
5 Exhibit 32C in your binder.

6 Are you there, Doctor?

7 A. I am.

8 Q. And this is a medical record also from the same  
9 Kaiser group.

10:15:32

10 Do you see that?

11 A. I do.

12 Q. And it's dated September 18th, 2013; correct?

13 A. Correct.

14 MR. WISNER: Permission to publish, your Honor?

10:15:40

15 THE COURT: Any objection?

16 MR. GRIFFIS: If there's no objection to us  
17 publishing records of other providers, we have none.

18 MR. WISNER: I have no objection of them  
19 publishing Kaiser documents to a Kaiser doctor, so no  
20 objection.

10:15:52

21 THE COURT: All right. Very well. You may  
22 proceed.

23 MR. GRIFFIS: Well, your Honor.

24 THE COURT: Perhaps we need to have a sidebar.

10:15:58

25 MR. WISNER: Okay.

	1	(Sidebar.)
	2	[Redacted]
	3	[Redacted]
	4	[Redacted]
10:16:22	5	[Redacted]
	6	[Redacted]
	7	[Redacted]
	8	[Redacted]
	9	[Redacted]
10:16:40	10	[Redacted]
	11	[Redacted]
	12	[Redacted]
	13	[Redacted]
	14	[Redacted]
10:16:57	15	[Redacted]
	16	[Redacted]
	17	[Redacted]
	18	[Redacted]
	19	[Redacted]
10:17:14	20	[Redacted]
	21	[Redacted]
	22	[Redacted]
	23	[Redacted]
	24	[Redacted]
10:17:31	25	[Redacted]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 (Sidebar ends.)  
14 Q. BY MR. WISNER: All right. Doctor, we're going  
15 to do this blindly, meaning we're going to do it with the  
16 binders and talk about it.  
17 A. Okay.  
18 Q. So in this record, this is from September of  
19 2013; right?  
20 A. Okay.  
21 Q. And this relates to Mr. Johnson; is that right?  
22 A. That is correct.  
23 Q. And if you turn to the second page, it appears  
24 that this is a medical record related to his stepping  
25 into a wasp nest or having wasp bites.

10:17:47

10:18:06

10:18:22

10:18:37

10:18:48

1 Do you see that?

2 A. Yes.

3 Q. Okay. And if you turn to the second page,  
4 there's an evaluation both of -- subjectively of

10:18:59 5 Mr. Johnson and then objectively of a physical exam.

6 Do you see that?

7 A. Yes.

8 Q. And under "Skin" it says, "Negative for rash"  
9 or -- how do you see that word?

10:19:10 10 A. Pruritus.

11 Q. What is that, Doctor?

12 A. That means itching.

13 Q. Okay. Is there any reference in this  
14 September 2013 document that he had a rash?

10:19:25 15 A. I think the only thing they mentioned was on the  
16 side of the left arm there seems to be a wound that they  
17 said is red, warm, swollen, no sign of infection, and  
18 they called it a bee sting and recommended a steroid  
19 cream.

10:19:43 20 Q. So there was no evidence of a mycosis fungoides  
21 rash at this point; is that right?

22 A. No, it seems like the only rash they documented  
23 was from a bee sting.

24 Q. Okay. Let's go to another medical from the fall  
10:19:57 25 of 2013. If you turn to tab 45A in your binder.

1 Do you see that, Doctor?

2 A. I do.

3 Q. And this is a medical record from December of  
4 2013; is that right?

10:20:15 5 A. That's correct.

6 Q. And Mr. Johnson apparently in this record had  
7 suffered some sort of lumbar injury while doing -- while  
8 lifting something.

9 Do you see that?

10:20:25 10 A. I do.

11 Q. And again, there's a physical evaluation and a  
12 review of symptoms going onto the second page; right,  
13 Doctor?

14 A. Yeah. On the physical exam, it said no apparent  
10:20:44 15 distress, healthy appearing, appropriate mood and affect.

16 Q. And then under inspection, it talks about no  
17 deformity, no shift, no scarring, no swelling.

18 Do you see that?

19 A. I do.

10:20:58 20 Q. So is there any evidence in this medical record  
21 that he was suffering from a mycosis fungoides rash at  
22 that time?

23 A. No.

24 Q. Let's go a little bit forward now to  
10:21:11 25 Exhibit 45B, and this is a medical record from January of

1 2014.

2 Do you see that?

3 A. I do.

4 Q. And this is his followup from that lumbar injury  
10:21:25 5 in December; is that right?

6 A. Correct.

7 Q. It looks like he had the holidays and was back  
8 to the clinic in 2014?

9 A. Uh-huh.

10:21:34 10 Q. And again, there's an inspection as well. If  
11 you turn the page, no deformity, no shift, no scarring,  
12 no swelling.

13 Do you see that?

14 A. Correct.

10:21:44 15 Q. Apparently, it seems like he's feeling better  
16 and can go back to work; is that right?

17 A. Yes, correct.

18 Q. So again, do you see any reference in this  
19 January medical record that Mr. Johnson was actually  
10:21:58 20 suffering from a mycosis fungoides rash?

21 A. I do not.

22 Q. Now, Doctor, if I were to show you a document  
23 that reflects Mr. Johnson's recall of the rash that he  
24 reported to a Poison Control Center, would that piece of  
10:22:17 25 information help you --



1 MR. GRIFFIS: Objection, your Honor. Subject to  
2 our prior discussions.

3 MR. WISNER: I'm attempting to lay a foundation  
4 to see if I can get around the objection, your Honor.

10:22:30

5 THE COURT: Can you please approach?

6 MR. WISNER: Sure.

7 (Sidebar.)

8 [REDACTED]

9 [REDACTED]

10:22:45

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

10:23:00

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

10:23:15

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

10:23:28

25 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]

10:23:39

4 [REDACTED] [REDACTED]  
5 [REDACTED] [REDACTED]

6 (Sidebar ends.)

10:23:59

7 Q. BY MR. WISNER: All right, Doctor, so let's go  
8 back to 25A, the first document, which is your medical  
9 record from -- your first medical record with Mr. Johnson  
10 in October.

11 A. Uh-huh.

12 Q. And so at this session, it looks like you say  
13 under the progress notes that the lesions are mildly  
14 pruritic. He denies associated pains or ulceration.

10:24:14

15 Do you see that?

16 A. Correct.

17 Q. How did his lymphoma present at this point in  
18 his disease?

10:24:26

19 A. So at this stage he had mostly what we'll call a  
20 patch or plaque stage, in which he mostly had relatively  
21 flat scaly patches all over his body, but didn't have any  
22 nodules, which are kind of more firm and raised bumps,  
23 and didn't have any ulcerations, so obvious breaking of  
24 the skin.

10:24:45

25 Q. Now, Doctor, I'd like to draw your attention to

1 exhibit -- well, sorry, in this document, if you turn to  
2 the last page, you see that it says digital photo  
3 dermatology, digital photos.

4 Do you see that?

10:24:57

5 A. I do.

6 Q. So were photographs of Mr. Johnson taken at this  
7 time?

8 A. It was.

10:25:06

9 Q. So let's look at those photos. If you turn to  
10 Exhibit 32A, and you see, Doctor, it says October 3rd,  
11 2014, at the top?

12 A. Uh-huh.

13 Q. And so these are the photos that were taken of  
14 Mr. Johnson during his first visit with you; is that  
15 right?

10:25:23

16 A. Correct.

17 MR. WISNER: Your Honor, consistent with what we  
18 discussed this morning, permission to move Exhibit 32A  
19 into evidence.

10:25:31

20 THE COURT: Any objection?

21 MR. GRIFFIS: No, your Honor.

22 THE COURT: 32A may be admitted.

23 MR. WISNER: Permission to publish page 9 of 10,  
24 which is one of the ones we agreed to.

10:25:41

25 THE COURT: Very well.

1 MR. GRIFFIS: No objection, your Honor.

2 Q. BY MR. WISNER: All right. I'm going to put it  
3 on the screen in a second, Doctor. So I just want to try  
4 and get to it.

10:26:02

5 All right, Doctor, we're looking at a  
6 photograph. This is of Mr. Johnson's right thigh and  
7 leg; right?

8 A. Uh-huh.

10:26:12

9 Q. If you look in here, there is a specific lesion  
10 on his thigh. Do you see that?

11 A. Uh-huh.

12 Q. Now, is that different than the mycosis  
13 fungoides lesions you were reporting in your medical  
14 record?

10:26:22

15 A. I mean, it's hard to tell in that picture  
16 whether or not there was an ulceration there, but it does  
17 look more scaly than the rest of his skin lesions. But  
18 it could also be a mycosis fungoides patch as well or it  
19 could be something else because it kind of stands out as  
20 what looks different from the other ones.

10:26:42

21 Q. Okay. All right.

22 Okay, Doctor, let's move on to the next visit,  
23 which was a few weeks later. 25B. Let me know when  
24 you're there.

10:26:59

25 A. I'm there.

1 Q. This is October 29, 2014, is that right?

2 A. Uh-huh.

10:27:13

3 Q. And so this is after that sort of no appointment  
4 scheduled meeting you had in earlier October. This is an  
5 appointment that you had with him; is that right?

6 A. I'm sorry, you said 25B?

7 Q. Yeah, sorry. This isn't actually -- this is a  
8 phone call; correct?

9 A. Correct, it's a phone call, yeah.

10:27:23

10 Q. So what happened during this phone call?

11 A. So it sounds like I called the patient to see  
12 how he was doing. We may have had a scheduled telephone  
13 call, and I reported that he has new small bumps the size  
14 of BB pellets on his skin that were not symptomatic,  
15 meaning they were not itchy or bothering him.

10:27:44

16 I asked him to send me some photos to our  
17 electronic portal, and he was already scheduled to make  
18 an appointment with me next week, and I said that I would  
19 make an appointment with him this week if we needed to.

10:28:02

20 Q. And if you turn to the page at the bottom it  
21 says 186 at the bottom?

22 A. I'm sorry, which one?

23 Q. It's hard to show, but the numbers says DJ-01.

24 A. Okay, got it.

10:28:15

25 Q. The one that ends in 186.

1 A. Yep.

2 Q. Do you see here there's a digital photo again  
3 that were taken on October 29, 2014?

4 A. Uh-huh, uh-huh.

10:28:27

5 Q. All right. So let's look at those briefly. If  
6 you turn to Exhibit 32B. Are these -- this is a copy of  
7 those photos; is that right?

8 A. Correct.

10:28:42

9 MR. WISNER: Move Exhibit 32B consistent with  
10 the prior discussion, your Honor, into evidence.

11 THE COURT: Any objection?

12 MR. GRIFFIS: No objection, your Honor.

13 THE COURT: 32B may be admitted.

14 MR. WISNER: Permission to publish?

10:28:51

15 THE COURT: Yes.

16 Q. BY MR. WISNER: All right. Doctor, we're  
17 looking here at the first photo, do you see that? That's  
18 his arm?

19 A. Correct, yes.

10:29:00

20 Q. If we go to the next one, this is a close-up.  
21 Is that the scaly portion?

22 A. Yes, I do.

23 Q. Is that what you're talking about when you say  
24 the flat scaly stuff?

10:29:10

25 A. Yes. So that's what we'll consider like a patch

1 stage mycosis fungoides. So it's relatively flat  
2 patches.

3 Q. All right. Now if he turns his arm the other  
4 way, do you see these -- let me zoom in. Do you see  
10:29:22 5 these red nodules? Is that what you were referring to?

6 A. Yes, better off even in a far off view, but you  
7 can see this kind of more firm bumps as opposed to just  
8 the relatively flat larger ones, and that was new since,  
9 you know, my original visit with him.

10:29:41 10 Q. So these bumps were appearing within just a  
11 matter of weeks; is that right?

12 A. Correct, correct.

13 Q. All right, Doctor. Let's go on to your next  
14 visit. Not visit. I want to go to the next record. I  
10:29:56 15 skipped a lot of the visits. I want to go to the next  
16 record.

17 A. Okay.

18 Q. I skipped a lot of the visits. I just want to  
19 get to some of the important stuff.

10:30:00 20 A. Yes.

21 Q. Turn to 25C. And this is a record dated  
22 January 21st, 2015; is that right?

23 A. Uh-huh.

24 Q. And if you look down at the bottom, it actually  
10:30:12 25 has email exchanges between you and Mr. Johnson.

1 Do you see that?

2 A. Yes.

3 Q. If you turn to the second page, the first email  
4 reads: "Good morning, Doctor. I'm just checking in and  
10:30:22 5 informing you that I'm now registered with KP.org, and if  
6 need be, we can communicate here. Also these messages  
7 will reach me immediately via cell phone. Thanks. Have  
8 a nice day, Dewayne Johnson."

9 Do you see that?

10:30:39 10 A. Yes, I do.

11 Q. So it appears basically starting in  
12 January 2015, you and Mr. Johnson were able to  
13 communicate via email; is that right?

14 A. Correct.

10:30:48 15 Q. And then -- and then so it goes on to say -- you  
16 said, "Welcome, welcome, so glad you are finally on. I  
17 think this is a much efficient way to communicate."

18 Do you see that?

19 A. I do.

10:30:59 20 Q. And you ask him how the sores on his legs are  
21 doing. Do you see that?

22 A. Correct.

23 Q. And then he responds: "One leg is totally fine,  
24 while the very first biopsy spot is still slow to heal,  
10:31:10 25 but pain is subsiding and the healing in that area has



1 begun but still sore."

2 Do you see that?

3 A. I'm sorry, one second.

10:31:24

4 Q. It's on the first page. You have to go  
5 backward.

6 A. I don't see that.

7 Yes, I do.

10:31:34

8 Q. All right. So to the best of your recollection,  
9 at this point in 2015, you were focusing on that scar on  
10 his thigh; right?

11 A. I was.

12 Q. Why were you doing that?

10:31:46

13 A. Well, because that area was still very painful  
14 for him, which was unlike all of his other lesions. You  
15 know, most of the time they were not symptomatic at all.  
16 Some of them were a little itchy, but pain was definitely  
17 not a common symptom of all of them.

10:32:03

18 And whenever something is painful, especially  
19 something that has maybe been biopsied before, the first  
20 thing I think about is it may be infected. So I started  
21 him on a course of antibiotics. And I don't recall.

10:32:18

22 Usually I would culture it to see if it grew any  
23 bacteria. That's generally my common practice. So I  
24 probably cultured it, see if it grew something in the --  
25 and whatever, and made sure whatever antibiotics I had

1 him on were susceptible to the bacteria that he had  
2 growing.

3 Q. Okay, great. If you turn to Exhibit 25D. This  
4 is February 2015; right?

10:32:33 5 A. Correct.

6 Q. And again, this is reflecting various email  
7 communications between you and Mr. Johnson; is that  
8 right?

9 A. Uh-huh, correct.

10:32:40 10 Q. Now on February 7, 2015, the subject of the  
11 email is chemical exposure.

12 A. Uh-huh.

13 Q. Do you see that?

14 A. I do.

10:32:47 15 Q. He goes, "Hi, I just wanted to inform you that I  
16 had an exposure to a chemical at work called Ranger Pro.  
17 I came into industrial health so it's on record and  
18 hopefully it doesn't send my current situation into a  
19 frenzy. So far it's been just a little irritated, red,  
10:33:06 20 but nothing too extreme."

21 Do you see that?

22 A. Yes.

23 Q. And then you responded, "Thanks for letting me  
24 know. I'm not familiar with this chemical but will look  
10:33:14 25 into it. I do not anticipate that it will make things

1 much worse, but let's keep an eye and let me know if you  
2 notice your skin worsening."

3 Do you see that?

4 A. I do.

10:33:23 5 Q. Now, Doctor, did you have a chance to do a brief  
6 research about Ranger Pro and mycosis fungoides?

7 A. Yeah, I think I briefly had gone on PubMed and I  
8 put in like CTCL and Ranger Pro, and I didn't get  
9 anything substantial back. I don't think I got any  
10:33:38 10 results, but I didn't look extensively into it. But I  
11 did do a quick PubMed search and nothing came of it.

12 Q. You understand the IARC, International Agency  
13 For Research on Cancer, they issued a Monograph in March  
14 of that same year; right?

10:33:56 15 A. Yes --

16 MR. GRIFFIS: Objection. Beyond the scope.

17 THE COURT: Counsel, can you approach?

18 MR. WISNER: That's the only question I'm going  
19 to ask about it.

10:34:04 20 THE COURT: All right. She can answer.

21 THE WITNESS: Yes, I am aware of that.

22 Q. BY MR. WISNER: So this email was before that?

23 A. Correct.

24 Q. Now do you recall having conversations with  
10:34:15 25 Mr. Johnson about his chemical exposures at work?

1           A. Yeah, I did. I mean, several times during our  
2 visit he did bring up that -- you know, that he worked in  
3 pest control and that he does have to spray, you know,  
4 pesticides at work and whether or not that may have  
5 caused his rash.

10:34:33

6           And I explained to him that I was not aware of  
7 that -- you know, that causing it. And, you know,  
8 primarily my main focus for him was really how to treat  
9 his rash. And I -- you know, I didn't spend much time  
10 figuring out what may have caused it and devoted most of  
11 my resources in how to get him better.

10:34:47

12           Q. Now did he ever tell you one way or the other  
13 whether or not he had reached out to Monsanto to ask  
14 about whether it could cause cancer?

10:35:03

15           A. You know, to be honest, I don't recall. We met  
16 a lot. I think -- I feel like I may have seen  
17 Mr. Johnson over 25 times during the two-year course, and  
18 I know we talked about his exposure and I wrote something  
19 saying that he -- he should not be exposed, if possible,  
20 but I don't recall, you know, particularly whether he  
21 told me about reaching out to them or not.

10:35:24

22           Q. Okay. Let's turn to the next one in your  
23 binder, 25E.

24           Do you see that?

10:35:35

25           A. 25E?

1 Q. Yeah. This is a month later. It's March 4,  
2 2015; right?

3 A. Uh-huh.

10:35:47

4 Q. And his primary diagnosis at this point is  
5 mycosis fungoides?

6 A. Uh-huh.

7 Q. And I just want to draw your attention to the  
8 page ending in 476.

9 A. Uh-huh.

10:36:08

10 Q. And again, there's a photo record made on this  
11 date.

12 Do you see that?

13 A. Yeah, digital photo, correct.

10:36:21

14 Q. And below that, under the surgical pathology  
15 section, it says "skin right thigh shaved, biopsy,  
16 invasive keratinizing squamous cell carcinoma, well  
17 differentiated present at the edge of the biopsy."

18 Do you see that, Doctor?

19 A. I do.

10:36:34

20 Q. What did you find when you were looking at his  
21 leg at that point?

22 A. So, you know, we continued to deal with the sore  
23 spot on the leg, and finally I said, you know, we've  
24 given it enough time to heal, it's still not healing,  
25 let's do a biopsy just to make sure it's not something

10:36:48

1 else.

2           So we did a biopsy of that spot, and it did come  
3 back as a squamous cell cancer, which is probably the  
4 second most common type of skin cancer.

10:37:02

5           Q. Now, Doctor, between October, when you first  
6 started seeing him, and March of 2015, was he receiving  
7 phototherapy?

10:37:13

8           A. He was. That was -- you know, that is generally  
9 the most common treatment for cutaneous T-cell lymphoma,  
10 and especially when it's just in a plaque stage, that is  
11 sufficient to kind of control the disease.

12           So we had started him on narrow band UV  
13 treatments, and he was coming to our clinic three days a  
14 week to get those treatments.

10:37:27

15           Q. And is that phototherapy, has it been known for  
16 that, for phototherapy to cause a carcinoma in the skin?

10:37:49

17           A. Yeah. I mean, UV radiation, whether from the  
18 natural sun or from our phototherapy unit is primarily  
19 the most common cause of squamous cell carcinoma in the  
20 skin. So we usually see it in individuals with excessive  
21 sun exposure, but also we see it in individuals with --  
22 you know, with phototherapy because they're getting a lot  
23 more UV radiation than they otherwise would be.

10:38:04

24           Q. If you turn the page, Doctor, a couple of pages,  
25 there's actually a pathology report from Stanford

1 University in your record.

2 Do you see that?

3 A. Uh-huh, I do.

10:38:15

4 Q. And it lists all the diagnoses for the various  
5 biopsies that were done on him, including his chest and  
6 arms and some more arms, and then the very end it says  
7 his right thigh.

8 Do you see that?

9 A. Correct.

10:38:27

10 Q. And the biopsy results for all of those various  
11 biopsies was mycosis fungoides except for that one on the  
12 thigh, which was squamous cell carcinoma; is that right?

13 A. That's correct.

10:38:41

14 Q. Is there a relationship between squamous cell  
15 carcinoma and mycosis fungoides or are they different  
16 cancers?

17 A. They're very different cancers.

18 Q. Do you believe that the one on his leg was  
19 caused by whatever was causing his mycosis fungoides?

10:38:53

20 A. No. I mean, squamous cell carcinoma we  
21 generally -- you know, Mr. Johnson was an unusual case  
22 because, I mean, it's one that we generally see in fairer  
23 skinned individuals who have had an excessive amount of  
24 sun over time. We know that sun is a primary driver for  
25 squamous cell carcinoma, whereas mycosis fungoides is not

10:39:15

1 thought to be related to, you know, UV radiation from the  
2 sun at all.

3 Q. And Doctor, if you could turn to page 32 --  
4 sorry, tab 32E.

10:39:28 5 A. 32E?

6 Q. Yeah.

7 A. Uh-huh.

8 Q. And turn to the first page because that first  
9 page shouldn't be there. And do you see starting on the  
10:39:39 10 second page, you have the photos taken that date on  
11 March 14, 2015.

12 Do you see that?

13 A. Uh-huh.

14 Q. And if you go through --

10:39:47 15 MR. WISNER: Your Honor, permission to admit 32E  
16 into evidence consistent with our prior discussion.

17 THE COURT: Any objection?

18 MR. GRIFFIS: No.

19 THE COURT: 32E may be admitted and published.

10:40:04 20 (Exhibit 32E was admitted into evidence.)

21 MR. WISNER: Thank you, your Honor.

22 Q. I'm going to put on the screen 7 of 8. Do you  
23 see that, Doctor? It's of the right thigh.

24 A. Uh-huh.

10:40:12 25 Q. So this is a photo of his right thigh; correct?



1 A. Correct.

2 Q. And this litigation right here on thinks thighs,  
3 is that the squamous cell carcinoma that we're talking  
4 about?

10:40:21 5 A. It is.

6 Q. And what does this image, if anything, tell you?

7 A. Well, it looks very different from the  
8 surrounding lesions which was why, you know, I was more  
9 inclined to biopsy it. It's really the main thing it  
10 tells me.

10:40:38

11 Q. If we look at the picture just before that,  
12 Doctor. I'm going to show it on the screen. This is his  
13 legs, and you can see -- you can see that one right  
14 there.

10:40:51 15 Do you see that?

16 A. Uh-huh.

17 Q. But then the other lesions on him are very  
18 different. You see that? Is that what you were  
19 referring to?

10:41:02 20 A. Yes, and I suspect that this was after my biopsy  
21 because you can see the bump was kind of gone.

22 Q. Okay, great. Let's move on. We're almost done,  
23 Doctor. I'm going to get you out of here this morning.  
24 Don't worry, we're not going to go too long.

10:41:17 25 Let's go to the next exhibit, which is 25F. And

1 this is dated March 17, 2015; right?

2 A. Uh-huh.

3 Q. Again, this is your record, and it reflects  
4 various email communications between you and Mr. Johnson?

10:41:38

5 A. Yes.

6 Q. You have to read backward. So turn the page to  
7 the second page.

8 A. Okay.

10:41:46

9 Q. And the first email you see sent from  
10 Mr. Johnson on March 17, 2015; right? At the bottom.

11 A. Okay, yes.

12 Q. And that's to you; right?

13 A. Uh-huh.

14 Q. And the subject is work; right?

10:41:57

15 A. Uh-huh.

16 Q. And the email reads: "Doctor" -- this is  
17 March 17, 2015. It says, "Doctor, I'm getting to the  
18 point where I feel a little foolish spraying and applying  
19 chemicals. Do you feel it's safe to do the kind of work  
20 I'm doing with the kind of skin condition that I have? I  
21 also hope that the doctors from Stanford were able to  
22 contact you about my visit. If not, feel free to call  
23 me."

10:42:13

24 Do you see that?

10:42:25

25 A. I do.

1 Q. Do you believe that you called him back?

2 A. I do. It's hard to say, but, you know,

3 Mr. Johnson was one of my most severe cases so I was --

4 it's hard to say if I called him back or not. I normally

10:42:39

5 do many times I tend to give them a call if I think

6 there's something better communicated over the phone than

7 email.

8 Q. At this point you're waiting for confirmation

9 from Stanford that the tumor in his leg was in fact

10:42:52

10 squamous cell carcinoma; is that right?

11 A. It's hard to say. You know, I did the biopsy

12 and I got the results, and I also reviewed the PET slides

13 so I was fairly confident that it was a squamous cell

14 cancer, but I know that given that it's unusual for

10:43:05

15 somebody of Mr. Johnson's demographic to have a squamous

16 cell carcinoma, I know that Stanford wanted to kind of do

17 a second opinion, but I don't know that I was necessarily

18 waiting for their confirmation.

19 Q. I'll show you your email.

20 A. Okay.

21 Q. But you respond to Mr. Johnson, third sentence

22 down, "Will send the slides from your thigh to Stanford

23 for review to confirm squamous cell carcinoma before we

24 proceed with surgery."

10:43:32

25 A. Okay. Yeah, I mean, I -- that may have been

1 mostly just to make sure that there wasn't something else  
2 going on before I decided to go ahead and do the  
3 excision, but I don't recall that time and place, and I  
4 know that we had already planned the excision, but since  
10:43:48 5 we had other doctors working on the case, and to make  
6 sure we're all on the same page, I may have asked that we  
7 get, you know, okay from them before proceeding.

8 Q. Okay. And in this same record, there's actually  
9 an email, a separate email exchange just above that, do  
10:44:05 10 you see, it's subject squamous.

11 Do you see that?

12 A. Uh-huh.

13 Q. And to the best of your recollection, after it  
14 was confirmed that it was squamous cell carcinoma, did  
10:44:15 15 you actually remove it from him?

16 A. I did. I did the excision.

17 Q. Okay. And it looks like an email just after  
18 that, it says, "Squamous. I got the message. Thanks  
19 again for slicing me up and cutting the poison out."

10:44:27 20 Do you see that?

21 A. Yes.

22 Q. And you said, Great, my pleasure." That's you  
23 responding; right?

24 A. Yes.

10:44:31 25 Q. And so at this point in March of 2015 -- well,

1 okay, strike that.

2           So Doctor, I want to focus in on that first  
3 email we read, which was him feeling foolish about  
4 spraying chemicals at the school.

10:44:44

5           A. Uh-huh.

6           Q. Did this conversation prompt you to do anything  
7 on behalf of Mr. Johnson?

10:44:58

8           A. Yeah. You know, when he had said that he was  
9 really worried that spraying this was worsening his  
10 condition or may have been causing his condition, I did  
11 write a letter to the School Board, and I requested that  
12 he not be exposed to any airborne environmental allergens  
13 as that could exacerbate his condition.

10:45:16

14           Q. And specifically that was referring to the  
15 Ranger Pro and chemicals that he's talking about?

16           A. Correct.

17           Q. Do you know if at this time in March of 2015, do  
18 you know if he reached out again to Monsanto to see if  
19 there was any relationship between Roundup and cancer?

10:45:44

20           MR. GRIFFIS: Objection. This has been asked  
21 already.

22           THE COURT: Overruled.

23           You may answer.

10:45:52

24           THE WITNESS: I'm not familiar. I really do not  
25 recall whether or not he told me about reaching out to

1 Monsanto.

2 Q. BY MR. WISNER: If in fact Mr. Johnson did,  
3 would that be consistent with his sort of protective  
4 attempts to figure out what's going on?

10:46:03

5 MR. GRIFFIS: Objection, your Honor.

6 THE COURT: Sustained.

7 Q. BY MR. WISNER: Now, Doctor, at this time in  
8 March of 2015, if someone had told you, hey, this causes  
9 cancer, would you have advised him to stop spraying it?

10:46:18

10 MR. GRIFFIS: Objection. It's continued  
11 hypotheticals, your Honor.

12 THE COURT: Sustained.

13 Q. BY MR. WISNER: In your practice, do you know of  
14 something called the cautionary principle?

10:46:29

15 A. Uh-huh.

16 Q. What is that?

17 A. My understanding is that, you know, it is okay  
18 and advisable to avoid something that could potentially  
19 be -- can exacerbate a condition, even if it's not been  
20 conclusive.

10:46:49

21 So, you know, if I had a patient that was  
22 exposed to something and I thought may be causing it, my  
23 recommendation is to avoid it rather than waiting to see  
24 whether or not it truly does cause it later on.

10:47:08

25 Q. But if it's not conclusive, why would you make

1 that recommendation?

2 A. Well, I mean oftentimes the diagnosis can be  
3 quite severe and life-threatening. And for me and my  
4 patient's health, it's not worth the risk.

10:47:21 5 Q. All right, Doctor. Let's flash forward a little  
6 bit in time here, and if you look at Exhibit 25J.

7 Are you there, Doctor?

8 A. Uh-huh.

9 Q. So this is September 2015?

10:47:40 10 A. Correct.

11 Q. Okay. Again, this is your medical record as  
12 well; right?

13 A. It is.

14 Q. And so this is after his -- his squamous cell  
10:47:52 15 had been removed from his thigh; is that right?

16 A. Uh-huh.

17 Q. We're in September now. And if you turn to the  
18 second page, it's talking about his situation, and it  
19 says, "skin appears progressive, getting new thicker  
10:48:08 20 plaques with some ulcerations."

21 Do you see that?

22 A. Yes.

23 Q. What is "skin appears progressive"? What does  
24 that mean?

10:48:15 25 A. Well, unfortunately, over my time caring for

1 Mr. Johnson, especially then, he continued to get new  
2 lesions in places that he previously did not, and the  
3 lesions initially where he had mostly relatively flat  
4 patches, he continued to have more raised plaques, which  
10:48:37 5 is concerning for a greater kind of tumor burden than you  
6 would with the flatter patches.

7 Q. And if you turn to the page ending in 910, so  
8 it's two pages over.

9 A. Uh-huh.

10:48:50 10 Q. Under the comment section in diagnosis/clinical  
11 impression, it says, "Clinical impression, patient with  
12 known CTCL and max dose of Targretin with progression of  
13 skin lesions. Please rule out large cell  
14 transformation."

10:49:06 15 What does that mean?

16 A. So large cell transformation is something that  
17 we've seen in a small minority of MF patients, and it's  
18 mostly a pathological diagnosis, meaning that as a  
19 pathologist, I look underneath the microscope and rather  
10:49:20 20 than the typical or atypical cells that we see in mycosis  
21 fungoides, patients with large cell transformation tend  
22 to have much larger cells and they also tend to stain  
23 differently. So there's a particular antigen called  
24 CD20, and that's one the special stains that the  
10:49:38 25 pathologists look at. And those patients tend to be



1 positive for it.

2           So it's -- you know, it's one of the  
3 progressions that we look out for. In some regard, it  
4 can be -- it could be a negative prognostic indicator,  
10:49:54 5 and it also means that we often have to change our  
6 treatment options.

7           Q. Do you know if after the September meeting he  
8 did actually have large cell transformation?

9           A. He did.

10:50:10 10          Q. And is that a -- that's obviously not a positive  
11 prognosis for Mr. Johnson; is that right?

12          A. Correct, correct. He continued to have  
13 progressive disease, and he was not responding to things  
14 that we were doing, and especially with the large cell  
10:50:26 15 transformation, that was one of the times that I sent him  
16 back to Stanford because I knew that they had some  
17 clinical trials that were specific for large cell  
18 transformation disease.

19                   But it definitely was not a good sign. He was  
10:50:39 20 heading the wrong direction.

21          Q. And when you say "clinical trials," are those  
22 sort of experimental treatments that maybe could help  
23 him?

24          A. Yes, yeah. There were some new studies and some  
10:50:47 25 new medications that were shown to target, you know, CTCL

1 that had some large cell transformation, and those were  
2 not yet available for kind of standard use. So the only  
3 way to kind of have access for those medications were for  
4 patients on clinical trials.

10:51:00

5 And at Kaiser we didn't have those clinical  
6 trials available so I needed to send him out to get  
7 that -- that -- to get access to those medications.

8 Q. Now radiation exposure, radiation treatment,  
9 that can cause squamous cell cancer cells; right?

10:51:19

10 A. UV radiation, correct, yes.

11 Q. Notwithstanding the fact that he had that prior  
12 tumor in his leg, did he ultimately end up getting  
13 radiation therapy?

10:51:37

14 A. He did. It was -- it was a decision that we  
15 battled with for quite some time. Given his history of  
16 squamous cell cancer, we were worried that with total  
17 electron beam radiation, he was going to be at risk for  
18 getting more squamous cell cancer. And it became

10:51:56

19 basically a risk versus benefit conversation that we just  
20 felt that his mycosis fungoides was so progressive that  
21 if we didn't do something to stop it, you know, he would  
22 likely end up, you know, succumbing to that, you know,  
23 versus possible squamous cell later on.

10:52:13

24 So initially when I sent him, I think it was  
25 declined that he would not get it, but given how

1 progressive his disease went, we decided to proceed with  
2 it.

3 Q. And Doctor, even when he was receiving the  
4 radiation therapy while you were there, were you still  
10:52:27 5 his primary point of contact?

6 A. I was. I was, yes. He was going to Stanford  
7 for the radiation treatment, but they would refer him  
8 back to me as well as Dr. Tsai. And Mr. Johnson lived in  
9 Benicia, which is right next to Vallejo, so I was his  
10:52:44 10 primary contact.

11 Q. Did Mr. Johnson in his meetings with you, did he  
12 seem like somebody had wanted to live?

13 A. Definitely, yeah. I know he was very much  
14 motivated to get better. I think that at times, because  
10:52:57 15 our treatments were not as successful, he had moments  
16 that he was frustrated, moments that he may have felt  
17 defeated, but he was very much motivated to get better  
18 and to live. You know, I think he had a lot of positive  
19 things in his life that he wanted to live for, and he was  
10:53:15 20 a young male for sure.

21 Q. What are some of the side effects of radiation  
22 treatment?

23 A. Well, the total beam -- the total electro beam  
24 radiation can definitely cause kind of overall skin  
10:53:27 25 darkening. It can definitely cause sensitivity in the

1 skin itself. It can -- you know, it's not a procedure  
2 that I do commonly so it's not one that I kind of caution  
3 patients of the risks or benefit of it, but those are  
4 kind of the ones that kind come to mind that I know it  
10:53:42 5 can definitely cause.

6 Q. Now in this September meeting -- again, if you  
7 turn to page 911, it actually shows that you took photos  
8 again; is that right?

9 A. Uh-huh.

10:53:51 10 Q. Let's quickly get those. Look at 32J.

11 THE COURT: Are you moving 32J?

12 MR. WISNER: I just want to lay the foundation,  
13 but I will.

14 Q. Are you there Doctor?

10:54:03 15 A. I am.

16 Q. And These are the photographs taken on  
17 September 3rd, 2015?

18 A. Yes, it looks like it.

19 MR. WISNER: Your Honor, consistent with our  
10:54:10 20 discussion, move 32J into evidence.

21 THE COURT: Any objection?

22 MR. GRIFFIS: No objection.

23 THE COURT: All right. So 32J may be admitted  
24 and published.

10:54:17 25 Q. BY MR. WISNER: Now, Doctor, I just wanted to

1 show the jury a couple of these to sort of get a sense of  
2 the progression.

3           So this is 32J. And let's look at number 4,  
4 page 4 of 16. This is his right arm.

10:54:46 5           Do you see that, Doctor?

6           A. Uh-huh.

7           Q. And how, if any, way is this different than the  
8 sort of lesions we were seeing in 2014?

9           A. So this lesion is more ulcerated, you know, so  
10:54:56 10 he was clearly getting breaks in the skin from the tumor  
11 itself. So that's probably the biggest one. And they  
12 are also larger plaques that are also more indurated.  
13 And indurated is a tough -- indurated is based on how it  
14 feels, you know? So it feels like there's substance to  
10:55:17 15 it when you palpate the skin.

16           Q. Are these painful?

17           A. You know, sometimes they're not. The sores can  
18 be painful, but mostly the plaques, you know, with  
19 mycosis fungoides generally itch is the predominant  
10:55:35 20 symptom more so than pain, but when you get some  
21 ulcerations, the ulcers can get infected and that can be  
22 a source of pain. So it varies significantly with just  
23 patients.

24           Q. And during Mr. Johnson's treatment, did he get  
10:55:50 25 infected several times?

1           A. He did, he did. You know, we cultured lesions.  
2 I think there was an ulceration in his skull that was  
3 infected that we had to treat with a course of  
4 antibiotics. I don't recall if the ones in the arm were  
10:56:05 5 infected as well. But we did have a couple cases in  
6 which we needed to treat him.

7           And I know when he saw some of the physicians at  
8 Stanford, they had also given him a course of  
9 antibiotics, too.

10:56:15 10           Q. And this is in September 2015. If Mr. Johnson  
11 at this point was actually still spraying chemicals,  
12 would these open sores allow more of that chemical to  
13 absorb into him?

14           A. Yes. I mean, whenever you have a break in skin,  
10:56:33 15 you kind of lose that skin barrier. Okay? So it's  
16 definitively much more easier for things to penetrate  
17 into the skin when that barrier has been compromised.

18           MR. WISNER: Thank you.

19           Your Honor, the Court's indulgence for a minute.

10:57:12 20           Thank you, Doctor, for coming out from Atlanta.  
21 I appreciate your time.

22           No further questions at this time.

23           THE COURT: All right. Ladies and Gentlemen,  
24 we're going to take the morning recess now. It's 5 of  
10:57:22 25 11:00, and we'll be in recess for 15 minutes and resume

1 again at 11:10.

2 Please remember do not discuss the case or do  
3 any research.

4 You may step down.

10:57:33

5 THE WITNESS: Thank you.

6 (Recess.)

7 THE COURT: Welcome back, Ladies and Gentlemen.

8 The Doctor remains under oath.

9 Mr. Griffis.

11:14:47

10 MR. GRIFFIS: Thank you, your Honor.

11 THE COURT: You may proceed.

12

13 CROSS-EXAMINATION

14 BY MR. GRIFFIS:

11:14:49

15 Q. Dr. Ofodile, thank you so much for coming all  
16 the way out here to testify.

17 A. My pleasure.

18 Q. I had some questions for you, but you have  
19 answered them all and so I have no questions to ask

11:15:02

20 today.

21 A. Okay.

22 THE COURT: Thank you.

23 Mr. Wisner, you may proceed.

24 MR. WISNER: I don't have more further

11:15:09

25 questions. She can be excused.

1 THE COURT: All right. Very well.

2 Doctor, you may be excused. Thank you very  
3 much.

4 THE WITNESS: Thank you.

11:15:29

5 THE COURT: Call your next witness.

6 MR. DICKENS: Thank you, your Honor. At this  
7 time we call Ms. Araceli Johnson to the stand.

8 THE COURT: Very well.

11:16:31

9 Good morning, Ms. Johnson. If you would please  
10 step up here and remaining standing while the clerk  
11 swears you in. Just step right up here.

12

13 ARACELI JOHNSON,

14 having been first duly sworn, was examined  
15 as testified as follows:

16

17 THE CLERK: Would you please state and spell  
18 your full name for the record.

11:17:13

19 THE WITNESS: Araceli, A-R-A-C-E-L-I, Johnson,  
20 J-O-H-N-S-O-N.

21 THE COURT: Thank you.

22 You may proceed, Mr. Dickens.

23

24 DIRECT EXAMINATION

25 BY MR. DICKENS:



1 Q. Good morning, Mrs. Johnson. How are you today?  
2 A. Nervous.  
3 Q. If it helps, every time I stand up here I get  
4 nervous, too. So I think we can get through this  
11:17:31 5 together. Just try to keep your voice up, though, so  
6 those of us back here can hear you. Do your best, okay?  
7 A. Yes. I'll try.  
8 Q. Okay. You're here today because you're married  
9 to Lee Johnson; correct?  
11:17:44 10 A. Yes.  
11 Q. And when were -- how long have you been married?  
12 A. I think 11 years.  
13 Q. And how did you meet Lee?  
14 A. At Napa Valley College in pre-algebra class.  
11:18:07 15 Q. If you can maybe pull that mic closer, that  
16 might be helpful. Just pull it closer to you.  
17 You said that was a pre-algebra class?  
18 A. Yes.  
19 Q. And where was that?  
11:18:18 20 A. In Napa Valley College.  
21 Q. That's Napa Valley College?  
22 A. Yes.  
23 Q. What were you doing at Napa Valley College?  
24 Were you --  
11:18:26 25 A. I was taking a pre-algebra class, and that's how

1 I met him. He came in late. I had saw him walk in. I  
2 stare right at him. It was his color skin, I was  
3 attracted to him, and I wanted to get to know him.

4 Q. Did you talk to him on that day?

11:18:50

5 A. No, I was too scared to talk to him. Days went  
6 by, and I said to myself, I'll be brave the next time I  
7 see him, I'll tell him how I felt, and I couldn't do it.

8 Q. Did you ever tell him how you felt?

11:19:10

9 A. My sister was in the class with me at that time,  
10 and I mentioned to my sister that I liked him and, you  
11 know, I wanted to get to meet him, and then she actually  
12 helped me. I couldn't do it. I was not going to do it  
13 myself. I couldn't approach him at all.

14 Q. And she actually did that for you, she helped  
15 you?

11:19:29

16 A. My sister did it for me.

17 Q. And now you're married and been married for  
18 11 years?

19 A. Now we're married, yes.

11:19:38

20 Q. Are you from this area originally?

21 A. No. I was born in Mexico, and my parents  
22 brought me when I was 11 going on 12 years old, I think.

23 Q. And brought you to this area?

11:19:57

24 A. He brought me to Napa. I lived in Napa with my  
25 family.

1 Q. And is your family still in the area?

2 A. Yes. My dad passed away, and my mom and my  
3 siblings are here. I still do have family in Mexico  
4 still.

11:20:12 5 Q. Do you and Lee have any children?

6 A. Yes. I have two boys and a stepson.

7 Q. Okay. And how old -- first we'll start with  
8 your two boys. How old are your two boys?

9 A. Ali is 13, and Kahli's about to be 10.

11:20:27 10 Q. That was Ali is 13?

11 A. Thirteen.

12 Q. And Kahli is ten?

13 A. Yes.

14 Q. And you mentioned a stepson. How old is your  
11:20:35 15 stepson?

16 A. I don't know.

17 Q. It's hard to keep track, isn't it?

18 A. Yeah. I don't know.

19 Q. Can you just tell us a little bit about -- and  
11:20:44 20 tell the jury a little bit about Kahli and Ali. What  
21 types of things do they like to do?

22 A. Ali is very caring, a leader, very mature for  
23 his age. He likes sports. He likes Fortnite. It's a  
24 video game. That's what he likes to do.

11:21:09 25 Q. Okay. And how about Ali -- or Kahli? I'm

1 sorry.

2 A. Kahli it's very determined, very happy. He does  
3 not like sports. He likes to read, and he also likes to  
4 play Fortnite.

11:21:30 5 Q. Fortnite's a popular game, I guess.

6 A. Yes.

7 Q. Obviously, we've heard a lot about Lee and his  
8 sickness, but before he was diagnosed with cancer, what  
9 types of things would you all do as a family?

11:21:44 10 A. Go out to dinner, go to the park so the kids can  
11 play basketball, sports, take a ride, go to the beach.

12 Q. I'm going to hand you what is Plaintiff's  
13 Exhibit 12.

14 MR. DICKENS: May I approach, your Honor?

11:22:06 15 THE COURT: Yes.

16 Q. BY MR. DICKENS: Can you identify Plaintiff's  
17 Exhibit 12 for us, Mrs. Johnson?

18 A. Yes, it's snowboarding.

19 Q. Okay. And is this a picture that you took?

11:22:24 20 A. Yes. I think so, yes.

21 MR. DICKENS: At this time, your Honor, we'll  
22 move to admit Plaintiff's Exhibit Number 12.

23 THE COURT: Any objection?

24 MS. EDWARDS: No objection.

11:22:36 25 THE COURT: Twelve may be admitted. It may be

1 published also.

2 (Exhibit 12 admitted into evidence.)

3 MR. DICKENS: All right. Yeah, I'll get there.

4 Q. And you said you took this picture. When,  
11:23:04 5 approximately, did you take this picture?

6 A. Winter?

7 Q. That's a pretty good guess.

8 And can you identify those in the picture?

9 A. Ali, Kahli and my husband, Lee.

10 11:23:19 Q. And would you go snowboarding a lot?

11 A. No.

12 Q. Okay. Had Lee ever snowboarded before?

13 A. No. I don't -- I don't know.

14 Q. And how about you? Were you also snowboarding?

15 11:23:33 A. I did. Before I met him, I actually enjoyed  
16 snowboarding, yes, I did.

17 Q. Okay. So you brought Lee along with you?

18 A. Yes.

19 Q. How is he at snowboarding?

20 11:23:44 A. Not that good.

21 Q. Kahli and Ali, do they snowboard a lot?

22 A. No. That was the first time.

23 Q. Okay. Were they better than their father was?

24 A. Especially Kahli, yes.

25 11:24:00 Q. Your children, are they currently out of school

1 for the summer?

2 A. Yes, they are.

3 Q. And they'll probably have to go back soon; is  
4 that right?

11:24:08 5 A. August 15th they will be going back to school.

6 Q. We've heard that Lee and you both live in  
7 Vallejo. Do they go to the Vallejo school system?

8 A. No.

9 Q. Where do the kids go to school?

11:24:23 10 A. They go to Napa school.

11 Q. How far away is that?

12 A. With traffic, it's 45 minutes up to an hour.

13 Q. Okay. How do they get there?

14 A. I drive them every morning and drop them off to  
11:24:36 15 their schools, and then I go to work.

16 Q. Okay. Why do you drive them 45 minutes for  
17 school?

18 A. Well, I didn't think the Vallejo schools are  
19 very -- well, I believe that taking my kids to Napa  
11:24:57 20 school there -- where it's better, where they can have an  
21 opportunity to study, to learn more, and there wouldn't  
22 be much of a problem as the Vallejo school.

23 Q. How do they get home from school?

24 A. The days that I'm off, I will take them home,  
11:25:16 25 and the days that I'm at my second job, my husband will

1 pick them up.

2 Q. Okay. And does Lee -- is -- does he work out in  
3 that area currently?

4 A. No.

11:25:27 5 Q. So he's drives 45 minutes to pick them up and  
6 then brings them home?

7 A. Yes.

8 Q. Is that something that Lee -- is that time that  
9 he enjoys with the kids?

11:25:38 10 A. I believe so, because it's just quality time.  
11 They're alone and riding in the car. You know, I enjoy  
12 myself. You know, it's quality time with me and my kids  
13 where I can find out if they're doing their homework or  
14 not doing their homework, what's going on in school.

11:25:57 15 They tell me, you know -- just like normal kids.

16 Q. You mentioned that you drop them off and then go  
17 to work. Can you tell us where you're currently  
18 employed?

19 A. I work for Unified School District in Napa.

11:26:13 20 Q. Okay. And what do you do for the Unified School  
21 District in Napa?

22 A. I am an instructional assistant.

23 Q. Is that the only job you have?

24 A. No. Then my second job is Piner's. It's a  
11:26:27 25 nursing home.

1 Q. And what do you do there?

2 A. I'm a certified nursing assistant.

3 Q. So you actually have two jobs?

4 A. Yes.

11:26:35 5 Q. How many hours per week are you currently  
6 working?

7 A. Well, I think it's 14 hours a day, 66 hours --  
8 no, 7 hours and 8 some days -- well, now my schedule has  
9 changed, so it's 6 hours and 8.

11:26:58 10 Q. So you're working, actually, 14-hour days?

11 A. Yes.

12 Q. And you said it takes about 45 minutes to get  
13 there, too?

14 A. Yes.

11:27:07 15 Q. How many days per week are you doing that?

16 A. I -- my schedule changes for p.m. It's  
17 rotational, my days off. So some days I work seven days.  
18 Some days I will work five days, which align my two days  
19 off.

11:27:29 20 Q. Have you always worked 14-hour days for that  
21 many days per week?

22 A. No.

23 Q. When did that start?

24 A. When my husband was diagnosed with cancer.

11:27:44 25 Q. And what made that change when he got diagnosed



1 with cancer? Why did you have to start working that  
2 much?

3 A. I wanted to be able to help to ease off the  
4 stress for the bills and make sure that the kids had a  
5 place to live.

11:27:57

6 Q. Was that hard on Lee when he couldn't work  
7 anymore?

8 A. Tremendously.

9 Q. And you say "tremendously." Can you tell us --

11:28:07

10 A. Well, his job was everything. We had -- he had  
11 a great job, Monday through Friday. He had good  
12 insurance. He had -- he had everything. I didn't have  
13 to work two jobs. I mean, he -- he was fine. We were  
14 fine.

11:28:23

15 Q. How about now?

16 A. It's very difficult. It's very stressful. It's  
17 just too much -- too much for me to explain how I really  
18 feel.

19 Q. And how about for Lee? Is it -- do you feel he  
20 feels the same way?

11:28:42

21 A. I believe so. But he doesn't talk about it, but  
22 I can see a lot of changes in him through this process.

23 Q. Changes since he's been diagnosed?

24 A. Yes.

11:29:00

25 Q. Okay. What kind of changes have you noticed?

1 A. He couldn't sleep. He was, you know, in a lot  
2 of pain, just very depressed, upset for everything.  
3 Everything was just actually -- mad. He was just mad for  
4 anything.

11:29:22 5 Q. And you said he just wouldn't really talk about  
6 it much; is that right?

7 A. Yeah.

8 Q. Did you ever see Lee cry?

9 A. Yes.

11:29:34 10 Q. A lot?

11 A. When he first diagnosed, yes. And through a lot  
12 of the pain and suffering with the skin, he did a lot of  
13 crying, too, especially at night when he thought we were  
14 asleep.

11:30:00 15 Q. So you said when he thought you were asleep,  
16 would that -- would he typically try to cry --

17 A. Hide.

18 Q. -- by himself?

19 A. Yeah. Try to hide. I think he'd try to show  
11:30:10 20 that, you know, we can -- he was -- like, he tried to  
21 show that I'm okay, but I can feel that he wasn't. He  
22 wanted to be positive. You know, he tried to be  
23 positive. He wanted to be.

24 Q. But you think he was trying to be positive for  
11:30:31 25 who?

1 A. For us and the kids.

2 Q. You probably know Lee better than anyone. Can  
3 you just describe -- you know, obviously you've described  
4 how he was after the diagnosis. How was he when you  
11:30:48 5 first met him or married? Can you describe him for us?

6 A. Happy. Sexy. He's very talented. Likes music.  
7 Likes playing lots of sports with the kids. We were  
8 going out for dinner, going out for a walk.

9 Q. And did that change after that?

11:31:07 10 A. Yes.

11 Q. You work a lot. Do you -- how much time do you  
12 get to spend with Lee?

13 A. The majority of my time is at night when I get  
14 home from work.

11:31:20 15 Q. Are the kids asleep at that point?

16 A. The days that are school days, yes, they're  
17 already in bed. And the days like the summer right now,  
18 they'll be up waiting for me. We'll watch TV. We'll sit  
19 down and talk about the day.

11:31:37 20 Q. Would Lee -- prior to him being diagnosed, would  
21 he help out around the house? What type of things would  
22 he do?

23 A. Could you repeat the question?

24 Q. Yeah. Before he was diagnosed with his cancer,  
11:31:48 25 would he help out around the house?

1 A. Yes.

2 Q. Okay. What types of things would he do?

3 A. Cook. He would help me clean.

4 Q. Would he fix things around the house?

11:31:58 5 A. Yes. Keep the house neat.

6 Q. Was there a time after the diagnosis he wasn't

7 able to do that?

8 A. There was a time when he -- when he got chemo

9 that he was in bed for a whole month. He was barely

11:32:16 10 eating, barely drinking. I think he only had one meal a

11 day, and it was a very small amount. And he couldn't

12 help me cook, clean, fold laundry. He couldn't help me

13 with anything, and I would have to go to work. I would

14 come home, try to cook after work, make sure we eat food,

11:32:43 15 and, actually, I begged my kids to help me clean and make

16 sure to have water for Lee next to the bed so he can

17 drink.

18 Q. If you didn't have to do so much or work so

19 much, would you spend more time with Lee and the family?

11:33:01 20 A. Yes.

21 Q. Is that something that Lee and the rest of the

22 family miss, is that time together?

23 A. Yes. That's a lot of years gotten by, and it

24 seems like it was just yesterday. You know, time -- the

11:33:18 25 kids are growing, and -- yeah. I think I would like to

1 have only one job and be able to spend time with my kids,  
2 yes.

3 Q. That time Lee was in the bed, I presume he  
4 wasn't able to, you know, go to the kids' sports events  
11:33:35 5 and things like that; is that fair?

6 A. Yeah, he was just in bed. He -- his memory --  
7 he was talking to himself. He -- he was ordering food in  
8 the middle of the bed.

9 Q. You mentioned his memory. Was his memory  
11:33:58 10 affected at all by --

11 A. Yeah, I think he was forgetting a lot of stuff.  
12 He wouldn't remember stuff. He would say stuff that was  
13 not there.

14 Q. I think at one point you had told me that -- you  
11:34:08 15 joked that he had dementia. Do you remember that?

16 A. Yes, I said he had dementia.

17 Q. Did Lee generally take care of his health before  
18 he was diagnosed?

19 A. Yes.

11:34:22 20 Q. Were you aware of any chronic or serious health  
21 conditions he had?

22 A. Before he was sick?

23 Q. Right.

24 A. No, he was fine.

11:34:30 25 Q. How did you learn that Lee had cancer?

1 A. He told me.

2 Q. What do you remember about that?

3 A. I do remember we were in the car, and he said,  
4 "I got a phone call, and they told me I have cancer."

11:34:55

5 And after that, just -- my world just shut down. I  
6 couldn't believe him. I said, "No, that's not true."  
7 That -- no, I couldn't accept it. My world just shut  
8 down. I couldn't cook. I couldn't clean. I couldn't do  
9 anything. I only cried every night. It was very hard.

11:35:19

10 Q. And was it from that point, you know, almost  
11 immediately that -- you had mentioned Lee tried to be  
12 strong for you and the family. Was that almost  
13 immediate?

11:35:34

14 A. When we first heard it, he was just very quiet,  
15 and then he was crying a lot at night, but he -- he was  
16 just, like, spaced out. Like -- like, he was in shock.  
17 I don't know. He was just very quiet.

11:35:50

18 Q. Do you remember any time before he actually went  
19 and had his diagnosis of cancer any type of symptoms that  
20 he had? Do you remember anything like that?

21 A. No.

22 Q. Did you see anything on -- on his body or arms  
23 or anything like that?

24 A. Before? No. I don't remember.

11:36:04

25 Q. And did Lee have -- has he told the kids? Do

1 the children know what their dad's diagnosis is?

2 A. They know that he has cancer. But I don't think  
3 they -- it's -- they know what's really going to happen.

4 Q. Was Lee the one who told the kids?

11:36:28

5 A. I think we did it together, and then I told them  
6 separately another time, just to remind them that he was  
7 sick, to spend time with him as much as you can, you  
8 know, just spend time with him, get to know your dad.

9 Q. How did the children take the news?

11:36:53

10 A. They were like, "Cancer?" They didn't even know  
11 what cancer -- and I couldn't explain it to them. He's  
12 just very sick.

13 Q. Was it hard on Lee to tell your two younger kids  
14 about the cancer diagnosis?

11:37:09

15 A. Yes, I believe it was very hard for him to tell  
16 them.

17 Q. You mentioned there was a time you think Lee was  
18 depressed. I mean, was there any particular point in  
19 time that you recognized it might be worse?

11:37:27

20 A. I think -- I think he's been very depressed,  
21 especially when he was getting those treatments. He  
22 was -- you know, he was in a lot of pain. He was just  
23 sad.

11:37:50

24 Q. Dr. Ofodile had testified that -- that, you  
25 know, Lee was a fighter. Was there any time that you

1 thought maybe he didn't want to fight any more, maybe he  
2 wanted to give up?

3 A. When -- it was when -- the month that I told you  
4 that he had -- that he was in bed. He literally forced  
11:38:09 5 himself to get out of bed and try to go to some family  
6 funeral, and I looked at him dressed, and I told him,  
7 "Oh, my God. You're, like, swimming in the clothes,"  
8 because he had lost so much weight, and I said, "You  
9 can't go like that." And he couldn't even barely put his  
11:38:33 10 shoes on. He was in a lot of pain. He can't actually --  
11 couldn't find any shoes that he could, you know, use. So  
12 then he just started crying and crying, and he said, "I  
13 just want to die," and that broke my heart.

14 Q. A funeral. Was it someone in his family?

11:38:56 15 A. Yes.

16 Q. Do you know who that was?

17 A. I think uncle. I don't know, because I told you  
18 he was very sick. He was seeing stuff that was not  
19 there. So at one point, I didn't believe that nobody had  
11:39:13 20 passed away. You know, he was very confused.

21 Q. Was he able to go to that funeral?

22 A. He tried. He tried, but he didn't go.

23 Q. Was not -- missing out on that, a family member?  
24 Was that hard on him?

11:39:27 25 A. I believe it was hard on him, but he didn't --



1 he didn't say anything. But I could see -- you know, he  
2 was crying. He was in -- he was in tears.

3 Q. Obviously Lee's condition, and we've seen some  
4 photographs, it affected his skin. Has that been hard on  
11:39:47 5 him? Is there things he doesn't want to do because of  
6 his appearance?

7 A. Yeah. A lot of times he didn't want to go out.  
8 If we go out, he'll just try to hide. He tried to -- you  
9 know, I think he was embarrassed at one point.

11:40:02 10 Q. Embarrassed to go out into public?

11 A. Yeah. For people to stare at him and look at  
12 him and, you know, "What's wrong with his skin?"

13 Q. Did you actually see people staring?

14 A. Yes.

11:40:17 15 Q. And was that, you know, from diagnosis until,  
16 you know, today? Has that continued?

17 A. Not much now. I think he's -- you know, he's --  
18 I think he's doing a lot better now.

19 Q. If I can hand you what we'll mark as Plaintiff's  
11:40:38 20 Exhibit 24.

21 MR. DICKENS: May I approach, your Honor?

22 THE COURT: Yes.

23 Q. BY MR. DICKENS: Exhibit 24 is another  
24 photograph, Mrs. Johnson. Is that another photograph  
11:40:56 25 that you took?

1 A. Yes.

2 MR. DICKENS: Move to admit Plaintiff's  
3 Exhibit 24, your Honor?

4 THE COURT: Any objection?

11:41:04 5 MS. EDWARDS: No, your Honor.

6 THE COURT: Very well. Twenty-four may be  
7 admitted and published.

8 (Exhibit 24 admitted into evidence.)

9 Q. BY MR. DICKENS: Where was this picture taken?

11:41:11 10 A. In San Francisco. Here.

11 Q. Was this after his cancer diagnosis?

12 A. Yes.

13 Q. I see he's, you know, in a, kind of, jacket, and  
14 he's wearing a hat in this picture.

11:41:27 15 Do you see that?

16 A. Yes.

17 Q. And is that something he would wear a lot when  
18 you went out?

19 A. Similar to that. Glasses, more cover.

11:41:38 20 Q. And that was to avoid the stares and because of  
21 his embarrassment?

22 A. Yes.

23 Q. Another thing you had once mentioned is -- I  
24 think you referred to him as more of a mom than a dad?

11:41:56 25 A. Yeah.

1 Q. Do you remember that?

2 A. I actually say that a lot, because he is more of  
3 a mom than a dad.

4 Q. Can you tell us just what you mean by that?

11:42:03

5 A. His kids come first. When I try to serve  
6 dinner, I hand him the plate first, and he says, "No,  
7 don't serve me first. Serve my kids first," or, "Show  
8 the kids this, show the kids this." You know, make sure  
9 they're fine, everything is -- his priority is his kids.

11:42:23

10 Q. So does he surround his life -- I mean, are, you  
11 know, the kids and you, kind of, the center of that?

12 A. The majority, I would say the kids. Not much  
13 about me. I do compete on attention sometimes.

14 Q. You are working a lot as well; right?

11:42:41

15 A. Yes.

16 Q. Lee just had a recent doctor's appointment. Do  
17 you know anything about, you know, his prognosis or  
18 anything?

11:42:55

19 A. No. I think at a certain point I just stopped  
20 thinking about appointments and treatments and any of  
21 that. It's -- it's too much for me to process, to handle  
22 that. I don't want to know.

23 Q. You just enjoy the time you do have with him?

11:43:15

24 A. Yes. And, actually, that helped me, you know,  
25 be more positive.

1 Q. What do you remember -- when was Lee at his  
2 happiest that you've ever seen him?

3 A. Before he had cancer. We had nothing to worry  
4 about. We had no worries. We didn't have to think about  
11:43:35 5 doctors appointments. We didn't have to worry about  
6 something. It was no worries, no stress. None of that.  
7 Life was beautiful. Simple. Just hanging out, having a  
8 great time. No worries. No depression. No -- it's  
9 something I have to carry around, cancer. You know, I --  
11:43:57 10 it's just too much to deal with.

11 Q. Thank you, Mrs. Johnson.

12 MR. DICKENS: I have no further questions.

13 THE COURT: Thank you, Mr. Dickens.

14 Ms. Edwards.

11:44:13 15 MS. EDWARDS: Good morning, Mrs. Johnson. Thank  
16 you for coming in today. You and I have met.

17 THE WITNESS: Yes.

18 MS. EDWARDS: But I have no questions for you.  
19 Thank you for coming in.

11:44:21 20 THE COURT: Thank you.

21 All right. Mrs. Johnson, you may be excused.  
22 Step down. Thank you.

23 MR. DICKENS: Your Honor, before we call  
24 Mr. Johnson to the stand, we'd like to read two  
11:44:46 25 admissions into the record.

1 THE COURT: Very well.

2 MR. DICKENS: "Admission Number 13. Request:  
3 Admit that Monsanto has never warned any consumers that  
4 glyphosate-containing products can cause non-Hodgkin's  
5 lymphoma.

6 "Response. Admitted. Monsanto denies its  
7 glyphosate-containing products can cause non-Hodgkin's  
8 lymphoma.

9 "Admission Number 14. Request: Admit that  
10 Monsanto never warned Dewayne Lee Johnson prior to  
11 August 2014 that glyphosate-containing products could  
12 cause cancer.

13 "Response. Admitted. Monsanto denies that its  
14 glyphosate-containing products can cause cancer."

11:45:39 15 THE COURT: Call your next witness, Mr. Dickens.

16 MR. DICKENS: Thank you, your Honor.

17 At this time, we call Mr. Dewayne Lee Johnson to  
18 the stand.

19 THE COURT: Mr. Johnson, if you'd please step up  
11:45:48 20 here, and remain standing while the clerk swears you in.

21 MR. DICKENS: Your Honor, if I may approach?

22 THE COURT: Yes.

23

24 DEWAYNE LEE JOHNSON,

25 having been first duly sworn, was examined

1 and testified as follows:

2

3 THE CLERK: Would you please state and spell  
4 your name fully in the record.

11:46:22

5 THE WITNESS: Dewayne Johnson, D-E-W-A-Y-N-E,  
6 Johnson, J-O-H-N-S-O-N.

7 THE COURT: Thank you. You may proceed,  
8 Mr. Dickens.

9

10 DIRECT EXAMINATION

11 BY MR. DICKENS:

12 Q. Thank you, Mr. Johnson. You just said your name  
13 is Dewayne Johnson. Do you go by Lee Johnson?

14 A. Yeah, I use Lee. I don't use Dewayne at all.

11:46:44

15 Q. Okay. How are you doing today?

16 A. Okay.

17 Q. Your wife did an amazing job.

18 I want to see if you can get the same answer.

19 How long have you been married, Mr. Johnson?

11:46:54

20 A. You know, we've been married one year -- at  
21 least -- at least 13. So I say 14, because we were  
22 together one year before that. So we've been married 13  
23 legally.

24 Q. Okay. She says 13, you say 14?

11:47:09

25 A. Right, 13, 14.

1 Q. So it's probably 13?

2 A. We have been committed for 14 years.

3 Q. Okay. Now, you live in Vallejo?

4 A. I do.

11:47:20 5 Q. How long have you been there?

6 A. I lived in Vallejo my whole life. I left  
7 Vallejo for the last two or three years. We lived in  
8 Vacaville, and we lived in Napa. And I lived in  
9 Sacramento when I was younger. And the rest of my years  
10 have been in Vallejo.

11:47:35

11 Q. Were you born and raised in Vallejo?

12 A. Born and raised in Vallejo.

13 Q. Do you still have family in the area?

14 A. I have plenty of family.

11:47:44 15 Q. Okay. Who's in the area?

16 A. I have aunties, cousins, my mom, two of my  
17 sisters out of the three, a couple of nephews, nieces.

18 Q. And are you a close family?

19 A. Pretty much, yeah.

11:47:58 20 Q. You -- who currently lives with you?

21 A. Araceli lives with me, of course, and our two  
22 sons, Ali, Kahli.

23 Q. And Araceli has just given us some information.

24 Beyond that, can you tell us about Kahli and Ali,

11:48:18 25 generally?

1           A. For me, like she said, Ali is a super --  
2 athletic, strong, tall. You know, he's -- everything  
3 about him says athlete, you know. And he loves sports.  
4 He  
11:48:30 5 loves -- he's already played soccer. He's already played  
6 organized soccer, organized basketball, organized  
7 football, swimming. He's just that guy, you know.  
8           And he's very smart. He doesn't like us to take  
9 pictures. He doesn't like attention. But at the same  
11:48:49 10 time, he just gets a lot of attention. So I don't know.  
11 It's just what it is about him, so --  
12           Yeah, he's very outgoing. He has a lot of  
13 friends. He gets a lot of attention. He's just -- he's  
14 very popular around school and stuff. So, yeah, he's --  
11:49:03 15           Q. And what grade is he going to be going into?  
16           A. Going into the 8th grade.  
17           Q. And what about your younger son?  
18           A. Kahli is, sort of, opposite him. Kahli is a --  
19 a good golfer. He likes golf. He can tee off pretty  
11:49:19 20 good. I'm impressed by his golfing skills, actually. He  
21 likes basketball. He shoots very well. But he's not  
22 really an athletic kid. He wants to be a chemist.  
23           Something about Kahli, I'll say that Kahli  
24 actually made me some potion for cancer.  
11:49:35 25           Q. Oh, he did?



1 A. You know, he said, "I'll make you some potion."  
2 He took stuff and concocted it and gave it in a little  
3 blue bottle. I drank it. I don't know if it worked.  
4 Yeah, he wants to be a chemist, Kahli.

11:49:47

5 Q. Great.

6 Do you know what was in the potion?

7 A. I just asked him, "You didn't put any detergent  
8 or soap or anything?" He just said, "No. It's all from  
9 the refrigerator and cabinets."

11:50:01

10 Q. It's got to be safe. And how did it taste?

11 A. It was the worst.

12 Q. But you still drank it?

13 A. Yeah. It was salty, sweet, lemony. It was not  
14 good.

11:50:11

15 Q. Are you, yourself -- you mentioned he likes to  
16 golf. Are you a golfer?

17 A. Yes, I am.

18 Q. Okay. And do you still golf now?

11:50:23

19 A. I don't golf much anymore. Because of my  
20 shoulder and the neuropathy in my hands, I don't do much  
21 golfing anymore. I haven't golfed in probably the last  
22 three or four years.

11:50:40

23 Q. You mentioned a bunch of the sports that your  
24 children do. Someone liked soccer. Were you a soccer  
25 fan? Were you a soccer player?

1           A. I knew nothing about soccer when my son started  
2 playing soccer. His mother is an ex-soccer player. So  
3 when he played soccer, I learned all that stuff from him  
4 and his coaches and just watching those amazing kids and  
11:50:56 5 what they do out there.

6           Q. So would you go to the games and his practices?

7           A. Oh, yeah. Every game. All the practices, yeah.

8           Q. And now do you know more about soccer?

9           A. Oh, yeah. I know a lot about soccer now.

11:51:08 10          Q. I showed some pictures that your wife took. I  
11 want to, you know, show a couple and see if you can help  
12 us out there.

13                    You have a binder in front of you. If you can  
14 turn to what's marked as Exhibit 7, Mr. Johnson.

11:51:28 15                    Do you see that picture?

16          A. Yes.

17          Q. And is that a picture that you, yourself, took?

18          A. I did.

19                    MR. DICKENS: I move to admit Plaintiff's  
11:51:35 20 Exhibit Number 7, your Honor.

21                    THE COURT: Any objection?

22                    MS. EDWARDS: No, your Honor.

23                    THE COURT: Seven may be admitted and published.

24                    (Exhibit 7 admitted into evidence.)

11:51:43 25          Q. BY MR. DICKENS: Where were you at this time,

1 Mr. Johnson?

2 A. This is at a lookout point above the Golden Gate  
3 Bridge. You can kind -- you can see the whole city from  
4 there. And then down below it, you can see more scenery.

11:51:56 5 But that's a lookout point.

6 Q. Do you know when this was?

7 A. Not exactly. No, I don't.

8 Q. And that's Kahli in the front there?

9 A. That's Kahli in the front.

11:52:05 10 Q. Ali in the middle?

11 A. Ali in the middle and mom in the back.

12 Q. All right. Did you used to do things like this?  
13 I mean, go out quite a bit, before your diagnosis?

14 A. Yeah. You know, that's one thing about Araceli.

11:52:19 15 When she gets that time off, she likes to go out and use  
16 that time. So we usually try to do things with the kids  
17 and get out and move around a little bit, since they  
18 don't have a lot of traveling free time with all the  
19 schooling and everything. So yeah.

11:52:35 20 Q. Do you still get to do that a lot? I mean, go  
21 out? Is there a lot of time off that your wife has where  
22 you can go do those things?

23 A. Every once in a while, depending on how I'm  
24 feeling and everything and how everything works out.

11:52:49 25 Q. Have you been feeling better as of late?

1           A. Yeah. I had a round of chemotherapy -- I don't  
2 remember the exact medication that they gave me. But the  
3 last round they gave me, I had a really good response.  
4 But the round before that, they gave me something that I  
11:53:06 5 didn't have a good response to. So I'm still recovering  
6 from that stuff. But the second round of chemo that they  
7 gave me did a lot for the lesions and the scars and the  
8 things, but -- yeah.

9           Q. When was that, the last time you had that  
11:53:21 10 chemotherapy that you mentioned?

11           A. I don't know exactly, but I'm thinking it's  
12 about at least five or six months ago.

13           Q. We've heard a lot about your skin condition.  
14 How is it now? I mean, do you have any areas that are  
11:53:33 15 bothersome?

16           A. Yes. I still have some areas that are  
17 bothersome. I even have a few things that, sort of,  
18 look, sort of, like, sort of, some of the stuff that I  
19 saw in the pictures. But the pictures are definitely way  
11:53:44 20 worse than anything that I have right now.

21           Q. So now you're doing okay? Relatively okay?

22           A. I wouldn't call it okay. I would call it that  
23 I've learned how to tolerate what I'm dealing with.

24           Q. Are there any painful areas you have, as you sit  
11:53:58 25 here today?

1 A. Yeah. I call them stingers. And those are  
2 things that if fabric touches it or -- if you were to  
3 physically look at it, you could tell why I call it a  
4 stinger.

11:54:09 5 Q. And we'll talk more about, you know, your health  
6 condition and the progression of that. You mentioned,  
7 you know, things that you used to do and now you can  
8 still do it, because you're -- you know, can tolerate it.  
9 Was there a time that you weren't able to go out and do  
11:54:23 10 things with your family?

11 A. Yes. There were plenty of times where I  
12 couldn't go out and do anything at all.

13 Q. Before your diagnosis, were you able to go play  
14 sports with the kids?

11:54:37 15 A. Yeah. I could do anything I wanted to do before  
16 the diagnosis, yes. Play sports, everything. Yeah,  
17 anything.

18 Q. And did that ever change after -- after your  
19 diagnosis?

11:54:48 20 A. Oh, yeah. It changed dramatically.

21 Q. Before the diagnosis, Araceli was talking about  
22 some of the things you used to do around the house. Can  
23 you give us a little more detail? What would you do to  
24 help out with -- with the kids and just with the house?

11:55:04 25 A. I mean, Araceli probably doesn't want to say it,

1 but I do everything. If you do the -- if you do the  
2 math, you have to know that I, you know, do a lot.

3 But, you know, she helped out a lot when I got  
4 down, because no one else could do it. But, yeah, I used  
11:55:21 5 to do a lot. I'm just that type of person. You know  
6 what I mean? From being a custodial background and all  
7 that stuff, I won't live in squander or filth. It's just  
8 not going to happen, if I can do anything about it.

9 So I try to keep things really organized. And  
11:55:37 10 that's how my house is ran. You know, closets and things  
11 are neat. We try to do things the right way and keep  
12 things -- it's called *mise en place*. It's a French term.  
13 It means everything has its place.

14 Q. I looked over, and I think Araceli may disagree  
11:55:50 15 with that, but --

16 MR. DICKENS: Your Honor, before I go into the  
17 next section, now -- is now a good time to take a break  
18 for lunch?

19 THE COURT: Yes, that's fine.

11:55:57 20 All right, Ladies and Gentlemen. We're going to  
21 break now for the lunch recess. We'll be in recess, as  
22 usual, until 1:30. Please remember do not discuss the  
23 case with anyone. Please do not do any research on the  
24 case. And we'll resume again at 1:30.

25 (Time Noted: 11:56 p.m.)

1 REPORTER'S CERTIFICATE

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I certify that the proceedings in the within-titled cause were taken at the time and place herein named; that the proceedings were reported by me, a duly Certified Shorthand Reporter of the State of California authorized to administer oaths and affirmations, and said proceedings were thereafter transcribed into typewriting.

I further certify that I am not of counsel or Attorney for either or any of the parties to said Proceedings, not in any way interested in the outcome of the cause named in said proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand:  
July 23rd, 2018.

<%signature%>  
Leslie Rockwood Rosas  
Certified Shorthand Reporter  
State of California  
Certificate No. 3462