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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 Friday, August 3, 2018,
Volume 23, Afternoon Session, before the Honorable
Suzanne R. Bolanos, at 1:33 p.m.

REPORTED BY:

LESLIE ROCKWOOD ROSAS, RPR, CSR 3462

Job No. 2965343B

Pages 4802 - 4872

1 APPEARANCES:

2

3 FOR THE PLAINTIFF:

4 R. BRENT WISNER, ESQ.

5 BAUM, HEDLUND, ARISTEI, GOLDMAN PC

6 12100 Wilshire Boulevard, Suite 950

7 Los Angeles, California 90025

8 310-207-3233

9

10 DAVID DICKENS, ESQ.

11 JEFFREY TRAVERS, ESQ.

12 THE MILLER FIRM, LLC

13 108 Railroad Avenue

14 Orange, Virginia 22960

15 540-672-4224

16

17 FOR THE DEFENDANT:

18 SANDRA A. EDWARDS, ESQ.

19 FARELLA BRAUN + MARTEL LLP

20 235 Montgomery Street

21 San Francisco, California 94104

22 415-954-4400

23

24

25

1 APPEARANCES (Continued):

2

3 FOR THE DEFENDANT:

4 GEORGE C. LOMBARDI, ESQ.

5 JAMES M. HILMERT, ESQ.

6 WINSTON & STRAWN LLP

7 35 West Wacker Drive

8 Chicago, Illinois 60601

9 312-558-5969

10

11 KIRBY T. GRIFFIS, ESQ.

12 HOLLINGSWORTH LLP

13 1350 I Street, N.W.

14 Washington, D.C. 20005

15 202-898-5800

16

17

18

19

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23

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WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
TIMOTHY M. KUZEL		4806		

EXHIBITS

(None.)

1 Friday, August 3, 2018

2 1:33 p.m.

3 Volume 23

4 Afternoon Session

5 San Francisco, California

6 Department 504

7 Judge Suzanne Ramos Bolanos

8
9 PROCEEDINGS

10 13:24:49

11 THE COURT: Good afternoon, Ladies and
12 Gentlemen. Welcome back.

13 Dr. Kuzel remains under oath, and, Mr. Dickens,
14 you may proceed.

15 13:33:44

16 MR. DICKENS: Thank you, your Honor.

17 CROSS-EXAMINATION (Continued)

18 BY MR. DICKENS:

19 Q. Welcome back, Dr. Kunzel.

20 13:33:46

21 A. Thank you.

22 Q. I hope you had a nice lunch.

23 A. It was a nice break. Thank you.

24 Q. Good.

25 13:33:54

26 I want to pick up, kind of, where we left off.
27 You had a slide that was shown during your direct with

1 respect to the various types of non-Hodgkin's lymphoma.

2 Do you remember that?

3 A. Yes.

4 Q. And there's, what, approximately 70 subtypes?

13:34:05

5 A. Yeah, give or take.

6 Q. Okay. And is it your opinion that before you

7 can opine that glyphosate causes any one of those

8 subtypes, you would actually need a specific

9 epidemiological study on each of those 70 subtypes before

13:34:22

10 you can reach a conclusion?

11 A. Yes. Every one of those is very different.

12 Q. Okay. So you would agree that designing a study

13 to determine whether or not glyphosate was associated

14 with mycosis fungoides would be a daunting task?

13:34:35

15 A. There have been a number of epidemiology studies

16 conducted in mycosis fungoides.

17 Q. Well, would you agree that designing a study to

18 determine whether glyphosate was associated with mycosis

19 fungoides would be a daunting task?

13:34:50

20 A. It would be a task, just like any epidemiologic

21 study.

22 Q. Well, "daunting task," those are your words, are

23 they not, Doctor?

24 A. It certainly would be a challenge, given the

13:35:01

25 rarity of the disease and the need to limit somehow the

1 exposure just to glyphosate.

2 Q. Okay. So the answer is "yes," you believe it
3 would be a daunting task?

4 A. Yes, challenging indeed.

13:35:15

5 Q. It would be nearly impossible, wouldn't it,
6 Doctor?

7 A. It depends on how many resources, I guess, you
8 have.

13:35:27

9 Q. Okay. Are you aware of whether or not Monsanto
10 has ever sponsored or funded a study to test the
11 association between glyphosate and these subtypes of
12 non-Hodgkin's lymphoma?

13 A. I am not aware if they have or have not.

14 Q. You've never designed such a study?

13:35:40

15 A. No.

16 Q. Dr. Mucci -- do you know who Dr. Mucci is?

17 A. No.

13:35:53

18 Q. Are you aware that Monsanto's epidemiology
19 expert in this case said you would need approximately 1
20 million subjects before you could --

21 MR. GRIFFIS: Objection. Beyond the scope of
22 this witness's knowledge, based on what he just
23 testified.

24 THE COURT: All right. Sustained.

13:36:05

25 You may ask a different question.

1 Q. BY MR. DICKENS: Considering how rare mycosis
2 fungoides is, would you agree that you would need
3 approximately 1 million or more subjects before you could
4 run such an epidemiology study?

13:36:17 5 A. I couldn't even begin to answer that question.

6 Q. Okay. But it's fair to say that until this
7 almost impossible study is done, you will never conclude
8 that glyphosate can cause mycosis fungoides?

9 A. I guess I would never say never.

13:36:34 10 Q. Well, if you didn't have an epidemiology study,
11 it's fair to say you can rely on other types of
12 information to find that something is a carcinogen;
13 correct?

14 A. Usually it's a combination of things.

13:36:45 15 Q. Okay. And a combination of things such as what?

16 A. It might be laboratory evidence in certain
17 models. It may be epidemiologic in certain cases.

18 Q. And it's that totality of the evidence that you
19 would rely upon?

13:36:58 20 A. Yes.

21 Q. You didn't rely on anything else in this case
22 beyond epidemiology; correct?

23 A. And what we know about mycosis fungoides in
24 general.

13:37:13 25 Q. Now, you discussed a theory of epigenetics as a

1 biological mechanism for the cause of mycosis fungoides,
2 but that's just a theory; correct?

3 A. Yes. A hypothesis.

13:37:29

4 Q. The same is true with respect to DNA breaks or
5 genotoxicity?

6 A. Yes, those would all be hypotheses.

7 Q. So those haven't been ruled out at all?

13:37:43

8 A. The data that shows that there's no consistent
9 gene mutation or DNA break would suggest that there isn't
10 an underlying genetic mechanism that's common across all
11 patients.

12 Q. Okay. So you do believe -- it's your opinion
13 that that's been ruled out, some type of genetic or DNA
14 break, as the cause of mycosis fungoides?

13:37:58

15 A. Yes. I believe that there's no single
16 underlying genetic defect that explains mycosis
17 fungoides.

18 Q. Now, you agree that there are studies
19 demonstrating glyphosate is genotoxic?

13:38:13

20 A. Yes. I have seen some of those studies.

21 Q. And you agree that glyphosate may be linked to
22 oxidative stress?

23 A. I've seen the data on reactive oxidative stress.

13:38:23

24 Q. And you agree that the IARC Monograph does a
25 nice job summarizing the studies that reach a conclusion

1 that glyphosate is genotoxic?

2 A. I believe they summarized them, yes.

3 Q. And you believe they did a nice job doing so?

4 A. I don't know that I'm qualified to say it was a
13:38:39 5 nice job or not a nice job.

6 Q. And once again, Doctor, those are your words;
7 right? I mean, you stated that previously, that you
8 believe they've done a nice job summarizing the studies
9 that reached the conclusion that glyphosate is genotoxic?

10 A. I thought they had a listing of the number of
13:38:47 11 studies, yes.

12 Q. And a nice job doing so?

13 A. Sure.

14 Q. Now, you understand that IARC looked at all the
13:38:58 15 data; correct? Epidemiology, animal study, mechanism of
16 action, genotoxicity, they reviewed it all; correct?

17 A. I don't know what IARC reviews. I -- that would
18 be beyond my ability to say that they reviewed it all.

19 Q. Well, they certainly reviewed more than you?

20 A. Regarding this topic, yes, they have.
13:39:15

21 Q. Doctor, I want to put a slide up.

22 So this is a slide you helped create; is that
23 true?

24 A. Yes.

25 Q. And did you create this yourself?
13:39:39

1 A. No.

2 Q. Where does it come from?

3 A. Monsanto generated it.

13:39:46

4 Q. Okay. So Monsanto made this slide and provided
5 it to you?

6 A. They generated the figures, yes.

7 Q. Okay. So -- and they generated the information
8 contained within the slide?

9 A. No.

13:39:57

10 Q. Okay. That's information you provided to them?

11 A. Yes.

12 Q. Okay. And on this, you have -- is it your
13 testimony it would take years for one cell to progress to
14 a billion of cells? That's your testimony; correct?

13:40:12

15 A. Yes.

16 Q. Mr. Griffis said that the doubling time would be
17 approximately, if you add it up, 30 months. Is that your
18 opinion?

19 A. In that range.

13:40:21

20 Q. Now, I think you said that this applies to all
21 cancers; is that right?

22 A. It does.

23 Q. And so you treat various cancers, melanomas,
24 prostate cancer. Is this true with respect to those
25 cancers as well?

13:40:34

1 A. Yes.

2 Q. Those are solid cancers or solid tumors?

3 A. They are.

13:40:43

4 Q. Is the latency for solid tumors longer than it
5 would be for mycosis fungoides?

6 A. Not necessarily.

7 Q. Okay. Would they be shorter?

8 A. They could be in some cases.

13:40:58

9 Q. Okay. How about in melanoma? Is the latency
10 for melanoma the same, longer than mycosis fungoides?

11 A. There are certainly melanomas that take years to
12 develop from the -- from original insults.

13:41:17

13 Q. Okay. So this would, then, be true, your
14 testimony, from one cell to a billion cells would take
15 years with melanoma as well?

16 A. Yes.

17 Q. So this is generally true with respect to all
18 cancers?

19 A. Yes.

13:41:24

20 Q. Now, that opinion that it would take years,
21 Doctor, has that always been your opinion?

22 A. Yes.

23 Q. But you've testified differently before, have
24 you not?

13:41:36

25 A. No. I've testified that 30 doubling times is a

1 common data point.

13:42:13 2 Q. I'm going to hand you a transcript from a
3 previous deposition you provided. First of all, the
4 deposition I handed you, Doctor, is in a case from the
5 State of Illinois. The plaintiff in this case, that was
6 a former patient of yours; correct?

7 A. I'm looking for -- is D'Amborse the last name?

8 Q. That's correct.

13:42:32 9 A. I don't recall. I'd have to take a look at this
10 to see that.

11 Q. Okay. And on the -- page 5 of this deposition,
12 that's your name, correct, Timothy M. Kuzel?

13 A. Page 5?

14 Yes.

13:42:48 15 Q. And that is you; correct?

16 A. Yes.

17 Q. Okay. Turn to, now, page 19, Doctor.

18 MR. DICKENS: And permission to publish, your
19 Honor?

13:43:04 20 THE COURT: Any objection?

21 MR. GRIFFIS: Yes, your Honor. Hearsay.

22 THE COURT: Sustained.

23 MR. DICKENS: Oh, I'm sorry. What was that?

24 THE COURT: Hearsay.

13:43:15 25 MR. DICKENS: Okay. And that was sustained?

1 THE COURT: Yes.

2 MR. DICKENS: All right.

3 Q. Now, Doctor, is this your testimony that you
4 gave in this case?

13:43:27 5 A. I believe it is, yes.

6 Q. Okay. And in reviewing the information, is it
7 your understanding that Jeannie D' Ambrose is a patient
8 of yours or was a former patient of yours?

9 A. I've seen her at least once.

13:43:46 10 Q. Okay. And if you read page 19, beginning at the
11 bottom, into page 20, this is a case involving melanoma;
12 correct?

13 A. Yes.

14 Q. And you testified that, "It takes some time from
13:44:03 15 the first cancerous cell to grow and proliferate enough
16 to even be detected. So typically, that's probably six
17 months to a year from when that first cell may change and
18 then you could detect any difference, perhaps, in the
19 mold."

13:44:17 20 That was your testimony, was it not, Doctor?

21 A. That is correct.

22 Q. And so your testimony in this case is that it
23 would take six months to a year from that first cell to
24 when you could detect a melanoma in this particular
13:44:32 25 patient; correct?

1 A. That's not what I said.

2 Q. And this was a patient of yours; correct?

3 A. I saw her at least one time.

13:44:44

4 Q. Okay. And she was also a patient of Dr. Nabhan;
5 correct?

6 A. I don't know that.

7 Q. All right. So your opinion in this case is
8 after Monsanto has paid you as an expert; correct?

9 A. Yes, they have.

13:44:53

10 Q. How much have you been paid?

11 A. To date?

12 Q. Yes.

13 A. 15 to \$20,000.

13:45:05

14 Q. And so your testimony now with respect to the
15 length of time from one cell to a billion cells is that
16 it would take years; correct?

17 A. Correct.

13:45:38

18 Q. Now, Doctor, you testified that there's
19 epidemiology studies regarding mycosis fungoides;
20 correct?

21 A. Yes, there are some.

22 Q. And I believe you said you didn't need to
23 undertake a literature review in this case because you're
24 involved in that literature; right? You review it?

13:45:48

25 A. Yes. I --

1 Q. Frequently in your position?

2 A. I read it.

3 Q. Okay. And you're familiar, then, with the
4 International Lymphoma Epidemiology Consortium?

13:45:58

5 A. Yes, that's a group I don't, sort of,
6 participate in, but, yes.

7 Q. Okay. But you're familiar with them?

8 A. Yes.

13:46:08

9 Q. And you're familiar that they conduct some
10 studies with respect to mycosis fungoides?

11 A. Lymphomas of all kinds.

12 Q. And that includes health effects, occupational
13 effects; is that right?

14 A. Yes.

13:46:17

15 Q. And you're aware that they've recently published
16 a case or a study in the Journal of the National Cancer
17 Institute?

18 A. If you'd like to show it to me, I'm happy to
19 look at it.

13:46:32

20 Q. Sure. Hand you what's been marked as
21 Plaintiff's Exhibit 691.

22 And Doctor, Plaintiff's Exhibit 691 is titled
23 "Medical history, lifestyle, family history and
24 occupational risk factors for mycosis fungoides and

13:47:03

25 Sézary syndrome: The interLymph non-Hodgkin's lymphoma

1 subtypes project."

2 You've seen this study before, Doctor, have you
3 not?

4 A. I can't recall if I have or haven't.

13:47:13

5 Q. Okay. You can't recall whether or not you've
6 seen this study at all?

7 A. This study was punished nearly five years ago.

8 Q. Okay. Now, Doctor, the -- if you can turn to
9 page 103 on the bottom.

13:47:25

10 MR. GRIFFIS: May we approach, your Honor?

11 THE COURT: Yes.

12 (Sidebar.)

13 [REDACTED]

14 [REDACTED]

13:47:57

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

13:48:13

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

13:48:28

25 [REDACTED]

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13:49:05

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13:50:35

[REDACTED]

(End Sidebar.)

Q. BY MR. DICKENS: Okay. Doctor, if you can turn to page 103. And starting on that last paragraph in that section, starting with "Although," can you read that to yourself, and let me know when you're finished?

A. Out loud or --

Q. No, no. To yourself.

A. Okay.

Q. Doctor, does that refresh your recollection as to whether or not you have seen this study at all at any time in reviewing literature as to mycosis fungoides?

A. Five years is a long time, so I can't remember if I've ever read this before.

1 Q. Okay. So you don't know that within that time
2 frame -- well, let me ask you: In the references you've
3 reviewed in this case, you provided a list of the ones
4 you relied on; right?

13:50:45

5 A. Uh-huh.

6 Q. That's a "yes"?

7 A. Yes.

8 Q. And those date back to the 1980s and 1990s;
9 right?

13:50:50

10 A. Right.

11 Q. And so you would recall whether or not you've
12 seen those, but you can't recall whether or not you've
13 seen a study from 2014?

13:51:02

14 MR. GRIFFIS: Your Honor, per our sidebar, move
15 on.

16 THE COURT: Mr. Dickens, please move on to
17 another topic.

13:51:12

18 Q. BY MR. DICKENS: Are you aware of any other
19 study, Doctor, that's looked at the question of whether
20 or not farming, and specifically crop farming, is
21 associated with mycosis fungoides?

22 A. So the agricultural workers survey looked at
23 agriculture workers in general and associations with
24 cancers of all types.

13:51:27

25 Q. Now, you told me that had nothing to do with

1 mycosis fungoides.

2 A. It has to do with cancers of all types.

3 Q. Okay. But I'm asking you, Doctor, with respect
4 to mycosis fungoides specifically, are you aware of any
13:51:37 5 other study that's looked at the question or -- whether
6 or not crop farming is associated with mycosis fungoides?

7 A. There are other studies of mycosis fungoides in
8 particular that look at occupational exposures, yes.

9 Q. Okay. And you're aware of those?

13:51:53 10 A. Yes.

11 Q. And some of those have been statistically
12 significant?

13 A. Yes. And some of those are included in this.

14 Q. Okay. And those studies have found time and
13:52:04 15 time again that there's a statistically significant
16 increased risk in farm workers?

17 A. Not time and time again.

18 Q. There are studies that found that?

19 A. There is one study that has found that, yes.

13:52:14 20 Q. All right. What's that study, then?

21 A. It's the study from Europe that's included in
22 here that shows that.

23 Q. Okay. You said it's included in there. So now
24 there's two studies?

13:52:24 25 A. This isn't a study.

1 Q. Okay. It's pooling information from other
2 studies?

3 A. Yes. It's a collection of other people's
4 studies.

13:52:33

5 Q. Okay.

6 MR. GRIFFIS: Your Honor, may we approach?

7 THE WITNESS: It's not an independent study.

8 MR. DICKENS: I can move on.

9 Q. So you're aware of one study?

13:52:40

10 A. Yes.

11 Q. And that one study reached a conclusion that
12 statistically significant increased risk in agricultural
13 farming?

13:52:53

14 A. In certain chemicals associated with
15 agricultural farming.

16 Q. Okay. And that is one statistically
17 significant. Have there been others that have shown an
18 increased risk for farming in mycosis fungoides?

13:53:05

19 A. There have been studies that showed sunshine,
20 alcohol, cigarette smoking. A variety of factors have
21 been associated.

22 Q. Okay. And you don't believe any of those cause
23 mycosis fungoides?

24 A. None of those have been reproducible.

13:53:17

25 Q. Okay. And -- and reproducible with respect to

1 epidemiology studies?

2 A. Yes. Even two epidemiology studies often have
3 shown different outcomes.

13:53:26

4 Q. And you'd agree, though, Doctor, that based on
5 the rarity of mycosis fungoides, that getting a
6 statistically significant result in any study would be
7 near impossible?

8 A. It would be difficult, yes.

13:53:39

9 Q. Okay. And so to get not only one, but to
10 reproduce it would be even more difficult?

11 A. Is that a question or a statement?

12 Q. That's a question.

13 A. Oh. It would be another study that would have
14 to replicate it, yes.

13:53:54

15 Q. And, once again, you said that that would be an
16 expensive study to conduct?

17 A. It probably would be, yes.

18 Q. But you don't know one way or the other?

19 A. No. I don't design epidemiology studies.

13:54:04

20 Q. Okay. If there are no causes of mycosis
21 fungoides, when you see patients do you take a family
22 history?

23 A. I do.

24 Q. Do you take an occupational history?

13:54:11

25 A. I do.

1 Q. And you ask about exposures for occupation?

2 A. If -- if there's any question in the
3 occupational history.

13:54:22

4 Q. Okay. If there are no known causes, then why do
5 you do that, Doctor?

6 A. Well, it's actually part of the routine, the
7 history and physical exam that we're taught from Day 1 of
8 medical school.

9 Q. So you just do it because you're forced to?

13:54:33

10 A. No, not forced to. We do it because there may
11 be relevance. The family history may point to issues
12 regarding inherited tumor syndromes. So we take a family
13 history for those reasons.

14 Q. Okay. But when a patient with mycosis fungoides
15 is referred to you -- you talked about you get patients
16 referred. You do the same thing? You take the same
17 history?

13:55:01

18 A. I do. Because some of those patients might have
19 a strong family history of breast cancer and ovarian
20 cancer.

21 Q. Okay. So you're not doing it -- it has nothing
22 to do with your treatment or diagnosis of mycosis
23 fungoides?

13:55:08

24 A. Well, if I do it enough, perhaps I'll identify a
25 pattern of occupational or family exposures that might

1 set off an alarm bell in our brains that would make us
2 say, you know, "Gee, this is interesting."

3 Q. Okay. So an epidemiology study of statistical
4 significance, that's not enough, but --

13:55:21 5 A. No. It might lead to a different epidemiology
6 study.

7 Q. Okay. So having a couple patients with the same
8 exposure rate would raise an alarm bell in your head that
9 maybe there's an exposure there?

13:55:33 10 A. I'm not saying "too," but I'm saying if after
11 you've done this for years, you might say something, yes.

12 Q. Have you heard of the cautionary principle,
13 Doctor?

14 A. No.

13:55:45 15 Q. You were asked whether you would advise one of
16 your patients to stop using a chemical if it could
17 possibly cause cancer. Do you remember that?

18 A. Yes.

19 Q. And I wrote down your answer. And you stated:
13:55:59 20 "If there was no evidence that a chemical had been proven
21 to affect them in some way, that it would be adverse, I'd
22 tell them to continue to live their life."

23 A. Right.

24 Q. And that's your testimony?

13:56:09 25 A. It is.

1 Q. So in this case, are you aware that Dr. Ofodile,
2 Mr. Johnson's treating physician, testified at this trial
3 that she wrote to his school asking if he'd stop spraying
4 Roundup?

13:56:20

5 A. I'm not sure that's what she said.

6 MR. GRIFFIS: Objection. Misrepresents the
7 testimony.

8 THE COURT: Overruled.

13:56:29

9 He may answer, but I -- he actually already did
10 answer, so that's fine.

11 You may ask a different question.

12 MR. DICKENS: Okay.

13 THE COURT: He said, "I'm not sure that's what
14 she said."

13:56:35

15 MR. DICKENS: Thank you. Thank you, your Honor.

16 Q. Did you read her trial testimony in this case?

17 A. I did.

18 Q. Who else's trial testimony did you read?

13:56:50

19 A. I can't remember if I've seen Dr. Nabhan's or
20 not.

21 Q. Okay. You can't remember?

22 A. I can't.

23 Q. Did you read Mr. Johnson's?

24 A. I did not. I read his deposition.

13:56:55

25 Q. Okay. You said, "His deposition." He gave

1 multiple depositions. Did you review all of them?

2 A. I read multiple depositions of his.

3 Q. Okay. And prior to reaching your opinions in
4 this case, though, you only read one; correct?

13:57:06

5 A. Of what?

6 Q. Mr. Johnson's depositions.

7 A. No. I read multiple depositions last year.

8 Q. You produced a report in this case; right?

9 A. Sometime in December, I think.

13:57:16

10 Q. Okay. And at that point in December, when you
11 reached your opinions, you had only reviewed the one
12 deposition. That's fair?

13 A. I know he gave several because of his health.

14 Q. Okay.

13:57:24

15 A. I can't remember how many I read by the time
16 that was generated.

17 Q. You've never conducted any type of analysis as
18 to how much Mr. Johnson was exposed to Roundup or Ranger
19 Pro?

13:57:41

20 A. No. That's not my area of expertise.

21 Q. Didn't factor into your decision at all?

22 A. No.

23 Q. Okay. So it's not -- you took away from
24 Dr. Ofodile's testimony that she did not advise him to
25 stop spraying Roundup or Ranger Pro?

13:58:00

1 A. I'm happy to look at her testimony and find the
2 exact sentence.

3 Q. You're the one, Doctor, who said you don't
4 remember; right? I mean, that what I said wasn't
13:58:12 5 correct?

6 A. That's right.

7 Q. So you said that's not what you took away from
8 it. I'm asking: What did you take away from it?

9 A. Well, my recollection was she did not use the
13:58:19 10 words "Roundup" or "glyphosate" in her statement.

11 Q. Okay. So that was your issue with this
12 statement. But other than that, it was correct that she
13 advised the school that he was working at that he stop
14 spraying the chemical that he was spraying?

13:58:34 15 A. Yes. She made that suggestion, yes.

16 Q. Okay. And you're aware of IARC's conclusions
17 with respect to glyphosate?

18 A. Yes.

19 Q. Okay. And if one of your patients came to you
13:58:44 20 with mycosis fungoides and told you that they were
21 spraying over 150 gallons of Roundup and Ranger Pro, you
22 would tell them to continue doing so?

23 A. Could you give me a little more flesh on the
24 hypothetical?

13:58:59 25 Q. The hypothetical is Mr. Johnson, sir.

1 A. Is the patient -- is the patient wearing
2 protective gear? Is the patient spraying themselves? I
3 mean, just because they're using the chemical, if they
4 came to me and asked me what?

13:59:13

5 Q. Well, let's talk about Mr. Johnson.

6 A. Okay.

7 Q. If Mr. Johnson came to you in his situation --
8 you're aware of that; right?

9 A. Uh-huh.

13:59:19

10 Q. You've read all his depositions. You've seen
11 all of his medical records.

12 A. Yes.

13:59:29

13 Q. If he came to you and said, "I'm spraying this,
14 the amount that I'm spraying. I'm getting it all over my
15 face." Would you advise him to stop spraying?

16 A. I would have a discussion with him about what he
17 feels comfortable and what his lifestyle is and what it
18 requires.

19 If he said, "I'm going to starve if I stop my
20 job. Is there evidence of this chemical impacting me," I
21 would tell him there is no evidence that that chemical's
22 impacting his health in any way, shape or form.

23 Q. Dr. Hoppe, you were shown a letter that he
24 wrote; correct?

13:59:54

25 A. Yes.

1 Q. And you felt it was so important to put it into
2 your timeline?

3 A. Yes.

14:00:06

4 Q. You're aware that Dr. Hoppe -- you read his
5 deposition, first of all; correct?

6 A. Yes.

7 Q. So you're aware that Mr. Johnson actually was
8 eager to get back to work?

9 A. Yes.

14:00:13

10 Q. That was the impetus of the letter?

11 A. Yes.

12 Q. He asked Dr. Hoppe to write a letter so that he
13 could get back to work?

14 A. That is absolutely correct.

14:00:22

15 MR. GRIFFIS: Objection, your Honor. Hearsay.

16 THE COURT: Overruled.

17 (Interruption in proceedings.)

18 THE COURT: Ladies and Gentlemen, let's take an
19 early afternoon recess. We'll be in recess for

14:00:41

20 15 minutes and resume again at 2:15. Thank you.

21 (Recess.)

22 THE COURT: Welcome back, Ladies and Gentlemen.

23 Dr. Kuzel remains under oath.

24 Mr. Dickens, you may proceed.

14:16:59

25 MR. DICKENS: Thank you, your Honor.

1 Q. Dr. Kuzel, we were talking about Dr. Hoppe's
2 letter.

3 A. Yes.

14:17:11

4 Q. And with respect to Mr. Johnson, you said before
5 we took our break that you understood that he actually
6 requested that Dr. Hoppe write that letter; right?

7 MR. GRIFFIS: May I approach, your Honor?

8 THE COURT: Yes.

9 (Sidebar.)

14:17:25

10 [REDACTED]
11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

14:17:40

15 [REDACTED]

16 [REDACTED]

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19 [REDACTED]

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[REDACTED]

(End Sidebar.)

Q. BY MR. DICKENS: Doctor, regarding this Dr. Hoppe letter, that was in December 2015; correct?

A. Yes.

Q. And at that point in time, Mr. Johnson -- did you understand he'd already made two phone calls to Monsanto?

A. I think I saw that in some of the depositions.

Q. Okay. And he made those calls to Monsanto saying, "I'm worried here. Could your product be causing my cancer?"

MR. GRIFFIS: Objection, your Honor. Beyond the scope, calls for hearsay, and it's not within the ambit of this witness anyway.

THE COURT: Sustained.

Please rephrase the question.

Q. BY MR. DICKENS: Based on your review of the

1 deposition, what was your understanding of why
2 Mr. Johnson was calling Monsanto?

14:19:37

3 MR. GRIFFIS: Objection. Calls for speculation
4 about Mr. Johnson's state of mind. He's here on
5 oncology.

6 THE COURT: Well, Dr. Kuzel can answer based on
7 his understanding of his review of the deposition.

14:19:49

8 THE WITNESS: I'm not sure that I could tell why
9 he was calling Monsanto, except that he was using a
10 product made by Monsanto, and he was looking for
11 information.

12 Q. BY MR. DICKENS: So based on reading his
13 deposition, that was your understanding?

14 A. Yes.

14:20:02

15 Q. Now, you said you've billed approximately 15,
16 \$20,000 in this case?

17 A. To date, yes.

18 Q. And that's \$500 an hour?

19 A. Yes.

14:20:13

20 Q. Okay. So that's approximately 30 to 40 hours
21 that you've put into this case?

22 A. Yeah, if you're doing the math for me. Thank
23 you.

14:20:25

24 Q. So the jury in this case has considered more
25 evidence with respect to Mr. Johnson than you have; is

1 that fair?

2 A. Well, they've been here for an extraordinarily
3 long length of time, hearing a lot of information that
4 has been presented.

14:20:35 5 THE WITNESS: So thank you for your service.

6 Q. BY MR. DICKENS: I'm sure they agree with you on
7 that one.

8 You stated you use Roundup?

9 A. I do.

14:20:41 10 Q. How much do you use?

11 A. I use it a couple times a year.

12 Q. Okay. A couple times a year? How much are you
13 spraying?

14 A. Not as much as Mr. Johnson.

14:20:52 15 Q. How much was Mr. Johnson spraying?

16 A. I don't have a good estimate of how it's all
17 mixed and what the percentages are, but certainly -- he
18 was using gallons.

19 Q. You said, "Gallons." How many gallons?

14:21:04 20 A. I don't know that I have a quantifiable number
21 for you on that.

22 Q. It doesn't matter to you with respect to your
23 opinion how many gallons he sprayed?

24 A. In a controlled environment and how you use it.

14:21:19 25 You don't aim it at yourself.

1 Q. Do you know how much Mr. Johnson got on himself?

2 A. Well, he reported he had some exposure to it.

3 But how much that represents, I'm certainly not an expert
4 to be able to measure that.

14:21:31

5 Q. But in reaching your decision that Mr. Johnson's
6 Roundup and Ranger Pro use did not cause his cancer, it
7 doesn't matter to you how much he actually used or how
8 much he actually was exposed to. Is that fair?

14:21:47

9 A. Yes. There was nothing in his testimony or his
10 usage that struck me as causing his cancer.

11 Q. So it doesn't matter whether he used it two
12 times a year or 150 gallons a day, your opinion would be
13 the same?

14 A. Correct.

14:22:03

15 Q. Now, you're a doctor, so you prescribe
16 medications; correct?

17 A. I do.

18 Q. Do you understand the importance of warning
19 labels?

14:22:12

20 A. Yes. They're required.

21 Q. And you instruct your patients to read the
22 warning labels before using the product or the medication
23 in that case?

14:22:22

24 MR. GRIFFIS: Your Honor, this is totally beyond
25 the scope.

1 THE COURT: Well, overruled.

2 He may answer this question.

3 THE WITNESS: I generally don't ask them to read
4 the warning labels.

14:22:29 5 Q. BY MR. DICKENS: You provide them information
6 yourself?

7 A. I do.

8 Q. With respect to Roundup or -- the Roundup you
9 used, did you read the warning label?

14:22:38 10 A. I didn't.

11 Q. So you don't know one way or another whether or
12 not it had any information about cancer?

13 MR. GRIFFIS: Your Honor, the question's about
14 labeling and beyond the scope of this witness' --

14:22:52 15 MR. DICKENS: I'm asking about his personal use.

16 THE COURT: Sustained.

17 You may ask a different question.

18 Q. BY MR. DICKENS: You mentioned Mr. Johnson
19 has -- you said his rash started in 2013; correct?

14:23:03 20 A. That's what the medical records suggested.

21 Q. Okay. And you'd agree with me Mr. Johnson is a
22 poor historian?

23 A. I don't know Mr. Johnson, so I would not
24 necessarily agree with you on that.

14:23:14 25 Q. You've never met him?

1 A. I have not.

2 Q. You've never spoken with him?

3 A. I have not.

4 Q. Do you agree with me that there are no
14:23:23 5 contemporaneous medical records from 2013 indicating he
6 had a rash?

7 A. There are no medical records that I saw from
8 2013 that showed a rash, yes.

9 Q. And you reviewed all of his medical records up
14:23:41 10 until a certain point?

11 A. Yes.

12 Q. And Counsel had you go through various records
13 that suggested maybe Mr. Johnson's cancer may have been
14 back to 2013. But in reaching your opinions in your
14:23:49 15 expert report, you only relied on one medical record;
16 correct?

17 A. Well, Mr. Johnson's medical record.

18 Q. Yeah. And you only reviewed on one entry in
19 that medical record for saying it was 2013?

14:24:05 20 A. No. There were multiple different doctors who
21 put that in that medical record.

22 Q. I'll hand you another deposition, Dr. Kuzel.
23 Doctor, you were previously deposed in this
24 case; correct?

14:24:37 25 A. Yes.

1 Q. And you recall that?

2 A. Yes.

3 Q. And that was in February of 2018?

4 A. I believe so, yes.

14:24:45

5 Q. Okay. If you can turn your attention to
6 page 146 of the deposition.

7 I'm sorry, page 148. I apologize.

8 And towards the bottom, it starts with:

9 "Question: Okay. Do you know whether there are

14:25:16

10 conflicting reports within the medical records about the
11 genesis" --

12 MR. GRIFFIS: Objection. This is improper
13 impeachment. There's been no conflict established, nor
14 foundation laid for this.

14:25:29

15 THE COURT: Sustained.

16 Q. BY MR. DICKENS: Doctor, on page 146, you were
17 asked specifically with respect to, "What is the evidence
18 in 2013" --

14:25:41

19 MR. GRIFFIS: Same objection. There's nothing
20 to impeach at this time.

21 THE COURT: Sustained.

22 MR. DICKENS: Your Honor, could we have a
23 sidebar?

24 THE COURT: Yes.

14:26:05

25 (Sidebar.)

14:26:24

1 [REDACTED]
2 [REDACTED]
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14:26:45

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17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]

(End sidebar.)

THE COURT: All right. You may continue.

Q. BY MR. DICKENS: Dr. Kuzel, with respect to your
reliance on the 2013 date as to when Mr. Johnson had the
clinical manifestation of mycosis fungoides, which record

1 did -- did you rely on?

2 A. Mr. Johnson's medical record.

3 Q. Okay. But what dates? The ones we saw here
4 today?

14:27:58

5 A. Yes.

6 Q. Did you consider the ones before that?

7 A. Which ones before that?

8 Q. In August 2014.

14:28:11

9 A. I looked at all of those, and there was a
10 general consensus that in the fall of 2013, multiple
11 different registrants elicited that history.

12 Q. And you read the depositions of those
13 practitioners; correct?

14 A. Yes.

14:28:24

15 Q. Including Dr. Kim?

16 A. Yes.

17 Q. And you relied on Dr. Kim, did you not?

18 A. One of her notes, yes.

14:28:31

19 Q. And you recall, then, in her deposition she
20 said, "I don't know if his rash started in 2013"?

21 MR. GRIFFIS: Objection, your Honor. Calls for
22 hearsay.

23 THE COURT: Sustained.

24 You may rephrase or ask a different question.

14:28:43

25 Q. BY MR. DICKENS: Do you have an understanding,

1 based on your reading of Dr. Kim's testimony, as to
2 whether or not she definitively knew that Mr. Johnson's
3 rash began in 2013?

14:28:56 4 MR. GRIFFIS: Same objection, your Honor. And
5 Counsel's representing the record, which hasn't been
6 shown to the witness.

7 THE COURT: All right. It's also speculation as
8 to what she definitively knew.

9 So you can ask a different question.

14:29:08 10 MR. DICKENS: All right.

11 Q. Do you know whether Dr. Kim testified as to
12 whether or not Mr. Johnson had a rash in 2013?

13 A. Her medical record states that.

14 Q. I'm not asking about the medical record, Doctor.
14:29:24 15 Do you recall her deposition?

16 A. I can't recall what she said in her deposition.

17 Q. Why don't we move on.

18 Now, you testified about squamous cell
19 carcinoma. Mycosis fungoides and squamous cell
14:29:53 20 carcinoma, you agree, are unrelated?

21 A. Yes.

22 Q. You have no opinion as to when that squamous
23 cell carcinoma began?

24 A. None whatsoever.

14:30:00 25 Q. Or what the cause was?

1 A. None whatsoever.

2 Q. You mentioned stem cell transplants. How much
3 does that cost, Doctor?

14:30:13

4 A. A substantial cost. Probably somewhere in the
5 range of 75 to \$150,000, depending on how complicated it
6 is.

7 Q. Okay. And needless to say, that stem cell
8 transplant is the last resort?

9 A. I would not say that.

14:30:29

10 Q. So isn't it true, then, Doctor, that they do not
11 move on to stem cell transplants until after you've gone
12 through other things, such as chemotherapy?

13 A. Yes. In general, you wouldn't do it very early
14 in the course because of the potential toxicity.

14:30:50

15 Q. Okay. So it's only after you fail at the other
16 treatments do you then go to stem cell transplants?

17 A. That's a little late. You generally want to
18 have failed some things but still be responsive to
19 others.

14:31:06

20 Q. The Stanford doctors have never referred
21 Mr. Johnson over to the one marrow registry; correct?

22 A. The stem cell transplant group?

23 Q. Correct.

24 A. Not that I saw.

14:31:19

25 Q. Okay. And they do that -- they do stem cell

1 transplants at Stanford?

2 A. They do.

3 Q. It's a very difficult procedure; correct?

4 A. Yeah.

14:31:31 5 Q. And there are risks associated with it?

6 A. A risk of death, yes.

7 Q. So if it fails, the patient could die?

8 A. Well, it can fail because it doesn't work, or it

9 could fail, yes, because the patient dies from the

14:31:44 10 procedure.

11 Q. And do you know what the success rate is at

12 Stanford?

13 A. In general, it's pretty similar to most places.

14 Q. And has that changed recently, the success rate?

14:31:56 15 A. The success rates are probably getting better

16 nowadays.

17 Q. "Nowadays" being the last year? Two years?

18 A. Probably the last three to five years.

19 Q. And I believe you stated that the success rate

14:32:10 20 is 50 percent?

21 A. Probably on average, yes.

22 Q. And what are you basing that 50 percent number

23 on?

24 A. In terms of long-term survival and significant,

14:32:20 25 if not, complete disappearance of their disease.

1 Q. Okay. But is there a statistic, or are you just
2 relying on your own personal experience?

3 A. It's our published personal experience.
4 Stanford has published some similar data.

14:32:31 5 Q. Okay. And in order to be eligible, you need a
6 donor?

7 A. Yes.

8 Q. Okay. African Americans are less likely to have
9 a match in the national database?

14:32:40 10 A. That's true.

11 Q. And you mentioned a psychologist getting
12 involved. Is there some type of psychosocial testing
13 that needs to be done before you're eligible?

14 A. There is, yeah.

14:32:54 15 Q. And what is that? What's the purpose of that
16 psychosocial testing?

17 A. Well, in general, the procedure requires people
18 to be in the hospital for one to two weeks consecutively,
19 often. So it's important to make sure that somebody
14:33:06 20 understands that and has the psychological, sort of,
21 strength to go through that.

22 Q. Okay. We were talking about Dr. Kim's
23 testimony, and you said you couldn't recall; was that
24 correct?

14:33:34 25 A. Yes.

1 Q. Okay. I'm going to hand you something to
2 refresh your recollection. I'm going to hand you
3 Dr. Kim's testimony.

4 A. Thank you.

14:34:19 5 Q. And this is the transcript that you reviewed in
6 reaching your opinions in this case?

7 A. Part of it, yes.

8 Q. And if you can read, there's a highlighted
9 section on page 20 and 21.

14:34:31 10 A. Out loud again or --

11 Q. No. Just to yourself. And let me know when
12 you're finished.

13 A. Okay.

14 Q. Okay. Sir, so in reading that testimony, does
14:35:04 15 that refresh your recollection as to whether or not
16 Dr. Kim stated whether or not she knew that Mr. Johnson
17 had a rash in 2013?

18 A. Could you ask that question one more time?

19 Q. Reading the testimony, does that refresh your
14:35:42 20 recollection as to whether or not Dr. Kim hadn't -- or
21 knows one way or the other whether or not Mr. Johnson's
22 mycosis fungoides or rash began in 2013?

23 MR. GRIFFIS: I have an objection to this
24 procedure.

14:35:56 25 May I approach to explain?

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THE COURT: Yes.

(Sidebar.)

14:36:21

14:36:44

14:37:00

14:37:09

14:37:18

[REDACTED]

1 (End sidebar.)

2 THE COURT: All right. Mr. Dickens, you may
3 proceed.

14:37:31

4 Q. BY MR. DICKENS: Dr. Kuzel, does that refresh
5 your recollection?

6 A. I'm still confused about your question. I'm
7 sorry.

8 Q. Does it refresh your recollection --

9 A. Say it one more time.

14:37:37

10 Q. Yes. Dr. Kim does not -- does or does not know
11 whether or not Mr. Johnson's rash began in 2013?

12 A. Yes. It says she didn't see him then, so she
13 can't say that it did or did not occur.

14 Q. And you clearly didn't see him then?

14:37:55

15 A. Correct.

16 Q. So would you agree you can't say whether or not
17 he had a rash in 2013?

18 A. I can only go by the medical records.

14:38:05

19 Q. And once again, there are no contemporaneous
20 medical records in 2013 saying he had a rash?

21 A. None that I've seen, yes.

22 Q. And you would agree that when he first went to
23 the doctor for a rash in 2014, there's no mention that it
24 began in 2013?

14:38:22

25 A. I'd love to look at that record.

1 Q. I'll hand you what's Plaintiff's Exhibit 34.

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

3 THE COURT: Yes.

4 THE WITNESS: Thank you.

14:39:02

5 Q. BY MR. DICKENS: For the record, Doctor, these
6 are records from La Clinica Vallejo Medical Center.
7 You've reviewed these medical records before; correct?

8 A. I've reviewed a lot, yes.

14:39:16

9 Q. Okay. And the record -- what is the date of the
10 record?

11 A. June 23rd, 2014.

12 Q. Okay. And Mr. Johnson at this time was
13 presenting for a rash?

14 A. Yes.

14:39:27

15 Q. Okay. And there's no mention in this particular
16 record as to his rash beginning in 2013; correct?

17 A. There's no mention of any duration in this, no.

14:39:47

18 Q. Now, it does mention some aggravating factors
19 that could potentially have assisted in his rash, does it
20 not?

21 A. Yes.

22 Q. And what are those aggravating factors it lists?

23 THE COURT: Mr. Dickens, please don't ask the
24 witness to read from a hearsay document.

25 MR. DICKENS: Okay.

1 THE COURT: You can refresh his recollection and
2 ask him if it refreshes his recollection, assuming he
3 previously reviewed this document.

4 Q. BY MR. DICKENS: Doctor, you'd agree that
14:40:03 5 mistakes can occur in medical records; correct?

6 A. Mistranscription, all kinds of things can
7 happen, yes.

8 Q. All right. I'm going to hand you what we've
9 marked as Plaintiff's Exhibit 27.

14:40:40 10 A. We're done with this one?

11 Q. We are.

12 Doctor, these are records from Solono
13 Dermatology Associates, and if you can turn to the fourth
14 page of this document.

14:41:04 15 A. Does it have a number, just a --

16 Q. It's 03-000004.

17 A. Got it.

18 Q. And the date of this document's August 1st,
19 2014?

14:41:19 20 A. Yes.

21 Q. And this is a date prior to each of the records
22 you reviewed with Mr. Griffis on direct; correct?

23 A. Yes.

24 Q. It says -- well, is there anything in this
14:41:37 25 medical record that indicates when Mr. Johnson's rash

1 began?

2 A. Yes, there is.

3 Q. Okay. And what does that state?

14:41:48 4 MR. GRIFFIS: Objection, your Honor. Asking for
5 reading of a hearsay document.

6 THE COURT: Sustained.

7 Q. BY MR. DICKENS: In this record, Doctor, there's
8 no indication that his rash began in 2013; correct?

14:42:04 9 A. It calls for speculation on my part. Did I get
10 that right?

11 Q. Well, that's what you're doing, right, Doctor?
12 I mean, you're speculating as to the beginning date of
13 his rash?

14 A. I'm going by the medical record.

14:42:13 15 Q. Okay. But you're going by select medical
16 records; correct?

17 A. I'm going by multiple medical records, yes.

18 Q. The medical records that support Monsanto's
19 position?

14:42:22 20 A. I'm going by multiple medical records from
21 colleagues and experts that I know.

22 Q. You're not going by the contemporaneous medical
23 records in 2013?

24 A. There were none.

14:42:33 25 Q. You saw records from December 2013, did you not?

1 A. From a car accident?

2 Q. That there was a car accident.

3 A. There was a car accident.

14:42:48

4 Q. There was no reference to a rash in those
5 medical records; correct?

6 A. There was reference to lymphadenopathy in those
7 records.

8 MR. DICKENS: I'll move to strike, your Honor.

9 THE COURT: Overruled. You solicited testimony.

14:43:00

10 Q. BY MR. DICKENS: I'm asking specifically about
11 the rash, Doctor.

12 A. There was no evidence of a rash that was
13 described in those records.

14 Q. And that was in 2013. We can agree on that?

14:43:07

15 A. Yes.

16 Q. Okay. And there were other medical records from
17 2013?

18 A. I can't recall all of them, if there were.

19 Q. You can recall 2014 records?

14:43:16

20 A. Yes.

21 Q. But you can't recall a 2013 record?

22 A. I'd be happy to look at them.

23 Q. Okay. Now, you cannot rule out glyphosate as a
24 causative factor of Mr. Johnson's cancer; correct?

14:43:33

25 A. I can't rule out anything as a causative factor.

1 Q. So that's a "yes," you cannot rule out
2 glyphosate as a cause of Mr. Johnson's cancer?

3 A. I cannot rule out anything.

4 Q. You have not identified anything that you
14:43:45 5 believe increased Mr. Johnson's risk of getting mycosis
6 fungoides?

7 A. Aside from the known etiologic risk factors of
8 being an African American male.

9 Q. Now, you gave a smoking example, didn't you,
14:44:00 10 Dr. Kuzel? You said that even if you were treating a
11 patient with lung cancer who smoked, you wouldn't tell
12 them that smoking was the cause? That was your
13 testimony; correct?

14 A. That's correct.

14:44:09 15 Q. So is it fair to say that before you would give
16 any positive causation opinions, you'd have to be
17 100 percent sure?

18 A. No. I will often tell a patient I believe it
19 was cigarette smoking in the case of lung cancer. But if
14:44:21 20 they ask me if am I absolutely certain, I tell them no,
21 because there are other causes of lung cancer.

22 Q. Okay. So you tell them, "I'm not certain, but
23 it could have substantially contributed to your lung
24 cancer"?

14:44:34 25 A. In the case of cigarette smoking, yes.

1 Q. Now, the chart you put up ended in March 2018;
2 correct?

3 A. Yes.

4 Q. And you're aware that Mr. Johnson had a recent
14:44:44 5 June 2018 scan demonstrating a progressive disease of
6 cutaneous lymphomas scattered throughout his body?

7 A. Well, I'm aware that he had a PET scan that
8 showed some uptake in a number of areas.

9 Q. Okay. And what was your reading of that PET
14:45:03 10 scan?

11 A. It was suspicious for recurrence.

12 Q. Okay. And so did you reach an opinion whether
13 or not it was recurrence?

14 A. No, because I didn't have any physician exam
14:45:17 15 information to correlate those finding with.

16 Q. Okay. So even though you reviewed that scan,
17 you still sat here and testified to the jury that he was
18 in complete remission?

19 A. No, I think he may be relapsing.

14:45:28 20 Q. All right. Well, your timeline --

21 A. Ended March 2018.

22 Q. Okay. And so you didn't mention the new PET
23 scan, did you?

24 A. Not on the timeline, no.

14:45:38 25 Q. That part was left out?

1 A. It wasn't on there.

2 Q. Why didn't you put it on there?

3 A. Because I'm not sure what it means.

4 Q. You don't believe he has progressive cancer?

14:45:55

5 A. I am suspicious that he has progressive cancer.

6 Q. Do you have an opinion as to how long

7 Mr. Johnson has to live?

8 A. It could be months. It could be years. Or he
9 could be cured of this disease and live his normal life

14:46:10

10 expectancy.

11 Q. You previously gave an opinion in this case that
12 you wouldn't have expected him to live until November of
13 2019, did you not?

14 A. I did.

14:46:25

15 MR. DICKENS: No further questions. Thank you,
16 your Honor.

17 THE COURT: All right, Counsel. Can you please
18 approach?

19 (Sidebar.)

14:46:41

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

14:47:15

25 [REDACTED]

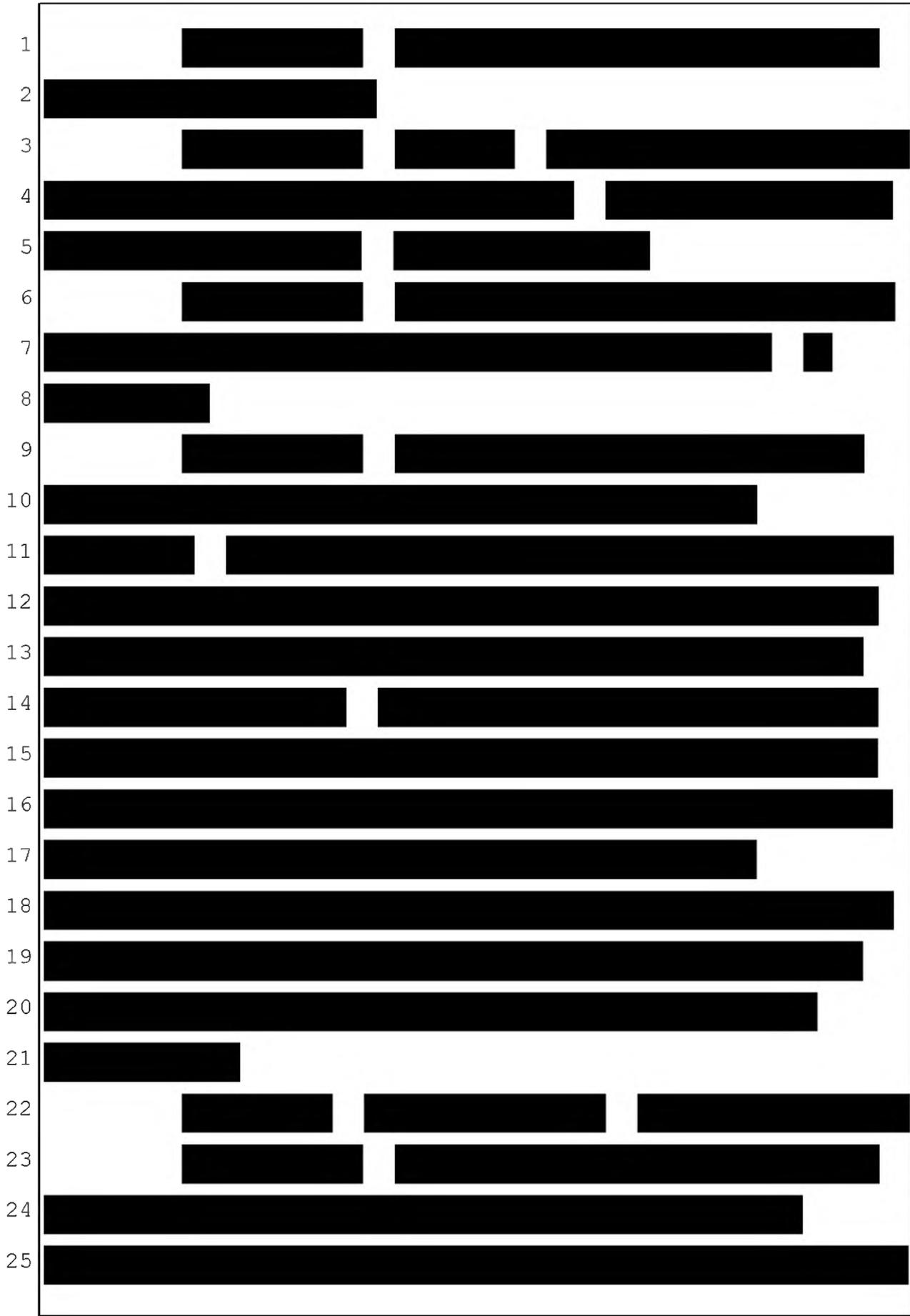
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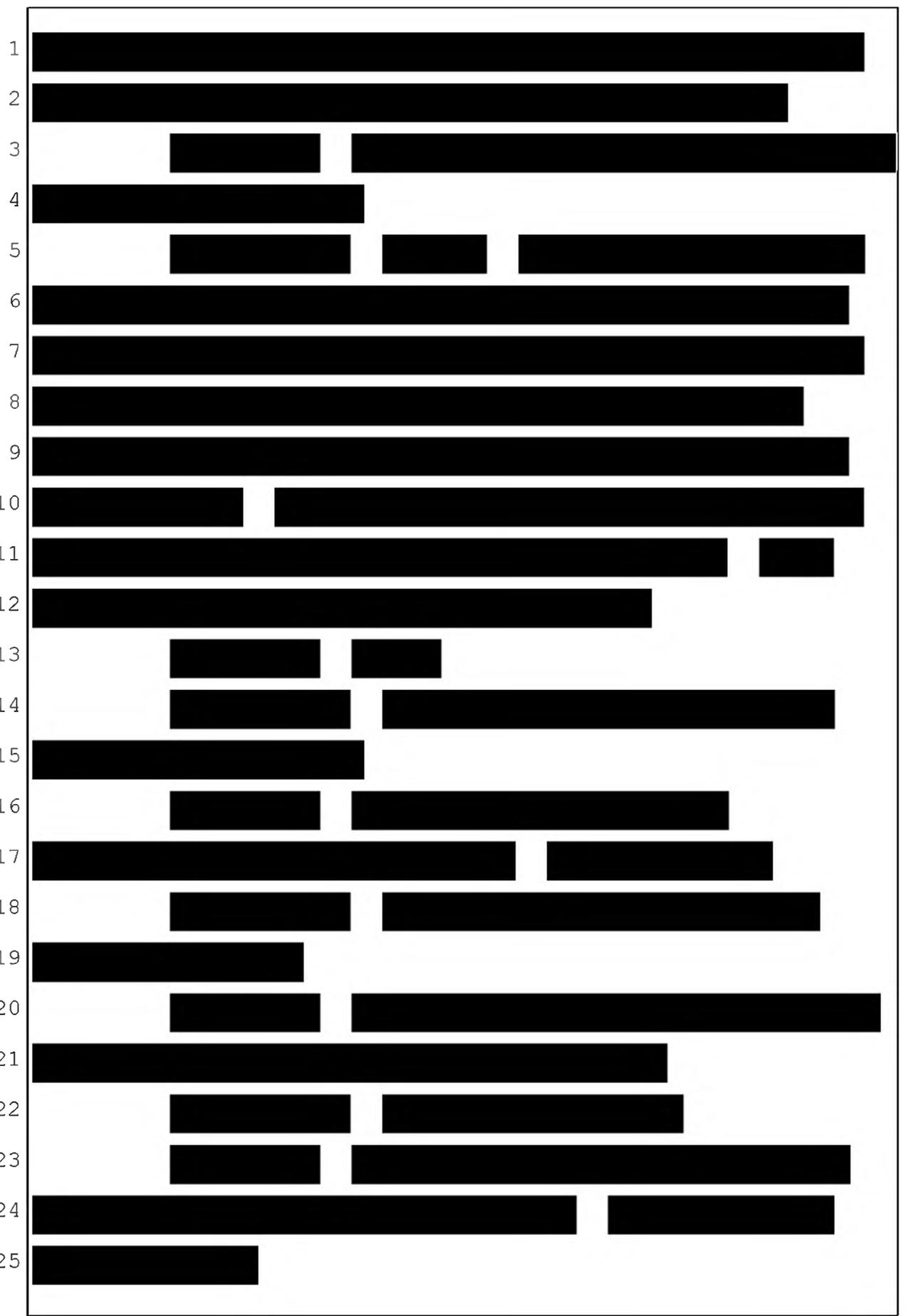
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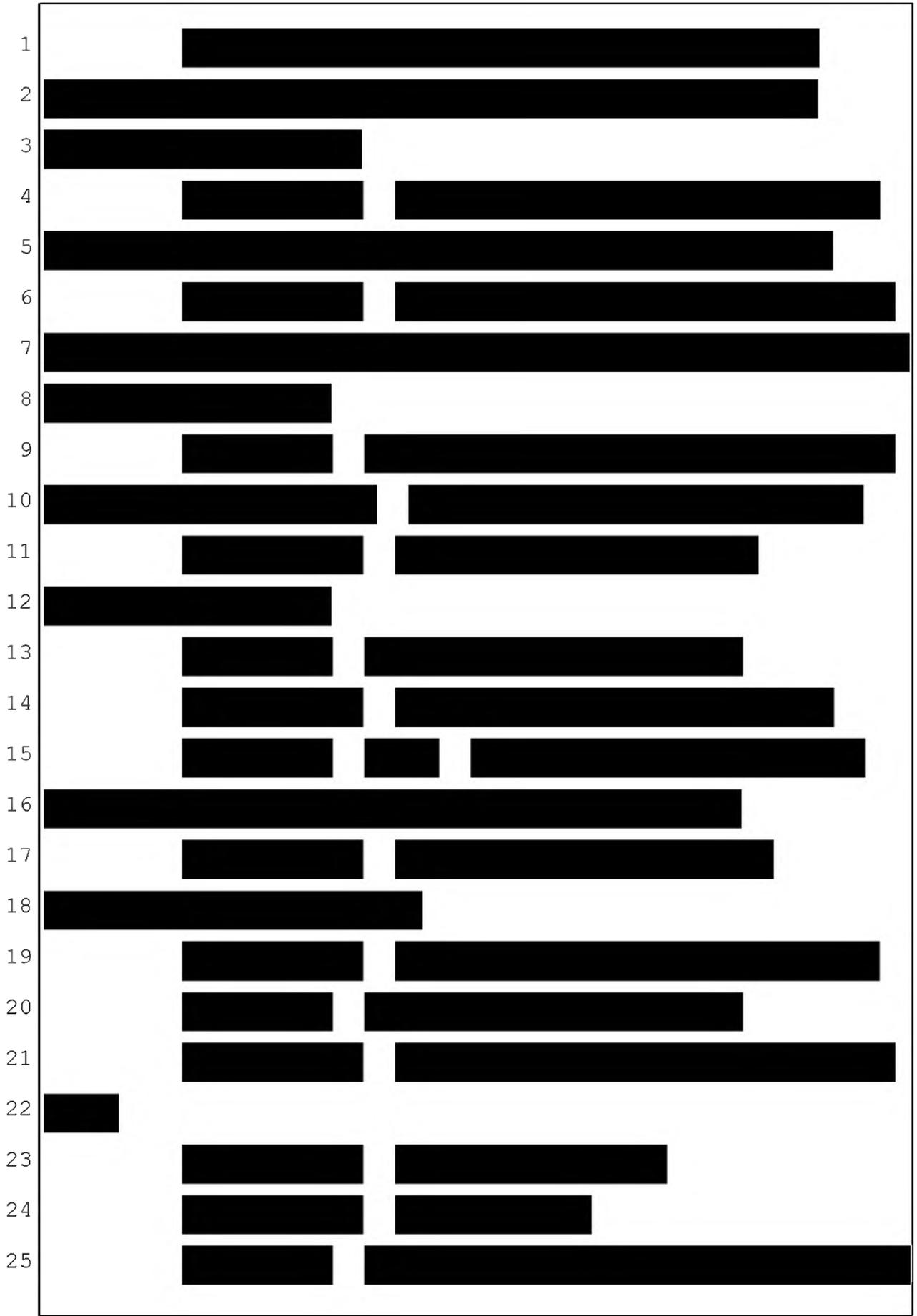
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1 [REDACTED]

2 [REDACTED]

3 (End sidebar.)

14:53:15

4 THE COURT: All right. Ladies and Gentlemen,
5 we're going to take another 15-minute recess, so we'll
6 resume again at 5 after 3:00. Thank you.

7 All right. Counsel, did you want a moment
8 before we speak?

9 MR. GRIFFIS: Yes, please.

14:55:30

10 (Jury leaves courtroom.)

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

14:57:44

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

14:58:00

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

14:58:14

25 [REDACTED]

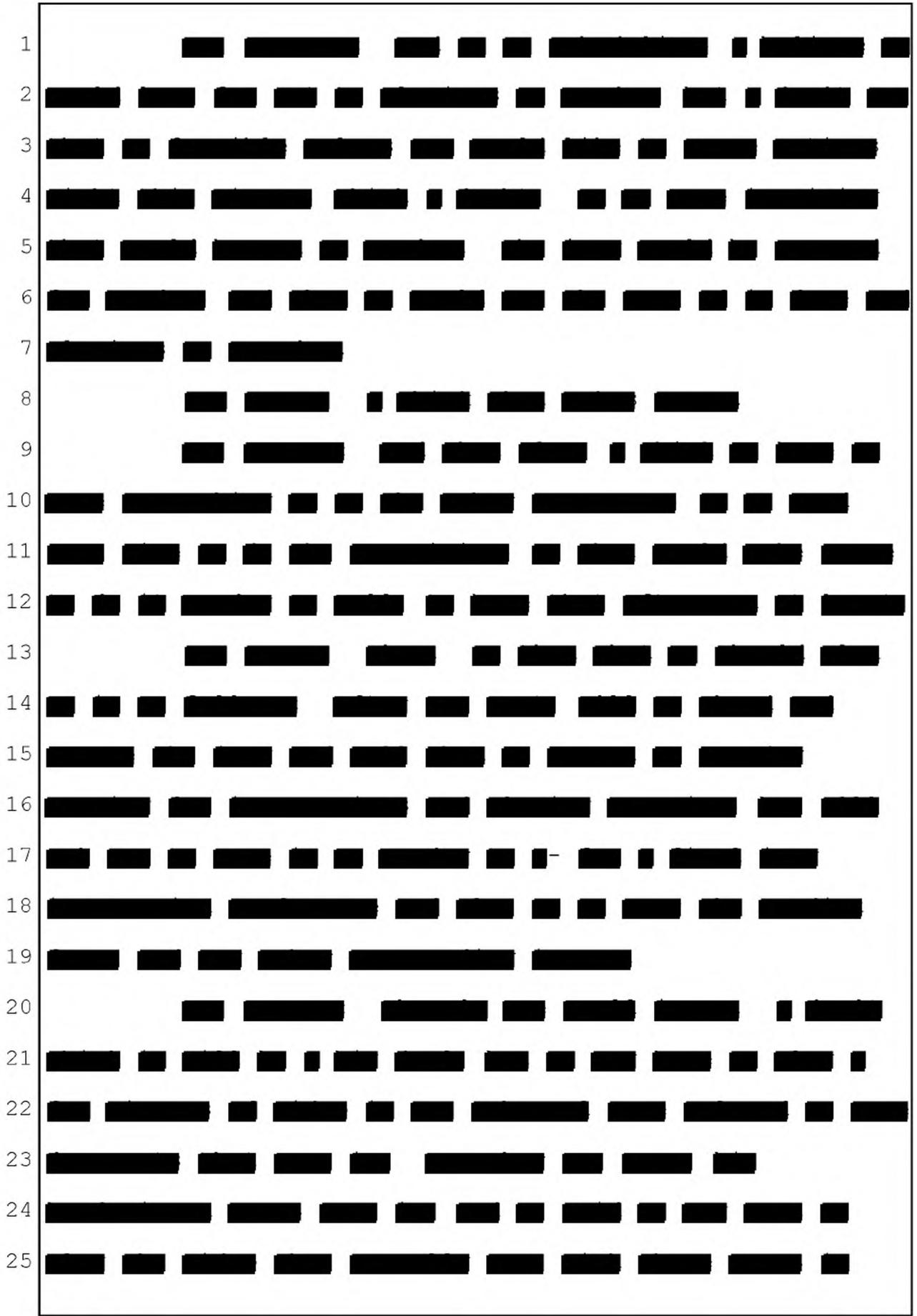
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15:00:30

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	[REDACTED]
14	[REDACTED]
15	[REDACTED]
16	[REDACTED]
17	[REDACTED]
18	[REDACTED]
19	[REDACTED]
20	[REDACTED]
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22	[REDACTED]
23	[REDACTED]
24	[REDACTED]
25	[REDACTED]

	1	[REDACTED]
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15:01:05	5	[REDACTED]
	6	[REDACTED]
	7	[REDACTED]
	8	[REDACTED]
	9	[REDACTED]
15:01:19	10	[REDACTED]
	11	[REDACTED]
	12	[REDACTED]
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	14	[REDACTED]
15:01:35	15	[REDACTED]
	16	[REDACTED]
	17	[REDACTED]
	18	[REDACTED]
	19	[REDACTED]
15:01:56	20	[REDACTED]
	21	[REDACTED]
	22	[REDACTED]
	23	[REDACTED]
	24	[REDACTED]
15:02:17	25	[REDACTED]

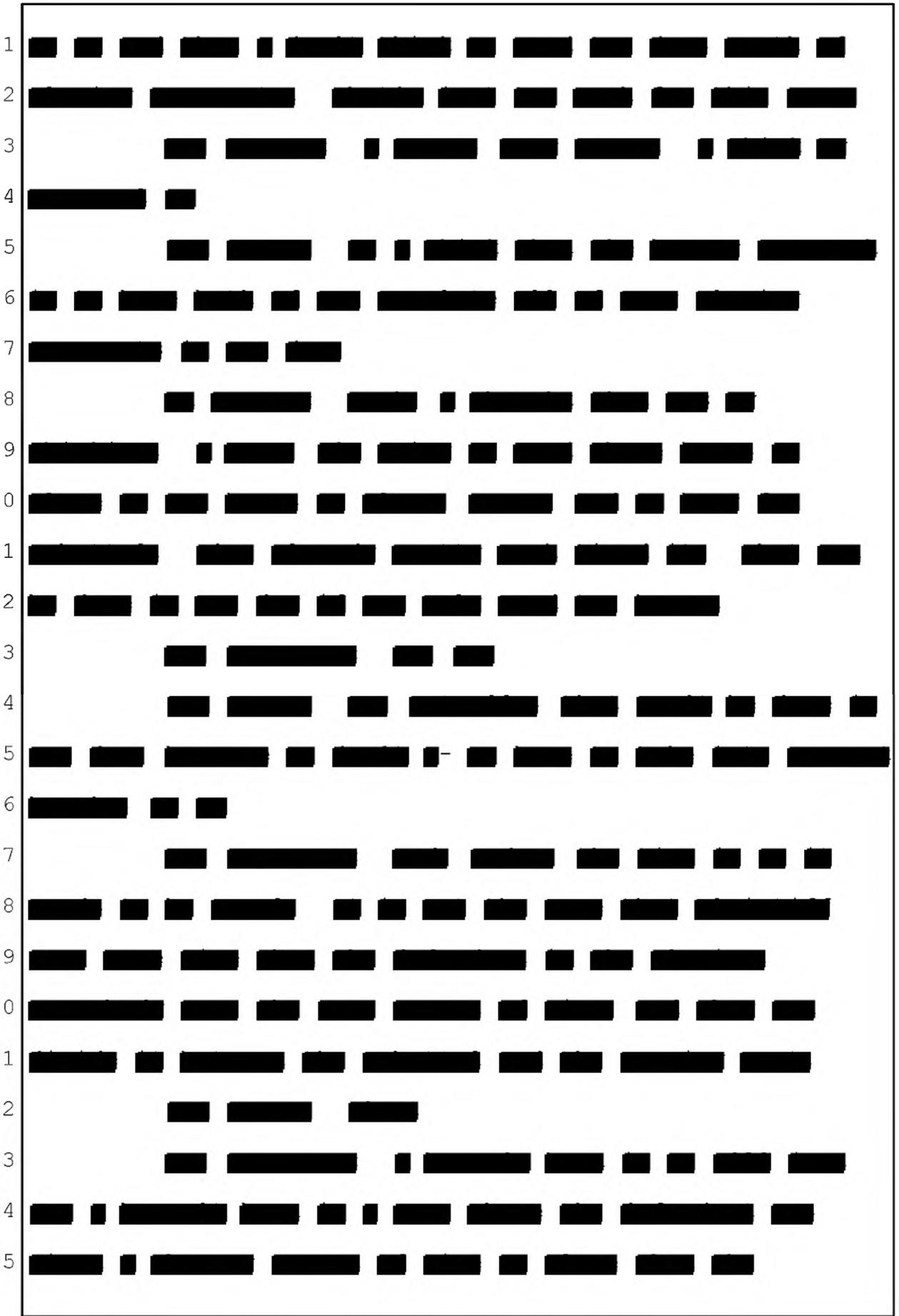
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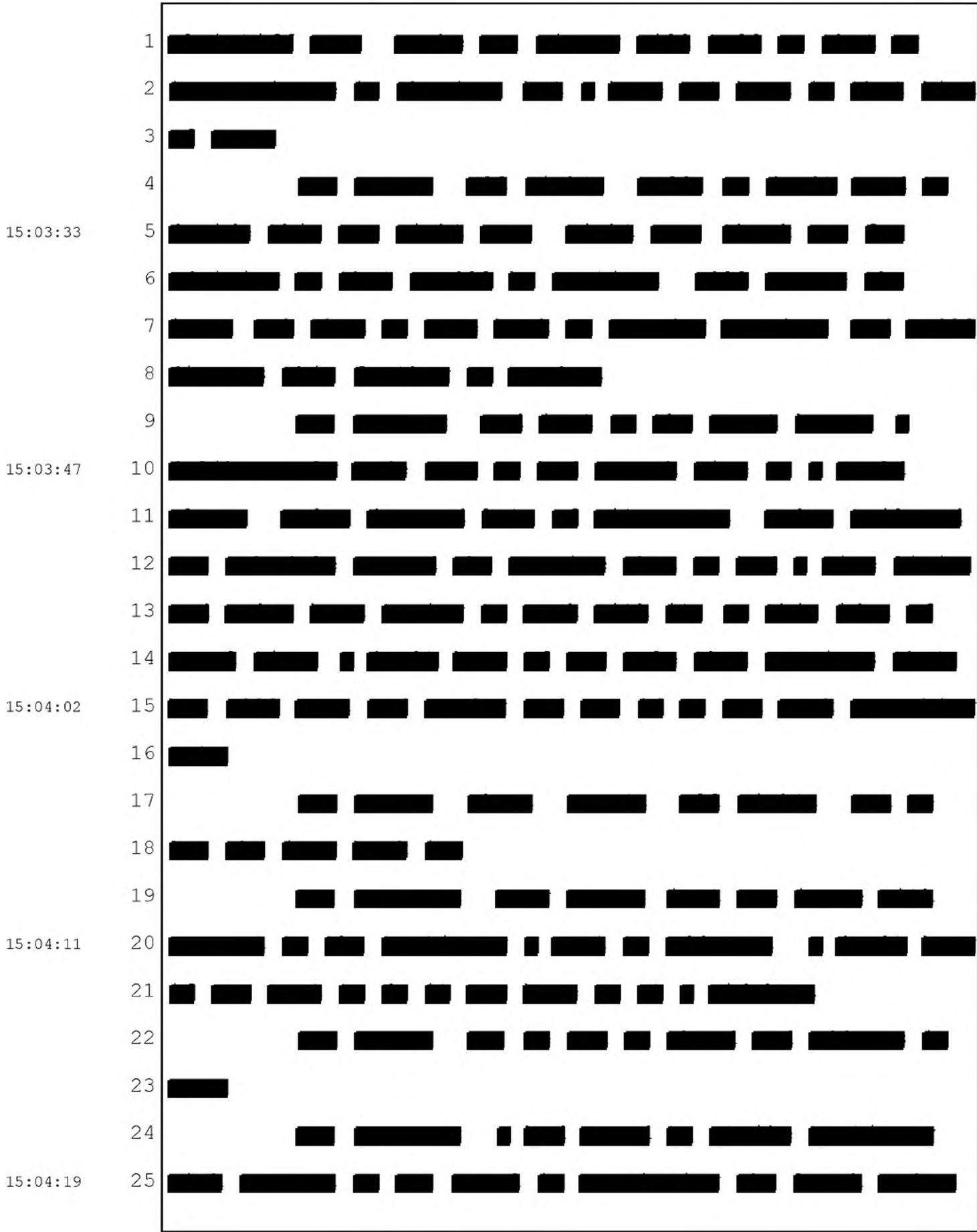
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15:04:38

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

15:04:57

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15:05:11

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

15:05:27

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

15:05:47

25 [REDACTED]

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15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

15:05:57

15:06:13

15:06:29

19 (Jury returns to courtroom.)

15:08:22

20 THE COURT: Welcome back, Ladies and Gentlemen.
21 Dr. Kuzel remains under oath, and, Mr. Griffis, you may
22 proceed.

23 MR. GRIFFIS: Thank you, your Honor.

15:08:35

24 Dr. Kuzel, after all that kerfuffle, I have no
25 questions for you.

1 THE COURT: Thank you.

2 Mr. Dickens?

3 Very well.

4 THE COURT: Then you may be excused.

15:08:41 5 THE WITNESS: Thank you.

6 THE COURT: All right. Mr. Lombardi.

7 MR. LOMBARDI: Yes, your Honor. Subject to
8 exhibit issues that we've raised with the Court and
9 opposing counsel, Monsanto rests its case.

15:08:57 10 THE COURT: Thank you.

11 All right. Ladies and Gentlemen, the defense
12 has now concluded their presentation of their case.
13 We're going to now adjourn for the day. There are
14 several matters that I need to discuss with the lawyers
15 before we can proceed into jury instructions and then
16 closing arguments. For that reason, we're going to be
17 dark on Monday, so we are not going to meet on Monday, as
18 the lawyers and I will be preparing for closing
19 arguments.

15:09:28 20 Then I'm going to ask you to return on Tuesday
21 morning at 9:30 for the closing arguments. We will meet
22 on Tuesday morning back upstairs in the large courtroom.
23 That's Department 604, 602, the courtroom where we
24 started -- where we began.

15:09:48 25 So between now and Tuesday, please remember do

1 not do any research on the case, do not discuss the case
2 with anyone. On Tuesday, I will instruct you on the law
3 that applies and you'll hear the closing arguments of the
4 lawyers and then begin your deliberations. So we'll see
15:10:06 5 you Tuesday morning upstairs, 602, 603.

6 And please remember, we think you'll likely need
7 to be here on Wednesday as well during your
8 deliberations. Okay?

9 Yes?

15:10:19 10 JUROR: Will the alternates need to be here on
11 Wednesday as well?

12 THE COURT: Well, assuming that we finish
13 everything we need to finish on Tuesday, then I can put
14 you on standby for Wednesday.

15:10:32 15 And then there was a question earlier about the
16 reading of the verdict. Yes, the alternates will be
17 invited back to hear the reading of the verdict if you
18 would like to return, and we'll have a seat for you.

19 JUROR: It's Tuesday 9:30?

15:10:46 20 THE COURT: Tuesday 9:30. Thank you. Thank you
21 very much. Have a nice weekend.

22 (Jury leaves courtroom.)

23 [REDACTED]

24 [REDACTED]

15:11:49 25 [REDACTED]

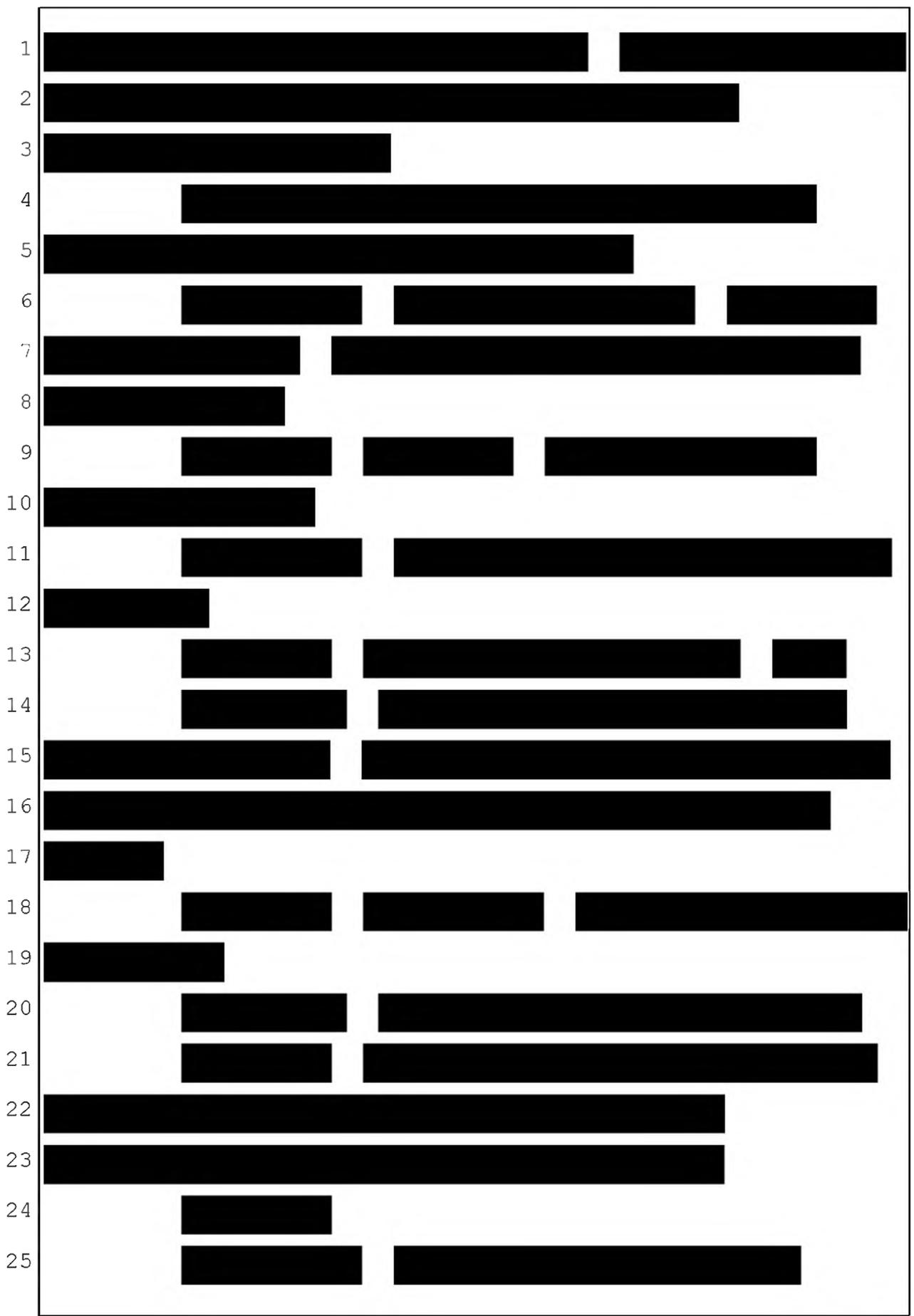
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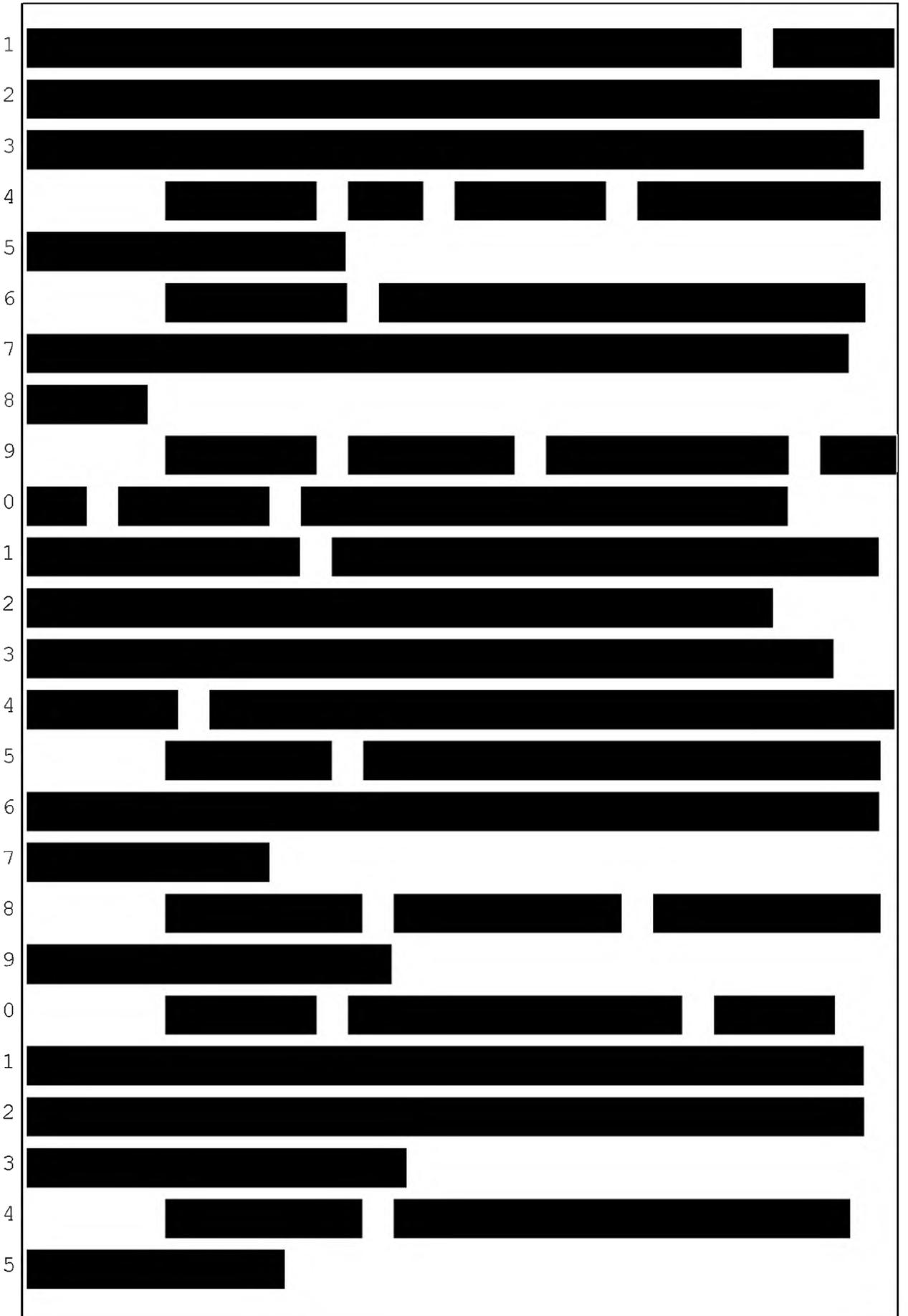
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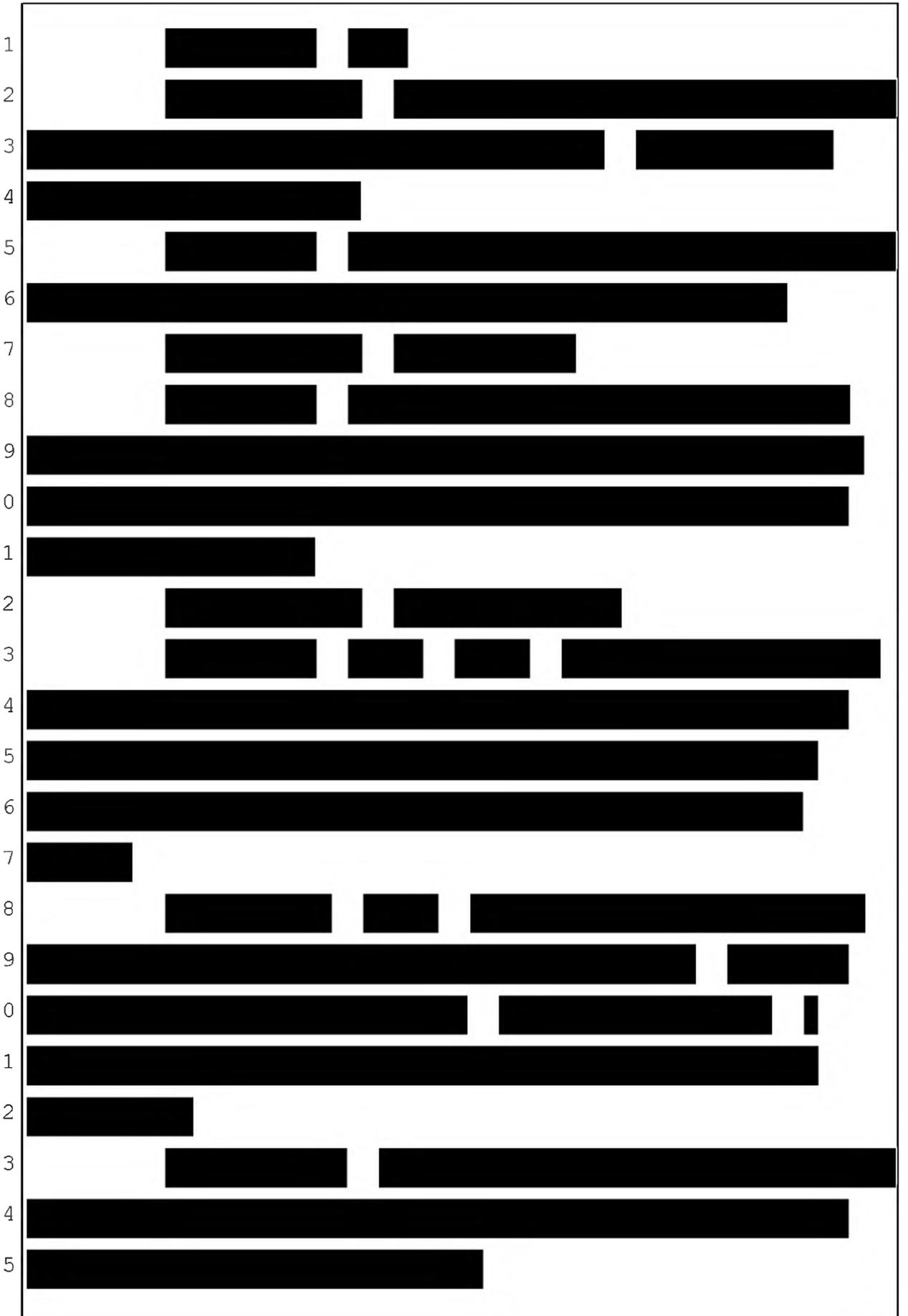
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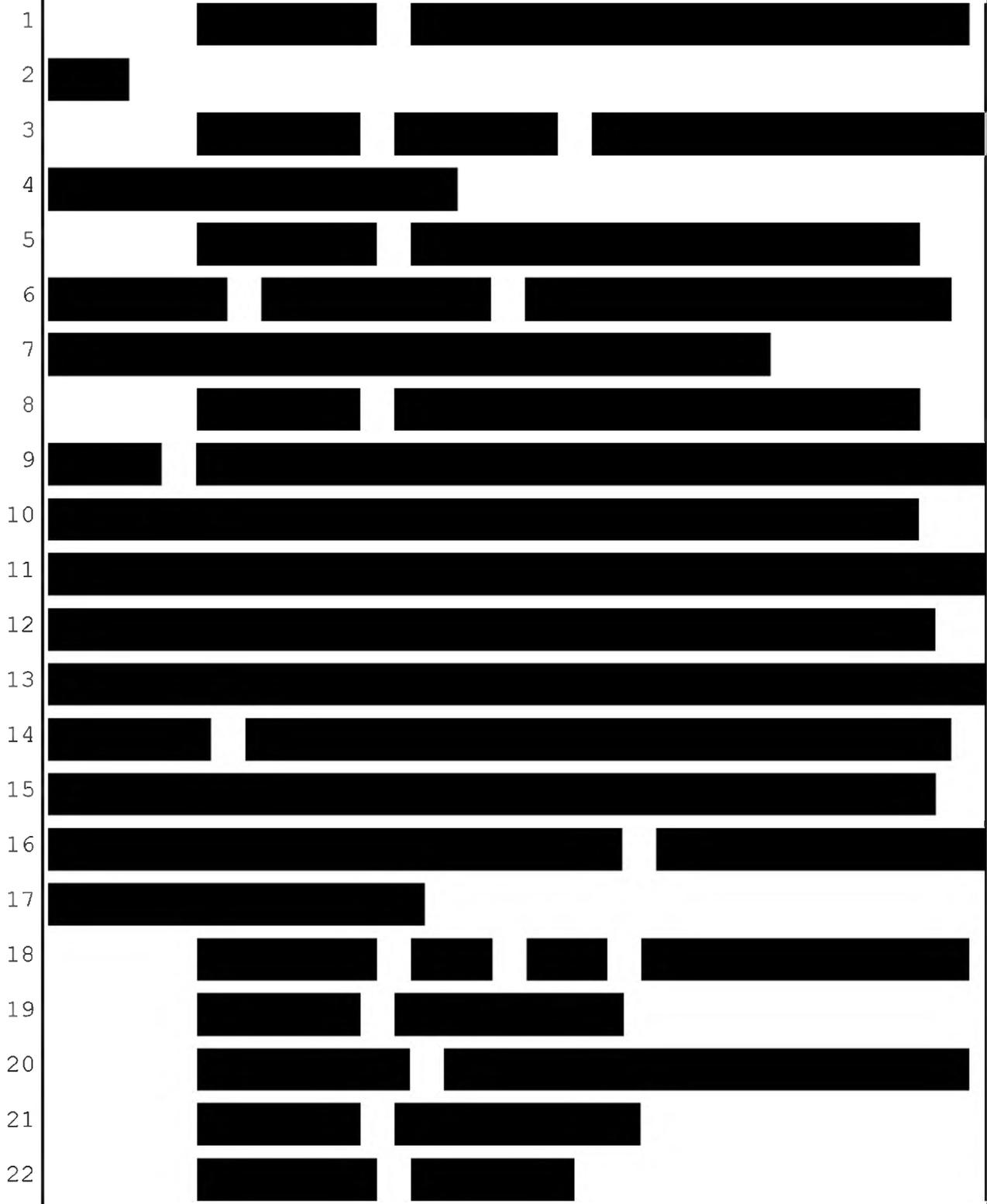


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(Time noted: 3:16 p.m.)

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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:
August 3rd, 2018.

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