



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

**LONDON N. BREED  
MAYOR**

*Sent via Electronic Mail*

September 7, 2023

**NOTICE OF CIVIL SERVICE COMMISSION MEETING**

Pornthipa Rojanadechakul

**SUBJECT: APPEAL BY PORNTHIPA ROJANADECHAKUL OF THE DIRECTOR OF  
TRANSPORTATION'S DETERMINATION TO ADMINISTRATIVELY CLOSE  
APPELLANT'S COMPLAINT OF RETALIATION.**

Dear Pornthipa Rojanadechakul:

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 **September 18, 2023, 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](http://www.sf.gov/CivilService) under "Meetings" no later than end of day on Wednesday, September 13, 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](mailto:civilservice@sfgov.org) by 5:00 p.m. on Tuesday, September 12, 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](mailto:Sandra.Eng@sfgov.org) if you have any questions.

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG  
Executive Officer

Attachment

Cc: Jeffrey Tumlin, San Francisco Municipal Transportation Agency  
Amalia Martinez, Department of Human Resources  
Virginia Harmon, San Francisco Municipal Transportation Agency  
Ammee Alvior, San Francisco Municipal Transportation Agency  
Jennifer Burke, Department of Human Resources  
Mawuli Tugbenyoh, Department of Human Resources  
Samantha Tarallo, Department of Human Resources  
Commission File  
Commissioners' Binder  
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## **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](mailto:civilservice@sfgov.org) and the web address is [www.sfgov.org/civilservice/](http://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 (4<sup>th</sup>) 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/](http://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](mailto: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](mailto:soff@sfgov.org), or on the City’s website at [www.sfgov.org/bdsupvrs/sunshine](http://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 22MTA) Applicable to Municipal Transportation Agency Service-Critical Classes

Refer to Civil Service Commission Procedure for Staff - Submission of Written Reports MTA for Instructions on completing and processing this Form

1. Civil Service Commission Register Number: 0067 - 23 - 6
  2. For Civil Service Commission Meeting of: September 18, 2023
  3. Check One:           Ratification Agenda  
                              Consent Agenda  
                              Regular Agenda        X
  4. Subject:                Appeal by Pornthipa Rojanadechakul of the Director of Transportation's determination to administratively close Appellant's complaint of retaliation.
  5. Recommendation:     Adopt the report, uphold the decision of the Director of Transportation and deny the appeal by Pornthipa Rojanadechakul.
  6. Report prepared by: Samantha Tarallo, DHR EEO Telephone number: 628-652-0614
  7. Notifications: Please see attached.
  8. Reviewed and approved for Civil Service Commission Agenda:  
  
Municipal Transportation Agency Director: Jeffrey Tumlin *Virginia Harmon for*
- Date: September 7, 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 ACSC RECEIPT STAMP box to the right using the time-stamp in the CSC Office.

<u>CSC RECEIPT STAMP</u>

Attachment

**NOTIFICATIONS**

**Pornthipa Rojanadechakul (Appellant)**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Jeffrey Tumlin**

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San Francisco Municipal Transportation Agency  
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*Jeffrey.Tumlin@sfmta.com*

**Virginia Harmon**

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**Ammee Alvior**

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**Samantha Tarallo**

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San Francisco, CA 94103  
*Samantha.Tarallo@sfgov.org*

## CIVIL SERVICE COMMISSION REPORT

### MEMORANDUM

TO: Civil Service Commission

THROUGH: Jeffrey Tumlin, Director of Transportation

THROUGH: Amalia Martinez, EEO and Leaves Director

FROM: Samantha Tarallo, EEO Programs Senior Specialist

HEARING DATE: September 18, 2023

EEO FILE NO: HRC0002520

REGISTER NO: 0067-23-6

APPELLANT: Pornthipa Rojanadechakul

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#### **I. AUTHORITY**

The San Francisco Charter, Section 8A.104, and Civil Service Rule 403 provide that the San Francisco Municipal Transportation Agency's (SFMTA) Transportation Director shall review and resolve complaints of employment discrimination. Pursuant to Civil Services Commission Rules, Section 8A.104, the Civil Service Commission shall review and resolve appeals of the Transportation Director's determinations.

#### **II. BACKGROUND**

On April 24, 2017, Pornthipa Rojanadechakul (Rojanadechakul) started working for the SFMTA as a 9163 Transit Operator. In June 2021, Rojanadechakul filed a sexual harassment complaint against Edward Zhu (Zhu), 9163 Transit Operator, based at the SFMTA's Presidio Division and Harold Byrd (Byrd), then-9139 Transit Supervisor, based at the SFMTA's Woods Division. (Exhibits [Exs.] A, E, and F.)

On November 10, 2022, Rojanadechakul left a voice message on the City's Department of Human Resources Equal Employment Opportunity (DHR EEO) Helpline. On November 14, 2022, Rojanadechakul spoke with LaTorya King, EEO Programs Specialist with DHR EEO, and reported that unknown individuals in SFMTA management were retaliating against her based on Rojanadechakul's June 2021 EEO complaint. (Ex. B.) Rojanadechakul further alleged two coworkers told her that SFMTA management was out to get her, she received multiple calls from Transit Management Center (TMC) informing her inspectors were watching her, and she received check-ins from various inspectors over a two-week period.

#### **III. ISSUE ON APPEAL TO THE CIVIL SERVICE COMMISSION**

On March 7, 2023, the Transportation Director informed Rojanadechakul that based on the information provided, her allegations were insufficient to raise an inference of retaliation (Ex. C.) Accordingly, Rojanadechakul's complaint was not investigated further, and was administratively closed. On April 5,

2023, Rojanadechakul appealed the Transportation Director's administrative closure of EEO File No. HRC0002520 (Ex. D.) The issue on appeal is whether the Transportation Director appropriately administratively closed Rojanadechakul's EEO complaint.

#### **IV. INVESTIGATION STANDARDS AND ANALYSIS**

##### **A. Appellant Did Not Sufficiently Allege a Retaliation Claim Under the SFMTA's EEO Policy**

To warrant further investigation, a complaint of retaliation in violation of the SFMTA'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 discrimination complaint.

In June 2021, Rojanadechakul engaged in a protected activity when she filed an EEO complaint against Zhu and Byrd. However, Rojanadechakul did not sufficiently allege she suffered an adverse employment action when Zhu returned to his work location at the Presidio Division. A review of SFMTA documentation demonstrates that Zhu's placement at the Presidio Division was not related to Rojanadechakul's protected activities, and Zhu's mere presence at the same large worksite, with no contact, would not dissuade a reasonable employee from engaging in a protected activity. Furthermore, the SFMTA demonstrated concern surrounding Rojanadechakul's feelings regarding Zhu's return to the Presidio Division when Ammee Alvior (Alvior), 9179 Manager V, met with Rojanadechakul and explained how Rojanadechakul and Zhu would only overlap work locations one day per week. The SFMTA took appropriate corrective action regarding Rojanadechakul's prior complaint, took steps to address her concerns, and engaged in a good faith effort to accommodate Rojanadechakul's concerns regarding Zhu, negating any retaliatory animus.

Moreover, Rojanadechakul did not sufficiently demonstrate that the SFMTA's inspections of her driving in November and December 2022 were connected to her protected activities from seventeen to eighteen months prior. In addition, Rojanadechakul's testimony identified that her own conduct—including leaving the bus without notifying TMC and arriving ahead of schedule—could warrant such inspection. (Ex. B.) On July 13, 2023, Rojanadechakul and the SFMTA entered arbitration regarding the resulting disciplining from the December 2022 incident. The arbitrator concluded that the discipline Rojanadechakul received for leaving a vehicle unattended was for just cause, thus negating any evidence that Rojanadechakul's discipline was retaliatory. (Exs. F and H.)

Furthermore, since July 1, 2021, Byrd is no longer employed at the SFMTA, making it impossible that Byrd had any involvement in, or knowledge of, the alleged conduct Rojanadechakul reported, nor did Rojanadechakul provide information suggesting otherwise. Based on the foregoing, there was insufficient information to pursue additional investigation of Rojanadechakul's retaliation claim within EEO jurisdiction because the information provided did not demonstrate that Rojanadechakul suffered an adverse employment action, and the Director of Transportation correctly administratively closed Rojanadechakul's complaint without further investigation.

**B. Appellant's Allegations on Appeal**

On appeal, Rojanadechakul made the following allegations:

[REDACTED]

The above-cited allegations are outside the scope of this appeal and are being addressed under complaint EEO File No. HRC0003534. On August 28, 2023, DHR EEO conducted an intake interview with Rojanadechakul regarding these allegations and is in the process of determining what further investigation needs to be conducted regarding Rojanadechakul's allegations.

**V. RECOMMENDATION**

For all the reasons set forth above, the Director of Transportation's decision should be upheld, and the appeal should be denied.

**VI. APPENDIX/ATTACHMENTS TO REPORT**

Attached to this report are the following exhibits:

- Exhibit A: Director of Transportation's Letter of Determination to Rojanadechakul, dated March 17, 2022
- Exhibit B: DHR EEO Helpline Memo, dated November 16, 2022
- Exhibit C: Director of Transportation's Letter of Determination to Rojanadechakul, dated March 7, 2023
- Exhibit D: Rojanadechakul Letter of Appeal, dated April 6, 2023
- Exhibit E: [REDACTED]
- Exhibit F: [REDACTED]
- Exhibit G: Rojanadechakul's Discipline, dated February 28, 2023
- Exhibit H: Arbitration Decision, dated July 13, 2023



**Exhibit A**

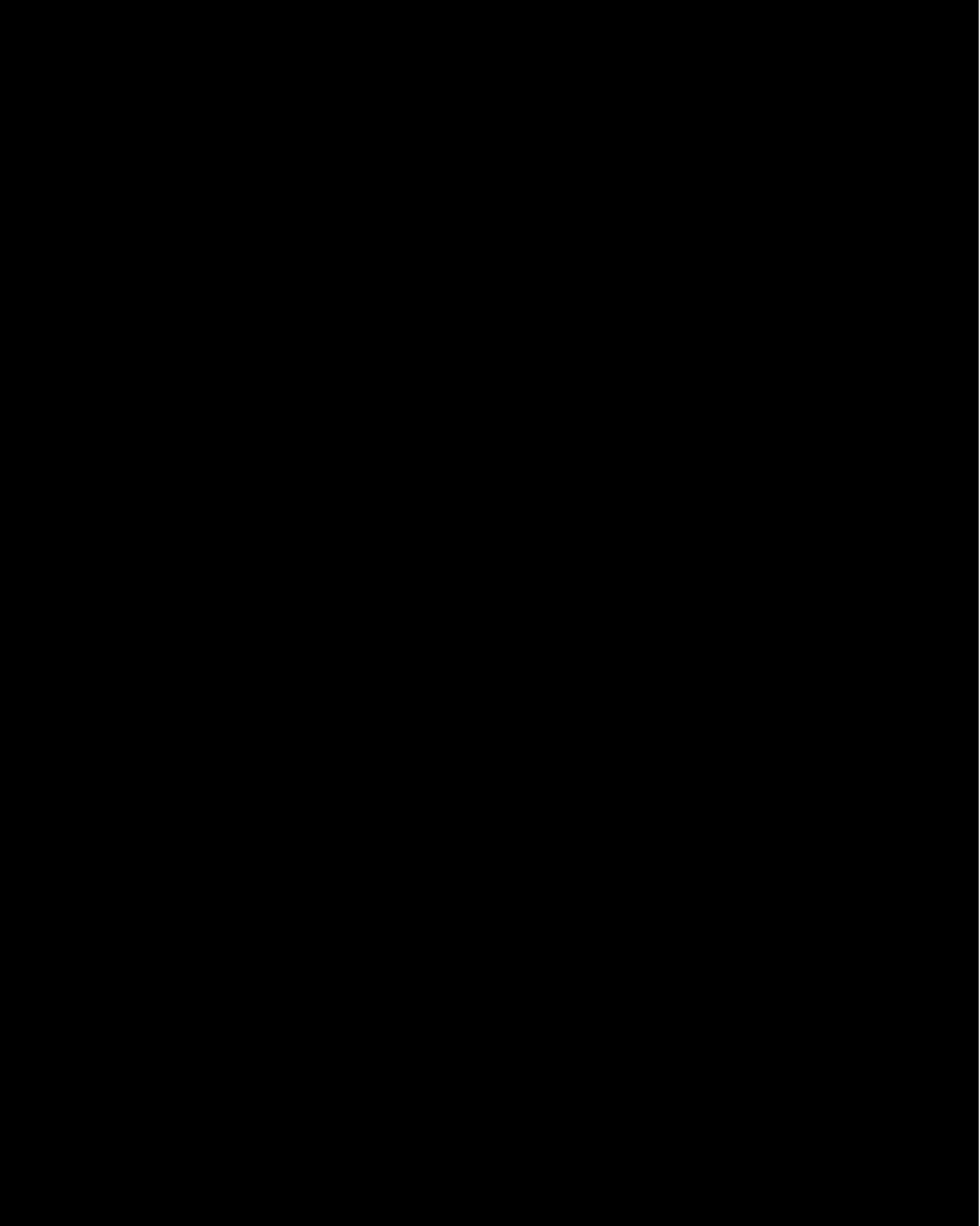
Director of Transportation's Letter of Determination to Rojanadechakul, dated  
March 17, 2022

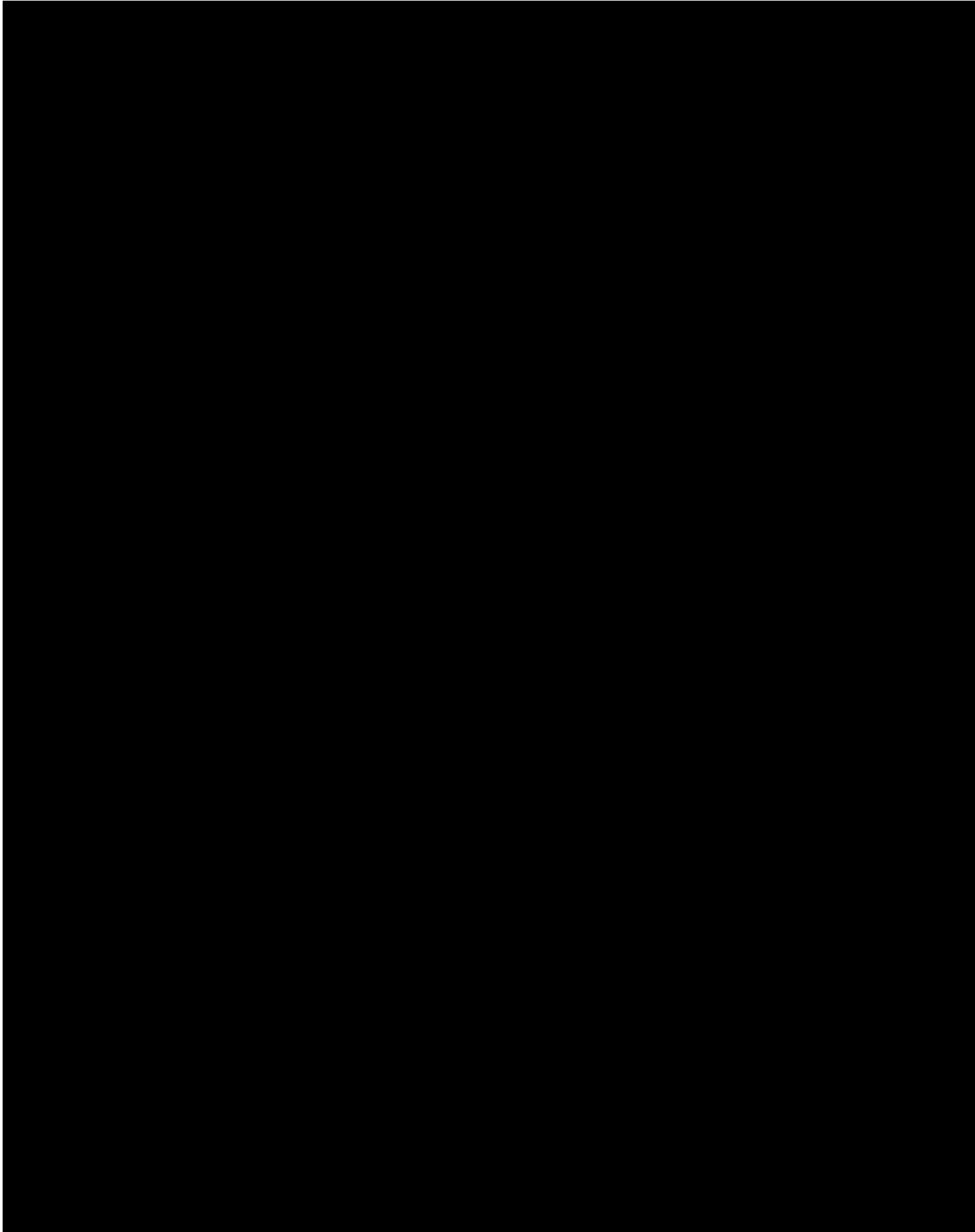












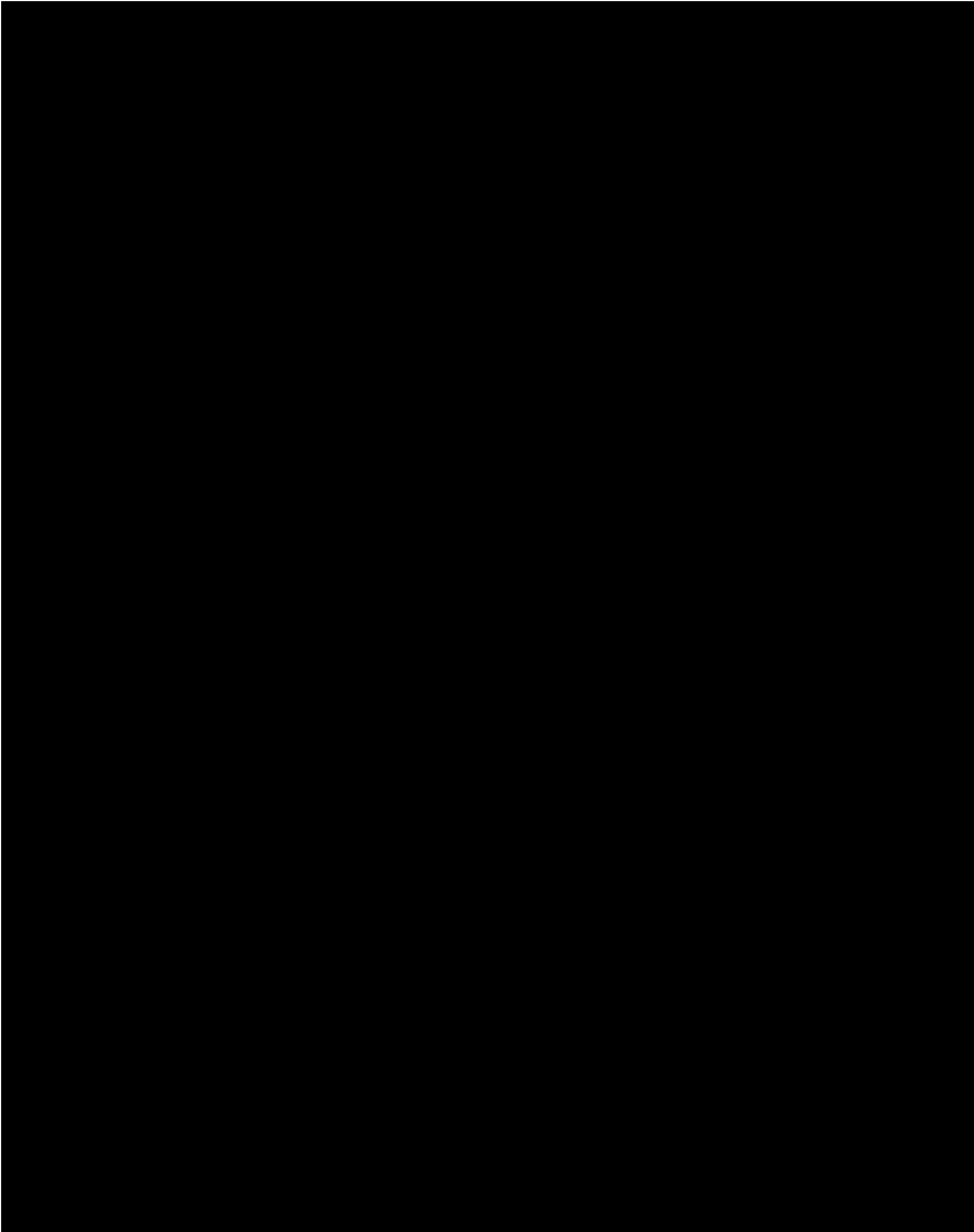


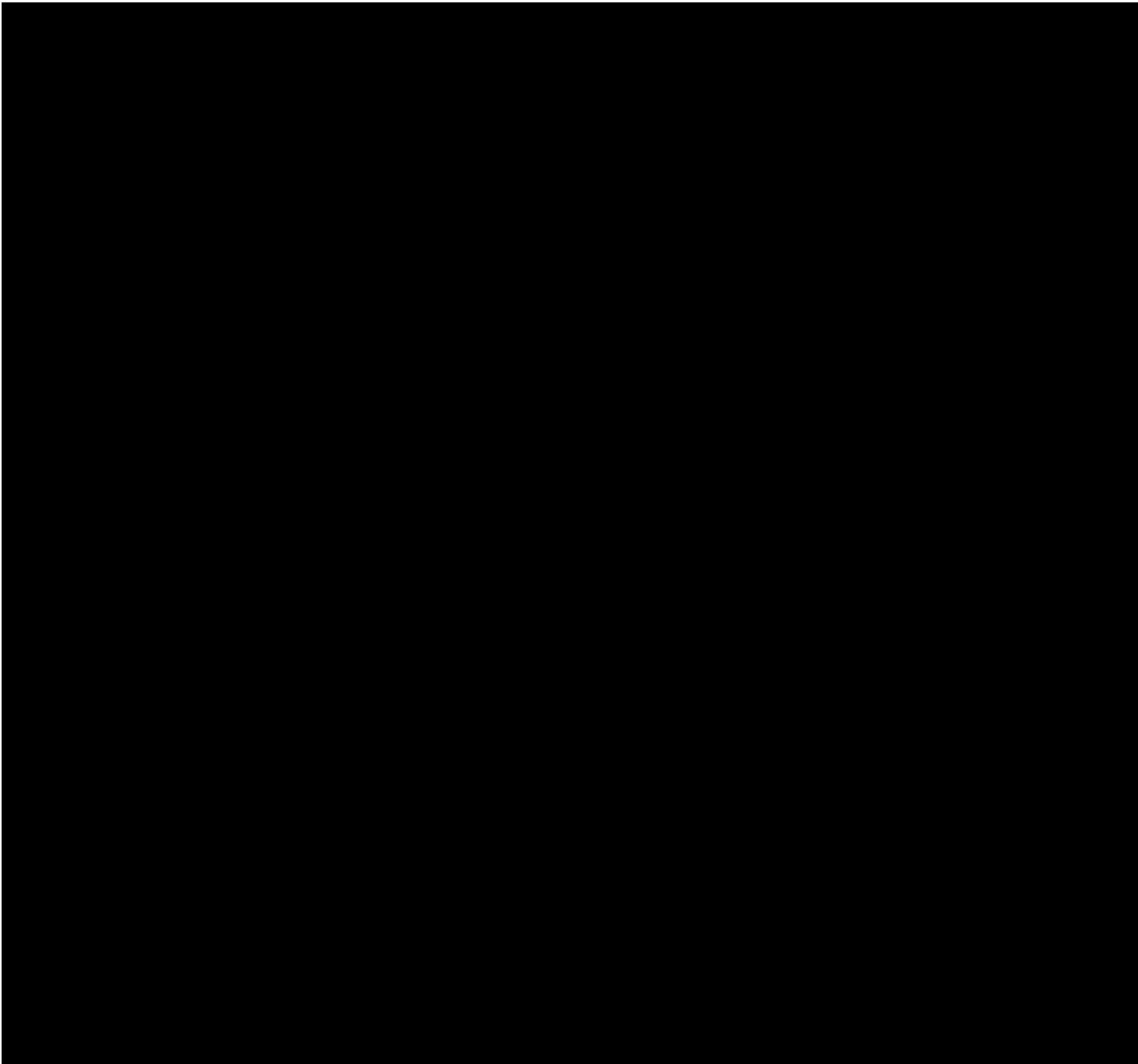


**Exhibit B**

DHR EEO Helpline Memo, dated November 16, 2022



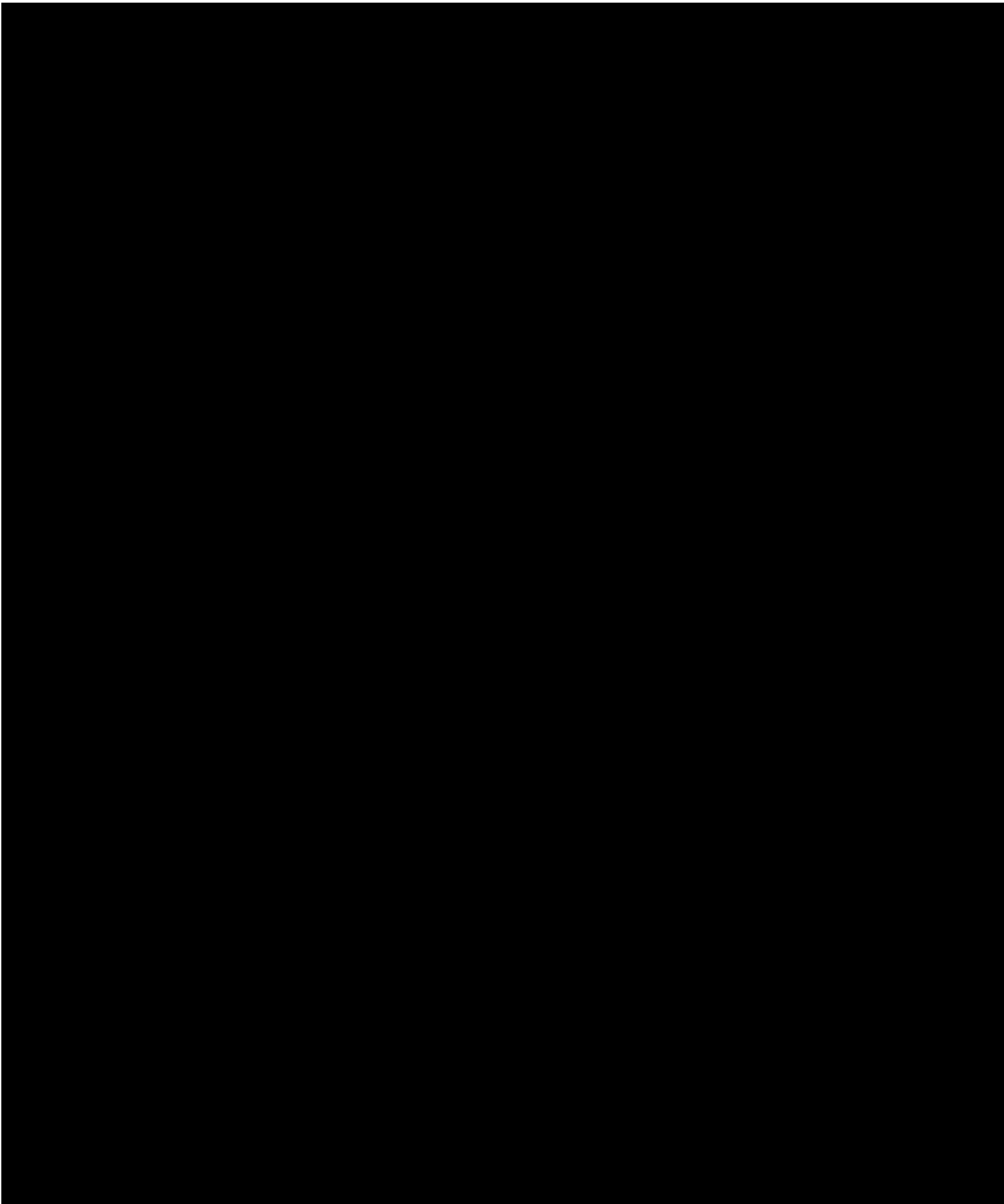


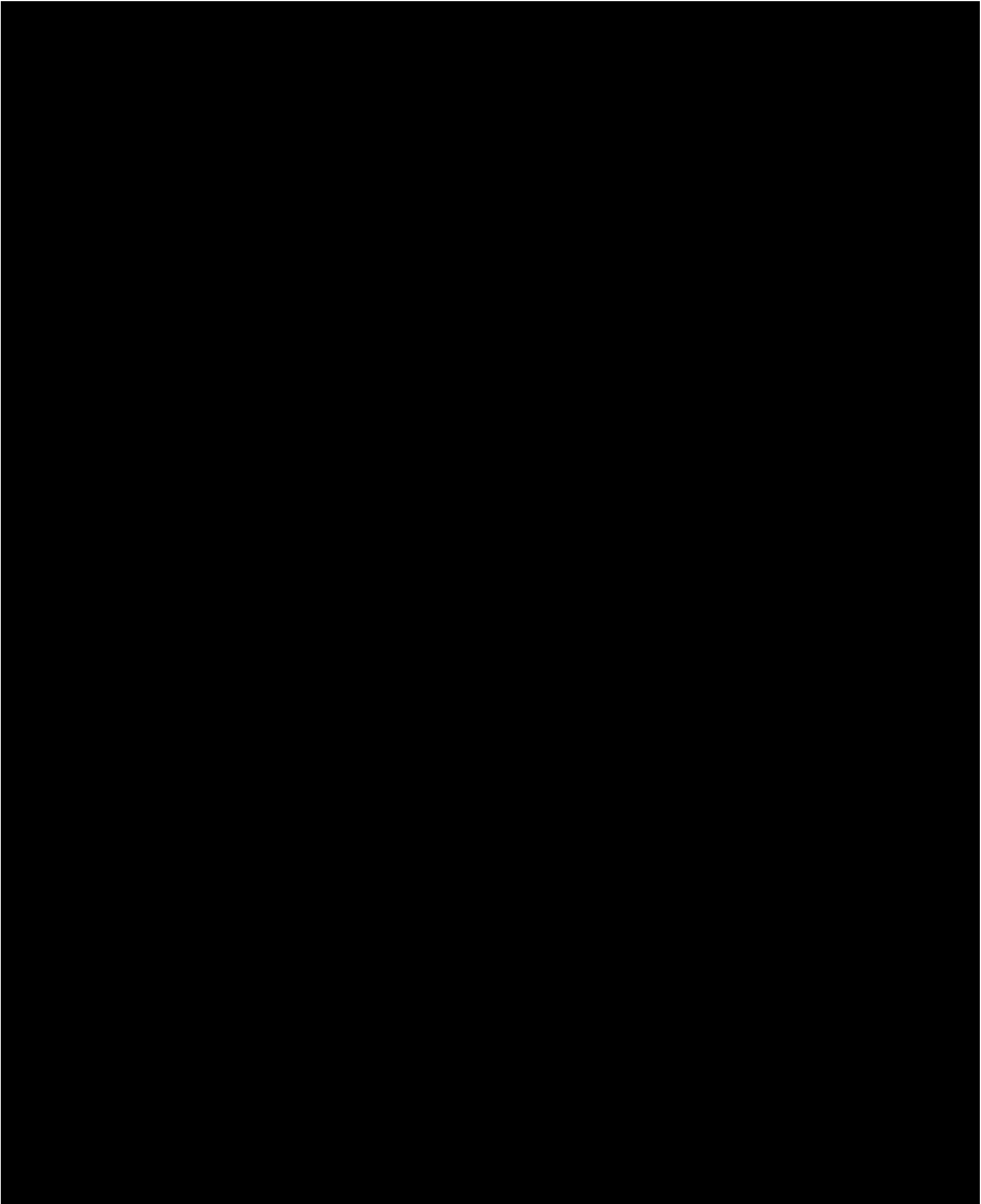


**Exhibit C**

Director of Transportation's Letter of Determination to Rojanadechakul, dated  
March 7, 2023



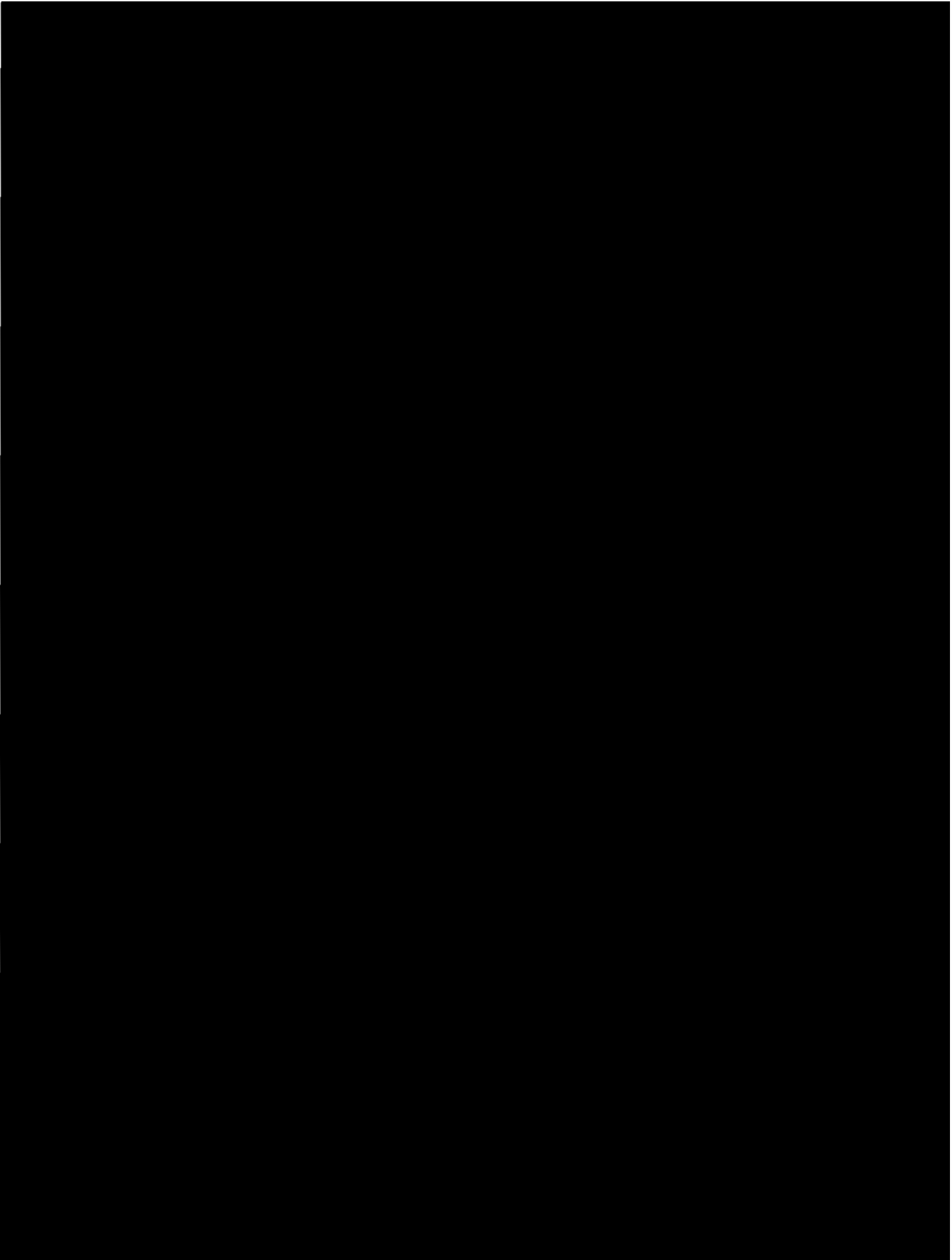


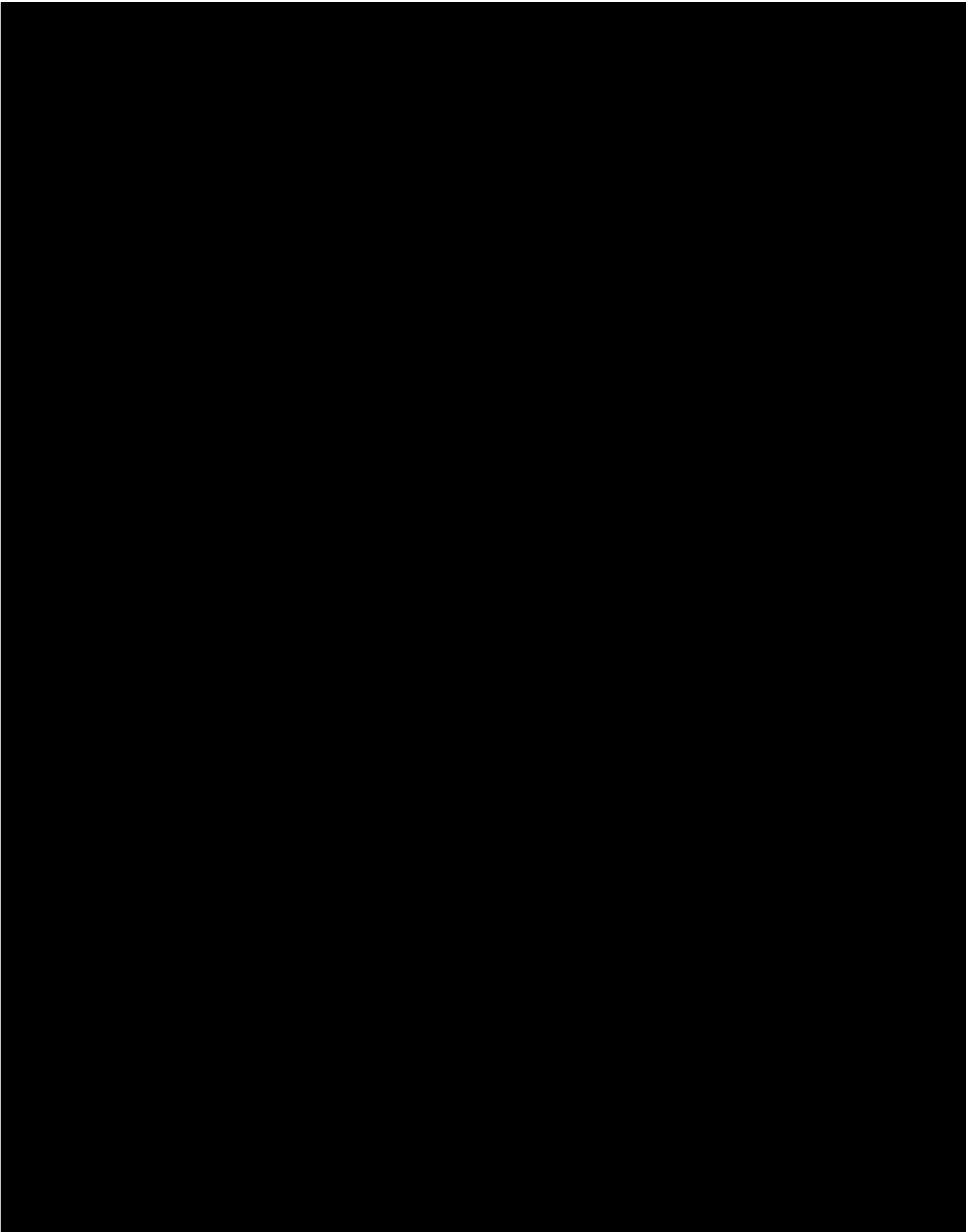


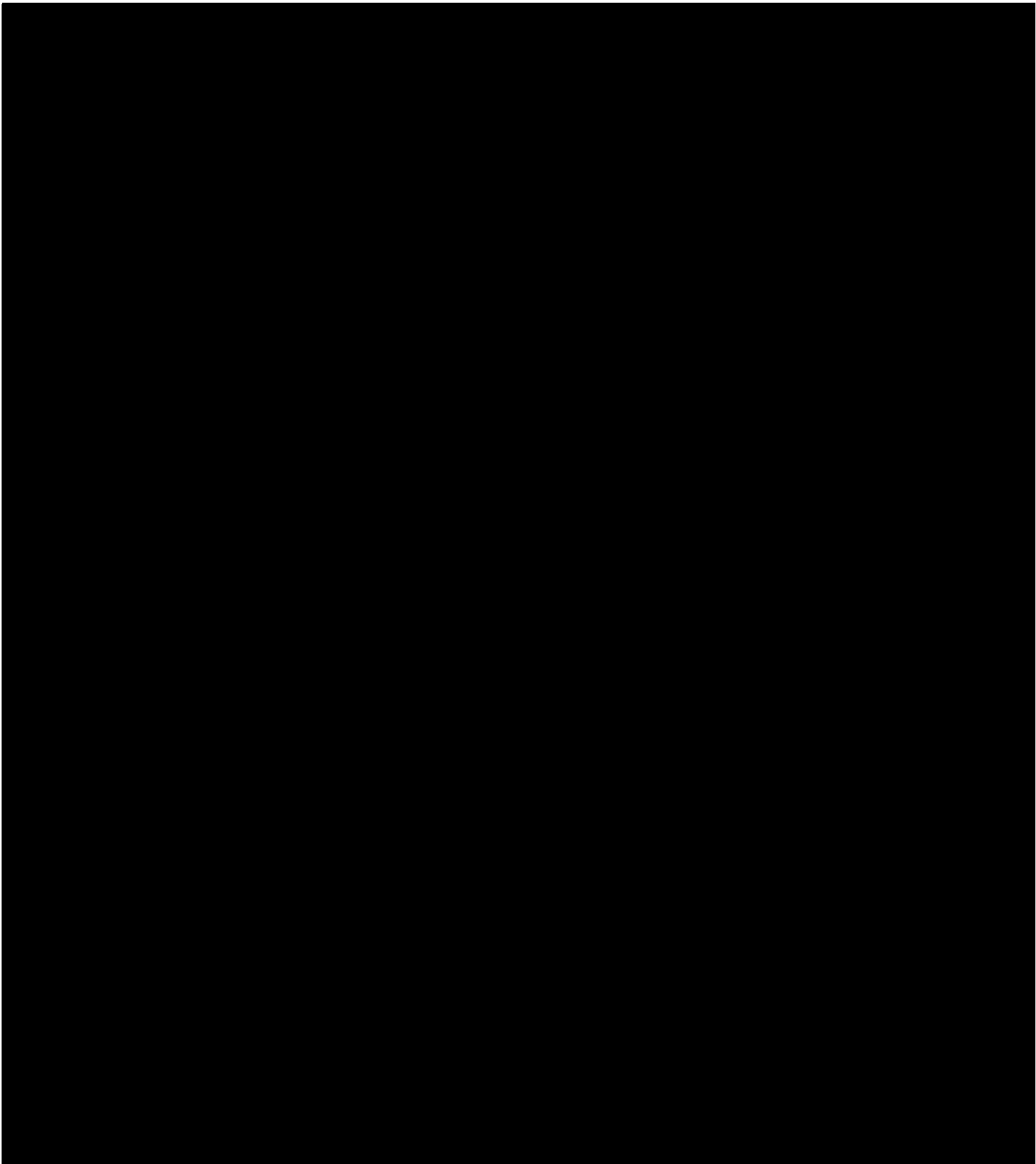


**Exhibit D**

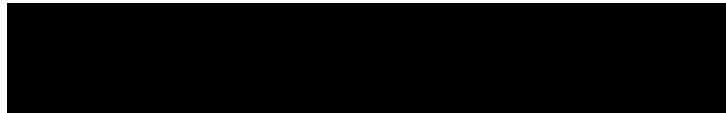
Rojanadechakul Letter of Appeal, dated April 6, 2023



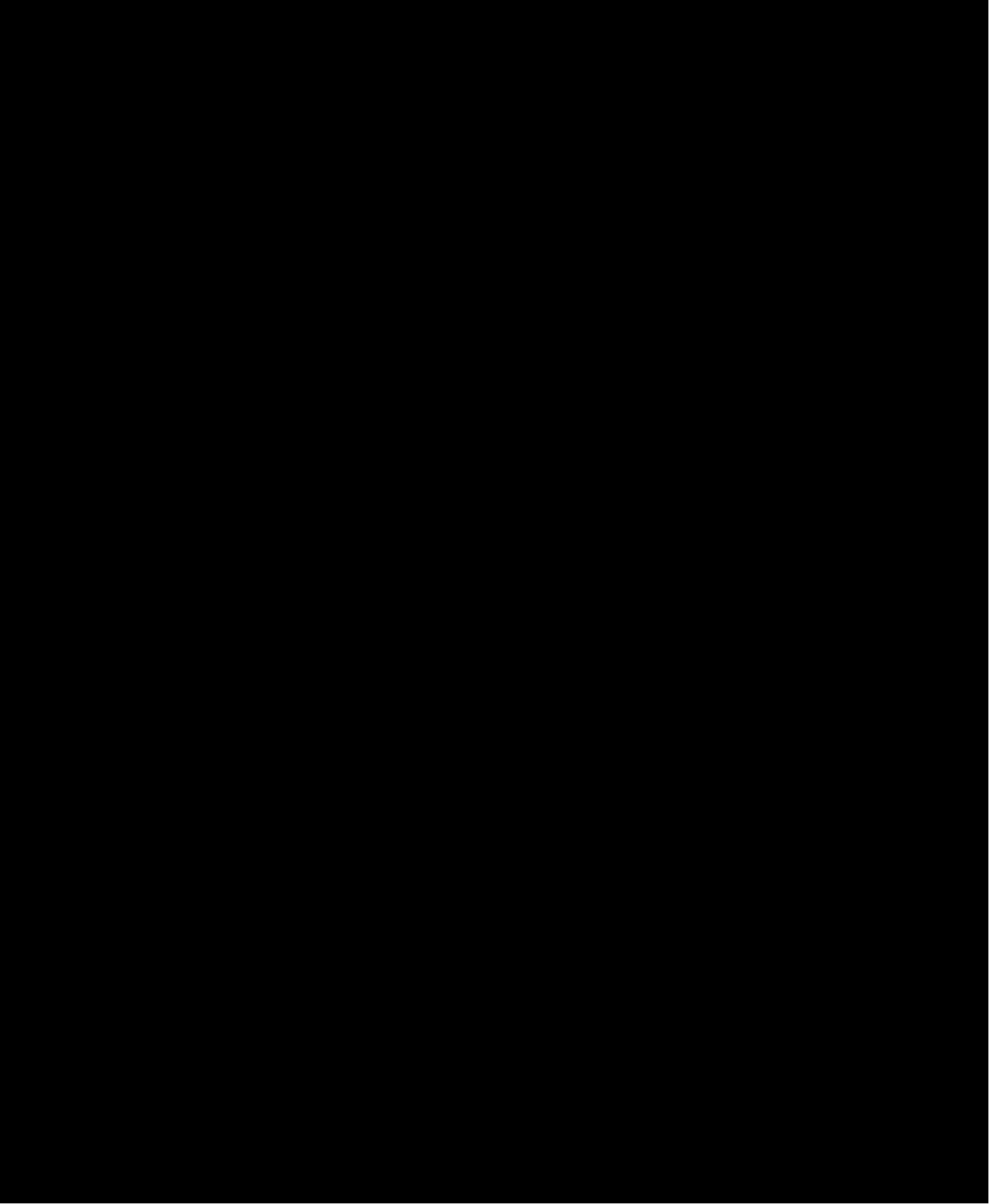




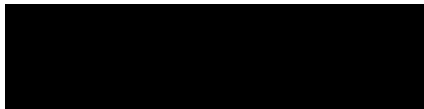
**Exhibit E**



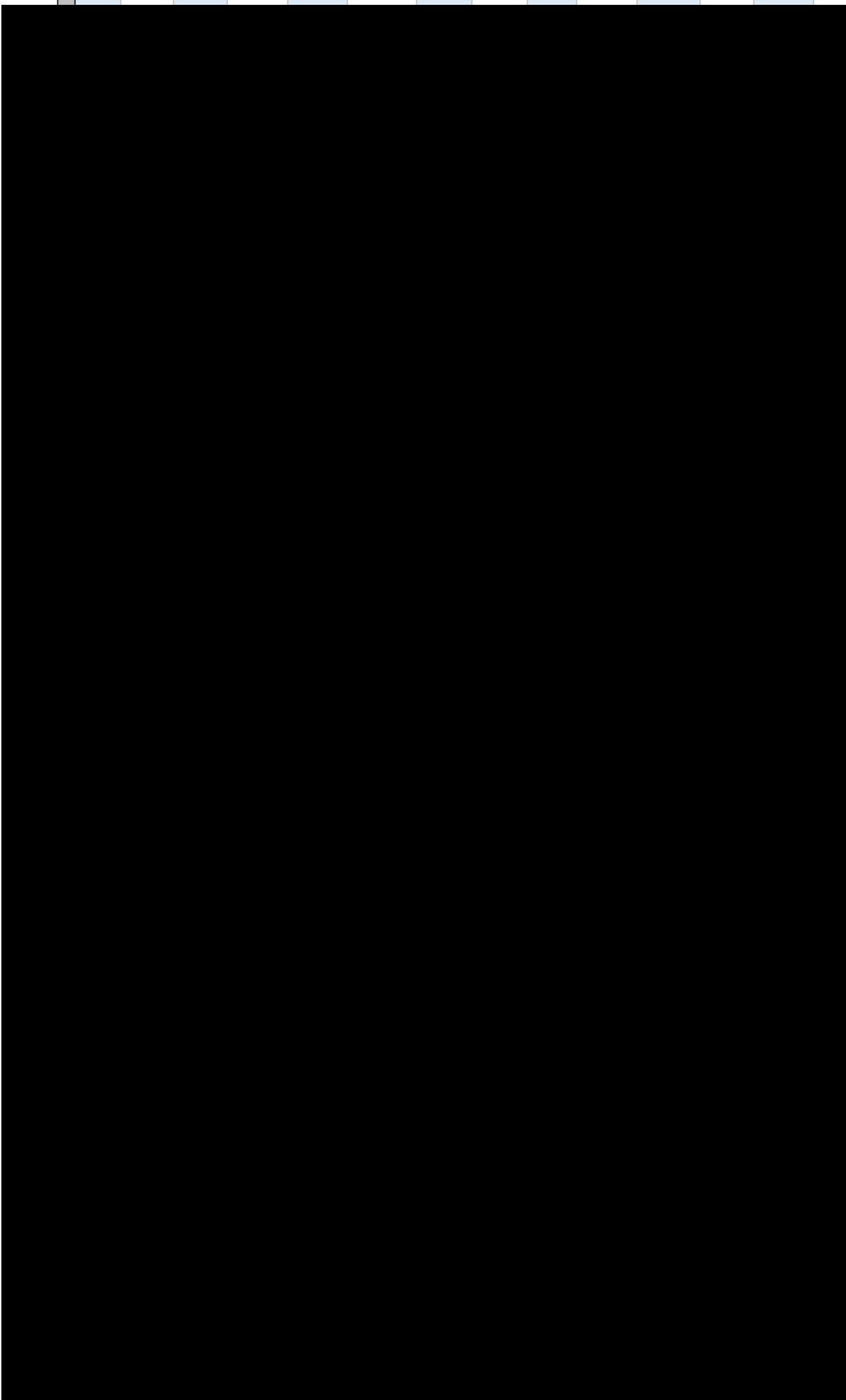


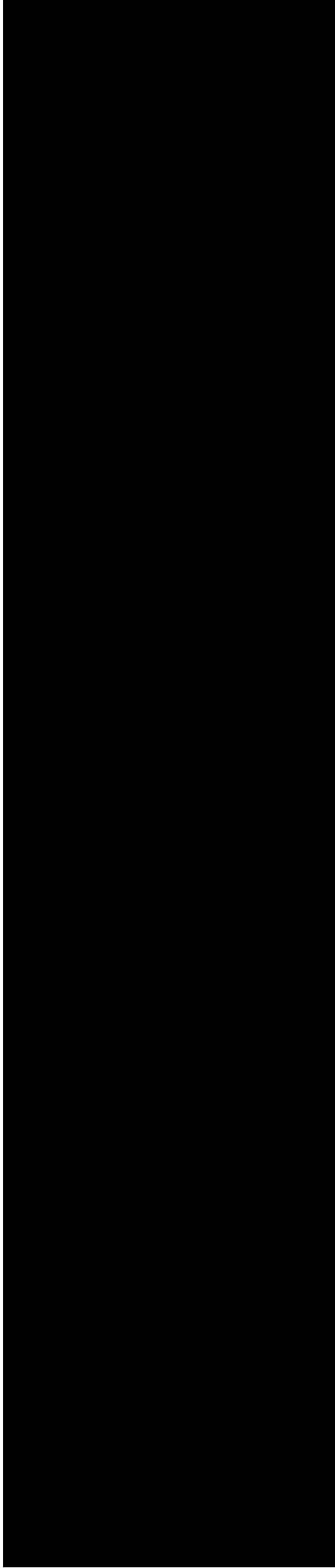


**Exhibit F**

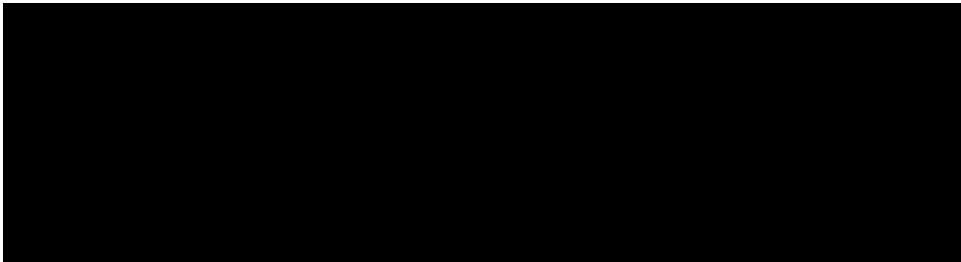


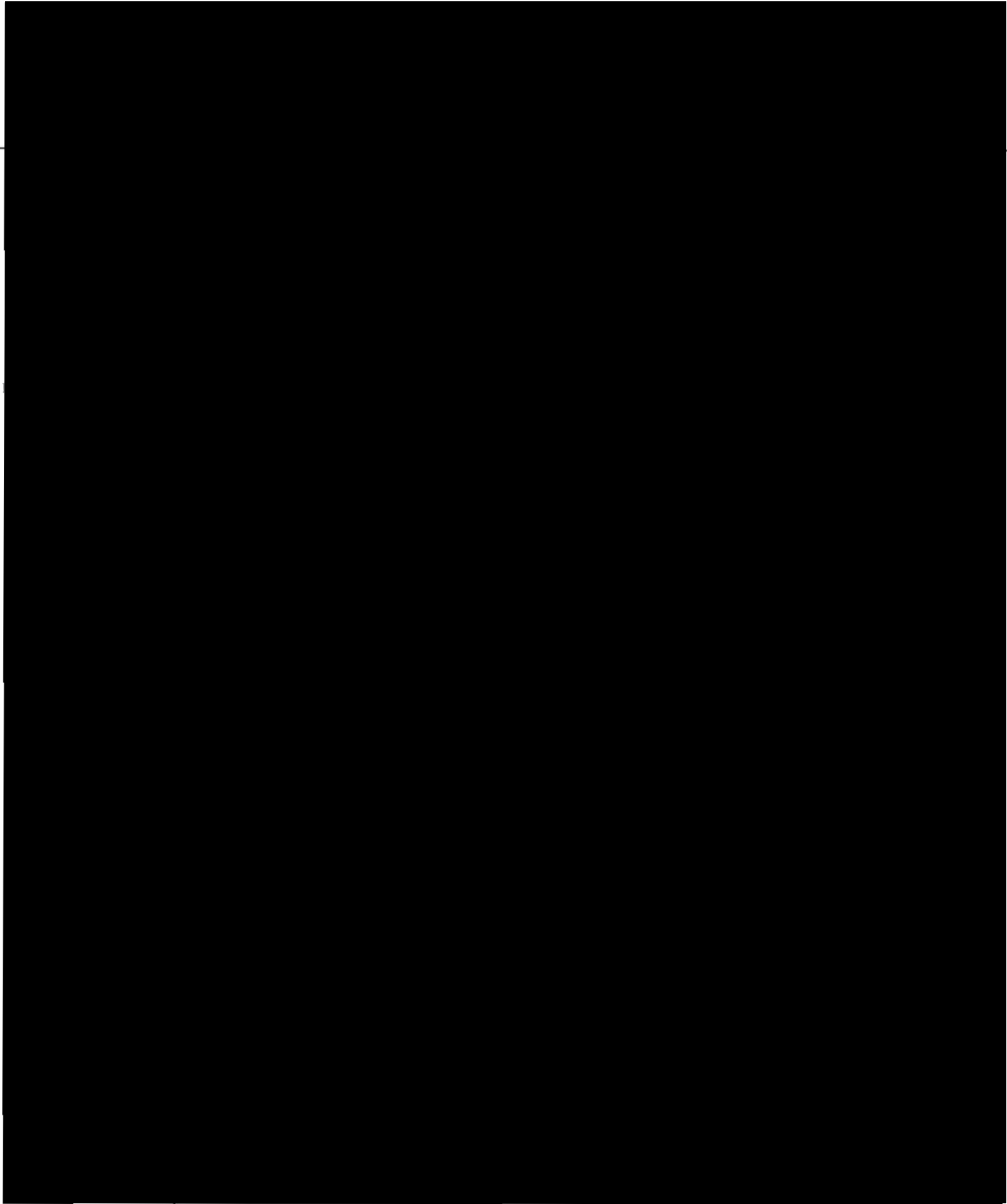


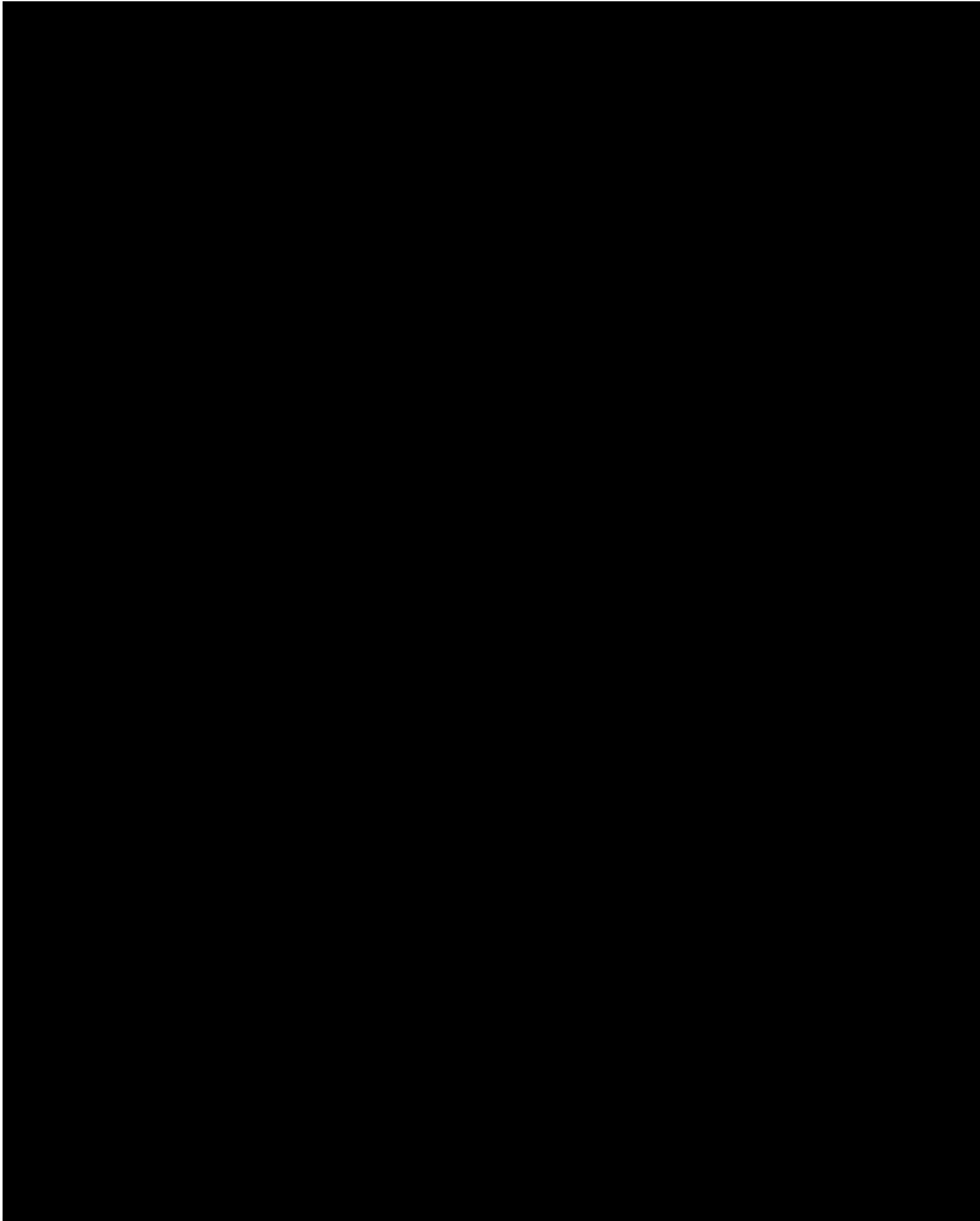




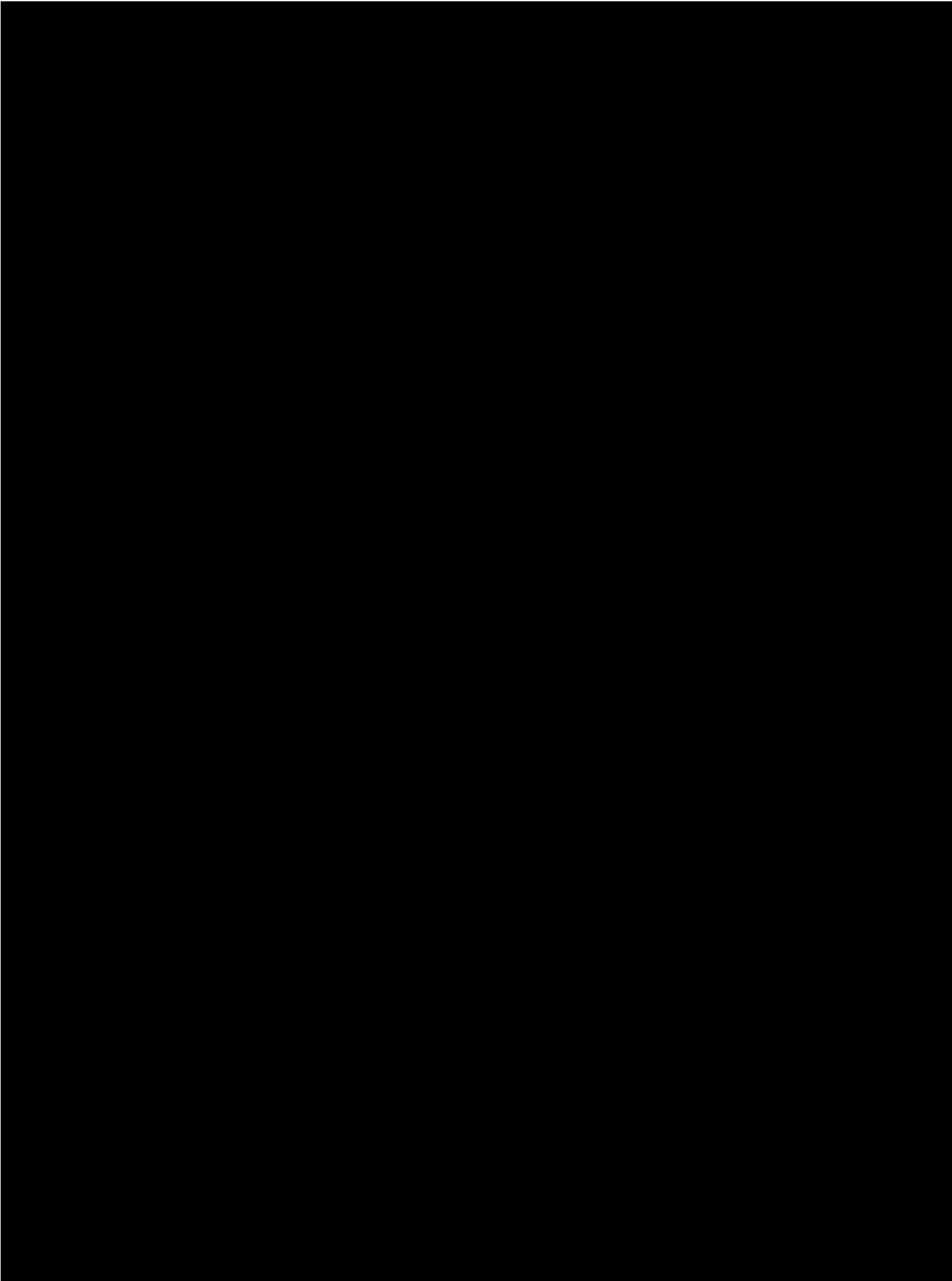
**Exhibit G**









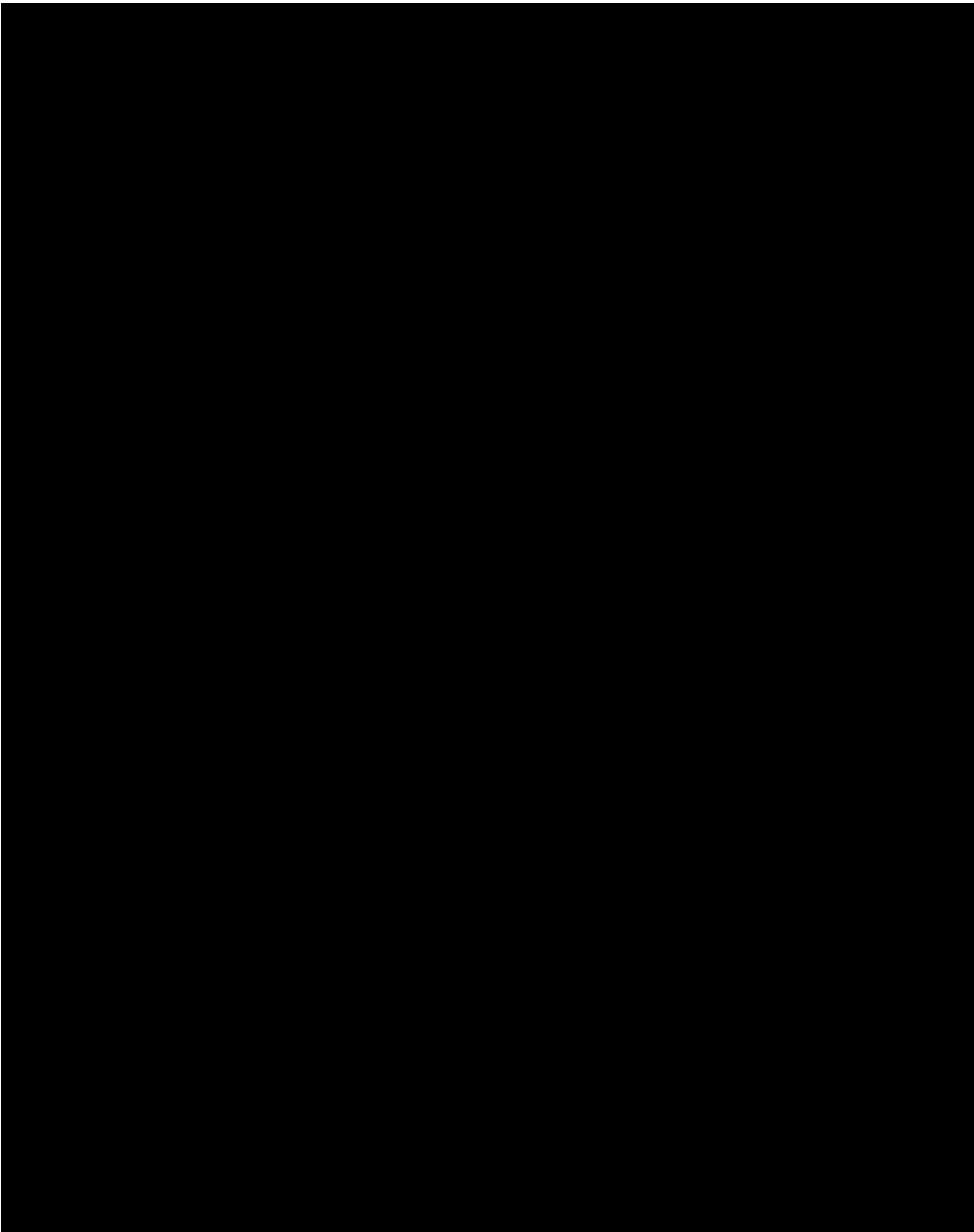


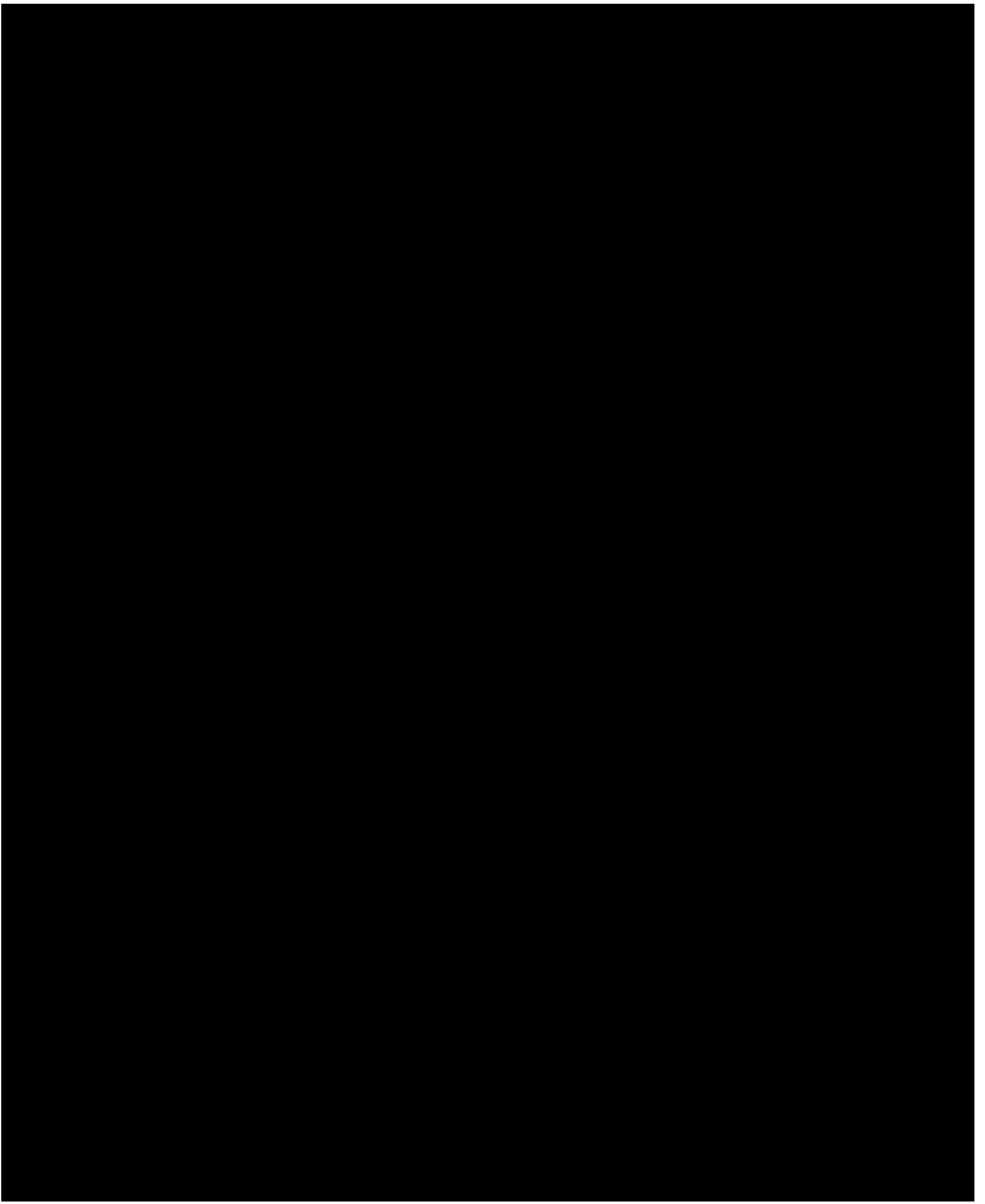


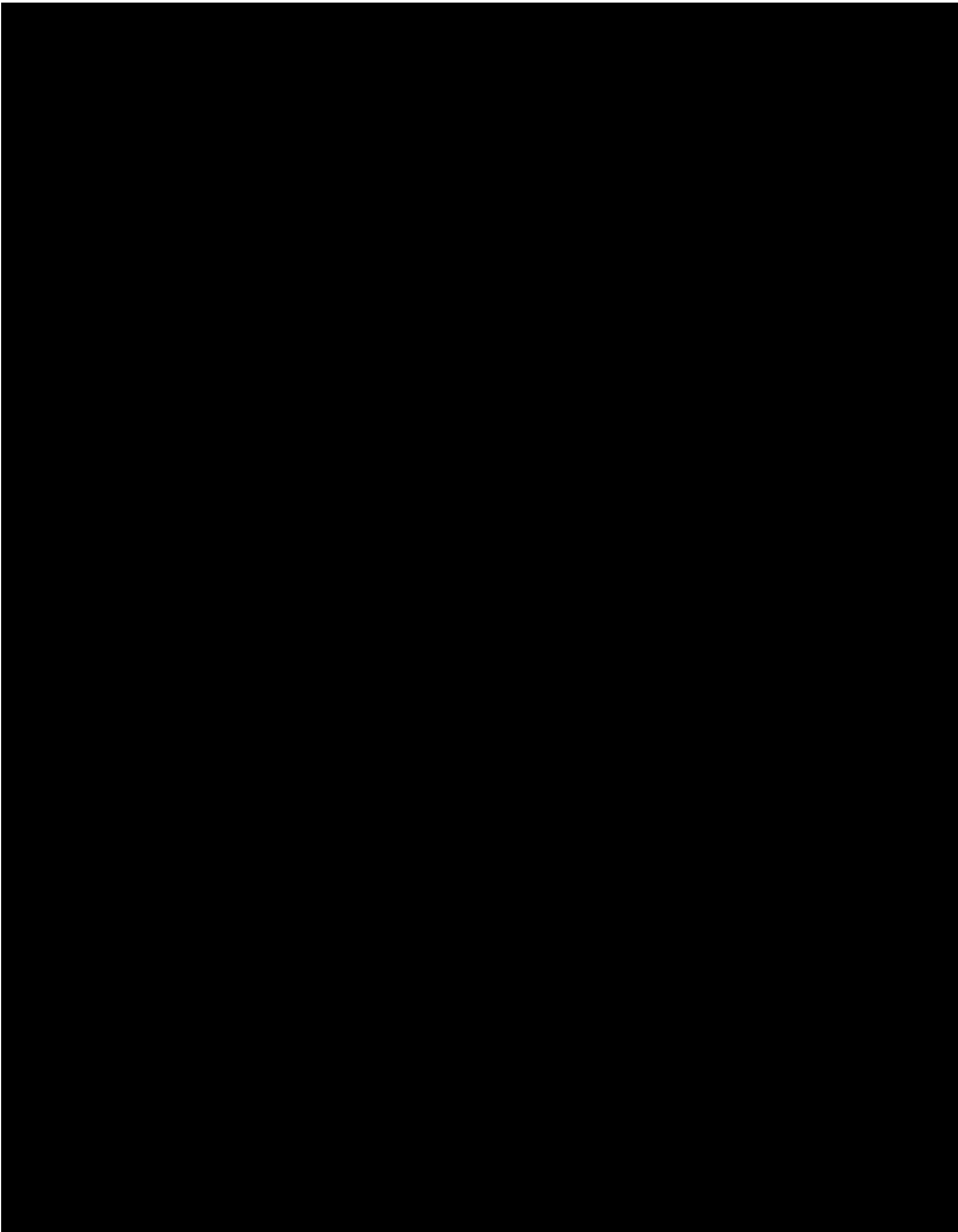


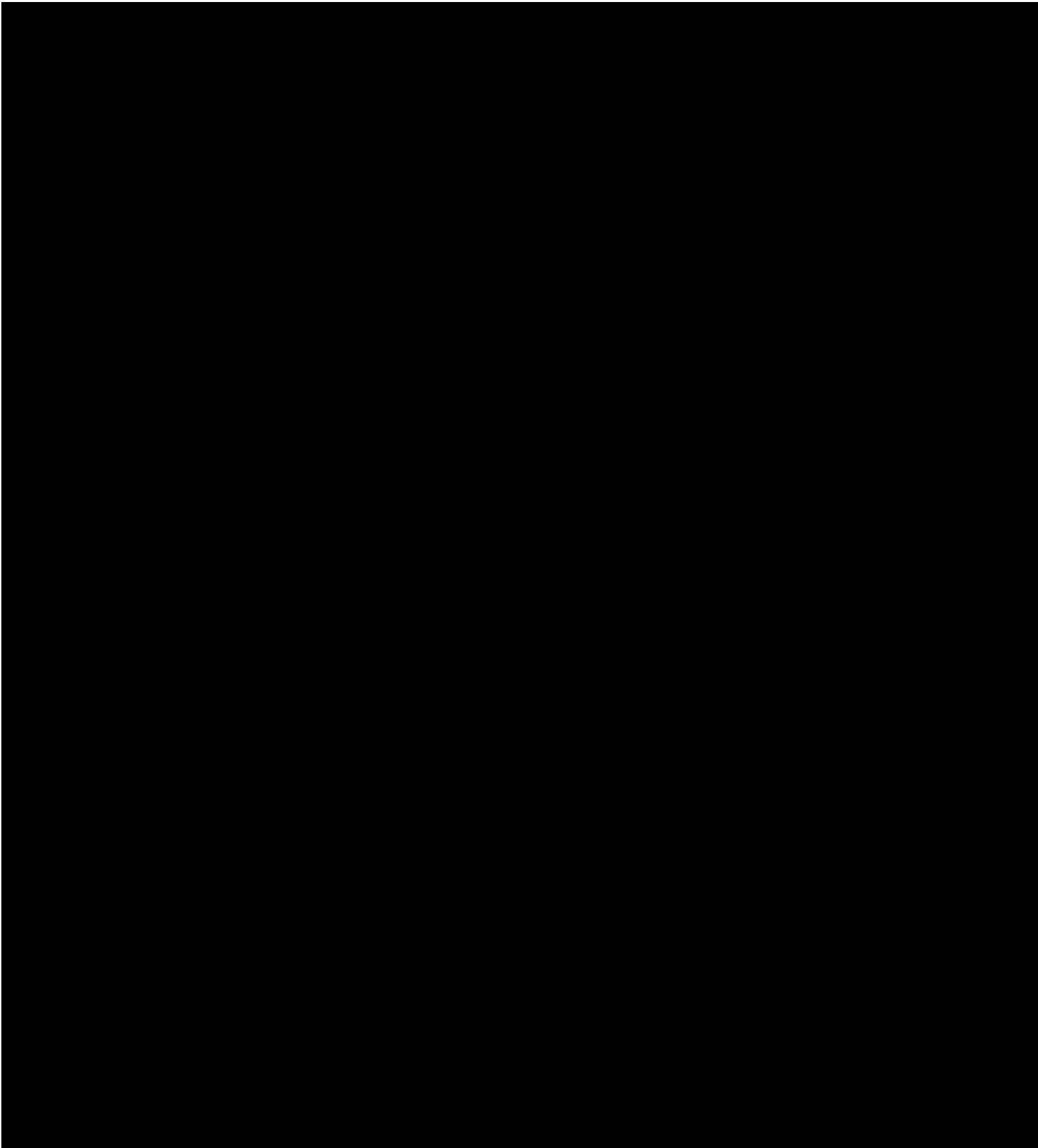




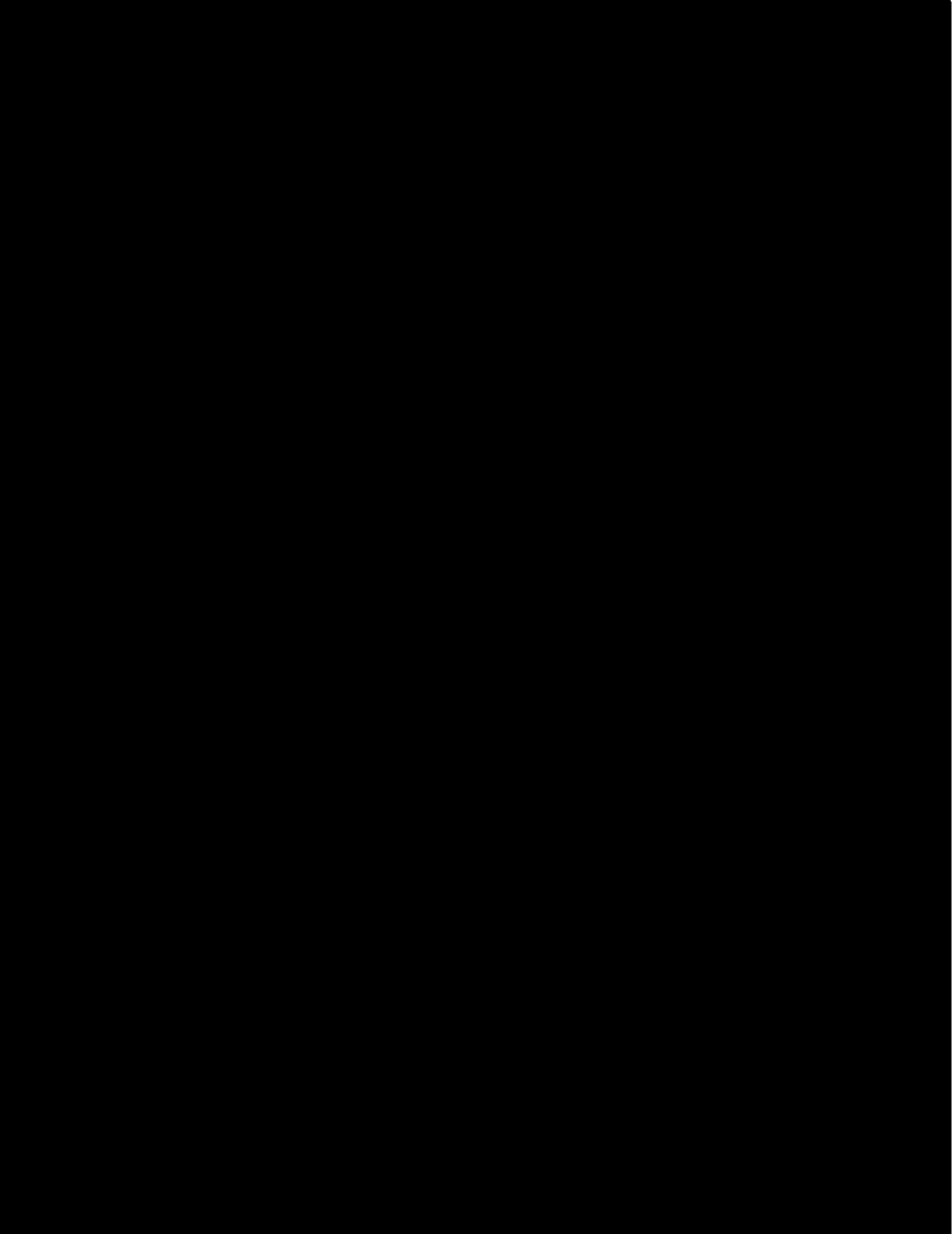




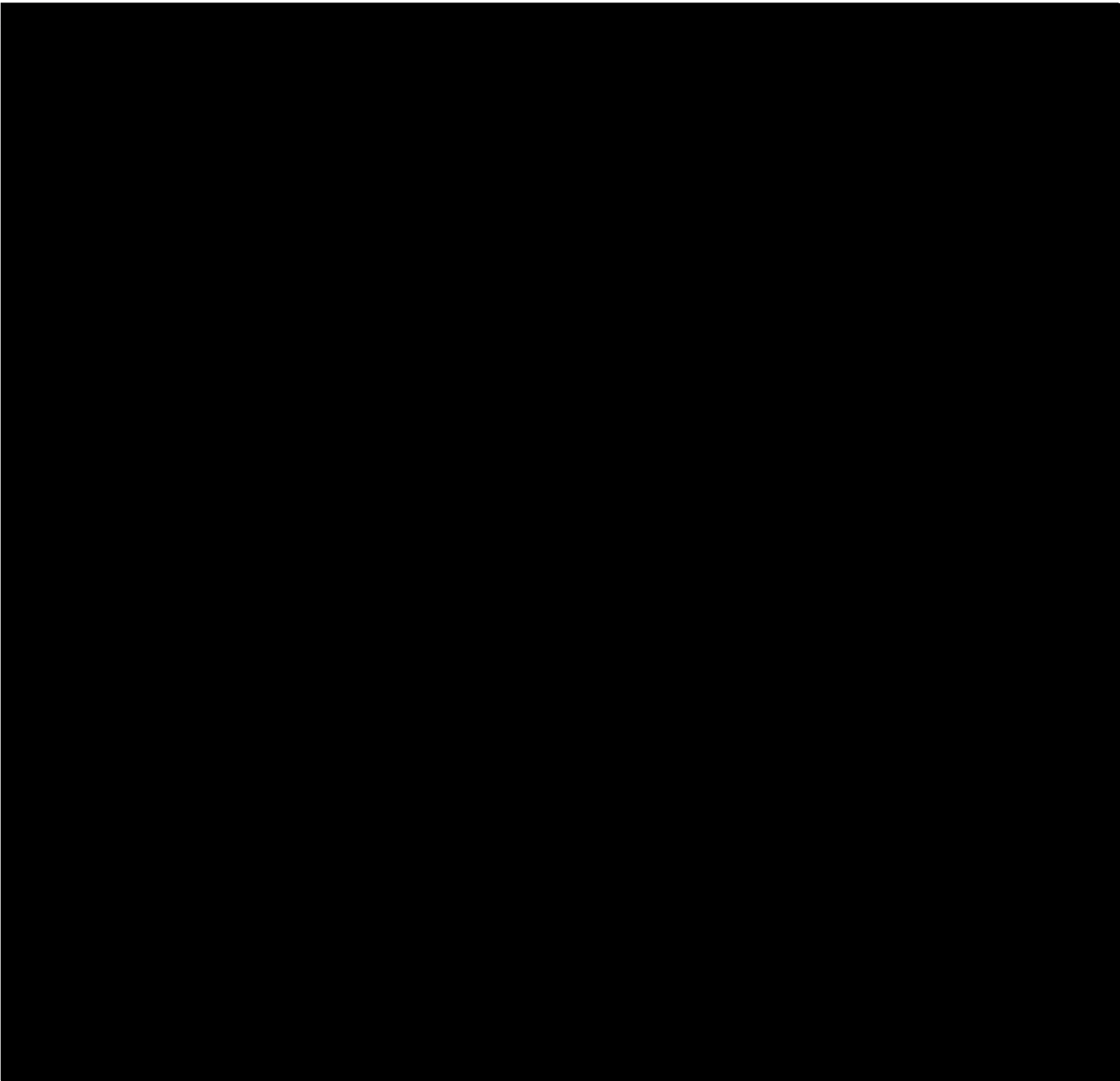


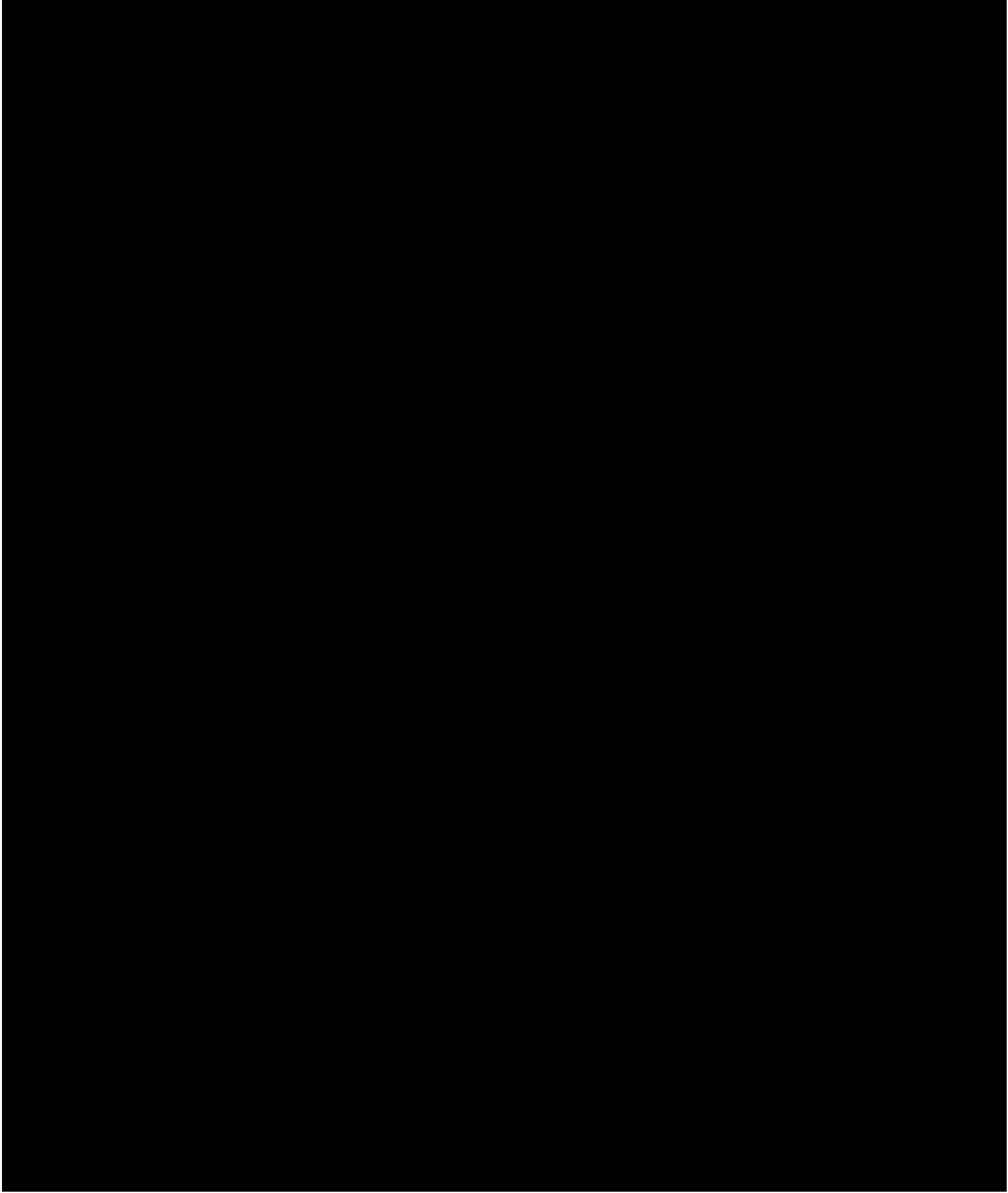


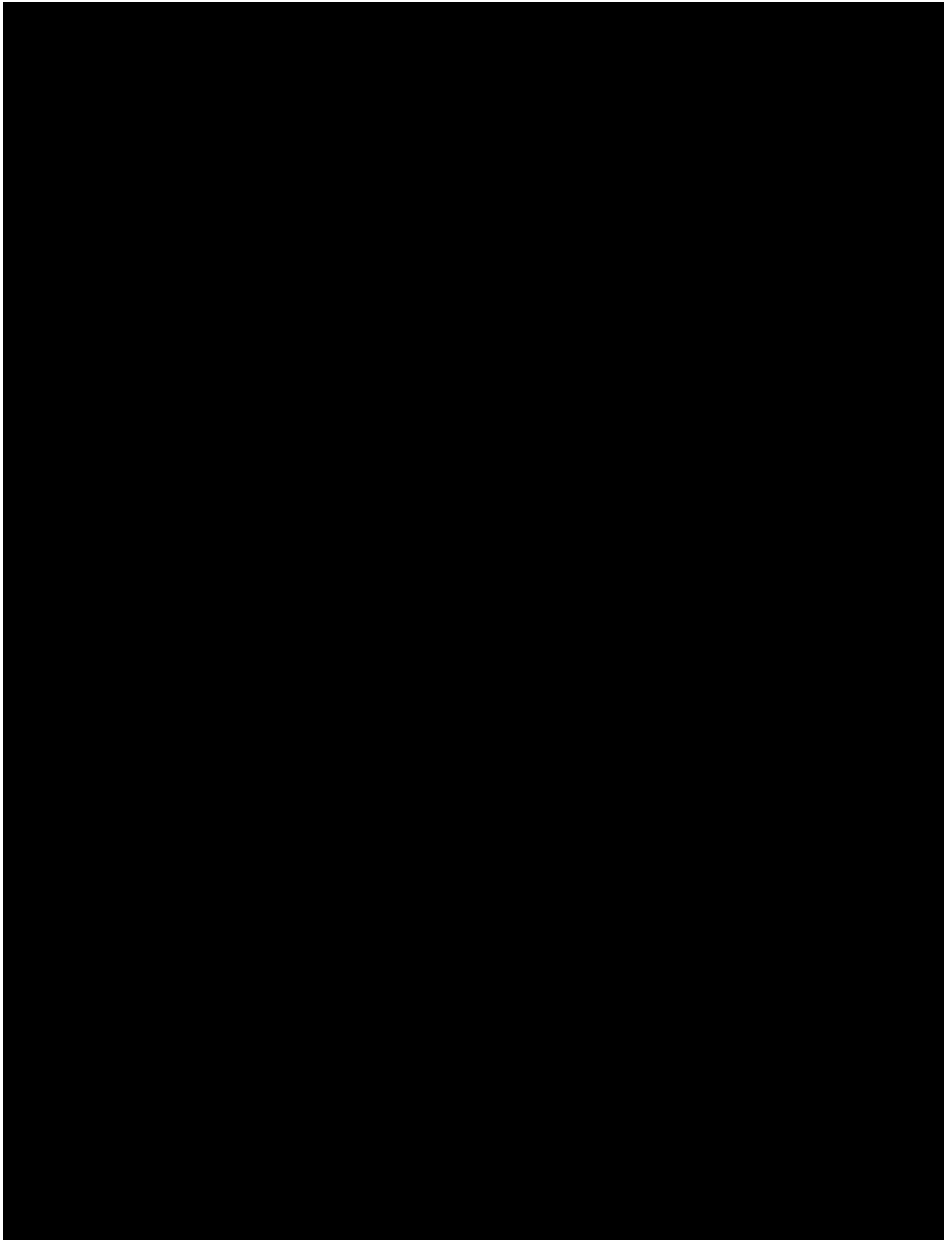






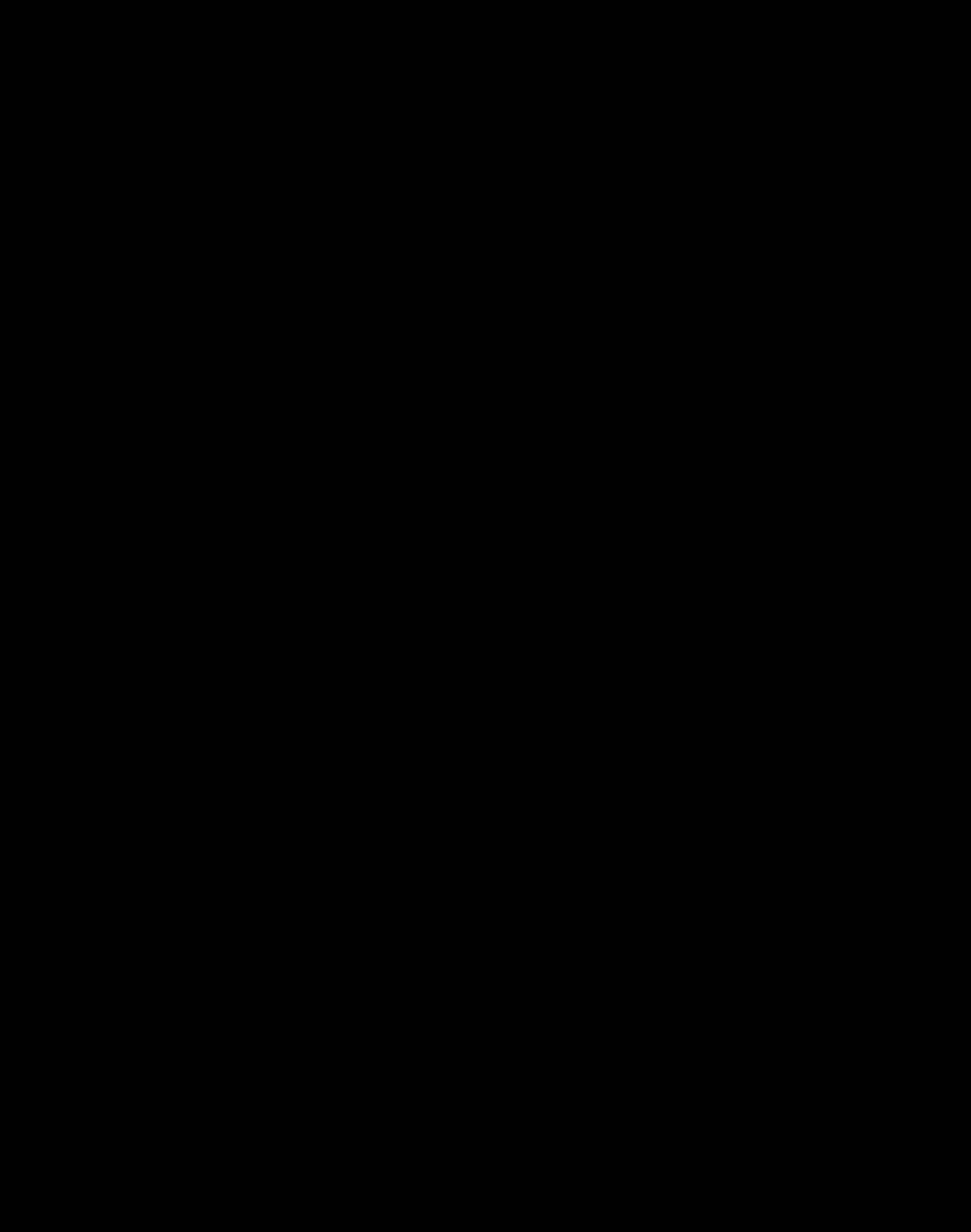


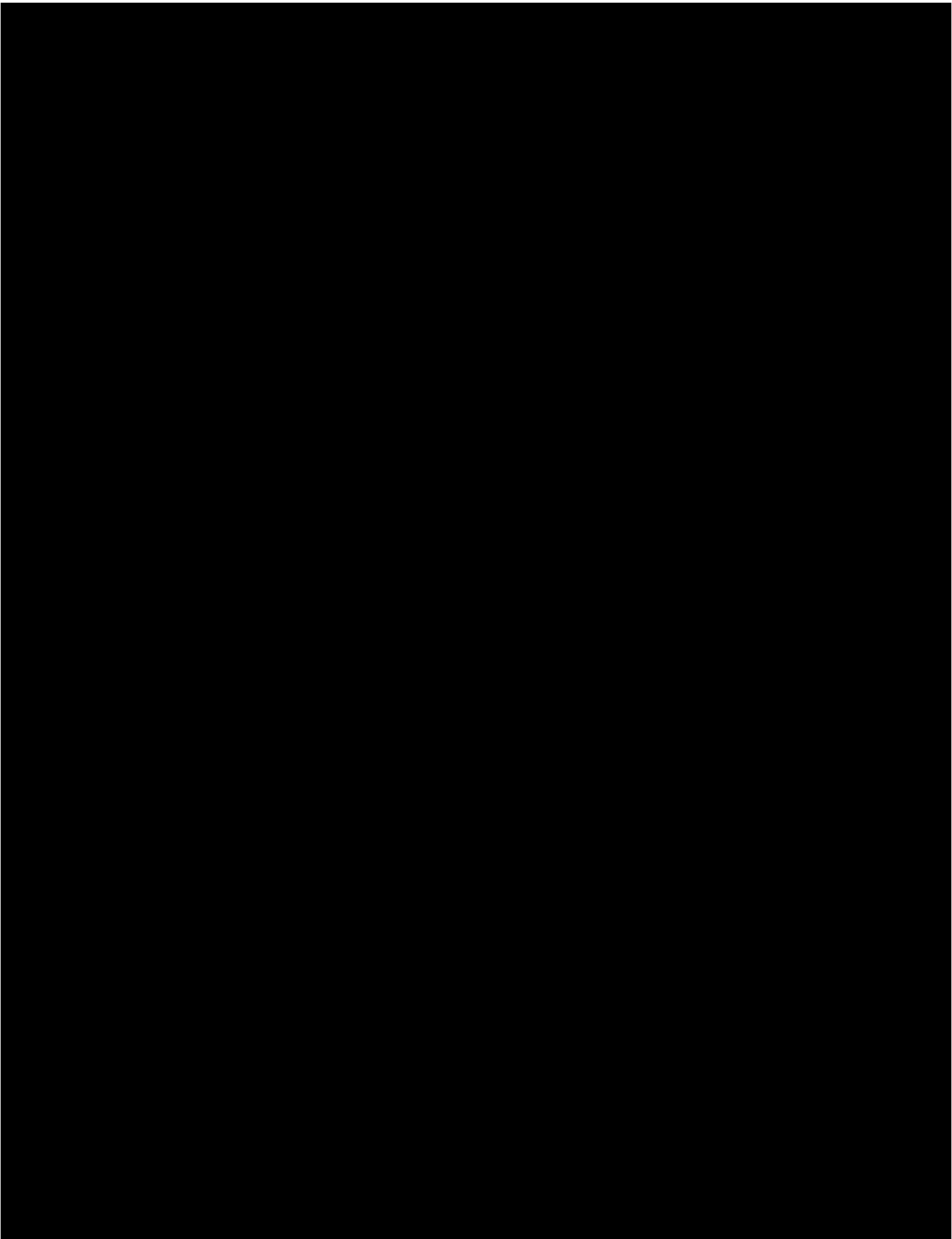


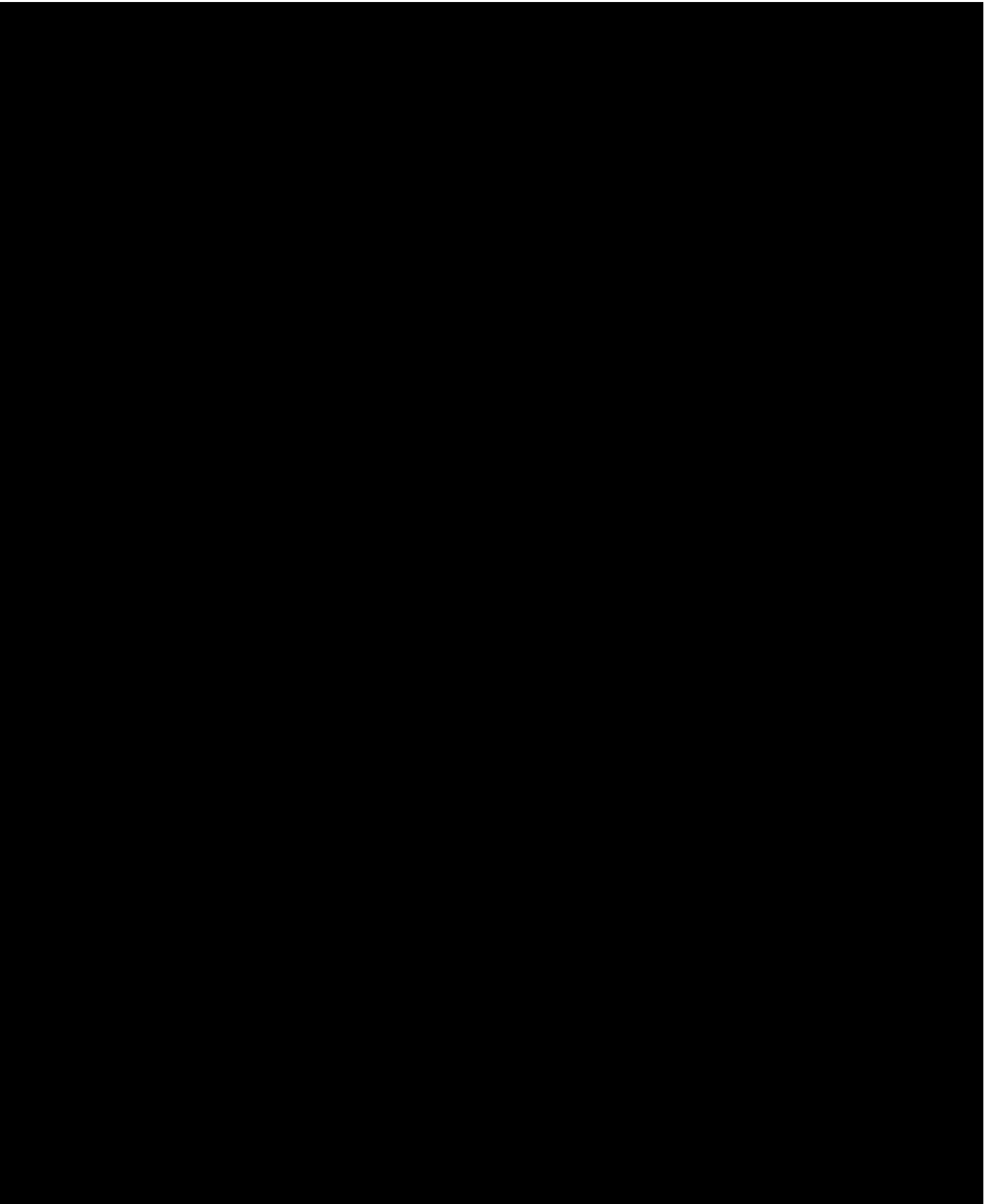














**Exhibit H**

Arbitration Decision, dated July 13, 2023

