

From: [ASCC New Claims](#)
To: [Thomas Burns \(DOC\)](#); [Leslie Browning \(DOC\)](#)
Cc: [Kathryn Irby](#); [Bilenda Harris-Ritter](#)
Subject: CLAIM: Terry Potts v. ADC, Claim No. 231649
Date: Friday, June 30, 2023 1:43:00 PM
Attachments: [Terry Potts ADC agency ltr .pdf](#)
[Terry Potts Claim.pdf](#)
[Terry Potts def.pdf](#)
[Terry Potts Updated.pdf](#)

Please see attached. Contact Kathryn Irby with any questions.

Thank you,
Caitlin

Caitlin McDaniel

Administrative Specialist II

Arkansas State Claims Commission

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-1619

ARKANSAS STATE CLAIMS COMMISSION

(501)682-1619
FAX (501)682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, AR 72201-3823

June 30, 2023

Mr. Thomas Burns
Arkansas Division of Correction
6814 Princeton Pike
Pine Bluff, Arkansas 71602

(via email)

RE: ***Terry Potts v. Arkansas Division of Correction***
Claim No. 231649

Dear Mr. Burns,

Enclosed please find a copy of the above-styled claim filed against the Arkansas Division of Correction. Pursuant to the Arkansas Rules of Civil Procedure, as well as Claims Commission Rule 2.2, you have **thirty days from the date of service** in which to file a responsive pleading.

Your responsive pleading should include your agency number, fund code, appropriation code, and activity/section/unit/element that this claim should be charged against, if liability is admitted, or if the Claims Commission approves this claim for payment. This information is necessary even if your agency denies liability.

Sincerely,

Kathryn Irby

ES: cmcdaniel

cc: Terry Potts ([REDACTED], *Claimant* (w/ encl.)
Bilenda Harris-Ritter, *counsel for Ark. Dept. of Corrections* (w/encl.) (via email)

<u>Note to Claimant or Claimant's counsel:</u> The Claims Commission copied you on this correspondence to provide you with confirmation that your claim has been processed and served upon the respondent agency.

Arkansas
State Claims Commission

Please print in ink or type

JUN 16 2023

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

RECEIVED

☒ Mr.
☐ Mrs.
☐ Ms.
☐ Miss

Terry Potts (ADC [REDACTED]), Claimant

VS.

State of Arkansas, Respondent

Do Not Write in These Spaces

Claim No. _____

Date Filed _____

(Month) (Day) (Year)

Amount of Claim \$ _____

Fund _____

COMPLAINT

Terry Potts (ADC [REDACTED]), the above named Claimant, of [REDACTED]
(Name) [REDACTED] (City)

(State) (Zip Code) (Daytime Phone No.) County of _____ represented by None
(Legal Counsel, if any, for Claimant)

of _____, says:

(Street and No.) (City) (State) (Zip Code) (Phone No.) (Fax No.)

State agency involved: NONE Amount sought: \$ 10000.00

Month, day, year and place of incident or service: 3-3-23 - A4 (A4C)

Explanation: ON 3-3-23 About 3:00 AM I WAS ON MY WAY TO THE CHOWHALL. IT WAS RAINING HARD OUTSIDE AND IT WAS LEAKIN

Sgt. Powell helped me off the floor, and Sgt. Hudson took

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof? _____; when? _____; to whom? _____
(Yes or No) (Month) (Day) (Year) (Department)
_____ and that the following action was taken thereon: _____

and that \$ _____ was paid thereon: (2) Has any third person or corporation an interest in this claim? NO; if so, state name and address _____

(Name)	(Street or R.F.D. & No.)	(City)	(State)	(Zip Code)
and that the nature thereof is as follows: _____				
_____ and was acquired on _____, in the following manner: _____				

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verily believes that they are true.

they are true.

TERRY Potts

(Print Claimant/Representative Name)

Tony Potts
(Signature of Claimant/Representative)

SWORN TO and subscribed before me at Grady Arkansas
(City) (State)

on this 13th day of June, 2023
(Date) (Month) (Year)

(Date) James H. Z. Madden (Month) _____ (Year) _____
(Notary Public)

My Commission Expires: March 16 2025
(Month) (Day) (Year)

JAMESHA Z. MADDEN
NOTARY PUBLIC-STATE OF ARKANSAS
DESHA COUNTY
COMM. #12403818 EXP. MARCH 16, 2025

SF1-R7/99

VERBODEN TOEGANG
ALGEMEEN
VERBODEN TOEGANG
ALGEMEEN

UNIT LEVEL GRIEVANCE FORM (Attachment I)

Unit/Center

Name

TERRY POTTS

ADC#

Brks #

20

Job Assignment

Bk. Potter

FOR OFFICE USE ONLY	
GRV. #	23-00085
Date Received:	3/20/2023
GRV. Code #:	600

w/c
3/A

3-12-23 (Date) STEP ONE: Informal Resolution

3-15-23 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled in Step One)

_____, (Date) _____ (An Emergency Situation is one in which you may be subject to a substantial risk of physical harm: emergency grievances are not for ordinary problems that are not of serious nature). If you marked yes, give this completed form to the designated problem-solving staff, who will sign the attached emergency receipt. In an Emergency, state why: _____

Is this Grievance concerning Medical or Mental Health Services? _____ If yes, circle one: (medical) or mental

BRIEFLY state the nature of the grievance: _____

Inmate Signature

APR 26 2023

Date

If you are harmed, threatened because of your use of the grievance process, report it immediately to the Warden or designee.

THIS SECTION TO BE FILLED OUT BY STAFF ONLY

This form was received on _____ (date), and determined to be Step One and/or an Emergency Grievance _____ (Yes or No). This form was forwarded to medical or mental health? _____ (Yes or No). If yes, name of the person in that department receiving this form: _____ Date: 3-14-23

_____ (Signature)

_____ (Signature) Date: 3-14-23

Staff Signature & Date Received

Inmate Signature & Date Received

6-15-23

This form was received on _____ (date), pursuant to Step Two. Is it an Emergency? _____ (Yes or No).

Staff Who Received Step Two Grievance: _____

Date: _____

Action Taken: 0 2023

(Forwarded to Grievance Officer/Warden/Other) Date: _____

If forwarded, provide name of person receiving this form: _____

Date: _____

DARNER UNIT GRIEVANCE & PINK - Inmate Receipts; **BLUE** - Grievance Officer; **ORIGINAL** - Given back to Inmate after Completion of Step One and Step Two.



~~12/15/20~~

IGTT430
3GD

Attachment VI

INMATE NAME: Potts, Terry B.

ADC #: [REDACTED]

GRIEVANCE#: [REDACTED] 23-00085

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

The medical department's response is upheld, and your appeal is without merit.

Aundrea Enfinger
Director

Date

5/1/2023

Please be advised that if you appeal this decision to the U.S. District Court, a copy of this Chief Deputy/Deputy/Assistant Director's Decision must be attached to any petition or complaint or the Court may dismiss your case without notice. You may also be subject to paying filing fees pursuant to the Prison Litigation Act of 1995.

UNIT LEVEL GRIEVANCE FORM (Attachment D)

Unit/Center

Received

Name TERRY Potts

ADC#

Brks # 20

Job Assignment

APR 20 2023

F [REDACTED] E USE ONLY
 GRV [REDACTED] 23-0000
 Date Received: 3/17/20
 GRV. Code #: 600

3-14-23 (Date) STEP ONE: Informal Resolution

Deputy Director

Health & Correctional Programs

3-16-23 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled by the supervisor.)

_____, (Date _____), I am reporting a problem in which you may be subject to a substantial risk of physical harm: emergency grievances are not for ordinary problems that are not of serious nature). If you marked yes, give this completed form to the designated problem-solving staff, who will sign the attached emergency receipt. In an Emergency, state why: _____

Terry Potts
Inmate Signature

3-14-23
Date

If you are harmed, threatened because of your use of the grievance process, report it immediately to the Warden or designee.

THIS SECTION TO BE FILLED OUT BY STAFF ONLY

This form was received on 5/14/23 (date), and determined to be **Step One** and/or an Emergency Grievance NO (Yes or No). This form was forwarded to medical or mental health? yes (Yes or No). If yes, name _____

NO (Yes or No). This form was forwarded to medical or mental health? yes (Yes or No). If yes, name of the person in that department receiving this form: Stumer, R Date 3/14/23

Shay Baker

104492

or mental health?

Date 3/14/23

3/14/2

RECEIVED
Stamp: 3/15/23
Signature: Terry Potts
Inmate Signature & Date Received: 3-16-23

This form was received on _____ (date), pursuant to **Step Two**. Is it an Emergency? _____ (Yes or No).

Staff Who Received Stop Two Grievance: _____ Date: _____

Action Taken: _____ (Forwarded to Grievance Officer/Warden/Other) Date: _____

If forwarded, provide name of person receiving this form: _____ Date: _____

VARNER UNIT GRIEVANCE
DISTRIBUTION: **YELLOW & PINK** - Inmate Receipts; **BLUE** - Grievance Officer; **ORIGINAL** - Given back to Inmate after Completion of Step One and Step Two.



IGTT430
3GD

Attachment VI

INMATE NAME: Potts, Terry B.

ADC # 1

GRIEVANCE#: [REDACTED] 23-00082

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

Can a
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The medical department's response is upheld, and your appeal is without merit.

Director

Date _____

Please be advised that if you appeal this decision to the U.S. District Court, a copy of this Chief Deputy/Deputy/Assistant Director's Decision must be attached to any petition or complaint or the Court may dismiss your case without notice. You may also be subject to paying filing fees pursuant to the Prison Litigation Act of 1995.

ARKANSAS STATE CLAIMS COMMISSION

(501)682-1619
FAX (501)682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, AR 72201-3823

June 19, 2023

Terry Potts [REDACTED]
[REDACTED]
[REDACTED]

RE: **Claim No. 231649 – deficient filing**

Dear Mr. Potts,

You have to provide the name of the specific state agency that you believe is responsible for the damage to your vehicle. Once the Commission receives that information, your claim will be transmitted by the Commission to that specific state agency for response.

Contact this office with any questions.

Sincerely,

Kathryn Irby

ES: cmcdaniel
Enclosure

Arkansas
State Claims Commission

Please print in ink or type

JUN 16 2023

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

RECEIVED

- ☒ Mr.
☐ Mrs.
☐ Ms.
☐ Miss

Terry Potts (ADC [REDACTED]), Claimant

VS:

State of Arkansas, Respondent

Arkansas Department of Correction
at Varner Unit

Do Not Write in These Spaces	
Claim No.	State Claims Commission
Date Filed	(Month) JUN 26 2023 (Year)
Amount of Claim \$	
Fund	RECEIVED

COMPLAINT

Terry Potts (ADC [REDACTED])

(Name)

(Street or R.F.D. & No.)

(City)

(State) (Zip Code) (Daytime Phone No.)

County of

represented by

NONE

(Legal Counsel, if any, for Claim)

of (Street and No.) (City) (State) (Zip Code) (Phone No.) (Fax No.) says

State agency involved: NONE

Amount sought: \$ 10,000.00

Month, day, year and place of incident or service: 3-3-23 - AT VARNER UNIT (A.D.C.)

Explanation: ON 3-3-23 ABOUT 3:00 AM I WAS ON MY WAY TO THE CHOWHALL & IT WAS RAINING HARD OUTSIDE AND IT WAS LEAKING WATER FROM THE ROOF. AT NORTH GATE I AS I WENT THROUGH [REDACTED]

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof

(Yes or No) ; when? (Month) (Day) (Year) to whom? (Department)
 and that the following action was taken thereon:

and that \$ was paid thereon: (2) Has any third person or corporation an interest in this claim? NO ; if so, state name and address

(Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)
 and that the nature thereof is as follows:

and was acquired on , in the following manner

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verily believes that they are true.

TERRY Potts
 (Print Claimant/Representative Name)

Terry Potts
 (Signature of Claimant/Representative)

SWORN TO and subscribed before me at Grady Arkansas
 (City) (State)

on this 13th day of June 2023
 (Date) (Month) (Year)

Jamesha Z. Madden
 (Notary Public)

My Commission Expires: March 16 2025
 (Month) (Day) (Year)

SEANESHA Z. MADDEN
 NOTARY PUBLIC-STATE OF ARKANSAS
 DESHA COUNTY
 COMM. #12408818 EXP. MARCH 16, 2025

SF1- R7/99

VERONICA N. ALPHE
ALPHE N. ALPHE
ALPHE N. ALPHE
ALPHE N. ALPHE

From: [Leslie Browning \(DOC\)](#)
To: [ASCC Pleadings](#)
Cc: [Thomas Burns \(DOC\)](#)
Subject: Terry Potts 231649
Date: Friday, June 30, 2023 3:53:42 PM
Attachments: [ADC Answer.pdf](#)
[image001.png](#)

ADC Answer



BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TERRY POTTS ([REDACTED])

CLAIMANT

v.

CLAIM NO. 231649

ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION

RESPONDENT

ANSWER TO COMPLAINT

COMES NOW the Respondent, Arkansas Department of Corrections, and for its Answer, states and alleges as follows:

1. Respondent denies liability in this claim and asserts it will hold the Claimant to strict proof on each allegation unless admitted by Respondent. Respondent reserves the right to plead further upon completion of the investigation by internal affairs and requests the matter be held in abeyance until the investigation is complete.

2. The applicable account information required by the Commission is:

- | | |
|---------------------------|--------------------------|
| a. Agency number: 0480 | b. Cost Center: HCA 0100 |
| c. Internal Order: 340301 | d. Fund Center: 509 |

WHEREFORE, for the reasons cited above, the Respondent prays that the claim be dismissed with prejudice and that Claimant take nothing or, in the alternative, that the matter be held in abeyance until completion of the investigation by Internal Affairs.

Respectfully submitted,

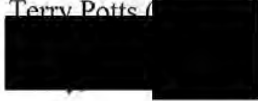


Thomas Burns (02006)
ADC Legal Division
6814 Princeton Pike
Pine Bluff, AR 71602-9411
(870) 267-6845 telephone
thomas.burns@arkansas.gov

CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been served this 30th day of June, 2023 on the Claimant by placing a copy of the same in the U. S. Mail, regular postage, to:

Terry Potts (



A handwritten signature in blue ink, appearing to be 'TB' or 'Burns', written over a horizontal line.

Thomas Burns

Before The Arkansas State Claims Commission

Terry Potts [REDACTED]

Claimant

v.

Claim No. 231649

Arkansas Department Of Corrections
Division Of Correction

Respondent
Arkansas
State Claims Commission

JUL 10 2023

Rebuttal To Respondent Request

RECEIVED

Come Now I TERRY Potts, ON 7-6-23
Respond As failed. I ASK this Court to
deny the Respondent Request For Abeyance
1. There is Nothing to investigate FOR
INTERNAL AFFAIRS.

2. All the evidence is ON Video, Witness
Statment FROM OFFICER Sgt. Hudson AND

[REDACTED]

3. I ASK this COURT to compel the
Respondent to get this Video AND PAPER
evidence which they will not Allow me to have.
So I ASK this COURT to deny the Respondent
Abeyance.

Thank You,
TERRY Potts.

Terry Potts 7-7-23

From: [Misty Scott](#) on behalf of [ASCC Pleadings](#)
To: [Thomas Burns \(DOC\)](#)
Cc: [Leslie Browning \(DOC\)](#); [ASCC Pleadings](#); [Kathryn Irby](#)
Subject: CORR: Terry Potts v. ADC, Claim No. 231649
Date: Tuesday, July 18, 2023 3:28:05 PM
Attachments: [Terry Potts v. ADC.pdf](#)

Thomas:

Please see attached. Contact Kathryn Irby with any questions.

Thank you,

Misty

Misty Scott
Arkansas State Claims Commission

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

July 18, 2023

Mr. Terry Potts (ADC 0 [REDACTED])
[REDACTED]

RE: *Terry Potts v. Arkansas Division of Correction*
Claim No. 231649

Dear Mr. Potts,

Please be advised that the Arkansas Division of Correction (the "Respondent") in the above-styled claim filed an Answer disputing liability. When liability is contested by the Respondent, you have two options:

- 1) You may request a hearing before the Arkansas State Claims Commission (the "Claims Commission") in writing within fifteen (15) calendar days from the date of this correspondence.
- 2) You may do nothing. If this office does not receive any communication from you within fifteen (15) calendar days from the date of this correspondence, your claim will be dismissed by the Claims Commission for failure to respond.

Please note that even if you request a hearing on your claim, the filing of a dispositive motion (such as a Motion to Dismiss or a Motion for Summary Judgment) by the Respondent could result in dismissal of your claim before hearing. The failure of a party to file a timely response is sufficient basis for the granting of a motion by the Claims Commission.

It is your responsibility to know when responses are due to any motions or other pleadings filed in your claim. It is also your responsibility to notify both the Claims Commission and the Respondent if you have a change in mailing address.

Sincerely,

Kathryn Irby

ES: msscott

cc: Thomas Burns, *counsel for Respondent* (via email)

From: [Thomas Burns \(DOC\)](#)
To: [ASCC Pleadings](#)
Cc: [Leslie Browning \(DOC\)](#)
Subject: Terry Potts v ADC 231649
Date: Tuesday, July 25, 2023 1:20:45 PM
Attachments: [0181_001.pdf](#)
[image001.png](#)

MSJ

Thank you,
-TB



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From: [Thomas Burns \(DOC\)](#)
To: [ASCC Pleadings](#)
Cc: [Leslie Browning \(DOC\)](#)
Subject: Terry Potts v ADC 231649
Date: Tuesday, July 25, 2023 1:23:59 PM
Attachments: [0182_001.pdf](#)
[image001.png](#)

Please disregard the previous MSJ, as Ex B is in camera. This is the correct MSJ.

Thank you,
-TB



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BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TERRY POTTS (ADC [REDACTED])

CLAIMANT

v

NO. 231649

ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION

RESPONDENT

MOTION FOR SUMMARY JUDGMENT

Come now the respondent, Arkansas Department of Corrections (ADC), by and through their attorney, Thomas Burns, and for their Motion for Summary Judgment pursuant to Ark. R. Civ. P. 56, states:

1. The pleadings filed herein reveal that the facts in this case are undisputed or are settled.
2. As a result thereof, the ADC is entitled to summary judgment.
3. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of their pleadings, but their response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing there is a genuine issue for trial.
4. The inmate has not cited any legal authority that the summary judgment is inappropriate because the inmate is making claims of medical negligence.
5. The Inmate filed a grievance but that grievance deals with his medical treatment. *See attached Ex A.*
6. The Arkansas State Claims Commission does not have jurisdiction when a non-State entity is involved (Wellpath). "The commission shall make no award for any claim which, as a matter of law, should be dismissed from a court of law or equity for

reasons other than sovereign immunity.” Ark. Code Ann. § 19-10-204(3)(A) (West Supp. 2015).

7. Pursuant to the Prison Litigation Reform Act (PLRA), “no actions shall be brought with respect to prison conditions under Section 1983 of this title or any other Federal law, by a prisoner confined in any jail, or other correctional facility until such administrative remedies as are available are exhausted.” 42 U.S.C § 1997e. In 1997, the Arkansas legislature adopted the PLRA’s exhaustion requirement by enacting Ark. Code Ann. §16-106-202. That statute follows the PLRA by adopting a grievance exhaustion requirement for state actions:

- (a) A civil action **or claim** initiated against...Department of Correction...by an inmate in a penal institution or incarcerated person appearing pro se may be:
 - (1) Dismissed without prejudice by the court on its own motion or on a motion of the defendant, if all administrative remedies available to the inmate have not been exhausted.

8. The inmates did not grieve about negligence of the ADC, since more than fifteen (15) days has passed since the incident, inmate has failed to exhaust. “A basic rule of administrative procedure requires that an agency be given the opportunity to address a question before a complainant resorts to the courts. Where a party has failed to exhaust his or her administrative remedies, the trial court lacks jurisdiction over the suit” *Ark. HHS v Smith*, 370 Ark. 490. One must exhaust their administrative remedies before they may proceed in Court. *See Johnson v Johnson*, 385 F.3d 503 (2004).

9. Proper exhaustion requires the inmate to have completed “the administrative review process in accordance with the applicable procedural rules.” *Jones v. Bock*, 549 U.S. 199, 218 (2007) (quoting *Woodford v. Ngo*, 548 U.S. 81, 88 (2006)). While the level of detail needed in a grievance will vary between systems, “it is the

prison's requirements, and not the PLRA, that define the boundaries of proper exhaustion." *Jones*, 549 U.S. at 218. "[P]roper exhaustion demands compliance with an agency's deadlines and other critical procedural rules because no adjudicative system can function effectively without imposing some orderly structure on the course of its proceedings." *Woodford*, 548 U.S. at 90-91. The Supreme Court has held that exhaustion is no longer left to the discretion of the district court, but is mandatory." *Id.* at 85.

10. The inmate fails to provide any evidence of [REDACTED]

11. The inmate, in addition to not grieving negligence, has not laid out the factors for negligence.

12. In *Turner v. Baptist Medical Center*, 275 Ark. 424, 427, 631 S.W.2d 275, 277-278, (1982), it states . . . "that opposing affidavits that consist merely of general denials, without any statement of specific facts, are insufficient to defeat a summary judgment motion."

13. The inmate has failed to demonstrate the existence of a genuine issue of any fact material to ADC's alleged culpability of failure to follow procedure and has failed to rebut the ADC's prima facie evidence of its entitlement to judgment as a matter of law.

14. Once the moving party makes a prima facie showing of entitlement to summary judgment, the responding party must meet proof with proof in order to demonstrate that there is remaining a genuine issue of material fact. The response and supporting material must set forth specific facts showing that there is a genuine issue for

trial. See Ark. R. Civ. P. 56(e) *Hampton v. Taylor*, 318 Ark. 771, 776-777, 887 S.W.2d 535, 538-539 (1994). The inmate has failed to identify any genuine issues of material fact that would preclude a summary judgment in favor of the ADC. Therefore, this Commission should grant the Motion for Summary Judgment.

15. The ADC has attached all the documentation and has demonstrated a prima facie entitlement to Summary Judgment. To overcome this, the inmate must meet proof with proof and demonstrate the existence of a material issue of fact. *Gonzales v. City of DeWitt*, 357 Ark. 10, 14-15, 159 S.W.3d 298 301 (*emphasis added*).

16. The ADC, is entitled to judgment as a matter of law for the following reasons:

- (a) First, the inmate makes a claim of medical malpractice
- (b) Second, the inmate has no damages.
- (c) Third, the inmate has failed to exhaust his administrative remedies.
- (c) Fourth, the inmate fails to cite any legal authority for his contention that summary judgment is inappropriate.

17. The ADC should be awarded fees and costs for this action.

WHEREFORE, The ADC, prays that their Motion for Summary Judgment be granted; for their attorney's fees and costs; and for all other just and proper relief to which they may be entitled.

Respectfully submitted,



Thomas Burns (02006)
Legal Services Unit
Division of Correction
6814 Princeton Pike
Pine Bluff, AR 71602
(870) 267-6845 Office
(870) 267-6373 Facsimile
thomas.burns@arkansas.gov

CERTIFICATE OF SERVICE

I certify that a copy of the above pleading has been served this 25th day of July 2023, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Terry Potts [REDACTED]
[REDACTED]



Thomas Burns

¹ Inmates are not allowed medical records, if the inmate would like to review his medical records then he may make a request to the Warden.

IGTT430
3GD

Attachment VI

INMATE NAME: Potts, Terry B.

ADC #

GRIEVANCE# 23-00082

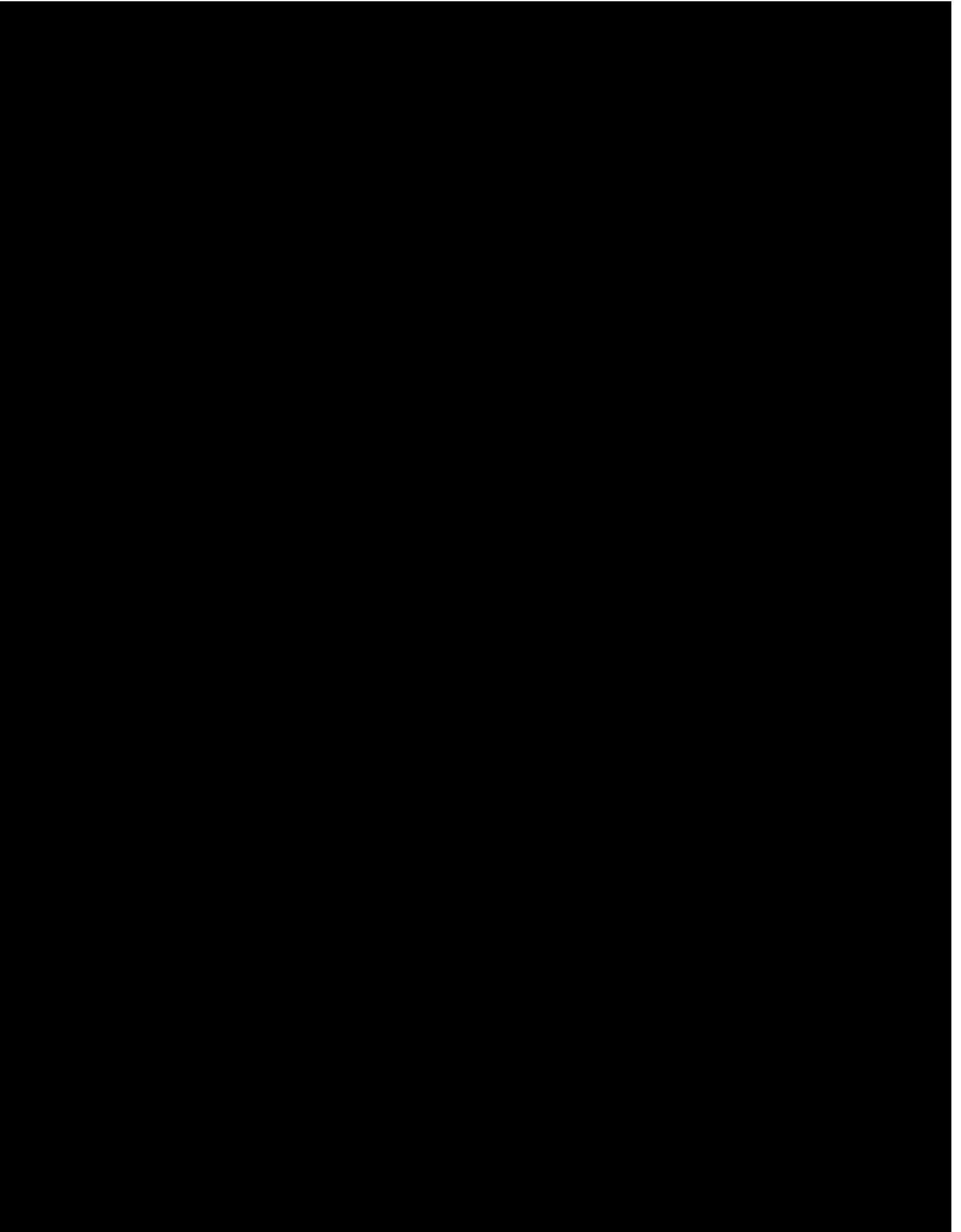
CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

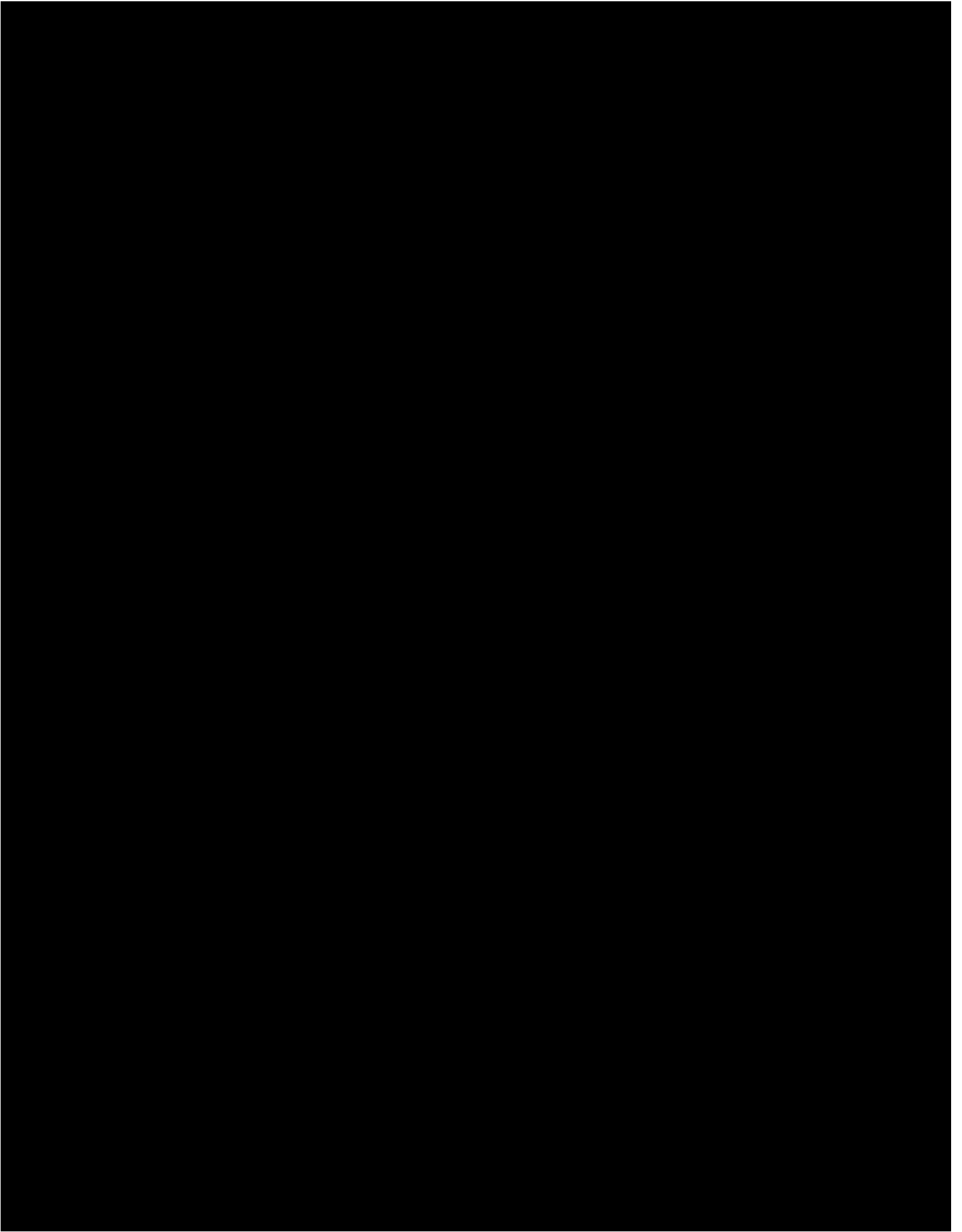
The medical department's response is upheld, and your appeal is without merit.

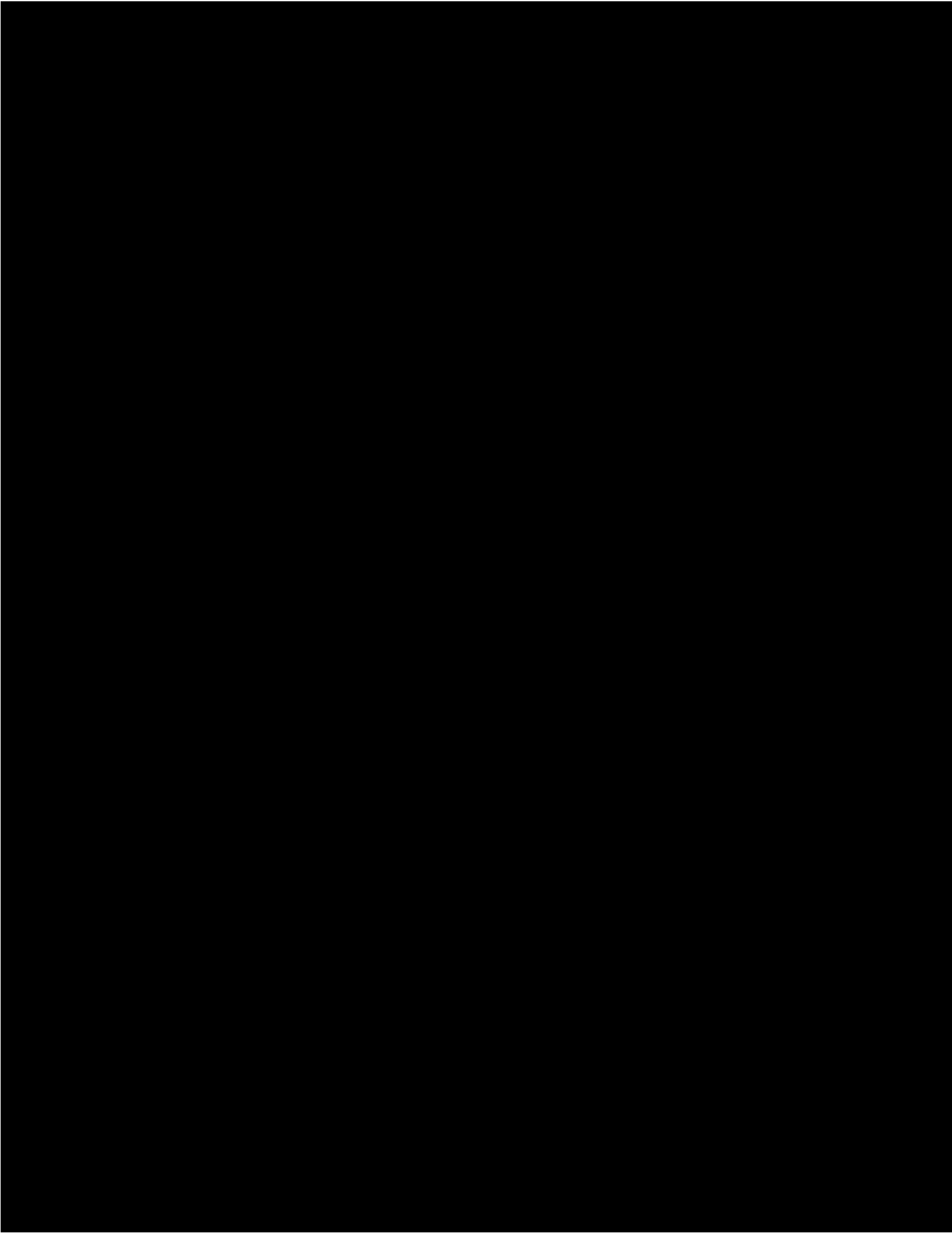
Director Quindrea Culcager Date 4/28/2023

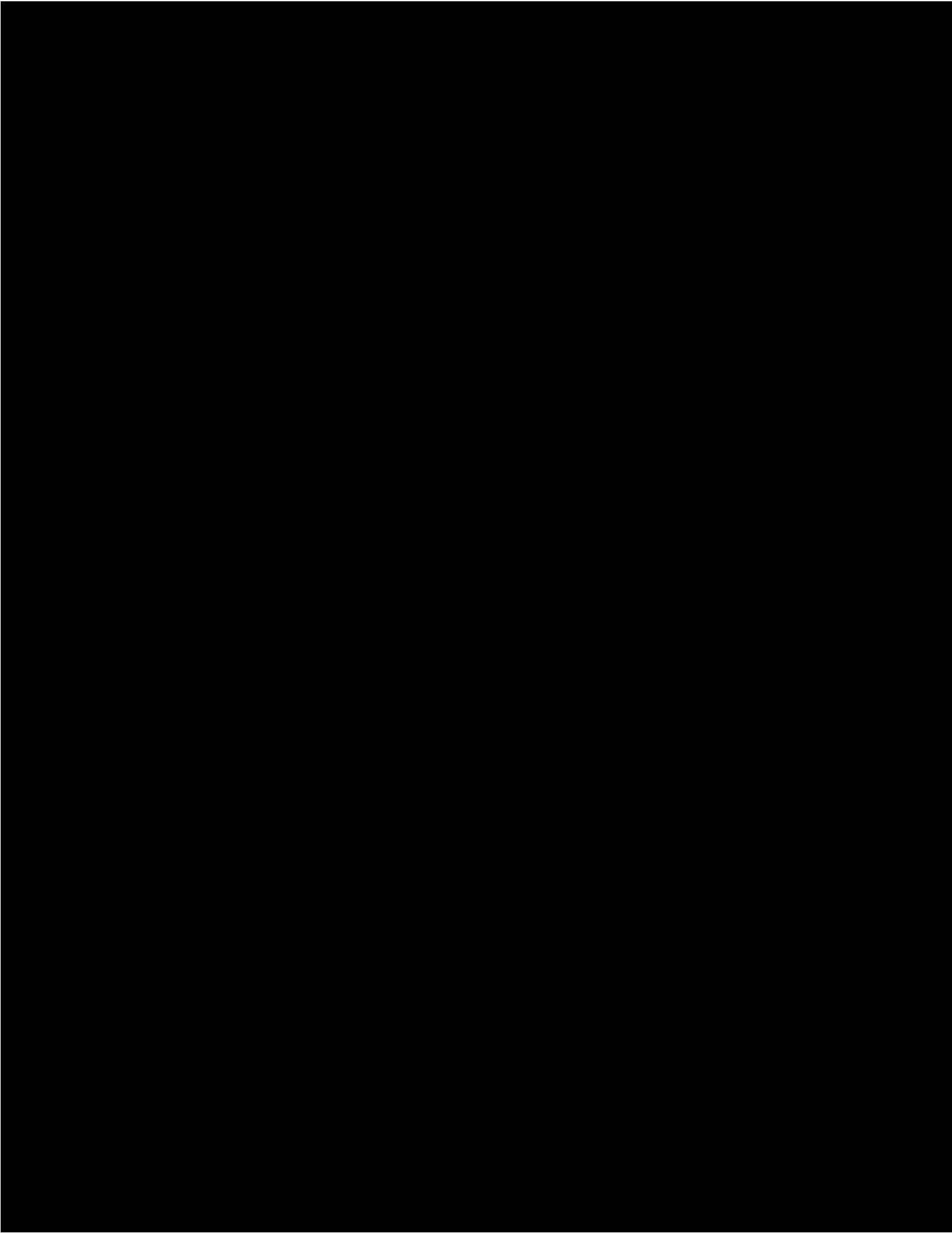
Please be advised that if you appeal this decision to the U.S. District Court, a copy of this Chief Deputy/Deputy/Assistant Director's Decision must be attached to any petition or complaint or the Court may dismiss your case without notice. You may also be subject to paying filing fees pursuant to the Prison Litigation Act of 1995.

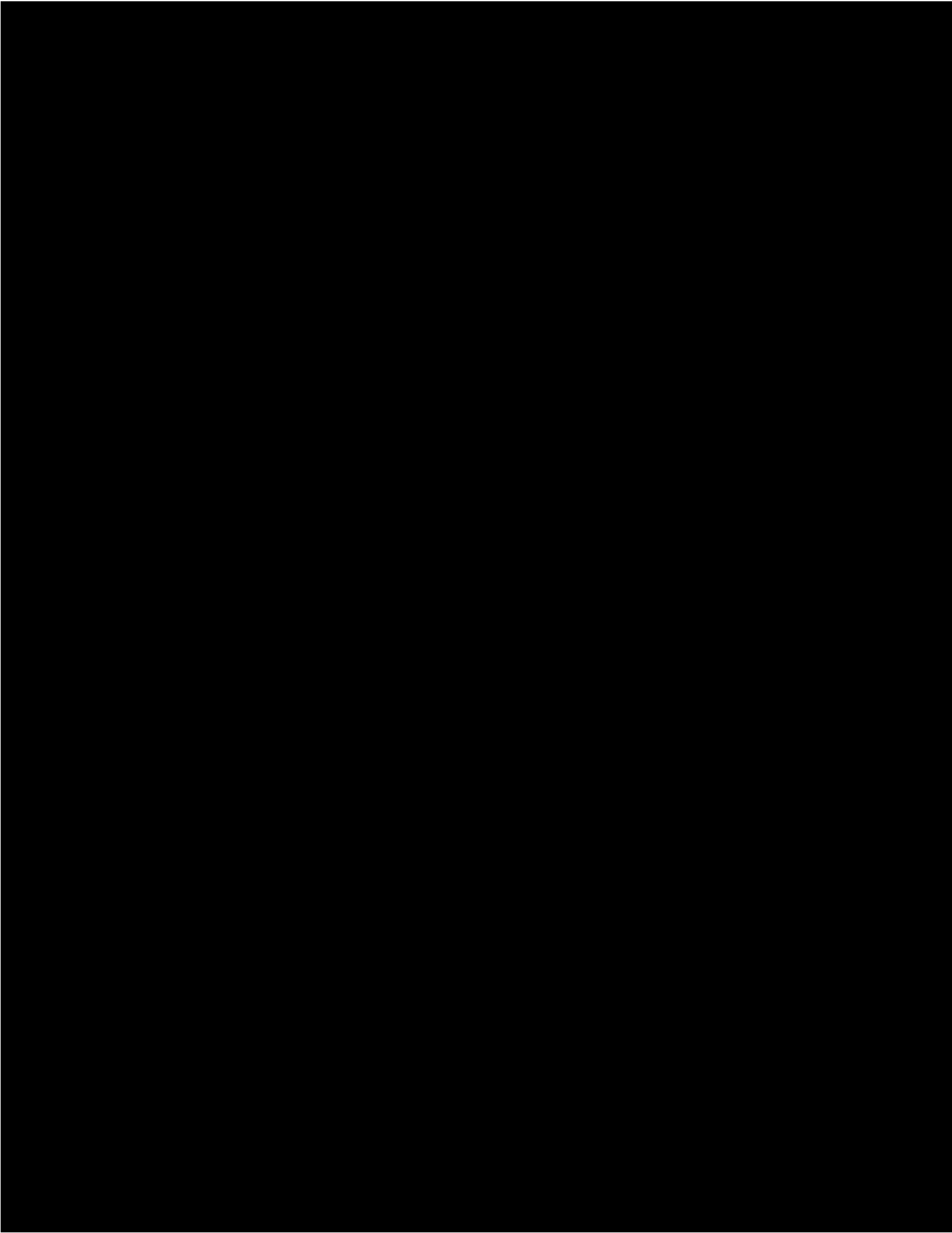
Ex. A

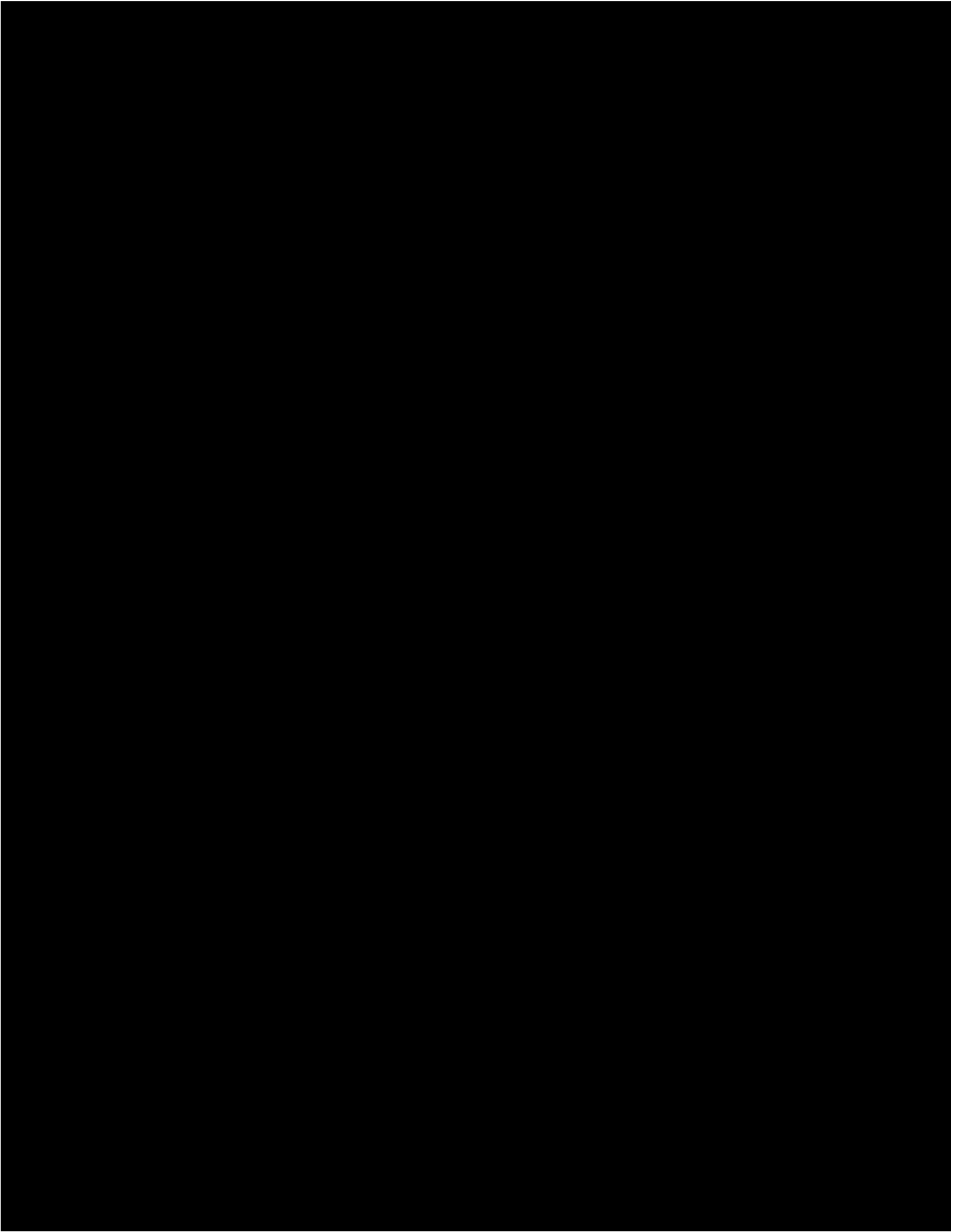


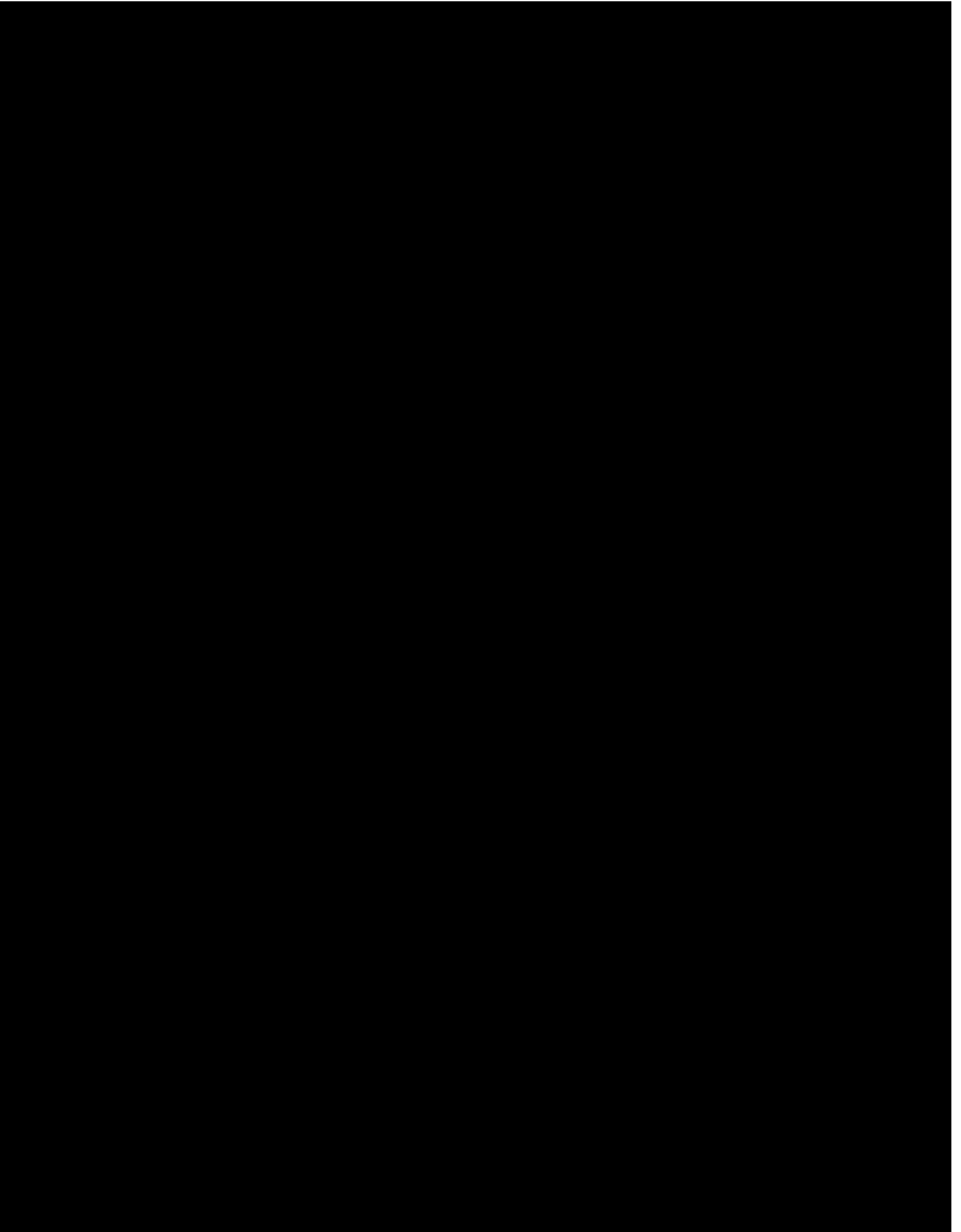


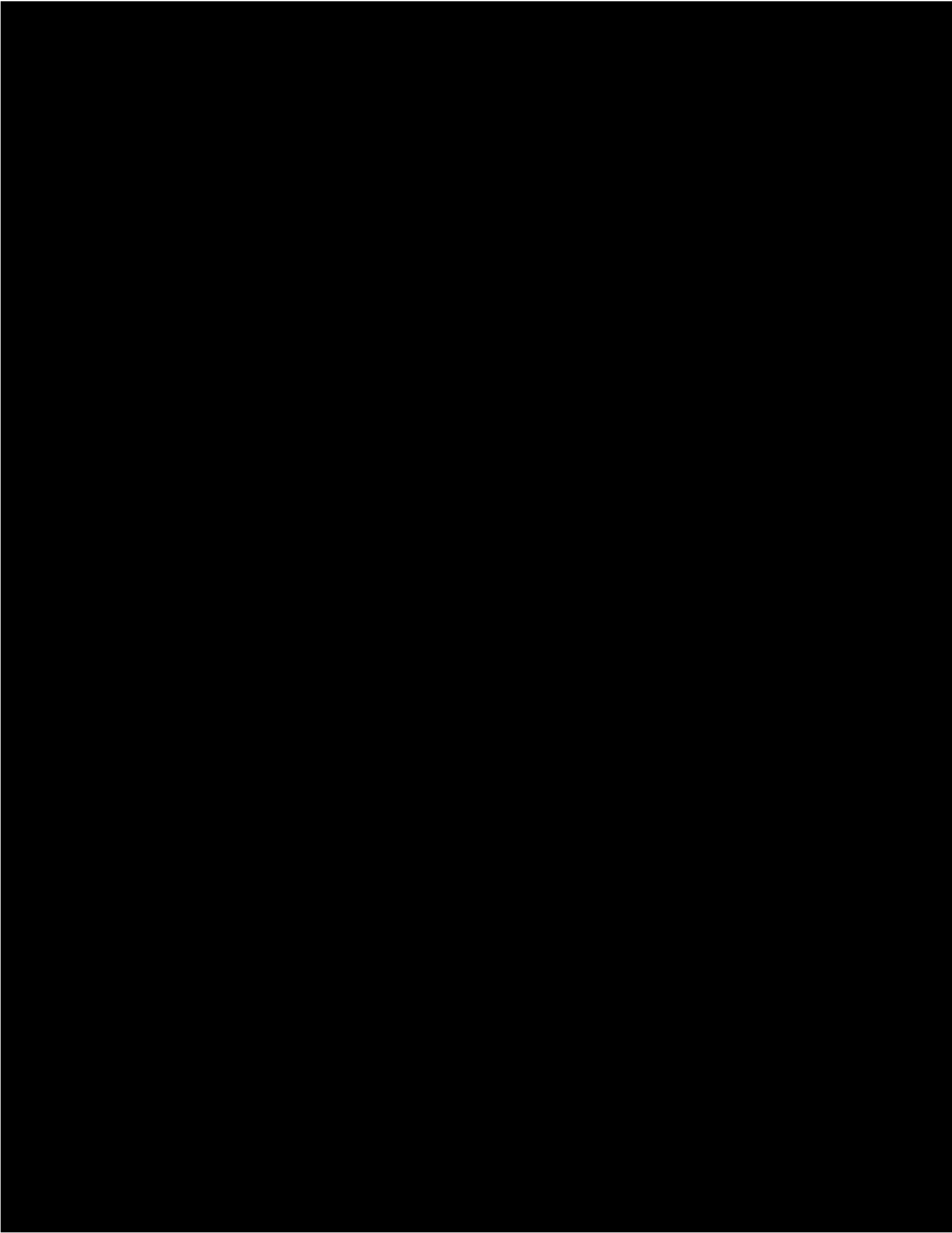


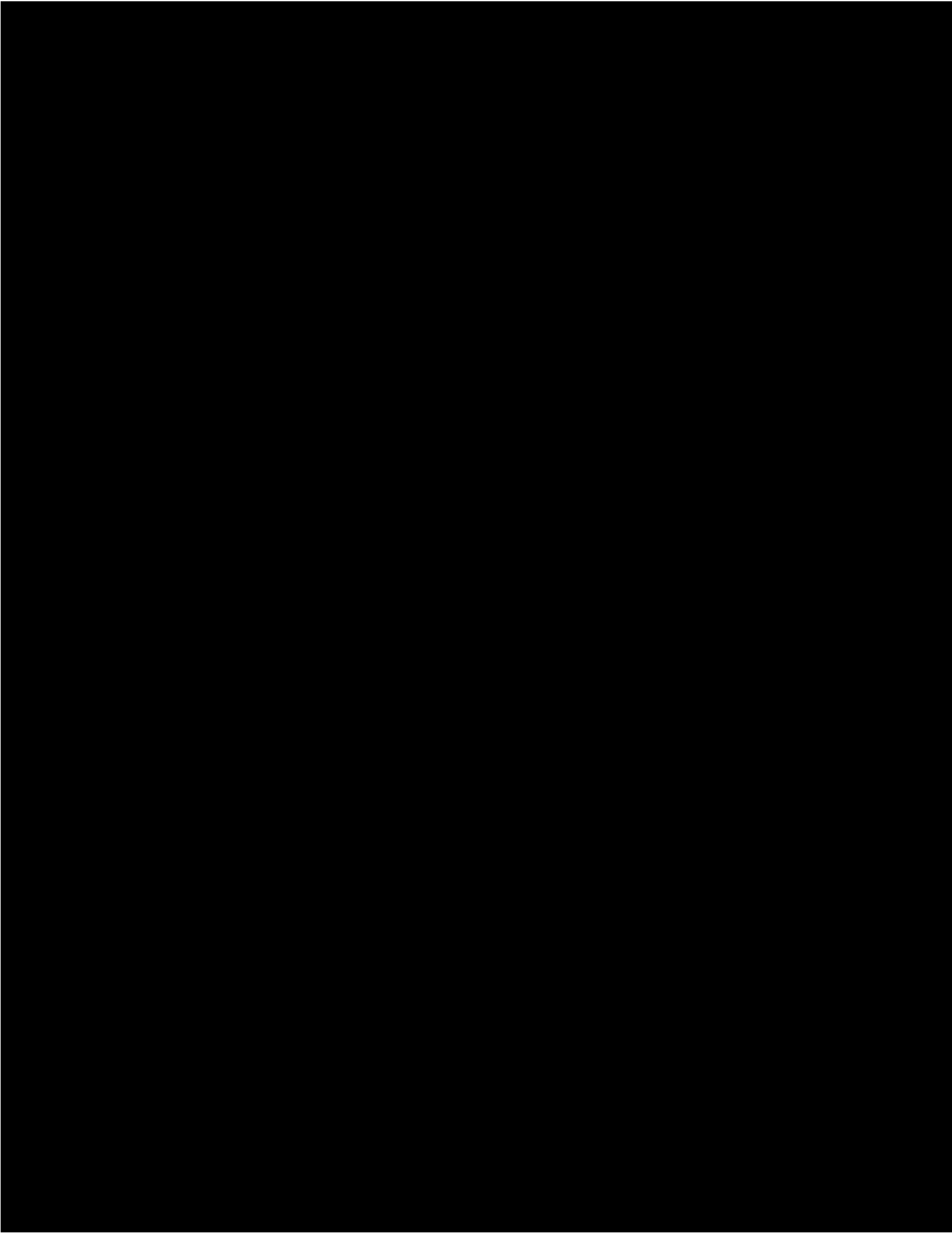


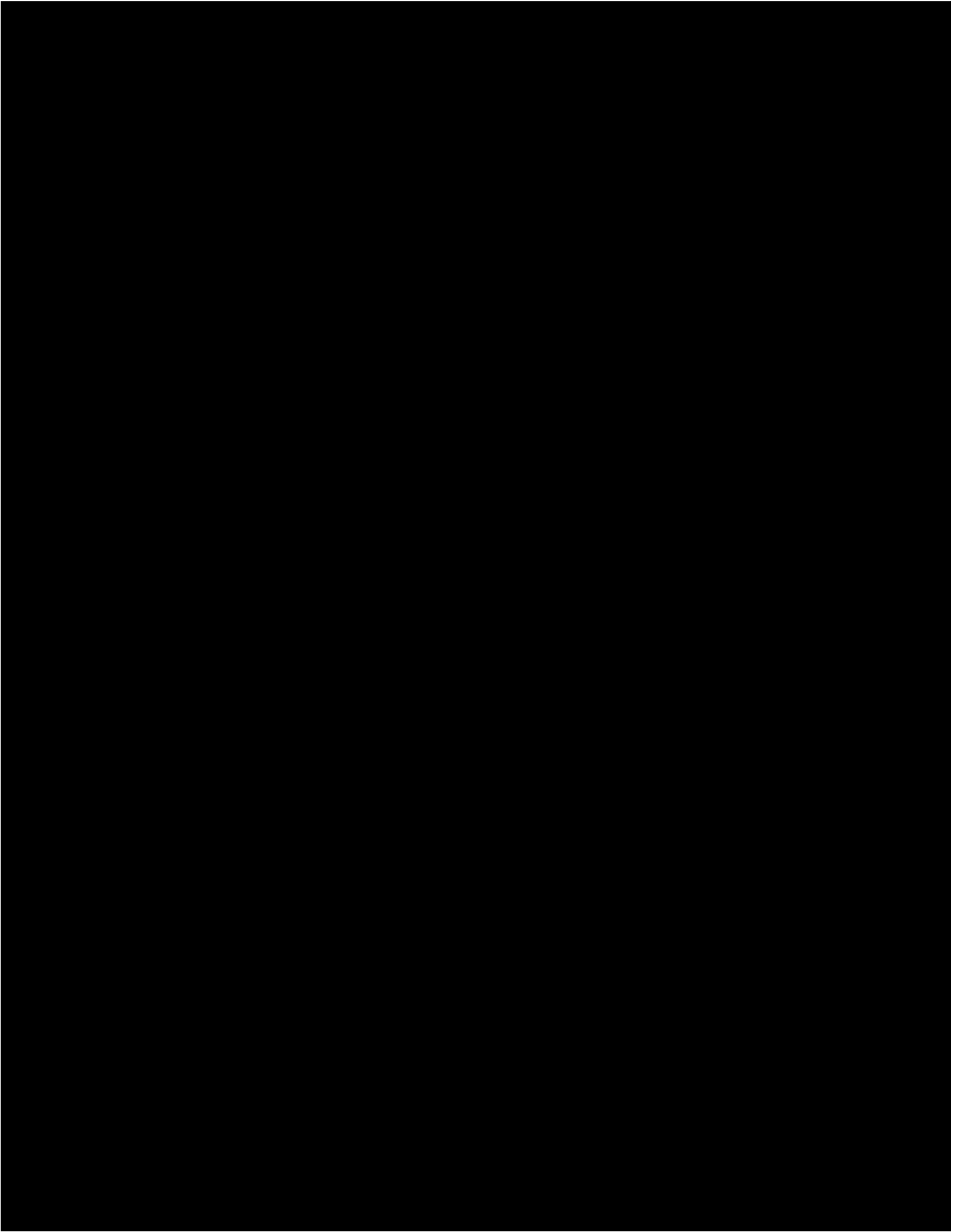


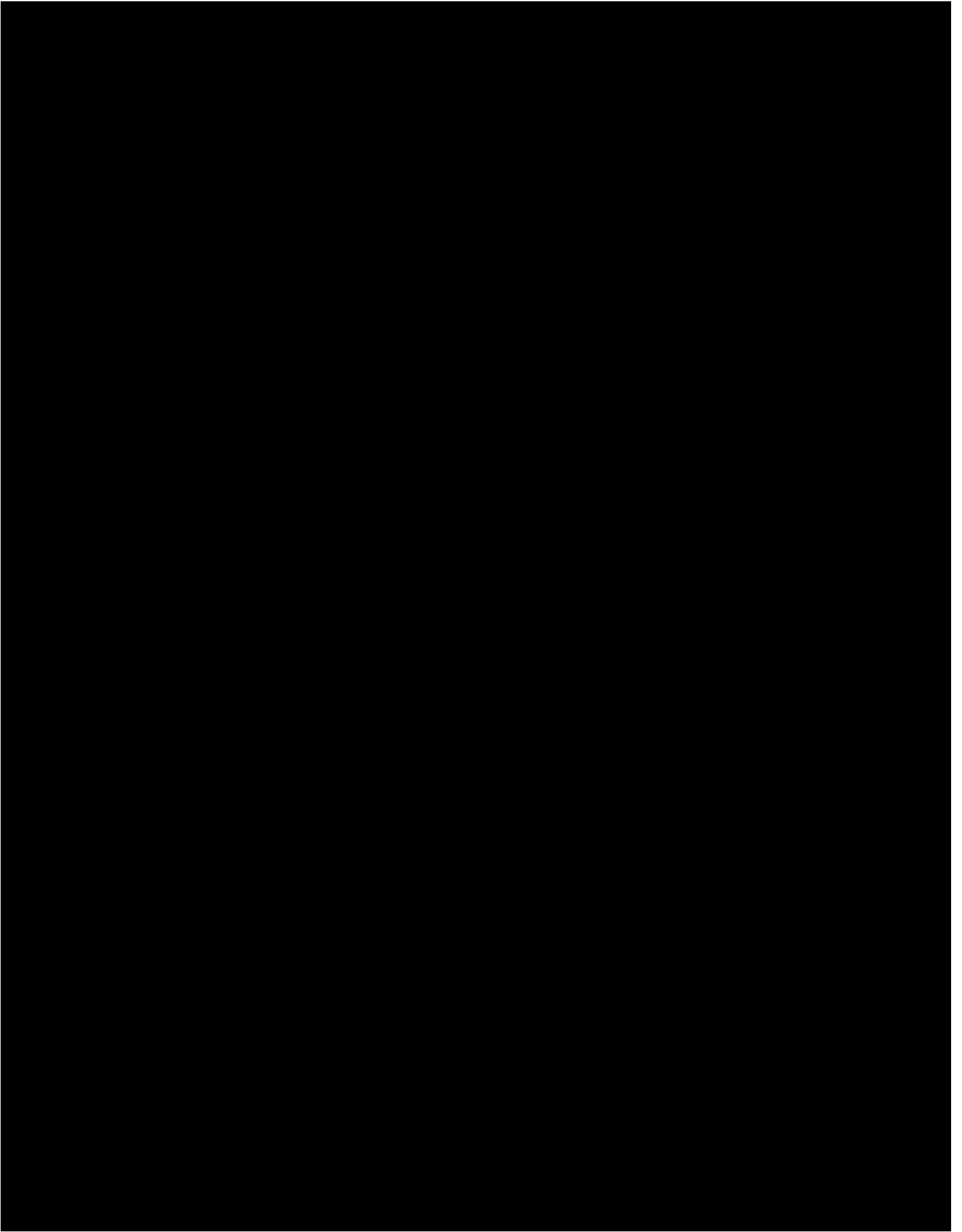


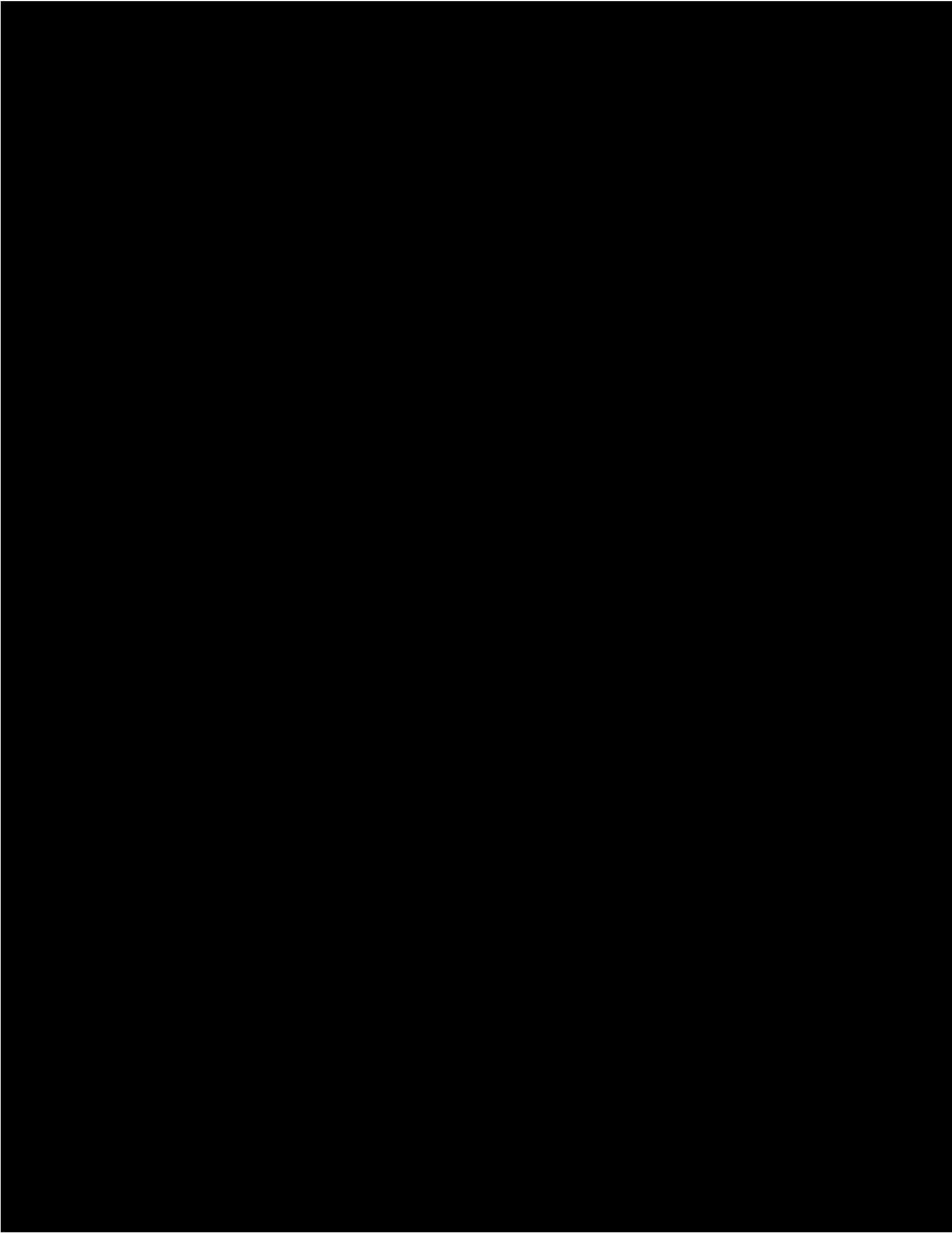


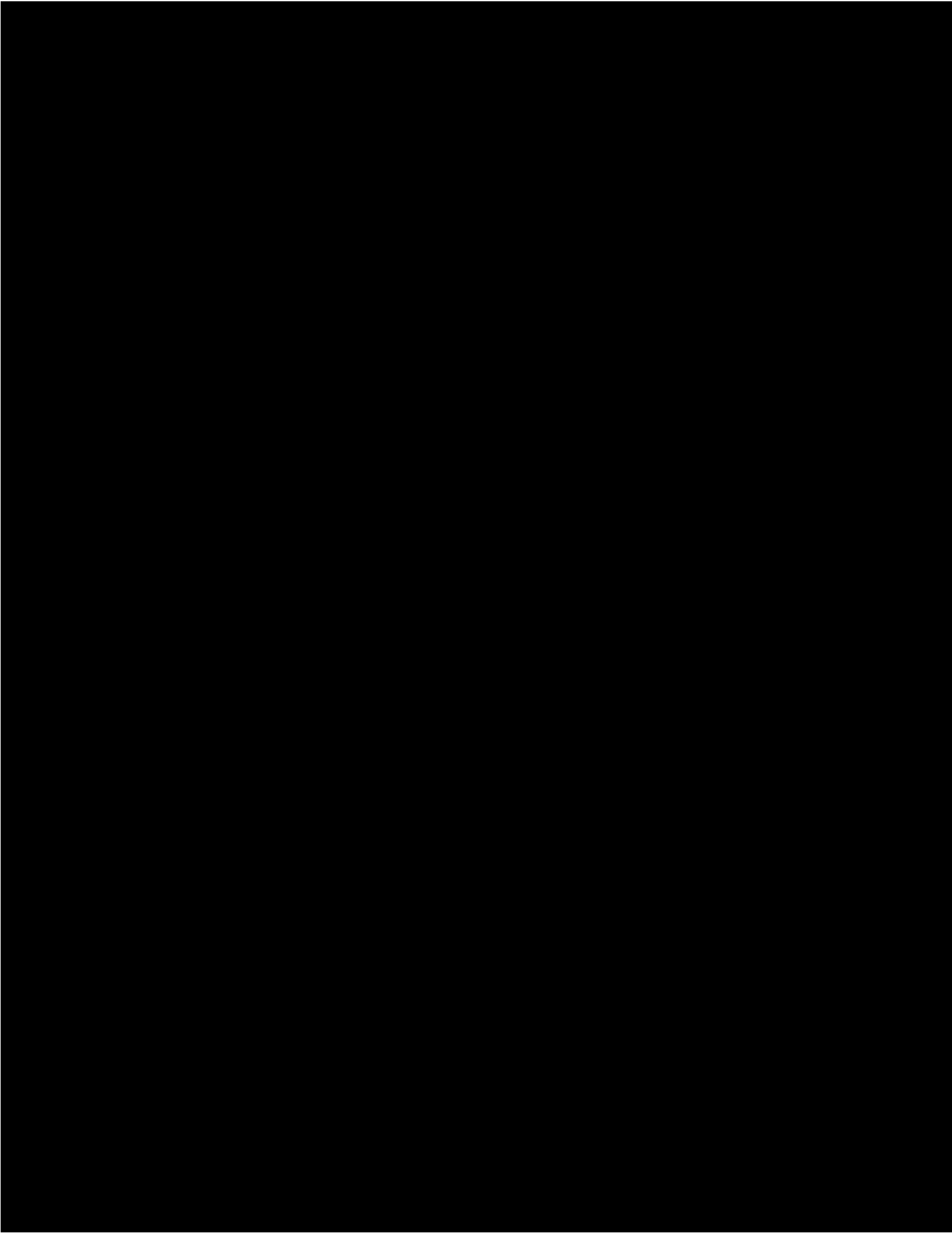


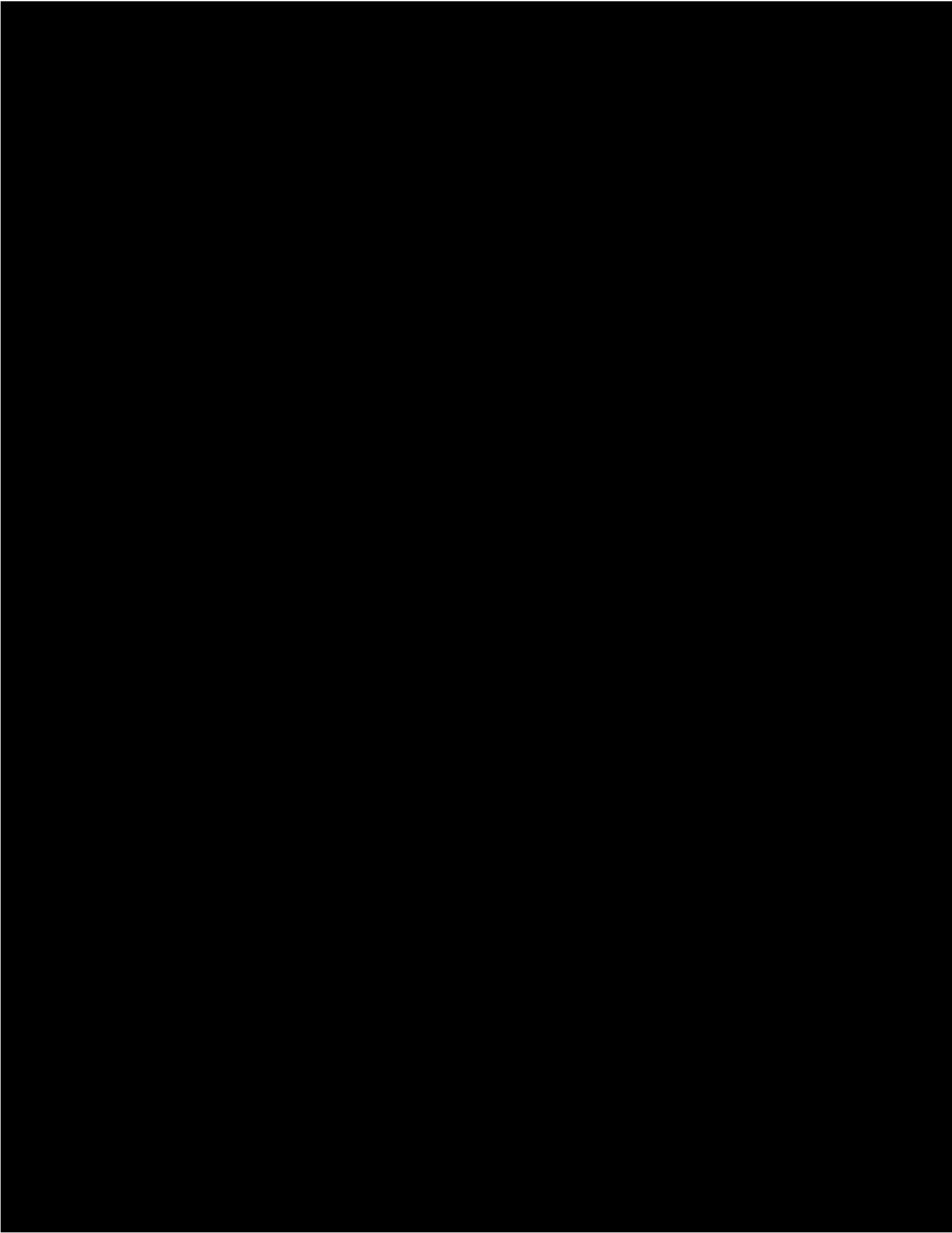


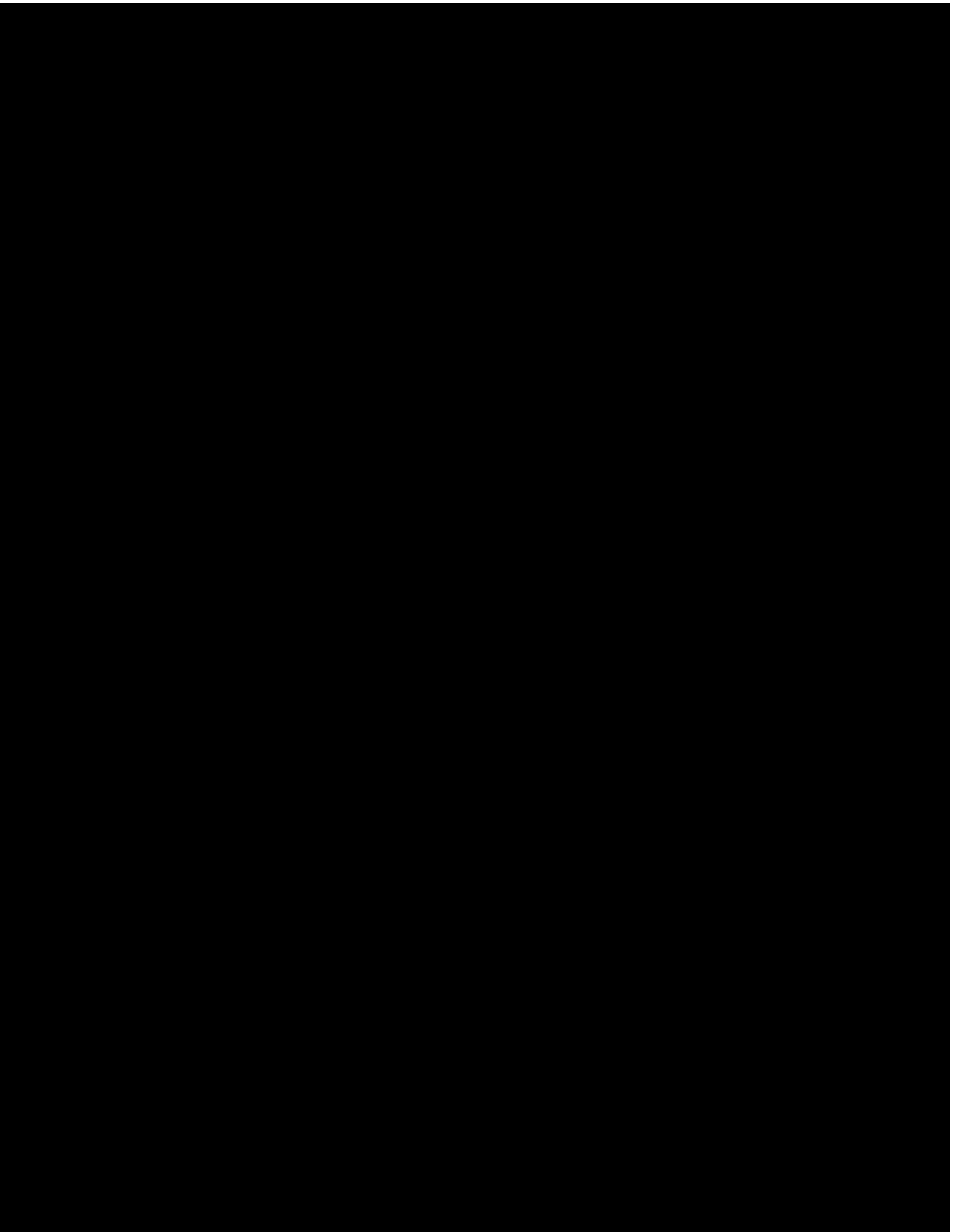












Arkansas
State Claims Commission

JUL 26 2023

RECEIVED JULY 22, 2023

TERRY Potts # [REDACTED]
[REDACTED]RE: TERRY Potts V. ARKANSAS Division of Correction
Claim No. 231649I TERRY Potts Am Requesting A hearing
before the ARKANSAS State Claims CommissionSincerely,
TERRY Potts

7-30-23
Arkansas
State Claims Commission

AUG 03 2023

RECEIVED

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TERRY POTTS AOC [REDACTED] CLAIMANT
V CLAIM #NO. 231649

ARKANSAS DEPARTMENT OF CORRECTION RESPONDENT

Rebut: TO RESPONDENT MOTION FOR SUMMARY JUDGMENT

I TERRY POTTS THE CLAIMANT, ASK THAT THIS COURT TAKE A LOOK AT THE GRIEVANCE FORM INSTRUCTION, WHICH IS VERY MISLEADING.

(1) IT STATE, IS THIS GRIEVANCE CONCERNING MEDICAL OR MENTAL HEALTH SERVICES?, IT SAYS IF YES CIRCLE ONE, THOSE ARE THE ONLY TWO OPTION, IT'S QUITE NATURAL I'M GOING TO CIRCLE MEDICAL BECAUSE I WAS INJURED, IT DID NOT GIVE ME THE OPTION TO CIRCLE SOMETHING SUCH AS (OTHER).

(2) I WAS SPEAKING NEGLIGENCE ON ~~the~~ THE STATE OF ARKANSAS DEPARTMENT CORRECTION. IF THIS WAS ONLY MEDICAL, WHY WOULD I SPEAK OF A LEAKING ROOF, THAT THERE WAS NO CAUTION SIGN, WHY WOULD I STATE THAT THE STATE WAS AT FAULT.

Why would I state A officer wrote
A witness statement if this was a medical
only. So technicality my grievance was
exhausted on my claim also.

3. The Reason I did not cite any legal
authority, because all the evidence is
on video, all the facts is on that video.

4.) I ask this court to compel the
Arkansas Department of Correction to
come up with the video dating back
on ~~March~~ 3-3-23 About 3:00 AM.

I ask that this court do not grant
ADC, their motion for summary
judgment, and award them not for
any attorney fees. Thank you.

Sincerely

TERRY POTTS # [REDACTED]

Terry Potts

Date 7-30-23

21

From: [Misty Scott](#) on behalf of [ASCC Pleadings](#)
To: [Thomas Burns \(DOC\)](#)
Cc: [ASCC Pleadings](#); [Mika Tucker](#)
Subject: ORDER: Terry Potts v. ADC, Claim No. 231649
Date: Monday, December 11, 2023 9:38:00 AM
Attachments: [Terry Potts v. ADC2 .pdf](#)
[Terry Potts-order.pdf](#)

Thomas:

Please see attached. Contact Mika Tucker with any questions.

Thank you,

Misty

Misty Scott
Arkansas State Claims Commission

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

December 11, 2023

Mr. Terry Potts (ADC [REDACTED])
[REDACTED]
[REDACTED]

Re: *Terry Potts v. Arkansas Division of Correction*
Claim No. 231649

Dear Mr. Potts:

Enclosed please find an Order entered on December 8, 2023, by the Arkansas State Claims Commission. If you have any questions, please do not hesitate to contact my office.

Sincerely,

Mika Tucker

ES: msscott

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TERRY POTTS (ADC [REDACTED])

CLAIMANT

V.

CLAIM NO. 231649

ARKANSAS DIVISION OF
CORRECTION

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Commission”) is a motion for summary judgment filed by the Arkansas Division of Correction (the “Respondent”) as to the claim of Terry Potts (the “Claimant”). Based upon a review of the motion, the arguments made therein, and the law of Arkansas, the Commission hereby finds as follows:

1. Claimant filed his claim on June 16, 2023, seeking \$10,000.00 in damages related to his allegation that he slipped on water and fell because Respondent’s roof was leaking on March 3, 2023. Claimant attached grievance documents indicating that he filed a grievance about the incident on March 12, 2023. Claimant’s grievance included details about the leaking water and Claimant’s injury.

2. Respondent filed a motion for summary judgment arguing, *inter alia*, that it is entitled to judgment as a matter of law because Claimant makes a claim of medical malpractice and his grievance deals with medical treatment.

3. Claimant responded to the motion for summary judgment arguing, *inter alia*, that he mentioned the leaking roof in his grievance and that he circled “medical” on the grievance form because he was injured. Claimant further argued that his grievance mentioned a witness to the fall indicating that his grievance was not related to a medical issue only.

4. The Commission notes that, pursuant to Ark. R. Civ. P. 56(c)(2), summary judgment is appropriate when there are no genuine issues as to any material fact, and the moving

party is entitled to judgment as a matter of law. *See Hisaw v. State Farm Mut. Auto Ins. Co.*, 353 Ark. 668, 122 S.W.3d 1 (2003). Summary judgment motions are subject to a shifting burden, in that once the moving party has made a *prima facie* showing of entitlement to summary judgment, “the burden then shifts to the nonmoving party to show that material questions of fact remain.” *Flentje v. First Nat’l Bank of Wynne*, 340 Ark. 563, 569, 11 S.W.3d 531, 536 (2000). Summary judgment is useful “when there is no real issue of fact to be decided.” *Hughes W. World, Inc. v. Westmoore Mfg. Co.*, 269 Ark. 300, 301, 601 S.W.2d 826, 826 (1980). The Commission finds that there are genuine issues of material fact in this matter at this time. As such, Respondent’s motion for summary judgment is DENIED.

5. The Commission notes that Claimant has also requested a hearing. The Commission instructs the parties to conduct discovery prior to the scheduling of this claim for hearing. The Commission advises the parties to notify the Commission when discovery is nearing completion so that this matter may be added to the hearing schedule.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Courtney Baird



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair

DATE: December 8, 2023

Notice(s) which may apply to your claim

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. See Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

From: [Thomas Burns \(DOC\)](#)
To: [ASCC Pleadings](#)
Subject: Terry Potts v ADC 231649
Date: Friday, December 15, 2023 4:27:21 PM
Attachments: [2191_001.pdf](#)
[image001.png](#)

Motion Strike

Thank you,
-TB



Confidentiality Notice: This e-mail message and any attachments is the property of the State of Arkansas and may be protected by state and federal laws governing disclosure of private information. It is for the intended recipient only. If an addressing or transmission error has misdirected this e-mail, please notify the author by replying to it. If you are not the intended recipient you may not use, disclose, distribute, copy, print or rely on this email.

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TERRY POTTS ([REDACTED])

CLAIMANT

v

NO. 231649

ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION

RESPONDENT

MOTION TO STRIKE PLEADING

Comes now the Respondent, ADC, by and through their attorney, Thomas Burns, and for their Motions, states:

1. The Commission issued an order in this matter on or about December 8, 2023. The order references that the inmate filed a response to the ADC's motion for summary judgment, *Order at paragraph 3*. The ADC had to contact the Commission to get a copy of the response. *See attached Ex. A*

2. The Inmate has failed to comply with Rule 5(e) of the Arkansas Rules of Civil Procedure (ARCP).

3. Pleadings are required to be sent via "regular mail or commercial delivery company and to be accompanied by a certificate of service".

Every pleading, paper or other document required by this rule to be served upon a party or his attorney, shall contain a statement by the party or attorney filing same that a copy thereof has been served in accordance with this rule, stating therein the date and method of service and, if by mail, the name and address of each person served.

4. Claimant's response should be stricken. Pursuant to Ark. R. Civ. Proc. 5(e) and the Claims Commission's prior orders, the Claims Commission finds that the collective certificate of service included with Claimant's September 22, 2020, filings is insufficient and strikes these pleadings. *Happy Stomping Bear v ADC Claim 180206*

5. “The Claims Commission also notes that under Arkansas law, a claimant choosing to represent himself is held to the same standards as an attorney.” *Michael Pickens v ADC Claim 190793 (Oct 29, 2019)*

6. “Prisoners are not exempt from the principle that everyone is presumed to know the law and is subject to the law whether or not he is actually aware of the particular law of which he has run afoul.” *Baker v. Norris*, 321 F.3d 769, 772 (8th Cir.2003).

7. The inmate failed to follow Rule 11 in that he failed to put his contact information under his signature. *The second sentence of subdivision (a) has been revised to require a party not represented by counsel to provide his telephone number, if any, along with his address. ARCP 11(a)*

8. This Commission may impose sanctions upon the inmate for failure to follow the rules. The ADC asks that the inmates’ pleadings be stricken and the matter dismissed.

WHEREFORE, Respondent prays that the motions be stricken, for their motion for summary judgment to be granted; for their attorney’s fees and costs; and for all other just and proper relief to which they may be entitled.

Respectfully submitted,



Thomas Burns (02006)
Legal Department
Division of Correction
6814 Princeton Pike
Pine Bluff, AR 71602
(870) 267-6845 Office
(870) 267-6373 Facsimile
thomas.burns@arkansas.gov

CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been served this 15th day of December 2023, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Terry Potts

[REDACTED]
[REDACTED]
[REDACTED]



Thomas Burns

Thomas Burns (DOC)

From: Mika Tucker
Sent: Monday, December 11, 2023 1:21 PM
To: Thomas Burns (DOC)
Subject: RE: ORDER: Terry Potts v. ADC, Claim No. 231649
Attachments: Potts CL rebut to Resp MSJ.pdf

Please see attached. Thank you.
 -Mika

Mika Tucker
Arkansas State Claims Commission
 101 East Capitol Avenue, Suite 410
 Little Rock, Arkansas 72201
 (501) 682-2818

From: Thomas Burns (DOC) <Thomas.Burns@arkansas.gov>
Sent: Monday, December 11, 2023 10:14 AM
To: ASCC Pleadings <ASCCPleadings@arkansas.gov>
Cc: Mika Tucker <Mika.Tucker@arkansas.gov>
Subject: RE: ORDER: Terry Potts v. ADC, Claim No. 231649

This claim references a response to our MSJ. The ADC received no response for the inmate. If there is one, may we have a copy please?

-TB
 Legal Services Unit
 Arkansas Department of Corrections
 Division of Correction
 870 267-6845-telephone

From: Misty Scott <Misty.Scott@arkansas.gov> **On Behalf Of** ASCC Pleadings
Sent: Monday, December 11, 2023 9:38 AM
To: Thomas Burns (DOC) <Thomas.Burns@arkansas.gov>
Cc: ASCC Pleadings <ASCCPleadings@arkansas.gov>; Mika Tucker <Mika.Tucker@arkansas.gov>
Subject: ORDER: Terry Potts v. ADC, Claim No. 231649

Thomas:

Please see attached. Contact Mika Tucker with any questions.

Thank you,

Misty

Misty Scott
Arkansas State Claims Commission

Arkansas
State Claims Commission

DEC 22 2023

RECEIVED

TERRY POTTS (ADC 090167)

No. 231649

~~Request for More Discovery~~
(Request for more Discovery)

(1) Witness - Sgt. MARIE POWELL, who saw the fall AND help me off the floor.

Witness - Sgt. Shirley Hudson, who also saw me fall. I ask this court to summon them, because the Respondent will not allow me to get a written statement from them.

(2) (Camera Video Evidence) I ask this court to summon the Respondent to give this ~~access~~ court access to this video.

(3) This video will show the slip AND fall. The camera at the North Gate U101 on 3-3-23 about 3:00 AM will show the fall from a wet floor. It will show Sgt. Powell helping me off the floor AND I still was slipping as she helped me up. It also will

(1) show an inmate putting a yellow ~~card~~ ~~card~~

Caution sign down on the wet spot
After the Fall.

(4) It will also show Sgt. Shirley Hudson
Escorting me to the infirmary. The
Nurse Ask her to write A Witness
Statement which she did and signed it.

(5) The Video will show that the
Roof was leaking on that RAINY DAY.
It will show large buckets in the
middle of the hallway catching water
from the leaking roof. It will show
buckets on both side of North Gate
(1) one. I Ask this Court to summon
the Respondent for the Rest of this
discovery. My discovery is completed.

Sincerely

Terry Potts

12-17-23

(2)

UNIT LEVEL GRIEVANCE FORM (Attachment I)Unit/Center Name TERRY POTTSADD Brks # 20 Job Assignment Brk Peter3-6-23 STEP ONE: Informal Resolution3-12-23 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)

 , (Date) EMERGENCY GRIEVANCE (An emergency situation is one in which you may be subject to a substantial risk of physical harm; emergency grievances are not for ordinary problems that are not of serious nature). If you marked yes, give this completed form to the designated problem-solving staff, who will sign the attached emergency receipt. In an Emergency, state why:

Is this Grievance concerning Medical or Mental Health Services? X If yes, circle one: medical or mental
BRIEFLY state your one complaint/concern and be specific as to the complaint, date, place, name of personnel involved and how you were affected. (Please Print): TO WHOM THIS MAY CONCERN,

That was not at my fault, but the state fault.
So please put my money back in my account.
The INQUIRY did not do anything for me.
Give me anything.

Terry Potts
 Inmate Signature

3-6-23 APR 20 2023
 Date Deputy Director

If you are harmed, threatened because of your use of the grievance process, report it immediately to the Warden or Prison Supervisor.

THIS SECTION TO BE FILLED OUT BY STAFF ONLY

This form was received on 3-6-23 (date), and determined to be Step One and/or an Emergency Grievance (Yes or No). This form was forwarded to medical or mental health? Yes (Yes or No). If yes, name

of the person in that department receiving this form: J. Treedwell PW HST Date 3/8/23

PRINT STAFF NAME (PROBLEM SOLVER) J. Treedwell Staff Signature J. Treedwell Date Received 3-6-23

Describe action taken to resolve complaint, including dates: your \$3 will be refunded to you.

J. Treedwell PW HST 3/8/23
 Staff Signature & Date Returned

Terry Potts
 Inmate Signature & Date Received

(date), pursuant to Step Two. Is it an Emergency? (Yes or No).

Date: 3-14-23

Action Taken: (Forwarded to Grievance Officer/Warden/Other) Date:

Forwarded, provide name of person receiving this form: Date:

DISTRIBUTION: YELLOW & PINK - Inmate Receipts; BLUE - Grievance Officer; ORIGINAL - Given back

VARNER UNIT GRIEVANCE Step One and Step Two

VARNER UNIT GRIEVANCE 7

IGTT430
3GD

Attachment VI

INMATE NAME: Potts, Terry B.

ADC #: 090167

GRIEVANCE#: VU-23-00078

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

On March 6, 2023, you grieved "[REDACTED]

[REDACTED]

The Infirmary has taken \$3.00 off my account for something that was not at my fault. But the State fault. So please put my money back in my account. The Infirmary did not do anything for me nor give me anything."

The medical department responded, " Per policy, only one issue will be addressed per grievance. The informal response stated "Your \$3 will be refunded to you". At Step Two, you stated "[REDACTED]

Your refund was returned to your account on March 16, by Inmate Banking; therefore, your grievance was resolved on that date.

Additionally, today, I asked Inmate Banking you return your March 6, fee [REDACTED]. You did not grieve this fee; therefore, it has no bearing on this grievance.

Your grievance is found with merit but resolved due to the fee that was incorrectly assessed on March 3".

Your appeal states "I wasn't only talking about the \$3.00 T [REDACTED]

The medical department's response is upheld, and your appeal is without merit.

Shirley C. Culp 5/1/2023
Director Date

Please be advised that if you appeal this decision to the U.S. District Court, a copy of this Chief Deputy/Deputy/Assistant Director's Decision must be attached to any petition or complaint or the Court may dismiss your case without notice. You may also be subject to paying filing fees pursuant to the Prison Litigation Act of 1995.

(2)

4/14/23, 11:54 AM

eOMIS - Arkansas - eOMIS Production V8.5- Prod10

IGTT420
3GH

Attachment IV

INMATE NAME: Potts, Terry B.

ADC # [REDACTED]

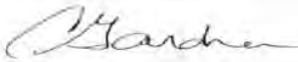
GRIEVANCE #: [REDACTED] 3-00085

HEALTH SERVICES RESPONSE TO UNIT LEVEL GRIEVANCE

(605) You again grieved on March 12, 2023, that you fell March 3, on the wet floor and was e [REDACTED]

The March 14, informal response stated "You will be referred to the provider for treatment."

Your grievance is found without merit.

Signature of Health Services
Administrator/Mental Health Supervisor or
Designee

Received

APR 26 2023

Deputy Director
Health & Correctional Programs

Regional Ombudsman

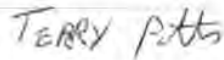
Title

04/13/2023

Date

INMATE'S APPEAL

If you are not satisfied with this response, you may appeal this decision within five working days by filling in the information requested below and mailing it to the Deputy Director for Health & Correctional Programs along with the Unit Level Grievance Form. Keep in mind that you are appealing the decision to the original grievance. Do not list additional issues which were not part of your original grievance as they will not be addressed. Your appeal statement is limited to what you write in the space provided below.



Inmate Signature

ADC#: [REDACTED]

Date 4-18-23

If appealing, please submit both the Unit Level Grievance Form (Attachment I) and the Health Services Response (Attachment IV)

(3)

4/12/23, 10:47 AM

eOMIS - Arkansas - eOMIS Production V8.5- Prod5

IGTT420
3GH

Attachment IV

INMATE NAME: Potts, Terry B.

ADC #:

GRIEVANCE #: VU-23-00082

HEALTH SERVICES RESPONSE TO UNIT LEVEL GRIEVANCE

(601) You grieved on March 14, 2023, that you slipped and fell on March 3, due to water leaking from the rain

Your grievance is found without merit.

Garden

Signature of Health Services
Administrator/Mental Health Supervisor or
Designee

Received

APR 20 2023

Deputy Director
Health & Correctional Programs

Regional Ombudsman

Title

04/12/2023

Date _____

INMATE'S APPEAL

If you are not satisfied with this response, you may appeal this decision within five working days by filling in the information requested below and mailing it to the Deputy Director for Health & Correctional Programs along with the Unit Level Grievance Form. Keep in mind that you are appealing

Terry Potts

Inmate Signature

Date _____

If appealing, please submit both the Unit Level Grievance Form (Attachment I) and the Health Services Response (Attachment IV)

(4)

DEC 27 2023

RECEIVED

TERRY B. Potts
Claim-No: 231649

Rebut To: Respondent motion to
~~STR~~ Strike Pleading.

I TERRY Potts (CLAIMANT) ASK this
Court to deny the Respondent motion,

(1) Because this Case is Not About
Rules As the Respondent Put it out to be

(2) This Case is ONLY About the
CLAIMANT been insured on the Respondant
PROPERTY which was much At Fault.

(3) The Respondent is trying to use
this Court As A CRIMINAL COURT AND
CRIMINAL Rules, I Ask this Court do
Not Allow them to make this As A
CRIMINAL CASE which it is Not.

(4) Why Should I the Claimant
have to pay the Respondent for

(1)

being injured on there property
when the Respondent was clear
At Fault.

So I the Claimant, Ask this court
to Please deny the Respondent motion.

Thank You.

Terry Potts
AD [REDACTED]

12-21-23

(2)

From: [Misty Scott](#) on behalf of [ASCC Pleadings](#)
To: [Tawnie Rowell \(DOC\)](#)
Cc: [ASCC Pleadings](#); [Mika Tucker](#)
Subject: ORDER: Terry Potts v. ADC, Claim no. 231649
Date: Friday, June 14, 2024 9:30:08 AM
Attachments: [Terry Potts v. ADC3.pdf](#)
[Terry Potts-order2.pdf](#)

Ms. Rowell:

Please see attached. Contact Mika Tucker with any questions.

Thank you,

Misty

Misty Scott
Arkansas State Claims Commission

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

June 14, 2024

Mr. Terry Potts (ADC [REDACTED])
[REDACTED]

Ms. Tawnie Rowell
Arkansas Division of Correction
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114

(via email)

Re: *Terry Potts v. Arkansas Division of Correction*
Claim No. 231649

Dear Mr. Potts and Ms. Rowell:

Enclosed please find an Order entered today by the Arkansas State Claims Commission. If you have any questions, please do not hesitate to contact my office.

Sincerely,

Mika Tucker

ES: msscott

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TERRY POTTS (ADC [REDACTED])

CLAIMANT

V.

CLAIM NO. 231649

ARKANSAS DIVISION OF
CORRECTION

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Commission”) is the motion filed by the Arkansas Division of Correction (the “Respondent”) to strike a filing by Terry Potts (the “Claimant”). Based upon a review of the motion, the arguments made therein, and the law of Arkansas, the Commission hereby finds as follows:

1. Claimant filed his claim on June 16, 2023, seeking \$10,000.00 in damages related to his allegation that he slipped on water and fell because Respondent’s roof was leaking on March 3, 2023. Claimant attached grievance documents indicating that he filed a grievance about the incident on March 12, 2023. Claimant’s grievance included details about the leaking water and Claimant’s injury.

2. Respondent filed a motion for summary judgment arguing, *inter alia*, that it is entitled to judgment as a matter of law because Claimant makes a claim of medical malpractice and his grievance deals with medical treatment.

3. Claimant responded to the motion for summary judgment arguing, *inter alia*, that he mentioned the leaking roof in his grievance and that he circled “medical” on the grievance form because he was injured. Claimant further argued that his grievance mentioned a witness to the fall indicating that his grievance was not related to a medical issue only.

4. The Commission denied Respondent’s motion for summary judgment on December 8, 2023.

5. Respondent filed the instant “Motion to Strike Pleading and Sanctions[,]” arguing, *inter alia*, that it did not receive Claimant’s response to its motion for summary judgment until Respondent requested it from the Commission after the December 8, 2023, order was entered. Respondent argues that it was prejudiced by not having the opportunity to file a reply to Claimant’s response to the motion for summary judgment.

6. Claimant responded to the motion to strike, arguing that the motion to strike should be denied.

7. Respondent’s motion to strike is DENIED. However, the Commission will place this claim in abeyance for seven days¹ so that Respondent may file a motion for reconsideration of the Commission’s December 8, 2023, order, attaching its reply to Claimant’s response to the motion for summary judgment.

8. Claimant is cautioned that a certificate of service must be included with all filings evidencing service upon Respondent via US Mail and that he must serve Respondent with all filings via US Mail. Failure to comply with this order may result in the striking of Claimant’s filings in the future.

9. To avoid this type of situation in the future, the Commission encourages Respondent to contact the Commission when it has not received a response to a motion for summary judgment to determine whether a claimant has filed a response in the time period set forth in Ark. R. Civ. Pro. 56.

10. The Commission notes that Claimant has also filed a “Request for More Discovery.” To the extent that this is a motion, the Commission notes that Claimant is not required under the Arkansas Rules of Civil Procedure to move for discovery and, therefore, Claimant’s motion is

¹ See Ark. R. Civ. Pro. 56(c).

DENIED as moot. Claimant is free to send and file discovery requests pursuant to the Arkansas Rules of Civil Procedure without filing a motion with the Commission.

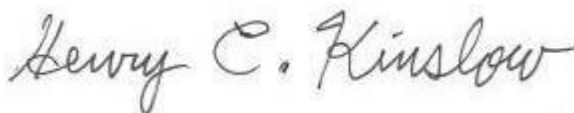
IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Solomon Graves



ARKANSAS STATE CLAIMS COMMISSION
Dee Holcomb



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow, Chair

DATE: June 14, 2024

Notice(s) which may apply to your claim

- (1) A party has forty (40) days from transmission of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the transmission of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. See Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

From: [Kris Higdon \(DOC\)](#)
To: [ASCC Pleadings](#)
Cc: [Miles S. Morgan](#); [Tawnie Rowell \(DOC\)](#)
Subject: Terry Potts v. ADC, 231649
Date: Wednesday, July 10, 2024 8:24:20 AM
Attachments: [Letter to claimant-090167.pdf](#)

Please see attached letter to claimant.

Kris Alan Higdon
Attorney at Law
Office of the Secretary
1302 Pike Ave., Suite C
North Little Rock, AR 72114
Phone: 501-862-9593
Kris.a.higdon@doc.arkansas.gov



SARAH HUCKABEE SANDERS
GOVERNOR

ARKANSAS DEPARTMENT OF CORRECTIONS

1302 Pike Avenue, Suite C
North Little Rock, AR 72114



OFFICE OF THE
SECRETARY

July 10, 2024

Terry Potts: [REDACTED]
[REDACTED]

Re: Future correspondence

Dear Mr. Potts:

Please address all future correspondence, discovery, and pleadings in cases before the Arkansas Claims Commission to:

Legal Department
Arkansas Department of Corrections
1302 Pike Ave., Suite C
North Little Rock, AR 72114

Thank you for your cooperation on this matter.

Warm regards,

A handwritten signature in blue ink, appearing to read "Kris Alan Higdon".

Kris Alan Higdon
Attorney at Law

ORIGINAL

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

Arkansas
State Claims Commission

AUG 05 2024

RECEIVED

TERRY POTTS

CLAIMANT

VS CASE NO. 231649

STATE OF ARKANSAS

RESPONDENT

Arkansas Division of Correction

MOTION FOR JUDGMENT ON THE PLEADINGS

Comes the Claimant Terry Potts and for his motion State:

Claimant filed my claim June 16, 2023 seeking \$10,000.00 in damages related to my slip and fall injury on a wet floor with no caution sign because Respondent roof was leaking on March 3, 2023. I attached the grievance documents about the incident March 12, 2023 about the leaking water and my injury and my witnesses to the fall.

Respondent filed a motion for summary judgment arguing, inter alia, that it is entitled to judgment as a matter of law because Claimant makes a claim of medical malpractice and his grievance deals with medical treatment.

The Commission denied Respondent's motion for summary judgment on December 8, 2023.

Respondent then filed a "Motion to Strike Pleadings and Sanctions" which the Commission also denied in its ORDER June 14, 2024.

Neither Claimant nor Respondent has filed any other pleading as of this date 8-1-2024 to Claimant's knowledge, and at this point Claimant motions this Commission

For judgment on the pleadings.

AR Civ Proc. Rule 12 (c) Motion For Judgment on the Pleadings, provide: After the pleadings are closed, but within such time as not to delay the trial, any party may move for judgment on the pleadings. If, on a motion for judgment on the pleadings, matters outside the pleadings are presented and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all materials made pertinent to such motions by Rule 56.

In *Hensley v Estate of Reddell*, (A07-1291 (Ark. App. 6/14/2008, A07-1291 (Ark. App. June 04, 2008)) the Court said, we will approve the granting of a motion for summary judgment only when the state of the evidence as portrayed by the pleadings, affidavits, discovery responses, and admissions on file such that the nonmoving party is not entitled to a day in court, i.e., when there is not any genuine remaining issue of a material fact and the moving party is entitled to judgment as a matter of law. *Cumming v Putnam Realty, Inc.*, 80 Ark. App. 153, 92 S.W.3d 698 (2002).

Wherefore: Claimant Terry Potts motion and pray this Commission to grant this motion for judgment on the Pleading

Respectfully Submitted

Terry Potts

STATE OF ARKANSAS

)

COUNTY OF Chicot

)§

)

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, on this 01 day of August, 2024.

Kiana Samone Whitaker
NOTARY PUBLIC

My Commission Expires: Feb 24, 2032

KIANA SAMONE WHITAKER
NOTARY PUBLIC - STATE OF ARKANSAS
CHICOT COUNTY
COMM. #12719896 EXP. FEBRUARY 24, 2032

CERTIFICATE OF SERVICE

I, Terry Potts, do hereby state and certify that a copy of the foregoing: Judgment on the Pleadings, was placed in the Varner Unit Inmate Mailbox and sent postage pre-paid by the United States Postal Services to:

Arkansas Department of Correction - Division of Correction
Legal Services Unit
6814 Princeton Pike
Pine Bluff, AR 71644-0600

This 1 Day of August, 2024.

Terry Potts
Terry Potts, Pro Se

TERRY POTTS (ADC [REDACTED])

No. 231649

(~~Request for more Discovery~~)
(Request for more Discovery)

(1) Witness - Sgt. Margie Powell, who saw the fall AND help me off the floor.

Witness - Sgt. Shirley Hudson, who also saw me fall. I ask this court to summon them, because the Respondent will not allow me to get a written statement from them.

(2) (Camera Video Evidence) I ask this court to summon the Respondent to give this ~~access~~ court access to this video.

(3) This video will show the slip AND fall. The camera at the North Gate V101 on 3-3-23 about 3:00 AM will show the fall from a wet floor. It will show Sgt. Powell helping me off the floor AND I still was slipping as she helped me up. It also will

(4) show an inmate putting a yellow ~~caution~~

Multiple Attachment # A

Caution sign down on the wet spot
After the Fall.

(4) It will also show Sgt. Shirley Hudson
Escorting me to the infirmary. The
Nurse Ask her to write A Witness
Statement which she did and signed it.

(5) The Video will show that the
Roof was leaking on that RAINY DAY.
It will show large buckets in the
middle of the hallway catching water
from the leaking roof. It will show
buckets on both side of North Gate
(1) ONE. I ASK this Court to summon
the Respondent for the Rest of this
discovery. MY discovery is Completed.

Sincerely

Terry Potts

12-17-23

(2)

From: [Kris Higdon \(DOC\)](#)
To: [ASCC Pleadings](#)
Cc: [Tawnie Rowell \(DOC\)](#)
Subject: Terry Potts v. ADC, 231649
Date: Monday, August 12, 2024 10:11:28 AM
Attachments: [ADC Response to Motion for Judgment on the Pleadings.pdf](#)

Please see attached response to Motion for Judgment on the Pleadings

Kris Alan Higdon
Attorney at Law
Office of the Secretary
1302 Pike Ave., Suite C
North Little Rock, AR 72114
Phone: 501-682-9593
Kris.a.higdon@doc.arkansas.gov

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TERRY POTTS ([REDACTED]

CLAIMANT

V.

NO. 231649

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

ADC RESPONSE TO MOTION FOR JUDGMENT ON THE PLEADINGS

Respondent, Arkansas Department of Correction (ADC), for its Response to Motion for Judgment on the Pleadings, states:

1. The ADC denies each and every allegation contained in the Inmate's motion unless specifically admitted herein.
2. Claimant filed his petition with the Arkansas Claims Commission in June 2023, seeking \$10,000 based upon an alleged slip and fall. The ADC filed its Answer later that month, denying responsibility.
3. Respondent subsequently filed a motion for summary judgment and motion to strike, both of which were denied.

**I. CLAIMANT'S MOTION SHOULD BE DISMISSED
BECAUSE HE FAILED TO TIMELY FILE**

The Rules of the Arkansas State Claims Commission require that "all motions shall be filed within thirty (30) days upon service of the complaint." Claimant's motion was mailed to the Commission in August 2024. More than 30 days had passed between the complaint being filed and the motion being filed. Therefore, Claimant's motion must be dismissed.

**II. CLAIMANT'S MOTION SHOULD BE DISMISSED
BECAUSE HE FAILED TO COMPLY WITH RULE 10(b)**

All averments of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number in all succeeding pleadings. Each

claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense. Claimant failed to number his paragraphs and separate his claims. Therefore, Claimant's motion should be dismissed.

III. CLAIMANT'S MOTION SHOULD BE DISMISSED BECAUSE HE FAILED TO SHOW THAT ADC DID NOT HAVE A DEFENSE

Motions for judgements on the pleadings are not favored by the Courts. *Landsn Pulaski, LLC v. Ark. Dep't of Correction*, 372 Ark. 40, 269 S.W.3d 793 (2007). Such a remedy is only appropriate if the pleadings show on their face there is no merit to a claim. *Id.* In this case, the ADC has filed a pleadings denying all responsibility to Claimant's claims, making a Rule 12(c) motion inappropriate. Therefore, Claimant's motion should be dismissed.

IV. CLAIMANT'S MOTION SHOULD BE DISMISSED BECAUSE HE FAILED TO PROVIDE APPROPRIATE PROOF THAT NO GENUINE ISSUE OF MATERIAL FACTS EXISTS

When a Court considers matters outside the pleadings, the appellate court will treat a motion to dismiss as one for summary judgment. Arkansas Rules of Civil Procedure Rule 12(c). Arkansas Rules of Civil Procedure Rule 56(c) states that a motion may be supported by "pleadings, depositions, answers to interrogatories and admissions on file, and affidavits." There was not supporting documentation attached to Claimant's motion. Claimant failed to provide any pleadings, any depositions, any interrogatory or request for admission answers or affidavits in support of his motion. As no allowable evidence was provided supporting his motion, Claimant's motion must be dismissed.

V. CONCLUSION

Claimant failed to meet his burden of proof for Motion for Judgment on the Pleadings under Rule 12 of the Arkansas Rules of Civil Procedure and should be dismissed.

Respectfully submitted,

/s/ Kris Alan Higdon

Kris Alan Higdon #2004115
Arkansas Department of Corrections
1302 Pike Ave., Suite C
North Little Rock, AR 72114
Telephone: (501) 682-9593
Kris.a.higdon@doc.arkansas.gov

CERTIFICATE OF SERVICE

I, Kris Alan Higdon, hereby certify that a true and correct copy of the foregoing has been served upon persons set out below, via first class mail, on this 12th day of August 2024.

TERRY POTTS [REDACTED]
[REDACTED]
[REDACTED]

/s/ Kris Alan Higdon

Kris Alan Higdon

From: [Kris Higdon \(DOC\)](#)
To: [ASCC Pleadings](#)
Cc: [Tawnie Rowell \(DOC\)](#)
Subject: Terry Potts v. ADC, 231649
Date: Monday, August 12, 2024 10:58:19 AM
Attachments: [SHL-August 2024.pdf](#)

Please see attached safe harbor letter.

Kris Alan Higdon
Attorney at Law
Office of the Secretary
1302 Pike Ave., Suite C
North Little Rock, AR 72114
Phone: 501-682-9593
Kris.a.higdon@doc.arkansas.gov



SARAH HUCKABEE SANDERS
GOVERNOR

ARKANSAS DEPARTMENT OF CORRECTIONS

1302 Pike Avenue, Suite C
North Little Rock, AR 72114



OFFICE OF THE
SECRETARY

August 12, 2024

Terry Potts [REDACTED]

Re: Terry Potts v. ADC
Claim Number 231649

Dear Mr. Potts:

I am in receipt of your "Request for More Discovery. These are not correctly formatted, nor correctly stated, in accordance with Rules 26, 33, 36, and 37 of the Arkansas Rules of Civil Procedure. Arkansas law makes it clear that Pro Se parties are held to the same standards as attorney and are presumed to know the law. I am pointing you to the correct rules so that you may correct deficiencies and be in compliance with the rules of Civil Procedure.

Currently, we are seeking these corrections without the intervention of the Claims Commission. We will hold off for twenty-one (21) days to allow for you to have time to correct these deficiencies.

Warm regards,

A blue ink signature of Kris Alan Higdon, written in a cursive style.

Kris Alan Higdon
Attorney at Law

AUG 23 2024

RECEIVED

TERRY POTTS CAD NO. [REDACTED]

CLAIMANT

V. NO. 231649

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

RESPONSE TO ADC RESPONSE TO MOTION FOR
JUDGMENT ON THE PLEADINGS

Claimant, Terry Potts, for his Response to Respondent Response to Motion For Judgment on the Pleadings, State:

I. Respondent is wrong that Claimants motion for judgment on the pleadings is required to be filed within thirty (30) days upon service of the Complaint because the rule requires the motion be filed after the pleadings were closed.

II. Petitioners motion is set forth in separate paragraphs.

III. Claimant attached the most request for more discovery that clearly state Witness statements by two Correctional Sergeants Witnessed the fact and would be subpoenaed with the statements refused me by Respondents.

The two sergeants - government officials are presumed to do their duties correctly. And I believe it is an impermissible conflict for their attorney to impeach their testimony and in effect declare they have in fact falsified the ADC documents; and the presumption they performed their duties correctly is also a legal presumption.

In addition the Respondents camera footage is also to be subpoenaed for trial / hearing that is not yet set.

IV. As stated above in Response to III the moot request for discovery attached to Claimants Rule 12 Judgment on the Pleadings is clear no genuine issue of material facts exists. The Court is allowed to review documents outside the pleadings which is the moot request for more discovery.

V. The Respondent is wrong the proof is irrefutable and there exist no factual or legal defense aside from the blank denial of Respondent because any claim of fact or legal defense is not tolerable as truth of the matter nor allowable under the circumstances of the case least unlawful misconduct manifest, that's why no factual defense is presented, Claimant pray against fraud and such misconduct by Respondents.

1. Claimant do set forth as reminder no pleadings were made within the thirty (30) days since the Respondent motion to strike was denied. Thereby the pleadings were apparently closed the first day after the thirty (30) days subsequent to the Claim Commission's denial of the motion to strike filed by Respondents.

WHEREFORE; Claimant prays a judgment on the pleadings be granted or else hearing date be set.

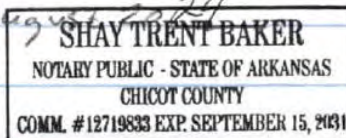
Respectfully Submitted

Terry Potts ADC No. [REDACTED]



State of Arkansas
County of Chicot

Subscribed and sworn to before me, a notary public, on this 20th day of August 2024



My commission expires: September 15, 2031 *Shay Trent Baker*

Certificate of Service

I Terry Potts certify a copy of the foregoing is served on the Respondent this 20th day of August 2024 by U.S. Mail, Postage prepaid to:

Thomas Burns / Kris Alan Higdon et Arkansas
Department of Correction, Division of Correction,
Legal Division, 6814 Princeton Pike, Pine Bluff
Arkansas 71602-9411

Terry Potts
Terry Potts [REDACTED]



SARAH HUCKABEE SANDERS
GOVERNOR

ARKANSAS DEPARTMENT OF CORRECTIONS

1302 Pike Avenue, Suite C
North Little Rock, AR 72114



OFFICE OF THE
SECRETARY

August 12, 2024

Terry Potts (0901077)

Re: Terry Potts v. ADC
Claim Number 231649

Dear Mr. Potts:

I am in receipt of your "Request for More Discovery. These are not correctly formatted, nor correctly stated, in accordance with Rules 26, 33, 36, and 37 of the Arkansas Rules of Civil Procedure. Arkansas law makes it clear that Pro Se parties are held to the same standards as attorney and are presumed to know the law. I am pointing you to the correct rules so that you may correct deficiencies and be in compliance with the rules of Civil Procedure.

Currently, we are seeking these corrections without the intervention of the Claims Commission. We will hold off for twenty-one (21) days to allow for you to have time to correct these deficiencies.

Warm regards,

A handwritten signature in blue ink, appearing to read "Kris Alan Higdon".

Kris Alan Higdon
Attorney at Law

TERRY Potts (ADC [REDACTED])

No. 231649

~~Request for More Discovery~~
(Request For More Discovery)

(1) Witness - Sgt. Margie Powell, who saw the fall AND help me off the floor.

Witness - Sgt. Shirley Hudson, who also saw me fall. I ask this court to summon them, because the Respondent will not allow me to get a written statement from them.

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Caution sign down on the wet spot
After the Fall.

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Escorting me to the infirmary. The
Nurse Ask her to write A Witness
Statement which she did and signed it.

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Roof was leaking on that RAINY DAY.
It will show large buckets in the
middle of the hallway catching water
from the leaking roof. It will show
buckets on both side of North Gate
(1) one. I Ask this Court to summon
the Respondent for the Rest of this
discovery. My discovery is completed.

Sincerely

Terry Potts

12-17-23

(2)

From: [Misty Scott](#) on behalf of [ASCC Pleadings](#)
To: [Kris Higdon \(DOC\)](#)
Cc: [ASCC Pleadings](#); [Mika Tucker](#); [Yolanda Charles \(DOC\)](#)
Subject: ORDER: Terry Potts v. ADC, Claim No. 231649
Date: Monday, February 10, 2025 4:25:00 PM
Attachments: [Terry Potts v. ADC.pdf](#)
[Terry Potts-order3.pdf](#)

Mr. Higdon:

Please see attached. Contact Mika Tucker with any questions.

Thank you,

Misty

Misty Scott
Arkansas State Claims Commission

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

February 10, 2025

Mr. Terry Potts (ADC [REDACTED])
[REDACTED]
[REDACTED]

Mr. Kris Higdon
Arkansas Division of Correction
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114

(via email)

Re: ***Terry Potts v. Arkansas Division of Correction***
Claim No. 231649

Dear Mr. Potts and Mr. Higdon:

Enclosed please find an Order entered on February 6, 2025, by the Arkansas State Claims Commission. If you have any questions, please do not hesitate to contact my office.

Sincerely,

Mika Tucker

ES: msscott

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TERRY POTTS (ADC [REDACTED])

CLAIMANT

V.

CLAIM NO. 231649

ARKANSAS DIVISION OF
CORRECTION

RESPONDENT

ORDER

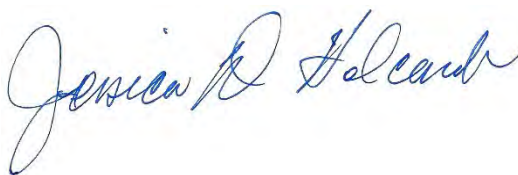
Now before the Arkansas State Claims Commission (the “Commission”) is a motion for judgment on the pleadings filed by Terry Potts (the “Claimant”) as to his claim against the Arkansas Division of Correction (the “Respondent”). Based upon a review of the motion, the arguments made therein, and the law of Arkansas, the Commission hereby finds as follows:

1. Claimant filed his claim on June 16, 2023, seeking \$10,000.00 in damages related to his allegation that he slipped on water and fell because Respondent’s roof was leaking on March 3, 2023.
2. Respondent filed a motion for summary judgment, which was denied by the Commission on February 22, 2024.
3. Claimant filed the instant motion for judgment on the pleadings.
4. Respondent responded to Claimant’s motion, arguing, *inter alia*, that Claimant failed to show that no genuine issue of material facts exists.
5. Claimant filed a reply to Respondent’s response, requesting that his motion be granted or that a hearing be set.
6. The Commission finds that, pursuant to Ark. R. Civ. P. 12(c), Claimant’s motion should be treated as a motion for summary judgment. The Commission notes that, pursuant to Ark. R. Civ. P. 56(c)(2), summary judgment is appropriate when there are no genuine issues as to any material fact, and the moving party is entitled to judgment as a matter of law. *See Hisaw v. State*

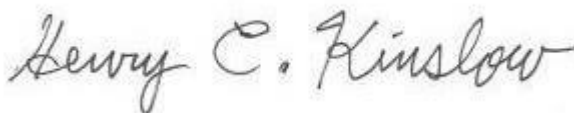
Farm Mut. Auto Ins. Co., 353 Ark. 668, 122 S.W.3d 1 (2003). Summary judgment motions are subject to a shifting burden, in that once the moving party has made a *prima facie* showing of entitlement to summary judgment, “the burden then shifts to the nonmoving party to show that material questions of fact remain.” *Flentje v. First Nat’l Bank of Wynne*, 340 Ark. 563, 569, 11 S.W.3d 531, 536 (2000). Summary judgment is useful “when there is no real issue of fact to be decided.” *Hughes W. World, Inc. v. Westmoore Mfg. Co.*, 269 Ark. 300, 301, 601 S.W.2d 826, 826 (1980).

7. The Commission finds that there are genuine issues of material fact in this matter at this time. As such, Claimant’s motion is DENIED. The Commission will set this claim for hearing as soon as practicable.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Dee Holcomb



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow, Chair



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris

DATE: February 6, 2025

Notice(s) which may apply to your claim

- (1) A party has forty (40) days from transmission of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the transmission of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. See Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

From: [Mika Tucker](#)
To: [Tawnie Rowell \(DOC\)](#); [Miles S. Morgan](#); [Trent Rigdon \(DOC\)](#)
Cc: [Yolanda Charles \(DOC\)](#)
Subject: HEARING: Terry Potts v. ADC, Claim No. 231649
Date: Wednesday, April 2, 2025 1:22:00 PM
Attachments: [Potts -- 231649 -- hearing ltr \(claim\) 7-10-25.pdf](#)

Counselors, please see the attached correspondence.

Thanks,
Mika

Mika Tucker
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2818

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

April 2, 2025

Mr. Terry Potts (ADC 0 [REDACTED])
[REDACTED]
[REDACTED]

Ms. Tawnie Rowell
Mr. Miles Morgan
Mr. Trent Rigdon
Arkansas Division of Correction
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114

(via email)

RE: ***Terry Potts v. Arkansas Division of Correction***
Claim No. 231649

Dear Mr. Potts, Ms. Rowell, Mr. Morgan and Mr. Rigdon,

The Claims Commission has **scheduled this claim for hearing on Thursday, July 10, 2025**, beginning at 8:45 a.m. All parties will attend via Zoom. The Zoom invitation is enclosed. The Claims Commission requests that the ADC transmit the Zoom invitation and hearing details to Claimant's unit.

Each party's witness lists, exhibit lists, and exhibits are due by May 9, 2025. If the parties would like for the Claims Commission to review prehearing briefs, the briefs are due at the same time.

If Claimant would like to call other inmates or ADC employees as witnesses, Claimant will need to submit subpoena requests by May 9, 2025. The subpoena requests must include the witnesses' names and addresses. If the Commission issues subpoenas to ADC's current employees or inmates currently housed with ADC, the Commission asks ADC to make these individuals available for the Zoom hearing.

If Claimant would like to call a witness outside of ADC, Claimant will need to arrange for that witness's virtual attendance at the hearing. Claimant can direct the witness to contact the Claims Commission for the Zoom invitation. If a subpoena will be necessary to compel a witness's

testimony, Claimant will need to submit a subpoena request by May 9, 2025. The subpoena request must include the witness's name and address. Once the Claims Commission issues the subpoena, Claimant will need to have the subpoena served upon the witness pursuant to Rule 45 of the Arkansas Rules of Civil Procedure.

If Respondent will require subpoenas in order to compel the testimony of any of its witnesses, those subpoena requests are also due on May 9, 2025.

Absent good cause shown, any subpoena requests received after May 9, 2025, will be denied. If a party objects to issuance of any subpoena, the party will have until May 23, 2025, to file a motion to quash or detailed objections to the witness's proposed testimony.

To the extent that either party intends to file a motion of any kind, absent a showing of good cause, the motion must be submitted in sufficient time to allow the motion to be fully briefed by May 23, 2025.

Please note that a copy of any subpoena requests, witness lists, exhibit lists, and exhibits must be served upon the opposing party via U.S. Mail in accordance with the Arkansas Rules of Civil Procedure.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Mika Tucker

ES: mtucker

Kathryn Irby -- Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Hearings

Time: Jul 10, 2025 09:00 AM Central Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/88084077034?pwd=wiA4UlJltojc8VvKwpopcqN4PrFtjm.1>

Meeting ID: 880 8407 7034

Passcode: D3xhnb

One tap mobile

+13092053325,,88084077034#,,,,*701855# US

+13126266799,,88084077034#,,,,*701855# US (Chicago)

Dial by your location

- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
- +1 646 931 3860 US
- +1 929 436 2866 US (New York)
- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US
- +1 360 209 5623 US
- +1 386 347 5053 US
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 669 444 9171 US
- +1 669 900 6833 US (San Jose)
- +1 689 278 1000 US
- +1 719 359 4580 US
- +1 253 205 0468 US
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)

Meeting ID: 880 8407 7034

Passcode: 701855

Find your local number: <https://us06web.zoom.us/j/88084077034?pwd=wiA4UlJltojc8VvKwpopcqN4PrFtjm.1>

From: [Trent Rigdon \(DOC\)](#)
To: [ASCC Pleadings](#)
Cc: [Miles S. Morgan](#); [Taylor Reavis \(DOC\)](#)
Subject: Terry Potts V ADC 231649
Date: Friday, May 9, 2025 3:18:35 PM
Attachments: [Terry Potts - Witness and Exhibit List.pdf](#)

Please see the attached witness and exhibits list.

Thank you,

Trent Rigdon
Deputy General Counsel
Office of the Secretary
479-746-1138
615 S Main St
Jonesboro, AR 72401

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TERRY POTTS ([REDACTED]

CLAIMANT

v

NO. 231649

ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION

RESPONDENT

RESPONDENT WITNESS AND EXHIBIT LIST

Comes Now the Respondent, Arkansas Department of Correction (ADC), for its Witness and Exhibit List, states:

Witness List

1. Claimant
2. Any Witnesses of the Claimant

Exhibit List

1. Respondent's MSJ and attached Exhibits.

/s/ Trent Rigdon

TRENT RIGDON

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served this 9th day of May 2025, on the Claimant by placing a copy of same in the U.S. Mail, regular postage to:

Terry Potts [REDACTED]

[REDACTED]

[REDACTED]

/s/ Trent Rigdon

Trent Rigdon

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TERRY POTTS (ADC [REDACTED])

CLAIMANT

v

NO. 231649

**ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION**

RESPONDENT

MOTION FOR SUMMARY JUDGMENT

Come now the respondent, Arkansas Department of Corrections (ADC), by and through their attorney, Thomas Burns, and for their Motion for Summary Judgment pursuant to Ark. R. Civ. P. 56, states:

1. The pleadings filed herein reveal that the facts in this case are undisputed or are settled.
2. As a result thereof, the ADC is entitled to summary judgment.
3. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of their pleadings, but their response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing there is a genuine issue for trial.
4. The inmate has not cited any legal authority that the summary judgment is inappropriate because the inmate is making claims of medical negligence.
5. The Inmate filed a grievance but that grievance deals with his medical treatment. *See attached Ex A.*
6. The Arkansas State Claims Commission does not have jurisdiction when a non-State entity is involved (Wellpath). "The commission shall make no award for any claim which, as a matter of law, should be dismissed from a court of law or equity for

reasons other than sovereign immunity.” Ark. Code Ann. § 19-10-204(3)(A) (West Supp. 2015).

7. Pursuant to the Prison Litigation Reform Act (PLRA), “no actions shall be brought with respect to prison conditions under Section 1983 of this title or any other Federal law, by a prisoner confined in any jail, or other correctional facility until such administrative remedies as are available are exhausted.” 42 U.S.C § 1997e. In 1997, the Arkansas legislature adopted the PLRA’s exhaustion requirement by enacting Ark. Code Ann. §16-106-202. That statute follows the PLRA by adopting a grievance exhaustion requirement for state actions:

- (a) A civil action **or claim** initiated against...Department of Correction...by an inmate in a penal institution or incarcerated person appearing pro se may be:
 - (1) Dismissed without prejudice by the court on its own motion or on a motion of the defendant, if all administrative remedies available to the inmate have not been exhausted.

8. The inmates did not grieve about negligence of the ADC, since more than fifteen (15) days has passed since the incident, inmate has failed to exhaust. “A basic rule of administrative procedure requires that an agency be given the opportunity to address a question before a complainant resorts to the courts. Where a party has failed to exhaust his or her administrative remedies, the trial court lacks jurisdiction over the suit” *Ark. HHS v Smith*, 370 Ark. 490. One must exhaust their administrative remedies before they may proceed in Court. *See Johnson v Johnson*, 385 F.3d 503 (2004).

9. Proper exhaustion requires the inmate to have completed “the administrative review process in accordance with the applicable procedural rules.” *Jones v. Bock*, 549 U.S. 199, 218 (2007) (quoting *Woodford v. Ngo*, 548 U.S. 81, 88 (2006)). While the level of detail needed in a grievance will vary between systems, “it is the

prison's requirements, and not the PLRA, that define the boundaries of proper exhaustion." *Jones*, 549 U.S. at 218. "[P]roper exhaustion demands compliance with an agency's deadlines and other critical procedural rules because no adjudicative system can function effectively without imposing some orderly structure on the course of its proceedings." *Woodford*, 548 U.S. at 90-91. The Supreme Court has held that exhaustion is no longer left to the discretion of the district court, but is mandatory." *Id.* at 85.

inm

agai

11. The inmate, in addition to not grieving negligence, has not laid out the factors for negligence.

12. In *Turner v. Baptist Medical Center*, 275 Ark. 424, 427, 631 S.W.2d 275, 277-278, (1982), it states . . . "that opposing affidavits that consist merely of general denials, without any statement of specific facts, are insufficient to defeat a summary judgment motion."

13. The inmate has failed to demonstrate the existence of a genuine issue of any fact material to ADC's alleged culpability of failure to follow procedure and has failed to rebut the ADC's prima facie evidence of its entitlement to judgment as a matter of law.

14. Once the moving party makes a prima facie showing of entitlement to summary judgment, the responding party must meet proof with proof in order to demonstrate that there is remaining a genuine issue of material fact. The response and supporting material must set forth specific facts showing that there is a genuine issue for

trial. See Ark. R. Civ. P. 56(e) *Hampton v. Taylor*, 318 Ark. 771, 776-777, 887 S.W.2d 535, 538-539 (1994). The inmate has failed to identify any genuine issues of material fact that would preclude a summary judgment in favor of the ADC. Therefore, this Commission should grant the Motion for Summary Judgment.

15. The ADC has attached all the documentation and has demonstrated a prima facie entitlement to Summary Judgment. To overcome this, the inmate must meet proof with proof and demonstrate the existence of a material issue of fact. *Gonzales v. City of DeWitt*, 357 Ark. 10, 14-15, 159 S.W.3d 298 301 (*emphasis added*).

16. The ADC, is entitled to judgment as a matter of law for the following reasons:

- (a) First, the inmate makes a claim of medical malpractice
- (b) Second, the inmate has no damages.
- (c) Third, the inmate has failed to exhaust his administrative remedies.
- (c) Fourth, the inmate fails to cite any legal authority for his contention that summary judgment is inappropriate.

17. The ADC should be awarded fees and costs for this action.

WHEREFORE, The ADC, prays that their Motion for Summary Judgment be granted; for their attorney's fees and costs; and for all other just and proper relief to which they may be entitled.

Respectfully submitted,



Thomas Burns (02006)
Legal Services Unit
Division of Correction
6814 Princeton Pike
Pine Bluff, AR 71602
(870) 267-6845 Office
(870) 267-6373 Facsimile
thomas.burns@arkansas.gov

CERTIFICATE OF SERVICE

I certify that a copy of the above pleading has been served this 25th day of July 2023, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Terry Potts [REDACTED]
[REDACTED]
[REDACTED]



Thomas Burns

ⁱ Inmates are not allowed medical records, if the inmate would like to review his medical records then he may make a request to the Warden.

IGTT430
3GD

Attachment VI

INMATE NAME: Potts, Terry B.

ADC # [REDACTED]

GRIEVANCE#: [REDACTED]-23-00082

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

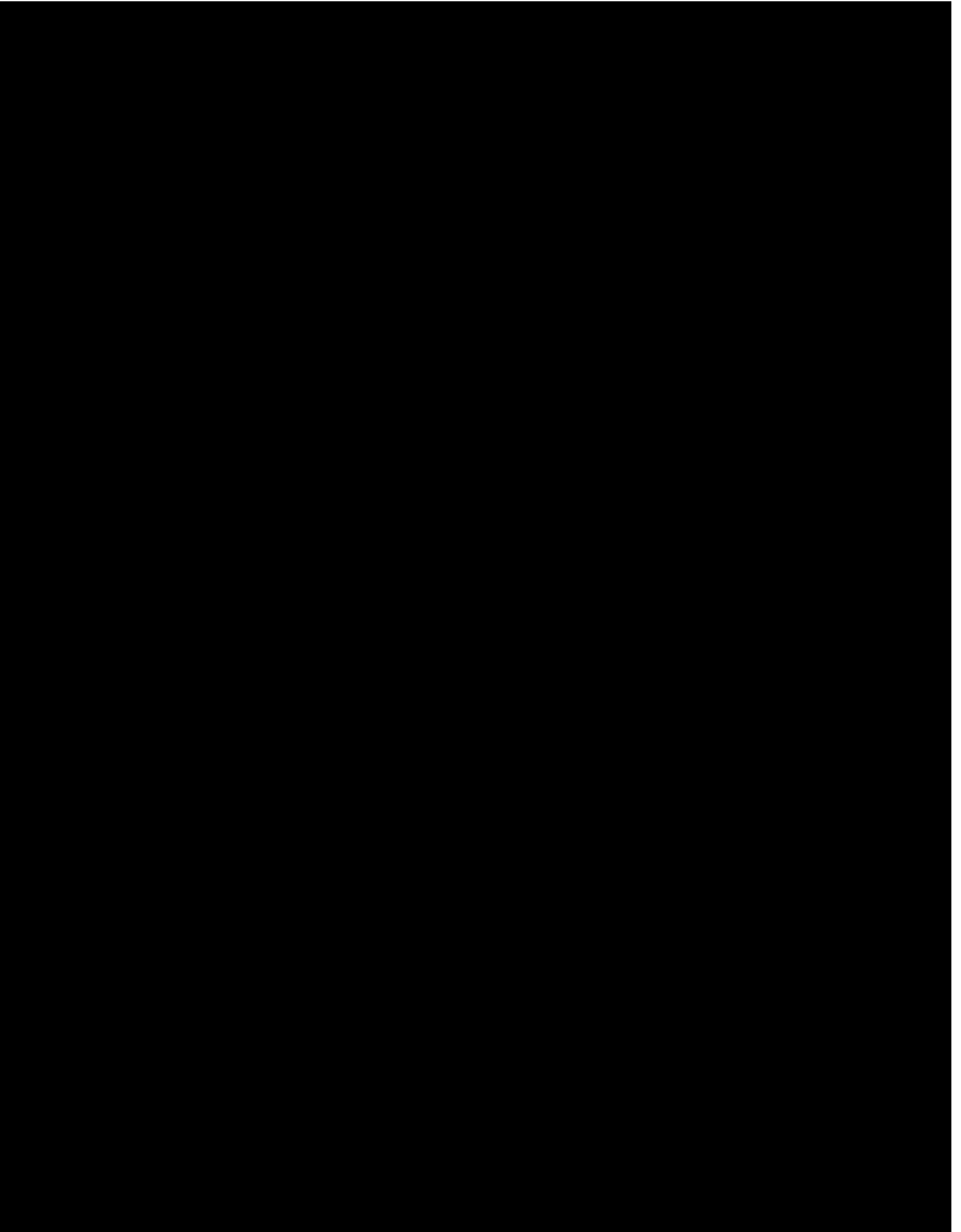
[REDACTED]

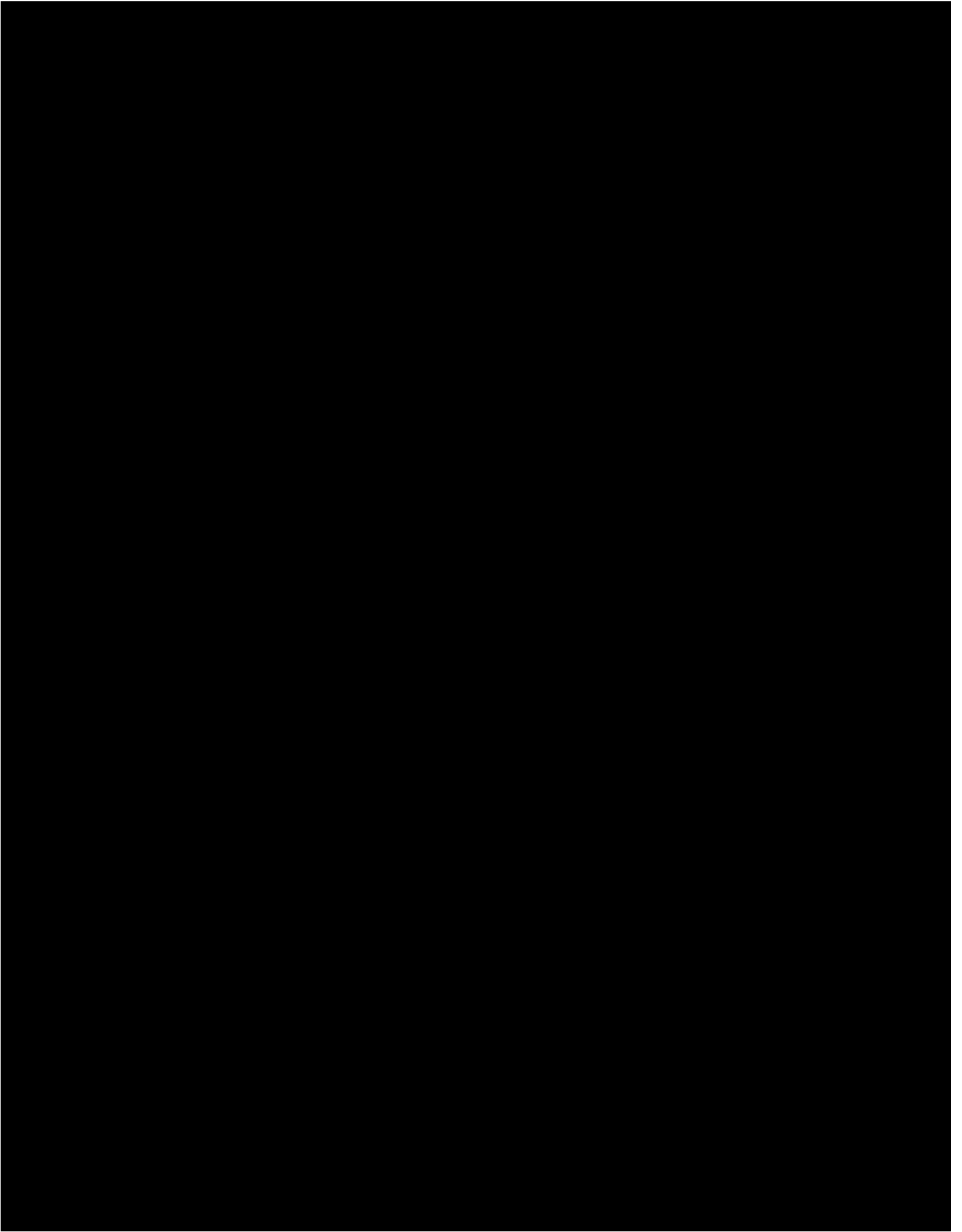
The medical department's response is upheld, and your appeal is without merit

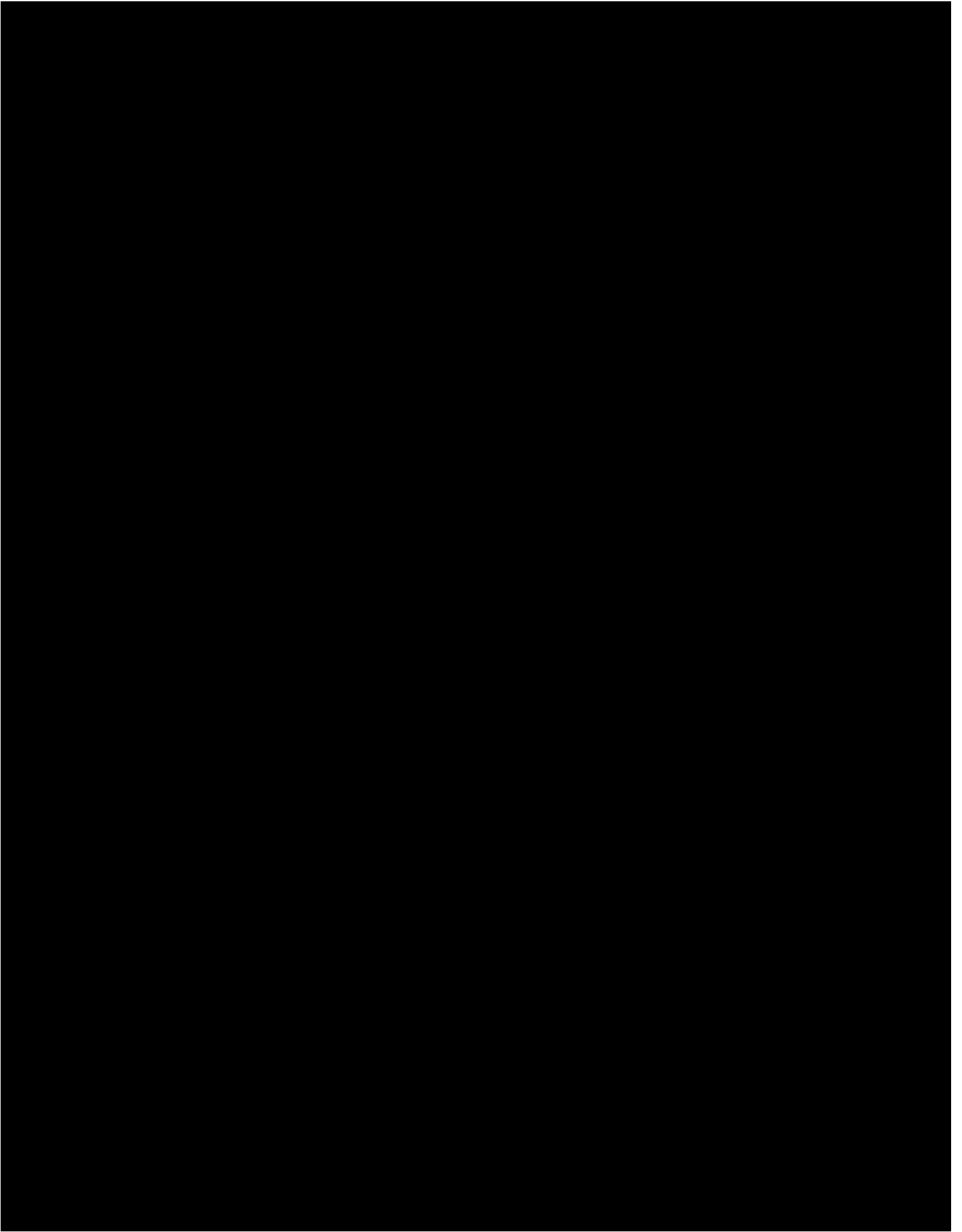
Chandra C. C. C. C. 4/28/2023
Director Date

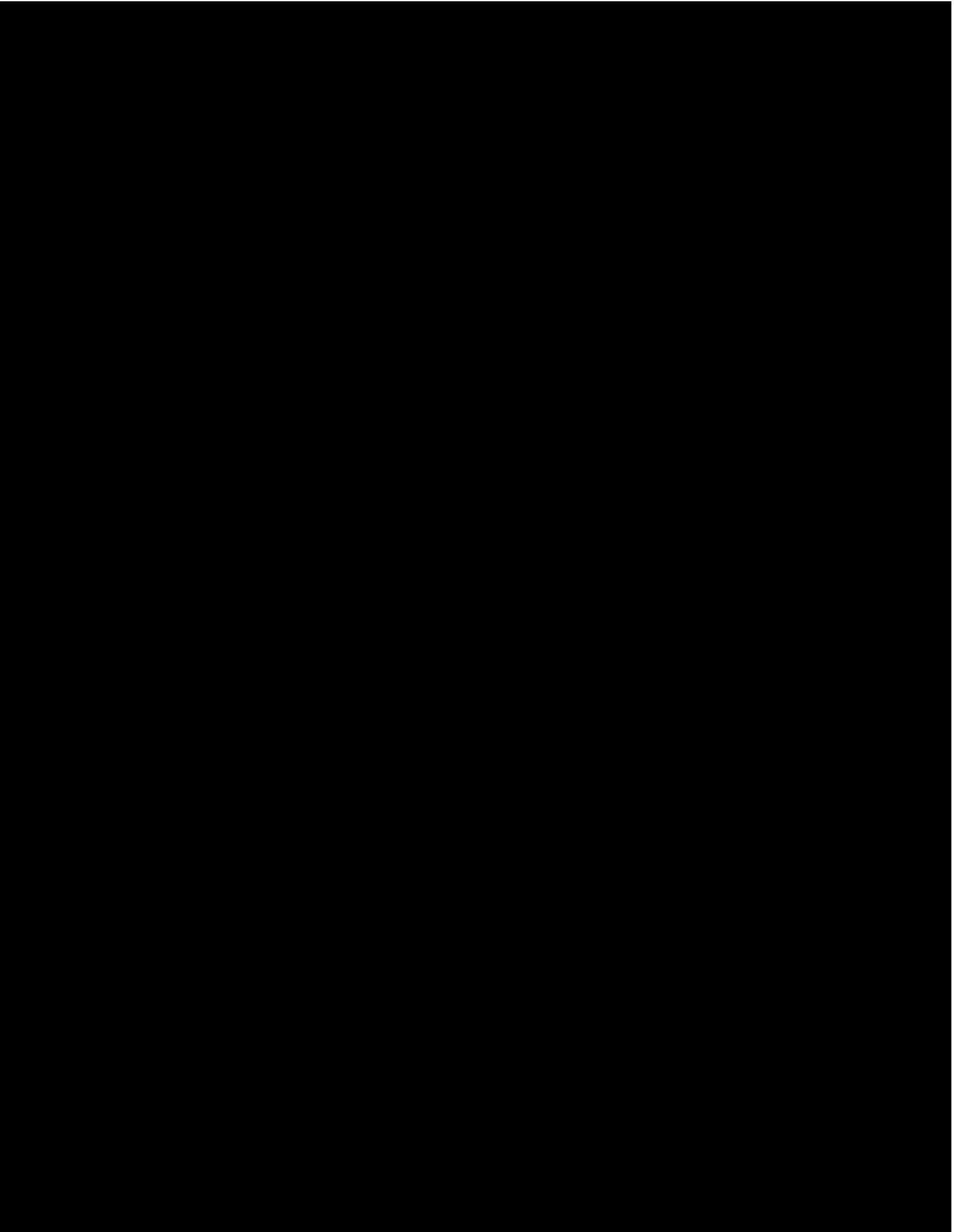
Please be advised that if you appeal this decision to the U.S. District Court, a copy of this Chief Deputy/Deputy/Assistant Director's Decision must be attached to any petition or complaint or the Court may dismiss your case without notice. You may also be subject to paying filing fees pursuant to the Prison Litigation Act of 1995.

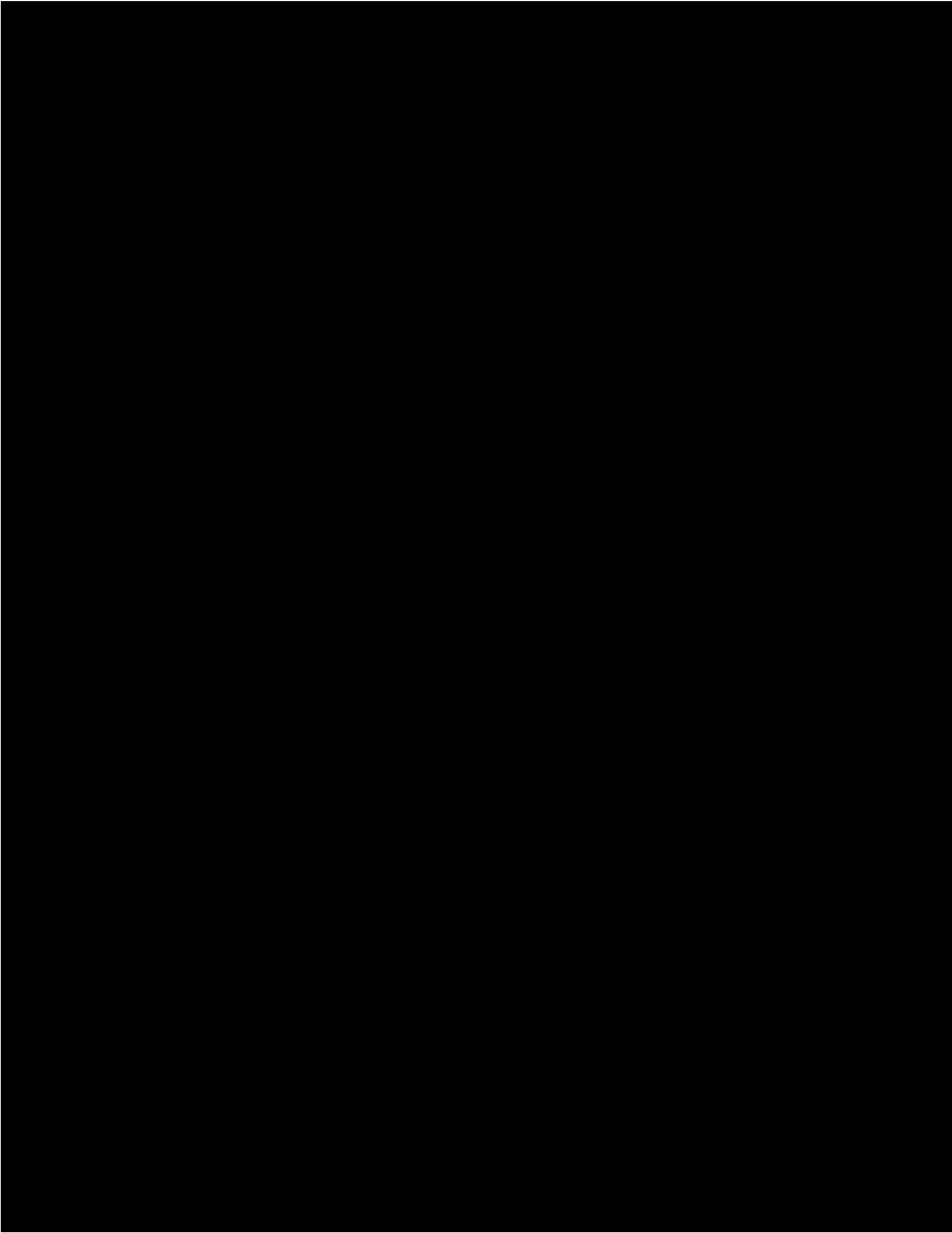
Ex. A

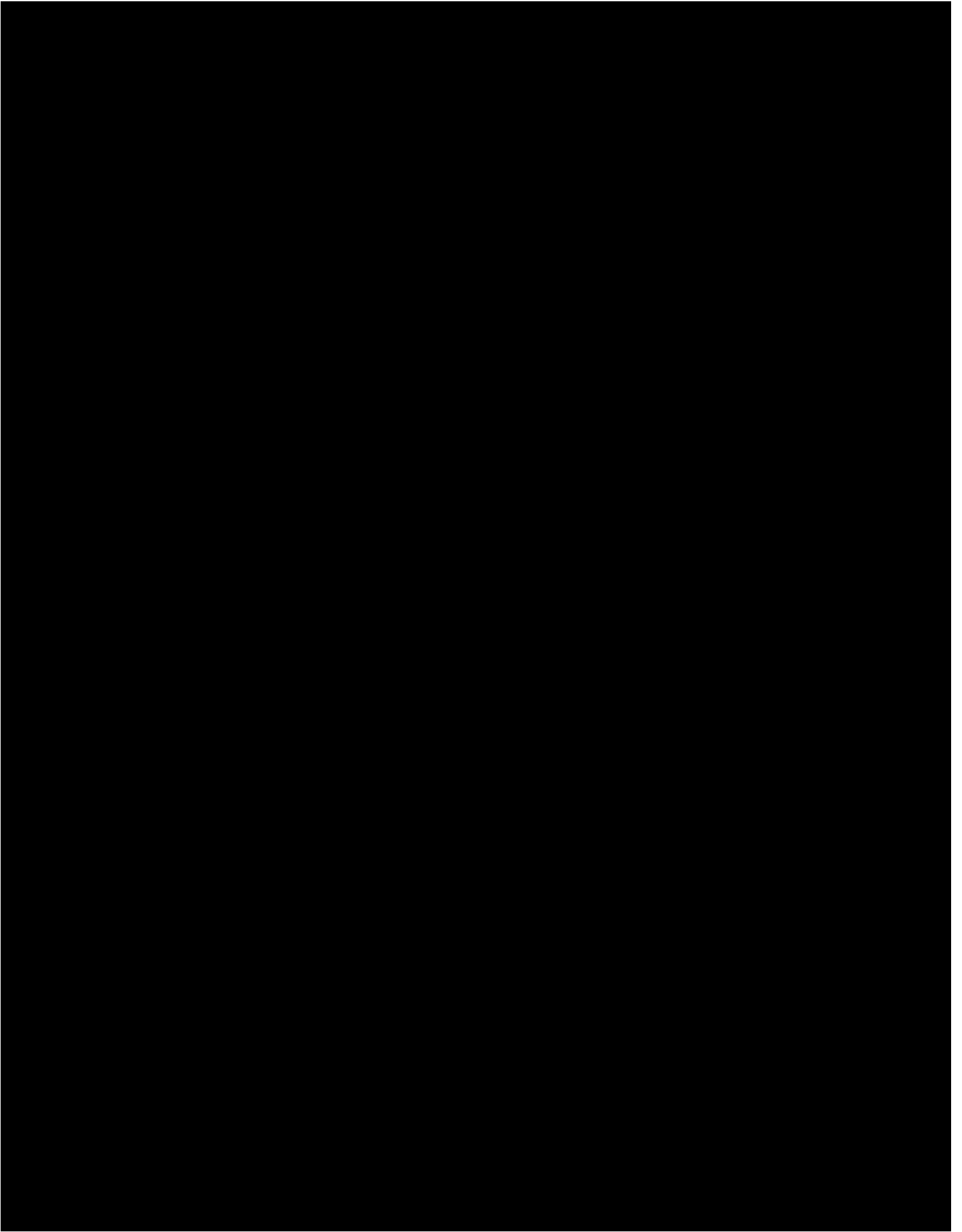


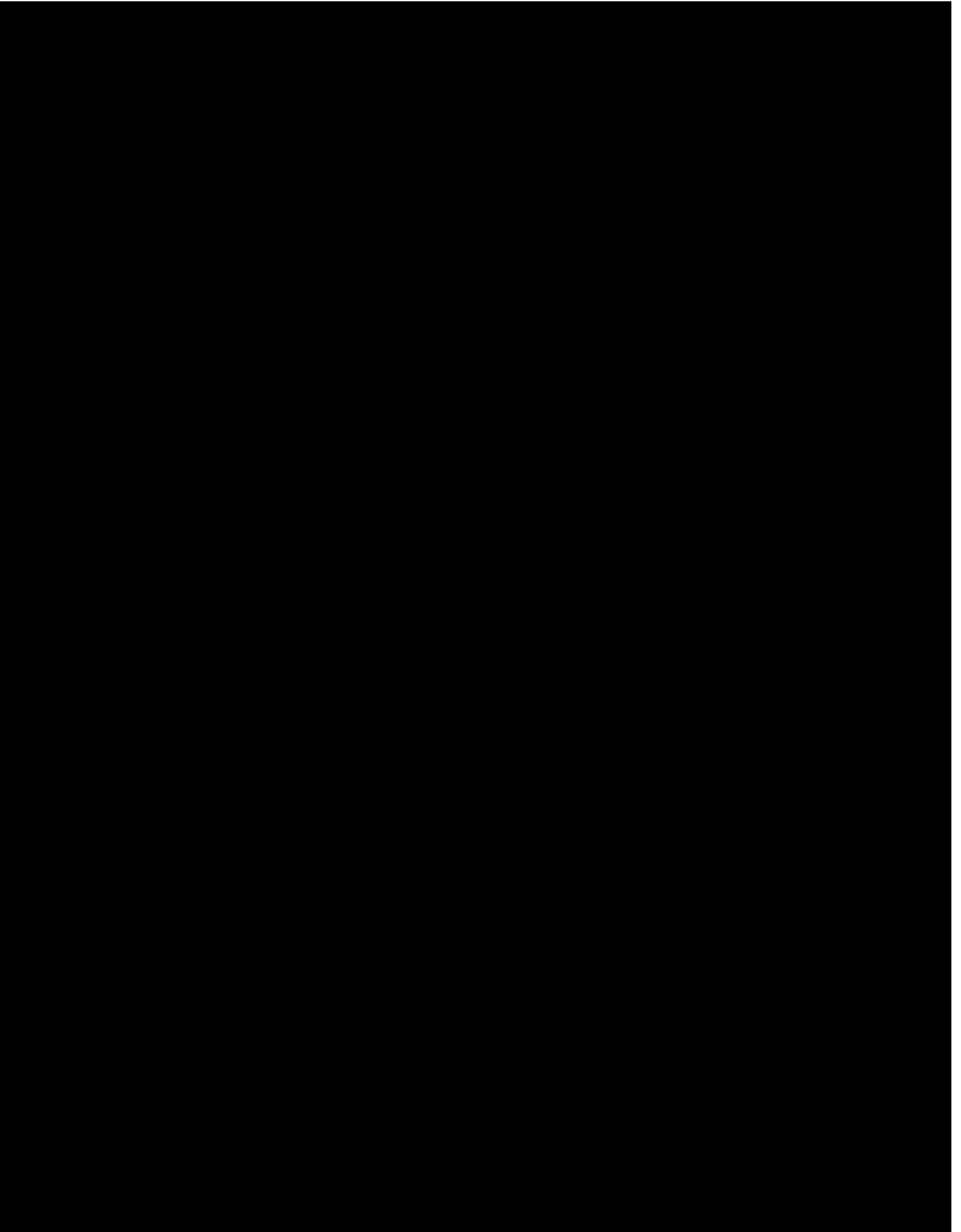


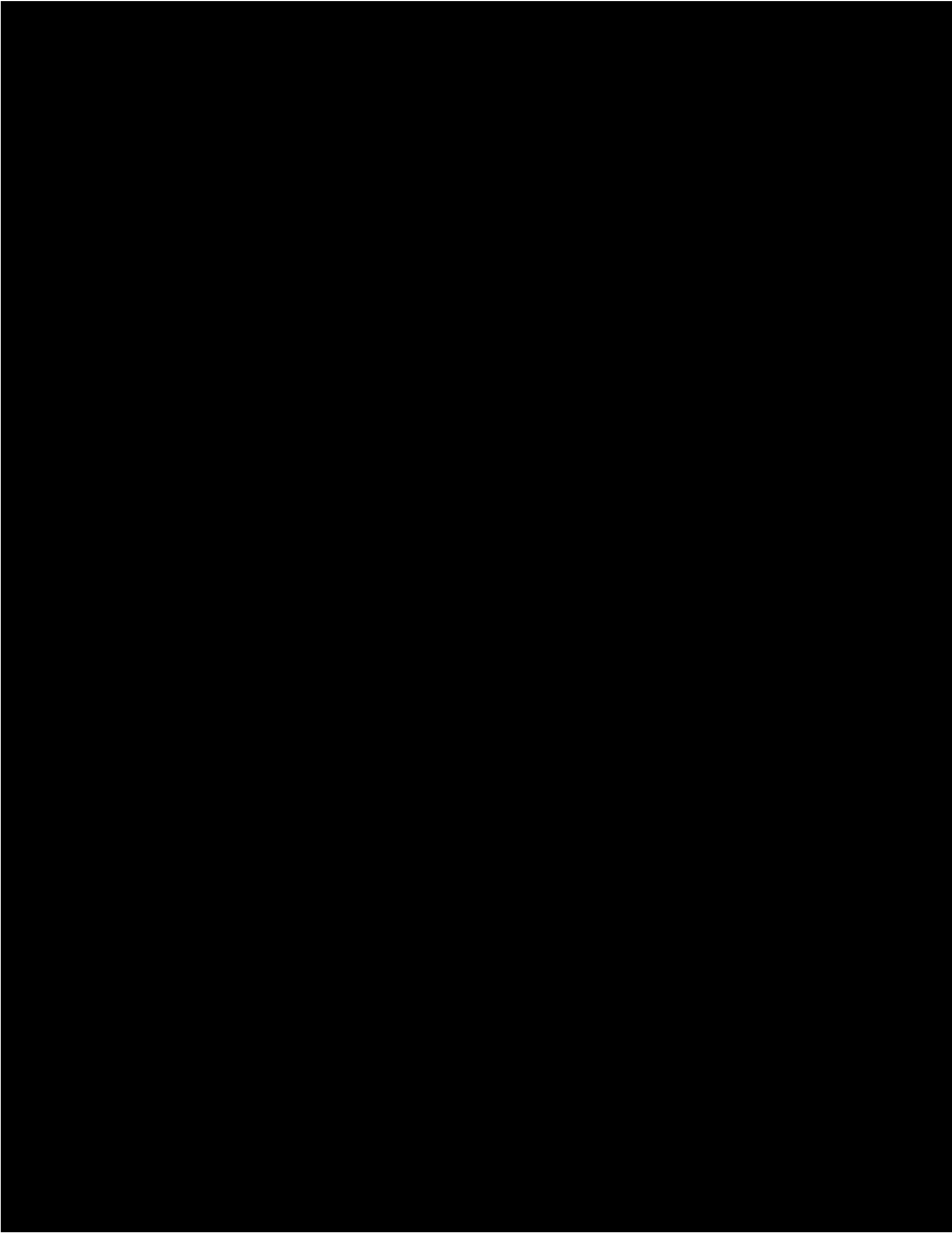


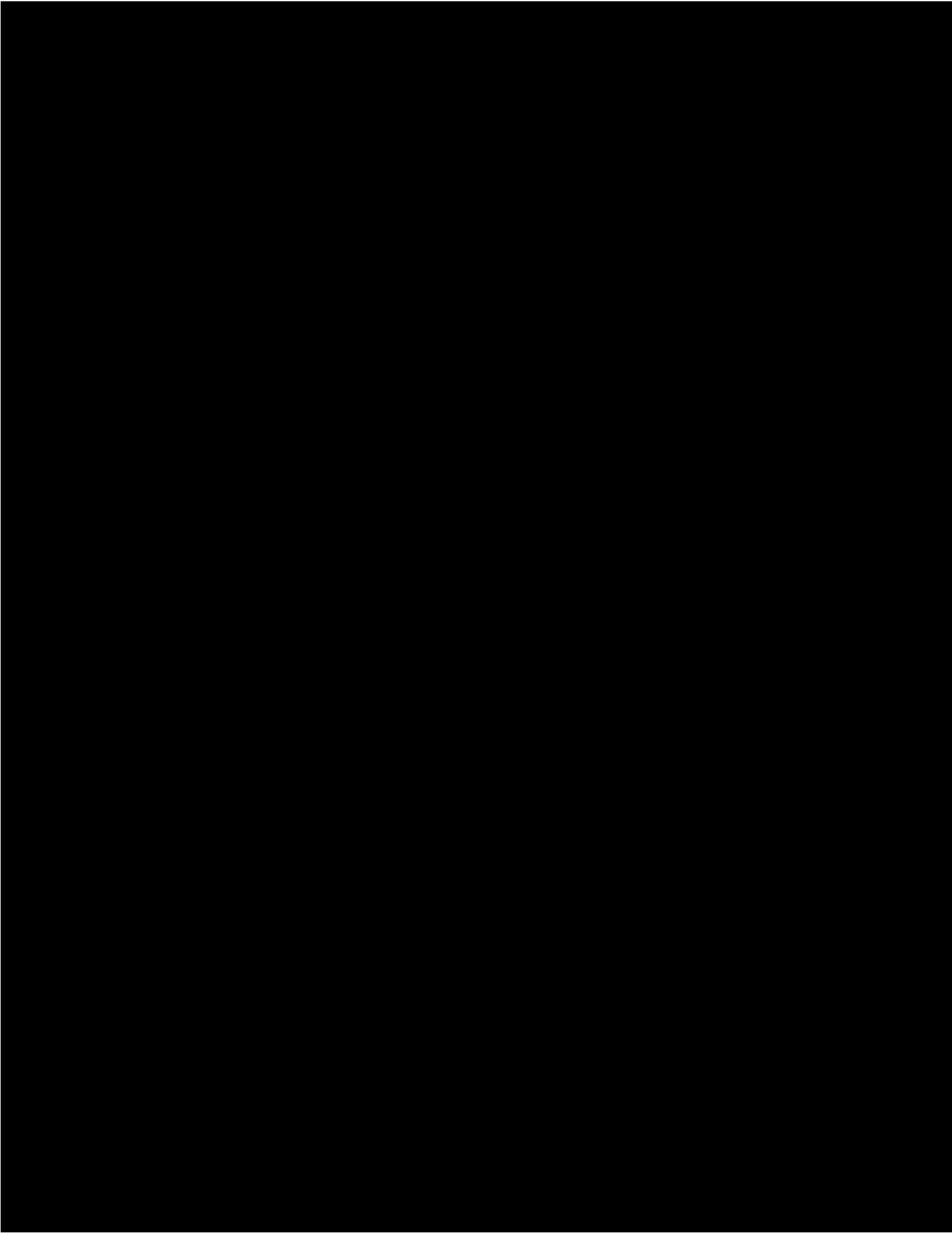


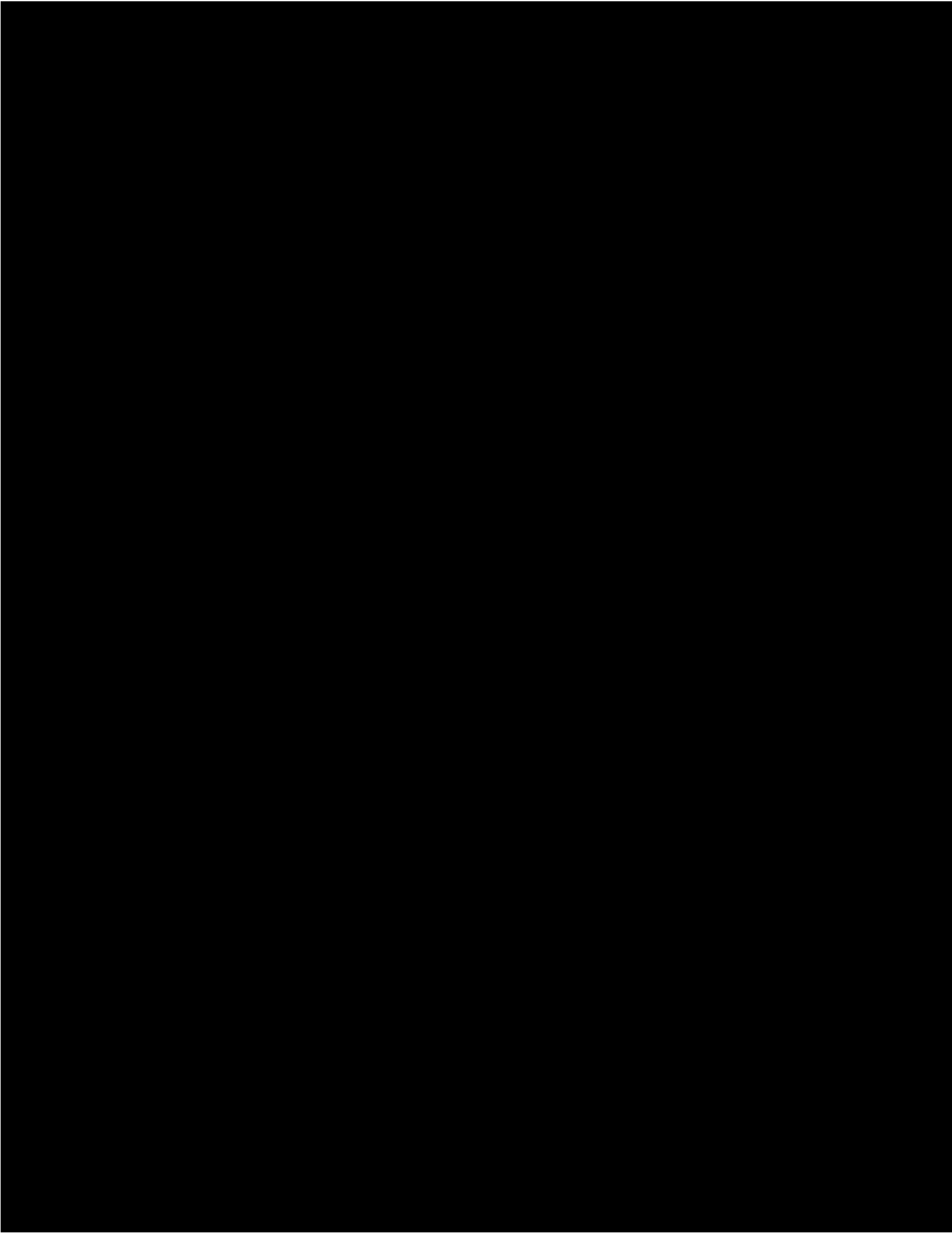


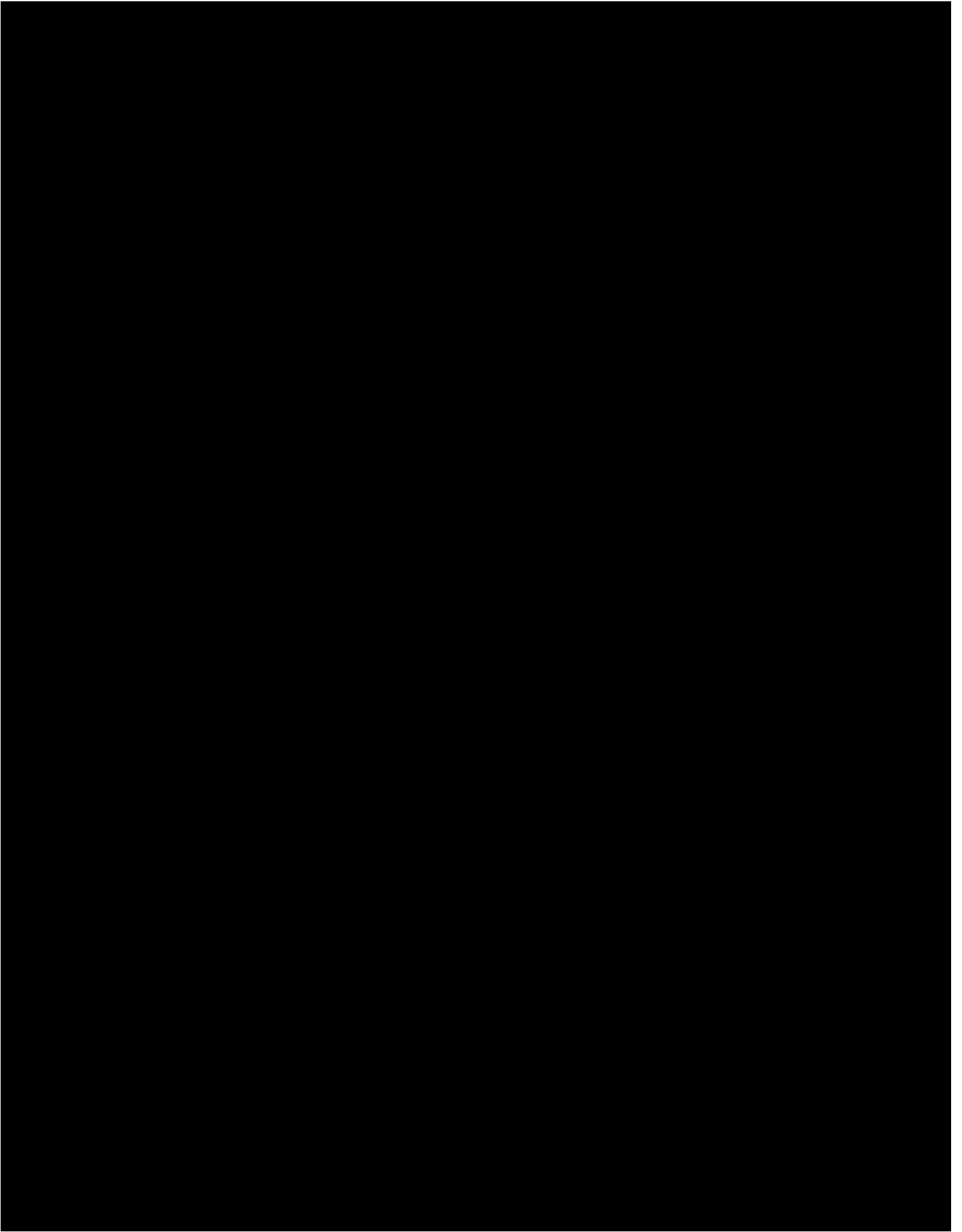


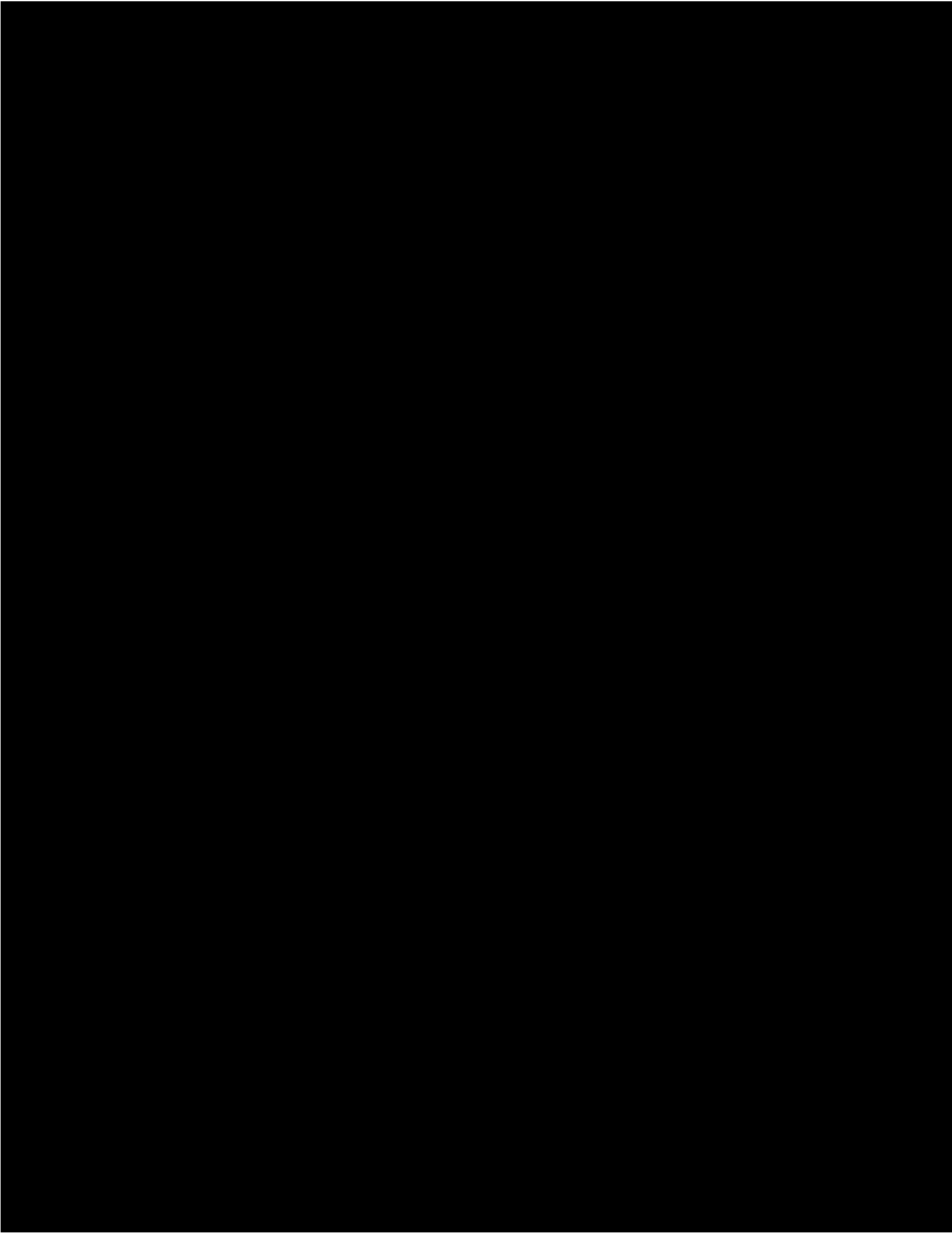


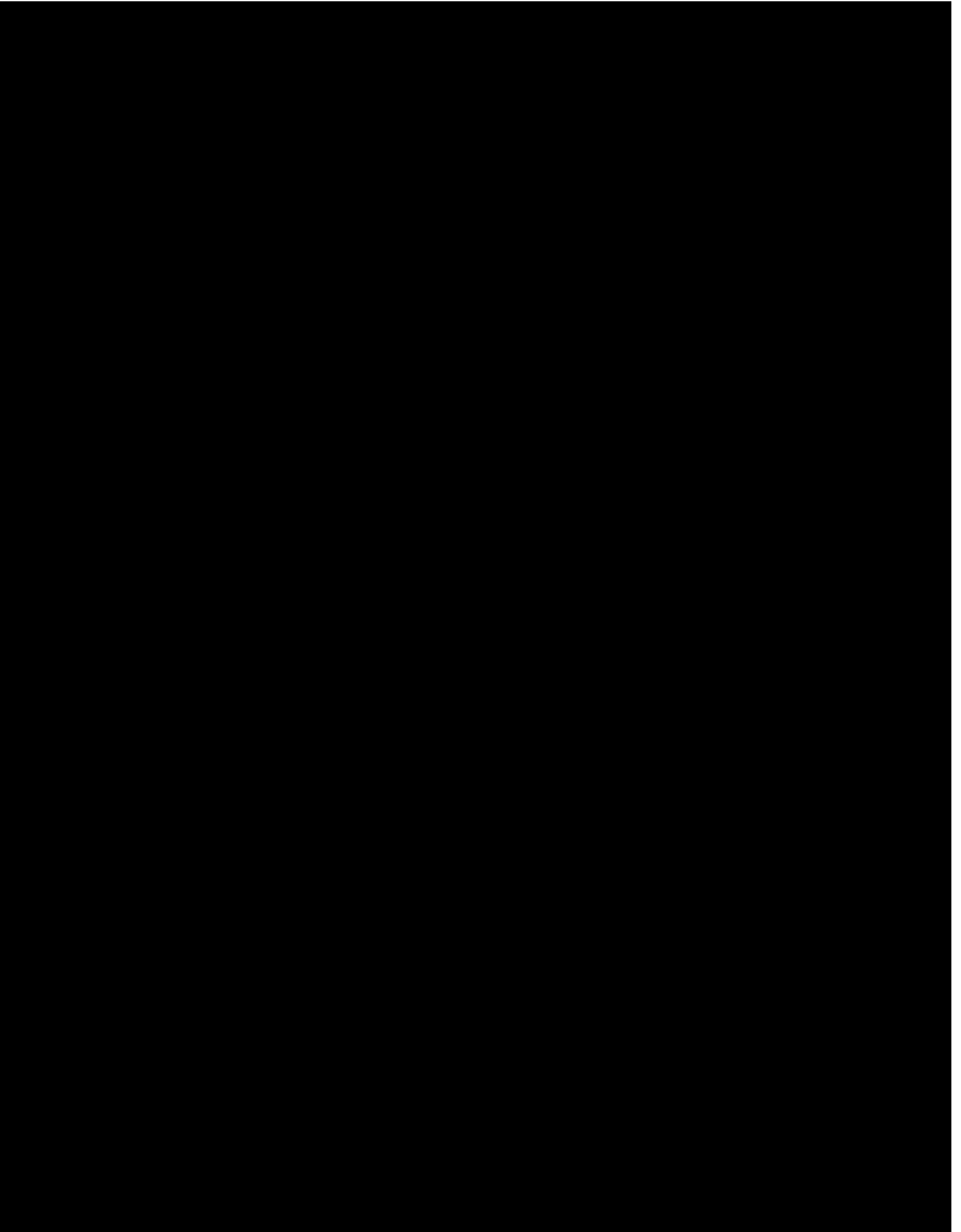


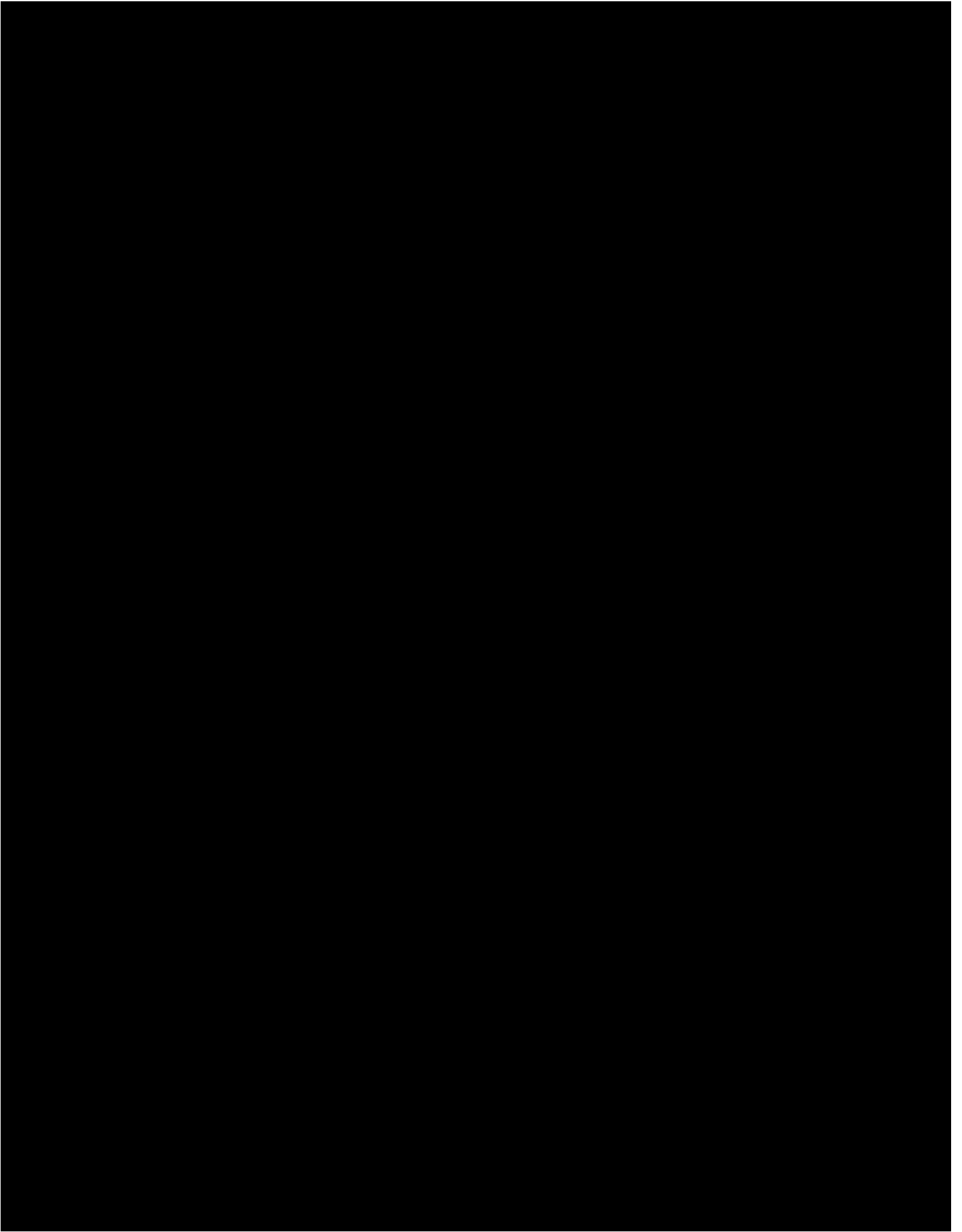


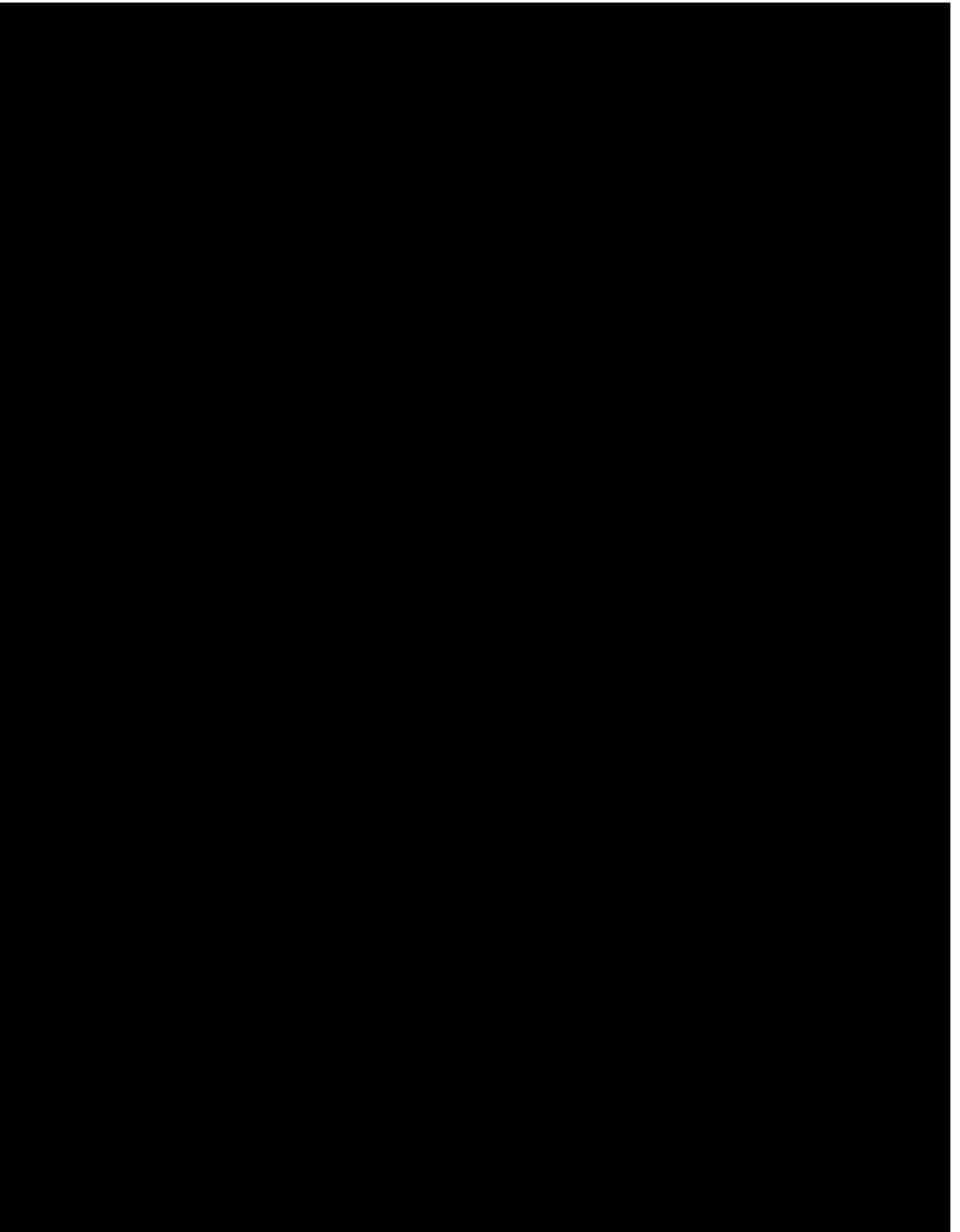












IN THE ARKANSAS STATE CLAIMS COMMISSION

Arkansas
State Claims Commission

MAY 10 2025

RECEIVED

TERRY B. POTTS

PLAINTIFF

VS.

CLAIM NO. 231049

ARKANSAS DIVISION OF CORRECTION

DEFENDANT

LIST OF WITNESS and EXHIBITS

Claimant Terry Potts witness and exhibits include:

1. Witness Sgt. Gowell ADC Varner Unit P.O. Box 600 Grady AR 71616
2. Witness Sgt. Hutson ADC Varner Unit P.O. Box 600 Grady AR 71616
3. Nurse Ryland Varner Unit ADC P.O. Box 600 Grady AR 71616

4. Exhibit Footage of Hallway Camera BKS 11 and 12

5. Exhibit Footage of Hallway Camera BKS 9 and 10

3. Exhibit Infirmary Medical Reports Terry Potts ADC
No 090167All above occurred on the date of March 3 2023 at ADC Varner
Unit P.O. Box 600 Grady, AR 71616 as all witness are located.

Respectfully Submitted

Terry Potts

CERTIFICATE OF SERVICE

A copy of the foregoing is served on Attorneys
Ms. Tawane Rowell, Mr. Miles Morgan, Mr. Trent Rigdon.

at Arkansas Division of Correction • 1302 Pike Avenue,
Suite C • North Little Rock, Arkansas 72114. by U.S. Mail,
Postage prepaid, on this — day of May 2025.

Fury PMS Pro Se

IN THE ARKANSAS STATE CLAIMS COMMISSION

Arkansas
State Claims Commission

MAY 15 2025

RECEIVED

TERRY POTTS

CLAIMANT

vs

ARKANSAS DIVISION OF CORRECTION

DEFENDANT

CLAIMANT LIST OF WITNESS AND EXHIBITS

Claimant Terry Potts Witness and Exhibits include:

1. Witness Sgt. Powell ADC Varner Unit P.O. Box 600
Grady, Arkansas 71644-0600

2. Witness Sgt. Hutson ADC Varner Unit P.O. Box 600
Grady, Arkansas 71644

3. Nurse Ragland ADC Varner Unit P.O. Box 600
Grady, AR 71644

1. Exhibit Camera Footage 11 and 12 BKS ADC Varner Unit 3-3-23
2. Exhibit Camera Footage 9 and 10 BKS ADC Varner Unit 3-3-23
3. Exhibit Medical Reports Terry Potts ADC NO. 090167 ADC
Varner Unit March 3, 2023

Respectfully Submitted

Terry Potts

Terry Potts



CERTIFICATE OF SERVICE

A copy of the foregoing is served on Attorneys
Ms Tawnie Rowell, Mr. Miles Morgan, Mr. Trent Bagdon
at Arkansas Division of Correction, 1302 Pike Avenue,
Suite C, North Little Rock, AR 72114, by U.S. Mail, postage
prepaid, on this 7th day of May 2025.

Terry Potts
Terry Potts ■■■■■

From: [Mika Tucker](#)
To: [Tawnie Rowell \(DOC\)](#); [Miles S. Morgan](#); [Trent Rigdon \(DOC\)](#); [Taylor Reavis \(DOC\)](#)
Cc: [Yolanda Charles \(DOC\)](#)
Subject: RESCHEDULED HEARING: Terry Potts v. ADC, Claim No. 231649
Date: Monday, June 23, 2025 5:29:00 PM
Attachments: [Potts - 231649 rescheduled claim hearing 8-6.pdf](#)

Counselors, please see the attached correspondence.

Thanks,

Mika

Mika Tucker

Arkansas State Claims Commission

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-2818

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

June 23, 2025

Mr. Terry Potts (ADC [REDACTED])
[REDACTED]
[REDACTED]

Mr. Tawnie Rowell
Mr. Miles Morgan
Mr. Trent Rigdon
Ms. Taylor Reavis
Arkansas Division of Correction 1302
Pike Avenue, Suite C
North Little Rock, Arkansas 72114

(via email)

RE: *Terry Potts v. Arkansas Division of Correction*
Claim No. 231649

Dear Mr. Potts, Ms. Rowell, Mr. Morgan, Ms. Reavis and Mr. Rigdon,

Due to a quorum issue, the Commission has rescheduled the claim hearing in this matter to **Wednesday, August 6, 2025**, beginning at 8:45 a.m. The Zoom invitation is enclosed. The pre-hearing deadlines in the Commission's April 2, 2025, correspondence have not changed. The Commission requests that ADC's counsel transmit the Zoom invitation and new hearing details to Claimant's unit.

Sincerely,

Mika Tucker

ES: mtucker

Kathryn Irby -- Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Hearings

Time: Aug 6, 2025 09:00 AM Central Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/81048557384?pwd=dCg0bWo4z2G0GoUrZprZ7L7FjKCapq.1>

Meeting ID: 810 4855 7384

Passcode: 2q3xNU

One tap mobile

+16469313860,,81048557384#,,, *045750# US

+19294362866,,81048557384#,,, *045750# US (New York)

Dial by your location

- +1 646 931 3860 US
- +1 929 436 2866 US (New York)
- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US
- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
- +1 669 900 6833 US (San Jose)
- +1 689 278 1000 US
- +1 719 359 4580 US
- +1 253 205 0468 US
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 360 209 5623 US
- +1 386 347 5053 US
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 669 444 9171 US

Meeting ID: 810 4855 7384

Passcode: 045750

Find your local number: <https://us06web.zoom.us/u/kp34Z0D1V>

From: [Mika Tucker](#)
To: [Trent Rigdon \(DOC\)](#)
Subject: RE: Potts No. 231649
Date: Friday, August 1, 2025 7:00:00 PM

Hi, Trent. There were no subpoena requests filed by Mr. Potts.

Thanks,
Mika

From: Trent Rigdon (DOC) <Trent.Rigdon@doc.arkansas.gov>
Sent: Friday, August 1, 2025 1:02 PM
To: Mika Tucker <Mika.Tucker@arkansas.gov>
Subject: Potts No. 231649

Mika,

Has Mr. Potts provided subpoenas for any of his listed witnesses?

Thank you,

Trent Rigdon
Deputy General Counsel
Office of the Secretary
479-746-1138
1302 Pike Avenue
North Little Rock, AR 72114

From: [Mika Tucker](#)
To: [Trent Rigdon \(DOC\)](#)
Subject: RE: Potts No. 231649
Date: Friday, August 1, 2025 7:17:00 PM
Attachments: [1 Order denying mjp. to set hearing.pdf](#)
[2 Potts -- 231649 -- hearing ltr \(claim\) 7-10-25.pdf](#)
[3 Terry Potts - Witness and Exhibit List.pdf](#)
[4 CL Witness and Exhibit List.pdf](#)
[5 CI 2nd witness and exhibit list.pdf](#)
[6 Potts - 231649 rescheduled claim hearing 8-6.pdf](#)

See the 2025 correspondence, filings and order attached.

Thanks,
Mika

From: Trent Rigdon (DOC) <Trent.Rigdon@doc.arkansas.gov>
Sent: Friday, August 1, 2025 1:08 PM
To: Mika Tucker <Mika.Tucker@arkansas.gov>
Subject: RE: Potts No. 231649

Also, could you please forward me any pleadings and orders filed in this claim in 2025?

Thank you,

Trent Rigdon
 Deputy General Counsel
 Office of the Secretary
 479-746-1138
 1302 Pike Avenue
 North Little Rock, AR 72114

From: Trent Rigdon (DOC)
Sent: Friday, August 1, 2025 1:02 PM
To: Mika Tucker <Mika.Tucker@arkansas.gov>
Subject: Potts No. 231649

Mika,

Has Mr. Potts provided subpoenas for any of his listed witnesses?

Thank you,

Trent Rigdon
 Deputy General Counsel
 Office of the Secretary
 479-746-1138

1302 Pike Avenue
North Little Rock, AR 72114

From: [Misty Scott](#) on behalf of [ASCC Pleadings](#)
To: [Tawnie Hughes \(DOC\)](#); [Miles Morgan \(DOC\)](#); [Trent Rigdon \(DOC\)](#); [Taylor Reavis \(DOC\)](#)
Cc: [ASCC Pleadings](#); [Yolanda Charles \(DOC\)](#); [Mika Tucker](#)
Subject: ORDER: Terry Potts v. ADC, Claim No. 231649
Date: Tuesday, September 30, 2025 9:47:58 AM
Attachments: [Terry Potts v. ADC2.pdf](#)
[Terry Potts-order4.pdf](#)

Dear Counselors:

Please see attached. Contact Mika Tucker with any questions.

Thank you,

Misty

Misty Scott
Arkansas State Claims Commission

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

September 30, 2025

Mr. Terry Potts (ADC [REDACTED])
[REDACTED]
[REDACTED]

Ms. Tawnie Hughes
Mr. Miles Morgan
Mr. Trent Rigdon
Ms. Taylor Reavis
Arkansas Division of Correction
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114

(via email)

Re: ***Terry Potts v. Arkansas Division of Correction***
Claim No. 231649

Dear Mr. Potts, Ms. Hughes, Mr. Morgan, Mr. Rigdon, and Ms. Reavis:

Enclosed please find an Order entered on September 19, 2025, by the Arkansas State Claims Commission. If you have any questions, please do not hesitate to contact my office.

Sincerely,

Mika Tucker

ES: msscott

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TERRI POTTS (ADC [REDACTED])

CLAIMANT

V.

CLAIM NO. 231649

ARKANSAS DIVISION OF
CORRECTION

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Commission”) is the claim filed by Terri Potts (the “Claimant”) against the Arkansas Division of Correction (the “Respondent”). At the hearing on August 6, 2025, Claimant proceeded *pro se*, and Trent Rigdon appeared on behalf of Respondent. Based upon a review of the claim file, testimony and evidence presented, as well as the arguments of the parties and the law of the State of Arkansas, the Commission hereby finds as follows:

1. Claimant filed his claim on June 16, 2023, seeking \$10,000.00 in damages related to a slip and fall injury.
2. Respondent denied liability.¹
3. At the hearing, Claimant testified after being sworn in:
 - Claimant and other inmates were walking through a hallway to the unit’s dining facility on March 3, 2023. During this time, the weather was very rainy.
 - Rain was leaking into the building around the entrance of the dining facility.
 - When Claimant walked into the dining facility, he slipped and fell on water that was leaking into the building. Claimant’s fall [REDACTED]
 - Respondent did not have a caution sign near the leak.
 - One of Respondent’s employees laughed at Claimant when he fell. Another employee helped Claimant off the floor.

¹ The Commission previously entered orders in this claim on December 8, 2023, June 14, 2024, and February 9, 2025.

- After Claimant's fall, another inmate placed a caution sign near the leak.

- [REDACTED]

- [REDACTED]

4. Upon cross-examination by Respondent, Claimant testified:

- Claimant was walking with other people when he entered the dining facility.
- Claimant was the first person from his barracks to enter the dining facility at that time.
- The roof leaks in that area often, and Respondent keeps buckets in that hallway.
- There were buckets in the middle of hallway on the day of Claimant's fall, but there were not buckets on the sides of the hallway.
- Claimant was not aware that there was water on the floor that day.

- [REDACTED]

- Respondent had the hallway lights on a low setting that day. Respondent should have had the lights in the area on a bright setting but did not. It was very difficult for Claimant to see anything.

- [REDACTED]

- [REDACTED]

- [REDACTED]

5. Claimant did not call any other witnesses.²

6. Respondent declined to call any witnesses.

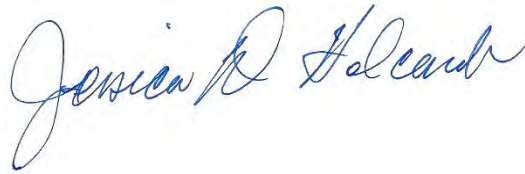
² Although Claimant submitted a witness list pursuant to the Commission's hearing letter, he did not request subpoenas for his listed witnesses.

7. The Commission notes that, in a premises liability claim such as this, a claimant must establish either (1) that the presence of a substance upon the premises was the result of respondent's negligence, or (2) that the substance had been on the premises for such a length of time that the respondent knew or reasonably should have known of its presence and failed to use ordinary care to remove it. *Conagra, Inc. v. Strother*, 68 Ark. App. 120, 123–24, 5 S.W.3d 69, 71–72 (1999), *aff'd*, 340 Ark. 672, 13 S.W.3d 150 (2000). Without such proof, there is no basis for premises liability. See *Jenkins v. International Paper*, *supra*; *Sanders v. Banks*, 309 Ark. 375, 830 S.W.2d 861 (1992).

8. The Commission finds Claimant did not present any evidence that indicated that the rainwater on the floor of the dining facility was the result of Respondent's negligence. The Commission further finds that Claimant did not present any evidence that Respondent knew or reasonably should have known that there was rainwater on the floor of the dining facility, especially considering Claimant's testimony that he was the first person from his barracks to enter the dining facility at the time.

9. As such, the Commission finds that Claimant did not present sufficient evidence to support finding in his favor on his premises liability claim. The Commission DENIES and DISMISSES Claimant's claim.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Dee Holcomb



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow, Chair



ARKANSAS STATE CLAIMS COMMISSION
Sylvester Smith

DATE: September 19, 2025

Notices which may apply to this claim

- (1) A party has forty (40) days from transmission of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Commission. Ark. Code Ann. § 25-44-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the transmission of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Commission. Ark. Code Ann. § 25-44-211(a)(1)(B)(ii). A decision of the Commission may only be appealed to the General Assembly. Ark. Code Ann. § 25-44-211(a)(3).
- (2) If a Claimant is awarded \$15,000.00 or less by the Commission at hearing, that award is held forty (40) days from the date of disposition before payment will be processed to allow either party to utilize its remedies under Ark. Code Ann. § 25-44-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of more than \$15,000.00 are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 25-44-215(b).

Arkansas
State Claims Commission

NOV 05 2025

RECEIVED

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TERRI POTTIS CADC [REDACTED]

CLAIMANT

v

Claim No. 231649

ARKANSAS DIVISION OF

CORRECTION

RESPONDENT

MOTION FOR RECONSIDERATION

COMES NOW CLAIMANT TERRI POTTIS, please, and for his Motion for reconsideration states:

1. On September 19, 2025 the State Claims Commission entered a final order in this action denying and dismissing the claimant's claim.

2. Claimant now files this Motion for reconsideration of the Commission's final order.

3. In the final order the commission uses the incorrect premise that the claimant was the first person in his barracks to enter into the "dining hall", and that the claimant was in or just entered the dining facility when the claimant slipped and fell on rainwater that was on the floor.

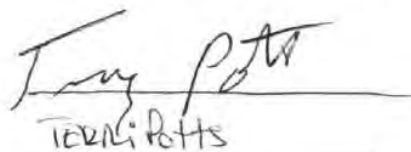
4. This premise is incorrect for the claimant clearly, and unambiguously stated in his complaint, and testified to at the hearing in this matter, that he was the first person from his barracks to walk towards the chow hall when he slipped and fell on the rainwater that was leaking in to the Janner Unit from the roof at North Gate 1, which is outside of the dining hall's Exit door and not at the entrance to or within the dining room. Ex. 1.

5. The Commission erroneously states in their final order that the Claimant did not request subpoenas for his witnesses Sgt Hudson and Sgt Powell. This is erroneous as the Claimant sought out these subpoenas for Sgt Hudson and Sgt Powell at the same time of giving the Commission his witness list.

6. Had the Commission issued the subpoenas as the Claimant had asked for Sgt Hudson and Sgt Powell, the witnesses would have testified to the facts that (a) it was raining on the day in question, (b) that when it rains ADC Vanner Unit Administration knows that the roof leaks every time in the location of the Claimant's fall; and (c) that the Claimant fell and was injured at the north Gate 1, which is located in the main corridor of the Vanner Unit to the north, outside of the chowhall or "dining facilities" Exit, and that the claimant did not fall within the dining area.

WHEREFORE, the Claimant prays the Commission to reconsider the Claim, vacate the judgment of the final order, grant the Claimants Claim, or in the alternative, set a new hearing with the proper subpoenas issued.

Respectfully submitted,


TERRI POTTS



CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of November 2025, I sent the foregoing by way of USPS First class mail by depositing such into the Warner Unit legal mail system to:

TRENT ZIGDEN

ARK. DIV. of CORR.

1302 FIKE AVE., Suite C

North Little Rock, AR 72114

Terry Potts

TERRY POTTS

Arkansas
State Claims Commission

Please print in ink or type

JUN 18 2023

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

RECEIVED

☒ Mr.
☐ Mrs.
☐ Ms.
☐ Miss

Terry Potts (ADC [REDACTED]), Claimant

VS

State of Arkansas, Respondent
Arkansas Department of Correction
at Varner Unit

Do Not Write in These Spaces	
Claim No.	State Claims Commission
Date Filed	(Month) JUN 26 2023 (Year)
Amount of Claim \$	
Fund	RECEIVED

COMPLAINT

Terry Potts (ADC [REDACTED]), the above named claimant, of (Name) (Street or R.F.D. & No.) (City)

(State) (Zip Code) (Daytime Phone No.) County of represented by (Legal Counsel, if any, for Claim)

of (Street and No.) (City) (State) (Zip Code) (Phone No.) (Fax No.) says

State agency involved NONE Amount sought: \$ 10,000.00

Month, day, year and place of incident or service: 3-3-23 - AT VARNER UNIT (ADC)

Explanation: ON 3-3-23 ABOUT 3:00 AM I WAS ON MY WAY TO THE CHOWHALL. IT WAS RAINING HARD OUTSIDE AND IT WAS LEAKING WATER FROM THE ROOF. AT NORTH GATE I AS I WENT THROUGH

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof, when? (Yes or No) (Month) (Day) (Year) (Department)

and that the following action was taken thereon:

and that \$ was paid thereon: (2) Has any third person or corporation an interest in this claim? NO, if so, state name and address

(Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)

and that the nature thereof is as follows:

and was acquired on, in the following manner

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verily believes that they are true.

TERRY Potts
(Print Claimant/Representative Name)Terry Potts
(Signature of Claimant/Representative)SWORN TO and subscribed before me at Grady Arkansas
(City) (State)on this 13th day of June 2023
(Date) (Month) (Year)Jameshe Z. Madden
(Notary Public)My Commission Expires March 16 2025
(Month) (Day) (Year)

SEWESHA Z. MADDEN
NOTARY PUBLIC-STATE OF ARKANSAS
DESHA COUNTY
EXPIRES #1240818 EXP. MARCH 16, 2025

SF1-R799

Ex. 1

From: [Misty Scott](#) on behalf of [ASCC Pleadings](#)
To: [Tasha Tidwell](#); [Miles Morgan](#)
Cc: [Yolanda Charles](#); [ASCC Pleadings](#); [Mika Tucker](#)
Subject: ORDER: Terry Potts v. ADC, Claim No. 231649
Date: Monday, February 9, 2026 2:15:05 PM
Attachments: [Terry Potts v. ADC4.pdf](#)
[Terry Potts-order5.pdf](#)

Ms. Tidwell and Mr. Morgan:

Please see attached. Contact Mika Tucker with any questions.

Thank you,

Misty

Misty Scott
Arkansas State Claims Commission

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

February 9, 2026

Mr. Terry Potts (ADC [REDACTED])
[REDACTED]

Ms. Tasha Tidwell
Mr. Miles Morgan
Arkansas Division of Correction
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114

(via email)

Re: ***Terry Potts v. Arkansas Division of Correction***
Claim No. 231649

Dear Mr. Potts, Ms. Tidwell, and Mr. Morgan:

Enclosed please find an Order entered on February 5, 2026, by the Arkansas State Claims Commission. If you have any questions, please do not hesitate to contact my office.

Sincerely,

Mika Tucker

ES: msscott

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TERRY POTTS (ADC [REDACTED])

CLAIMANT

V.

CLAIM NO. 231649

ARKANSAS DIVISION OF
CORRECTION

RESPONDENT

**ORDER ON CLAIMANT'S
MOTION FOR RECONSIDERATION**

Now before the Arkansas State Claims Commission (the "Commission") is a motion filed by Terry Potts (the "Claimant") for reconsideration of the Commission's September 19, 2025, order dismissing his claim against the Arkansas Division of Correction (the "Respondent"). Based upon a review of the motion, the claim file, the arguments made therein, and the law of Arkansas, the Commission hereby finds as follows:

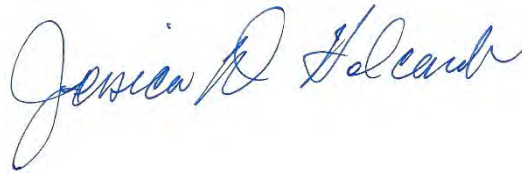
1. Claimant filed his claim on June 16, 2023, seeking \$10,000.00 in damages related to a slip and fall injury.
2. The Commission entered orders in this claim on December 8, 2023, June 14, 2024, and February 9, 2025.
3. Following a hearing on the claim on August 6, 2025, the Commission found Claimant did not present sufficient evidence to support finding in his favor on his premises liability claim and dismissed his claim in its September 19, 2025, order.
4. Claimant thereafter filed the instant motion for reconsideration, arguing, *inter alia*, that the Commission description of the location of his fall was incorrect and that he submitted requests for subpoenas but no subpoenas were issued by the Commission.

5. In analyzing a motion for reconsideration, Rule 7.1 of the Commission Rules and Regulations states that motions for reconsideration “will only be entertained if they set forth new or additional evidence which was not [previously] available”

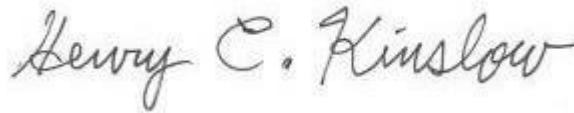
6. The Commission finds that the motion does not set forth new or additional evidence not previously available. The Commission specifically notes that the exact location of Claimant’s fall is irrelevant to its analysis contained in the September 19, 2025, order, in which the Commission concluded that Claimant did not present any evidence that indicated the rainwater on the floor was the result of Respondent’s negligence. Additionally, the Commission notes that, although Claimant filed two witness lists prior to the claim hearing, it has no record of Claimant filings subpoena requests for the listed individuals.

7. As such, Claimant’s motion for reconsideration is DENIED, and the Commission’s September 19, 2025, order remains in effect.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Dee Holcomb



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow, Chair



ARKANSAS STATE CLAIMS COMMISSION
Sylvester Smith

DATE: February 5, 2026

Notices which may apply to this claim

- (1) A party has forty (40) days from transmission of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Commission. Ark. Code Ann. § 25-44-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the transmission of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Commission. Ark. Code Ann. § 25-44-211(a)(1)(B)(ii). A decision of the Commission may only be appealed to the General Assembly. Ark. Code Ann. § 25-44-211(a)(3).
- (2) If a Claimant is awarded \$15,000.00 or less by the Commission at hearing, that award is held forty (40) days from the date of disposition before payment will be processed to allow either party to utilize its remedies under Ark. Code Ann. § 25-44-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of more than \$15,000.00 are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 25-44-215(b).

Arkansas
State Claims Commission

FEB 19 2026

RECEIVED
CLAIMANT

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TERRY POTTS (ADC) [REDACTED]

v.

CLAIM NO. J31649

ARK. Division of CORR.

RESPONDENT

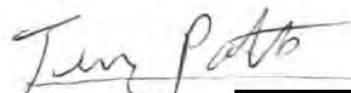
NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN this 15th day of February 2026 that Claimant Terry Potts appeals to the Arkansas General Assembly from the denial of his Motion for Reconsideration, entered on the 5th of February 2026, over the Commission's dismissal of his claim on the 19th day of September 2025.

The Claimant designates the entire Record and all proceedings, Exhibits, evidence, testimony, letters, correspondences, and filings to include all hearings.

The Claimant states that good cause shown, the State Claims Commission causes the transcripts of the designated Record of appeal, deemed essential and docketing.

Respectfully Submitted


 TERRY POTTS [REDACTED]
CERTIFICATE OF SERVICE

I certify that, on this 15th day of February 2026, I mailed the foregoing by way of USPS, by depositing such into the ALC VARNER Unit Legal mail system, to:

Tasha Tidwell
 ARK. Division of CORR.
 1302 Pike Ave., Suite C
 North Little Rock, AR 72114


 TERRY POTTS