

INTERNATIONAL CENTRE FOR THE SETTLEMENT OF  
INVESTMENT DISPUTES

-----x  
 In the Matter of Arbitration :  
 Between: :  
 :  
 GABRIEL RESOURCES LTD. and GABRIEL :  
 RESOURCES (JERSEY) LTD., :  
 : Case No.  
 Claimants, : ARB/15/31  
 :  
 and :  
 :  
 ROMANIA, :  
 :  
 Respondent. :  
 -----x Volume 4

HEARING ON THE MERITS

Thursday, December 5, 2019

The World Bank Group  
1225 Connecticut Avenue, N.W.  
C Building  
Conference Room C3-150  
Washington, D.C.

The hearing in the above-entitled matter came on  
at 9:00 a.m. before:

PROF. PIERRE TERCIER, President of the Tribunal

DR. HORACIO A. GRIGERA NAÓN, Co-Arbitrator

PROF. ZACHARY DOUGLAS, Co-Arbitrator

ALSO PRESENT:

MS. SARA MARZAL YETANO  
Secretary to the Tribunal

MS. MARIA ATHANASIOU  
Tribunal Assistant

Court Reporters:

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Interpreters:

MS. MARLIENA FILIP

MS. ALEXANDRA IULIANA MLADEN

MS. ALEXANDRA DOBRIN

ALSO PRESENT:

Attending on behalf of the Claimants:

MS. ABBY COHEN SMUTNY  
MR. DARRYL LEW  
MR. BRODY GREENWALD  
MR. PETR POLÁŠEK  
MR. HANSEL PHAM  
MR. FRANCIS VASQUEZ JR.  
MR. ANDREI POPOVICI  
MS. GABRIELA LOPEZ  
MR. FRANCIS LEVESQUE  
MR. WILLIAM STROUPE  
MS. NATALIA TCHOUKLEVA  
MR. JACOB TRUMM  
MS. DARA BROWN  
MS. ALYSSA HOWARD  
White & Case, LLP  
701 13th Street, N.W.  
Washington, D.C. 20005  
United States of America

MR. FLORENTIN TUCA  
MS. IDA-LEVANA ZIGMUND  
MS. ANCA DIANA PUSCASU  
MS. OANA-MIRUNA URECHE  
MS. RUXANDRA NIȚĂ  
MS. ANGELICA-IULIANA HOGAȘ-PINTILIE  
MR. CORNEL POPA (via video for Prof. Birsan)  
Țuca Zbârcea & Asociații  
Sos. Nicolae Titulescu nr. 4-8  
America House, Aripa de Vest, et. 8  
Sector 1, 011141, Bucuresti  
Romania

APPEARANCES:

Represent Gabriel Resources Ltd.:

MR. SIMON LUSTY

MR. RICHARD BROWN

MR. DANIEL KOCHAV

MS. RUTH TEITELBAUM

Representing Roşia Montană Gold Corporation:

MR. MIHAI BOTEA

APPEARANCES: (Continued)

Attending on behalf of the Respondent:

DR. VEIJO HEISKANEN  
MR. MATTHIAS SCHERER  
MS. NORADÈLE RADJAI  
MS. LORRAINE de GERMINY  
MR. CHRISTOPHE GUIBERT de BRUET  
MR. DAVID BONIFACIO  
MR. BAPTISTE RIGAUDEAU  
MS. EMILIE McCONAUGHEY  
MS. NICOLE CHALIKOPOULOU  
MR. PATRICIO GRANE  
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DR. CRENGUȚA LEAUA  
MS. ANDREEA SIMULESCU  
MS. MIHAELA MARAVELA  
MS. LILIANA DEACONESCU  
MS. ANDREEA PIȚURCĂ  
MS. ANDRA SOARE FILATOV  
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10 Zborului Street, sector 3  
030595, Bucharest  
Romania

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P R O C E E D I N G S

1  
2           PRESIDENT TERCIER: Good morning, ladies and  
3 gentlemen. My pleasure to open, my honor to open the  
4 fourth day in the arbitration, ICSID Arbitration  
5 procedure 15/31 between Gabriel Resources Limited and  
6 Gabriel Resources (Jersey) Limited versus Romania.

7           I hope you had a pleasant evening, and again  
8 and again and again, I express the wish that we'll  
9 have an interesting, constructive day.

10           I would like to start with a few procedural  
11 points.

12           First, I would like to thank our Court  
13 Reporters, of course, for having submitted the  
14 Transcript, yesterday's Transcript.

15           Secondly, you have received yesterday evening  
16 the Decision taken by the Arbitral Tribunal concerning  
17 the attendees during the examination of Mr. Avram, and  
18 you have a comment to that on Claimants' side?

19           MS. COHEN SMUTNY: We do not have a comment.

20           PRESIDENT TERCIER: On Respondent's side?

21           DR. HEISKANEN: The Respondent takes note of  
22 the Tribunal's decision.

1           PRESIDENT TERCIER: Thank you.

2           The next point, we have also received a  
3 report for the time that has been--already been used.  
4 I'd like to thank our Secretary for that.

5           We have received this morning a moment ago  
6 from Respondent a new Annex A to the Procedural 26.

7           Could you make a comment to us?

8           DR. HEISKANEN: Yes, Mr. President. This was  
9 for purposes of facilitating the planning. The  
10 Respondent feels that we are now in a position to give  
11 an indication or provide an indicative timetable of  
12 the examination of the remaining witnesses. This was  
13 for purposes of facilitating the Tribunal's planning  
14 and also to give better transparency for counsel for  
15 the Claimants.

16          PRESIDENT TERCIER: Thank you.

17          Comment on your side?

18          MS. COHEN SMUTNY: We have not had time to  
19 fully appreciate it. We'll take a look at it this  
20 morning, and if we have any comments, we'll let you  
21 know.

22          PRESIDENT TERCIER: Good.



1           Next point, based on that and after having  
2 received your comment, I would like to ask our  
3 Secretary to prepare a new timetable updated in order  
4 to see how it will look like. And, for today, I think  
5 we will have difficulties to cover all the examination  
6 that were envisaged, but let's first go ahead, and  
7 when we cross the river, we'll see it.

8           Have you another point at this juncture?

9           Claimant?

10          MR. VASQUEZ: No. We're ready to proceed.

11          PRESIDENT TERCIER: On your side?

12          DR. HEISKANEN: The only outstanding item was  
13 the Respondent's comments on the Commission's letter.  
14 We can confirm that the Respondent has no objection to  
15 the Commission's request.

16          PRESIDENT TERCIER: Okay. Good, so, you  
17 confirm the letter.

18          Fine. So, if there is no further point, we  
19 may start with the examination of Mr. Horea Avram.

20          HOREA AVRAM, CLAIMANTS' WITNESS, CALLED

21          PRESIDENT TERCIER: Good morning, Mr. Avram.  
22 I start with a--

1           MR. VASQUEZ: We're having a problem with the  
2 microphone for Mr. Avram.

3           (Pause.)

4           THE WITNESS: Good morning.

5           PRESIDENT TERCIER: Good morning.

6           I would like first to ask you in which  
7 language do you wish to testify?

8           THE WITNESS: I will try my best to testify  
9 in English. If I will encounter any issues, I will  
10 ask permission to listen to the Romanian translation.

11          PRESIDENT TERCIER: Thank you very much. It  
12 will, indeed. First we are happy that you are ready  
13 to testify in English; and, secondly, of course, if  
14 you have the slightest problem, you have the right to  
15 ask for assistance. Good.

16          THE WITNESS: Thank you.

17          PRESIDENT TERCIER: So, you will be heard  
18 this morning as a witness. First I would like not to  
19 apologize, but to argue that we are aware of the fact  
20 that yesterday you had to wait, but you know it is  
21 difficult for the Tribunal to exactly know how long it  
22 would be. I would like to thank you for having been

1 so patient.

2           Secondly, I would like to introduce you  
3 shortly the members of the Arbitral Tribunal: On my  
4 left-hand side is Professor Horatio Grigera Naón; on  
5 my right side, Professor Zachary Douglas. My name is  
6 Pierre Tercier. I'm now the President of the  
7 Tribunal. I replaced Ms. Teresa Cheng. On the far  
8 right, we have Secretary of the Tribunal and the  
9 Assistant of the Arbitral Tribunal. I think I do not  
10 need to introduce who are on both sides of the side.

11           First, may I invite you to read the statement  
12 that is in front of you.

13           THE WITNESS: I solemnly declare upon my  
14 honor and conscience that I shall speak the truth, the  
15 whole truth, and nothing but the truth.

16           PRESIDENT TERCIER: Okay. Thank you.

17           You have prepared for this procedure two  
18 Witness Statements, the first dated the 30th of  
19 June 17, 2017, and the second on the 31st of  
20 October 2018.

21           THE WITNESS: Yes, I did.

22           PRESIDENT TERCIER: All right.

1 THE WITNESS: Yes.

2 PRESIDENT TERCIER: Have you these two  
3 documents in front of you?

4 THE WITNESS: I do.

5 PRESIDENT TERCIER: Good. Can you confirm  
6 the content of this document, or do you wish to make  
7 some amendments?

8 THE WITNESS: I would like to make an  
9 amendment--

10 PRESIDENT TERCIER: Good.

11 THE WITNESS: --to one of my exhibits.

12 PRESIDENT TERCIER: Yeah, please.

13 THE WITNESS: In one of my exhibits, there is  
14 a wrong reference to C-575; should be referenced  
15 R-215.

16 PRESIDENT TERCIER: Okay. We'll take a note  
17 of it. Fine.

18 Now, you know how the procedure will be  
19 conducted. I will ask you one or two questions. Then  
20 there will be a redirect then a cross--direct, sorry,  
21 a cross, and a redirect. You know the procedure.

22 And you also know that the Arbitral Tribunal

1 has the right to ask questions whenever we feel it's  
2 useful and necessary to do so.

3 Another point is that we have a transcript,  
4 so avoid overlapping with the speaker that is  
5 speaking, and we will have no problem with  
6 interpretation, so I don't need to be. Second rule.

7 By the way, I'm sorry, but I've forgotten to  
8 ask is whether there are new attendees in the room.

9 MS. COHEN SMUTNY: On Claimants' side today,  
10 we have Professor Mihai with us. Others are the same.

11 PRESIDENT TERCIER: Okay. And on your side?

12 DR. HEISKANEN: No new attendees on the  
13 Respondent's side.

14 PRESIDENT TERCIER: Very well. Good. Now we  
15 can proceed.

16 MR. GREENWALD: Mr. Tănase is also with us at  
17 the table.

18 PRESIDENT TERCIER: Sorry? Oh, yes. Okay.  
19 Hello again, Mr. Tănase.

20 Mr. Avram, can you, even if it's already in  
21 your Witness Statement, in a few words, tell us what  
22 was your position during the time of the difficulties

1 that I guess now are before this Tribunal, and what is  
2 now your position.

3 THE WITNESS: Yes.

4 I joined the Project in March 2003 as the  
5 Environmental Engineer.

6 In 2005, I've been appointed Environmental  
7 Manager mostly being responsible for environmental  
8 permitting.

9 In 2008, I'd been appointed VP for  
10 Environmental Affairs.

11 Since 2014, I'm the Environmental Director  
12 with the Company.

13 PRESIDENT TERCIER: Okay. What has been your  
14 education?

15 THE WITNESS: My background is environmental  
16 engineering.

17 I graduated Mining University in  
18 environmental science.

19 I hold a master in eco-management and also an  
20 executive MBA.

21 PRESIDENT TERCIER: Okay. And another  
22 question: Could you in a few words tell us what has

1 been the process for the preparation for your Witness  
2 Statements.

3 THE WITNESS: I've been working with the  
4 counsel to prepare my Witness Statement providing with  
5 information. I have been helped with preparing the  
6 statement--my English is not perfect.

7 PRESIDENT TERCIER: Okay. Good.

8 There are no questions from my  
9 co-Arbitrators. I give the floor to Mr. Vasquez.

10 MR. VASQUEZ: Okay. I think we have binders  
11 to hand out.

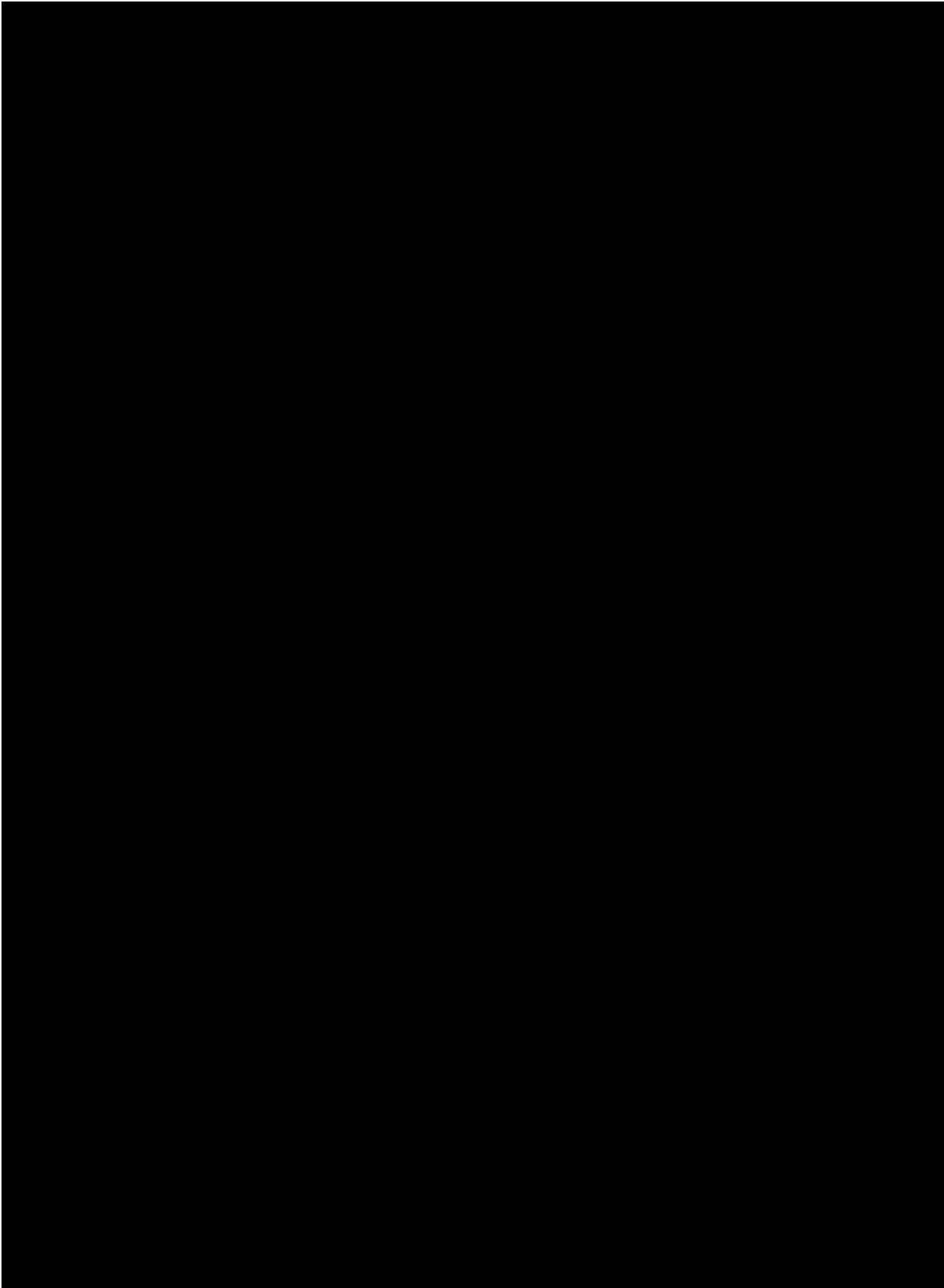
12 (Pause.)

13 MR. VASQUEZ: The Tribunal will appreciate  
14 it's a very thin binder.

15 DIRECT EXAMINATION

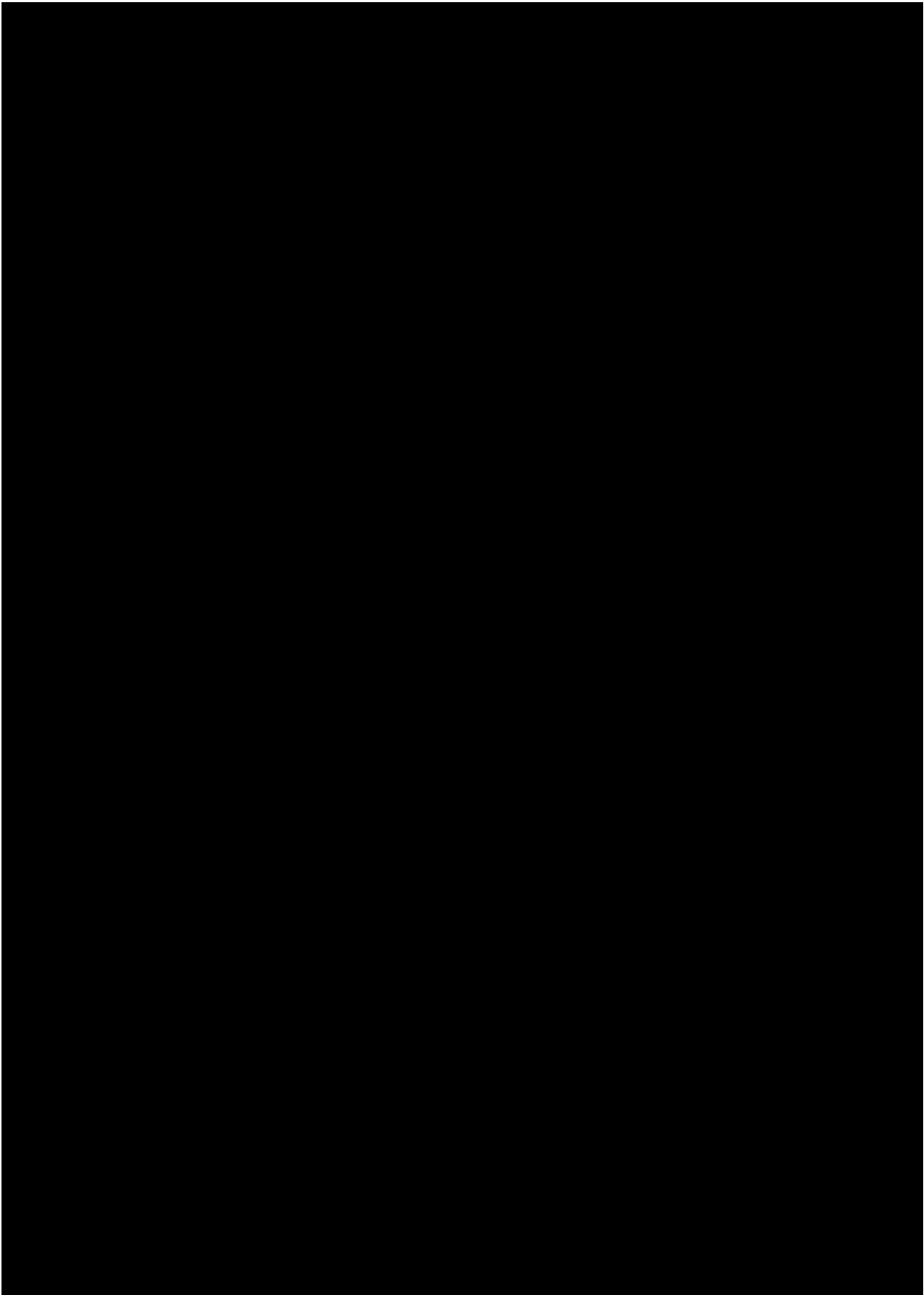
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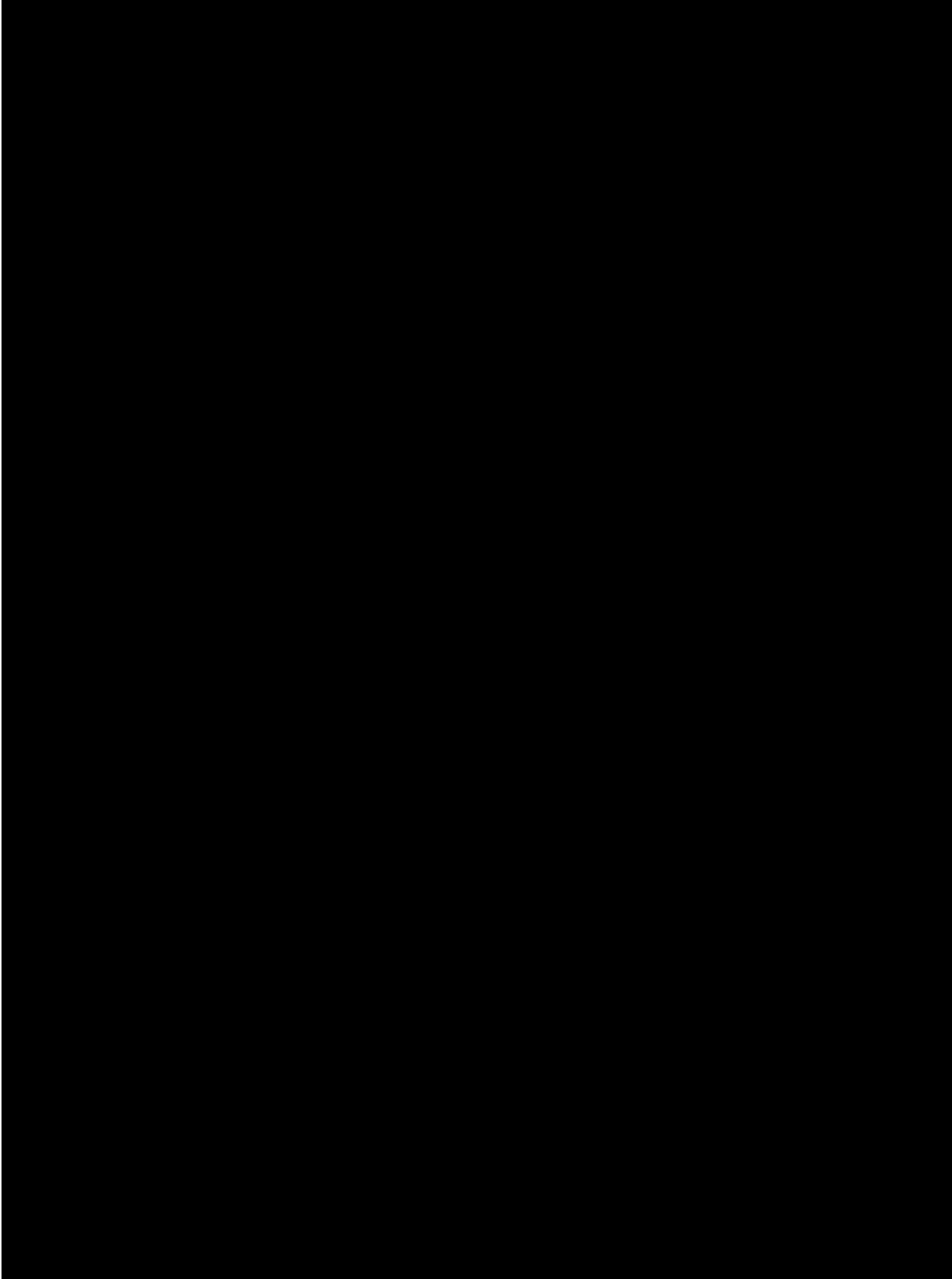




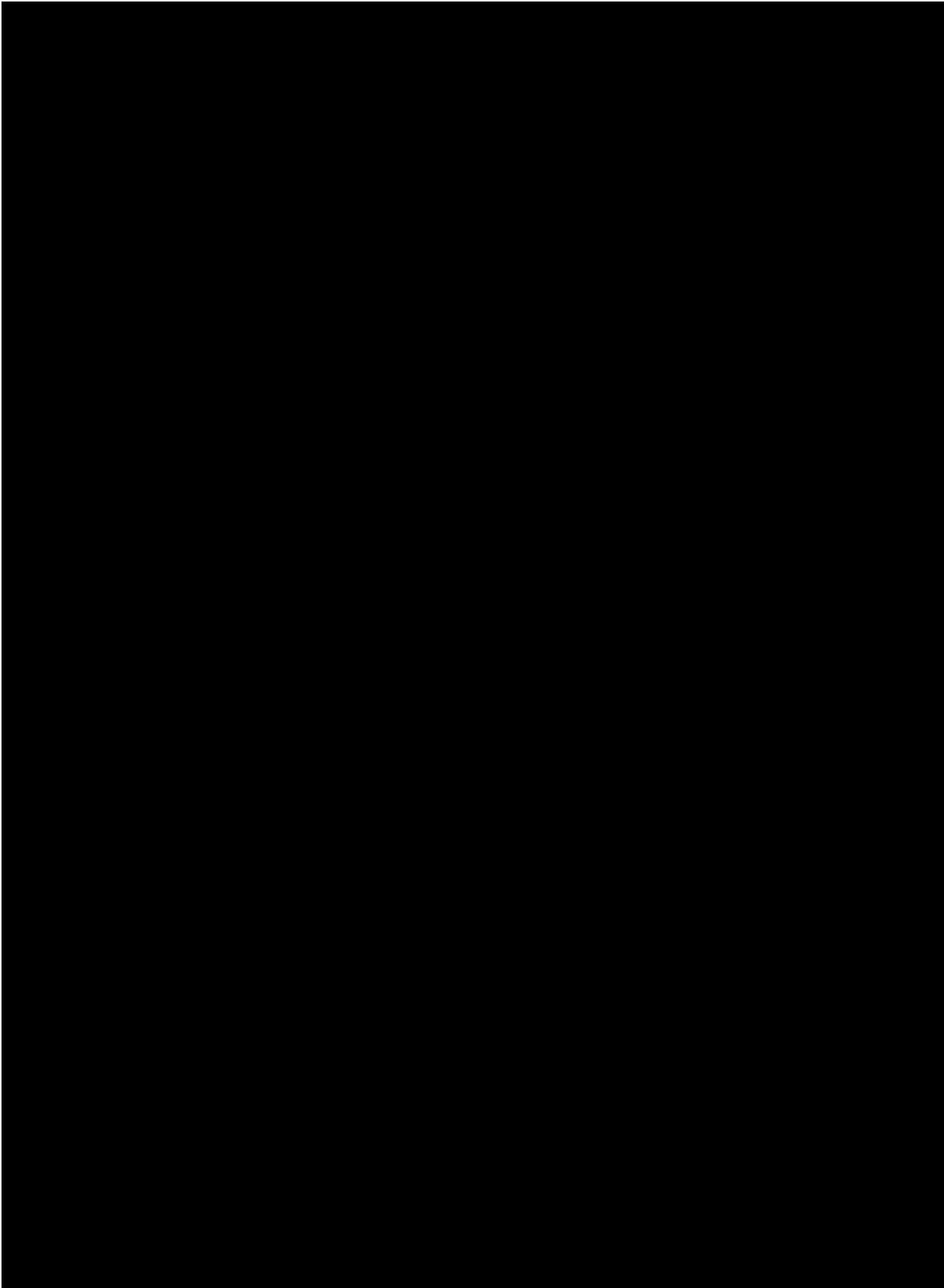
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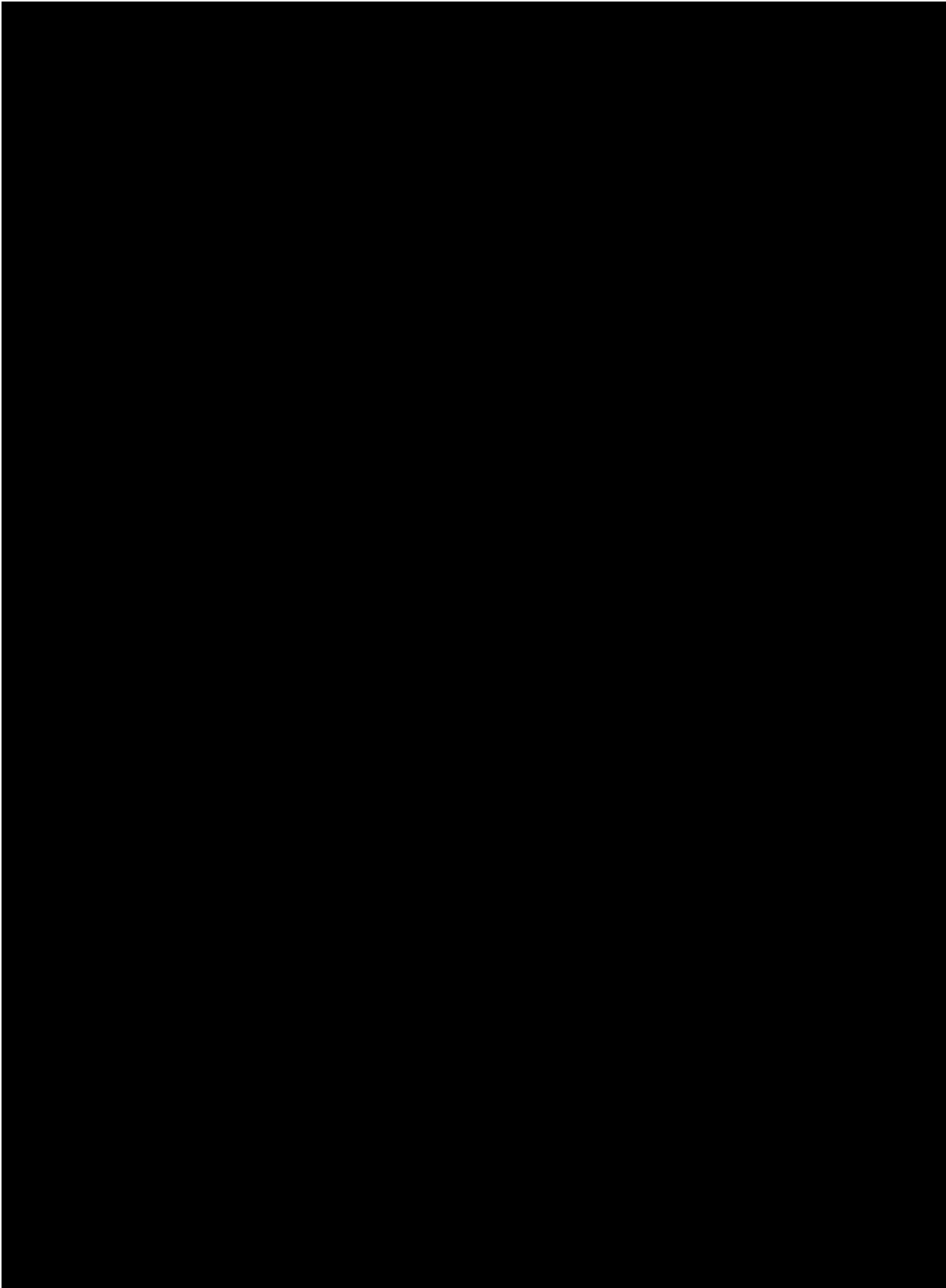
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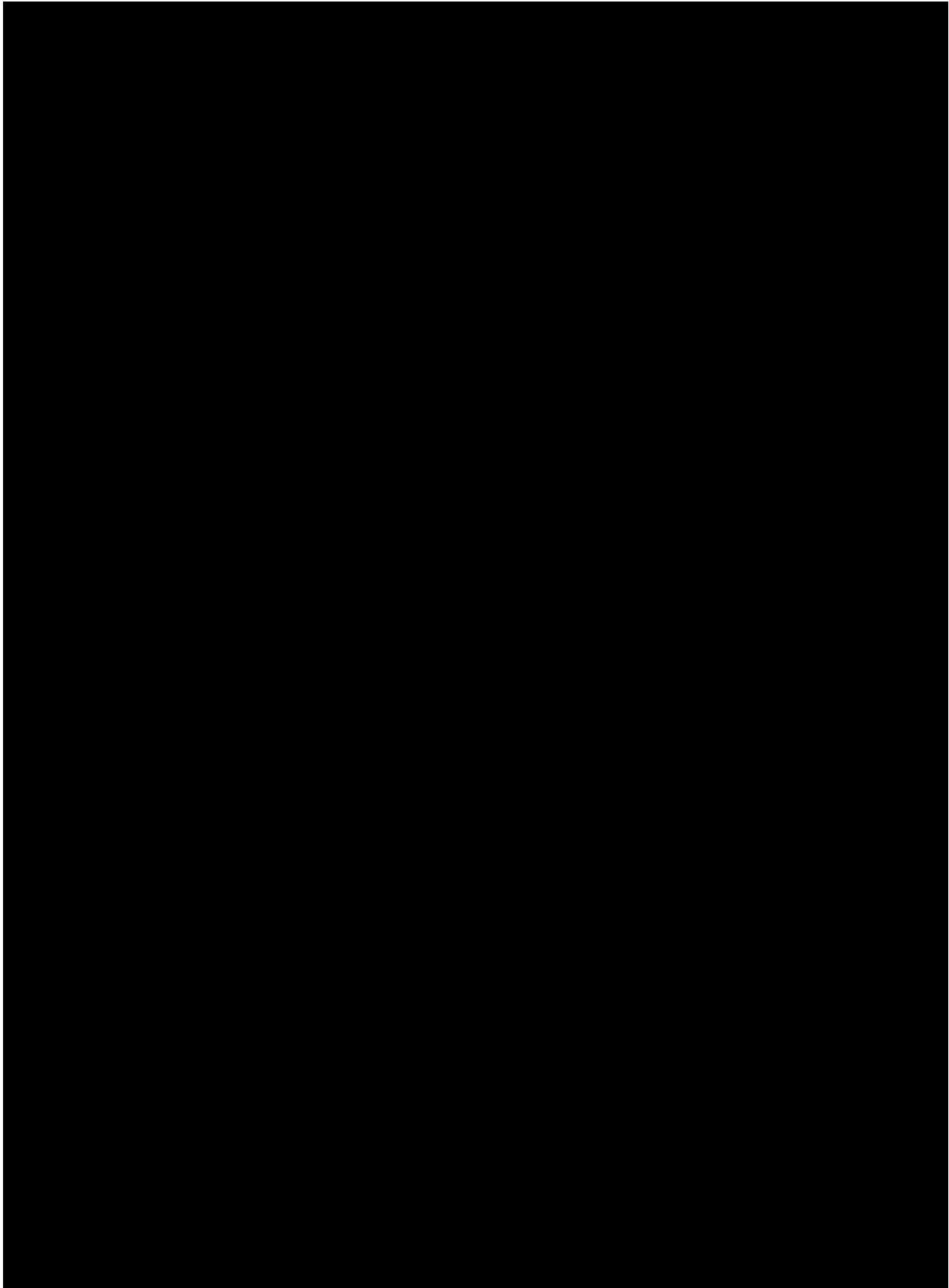
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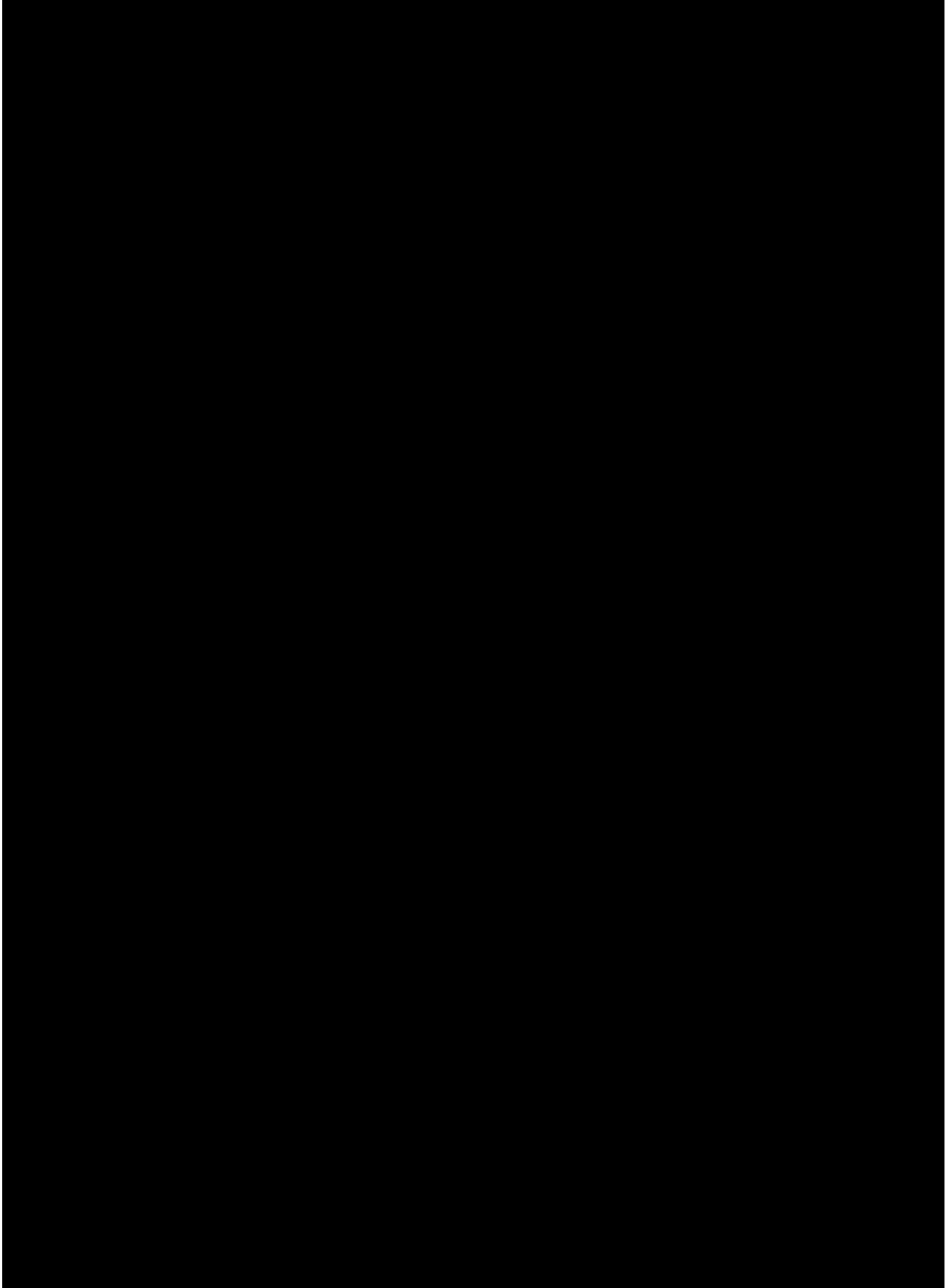
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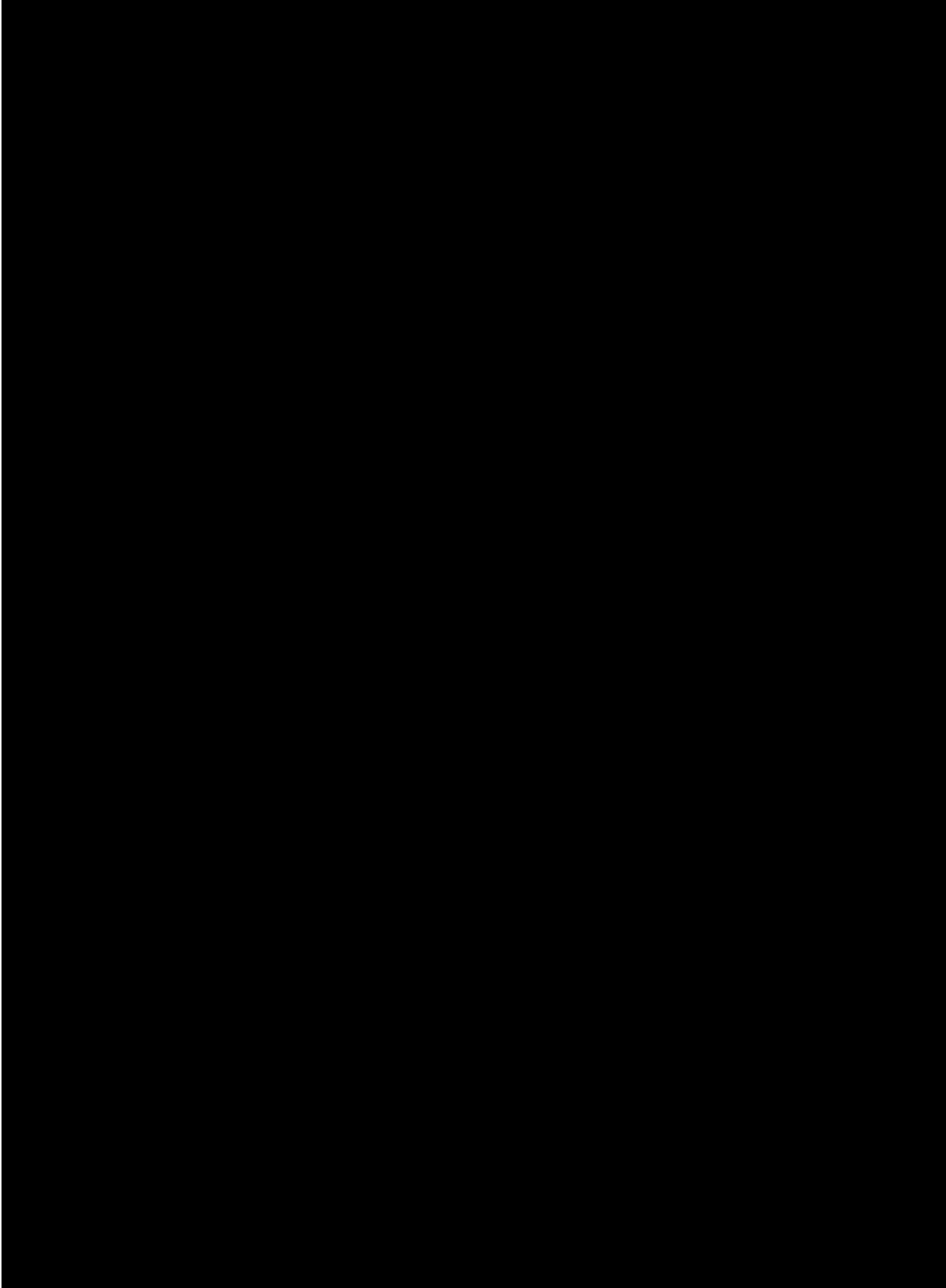
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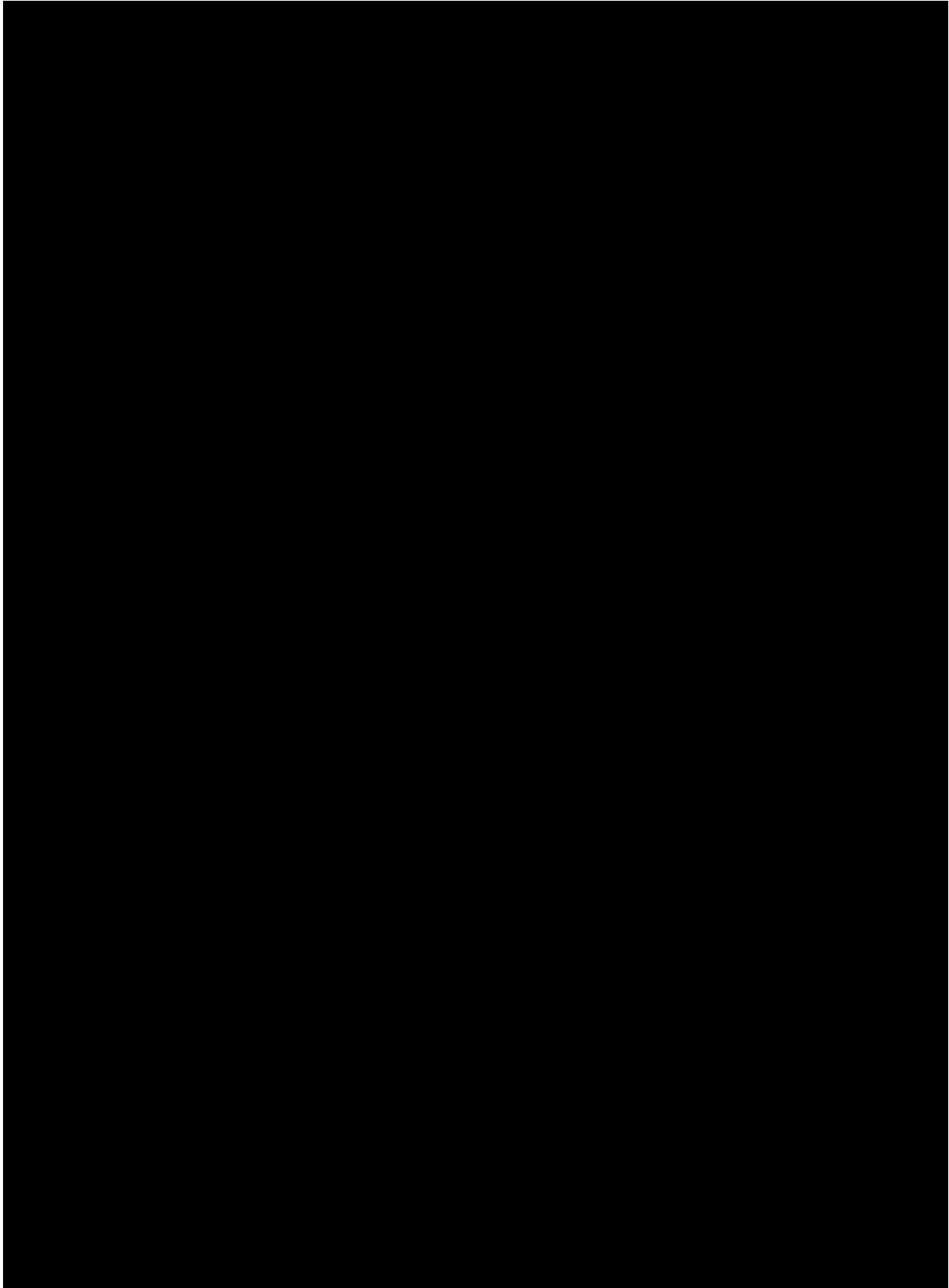
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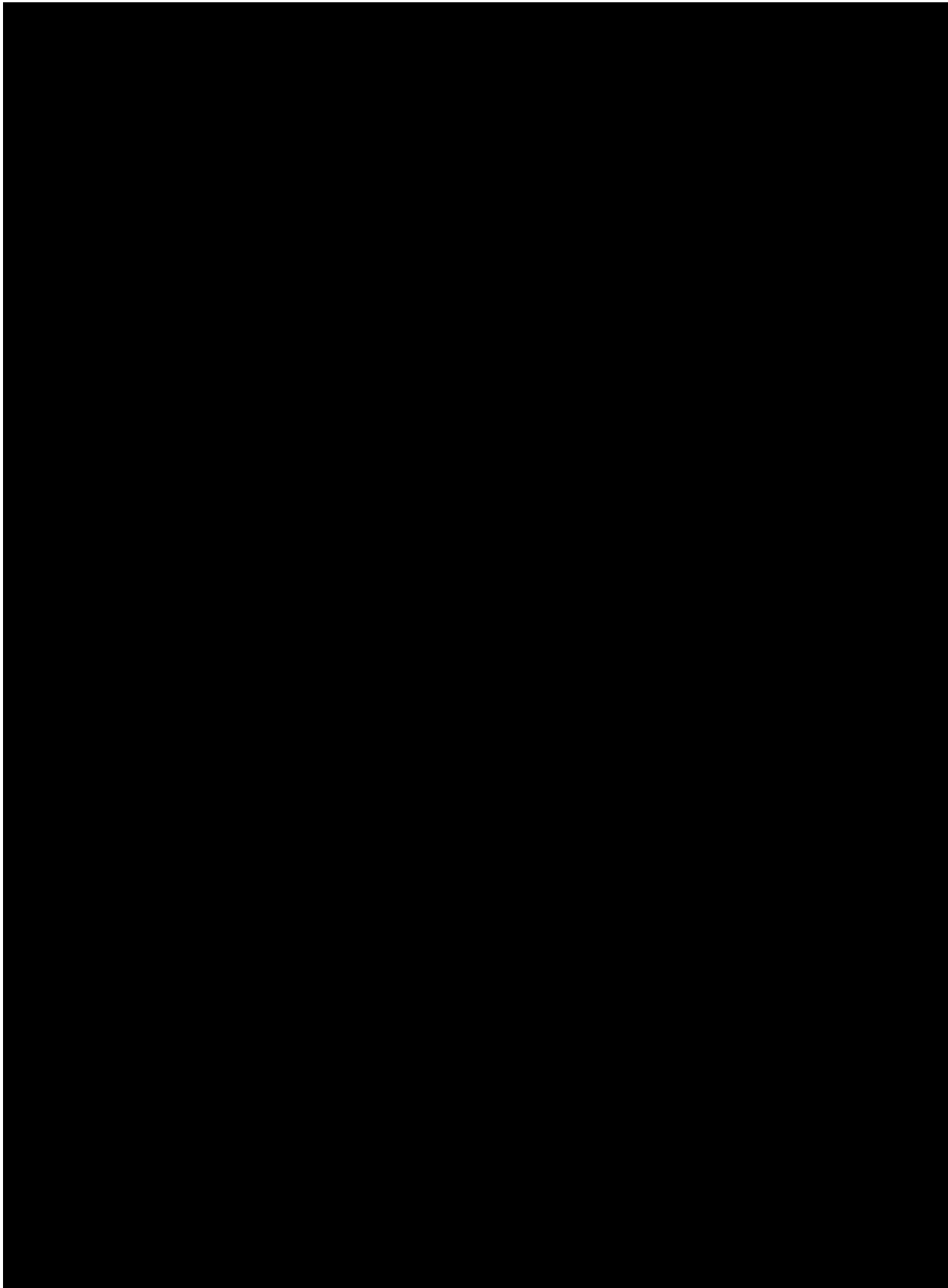


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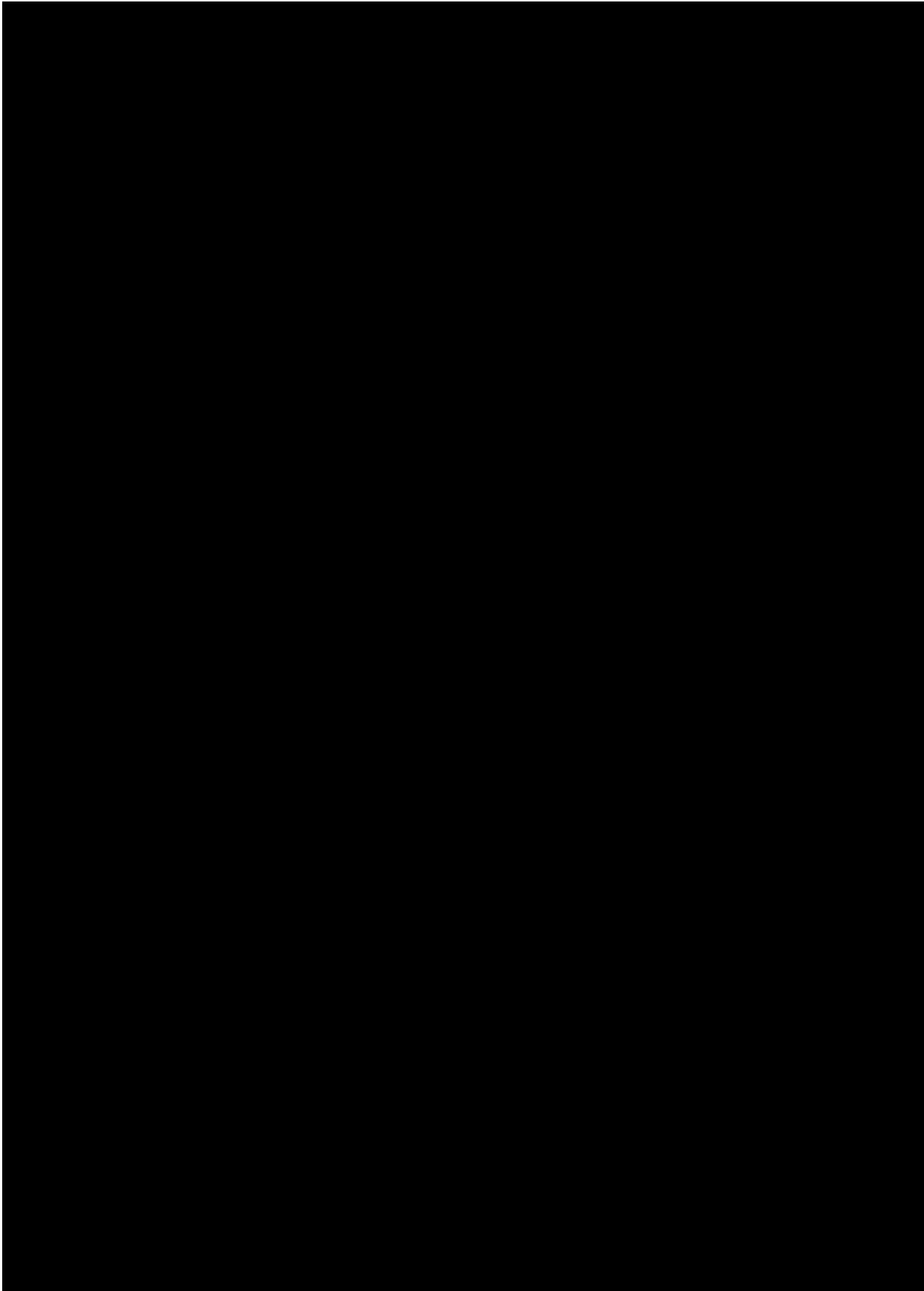




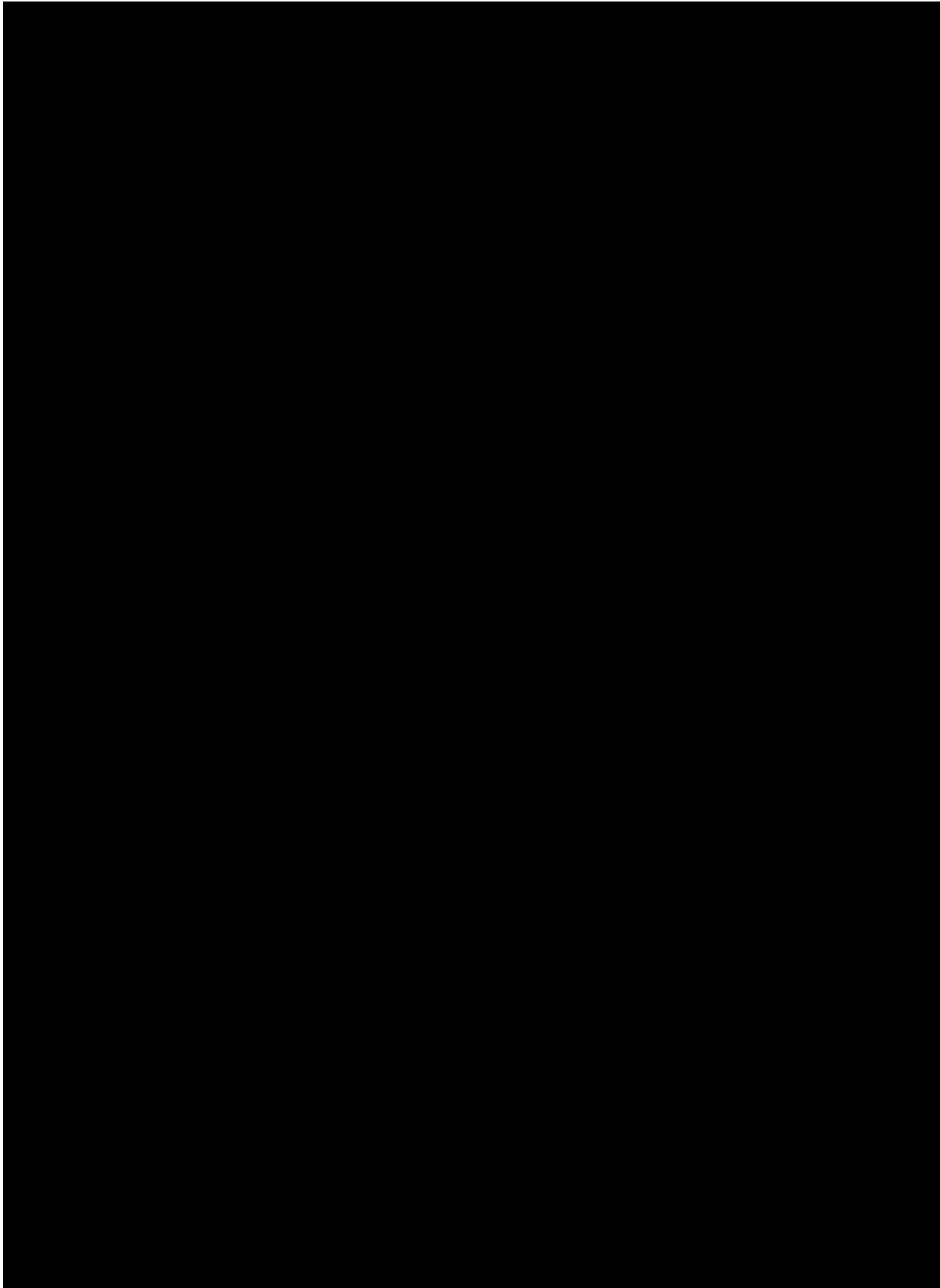
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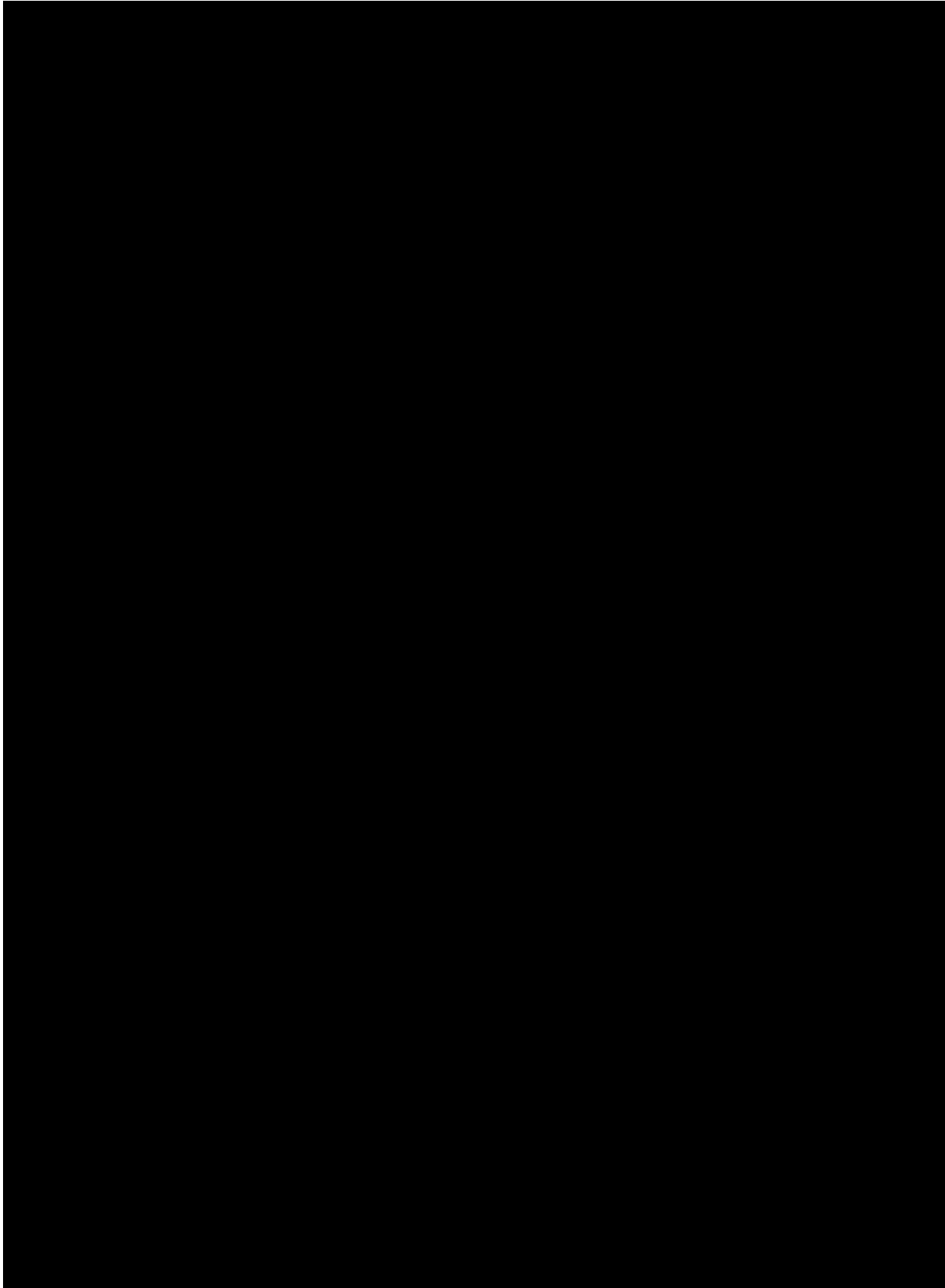
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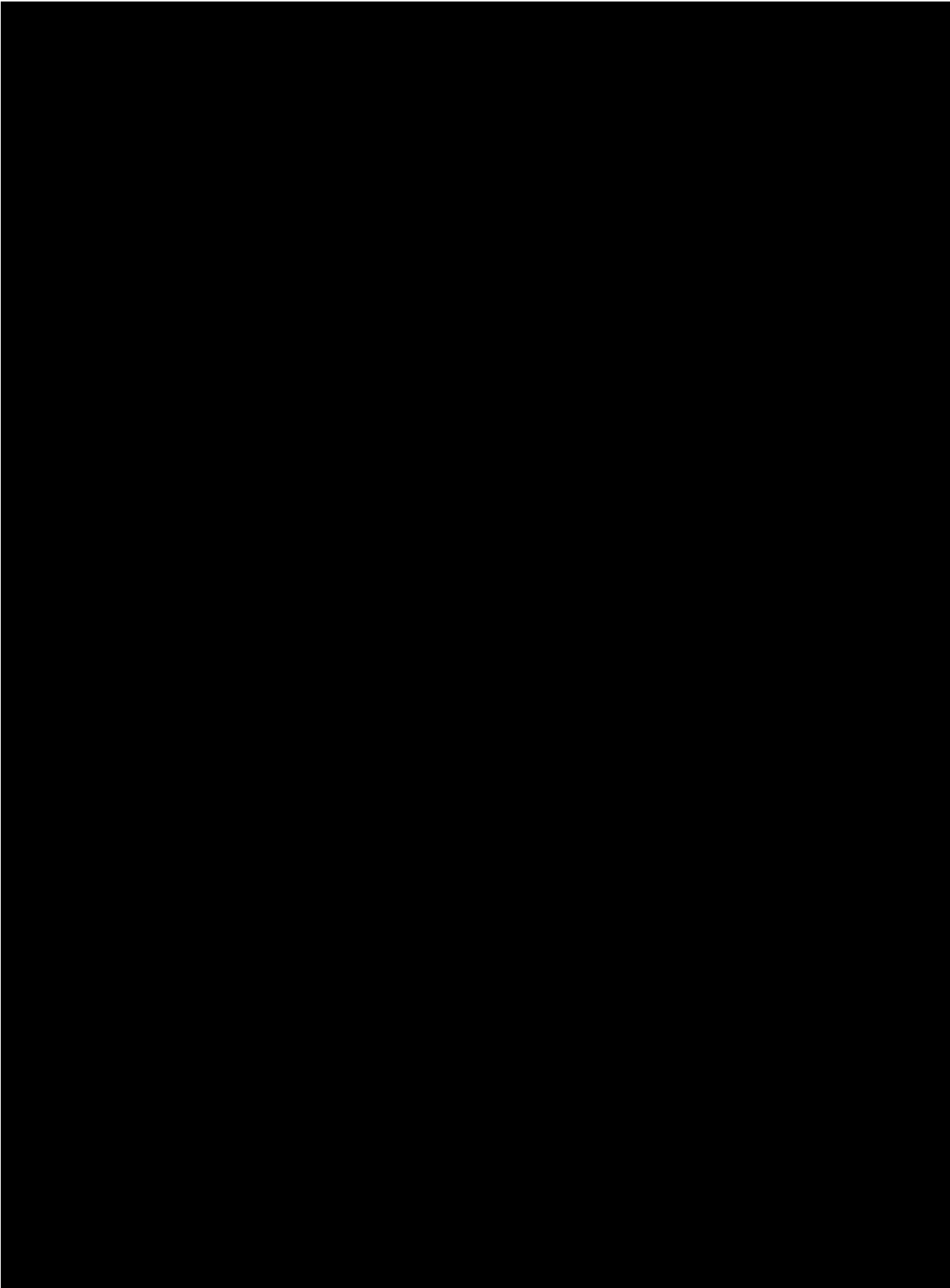
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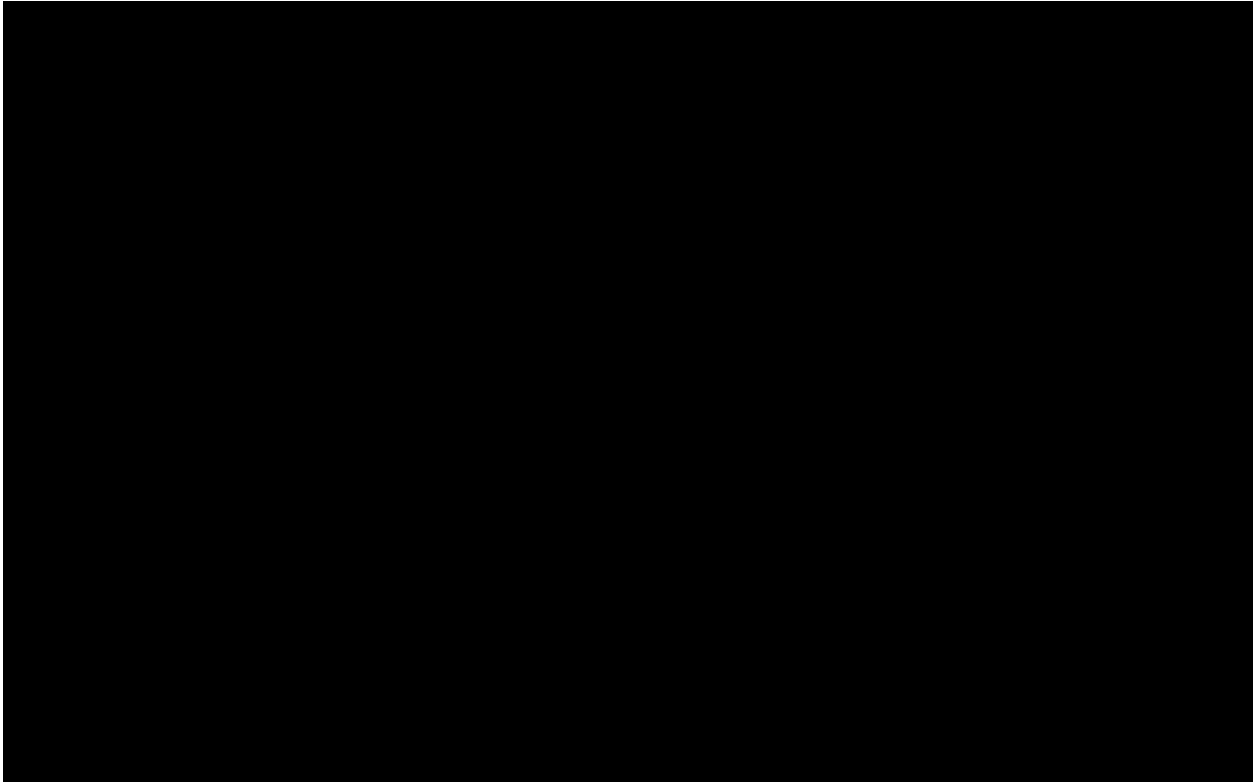
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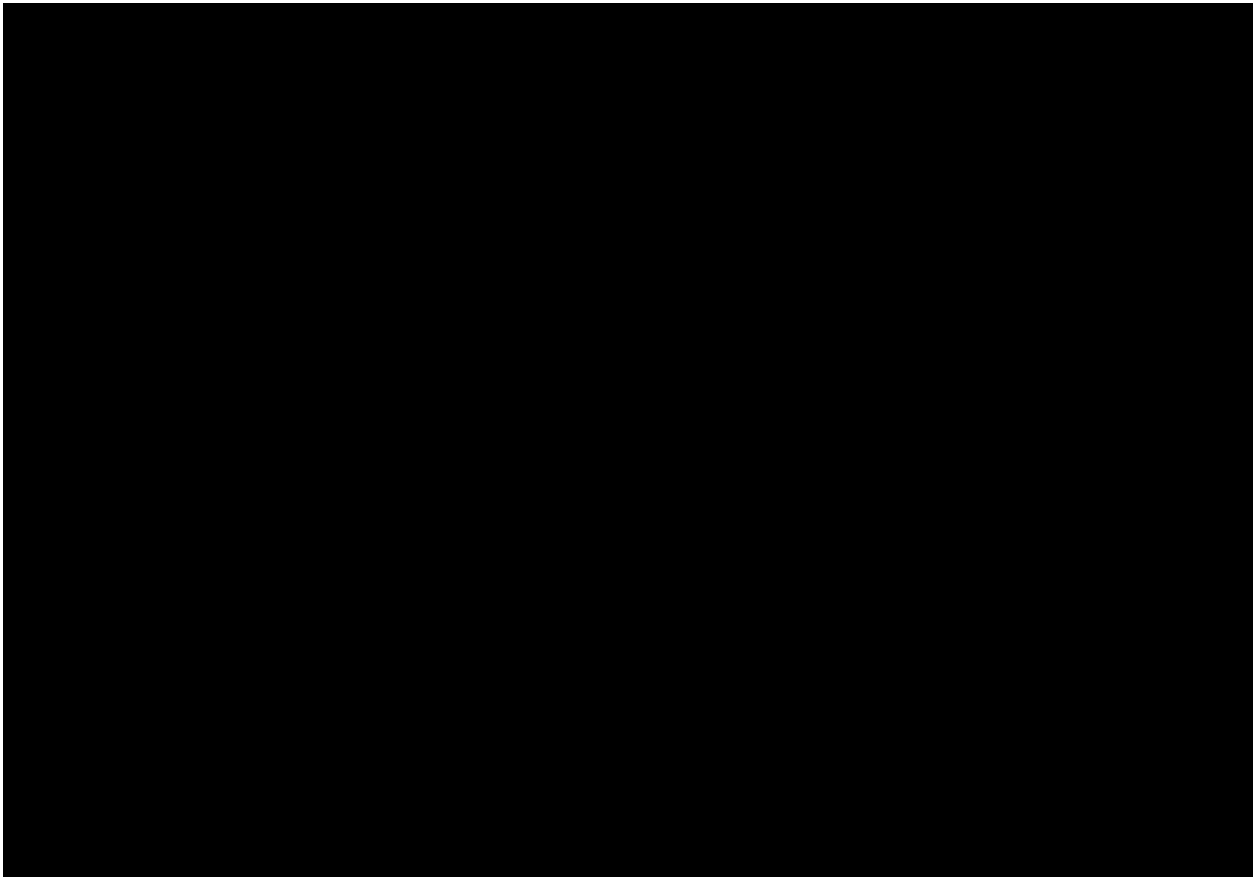
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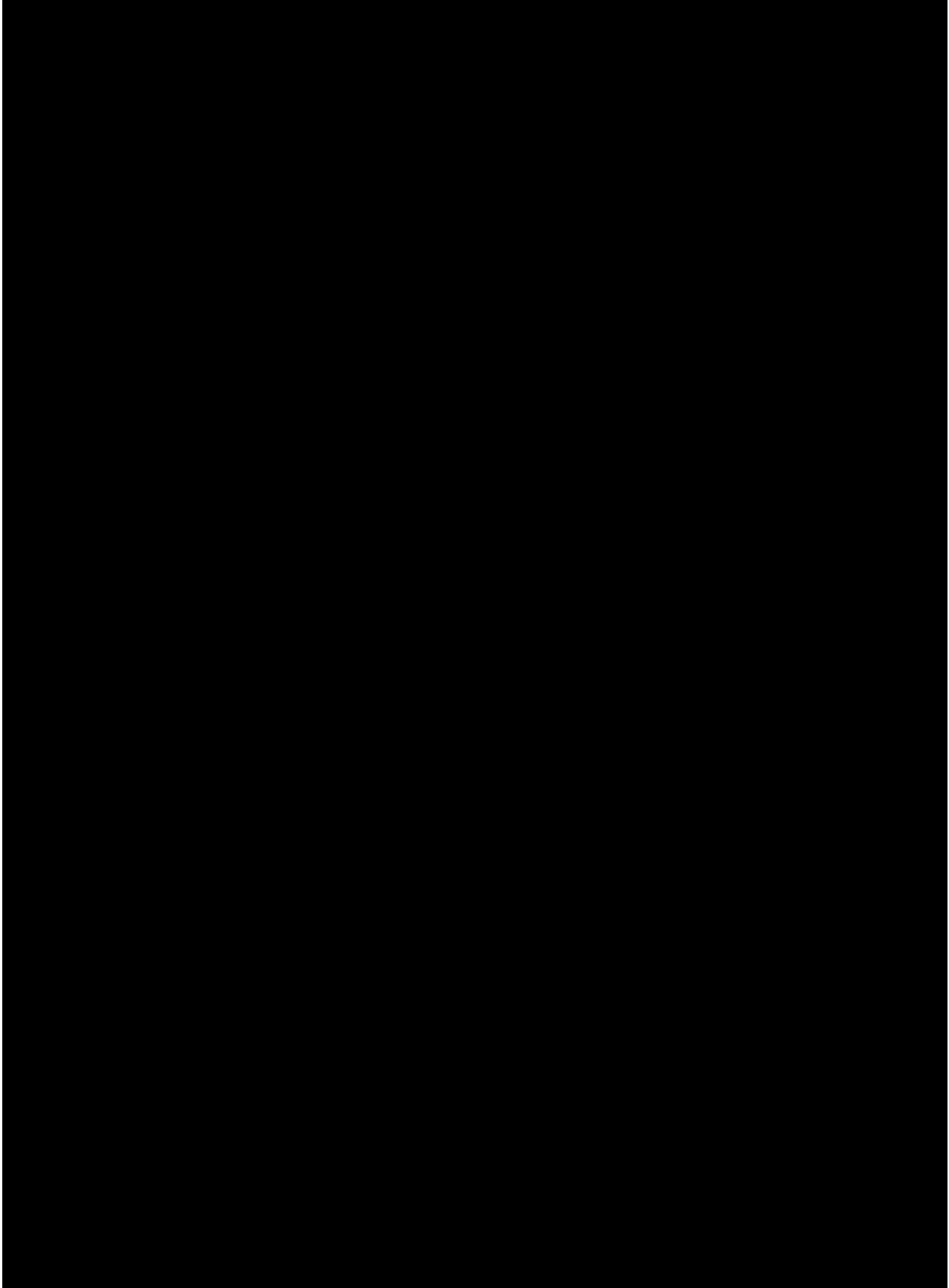
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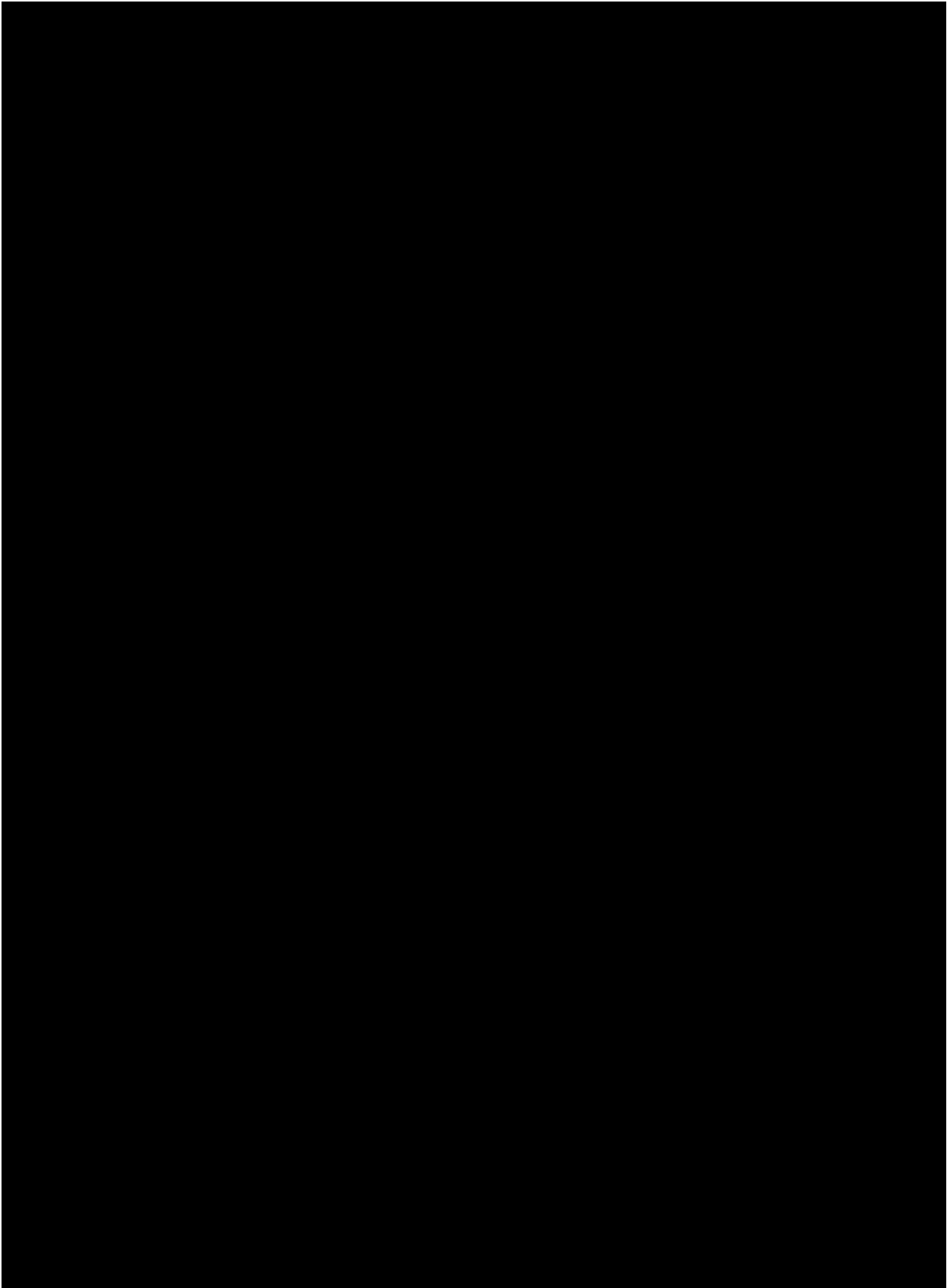
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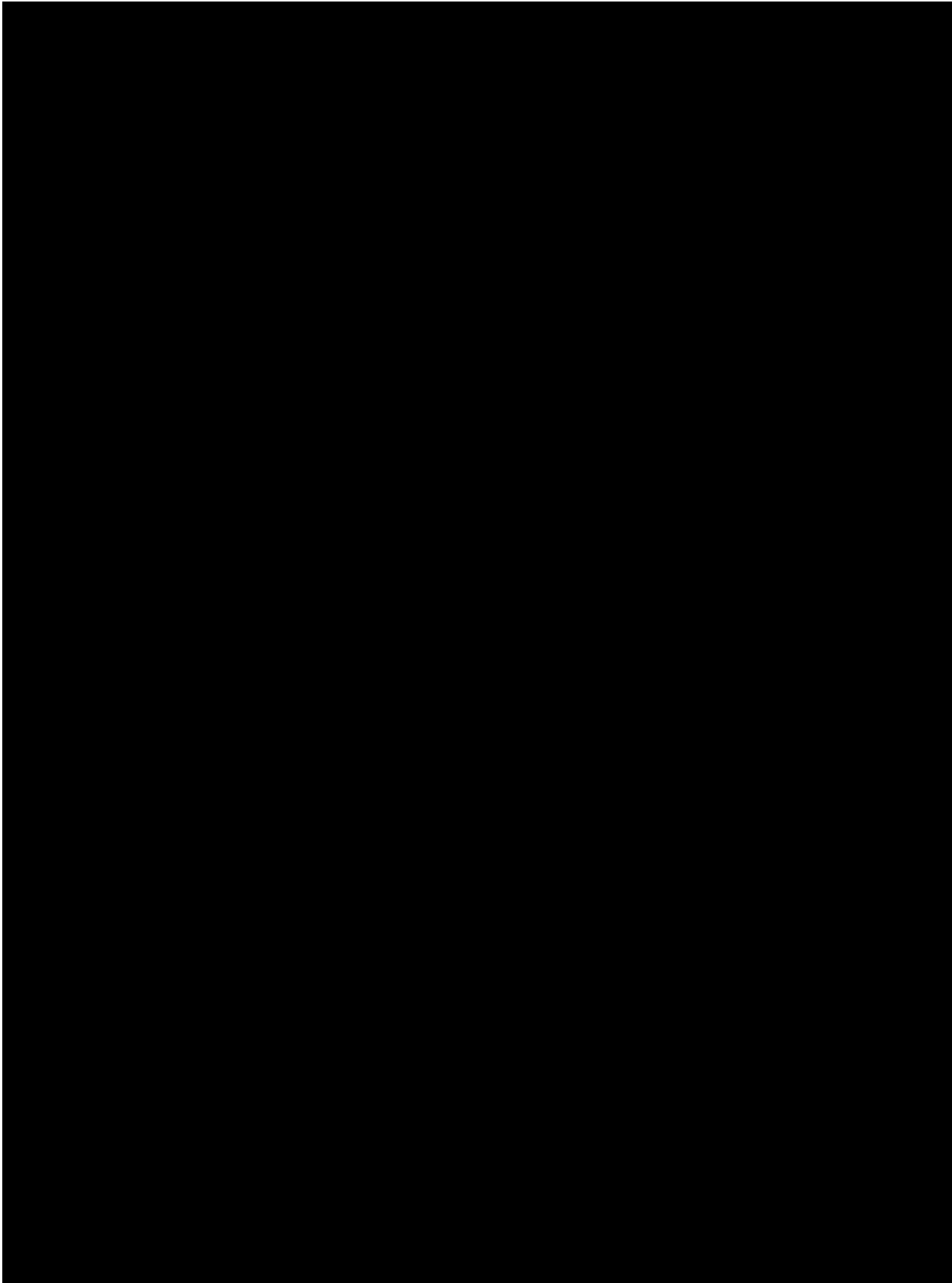


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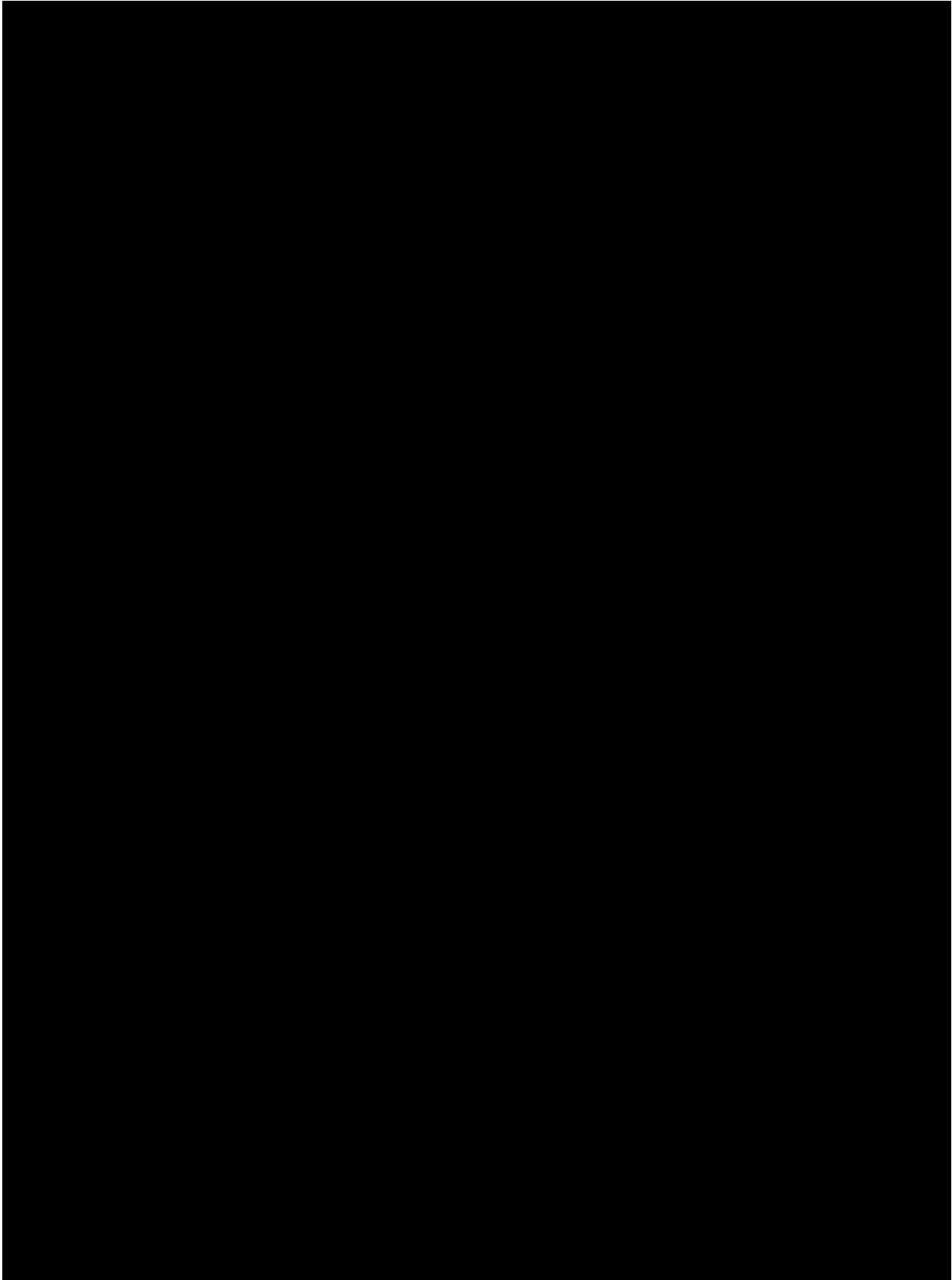




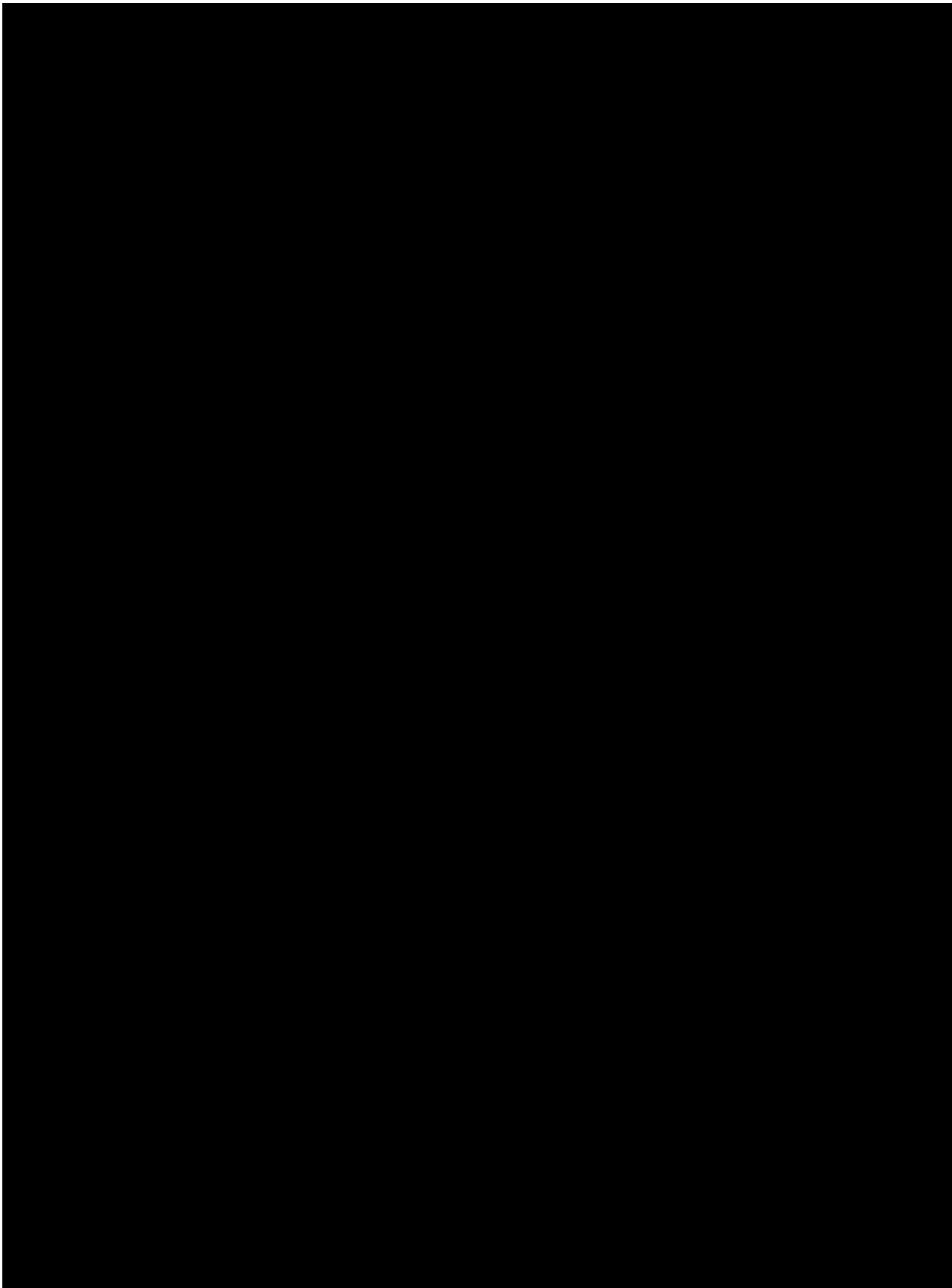
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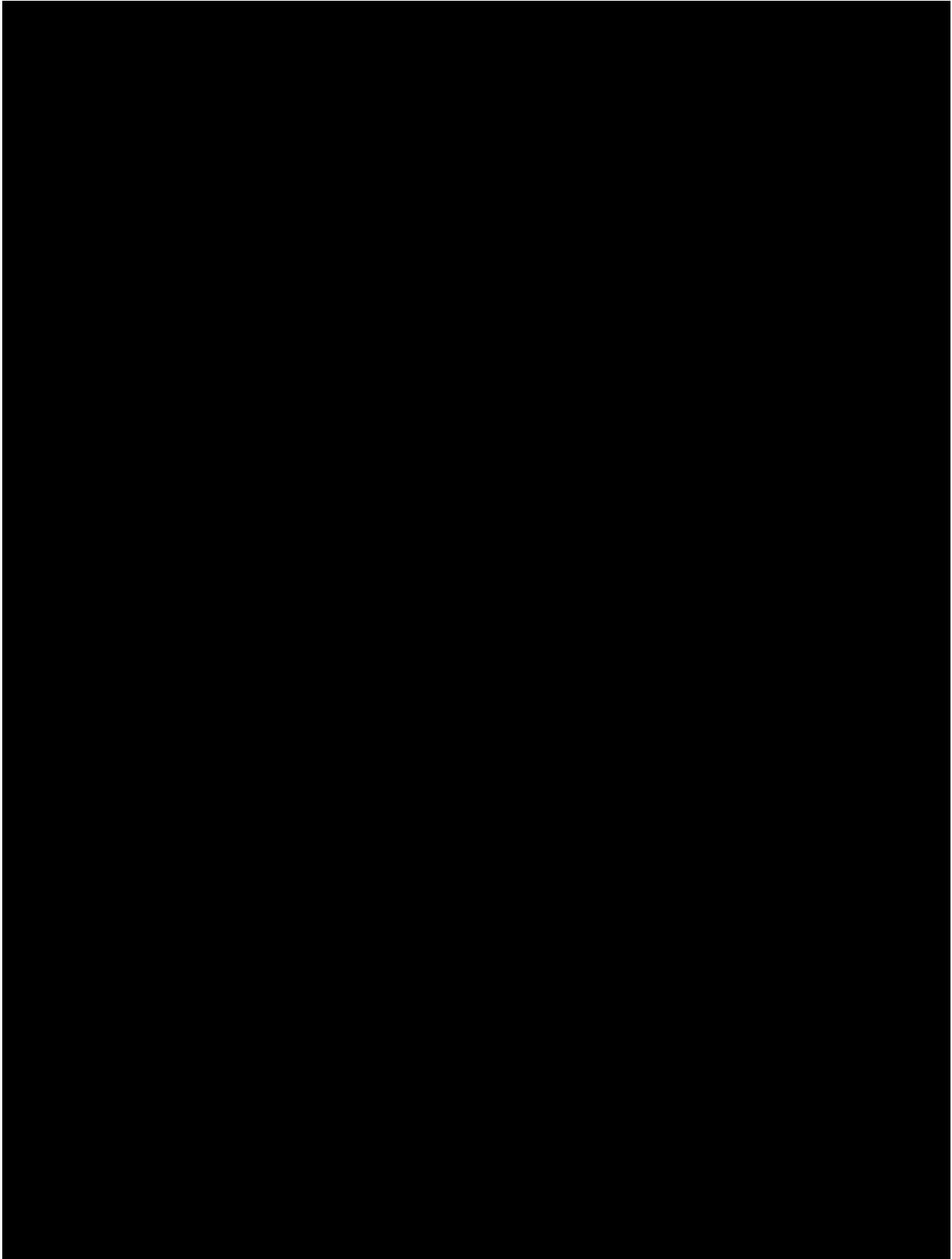
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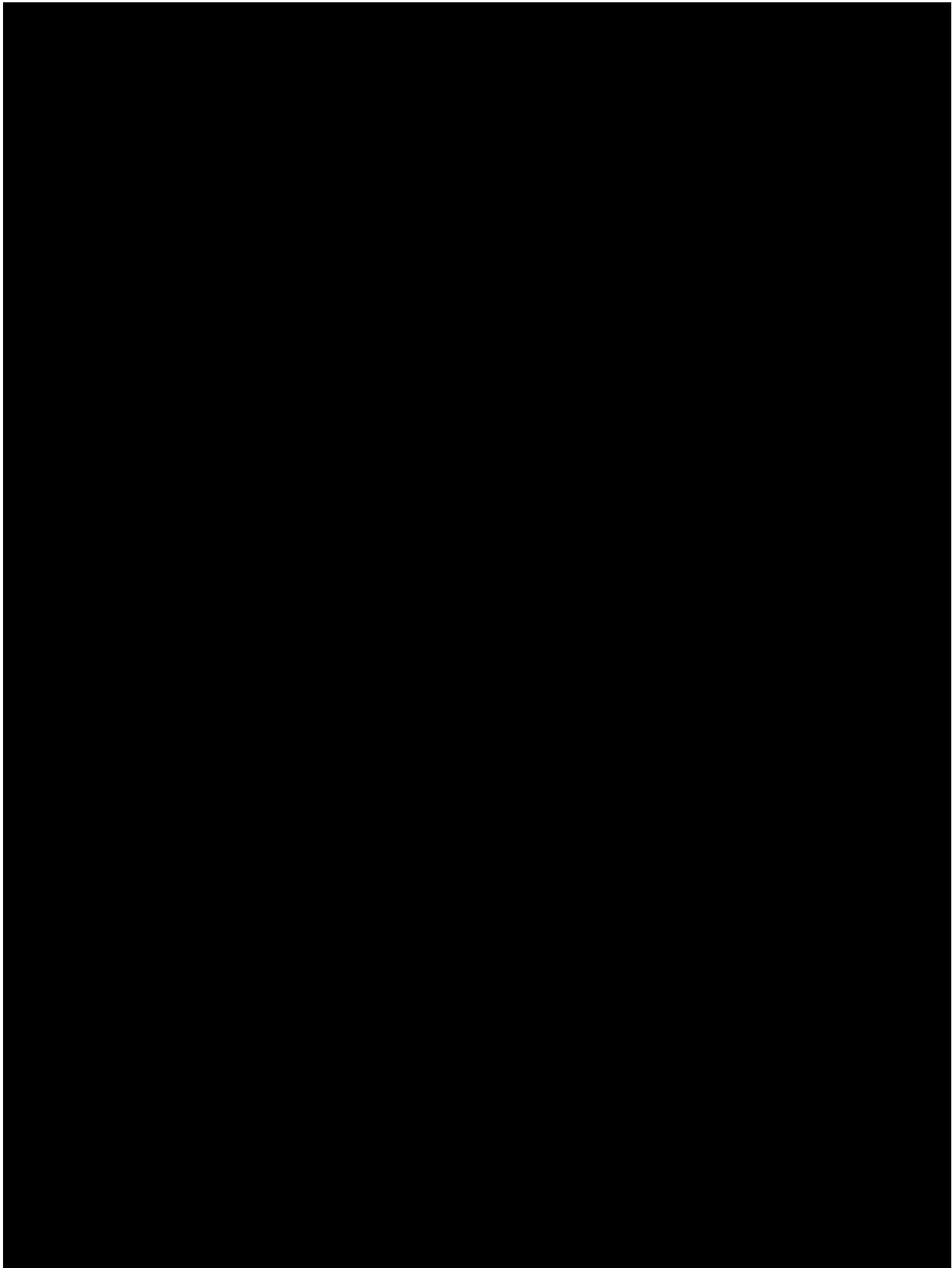
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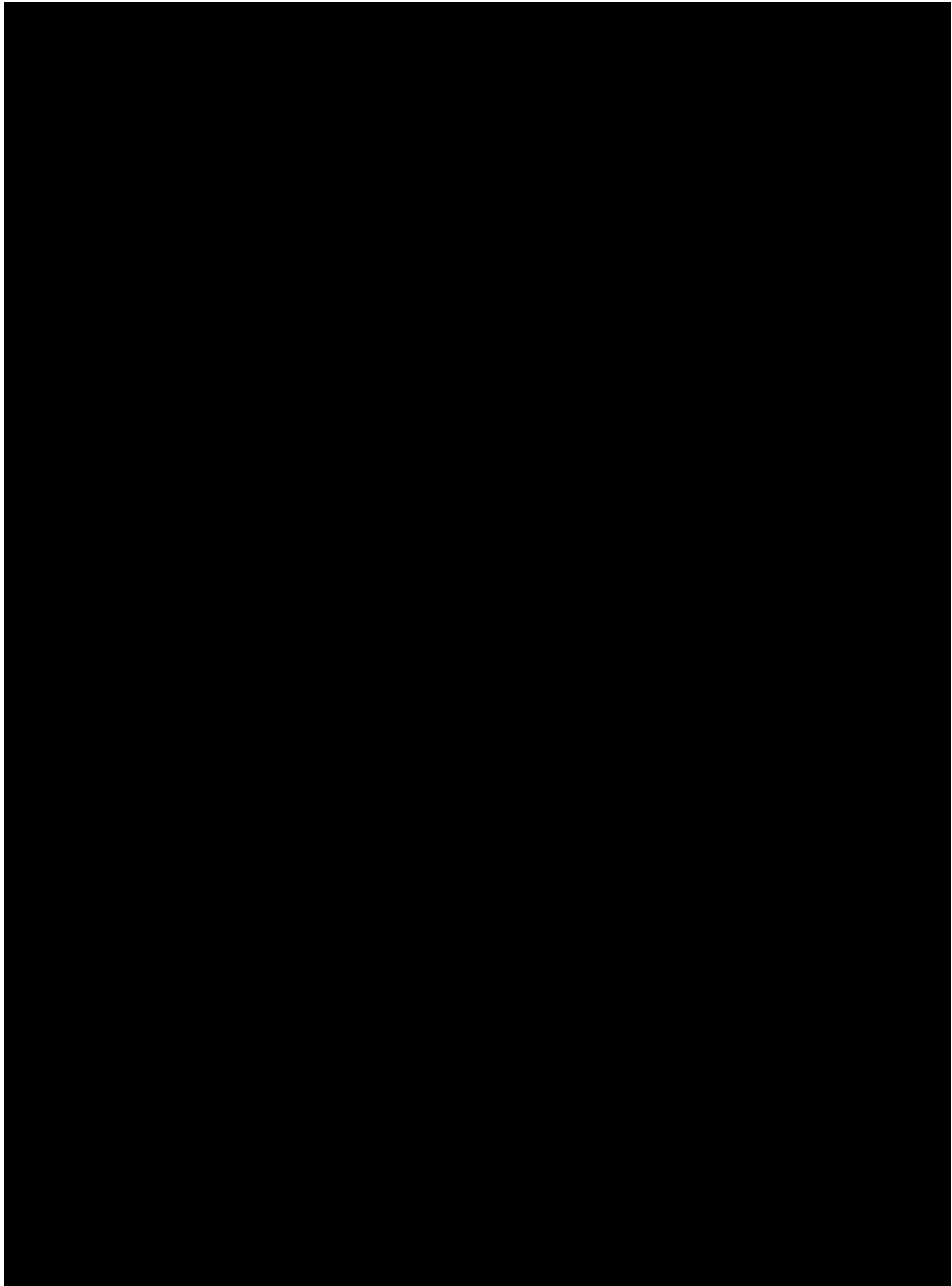
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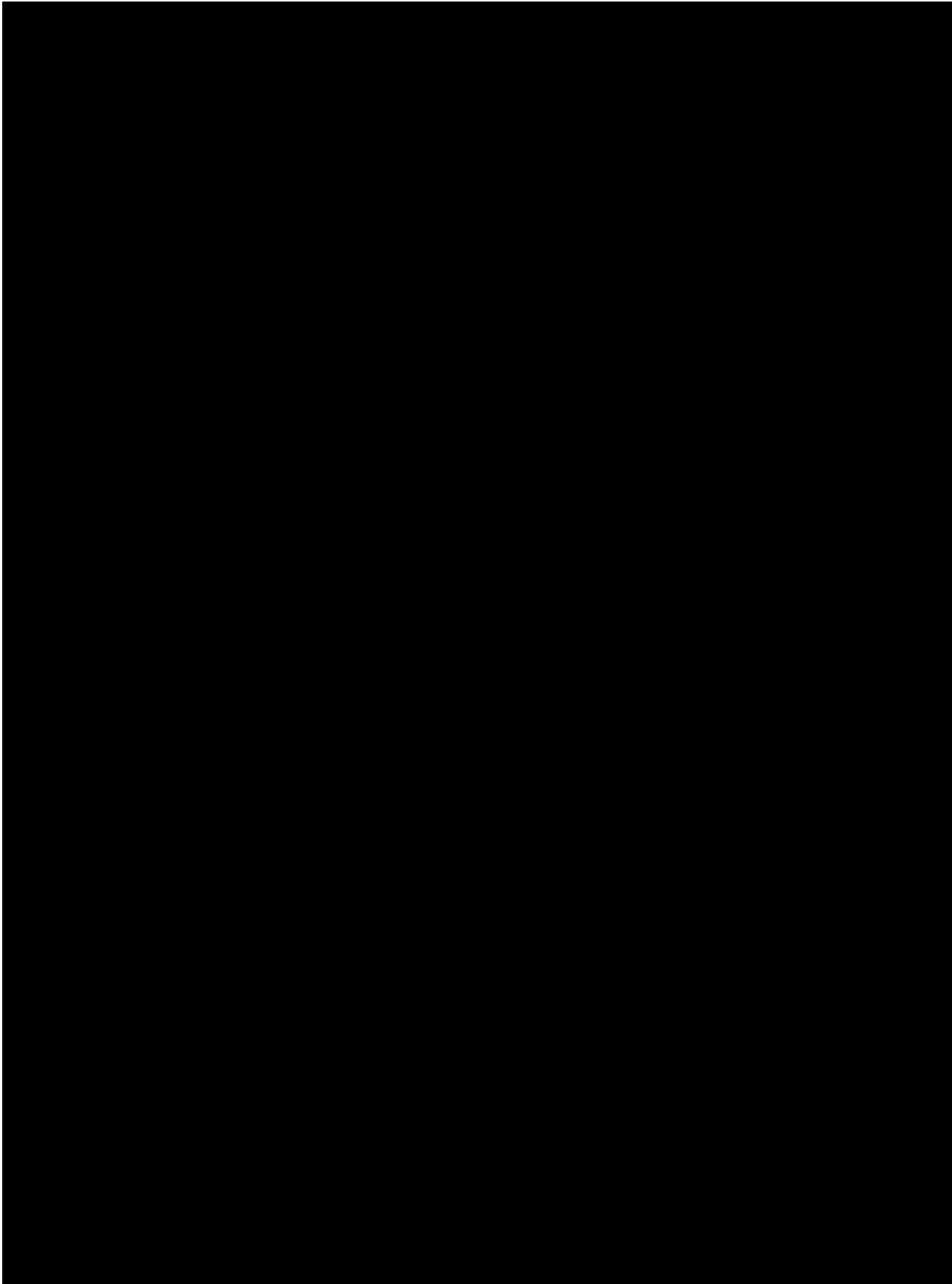
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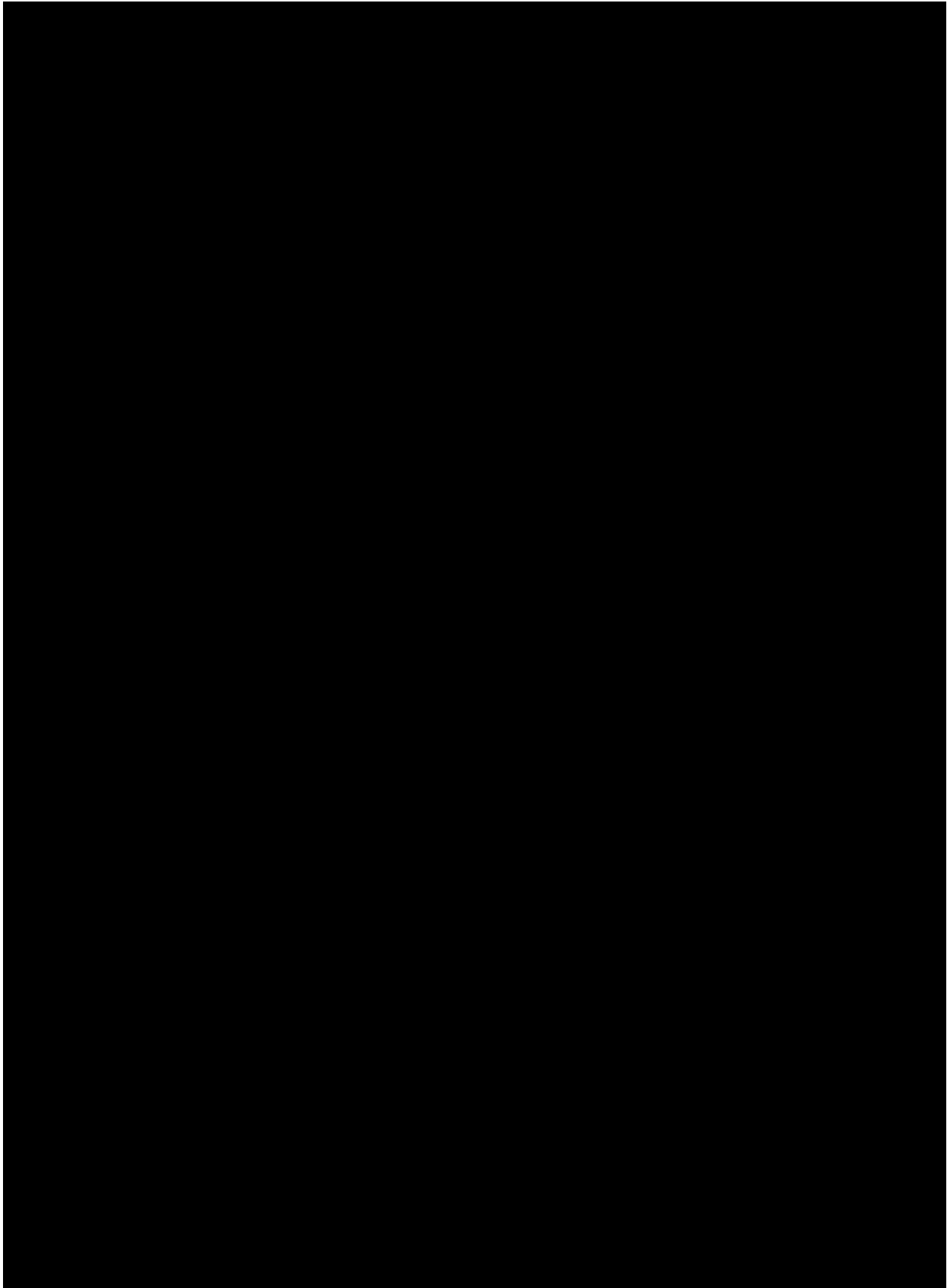
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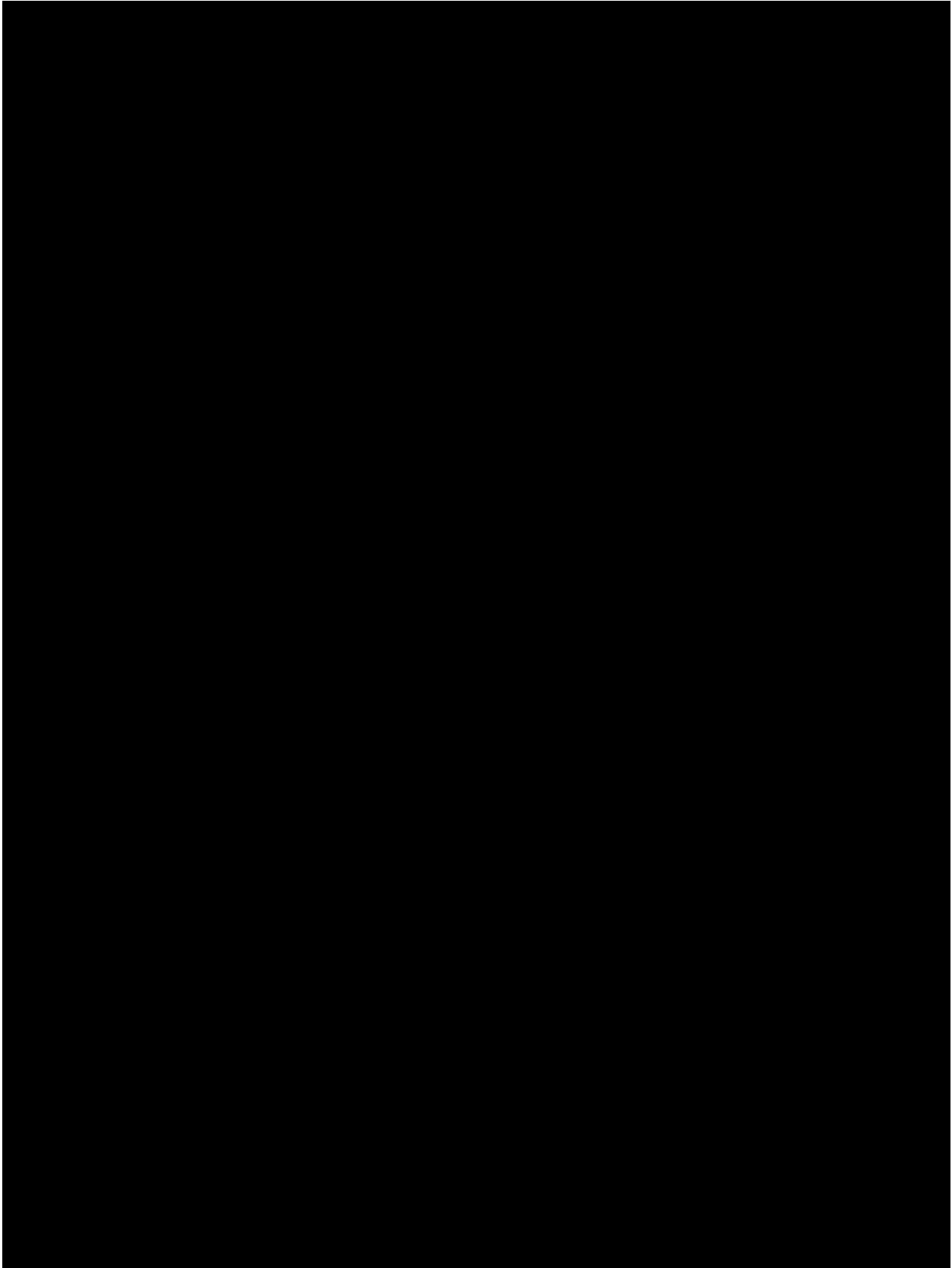


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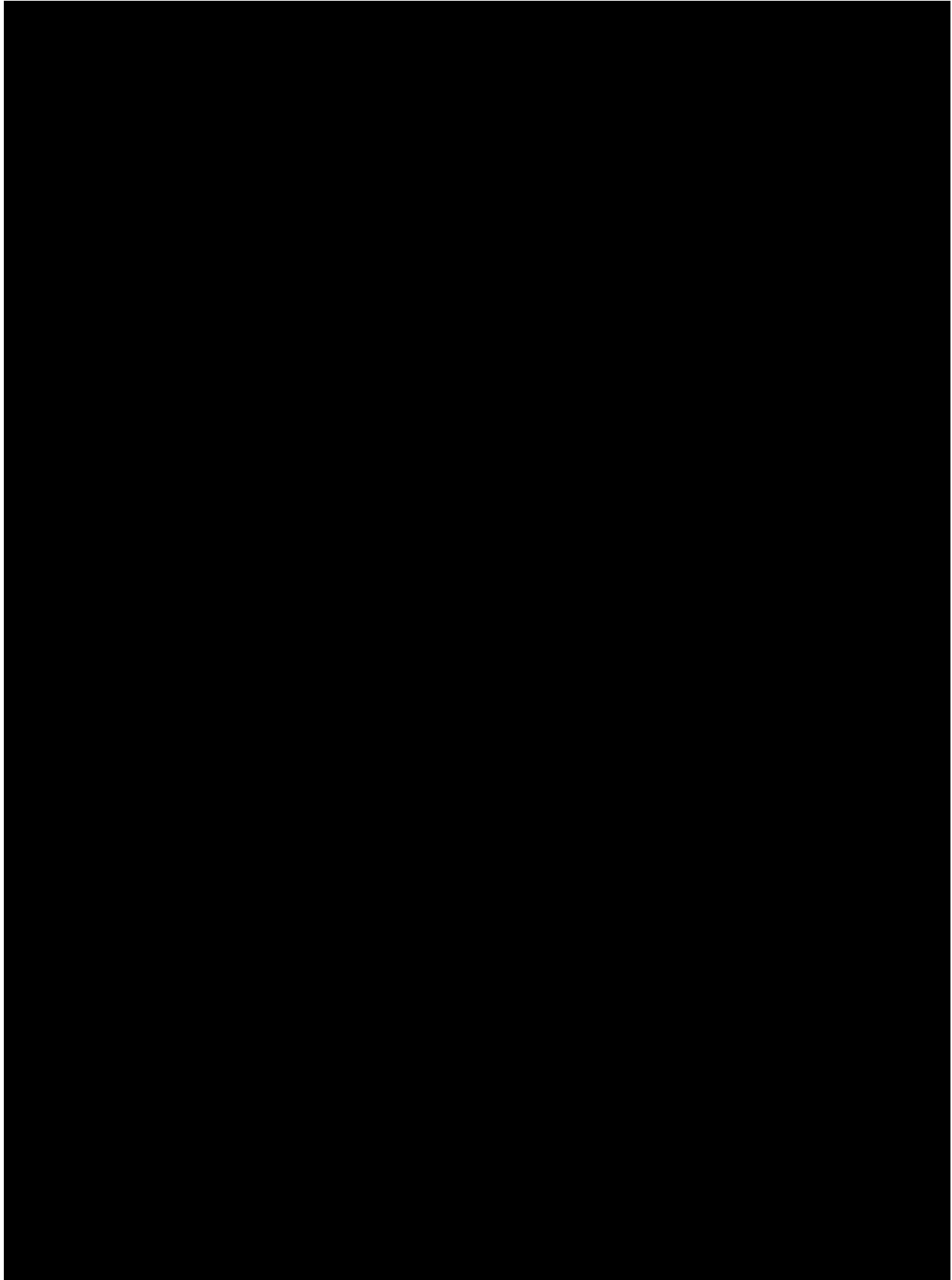




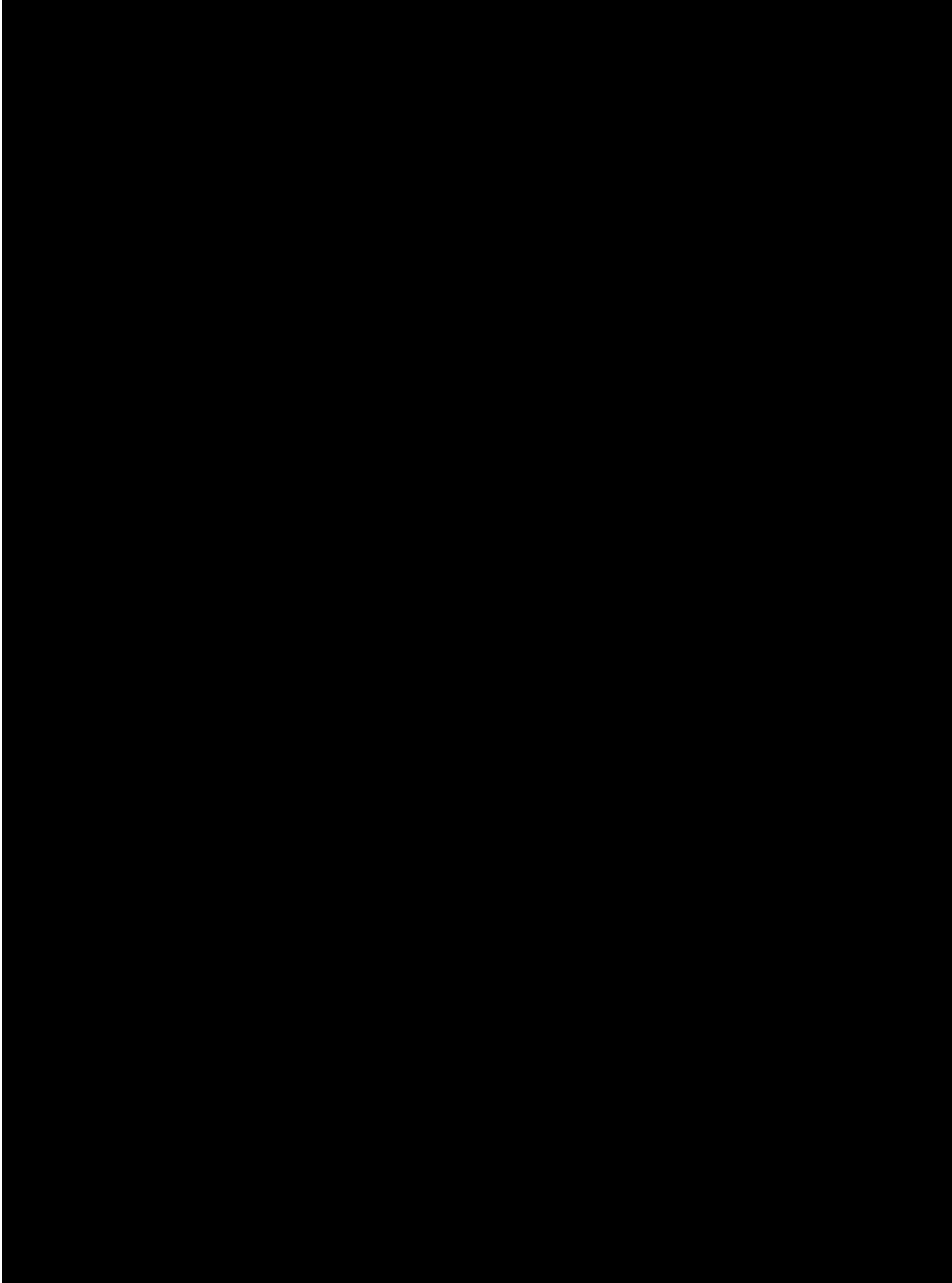
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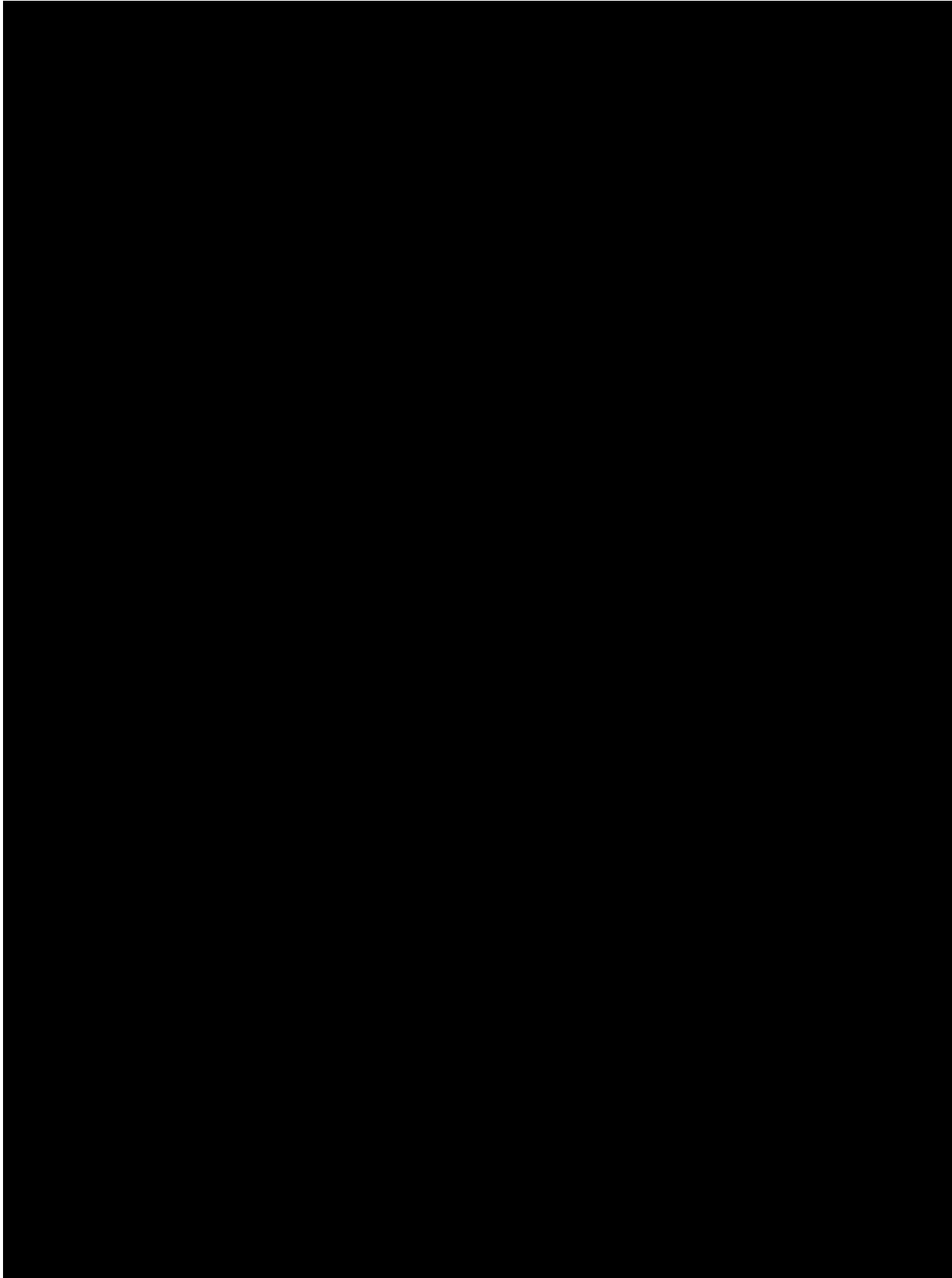
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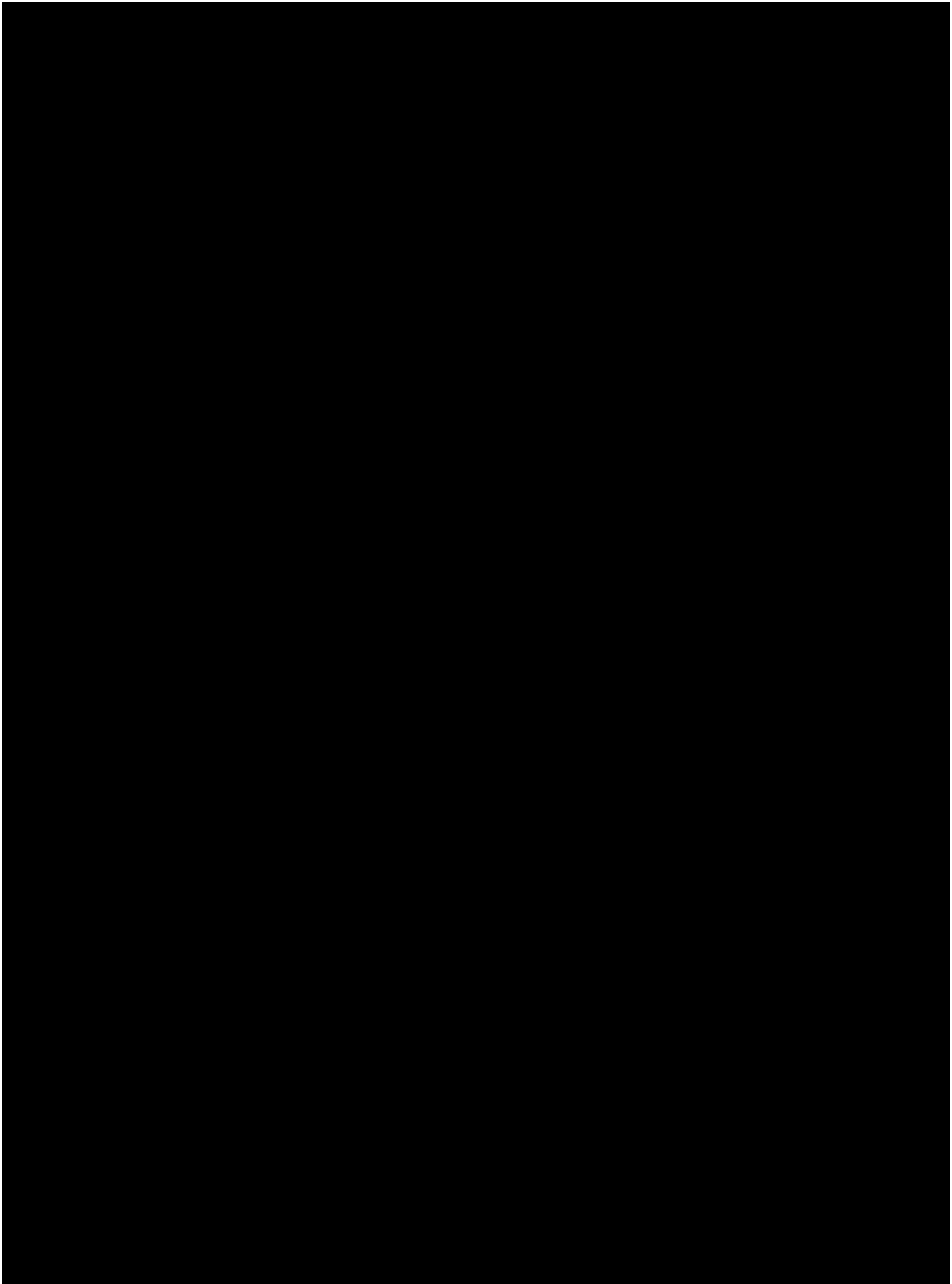
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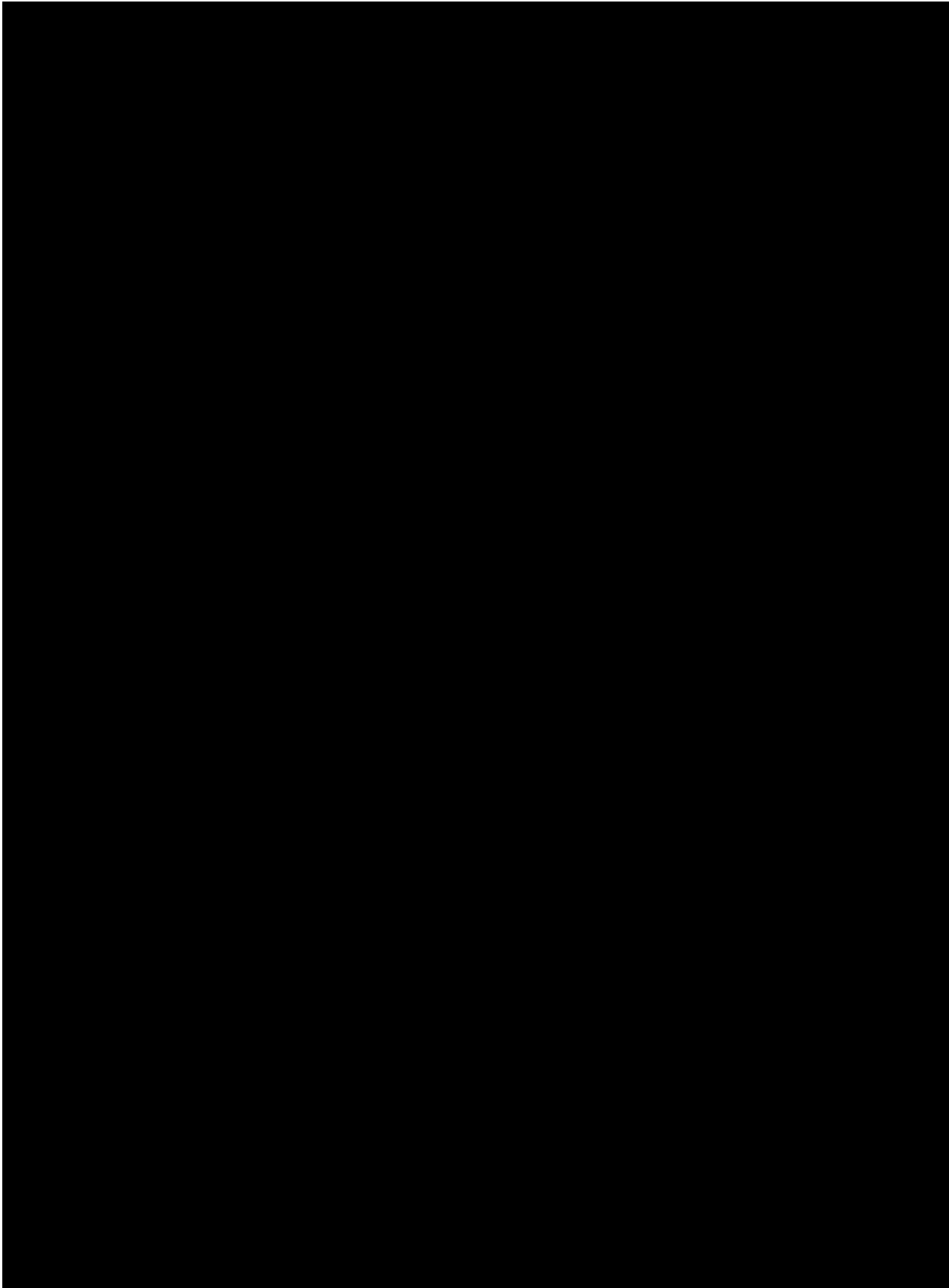
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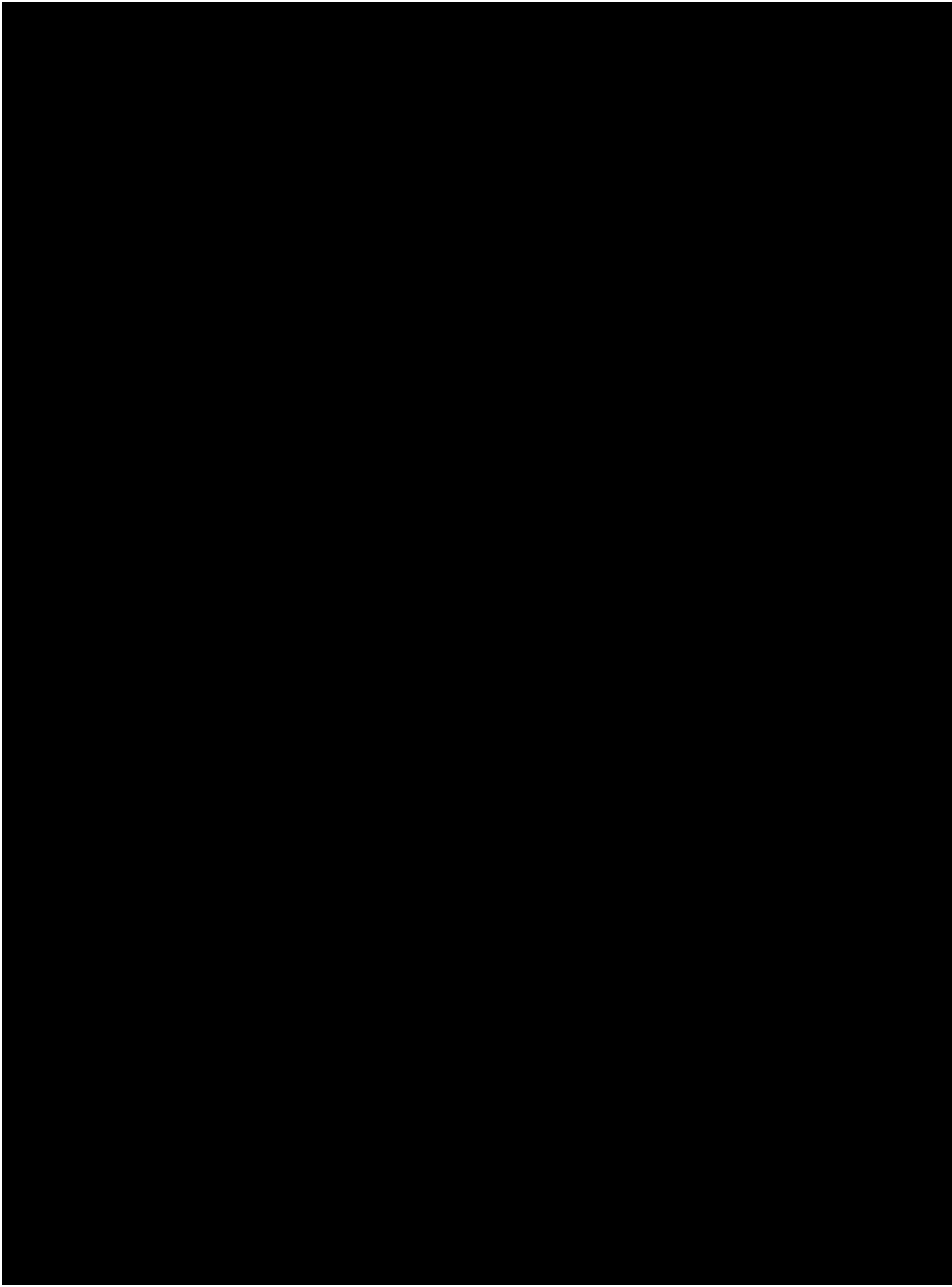
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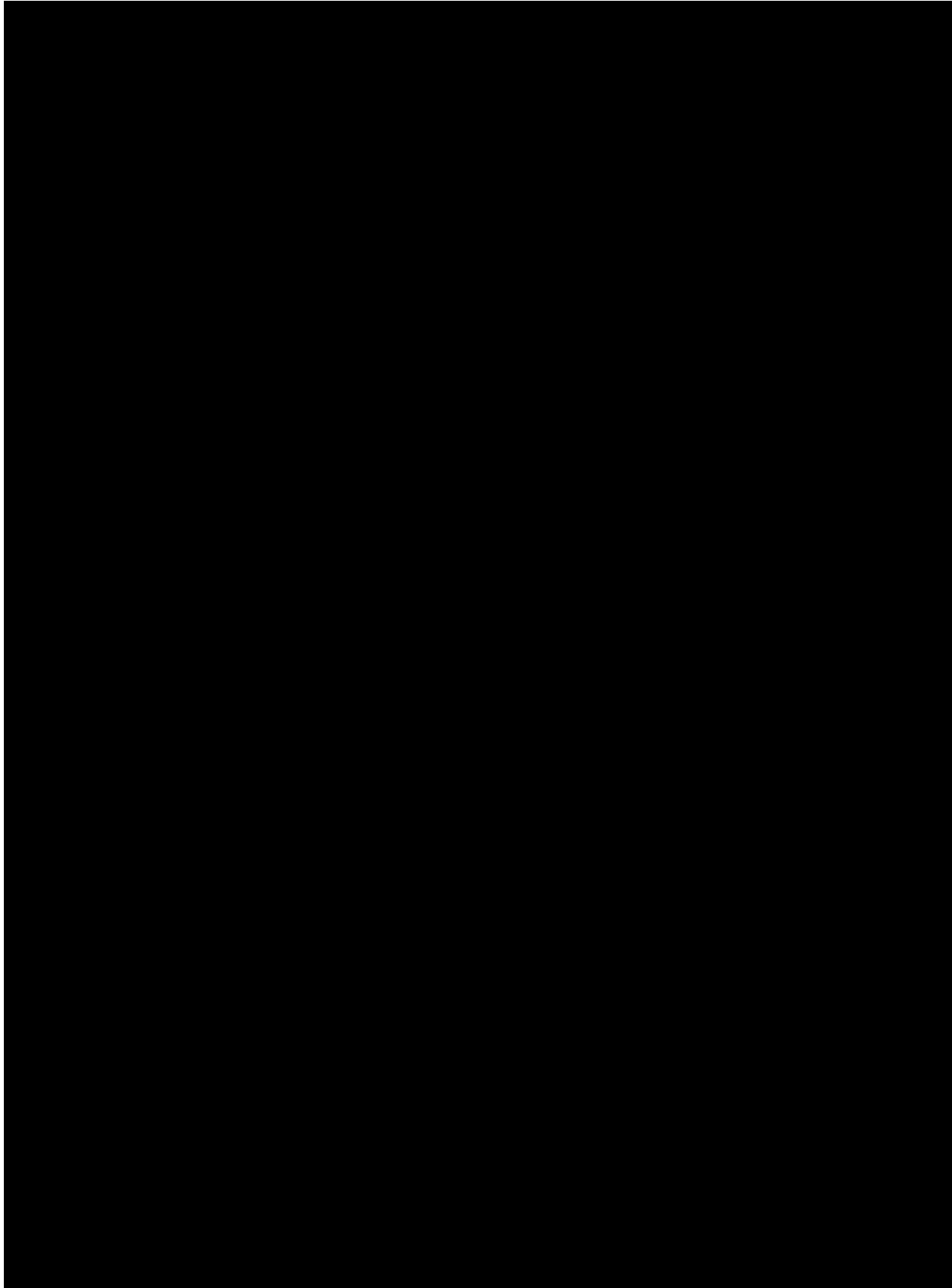
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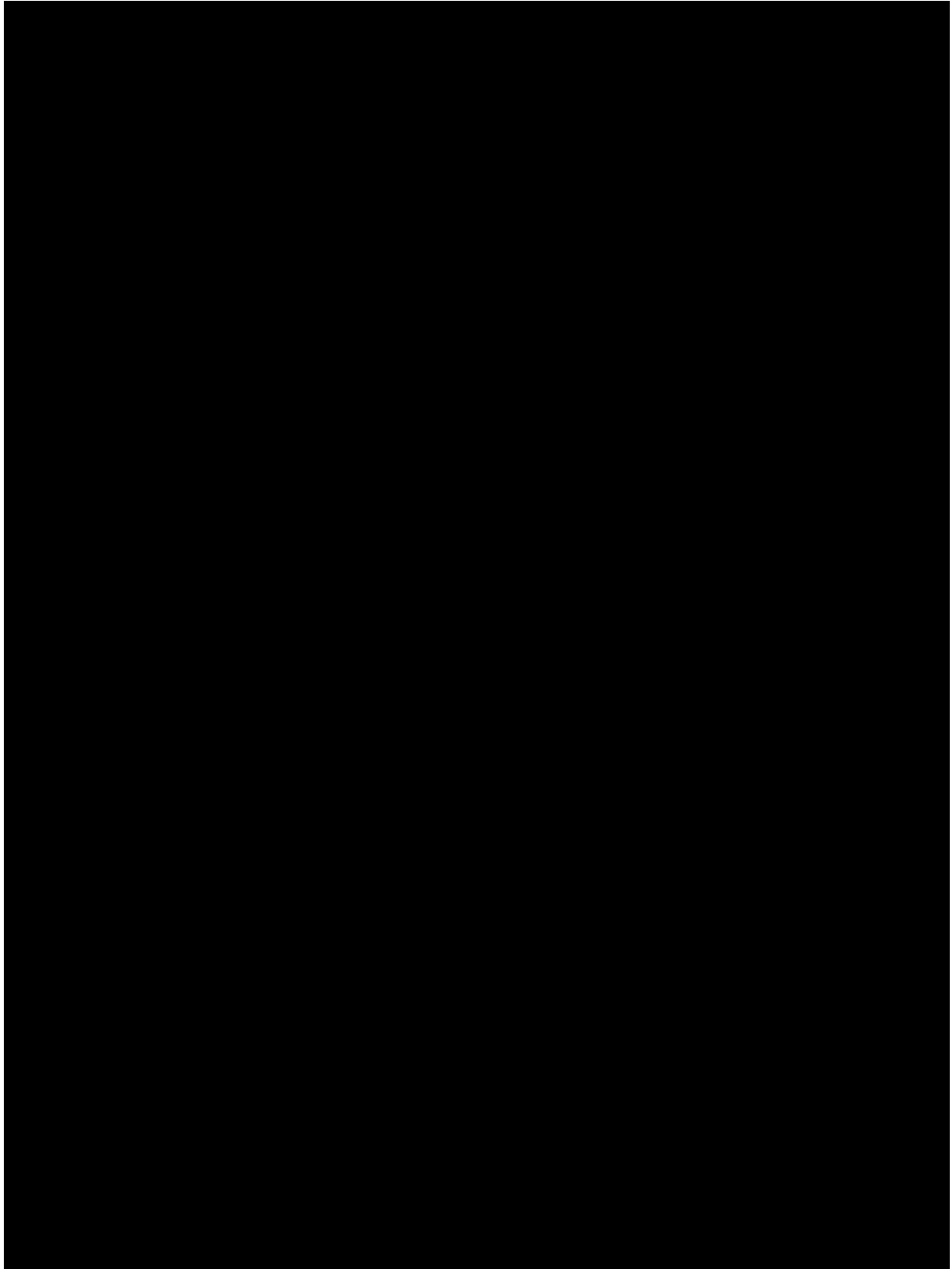


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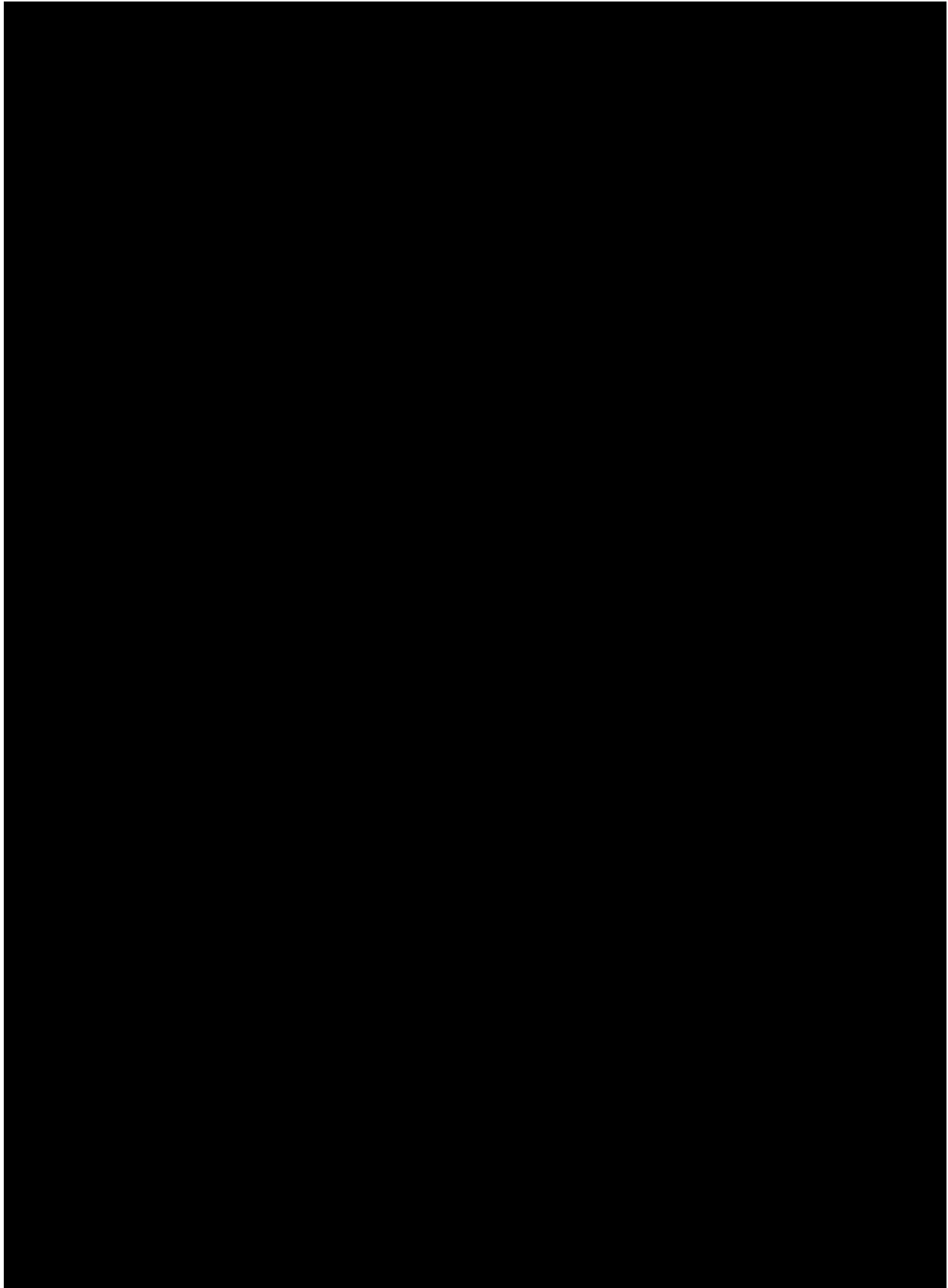




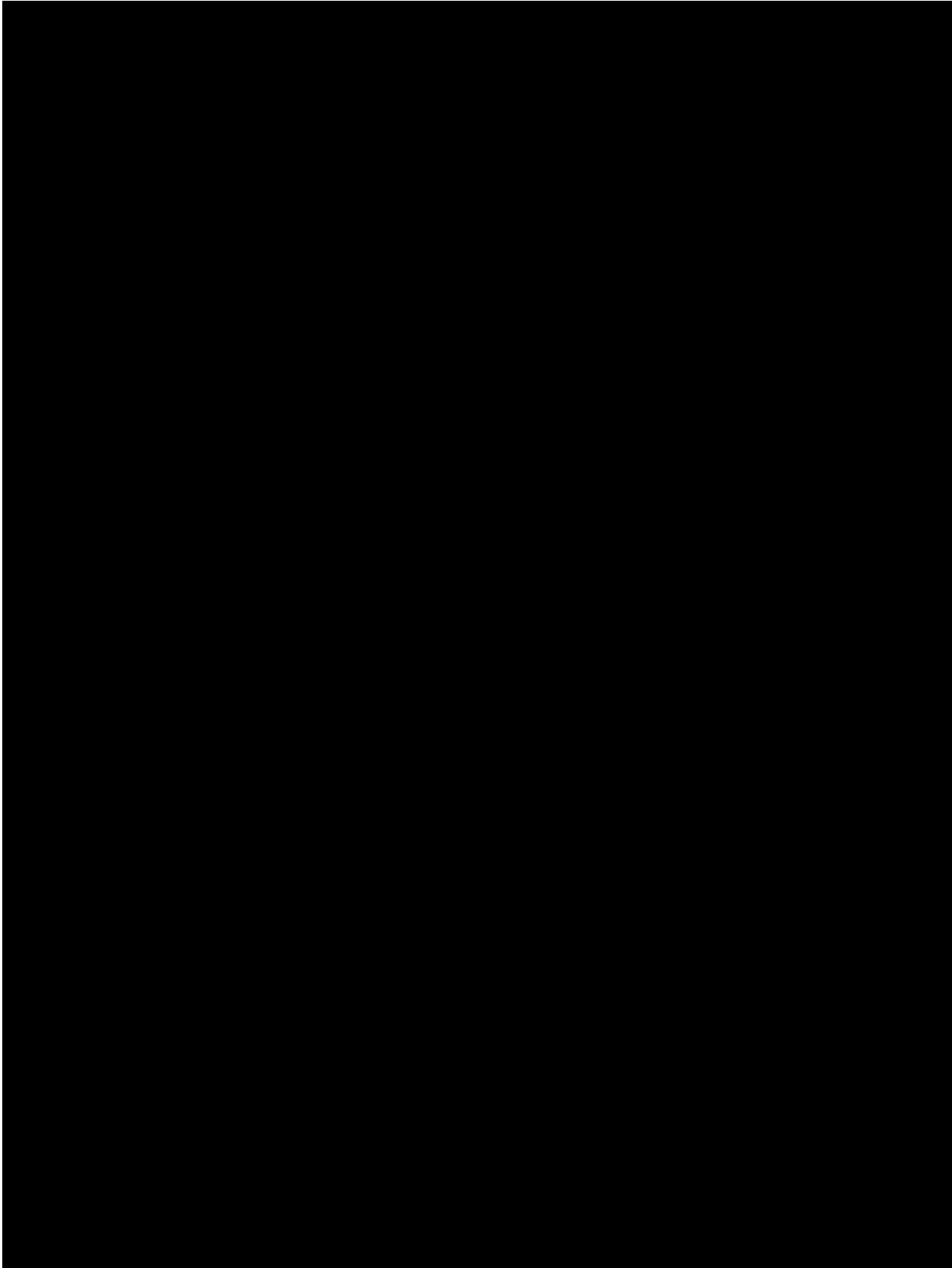
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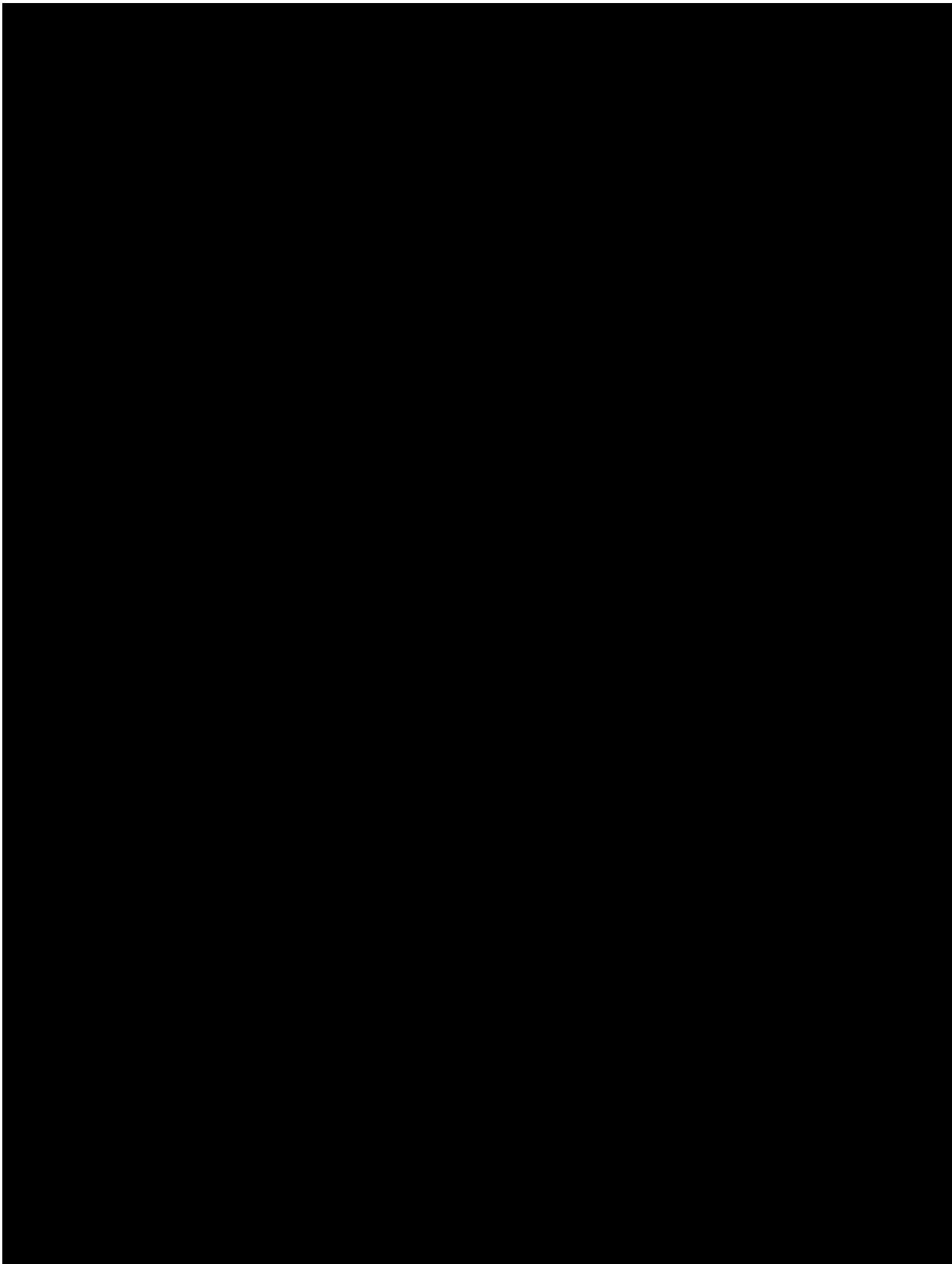
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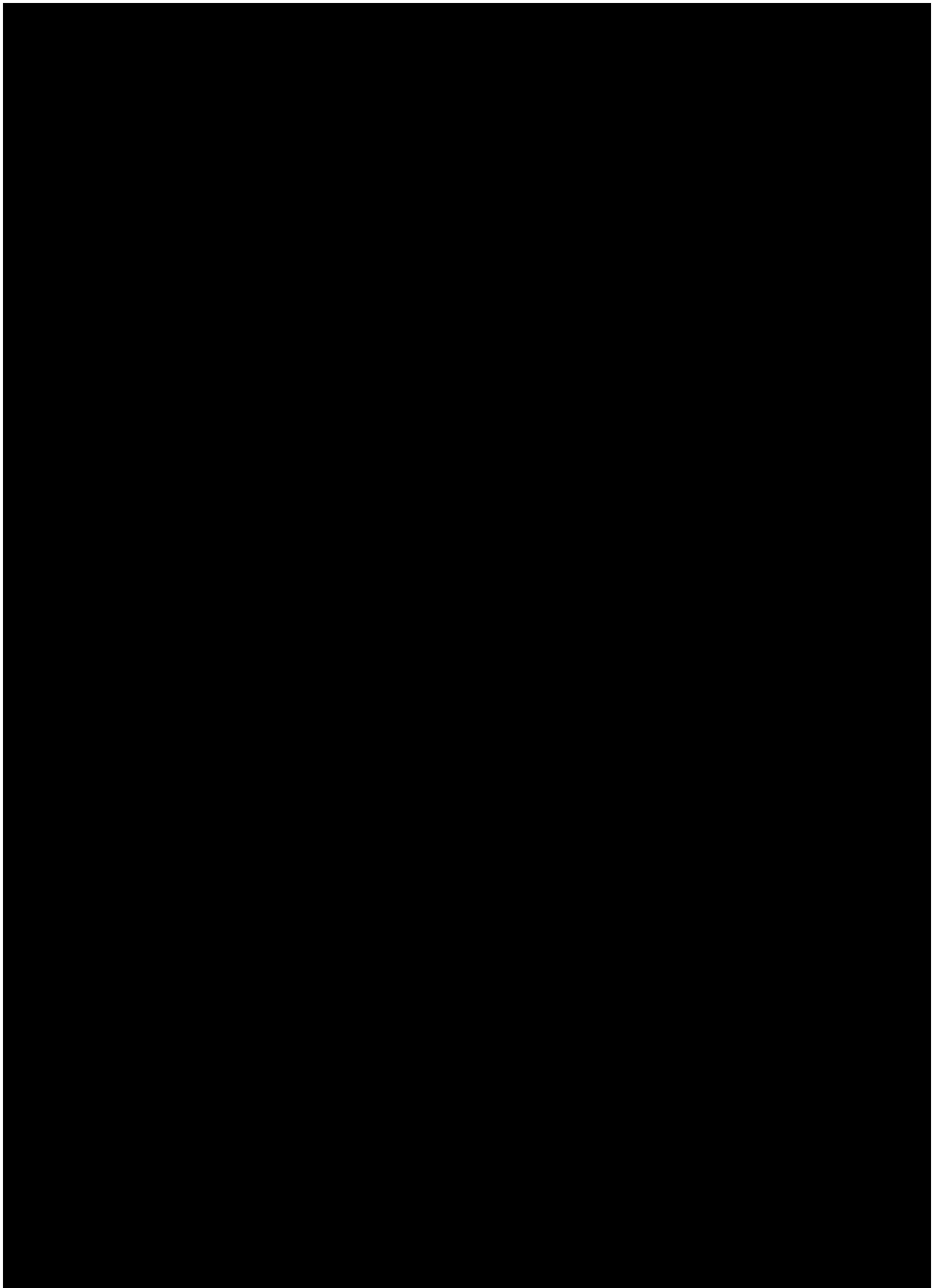
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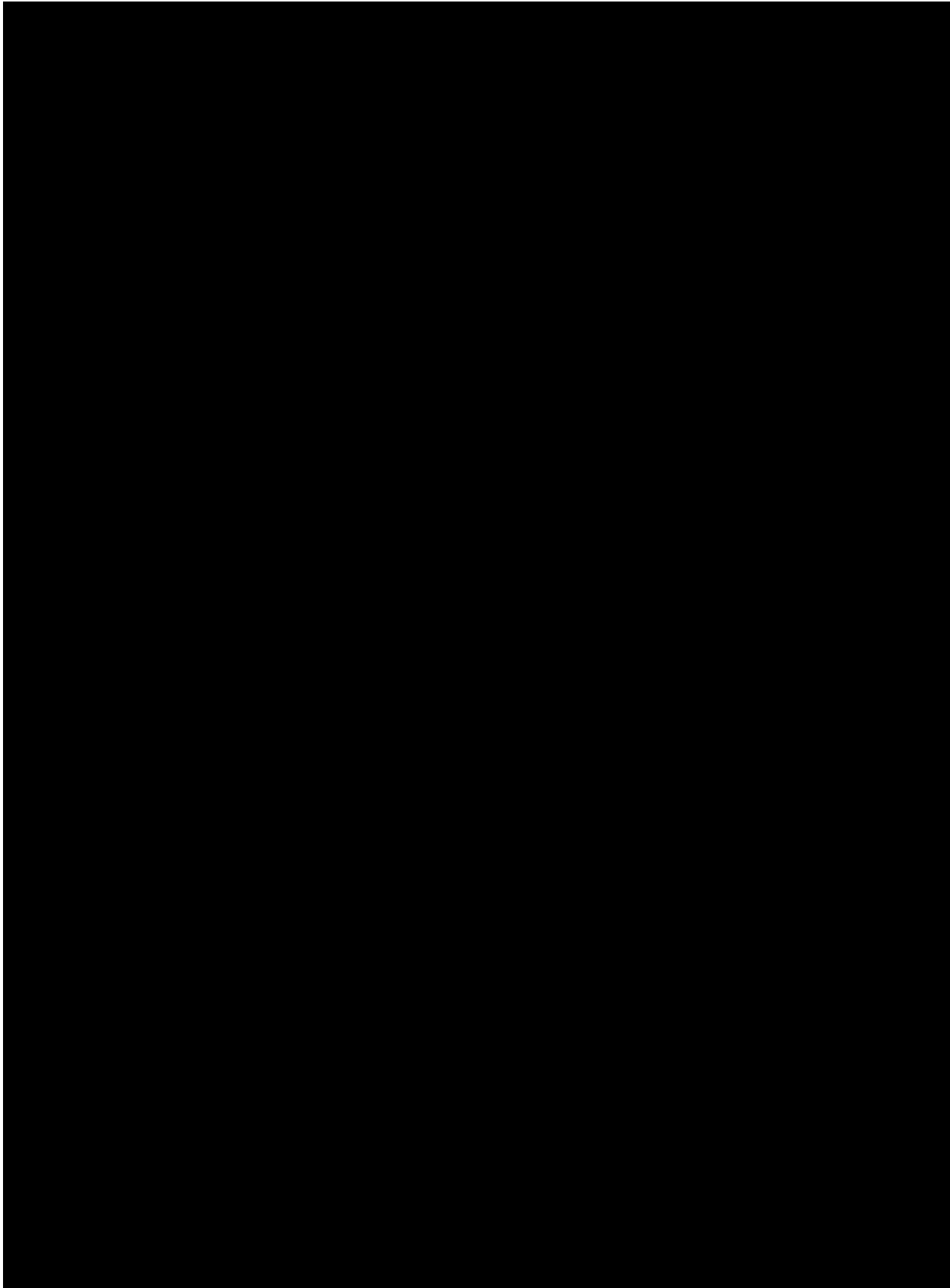
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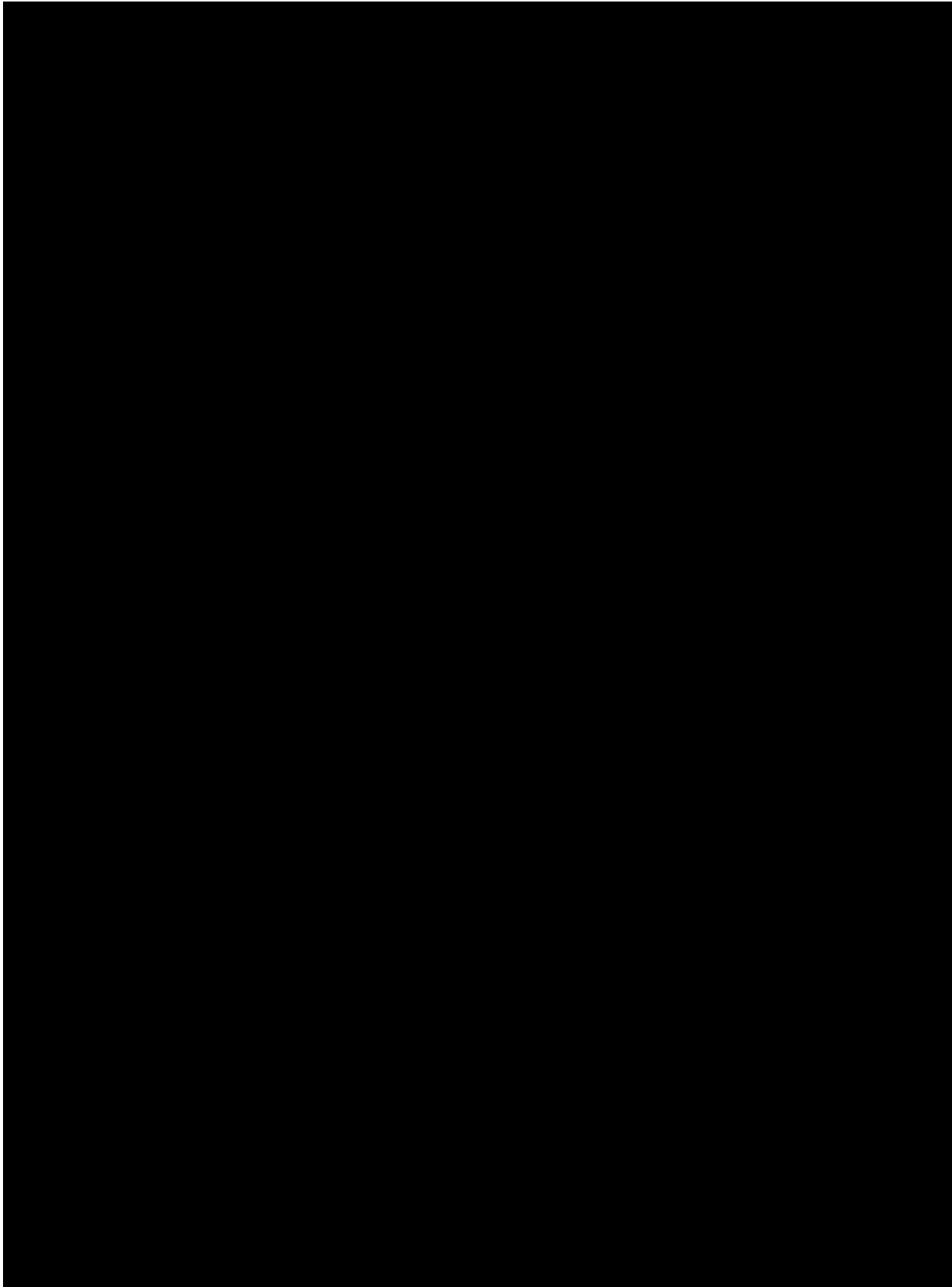
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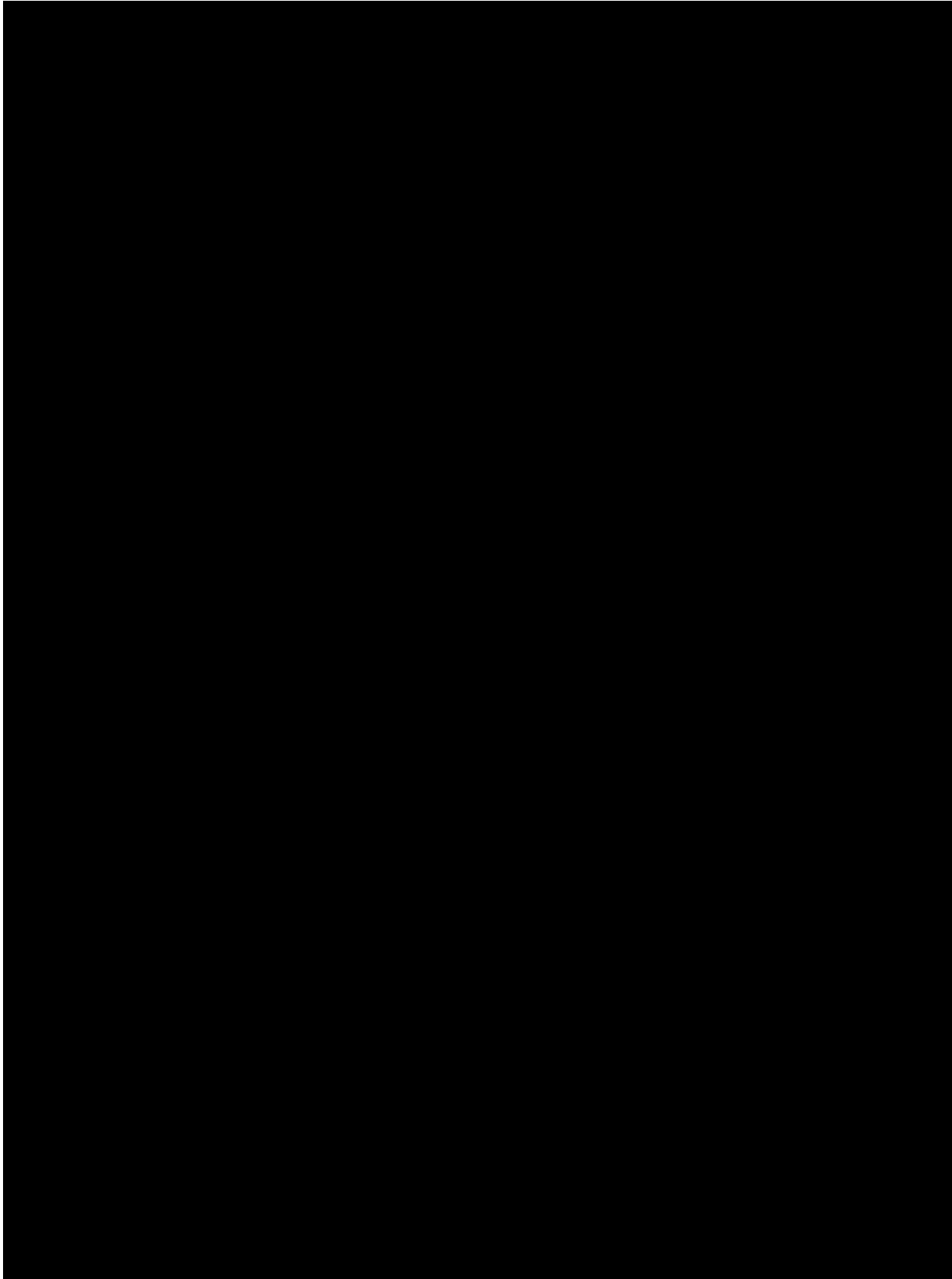
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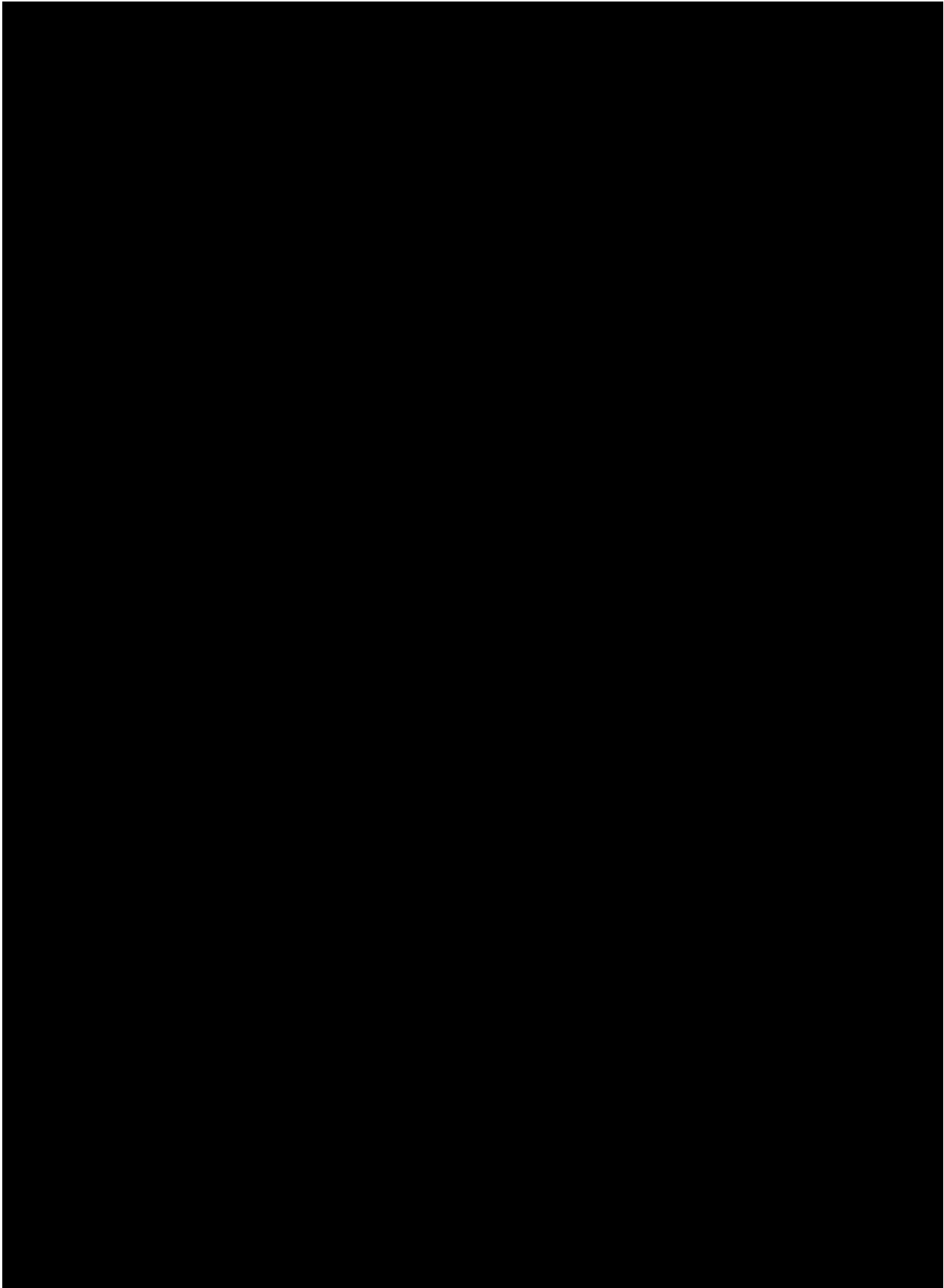


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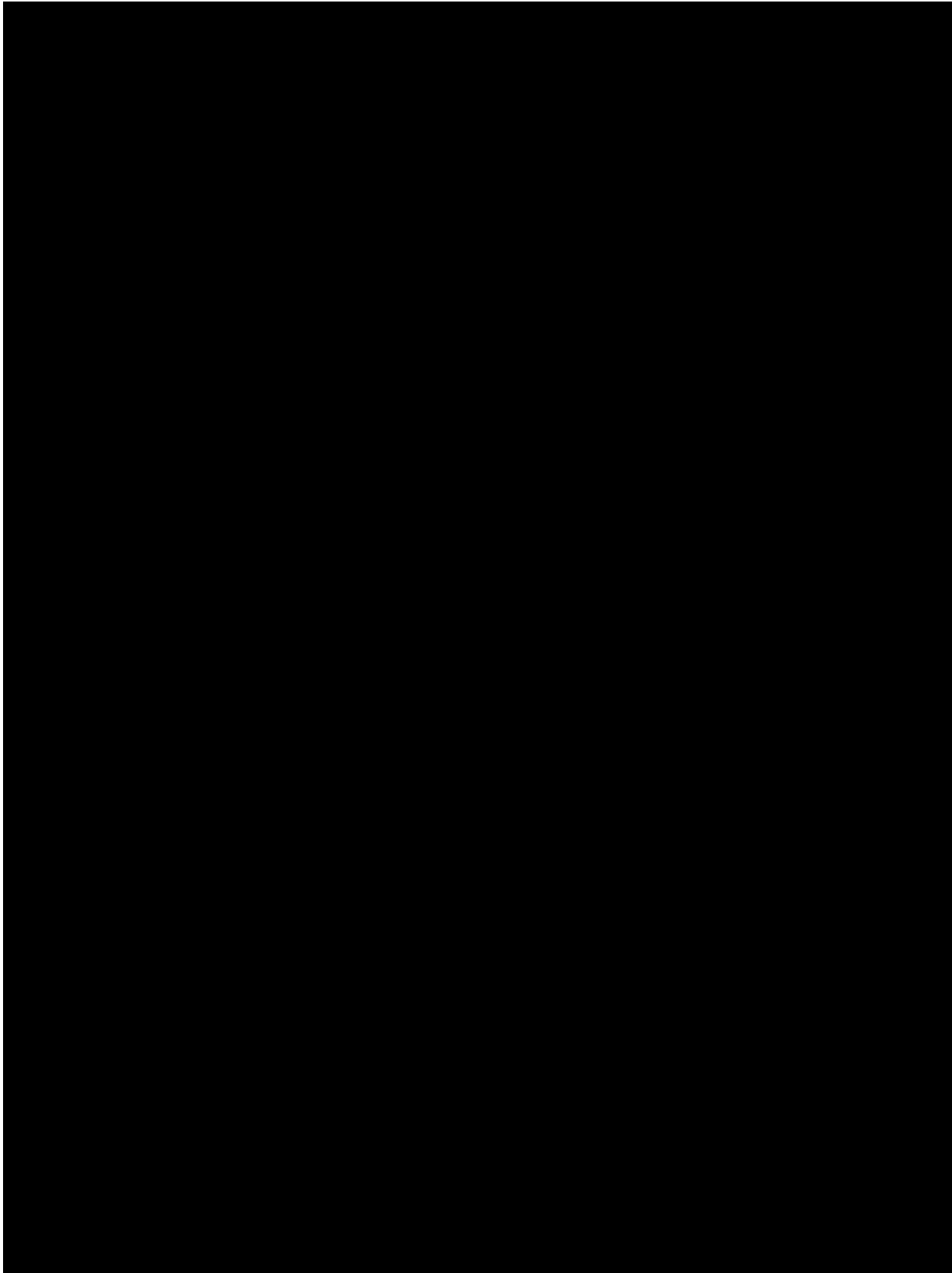




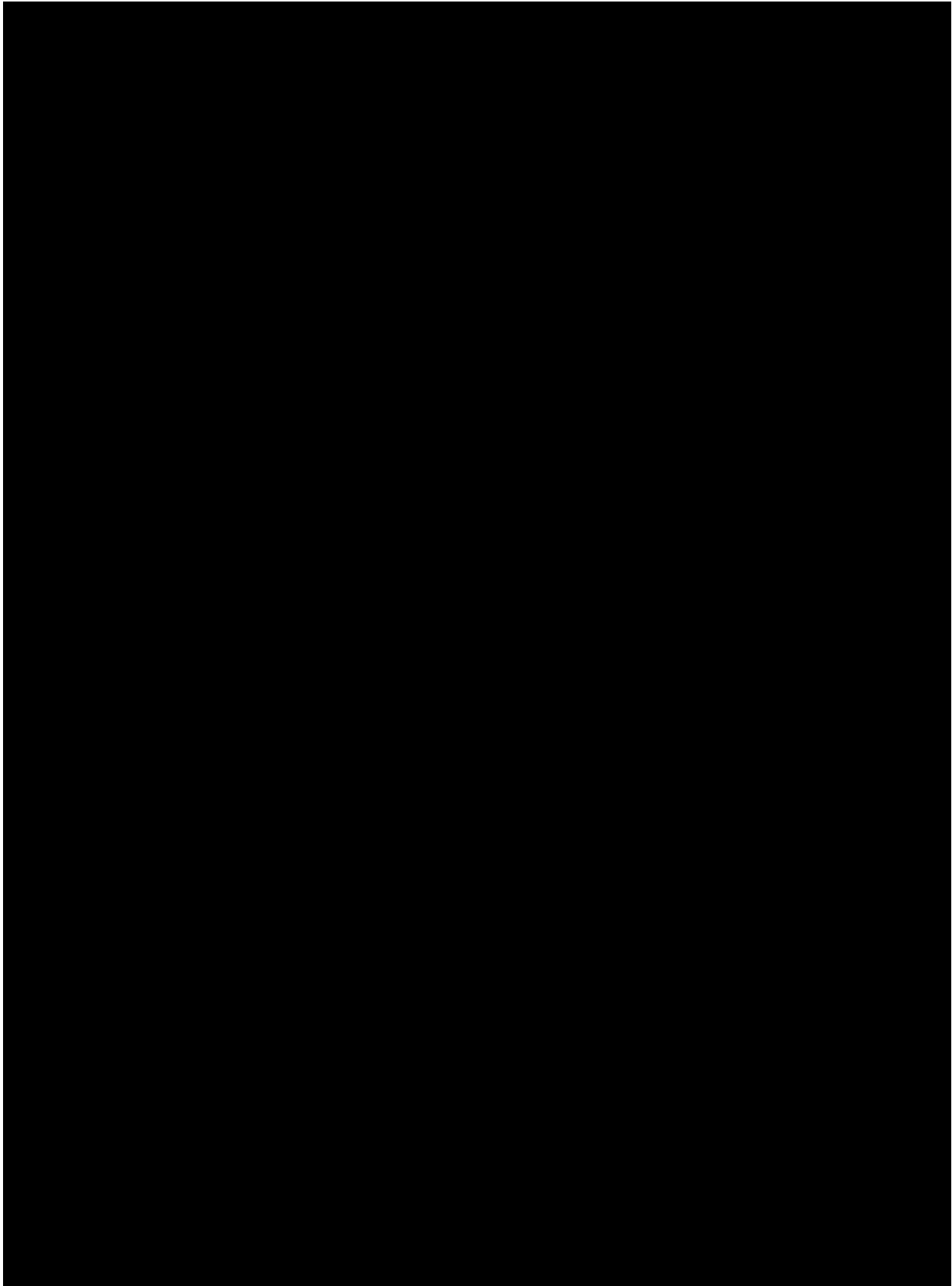
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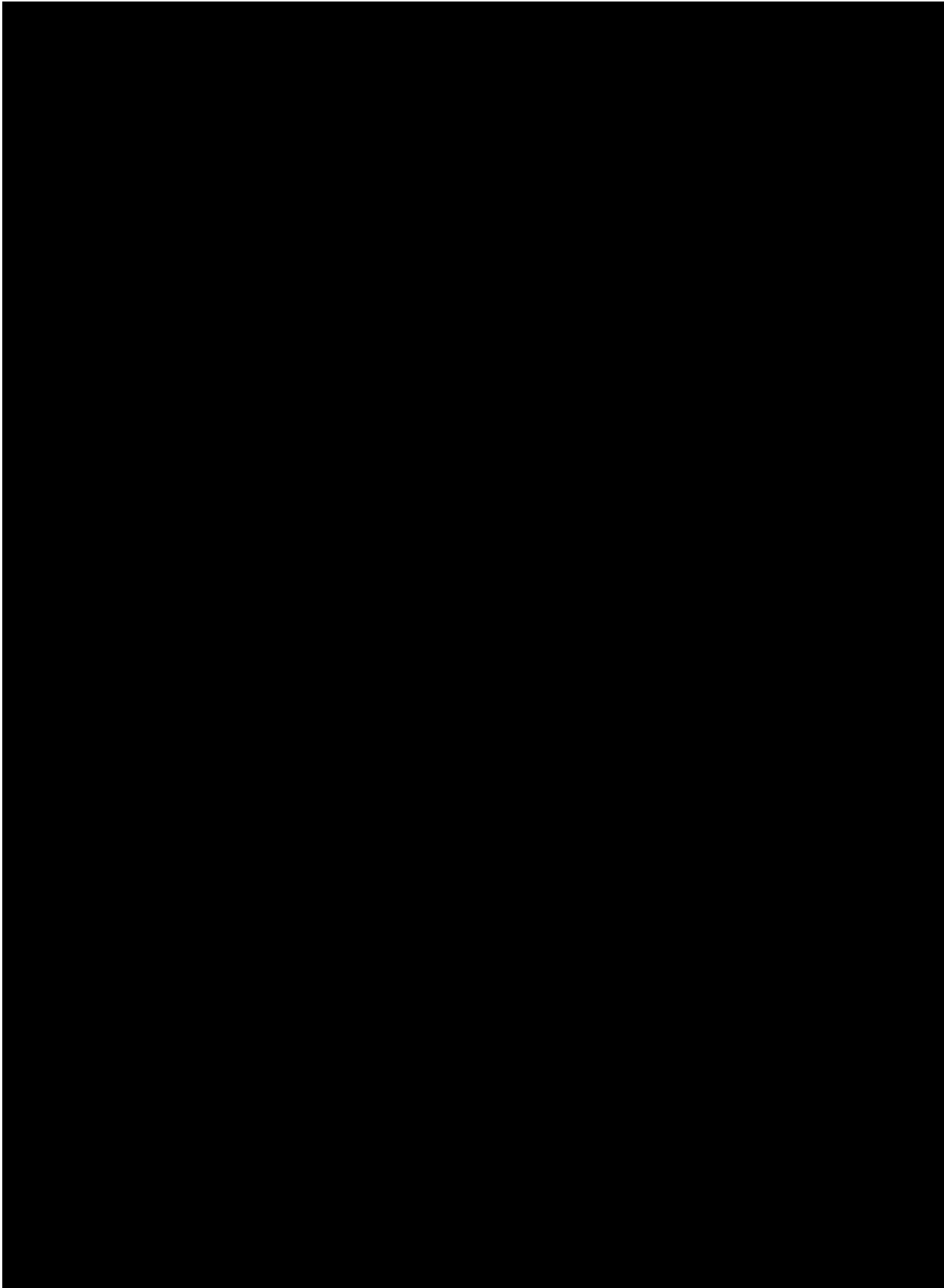
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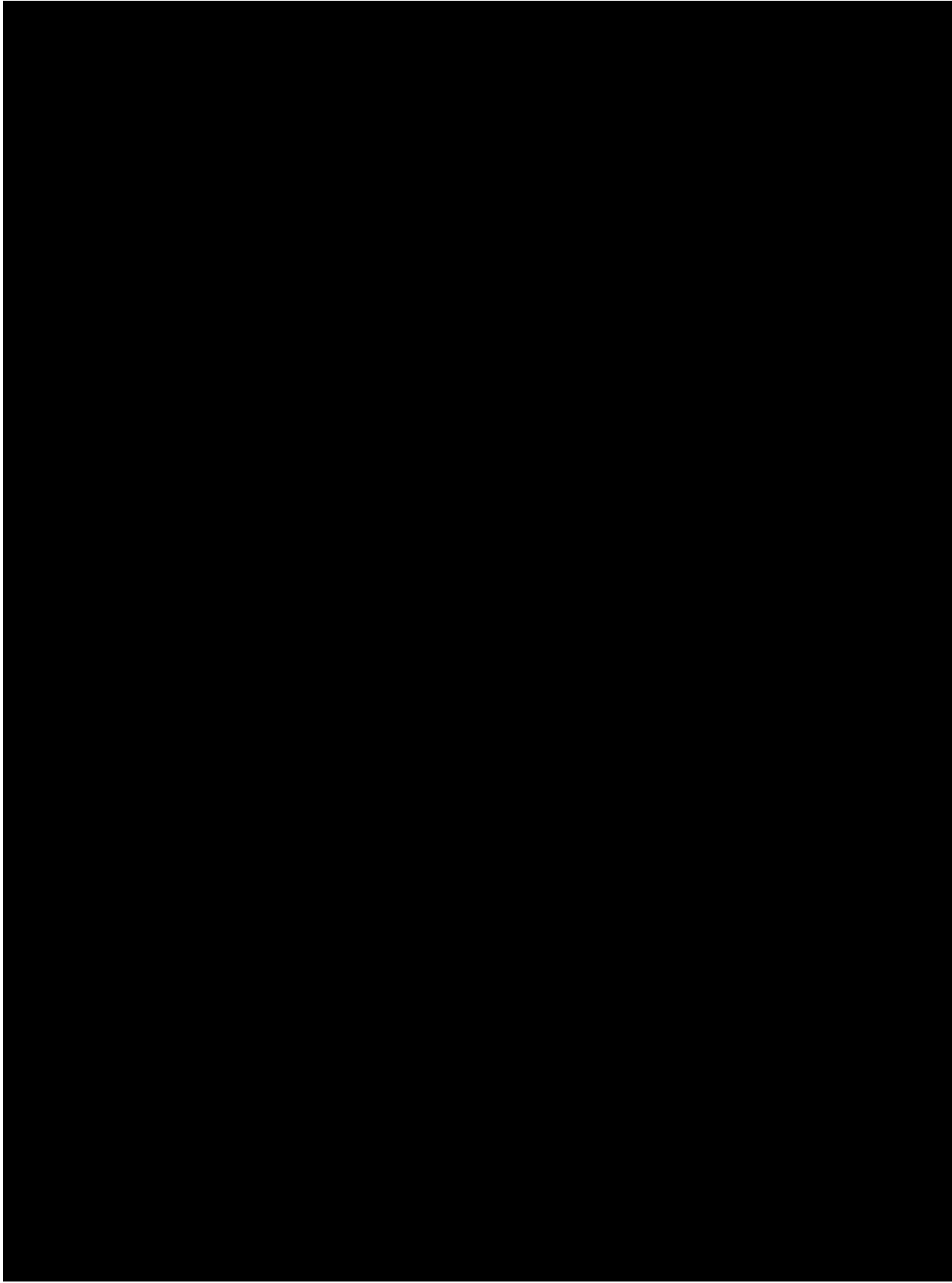
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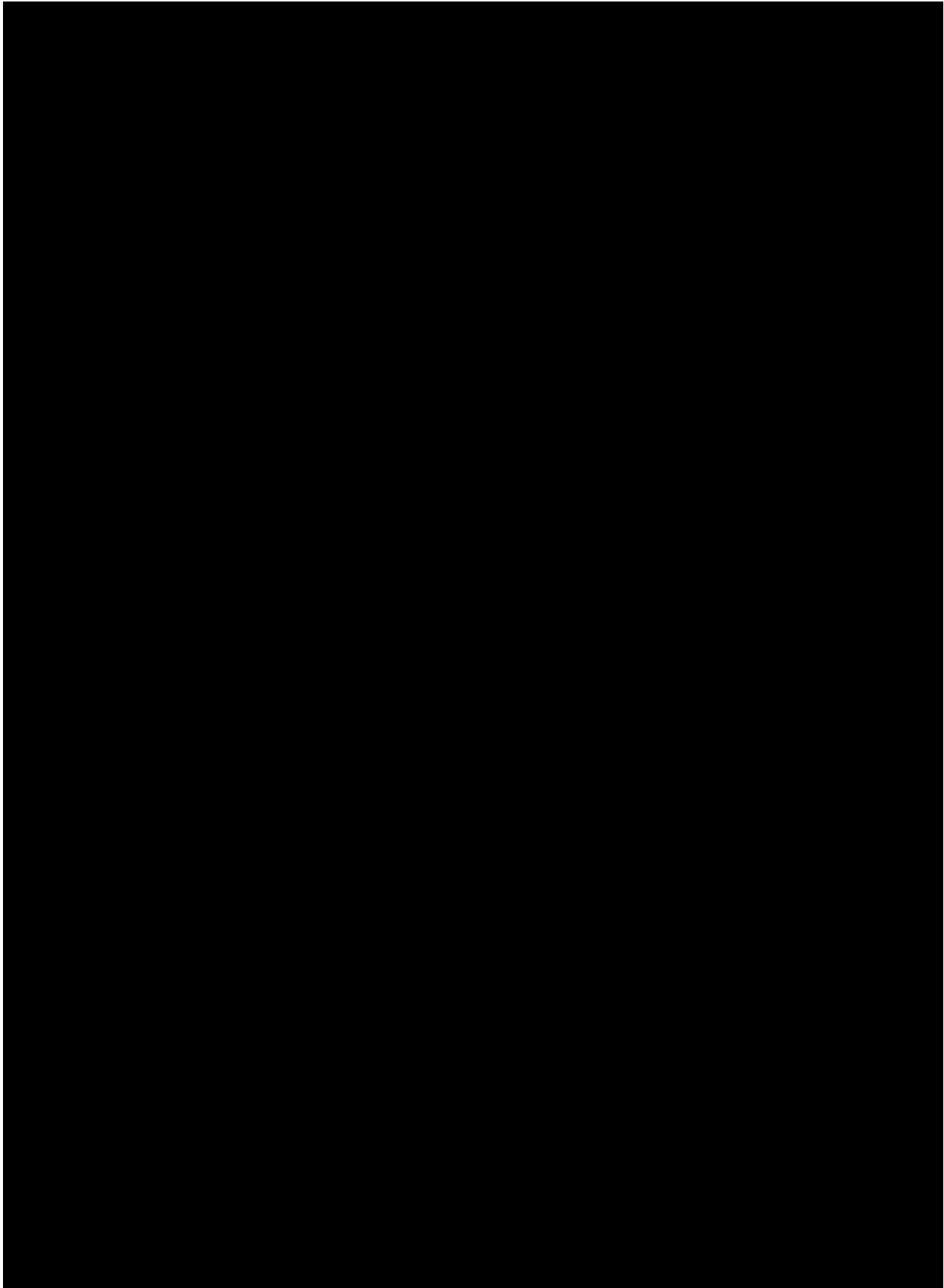
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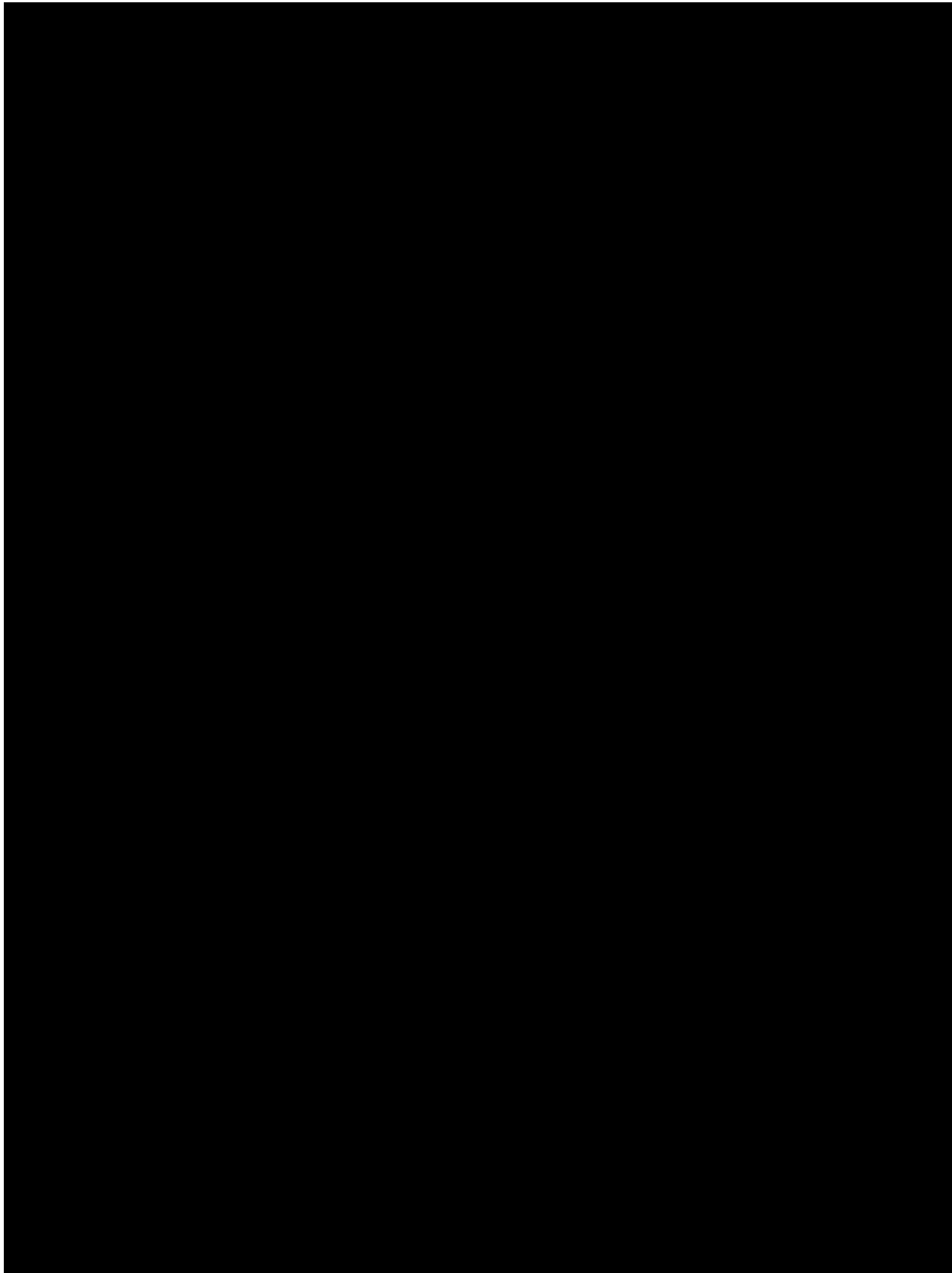
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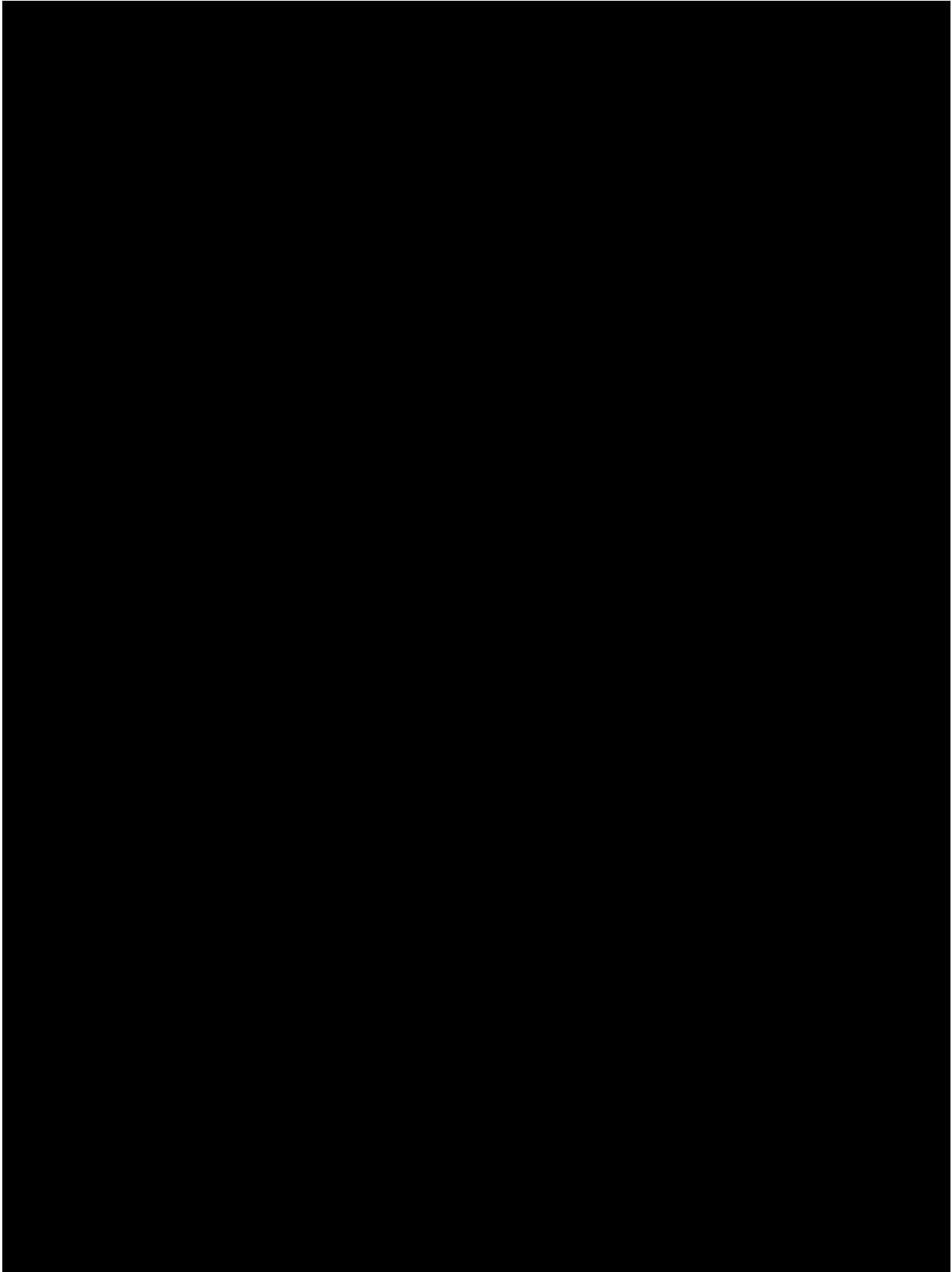
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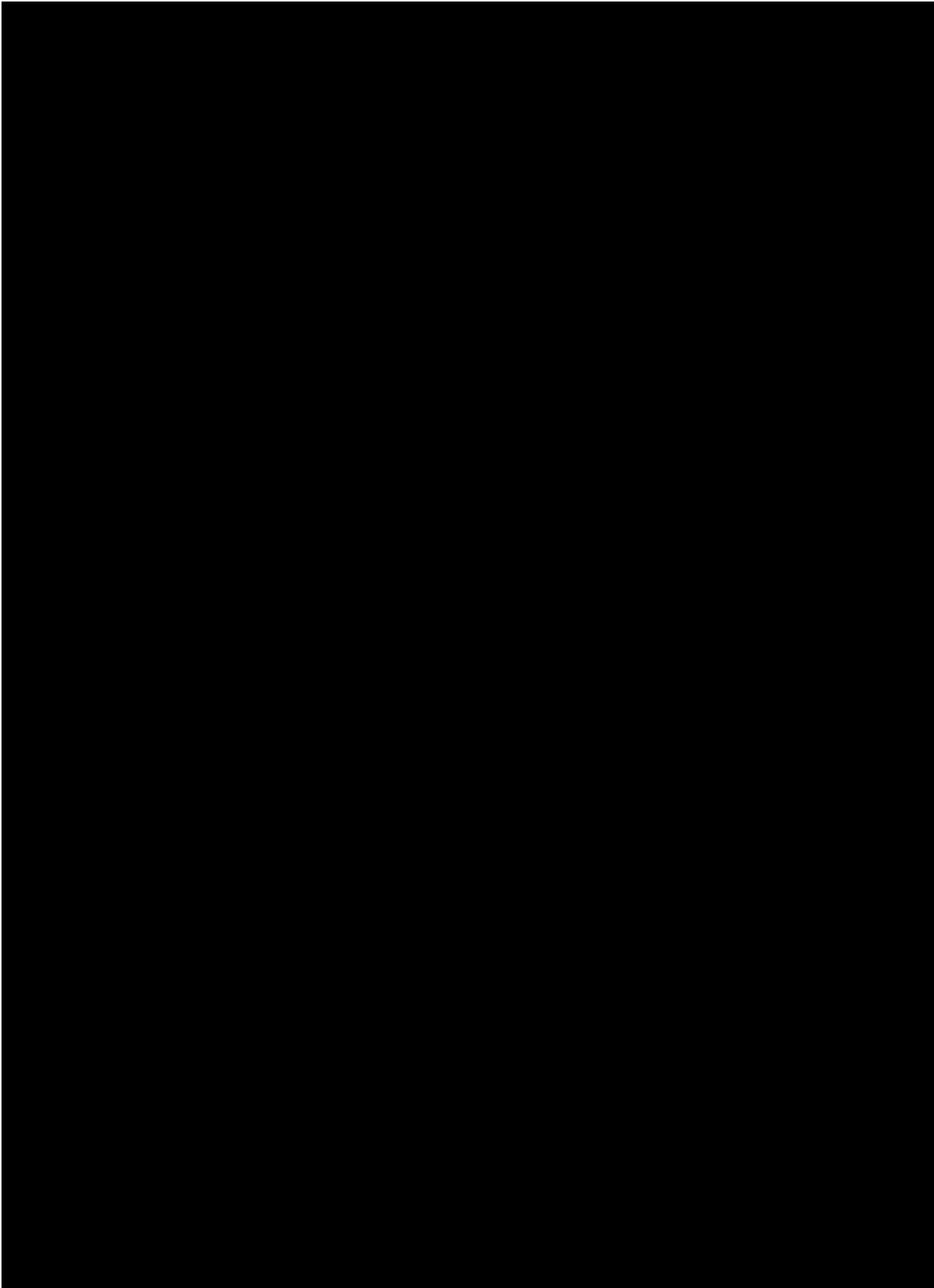


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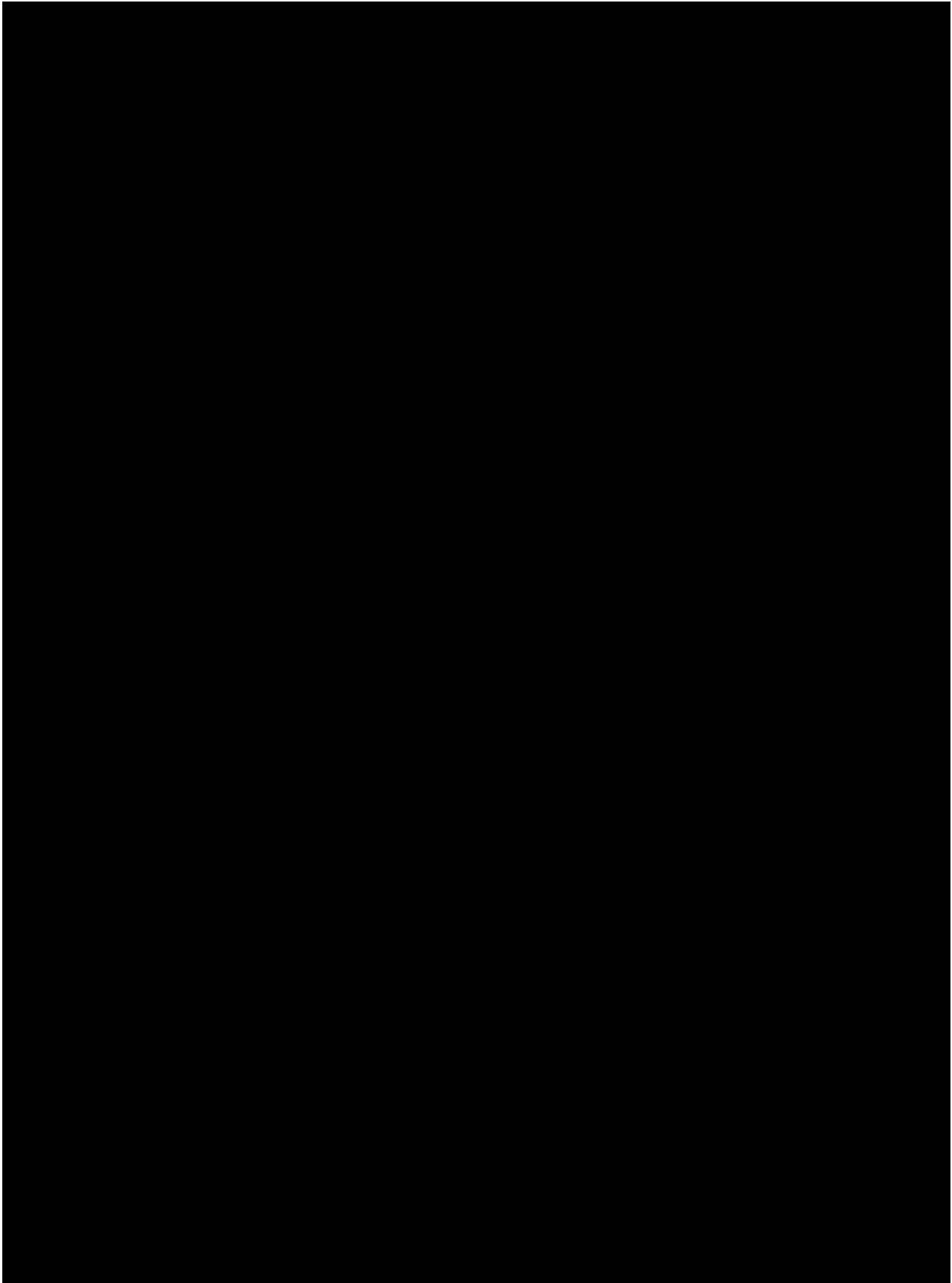




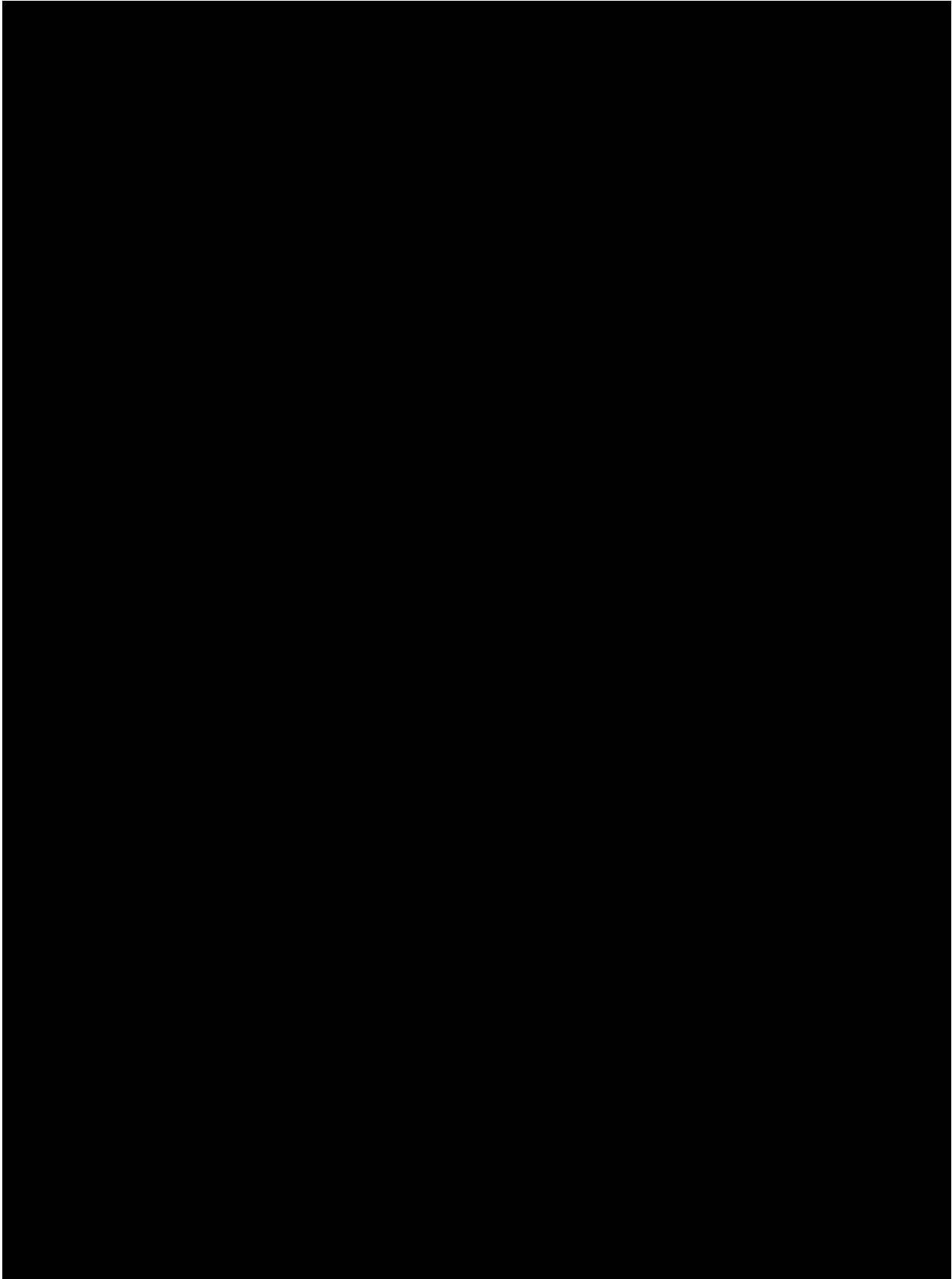
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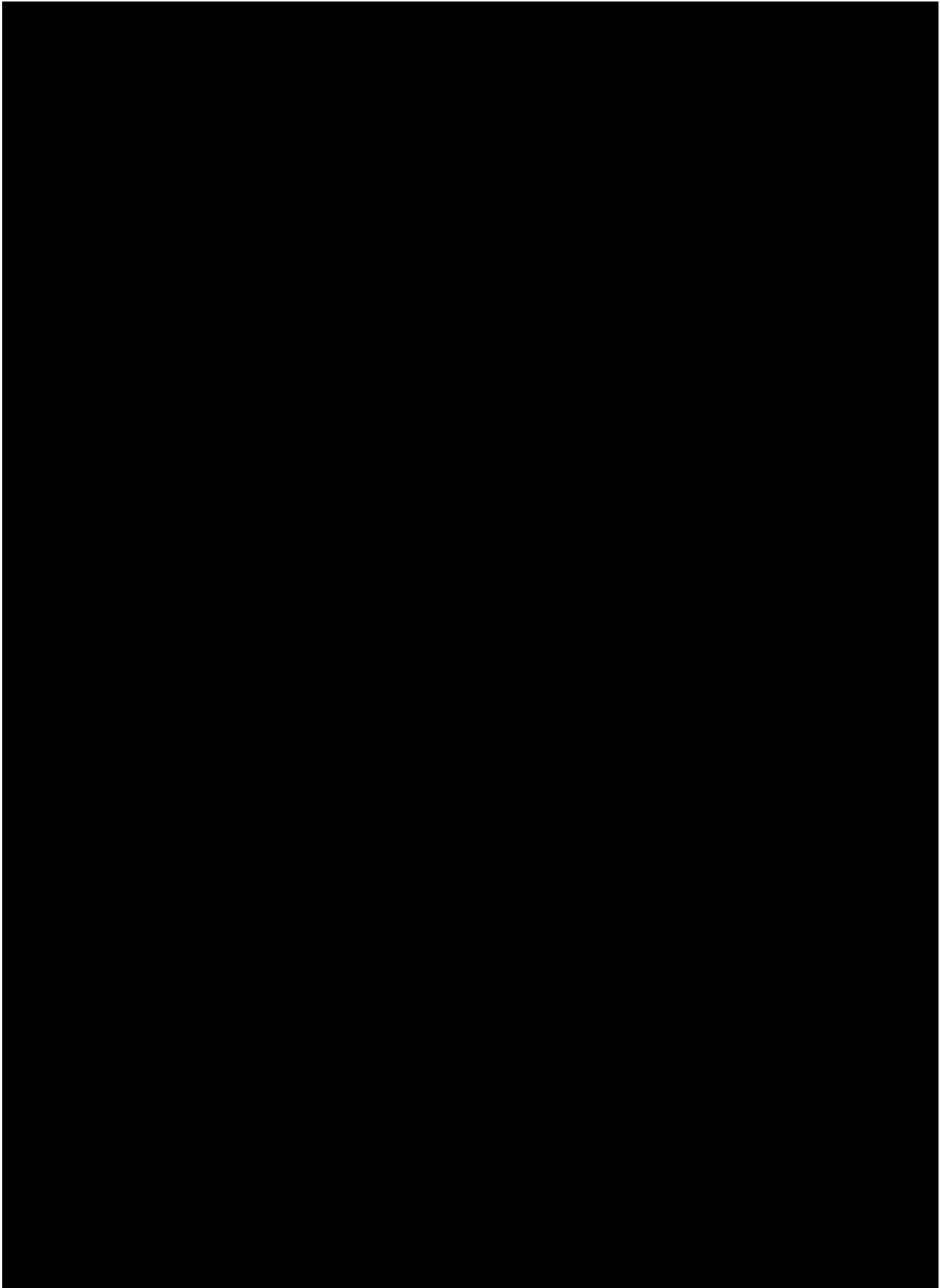
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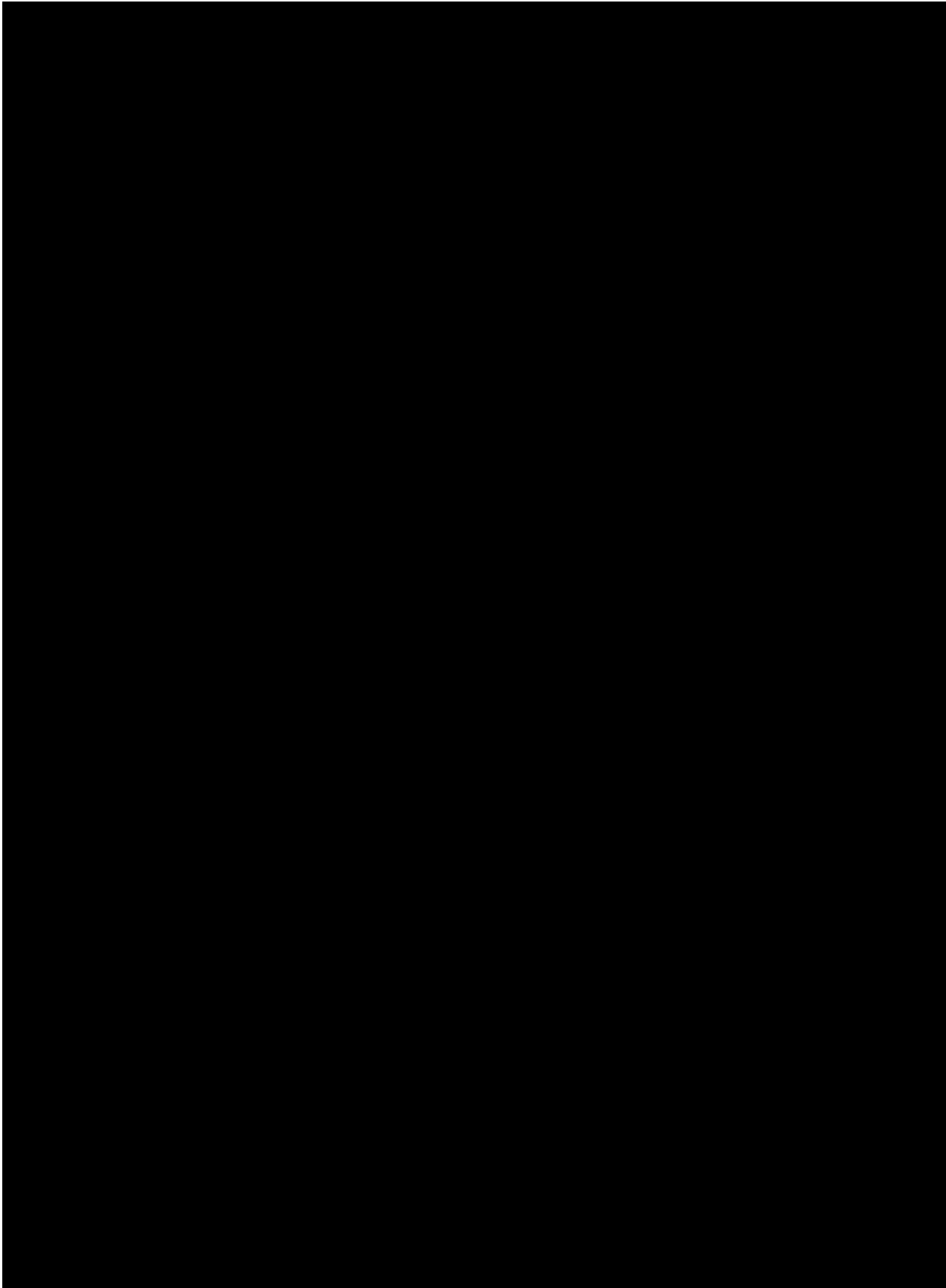
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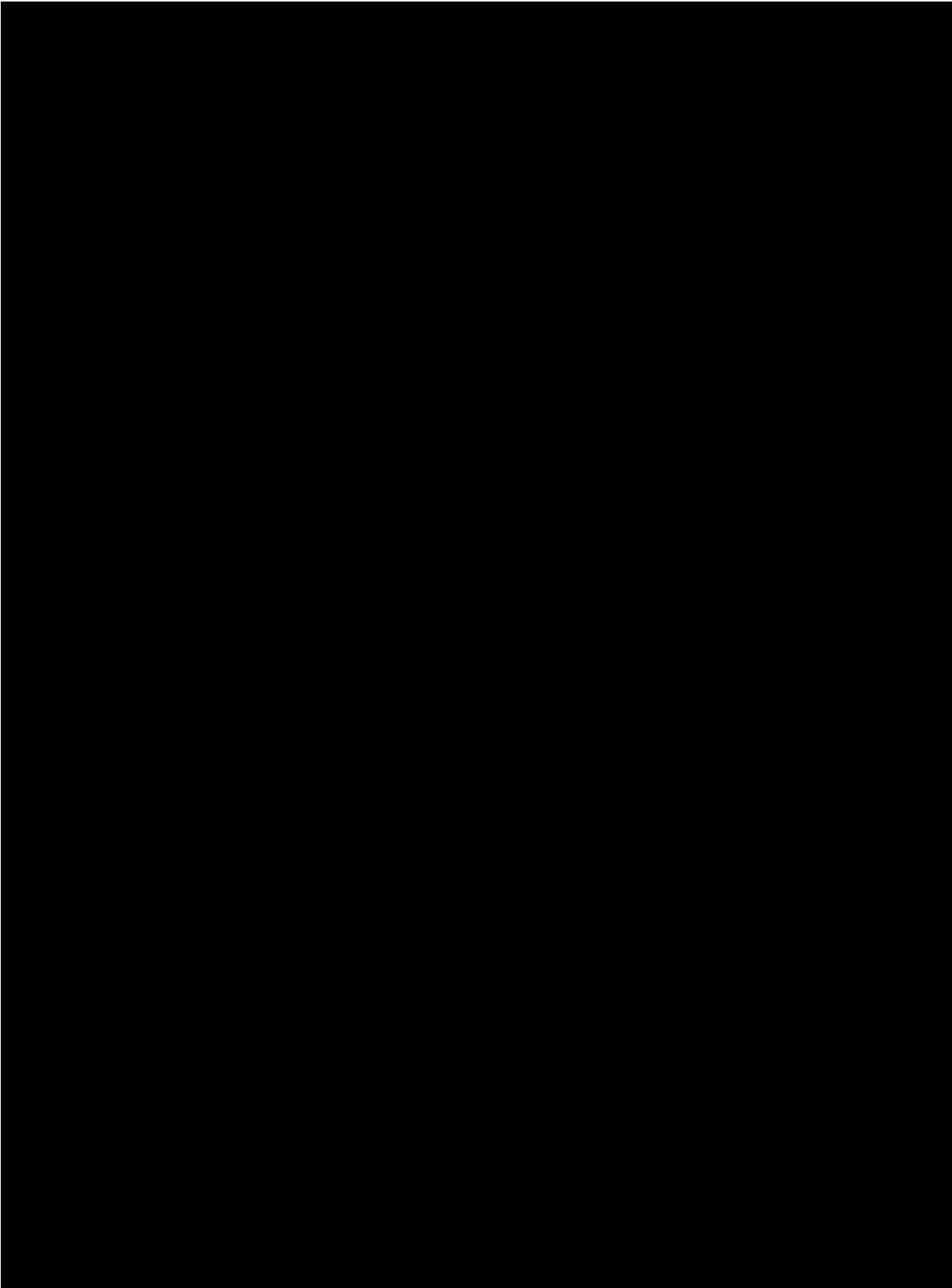
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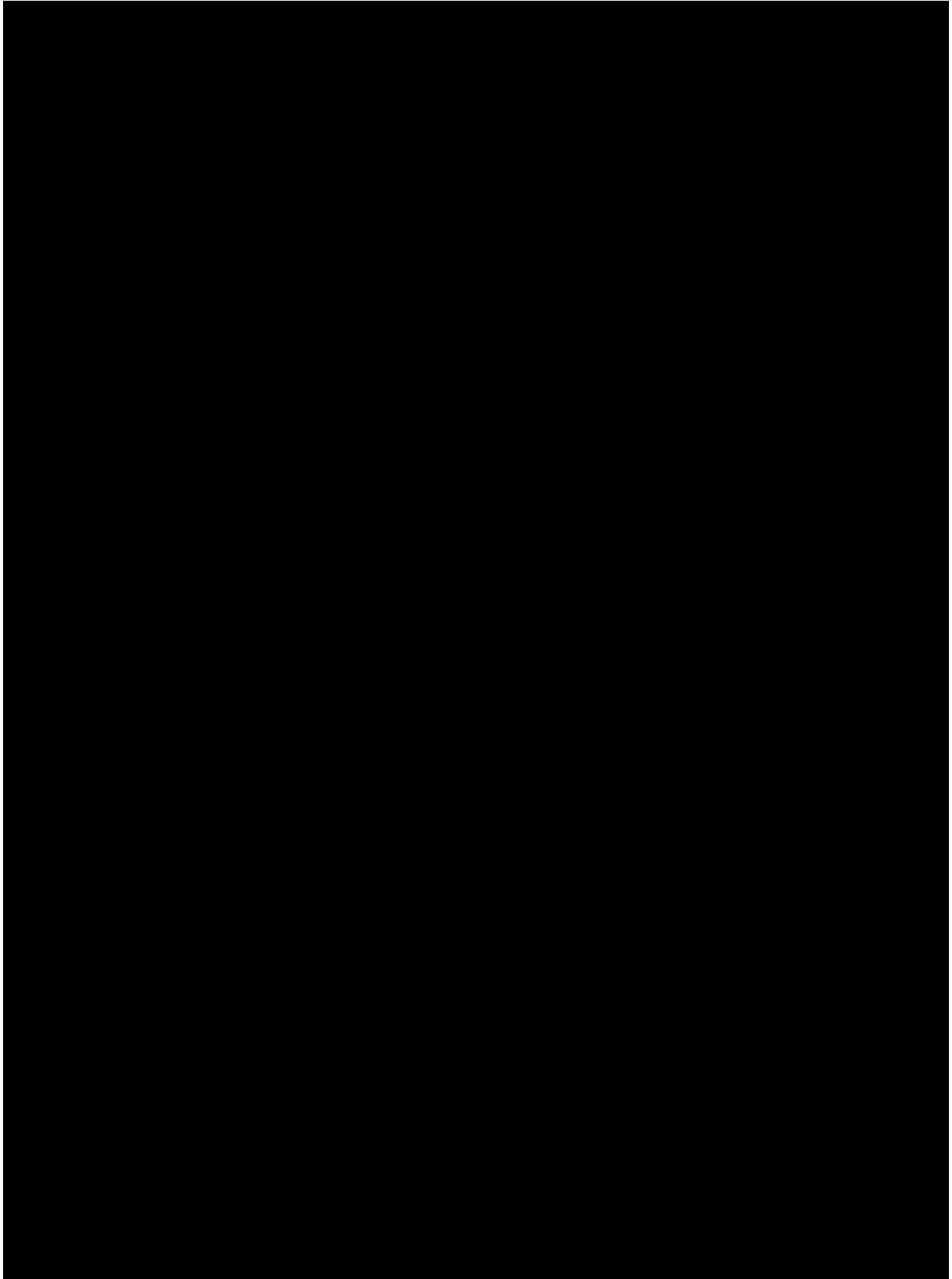
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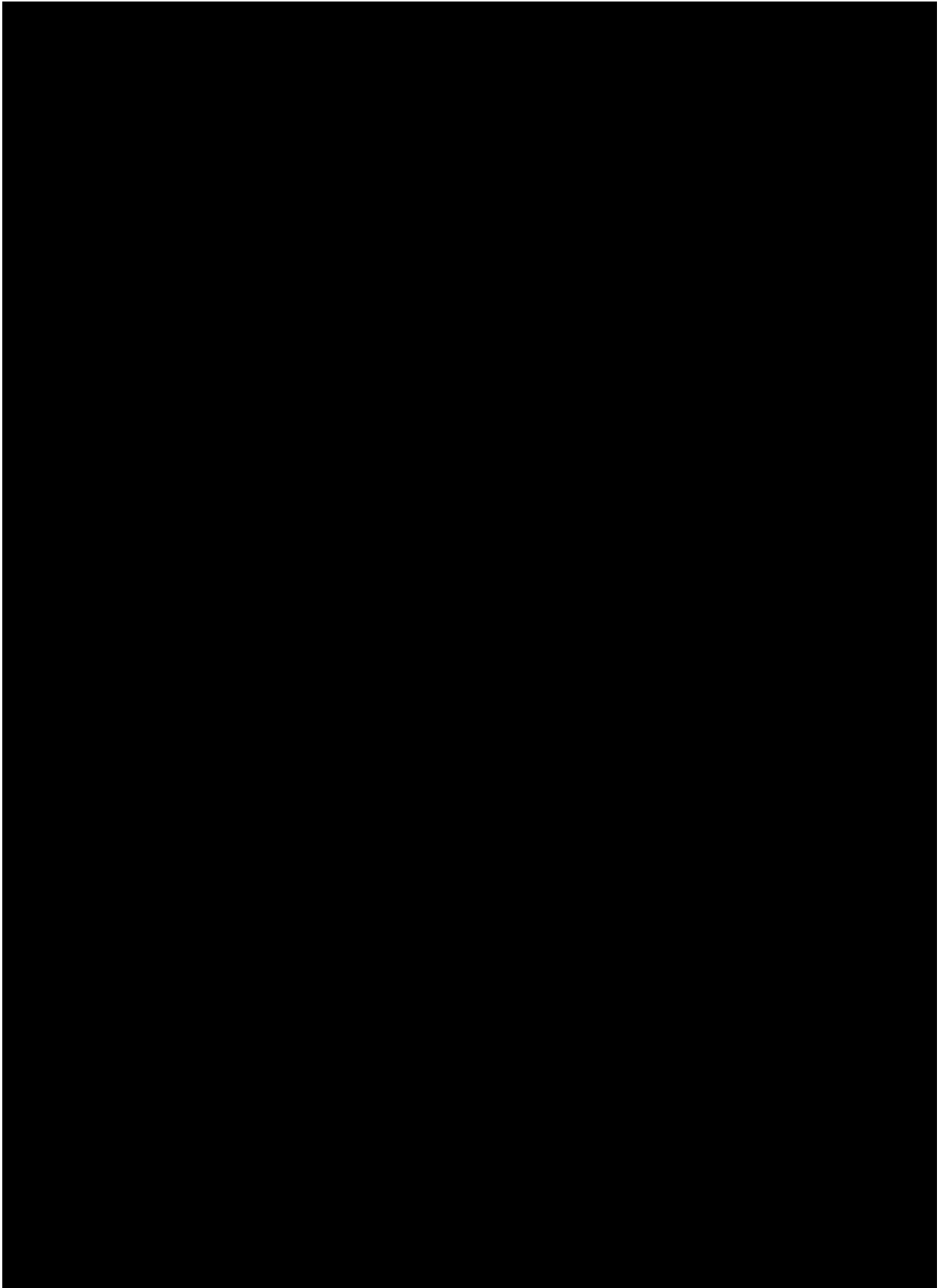
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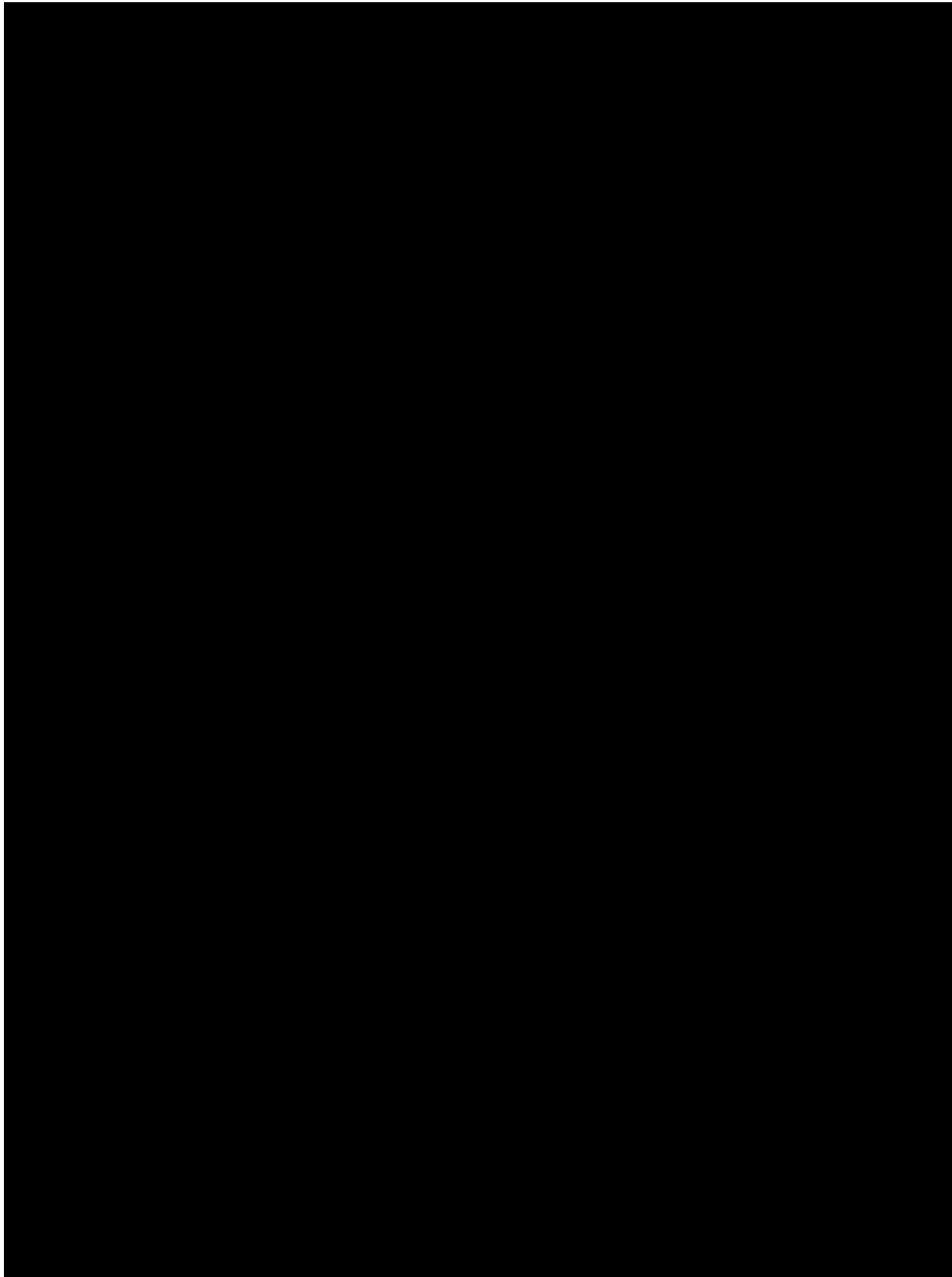


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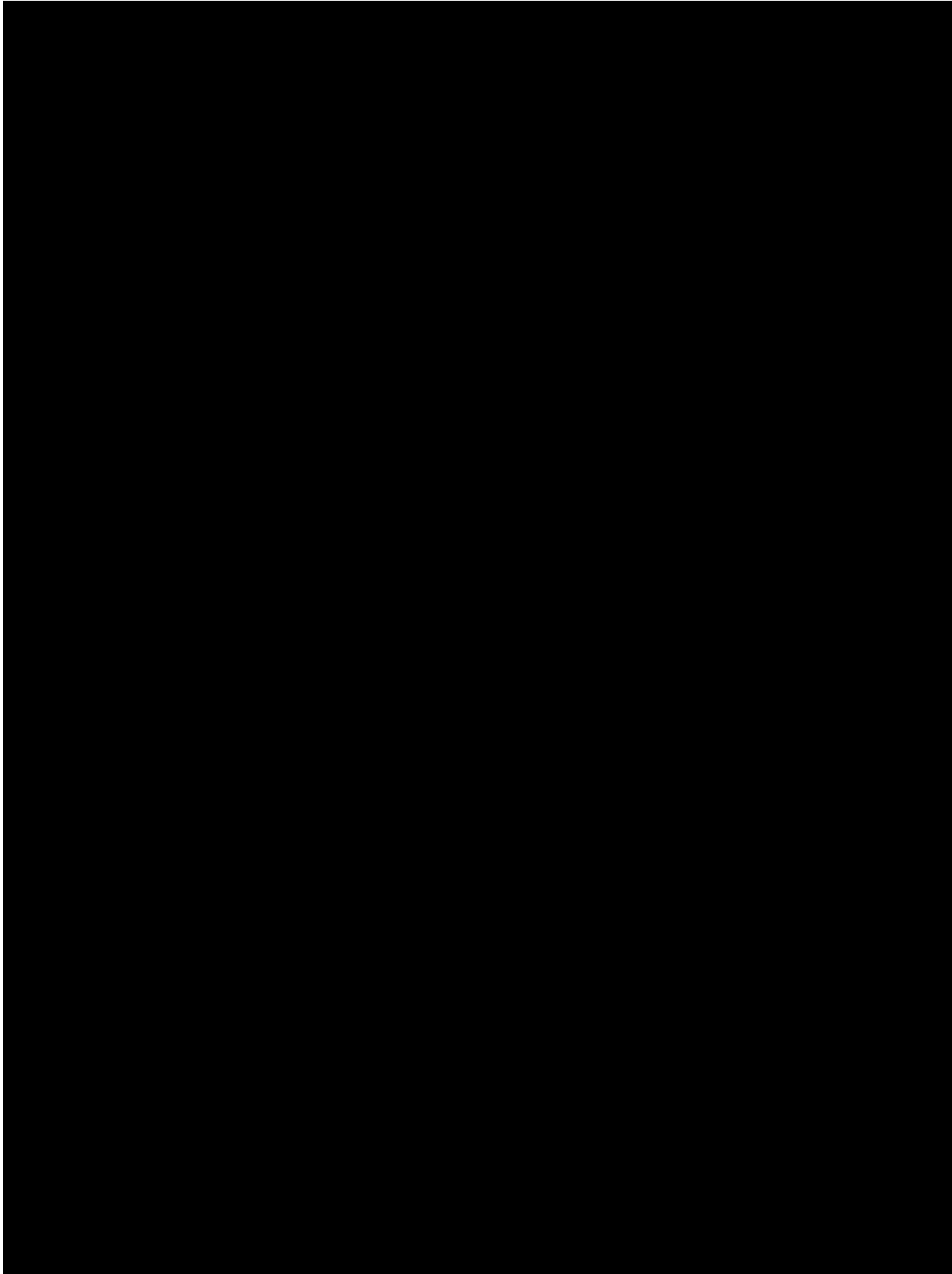




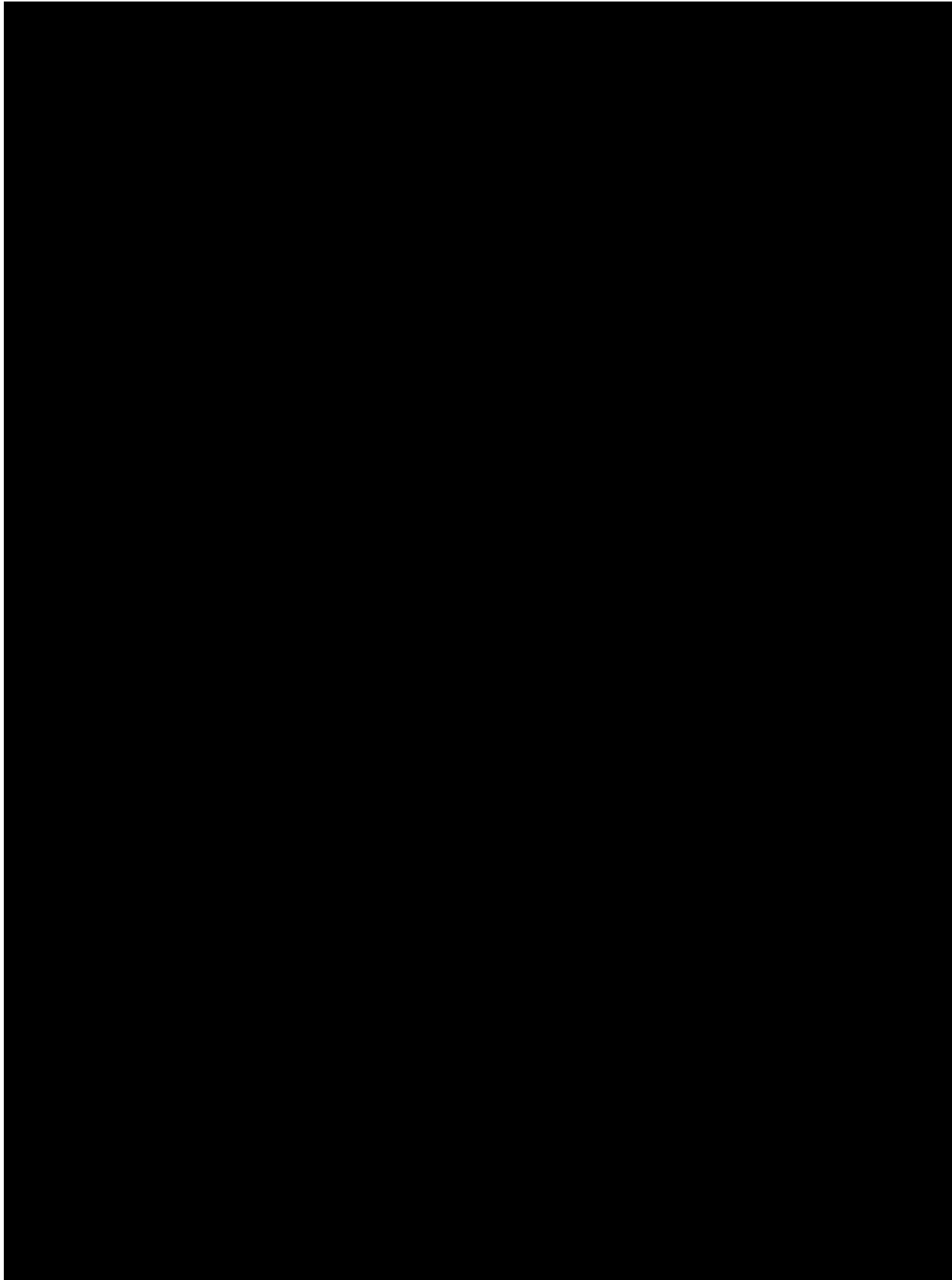
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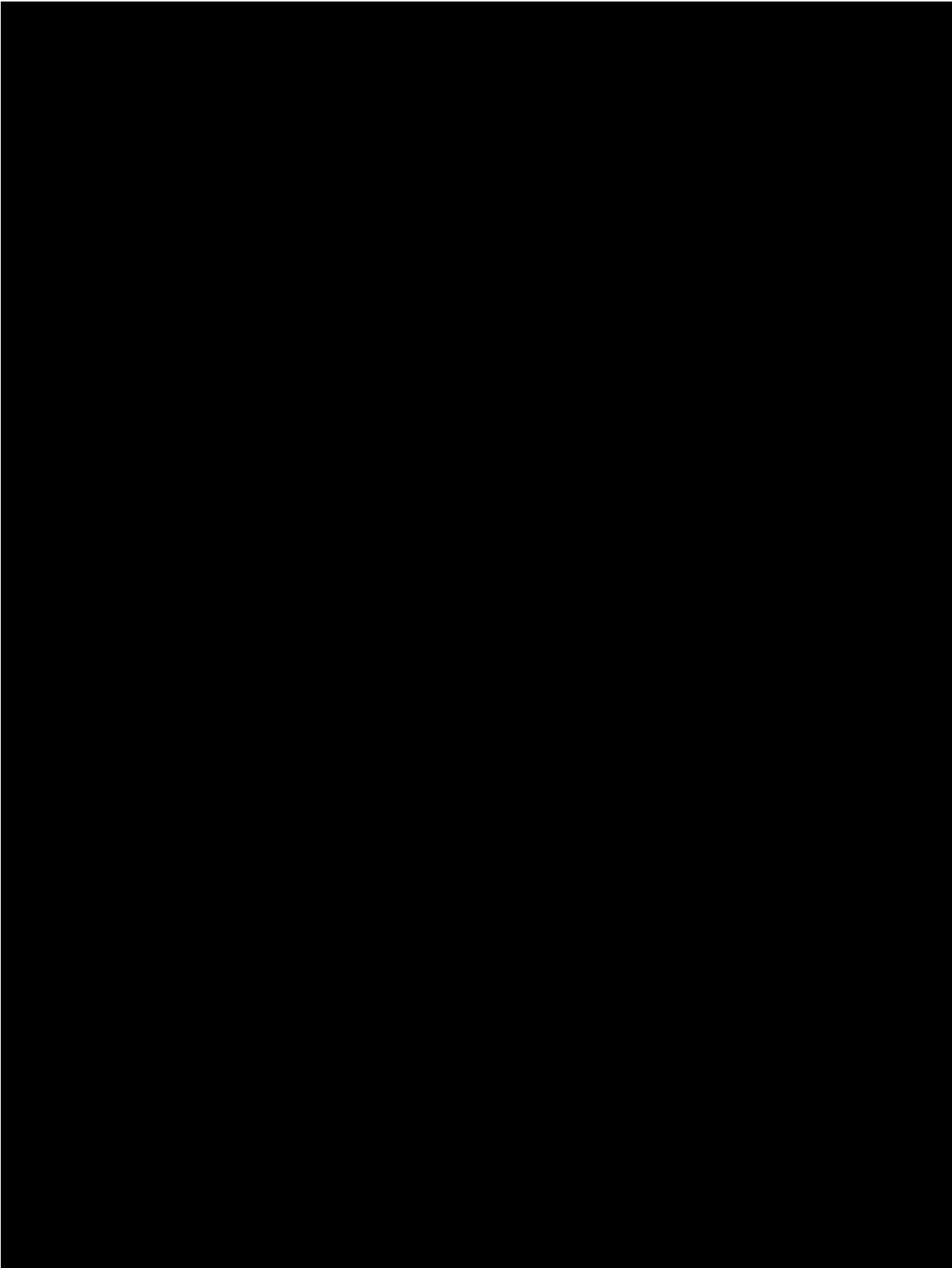
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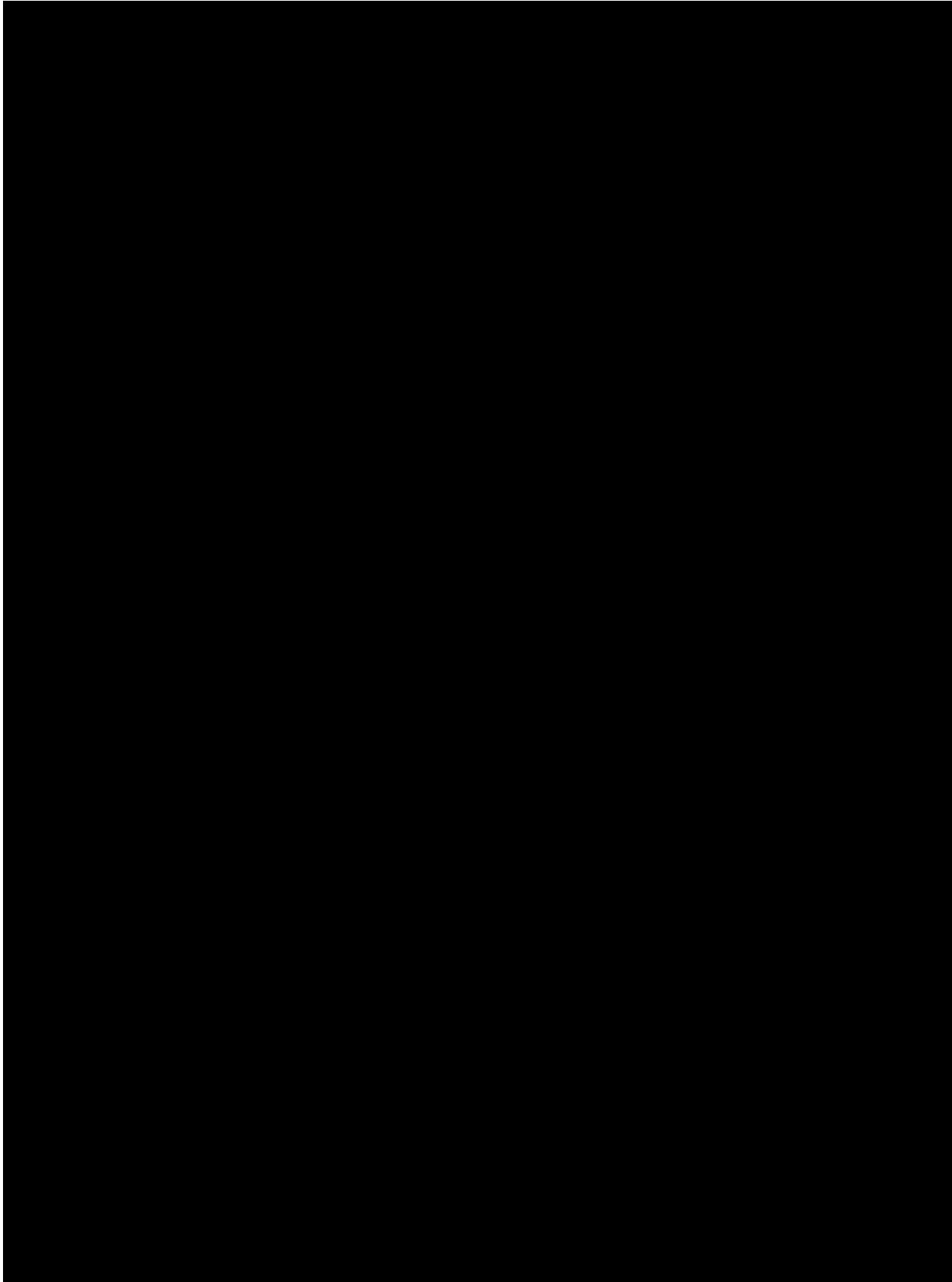
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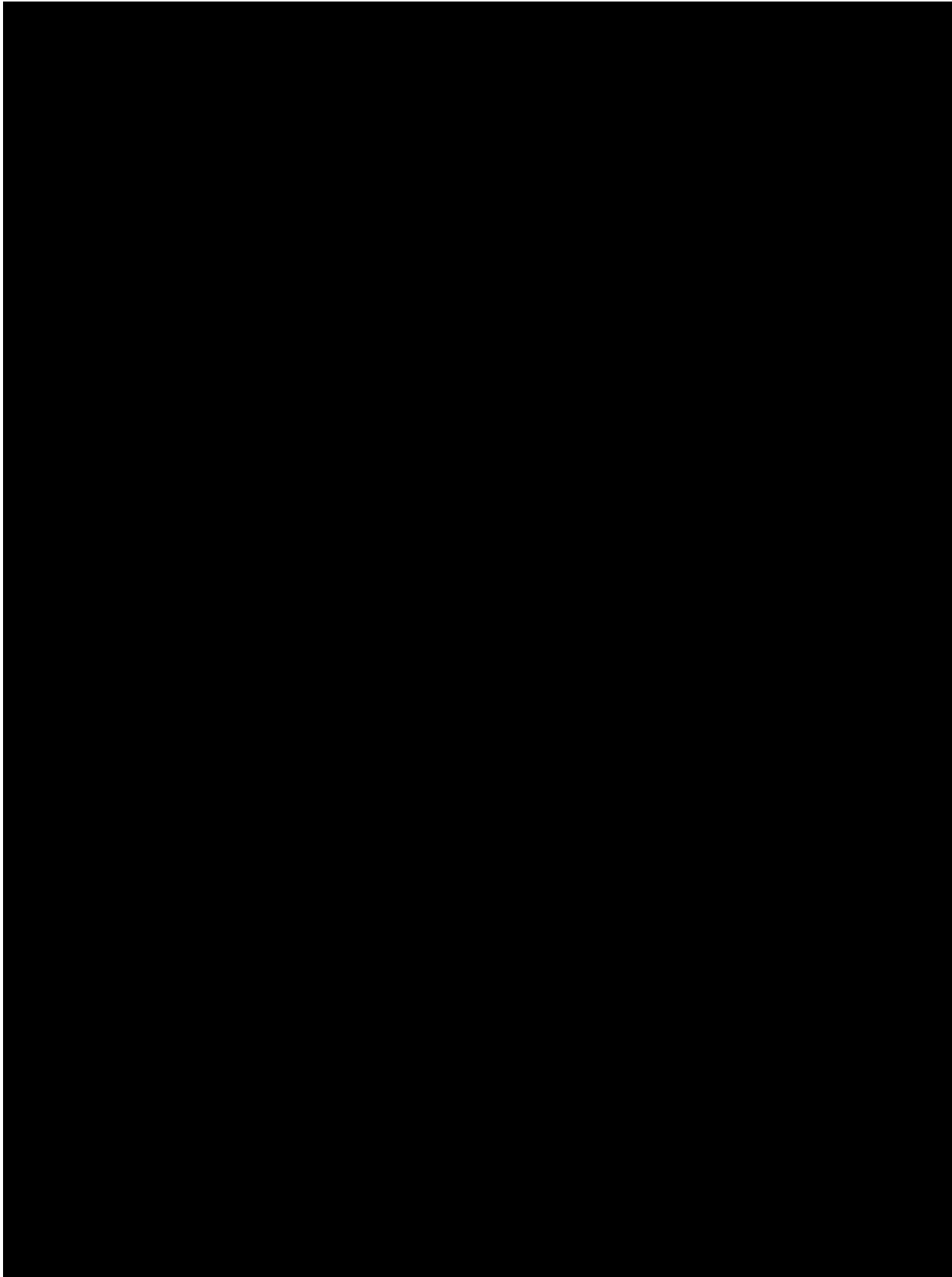
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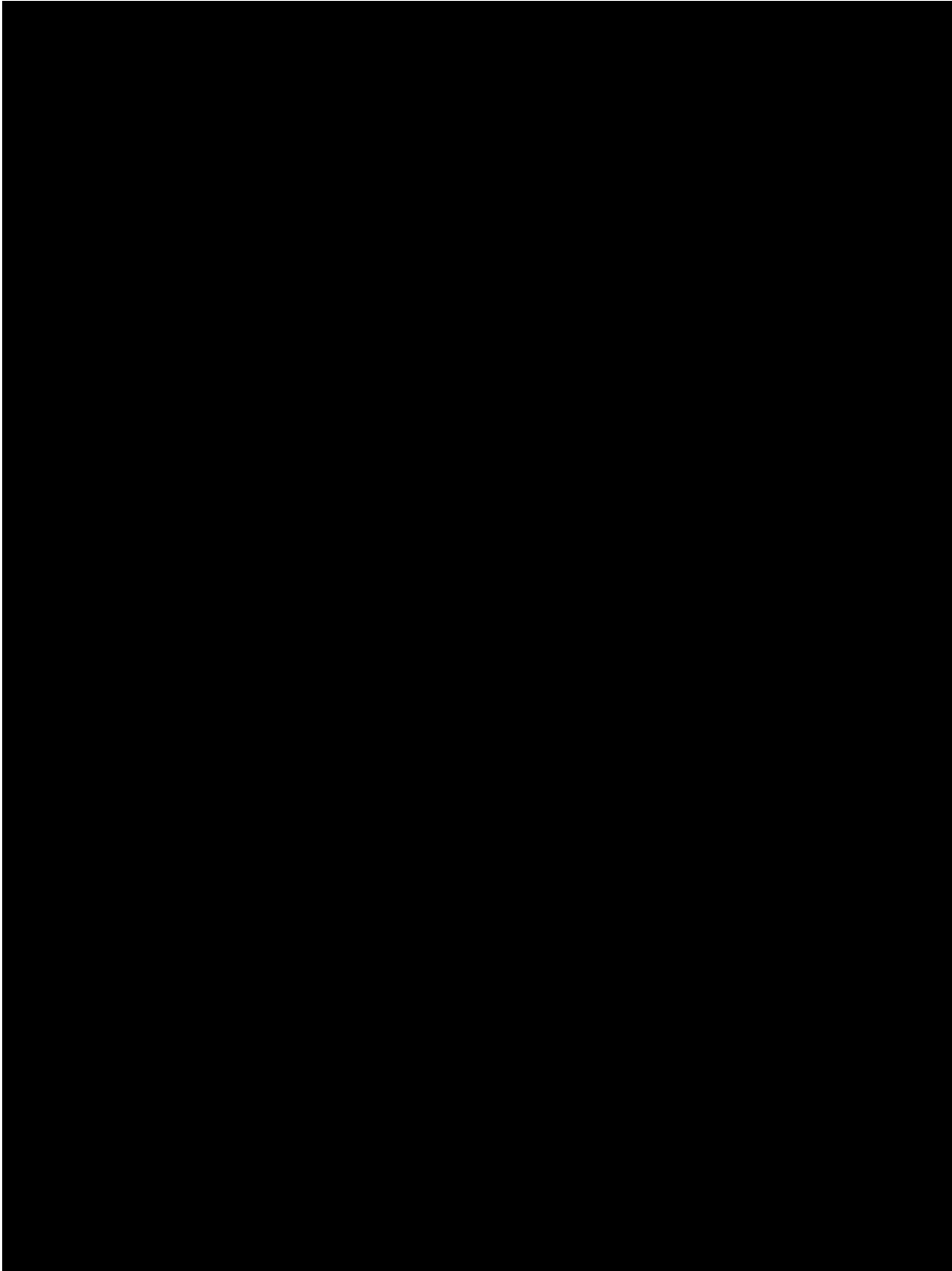
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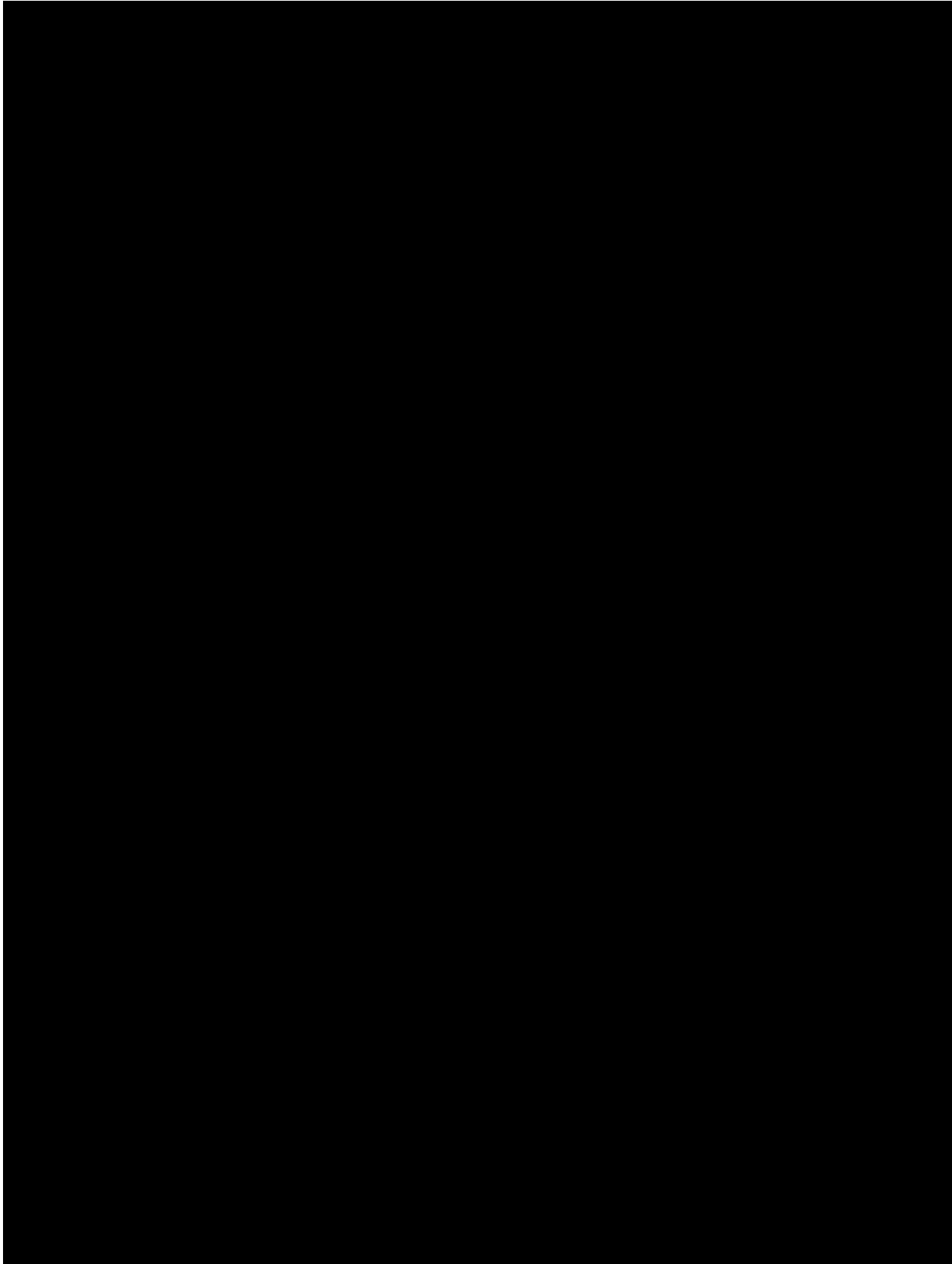
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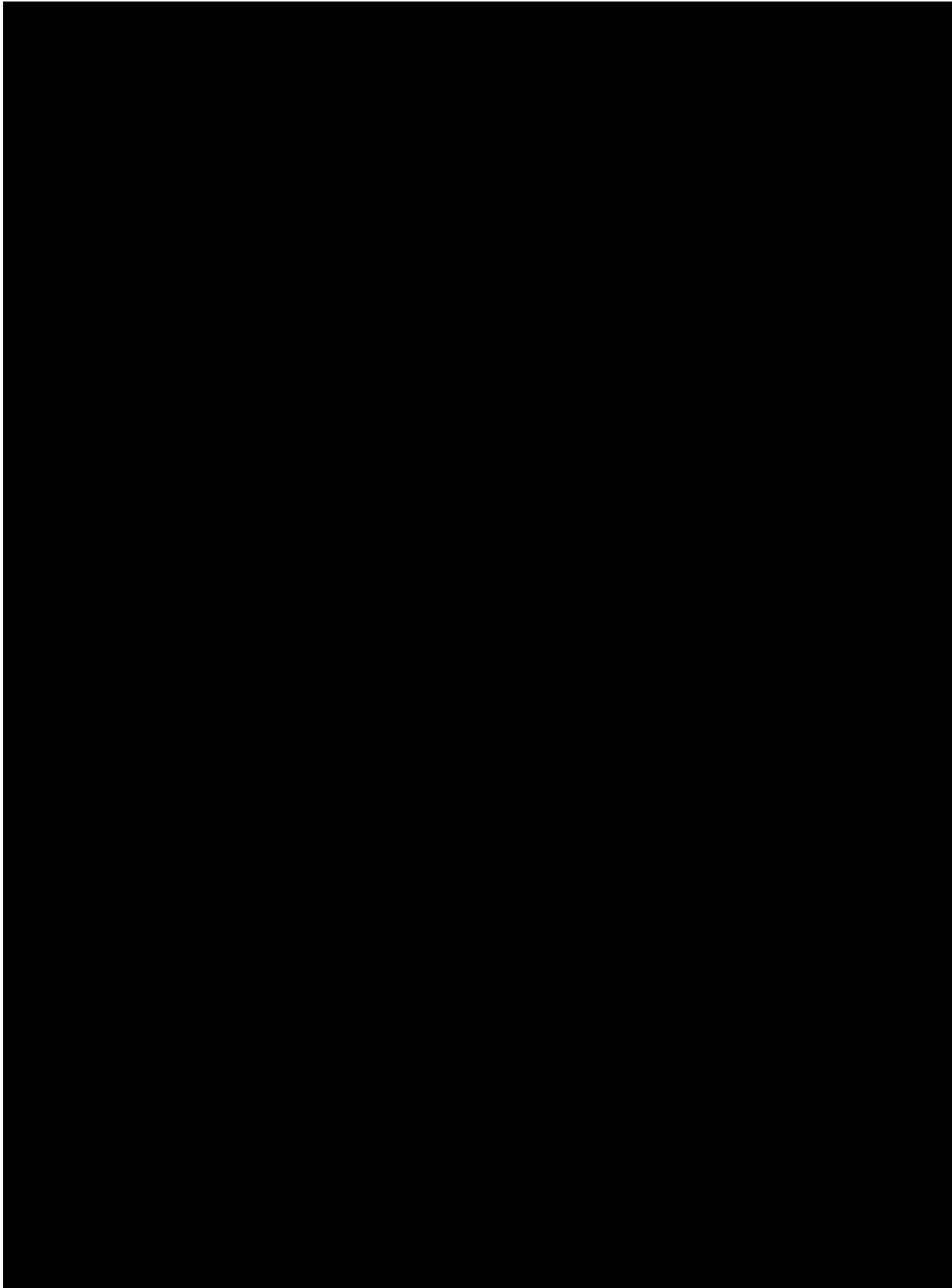


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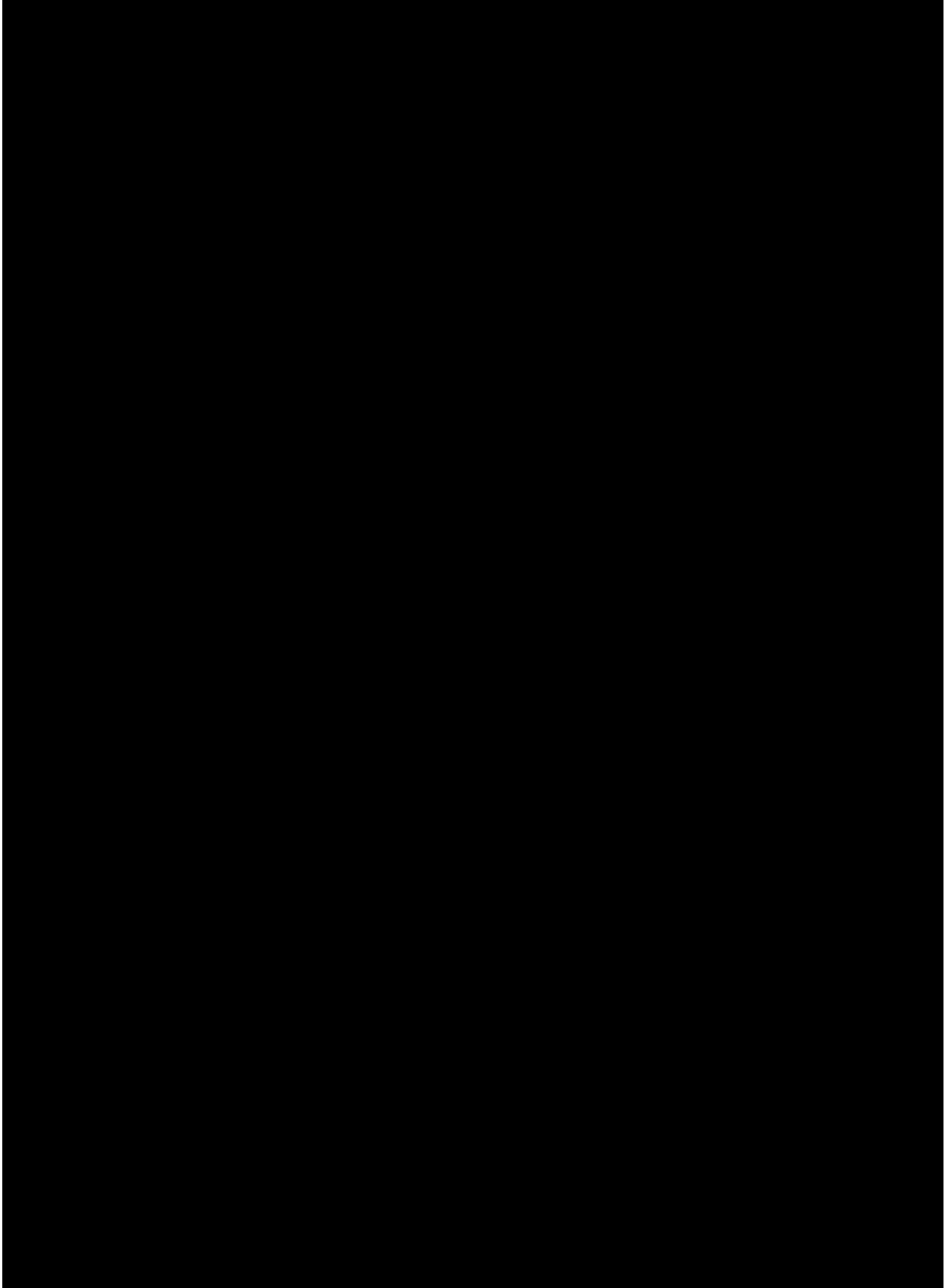




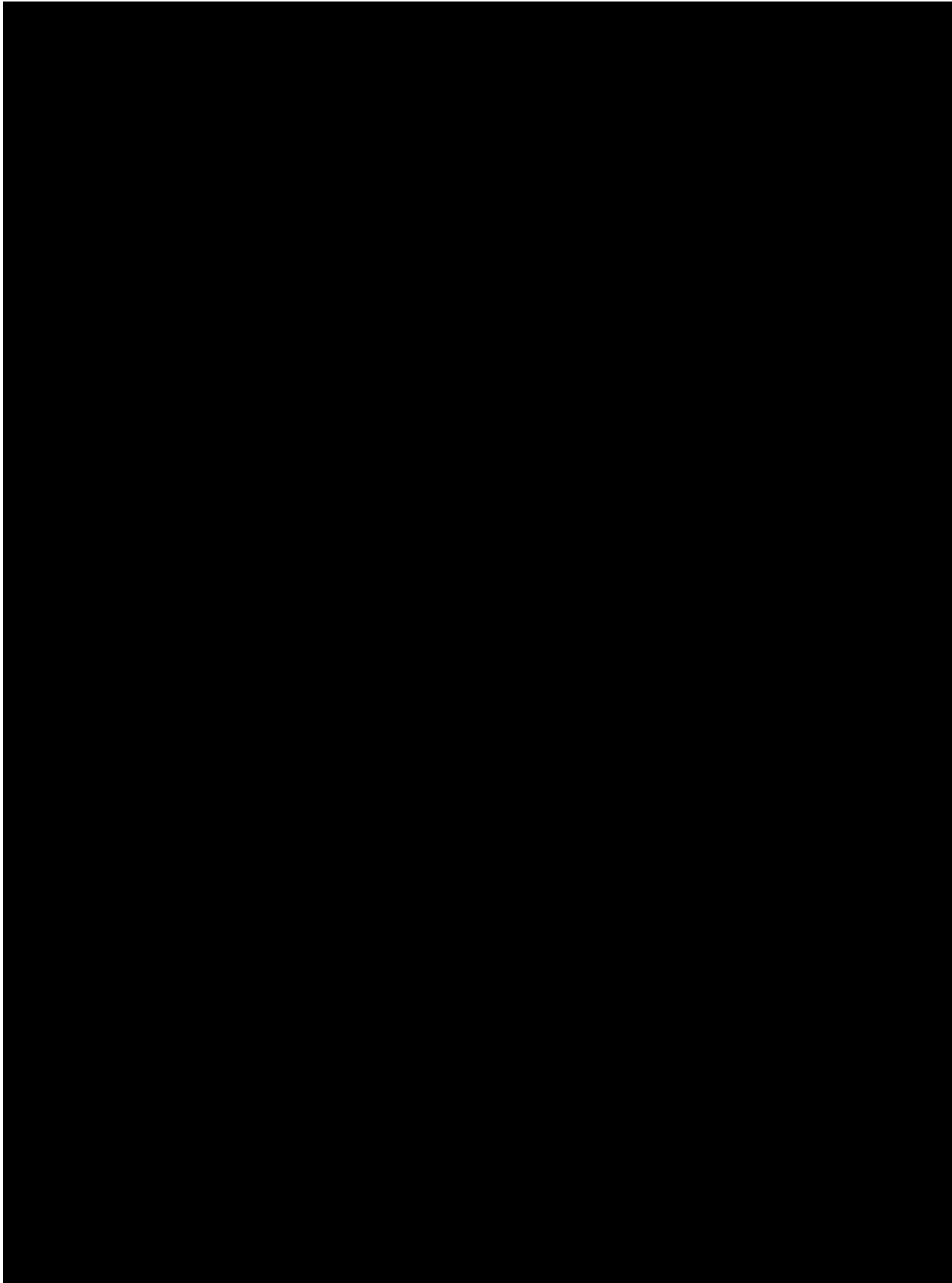
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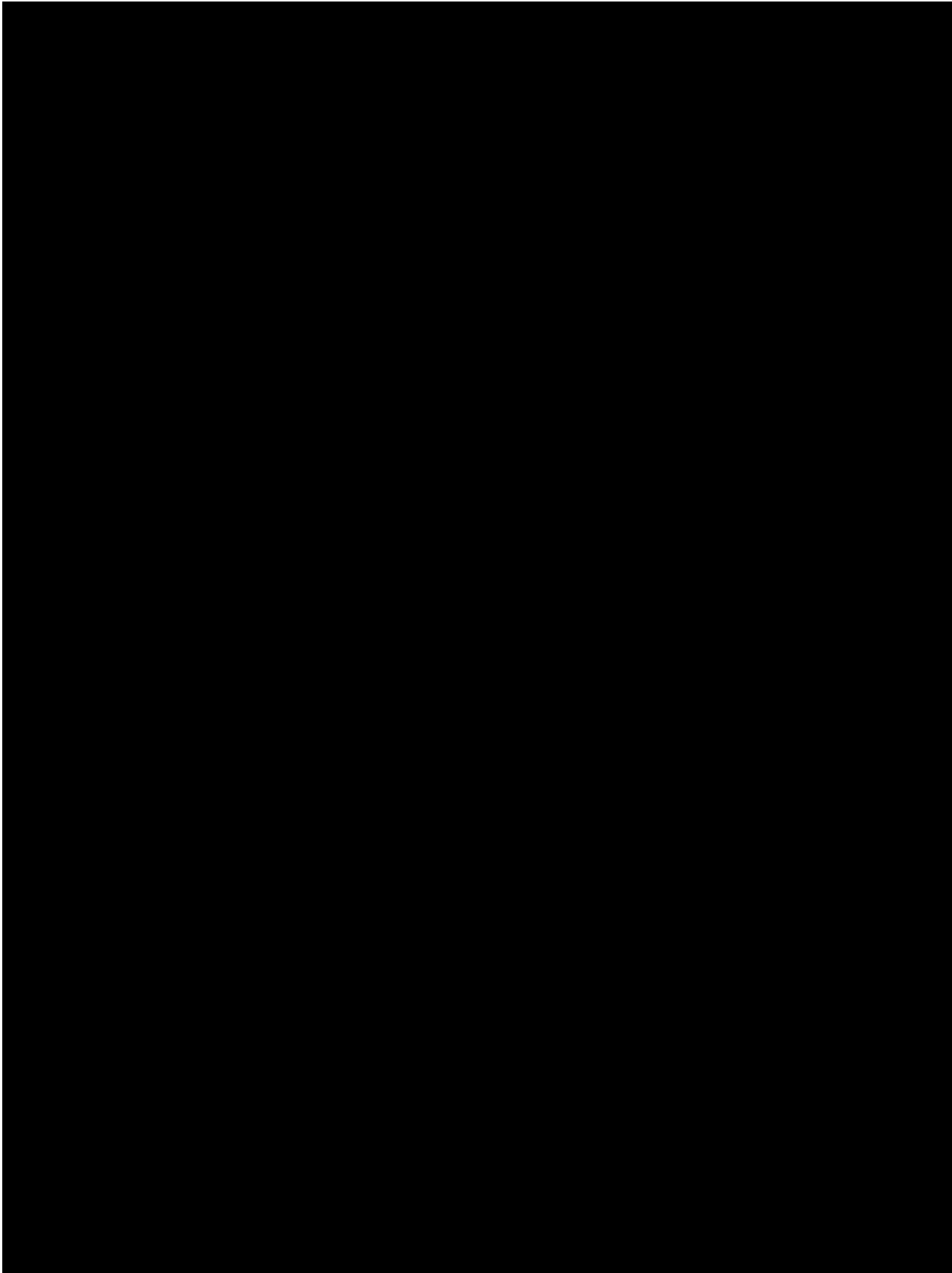
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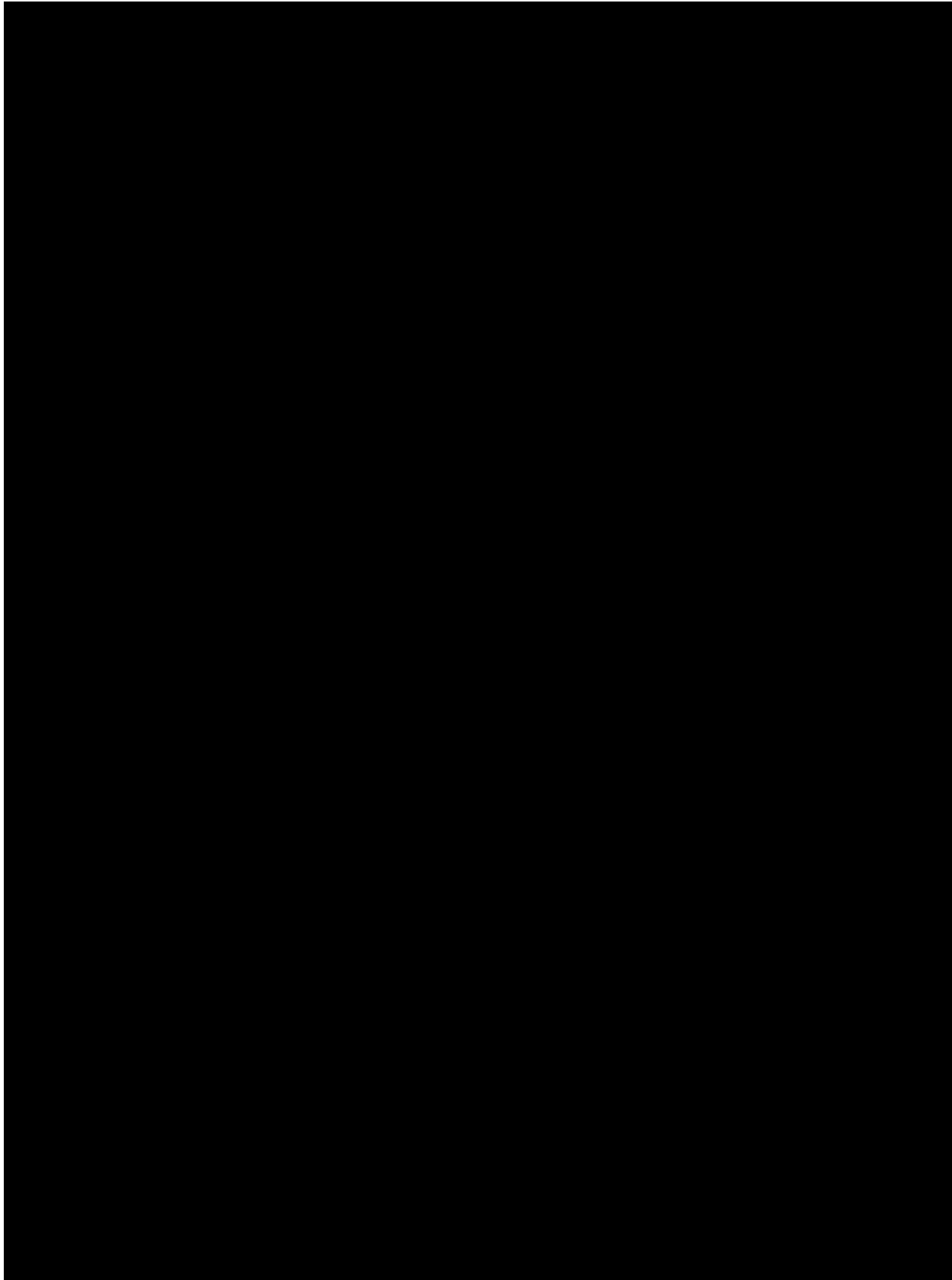
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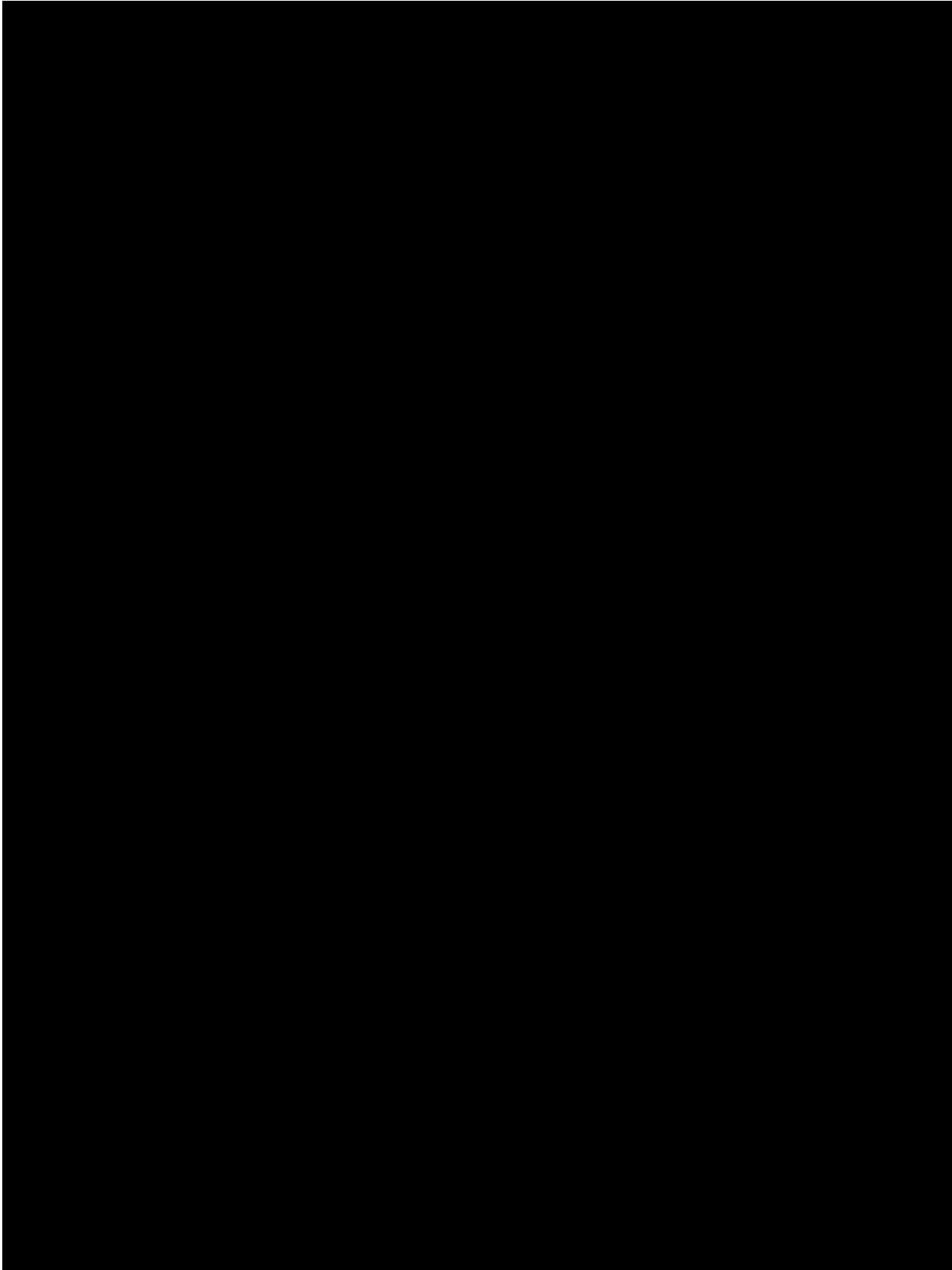
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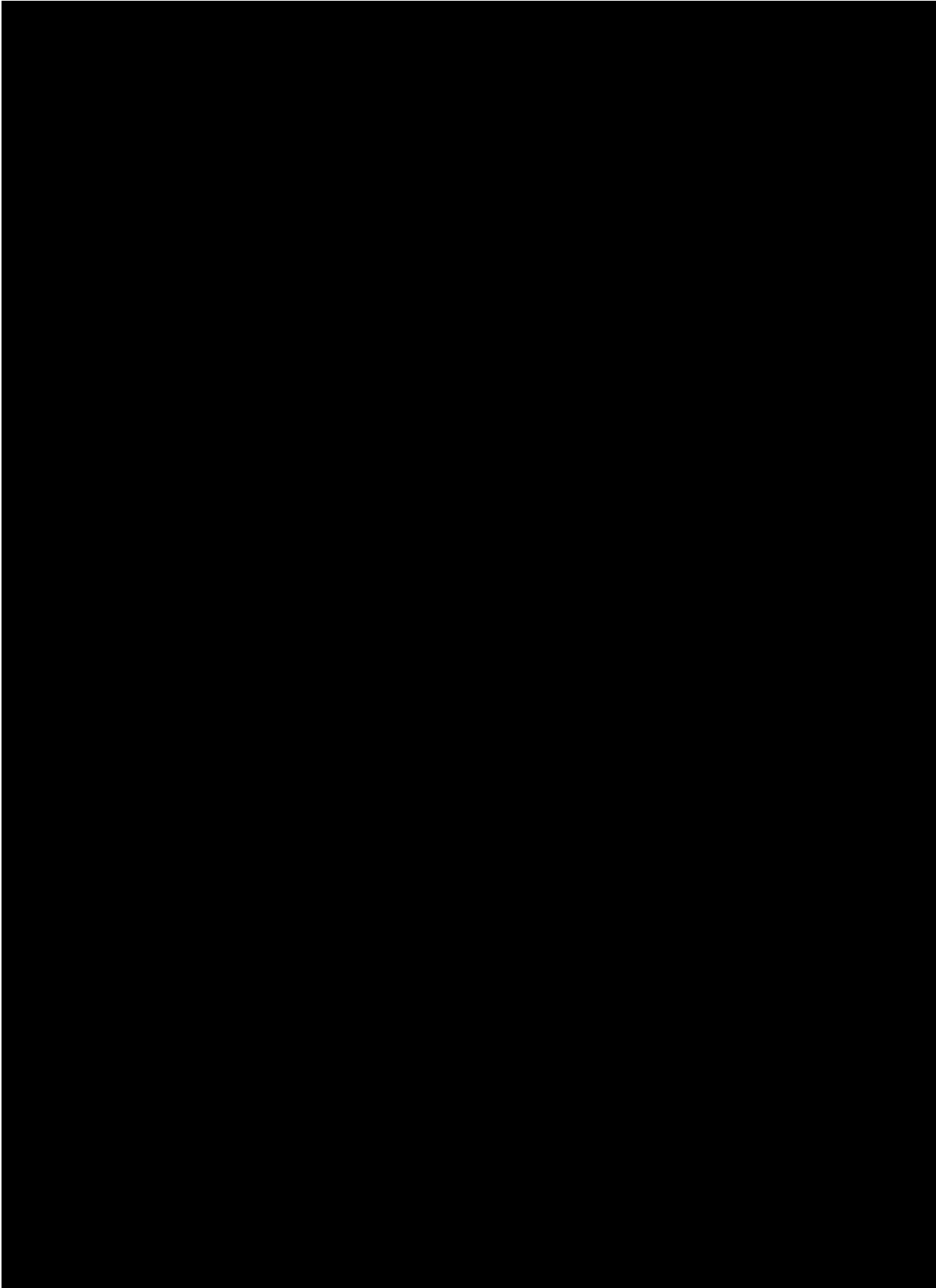
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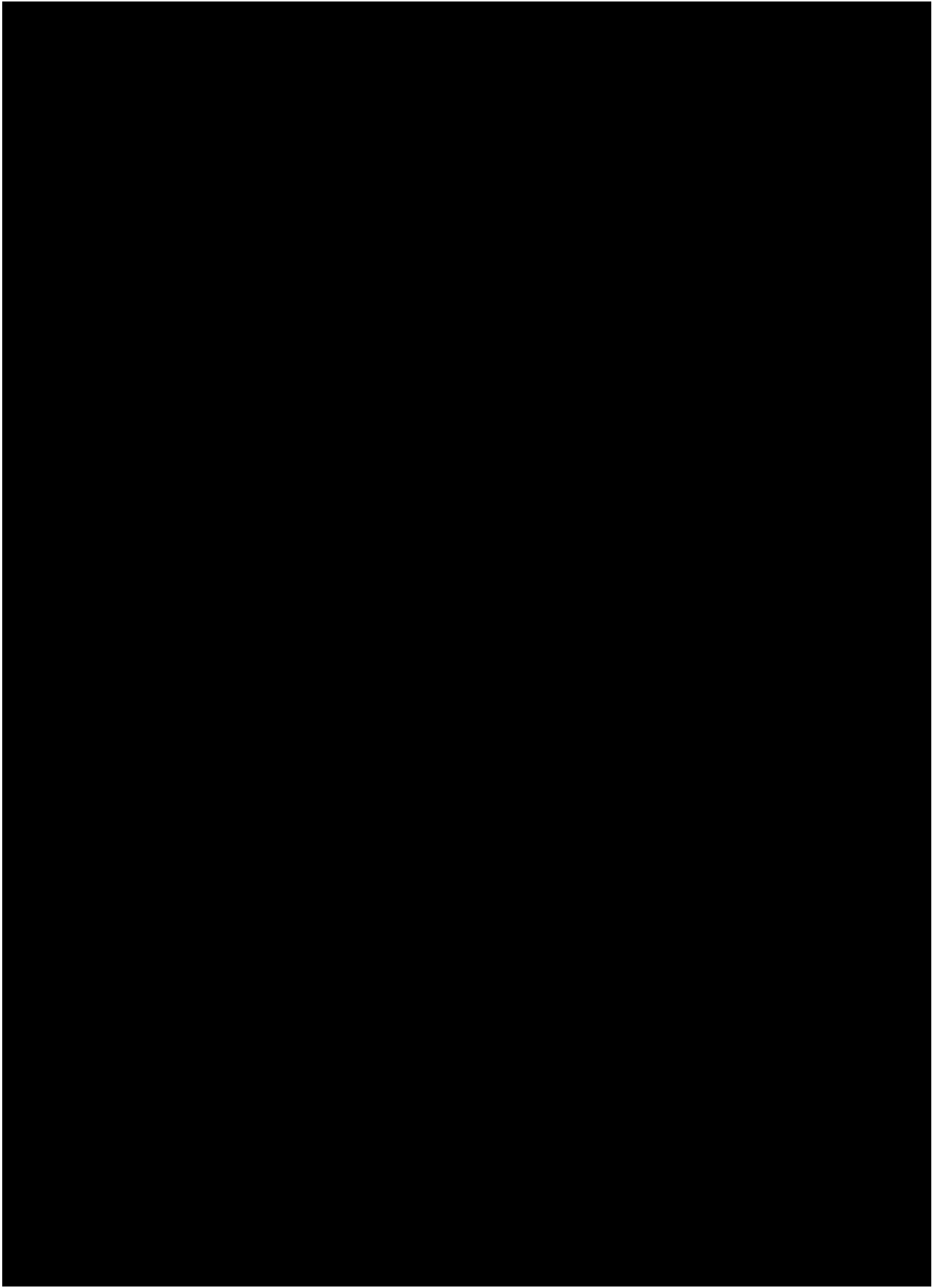
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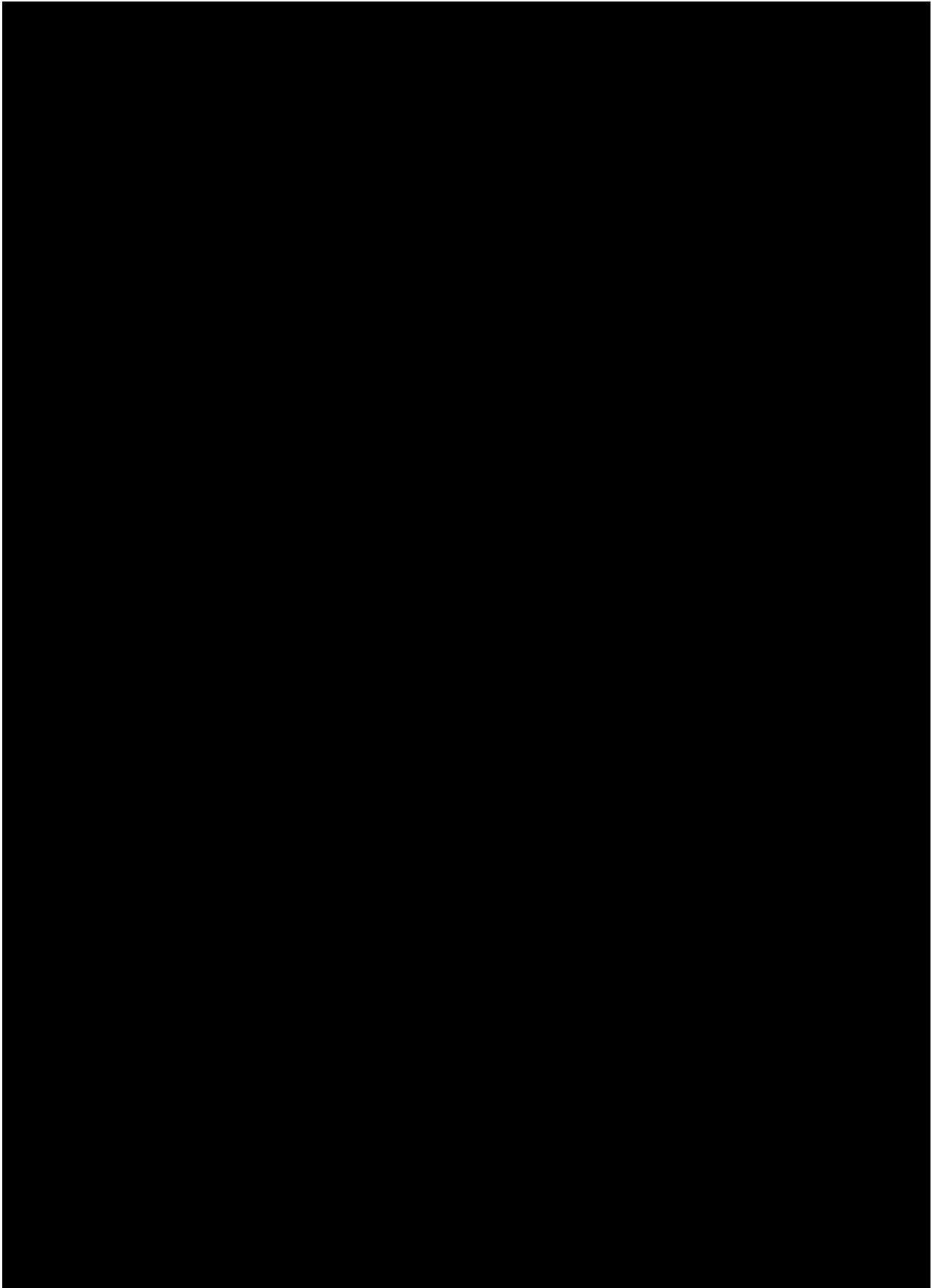


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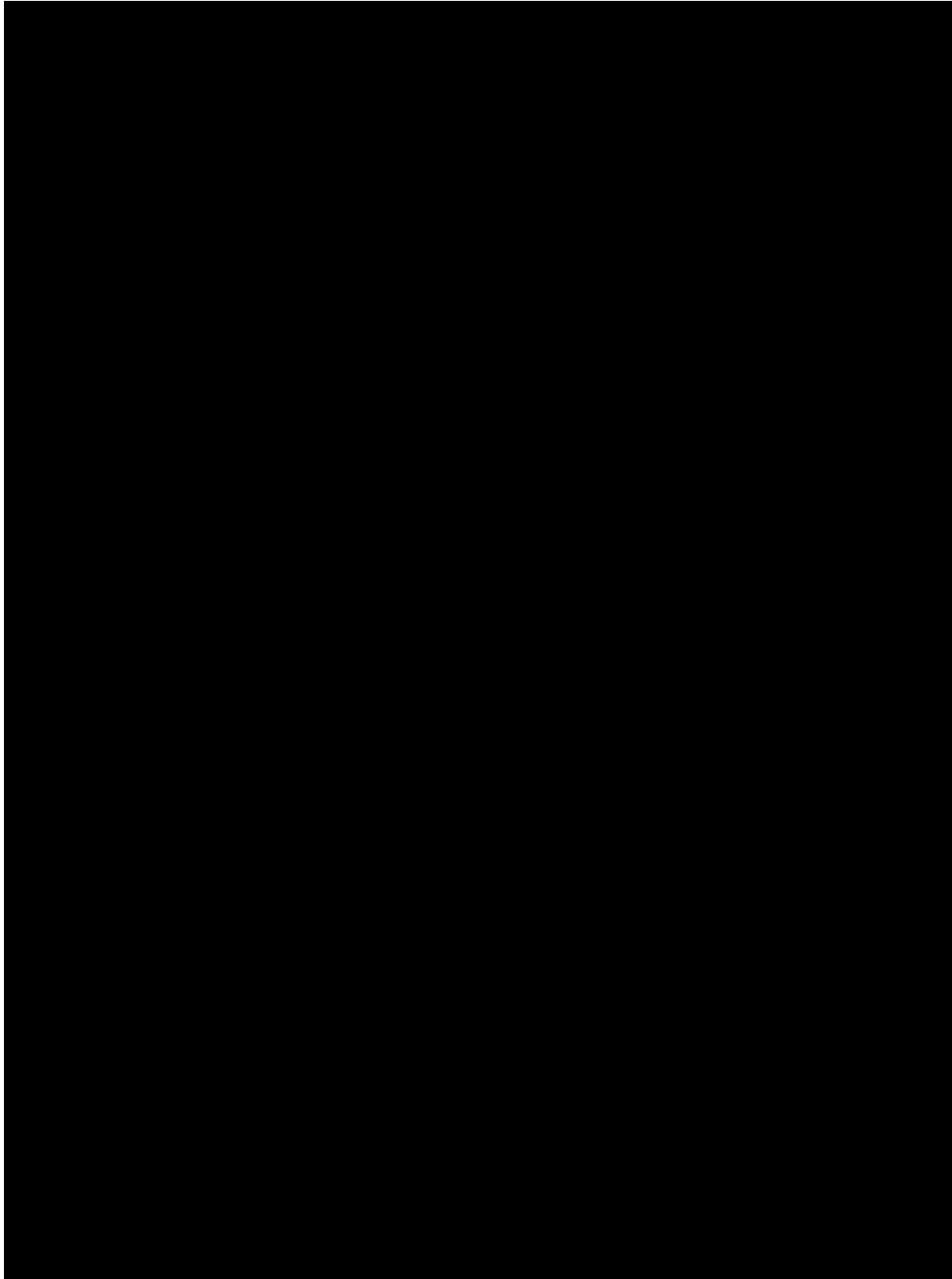




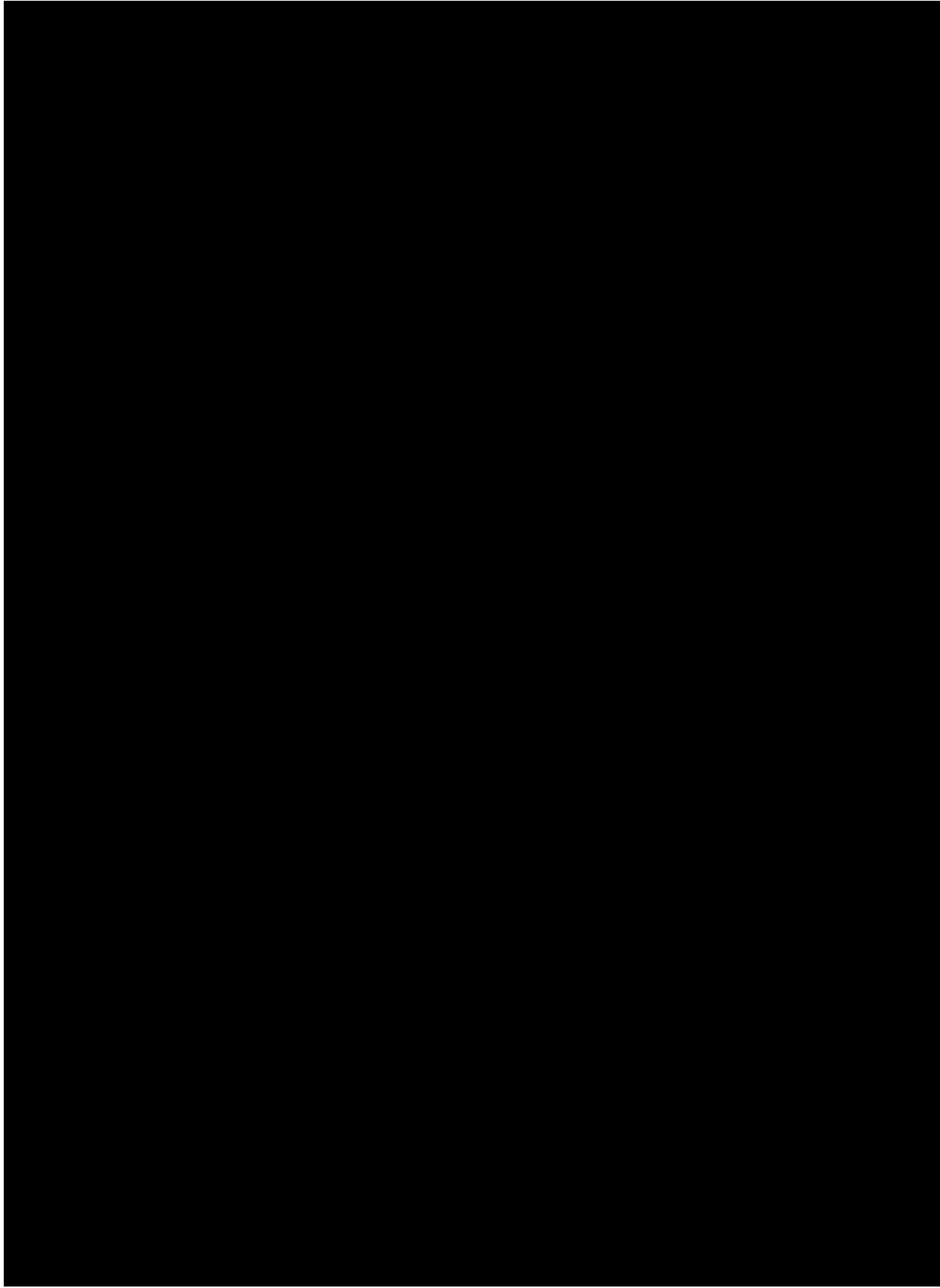
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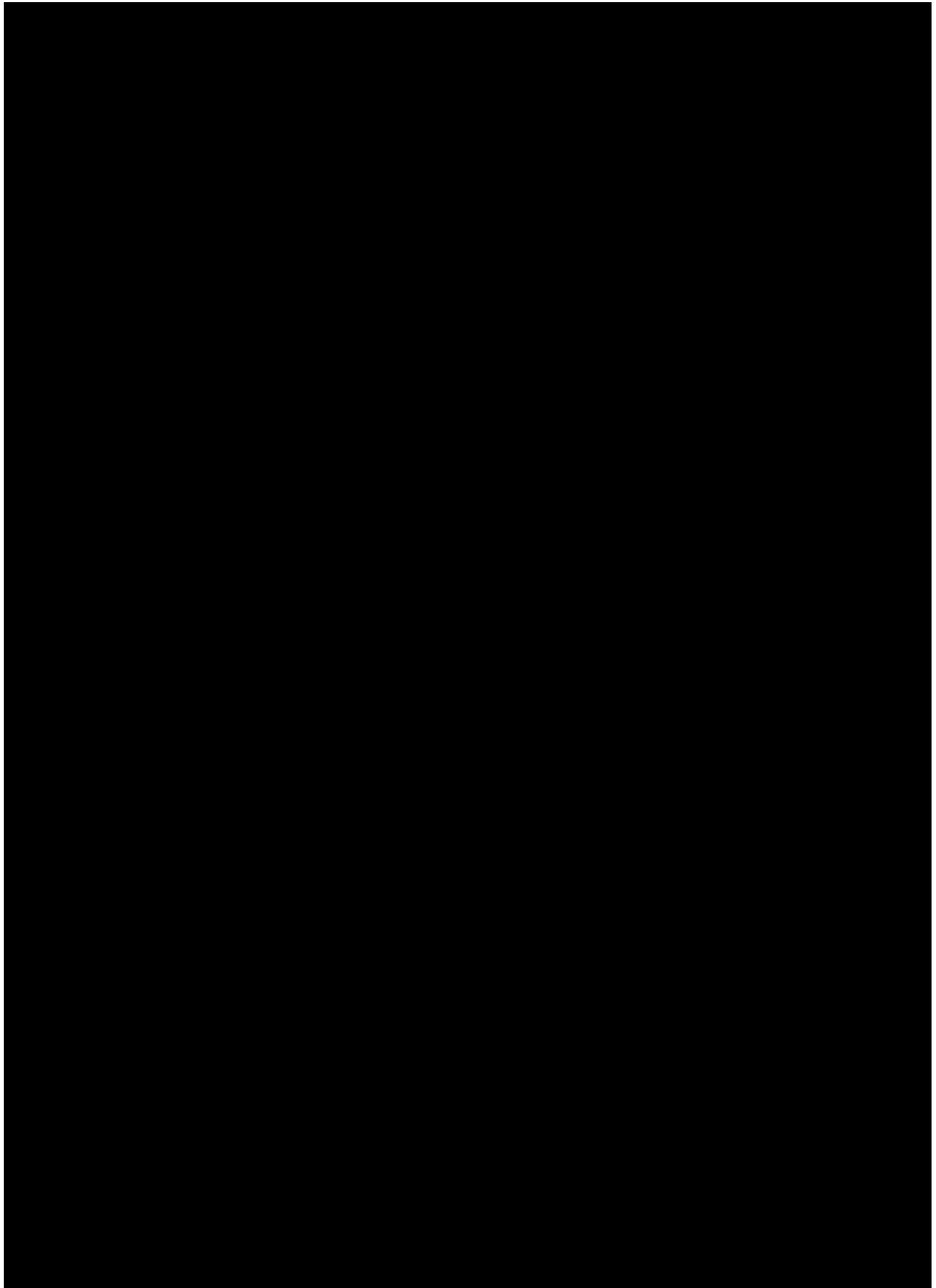
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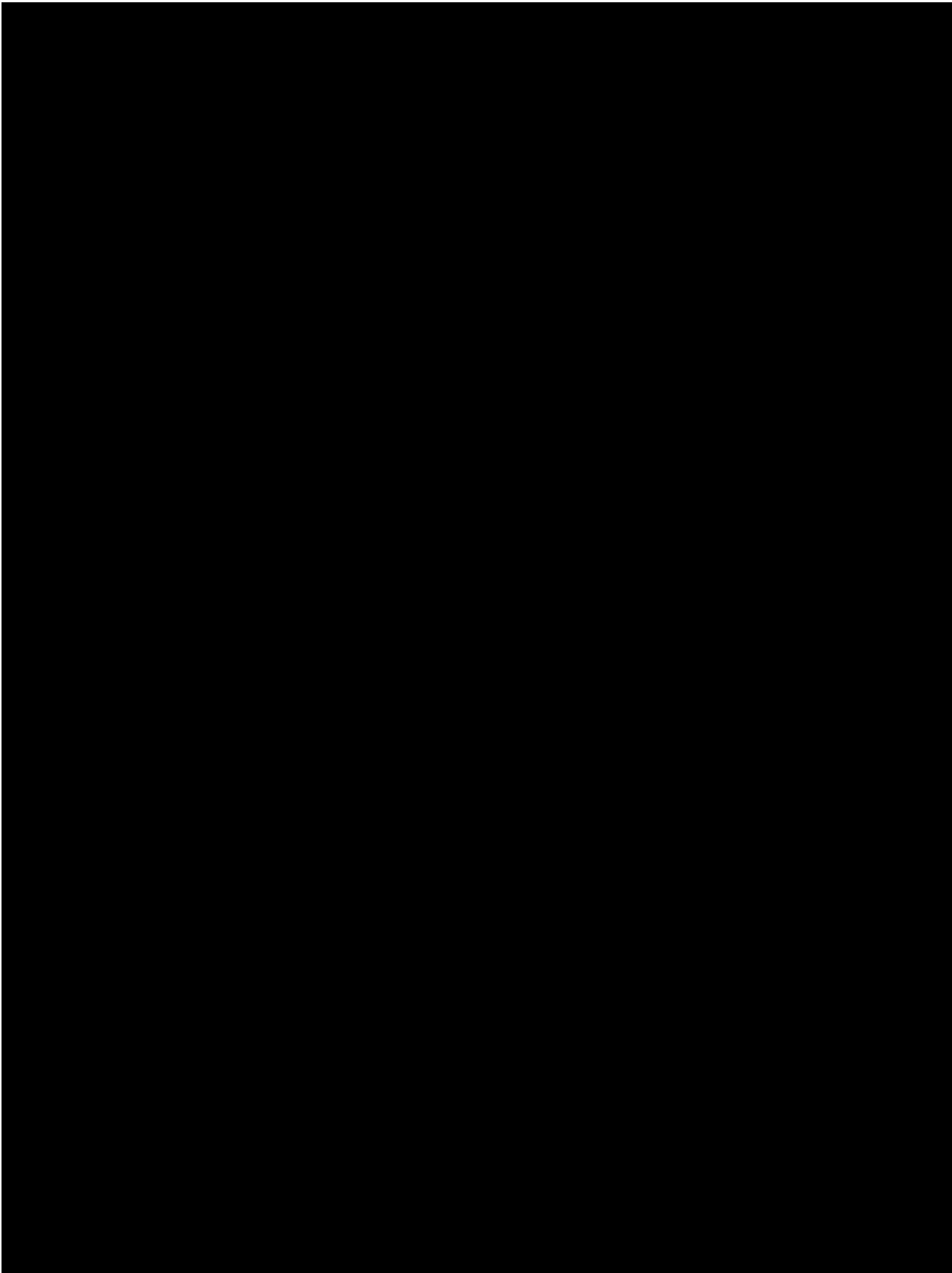
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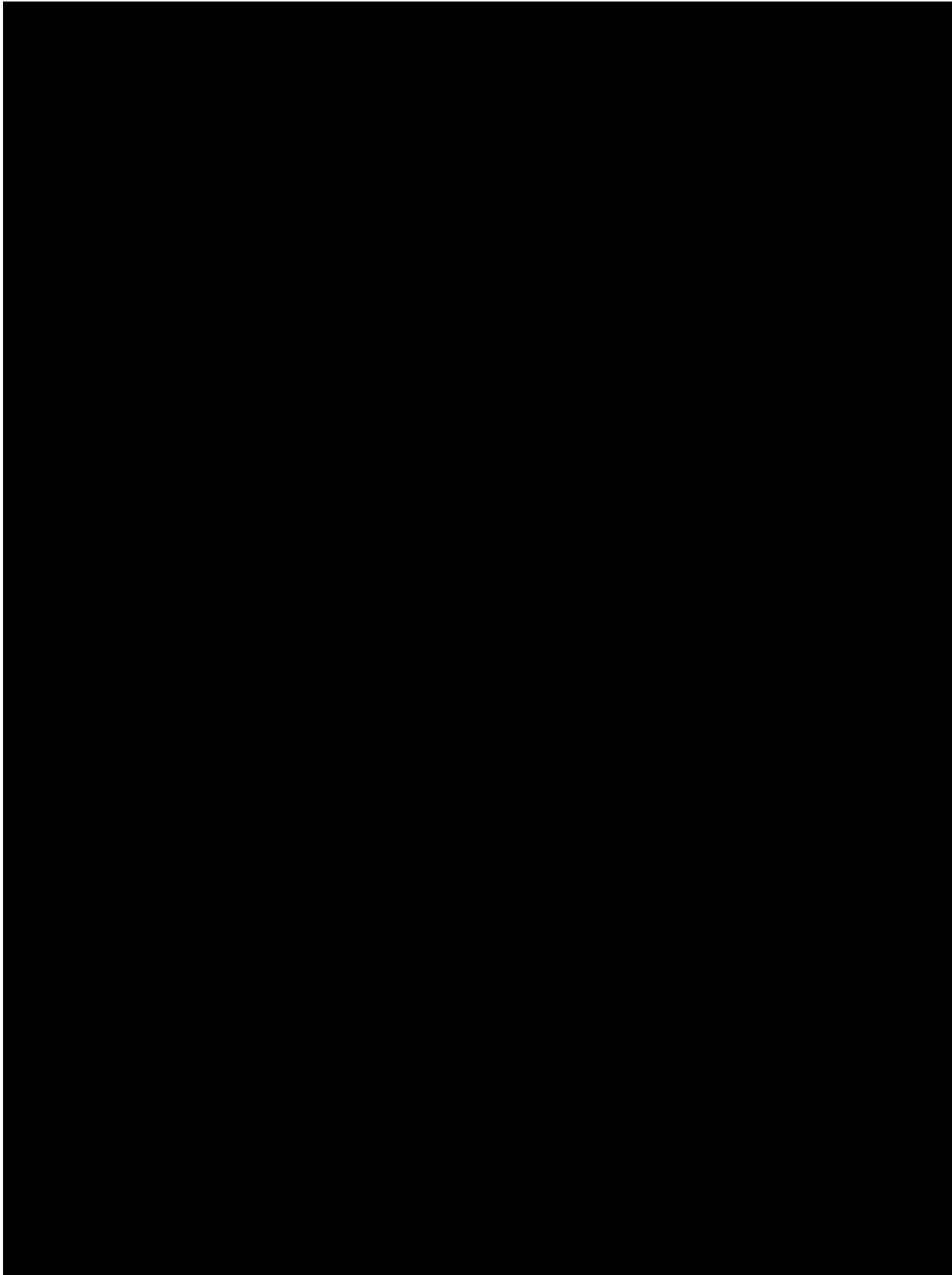
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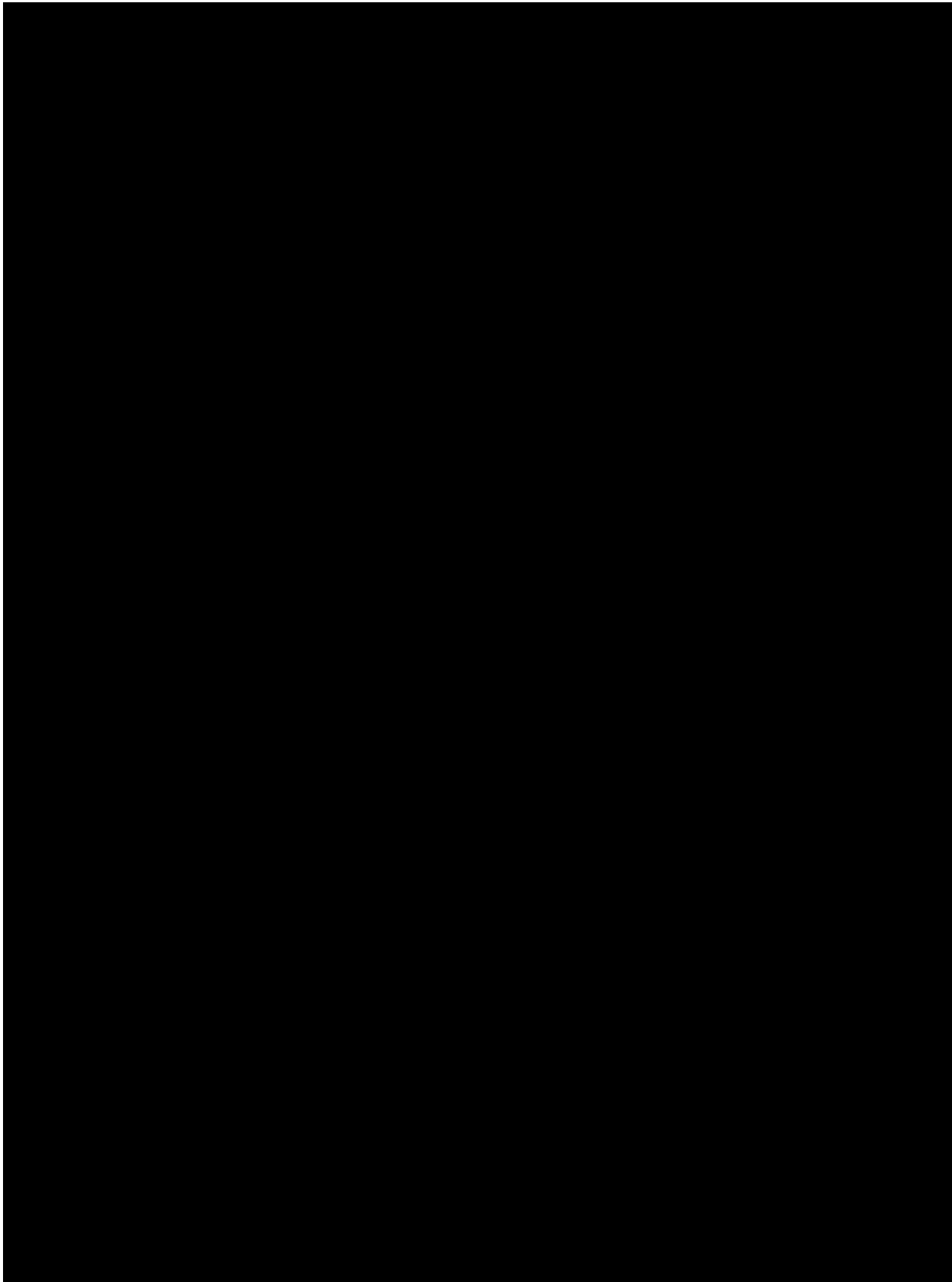
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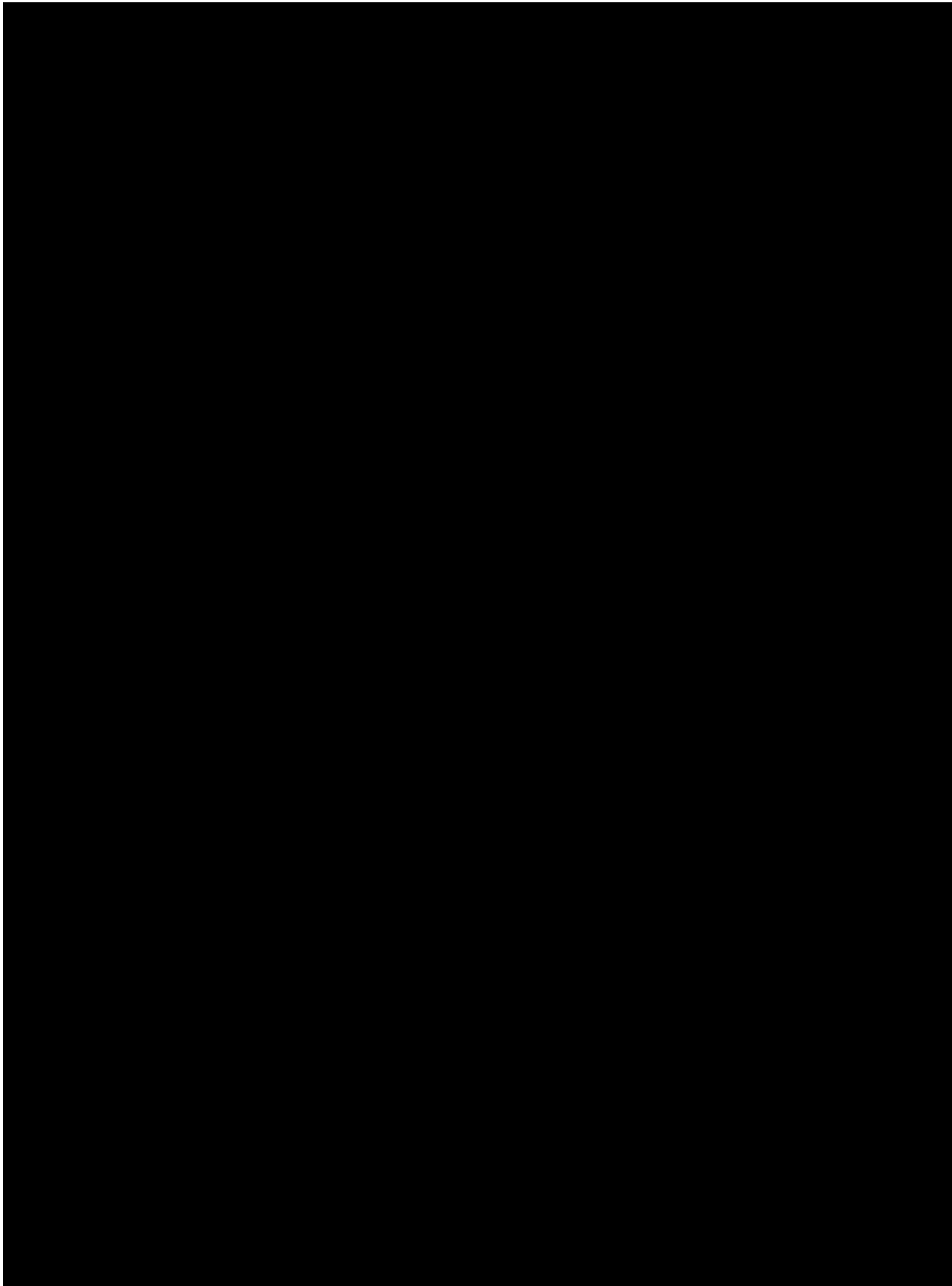
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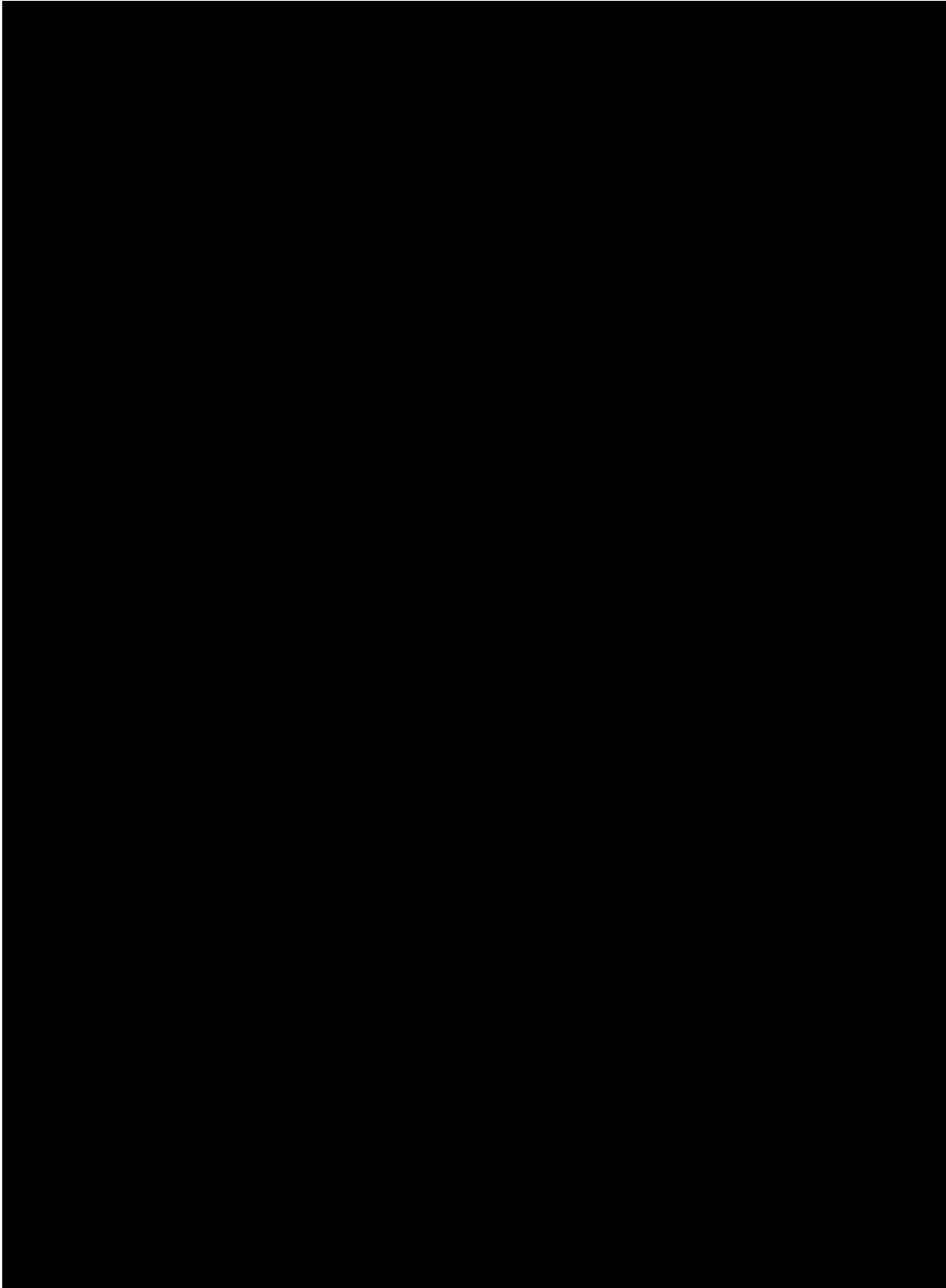


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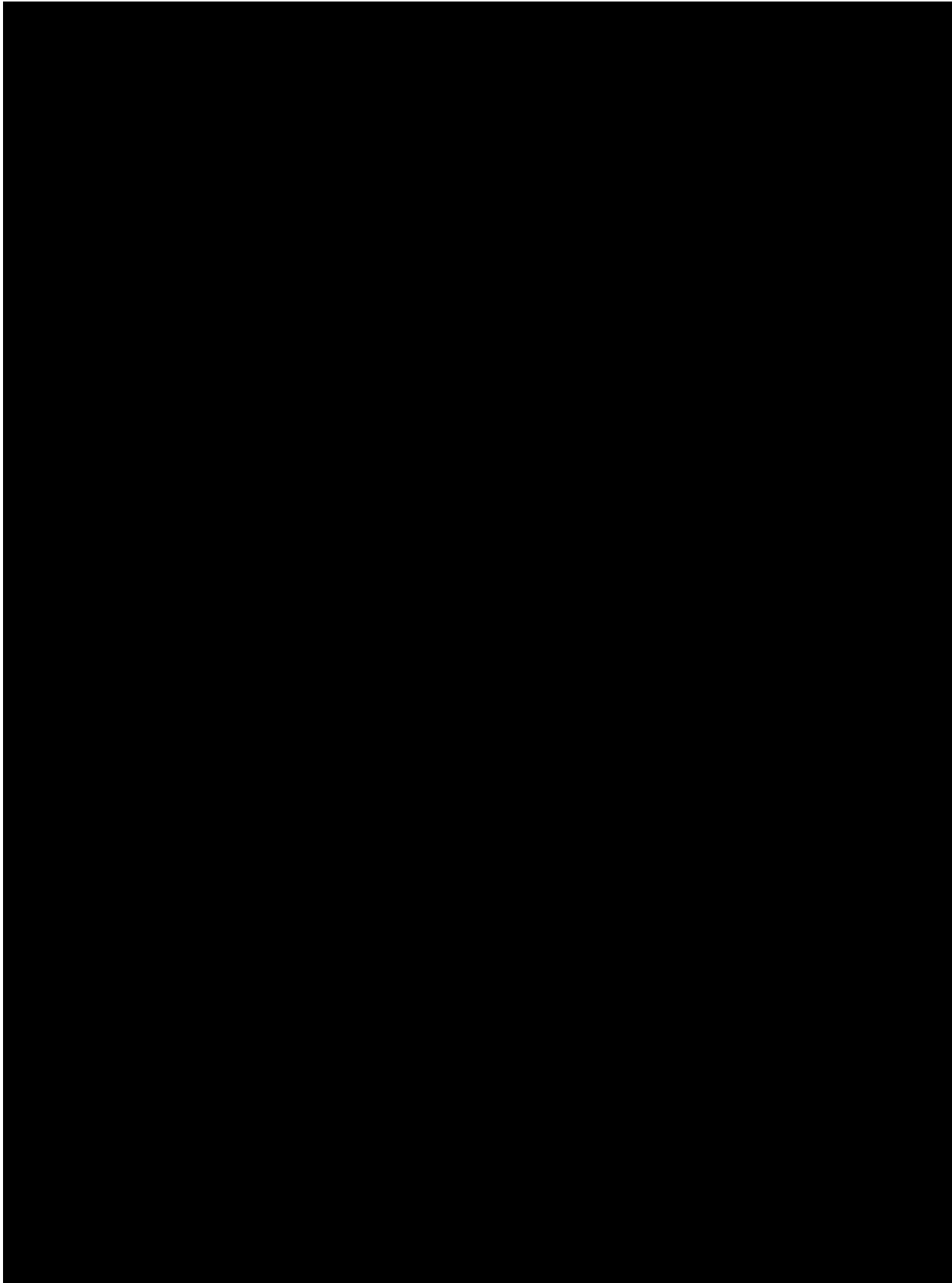




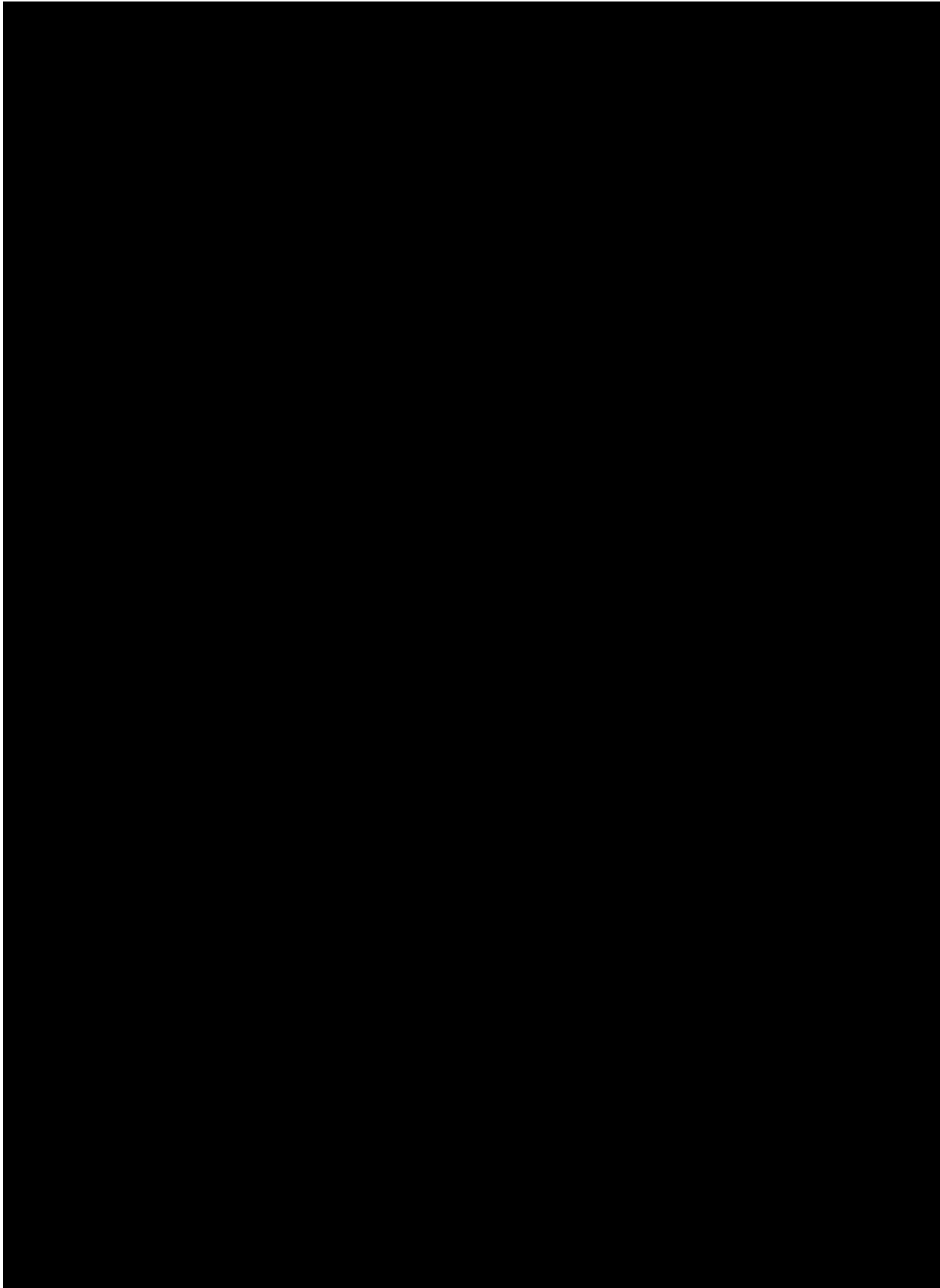
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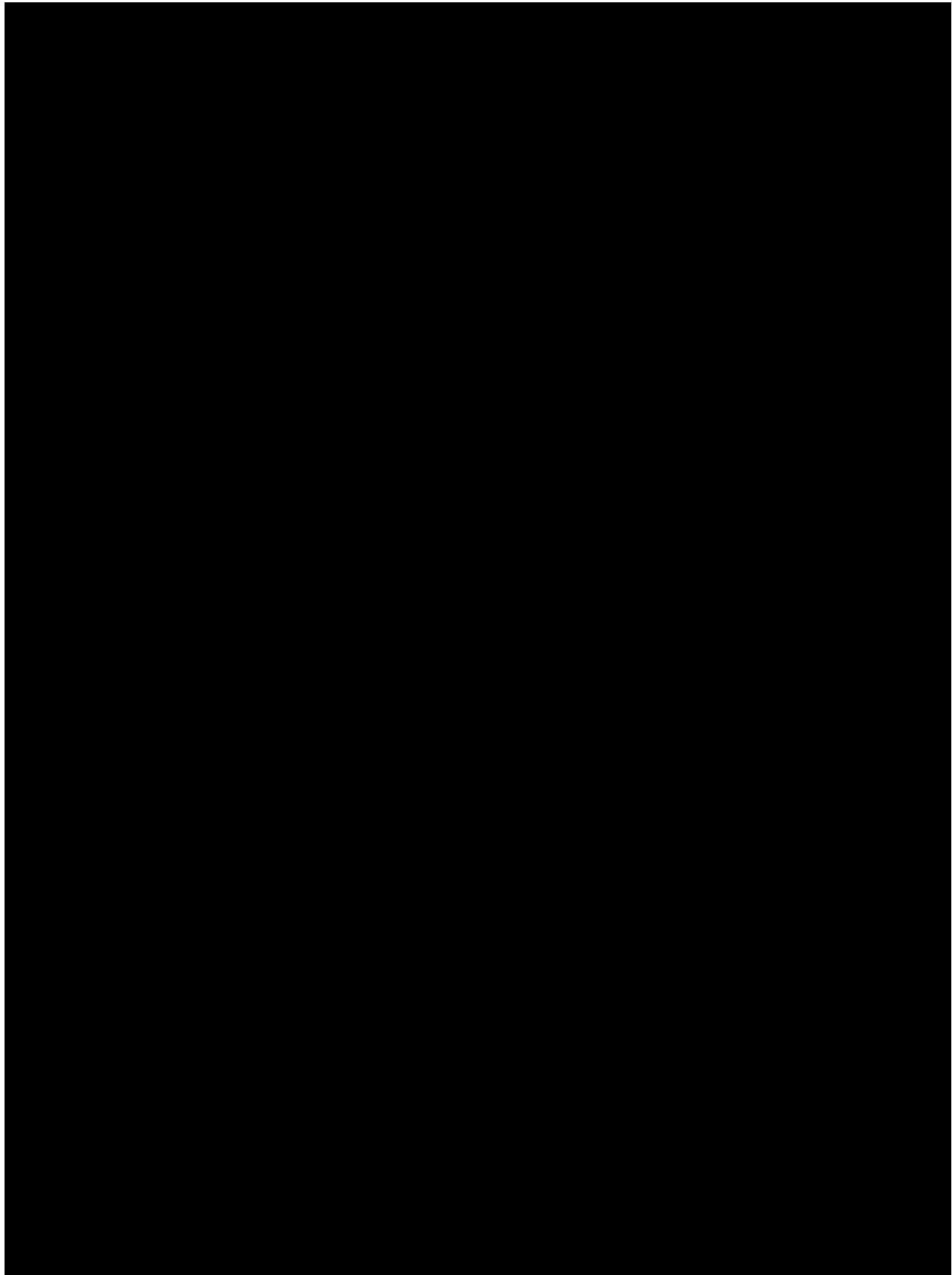
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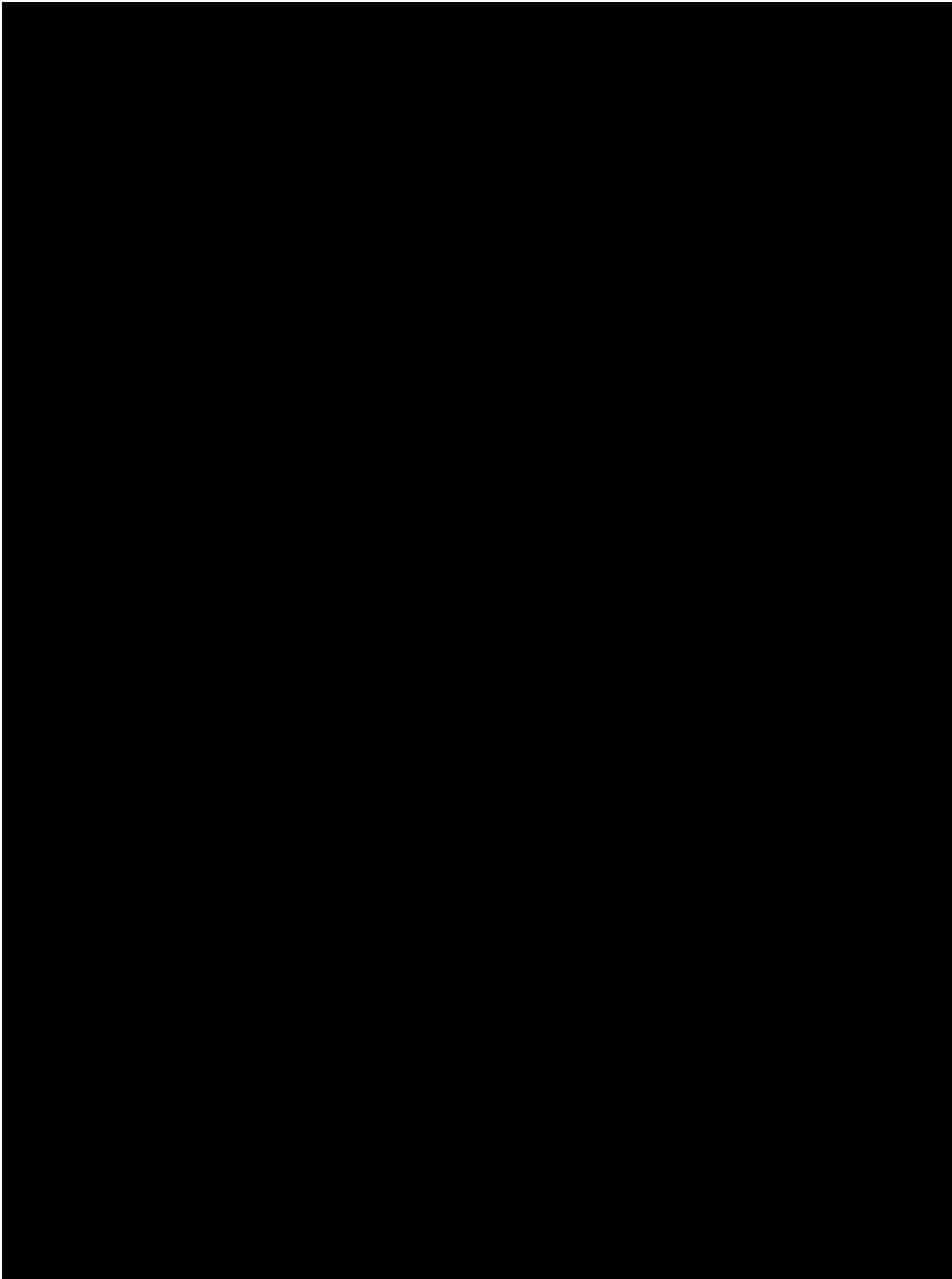
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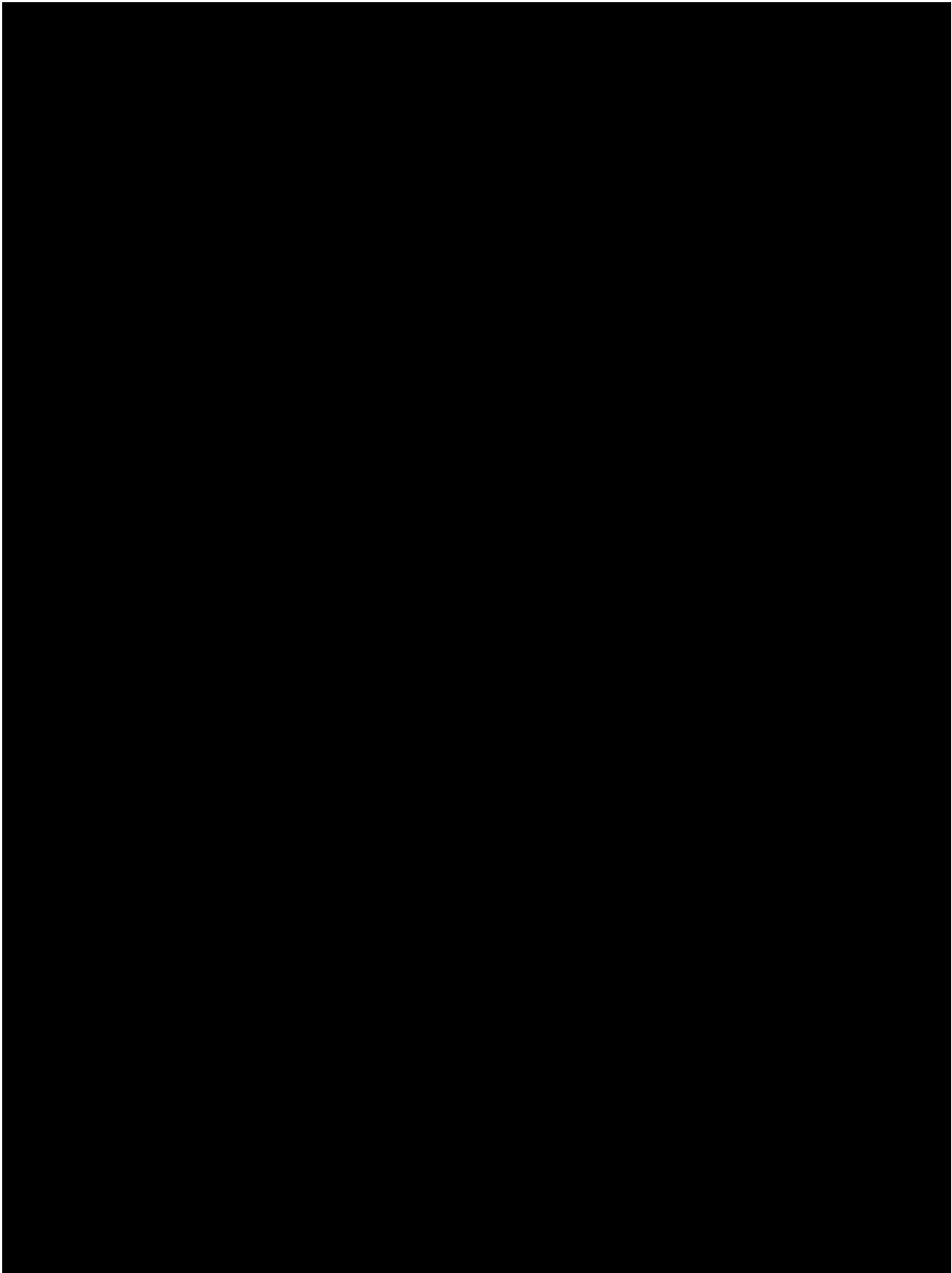
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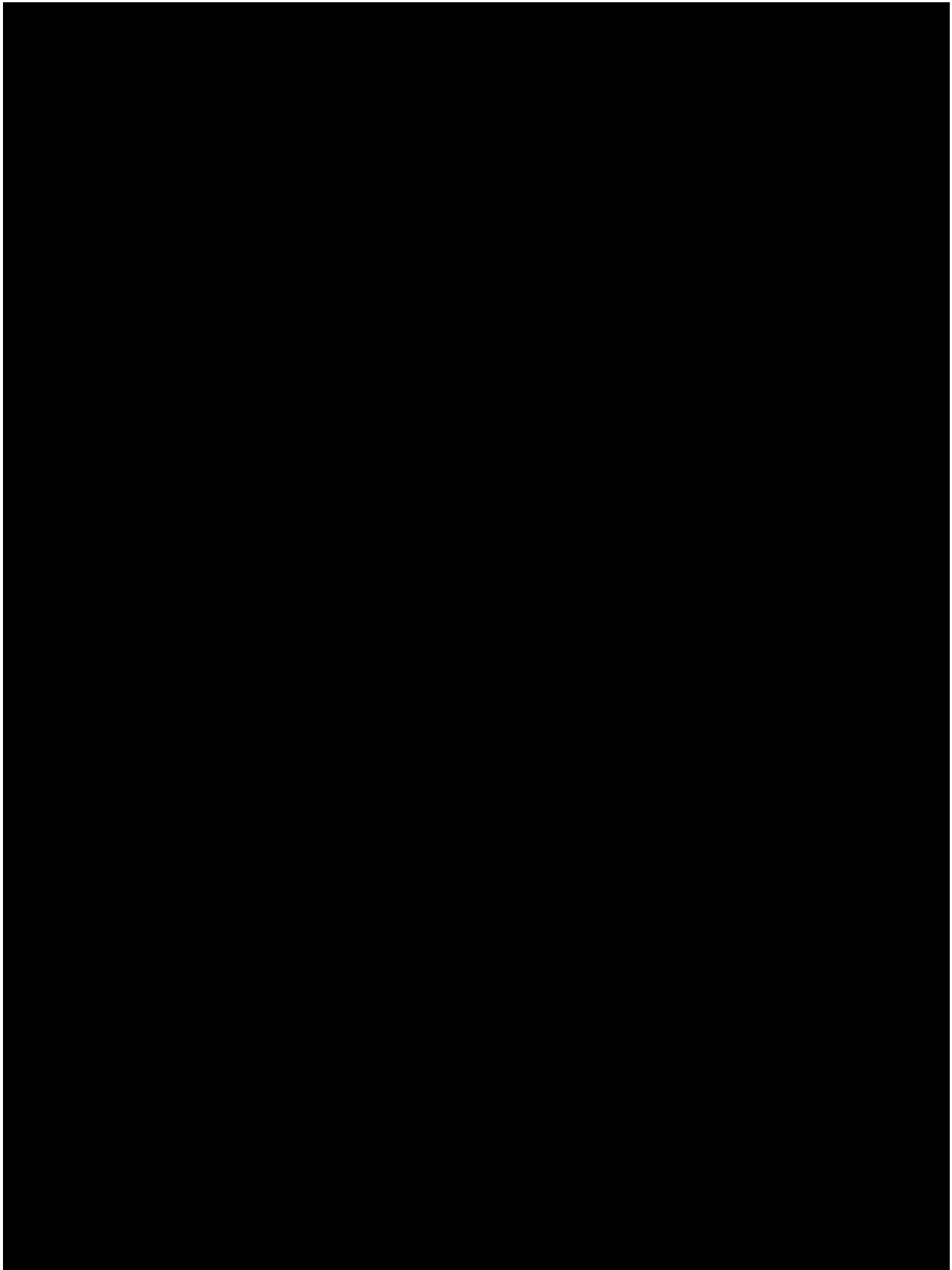
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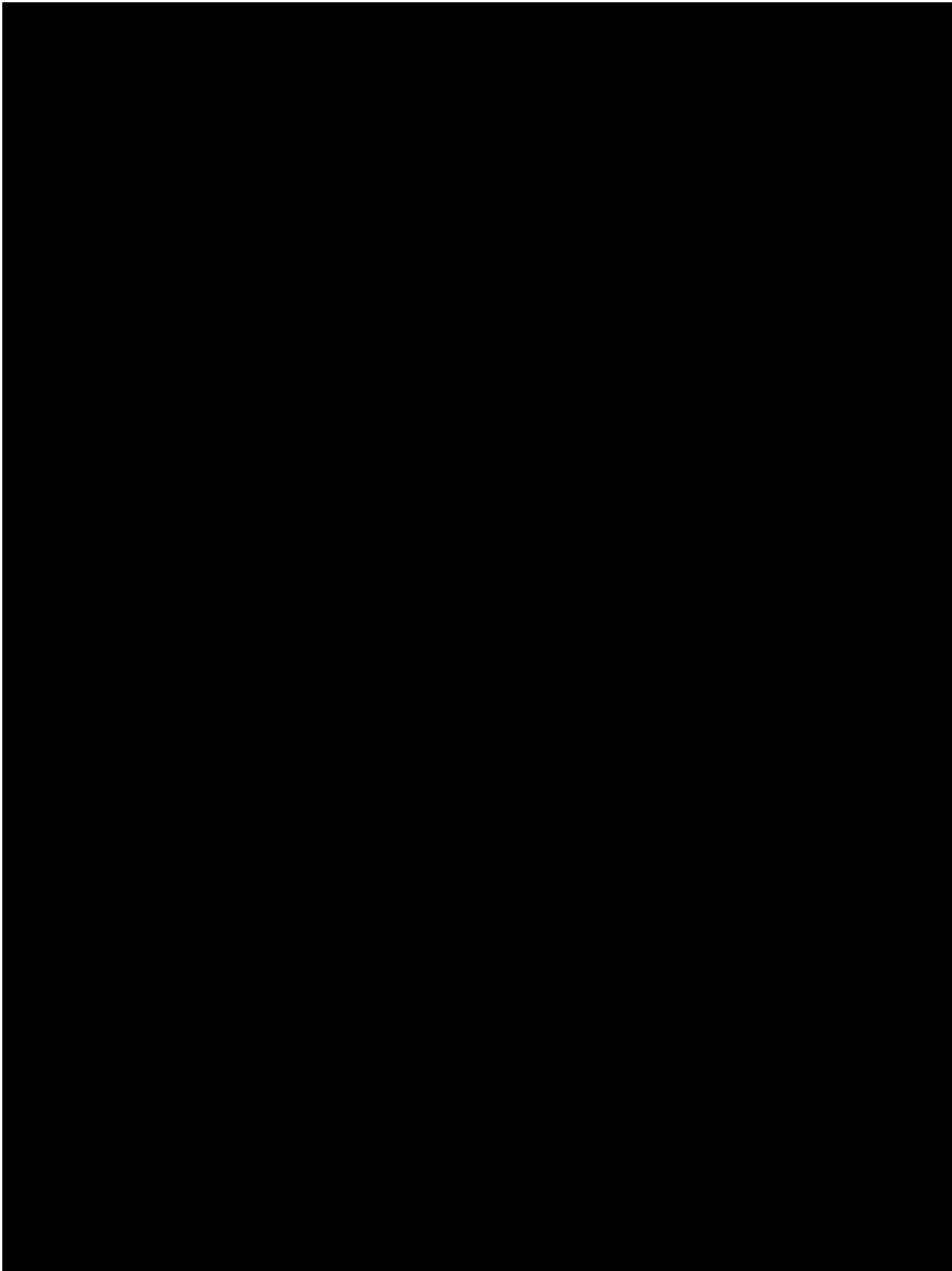
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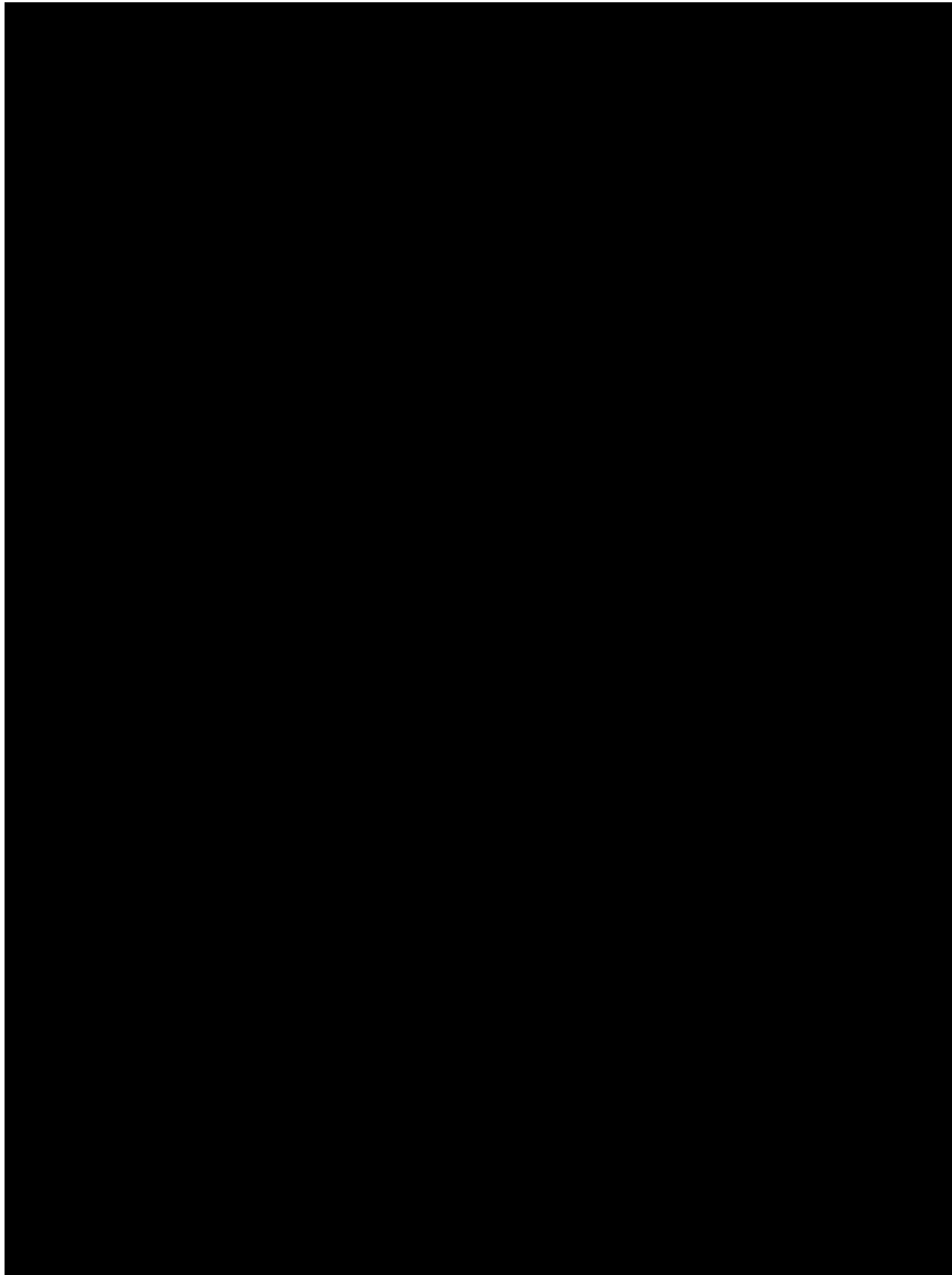


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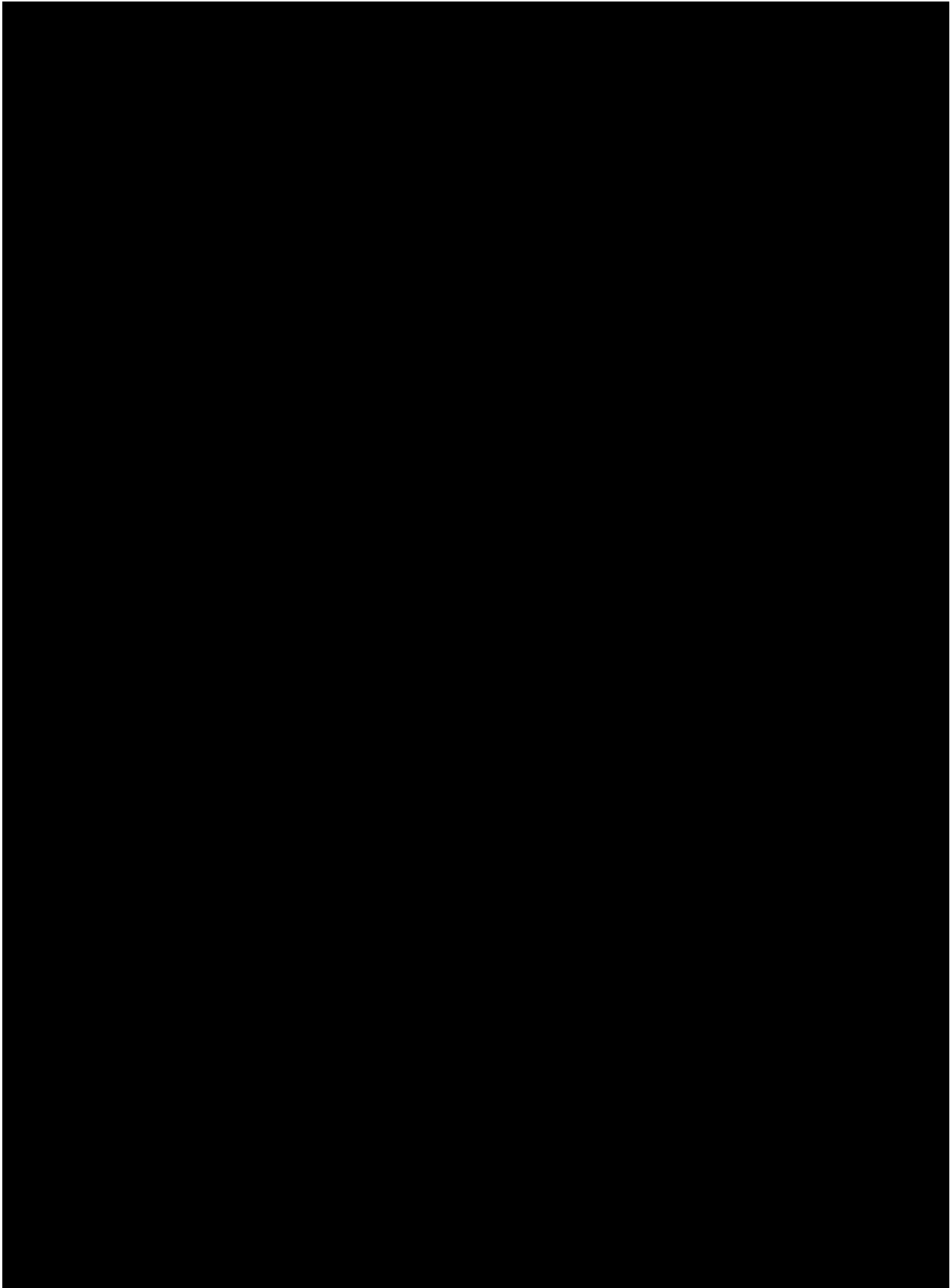




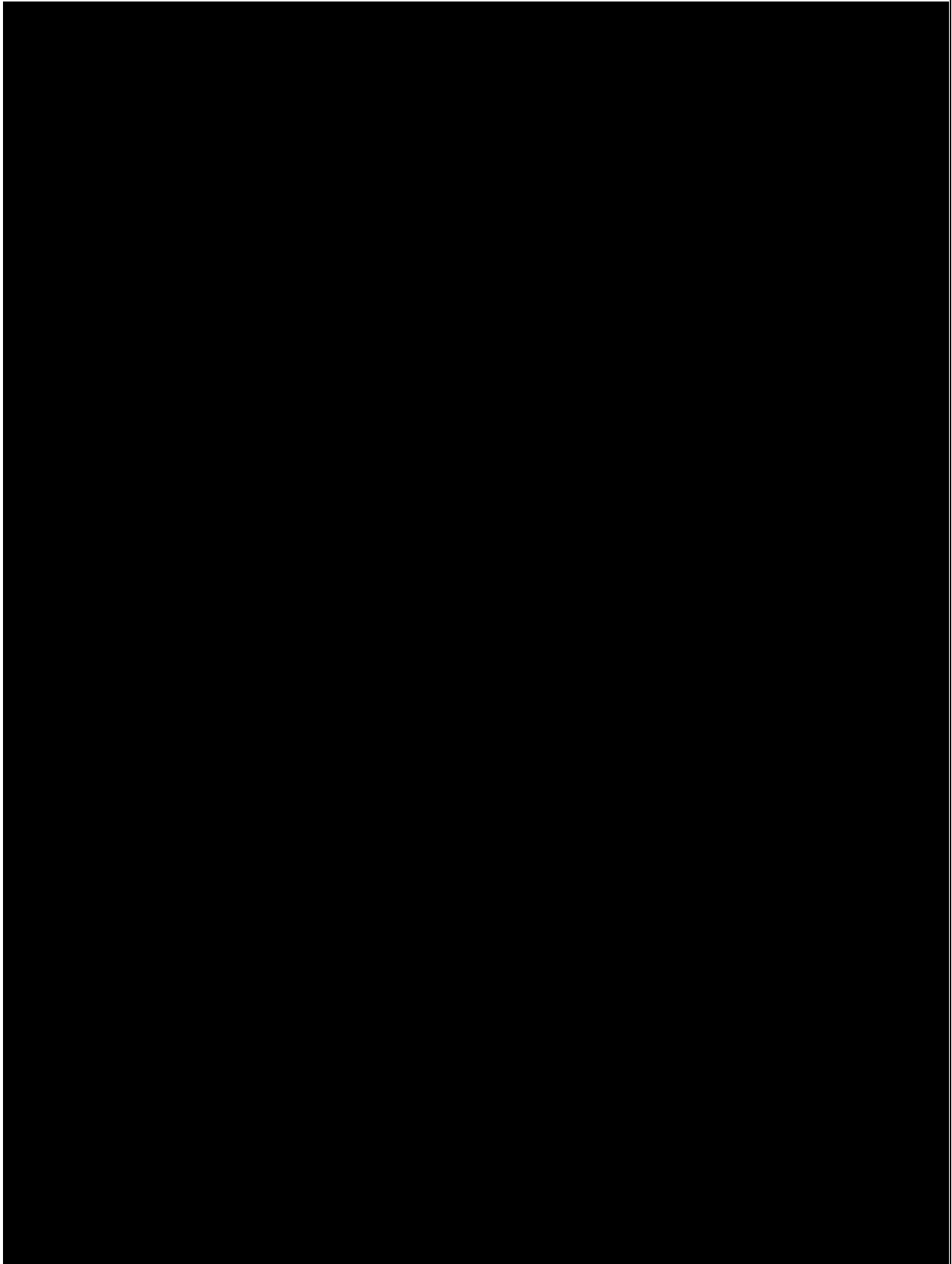
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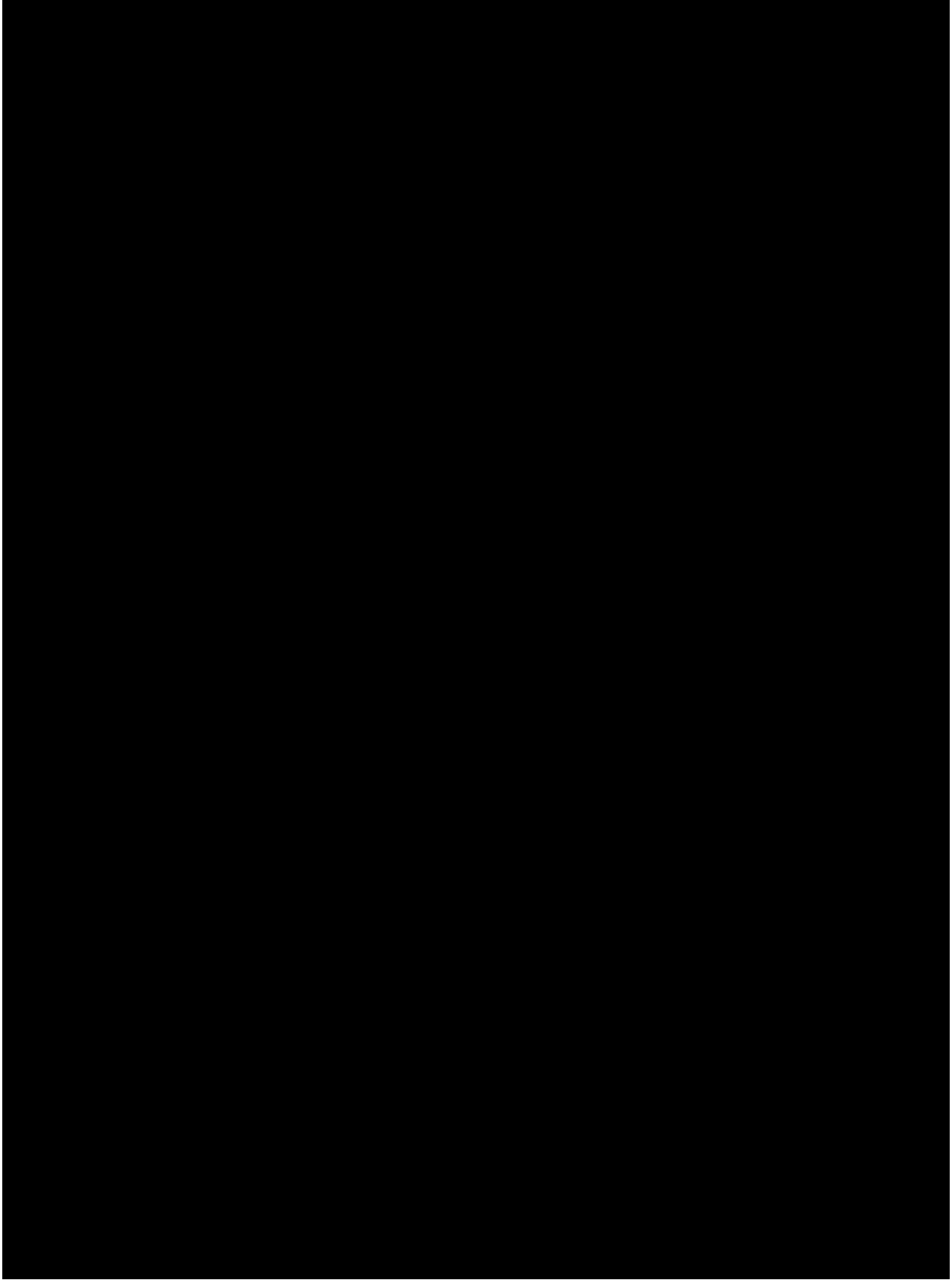
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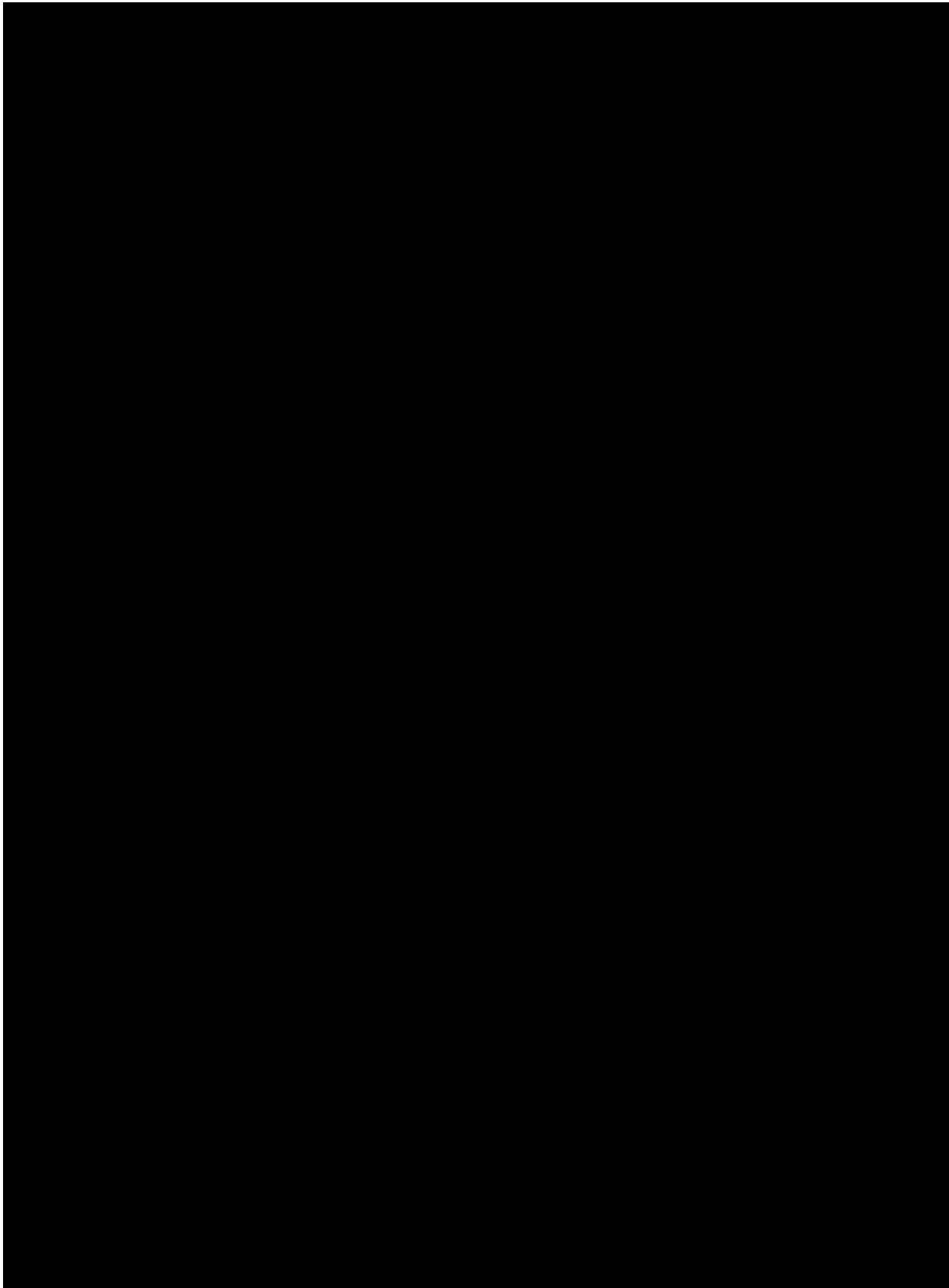
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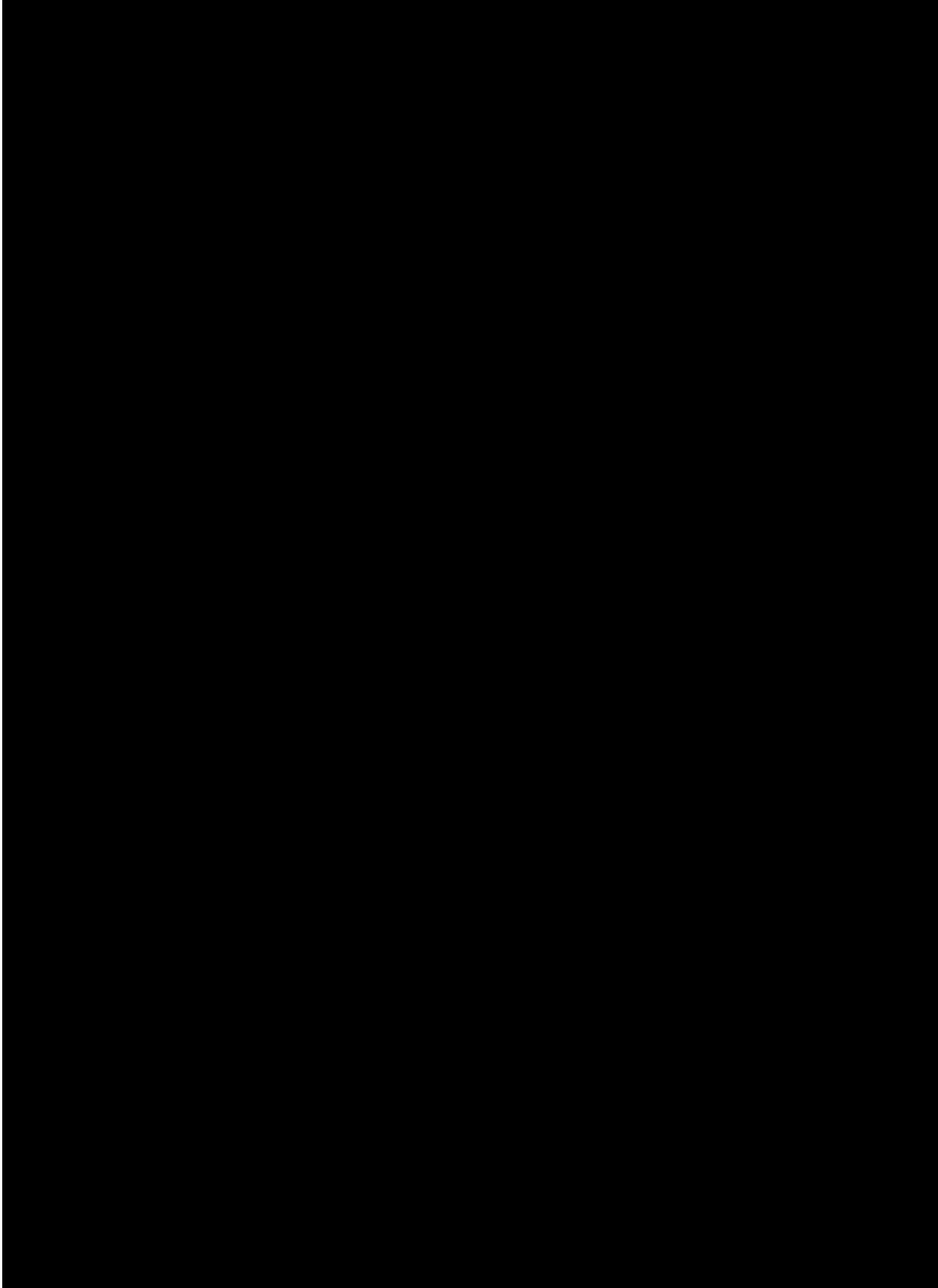
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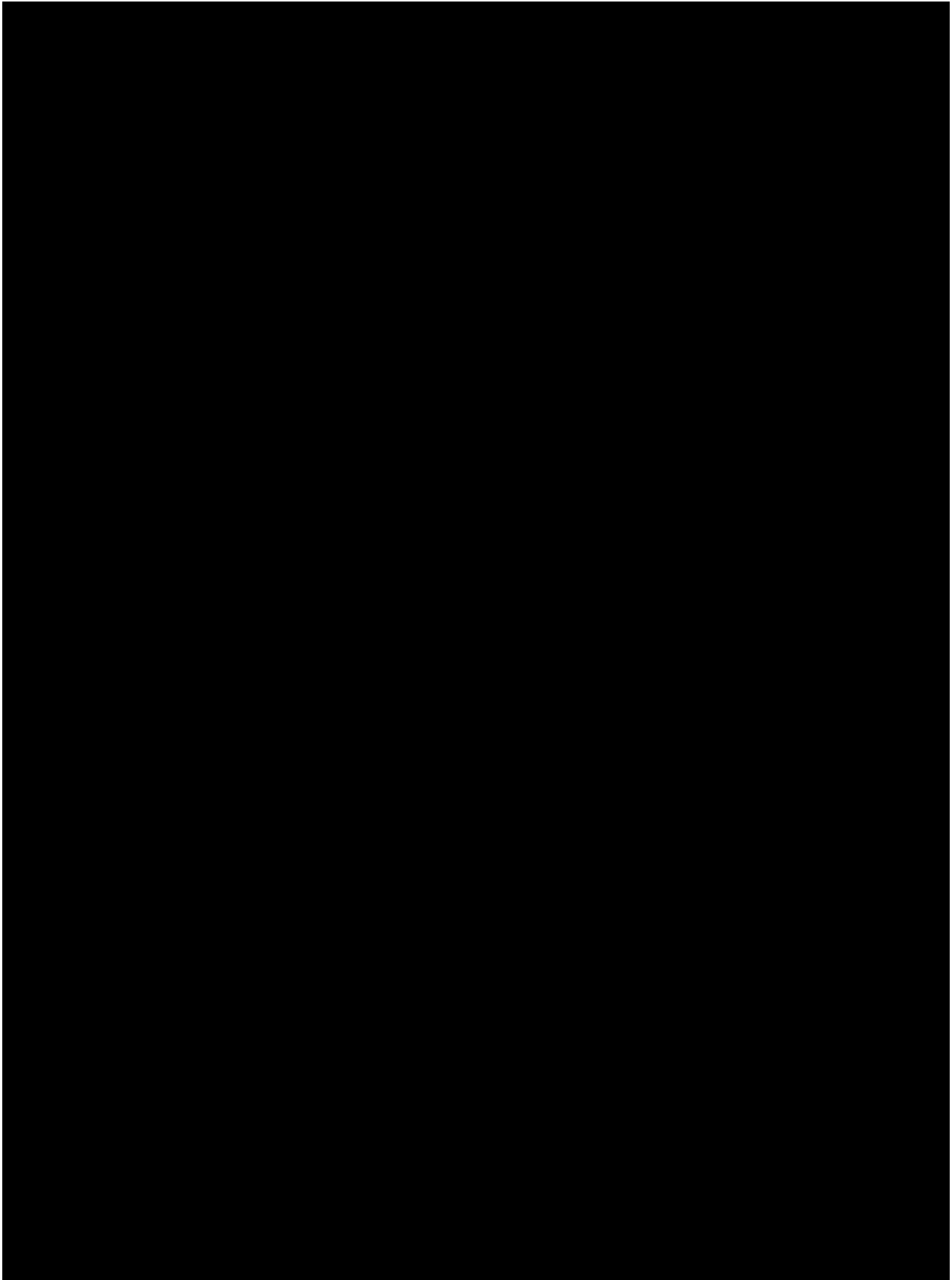
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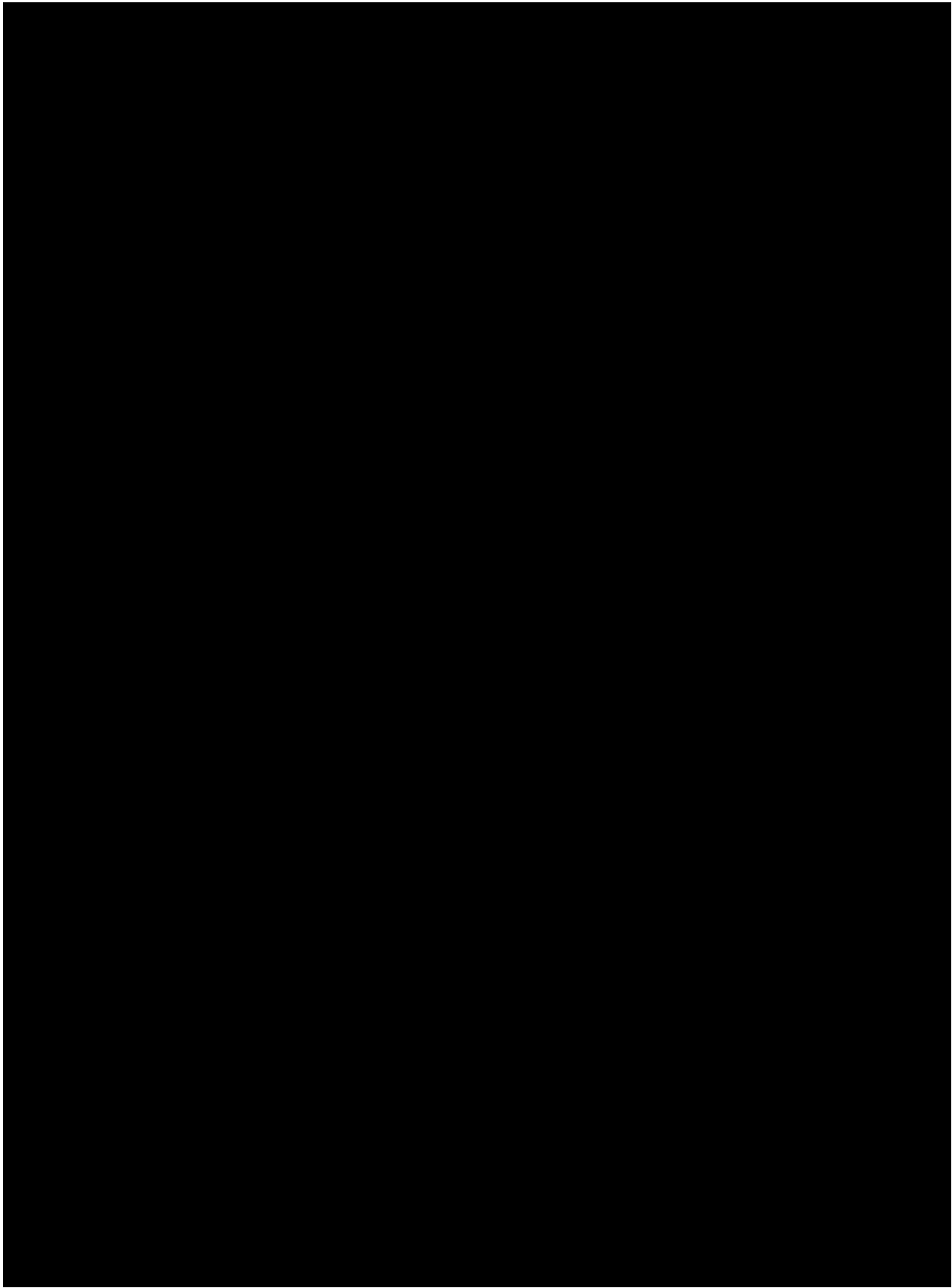
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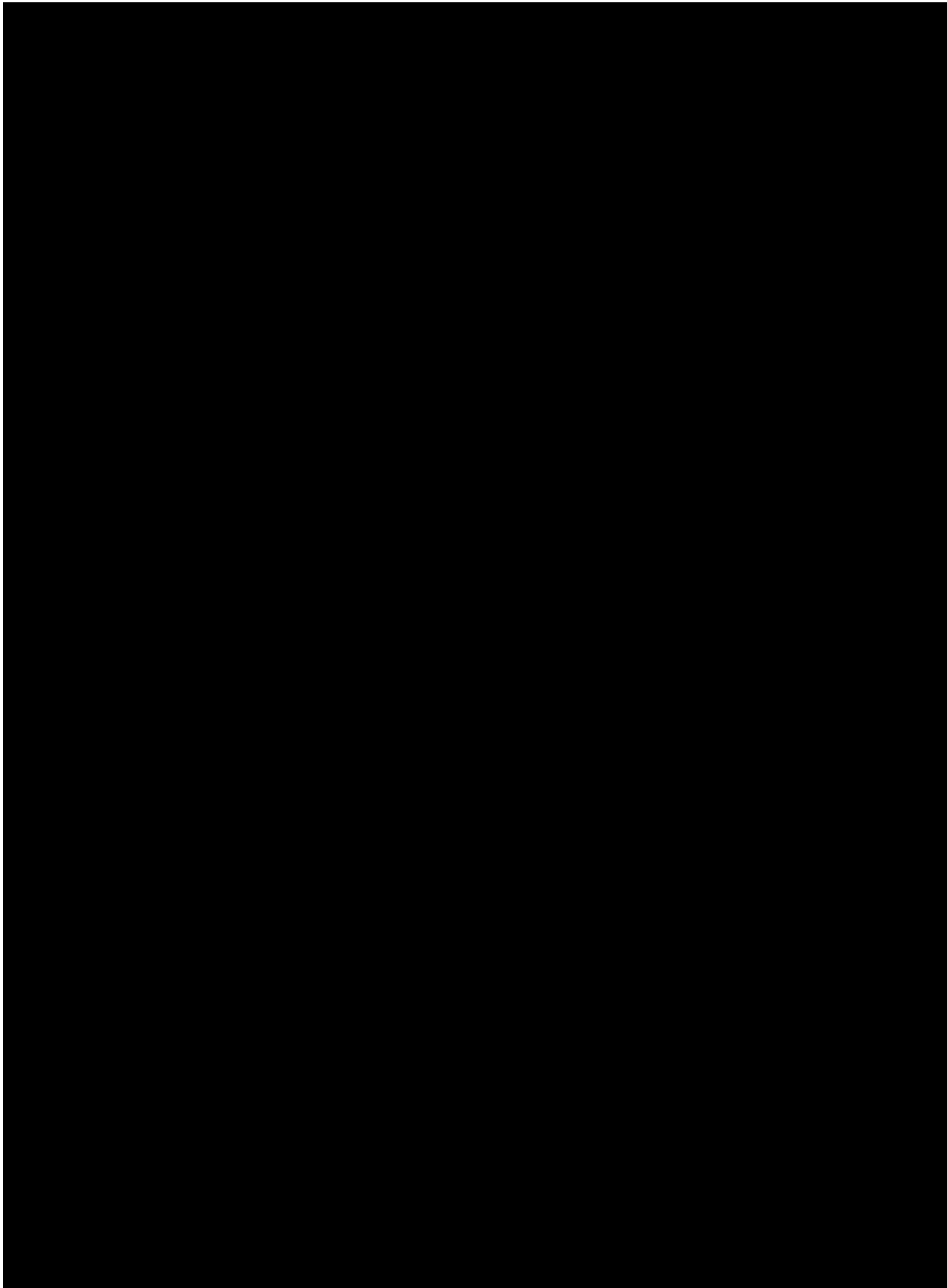


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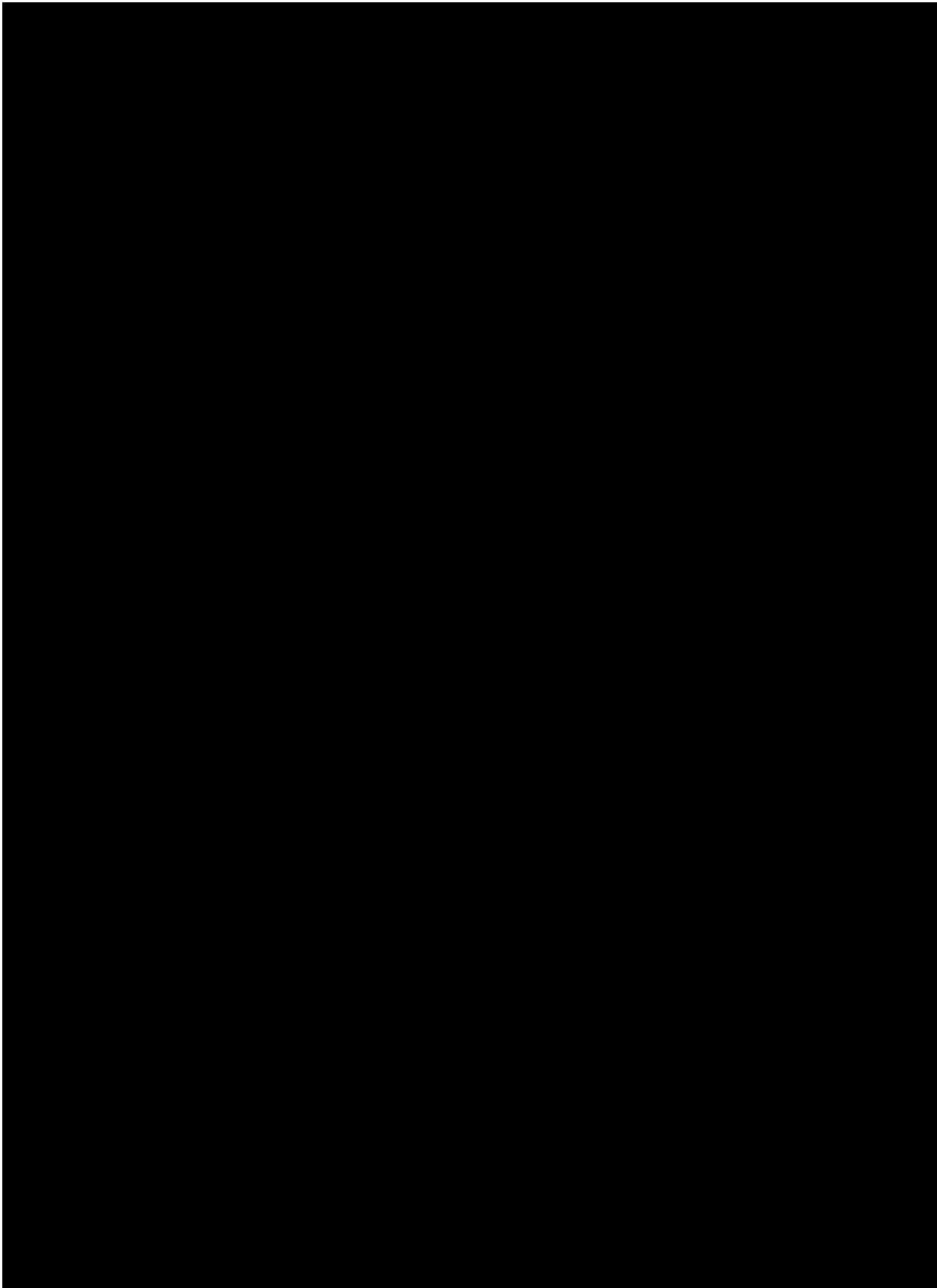




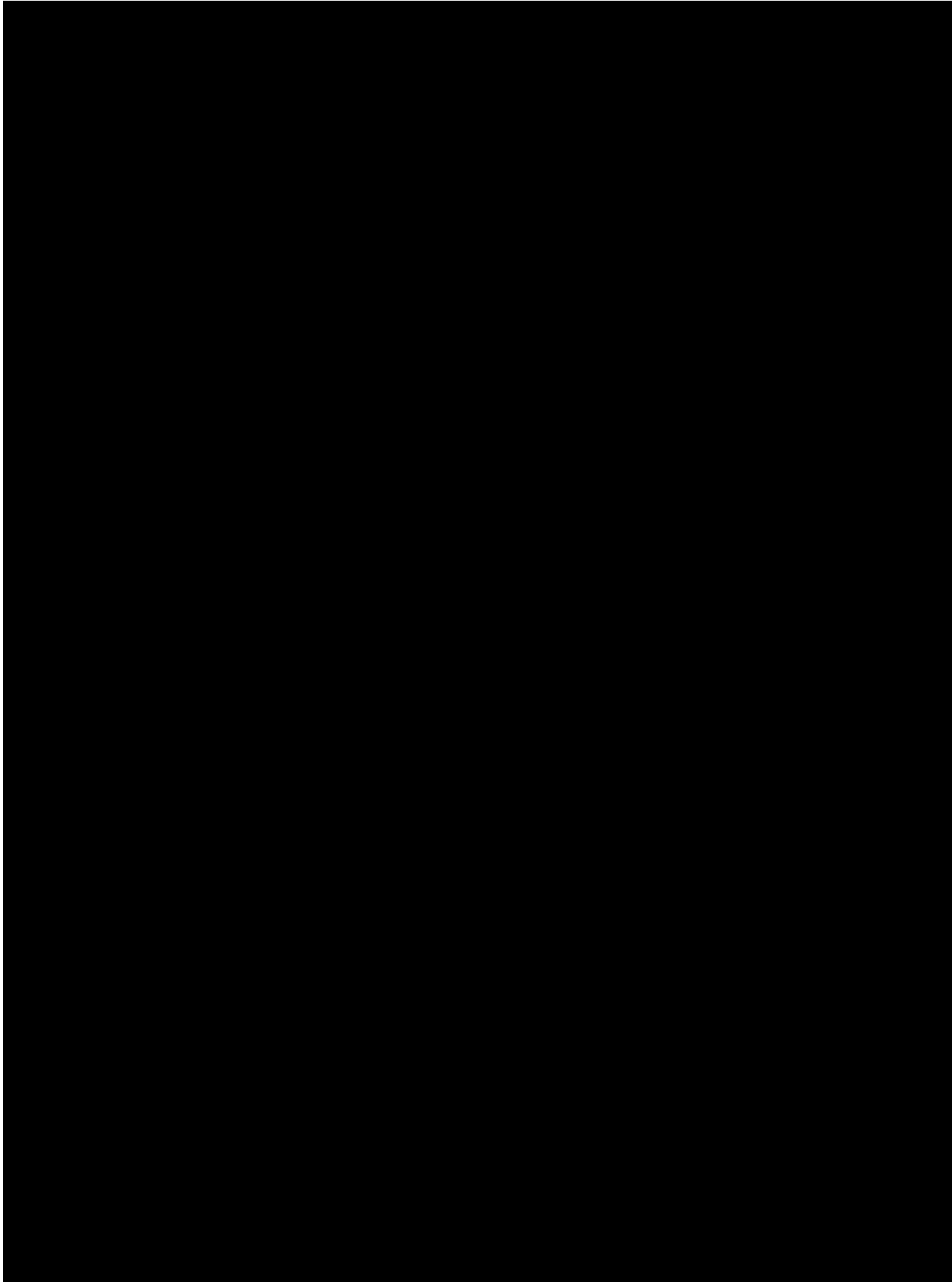
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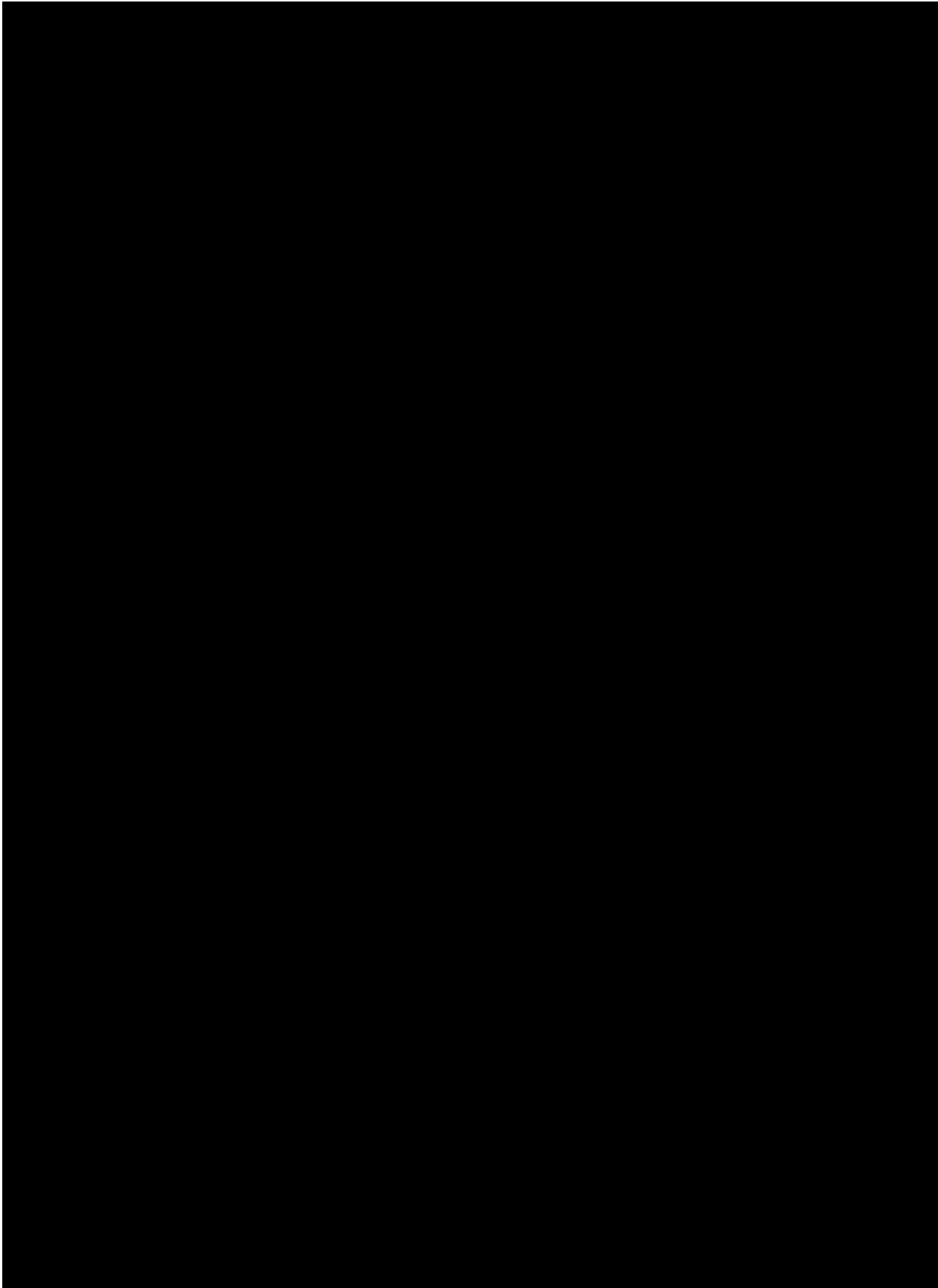
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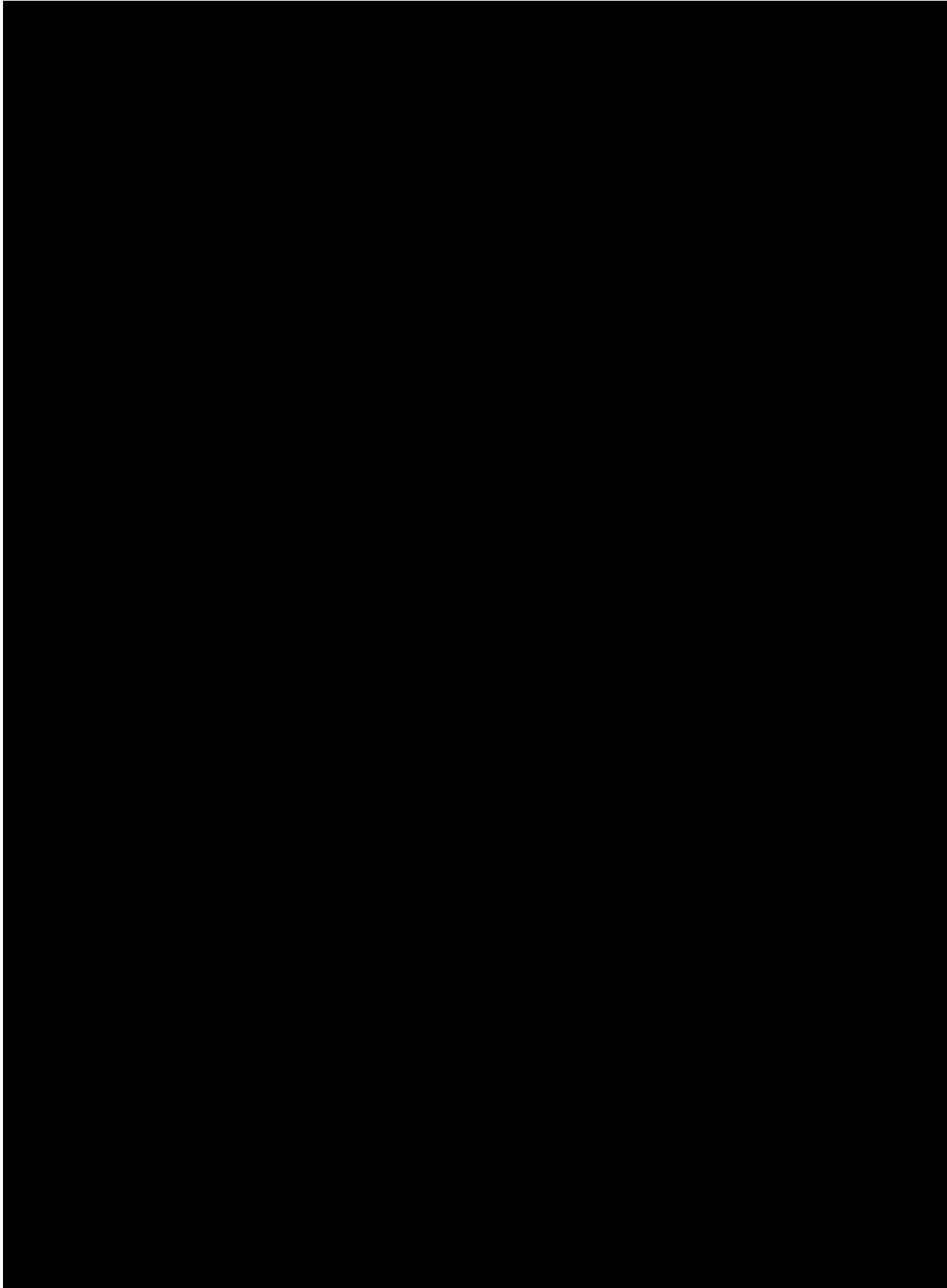
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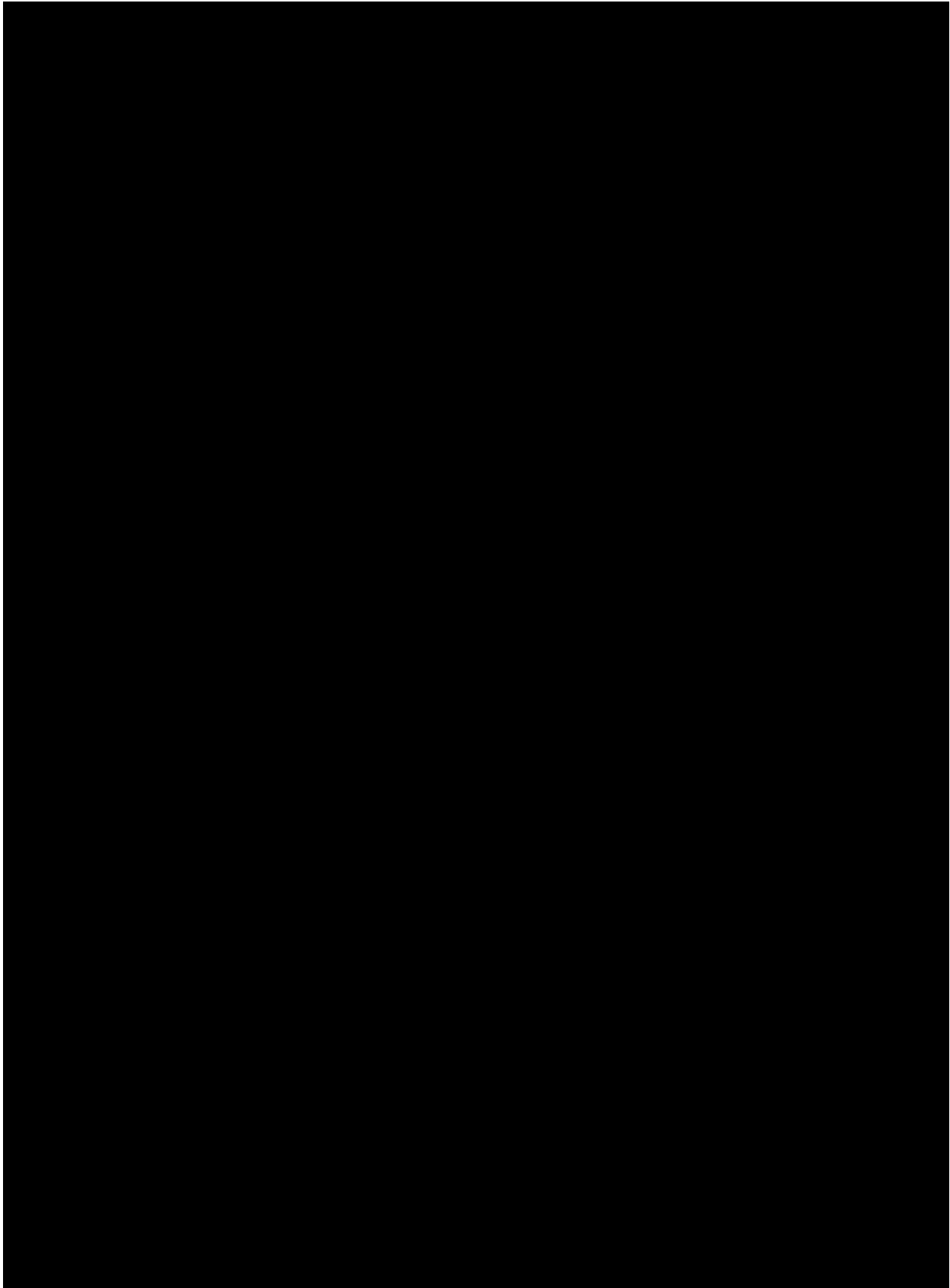
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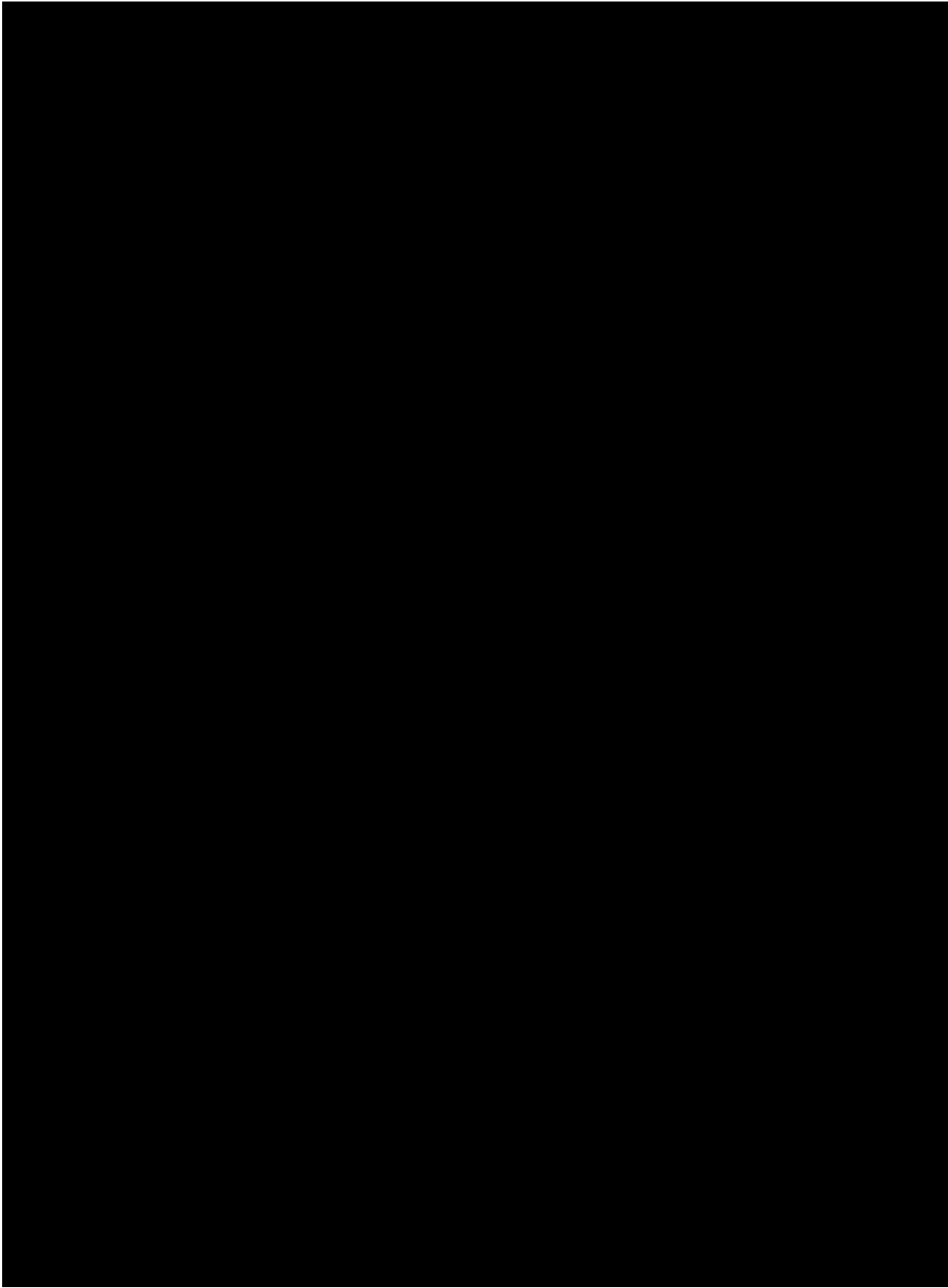
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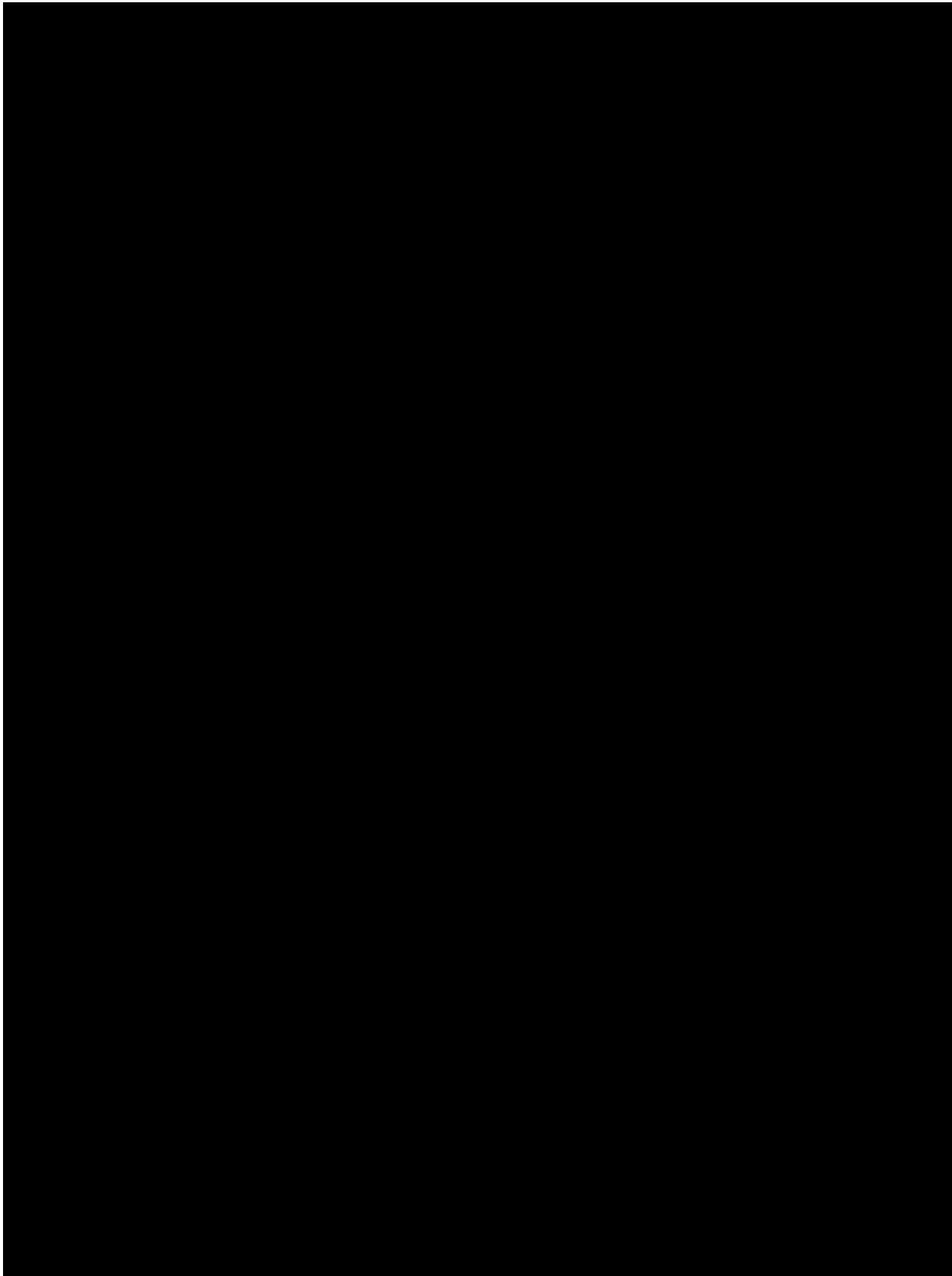
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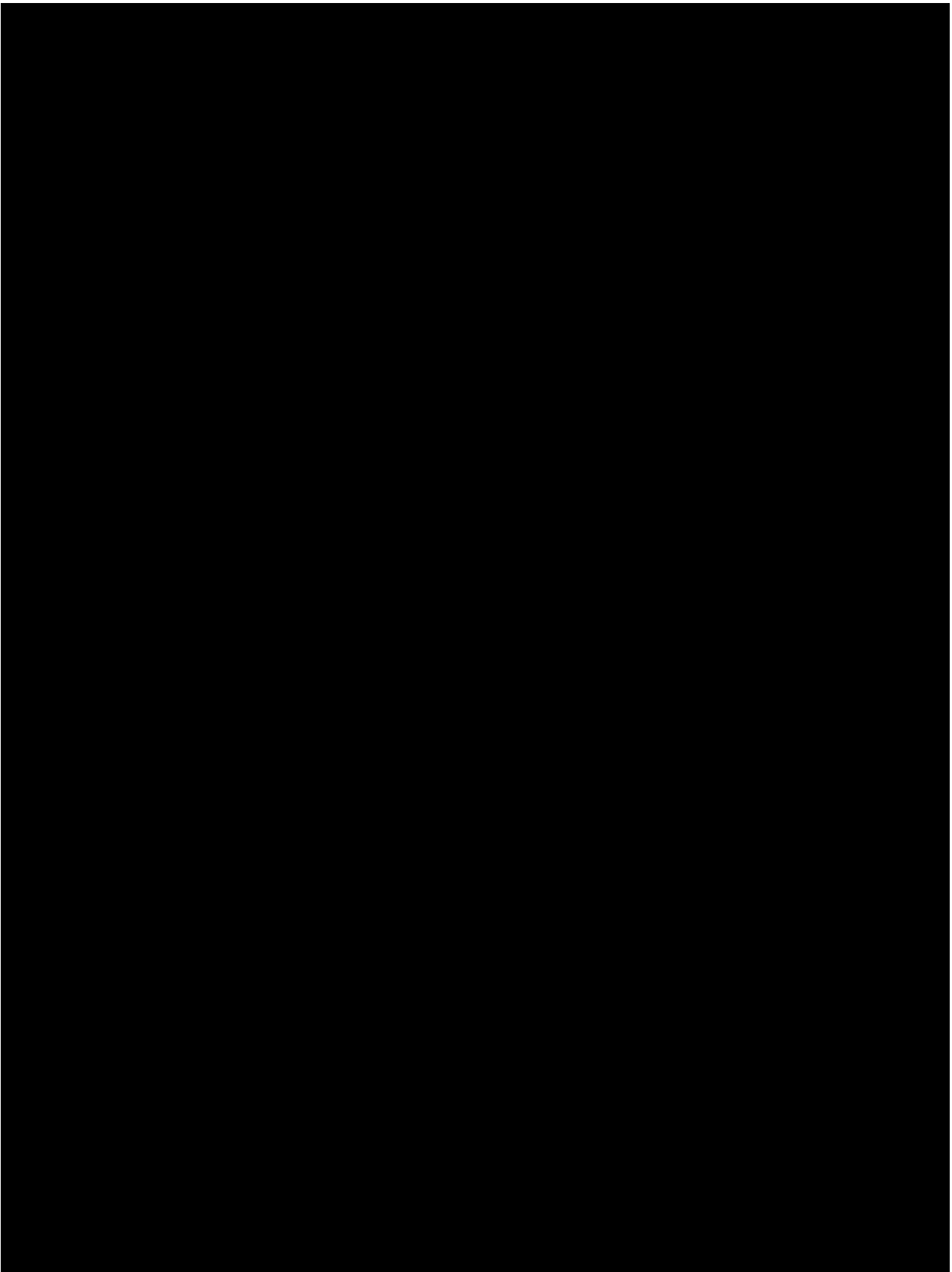


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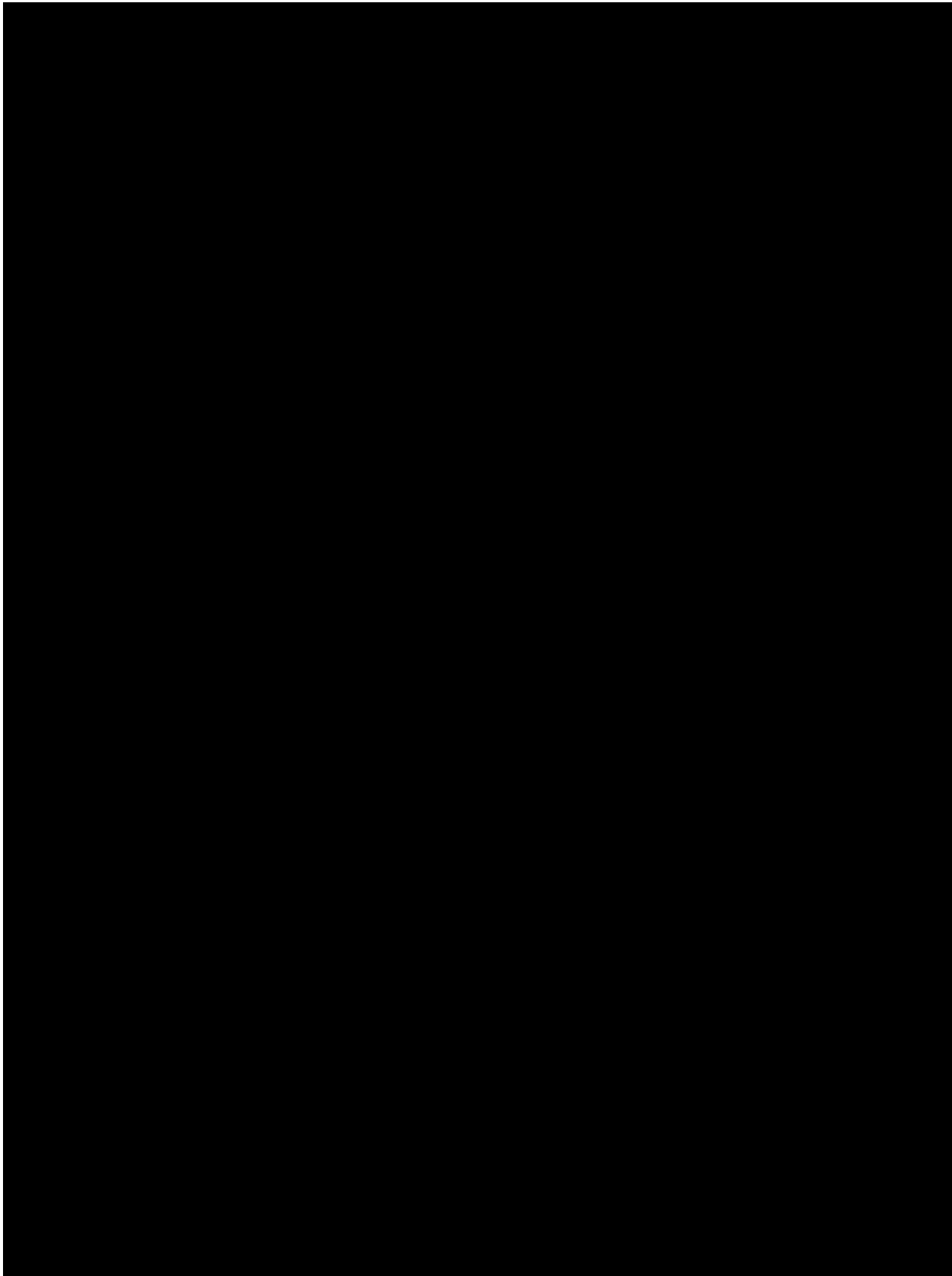




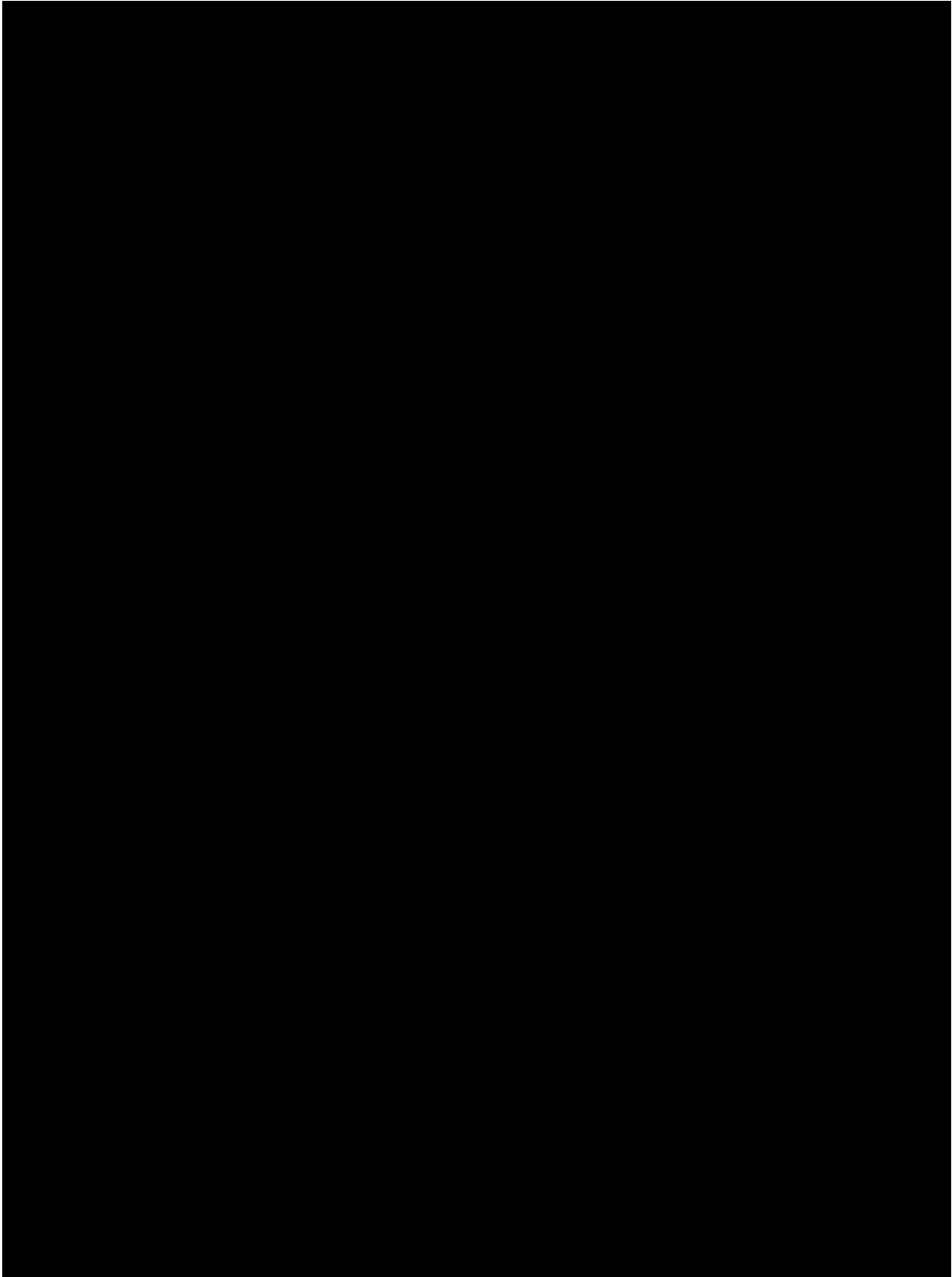
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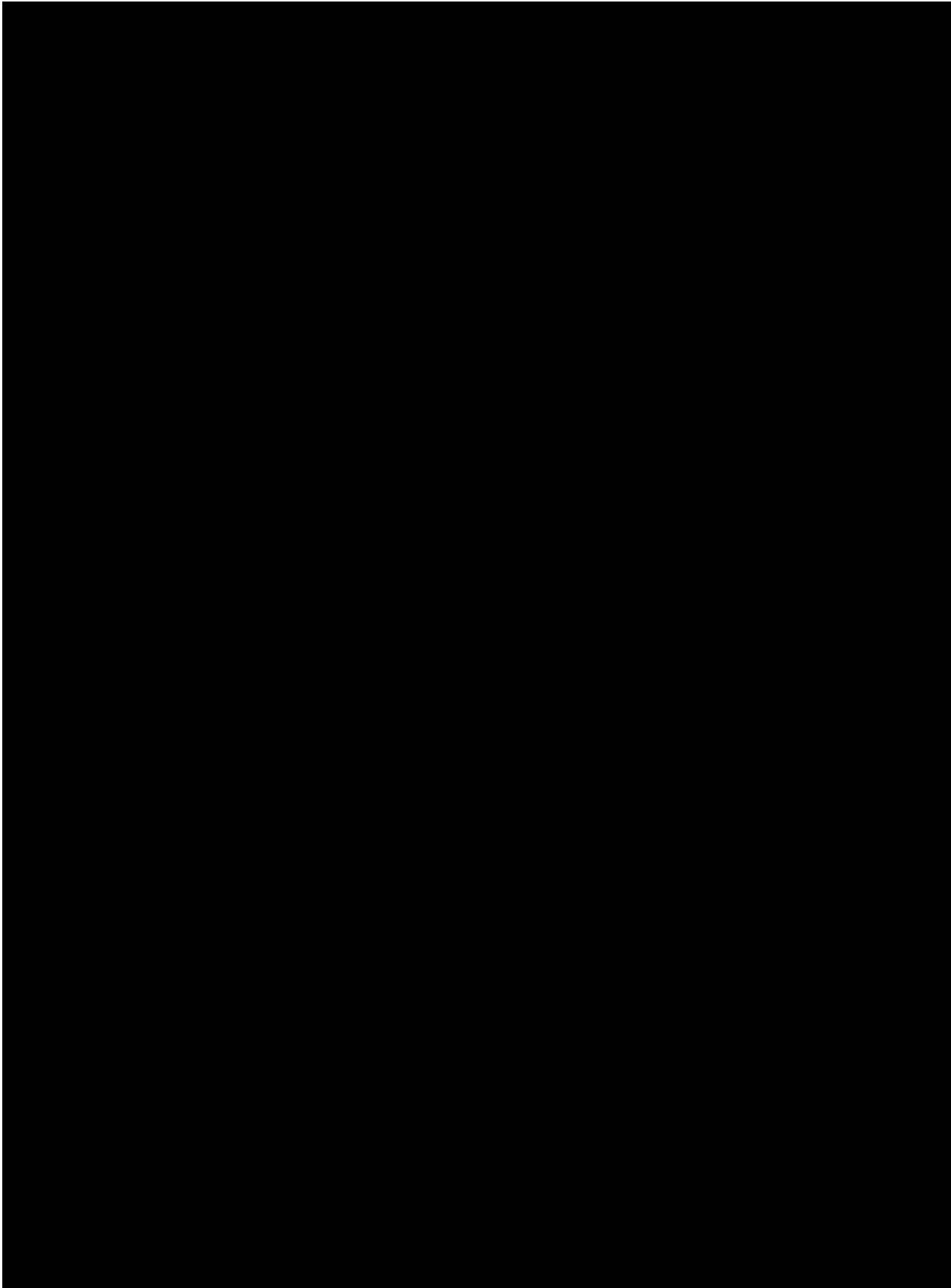
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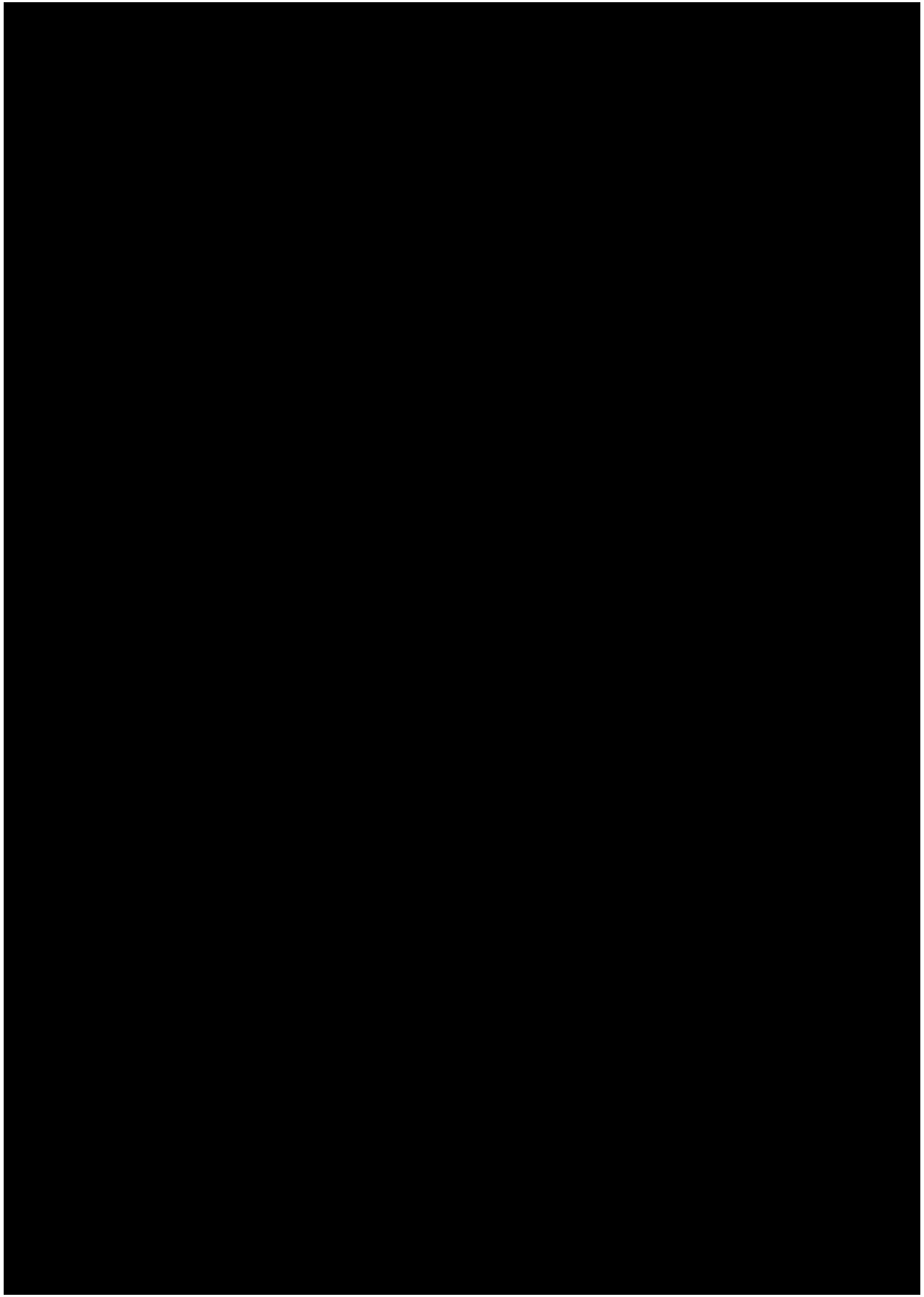
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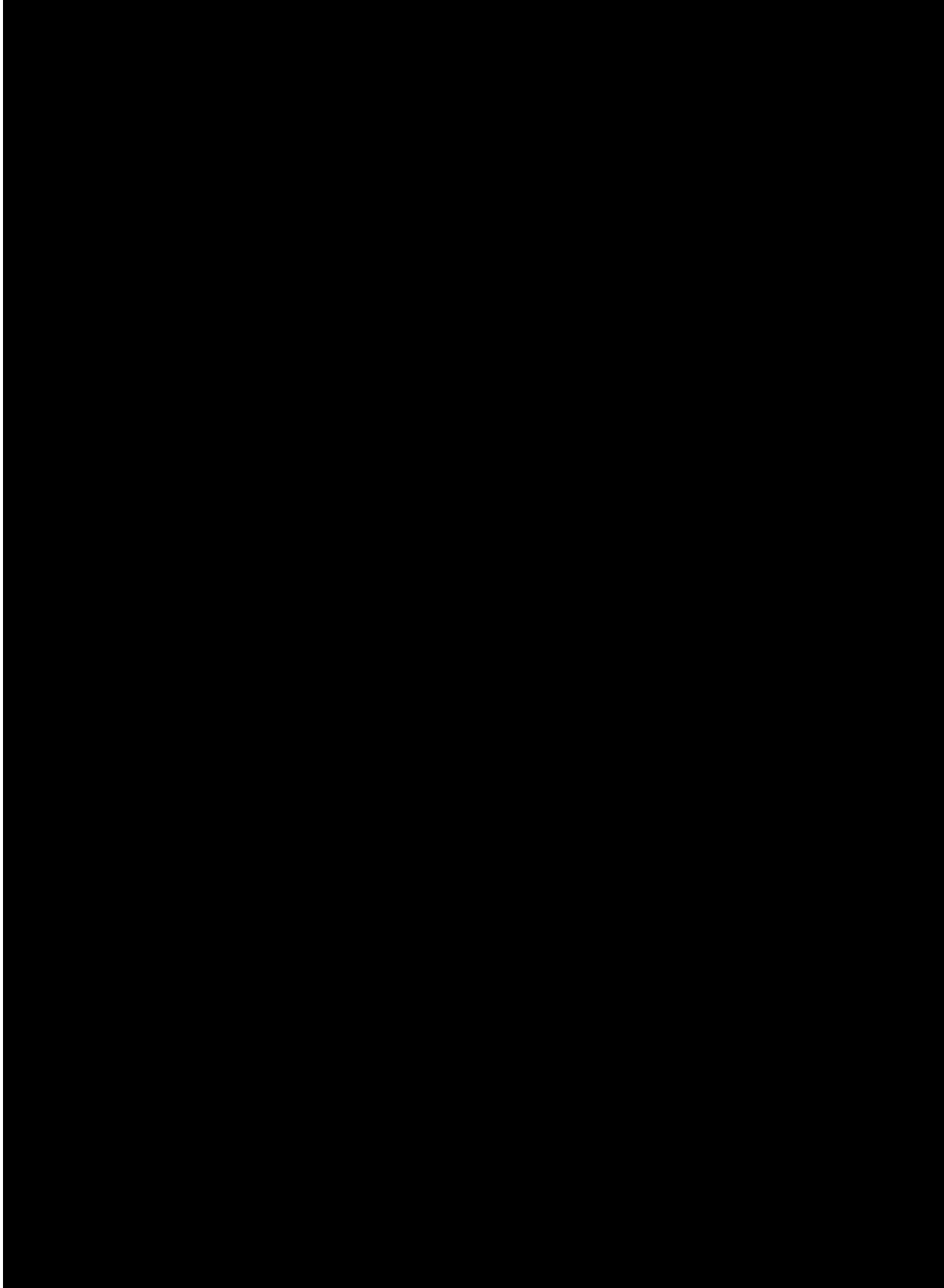
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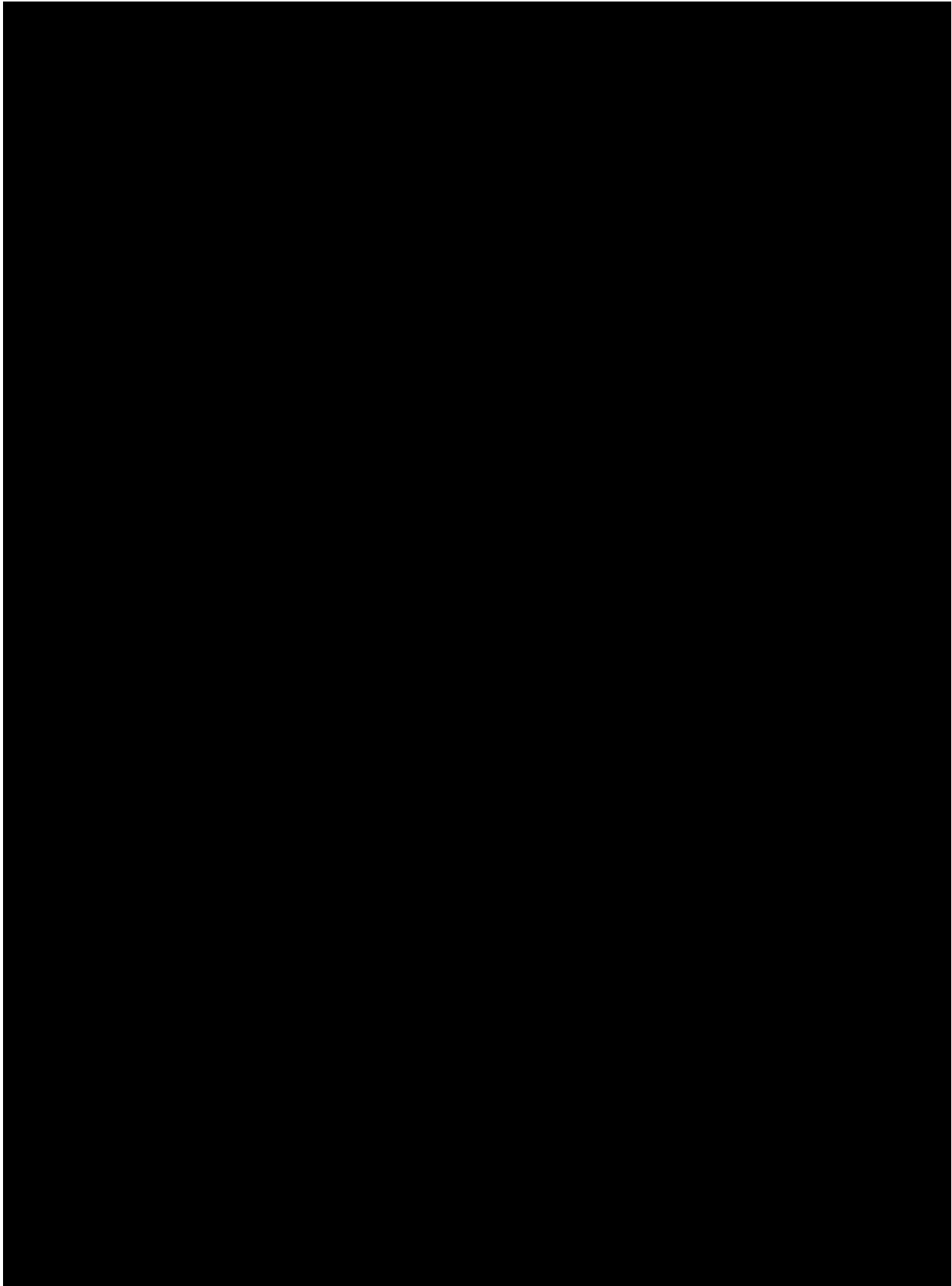
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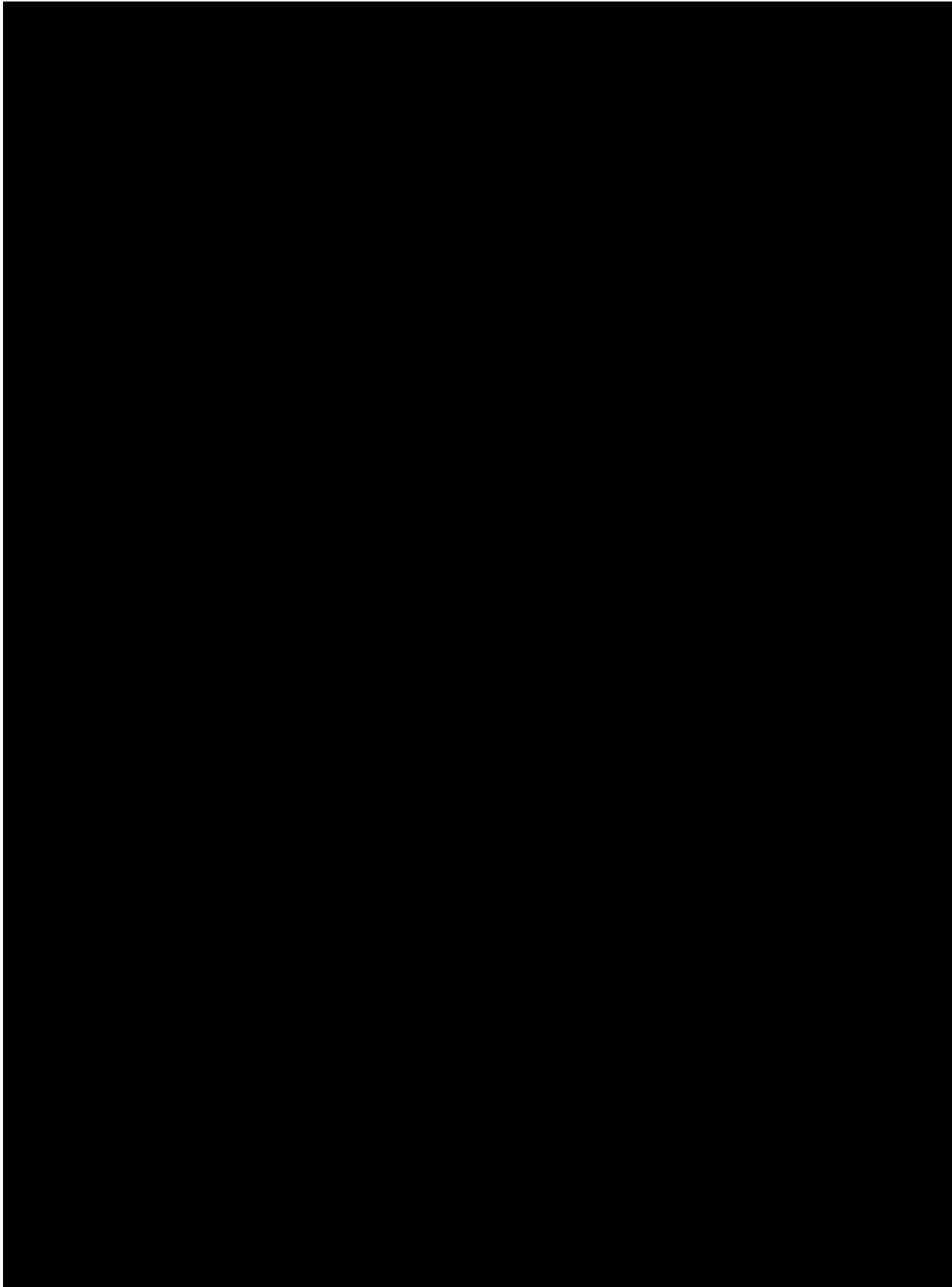
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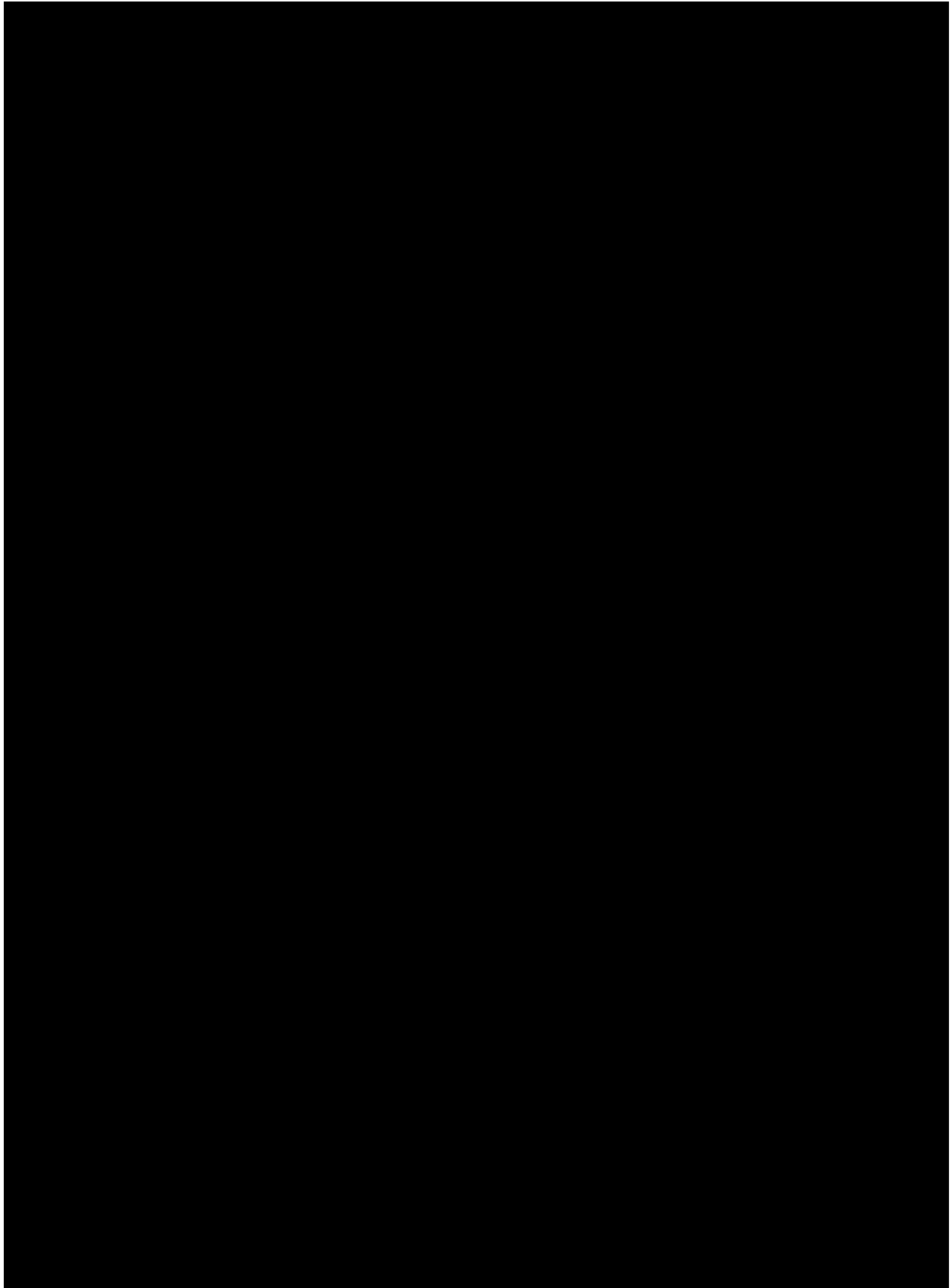


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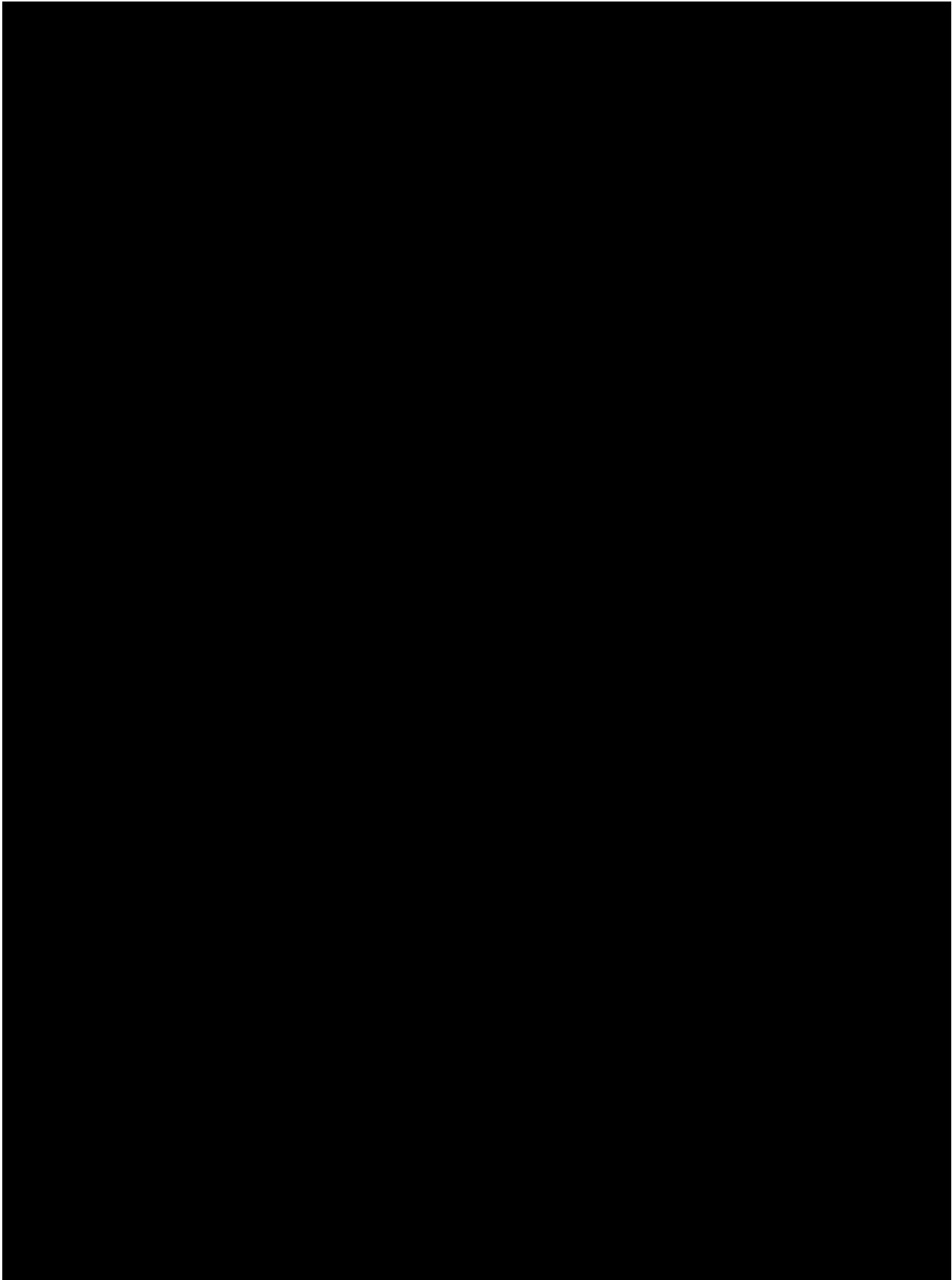




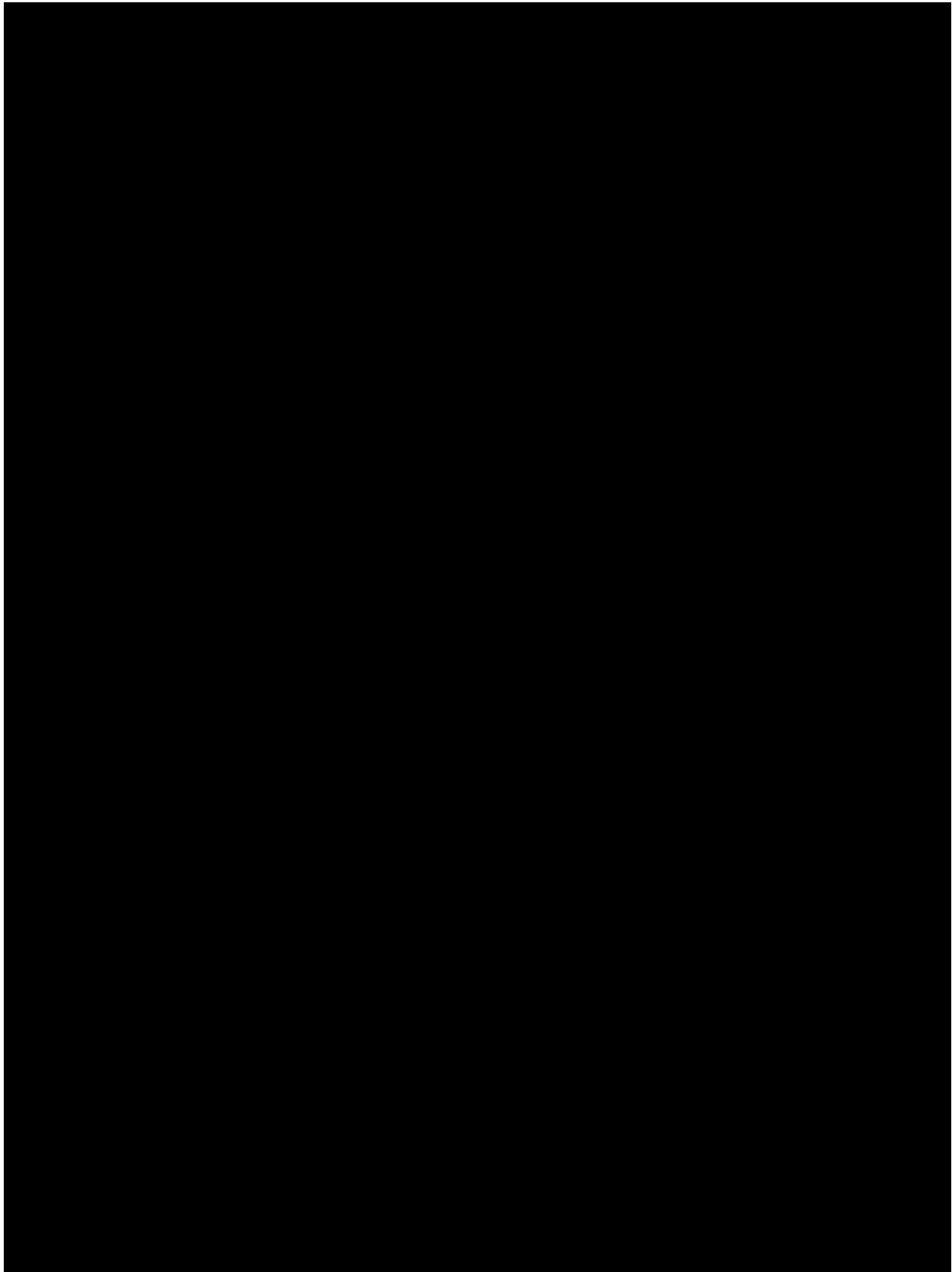
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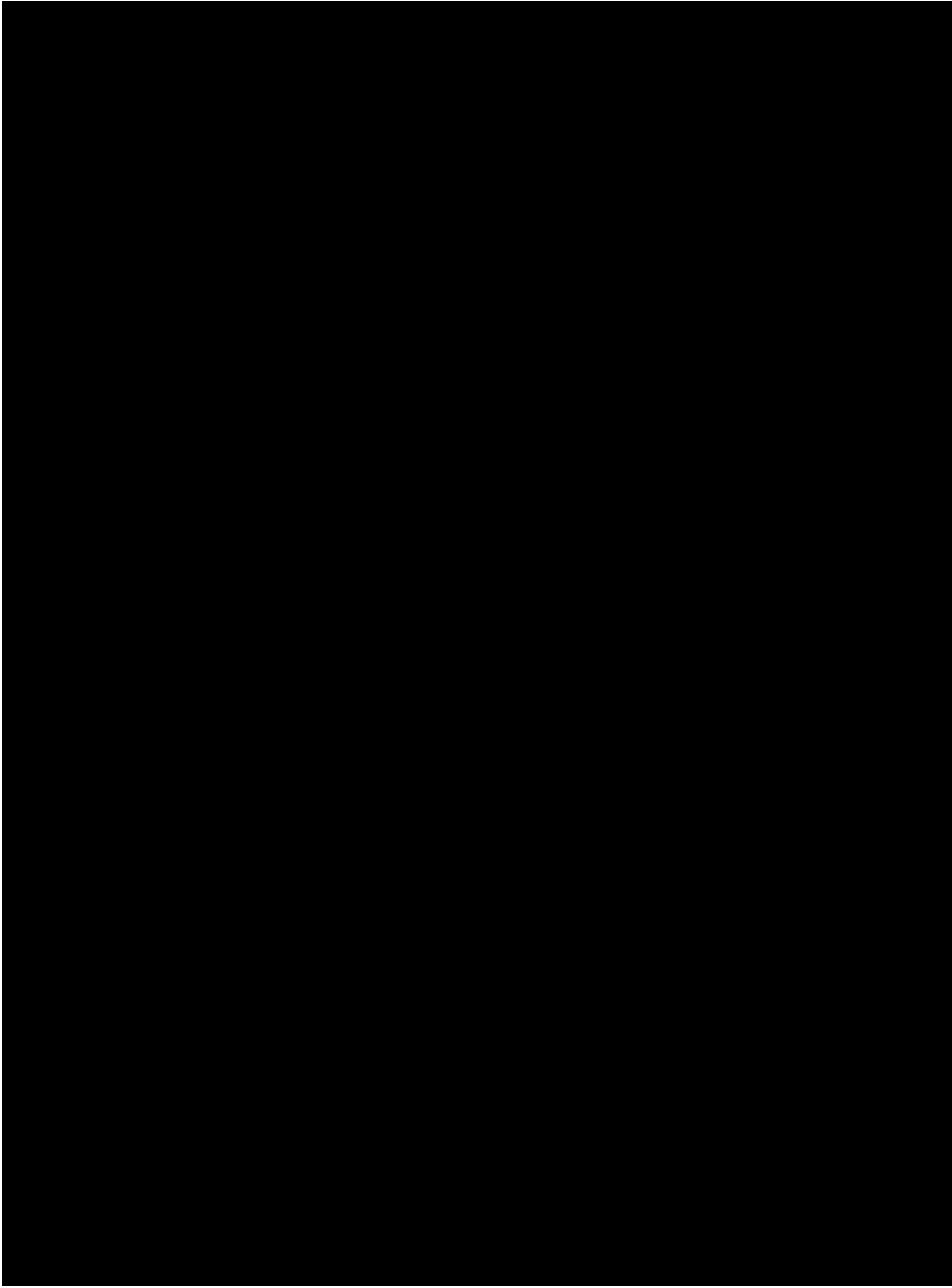
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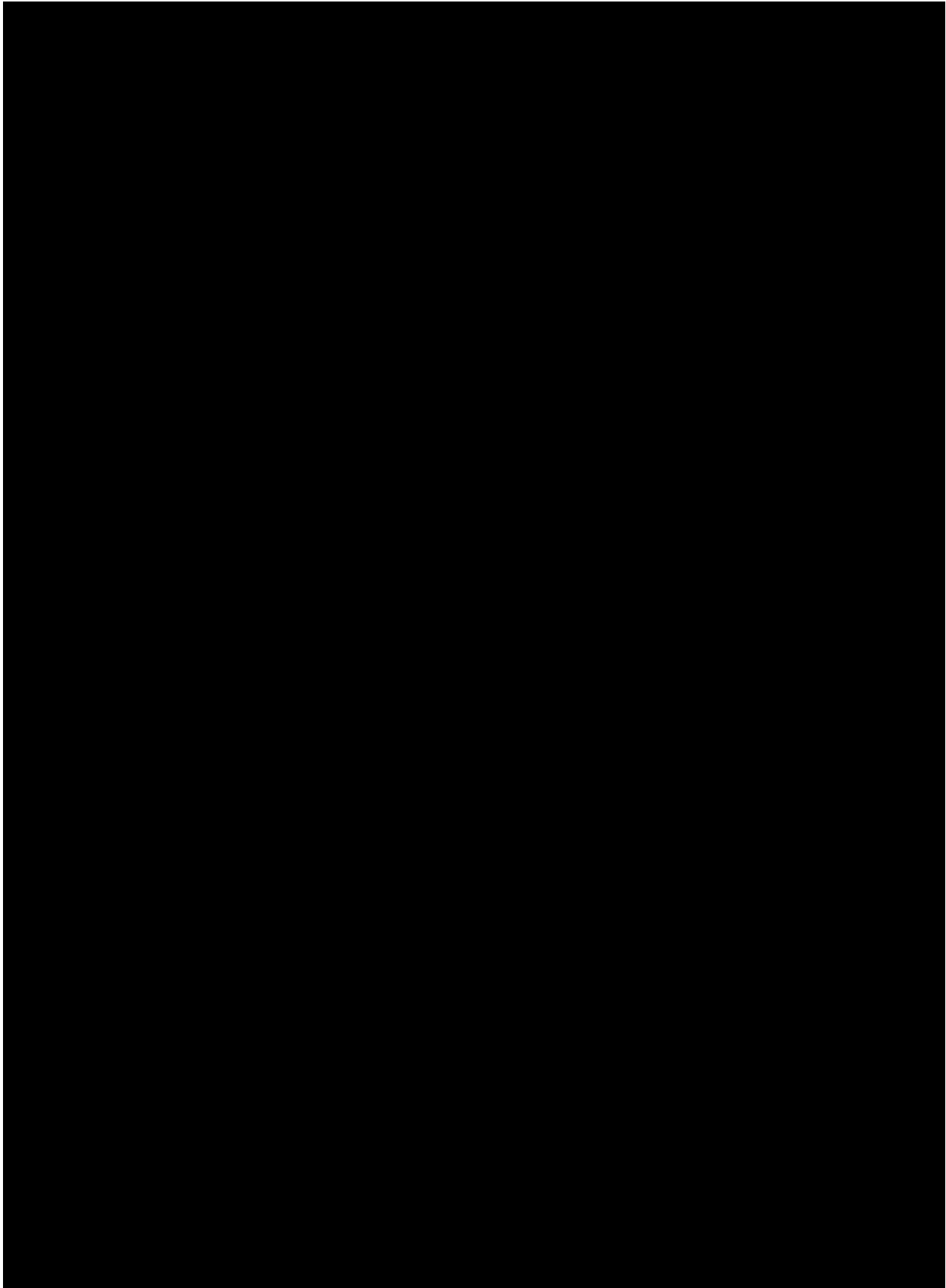
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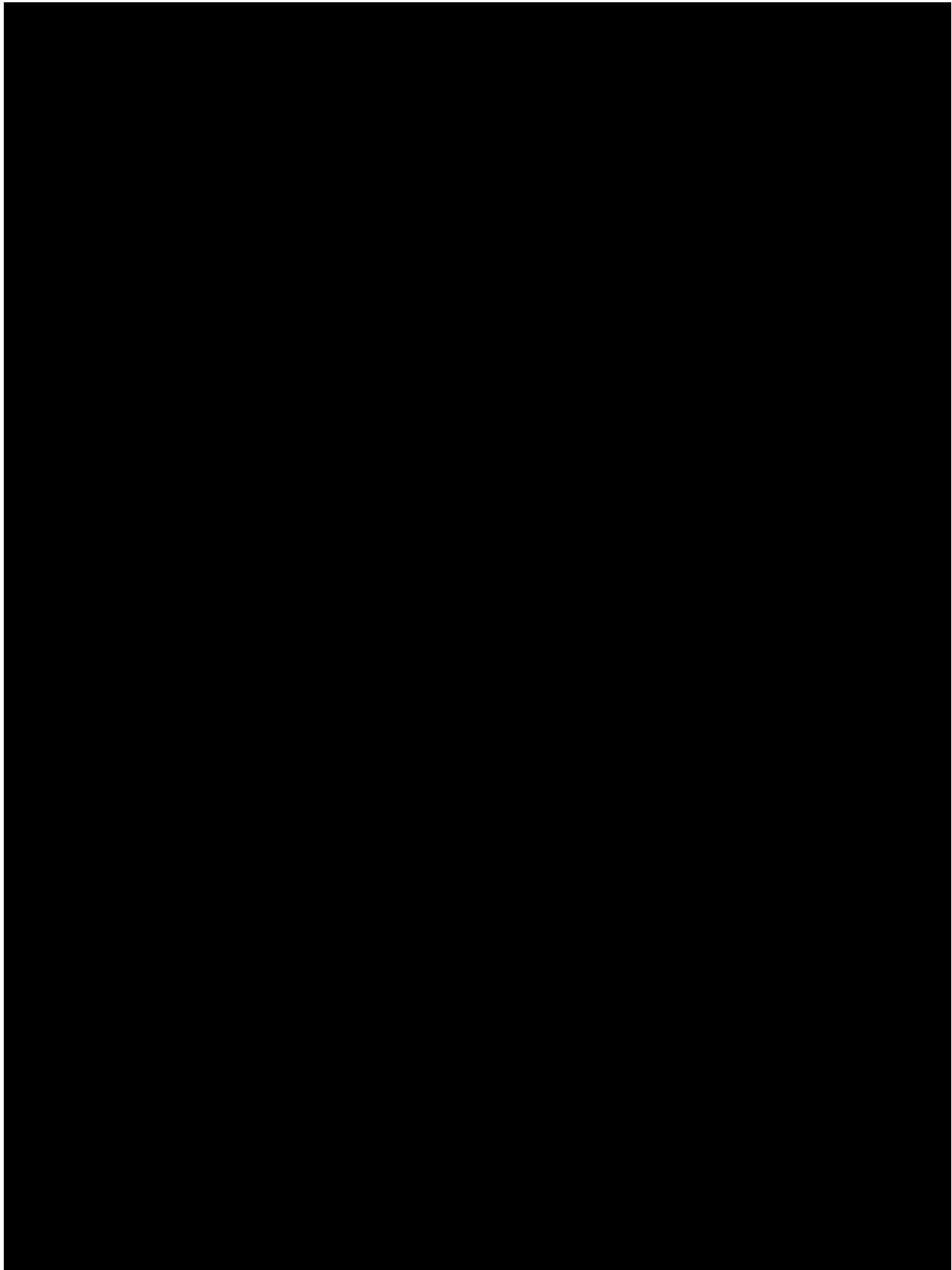
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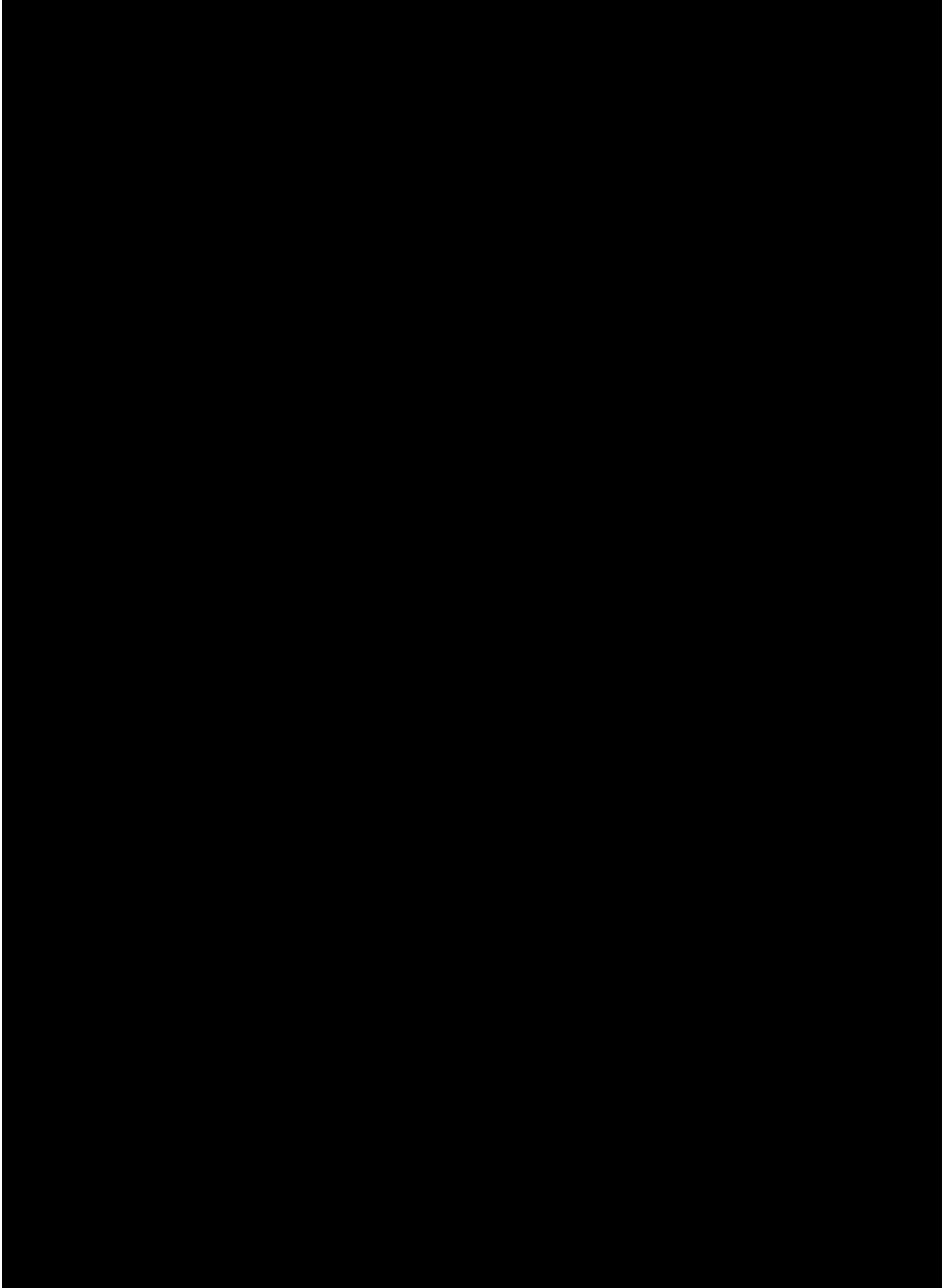
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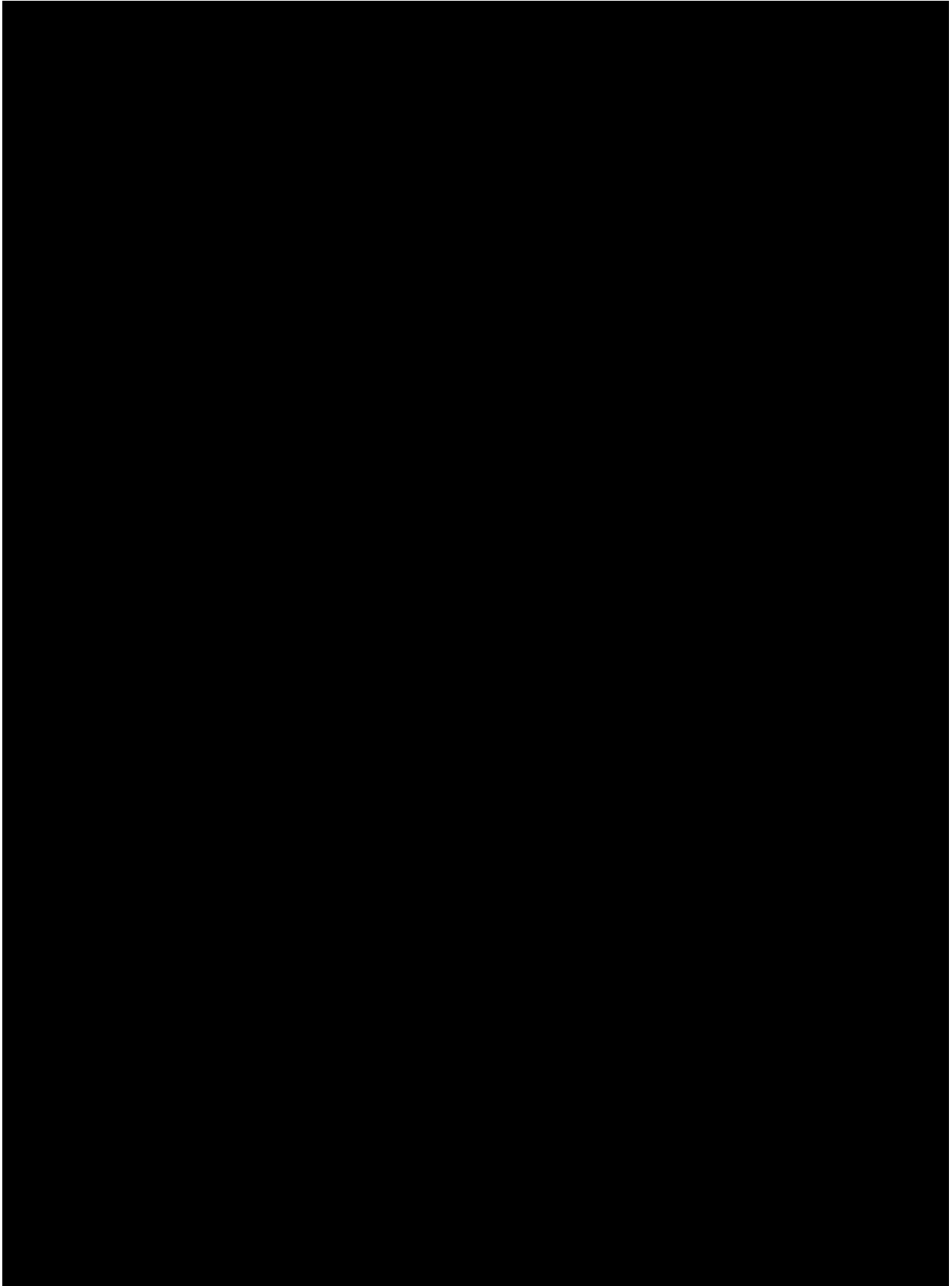
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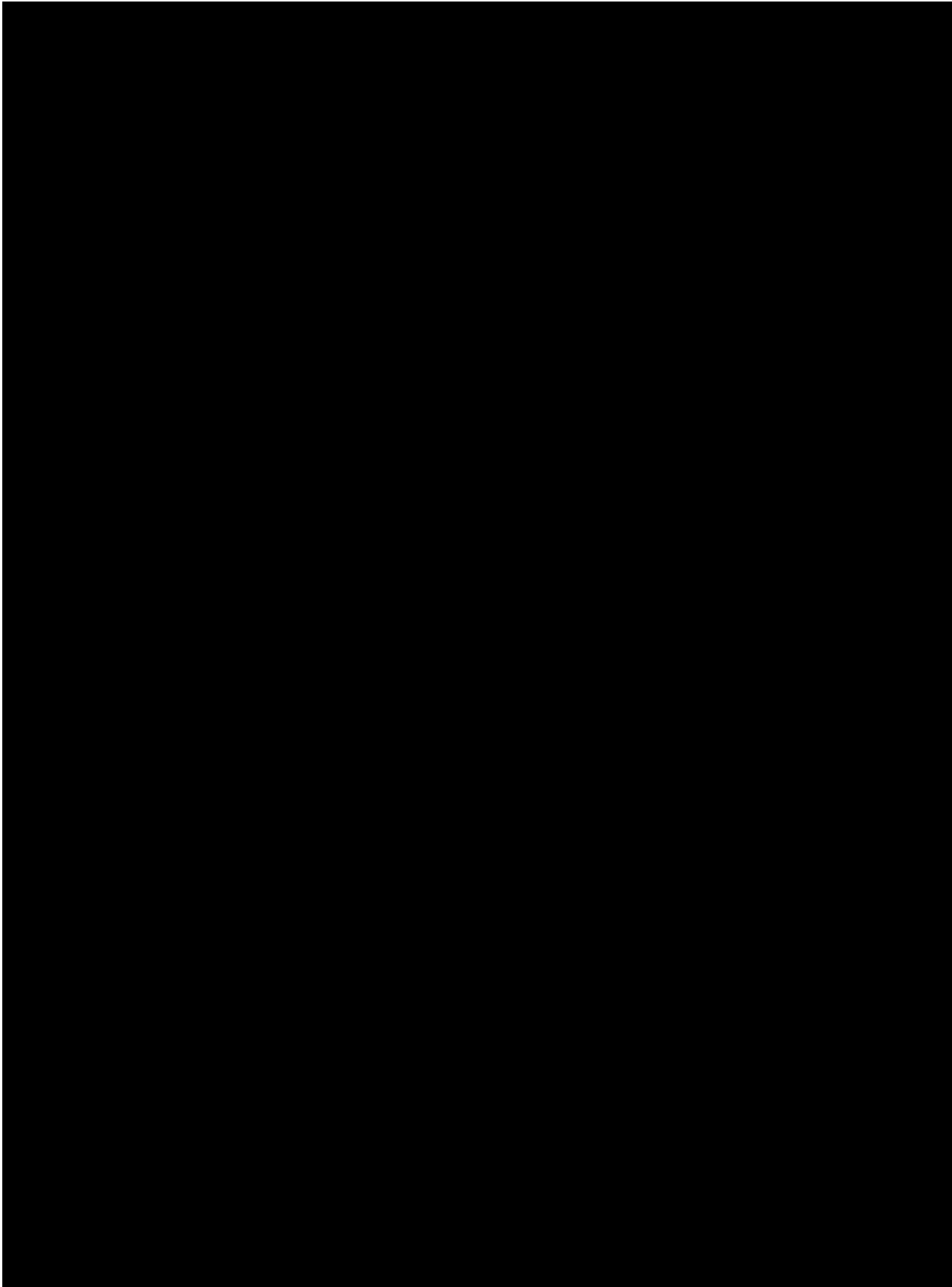


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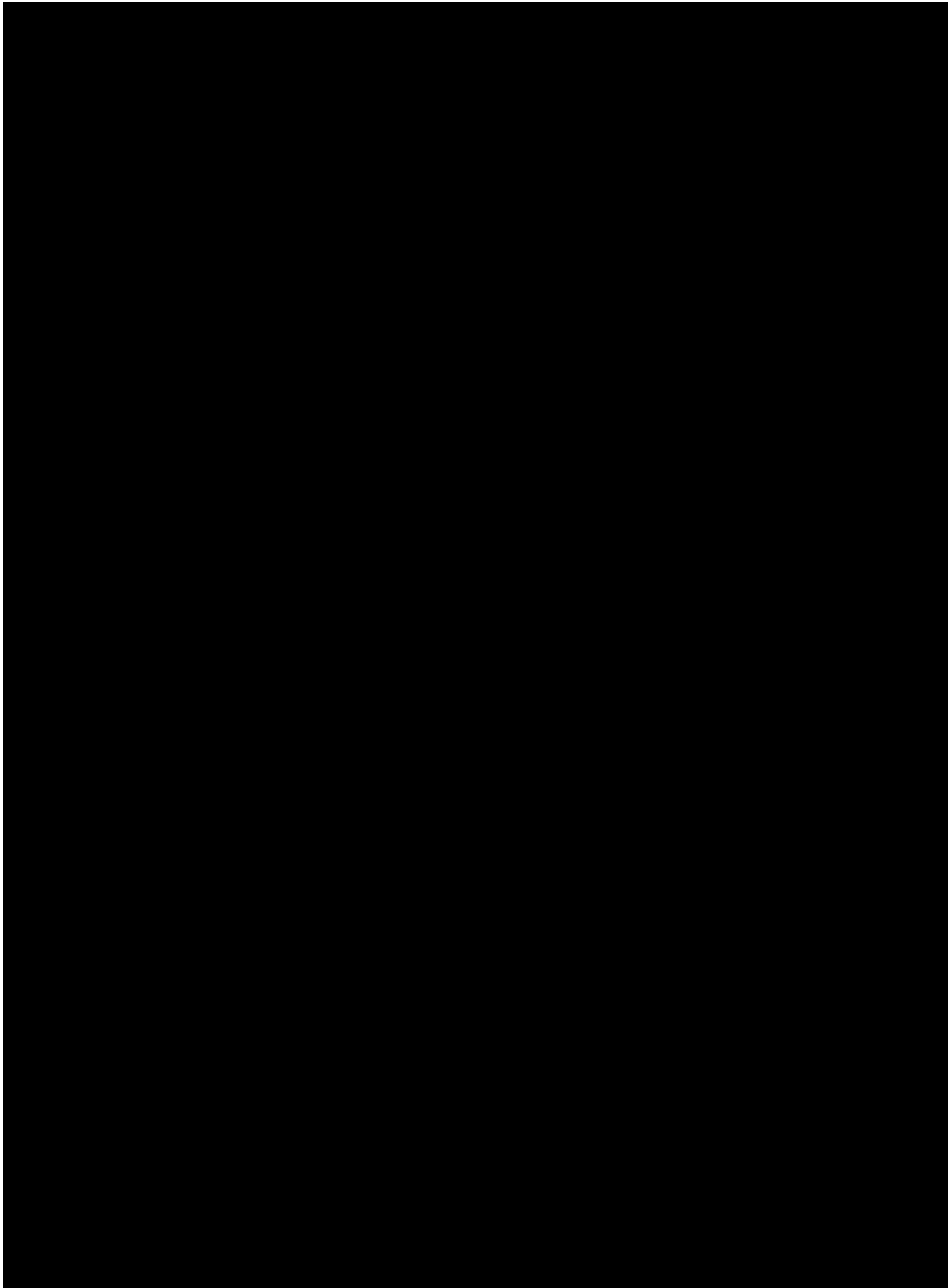




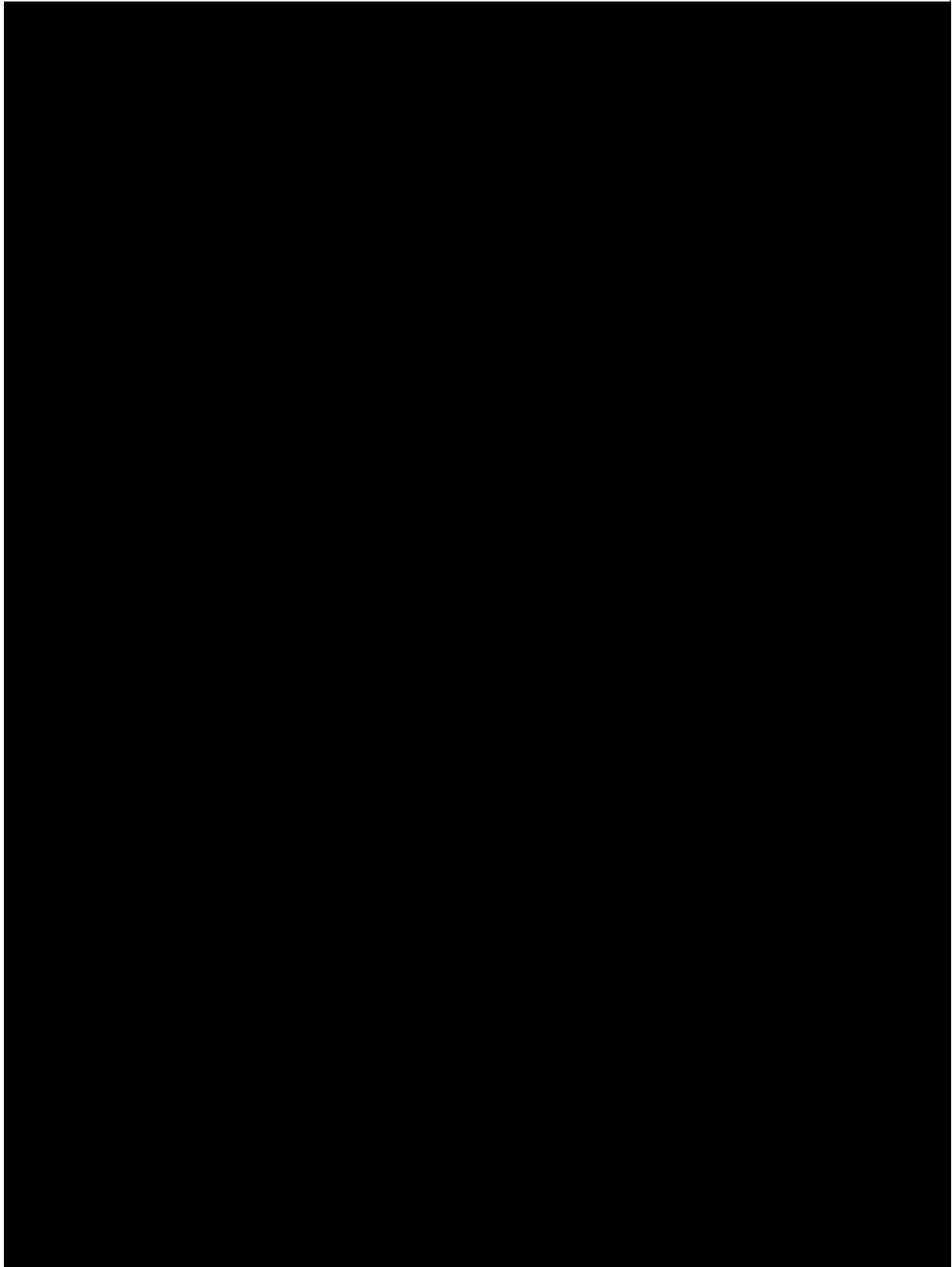
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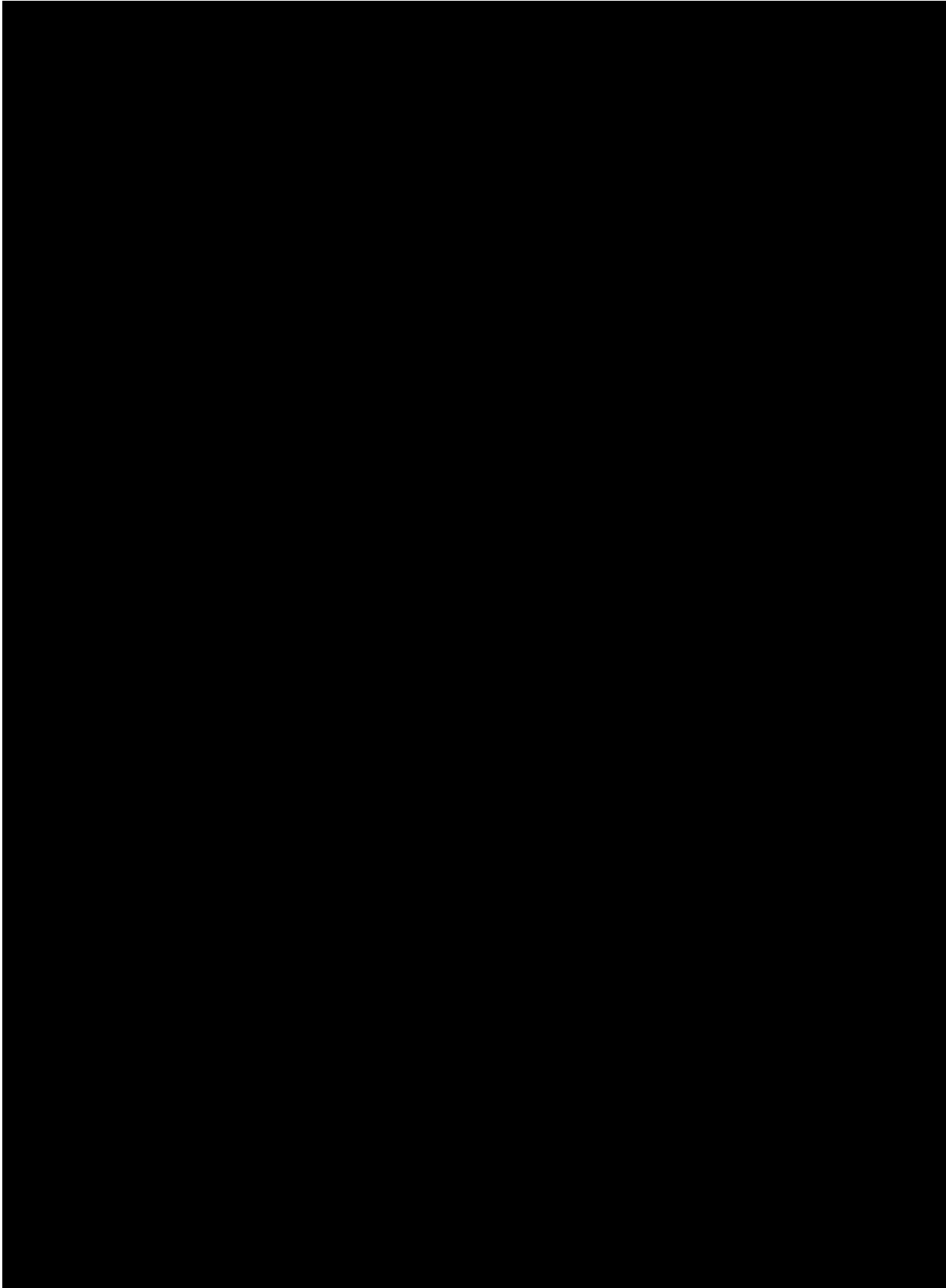
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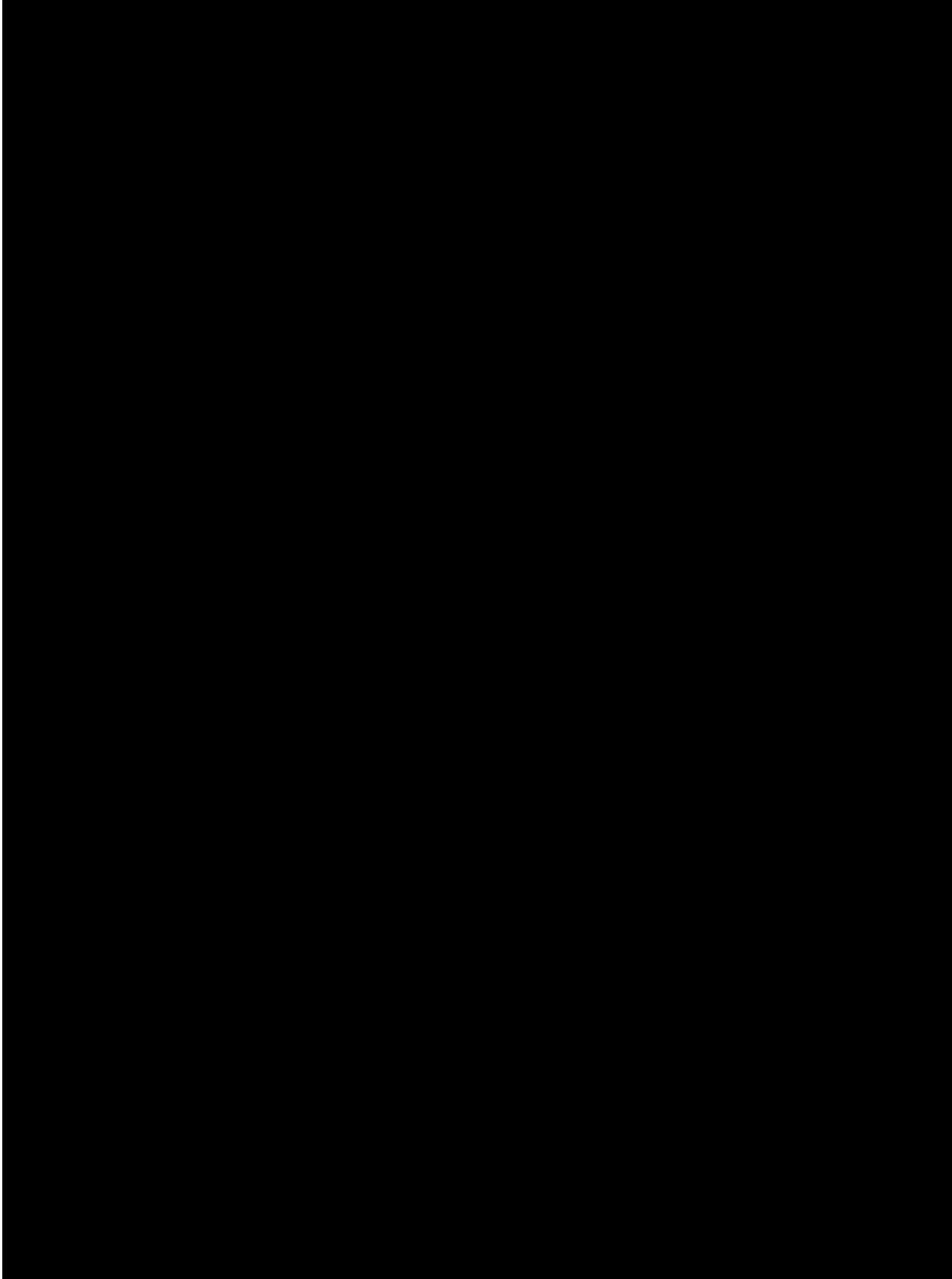
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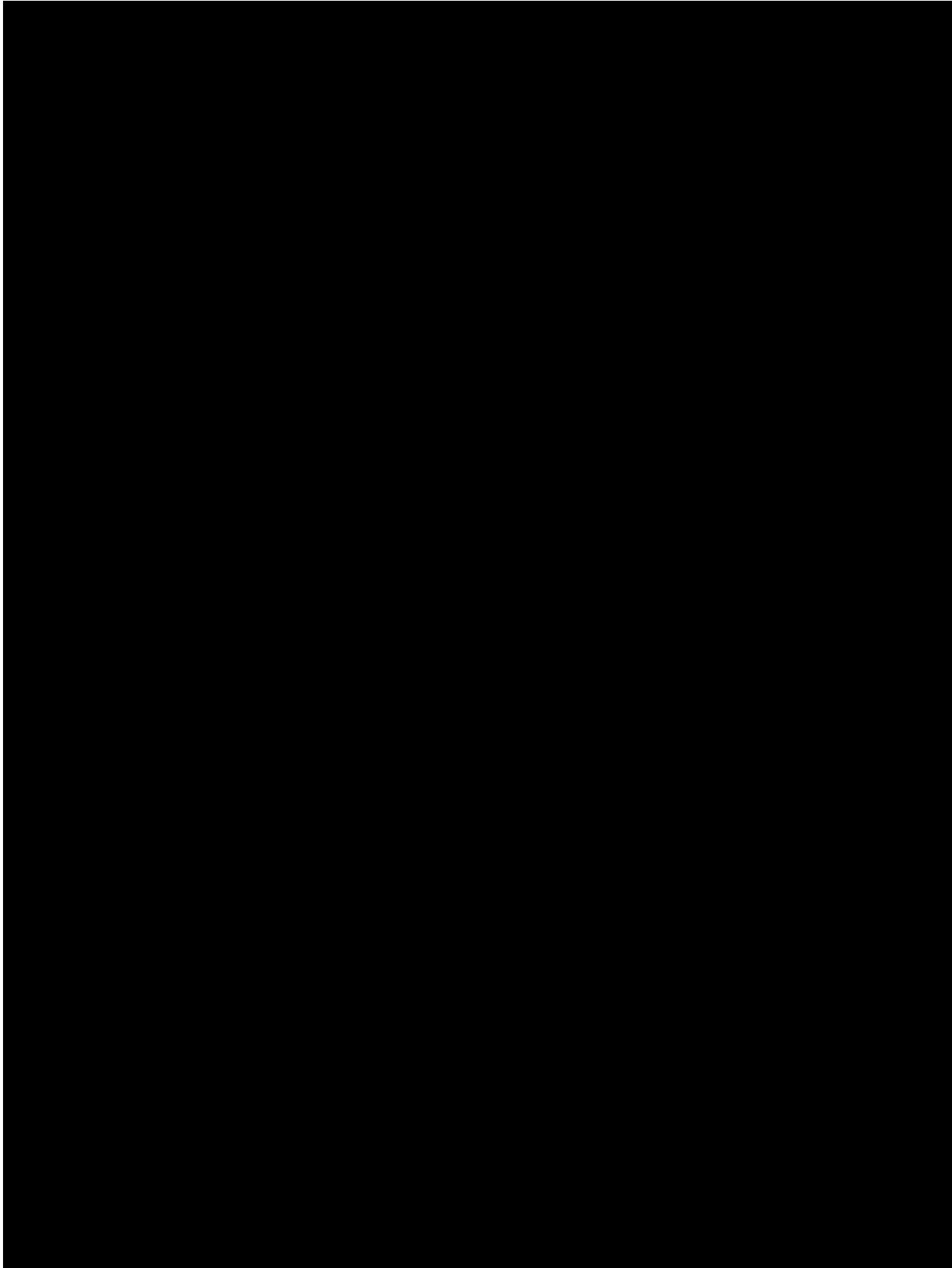
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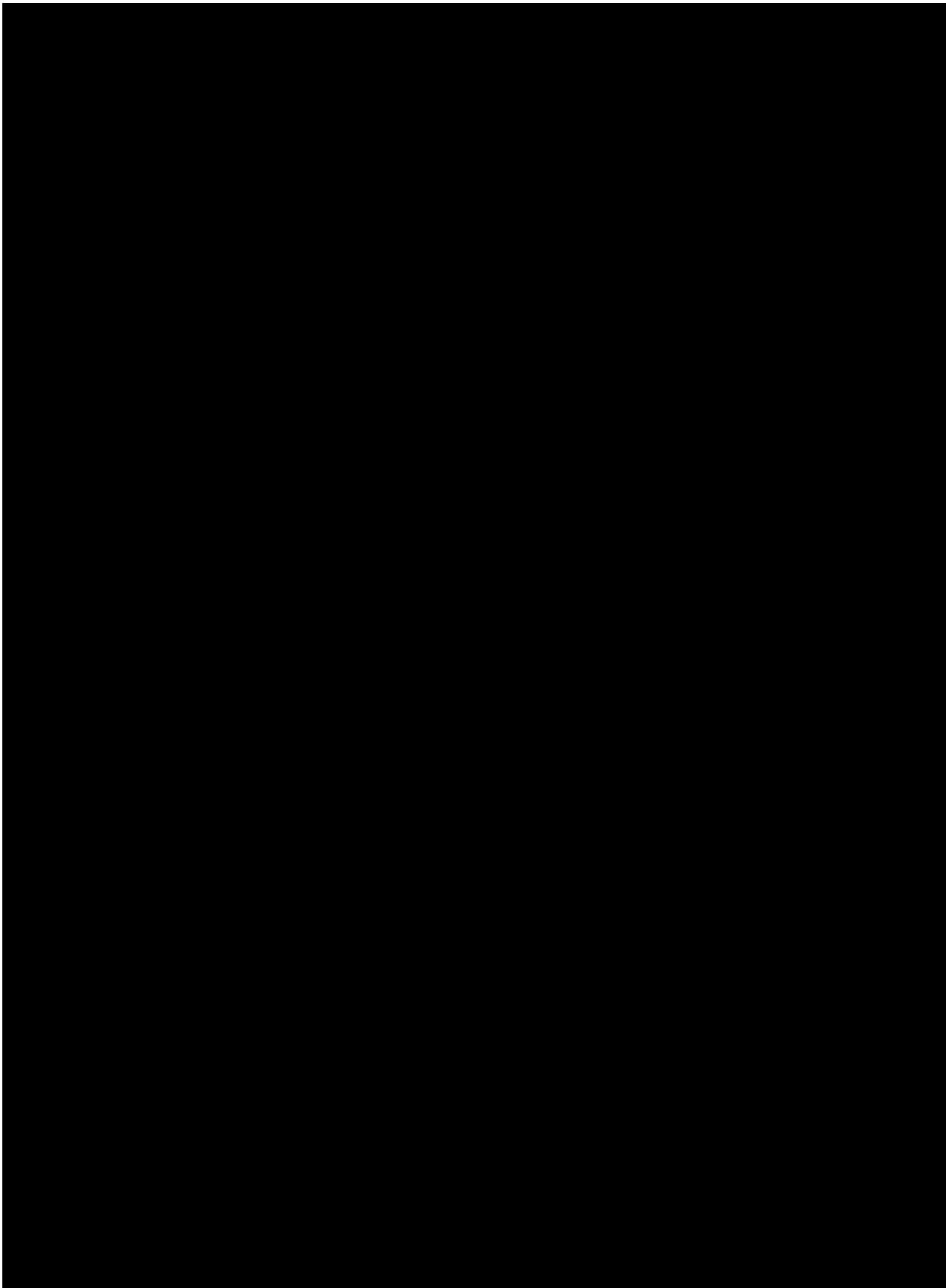
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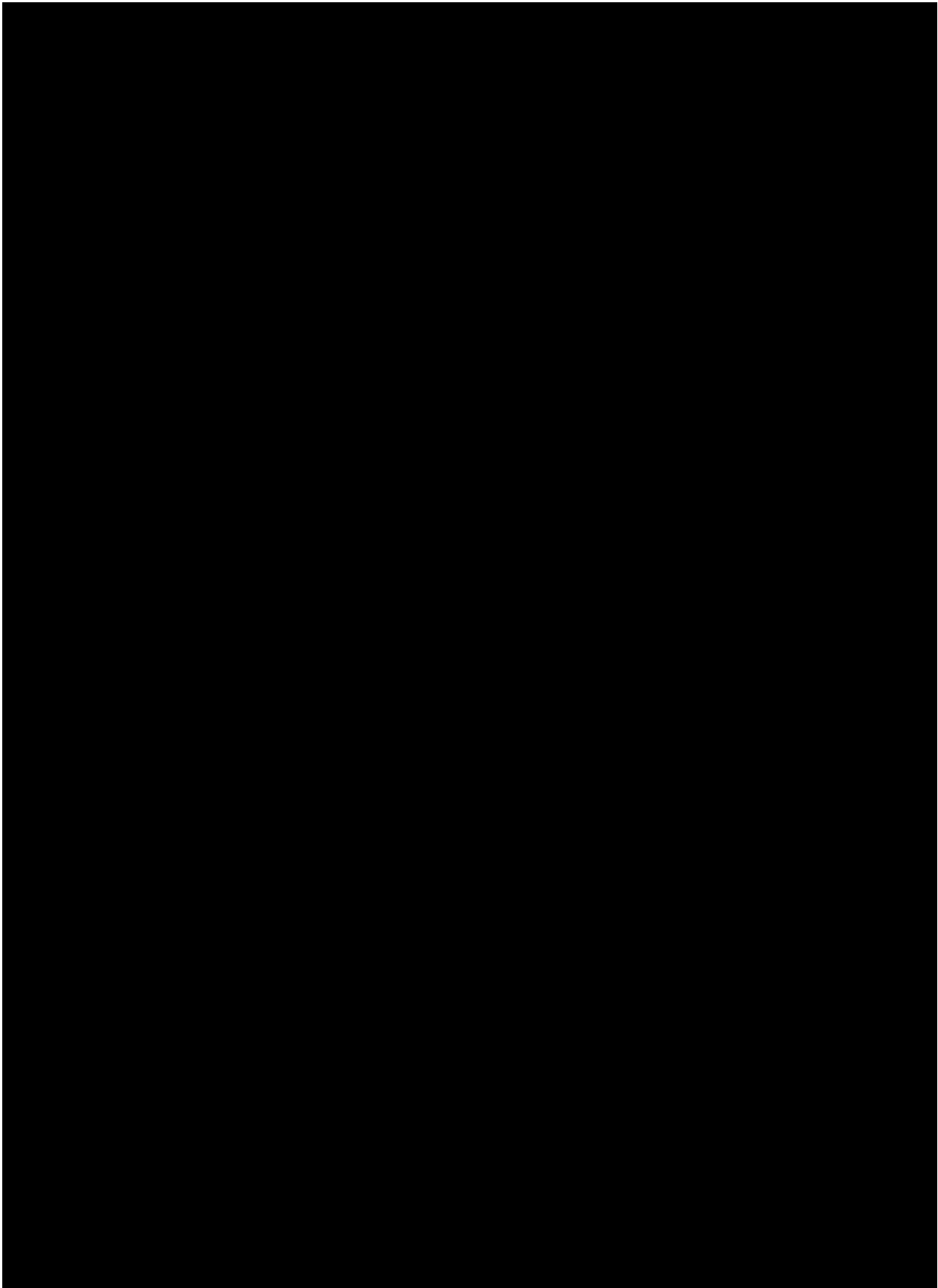
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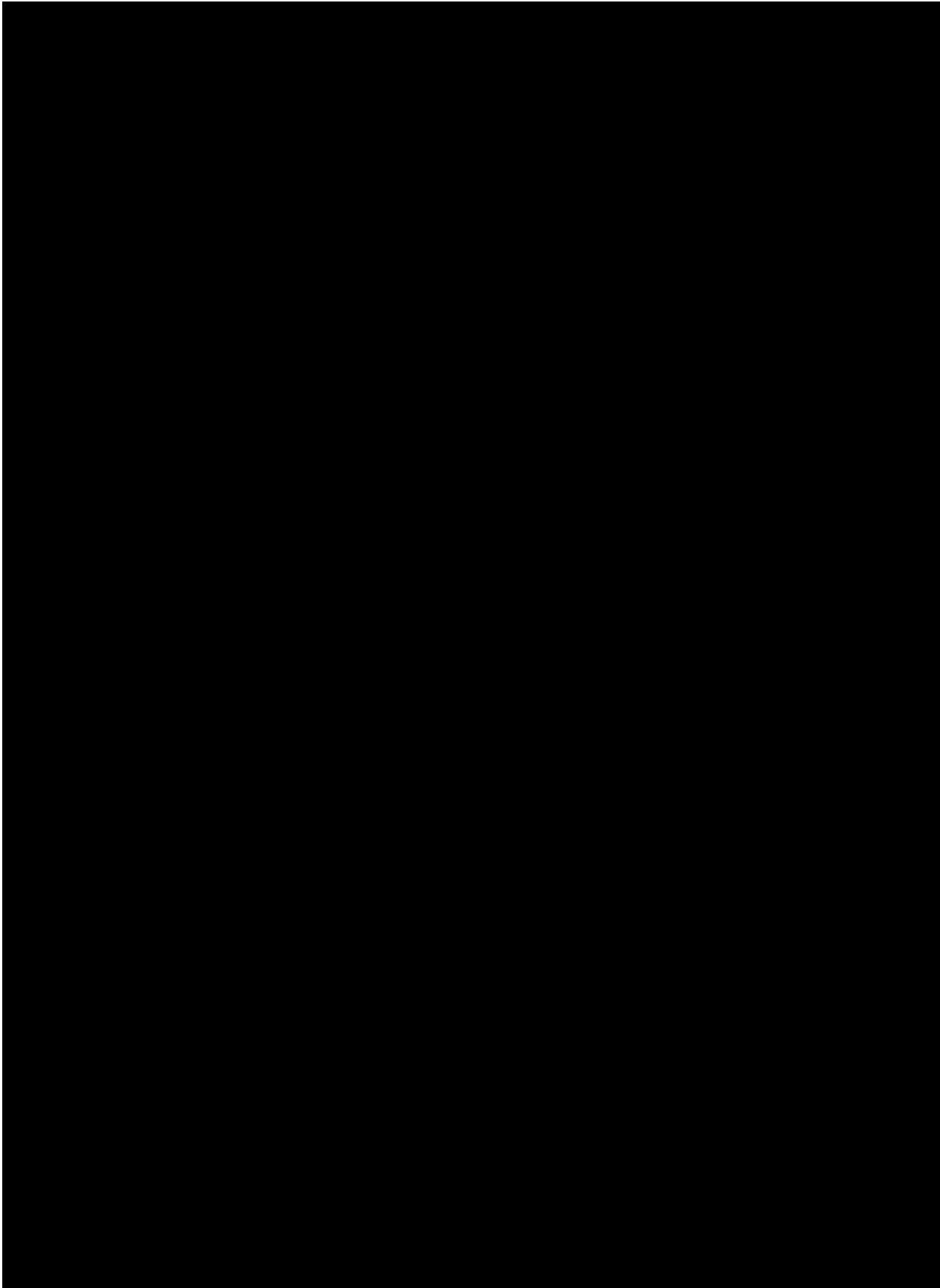


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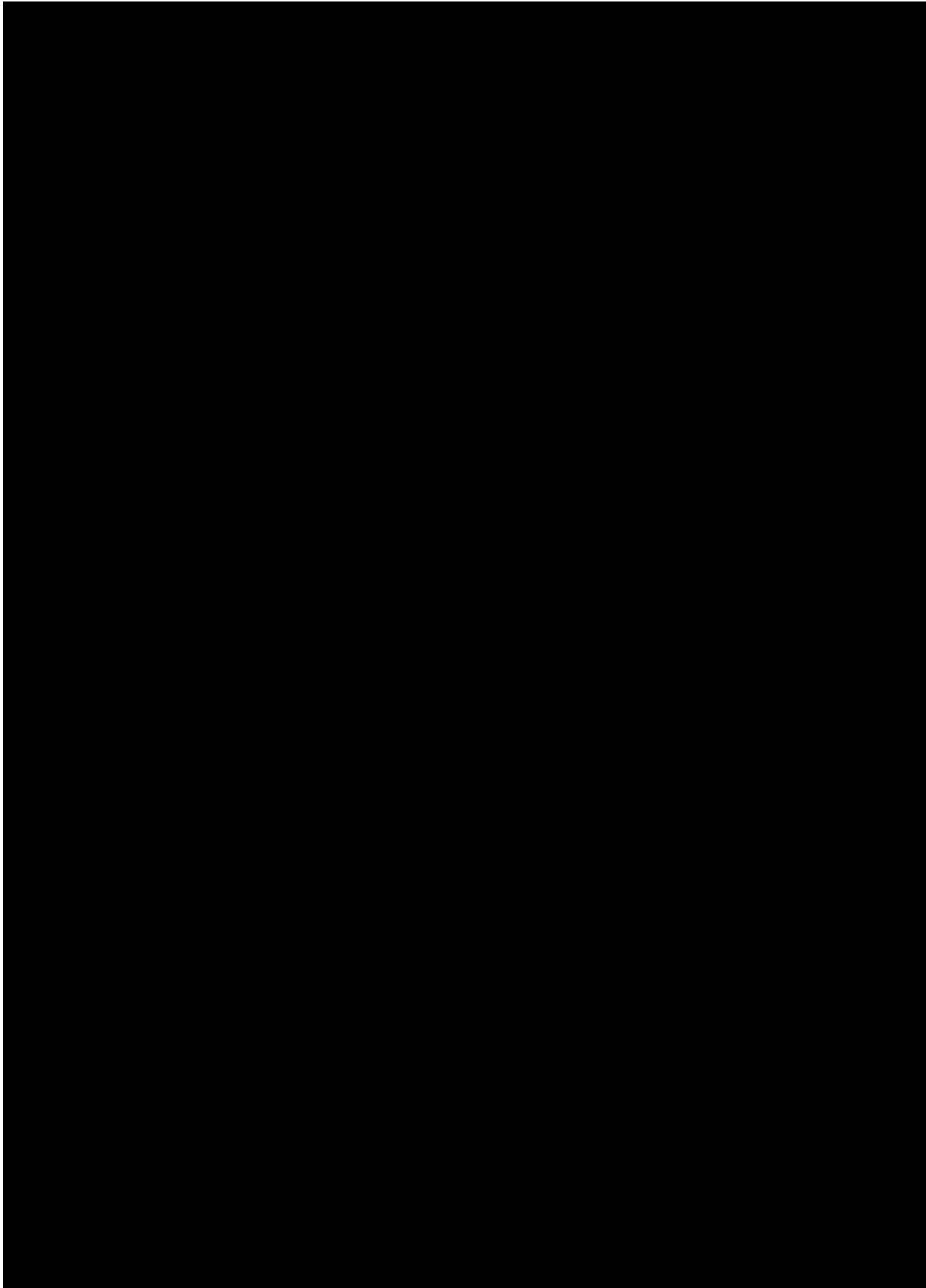




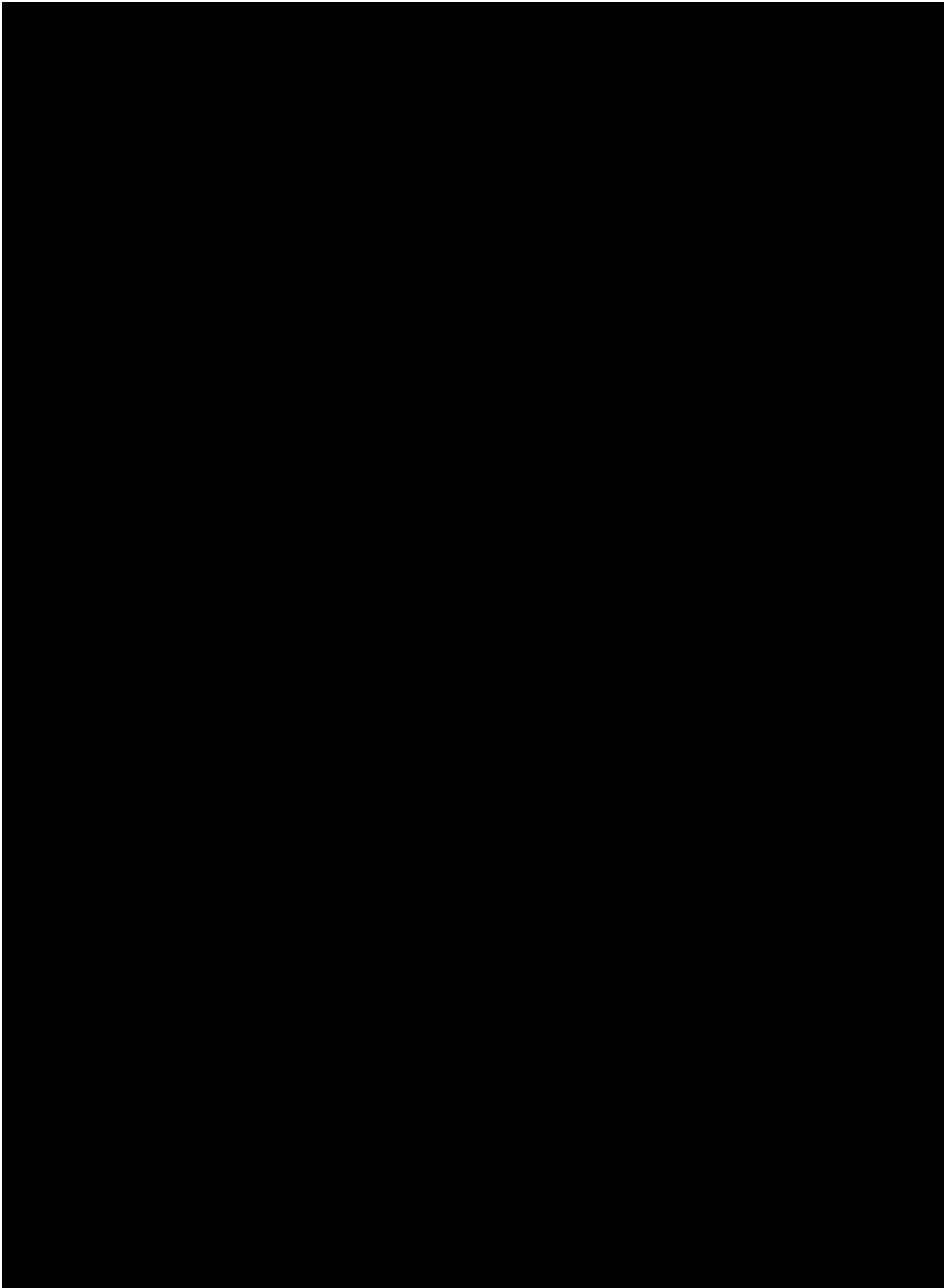
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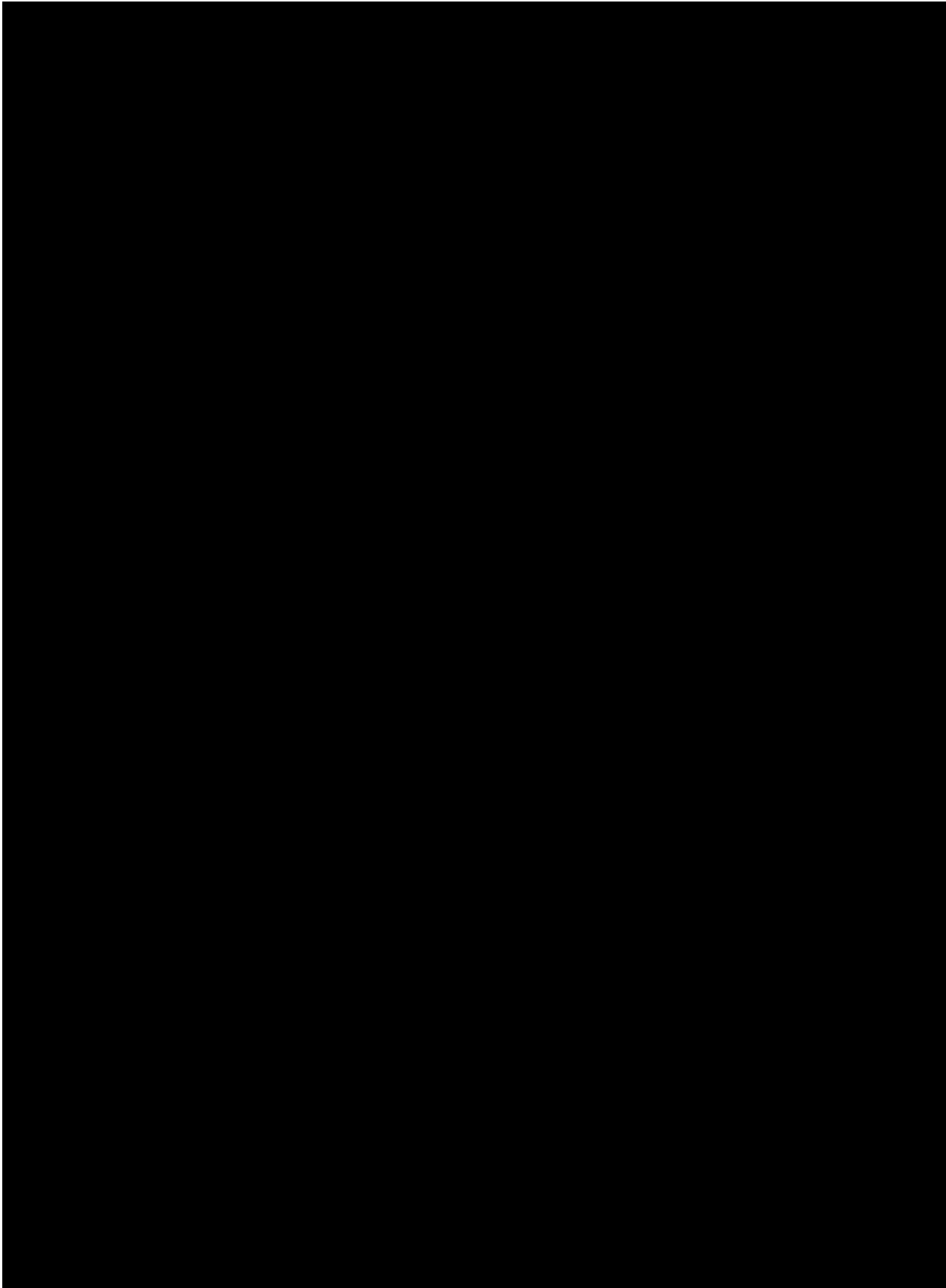
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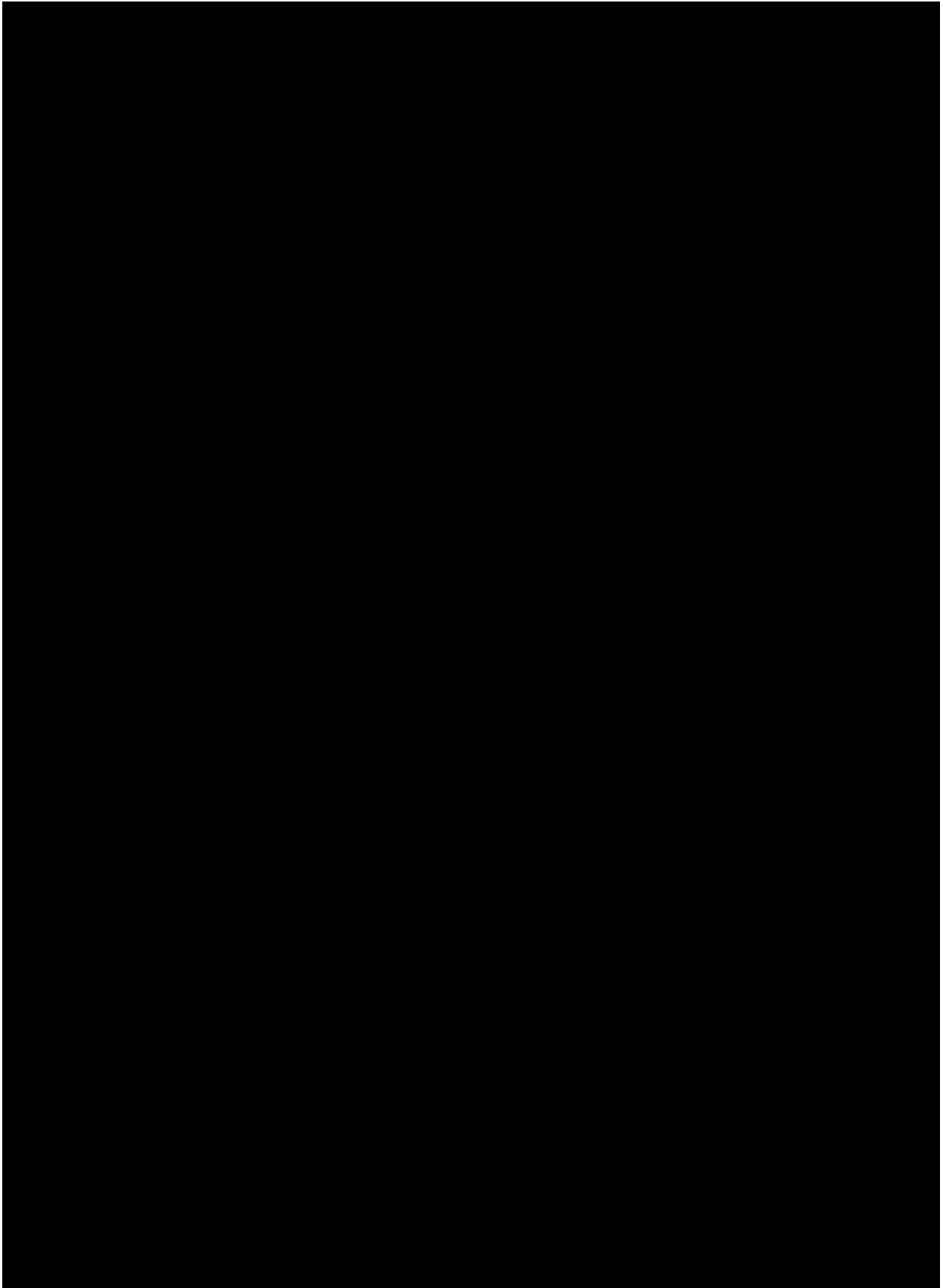
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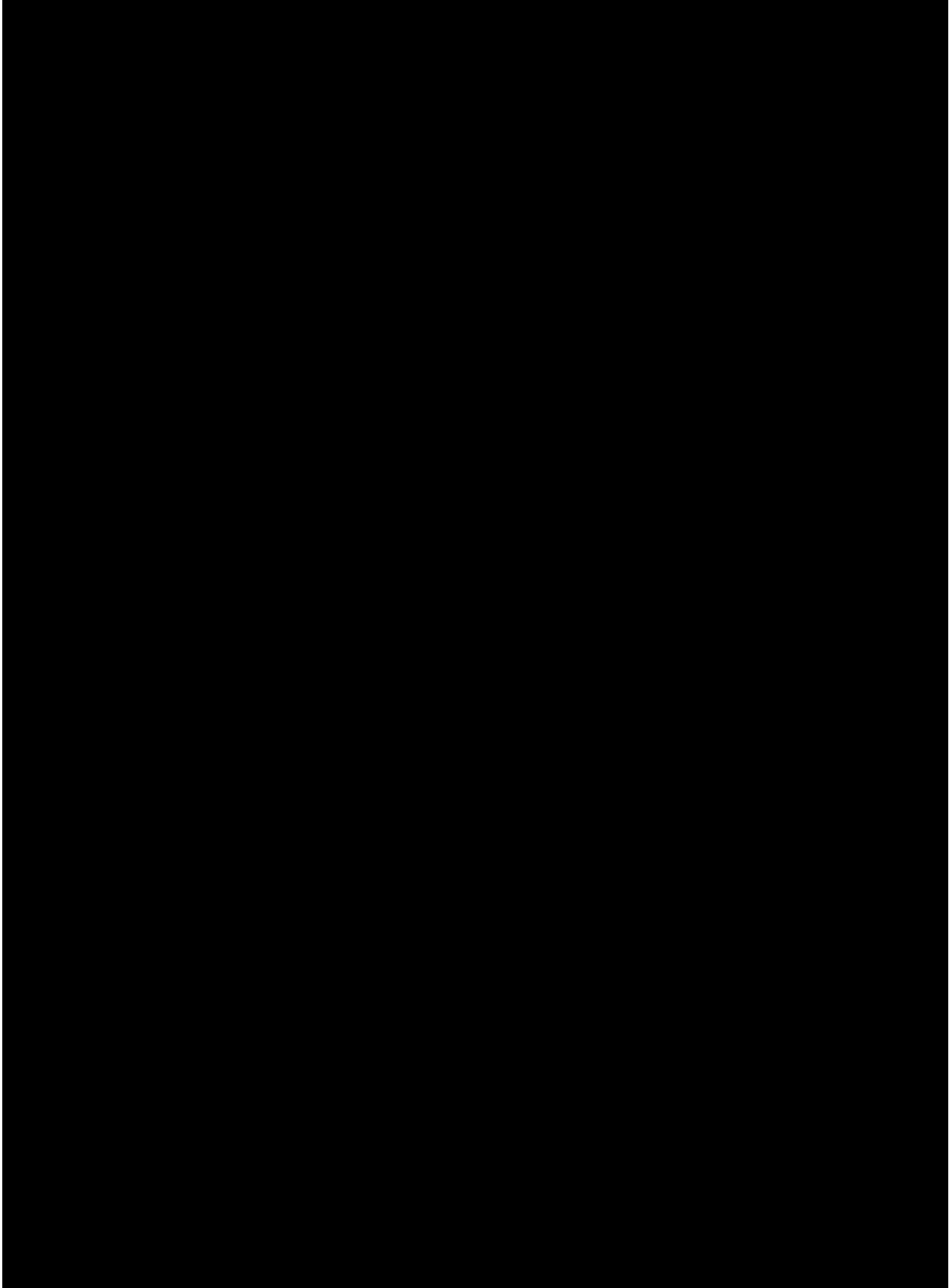
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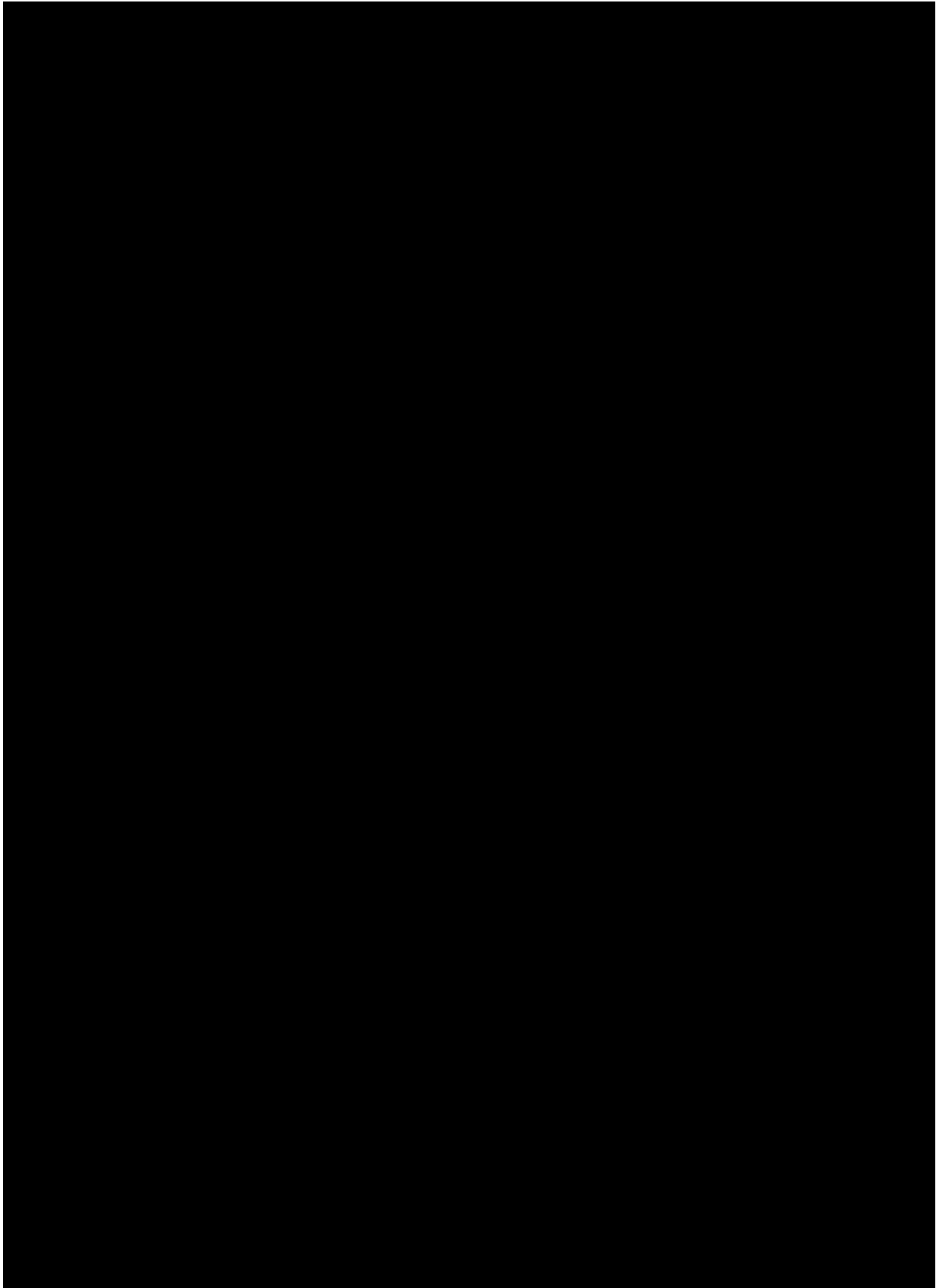
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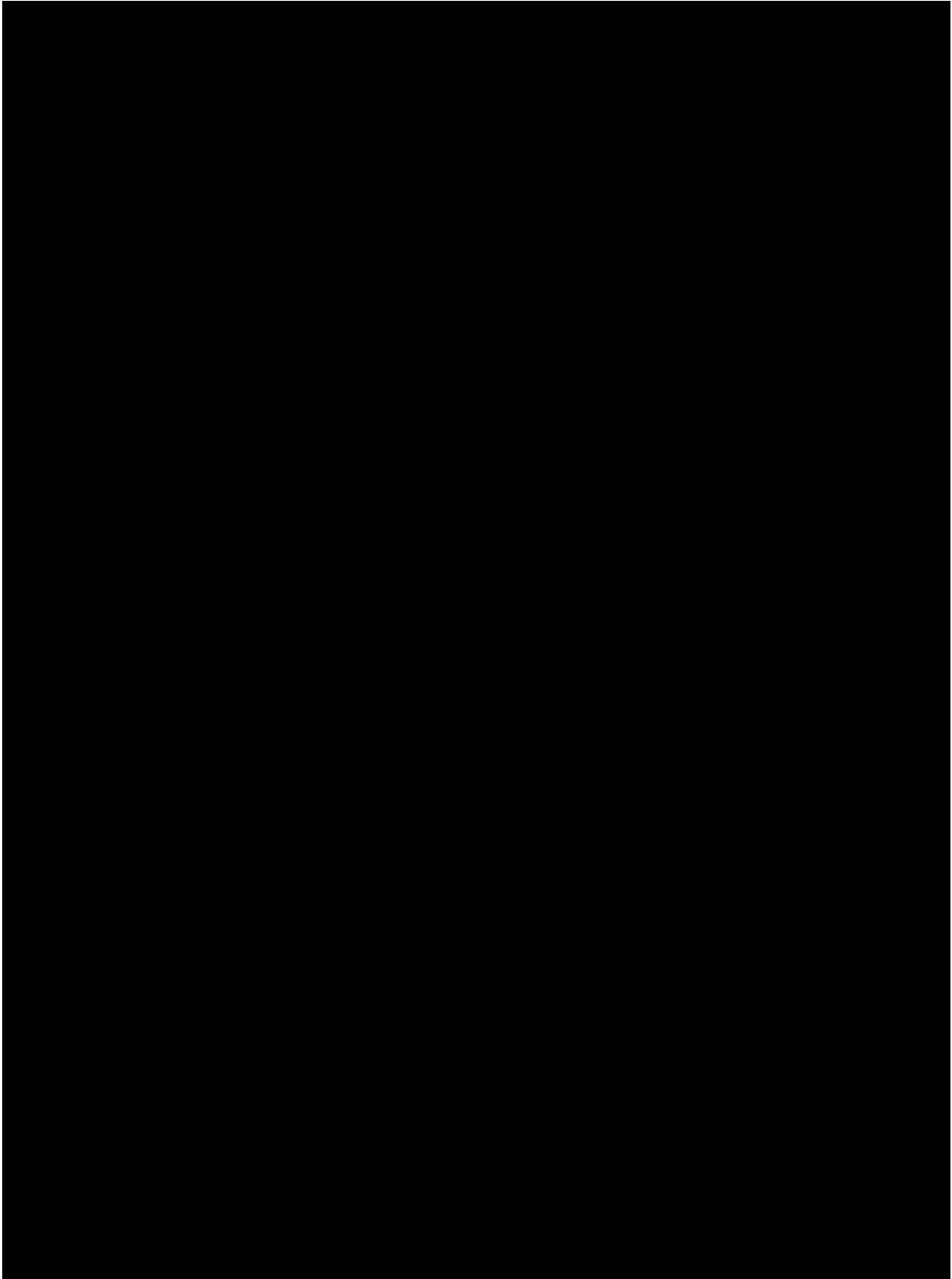
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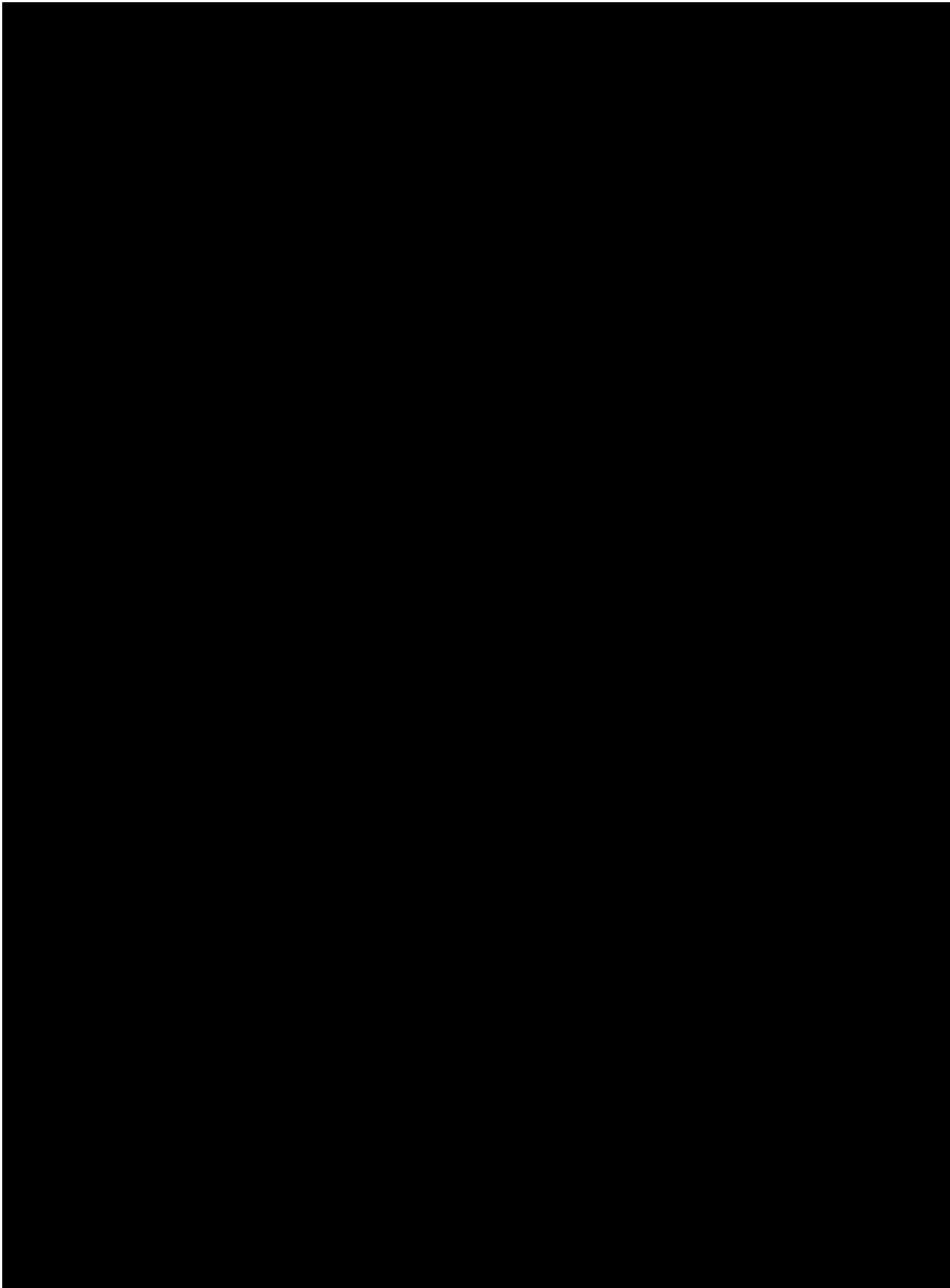


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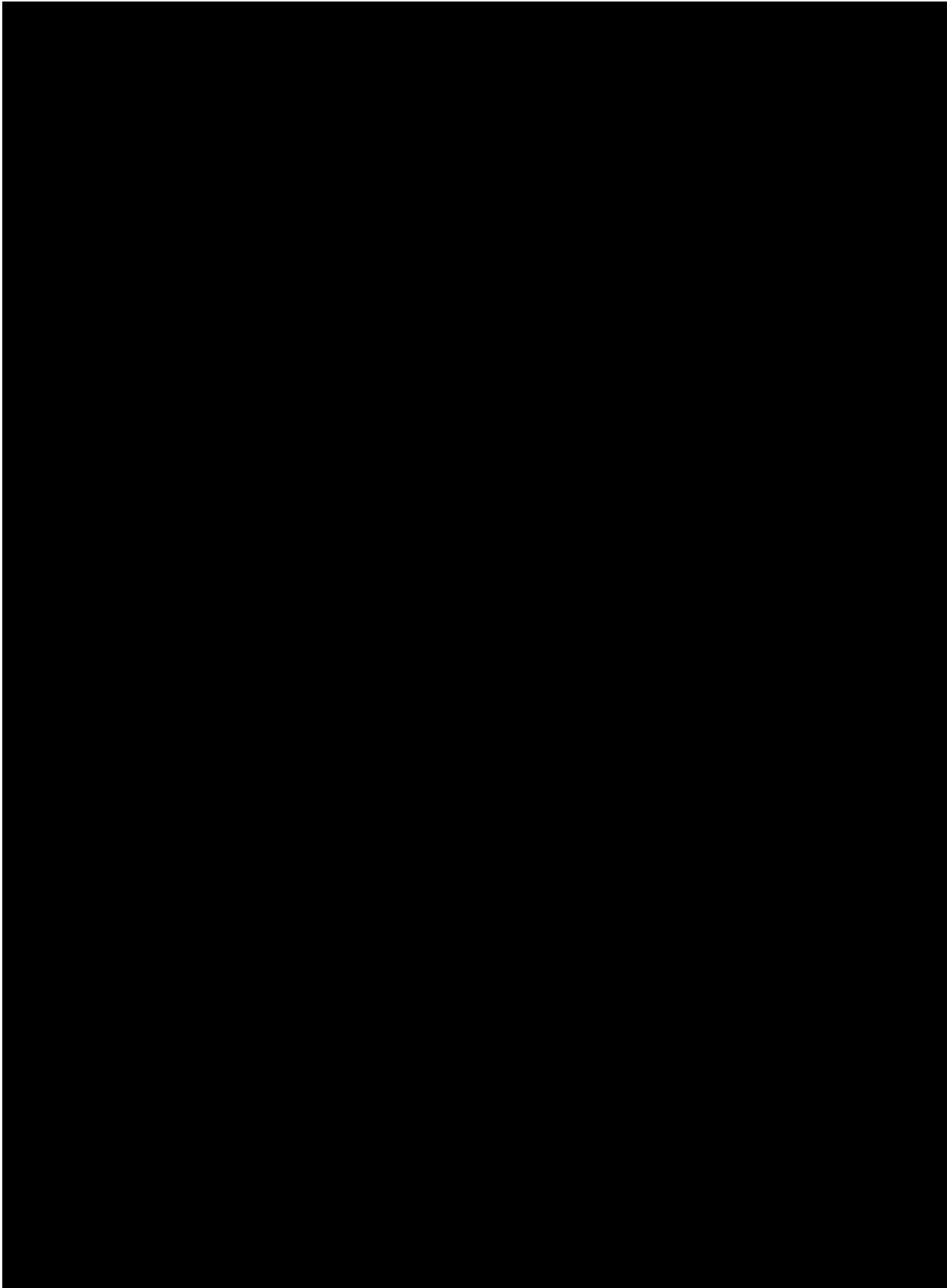




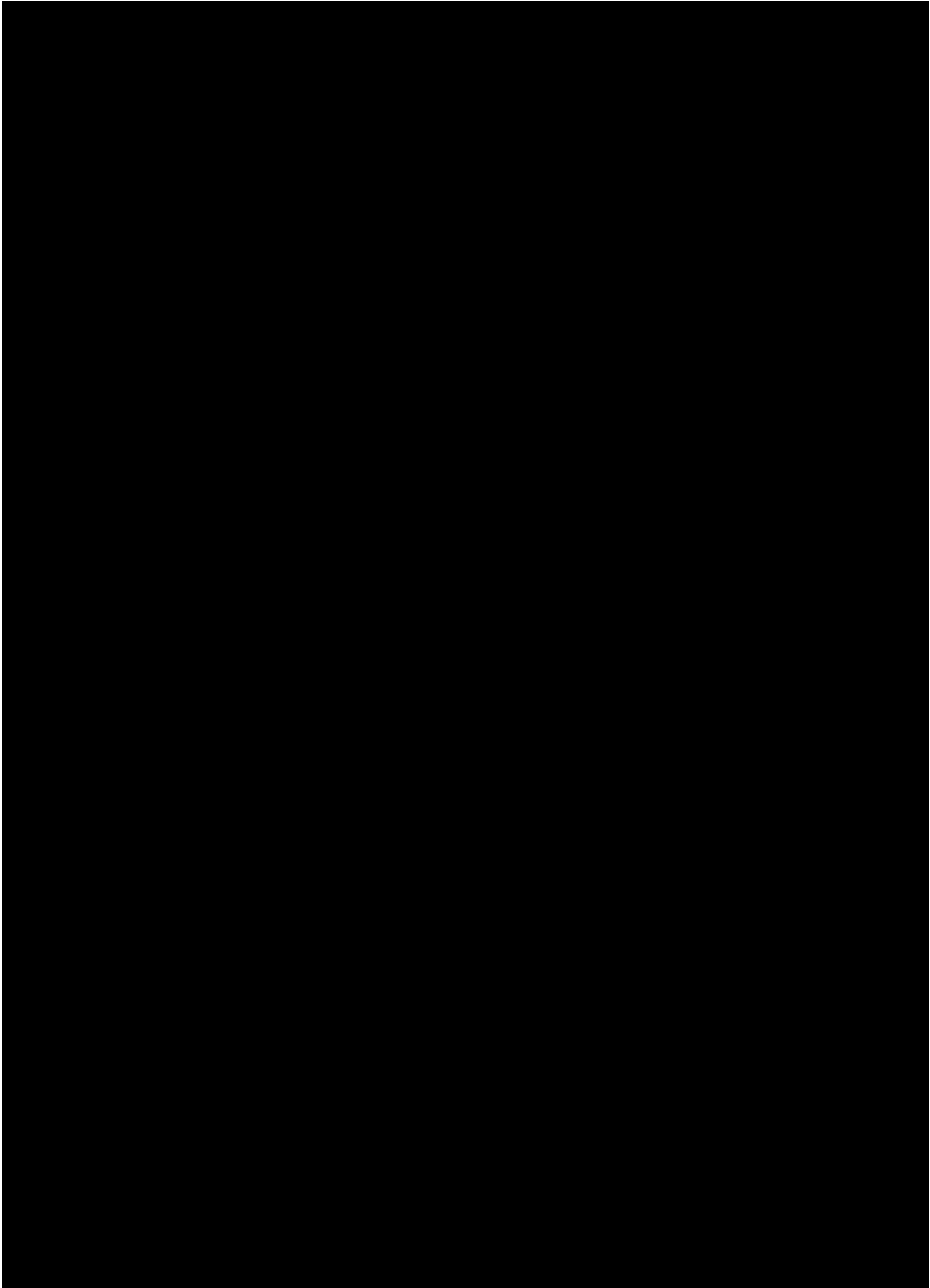
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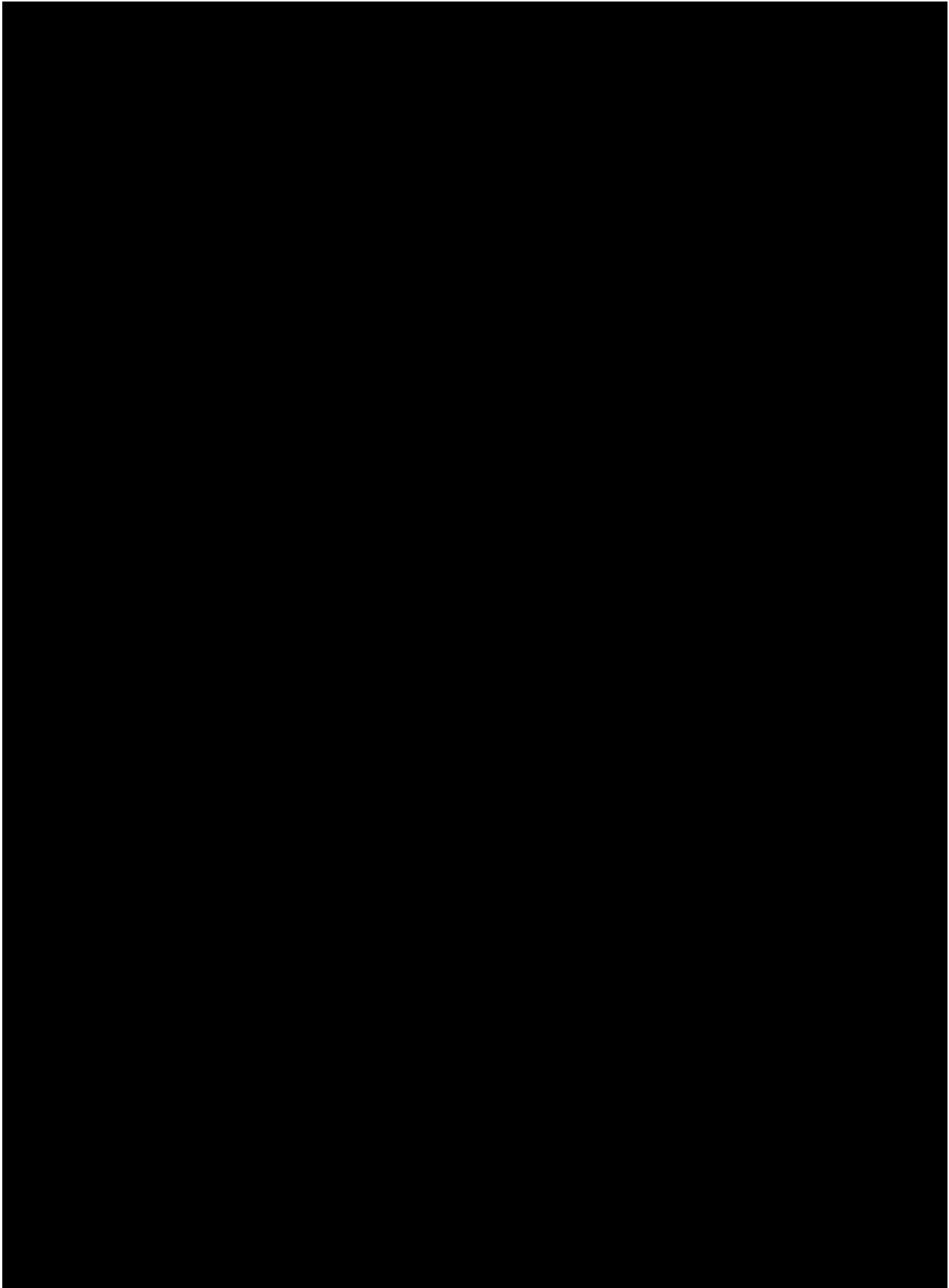
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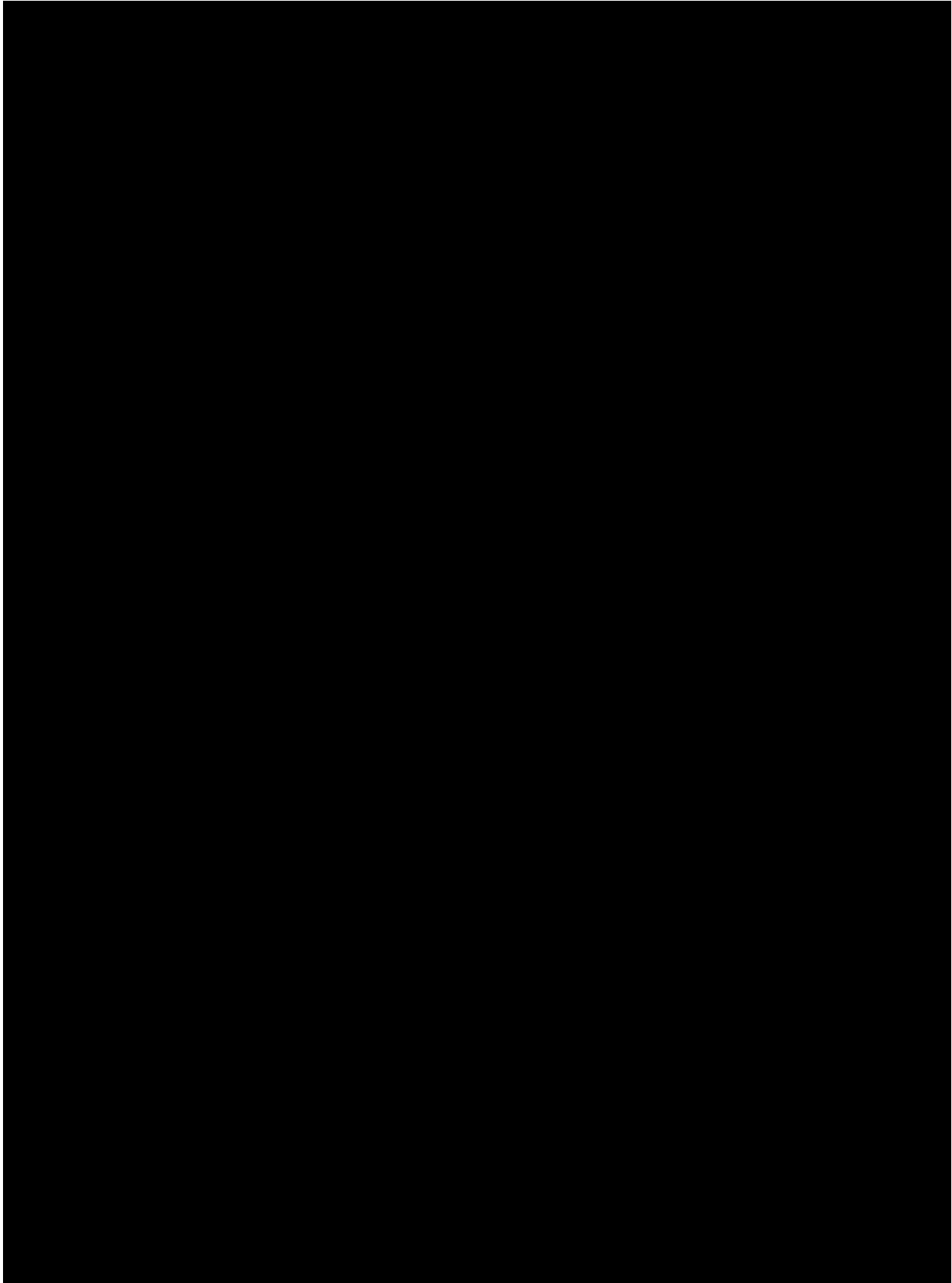
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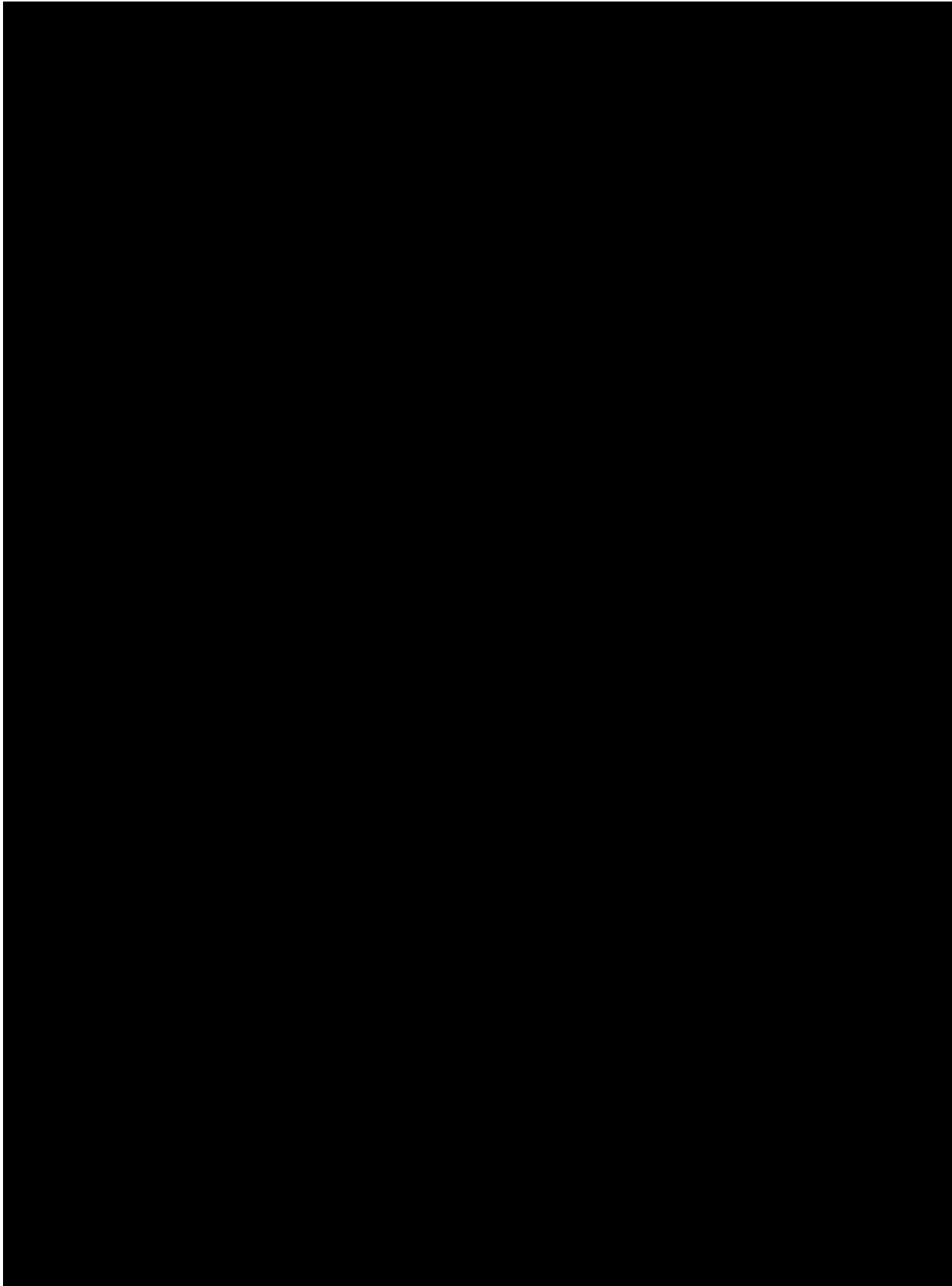
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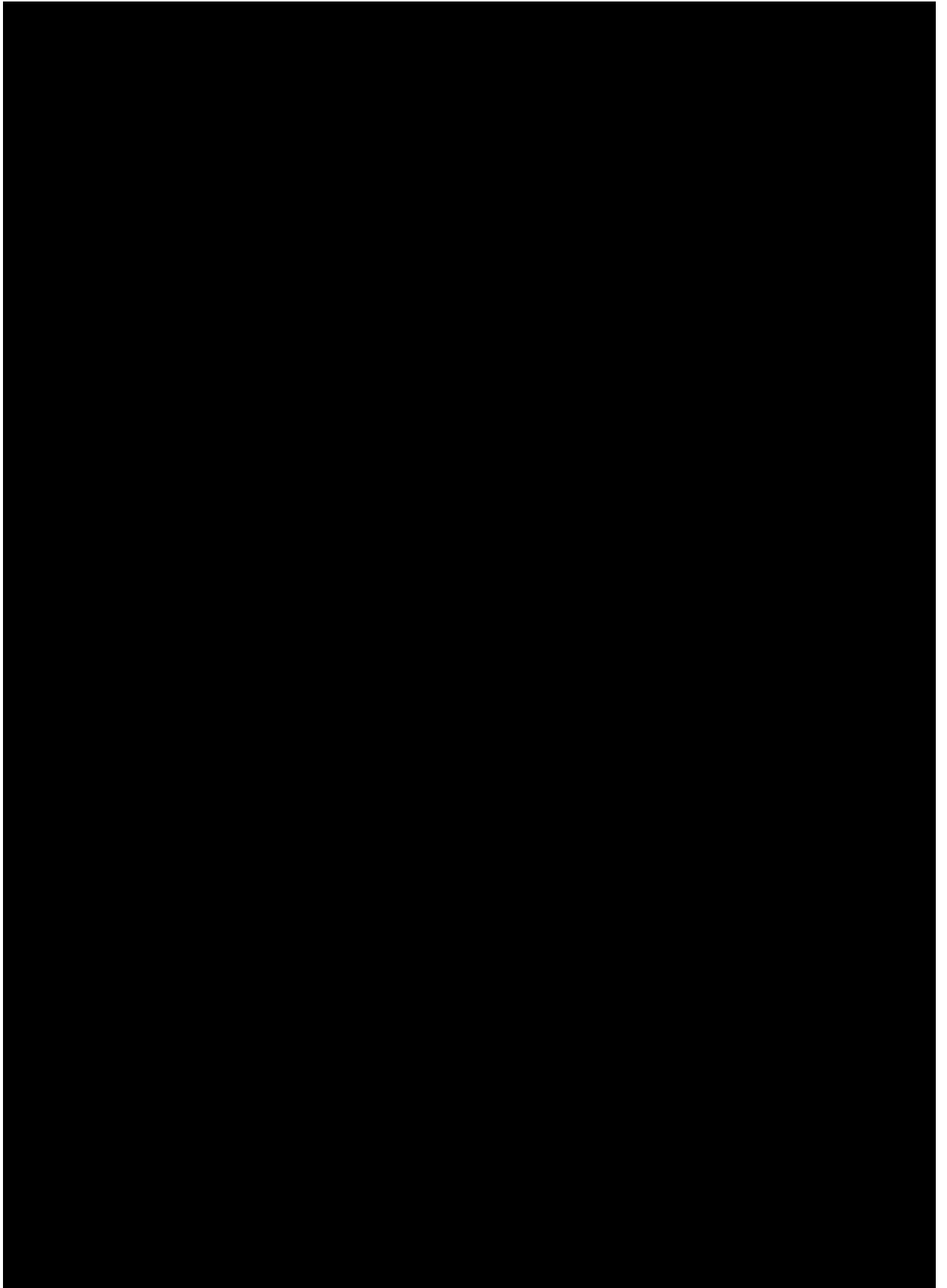
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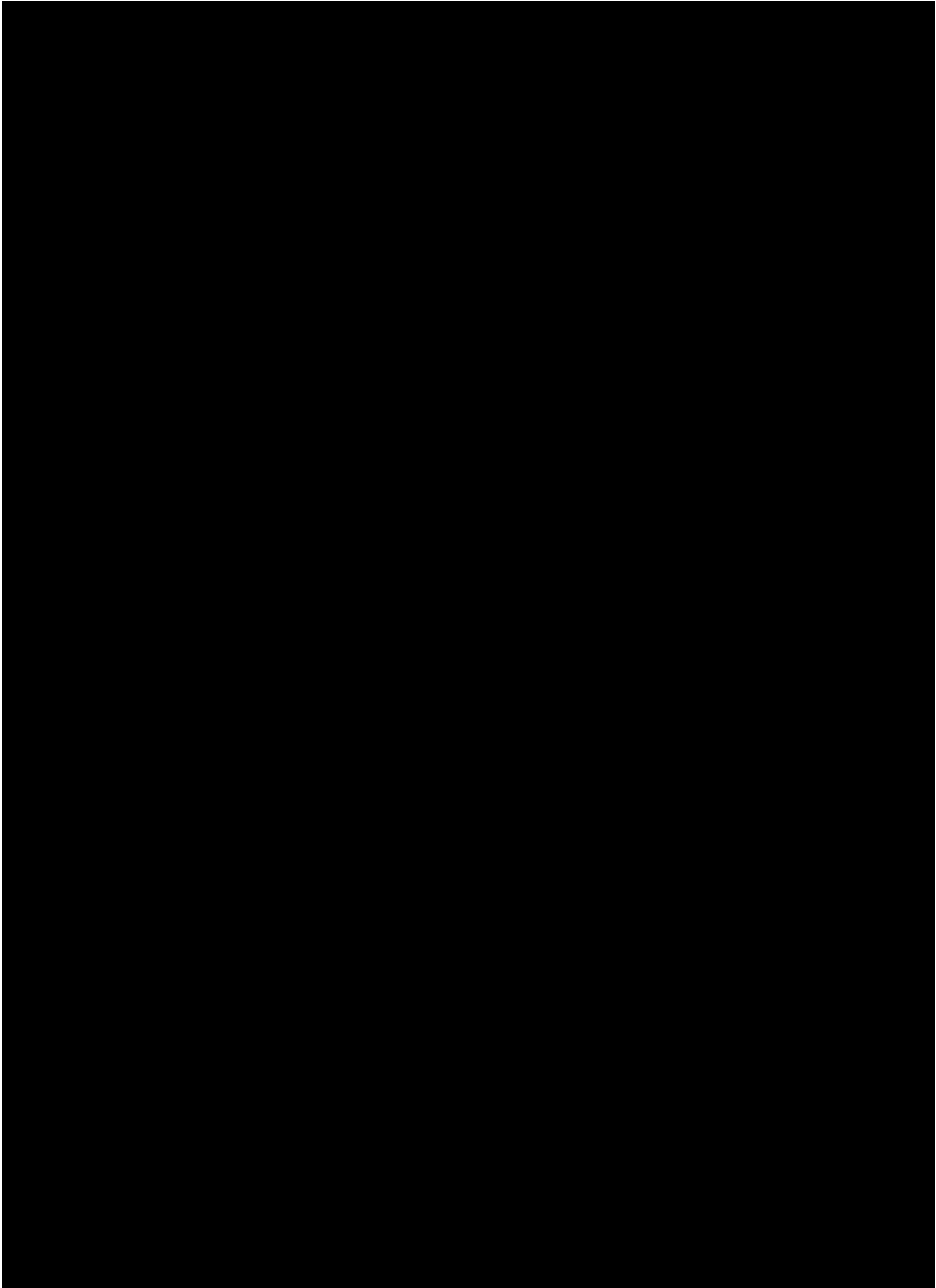
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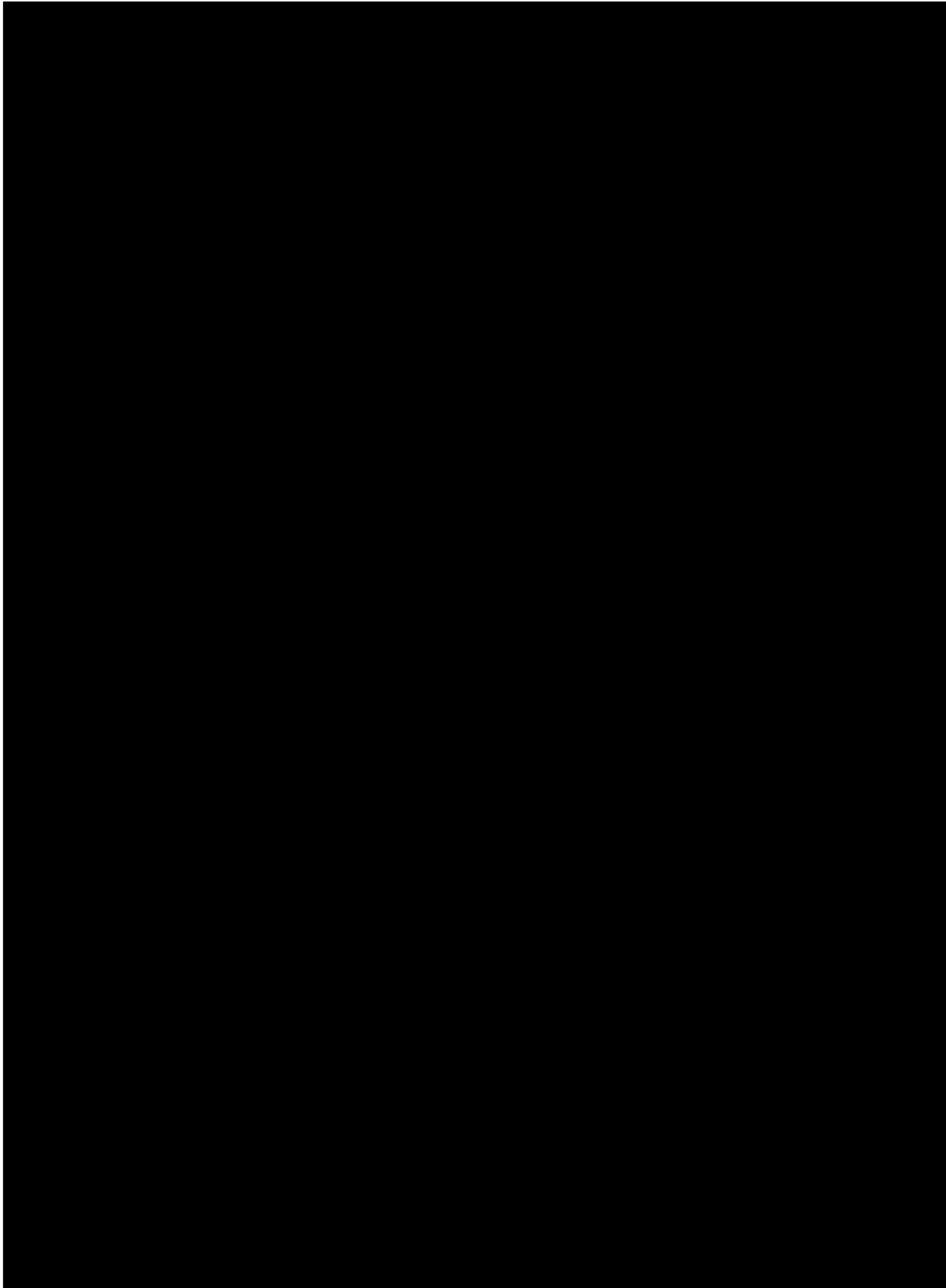


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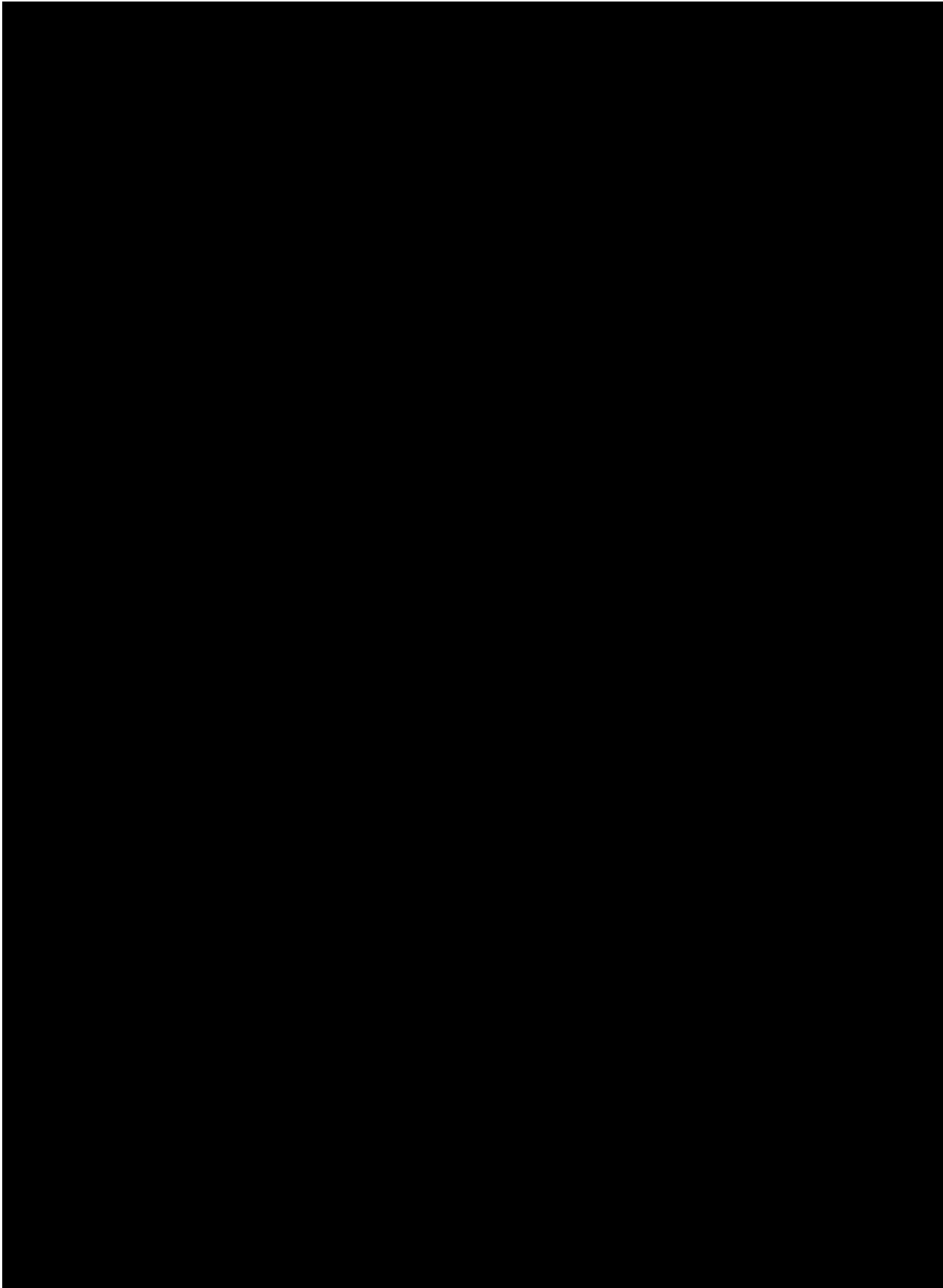




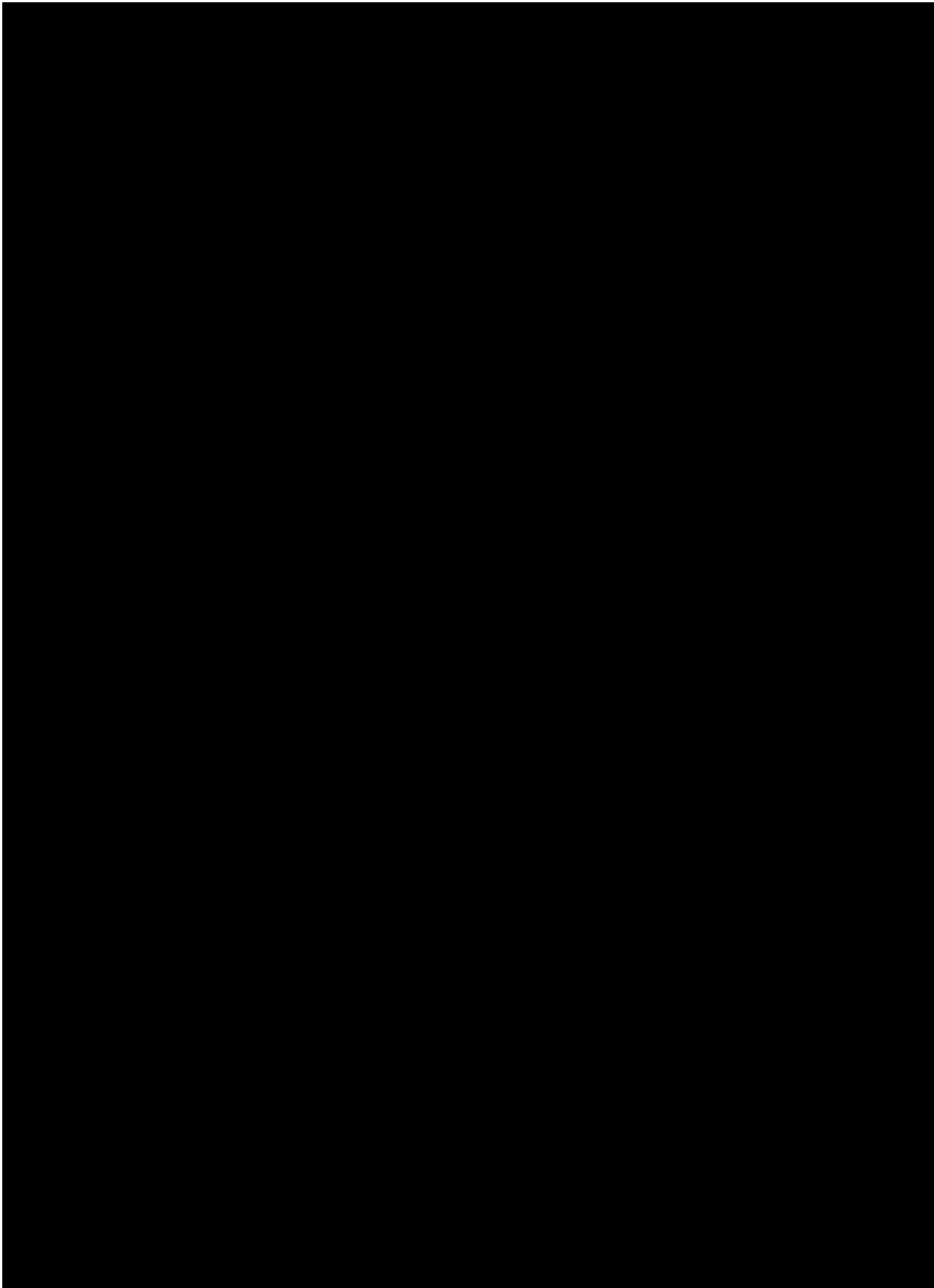
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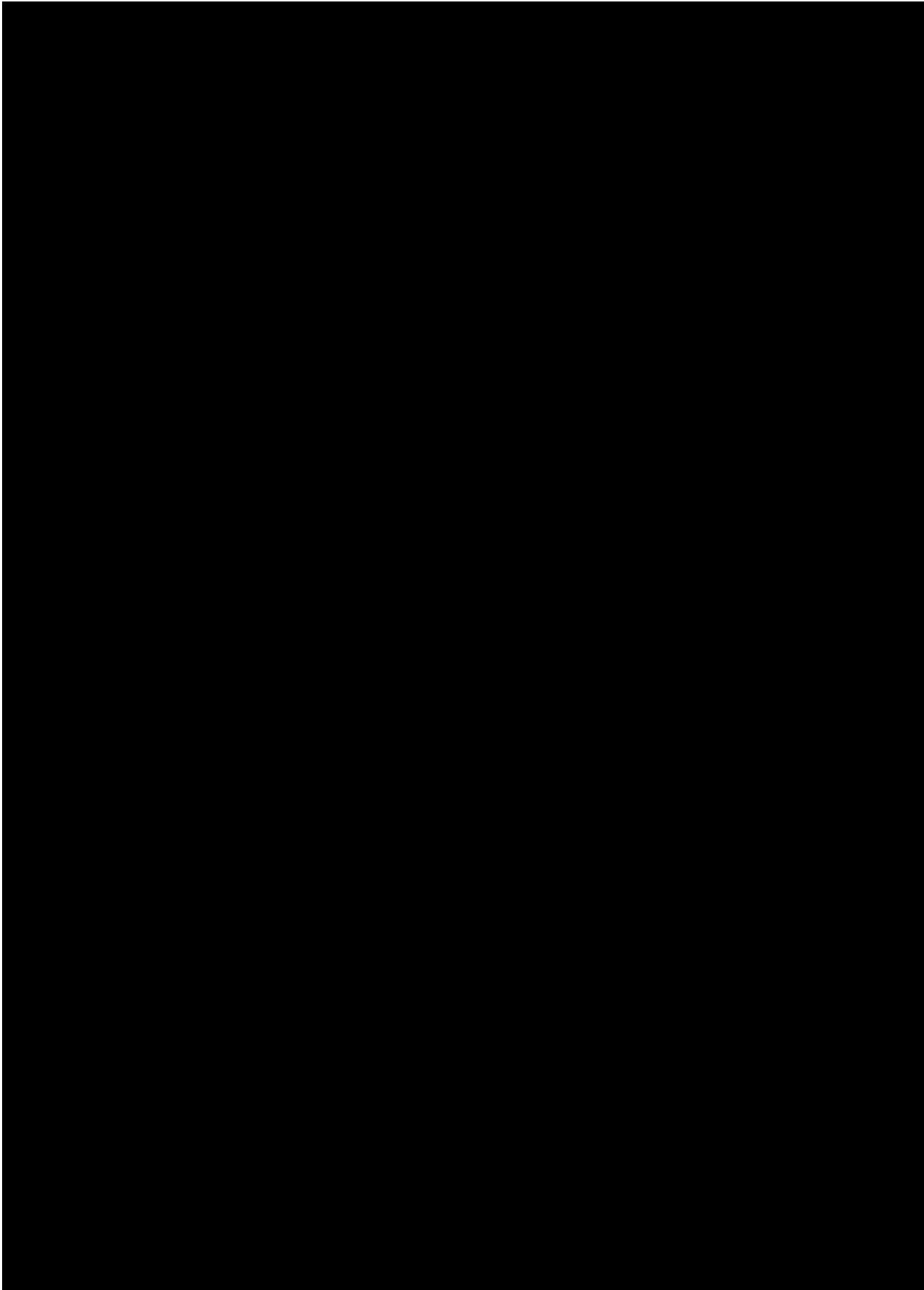
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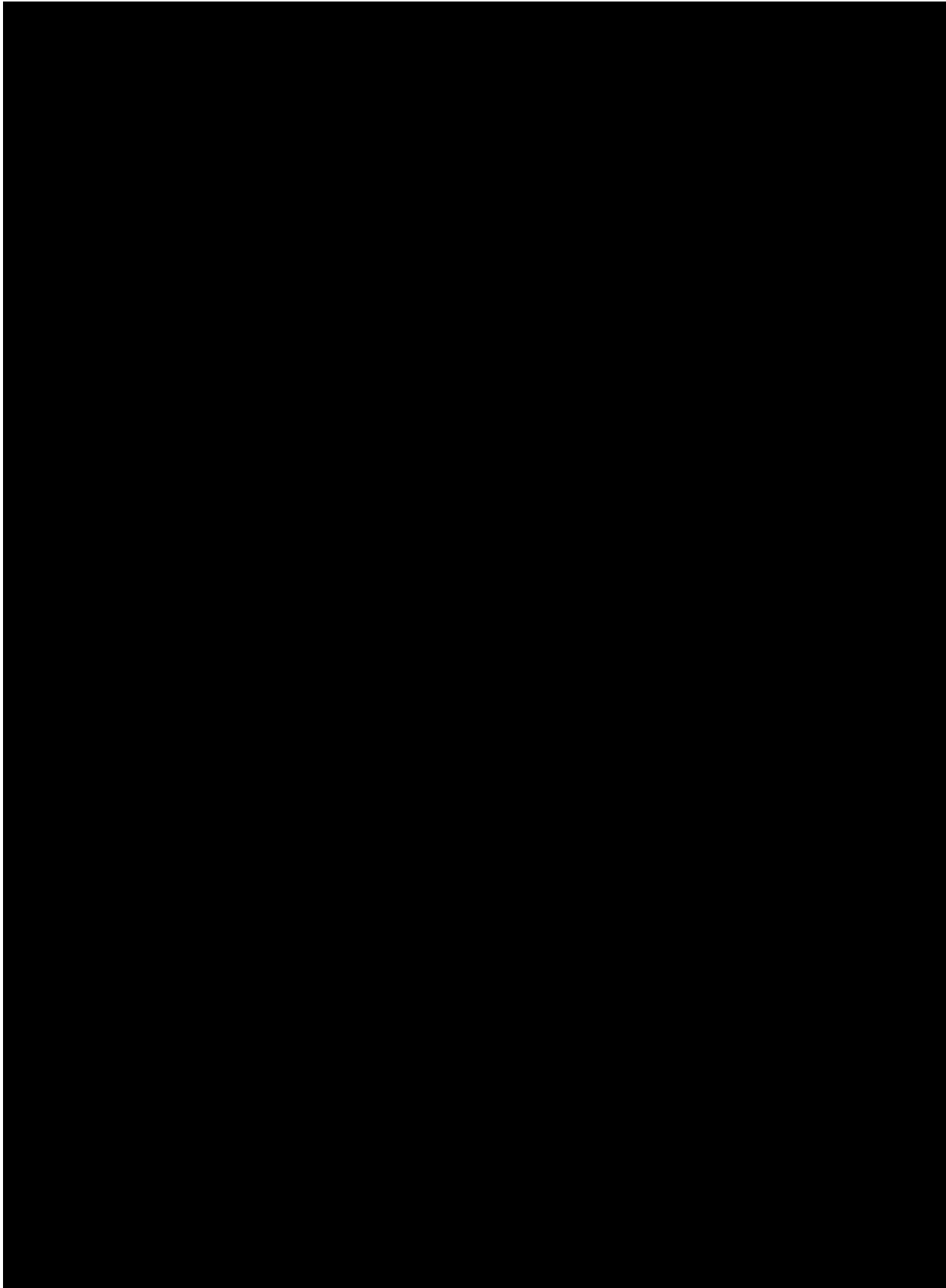
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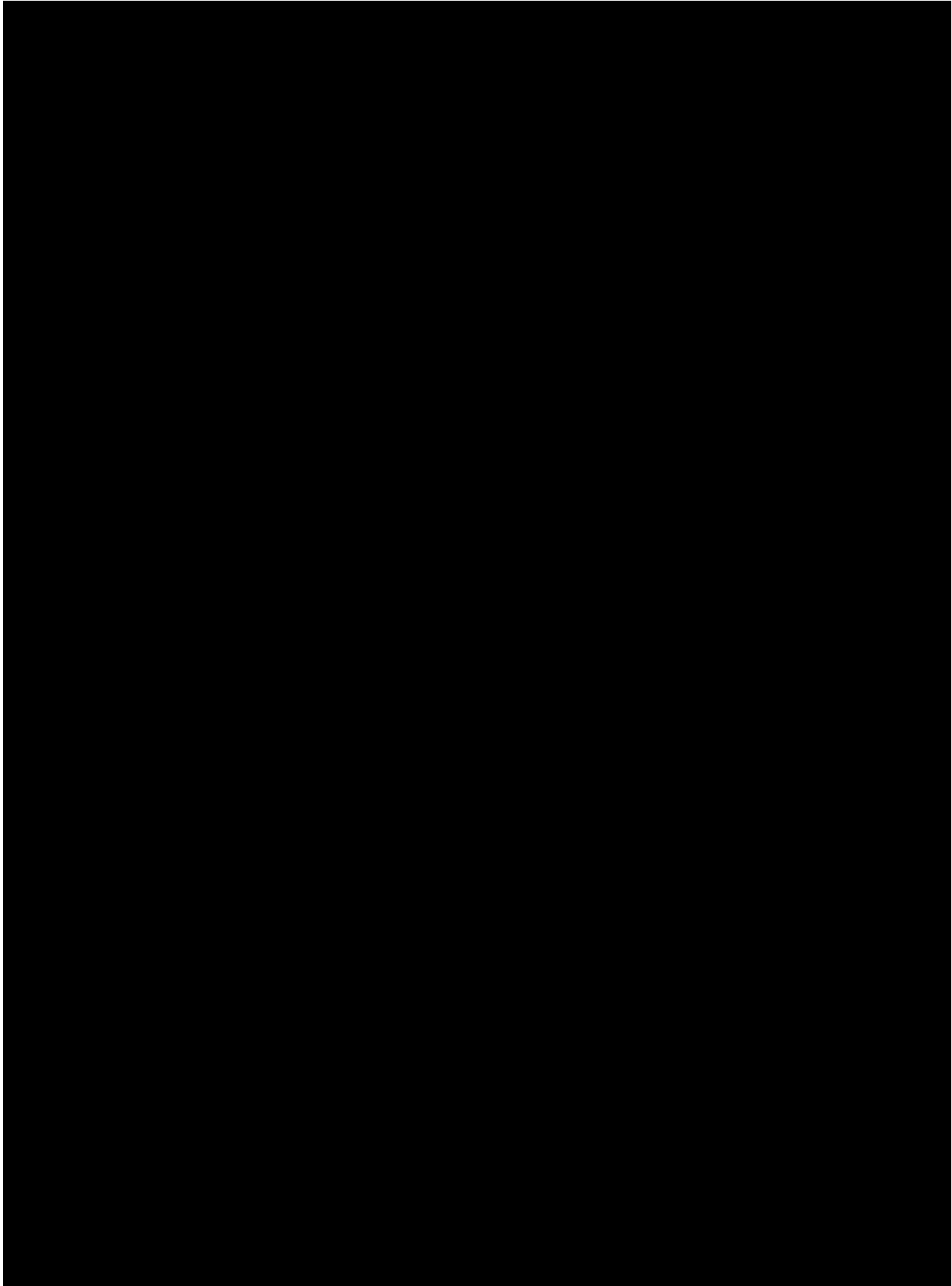
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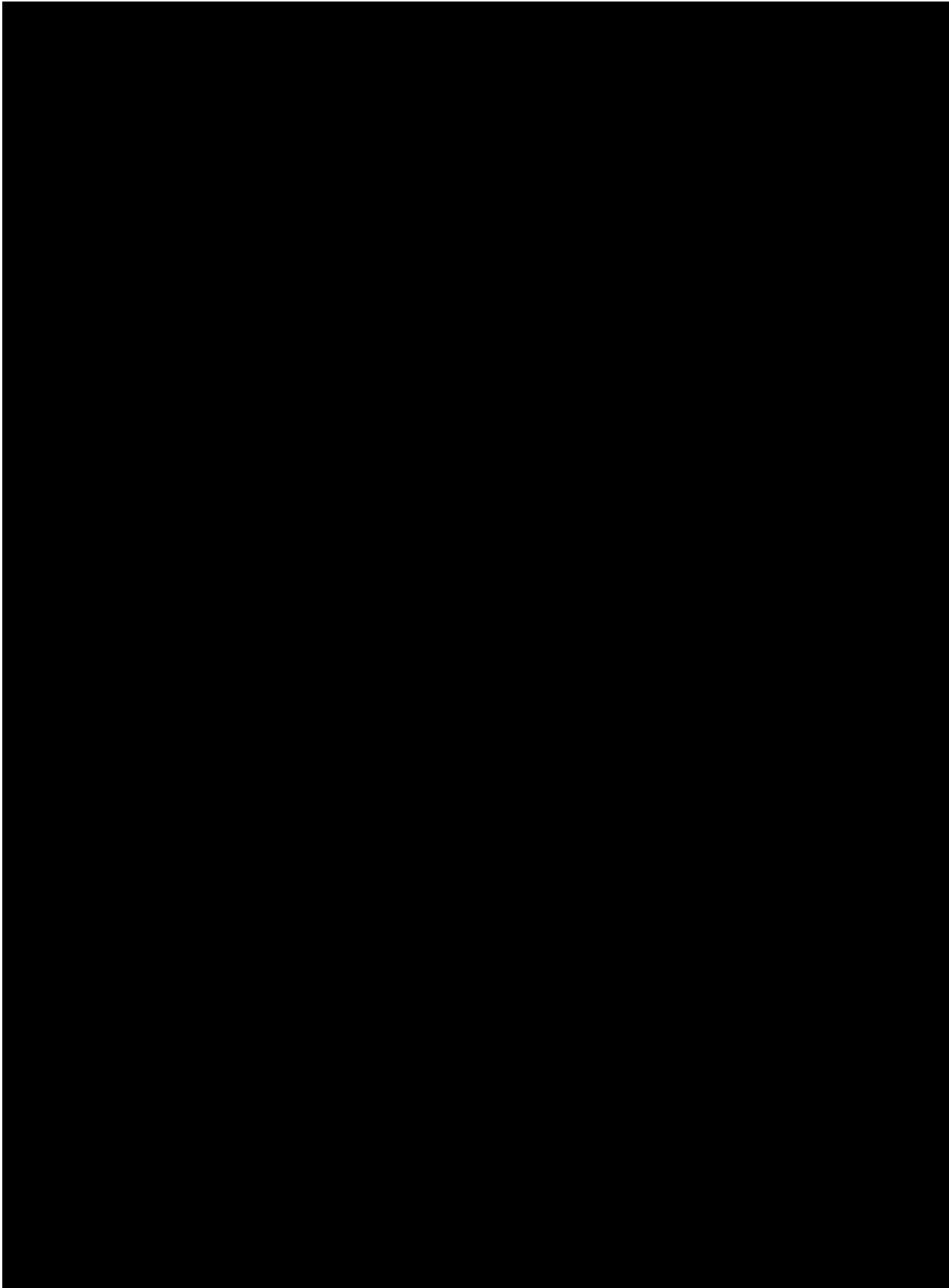
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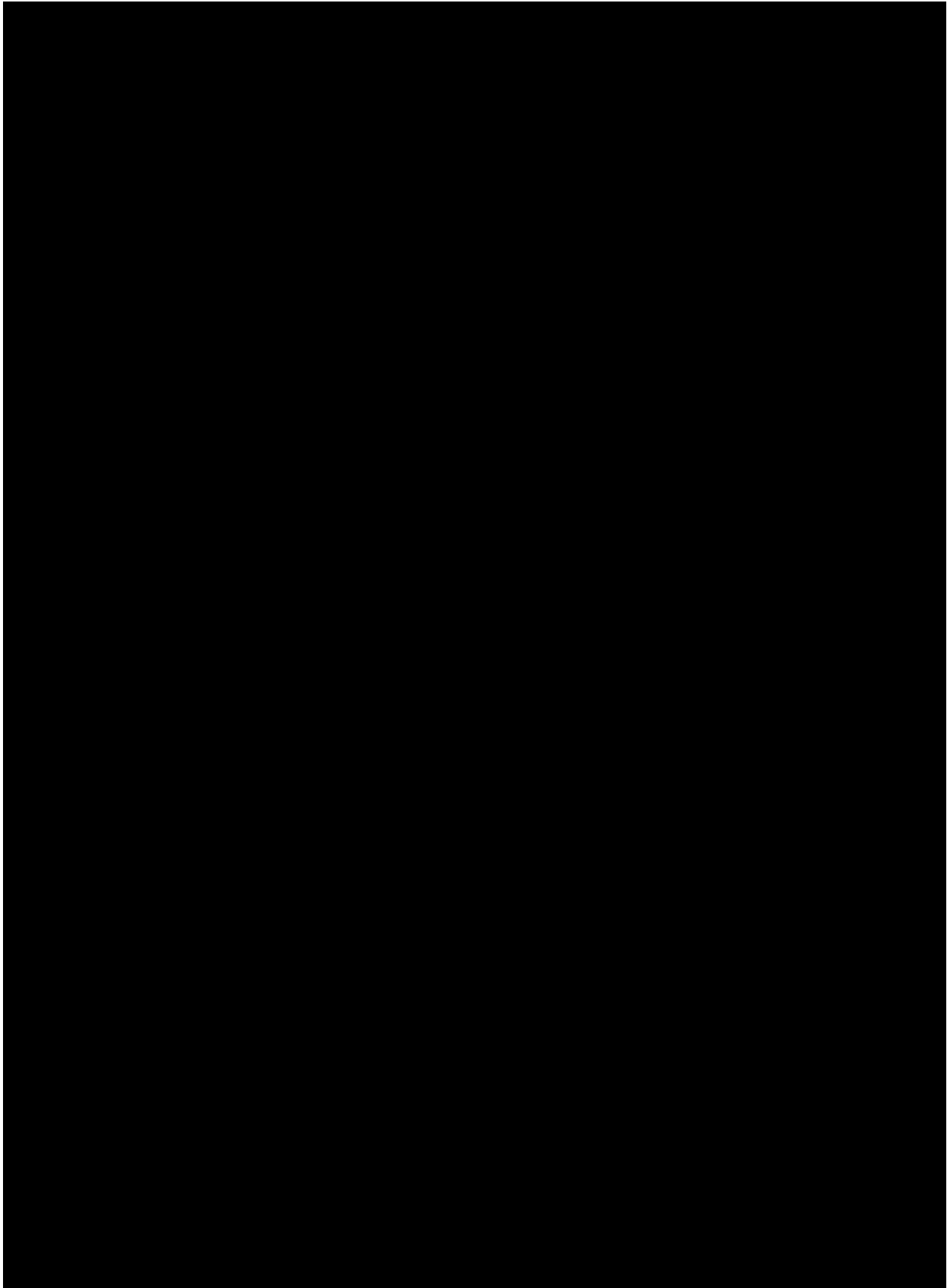
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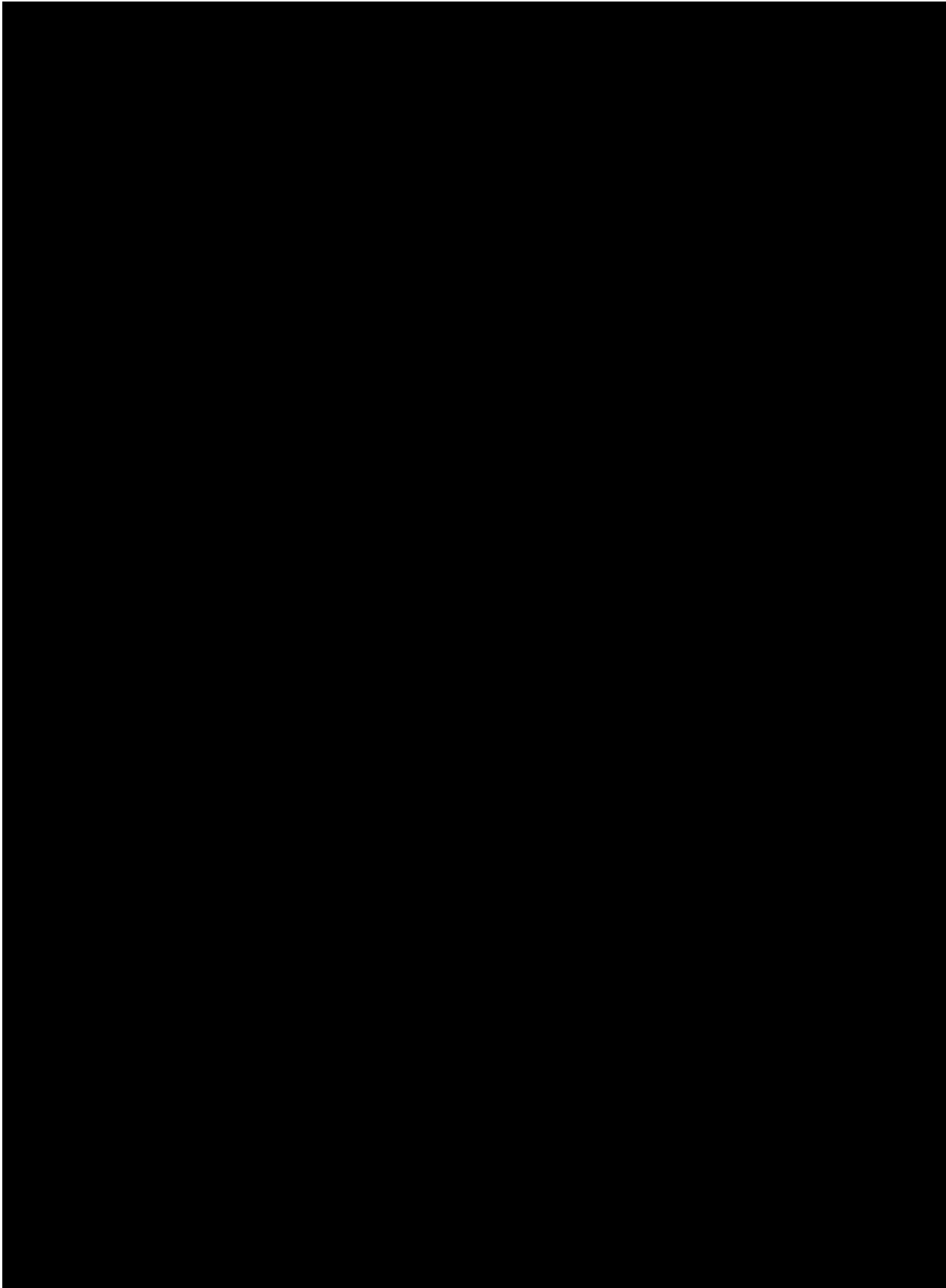


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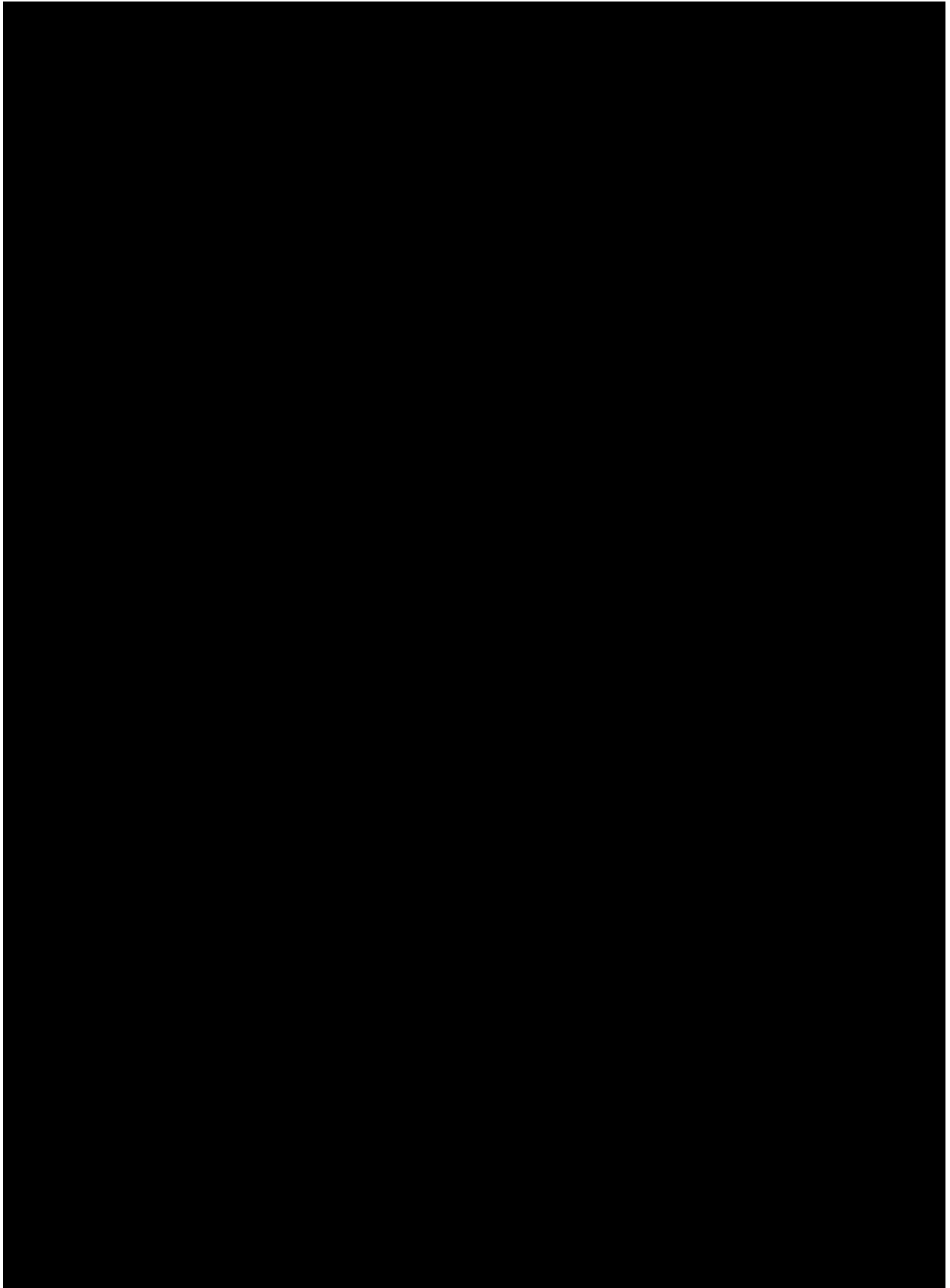




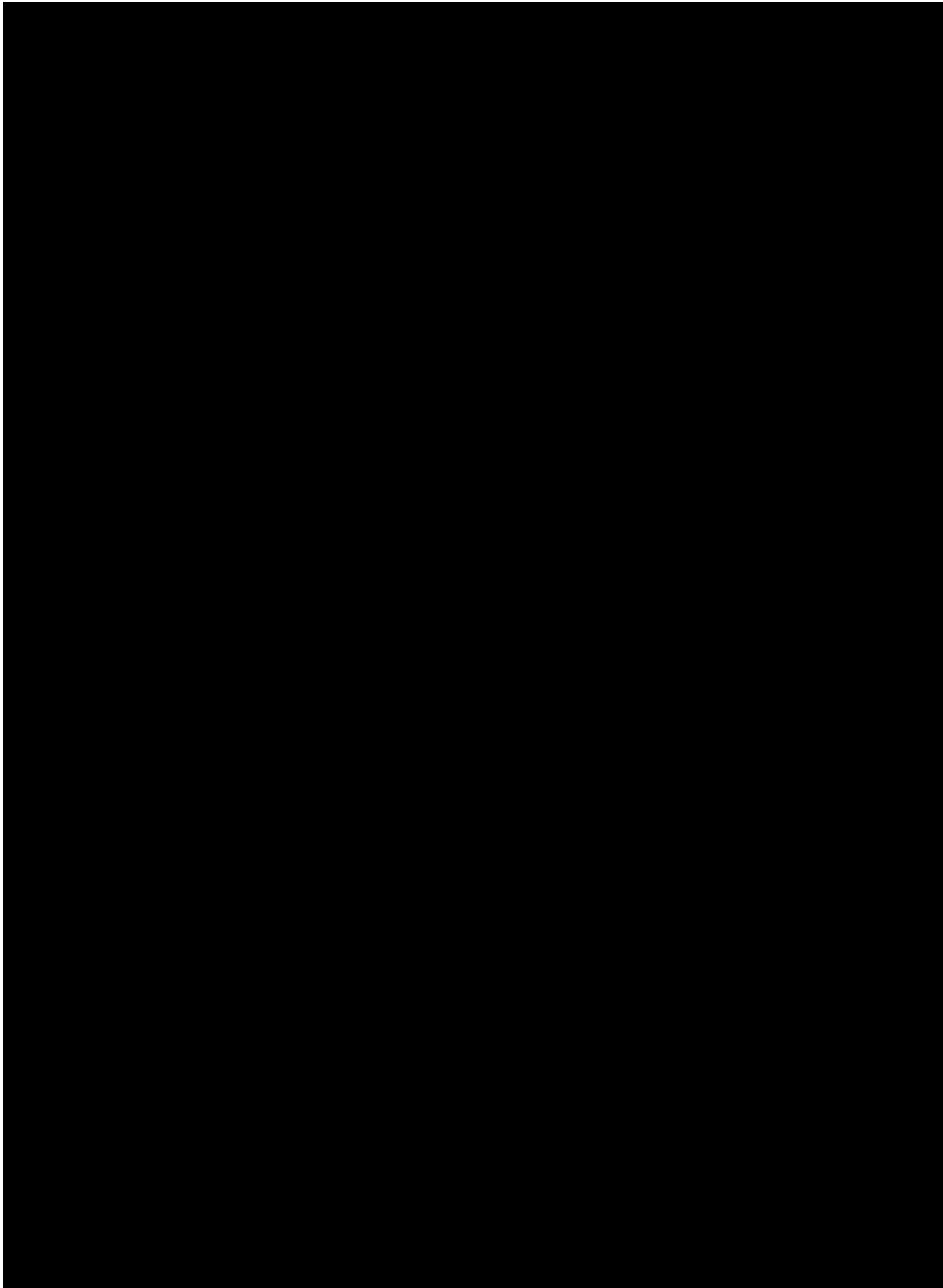
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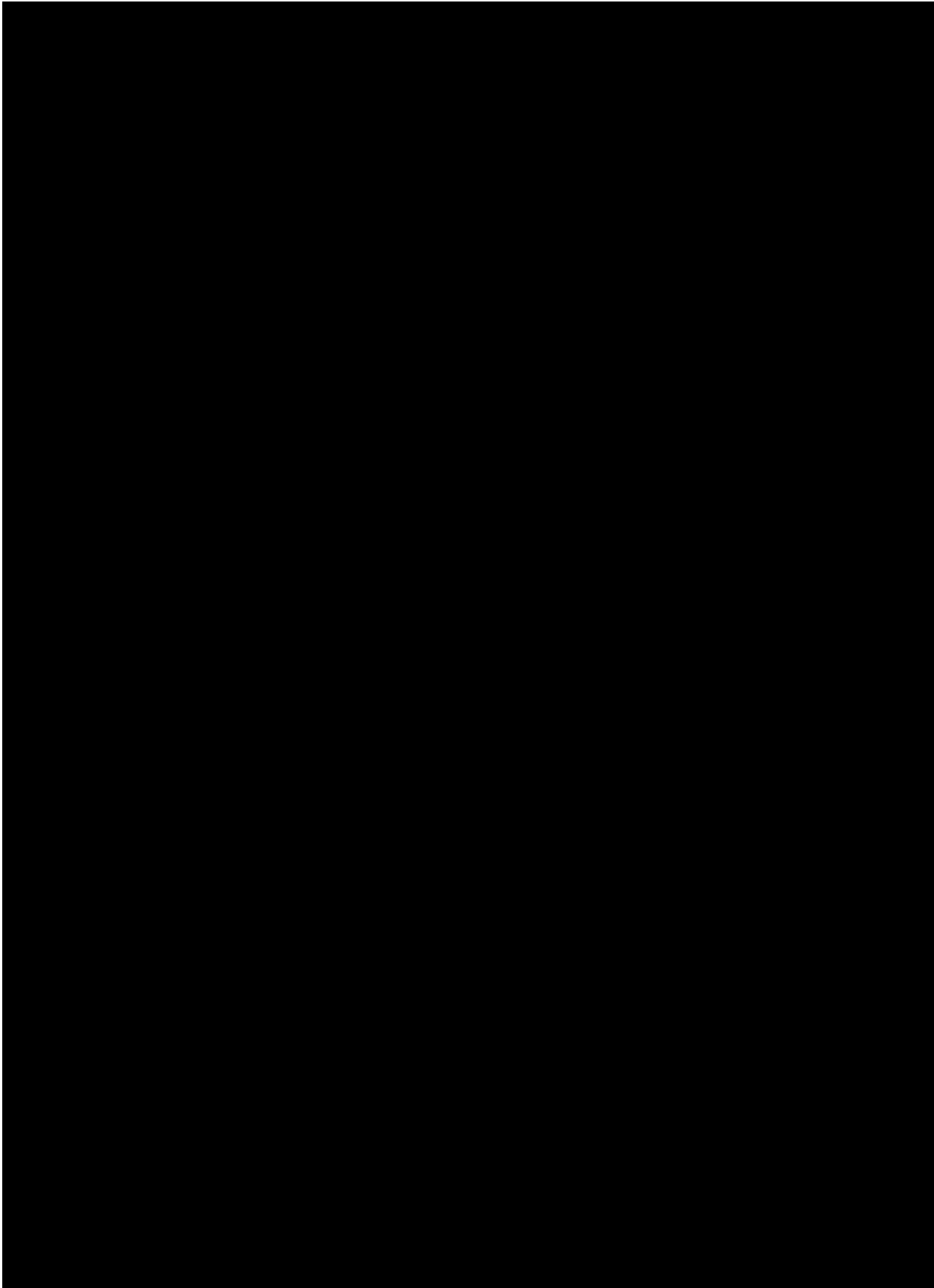
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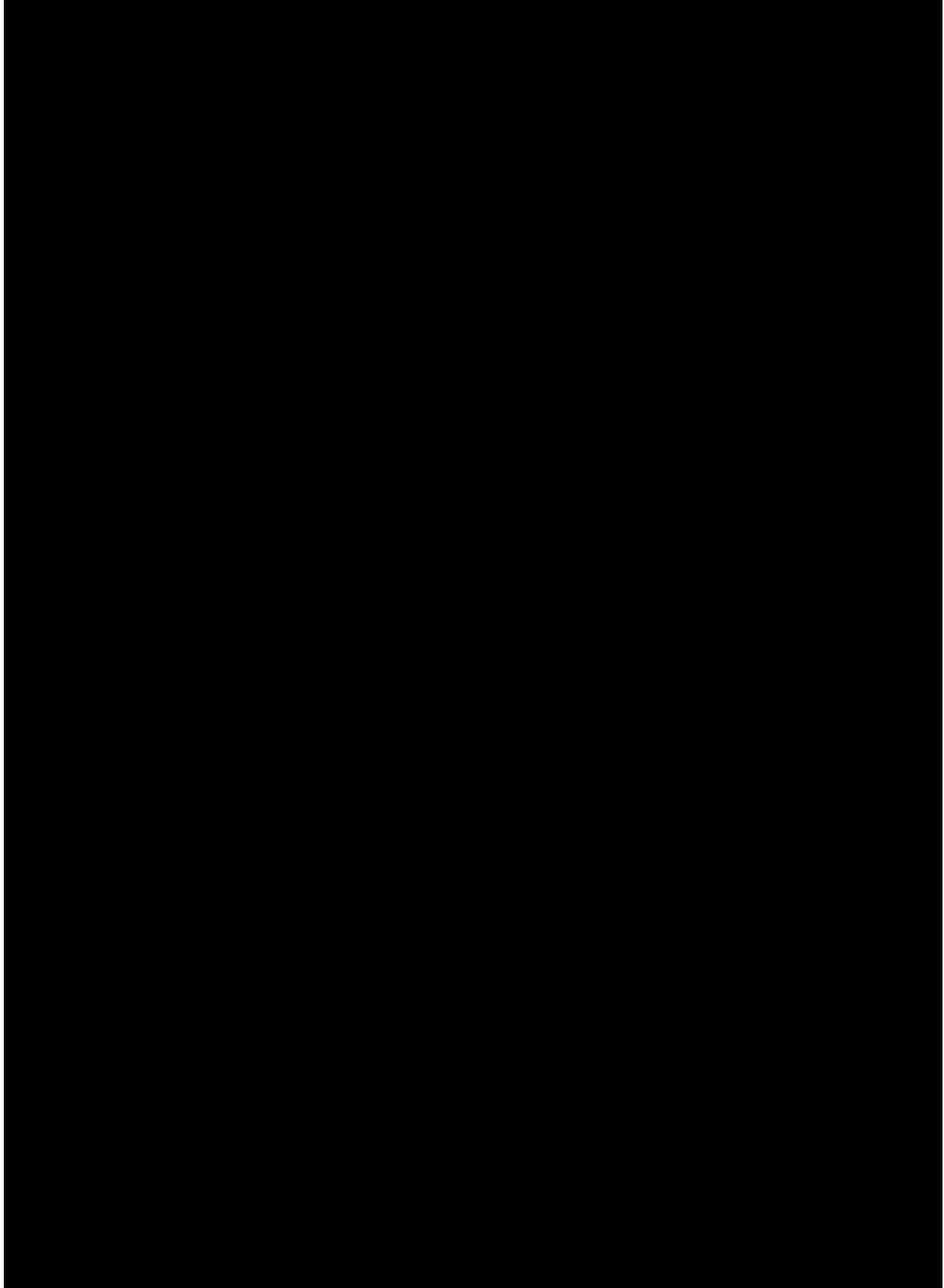
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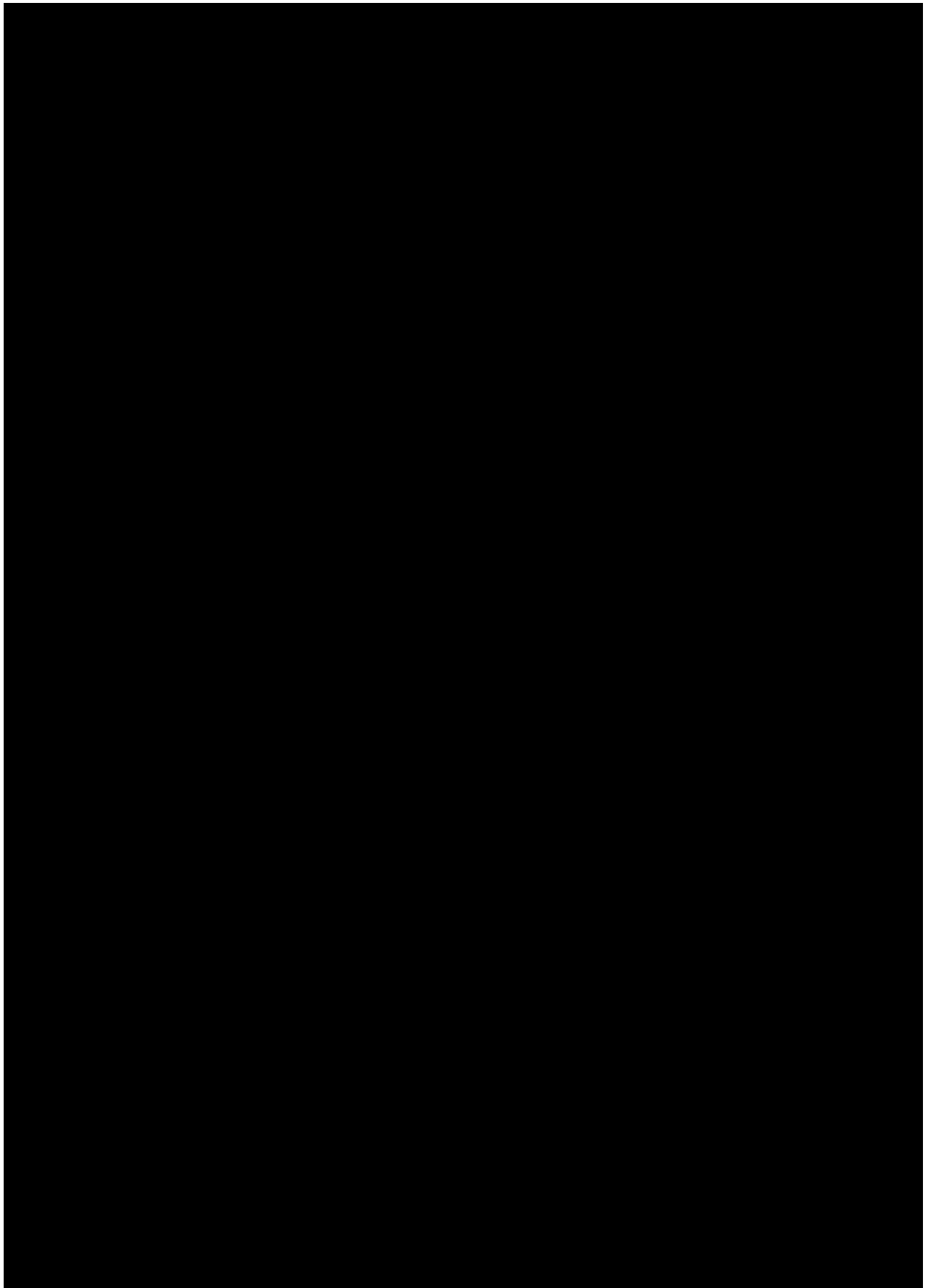
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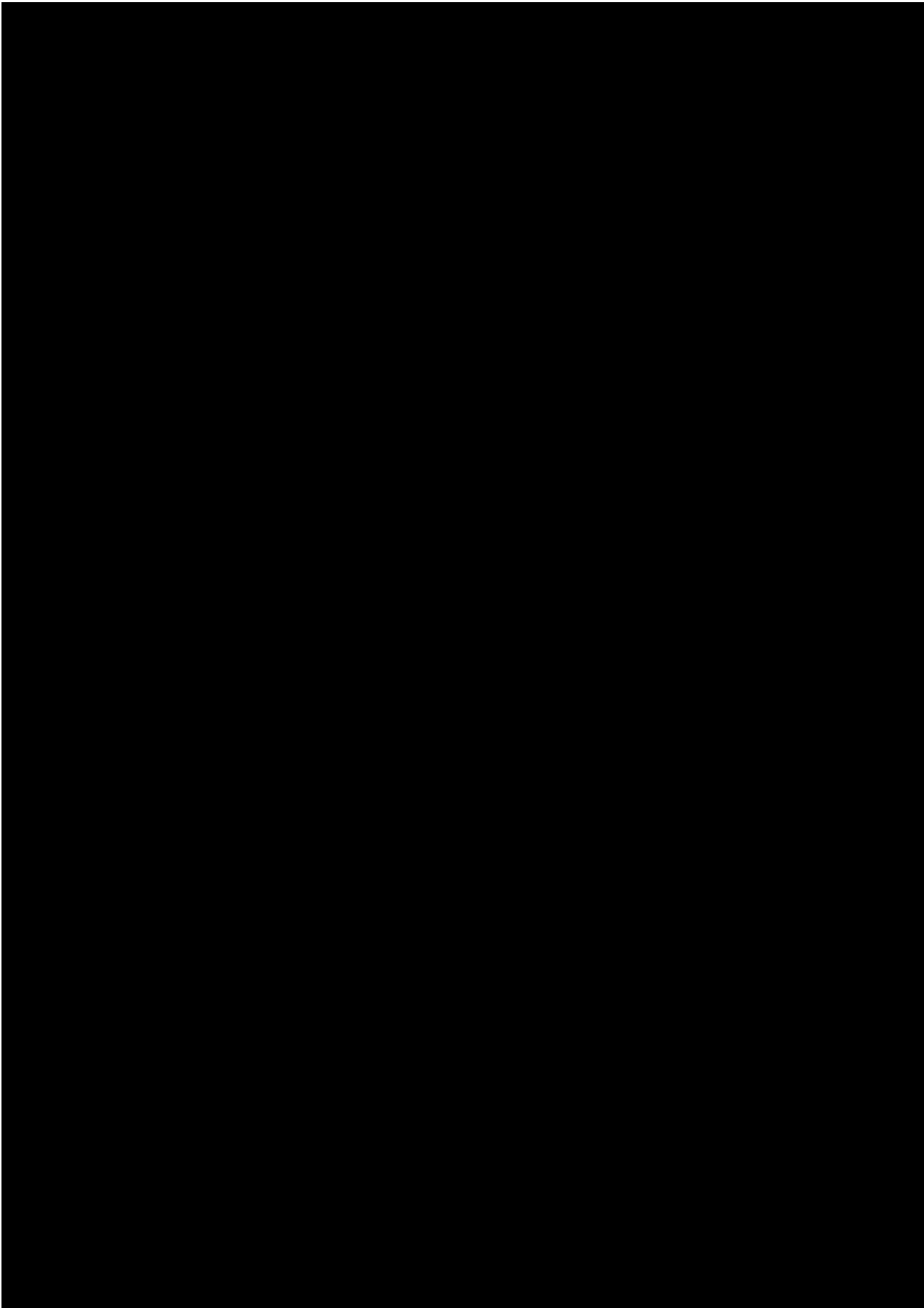
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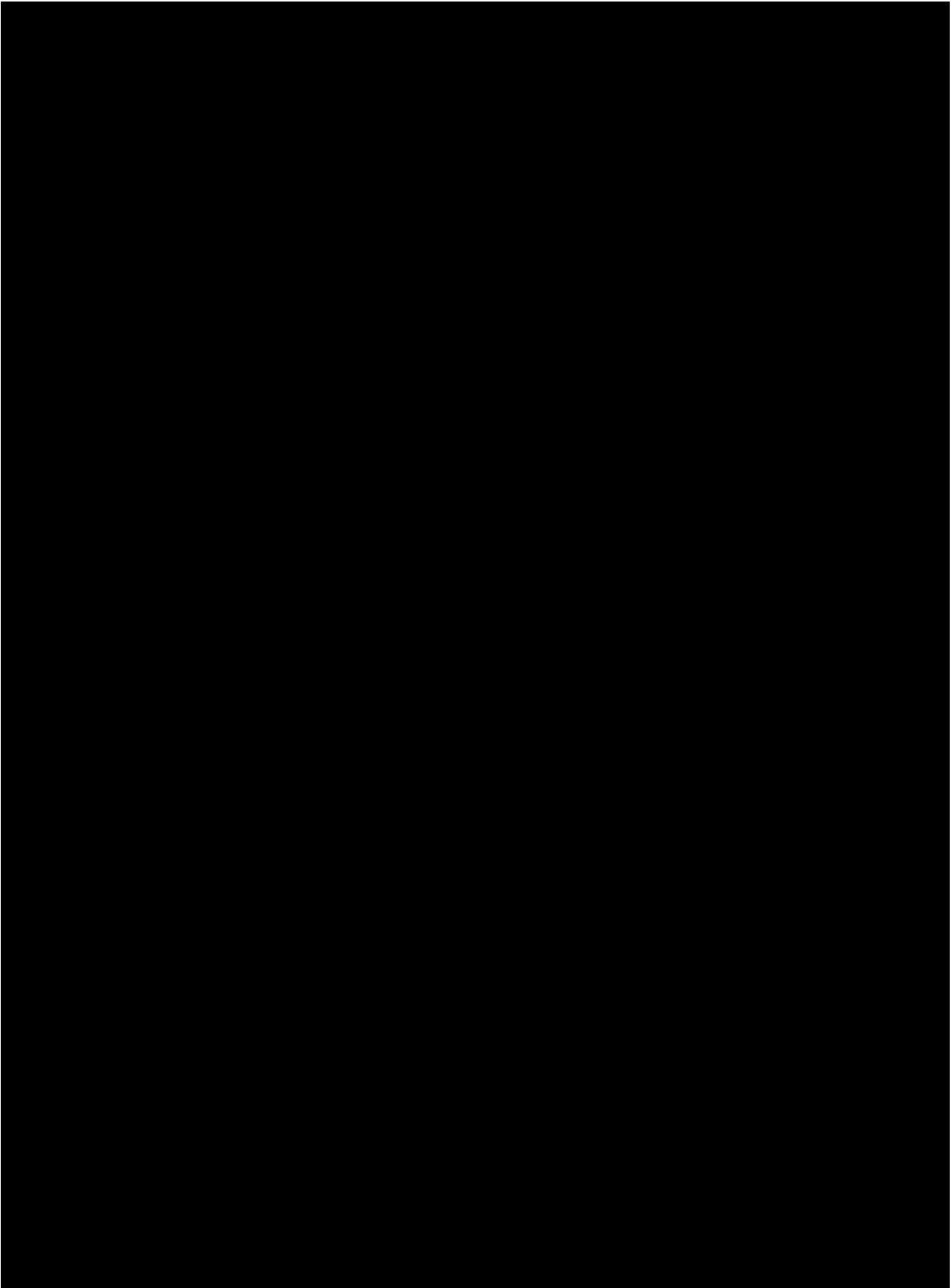
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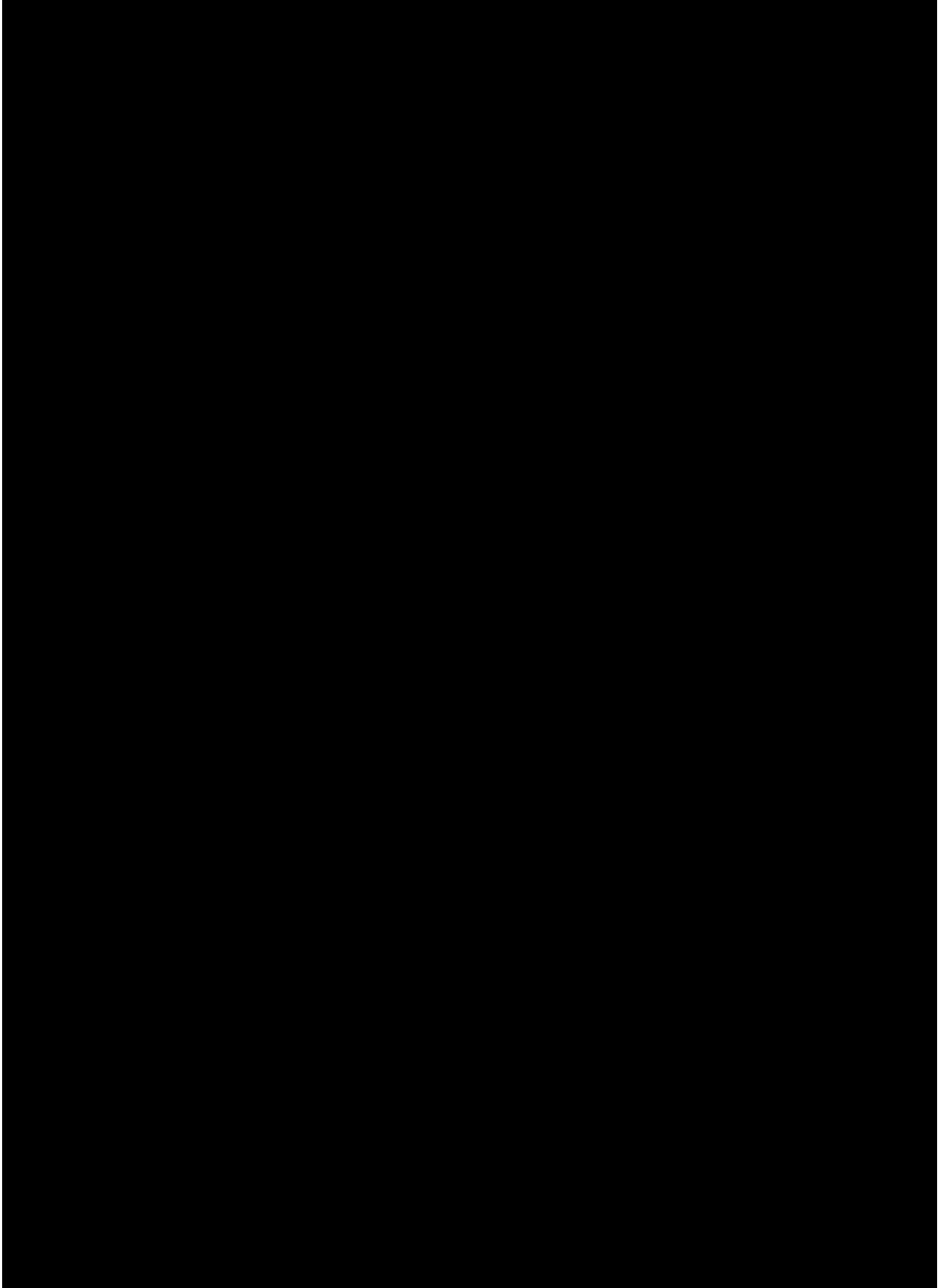


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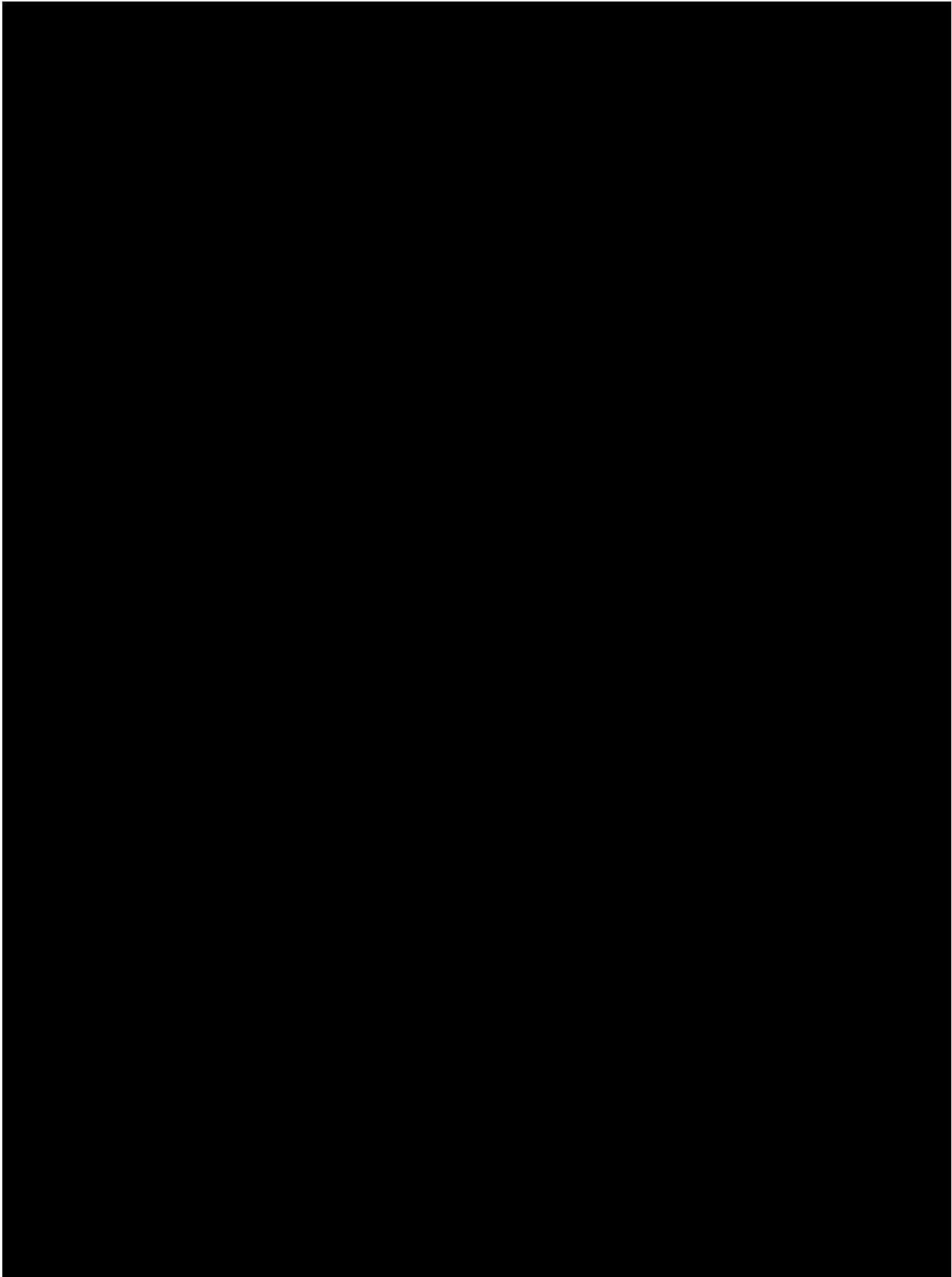




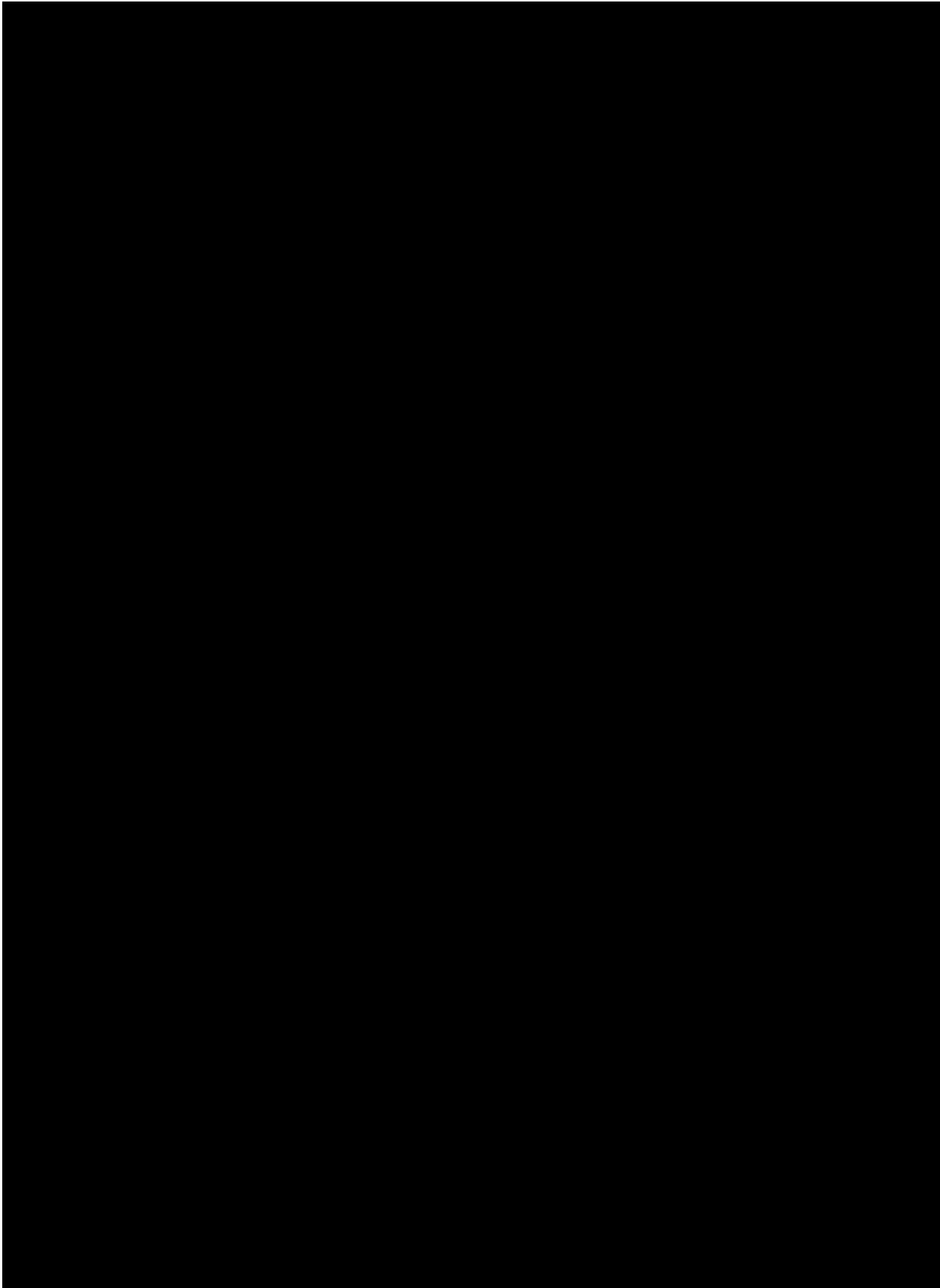
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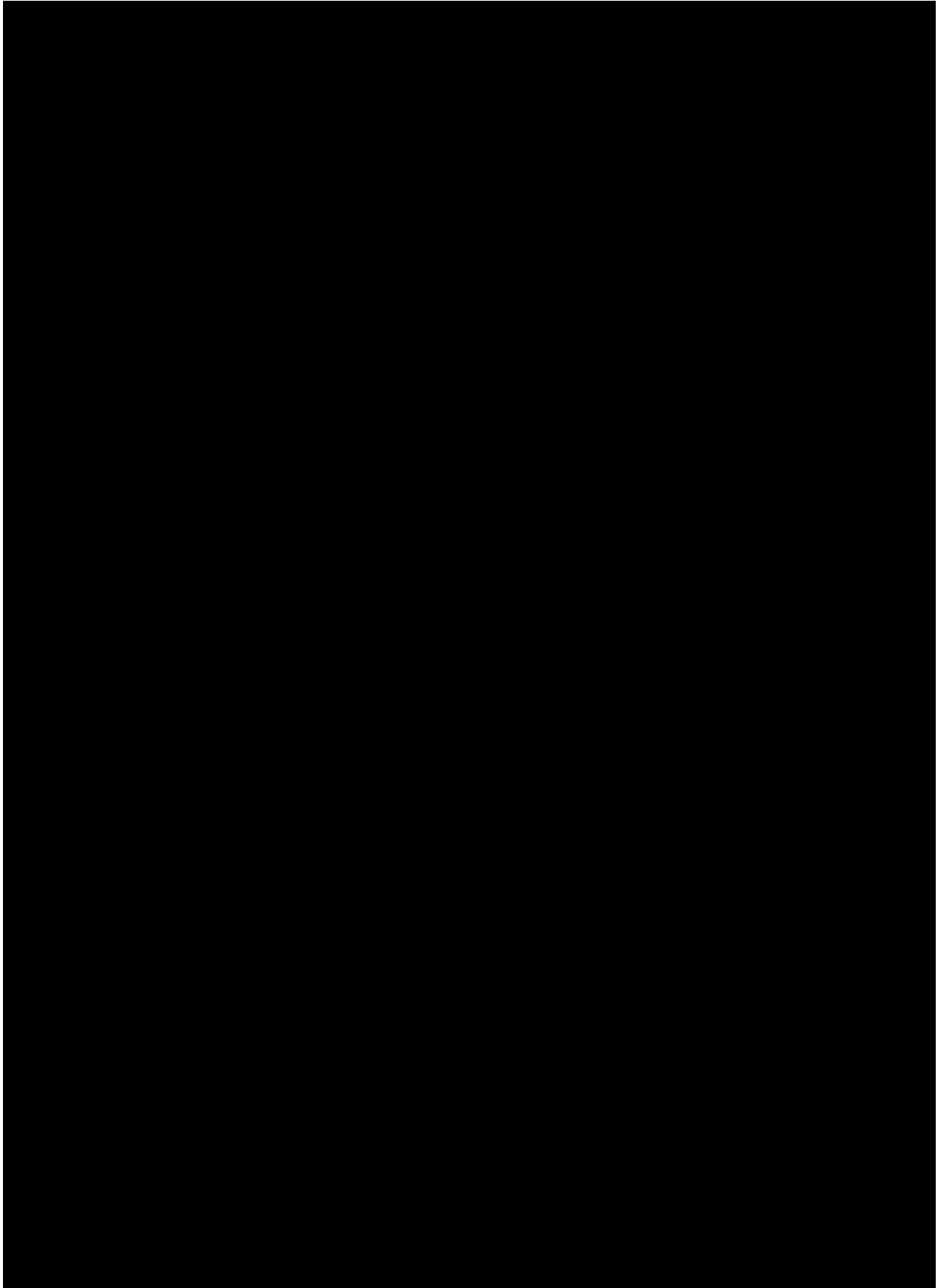
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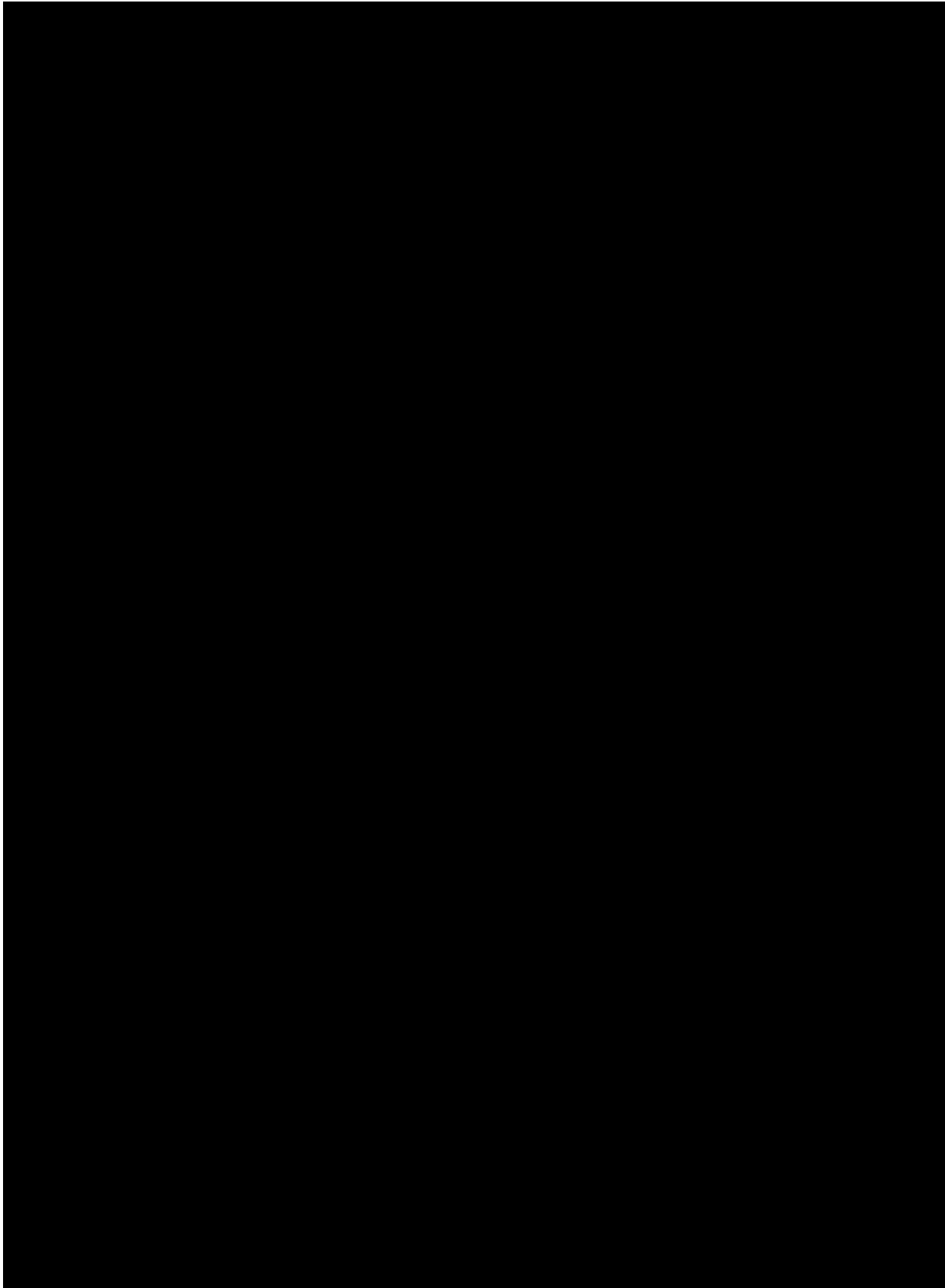
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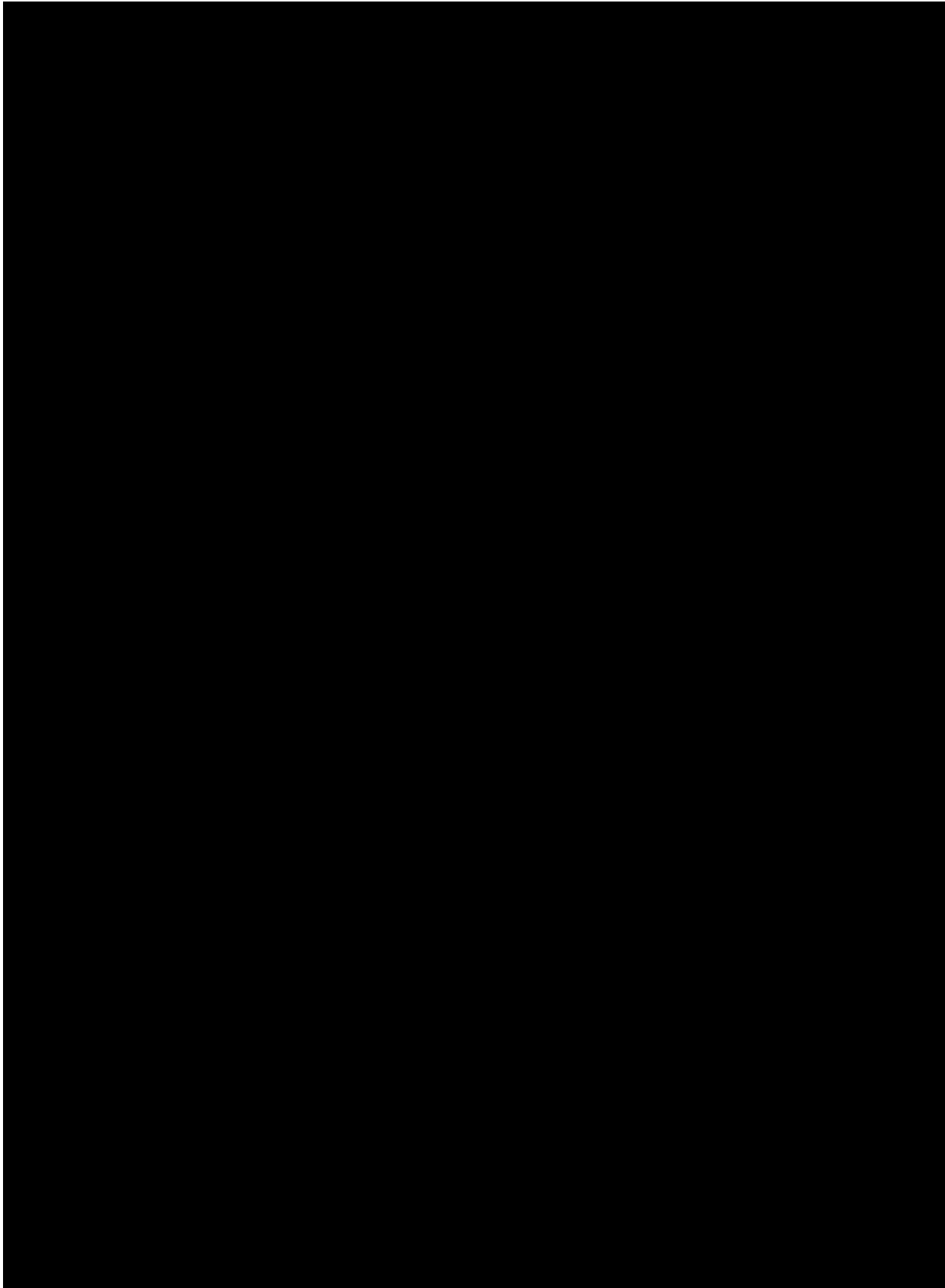
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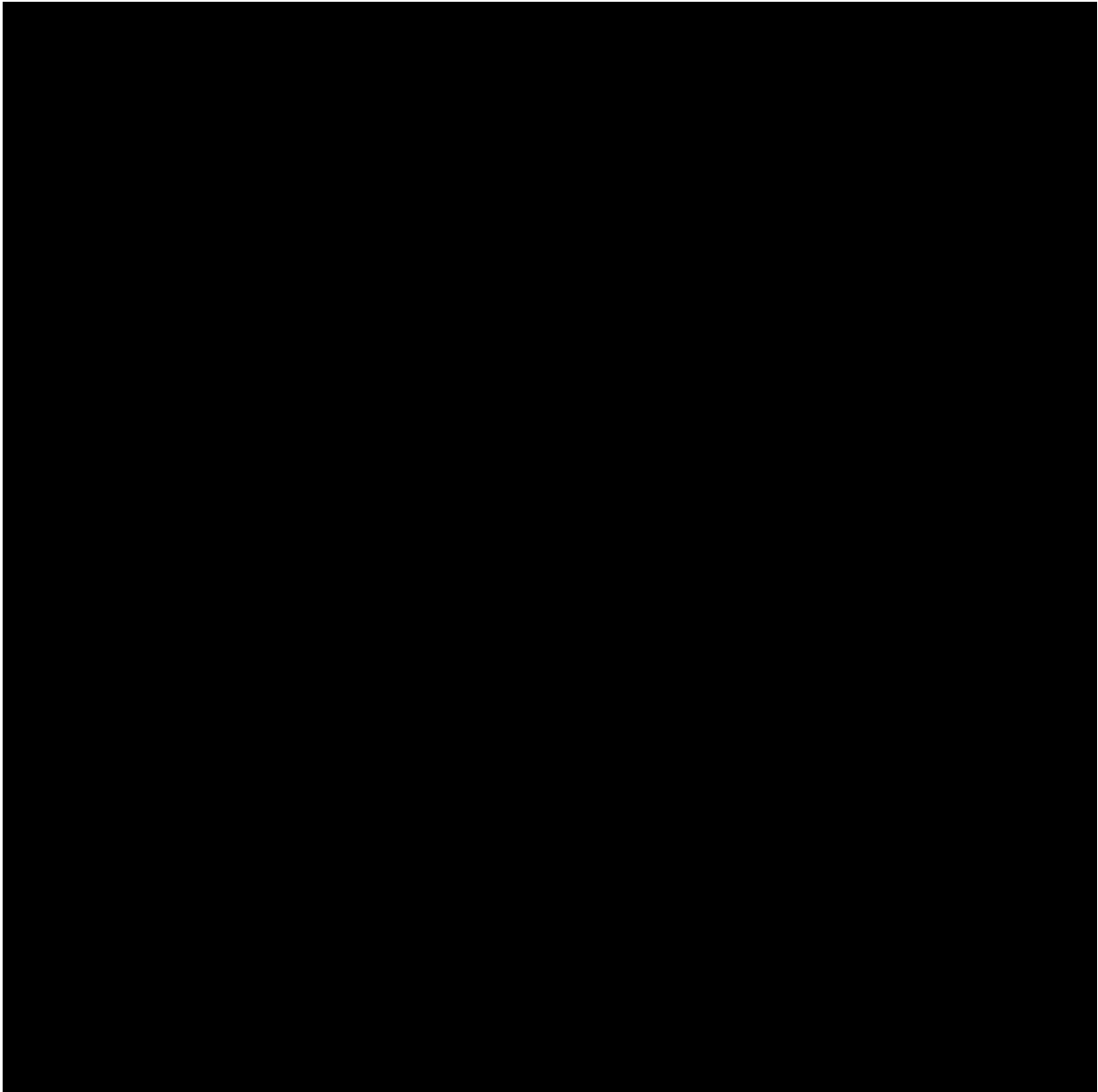
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(Whereupon, at 1:02 p.m., the Hearing was  
adjourned until 2:02 p.m. the same day.)

AFTERNOON SESSION

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2           PRESIDENT TERCIER: Ladies and gentlemen,  
3 good afternoon.

4           Let's begin.

5           First, I think sometimes I misspell the names  
6 of people. Former President was Teresa Cheng, and I  
7 would like to apologize my distance.

8           Secondly, you left the room so urgently, I  
9 didn't have the time to recall you that you were under  
10 testimony. What I did in the corridor when I saw you  
11 in the presence of our Secretary, so that was just for  
12 the record, so that we have also this point.

13           And the third point I would like to know from  
14 Claimant if you had an opportunity to have a look at  
15 the new proposal or the proposal made by Respondent.

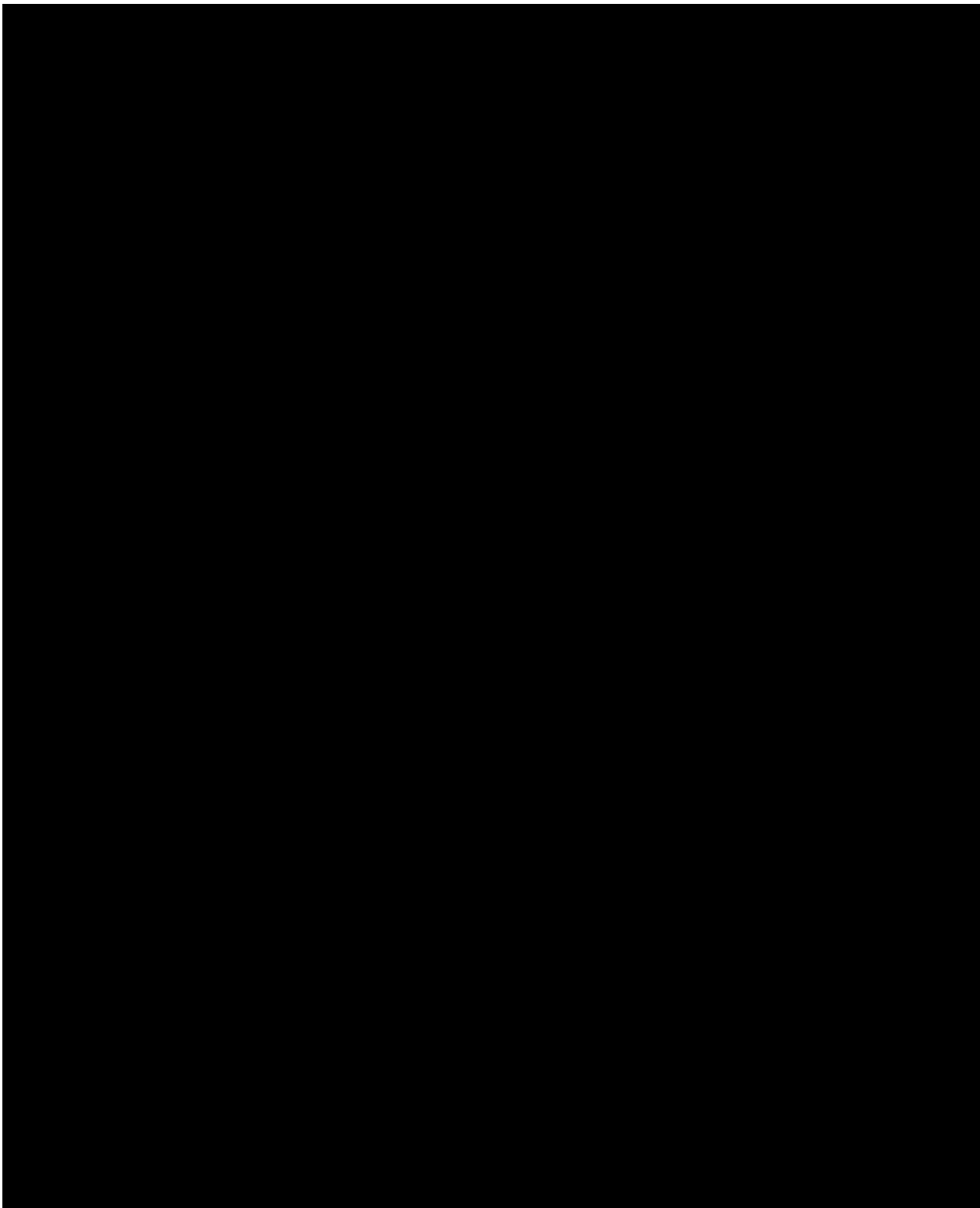
16           MS. COHEN SMUTNY: Yes. Claimant has no  
17 comments on Respondent's estimated timing, so it's  
18 perfectly agreeable in terms of time allocations.

19           PRESIDENT TERCIER: Very good. This has, of  
20 course, an implication on now the organization of the  
21 Hearing, and if I may ask our Secretary to prepare a  
22 new draft, this certainly implies that some of the

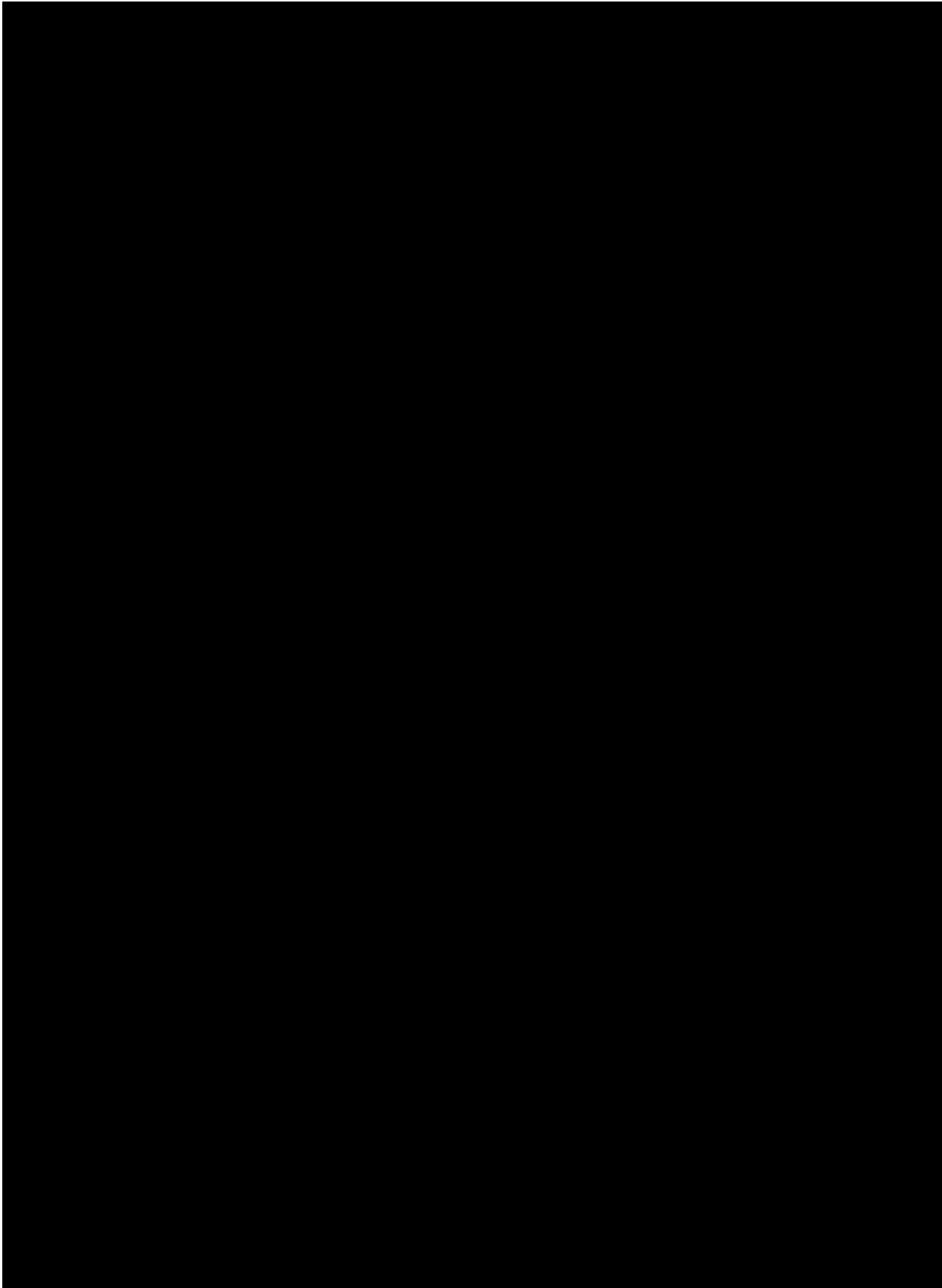


1 witnesses that were--should have appeared this week  
2 shall spend the weekend in Washington.

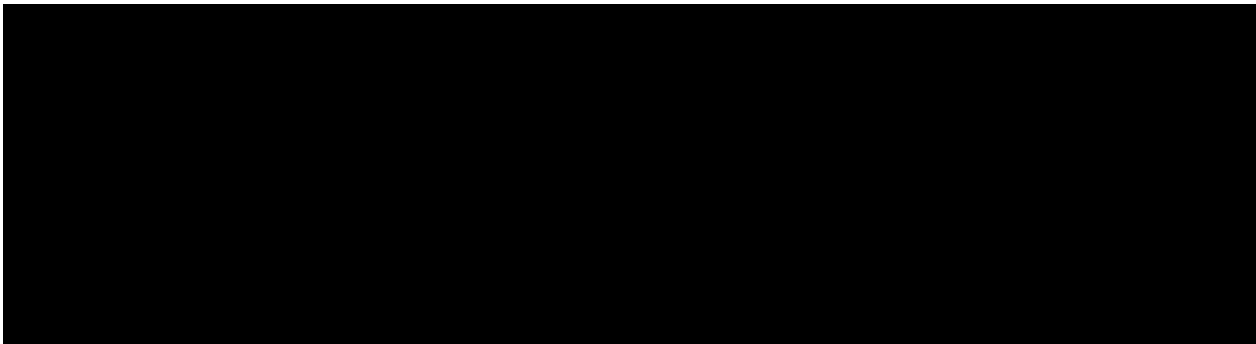
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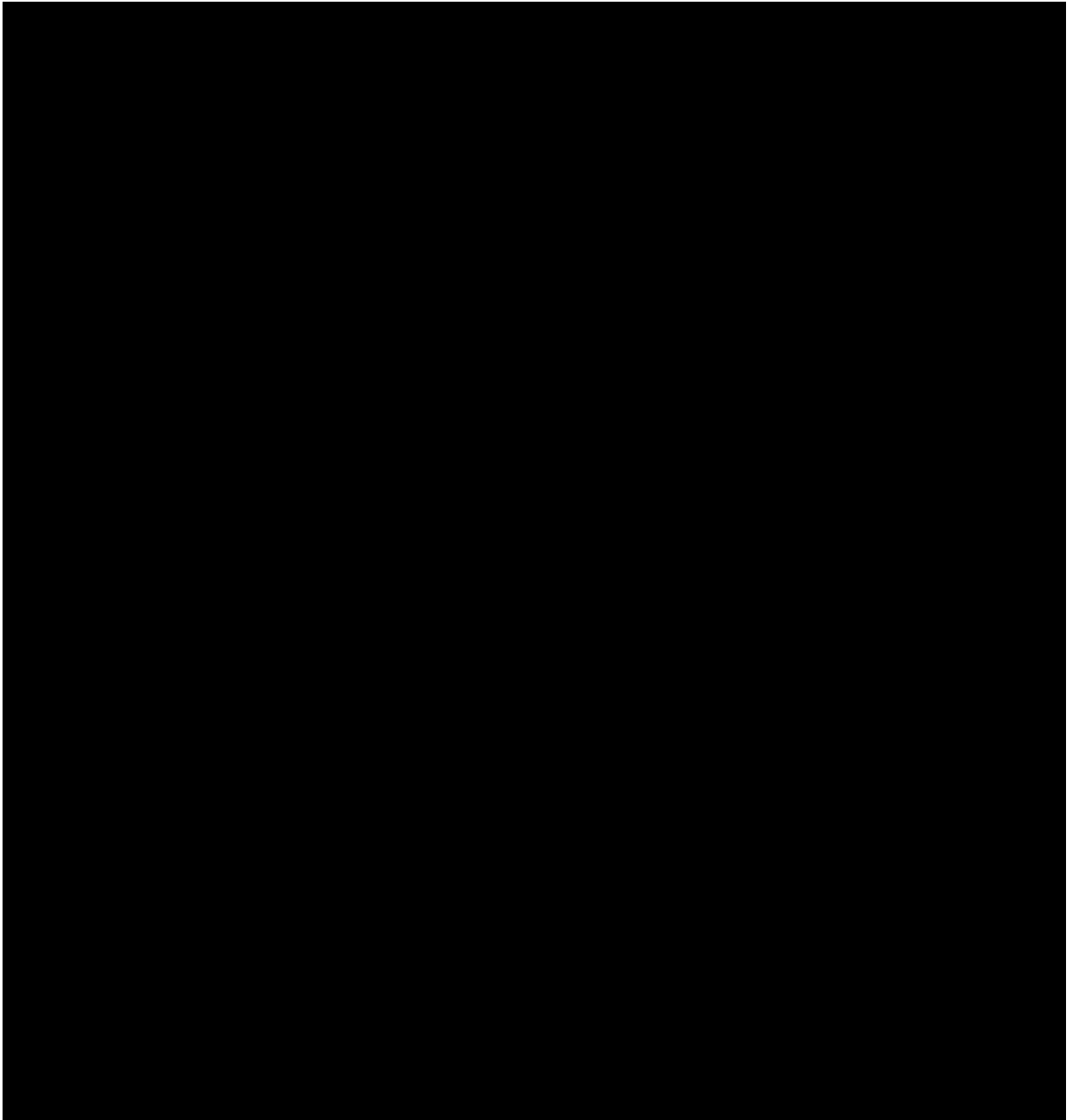
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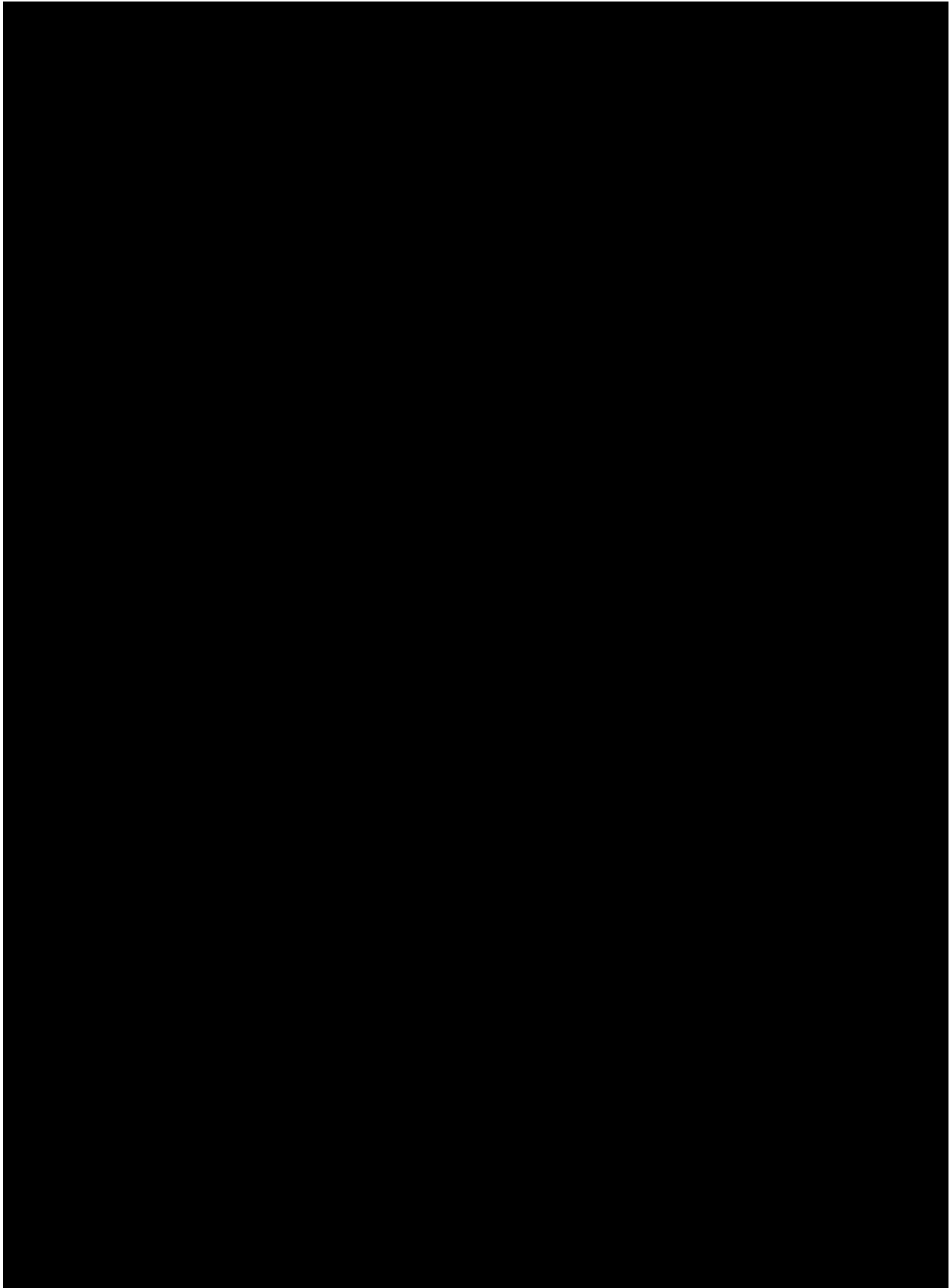
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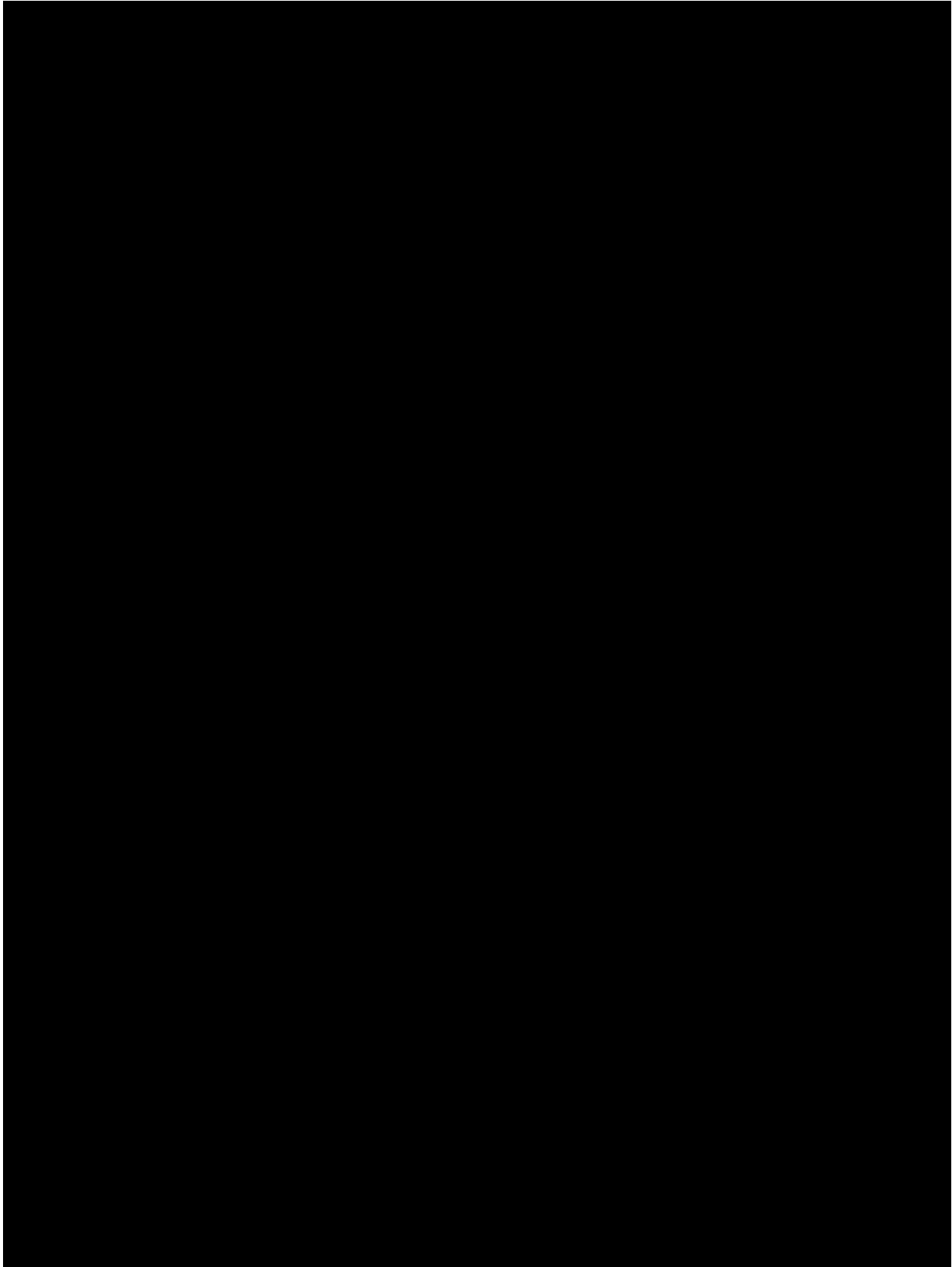
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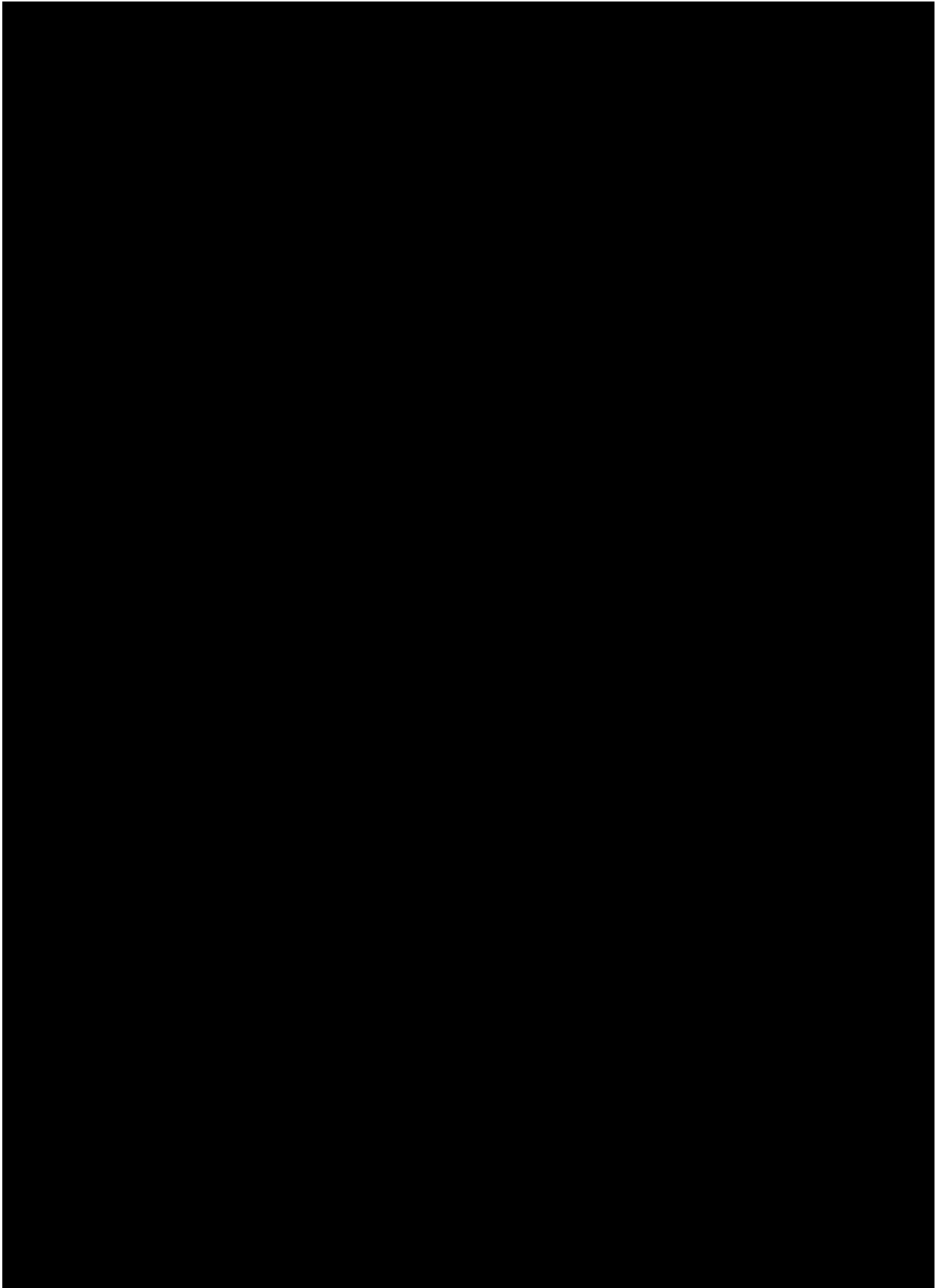
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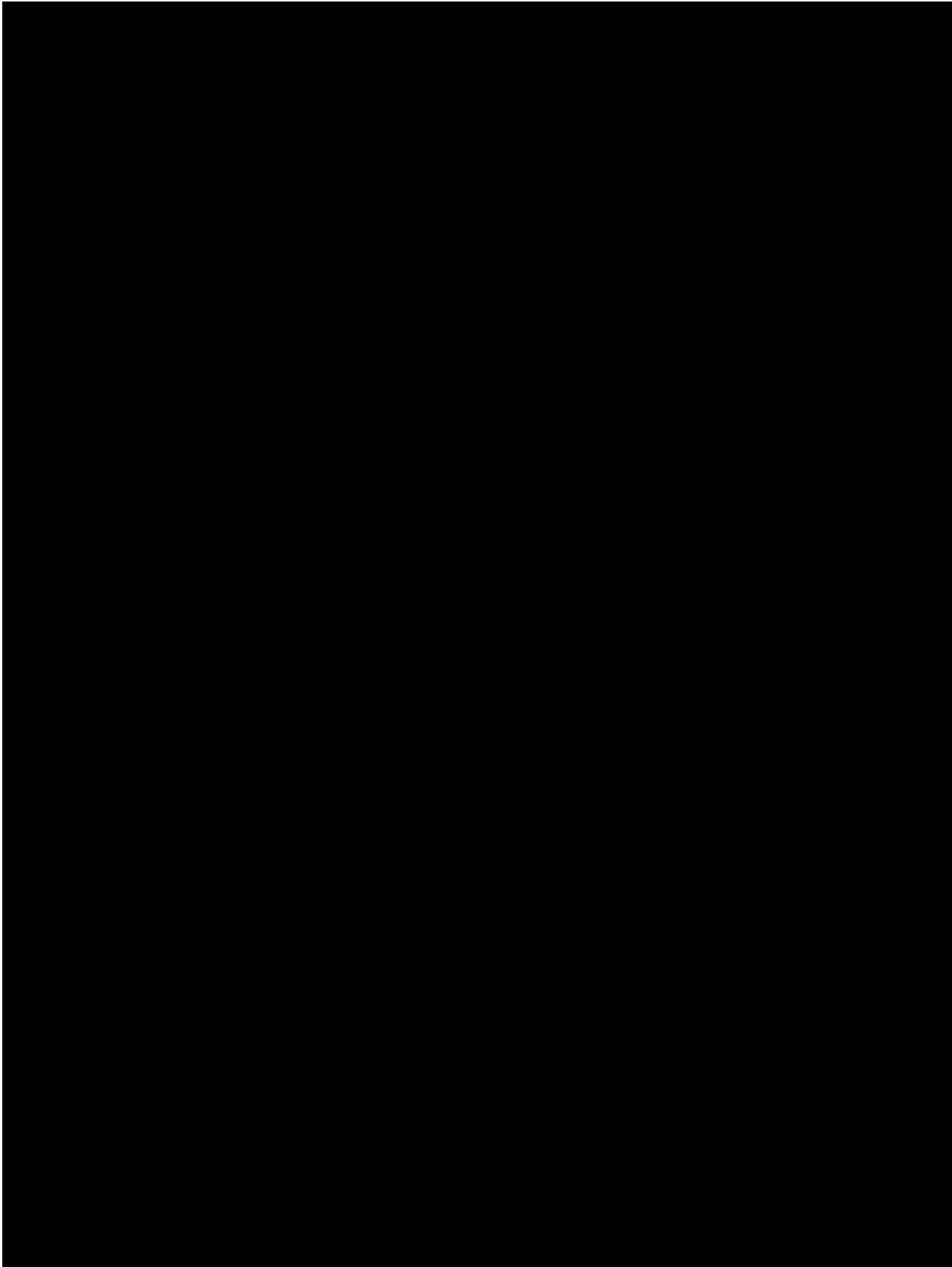
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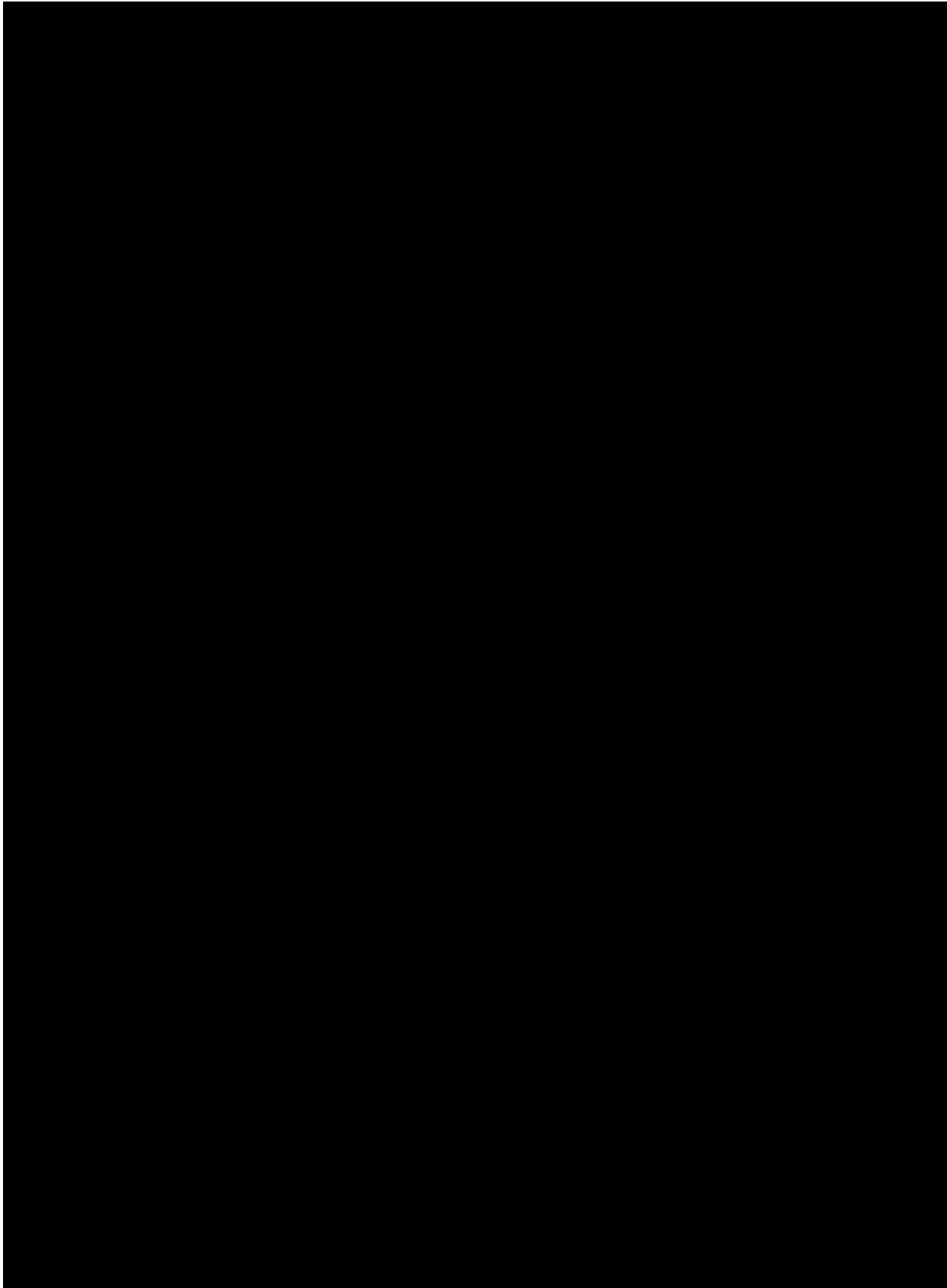
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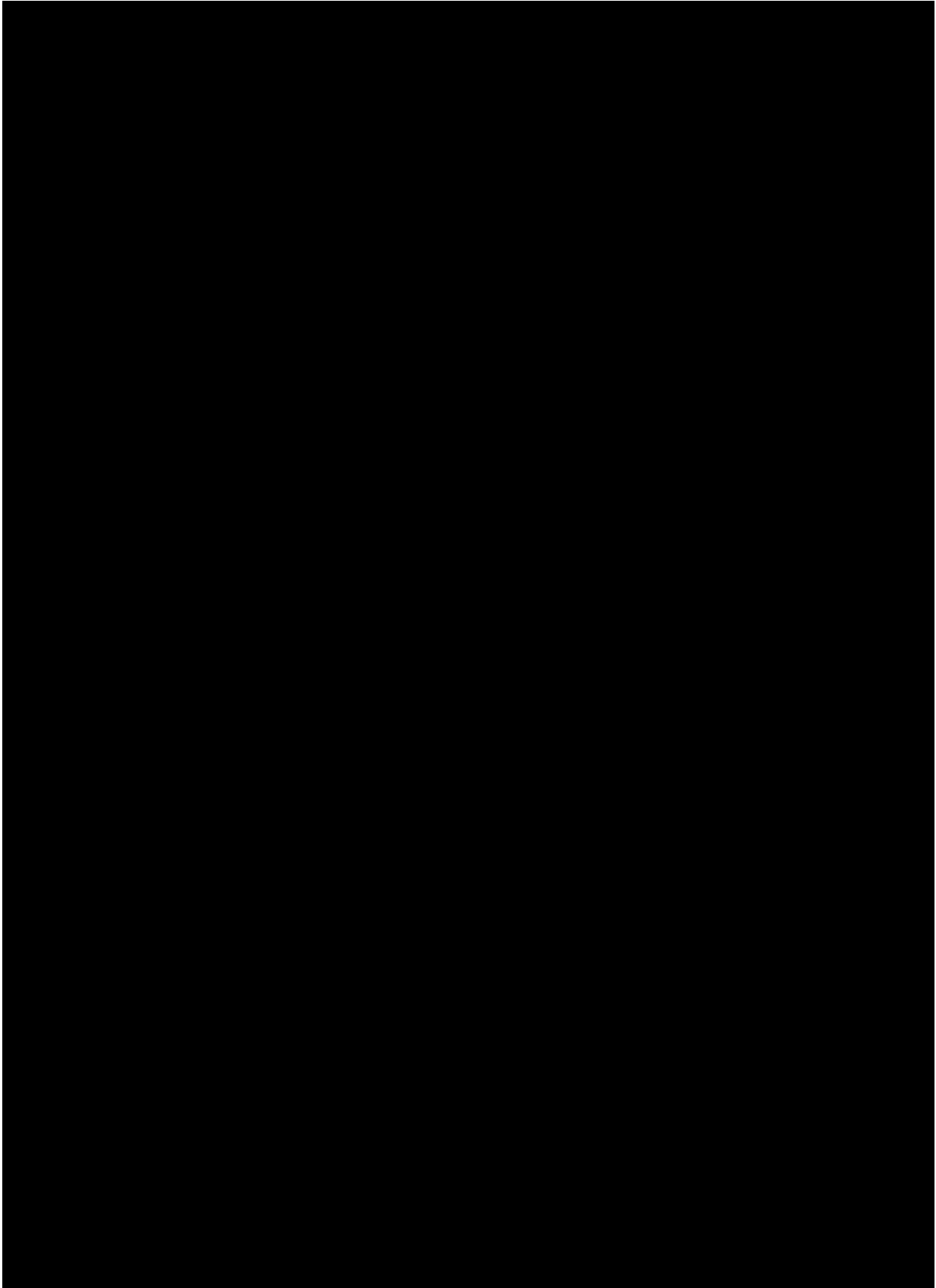


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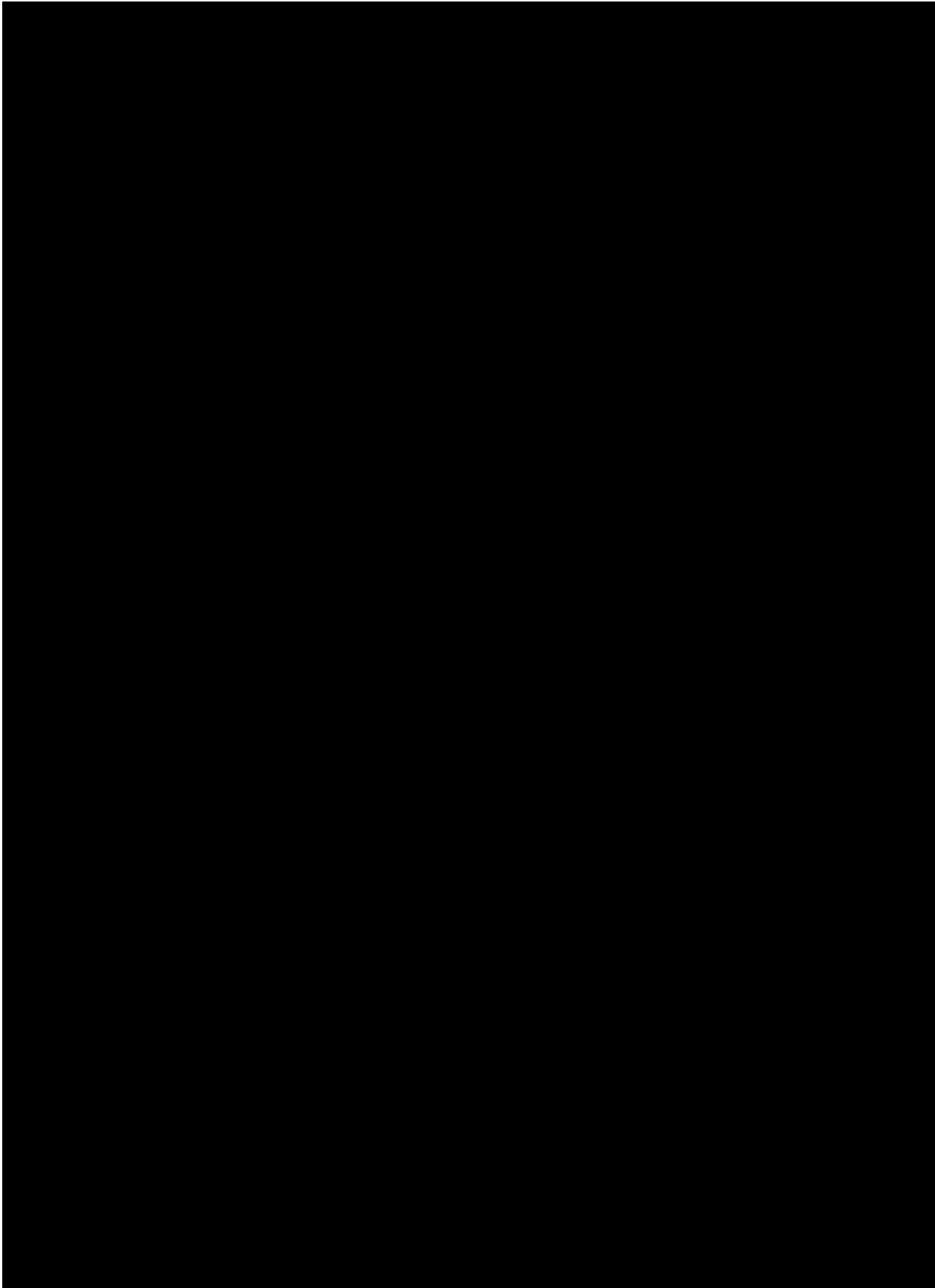




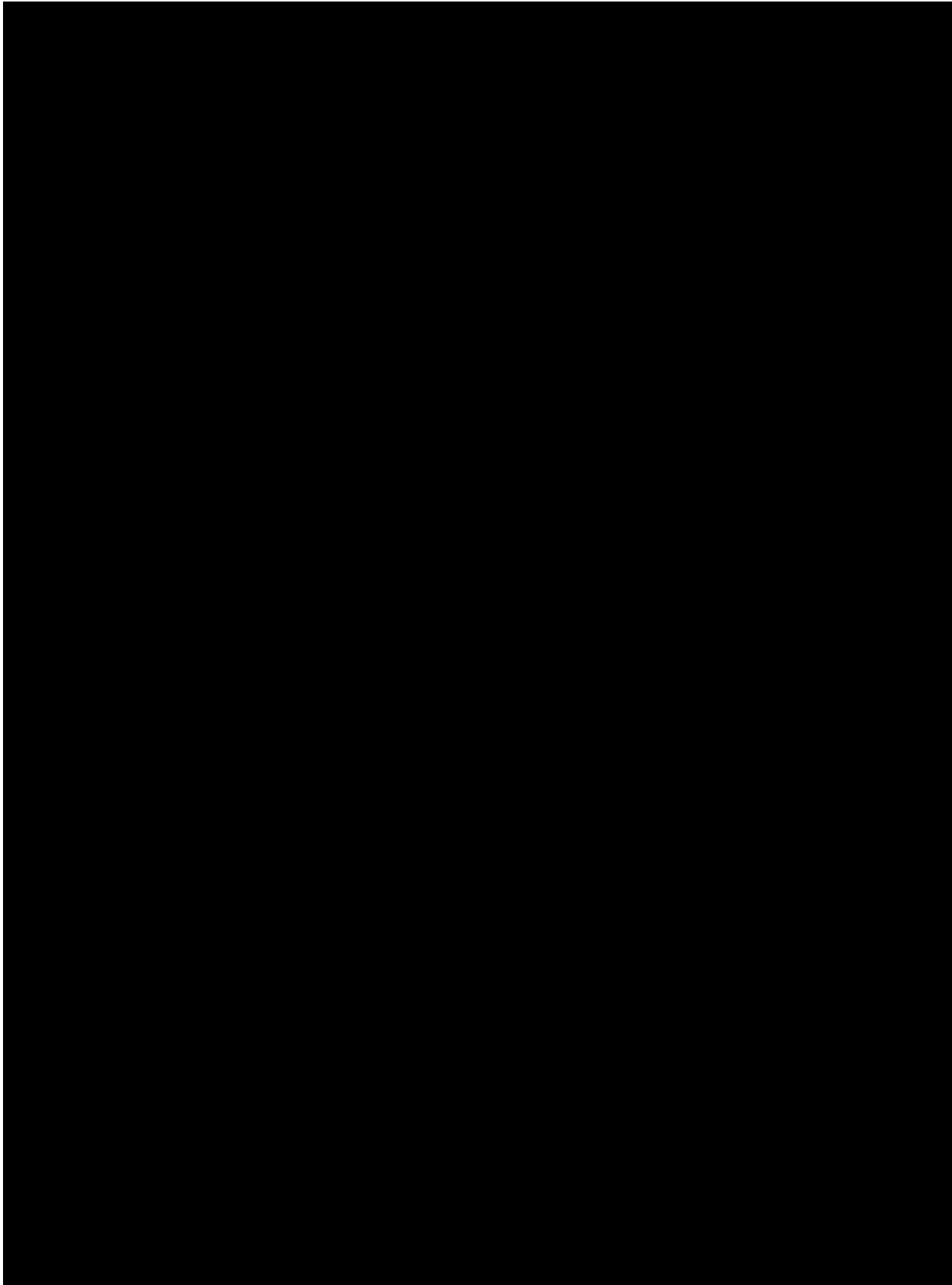
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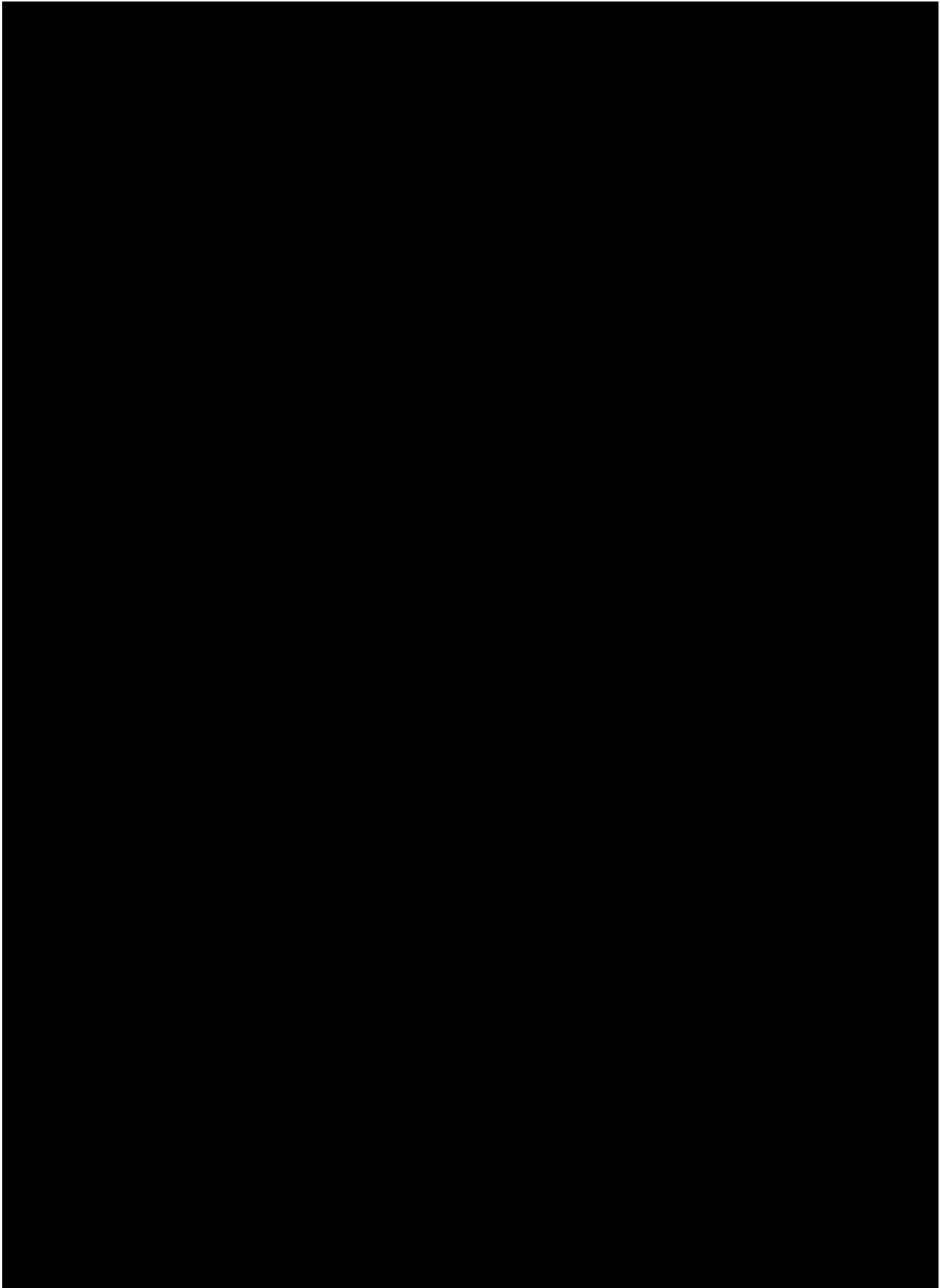
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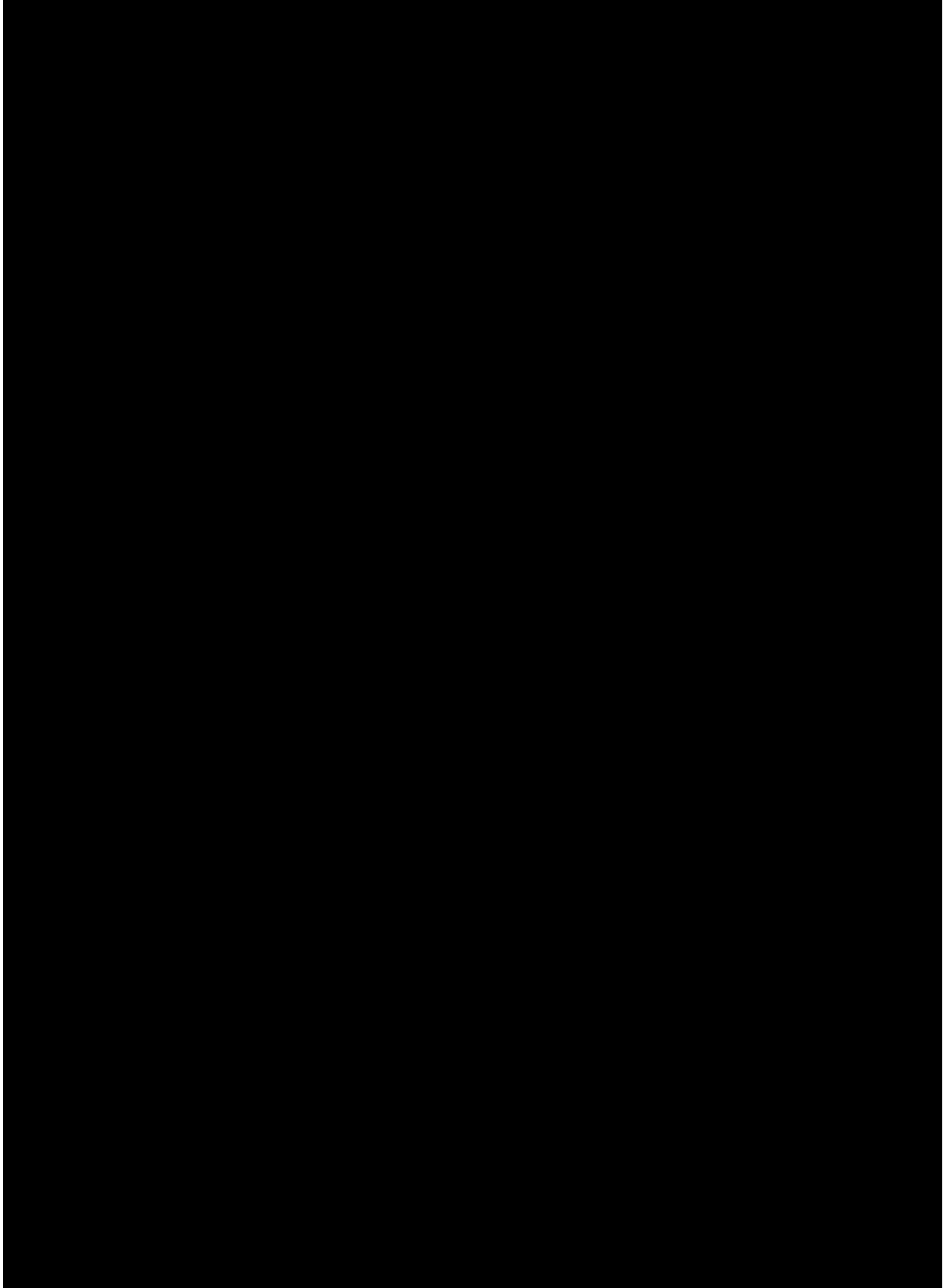
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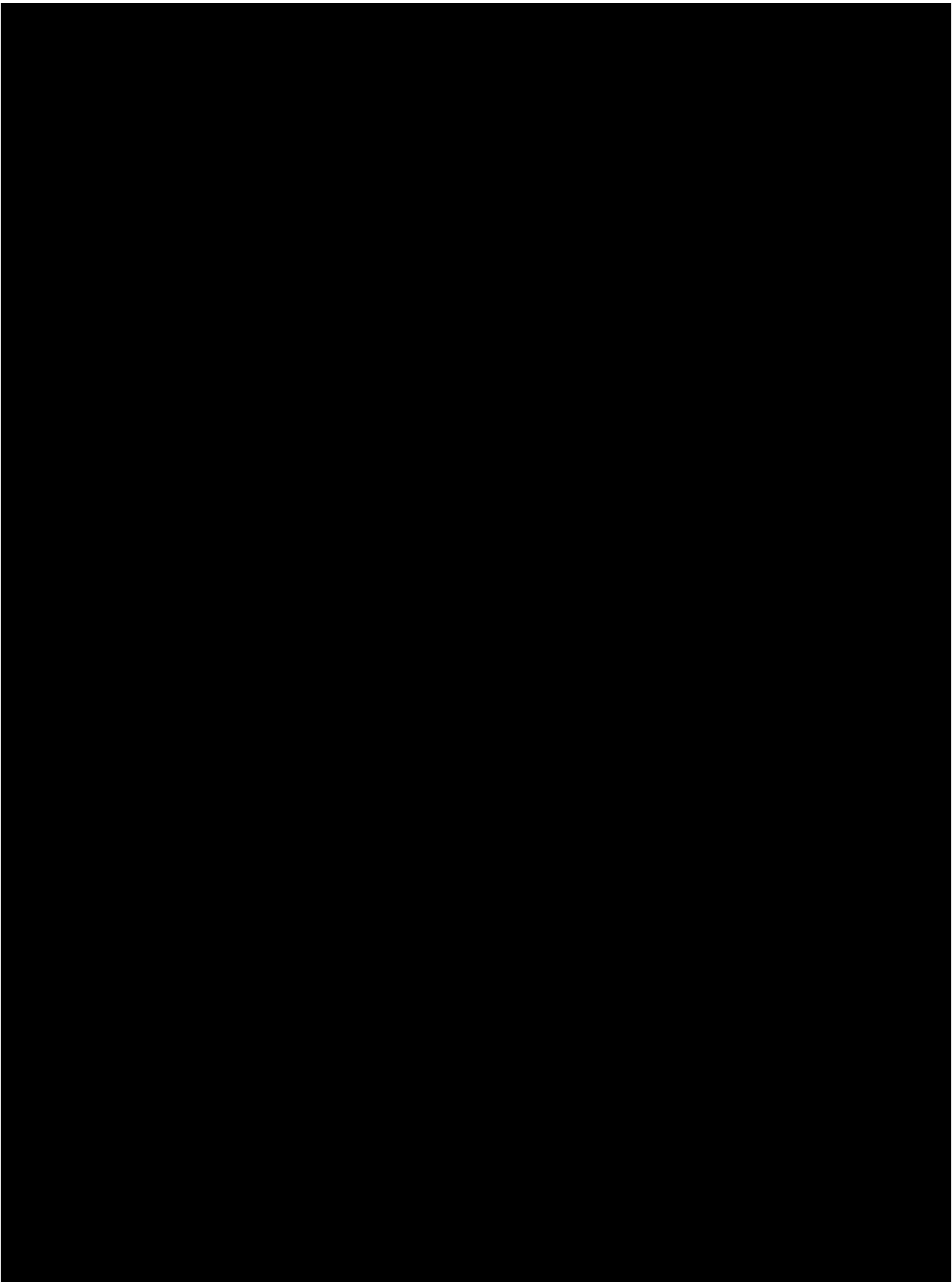
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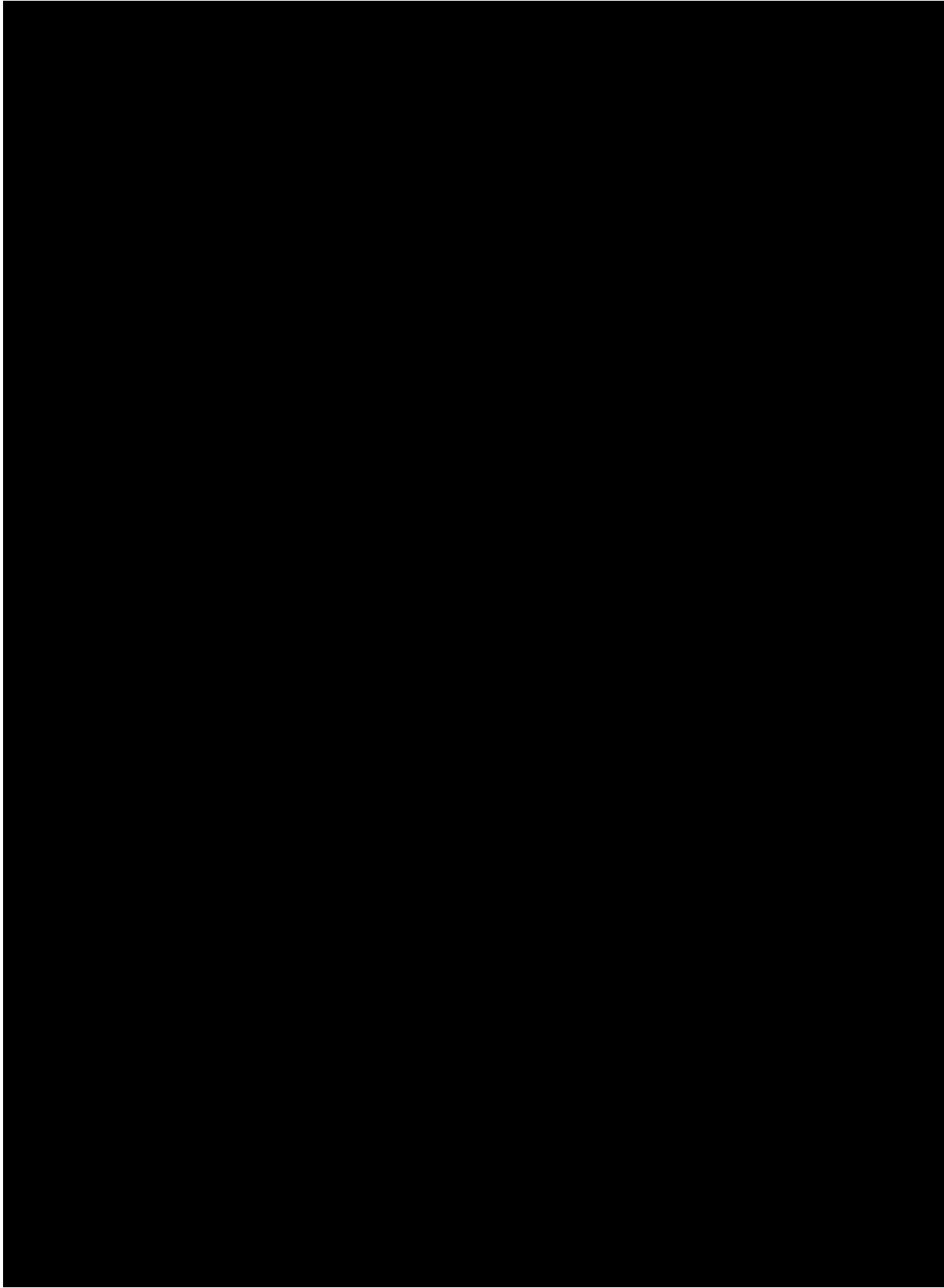
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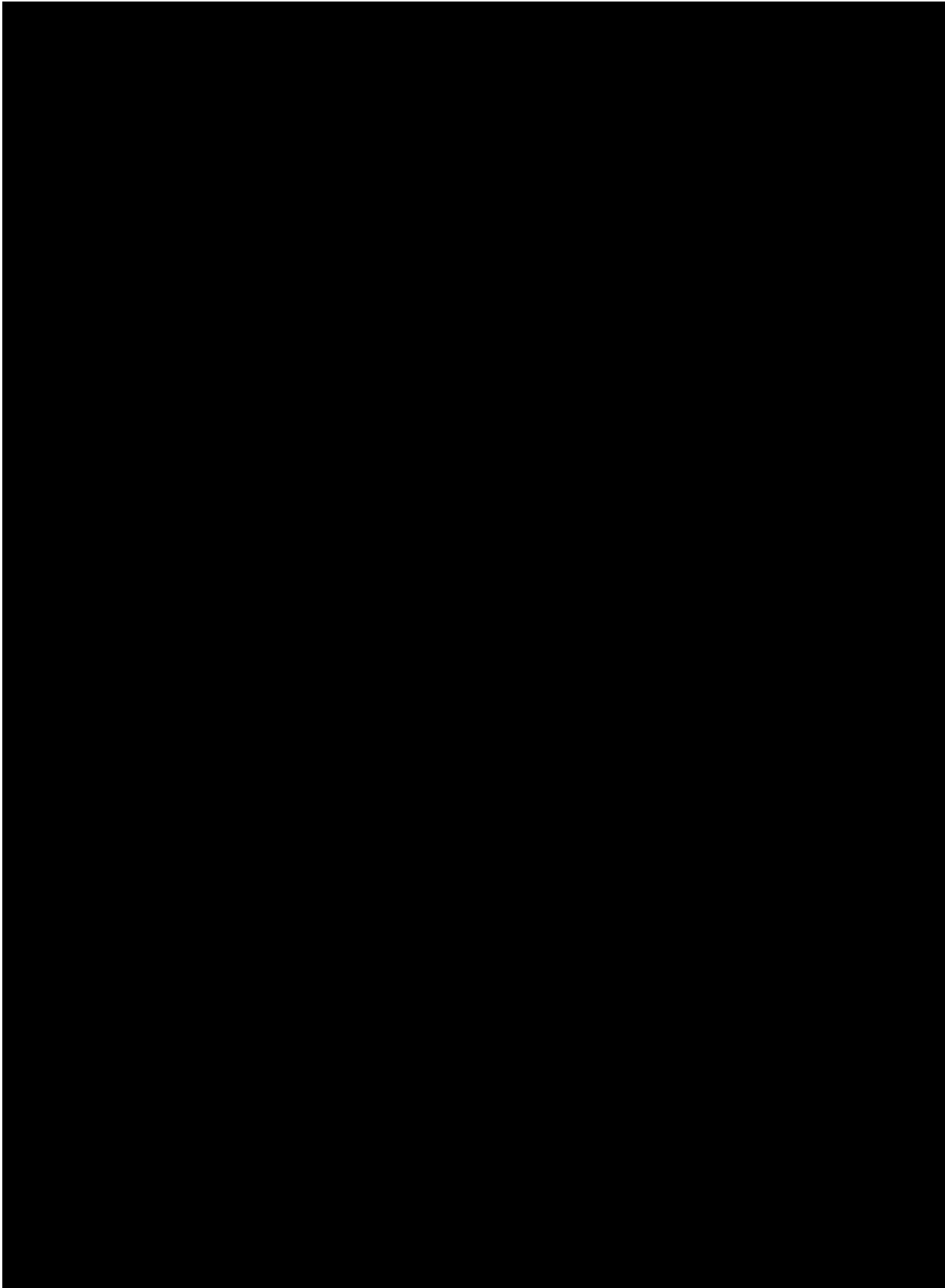
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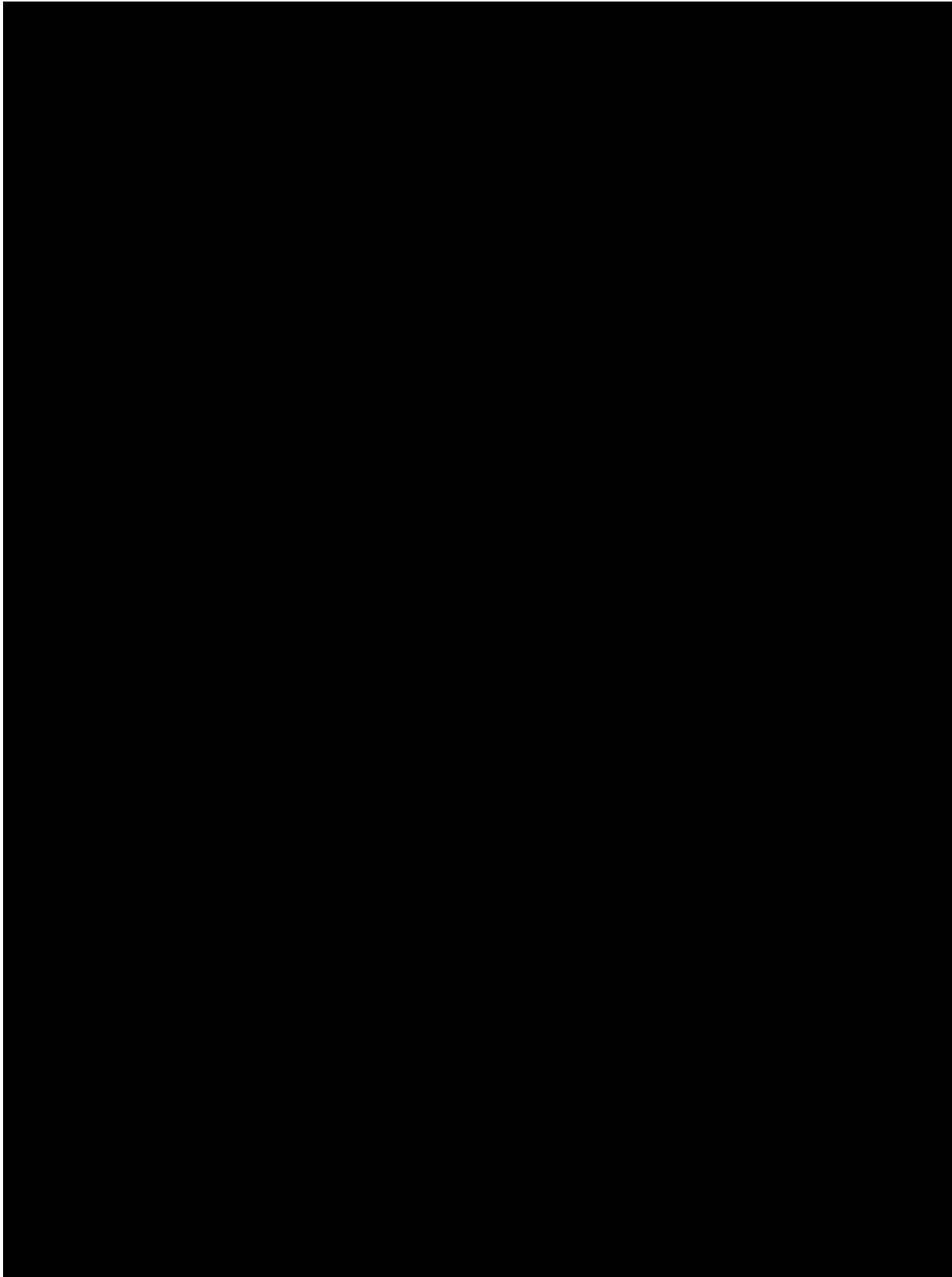


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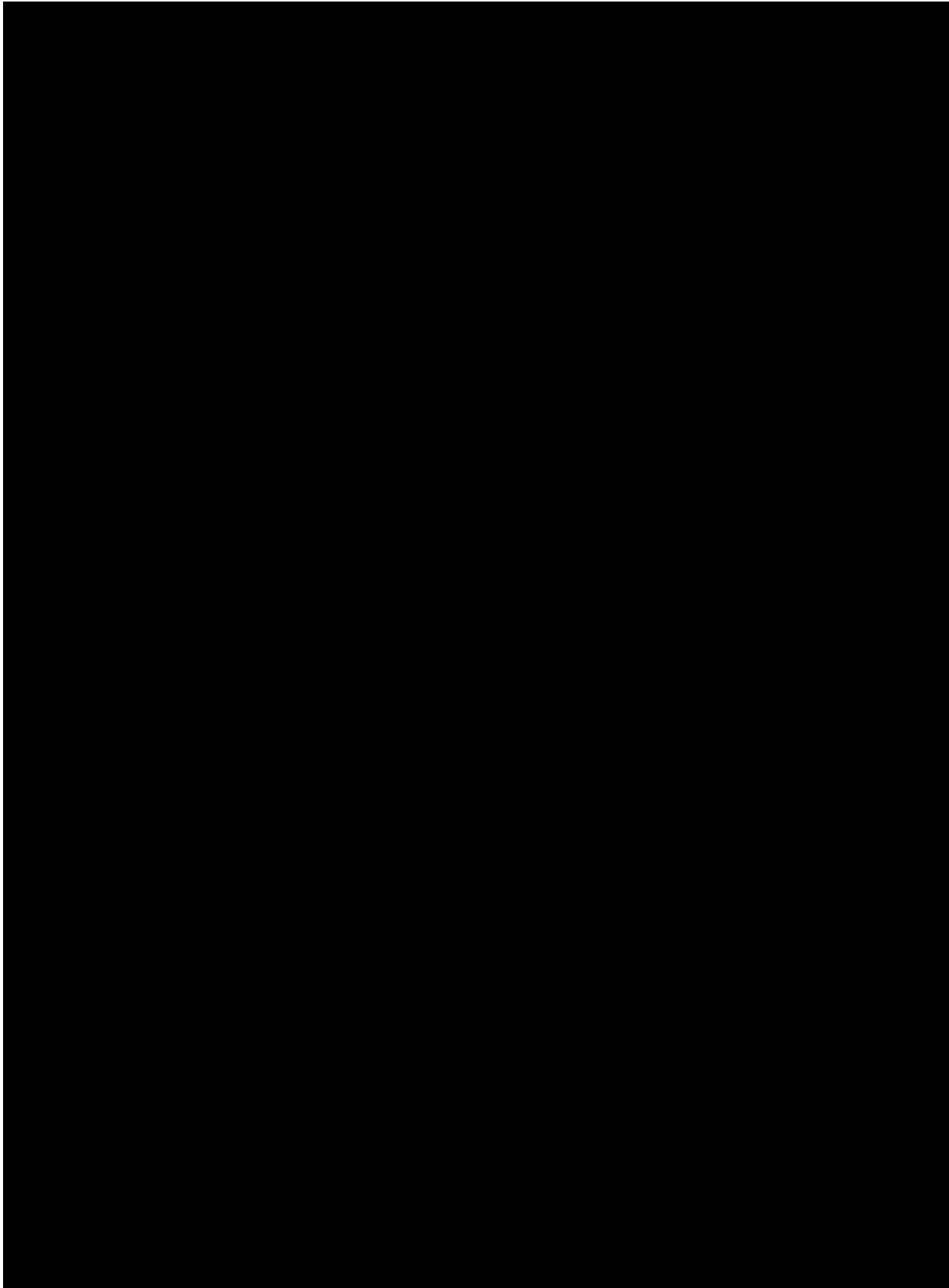




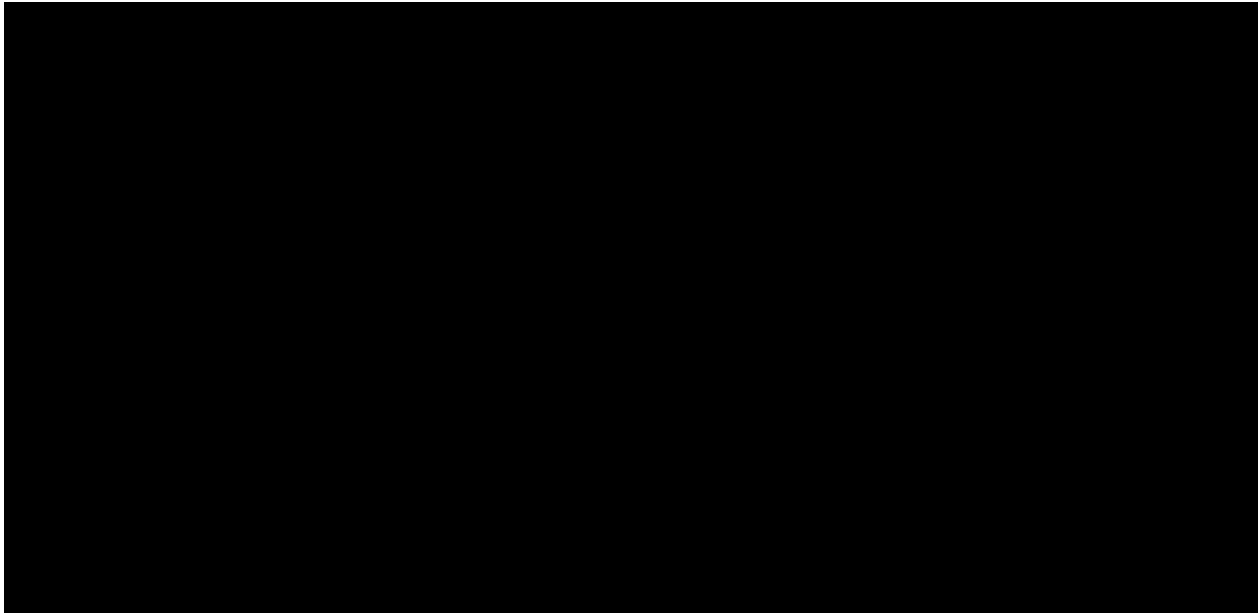
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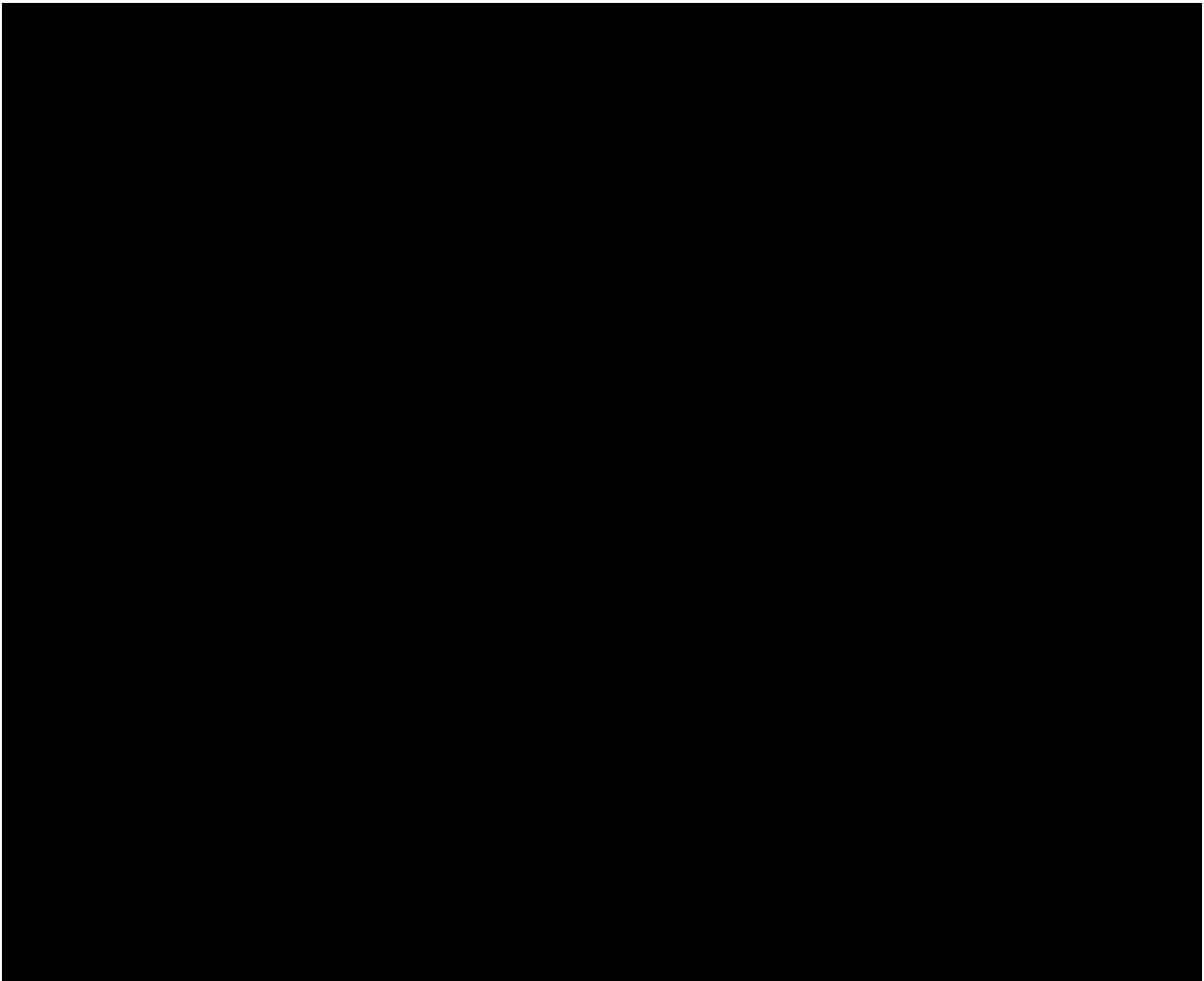
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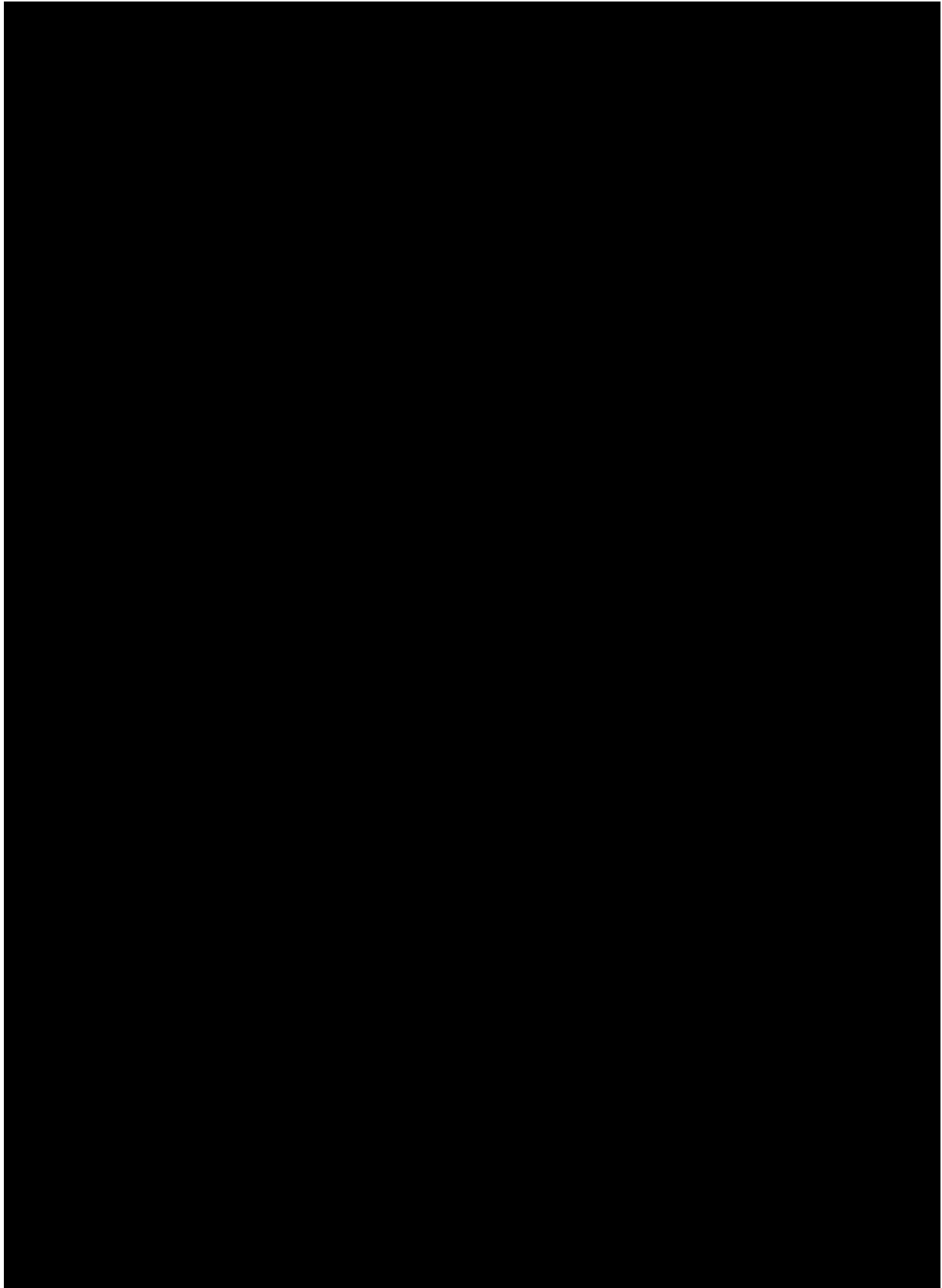
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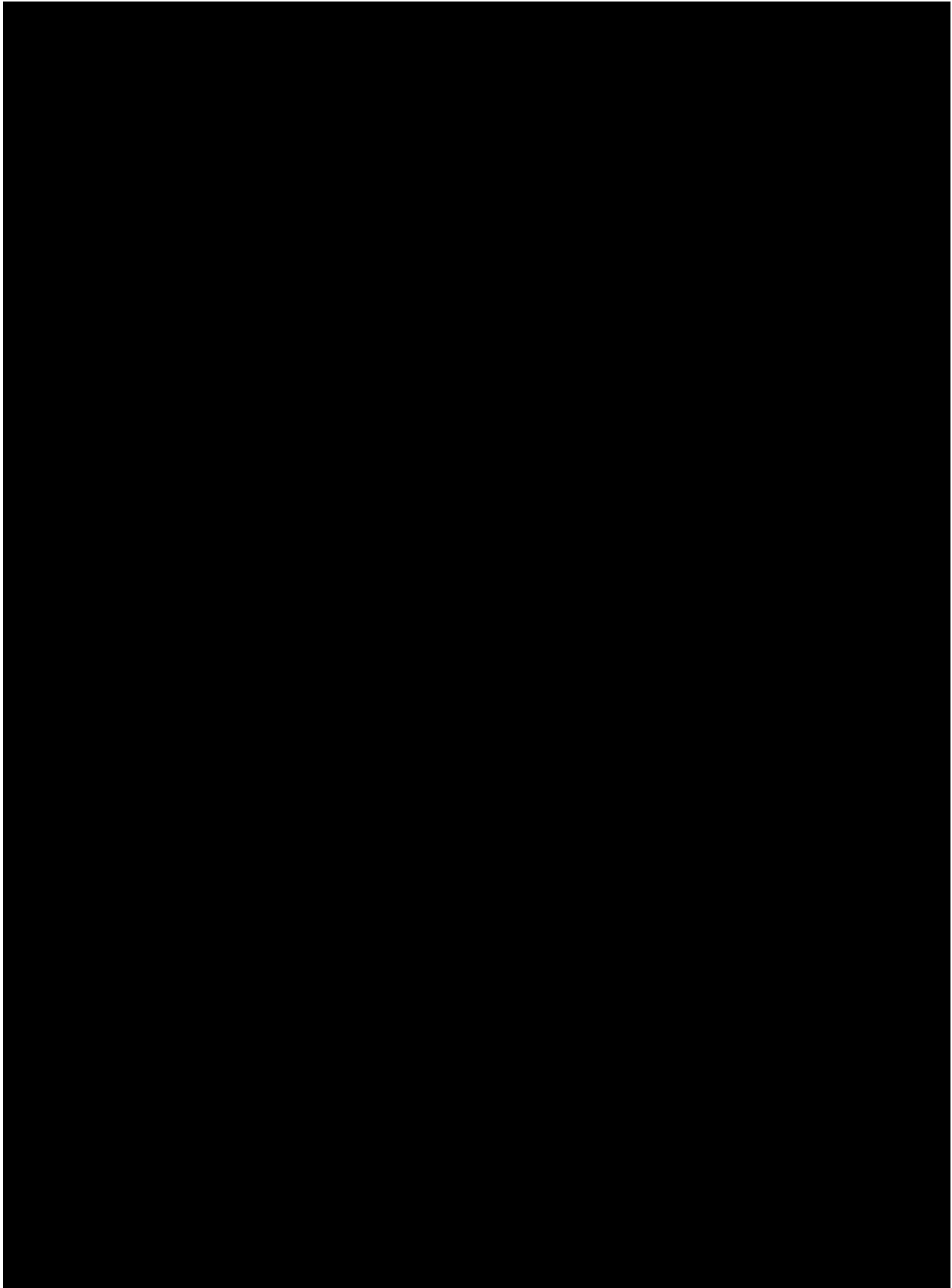
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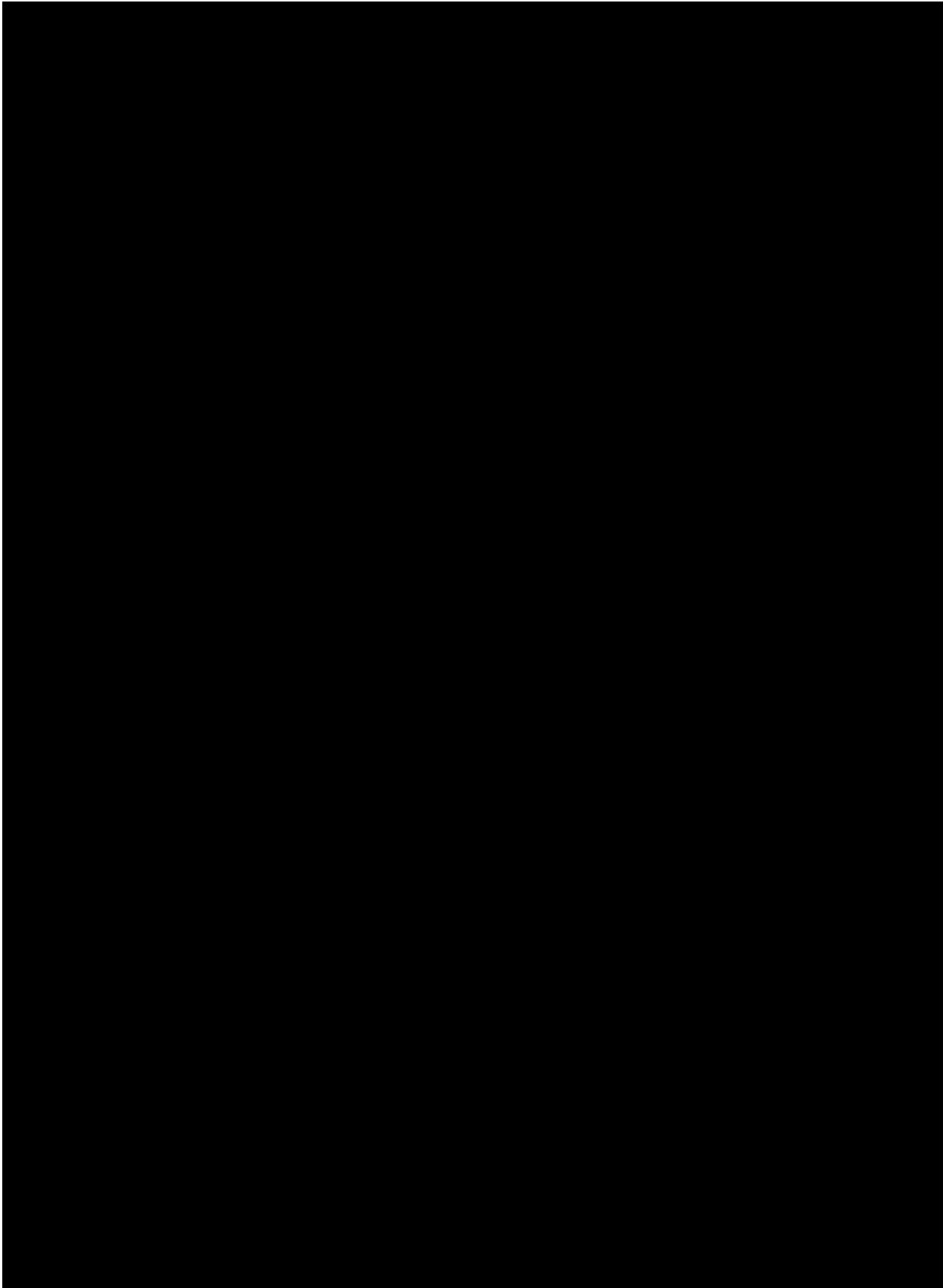
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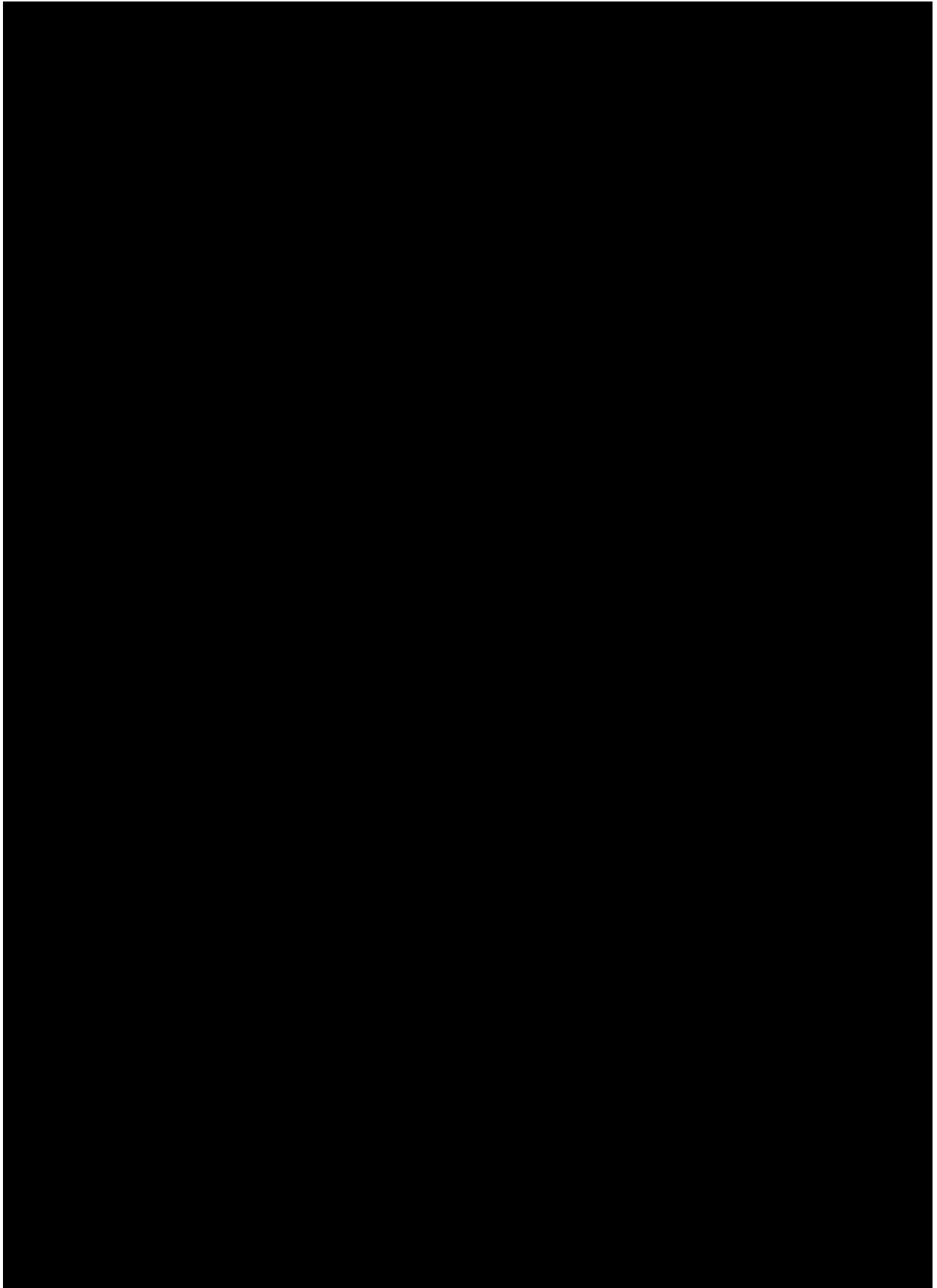
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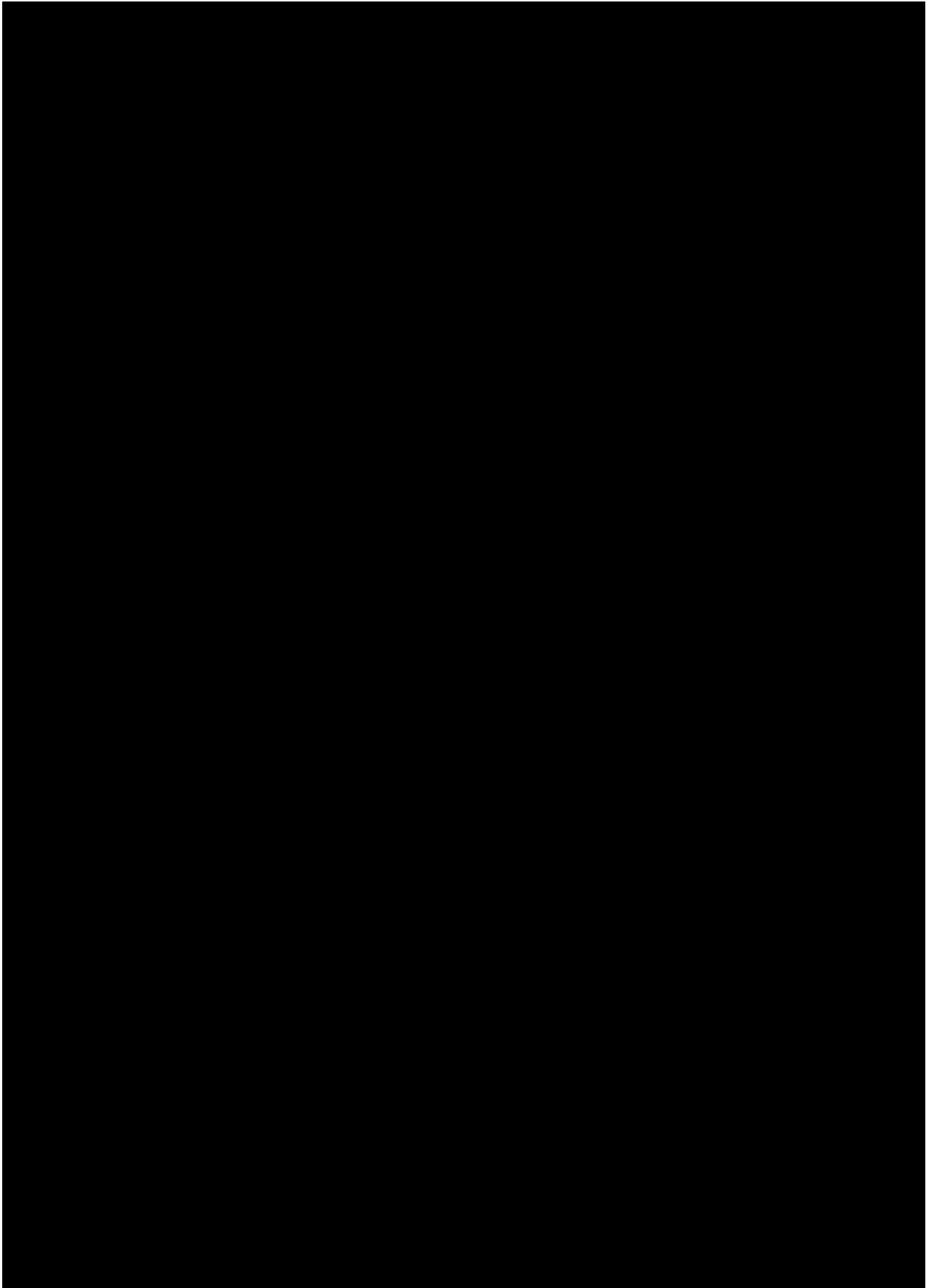
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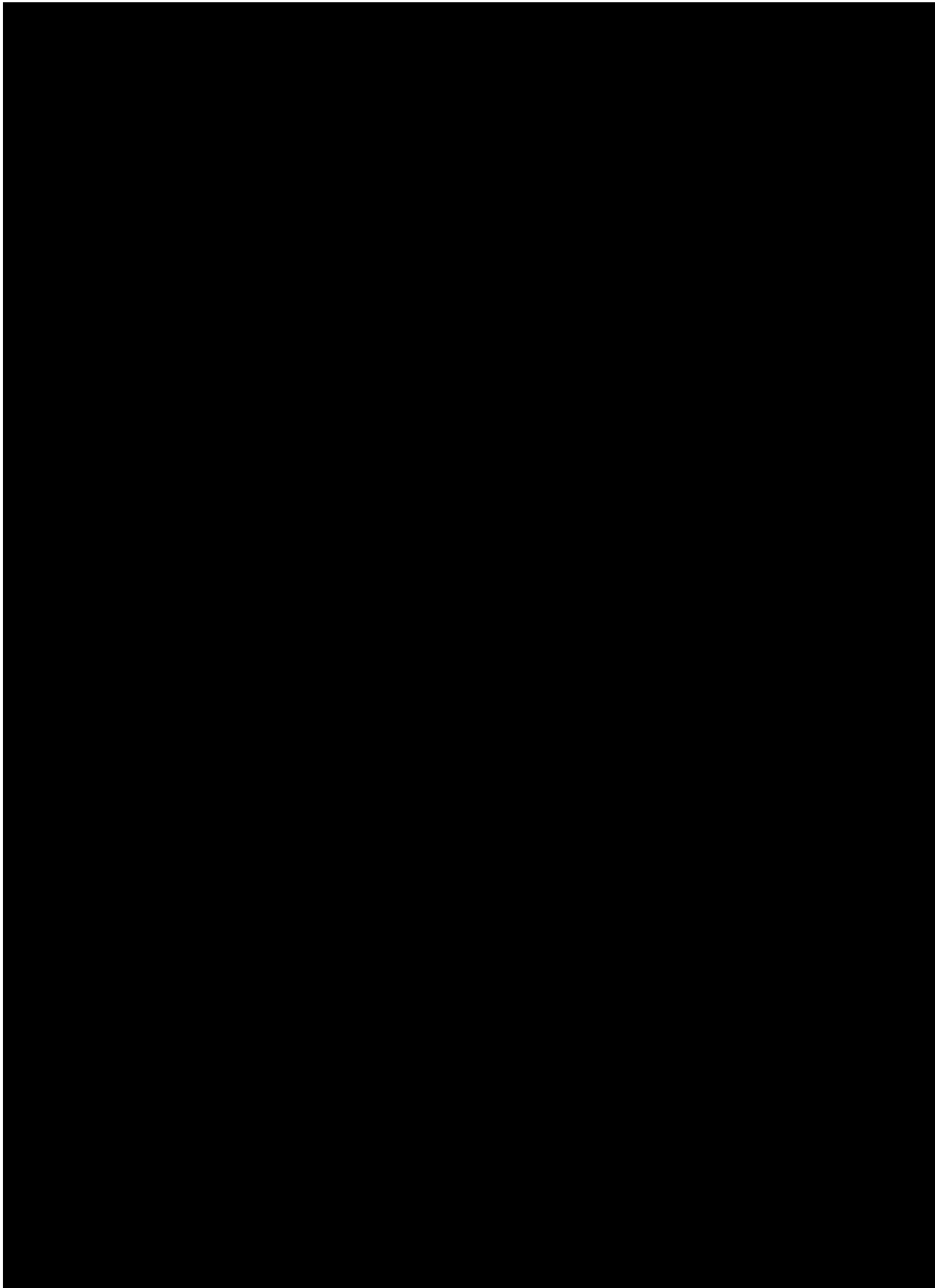


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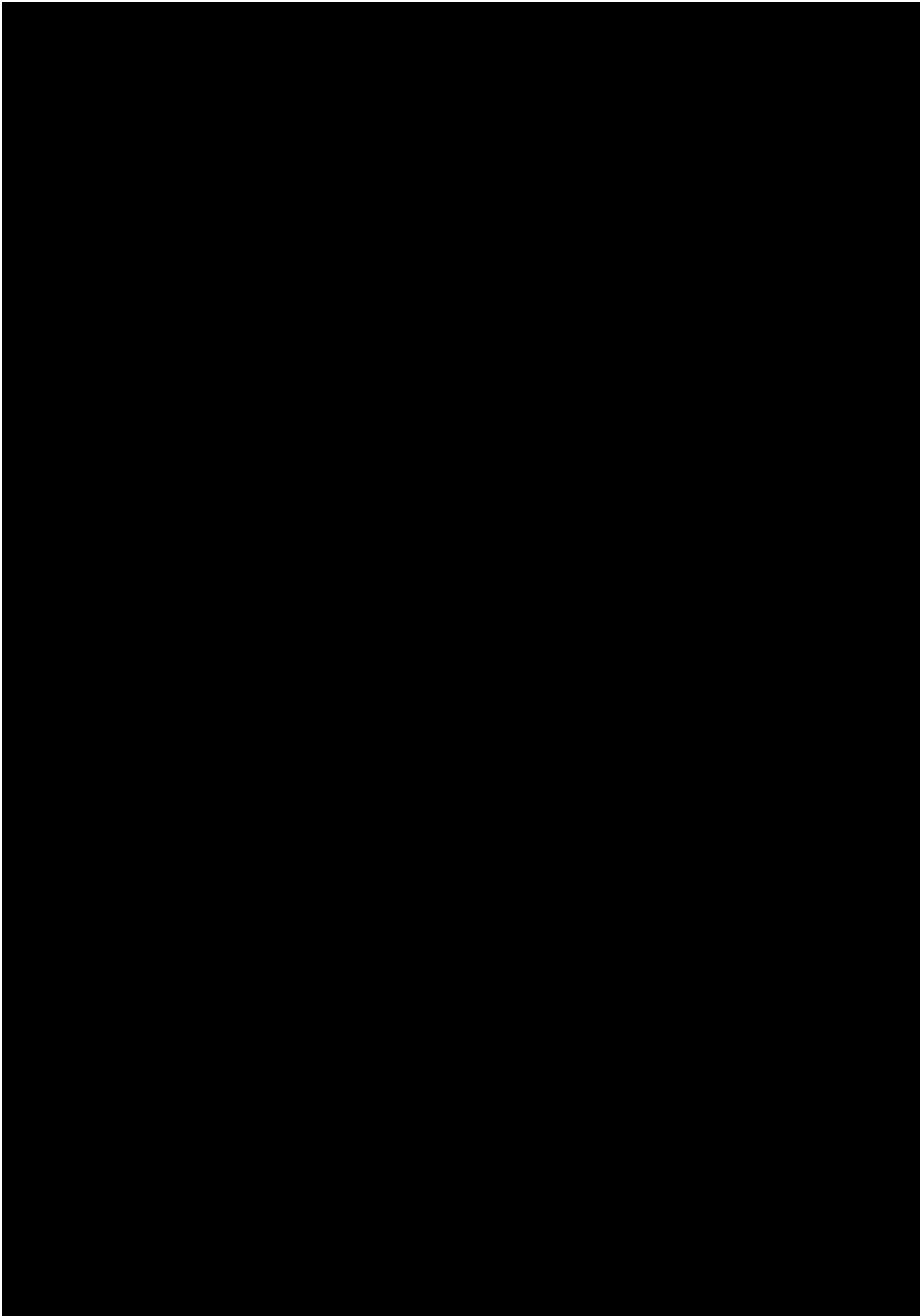




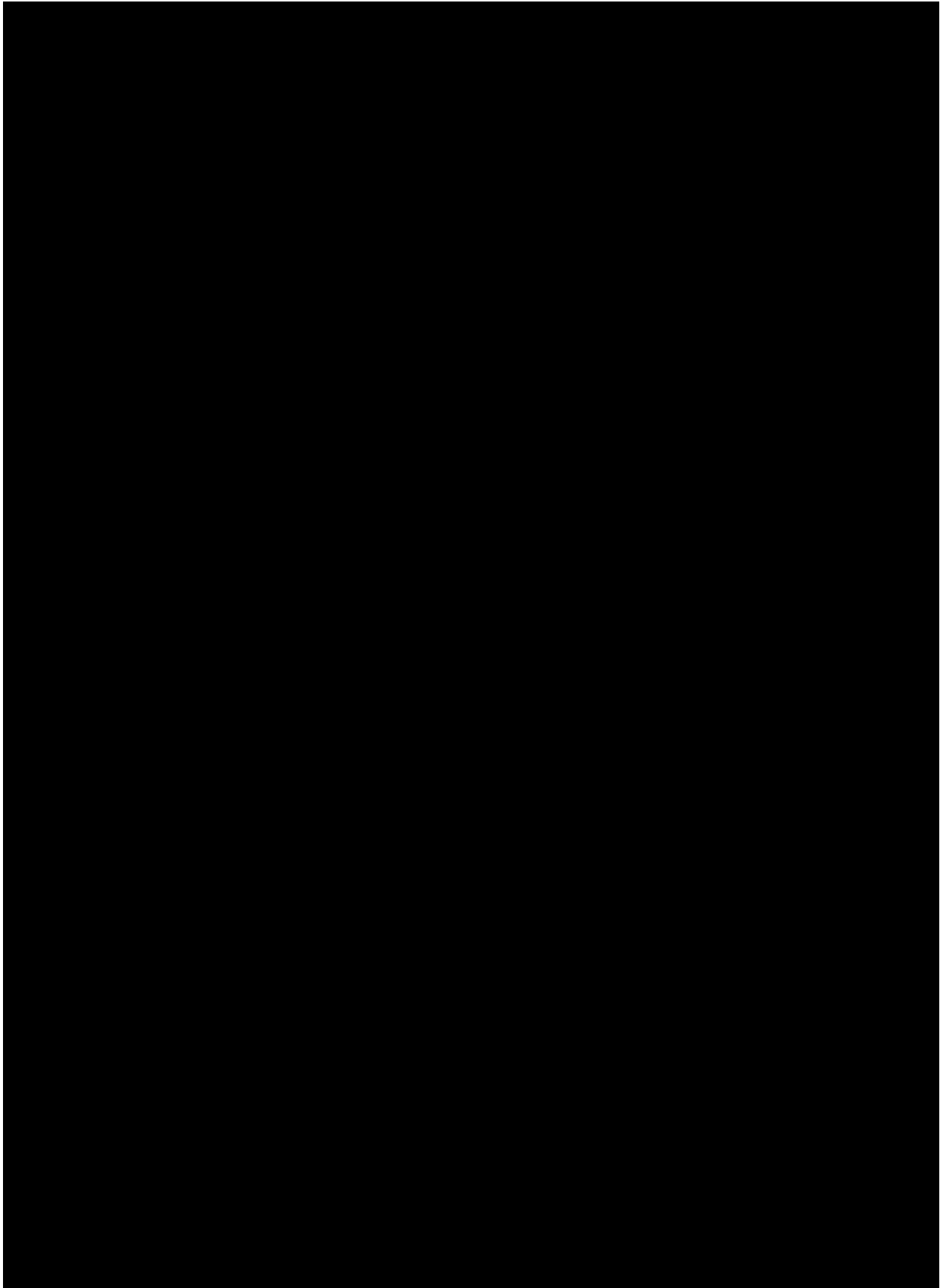
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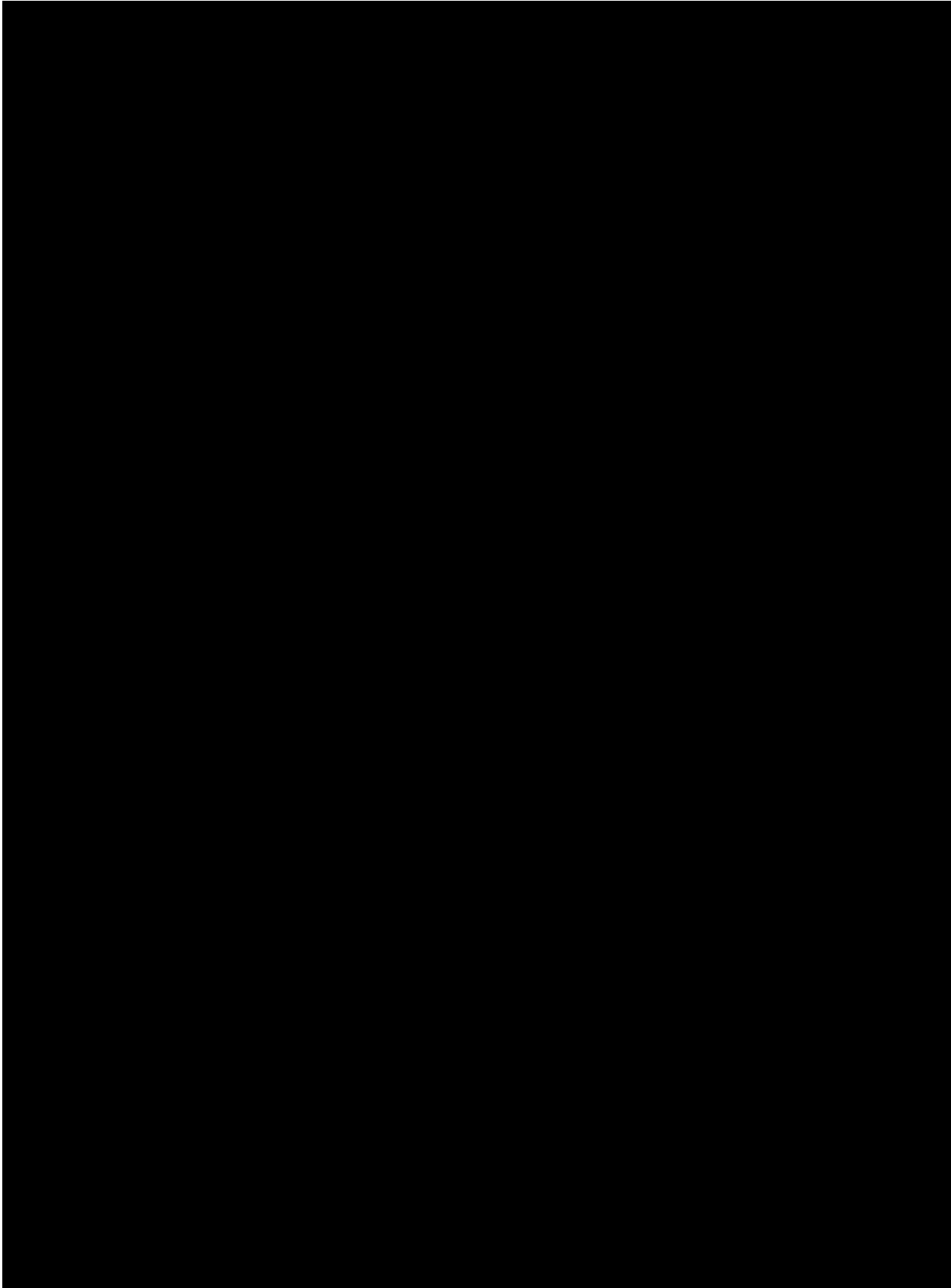
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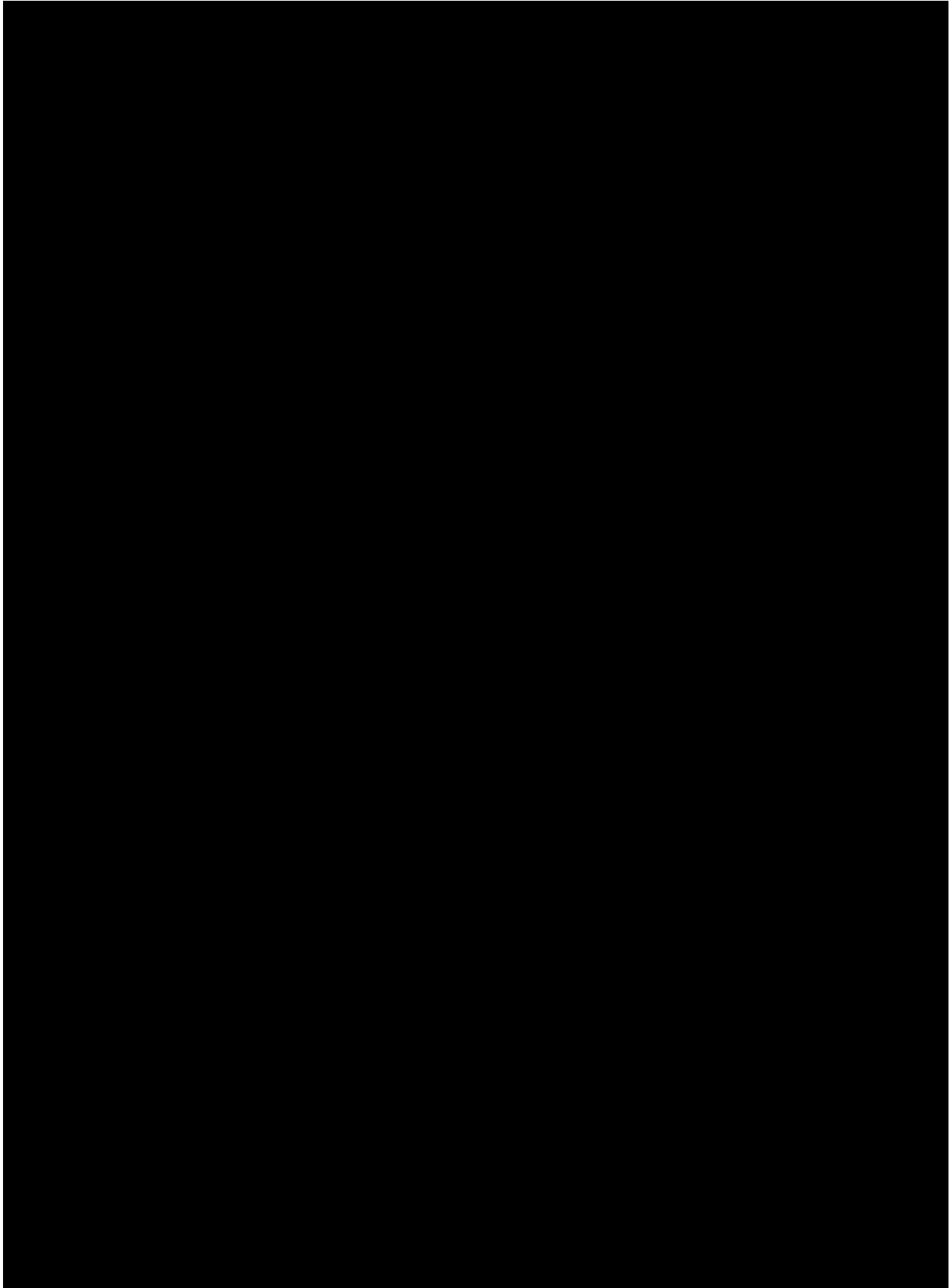
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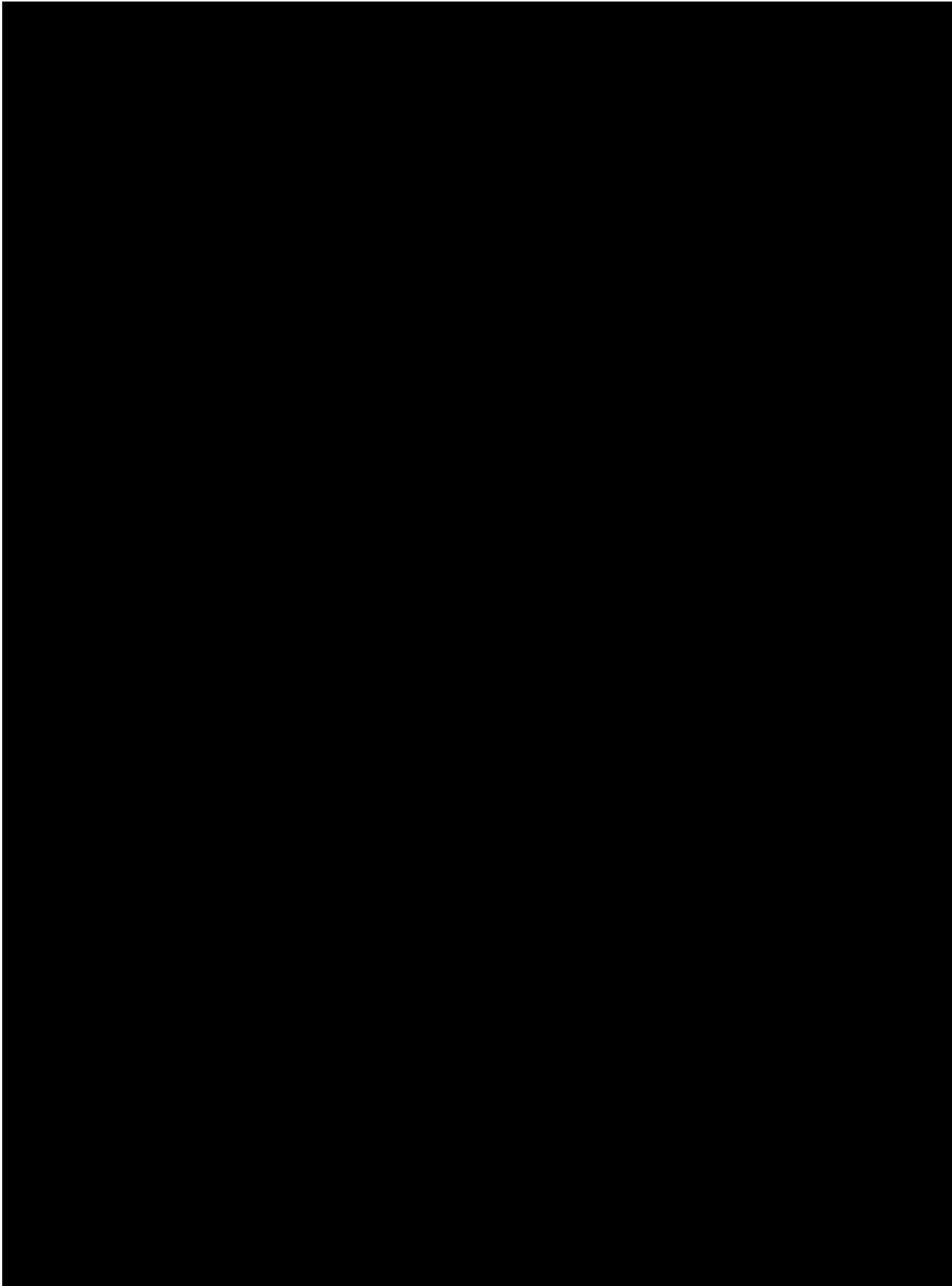
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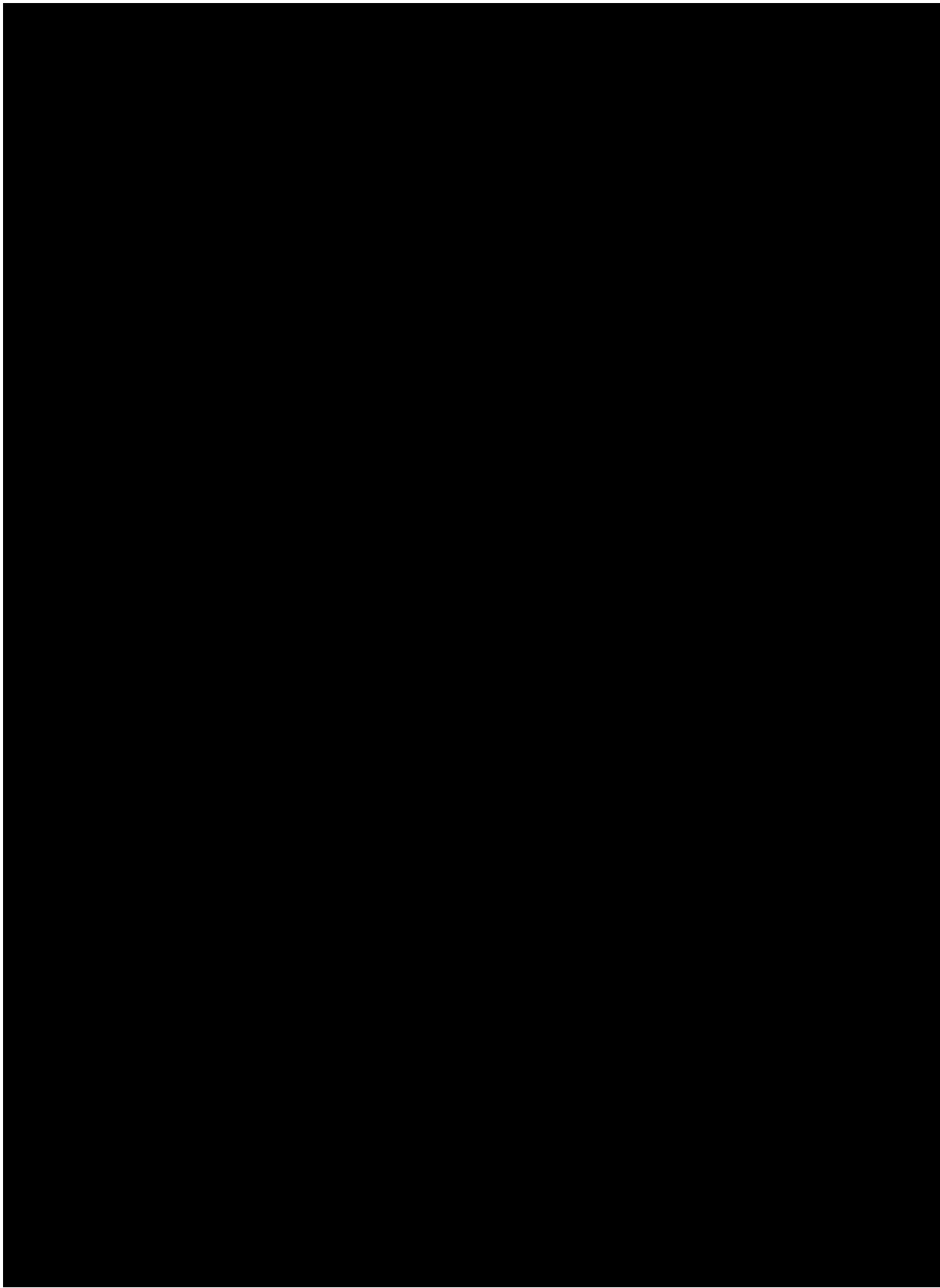
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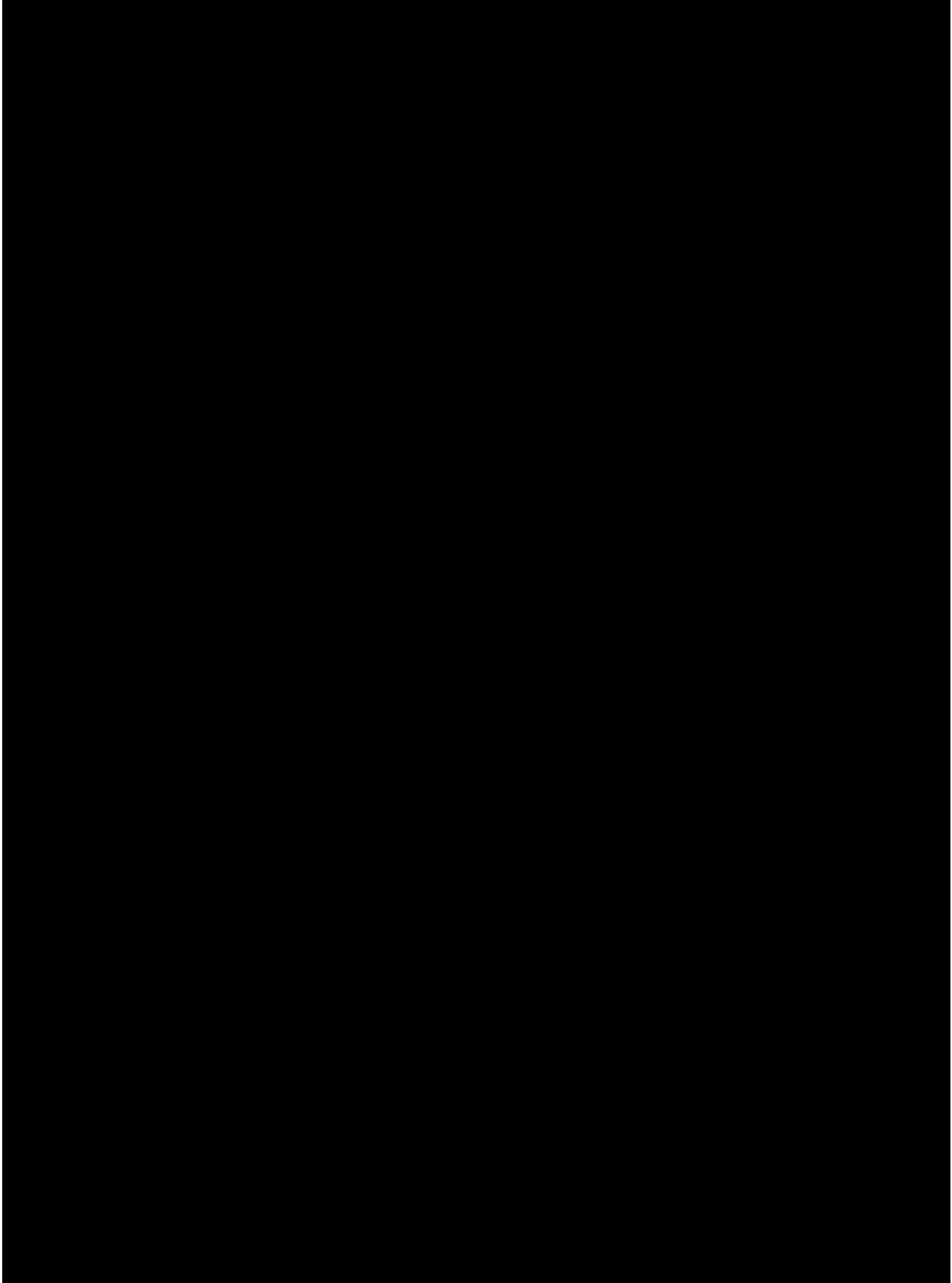


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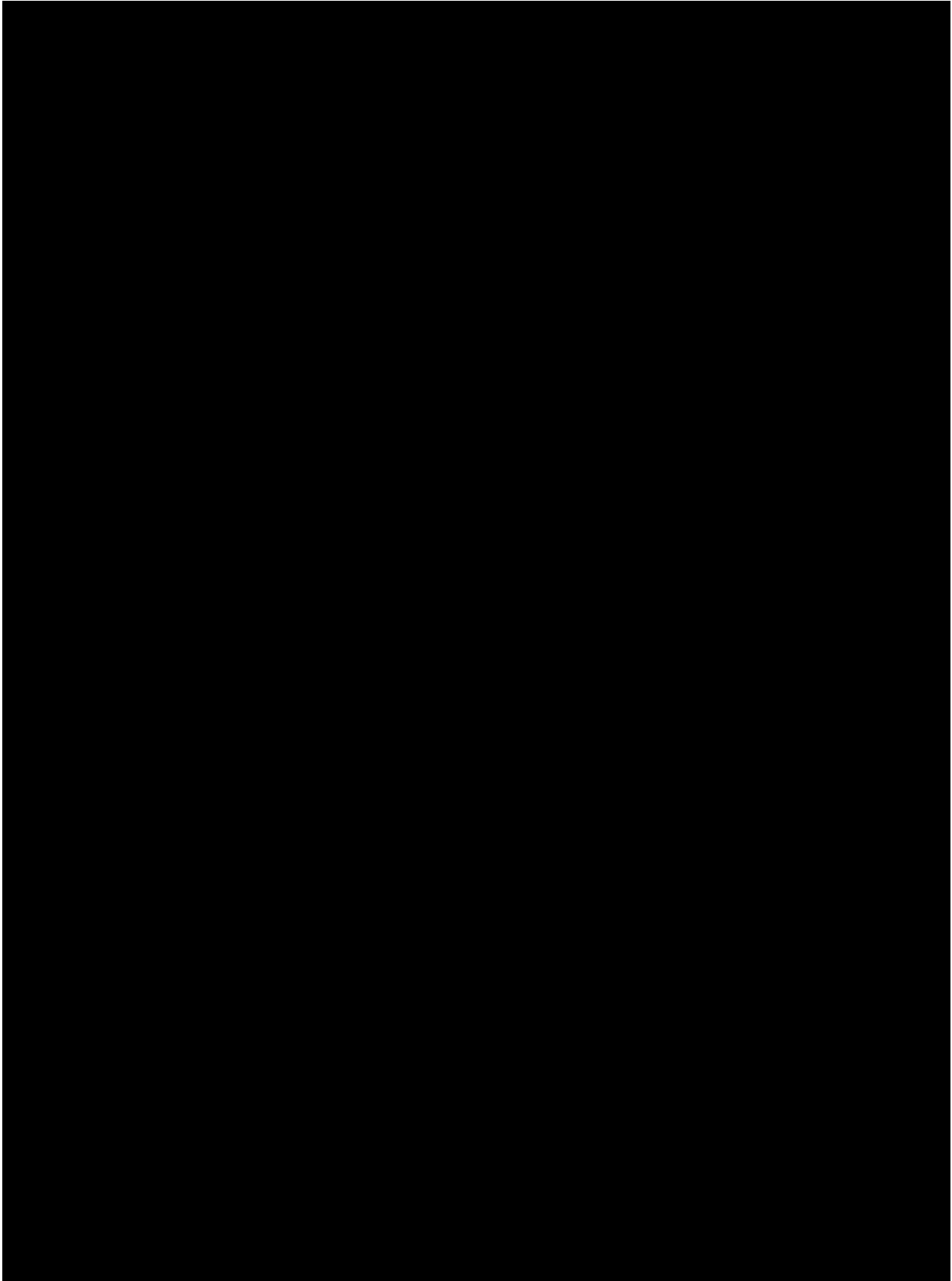




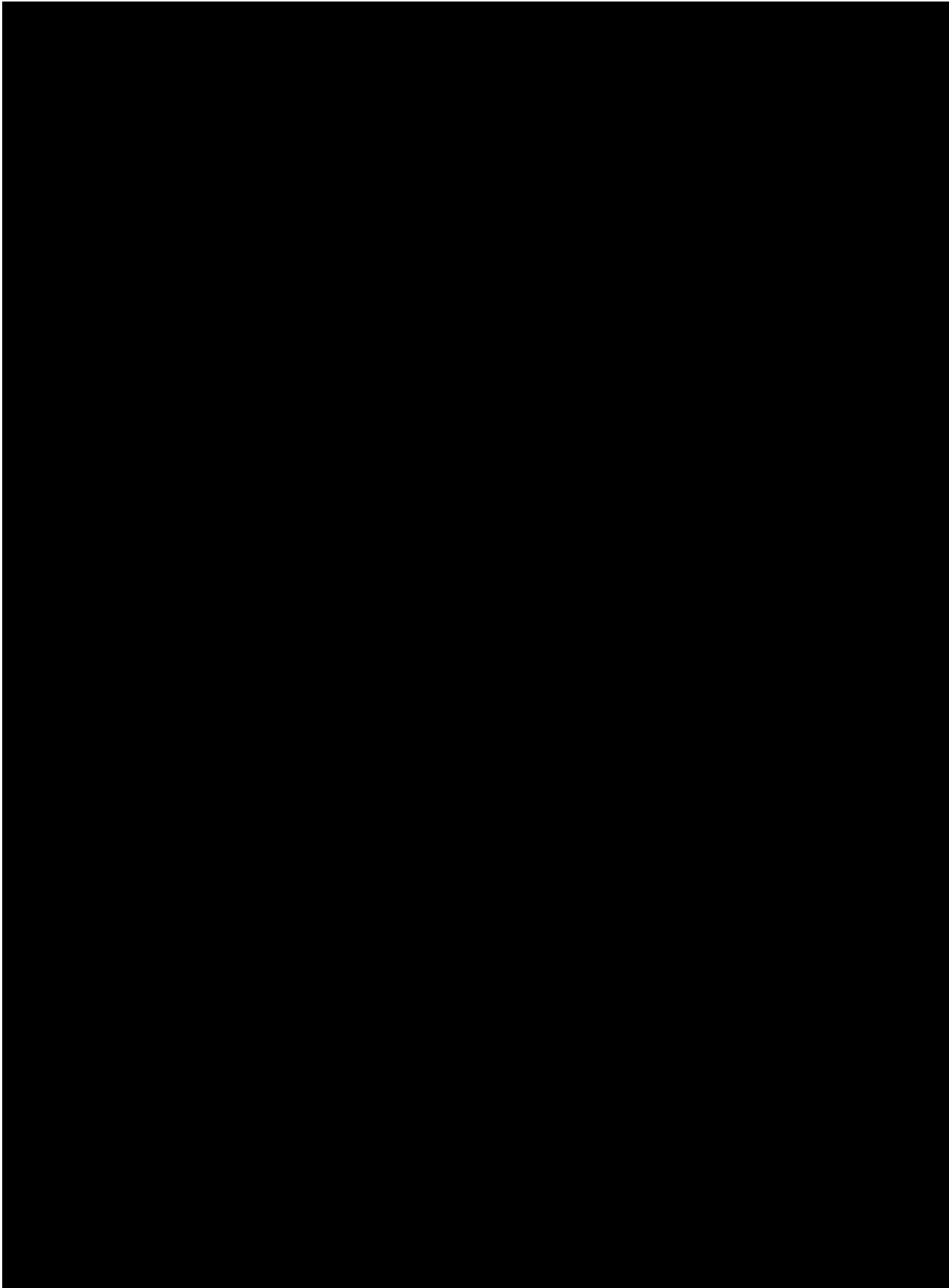
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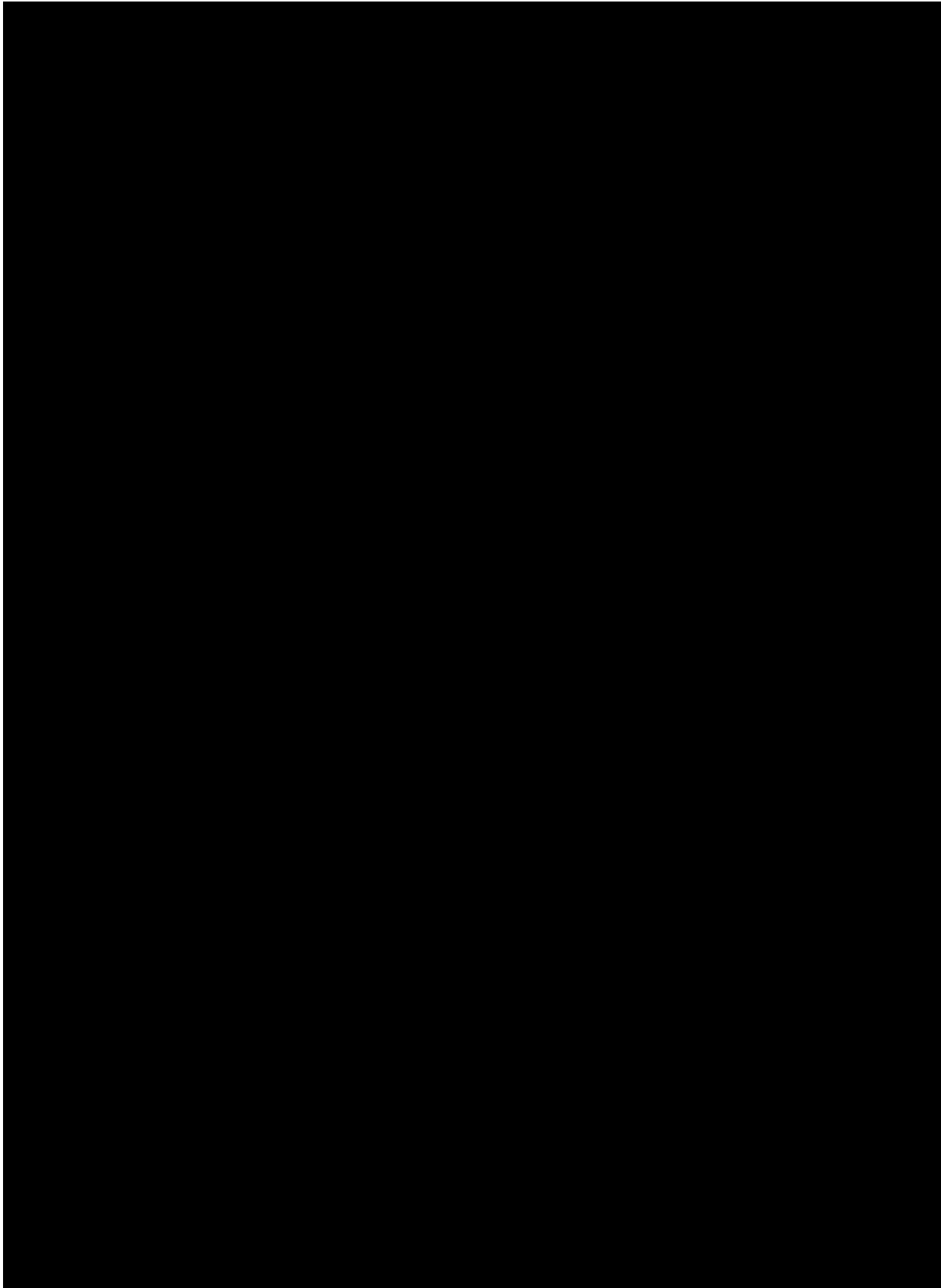
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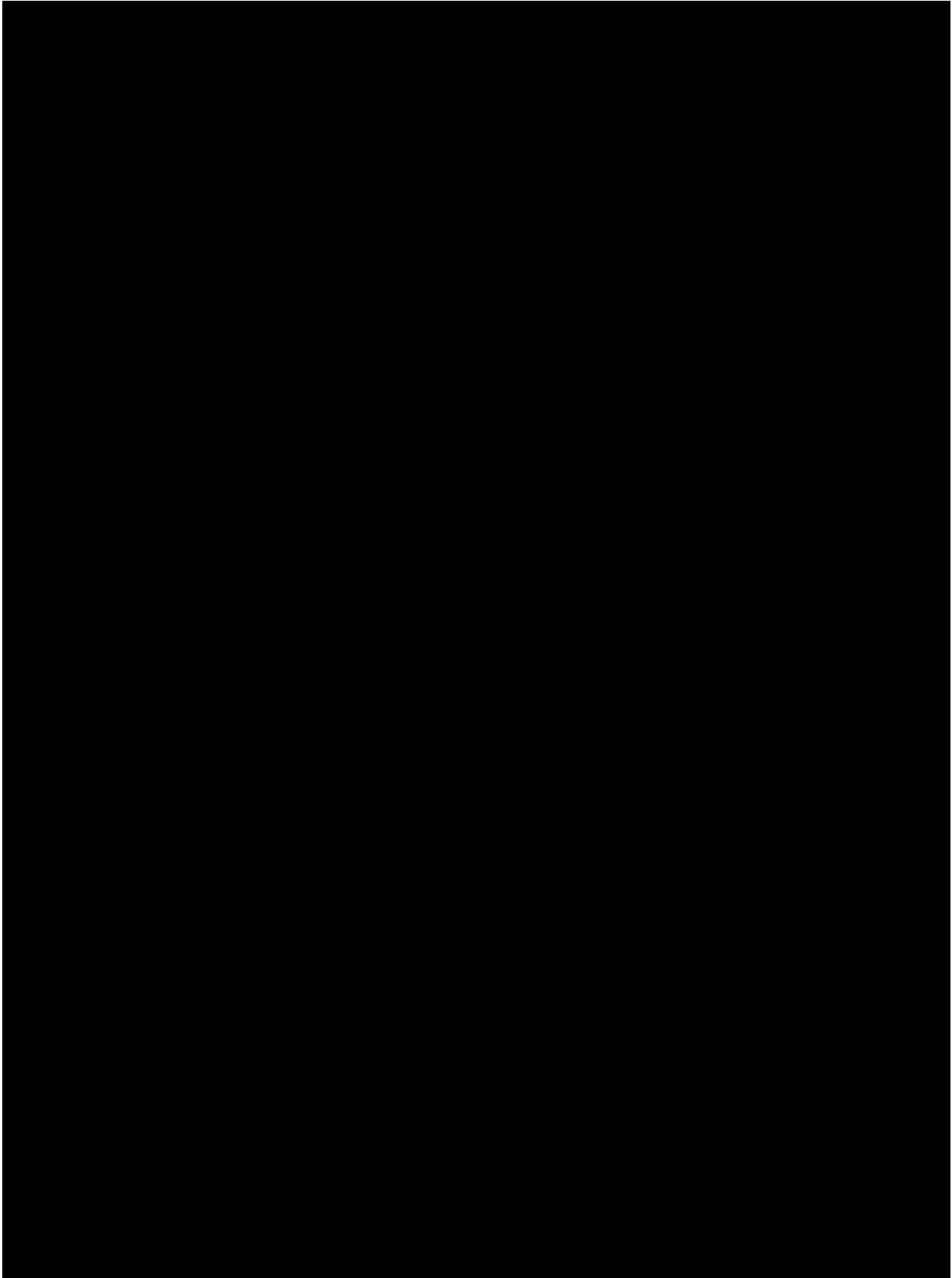
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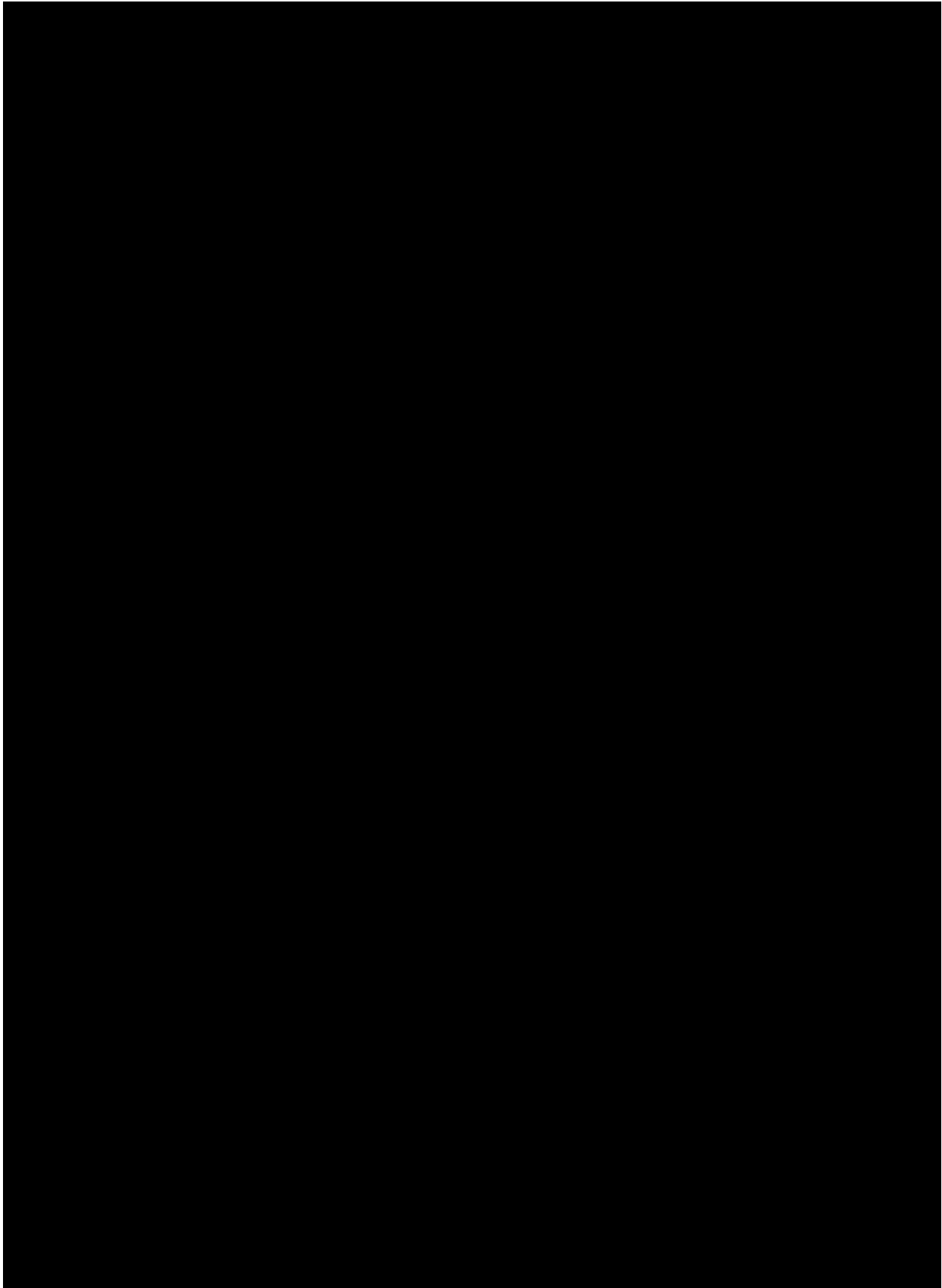
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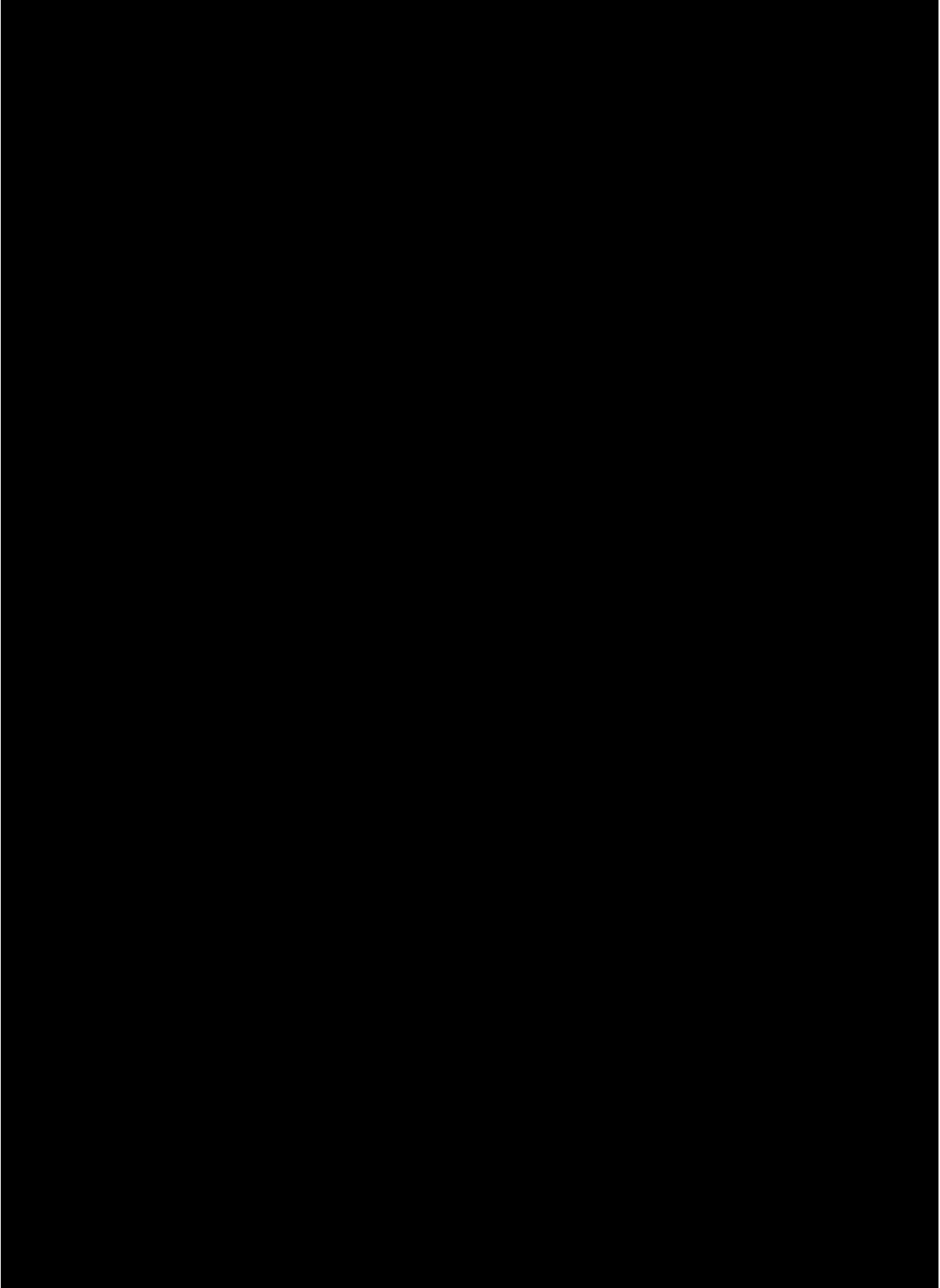
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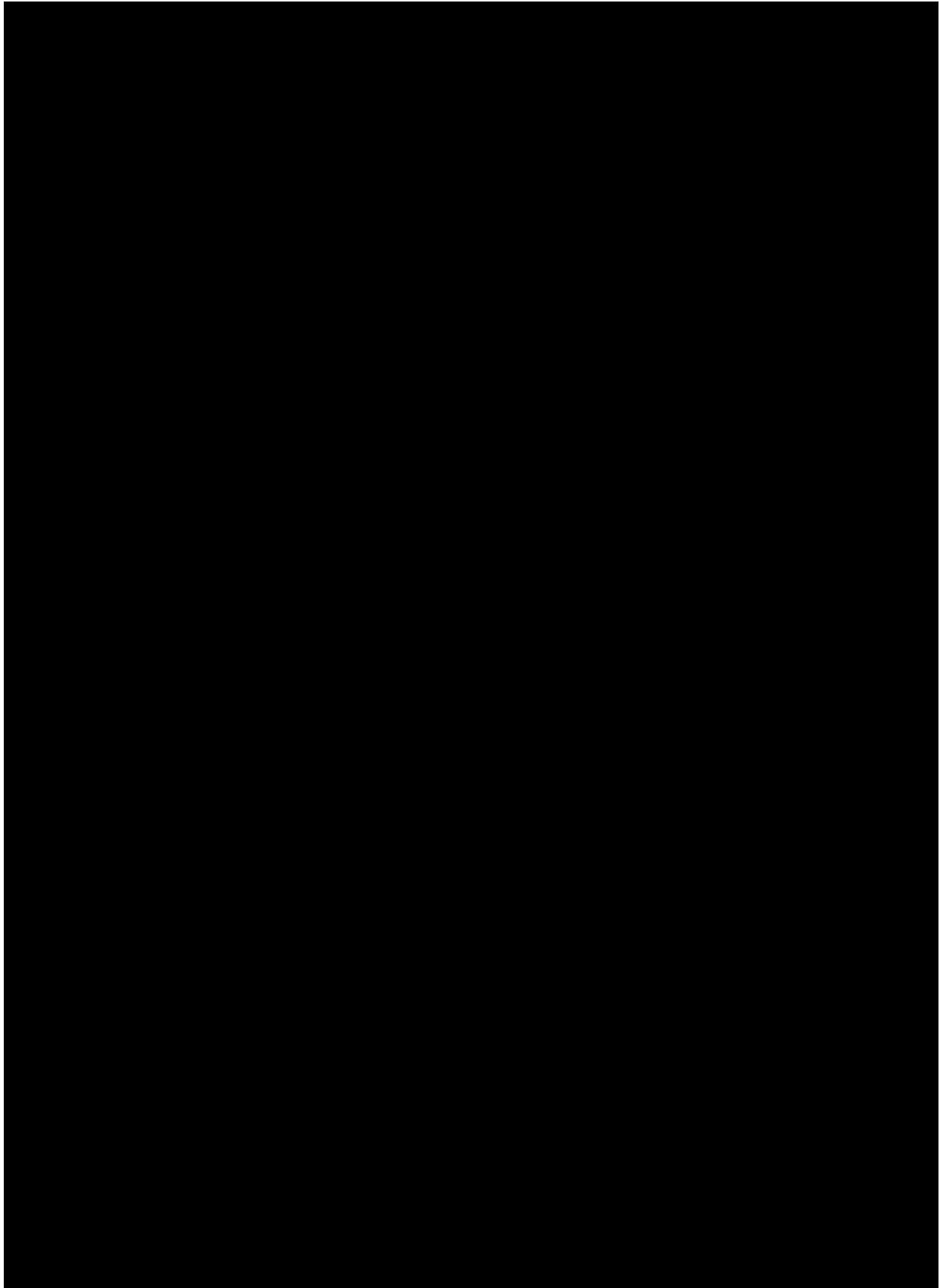
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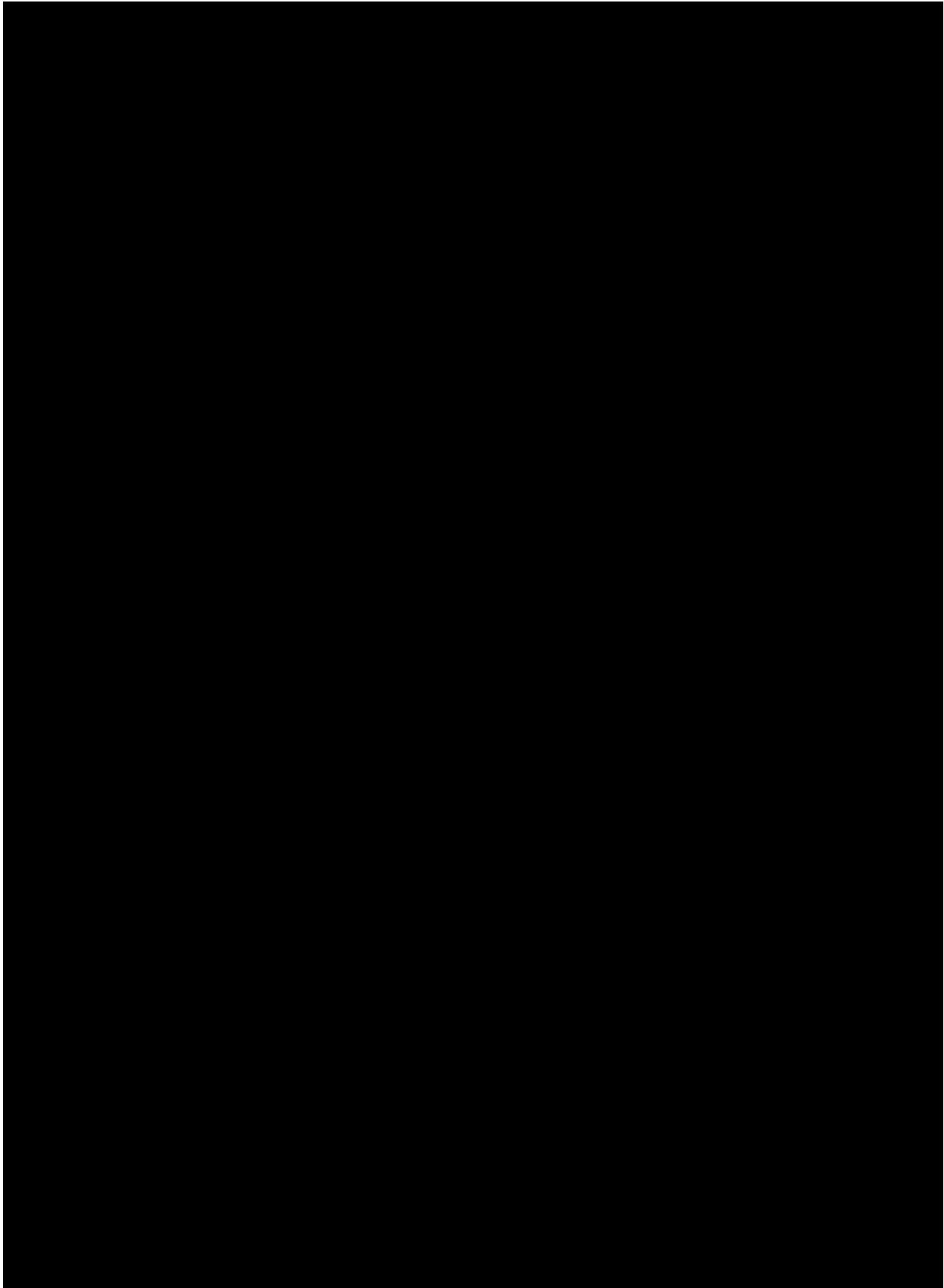


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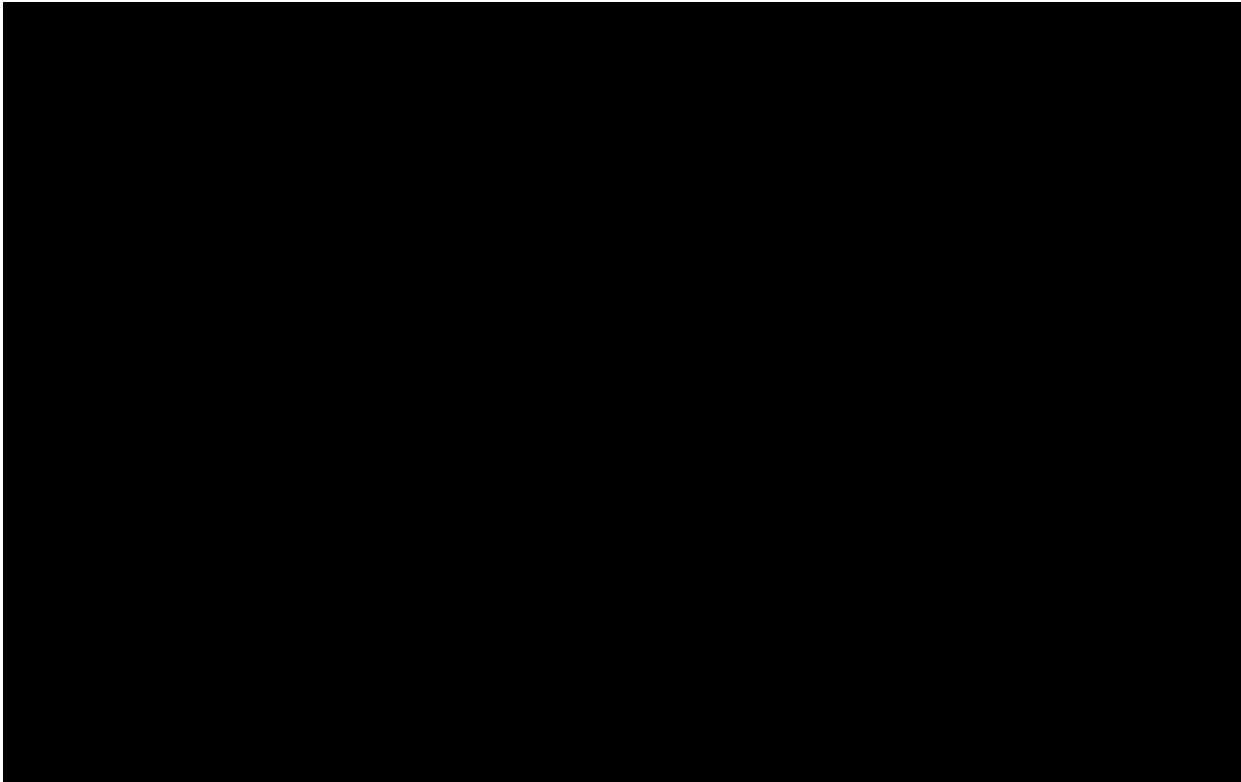




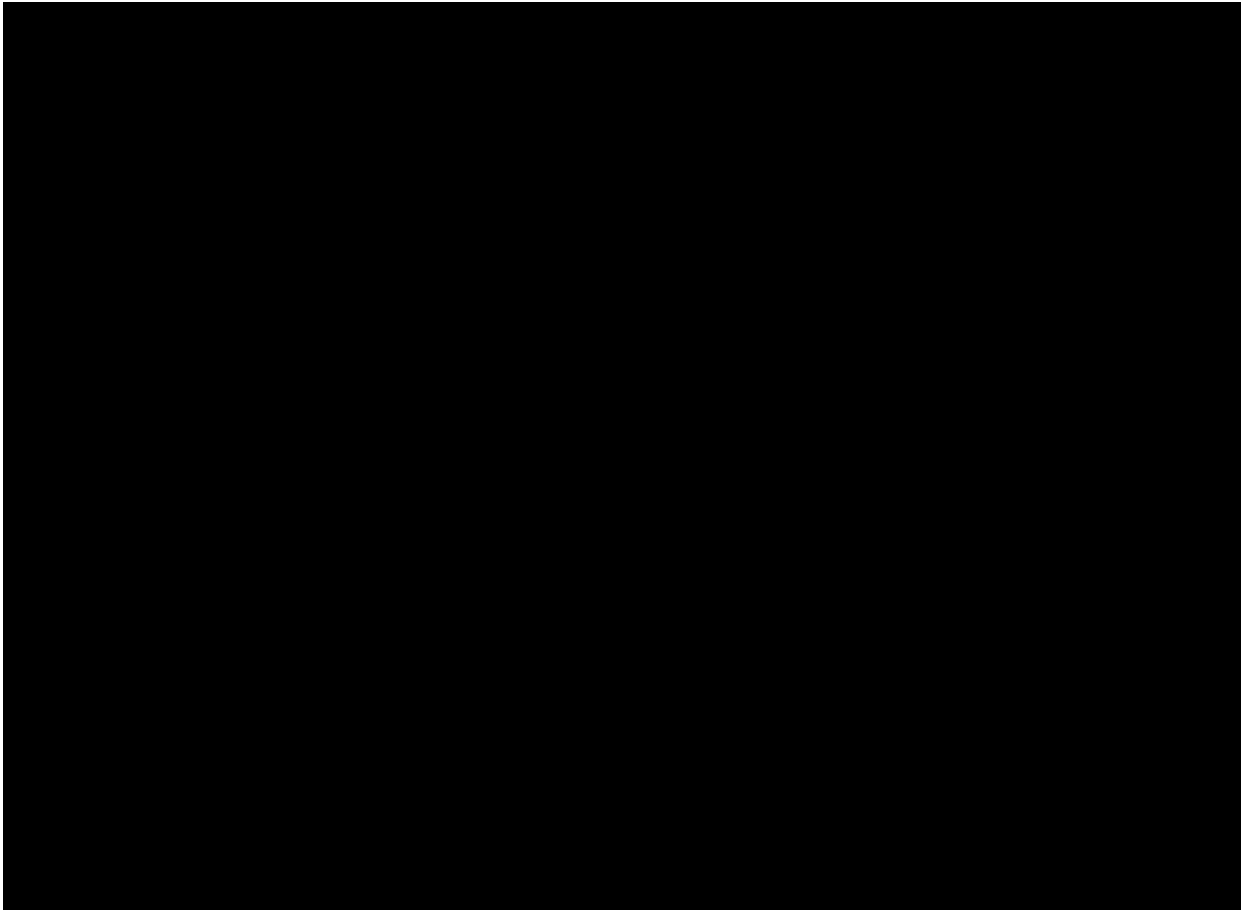
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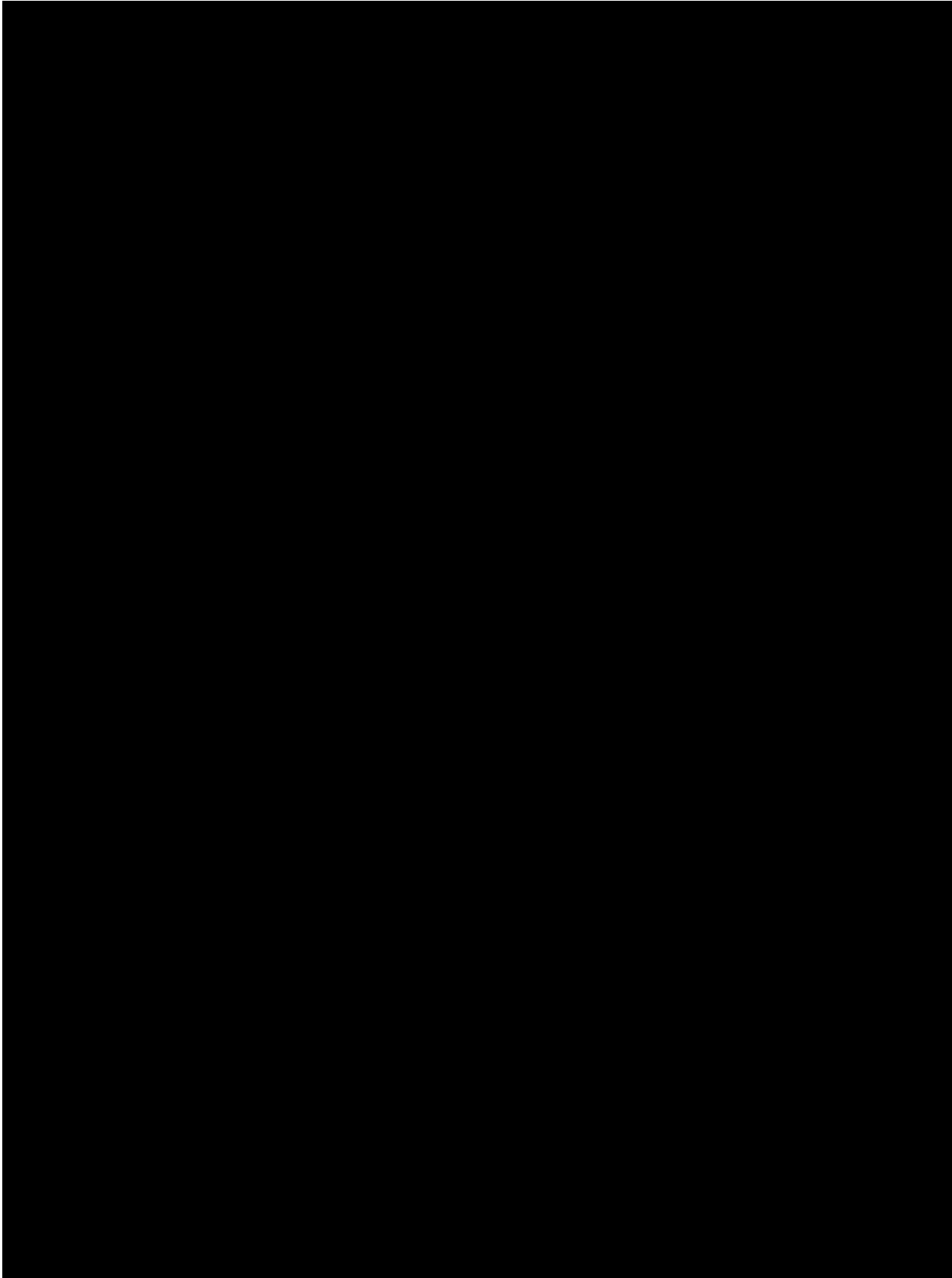
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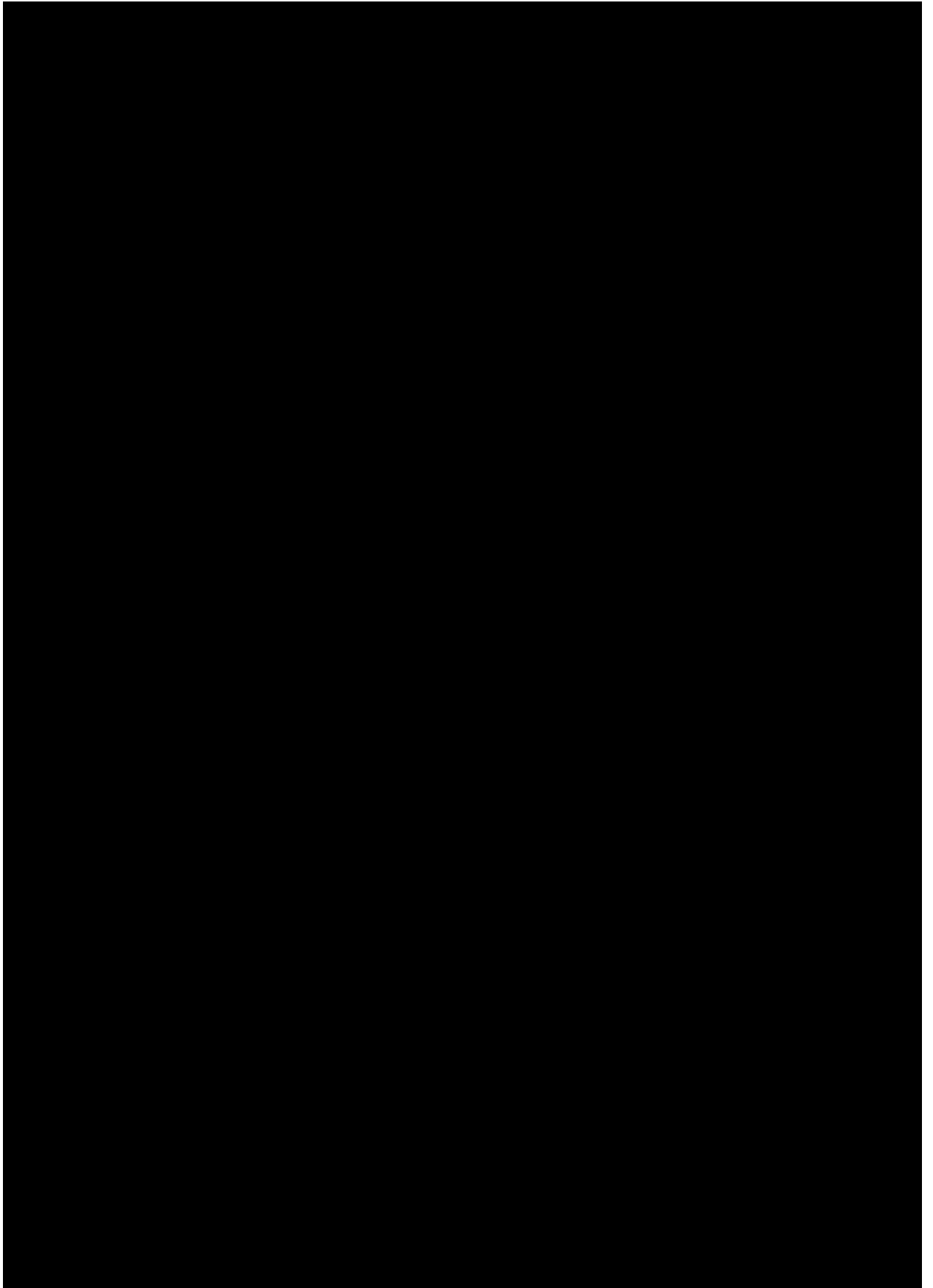
QUESTIONS FROM THE TRIBUNAL



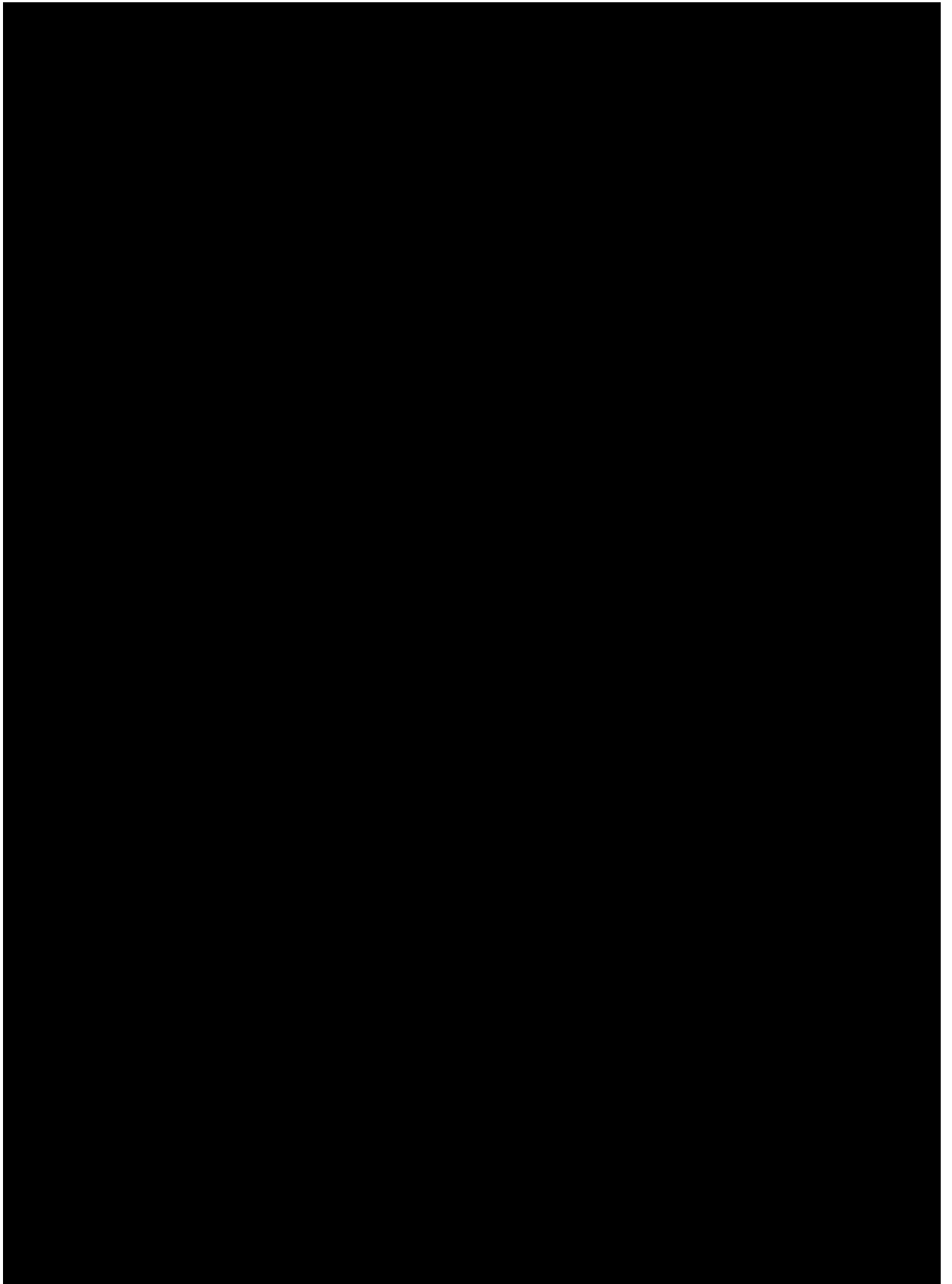
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1 (Witness steps down.)

2 PRESIDENT TERCIER: We will now proceed with  
3 the next, with Mr. Gligor.

4 I suggest nevertheless that we introduce a  
5 break, and then we can have it in one step, two hours,  
6 according to the new calendar.

7 MR. VASQUEZ: Agree.

8 (Brief recess.)

9 PRESIDENT TERCIER: Okay. Claimants are  
10 ready? Mr. Pham, are you ready?

11 MR. PHAM: Yes, Mr. President.

12 PRESIDENT TERCIER: I will see. Court  
13 reporter ready? Are the interpreters ready?

14 THE INTERPRETER: We are ready.

15 PRESIDENT TERCIER: Thank you very much. So,  
16 we may proceed.

17 ADRIAN GLIGOR, CLAIMANTS' WITNESS, CALLED

18 PRESIDENT TERCIER: Good afternoon,  
19 Mr. Gligor. In your Witness Statement at Paragraph 7,  
20 you write: "If anticipated--if called"--no. "I  
21 anticipate that if called to provide oral testimony, I  
22 might prefer to do so in Romanian."

1           So, now you've confirmed that you would like  
2 to--prefer to testify in Romanian?

3           THE WITNESS: I do.

4           PRESIDENT TERCIER: I recall that you are  
5 here, called as a witness before this Tribunal. I  
6 would like to introduce to you the Members of the  
7 Tribunal. On my left-hand side, Professor Horacio  
8 Grigera Naón. On my right-hand side, Professor  
9 Zachary Douglas. My name is Pierre Tercier. And we  
10 have our Secretary and the Assistant to the Tribunal.

11           You will be heard as a witness. As such, may  
12 I invite you to read the Declaration that you should  
13 find on your desk--table.

14           THE WITNESS: I solemnly declare, upon my  
15 honor and conscience, that I shall speak the truth,  
16 the whole truth, and nothing but the truth.

17           PRESIDENT TERCIER: Okay. You have prepared  
18 for this Proceeding two Witness Statements, the first  
19 dated 30th of June 2017, and the second 30th of  
20 October 2018.

21           (Comments off microphone.)

22           PRESIDENT TERCIER: Shall I repeat?

1           You have prepared for this Proceeding two  
2 Witness Statements, the first dated 30th of June 2017,  
3 and the second the 30th of October 2018.

4           You have these documents in front of you?

5           THE WITNESS: I do.

6           PRESIDENT TERCIER: Can you confirm the  
7 content of these documents, or do you wish to make  
8 amendments?

9           THE WITNESS: I confirm the content of the  
10 documents, and I do not wish to make any amendments.  
11 Thank you.

12          PRESIDENT TERCIER: Thank you.

13          You know how this procedure will be  
14 conducted. We will first ask you one or two  
15 questions, then there will be a short direct, then the  
16 cross-examination, and then the redirect. And the  
17 Arbitral Tribunal has a right, at any time, to ask a  
18 question to you.

19          Is it clear?

20          THE WITNESS: It is.

21          PRESIDENT TERCIER: Okay. Two rules. The  
22 first, we have court reporters behind you making a



1 transcript. It is important for the clarity of the  
2 transcript that you do not speak or interrupt the  
3 speaker that speaks before you. That's point number  
4 one.

5 Point number two for everybody, before  
6 answering--or before asking your question, just wait a  
7 few seconds so that the interpreters may finish their  
8 interpretation.

9 Is it clear?

10 THE WITNESS: It is clear.

11 PRESIDENT TERCIER: We have seen in your  
12 Witness Statement some element concerning your role,  
13 but I would like you to introduce yourself shortly,  
14 explaining what was your position, what has been your  
15 position, what was your position at the time the  
16 evidence occurred, and what is now your position.

17 THE WITNESS: Thank you.

18 My name is Adrian Gligor. And I am an  
19 archeologist by profession. I am registered in the  
20 Register of Archaeologists of Romania, which is held  
21 by the Ministry of Culture.

22 I worked at the National Union Museum of Alba

1 Iulia at the beginning of my career, in particular,  
2 starting with 1997. Between 2000 and 2001 I worked as  
3 an archeologist of the National Union Museum, and in  
4 this capacity I participated in the research conducted  
5 at Rosia Montana.

6 Since 2002, I worked as a consultant for  
7 cultural heritage and patrimony matters for Rosia  
8 Montana. And as of 2005, I became a direct employee  
9 of RMGC.

10 I hold the position of Director of the  
11 Cultural Patrimony Department as of 2008. Afterwards,  
12 I was appointed Vice President for Cultural Heritage  
13 and Sustainable Development matters. And in 2014, I  
14 became Director for Patrimony of a department which I  
15 represent myself.

16 PRESIDENT TERCIER: Okay. So, you worked  
17 with RMGC from 2002--no--from 2005 until 2008; is that  
18 correct?

19 THE WITNESS: I continue to work with RMGC.  
20 I'm still an employee of RMGC.

21 PRESIDENT TERCIER: Okay. Okay. Good.  
22 Fine.

1           Second question. If you could, in two words,  
2 tell us what has been the process that has been  
3 followed for the preparation of your Witness  
4 Statements.

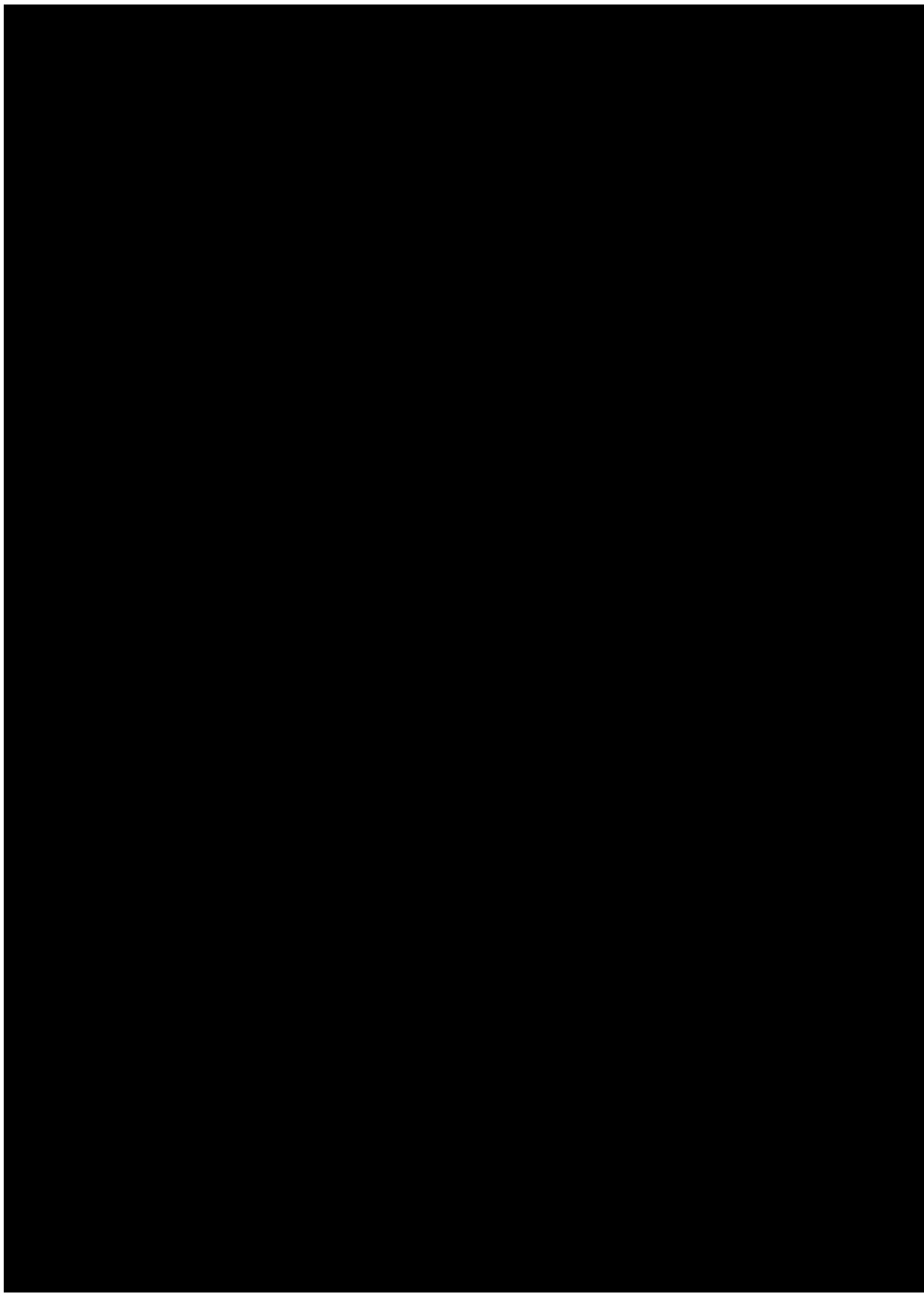
5           THE WITNESS: My Witness Statements were  
6 developed based on my dialogue with the counsels from  
7 Romania, from Tuca Zbarcea & Asociatii, and the  
8 counsels from White & Case. Based on this dialogue,  
9 we came up with various drafts of my Witness  
10 Statements. And when I was satisfied with the content  
11 of the Statements, I concluded the Statement and  
12 signed it. This was valid for both Statements.

13           PRESIDENT TERCIER: I assume you know  
14 sufficient English to check the English version, and  
15 you have confirmed it, and you confirm also that the  
16 English version corresponds to your testimony?

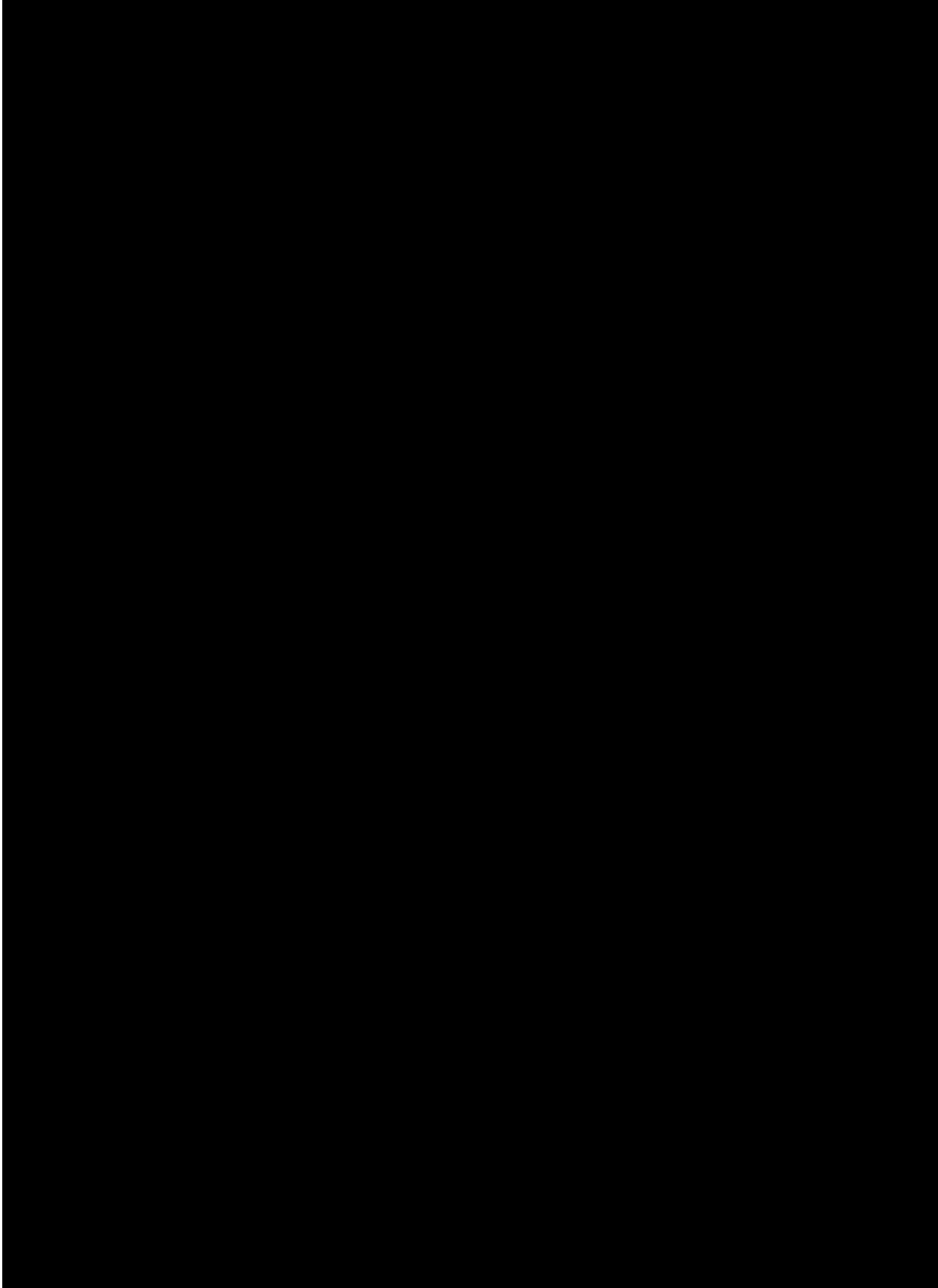
17           THE WITNESS: I understand sufficient English  
18 to understand written content, but it's not that good  
19 so as to follow a discussion at this level here. But  
20 I understood the content of my Statements, and I fully  
21 endorse these Statements because they are my  
22 Statements.



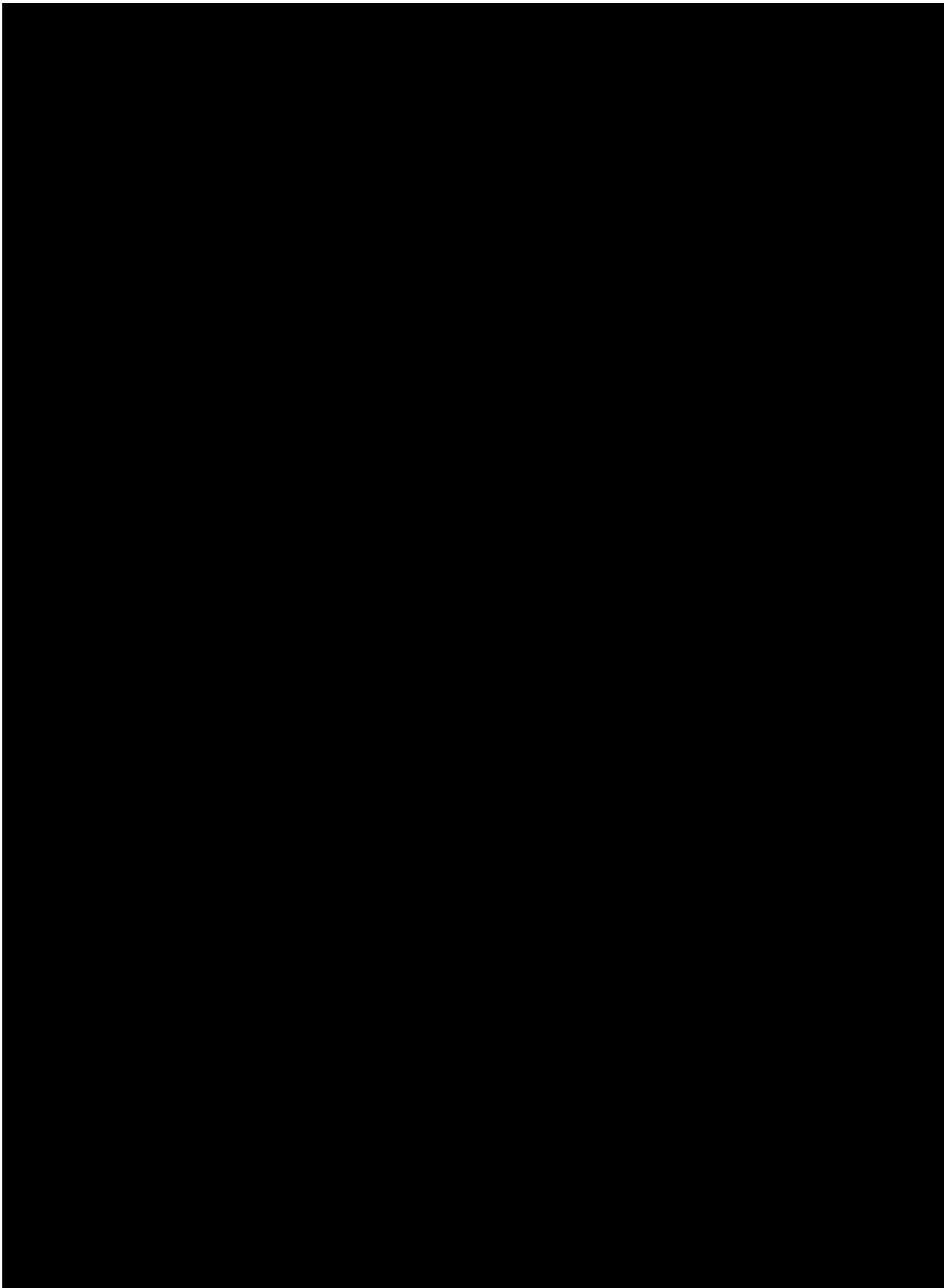
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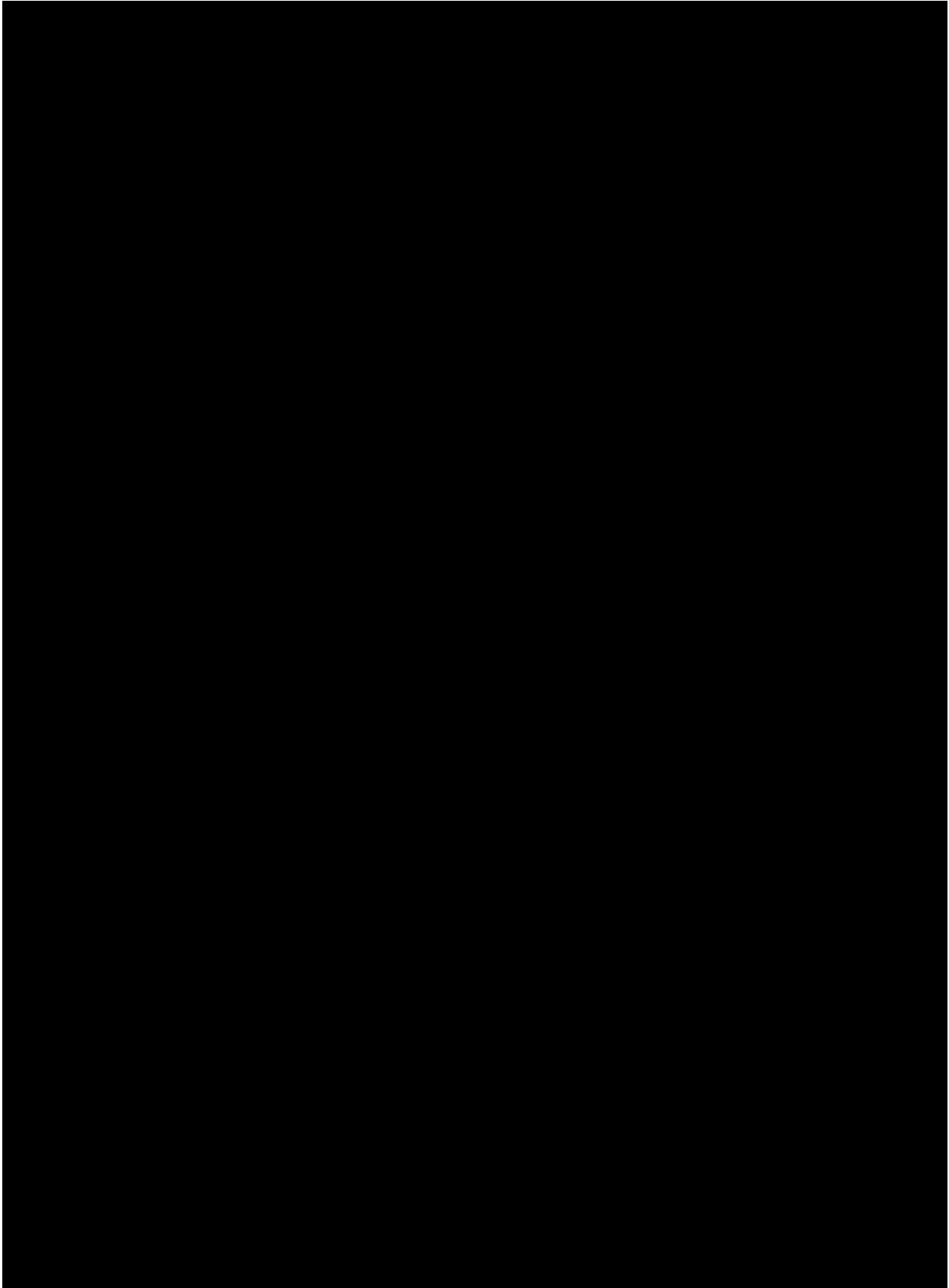
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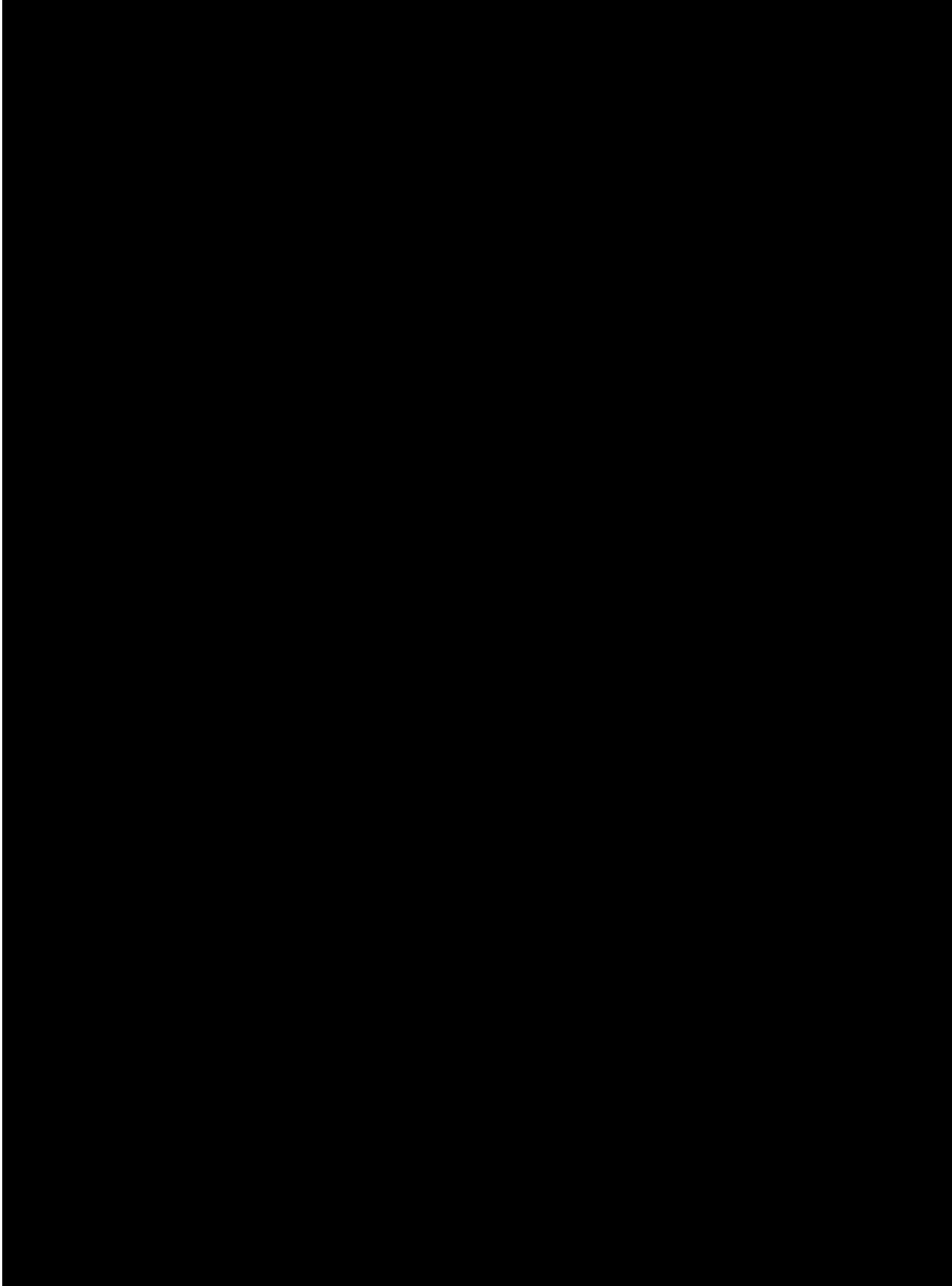


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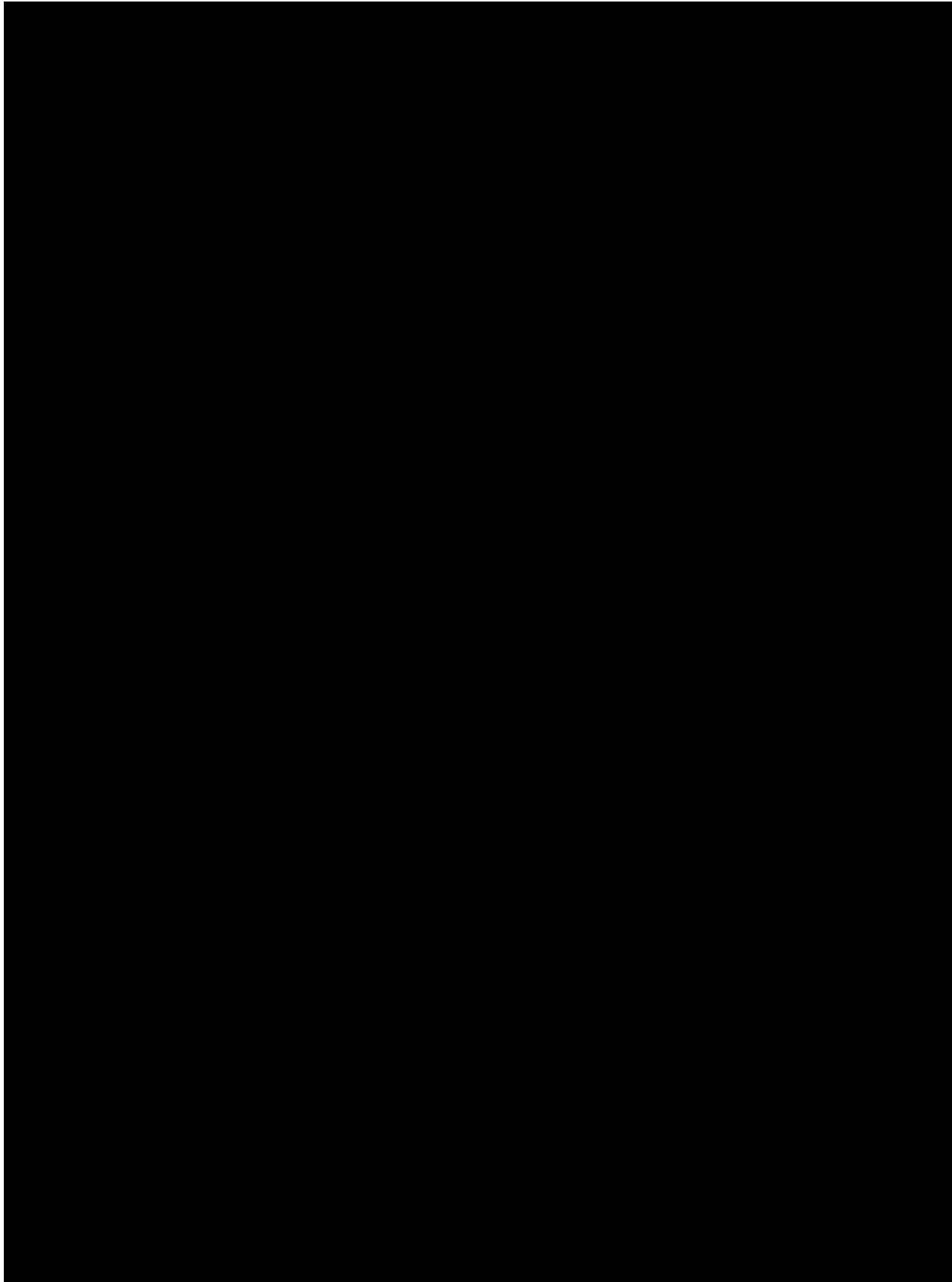




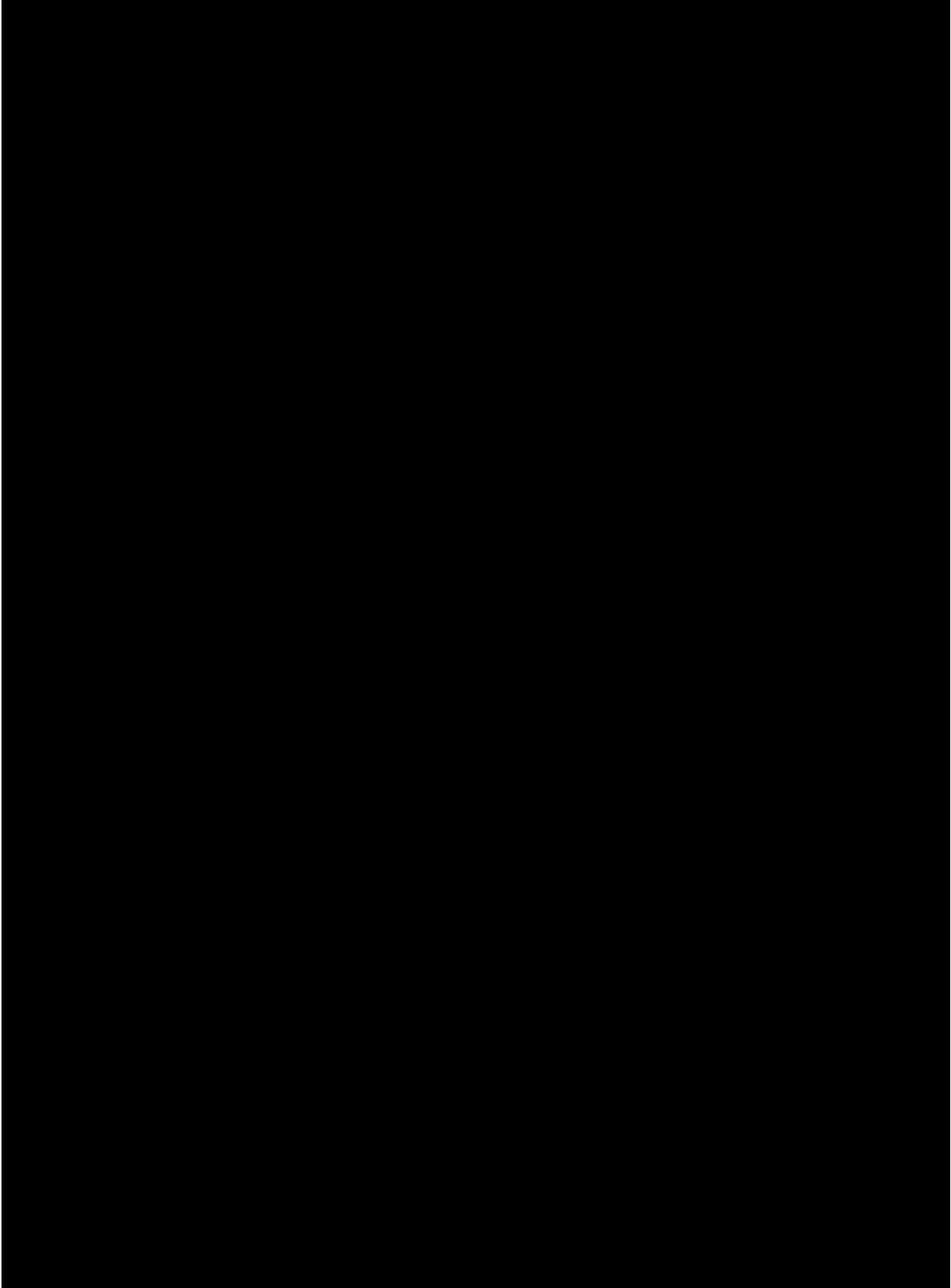
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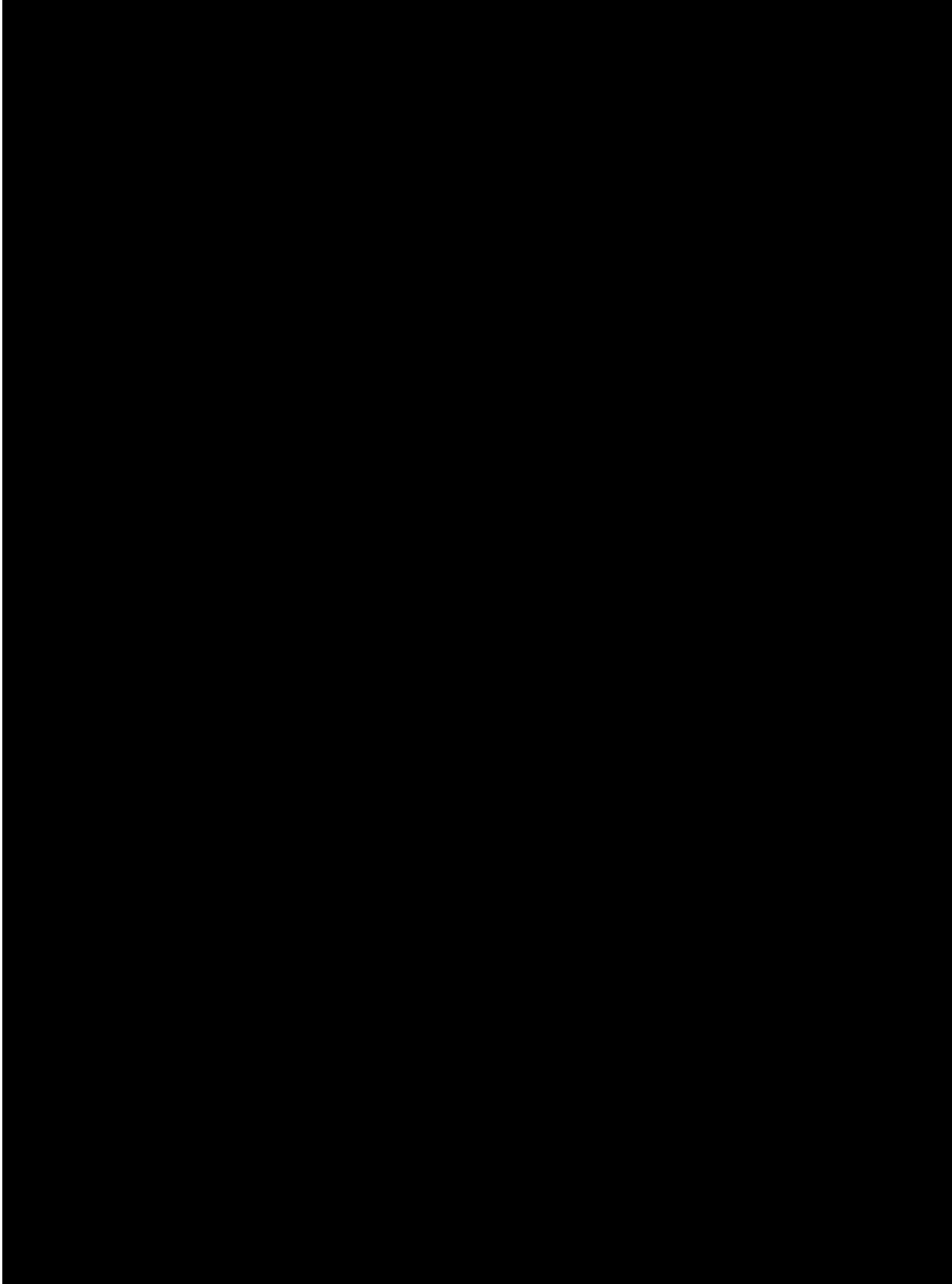
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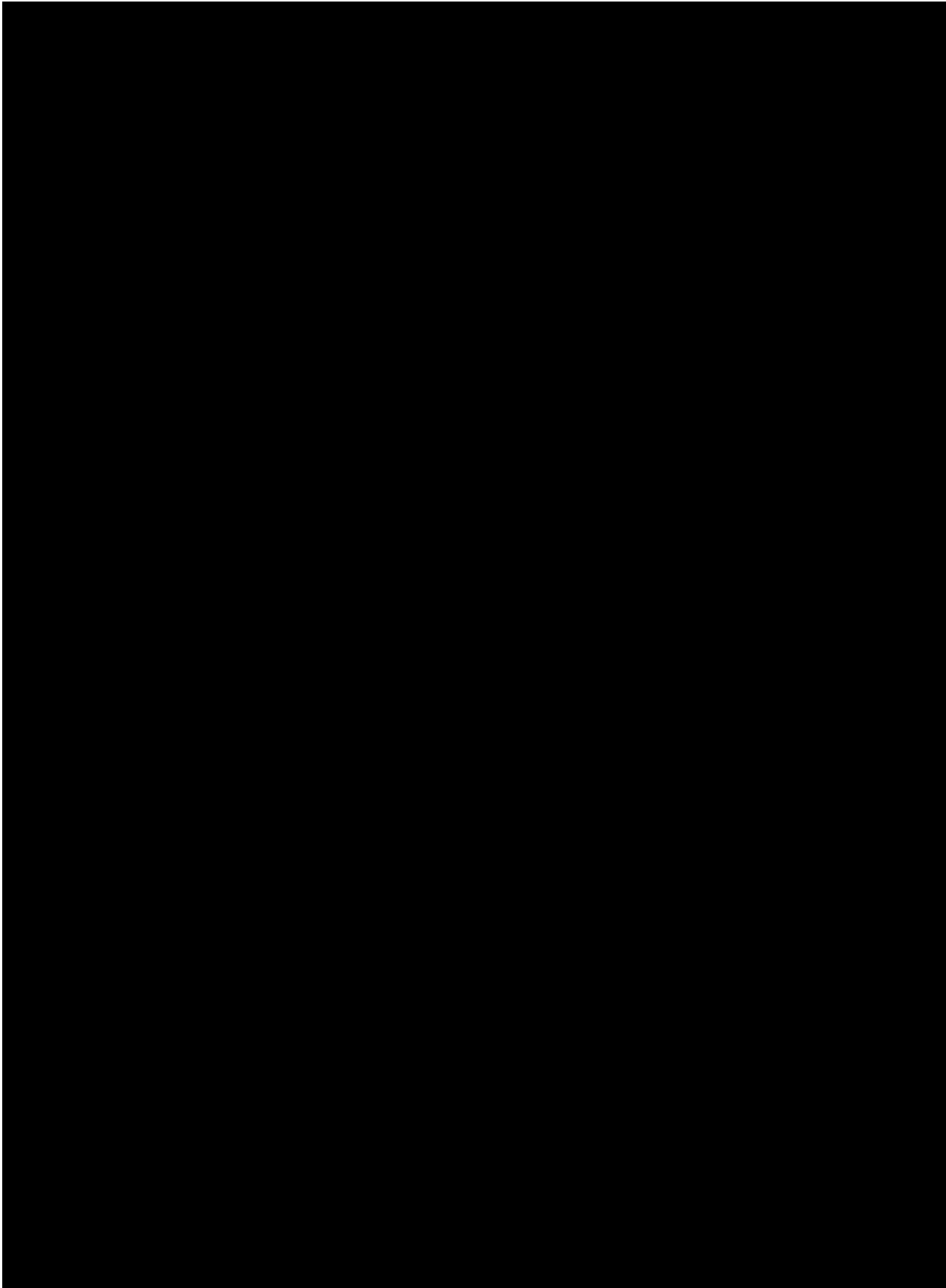
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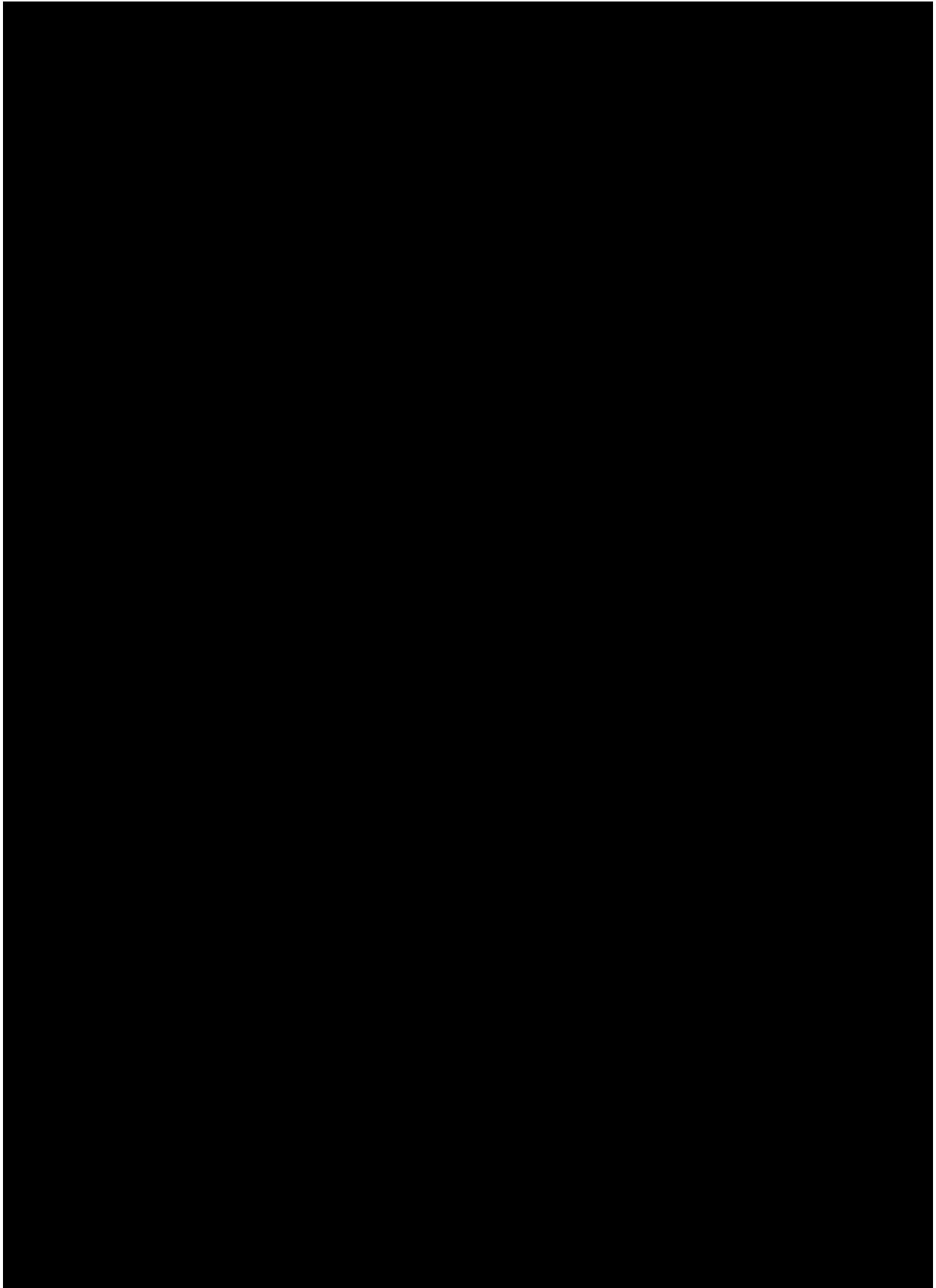
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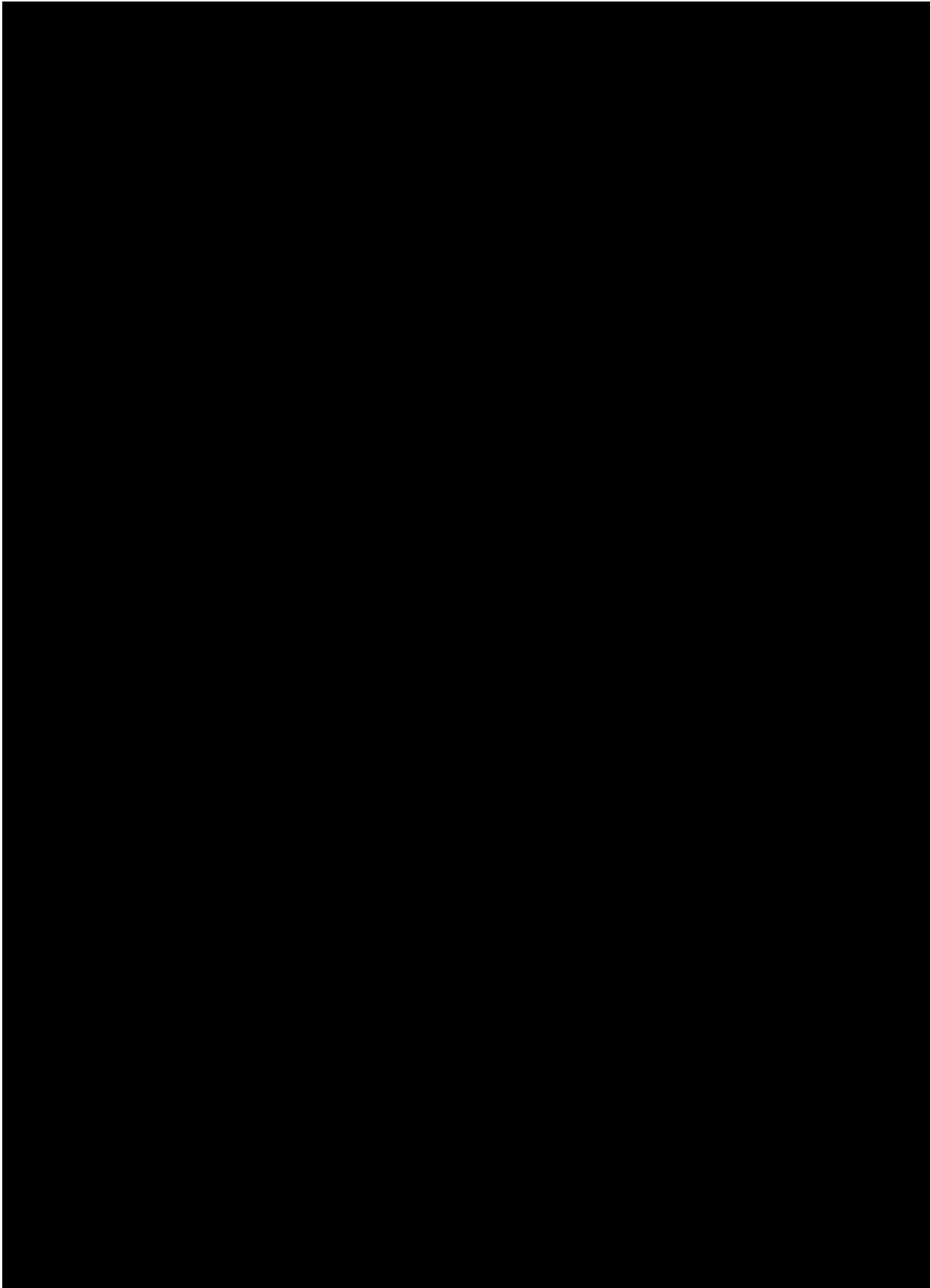
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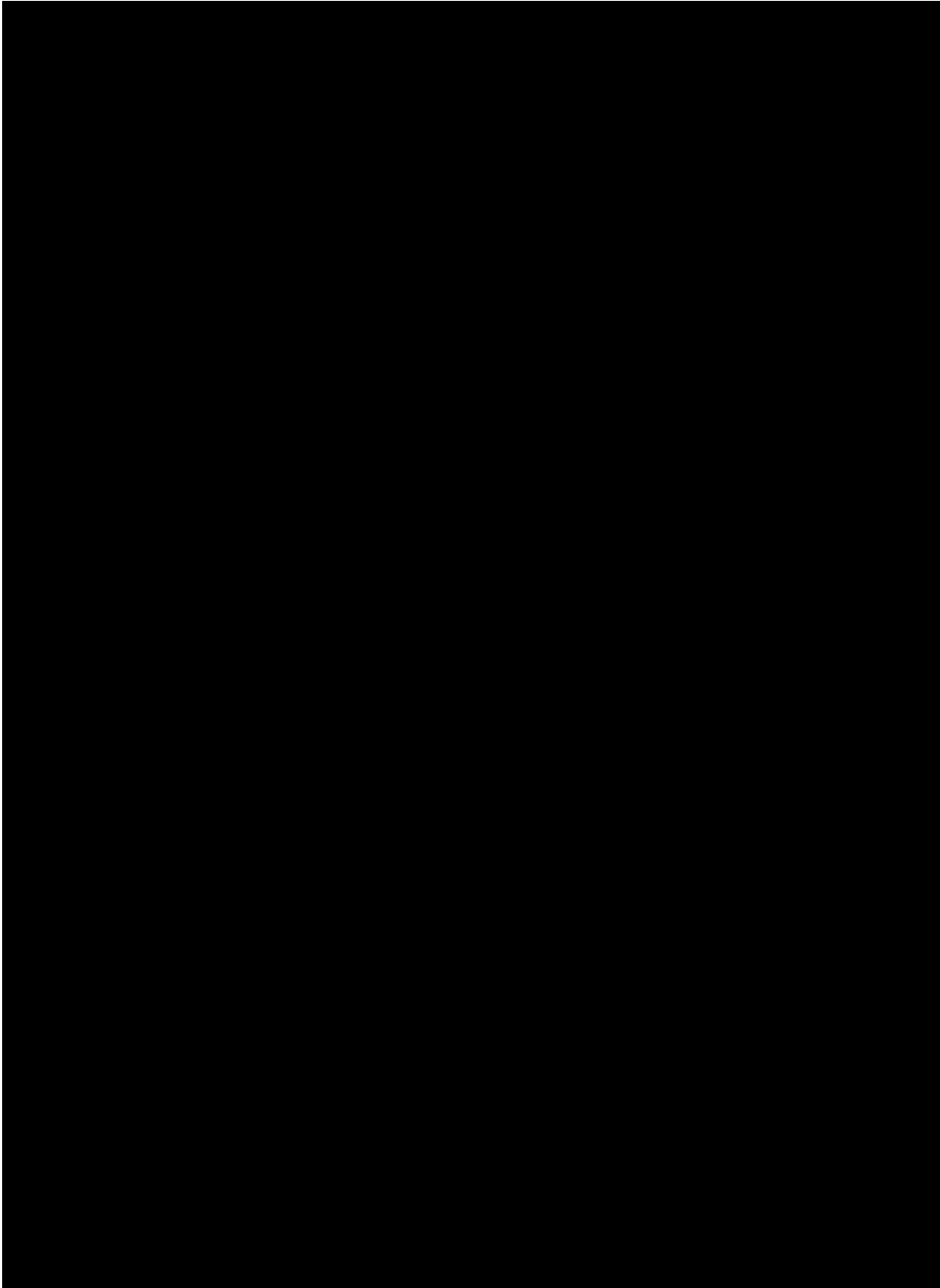
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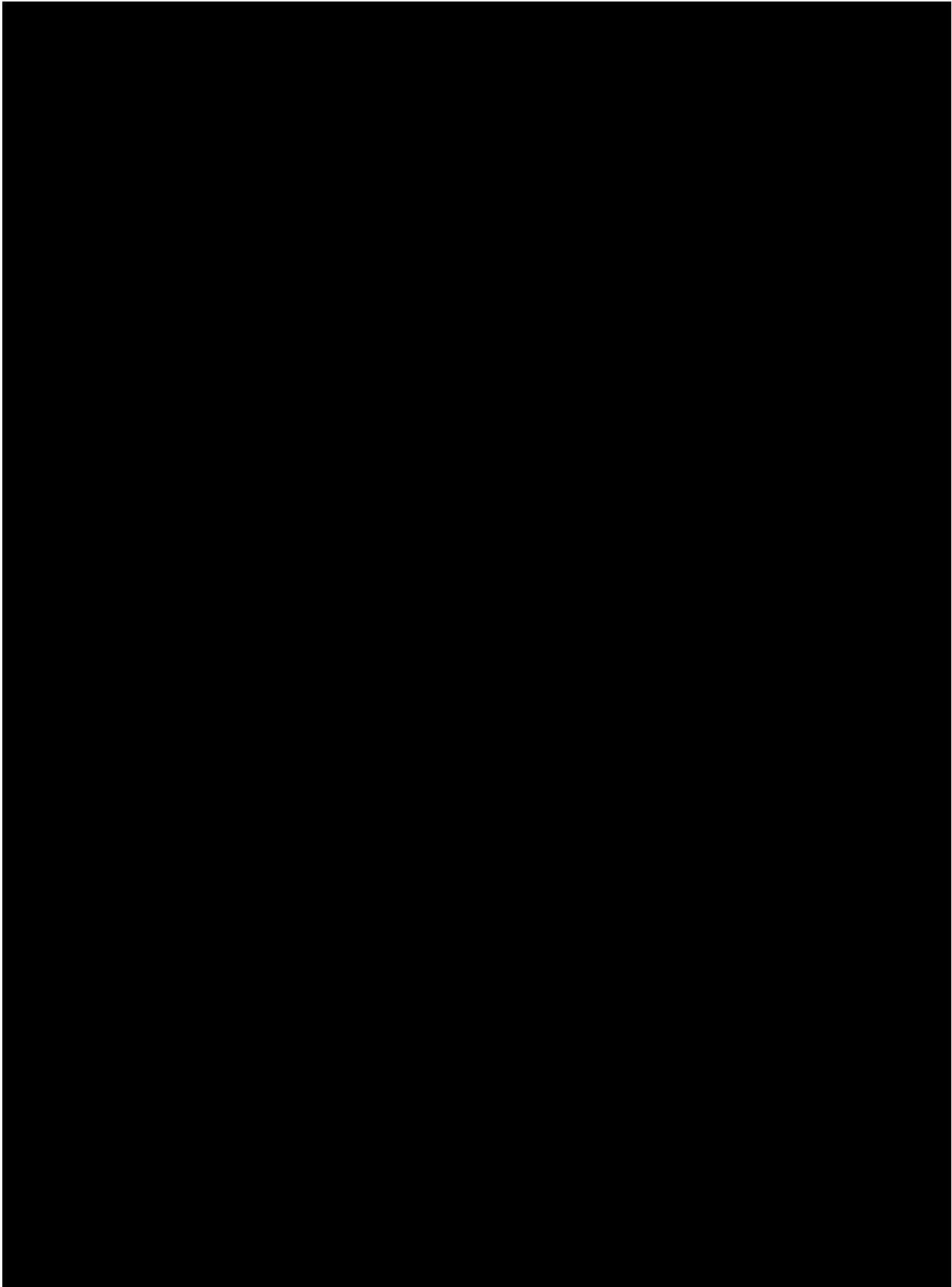


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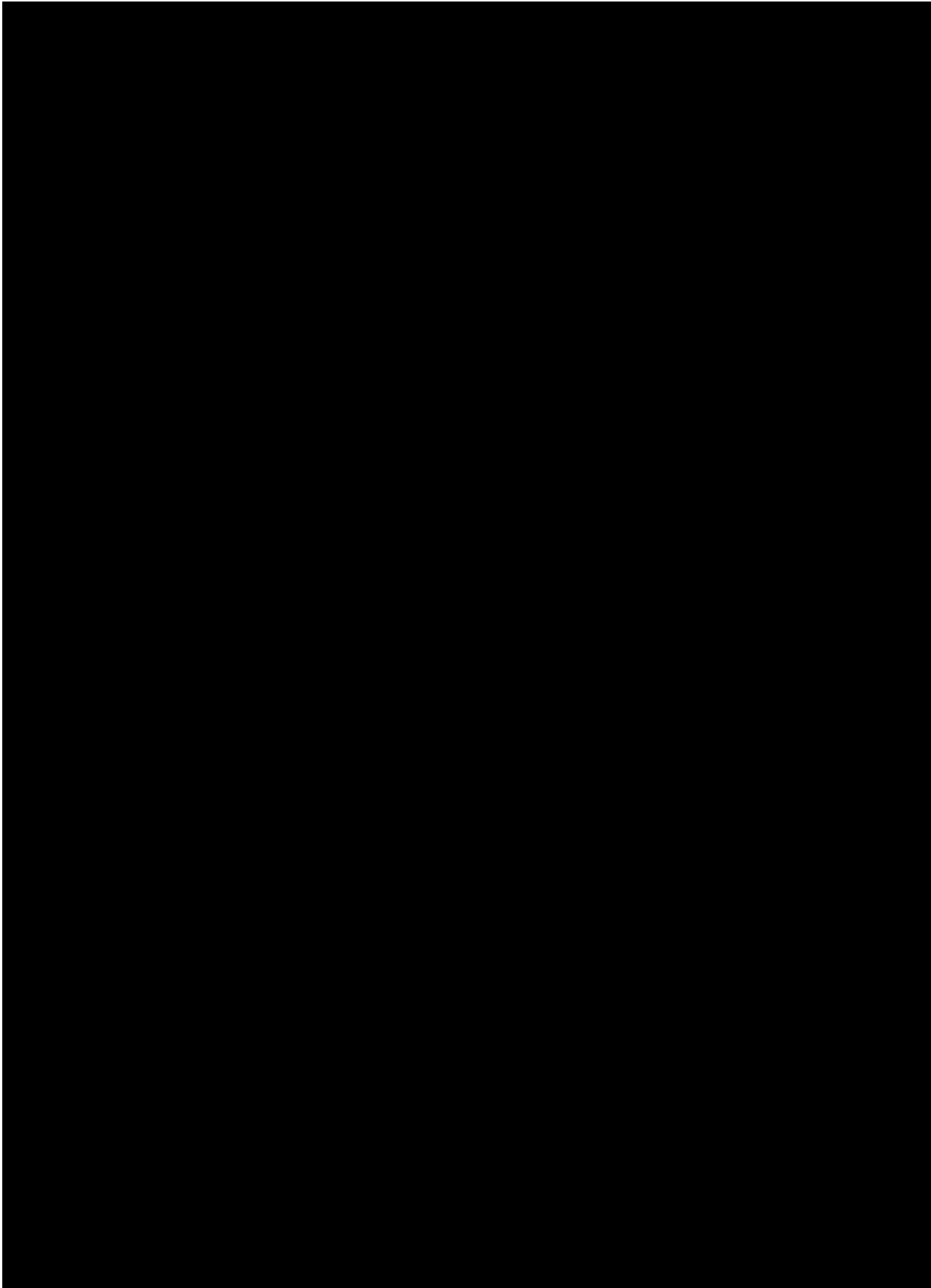




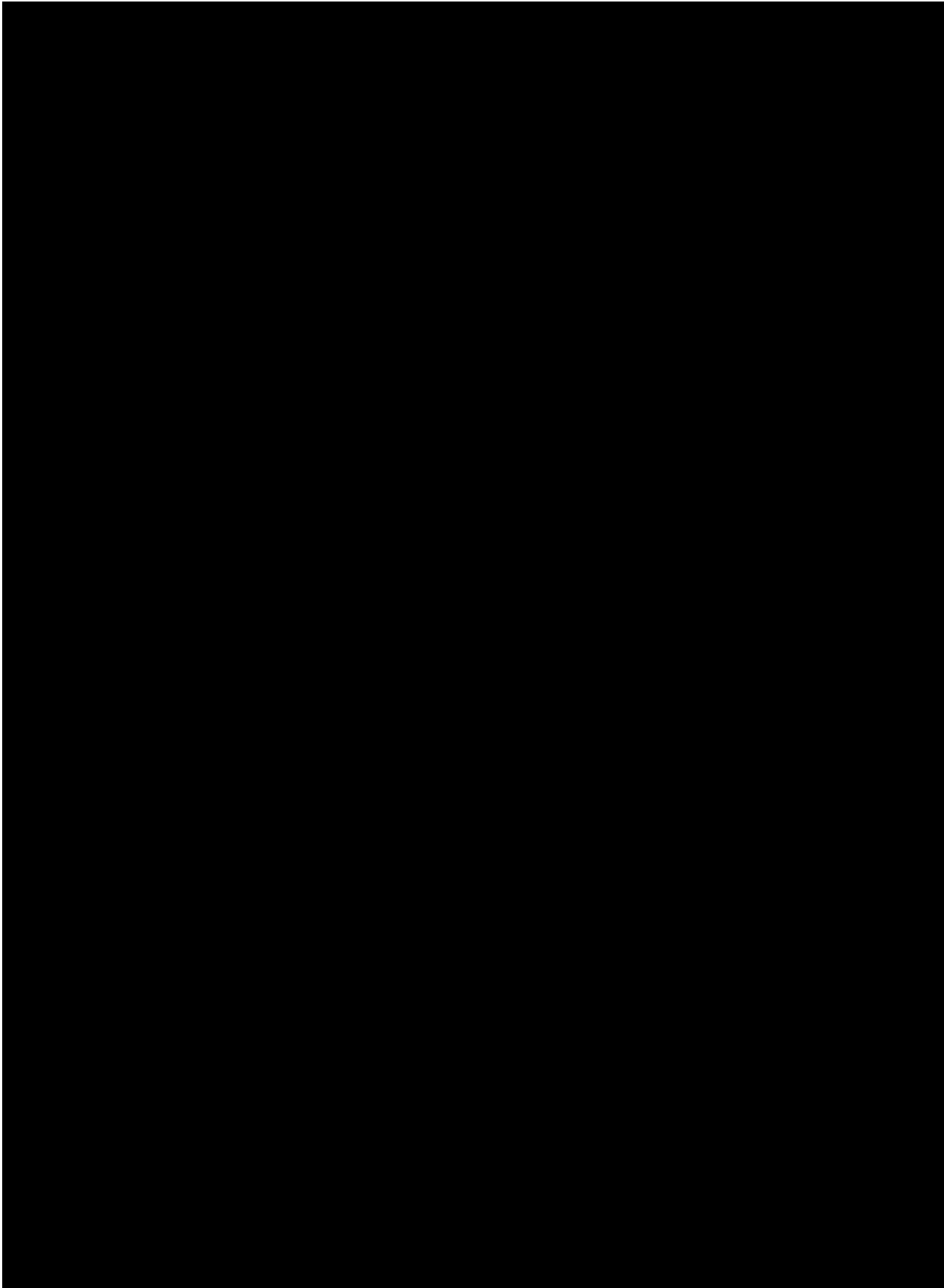
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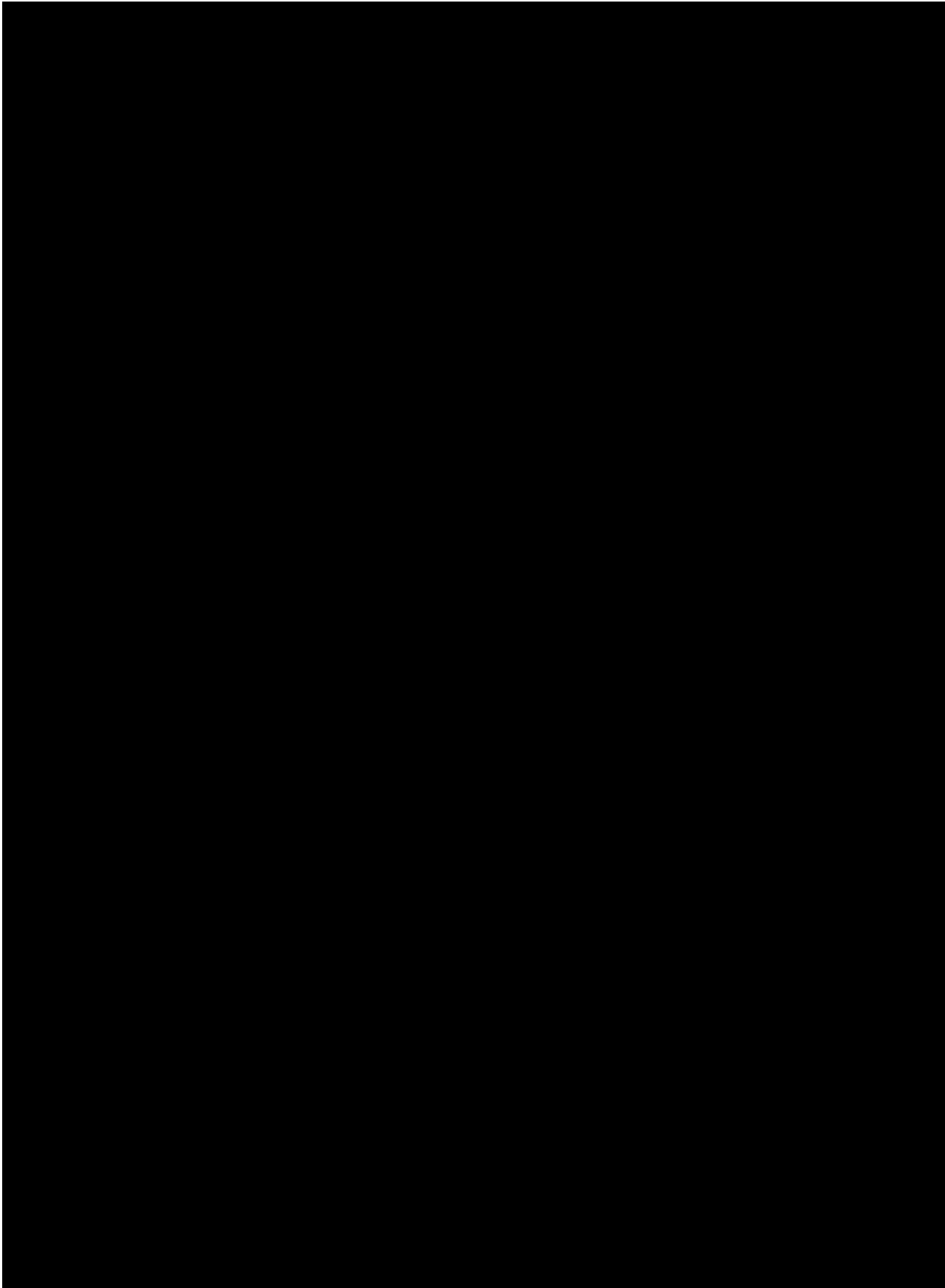
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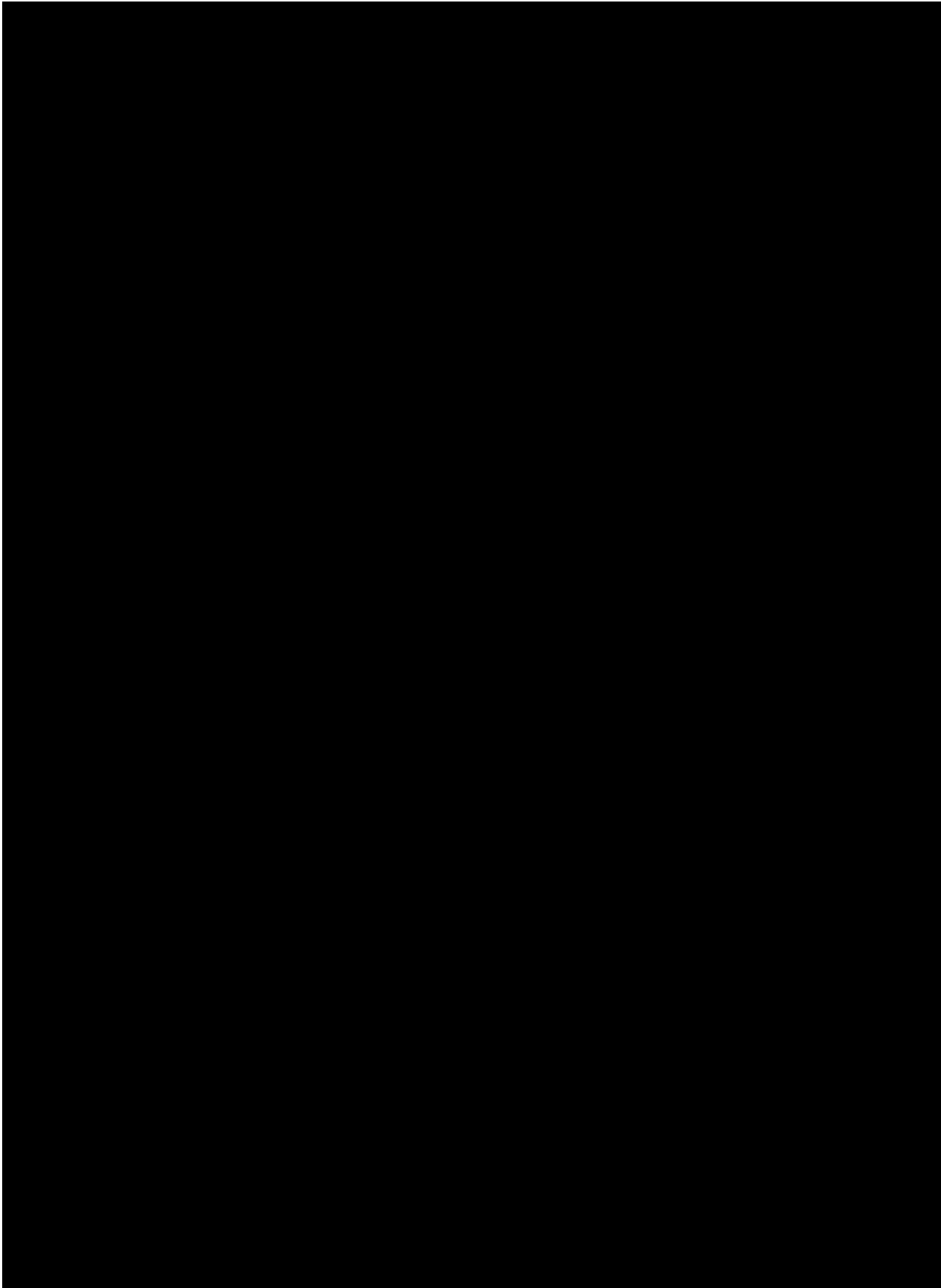
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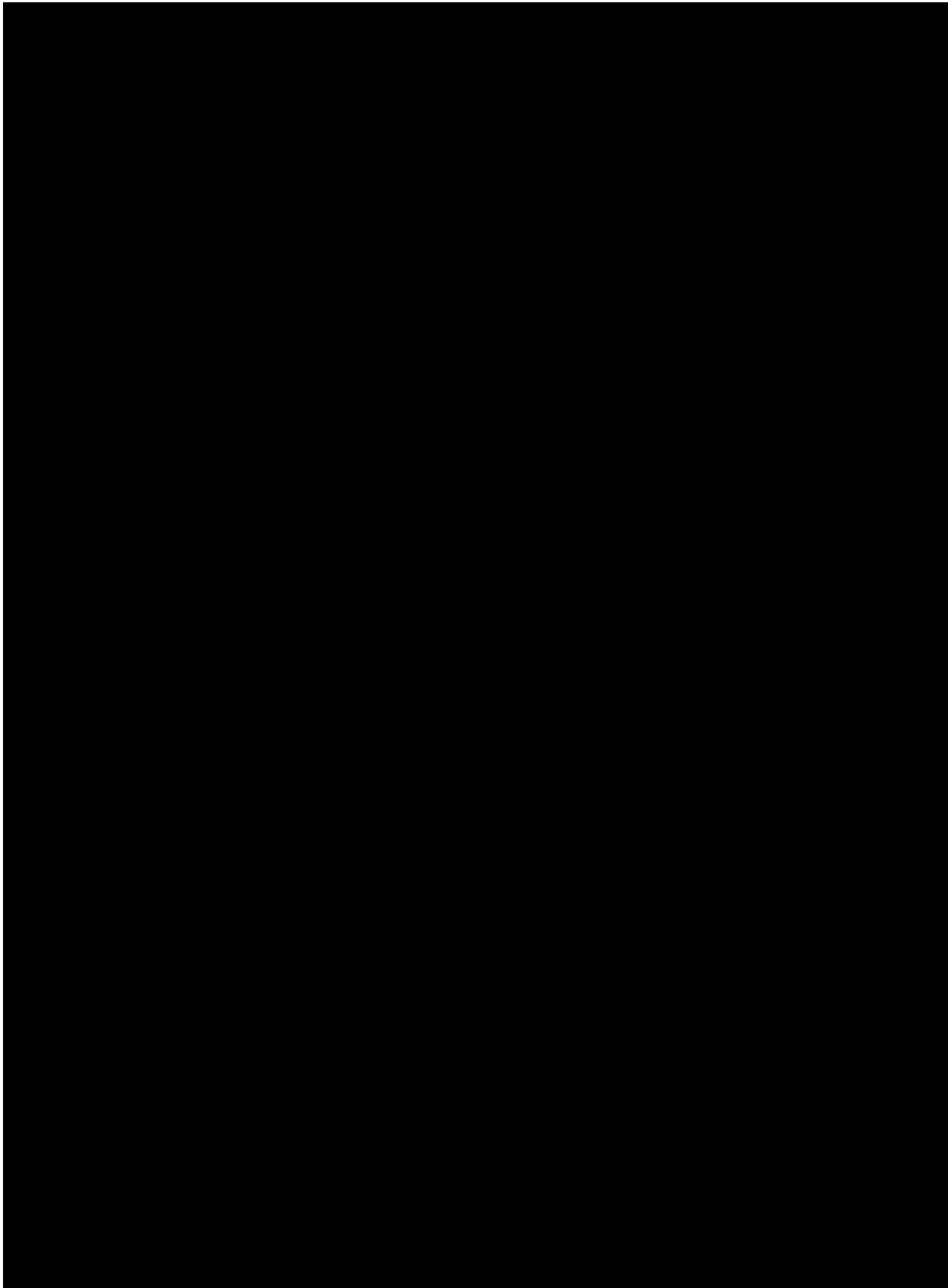
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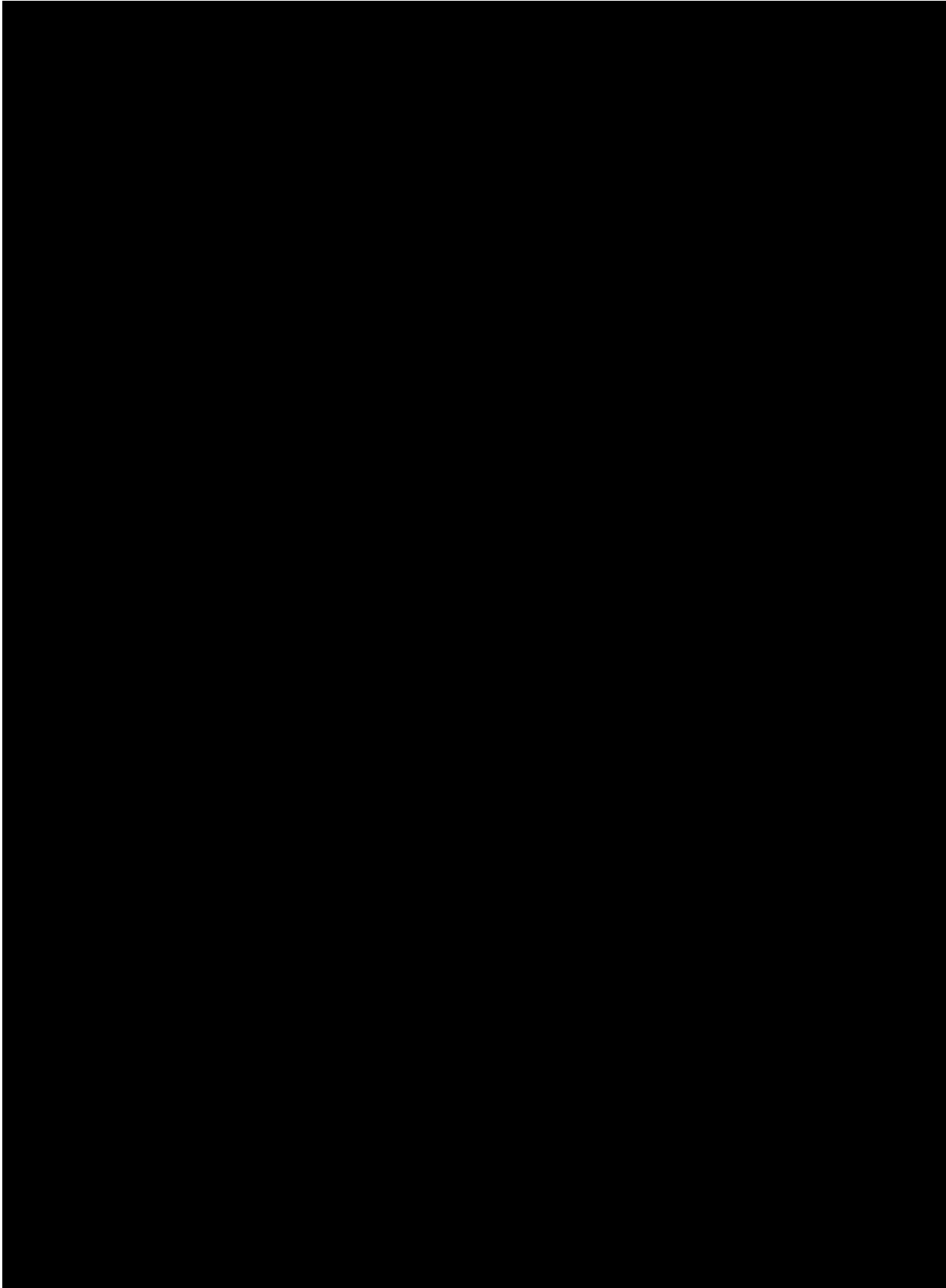
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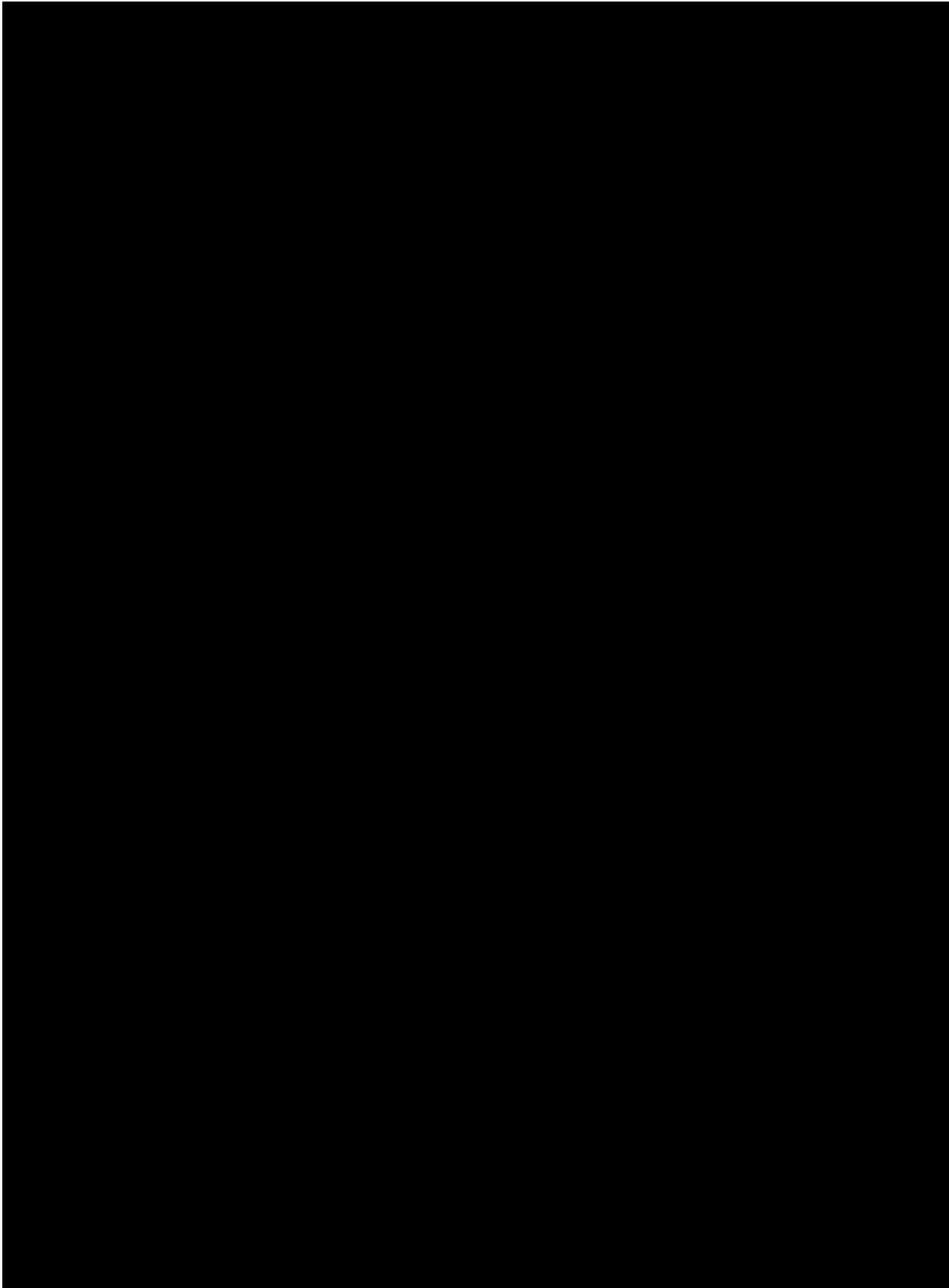
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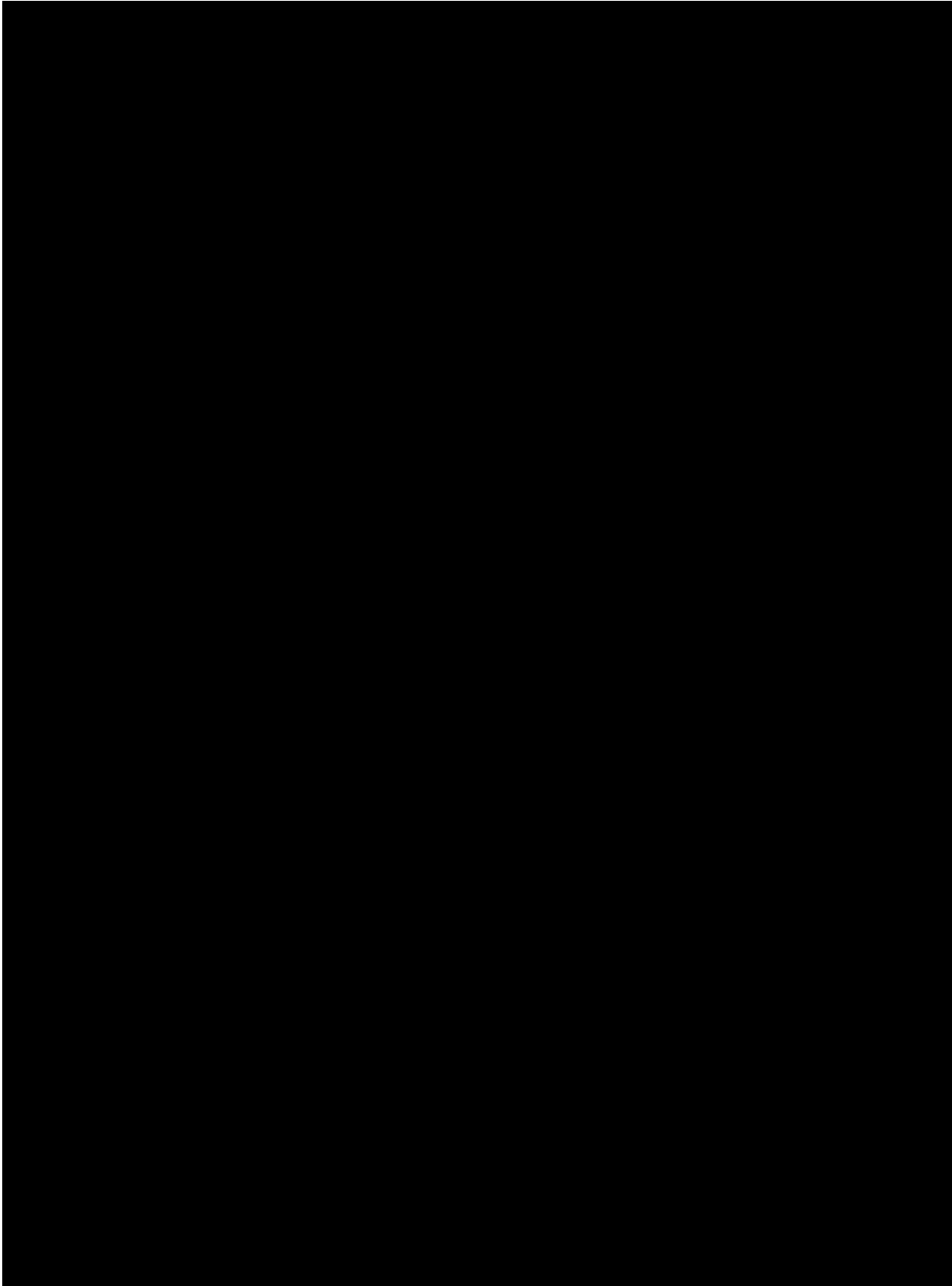


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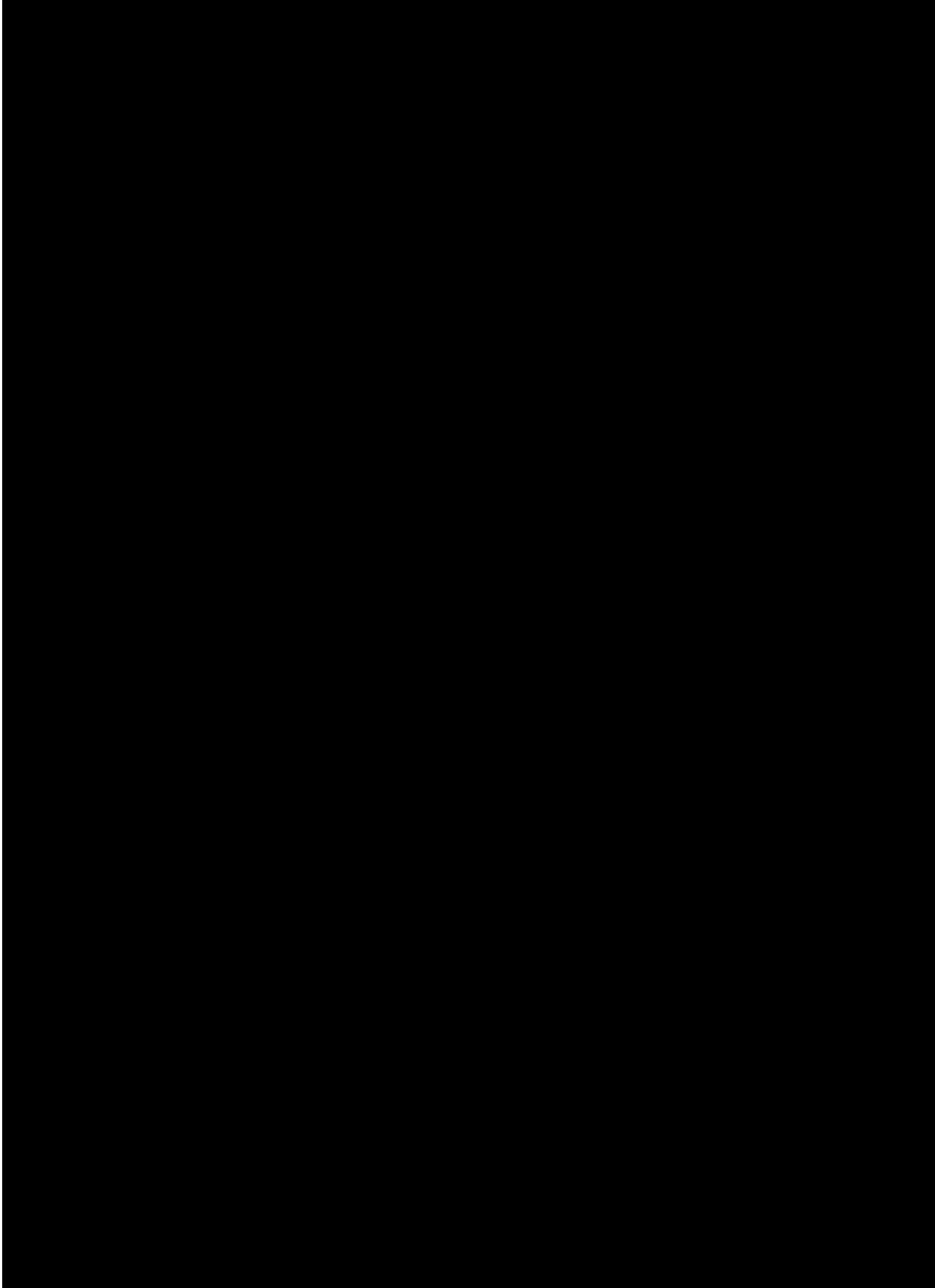




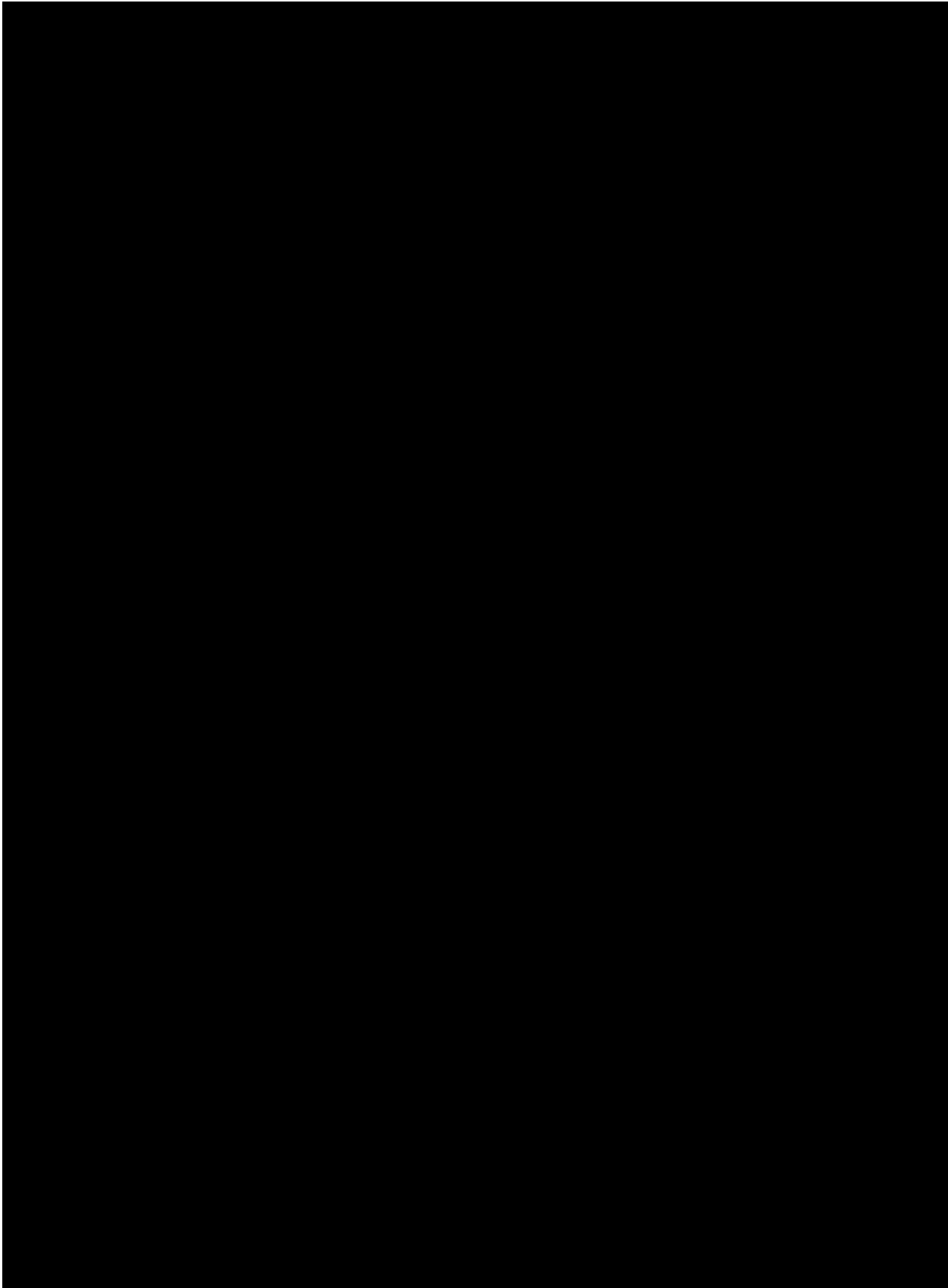
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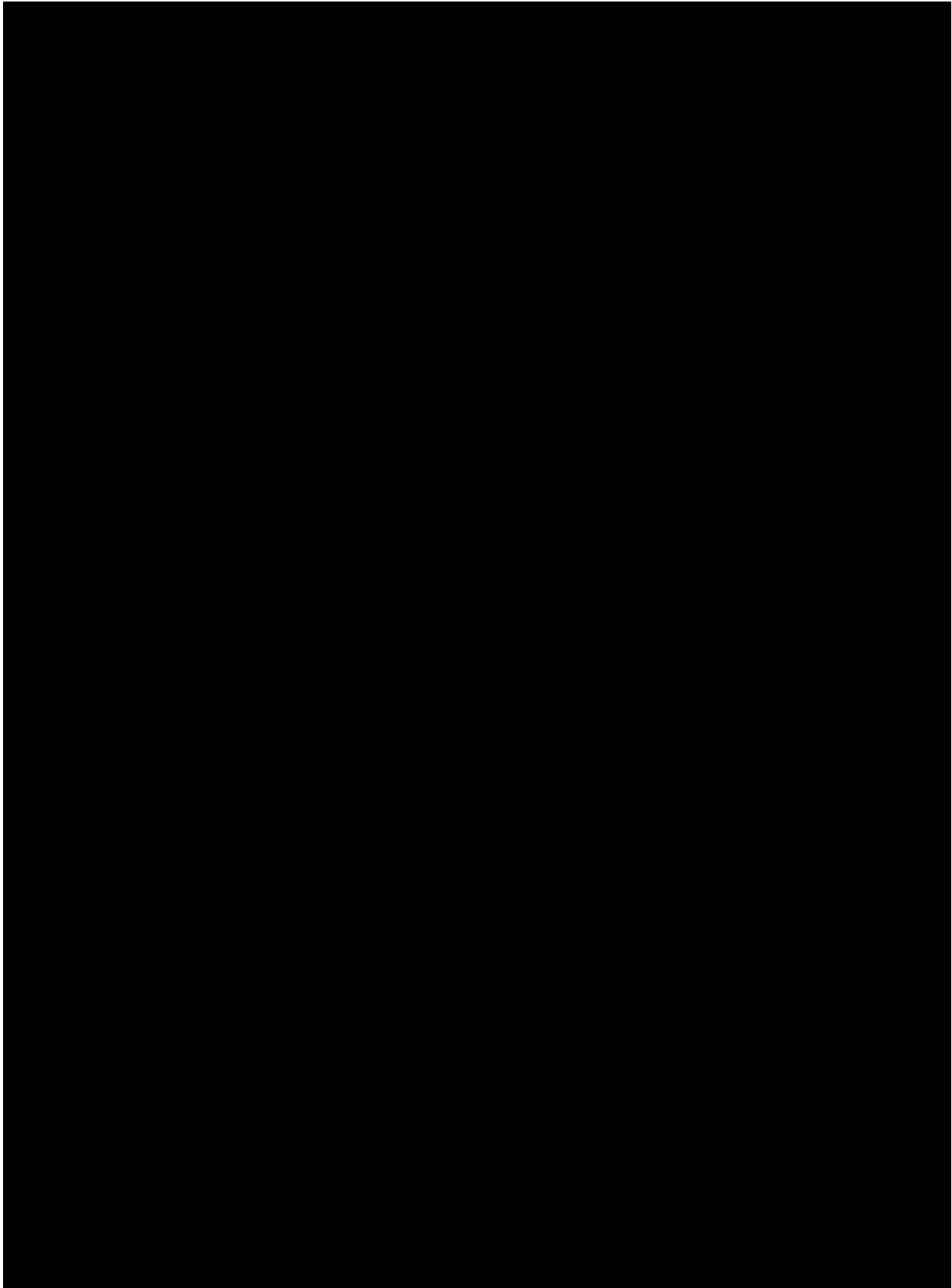
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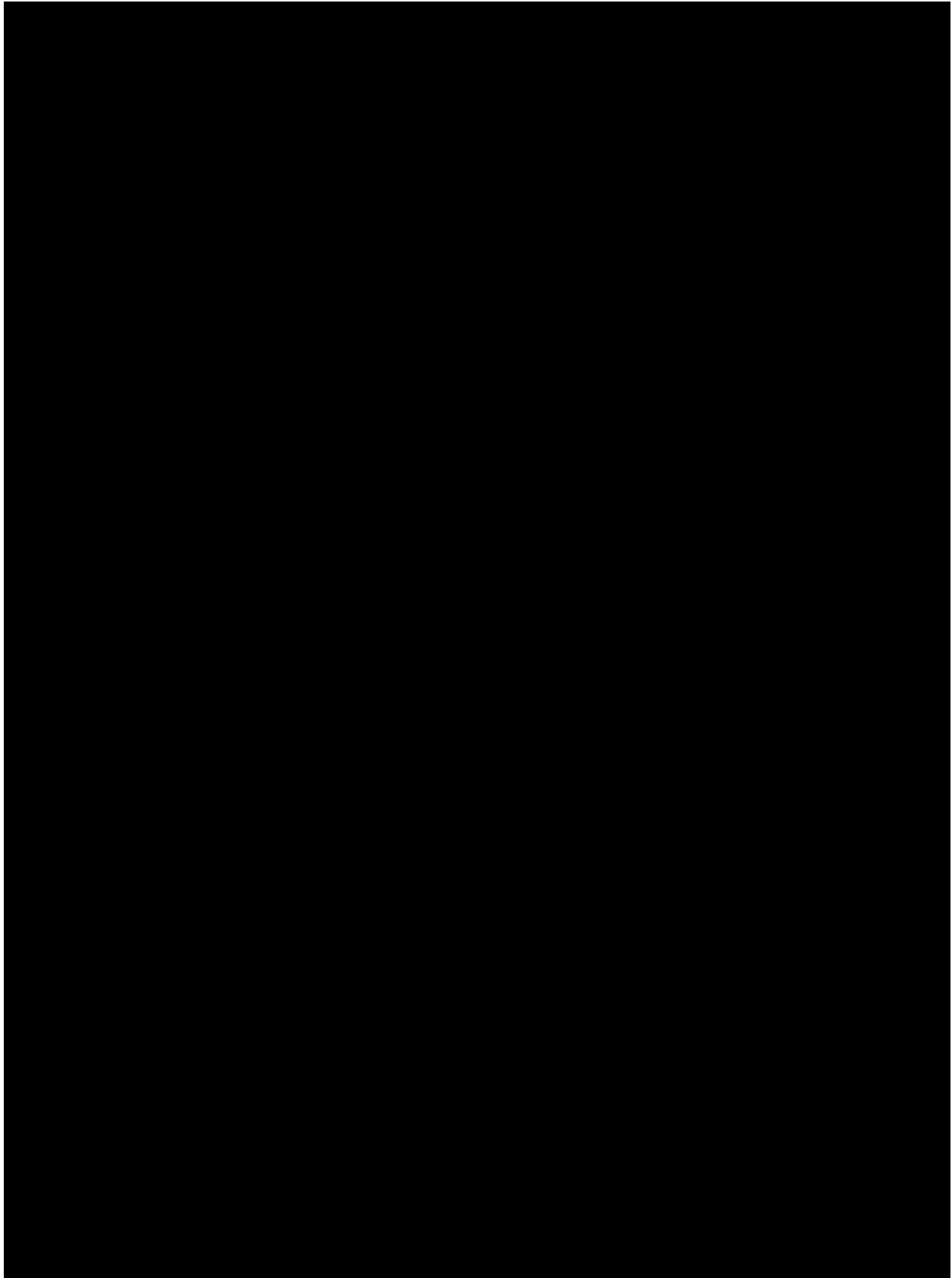
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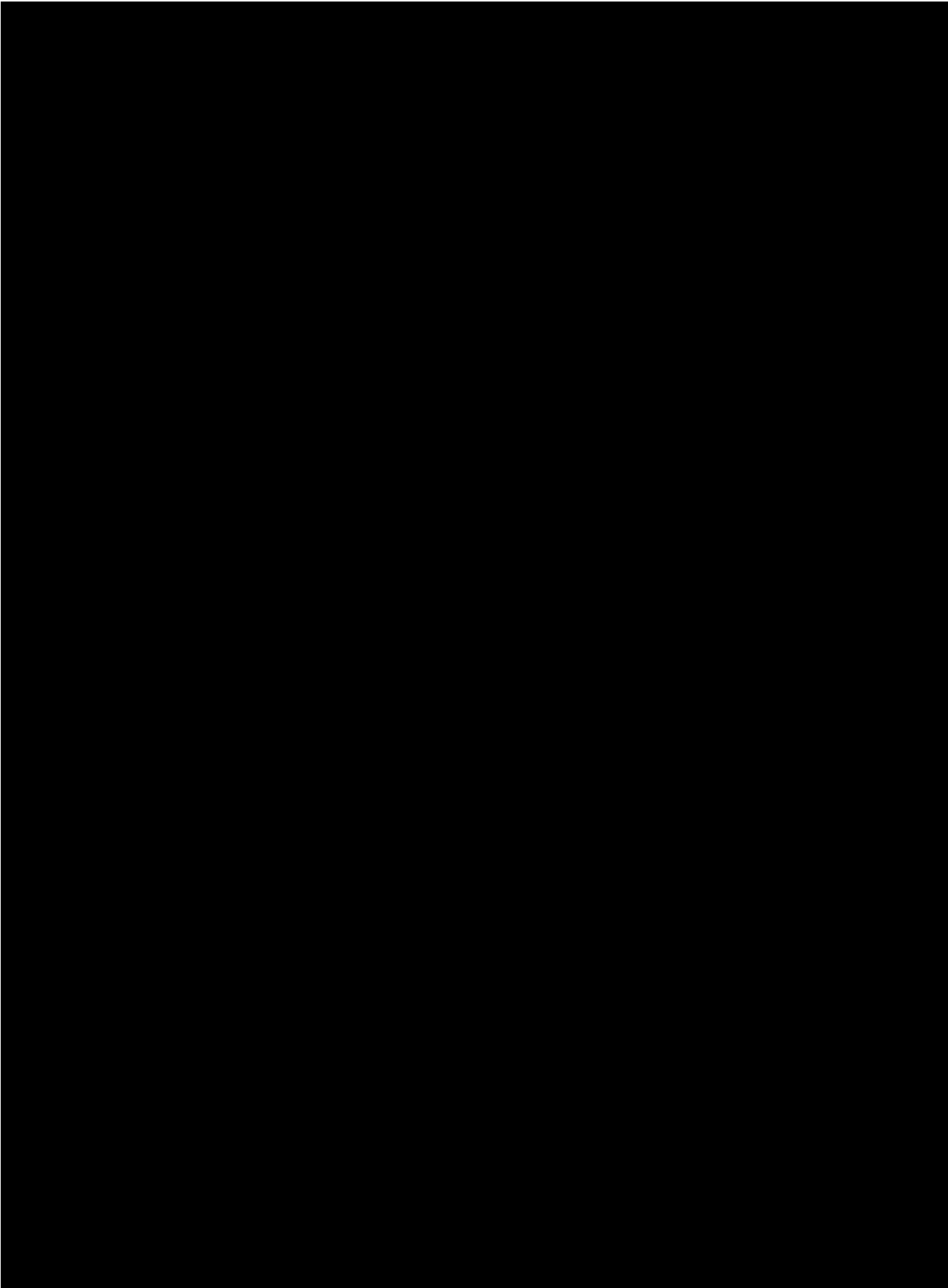
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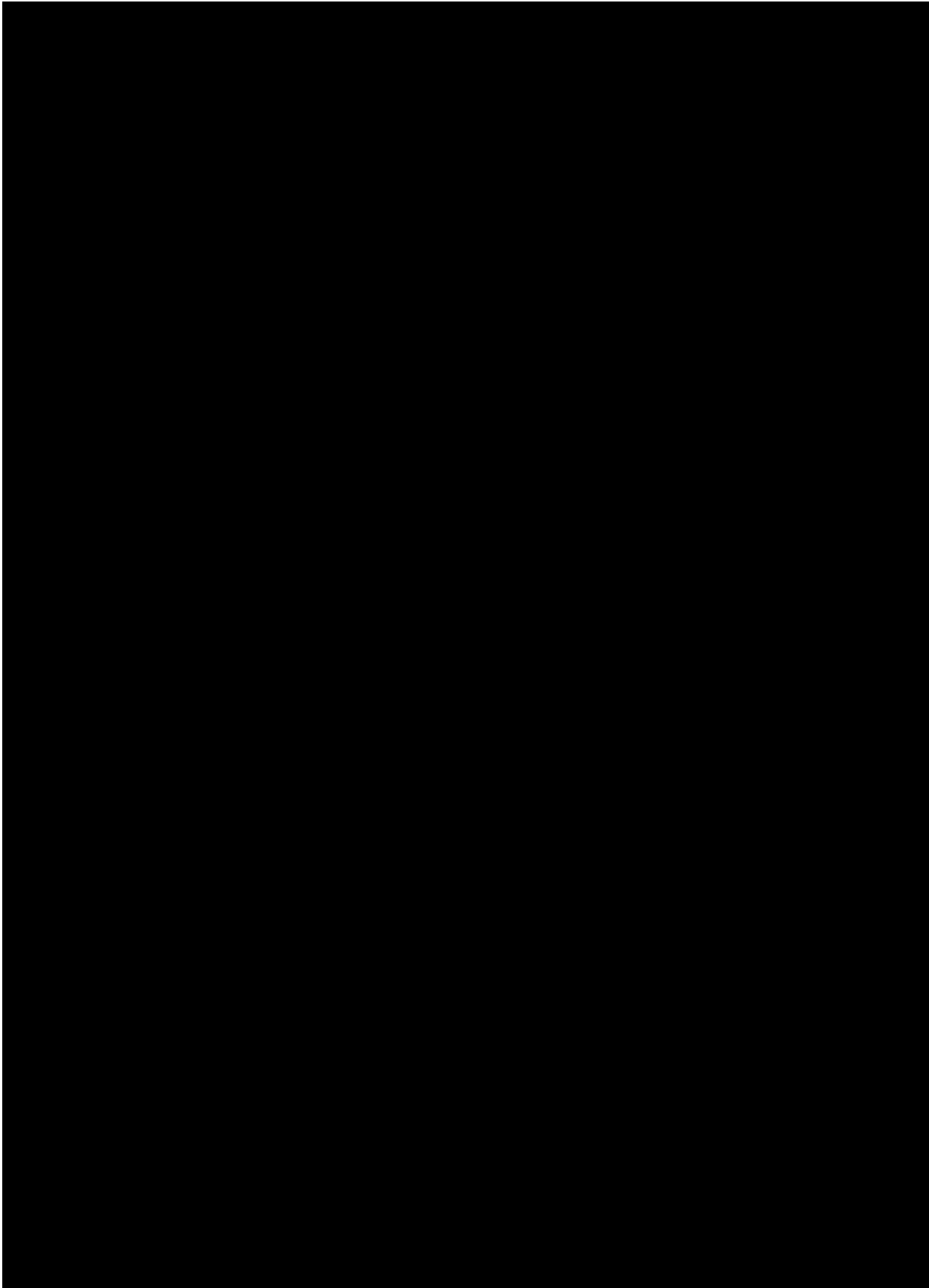
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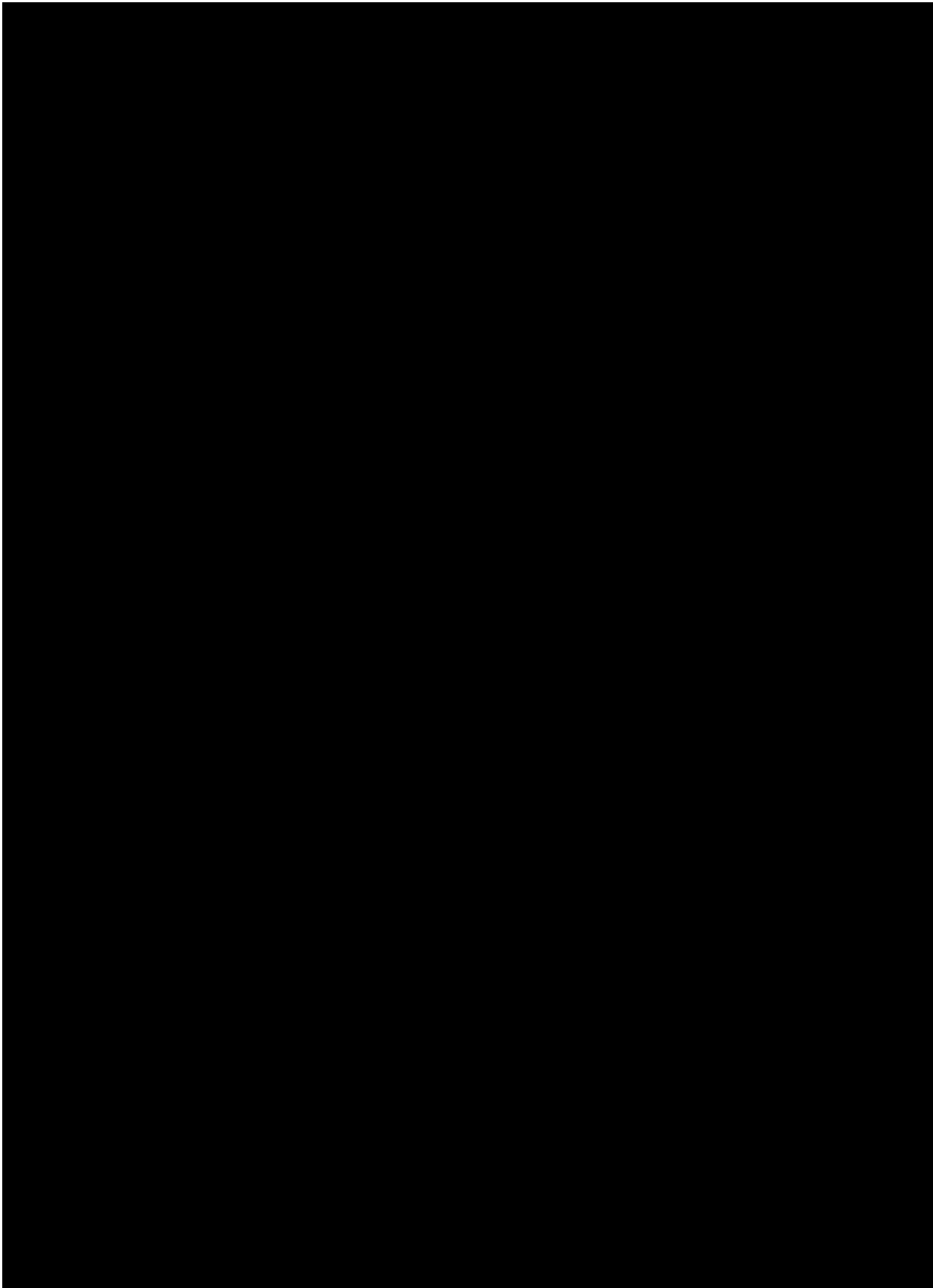
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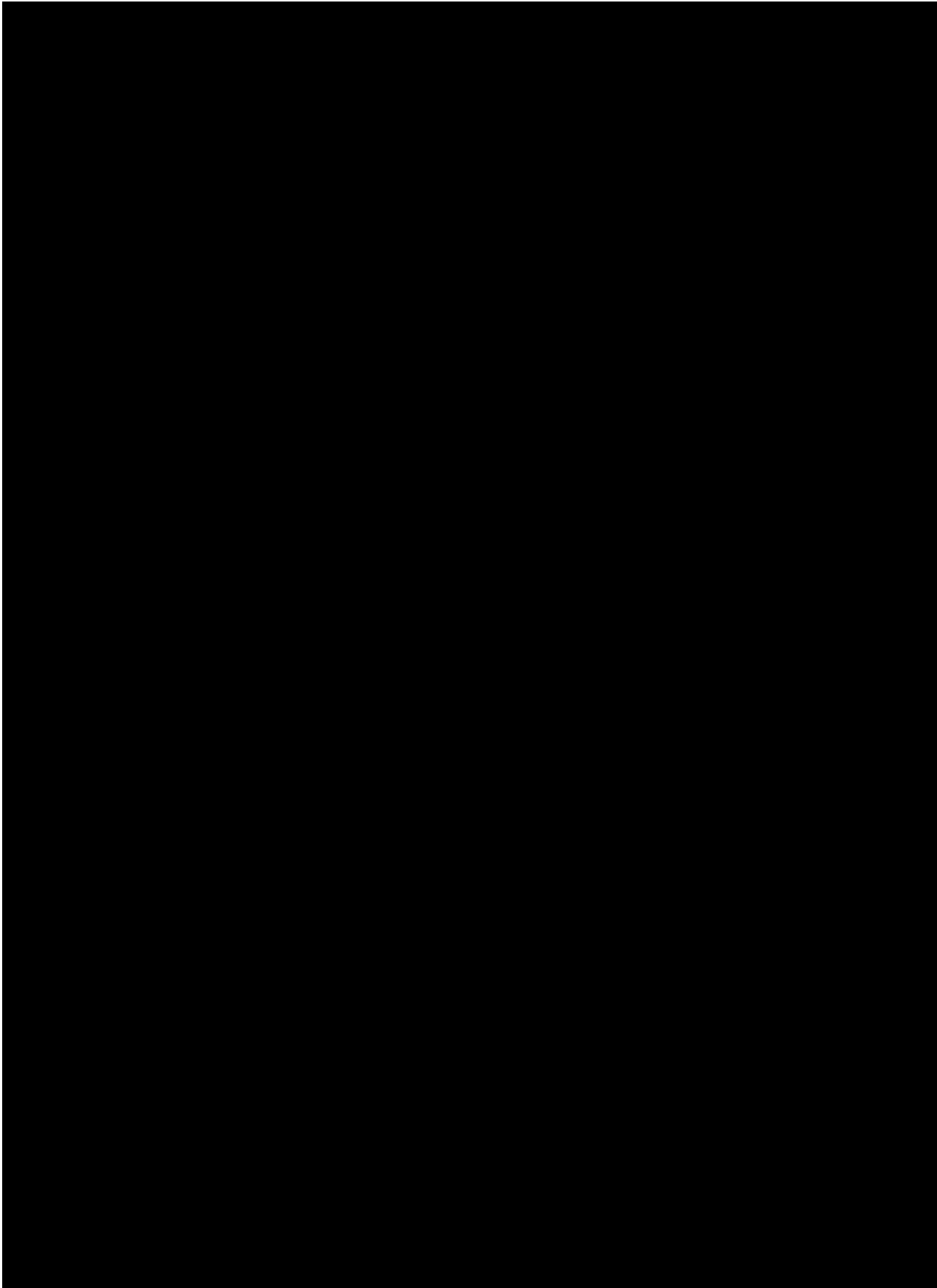


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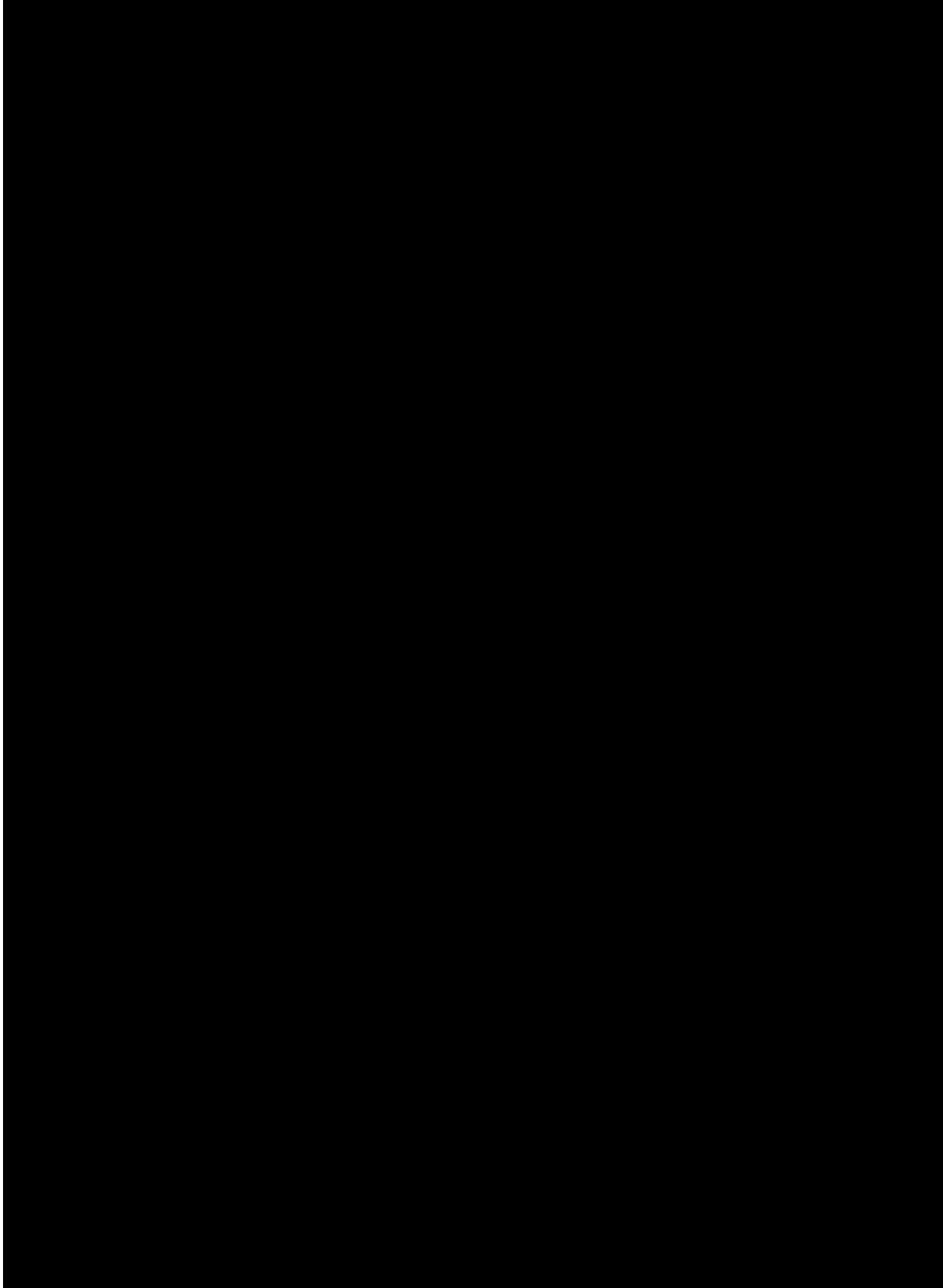




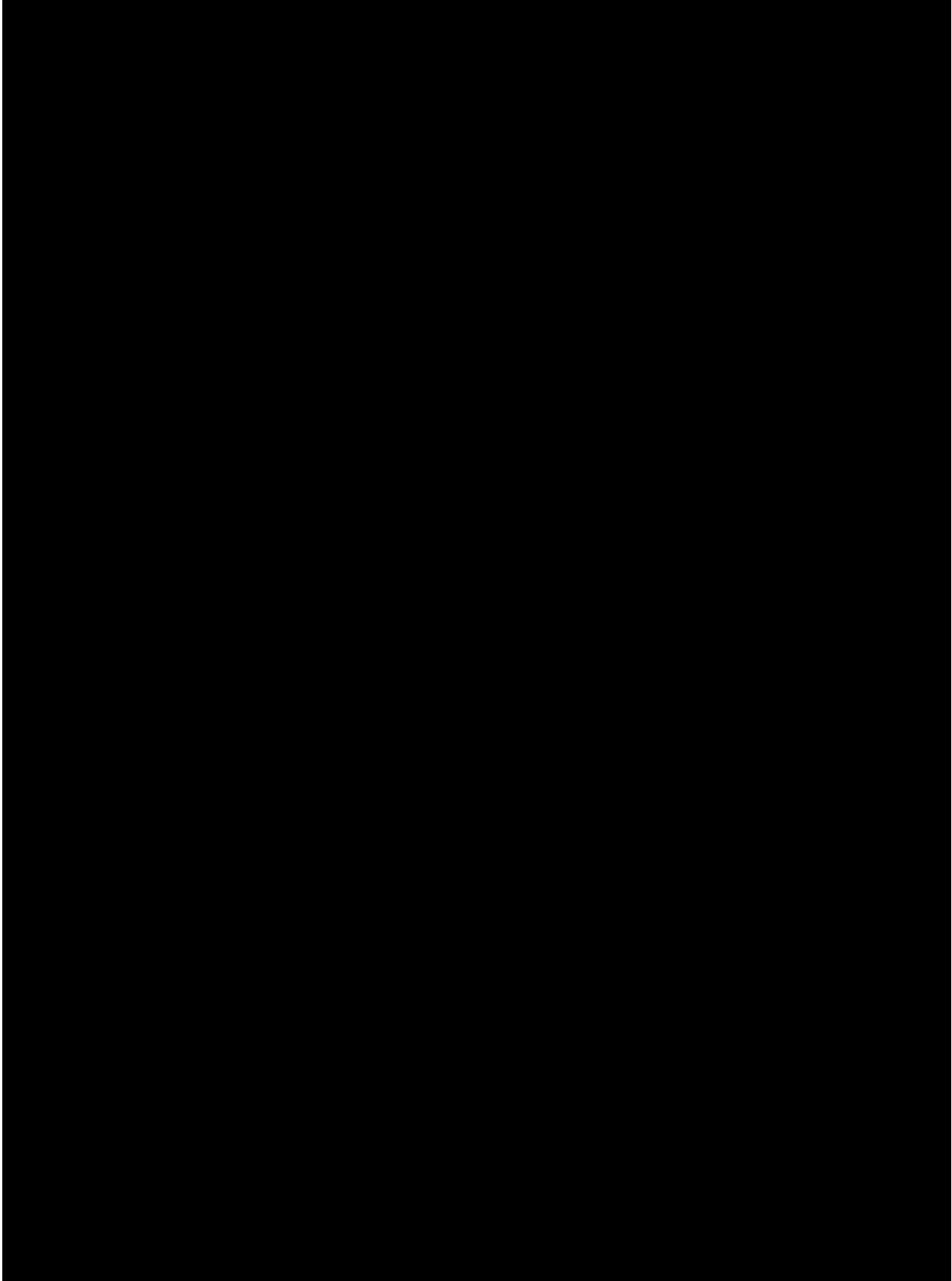
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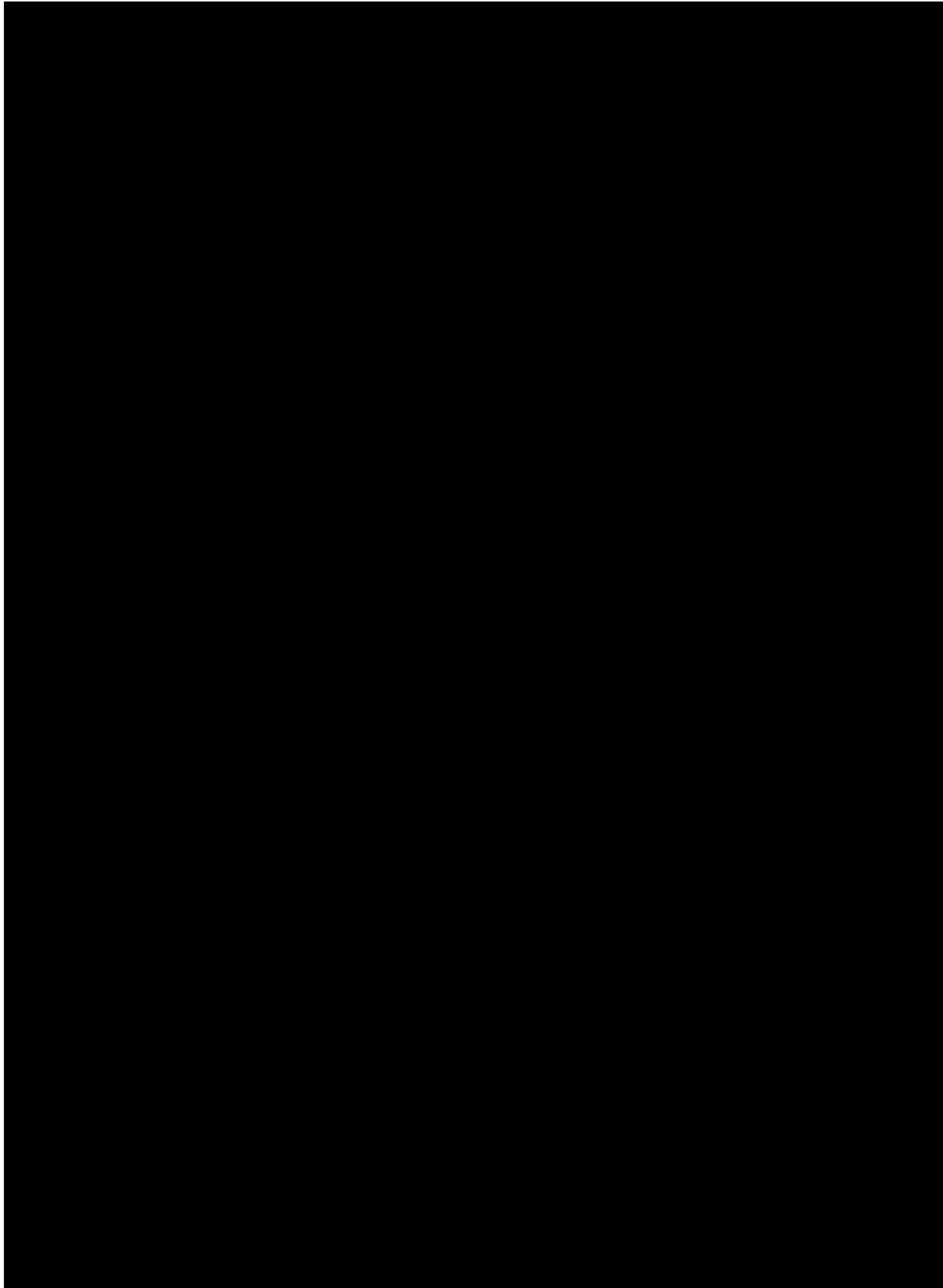
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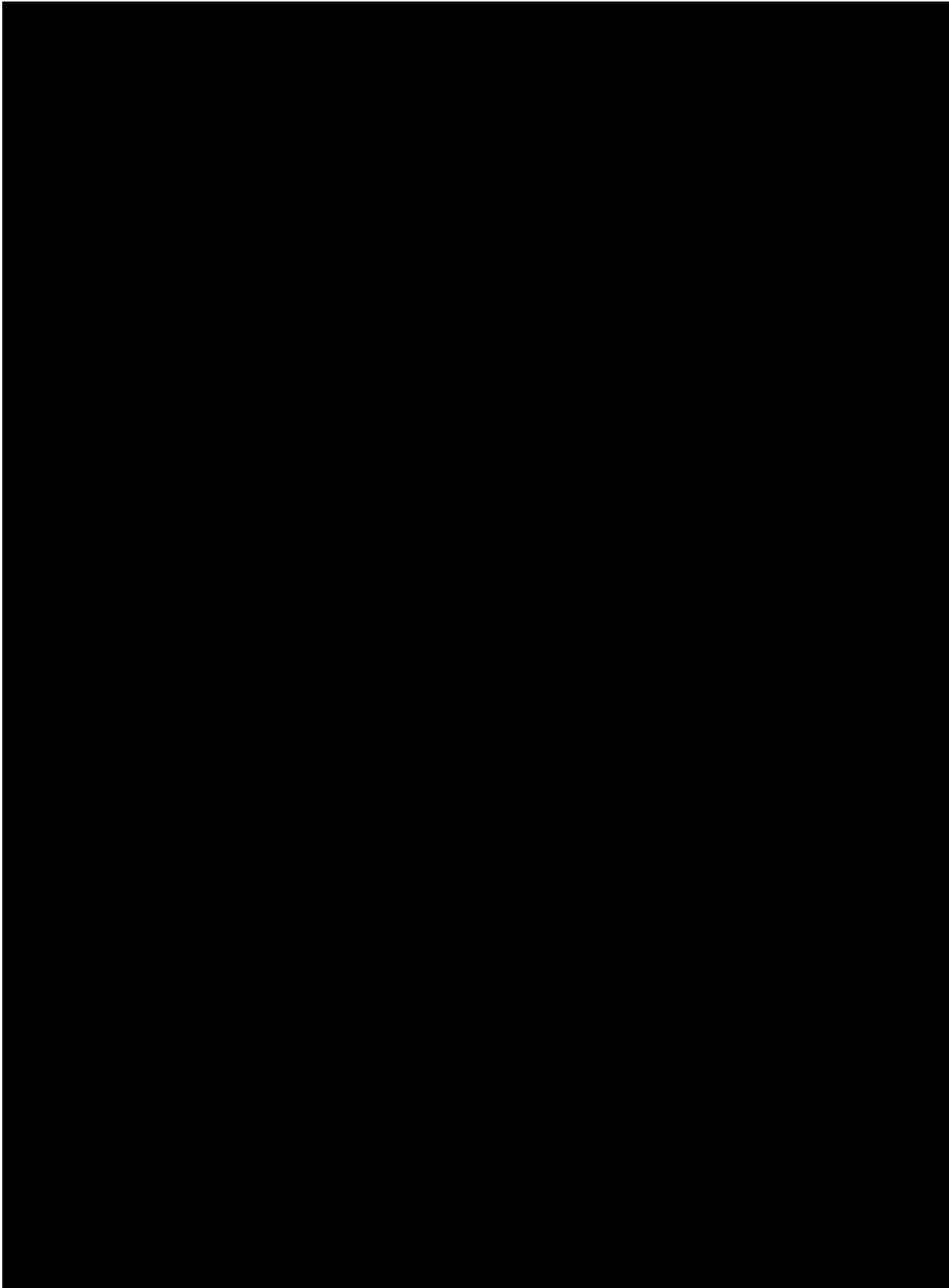
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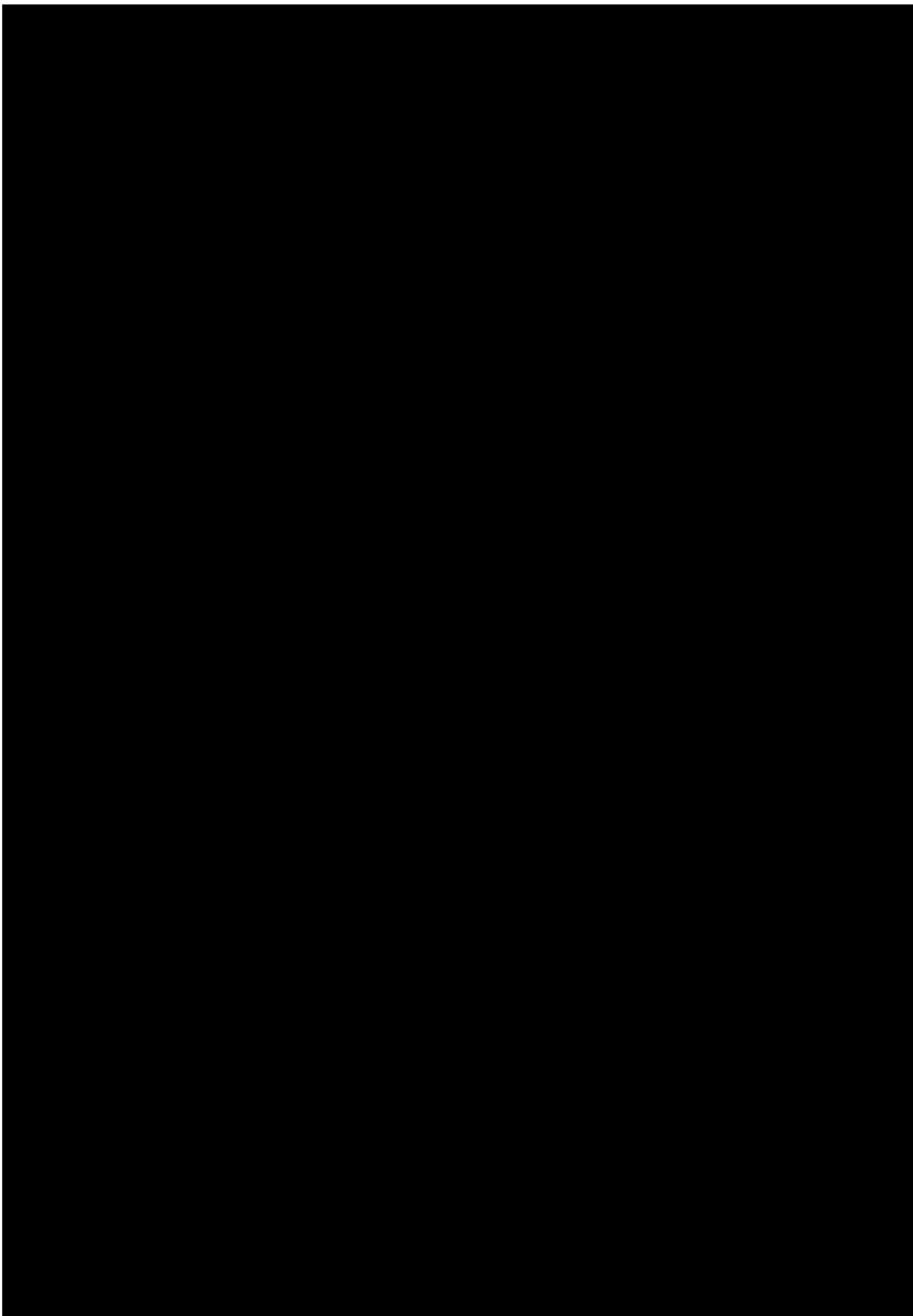
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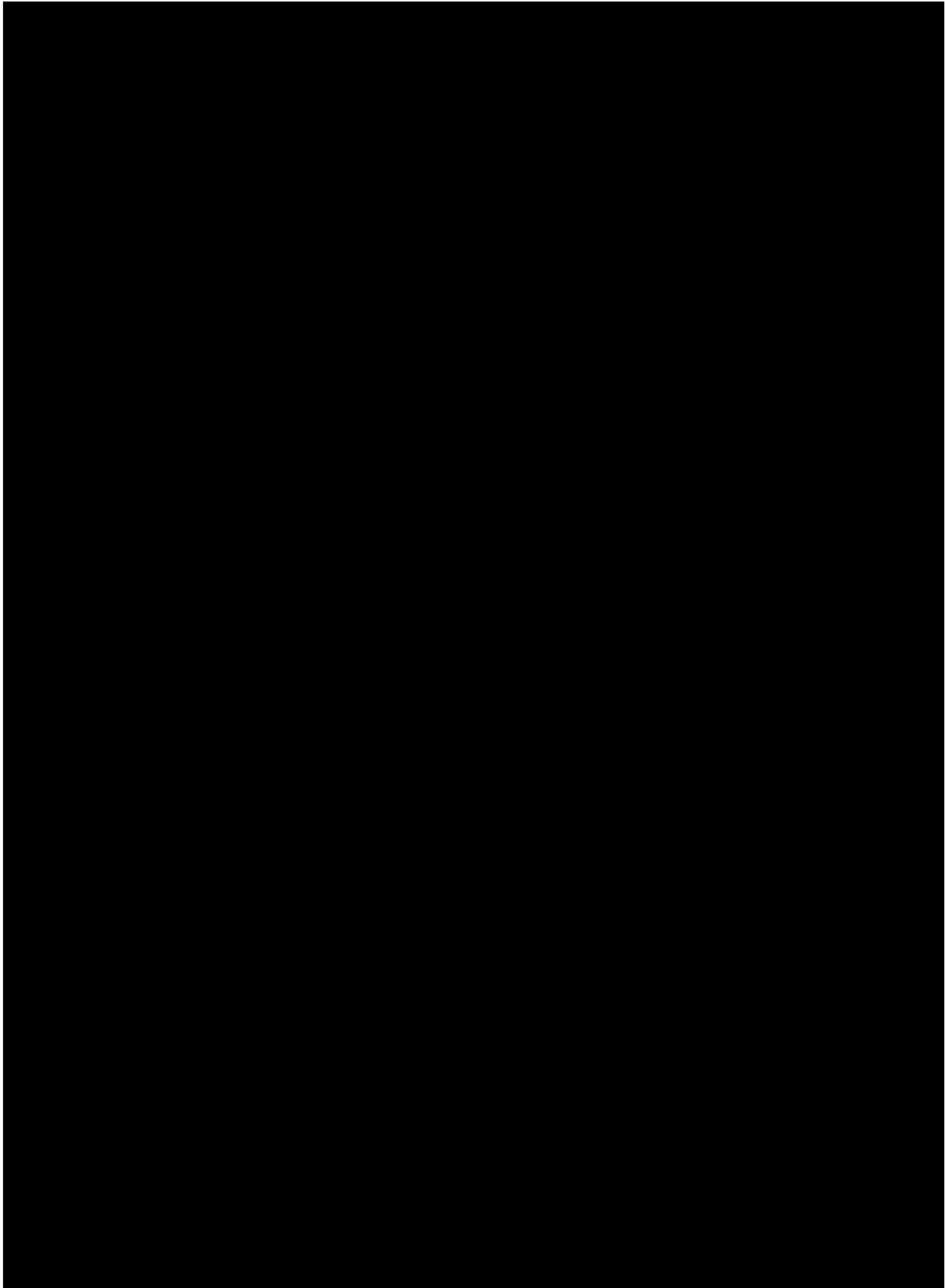
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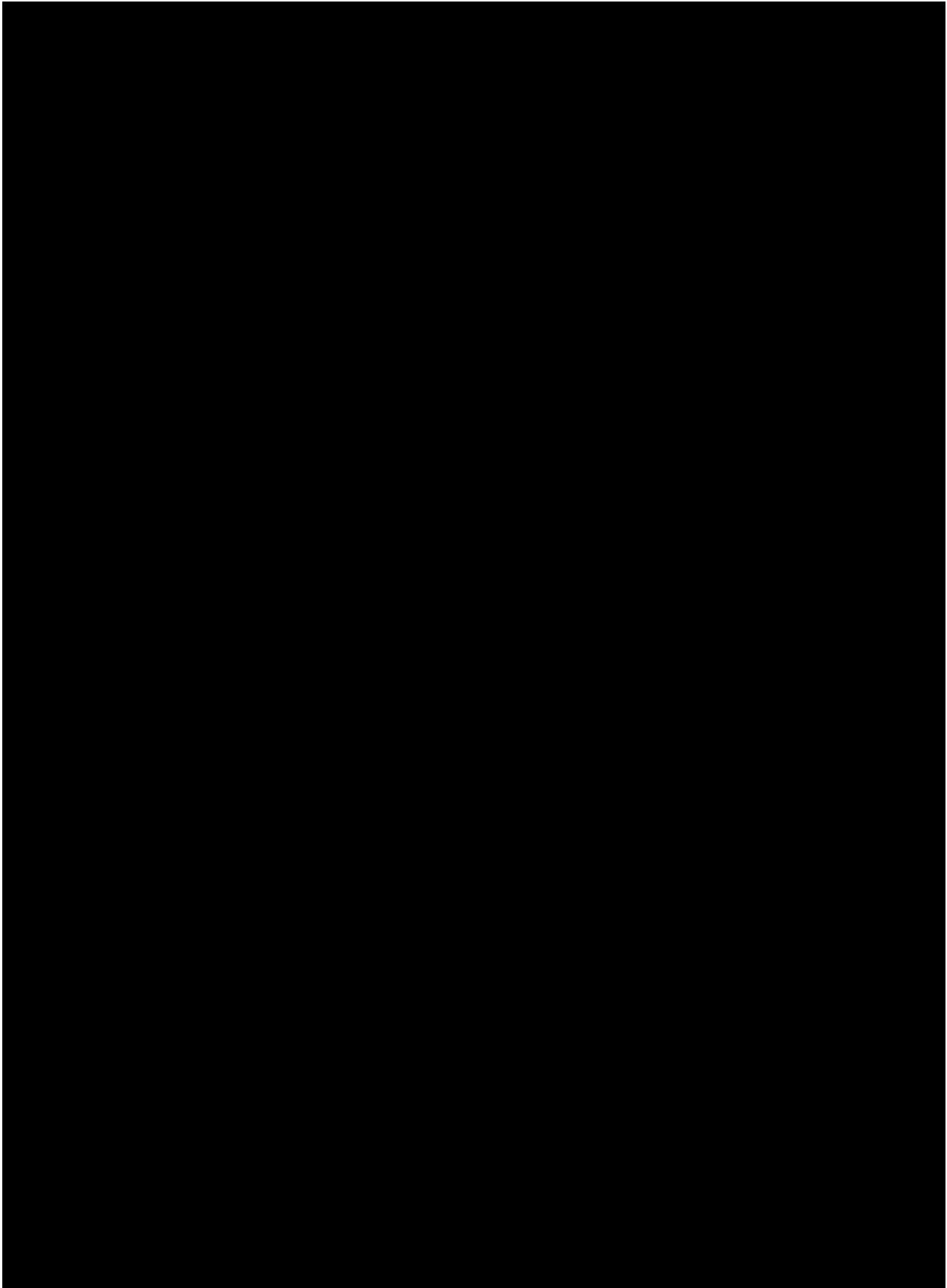
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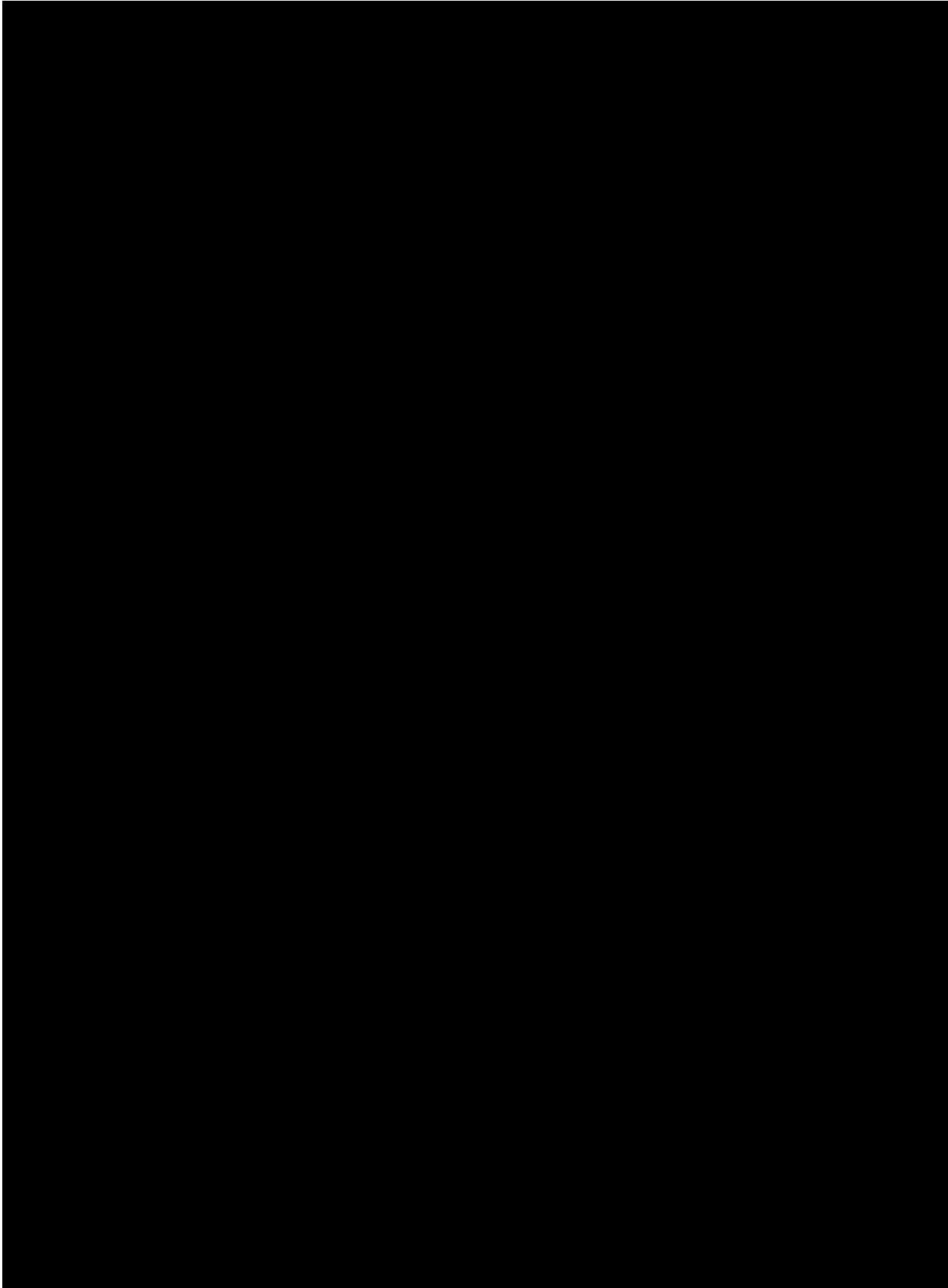


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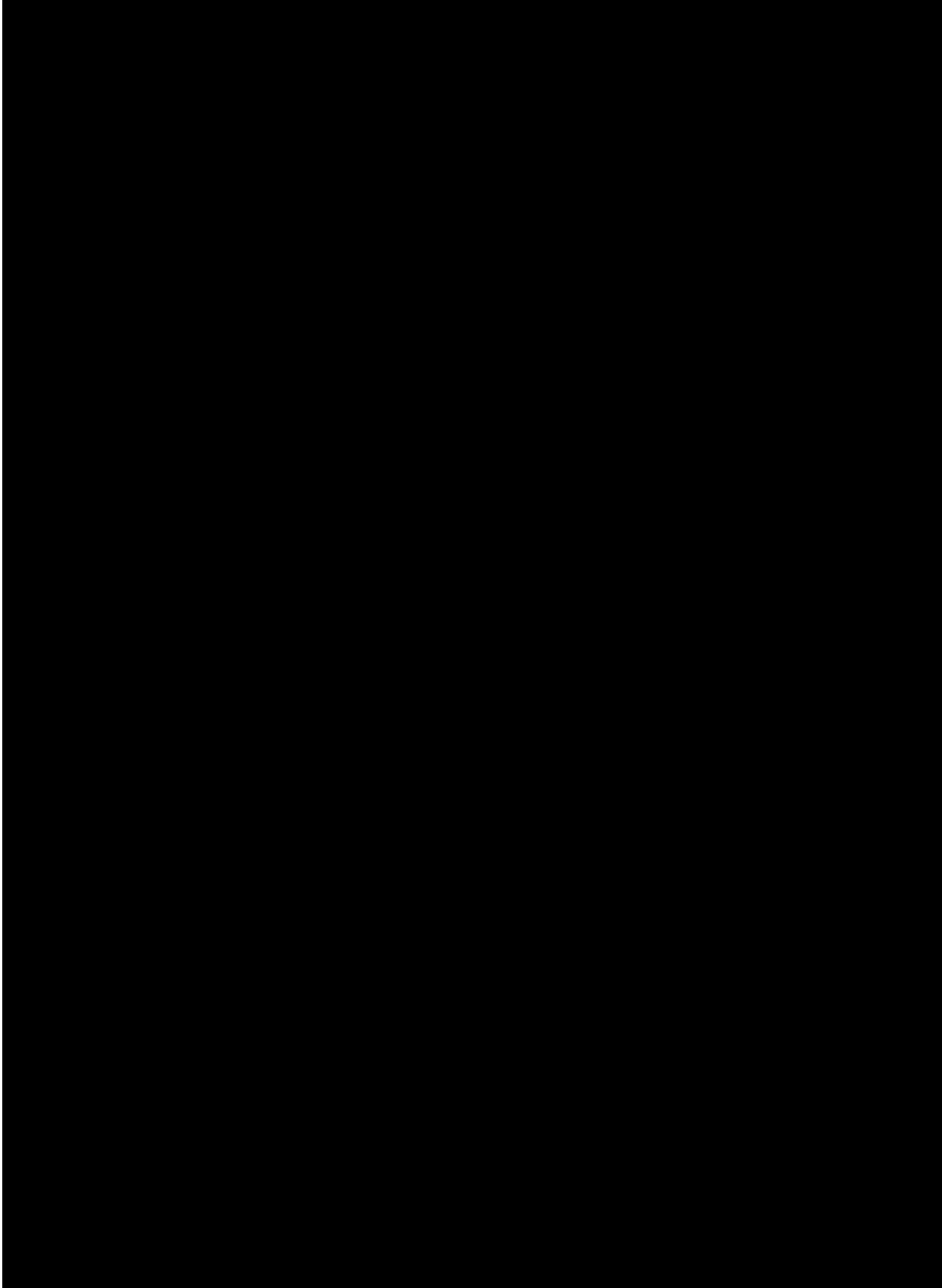




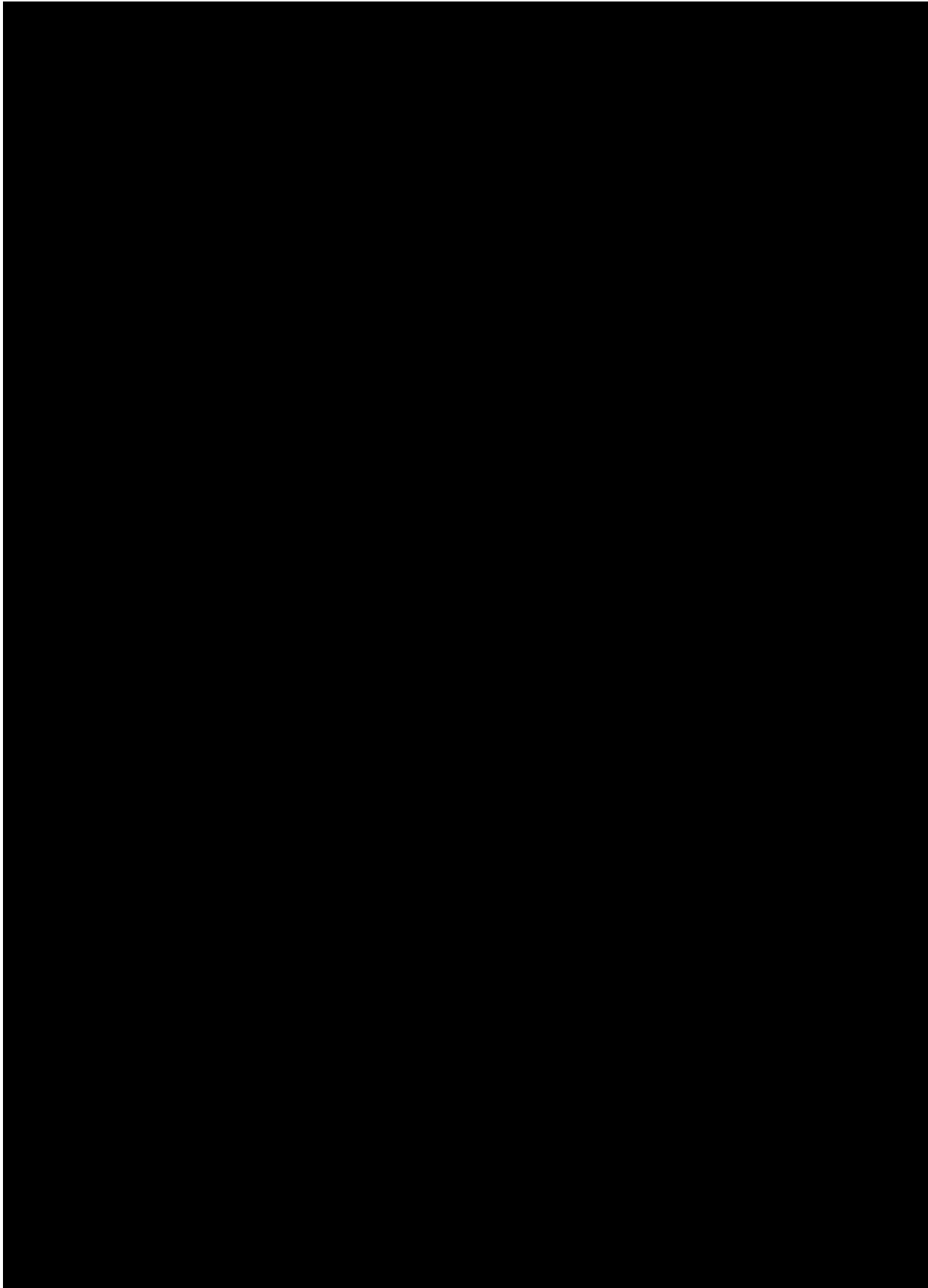
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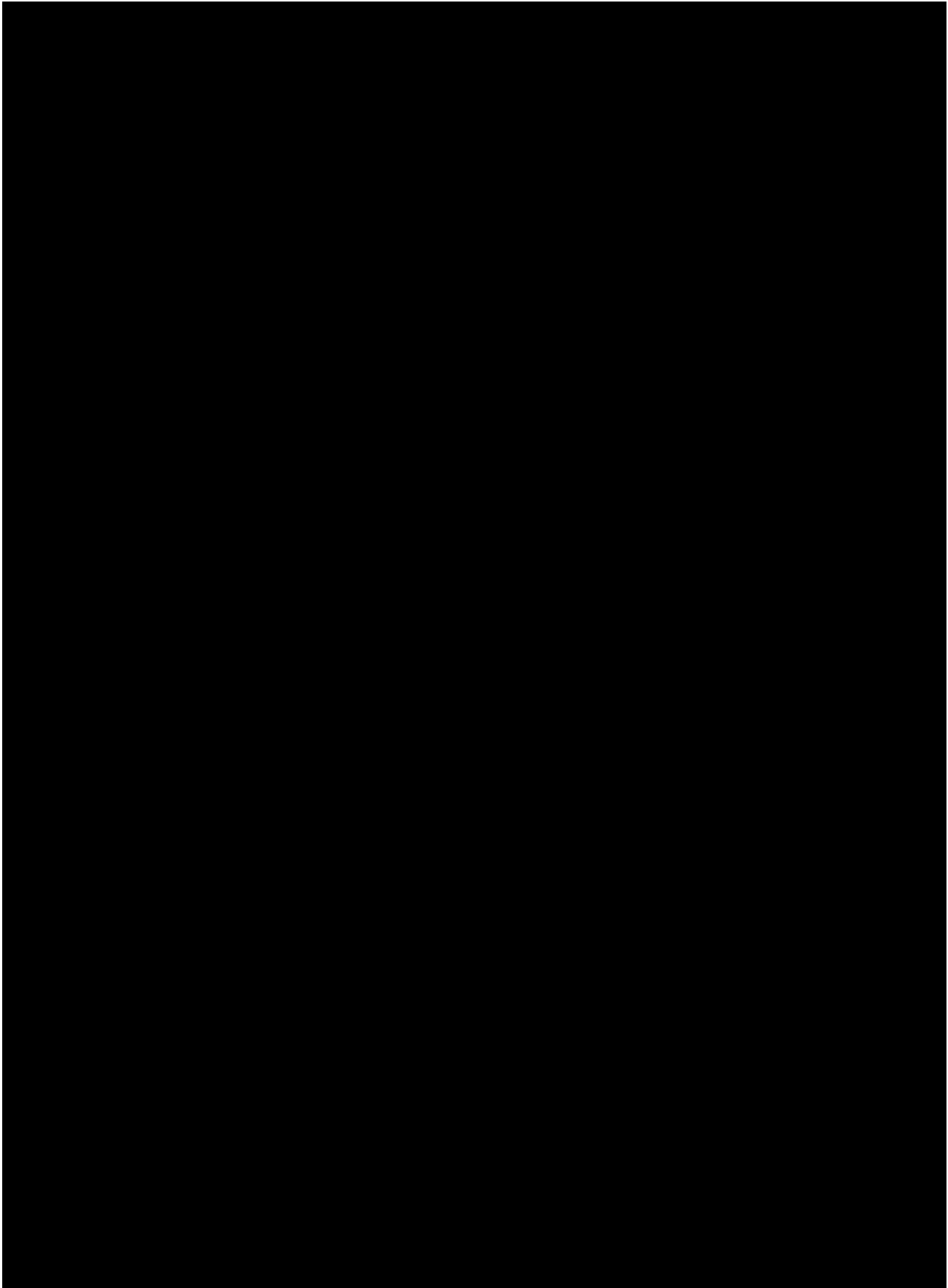
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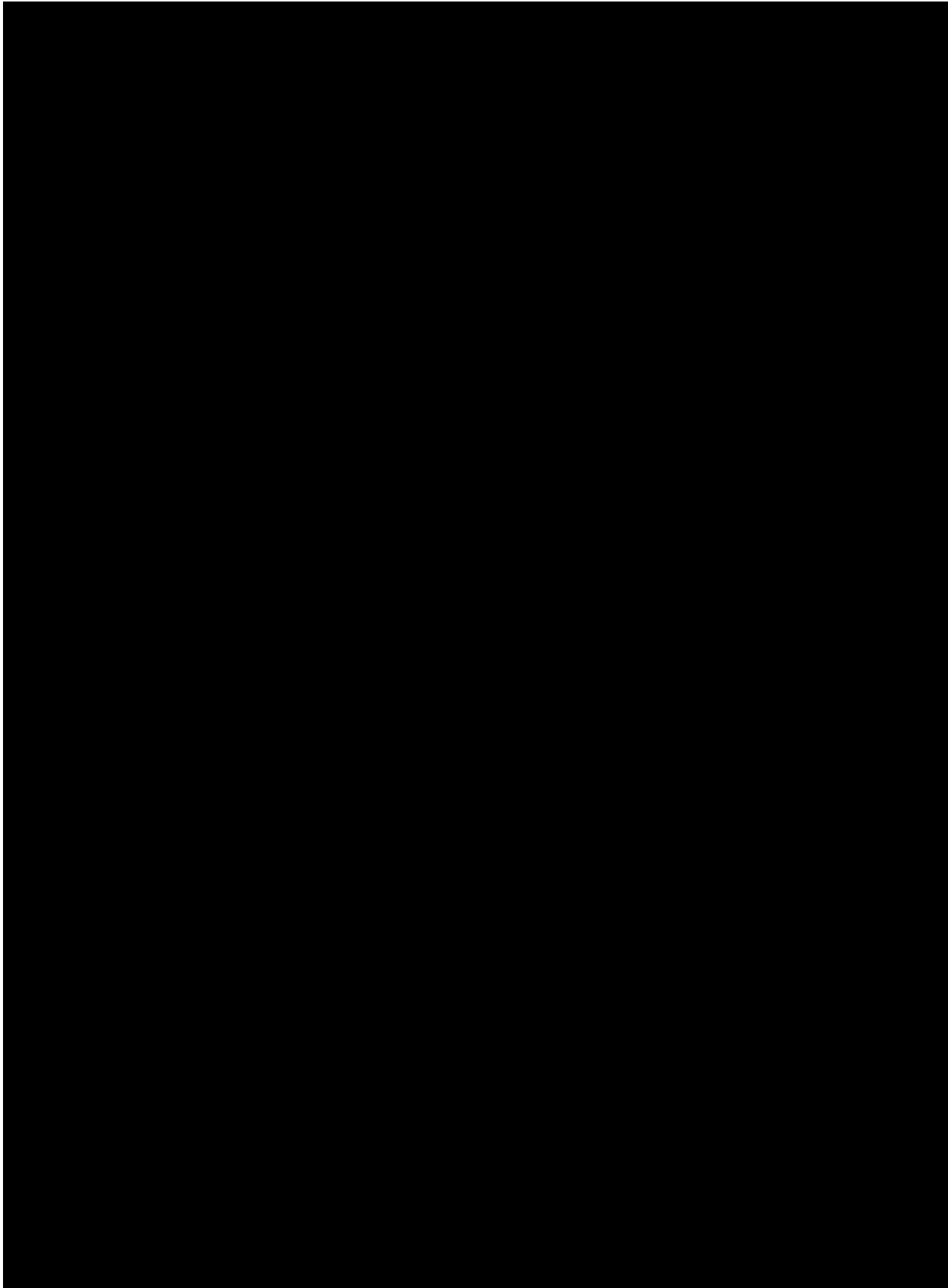
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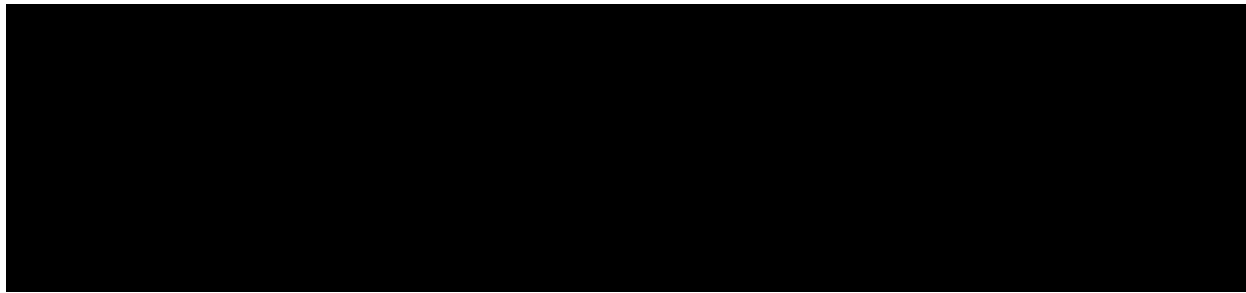
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PRESIDENT TERCIER: Do my co-arbitrators have questions?

It's not the case.

Then I would like, Mr. Gligor, to thank you for your testimony.

We may now introduce a new break. We have never had so many breaks, but I suggest to have one, but shorter.

And we will start already with the examination of Mrs. Lorincz. We will certainly have the time to start with the direct; could have part of the cross, depending--who will make the cross?

DR. HEISKANEN: It will be Ms. de Germiny.

PRESIDENT TERCIER: Okay. So ten minutes' break.

(Brief recess.)

ELENA LORINCZ, CLAIMANTS' WITNESS, CALLED

PRESIDENT TERCIER: So, we may proceed.

Good afternoon, Ms. Lorincz. I welcome you

1 in this procedure. In your Witness Statement, the  
2 First Witness Statement, you made the same statement  
3 than your predecessor, "I anticipate that if called,  
4 to provide oral testimony; however, I will do so in  
5 Romanian."

6 Am I right? You would like to make your  
7 testimony in Romanian?

8 THE WITNESS: Indeed. My written statement  
9 was in English, but the oral statement will be in  
10 Romanian.

11 PRESIDENT TERCIER: Good.

12 You will be heard in this proceeding as a  
13 witness. I would like to introduce you to the Members  
14 of the Tribunal. On my left-hand side is Professor  
15 Horatio Grigera Naón; and, on my right-hand side, is  
16 Professor Zachary Douglas. My name is Pierre Tercier,  
17 and we have the Secretary and the Assistant to the  
18 Tribunal on my right. You certainly imagine who are  
19 legal persons on each side of the room.

20 You will be heard as a witness. I would like  
21 to invite you to read aloud the Declaration that is on  
22 your table.

1           THE WITNESS: I solemnly declare upon my  
2 honor and conscience that I shall speak the truth, the  
3 whole truth, and nothing but the truth.

4           PRESIDENT TERCIER: Okay. You have prepared  
5 for this proceeding two Witness Statements, the first  
6 dated the 30th of June 2017, and the second, the 30th  
7 of October 2018.

8           Have you these documents in front of you?

9           THE WITNESS: Yes, I do.

10          PRESIDENT TERCIER: Can you confirm the  
11 content of these two documents, or do you wish to make  
12 some amendments, some amendment?

13          THE WITNESS: These are my statements,  
14 indeed, and I don't want to make any amendments to my  
15 statements.

16          PRESIDENT TERCIER: Okay. You also know that  
17 this is now your testimony and that the procedure will  
18 be the following after one or two questions that I  
19 will put to you.

20          Counsel for Claimants will make the direct,  
21 then we will have a cross-examination, and then a  
22 redirect, the Tribunal having the right to ask you



1 questions whenever it feels opportune to do that.

2 It's clear?

3 THE WITNESS: Yes.

4 PRESIDENT TERCIER: Okay. Two rules to have  
5 a clear situation: First, your testimony will be in  
6 the Transcript, so avoid to speak at the same time as  
7 the speaker that have started.

8 And the second, because there are  
9 translation, we need always to have three or four  
10 seconds before an answer respectively a question.

11 It's clear?

12 A. Yes.

13 PRESIDENT TERCIER: I understand that "da"  
14 should mean "yes."

15 (Laughter.)

16 PRESIDENT TERCIER: Now, my first question to  
17 you is just in the way of introduction, if you could  
18 introduce yourself, and in particular the role that  
19 you played during the period that we are, of course,  
20 interested in. Please.

21 THE WITNESS: I am the Community Relations  
22 Director of Rosia Montana Gold Corporation.

1           As a director of the Community Relations  
2 Department, my role was to implement and to put in  
3 place all the community-relations program of the  
4 Company, to implement also--and the actions planned  
5 for relocation and resettlement, to relate with the  
6 entire local community and the communities around the  
7 Project Areas, with the local authorities, the  
8 counties authorities, to interact with the  
9 representatives of the churches and all the other  
10 stakeholders in the Project Area.

11           PRESIDENT TERCIER: Okay. When did you start  
12 working for RMGC?

13           THE WITNESS: I started working for RMGC in  
14 2002.

15           PRESIDENT TERCIER: Okay. And having  
16 been--you're currently been the Director, so you  
17 climbed different steps.

18           THE WITNESS: I started in 2002. When I  
19 joined the Company, I was hired as a building  
20 engineer. My role at the beginning was to make an  
21 inventory and measure the properties within the  
22 footprint of the Project and present to the community

1 the Resettlement and Relocation Plan, to speak about  
2 the boundaries of the Project and the Company  
3 programs. In 2004, I became the Coordinator of the  
4 Cadaster and Topography Department, so I was  
5 coordinator.

6 And, in 2008, I became a manager within the  
7 Community Relations Department.

8 And since June 2009, I have been the  
9 Community Relations Director. Throughout this period,  
10 ever since I started, I have worked within the  
11 Community Relations Department.

12 PRESIDENT TERCIER: Okay. And what is now  
13 your position? You're still doing the same activity?

14 THE WITNESS: Yes.

15 PRESIDENT TERCIER: Good. What has been your  
16 education? Can you just tell us?

17 THE WITNESS: I am a building engineer. I  
18 graduated the hydrotechnical studies faculty within  
19 the University of Timisoara. Sanitary engineering and  
20 environmental protection section, which involved  
21 mainly environmental and social studies.

22 PRESIDENT TERCIER: Good.

1           My second question or set of questions is if  
2 you can describe in very broad terms the process  
3 followed for the preparation of your two Witness  
4 Statements. How you came to it, how it had been made,  
5 your Witness Statement, your document.

6           THE WITNESS: I participated in many meetings  
7 with counsels, countless meetings. After that, the  
8 statement was written, I made comments to what was  
9 written there that I forwarded to the counsels. Then  
10 I received the amended versions. And what I have here  
11 in front of me is the statement that I recognized as  
12 totally my own.

13           PRESIDENT TERCIER: You know sufficiently  
14 English to confirm that it is really the expression of  
15 your testimony.

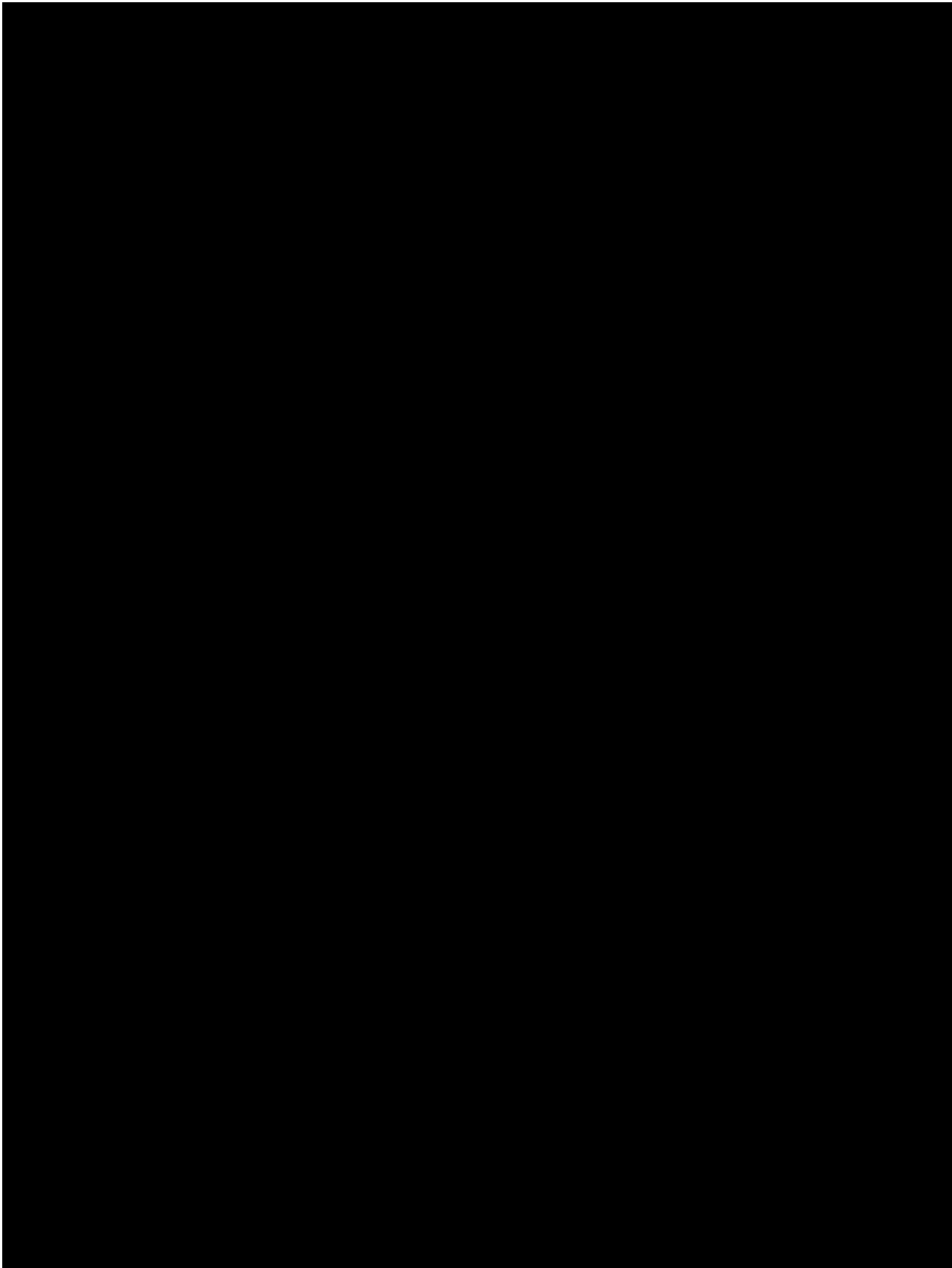
16           THE WITNESS: I know some English. I can  
17 confirm this is my statement. I'm sorry I can't use  
18 English verbally. I mean, I'm not so fluent in  
19 English, but, indeed, I understand English very well.

20           PRESIDENT TERCIER: It was a question. It  
21 was not a reproach.

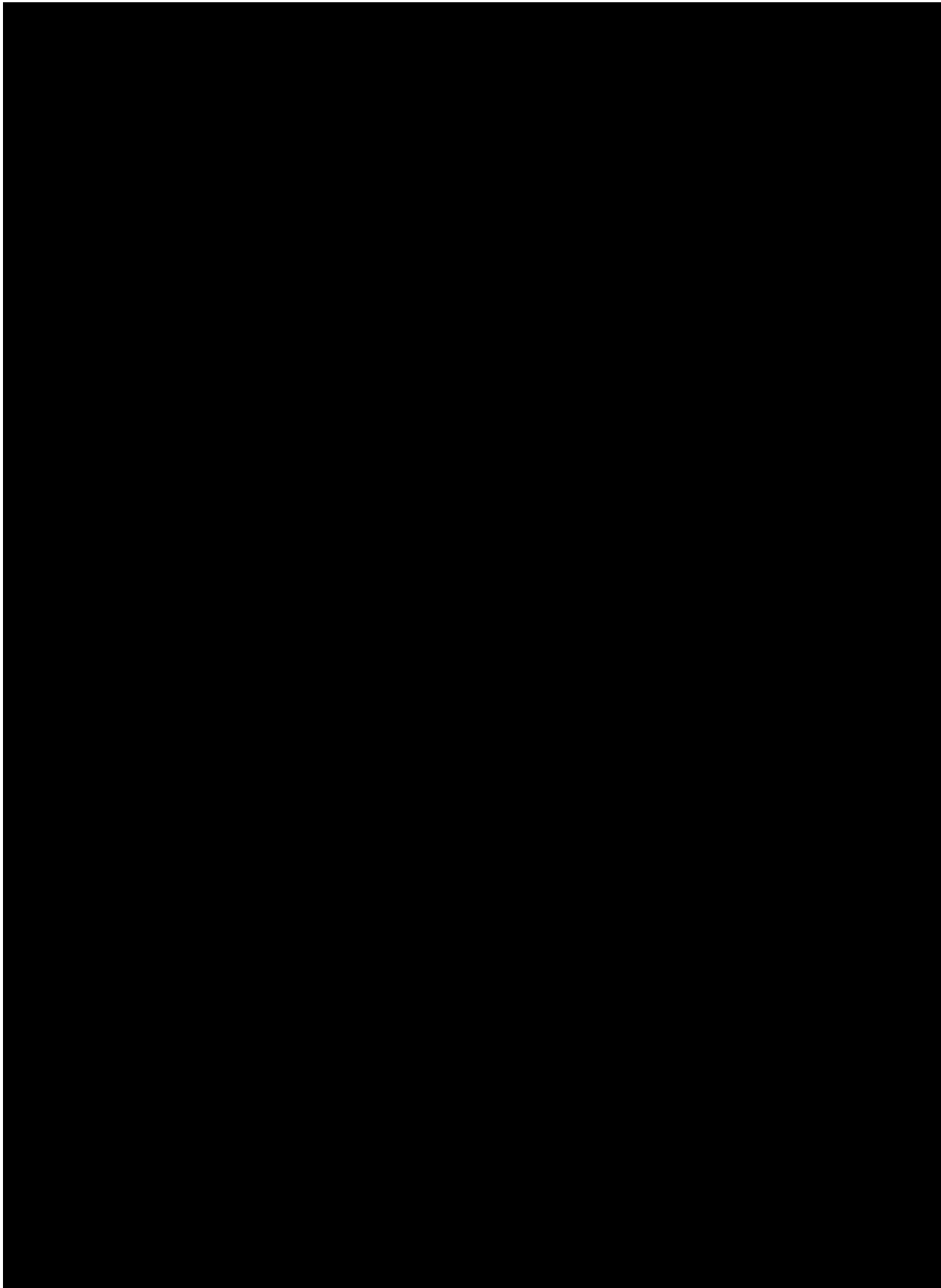
22           Good. We can now turn to...

DIRECT EXAMINATION

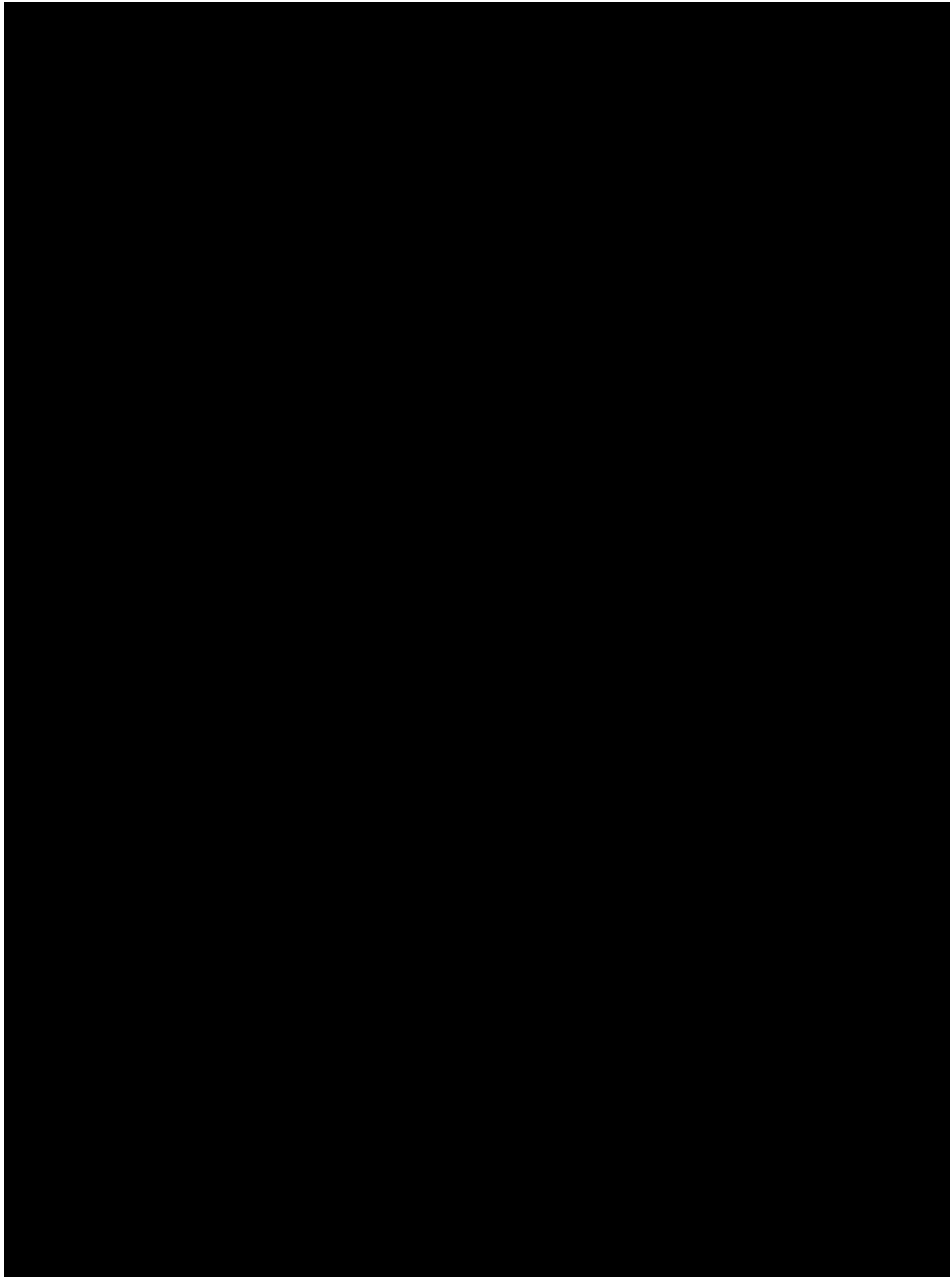
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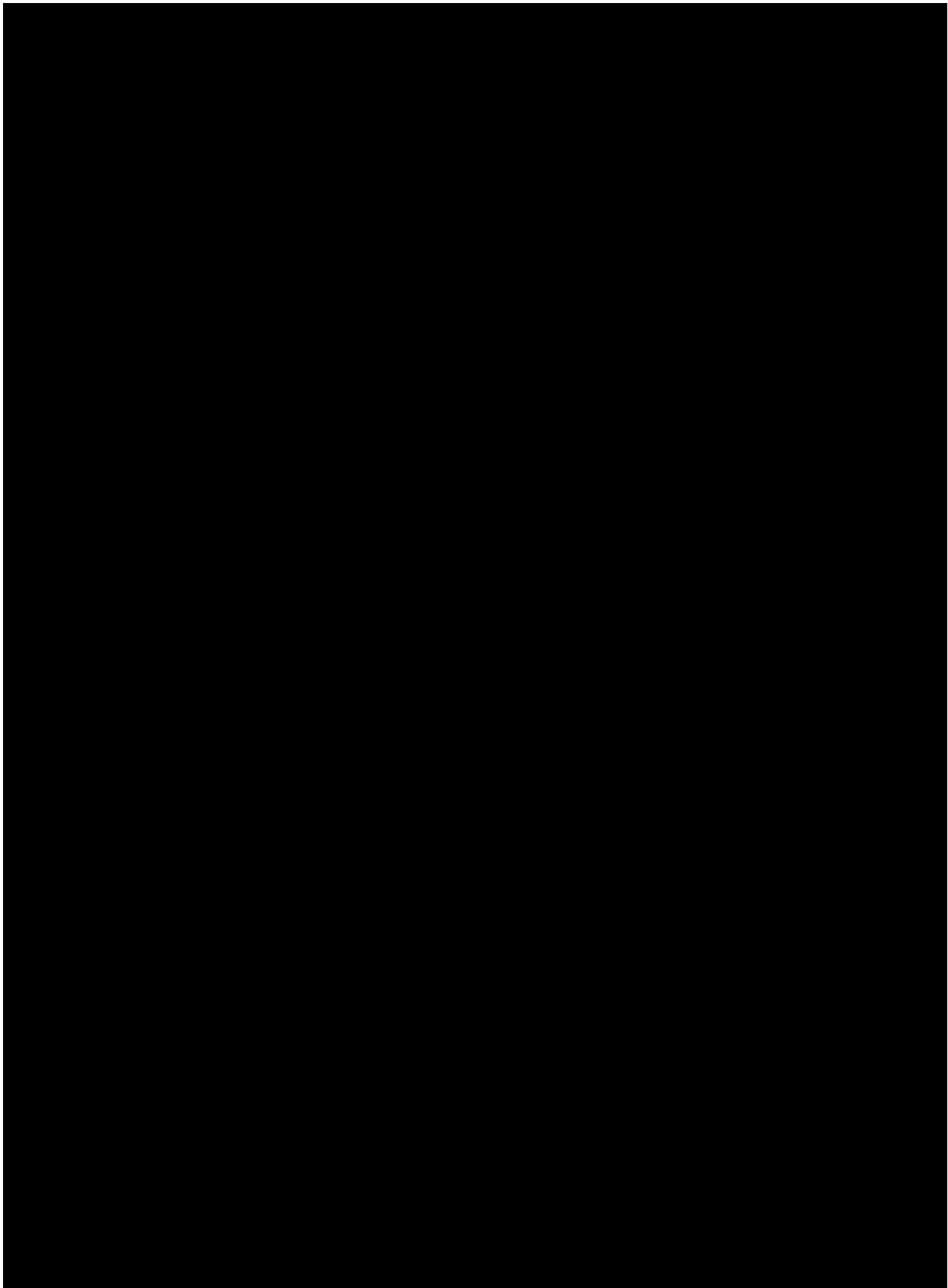
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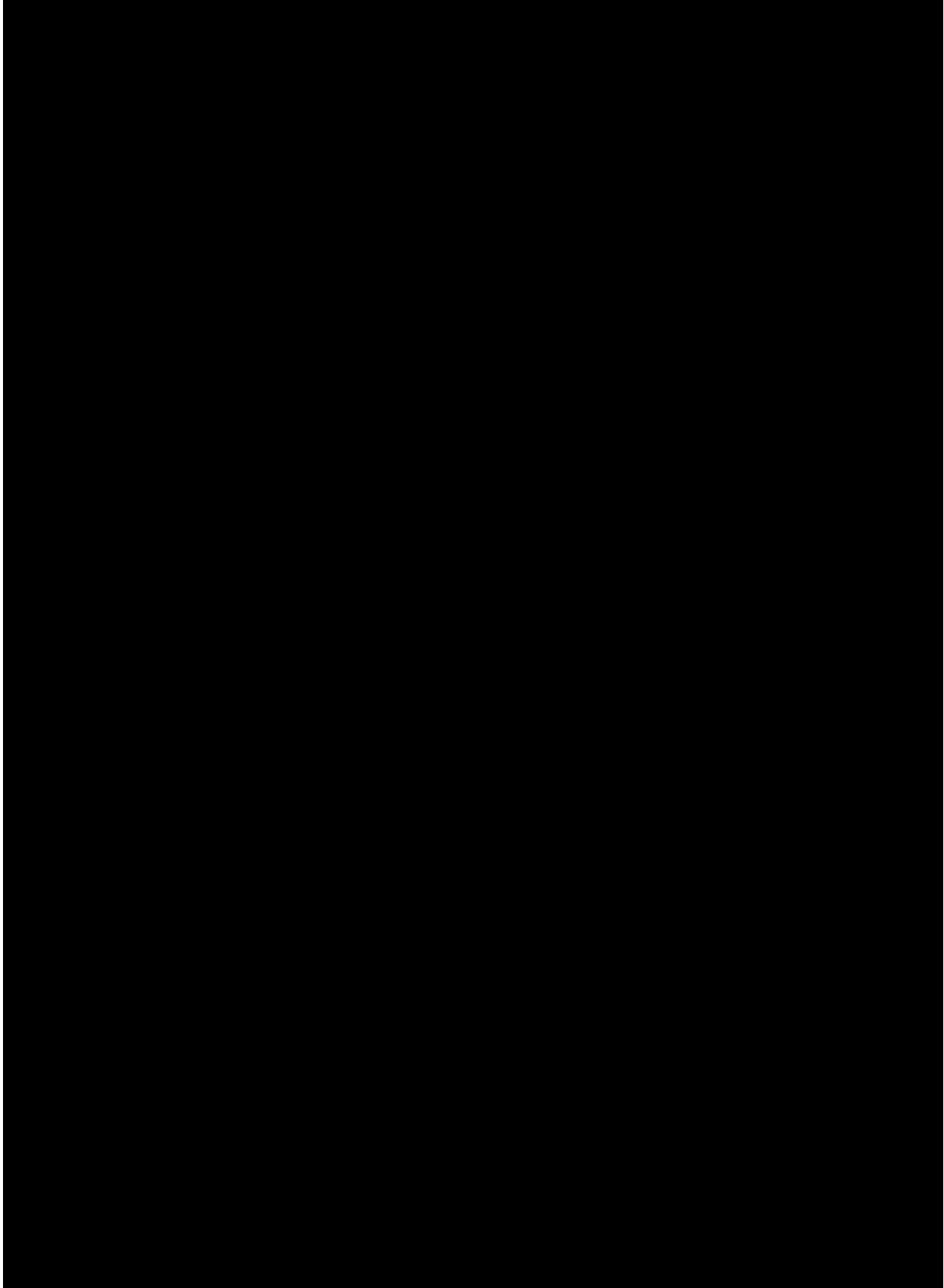


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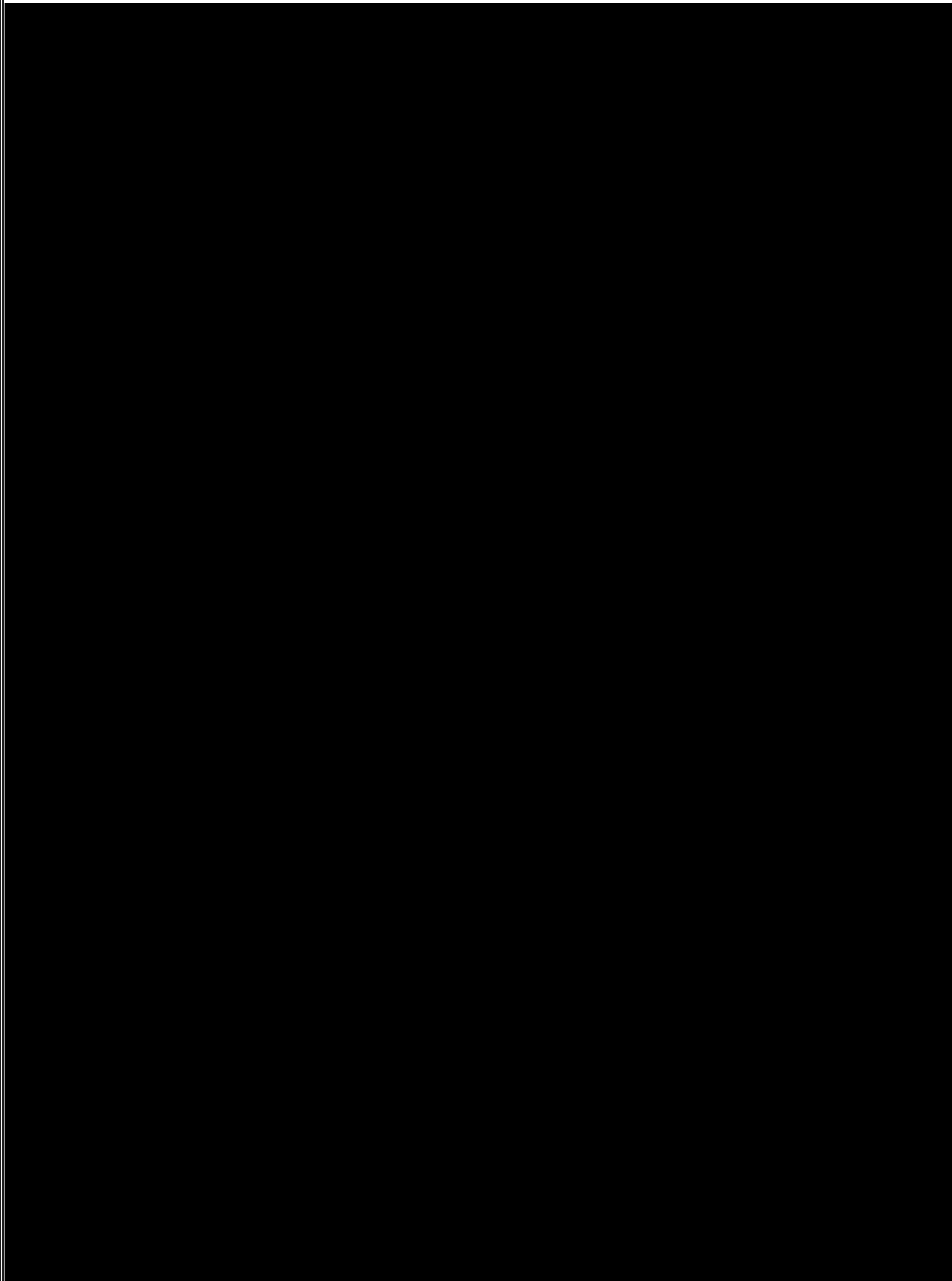




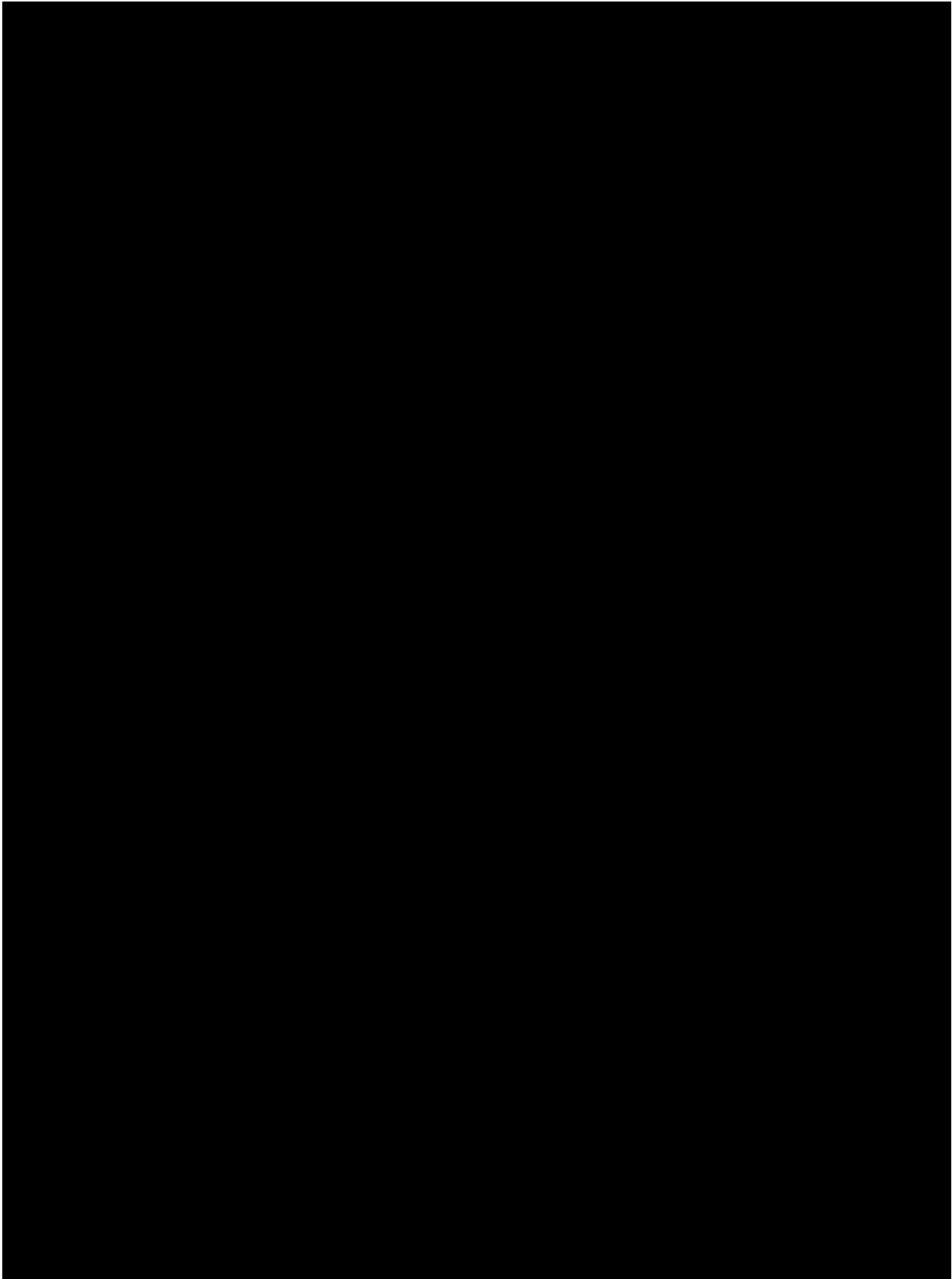
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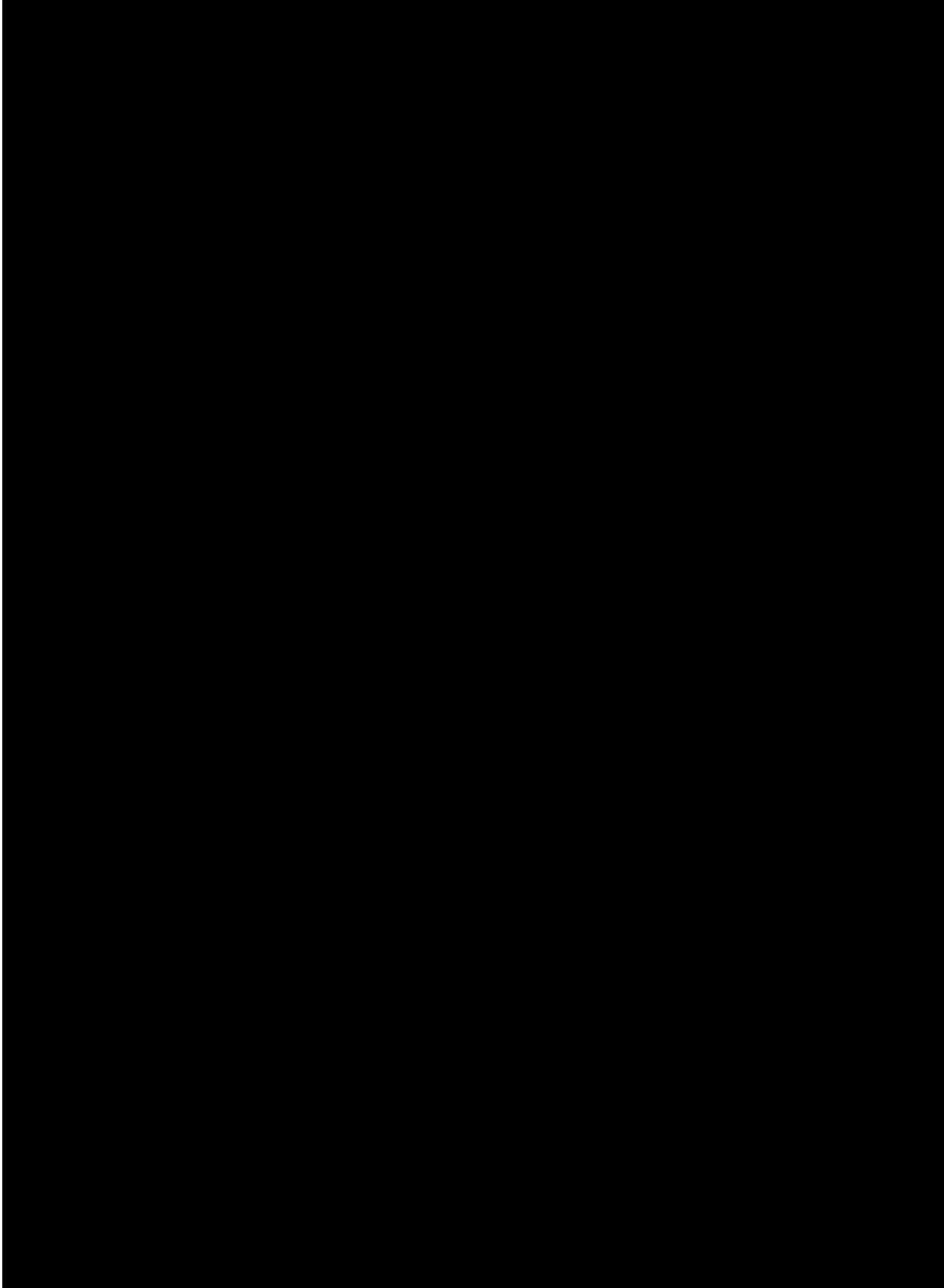
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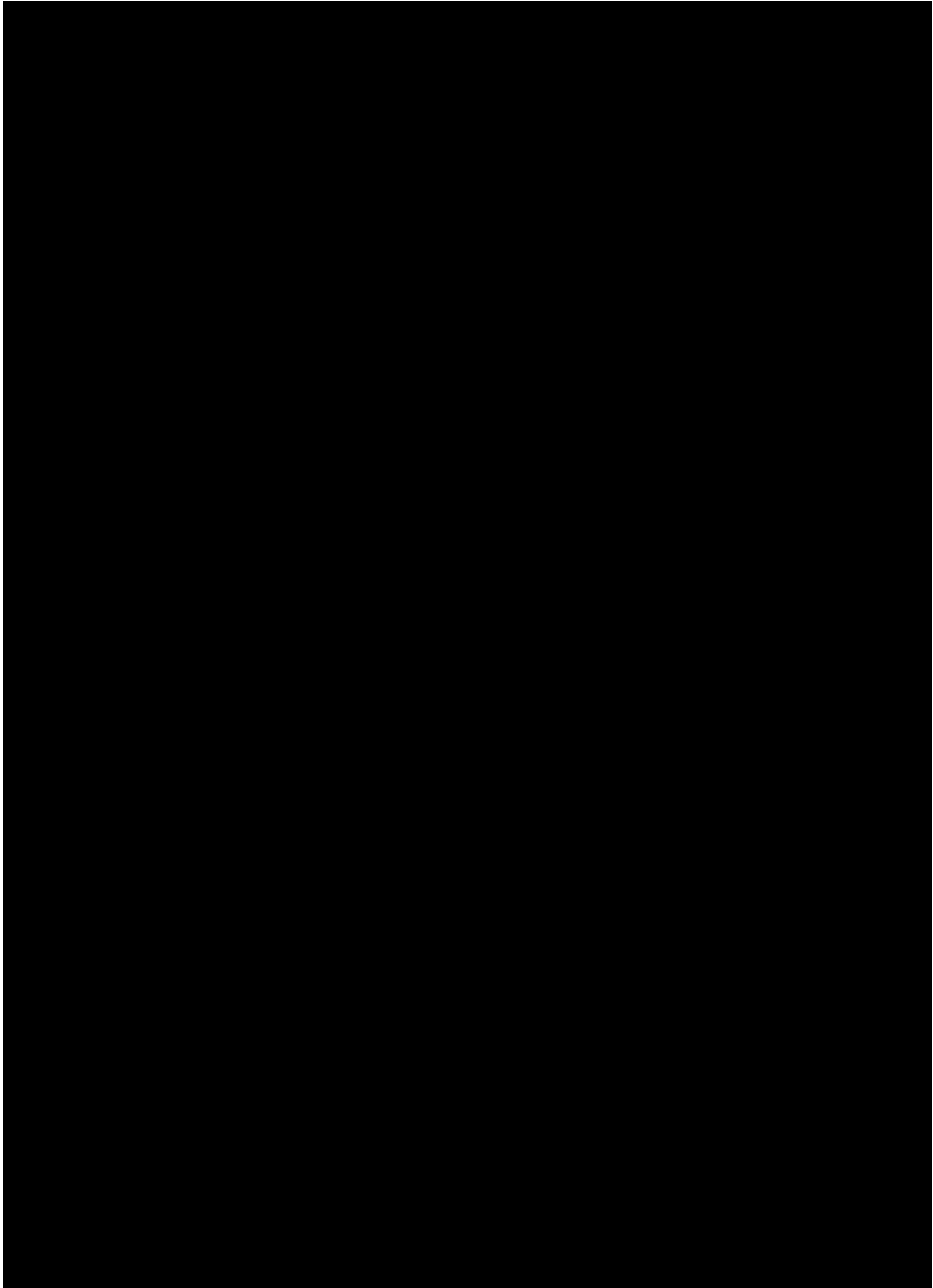
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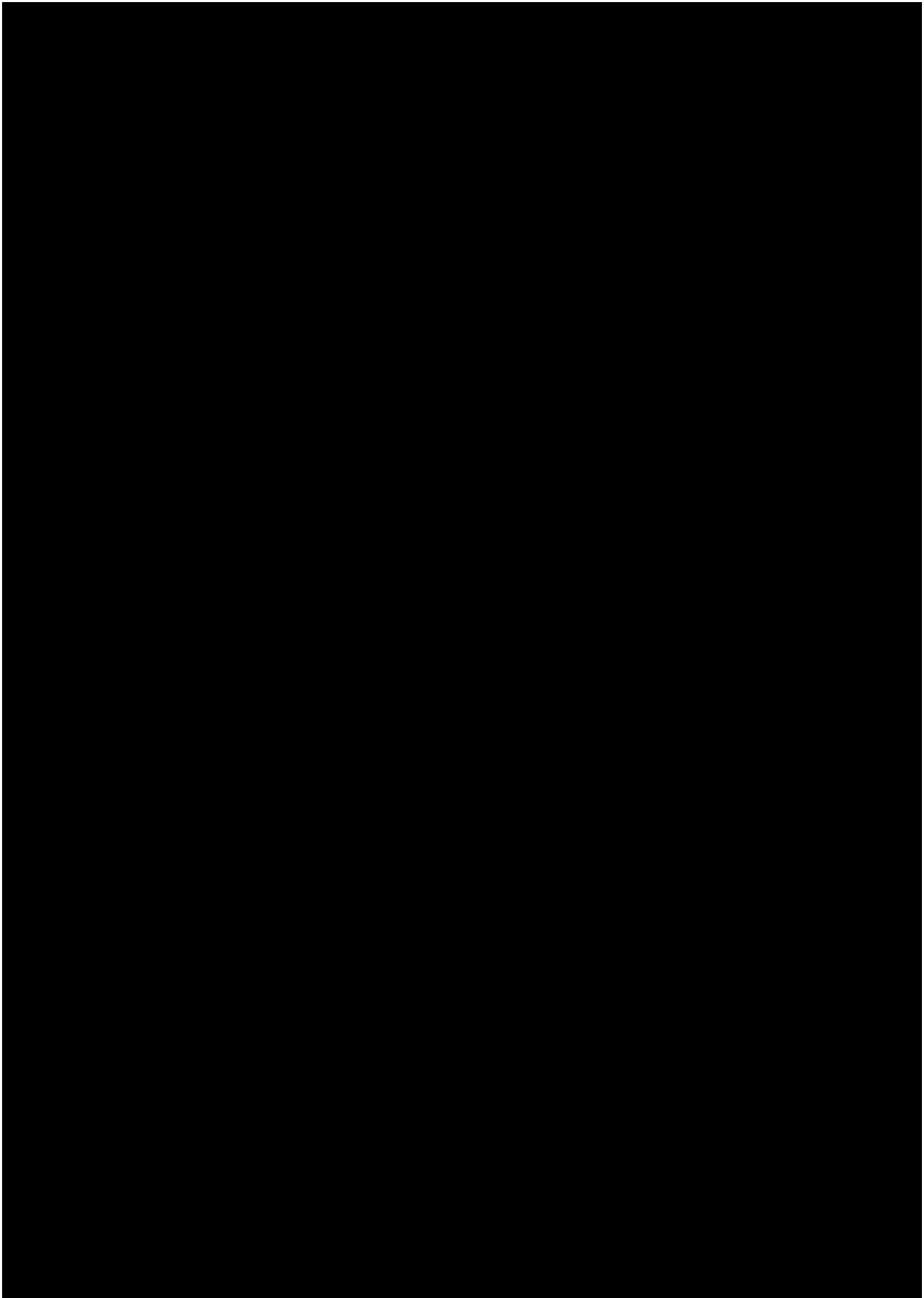
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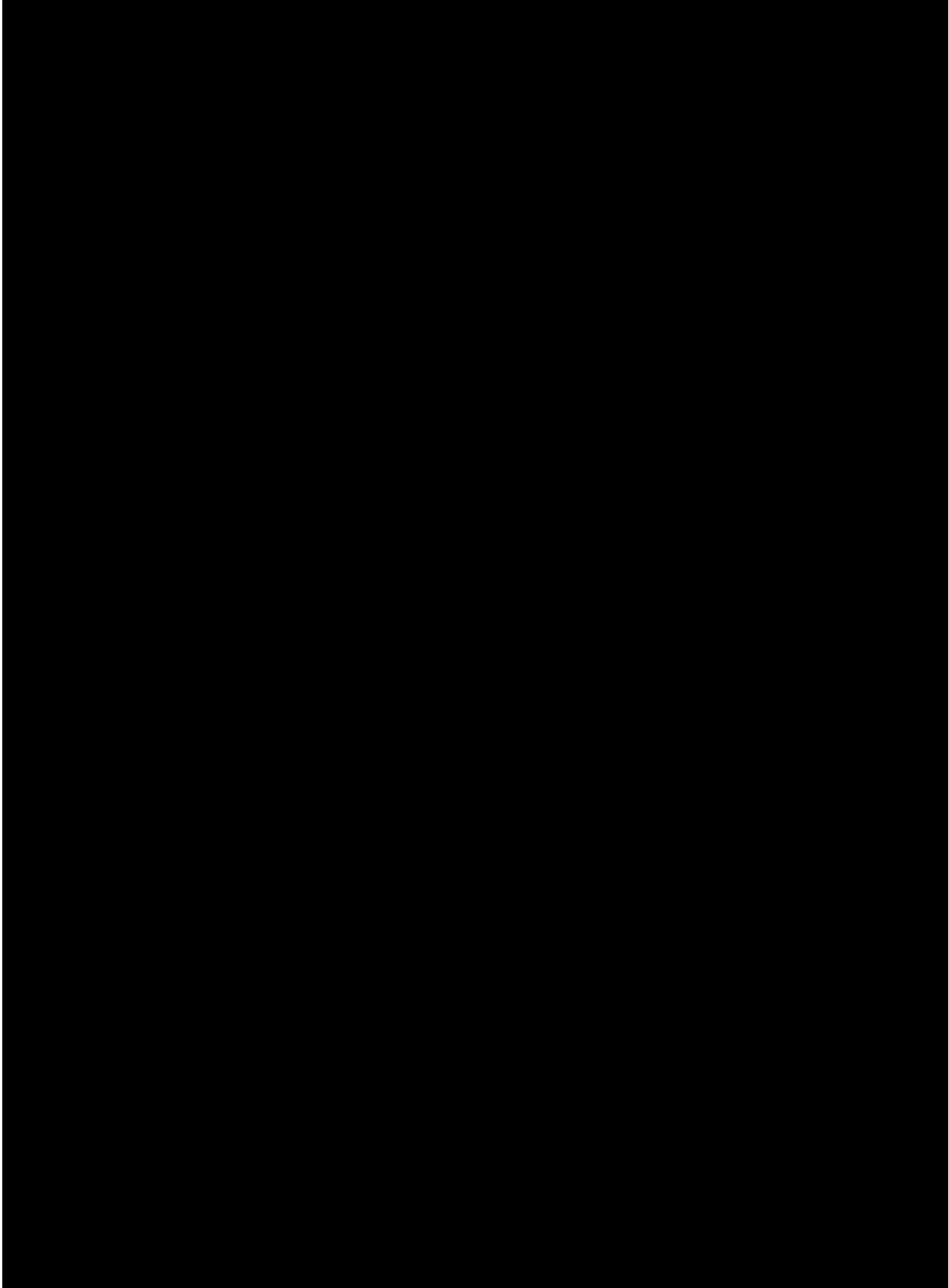
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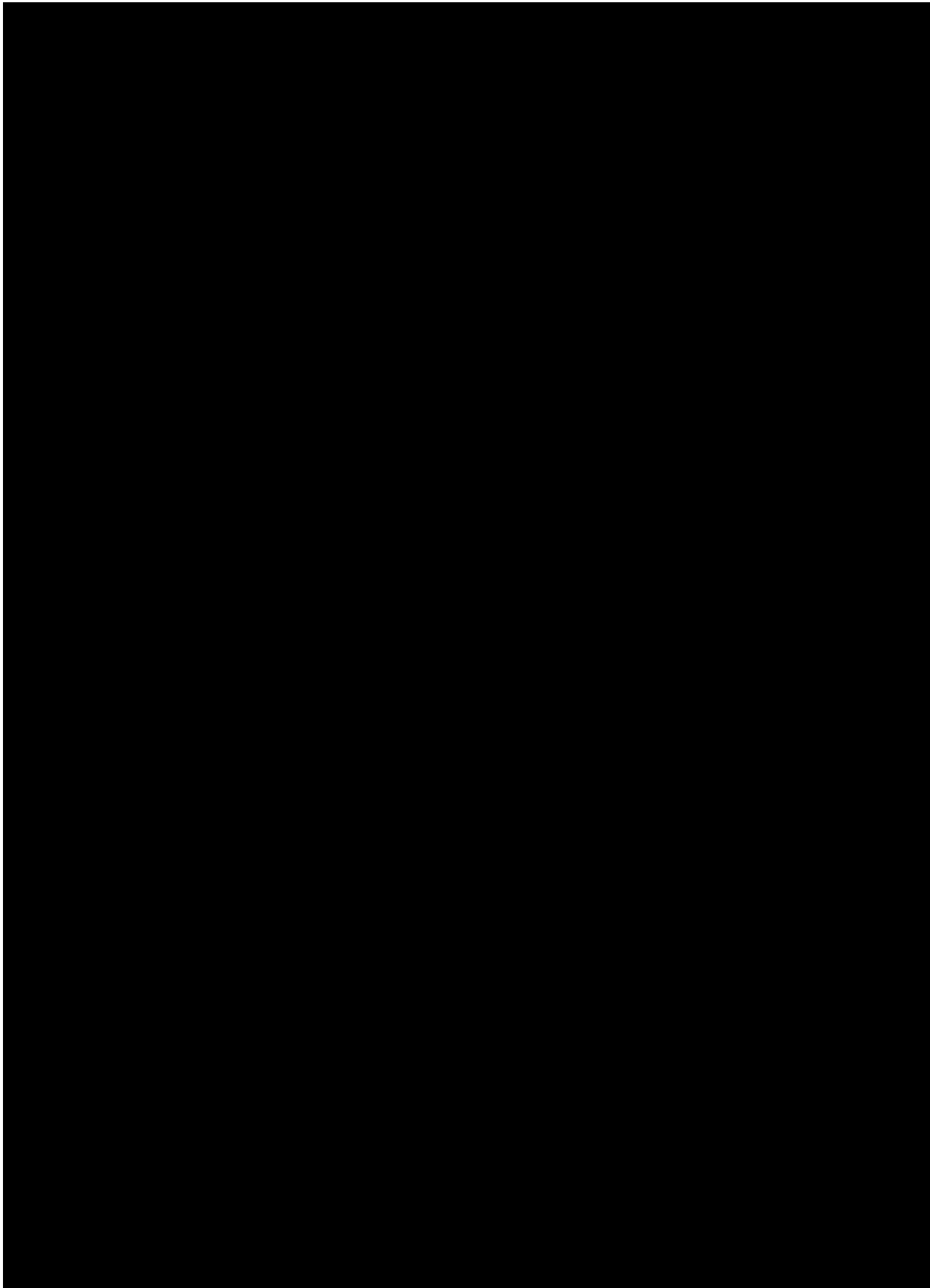
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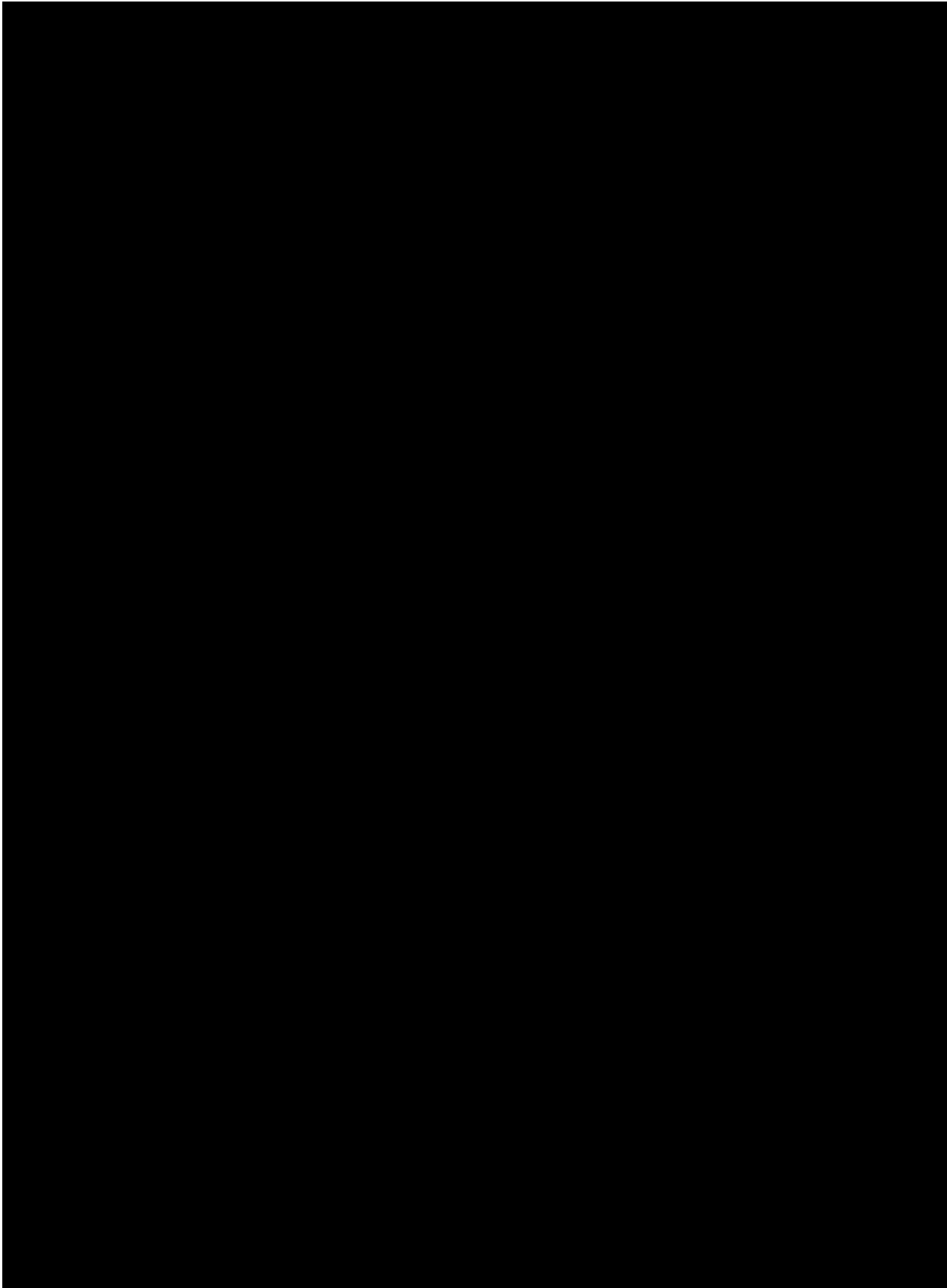


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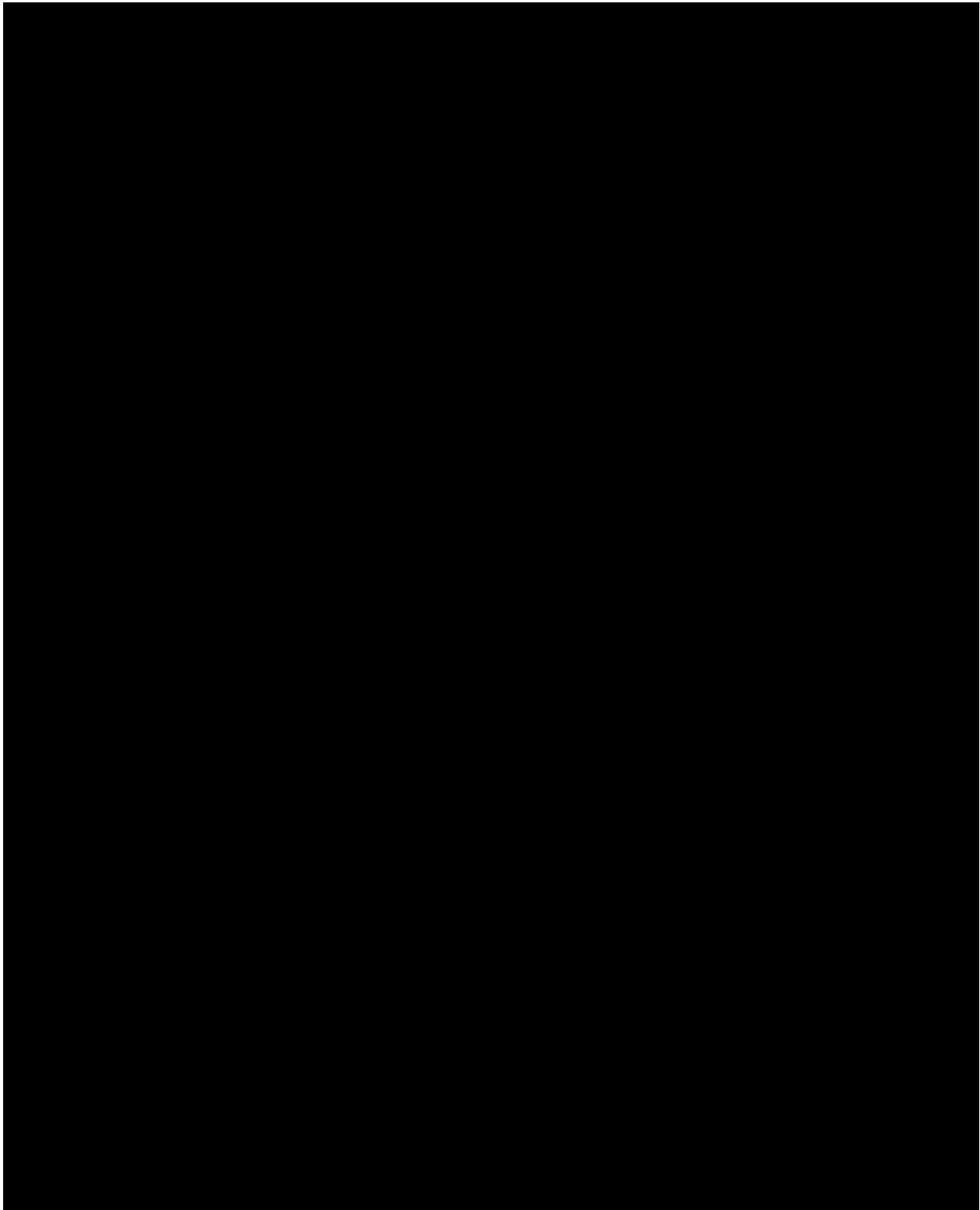




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PRESIDENT TERCIER: All right. Thank you  
very much.

1 Ms. de Germiny, you start.

2 Just for you, I don't know if you can do it  
3 before today, if not, if you can tell us approximately  
4 when you should quickly interrupt.

5 MS. de GERMINY: Let's see how far we get,  
6 but I don't think we'll be finishing tonight.

7 PRESIDENT TERCIER: My question was for to  
8 decide where it would be realizable to stop.

9 MS. de GERMINY: All right.

10 CROSS-EXAMINATION

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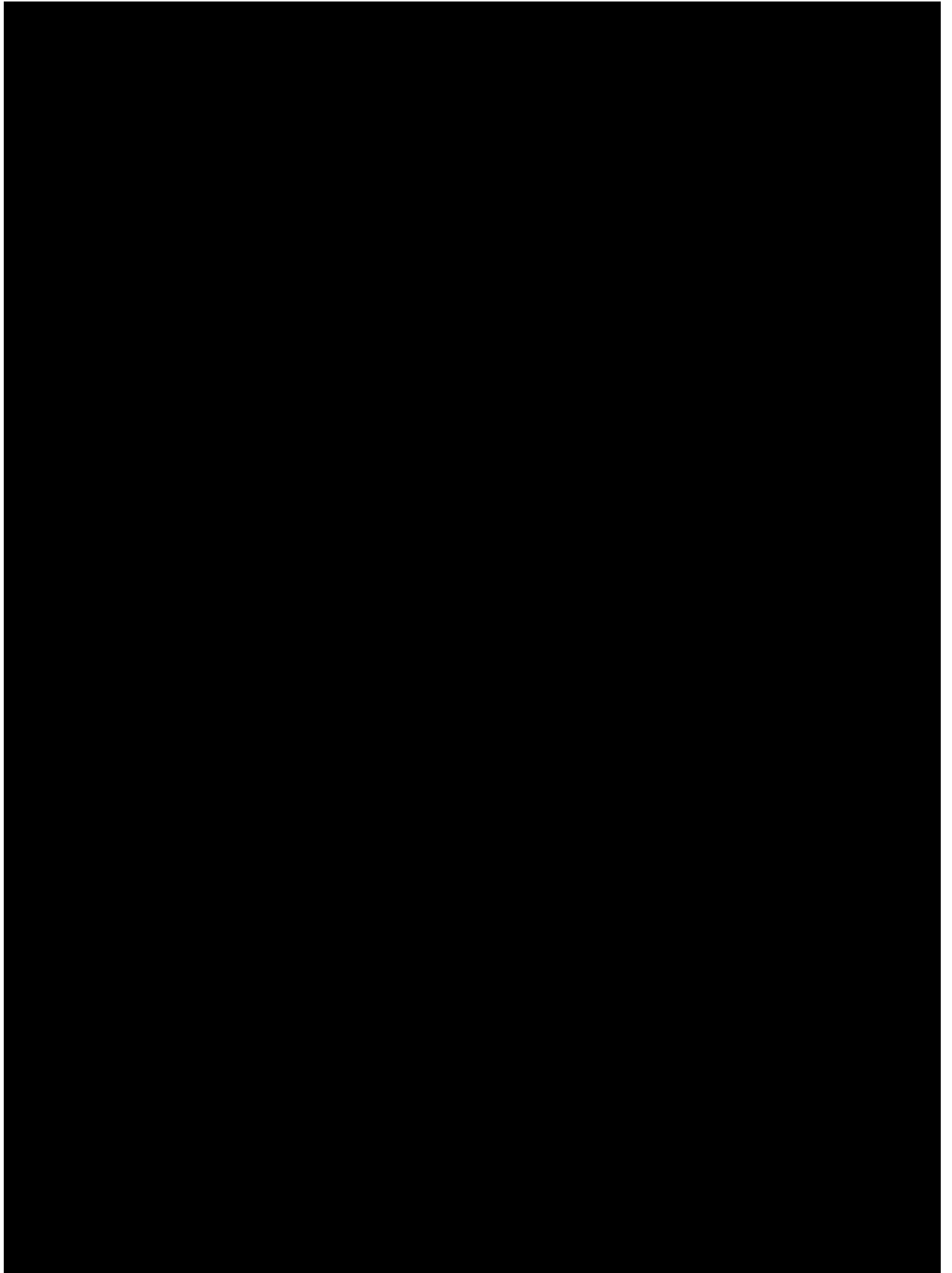
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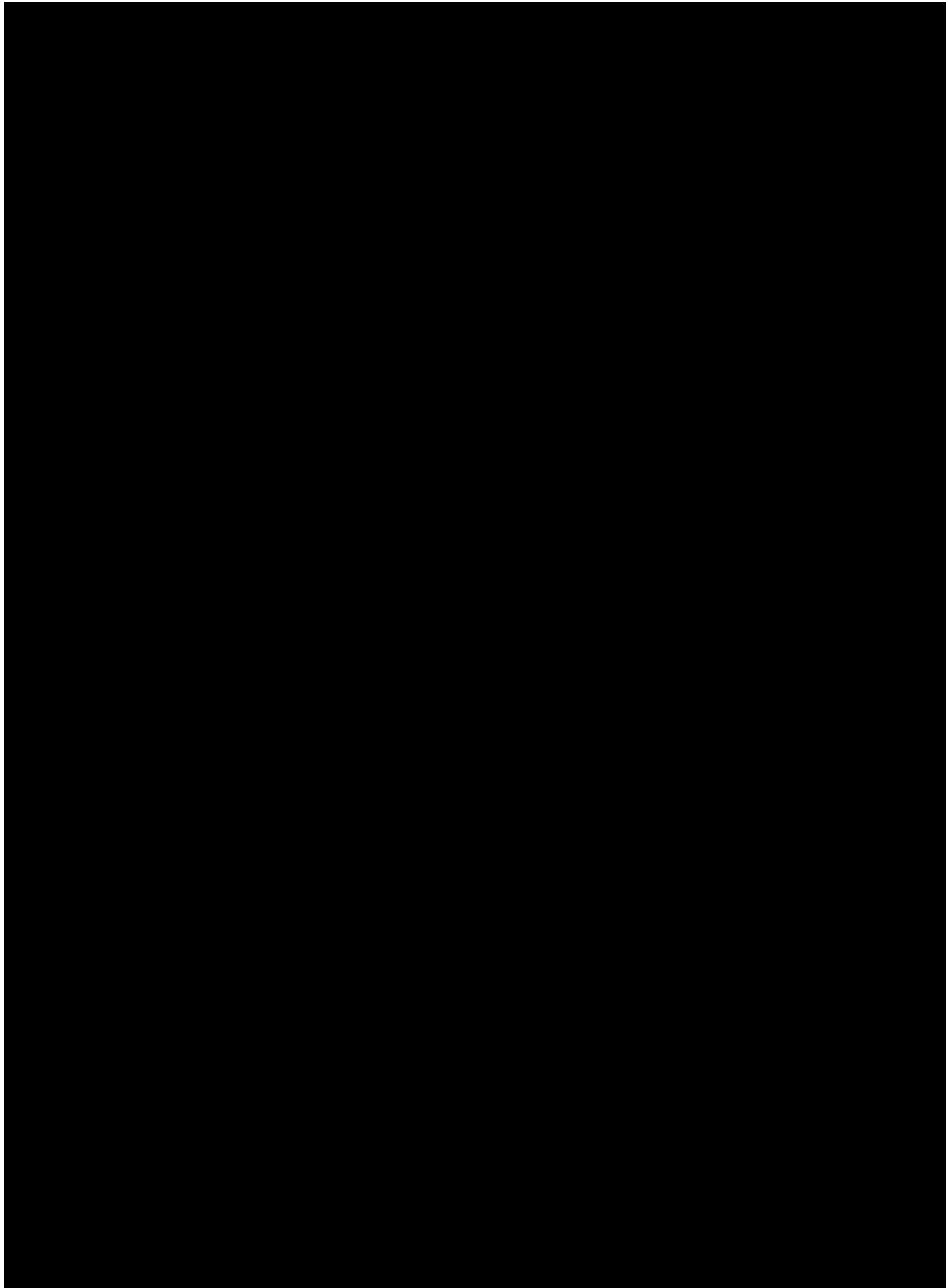
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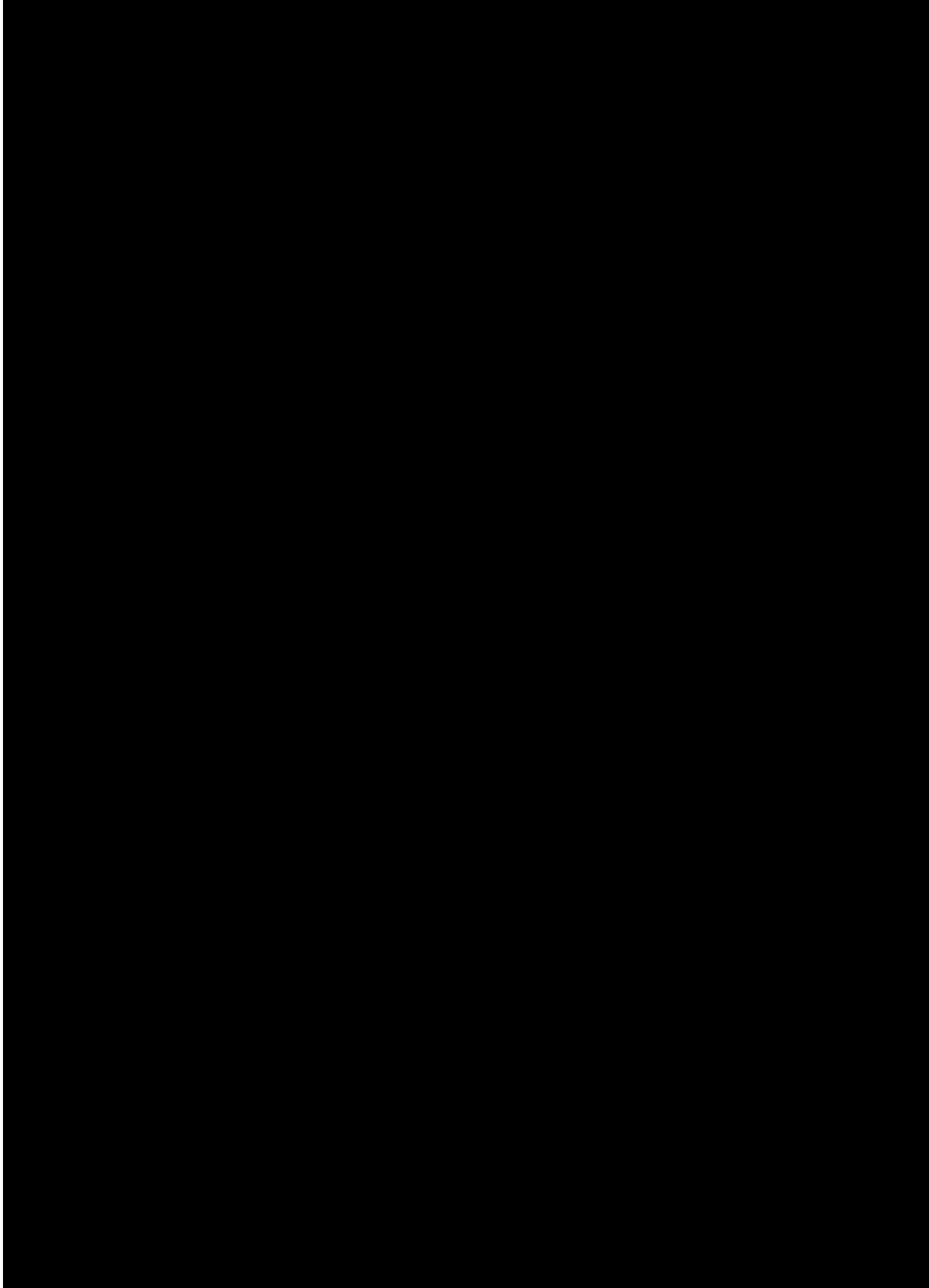
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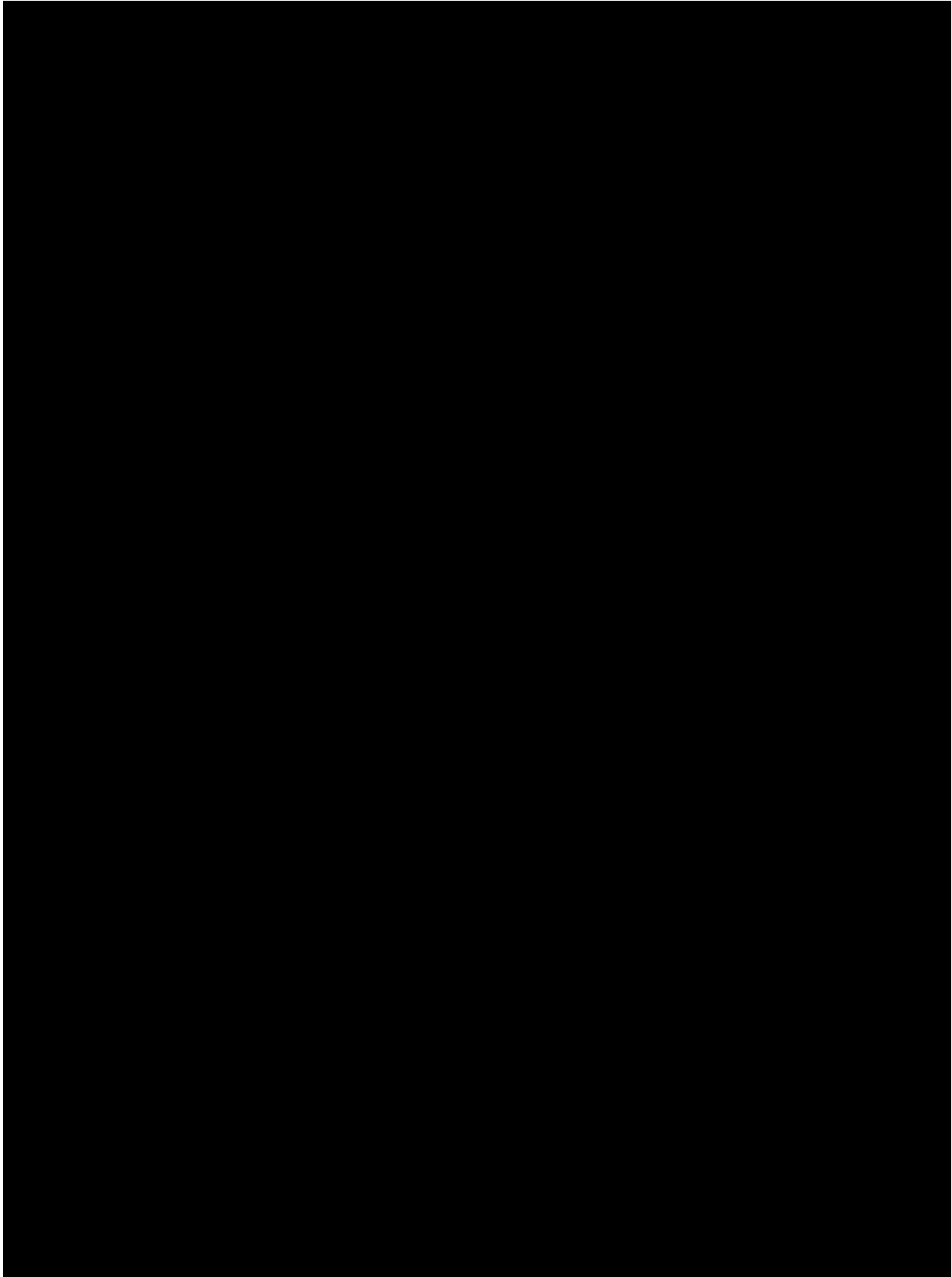
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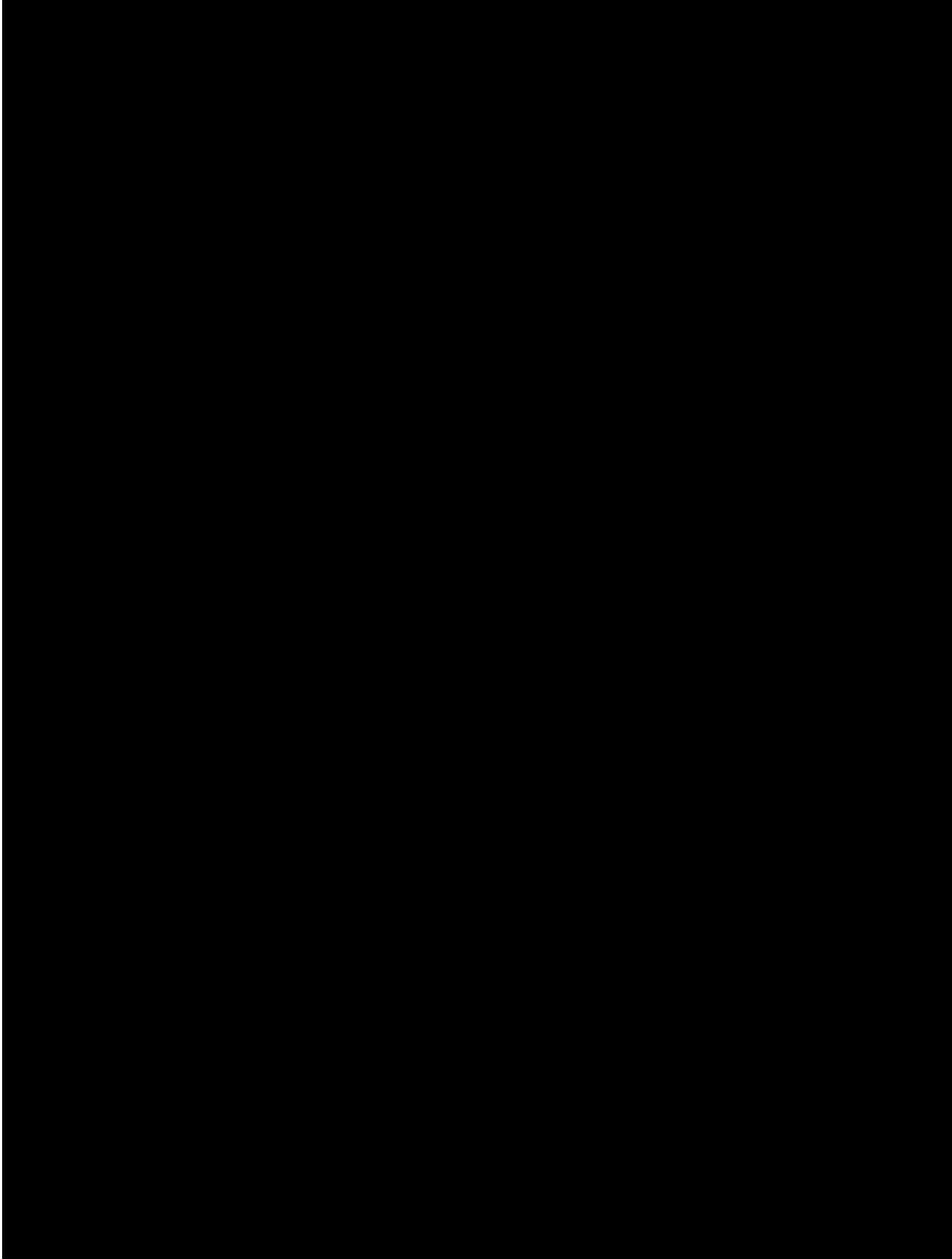
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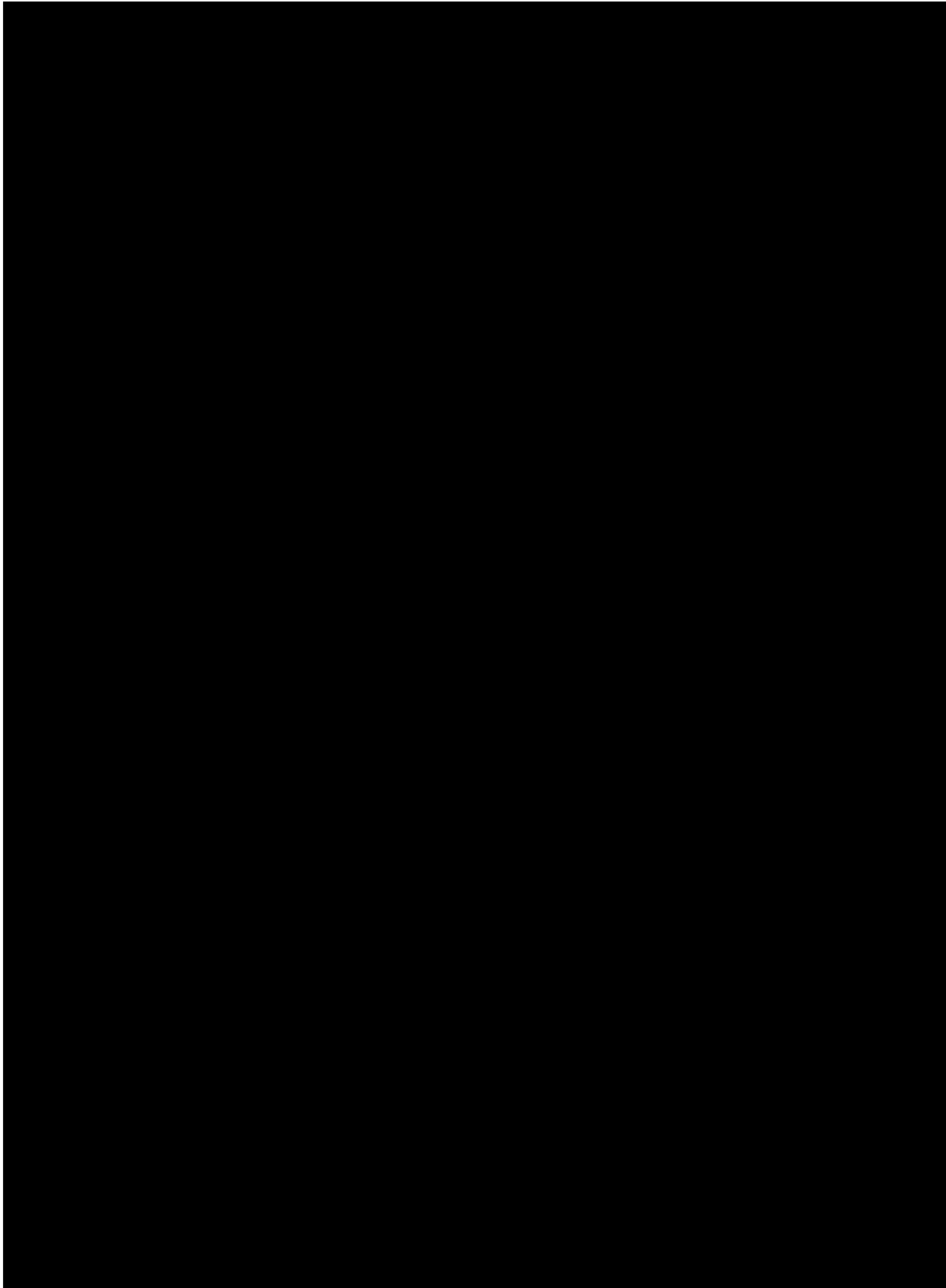


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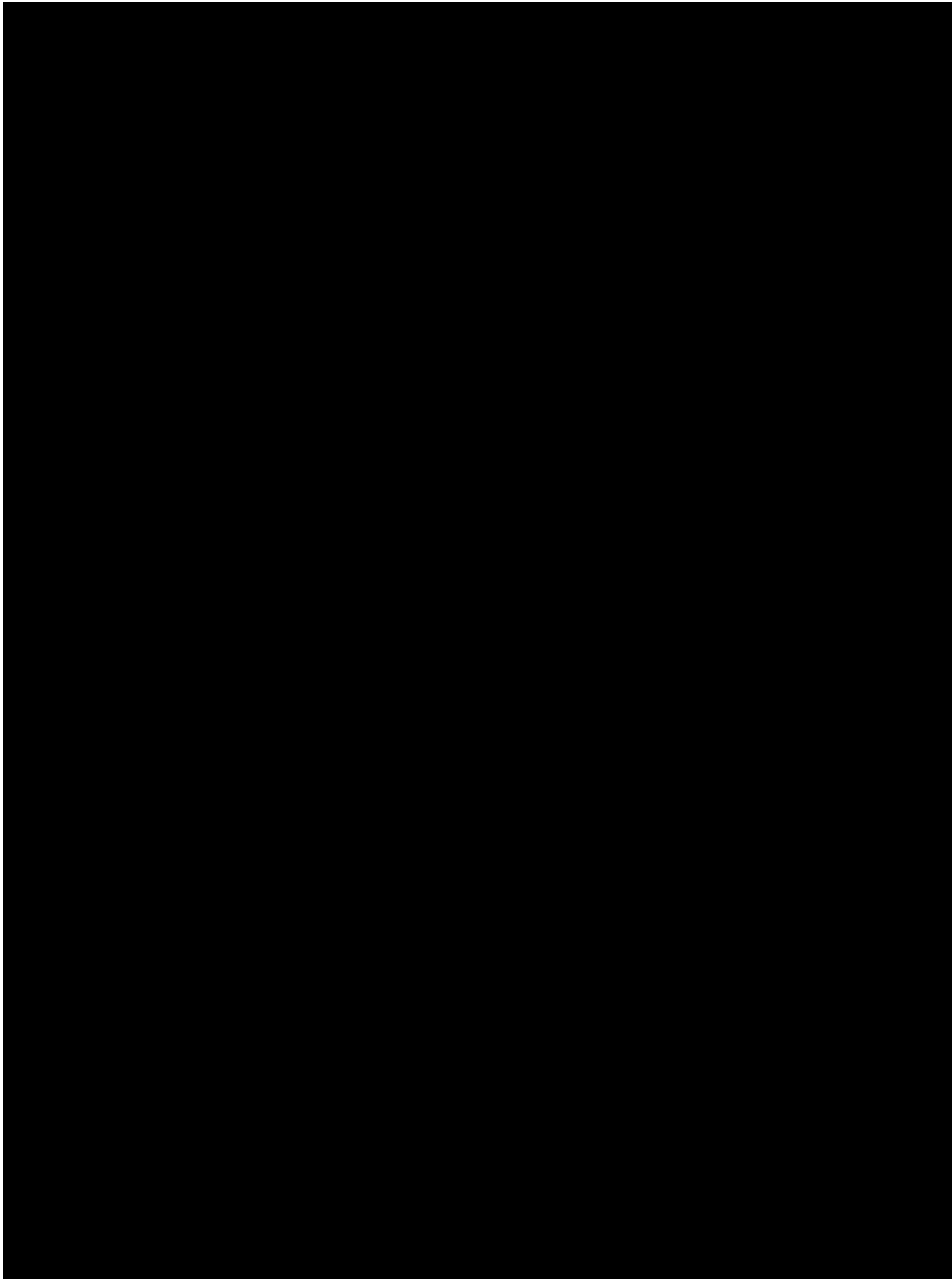




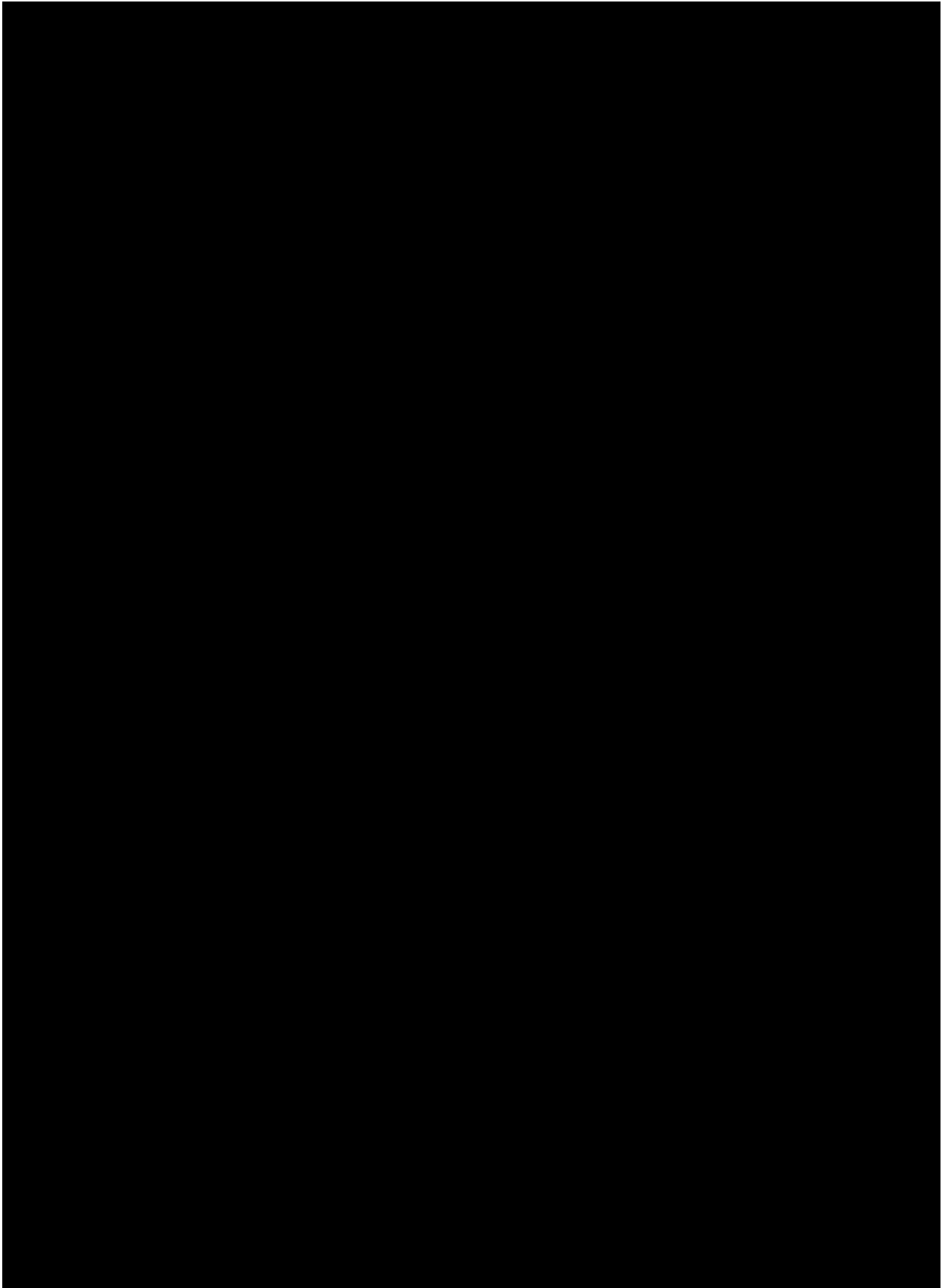
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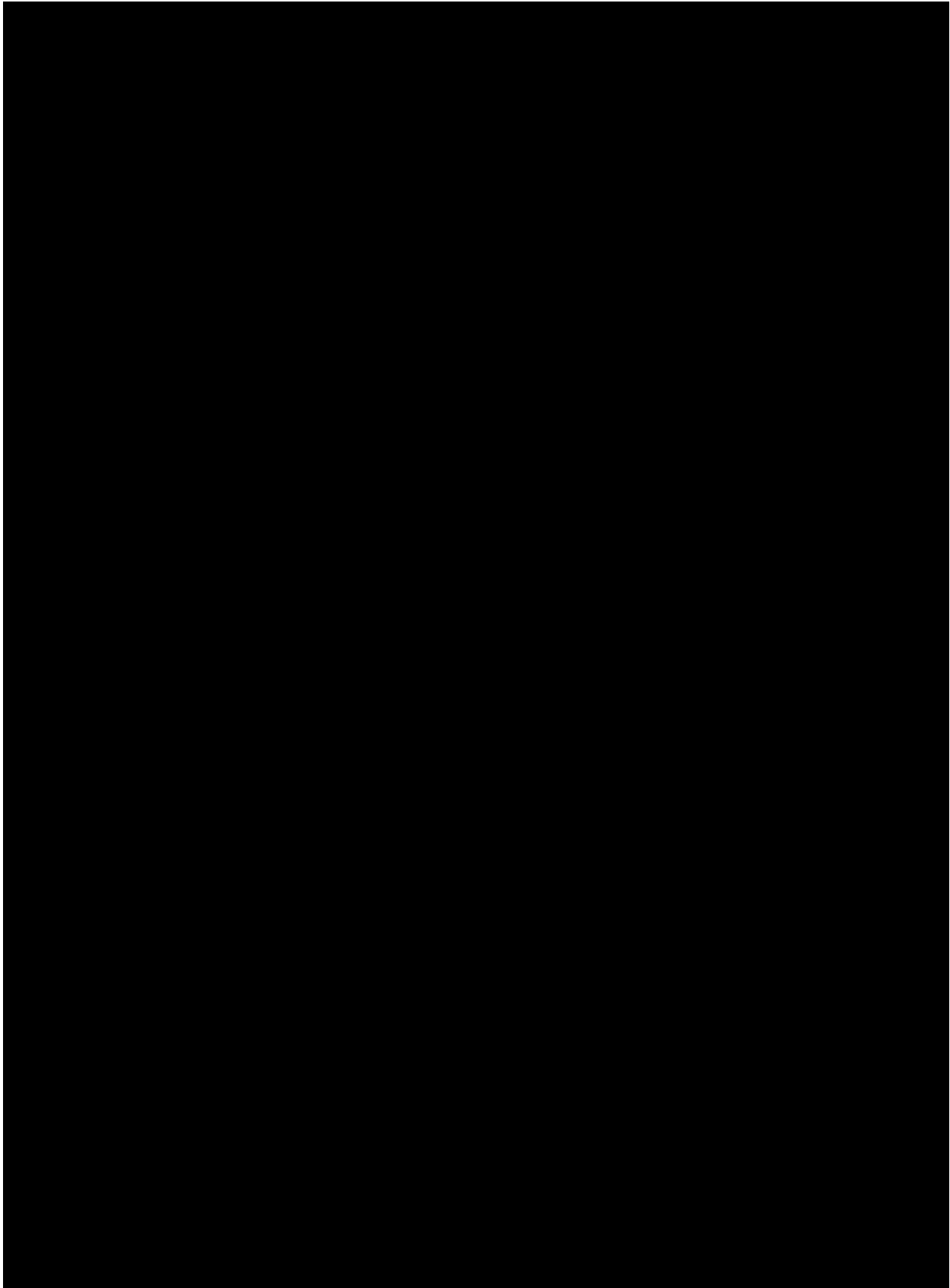
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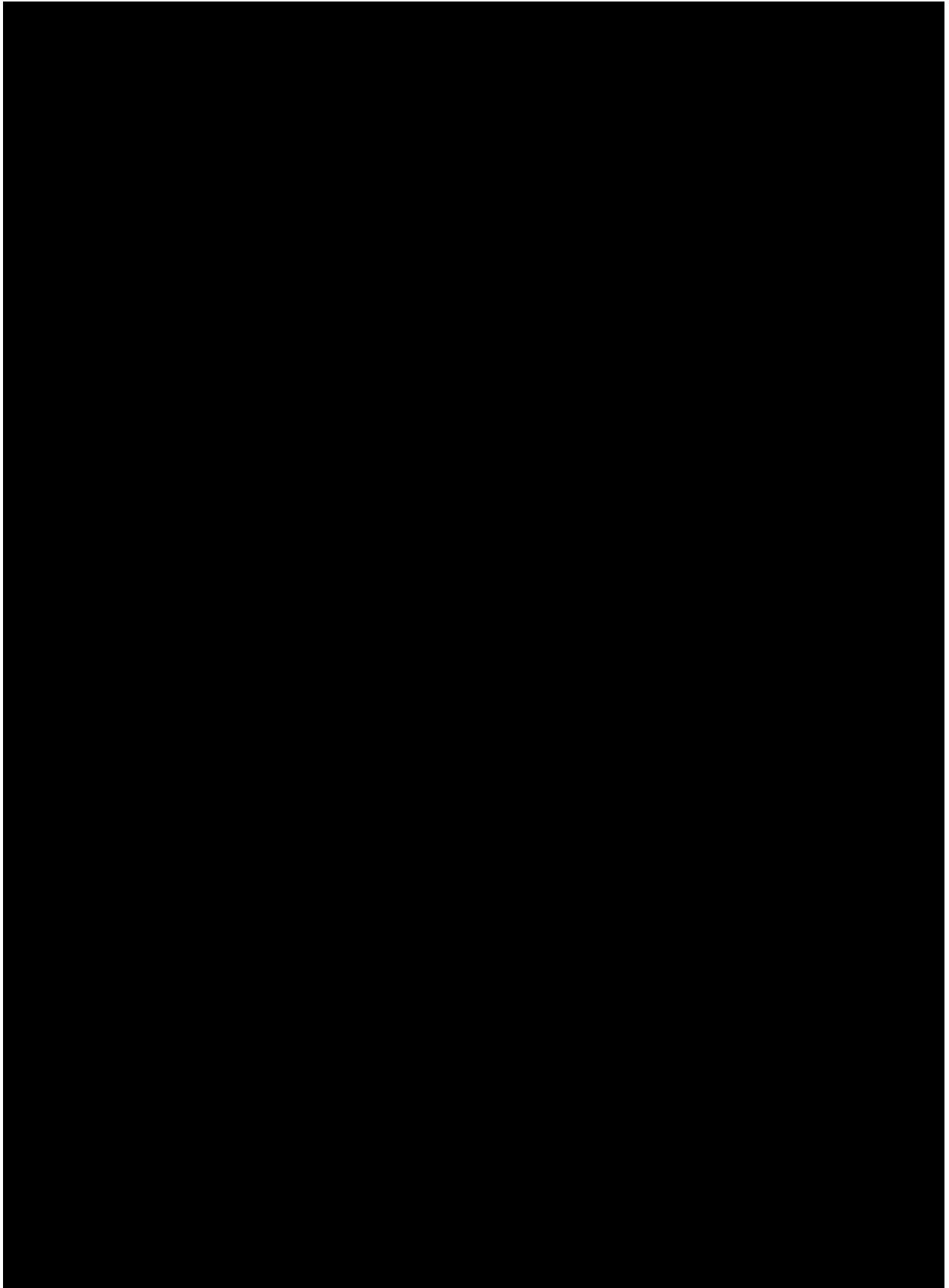
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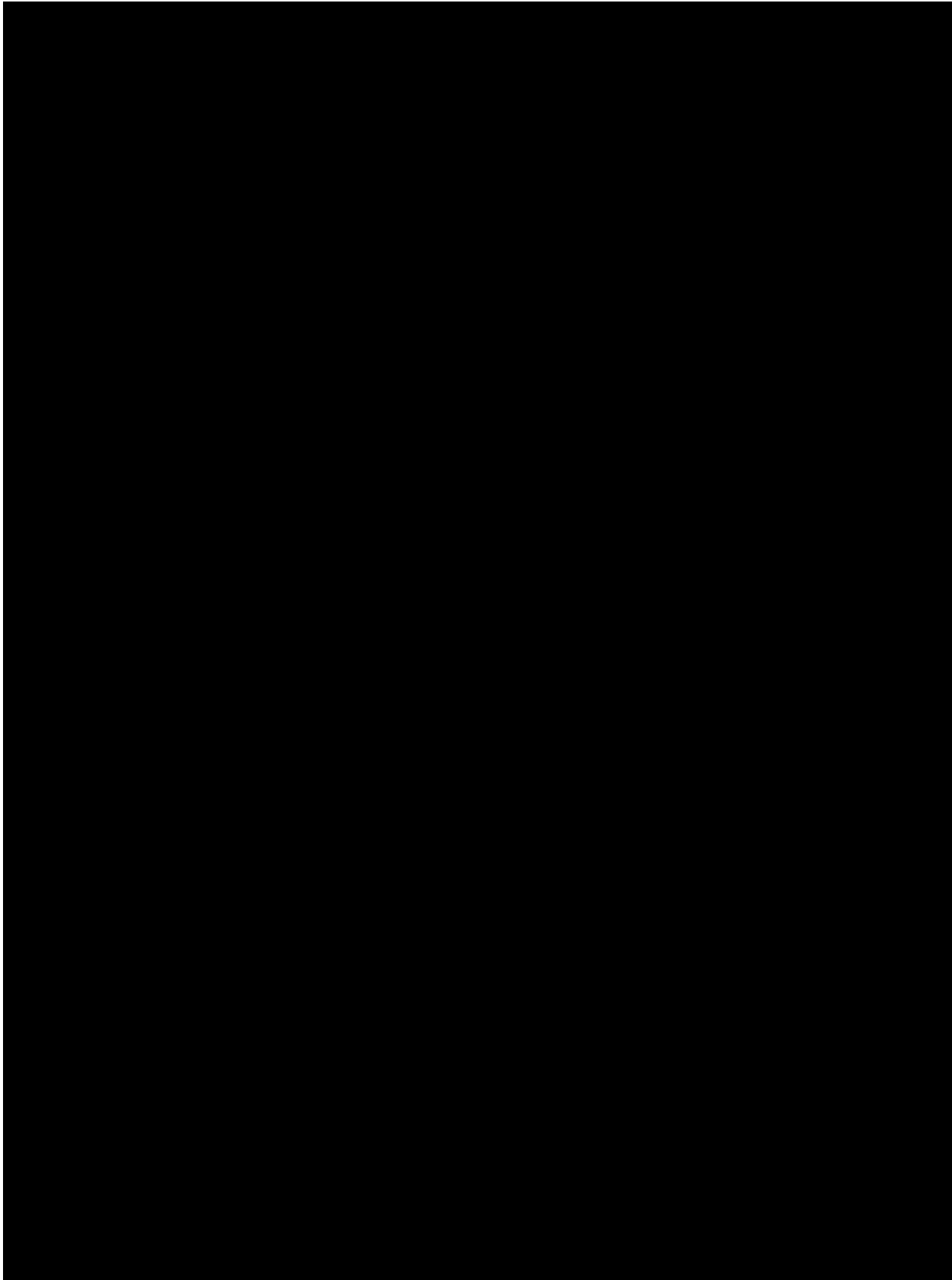
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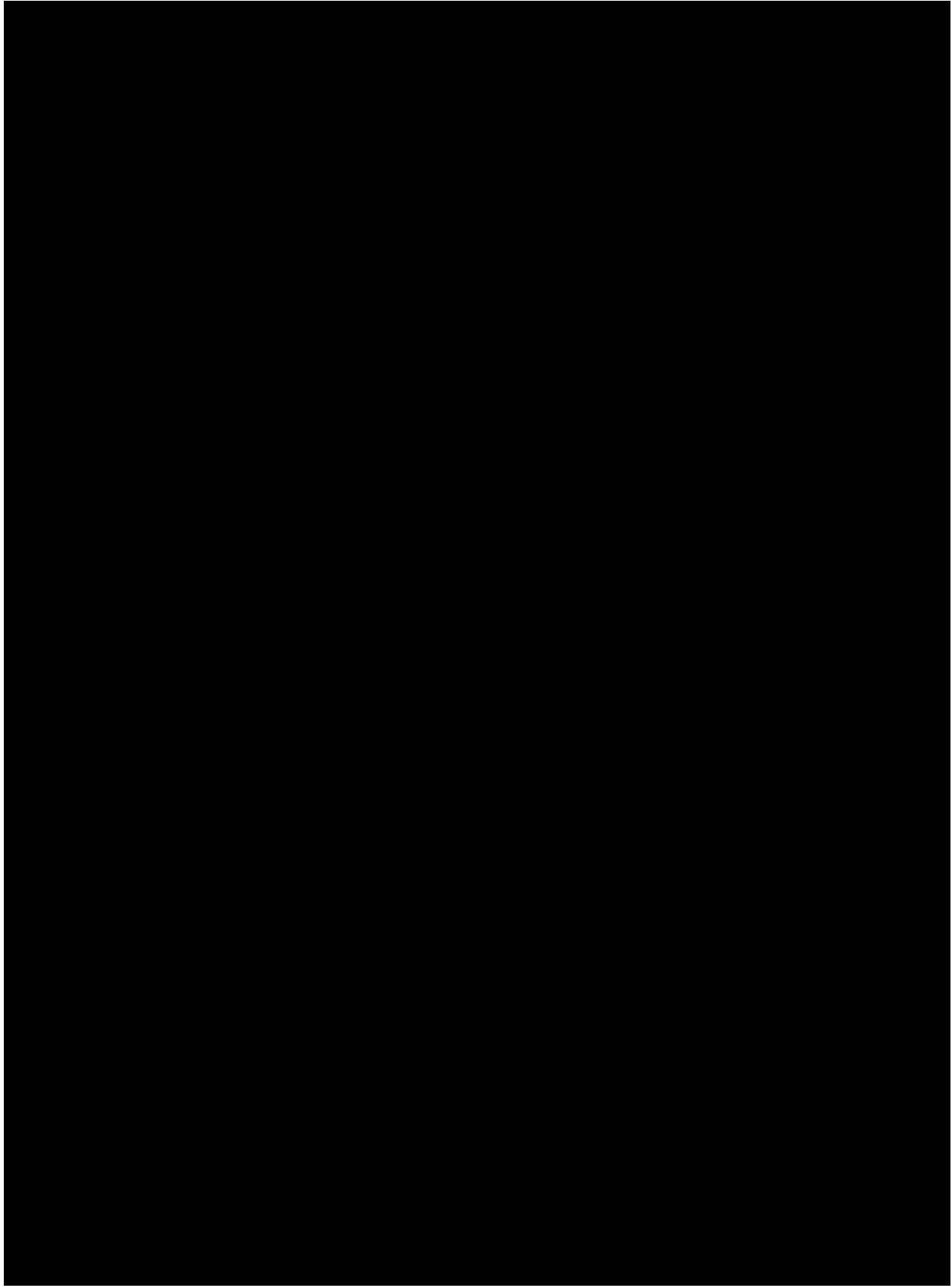
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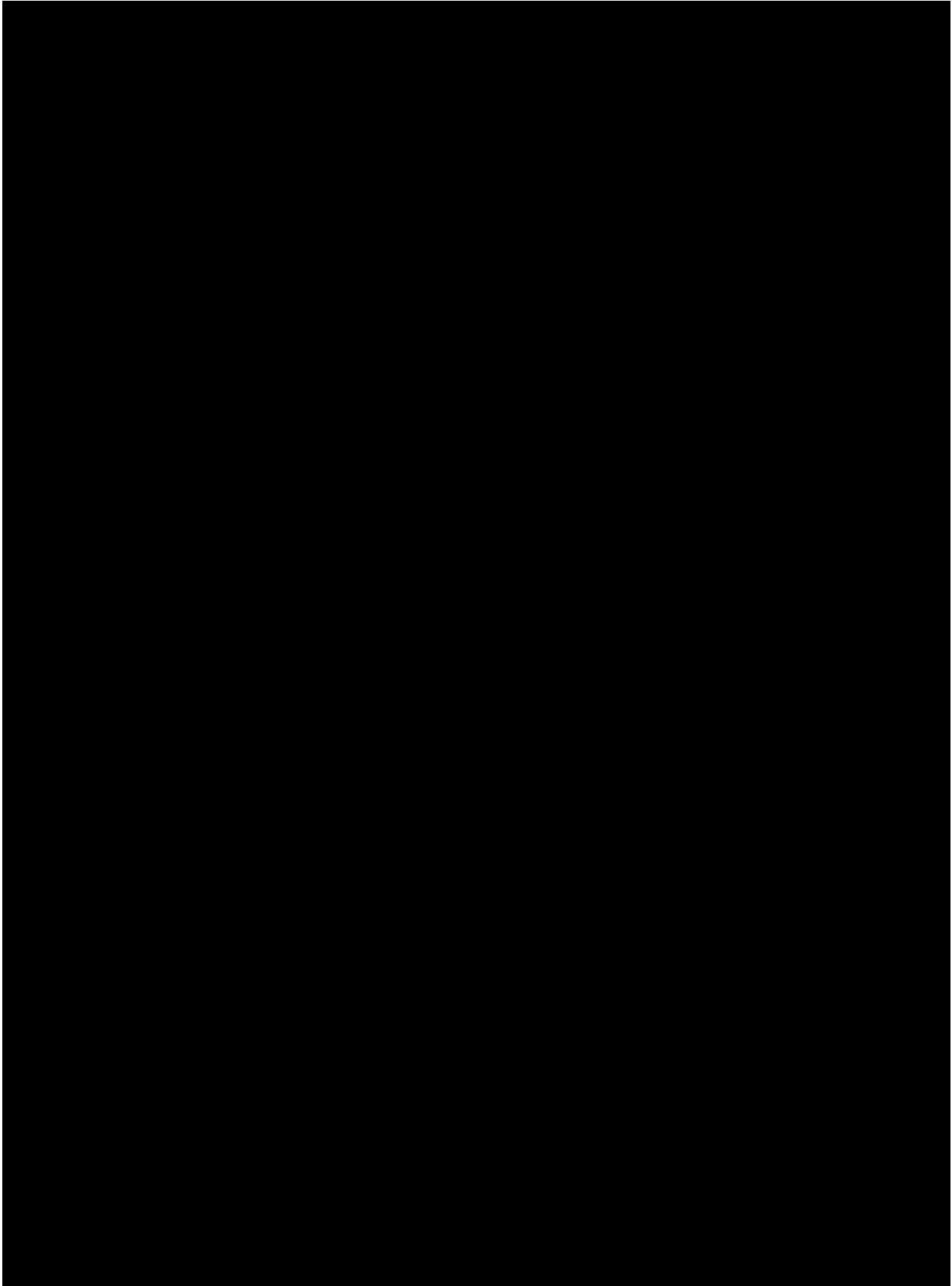
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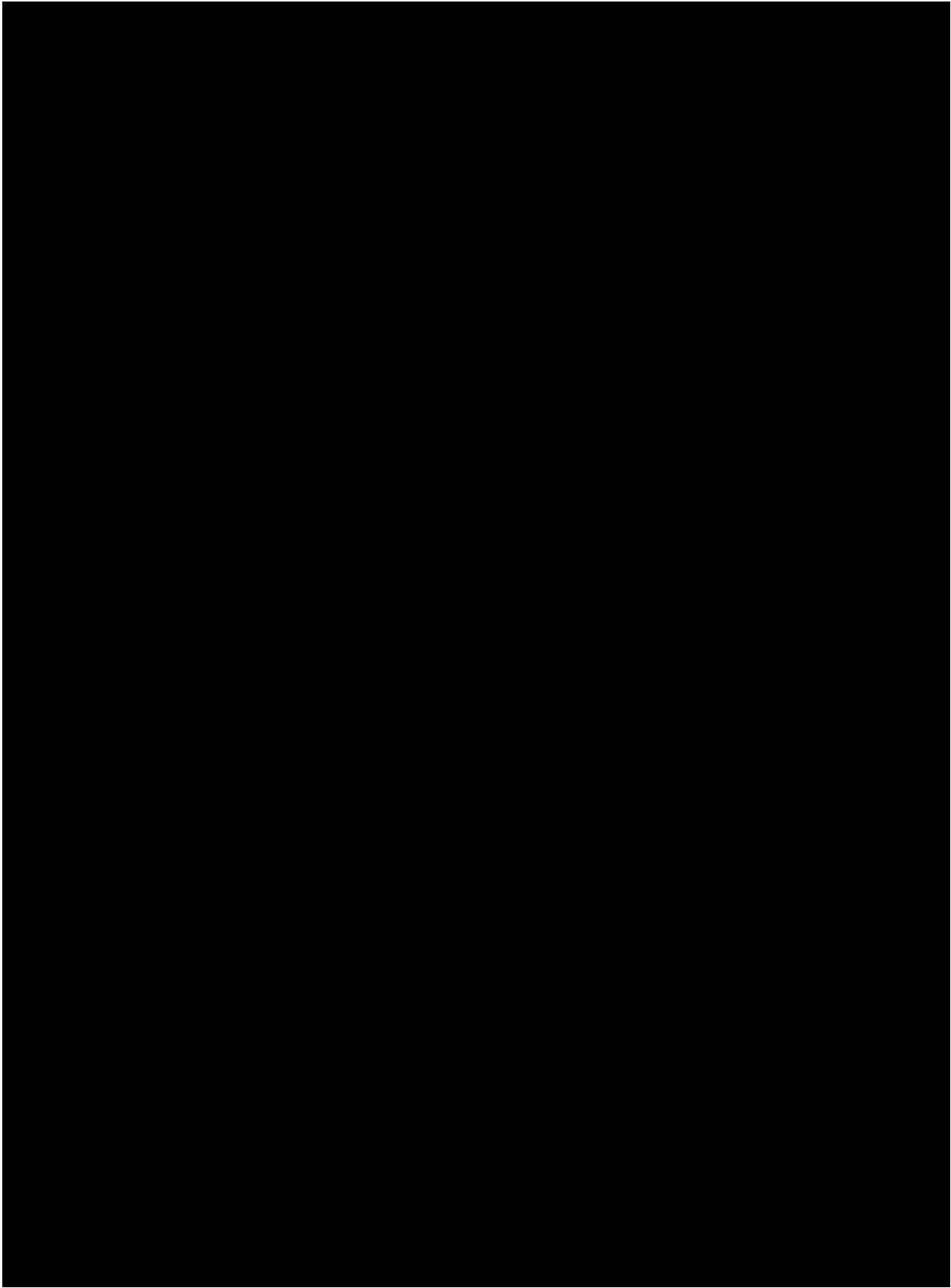


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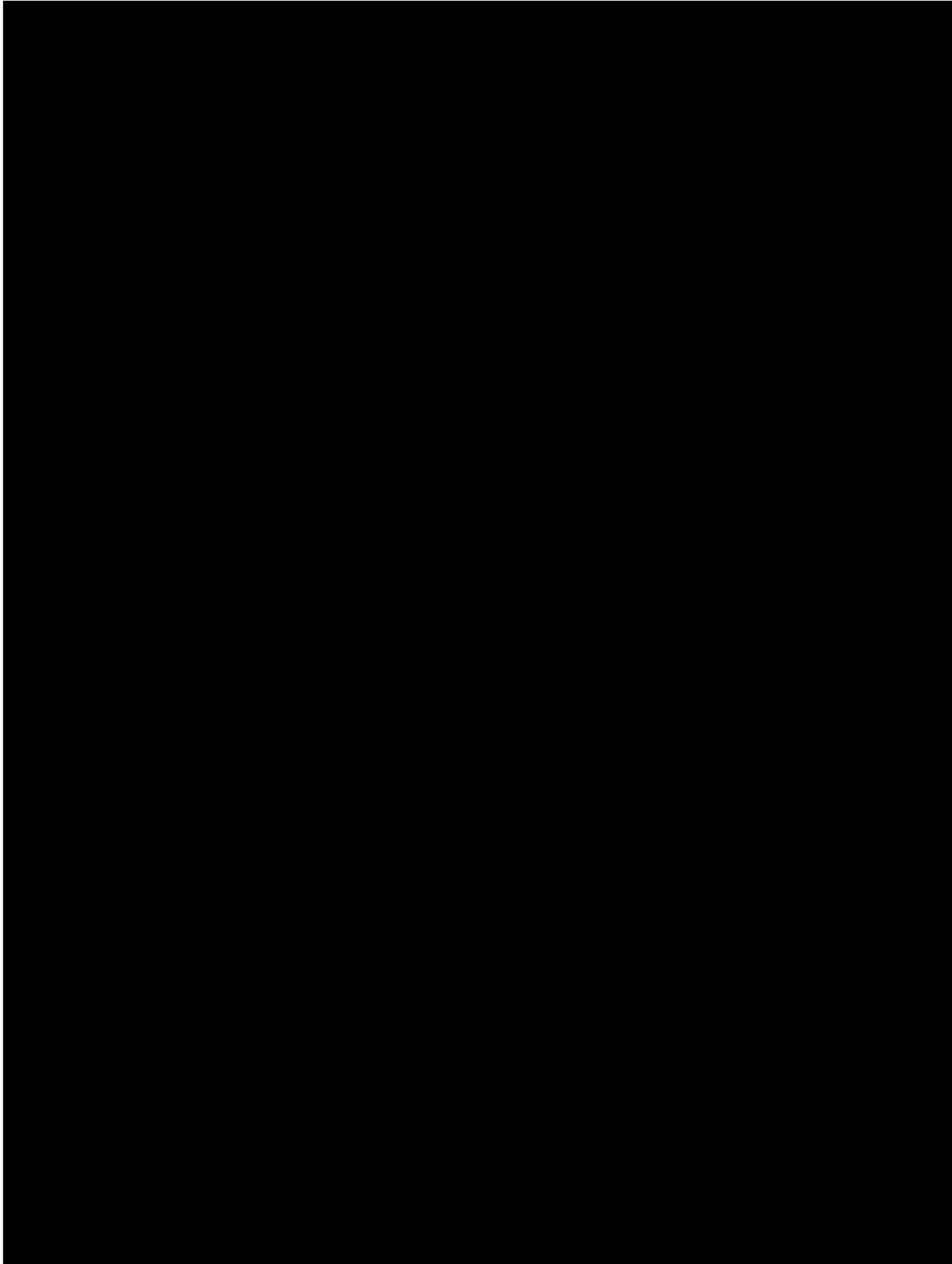




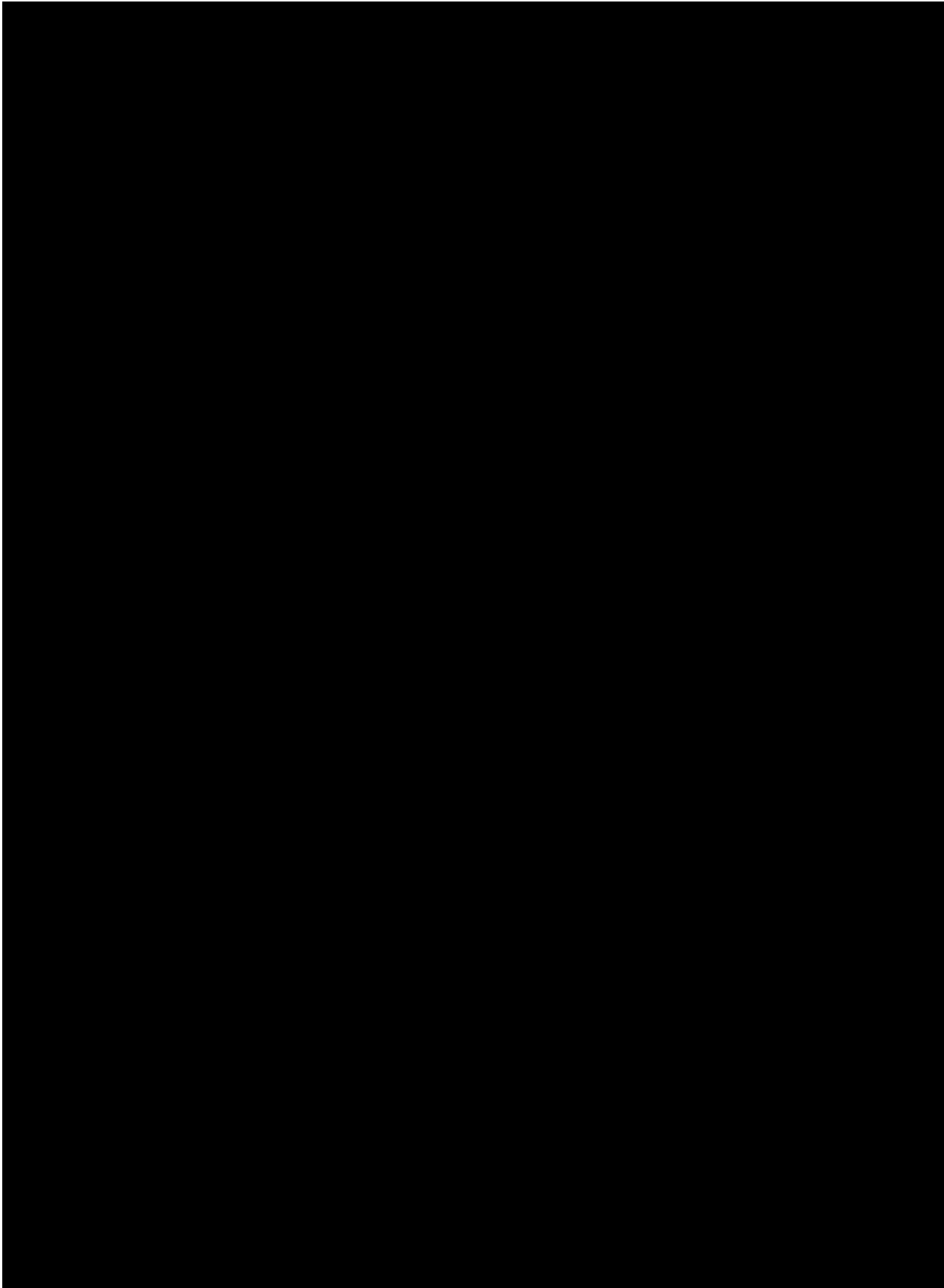
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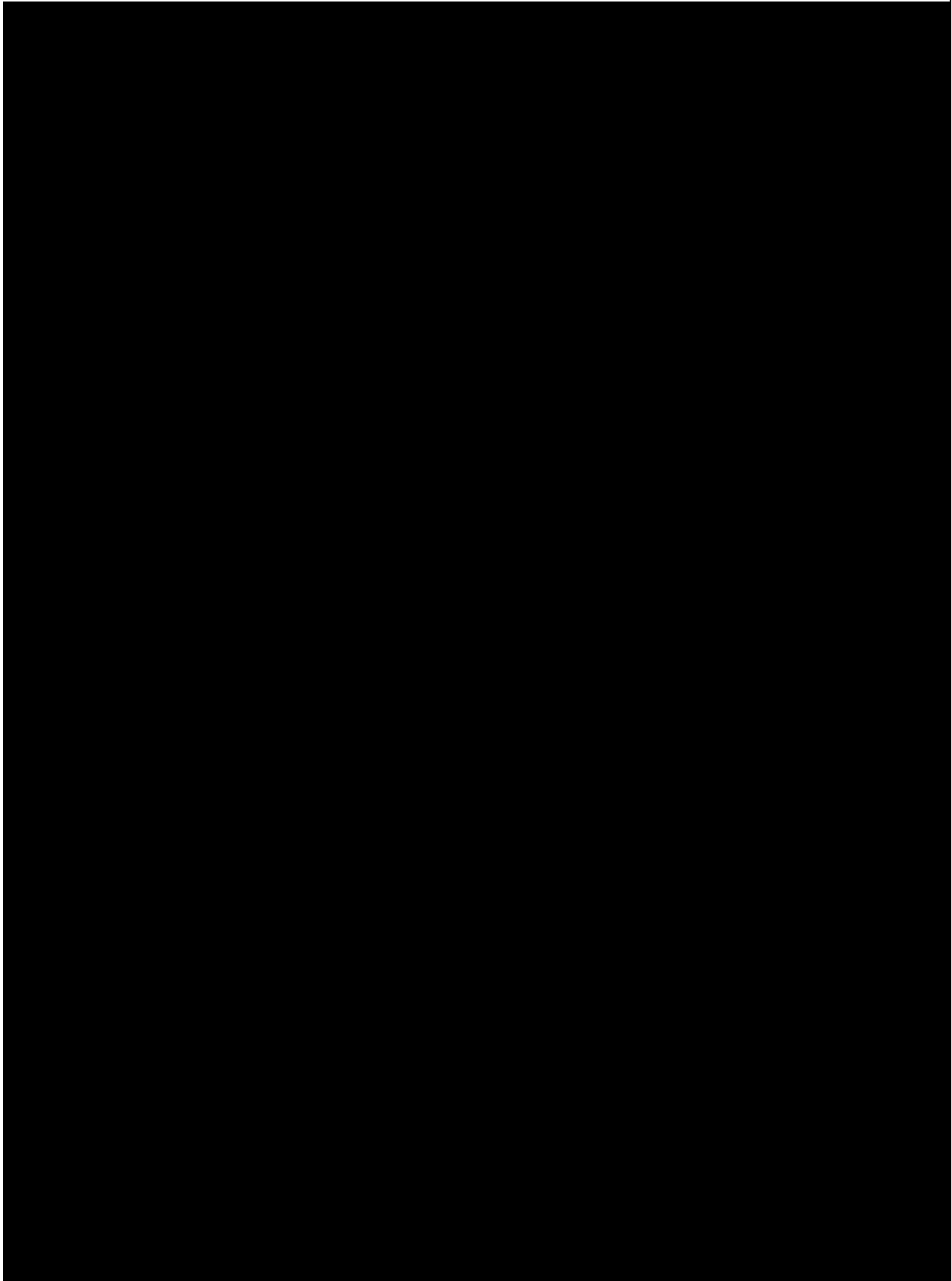
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2 MS. de GERMINY: Mr. President, I think this  
3 would be a good place to break.

4

PRESIDENT TERCIER: Thank you very much.

5

6 Ms. Lorincz, you are under testimony. It  
7 means that as long as your testimony is not over, you  
8 have not the right to have any contact with a  
9 representative or counsel from Claimant, and we trust  
10 that you will, of course, comply with this duty.

11

12 It's clear for you? It's not because we  
13 mistrust you, it is a rule that is applicable to  
14 everyone, okay? Good.

15

16 So, I would like to have one or two points  
17 before we leave especially for the organization of  
18 today--of tomorrow. The first point I would like to  
19 have the time, the result.

20

SECRETARY MARZAL YETANO: In total or--

21

PRESIDENT TERCIER: Total, I think.

22

SECRETARY MARZAL YETANO: So, totals are  
23 Claimants have 26 hours and 53 minutes left;  
24 Respondent has 18 hours and 7 minutes left.

25

The Tribunal, 3 hours and 9 minutes.

1           PRESIDENT TERCIER: Good. Okay. You will  
2 receive it in writing.

3           Second point, it is a question of the  
4 organization for tomorrow. We have now the timing, a  
5 more precise timing or even very precise timing. We  
6 will start in any case with Mrs. Lorincz tomorrow  
7 morning at 9:00. We will go through the second part  
8 of the cross-examination, and then the redirect, that  
9 apparently will be around 20 minutes. Then we will  
10 have Mr. Găman, the examination of Mr. Găman should  
11 last approximately 2 hours and the 10 minutes, and  
12 then we will have direct and redirect. According to  
13 the program then we will have Mr. Ariton, again 2  
14 hours and 10 minutes, Mr. Bode will only be heard next  
15 week. Mr. Jurca in any case could be heard 1 hour and  
16 10 minutes, and what I'm wondering is whether we could  
17 think of examining the mining Ms. Şerban because it's  
18 not a long one, that is 40 minutes for cross.

19           SECRETARY MARZAL YETANO: Yeah,  
20 perhaps--sorry, I have been doing the numbers and  
21 perhaps it's more realistic to do Ms. Şerban instead  
22 of Mr. Ariton tomorrow so that we finish with--

1           PRESIDENT TERCIER: So, your proposal is to  
2 start in any case with Mr. Găman, then?

3           SECRETARY MARZAL YETANO: So, tomorrow we  
4 continue with Ms. Lorincz, and Mr. Găman.

5           PRESIDENT TERCIER: Yeah.

6           SECRETARY MARZAL YETANO: Then either  
7 Mr. Ariton or Ms. Şerban, but depending on the time  
8 that is left.

9           I have to schedule Ms. Şerban back for  
10 Monday.

11           PRESIDENT TERCIER: Okay. So, the proposal  
12 of our Secretary is to have Ms. Şerban tomorrow and  
13 Mr. Ariton only on Monday. What is your position,  
14 Claimant?

15           MR. GREENWALD: One thing is those times that  
16 were indicated were indicative for cross-examination,  
17 I think we said that a couple of times, so one  
18 question obviously is how long we go with Ms. Lorincz  
19 and where that ends--where we are in the day. I think  
20 that it may be a few hours with Mr. Găman, and then  
21 the question is what would be next.

22           MR. LEW: I think as Mr. Greenwald said, the

1 times were estimates. I think we may end up going  
2 longer with Mr. Găman and less time with Mr. Ariton.  
3 It's just a guess, frankly.

4 PRESIDENT TERCIER: Of course.

5 MR. LEW: But I think that those times are  
6 likely not to be precise as given, and that we're  
7 likely to spend more time with Mr. Găman and less time  
8 with Mr. Ariton. So, it's certainly--

9 PRESIDENT TERCIER: Okay.

10 MR. LEW: --possible that we could finish,  
11 depending on how long Mr. Găman goes, we could finish  
12 with Mr. Ariton tomorrow.

13 PRESIDENT TERCIER: He's available?

14 DR. HEISKANEN: Yes, they're available. The  
15 question is who should be available tomorrow. Maybe  
16 the Claimants could give an indication whether they  
17 think that they will reach Ms. Şerban and Mr. Jurca  
18 tomorrow.

19 MR. GREENWALD: Well, that obviously depends  
20 on whether Ms. Lorincz goes for a short time in the  
21 morning or for not a short time.

22 DR. HEISKANEN: We have given the indication



1 last night as to how long we are going to take.

2 PRESIDENT TERCIER: 3 hours-and-a-half.

3 MR. GREENWALD: And where are we?

4 DR. HEISKANEN: I think we did something like  
5 30 to 40 minutes.

6 MR. GREENWALD: So if the estimate then were  
7 to be that she were to be cross-examined until noon or  
8 thereabout maybe a little--

9 DR. HEISKANEN: Maybe a bit earlier.

10 MR. GREENWALD: Maybe a bit earlier. And  
11 then redirect. We're getting up on lunchtime, and I  
12 think that it would not be realistic at that point to  
13 get through more than Mr. Găman and Mr. Ariton. So,  
14 the others would then not testify if that were to be  
15 the Schedule.

16 PRESIDENT TERCIER: Okay. Good.

17 This is the program for tomorrow.

18 Have you another point that you would like to  
19 raise on your side?

20 MR. GREENWALD: No.

21 PRESIDENT TERCIER: From your side?

22 DR. HEISKANEN: Nothing from us,

1 Mr. President.

2           PRESIDENT TERCIER: Thank you. In that case  
3 I would like to wish you all a very pleasant evening.  
4 Thank you very much.

5           (Whereupon, at 6:04 p.m., the Hearing was  
6 adjourned until 9:00 a.m. the following day.)

7

## CERTIFICATE OF REPORTER

I, David A. Kasdan, RDR-CRR, Court Reporter, do hereby certify that the foregoing proceedings were stenographically recorded by me and thereafter reduced to typewritten form by computer-assisted transcription under my direction and supervision; and that the foregoing transcript is a true and accurate record of the proceedings.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in this proceeding, nor financially or otherwise interested in the outcome of this litigation.



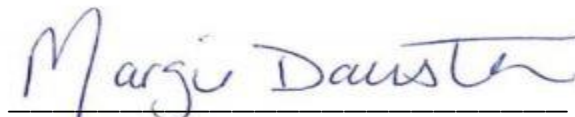
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DAVID A. KASDAN

## CERTIFICATE OF REPORTER

I, Margie Dauster, RMR-CRR, Court Reporter, do hereby certify that the foregoing proceedings were stenographically recorded by me and thereafter reduced to typewritten form by computer-assisted transcription under my direction and supervision; and that the foregoing transcript is a true and accurate record of the proceedings.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in this proceeding, nor financially or otherwise interested in the outcome of this litigation.

  
MARGIE DAUSTER