

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

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WENDY B. DOLIN, Individually
and as Independent Executor
of the Estate of STEWART
DOLIN, Deceased,

Plaintiff,

-vs-

SMITHKLINE BEECHAM
CORPORATION, d/b/a
GLAXOSMITHKLINE, a
Pennsylvania corporation,

Defendant.

Case No. 12 CV 6403

Chicago, Illinois
April 13, 2017
1:39 p.m.

VOLUME 19-B
TRANSCRIPT OF PROCEEDINGS - Trial
BEFORE THE HONORABLE WILLIAM T. HART, and a Jury

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1 (Proceedings heard in open court, jury not present:)

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12 (Jury enters courtroom.)

13 THE COURT: All right. Thank you very much, ladies
14 and gentlemen. Please be seated. We'll resume.

15 You may proceed, sir.

16 MR. BAYMAN: Thank you, your Honor.

17 ANTHONY ROTHSCHILD, DEFENDANT'S WITNESS, PREVIOUSLY SWORN,
18 REDIRECT EXAMINATION

19 BY MR. BAYMAN:

20 Q. Dr. Rothschild, this morning, Mr. Rapoport asked you some
21 questions about your testimony in a case called *Tucker* back in
22 January of 2007. Do you recall those questions?

23 A. Yes.

24 Q. Turn, if you would, to what Mr. Rapoport examined you
25 about, which is page 170 and 171.

1 A. I've got it.

2 Q. Those are the pages that he used to refresh your
3 recollection.

4 A. Yes.

5 Q. Specifically 171?

6 A. Yes.

7 Q. Take a look -- go to the prior page, 170, bottom of that
8 prior page, which is right above it.

9 A. Yes.

10 Q. Were you being shown anything when you were asked these
11 questions?

12 A. I was shown something called Exhibit 15.

13 Q. And was Exhibit 15 what is called a response to a request
14 for admission?

15 A. Yeah. It says request for admission No. 52.

16 Q. And --

17 MR. RAPOPORT: Your Honor, excuse me. It's not clear
18 if this is refreshing recollection or if we're doing something
19 else. But if we're doing something else, it's probably
20 impermissible; and if it's refreshing recollection, we're not
21 doing it the right way.

22 BY MR. BAYMAN:

23 Q. Well, do you recall sitting here today what you were shown
24 at that deposition without looking at the deposition?

25 A. No. It's 10 years ago.

1 Q. Would looking at the deposition help you to refresh your
2 recollection of what you were shown?

3 A. Yes.

4 Q. And in looking at this, at page 170 and 171, does that
5 refresh your recollection of what you were being shown and
6 questioned about?

7 A. It does.

8 Q. And what was it that you were being shown and questioned
9 about?

10 A. Well, it was this thing that said request for admission
11 No. 52, with a lot of legal mumbo jumbo on it.

12 Q. You were shown a legal document?

13 A. He asked me -- I remember they asked me do you know what
14 this is, and I said no, I don't know --

15 Q. And had you seen that request for admission before you
16 were being questioned about it?

17 A. No.

18 Q. Now, you gave -- and then Mr. Rapoport asked you some
19 questions about the run-ins and said you didn't know about it.

20 You gave an expert report in the *Tucker* case?

21 A. I did, June, June 2006. It would have been before the
22 deposition. June 29th, 2006.

23 Q. Would looking at your report refresh your recollection
24 about whether you knew about the run-in events prior to your
25 deposition of January 12th, 2007?

1 MR. RAPOPORT: I objection, your Honor. He's
2 impeaching his own witness.

3 MR. BAYMAN: No, I'm not. I'm just explaining the
4 context of his testimony.

5 THE COURT: Well, all right, you may proceed.

6 BY THE WITNESS:

7 A. Yes, it does help me with my recollection.

8 BY MR. BAYMAN:

9 Q. Does your expert report contain a discussion of the
10 reanalysis of the Paxil NDA clinical trial data with the
11 run-in events, as well as events from uncontrolled and
12 non-placebo-controlled trials removed?

13 A. It does.

14 Q. And did you have an opportunity -- showing you -- I'm
15 showing you what's been marked as Plaintiff's Exhibit 122 and
16 129. They're already in evidence. And I'm not going to ask
17 you about them, but have you seen these documents before?

18 MR. RAPOPORT: Objection, your Honor. Way beyond the
19 scope.

20 MR. BAYMAN: This is about the run-ins, which is what
21 he inquired about.

22 THE COURT: No, what he inquired about was when he
23 first learned about the run-ins, not about the run-ins
24 themselves.

25 MR. BAYMAN: Well --

1 THE COURT: It's the timing that was the topic of
2 cross.

3 BY MR. BAYMAN:

4 Q. Did you have an opportunity to review the reanalyses done
5 by GSK of the Paxil NDA clinical trial data events where
6 placebo run-in events were removed as well as events from open
7 label, uncontrolled trials, non-placebo-controlled trials were
8 removed?

9 MR. RAPOPORT: Your Honor, same objection as the one
10 I made with regard to the question that he must have withdrawn
11 before this.

12 THE COURT: Yeah. I think that that doesn't go to
13 the question of when. I'll sustain the objection.

14 BY MR. BAYMAN:

15 Q. Did you know about the run-in events, the controversy
16 regarding run-in events prior to your deposition?

17 A. Yes. It's in my report.

18 Q. Does it make any difference in your analysis whether the
19 run-in events are counted or not counted?

20 A. It doesn't make any difference, because either way you
21 analyze it, there's no relationship between taking Paxil and
22 suicide.

23 Q. Now, you were asked a number of questions about train cars
24 in Chicago --

25 A. Yes.

1 Q. -- from Mr. Rapoport. Do you recall that?

2 A. Yes.

3 Q. Did I understand from your earlier testimony -- well,
4 strike that.

5 Did you actually take a Metra train from Glencoe,
6 Illinois, Mr. Dolin's home station, to the station closest to
7 Reed Smith?

8 A. I did.

9 Q. So, you've ridden Metra?

10 A. Yes.

11 Q. Okay. And you went -- I think you testified yesterday you
12 went to the Chicago Blue Line station?

13 A. I walked there, yes.

14 Q. Okay.

15 A. And I went down on the platform.

16 Q. And what kind of train is the Blue Line train there?

17 MR. RAPOPORT: Your Honor, I object.

18 The jurors, I'm sure, are well familiar with the Blue
19 Line and other trains in Chicago.

20 MR. BAYMAN: Well, he went into this at great length
21 in cross, your Honor. I just want to clear it up.

22 THE COURT: All right. He may answer.

23 BY THE WITNESS:

24 A. I bought a ticket --

25 THE COURT: No, what kind of train?

1 BY MR. BAYMAN:

2 Q. What kind of train is the Blue Line train?

3 A. It's what you would call a subway train.

4 Q. Okay. And what --

5 A. Chicago Transit Authority.

6 Q. Is that CTA?

7 A. Yes.

8 Q. Is there any evidence that Mr. Dolin ever took a CTA train
9 to work on regular basis at all?

10 A. No, no.

11 Q. In fact --

12 MR. RAPOPORT: Objection, your Honor. There's no CTA
13 to Glencoe.

14 BY MR. BAYMAN:

15 Q. Well, and I want you to assume that Mrs. Dolin testified
16 that Mr. Dolin did not take a subway train to work.

17 A. That's correct.

18 Q. Okay. Do you know the difference between the Metra train
19 and the CTA train?

20 A. I do.

21 Q. Okay. Based on your review -- based on your review of the
22 police report, and I've blown up the page here; it's the page
23 Mr. Rapoport had up earlier -- How many train cards or train
24 passes did Mr. Dolin have on his person at the time of his
25 death?

1 A. Two.

2 Q. And what were they?

3 A. A CTA transit card, and the other one is a Metra Zone A 10
4 train pass.

5 Q. Thank you.

6 You were asked about Mr. Dolin's book of business by
7 Mr. Rapoport. Do you recall that?

8 A. Yes.

9 Q. Does Mr. Dolin's book of business mean that he did not
10 have any anxiety?

11 A. No.

12 Q. In fact, does the evidence show whether Mr. Dolin's
13 anxiety was sometimes at its highest when he was having a good
14 year?

15 A. Yes. Mrs. Dolin testified to that.

16 MR. BAYMAN: I have no further questions, your Honor.

17 THE COURT: All right.

18 MR. RAPOPORT: I'm happy to report, your Honor, that
19 I also have no further questions.

20 THE COURT: All right. Thank you, Doctor. Thank you
21 very much.

22 THE WITNESS: You're welcome.

23 THE COURT: You may step down.

24 (Witness excused.)

25 THE COURT: Mr. Bayman?

1 MR. BAYMAN: Can we approach, your Honor? There's
2 some evidence to tender, and we'll have a --

3 THE COURT: You want to present some documents?

4 MR. BAYMAN: Yes, sir.

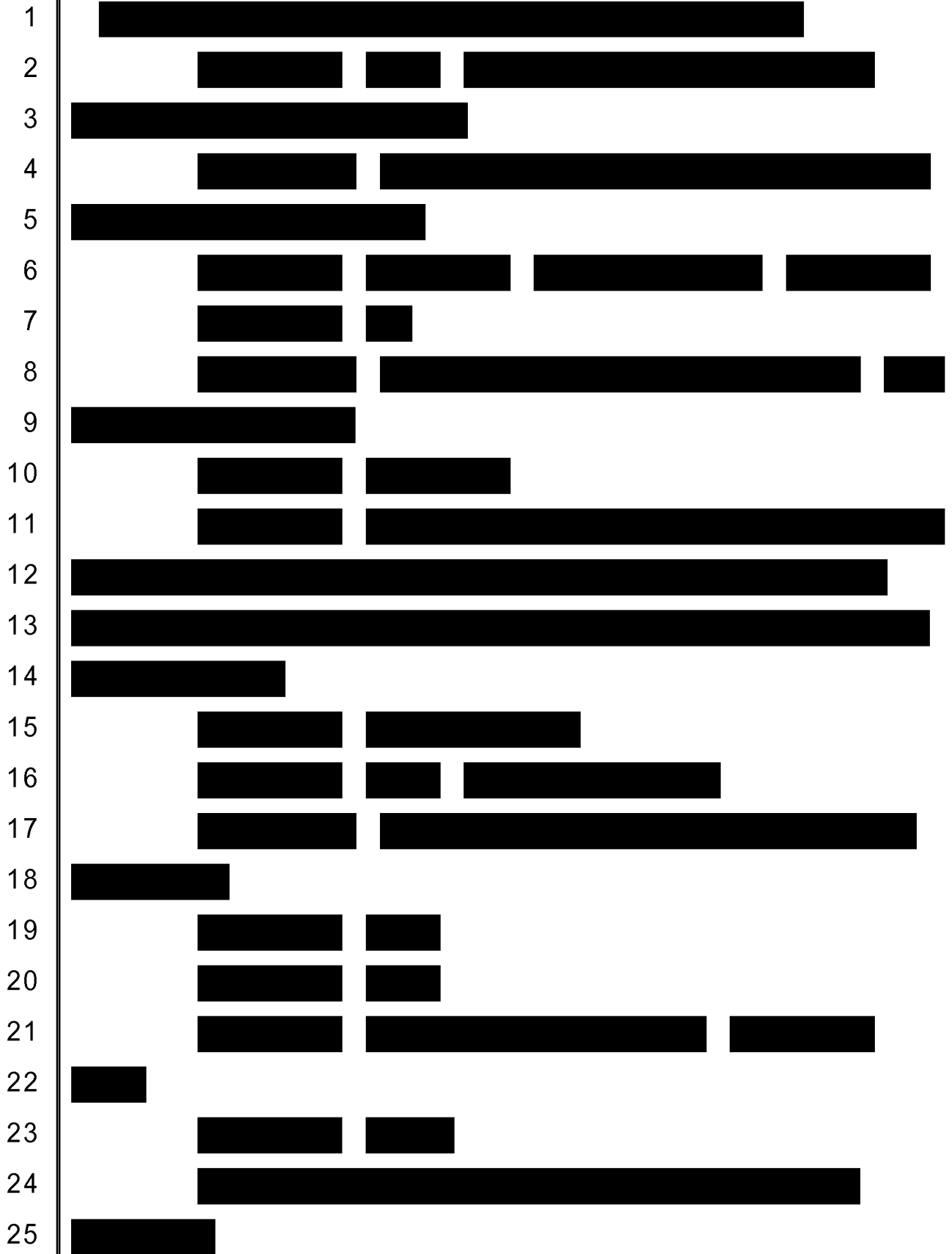
5 THE COURT: Okay. Are you finished?

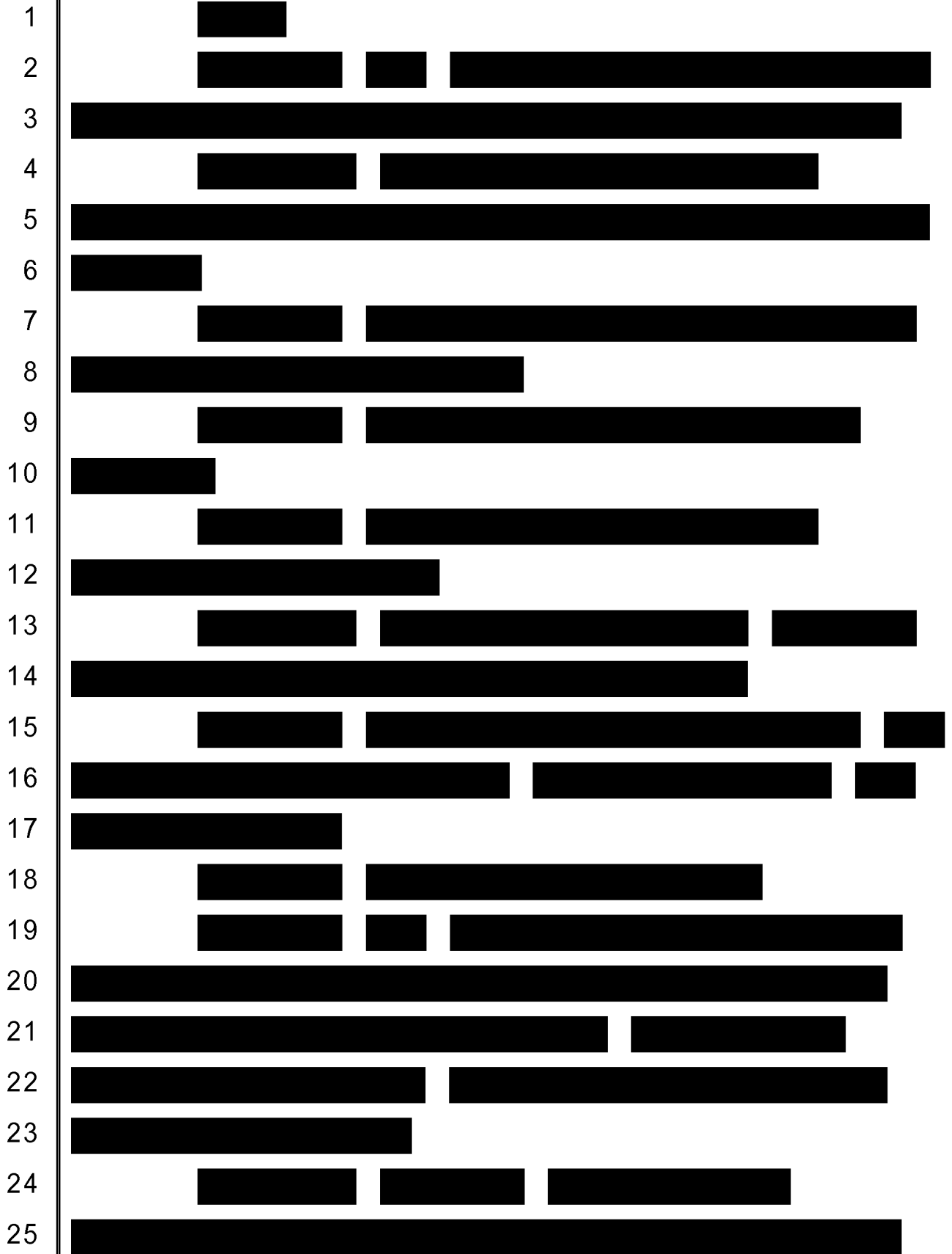
6 MR. BAYMAN: That was our last witness, yes, your
7 Honor.

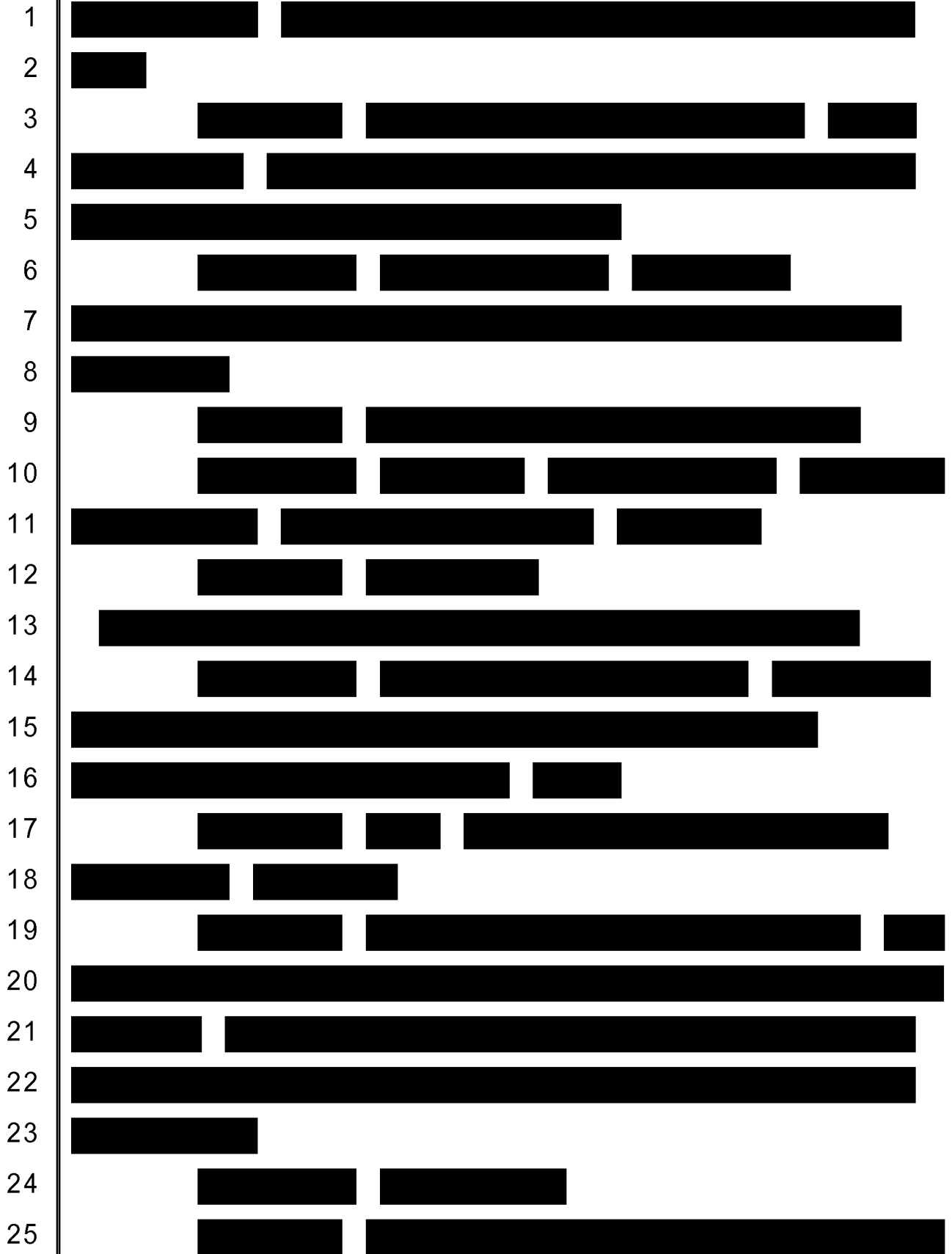
8 THE COURT: Okay. Ladies and gentlemen, we'll take a
9 recess if you'll step into the jury room. We have some
10 matters to attend to. We'll be back with you very soon, I
11 hope.

12 (Jury exits courtroom.)

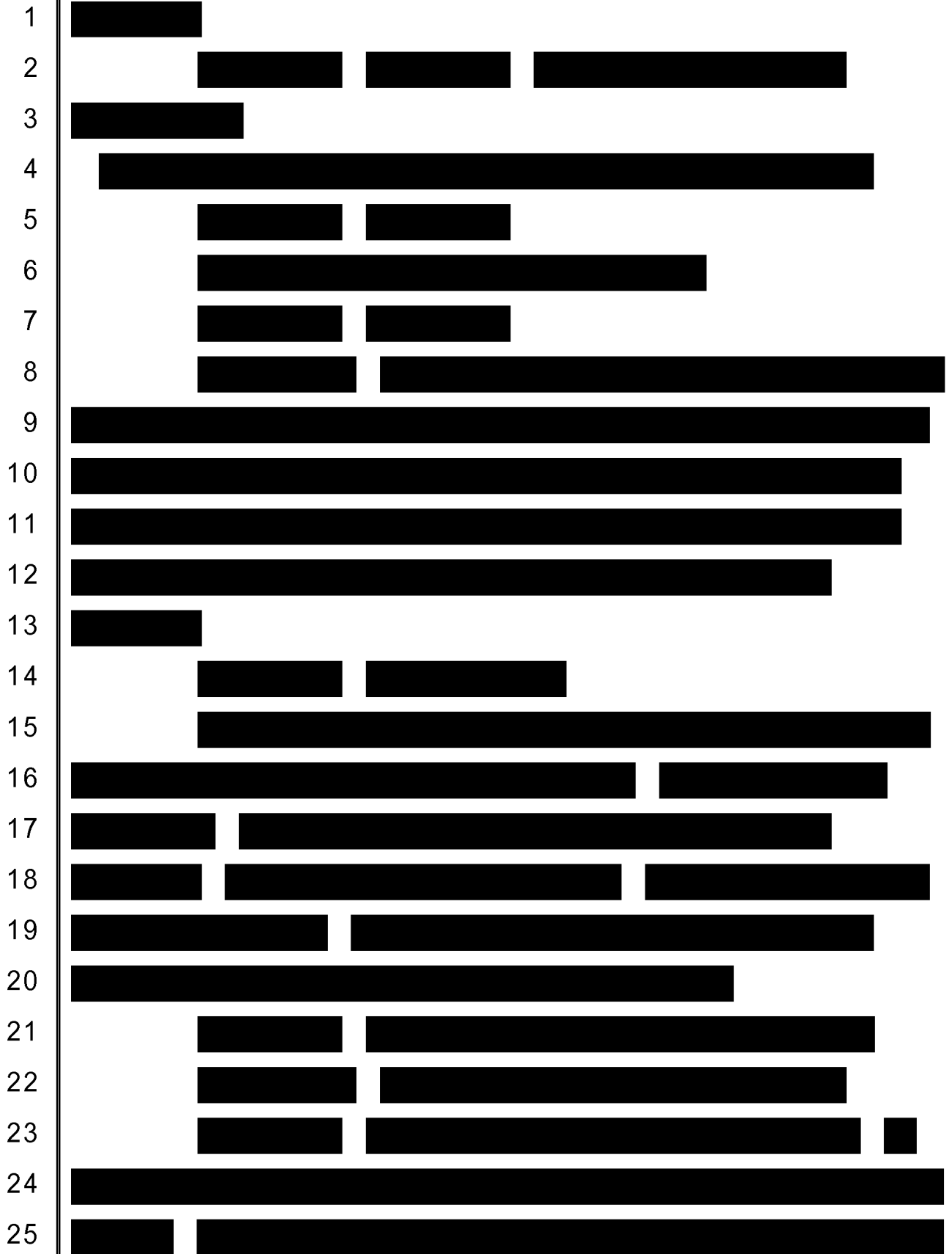
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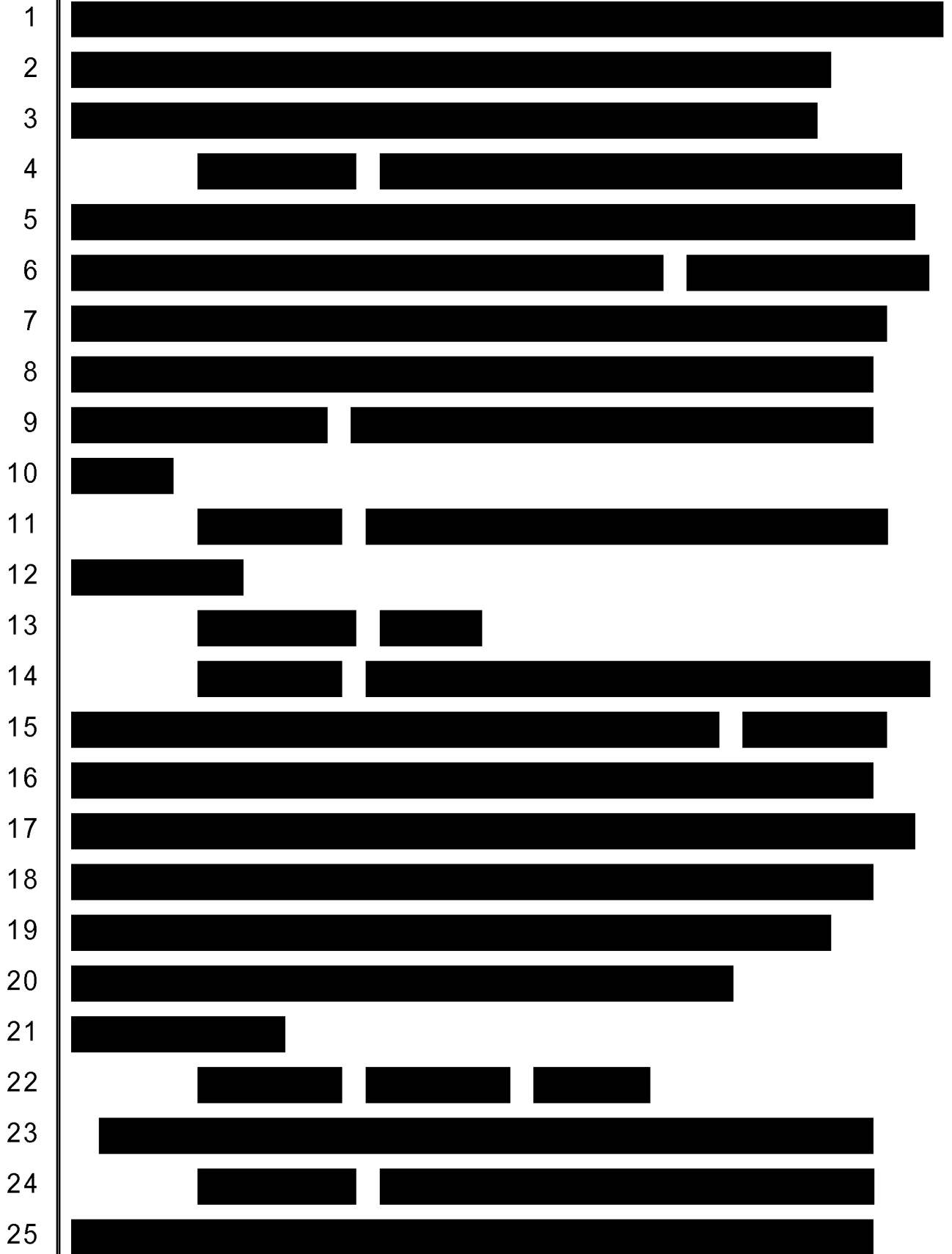


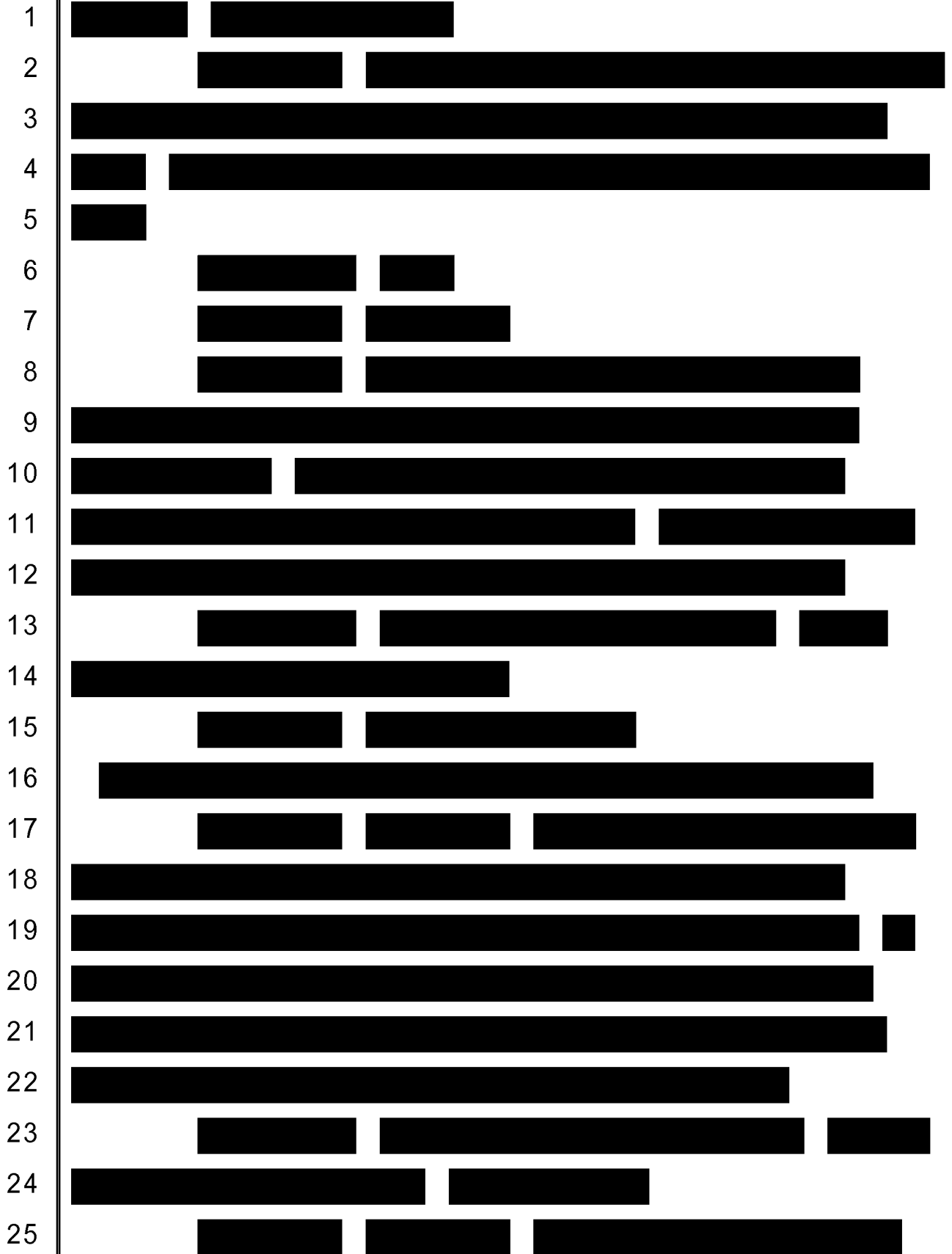


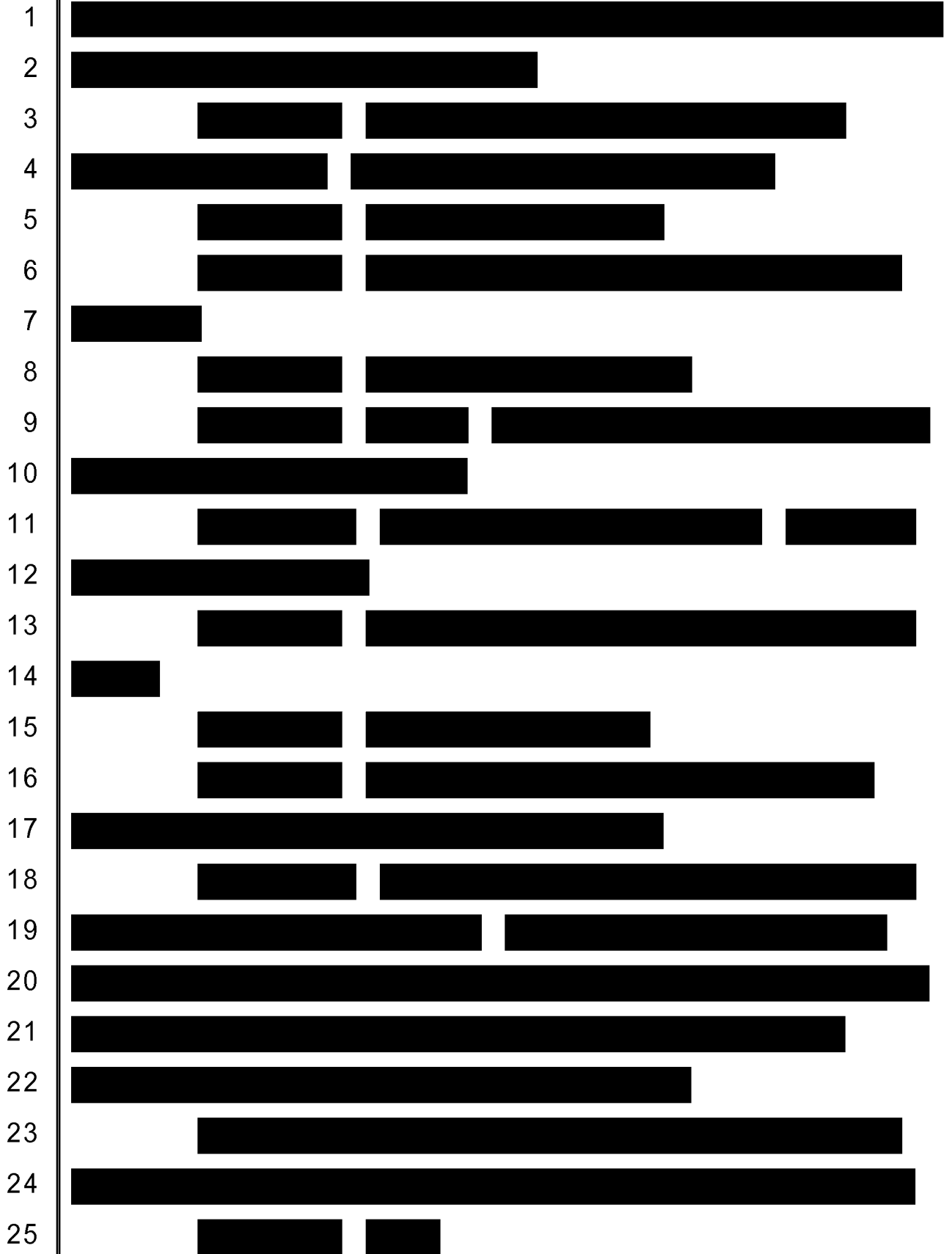


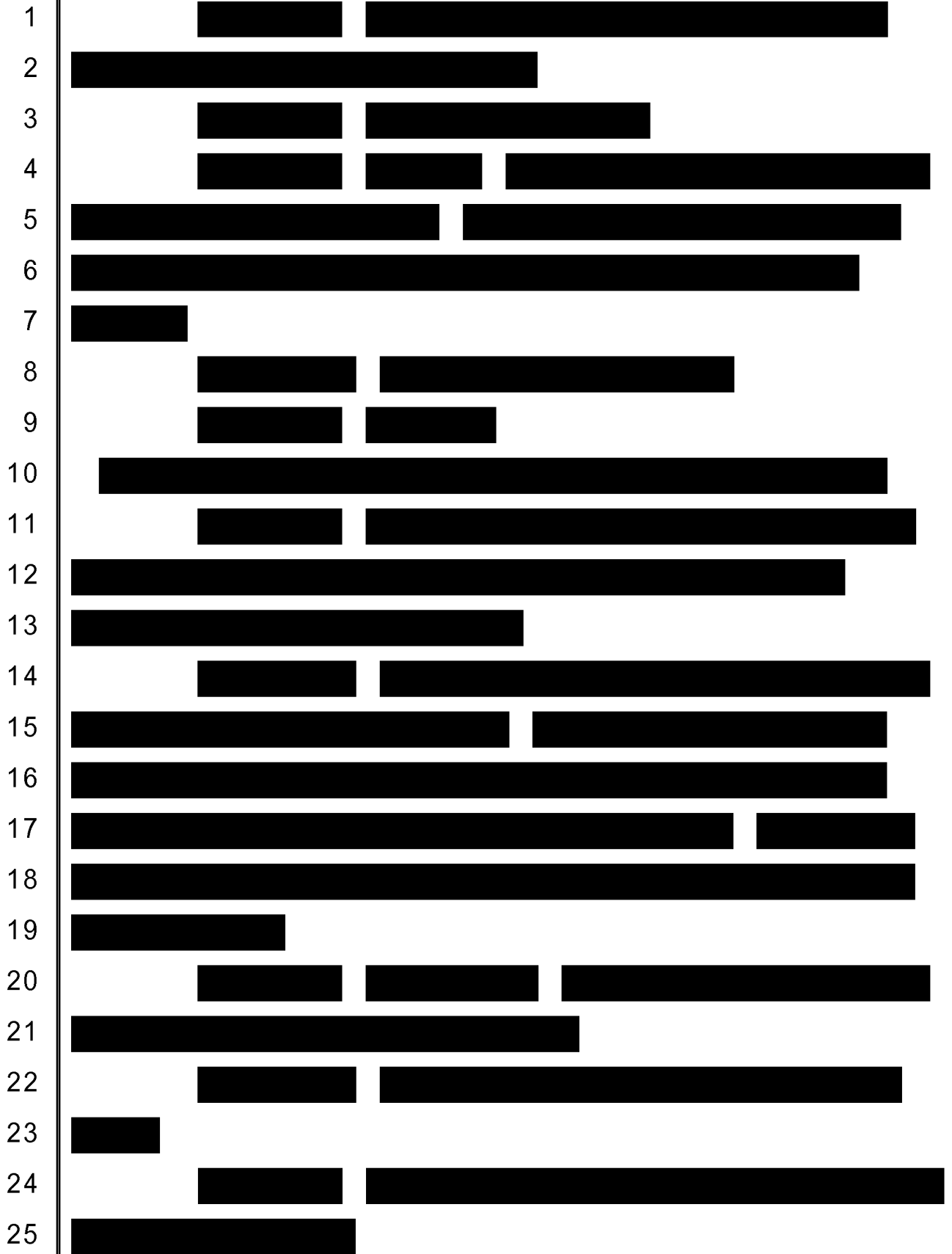
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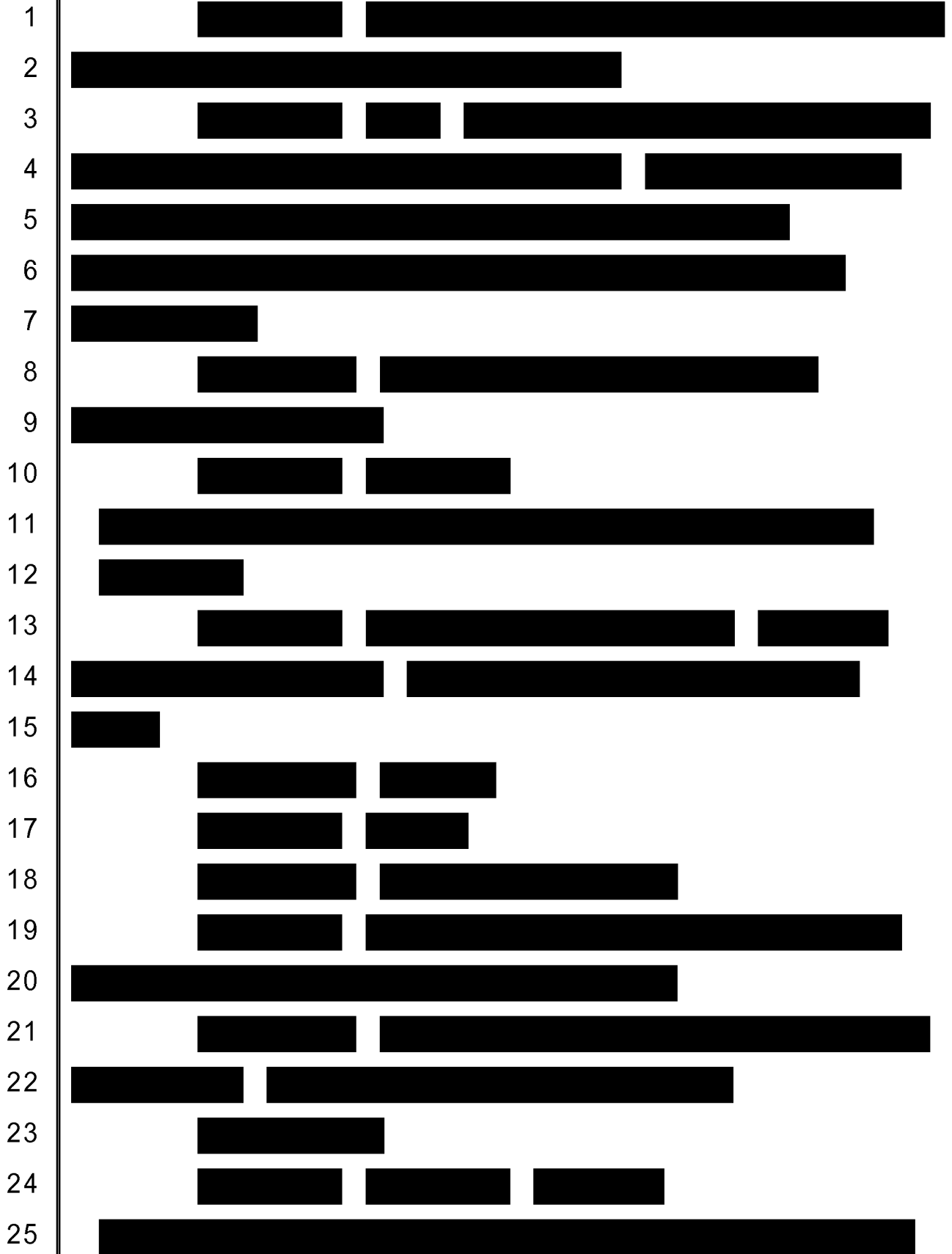


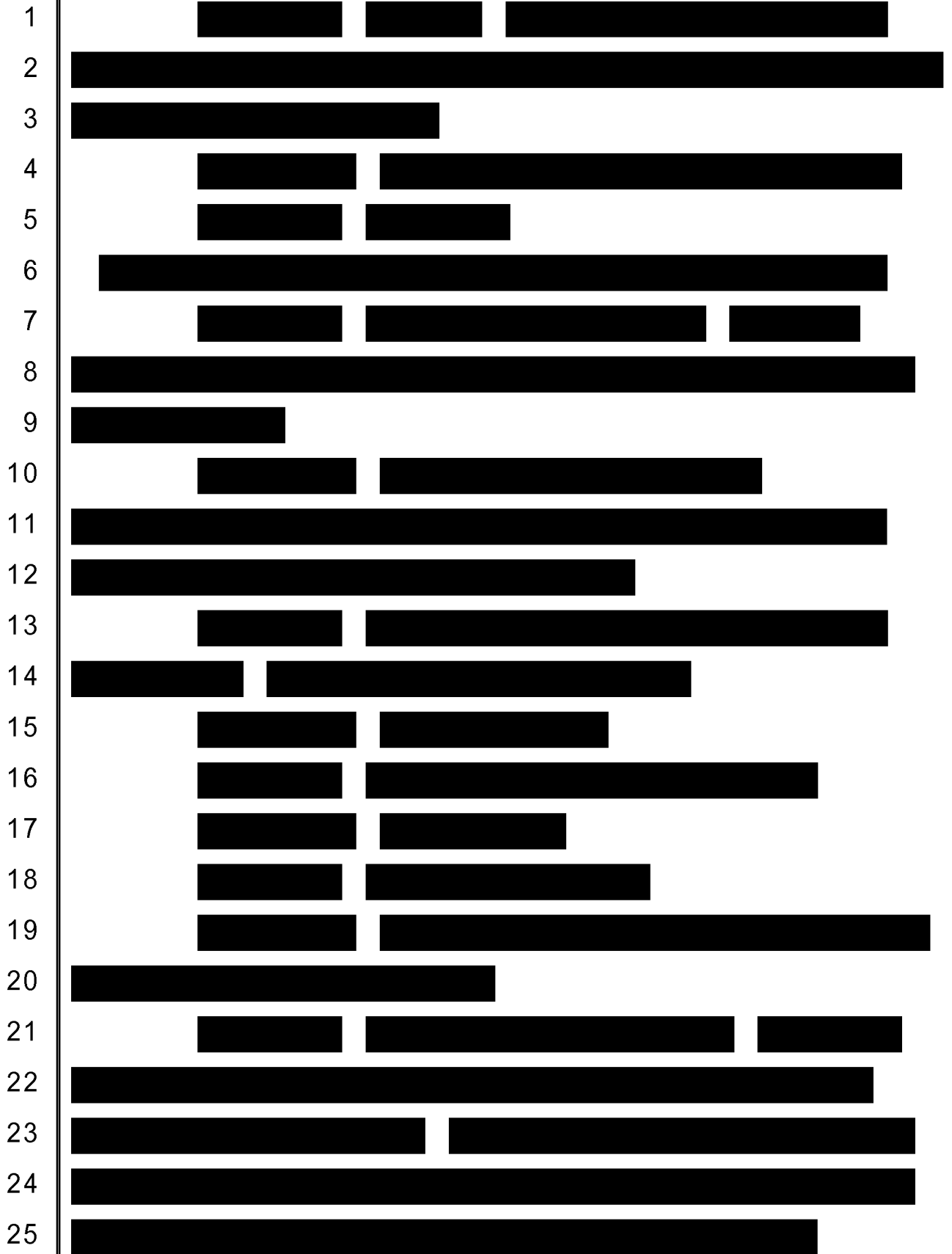


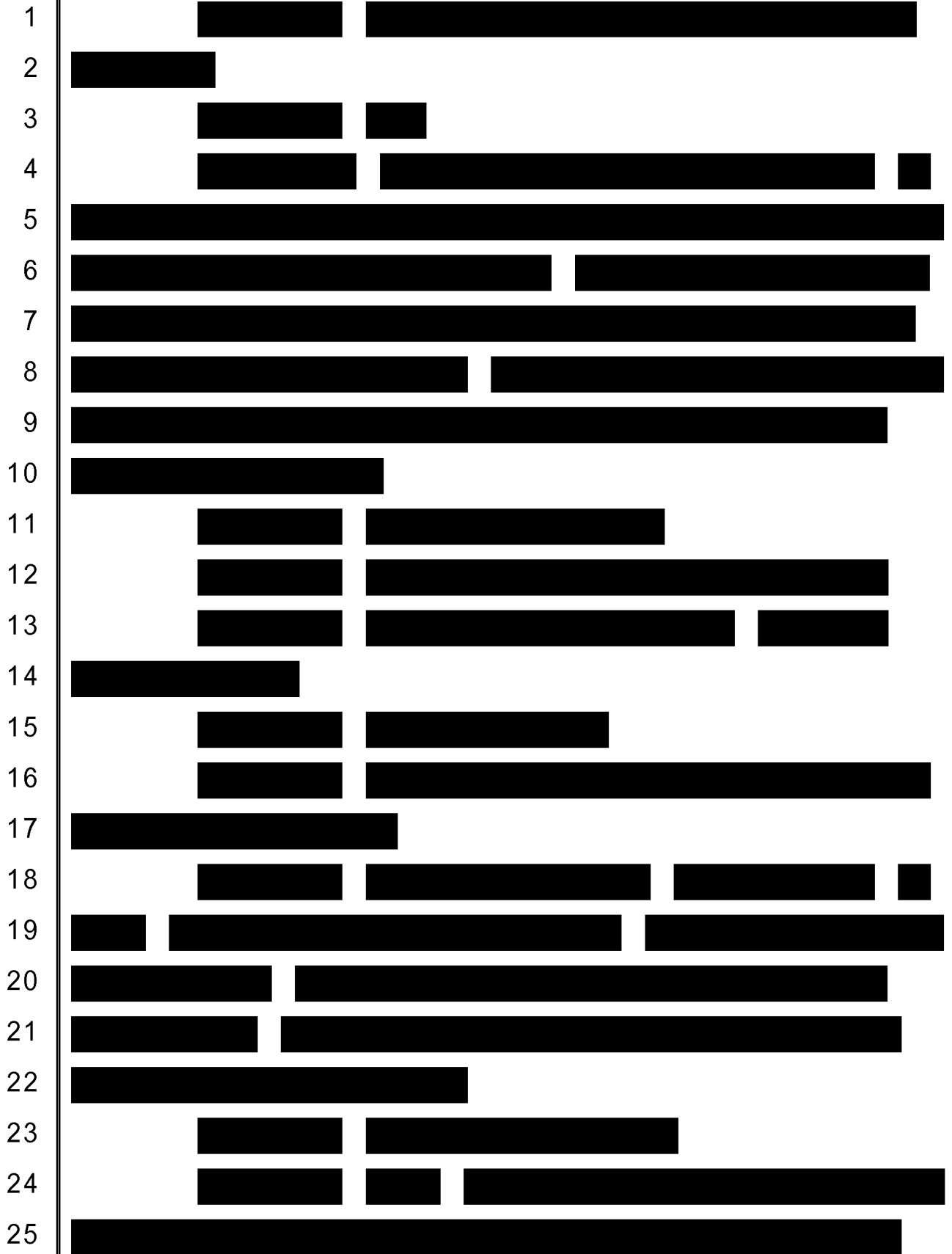


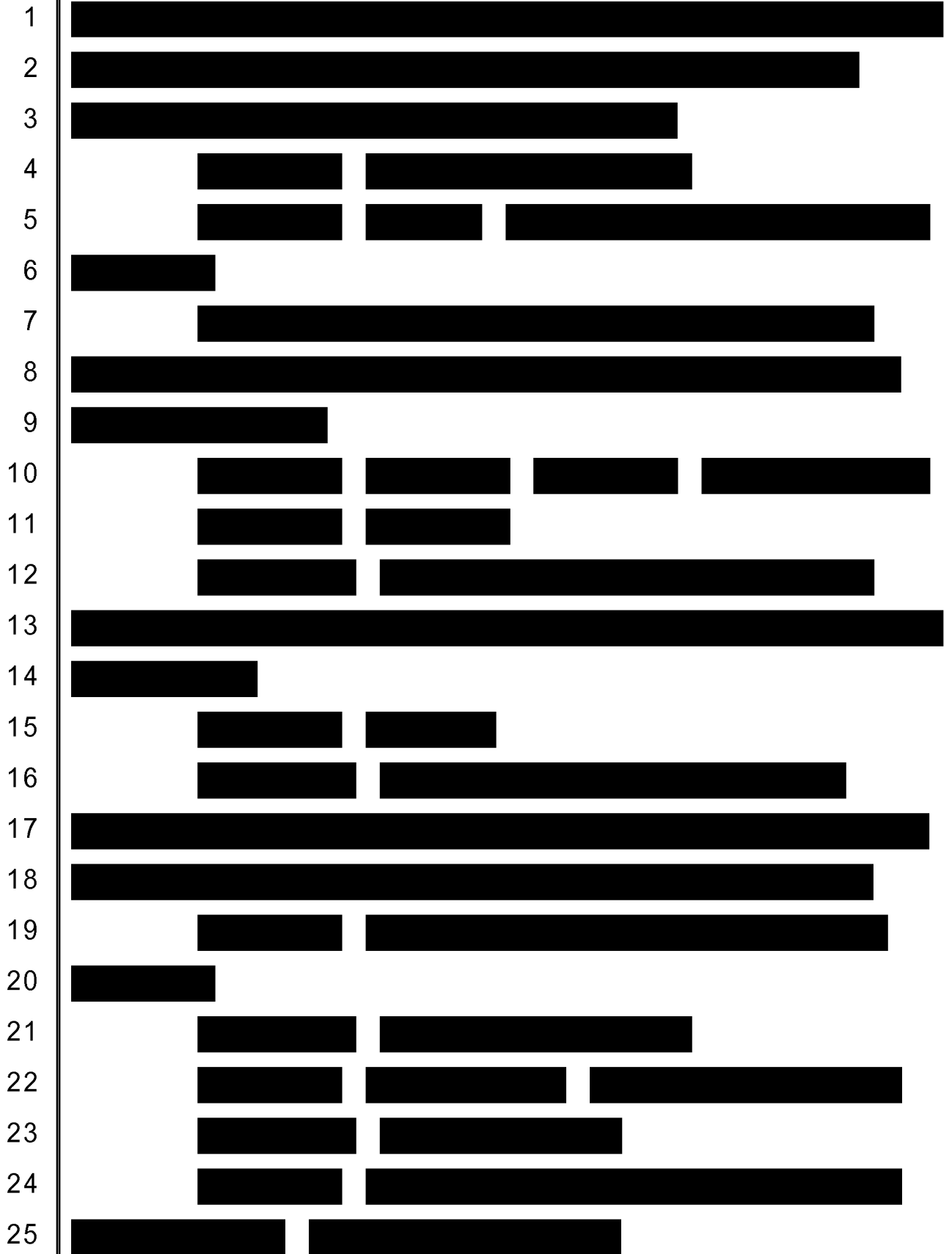


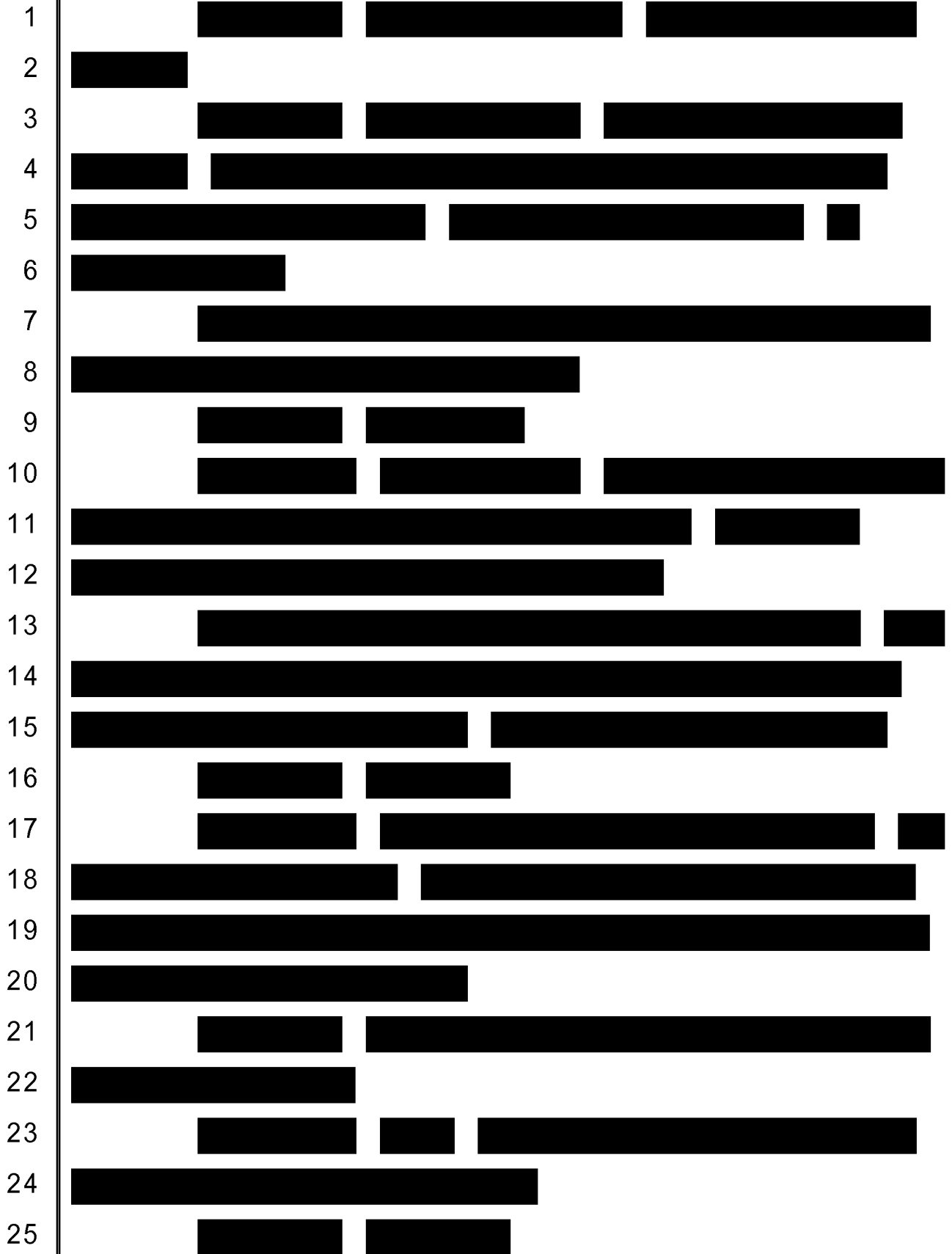






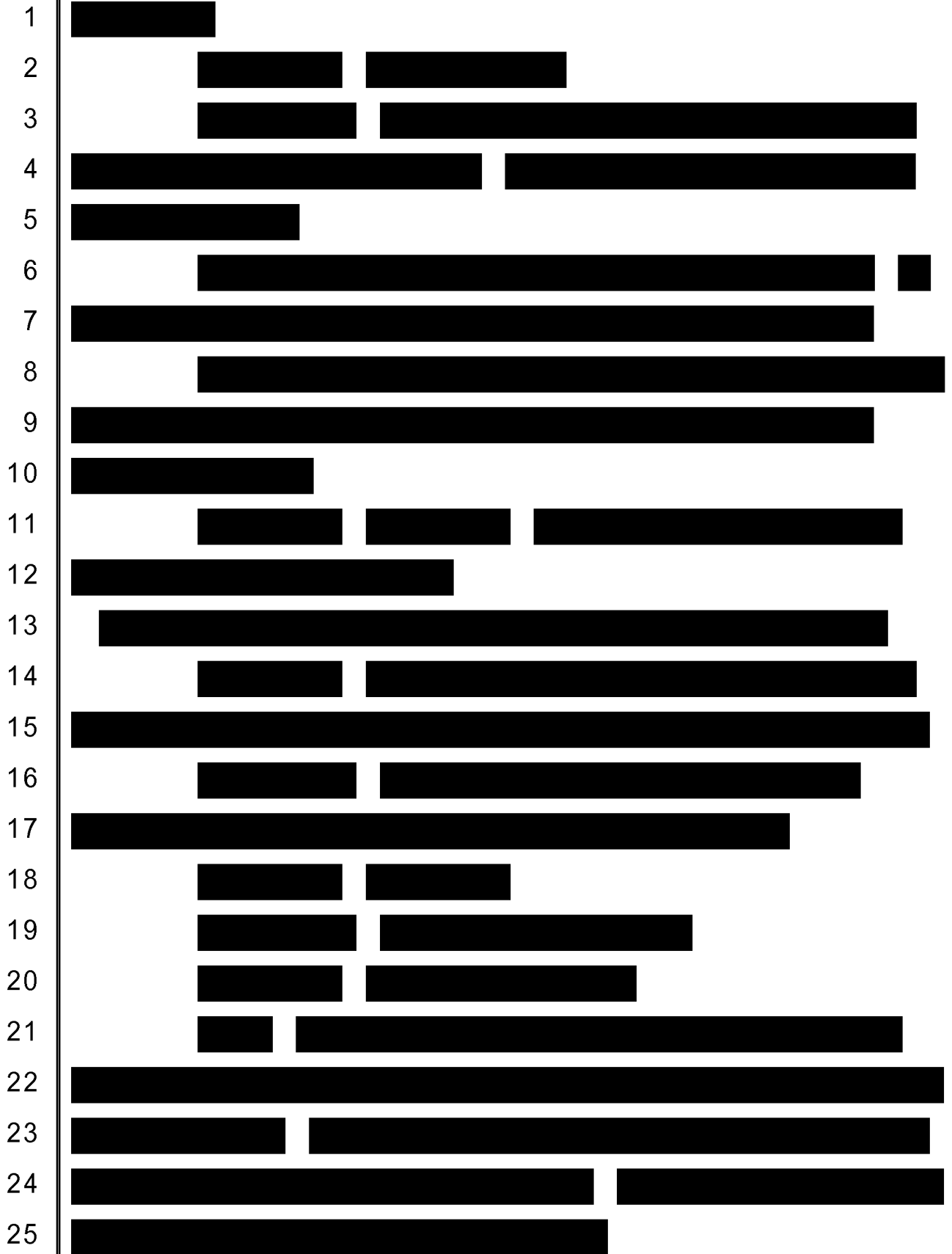






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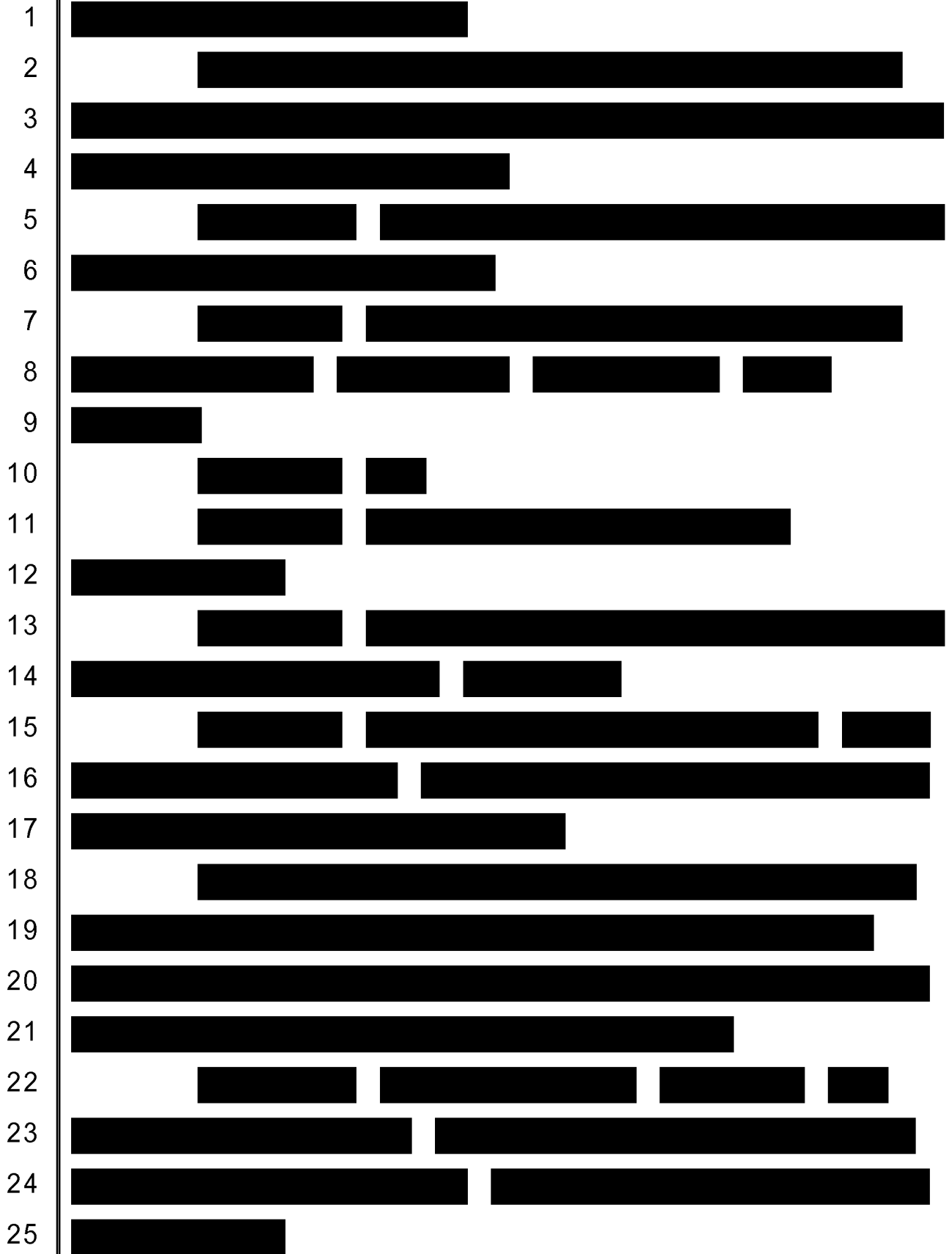


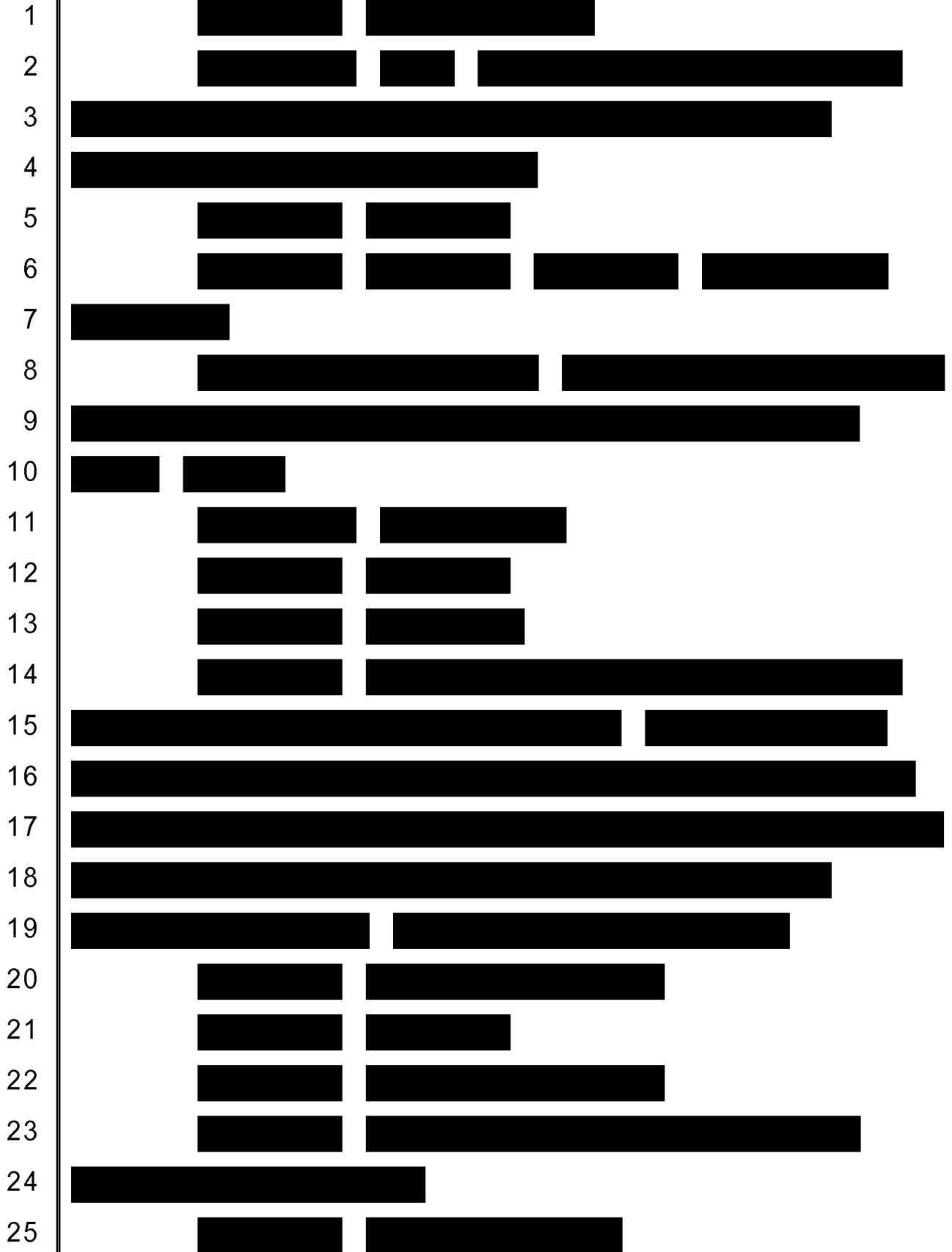
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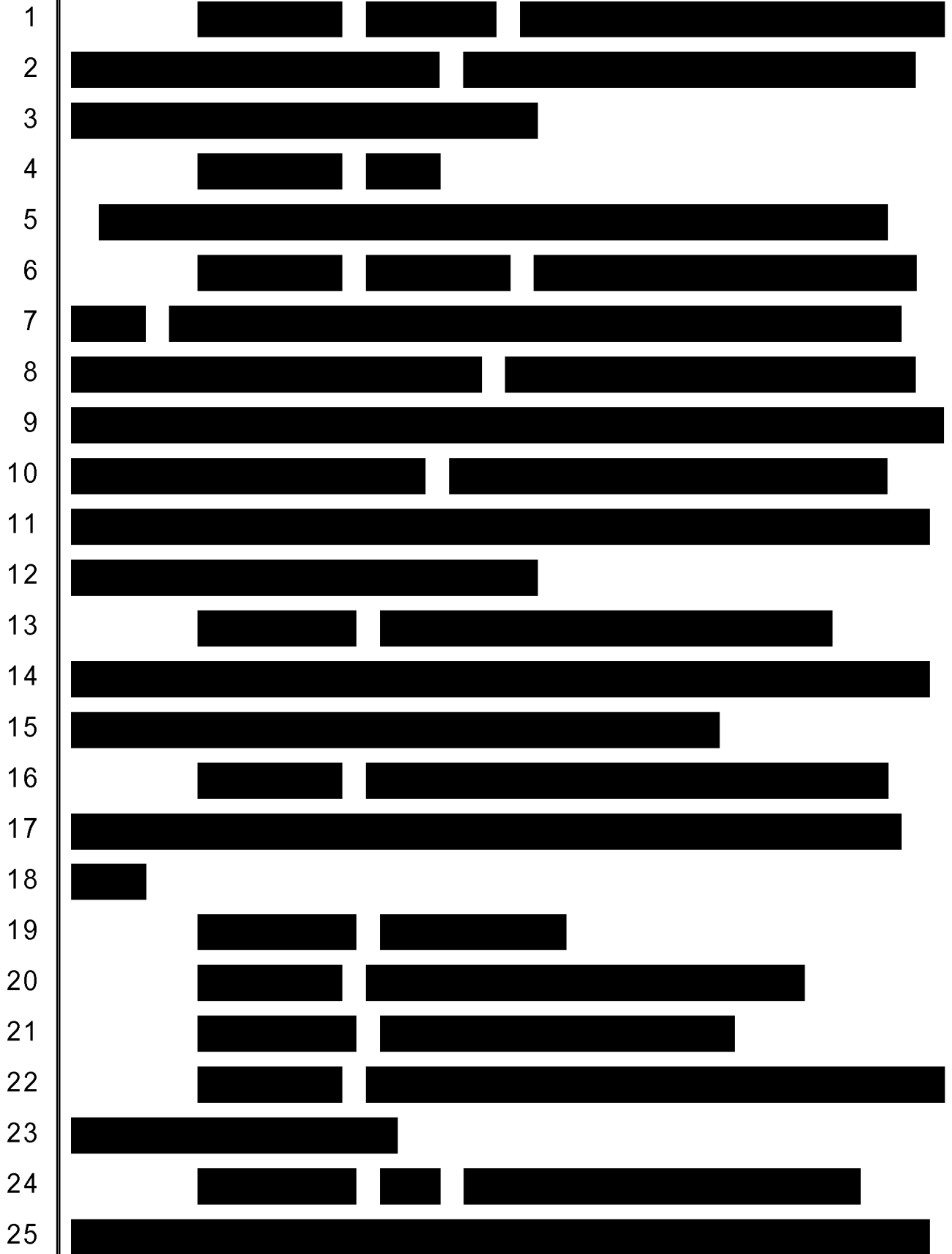
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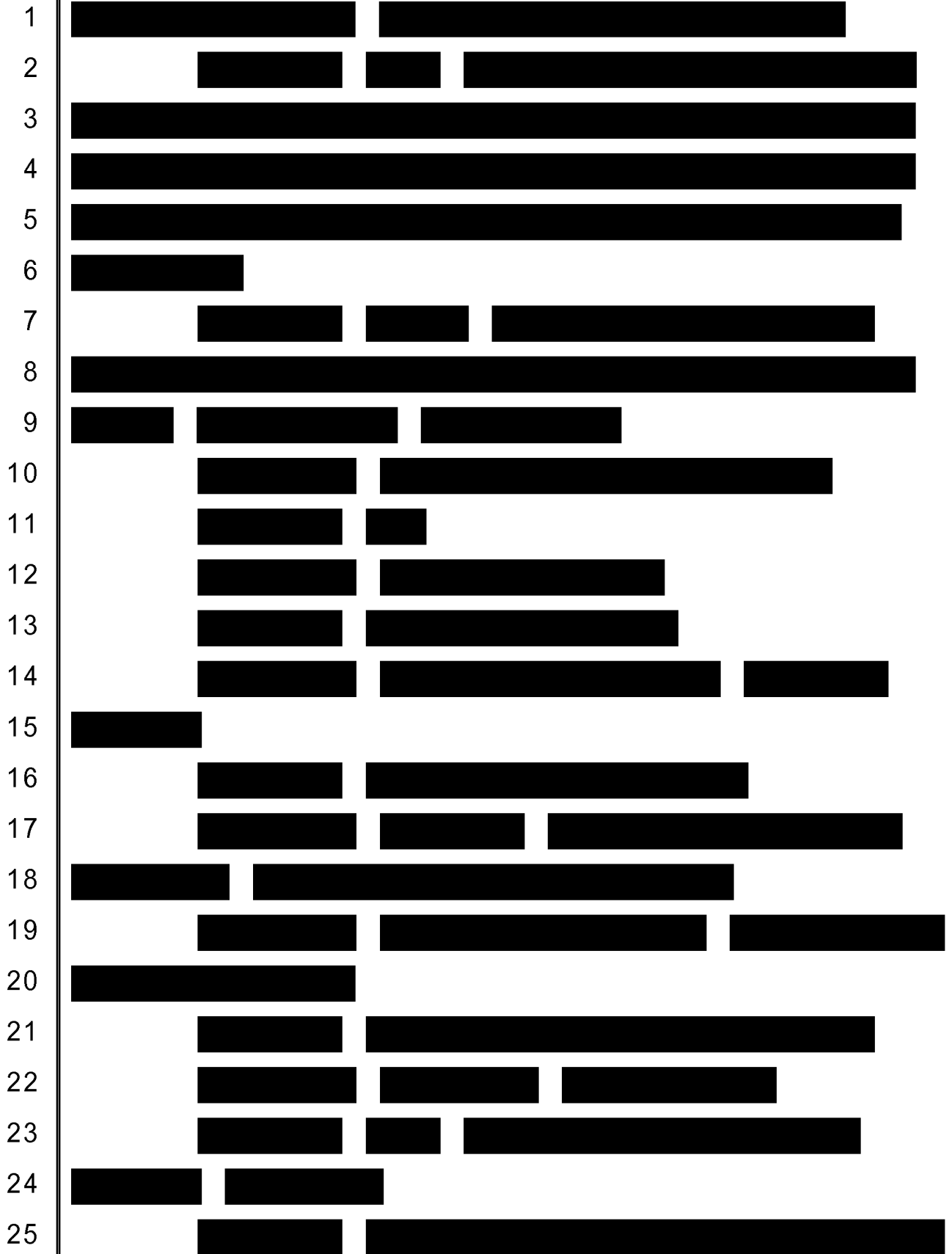
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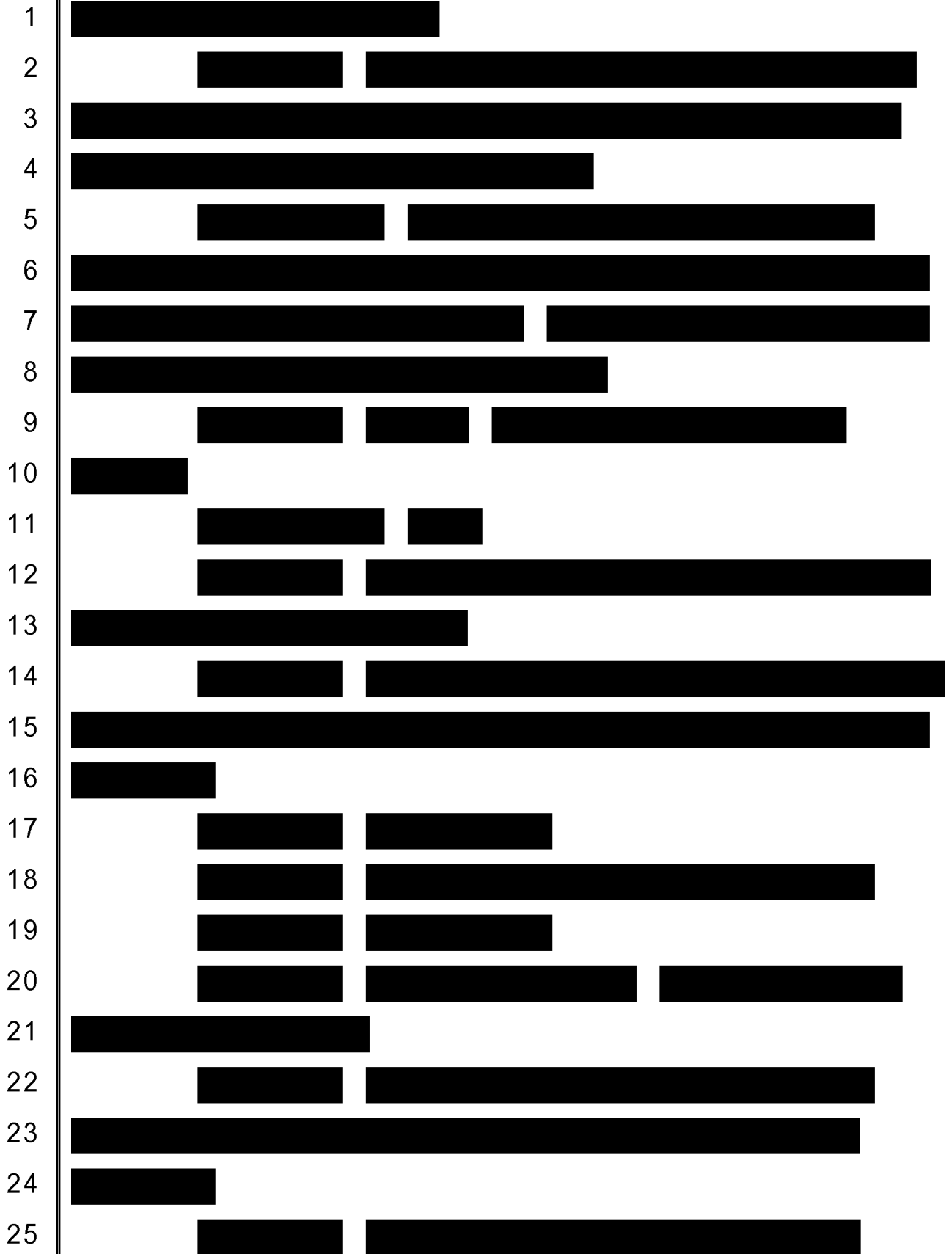


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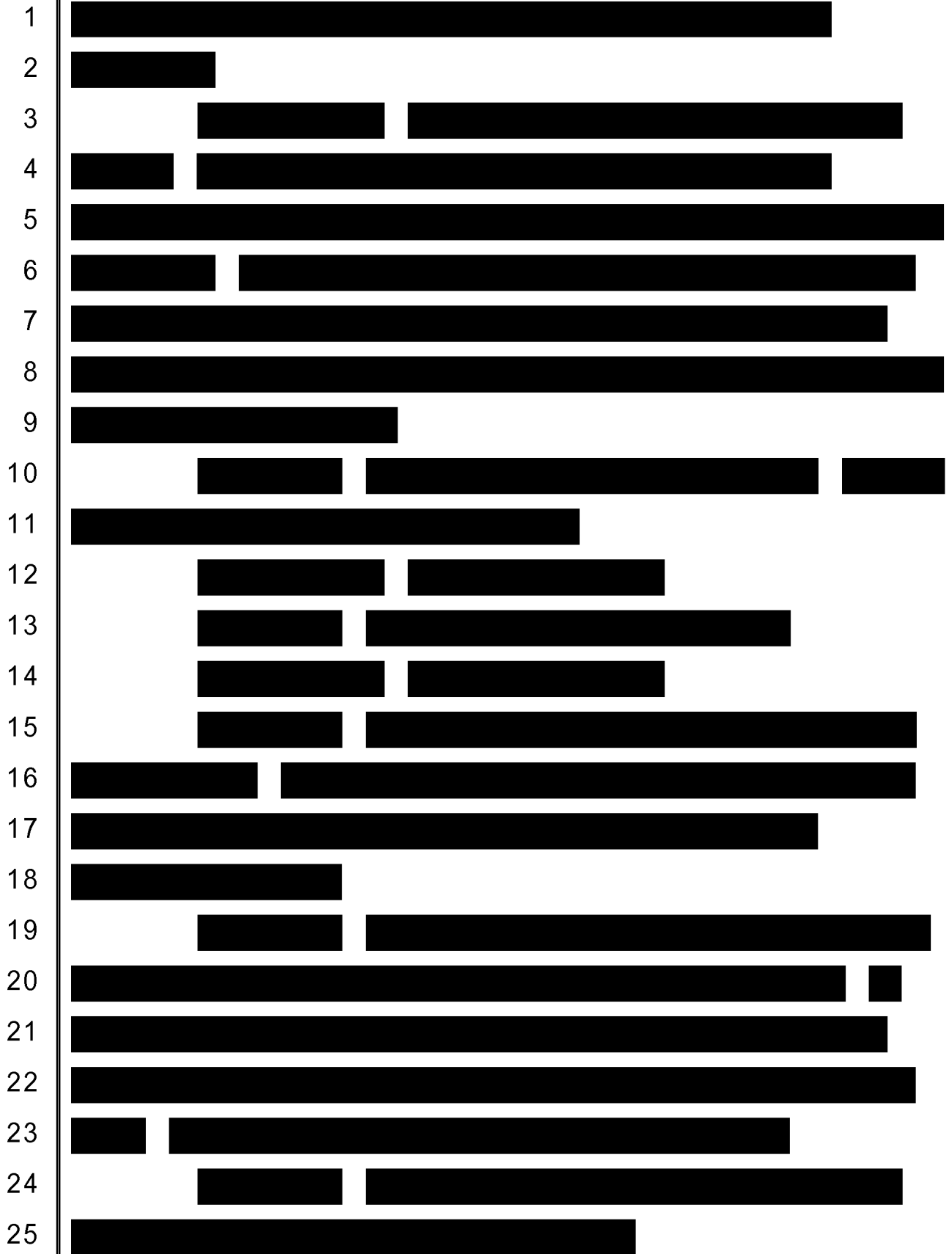
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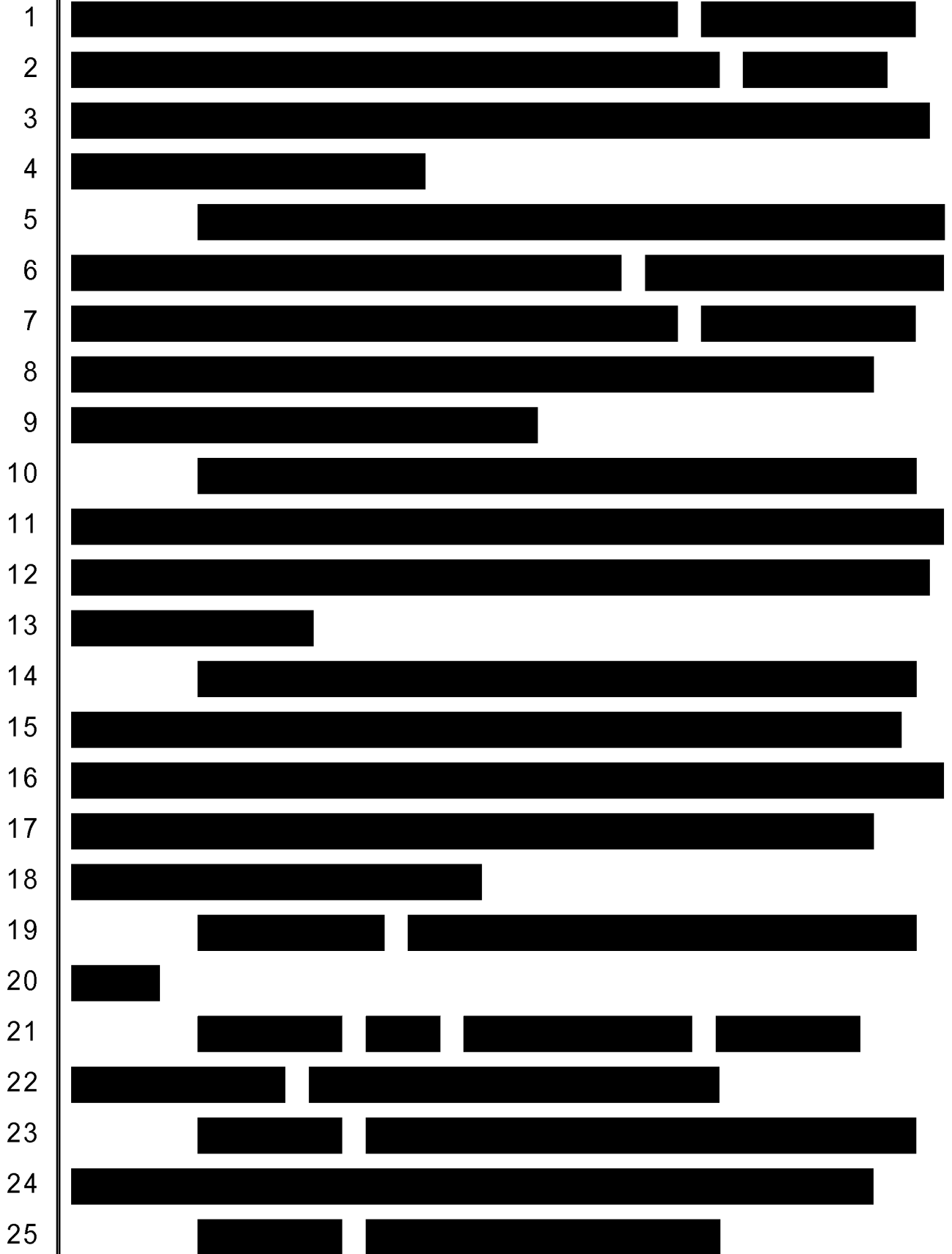


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16 (Jury enters courtroom.)

17 THE COURT: All right. Thank you very much, ladies
18 and gentlemen.

19 Mr. Bayman?

20 MR. BAYMAN: Thank you, your Honor.

21 Ladies and gentlemen, at this time, the defense rests
22 its case.

23 THE COURT: All right.

24 Ladies and gentlemen, you have now heard both sides,
25 and we are now in what we call the rebuttal stage, and the

1 rebuttal is very limited. In other words, the plaintiff gets
2 a chance to rebut what has been presented in defendant's case
3 which is new, and they are not allowed to reopen their case or
4 to go beyond what is known as the rebuttal phase. So, this
5 should be relatively short, but you should know what the
6 procedure is and how we're proceeding.

7 And you're calling a witness?

8 MR. WISNER: Yes, your Honor. At this time, the
9 plaintiff calls Dr. David Healy back to the stand.

10 THE COURT: Okay. Dr. Healy, if you would, please.

11 Doctor, you were previously sworn. You're still
12 under oath. You understand that.

13 THE WITNESS: I do, yes.

14 THE COURT: All right. You may take the witness
15 stand.

16 DAVID HEALY, PLAINTIFF'S REBUTTAL WITNESS, PREVIOUSLY SWORN,
17 DIRECT EXAMINATION

18 BY MR. WISNER:

19 Q. Good afternoon, Dr. Healy.

20 A. Good afternoon, Mr. Wisner.

21 Q. Welcome back to the United States.

22 A. Thank you very much.

23 Q. I'd like to address a few things that were brought up on
24 the defendant's case in chief, specifically by witness. I'm
25 going to start off right where they ended off.

1 Are you familiar with Dr. Anthony Rothschild?

2 A. Yes, I am.

3 Q. Dr. Rothschild offered testimony to the jury about a
4 phenomenon known as akathisia. We discussed that quite a bit
5 during your direct.

6 Do you recall that?

7 A. Yes, I do.

8 Q. He testified that there was no scientific or peer-reviewed
9 literature that supported an association between akathisia and
10 suicide.

11 Is that true?

12 MR. DAVIS: Excuse me, Dr. Healy.

13 Your Honor, I object for several reasons. One, I
14 don't have a transcript in which this testimony can be cited
15 to from Dr. Rothschild.

16 Also, this was covered at length with Dr. Healy over
17 the course of two days, two-and-a-half days? So, I think it's
18 cumulative, and it's outside the scope of rebuttal.

19 THE COURT: You may proceed.

20 BY MR. WISNER:

21 Q. Is that true, Doctor?

22 A. No. Could I suggest repeat the question for me.

23 THE COURT: Read it back.

24 (Record read.)

25 BY THE WITNESS:

1 A. No, that's not true.

2 BY MR. WISNER:

3 Q. Can you please tell the jury some of the literature that
4 does support an association between akathisia and suicide?

5 MR. DAVIS: Excuse me, Doctor. Your Honor, can I
6 have a standing objection?

7 THE COURT: Yes, you may.

8 MR. DAVIS: Thank you so much.

9 BY THE WITNESS:

10 A. Well, there's a range of books on akathisia that cover the
11 issue, and a book called Akathisia by a Dr. Sachdev, which is
12 probably the leading textbook in the field, and that covers
13 the issue.

14 There is a chapter by Dr. Rothschild in a book edited
15 by Dr. Rothschild that also covers the issue.

16 BY MR. WISNER:

17 Q. You mentioned a book by Dr. Rothschild.

18 MR. WISNER: Permission to approach, your Honor?

19 THE COURT: Yes.

20 BY MR. WISNER:

21 Q. I'm handing you what has been marked as Plaintiff's
22 Exhibit 355. Is that a photocopy of the book that we're
23 talking about?

24 A. Yes, it is.

25 Q. I'm just going to show --

1 MR. DAVIS: Excuse me. Your Honor, Dr. Rothschild
2 was just here. If there's a question about Dr. Rothschild's
3 views about akathisia and what his particular chapter said,
4 they had the opportunity to do that.

5 THE COURT: Overruled.

6 MR. DAVIS: This is improper rebuttal.

7 THE COURT: Overruled.

8 MR. RAPOPORT: Can we clarify? We're getting
9 double-teamed here.

10 MR. DAVIS: Nobody's double-teaming anybody.

11 MR. RAPOPORT: Mr. Bayman was making objections, and
12 now you're making objections. That's what I call
13 double-teaming.

14 MR. BAYMAN: I've not opened my mouth.

15 THE COURT: All right. All right. One attorney at a
16 time.

17 MR. RAPOPORT: I might have been mistaken there.
18 Sorry.

19 MR. WISNER: I'll handle them all, your Honor.

20 BY MR. WISNER:

21 Q. All right. Doctor, is this the book we're talking about?

22 A. Yes, it is.

23 Q. Okay. And this is the book that has Anthony Rothschild
24 here on the cover?

25 A. Yes, it does.

1 Q. All right. Now, if you open it up, there is a section in
2 this book that's titled Chapter 2. It's on page 15?

3 A. Yes.

4 Q. And what's the chapter title?

5 A. Suicide Risk --

6 MR. DAVIS: Your Honor, I don't believe a foundation
7 has been laid there.

8 THE COURT: Overruled.

9 BY MR. WISNER:

10 Q. What's the title of the chapter, Doctor?

11 A. It's called Suicide Risk Assessment.

12 Q. Okay. And then if we turn in to the book, you said there
13 was a discussion of akathisia, is that right?

14 A. That's correct, on page 22.

15 Q. Oh, thank you.

16 All right. Doctor, let's look at this paragraph
17 right here. "Akathisia. Akathisia, a syndrome marked by
18 distinctly unpleasant symptoms of motor restlessness and
19 anxiety may increase the risk of suicide."

20 Did I read that right, Doctor?

21 A. You did, yes.

22 Q. Who's the author of that statement?

23 A. Dr. Rothschild.

24 Q. Dr. Rothschild also testified or told this jury that the
25 phenomenon of akathisia does not ebb and flow. That it's a

1 constant phenomenon.

2 Is that true?

3 A. No, it isn't true. It isn't true that it's either simply
4 a motor problem. As you see in his book, he says it's a motor
5 issue, but it's also people being anxious. There's an
6 internal component.

7 If it was a simple motor problem that was there
8 constantly, it would be called a dyskinesia. It's never
9 called that. It is a phenomenon that comes and goes, and at
10 times when people have akathisia, they can go to their doctor
11 during a good spell -- and I said before the doctors often
12 don't -- don't see the problem because the people look quite
13 well. In fact, they can look very well.

14 They can look as though they've got more energy, and
15 the doctor can misread this as the patient is improving, when
16 they're not but actually getting worse.

17 Q. Now, are you familiar with something called the Barnes
18 Scale for akathisia?

19 A. I'm extremely familiar with it, and I know the author Tom
20 Barnes.

21 Q. Is it a good scale for measuring the phenomenon?

22 A. Well, he would say it's not a great scale for
23 antidepressant doctors. He wishes that there was one. It was
24 in the context of the antipsychotic group of drugs, and it
25 focuses mostly on the outer things rather than the inner

1 things. But, again, he would think that we should be using
2 scales like this in all the trials of all the psychotropic
3 drugs we use.

4 Q. And to the best of your knowledge, Doctor, has GSK ever
5 used the Barnes Scale in any of its clinical trials to measure
6 akathisia?

7 A. Not that I'm aware of. There is an issue in that in their
8 clinical trials, the --

9 MR. DAVIS: Excuse me, your Honor. I think he's
10 answered the question.

11 BY THE WITNESS:

12 A. Okay. Fine.

13 MR. DAVIS: Thank you.

14 BY MR. WISNER:

15 Q. Doctor, you said there was an issue. What is the issue?

16 A. Well, the issue is their coding dictionary I don't think
17 codes for akathisia. So, you know, it's a tricky issue for
18 them.

19 Q. Dr. Rothschild testified about whether or not 10
20 milligrams of paroxetine would be a sufficiently large enough
21 dose to induce an adverse reaction. In your opinion, is 10
22 milligrams sufficient?

23 A. Oh --

24 MR. DAVIS: Excuse me. I don't believe that
25 correctly characterizes Dr. Rothschild's testimony, and it's

1 also not rebuttal evidence, your Honor.

2 THE COURT: Overruled.

3 BY THE WITNESS:

4 A. That's an extremely high dose. I can guarantee you that
5 if I was to give the whole court here a 5-milligram dose of
6 Paxil, everybody would be genitally numb. Everybody would be
7 emotionally numb. So, a 10-milligram dose is a relatively
8 high dose. And 20 milligrams was used. It sounds low, but
9 actually it was an extremely high dose.

10 BY MR. WISNER:

11 Q. To be simple, Doctor, is a 10-milligram dose of paroxetine
12 a sufficiently large enough dose to induce a 57-year-old man
13 to commit suicide?

14 A. Yes.

15 MR. DAVIS: Objection, your Honor. Again, we're back
16 to where we started 30 days ago.

17 THE COURT: Overruled, sir.

18 MR. DAVIS: Thank you.

19 BY MR. WISNER:

20 Q. So, Doctor, please answer the question.

21 A. Yes.

22 Q. Okay. There was also some discussion by Dr. Rothschild
23 about whether or not there was an interaction between
24 underlying depression and anxiety and, let's say, drug-induced
25 akathisia.

1 Is there a relationship there that could affect a
2 person's suicidal behavior?

3 A. Yes, In two or three different ways. First of all,
4 there's the direct effect where the drug can make you
5 akathisic and give you thoughts about harming yourself that
6 you may never have had. And if you're also anxious and
7 depressed, you're going to be more vulnerable and less able to
8 handle this kind of thought than you would otherwise be.

9 But also the drug -- whatever causes akathisia causes
10 irritability. So you start arguing with your partner. You
11 start having problems at work. And they add in to the
12 picture. You're left with a growing number of problems that
13 you have to try and handle and in a less well-equipped state
14 to be able to handle them.

15 Q. Now, there was some discussion during the trial, this idea
16 of flipping a switch. Can the emergence of suicidal thinking
17 or behavior, because of Paxil, be sudden or abrupt?

18 A. Absolutely, yes. It can happen within a few hours of
19 going on the drug, so it can be that abrupt.

20 Q. And, Doctor, when it's that abrupt -- well, strike that.

21 Now, we also heard testimony from Dr. John Kraus.
22 Are you familiar with Dr. John Kraus?

23 A. Yes, I am.

24 Q. Have you read his depositions?

25 A. And articles, yes.

1 Q. Now, he went to -- are you familiar with in the 2006 GSK
2 analysis, they had 11 patients in the MDD group --

3 A. Yes, I am.

4 Q. -- that the suicide attempts. Are you familiar with that?

5 A. Yes, I am.

6 Q. Okay. Dr. Kraus went into some detail about those
7 individual 11 patients. He told this jury that none of them
8 had any symptoms or indications of akathisia. Is that true?

9 MR. DAVIS: Excuse me, Dr. Healy.

10 Your Honor, this is an undisclosed opinion. It's
11 nowhere in his report. It's nowhere else, and it's also not
12 proper rebuttal.

13 THE COURT: Overruled.

14 MR. DAVIS: Can I have a standing objection on that,
15 your Honor?

16 THE COURT: Yes.

17 MR. DAVIS: Thank you.

18 BY MR. WISNER:

19 Q. Is that true, Doctor?

20 A. Can I ask you to repeat the question for me?

21 THE COURT: Want it back? Yeah, read the question
22 back.

23 (Record read.)

24 BY THE WITNESS:

25 A. That's not true. At least half of them -- I would point

1 out as well that there were 12 attempts, not just 11, but at
2 least half of them have indications of akathisia.

3 The word akathisia is not used in the -- in the
4 accounts of what happened that GSK gives, but this is because
5 their coding dictionary didn't particularly permit them to use
6 akathisia.

7 BY MR. WISNER:

8 Q. I'm sorry, Doctor. You mentioned there was actually 12
9 suicide attempts in that data, is that right?

10 A. Yes, that's correct.

11 Q. Why did they only report 11?

12 MR. DAVIS: Objection, your Honor. This is outside
13 the scope of rebuttal. It's an undisclosed opinion, and this
14 is improper. It's also speculative.

15 MR. WISNER: They spent about an hour and a half on
16 the 11 patients. Turns out there's a twelfth one that was
17 never discussed. Seems right on point.

18 MR. DAVIS: Well, your Honor, this is --

19 THE COURT: Overruled, sir. Overruled.

20 MR. DAVIS: Mr. Wisner shouldn't be testifying,
21 either, your Honor.

22 THE COURT: No, you're right about that.

23 MR. DAVIS: And, again, can I have a standing
24 objection?

25 THE COURT: Yes.

1 MR. DAVIS: Thank you.

2 BY MR. WISNER:

3 Q. There was 12 suicide attempts in that data, Doctor?

4 A. There were.

5 Q. Was that 12th suicide calculated in any of the GSK
6 analysis?

7 A. Apparently not.

8 Q. Dr. Kraus said that the average time between starting
9 Paxil and the suicide attempt was upwards of 40 years for
10 those 11 attempts?

11 A. 40 days.

12 Q. Sorry. 40 days. I'm sorry. Is that true?

13 A. No, it's not. Half of the subjects had -- six out of 12
14 had suicide attempt within 12 days of starting the drug or a
15 change of dose.

16 Q. And when you say change of dose, does that mean an
17 increase?

18 A. Or decrease.

19 Q. Okay. Now, one of the things that Dr. Kraus discussed
20 with the jury was that none of these suicide attempts were
21 violent.

22 I'm showing you, Doctor, what has already been shown
23 to the jury and marked up as Plaintiff's Exhibit 347.

24 This reflects --

25 MR. DAVIS: Your Honor, excuse me.

1 THE COURT: I haven't heard the question, Mr. Davis.
2 Would you wait until I hear the question, please?

3 MR. DAVIS: Absolutely.

4 THE COURT: All right.

5 BY MR. WISNER:

6 Q. Doctor, have you seen this board before?

7 A. Yes, I have.

8 Q. And have you reviewed the data underlying this board to
9 determine which one or any of these completed suicides were
10 violent?

11 A. I have, yes.

12 MR. DAVIS: Excuse me. Here's my objection, your
13 Honor.

14 The 11 that Dr. Kraus talked about were not in the
15 analysis that Mr. Wisner is putting up in front of Mr. --
16 Dr. Healy and suggesting that the two are connected. They're
17 not.

18 This is a different analysis that Mr. Wisner did, and
19 Dr. Kraus specifically talked about the 11 patients in the MDD
20 subgroup as part of the 2006 analysis. So, we're talking
21 about two separate things here, and it's not rebuttal. It's
22 not connected up at all to what Dr. Kraus said.

23 MR. WISNER: Your Honor, this testimony is going to
24 rebut Dr. Kraus's opinion that the suicides induced by Paxil
25 were not violent.

1 MR. DAVIS: He talked --

2 MR. WISNER: I believe this directly responds to that
3 opinion by Dr. Kraus.

4 THE COURT: Were not vital, you said?

5 MR. WISNER: No, were not violent. He testified that
6 they were not violent.

7 THE COURT: Oh, violent.

8 MR. WISNER: Violent. Yes, I'm sorry. My ear is
9 pretty clogged. I can't hear.

10 THE COURT: Were not violent, that's what this goes
11 to.

12 MR. WISNER: Yes.

13 THE COURT: All right. You may proceed.

14 MR. DAVIS: And, your Honor, also it's outside the
15 scope of rebuttal, your Honor, and it's cumulative. We've
16 heard this.

17 THE COURT: You may proceed.

18 BY MR. WISNER:

19 Q. So, Doctor, of these 22 people who killed themselves while
20 taking Paxil in GSK's clinical trials, how many of them were
21 violent?

22 A. 16.

23 Q. And do you know which ones were violent?

24 A. I do. I've been through them.

25 Q. Okay. Can you list them off for me?

1 A. Nos. 1 and 2, 5, 6, and 7, and then you skip one, and 9,
2 10, 11, 12, and 13. Then skip two. 16, 17, and 18. And skip
3 one. 20, 21, and 22.

4 Q. And can you please describe to the jury just briefly some
5 of the types of violent acts that these suicides constituted.

6 A. There were a range of acts from hanging to gunshot wounds
7 to throwing themselves in front of trains.

8 Q. Was there, in fact, a murder-suicide in there, too?

9 A. There may well be. I can't remember the full details of
10 all of them.

11 Q. Okay. Now, during Dr. Kraus's testimony, he relayed to
12 the jury that GSK was very good about relating adverse events
13 that occurred in their clinical trials.

14 Is that statement true, Doctor?

15 A. No.

16 MR. DAVIS: Objection, your Honor, in terms of
17 characterizing Dr. Kraus's testimony with no reference at all
18 as to what the --

19 THE COURT: Yeah, sustained, as to whether it's good
20 or not.

21 MR. DAVIS: Thank you.

22 BY MR. WISNER:

23 Q. Let me ask you this question, Doctor. Has GSK accurately
24 reported suicide events in their Paxil clinical trials?

25 A. No, they haven't.

1 Q. What evidence do you have to back that statement up?

2 A. Well, I have been able to analyze the data from one of
3 GSK's major depressive disorder trials and, in particular, to
4 look at the suicidal events that happened in that trial.

5 MR. DAVIS: Your Honor, we're back to where we were
6 30 days ago with Dr. Healy talking about this very same issue.

7 THE COURT: Overruled, sir.

8 MR. DAVIS: It's not rebuttal.

9 THE COURT: Sir, overruled.

10 MR. DAVIS: Thank you.

11 BY MR. WISNER:

12 Q. Doctor, if you turn to Plaintiff's Exhibit 352 in your
13 binder. Oh, do you have --

14 A. I don't have a binder.

15 Q. It's a very skinny one.

16 A. Okay. Well, that's just as well because if you remember
17 last time I was here with a very thick binder, I had great
18 difficulties with it.

19 Thanks very much.

20 Q. Plaintiff's Exhibit 352, Doctor.

21 A. I'm looking at this the wrong way around. Give me just a
22 moment.

23 Okay. I think I've got it, yes.

24 Q. What is that exhibit, sir?

25 A. That's from an article that I wrote on the clinical trial

1 that you just heard me mention, and this is a representation
2 of the data on the subjects in the trial becoming suicidal.

3 Q. Now, how did you have such direct access to this data?

4 A. There were two aspects to it. One was this was a trial of
5 major -- of Paxil and major depressive disorder for which
6 there was more than the usual amount of data available in the
7 public domain anyway.

8 But we did -- a good deal of what we did the jury,
9 for instance, could do.

10 There was also a further extra bit, which working
11 with GSK, they gave us access to further material that's not
12 in the public domain.

13 Q. GSK let you audit the data?

14 A. That's correct, yes.

15 Q. And you and how many other scientists were involved in
16 this project?

17 A. It was a team of seven different people, me and six others
18 in three different countries.

19 Q. And does Plaintiff's Exhibit --

20 A. Four different countries.

21 Q. Oh. And does Plaintiff's Exhibit 352 reflect the
22 variations of data that you found as related to suicidal and
23 self-injurious behavior?

24 A. Yes, it does.

25 MR. WISNER: Permission to publish, your Honor.

1 MR. DAVIS: Your Honor, I have an objection. I have
2 no way to know if that information on that graphic is
3 accurate. I haven't been provided with the data to back up.
4 You may recall Mr. Wisner cited the best evidence rule during
5 Dr. Gibbons' testimony about putting the actual documents on
6 there, and I would reiterate that.

7 I can't cross-examine a graphic that I've never seen
8 before until -- and I think it's improper.

9 MR. WISNER: To be clear, your Honor, this is a
10 graphic from the peer-reviewed journal article that he
11 published several years ago. It has been in the public
12 domain, and they've actually deposed him on this issue. So
13 that's complete nonsense that they don't know where it's
14 coming from.

15 MR. DAVIS: Your Honor, I have no way to match up the
16 documents that Dr. Healy says are on --

17 THE COURT: Well, let's find out. We'll see. You
18 can conduct cross-examination on it.

19 So proceed.

20 MR. DAVIS: May I have a standing objection, your
21 Honor?

22 THE COURT: Yes.

23 MR. DAVIS: Thank you.

24 BY MR. WISNER:

25 Q. All right, Doctor, what are we looking at here? What does

1 this graph show?

2 A. What you're looking at is the original publication of this
3 trial, which is on the bottom, which is called Keller here
4 because the first author was a man called Martin Keller.

5 And this shows you that there were five suicidal acts
6 in the published article that appeared on Paxil versus three
7 on the drug paroxetine was being compared with and one on
8 placebo.

9 Q. Is that it right here, Doctor?

10 A. These for the most part were coded as having emotional
11 lability.

12 Q. Is that what I circled here, Doctor?

13 A. Yes.

14 Q. And what is the SKB one above it?

15 A. This is SmithKline Beecham later giving the data -- when
16 asked more about the data, offering these figures here. And
17 this is the kind of figure that the jury, for instance, could
18 get from company documents that are on the company website.
19 And it gives you a different picture.

20 You see that there were actually more suicidal events
21 on Paxil than on the active comparator it was being compared
22 with and on placebo, more than there had been published
23 beforehand.

24 Q. And then the top one here, it says RIAT, what is that?

25 A. RIAT stands for Restoring Invisible and Abandoned Trials,

1 and this was the code name we gave the team. One of them was
2 based in the States, one was Canadian, two Australian and two
3 in the UK. There must be three Australians to make that work.

4 Q. And what does this chart reflect?

5 A. And this shows that when we get a chance to look at the
6 raw data what we actually find. And, in fact, there's more
7 than this here. This is just from the acute phase of the
8 clinical trials, the first eight weeks.

9 It has a taper phase as well, so that's why some of
10 it goes beyond eight weeks, but it has a continuation phase,
11 and that phase is not shown here at all.

12 But you see that in actual fact that when we get
13 access to the raw data, there were three times more suicidal
14 events in the data on Paxil than in the published article, and
15 there were more suicidal events than SmithKline Beecham
16 represented to FDA, for instance.

17 Q. Now, Doctor, this was a review done on a single study,
18 329, is that right?

19 A. Correct.

20 Q. Has any audit by an independent group, like the RIAT
21 group, ever been done on any other GSK Paxil product?

22 A. I don't believe anyone has had the opportunity to do just
23 what we've done. But one point to add in to what we've done
24 is we made the data publicly available on Study329.org website
25 and on the BMJ website where this was published. So, in terms

1 of what counsel for GSK are saying, they can -- they
2 absolutely have access to the documents so they can validate
3 what we are showing here. They don't have to apply to me.
4 It's all there. It's been there for two years.

5 Q. To be clear, Doctor, have you asked GSK to critique or
6 comment on your reanalysis?

7 A. Yes, we have said --

8 MR. DAVIS: Objection, your Honor. Relevance. And
9 we're far beyond anything having to do with rebuttal for
10 Dr. Kraus.

11 THE COURT: All right. How is this rebuttal?

12 MR. WISNER: This is going to the reliability of data
13 collection. He vouched for the reliability of the data
14 underlying his analysis. This goes right to the heart of it.
15 It's not reliable.

16 MR. DAVIS: Your Honor, it's not even an adult study.
17 Dr. Kraus focused on adult studies, adult analyses, and this
18 is not even that.

19 MR. WISNER: Your Honor, there's an intellectual
20 disconnect between the idea that they would somehow
21 misrepresent data with children and not with adults. I don't
22 see how that has any bearing.

23 MR. DAVIS: Your Honor, that's an inappropriate
24 discussion, and I would ask that those comments be stricken.
25 If we want to have that discussion, we can go do sidebar, but

1 this is not a point to try to make your case in front of the
2 jury.

3 MR. WISNER: Respectfully, he brought up pediatrics.
4 I didn't.

5 THE COURT: All right. Proceed.

6 BY MR. WISNER:

7 Q. To be clear, Doctor, did you ask GSK to critique this
8 data?

9 A. We had put the data out there and said we welcome any
10 critique from GSK or anyone else who has any other views, and
11 GSK hasn't critiqued what we put up there. They haven't said
12 that we got things wrong.

13 MR. WISNER: Your Honor, one second.

14 BY MR. WISNER:

15 Q. All right, Doctor. Both -- all Dr. Kraus, Gibbons, and
16 Rothschild talked about the importance of focusing on
17 placebo-controlled clinical trial data. And in a second, I'm
18 going to ask your opinion if you think that's correct.

19 But before we do that, even if we just look at the
20 placebo-controlled trial data, is there a signal for suicide
21 risk in adults?

22 MR. DAVIS: Your Honor, I'm going to object. This is
23 not rebuttal. This was covered by Dr. Healy on March 14th --
24 excuse me, March 15th and March 16th.

25 MR. WISNER: We're responding directly to all three

1 of their experts saying you can only look at
2 placebo-controlled trial data. This is rebuttal.

3 MR. DAVIS: He --

4 THE COURT: Overruled, overruled. He may testify,
5 sir.

6 BY THE WITNESS:

7 A. Yes, there's a very clear view if you take into account
8 the fact that there were 12 rather than 11 suicide attempts in
9 the MDD data, the 6.7 figure that the jury has been hearing a
10 lot of really should be something more like 7.3.

11 BY MR. WISNER:

12 Q. Now, Doctor, there was a lot of discussion by each of the
13 defendant's experts related to the issue of statistical
14 significance. And we ourselves discussed the issue a bit on
15 direct.

16 I want to talk to you a little bit about how that
17 applies in a probability curve. Are you familiar with that,
18 Doctor?

19 A. Yes, I am.

20 Q. Explain to the jury what a probability curve is?

21 A. Well, when -- I mean, this is an issue about what
22 statistics mean, and they begin by meaning an effort to
23 describe data. And most people would hold on to that view,
24 that it's -- that we're not asking to be clear that it's about
25 probability as such. It's about a description of the data.

1 Now, in terms of a probability curve, that shows the
2 distribution of the data and where it falls in terms of
3 100 percent probability, 95 percent probability, 90 percent
4 probability, all the way down.

5 Q. I understand that you've actually prepared a graph that's
6 been shown in various depositions that reflect the probability
7 curve of some of the data from the FDA's analysis, is that
8 right?

9 A. Correct.

10 Q. Please turn to Plaintiff's Exhibit 365 in your binder.

11 A. I keep looking at this the wrong way around.

12 Q. Is that the -- is that a copy of a probability curve
13 you've generated?

14 A. Give me one second.

15 Yes, it is.

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

17 THE COURT: You may proceed.

18 MR. DAVIS: Your Honor, I just renew my objection.

19 Can I have a standing objection?

20 THE COURT: Yes, you may.

21 MR. DAVIS: Thank you.

22 BY MR. WISNER:

23 Q. All right, Doctor. So, first of all, what are we looking
24 at here?

25 A. You're looking at the data from FDA's 2006 review of the

1 suicides and suicide attempts and suicidal behavior generally
2 from the clinical trials of antidepressants that were done.

3 Q. Okay. So, this is from the Stone-Jones report, is that
4 right?

5 A. Yes, correct.

6 Q. All right. Now, the yellow line --

7 MR. DAVIS: Your Honor, I object to this, because
8 this has to do with SSRIs versus placebo. When I was asking
9 Dr. Gibbons questions along this line, plaintiff objected, the
10 Court sustained it, and this is not about paroxetine
11 specifically.

12 THE COURT: Overruled. You may inquire on
13 cross-examination.

14 BY MR. WISNER:

15 Q. What does the yellow lines reflect?

16 A. These are the data on suicidal behavior in the 45- to
17 55-year-old group.

18 Q. Okay. So, that's just the small group of between 45 and
19 55?

20 A. Yes, correct.

21 Q. Okay. And then what is the red line? What are those
22 referring to?

23 A. That shows the data from the under 25s.

24 Q. So, would it be fair to say they have a nearly identical
25 point estimate? Is that what that point is right there?

1 A. Yes.

2 Q. So, when we talk about point estimate, we talked, for
3 example, about a 6.7 increase, right? Is that a point
4 estimate?

5 A. Yes, it is.

6 Q. Okay. So, the point estimates are very similar, but the
7 curves extending from that are different. What does that
8 reflect, Doctor?

9 A. Yes. Now, the point behind this for the jury is this. If
10 you say that statistical significance is the key thing that
11 counts, and it is an important thing, and placebo-controlled
12 trials are very important in terms of the efficacy of a drug.
13 And this is where statistical significance comes into its own.

14 We want to stop people who may be trying to make
15 money out of people when they're vulnerable with a drug that
16 doesn't work. So, we set a very high barrier to their claim.
17 They have to show to a 95 percent significance level that this
18 drug does something useful.

19 But if you see here -- and if this graph was about
20 two drugs, one which would be the red drug here and one as the
21 yellow drug, and we're looking at whether these actually work,
22 we would -- FDA would hold the people making the yellow drug,
23 they'd say to them, look, you haven't shown this drug works,
24 because they're extremely concerned to make sure that
25 vulnerable people don't get things when there's any chance

1 that it may not work.

2 MR. DAVIS: Your Honor --

3 BY THE WITNESS:

4 A. But if we're talking about harms, if we're talking about
5 harms, the key point behind the curve here is this: That as
6 you see, most of the data all falls to the right-hand side of
7 the line.

8 The yellow curve here is not what GSK's experts would
9 say is statistically significant, but what you can see is that
10 the data for the 45- to 55-year age group is almost identical
11 to the data for the under-25-year age group.

12 96 percent of the data falls to the right-hand side
13 of the 1.0 line in the case of the red curve, and 94 percent
14 falls to the right-hand side of the 1.0 line in the case of
15 the yellow curve.

16 So, essentially, with both drugs, almost all the data
17 falls on the harms side.

18 Now, when we're talking about harms, we're not
19 talking about something where we're trying to --

20 MR. DAVIS: Your Honor, we're so far --

21 THE COURT: Mr. Davis, do not interrupt while he's
22 answering a question, sir.

23 MR. DAVIS: Yes, but your Honor --

24 THE COURT: Do I have to tell you that again?

25 MR. DAVIS: No, sir, you don't.

1 THE COURT: Please wait until he finishes the answer.

2 MR. DAVIS: Yes, sir, I will.

3 THE COURT: That's the only way we can run a trial.

4 MR. DAVIS: I understand, your Honor.

5 THE COURT: So please sit down and wait until he
6 finishes.

7 MR. DAVIS: I will wait until he finishes. Thank
8 you.

9 BY THE WITNESS:

10 A. When we're talking about harms, if there's any hint of a
11 harm, you and I would hope that a company and doctors would
12 take that hint extremely seriously. The point here is there's
13 much more than a hint here. It's almost for certain that
14 there are harms. That's the point being made.

15 THE COURT: Mr. Davis.

16 MR. DAVIS: Thank you.

17 Your Honor, there's a couple of things problematic.
18 One is the witness testified about what the FDA would hold
19 certain other people to do. I don't think he has the
20 authority to speak for the FDA. Your Honor's been consistent
21 about that with other witnesses. I ask that to be disregarded
22 and stricken from the answer.

23 THE COURT: I think you're right.

24 MR. DAVIS: Thank you. I appreciate it.

25 THE COURT: Anything else?

1 MR. DAVIS: And I apologize for interrupting
2 Dr. Healy.

3 THE COURT: All right. Proceed.

4 MR. WISNER: Okay. Oh, sorry.

5 THE COURT: As I understand your testimony, you were
6 telling us about the function of the P value.

7 THE WITNESS: Yes, your Honor.

8 THE COURT: That's really what this is about.

9 THE WITNESS: And it's when it comes --

10 THE COURT: And, of course, the jury and I need all
11 the help we can get to understand that.

12 THE WITNESS: Yes.

13 THE COURT: And that's what you're telling us.

14 THE WITNESS: And the point is that --

15 THE COURT: And to the extent that you're explaining
16 the P value, your testimony may stand.

17 THE WITNESS: Thank you very much, your Honor.

18 BY MR. WISNER:

19 Q. Now, to be clear, Doctor, under the statistical
20 significance standard espoused by GSK, there is a risk for the
21 red, but none for the yellow because of the small little gap
22 right there at that corner, is that right?

23 A. That's correct.

24 Q. Now, turning to the question I wanted to start off with,
25 is it appropriate, Doctor, to only look at placebo-controlled

1 clinical trial data when evaluating a safety risk?

2 A. No. Placebo-controlled trial data is extraordinarily
3 important in terms of bringing a drug on the market. But as
4 I've indicated, the key thing is we want to try and make sure
5 that people don't bring a drug that doesn't work on to the
6 market where it might harm -- if we're vulnerable, and we're
7 inclined to take things that we maybe shouldn't take. And FDA
8 are trying to ensure that the risk that we're getting a drug
9 that doesn't work are extraordinarily low.

10 But the other way around, when it comes to harms, any
11 hint of a harm is the kind of thing that FDA and everybody
12 would hope a company would take very seriously.

13 And in terms of hints of harm, it's not just
14 placebo-controlled trial data. It's -- I mean, the
15 placebo-controlled trial data may miss it. With the best will
16 in the world, the company may not collect the data.

17 For instance, if we give Paxil here in court,
18 everybody in the court would have genital anesthesia within 30
19 minutes. That wasn't collected. Dr. Gibbons, Dr. Rothschild
20 could have come in here and argued from the placebo-controlled
21 trial data, there's no evidence for sexual dysfunction on this
22 drug when close to 100 percent of the people have their
23 intimate lives affected.

24 So, if the data aren't collected, then you aren't
25 going to see a risk.

1 There are other things that happen outside a six-week
2 time frame of the typical trial, like, for instance, SSRIs can
3 make people drink more. In the case of two of the suicide
4 attempts that Dr. Kraus talked about, you've got people who
5 drink more alcohol on the SSRI, but it's not the kind of thing
6 that a clinical -- the usual six-week clinical trial is going
7 to pick up.

8 It is the kind of thing, though, based on instances
9 like this, most of the pharmaceutical companies, without
10 placebo-controlled trial data to support them, have developed
11 or are now developing drugs to counter -- to help alcoholism
12 that work in the opposite way to an SSRI. So, that's without
13 placebo-controlled trial data. And, of course, they wouldn't
14 have done placebo-controlled trials if, in a sense, they
15 didn't know the drug was going to work to begin with.

16 So, the placebo-controlled trial is a useful tool to
17 try and hold people to a very high standard, but it's not the
18 kind of way doctors practice when they're treating patients.
19 It's not the way juries live their life. And the legal system
20 wouldn't work if you only admit into evidence things that are
21 placebo-controlled.

22 MR. DAVIS: Your Honor, I believe we're now into
23 legal opinions, and I would ask that that be stricken.
24 Dr. Healy doesn't have expertise in that area.

25 THE COURT: Well, yes.

1 MR. DAVIS: Thank you.

2 The other thing, your Honor, is I think we also
3 slipped back into the answer about what the FDA would do and
4 other companies would do, and that was also not within the
5 witness's expertise.

6 THE COURT: Yes. You pointed that out. Thank you.

7 MR. DAVIS: I'd ask the jury to disregard it, your
8 Honor.

9 THE COURT: Yes.

10 MR. DAVIS: Thank you.

11 BY MR. WISNER:

12 Q. All right, Doctor. That said --

13 A. Yes.

14 Q. -- to be clear, tell me if this is a fair summary.

15 Placebo-controlled clinical trials are important, but they're
16 not the whole picture. Is that fair?

17 A. Absolutely, yes.

18 Q. Okay. Now, even if we did just look at the

19 placebo-controlled trial data, did GSK and did the FDA

20 actually look at all the placebo-controlled trials on Paxil?

21 A. No, they didn't.

22 Q. What do you mean?

23 A. Well, there were what GSK referred to as the central

24 trials that were funded by GSK centrally, and then there were

25 the locally-funded trials. And the locally-funded trials

1 appeared not to have been reported.

2 Q. Are you familiar with a clinical trial registry that is
3 put on GSK's website?

4 A. Yes, I am.

5 Q. And did you notice that there were locally-funded studies
6 on there that weren't in their 2006 analysis or the FDA's
7 analysis?

8 A. Well, I knew that FDA -- earlier, when they'd been
9 considering these issues, had not been looking at all of GSK's
10 trials. I was aware of trials that FDA appeared not to be
11 aware of.

12 Q. Did you actually raise this exact issue with the FDA?

13 A. I did, yes.

14 Q. What did they tell you?

15 A. Their response was we can only deal with what we have,
16 basically.

17 MR. DAVIS: Your Honor, that's hearsay. I'd move to
18 strike that.

19 THE COURT: It may stand.

20 BY MR. WISNER:

21 Q. Now, Doctor, how many completed suicides were there in
22 GSK's 2006 analysis for MDD?

23 A. There were none.

24 Q. Were there no completed suicides in the Paxil clinical
25 trials?

1 A. No, that's not true. There were a much larger number of
2 completed suicides.

3 Q. Have you seen any analysis done by GSK to explore -- to
4 conduct a psychological autopsy of these 22 people who killed
5 themselves while taking Paxil during their clinical trials?

6 A. No, I haven't.

7 MR. WISNER: No further questions, your Honor.

8 THE COURT: Cross-examination, sir?

9 CROSS-EXAMINATION

10 BY MR. DAVIS:

11 Q. Dr. Healy, good afternoon.

12 A. Good afternoon.

13 Q. How are you doing?

14 A. Not too bad.

15 Q. All right.

16 A. Up till now. I hope I'm doing just as well later on this
17 afternoon.

18 Q. We all hope you're doing just as well later this
19 afternoon.

20 I couldn't help but notice that I thought you were
21 referring to something and looking down at something while you
22 were testifying.

23 A. Yes.

24 Q. Do you have something in front of you?

25 A. I do, yes.

1 Q. What is it?

2 A. Well, it's the -- it's the board here, which I was looking
3 at last night and looking through the details of.

4 Q. May I have -- may I see your notes?

5 A. You certainly can.

6 MR. DAVIS: May I approach the witness, your Honor?

7 THE COURT: Yes.

8 MR. DAVIS: Thank you.

9 BY MR. DAVIS:

10 Q. Thank you, Doctor.

11 So, as I understand what you've handed me, you've got
12 two sheets. One is a sheet that's got the 22 folks, the folks
13 on the board back here, right?

14 A. That's correct, yes.

15 Q. And then the other sheet is called the briefing document,
16 and you've got patient numbers on the left, and you've got
17 some notes on there as well, right?

18 A. Correct.

19 Q. Okay. Just so we understand each other correctly, and
20 everyone's on the same page, this board right here, that is
21 not a board of the 11 patients in the MDD subgroup analysis
22 that GSK did in 2006, correct?

23 A. The 12 patients, yes, correct.

24 Q. Well, we can disagree on that, and we'll get there. But
25 the -- but it's not a listing of that subgroup of MDD patients

1 in 2006, right?

2 A. That's correct.

3 Q. And, in fact, this board contains both controlled and
4 uncontrolled data, in the sense that some of these patients
5 who had -- who committed suicide did so not in a
6 placebo-controlled trial, right?

7 A. Yes.

8 Q. That's right.

9 And you -- when you came here over 30 days ago,
10 around 30 days ago, you talked about the differences between
11 placebo-controlled trials and uncontrolled trials, right?

12 A. I certainly talked about placebo-controlled trials.

13 Q. You did.

14 A. Correct.

15 Q. And you also talked about other things as well and your
16 views about other data, did you not?

17 A. Well, you'll have to be a little bit more specific than
18 that.

19 Q. Now, with respect to the patients -- I'm going to circle
20 back to the 11 patients briefly, Doctor, but let me kind of
21 step back for a second. Since you've been -- you were
22 dismissed from the stand about 30 days ago, have you followed
23 this trial?

24 A. No, I haven't.

25 Q. Have you read any of the transcripts?

1 A. I've read part of mine, but apart from that, no.

2 Q. Were you told about what people said on the stand?

3 A. Not especially, no. I mean, I vaguely asked how things
4 were going, but apart from that --

5 Q. And the reason I'm asking you that is at one time during
6 Mr. Wisner's questioning of you, you actually stopped him and
7 said that Dr. Kraus had said that there were actually -- it
8 was 40 days that were the average patients that had some kind
9 of event?

10 A. I read Dr. Kraus's article, and that's what I was
11 referring to.

12 Q. You were referring to Dr. Kraus's article.

13 A. Yes.

14 Q. Okay. And when did you come back to testify? When did
15 you leave Wales?

16 A. I left Wales on Sunday.

17 Q. This Sunday?

18 A. Yes.

19 Q. Okay. And you were asked to come back and testify on --
20 before that?

21 A. I was told -- I was told on Friday morning that there
22 might be a chance I would be coming back. It was confirmed
23 Friday evening, and I flew Sunday. And I was told I would
24 likely be on on Wednesday. I took a dim view of that, because
25 I know these things tend to take longer than people expect.

1 Q. So, before Dr. Kraus even got in that witness chair, you
2 had already been asked to come back and testify at the trial.

3 A. Well, I've been reading Dr. Kraus's article for years
4 before this trial ever happened.

5 Q. Can you circle back to my question? My question was
6 simply before Dr. Kraus ever got on that witness stand, you
7 had been asked by the lawyers that have retained you to come
8 to Chicago and -- maybe because you may have to testify.

9 A. I have to tell you, I have answered your question, because
10 I don't know when Dr. Kraus got on the witness stand.

11 Q. Well, I'll tell you. He came on the witness stand the day
12 after you left Wales?

13 A. He came on the witness stand on Monday, is that what
14 you're saying?

15 Q. He came on the witness stand on Monday.

16 A. Okay.

17 Q. And he was on the witness stand before that. Did you know
18 that?

19 A. I don't know when Dr. Kraus came on the witness stand. I
20 haven't been following this.

21 Q. So you arrived in Chicago on -- a week ago.

22 A. No, it was Sunday evening.

23 Q. Sunday --

24 MR. WISNER: Your Honor, I'll object. This is
25 getting silly, irrelevant.

1 BY MR. DAVIS:

2 Q. And for purposes --

3 MR. WISNER: I have an objection.

4 MR. DAVIS: I'm going to get to my point, your Honor.

5 BY MR. DAVIS:

6 Q. For purposes of these notes, I take it that you sat down
7 with Mr. Wisner and you kind of went through what you were
8 going to describe on the witness stand.

9 A. No, I have to tell you, for the most part, Mr. Wisner, as
10 you may have noticed, has been pretty sick, so I've seen very
11 little of Mr. Wisner, and I haven't wanted to be in the same
12 room with Mr. Wisner in case I caught the same cold.

13 MR. RAPOPORT: Yeah, me, either.

14 BY MR. DAVIS:

15 Q. So your testimony is that you didn't sit down with him at
16 all or discuss with him the points that you would make on the
17 witness stand.

18 A. Not quite the testimony. We met first thing today.

19 Q. Today.

20 A. Yes.

21 Q. You got in on Sunday and -- okay. And you met today.

22 Dr. Healy, what's the patient ID number of the
23 patient that you claim is the 12th suicide attempt in the MDD
24 analysis?

25 A. Well, if you gave me the briefing document and if you give

1 me my own notes back, I'll be able to help you with that.

2 Q. Yep. The patient ID numbers are on the left?

3 A. I don't have the briefing document. I've just got 006,
4 but this isn't probably the full way to identify this patient.
5 It was a 35-year-old male.

6 Q. And where did you get that patient ID number from?

7 A. From GSK's briefing document.

8 Q. From one of the briefing documents?

9 A. From the briefing document, as I call it. It's the
10 300-page document from 2006.

11 Q. And you don't have the patient ID number so I can take
12 that particular note you've made and kind of square it up and
13 see whether you're right if there's a 12th patient?

14 A. Oh, if you hand me the briefing document, as I've told
15 you, I can hand you the full details of the patient instantly.

16 Q. Okay. When we get a break, I will do that, Dr. Healy,
17 because I want to know who that 12th patient is.

18 Now, is that a patient who is in an MDD trial?

19 A. Yes, I believe it is.

20 Q. And it's not the placebo patient who's the one, is it?

21 A. It's not the placebo patient who's the one, no.

22 Q. Now, when you came to Chicago, did you speak with Michael
23 Baum?

24 A. Michael Baum and myself certainly speak. We haven't
25 talked about the trial. We talked about things like football

1 and various things like that and --

2 Q. So, you're here for about four or five days but not
3 talking with the lawyers about what you may testify about.

4 A. I have spent a great deal of time on my own. I have been
5 looking through things, like the briefing document, where, to
6 my great surprise, I found a 12th suicide attempt.

7 Q. And when did you discover that 12th, as you put it,
8 suicide attempt?

9 A. I think probably yesterday morning, perhaps the morning
10 before. Certainly in the last day or two.

11 Q. So, this is something that's new that you've never shared
12 with anybody before; true?

13 A. Well, I haven't looked through the briefing document in
14 the expectation that there would be a suicide attempt in there
15 that GSK didn't include, for instance, in the Kraus paper or
16 in the way -- in the statistical handling of the data.

17 Q. This claim about a 12th patient that you say is an MDD
18 patient who had a suicide attempt from the GSK 2006 analysis,
19 that's not in your expert report, is it?

20 A. It's not in my expert report, no. But I -- I mean, the
21 issue about the number of patients isn't particularly a
22 feature of my expert report either way, whether it's 11 or 12.

23 Q. But you say you discovered that 12th patient within a few
24 days before you've just taken the stand, right?

25 A. Looking through the briefing document, there is a 12th

1 patient there, which has been sitting there for --

2 Q. And you say --

3 A. -- 10 years.

4 Q. -- and my question is you discovered that, you say, a
5 couple of days before you took this witness stand, right?

6 A. Yes.

7 Q. Okay. Now, you follow the literature, Dr. Healy, on
8 whether SSRIs or paroxetine are associated with or not
9 associated with suicidal thoughts and behavior, right?

10 A. I do, yes.

11 Q. And you knew about the 11 patients that are part of the
12 MDD subgroup analysis that GSK did in 2006. You've known that
13 for a long time, haven't you?

14 A. I've known about that for a long time, but as I explained
15 in my previous testimony, my interest in that data was how GSK
16 had used study 057 and 106 to cloud the picture, and I tried
17 to illustrate how GSK had done that to the jury.

18 That was my interest in the data. That data, as
19 such, is not the cornerstone of my case that Paxil can cause
20 people to become suicidal.

21 Q. Yeah, I think, Doctor, my simple question was you've known
22 about the 2006 analysis that GSK's done. You've known that
23 for several years, right?

24 A. I have, yes.

25 Q. And you've also -- you've known about the Carpenter and

1 the Kraus articles that GSK employees had published for
2 several years, have you not?

3 A. Probably close to the time that they actually got
4 published, yes.

5 Q. And you had both of those articles before you finalized
6 your report in this case, did you not?

7 A. I had both of those reports before I finalized my report
8 in this case, yes.

9 Q. Your report is dated March 25, 2014, is it not?

10 A. It probably is, yes.

11 Q. And your report is over 120 pages in length, true? I can
12 hand it to you if you'd like me to.

13 A. No, no, no. That's fine. It is, yes.

14 Q. And it's even single-spaced and typed up very neatly, is
15 it not?

16 A. It's reasonably neatly, I think, yes.

17 Q. And -- where is it?

18 MR. DAVIS: May I approach, your Honor?

19 THE COURT: Yes.

20 BY THE WITNESS:

21 A. Thank you very much.

22 BY MR. DAVIS:

23 Q. Dr. Healy, that's a copy of your expert report in the
24 case, is it not?

25 A. It would appear to be, yes.

1 Q. And you have a section in your report called
2 GlaxoSmithKline's April 2006 analysis, did you not?

3 A. I did, yes.

4 Q. That's on page -- starts on page 29, right?

5 A. Thank you for giving me the number.

6 Yes, it does.

7 Q. And, in fact, in that section, you don't have -- you don't
8 speak to one word about any of the 11 MDD patients that GSK
9 identified in its 2006 adult analysis, true?

10 A. That's not the purpose of the report. That's not what I'm
11 doing in the report, correct.

12 Q. Well, I'm going to get -- well, I'll let Mr. Wisner ask
13 you all of those questions. Mine was simply that in that
14 particular section of the report, there's not one thing about
15 the 11 patients that GSK identified in its subgroup analysis
16 in 2006, right?

17 A. I don't go into the details of the patients if that's what
18 you're asking.

19 I'm not fully sure what you're asking. The 11
20 patients are mentioned. They're in a table here, but I don't
21 go into the details of the patients, that's correct.

22 Q. In that section of your report, you don't say one word
23 about any of those patients having either akathisia or
24 agitation or any other drug-induced, as you put it, side
25 effect, true?

1 A. I've been writing the report -- it is the case that I
2 didn't do that in this report, but it's not the case that I
3 couldn't have done it.

4 Q. Well, if we can just focus on my question, because I think
5 it's either a yes or a no.

6 In that section where you talk about GSK's 2006
7 analysis that you knew all about before you finalized your
8 report, there's not one word about agitation or akathisia or
9 any other drug-induced side effect from -- in those patients
10 that you -- that are identified by GSK in the MDD subgroup
11 analysis.

12 A. Akathisia and drug-induced problems occurred throughout
13 the report, but in terms of those 11 patients, I haven't gone
14 into the particular profile of those patients. That wasn't
15 the use that I put that particular piece of work to.

16 Q. So, if we were to ask the question are -- is there any
17 discussion of those 11 patients identified by GSK where you
18 say that there is either akathisia or agitation or some other
19 claimed side effect from paroxetine, we would have a big zero
20 in that section, correct?

21 MR. WISNER: Objection, your Honor. Asked and
22 answered several times. I don't know if this is deliberate,
23 but --

24 BY THE WITNESS:

25 A. The issue wasn't addressed in the report.

1 BY MR. DAVIS:

2 Q. So, it's not there in that section.

3 MR. WISNER: Objection.

4 BY THE WITNESS:

5 A. It's not addressed in the report.

6 BY MR. DAVIS:

7 Q. Well, we're going to get to the other parts of your
8 report, Dr. Healy.

9 There's also a section in your report that's called
10 the Kraus -- where there's a section called medical
11 literature, right? That's on page -- I think it begins about
12 on page 46.

13 A. 47? I've got 47 here. I've got the title.

14 Q. Okay. And there's a section there called medical
15 literature, right?

16 A. There is, yes.

17 Q. And we know that the Carpenter and the Kraus papers are
18 medical literature because they're published, right?

19 A. Correct.

20 Q. Why don't you point to the place in that section of your
21 report where you say that these -- that the 11 patients in the
22 MDD subgroup analysis have agitation or akathisia or some
23 other drug-induced side effect from paroxetine.

24 A. Well --

25 Q. Can you point that to us, Doctor?

1 A. That's not an issue -- that's not an issue that I
2 addressed in the report.

3 My use of these patients was different. I was trying
4 to show the Court and the jury how GSK had used the 11
5 patients and other patients from two other trials to hide the
6 signal from the 11 patients. That was the point of using
7 these data in this report.

8 Q. So, if we went back and looked at what your report would
9 say --

10 THE COURT: Let's go to sidebar.

11 BY MR. DAVIS:

12 Q. -- about that --

13 THE COURT: Let's go to sidebar.

14 Maybe we should take a recess. It's a good time for
15 a recess. Then we can discuss this.

16 (Jury exits courtroom.)

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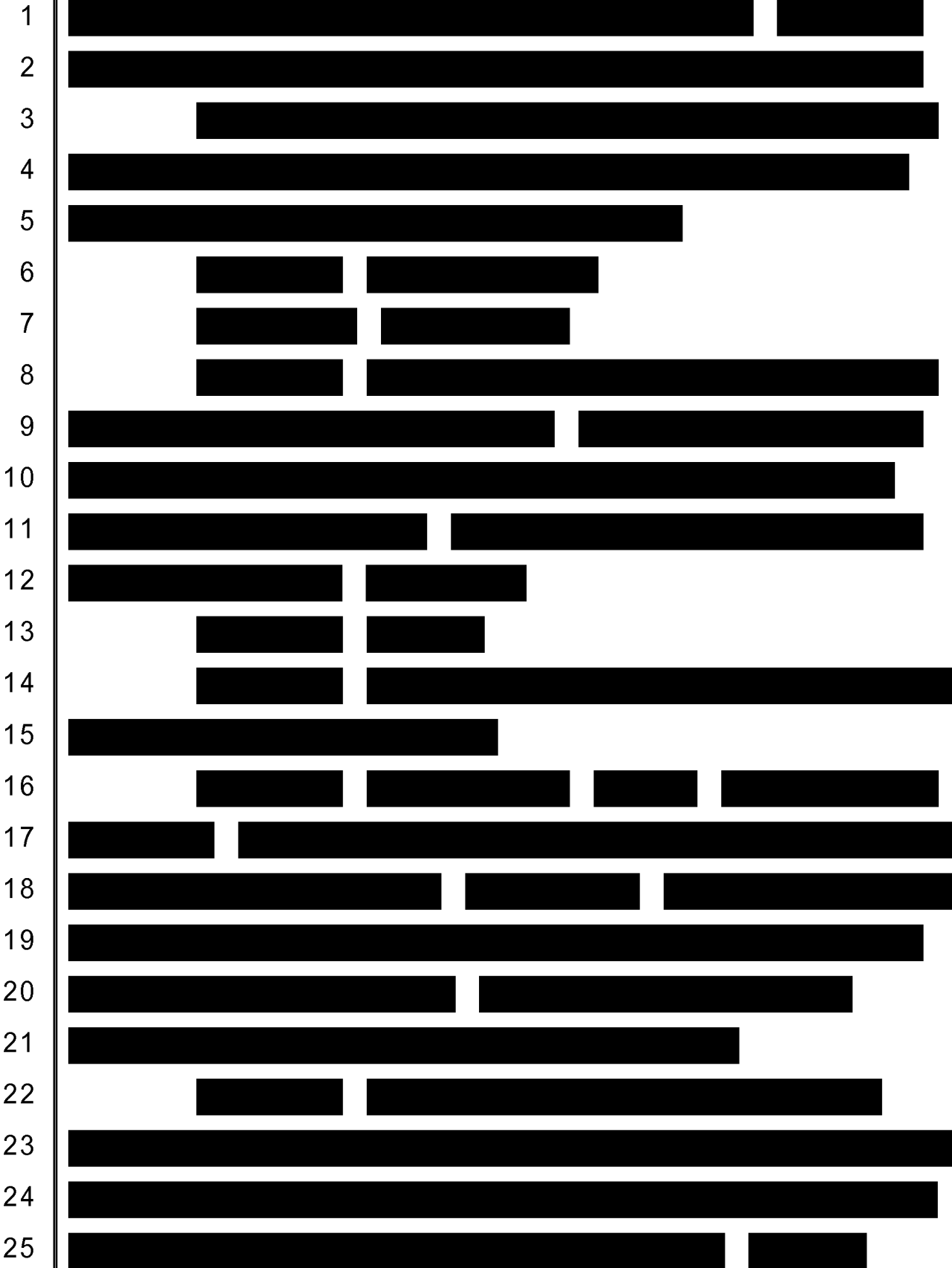
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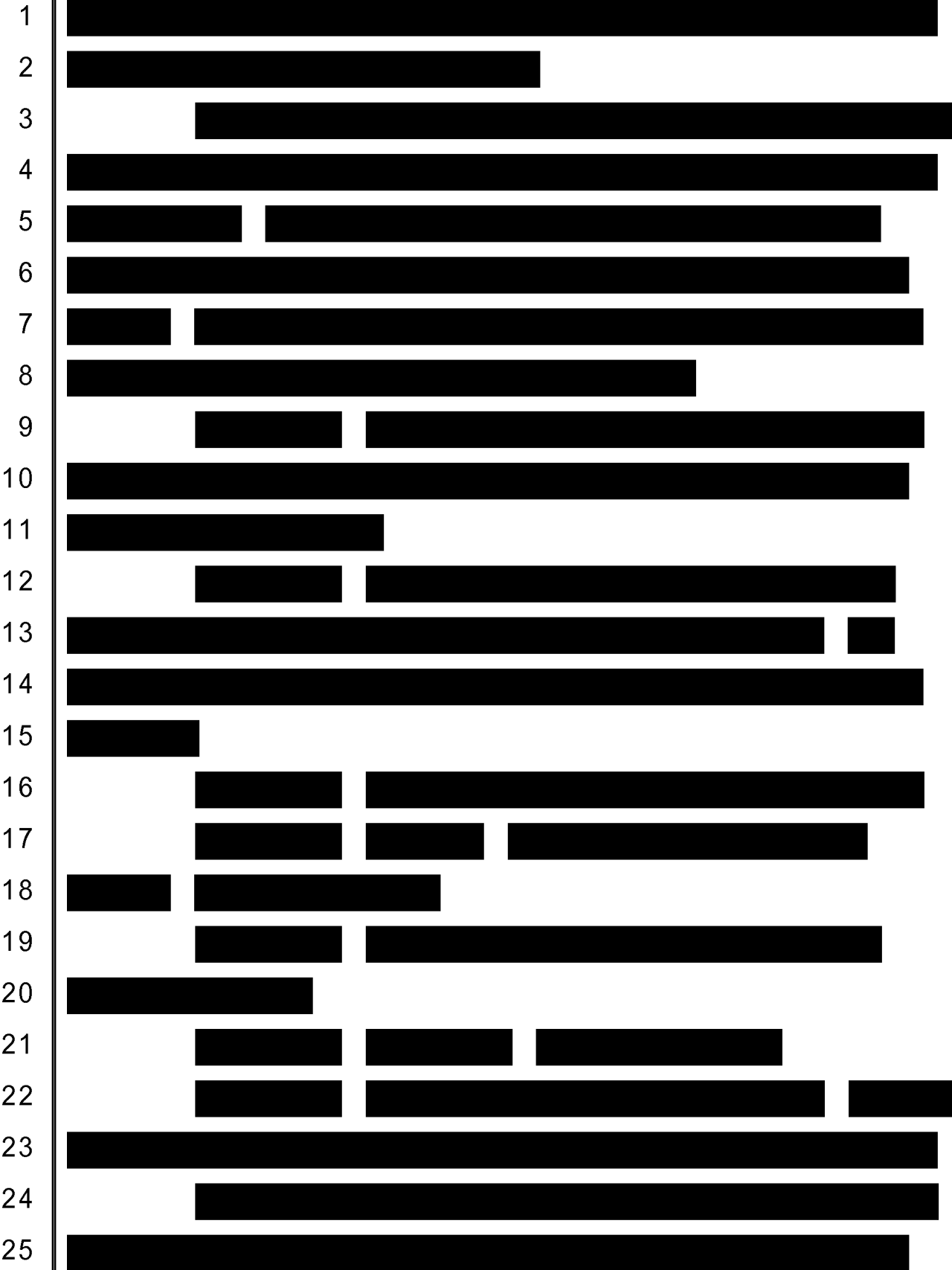
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14 (Jury enters courtroom.)

15 THE COURT: All right. Thank you very much, ladies
16 and gentlemen. Please be seated. We'll resume.

17 You may proceed, sir.

18 MR. DAVIS: May it please the Court, ladies and
19 gentlemen of the jury, counsel.

20 BY MR. DAVIS:

21 Q. Dr. Healy, we were talking about your opinions about
22 akathisia, agitation, and those 11 patients that GSK
23 identified in its 2006 subgroup analysis, right?

24 A. Yes.

25 Q. Now, the -- if I can switch gears, with respect to the

1 12th patient that you identified, are you referring to the
2 patient that's identified in table 2.11?

3 A. I may be. Without seeing the briefing document and
4 without seeing the narrative summary, I can't be absolutely
5 certain. There is a narrative summary for this patient.

6 Q. Well, guess what, I --

7 MR. WISNER: Your Honor, I actually have a briefing
8 document. Would Mr. Davis like it?

9 BY MR. DAVIS:

10 Q. I think we've found it, Doctor. If you look on your
11 notes, if you look, there's a third patient that's
12 identified -- let me put this on the screen. I've marked
13 DX 705 as your notes, Dr. Healy.

14 A. Okay.

15 Q. Okay?

16 A. Yep.

17 Q. And just so the jury understands what we're looking at,
18 these are your handwritten notes that you made as you reviewed
19 GSK's 2006 analysis and the 11 patients, or 12 patients, as
20 you say, for the MDD subgroup analysis, right?

21 A. Correct.

22 Q. And what you did, just so we're all on the same page, you
23 looked at the narrative descriptions of those patients, right?

24 A. And found one that's not in Dr. Kraus's paper.

25 Q. Can you circle back to my question? Do you remember what

1 it was?

2 A. Yes, I looked at the analysis --

3 Q. You looked at the analysis --

4 A. -- and I agreed with you that that's what I did and found
5 one that's not identified in Dr. Kraus's paper.

6 Q. And help me out. You know there's case report forms that
7 go along with those 11 cases, right?

8 A. Yes.

9 Q. You didn't look at those, did you?

10 A. No, I haven't.

11 Q. That's right. And the lawyers didn't tell you that they
12 could get those for you, did they?

13 A. I didn't ask them could they get them for me.

14 Q. But you knew they existed?

15 A. Oh, I assume that they exist all right, yes.

16 Q. And even though you knew that they existed, you didn't ask
17 for them in order to make an assessment of those 11 or 12
18 patients, as you say it, right?

19 A. Well, Mr. Davis, there's a problem here. I -- as you may
20 know, I would like to get all the CRFs for all of GSK's
21 patients in all of their trials. It becomes very interesting
22 when you do, in the case of the trial that I have had access
23 to.

24 One of the interesting problems, though, is if the
25 lawyers asked for a CRF for one of these patients, for

1 instance, I can tell you, you may not know as a lawyer for
2 GSK, but GSK can have up to four CRFs for each patient, and
3 they may give you a CRF that misrepresents what actually
4 happened.

5 So, without access to the full database from the
6 trial and to the opportunity to see whether there's more than
7 one CRF for this patient, just simply asking for the CRF isn't
8 going to get you or the Court anywhere.

9 Q. Is that a long way of saying that, "I didn't review the
10 CRFs or ask the lawyers for the CRFs"? Yes or no?

11 A. No. My issue is without full access to the data, that
12 simply asking for a CRF won't do it.

13 Q. You can ask the lawyers who are sitting at this table --
14 you could have asked them before you did your report, "I want
15 to see all the CRFs for -- the case report forms which are
16 filled out by the clinical investigators for the 11 patients
17 in the MDD subgroup analysis." You could have asked that,
18 right?

19 A. Yes. But you see the thing is, I have had access --

20 Q. Yes?

21 A. Yes, I could have.

22 Q. Okay. Thank you.

23 A. And I've told you that I would like access to all of the
24 CRFs --

25 Q. Yes.

1 A. -- not just for these patients --

2 Q. Understood.

3 A. -- but for all of GSK's trials.

4 Q. Understood. So, not having reviewed the case report forms
5 for the 11 patients identified by GSK in the subgroup analysis
6 for MDD, you don't know what they say, right?

7 A. That's correct.

8 Q. You don't. And so what these notes are that you made
9 is -- I think you describe, you went through the narratives
10 that are in the 2006 analysis, and you made notes about them,
11 right?

12 A. That's correct, yes.

13 Q. Right. And these are the only notes you made about that?

14 A. That's correct, yes.

15 Q. That's it. And if we look, you've got each of the
16 patients identified by a patient number. It's not the full
17 patient number but an abbreviation.

18 A. That's correct, yes.

19 Q. Then you've got their age and their sex?

20 A. Yes.

21 Q. And then you have information about adverse event
22 information?

23 A. Correct.

24 Q. And then you have information that says, "OD." I assume
25 that means overdose?

1 A. It does, yes.

2 Q. And then you have the date on which the suicidal behavior
3 or attempt occurred, right?

4 A. Correct.

5 Q. Okay. And you matched up the information on each of these
6 patients, and it is accurate in terms of what those 11
7 patients and how they're described in the Kraus paper,
8 correct?

9 A. The patients that are in the Kraus paper, there's 11
10 narrative summaries that correspond with those, but there's a
11 12th narrative summary in the briefing document.

12 Q. We're going to get there. I promise.

13 A. Okay.

14 Q. We're going to tiptoe all the way up to the 12th patient.
15 All right?

16 A. Okay.

17 Q. And if we -- but will you agree that the information
18 that's in the Kraus paper is the same information, except for
19 the 12th patient, that's reflected in your -- in your notes,
20 right?

21 A. No, I don't know that it necessarily is.

22 Q. You haven't made a comparison, then; is that what you're
23 saying?

24 A. No, no, no. I think if you look at what Dr. Kraus has in
25 his paper, he doesn't represent the issues in the same way

1 that I do here.

2 Q. Yeah. For example, when you looked at these 11 patients,
3 the notes that you made when you described the adverse event
4 for the first patient, we have nothing there that says
5 agitation or akathisia, true?

6 A. Well --

7 Q. True?

8 A. "Fight with spouse" can be a sign of irritability, which
9 may be a feature of agitation or akathisia. If you're asking
10 me are those two words not there, correct, there aren't; but
11 this is because GSK often didn't code events like this in the
12 way that others might.

13 Q. Doctor, if we can focus on my question, I think it's a
14 simple yes or no.

15 THE COURT: I think he's answered your question.

16 MR. DAVIS: Not yet, your Honor.

17 BY THE WITNESS:

18 A. I think I did. I said those two words, the two words you
19 mentioned aren't there, but that doesn't mean that this isn't
20 an episode of agitation and akathisia you're looking at here.
21 As I explained to the jury earlier, akathisia leads to
22 irritability, which causes fights with partners, et cetera.

23 BY MR. DAVIS:

24 Q. And you did not write for the first one, "irritability,"
25 seeing something in that case narrative, did you?

1 A. No, I didn't.

2 Q. And then for the second one, the 35-year-old patient 006,
3 you wrote nothing down for that, right?

4 A. That's correct.

5 Q. You didn't write akathisia or agitation or anything else,
6 true?

7 A. That's correct.

8 Q. The third one?

9 A. That's partly because the narratives -- the narratives in
10 most of these cases contained very little detail, and, you
11 know, they probably don't faithfully represent what's in the
12 CRFs.

13 Q. Well since you're only looking at the narratives and you
14 don't know what the case report forms are, let's focus on what
15 you wrote down.

16 A. Okay.

17 Q. The third one, you wrote down, "alcohol abuse, linked,"
18 right?

19 MR. WISNER: Your Honor, at this time, I'm going to
20 object to this document. It was never meant to be a form of
21 testimony or a demonstrative.

22 THE COURT: Right. It's his notes. It's quite a
23 different document.

24 MR. WISNER: Yeah.

25 MR. DAVIS: Your Honor, I'm just asking him about

1 what he wrote down. It won't take very long.

2 MR. WISNER: Well, then --

3 BY MR. DAVIS:

4 Q. You wrote down, "alcohol abuse."

5 A. "Links," which means the investigator made the linkage to
6 the alcohol abuse, yes.

7 Q. You didn't write --

8 MR. WISNER: Objection. Hearsay. This document is
9 an out-of-court statement being used to offer the truth of the
10 matter asserted. He can ask him questions about what
11 happened, but having him testify about this document is
12 hearsay and improper, your Honor.

13 MR. DAVIS: The witness is on the stand. He made it.
14 He wrote it. He's here to talk about it. He just said that
15 those are his notes.

16 THE COURT: They're his notes. He didn't bring that
17 document to the court for any other purpose, I take it, than
18 to testify.

19 THE WITNESS: As a reminder.

20 MR. DAVIS: Yes.

21 THE COURT: Okay. Briefly, if you go through it,
22 okay, but I'm not going to -- we have enough documents in this
23 case, and there's nothing here other than his notes, which he
24 made in order to be a witness in this case.

25 BY THE WITNESS:

1 A. It's an aid memoir.

2 MR. DAVIS: There's no question.

3 BY MR. DAVIS:

4 Q. Dr. Healy, can we agree that for all of the notes that you
5 made on the 12 patients you have identified here, only one did
6 you write the word "agitation" or "akathisia," true?

7 A. In one -- yes, and that's because GSK, as I've indicated
8 to you, have been not using the word "akathisia." So, if I'm
9 operating from GSK's narrative summary --

10 THE COURT: Wait.

11 BY THE WITNESS:

12 A. -- they aren't going to put the word in there, and I'm not
13 going to represent the word as being there if it isn't.

14 But what you've got here is enough detail that I
15 would be interested to see the CRFs for all of these patients
16 and work out whether or not I could make a good case to the
17 jury that what you've got involved here is akathisia.

18 BY MR. DAVIS:

19 Q. Let me ask you this question.

20 THE COURT: Wait. Let me ask a question. Is this
21 document from which the doctor prepared his notes in evidence?

22 MR. WISNER: No, your Honor.

23 THE COURT: Okay.

24 MR. WISNER: Oh, the underlying document --

25 BY THE WITNESS:

1 A. These were prepared yesterday morning.

2 MR. WISNER: Is the underlying document, your Honor?

3 THE COURT: Yes.

4 MR. WISNER: Yes, it is.

5 THE COURT: That's what I thought.

6 MR. WISNER: And he's asked for it several times.

7 THE COURT: Wait. It's been in evidence?

8 MR. WISNER: Yes.

9 THE COURT: What is it 305 or something?

10 MR. DAVIS: I think it's 103, your Honor.

11 THE COURT: It's 103. It's in evidence. And so he
12 sat down and made himself some notes from a document in
13 evidence?

14 MR. WISNER: That's correct, your Honor.

15 THE COURT: Okay.

16 BY MR. DAVIS:

17 Q. My next question, Dr. Healy, if you've got a patient like
18 this patient down here on 625 and 448 and 251 and 106 where
19 you have zero information, are you -- that you've written
20 down, are you telling this jury that you're prepared to
21 diagnose those patients with akathisia?

22 A. No, I'm not.

23 Q. Thank you. And not only that, where you have the patients
24 here who are 279 and 260, you have "alcohol abuse" or "alcohol
25 intolerance," is it your testimony before this jury that

1 you've got enough information to diagnose those patients with
2 akathisia?

3 A. No, but I'm saying --

4 Q. Thank you.

5 A. Hold on one moment. Hold on. Let me indicate why the
6 alcohol is there. Red wine, as you may not know, is the best
7 antidote to akathisia there is. So, I've written articles
8 about this, how we may be driving people to drink by causing
9 akathisia with SSRIs.

10 Q. Well, if we pull that case narrative, Dr. Healy, are we
11 going to see that that patient had red wine or just that he
12 had alcohol?

13 A. The case narrative is skimpy. I would like to see the
14 CRFs in all of these case. I mean, my point is Dr. Kraus --

15 Q. I would like a glass of wine, but it's not in the
16 narrative, is it?

17 A. -- Dr. Kraus I don't think can make the claim that there's
18 no akathisia here without the full record.

19 Q. Let me ask you this question. Are you prepared to
20 diagnose this patient, "Fight with spouse," with akathisia or
21 treatment-emergent agitation?

22 A. What I'm saying is based on --

23 MR. WISNER: Objection. Improper opinion. Misstates
24 his testimony. The question asked was: Was there any
25 evidence that suggested there could be akathisia? There's

1 been no diagnosis of that. This is misleading and improper.

2 MR. DAVIS: I certainly agree it's been misleading,
3 but the question I asked of the witness, what was -- and this
4 is where we get to the misleading part, which is whether these
5 patients had akathisia, and we are asking that very question,
6 your Honor.

7 MR. WISNER: He's already asked that question.

8 MR. DAVIS: I'm ready to go to it.

9 BY MR. DAVIS:

10 Q. Dr. Healy, are you prepared to diagnose this patient,
11 "fight with spouse," as someone who had either
12 treatment-emergent agitation or akathisia?

13 A. I'm very happy to say that it would be a mistake to
14 dismiss this as treatment-emergent akathisia, that I would
15 like to see, and I'm sure the jury would in this case like to
16 see, the full record for this patient.

17 Q. You keep answering a different question than I asked. My
18 simple question was: Are you prepared to diagnose that
19 patient who's first on the list with either treatment-emergent
20 agitation or akathisia as you sit here today?

21 A. And I'm saying to you that the jury and I and the Court
22 need to keep the diagnosis of akathisia open in this patient's
23 case. We need more details to be able to make a proper
24 diagnosis.

25 Q. Is there some reason you don't want to answer that

1 question?

2 THE COURT: He's answered that question.

3 BY THE WITNESS:

4 A. I think I've answered the question.

5 THE COURT: I think we know his position, and we know
6 yours, so let's move on.

7 BY MR. DAVIS:

8 Q. How about these two here? I think we've already touched
9 upon --

10 MR. WISNER: Objection. Waste of time, cumulative.

11 MR. DAVIS: It won't take very long, your Honor.

12 MR. WISNER: He said that about 15 questions ago.

13 This guy has a flight to catch, your Honor.

14 THE COURT: I think we've covered it enough,
15 Mr. Davis. I think we understand it. We know where the
16 document is. It's in evidence.

17 MR. DAVIS: I'll do one summary question, and we'll
18 end.

19 BY MR. DAVIS:

20 Q. Doctor, are you prepared today, yes or no -- answer
21 straight up, because you've said the jury is entitled to get
22 information, and I want you to say yes or no.

23 Are you prepared to say that any of these patients
24 have a diagnosis of akathisia or of treatment-emergent
25 agitation except for this patient possibly right here,

1 patient 128?

2 A. As I explained to the jury when I was here three weeks
3 ago, insomnia is one of the features that GSK and other
4 companies have often coded akathisia as. So, there's two
5 insomnias here also.

6 There's also the fact that half of these patients
7 generate their suicide attempt within 12 days of starting the
8 pill or a change of dose, and that's also consistent with
9 akathisia.

10 What I've been saying is, to make a proper diagnosis,
11 the jury and the Court need the full details of all of these
12 cases.

13 Q. Do you remember my question?

14 A. And I think I've answered it.

15 THE COURT: I think we got an answer, Mr. Davis.

16 MR. DAVIS: Yes or no. Just one more question, your
17 Honor.

18 BY MR. DAVIS:

19 Q. Yes or no, are you prepared to diagnose today those
20 patients on that list, except for the one with agitation, with
21 either akathisia or treatment-emergent agitation?

22 A. When I get access to full records, as I have done and seen
23 what happens in a case like this, I am prepared to say that
24 half of these cases probably had akathisia, yes.

25 Q. So, let me get this right. Sitting here today, you don't

1 have the case report forms. You've got the narratives that
2 you've described as skimpy. And your claim today is that
3 those case report forms that you haven't seen are actually
4 going to say that the patient was diagnosed with akathisia
5 or agitation?

6 A. Having spent two years of my life looking at 77,000 pages
7 of GSK records and trying to work out what happened in the
8 case of 279 patients, I'm saying my hunch is a large number of
9 the patients you see there and even the ones that have blanks,
10 didn't have the full detail, may well turn out to have a
11 condition that the jury would be happy to accept a word like
12 "akathisia" for.

13 Q. I'm so happy you said that. "May well turn out." "I have
14 a hunch." That's where you are today, right?

15 A. I'm saying it may well turn out that 100 percent are
16 akathisic. I mean, we may well end up with less. I don't
17 know what the figure will be. I'm not saying -- as I
18 explained, there's more than one way people can become
19 suicidal on this drug.

20 Q. So, if you had to make a decision today based upon the
21 information you'd say, you'd say, "It's possible, but I can't
22 be certain"?

23 MR. WISNER: Objection. Asked and answered.

24 THE COURT: Yeah, asked and answered. It's covered,
25 sir. This issue is well covered.

1 BY MR. DAVIS:

2 Q. Let me hand you DX 706, Dr. Healy. You see there, that's
3 a copy out of the -- that's a table that comes out of the --

4 A. Briefing document.

5 Q. The briefing document. Thank you.

6 A. Yeah.

7 Q. And if you look on there, you will see a patient that's
8 called -- that has the same tag line as 106, right?

9 A. That's correct.

10 Q. And if you count those number of patients up, they're 12,
11 right?

12 A. Correct.

13 Q. So, you think these are the 12 you're talking about?

14 A. I've actually seen a table very like that indeed, yes.

15 MR. WISNER: Could I see a copy of this document,
16 please?

17 MR. DAVIS: Sure.

18 THE COURT: This is from 305?

19 MR. DAVIS: This is from 103, DX 103.

20 THE COURT: Oh, 103, the briefing document?

21 MR. DAVIS: Yes, sir.

22 THE COURT: The table. Okay.

23 MR. WISNER: Sorry. Are you referring to this
24 number? I just don't know what you're talking about. Okay.

25 Your Honor, at this time, plaintiffs would like to

1 reserve five minutes for potential rebuttal before the close
2 of trial today.

3 THE COURT: Well, let's see where we are, sir. I'm
4 not going to ever in this case set a schedule.

5 MR. WISNER: Fair enough. Consider -- okay.

6 BY MR. DAVIS:

7 Q. Do you know -- I'll just hand this back to you, because I
8 don't know what you -- you know, are the -- do you know of any
9 other listing of 12 patients other than what's on that table?

10 A. Well, there are the 12 narrative summaries also.

11 Q. Okay.

12 MR. DAVIS: Thank you, Mr. Wisner.

13 MR. WISNER: Yeah.

14 BY MR. DAVIS:

15 Q. I think -- is that the patient narrative, Dr. Healy?

16 A. It would appear to be, yes.

17 Q. And for the jury's benefit, tell us what patient ID
18 number's on there.

19 A. The patient ID number -- well, the protocol ID is 0901A,
20 and the subject number is 006.

21 Q. And that's the same 006 that we see right here, right?

22 A. Yes.

23 Q. That's on Defendant's Exhibit 7045?

24 A. Yes.

25 Q. May I have both of those back, please?

1 A. Well, it would be handy for me to have a copy of this.

2 Q. Of course, you may keep the narrative. May I have mine?

3 A. Yes.

4 Q. Okay. So, we go back to 7046, and we look at this patient
5 that's identified as .006. This table tells us a lot of
6 information about that patient. It tells us that for suicidal
7 baseline, there was no. Definitive suicidal behavior, what's
8 marked there, Dr. Healy?

9 A. Where are you putting your finger? Because I wasn't
10 actually following your finger. Do you mean -- oh, it says,
11 "No," there.

12 THE COURT: It says, "No." Let's go on.

13 BY THE WITNESS:

14 A. Yeah, it says, "No," there.

15 BY MR. DAVIS:

16 Q. And what that means is that for the Columbia
17 classification criteria of definitive suicidal behavior, that
18 patient did not meet the criteria, true?

19 A. Well, what we've got is a patient who the narrative
20 summary says he's making very definite suicidal threats.

21 Q. Could you answer my question? This chart says that the
22 patient did not meet the criteria for definitive suicidal
23 behavior under the Columbia classification?

24 A. I'm not sure it's saying that under the Columbia
25 classification, but certainly that's saying it with regard to

1 definitive suicidal behavior; and my view is that there's a
2 discrepancy between that column and the next column and the
3 narrative summary.

4 Q. So, you know that definitive suicidal behavior was one of
5 the Columbia classification criteria that the FDA set out for
6 manufacturers to use to code adverse events of suicidality?

7 A. I do indeed, yes.

8 Q. That's right. So, we know that definitive suicidal
9 behavior is that category, and this patient is checked as,
10 "No," as not meeting that criteria, correct?

11 A. Yes. And following that, he's checked as, "Yes."

12 Q. We're going to get to that. That is the rating scale
13 criteria, correct?

14 A. Yes.

15 Q. You've been critical of rating scale criteria in the past,
16 have you not?

17 A. Well, I certainly have.

18 Q. And in fact, this patient was determined and adjudicated
19 to be as not meeting the criteria for definitive suicidal
20 behavior, correct?

21 A. No. What the rating -- what it implies is that this issue
22 is only picked up on the rating scale, and it wasn't. It's
23 clear that the suicidal behavior was there two days before the
24 rating scale was administered.

25 Q. You know that GSK did not do the classification of these

1 adverse events, right?

2 A. I don't know exactly who did the classification.

3 Q. Well --

4 A. GSK will have done a classification of these adverse
5 events, certainly.

6 Q. The lawyers that retained you never told you there was an
7 outside company --

8 MR. WISNER: Objection. Privilege.

9 THE COURT: Yes. Well, it's really irrelevant what
10 the lawyers told him.

11 MR. DAVIS: I'll rephrase.

12 THE COURT: Yeah.

13 BY MR. DAVIS:

14 Q. Nobody's ever told you that the persons -- the entities
15 who did the classification was the -- for what buckets the
16 adverse events are -- would fall in was the Columbia experts,
17 the Columbia University experts?

18 A. Well, I know the data went to Columbia at one point,
19 certainly.

20 Q. And has anybody ever told you that GSK actually sent the
21 case report forms for these patients to an outside independent
22 firm, who then prepared the narratives? Has anyone told you
23 that?

24 A. Yes.

25 Q. So, you know that. So, the entity, this outside --

1 A. Hold on.

2 Q. Just a minute.

3 A. Hold on a minute. Hang on a minute. Can I just ask you
4 to repeat the question? Because I answered it a little too
5 quickly, to that last question.

6 Q. Sure. That --

7 THE COURT: Read it back. Read it back.

8 (Record read.)

9 BY THE WITNESS:

10 A. No one has told -- that's a very interesting detail. So,
11 the narrative summaries would have been prepared by GSK in the
12 first instance, but you're saying the -- in the first
13 instance, they certainly would have been; but you're saying
14 the narrative summaries that have gone to FDA have been
15 prepared -- there's been a further preparation?

16 BY MR. DAVIS:

17 Q. I think we heard from a witness in this case that the case
18 report forms were --

19 MR. WISNER: Objection, your Honor. He's now
20 testifying. All of his questions are --

21 MR. DAVIS: I'll rephrase, your Honor.

22 BY MR. DAVIS:

23 Q. Dr. Healy, I want you to assume that the jury has heard
24 that the case report forms, which are the detailed records of
25 the patient visits in the clinical trials, were sent to an

1 outside firm, an outside company to prepare the narratives.

2 I want you to assume that. Okay?

3 A. That's not my understanding of where the narratives
4 necessarily come from. What you're saying is the ones that
5 we're looking at here may have gone out, but are you saying to
6 me there are no other narrative summaries that have been
7 prepared by GSK?

8 Q. I'm saying exactly that, Dr. Healy.

9 A. I just -- well, I suspect that's not correct.

10 Q. Okay. Are you prepared to say under oath that that's
11 incorrect today?

12 THE COURT: Well, look, sir. He's on rebuttal. He
13 rejects your hypothetical. He's an expert. He can take it or
14 leave it as he sees fit, and that is the way it goes.

15 MR. DAVIS: I'll ask another question.

16 BY MR. DAVIS:

17 Q. You haven't showed this jury a single document in your
18 rebuttal testimony or your original testimony where it shows
19 that GSK employees were preparing the narratives that would
20 then be sent to Columbia University for classification, true?
21 You have not shown the jury one document?

22 A. Having done GSK trials and seen narratives prepared, I
23 have to say to you that I doubt your view that -- I mean, it
24 may well be the case that the narrative cases that went to
25 Columbia were prepared by an outside company; but what I said

1 to you was that I suspect there's more than one narrative
2 summary. In fact, I can be pretty certain there's more than
3 one narrative summary in many of these cases.

4 Q. Dr. Healy, I think my question was simply, you have shown
5 no documents to this jury on two separate occasions where you
6 can prove to them that GSK actually prepared the case
7 narratives for the Columbia review and then sent those to the
8 Columbia University experts, zero?

9 MR. WISNER: Objection. Asked and answered.

10 THE COURT: I think it's covered.

11 BY THE WITNESS:

12 A. I'm being told it's covered.

13 MR. DAVIS: I see that you've been saved by the bell.
14 I'll go to my next question.

15 MR. WISNER: Objection. Move to strike. It's
16 argument, as well as there's been no testimony about a pear.

17 THE COURT: Let's proceed.

18 BY MR. DAVIS:

19 Q. The study that you mentioned, the study that you
20 mentioned --

21 A. Study 329? Which one?

22 Q. I was going to pivot around to that. The study that you
23 mentioned that you had analyzed the raw data for --

24 A. Yes.

25 Q. -- that was a pediatric study, not an adult study,

1 correct?

2 A. That was a major depressive disorder study.

3 Q. Of pediatric patients, true?

4 A. It was mostly teenage patients, correct.

5 Q. Not mostly. It was patients who were pediatric patients,
6 and that's how they were described in the study, correct?

7 A. They are called pediatric patients --

8 Q. Thank you.

9 A. -- and they were almost all teenagers.

10 Q. Thank you. Now, you haven't looked at any adult clinical
11 trial data from GSK where you've actually looked at what you
12 call the raw or the source data to be able to say that there
13 is -- that there are actually, actually discrepancies between
14 what's reported on the case report forms and what's reported
15 out, true?

16 A. No one in the entire world that I know of -- there isn't
17 anyone in the world I know of other than people within GSK
18 that have had the opportunity to do this, and this is one of
19 the things that I think is a particularly tricky problem for
20 courts like this.

21 Q. So, the short answer is, no, you haven't reviewed adult
22 studies of that kind, right?

23 A. I haven't reviewed adult studies in the detail that I had
24 the opportunity to review Study 329 in.

25 Q. Thank you, Dr. Healy.

1 Now, you mentioned that -- I thought -- maybe I was
2 mistaken, but I thought maybe you said that the RIAT group is
3 a group of independent auditors. Did I mishear that, or did
4 you say that?

5 A. No, I didn't say they were independent auditors. The word
6 "audit" came in when I applied to GSK for the raw data and the
7 77,000 pages of CRFs, where we found out, for instance, one
8 patient might have multiple CRFs. But the -- it's an
9 independent group, yes.

10 Q. Well, it's not quite independent, is it, Dr. Healy?

11 A. Well, why do you think it's not independent?

12 Q. Well, for one, you're on that -- in that group, right?

13 A. That's correct.

14 Q. And you have a business partner here, Mr. Baum, who is
15 representing the plaintiff, and he's one of your business
16 partners, right?

17 A. He -- well, that's not the way I would put it; but I think
18 he's made a mistake and is going to lose a lot of money by
19 putting money into risk.org. But if you call that a business
20 partnership, then fine.

21 Q. Well, he gave money to help start up that website, right?

22 THE COURT: You know, you covered this before,
23 Mr. Davis. This was -- this has been covered early on during
24 his cross-examination. Let's get on with it.

25 BY MR. DAVIS:

1 Q. There's also a doctor that's part of the RIAT group that's
2 called Dr. Girardini, right?

3 A. That's correct, and --

4 Q. And you understand, too, that he's also been hired by
5 Michael Baum as a litigation expert, right?

6 A. That's correct. And he didn't look at any of the data in
7 the course of this. That wasn't his role in the group, so he
8 won't -- any conflict of interest you think he may have won't
9 have influenced the outcome here.

10 Q. You mentioned -- I'm sorry. What was that, would not have
11 affected the outcome?

12 A. No.

13 Q. Okay. Thank you, Dr. Healy.

14 Now, PTX 365, you showed this to the jury?

15 A. Yes.

16 Q. This is an analysis of SSRIs versus placebo, correct?

17 A. Yes.

18 Q. There's no -- this is not a graph of paroxetine-specific
19 information for adults, true?

20 A. That's correct.

21 Q. And you know from your review of the FDA's analysis on
22 SSRIs and suicidal thoughts or behavior that their -- their
23 end point where they looked at suicidal thoughts and behavior,
24 it found no increased risk, true?

25 A. Thoughts -- yes. Well, it did find an increased risk, but

1 it wasn't statistically significant.

2 Q. I think you're mistaken on that. Can you call up DX 13,
3 table 50.

4 A. Can I ask you to read the question again.

5 Q. What's that?

6 A. Can I ask you to repeat the question.

7 Q. Would you like me to repeat the question?

8 A. Yes.

9 Q. Sure.

10 THE COURT: Read it back.

11 (Record read.)

12 MR. WISNER: Your Honor, at this time I object to way
13 beyond the scope. We did not get into that at all.

14 THE COURT: Yes, sustained.

15 MR. DAVIS: That was the table itself, your Honor.

16 MR. WISNER: The table was to illustrate statistical
17 significance. It wasn't about the data.

18 THE COURT: Sustained.

19 BY MR. DAVIS:

20 Q. Going back to Dr. Girardini, you know that he had to
21 declare that he had competing interests when he published the
22 article about the pediatric study, correct?

23 A. Can you give me that again? Dr. Girardini did declare
24 that he had a competing interest, as did I, yes.

25 Q. The competing interest being that you testified in

1 litigation for plaintiff's lawyers in SSRI litigation,
2 correct?

3 A. Yes.

4 Q. Yes.

5 A. And -- okay. I'll keep quiet for the moment. I'm itching
6 to say something, but I'll keep quiet.

7 Q. Now, with respect to Mr. Wisner's questions of you --

8 A. Yeah.

9 Q. -- did he ask you about any new published studies that you
10 had already not known about before you first took the witness
11 stand nearly a month ago?

12 MR. WISNER: Objection. Relevance. Asked and
13 answered.

14 THE COURT: Sustained.

15 BY MR. DAVIS:

16 Q. Did Mr. Wisner ask you about any --

17 MR. DAVIS: I'll -- I got the look, your Honor.

18 THE COURT: You're pretty sharp.

19 MR. DAVIS: It takes me a while, but I get there.

20 BY MR. DAVIS:

21 Q. Is it fair to say that with respect to the opinions that
22 you had come to offer testimony about today, that you knew
23 about those opinions, for example, from Dr. Kraus and
24 Dr. Gibbons and Dr. Rothschild by reviewing their expert
25 reports in this case or their depositions?

1 MR. WISNER: Objection. Relevance.

2 THE COURT: Sustained.

3 BY MR. DAVIS:

4 Q. Dr. Healy, how much did you charge for your time since
5 you've come -- since you got asked to come back and testify in
6 this trial?

7 A. Well, I haven't charged anything so far for either trip to
8 Chicago. Baum Hedlund bought the airfare, so I haven't asked
9 them to reimburse me.

10 But when I do charge, the money will go to risk.org,
11 which is an organization aimed at trying to keep people safe.
12 It will not come to me.

13 Q. But in terms of the shareholders or the owners of
14 risk.org, it's you, right?

15 A. Yes.

16 Q. Yes?

17 A. Yes.

18 Q. Mr. Baum?

19 A. Yes.

20 Q. And it's another plaintiff's lawyer named Andy Vickery,
21 right?

22 A. Well, there's more than that. It's about 15 people; and
23 as I explained to you, Mr. Baum and Mr. Vickery made a mistake
24 of putting some money into it they didn't -- haven't gotten
25 anything back, and they probably never will.

1 Q. Right. And one of the things they do get out of it --

2 MR. WISNER: Your Honor --

3 BY MR. DAVIS:

4 Q. -- is at times you refer clients to them?

5 A. No, that's completely incorrect.

6 Q. Why don't you look -- let's look at your deposition.

7 MR. WISNER: Objection, your Honor. This is
8 irrelevant.

9 THE COURT: Yes, sustained. Beyond the scope of the
10 rebuttal testimony.

11 MR. DAVIS: Just one moment.

12 BY MR. DAVIS:

13 Q. One last question. Dr. Healy, you told the jury you
14 didn't review the case report forms for the 11 major
15 depressive disorder patients that are discussed in the Kraus
16 paper, correct?

17 A. That's correct.

18 Q. You know that Dr. Kraus did do that review, true?

19 A. I don't know that; but even if I had heard Dr. Kraus say
20 that, my question, if I was asked by Mr. Wisner, would be to
21 ask him a question. "Have you reviewed all the CRFs? There
22 may be more than one CRF for those patients, and you may have
23 reviewed one that's convenient to GSK and not the others."

24 Q. You don't know anything about Dr. Kraus's review, do you?

25 A. I don't.

1 Q. That's fine.

2 A. What I indicated to you was if Mr. Wisner asked me a
3 question to ask Dr. Kraus just that. Mr. Wisner and perhaps
4 you as well are unaware -- the courts generally, most people
5 are unaware that GSK often has more than one CRF on each
6 patient.

7 Q. And if we heard -- the jury heard from Dr. Kraus and
8 Dr. Kraus said he reviewed all the case report forms, you have
9 no evidence here sitting in that witness chair today to
10 dispute that, true?

11 A. And I'm saying so the Court fully understands his answer
12 that reviewing all the case report forms may mean --
13 truthfully mean he's reviewed a case report form for each
14 patient, but it may not mean that he's reviewed every case
15 report form for every patient.

16 Q. Doctor, I think I just asked a simple question. You,
17 sitting here today --

18 MR. WISNER: Asked and answered.

19 MR. DAVIS: It's not been answered, your Honor.

20 BY THE WITNESS:

21 A. And I said that the question is ambiguous, and I tried to
22 clarify things for the Court.

23 BY MR. DAVIS:

24 Q. Well, let's see if I can clarify it for you one more time,
25 Dr. Healy. Sitting in that chair today, if Dr. Kraus told the

1 jury he looked at all the case report forms for those 11
2 patients, sitting here today, you don't have any evidence
3 otherwise, true?

4 A. And I'm saying there is a way in which that answer by
5 Dr. Kraus could be an honest but misleading answer.

6 Q. You don't have any evidence that it's a misleading answer,
7 do you, Doctor?

8 A. Well, unless Dr. Kraus was asked follow-up questions, no
9 one has any evidence whether it's a misleading answer.

10 Q. So, sitting in that chair right today -- and I think it's
11 a simple yes or no, last time I'm going to ask it, and let the
12 jury decide your answer -- you don't have any evidence sitting
13 here today that Dr. Kraus did not review all the case report
14 forms for those 11 patients?

15 A. Well, as I've indicated to you, I wasn't here in the court
16 when this discussion took place.

17 Q. And you don't have any evidence to contradict that
18 Dr. Kraus did not have all --

19 MR. WISNER: Objection, your Honor. Asked and
20 answered.

21 THE COURT: I think you've covered it, sir. Thank
22 you.

23 MR. DAVIS: Thank you, your Honor.

24 THE COURT: All right.

25 MR. RAPOPORT: We don't have any questions.

1 MR. WISNER: May this witness be excused?

2 THE COURT: Are you resting?

3 MR. WISNER: We have one last piece of evidence
4 that's not through this witness.

5 MR. RAPOPORT: We have a few exhibits to offer, but
6 there's no further witness, your Honor.

7 THE COURT: May this witness be excused?

8 MR. DAVIS: No, your Honor, he may not be.

9 THE COURT: Why not?

10 MR. DAVIS: We must take up an issue outside -- after
11 the jury's --

12 THE COURT: Outside the presence of the jury?

13 MR. DAVIS: Yes.

14 THE COURT: You want to ask him some questions
15 outside the presence of the jury?

16 MR. DAVIS: I do.

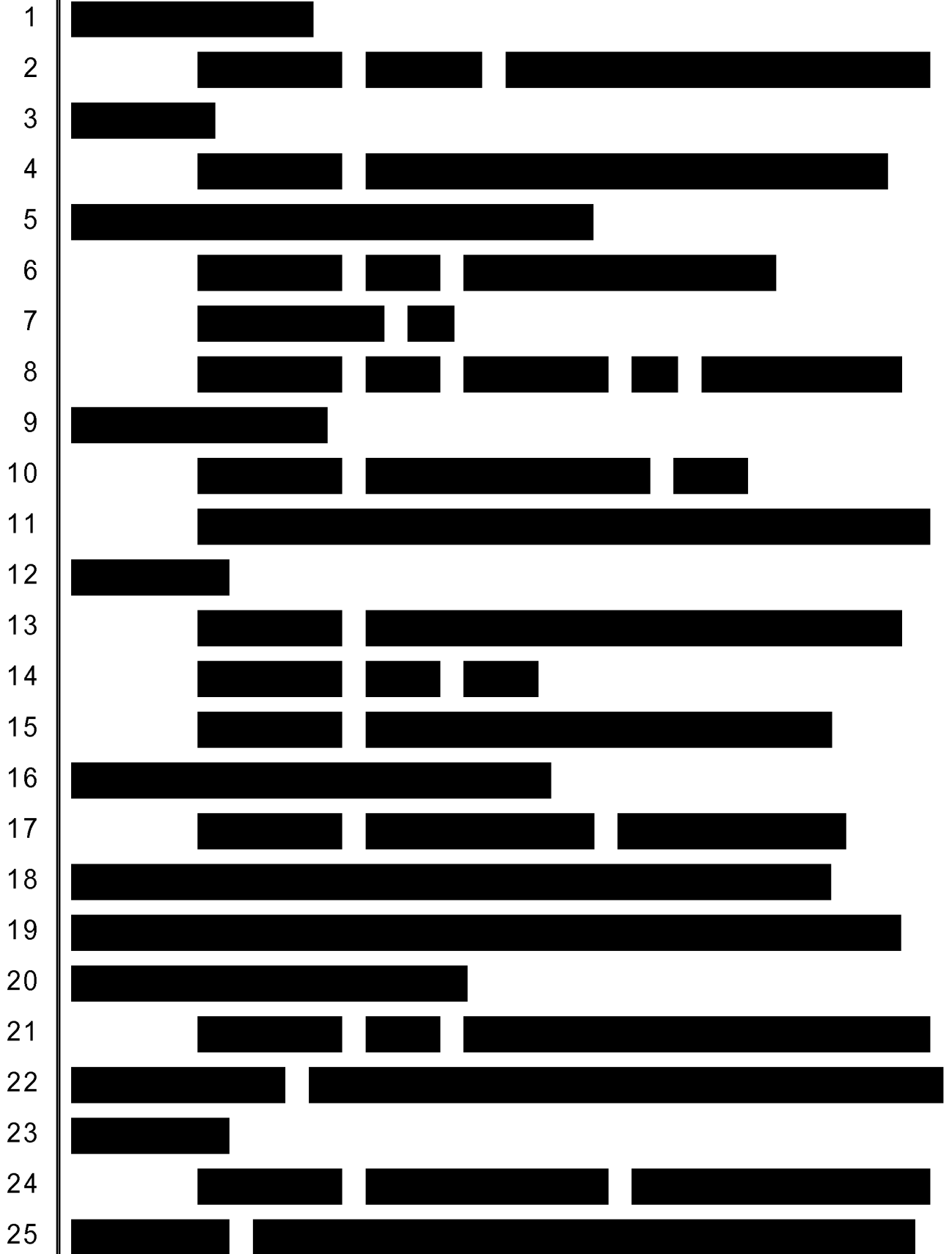
17 THE COURT: Okay. Ladies and gentlemen, we are going
18 to recess this trial until Monday morning at 9:30. I hope
19 Monday that you'll hear the final arguments in the case. I'm
20 allowing each side two hours, subject to some adjustments that
21 I may have to make. And then I will instruct you on the law.
22 That will take me 15 minutes, no more. And then I will give
23 the case to you to decide.

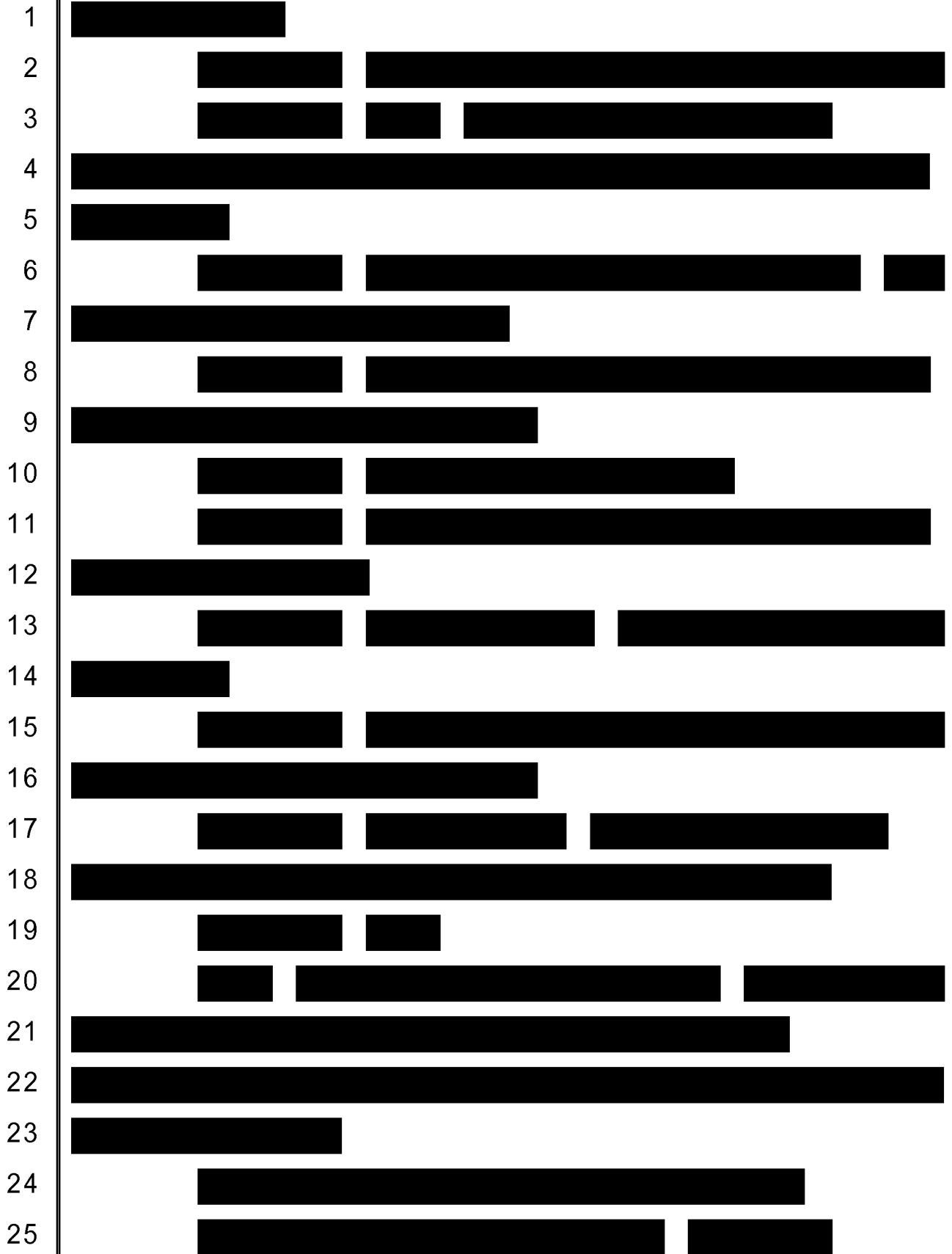
24 Now, you've been a wonderful jury so far, so please
25 continue to be a good jury. Don't discuss it with anybody or

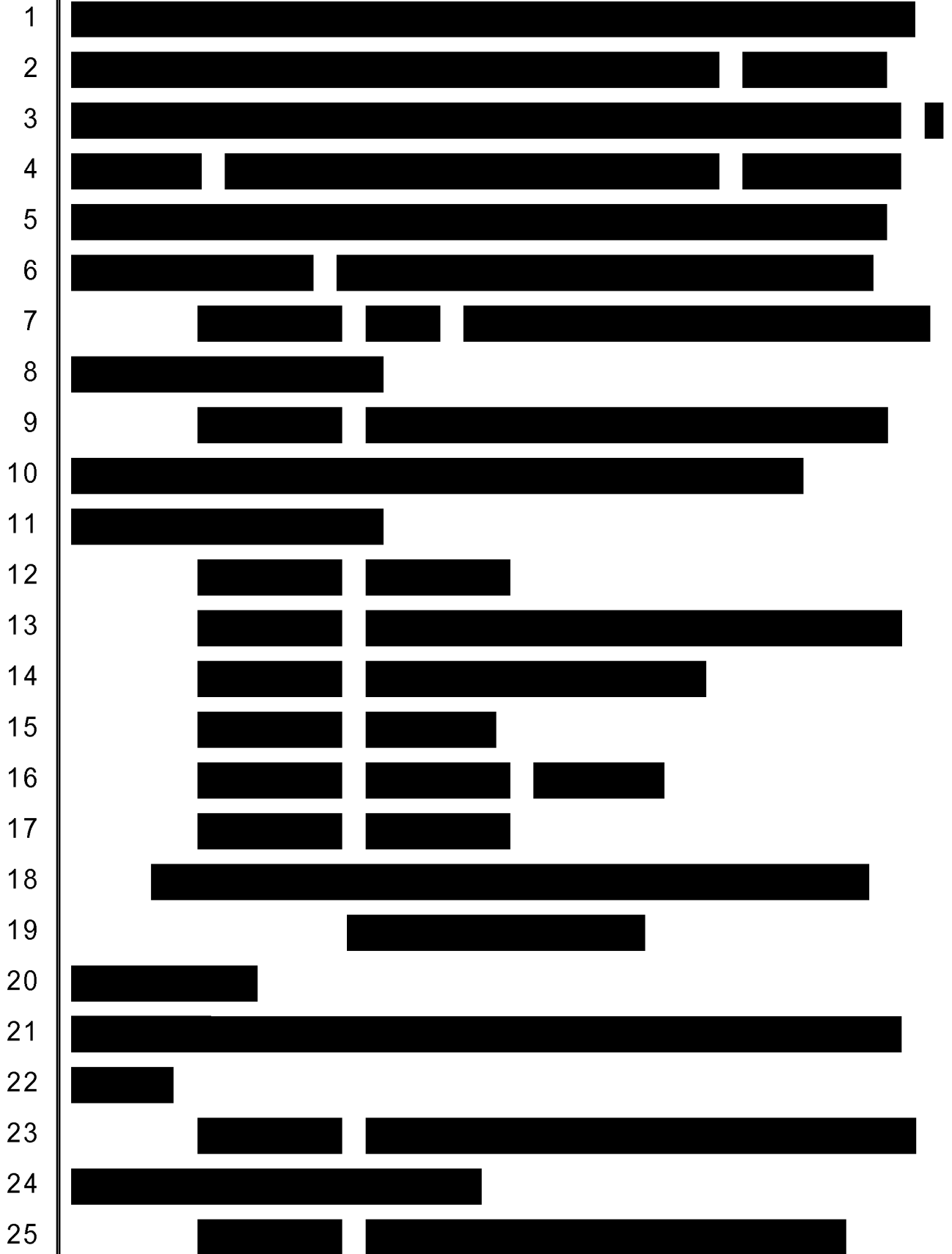
1 among yourselves. You're going to make a decision. It's an
2 important decision for every one of you, I'm sure you all
3 realize, so please do not discuss the case and come Monday
4 prepared. Get some exercise. And have a nice weekend. Thank
5 you very much for your service.

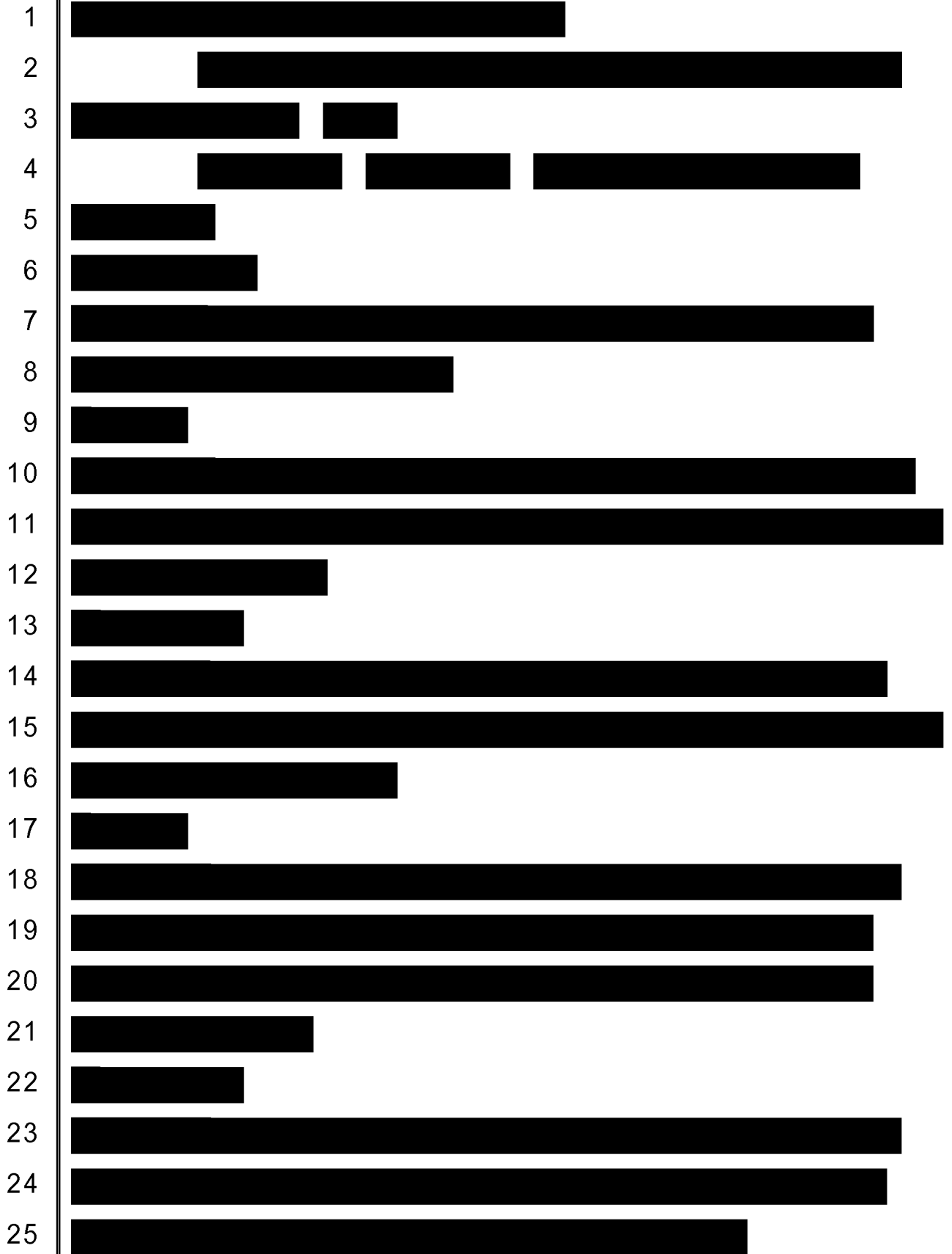
6 (Jury exits courtroom.)

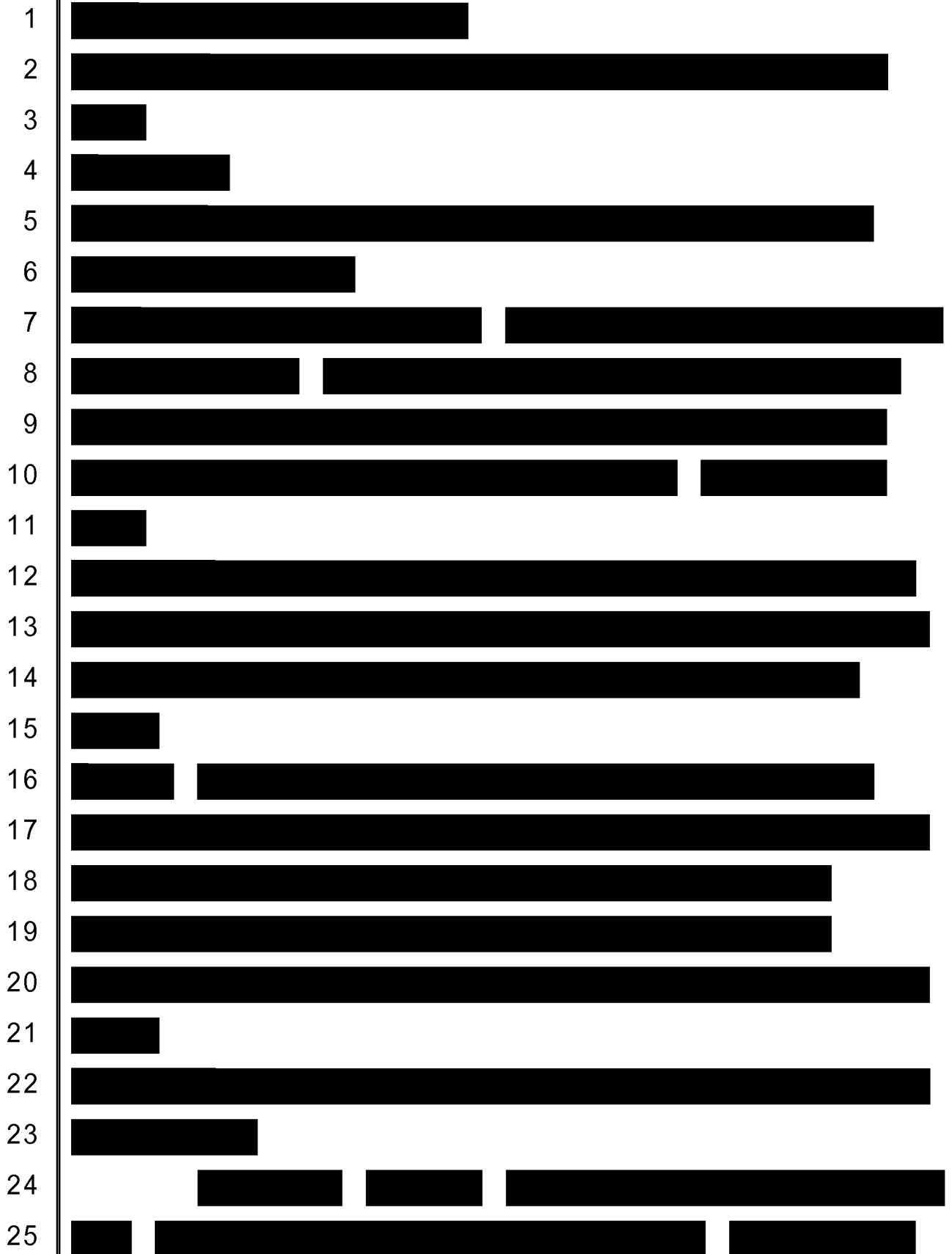
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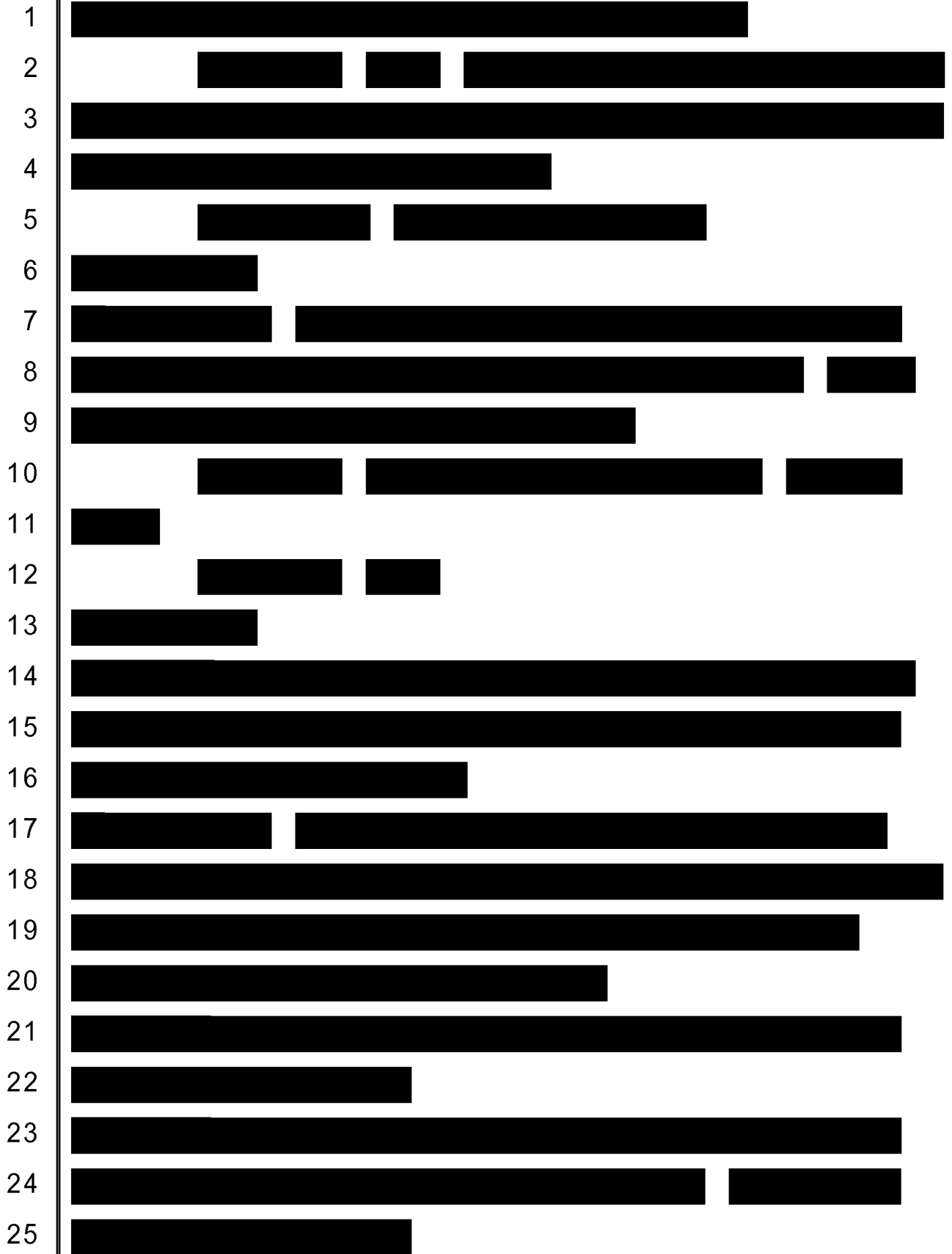


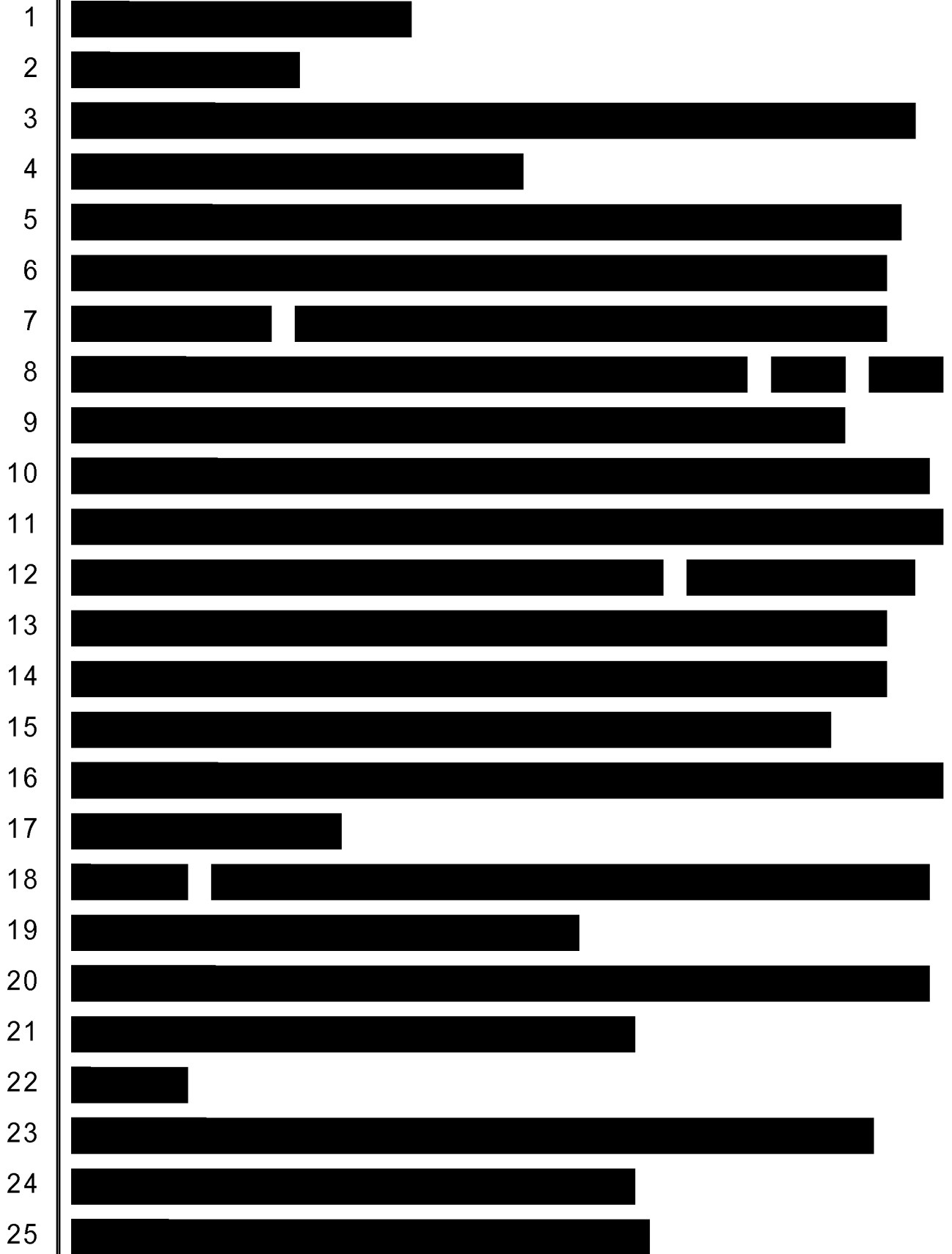


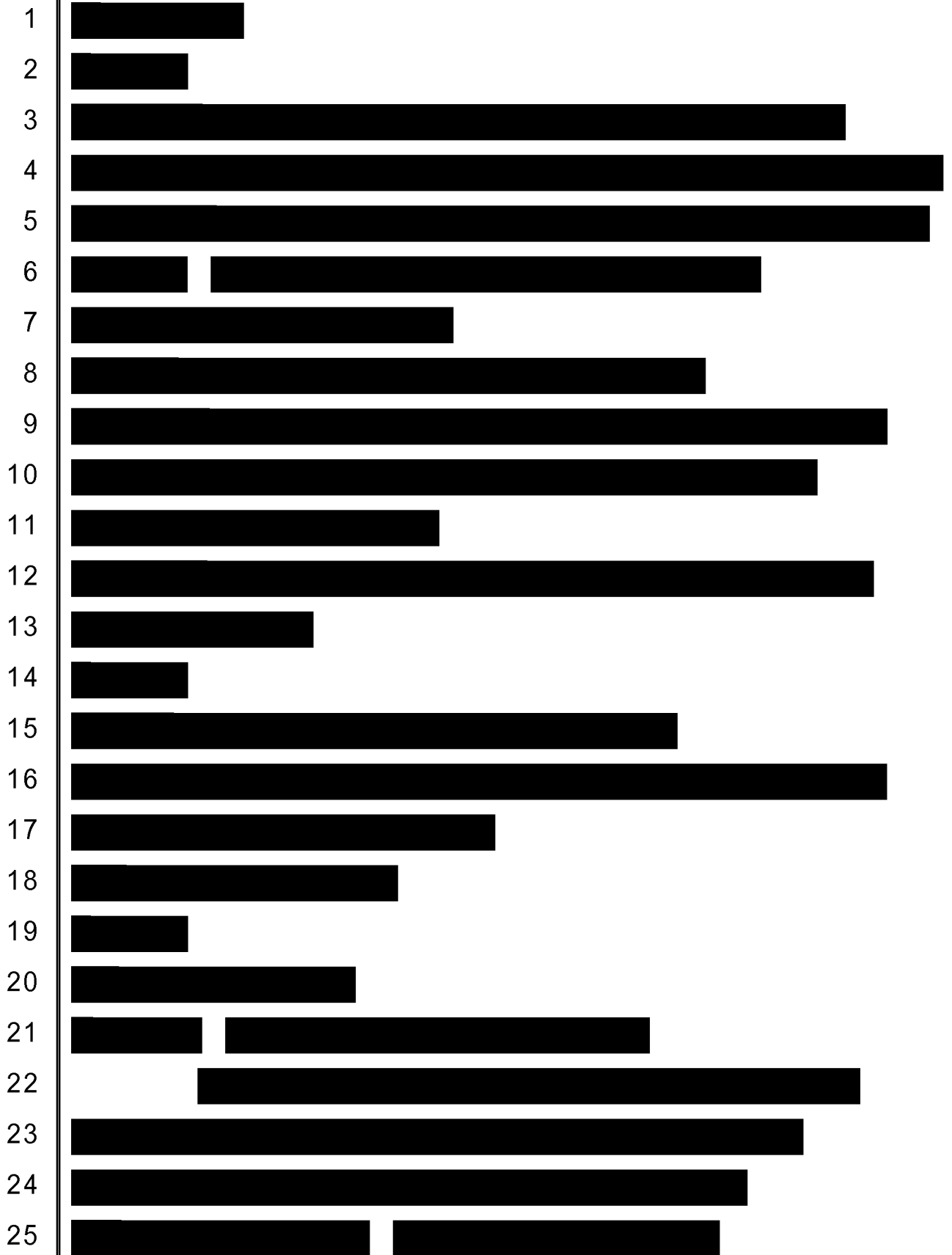


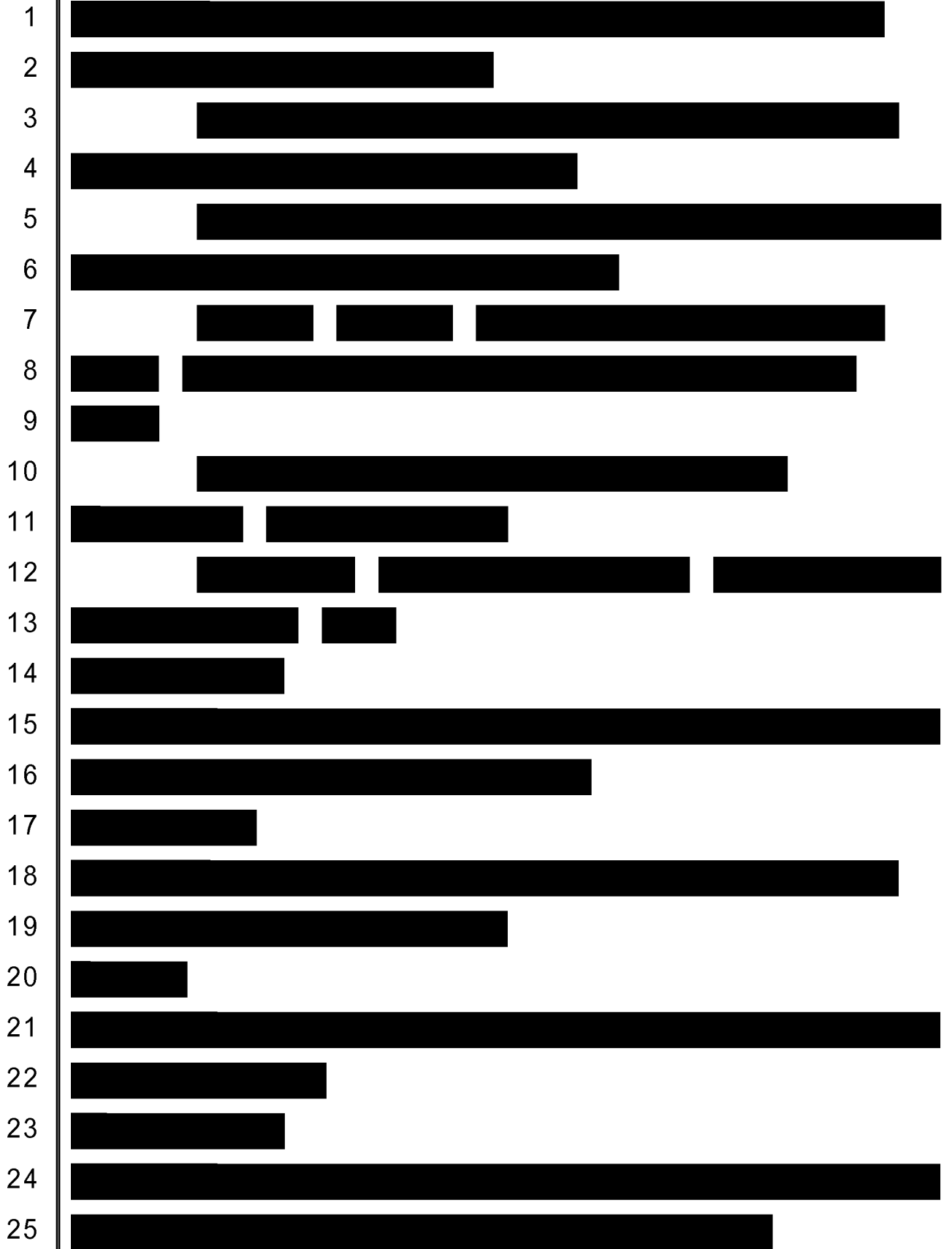


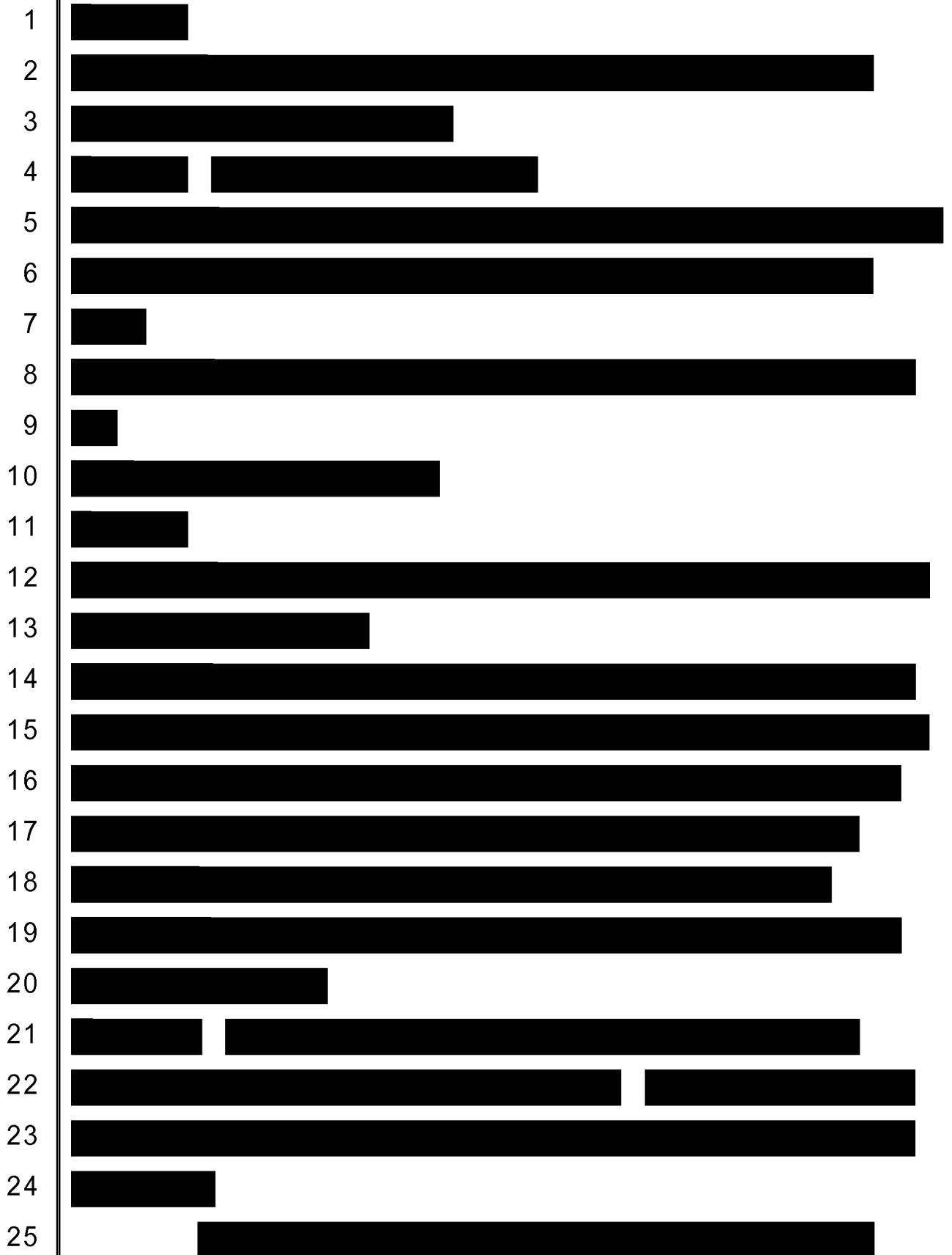


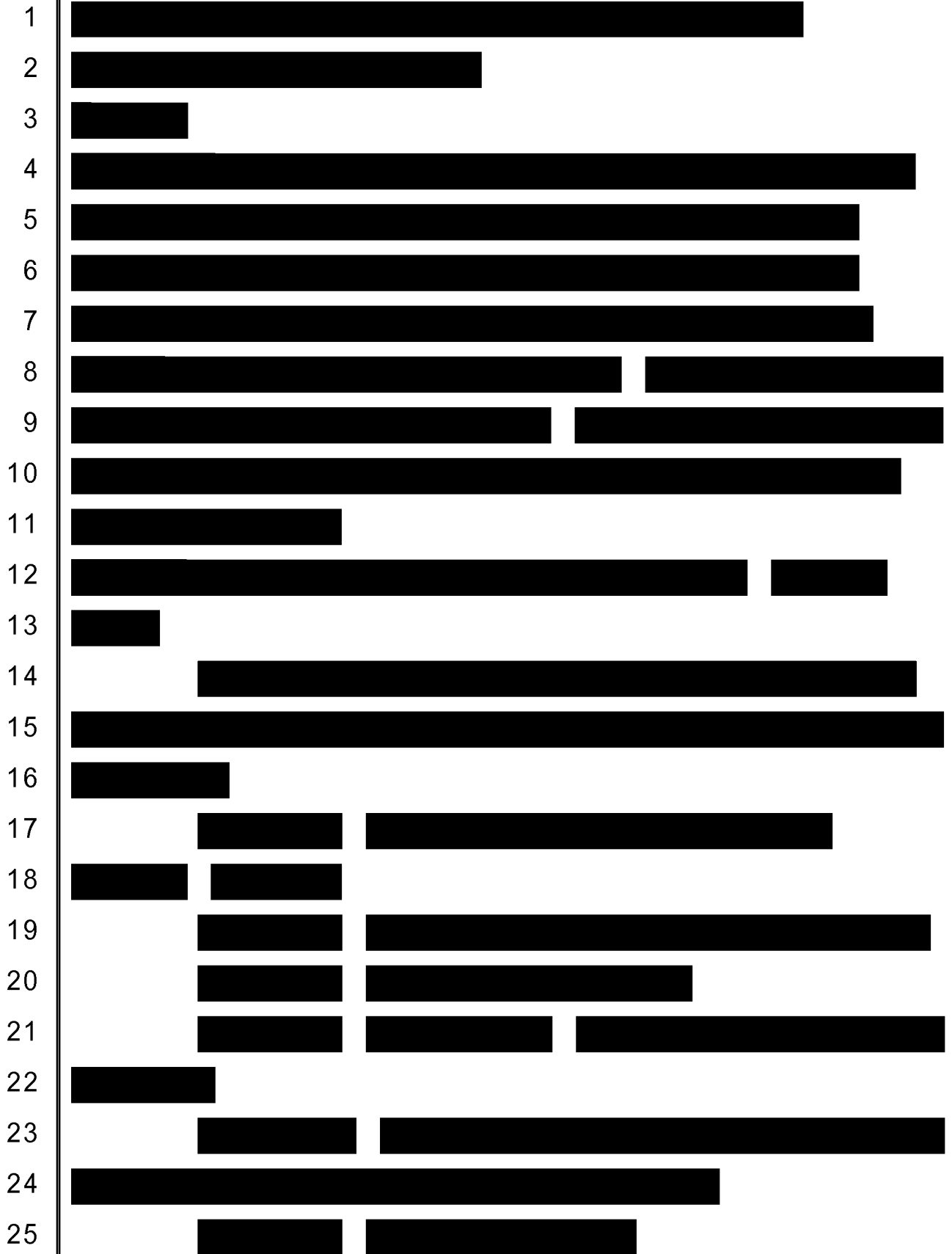


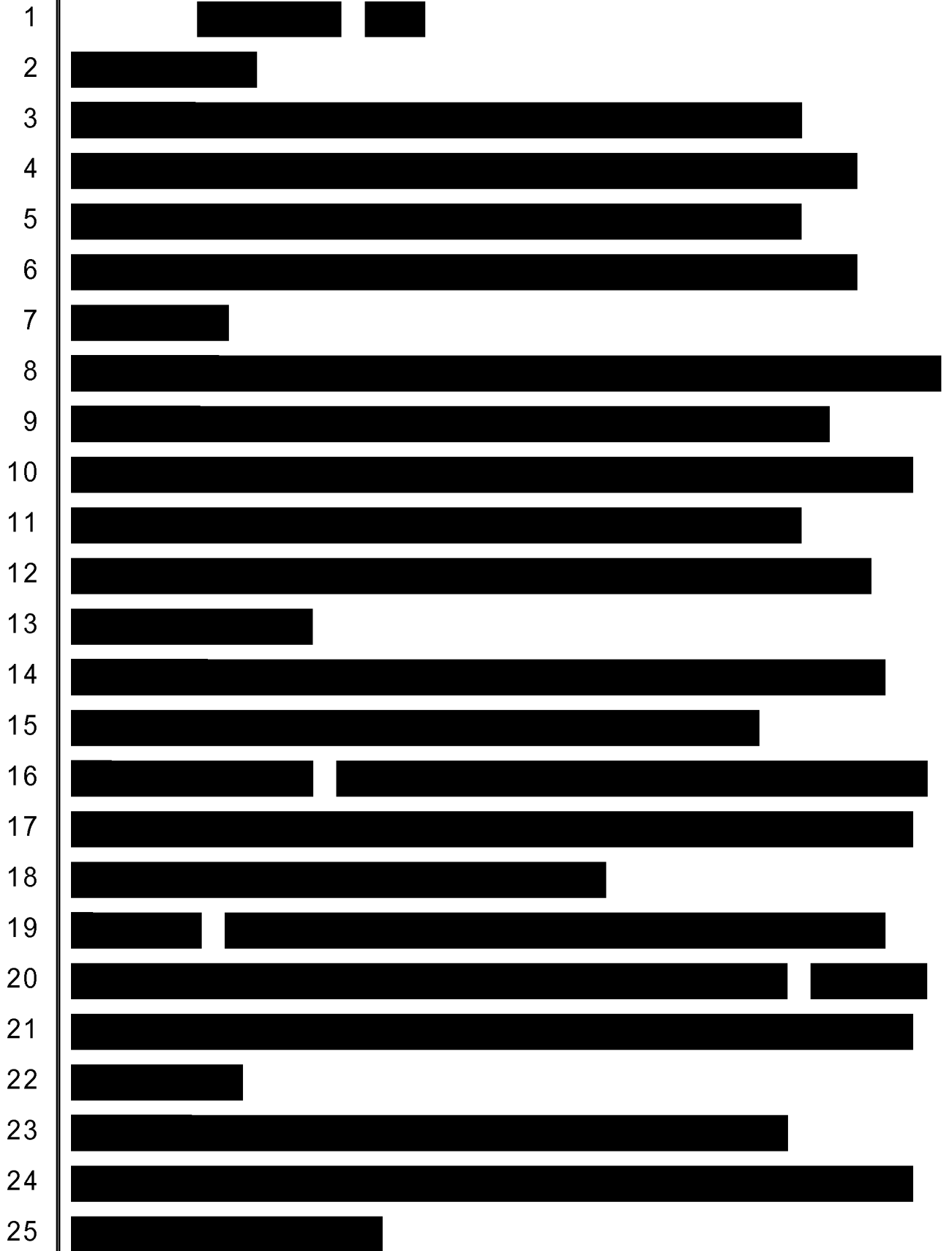


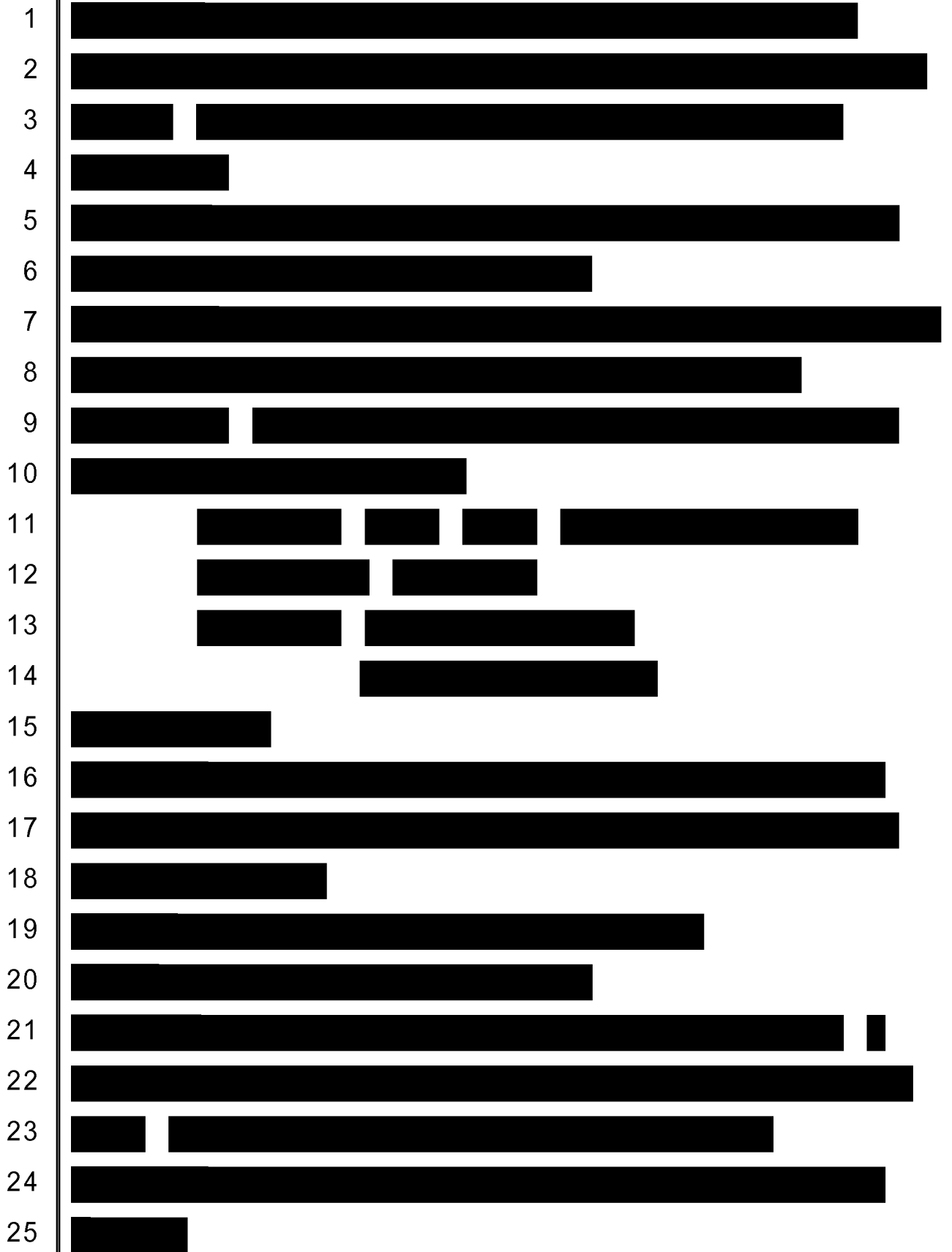




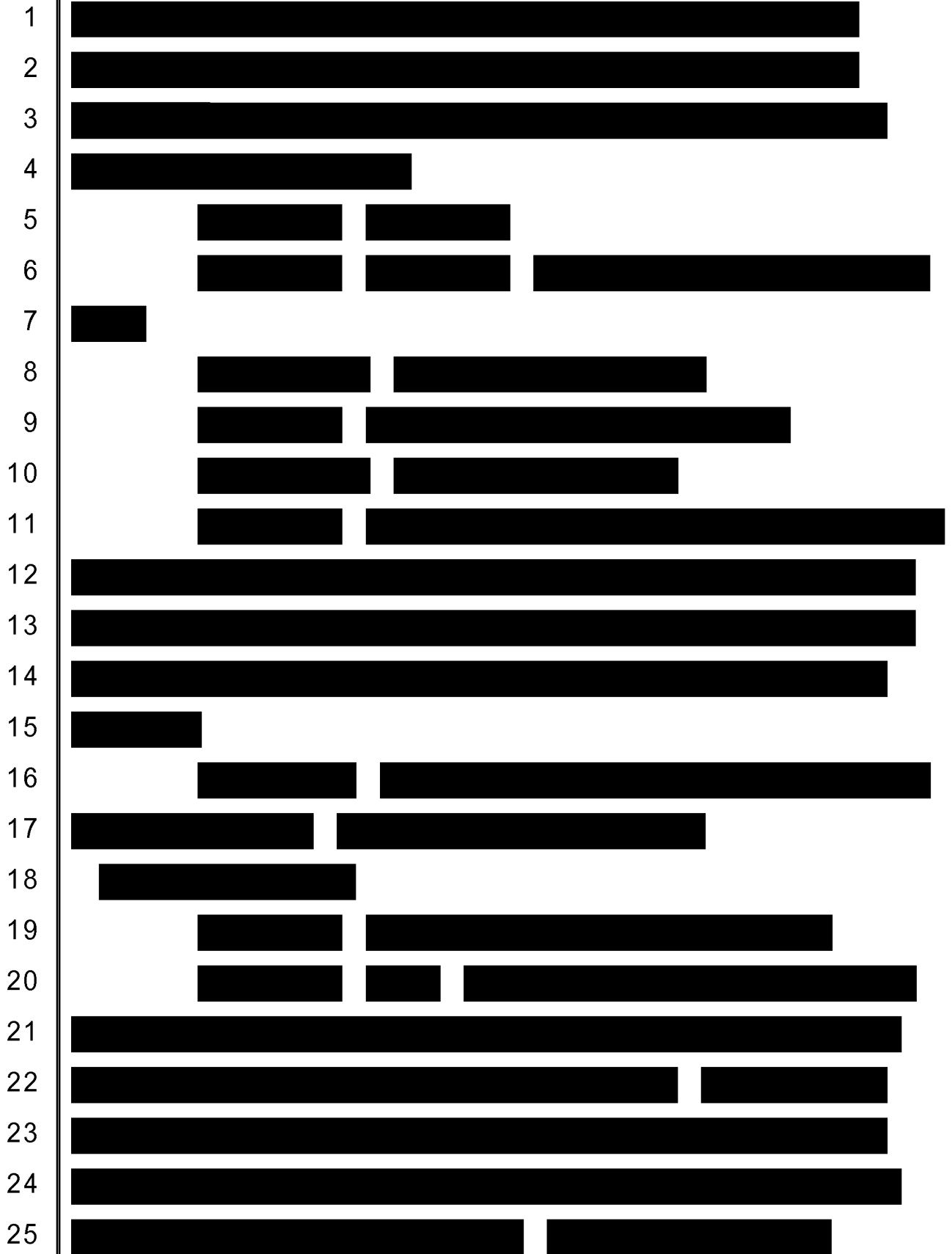


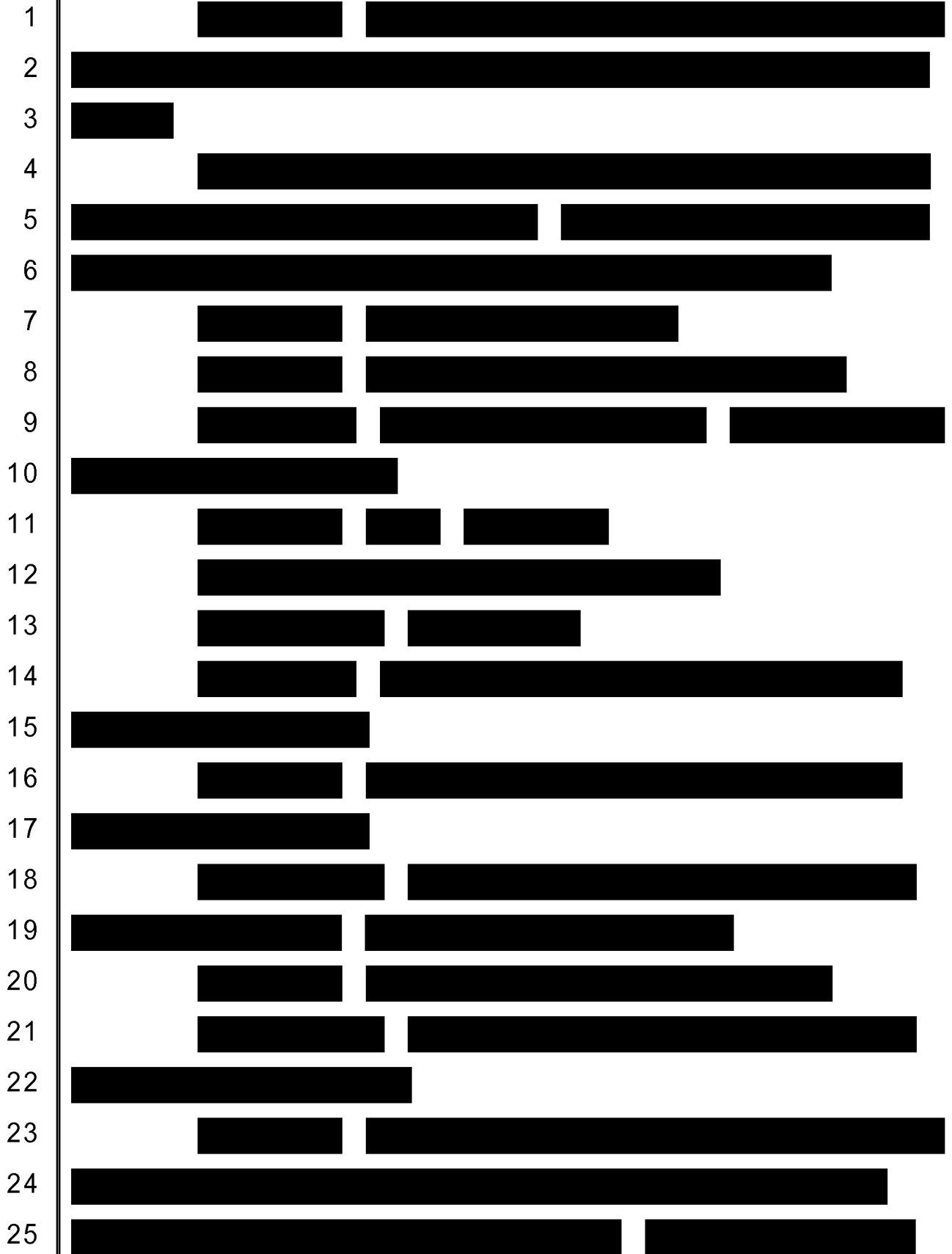


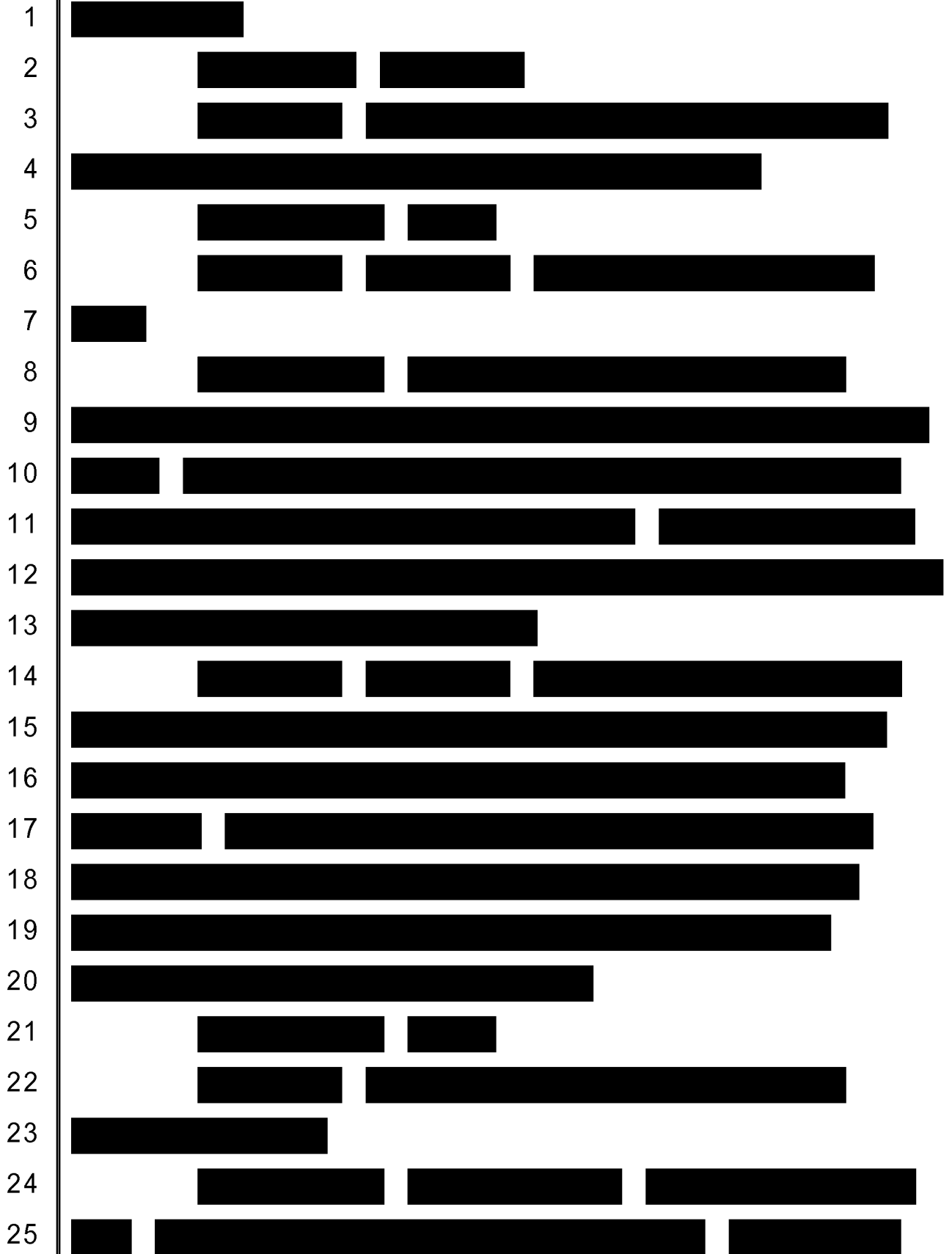




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(Court adjourned, to reconvene 4/17/17 at 9:30 a.m.)

CERTIFICATE

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

/s/Charles R. Zandi

April 13, 2017

Charles R. Zandi
Official Court Reporter

Date _____