



**CIVIL SERVICE COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

**LONDON N. BREED
MAYOR**

Sent via Electronic Mail

February 23, 2023

NOTICE OF CIVIL SERVICE COMMISSION MEETING

Keith Winston
[REDACTED]

SUBJECT: APPEAL BY KEITH WINSTON OF THE HUMAN RESOURCES DIRECTOR'S DETERMINATION TO ADMINISTRATIVELY CLOSE APPELLANT'S COMPLAINT OF DISCRIMINATION AND RETALIATION.

Dear Keith Winston:

The above matter will be considered by the Civil Service Commission at a hybrid meeting (in-person and virtual) in Room 400, City Hall, 1 Dr. Goodlett Place, San Francisco, California 94102 and through Cisco WebEx to be held on **March 6, at 2:00 p.m.** You will receive a separate email invite from a Civil Service Commission staff member to join and participate in the meeting.

The agenda will be posted for your review on the Civil Service Commission's website at www.sf.gov/CivilService under "Meetings" no later than end of day on Wednesday, March 1, 2023. Please refer to the attached Notice for procedural and other information about Commission hearings. A copy of the department's staff report on your appeal is attached to this email.

In the event that you wish to submit any additional documents in support of your appeal, please submit one hardcopy 3-hole punch, double-sided and numbered at the bottom of each page to the CSC Office at 25 Van Ness Ave., Suite 720 and email a PDF version to the Civil Service Commission's email at civilservice@sfgov.org by **5:00 p.m.** on **Tuesday, February 28, 2023**, please be sure to redact your submission for any confidential or sensitive information that is not relevant to your appeal (e.g., home addresses, home or cellular phone numbers, social security numbers, dates of birth, etc.), as it will be considered a public document.

It is important that you or an authorized representative attend the hearing on your appeal. Should you or a representative not attend, the Commission will rule on the information previously submitted and any testimony provided at its meeting. All calendared items will be heard and resolved at this time unless good reasons are presented for a continuance. As a reminder, you are to be honest and forthright during all testimony and in all documentation that you provide to the Civil Service Commission.

You may contact me at (628) 652-1100 or at Sandra.Eng@sfgov.org if you have any questions.

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG
Executive Officer

Attachment

Cc: Dennis Herrera, Public Utilities Commission
Rachel Gardunio, Public Utilities Commission
Radha Kumar, Public Utilities Commission
Carol Isen, Department of Human Resources
Amalia Martinez, Department of Human Resources
Jennifer Burke, Department of Human Resources
Francisco Isidoro, Department of Human Resources
Mawuli Tugbenyoh, Department of Human Resources
Steven Tang, Public Utilities Commission
Commission File
Commissioners' Binder
Chron

NOTICE OF COMMISSION HEARING POLICIES AND PROCEDURES

A. Commission Office

The Civil Service Commission office is located at, 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102. The telephone number is (628) 652-1100. The fax number is (628) 652-1109. The email address is civilservice@sfgov.org and the web address is www.sfgov.org/civilservice/. Office hours are from 8:00 a.m. to 5:00 p.m., Monday through Friday.

B. Policy Requiring Written Reports

It is the policy of the Civil Service Commission that except for appeals filed under Civil Service Commission Rule 111A Position-Based Testing, all items appearing on its agenda be supported by a written report prepared by Commission or departmental staff. All documents referred to in any Agenda Document are posted adjacent to the Agenda, or if more than one (1) page in length, available for public inspection and copying at the Civil Service Commission office. Reports from City and County personnel supporting agenda items are submitted in accordance with the procedures established by the Executive Officer. Reports not submitted according to procedures, in the format and quantity required, and by the deadline, will not be calendared.

C. Policy on Written Submissions by Appellants

All written material submitted by appellants to be considered by the Commission in support of an agenda item shall be submitted to the Commission office, no later than 5:00 p.m. on the fourth (4th) business day preceding the Commission meeting for which the item is calendared (ordinarily, on Tuesday). An original copy on 8 1/2-inch X 11 inch paper, three-hole punched on left margin, and page numbered in the bottom center margin, shall be provided. Written material submitted for the Commission's review becomes part of a public record and shall be open for public inspection.

D. Policy on Materials being Considered by the Commission

Copies of all staff reports and materials being considered by the Civil Service Commission are available for public view 72 hours prior to the Civil Service Commission meeting on the Civil Service Commission's website at <https://sf.gov/civilservice> and in its office located at 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102. If any materials related to an item on this agenda have been distributed to the Civil Service Commission after distribution of the agenda packet, those materials will be available for public inspection at the Civil Service Commission's during normal office hours (8:00 a.m. to 5:00 p.m. Monday through Friday).

E. Policy and Procedure for Hearings to be Scheduled after 5:00 p.m. and Requests for Postponement

A request to hear an item after 5:00 p.m. should be directed to the Executive Officer as soon as possible following the receipt of notification of an upcoming hearing. Requests may be made by telephone at (628) 652-1100 and confirmed in writing or by fax at (628) 652-1109.

A request for a postponement (continuance) to delay an item to another meeting may be directed to the Commission Executive Officer by telephone or in writing. Before acting, the Executive Officer may refer certain requests to another City official for recommendation. Telephone requests must be confirmed in writing prior to the meeting. Immediately following the "Announcement of Changes" portion of the agenda at the beginning of the meeting, the Commission will consider a request for a postponement that has been previously denied. Appeals filed under Civil Service Commission Rule 111A Position-Based Testing shall be considered on the date it is calendared for hearing except under extraordinary circumstances and upon mutual agreement between the appellant and the Department of Human Resources.

F. Policy and Procedure on Hearing Items Out of Order

Requests to hear items out of order are to be directed to the Commission President at the beginning of the agenda. The President will rule on each request. Such requests may be granted with mutual agreement among the affected parties.

G. Procedure for Commission Hearings

All Commission hearings on disputed matters shall conform to the following procedures: The Commission reserves the right to question each party during its presentation and, in its discretion, to modify any time allocations and requirements.

If a matter is severed from the *Consent Agenda* or the *Ratification Agenda*, presentation by the opponent will be for a maximum time limit of five (5) minutes and response by the departmental representative for a maximum time limit of five (5) minutes. Requests by the public to sever items from the [*Consent Agenda* or] *Ratification Agenda* must be provided with justification for the record.

For items on the *Regular Agenda*, presentation by the departmental representative for a maximum time of five (5) minutes and response by the opponent for a maximum time limit of five (5) minutes.

For items on the *Separations Agenda*, presentation by the department followed by the employee or employee's representative shall be for a maximum time limit of ten (10) minutes for each party unless extended by the Commission.

Each presentation shall conform to the following:

1. Opening summary of case (brief overview);
2. Discussion of evidence;
3. Corroborating witnesses, if necessary; and
4. Closing remarks.

The Commission may allocate five (5) minutes for each side to rebut evidence presented by the other side.

H. Policy on Audio Recording of Commission Meetings

As provided in the San Francisco Sunshine Ordinance, all Commission meetings are audio recorded in digital form. These audio recordings of open sessions are available starting on the day after the Commission meeting on the Civil Service Commission website at www.sfgov.org/civilservice/.

I. Speaking before the Civil Service Commission

Speaker cards are not required. The Commission will take public comment on all items appearing on the agenda at the time the item is heard. The Commission will take public comment on matters not on the Agenda, but within the jurisdiction of the Commission during the “Requests to Speak” portion of the regular meeting. Maximum time will be three (3) minutes. A subsequent comment after the three (3) minute period is limited to one (1) minute. The timer shall be in operation during public comment. Upon any specific request by a Commissioner, time may be extended.

J. Public Comment and Due Process

During general public comment, members of the public sometimes wish to address the Civil Service Commission regarding matters that may come before the Commission in its capacity as an adjudicative body. The Commission does not restrict this use of general public comment. To protect the due process rights of parties to its adjudicative proceedings, however, the Commission will not consider, in connection with any adjudicative proceeding, statements made during general public comment. If members of the public have information that they believe to be relevant to a matter that will come before the Commission in its adjudicative capacity, they may wish to address the Commission during the public comment portion of that adjudicative proceeding. The Commission will not consider public comment in connection with an adjudicative proceeding without providing the parties an opportunity to respond.

K. Policy on use of Cell Phones, Pagers and Similar Sound-Producing Electronic Devices at and During Public Meetings

The ringing and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

Information on Disability Access

The Civil Service Commission normally meets in Room 400 (Fourth Floor) City Hall, 1 Dr. Carlton B. Goodlett Place. However, meetings not held in this room are conducted in the Civic Center area. City Hall is wheelchair accessible. The closest accessible BART station is the Civic Center, located 2 ½ blocks from City Hall. Accessible MUNI lines serving City Hall are 47 Van Ness Avenue, 9 San Bruno and 71 Haight/Noriega, as well as the METRO stations at Van Ness and Market and at Civic Center. For more information about MUNI accessible services, call (415) 923-6142. Accessible curbside parking has been designated at points in the vicinity of City Hall adjacent to Grove Street and Van Ness Avenue.

The following services are available on request 48 hours prior to the meeting; except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week. For American Sign Language interpreters or the use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please contact the Commission office to make arrangements for the accommodation. Late requests will be honored, if possible.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our ADA coordinator at (628) 652-1100 or email civilservice@sfgov.org to discuss meeting accessibility. In order to assist the City’s efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Know your Rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code)

Government’s duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City and County exist to conduct the people’s business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people’s review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, or to obtain a free copy of the Sunshine Ordinance, contact Victor Young, Administrator of the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102-4689 at (415) 554-7724, by fax: (415) 554-7854, by e-mail: soff@sfgov.org, or on the City’s website at www.sfgov.org/bdsupvrs/sunshine.

San Francisco Lobbyist Ordinance

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (San Francisco Campaign and Governmental Conduct Code Section 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 25 Van Ness Ave., Suite 220, San Francisco, CA 94102, telephone (415) 252-3100, fax (415) 252-3112 and web site <https://sfethics.org/>.



**CIVIL SERVICE COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

**LONDON N. BREED
MAYOR**

Sent via Electronic Mail

February 23, 2023

NOTICE OF CIVIL SERVICE COMMISSION MEETING

Joel Prather

**SUBJECT: APPEAL BY KEITH WINSTON OF THE HUMAN RESOURCES DIRECTOR'S
DETERMINATION TO ADMINISTRATIVELY CLOSE APPELLANT'S COMPLAINT
OF DISCRIMINATION AND RETALIATION.**

Dear Joel Prather:

As you may be aware, Keith Winston filed the above-referenced discrimination complaint with the Department of Human Resources ("DHR"). The Department of Human Resources reviewed Keith Winston's allegations, and the Human Resources Director determined that there was insufficient evidence to establish the claims of harassment and discrimination. Keith Winston has appealed that determination to the Civil Service Commission.

In accordance with the City Charter and Civil Service Rules, the Commission may sustain, modify, or reverse the Human Resources Director's determination; and may effectuate an appropriate remedy in the event that it finds discrimination in the work environment. Any such finding is binding on City departments. The Commission may not impose discipline on an employee, but in an appropriate case may recommend that the department consider discipline.

The Equal Employment Opportunity Division of DHR will present and defend the Human Resources Director's determination on Keith Winston's complaint at the Civil Service Commission at a hybrid meeting (in-person and virtual) in Room 400, City Hall, 1 Dr. Goodlett Place, San Francisco, California 94102 and through Cisco WebEx to be held on **March 6, 2023, at 2:00 p.m.** The Commission will have received the DHR staff report, which reviews the evidence pertaining to the complaint and supports the Human Resources Director's determination, in advance of the meeting. You will have an opportunity to address Keith Winston's allegations at the Commission meeting, if you wish to do so, although you are not required to appear. You will be receiving a meeting invite to join the meeting through Cisco WebEx on your computer or you may listen/respond to the meeting by phone. The Commission will rule on the information previously submitted and any testimony or other evidence provided at its meeting.

The March 6, 2023, meeting agenda will be posted on the Civil Service Commission's website at www.sf.gov/CivilService under "Meetings" no later than end of day on Wednesday, March 1, 2023.

You may contact me at Sandra.Eng@sfgov.org or (628) 652-1100 should you have any questions.

Sincerely,

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG
Executive Officer

Attachment

Cc: Dennis Herrera, Public Utilities Commission
Rachel Gardunio, Public Utilities Commission
Radha Kumar, Public Utilities Commission
Carol Isen, Department of Human Resources
Amalia Martinez, Department of Human Resources
Jennifer Burke, Department of Human Resources
Francisco Isidoro, Department of Human Resources
Mawuli Tugbenyoh, Department of Human Resources
Steven Tang, Public Utilities Commission
Commission File
Commissioners' Binder
Chron

NOTICE OF COMMISSION HEARING POLICIES AND PROCEDURES

A. Commission Office

The Civil Service Commission office is located at, 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102. The telephone number is (628) 652-1100. The fax number is (628) 652-1109. The email address is civilservice@sfgov.org and the web address is www.sfgov.org/civilservice/. Office hours are from 8:00 a.m. to 5:00 p.m., Monday through Friday.

B. Policy Requiring Written Reports

It is the policy of the Civil Service Commission that except for appeals filed under Civil Service Commission Rule 111A Position-Based Testing, all items appearing on its agenda be supported by a written report prepared by Commission or departmental staff. All documents referred to in any Agenda Document are posted adjacent to the Agenda, or if more than one (1) page in length, available for public inspection and copying at the Civil Service Commission office. Reports from City and County personnel supporting agenda items are submitted in accordance with the procedures established by the Executive Officer. Reports not submitted according to procedures, in the format and quantity required, and by the deadline, will not be calendared.

C. Policy on Written Submissions by Appellants

All written material submitted by appellants to be considered by the Commission in support of an agenda item shall be submitted to the Commission office, no later than 5:00 p.m. on the fourth (4th) business day preceding the Commission meeting for which the item is calendared (ordinarily, on Tuesday). An original copy on 8 1/2-inch X 11 inch paper, three-hole punched on left margin, and page numbered in the bottom center margin, shall be provided. Written material submitted for the Commission's review becomes part of a public record and shall be open for public inspection.

D. Policy on Materials being Considered by the Commission

Copies of all staff reports and materials being considered by the Civil Service Commission are available for public view 72 hours prior to the Civil Service Commission meeting on the Civil Service Commission's website at <https://sf.gov/civilservice> and in its office located at 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102. If any materials related to an item on this agenda have been distributed to the Civil Service Commission after distribution of the agenda packet, those materials will be available for public inspection at the Civil Service Commission's during normal office hours (8:00 a.m. to 5:00 p.m. Monday through Friday).

E. Policy and Procedure for Hearings to be Scheduled after 5:00 p.m. and Requests for Postponement

A request to hear an item after 5:00 p.m. should be directed to the Executive Officer as soon as possible following the receipt of notification of an upcoming hearing. Requests may be made by telephone at (628) 652-1100 and confirmed in writing or by fax at (628) 652-1109.

A request for a postponement (continuance) to delay an item to another meeting may be directed to the Commission Executive Officer by telephone or in writing. Before acting, the Executive Officer may refer certain requests to another City official for recommendation. Telephone requests must be confirmed in writing prior to the meeting. Immediately following the "Announcement of Changes" portion of the agenda at the beginning of the meeting, the Commission will consider a request for a postponement that has been previously denied. Appeals filed under Civil Service Commission Rule 111A Position-Based Testing shall be considered on the date it is calendared for hearing except under extraordinary circumstances and upon mutual agreement between the appellant and the Department of Human Resources.

F. Policy and Procedure on Hearing Items Out of Order

Requests to hear items out of order are to be directed to the Commission President at the beginning of the agenda. The President will rule on each request. Such requests may be granted with mutual agreement among the affected parties.

G. Procedure for Commission Hearings

All Commission hearings on disputed matters shall conform to the following procedures: The Commission reserves the right to question each party during its presentation and, in its discretion, to modify any time allocations and requirements.

If a matter is severed from the *Consent Agenda* or the *Ratification Agenda*, presentation by the opponent will be for a maximum time limit of five (5) minutes and response by the departmental representative for a maximum time limit of five (5) minutes. Requests by the public to sever items from the [*Consent Agenda* or] *Ratification Agenda* must be provided with justification for the record.

For items on the *Regular Agenda*, presentation by the departmental representative for a maximum time of five (5) minutes and response by the opponent for a maximum time limit of five (5) minutes.

For items on the *Separations Agenda*, presentation by the department followed by the employee or employee's representative shall be for a maximum time limit of ten (10) minutes for each party unless extended by the Commission.

Each presentation shall conform to the following:

1. Opening summary of case (brief overview);
2. Discussion of evidence;
3. Corroborating witnesses, if necessary; and
4. Closing remarks.

The Commission may allocate five (5) minutes for each side to rebut evidence presented by the other side.

H. Policy on Audio Recording of Commission Meetings

As provided in the San Francisco Sunshine Ordinance, all Commission meetings are audio recorded in digital form. These audio recordings of open sessions are available starting on the day after the Commission meeting on the Civil Service Commission website at www.sfgov.org/civilservice/.

I. Speaking before the Civil Service Commission

Speaker cards are not required. The Commission will take public comment on all items appearing on the agenda at the time the item is heard. The Commission will take public comment on matters not on the Agenda, but within the jurisdiction of the Commission during the “Requests to Speak” portion of the regular meeting. Maximum time will be three (3) minutes. A subsequent comment after the three (3) minute period is limited to one (1) minute. The timer shall be in operation during public comment. Upon any specific request by a Commissioner, time may be extended.

J. Public Comment and Due Process

During general public comment, members of the public sometimes wish to address the Civil Service Commission regarding matters that may come before the Commission in its capacity as an adjudicative body. The Commission does not restrict this use of general public comment. To protect the due process rights of parties to its adjudicative proceedings, however, the Commission will not consider, in connection with any adjudicative proceeding, statements made during general public comment. If members of the public have information that they believe to be relevant to a matter that will come before the Commission in its adjudicative capacity, they may wish to address the Commission during the public comment portion of that adjudicative proceeding. The Commission will not consider public comment in connection with an adjudicative proceeding without providing the parties an opportunity to respond.

K. Policy on use of Cell Phones, Pagers and Similar Sound-Producing Electronic Devices at and During Public Meetings

The ringing and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

Information on Disability Access

The Civil Service Commission normally meets in Room 400 (Fourth Floor) City Hall, 1 Dr. Carlton B. Goodlett Place. However, meetings not held in this room are conducted in the Civic Center area. City Hall is wheelchair accessible. The closest accessible BART station is the Civic Center, located 2 ½ blocks from City Hall. Accessible MUNI lines serving City Hall are 47 Van Ness Avenue, 9 San Bruno and 71 Haight/Noriega, as well as the METRO stations at Van Ness and Market and at Civic Center. For more information about MUNI accessible services, call (415) 923-6142. Accessible curbside parking has been designated at points in the vicinity of City Hall adjacent to Grove Street and Van Ness Avenue.

The following services are available on request 48 hours prior to the meeting; except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week. For American Sign Language interpreters or the use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please contact the Commission office to make arrangements for the accommodation. Late requests will be honored, if possible.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our ADA coordinator at (628) 652-1100 or email civilservice@sfgov.org to discuss meeting accessibility. In order to assist the City’s efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Know your Rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code)

Government’s duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City and County exist to conduct the people’s business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people’s review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, or to obtain a free copy of the Sunshine Ordinance, contact Victor Young, Administrator of the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102-4689 at (415) 554-7724, by fax: (415) 554-7854, by e-mail: soff@sfgov.org, or on the City’s website at www.sfgov.org/bdsupvrs/sunshine.

San Francisco Lobbyist Ordinance

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (San Francisco Campaign and Governmental Conduct Code Section 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 25 Van Ness Ave., Suite 220, San Francisco, CA 94102, telephone (415) 252-3100, fax (415) 252-3112 and web site <https://sfethics.org/>.



**CIVIL SERVICE COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

**LONDON N. BREED
MAYOR**

Sent via Electronic Mail

February 23, 2023

NOTICE OF CIVIL SERVICE COMMISSION MEETING

Christopher DeBono
[REDACTED]

SUBJECT: APPEAL BY KEITH WINSTON OF THE HUMAN RESOURCES DIRECTOR'S DETERMINATION TO ADMINISTRATIVELY CLOSE HIS DISCRIMINATION COMPLAINT.

Dear Christopher DeBono:

As you may be aware, Keith Winston filed the above-referenced discrimination complaint with the Department of Human Resources ("DHR"). The Department of Human Resources reviewed Keith Winston's allegations, and the Human Resources Director determined that there was insufficient evidence to establish the claims of harassment and discrimination. Keith Winston has appealed that determination to the Civil Service Commission.

In accordance with the City Charter and Civil Service Rules, the Commission may sustain, modify, or reverse the Human Resources Director's determination; and may effectuate an appropriate remedy in the event that it finds discrimination in the work environment. Any such finding is binding on City departments. The Commission may not impose discipline on an employee, but in an appropriate case may recommend that the department consider discipline.

The Equal Employment Opportunity Division of DHR will present and defend the Human Resources Director's determination on Keith Winston's complaint at the Civil Service Commission at a hybrid meeting (in-person and virtual) in Room 400, City Hall, 1 Dr. Goodlett Place, San Francisco, California 94102 and through Cisco WebEx to be held on **March 6, 2023, at 2:00 p.m.** The Commission will have received the DHR staff report, which reviews the evidence pertaining to the complaint and supports the Human Resources Director's determination, in advance of the meeting. You will have an opportunity to address Keith Winston's allegations at the Commission meeting, if you wish to do so, although you are not required to appear. You will be receiving a meeting invite to join the meeting through Cisco WebEx on your computer or you may listen/respond to the meeting by phone. The Commission will rule on the information previously submitted and any testimony or other evidence provided at its meeting.

The March 6, 2023, meeting agenda will be posted on the Civil Service Commission's website at www.sf.gov/CivilService under "Meetings" no later than end of day on Wednesday, March 1, 2023.

You may contact me at Sandra.Eng@sfgov.org or (628) 652-1100 should you have any questions.

Sincerely,

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG
Executive Officer

Attachment

Cc: Joaquin Torres, Office of the Assessor-Recorder
Simone Jacques, Office of the Assessor-Recorder
Jonathan Nelly, Office of the Assessor-Recorder
Carol Isen, Department of Human Resources
Amalia Martinez, Department of Human Resources
Jennifer Burke, Department of Human Resources
Mawuli Tugbenyoh, Department of Human Resources
Marvin Dunson III, Department of Human Resources
Commission File
Commissioners' Binder
Chron

NOTICE OF COMMISSION HEARING POLICIES AND PROCEDURES

A. Commission Office

The Civil Service Commission office is located at, 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102. The telephone number is (628) 652-1100. The fax number is (628) 652-1109. The email address is civilservice@sfgov.org and the web address is www.sfgov.org/civilservice/. Office hours are from 8:00 a.m. to 5:00 p.m., Monday through Friday.

B. Policy Requiring Written Reports

It is the policy of the Civil Service Commission that except for appeals filed under Civil Service Commission Rule 111A Position-Based Testing, all items appearing on its agenda be supported by a written report prepared by Commission or departmental staff. All documents referred to in any Agenda Document are posted adjacent to the Agenda, or if more than one (1) page in length, available for public inspection and copying at the Civil Service Commission office. Reports from City and County personnel supporting agenda items are submitted in accordance with the procedures established by the Executive Officer. Reports not submitted according to procedures, in the format and quantity required, and by the deadline, will not be calendared.

C. Policy on Written Submissions by Appellants

All written material submitted by appellants to be considered by the Commission in support of an agenda item shall be submitted to the Commission office, no later than 5:00 p.m. on the fourth (4th) business day preceding the Commission meeting for which the item is calendared (ordinarily, on Tuesday). An original copy on 8 1/2-inch X 11 inch paper, three-hole punched on left margin, and page numbered in the bottom center margin, shall be provided. Written material submitted for the Commission's review becomes part of a public record and shall be open for public inspection.

D. Policy on Materials being Considered by the Commission

Copies of all staff reports and materials being considered by the Civil Service Commission are available for public view 72 hours prior to the Civil Service Commission meeting on the Civil Service Commission's website at <https://sf.gov/civilservice> and in its office located at 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102. If any materials related to an item on this agenda have been distributed to the Civil Service Commission after distribution of the agenda packet, those materials will be available for public inspection at the Civil Service Commission's during normal office hours (8:00 a.m. to 5:00 p.m. Monday through Friday).

E. Policy and Procedure for Hearings to be Scheduled after 5:00 p.m. and Requests for Postponement

A request to hear an item after 5:00 p.m. should be directed to the Executive Officer as soon as possible following the receipt of notification of an upcoming hearing. Requests may be made by telephone at (628) 652-1100 and confirmed in writing or by fax at (628) 652-1109.

A request for a postponement (continuance) to delay an item to another meeting may be directed to the Commission Executive Officer by telephone or in writing. Before acting, the Executive Officer may refer certain requests to another City official for recommendation. Telephone requests must be confirmed in writing prior to the meeting. Immediately following the "Announcement of Changes" portion of the agenda at the beginning of the meeting, the Commission will consider a request for a postponement that has been previously denied. Appeals filed under Civil Service Commission Rule 111A Position-Based Testing shall be considered on the date it is calendared for hearing except under extraordinary circumstances and upon mutual agreement between the appellant and the Department of Human Resources.

F. Policy and Procedure on Hearing Items Out of Order

Requests to hear items out of order are to be directed to the Commission President at the beginning of the agenda. The President will rule on each request. Such requests may be granted with mutual agreement among the affected parties.

G. Procedure for Commission Hearings

All Commission hearings on disputed matters shall conform to the following procedures: The Commission reserves the right to question each party during its presentation and, in its discretion, to modify any time allocations and requirements.

If a matter is severed from the *Consent Agenda* or the *Ratification Agenda*, presentation by the opponent will be for a maximum time limit of five (5) minutes and response by the departmental representative for a maximum time limit of five (5) minutes. Requests by the public to sever items from the [*Consent Agenda* or] *Ratification Agenda* must be provided with justification for the record.

For items on the *Regular Agenda*, presentation by the departmental representative for a maximum time of five (5) minutes and response by the opponent for a maximum time limit of five (5) minutes.

For items on the *Separations Agenda*, presentation by the department followed by the employee or employee's representative shall be for a maximum time limit of ten (10) minutes for each party unless extended by the Commission.

Each presentation shall conform to the following:

1. Opening summary of case (brief overview);
2. Discussion of evidence;
3. Corroborating witnesses, if necessary; and
4. Closing remarks.

The Commission may allocate five (5) minutes for each side to rebut evidence presented by the other side.

H. Policy on Audio Recording of Commission Meetings

As provided in the San Francisco Sunshine Ordinance, all Commission meetings are audio recorded in digital form. These audio recordings of open sessions are available starting on the day after the Commission meeting on the Civil Service Commission website at www.sfgov.org/civilservice/.

I. Speaking before the Civil Service Commission

Speaker cards are not required. The Commission will take public comment on all items appearing on the agenda at the time the item is heard. The Commission will take public comment on matters not on the Agenda, but within the jurisdiction of the Commission during the “Requests to Speak” portion of the regular meeting. Maximum time will be three (3) minutes. A subsequent comment after the three (3) minute period is limited to one (1) minute. The timer shall be in operation during public comment. Upon any specific request by a Commissioner, time may be extended.

J. Public Comment and Due Process

During general public comment, members of the public sometimes wish to address the Civil Service Commission regarding matters that may come before the Commission in its capacity as an adjudicative body. The Commission does not restrict this use of general public comment. To protect the due process rights of parties to its adjudicative proceedings, however, the Commission will not consider, in connection with any adjudicative proceeding, statements made during general public comment. If members of the public have information that they believe to be relevant to a matter that will come before the Commission in its adjudicative capacity, they may wish to address the Commission during the public comment portion of that adjudicative proceeding. The Commission will not consider public comment in connection with an adjudicative proceeding without providing the parties an opportunity to respond.

K. Policy on use of Cell Phones, Pagers and Similar Sound-Producing Electronic Devices at and During Public Meetings

The ringing and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

Information on Disability Access

The Civil Service Commission normally meets in Room 400 (Fourth Floor) City Hall, 1 Dr. Carlton B. Goodlett Place. However, meetings not held in this room are conducted in the Civic Center area. City Hall is wheelchair accessible. The closest accessible BART station is the Civic Center, located 2 ½ blocks from City Hall. Accessible MUNI lines serving City Hall are 47 Van Ness Avenue, 9 San Bruno and 71 Haight/Noriega, as well as the METRO stations at Van Ness and Market and at Civic Center. For more information about MUNI accessible services, call (415) 923-6142. Accessible curbside parking has been designated at points in the vicinity of City Hall adjacent to Grove Street and Van Ness Avenue.

The following services are available on request 48 hours prior to the meeting; except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week. For American Sign Language interpreters or the use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please contact the Commission office to make arrangements for the accommodation. Late requests will be honored, if possible.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our ADA coordinator at (628) 652-1100 or email civilservice@sfgov.org to discuss meeting accessibility. In order to assist the City’s efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Know your Rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code)

Government’s duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City and County exist to conduct the people’s business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people’s review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, or to obtain a free copy of the Sunshine Ordinance, contact Victor Young, Administrator of the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102-4689 at (415) 554-7724, by fax: (415) 554-7854, by e-mail: soff@sfgov.org, or on the City’s website at www.sfgov.org/bdsupvrs/sunshine.

San Francisco Lobbyist Ordinance

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (San Francisco Campaign and Governmental Conduct Code Section 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 25 Van Ness Ave., Suite 220, San Francisco, CA 94102, telephone (415) 252-3100, fax (415) 252-3112 and web site <https://sfethics.org/>.



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

CIVIL SERVICE COMMISSION REPORT TRANSMITTAL (FORM 22)

1. Civil Service Commission Register Number: 0242-22-6
2. For Civil Service Commission Meeting of: March 6, 2023
3. Check One:
Ratification Agenda
Consent Agenda
Regular Agenda ✓
Human Resources Director's Report
4. Subject: Appeal by Keith Winston of the Human Resources Director's determination to administratively close Appellant's complaint of discrimination and retaliation.
5. Recommendation: Adopt the report, uphold the decision of the Human Resources Director, and deny the appeal by Keith Winston.
6. Report prepared by: Francisco Isidoro, DHR EEO
Telephone number: (415) 557-4839
7. Notifications: Please see attached.
8. Reviewed and approved for Civil Service Commission Agenda:

Human Resources Director: Carol Isen

A blue ink signature of Carol Isen, the Human Resources Director.

Date: February 23, 2023

9. Submit the original time-stamped copy of this form and person(s) to be notified (see Item 7 above) along with the required copies of the report to:

**Executive Officer
Civil Service Commission
25 Van Ness Avenue, Suite 720
San Francisco, CA 94102**

10. Receipt-stamp this form in the "CSC RECEIPT STAMP" box to the right using the time-stamp in the CSC Office.

Attachment

CSC RECEIPT STAMP

NOTIFICATIONS

Keith Winston (Appellant)

■■■■■■■■■■
■■■■■■■■■■
■■■■■■■■■■

Christopher DeBono (Respondent)

■■■■■■■■■■
■■■■■■■■■■
■■■■■■■■■■

Joel Prather (Respondent)

■■■■■■■■■■
■■■■■■■■■■
■■■■■■■■■■

Dennis Herrera

General Manager
San Francisco Public Utilities Commission
525 Golden Gate Avenue
San Francisco, CA 94102
DJHerrera@sfgwater.org

Rachel Gardunio

Employee & Labor Relations Division Manager
San Francisco Public Utilities Commission
525 Golden Gate Avenue
San Francisco, CA 94102
RGardunio@sfgwater.org

Steven Tang

EEO Programs Manager
San Francisco Public Utilities Commission
525 Golden Gate Avenue
San Francisco, CA 94102
SMTang@sfgwater.org

Radha Kumar

Employee and Labor Relations
San Francisco Public Utilities Commission
525 Golden Gate Avenue
San Francisco, CA 94102
RAKumar@sfgwater.org

Carol Isen

Human Resources Director
Department of Human Resources
1 South Van Ness Avenue, 4th Floor
San Francisco, CA 94103
Carol.Isen@sfgov.org

Amalia Martinez

EEO Director
Department of Human Resources
1 South Van Ness Avenue, 4th Floor
San Francisco, CA 94103
Amalia.Martinez1@sfgov.org

Mawuli Tugbenyoh

Chief of Policy
Department of Human Resources
1 South Van Ness Avenue, 4th Floor
San Francisco, CA 94103
Mawuli.Tugbenyoh@sfgov.org

Jennifer Burke

EEO Programs Manager
Department of Human Resources
1 South Van Ness Avenue, 4th Floor
San Francisco, CA 94103
Jennifer.Burke@sfgov.org

Francisco Isidoro

EEO Programs Specialist
Department of Human Resources
1 South Van Ness Avenue, 4th Floor
San Francisco, CA 94103
Francisco.Isidoro@sfgov.org

CIVIL SERVICE COMMISSION REPORT

MEMORANDUM

TO: Civil Service Commission

THROUGH: Carol Isen, Human Resources Director
Department of Human Resources

THROUGH: Amalia Martinez, EEO Director
Department of Human Resources

FROM: Francisco Isidoro, EEO Programs Specialist
Department of Human Resources

DATE: March 6, 2023

EEO FILE NO: 4308

REGISTER NO: 0242-22-6

APPELLANT: Keith Winston

I. AUTHORITY

The San Francisco Charter, Section 10.103, and Civil Service Commission (CSC) Rule 103 provide that the Human Resources Director shall review and resolve complaints of employment discrimination. Pursuant to CSC Rule 103.3, the CSC shall review and resolve appeals of the Human Resources Director's determinations.

II. BACKGROUND

On July 15, 2019, Appellant Keith Winston (Appellant) began his employment with the San Francisco Public Utilities Commission (PUC), as a 7372 Stationary Engineer.

A. Appellant's Complaint, EEO File No. 4308

On January 18, 2022, Appellant submitted a voicemail complaint to the Department of Human Resources, Equal Employment Opportunity (DHR EEO) helpline. On January 18 and 19, 2022, Appellant spoke with Deborah Dulay (Dulay), EEO Programs Senior Specialist with DHR EEO. See Ex. A. Appellant alleged that Joel Prather (Prather), 0941 Manager IV, discriminated against Appellant due to Appellant's race (African American) and sex (male) when Prather issued Appellant a written warning on June 11, 2021. Appellant further alleged that Christopher DeBono (DeBono), 7372 Stationary Engineer, retaliated against him by accessing Appellant's Microsoft Outlook e-mail account without his consent. On February 7, 2022, DHR EEO received Appellant's complaint via mail. See Ex. B.

B. Human Resources Director's Administrative Closure

In a letter dated November 15, 2022, the Human Resources Director informed Appellant that based on the information provided, his allegations were insufficient to raise an inference of discrimination or retaliation for further investigation under the City's EEO Policy. Accordingly, Appellant's complaint was not investigated further and was administratively closed. See Ex. C.

III. ISSUE ON APPEAL TO THE CIVIL SERVICE COMMISSION

On December 9, 2022, Appellant appealed the Human Resources Director's determination to the CSC. See Ex. D. The issue on appeal is whether the Human Resources Director appropriately administratively closed Appellant's complaint.

IV. INVESTIGATIVE STANDARDS AND ANALYSIS

A. Appellant Did Not Sufficiently Allege a Discrimination Claim

To warrant further investigation, a complaint of discrimination in violation of the City's EEO Policy must sufficiently allege all of the following: (1) the appellant is a member of a protected category; (2) the appellant suffered an adverse employment action; and (3) the appellant suffered an adverse employment action because of their membership in a protected category.

Appellant is a member of a protected category based on his race (African American) and sex (male). On June 11, 2021, Appellant suffered an adverse employment action when he was issued a written warning. However, there is insufficient evidence to demonstrate that Appellant's adverse employment action was due to Appellant's membership in any protected categories. Prather issued Appellant a written warning for three altercations with co-workers. See Ex. E. Prather had a legitimate business reason for taking this action against Appellant, as overseeing employee behavior and performance is within Prather's supervisory responsibility. Furthermore, documentation on file and Appellant's own written testimony show that Appellant engaged in conduct that would violate various City policies. See Ex. E. PUC investigated Appellant's conduct and determined that two of the altercations were corroborated by witness accounts and Appellant acknowledged that he made the "Go back to Costa Rica" comment and called a co-worker "a fucking idiot." See Exs. A, B, and D. Additionally, although Appellant alleged that the written warning was demonstrative of race- and sex-based animus, documentation shows that the written warning was based on corroborated conduct that would violate the City's policies. See Ex. E. Based on the foregoing, there was insufficient evidence to support a discrimination claim within EEO jurisdiction because Appellant failed to demonstrate that Appellant suffered an adverse employment action due to Appellant's membership in a protected category, and the Human Resources Director correctly administratively closed Appellant's complaint without further investigation.

B. Appellant Did Not Engage in Protected Activity Prior to Making EEO Complaint

To warrant further investigation, a complaint of retaliation in violation of the City's EEO Policy must sufficiently allege all of the following: (1) appellant engaged in a protected activity; (2) appellant suffered an adverse employment action; and (3) there was a causal link between the protected activity

and the adverse employment action. An adverse employment action is any objectively material adverse action affecting the terms, conditions or privileges of employment. Actions considered materially adverse are those that impair a reasonable employee's job performance or prospects for advancement. Materially adverse actions may also include those acts that would dissuade a reasonable employee from supporting a complaint of discrimination.

In January 2022, Appellant alleged that in September 2021, he saw his login credentials on DeBono's computer and when Appellant logged in, he found his e-mail open. See Ex. A. In December 2022, Appellant alleged that in July 2021, he saw his login credentials on DeBono's computer and when Appellant logged in, he found his e-mail open. See Ex. D. Regardless of the accuracy of the Appellant's timeline, the alleged harm precedes Appellant's protected activity by four to six months. Consequently, Appellant did not sufficiently allege that he engaged in a protected activity prior to the alleged harm. Furthermore, Appellant did not sufficiently allege he suffered an adverse employment action. Appellant did not demonstrate who allegedly accessed his e-mail or any tangible harm. Appellant reported his concerns and PUC management forwarded the issue to PUC IT. See Ex. F. PUC's IT team confirmed that Appellant logged into DeBono's computer four times on September 15, 2021, between 2:40 p.m. and 3:28 p.m. However, DeBono was at a different location during this time and not at his computer. See Ex. F. Based on the foregoing, there was insufficient information to support a retaliation claim within EEO jurisdiction because there was no evidence an adverse employment action occurred or was preceded by any protected activity, and the Human Resources Director correctly administratively closed Appellant's complaint without further investigation.

C. Appellant's Bases for Appeal Do Not Demonstrate the Human Resources Director's Determination was Improper

As the basis for his appeal, Appellant made the following allegations: (1) Appellant's written warning was unfounded because Prather never observed Appellant in the workplace and did not have knowledge of the incidents addressed in the written warning; (2) Appellant denied the conduct reported in two of the altercations and described his comment in the third incident as inoffensive; (3) Appellant received positive feedback from PUC staff on his performance; and (4) Appellant claimed that he did not use DeBono's computer in September 2021. See Ex. D.

1. Prather Made False Statements and Did Not Have Knowledge of Altercations

On appeal, Appellant alleges that Prather made false statements in the written warning and had limited knowledge of Appellant's job performance. However, Prather, in conjunction with various PUC personnel, investigated Appellant's conduct and collected witness testimony that substantiated Appellant engaged in conduct which would violate City policies. See Ex. E. This negates Appellant's allegation that Prather had no knowledge of the incidents. Furthermore, Appellant alleges that Prather issued Appellant the written warning due to racial animus. However, documentation submitted by PUC Employee and Labor Relations (ELR) show that Prather's descriptions of Appellant are factually accurate, including that Appellant pulled a plug from a co-worker's work tool and cursed at him. Thus, the PUC issued Appellant a written warning for a legitimate business reasons due to unprofessional conduct and there is no evidence proffered by Appellant that this conduct was due to Appellant's membership in protected categories.

2. Appellant Denied Conduct

On appeal, Appellant alleges that the conduct described in the three altercations did not occur as reported. However, witness interviews corroborated two of the incidents and Appellant acknowledged in his rebuttal to the written warning that he made the “Go back to Costa Rica” comment and called a co-worker “a fucking idiot.” See Ex. D. Although Appellant denied that the “Go back to Costa Rica” comment to his co-worker was offensive due to the context, the co-worker found the comment offensive and the PUC determined the comment was inappropriate.

3. Appellant Received Positive Feedback

On appeal, Appellant alleges that a September 30, 2020, e-mail from Jianmin Ma (Ma), 7252 Chief Stationary Engineer, shows that Appellant did not engage in the conduct listed in the written warning. However, Ma provided testimony that substantiated Appellant’s behavior in the PUC investigation. See Ex. E. Additionally, the PUC found that Appellant’s supervisors failed to contemporaneously counsel Appellant regarding Appellant’s conduct, which corroborates the reason for Appellant’s claim that he did not receive any complaints regarding his conduct prior to the write-up. See Ex. E. Moreover, appropriate action was taken by the PUC to ensure that supervisors mediate, document, and properly supervise subordinate employees. See Ex. E. In addition, Appellant alleges that a February 5, 2021, e-mail from Prather shows that Appellant did not engage in the conduct cited in the written warning. However, Prather’s positive evaluation of Appellant does not preclude the documented conduct by Appellant that occurred outside of this 90-day reassignment. Furthermore, Prather’s praise of Appellant’s performance negates Appellant’s broader allegation that Prather’s issuing of Appellant a written warning was due to race- and sex-based animus.

4. Computer Usage Concerns

On appeal, Appellant alleges that DHR’s November 15, 2022, determination letter falsely states the date of the alleged unauthorized access to Appellant’s computer See Ex. D. While DHR’s letter incorrectly attributes the date of alleged unauthorized access of Appellant’s computer, this error would not affect the determination, as this incident fails to constitute an adverse employment action or would dissuade a reasonable employee from supporting a complaint of discrimination.

On appeal, Appellant also alleges that he never used DeBono’s computer aside from a July 15, 2021, login and that the responses provided by PUC IT document the unauthorized access of his account. See Ex. D. However, in January 2022, during his initial communication with DHR EEO, Appellant cited that he logged into DeBono’s computer in September 2021. See Ex. A. Regardless of this discrepancy in Appellant’s timeline, Appellant did not engage in a protected activity nor did he suffer an adverse employment action. PUC’s IT team confirmed that Appellant logged into DeBono’s computer four times on September 15, 2021, between 2:40 p.m. and 3:28 p.m. However, DeBono was at a different location during this time and not at his computer. See Ex. F. Additionally, Appellant believes this unauthorized access into his account did not enable him to trust that his e-mail will remain confidential. Nonetheless, Appellant did not report any unauthorized action taken on his account, there is no evidence that any unauthorized login occurred, and the use of City property, including e-mail accounts, may only be used for authorized official communications and exclude personal usage. Thus, Appellant provides insufficient evidence that he engaged in any protected activities prior to these events, nor do these events constitute adverse employment actions.

D. Issues Not Before Commission

On appeal, Appellant alleges that he received a July 11, 2022, written warning for violation of the Policy Regarding the Treatment of Co-workers and Members of the Public, Discourteous Treatment of Others, Failure to Follow Rules and Regulations, and Insubordination, which stemmed from incidents that occurred on April 8 and June 22, 2022. Appellant also alleges that in a July 1, 2022 e-mail, Prather accused Appellant of leaving the workplace prior to receiving his work assignments. However, Appellant did not allege these claims in the EEO complaint under appeal. As such, these allegations are outside the scope of the appeal, and this newly proffered information would not change the Human Resource Director's determination. Nonetheless, DHR EEO has opened a new EEO complaint, EEO File No. HRC0003014 and will review these allegations separately.

V. RECOMMENDATION

For the reasons set forth above, the Human Resources Director's decision should be upheld, and the appeal should be denied.

VI. APPENDIX/ATTACHMENTS TO THE REPORT

Attached to this report are the following:

- Exhibit A: Appellant's Complaint of Discrimination and Retaliation, Memorandum, January 18, 2022
- Exhibit B: Appellant's mailed complaint to DHR EEO, February 7, 2022
- Exhibit C: Human Resources Director's Letter of Determination to Appellant, November 15, 2022
- Exhibit D: Appellant's Appeal to the Civil Service Commission, December 9, 2022
- Exhibit E: PUC Documents for Disciplinary Action Taken Against Appellant
- Exhibit F: PUC IT Documentation

BLANK PAGE

EXHIBIT A

Appellant's Complaint of Discrimination and Retaliation, Memorandum, January 18, 2022



MEMORANDUM

To: Amalia Martinez, DHR, EEO and Leave Programs
From: Deborah Dulay, DHR, EEO Programs Senior Specialist
RE: Walk-in Complaint (via Helpline), Keith Winston
Dept: PUC; DSW: [REDACTED]
Job Title: 7372 Stationary Engineer, Sewage Plant
Shift: n/a
Date: January 21, 2022

Complainant's contact information:

Phone number: [REDACTED]
Email: [REDACTED]
Preferred pronouns: he/his/him

Respondent(s): Joel Prather, 0941 Manager VI, Maintenance Division Manager for Wastewater Treatment

Basis: Race (African-American, Black)
Issue: disciplinary action (write-up)

Date of Helpline Voicemail: January 18, 2022
Date of Helpline Call: January 18, 2022, January 19, 2022

Winston has not spoken to anyone else in DHR EEO about these matters.

In October 2011, Winston (African-American, Black) started working for the City and County of San Francisco with the Public Utilities Commission (PUC). Winston is an Operator, 7372 Stationary Engineer.

Winston was written-up

In June 2021, Joel Prather (Hispanic), 0941 Manager VI, Maintenance Division Manager for Wastewater Treatment, gave Winston a write-up, which said Winston got in a conflict with someone at work. Winston was accused of being violent, and threatening people. However, Winston believes the accusation against him was unfounded because there were no witnesses to the purported incident. Also, Winston's direct supervisor, Jimmy Ma sent an email saying that Ma appreciated Winston. Winston believes Ma's adulatory email directly contradicts how

Prather portrayed Winston in the write-up. Moreover, Winston sees Ma everyday, and rarely interacts with Prather. Therefore, Winston's portrayal in the write-up was fraudulent because Prather does not observe Winston's workplace behavior regularly. Winston added that he was tired of people questioning his qualifications, and ability to perform his job duties. Winston believes Prather also hacked into his Outlook email account for work.

Winston has reported his issues with Prather to: Marlon Brosas, 7373 Senior Stationary Engineer, Sewage Plant; and Steven Kohmann, Superintendent of Maintenance, 0933 Manager V. Brosas is one managerial level below, Kohmann, and Kohmann is one managerial level below Prather.

When asked how the write-up was connected to his race, Winston explained that he was portrayed as aggressive because he is African-American. Winston reiterated that he did not threaten anyone.

When asked about conflicts with co-workers, Winston explained that Winston had a conflict with a co-worker in the past. Around August 2019, for about 90 days, Winston was sent to another jobsite, and observed by management. After the 90 days, Winston was given an excellent evaluation, and returned to his original site. However, three months later, Prather wrote up Winston. As an operator, Winston has to turn machinery on and off, and another co-worker, Clifford Nakai, 7372 Stationary Engineer, Sewage Plant, had changed his settings for the machinery. Winston is responsible for the area, and signs his name to the worklog, which was why Winston did not want Makai interfering with the area Winston is responsible for.

When asked why Winston thought Prather showed bias against him, Winston explained that Prather is a racist, and did not like Black people. Prather accused Winston of being racist, which demonstrates that Prather is racist himself. In or around July 2020, Winston got into an argument with co-worker, Robert Gall, 7372 Stationary Engineer, Sewage Plant. Gall returned to work after vacation in Costa Rica. Winston commented to Gall that Gall should go back to Costa Rica. Prather's write-up made it sound like Winston was racist or biased against people from Costa Rica. However, Winston was telling Gall that he should go back to Costa Rica as in go back on vacation in Costa Rica. Winston did not know why this incident from July 2020 was cited in the write-up from June 2021 where Winston was accused of being violent.

When asked whether Prather made racial comments, Winston said he did not know because Winston has only interacted with Prather for about 45 minutes.

DeBono hacked Winston's work email account

In or around September 2021, Winston said that Christopher DeBono, supervisor of Winston's crew, 7372 Stationary Engineer, Sewage Plant, hacked Winston's work Outlook email. Winston was working overtime, and the water plant was coming back online. However, Winston never used the computer prior to the start of the shift. When Winston moved the computer mouse, and saw that Winston's outlook account was on the computer's display. Winston complained about this, but Winston's concerns were not investigated. Winston does not feel comfortable asking for help from the managers in Winston's unit, and believe management is protecting DeBono. When

asked why management showed preferential treatment to DeBono, Winston said that he is new, which is why they protect DeBono. DeBono's father, and cousin also work at PUC, which shows favoritism towards DeBono and explains why management did not support Winston's concerns about email hacking. Similarly, DeBono arrives to work later in the morning because he is allowed to take his kids to schools, which also shows favoritism towards DeBono.

Did Winston talk to anyone else about these matters regarding the write-up and Prather?

Winston talked to his union rep, and Winston wrote a rebuttal to the write-up. However, Winston did not tell the union rep about how his email was hacked. Winston does not trust anyone at work. Winston's crew only has five individuals working there, and DeBono is hostile toward Winston. The managers believe Winston is a liar, think Winston is not smart enough to see his own name on the computer, and they are setting Winston up for a mistake.

Did someone call Winston stupid or unintelligent?

No, Winston felt that management were talking down to Winston regarding his email account being hacked. Winston felt that they were saying he did not know what he was doing.

BLANK PAGE

EXHIBIT B

Appellant's mailed complaint to DHR EEO, February 7, 2022

To : SFDHR-EEO

From : Mr. Keith Winston

Contact :



Stationary Engineer (sewage) 7372

I believe that I experienced Disciplinary action due to my race, color, national origin , ethnicity or ancestry. Also retaliation from the chain of command.

Date of violation 6-11-2021 written warning and email hack on 9-15-2021. Please see documentation included.

Overview of Complaint

1. 6-11-2021 - Received Written Warning from J. Prather SFPUC Head of Maintenance Division.

Written Warning has several fraudulent, one-sided, unsubstantiated, and racist statements. Example- J. Prather used a racist stereo type against me- Angry and Violent Black male.

2. 9-15-2021 - My current Supervisor C. Debono and R. Chinn Hacked my employee Outlook Account.

I reported the email hack up the chain of command- To M. Brosas -Chief and to S. Kohmann superintend. They refused to do anything. Or take any action. I was told I could investigate the email hack myself. I told them it was not my job to investigate. I was told to report back to crew #403 with C. Debono as my immediate supervisor along with R. Chinn. I told them I felt unsafe and I couldn't trust Chinn and Debono. This has been a heavy burden for me emotionally. They hack my email once they could do it again , who helped them get my password, who did they and who are they now sharing my emails with . None of these questions have been answered by management.

I believe the email hack was Retaliation from my supervisory Chain of Command. I have no one in this department to turn to. J. Prather has shown me that he is bias, unethical and dismisses everything that state to him. Please see Written Warning.

Thanks

Keith Winston
02-05-2022



From: Keith Winston

To: SFDHR-EEO

Chain of command at SFPUC wastewater ent. – Maintenance Division

J. Prather Manager- Head of maintenance

S. Kohomann - Superintendent of maintenance

J. Ma Chief Stationary Engineer

M. Brosas Chief Stationary Engineer

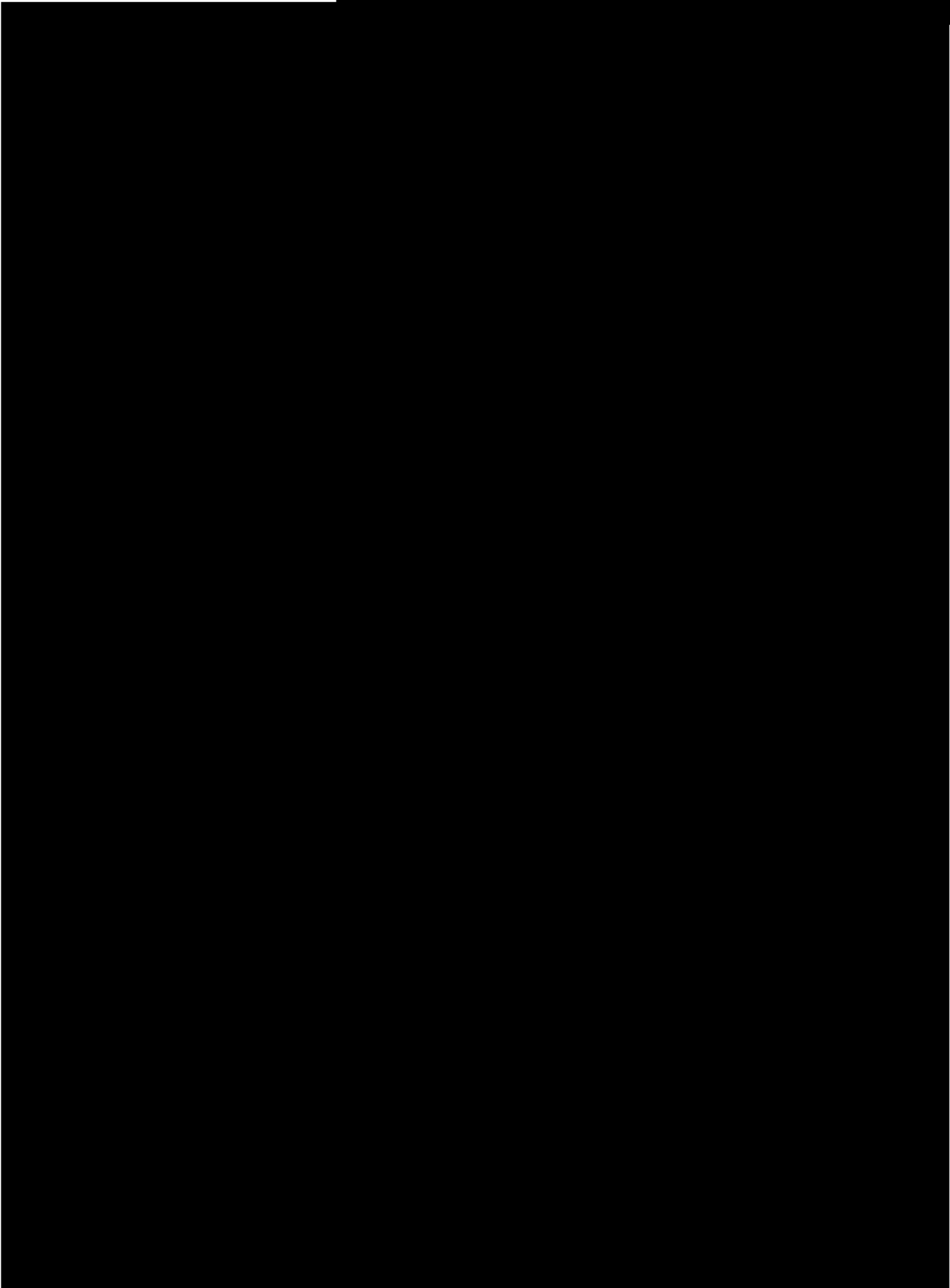
B. Wong Senior Stationary Engineer

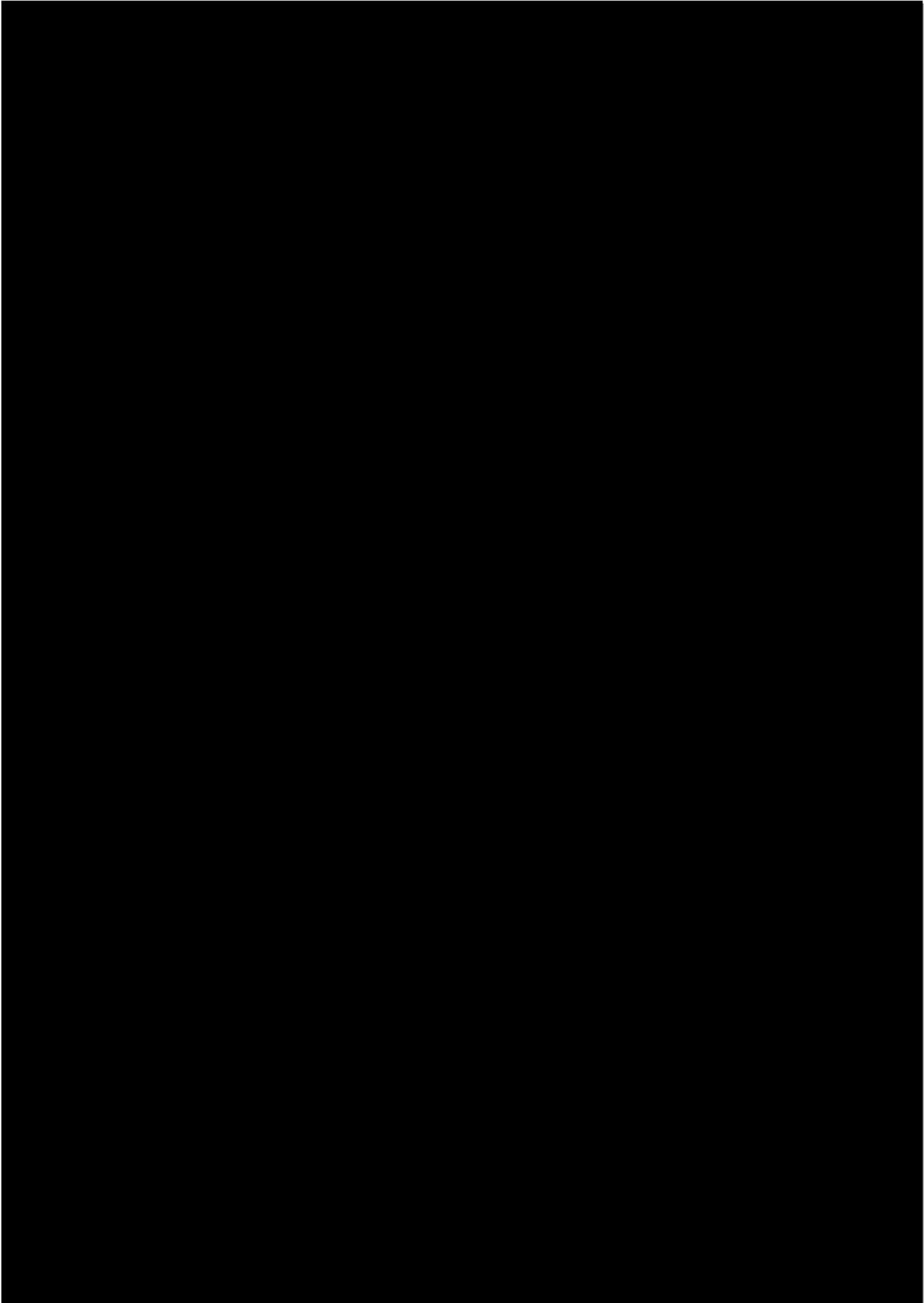
C. Debono Senior Stationary Engineer and my current supervisor crew #403

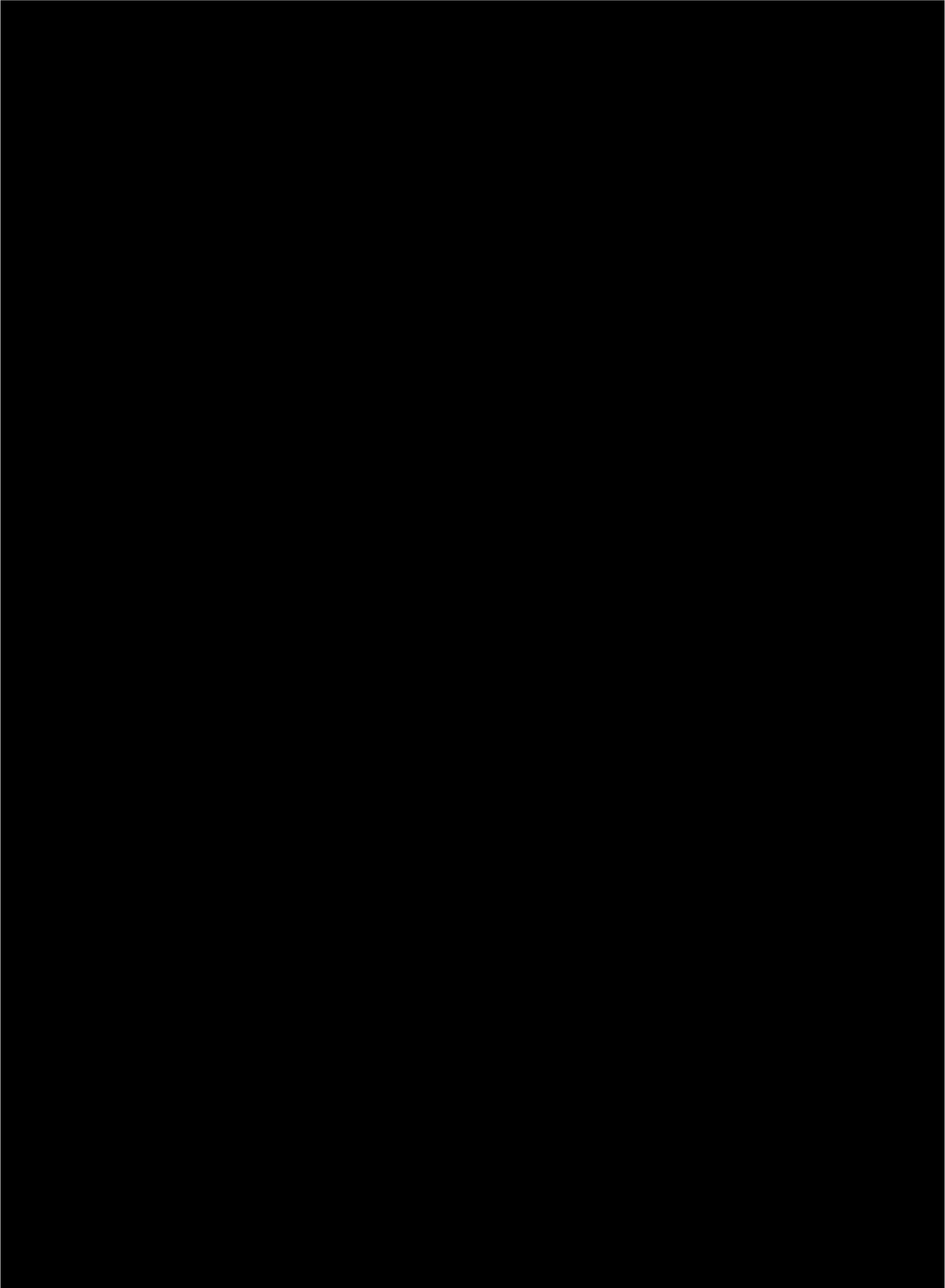
Keith Winston Stationary Engineer crew #403

R. Chinn Stationary Engineer crew #403

Cliff Nakai Stationary Engineer -Operation's Division- not maintenance-J. Prather had no oversight or supervision of this incident between me and C. Nakai . We both where in operation division- not maintenance. Please see documents.







Rebuttal to written warning

Received on 6-11-2021

Regarding incident with Cliff Nakai

1. J.Prather states that this incident took place several months before Aug. 2020. The actual date was July 2019.
2. This incident happened while we both were working in operation's. J. Prather supervised maintenance. J. Prather was not involved in reviewing this incident which took place 2 year's ago. J. Prather never talked to me about this incident.
3. I began my new-hire probation July 2019 and completed probation July 2020. No verbal or written warning for threats of violence.
4. C. Nakai made changes to equipment on my station without my acknowledgement , which he never denied 2 year's ago. I made it clear to him not to make changes on my station. Their was no balled fist no threat of violence. 10 to 15 people present no one reported me being violent because it didn't happen.

Regarding working with Brannon Wong

1. I was assigned to B. Wong crew on Mar. 2020. He refused to talk to me or give work assignment's I reported to Jimmy Ma about our poor work relationship. Jimmy Ma said he would talk to B. Wong.
2. B. Wong never changed his attitude toward me the entire time I worked with him.
3. Their was no threat's of violence ever witnessed by anyone in a very busy area, in fact Jimmy Ma's office is in the same area , Jimmy Ma was present daily. No one reported me yell at, raise my voice, disrespect or be insubordinate toward B. Wong because it didn't happen.
4. This is a fraudulent statement created by J. Prather.
5. Please note dates on Emails that I have included.

Regarding confrontation with R. Gall

1. We had a confrontation which I have always admitted. I was rude and disrespectful and R. Gall was also . No threats of violence made. This took

place in a public area but no coworker reported any violent acts or threat's.

2. I gave J. Prather a 2 page written description of what happened 2 day's after the incident. J. Prather choose to ignore my statement's. I have included copies of my statement that was given to J.Prather.
3. I told R. Gall to back to Costa Rica because he just back from vacation from Costa Rica a day or 2 before. After working with him for a day I wanted him to go back on vacation was my point where he went did not matter to me. If he went to Disneyland on vacation I would have said go back to Disneyland . Would that statement mean I hate Mickey Mouse? By J. Prather logic it would.

Summary

1. No documented incidents of me being discourteous, violent to any coworker.
2. J. Prather written warning has multiple one sided, fraudulent and unsubstantiated statement's.
3. J. Prather has exhibited bias and used racist stereo types against Keith Winston EX. The angry black guy.
4. I have been in J. Prather's presence for a total of 45 mins. He chooses to go to such a low level to describe me.
5. I am in contact with over 25-50 people on a daily bases. No one has describe me as J. Prather has.

KEITH WINSTON
Keith Winston
6-29-2020 K.W.

This is my summary of the description of incident with R. Gall that was given to J.Prather on 11-3-2020.

On 10-28-2020 my senior gave me and R. Gall a job to work together for the day. The job was cleaning the polymer mixer and surrounding area. We began cleaning R.Gall was using the pressure washer and I began spray solvent, scrapping with a shovel and using a 1 ½ water hose.

Throughout the day I tried to talk to R.Gall about the job we where doing, he just gave short rude responses or he would ignore me. He would ask me to dirty task that he felt he shouldn't have to do, he shouldn't have to lower his self to do. I told him to do it himself.

One hour before quitting time I tried again to talk to R.Gall he wouldn't listen to me he just kept powerwashing. He then started to spray over the area where i spent the day cleaning causing dirt to cover the area again. At that point I got frustrated and I pulled the electrical cord from the powerwasher from the wall socket and we began to argue and eventually I called him a fucking idiot.

I know being frustrated isn't an excuse to say such thing's to another person but this incident is an example of many frustrating incident's with R.Gall.

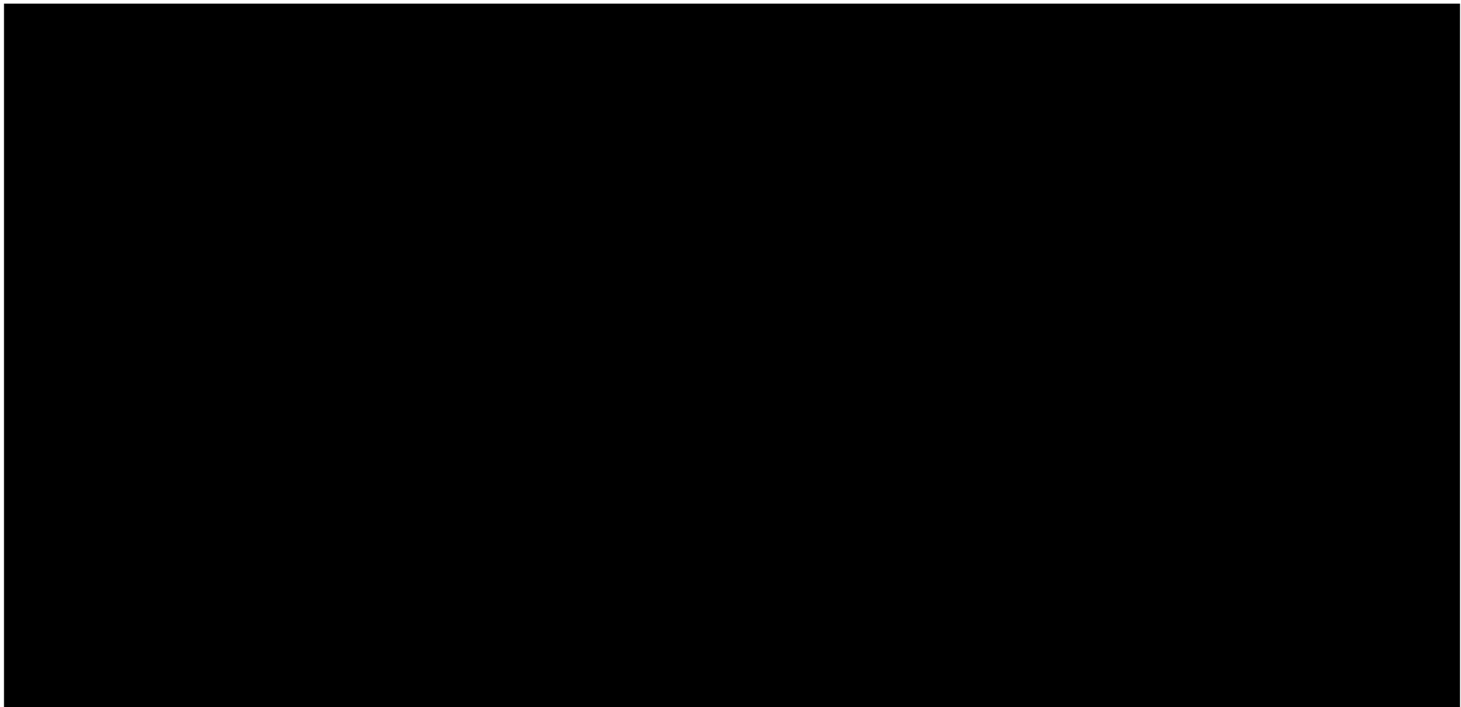
Fwd: Better Communication

From: Winston, Keith (kwinston@sflower.org)

To: 

Date: Tuesday, June 15, 2021, 12:43 AM PDT

Sent from my T-Mobile 4G LTE Device
Get [Outlook for Android](#)



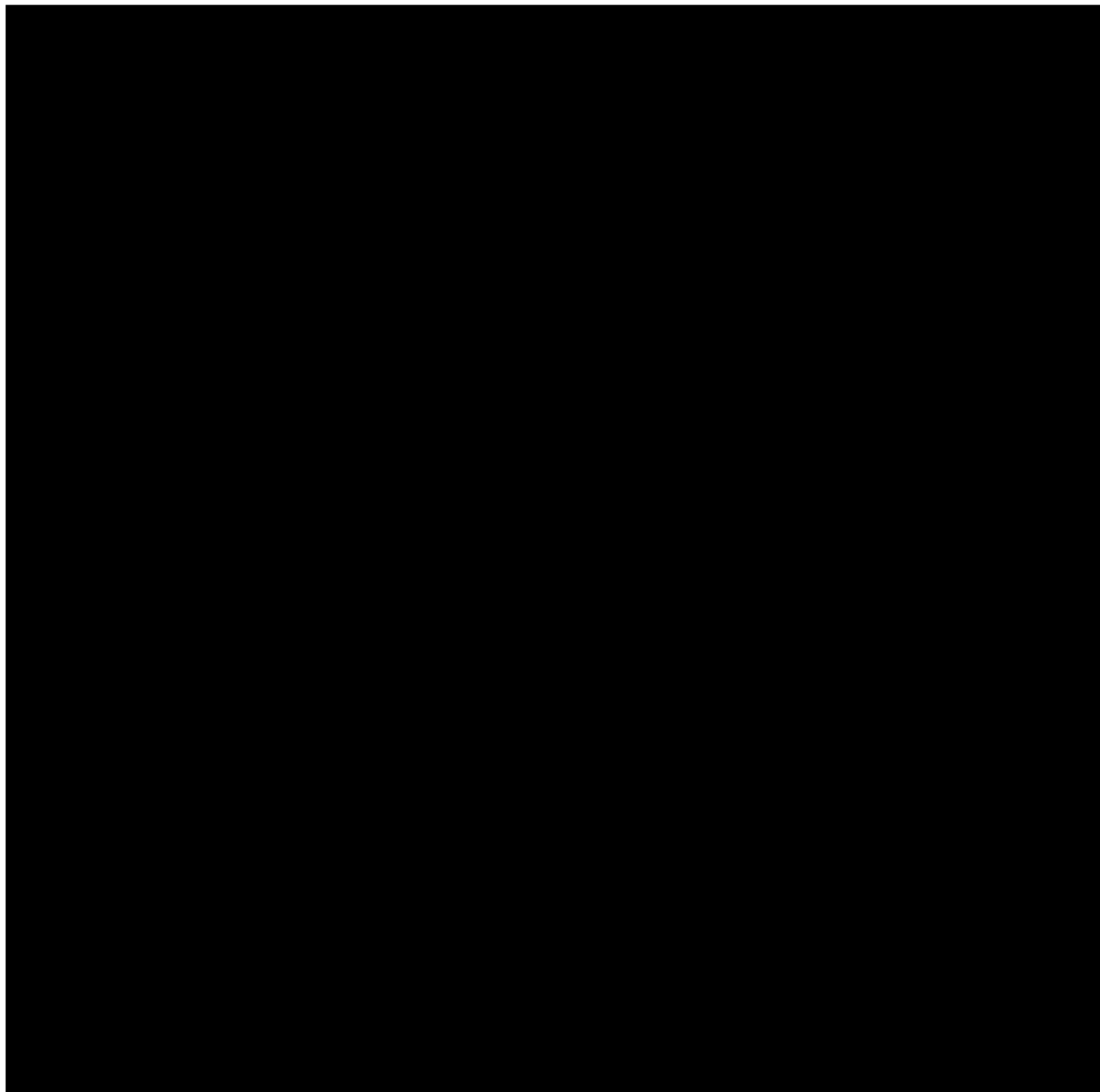
Fwd: Work rules

From: Winston, Keith (kwinston@swater.org)

To: 

Date: Tuesday, June 15, 2021, 12:45 AM PDT

Sent from my T-Mobile 4G LTE Device
Get [Outlook for Android](#)



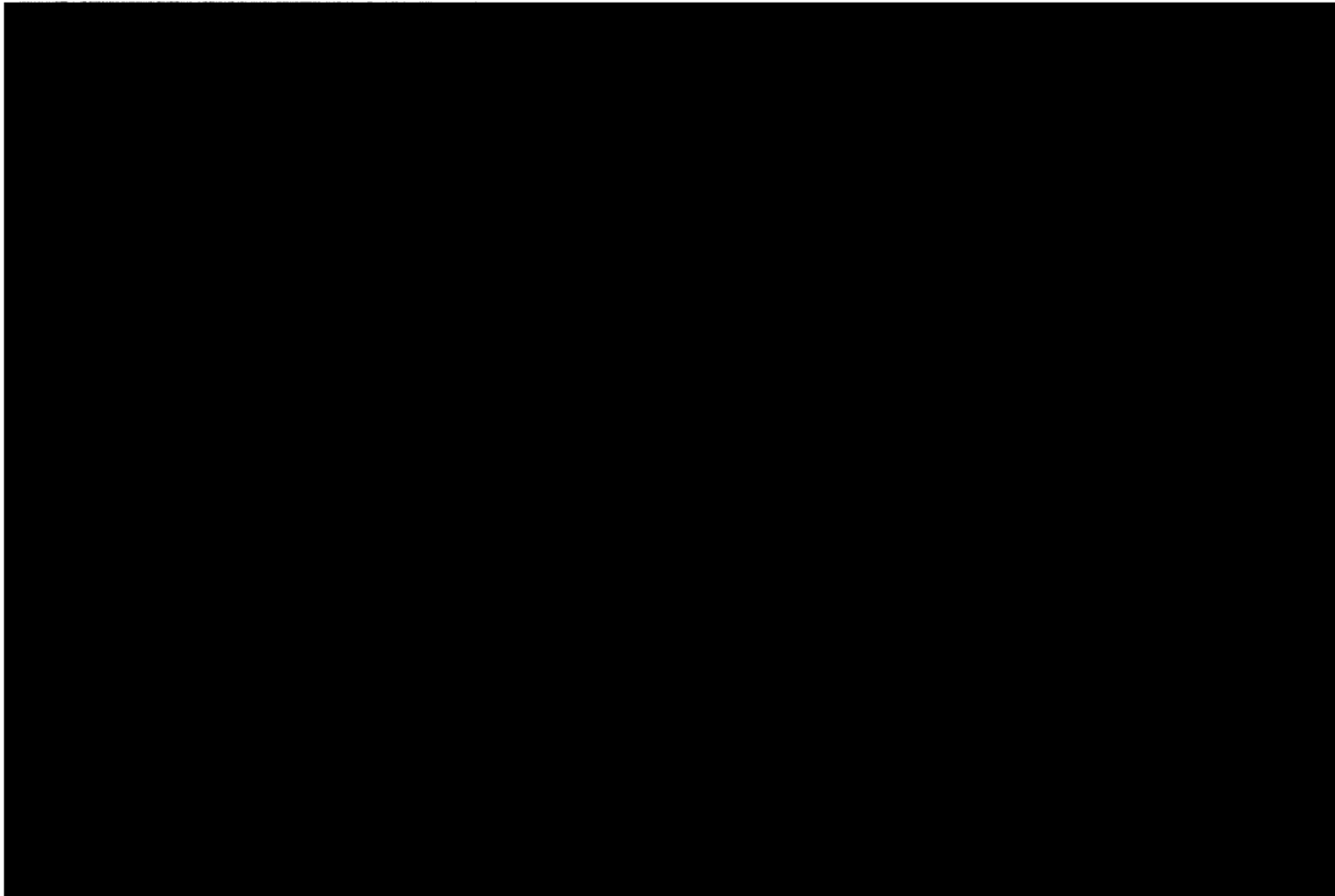
Fwd: K. Winston move to C0403

From: Winston, Keith (kwinston@sewater.org)

To: [REDACTED]

Date: Monday, June 28, 2021, 07:28 AM PDT

Sent from my T-Mobile 4G LTE Device
Get [Outlook for Android](#)



EMAIL'S REGARDING MY EMPLOYEE OUTLOOK ACCOUNT HACK.

From: Ngan, Mandy <MNgan@sfwater.org>
Sent: Thursday, September 16, 2021 3:35 PM
To: Brosas, Marlon <MBrosas@sfwater.org>
Cc: Winston, Keith <KWinston@sfwater.org>
Subject: RE: someone logging into my outlook emails.

Hi Marlon,

After some research, Keith was logged into that computer 4 times on 9/15/2021 from 2:40 - 3:28PM. The following user logged into that computer that day:

- DeBono, Christopher
- Chinn, Richard

Best,
Mandy

From: Brosas, Marlon <MBrosas@sfwater.org>
Sent: Thursday, September 16, 2021 1:38 PM
To: Ngan, Mandy <MNgan@sfwater.org>
Cc: Winston, Keith <KWinston@sfwater.org>
Subject: FW: someone logging into my outlook emails.

Hi Mandy,

I spoke with you earlier about Keith Winston concerns about others logging into his Outlook account, this is the SN#2UA721258Y of the computer that's in question. Can you please check when and how many times KWinston was logged on that computer?

Thank You,
Marlon Brosas
SFPUC WWE
SEP N. Maintenance
750 PHELPS ST.
San Francisco, CA 94124
415-740-5173
mbrosas@sfwater.org

From: Winston, Keith <KWinston@sfwater.org>
Sent: Wednesday, September 15, 2021 3:47 PM
To: Brosas, Marlon <MBrosas@sfwater.org>
Subject: someone logging into my outlook emails.

Hello Marlon I just tried to log into my outlook account here in the shop and i see someone has been logging into my outlook account. I'm concerned about this. I have not given my password to anyone. I have personal emails I just don't understand how this could happen.

Sent from my T-Mobile 5G Device
Get [Outlook for Android](#)

Fwd: someone logging into my outlook emails.

From: Winston, Keith (kwinston@swater.org)

To: [REDACTED]

Date: Sunday, January 23, 2022, 09:45 PM PST

Sent from my T-Mobile 5G Device
Get [Outlook for Android](#)

From: Ngan, Mandy <MNgan@swater.org>
Sent: Friday, September 17, 2021 1:00:53 PM
To: Brosas, Marlon <MBrosas@swater.org>
Cc: Winston, Keith <KWinston@swater.org>; Kohmann, Steve P <SKohmann@swater.org>
Subject: RE: someone logging into my outlook emails.

Hi Marlon,

Correct. In addition, Richard Chinn was logged in a minute before Keith's log in on the 15th.

| | | |
|-----------------|-----|----------|
| 9/15/2021 14:40 | AD1 | KWinston |
| 9/15/2021 14:39 | AD1 | RChinn |

Best,
Mandy

From: Brosas, Marlon <MBrosas@swater.org>
Sent: Friday, September 17, 2021 12:08 PM
To: Ngan, Mandy <MNgan@swater.org>
Cc: Winston, Keith <KWinston@swater.org>; Kohmann, Steve P <SKohmann@swater.org>
Subject: RE: someone logging into my outlook emails.

Mandy,

Just to clarify the other users, Christopher DeBono, and Richard Chinn was logged in at an earlier time than Keith Winston log in time?

Thank You,
Marlon Brosas
SFPUC WWE
SEP N. Maintenance
750 PHELPS ST.
San Francisco, CA 94124
415-740-5173
mbrosas@swater.org

Fwd: someone logging into my outlook emails.

From: Winston, Keith (kwinston@sewater.org)
To: [REDACTED]
Date: Sunday, January 23, 2022, 09:46 PM PST

Sent from my T-Mobile 5G Device
Get [Outlook for Android](#)

From: Ngan, Mandy <MNgan@sewater.org>
Sent: Friday, September 17, 2021, 2:29 PM
To: Brosas, Marlon
Cc: Winston, Keith
Subject: FW: someone logging into my outlook emails.

From: Winston, Keith <KWinston@sewater.org>
Sent: Friday, September 17, 2021 2:20 PM
To: Ngan, Mandy <MNgan@sewater.org>
Subject: RE: someone logging into my outlook emails.

Also Marlon my account into 4 times she has me logging in once who and why did other log into my email you seemed its not an issues . This a major issue for me my privacy was violated.

From: Ngan, Mandy <MNgan@sewater.org>
Sent: Friday, September 17, 2021 1:01 PM
To: Brosas, Marlon <MBrosas@sewater.org>
Cc: Winston, Keith <KWinston@sewater.org>; Kohmann, Steve P <SKohmann@sewater.org>
Subject: RE: someone logging into my outlook emails.

Hi Marlon,

Correct. In addition, Richard Chinn was logged in a minute before Keith's log in on the 15th.

| | | |
|-----------------|-----|----------|
| 9/15/2021 14:40 | AD1 | KWinston |
| 9/15/2021 14:39 | AD1 | RChinn |

Best,
Mandy

From: Brosas, Marlon <MBrosas@sewater.org>
Sent: Friday, September 17, 2021 12:08 PM
To: Ngan, Mandy <MNgan@sewater.org>
Cc: Winston, Keith <KWinston@sewater.org>; Kohmann, Steve P <SKohmann@sewater.org>
Subject: RE: someone logging into my outlook emails.

Mandy,

Just to clarify the other users, Christopher DeBono, and Richard Chinn was logged in at an earlier time than Keith Winston log in time?

Thank You,
Marlon Brosas
SFPUC WWE
SEP N. Maintenance
750 PHELPS ST.
San Francisco, CA 94124
415-740-5173
mbrosas@sfgwater.org

From: Ngan, Mandy <MNgan@sfgwater.org>
Sent: Thursday, September 16, 2021 3:35 PM
To: Brosas, Marlon <MBrosas@sfgwater.org>
Cc: Winston, Keith <KWinston@sfgwater.org>
Subject: RE: someone logging into my outlook emails.

Hi Marlon,

After some research, Keith was logged into that computer 4 times on 9/15/2021 from 2:40 - 3:28PM. The following user logged into that computer that day:

- DeBono, Christopher
- Chinn, Richard

Best,
Mandy

From: Brosas, Marlon <MBrosas@sfgwater.org>
Sent: Thursday, September 16, 2021 1:38 PM
To: Ngan, Mandy <MNgan@sfgwater.org>
Cc: Winston, Keith <KWinston@sfgwater.org>
Subject: FW: someone logging into my outlook emails.

Hi Mandy,

I spoke with you earlier about Keith Winston concerns about others logging into his Outlook account, this is the SN#2UA721258Y of the computer that's in question. Can you please check when and how many times KWinston was logged on that computer?

Thank You,
Marlon Brosas
SFPUC WWE
SEP N. Maintenance
750 PHELPS ST.
San Francisco, CA 94124
415-740-5173
mbrosas@sfgwater.org

RECEIVED BY
DEPARTMENT OF
HUMAN RESOURCES

2022 FEB -7 PM 2:42

KEITH WINSTON

DIRECTOR, DEPARTMENT OF HUMAN RESOURCES
ATTENTION: EEO DIVISION
ONE SOUTH VAN NESS, 4TH FLOOR
S.F., CA 94103

BLANK PAGE

EXHIBIT C

Human Resources Director's Letter of Determination to Appellant, November 15, 2022



CONFIDENTIAL

November 15, 2022

Keith Winston
[REDACTED]
[REDACTED]

Via E-mail
[REDACTED]

RE: Complaint of Discrimination, EEO File No. 4308

Dear Keith Winston:

The San Francisco Charter, Section 10.103, and Civil Service Rule 103 provide that the Human Resources Director shall review and resolve complaints of employment discrimination. The Charter defines discrimination as a violation of civil rights on account of race, religion, disability, sex, age, or other protected category. The City and County of San Francisco (City) considers all allegations of discrimination a serious matter.

Thank you for bringing your concerns to my attention. The purpose of this letter is to inform you of my determination regarding your complaint, EEO File No. 4308.

I. BACKGROUND & ALLEGATIONS

In 2019, you began employment with the San Francisco Public Utilities Commission (SFPUC) as a 7372 Stationary Engineer.

On January 18, 2022, you submitted a voicemail complaint to the Department of Human Resources, Equal Employment Opportunity Division (DHR EEO), alleging that Joel Prather (Prather), 0941 Manager VI, Maintenance Division Manager for Wastewater Treatment, subjected you to discrimination based on race (Black). You also allege that Christopher DeBono (DeBono), 7372 Stationary Engineer, Sewage Plant, who supervises your crew, and Richard Chinn (Chinn), 7372 Stationary Engineer, Sewage Plant, subjected you to retaliation. On January 18 and January 19, 2022, you met with Deborah Dulay, 1231 EEO Programs Senior Specialist with DHR EEO for an intake interview to discuss your allegations and the City's complaint process.

Specifically, you alleged that on June 11, 2021, Prather subjected you to discrimination when you received a written warning that included racist statements and used a racist stereotype to characterize you as an angry and violent Black male. The written warning was based on multiple altercations with co-workers, including an allegation that you told one co-worker, "Go back to Costa Rica," shouting and engaging in otherwise inappropriate, unprofessional, and/or threatening behavior. You also allege that on September 15, 2021, DeBono and Chinn retaliated against you by hacking into your work Outlook e-mail.

II. FINDINGS & ANALYSES

A. Discrimination Allegations

To warrant further investigation, a complaint of discrimination/disparate treatment in violation of the City's EEO Policy must sufficiently allege all of the following: (1) you a member of a protected category; (2) you suffered an adverse employment action; and (3) you suffered an adverse employment action because of your membership in a protected category.

You are a member of a protected category based on race (Black). However, the information did not support that Prather issued you your September 15, 2021, written warning based on your race. Rather, Prather had a legitimate business reason for taking this action as overseeing employee behavior and performance is within Prather's supervisory responsibility and you acknowledged that you told the co-worker "Go back to Costa Rica" and had conflict with at least one other co-worker identified in your written warning. Accordingly, your complaint will be administratively closed without further investigation.

B. Retaliation Allegations

To warrant further investigation, a complaint of retaliation in violation of the City's EEO Policy must sufficiently allege all of the following: (1) you engaged in a protected activity; (2) you suffered an adverse employment action; and (3) there was a causal link between the protected activity and the adverse employment action.

Prior to making your complaint to DHR EEO, you did not allege that you engaged in any protected activity within EEO jurisdiction. Further, based on the information provided, it is unclear how the alleged hacking into your work Outlook e-mail was an adverse employment action, such as action affecting your pay or other benefits. Nevertheless, PUC's IT team confirmed that on September 15, 2021, you were logged into the computer used in the alleged hack of your work Outlook e-mail four times between 2:40 p.m. and 3:28 p.m., while DeBono and Chinn had logged into that computer the day prior to your first log in. It was thus unclear that any unauthorized log in occurred on September 15, 2021. As such, your complaint will be administratively closed without further investigation.

III. DETERMINATION OF THE HUMAN RESOURCES DIRECTOR

Please be advised that that it is my determination that your complaint, EEO File No. 4308, will be administratively closed without further investigation.

My determination is final unless it is appealed to the Civil Service Commission and is reversed or modified. A request for appeal must be received by the Civil Service Commission at 25 Van Ness Avenue, Room 720, San Francisco, CA, 94102, within 30 calendar days from date of the e-mail sending this letter.

For your information, you may file a complaint of employment discrimination with the California Civil Rights Department, or the United States Equal Employment Opportunity Commission. Contact those agencies directly for filing requirements and deadlines.

Should you experience any new instances of unwelcome conduct, please do not hesitate to contact Steven Tang, EEO Programs Manager, SFPUC, at (628) 207-2637.

Please feel free to contact Amalia Martinez, EEO Director, DHR, at (415) 557-4932, should you have any questions.

Sincerely,



Carol Isen
Human Resources Director

- c: Dennis Herrera, General Manager, SFPUC
- Wendy Macy, Chief People Officer, SFPUC
- Rachel Gardunio, Employee & Labor Relations Division Manager, SFPUC
- Steven Tang, EEO Programs Manager, SFPUC
- Amalia Martinez, Director, EEO, DHR

BLANK PAGE

EXHIBIT D

Appellant's Appeal to the Civil Service Commission, December 9, 2022



**CIVIL SERVICE COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

**LONDON N. BREED
MAYOR**

Sent via Email

NOTICE OF RECEIPT OF APPEAL

DATE: December 9, 2022
REGISTER NO.: 0242-22-6
APPELLANT: KEITH D. WINSTON

Carol Isen
Human Resources Director
Department of Human Resources
1 South Van Ness Avenue, 4th Floor
San Francisco, CA 94103

Dear Carol Isen:

The Civil Service Commission has received the attached letter from Keith D. Winston appealing the Human Resources Director's determination on their Complaint of Discrimination, EEO File No. 4308. Your review and action are required.

If this matter is not timely or appropriate, please submit CSC Form 13 "Action Request on Pending Appeal/Request," with supporting information and documentation to my attention by email to civilservice@sfgov.org. CSC Form 13 is available on the Civil Service Commission's website at www.sfgov.org/CivilService under "Forms."

In the event that Keith D. Winston's appeal is timely and appropriate, the department is required to submit a staff report in response to the appeal within sixty (60) days so that the matter may be resolved in a timely manner. Accordingly, **the staff report is due no later than 11 a.m. on February 23, 2023**, so that it may be heard by the Civil Service Commission at its meeting on March 6, 2023. If you will be unable to transmit the staff report by the February 23rd deadline, or if required departmental representatives will not be available to attend the March 6th meeting, please notify me by use of CSC Form 13 as soon as possible, with information regarding the reason for the postponement and a proposed alternate submission and/or hearing date.

Appellant: Keith D. Winston
December 9, 2022
Page 2 of 2

You may contact me at Sandra.Eng@sfgov.org or (628) 652-1100 if you have any questions. For more information regarding staff report requirements, meeting procedures or future meeting dates, please visit the Commission's website at www.sfgov.org/CivilService.

Sincerely,

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG
Executive Officer

Attachment

Cc: Jeanne Buick, Department of Human Resources
Kate Howard, Department of Human Resources
Mawuli Tugbenyoh, Department of Human Resources
Amalia Martinez, Department of Human Resources
Wendy Macy, Public Utilities Commission
Rachel Gardunio, Public Utilities Commission
Steven Tang, Public Utilities Commission



**CIVIL SERVICE COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

**LONDON N. BREED
MAYOR**

Sent via Email

December 9, 2022

Keith D. Winston
[REDACTED]

Subject: Register No. 0242-22-6: Appealing the Human Resources Director's Determination on their Complaint of Discrimination, EEO File No. 4308.

Dear Keith D. Winston:

This is in response to your appeal submitted to the Civil Service Commission on December 7, 2022, appealing the Human Resources Director's determination on your Discrimination Complaint, EEO File No. 4308. Your appeal has been forwarded to the Department of Human Resources for investigation and response to the Civil Service Commission.

If your appeal is timely and appropriate, the department will submit its staff report on this matter to the Civil Service Commission in the near future to request that it be scheduled for hearing. The Civil Service Commission generally meets on the 1st and 3rd Mondays of each month. You will receive notice of the meeting and the department's staff report on your appeal two Fridays before the hearing date via email, as you have requested on your appeal form.

In the meantime, you may wish to compile any additional information you would like to submit to the Commission in support of your position. The deadline for receipt in the Commission office of any additional information you may wish to submit is 5:00 p.m. on the Tuesday preceding the meeting date by email to civilservice@sfgov.org. Please be sure to redact your submission for any confidential or sensitive information (e.g., home addresses, home or cellular phone numbers, social security numbers, dates of birth, etc.), as it will be considered a public document.

You may contact me by email Sandra.Eng@sfgov.org or by phone at (628) 652-1100 if you have any questions. You may also access the Civil Service Commission's meeting calendar, and information regarding staff reports and meeting procedures, on the Commission's website at www.sfgov.org/CivilService.

Sincerely,

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG
Executive Officer



CIVIL SERVICE COMMISSION
City and County of San Francisco
 25 Van Ness Avenue, Suite 720
 San Francisco, California 94102-6033
 Executive Officer
 (628) 652-1100

CSC Register No.
 0242226
 To: C. Eisen
 C. J. Burk
 K. Howard
 CC: M. Tugbenyah
 A. Martinek
 W. Maey
 R. Guadalupe
 S. Tang

APPEAL TO THE CIVIL SERVICE COMMISSION

| | |
|---|---|
| <p>INSTRUCTIONS: Submit an original copy of this form to the Executive Officer of the Civil Service Commission at the address above within the designated number of days following the postmarked mailing date or email date (whichever is applicable) of the Department of Human Resources' or Municipal Transportation Agency's notification to the appellant. The appellant's/authorized representative's original signature is required. (E-mail is not accepted.) It is recommended that you include all relevant information and documentation in support of your appeal.</p> | <p>TYPE OF APPEAL: (Check One) <input type="checkbox"/> Examination Matters (by close of business on 5th working day) <input type="checkbox"/> Employee Compensation Matters (by close of business on 7th working day) - Limited application <input type="checkbox"/> Personal Service Contracts (Posting Period) <input checked="" type="checkbox"/> Other Matters (i.e., Human Resources Director/Executive Officer Action) (30 Calendar days) <input type="checkbox"/> Future Employability Recommendations (See Notice to Employee)</p> |
|---|---|

"During the Shelter Order dated March 17, 2020, we are accepting appeals by email at civilservice@sfgov.org"

KEITH DAVIS WINSTON 750 PHELPS ST. S.F. CA 94124
 Full Name of Appellant Work Address Work Telephone

7372 STATIONARY ENGINEER P.U.C. WWE
 Job Code Title Department

[Redacted] [Redacted] [Redacted] [Redacted]
 Residence Address City State Zip Home Telephone

[Redacted] [Redacted]
 Full Name of Authorized Representative (if any) Telephone Number of Representative (including Area Code)

NOTE: If this is deemed to be a timely and appealable matter, the department will submit a staff report to the Civil Service Commission to request that it be scheduled for hearing. You will be notified approximately one week in advance of the hearing date, at which time you will be able to pick up a copy of the department's staff report at the Commission's offices. If you would instead prefer Commission staff to email you a copy of the meeting notice and staff report, please provide your email address below.

Email: [Redacted]

COMPLETE THE BASIS OF THIS APPEAL ON THE REVERSE SIDE. (Use additional page(s) if necessary)

| | |
|--|--|
| <p>Does the basis of this appeal include new information not previously presented in the appeal to the Human Resources Director? If so, please specify.</p> | <p>Check One: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> |
|--|--|

Keith Winston 12-5-2022
 Original Signature of Appellant or Authorized Representative Date

CSC-12 (5/2021) Date Received by Civil Service Commission: _____

REC 2:55 PM
 12/7/22 Jm

State the basis of this appeal in detail. For more information about appeal rights and deadlines, please review the Civil Service Rules located on the Civil Service Commission's website at www.sfgov.org/CivilService.

I RECEIVED DISCIPLINARY ACTION, HARASSMENT AND RETALIATION DUE TO MY RACE.

I'M A AFRICAN AMERICAN MALE. I SUFFERED AN ADVERSE EMPLOYMENT ACTION — DISCIPLINARY ACTION, HARASSMENT AND RETALIATION. DUE TO THE RACISM FROM J. PRATHER.

J. PRATHER RACISM BECAME A OVERWHELMING BURDEN EMOTIONALLY. IT BECAME DIFFICULT TO REPORT TO WORK, I FELT FORCED TO USE MOST OF MY VACATION, SICK AND FLOATING HOLIDAYS.

PLEASE SEE THE FOLLOWING PAGES FOR MY RESPONSE TO MS. ISEN'S DETERMINATION LETTER.

Ms. Isen Determination Letter

The Statement I made to R. Gall "Go back to Costa Rica"

From July 2019 to about March 2020 me and R. Gall worked together in the operation department. We worked 12 hour overnight shifts together. During down time R. Gall favorite subject was his up coming yearly trip to Costa Rica for vacation. He had nothing but positive things to say about Costa Rica. We would discuss how Americans felt welcome when visiting. R. Gall talked about how beautiful and what nice place Costa Rica is. R. Gall recommended to me and other co- workers to consider a vacation there. We where all interested because of how positive R. Gall was about Costa Rica. The day me and R. Gall had our disagreement we talked about his trip to Costa Rica during our lunch break, It was his first day back from Costa Rica.

When I said to R. Gall go back to Costa Rica it was because he just got back from Costa Rica on vacation less than 24 hours. The only things I know about the Country of Costa Rica is what R. Gall told me, which was all positive. R. Gall was born here the US just like me.

J. Prather is using a negative and racist spin to take my statement completely out of context. Which then requires me to defend myself against being racist and violent.

7-15-2021 Outlook E-mail Hack

In Ms. Isen Determination letter, Section 2B she makes a false statement – Please see the actual E-mails from PUC I.T. department on pages 3&4.

The computer in question was assigned to C. DeBono. It sits on his desk, he was the supervisor. I never use this computer, there should be no log in from me on that computer. The one log in I did was on 7-15-2021 after I saw my name as the last user on the screen. I entered my password and my outlook account was already open and on the screen.

I take it as duty and responsibility to report what I saw. Management has been protecting C. Debono for 1 year regarding this matter.

Due to this E-Mail hack I have unable to trust with confidence that my E-mails will remain confidential. This prevents me from doing my job and have the same access as other employees have. This E-mail hack was in retaliation for the EEO discrimination claim I filed

False, Unethical and racist Statements by J. Prather

In Ms. Isen Determination letter Section I -Background & Allegations she states -The Written Warning was based on multiple Alterations with Co-workers.

The Written Warning was based on one-sided , unethical, dishonest, unsubstantiated and racist statements by J. Prather.

I have included a copy of the written warning and my rebuttals.

J. Prather using these incidents as bases to describe me as intimidating, confrontation, and highly disrespectful to others is unethical and dishonest.

Me and C. Naki where in the operations Dept. when this incident occurred. The operations dept. has a completely independent chain of command from the maintenance dept. J. Prather was not and is not a part of the operations chain of command he is head of maintenance. J. Prather had no knowledge or review of this matter. No documented complaint C. Naki or anyone else only J. Prather unethical statement.

In the incident with B. Wong, J. Prather included statements he said were from Chief Stationary Engineer Jimmy Ma. J. Prather statements were false. What J. Prather describes never happened. Please see P.5

Please see E-mails from Chief Stationary Jimmy Ma. He observed me every day. See P.11.

I also included an E- Mail sent to J. Prather by other supervisor's who observed my performance. Please see p.12

Closing Statement

I have been employed with the S. F. PUC WWE since 7-12-019 I have completed a one year new hire probation. I received no complaints from any supervisor or Co-worker about my behavior.

- I completed 3 employee annual performance reviews. No complaints from supervisor's or co-workers about my behavior.
- Including PUC staff and the large amount of construction workers I cross paths with 100 people each day. No complaints about my behavior.
- Please see P. 19 – This is another false and inaccurate E-Mail J. Prather sent to multiple management staff members regarding my work performance.
- I have only been in J. Prather presence for 45 minutes total in the conference room. He has never talk to me or observed me in the work environment. J. Prather has made false and racist statements regarding how I treat Co-workers. The only thing J. Prather knows about me is that I'm an African American male.
- Due too J. Prather dishonest and unethical behavior and statements I have had to repeatedly and needlessly defend myself. Which has become an emotional burden. As a result of J. Prather dishonest and unethical behavior I have used most of my sick, vacation, and floating holidays.
- I request that all my sick, vacation, and floating holidays be returned to me from 6-11-2021 the date of J. Prather first written warning.

Thank you for your consideration.

Keith Winston



12-5-2022

City and County of San Francisco
Carol Isen
Human Resources Director



Department of Human Resources
Connecting People with Purpose
www.sfdhr.org

CONFIDENTIAL

November 15, 2022

Keith Winston
[REDACTED]

Via E-mail
[REDACTED]

RE: Complaint of Discrimination, EEO File No. 4308

Dear Keith Winston:

The San Francisco Charter, Section 10.103, and Civil Service Rule 103 provide that the Human Resources Director shall review and resolve complaints of employment discrimination. The Charter defines discrimination as a violation of civil rights on account of race, religion, disability, sex, age, or other protected category. The City and County of San Francisco (City) considers all allegations of discrimination a serious matter.

Thank you for bringing your concerns to my attention. The purpose of this letter is to inform you of my determination regarding your complaint, EEO File No. 4308.

I. BACKGROUND & ALLEGATIONS

In 2019, you began employment with the San Francisco Public Utilities Commission (SFPUC) as a 7372 Stationary Engineer.

On January 18, 2022, you submitted a voicemail complaint to the Department of Human Resources, Equal Employment Opportunity Division (DHR EEO), alleging that Joel Prather (Prather), 0941 Manager VI, Maintenance Division Manager for Wastewater Treatment, subjected you to discrimination based on race (Black). You also allege that Christopher DeBono (DeBono), 7372 Stationary Engineer, Sewage Plant, who supervises your crew, and Richard Chinn (Chinn), 7372 Stationary Engineer, Sewage Plant, subjected you to retaliation. On January 18 and January 19, 2022, you met with Deborah Dulay, 1231 EEO Programs Senior Specialist with DHR EEO for an intake interview to discuss your allegations and the City's complaint process.

Specifically, you alleged that on June 11, 2021, Prather subjected you to discrimination when you received a written warning that included racist statements and used a racist stereotype to characterize you as an angry and violent Black male. The written warning was based on multiple altercations with co-workers, including an allegation that you told one co-worker, "Go back to Costa Rica," shouting and engaging in otherwise inappropriate, unprofessional, and/or threatening behavior. You also allege that on September 15, 2021, DeBono and Chinn retaliated against you by hacking into your work Outlook e-mail.

II. FINDINGS & ANALYSES

A. Discrimination Allegations

To warrant further investigation, a complaint of discrimination/disparate treatment in violation of the City's EEO Policy must sufficiently allege all of the following: (1) you a member of a protected category; (2) you suffered an adverse employment action; and (3) you suffered an adverse employment action because of your membership in a protected category.

You are a member of a protected category based on race (Black). However, the information did not support that Prather issued you your September 15, 2021, written warning based on your race. Rather, Prather had a legitimate business reason for taking this action as overseeing employee behavior and performance is within Prather's supervisory responsibility and you acknowledged that you told the co-worker "Go back to Costa Rica" and had conflict with at least one other co-worker identified in your written warning. Accordingly, your complaint will be administratively closed without further investigation.

B. Retaliation Allegations

To warrant further investigation, a complaint of retaliation in violation of the City's EEO Policy must sufficiently allege all of the following: (1) you engaged in a protected activity; (2) you suffered an adverse employment action; and (3) there was a causal link between the protected activity and the adverse employment action.

Prior to making your complaint to DHR EEO, you did not allege that you engaged in any protected activity within EEO jurisdiction. Further, based on the information provided, it is unclear how the alleged hacking into your work Outlook e-mail was an adverse employment action, such as action affecting your pay or other benefits. Nevertheless, PUC's IT team confirmed that on September 15, 2021, you were logged into the computer used in the alleged hack of your work Outlook e-mail four times between 2:40 p.m. and 3:28 p.m., while DeBono and Chinn had logged into that computer the day prior to your first log in. It was thus unclear that any unauthorized log in occurred on September 15, 2021. As such, your complaint will be administratively closed without further investigation.

III. DETERMINATION OF THE HUMAN RESOURCES DIRECTOR

Please be advised that that it is my determination that your complaint, EEO File No. 4308, will be administratively closed without further investigation.

My determination is final unless it is appealed to the Civil Service Commission and is reversed or modified. A request for appeal must be received by the Civil Service Commission at 25 Van Ness Avenue, Room 720, San Francisco, CA, 94102, within 30 calendar days from date of the e-mail sending this letter.

For your information, you may file a complaint of employment discrimination with the California Civil Rights Department, or the United States Equal Employment Opportunity Commission. Contact those agencies directly for filing requirements and deadlines.

Should you experience any new instances of unwelcome conduct, please do not hesitate to contact Steven Tang, EEO Programs Manager, SFPUC, at (628) 207-2637.

Mandy,

Just to clarify the other users, Christopher DeBono, and Richard Chinn was logged in at an earlier time than Keith Winston log in time?

Thank You,
Marlon Brosas
SFPUC WWE
SEP N. Maintenance
750 PHELPS ST.
San Francisco, CA 94124
415-740-5173
mbrosas@sfgwater.org

From: Ngan, Mandy <MNgan@sfgwater.org>
Sent: Thursday, September 16, 2021 3:35 PM
To: Brosas, Marlon <MBrosas@sfgwater.org>
Cc: Winston, Keith <KWinston@sfgwater.org>
Subject: RE: someone logging into my outlook emails.

Hi Marlon,

After some research, Keith was logged into that computer 4 times on 9/15/2021 from 2:40 - 3:28PM. The following user logged into that computer that day:

- DeBono, Christopher
- Chinn, Richard

Best,
Mandy

From: Brosas, Marlon <MBrosas@sfgwater.org>
Sent: Thursday, September 16, 2021 1:38 PM
To: Ngan, Mandy <MNgan@sfgwater.org>
Cc: Winston, Keith <KWinston@sfgwater.org>
Subject: FW: someone logging into my outlook emails.

Hi Mandy,

I spoke with you earlier about Keith Winston concerns about others logging into his Outlook account, this is the SN#2UA721258Y of the computer that's in question. Can you please check when and how many times KWinston was logged on that computer?

Thank You,
Marlon Brosas
SFPUC WWE
SEP N. Maintenance
750 PHELPS ST.
San Francisco, CA 94124
415-740-5173
mbrosas@sfgwater.org

Fwd: someone logging into my outlook emails.

From: Winston, Keith (kwinston@swater.org)

To: [REDACTED]

Date: Sunday, January 23, 2022, 09:46 PM PST

Sent from my T-Mobile 5G Device
Get Outlook for Android

From: Ngan, Mandy <MNgan@swater.org>
Sent: Friday, September 17, 2021, 2:29 PM
To: Brosas, Marlon
Cc: Winston, Keith
Subject: FW: someone logging into my outlook emails.

From: Winston, Keith <KWinston@swater.org>
Sent: Friday, September 17, 2021 2:20 PM
To: Ngan, Mandy <MNgan@swater.org>
Subject: RE: someone logging into my outlook emails.

Also Marlon my account into 4 times she has me logging in once who and why did other log into my email you seemed its not an issues . This a major issue for me my privacy was violated.

From: Ngan, Mandy <MNgan@swater.org>
Sent: Friday, September 17, 2021 1:01 PM
To: Brosas, Marlon <MBrosas@swater.org>
Cc: Winston, Keith <KWinston@swater.org>; Kohmann, Steve P <SKohmann@swater.org>
Subject: RE: someone logging into my outlook emails.

Hi Marlon,

Correct. In addition, Richard Chinn was logged in a minute before Keith's log in on the 15th.

| | | |
|-----------------|-----|----------|
| 9/15/2021 14:40 | AD1 | KWinston |
| 9/15/2021 14:39 | AD1 | RChinn |

Best,
Mandy

From: Brosas, Marlon <MBrosas@swater.org>
Sent: Friday, September 17, 2021 12:08 PM
To: Ngan, Mandy <MNgan@swater.org>
Cc: Winston, Keith <KWinston@swater.org>; Kohmann, Steve P <SKohmann@swater.org>
Subject: RE: someone logging into my outlook emails.

P-9 00049

City & County of San Francisco - Public Utilities Commission
Wastewater Enterprise - Maintenance

Written Warning

It is hereby documented that on June 11, 2021, you, Keith Winston, Class 7372 Stationary Engineer, were officially warned in a conference with Joel Prather, WWE Maintenance Manager, for **Discourteous Treatment of Others and Violation of Policies Prohibiting Violence in the Workplace.**

As part of your Official Employee Personnel File, this warning is based on the following incident(s):

On October 28, 2020, you instigated an altercation with Robert Gall, Class 7372 Stationary Engineer, while working on a job together to deep clean the Polymer Mix Room at OSP. Out of nowhere, you went into a rage and yanked out the AC power plug from the pressure washer that Gall was using to clean the debris. You shouted at Gall "You're not listening. You don't know what the hell you're doing!! You're a f*cking idiot!" as you stepped within 1 ½ feet of his personal space with your fists clenched.

Gall was completely shocked by your outburst. He did not curse or raise his voice back at you. Instead, he tried to remain calm and said, "What's wrong? What happened?" Seeing you visibly angry, he also said to you, "Everything is fine. Why are you so angry? Look. You are in a safe place. Please calm down." When Gall went on to say, "I don't know what is going on, but you can't talk to me that way," you shot back, "I can talk to you any way I want. You aren't my boss," in a confrontational tone. Gall continued to try and de-escalate the situation and said, "Look. I'm going to give you space. I'm going to leave." Your last comment to Gall was, "Fine. Get the f*ck out of here. Go back to Costa Rica," which was taken with racist undertones since Gall had recently returned from visiting family there.

Gall felt threatened by your inciting behavior and promptly removed himself from the situation before it could escalate into a physical confrontation.

Your co-workers have felt unsafe working with you, as this is not the first time you have engaged in intimidating, confrontational, and highly disrespectful behavior towards others in the workplace.

- You have yelled at your previous supervisor, Brannon Wong, Class 7373 Stationary Engineer, on multiple occasions in an aggressive, insubordinate, and disrespectful manner. In June 2020, you raised your voice at Wong while he was trying to give you directives on your work for the day. In July 2020, you came into the office in a tirade and immediately started yelling at Wong about work you did not want to do. In August 2020, you raised your voice at Wong when he was talking to you about the importance of attending daily morning meetings. You were screaming so loud that Jimmy Ma, Class 7252 Chief Stationary Engineer, had to come out and intervene. In August 2020, you continued to shout over your superior as he tried to give you information about your work.
- Several months earlier, you provoked another conflict with Cliff Nakai, Class 7372 Stationary Engineer, in the men's locker room at OSP where you made strange accusations claiming Nakai manipulated a DCS computer. Nakai denied this. You became enraged, balled up your first, and aggressively stepped into Nakai's personal space as if to fight. Despite this, Nakai remained calm and tried to diffuse the situation by apologizing for whatever you thought he did wrong. Another co-worker had to step in and separate you from Nakai.

Your history of inciting conflict with your co-workers demonstrates a very concerning pattern of aggressive, bullying, and discourteous behavior that is unacceptable. Mistreating your co-workers and engaging in threatening behavior will not be tolerated.

Additionally, you were reminded on November 10, 2020 by me that you are expected to conduct yourself in a professional manner in all times and maintain courteous interactions with your co-workers.

The following are measurable performance expectations (goals and objectives) reviewed with you to improve performance and correct your behavior:

- The SFPUC is committed to providing a safe, secure work environment free from violence, threats of violence, and any conduct, verbal or physical, which causes another to reasonably fear for his or her own personal safety or that of his or her family, friends, associates, or property. As an employee with the City and County of San Francisco (CCSF) you are expected to model appropriate behavior and to uphold this commitment.
- It is the policy of the CCSF and the SFPUC that employees treat all co-workers with civility and respect, and that their actions and behavior support a harassment-free workplace. Any contrary behavior must cease immediately. Behavior that is considered abusive, threatening, intimidating or confrontational by a reasonable person will not be tolerated. You are being advised of the seriousness of this matter and if this behavior is repeated in the future, you may be subject to more serious disciplinary action, up to and including termination.
- Angry displays, emotional outbursts, or unprofessional behavior directed at any SFPUC employee—whether in person, over the telephone, or via written or electronic correspondence—in the workplace will not be tolerated. As an SFPUC employee you are expected to conduct yourself in a professional manner when you are at work and treat all co-workers and members of the public with courtesy and respect.
- Going forward, you will refrain from engaging in threatening, intimidating, bullying, or confrontational behavior such as invading another's personal space. You will also refrain from using profanity or raising your voice with your co-workers, supervisors, managers, and members of the public. If you have a disagreement, you shall remain professional and respectful at all times.
- Read and review the attached policies: the SFPUC Employee Manual, Definitions, "Discourteous Treatment of Others," (pp. 11-2 to 11-4); the SFPUC Prevention of Violence in the Workplace Policy (pp. 10-1 to 10-4); the CCSF Employee Handbook Policy Regarding the Treatment of Co-Workers and Members of the Public (p. 46); and CCSF Employee Handbook, Workplace Violence Prohibited (p. 44).
- You will be required to complete relevant SFPUC or City-sponsored training that will be assigned to you as they become available and will be scheduled by management.

Furthermore, you are hereby warned that continued misconduct of any type – including instances of unprofessional communications, discourteous behavior, mistreatment of others, acts or threats of violence – may result in further disciplinary measures, up to and including termination.

You are also hereby warned that retaliation against an individual who submits a complaint or participates in the investigation of a complaint is strictly prohibited; any acts of retaliation may subject you to further disciplinary measures up to and including termination.

***Employee's Signature/Date**
Keith Winston

Supervisor's Signature/Date
Steve Kohmann

Reviewed by:

Division Manager: _____
Joel Prather/Date

*The employee's signature does not affirm that the employee is in agreement with the content of this warning but simply acknowledges receipt of this written warning.

cc: Official Employee Personnel File – K. Winston

Rebuttal to written warning

Received on 6-11-2021

Regarding incident with Cliff Nakai

1. J.Prather states that this incident took place several months before Aug. 2020. The actual date was July 2019.
2. This incident happened while we both were working in operation's. J. Prather supervised maintenance. J. Prather was not involved in reviewing this incident which took place 2 year's ago. J. Prather never talked to me about this incident.
3. I began my new-hire probation July 2019 and completed probation July 2020. No verbal or written warning for threats of violence.
4. C. Nakai made changes to equipment on my station without my acknowledgement , which he never denied 2 year's ago. I made it clear to him not to make changes on my station. Their was no balled fist no threat of violence. 10 to 15 people present no one reported me being violent because it didn't happen.

Regarding working with Brannon Wong

1. I was assigned to B. Wong crew on Mar. 2020. He refused to talk to me or give work assignment's I reported to Jimmy Ma about our poor work relationship. Jimmy Ma said he would talk to B. Wong.
2. B. Wong never changed his attitude toward me the entire time I worked with him.
3. Their was no threat's of violence ever witnessed by anyone in a very busy area, in fact Jimmy Ma's office is in the same area , Jimmy Ma was present daily. No one reported me yell at, raise my voice, disrespect or be insubordinate toward B. Wong because it didn't happen.
4. This is a fraudulent statement created by J. Prather.
5. Please note dates on Emails that I have included.

Regarding confrontation with R. Gall

1. We had a confrontation which I have always admitted. I was rude and disrespectful and R. Gall was also . No threats of violence made. This took

place in a public area but no coworker reported any violent acts or threat's.

2. I gave J. Prather a 2 page written description of what happened 2 day's after the incident. J. Prather choose to ignore my statement's. I have included copies of my statement that was given to J.Prather.
3. I told R. Gall to back to Costa Rica because he just back from vacation from Costa Rica a day or 2 before. After working with him for a day I wanted him to go back on vacation was my point where he went did not matter to me. If he went to Disneyland on vacation I would have said go back to Disneyland . Would that statement mean I hate Mickey Mouse? By J. Prather logic it would.

Summary

1. No documented incidents of me being discourteous, violent to any coworker.
2. J. Prather written warning has multiple one sided, fraudulent and unsubstantiated statement's.
3. J. Prather has exhibited bias and used racist stereo types against Keith Winston EX. The angry black guy.
4. I have been in J. Prather's presence for a total of 45 mins. He chooses to go to such a low level to describe me.
5. I am in contact with over 25-50 people on a daily bases. No one has describe me as J. Prather has.

KEITH WINSTON
Keith Winston
6-29-2020 K.W.

This is my summary of the description of incident with R. Gall that was given to J.Prather on 11-3-2020.

On 10-28-2020 my senior gave me and R. Gall a job to work together for the day. The job was cleaning the polymer mixer and surrounding area. We began cleaning R.Gall was using the pressure washer and I began spray solvent, scrapping with a shovel and using a 1 ½ water hose.

Throughout the day I tried to talk to R.Gall about the job we where doing, he just gave short rude responses or he would ignore me. He would ask me to dirty task that he felt he shouldn't have to do, he shouldn't have to lower his self to do. I told him to do it himself.

One hour before quitting time I tried again to talk to R.Gall he wouldn't listen to me he just kept powerwashing. He then started to spray over the area where i spent the day cleaning causing dirt to cover the area again. At that point I got frustrated and I pulled the electrical cord from the powerwasher from the wall socket and we began to argue and eventually I called him a fucking idiot.

I know being frustrated isn't an excuse to say such thing's to another person but this incident is an example of many frustrating incident's with R.Gall.

Fwd: Work rules

From: Winston, Keith (kwinston@sewater.org)

To: [REDACTED]

Date: Tuesday, June 15, 2021, 12:45 AM PDT

Sent from my T-Mobile 4G LTE Device
Get [Outlook for Android](#)

From: Ma, Jianmin <jma@sewater.org>
Sent: Wednesday, September 30, 2020 8:16:31 AM
To: Winston, Keith <KWinston@sewater.org>
Subject: RE: Work rules

Hi Keith,

Thanks for bringing this to my attention. I have talked to Brannon about the issues in you email.

The water line broke was an accident. I don't think it was anybody's fault.

Brannon explained that some people may be in the locker room taking a shower after 2 pm. Sometimes people work in a pump station and they couldn't take lunch or break, so they might take off a little early. If you have confine space training and willing to work in a pump station, he will include you in those jobs too.

You have done an excellent job following the work rules and I really appreciate it.

Thanks,

Jimmy

From: Winston, Keith <KWinston@sewater.org>
Sent: Tuesday, September 29, 2020 11:58 AM
To: Ma, Jianmin <jma@sewater.org>
Subject: Work rules

Hello Jianmin

Thursday I worked with our labour to clean drains in the Poly feed rm. I told the labour we should just use water hoses for cleaning he refused and used a shovel and broke a water line I say this because I dont trust him to described what happened.

Monday we continue with the drain cleaning. After lunch I returned to work at 1145 am. The labour showed up at noon and immediately left and never saw him again leaving me to finish by myself. I got to the shop at 2 pm the entire 409 crew had left. This happens everytime you use your vacation time and leave early. Brandon was there Monday but alot times he leaves to. I feel that this unfair to me and the rest of the employees at the Plant that crew #409 is getting so many unearned paid hours off.
Thanks

Fwd: K. Winston move to C0403

From: Winston, Keith (kwinston@swater.org)

To: [REDACTED]

Date: Monday, June 28, 2021, 07:28 AM PDT

Sent from my T-Mobile 4G LTE Device
Get [Outlook for Android](#)

From: Prather, Joel <JPrather@swater.org>

Sent: Friday, February 5, 2021 1:49:28 PM

To: Winston, Keith <KWinston@swater.org>; Conroy, Howard <HConroy@swater.org>; Zarabanda, Luis <LZarabanda@swater.org>

Cc: Kohmann, Steve P <SKohmann@swater.org>; Brosas, Marlon <MBrosas@swater.org>; Clark, Andrew M <AClark@swater.org>; Wang, Lily <LWang@swater.org>; Chen, Joy J <JJChen@swater.org>; Heath, Jill <JHeath@swater.org>

Subject: K. Winston move to C0403

Hello Keith,

I'd like to start by saying that by all recent accounts your performance and attitude during your 90 day assignment in Operations have been nothing but positive.

So this move has no reflection on you, however we are approaching the limit of the 90 day assignment and you'll need to report to the following crew/supervisor at the date below:

- **SEP Mechanical Maintenance, C0403, Luis Zarabanda, 2/16/21**

Joel Prather
Maintenance Manager – Wastewater Enterprise
(415) 920 . 4942

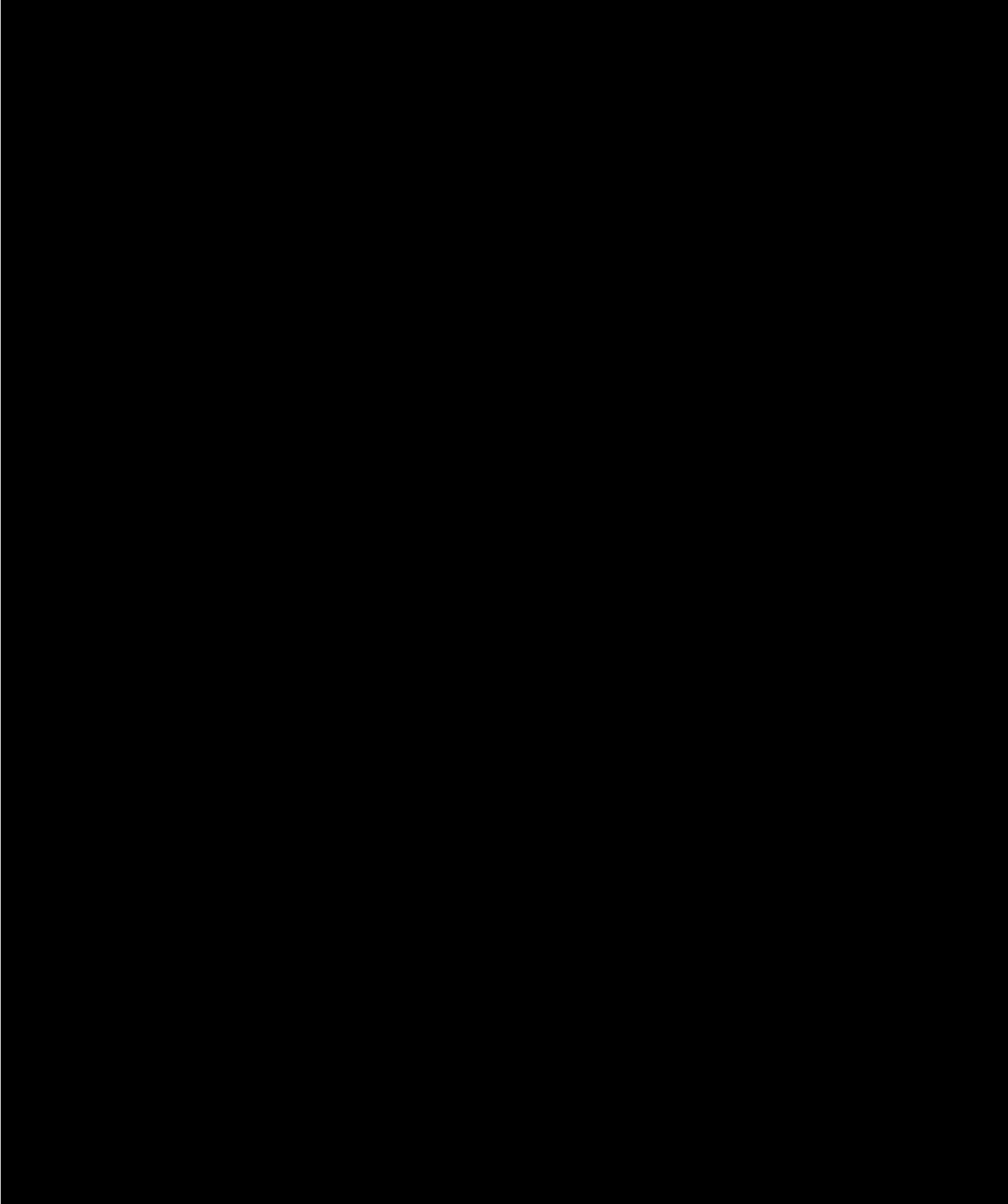
San Francisco Water Power Sewer | Services of the San Francisco Public Utilities Commission

P - 12⁰⁰⁰⁵⁷

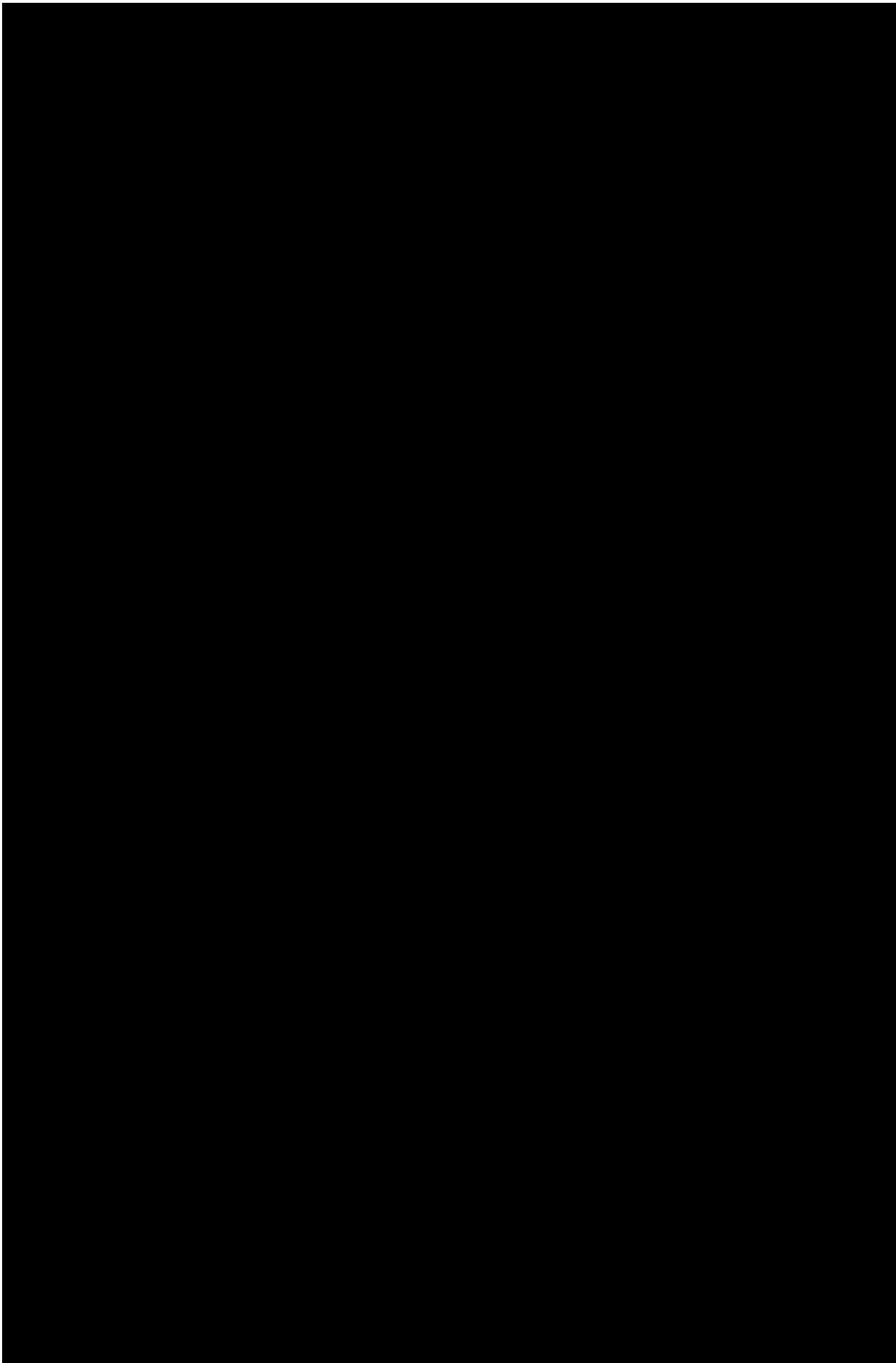


San Francisco
Water Power Sewer
Services of the San Francisco Public Utilities Commission

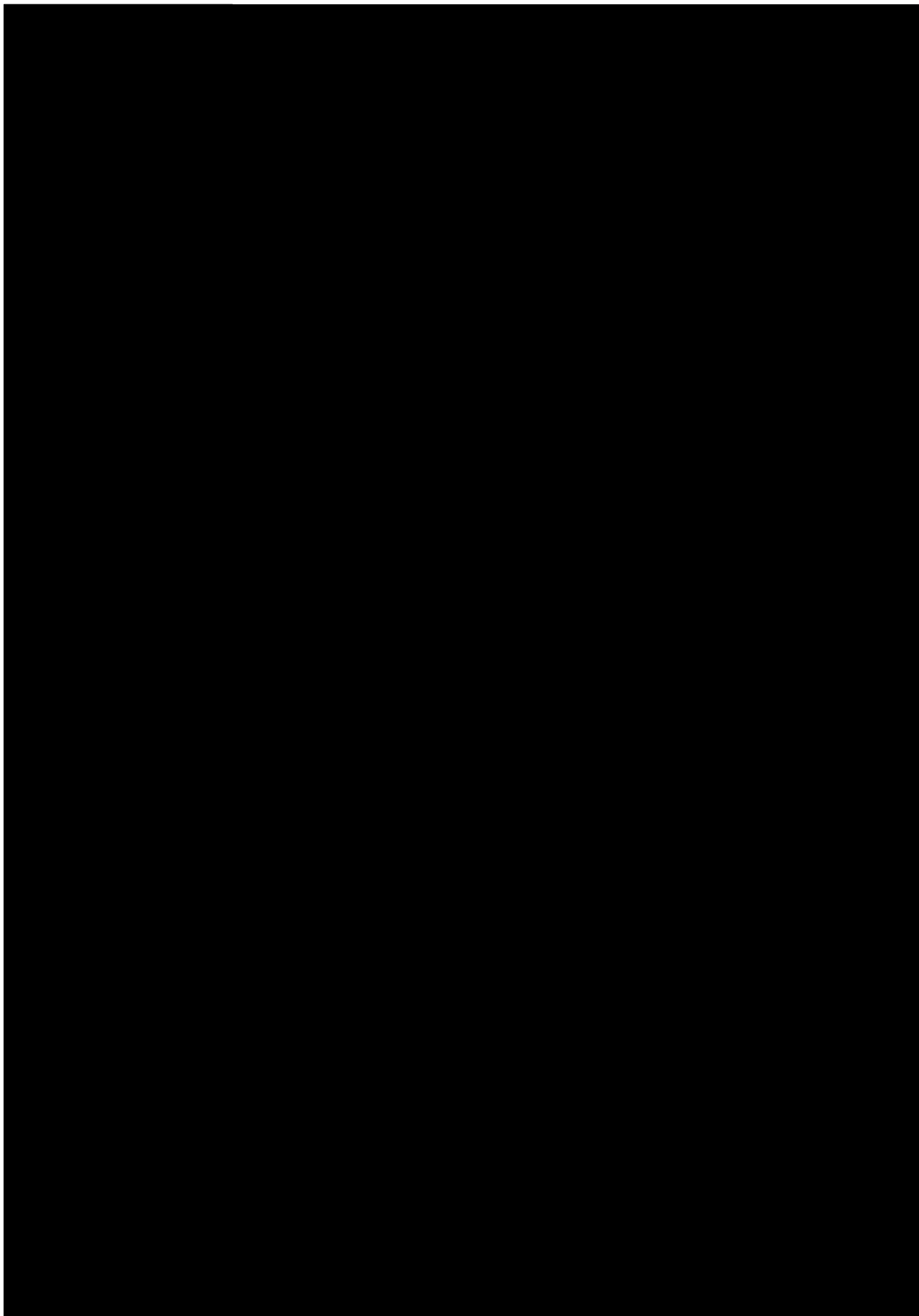
City and County of San Francisco
Wastewater Enterprise
Maintenance Division



P-15 00058



P-19⁰⁰⁰⁵⁹



P-15

000060

Reviewed by:

Division Manager
Joel Prather

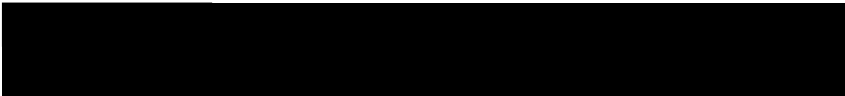
Date:

Employee Signature*
Keith Winston

Date:

Supervisor Signature
Christopher DeBono

Date:



P-000916

Rebuttal to Written Warning Received 7-11-2022

1. Regarding online training.

- **I DID ATTEND AND COMPLETE THE ONLINE TRAINNING.**
- **I had no clear information about any online training. I requested more information from management several times.**
- **My Email account worked fine until 9-15-2021 when C. Debono hacked my account which was reported to management. Since the I have been locked out of my account several times. I have had no assistance from management.**
- **There was no yelling or loud voices during any conversation I had with anyone. There was several other people in the office, no one reported me being loud or discourteous.**
- **I never asked to speak to Ms. Leeming. She asked to speak to me. I told her I had nothing to say I didn't know who she was, first time I met her. In fact, she called me on my vacation. I refused to talk to her.**

2. Regarding meeting with C. Debono and M. Brosas

- **M. Brosas began speaking loudly toward me and shouted at me to sit down, at that point I knew would have to leave. M. Brosas was aggressively speaking toward me. He was still standing.**
- **I told M. Brosas that would take the documents he wanted me to sign, read them first and then sign them. I didn't sign them they were inaccurate.**

3. Dishonest, unethical behavior, lack of integrity, racial bias and retaliation on the part of J. Prather, C. Debono, M. Brosas, S. Kohnmann.

- **J. Prather made an accusation regarding me in an Email on 7-1-2022 which was sent to multiple people, a week later he was not willing to stand behind that email. (Please see 7-1-2022 email which included). J. Prather has not responded to my Email.**

- C. Debono hacked into my Outlook email account on 9-15-2021 which was reported to management on 9-15-2021.
- I have a EEO H.R. claim regarding the W.W.E. maintenance chain of command. This written warning is retaliation for that H.R. claim.
- The total dishonest behavior from J. Prather has now become unprofessional and abusive.

Keith Winston

7-18-2022

Winston, Keith

From: Winston, Keith
Sent: Wednesday, July 6, 2022 3:53 AM
To: Prather, Joel; DeBono, Christopher
Cc: Brosas, Marlon; Kohmann, Steve P; Leeming, Elaine; Kumar, Radha; Ho, Michael C
Subject: RE: Reporting to C0403 supervisor

This is another fraudulent statement from J. Prather. I have been on crew #403 since 2-16-2021 C. Debono has been allowed to start work at 8:00 a.m. or 8:30 a.m. or whenever he shows up. I have mentioned this with M. Brosas. He said that C. Debono has been given a special schedule by management. Crew #403 starts work at 5:30 a.m. How could I get instructions from C. Debono when he is never onsite at 5:30a.m. , this can be confirmed by multiple other staff members. Also we are under Covid 19 precaution rules so if C. Debono isn't present at the time I sign in I willn't sit in a enclosed area with 5 or 6 other people.

On 9-15-2021 C. Debono hacked into my Outlook account which I reported to Management. Management responded that they would not do anything regarding the Outlook hack. So I have no trust at all with the maintenance chain of command to be honest (see statement above) , act with integrity, or to be ethical. I have current H.R. claim regarding these issues and more.

I have been requested by J. Prather to attend a meeting with Him, C.Debono, M. Brosas, S. Kohmann these are the four subjects of my H.R. claim. I request that a Local #39 shop steward be present at this meeting. If not i willn't attend this meeting with theses individual's due to the amount of unethical behavior, fraudulent statements and over all lack of integrity from the maintenance chain of command.

Thank you,
Keith Winston

From: Prather, Joel <JPrather@sflower.org>
Sent: Friday, July 1, 2022 2:47 PM
To: Winston, Keith <KWinston@sflower.org>; DeBono, Christopher <CDeBono@sflower.org>
Cc: Brosas, Marlon <MBrosas@sflower.org>; Kohmann, Steve P <SKohmann@sflower.org>; Leeming, Elaine <ELEeming@sflower.org>; Kumar, Radha <RaKumar@sflower.org>; Ho, Michael C <MCHo@sflower.org>
Subject: Reporting to C0403 supervisor

Hello Keith,

I've been made aware that after signing in each day, you've been leaving the shop before Chris can give you your daily work assignment.

This is not acceptable.

Going forward please make sure that you stick around for enough time for Chris to give out your work assignment along with the rest of the C0403 staff.

Chris,

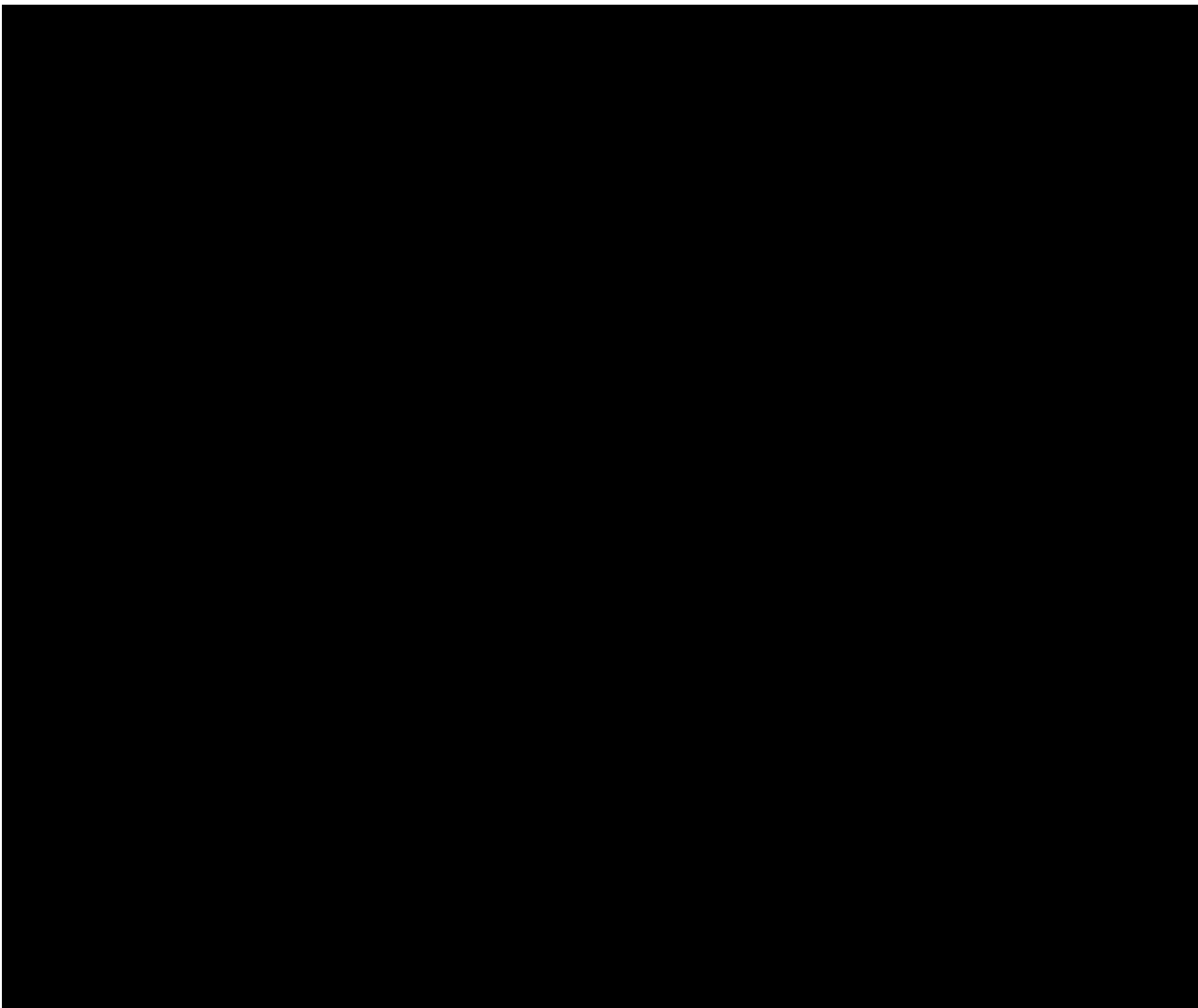
Please print a copy of this email for Keith incase he doesn't get a chance to see it before he starts work on 7/5/22.

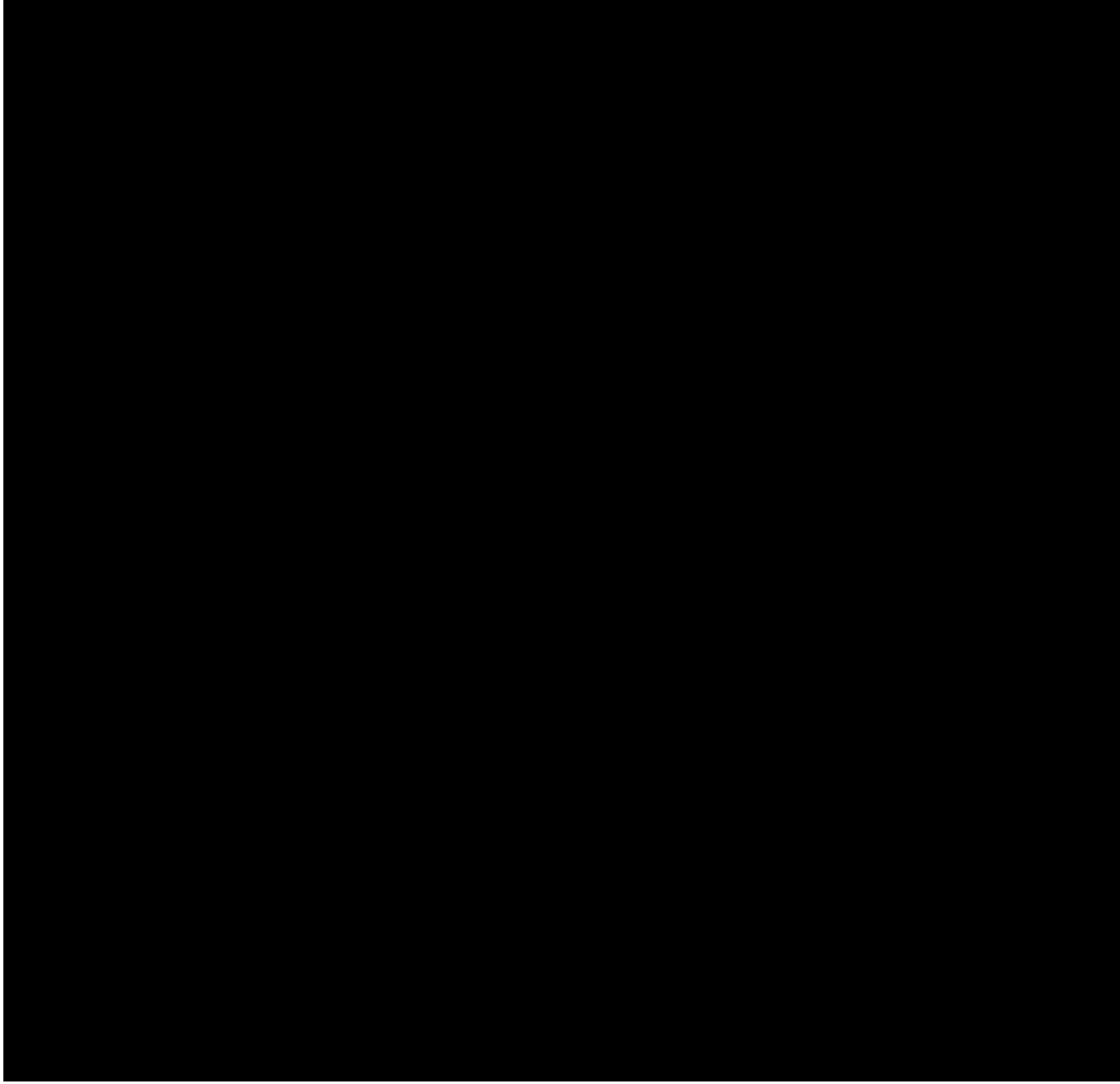
P⁰⁰⁰⁰⁶⁴-19

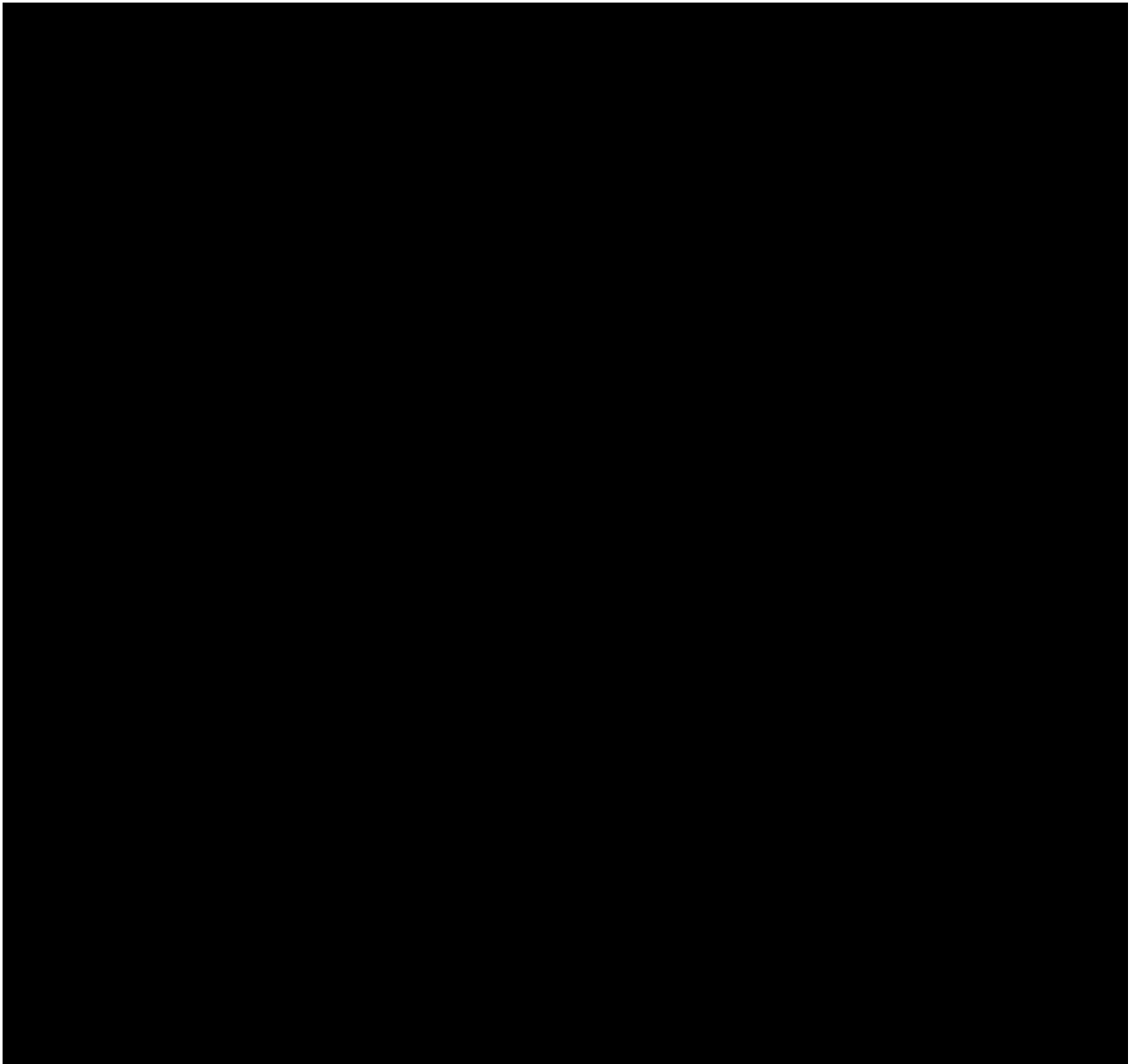
BLANK PAGE

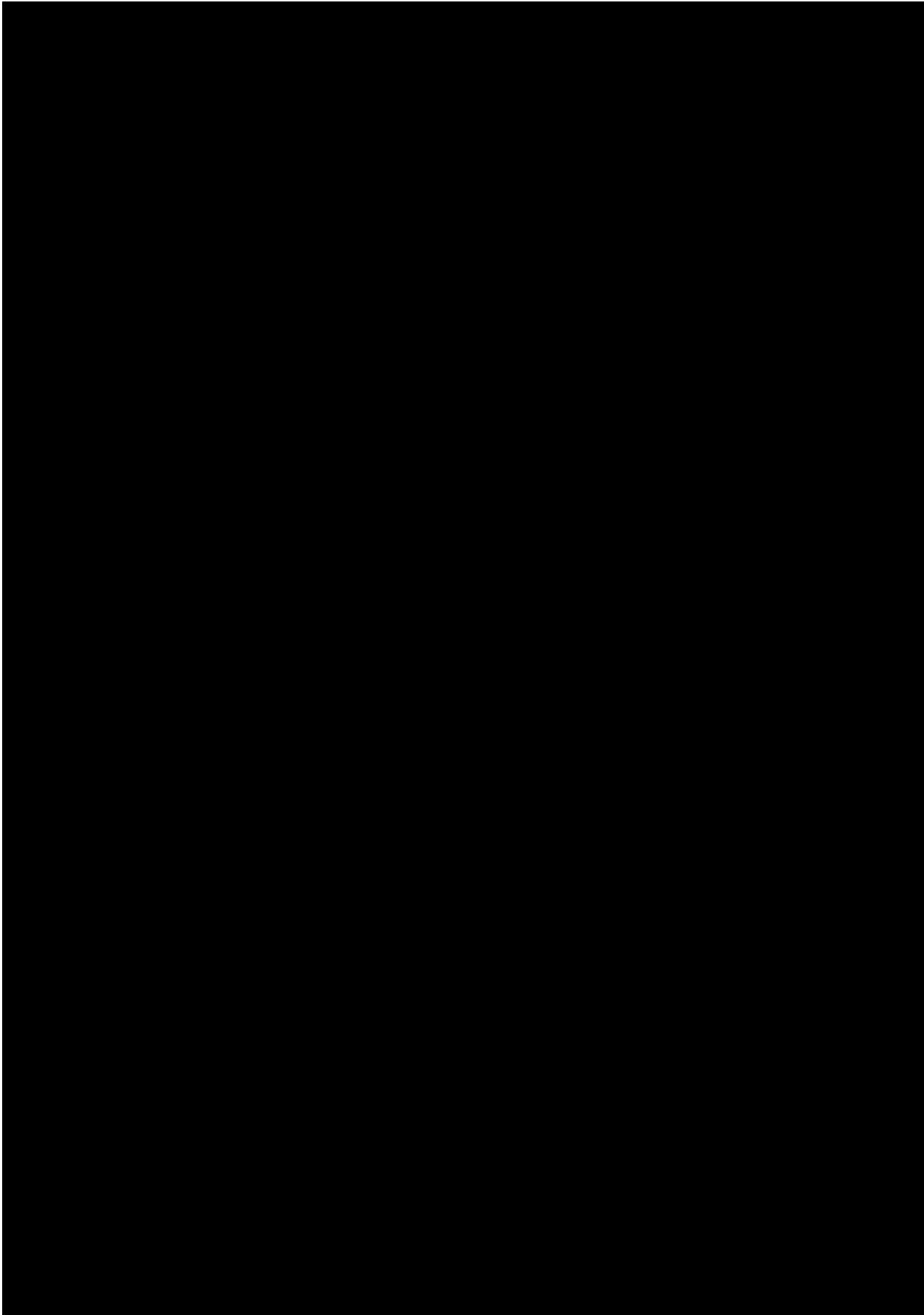
EXHIBIT E

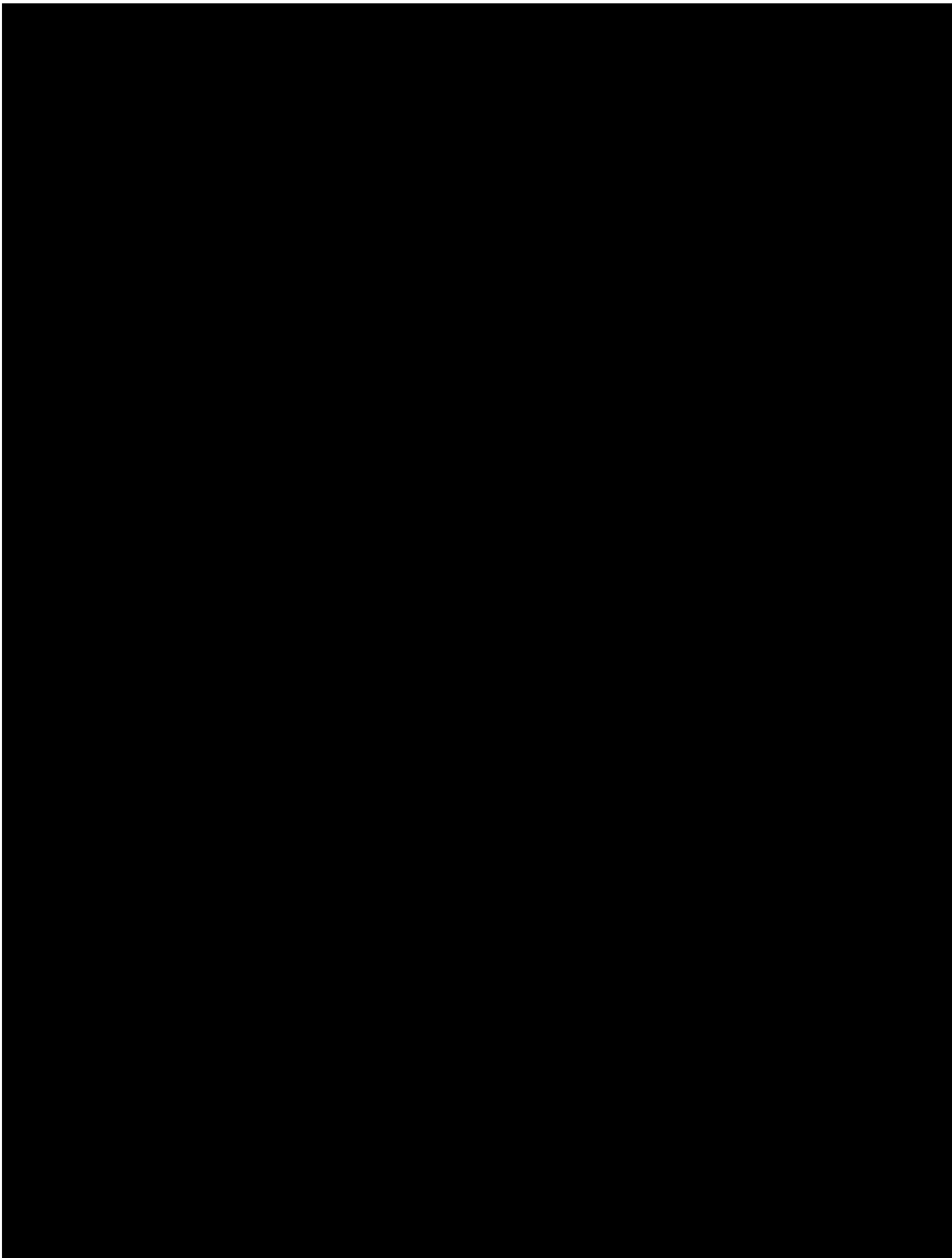
PUC Documents for Disciplinary Action Taken Against Appellant

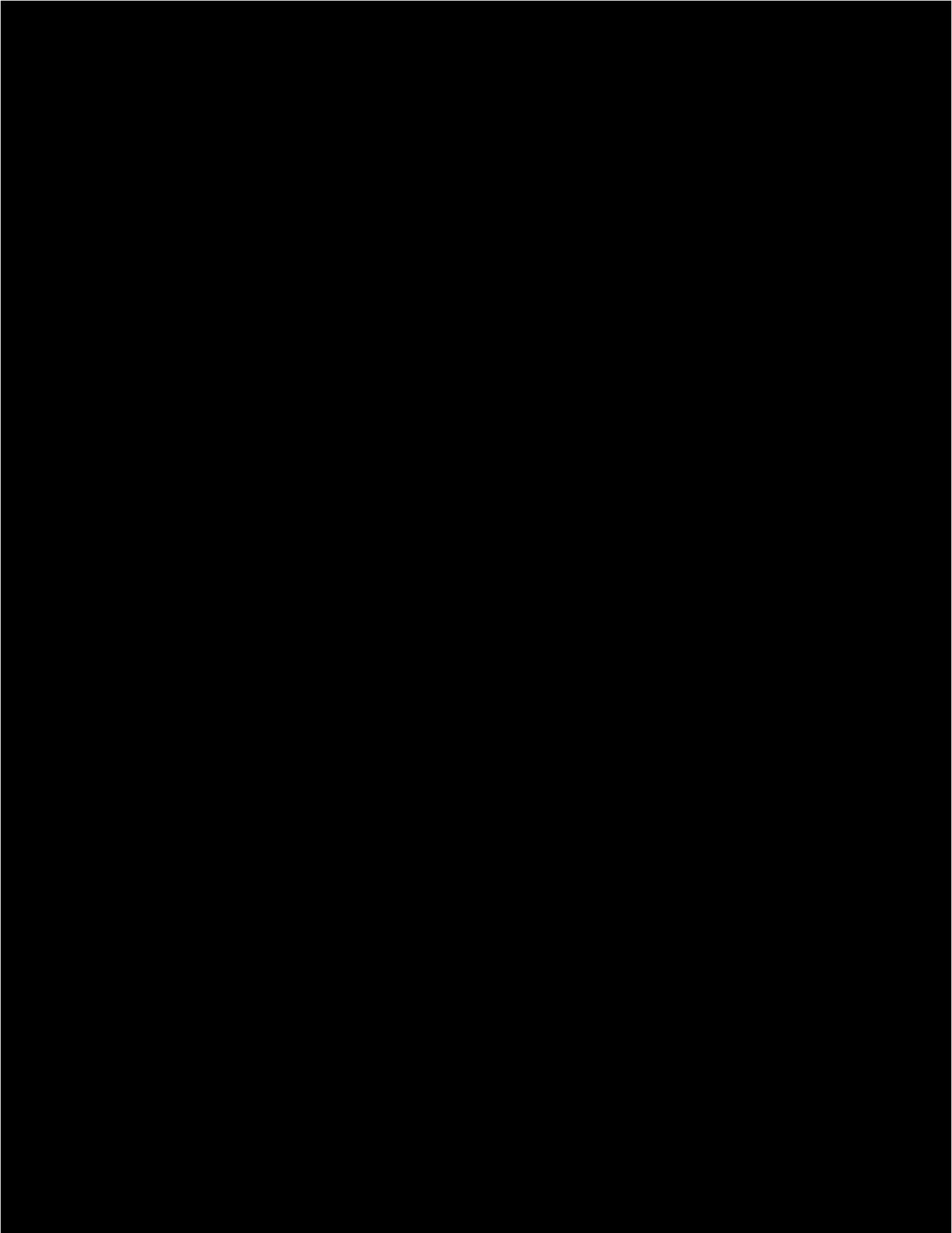


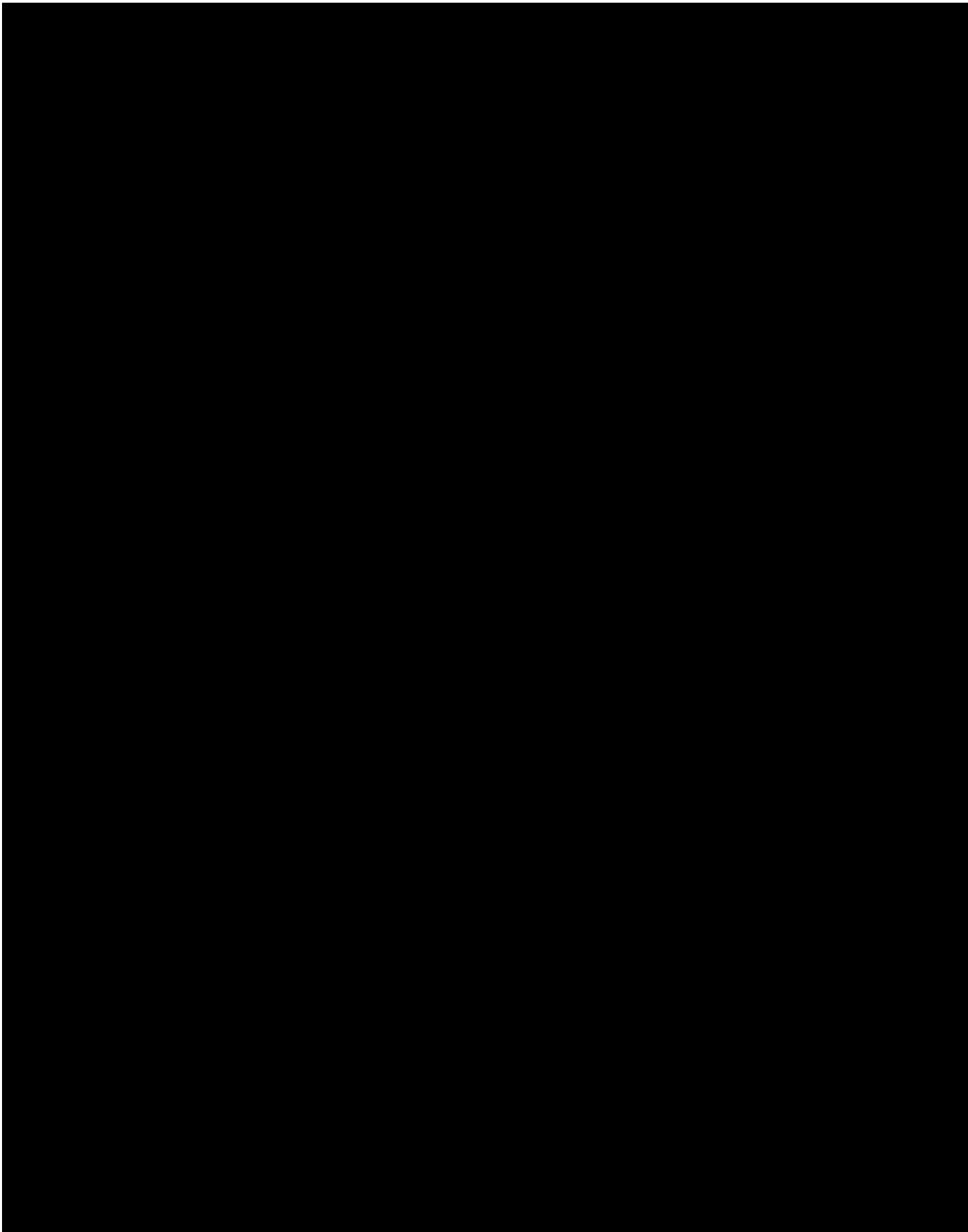


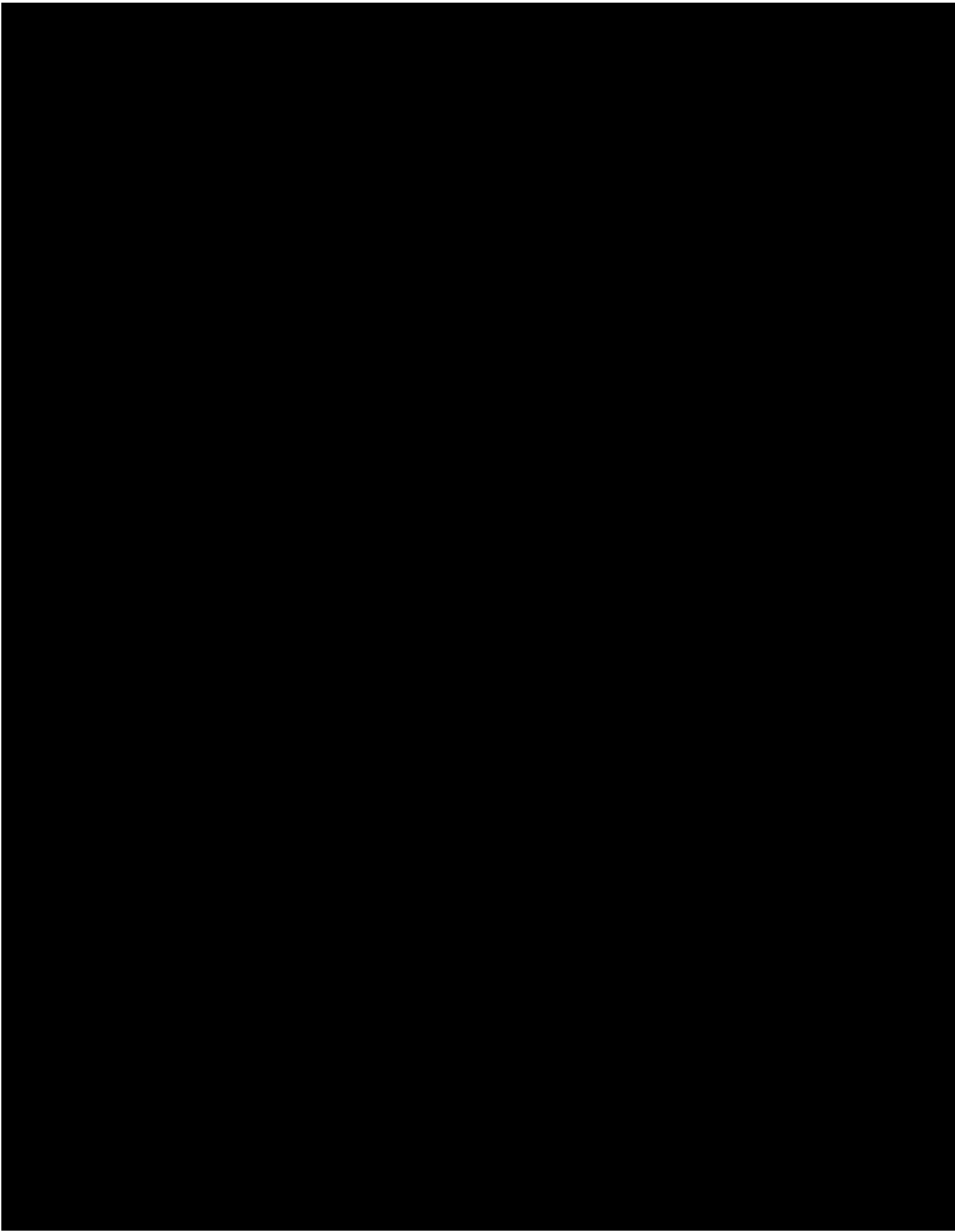


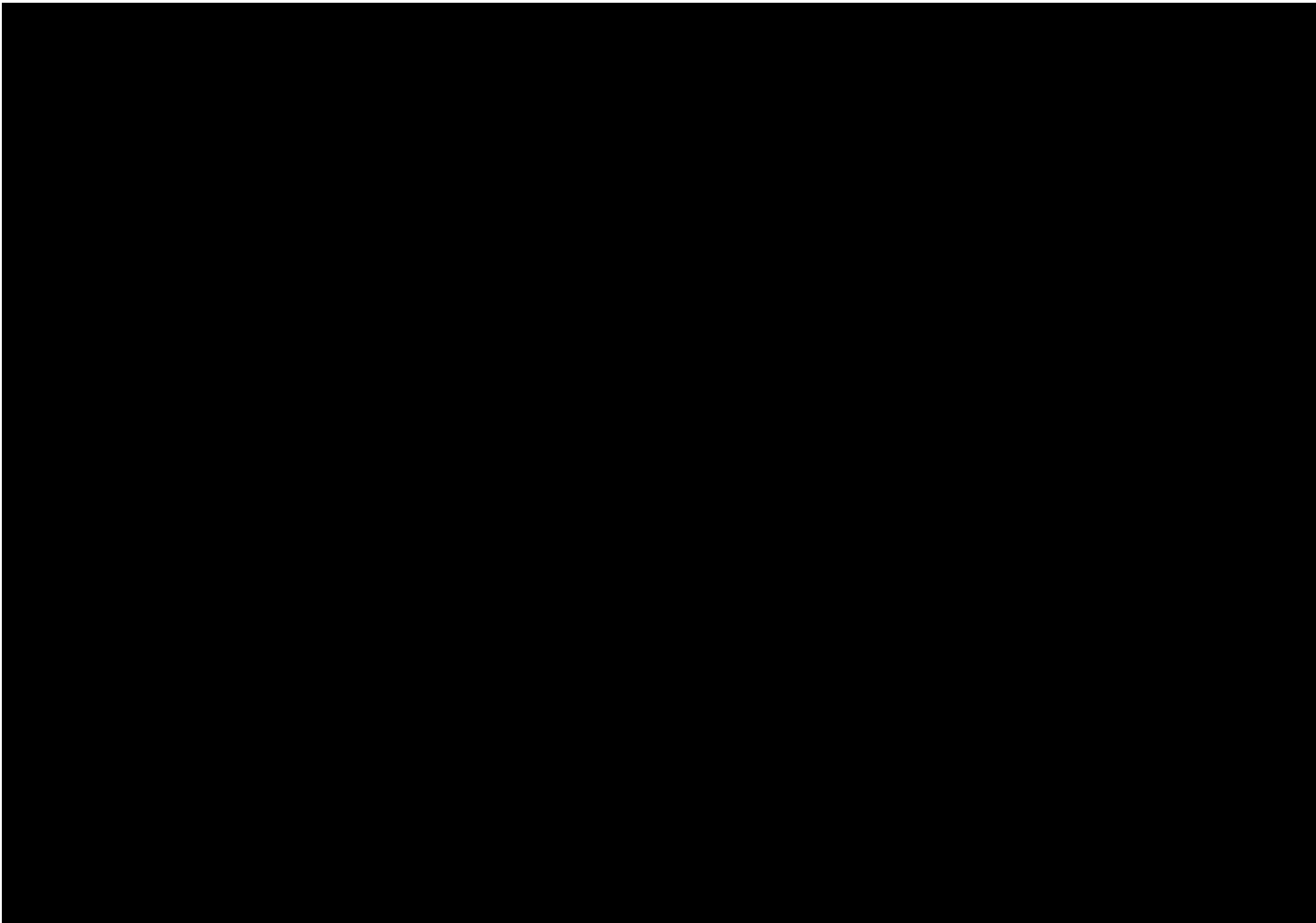


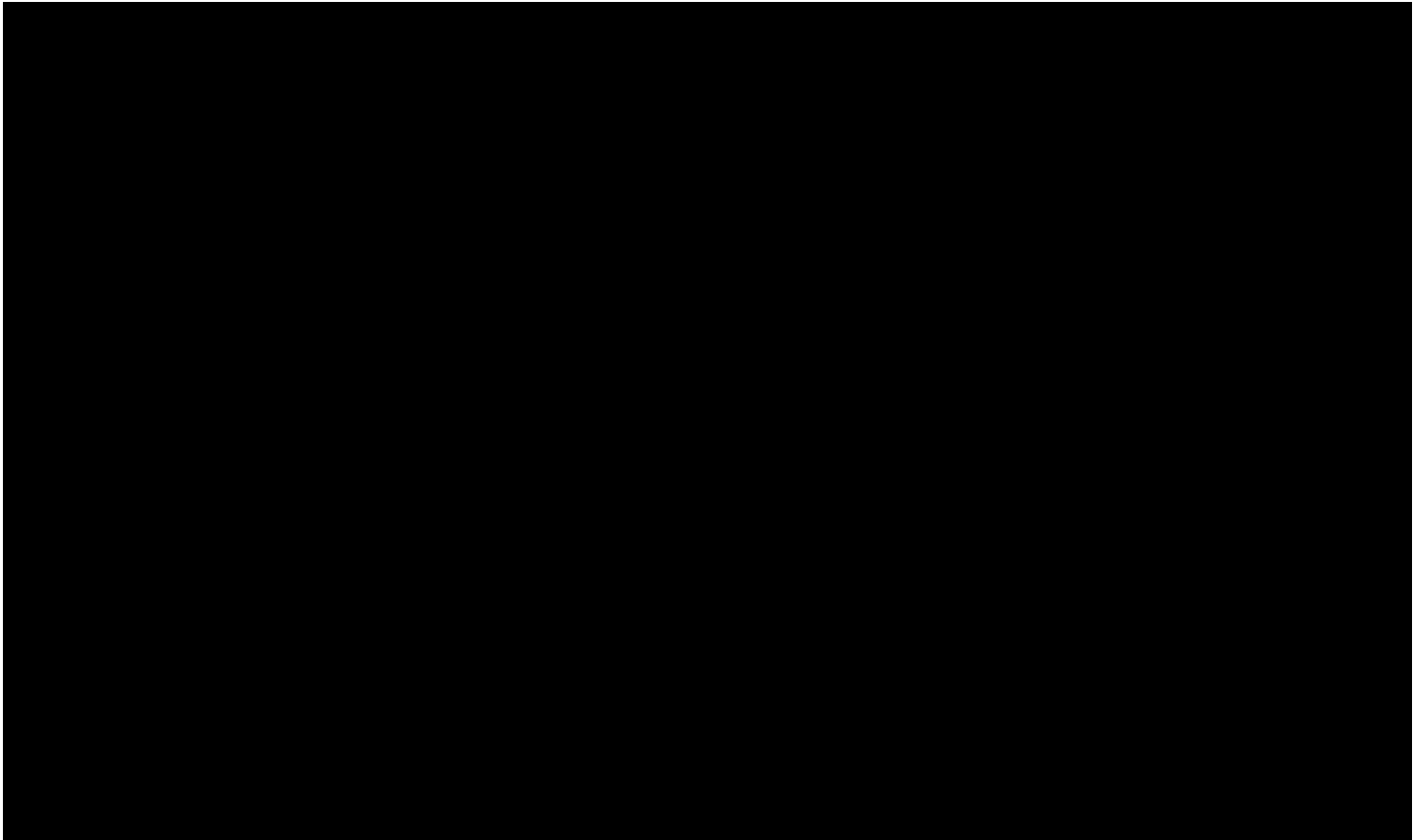


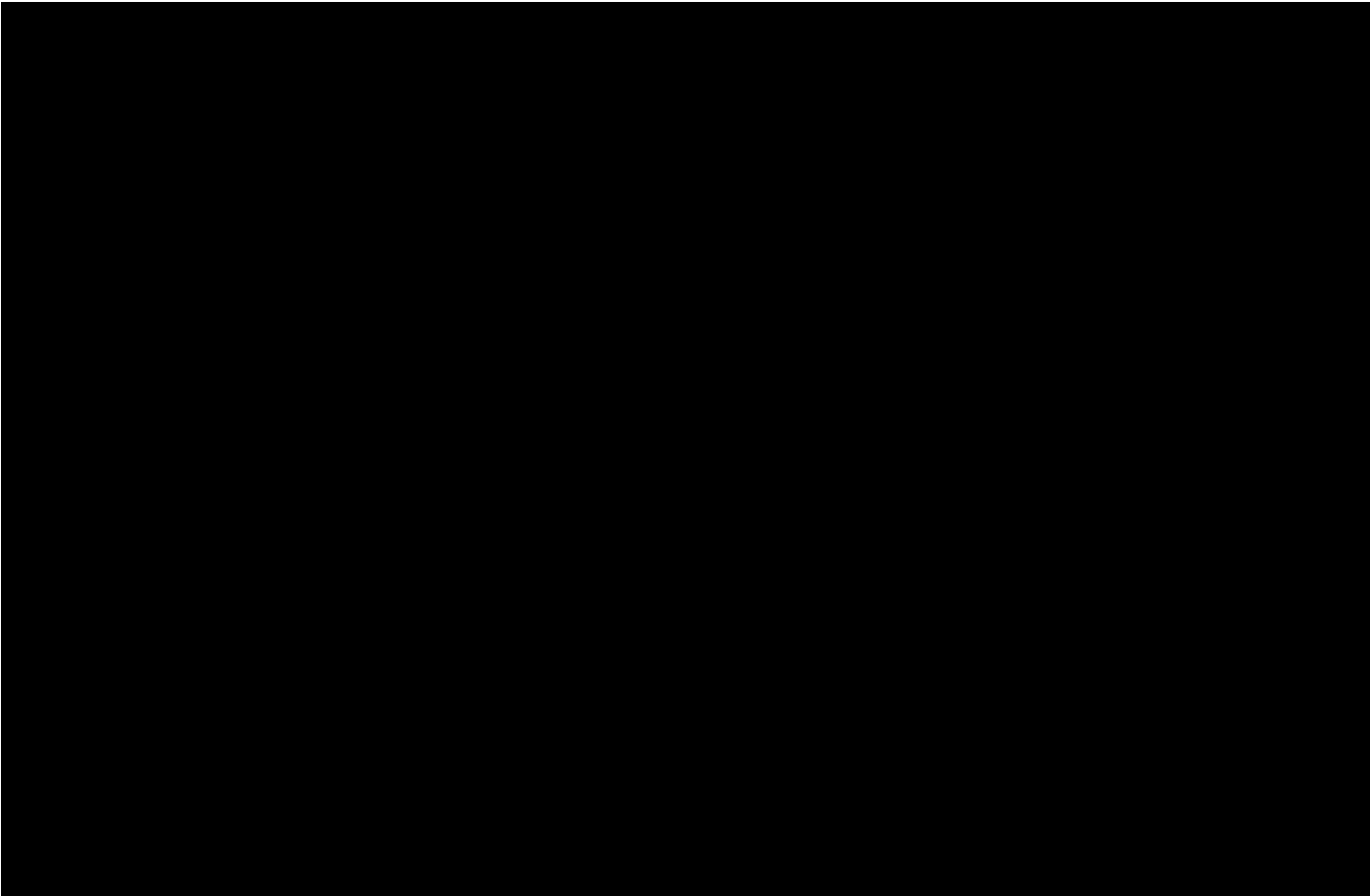


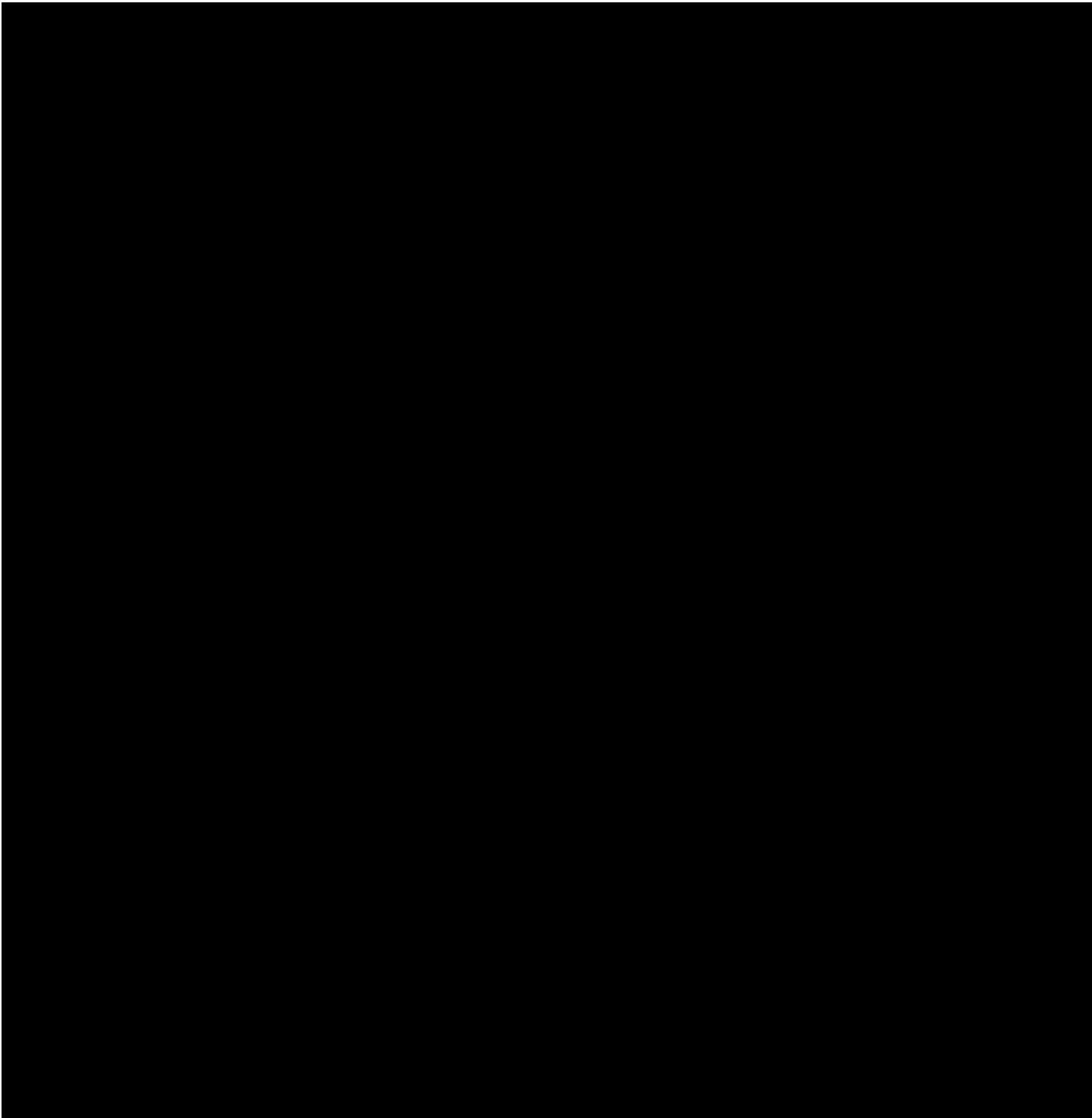




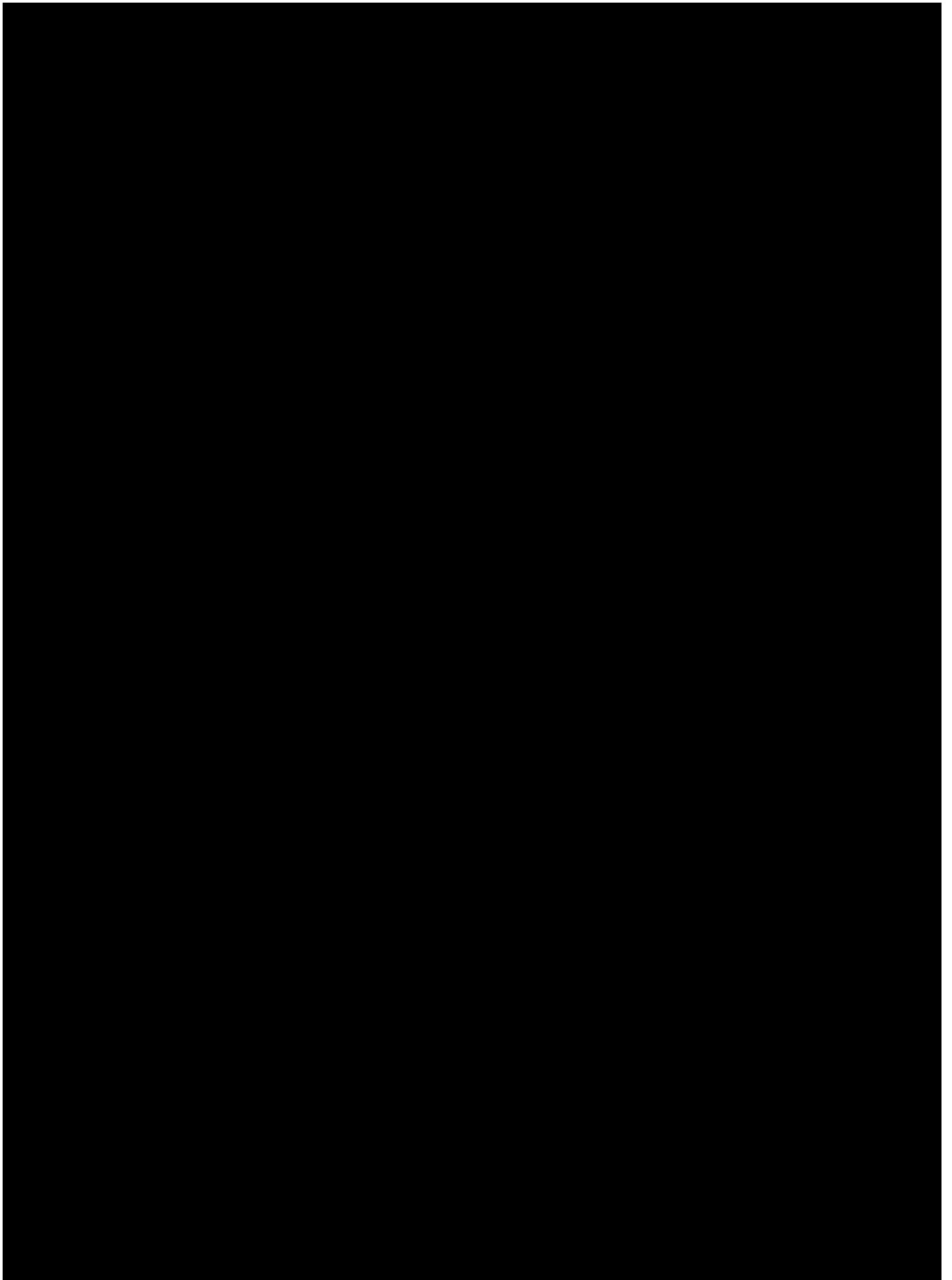


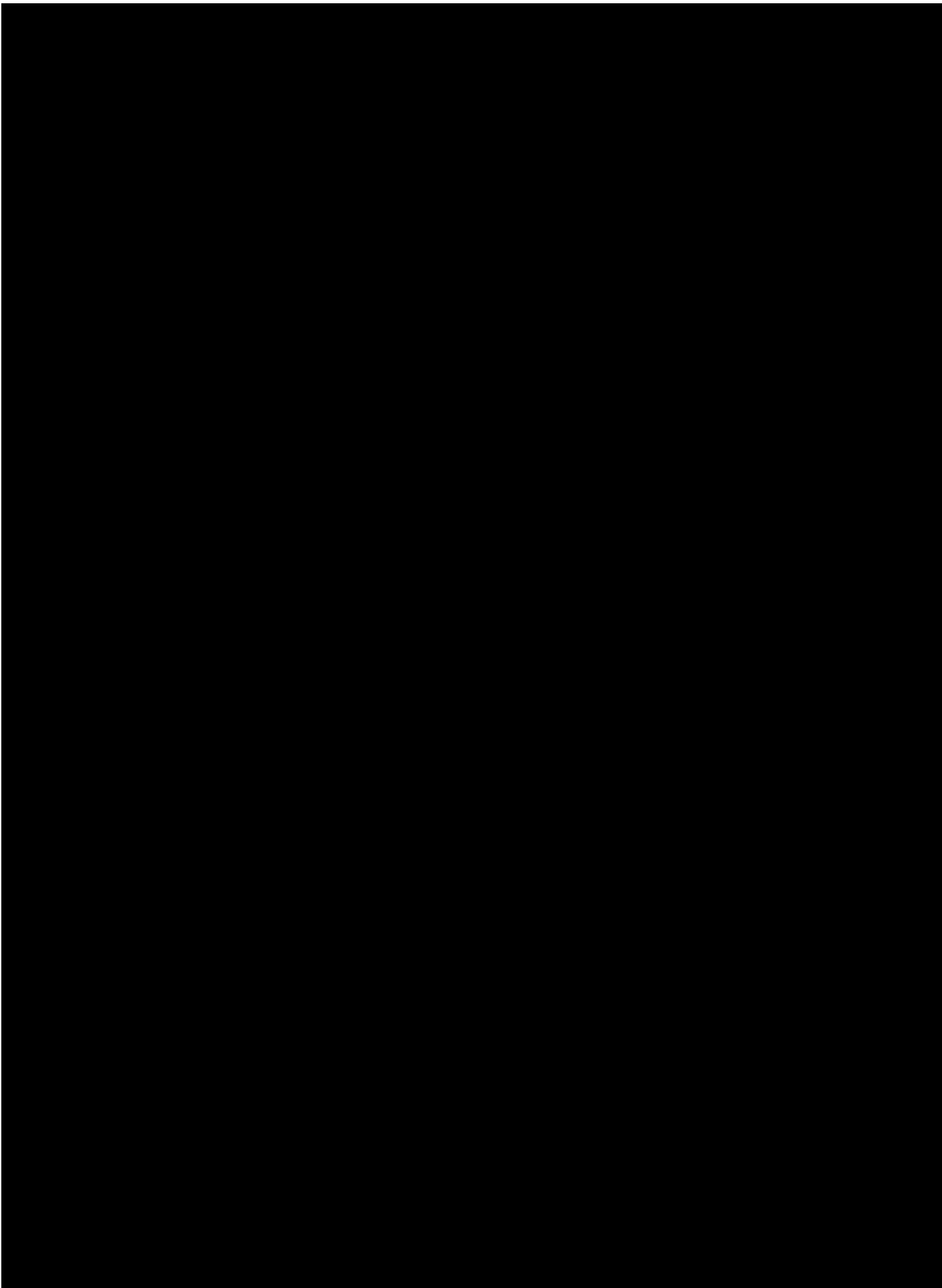


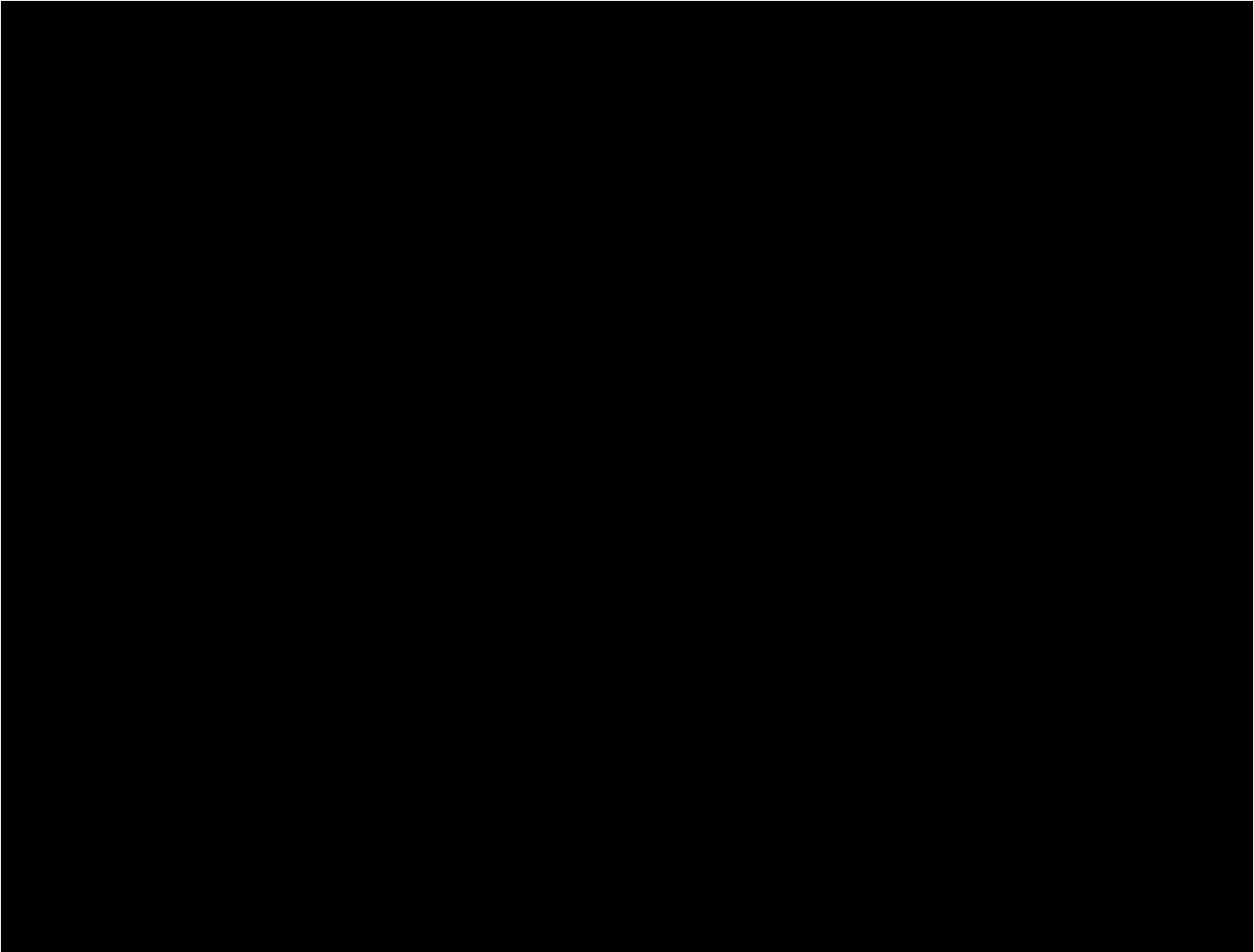


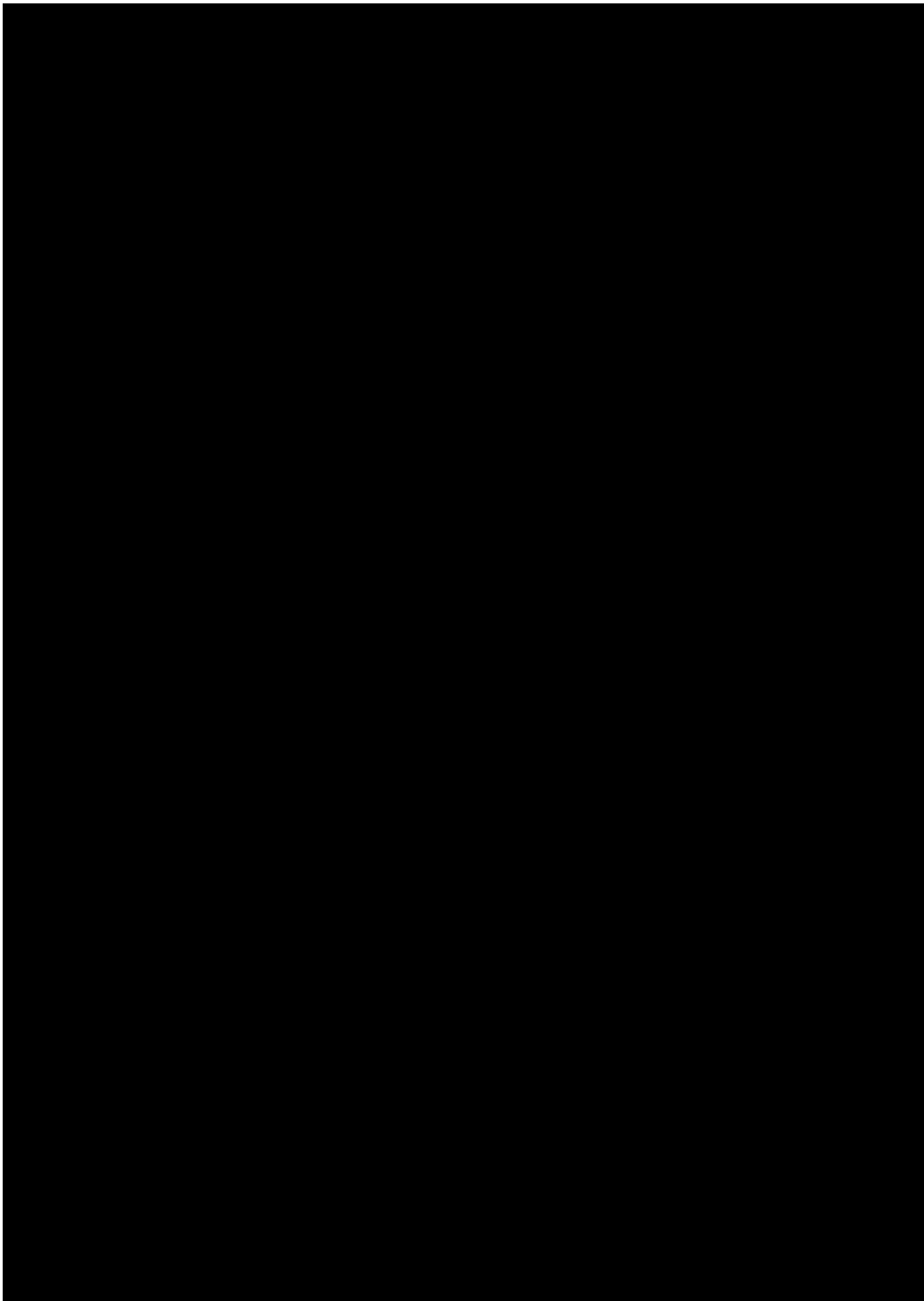


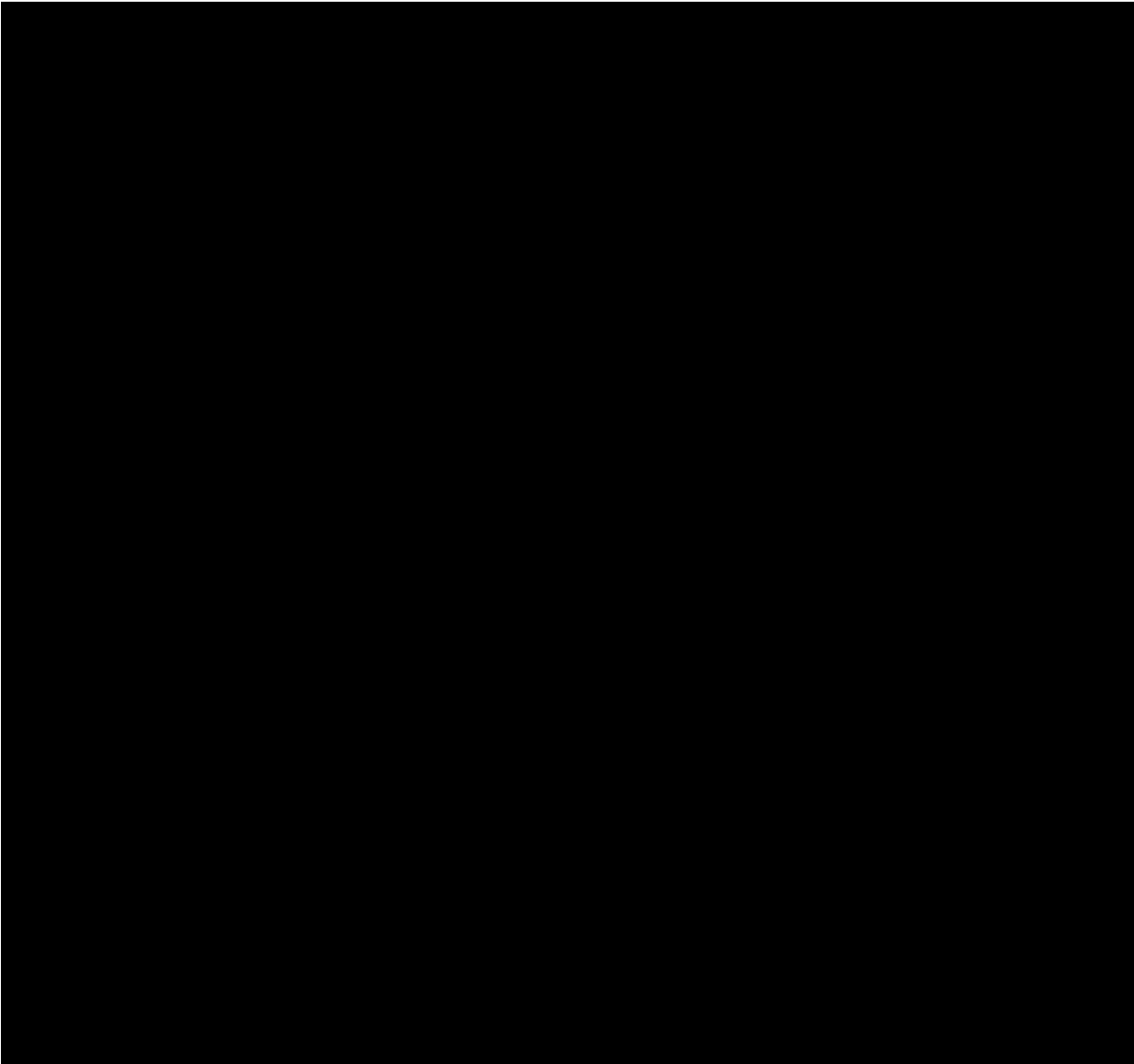


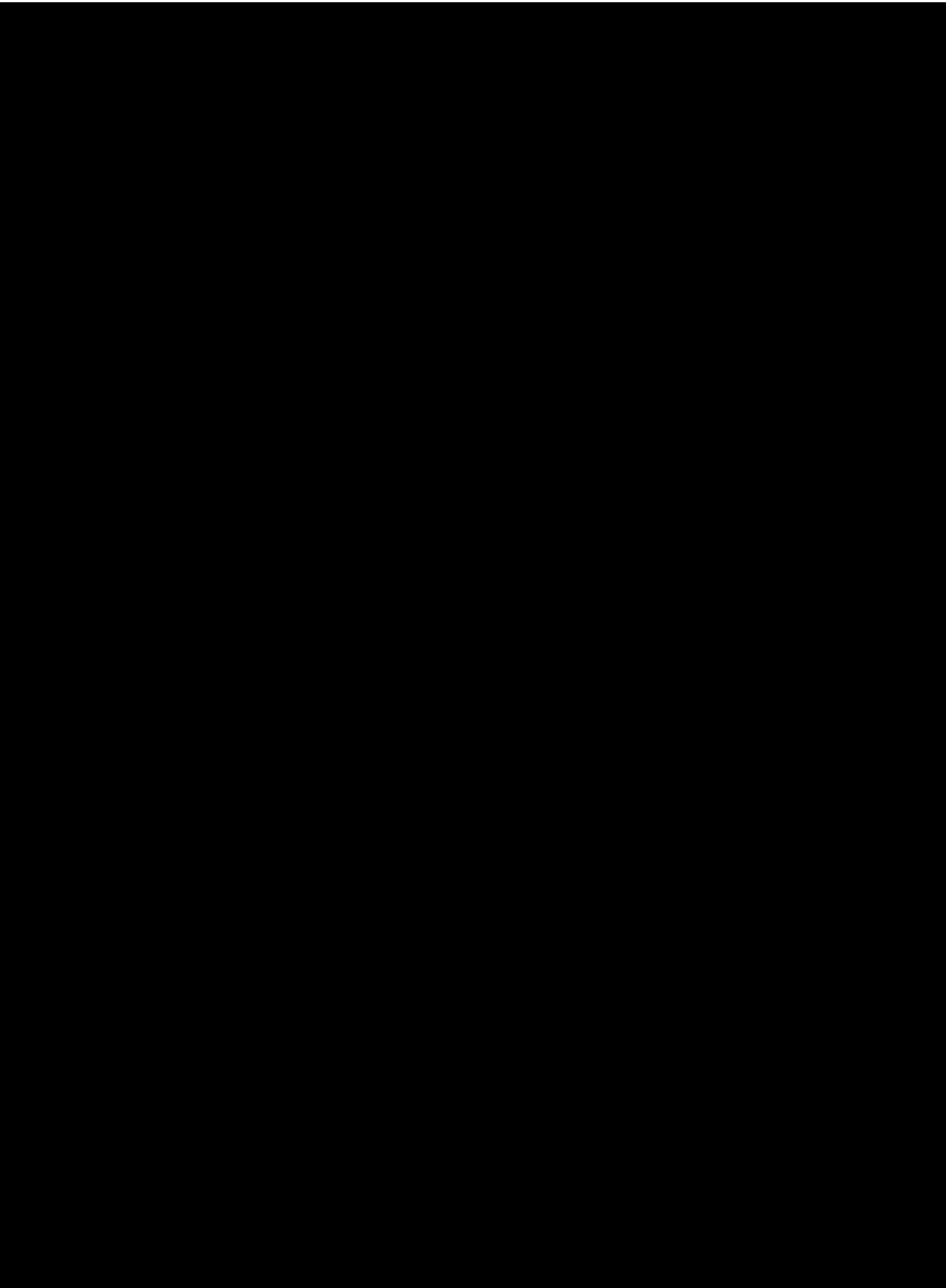


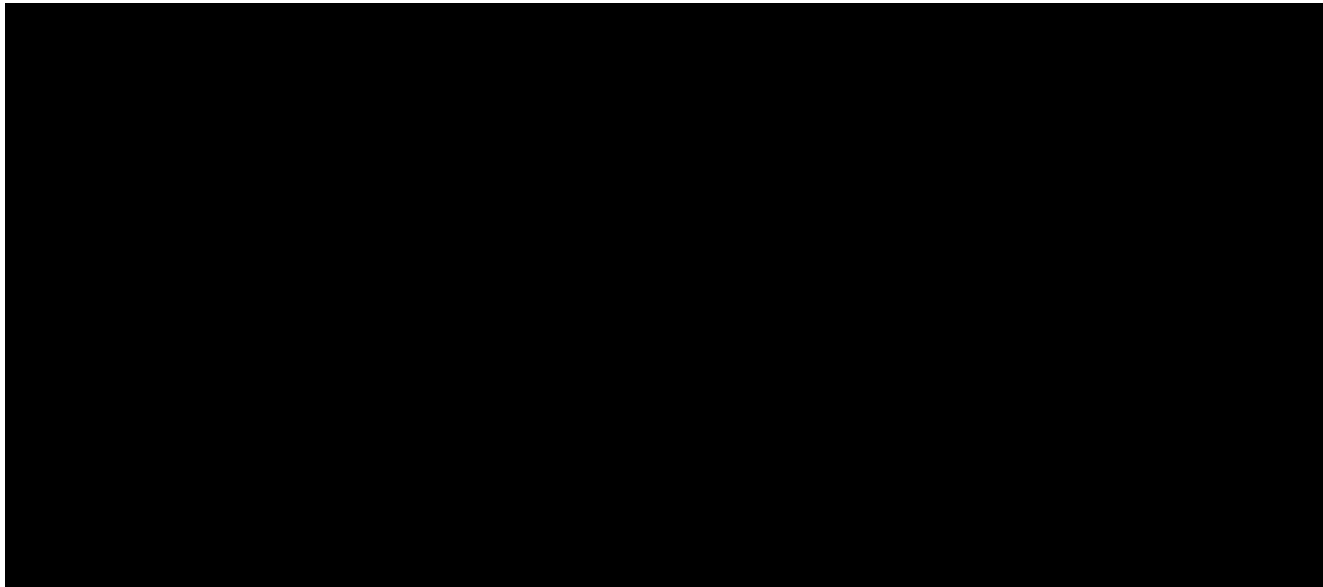


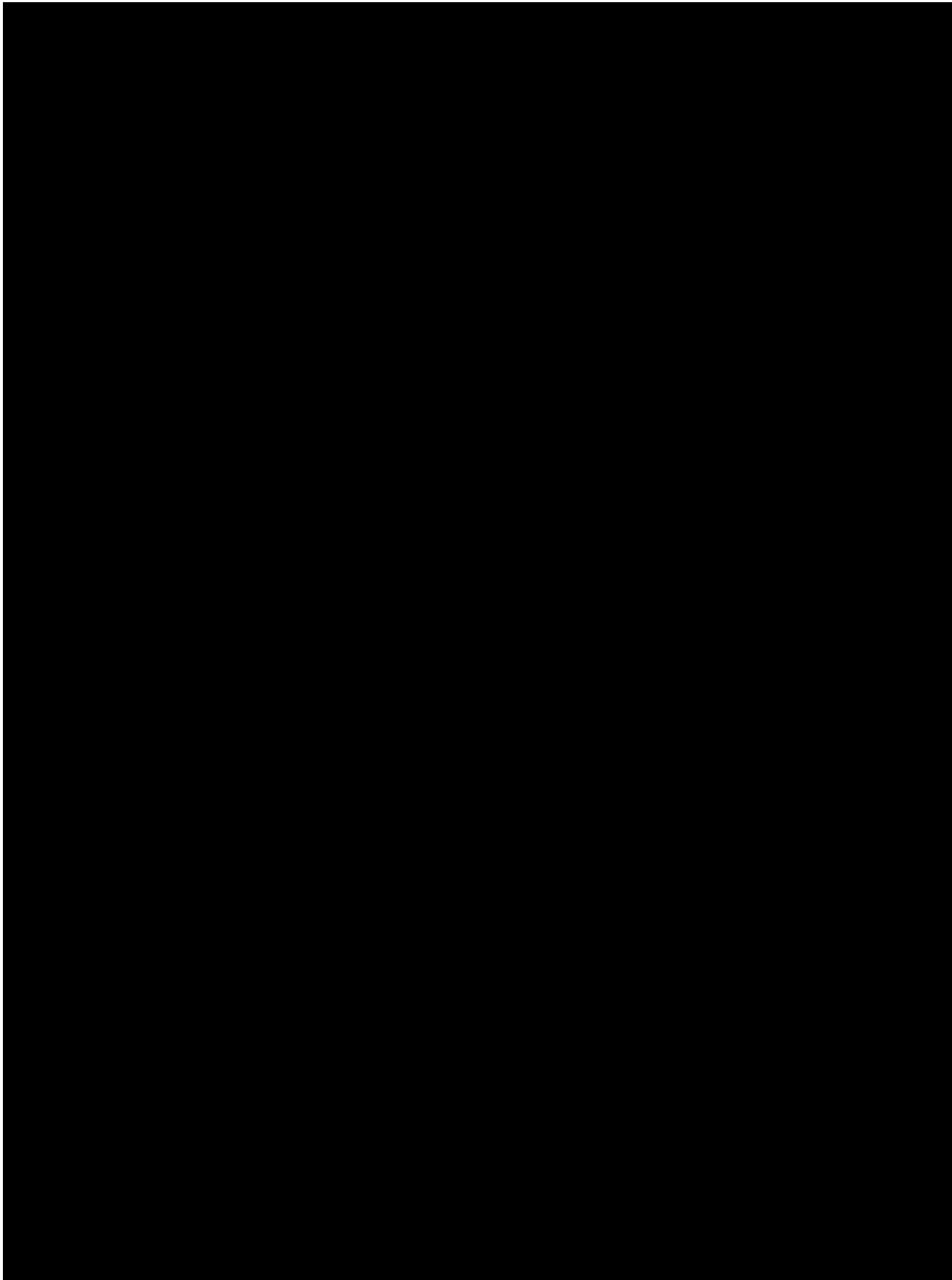






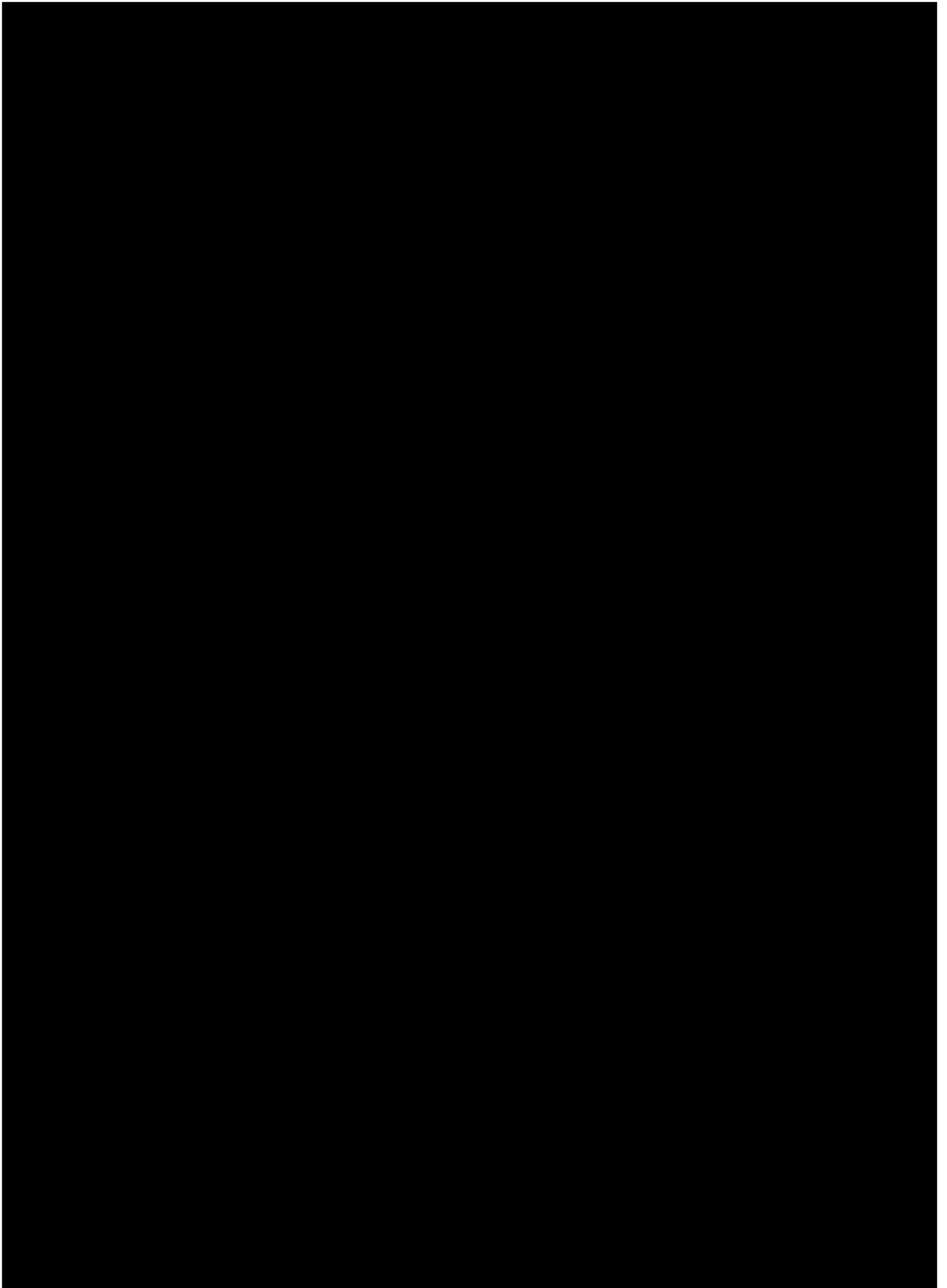




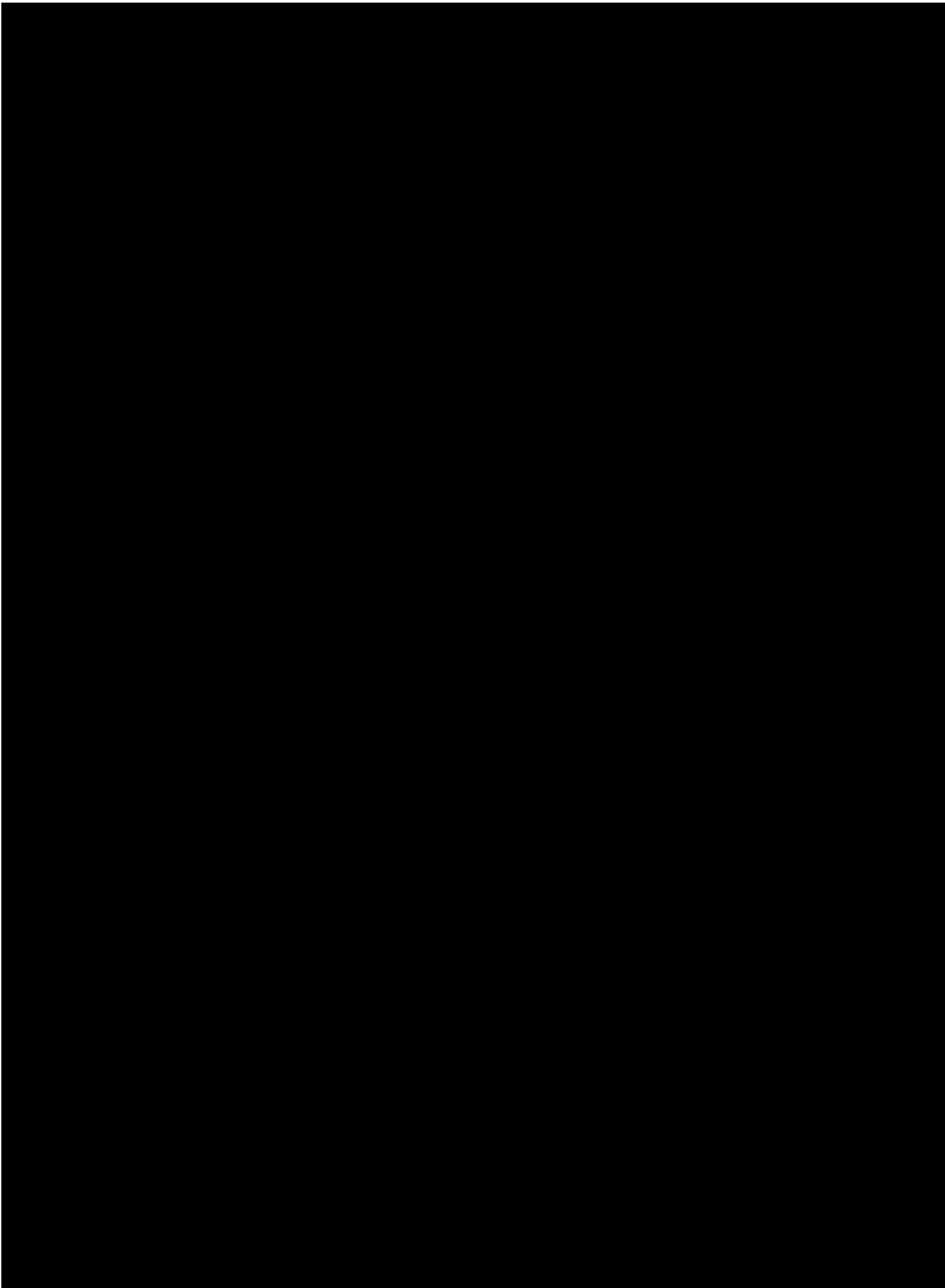


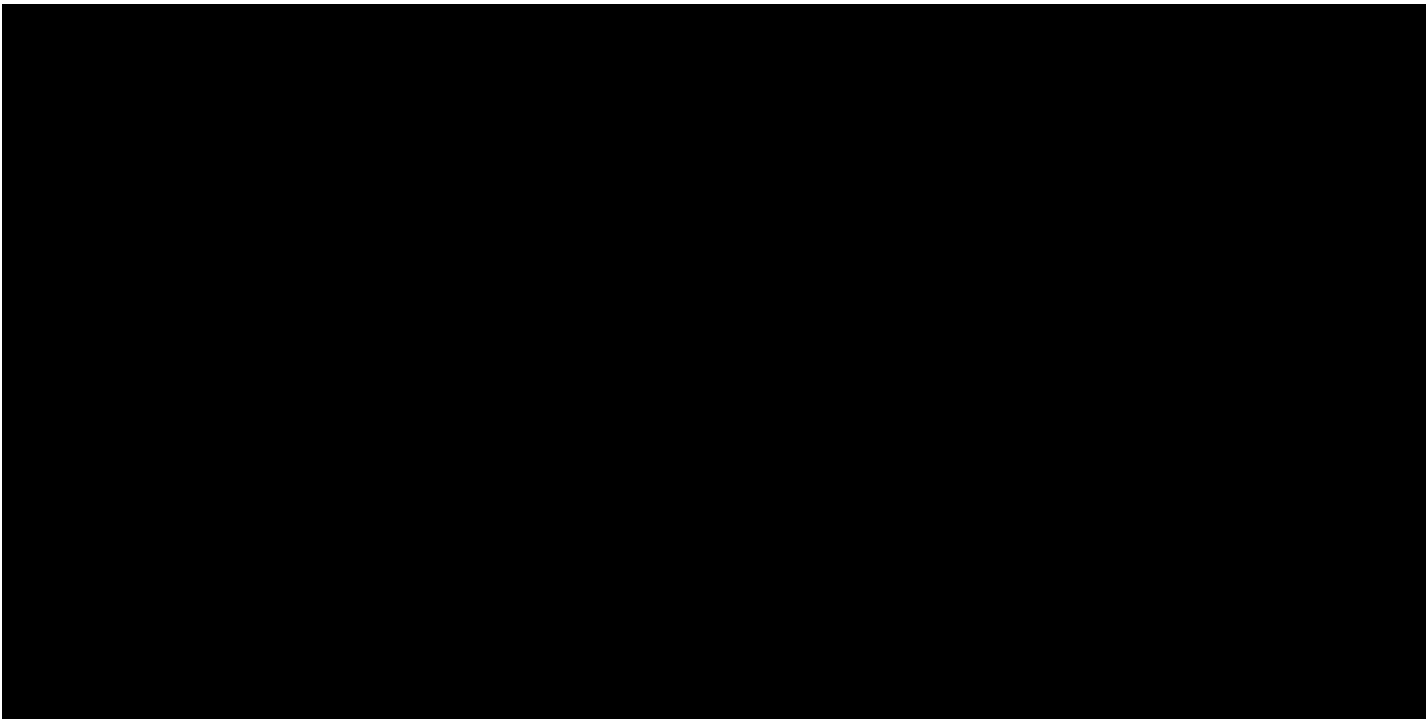


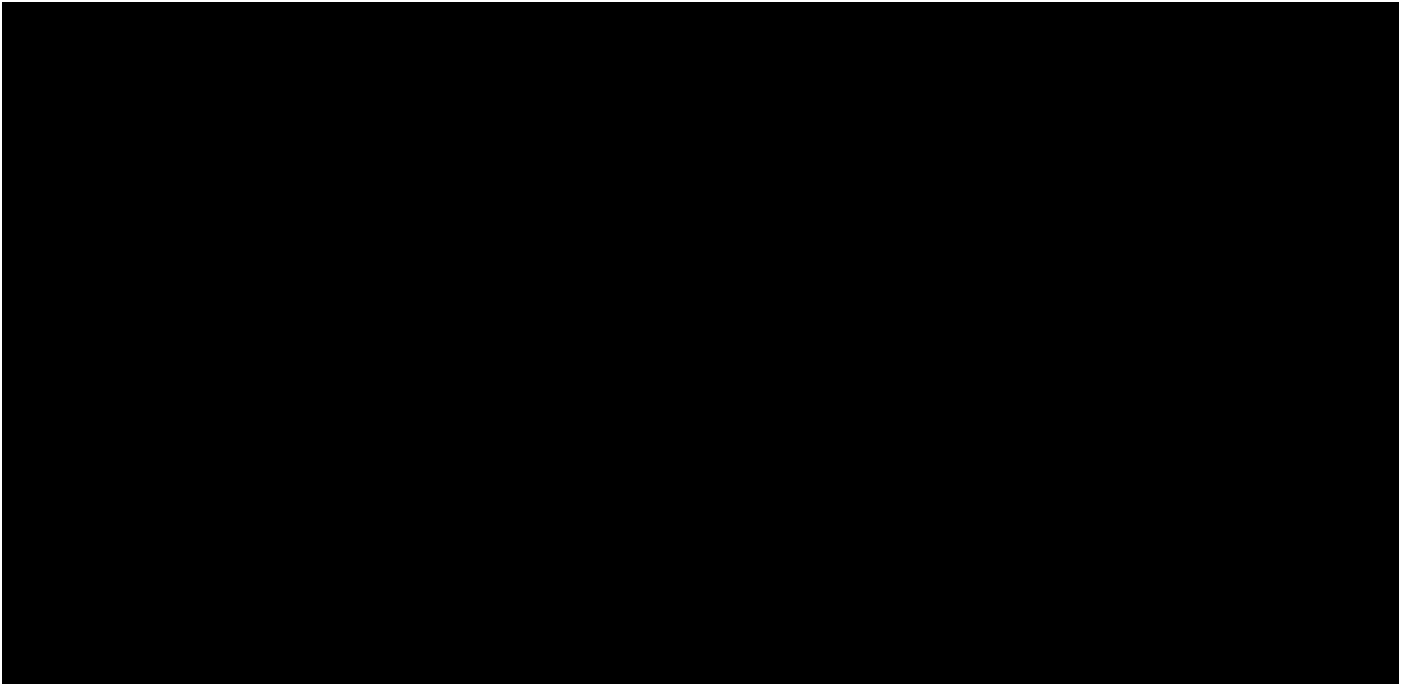


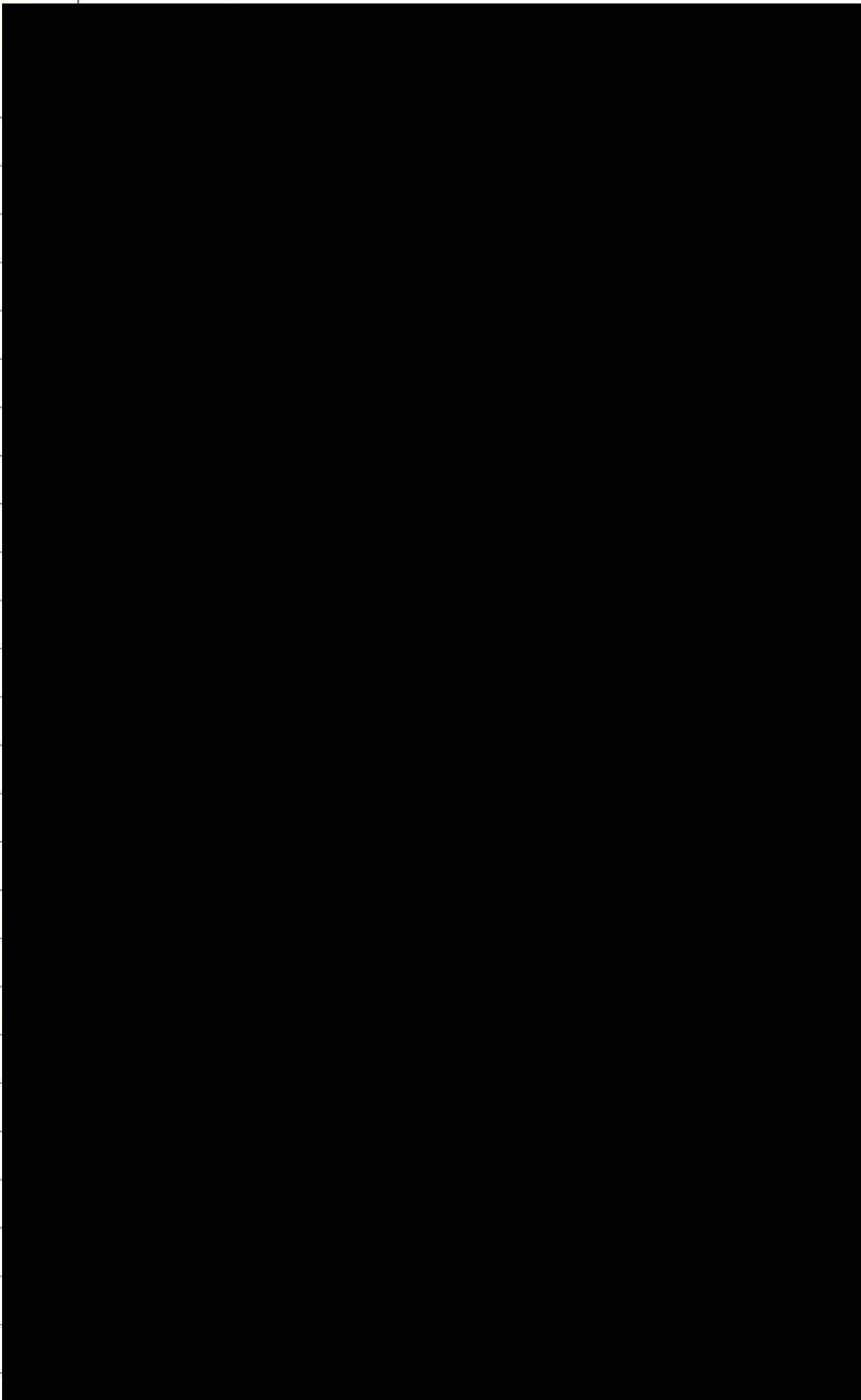


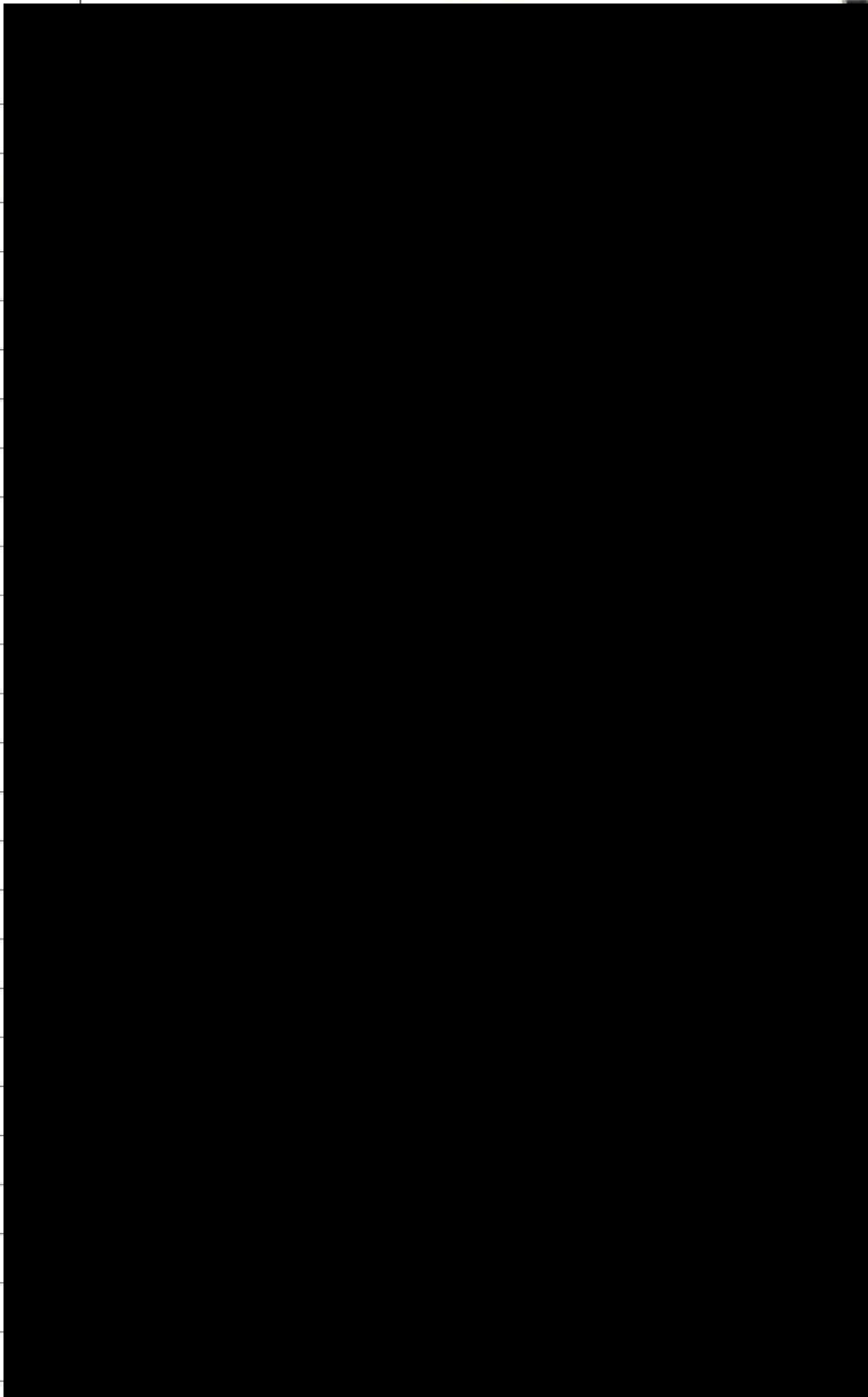


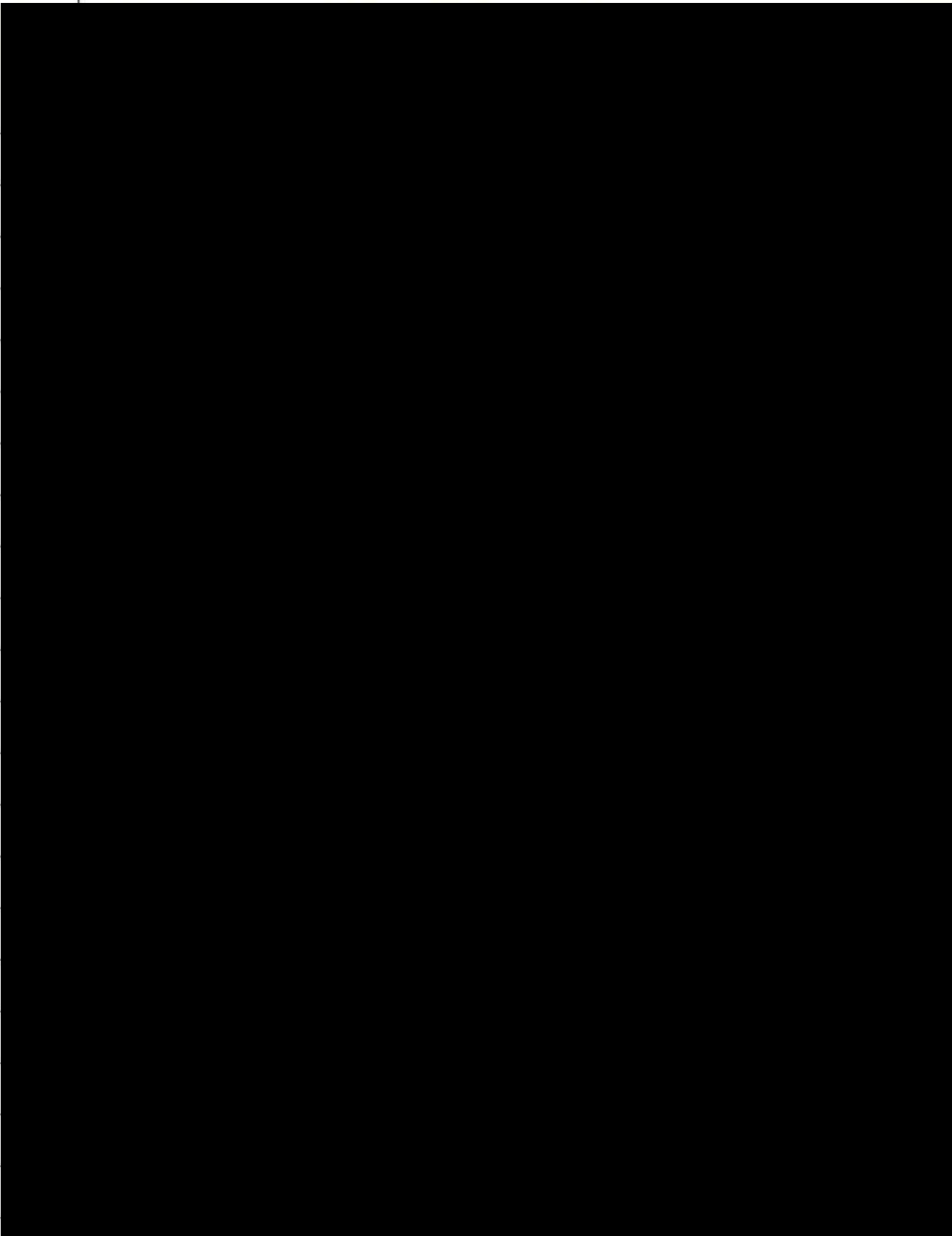




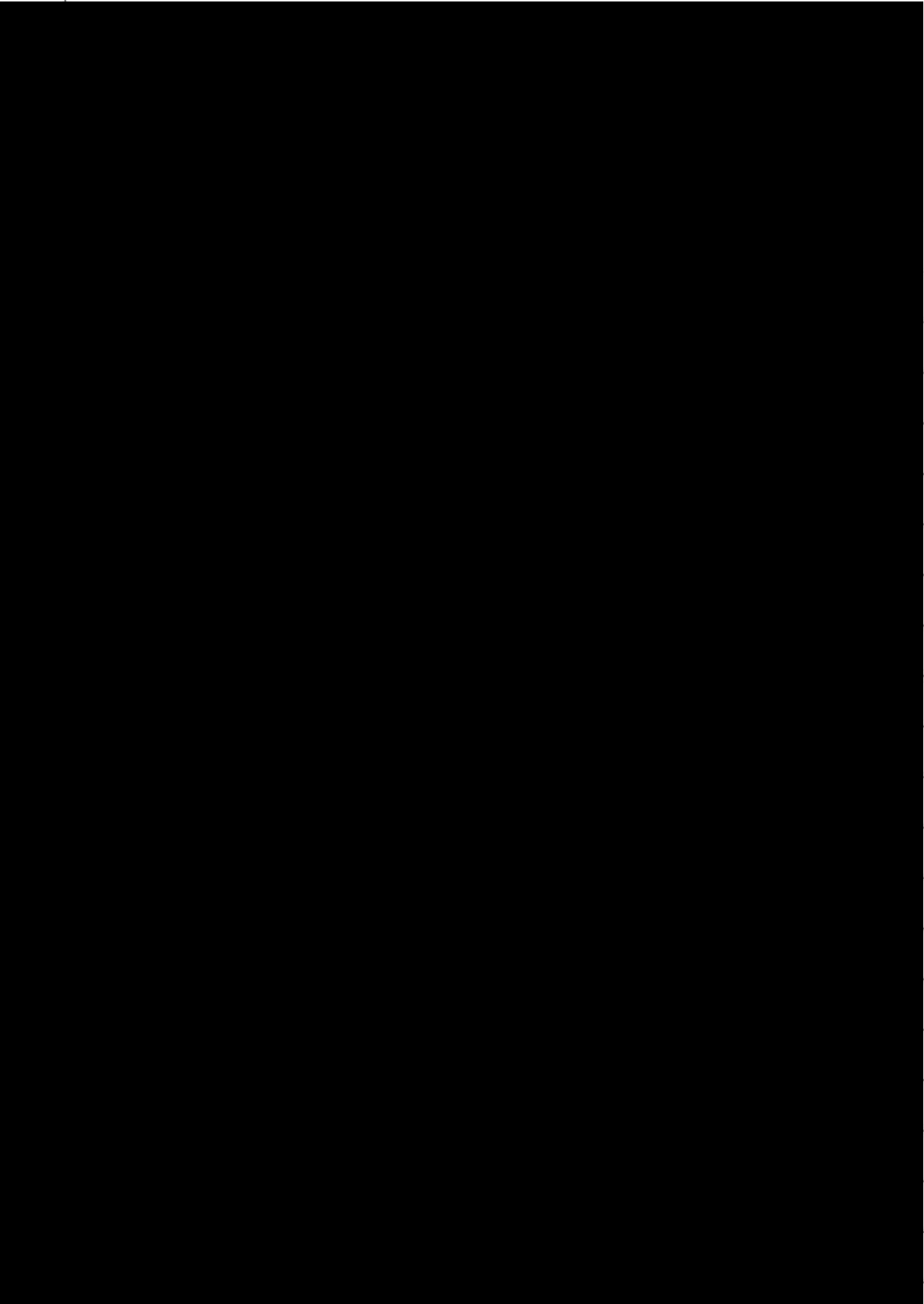


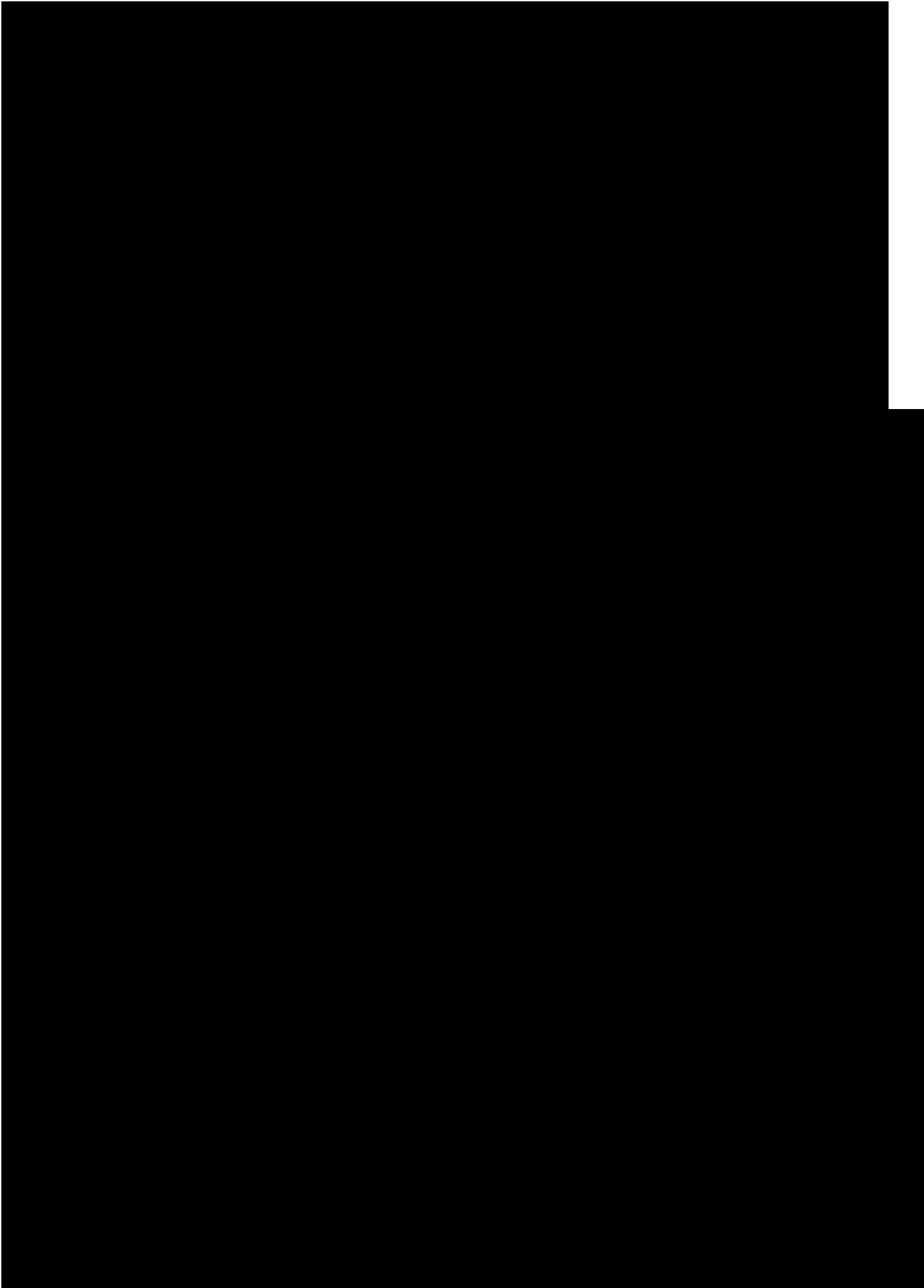


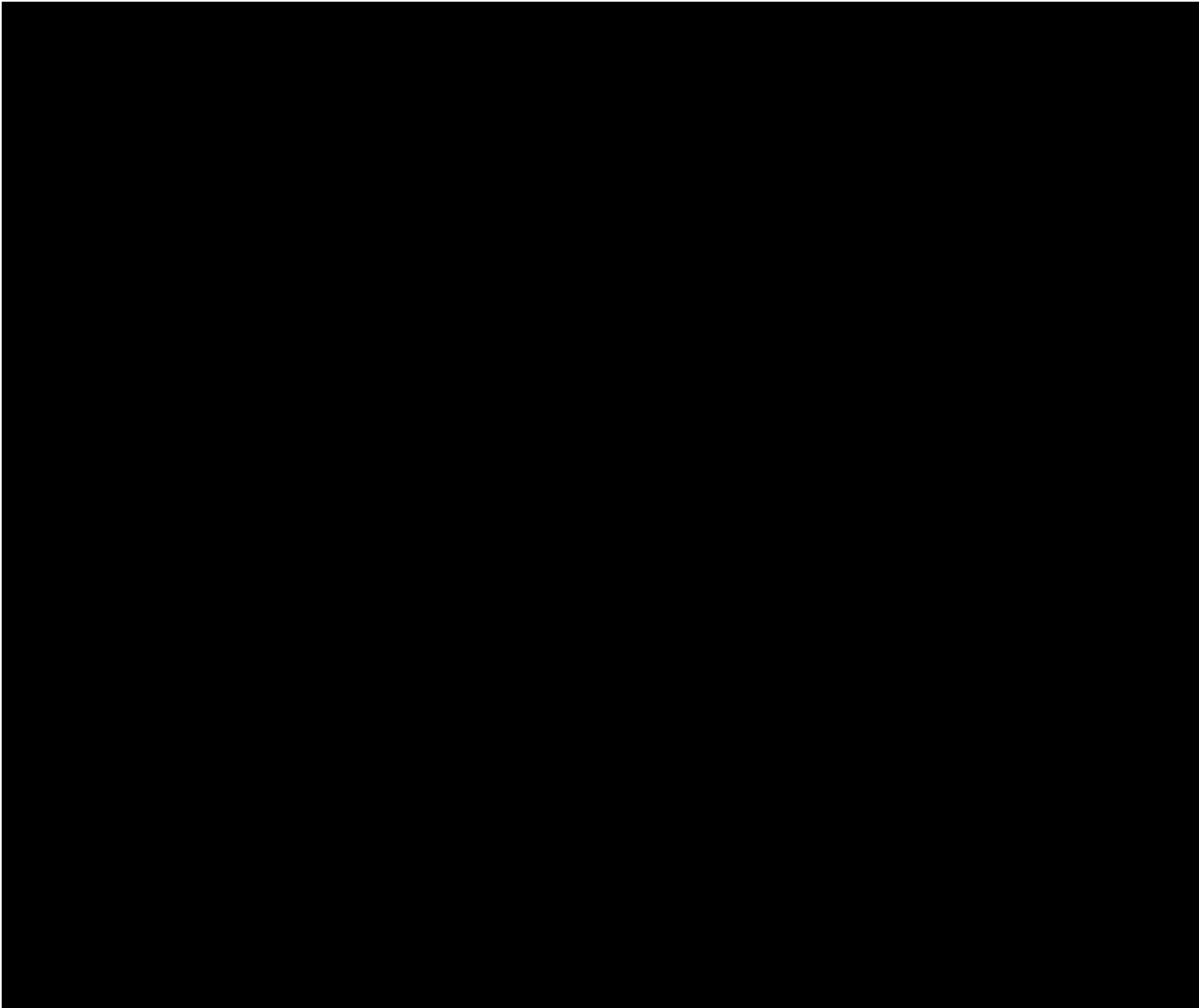


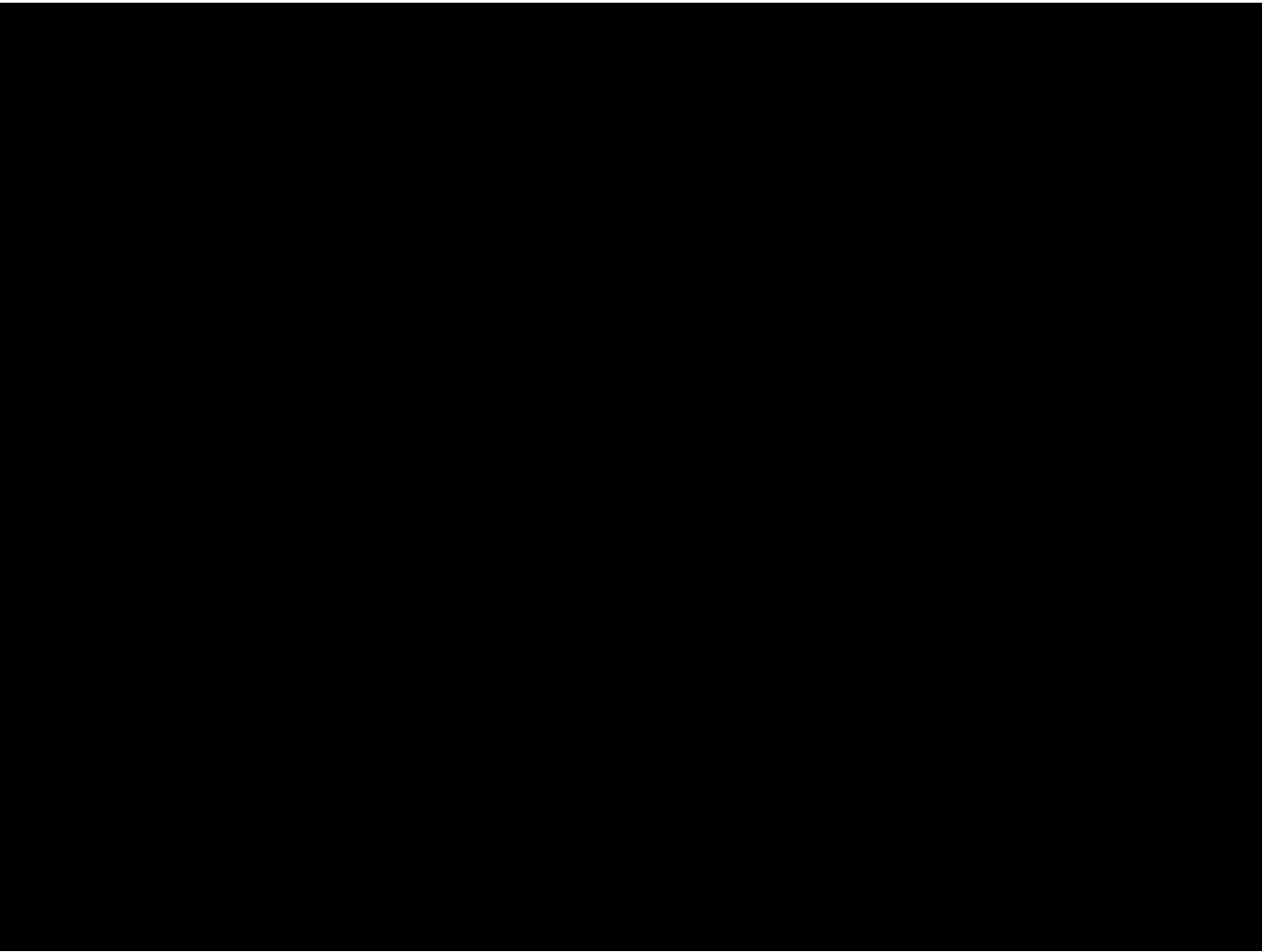


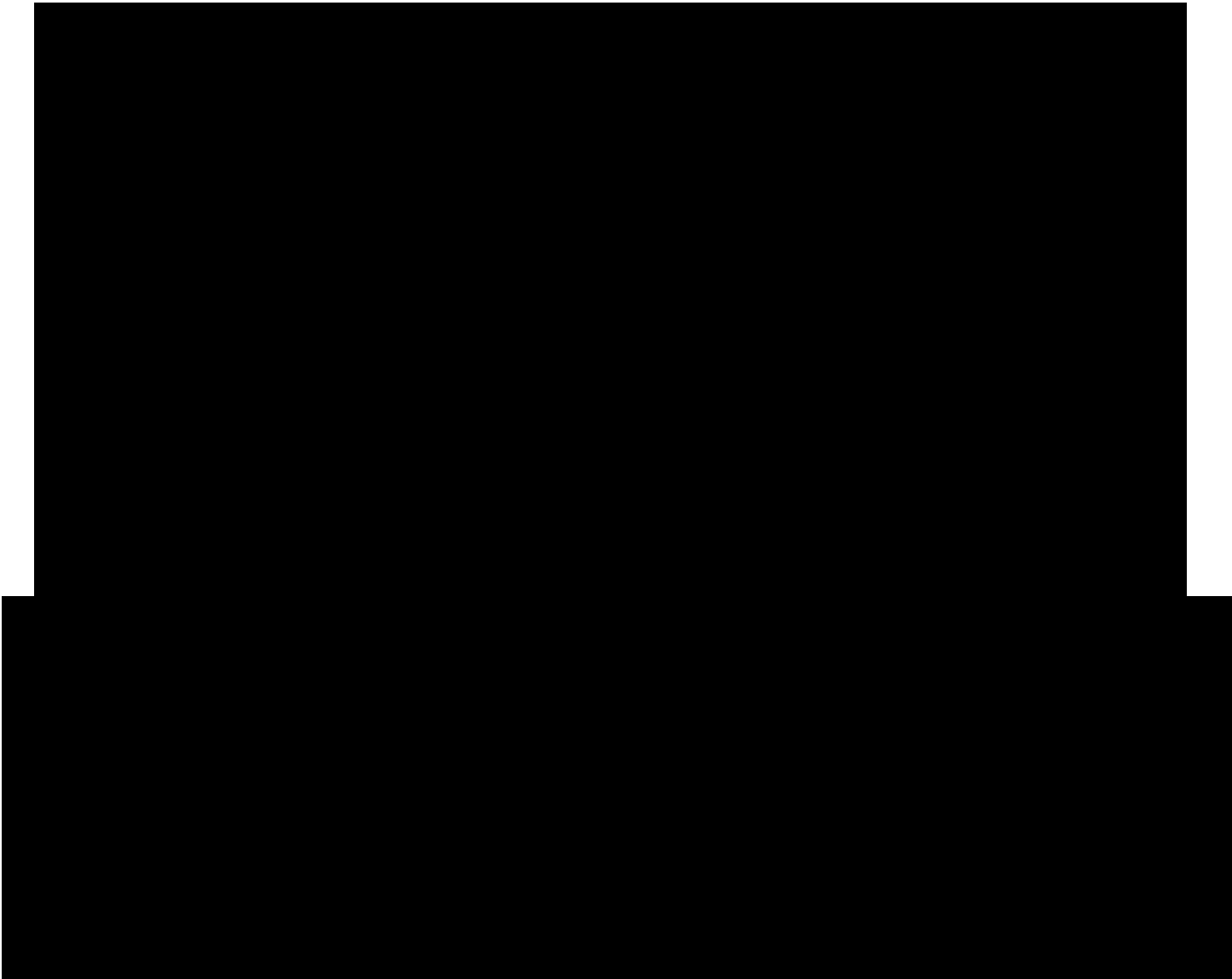
000097

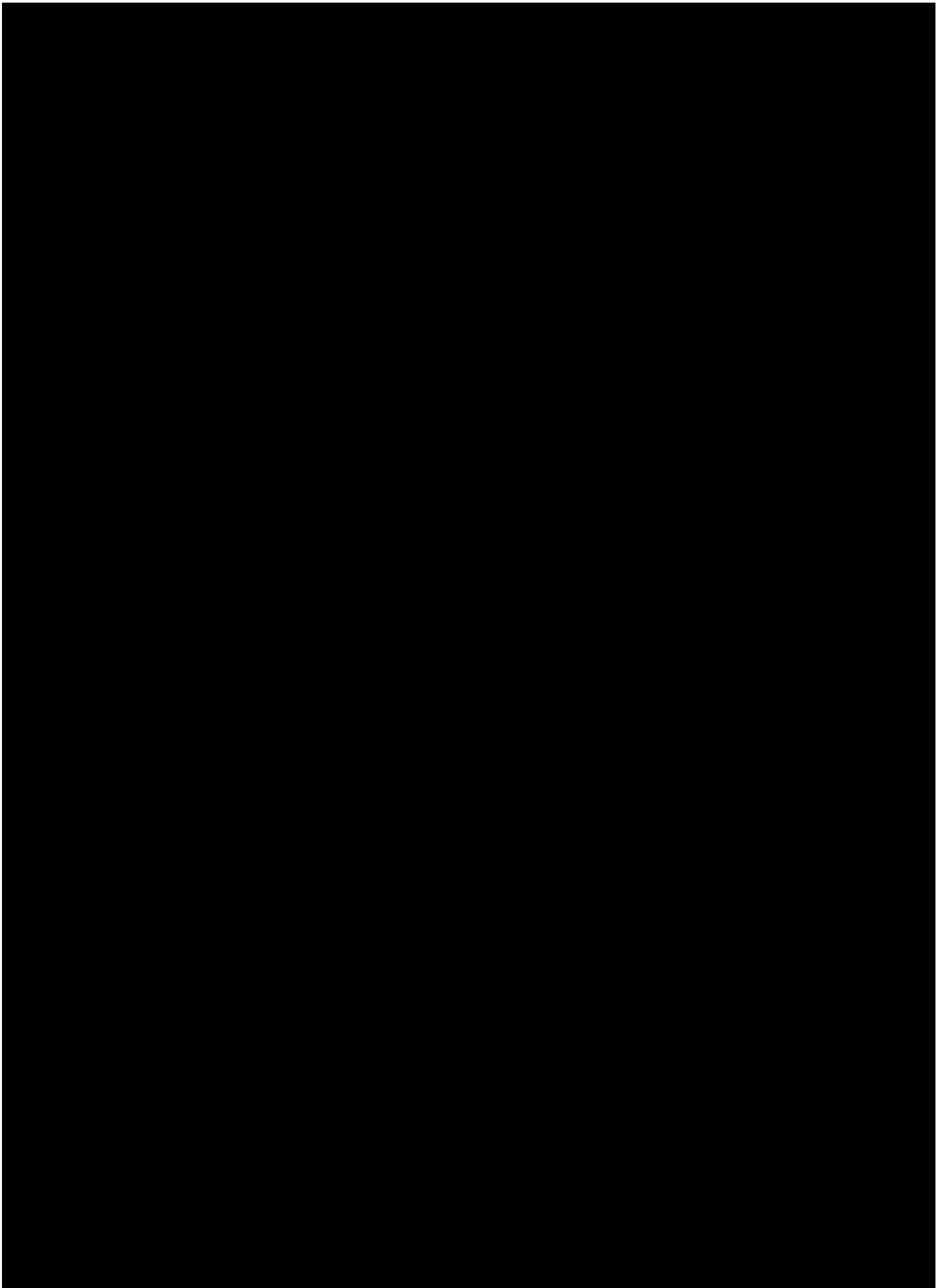


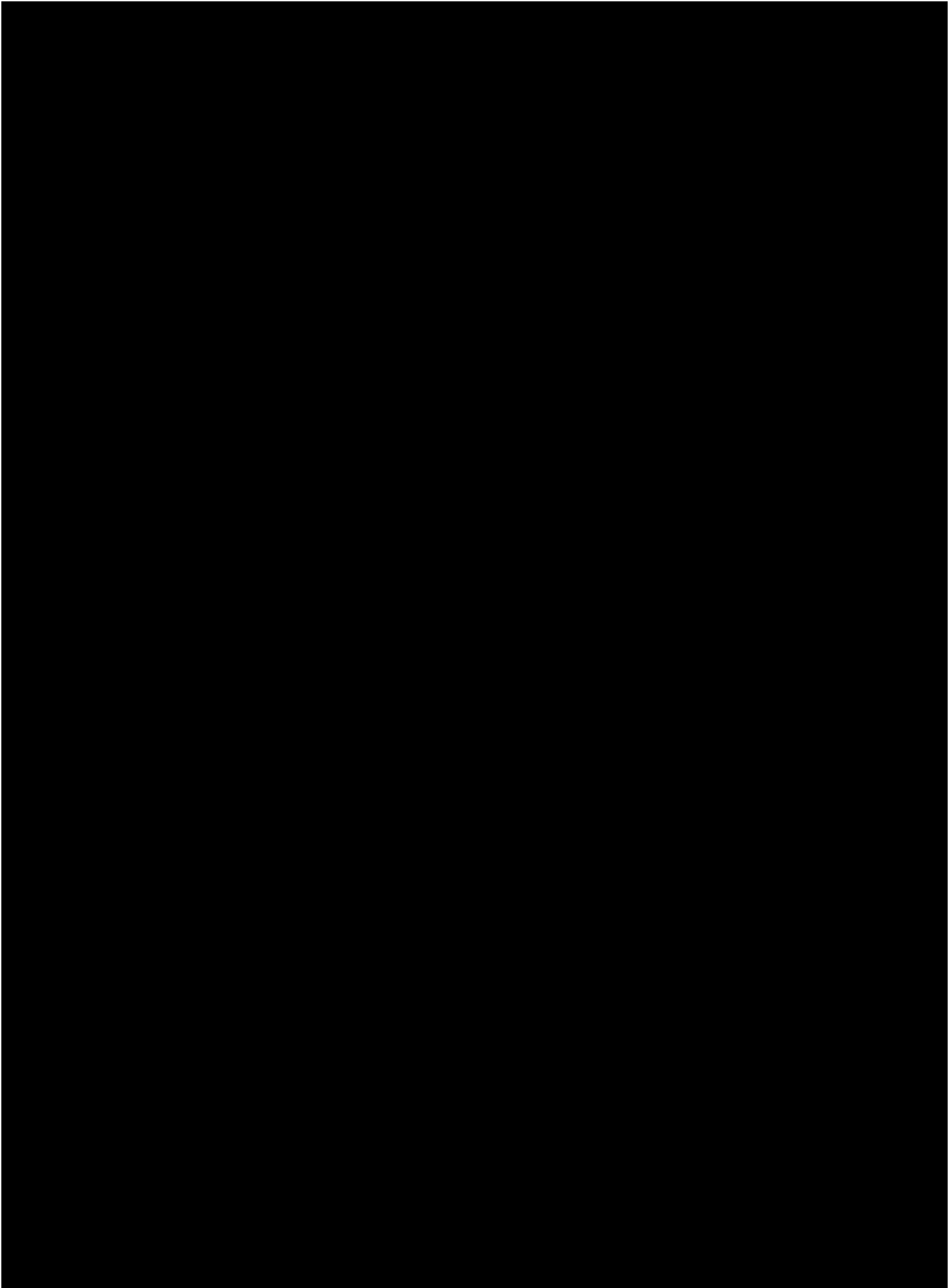


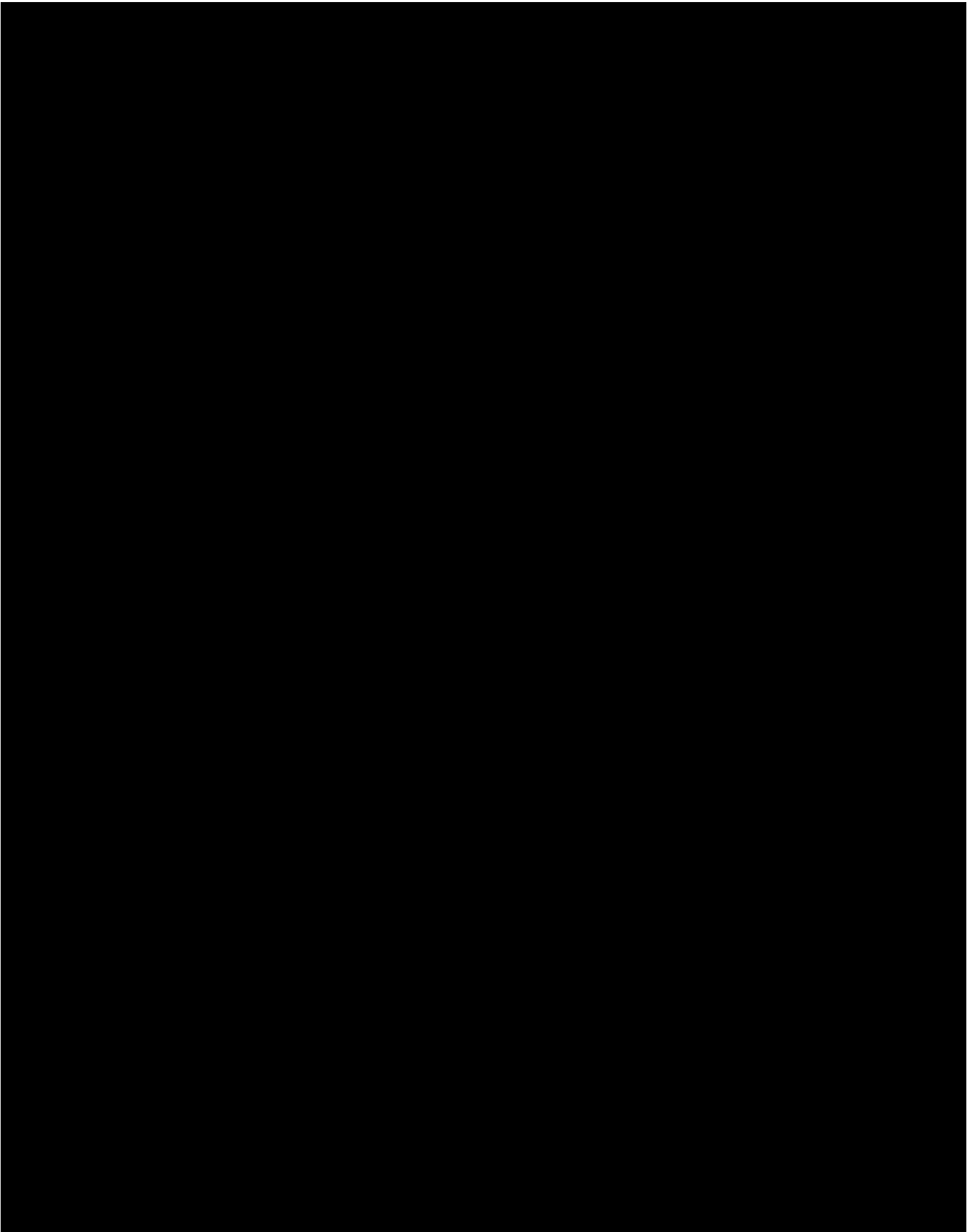


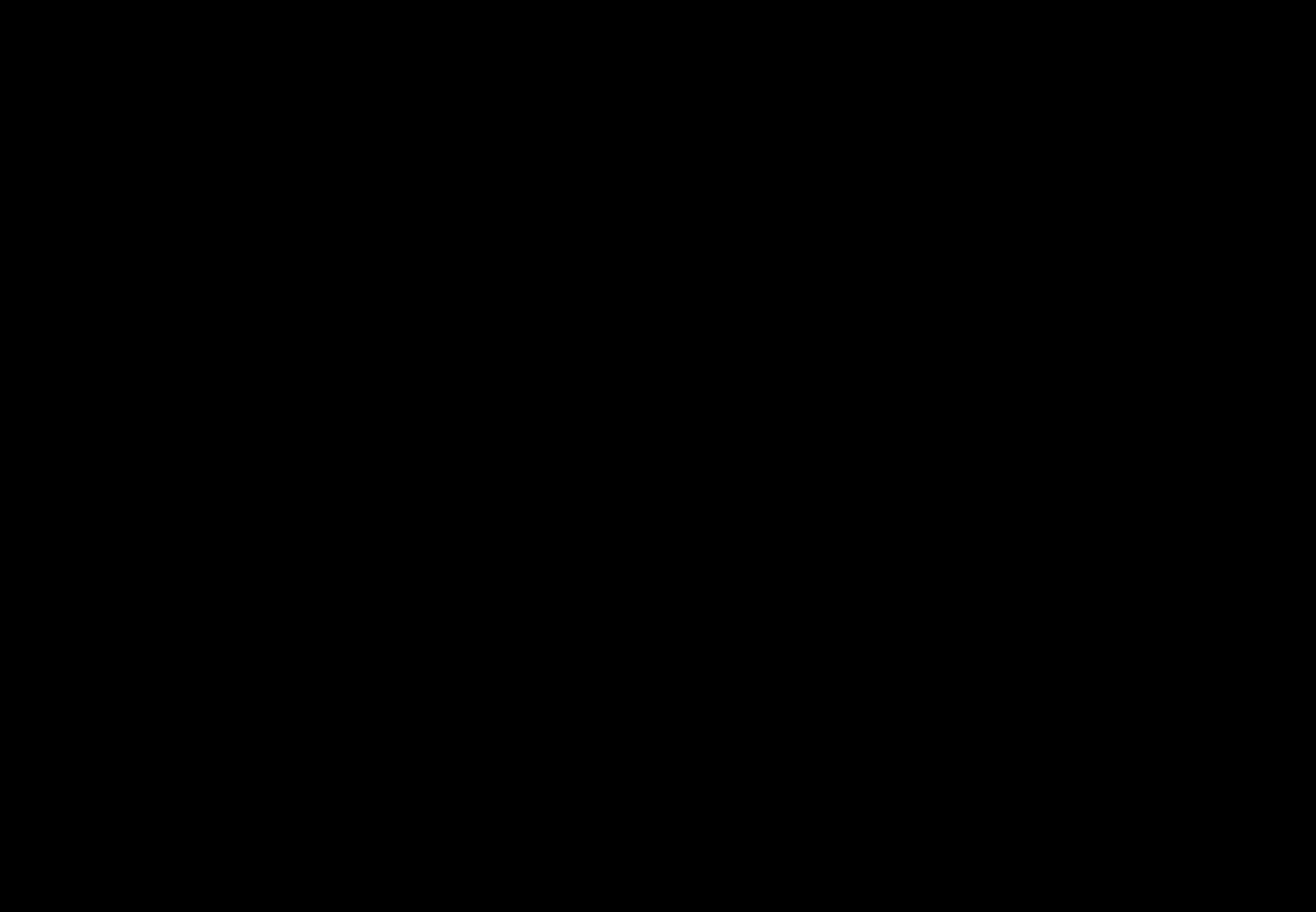


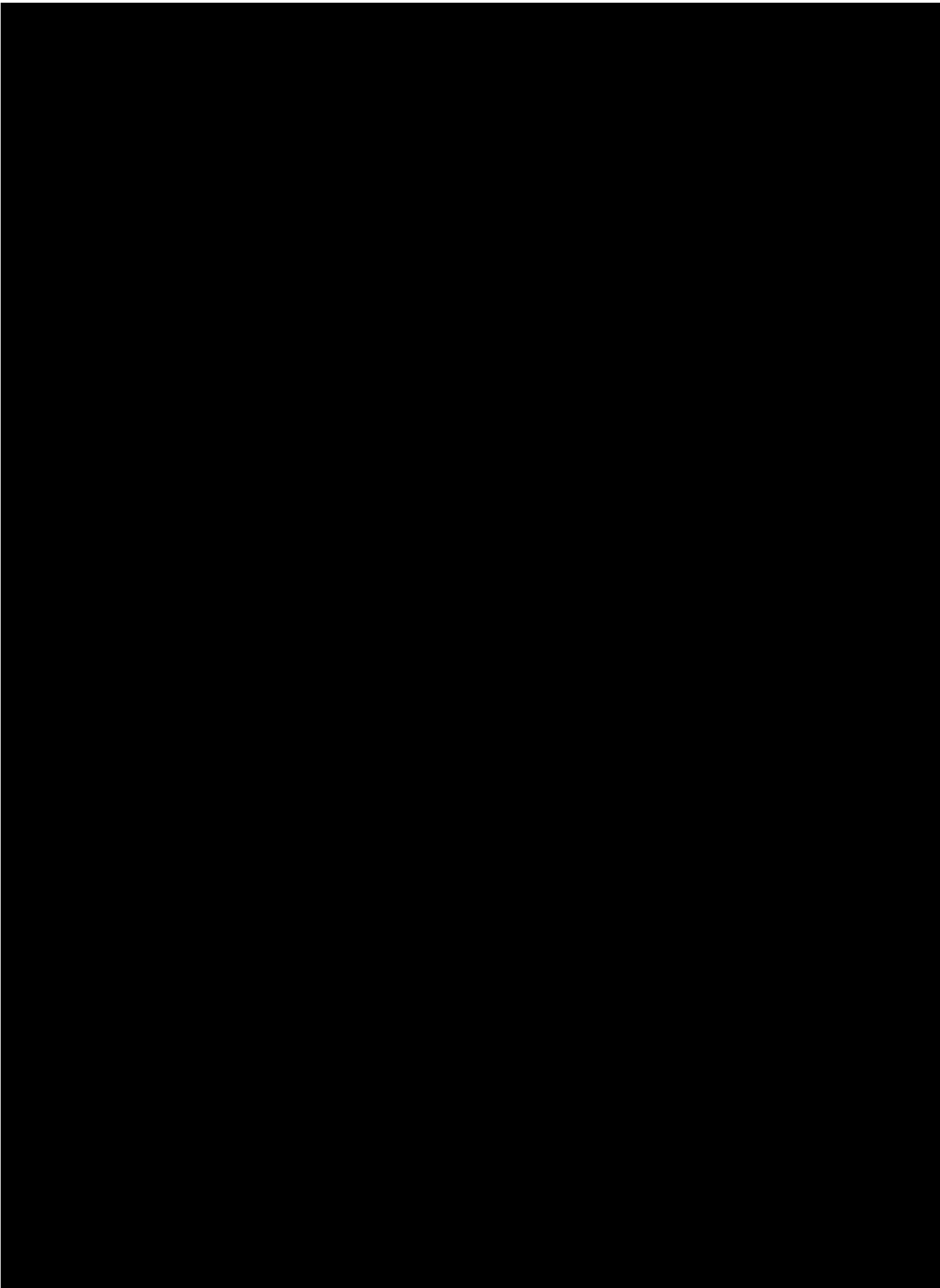


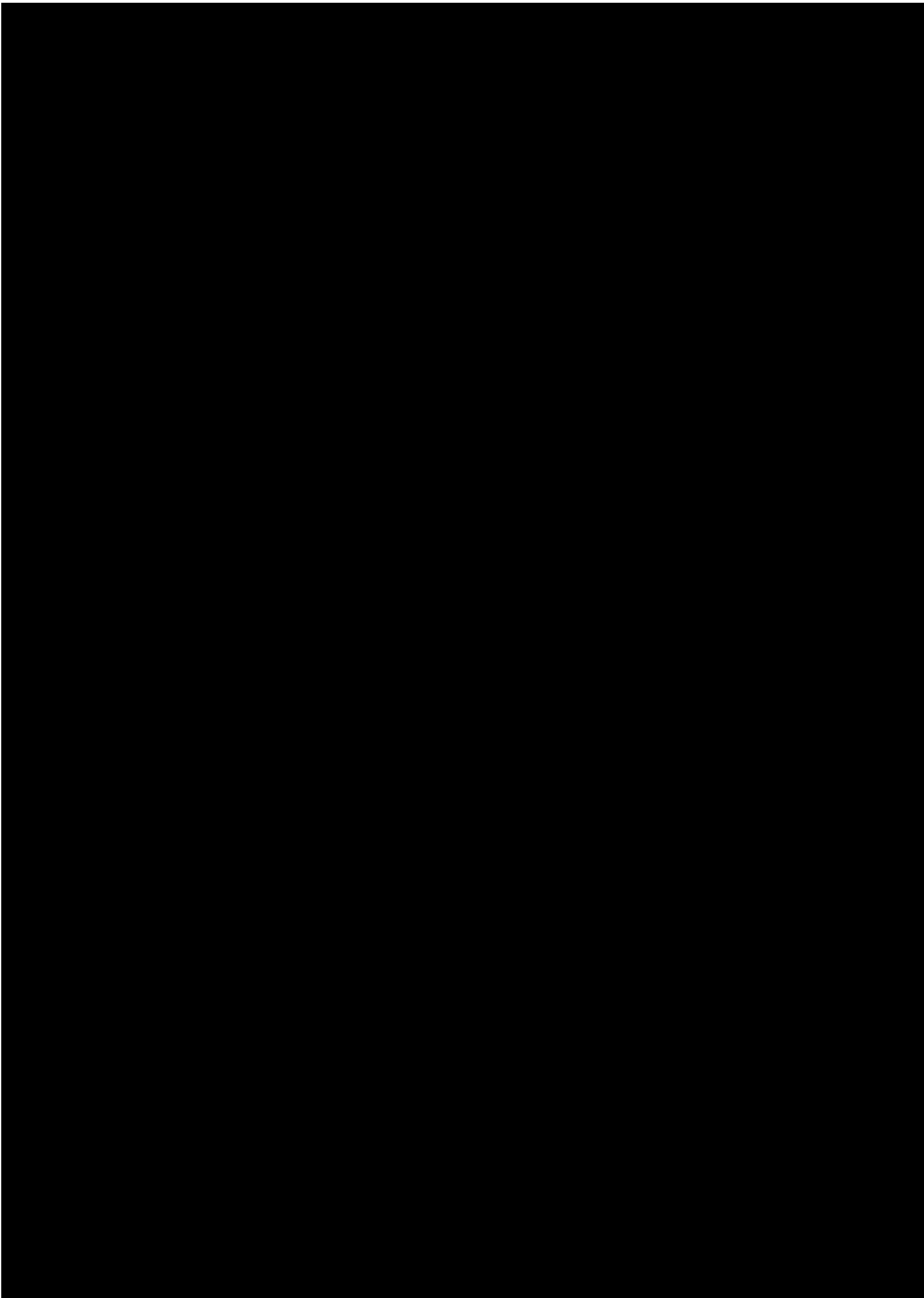


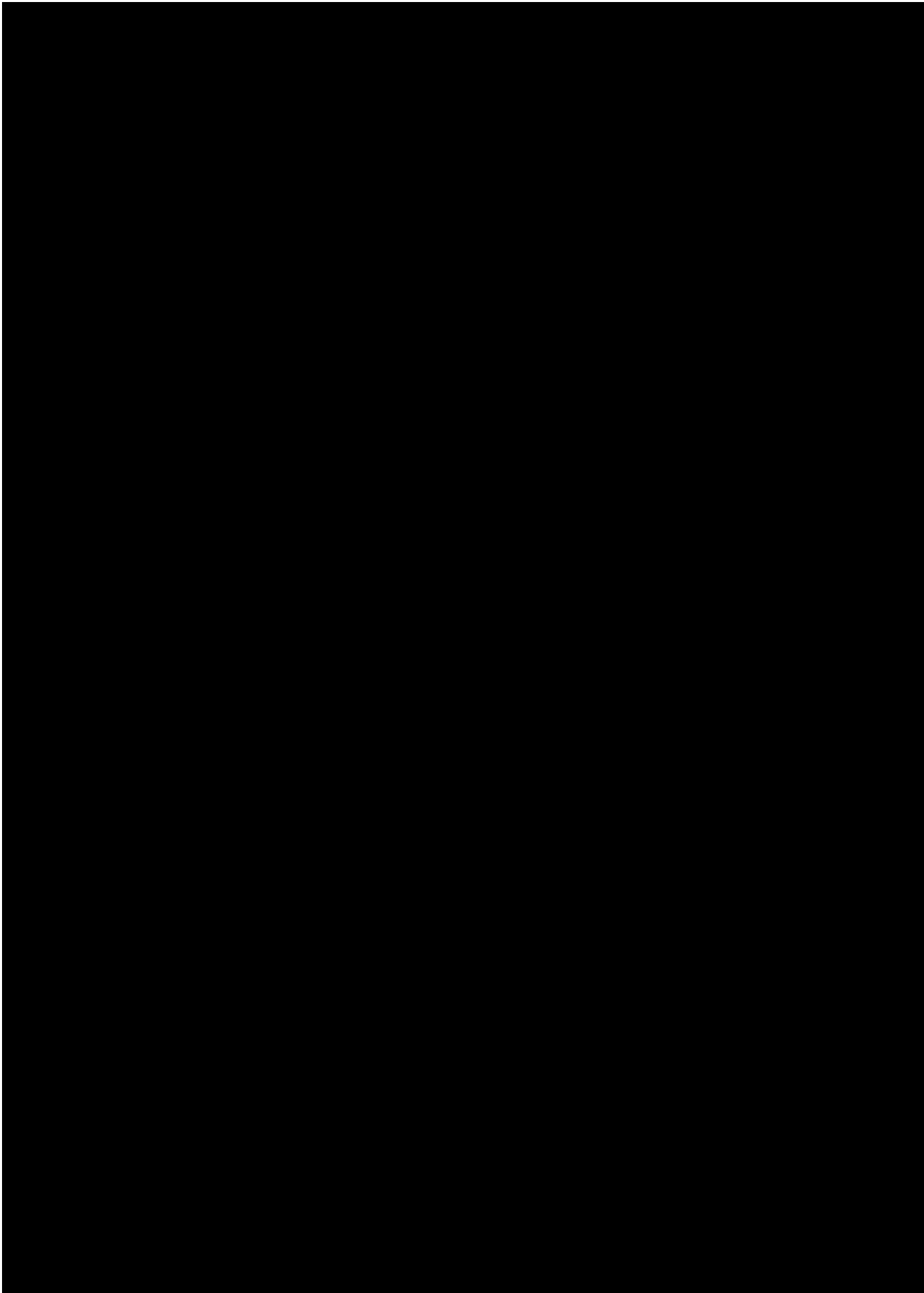


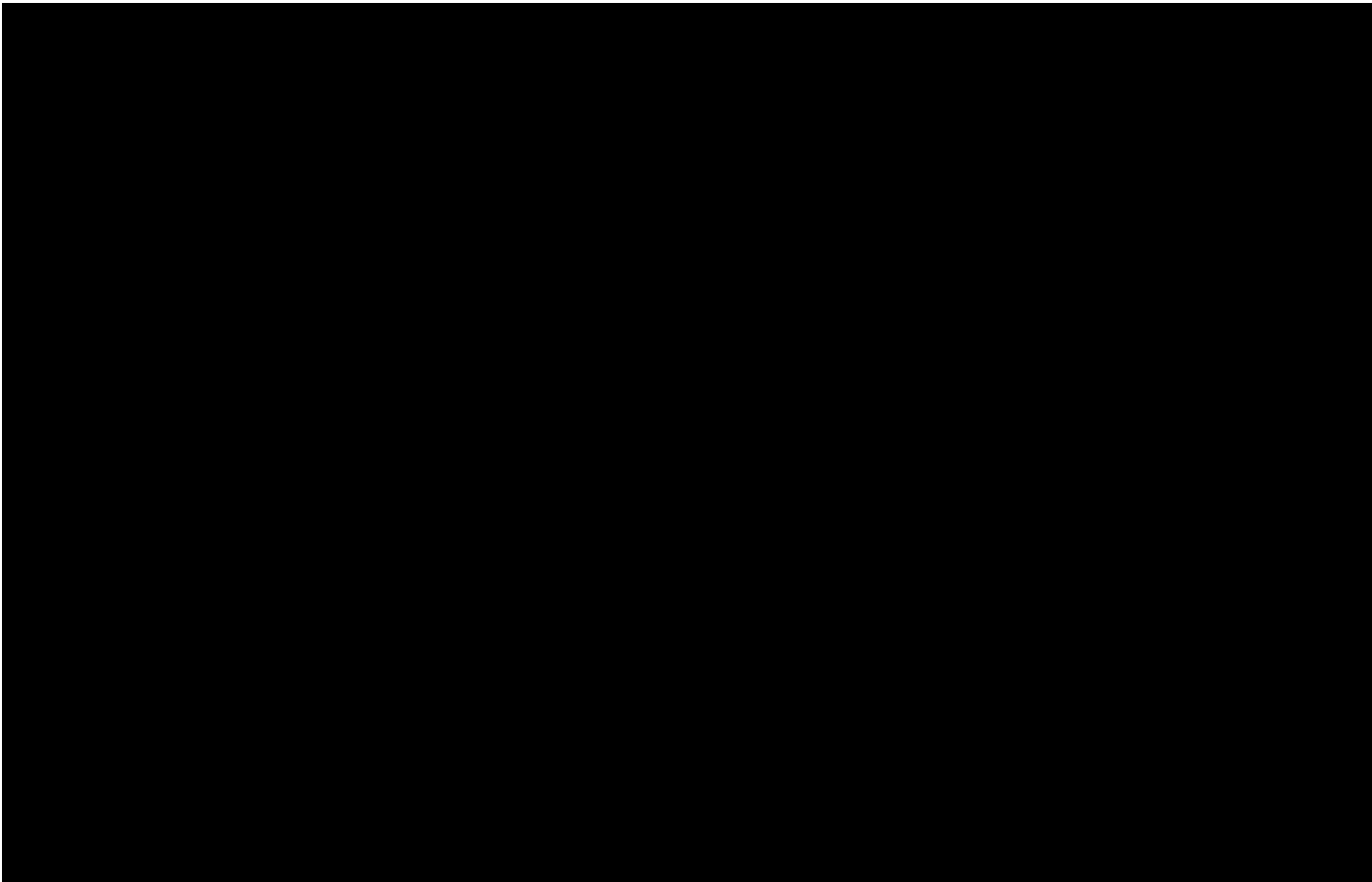


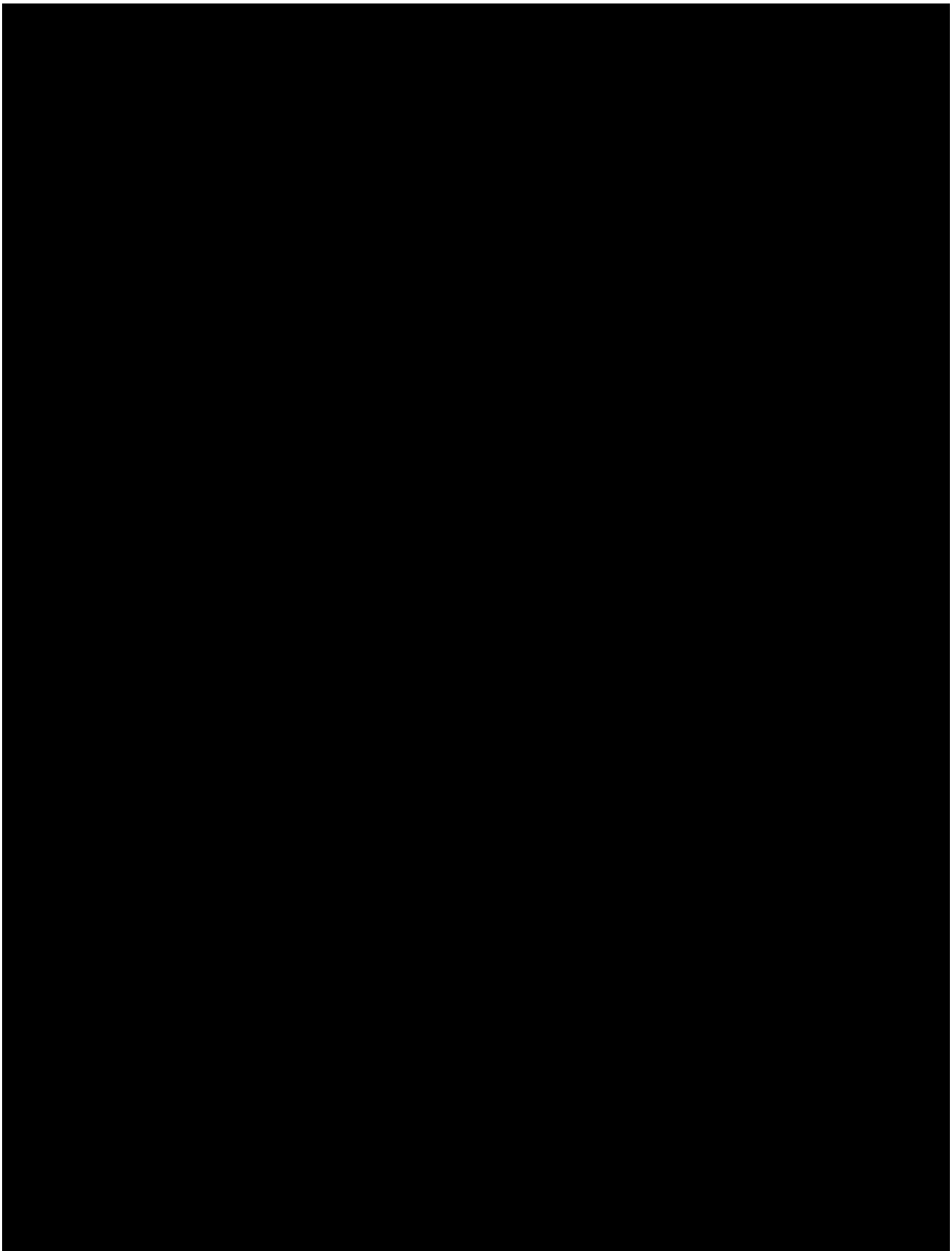


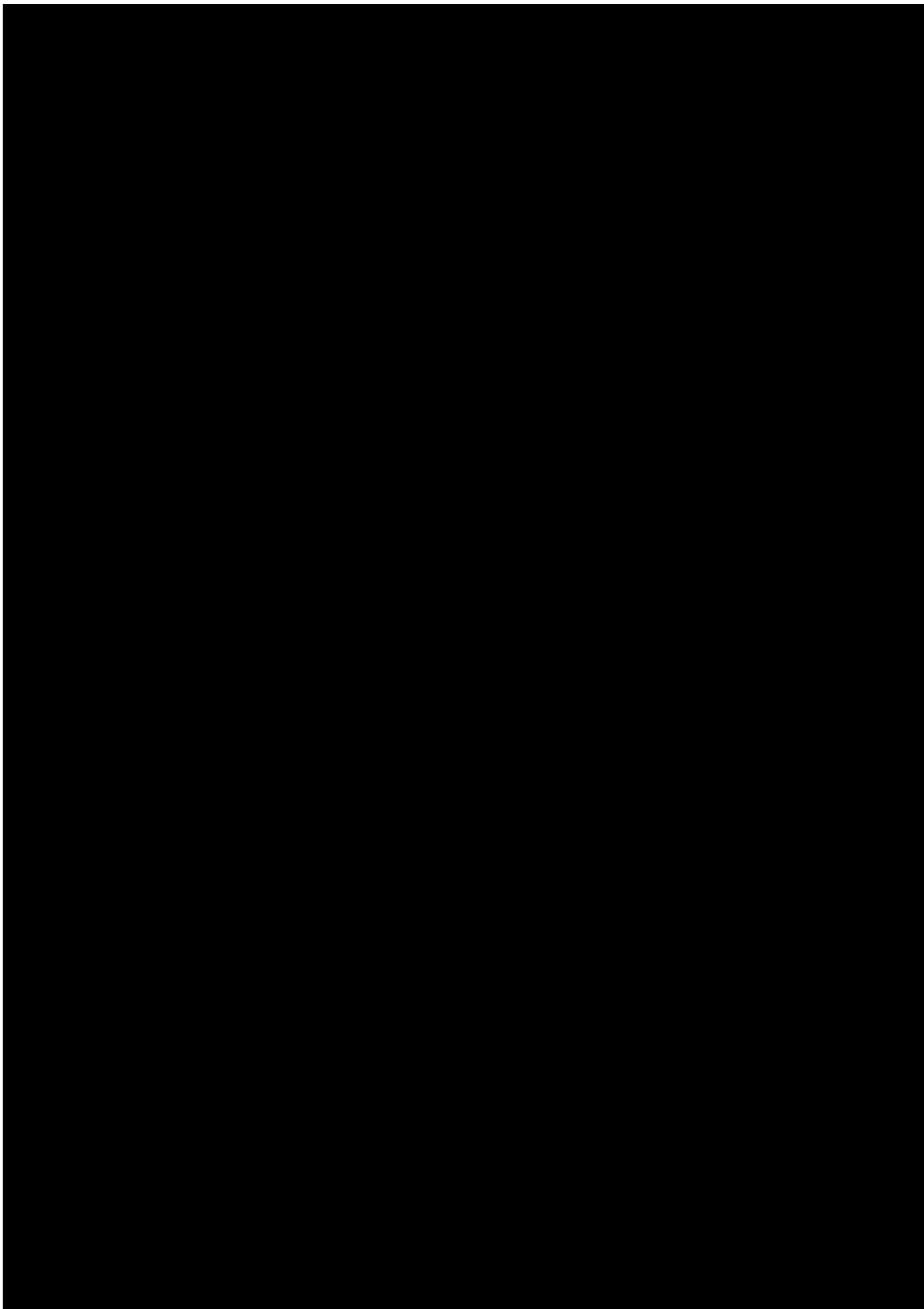


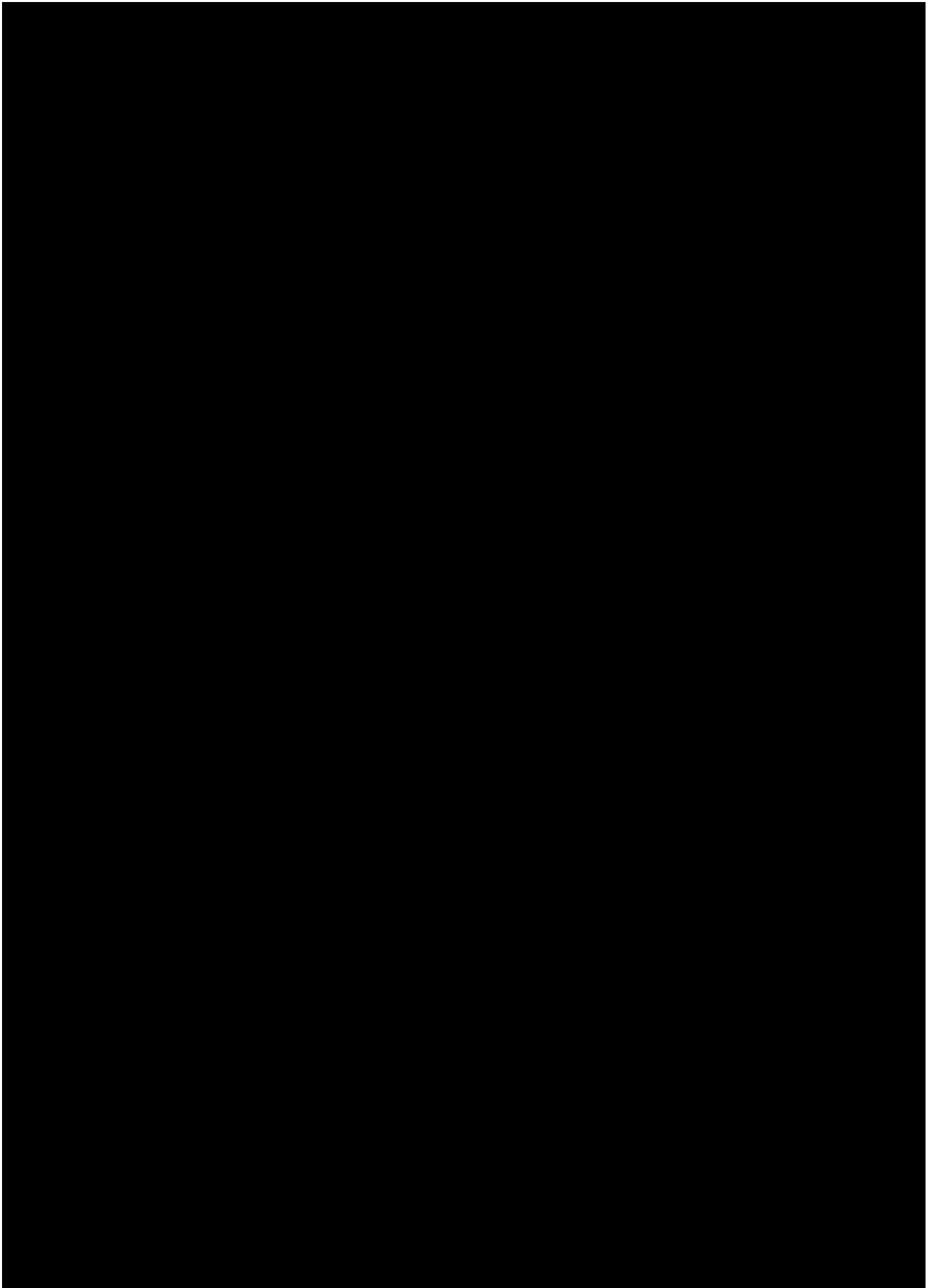


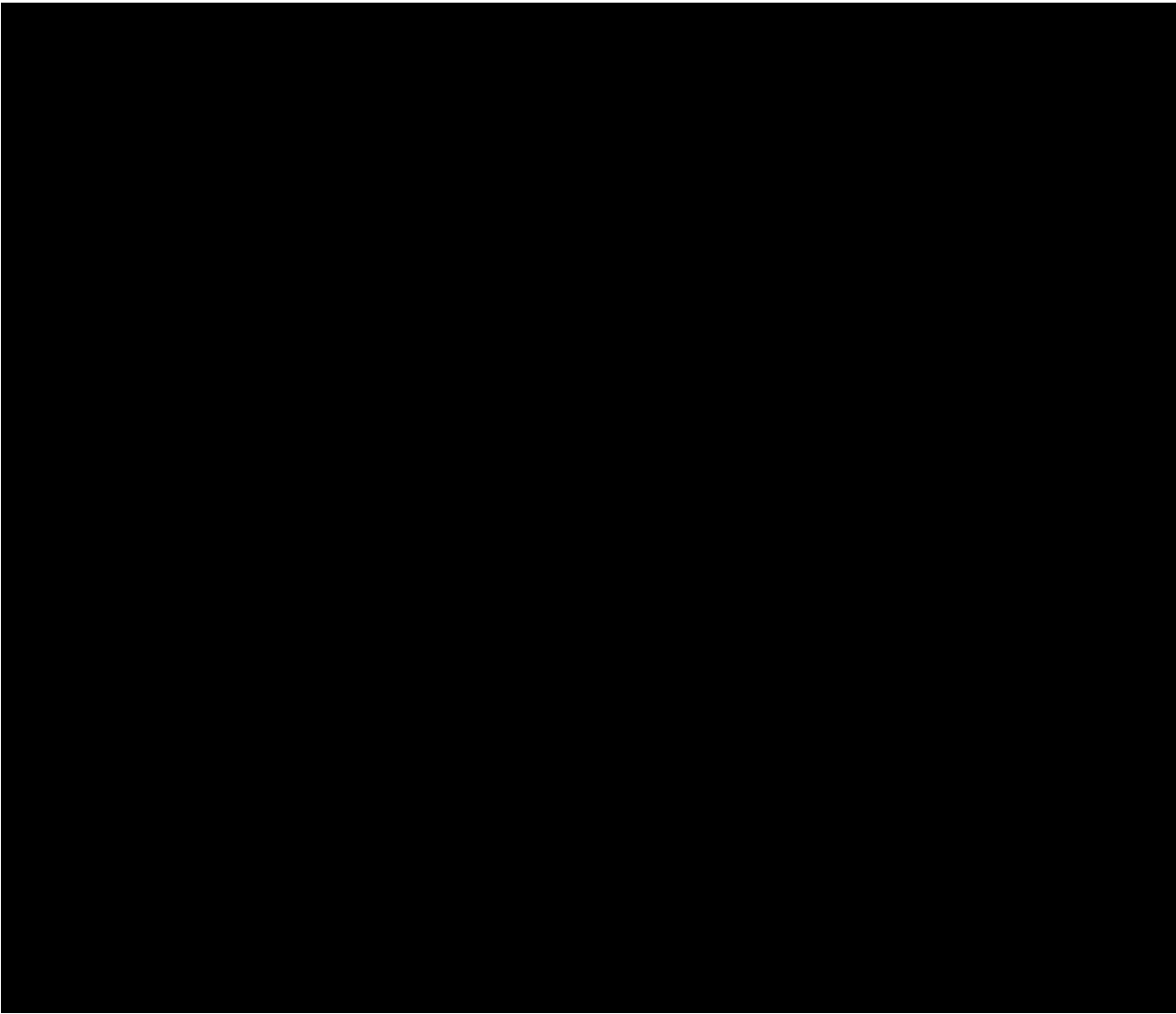


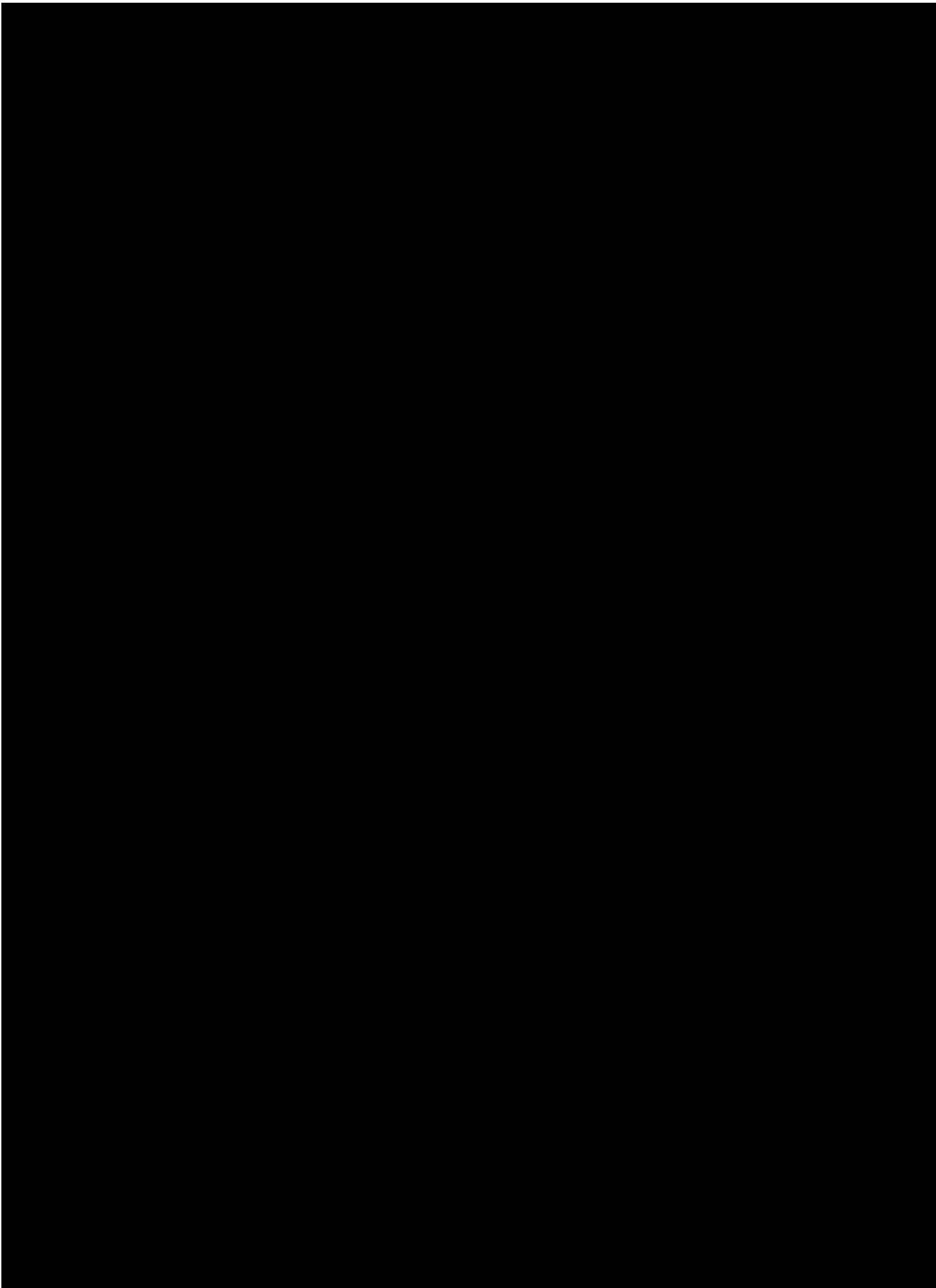


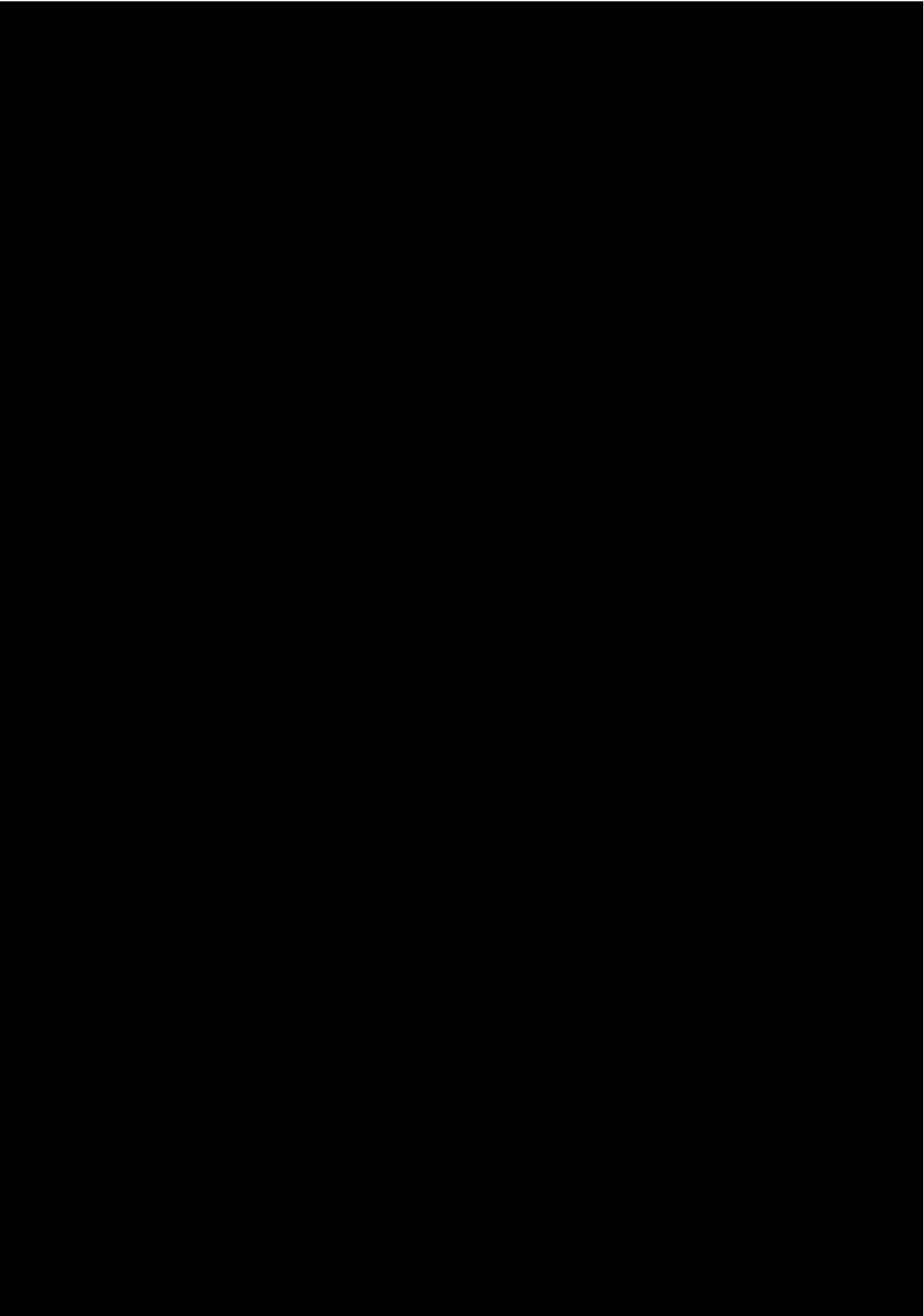


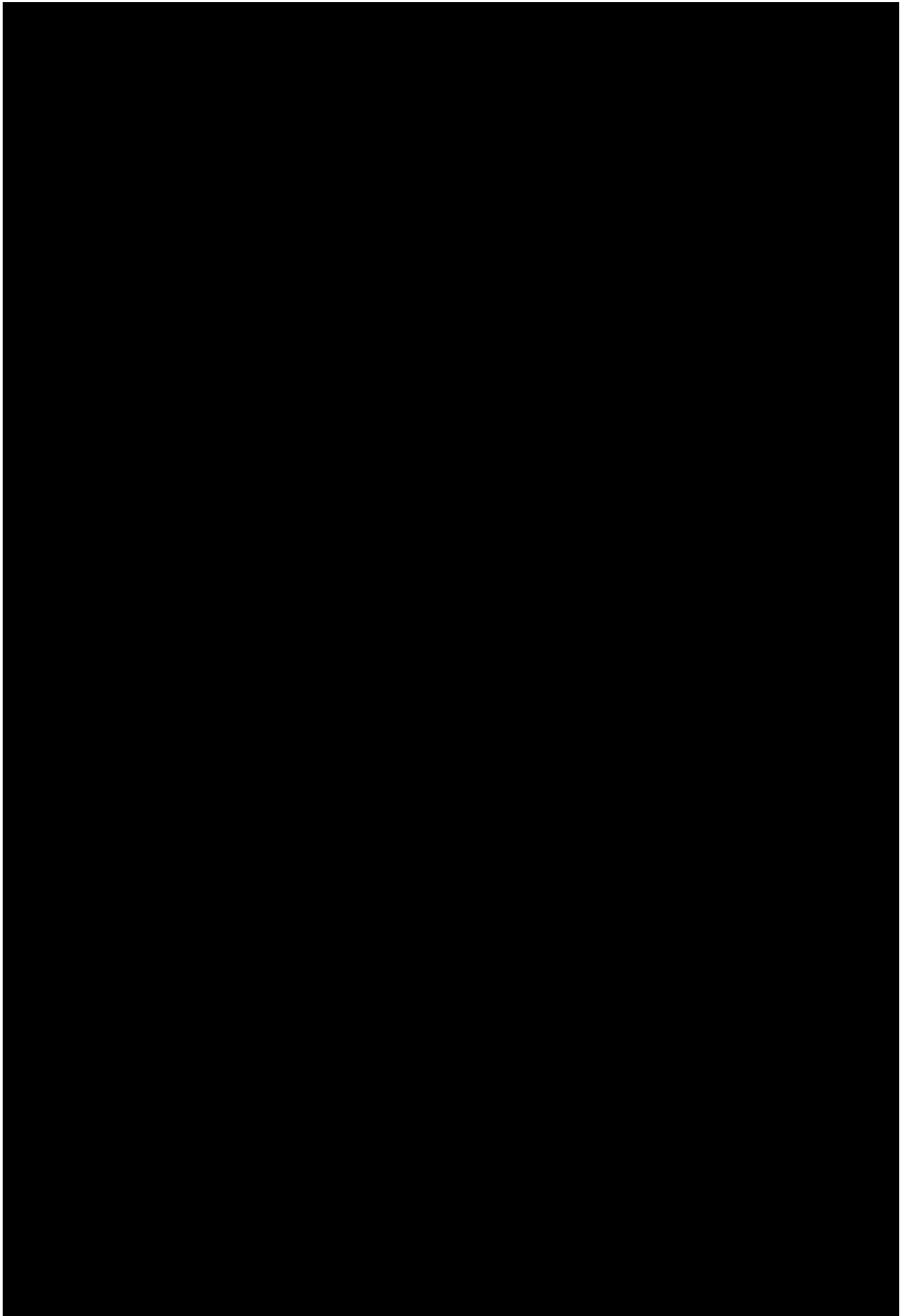


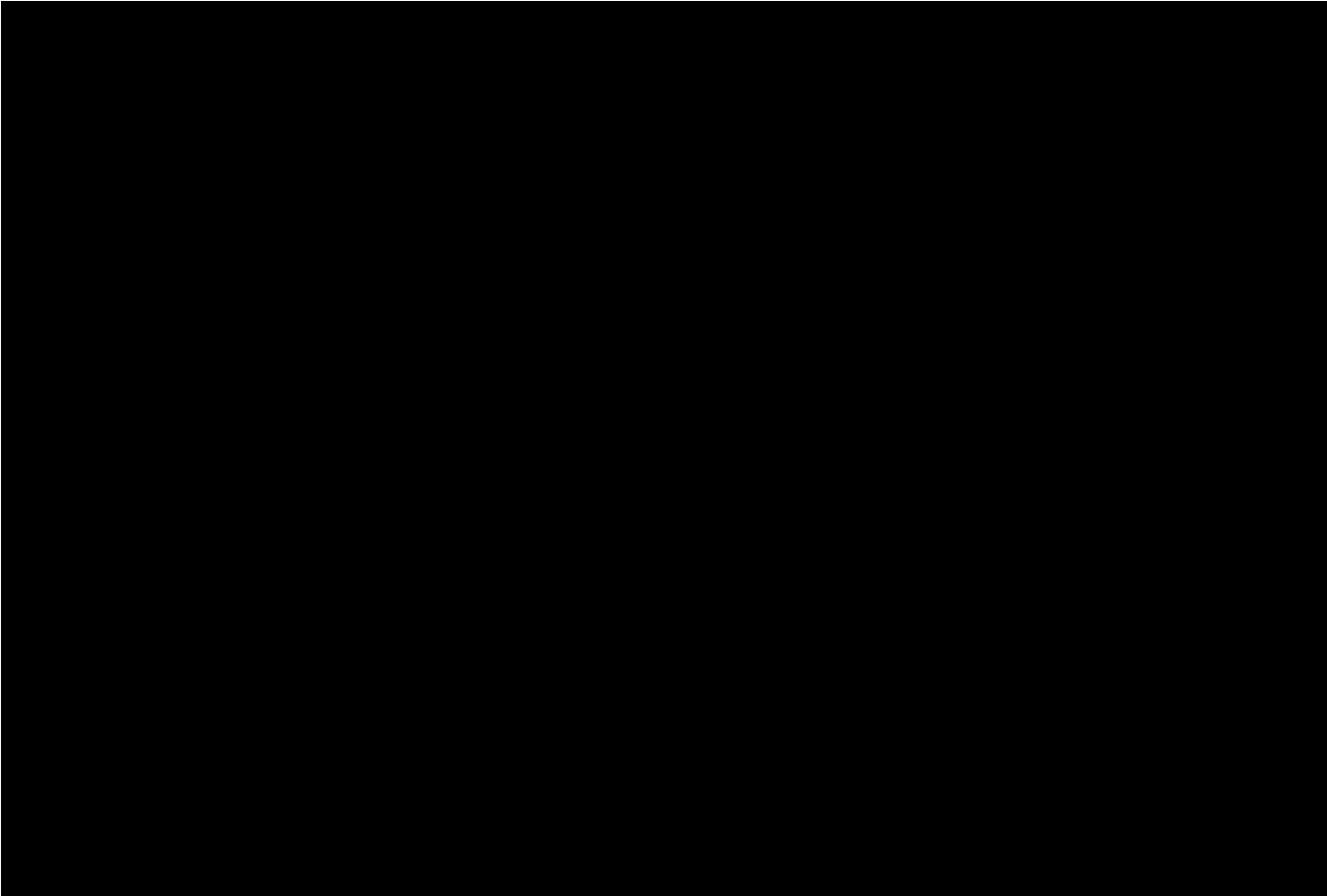


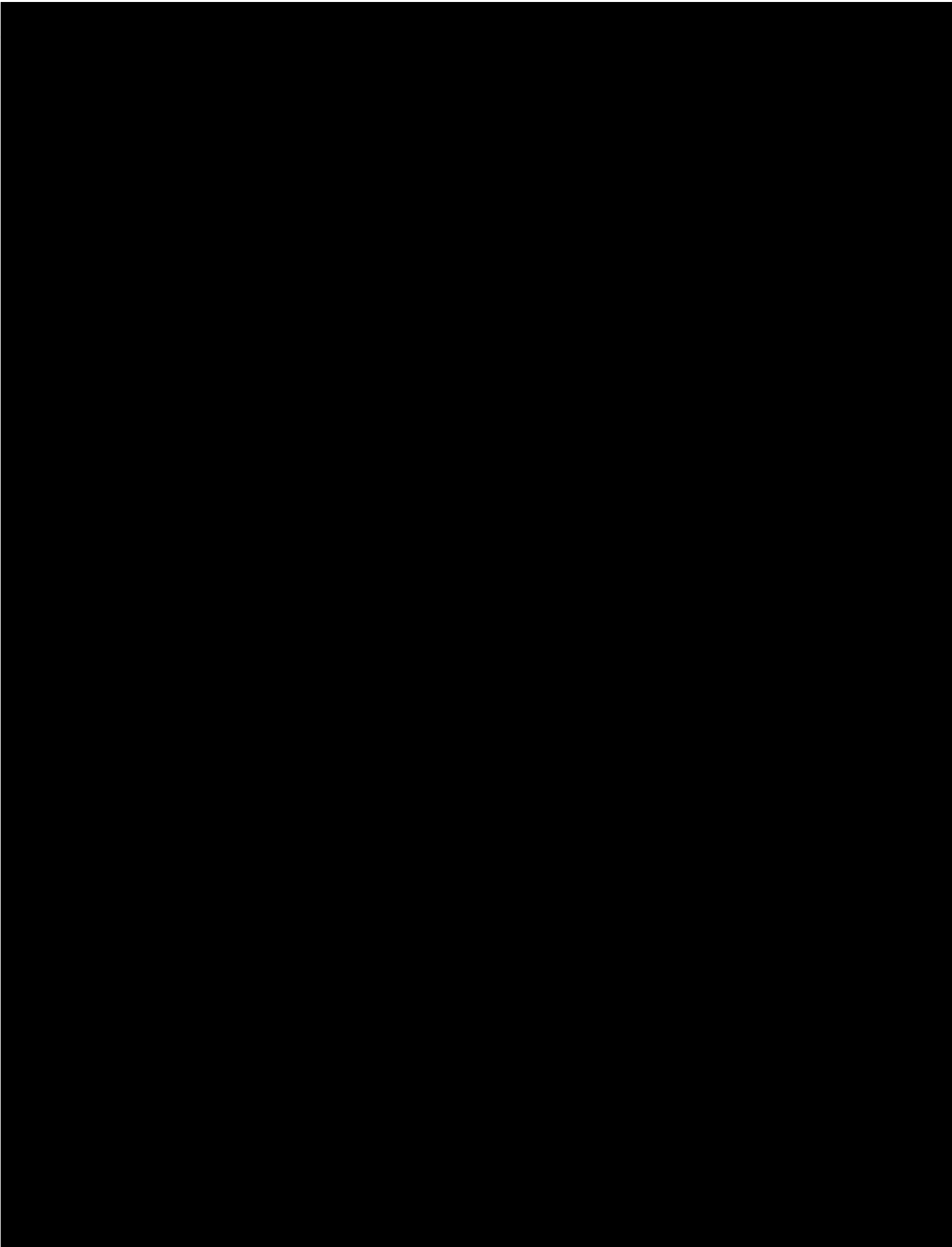


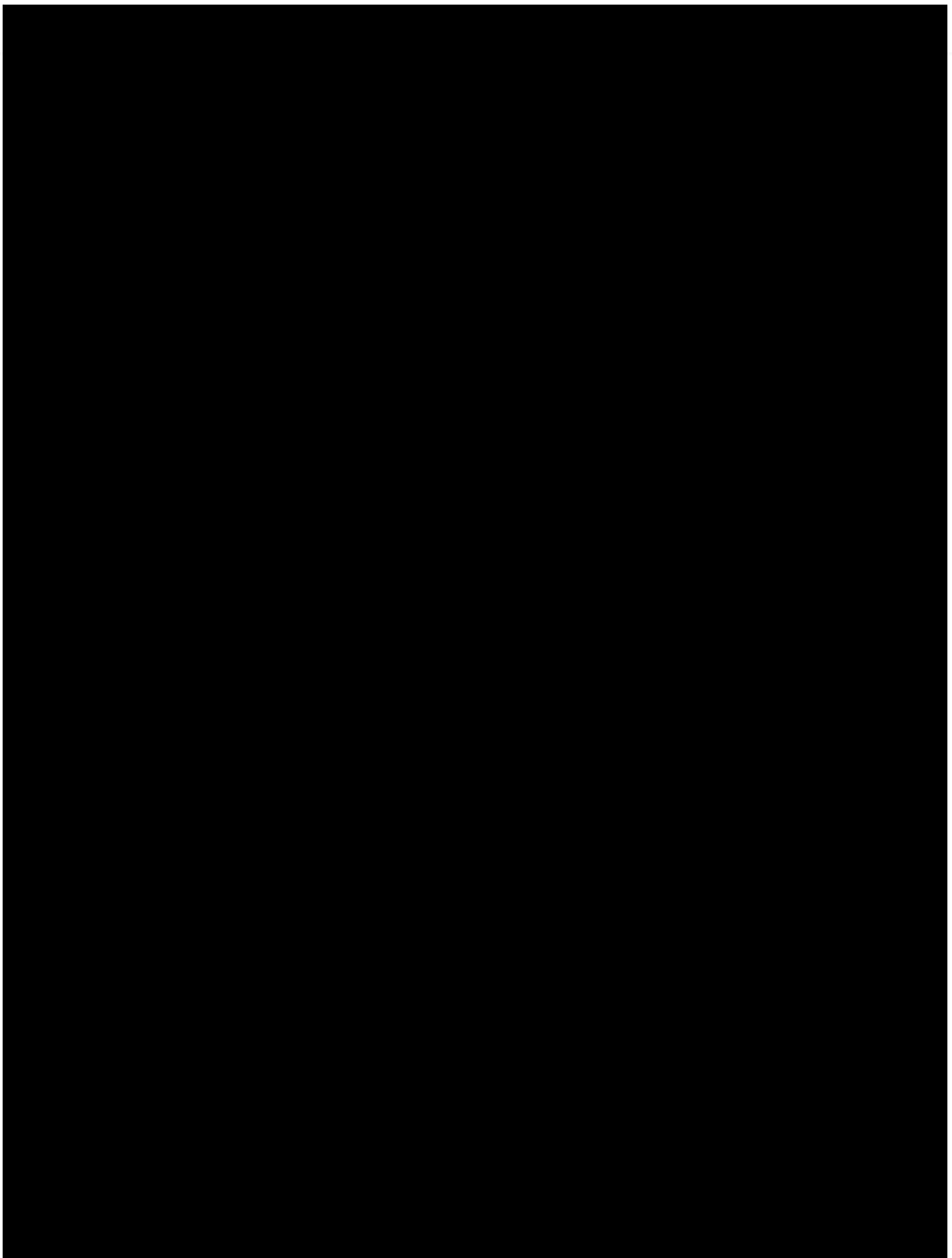


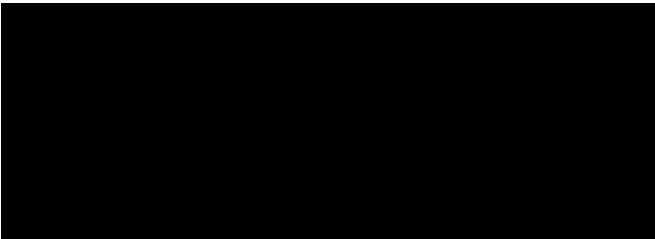
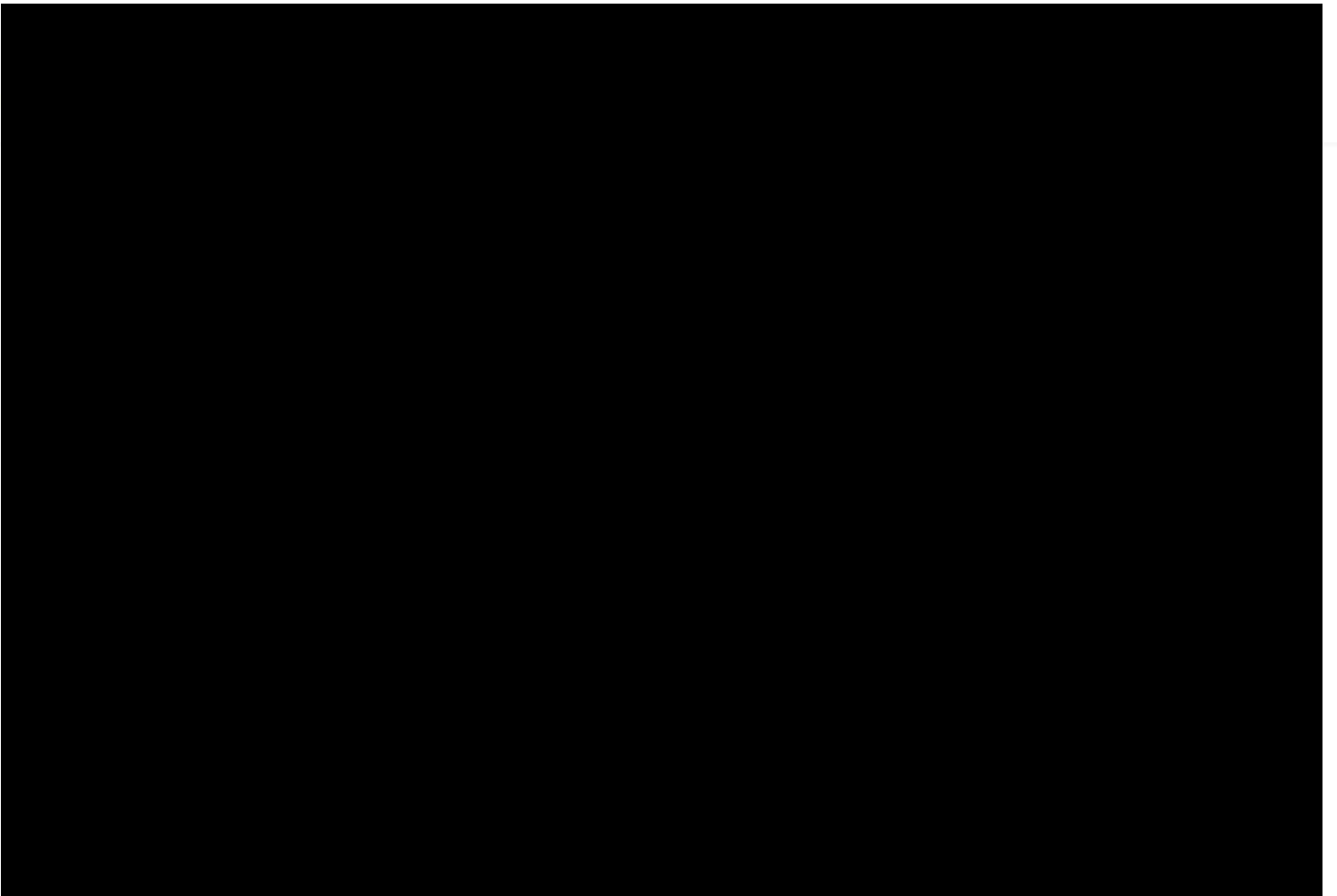


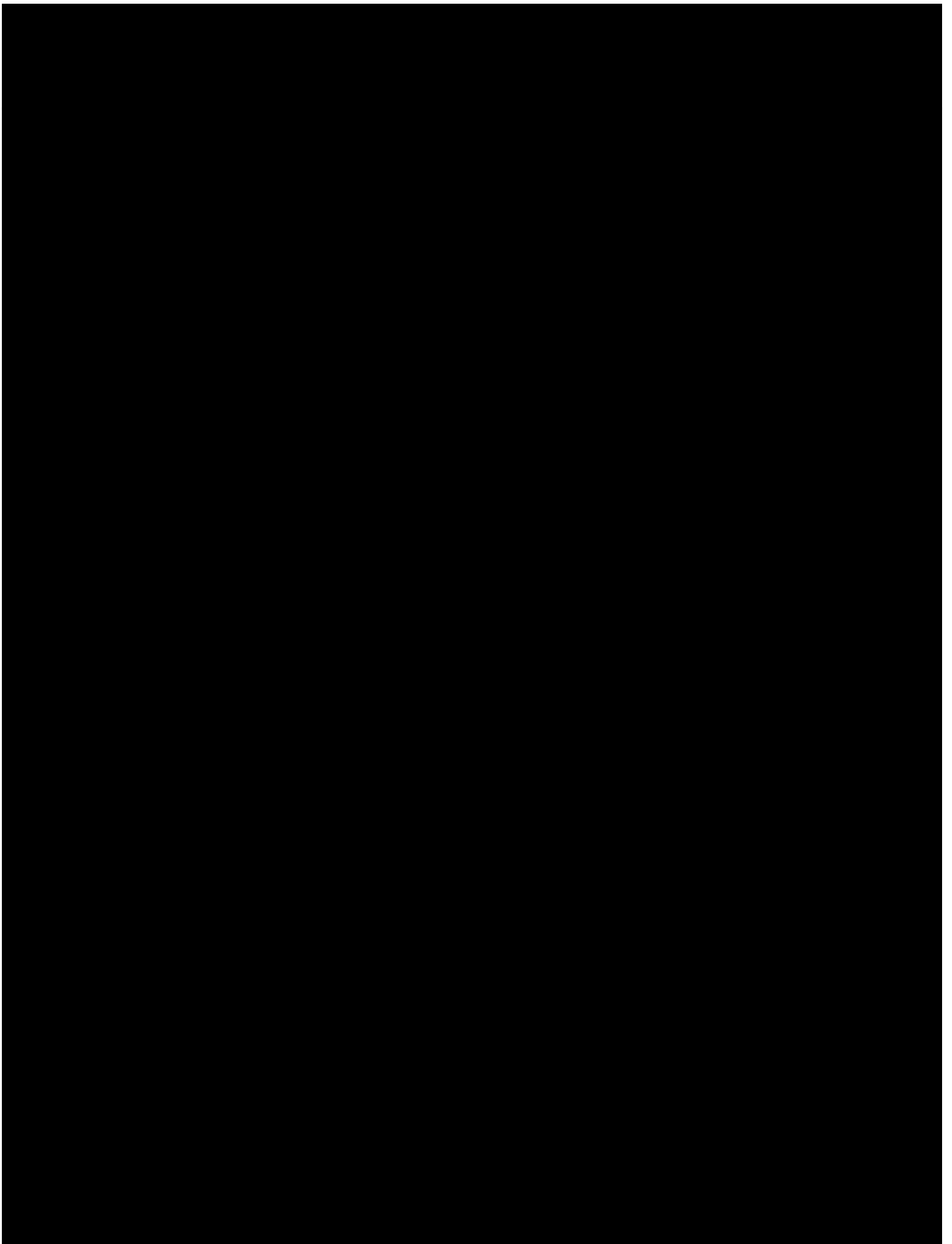


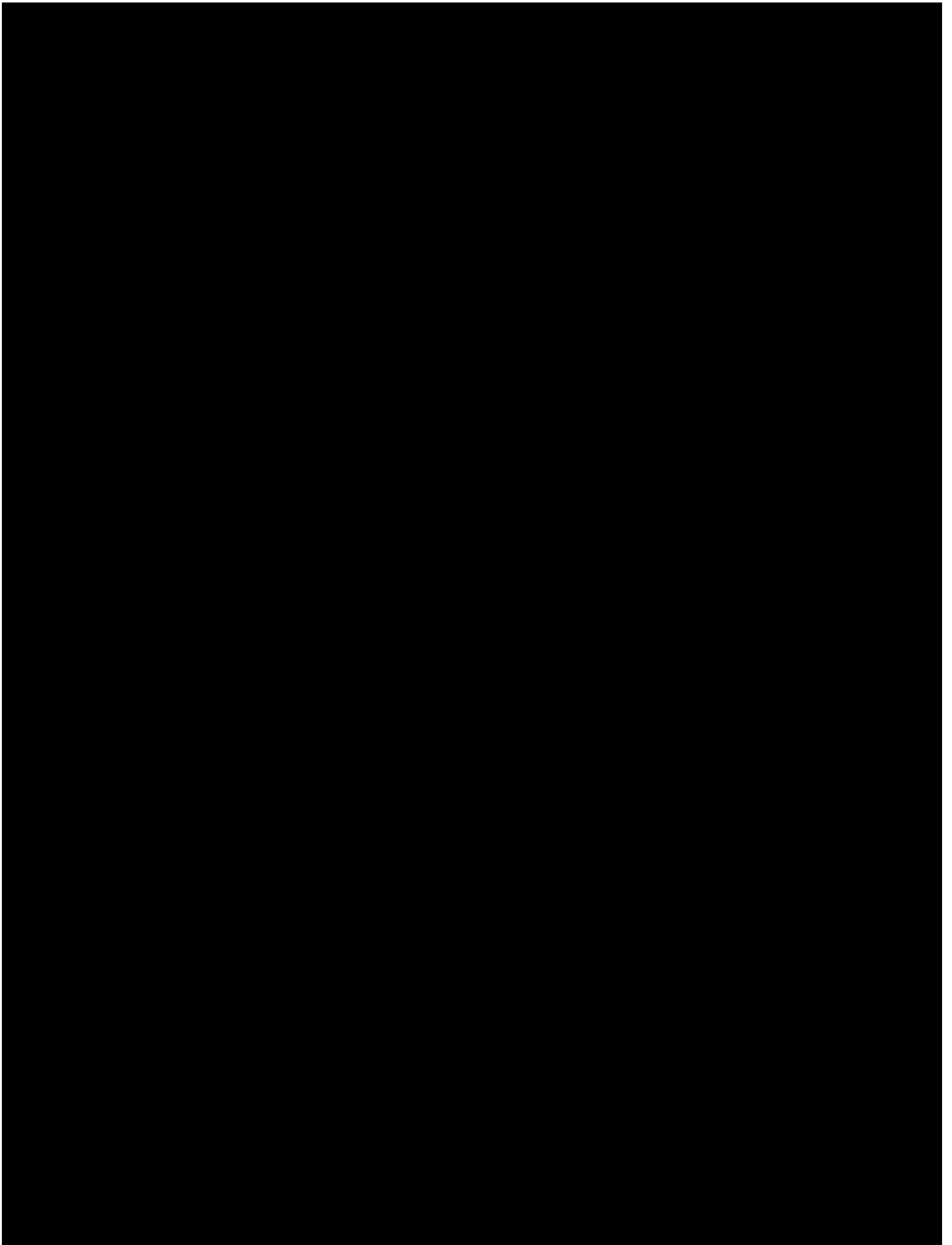


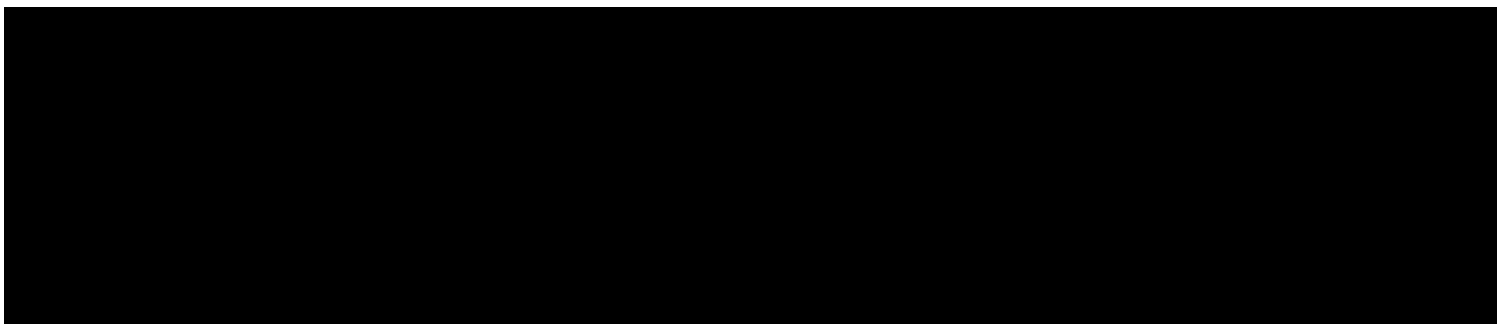


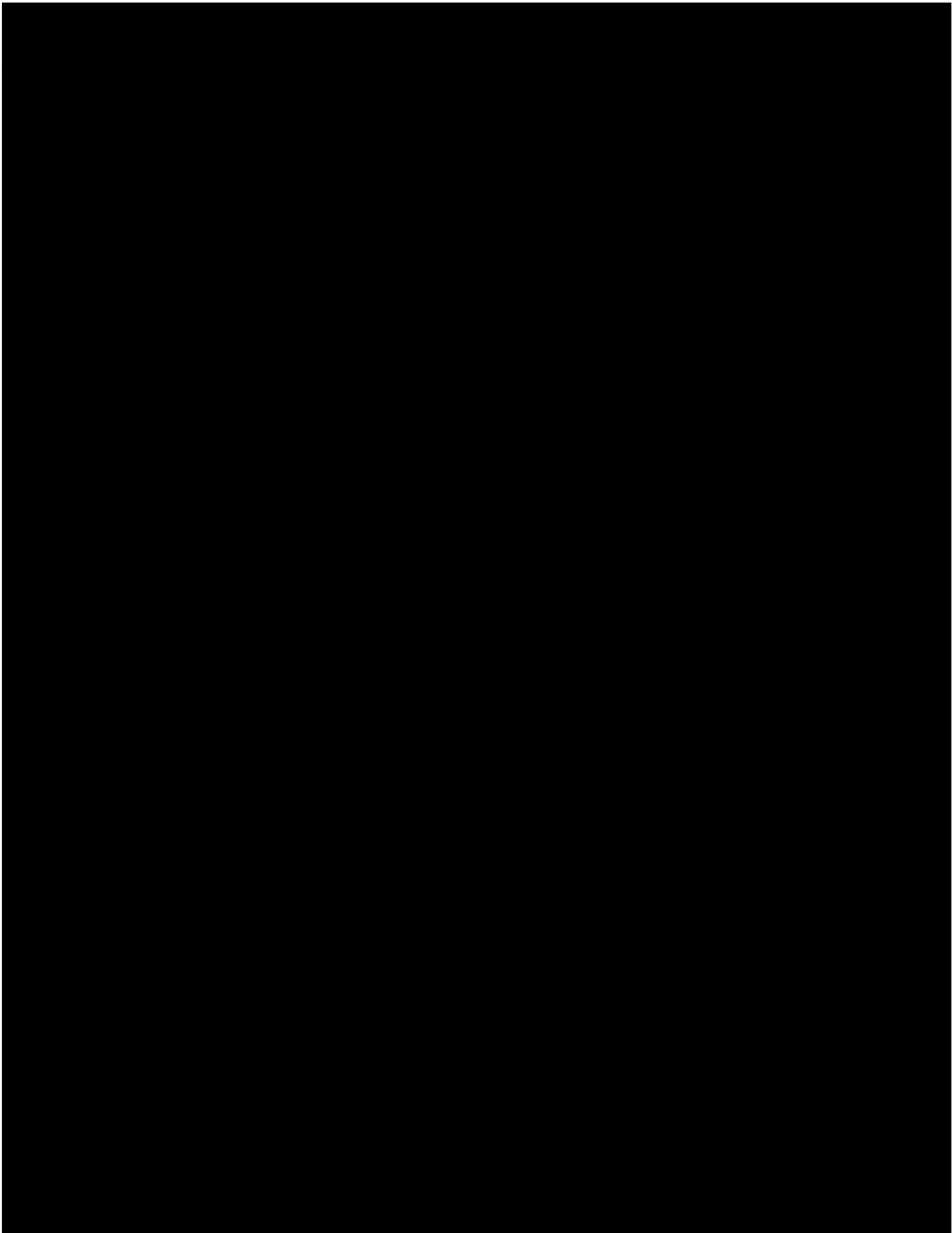


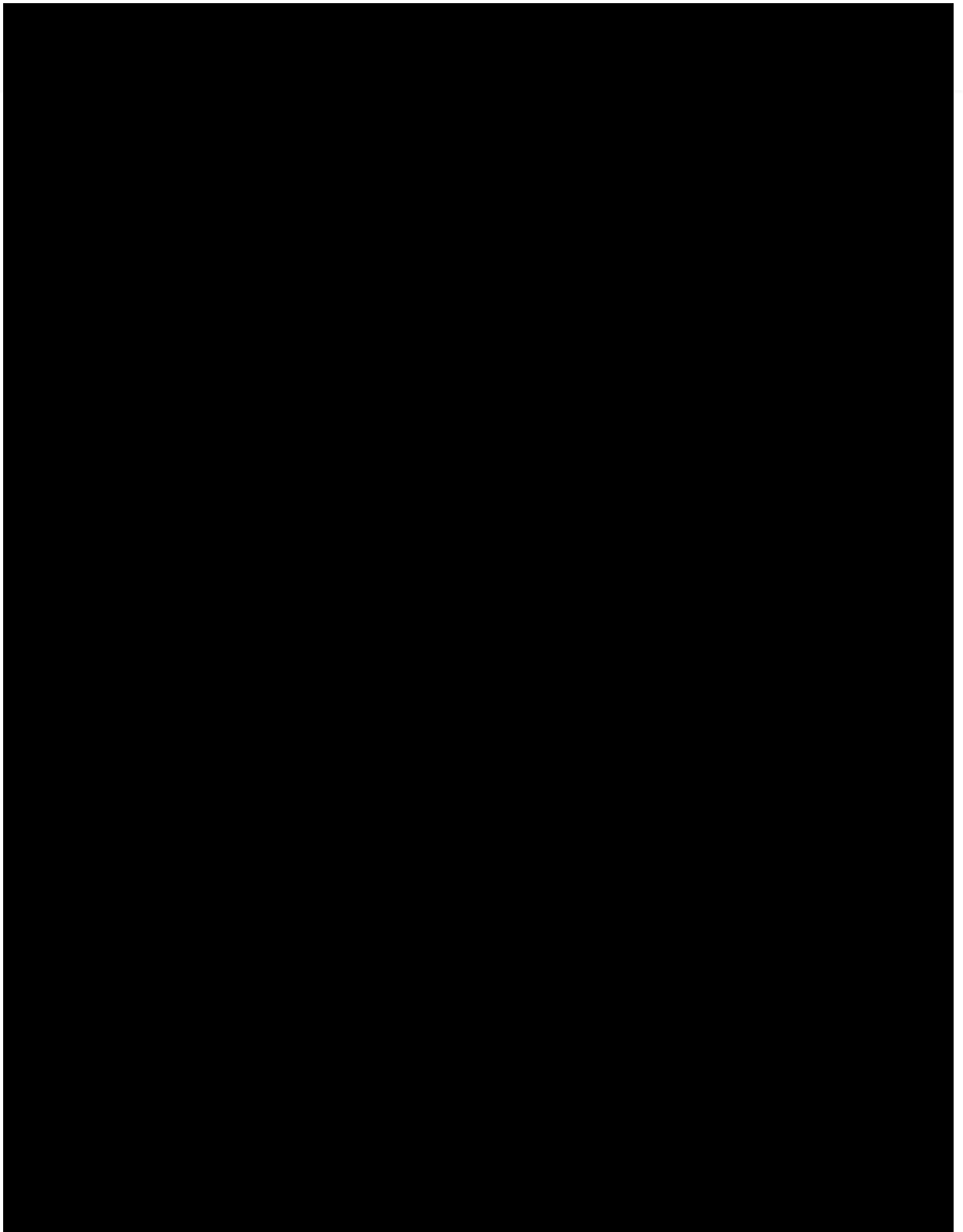


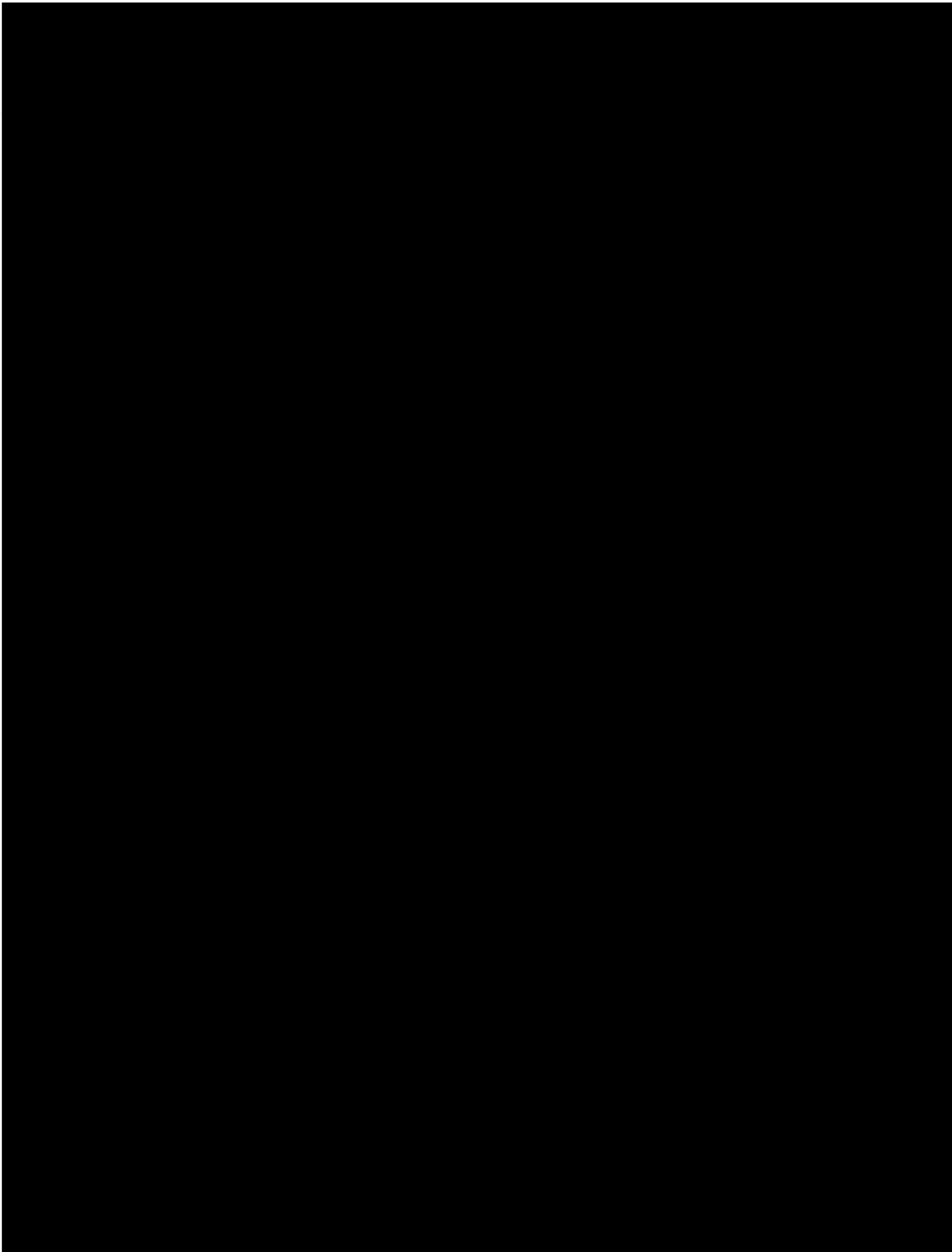


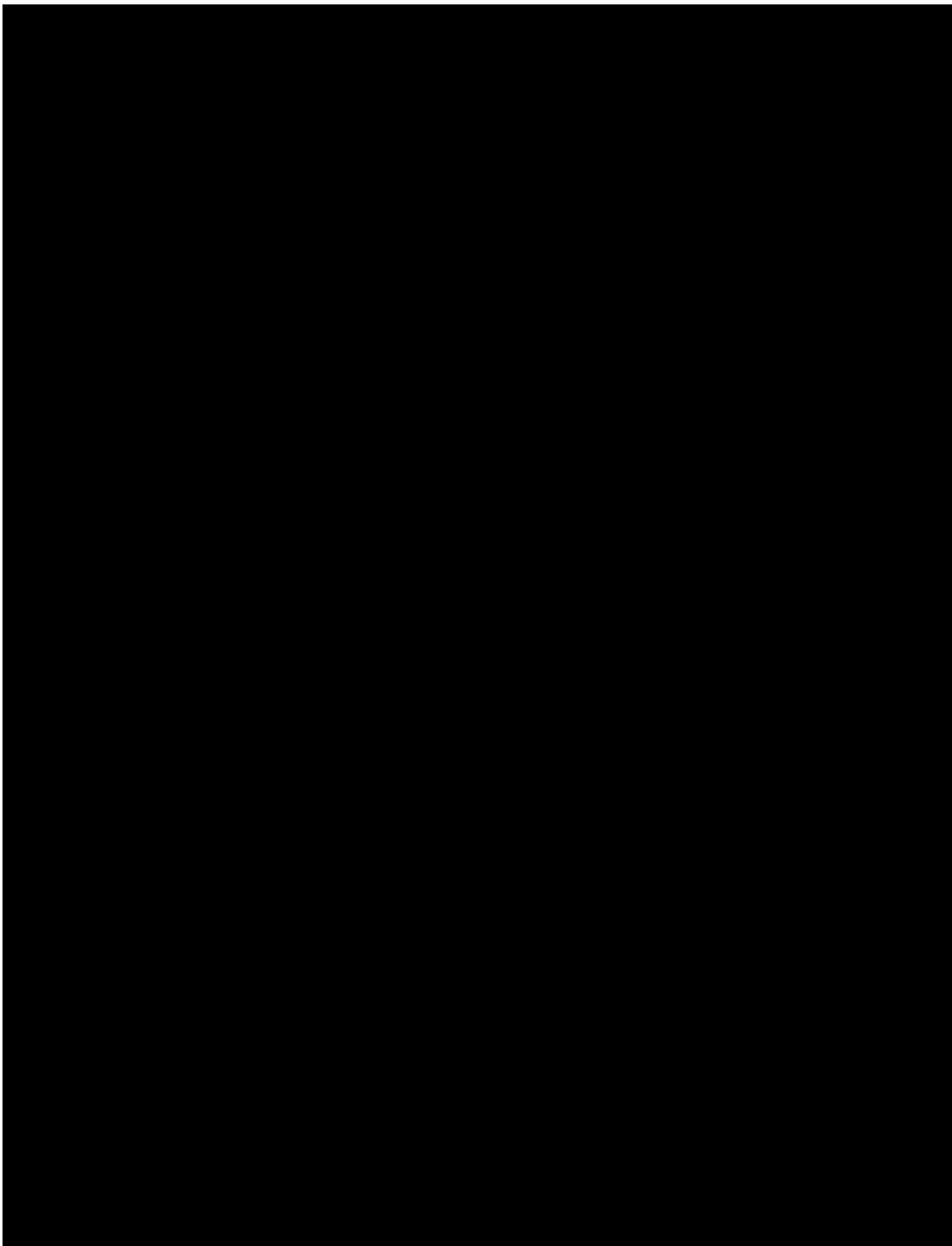


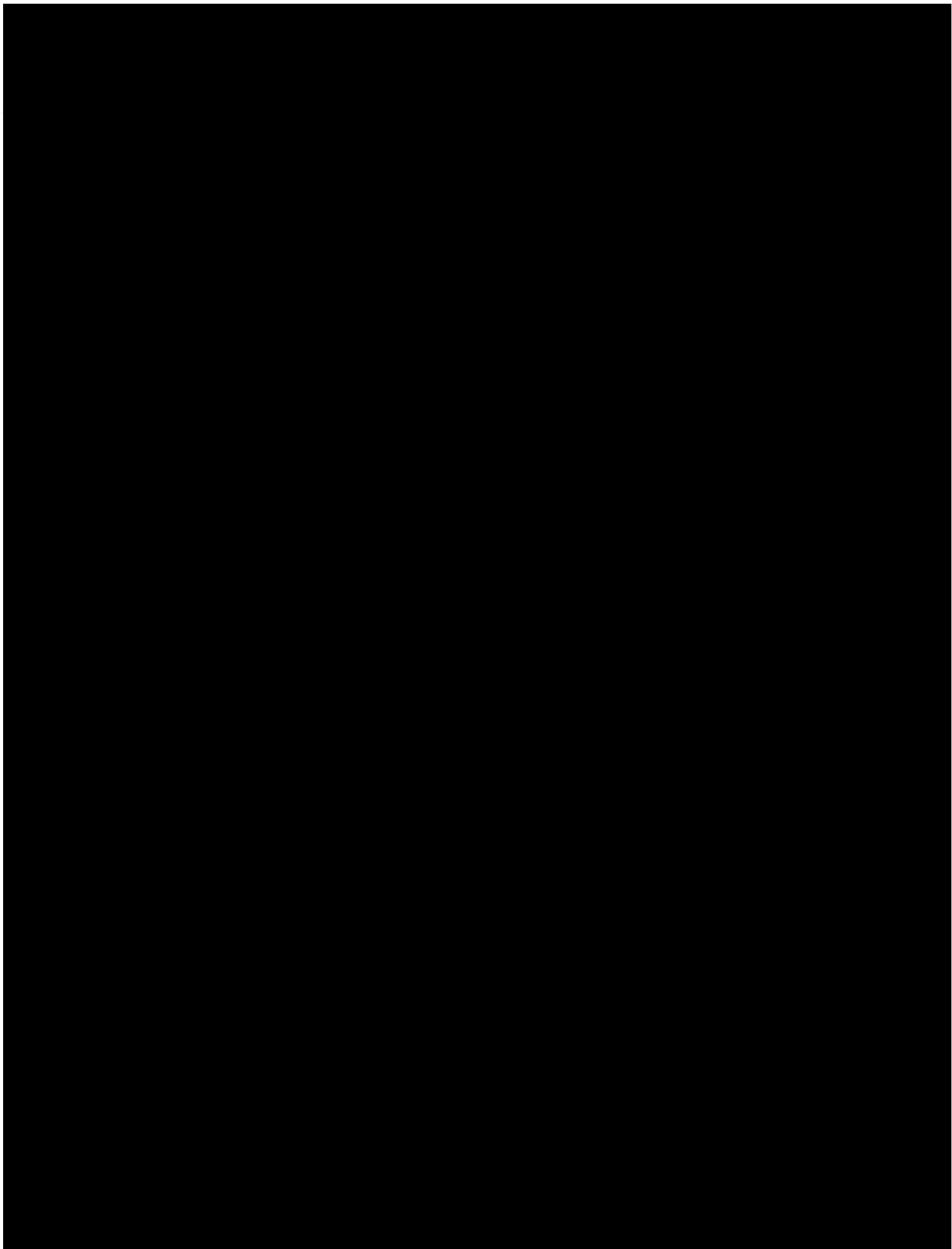


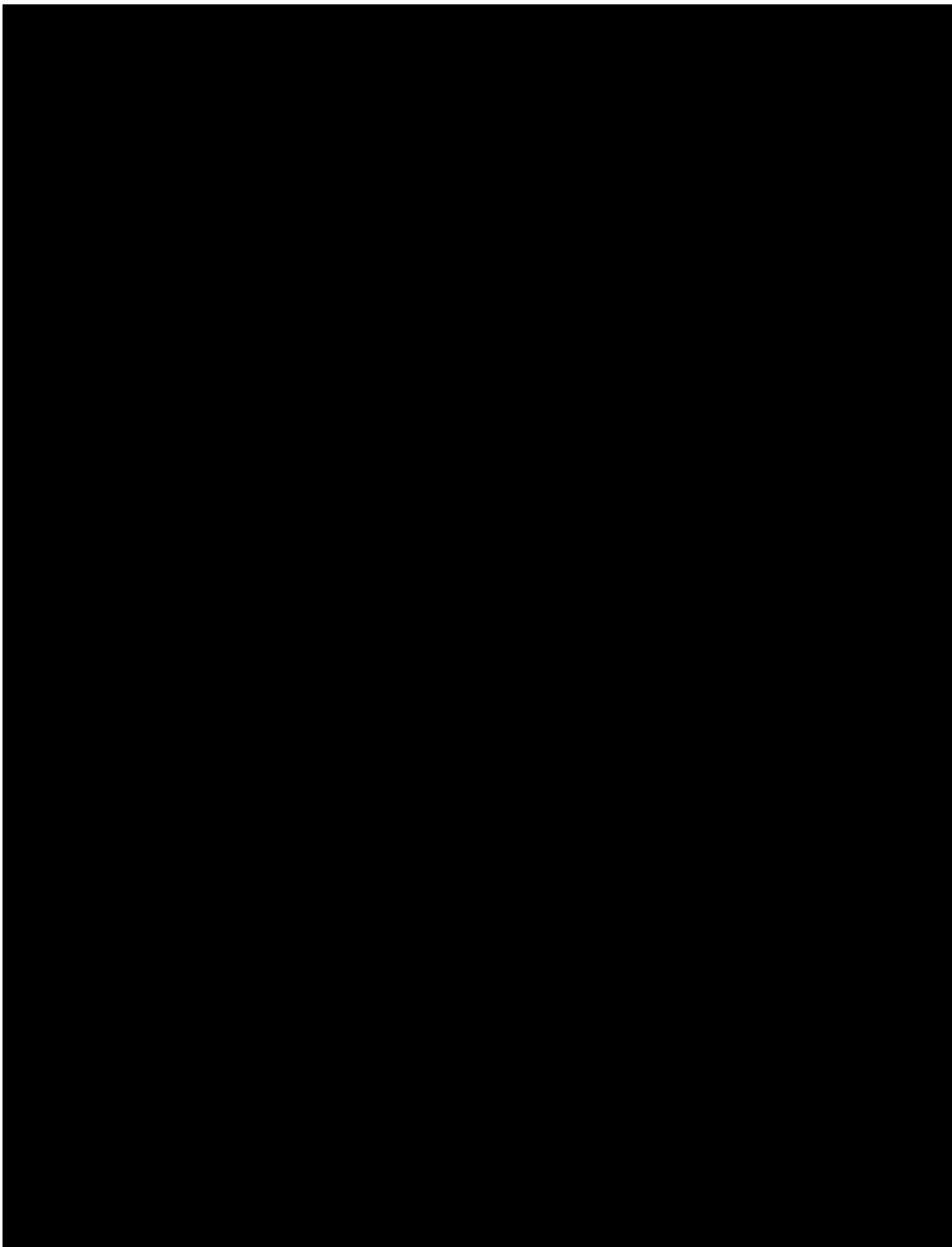


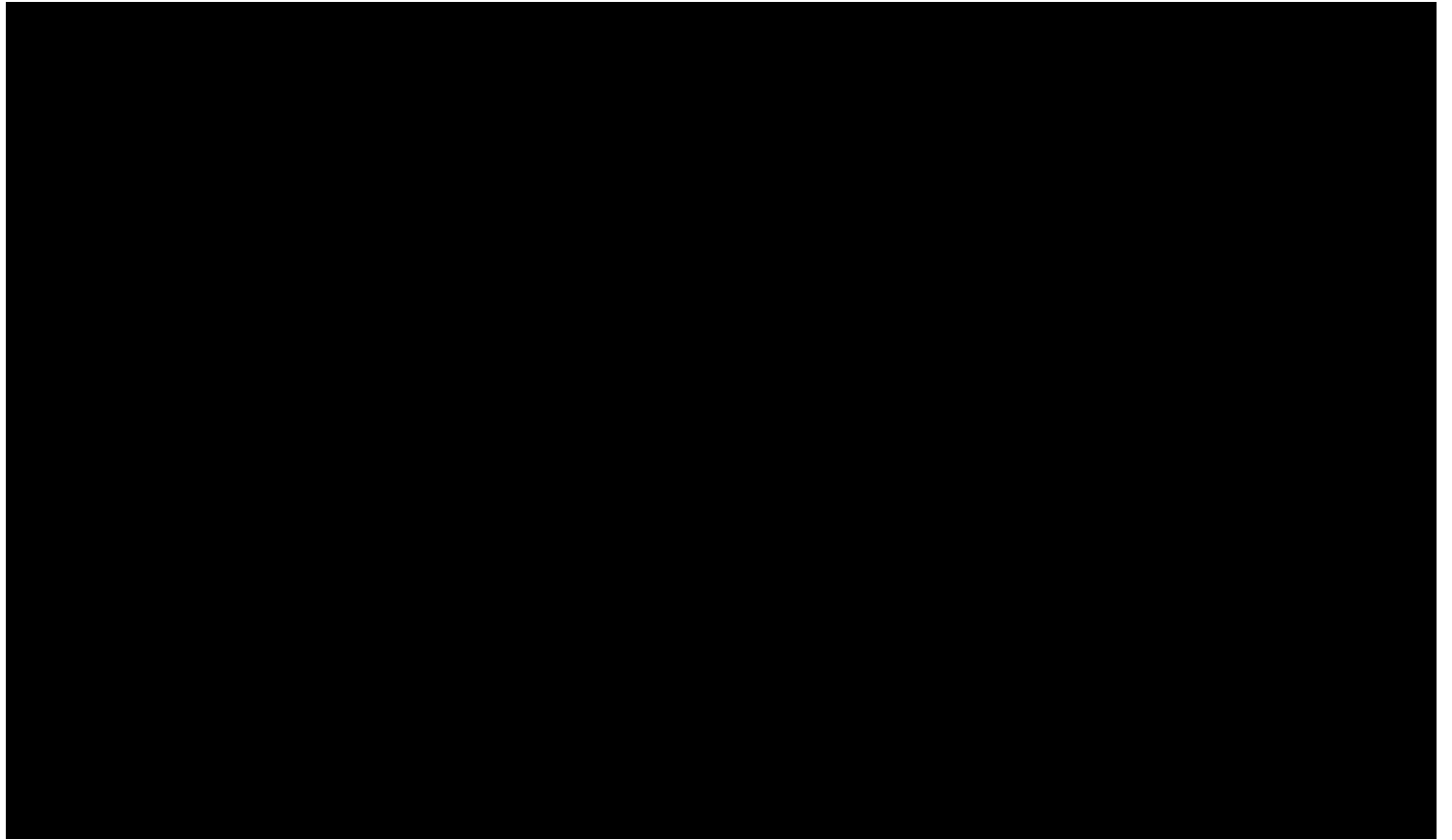


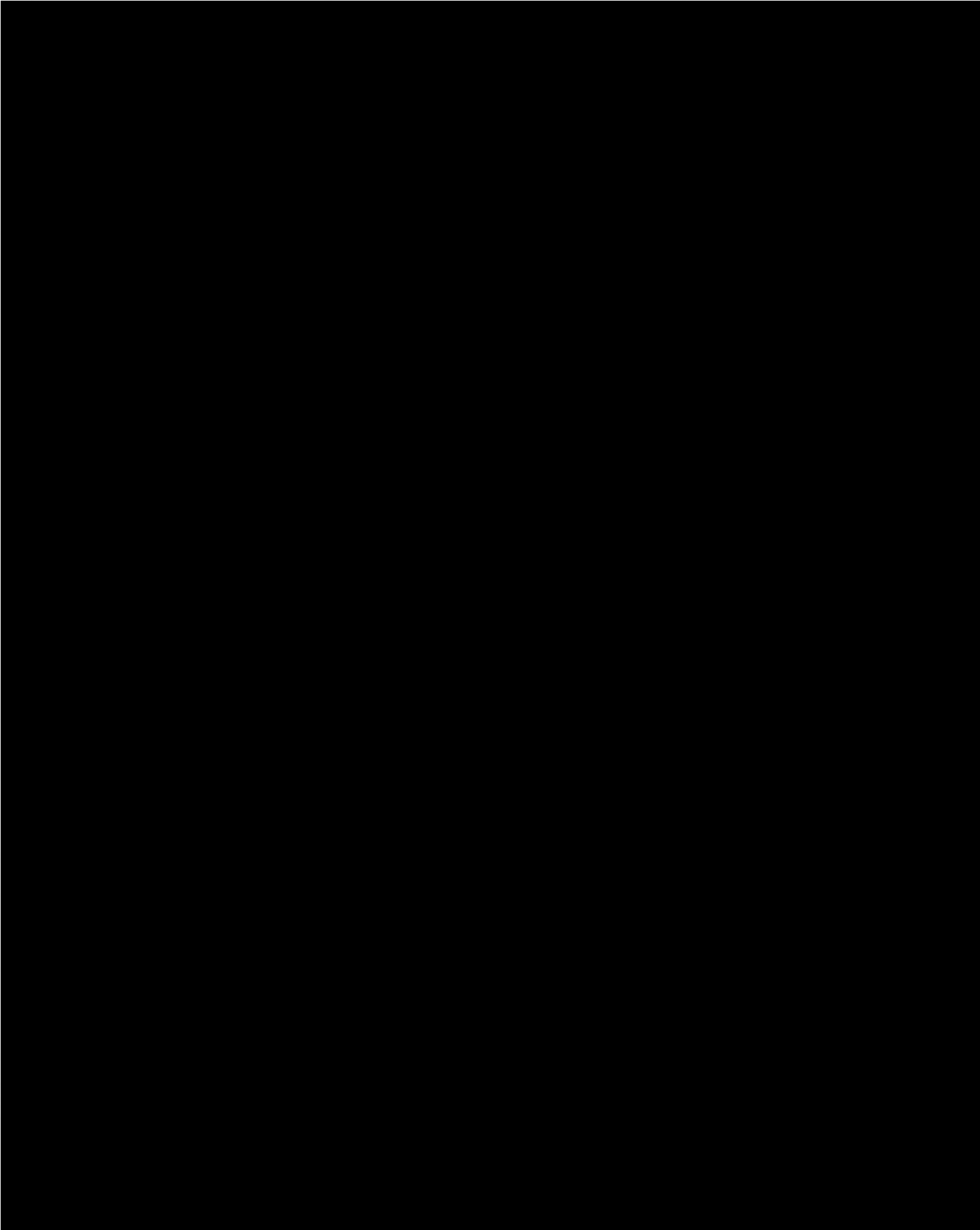


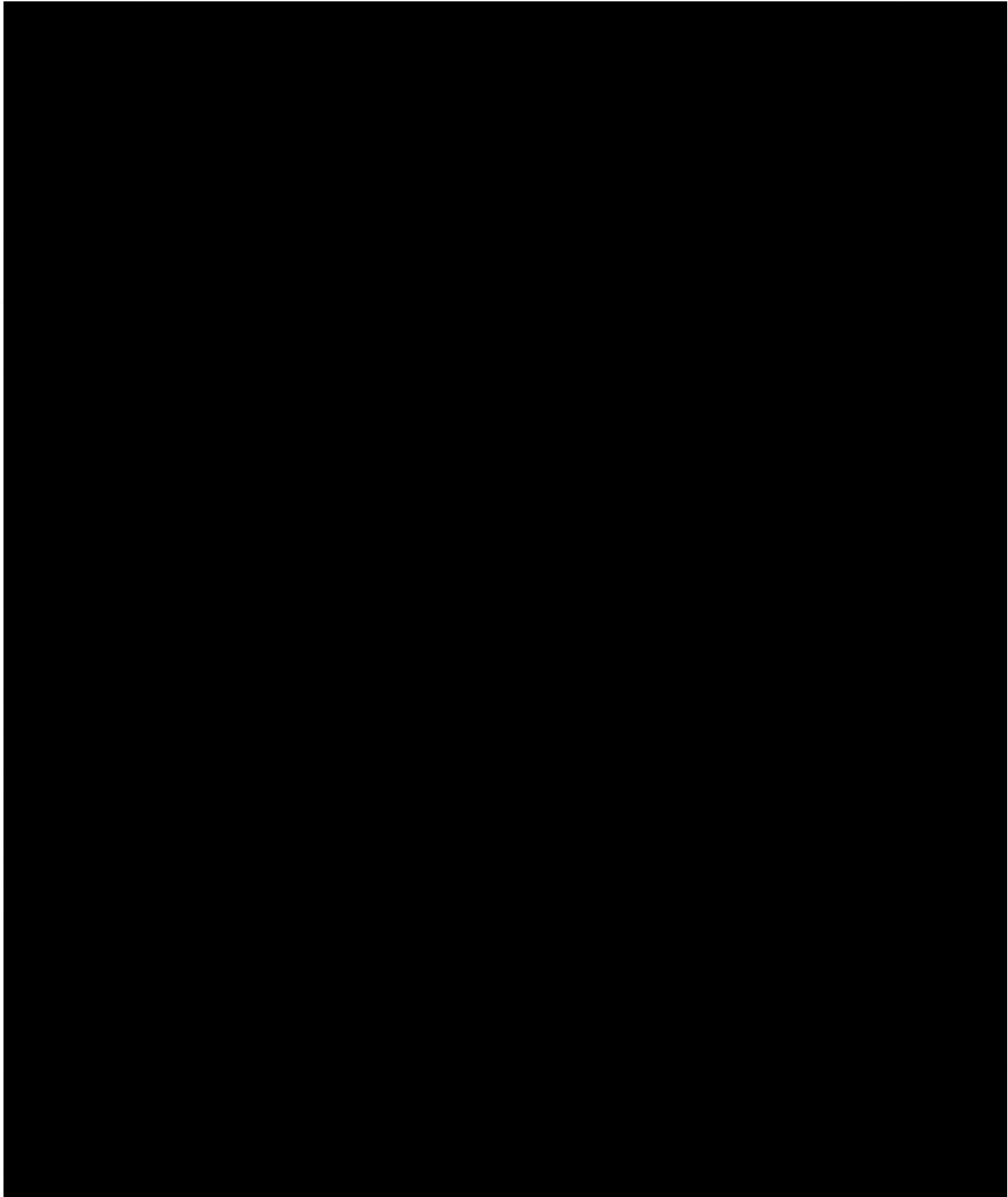


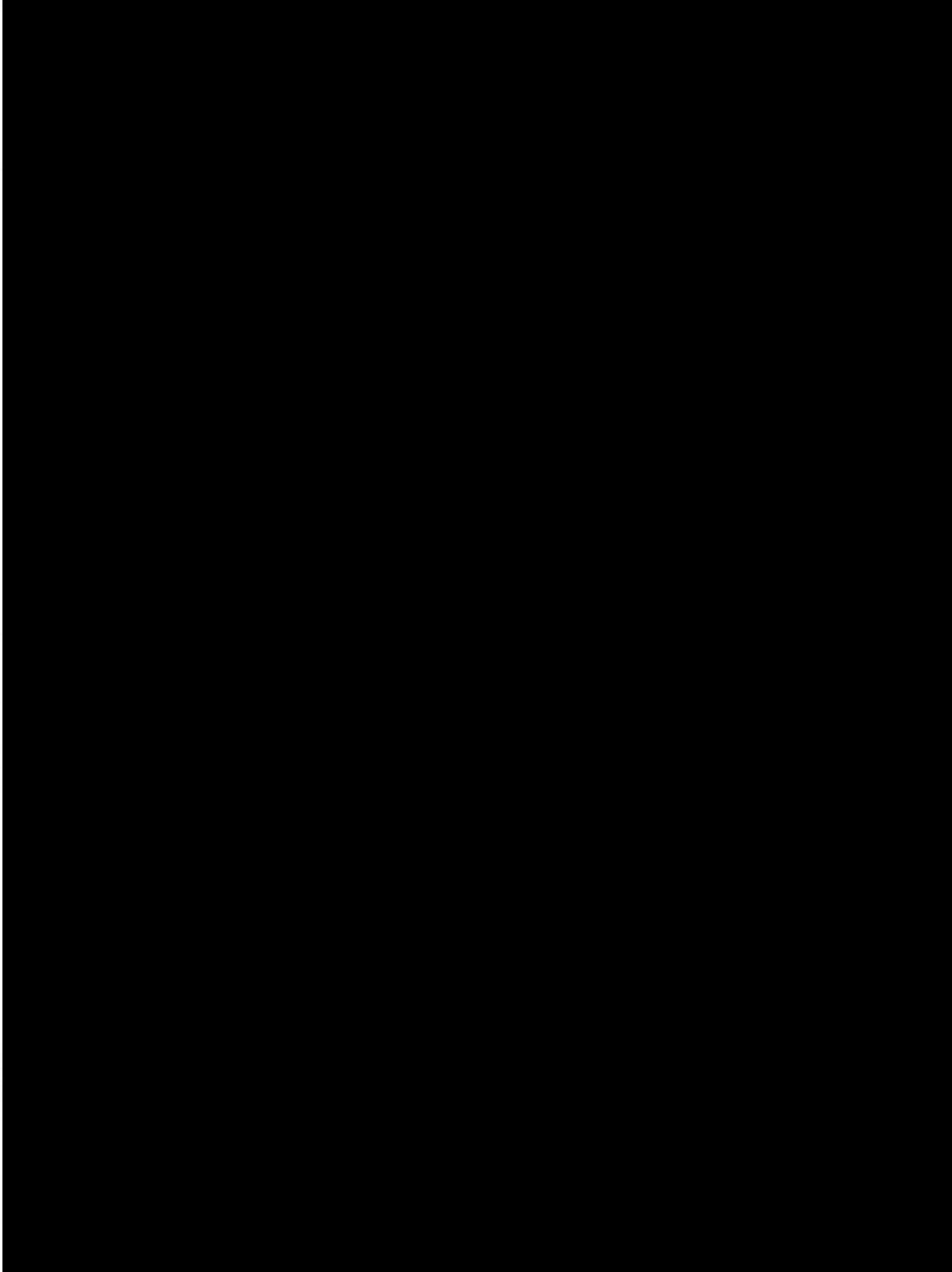


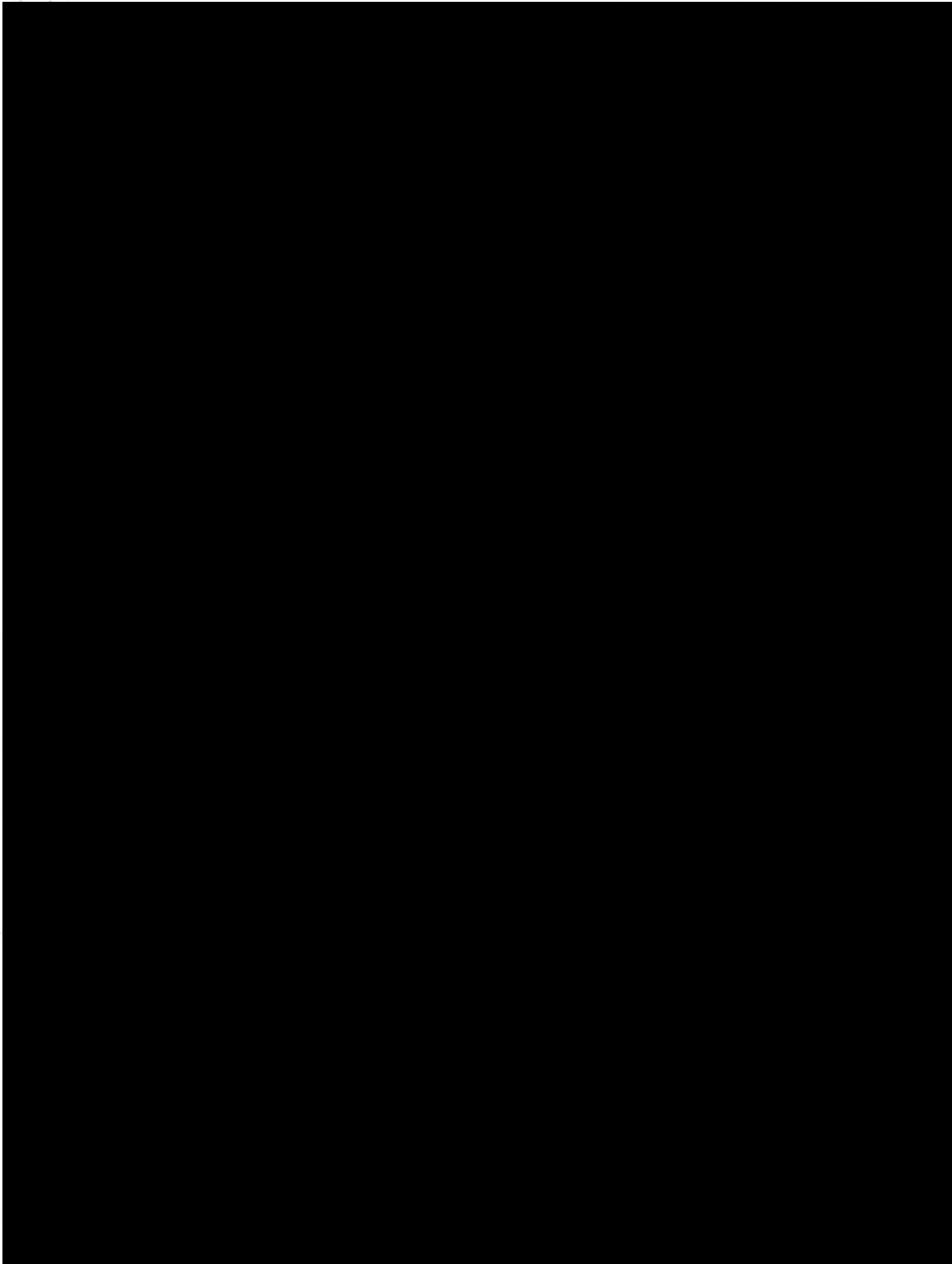


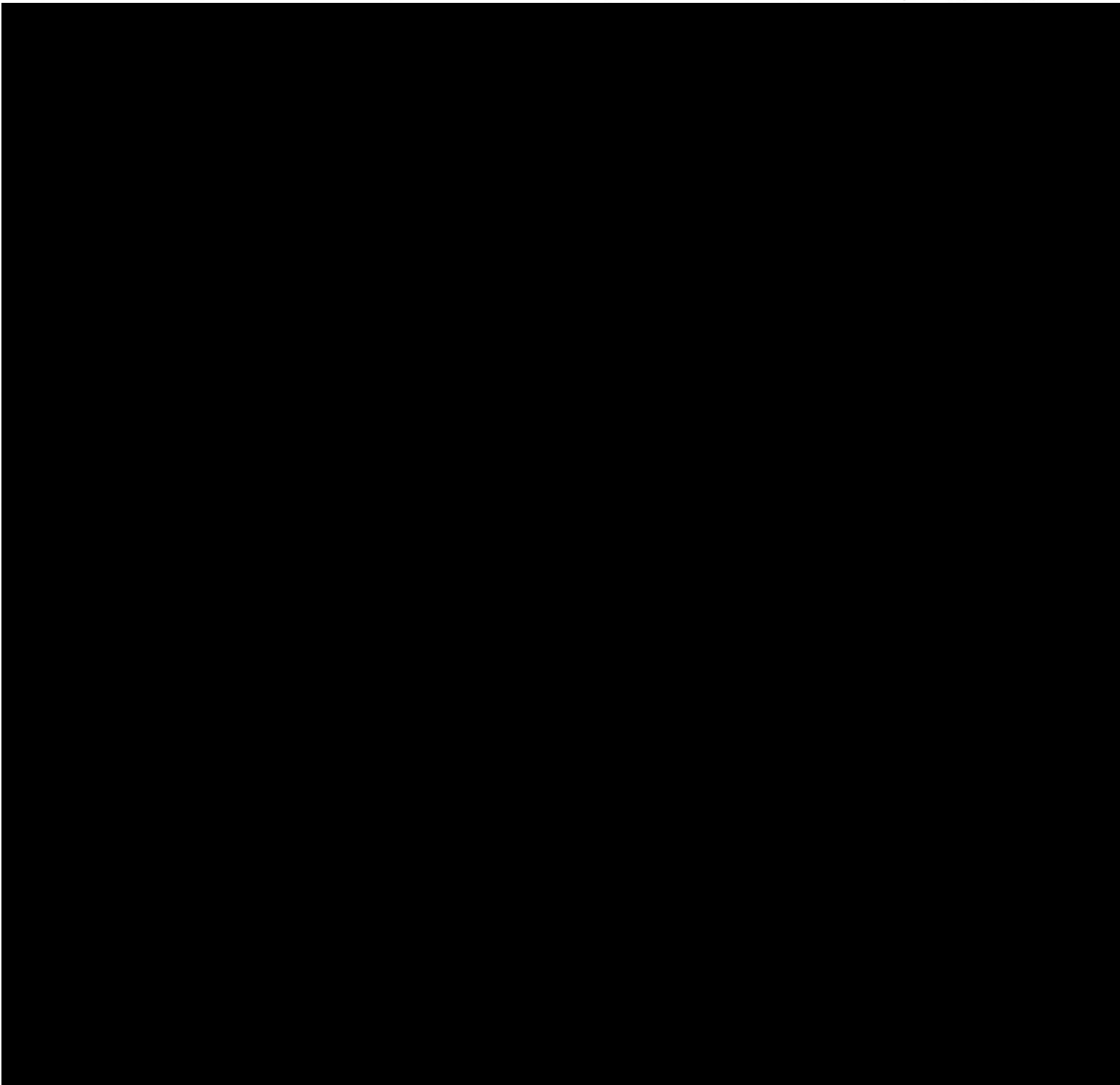




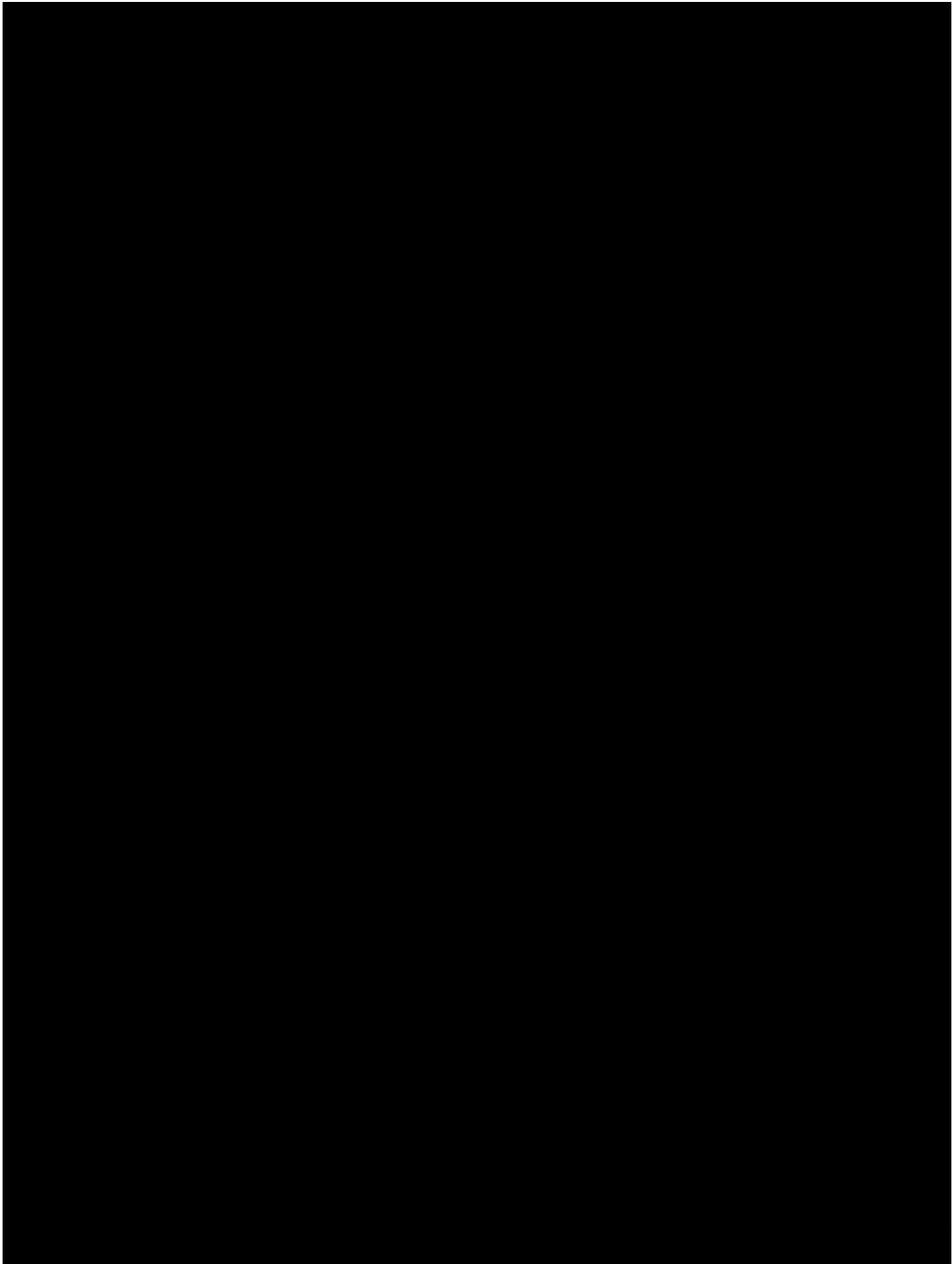




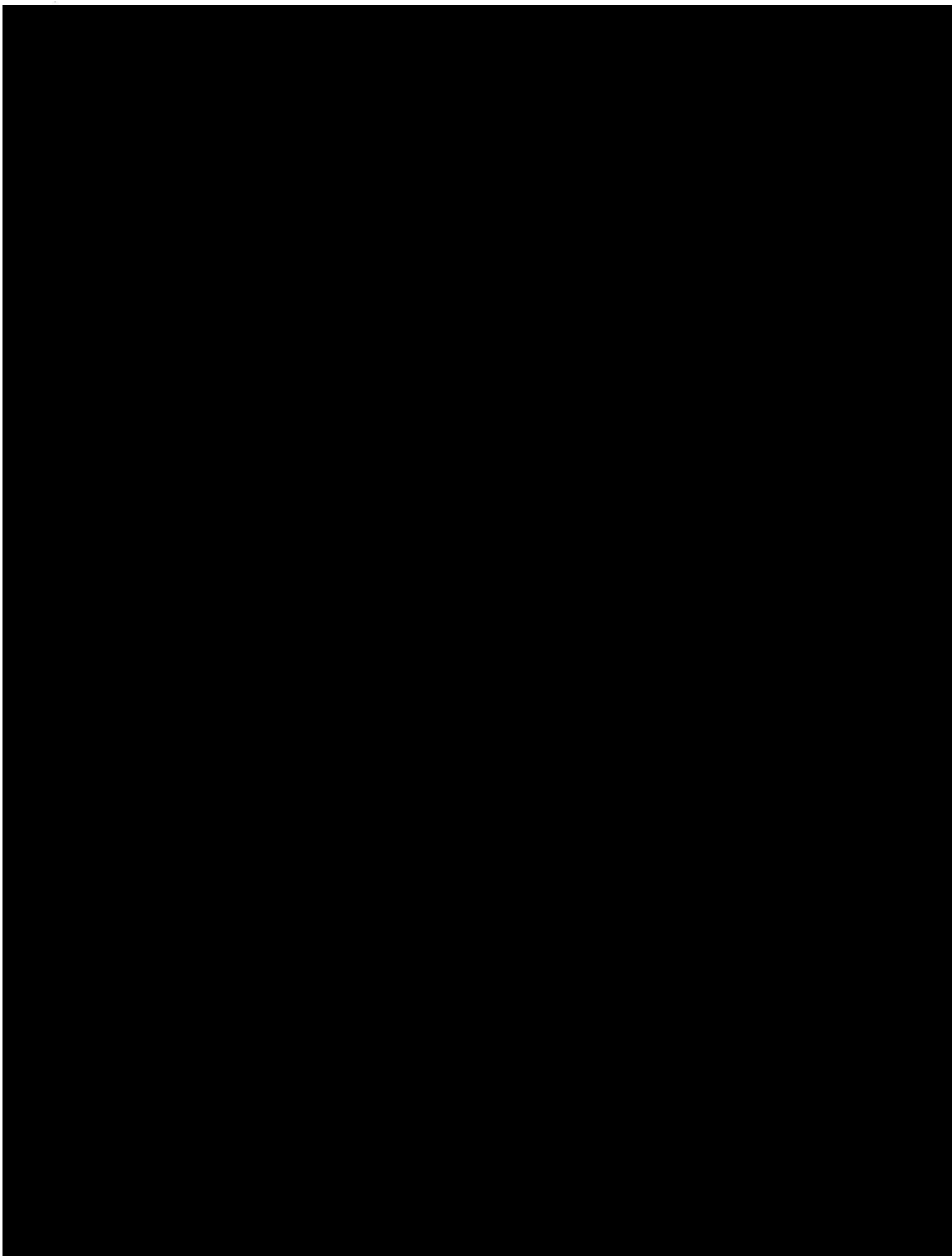


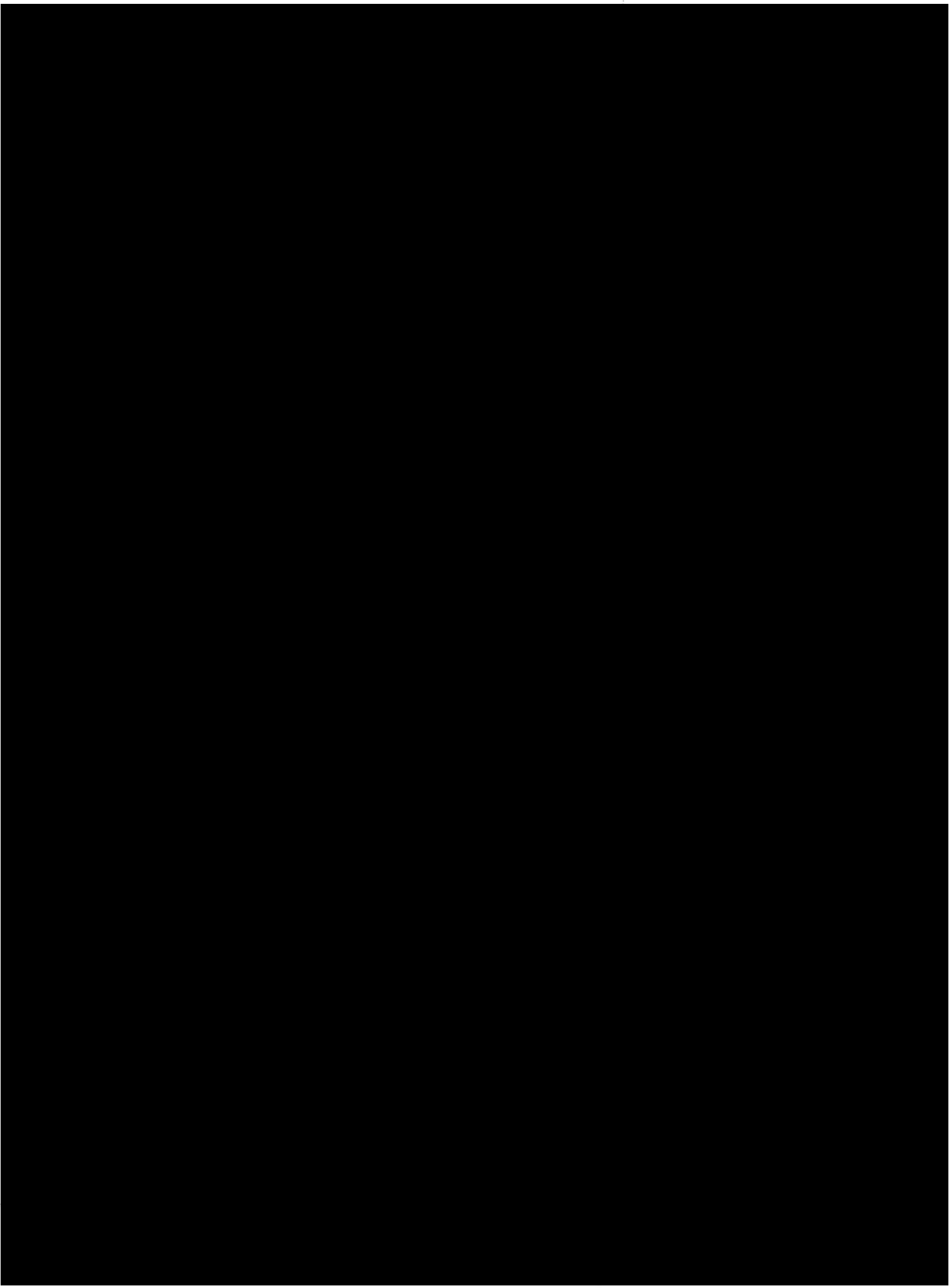


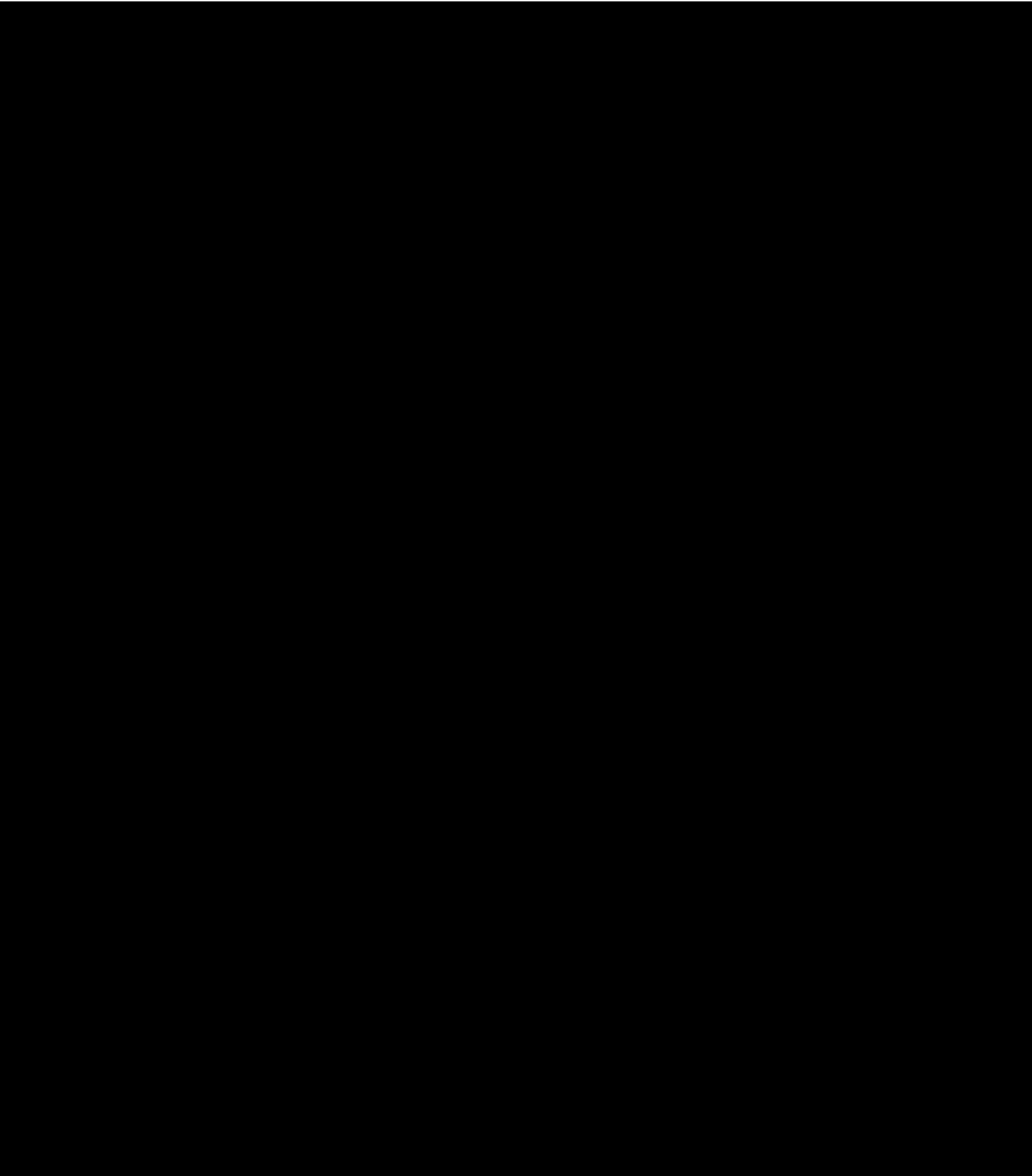


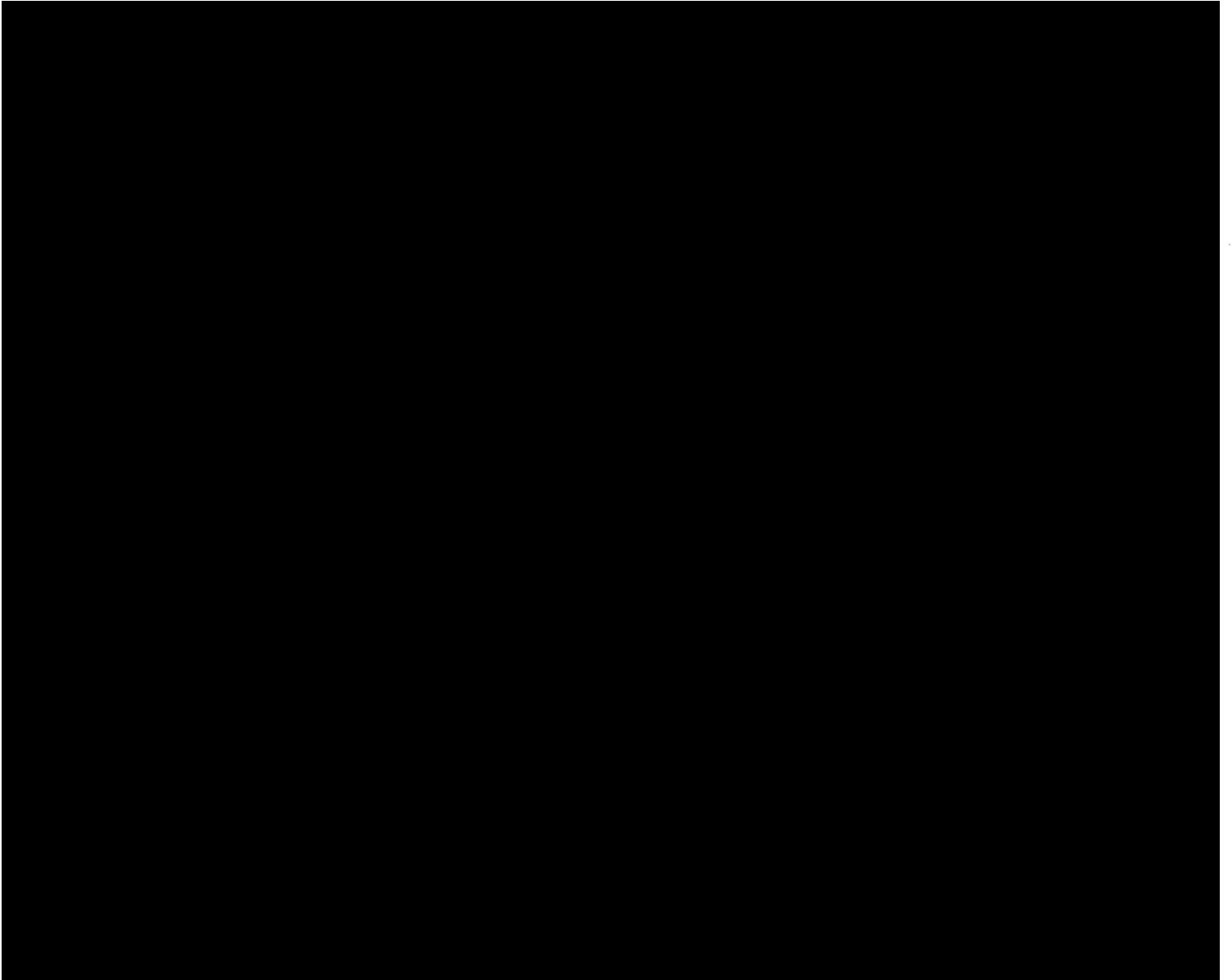


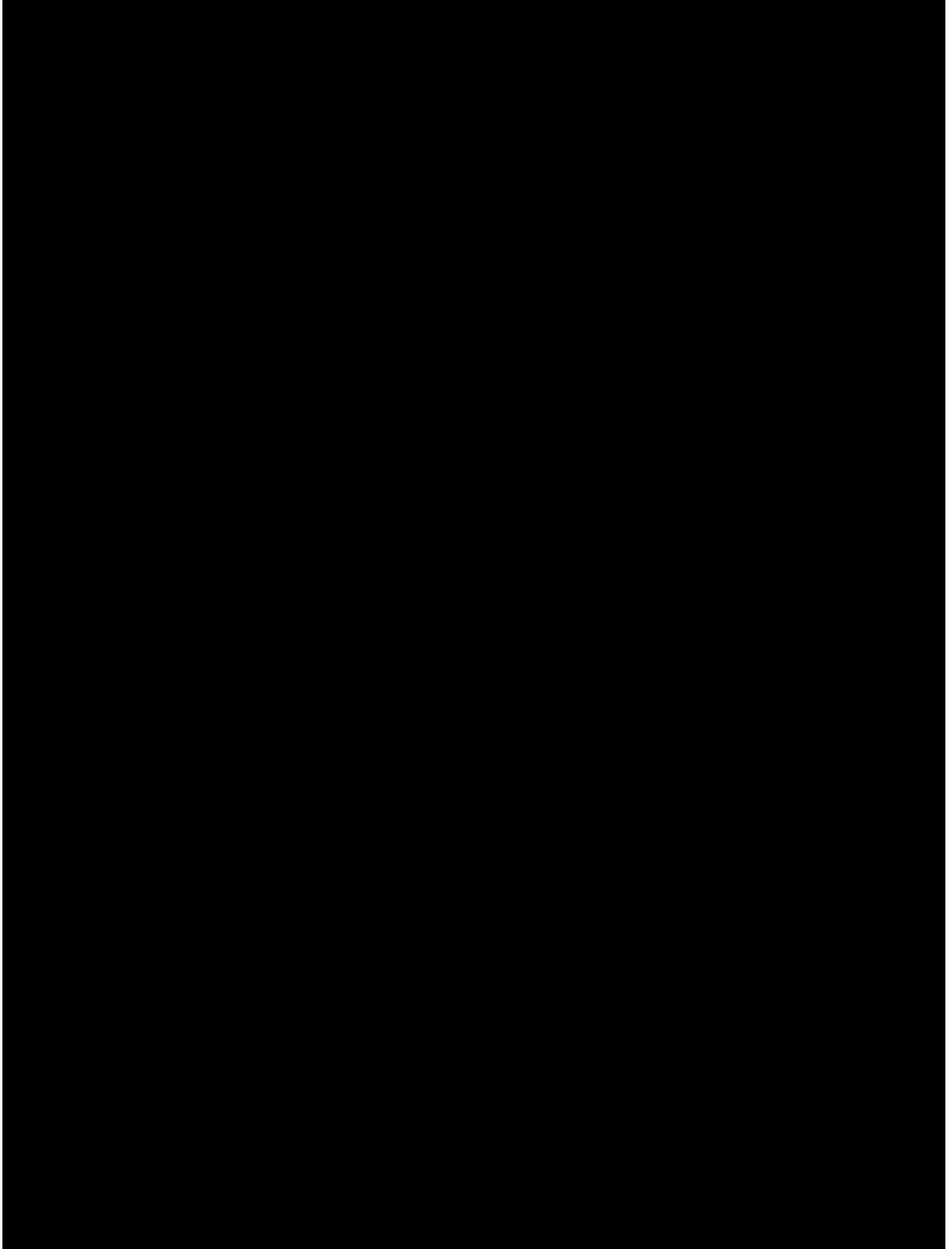


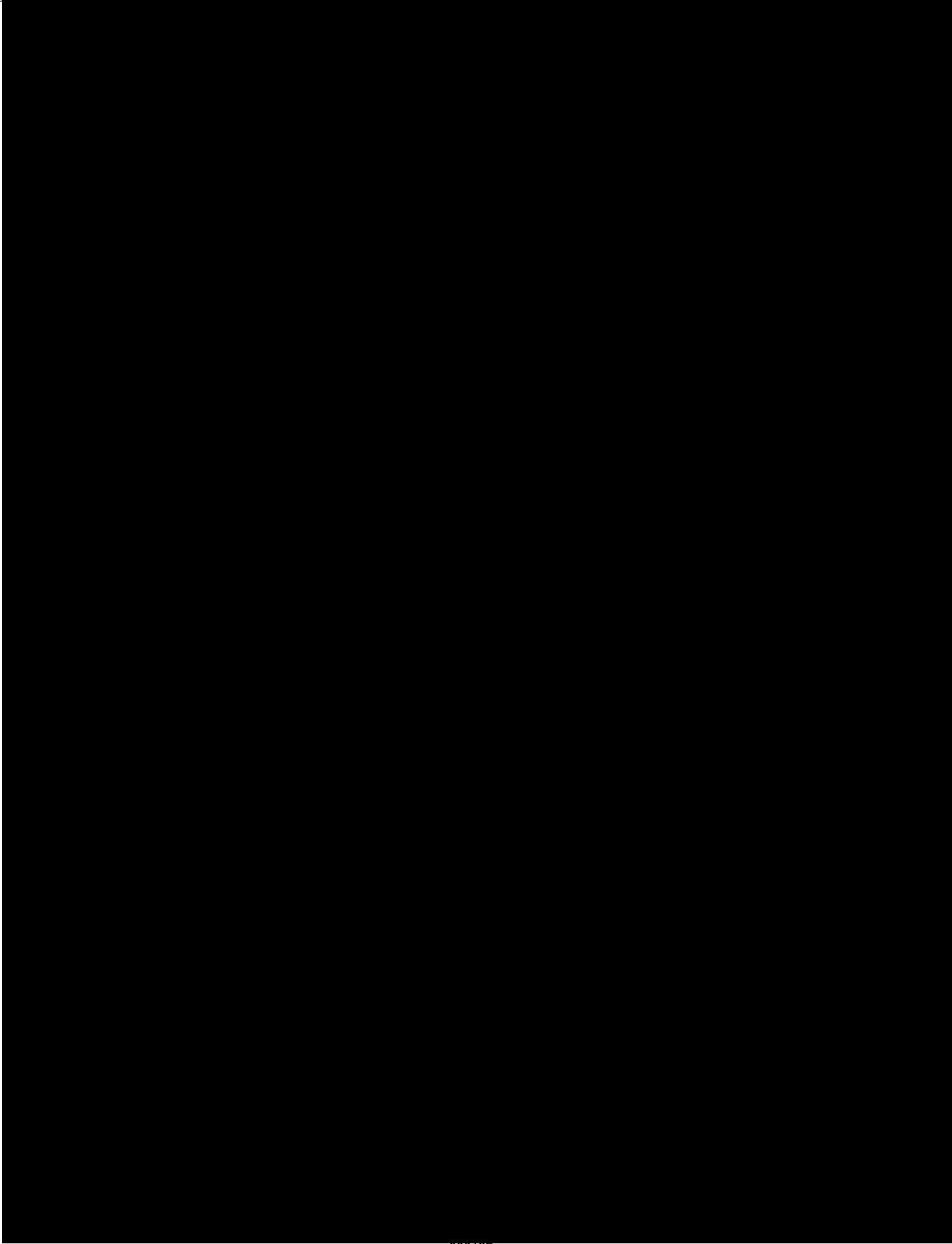


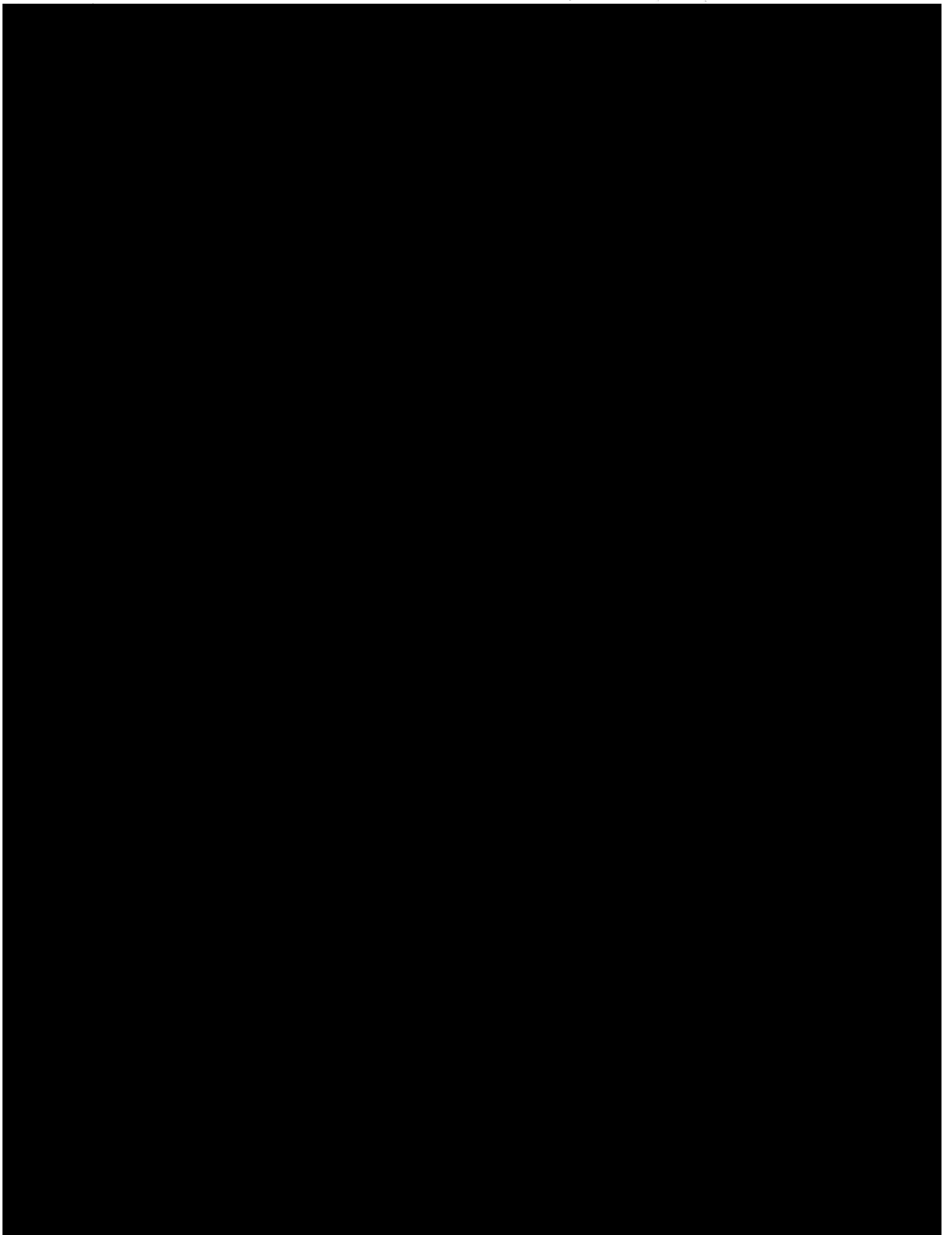


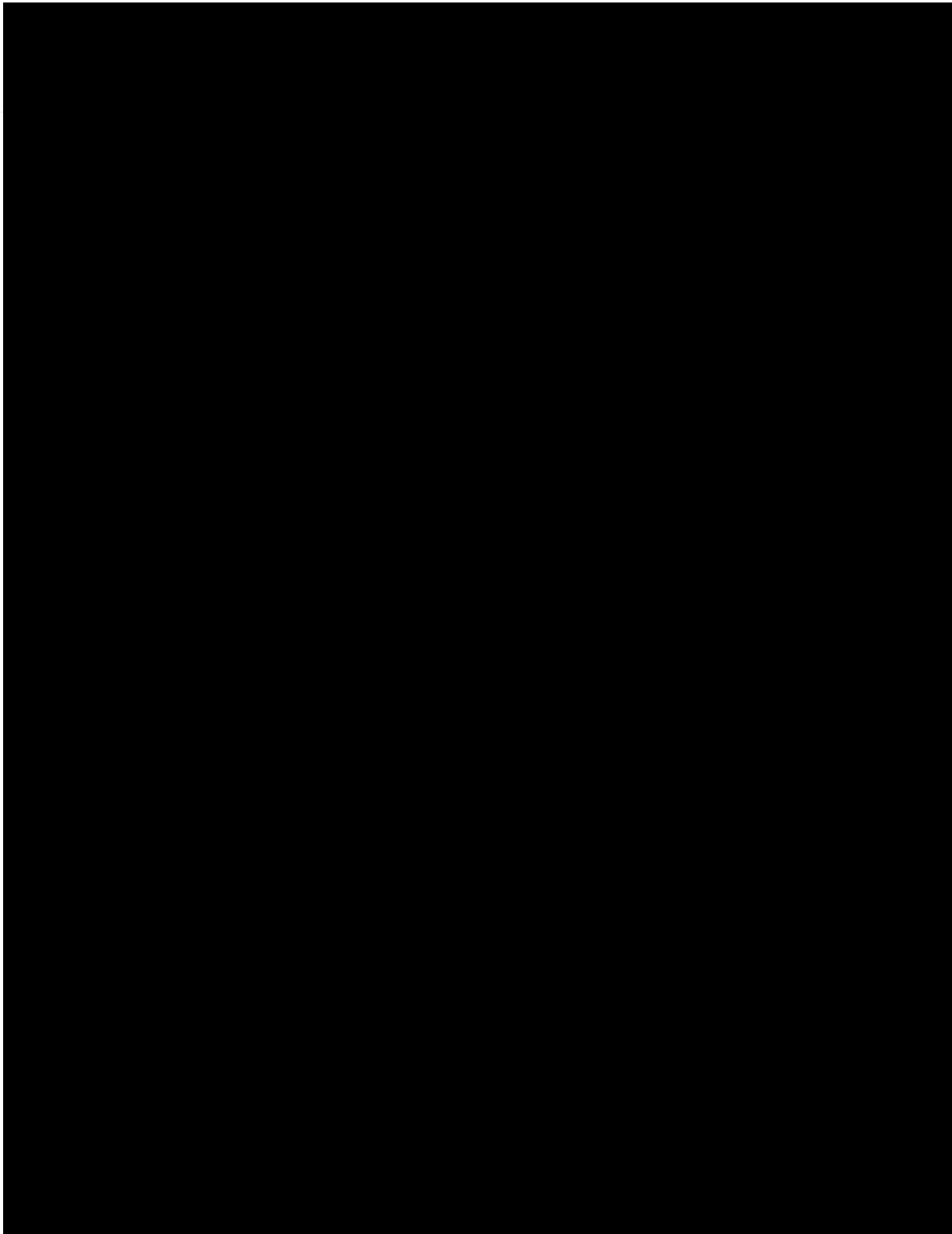


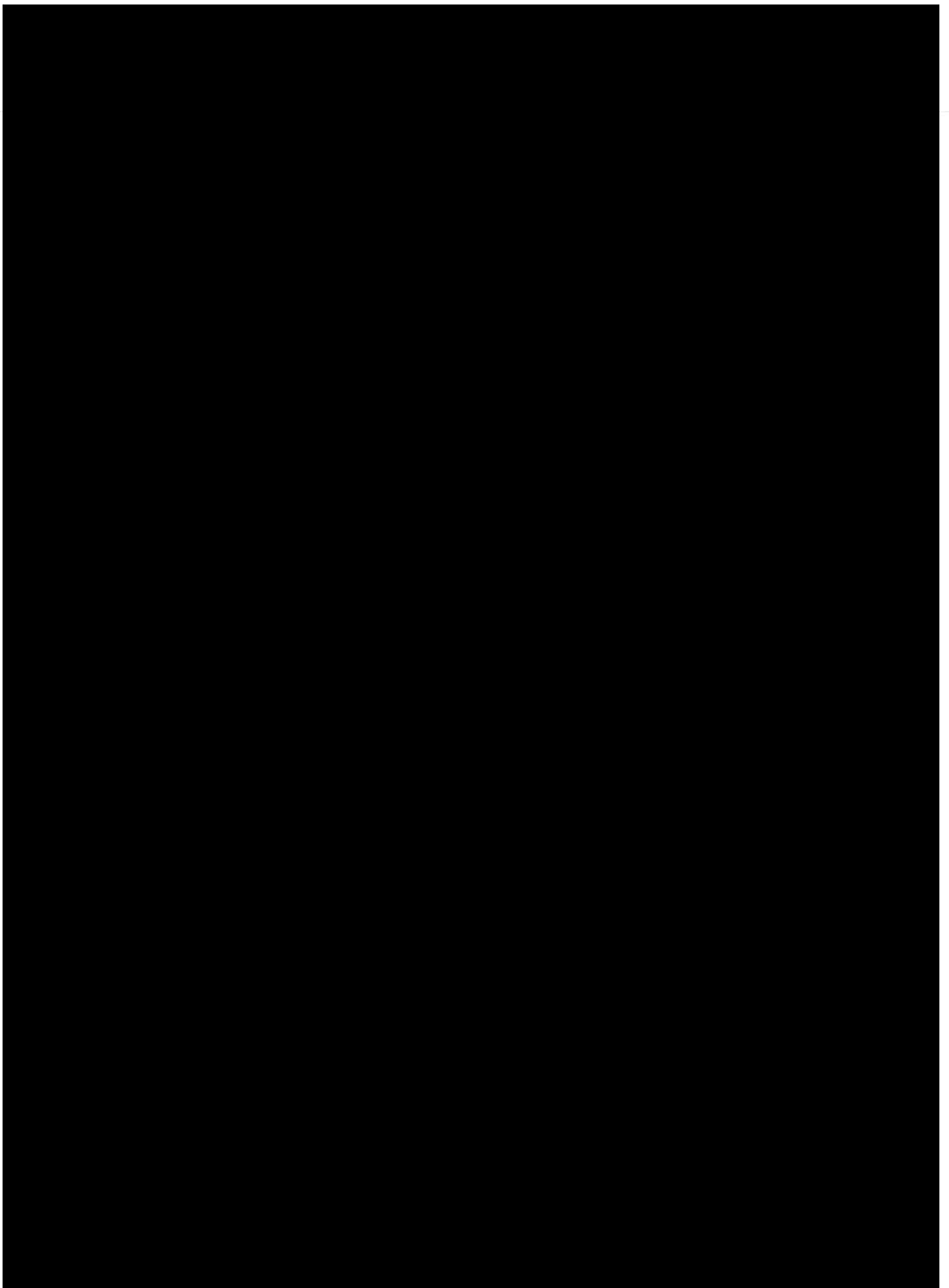


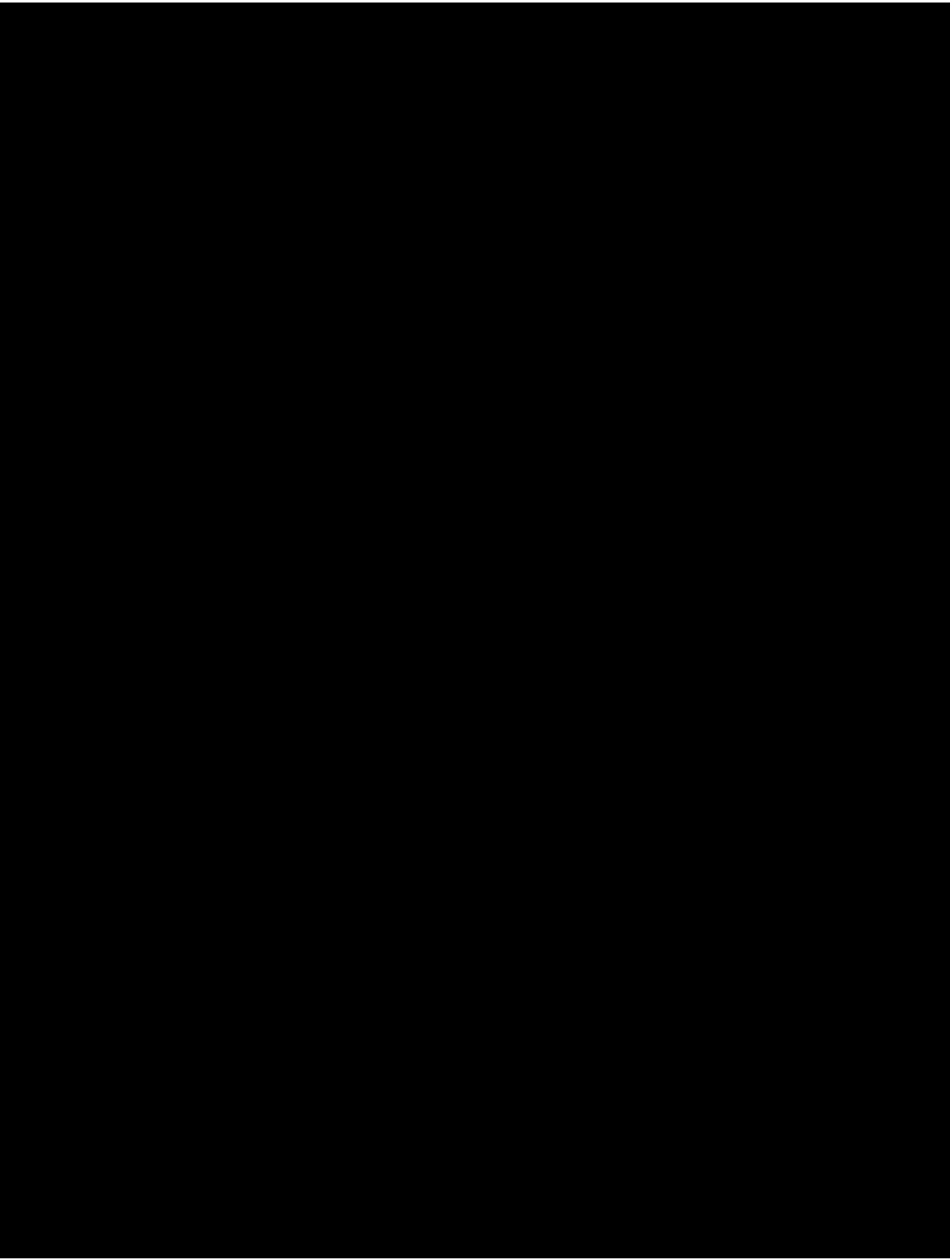






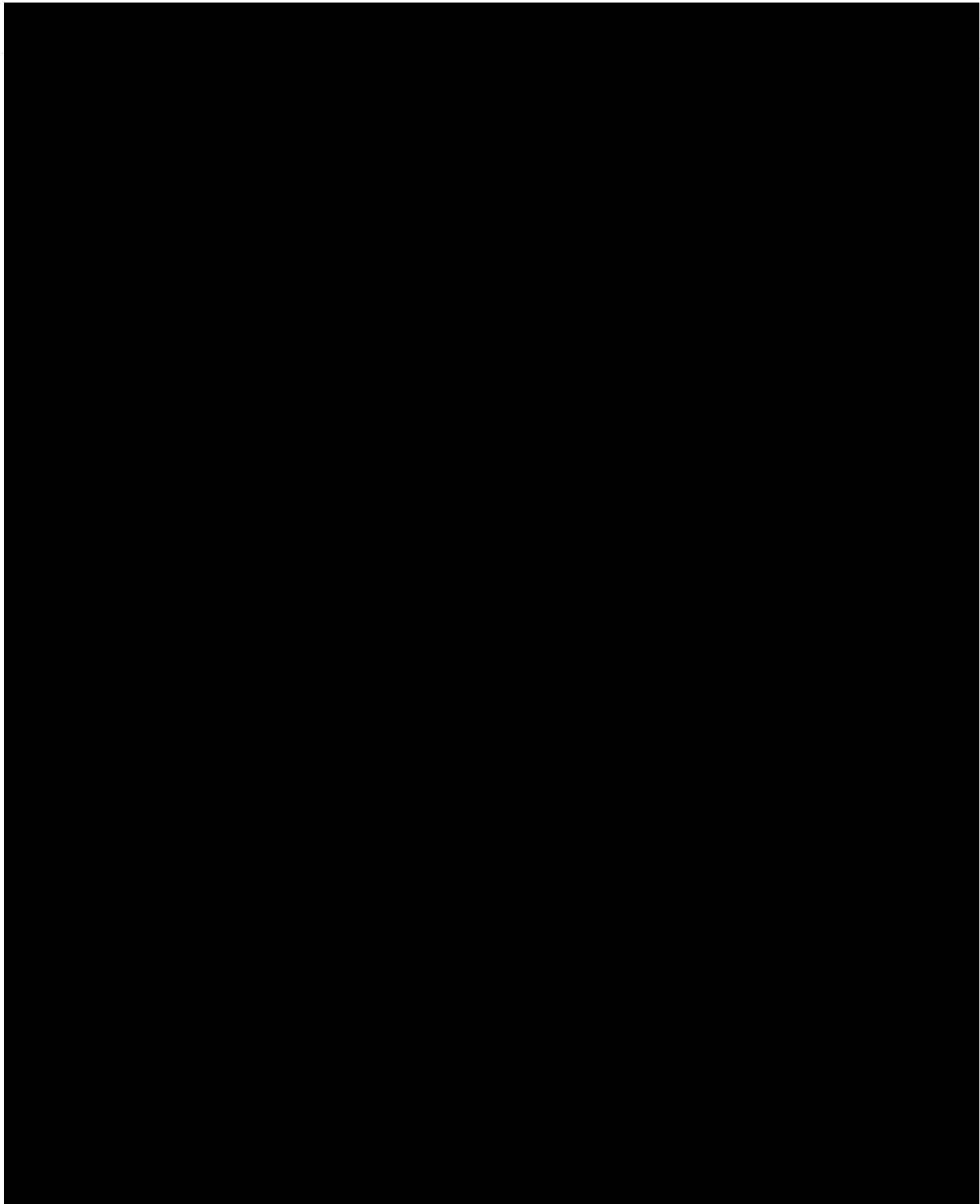


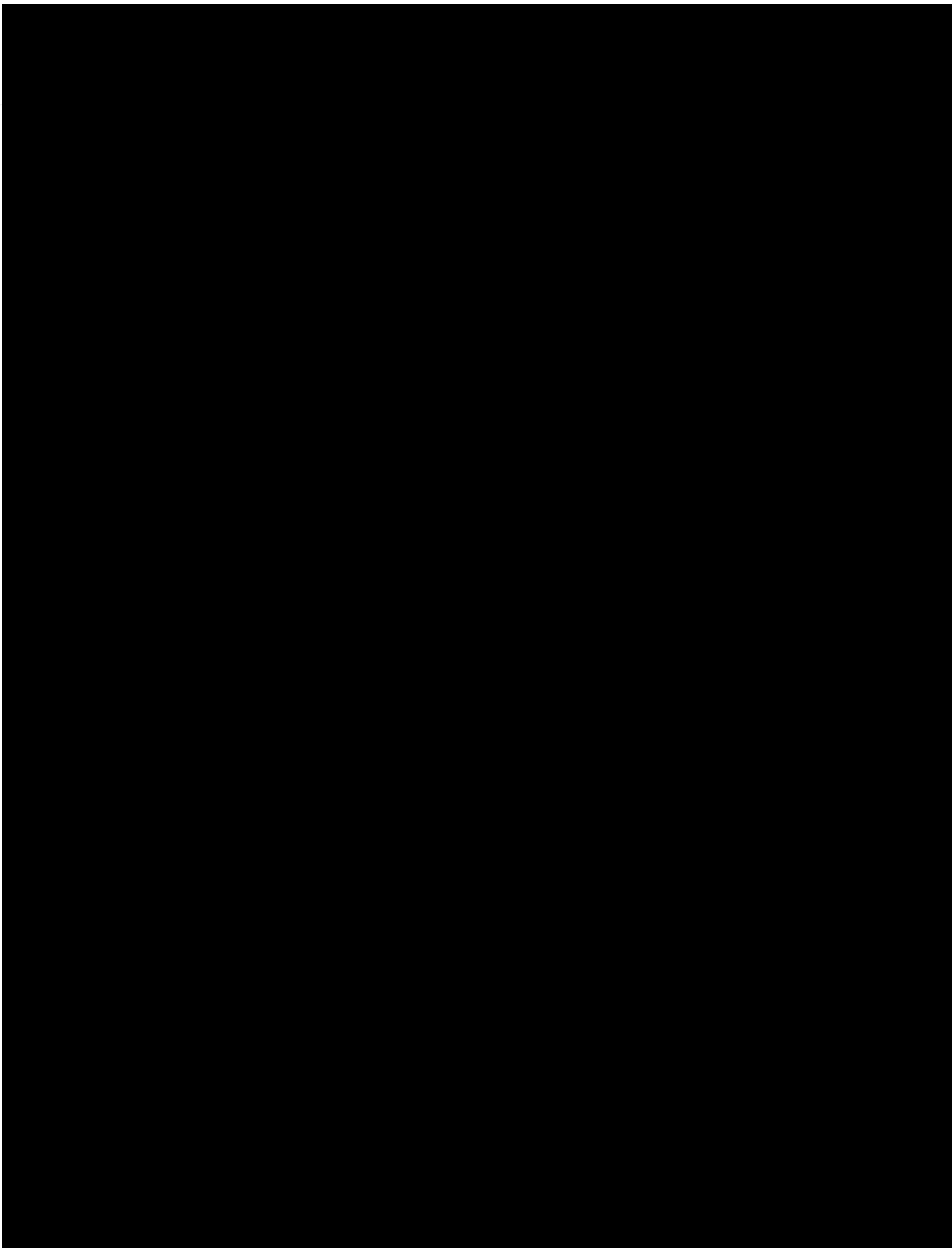


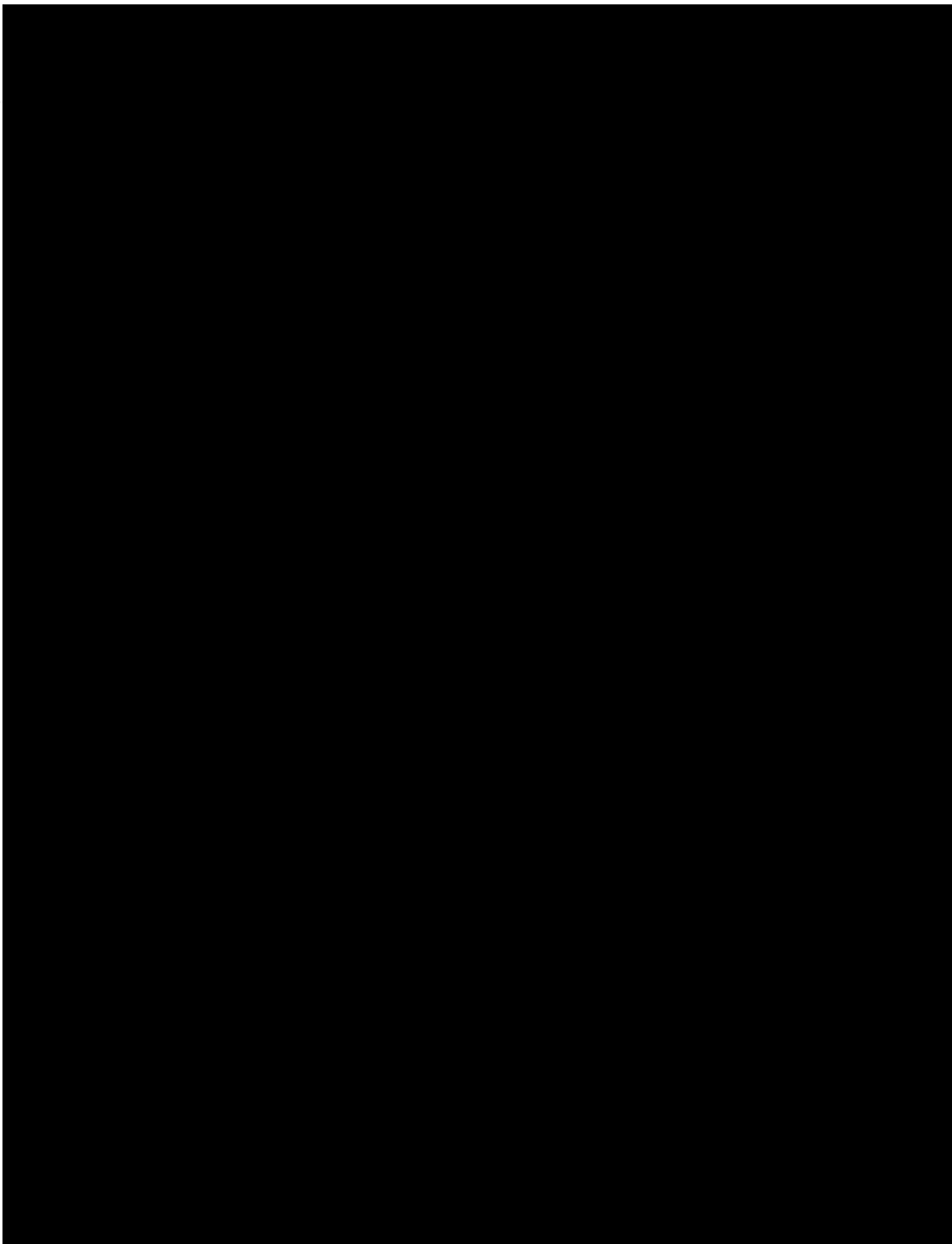


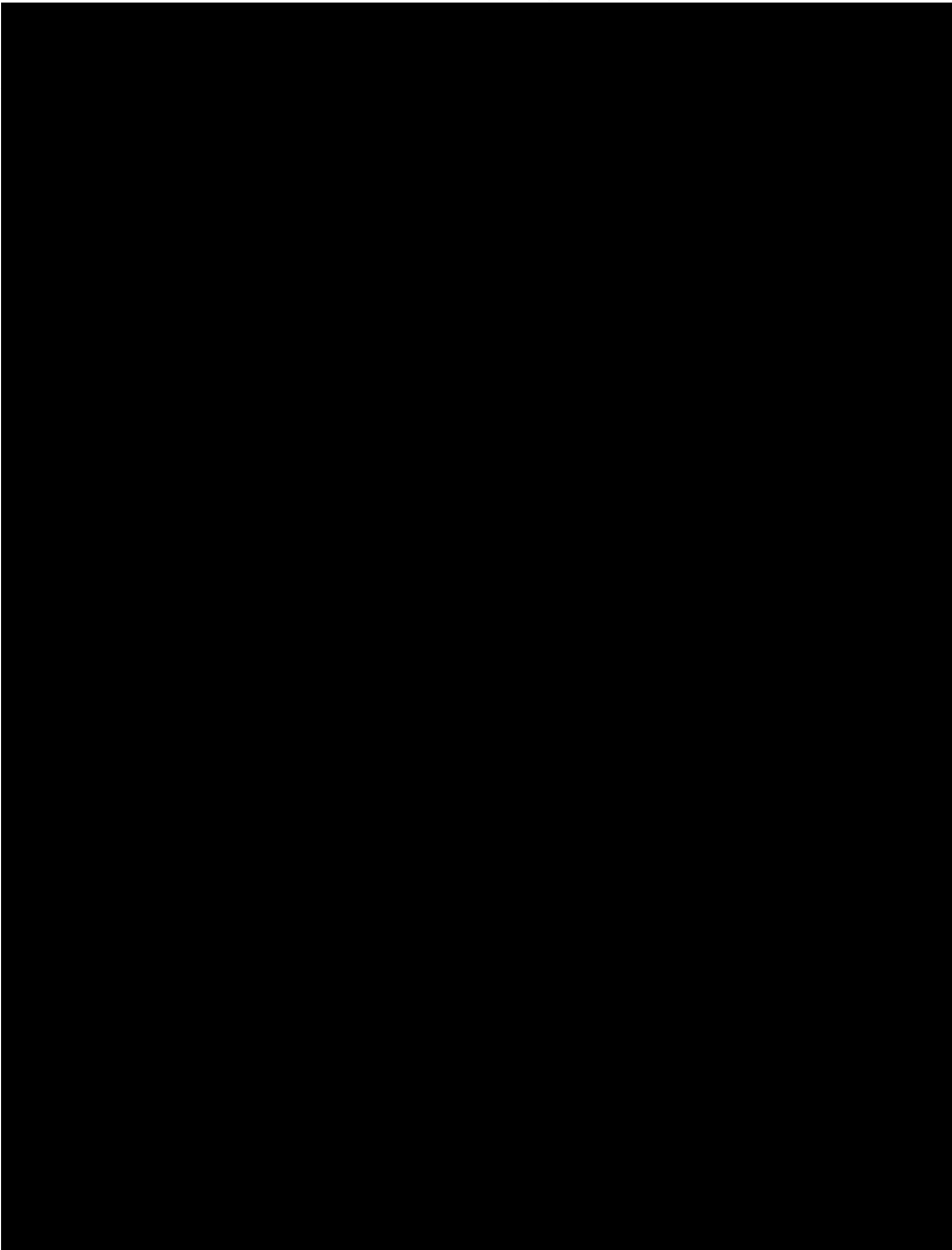
[REDACTED]

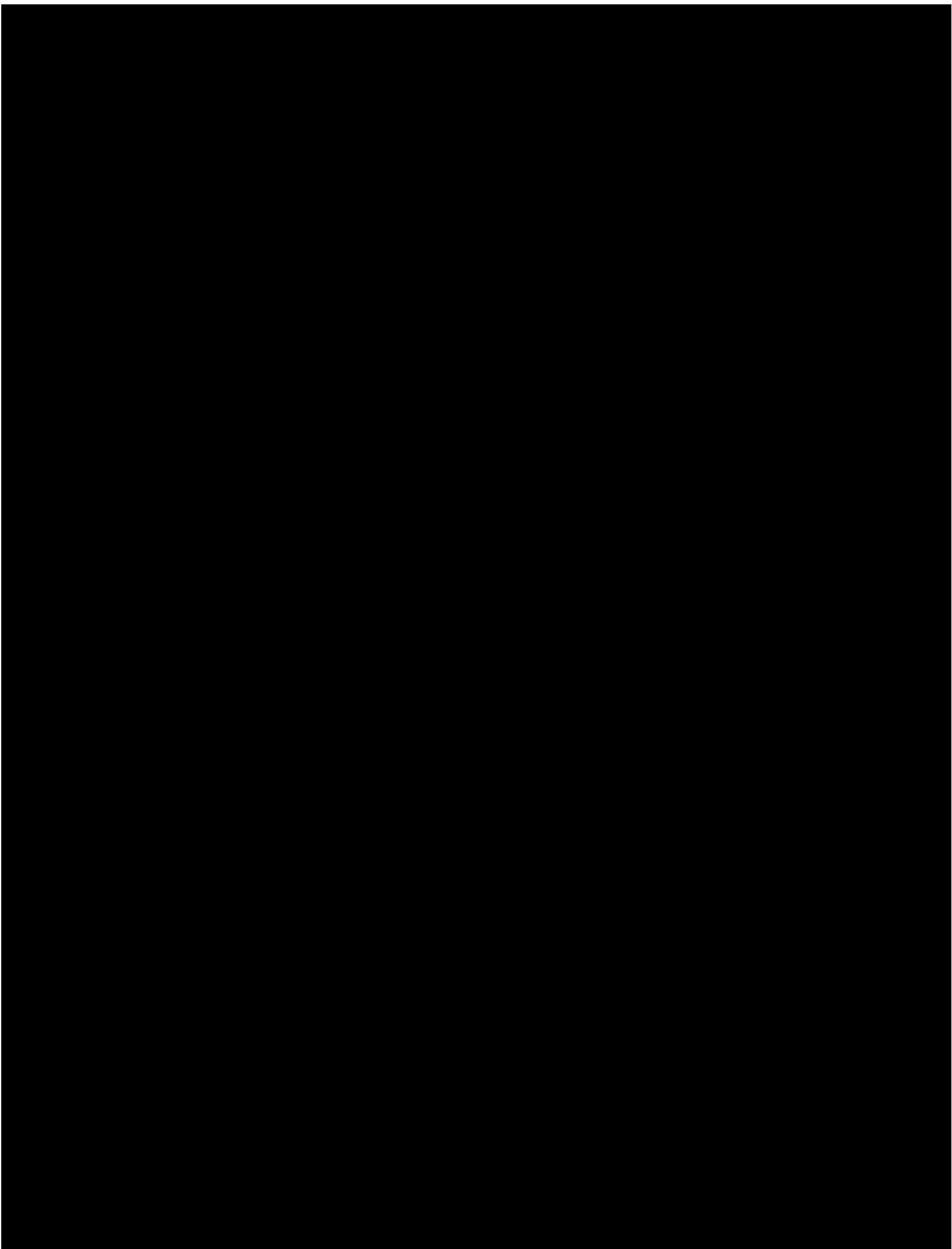
[REDACTED]

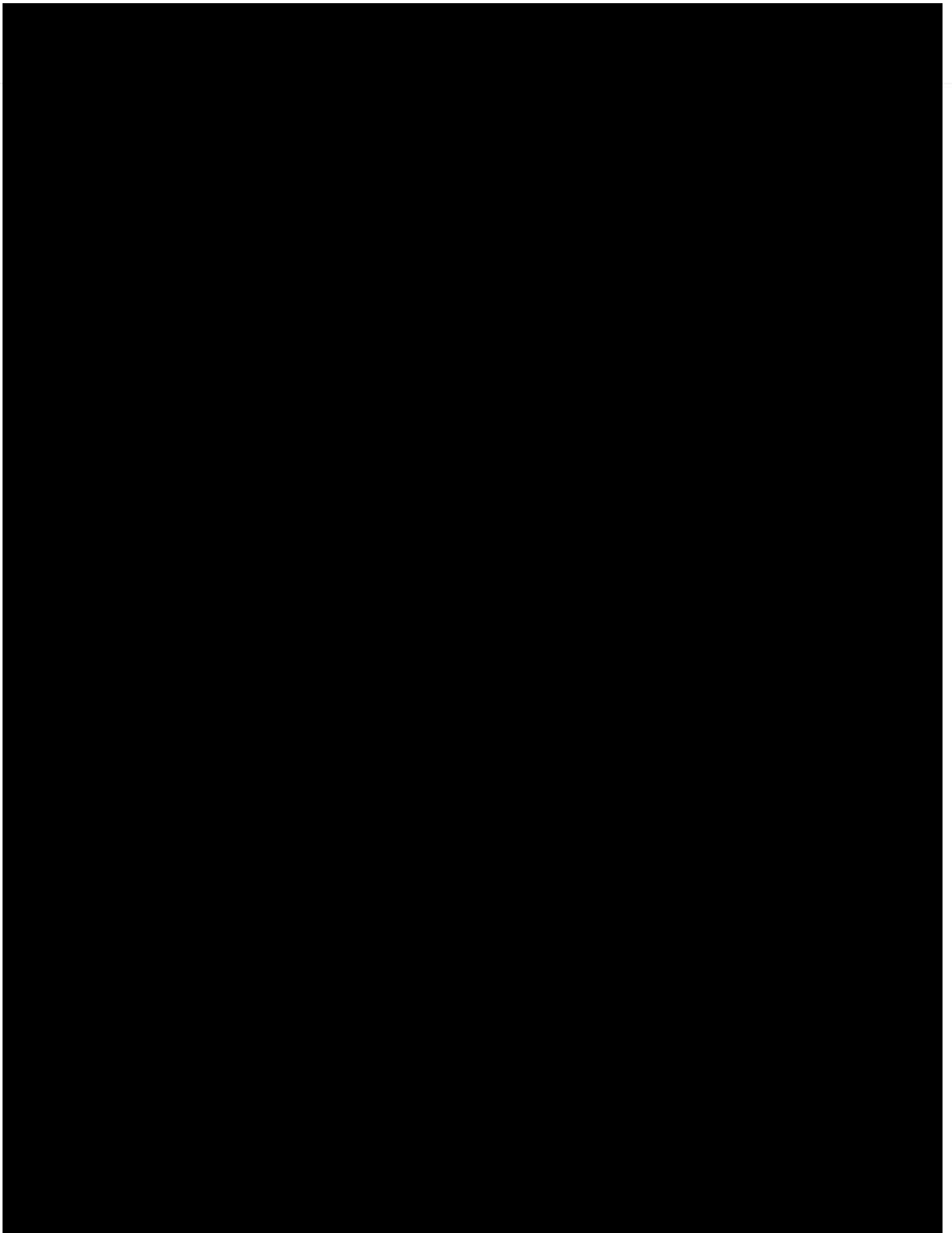


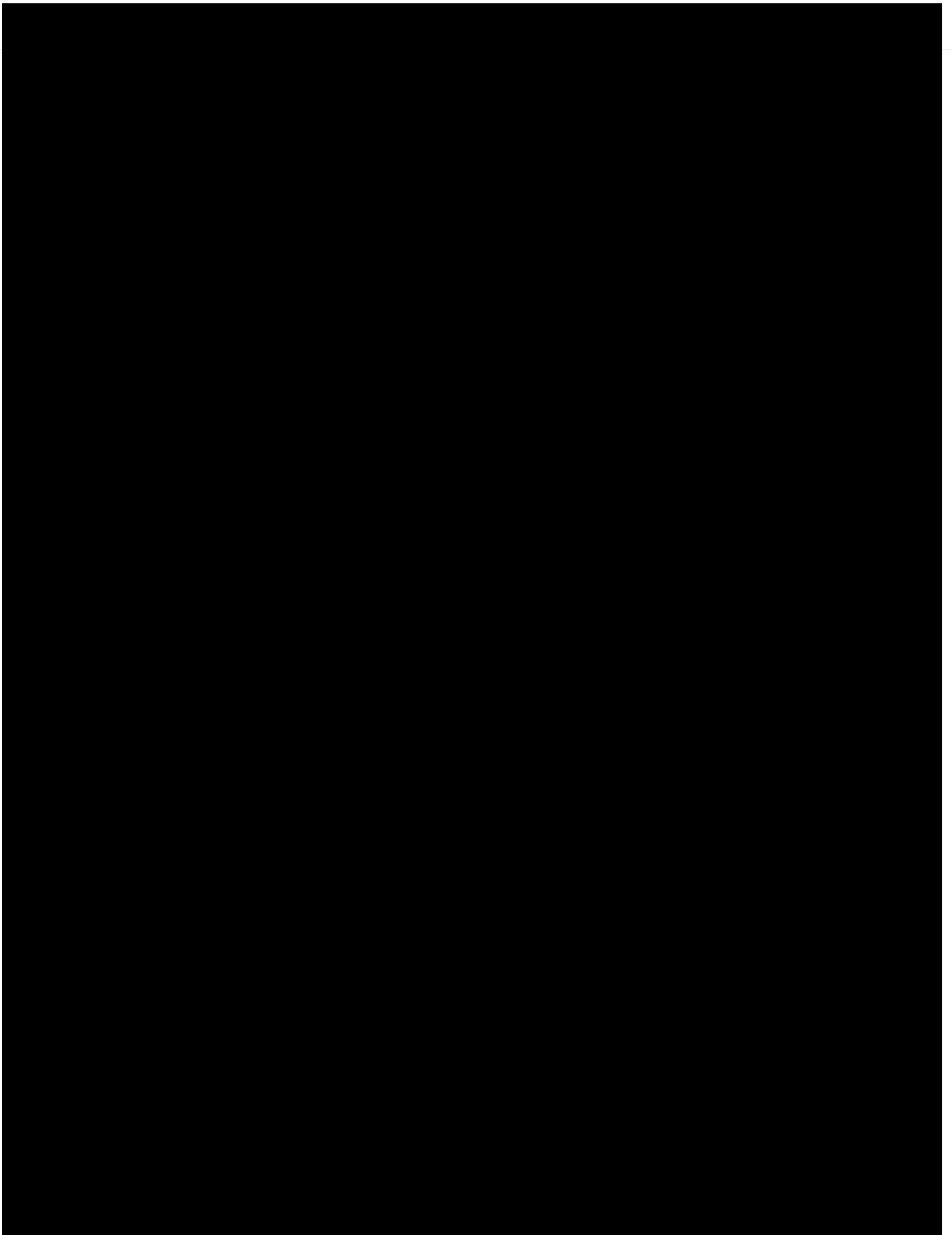


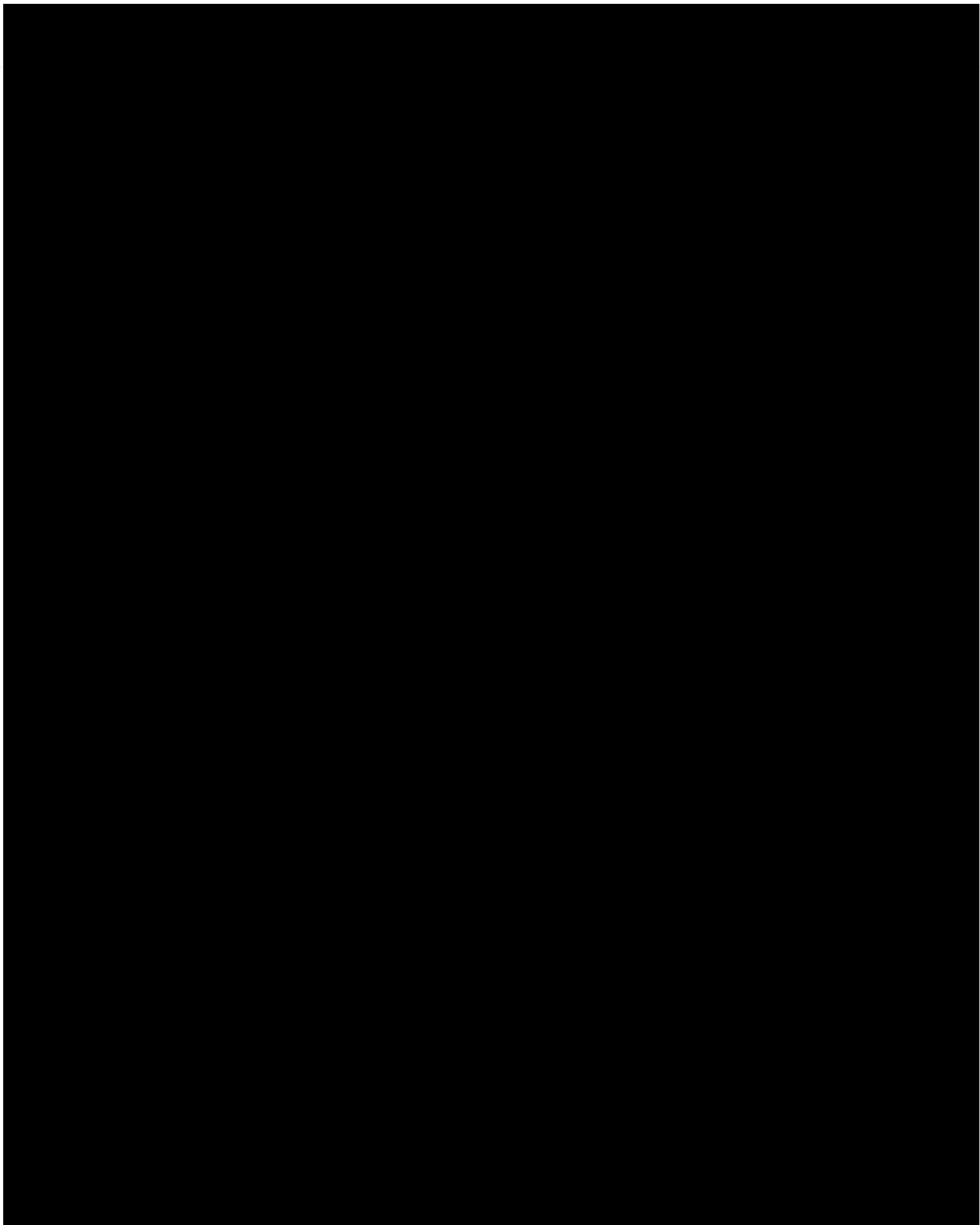


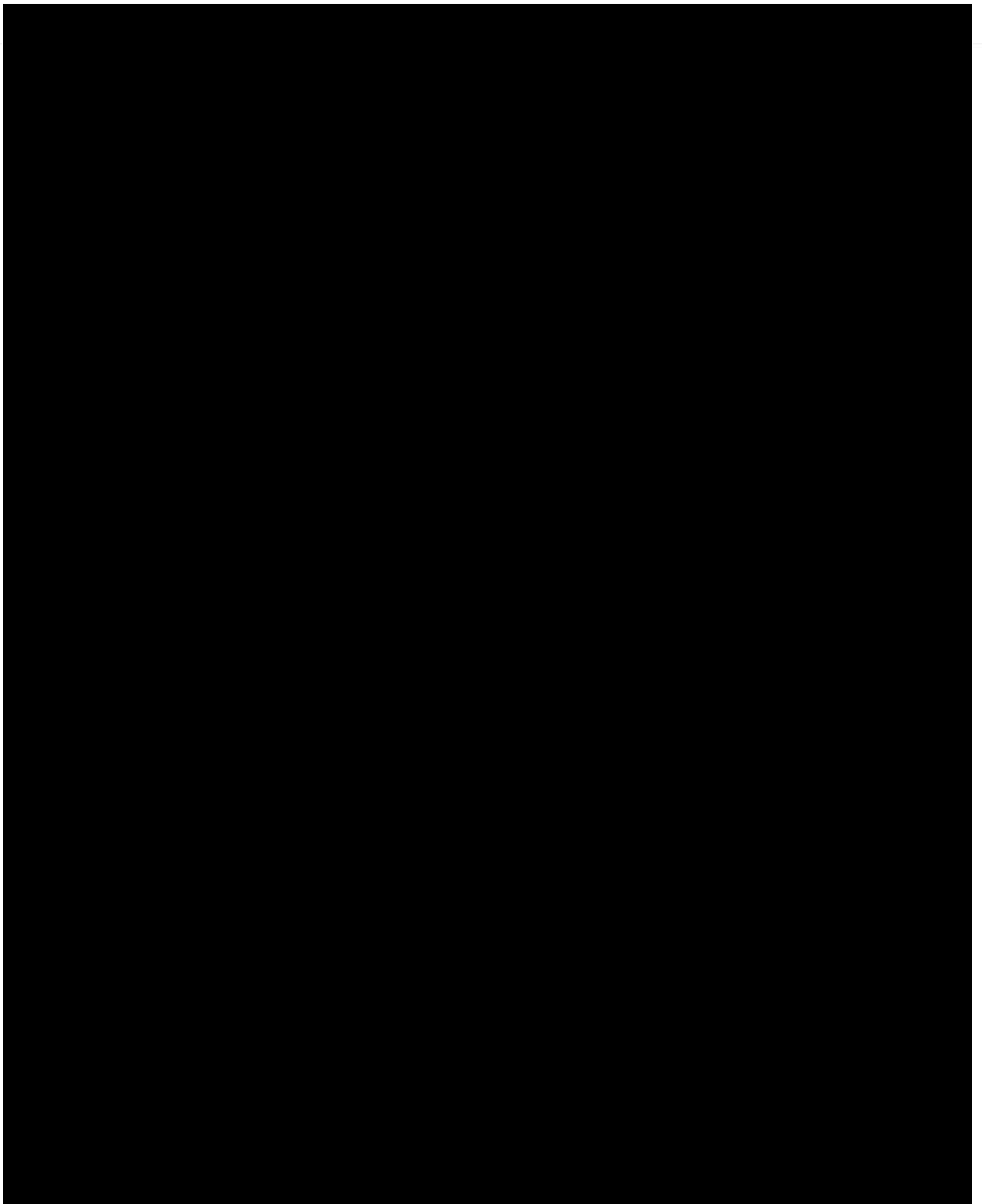


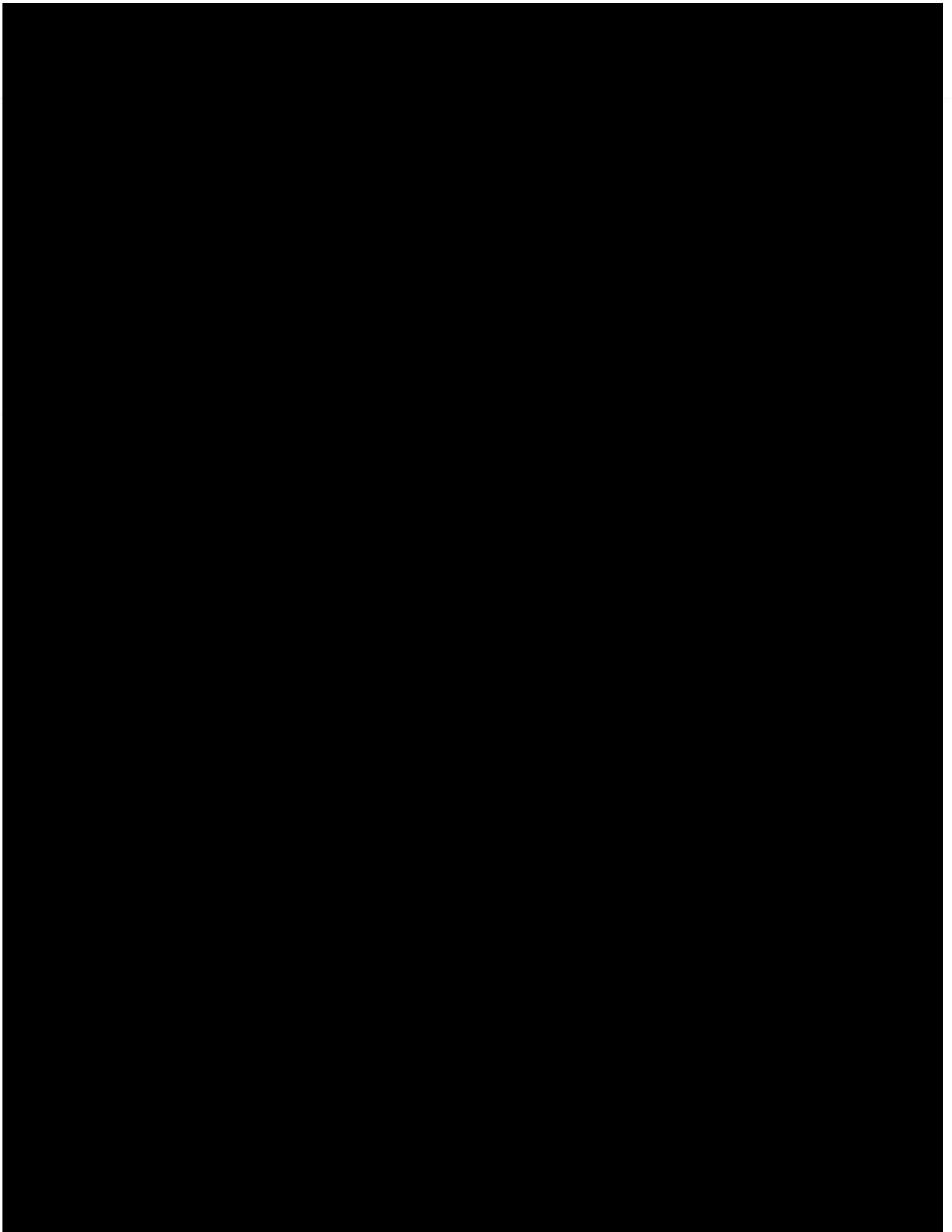


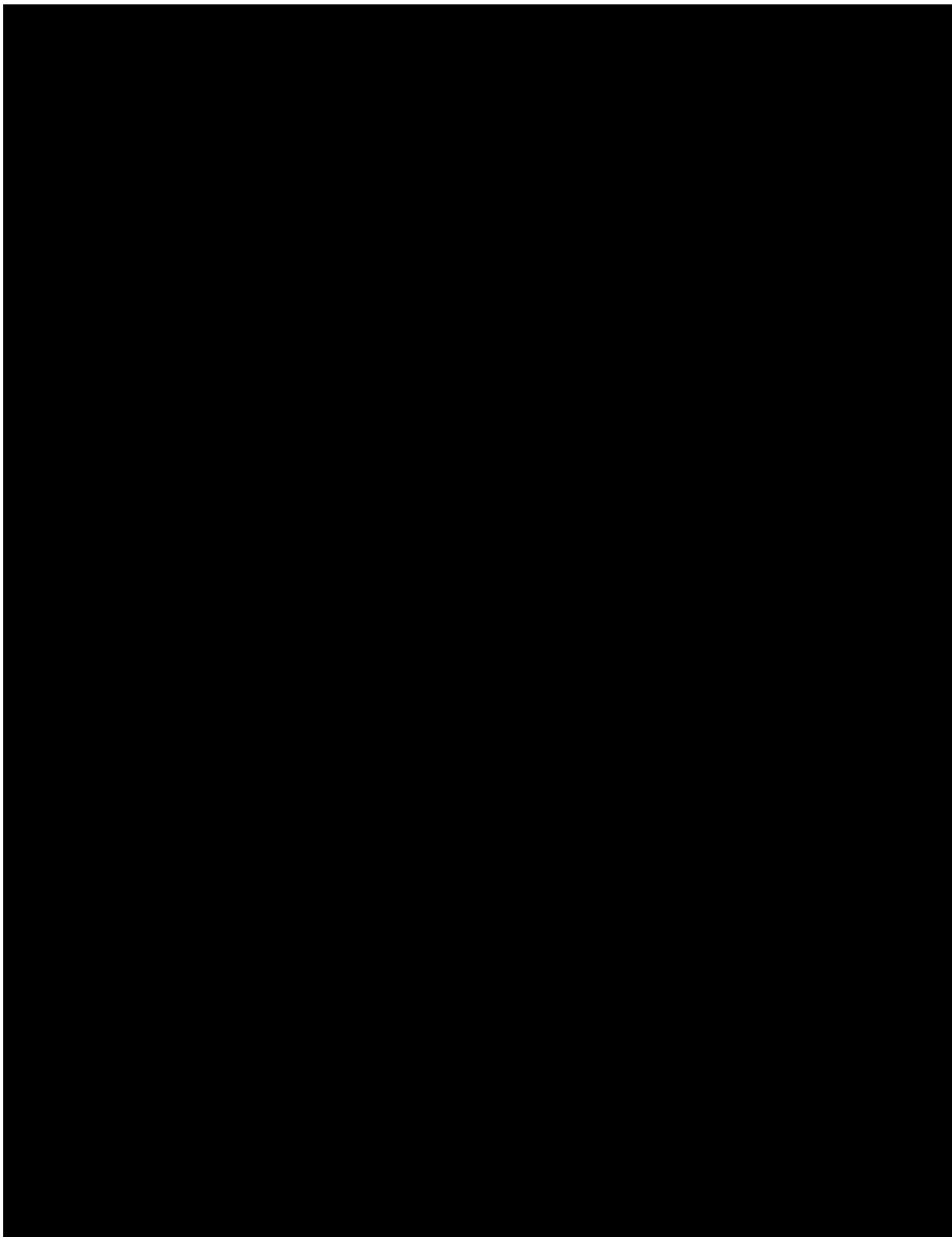


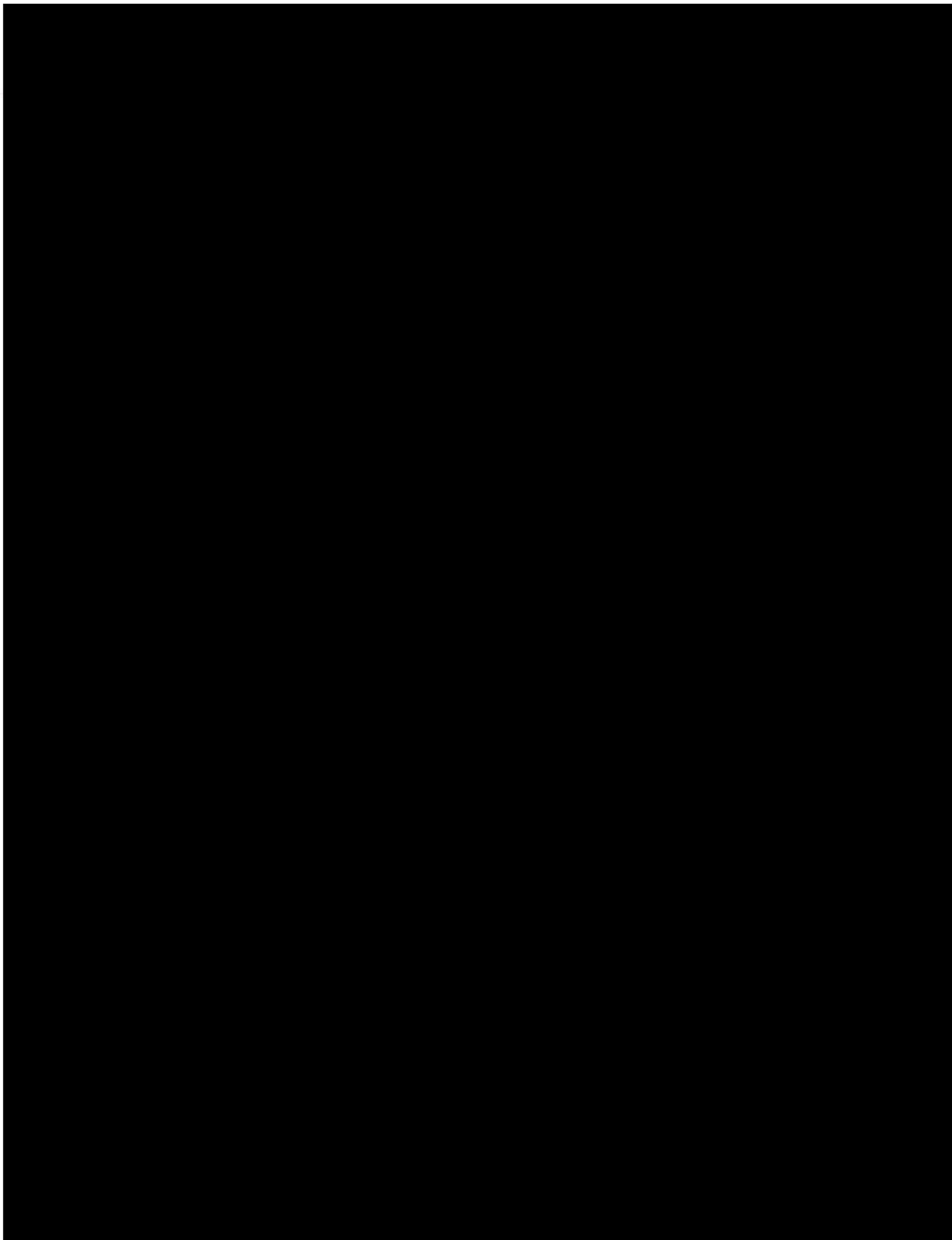


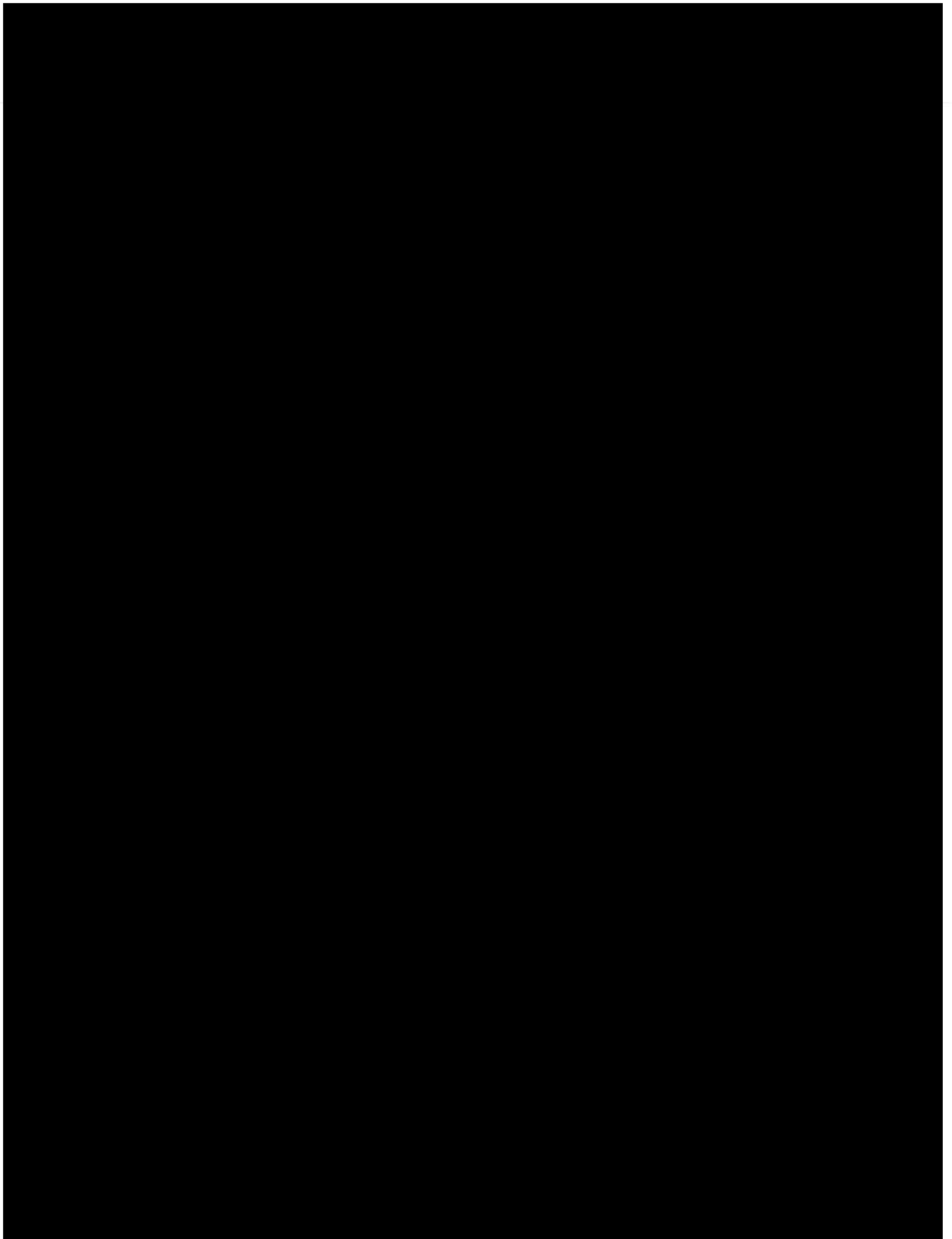


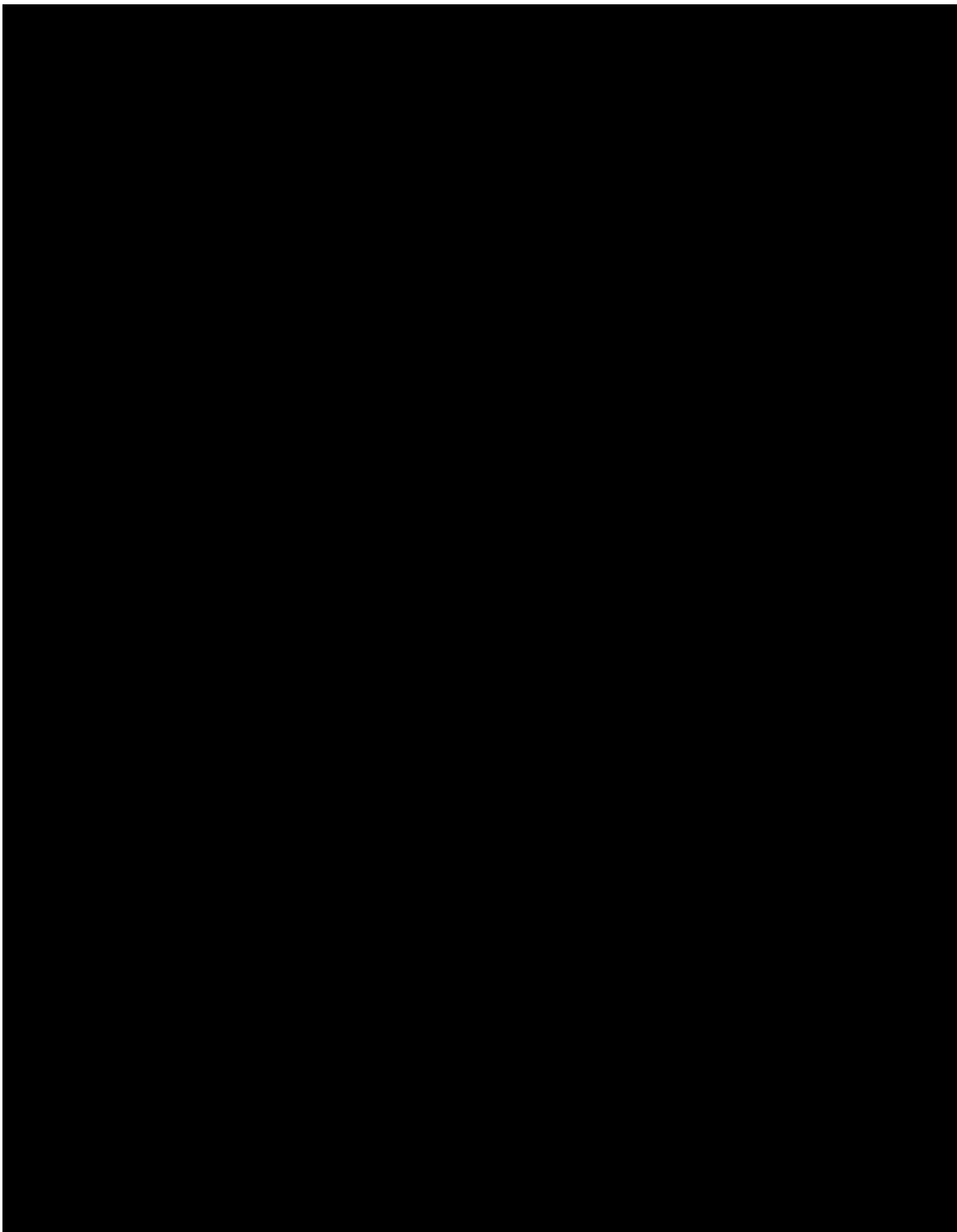


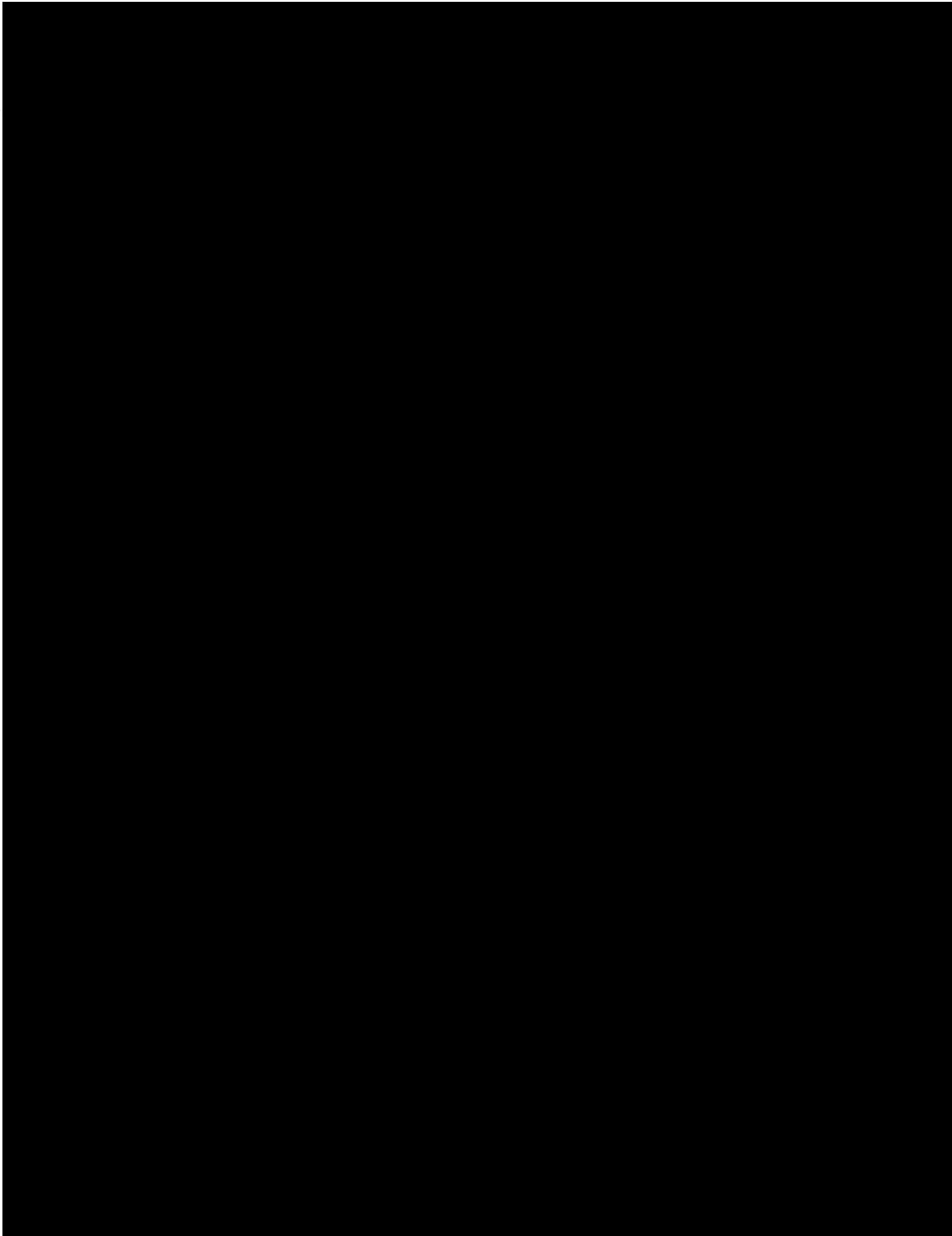


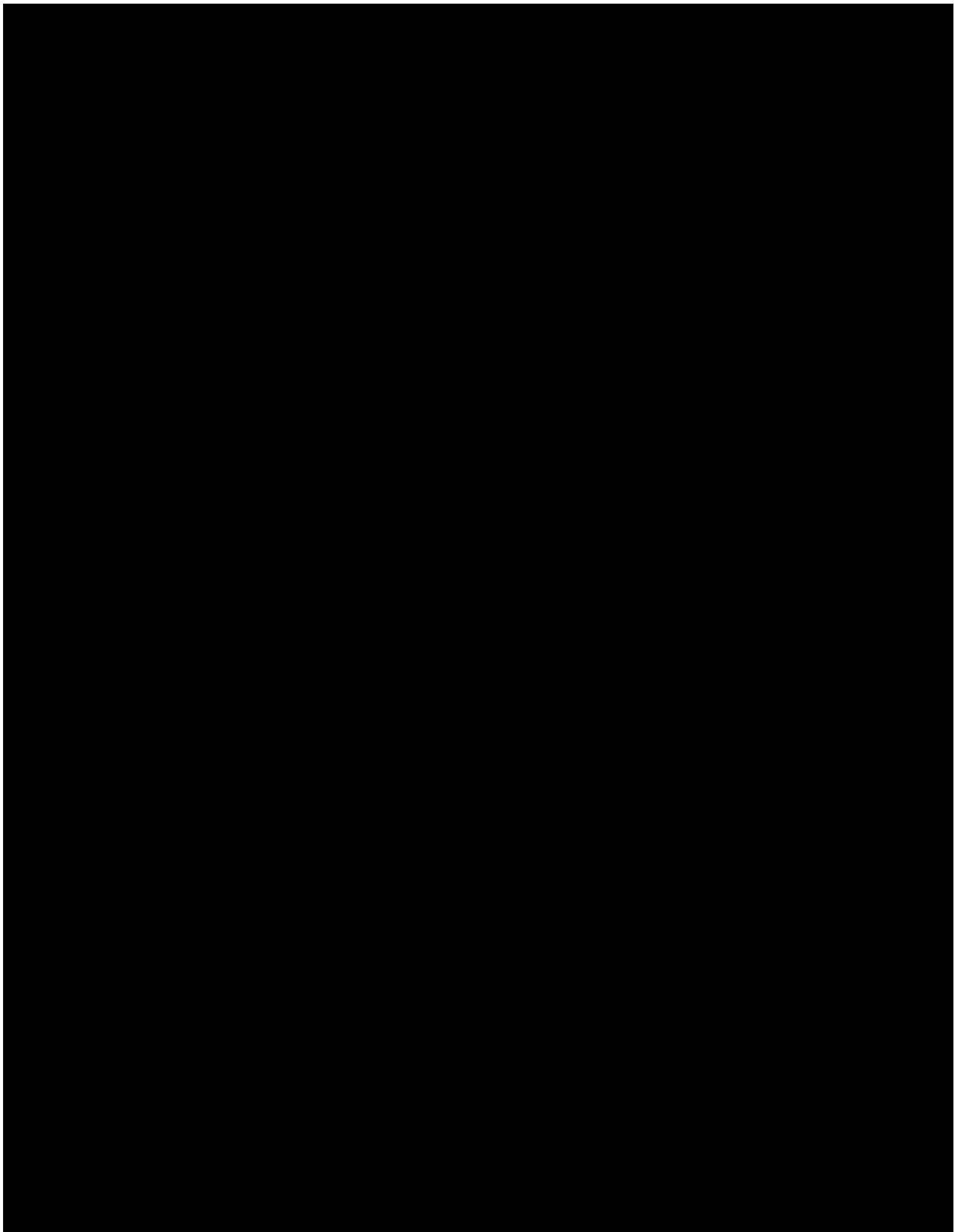


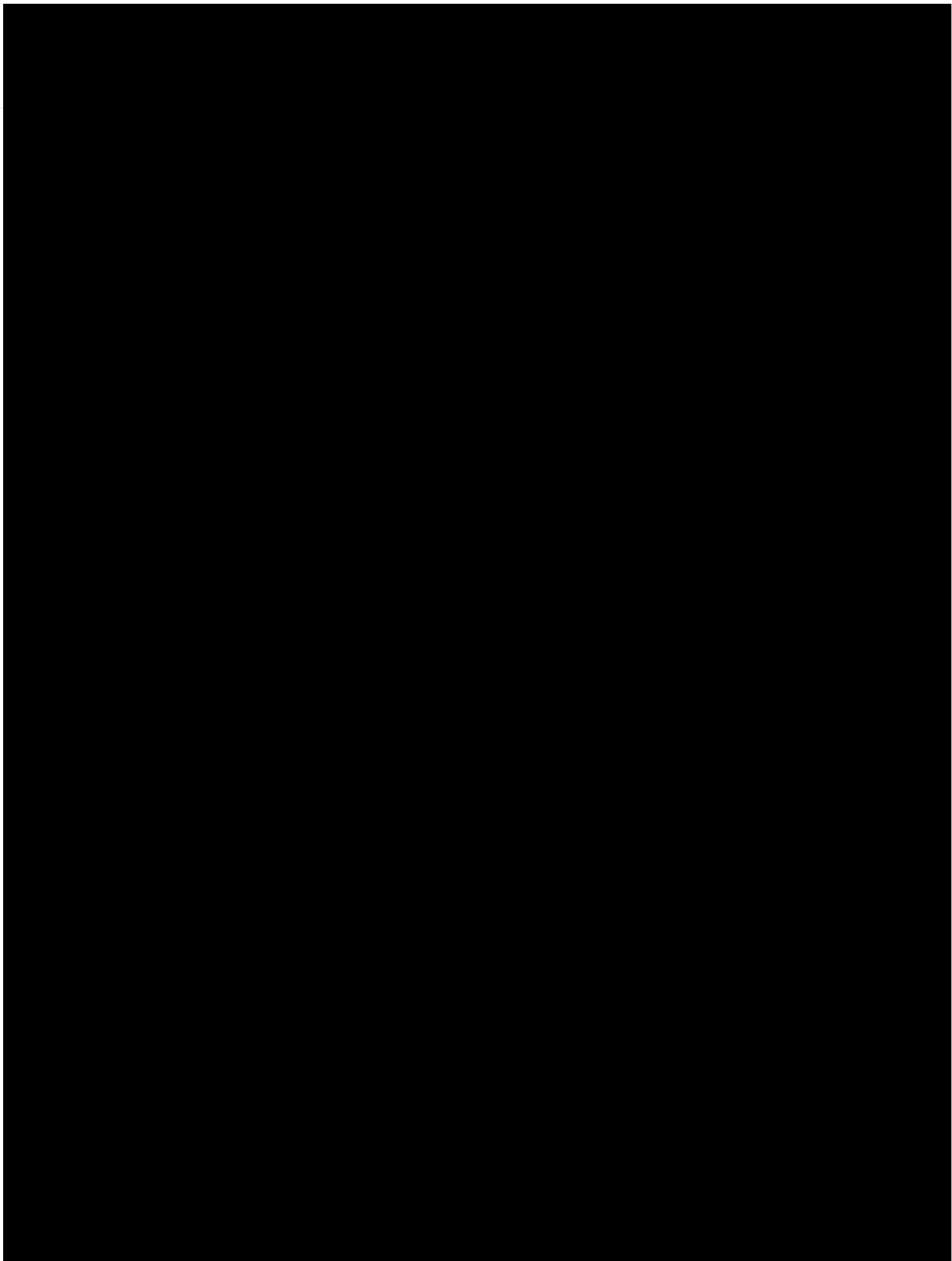


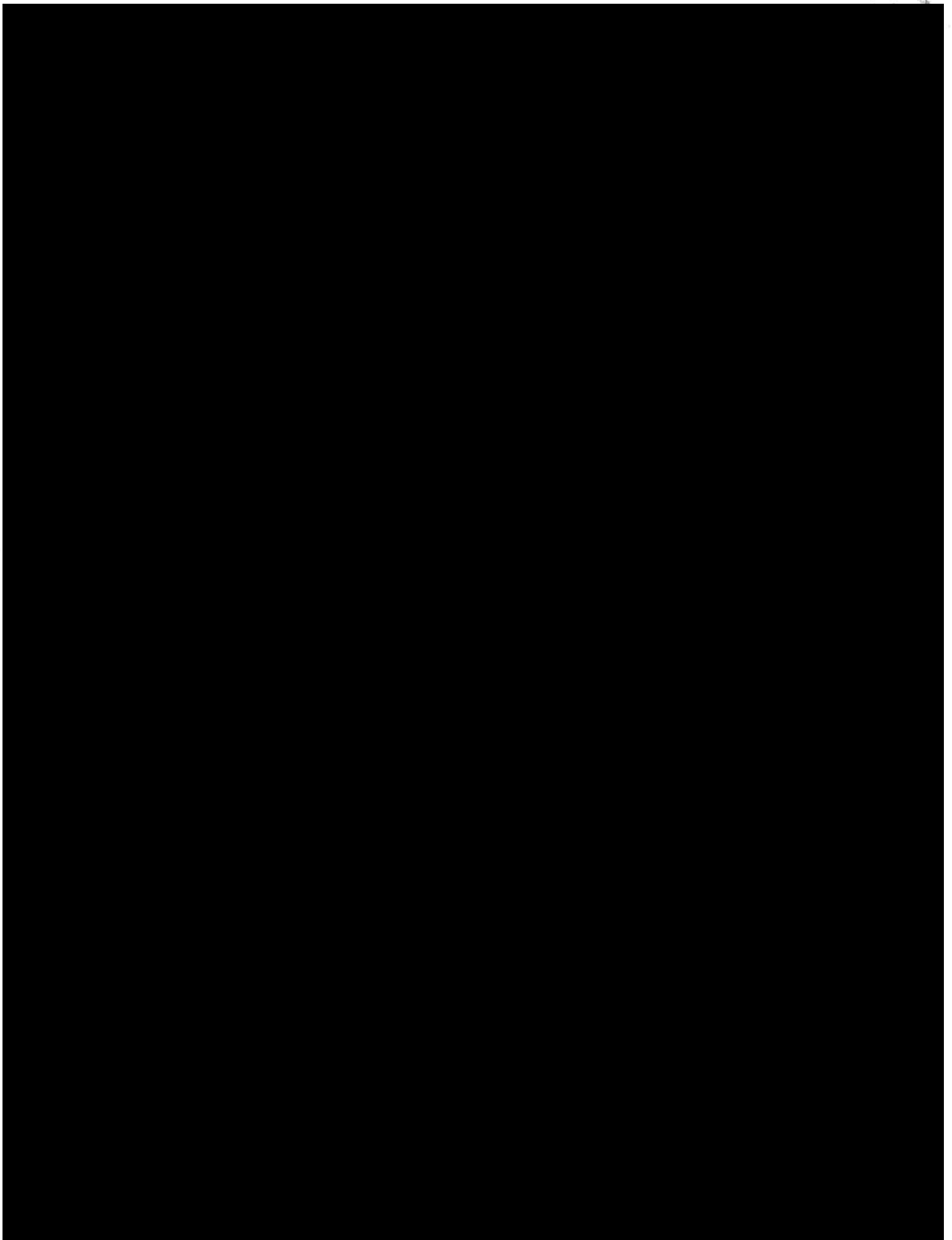


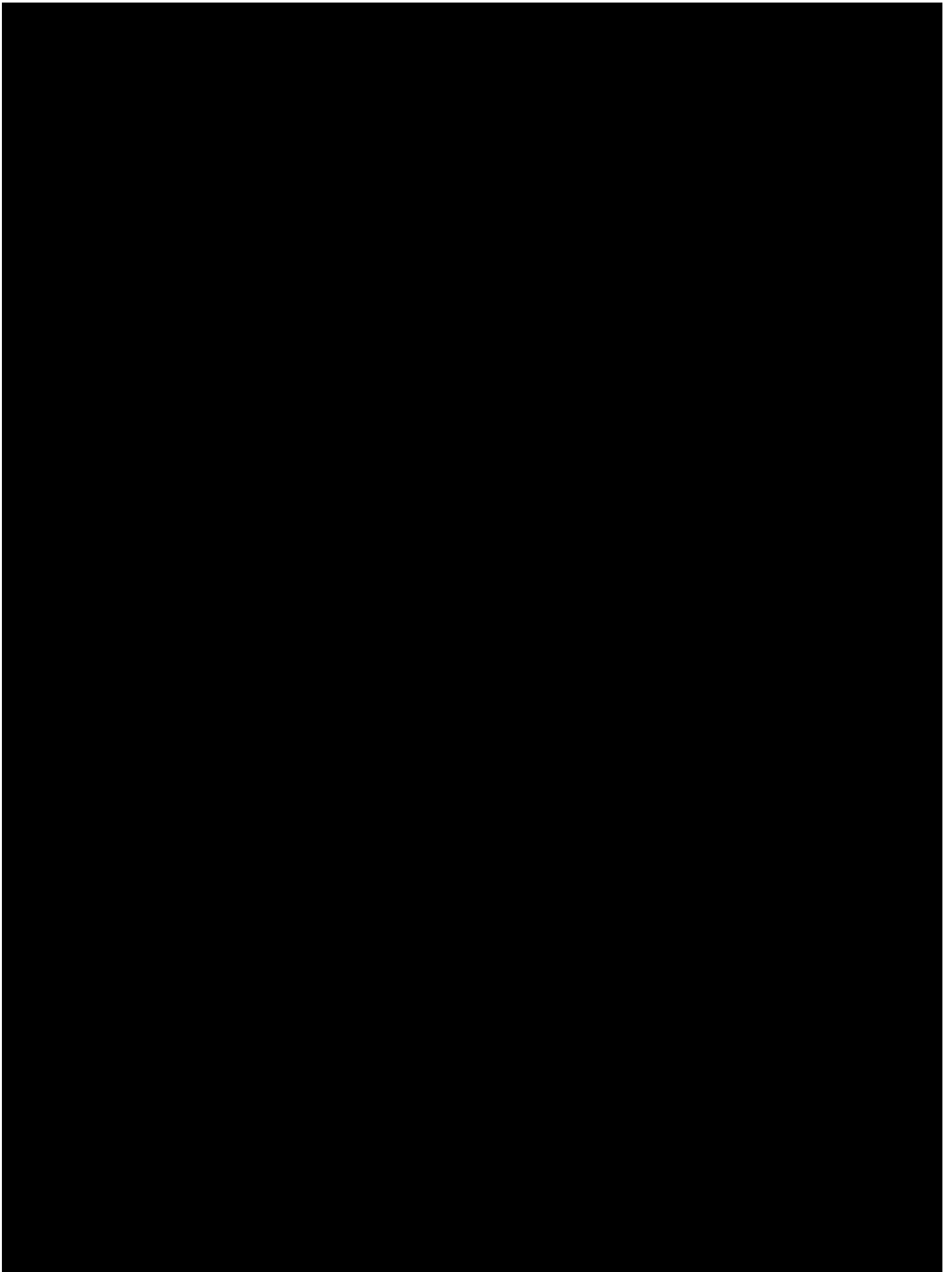


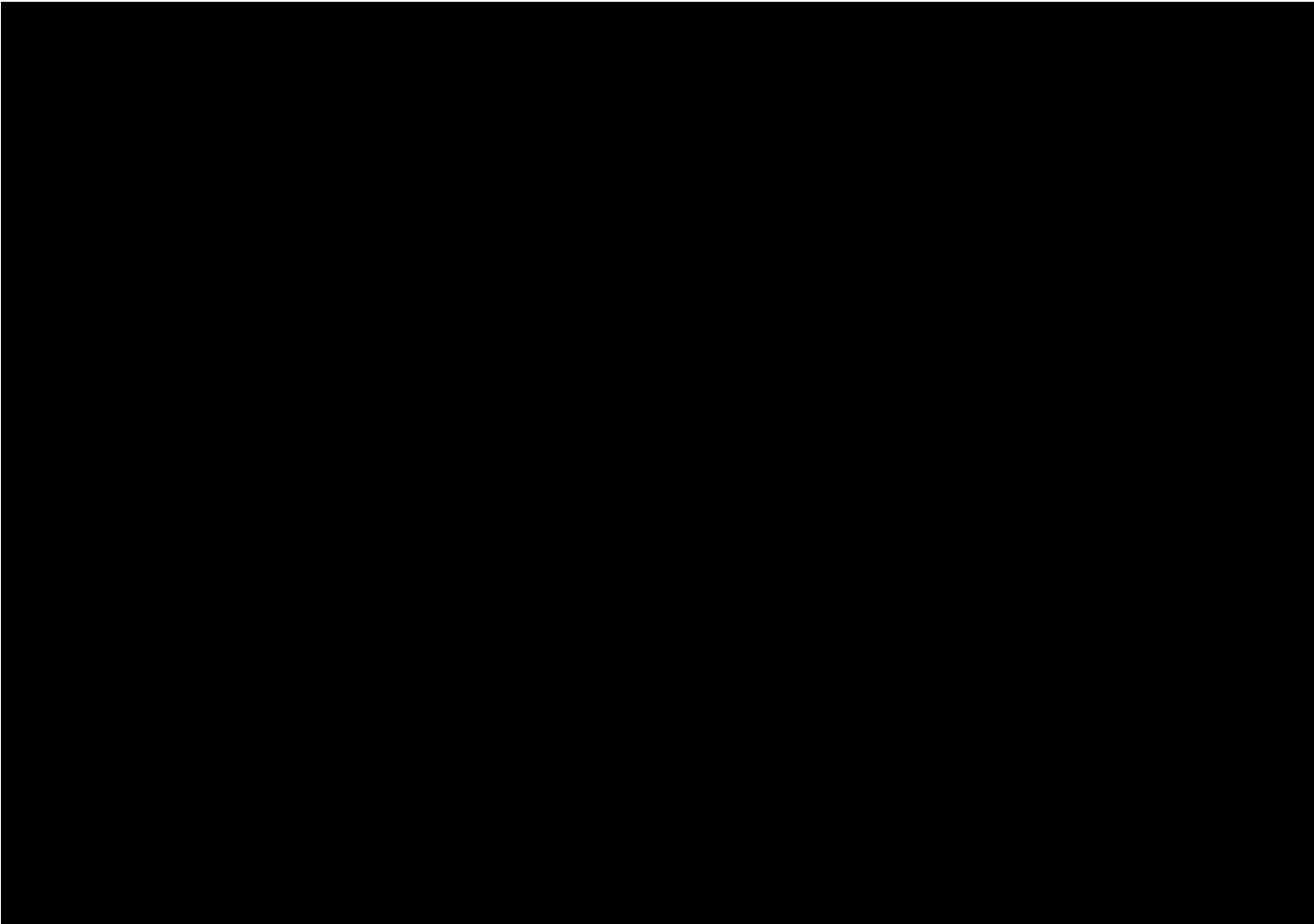


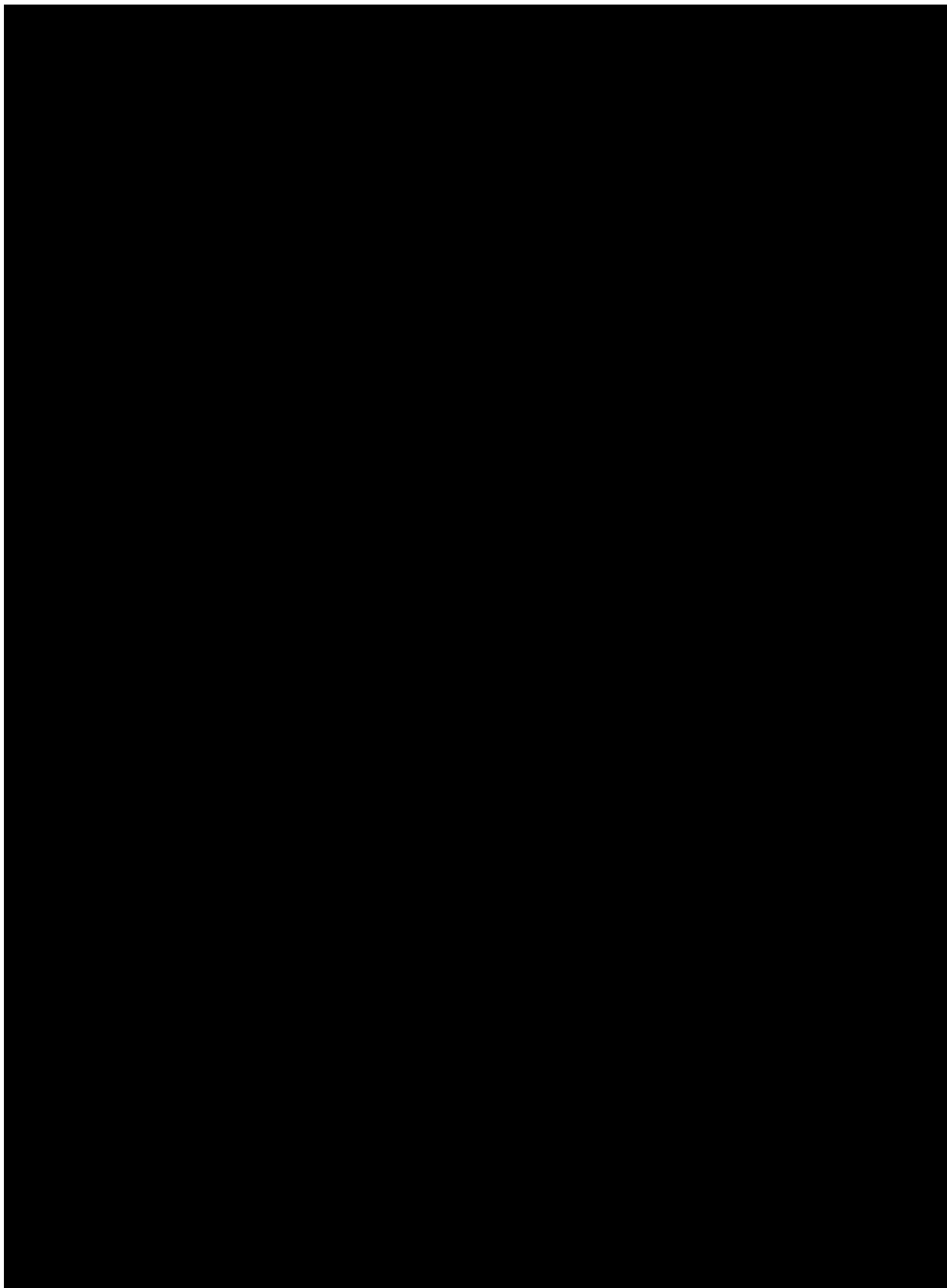


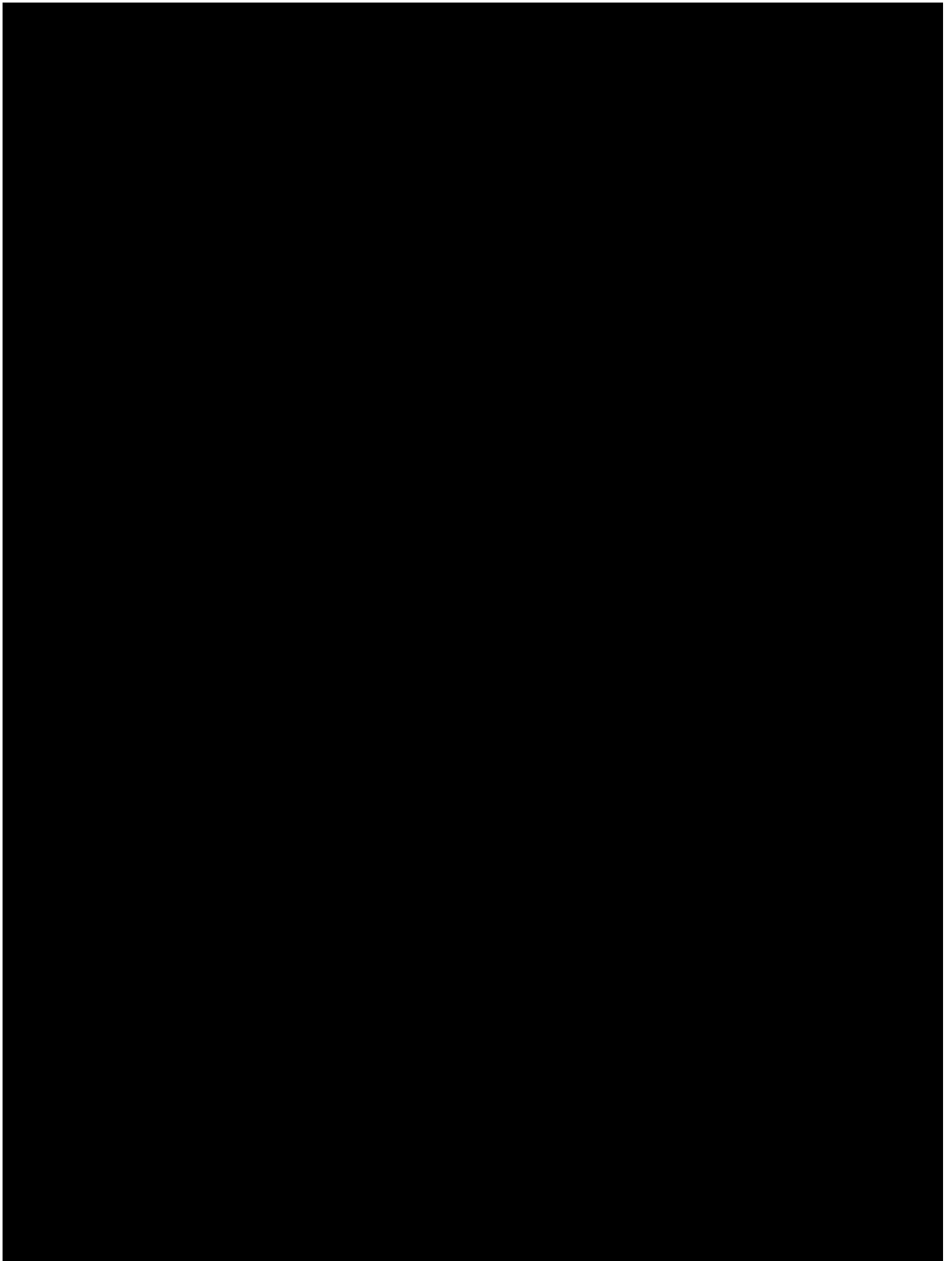


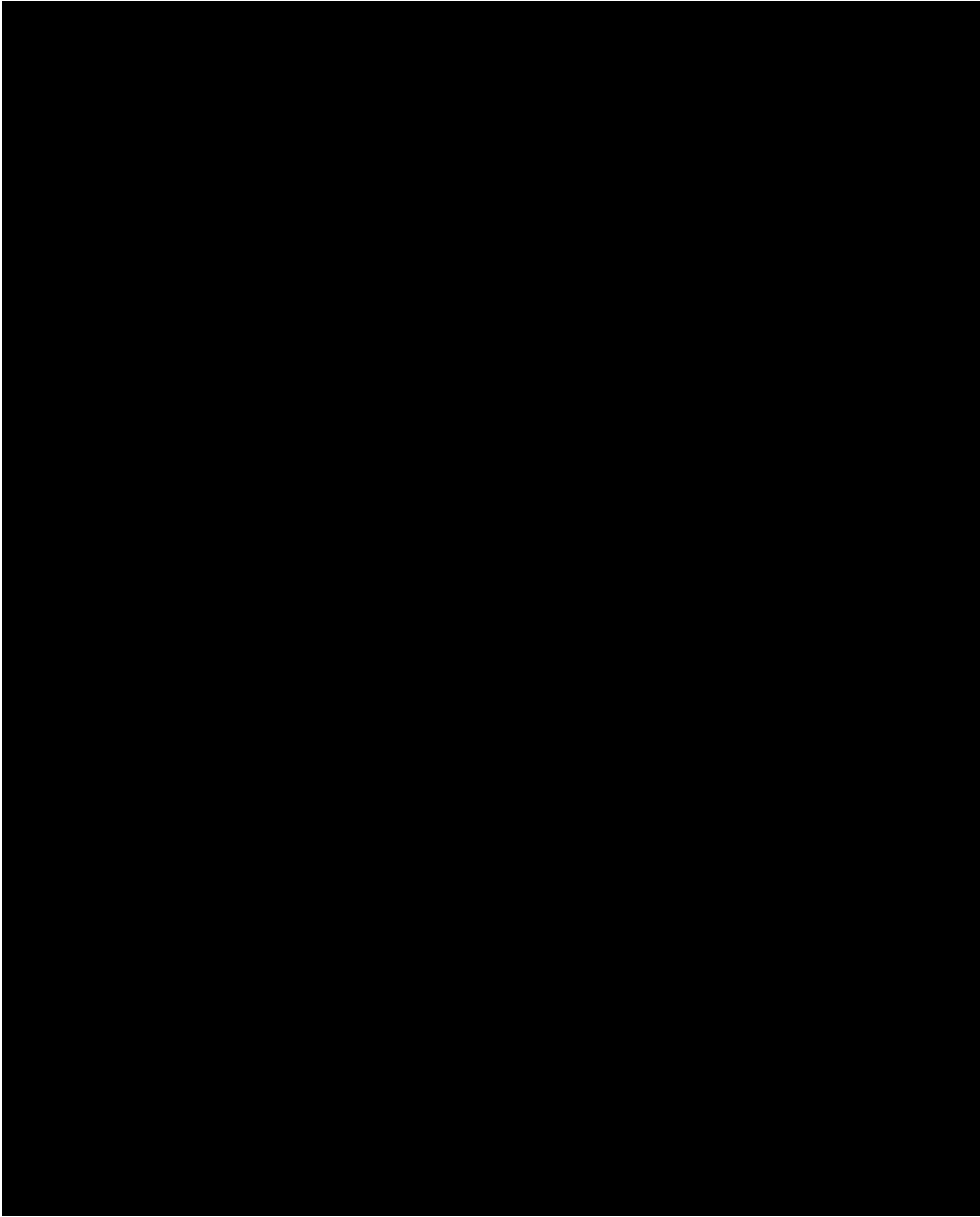


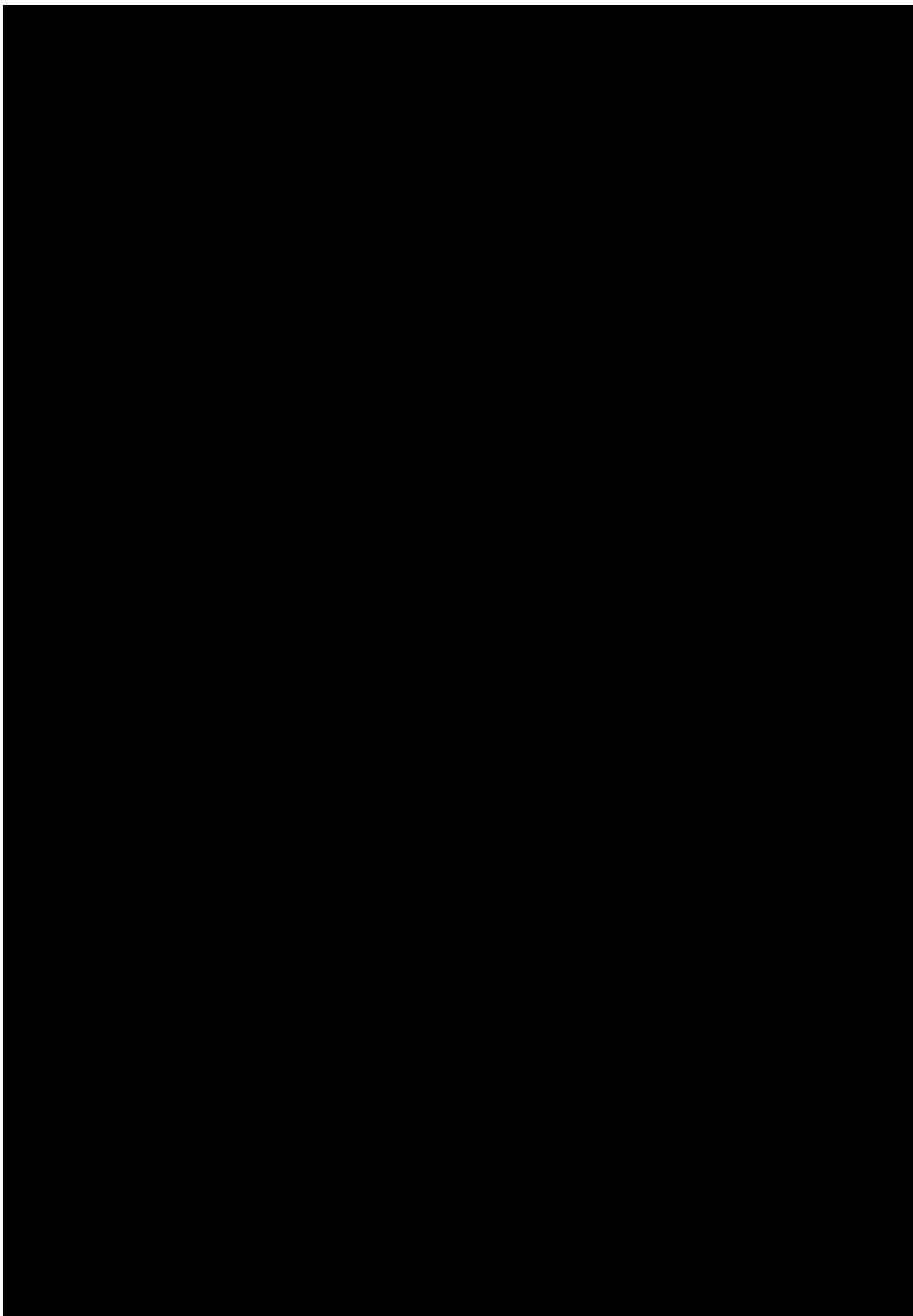


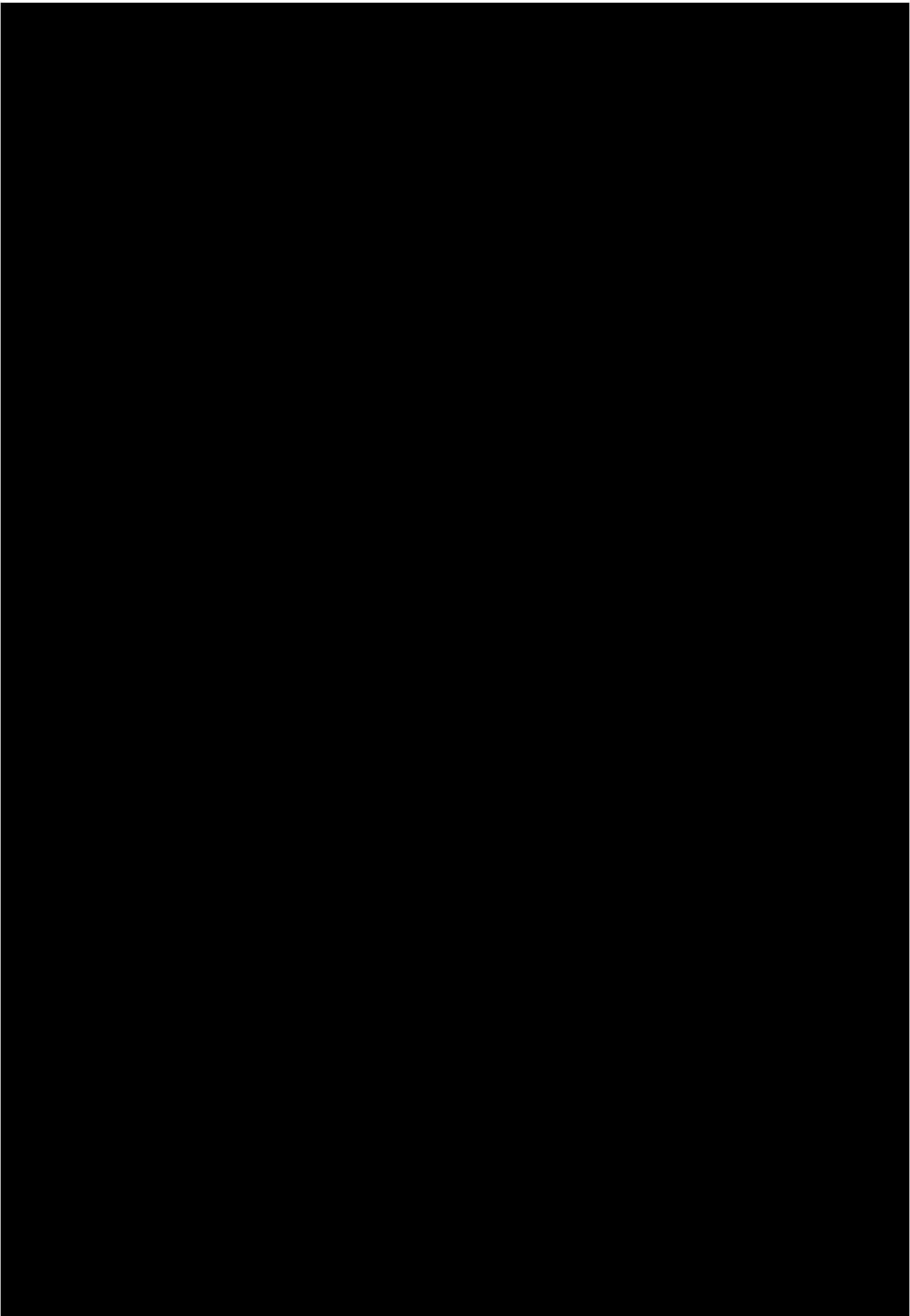


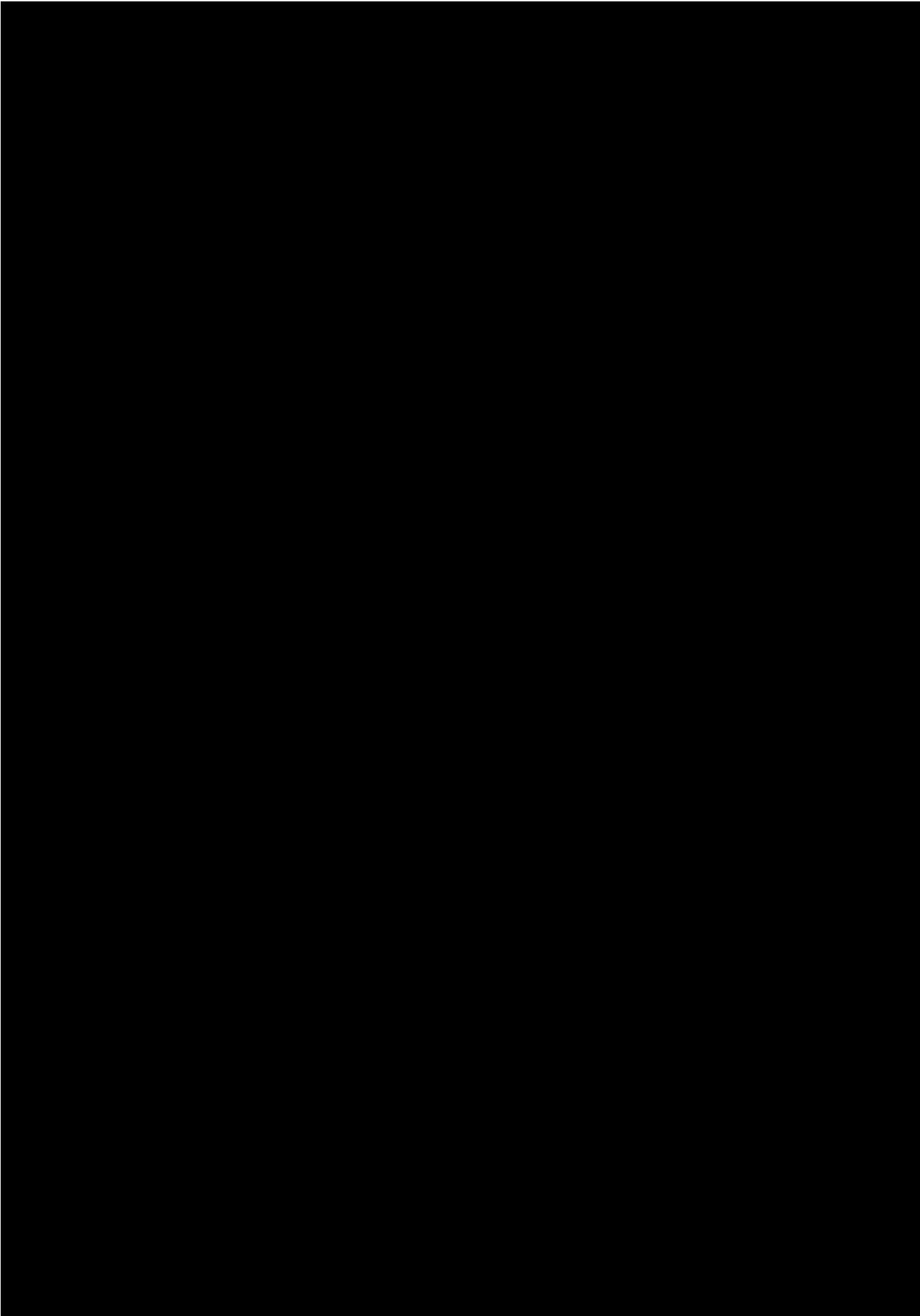


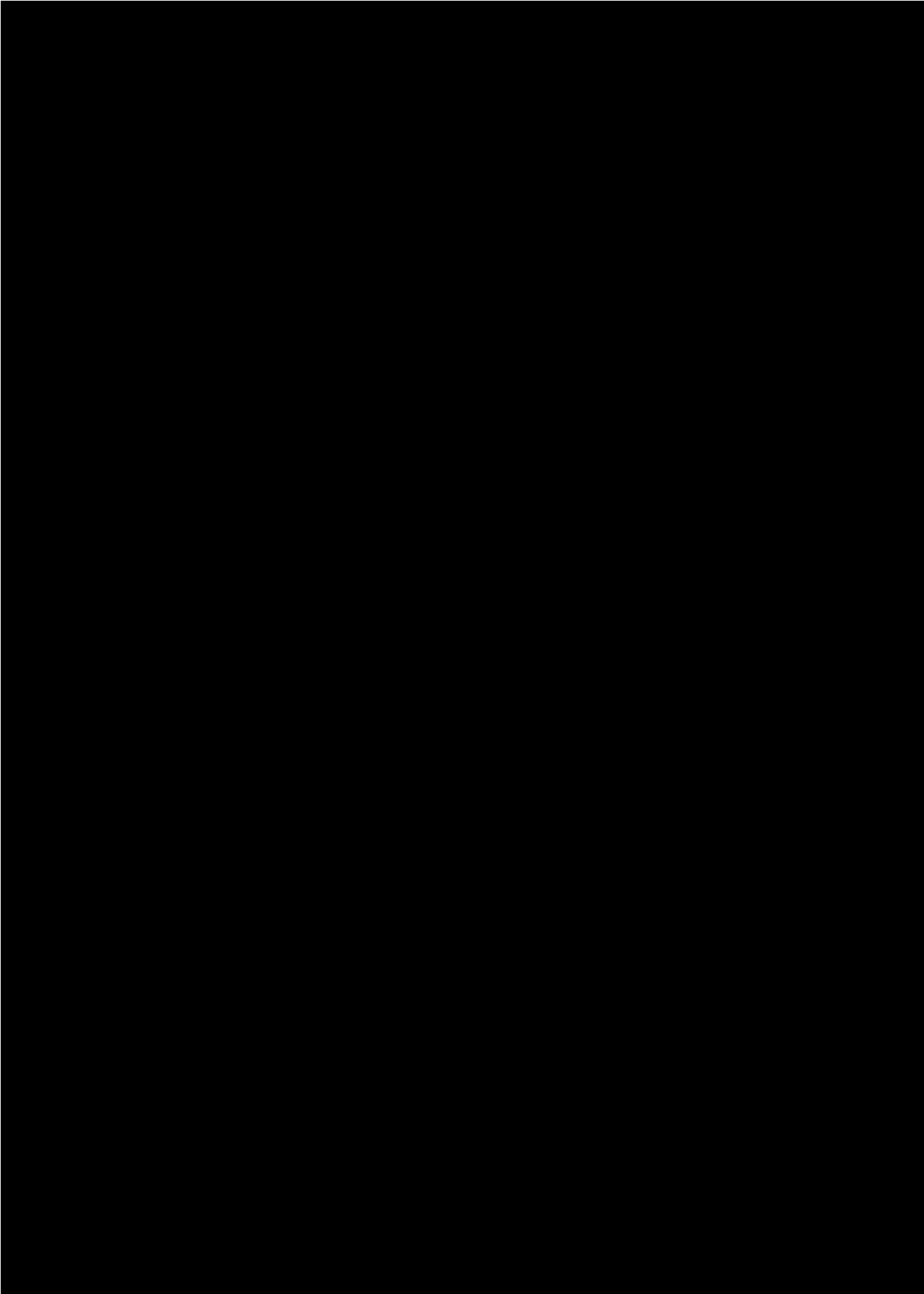


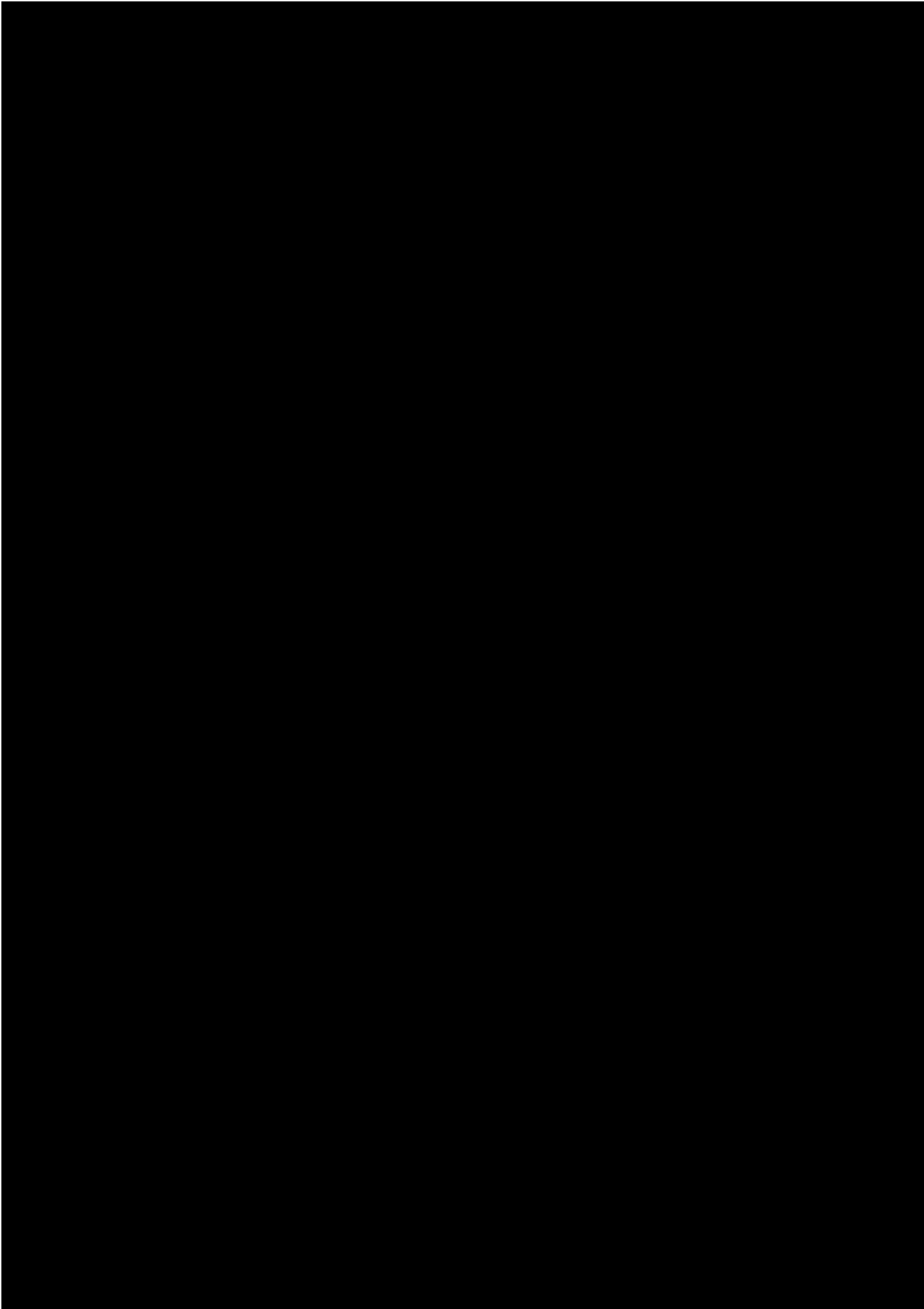


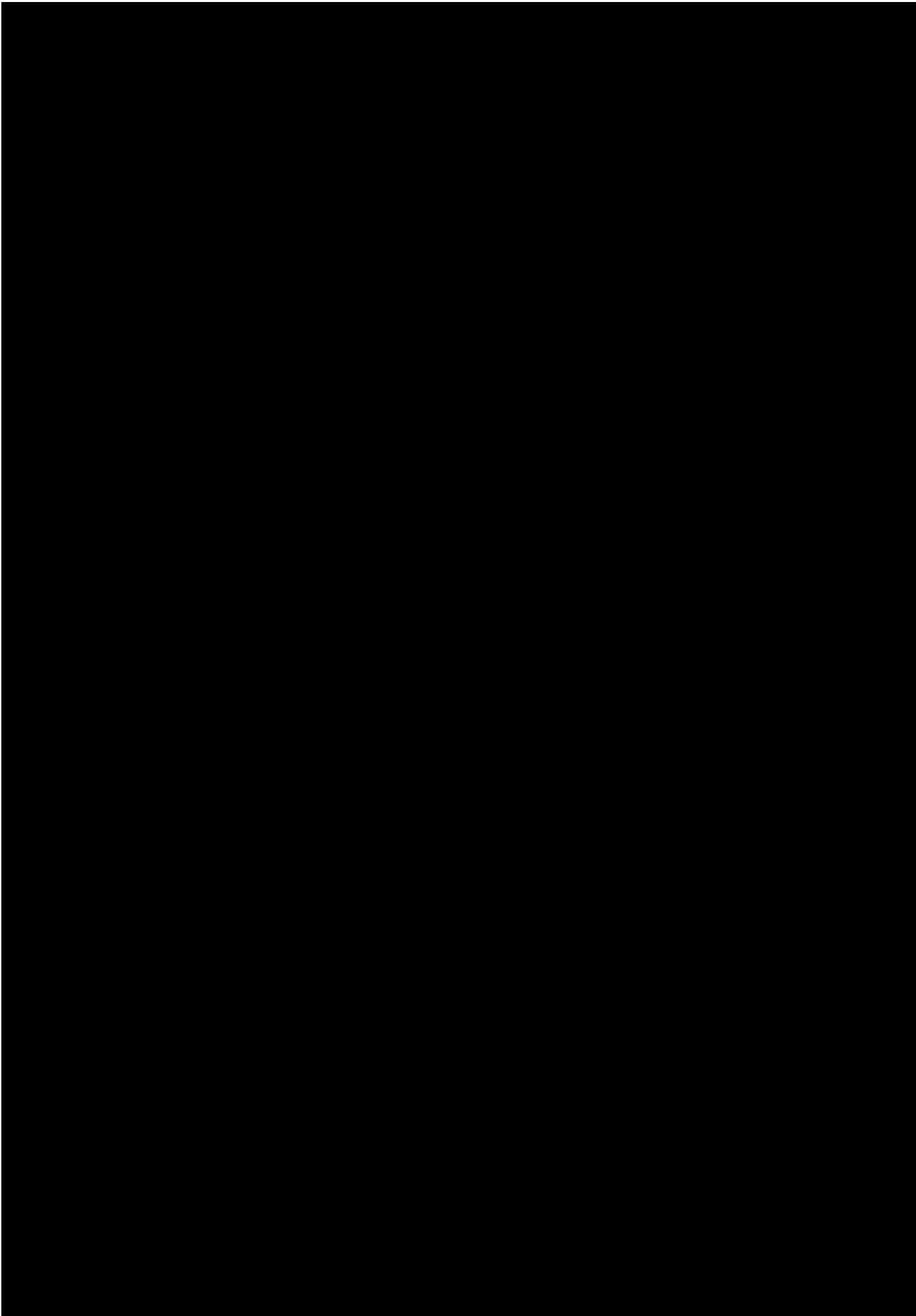


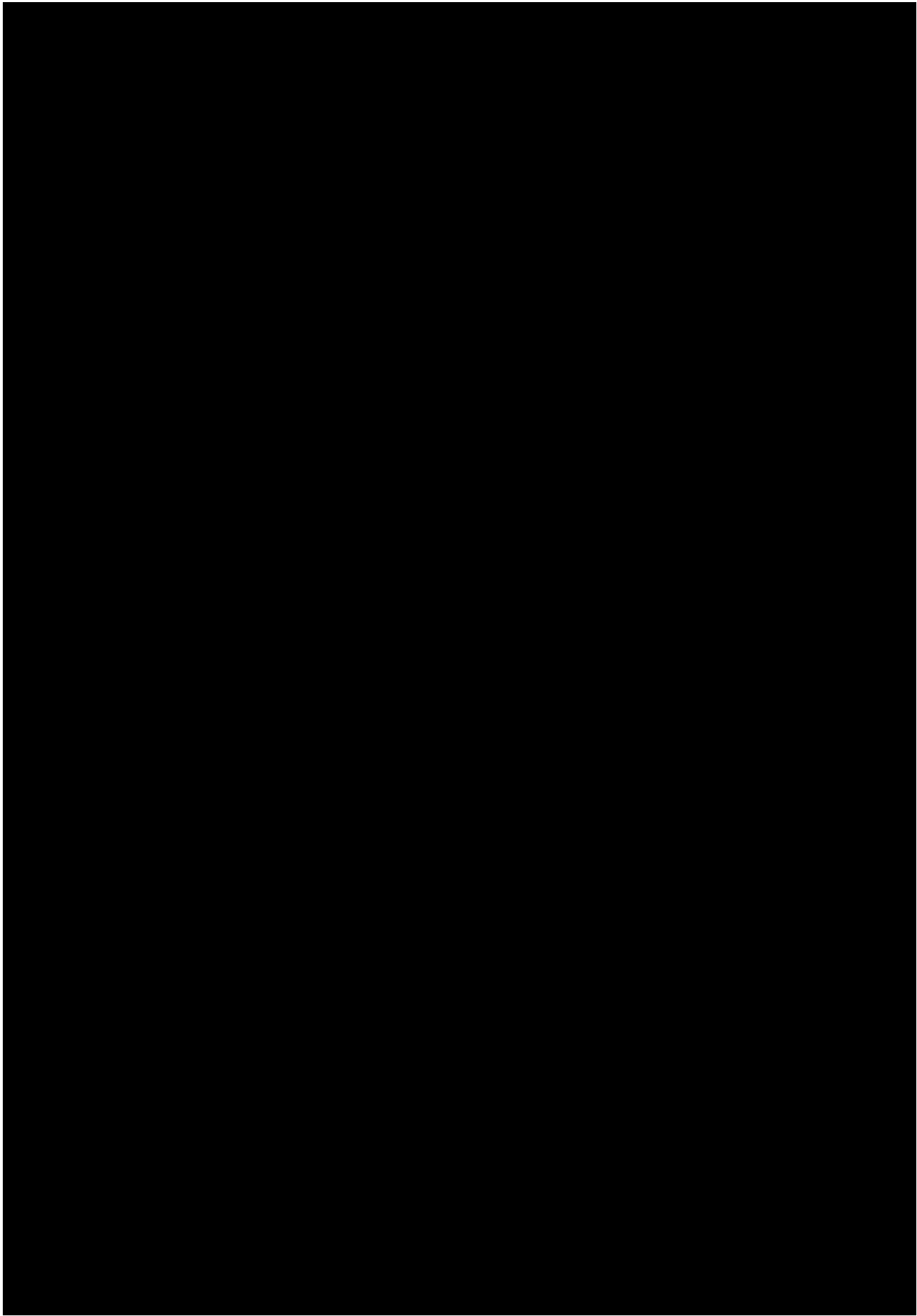


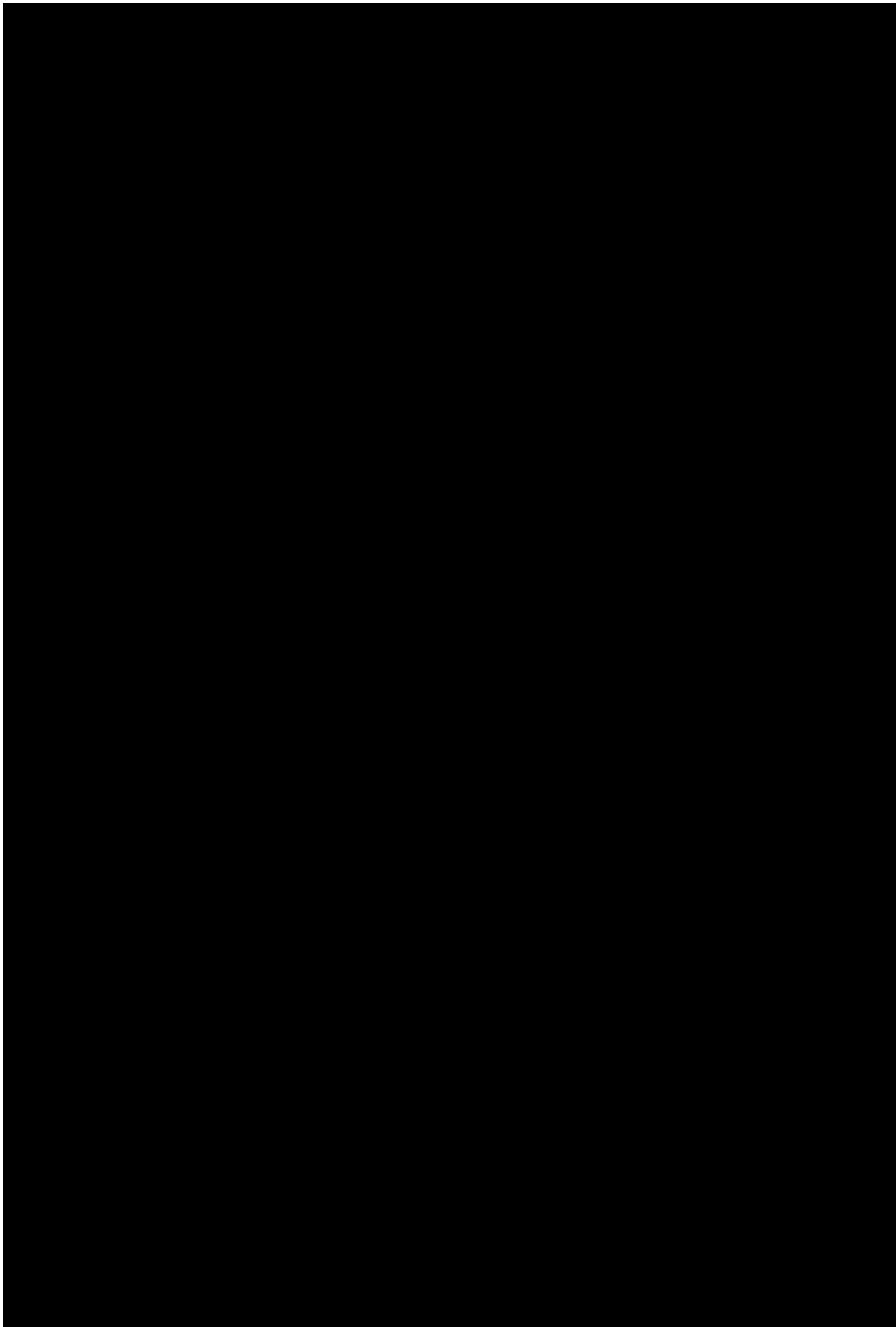


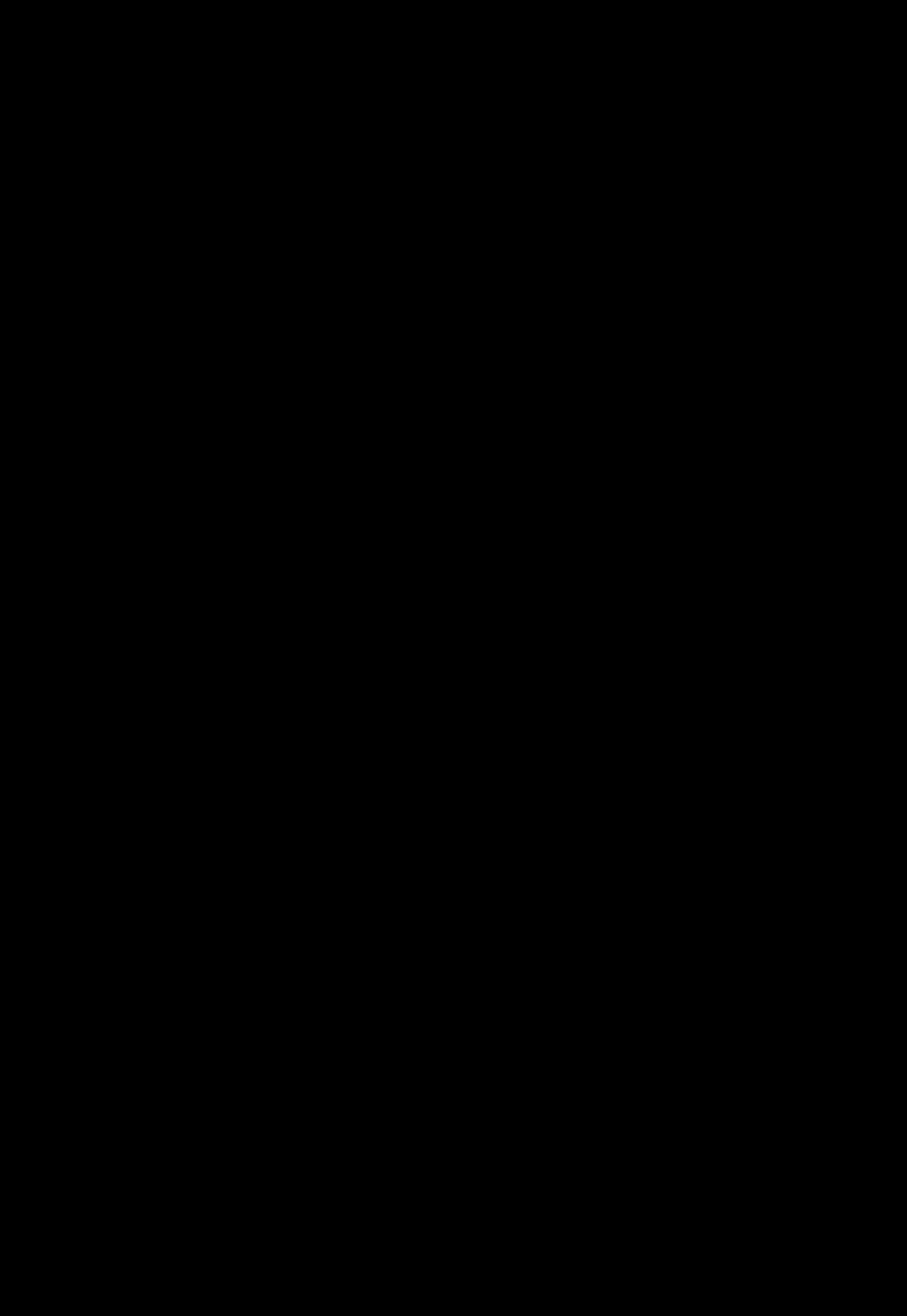


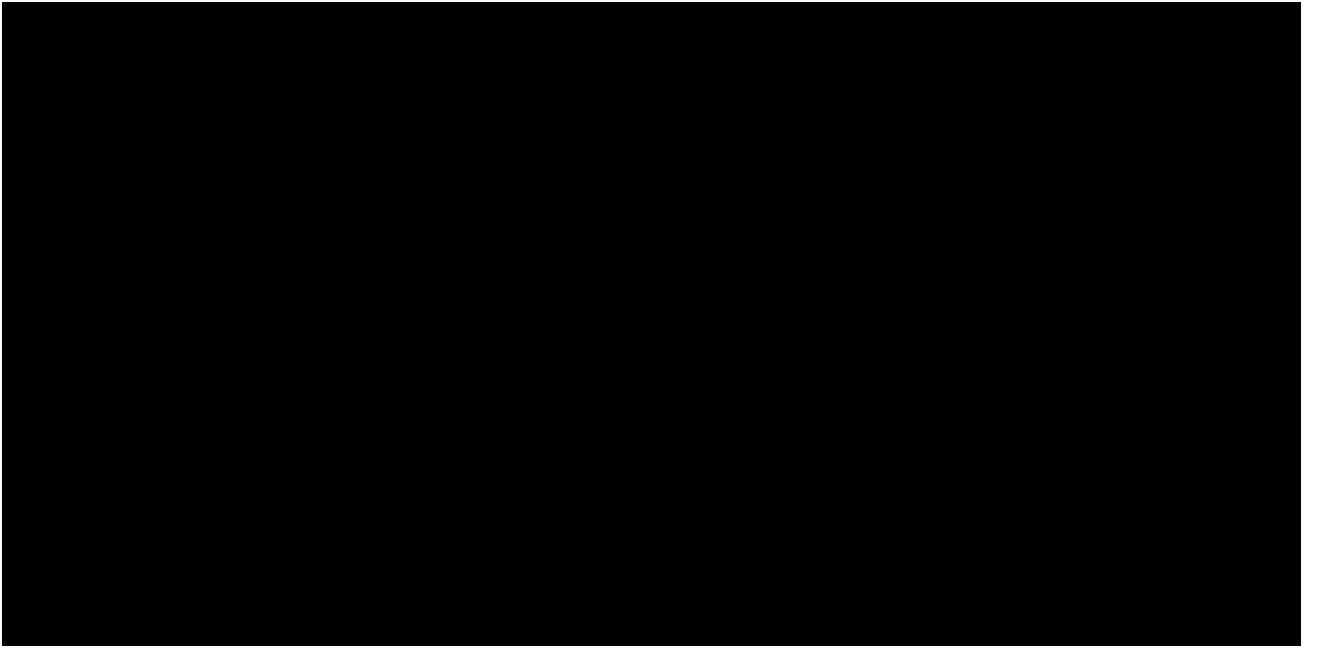














BLANK PAGE

EXHIBIT F

PUC IT Documentation

From: [Winston, Keith](#)
To: [Brosas, Marlon](#)
Cc: [DeBono, Christopher](#)
Subject: Re: someone logging into my outlook emails.
Date: Saturday, April 9, 2022 4:21:13 AM
Attachments: [image001.jpg](#)
[image002.jpg](#)

Marlon

At this point due the amount lies and my lack of trust for the maintenance chain of command and your incomplete email string and I will wait to hear from HR after they complete their investigation.

Sent from my T-Mobile 5G Device
Get [Outlook for Android](#)

From: Brosas, Marlon <MBrosas@sfwater.org>
Sent: Friday, April 8, 2022 1:02:47 PM
To: Winston, Keith <KWinston@sfwater.org>
Cc: DeBono, Christopher <CDeBono@sfwater.org>
Subject: FW: someone logging into my outlook emails.

Keith,

Here are the chain of email in regards to your claim, that you are included in.

From what I recall you were on standby OT that day for the plant shut down 9-15-21 and you came in the shop to use the computer right after Rich Chinn had logged out to go home. Chris DeBono was at the South East outfall at pier 80 installing a manhole cover during the times when you logged in 4 times on computer SN#2UA721258Y from 2:40pm to 3:38pm

Marlon

From: Ngan, Mandy <MNgan@sfwater.org>
Sent: Friday, September 17, 2021 2:30 PM
To: Brosas, Marlon <MBrosas@sfwater.org>
Cc: Winston, Keith <KWinston@sfwater.org>
Subject: FW: someone logging into my outlook emails.

From: Winston, Keith <KWinston@sfwater.org>
Sent: Friday, September 17, 2021 2:20 PM
To: Ngan, Mandy <MNgan@sfwater.org>
Subject: RE: someone logging into my outlook emails.

Also Marlon my account into 4 times she has me logging in once who and why did other log into my email you seemed its not an issues . This a major issue for me my privacy was violated.

From: Ngan, Mandy <MNgan@sfwater.org>
Sent: Friday, September 17, 2021 1:01 PM
To: Brosas, Marlon <MBrosas@sfwater.org>
Cc: Winston, Keith <KWinston@sfwater.org>; Kohmann, Steve P <SKohmann@sfwater.org>
Subject: RE: someone logging into my outlook emails.

Hi Marlon,

Correct. In addition, Richard Chinn was logged in a minute before Keith's log in on the 15th.



Best,
Mandy

From: Brosas, Marlon <MBrosas@sfwater.org>
Sent: Friday, September 17, 2021 12:08 PM
To: Ngan, Mandy <MNgan@sfwater.org>
Cc: Winston, Keith <KWinston@sfwater.org>; Kohmann, Steve P <SKohmann@sfwater.org>
Subject: RE: someone logging into my outlook emails.

Mandy,

Just to clarify the other users, Christopher DeBono, and Richard Chinn was logged in at an earlier time than Keith Winston log in time?

Thank You,
Marlon Brosas
SFPUC WWE
SEP N. Maintenance
750 PHELPS ST.
San Francisco, CA 94124
415-740-5173
mbrosas@sfwater.org

From: Ngan, Mandy <MNgan@sfwater.org>
Sent: Thursday, September 16, 2021 3:35 PM
To: Brosas, Marlon <MBrosas@sfwater.org>
Cc: Winston, Keith <KWinston@sfwater.org>
Subject: RE: someone logging into my outlook emails.

Hi Marlon,

After some research, Keith was logged into that computer 4 times on 9/15/2021 from 2:40 - 3:28PM. The following user logged into that computer that day:

- DeBono, Christopher
- Chinn, Richard

Best,
Mandy

From: Brosas, Marlon <MBrosas@sfwater.org>
Sent: Thursday, September 16, 2021 1:38 PM
To: Ngan, Mandy <MNgan@sfwater.org>
Cc: Winston, Keith <KWinston@sfwater.org>
Subject: FW: someone logging into my outlook emails.

Hi Mandy,

I spoke with you earlier about Keith Winston concerns about others logging into his Outlook account, this is the SN#2UA721258Y of the computer that's in question. Can you please check when and how many times KWinston was logged on that computer?

Thank You,

Marlon Brosas
SFPUC WWE
SEP N. Maintenance
750 PHELPS ST.
San Francisco, CA 94124
415-740-5173
mbrosas@sfwater.org

From: Winston, Keith <KWinston@sfwater.org>
Sent: Wednesday, September 15, 2021 3:47 PM
To: Brosas, Marlon <MBrosas@sfwater.org>
Subject: someone logging into my outlook emails.

Hello Marlon I just tried to log into my outlook account here in the shop and i see someone has been logging into my outlook account. I'm concerned about this. I have not given my password to anyone. I have personal emails I just don't understand how this could happen.

Sent from my T-Mobile 5G Device
Get [Outlook for Android](#)