

PUBLIC

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the matter of:

Intuit Inc.,
a corporation,

Respondent.

Docket No. 9408

**MOTION FOR LEAVE TO SUPPLEMENT COMPLAINT COUNSEL'S
EXHIBIT LIST AND TO ADMIT INTO EVIDENCE GX GX870, THE
SUPPLEMENTAL EXPERT REPORT OF DR. YOELI OR, IN THE
ALTERNATIVE, OPPOSITION TO INTUIT'S MOTION FOR LEAVE TO
AMEND ITS EXHIBIT LIST AND TO ADMIT INTO EVIDENCE RX1520,
THE SUPPLEMENTAL EXPERT REPORT OF BRUCE DEAL**

At the eleventh hour, and well after its deadline to serve its expert report or exchange expert related exhibits, Intuit served the Supplemental Expert Report of Bruce Deal (the "Supplemental Deal Report"). Complaint Counsel ("CC") did not file a motion *in limine*, but instead simply responded, serving a supplemental rebuttal expert report a week later that addresses Mr. Deal's new opinions and analyses. Now, Intuit asks this Court to permit it to add *its* supplemental expert report to its exhibit list, but to bar CC from rebutting that report unless CC agrees to serve a neutered version of the report. *See generally*, Respondent's Mar. 22, 2023 Motion for Leave to Amend its Exhibit List and to Admit into Evidence RX1520, The Supplemental Expert Report of Bruce Deal (the "Motion"). Such maneuvering should not be tolerated. CC therefore respectfully moves this Court to add the March 17, 2023 Supplemental Rebuttal Expert Report of Dr. Erez Yoeli (the "Supplemental Yoeli Rebuttal Report"), GX 870, to CC's Exhibit List. In the alternative, if this Court denies CC's instant motion, CC opposes Intuit's Motion. Any delay in adding the Supplemental Deal Report to the exhibit list falls squarely at the feet of Intuit. *See infra*. Respondent has not shown good cause to add expert

materials late, and the Supplemental Deal Report should not come in, therefore, absent an opportunity for CC to rebut it.

Factual background.

On December 30, 2022, this Court granted CC's Motion to Compel (the "December Order") pertaining to Intuit's customer relational management database (the "CRM data"), compelling Intuit to produce the ordered CRM data by January 23, 2023. Order, Dec. 30, 2022. The December Order also: (1) extended the fact discovery deadline for the limited purpose of production of the CRM data, and (2) permitted the parties to modify their expert reports "as necessary to respond" to the production of CRM data. The December Order, however, *did not* extend the February 17 deadline to exchange expert related exhibits or complete expert related depositions. Absent consent, then, the Parties must seek permission of the Court to add any expert exhibits to their exhibit lists that were not identified by February 17. *See* First Revised Sched. Order, Sept. 12, 2022.

On January 13, Intuit served the Expert Report of Bruce Deal (the "January Deal Report"). Attachment A, RX 1027. In that report, Mr. Deal does not consider or analyze any data from Intuit's CRM database. *See id.* On January 23, 2023, Intuit produced its CRM data pursuant to the December Order. Intuit's representation that it then, on February 7 and 9, "notified Complaint Counsel..., [that] as contemplated in the [December] Order, Intuit planned to modify its expert reports to respond to the CRM data" strains candor to the Court. *Compare* Mot. at 1 *with* Mot. Ex. B at 2-3. In truth, Intuit: (1) on February 7, proposed a schedule in which CC would first serve any modified expert reports, after which Intuit, by March 3, would "serve modified expert report(s), *if any*,"¹ (emphasis added); and (2) on February 9, (after CC pointed out that Intuit shouldn't need to file a modified expert report to analyze its own data)

¹ In its Motion, Intuit never explains why the report was not served until 11:52 p.m. on March 9, nearly a week after March 3.

PUBLIC

“reserve[d] its right” to file such modified reports²—a far cry from notifying CC that it would, in fact, file such reports.

Then, more than three weeks after Intuit produced its CRM data and two days before the deadline to exchange expert related exhibits, on February 15, 2023, Deal was deposed. At that time, he confirmed that, while he knew there had been a “back and forth between the FTC and Intuit about the CRM data,” he didn’t “have it,” hadn’t “analyzed it,” and “didn’t have any need for it.” Attachment B, Excerpts of RX 1395, at 81:1-10; 173:7-175:3. Deal also confirmed that he has been on the Intuit case “more than a year,” and received all data sets he requested. *Id.* at 8:22-9:3; 77:13-15. Two days later, the deadline to exchange expert exhibits passed, without Intuit having disclosed that Deal would submit a supplemental expert report.

On March 9, 2023, at 11:52 p.m. — two weeks before the Pre-Hearing Conference in this matter, and nearly three weeks after its February 17 deadline to serve expert related exhibits and almost two months after its January 13 deadline to submit expert reports — Intuit served the Supplemental Deal Report. *See* Attachment C (Mar. 9, 2023 Email from B. Chapin to R. Plett et. al). On Wednesday March 15, 2023, CC informed Intuit that it would serve, and sought consent to add to its exhibit list, a brief supplemental rebuttal expert report of Yoeli to rebut the Supplemental Deal Report. *See* Mot. at Ex. A. On March 17, 2023, CC served the Supplemental Yoeli Rebuttal Report. *Id.* On March 20, 2023, the Parties met and conferred, and were unable to consent to the addition to their exhibit lists of the two expert rebuttal reports. *See id.*

I. CC Has Good Cause to Add the Supplemental Expert Report of Dr. Yoeli to Its Exhibit List

“Good cause is demonstrated if a party seeking to extend a deadline demonstrates that a deadline cannot reasonably be met despite the diligence of the

² As CC pointed out then, “[a]s there will be no [Complaint Counsel] modification to respond to, and given that the production contained Intuit’s own data which it could have had its experts analyze before Intuit’s expert reports were due, we don’t believe Intuit should have a need to modify its expert reports either.”

PUBLIC

party seeking the extension.” *In the Matter of Chicago Bridge & Iron Company N.V.*, 2002 FTC Lexis 69, at *5 (Oct. 23, 2002) (citations omitted). CC has good cause to add the Supplemental Yoeli Rebuttal Report to its exhibit list because, through no fault of it or Yoeli, the supplemental report could not have been timely added to its exhibit list. Yoeli is designated as a *rebuttal* expert in this case and was retained to rebut the expert opinions of Intuit’s expert Deal. *See e.g.*, GX 870 at ¶¶1 to 2. Deal’s supplemental report was served close to midnight on March 9, weeks after the February 17 expert related deadlines. The Supplemental Yoeli Rebuttal Report was served a mere *one week* after receiving the Supplemental Deal Report. CC has therefore acted reasonably and with diligence, and good cause exists to add the Supplemental Yoeli Rebuttal Report to its exhibit list.

Intuit’s objection to the Supplemental Yoeli Rebuttal Report is flawed. First, Intuit relays that CC “informed Intuit that they did not intend to modify their expert reports in response to the CRM data.” Mot. at 2. On February 7, 2023, when Intuit inquired, however, CC did *not* intend to serve an expert report analyzing the CRM data, but instead assigned review of the CRM data to an in-house data analyst. Intuit’s decision to serve a tardy Supplemental Deal Report, however, created a need for CC to rebut Deal’s new report. Neither is it dispositive that Yoeli’s rebuttal report was “produced long past the deadline for expert reports and Yoeli’s deposition.” Mot. at 3. Yoeli is a rebuttal expert, and his opinions are necessarily, and appropriately, in response to those of Deal—whose report was not served on CC until March 9. In his January Expert Rebuttal Report, in fact, Yoeli reserved the right to supplement or modify his opinions if “any additional report(s) or opinions are offered by experts for the defendants.” Attachment D, GX 743, at par. 11. Yoeli does so now.³

³ It would be prejudicial to CC’s ability to prosecute its case if Intuit is permitted to file a supplemental report with new evidence and analysis at the eleventh hour, and CC’s properly designated rebuttal expert is not permitted to rebut the report. Intuit does not provide any sound basis that its late report should be admitted, but CC’s

(continued)

PUBLIC

Intuit’s alternative argument to exclude the Supplemental Yoeli Rebuttal Report, however, is that Yoeli analyzed additional data beyond the CRM data, and therefore goes “beyond the scope” of this December Order. Mot. at 5 As an initial matter, the question of whether Yoeli’s report should come in rests on whether CC has good cause to add the report to the exhibit list, not on whether Intuit blesses Yoeli’s specific analysis. More importantly, however, Intuit asks this Court to read the Supplemental Deal Report myopically to be solely about the CRM data first produced in January. This characterization ignores that the Supplemental Deal Report to which Yoeli is responding applies a new methodology (systematically applying search terms across Intuit’s own data) to explicitly bless, and build on, the opinions of in the January Deal Report.

In the January Deal Report, Deal draws conclusions about whether a consumer could be deceived based, in part, on filtering customer review data by using the 1 to 5 rating score that the consumer gave a TurboTax product after being prompted to leave a review upon completing their tax filing. Attachment A, RX 1027, at ¶¶ 154 to 160. Nowhere in Deal’s January report does he run search terms across the customer review data, or any other Intuit data set. In rebutting Deal’s January opinions, Yoeli considers Deal’s methodology – filtering based on review score – and opined that evidence of customer satisfaction scores does not preclude deception because, for example, customers may leave no review or a good review and still have been deceived into believing that TurboTax was free for them. Attachment D, GX 743 at ¶¶ 129-130.

The Supplemental Deal Report, however, applies a new methodology in which Deal, for the first time, systematically applies search terms to Intuit’s data. Specifically, Deal runs a narrow set of search terms against some fields in the CRM data, and finds a small number of examples that meet his criteria. He then extrapolates from the ratio of

rebuttal – served a mere week after the Supplemental Deal Report – should be excluded as untimely.

PUBLIC

search term hits in the CRM database to the total customer base to purportedly show a lack of deception. In his Supplemental Yoeli Rebuttal Report rebutting Deal's analysis of CRM data, among other critiques, Yoeli runs a wider set of search terms against both the CRM data and the customer review data "to illustrate how Deal's analyses fail to account for deceived consumers." Attachment D, GX 743, at par 48. This analysis is purely in rebuttal to Deal. And while Intuit tries to constrain Yoeli to applying search terms across the CRM, it is appropriate and proper for him to employ this methodology in the customer review data, which, unlike the CRM data, captures feedback directly from consumers. (As Deal described in his deposition, the CRM data is "moderated through whatever the customer service person typed in.") Attachment B, at 174:22-23.

While Intuit would like to cabin Yoeli's rebuttal report, it provides no authority for the proposition that Yoeli's rebuttal of Deal's new supplemental opinions needs to be constrained solely an analysis of the CRM data. It is entirely appropriate for a rebuttal expert to rely on the full record in rebutting a supplemental report. This is exactly what Yoeli does. Yoeli relies on data that was produced by Intuit, disclosed on CC's exhibit list in December, and directly relates to the analysis performed in the Supplemental Deal Report. The court is entitled to evaluate the entire story. The Supplemental Yoeli Rebuttal Report is therefore proper and should come in, in full.

II. In the Alternative, Intuit Has Not Shown Good Cause to Add the Supplemental Deal Report to the Exhibit List After its Deadline.

Although CC has legitimate objections to the addition of the Supplemental Deal Report to Intuit's Exhibit List, described below, it would first advocate that both reports come into evidence, where their relative merits can be assessed by the trier of fact – this Court. If, however, CC's Motion is denied, then, for the following reasons, CC opposes Intuit's Motion.

First, the Deal Supplemental Report is untimely. Although this Court's December Order permits the parties to modify their expert reports in response to the CRM data, it

PUBLIC

expressly did *not* extend the February 17, 2023 deadlines to exchange expert related exhibits. The Court clearly intended such expert materials to be exchanged by February 17. *See* Dec. 12, 2023 Order. Intuit, however, did not timely include the Supplemental Deal Report as an exhibit. And CC did not consent to its addition. Therefore, Intuit requires leave of this Court after showing “good cause” to add the Supplemental Deal Report to its exhibit list. Scheduling Order at par. 23. Intuit has not shown good cause.

In the Supplemental Deal Report, Deal’s assignment was to analyze *Intuit’s* CRM data. As Intuit’s retained expert, Deal could have analyzed the data any time since he was retained a year ago. Instead, Deal admitted in his deposition (taken weeks after the data was produced to CC and only two days before the deadline to exchange expert exhibits), that he did not possess, request or analyze the CRM data. *See supra* at 3. Intuit, therefore, failed to act with diligence, and cannot show good cause to add the Supplemental Deal Report to its exhibit list now.

Second, the Deal Supplemental Report, at least in part, relies on evidence that has already been excluded by this Court in its March 7, 2023 Order on Motions *in Limine*. Specifically, in that Order, this Court granted CC’s motion to preclude Intuit from introducing evidence of customer satisfaction as a defense to liability. Mar. 7 Order at 8-9. Deal, however, liberally uses the Supplemental Deal Report to “bless” the numbers he arrived at using customer satisfaction evidence, purporting to validate the small number of consumers that he arrived at in his January Deal Report – while omitting that the methodology used to reach that number relied on evidence of customer satisfaction. The Supplemental Deal Report, therefore, is improper.

Conclusion.

Intuit accuses CC of withholding consent to belatedly add the Supplemental Deal Report in order to “strong arm” Intuit and hold the supplemental report “hostage.” This couldn’t be further from the truth. Instead, Complaint Counsel articulated valid objections to the Supplemental Deal Report but, in the interest of allowing both parties

PUBLIC

to put on their cases, agreed to remove its objection as long Yoeli could fully rebut the new Deal report. Complaint Counsel submits that that is still the best course of action, and respectfully requests that the Supplemental Deal Report and Supplemental Yoeli Rebuttal Report be added to the parties' Exhibit Lists.

Respectfully submitted,

Dated: March 22, 2023

/s/ Sara Tonnesen

Roberto Anguizola, IL Bar No. 6270874

Rebecca Plett, VA Bar No. 90988

James Evans, VA Bar No. 83866

Sara Tonnesen, MD Bar No. 1312190241

Federal Trade Commission

600 Pennsylvania Ave., NW, CC-6316

Washington, DC 20580

(202) 326-3284 / ranguizola@ftc.gov

(202) 326-3664 / rplett@ftc.gov

(202) 326-2026 / james.evans@ftc.gov

(202) 326-2879 / stonnesen@ftc.gov

**Counsel Supporting the Complaint
Federal Trade Commission**

PUBLIC

CONFERENCE STATEMENT

Counsel for the moving party has conferred with opposing counsel in an effort in good faith to resolve by agreement the issues raised by the motion and has been unable to reach such an agreement

/s/ Sara Tonnesen
Sara Tonnesen

PUBLIC

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the matter of:

Intuit Inc.,
a corporation,

Respondent.

Docket No. 9408

[Proposed] ORDER

Upon consideration of Complaint Counsel’s Motion for Leave to Supplement Complaint Counsel’s Exhibit List and to Admit into Evidence GX 870, the Supplemental Expert Report of Dr. Erez Yoeli:

IT IS HEREBY ORDERED, that the Motion is GRANTED.

Dated:

D. Michael Chappell
Chief Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2023, I electronically filed the foregoing Motion for Leave to Amend its Exhibit List and to Admit into Evidence GX 870, or, In the Alternative, to Deny Respondent’s Motion for Leave to Amend its Exhibit List and to Admit into Evidence RX 1520, electronically using the FTC’s E-Filing system, and I caused the foregoing document to be sent via email to:

April Tabor
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW
Suite CC-5610
Washington, DC 20580
ElectronicFilings@ftc.gov

*Secretary of the Commission
Clerk of the Court*

Hon. D. Michael Chappell
Chief Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, NW
Suite H-110
Washington, DC 20580

Administrative Law Judge

I further certify that on March 22, 2023, I caused the foregoing document to be served via email on:

David Z. Gringer
Phoebe Silos
Charles Bridge
Wilmer Cutler Pickering Hale & Dorr LLP
7 World Trade Center
250 Greenwich Street
New York, NY 10007
David.Gringer@wilmerhale.com
Phoebe.Silos@wilmerhale.com
Charles.Bridge@wilmerhale.com
(212) 230-8800

Shelby Martin
Wilmer Cutler Pickering Hale & Dorr LLP
1225 Seventeenth Street, Suite 2600
Denver, CO 80202
Shelby.Martin@wilmerhale.com
(720) 274-3135

Katherine Mackey
Wilmer Cutler Pickering Hale & Dorr LLP
60 State Street
Boston, MA 02109
Katherine.Mackey@wilmerhale.com
(617) 526-6000

Jonathan E. Paikin
Jennifer Milici
Derek A. Woodman
Vinecia Perkins
Andres Salinas
Spencer Todd
Jocelyn Berteaud
Benjamin Chapin
Margaret (Molly) Dillaway
Reade Jacob
Wilmer Cutler Pickering Hale & Dorr LLP
1875 Pennsylvania Avenue NW
Washington, DC 20006
Jonathan.Paikin@wilmerhale.com
Jennifer.Milici@wilmerhale.com
Derek.Woodman@wilmerhale.com
Vinecia.Perkins@wilmerhale.com
Andres.Salinas@wilmerhale.com
Spencer.Todd@wilmerhale.com
Joss.Berteaud@wilmerhale.com
Benjamin.Chapin@wilmerhale.com
Molly.Dillaway@wilmerhale.com
Reade.Jacob@wilmerhale.com
(202) 663-6000

Attorneys for Respondent, Intuit Inc.

PUBLIC

/s/ Sara Tonnesen
SARA TONNESEN

Attachment A



**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Lina M. Khan, Chair**
 Rebecca Kelly Slaughter
 Christine S. Wilson
 Alvaro M. Bedoya

In the Matter of:

Intuit Inc., a corporation.

Docket No. 9408

**EXPERT REPORT OF BRUCE F. DEAL
JANUARY 13, 2023**

TABLE OF CONTENTS

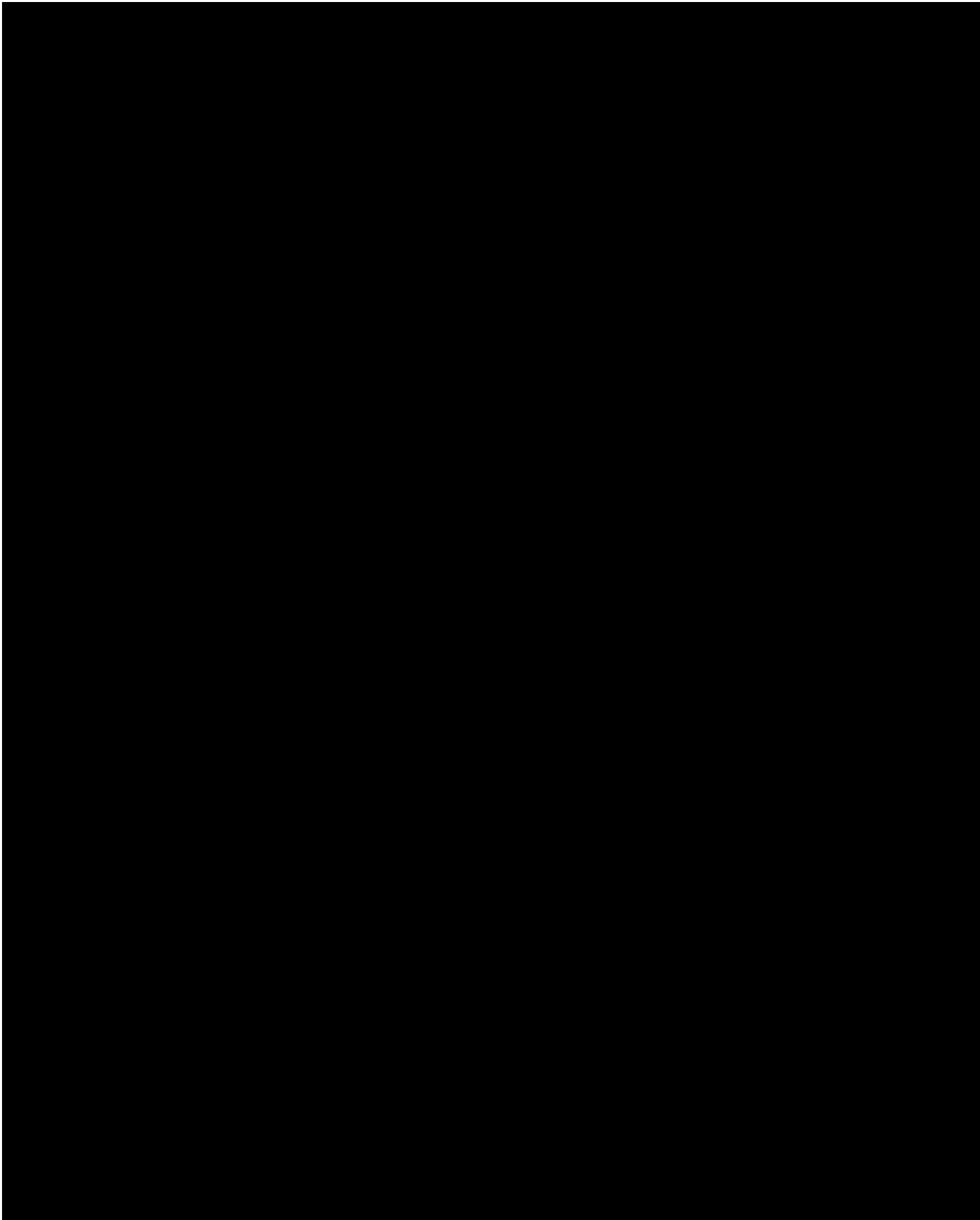
I.	Introduction.....	1
	A. Qualifications.....	1
	B. Assignment.....	2
	C. Case Background and Allegations of Misrepresentation.....	3
II.	Summary of Opinions.....	4
III.	Tax Preparation Using TurboTax.....	12
IV.	Complaint Counsel’s Claims of Widespread and Significant Deception Are Inconsistent with Intuit’s Economic Incentives.....	22
	A. Economic Reasoning Shows That Competition and Pursuit of Repeated Customer Interactions Act Together as a Self-Disciplinary Mechanism Against a Firm Deceiving Its Customers.....	22
	B. Complaint Counsel’s Claims of Widespread and Significant Deception of Intuit’s Customers Are Inconsistent with the Competitive Dynamics in the Tax Preparation Industry.....	28
	1. <i>Saturation</i> : The Tax Preparation Industry Has Few New Customers Each Year and Is Characterized by Providers Competing for Repeated Customer Purchases.....	30
	2. <i>Competing Solutions</i> : Consumers Choose Among Many Offerings by Different Providers Competing Aggressively Against Each Other.....	31
	3. <i>Differentiation</i> : Tax Preparation Services Are Differentiated.....	35
	4. <i>Switching Costs</i> : Consumers Willing to Consider Digital DIY Solutions Face Low Switching Costs.....	41
	C. Customer Retention and Reputation Building Are Critical Elements of Tax Preparation Services Providers’ Competitive Strategies.....	44
V.	Intuit’s Actual Business Strategy Is Inconsistent with Complaint Counsel’s Theory of Deception.....	46
	A. Customer Retention Is Essential to Intuit’s TurboTax Business Model.....	46
	B. Contrary to Complaint Counsel’s Allegations, the TurboTax Website Is Designed to Funnel Customers to the Expected Appropriate Product.....	52
	C. Intuit’s Efforts to Improve Customer Experience by Reducing the Time and Effort to File Taxes with TurboTax Are Inconsistent with the Strategy of Deception Alleged by Complaint Counsel.....	61
	D. Contrary to Complaint Counsel’s Allegations, Intuit Does Not Have Any Means to Prevent Customer Defection.....	67
VI.	Evidence from TurboTax Customer Data Is Inconsistent With Complaint Counsel’s Allegations of Deception for the Vast Majority of TurboTax Customers.....	73

- A. Customers Who Explored TurboTax and Pursued Other Options.....77
- B. Customers Who Filed Their Tax Returns for Free82
- C. Customers Who Expressed Rational Economic Choice by Seeking to Maximize Their Tax Refund, Revealed Preference for Paid Features, or Demonstrated Awareness of TurboTax Paid Products85
 - 1. Customers Who Expressed Rational Economic Choice by Seeking to Maximize Their Tax Refund but Could Have Used Free Edition to Report Their Income to the IRS..... 86
 - 2. Customers Who Revealed a Preference for Paid Features or Other Capabilities Available in Paid Products..... 89
 - 3. Customers Who Demonstrated Awareness of TurboTax Paid Products 94
- VII. There Are No Data Supporting Claims that Intuit’s Alleged Deception Resulted in Customers Using TurboTax Paid Products in TY21 as Alleged by Complaint Counsel.....104
 - A. Customers’ Past Interactions with TurboTax Suggest Their Awareness of Alternatives to TurboTax Products and Their Preference for TurboTax Products.....106
 - B. Customers’ Interactions with Marketing Materials and the TurboTax Website Indicates Awareness That TurboTax Was Not Free for Them108
 - C. Customers Behavior After Filing Using TurboTax Undermines Complaint Counsel’s Assertion That They Were Deceived110
- Appendix A: Curriculum Vitae..... A-1
- Appendix B: Materials Considered.....B-1
- Appendix C: Digital DIY Tax Preparation Products OverviewC-1
- Appendix D: Technical Appendix D-1

I. INTRODUCTION

A. Qualifications

1. My name is Bruce Deal. I am a Managing Principal of Analysis Group, Inc. (“Analysis Group”), an economic and financial consulting firm. I lead the economic consulting practice in Analysis Group’s Menlo Park, California office. I have over 30 years of experience in economic, litigation, and financial consulting. I have developed and managed hundreds of assignments requiring complex economic analysis of publicly available and internal client information. I have a master’s degree in Public Policy from Harvard University and I have completed additional graduate coursework at Harvard.
2. Before joining Analysis Group in 1996, I worked as a consultant and manager at Arthur Andersen, the then-largest accounting and consulting firm in the world. In this position, I provided financial and management consulting services in areas such as operational organization and efficiency and projected financial performance. In addition, I taught economics and analytic methods to graduate students at Harvard, as well as serving as a consultant through Harvard University for the Minister of Finance of Indonesia, where I joined a group of Harvard colleagues focusing on trade policy and government finance. Over the course of my career I have also given many presentations and published articles in trade journals and professional journals.
3. Since joining Analysis Group more than 25 years ago, I have been involved in hundreds of projects involving a wide variety of economic issues. This has included dozens of projects where I have served as an expert on economic and financial issues. I have been accepted as an expert in federal courts, state courts, and international and domestic arbitrations. My work has included matters working for both defendants and plaintiffs, working for government entities, and has included both civil and criminal matters.
4. I have led and served as an expert on many matters involving alleged violations of false advertising and consumer protection laws in many different contexts, including insurance, banking, healthcare, and telecommunications. This work has been done at all phases of litigation, including class certification, liability, damages, and restitution. Nearly all of my projects involve the analysis of detailed financial and related data. This



Complaint Counsel,⁴ Intuit’s internal documents and presentations prepared in the ordinary course of business, and customer-level data on Intuit’s TurboTax customers between tax year 2014 (“TY14”) and tax year 2021 (“TY21”).⁵ The sources which I relied upon when forming my opinions presented in this report are listed in the attached **Appendix B**. Should additional relevant documents, data, or information be made available to me, I may adjust or supplement my opinions as appropriate. In preparing my report, I have utilized the following commercially-available computer programs: Microsoft Office, SAS, and Adobe Acrobat.

C. Case Background and Allegations of Misrepresentation

8. I understand that Complaint Counsel filed an administrative complaint against Intuit,⁶ followed by a motion for summary decision.⁷ Complaint Counsel contend that the complaint and motion lay out their claim and the evidence they believe supports the claim.⁸ The Complaint alleges that Intuit “represents, directly or indirectly, expressly or by implication, that consumers can file their taxes for free using TurboTax” when in many cases Intuit actually “does not permit consumers to file their taxes for free using TurboTax.”^{9,10} Complaint Counsel state that Intuit’s marketing of TurboTax Free Edition

⁴ Complaint, *United States of America before the Federal Trade Commission in the Matter of: Intuit Inc., A Corporation*, Docket No. 9408, March 28, 2022 (“Complaint”).

⁵ Tax returns for a particular tax year are filed during the subsequent calendar year. For example, the IRS began accepting TY21 returns (reporting income earned during calendar year 2021) on January 24, 2022, with the deadline of April 18, 2022, for most taxpayers. Taxpayers requesting an extension had until October 17, 2022, to file their returns. See, e.g., Internal Revenue Service, “2022 Tax Filing Season begins Jan. 24; IRS Outlines Refund Timing and What to Expect in Advance of April 18 Tax Deadline,” January 10, 2022, <https://www.irs.gov/newsroom/2022-tax-filing-season-begins-jan-24-irs-outlines-refund-timing-and-what-to-expect-in-advance-of-april-18-tax-deadline>, INTUIT-FTC-PART3-000610692.

⁶ Complaint.

⁷ Complaint Counsel’s Motion for Summary Decision, *United States of America before the Federal Trade Commission in the Matter of: Intuit Inc., A Corporation, Respondent*, Docket No. 9408, May 6, 2022 (“Motion for Summary Decision”).

⁸ See, e.g., Videotaped Deposition of William T. Maxson, *In the Matter of Intuit Inc.*, Docket No. 9408, December 8, 2022 (“Maxson Deposition”), CC-00005358 at 9:18-10:1 (“Q. What is it that the bureau believes Intuit did that is deceptive? A. The bureau’s allegations against Intuit are set forth in the complaint and detailed more specifically in the motion for summary decision.”) and at 10:11-15 (“Q. So the bureau contends that Intuit advertised all of it – that all of its tax filing software was free? A. Like I said, the bureau’s position is set forth in the complaint.”).

⁹ Complaint, ¶¶ 119–120.

¹⁰ While the Complaint mentions ad campaigns and includes screenshots of several commercials aired during TY21, the most recent tax season, it references Intuit’s promotional activities as early as 2016. The analysis in this report focuses on customers who used TurboTax to file their TY21 federal or state returns but similar reasoning applies to TurboTax customers in other years.

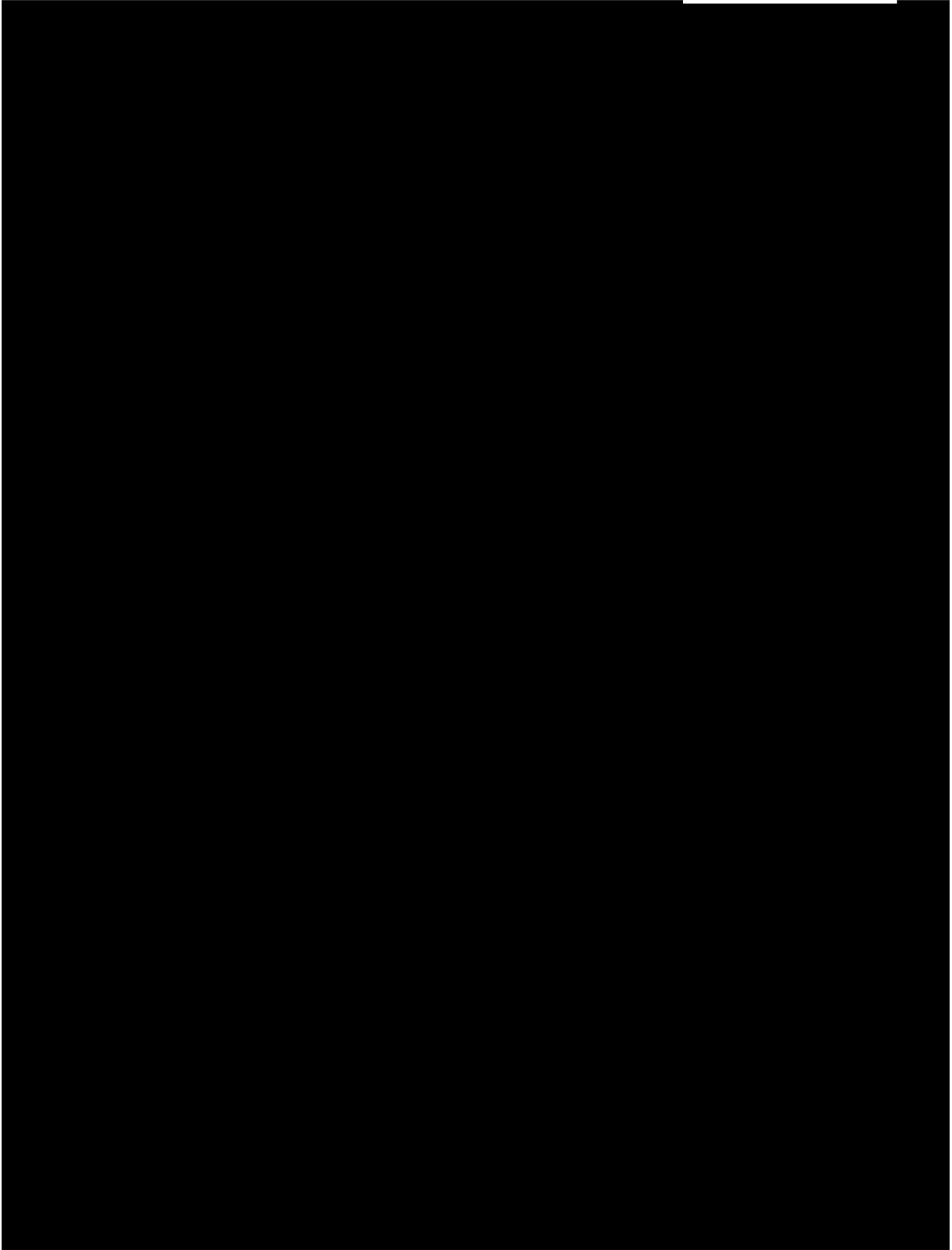
amounts to a “bait and switch” designed to lure “reasonable” consumers to the TurboTax platform with the promise of free tax filing,¹¹ only to require them to upgrade to a paid version of TurboTax “after they have invested time and effort gathering and inputting into TurboTax their sensitive personal and financial information.”¹²

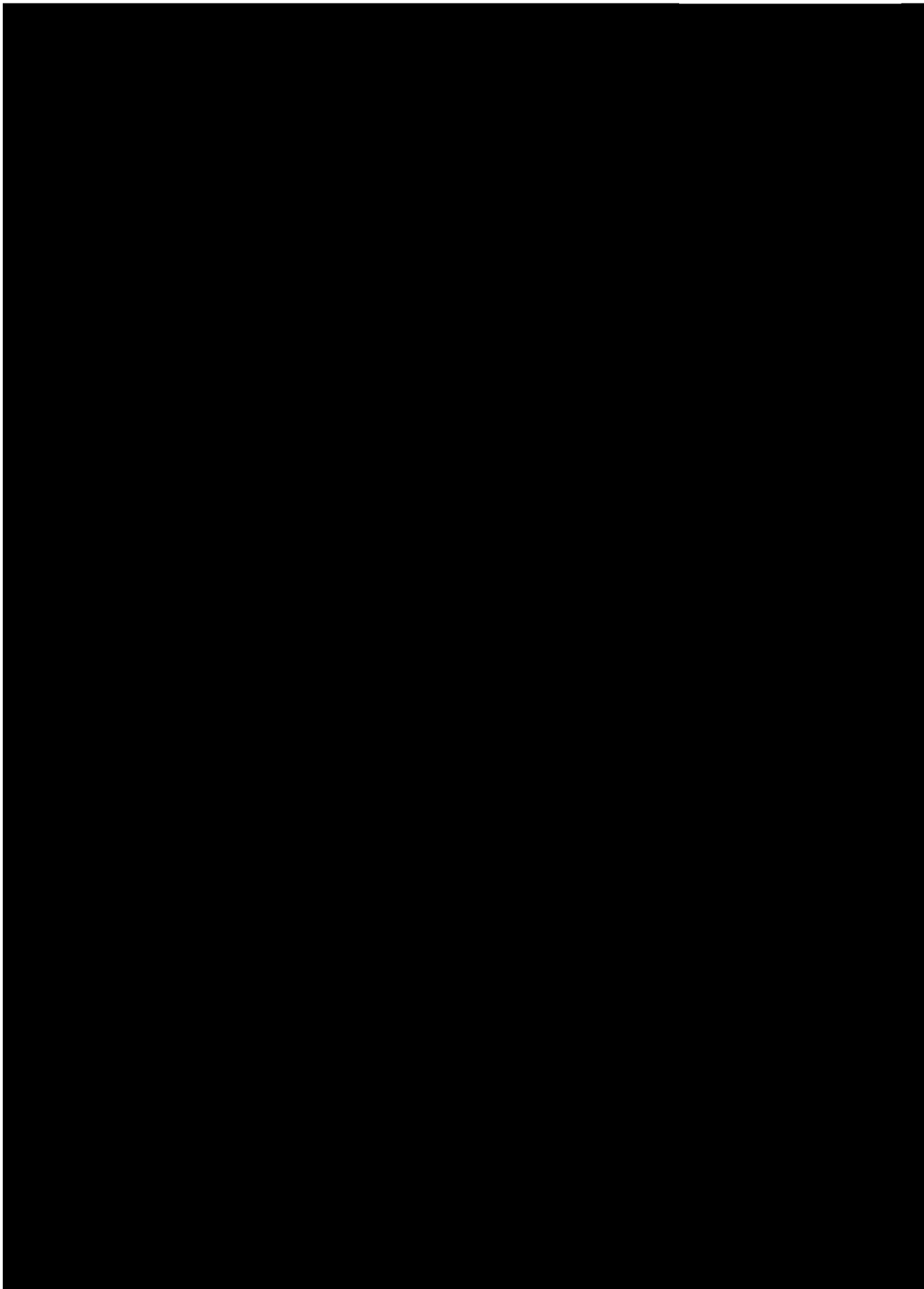
II. SUMMARY OF OPINIONS

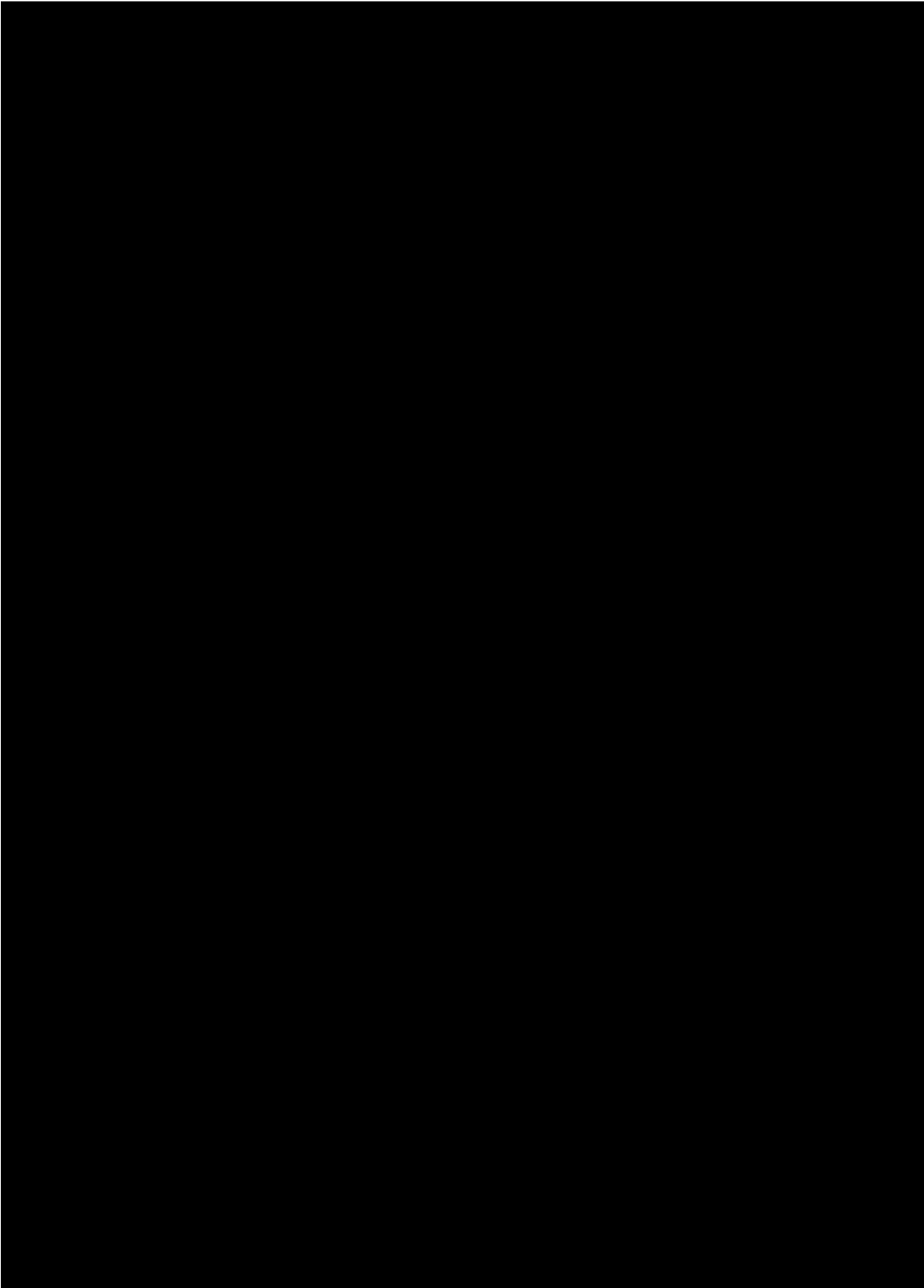
9. The vast majority of Intuit’s TY21 TurboTax customer base could not have been deceived by Intuit’s marketing campaigns or website design into paying for TurboTax products that they had expected to get for free. Complaint Counsel’s claims of widespread deception and theories of harm are unsupported and inconsistent with economic theory, competition in the industry, Intuit’s incentives and business strategy, and the behavior of Intuit’s customers, all of which I have reviewed in forming my opinions. Their allegations ignore market forces and incentives that exist in a competitive industry characterized by repeated interactions with a largely pre-determined and relatively stable set of consumers who need to file a tax return in a given year, but who can easily switch providers. Furthermore, considering that the allegations may extend to other years, Complaint Counsel’s claims and theories are inconsistent with the nature of repeated interactions, and would effectively require an assumption that consumers would have no memory of past interaction and a complete lack of awareness of the existence of the many other tax filing alternatives.
10. There are a number of bases for my opinions. First, Intuit has substantial **economic incentives** *not* to engage in deception:
 - a. Economic reasoning shows that two dynamics in the tax software preparation industry—competition and the pursuit of repeated customer interactions in the

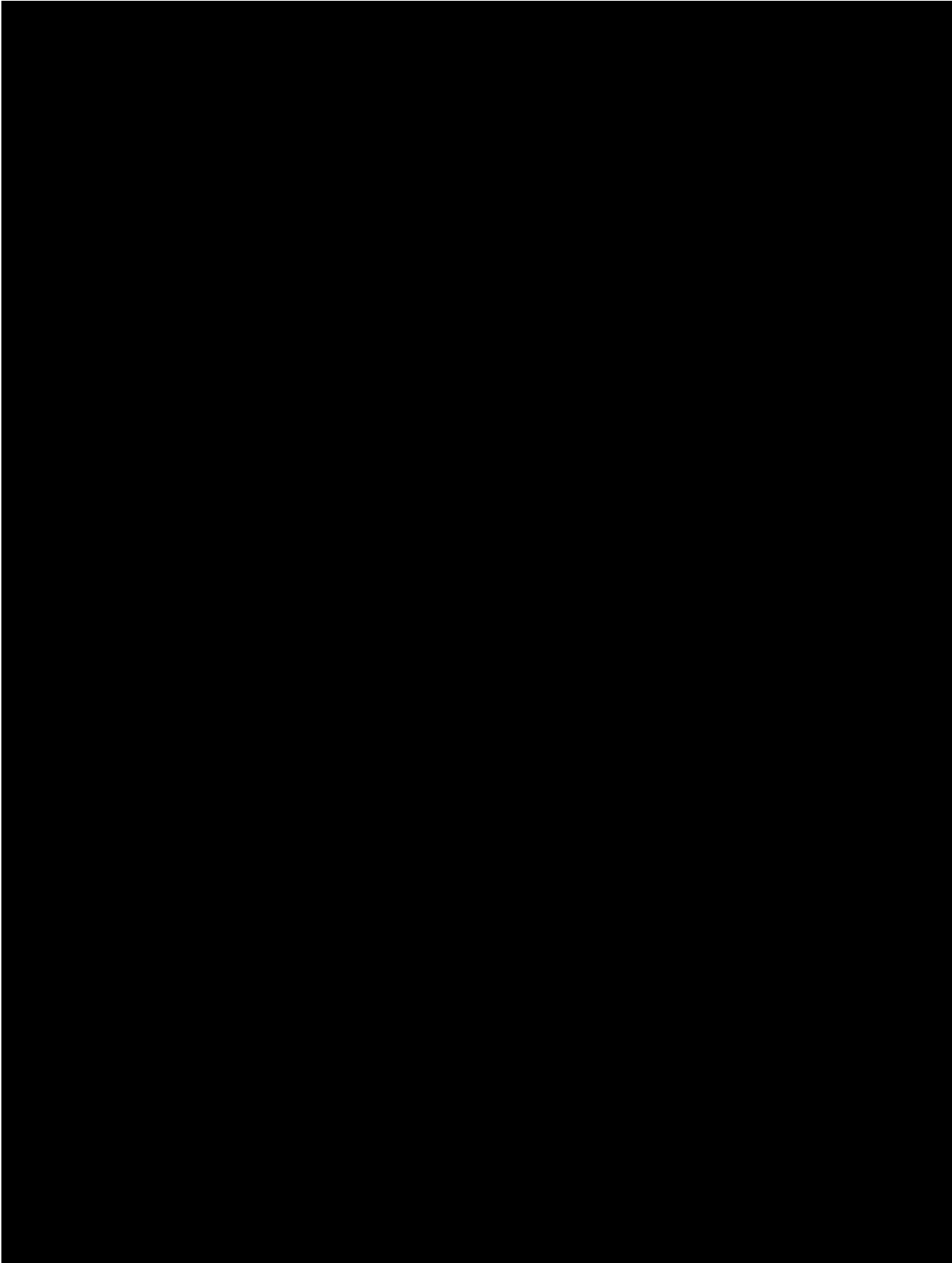
¹¹ Complaint, ¶ 94 (“In 2018, Intuit knew that consumers were still confused about the differences between the Free File and ‘freemium’ versions of TurboTax. For example, a presentation prepared in 2018 by an Intuit employee involved with marketing strategy related to both the Free File and ‘freemium’ versions of TurboTax stated: ‘Once we launched a free commercialized offering on TT.com, customers have often been confused between the two ‘free’ offerings and we have received complaints that we were not transparent and/or a bait and switch.’”); Complaint, ¶ 35 (“Given this advertising, reasonable consumers may believe that the TurboTax products and services Intuit advertises as free are free for them”).

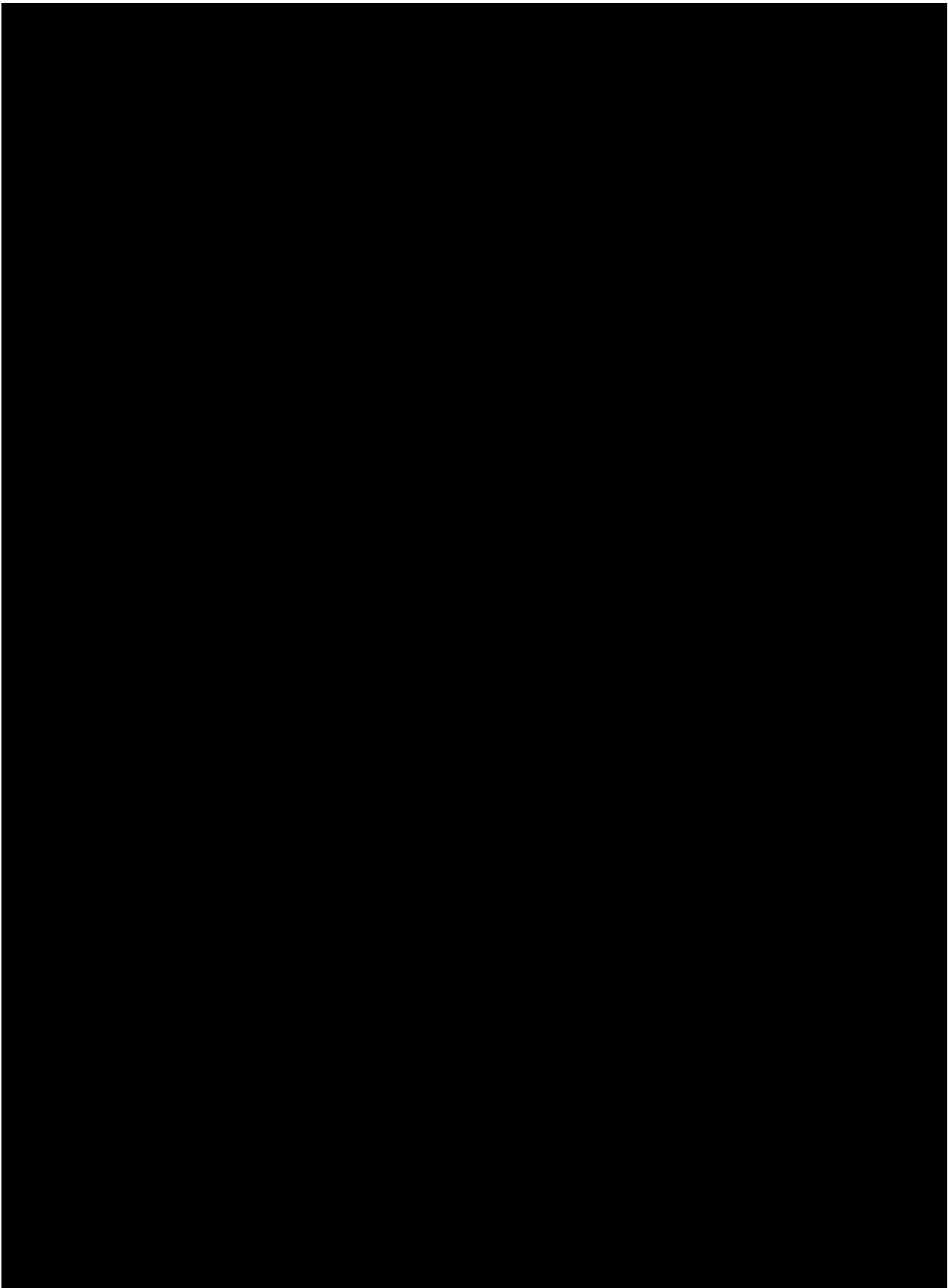
¹² Complaint, ¶ 6.

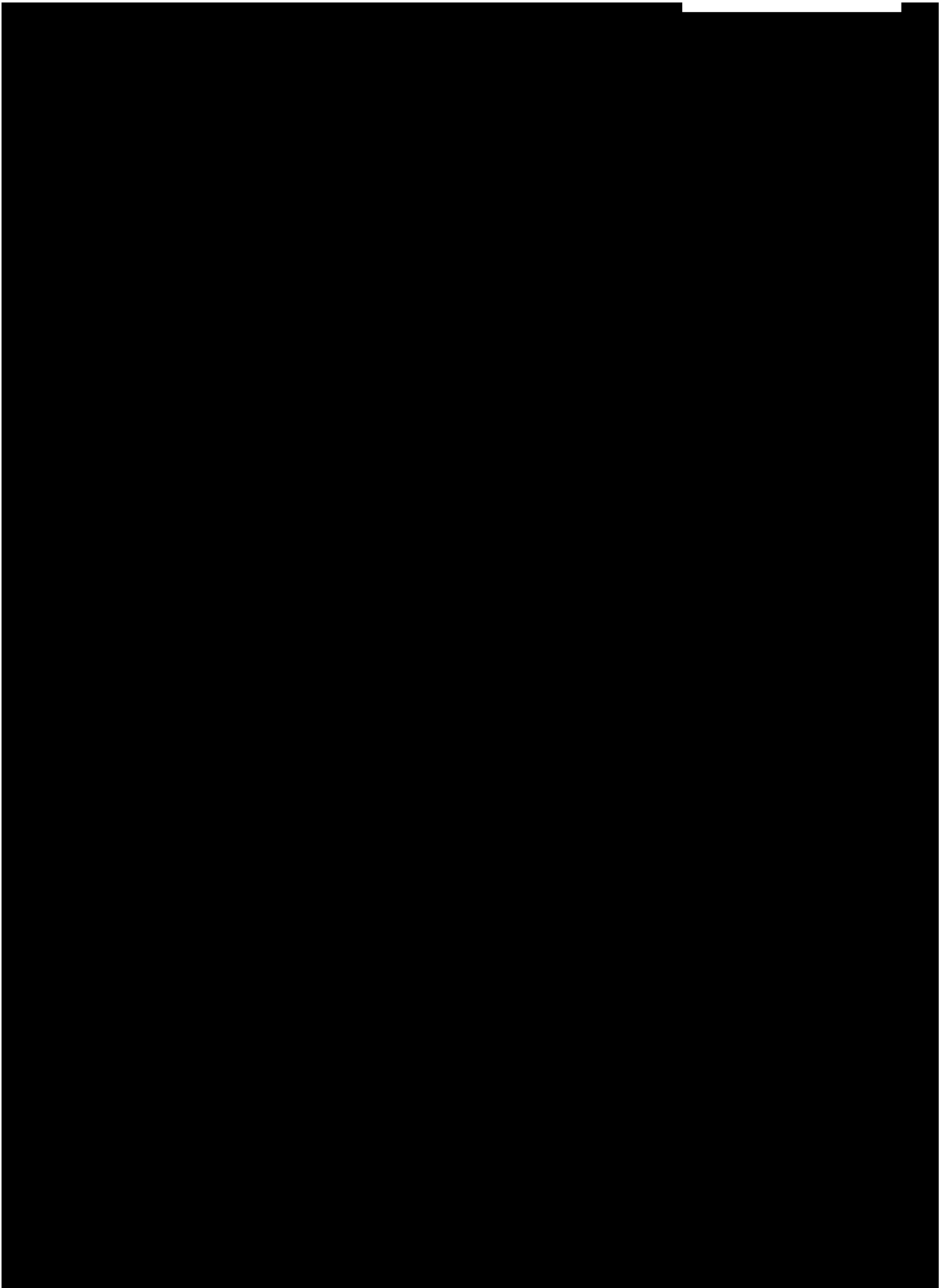


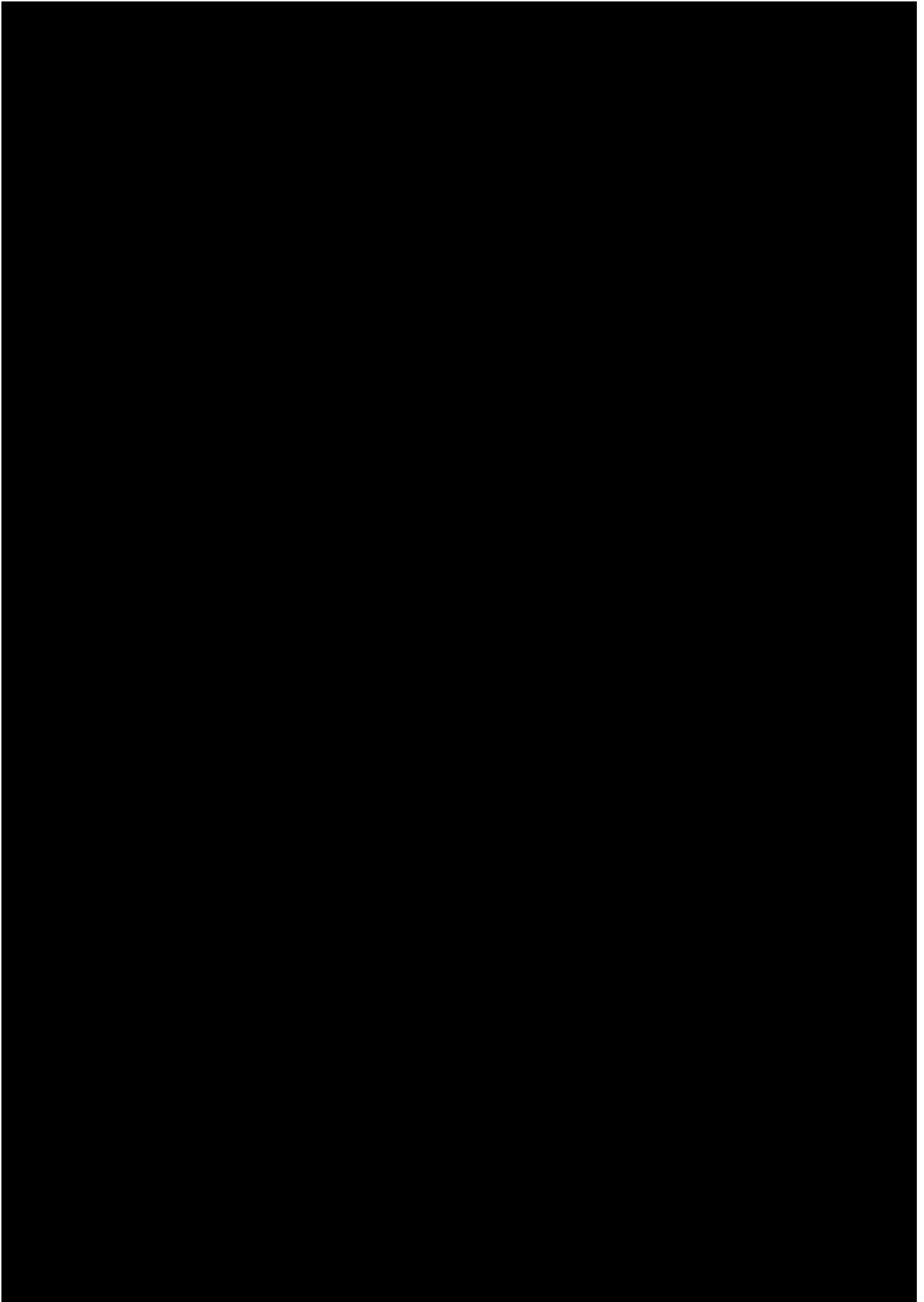












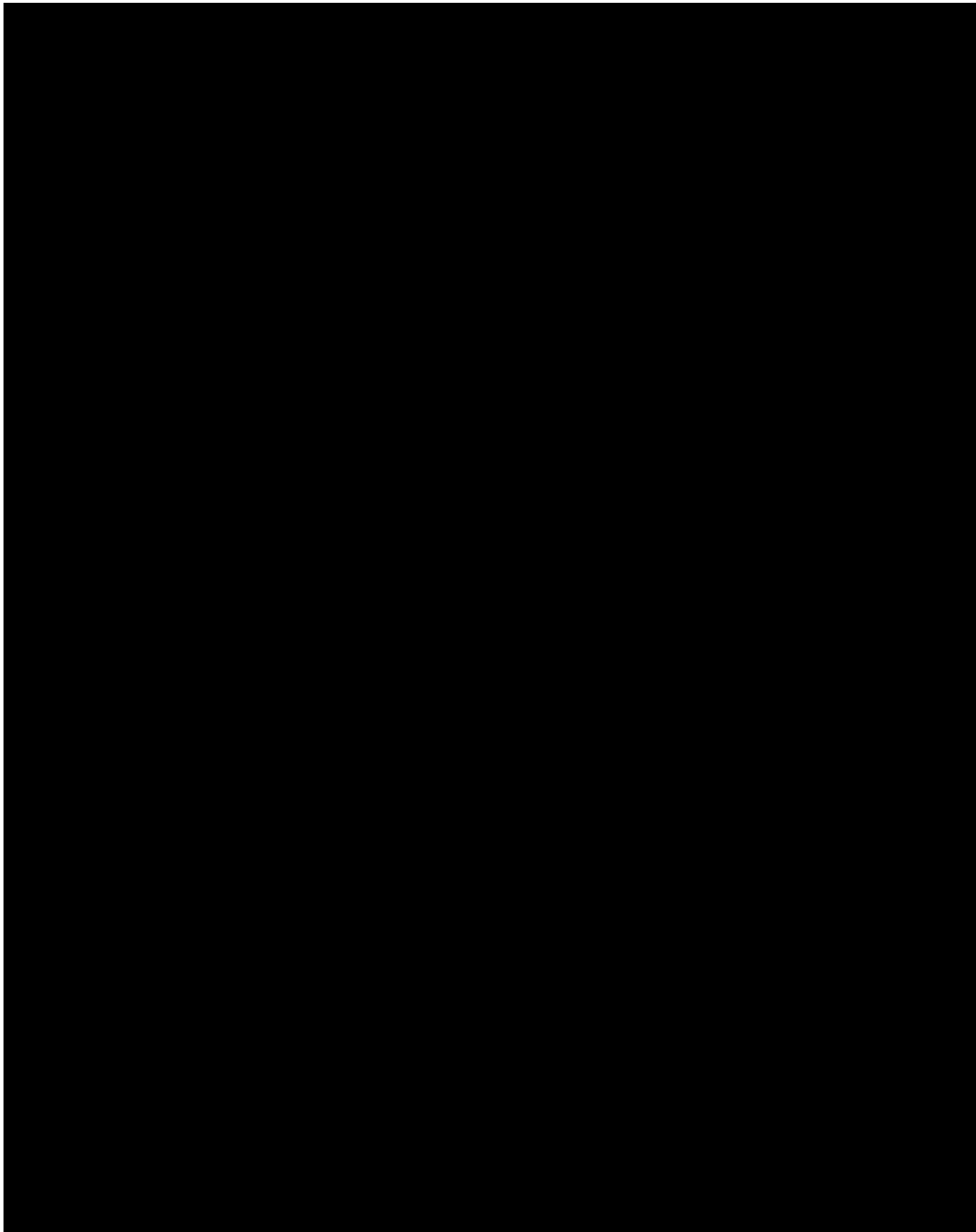
harmed as a result. It also directly contradicts Dr. Novemsky’s conclusions and his assertion that these conclusions are broadly applicable to consumers exposed to Intuit’s advertising.¹⁴ I describe each of these opinions more fully in the subsequent sections of this report.

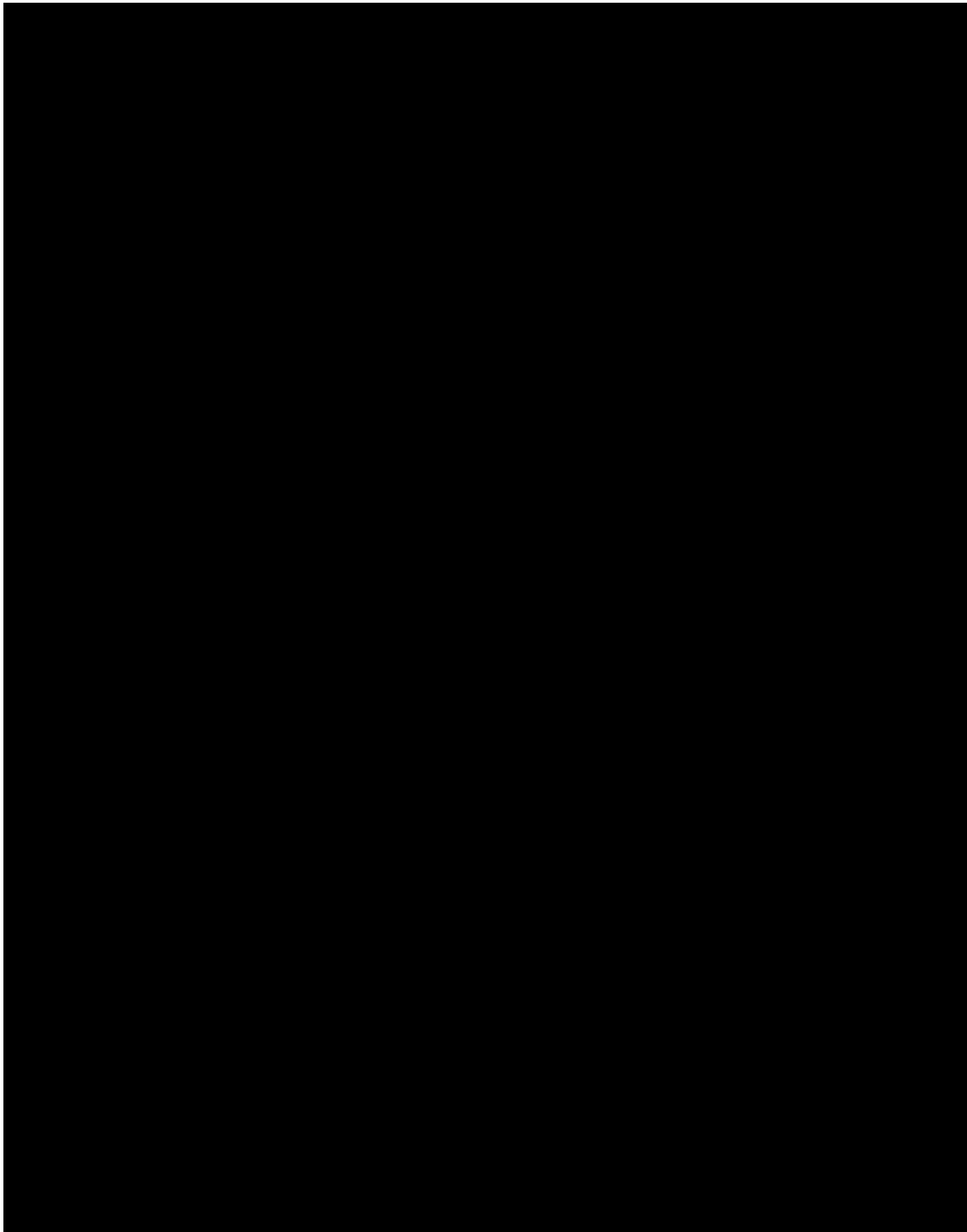
III. TAX PREPARATION USING TURBOTAX

14. In addition to traditional paper filing, consumers in the U.S. can choose among a variety of tax preparation solutions such as online “do-it-yourself” (“DIY”) products¹⁵ or online or offline tax preparation services using the assistance of a tax professional. The majority of filers today choose to prepare their return using a tax preparation product or service, rather than completing it manually using a paper return. As shown in **Figure 1** below, in-person assisted tax preparation (by certified public accountants (“CPAs”) and in tax stores) remains the most popular tax preparation method, but the popularity of DIY and other online tax preparation products—including TurboTax online and desktop products—has grown in recent years. Very few consumers complete their taxes manually.

¹⁴ Novemsky Report, ¶ 5.

¹⁵ Note that some tax preparation companies, including Intuit, offer offline versions of their tax preparation software that can be downloaded or installed using a CD, referred to as “desktop” products. Throughout this report I focus on TurboTax Online products since I understand these to be the subject of the Complaint.



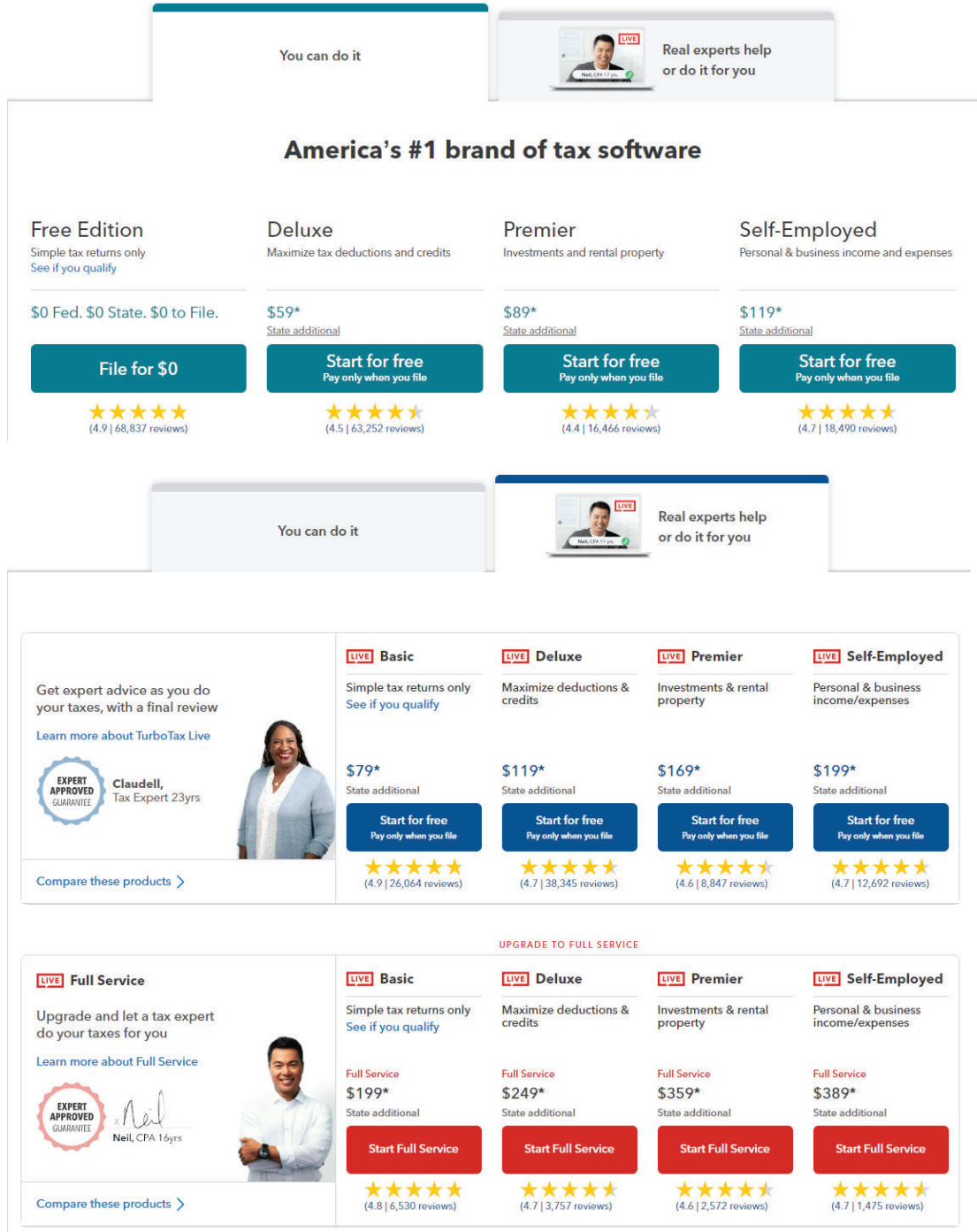


Deluxe, Premier, and Self-Employed (for most complex tax situations).²⁵ Each of these four main tiers are available with various levels of support: as DIY products with limited assistance; as TurboTax Live (“TTL”) products, which include real-time expert advice and final review; or as Full Service (introduced in TY20),²⁶ an assisted preparation product more akin to a traditional CPA service, in which a tax expert prepares the entire tax return for a customer. **Figure 2** shows the lineup of TurboTax products in TY21, as depicted on the TurboTax website.

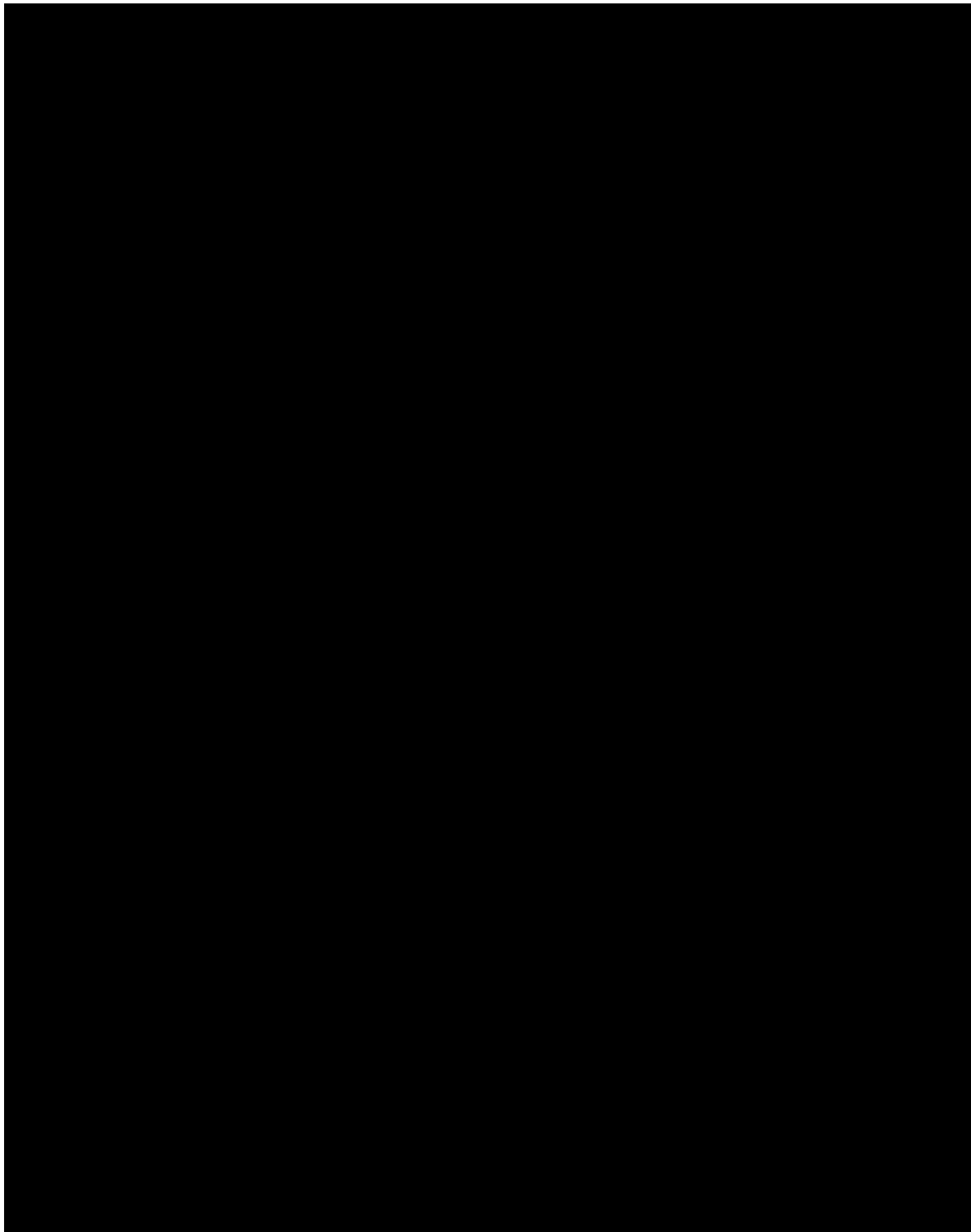
²⁵ For a list of forms and schedules supported by each product, see Intuit, “TurboTax Deluxe Online 2021-2022,” <https://turbotax.intuit.com/personal-taxes/online/deluxe.jsp#tax-forms>, accessed July 8, 2022, INTUIT-FTC-PART3-000611098.

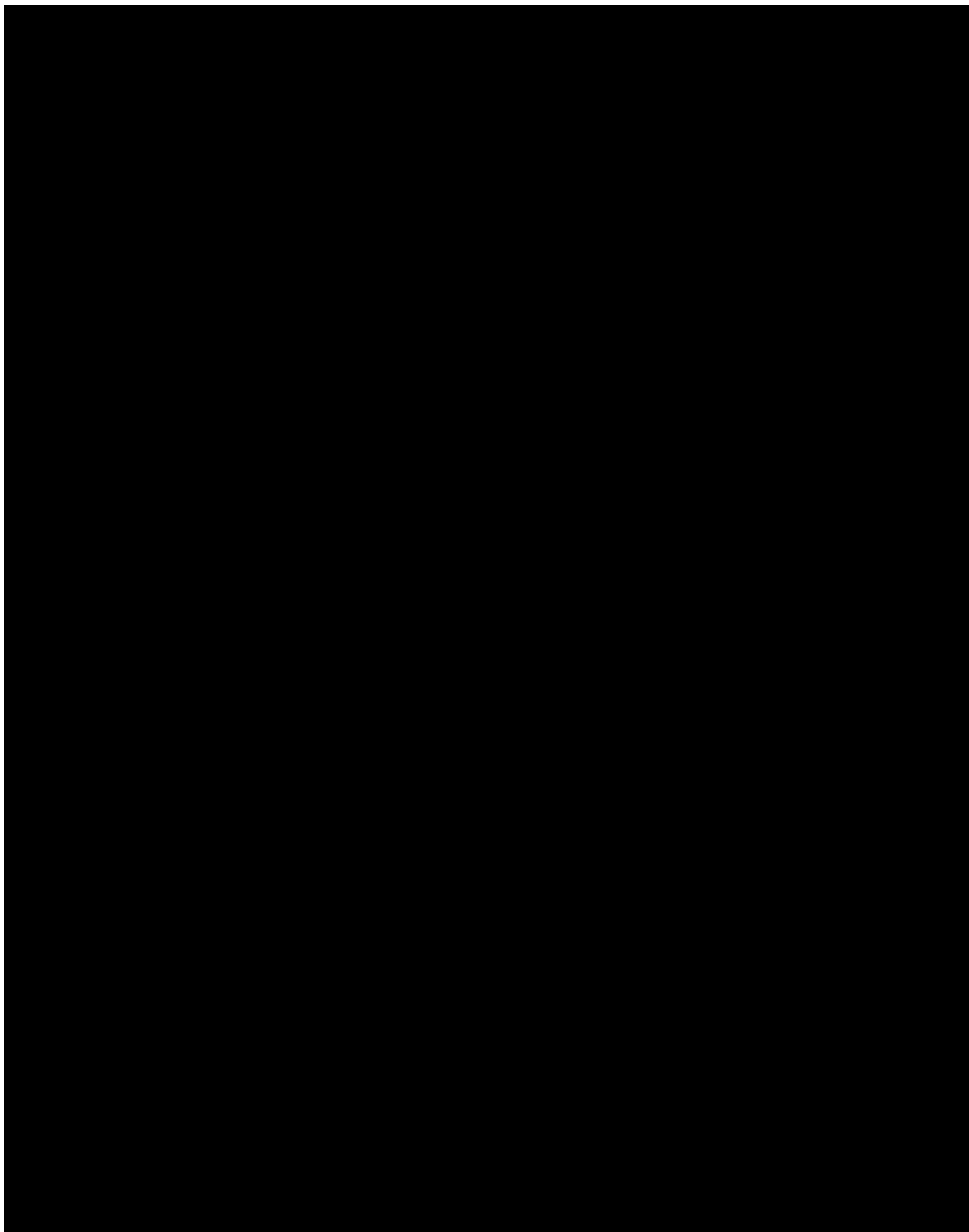
²⁶ Hood, Daniel, “Intuit Launches Assisted Tax Prep,” *Accounting Today*, December 2, 2022, <https://www.accountingtoday.com/news/intuit-launches-assisted-tax-prep>, INTUIT-FTC-PART3-000613019.

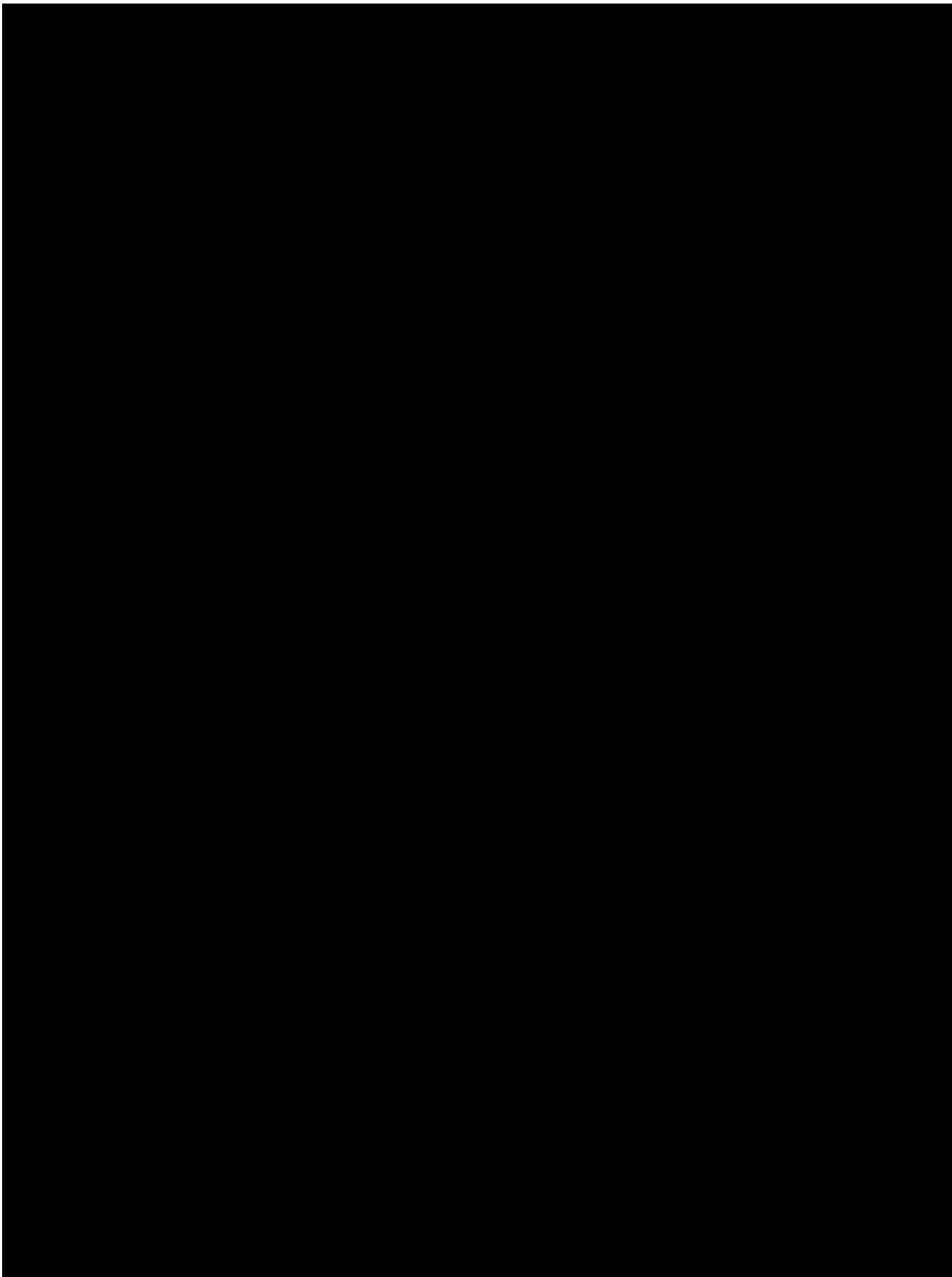
Figure 2
TurboTax Product Lineup, TY21



18. Regardless of whether considering DIY or assisted options, the four product tiers are designed to assist customers with varying tax complexity. The basic product (referred to as Free Edition in the version without any expert assistance) is designed for consumers







guidance for freelancers that might not be relevant for TurboTax customers with simple tax returns.

**Figure 3
List of Supported Schedules and Features Available in TurboTax Products
as of January 2023**

Free Edition: Simple Returns Only	Deluxe: Maximize Tax Deductions and Credits	Premier: Investments and Rental Property	Self-Employed: Personal & Business Income and Expenses
Form 1040 Only	+Sch. 1-3, Sch. A, Sch. C Income	+Sch. D & E	+Sch. C Expenses, Sch. F
Data Import: YOY Data Transfer, W-2, Tax Return Access			
Data Import: Prior Year Competitive PDF, 1099INT, 1099 DIV			
AnswerXchange			
Easy prep, print, and e-file			
Jumpstart your taxes, snap a photo of your W-2			
Hobby Personal Property rental or personal item sales income reported on Form 1099-K (some restrictions apply)			
	MyDocs, Smart Insights, ItsDeductible, Online Amend		
	Product and Tax Support		
	Searches 350+ tax deductions and credits		
	Maximizes mortgage and property tax deductions		
	Turns donations into big deductions		
		Data Import: 1099B	
		Covers stocks, bonds, ESPPs, crypto, and other investments	
		Auto-import your crypto and stock activity to make sure there's no missing info	
		Covers rental property income and tax deductions	
		Accurately account for gains and losses from crypto transactions	
		QuickBooks Self Employed	
		Audit Assessor	
		Tax Estimate	
		Guidance for freelancers, independent contractors, and small business owners	
		Uncovers industry-specific deductions for more tax breaks	
		Upload your 1099-NEC or 1099-K with a snap from your smartphone	
		Audit assessment for added confidence	

Figure 4
List of 128 Tax Forms and Schedules Supported by TurboTax
Self-Employed Products as of July 2022

Form 1040	Form 4852	Form 8936
Form 1040-ES	Form 4868	Form 8938
Form 1040-V	Form 4952/AMT	Form 8941
Form 1040X	Form 4972	Form 8949
Form 1095-A	Form 5329	Form 8958
Form 1098	Form 5405	Form 8959
Form 1098-C	Form 5695	Form 8960
Form 1098-E	Form 6198	Form 8962
Form 1098-T	Form 6251	Form 8994
Form 1099-A	Form 6252	Form 8995
Form 1099-B	Form 6781	Form 8995-A
Form 1099-C	Form 8283	Form 8995-A Sch A
Form 1099-DIV	Form 8332	Form 8995-A Sch B
Form 1099-G	Form 8379	Form 8995-A Sch C
Form 1099-INT	Form 8396	Form 8995-A Sch D
Form 1099-K	Form 8453	Form 9465
Form 1099-MISC	Form 8582/AMT/CR	Form 982
Form 1099-NEC	Form 8586	Form SS-4
Form 1099-OID	Form 8606	Form W-2
Form 1099-Q	Form 8615	Form W-2G
Form 1099-R	Form 8801	Form W-4
Form 1099-SA	Form 8814	Schedule 1
Form 1116/AMT	Form 8815	Schedule 2
Form 1310	Form 8822	Schedule 3
Form 14039	Form 8824	Schedule 8812
Form 2106	Form 8829	Schedule A
Form 2120	Form 8834	Schedule B
Form 2210-F	Form 8839	Schedule C
Form 2210/2210AI	Form 8853	Schedule D
Form 2439	Form 8857	Schedule E
Form 2441	Form 8859	Schedule EIC
Form 2555	Form 8862	Schedule F
Form 3468	Form 8863	Schedule H
Form 3800	Form 8880	Schedule J
Form 3903	Form 8881	Schedule LEP
Form 4136	Form 8885	Schedule R
Form 4137	Form 8888	Schedule SE
Form 4255	Form 8889	Schedules K-1 (Form 1041)
Form 4506	Form 8910	Schedules K-1 (Form 1065)
Form 4562	Form 8911	Schedules K-1 (Form 1120S)
Form 4684	Form 8915A	Schedules K-3 (Form 1065)
Form 4797	Form 8915B	Schedules K-3 (Form 1120S)
Form 4835	Form 8919	

21. Each of Intuit’s products offers certain features and services that are available at no additional expense, such as automated data imports or access to tax returns filed using TurboTax in previous years. Intuit also offers optional paid add-on services or bundles such as “PLUS Help & Support” (available for Free Edition customers) or “MAX Restore & Defend” (available for customers using paid TurboTax products).^{38,39} These can be purchased in addition to the tax preparation product if the customer is seeking services such as audit protection, tax expert assistance with returns, or identity loss insurance. These features are not necessary to file one’s taxes but address related concerns that may arise for certain customers as they are filing their taxes given the central role that taxes play in some consumers’ financial lives.
22. As **Figure 2**, **Figure 3**, and **Figure 4** show, TurboTax products differ in the forms and schedules they support, the extent of features and services included by default or available for purchase, the scope of expert assistance, and, as a result, also in price. While the most basic Free Edition product allows customers with simple tax situations to file federal and state returns completely for free, customers with more complex sources of income, those who desire to claim certain credits or deductions, or those seeking additional functionality or expert support can take advantage of one of the paid products or may purchase additional products and services.

IV. COMPLAINT COUNSEL’S CLAIMS OF WIDESPREAD AND SIGNIFICANT DECEPTION ARE INCONSISTENT WITH INTUIT’S ECONOMIC INCENTIVES

A. Economic Reasoning Shows That Competition and Pursuit of Repeated Customer Interactions Act Together as a Self-Disciplinary Mechanism Against a Firm Deceiving Its Customers

23. Firms are understood to behave in an economically rational manner to maximize firm value. Firm value is typically measured as the discounted present value of future cash

³⁸ Paid products include Deluxe, Premier, and Self-Employed products.

³⁹ In addition, “Premium Services” bundle is available for customers in California. See, e.g., Intuit, “What is Premium Services?,” January 4, 2022, https://ttlc.intuit.com/turbotax-support/en-us/help-article/intuit-product-orders/premium-services/L3Eq2UXII_US_en_US, INTUIT-FTC-PART3-000610497.

flows.⁴⁰ In this section, I use this framework to examine whether Complaint Counsel’s allegations of widespread deception are consistent with this basic framework. As I explain, I find that economic theory is inconsistent with a firm maximizing firm value by “bait and switch”-style deception of its customers in situations where (i) the firm relies on the customers’ continued patronage, (ii) customers can detect deception early on, and (iii) customers can easily switch to competitors. These conditions are satisfied with regards to Intuit and its TurboTax product.

24. The main economic intuition for this result comes from the analysis of *repeated games* in game theory, a branch of economics that has flourished for the past 30 years.⁴¹ As an example, consider a farmers’ market selling vegetables. In a situation where there is only a one-time customer interaction (e.g., a fresh busload of new one-day tourists each day) and there are very few sellers, one can imagine that misleading or cheating a customer might be an economically rational (albeit unethical and perhaps illegal) strategy. On the other hand, if there are multiple vendors and repeated interactions with the same customers, the incentives are quite different. Consider repeated daily purchases of the vegetables in a market with several sellers. At each interaction with a customer, a selling vendor has to choose between two strategies: (i) deceive the customer by misrepresenting the characteristics of the good or service on sale, earn higher immediate returns, and potentially lose any future business from her; or (ii) behave honestly, earning lower immediate returns, and build a trusted relationship that leads to repeated future

⁴⁰ See, e.g., Koller, Tim et al., *Valuation: Measuring and Managing the Value of Companies* Seventh Ed., Hoboken, New Jersey, Wiley, 2020INTUIT-FTC-PART3-000613339, p. 17 (“Companies create value when they earn a return on invested capital (ROIC) greater than their opportunity cost of capital. If the ROIC is at or below the cost of capital, growth may not create value. Companies should aim to find the combination of growth and ROIC that drives the highest discounted value of their cash flows.”).

⁴¹ See, e.g., Osborne, Martin J. and Ariel Rubinstein, *A Course in Game Theory*, Cambridge, Massachusetts, The MIT Press, 1994INTUIT-FTC-PART3-000613456, p. 133 (“The model of a repeated game is designed to examine the logic of long-term interaction. It captures the idea that a player will take into account the effect of his current behavior on the other players’ future behavior, and aims to explain phenomena like cooperation, revenge, and threats.”). See also Mailath, George J. and Larry Samuelson, “Reputations in Repeated Games,” *Handbook of Game Theory with Economic Applications*, Vol. 4, 2015, pp. 165-238, INTUIT-FTC-PART3-000616899, pp. 166–167 (“Repeated games allow for a clean description of both the myopic incentives that agents have to behave opportunistically and, via appropriate specifications of future behavior (and so rewards and punishments), the incentives that deter opportunistic behavior. As a consequence, strategic interactions within long-run relationships have often been studied using repeated games.”).

interactions with the same customer.⁴² In that situation, the incentives for larger lifetime profits from repeated interactions may prevail. If a vendor does try to cheat and the cheating can be detected during or after the interaction, the customer will abandon the cheater and bring her business to the competitors.⁴³

25. Sellers practicing the first strategy respond to myopic incentives and are not interested in earning customers' loyalty. Obviously, to punish the cheating sellers, customers need to become aware of being misled, for example by realizing at the end of the sale process or after the sale is completed that the quality of the vegetables was low or the weight received was less than what was represented. The faster customers become aware of sellers' misconduct, the lower the return from the first strategy is.⁴⁴ The second strategy is consistent with the conduct of firms that plan to stay in business over the long haul and interact repeatedly with many of the same customers. In particular, sellers with already established good reputations have more to lose from acting opportunistically.⁴⁵ As a result, they are less likely to deceive their customers, as it is not in their own economic self-interest.⁴⁶

⁴² See, e.g., Klein, Benjamin and Keith B. Leffler, "The Role of Market Forces in Assuring Contractual Performance," *Journal of Political Economy*, Vol. 89, No. 4, August 1981, pp. 615-641, INTUIT-FTC-PART3-000613403, p. 617 ("Cheating will be prevented and high-quality products will be supplied only if firms are earning a continual stream of rental income that will be lost if low quality output is deceptively produced. The present discounted value of this rental stream must be greater than the one-time wealth increase obtained from low quality production.").

⁴³ See, e.g., Osborne, Martin J. and Ariel Rubinstein, *A Course in Game Theory*, Cambridge, Massachusetts, The MIT Press, 1994 INTUIT-FTC-PART3-000613456, p. 133 ("The primary achievement of the [repeated games] theory is to isolate types of strategies that support mutually desirable outcomes in any game. The theory gives us insights into the structure of behavior when individuals interact repeatedly, structure that may be interpreted in terms of a 'social norm.' The results that we describe show that the social norm needed to sustain mutually desirable outcomes involves each player's 'punishing' any player whose behavior is undesirable.").

⁴⁴ See, e.g., Brickley, James A. et al., "Business Ethics and Organizational Architecture," *Journal of Banking & Finance*, Vol. 26, 2002, pp. 1821-1835, INTUIT-FTC-PART3-000613388, p. 1830 ("The costs of cheating on quality are higher if information about such activities is more rapidly and widely distributed to potential future customers.").

⁴⁵ See, e.g., Stiglitz, Joseph E., "Imperfect Information in the Product Market," *Handbook of Industrial Organization*, Vol. 1, edited by Schmalensee, Richard and Robert D. Willig, North Holland, 1989 INTUIT-FTC-PART3-000613690, p. 823 ("Why do 'rational' individuals not take advantage of others, when they have the opportunity to do so? Do we need to rely on vague notions of 'morality' or 'social pressure'? Economists at this juncture are wont to introduce the notion of reputations: firms produce high quality commodities because they fear the loss of reputation will do greater harm than the slight temporary advantage of cheating.").

⁴⁶ See, e.g., Klein, Benjamin and Keith B. Leffler, "The Role of Market Forces in Assuring Contractual Performance," *Journal of Political Economy*, Vol. 89, No. 4, August 1981, pp. 615-641, INTUIT-FTC-PART3-000613403, p. 624 ("[...] given a particular quality level, quality-cheating problems are less severe the higher the level of quality that can be detected pre-purchase and the shorter the period of repurchase.").

26. Economic reasoning helps to identify structural factors within a given industry that make the prospect of repeated interactions particularly effective in incentivizing firms to self-discipline and invest in reputation-building behavior.⁴⁷ First, sellers in *saturated industries with repeated interactions* that have a relatively small inflow of new consumers over time expect to interact repeatedly mostly with the same customers. This constitutes a particularly challenging environment for firms considering the use of deceptive strategies. In fact, if news about misbehaving sellers spreads quickly among the existing buyers, a dishonest seller may be able to target only new, likely transitory, and potentially more naïve, customers.⁴⁸ However, if such customers are relatively few, the economic return from deceiving them would be low (potentially high one-time profits, but zero repeat business) and the risk of loss of existing customers would be high. Second, the presence of *competing offerings* is critical for consumers who have been deceived to be able to punish a dishonest seller by switching to rival vendors.⁴⁹ Third, when competition is not only on price but entails offering *goods and services that are sufficiently differentiated* (although still perceived as viable alternatives), sellers can earn a stream of positive profits over time.⁵⁰ This is true especially when firms can operate with very low or close to zero marginal costs, such as in the case of DIY online tax preparation. As a result, firms in such settings would find it profitable to retain and expand their customer base by continuing to behave truthfully, as each future sale would

⁴⁷ See, e.g., Klein, Benjamin and Keith B. Leffler, “The Role of Market Forces in Assuring Contractual Performance,” *Journal of Political Economy*, Vol. 89, No. 4, August 1981, pp. 615-641, INTUIT-FTC-PART3-000613403, p. 616 (“[E]conomists also have long considered ‘reputations’ and brand names to be private devices which provide incentives that assure contract performance in the absence of any third-party enforcer (Hayek 1948, p. 97; Marshall 1949, vol. 4, p. xi). This private-contract enforcement mechanism relies upon the value to the firm of repeat sales to satisfied customers as a means of preventing nonperformance.”).

⁴⁸ See, e.g., Brickley, James A. et al., “Business Ethics and Organizational Architecture,” *Journal of Banking & Finance*, Vol. 26, 2002, pp. 1821-1835, INTUIT-FTC-PART3-000613388, p. 1830 (“The costs of cheating on quality are higher if information about such activities is more rapidly and widely distributed to potential future customers.”).

⁴⁹ See, e.g., Homer, Johannes, “Reputation and Competition,” *The American Economic Review*, Vol. 92, No. 3, June 2002, pp. 644-663, INTUIT-FTC-PART3-000613311, p. 645 (“[C]ompetition supports the existence of equilibria in which good firms always exert high effort. [...] [B]ecause any consumer can break off her relationship with a firm and take some other preferred option, it does not matter how good a firm is thought to be, but rather whether it is thought to be better than its rivals.”).

⁵⁰ See, e.g., Carlton, Dennis W. and Jeffery M. Perloff, *Modern Industrial Organization* 4th Ed., Harlow, England, Pearson Education Limited, 2015 INTUIT-FTC-PART3-000613616, p. 224 (“In many industries [...] products are typically heterogeneous or differentiated: Consumers consider products or brands of various firms to be imperfect substitutes. If consumers view brands in an industry as imperfect substitutes, a firm may raise its price above that of its rivals without losing all its customers.”).

involve little, if any, incremental expense.⁵¹ Fourth, *low switching costs* allow customers to carry out their punishment (switching to another supplier either immediately or on the subsequent transaction) against disreputable vendors.⁵² As a result, sellers considering taking dishonest actions face a credible threat of losing their customers after being exposed.

27. As I describe in the next section, the conditions in the tax preparation industry are *not* consistent with conditions for deception and are consistent with conditions where incentives are for self-discipline and reputation-building: (i) the market is *saturated*, as there is a relatively small group of new tax filers each year and a very large group of returning filers, and characterized by repeated interactions as most consumers are required to file a tax return repeatedly every year; (ii) there are many alternatives available and consumers can choose among many *competing solutions* offered by different providers; (iii) tax preparation services are *differentiated*; and (iv) consumers willing to consider digital DIY solutions face *low switching costs*.
28. Economists have extensively studied firms' reputation-building strategies and temptations to cheat customers in contexts where firms can deceive their potential

⁵¹ See, e.g., Klein, Benjamin and Keith B. Leffler, "The Role of Market Forces in Assuring Contractual Performance," *Journal of Political Economy*, Vol. 89, No. 4, August 1981, pp. 615-641, INTUIT-FTC-PART3-000613403, p. 617 ("Cheating will be prevented and high quality products will be supplied only if firms are earning a continual stream of rental income that will be lost if low quality output is deceptively produced. The present discounted value of this rental stream must be greater than the one-time wealth increase obtained from low quality production."); p. 636 ("Similarly, purchase from a diversified firm increases the frequency of repeat purchase and lowers the necessary price premium. As long as consumers react to receiving unexpectedly low quality from a diversified firm by reducing purchases of the firm's entire product line, all the firm's non-salvageable capital serves to assure the quality of each product it produces.").

⁵² See, e.g., Klemperer, Paul, "The Competitiveness of Markets with Switching Costs," *Rand Journal of Economics*, Vol. 18, No. 1, 1987, pp. 138-150, INTUIT-FTC-PART3-000613297, p. 138 ("In many markets consumers face substantial changeover costs of switching from a product to one of its substitutes. One reason is that there may be learning costs, such as the costs of switching to a new brand of computer or cake mix after learning to use another brand. These may be large even if the brands are functionally very similar. A second reason is that there may be transaction costs, such as the costs of closing an account with one bank and opening another with a competitor, of changing one's long-distance telephone service, or of returning rented equipment to one supplier to rent similar equipment from an alternative supplier. A third reason is that firms may create artificial switching costs, such as repeat-purchase coupons and 'frequent-flyer' programs that reward customers for repeated travel on the same airline, and so penalize brand-switchers."). See also Horner, Johannes, "Reputation and Competition," *The American Economic Review*, Vol. 92, No. 3, June 2002, pp. 644-663, INTUIT-FTC-PART3-000613311, p. 649 ("the worst punishment that can be inflicted upon disappointing firms is the consumers' best alternative, and the patronage of switching consumers represents the best possible reward for successful firms. As time passes, the dynamics of competition generate the outside option required for consumers to optimally quit after a bad outcome, but not after a good one.").

customers about the quality level of their goods or services.⁵³ More specifically, in a competitive market with repeated customer interaction and low switching costs, economic theory has shown that “the firms that retain loyal customers are [...] those that always provide high quality [while] the reputations of these firms increase with their age.”⁵⁴ Notably, the derived results rely on the firms’ valuation of future business with their customers and therefore are not contingent on the specific nature of the deception at issue. The same results apply to settings in which sellers may deceive customers about quality, quantity, price, or other factors.⁵⁵

29. Similarly, marketing research also shows that “companies that strive for customer loyalty should focus primarily on satisfaction and perceived value.”⁵⁶ As Dr. Peter Golder, a professor of marketing at the Tuck School of Business retained on behalf of Intuit in this

⁵³ See, e.g., Horner, Johannes, “Reputation and Competition,” *The American Economic Review*, Vol. 92, No. 3, June 2002, pp. 644-663, INTUIT-FTC-PART3-000613311, p. 644 (“Consider for instance the markets in which customers can only assess the quality of a seller’s product by purchasing and consuming it. Examples of such ‘experience good’ markets include nondurables such as wine, durables such as appliances and cars, and most service providers such as lawyers, mechanics, and airlines. In these settings, a consumer’s experience with a particular product becomes a precious guide-providing imperfect information about a combination of the seller’s efforts, ability, and luck. In these markets a seller’s reputation for quality therefore becomes a valuable asset.”). See also Klein, Benjamin and Keith B. Leffler, “The Role of Market Forces in Assuring Contractual Performance,” *Journal of Political Economy*, Vol. 89, No. 4, August 1981, pp. 615-641, INTUIT-FTC-PART3-000613403, p. 618 (“The fundamental theoretical result of this paper is that market prices above the competitive price and the presence of non-salvageable capital are means of enforcing quality promises.”).

⁵⁴ Horner, Johannes, “Reputation and Competition,” *The American Economic Review*, Vol. 92, No. 3, June 2002, pp. 644-663, INTUIT-FTC-PART3-000613311, p. 645.

⁵⁵ See, e.g., Klein, Benjamin and Keith B. Leffler, “The Role of Market Forces in Assuring Contractual Performance,” *Journal of Political Economy*, Vol. 89, No. 4, August 1981, pp. 615-641, INTUIT-FTC-PART3-000613403, pp. 616-617 (“While our approach is general in the sense that the value of future exchanges can motivate fulfillment of all types of contractual promises, we focus in this paper on contracts between producers and consumers regarding product quality.”). See also Chiles, Bennett, “Shrouded Prices and Firm Reputation: Evidence from the U.S. Hotel Industry,” *Management Science, Articles in Advance*, November 16, 2016, pp. 1-20, INTUIT-FTC-PART3-000613460, p. 1 (“Ostensibly, firms may have an incentive to avoid price obfuscation [i.e., making prices more difficult, confusing, or time-consuming to discern] if consumers view these practices as deceptive and can punish the offending firms. For example, in repeated transaction settings, embittered consumers might simply take their business elsewhere in future periods. There may also be consequences to obfuscation when demand depends on seller reputation and consumers can provide publicly observable feedback on their interactions with firms (e.g., via rating mechanisms such as Yelp or TripAdvisor). In this case, if consumers punish firms for deceptive tactics via lower ratings *ex post*, then firms may have an incentive to avoid obfuscation even if interactions are not repeated and the set of buyers in the market is different each period.”).

⁵⁶ Yang, Zhilin and Robin T. Peterson, “Customer Perceived Value, Satisfaction, and Loyalty: The Role of Switching Costs,” *Psychology & Marketing*, Vol. 21, No. 10, October 2004, pp. 799-822, INTUIT-FTC-PART3-000613431, p. 799 (“The results [...] indicate that companies that strive for customer loyalty should focus primarily on satisfaction and perceived value. The moderating effects of switching costs on the association of customer loyalty and customer satisfaction and perceived value are significant only when the level of customer satisfaction or perceived value is above average.”).

matter, discusses in more detail in his expert report,⁵⁷ Complaint Counsel’s theory disregards the widely accepted marketing literature on customer satisfaction and customer lifetime value that is broadly taught in business schools and the realities of Intuit’s business. As Dr. Golder discusses, Intuit’s high customer retention and customer experience scores are evidence of a *lack* of widespread feelings of deception.⁵⁸

30. As the economic and marketing research establishes, a firm deceiving its customers over time is not economically rational conduct in an environment of intense competition and repeated customer interactions.

B. Complaint Counsel’s Claims of Widespread and Significant Deception of Intuit’s Customers Are Inconsistent with the Competitive Dynamics in the Tax Preparation Industry

31. Complaint Counsel allege that Intuit deceived its customers by letting them falsely believe that its tax preparation services were free until they have invested too much time and effort “gathering and inputting into TurboTax their sensitive personal and financial information” to walk away.⁵⁹ However, the at-issue deception is such that customers will necessarily become aware of it—at the very latest—before having to pay for filing their tax return. In fact, customers must have discovered the alleged deceit no later than the time when they were asked to make a payment for something that they supposedly expected to receive for free. As a result, any dissatisfied customer could have left Intuit at *no financial cost* even before the firm could realize its gains. Therefore, according to Complaint Counsel’s logic, Intuit put at risk its future repeat business with a large number of customers in exchange for an uncertain, one-time reward. Alternatively, Complaint Counsel’s logic requires that customers continue to pay voluntarily for Intuit’s services even after the alleged deception is discovered, in the face of countless other options.

⁵⁷ Expert Report of Professor Peter N. Golder, Ph.D., *In the Matter of Intuit Inc.*, Docket No. 9408, January 13, 2023 (“Golder January 2023 Report”), Section III.A titled “TurboTax Customer Reviews Indicate Customers Receive Benefits from the Service and Do Not Feel Misled.”

⁵⁸ See Golder January 2023 Report, Section III.A titled “TurboTax Customer Reviews Indicate Customers Receive Benefits from the Service and Do Not Feel Misled.”

⁵⁹ Complaint, ¶ 6.

32. Complaint Counsel’s claims are inconsistent with how competition unfolds in the tax preparation industry, at least with regards to an established firm like Intuit. What Complaint Counsel allege seems better suited to the strategies of “tax scammers” that the IRS warns consumers about and tries to stop every tax season.⁶⁰ For example, pursuing the myopic strategy, these scammers may lure consumers by promising large refunds, then collect payments, and run off with the money.⁶¹ On the contrary, Intuit has been in the tax preparation business for almost four decades and recognizes that its success depends on its reputation and the value of its brand.⁶² Intuit is also among e-file providers authorized by the IRS and dependent upon ongoing authorization by the IRS.⁶³ As the

⁶⁰ See, e.g., Department of Justice Office of Public Affairs, “Justice Department Continues Efforts to Stop Fraudulent Tax Preparers,” April 6, 2022, <https://justice.gov/opa/pr/justice-department-continues-efforts-stop-fraudulent-tax-preparers>, INTUIT-FTC-PART3-000610925 (“The Department of Justice urges taxpayers to choose their return preparers wisely as the April 18th federal tax filing deadline approaches. Return preparer fraud is one of the IRS’ Dirty Dozen Tax Scams. Unscrupulous preparers who include errors or false information on a tax return could leave a taxpayer open to liability for unpaid taxes, penalties and interest.”). See also Internal Revenue Service, “IRS Releases the ‘Dirty Dozen’ Tax Scams for 2014; Identity Theft, Phone Scams Lead List,” February 19, 2014, <https://www.irs.gov/newsroom/irs-releases-the-dirty-dozen-tax-scams-for-2014-identity-theft-phone-scams-lead-list>, INTUIT-FTC-PART3-000612782 (“Return Preparer Fraud: About 60 percent of taxpayers will use tax professionals this year to prepare their tax returns. Most return preparers provide honest service to their clients. But, some unscrupulous preparers prey on unsuspecting taxpayers, and the result can be refund fraud or identity theft. It is important to choose carefully when hiring an individual or firm to prepare your return.”).

⁶¹ See, e.g., Chang, Ellen, “Hackers Are Targeting Taxpayers. Here’s How to Protect Your Data,” *TheStreet*, April 5, 2022, <https://www.thestreet.com/technology/cybersecurity/hackers-are-targeting-taxpayers-heres-how-to-protect-your-data>, INTUIT-FTC-PART3-000610432 (“There are criminals ripping people off the old-fashioned way by pretending to be tax preparers. They will add illegal deductions often, Hamerstone [director of advisory solutions for TrustedSec, a Strongsville, Ohio-based cybersecurity company] said. ‘This is the one that surprises people [...] There are actually fake tax preparers. Some even set up storefronts. They will steal your refund by redirecting it to your bank account, and often will pump up your refund with inappropriate/illegal deductions.’”).

⁶² See e.g., Intuit Inc., “Form 10-K for the Fiscal Year Ended July 31, 2022,” September 2, 2022, <https://d18m0p25nwr6d.cloudfront.net/CIK-0000896878/e04ed275-64f6-4662-a383-a1e01829677b.pdf>, INTUIT-FTC-PART3-000611692, p. 18 (“Our business depends on our strong reputation and the value of our brands. Developing and maintaining awareness of our brands is critical to achieving widespread acceptance of our existing and future products and services and is an important element in attracting new customers. Adverse publicity (whether or not justified) relating to events or activities attributed to us, members of our workforce, agents, third parties we rely on, or our users, may tarnish our reputation and reduce the value of our brands. Our brand value also depends on our ability to provide secure and trustworthy products and services as well as our ability to protect and use our customers’ data in a manner that meets their expectations. In addition, a security incident that results in unauthorized disclosure of our customers’ sensitive data could cause material reputational harm.”).

⁶³ Internal Revenue Service, “Authorized IRS E-file Provider Locator Service for Tax Professionals,” <https://www.irs.gov/e-file-providers/authorized-irs-e-file-provider-locator-service-for-tax-professionals>, accessed July 22, 2022, INTUIT-FTC-PART3-000610719.

Hauser Report and Golder Report explain in more detail, tax preparation is a high-involvement process for which customers will invest time to choose the right solution.⁶⁴

33. The tax preparation industry features characteristics that, as discussed in **Section IV.A**, provide strong incentives for any rational firm that is not myopic *against* deceiving its customers. As discussed above, the four key characteristics that affect the competitive dynamics among tax preparation providers during any particular tax filing season include: (i) **saturation** of the tax preparation industry and few new filers; (ii) existence of many **competing solutions**; (iii) **differentiation** among tax preparation; and (iv) **low switching costs** faced by consumers willing to consider online tax preparation solutions. As discussed in **Section IV.A**, in general, low switching costs make it easier for customers to punish unscrupulous providers and bring their business in current and future periods to more reputable competitors.
34. I discuss these four characteristics in turn below. I conclude that given the characteristics of the industry, customer retention and reputation building naturally emerge as critical factors of tax preparation services providers' competitive strategies.

1. Saturation: The Tax Preparation Industry Has Few New Customers Each Year and Is Characterized by Providers Competing for Repeated Customer Purchases

35. Tax filing in the U.S. occurs every year and is required for any individual who earns income exceeding a certain minimum level. This legal requirement essentially guarantees the population saturation of the industry. Moreover, the size of the tax preparation industry is largely fixed, except for demographic changes or changes in legal tax filing requirements. In other words, the industry is saturated, with a very limited number of untapped customers. Completing and filing tax returns is a necessary and required task, and not one that will organically grow for any reason (e.g., entertainment value) other than legal requirements. An industry report published in 2020 reports the annual growth

⁶⁴ See Expert Report of Professor John R. Hauser, SC.D., *In the Matter of Intuit Inc.*, Docket No. 9408, January 13, 2023 ("Hauser January 2023 Report"), Section VI titled "Consumers Are Unlikely to be Deceived or Locked-In Given the Nature of the Purchase Process for Tax Preparation Software." See also Golder January 2023 Report, Section VI titled "Intuit's Free Ads Are One Source of Information in the High-Involvement Consumer Buying Process for Tax Preparation and Would be Unlikely to Deceive Reasonable Consumers," discussing how a prolonged information search is common for high-involvement products like tax preparation.

between 2015 and 2020 in the number of households at a low 0.7 percent.⁶⁵ Consistent with the *repeated interaction* framework described in **Section IV.A**, it is largely the same consumers who repeatedly purchase tax preparation products and services year after year.

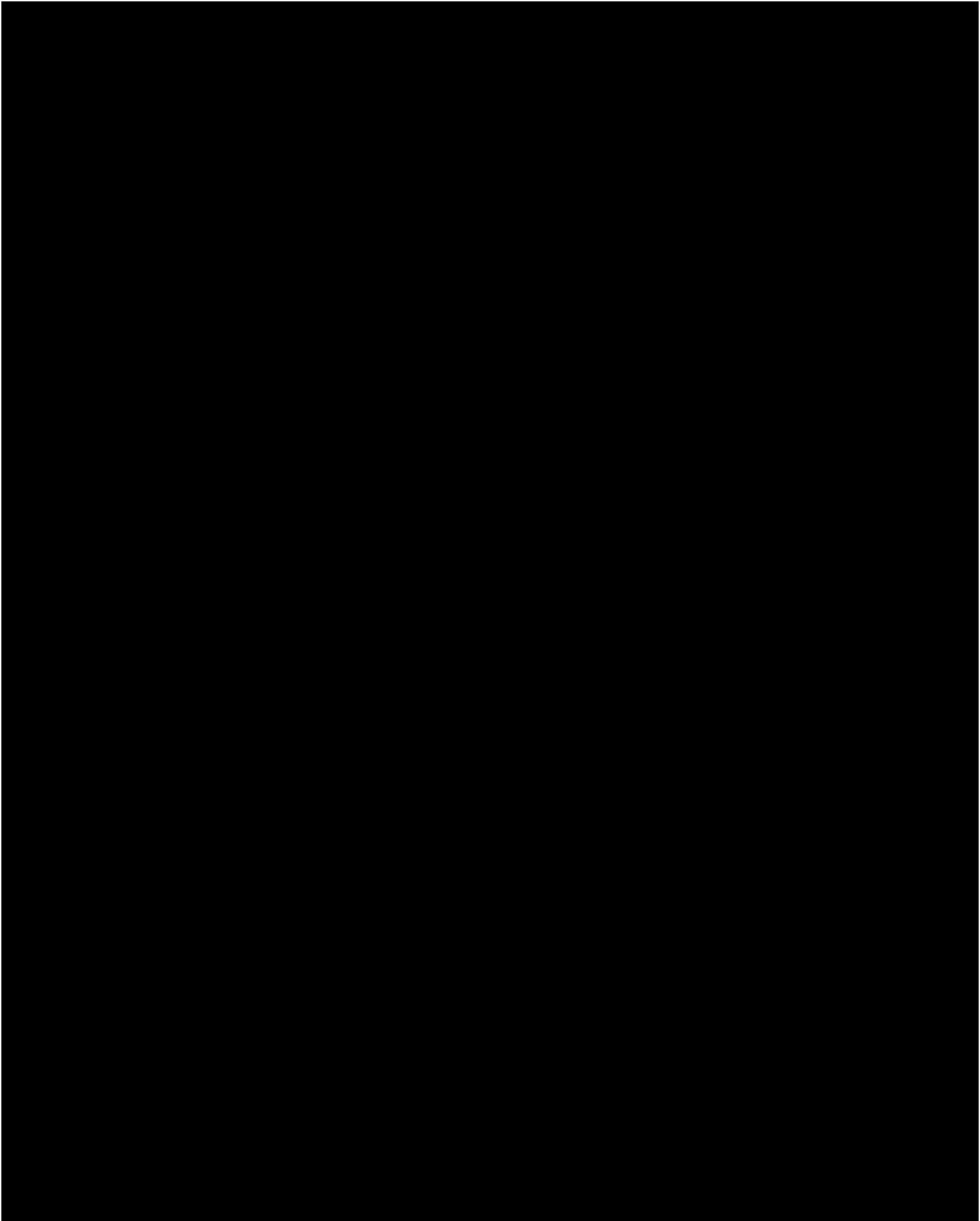
36. Once a consumer begins paying taxes, such activity is likely to continue until the death of the consumer unless her economic activity virtually ceases. This does not imply, however, that such a consumer will always use the same solution to prepare her taxes. In each tax season, given low switching costs, the consumer will have an incentive to review what the market offers and look for alternatives that might better fit her needs. As a result, tax preparers must constantly compete on the merits of their offerings each year to win the business of both past and new customers.

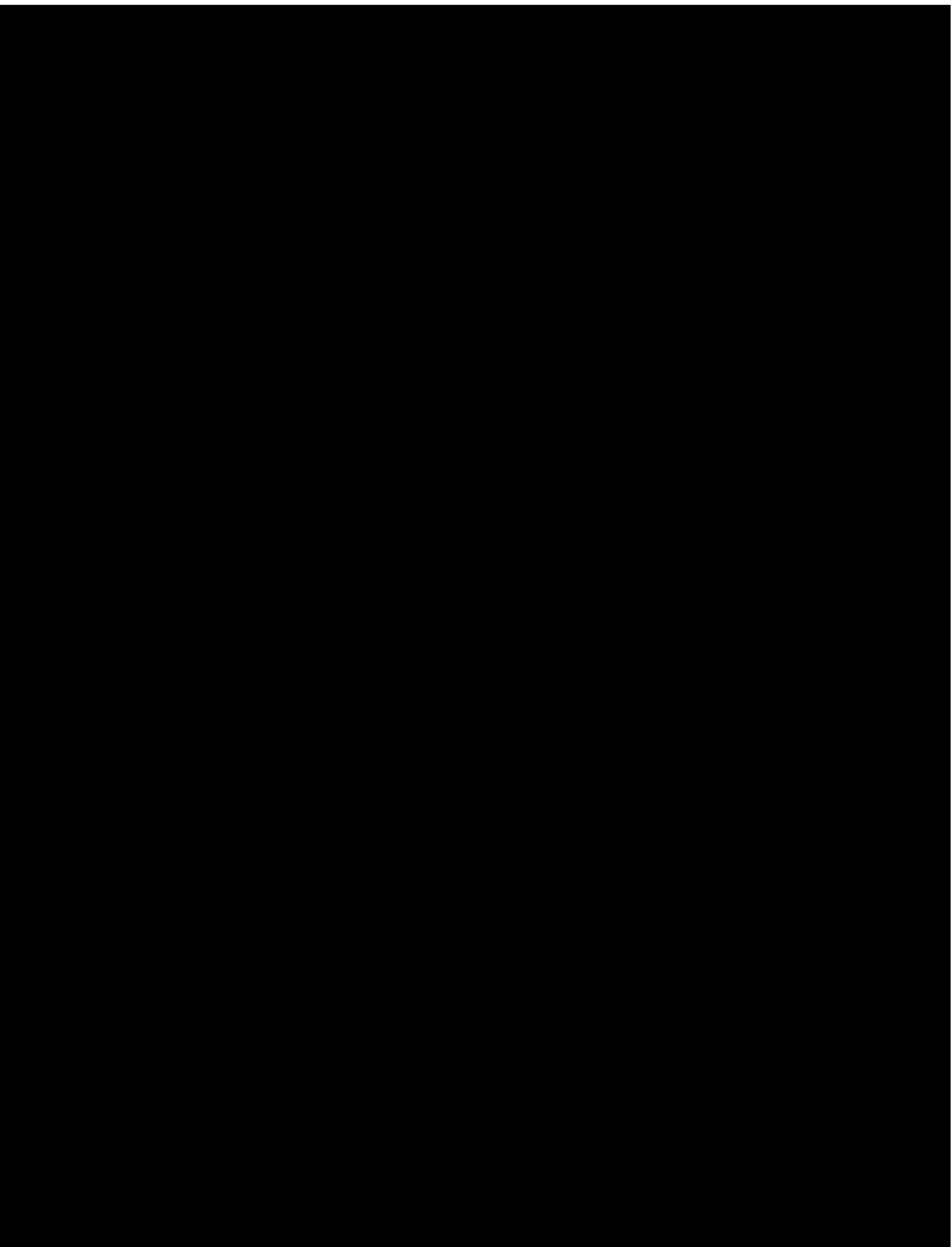
2. *Competing Solutions: Consumers Choose Among Many Offerings by Different Providers Competing Aggressively Against Each Other*

37. Industry reports describe the tax preparation industry as “highly competitive.”⁶⁶ Compared to other industries, the heterogeneity among providers of competing services is striking. In fact, aside from large online providers like Intuit and H&R Block, the industry also includes an assortment of smaller players such as Jackson Hewitt and Liberty Tax (both chains of franchise and company-owned tax preparation stores and also providers of online DIY tax preparation services), or TaxSlayer (online DIY tax preparation service provider), as well as tens of thousands of individual licensed tax and

⁶⁵ Cook, Dan, *Tax Preparation Software Developers*, IBISWorld, September 2020, INTUIT-FTC-PART3-000612814, p. 7.

⁶⁶ See, e.g., The MITRE Corporation, “Independent Assessment of the Free File Program, Appendix A: The Economics of IRS Free File,” September 13, 2019, <https://www.irs.gov/pub/newsroom/02-appendix-a-economics-of-irs-free-file.pdf>, INTUIT-FTC-PART3-000610063, p. 24 (“A new IRS e-filing program would have to offer tax preparation services comparable to those offered by a *highly competitive private sector* to ensure sufficient participation and migration of taxpayers from other commercial e-filing methods.” [emphasis added]) and p. 29 (“The online tax preparation software industry bears characteristics of a *monopolistically competitive market*. Such a market is characterized by a large number of sellers (suppliers) that offer similar but not identical products, i.e., the products are close substitutes to one another. An important feature of monopolistic competition is that products are differentiated on the basis of brands. This product differentiation is a form of non-price competition, i.e., the firms compete with one another on the basis of these brands. [...] Another important attribute of this market is that it has relatively low barriers to entry, i.e., firms can enter and exit the market relatively easily. For the tax software industry such barriers to entry may include, for example, fixed costs of becoming a licensed tax professional, fulfilling requirements of becoming an IRS authorized e-file provider, and resources spent in building up a customer base.”).





40. Many tax returns are not completed by individuals filing taxes on their own, but are instead filed through tax professionals or tax stores.⁷⁶ In 2019, for example, there were over 110,000 tax professionals who sold tax preparation services.⁷⁷ Such a high number is consistent with the relatively low barriers to enter the industry.⁷⁸ While many tax preparers are CPAs, this is not a requirement for tax preparation.⁷⁹ Anyone with a valid preparer tax identification number (“PTIN”) would be able to prepare or assist in preparing tax returns for compensation.⁸⁰
41. Ultimately, the choice between DIY solutions and assisted tax preparation will reflect consumer’s needs and preferences, as “[b]oth paid preparers and tax software can translate complex IRS regulations into simpler language and can call individuals’ attention to relevant credits and deductions.”⁸¹ Regardless of the tax preparation method,

⁷⁶ As Figure 1 shows an estimated of 87 million tax returns were filed in TY21 (FY22) through “CPA/Pros” or “Tax Stores”.

⁷⁷ Patel, Kush, “Tax Preparation Services in the US,” *IBISWorld*, August 2019, <https://www.gsa.gov/cdnstatic/54121D%20Tax%20Preparation%20Services%20in%20the%20US%20Industry%20Report.pdf>, INTUIT-FTC-PART3-000611633, p. 27 (“The relative ease with which a competitor can enter the market enables a large number of industry enterprises estimated at over 110,000 in 2019.”).

⁷⁸ Patel, Kush, “Tax Preparation Services in the US,” *IBISWorld*, August 2019, <https://www.gsa.gov/cdnstatic/54121D%20Tax%20Preparation%20Services%20in%20the%20US%20Industry%20Report.pdf>, INTUIT-FTC-PART3-000611633, p. 20 (“The industry has relatively low barriers to entry, which has prevented it from exhibiting a high level of concentration. [...] However, the industry’s barriers to entry have become higher due to an US Internal Revenue Service (IRS) requirement to file for a preparer tax identification number. While it is expected to remain relatively easy for a new firm to enter, this additional requirement has contributed to the slowing of the number of firms entering the industry.”).

⁷⁹ Patel, Kush, “Tax Preparation Services in the US,” *IBISWorld*, August 2019, <https://www.gsa.gov/cdnstatic/54121D%20Tax%20Preparation%20Services%20in%20the%20US%20Industry%20Report.pdf>, INTUIT-FTC-PART3-000611633, p. 24 (“Currently, tax preparers in 43 states are not required to have a state issued license.”).

⁸⁰ Internal Revenue Service, “PTIN Requirements for Tax Return Preparers,” July 13, 2022, <https://www.irs.gov/tax-professionals/ptin-requirements-for-tax-return-preparers>, INTUIT-FTC-PART3-000613259 (“Most first-time PTIN applicants can obtain a PTIN online in about 15 minutes.”). See also Patel, Kush, “Tax Preparation Services in the US,” *IBISWorld*, August 2019, <https://www.gsa.gov/cdnstatic/54121D%20Tax%20Preparation%20Services%20in%20the%20US%20Industry%20Report.pdf>, INTUIT-FTC-PART3-000611633, p. 24 (“Until 2010, the IRS only required that paid tax preparers disclosed their social security number and signatures on the documents they prepared. Since 2011, however, the IRS has required that all paid tax preparers have a preparer tax identification number (PTIN). While this adds a new barrier to entry, a potential entrant only needs to submit an IRS W-12 form to receive a PTIN.”).

⁸¹ Gunter, Samara R., “Your Biggest Refund, Guaranteed? Internet Access, Tax Filing Method, and Reported Tax Liability,” *International Tax and Public Finance*, Vol. 26, 2019, pp. 536-570, INTUIT-FTC-PART3-000616813 at 565. For example, one study showed that an expansion of tax preparers into low-income neighborhoods led to an increase in Earned Income Tax Credit (EITC) claims, see Kopczuk, Wojciech and Cristian Pop-Eleches, “Electronic Filing, Tax Preparers and Participation in the Earned Income Tax Credit,” *Journal of Public Economics*, Vol. 91, 2007, pp. 1351-1367, INTUIT-FTC-PART3-000613620. Similarly, in a

a consumer deceived by a provider would easily find an alternative, comparably suitable solution offered by a competitor.⁸²

3. *Differentiation: Tax Preparation Services Are Differentiated*

42. The wide heterogeneity among tax preparation providers and solutions reflects differences in customers' tax filing preferences and needs. There are many examples that illustrate how consumers may have different levels of comfort with various aspects, including: (i) preparing their tax return totally or largely on their own, (ii) making filing choices (e.g., married couple filing jointly or separately), or (iii) the amount of time they have available to prepare their returns. A survey of academic literature identified several main drivers of demand for tax practitioner assistance, including: ensuring a correct return, maximizing refunds/minimizing taxes due, avoiding risks of audits and penalties, reducing tax filing time costs, and addressing legal ambiguity.⁸³ According to a recent independent study conducted by MITRE to help the IRS better understand taxpayers,⁸⁴ the top three factors cited by taxpayers when choosing a filing method were: (i) data protection (88%), (ii) ease of use (84%), and (iii) finding all possible deductions and credits (79%).⁸⁵
43. While cost is also an important consideration for many consumers, their willingness to pay for products or assistance with filing their taxes varies greatly and reflects their diverse preferences and filing choices. As a result, it is difficult to pinpoint which aspects mattered the most to a given customer. It cannot be inferred, for example, that, for customers who had started their tax preparation within a free product, price was necessarily the most critical factor. Through the process, such customers may have

related experiment, researchers showed that tax preparers have a large effect on the take-up of incentivized individual retirement account ("IRA") products, see Duflo, Esther et al., "Saving Incentives for Low- and Middle-Income Families: Evidence from a Field Experiment With H&R Block," *The Quarterly Journal of Economics*, Vol. 121, No. 4, November 2006, pp. 1311-1346, INTUIT-FTC-PART3-000613261.

⁸² See Appendix C for a list of Intuit's key competitors offering commercial DIY tax preparation products.

⁸³ See, e.g., Frecknall-Hughes, Jane and Erich Kirchler, "Towards a General Theory of Tax Practice," *Social & Legal Studies*, Vol. 24, No. 2, 2015, pp. 289-312, INTUIT-FTC-PART3-000613346, pp. 292-293.

⁸⁴ MITRE Corporation is a not-for-profit organization that operates research and development centers for the federal government. See The MITRE Corporation, "Corporate Overview," <https://www.mitre.org/about/corporate-overview>, accessed July 25, 2022, INTUIT-FTC-PART3-000610111.

⁸⁵ Patterson, Jodi et al., *Understanding Taxpayer Motivation for Filing Method Selection to Improve Customer Service*, MITRE, January 2022, INTUIT-FTC-PART3-000610579, p. 16. See also Hauser January 2023 Report, Section VI.B titled "Consumers Consider Many Factors When Selecting Tax Preparation Providers," which found that a variety of factors are important to consumers in selecting a tax preparation provider.

recognized a higher value in features available only in paid products (e.g., quick access to tax experts) and decided to switch to more expensive solutions only because of those attributes.

44. Facing customers with diverse demands, providers diversify their services along several dimensions including price, reputation for quality, level of assistance, and other factors. Tax and accounting professionals who prepare the entire return for their clients from start to finish, cater to customers with a preference for hands-on assistance.⁸⁶ In contrast, digital DIY service providers offer desktop and/or online tax preparation software to customers who decide to go through the tax filing process by themselves or with a lower level of assistance.
45. Within the DIY category, higher-priced digital DIY services may include specific add-on services (e.g., audit assistance, refund anticipation loans) or may entail a more comprehensive, interview-based interaction with the customer, covering a broader set of tax contingencies (e.g., related to financial investment gains or self-employment). Free online services usually handle a limited number of tax forms and schedules, like H&R Block Free Online,⁸⁷ or are available only to lower-income consumers, like the offerings of the IRS Free File Program.⁸⁸
46. Notably, Complaint Counsel call out one particular free online service in their Complaint: “at least one of TurboTax’s competitors, Cash App Taxes (formerly Credit Karma Tax), has offered a truly free online tax preparation and filing service to all consumers for five

⁸⁶ See, e.g., Goldin, Jacob, “Tax Benefit Complexity and Take-Up: Lessons from the Earned Income Tax Credit,” *Tax Law Review*, Vol. 72, 2018, pp. 59-110, INTUIT-FTC-PART3-000613637, at pp. 87-89 (“The first type of APM [Assisted Preparation Method] a taxpayer might use involves an expert who assists in the preparation of the return. [...] Apart from VITA [Volunteer Income Tax Assistance] and TCE [Tax Counseling for the Elderly], most expert tax preparation is not provided for free. The cost of preparing a return typically varies based on the return’s complexity. The average price for low income taxpayers is believed to be in the range of \$200-\$400 per return, although there is limited high-quality data available to support this figure. Paid preparers sometimes offer additional products that have extra costs, such as Refund Anticipation Loans or Refund Anticipation Checks, which can speed the rate at which the taxpayer can access the anticipated refund associated with a return.”).

⁸⁷ See, e.g., Rounds, Hannah, “H&R Block 2022 Online Tax Prep Review,” *The College Investor*, June 29, 2022, <https://thecollegeinvestor.com/20777/hr-block-online-review/>, INTUIT-FTC-PART3-000612996 (“H&R Block won’t be free for all users. For example, filers with Health Savings Accounts (HSAs) or who have dependent care expenses must upgrade to the Deluxe tier.”).

⁸⁸ Internal Revenue Service, “IRS Free File Online Options,” <https://apps.irs.gov/app/freeFile>, accessed September 23, 2022, INTUIT-FTC-PART3-000610230 (“If your adjusted gross income (AGI) was \$73,000 or less, review each provider’s offer to make sure you qualify. Some offers include a free state tax return.”).

years.”⁸⁹ Similarly, Dr. Novemsky mentions Cash App Taxes as one of the “[f]ree options [...] available in the online tax preparation market.”⁹⁰ A closer examination of this statement finds that “truly free” comes with limitations and tradeoffs. Based on my review of the industry,⁹¹ there is no commercial DIY product that will cover *every* tax situation, *protect all customer information* from being used for other purposes, and still *charge \$0* for the entire service. As an initial point of reference, TurboTax Free Edition, H&R Block Free Online, and Cash App Taxes can be used by consumers of all income levels. If the return is relatively simple, all three products will work even for high-income filers.

47. As I have discussed previously, TurboTax Free Edition supports some tax situations, while requiring upgrades for more complex tax returns. Cash App Taxes, on the other hand, does not offer a paid version for more complex tax returns, however, it does not cover all tax situations, leaving certain customers unable to use the product at all, even after having invested time in entering data. For example, while its website claims that users “[p]ay \$0 to file, no matter your tax situation,”⁹² Cash App Taxes does not support filing multiple state returns,⁹³ non-resident state returns, claiming an increased standard

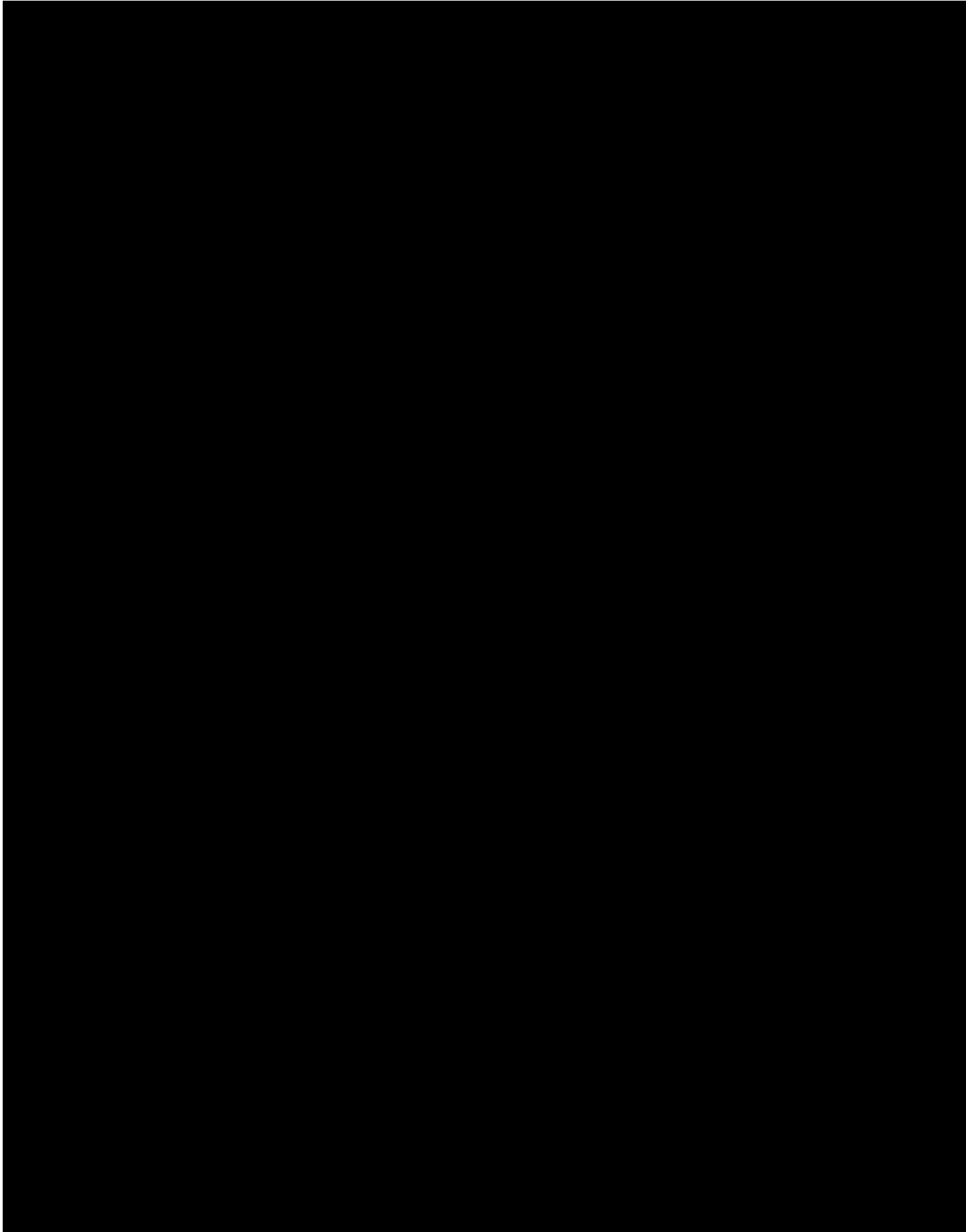
⁸⁹ Complaint, ¶ 35. See also Motion for Summary Decision, p. 20. The Bureau of Competition conceded under oath that TurboTax Free Edition is also “truly free” for those who qualify. See Maxson Deposition at 279:6-18 (“Q. Right. And TurboTax Free Edition is truly free for the people who qualify to use TurboTax Free Edition, correct? A. Yes. I believe TurboTax Free Edition product TurboTax or free edition SKU is free for consumers that qualify under the TurboTax terms and conditions. Q. Not just free, but by the definition used in the complaints it’s – TurboTax Free Edition is truly free for those who quali[f]y, correct? A. For those who qualify, yes, I think it would be fair to say truly free.”).

⁹⁰ Novemsky Report, ¶ 81 (“In addition to other free online services, free options are available in the online tax preparation market.”) and fn. 112 (“See ‘Cash App Taxes,’ *Cash App*, available at <https://cash.app/taxes>”).

⁹¹ See Appendix C for a review of commercial DIY tax preparation products.

⁹² Cash App Taxes, “Cash App Taxes - 100% Free Tax Filing for Federal & State,” <https://cash.app/taxes>, accessed July 29, 2022, INTUIT-FTC-PART3-000610569.

⁹³ Millions of Americans need to file multiple state tax returns each year due to situations such as living in multiple states during the same year, working remotely, or commuting across state borders. For example, approximately 9 million people relocated during the coronavirus pandemic and individuals considered as part-year resident of two or more states need to file multiple state tax returns. See Washington, Kemberley, “When Should I File in Multiple States?,” *Forbes*, April 14, 2021, <https://www.forbes.com/advisor/taxes/when-should-i-file-taxes-in-multiple-states/>, INTUIT-FTC-PART3-000616806.



requires one to view ads, the business model for Credit Karma Tax was to require customers to provide access to their personal information for advertising purposes as the “payment” for the service.¹⁰⁰ As the *Washington Post* put it: “Credit Karma Tax takes the intimate details of your tax returns—like how much you earn and pay for your mortgage—to target you with financial advertising.”¹⁰¹ According to former FTC Commissioner Rohit Chopra, “too often, we mislabel online services as ‘free.’ [...] These services do have a price, and you are paying for them with your data.”¹⁰² Therefore, Complaint Counsel’s choice of Credit Karma Tax/Cash App Taxes as the archetype of a “truly free” service is questionable and rather surprising. It is not clear whether the FTC is endorsing a business model of consumers giving up personal financial information as “payment” for tax filing services, or whether such a policy would be welfare enhancing.

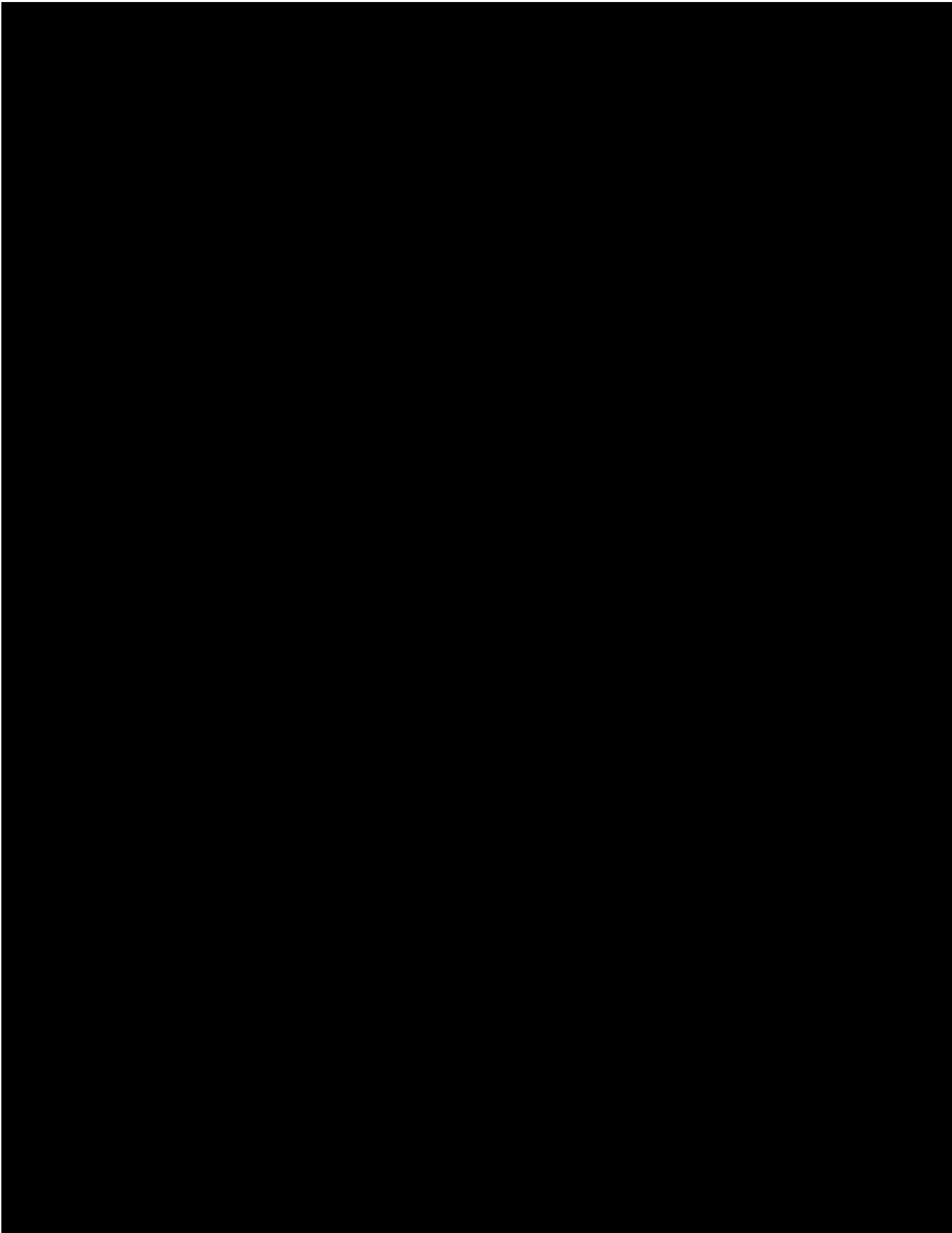
49. As discussed in **Section IV.B.2**, competition pushes providers to imitate their rivals when they discover features or services that generate customer interest. Still, despite such dynamics, companies offer differentiated products and find ways for their products to stand out from the competition. **Appendix C** provides a broader overview of the product lineup for selected providers of online DIY tax preparation. For example, according to reviewers, TaxAct offers an appealing guarantee of accuracy and maximum refund.¹⁰³ Another example is the superior functionality of Intuit’s TurboTax mobile app, as

¹⁰⁰ Credit Karma, “Credit Karma Tax Takes on the Industry, Expands Its Always-Free Premium Tax Product,” December 18, 2018, <https://www.creditkarma.com/about/releases/credit-karma-tax-takes-on-the-industry-expands-its-always-free-premium-tax-product>, INTUIT-FTC-PART3-000611231 (“[W]hen a member files with Credit Karma Tax and agrees to share their tax information with Credit Karma, they’ll receive more personalized recommendations for building their credit or saving money based on the additional insights into a member’s full financial picture. If a Credit Karma member takes one of these offers, the bank or lender pays Credit Karma.”).

¹⁰¹ Fowler, Geoffrey A., “When Tax Prep Is Free, You May Be Paying with Your Privacy,” *Post, The Washington*, March 7, 2019, <https://www.washingtonpost.com/technology/2019/03/07/when-tax-prep-is-free-you-may-be-paying-with-your-privacy/>, INTUIT-FTC-PART3-000610134.

¹⁰² Written Testimony of FTC Commissioner Rohit Chopra Before the U.S. House of Representatives Committee on the Judiciary Subcommittee on Antitrust, Commercial, and Administrative Law, “Hearing on Online Platforms and Market Power, Part 3: The Role of Data and Privacy in Competition,” October 18, 2019, https://www.ftc.gov/system/files/documents/public_statements/1549812/chopra_-_testimony_at_hearing_on_online_platforms_and_market_power_part_3_10-18-19.pdf, INTUIT-FTC-PART3-000611893, p. 3.

¹⁰³ See, e.g., Johnston, Courtney and Joe Van Brussel, “Best Tax Software for 2022: Late or Not, TurboTax, H&R Block and More Can Help You File,” *CNET*, May 4, 2022, <https://www.cnet.com/personal-finance/taxes/best-tax-software/>, INTUIT-FTC-PART3-000610534 (“[TaxAct’s] major distinction is its \$100,000 Accuracy Guarantee and Maximum Refund Guarantee, which promise to get you an accurate refund and the maximum allowable by law. If it fails to do so, TaxAct will refund you up to \$100,000 to cover the difference between your actual and potential refund, your software costs and any associated legal or audit costs.”).



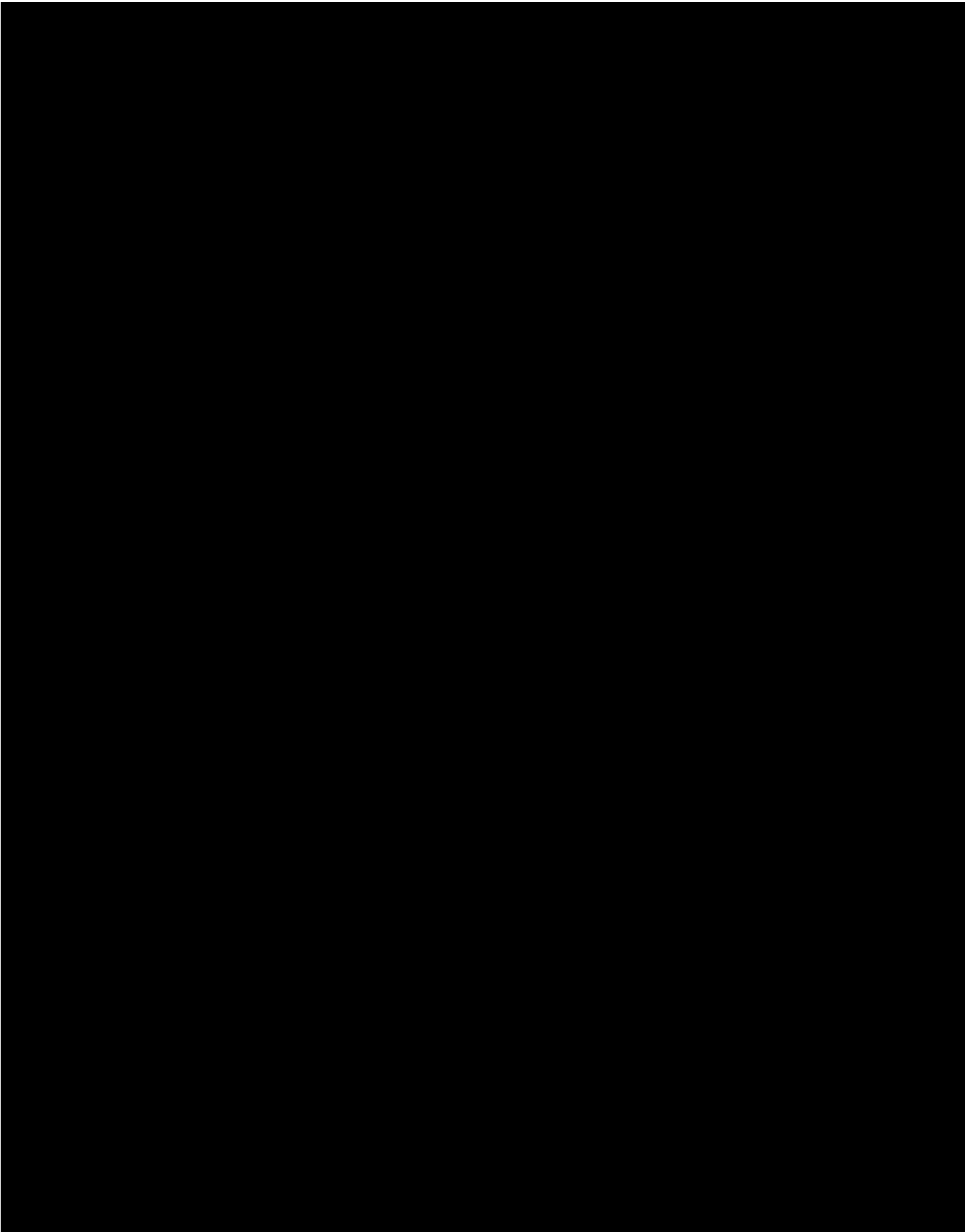
50. In conclusion, firms compete by offering differentiated services at several price points (including “free”).¹⁰⁸ Given the options available to consumers from competitors, as discussed in **Section IV.A**, the prospect of earning positive returns over time incentivizes firms to behave truthfully and makes the short-lived gains of deceiving customers less tempting. In addition, in the DIY tax preparation software industry, and in the software industry in general, many business costs are fixed, such as the cost of research and development (R&D). Unlike for a CPA, where an additional return requires additional time and effort by the preparer, providing DIY tax preparation services to an additional customer has very low or essentially zero marginal cost. With positive profit on each return driven by zero or close to zero marginal cost and positive marginal revenue, providers of DIY solutions have an incentive to cater the service to as many people as possible and keep customer retention high.

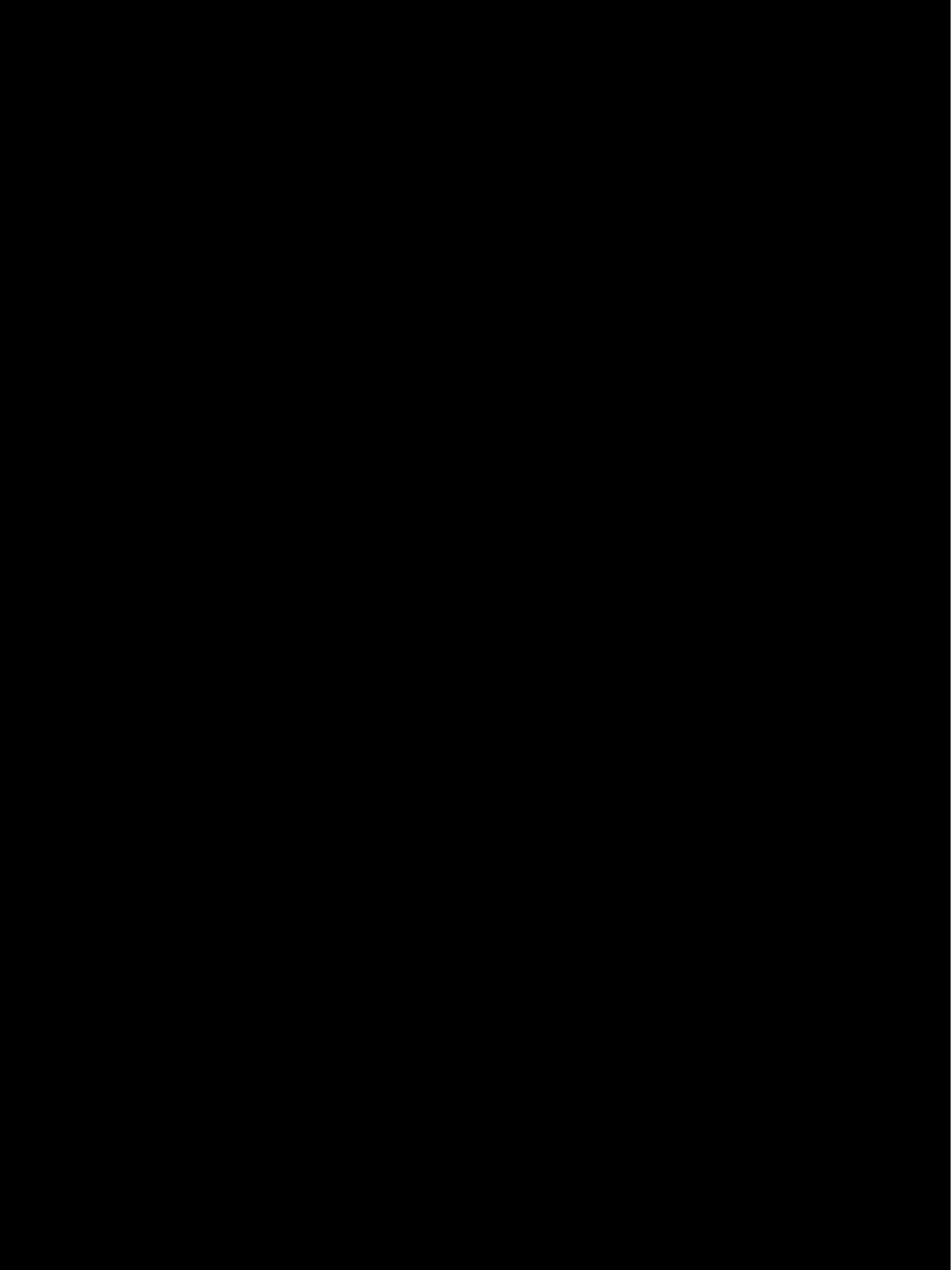
4. *Switching Costs: Consumers Willing to Consider Digital DIY Solutions Face Low Switching Costs*

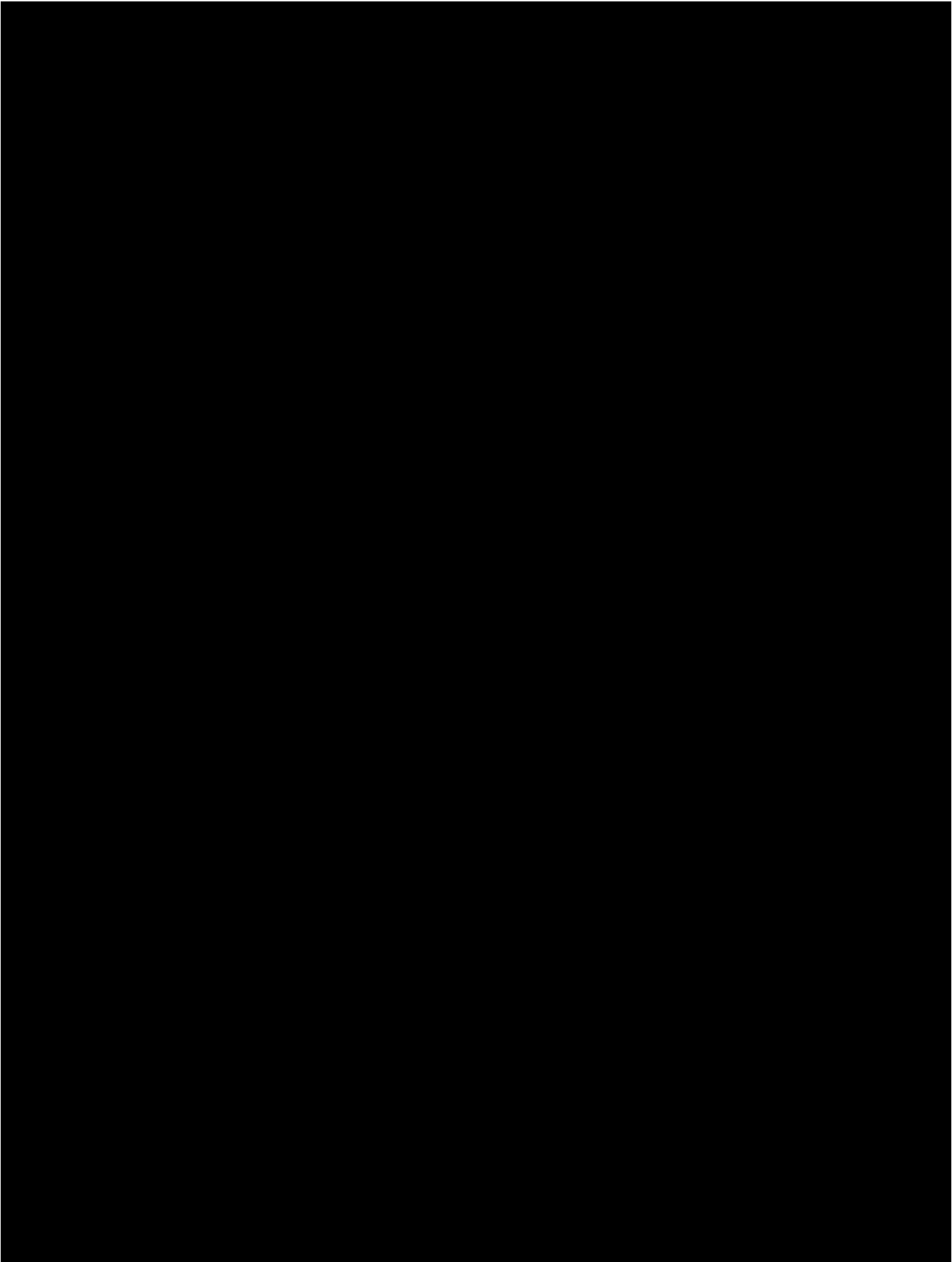
51. Given the wide array of tax preparation solutions, customers have a range of options to compare. When working towards filing her tax return, a consumer may face different switching costs when considering abandoning one service or category of provider in favor of a different one. Switching costs are particularly low when considering switching among DIY solutions, as the underlying source documents (e.g., W-2 forms) and other personal materials remain within the control of the consumer, whereas if the documents are mailed or dropped off to a preparer, they would need to be retrieved before switching providers. Indeed, abandoning a partially filled out tax return started on an online DIY tax software is logistically and emotionally easier than switching away from a tax professional in the midst of her work.

an explicit reason why, but the pattern of behavior is that I haven't used it, and so that leads me to believe that I found it to be inferior. [...] Q. When deciding what method to use to prepare and file your taxes, what is important to you? A. Having things laid out efficiently or clearly as in 'Go to Box 11C. Enter that number.' So clarity. I like stepping through things in, like, a methodical way so there's like a clear path for us to get done with this.”)

¹⁰⁸ For example, one CPA firm discussed the competitive threat of online DIY tax preparation providers and argued that while Intuit offers a “low out of pocket cost,” CPAs provide important “experience and knowledge” and can be “the best option for people with complicated holdings.” See Steward Ingram & Cooper PLLC, “TurboTax Vs. A CPA – Why You Should Consider Hiring an Accountant,” October 14, 2020, <https://stewardingram.com/turbotax-vs-cpa/>, INTUIT-FTC-PART3-000612418.







retention” as one of the company’s foundational strengths.¹²⁰ Similarly, TaxSlayer retained a marketing agency with the intention to “craft a cross-channel strategy to retain customers on a year-over-year basis, while efficiently delivering new customers each tax season.”¹²¹ **Section V** describes in more detail Intuit’s own business strategy for customer retention.

57. Reputation building, or brand recognition, is recognized as another crucial factor for firms trying to achieve long-term success, particularly in saturated industries. For example, a 2020 industry report focused on digital tax preparation noted that “brand recognition is a key success factor for operators in this industry” and “[r]eputability, brand recognition and compliance are essential for industry players to establish a customer base.”¹²² The focus on reputation and brand recognition is also reflected in companies’ public statements and business strategies. Intuit recognizes “brand name recognition” as one of the most important competitive factors for their core product offerings.¹²³ Similarly, H&R Block recognized the importance of reputation building by word-of-mouth in its 2021 Annual Report: “We are successful when we provide valuable help to our clients that inspires their own confidence. When we accomplish this, we not only create a new H&R Block customer for life, we also create brand advocates.”¹²⁴
58. In sum, the tax preparation industry features all the characteristics that lead established tax preparation providers to compete over customer retention, aiming at securing repeated, periodic purchases from a base of loyal customers. As I explained in **Section IV.A**, such industry conditions have been identified by economists as providing

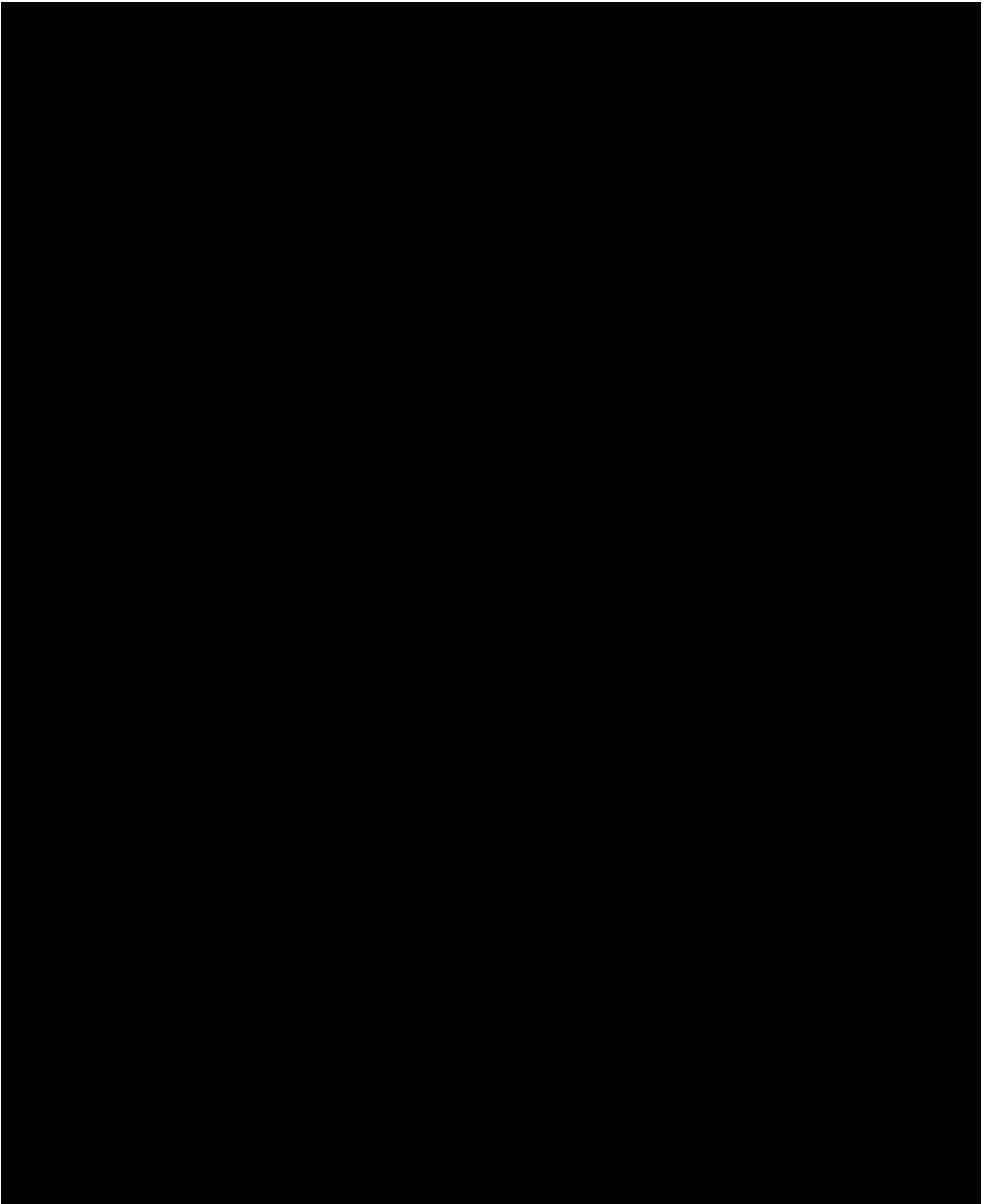
¹²⁰ H&R Block, “Investor Meetings,” July 20, 2018, <https://investors.hrblock.com/static-files/5a9ff1ec-7f19-4ffe-bddc-137a4f99d4ae>, INTUIT-FTC-PART3-000611354, p. 23.

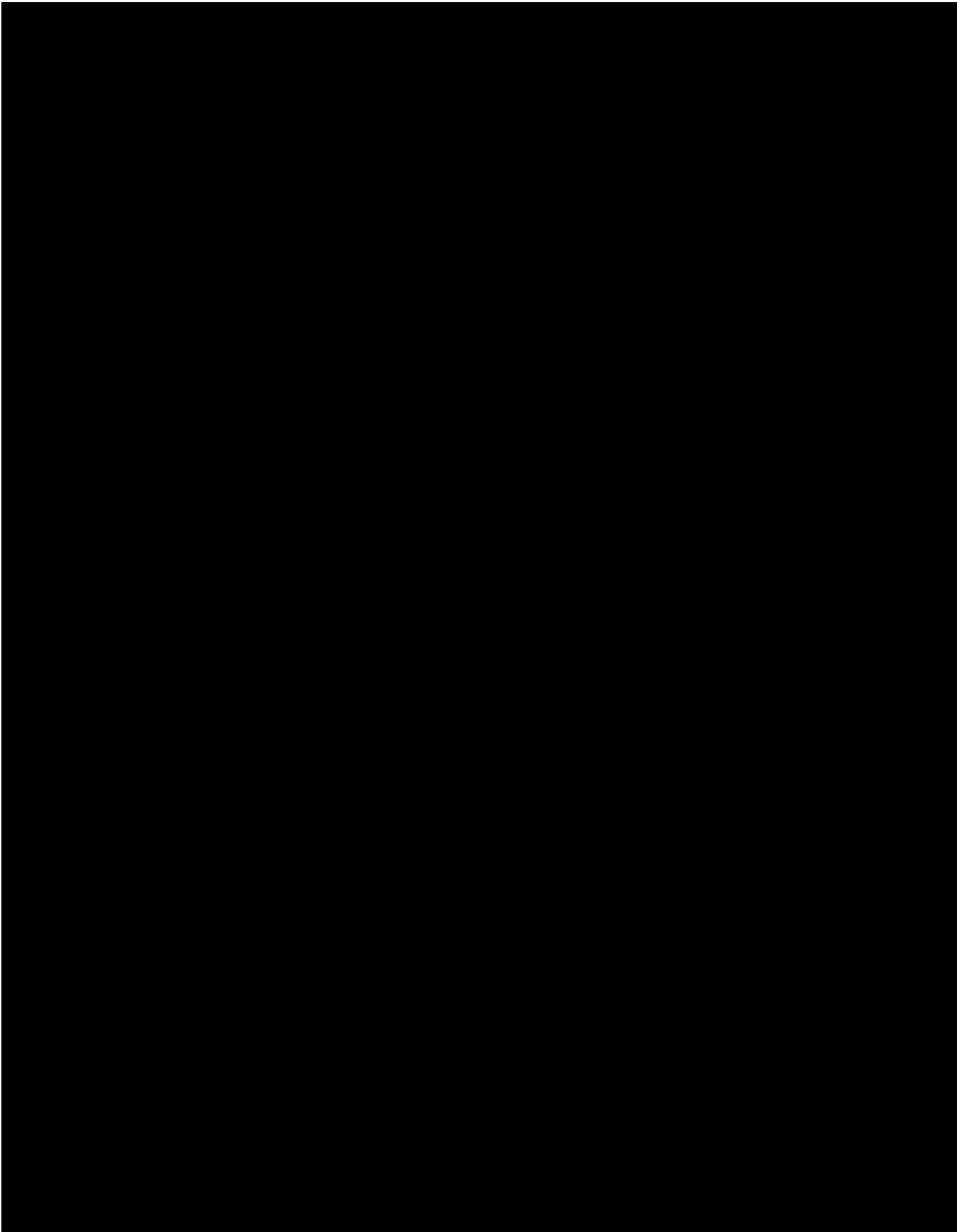
¹²¹ DAC Group, “TaxSlayer - Digital Marketing Case Study,” <https://www.dacgroup.com/work/taxslayer/>, accessed July 22, 2022, INTUIT-FTC-PART3-000610295.

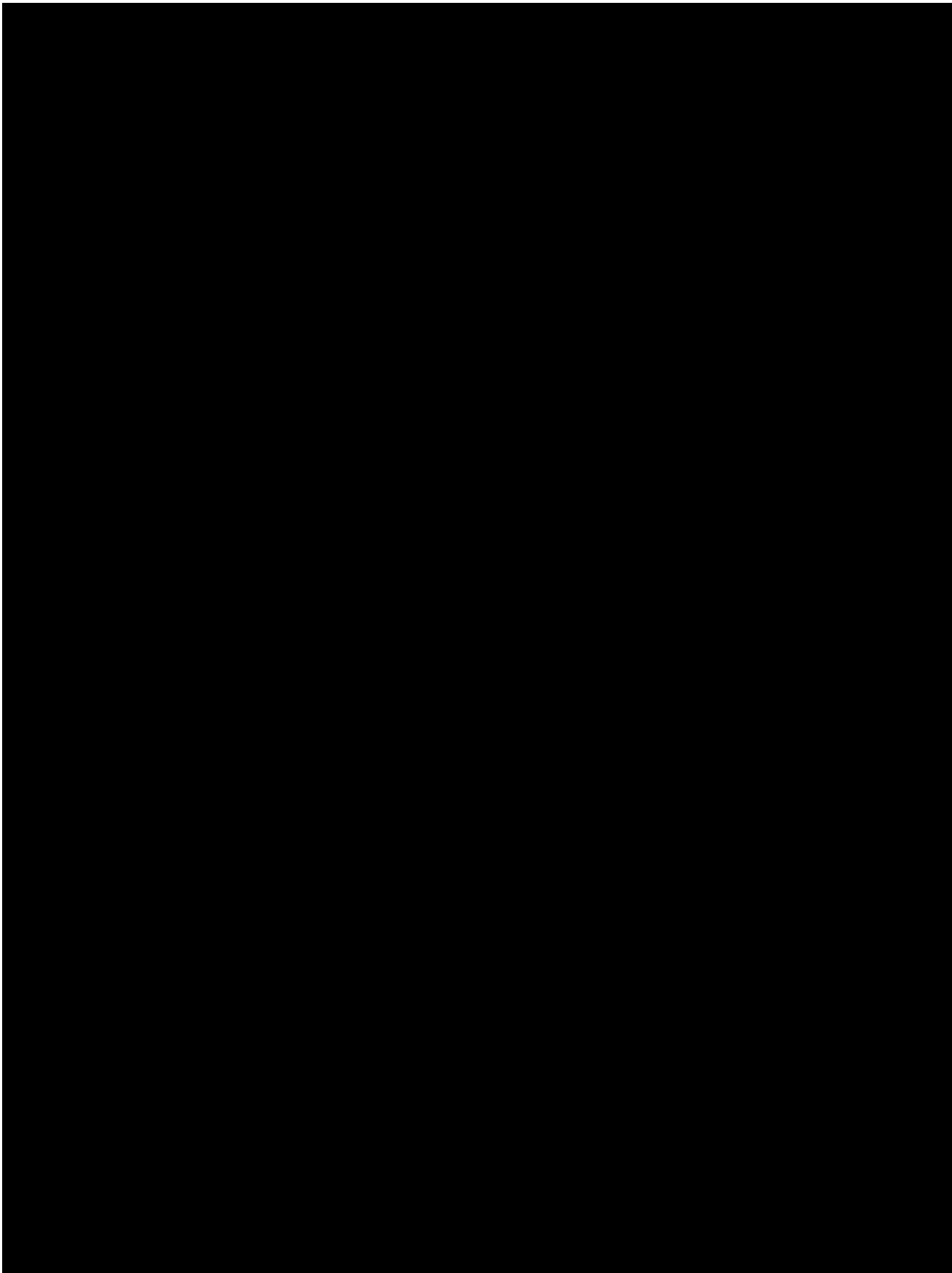
¹²² Cook, Dan, *Tax Preparation Software Developers*, IBISWorld, September 2020, INTUIT-FTC-PART3-000612814, p. 7.

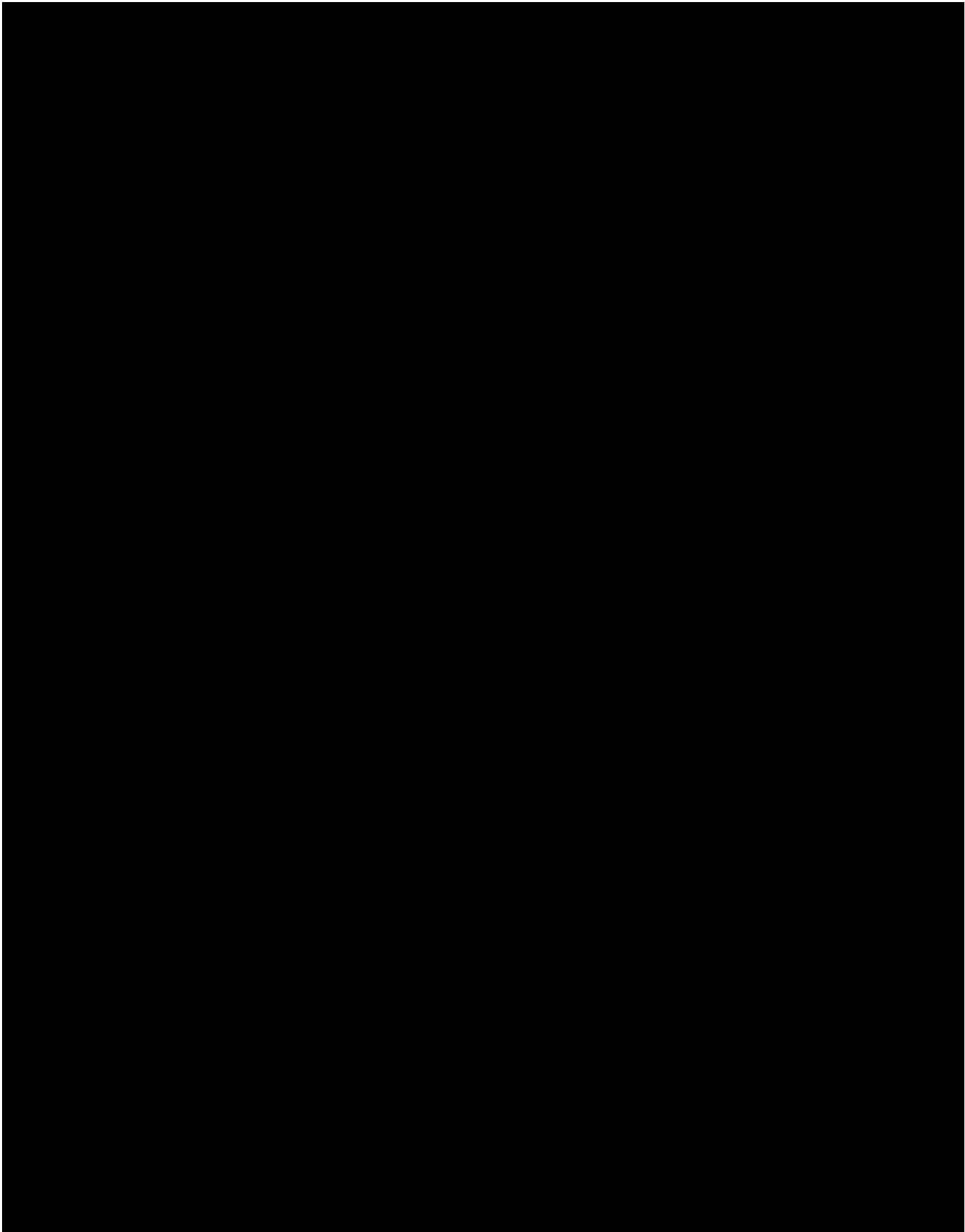
¹²³ Intuit Inc., “Form 10-K for the Fiscal Year Ended July 31, 2021,” September 8, 2021, https://s23.q4cdn.com/935127502/files/doc_financials/2021/ar/72fb2688-540b-4d4a-abe6-e3c5c3aa0683.pdf, INTUIT-FTC-PART3-000613040, p. 12 (“We believe the most important competitive factors for our core offerings – QuickBooks, TurboTax, Lacerte, ProSeries, and Credit Karma – are ease of use, product features, size of the installed customer base, size of membership base, member engagement, brand name recognition, value proposition, cost, reliability, security, and product and support quality.”).

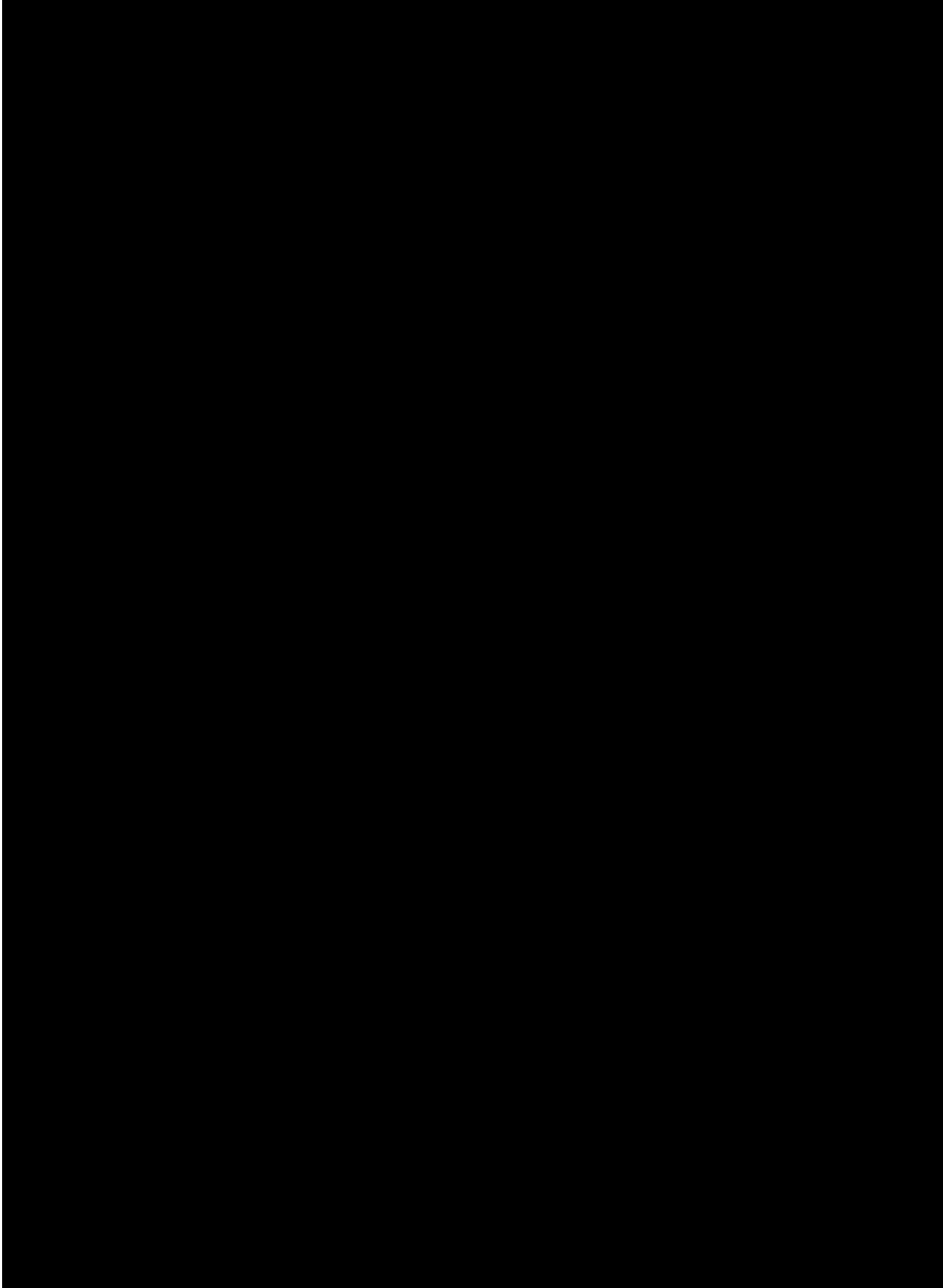
¹²⁴ H&R Block, Inc., “2020 Corporate Responsibility Report,” November 2020, <https://investors.hrblock.com/static-files/1cd086d4-6d8b-4a72-93db-fa545733fd61>, INTUIT-FTC-PART3-000618454, p. 6.

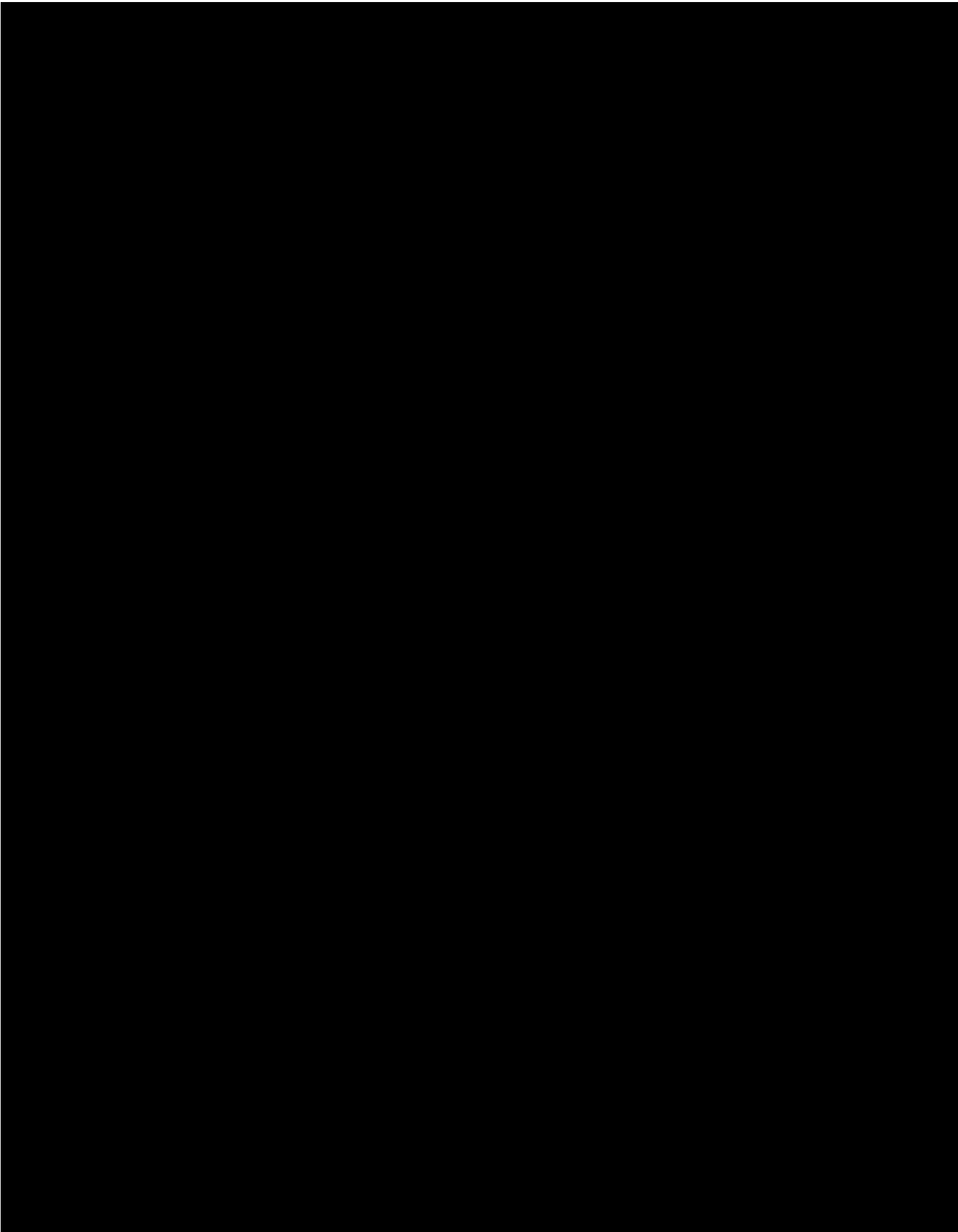


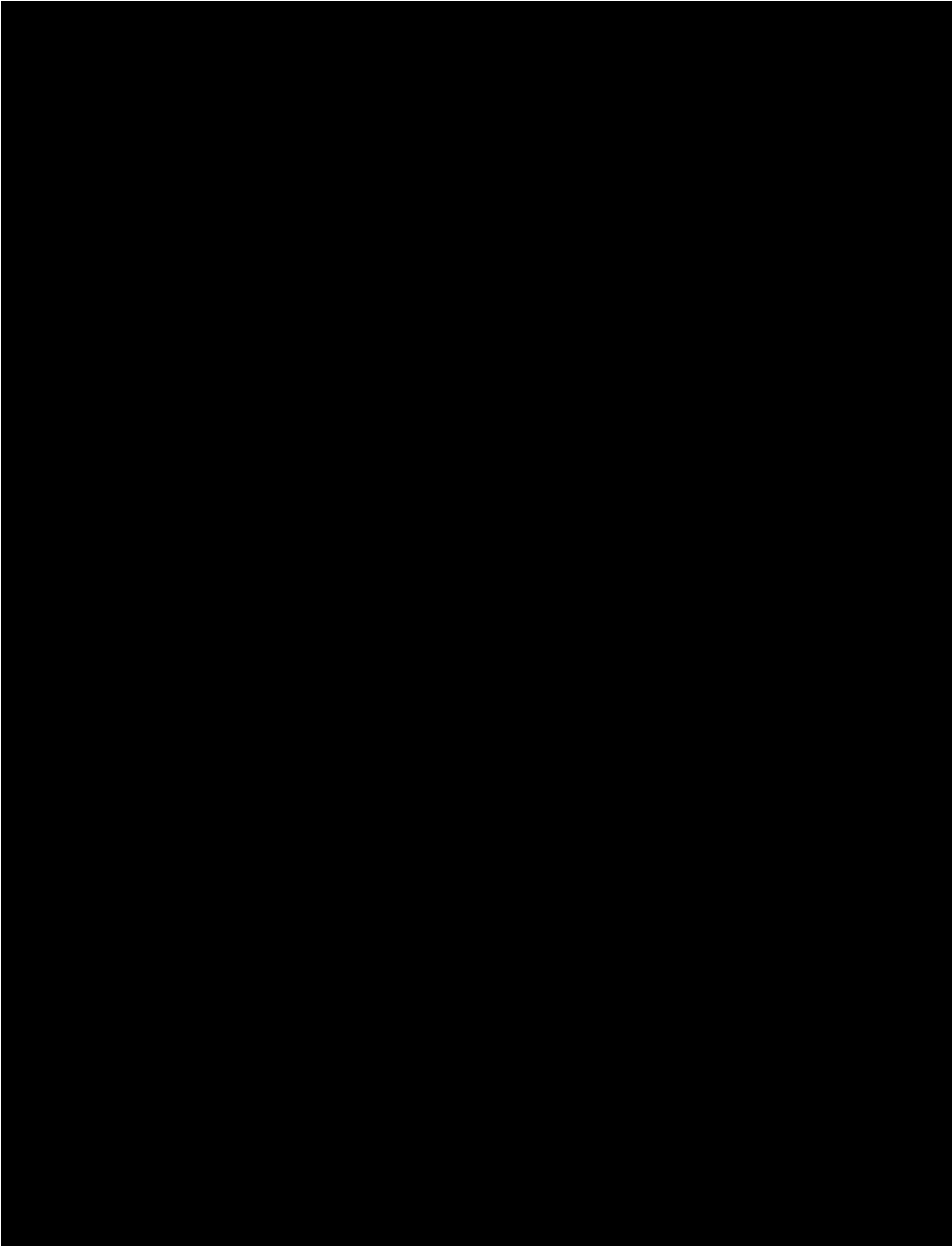










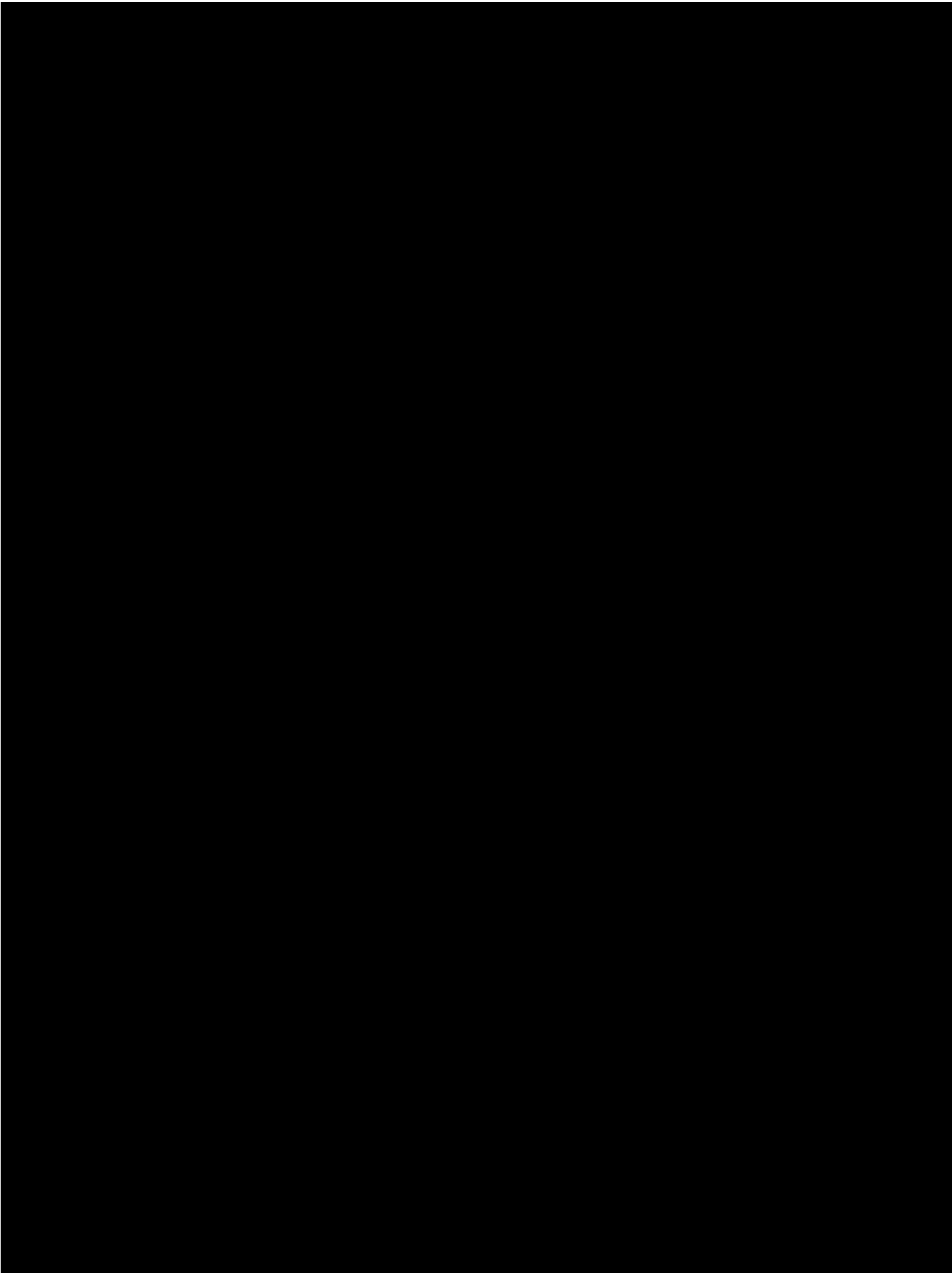


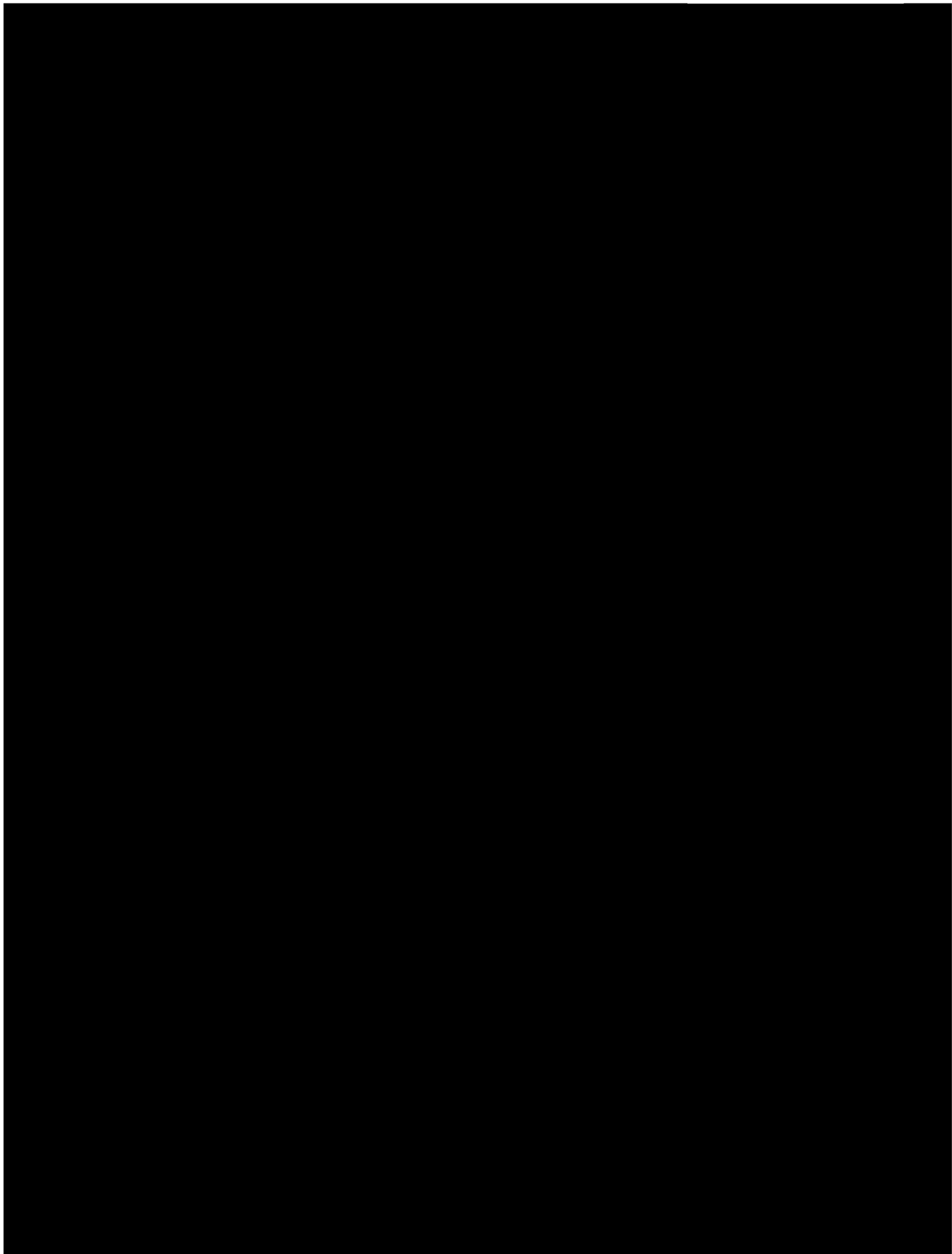
Rather than starting over from scratch, when a customer provides information that allows the system to ascertain that a paid SKU is required to complete their taxes given their situation and preferences, the customer will see an “upgrade screen,” which is a notification that informs them they will need to upgrade to a higher-price version of the software to access all of the desired features or forms. As I discuss in this section, Intuit’s internal documents prepared in the ordinary course of business are consistent with a goal of initially directing customers to the appropriate product upfront to *reduce* the number of customers who encounter an upgrade screen.¹⁵⁴ Similarly, if an upgrade is required, Intuit seeks to notify the customer as early in the process as possible.¹⁵⁵ The Golder Report analyzes in detail the nature and timing of such notifications and disclosures that customers encounter on the TurboTax website.¹⁵⁶ This is exactly the opposite of a “bait

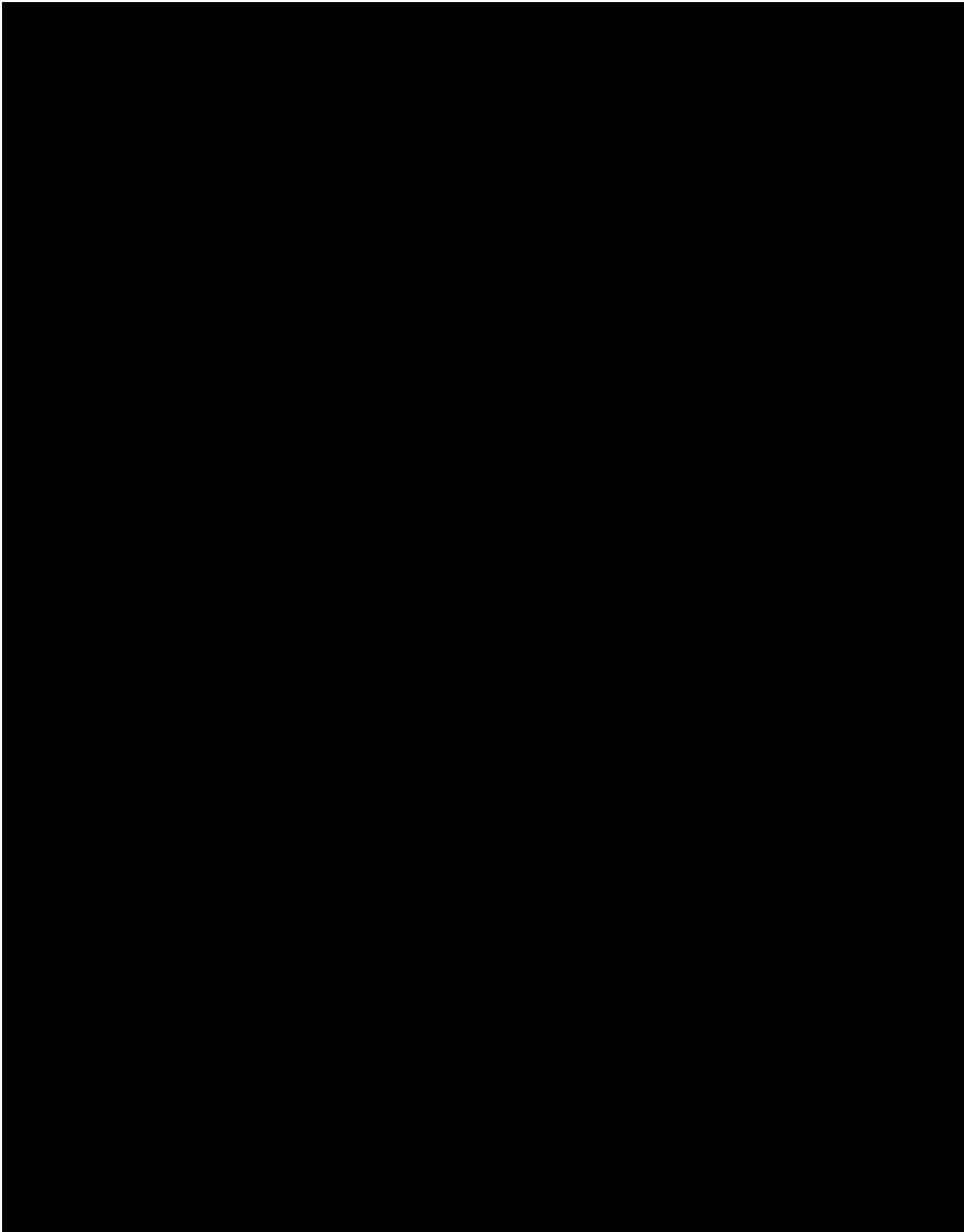
¹⁵⁴ See also Johnson Deposition at 136:12-137:10 (“Q. [I]f the context is you’re trying to provide all the information about your SKUs to consumers, why not provide it to them there, in that spot? When they’re faced with an upgrade, why not say, here’s another – you have the discretion to do it, even though you’re not obligated, you have the discretion, why not provide them with the information about their Free File SKU there? [...] A. [...] we provide [customers] the information to get into the right SKU in our commercial offering. We do that at the very beginning. What we find out is there are a couple of things that we do know to be true. Customers come to our business because of our brand and our reputation, and even those customers who upgrade and get the experience, they go on to convert high product recommendation scores and we retain – and we continue to retain more and more year after year.”); Rubin 2020 Deposition, at 213:3-214:1 (“Q. Why does Intuit want to make sure that customers are aware that Free Edition has eligibility requirements and that those eligibility requirements are tied to the complexity of a taxpayer’s returns? A. Because we want them to be satisfied with their experience and come back year after year and tell their friends. If – I guess it’s in our business interest that people who use Free Edition see and are aware that it’s for simple tax returns and those conditions apply. If they – if they use the product and were not aware of that and they would be upset and they wouldn’t want to come back year after year. That’s not good business; right? So we want them to know that it’s for simple tax returns. And, you know, if you look at it, you see, you know, it’s about seven out of ten people who start in Free Edition, finish in Free Edition. And of the folks who actually pay for one of TurboTax’s products, their repeat rate is actually higher than those who don’t. And so you can actually see in market that, you know, we want people to be satisfied, and we want them to come back year after year. We [want] them to tell their friends about what a great experience it is, and that’s we’re doing.”).

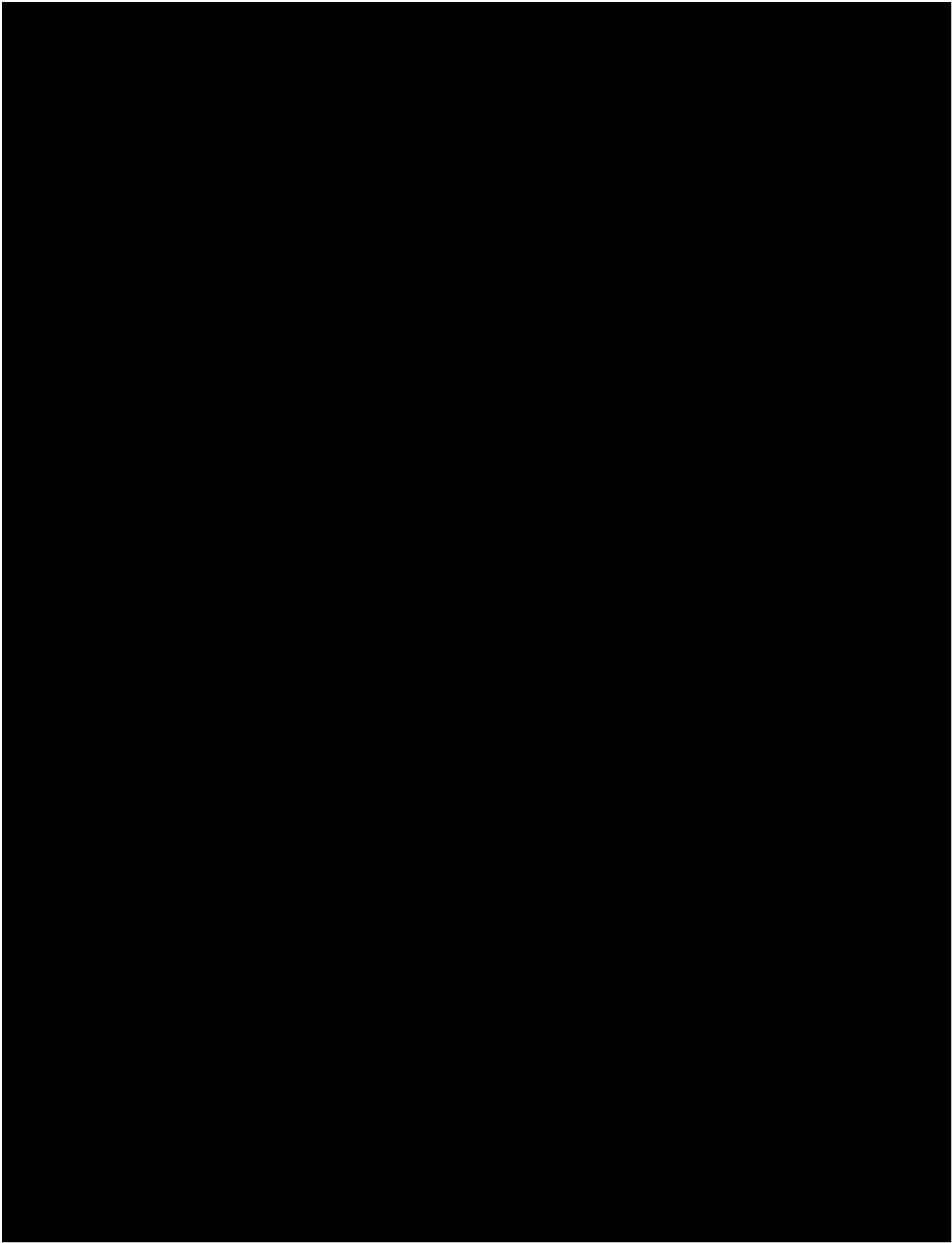
¹⁵⁵ Johnson Deposition at 131:5-132:11 (“Q. [...] I said, well, what happens if a customer is using a SKU that it turns out they’re not eligible for, what does Intuit do next? And you said, well, it provides them a choice to either upgrade to a product that will handle their needs, or leave our offering, and I’m asking if in that process Intuit provides the details of its Free File SKU. [...] A. When someone comes to turbotax.com, our commercial offering, we try to get them into the right commercial SKU. And the right SKU as we define it is the SKU that we believe, based on what they’ve shared with us, that they will file in. Now, within that commercial SKU, and the SKU that they’re in, they start to enter information that actually moves them outside of the realm of eligibility, we communicate that to them. For this reason, for this reason, this form or this information means you would need to upgrade to this product. Let’s say they sold stocks, you need to upgrade to our premier product in order to file. Then they have a choice, okay, yes, or customers may leave, and we call that abandon, where they actually leave our product and go file somewhere else.”).

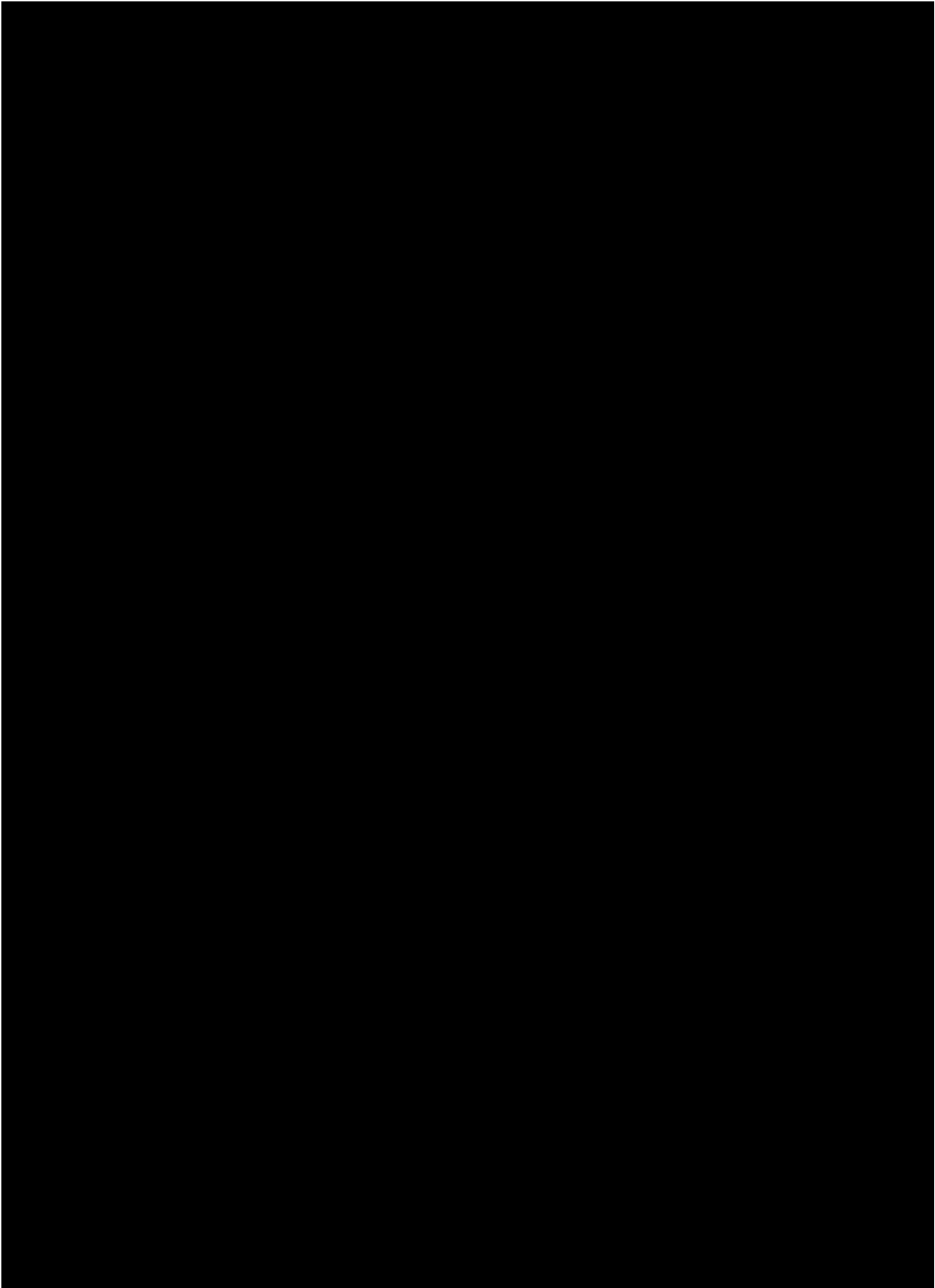
¹⁵⁶ See Golder January 2023 Report, Section VII titled “The TurboTax Website Provides Information in a Clear and Timely Manner.” Dr. Golder describes in detail the TurboTax website and filing process (home page, Products & Pricing page, pop-up notices, and other types of information provided to the customer) and explains that disclosures appear early and repeatedly.











Edition but needs to report interest and dividend income over \$1,500, which requires a paid product such as TurboTax Deluxe, is shown in **Figure 8**.

Figure 8
Example of Upgrade Screen Alerting Customers
They Are No Longer Eligible for Free Edition



73. Customers may disregard a recommendation to start in a paid product and decide to try Free Edition with the knowledge that they may have to upgrade to a paid product.¹⁷⁰ In fact, a strategy of purposefully starting in a version with few features and lower price is sometimes recommended by product review websites. For example, the advice on some websites that review online tax filing options suggest that “most people should start with Free Edition [...] it’s better to start here and upgrade to Deluxe only if you’re required to.”¹⁷¹ This is an intuitive recommendation, since it provides customers the option to determine as they fill in their information whether they can file for free or not. Unlike some other tax products, TurboTax provides customers with the option to use the information already entered and upgrade to a paid product if needed to file taxes, rather

¹⁷⁰ I discuss this further in Section VI.C.3.

¹⁷¹ Pinola, Melanie, “The Best Online Tax Filing Software,” *Wirecutter*, April 18, 2022, <https://www.nytimes.com/wirecutter/reviews/best-tax-software/>, INTUIT-FTC-PART3-000611941 (“[...] we think most people should start with the Free Edition. Even if you might have some deductible expenses, such as mortgage interest or charitable donations, it’s better to start here and upgrade to Deluxe only if you’re required to.”).

than discover that a different product is needed and no ability to use the data already entered.¹⁷² Given this strategy, it would be inaccurate to assume that starting a tax return in TurboTax Free Edition and later having to upgrade to a different product should be interpreted as an initial expectation of being able to file for free. A *desire* for a customer to obtain a product or service for free (which would be true of virtually every product and service in the world) is different from an *expectation* of being able to obtain it for free.

74. General Manager of Intuit’s Consumer Business Group at the time, Greg Johnson, testified about the importance of the SKU selector and directing consumers to the appropriate product stating:

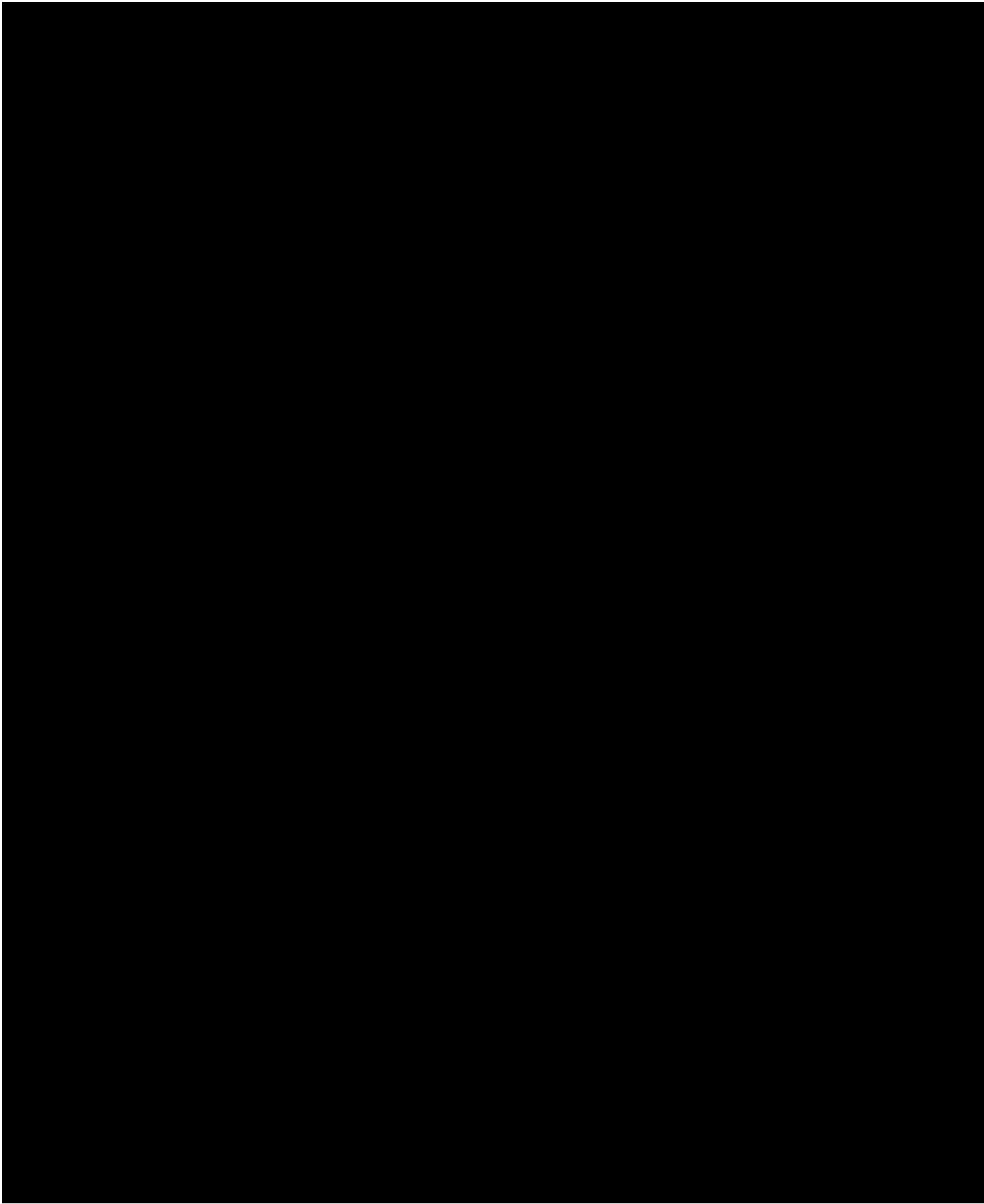
“[I]t’s in our best interest for consumers to – to be aware of the SKU they’re going into so that we can, in fact, give them a delightful experience. And we measure that through things like our product recommendation score. We also hope to retain customers, and so we innovate to make sure year after year they come back, because they’re very confident and feel great about the experience we deliver.”¹⁷³

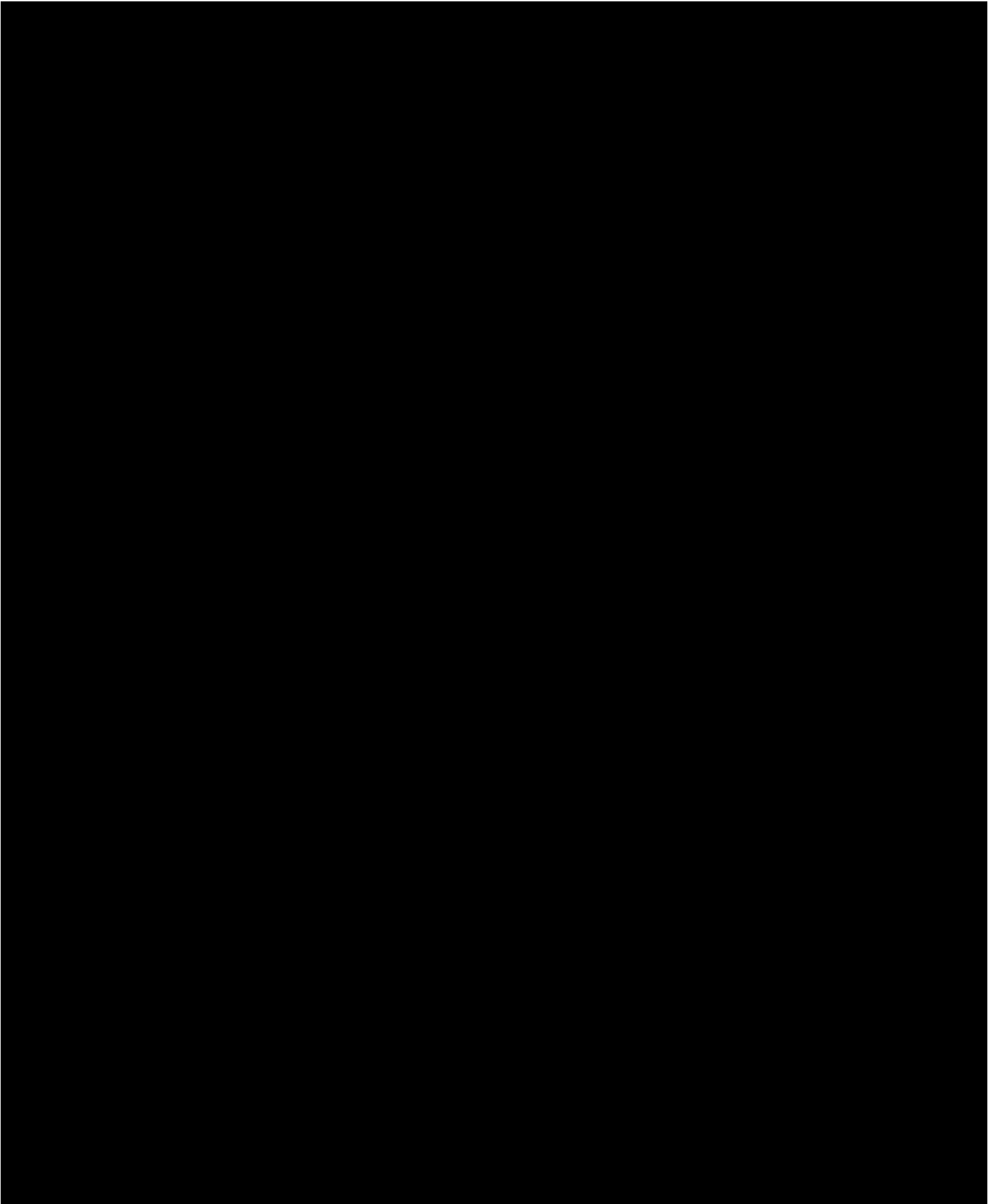
75. Mr. Johnson also testified that Intuit alerts customers as soon as they enter information indicating they are no longer eligible for a given product, as well as the reason why they are no longer eligible, allowing customers to comparison shop.¹⁷⁴ This is inconsistent

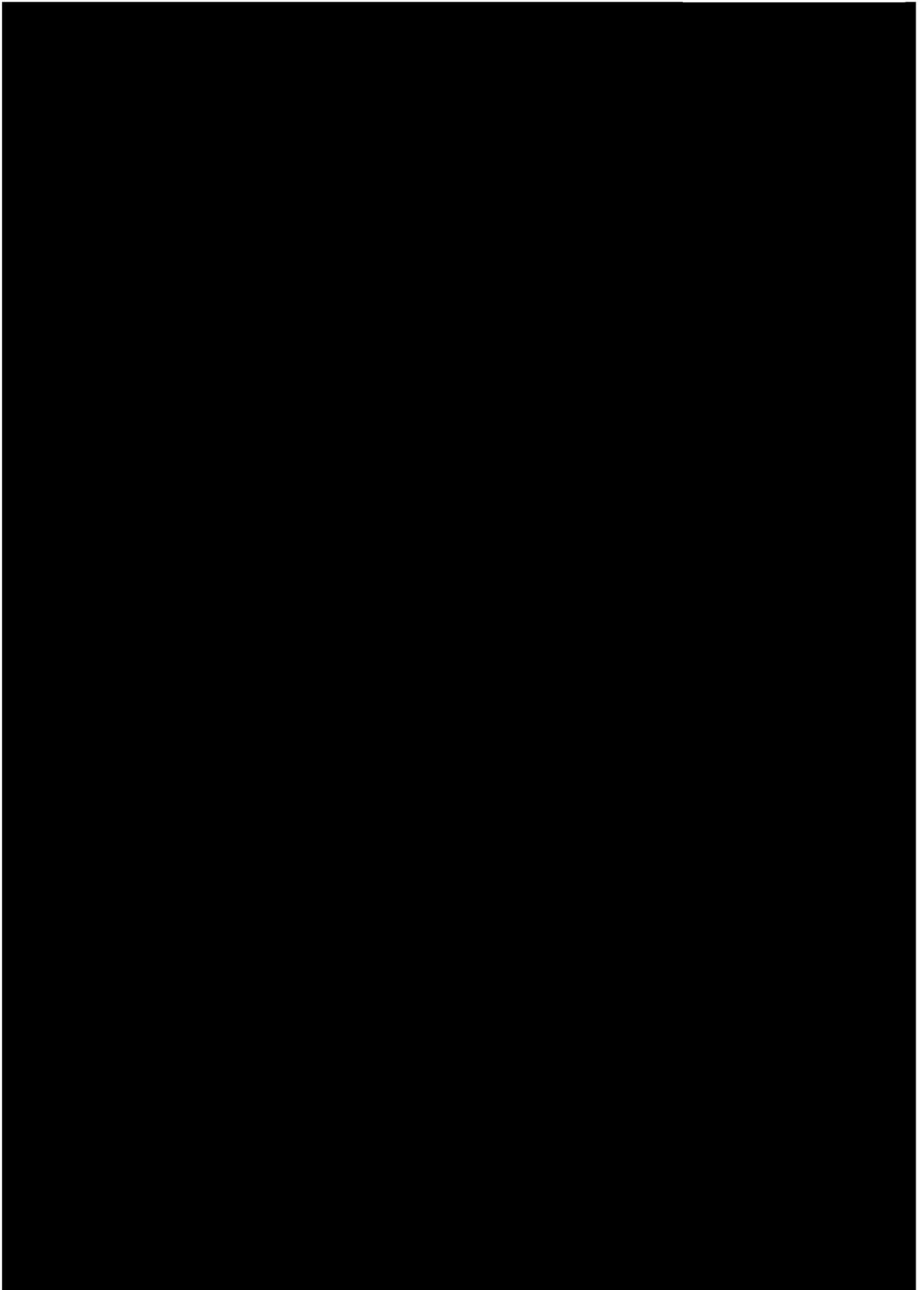
¹⁷² See Appendix C for more details on Intuit’s TurboTax product offerings.

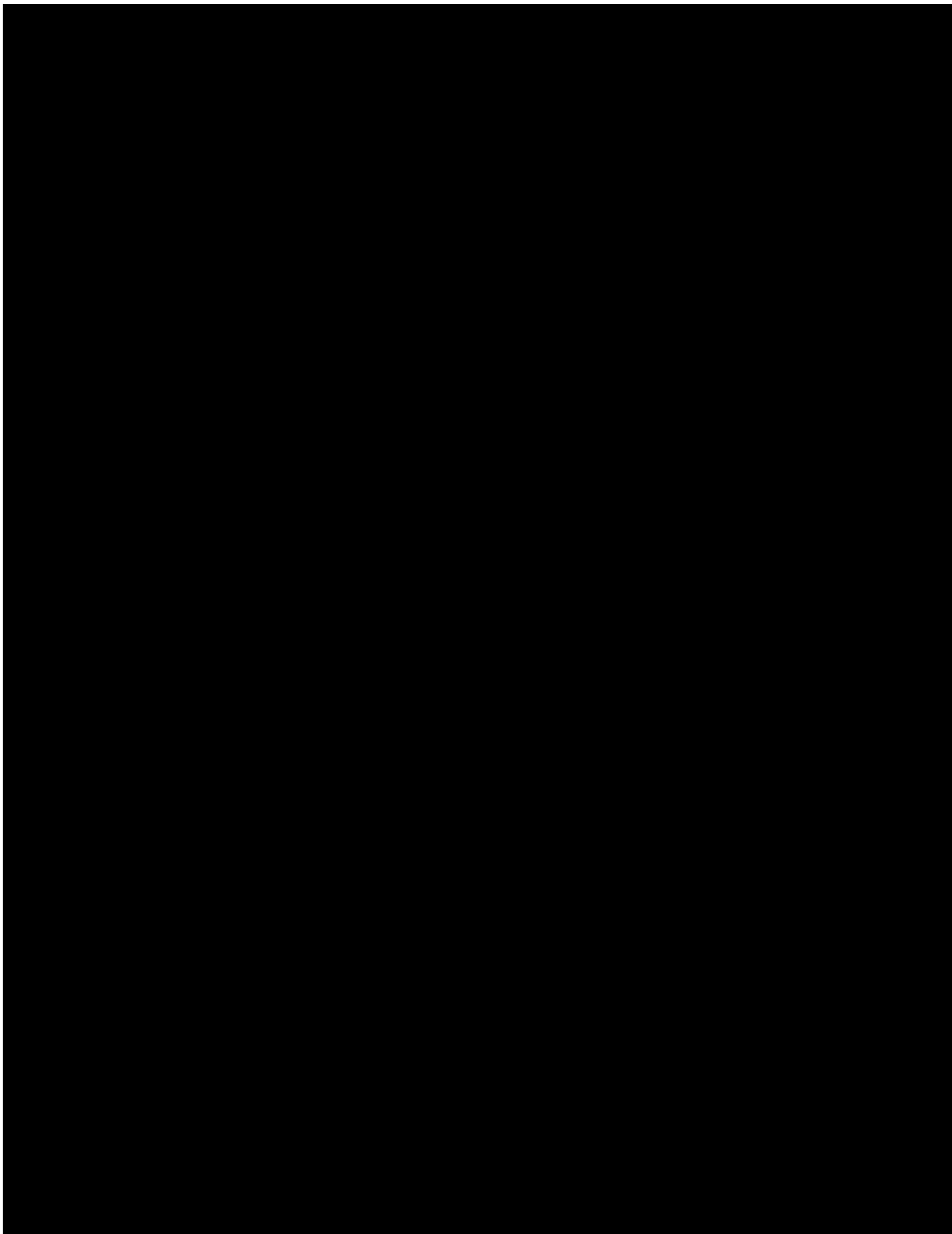
¹⁷³ Johnson Deposition at 67:1-8. See also Johnson Deposition at 161:9–162:19 (“Q. Understood. But the Project Mindbender campaign and then the Absolute Zero campaign, that was to drive awareness of Intuit’s free commercial product. Is that right? [...] A. [...] We want our consumers to come to our website, understand what their alternatives are, get them in the right SKU, which is a SKU that best aligns with what we think they will file with, or file in, and then make sure that we continuously innovate to make that experience as good as possible, as frictionless as possible, and ideally we want to have every single customer that visits us to ultimately file with us because they’re so delighted. And so it’s not about a advertising is not our goal. Our goal is around building the product experience that delights customers and that they want to tell their friends about. And so that is the ultimate goal, and that’s – that will build a healthy franchise that consumers are loyal, they’ll continue to retain. That’s why our numbers continue to grow because people are satisfied. They love our products, they love our experiences, and they like them more than other alternatives. And we continue to try to innovate in that way.”).

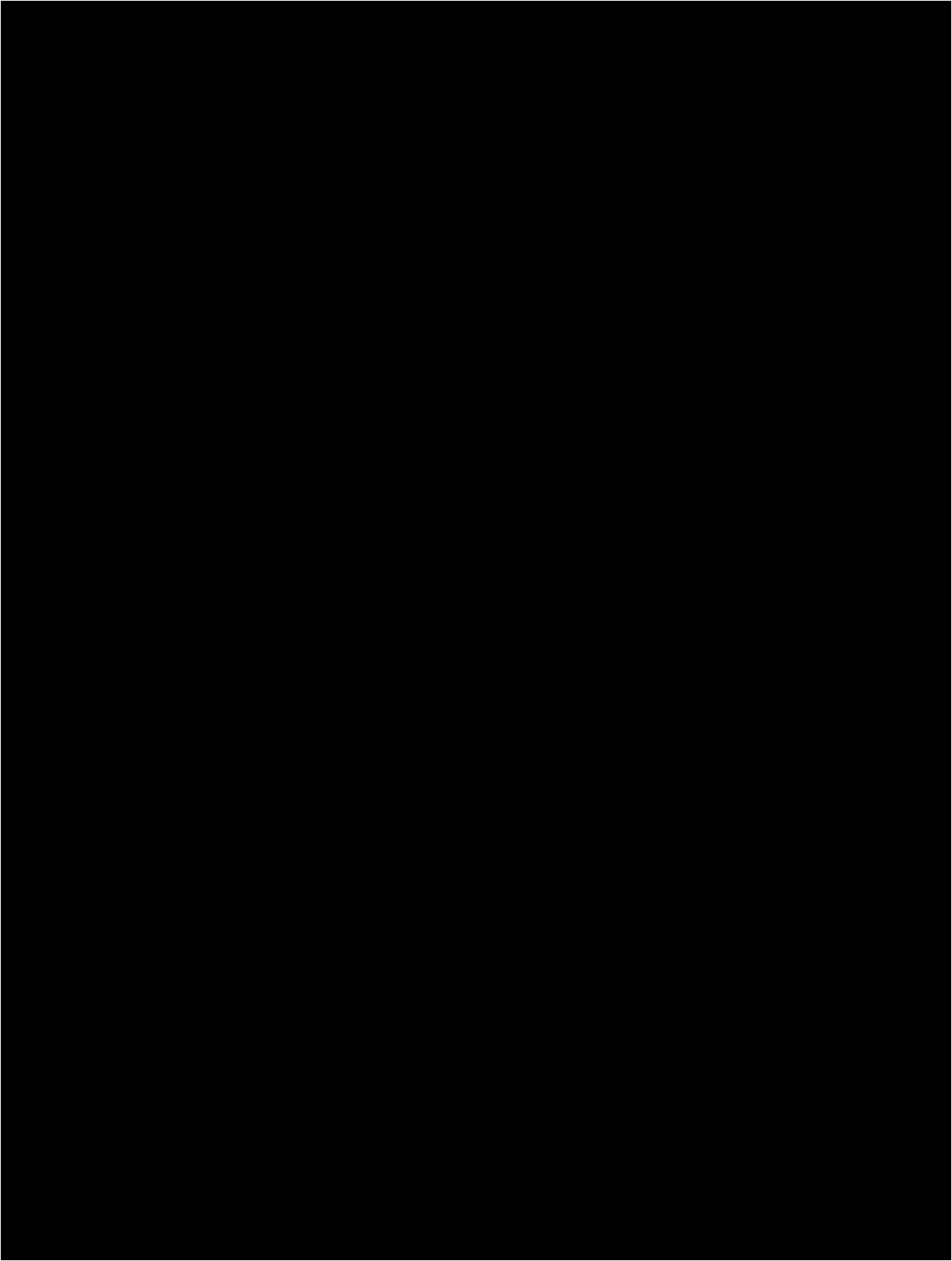
¹⁷⁴ Johnson Deposition at 129:20-130:15 (“Q. [...] And so when a consumer is in [...] the flow of, say, completing their tax return, if it turns out that they are not eligible for the product they’re using, how does Intuit tell them? A. [...] if somebody is in – has selected a SKU and have begun preparing their taxes, and then they enter information that all of the sudden signals that, well, wait a minute, they aren’t really eligible for the SKU that they’re in, and then therefore at that moment is when we would – I would call it – my term would be pop-up, a screen that lets them know that they are no longer eligible in this SKU, and then therefore they have a choice, a choice to upgrade to a SKU that would address their situation and their needs. They have the choice to leave our offering and go somewhere else, because many customers hunt around and they shop different products and see what would happen in a different type product. And so we communicate it and then consumers have a choice.”).

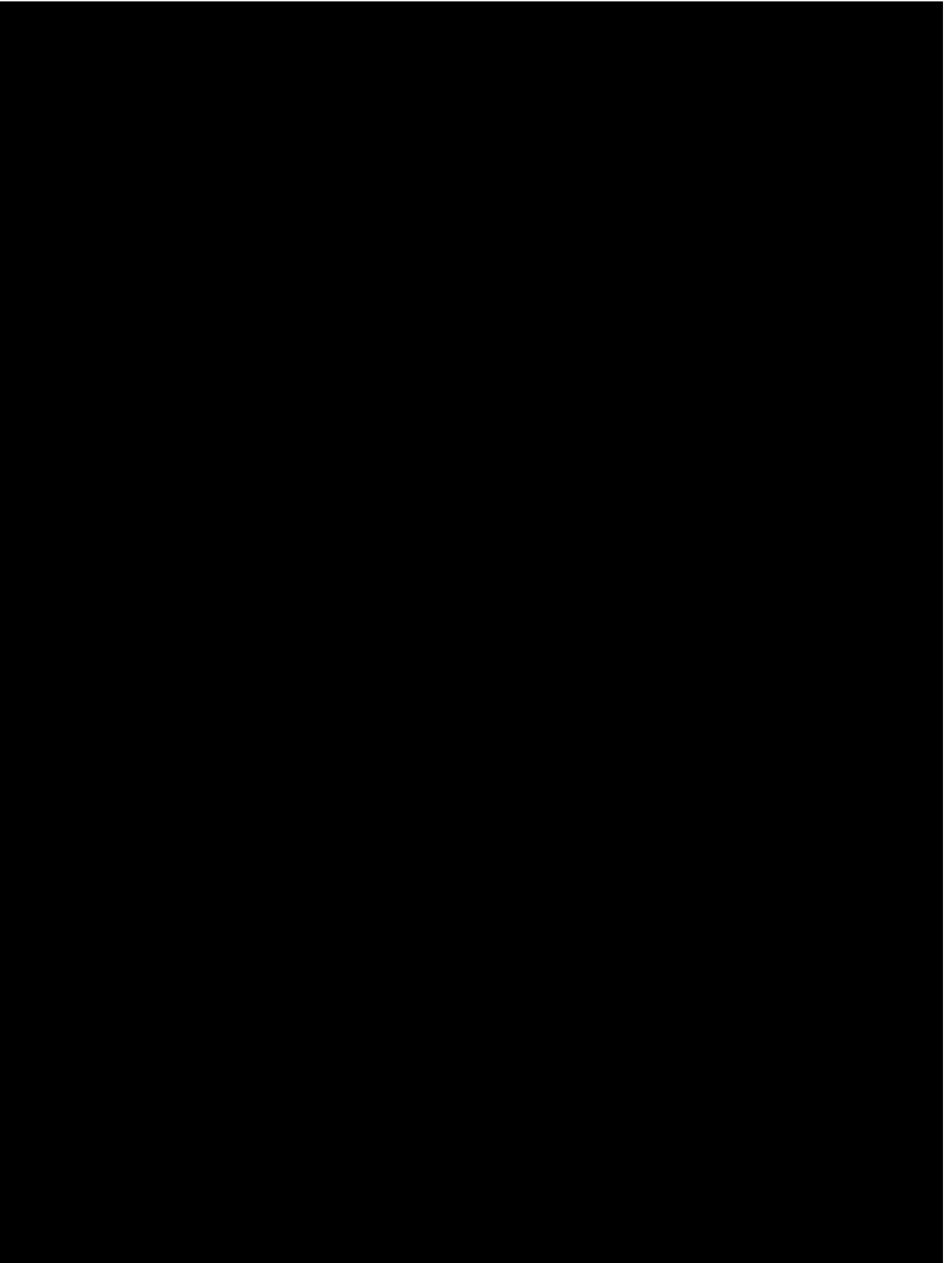


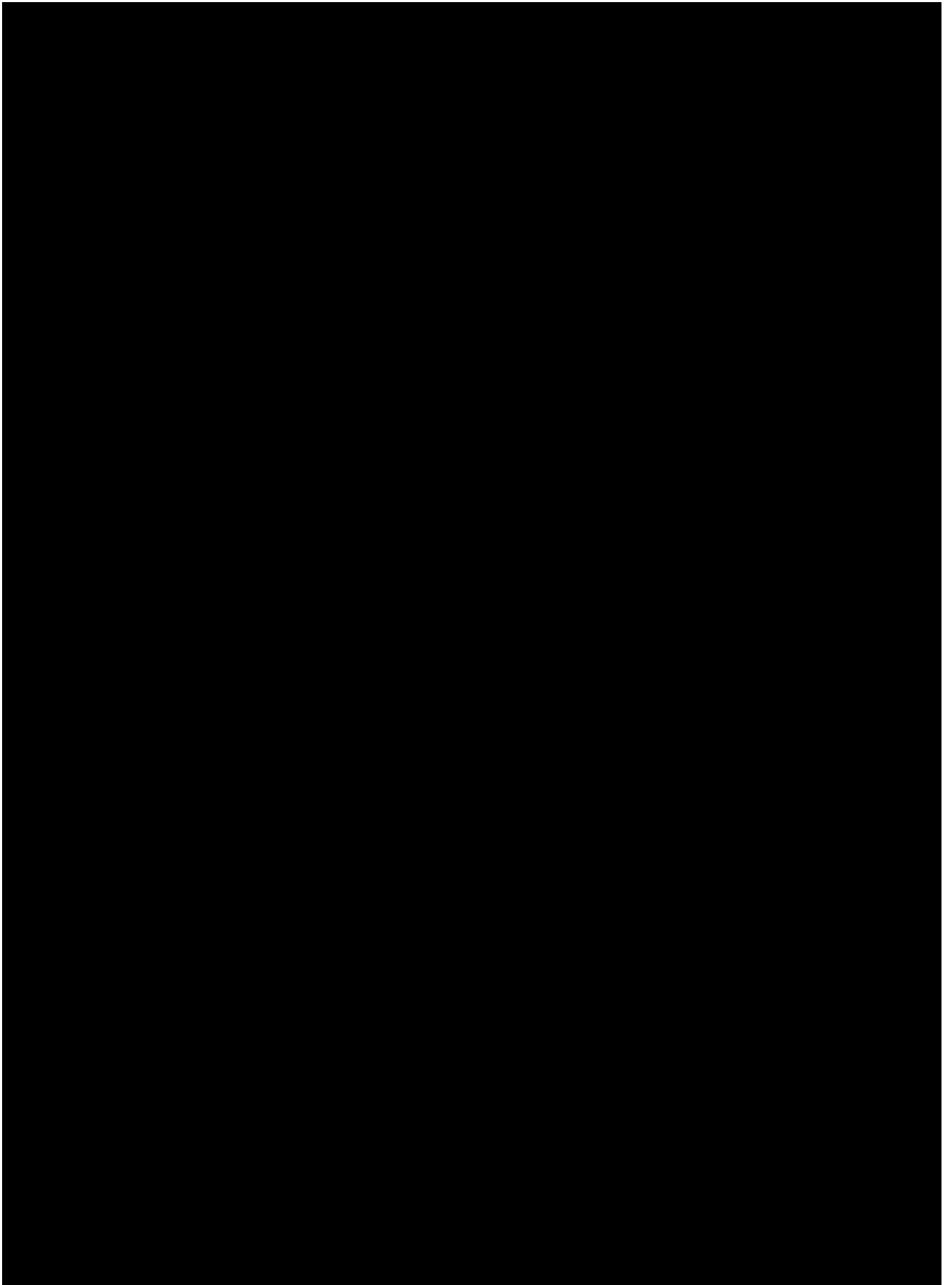


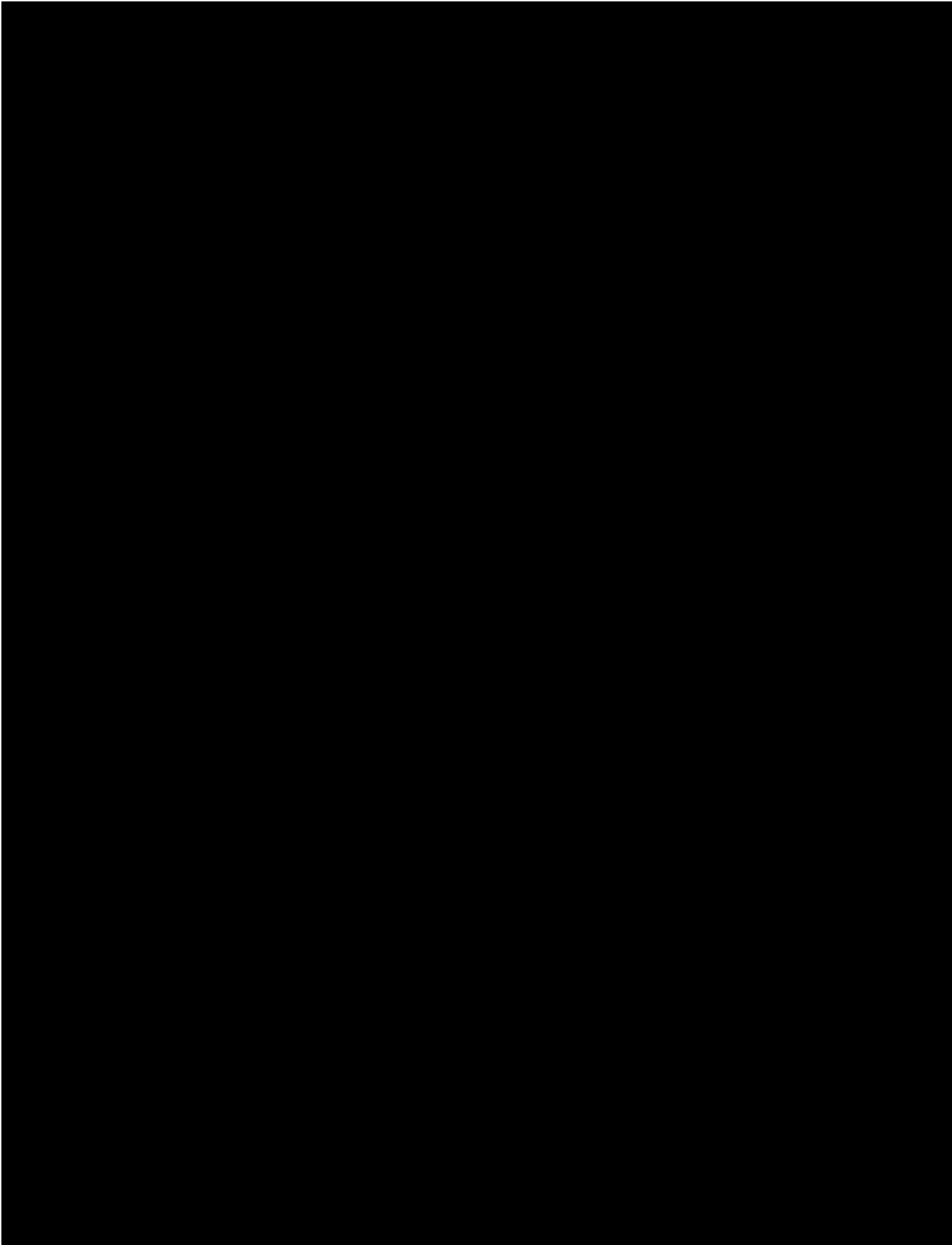


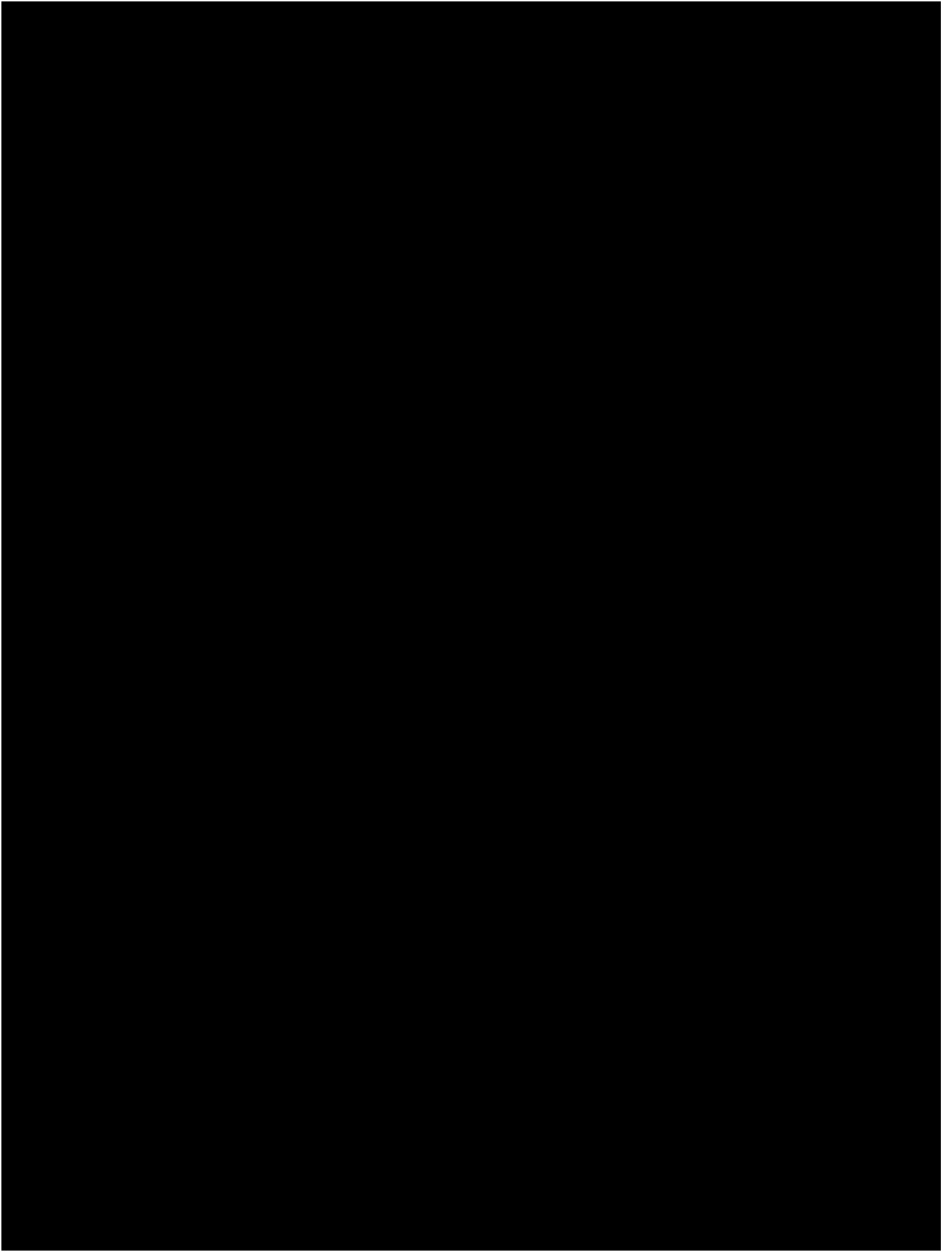


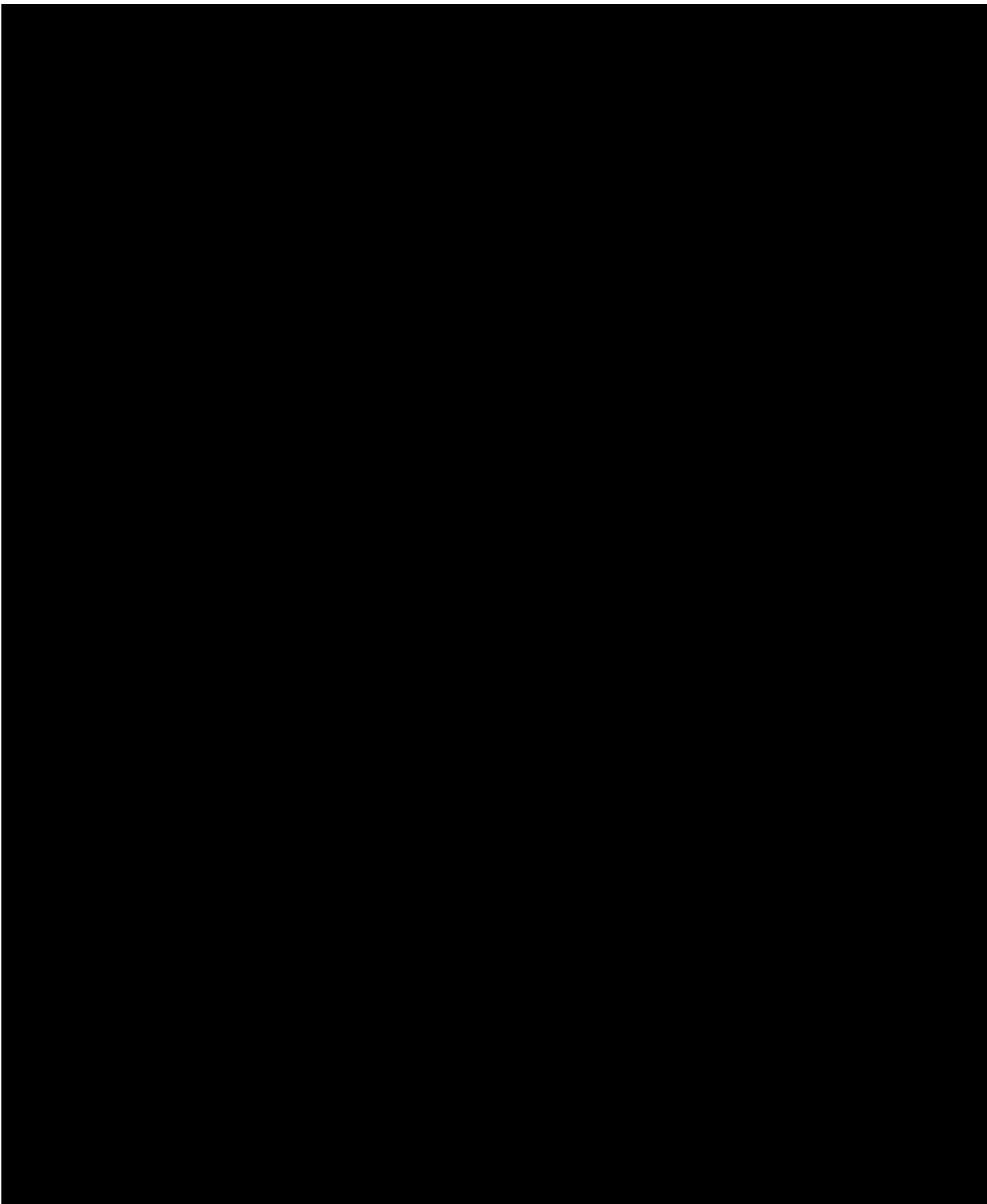


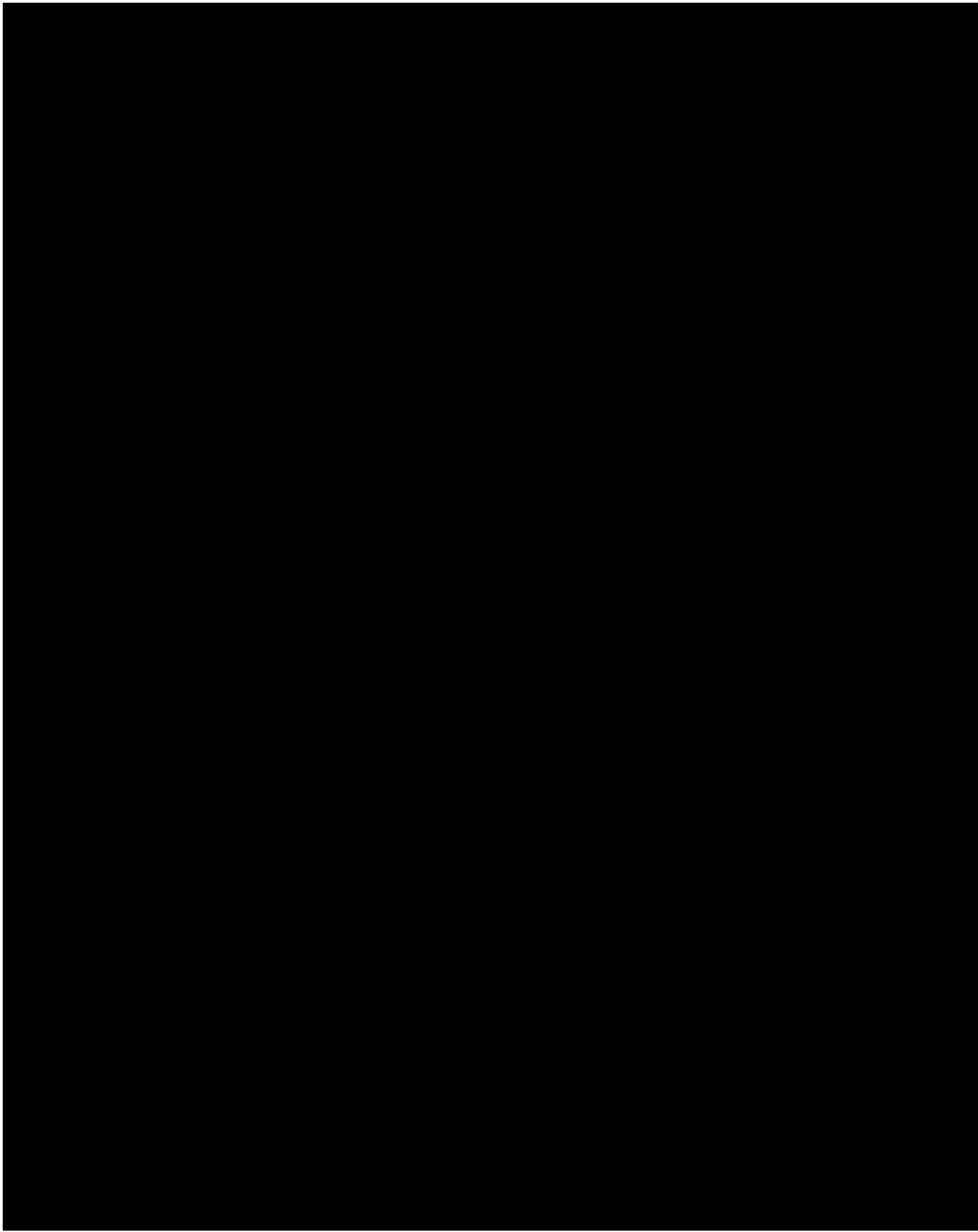


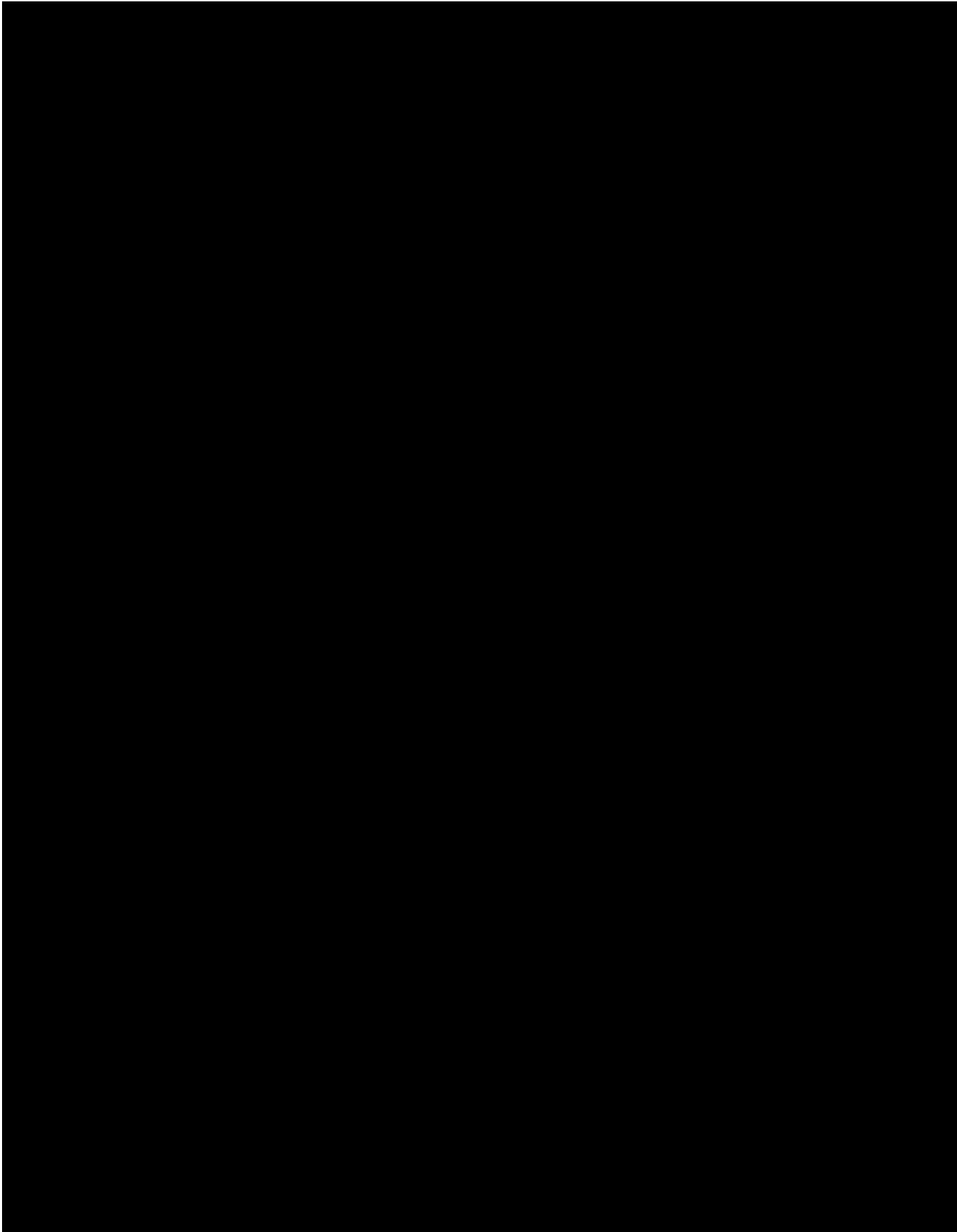












94. Intuit's Vice President of Customer and Business Strategy, Nicholas Soukas, testified that he did not believe TurboTax's TV ads were deceptive based on these same metrics:

TurboTax has over 80 percent [customer] retention. We have tens of thousands of four- and five-star reviews, and if there was an issue with comprehension, I'm sure it would be something that I would learn about through the customer input we receive.²²⁸

95. Indeed, as discussed, a business model based on deception would not be economically rational and would not even be feasible in this industry, given the ease with which customers can and do switch tax preparation providers and actively comparison shop among tax preparation providers.

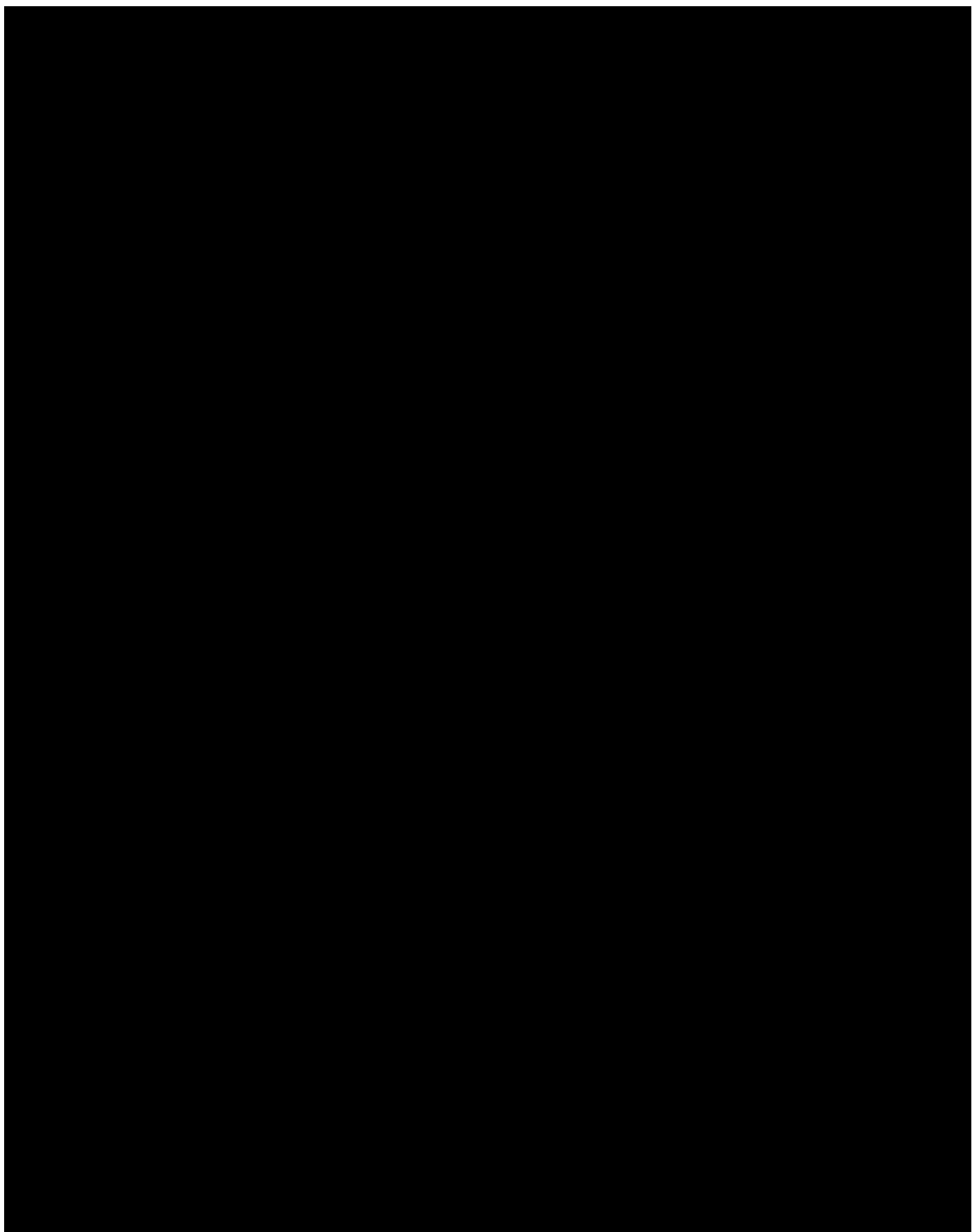
VI. EVIDENCE FROM TURBOTAX CUSTOMER DATA IS INCONSISTENT WITH COMPLAINT COUNSEL'S ALLEGATIONS OF DECEPTION FOR THE VAST MAJORITY OF TURBOTAX CUSTOMERS

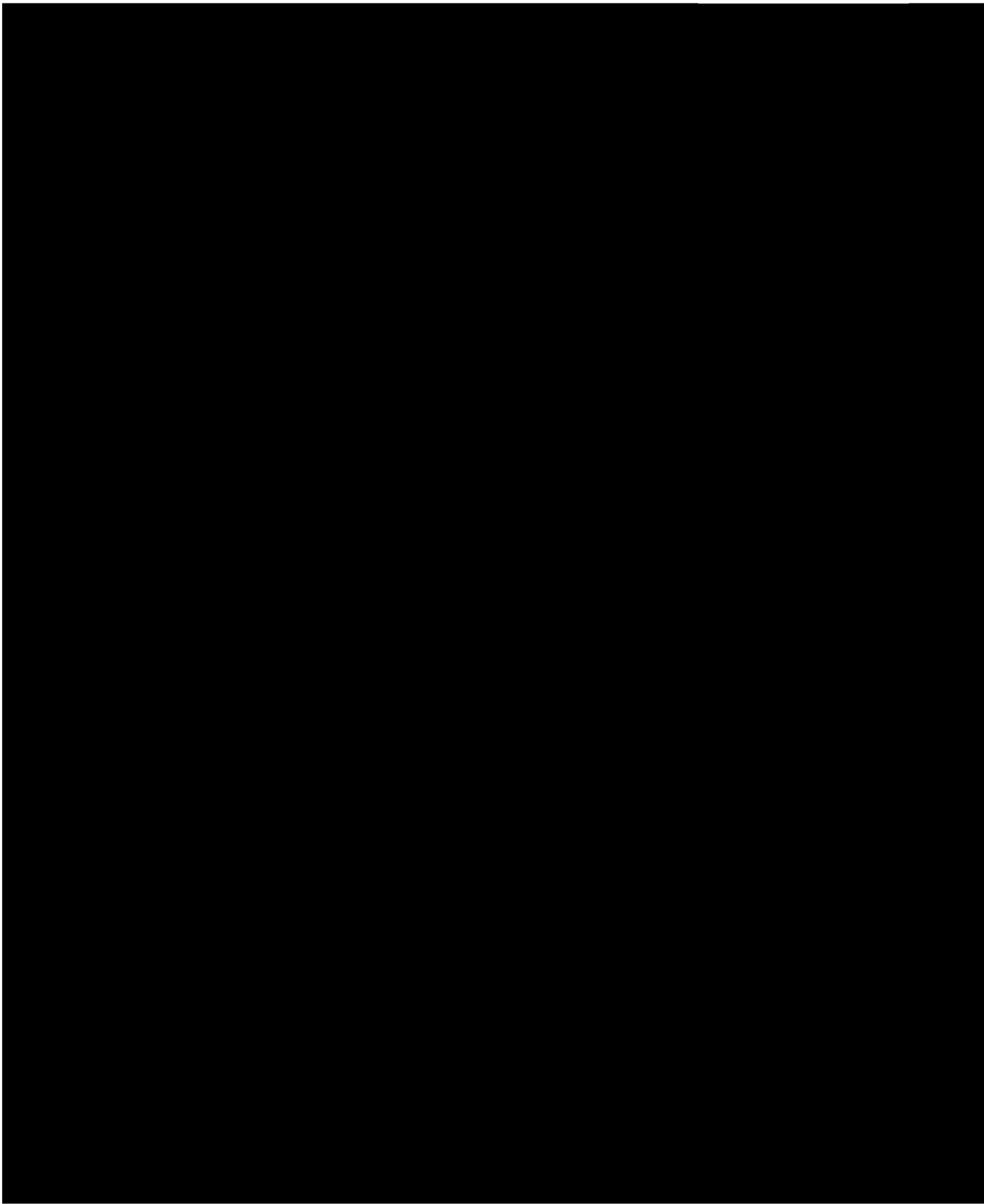
96. In this section, I discuss my analyses of the evidence available in the form of data for TurboTax customer base. I find that experiences of the tens of millions of actual TurboTax customers, as reflected in the data, are inconsistent with Complaint Counsel's allegations that Intuit's advertising and website design misleads consumers into believing that they can file their taxes for free using TurboTax.²²⁹ I consider data on customers' experiences with TurboTax in the last available tax season, TY21 (and for returning customers, their experiences with TurboTax in the recent past).²³⁰ These data demonstrate that Complaint Counsel's allegations of deception and theories of harm do not apply to the vast majority of Intuit's TurboTax customers. Not only are there a significant number of customers who indeed file for free, the data also suggest that a substantial number of customers who paid to file their federal or state tax return made a rational, informed decision that is aligned with their preferences and interests. I use actual customer experience data to illustrate that TurboTax customers are sophisticated, repeat users of

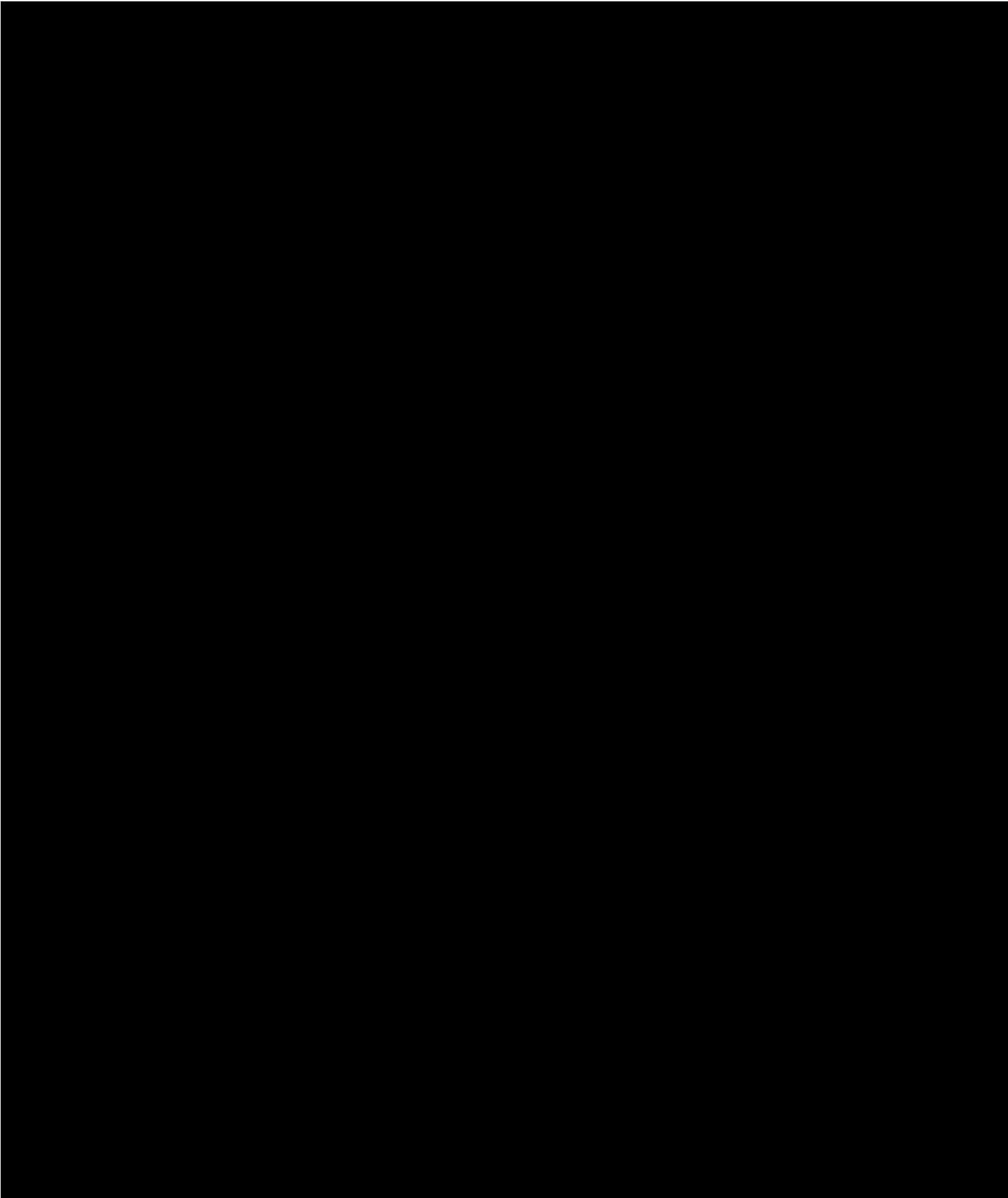
²²⁸ Soukas Deposition at 136:1-8 (“Q. What is your basis, Mr. Soukas, for thinking that consumers are not misled by Intuit's free television ads? A. TurboTax has over 80 percent [customer] retention. We have tens of thousands of four- and five-star reviews, and if there was an issue with comprehension, I'm sure it would be something that I would learn about through the customer input we receive.”).

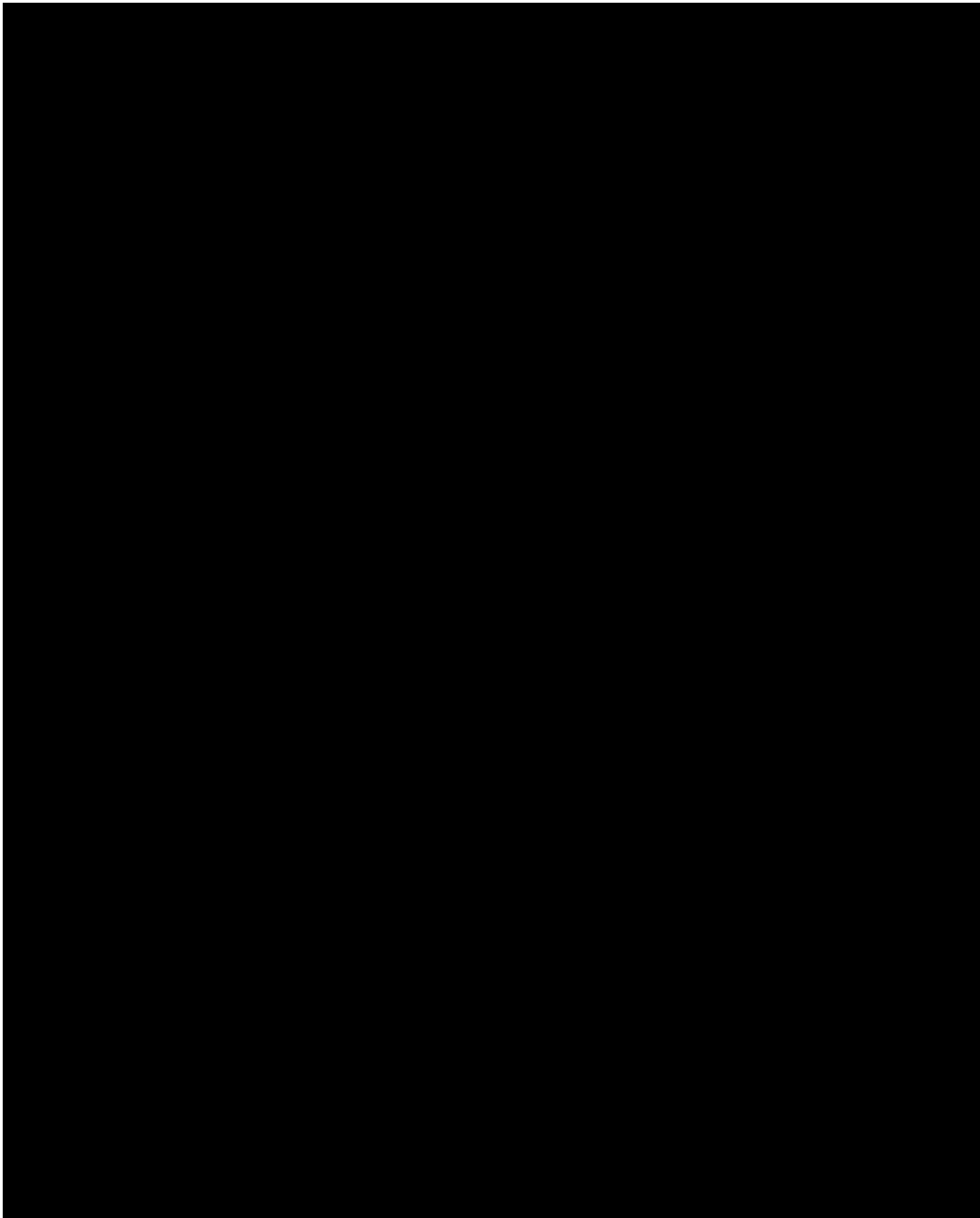
²²⁹ Complaint, Sections II and III.

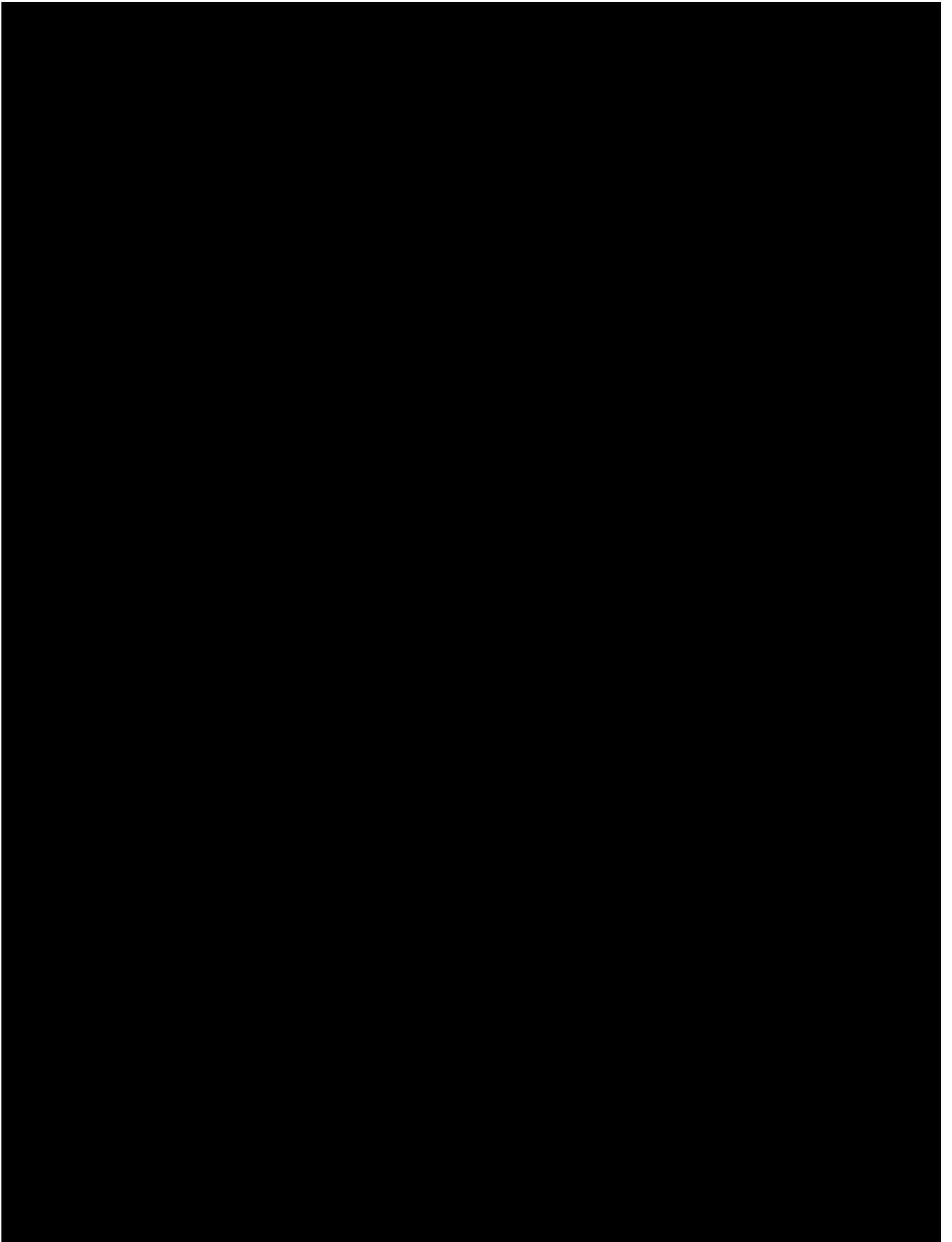
²³⁰ TY21 Customer-Level Data, INTUIT-FTC-PART3-000608572; TY14–20 Customer-Level Data, INTUIT-FTC-PART3-000608571. See Appendix D, “Technical Appendix,” for additional information relevant to the data.

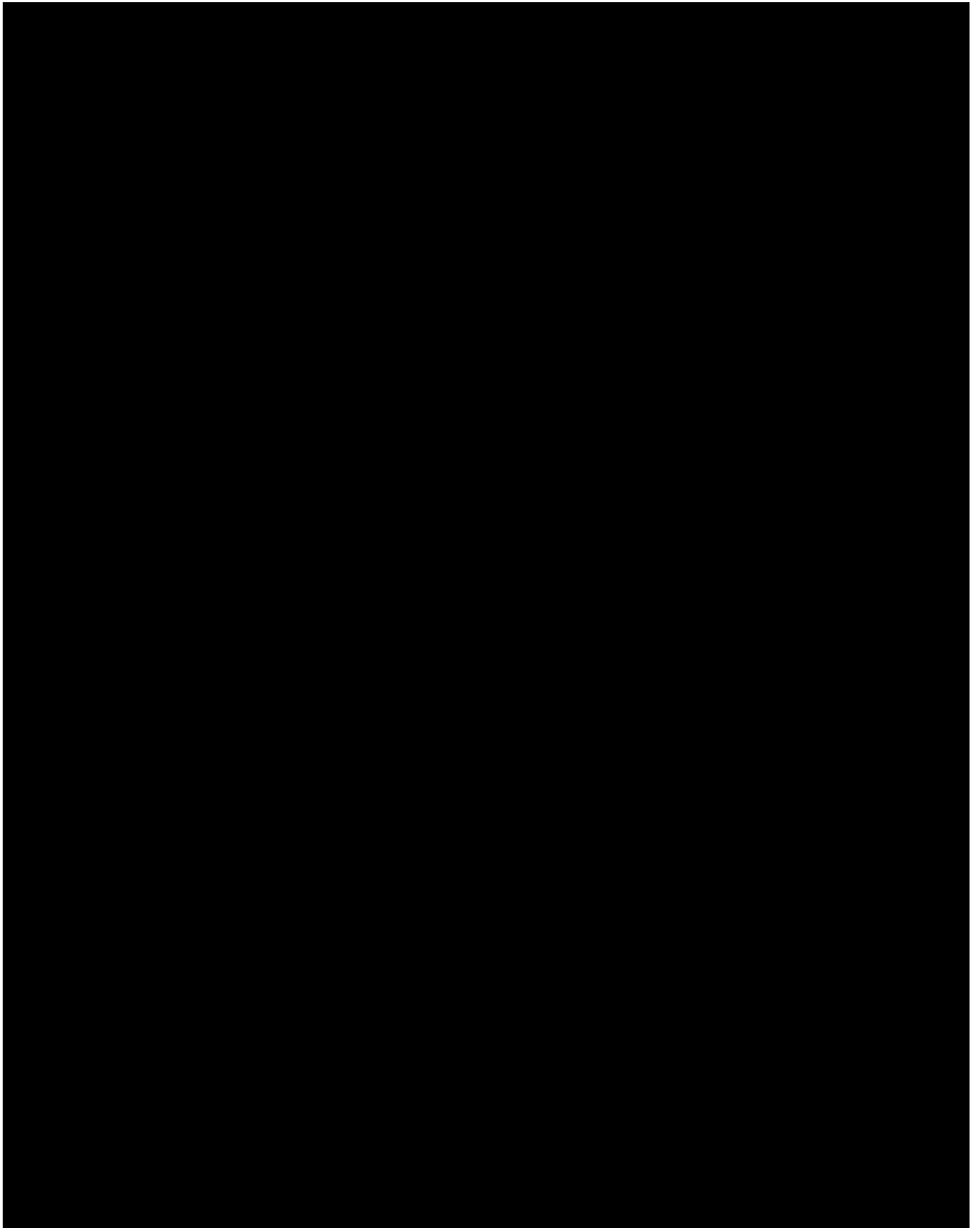


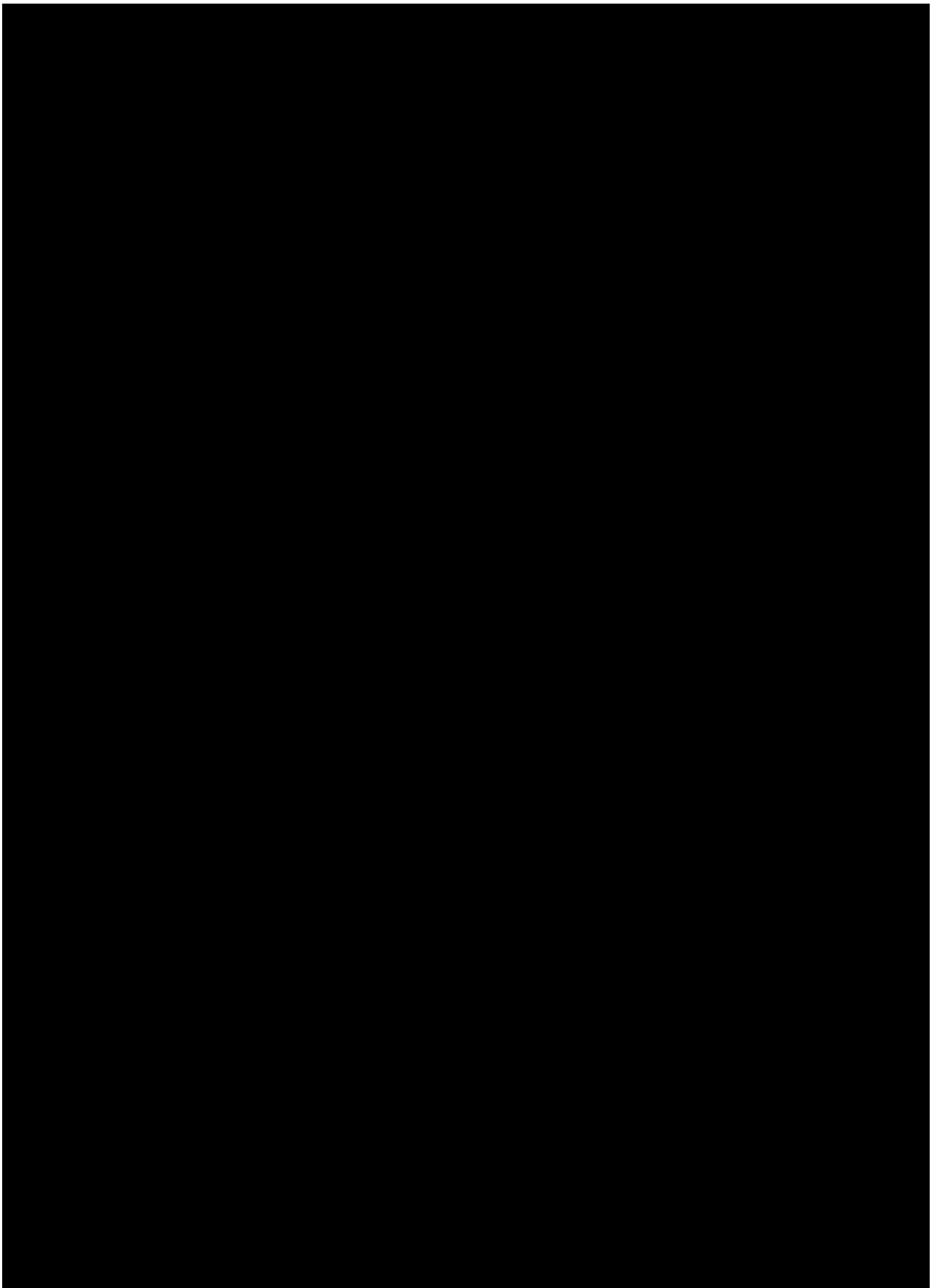


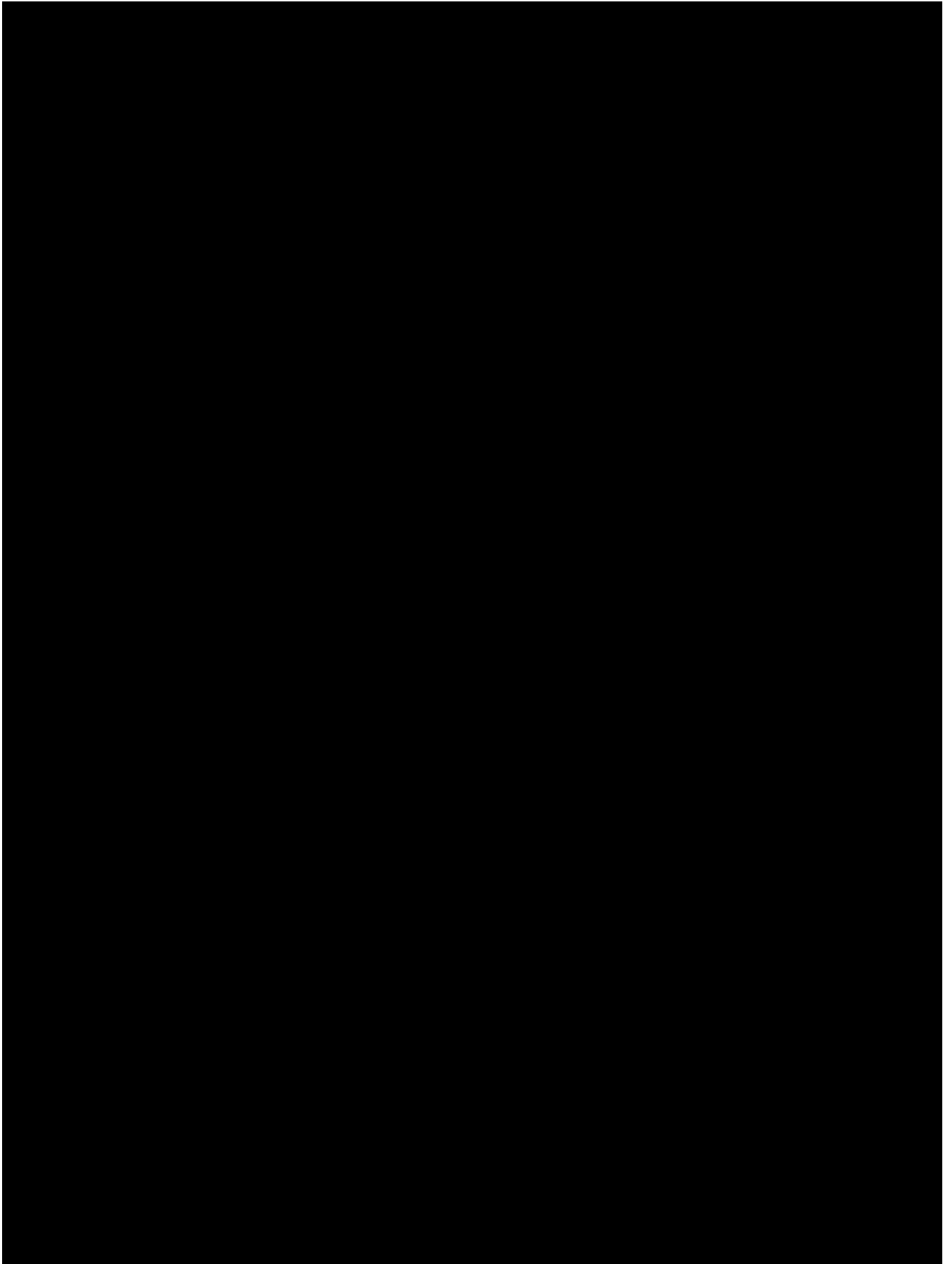


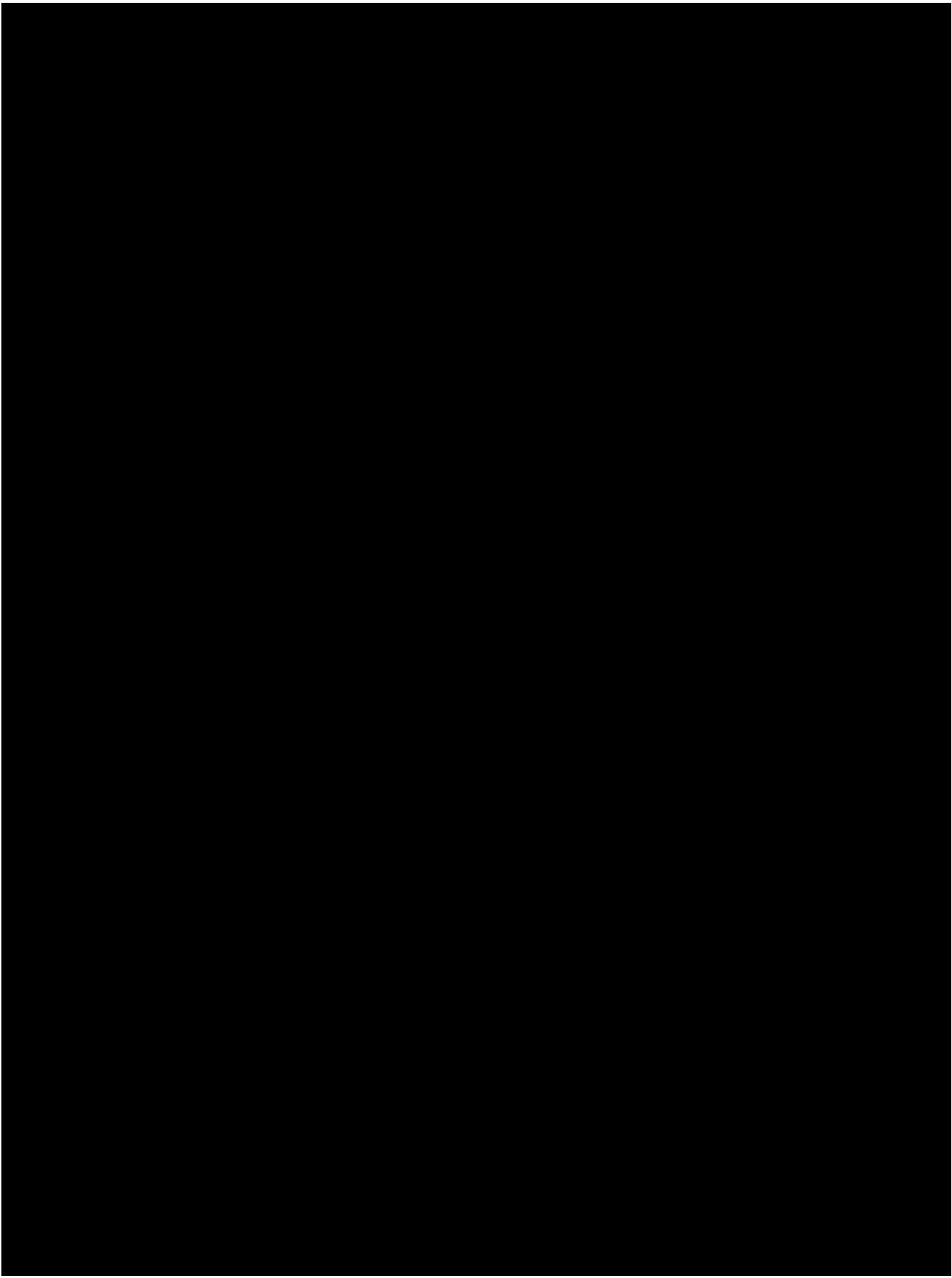


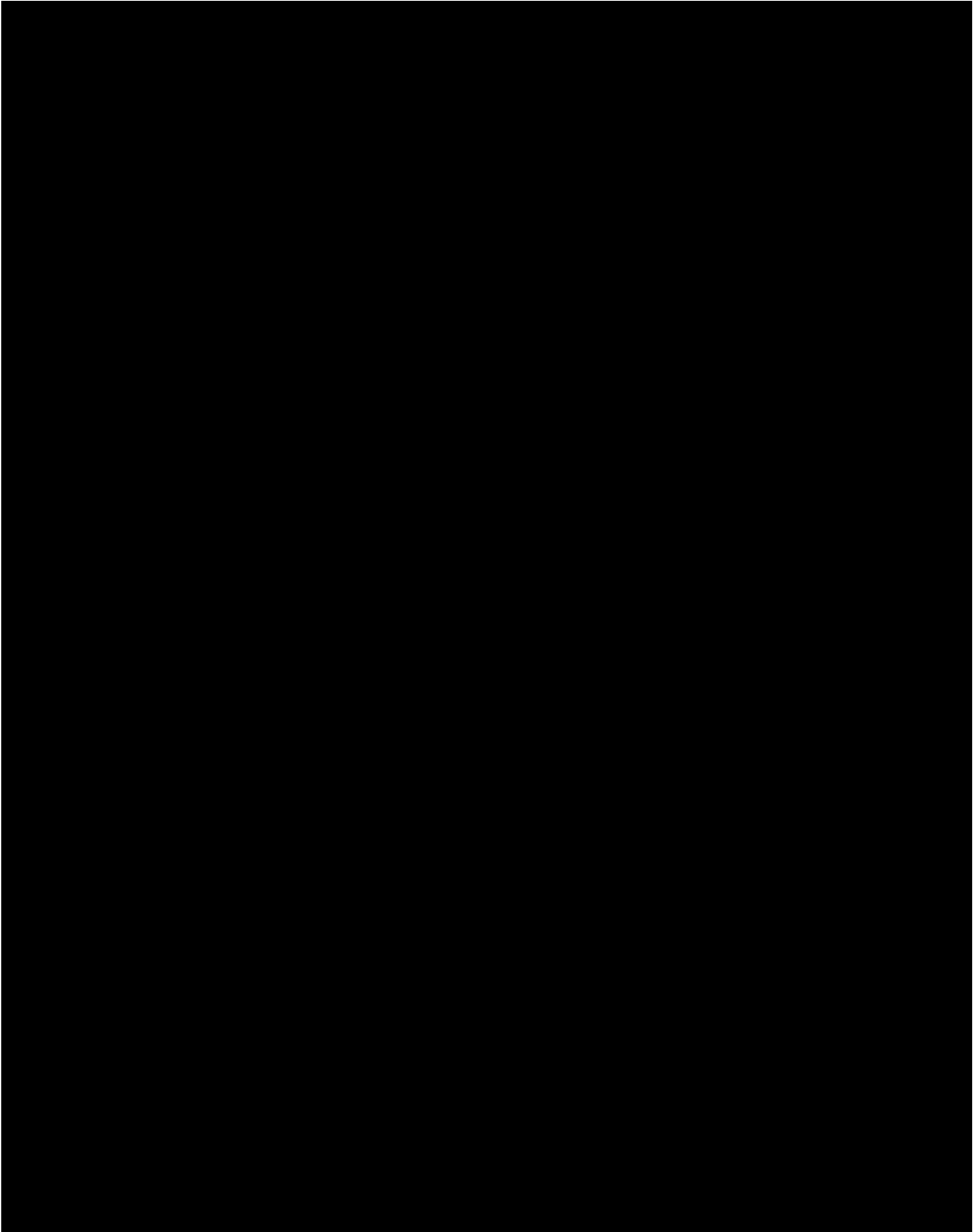












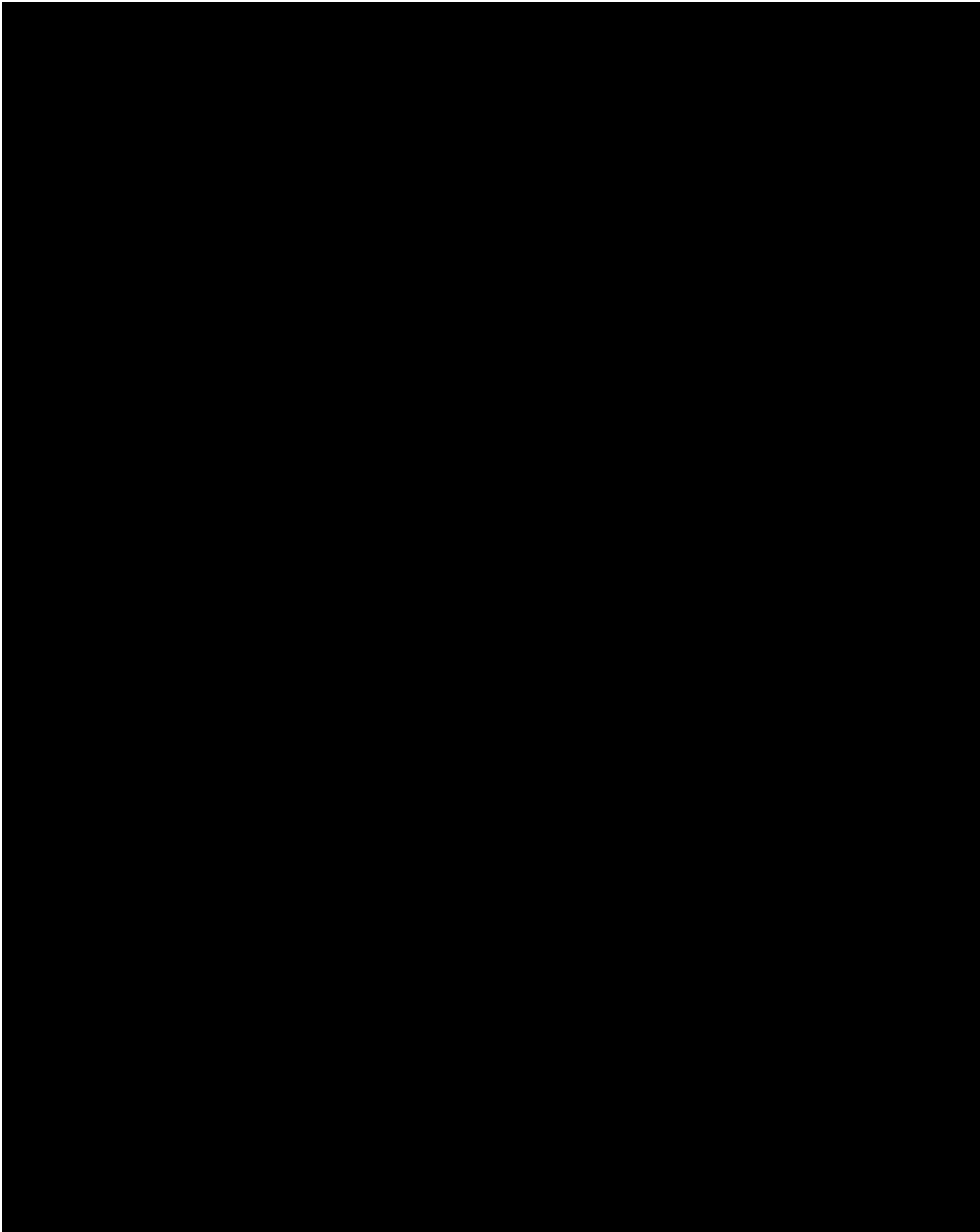
- A customer who used TurboTax Self-Employed in TY21 for free and left a 5-star review wrote: “I have been using turbo tax since 2008, and I gotta [sic] say it never lets me down. Even now when I am married, bought a house, [self-employed], multiples jobs and traded stocks, it is still free for military. As long as you know what form you should have, I have never been audited and my returns nowadays are over 70 pages long!! I can only imagine how much I have saved over the years, recently I tried to get a quote from professional tax services for returns like mine and they say \$300 or more. Can’t beat free!”²⁵³
- A customer who used TurboTax Live Basic in TY21 for free and left a 5-star review wrote: “I always appreciate online services like this one that help me accomplish otherwise complicated endeavors. Filing taxes is something not negotiable and can be so stressful if attempted on your own. I used to figure out my end of [year] on paper filling in every detail....took a long time. SO, SO grateful for this user-friendly program and all the tax helpers. They’ve all been really friendly and have calmed my spirit when getting anxious about filing. Thank you so much! I’m getting a great refund and have saved myself alot [sic] of money in the process. Thank you, again!”²⁵⁴
- Another customer who used TurboTax Live Basic in TY21 for free and left a 5-star review wrote: “Test run various tax programs, but always return to Turbo Tax. Step by step procedures easy to follow and leave no doubt. Especially appreciate the free program. I am 83 Yrs. old living on Social Security and minimal savings. Thank You TT!”²⁵⁵
- Another customer who used TurboTax Live Basic in TY21 for free and left a 5-star review wrote: “I was able to file my taxes for free with the help of a live session with a CPA, John. It made the experience totally ‘painfree’ and awesome! I have been using Turbo Tax for the past 3 years and always have had a great experience! This year was even better! Thank you [TurboTax] and John for all your help!!”²⁵⁶

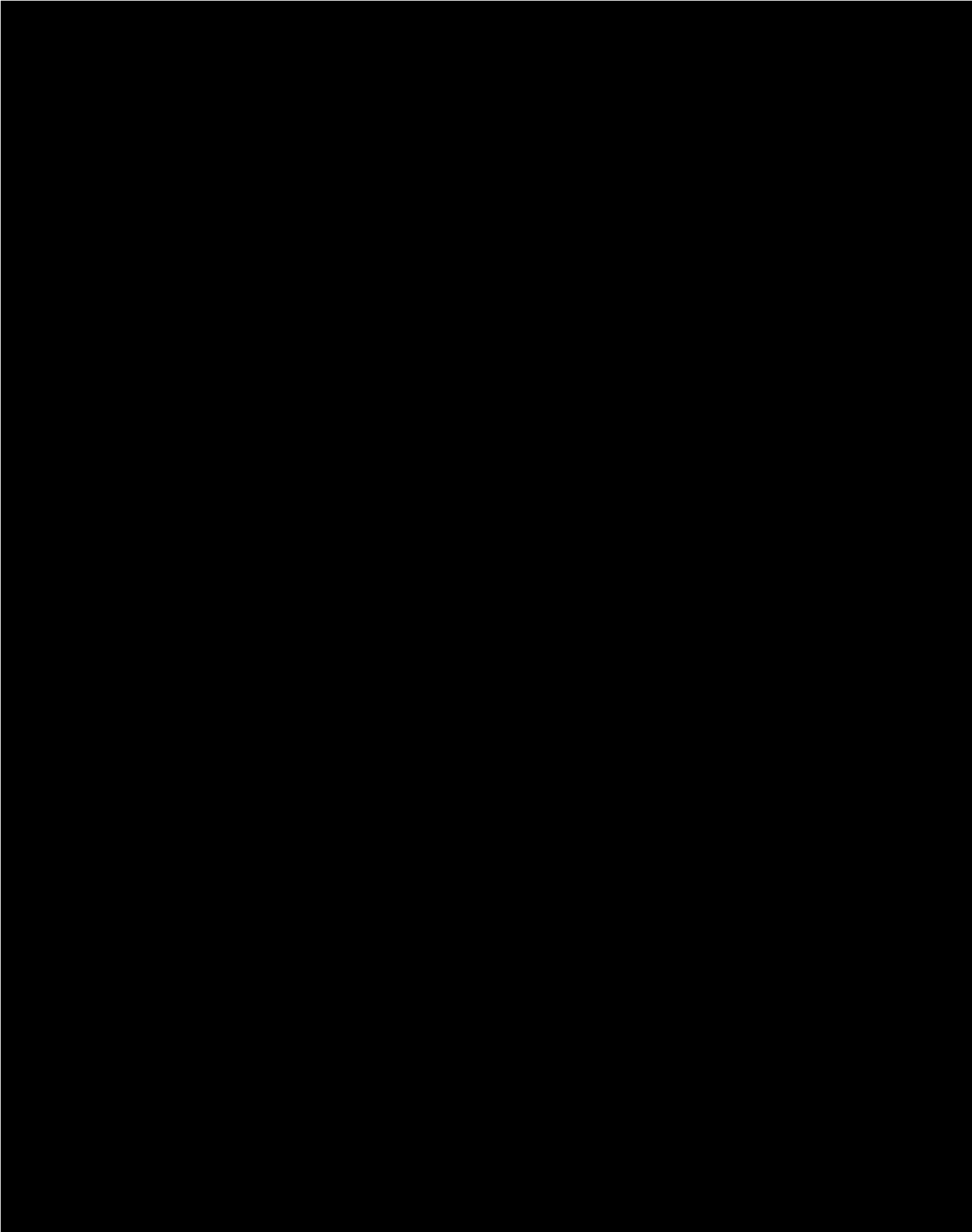
²⁵³ TY21 Customer Reviews, INTUIT-FTC-PART3-000490341, *review_id* = “201984935,” *overall_rating* = “5,” *name* = “TurboTax Online Self Employed;” TY21 Customer Review ID Crosswalk, INTUIT-FTC-PART3-000608569; TY21 Customer-Level Data, INTUIT-FTC-PART3-000608572, *total_revenue* = “0.”

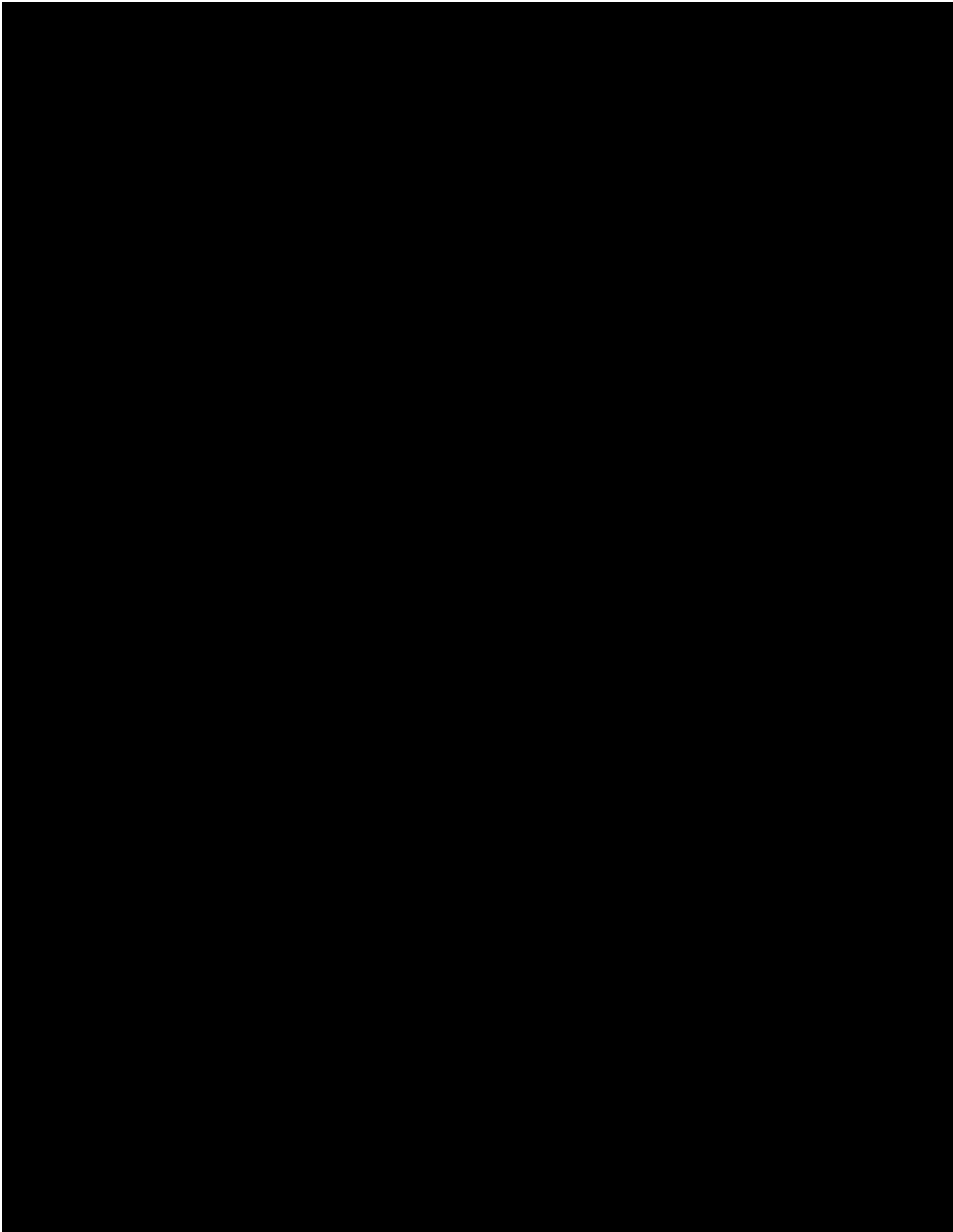
²⁵⁴ TY21 Customer Reviews, INTUIT-FTC-PART3-000490341, *review_id* = “199696372,” *overall_rating* = “5,” *name* = “TurboTax Live Basic;” TY21 Customer Review ID Crosswalk, INTUIT-FTC-PART3-000608569; TY21 Customer-Level Data, INTUIT-FTC-PART3-000608572, *total_revenue* = “0.”

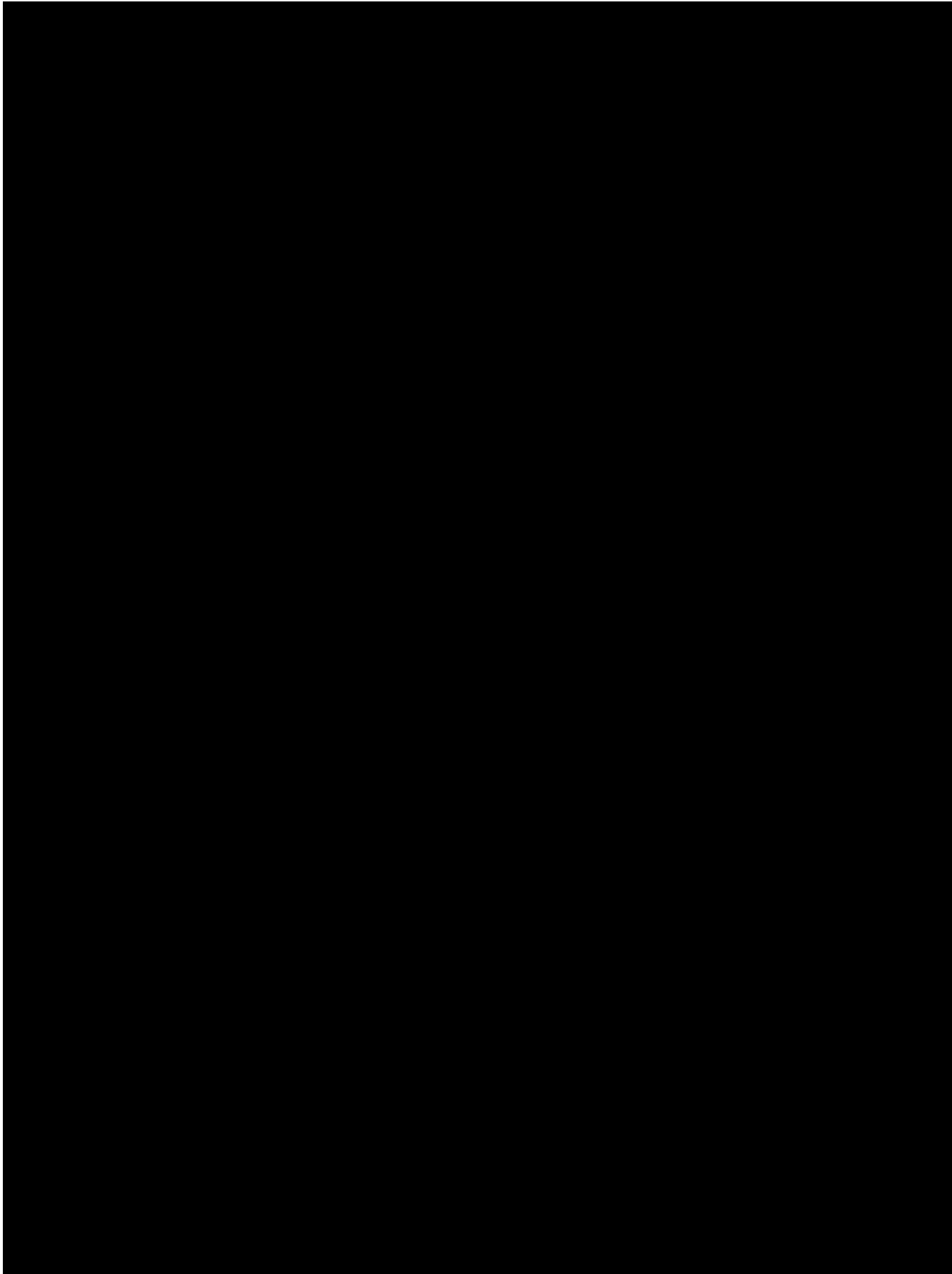
²⁵⁵ TY21 Customer Reviews, INTUIT-FTC-PART3-000490341, *review_id* = “201338315,” *overall_rating* = “5,” *name* = “TurboTax Live Basic;” TY21 Customer Review ID Crosswalk, INTUIT-FTC-PART3-000608569; TY21 Customer-Level Data, INTUIT-FTC-PART3-000608572, *total_revenue* = “0.”

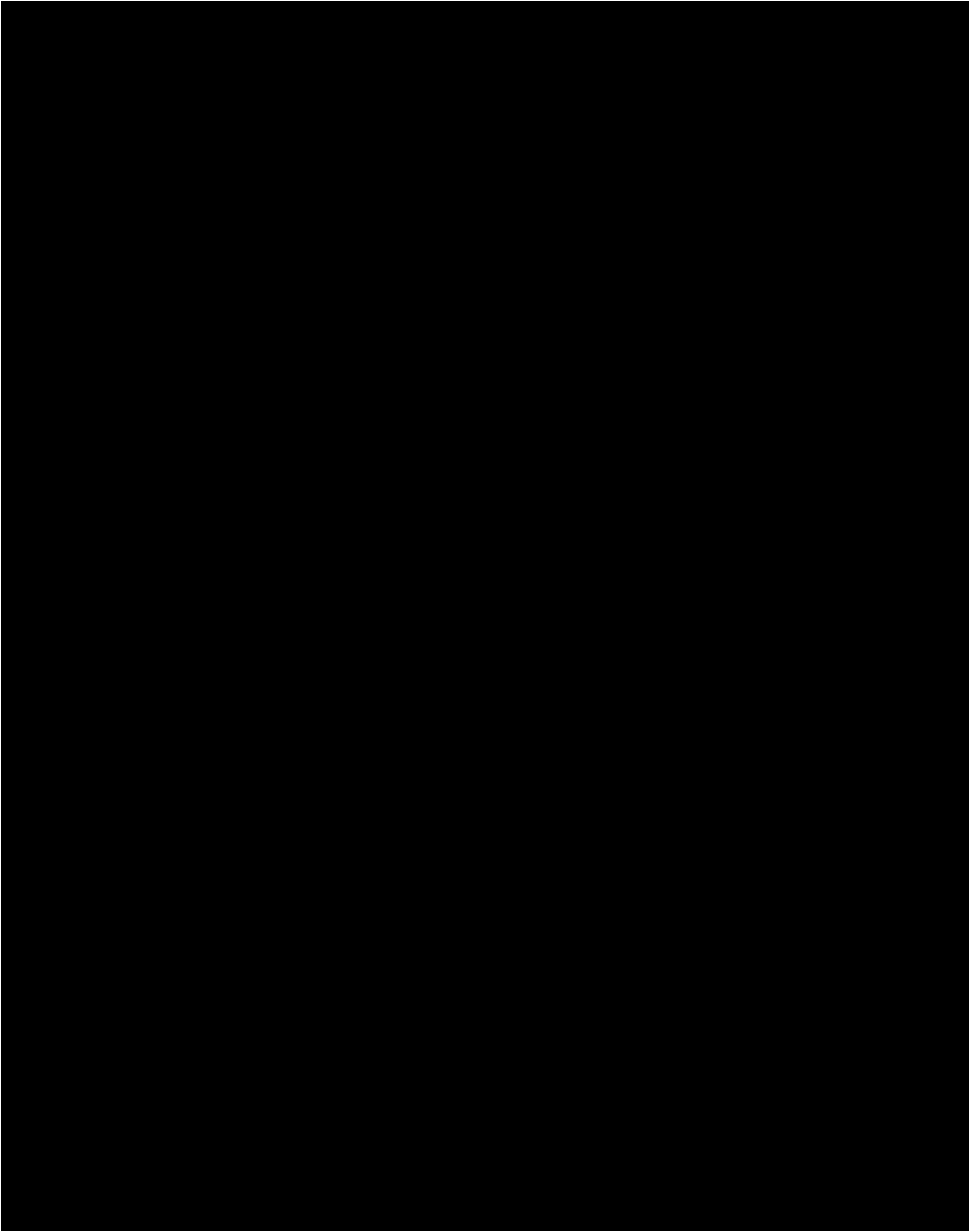
²⁵⁶ TY21 Customer Reviews, INTUIT-FTC-PART3-000490341, *review_id* = “198998169,” *overall_rating* = “5,” *name* = “TurboTax Live Basic;” TY21 Customer Review ID Crosswalk, INTUIT-FTC-PART3-000608569; TY21 Customer-Level Data, INTUIT-FTC-PART3-000608572, *total_revenue* = “0.”











TurboTax. Product reviews demonstrate the value that customers place on these features and services.²⁶⁷ For example:

- One customer who upgraded to TurboTax Live Full Service Self-Employed in TY21 and left a 5-star rating wrote: “I’m glad I upgraded because there were many questions I had that would have taken time away from what I have to do. 100% worth it.”²⁶⁸
- Another customer who upgraded to TurboTax Live Full Service Premier in TY21 left a 5-star review and wrote about how glad they were that they were able to upgrade to a product with additional support as they were filing their return late and were anxious about doing their return due to more complex taxes involving cryptocurrency.²⁶⁹

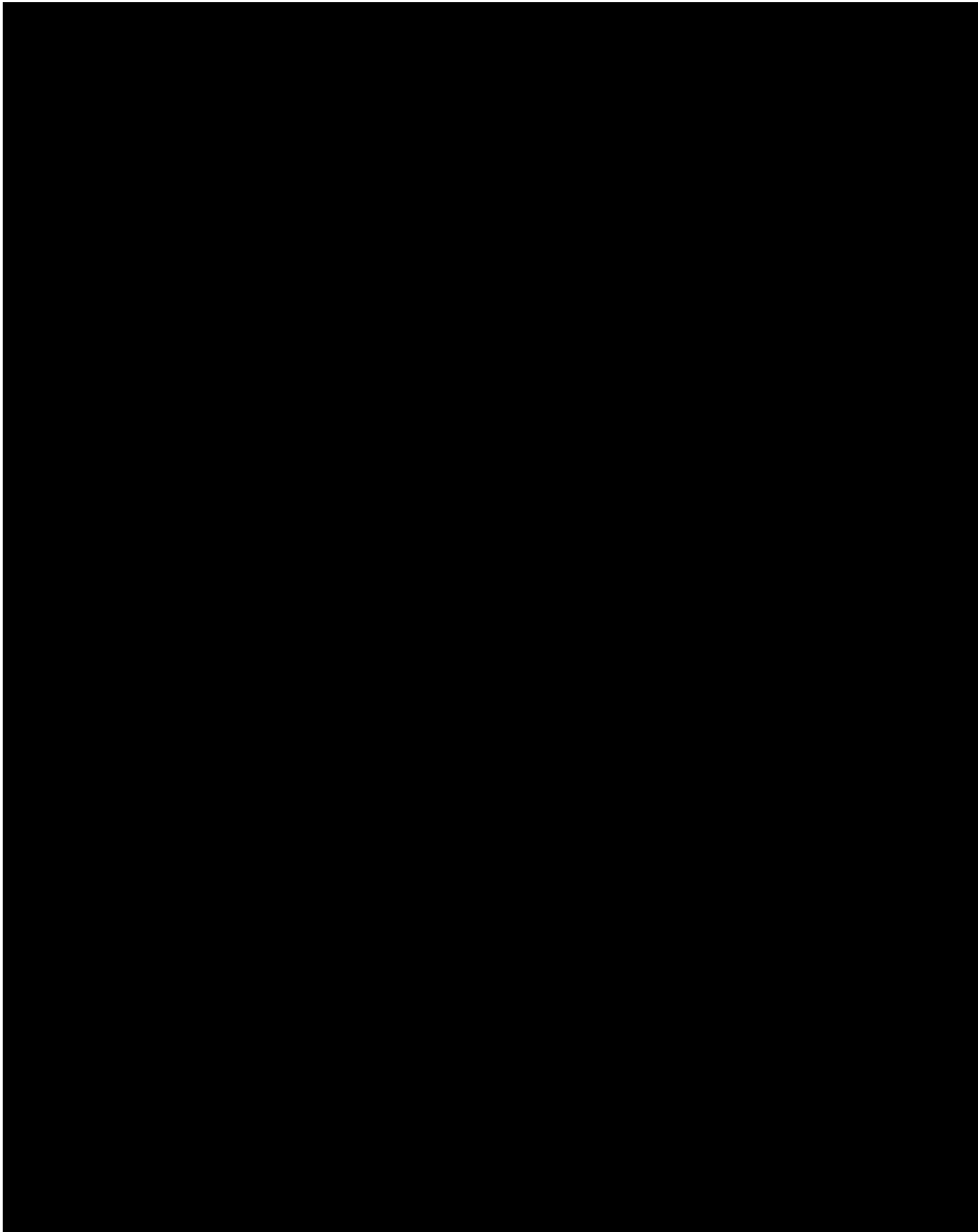
118. Other product reviews provide similar examples of customers who upgraded to a TurboTax product that offered additional support and features and felt that the cost of the upgrade was worth it for what they got.²⁷⁰ Asserting that these customers expected they

²⁶⁷ Note that Dr. Golder provides a comprehensive analysis of the text of the customer reviews in his report. See Golder January 2023 Report, Section IV.B.2 titled “Intuit’s Rates of Keywords Related to Deceptive Advertising or Deceptive Pricing in Complaints Are Comparable to Benchmark Companies.”

²⁶⁸ TY21 Customer Reviews, INTUIT-FTC-PART3-000490341, *review_id* = “206689418,” *life_changes_tags* = “My employment status changed this year,” *business* = “own,” *home* = “own,” *overall_rating* = “5,” *review_text* = “I’ve always used the version of Turbo Tax that allows me to do my taxes but this year I’ve had a few more complicated tax situations come up. I’m glad I upgraded because there were many questions I had that would have taken time away from what I have to do. 100% worth it, *name* = “TurboTax Live Full Service Complex Self-Employed.”

²⁶⁹ TY21 Customer Reviews, INTUIT-FTC-PART3-000490341, *review_id* = “209494044,” *overall_rating* = “5,” *life_changes_tags* = “My employment status changed this year, [] I bought or sold investments,” *review_text* = “A big thank you to Bethanie for helping me through my more complex than usual taxes and easing my stress that I was filing late. We were on the phone for a couple hours but I was put at ease because of her knowledge, especially with Crypto! I have used TurboTax on my own for years and I’m glad I was able to upgrade to full service this year because I was very lost and anxious doing it on my own due to added tax situations and crypto,” *name* = “TurboTax Live Full Service Premier.”

²⁷⁰ See, e.g., a 5-star review from a customer who upgraded to TurboTax Live Deluxe in TY21. TY21 Customer Reviews, INTUIT-FTC-PART3-000490341, *review_id* = “202296538,” *overall_rating* = “5,” *review_text* = “Turbo Tax is awesome! I have been using the product on and off for over 10 years. This year was the first time I upgraded Turbo Tax to deluxe with live help. It is more than worth it! I had so many questions and spoke to two live agents and both were very helpful. I did a video call earlier in the day with Jacqueline and she was excellent and answered all of my questions. In the evening before filing, I spoke with Barb via live chat! Both Tax experts had over 20 years experience individually and was able to answer all of my questions. I highly recommend paying for the premium services as it is more than worth it!!! Thank you Turbo Tax!,” *name* = “TurboTax Live Deluxe.” See also a 5-star review from a customer who purchased TurboTax Live Deluxe in TY21, TY21 Customer Reviews, INTUIT-FTC-PART3-000490341, *review_id* = “201417112,” *overall_rating* = “5,” *review_text* = “I have pretty simple taxes but always use TT because they search for all the breaks, it pretty much pays for itself. I had a bit of an issue this year so I upgraded the service, glad I did because the nice lady I spoke with gave me peace of mind that I was doing things correctly, and even advised me on how to ensure the IRS also does things correctly,” *name* = “TurboTax Live Deluxe.” See also a 5-star review from a



- Identity theft monitoring and insurance, protecting the customer if suspicious activity is detected and covering stolen funds and expenses caused by identity theft; and
- Priority care, cutting down the time to connect to a TurboTax specialist.

120. In TY21, TurboTax offered two add-on bundles to customers with complex tax situations: “Premium Services” (in California only) and “MAX Restore & Defend.”²⁷⁴ Customers who purchased either one of these bundles indicated a preference for a comprehensive suite of add-on features and services to help them address their complex tax situations, and a willingness to pay for assistance in filing their taxes.²⁷⁵ Customer reviews confirm this. For example:

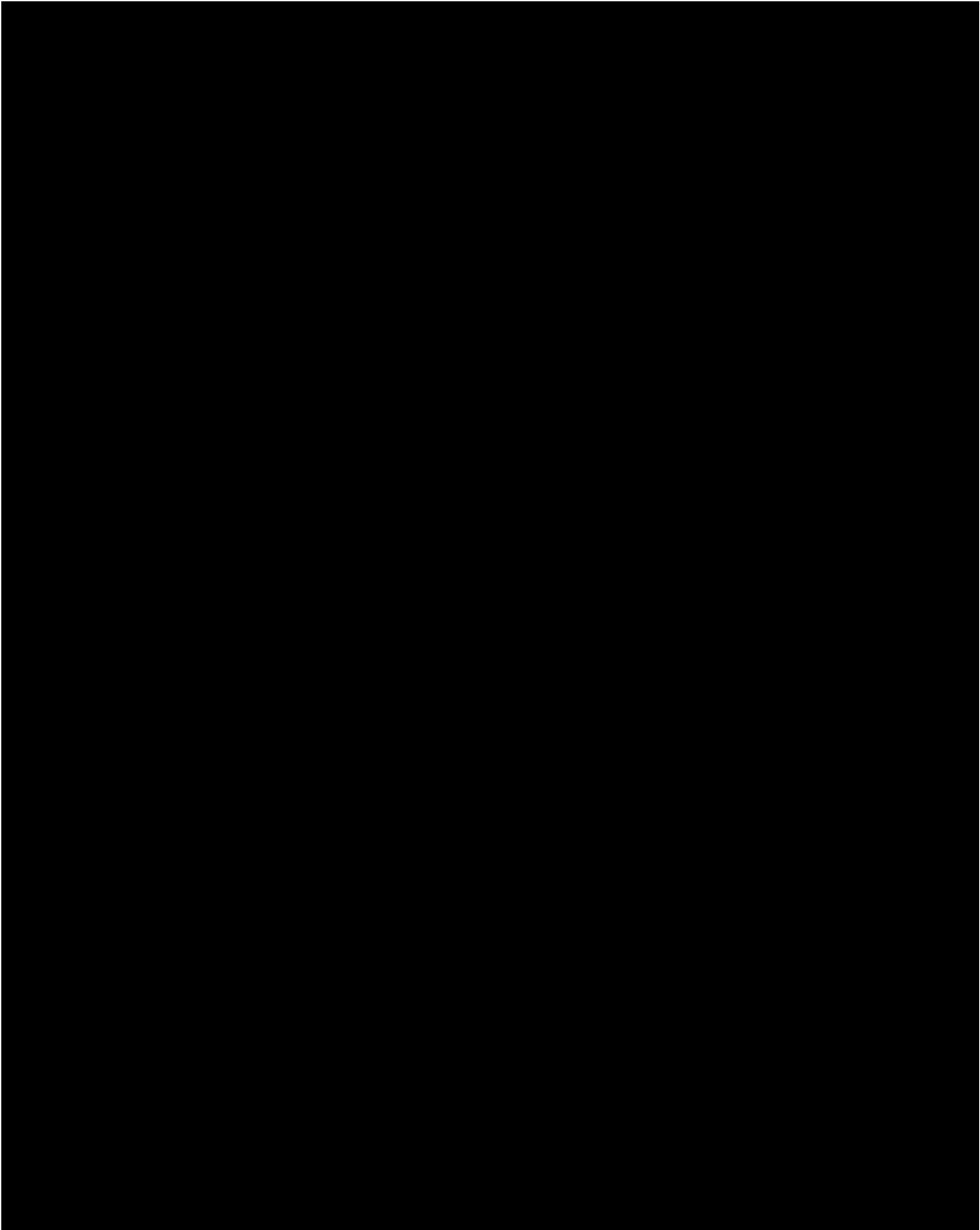
- A customer who purchased TurboTax Live Premier and the MAX bundle in TY21 and left a 5-star review wrote: “I’ve been using Turbo Tax for years now. I pay for the MAX Defense and the whole shebang. It’s worth it every time. Taxes are so easy to complete and file. If you need support it’s available all the time. Thankfully I didn’t need help this year, that’s because I remember the help I did get from last year’s taxes with my investments. I spent hours with the tax pro and it was totally worth it. Why do anything else, when TurboTax does it all for you and more with the Intuit connection.”²⁷⁶
- A customer who purchased TurboTax Live Premier and the MAX bundle left a 5-star review and wrote that “Turbo[T]ax is always easy and accurate and I love the Max services for piece [sic] of mind.”²⁷⁷

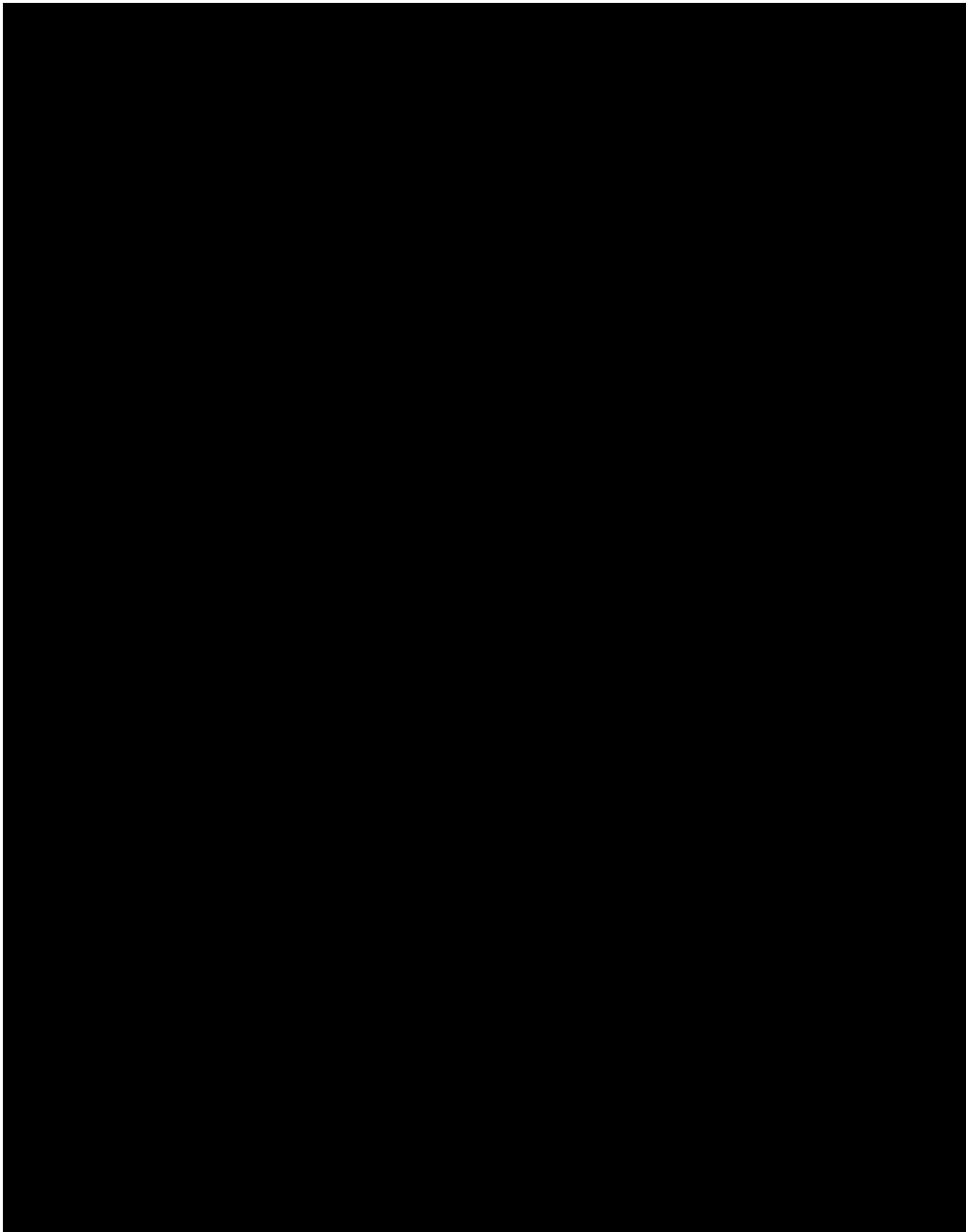
²⁷⁴ Intuit, “What is MAX?,” January 4, 2022, https://ttlc.intuit.com/turbotax-support/en-us/help-article/intuit-product-orders/max/L0Bc4Ve2l_US_en_US, INTUIT-FTC-PART3-000612595, Intuit, “What is Premium Services?,” January 4, 2022, https://ttlc.intuit.com/turbotax-support/en-us/help-article/intuit-product-orders/premium-services/L3Eq2UXII_US_en_US, INTUIT-FTC-PART3-000610497. In TY21, TurboTax also offered the “PLUS Help & Support” bundle to customers with simple tax returns. For the purposes of this analysis, I do not consider customers who purchased this bundle, as they filed their federal and state returns for free and therefore could not have been deceived by TurboTax advertising. See Intuit, “What’s Included in PLUS Help & Support?,” January 4, 2022, https://ttlc.intuit.com/turbotax-support/en-us/help-article/intuit-product-orders/included-plus-help-support/L9YbRiw0c_US_en_US?uid=l63pvp5h, INTUIT-FTC-PART3-000610484.

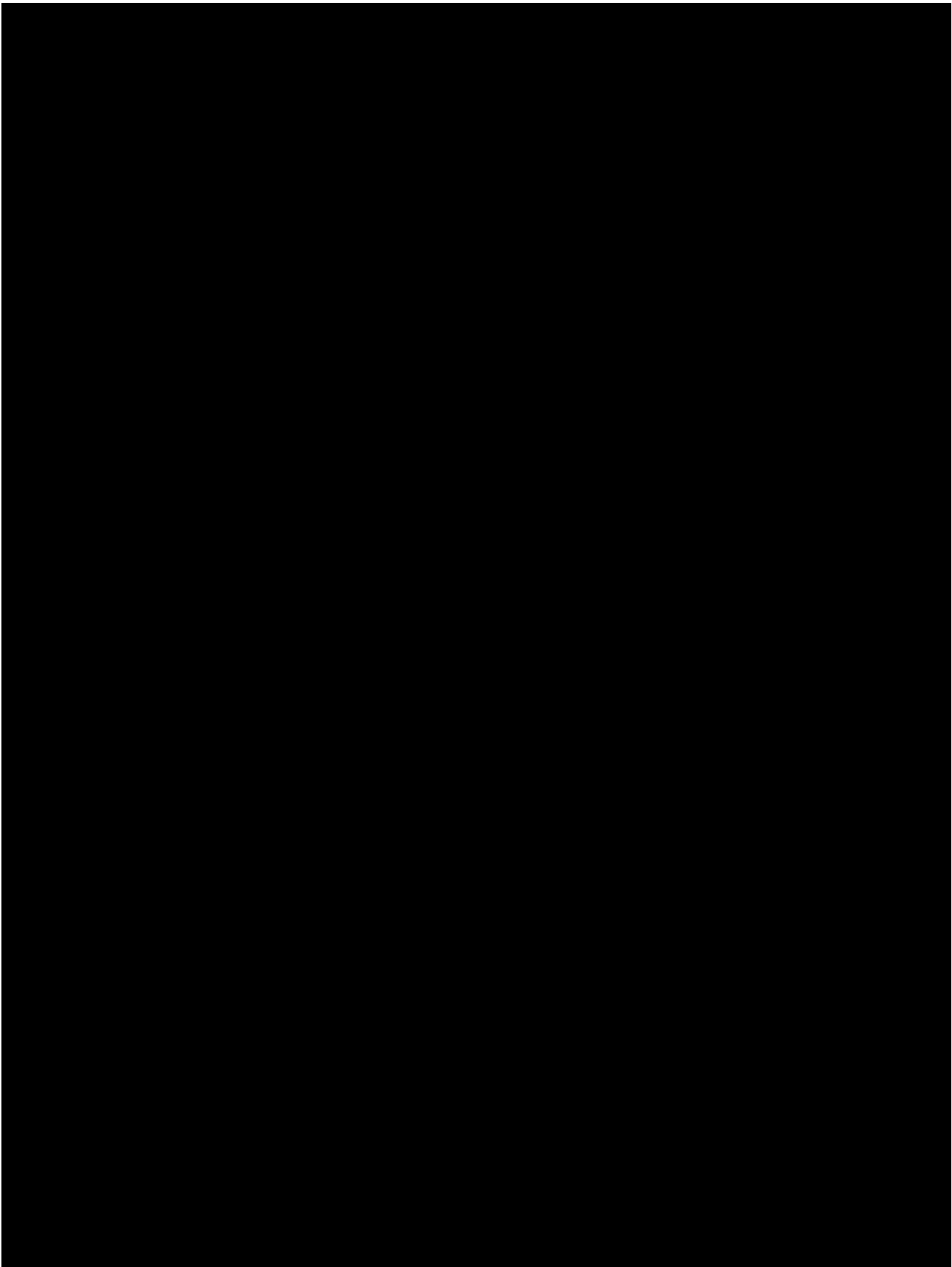
²⁷⁵ My analytical approach is conservative as it does not include customers with complex tax situations who may have chosen TurboTax because of access to individual add-on features or services. Instead, I focus on customers who purchased the “bundled” add-on features and services, due to the clear revealed preference for additional assistance that is indicated by this purchase decision.

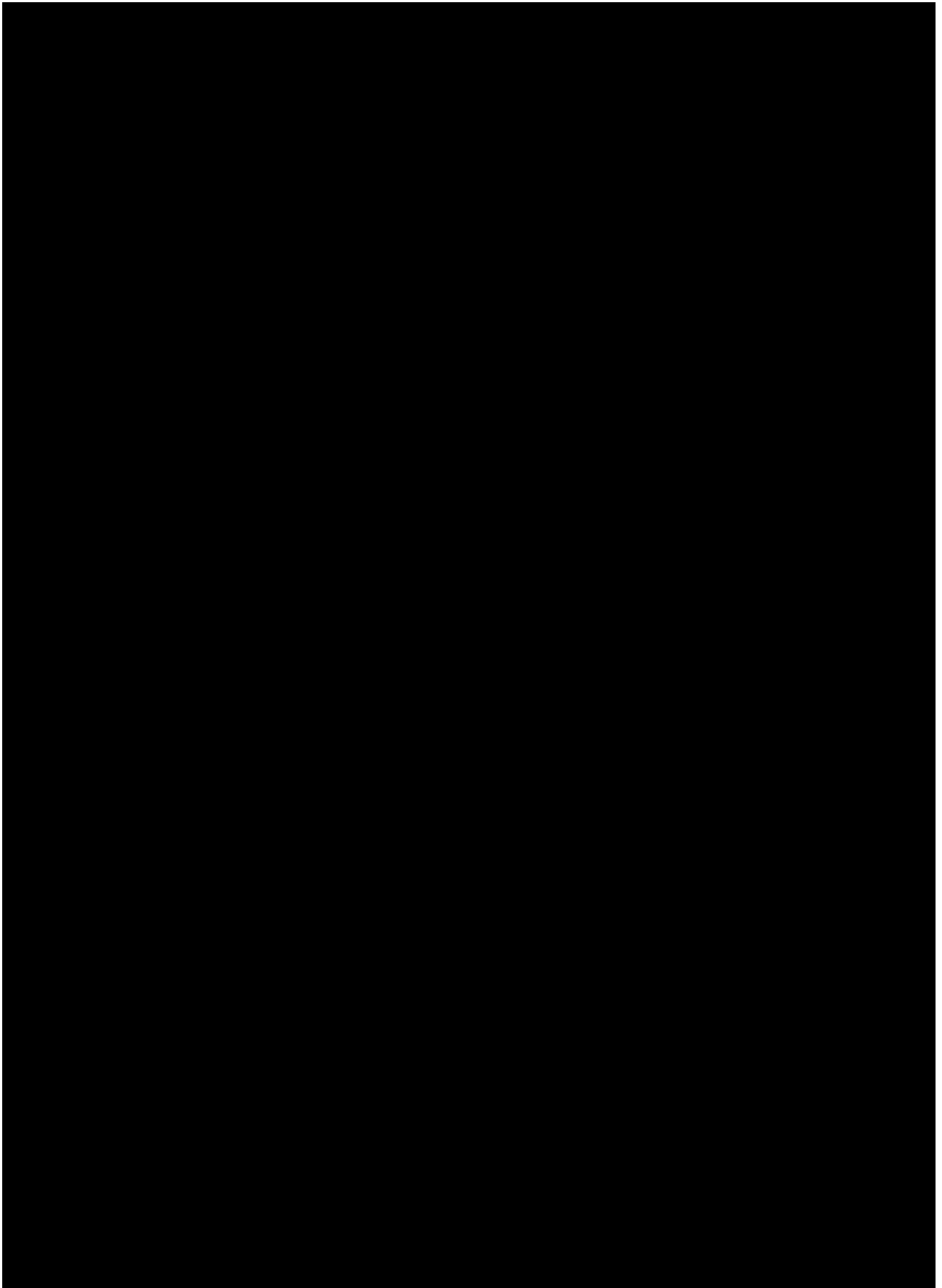
²⁷⁶ TY21 Customer Reviews, INTUIT-FTC-PART3-000490341, *review_id* = “206740780,” *overall_rating* = “5,” *name* = “TurboTax Live Premier.”

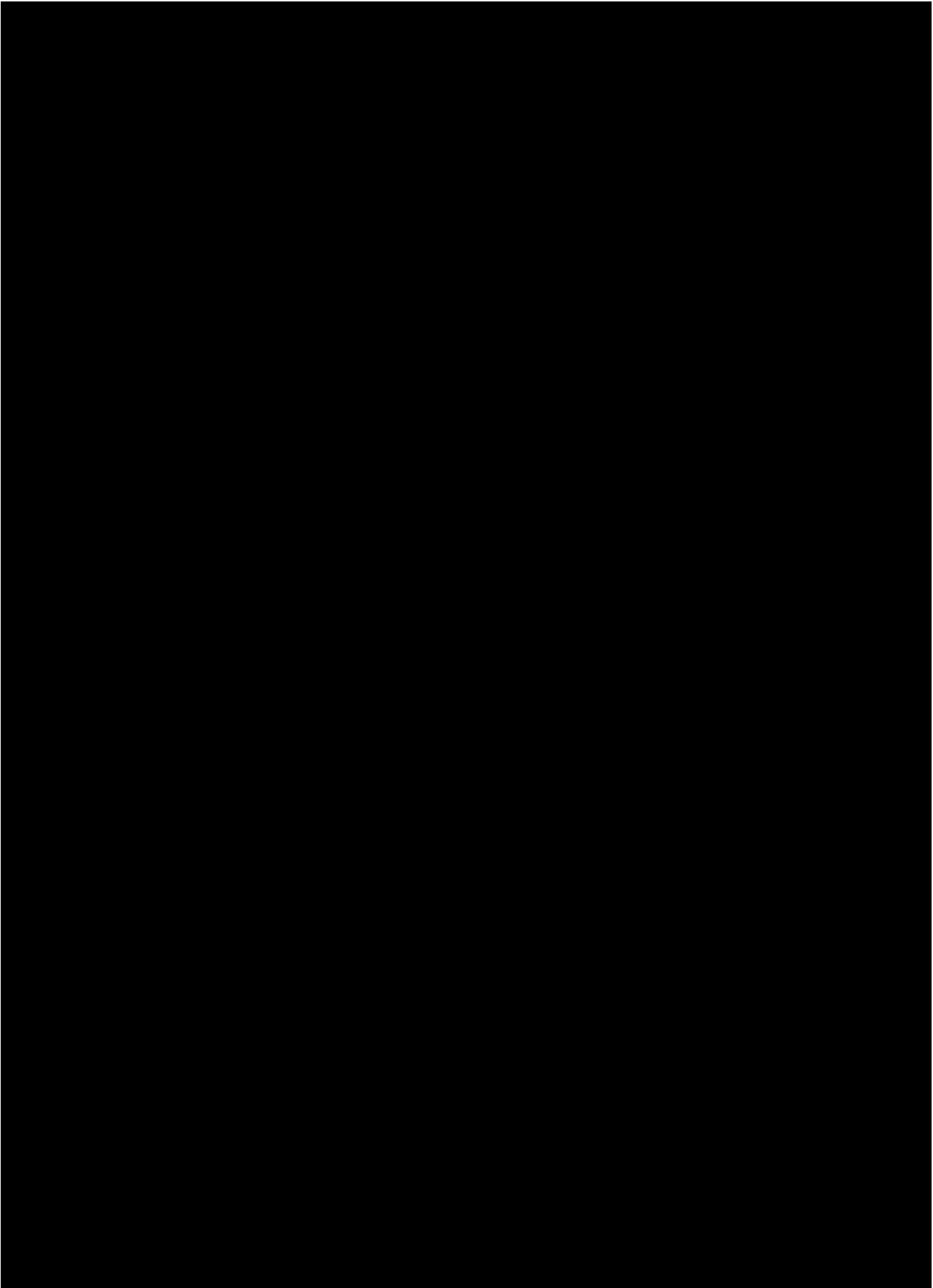
²⁷⁷ TY21 Customer Reviews, INTUIT-FTC-PART3-000490341, *review_id* = “199133871,” *overall_rating* = “5,” *name* = “TurboTax Live Premier.”

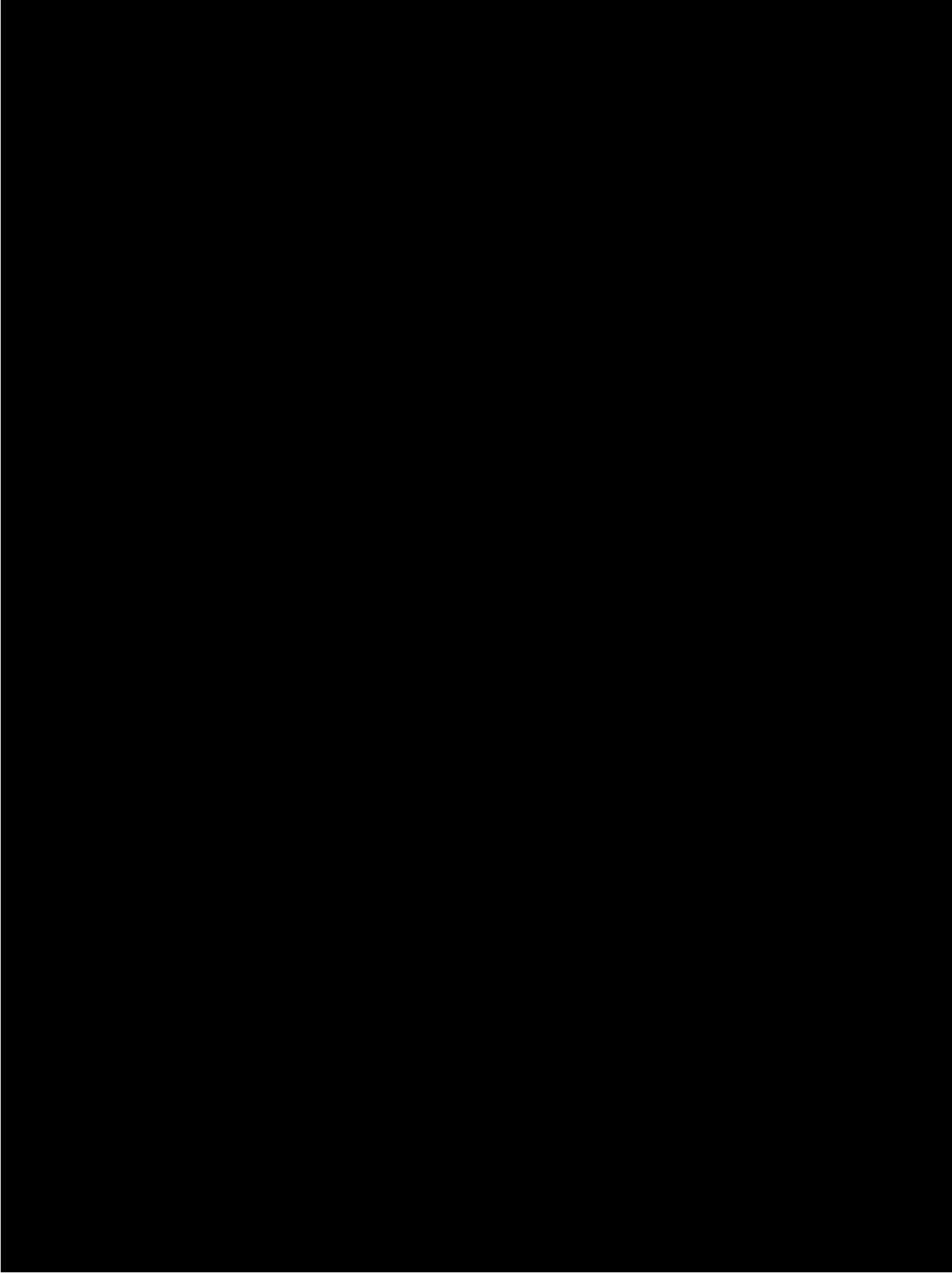


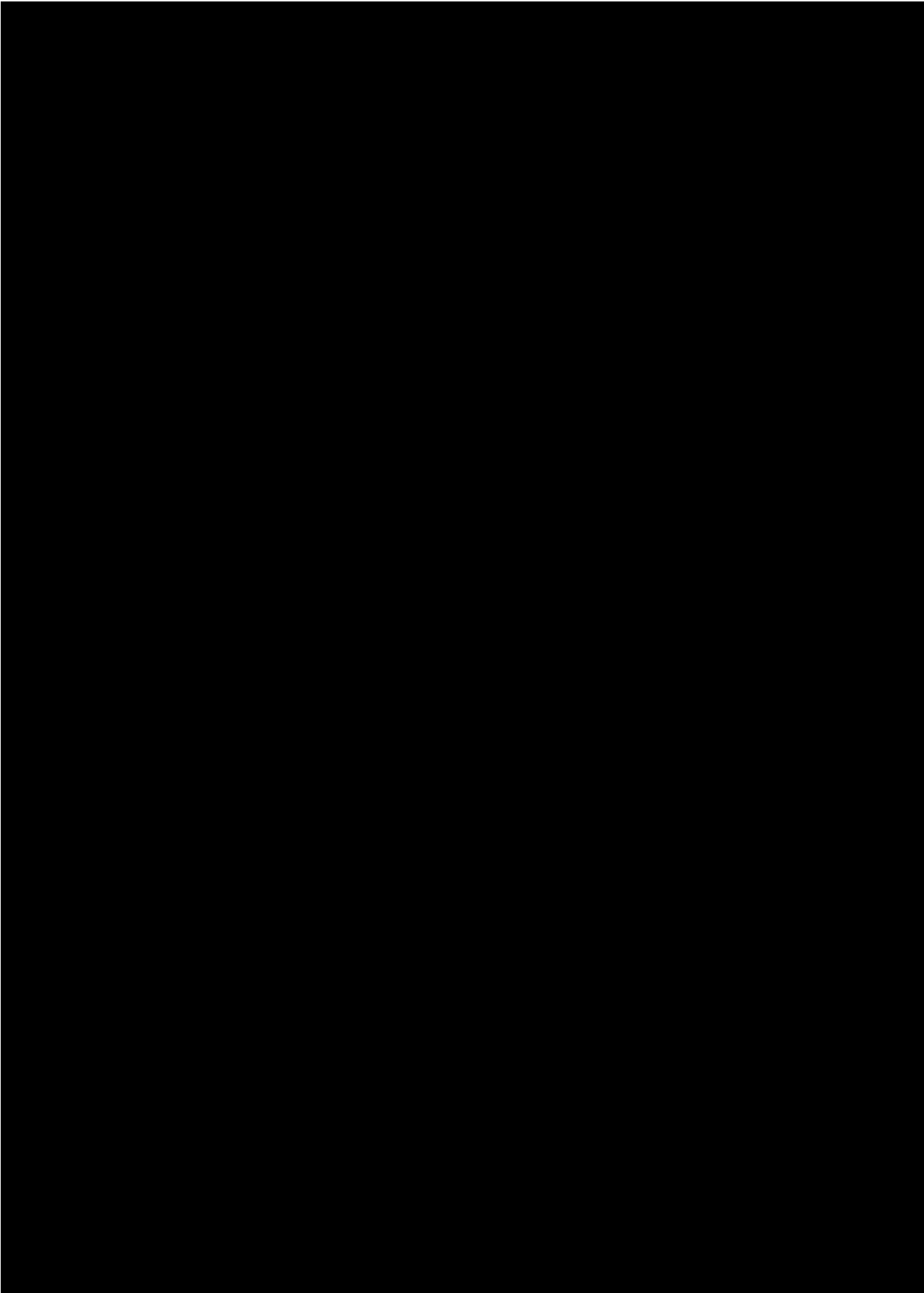


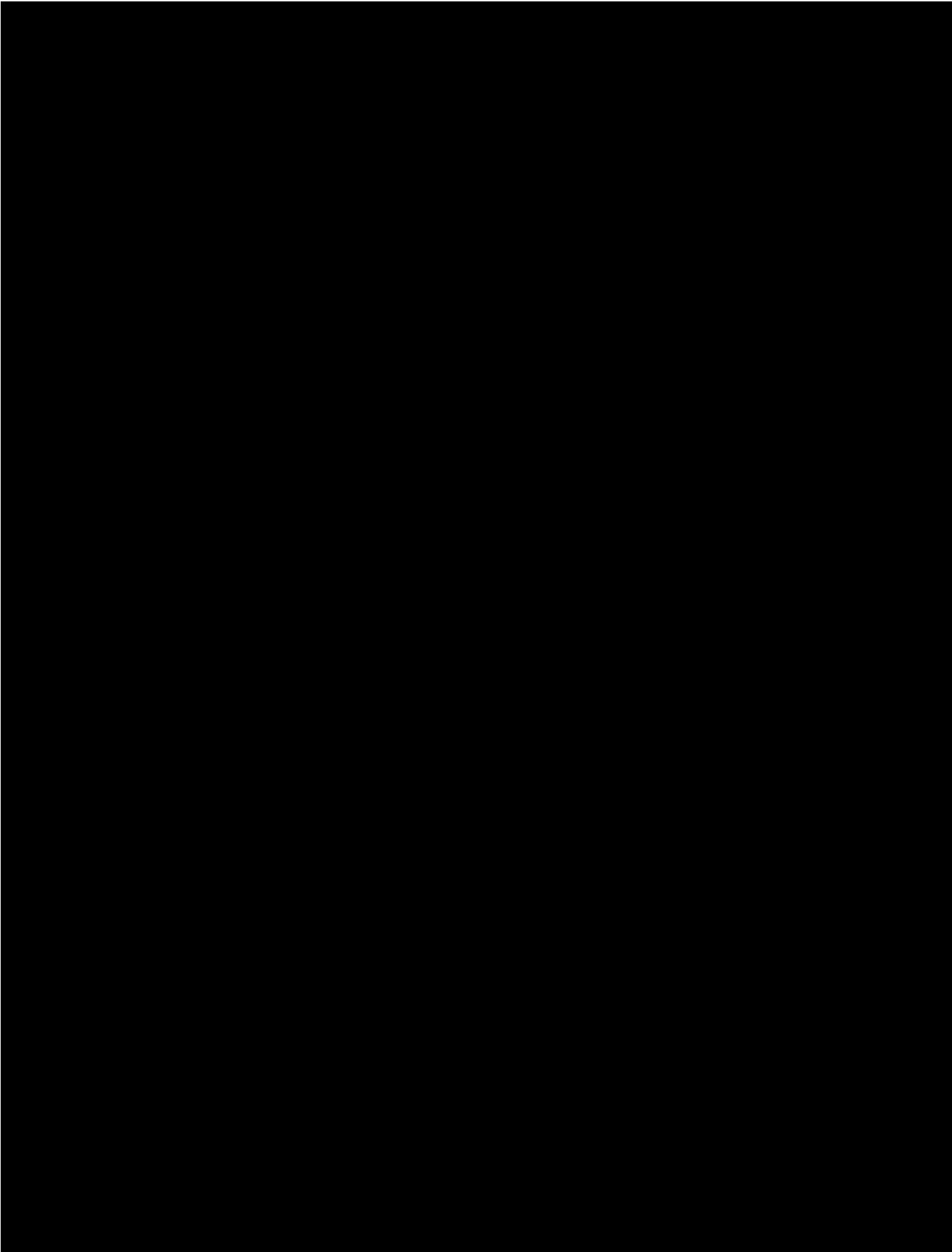


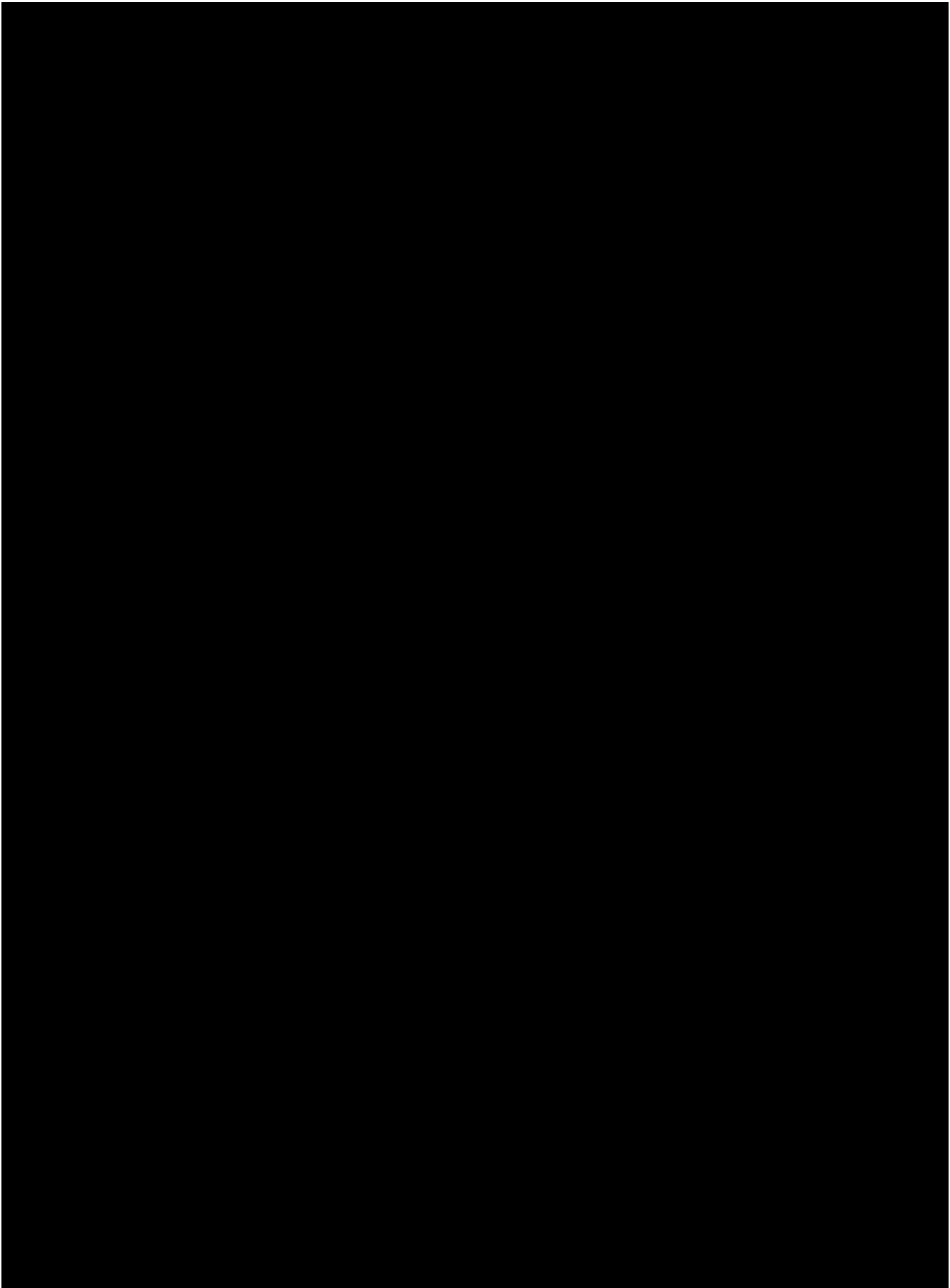


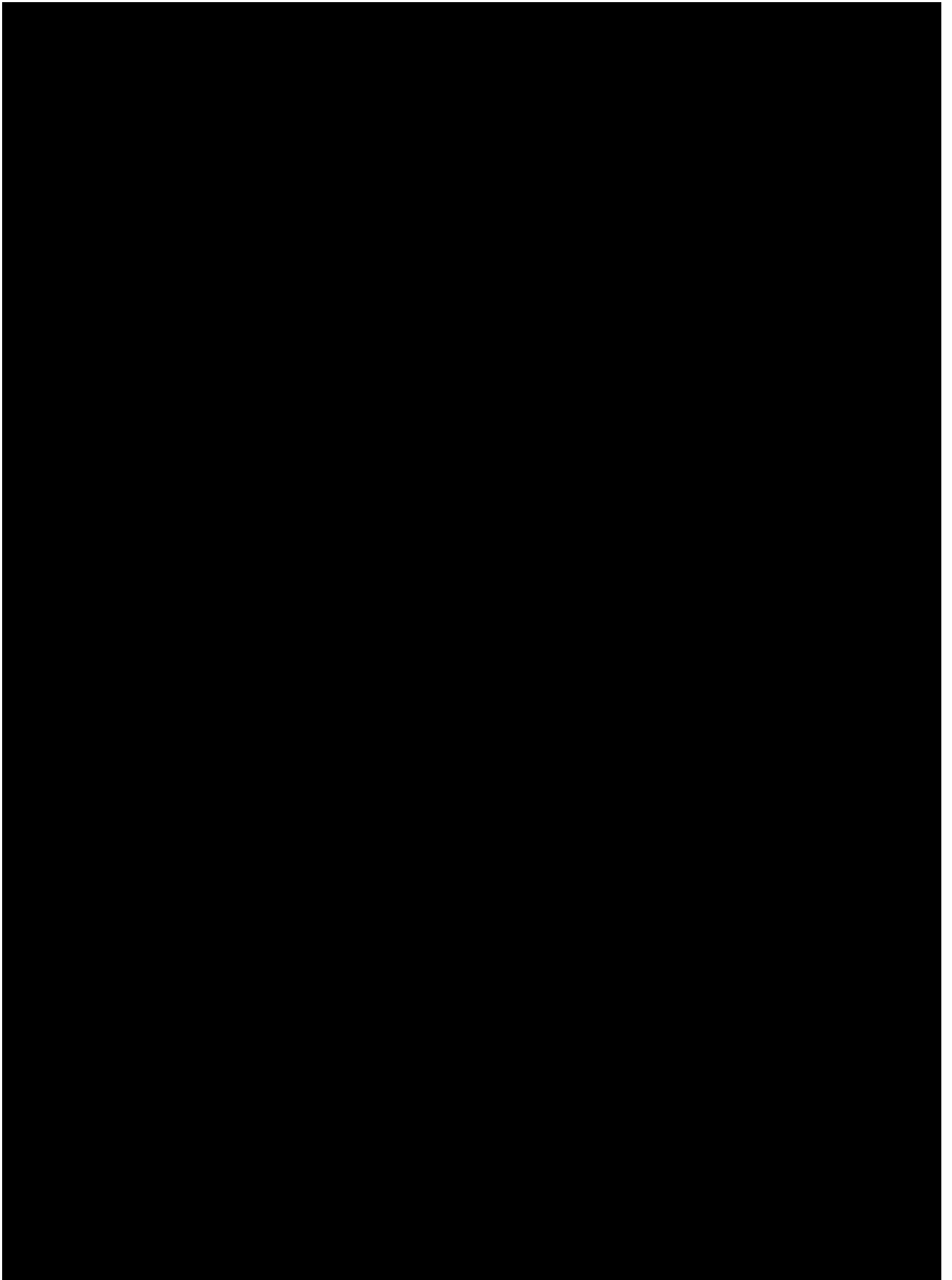


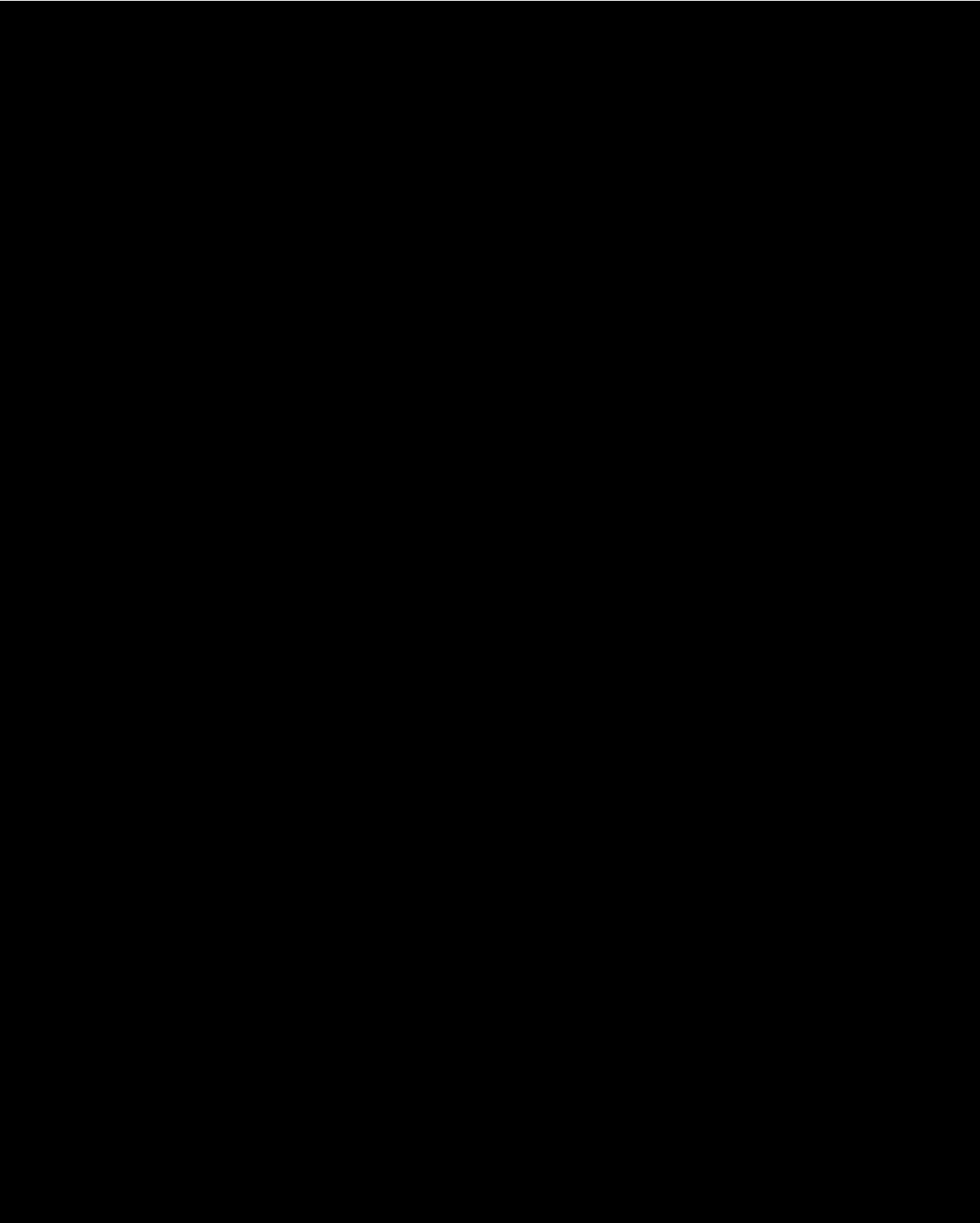


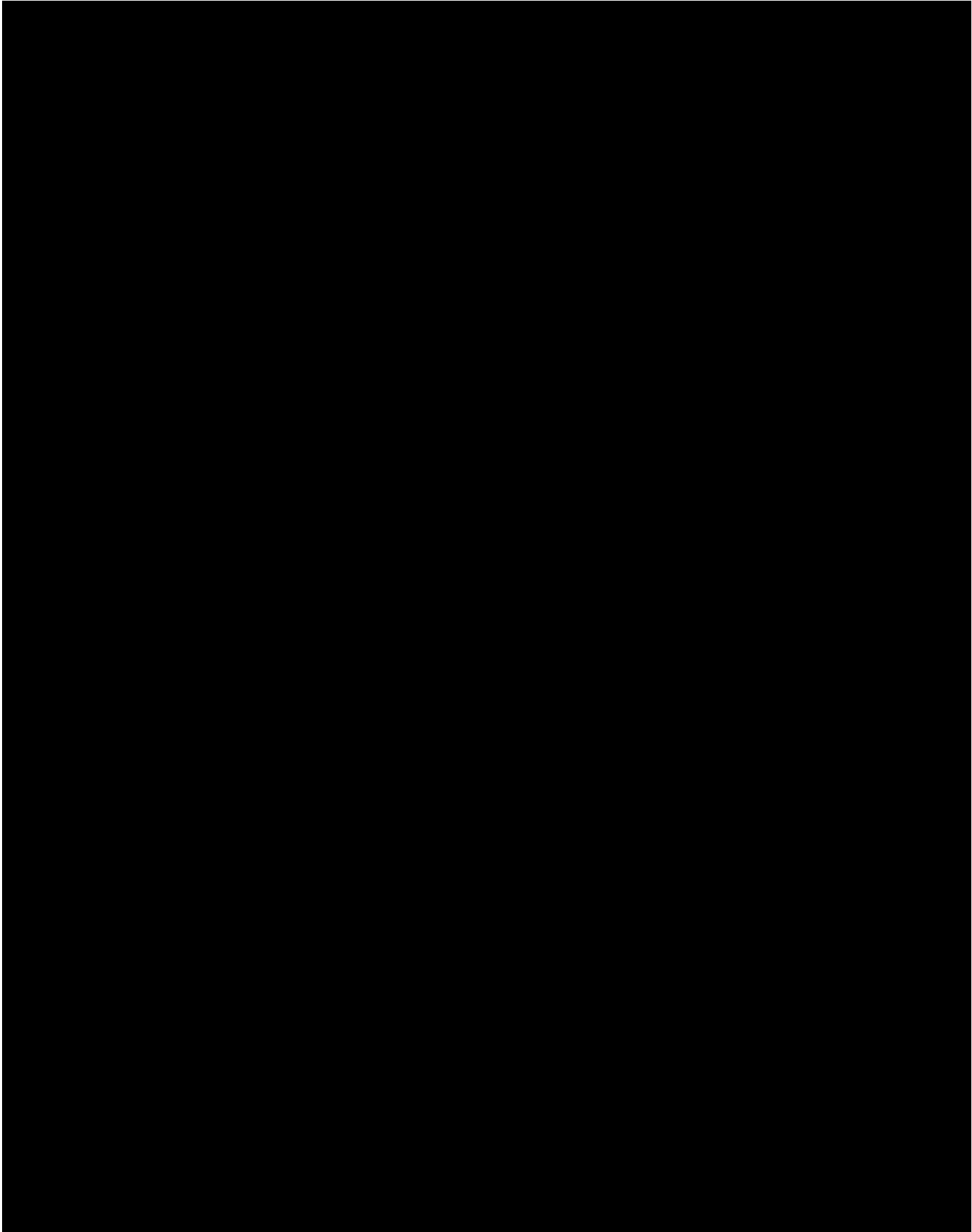


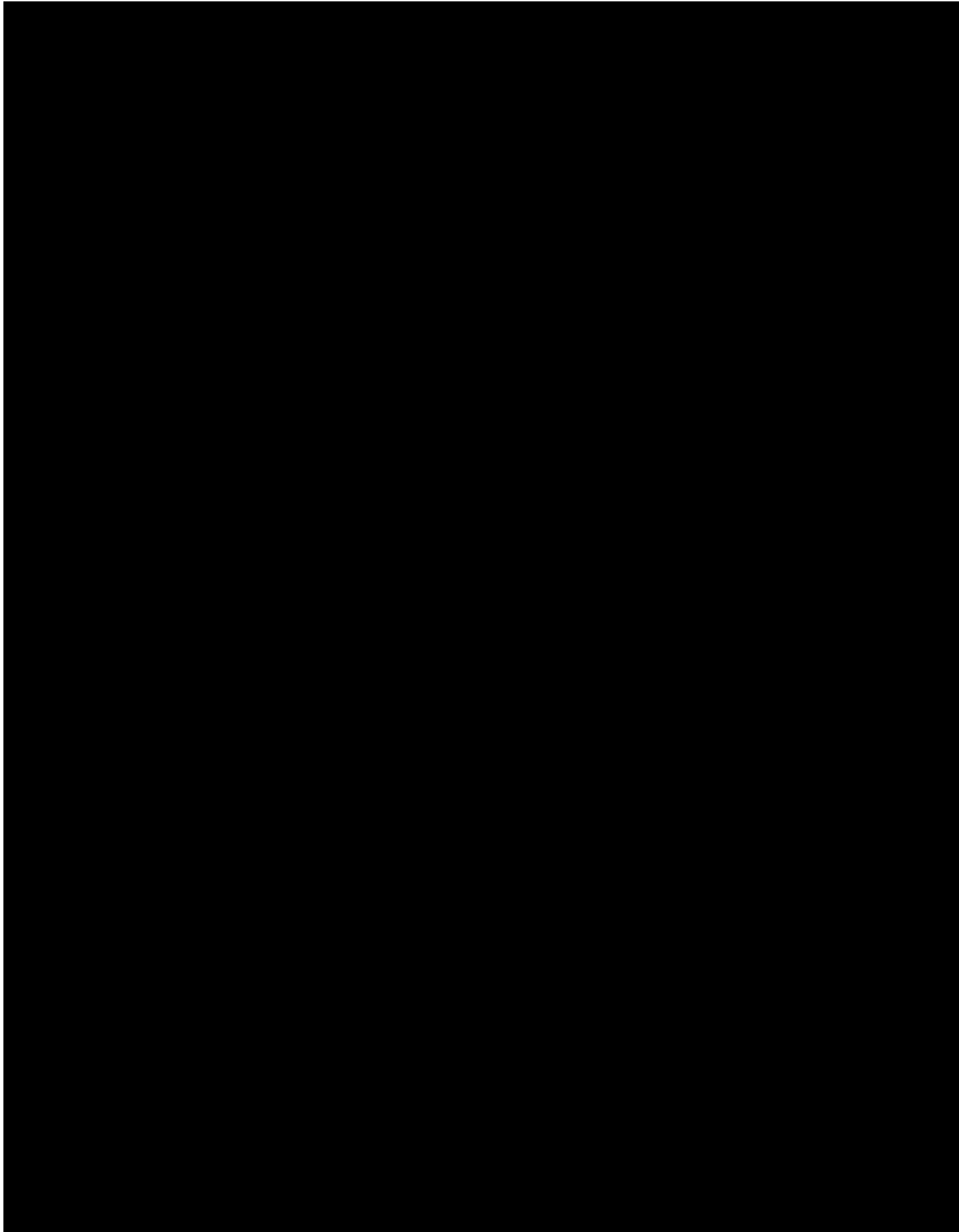


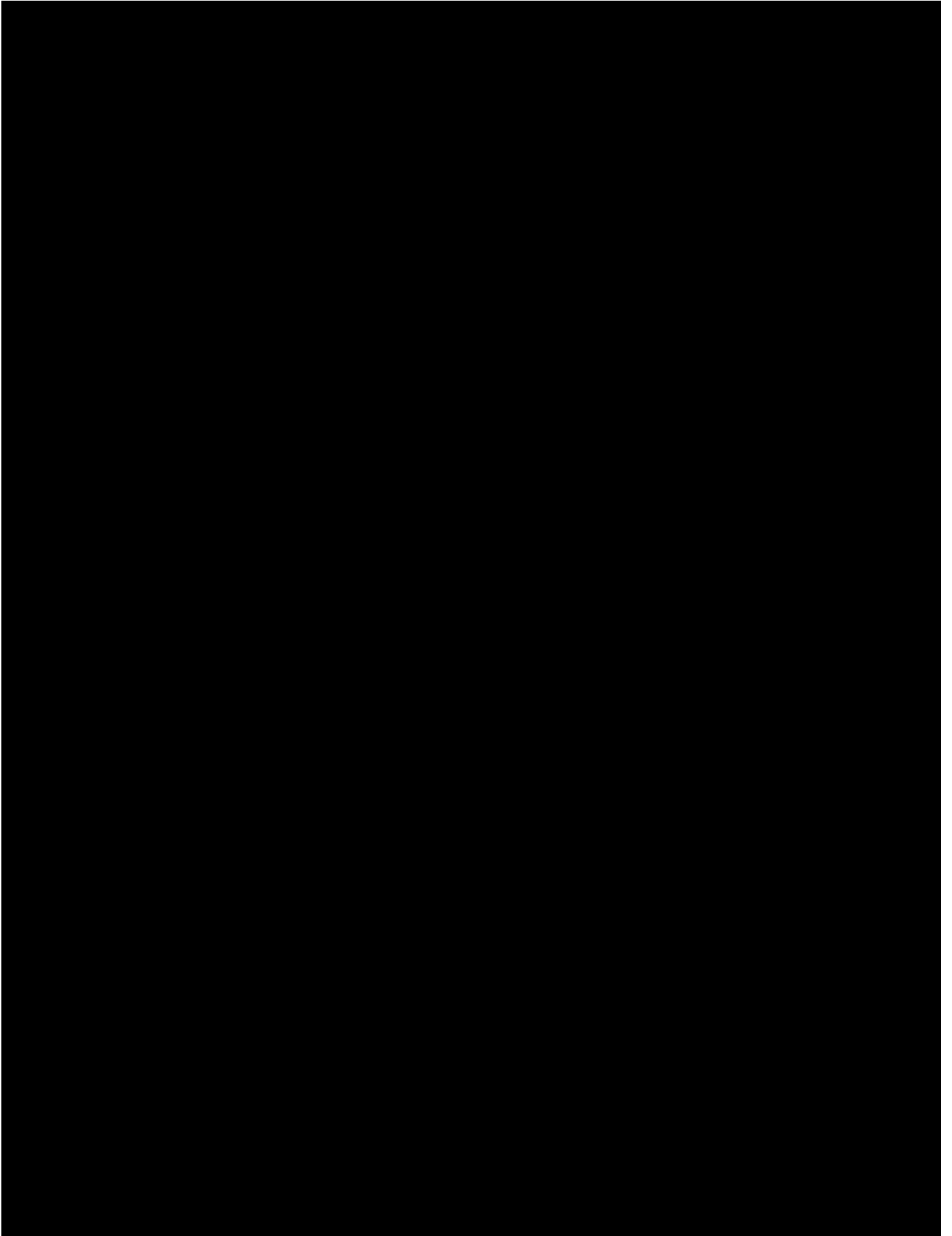


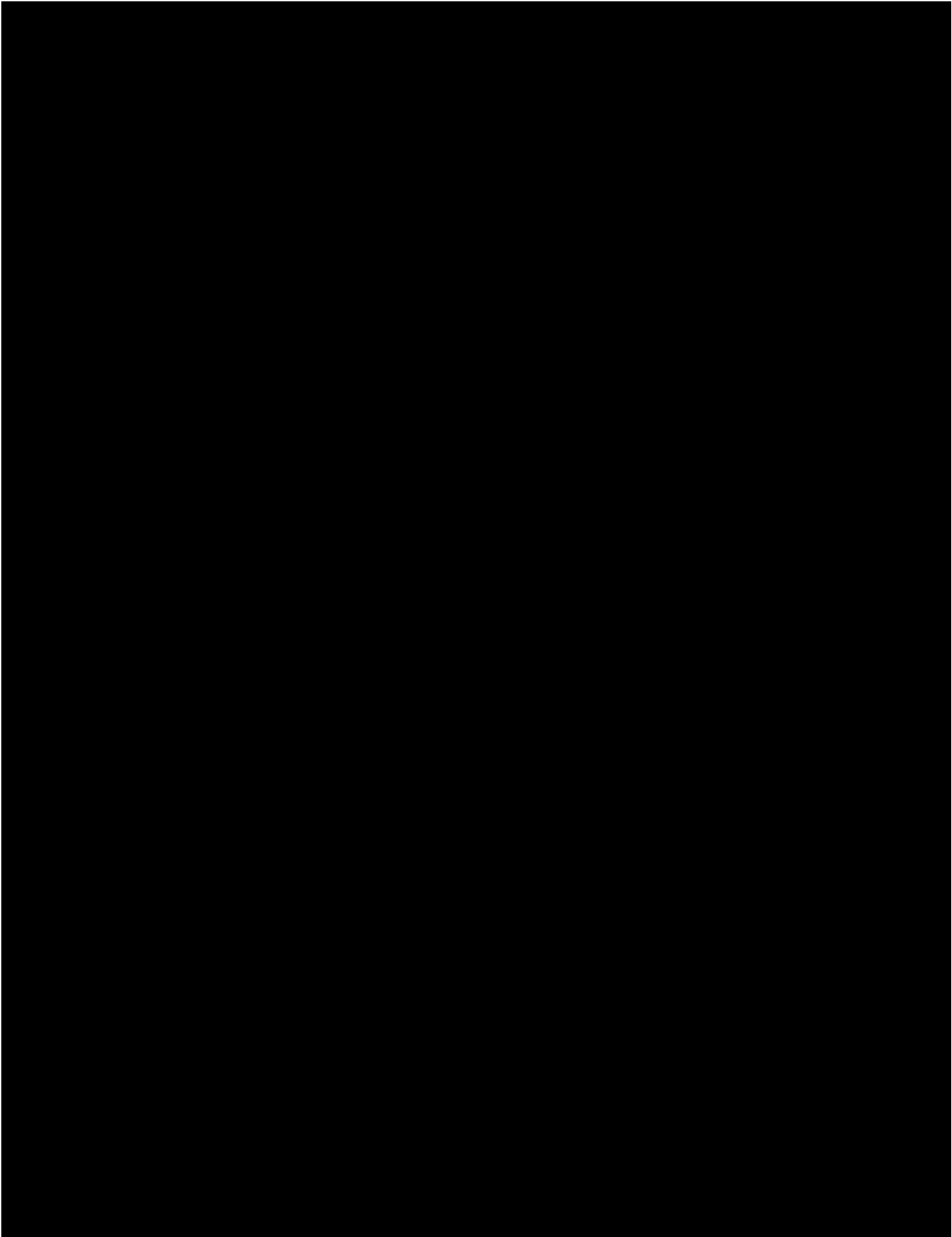


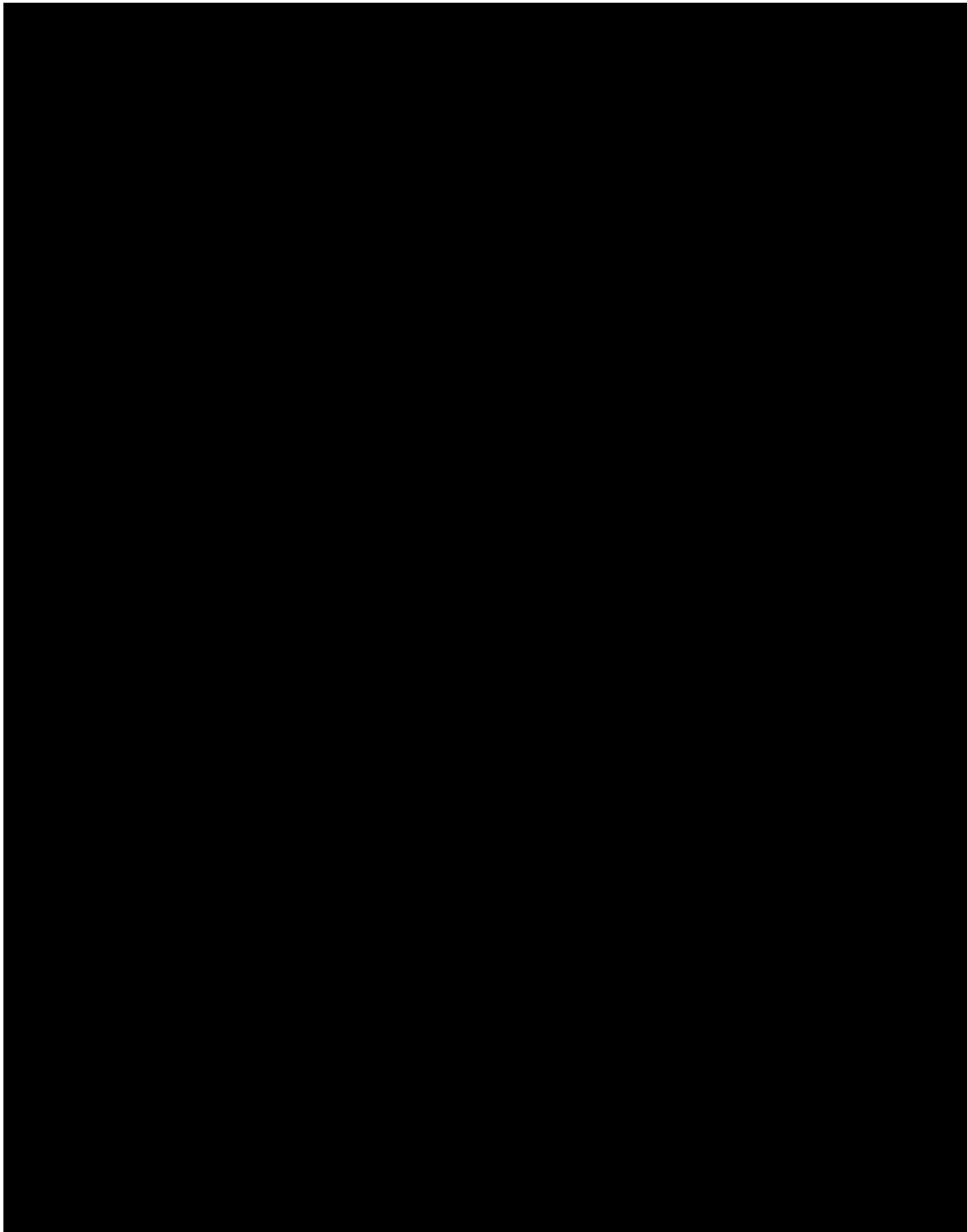


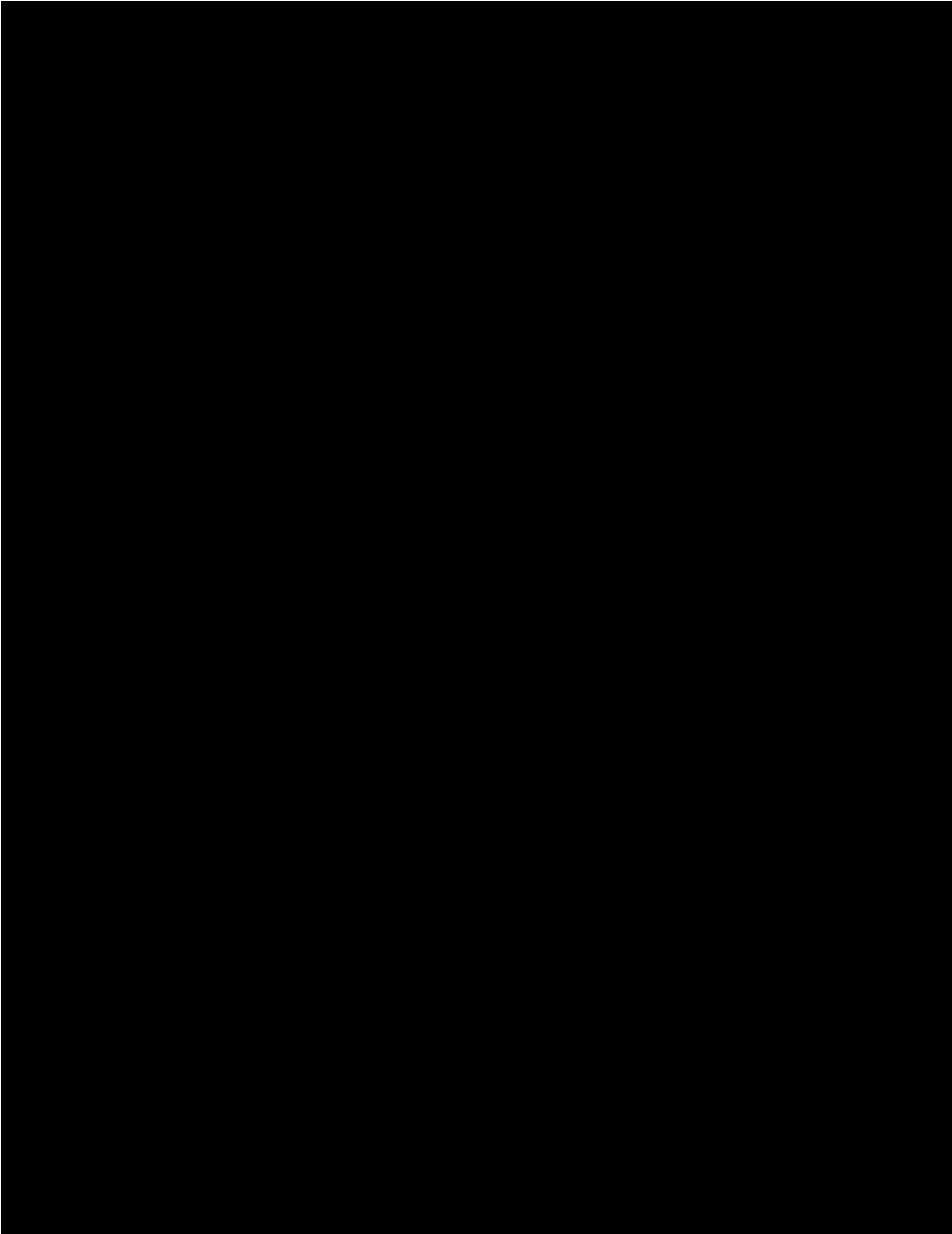


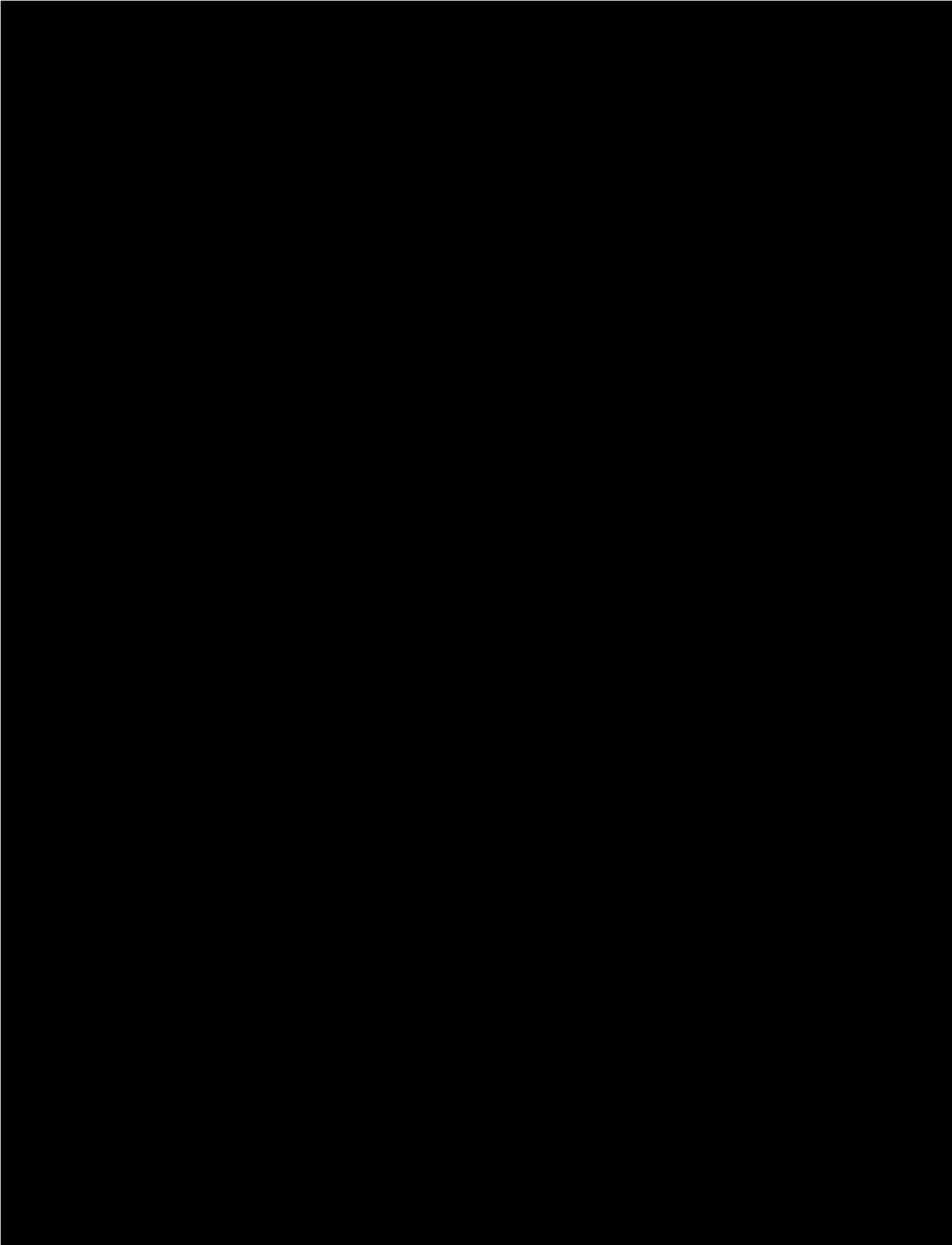


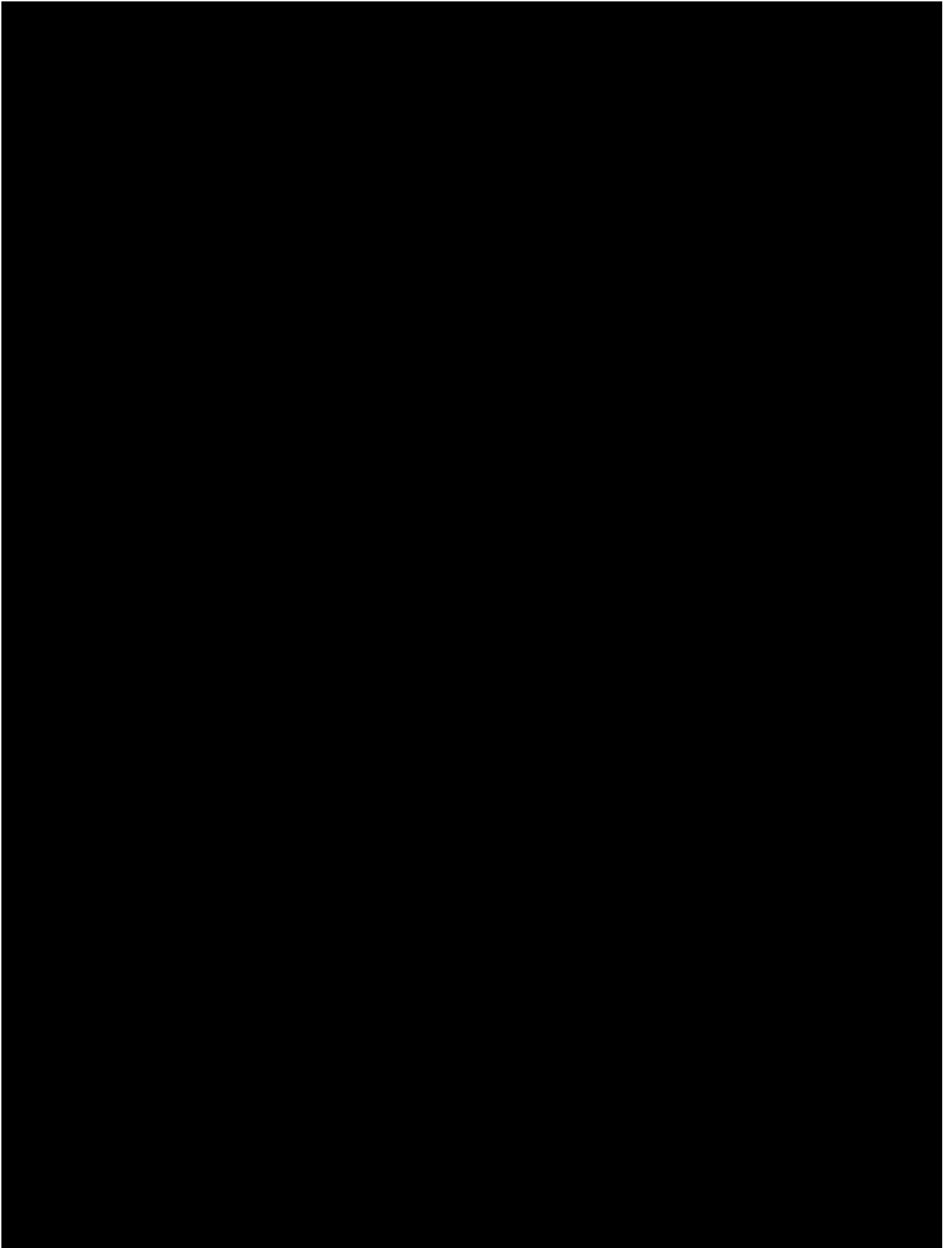


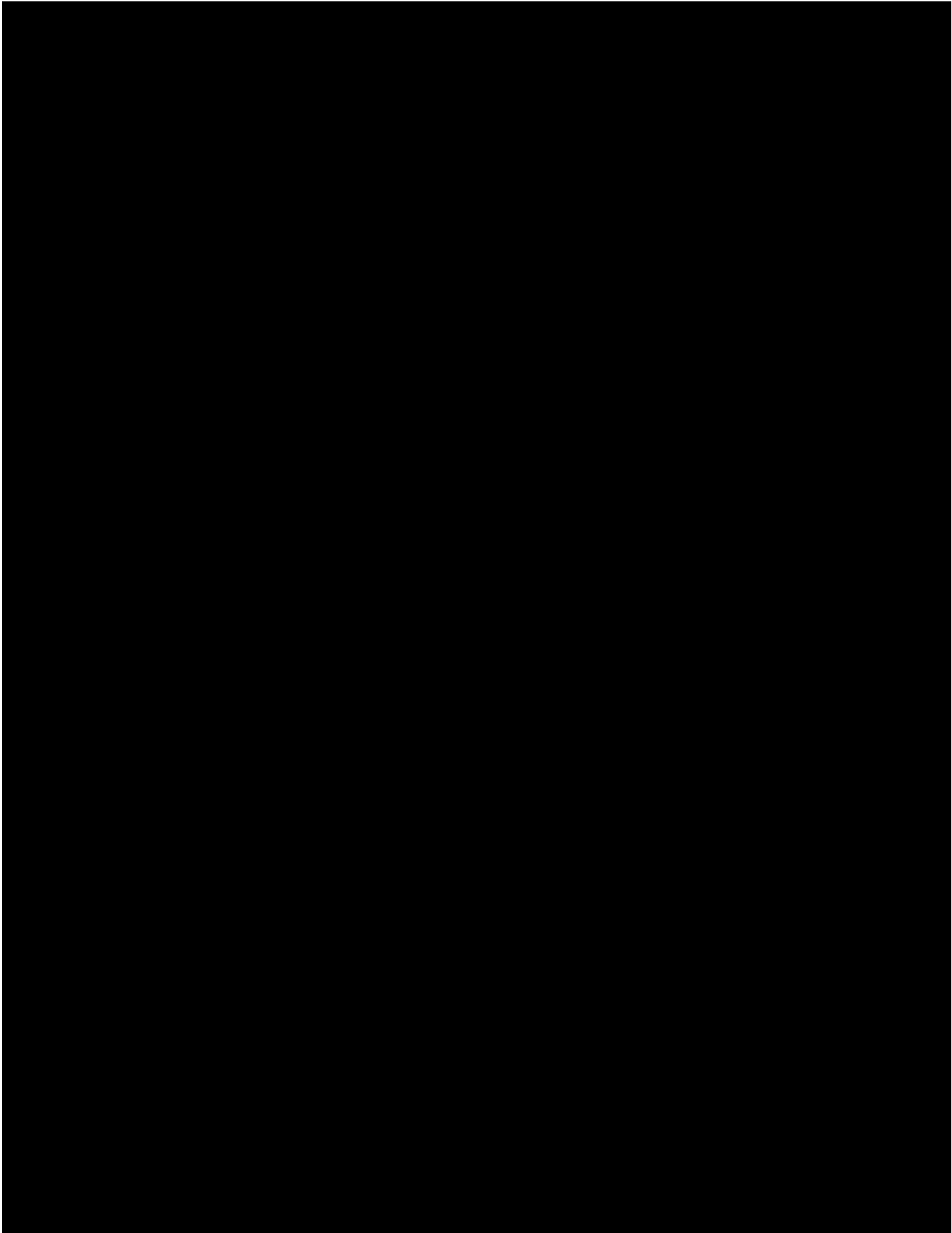


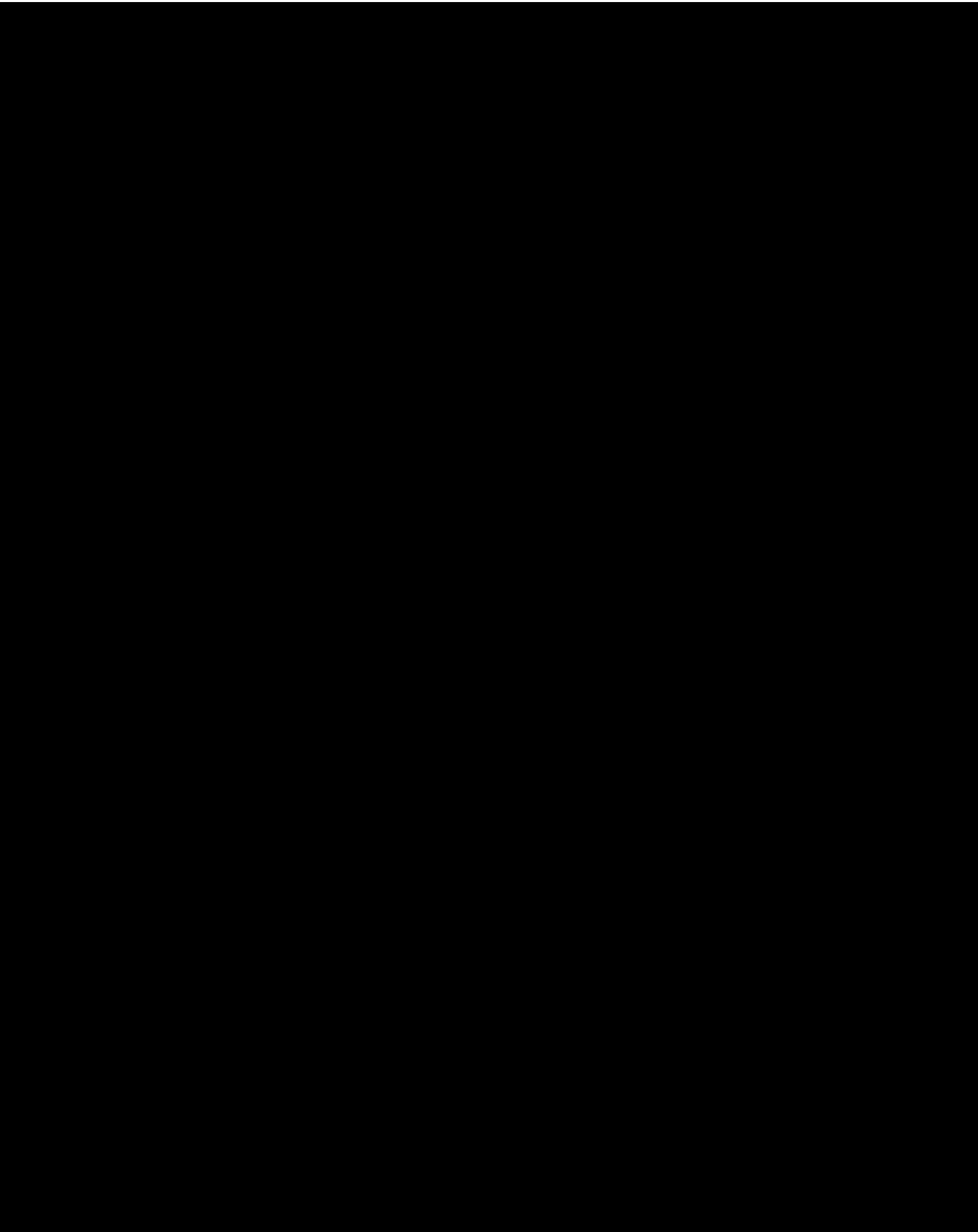


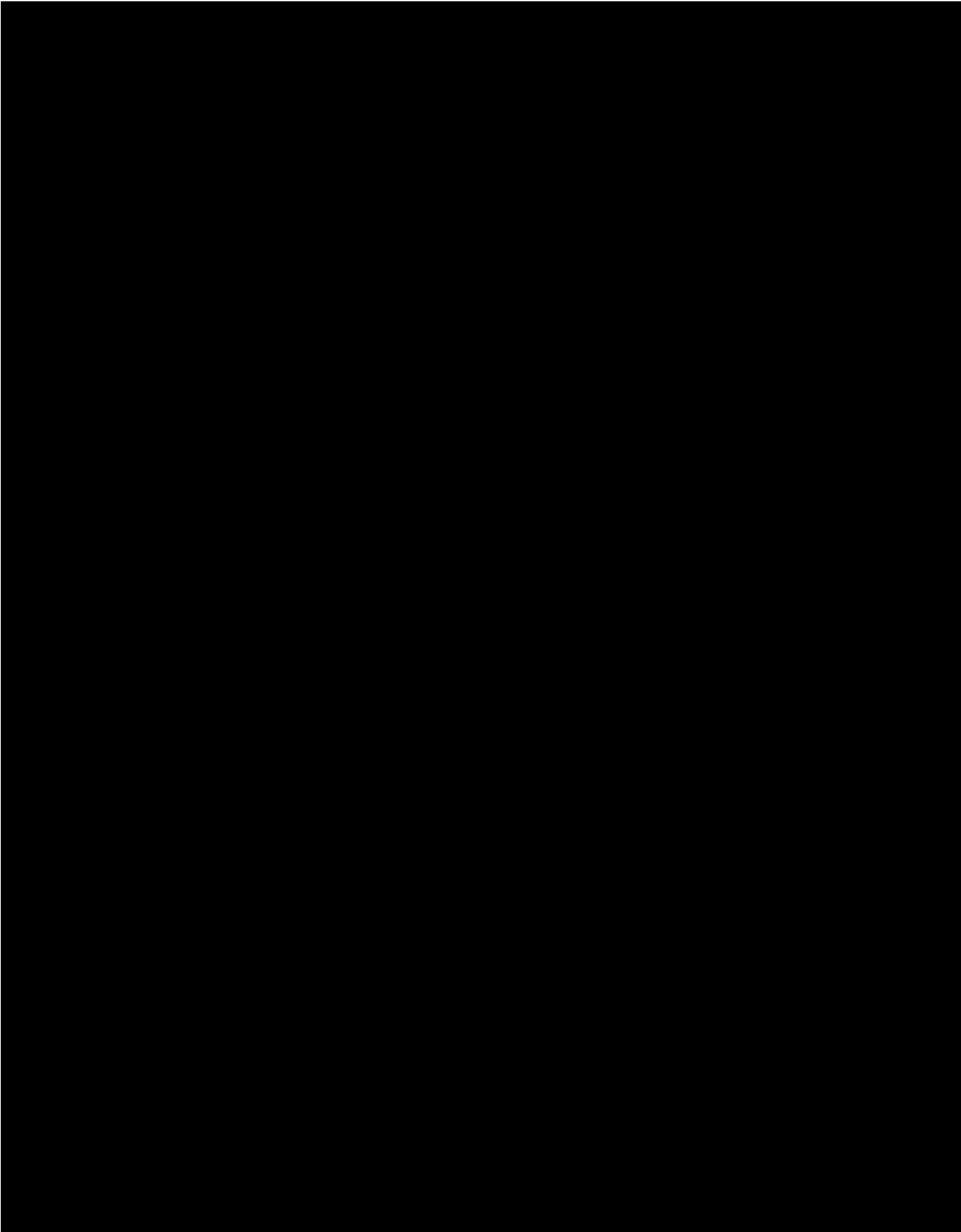


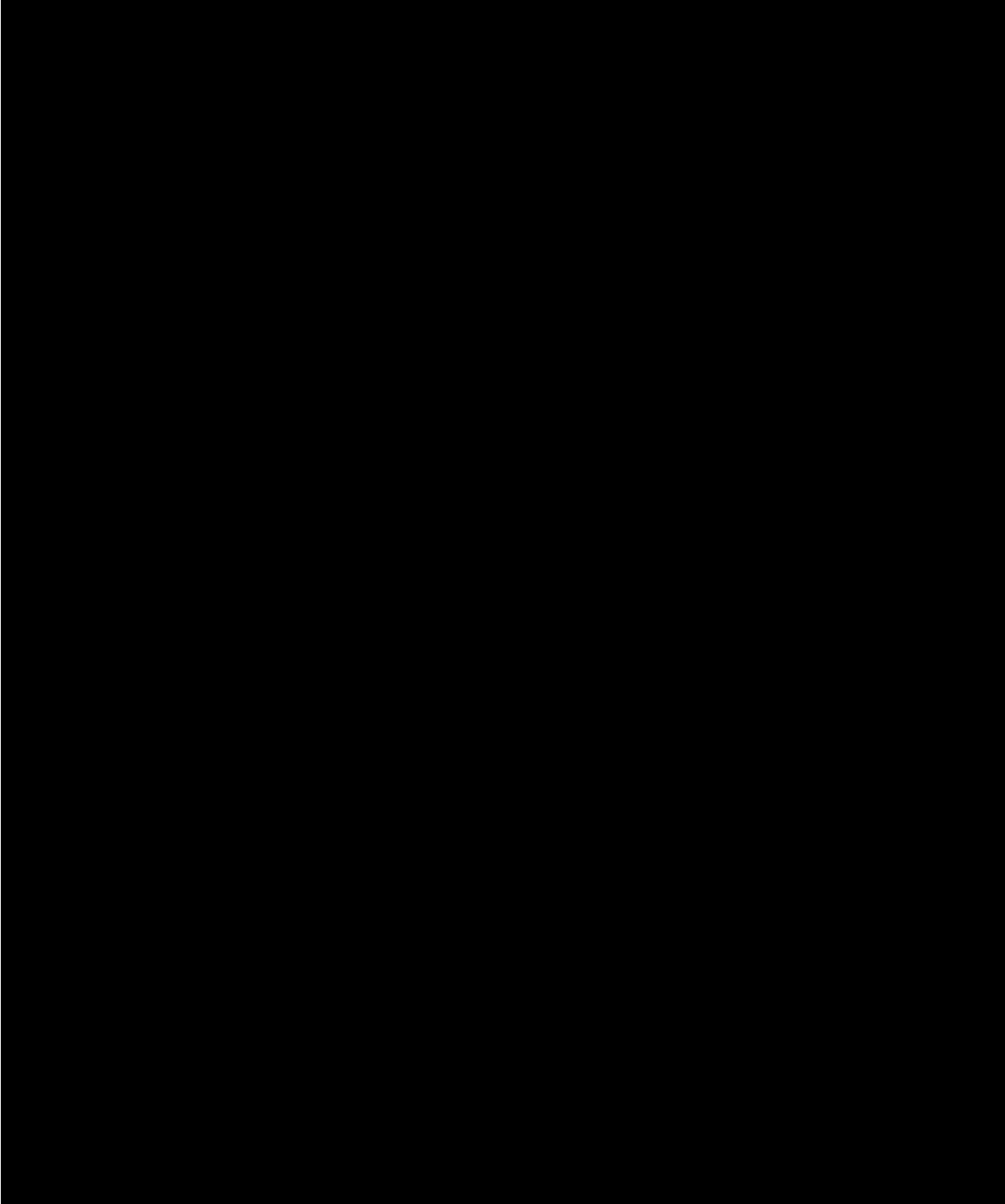


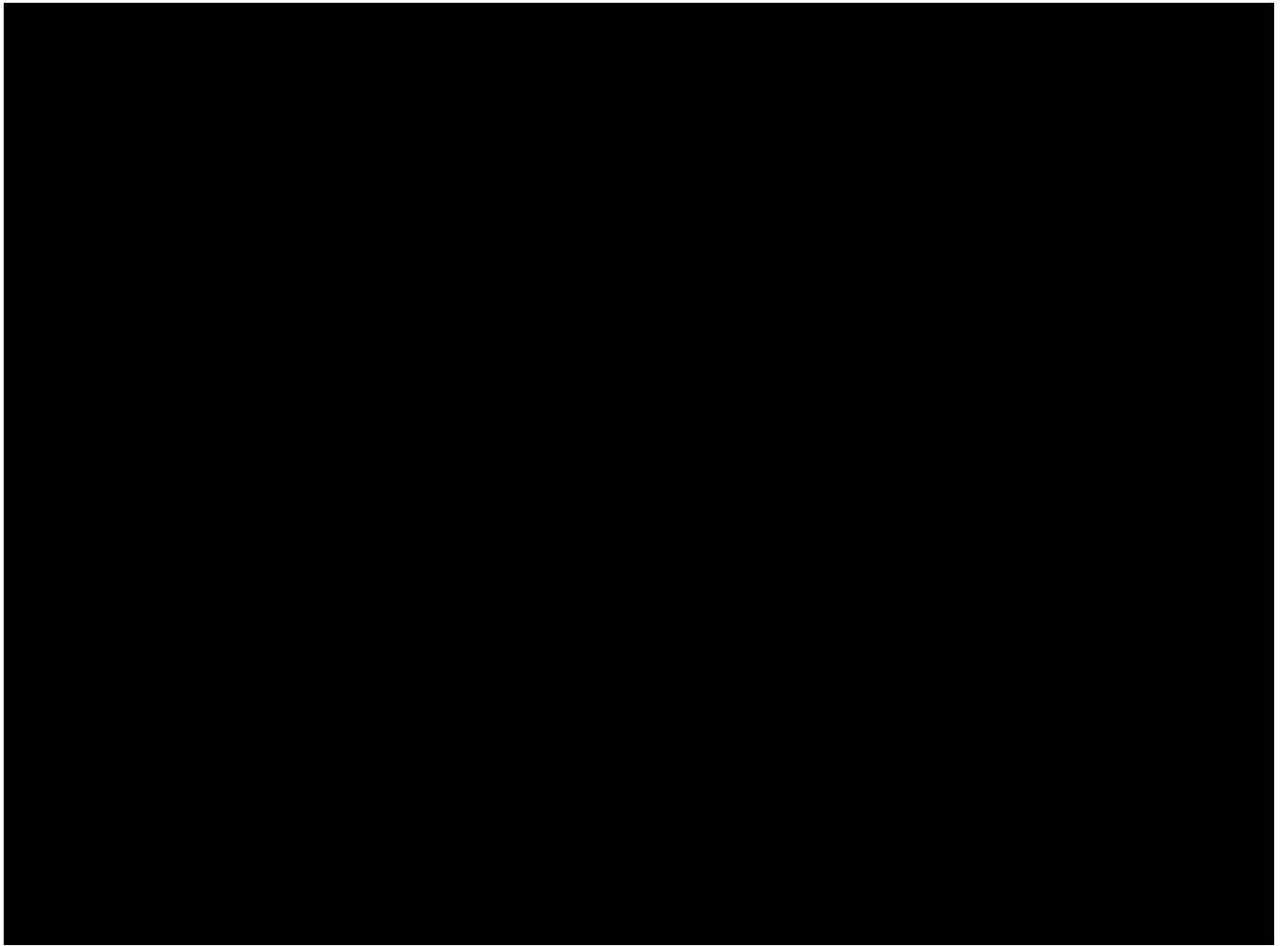












APPENDIX A
BRUCE F. DEAL
Managing Principal

Phone: 650 853 7201
 Fax: 650 323 2796
 bruce.deal@analysisgroup.com

1010 El Camino Real
 Suite 310
 Menlo Park, CA 94025

Mr. Deal leads the economic consulting practice in the Menlo Park, CA office of Analysis Group. He has over 25 years of experience in economic, litigation, and management consulting. He has led hundreds of projects requiring complex economic analysis of publicly available and internal client information.

He has served as an expert witness in dozens of litigation and regulatory matters, and has been retained as a neutral expert in a complex mediation. His work as an expert has covered a variety of practice areas, including antitrust, finance and securities litigation, damages, and business valuation. Mr. Deal's industry experience has included health care, insurance, technology, telecommunications, and many others.

Prior to joining Analysis Group, Mr. Deal spent several years as a senior consultant and manager with Arthur Andersen. In this position, he provided financial and management consulting services to hospitals, physicians, and other clients, in such areas as operational organization and efficiency, merger and consolidation strategies, current and projected financial performance, and overall strategic planning.

Mr. Deal has taught economics and analytic methods to graduate students at Harvard University and published articles on economics-related topics. He has also consulted on national economic policy issues to the government of Indonesia through the Harvard Institute for International Development.

He coauthored a major report, *The Economic Effects of Federal Participation in Terrorism Risk* with R. Glenn Hubbard, an Analysis Group affiliate and former chair of the President's Council of Economic Advisers. In addition, he also coauthored a study, *Economic Impact Analysis: Proposition 71 California Stem Cell Research and Cures Initiative* with Laurence Baker, an Analysis Group affiliate and Stanford University School of Medicine faculty member, with whom he published an updated interim economic report on California's stem cell initiative. Mr. Deal is also the coauthor of a chapter on the use of econometrics in antitrust litigation for a recent American Bar Association publication.

EDUCATION

- | | |
|---------|---|
| 1994–97 | Ph.D. coursework completed, Public Policy, Graduate School of Arts and Sciences, Harvard University, Cambridge, MA |
| 1990 | M.P.P., Public Policy, Kennedy School of Government, Harvard University, Cambridge, MA |
| 1987 | B.A., <i>Summa cum Laude</i> , Economics and Global Studies (double major), Pacific Lutheran University, Tacoma, WA |

SUMMARY OF PROJECTS BY TOPIC

Insurance (Health Insurance Included in Health Care Section)

- *Confidential Universal Life Litigation*
Consulting expert on economic issues in a large cost of insurance (COI) charges litigation.
- *Mayumac v. Met Life*
Testifying expert on economic damages in a disability insurance matter.
- *Various Military Housing Projects v. Ambac*
Testifying expert on economic, insurance, and financial issues surrounding the use of credit enhancements and financial performance for large military housing projects.
- *Credit Disability Insurance*
Analysis of financial issues in a case alleging improper disclosure of changes in premium levels.
- *Life Insurance Consulting*
Valuation and analysis of a portfolio of large life insurance policies.
- *Long Trust v. Morgan Stanley*
Analysis of financial issues and damages resulting from alternative policy restructuring options for second-to-die estate planning life insurance policies.
- *Insurance Tax Litigation*
Consulting expert in a confidential tax litigation involving the tax treatment of certain insurance premiums.
- *Confidential Auto Insurance Litigation*
Analysis of issues relative to claims handling practices of a large auto insurance company.
- *Confidential Life Insurance Litigation*
Analysis of damages resulting from alternative portfolios of investments and second-to-die life insurance policies.
- *Confidential Insurance Litigation*
Analysis of damages resulting from lost commissions in an insurance broker insurance litigation.
- *Katz v. Mass Mutual*
Analysis of potential damages in a disability insurance litigation.
- *Confidential Insurance Litigation*
Expert on insurance valuation and general damages issues in a dispute involving non-traditional life insurance.
- *Markocki v. Olde Republic Title Insurance*
Expert on class certification issues in a class action regarding charges for title insurance.
- *Campbell v. Metropolitan Life*
Expert on damages calculation in a disability insurance dispute.

- *Cox v. Allstate*
Expert on statistical sampling in the class certification phase of a class action alleging improper homeowners' insurance claims handling by Allstate.
- *Confidential Title Insurance Matter*
Consulting effort on class certification matters in a large multi-state class action.
- *Estate Planning Life Insurance Matter*
Consulting expert analyzing issues associated with the economic performance of a portfolio of large estate planning life insurance policies.
- *Confidential Homeowners' Insurance Matter*
Consulting expert analyzing issues associated with the use of various data sources to obtain replacement values.
- *Confidential Indemnity Insurance Investigation*
Consulting expert analyzing issues associated with the deterioration of a set of financial products insured by an indemnity insurer.
- *Confidential Auto Insurance Investigation*
Consulting expert analyzing various aspects of auto insurance claims issues.
- *Confidential Life Insurance Litigation*
Consulting expert valuing life insurance policies and other damages issues.
- *Confidential Life Insurance Litigation*
Consulting expert valuing life insurance policies and other damages issues.
- *Hausman v. Union Bank*
Testifying damages expert valuing life insurance policies and other damages issues. Expert report provided.
- *Perez v. First American Title Insurance Company*
Testifying expert evaluating class certification issues relating the use of electronic data in identifying class members.
- *Windham v. Cook Life Insurance Litigation*
Testifying expert valuing policy performance of a variable universal life insurance contract used in a tax planning program. Expert report and trial testimony provided.
- *Confidential Class Action Litigation*
Consulting expert analyzing statistical issues associated with the use of a software package used to assist in evaluating bodily injury claims.
- *Confidential Class Action Litigation*
Consulting expert analyzing statistical issues associated with diminished value claims in auto insurance.
- *Pavlov, et al. v. CNA*
Testifying expert analyzing class certification issues associated with long-term care insurance.

- *Confidential Class Action Litigation*
Consulting expert analyzing statistical issues associated with claims handling in auto insurance.
- *Class Action v. CNA*
Testifying expert in case involving long-term care insurance premium rates.
- *Confidential Pension Litigation*
Consulting expert in analysis of actuarial and accounting issues in a defined benefit pension plan.
- *Best Buy v. DDR, October*
Testifying expert in analysis of insurance costs applicable to common areas of retail developments.
- *Barnes & Noble v. DDR*
Testifying expert in analysis of insurance costs applicable to common areas of retail developments.
- *Fireman's Fund v. Cunningham Lindsey*
Testifying expert in analysis of damages related to third-party administration of a commercial auto insurance program.
- *Confidential Regulatory Investigation*
Consulting expert in analysis of policy forms used by a property casualty insurer and corresponding policy forms approved by state regulators.
- *Variable Annuity Remediation*
Consulting expert in analysis of remediation for deficiencies in administering variable annuities. Assisting with analyzing remediation package and negotiating with regulators and other parties.
- *CSR v. Lloyd's Underwriters*
Testifying expert in coverage litigation involving liability insurance. Report focused on the availability and worldwide capacity for liability insurance during the relevant periods.
- *Economic Impact of Federal Participation in Terrorism Risk*
Coauthored a study with Professor R. Glenn Hubbard, former chair of the President's Council of Economic Advisers. Study, which was commissioned by numerous insurance trade organizations, focused on the economic impact of the Federal TRIA terrorism legislation and the economic impact of failing to renew the legislation.
- *Class Action v. Allstate*
Consulting expert on damages and other issues relating to the estimation of inherent diminished value that may still be present after a vehicle has been repaired following an accident.
- *Class Action v. American Home*
Damages expert for American Home in a litigation involving alleged misreporting of certain types of claims to the Workers' Compensation Insurance Rating Bureau (WCIRB) of California.
- *Class Action v. State Compensation Insurance Fund*
Damages expert for plaintiffs in a litigation involving claims estimation and reserving practices of State Compensation Insurance Fund in California.

- *Class Action v. Knights of Columbus*
Economic expert for the Knights of Columbus in a major sales practices litigation involving over 500,000 policyholders. Estimated the damage to policyholders under alternative theories of liability, including development of computer-based policy performance models.
- *Various Confidential Class Action Litigations v. Mutual Life Insurance Companies*
Consulting expert in the analysis of sales practices for four major class action litigations involving between 100,000 and 3.6 million policyholders. Work included estimating the incidence of various allegations, evaluating the financial exposure and recommending alternatives to management and directors.
- *Insurance Modal Premium Litigation*
Consulting expert on issues relating to the estimation of potential damages exposure for modal premium litigation. Prepare preliminary analyses of economic costs and benefits of modal premium payments on policyholders.
- *Confidential Liability Insurance Coverage Litigation*
Economic expert in insurance coverage litigation. Managed the abstracting and statistical analysis of information contained in paper records useful for determining the possible insurance coverage.
- *Confidential Disability Insurance Sales Practices Litigation*
Consulting expert for issues related to the sale and product performance of individual disability insurance policies. Designed and implemented large data abstracting effort for the insurance company defendant and assisted in the development and implementation of a settlement for tens of thousands of policyholders.
- *Confidential Mortgage Insurance Litigation*
Consulting expert in a large litigation involving primary mortgage insurance. Analysis of issues involving the provision of various types of services and insurance products.
- *Health Insurance Redesign Litigation*
Consulting expert in the analysis of a major health insurance benefit redesign program. Analysis of various issues associated with estimating damages and developing overall damages models.
- *Confidential Insurance Coverage Litigation Involving Toxic Waste Cleanup Costs*
Consulting expert in the analysis of the allocation of toxic waste cleanup costs across various insurance companies. Developed a sophisticated model to predict the allocation behavior of the claimant under alternative scenarios. Assisted client personnel and counsel in modeling the impact on the client insurance company under different scenarios to assist in litigation and settlement negotiations.
- *Class Action v. Ohio National*
Economic expert for Ohio National in a major class action litigation involving over 100,000 whole life and universal life policies. Estimated the incidence of various allegations, evaluated financial exposure, presented recommendation to management and outside counsel, and developed models to project ultimate class member “take rates” for particular forms of relief.
- *Arroyo v. Alexander & Alexander*
Damages expert in a sales practices case involving the sale and subsequent performance of a universal life insurance policy. Analyzed exposure and damages.

- *Life Insurance/Pension Program Litigation*
Consulting and testifying expert in a complex sales practices case involving the sale of universal life insurance policies used to help fund a pension program for a large trade association. Analysis assisted counsel in determining exposure and damages.
- *Morris v. Fremont Life*
Consulting expert to assist in evaluating sales practices of an insurance agent selling an annuity product.
- *Archuletta v. Fremont Life*
Consulting expert to assist in refuting damages claims put forward by the plaintiff's expert regarding the sale and performance of a Universal Life insurance policy.

Finance and Securities

- *Securities Litigation*
Consulting expert on numerous issues in a securities matter involving allegations of omissions related to a large IPO.
- *Securities Litigation*
Consulting expert on numerous issues in a securities matter involving allegations of omissions and misleading financial guidance.
- *Confidential Investigation*
Consulting expert on finance and accounting issues for US Department of Justice (DOJ) in matter involving food stamp utilization.
- *Fischer v. Fischer Investment Return Analysis*
Testifying expert on the expected rates of investment return for a diversified portfolio of investments.
- *Confidential Mortgage Litigation*
Consulting expert in a matter involving the financial performance of a program for reducing the term and interest amount paid on a mortgage.
- *Confidential Investment Return Litigation*
Testifying expert in a confidential arbitration involving the expected rates of investment returns on different assets classes into the future.
- *Class Action Securities Litigation (Confidential)*
Consulting expert on loss causation issues in a large bondholder securities case.
- *Class Action Securities Litigation (Confidential)*
Consulting expert on loss causation issues in a large securities case.
- *Business Interruption (Confidential)*
Consulting expert in a case involving business interruption for a finance and securities firm.
- *Mortgage Securities Litigation (Confidential)*
Consulting expert in a class action litigation alleging that the financial performance of mortgage securities were adversely affected by poor underwriting and appraisals.

- *Securities Derivative Litigation (Confidential)*
Consulting expert in a derivative litigation alleging that an acquisition failed to adhere to appropriate corporate governance policies.
- *Confidential Cash-Balance Pension Litigation*
Consulting expert in a litigation involving the damages calculation for a class of cash balance pension participants who terminated prior to retirement.
- *Confidential CDO Litigation*
Consulting expert in a litigation involving the valuation, financial performance, and default history of various collateralized debt obligations.
- *Confidential Securities Litigation*
Consulting expert in a 10b-5 securities litigation.
- *Confidential Tax Shelter Litigation*
Consulting expert in a tax litigation matter for the State of California analyzing the economic basis for an identified series of transactions.
- *Confidential Securities Class Action*
Consulting expert in large securities class action matter involving allegations of failure to provide accurate financial guidance.
- *Stock Option Backdating Litigation*
Consulting expert on stock option backdating matter.
- *Portfolio Diversification*
Consulting expert on issues relating to portfolio diversification in a large trust.
- *Stock Option Backdating Litigation*
Consulting expert on stock option backdating matter in private securities litigation.
- *Confidential SEC Investigation*
Consulting expert on a Securities and Exchange Commission (SEC) investigation relating to reinsurance disclosures.
- *Confidential Mutual Fund Litigation*
Consulting expert on litigation related to late trading of international mutual funds.
- *Williams Communication Securities Litigation*
Consulting expert on 10b-5 litigation alleging audit failures led to stock decline. Case dismissed.
- *Class Action v. Ernst & Young*
Consulting expert on 10b-5 litigation alleging audit failures led to stock decline. Case went to verdict with a no liability verdict for client, Ernst & Young.
- *Confidential Securities Litigation*
Consulting expert assisting academic affiliate in analysis focused on the reasonableness of company disclosures based on internal company budgets and forecasts.

- *Confidential Securities Litigation*
Consulting expert for counsel in securities litigation focused on company disclosures.
- *IRS v. Center Apartments*
Consulting expert assisting Professor Steve Grenadier in the analysis of proper commercial apartment mortgage interest rates.
- *Class Action v. Major Investment Bank*
Consulting expert analyzing the impact of releasing allegedly fraudulent investment information on the stock price of two small software companies for a 10b-5 securities litigation.
- *Class Action v. Conseco*
Consulting expert analyzing the value of a proposed settlement involving universal life crediting rates. Assisted expert in the financial evaluation of the value of the proposed settlement using interest rate simulation models.
- *IRS v. Major Retail Chain*
Consulting expert in defense of a major retail chain. Provided assistance in evaluating various expert reports involving the economic consequences of the purchase of a particular investment.
- *In re: NASDAQ Market Maker Antitrust Litigation*
Consulting expert analysis of millions of stock transactions for seven different NASDAQ market makers facing allegations of conspiracy and price-fixing.

Commercial Damages

- *State of Washington v. Comcast*
Testifying expert in litigation involving allegations related to the provision of repair services to cable TV customers.
- *Confidential Regulatory Breach Litigation*
Consulting expert on damages and accounting issues in litigation involving a breach of federal regulations in the retail food industry.
- *Confidential Employment Breach Arbitration*
Consulting expert on damages in an arbitration involving a breach of employment obligations.
- *Confidential Breach of Contract Arbitration*
Testifying expert on damages in litigation involving a breach of contract for a health care claims administration company.
- *Confidential Breach of Contract Arbitration*
Testifying expert on damages in litigation involving a breach of contract for a laboratory billing company.
- *Metzner v. Permanente Medical Group*
Testifying expert on damages in litigation involving allegations of wrongful termination.
- *Confidential Commercial Airline Litigation*
Testifying expert on damages and statistical issues in litigation involving the payment of fees for interrupted travel.

- *2880 Stevens Creek v. Blach Construction*
Testifying expert on loss-of-use damages in litigation involving construction defects.
- *Polteco v. Tecsuit*
Testifying expert on damages in litigation involving the failure of specialized machinery in a manufacturing operation.
- *Confidential Auto Dealership Litigation*
Analysis of liability and damages issues in litigation involving auto dealership sales practices.
- *F&A Restaurant Group v. Shepard and Reyes*
Analysis of damages relating to the sale of a restaurant. Provided arbitration testimony.
- *US Unwired v. Sprint*
Assisted Analysis Group affiliate Robert Hall in the damages analysis associated with the change in status of Sprint's affiliate, US Unwired. Case settled after trial testimony had been presented.
- *Confidential Enterprise Software Litigation*
Assisted Analysis Group affiliate in the damages analysis associated with loss of business in the enterprise software market.
- *Her Associates v. Kaiser*
Damages expert for defense in litigation related to consulting firm's damages claim.
- *General American v. KPMG*
Damages expert for plaintiffs in litigation related to auditor's alleged obligation to disclose certain financial instruments.
- *Creative Artists v. County of Santa Clara*
Damages expert for defense in litigation related to the cancellation of musical events at facilities owned by the County of Santa Clara.
- *Class Action v. Ford Credit*
Damages expert for plaintiffs analyzing the costs and charges associated with late fees on consumer auto leases.
- *Bar None v. The Duncan Group, January*
Damages expert for defense analyzing damages associated with the failed efforts to develop a software program to be used in automating the subprime auto lending business.
- *Coram v. Aetna*
Consulting expert for defense analyzing the damages associated with a home health care contract that experienced higher costs than anticipated. Supported industry expert in the cost analysis.
- *Confidential Breach of Contract Litigation*
Consulting expert for defense analyzing the damages associated with the failed joint venture development of a removable storage device for personal computers. Supported academic expert in the analysis of damages.

- *Bourns v. Raychem*
Consulting expert for defense analyzing damages associated with the monopolization of the market for primary lithium battery safety devices. Supported academic experts in the analysis of damages.
- *Procter & Gamble v. Amway*
Consulting expert for plaintiff analyzing the impact of disparaging comments and rumors on the sales of Procter & Gamble products. Supported academic experts in the analysis of primary and secondary data sources and the development of surveys and laboratory experiments to test the impact of rumors on consumer behavior.

Valuation / Intellectual Property

- *Confidential Stock Appraisals*
Consulting expert in the appraisal of the stock value for several publicly traded companies that have been challenged in Delaware Chancery Court.
- *Dell Stock Appraisal*
Consulting expert in the Delaware appraisal of Dell's shares arising from the October 2013 leveraged buyout of Dell's public shareholders.
- *Confidential International Arbitration*
Testifying damages expert in dispute involving alleged breach of licensing and joint development agreements.
- *Confidential Business Valuation*
Designated expert in a business valuation for a medical practice.
- *Confidential Patent Litigation*
Consulting expert in litigation involving PC networking technology.
- *Confidential Patent Litigation*
Consulting expert on determination of royalty amounts in a confidential semiconductor patent litigation.
- *Confidential High-Technology Manufacturing Company Valuation*
Valuation expert analyzing economic factors associated with the value of a closely held manufacturer of specialized high tech components for defense applications.
- *Confidential Beverage Distributor Valuation*
Valuation expert analyzing the value of the large beverage distributor.
- *Confidential Patent Infringement Litigation*
Consulting expert on reasonably royalties and damages in the semiconductor industry.
- *Appaloosa Interactive Corporation v. Stephen Friedman and Related Cross-Actions, 2007*
Valuation and damages expert in the video game development industry.
- *Confidential Insurance Company Valuation*
Valuation expert analyzing the value of a private auto insurer for a Delaware valuation matter.

- *Carrino v. Carrino*
Valuation expert analyzing the value of an investment management firm. Provided trial testimony.
- *Confidential Valuation*
Valuation expert analyzing the value of capital contributions to a series of jointly invested real estate transactions.
- *Confidential Company Valuation*
Valuation expert analyzing a privately held health care provider.
- *Confidential Company Valuation*
Valuation expert analyzing a privately held consulting firm.
- *Confidential Software Distribution Dispute*
Damages expert in an arbitration involving software distribution.
- *Capo v. Dioptics, January*
Intellectual property damages expert in a trade dress case involving protective sunglasses.
- *Arthur Stockton v. Fidelity & Deposit*
Analysis of the value of an investment management firm and any damages related to the payment of claims by the insurer.
- *Confidential Company Valuation*
Valuation expert analyzing a privately held construction firm.
- *Redlands Insurance Company v. Edward Wolkowitz*
Valuation expert for plaintiff analyzing the valuation and rating analysis of Redlands Insurance Company, a property and casualty insurer.
- *Confidential Catastrophic Insurance Company Valuation*
Consulting expert for defense analyzing the valuation methodology used by the plaintiffs in the valuation of a catastrophic risk insurance modeling company.
- *Trigon v. United States of America*
Valuation expert for defense analyzing the valuation methodology used by plaintiffs' expert for intangible assets.
- *Synbiotics v. Heska, November*
Damages expert for defense in a patent infringement case involving antibody tests for animal diseases.
- *Air Products v. ATMI*
Damages expert in a patent infringement case involving gases used for semiconductor manufacturing.
- *Confidential Telecommunications Equipment Trade Secret Litigation*
Consulting expert analyzing the potential damages from the sale of telecommunications equipment allegedly containing trade secrets. Supported Analysis Group expert in the analysis of relevant data and the development of reasonable royalty damages estimates and potential lost profits.

- *Bingo Card Minder v. Gametek*
Consulting expert analyzing reasonable royalties for a handheld computer-based consumer product. Supported Analysis Group expert in the analysis of relevant data and development of reasonable royalty percentages.

Health Care

- *Confidential Provider Network Dispute*
Consulting expert analyzing issues associated with the development and maintenance of a provider network.
- *Dual Diagnosis Treatment Center, et al. v. Health Net*
Consulting expert in a matter involving the provision of addiction care services.
- *CEP America – California v. Heritage Provider Network*
Testifying expert in a matter involving the determination of reasonable value for physician services.
- *CSNI v. Blue Shield*
Testifying expert in a matter involving the determination of reasonable value for physician services.
- *Confidential Arbitrations*
Consulting and testifying expert in matters involving reasonable value rates.
- *Confidential Addiction Care Analysis*
Consulting expert in a matter involving the provision of addiction care services.
- *Confidential Investigation of Charity Care*
Consulting expert in a matter involving the provision of hospital charity care.
- *NorthBay Healthcare Group v. Blue Shield*
Testifying expert in a matter involving the determination of reasonable value for hospital services.
- *YDM Management Inc. v. Blue Shield*
Testifying expert in a matter involving the determination of reasonable value for physician services.
- *San Jose Neurospine v. Blue Shield*
Testifying expert in a matter involving the determination of reasonable value for physician services.
- *Bodner, et al. v. Blue Shield*
Testifying expert in a matter involving the disclosures and financial payments for various types of physician services.
- *Confidential Payor-Provider Disputes*
Economic expert in litigation over payment for emergency and post-stabilization care.
- *Confidential Payor-Provider Dispute*
Economic expert in arbitration over payment for emergency and post-stabilization care.
- *Des Roches, et al. v. Blue Shield and Magellan*
Class certification expert for Blue Shield in a matter involving the use of guidelines for certain behavioral health services.

- *Confidential Hospital Payment Dispute*
Economics testifying expert in a case involving payments for hospital services.
- *Confidential Hospital Payment Dispute*
Economics testifying expert in a case involving payments for hospital services.
- *Confidential Laboratory Payment Dispute*
Economics testifying expert in a case involving payments for laboratory services.
- *Goel v. Blue Shield*
Economics testifying expert in a case involving the determination of reasonable value for emergency department cardiology services.
- *Confidential Hospital Payment Dispute*
Economics and statistical expert in a litigation involving the determination of payment levels associated with disputed status of certain payor groups.
- *NCAA Concussion Litigation*
Economics expert in litigation involving the adequacy of funding for a medical monitoring program for a class of NCAA athletes.
- *Confidential Health Care Litigation*
Consulting expert in a matter involving a dispute over the classification of various health care expenses related to deductible and maximum out-of-pocket expenditures.
- *Confidential Health Care Arbitration*
Testifying expert in a dispute between a payor and provider involving payment levels and business practices.
- *Martin, et al. v. Blue Shield*
Testifying expert on class certification issues in a matter involving plan-level premium change calculations for individual health insurance policies.
- *Prime v. Kaiser*
Damages expert in dispute involving business practices and claims payment issues.
- *Confidential Health Care Litigation*
Damages expert in a dispute involving group health insurance.
- *Confidential Class Action Litigation*
Consulting expert on damages issues in a dispute over coverage issues for certain types of individual health insurance policies.
- *Confidential Payor/Provider Dispute*
Consulting expert on damages issues in a dispute between a payor and provider involving payment terms and allowed services.
- *Confidential Arbitration*
Expert on damages issues in a dispute between a payor and provider affecting enrollment and profitability for a large Medicare managed-care program and other patient programs.

- *Class Action v. Wellpoint*
Expert on class certification matters in a class action alleging improper termination of a health insurance company.
- *Confidential Arbitration*
Expert on damages issues in a dispute between a payor and provider regarding a change in payment methodology.
- *Clark v. Blue Shield*
Expert for defense assisting in the economic analysis of policy rescission.
- *Confidential Arbitration*
Expert on damages calculation in a dispute between a health insurer and a provider of supplemental insurance benefits.
- *Confidential Hospital Association*
Consultant assisting with developing economic models and developing legislative for Medicaid financing arrangements among hospitals.
- *Paul v. Blue Shield*
Expert for defense assisting in the economic analysis of policy rescission.
- *Simoes v. Blue Shield*
Expert for defense assisting in the economic analysis of policy rescission.
- *Hailey v. Blue Shield*
Expert for defense assisting in the economic analysis of policy rescission.
- *Leyra v. Blue Shield*
Expert for defense assisting in the economic analysis of liability for policy rescission.
- *Sutter v. Blue Shield*
Consulting expert for defense assisting in the economic analysis of hospital charges.
- *Various Health Insurance Matters*
Consulting expert for defense assisting in the economic analysis of policy rescissions.
- *Class Action v. Health Insurer*
Consulting expert for defense assisting in the economic analysis of liability for alleged misclassification of patient populations.
- *Missouri Stem Cell Economic Valuation*
Authored a study examining the likely economic impact of possible health research breakthroughs for health care costs in Missouri.
- *California Stem Cell Economic Impact Valuation*
Coauthored a study with Professor Laurence Baker of Stanford examining the likely economic impact of a proposed major health research initiative in California.

- *Health Guideline Analysis*
Consulting expert leading a team of health economists and statisticians in the evaluation of clinical and payment guidelines developed for heart valve replacement surgery.
- *California Attorney General v. Alta Bates/Summit Medical*
Consulting expert analyzing the ability of managed care plans to move patients in response to quality or price incentives. Supported industry expert in developing report and preparing for deposition.
- *Various Hospital Mergers*
Financial expert for various clients analyzing proposed mergers between not-for-profit community hospitals. Estimated the potential efficiencies resulting from the mergers, conducted market research on community needs, and presented findings to management, directors, and outside counsel.
- *Class Action Health Insurance Litigation*
Hired by the nation's largest mediation service to serve as a neutral expert in a litigation involving the calculation of health insurance payments. Worked with experts from both sides and assisted the mediator in bringing the parties to a settlement.

Antitrust and Other Cases

- *Medical Supply Rental*
Consulting expert in antitrust matter alleging antitrust harm and damage related to medical equipment rentals.
- *Slovin, et al. v. Sunrun, et al.*
Testifying expert on class action and data issues in a matter involving allegations of improper telephone sales calls.
- *Lucero v. Solar City*
Testifying expert on class action and data issues in a matter involving allegations of improper telephone sales calls.
- *Solyndra v. Trina, et al.*
Testifying expert on antitrust and damages issues in a matter involving allegations of below-cost pricing for solar panels.
- *Confidential Antitrust Investigation*
Consulting expert on antitrust issues in the automobile industry.
- *US Department of Justice v. Richard Bai*
Testifying expert on antitrust issues in a price-fixing case in the LCD industry.
- *Confidential Antitrust Investigation*
Consulting expert on antitrust issues in a high tech industry.
- *Indirect Purchaser Class Action v. AUO, et al.*
Designated testifying expert on antitrust issues in an alleged price-fixing case in the LCD industry.
- *Korean Fair Trade Commission v. AUO, et al.*
Designated testifying expert on antitrust issues in an alleged price-fixing case in the LCD industry.

- *US Department of Justice v. AUO*
Testifying expert on antitrust issues in price-fixing case in the LCD industry.
- *Confidential Antitrust Investigation*
Consulting expert on antitrust issues in a high technology industry.
- *Confidential Predatory Pricing Litigation*
Consulting expert on litigation related to antitrust claims in the replacement auto parts industry.
- *Confidential Private Antitrust Litigation*
Consulting expert on litigation related to antitrust claims in the building construction industry.
- *Regulatory Investigation*
Consulting expert for government regulatory body investigating allegations of consumer overcharges.
- *Class Action v. Noranda and DuPont*
Consulting expert for defense assisting in the economic analysis of liability for alleged antitrust violations affecting sulfuric acid in the United States.
- *Class Action v. Microsoft*
Consulting expert for defense assisting in the economic analysis of antitrust liability and damages issues in a series of price overcharge litigations. Assist various academic affiliates, including Professor Robert Hall.
- *Neon v. BMC Antitrust Litigation*
Consulting expert for plaintiffs analyzing antitrust violations in the sale of computer software for large computer databases. Supported academic affiliate expert in the analysis of relevant data and development of damages estimates.
- *CFM v. Dainippon Screen Mfg. Co.*
Consulting expert for defense analyzing the potential monopolization by CFM of the semiconductor cleaning market. Support academic affiliate, Professor Robert Hall.
- *Proposed Merger of WorldCom and Sprint*
Consulting expert assisting in the economic evaluation of the proposed merger between WorldCom and Sprint. Evaluate issues relating to market share and pricing of residential long distance services.

TEACHING

- | | |
|---------|---|
| 1994–96 | Teaching Fellow, <i>Analytic Methods</i> , Kennedy School of Government, Harvard University |
| 1994–96 | Instructor, <i>Economics Summer Program for Mid-Career Graduate Students</i> , Kennedy School of Government, Harvard University |
| 1989–90 | Teaching Assistant, <i>Statistics</i> , Kennedy School of Government, Harvard University |

PUBLICATIONS AND REPORTS

“COVID-19’s Strain on Hospitals May Necessitate More Relief,” with Mark Gustafson and Phil Hall-Partyka, *Law360* (May 26, 2020)

“Presentation of Econometric Analyses,” with Samuel Waglein, in *Econometrics: Legal, Practical, and Technical Issues*, published by the American Bar Association (2014)

“Risk Management and the Economic Impact of Terrorism,” with Peter Hess, in *Business Continuity and Homeland Security, Volume 1*, edited by David H. McIntyre and William I. Hancock, Edward Elgar Publishing (2012)

“Taming a Whale Lurking in Pension Financing,” *Pensions & Investments* (August 9, 2010)

Interim Economic Impact Review, with Laurence Baker, CIRM (California Stem Cell Agency) (October 10, 2008)

Winning Initiative Campaigns with Economic Analysis, Campaigns & Elections, 39 (February 2006)

“The Economic Effects of Federal Participation in Terrorism Risk,” with R. Glenn Hubbard and Peter Hess, *Risk Management and Insurance Review*, Vol. 8, No. 2, 177–209 (2005)

Some Economic Implications of State Stem Cell Funding Programs, with Lawrence Baker, prepared for “States and Stem Cells: A Symposium on the Policy and Implications of State-Funded Stem Cell Research, Woodrow Wilson School, Princeton University (April 15, 2005)

Health Analysis of the Potential Benefits of SCNT Stem Cell Research and Therapies in Missouri: Patient Population and Health Care Costs (February 8, 2005)

The Economic Effect of Federal Participation in Terrorism Risk, with R. Glenn Hubbard (September 14, 2004)

Economic Impact Analysis Proposition 71: California Stem Cell Research and Cures Initiative, with Laurence Baker (September 14, 2004)

“Hospital Consolidation: Optimal Strategy for a Two-Hospital Town,” with John F. Tiscornia, in *Ambulatory Health Care: Case Studies for the Health Services Executive*, edited by Austin Ross and Mary Richardson, Health Administration Press (1996)

PRESENTATIONS

“Modern Strategies & Approaches in Consumer Class Action Suits”, presented on expert witness issues at a continuing education forum for attorneys sponsored by the National Law Journal (November 2012)

“The Subprime Mortgage Crisis and Disclosures: What Went Wrong?”, presented at a webinar continuing education forum for attorneys sponsored by Analysis Group/Economics (July 29, 2008)

“The Subprime Mortgage Crisis and Disclosures: What Went Wrong?”, presented at a continuing education forum for attorneys sponsored by Analysis Group/Economics, San Francisco, CA (June 24, 2008)

“Stock Option Backdating”, presented at a continuing education forum for attorneys sponsored by Analysis Group/Economics, New York, NY (March 21, 2007)

“Stock Option Backdating”, presented at a continuing education forum for attorneys sponsored by Analysis Group/Economics, Menlo Park, CA and San Francisco, CA (November 7, 2006)

“Overview of Stem Cell Legislation”, moderator and presenter at a presentation on implementing California’s stem cell initiative, sponsored by the Food and Drug Law Institute (FDLI), San Mateo, CA (March 9, 2004)

“Challenges to Expert Testimony,” presentation at Law Seminar International Conference, San Francisco, CA (November 5, 2004)

“Federal Terrorism Insurance Panel Discussion,” presentation and panel participant, National Press Club, Washington, DC (October 24, 2004)

“Insurance 101,” presentation on the design and performance of whole life and universal life policies, presented to customer services representatives administering a life insurance sales practices settlement, Ogden, UT (April 27, 1999)

“Antitrust Case Study: NASDAQ Market Maker Litigation,” presented at a continuing education forum for attorneys sponsored by Analysis Group/Economics, Menlo Park and San Francisco, CA (September 15, 1998)

“An Economist’s Perspective on Life Insurance Sales Practices Problems,” presented at the spring meeting of the Society of Actuaries, Maui, HI (June 15, 1998)

“Valuing Intellectual Property in an Age of Employee Mobility,” presented at a continuing education forum for attorneys sponsored by Analysis Group/Economics, Menlo Park and San Francisco, CA (June 9, 1998)

EXPERT DESIGNATION, TESTIMONY, AND REPORTS

December 2022	Arbitration testimony in <i>Confidential Arbitration (contractual dispute)</i>
December 2022	Arbitration testimony in <i>Confidential Arbitration (payor-provider contractual dispute)</i>
December 2022	Expert deposition in <i>Harold Parsons v. The Commerce Insurance Company (proposed claims payment class action)</i>
November 2022	Expert report in <i>Liberty Dialysis Hawaii LLC, et al. v. Health Management Network Inc., et al. (payor-provider contractual dispute)</i>
November 2022	Expert report in <i>Kirk Prest v. BP Exploration & Production, Inc., BP America Production Company, and BP p.l.c. (economic damages)</i>
November 2022	Expert deposition in <i>CEP America – California v. Heritage Provider Network (health insurance payor-provider matter)</i>
October 2022	Expert deposition in <i>Brian J. Lyngaas, D.D.S., P.L.L.C. v. IQVIA, Inc. (TCPA matter)</i>

October 2022	Expert declaration in <i>Dual Diagnosis Treatment Center, Inc., et al. v. Health Net, Inc., et al.</i> (health insurance payor-provider matter)
October 2022	Expert rebuttal report in <i>Brian J. Lyngaas, D.D.S., P.L.L.C. v. IQVIA, Inc.</i> (TCPA matter)
October 2022	Expert deposition in <i>Saint Alphonsus Health Alliance, Inc., et al. v. Corizon LLC, et al.</i> (health insurance payor-provider matter)
September 2022	Expert report in <i>Brian J. Lyngaas, D.D.S., P.L.L.C. v. IQVIA, Inc.</i> (TCPA matter)
August 2022	Expert declaration in <i>Emergency Physician Services of New York., et al. v. UnitedHealth Group, Inc., et al.</i> (health insurance payor-provider matter)
August 2022	Expert report in <i>Saint Alphonsus Health Alliance, Inc., et al. v. Corizon LLC, et al.</i> (health insurance payor-provider matter)
August 2022	Expert deposition in <i>Sheet Metal Workers Local 19 Pension Fund v. ProAssurance Corporation, et al.</i> (class certification opposition in a securities class action)
July 2022	Expert deposition in <i>Jeffrey Leonard, et al. v. John Hancock Life Insurance Company of New York, et al.</i> (life insurance policy performance litigation)
July 2022	Expert declaration in <i>Adam Viguers et al. v. California Physicians' Service</i> (health insurance payor-provider matter)
July 2022	Trial testimony in <i>Dual Diagnosis Treatment Center, Inc., et al. v. Health Net, Inc., et al.</i> (health insurance payor-provider matter)
June 2022	Expert report in <i>Sheet Metal Workers Local 19 Pension Fund v. ProAssurance Corporation, et al.</i> (class certification opposition in a securities class action)
June 2022	Expert declaration in <i>Emergency Physician Services of Pennsylvania, P.C., et al. v. UnitedHealth Group, Inc., et al.</i> (health insurance payor-provider matter)
May 2022	Expert declaration in <i>Florida Emergency Physicians Kang & Associates, M.D., Inc., et al. v. United Healthcare of Florida, Inc., et al.</i> (health insurance payor-provider matter)
May 2022	Expert deposition in <i>Dual Diagnosis Treatment Center, Inc., et al. v. Health Net, Inc., et al.</i> (health insurance payor-provider matter)
May 2022	Expert report in <i>Jeffrey Leonard, In His Capacity As Trustee of the Poplawski 2008 Insurance Trust, et al. v. John Hancock Life Insurance Company of New York, et al.</i> (life insurance matter)
May 2022	Deposition testimony in <i>Travel Nurse Across America, LLC v. Floyd Edwards Holdings, Inc., et al.</i> (company valuation)
March 2022	Deposition testimony in <i>Hooman Melamed, M.D., Inc. v. Blue Shield of California Life and Health Insurance Company</i> (health insurance payor-provider matter)

January 2022	Expert declaration in <i>Eileen S. Natuzzi, et al. v. California Physicians' Service d/b/a Blue Shield of California (class action involving provider payment methodology)</i>
December 2021	Expert report in <i>Los Robles Regional Medical Center, et al. v. Kaiser Foundation Health Plan, Inc., et al. (health insurance payor-provider matter)</i>
December 2021	Deposition testimony in <i>Los Robles Regional Medical Center, et al. v. Kaiser Foundation Health Plan, Inc., et al. (health insurance payor-provider matter)</i>
December 2021	Deposition testimony in <i>Matthew N. Fulton v. Enclarity, Inc., et al. (TCPA matter)</i>
November 2021	Deposition testimony in <i>Los Robles Regional Medical Center, et al. v. Kaiser Foundation Health Plan, Inc., et al. (health insurance payor-provider matter)</i>
November 2021	Expert report in <i>Matthew N. Fulton v. Enclarity Inc., et al. (TCPA matter)</i>
November 2021	Trial testimony in <i>Fremont Emergency Services (Mandavia), Ltd., et al. v. UnitedHealth Group Inc., et al. (health insurance payor-provider matter)</i>
November 2021	Deposition testimony in <i>Confidential – OCC (securities valuation)</i>
October 2021	Expert report in <i>Confidential Litigation (company valuation)</i>
October 2021	Expert declaration in <i>Eileen S. Natuzzi, et al. v. California Physicians' Service d/b/a Blue Shield of California (class action involving provider payment methodology)</i>
September 2021	Expert report in <i>Fremont Emergency Services (Mandavia) Ltd., et al. v. UnitedHealth Group Inc., et al. (health insurance payor-provider matter)</i>
September 2021	Expert declaration in <i>Fremont Emergency Services (Mandavia) Ltd., et al. v. UnitedHealth Group Inc., et al. (health insurance payor-provider matter)</i>
September 2021	Deposition testimony in <i>Fremont Emergency Services (Mandavia) Ltd., et al. v. UnitedHealth Group Inc., et al. (health insurance payor-provider matter)</i>
August 2021	Expert rebuttal report in <i>Fremont Emergency Services (Mandavia) Ltd., et al. v. UnitedHealth Group Inc., et al. (health insurance payor-provider matter)</i>
July 2021	Expert report in <i>Fremont Emergency Services (Mandavia) Ltd., et al. v. UnitedHealth Group Inc., et al. (health insurance payor-provider matter)</i>
June 2021	Deposition testimony in <i>Charles Tillage, et al. v. Comcast, et al. (class action alleging improper disclosure of fees)</i>
May 2021	Deposition testimony in <i>Highfields Capital I LP, et al. v. SeaWorld Entertainment, Inc., et al. (securities fraud litigation)</i>
May 2021	Deposition testimony in <i>Luke Davis, et al. v. Laboratory Corporation of America Holdings (class action alleging damages due to inadequate access to facilities)</i>
April 2021	Expert rebuttal report in <i>Luke Davis, et al. v. Laboratory Corporation of America Holdings (class action alleging damages due to inadequate access to facilities)</i>

April 2021	Deposition testimony in <i>California Physicians' Service v. HealthPlan Services (contract performance dispute)</i>
March 2021	Expert report in <i>Highfields Capital I LP, et al. v. SeaWorld Entertainment, Inc., et al. (securities fraud litigation)</i>
March 2021	Expert report in <i>Luke Davis, et al. v. Laboratory Corporation of America Holdings (class action alleging damages due to inadequate access to facilities)</i>
March 2021	Expert declaration in <i>Dual Diagnosis Treatment Center, et al. v. Health Net, Inc., et al.</i>
February 2021	Deposition testimony in <i>Confidential – OCC (securities valuation)</i>
January 2021	Arbitration testimony in <i>Confidential Arbitration (health insurance payor-provider matter)</i>
January 2021	Expert report in <i>California Physicians' Service v. HealthPlan Services (contract performance dispute)</i>
November 2020	Arbitration testimony in <i>Confidential Arbitration (health insurance payor-provider matter)</i>
November 2020	Expert report in <i>Confidential – OCC (securities valuation)</i>
October 2020	Arbitration testimony in <i>Confidential Arbitration (health insurance payor-provider matter)</i>
October 2020	Expert reply report in <i>California Physicians' Service v. HealthPlan Services (contract performance dispute)</i>
September 2020	Deposition testimony in <i>California Physicians' Service v. HealthPlan Services (contract performance dispute)</i>
September 2020	Deposition testimony in <i>In re: The Allstate Corporation Securities Litigation (class action alleging claim frequency misstatements)</i>
August 2020	Expert declaration in <i>California Physicians' Service v. HealthPlan Services (contract performance dispute)</i>
July 2020	Deposition testimony in <i>Confidential Arbitration (health care pricing dispute)</i>
July 2020	Expert report in <i>Confidential Arbitration (health care pricing dispute)</i>
July 2020	Expert rebuttal report in <i>re: The Allstate Corporation Securities Litigation (class action alleging claim frequency misstatements)</i>
July 2020	Expert reply report in <i>re: The Allstate Corporation Securities Litigation (class action alleging claim frequency misstatements)</i>
July 2020	Expert report in <i>Scott Crosby, et al. v. California Physicians' Service, et al. (class action alleging care restrictions)</i>

May 2020	Expert declaration in <i>Scott Crosby, et al. v. California Physicians' Service, et al.</i> (class action alleging care restrictions)
April 2020	Deposition testimony in <i>re: CenturyLink Sales Practices and Securities Litigation</i> (class action alleging customer cramming and related allegation)
February 2020	Expert report in <i>re: The Allstate Corporation Securities Litigation</i> (class action alleging claim frequency misstatements)
February 2020	Deposition testimony in <i>CEP America – California v. Heritage Provider Network</i> (health insurance payor-provider matter)
January 2020	Arbitration testimony in <i>Confidential Arbitration</i> (DMHC pricing matter)
January 2020	Expert rebuttal report in <i>Confidential Arbitration</i>
January 2020	Expert report in <i>Confidential Arbitration</i>
January 2020	Arbitration testimony in <i>Confidential Arbitration</i> (ownership dispute matter)
January 2020	Arbitration testimony in <i>Confidential Arbitration</i> (physician IPA affiliation matter)
January 2020	Expert deposition in <i>Confidential Arbitration</i> (DMHC pricing matter)
December 2019	Expert report in <i>Confidential Arbitration</i>
December 2019	Expert report in <i>Confidential Arbitration</i>
December 2019	Expert deposition in <i>Confidential Arbitration</i> (ownership dispute matter)
November 2019	Expert rebuttal report in <i>CEP America – California v. Heritage Provider Network</i>
October 2019	Expert declaration in <i>Dual Diagnosis Treatment Center, et al. v. Health Net</i>
July 2019	Expert declaration in <i>CEP America – California v. Heritage Provider Network</i>
July 2019	Expert deposition in <i>Physicians Healthsource Inc., et al. v. Masimo Corp.</i> (TCPA matter)
July 2019	Expert deposition in <i>Empire Land, LLC</i> (bankruptcy matter)
June 2019	Expert report in <i>Prime Healthcare Services, Inc., et al. v. Humana Insurance Company, et al.</i> (Evaluation of health care utilization data)
June 2019	Expert deposition in <i>Michael Johnson, et al. v. Comodo Group</i> (TCPA matter)
June 2019	Trial testimony in <i>California Spine and Neurosurgery Institute v. Blue Shield</i> (health insurance payor-provider matter)
June 2019	Arbitration testimony in <i>Confidential Health Care Payment Matter</i> (health insurance payor-provider matter)

May 2019	Expert deposition in <i>California Spine and Neurosurgery Institute v. Blue Shield</i> (health insurance payor-provider matter)
May 2019	Expert deposition in <i>Confidential Health Care Payment Matter</i> (health insurance payor-provider matter)
March 2019	Expert deposition in <i>California Spine and Neurosurgery Institute v. Blue Shield</i> (health insurance payor-provider matter)
March 2019	Expert deposition in <i>Confidential Health Care Payment Matter</i> (health insurance payor-provider matter)
March 2019	Expert deposition in <i>Confidential Health Care Payment Matter</i> (health insurance payor-provider matter)
February 2019	Expert deposition in <i>San Joaquin General Hospital v. Blue Shield</i> (health insurance payor-provider matter)
February 2019	Trial testimony in <i>Northbay Healthcare Group v. Blue Shield</i> (health insurance payor-provider matter)
February 2019	Expert report in <i>Confidential Arbitration</i>
January 2019	Trial testimony in <i>State of Washington v. Comcast</i> (consumer fraud matter)

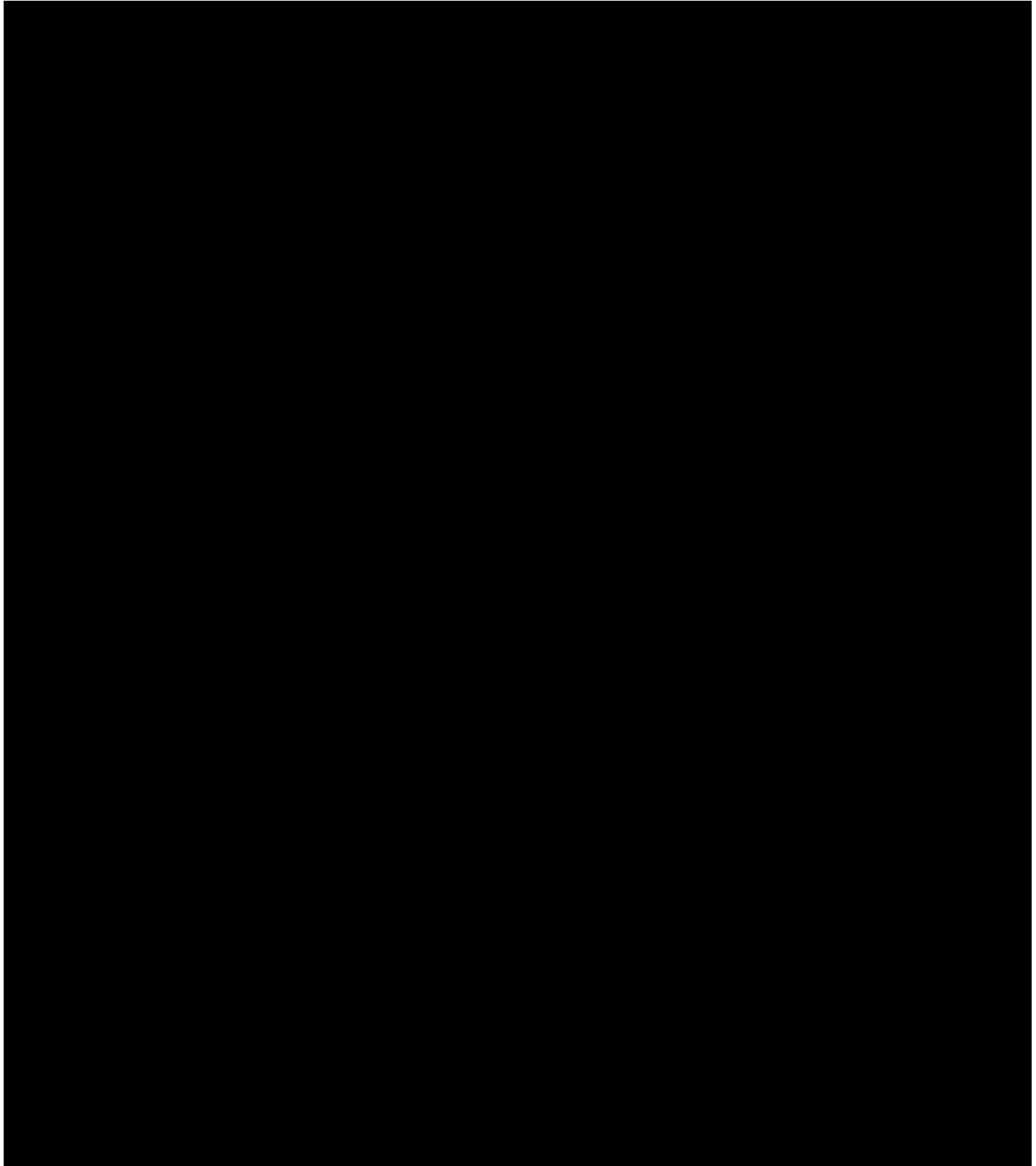
PROFESSIONAL MEMBERSHIPS

American Economics Association

American Bar Association (non-lawyer member)

Association for Health Services Research

APPENDIX B
Materials Considered



- Videoconference Examination of Catherine C. Goode, *United States of America before the Federal Trade Commission in the Matter of: TurboTax, Inc., A Corporation*, Docket No. 1923119, October 23, 2020, CC-00003393.
- Videoconference Examination of Cathleen Ryan, *United States of America before the Federal Trade Commission in the Matter of: TurboTax, Inc., A Corporation*, Docket No. 1923119, October 9, 2020, CC-00004770.
- Videoconference Examination of Jack Rubin, *United States of America before the Federal Trade Commission in the Matter of: TurboTax, Inc., A Corporation*, Docket No. 1923119, October 30, 2020, CC-00004546.

Data

- Complainant Tax History Data, INTUIT-FTC-PART3-000608568.
- Paid Search Data, INTUIT-FTC-PART3-000490339.
- TY14–20 Customer-Level Data, INTUIT-FTC-PART3-000608571.
- TY19–20 Upgrade Screen Data, INTUIT-FTC-PART3-000608573.
- TY21 Customer-Level Data, INTUIT-FTC-PART3-000608572.
- TY21 Customer Review ID Crosswalk, INTUIT-FTC-PART3-000608569.
- TY21 Customer Reviews, INTUIT-FTC-PART3-000490341.
- TY21 Upgrade Screen Categorization, INTUIT-FTC-PART3-000608570.
- TY21 Upgrade Screen Data, INTUIT-FTC-PART3-000608574.

Academic Sources

- Becker, Jan U., et al., “Impact of Proactive Postsales Service and Cross-Selling Activities on Customer Churn and Service Calls,” *Journal of Service Research*, Vol. 23, No. 1, 2020, pp. 53-69, INTUIT-FTC-PART3-000613371.
- Brickley, James A., et al., “Business Ethics and Organizational Architecture,” *Journal of Banking & Finance*, Vol. 26, 2002, pp. 1821-1835, INTUIT-FTC-PART3-000613388.
- Carlton, Dennis W., and Jeffery M. Perloff, *Modern Industrial Organization* 4th Ed., Harlow, England, Pearson Education Limited, 2015, INTUIT-FTC-PART3-000613616.
- Chiles, Bennett, “Shrouded Prices and Firm Reputation: Evidence from the U.S. Hotel Industry,” *Management Science, Articles in Advance*, November 16, 2016, pp. 1-20, INTUIT-FTC-PART3-000613460.
- Duflo, Esther, et al., “Saving Incentives for Low- and Middle-Income Families: Evidence from a Field Experiment With H&R Block,” *The Quarterly Journal of Economics*, Vol. 121, No. 4, November 2006, pp. 1311-1346, INTUIT-FTC-PART3-000613261.
- Frecknall-Hughes, Jane, and Erich Kirchler, “Towards a General Theory of Tax Practice,” *Social & Legal Studies*, Vol. 24, No. 2, 2015, pp. 289-312, INTUIT-FTC-PART3-000613346.
- Goldin, Jacob, “Tax Benefit Complexity and Take-Up: Lessons from the Earned Income Tax Credit,” *Tax Law Review*, Vol. 72, 2018, pp. 59-110, INTUIT-FTC-PART3-000613637.
- Gunter, Samara R., “Your Biggest Refund, Guaranteed? Internet Access, Tax Filing Method, and Reported Tax Liability,” *International Tax and Public Finance*, Vol. 26, 2019, pp. 536-570, INTUIT-FTC-PART3-000616813.
- Horner, Johannes, “Reputation and Competition,” *The American Economic Review*, Vol. 92, No. 3, June 2002, pp. 644-663, INTUIT-FTC-PART3-000613311.

- Kerin, Roger A., and Steven W. Hartley, *Marketing* Fifteenth Ed., McGraw Hill, 2020, INTUIT-FTC-PART3-000596659.
- Klein, Benjamin, and Keith B. Leffler, “The Role of Market Forces in Assuring Contractual Performance,” *Journal of Political Economy*, Vol. 89, No. 4, August 1981, pp. 615-641, INTUIT-FTC-PART3-000613403.
- Klemperer, Paul, “The Competitiveness of Markets with Switching Costs,” *Rand Journal of Economics*, Vol. 18, No. 1, 1987, pp. 138-150, INTUIT-FTC-PART3-000613297.
- Koller, Tim, et al., *Valuation: Measuring and Managing the Value of Companies* Seventh Ed., Hoboken, New Jersey, Wiley, 2020, INTUIT-FTC-PART3-000613339.
- Kopczuk, Wojciech, and Cristian Pop-Eleches, “Electronic Filing, Tax Preparers and Participation in the Earned Income Tax Credit,” *Journal of Public Economics*, Vol. 91, 2007, pp. 1351-1367, INTUIT-FTC-PART3-000613620.
- Kotler, Philip, and Kevin Lane Keller, *Marketing Management* Fifteenth Ed., Pearson, 2016, INTUIT-FTC-PART3-000597494.
- Mailath, George J., and Larry Samuelson, “Reputations in Repeated Games,” *Handbook of Game Theory with Economic Applications*, Vol. 4, 2015, pp. 165-238, INTUIT-FTC-PART3-000616899.
- Osborne, Martin J., and Ariel Rubinstein, *A Course in Game Theory*, Cambridge, Massachusetts, The MIT Press, 1994, INTUIT-FTC-PART3-000613456.
- Stiglitz, Joseph E., “Imperfect Information in the Product Market,” *Handbook of Industrial Organization*, Vol. 1, edited by Schmalensee, Richard and Robert D. Willig, North Holland, 1989, INTUIT-FTC-PART3-000613690.
- Yang, Zhilin, and Robin T. Peterson, “Customer Perceived Value, Satisfaction, and Loyalty: The Role of Switching Costs,” *Psychology & Marketing*, Vol. 21, No. 10, October 2004, pp. 799-822, INTUIT-FTC-PART3-000613431.

Public Documents

- Acevedo, Sophia, “Cash App Taxes Review: Free, Simple Tax Prep for a Variety of Situations,” *Business Insider*, January 11, 2022, <https://www.businessinsider.com/personal-finance/cash-app-taxes-review>, accessed November 3, 2022, INTUIT-FTC-PART3-000610930.
- Benson, Alana, and Tina Orem, “TaxSlayer Review 2022,” *NerdWallet*, March 7, 2022, <https://www.nerdwallet.com/article/taxes/taxslayer-review>, accessed November 3, 2022, INTUIT-FTC-PART3-000611085.
- Benson, Alana, et al., “Best Tax Software for 2022,” *NerdWallet*, March 28, 2022, <https://www.nerdwallet.com/article/taxes/best-tax-software>, accessed December 14, 2022, INTUIT-FTC-PART3-000610501.
- Block, Inc., “Form 8-K,” February 24, 2022, <https://d18rn0p25nwr6d.cloudfront.net/CIK-0001512673/0f73afbc-595a-418b-a74c-c723c0c9a460.pdf>, accessed November 8, 2022, INTUIT-FTC-PART3-000610178.
- Block, Inc., “Form 10-K for the fiscal year ended December 31, 2021,” February 24, 2022, <https://d18rn0p25nwr6d.cloudfront.net/CIK-0001512673/13386837-50ba-466f-b8ff-81824f066c1e.pdf>, accessed October 20, 2022, INTUIT-FTC-PART3-000611971.
- Block, Inc., “Form 10-Q for the quarterly period ended June 30, 2022,” August 4, 2022, INTUIT-FTC-PART3-000611238.

- Block, Inc., “Square, Inc. Changes Name to Block,” December 1, 2021, <https://squareup.com/us/en/press/square-changes-name-to-block>, accessed October 11, 2022, INTUIT-FTC-PART3-000610232.
- Butler, Peter, “Cash App Taxes Review 2022: Online Tax Software with No Fees Ever,” *CNET*, April 16, 2022, <https://www.cnet.com/personal-finance/taxes/cash-app-taxes-review-2022-online-tax-software-with-no-fees-ever/>, accessed July 25, 2022, INTUIT-FTC-PART3-000610462.
- Cash App Taxes, “\$1 Million Tax Audit Defense Membership Program Agreement,” https://taxprotectionplus.com/sites/default/files_xvdb/TPP.CashApp.Taxes_.Membership_Agreement.TY2021.pdf, accessed January 5, 2023, INTUIT-FTC-PART3-000612589.
- Cash App Taxes, “5 Things You Should Know about Filing State Income Taxes,” March 22, 2022, <https://taxeshelp.cash.app/s/article/5-things-you-should-know-about-filing-state-income-taxes>, accessed November 4, 2022, INTUIT-FTC-PART3-000611515.
- Cash App Taxes, “About Our Accurate Calculations Guarantee,” <https://taxeshelp.cash.app/s/article/About-our-Accurate-Calculations-Guarantee>, accessed November 3, 2022, INTUIT-FTC-PART3-000610457.
- Cash App Taxes, “About Our Maximum Refund Guarantee,” January 5, 2022, <https://taxeshelp.cash.app/s/article/About-our-Maximum-Refund-Guarantee>, accessed November 3, 2022, INTUIT-FTC-PART3-000611524.
- Cash App Taxes, “Audit Defense When You File with Cash App Taxes,” February 2, 2022, <https://taxeshelp.cash.app/s/article/Audit-Defense-when-you-file-with-Cash-App-Taxes>, accessed November 3, 2022, INTUIT-FTC-PART3-000610554.
- Cash App Taxes, “Cash App Taxes - 100% Free Tax Filing for Federal & State,” <https://cash.app/taxes>, accessed July 29, 2022, INTUIT-FTC-PART3-000610569.
- Cash App Taxes, “Cash App Terms of Service,” November 14, 2022, <https://cash.app/legal/us/en-us/tos>, accessed November 21, 2022, INTUIT-FTC-PART3-000610327.
- Cash App Taxes, “Credit Karma Tax is now Cash App Taxes,” November 17, 2021, <https://taxeshelp.cash.app/s/article/Cash-App-Taxes>, accessed November 3, 2022, INTUIT-FTC-PART3-000613027.
- Cash App Taxes, “Forms and Situations Cash App Taxes Does Not Support,” February 18, 2022, <https://taxeshelp.cash.app/s/article/Forms-and-situations-Cash-App-Taxes-does-not-support>, accessed August 10, 2022, INTUIT-FTC-PART3-000610558.
- Cash App Taxes, “Get Your Taxes Done in Minutes from Your Computer,” <https://api.taxes.cash.app/auth>, accessed October 11, 2022, INTUIT-FTC-PART3-000611084.
- Cash App Taxes, “Getting Started with Cash App Taxes,” October 18, 2021, <https://taxeshelp.cash.app/s/article/Getting-started-with-Cash-App-Taxes>, accessed October 18, 2022, INTUIT-FTC-PART3-000613234.
- Cash App Taxes, “How Do I File an Amended Federal Return? Form 1040X,” March 24, 2022, <https://taxeshelp.cash.app/s/article/How-do-I-file-an-amended-federal-return-Form-1040X>, accessed November 3, 2022, INTUIT-FTC-PART3-000612401.
- Cash App Taxes, “How to Import Last Year’s Tax Return into Cash App Taxes,” October 18, 2021, <https://taxeshelp.cash.app/s/article/How-to-import-last-year-s-tax-return-into-Cash-App-Taxes/>, accessed September 28, 2022, INTUIT-FTC-PART3-000610021.

- Cash App Taxes, “Need Some Help?,” <https://taxeshelp.cash.app/s/>, accessed January 5, 2023, INTUIT-FTC-PART3-000612789.
- Cash App Taxes, “What are Your Security Practices?,” October 18, 2021, <https://taxeshelp.cash.app/s/article/What-are-your-security-practices>, accessed November 3, 2022, INTUIT-FTC-PART3-000610228.
- Cash App Taxes, “What Forms and Situations does Cash App Taxes Support?,” June 30, 2022, <https://taxeshelp.cash.app/s/article/What-forms-and-situations-does-Cash-App-Taxes-support>, accessed October 26, 2022, INTUIT-FTC-PART3-000610652.
- Cash App Taxes, “What is Cash for Business?,” <https://cash.app/help/us/en-us/6502-what-is-cash-for-business>, accessed November 21, 2022, INTUIT-FTC-PART3-000612498.
- Chang, Ellen, “Hackers Are Targeting Taxpayers. Here’s How to Protect Your Data,” *TheStreet*, April 5, 2022, <https://www.thestreet.com/technology/cybersecurity/hackers-are-targeting-taxpayers-heres-how-to-protect-your-data>, accessed July 7, 2022, INTUIT-FTC-PART3-000610432.
- Cook, Dan, *Tax Preparation Software Developers*, IBISWorld, September 2020, INTUIT-FTC-PART3-000612814.
- Credit Karma, “Credit Karma Tax Takes on the Industry, Expands Its Always-Free Premium Tax Product,” December 18, 2018, <https://www.creditkarma.com/about/releases/credit-karma-tax-takes-on-the-industry-expands-its-always-free-premium-tax-product>, accessed September 23, 2022, INTUIT-FTC-PART3-000611231.
- Cruz-Martinez, Gabriella, et al., “10 Best Tax Software of 2022,” *Money*, March 25, 2022, <https://money.com/best-tax-prep-software/>, accessed July 26, 2022, INTUIT-FTC-PART3-000611416.
- DAC Group, “TaxSlayer - Digital Marketing Case Study,” <https://www.dacgroup.com/work/taxslayer/>, accessed July 22, 2022, INTUIT-FTC-PART3-000610295.
- Department of Justice Office of Public Affairs, “Justice Department Continues Efforts to Stop Fraudulent Tax Preparers,” April 6, 2022, <https://justice.gov/opa/pr/justice-department-continues-efforts-stop-fraudulent-tax-preparers>, accessed July 7, 2022, INTUIT-FTC-PART3-000610925.
- Eyre, Ladell J., and Mark J. Kohler, “Engagement Letter for Personal Tax Return Preparation,” 2019, <https://kohlereyrecpas.com/wp-content/uploads/2020/01/2019PersonalEngagement.pdf>, accessed September 28, 2022, INTUIT-FTC-PART3-000610450.
- Farrington, Robert, “TaxSlayer Review 2022,” *The College Investor*, June 29, 2022, <https://thecollegeinvestor.com/20925/taxslayer-review/>, accessed October 27, 2022, INTUIT-FTC-PART3-000610657.
- Fowler, Geoffrey A., “When Tax Prep Is Free, You May Be Paying with Your Privacy,” *Post, The Washington*, March 7, 2019, <https://www.washingtonpost.com/technology/2019/03/07/when-tax-prep-is-free-you-may-be-paying-with-your-privacy/>, accessed September 23, 2022, INTUIT-FTC-PART3-000610134.
- FreeTaxUSA, “Can I File Just a State Return?,” https://www.freetaxusa.com/help/display_faq.jsp?filing-state-return-only&faq_id=1725, accessed November 22, 2022, INTUIT-FTC-PART3-000611889.

- FreeTaxUSA, “State Availability and E-file Support,” <https://www.freetaxusa.com/states/>, accessed October 13, 2022, INTUIT-FTC-PART3-000610241.
- FreeTaxUSA, “Where Do I Enter Cryptocurrency Held for Investment?,” https://www.freetaxusa.com/help/display_faq.jsp?faq_id=8535, accessed October 27, 2022, INTUIT-FTC-PART3-000610027.
- Google Play, “TaxSlayer: File Your Taxes,” https://play.google.com/store/apps/details?id=com.taxslayerRFC&hl=en_US&gl=US, accessed October 27, 2022, INTUIT-FTC-PART3-000611463.
- H&R Block, “Does H&R Block Online Support Nonresident or Part-Year Resident State Taxes?,” <https://www.hrblock.com/tax-center/support/online/online-tax-filing/prepare-to-file-taxes-online/non-resident-part-year-taxes/>, accessed November 4, 2022, INTUIT-FTC-PART3-000610008.
- H&R Block, “File an Amended Return Online with H&R Block,” <https://www.hrblock.com/tax-center/support/online/online-tax-filing/after-filing-online-return/amend-tax-return/>, accessed October 27, 2022, INTUIT-FTC-PART3-000610702.
- H&R Block, “File Online,” <https://web.archive.org/web/20221109234846/https://www.hrblock.com/online-tax-filing/free-online-tax-filing/>, accessed January 9, 2023, INTUIT-FTC-PART3-000610275.
- H&R Block, “File Online. Basic Online Assist,” <https://www.hrblock.com/online-tax-filing/basic-online-assist-tax-filing/#>, accessed November 4, 2022, INTUIT-FTC-PART3-000613199.
- H&R Block, “File Online. Premium Online Assist,” <https://web.archive.org/web/20220524121833/https://www.hrblock.com/online-tax-filing/premium-online-assist-tax-filing/>, accessed January 5, 2023, INTUIT-FTC-PART3-000612483.
- H&R Block, “File the Way You Want with Our Tax Software,” <https://www.hrblock.com/tax-software/>, accessed October 11, 2022, INTUIT-FTC-PART3-000612791.
- H&R Block, “H&R Block Accuracy of Tax Return Calculations,” <https://www.hrblock.com/online-tax-filing/guarantees/accuracy-of-calculations/>, accessed October 27, 2022, INTUIT-FTC-PART3-000611906.
- H&R Block, “H&R Block Online Deluxe Federal Forms,” <https://www.hrblock.com/pdf/HRB-Online-Fed-Forms/deluxe.pdf>, accessed January 5, 2023, INTUIT-FTC-PART3-000612993.
- H&R Block, “H&R Block Online Free Federal Forms,” <https://www.hrblock.com/pdf/HRB-Online-Fed-Forms/free.pdf>, accessed January 5, 2023, INTUIT-FTC-PART3-000611528.
- H&R Block, “H&R Block Online Premium Federal Forms,” <https://www.hrblock.com/pdf/HRB-Online-Fed-Forms/premium.pdf>, accessed January 5, 2023, INTUIT-FTC-PART3-000610922.
- H&R Block, “H&R Block Online Self-Employed Federal Forms,” <https://web.archive.org/web/20211203002531/https://www.hrblock.com/pdf/HRB-Online-Fed-Forms/self-employed.pdf>, accessed January 6, 2023, INTUIT-FTC-PART3-000611410.
- H&R Block, “H&R Block Tax Identity Shield® Helps Protect Tax Identities,” December 14, 2018, <https://investors.hrblock.com/news-releases/news-release-details/hr-block-tax->

- identity-shieldr-helps-protect-tax-identities, accessed October 27, 2022, INTUIT-FTC-PART3-000612862.
- H&R Block, “How Do I Import Last Year’s Return Into My H&R Block Tax Software?,” <https://www.hrblock.com/tax-center/support/software/software-tax-filing/while-filing-software-return/importing-last-years-return/>, accessed July 22, 2022, INTUIT-FTC-PART3-000610014.
- H&R Block, “Investor Meetings,” July 20, 2018, <https://investors.hrblock.com/static-files/5a9ff1ec-7f19-4ffe-bddc-137a4f99d4ae>, accessed July 22, 2022, INTUIT-FTC-PART3-000611354.
- H&R Block, “It’s Easy to Switch from TurboTax to H&R Block,” March 4, 2022, <https://www.youtube.com/watch?v=vxuzp8cRdgE>, accessed September 23, 2022, INTUIT-FTC-PART3-000610175.
- H&R Block, “Put Block in Your Pocket with Our Tax Filing Apps,” <https://www.hrblock.com/mobile-apps/>, accessed October 12, 2022, INTUIT-FTC-PART3-000610248.
- H&R Block, “Refund Advance,” <https://www.hrblock.com/offers/refund-advance/>, accessed October 27, 2022, INTUIT-FTC-PART3-000612387.
- H&R Block, “Support,” <https://www.hrblock.com/tax-center/support/>, accessed January 7, 2023, INTUIT-FTC-PART3-000616848.
- H&R Block, “Tax Identity Shield® Terms & Conditions,” <https://www.hrblock.com/tax-offices/product-services/pdf/tax-identity-shield-terms.pdf>, accessed January 5, 2023, INTUIT-FTC-PART3-000612564.
- H&R Block, “When Filing Online, Expert Help is Here,” <https://www.hrblock.com/online-assist/>, accessed October 27, 2022, INTUIT-FTC-PART3-000612501.
- H&R Block, “Your Security is Our Priority,” <https://www.hrblock.com/data-security/>, accessed October 13, 2022, INTUIT-FTC-PART3-000611913.
- H&R Block, Inc., “2020 Corporate Responsibility Report,” November 2020, <https://investors.hrblock.com/static-files/1cd086d4-6d8b-4a72-93db-fa545733fd61>, INTUIT-FTC-PART3-000618454.
- H&R Block, Inc., “Form 10-K for the Fiscal Year Ended April 30, 2021,” June 15, 2021, <https://investors.hrblock.com/static-files/2ef10c77-8b79-4cfa-bd06-0cb9c86cdb96>, INTUIT-FTC-PART3-000611129.
- Hawthorne & Company, “Billing Information,” January 6, 2021, <https://hawthorne-cpa.com/wp-content/uploads/2021/02/2020-Billing-Information.pdf>, accessed December 22, 2022, INTUIT-FTC-PART3-000610691.
- Healey, Will, “TaxHawk Review: Find Out If This Tax Software Flies Above Its Peers,” *Yahoo!*, March 18, 2021, https://www.yahoo.com/now/taxhawk-review-tax-software-flies-160009993.html?guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAACsALEWRNIK_Xt8eozey4rJyCO75DoUrF3BJHD28-htJvld5qt9Q_ePvriZwah0V6X3jixk-eFHAFvDkWxgUUtRLCXNiuo0oI6bD9sN7mR0KS6fKunduzmw89FkdFPzbMSXWBnOCWUEjiR58uHAbi2_nzuQYXaMmKiYYgupGnEnw&guccounter=2, accessed January 5, 2023, INTUIT-FTC-PART3-000611929.
- Helling, Brett, “Uber TurboTax: Partnership, Discount, & More,” *Ridester*, February 22, 2022, <https://www.ridester.com/uber-turbotax/>, accessed July 27, 2022, INTUIT-FTC-PART3-000610045.

- Hood, Daniel, "Intuit Launches Assisted Tax Prep," *Accounting Today*, December 2, 2022, <https://www.accountingtoday.com/news/intuit-launches-assisted-tax-prep>, accessed July 28, 2022, INTUIT-FTC-PART3-000613019.
- Internal Revenue Service, "2022 Tax Filing Season begins Jan. 24; IRS Outlines Refund Timing and What to Expect in Advance of April 18 Tax Deadline," January 10, 2022, <https://www.irs.gov/newsroom/2022-tax-filing-season-begins-jan-24-irs-outlines-refund-timing-and-what-to-expect-in-advance-of-april-18-tax-deadline>, accessed September 29, 2022, INTUIT-FTC-PART3-000610692.
- Internal Revenue Service, "Authorized IRS E-file Provider Locator Service for Tax Professionals," <https://www.irs.gov/e-file-providers/authorized-irs-e-file-provider-locator-service-for-tax-professionals>, accessed July 22, 2022, INTUIT-FTC-PART3-000610719.
- Internal Revenue Service, "Credits and Deductions," <https://www.irs.gov/credits-and-deductions>, accessed November 16, 2022, INTUIT-FTC-PART3-000610019.
- Internal Revenue Service, "IRS Free File Online Options," <https://apps.irs.gov/app/freeFile>, accessed September 23, 2022, INTUIT-FTC-PART3-000610230.
- Internal Revenue Service, "IRS Free File Online: Browse All Offers," <https://web.archive.org/web/20220301220719/https://apps.irs.gov/app/freeFile/browse-all-offers/>, accessed January 8, 2023, INTUIT-FTC-PART3-000616854.
- Internal Revenue Service, "IRS Offers Last Minute Filing Tips," April 13, 2015, <https://www.irs.gov/newsroom/irs-offers-last-minute-filing-tips>, accessed July 20, 2022, INTUIT-FTC-PART3-000616857.
- Internal Revenue Service, "IRS Releases the 'Dirty Dozen' Tax Scams for 2014; Identity Theft, Phone Scams Lead List," February 19, 2014, <https://www.irs.gov/newsroom/irs-releases-the-dirty-dozen-tax-scams-for-2014-identity-theft-phone-scams-lead-list>, accessed July 7, 2022, INTUIT-FTC-PART3-000612782.
- Internal Revenue Service, "IRS Reminders About April 18 Deadline for Last-minute Filers and Others," April 15, 2022, <https://www.irs.gov/newsroom/irs-reminders-about-april-18-deadline-for-last-minute-filers-and-others>, accessed July 20, 2022, INTUIT-FTC-PART3-000616873.
- Internal Revenue Service, "IRS Systems are Back Up and Running; Millions of Tax Returns Accepted; Taxpayers Have Until Midnight Wednesday to File Their Taxes," April 18, 2018, <https://www.irs.gov/newsroom/irs-systems-are-back-up-and-running-millions-of-tax-returns-accepted-taxpayers-have-until-midnight-wednesday-to-file-their-taxes>, accessed July 20, 2022, INTUIT-FTC-PART3-000616864.
- Internal Revenue Service, "PTIN Requirements for Tax Return Preparers," July 13, 2022, <https://www.irs.gov/tax-professionals/ptin-requirements-for-tax-return-preparers>, accessed July 22, 2022, INTUIT-FTC-PART3-000613259.
- Internal Revenue Service, "Publication 501 (2021), Dependents, Standard Deduction, and Filing Information," <https://www.irs.gov/publications/p501>, accessed November 16, 2022, INTUIT-FTC-PART3-000611529.
- Internal Revenue Service, "REMINDER: Schedule and Pay Federal Taxes Electronically Due by July 15; Only a Few Hours Remaining for Taxpayers to Reschedule Payments Set for April 15," April 13, 2020, <https://www.irs.gov/newsroom/reminder-schedule-and-pay-federal-taxes-electronically-due-by-july-15-only-a-few-hours-remaining-for-taxpayers>

- to-reschedule-payments-set-for-april-15, accessed July 20, 2022, INTUIT-FTC-PART3-000616868.
- Internal Revenue Service, “Some Taxpayers Get Extensions without Asking; Taxpayers Abroad, in Combat Zones and Disaster Areas Qualify,” April 14, 2017, <https://www.irs.gov/newsroom/some-taxpayers-get-extensions-without-asking-taxpayers-abroad-in-combat-zones-and-disaster-areas-qualify>, accessed July 20, 2022, INTUIT-FTC-PART3-000616862.
- Internal Revenue Service, “Steer Clear of Typical Tax Return Errors; May 17 Deadline Nears,” April 20, 2021, <https://www.irs.gov/newsroom/steer-clear-of-typical-tax-return-errors-may-17-deadline-nears>, accessed July 20, 2022, INTUIT-FTC-PART3-000616871.
- Internal Revenue Service, “Tax Time Guide: Use Free File for Help with Tax Returns, Extensions and More,” April 15, 2016, <https://www.irs.gov/newsroom/tax-time-guide-use-free-file-for-help-with-tax-returns-extensions-and-more>, accessed July 20, 2022, INTUIT-FTC-PART3-000616860.
- Internal Revenue Service, “Tax Year 2021 1040 Instructions,” <https://www.irs.gov/pub/irs-pdf/i1040gi.pdf>, accessed July 8, 2022, INTUIT-FTC-PART3-000612864.
- Internal Revenue Service, “Topic No. 551 Standard Deduction,” <https://www.irs.gov/taxtopics/tc551>, accessed November 28, 2022, INTUIT-FTC-PART3-000610171.
- Internal Revenue Service, “With Tax-Filing Deadline Nearing, IRS Says About 50 Million Still Need to File,” April 12, 2019, <https://www.irs.gov/newsroom/with-tax-filing-deadline-nearing-irs-says-about-50-million-still-need-to-file>, accessed July 20, 2022, INTUIT-FTC-PART3-000616865.
- Intuit, “Common Questions for Doing Your Online Taxes with TurboTax - How Does TurboTax Work?,” <https://turbotax.intuit.com/best-tax-software/common-questions/>, accessed June 20, 2022, INTUIT-FTC-PART3-000612769.
- Intuit, “Common Questions for Doing Your Online Taxes with TurboTax - What’s the Difference Between TurboTax Online and TurboTax CD/Download?,” <https://turbotax.intuit.com/best-tax-software/common-questions/>, accessed July 26, 2022, INTUIT-FTC-PART3-000611674.
- Intuit, “File Your Simple Tax Return for \$0 Any Way – Even When Handing it off to a TurboTax Live Tax Expert!,” July 27, 2022, <https://blog.turbotax.intuit.com/turbotax-news/file-your-simple-tax-return-for-0-any-way-even-when-handing-it-off-to-a-turbotax-live-tax-expert-50635/>, accessed November 4, 2022, INTUIT-FTC-PART3-000613227.
- Intuit, “Filing Tax Form 1099-INT: Interest Income,” January 21, 2022, <https://turbotax.intuit.com/tax-tips/investments-and-taxes/filing-tax-form-1099-int-interest-income/L0Oym87fq>, accessed September 29, 2022, INTUIT-FTC-PART3-000610307.
- Intuit, “Get Expert Advice as You Do Your Taxes with a Final Review,” <https://turbotax.intuit.com/personal-taxes/online/live/>, accessed October 21, 2022, INTUIT-FTC-PART3-000611122.
- Intuit, “Getting Your Maximum Refund Starts Here, Choose Your Product,” <https://turbotax.intuit.com/personal-taxes/compare/online/>, accessed October 11, 2022, INTUIT-FTC-PART3-000612408.
- Intuit, “How Do I File a Part-Year State Return?,” January 6, 2022, <https://ttlc.intuit.com/turbotax-support/en-us/help-article/printers-printing/file-part-year->

- state-return/L82I8dCHS_US_en_US, accessed November 4, 2022, INTUIT-FTC-PART3-000610548.
- Intuit, “How Do I Get Access to My Docs™?,” July 12, 2022, https://ttlc.intuit.com/turbotax-support/en-us/help-article/small-business-processes/get-access-docstm/L8YRou0ad_US_en_US, accessed December 7, 2022, INTUIT-FTC-PART3-000611413.
- Intuit, “How Do I Import My 1099s?,” April 15, 2022, https://ttlc.intuit.com/turbotax-support/en-us/help-article/import-export-data-files/import-1099s/L2hPcduMb_US_en_US, accessed September 29, 2022, INTUIT-FTC-PART3-000611615.
- Intuit, “How Do I Import My Cryptocurrency Transactions Into TurboTax?,” https://ttlc.intuit.com/turbotax-support/en-us/help-article/cryptocurrency/import-cryptocurrency-transactions-turbotax/L8OPxrOa7_US_en_US, accessed June 27, 2022, INTUIT-FTC-PART3-000611117.
- Intuit, “How Do I Save My Return as a PDF in the TurboTax Software for Windows?,” January 18, 2022, https://ttlc.intuit.com/turbotax-support/en-us/help-article/import-export-data-files/save-return-pdf-turbotax-software-windows/L4kA94zHo_US_en_US, accessed July 22, 2022, INTUIT-FTC-PART3-000613219.
- Intuit, “How Do I Transfer Last Year’s Return into TurboTax Online?,” March 8, 2022, https://ttlc.intuit.com/turbotax-support/en-us/help-article/import-export-data-files/transfer-last-year-return-turbotax-online/L279eUvY2_US_en_US, accessed October 21, 2022, INTUIT-FTC-PART3-000613223.
- Intuit, “How to Correct Federal Tax Returns,” December 1, 2022, <https://turbotax.intuit.com/tax-tips/amend-return/how-to-correct-federal-tax-returns/L67t0F7il>, accessed December 12, 2022, INTUIT-FTC-PART3-000611392.
- Intuit, “Intuit Mint,” <https://mint.intuit.com/>, accessed November 22, 2022, INTUIT-FTC-PART3-000613238.
- Intuit, “Intuit QuickBooks,” <https://quickbooks.intuit.com/>, accessed November 22, 2022, INTUIT-FTC-PART3-000610673.
- Intuit, “Intuit Terms of Service for TurboTax Online Tax Preparation Services,” July 2022, <https://turbotax.intuit.com/corp/license/online>, accessed November 22, 2022, INTUIT-FTC-PART3-000610673.
- Intuit, “IRS Free File Program Delivered by TurboTax is No Longer Available,” <https://freefile.intuit.com/>, accessed September 23, 2022, INTUIT-FTC-PART3-000611969.
- Intuit, “Let’s Find the Right Tax Solution for You,” <https://web.archive.org/web/20221207190034/https://turbotax.intuit.com/personal-taxes/online/>, accessed January 5, 2023, INTUIT-FTC-PART3-000610493.
- Intuit, “Offer Details and Disclosures for the Refund Advance Program,” April 15, 2022, https://ttlc.intuit.com/turbotax-support/en-us/help-article/tax-refund/offer-details-disclosures-refund-advance-program/L4ljXp6TI_US_en_US?uid=l5jqhavn, accessed November 4, 2022, INTUIT-FTC-PART3-000610215.
- Intuit, “TurboTax 2021-2022 Online Tax Software,” <https://turbotax.intuit.com/personal-taxes/online/>, accessed August 1, 2022, INTUIT-FTC-PART3-000612599.
- Intuit, “TurboTax 2022-2023 Online Tax Software,” <https://turbotax.intuit.com/personal-taxes/online/>, accessed January 3, 2023, INTUIT-FTC-PART3-000612557.

- Intuit, “TurboTax Deluxe,” <https://turbotax.intuit.com/personal-taxes/online/deluxe.jsp>, accessed October 25, 2022, INTUIT-FTC-PART3-000612578.
- Intuit, “TurboTax Deluxe Online 2021-2022,” <https://turbotax.intuit.com/personal-taxes/online/deluxe.jsp#tax-forms>, accessed July 8, 2022, INTUIT-FTC-PART3-000611098.
- Intuit, “TurboTax Free Edition Tax Forms,” <https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp#tax-forms>, accessed July 25, 2022, INTUIT-FTC-PART3-000610436.
- Intuit, “TurboTax Free Military Taxes 2021-2022, Online Tax Filing for Active Duty Military and Reserves,” <https://turbotax.intuit.com/personal-taxes/online/military-edition.jsp>, accessed July 22, 2022, INTUIT-FTC-PART3-000612474.
- Intuit, “TurboTax Mobile Apps,” <https://turbotax.intuit.com/personal-taxes/mobile/>, accessed July 26, 2022, INTUIT-FTC-PART3-000610237.
- Intuit, “TurboTax Self-Employed,” <https://turbotax.intuit.com/personal-taxes/online/self-employed.jsp>, accessed January 3, 2023, INTUIT-FTC-PART3-000610164.
- Intuit, “What Are Tax Schedules?,” March 8, 2022, <https://turbotax.intuit.com/tax-tips/irs-tax-forms/what-are-tax-schedules/L5kLJtHE7>, accessed July 25, 2022, INTUIT-FTC-PART3-000612406.
- Intuit, “What is IRS Form 1099-DIV: Dividends and Distributions?,” January 21, 2022, <https://turbotax.intuit.com/tax-tips/investments-and-taxes/what-is-irs-form-1099-div-dividends-and-distributions/L8tWOrCJV>, accessed September 29, 2022, INTUIT-FTC-PART3-000612533.
- Intuit, “What is MAX?,” January 4, 2022, https://ttlc.intuit.com/turbotax-support/en-us/help-article/intuit-product-orders/max/L0Bc4Ve2l_US_en_US, accessed July 8, 2022, INTUIT-FTC-PART3-000612595.
- Intuit, “What is My Docs™?,” January 19, 2022, https://ttlc.intuit.com/turbotax-support/en-us/help-article/small-business-processes/docstm/L0VICWX5G_US_en_US, accessed October 21, 2022, INTUIT-FTC-PART3-000613037.
- Intuit, “What is Premium Services?,” January 4, 2022, https://ttlc.intuit.com/turbotax-support/en-us/help-article/intuit-product-orders/premium-services/L3Eq2UXII_US_en_US, accessed November 9, 2022, INTUIT-FTC-PART3-000610497.
- Intuit, “What’s Included in PLUS Help & Support?,” January 4, 2022, https://ttlc.intuit.com/turbotax-support/en-us/help-article/intuit-product-orders/included-plus-help-support/L9YbRiw0c_US_en_US?uid=l63pvp5h, accessed October 13, 2022, INTUIT-FTC-PART3-000610484.
- Intuit, “Why TurboTax Free Edition Is Free,” <https://turbotax.intuit.com/best-tax-software/why-its-free/>, accessed August 10, 2022, INTUIT-FTC-PART3-000610730.
- Intuit, “Why Use TurboTax Free Edition?,” <https://web.archive.org/web/20221221181628/https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp>, accessed January 5, 2023, INTUIT-FTC-PART3-000610301.
- Intuit, “Why Use TurboTax Live Basic?,” <https://web.archive.org/web/20221009154729/https://turbotax.intuit.com/personal-taxes/online/live/basic.jsp>, accessed January 5, 2023, INTUIT-FTC-PART3-000613009.
- Intuit, “Why Use TurboTax Live Deluxe?,” <https://web.archive.org/web/20221015024518/https://turbotax.intuit.com/personal->

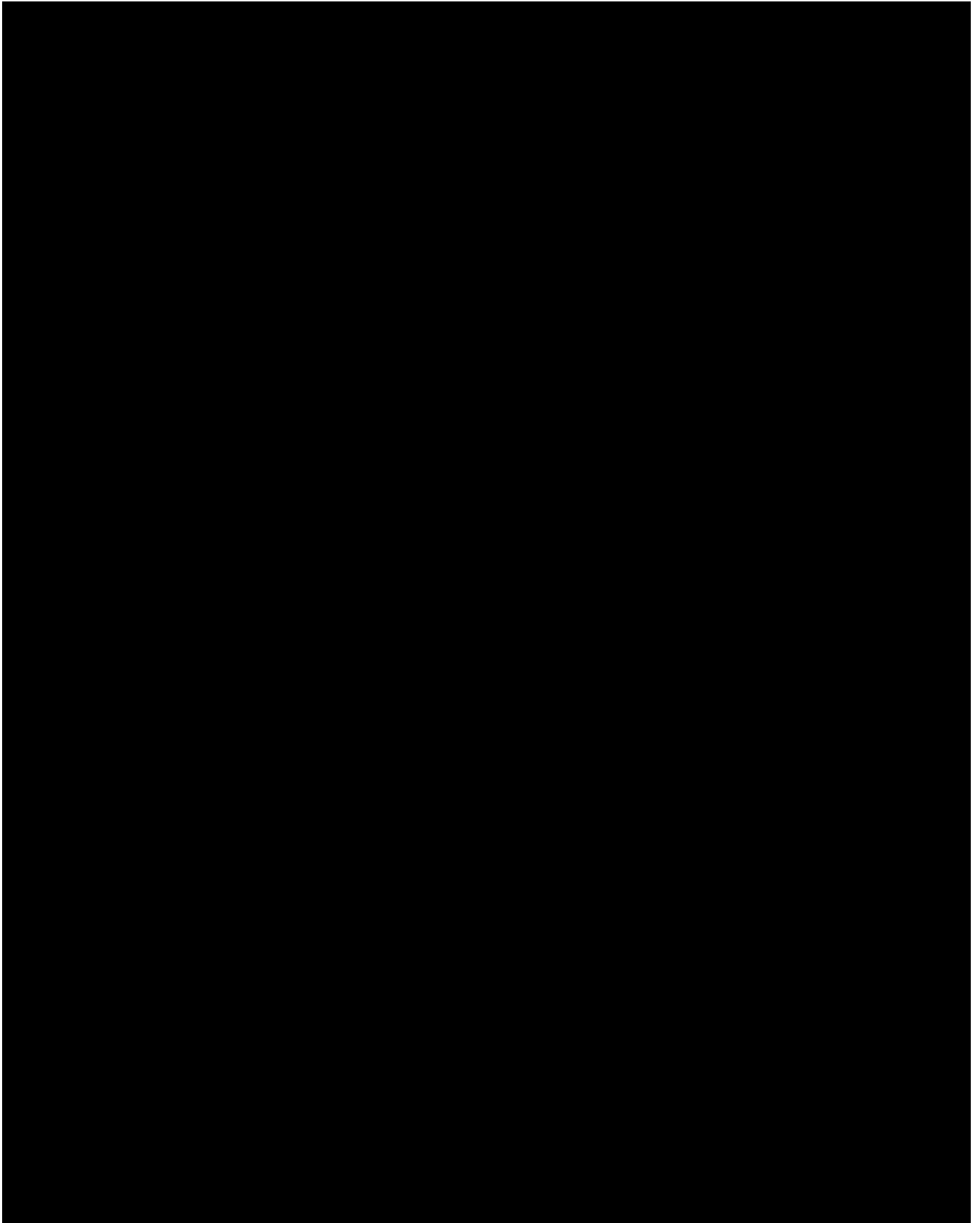
- taxes/online/live/deluxe.jsp, accessed January 5, 2023, INTUIT-FTC-PART3-000610645.
- Intuit, “Why Use TurboTax Live Premier?,” <https://web.archive.org/web/20221010055634/https://turbotax.intuit.com/personal-taxes/online/live/premier.jsp>, accessed January 5, 2023, INTUIT-FTC-PART3-000612411.
- Intuit, “Why Use TurboTax Live Self-Employed?,” <https://web.archive.org/web/20221118205338/https://turbotax.intuit.com/personal-taxes/online/live/self-employed.jsp>, accessed January 5, 2023, INTUIT-FTC-PART3-000611455.
- Intuit Inc., “Form 10-K for the Fiscal Year Ended July 31, 2020,” August 31, 2020, <https://d18rn0p25nwr6d.cloudfront.net/CIK-0000896878/476c5038-90d1-40f4-b916-ed16fb6c3311.pdf>, INTUIT-FTC-PART3-000612614.
- Intuit Inc., “Form 10-K for the Fiscal Year Ended July 31, 2021,” September 8, 2021, https://s23.q4cdn.com/935127502/files/doc_financials/2021/ar/72fb2688-540b-4d4a-abe6-e3c5c3aa0683.pdf, INTUIT-FTC-PART3-000613040.
- Intuit Inc., “Form 10-K for the Fiscal Year Ended July 31, 2022,” September 2, 2022, <https://d18rn0p25nwr6d.cloudfront.net/CIK-0000896878/e04ed275-64f6-4662-a383-a1e01829677b.pdf>, INTUIT-FTC-PART3-000611692.
- Intuit Inc., “Investor Day 2021,” September 2021, https://s23.q4cdn.com/935127502/files/doc_presentations/2021/Intuit-Investor-Day-2021-Presentation.pdf, INTUIT-FTC-PART3-000610954.
- Intuit Inc., “Investor Day 2022,” September 28, 2022, https://s23.q4cdn.com/935127502/files/doc_presentations/2022/09/Intuit-Investor-Day-2022_092822_For-Upload_SHIPPED.pdf, INTUIT-FTC-PART3-000610770.
- Jackson Hewitt, “Get Your Biggest Refund or \$100, Guaranteed,” <https://www.jacksonhewitt.com/>, accessed January 10, 2023, INTUIT-FTC-PART3-000616875.
- Johnston, Courtney, and Joe Van Brussel, “Best Tax Software for 2022: Late or Not, TurboTax, H&R Block and More Can Help You File,” *CNET*, May 4, 2022, <https://www.cnet.com/personal-finance/taxes/best-tax-software/>, accessed September 29, 2022, INTUIT-FTC-PART3-000610534.
- Lee, Ronda, “Taxes 2022: Here’s Where to File Your Taxes for Free,” *Yahoo*, March 24, 2022, <https://news.yahoo.com/file-your-taxes-for-free-185451806.html>, accessed September 23, 2022, INTUIT-FTC-PART3-000612381.
- Liberty Tax, “File with Liberty,” <https://www.libertytax.com>, accessed January 10, 2023, INTUIT-FTC-PART3-000616889.
- Lieb, Cody & Company, “Fees,” January 1, 2022, <https://www.liebcody.com/fees>, accessed September 28, 2022, INTUIT-FTC-PART3-000611671.
- LinkedIn, “Cathy Goode,” <https://www.linkedin.com/in/cathy-goode-7a27296>, accessed January 4, 2023, INTUIT-FTC-PART3-000611879.
- Lyft, “Taxes: How to File and Save as a Lyft Driver,” October 19, 2021, <https://web.archive.org/web/20211019065029/lyft.com/driver/taxes>, accessed March 14, 2022, INTUIT-FTC-PART3-000612773.

- Martucci, Brian, “Cash App Taxes Review - Prepare and File Your Taxes Online 100% Free,” *MoneyCrashers*, August 9, 2022, <https://www.moneycrashers.com/cash-app-taxes-review/>, accessed November 3, 2022, INTUIT-FTC-PART3-000610707.
- Martucci, Brian, “FreeTaxUSA Review 2022 – Free Tax Filing and Online Return Preparation,” *MoneyCrashers*, March 23, 2022, <https://www.moneycrashers.com/freetaxusa-review/>, accessed September 28, 2022, INTUIT-FTC-PART3-000609991.
- Orem, Tina, “IRS Free File & How to Get Free Tax Preparation or Free Tax Help in 2022,” *Nerdwallet*, March 1, 2022, <https://www.nerdwallet.com/article/taxes/irs-free-file-tax-preparation-help>, accessed September 23, 2022, INTUIT-FTC-PART3-000611871.
- Orem, Tina, “Tax Filing 2022: What to Know About How to File Taxes This Year,” *Nerdwallet*, March 3, 2022, <https://www.nerdwallet.com/article/taxes/tax-filing>, accessed July 26, 2022, INTUIT-FTC-PART3-000610114.
- Parys, Sabrina, and Tina Orem, “TurboTax Review 2022,” *Nerdwallet*, March 3, 2022, <https://www.nerdwallet.com/article/taxes/turbotax-review>, accessed January 9, 2023, INTUIT-FTC-PART3-000610939.
- Patel, Kush, “Tax Preparation Services in the US,” *IBISWorld*, August 2019, <https://www.gsa.gov/cdnstatic/54121D%20Tax%20Preparation%20Services%20in%20the%20US%20Industry%20Report.pdf>, INTUIT-FTC-PART3-000611633.
- Patterson, Jodi, et al., *Understanding Taxpayer Motivation for Filing Method Selection to Improve Customer Service*, MITRE, January 2022, INTUIT-FTC-PART3-000610579.
- Pinola, Melanie, “The Best Online Tax Filing Software,” *Wirecutter*, April 18, 2022, <https://www.nytimes.com/wirecutter/reviews/best-tax-software/>, accessed July 29, 2022, INTUIT-FTC-PART3-000611941.
- Rounds, Hannah, “The Best Tax Software 2022: What’s the Best Tax Program For Me?,” *The College Investor*, June 29, 2022, <https://thecollegeinvestor.com/21156/the-best-tax-software/>, accessed December 14, 2022, INTUIT-FTC-PART3-000612421.
- Rounds, Hannah, “Cash App Taxes Review 2022 (Formerly Credit Karma Tax),” *The College Investor*, June 29, 2022, <https://thecollegeinvestor.com/39045/cash-app-taxes-review/>, accessed October 20, 2022, INTUIT-FTC-PART3-000610516.
- Rounds, Hannah, “H&R Block 2022 Online Tax Prep Review,” *The College Investor*, June 29, 2022, <https://thecollegeinvestor.com/20777/hr-block-online-review/>, accessed September 28, 2022, INTUIT-FTC-PART3-000612996.
- Rounds, Hannah, “TaxHawk 2022 Review,” *The College Investor*, January 10, 2022, <https://thecollegeinvestor.com/20857/taxhawk-review/>, accessed November 4, 2022, INTUIT-FTC-PART3-000610467.
- ScamRisk, “FreeTaxUSA Review,” <https://www.scamrisk.com/freetaxusa/>, accessed October 27, 2022, INTUIT-FTC-PART3-000612535.
- Square, “Cash App Announces Definitive Agreement to Acquire Credit Karma Tax,” November 25, 2020, <https://squareup.com/us/en/press/credit-karma-tax>, accessed October 20, 2022, INTUIT-FTC-PART3-000610122.
- Steward Ingram & Cooper PLLC, “TurboTax Vs. A CPA – Why You Should Consider Hiring an Accountant,” October 14, 2020, <https://stewardingram.com/turbotax-vs-cpa/>, accessed July 25, 2022, INTUIT-FTC-PART3-000612418.
- TaxAct, “Expert Tax Advice on All Returns for \$0!,” <https://www.taxact.com/?version=091522gl&ref=none>, accessed October 20, 2022, INTUIT-FTC-PART3-000612465.

- TaxAct, "Form 1041 - Amending," <https://www.taxact.com/support/24691/2021/form-1041-amending?hideLayout=False>, accessed January 5, 2023, INTUIT-FTC-PART3-000610928.
- TaxAct, "Import Last Year's Return," <https://www.taxact.com/support/425/2021/import-last-years-return/>, accessed September 28, 2022, INTUIT-FTC-PART3-000611669.
- TaxAct, "Most Popular Help Topics," <https://www.taxact.com/support>, accessed November 3, 2022, INTUIT-FTC-PART3-000616979.
- TaxAct, "Preparing Your State Return," <https://www.taxact.com/support/521/2021/preparing-your-state-return?hideLayout=False>, accessed November 4, 2022, INTUIT-FTC-PART3-000611631.
- TaxAct, "ProtectionPlus Audit Defense," <https://www.taxact.com/support/24912/2021/protectionplus-audit-defense>, accessed November 3, 2022, INTUIT-FTC-PART3-000610514.
- TaxAct, "State Part-Year/Non-Resident Form Availability," <https://www.taxact.com/support/436/2016/state-part-year-non-resident-form-availability>, accessed October 28, 2022, INTUIT-FTC-PART3-000610938.
- TaxAct, "State Program Release Dates," <https://www.taxact.com/support/516/2021/state-program-release-dates?hideLayout=False>, accessed October 13, 2022, INTUIT-FTC-PART3-000610309.
- TaxAct, "TaxAct Deluxe," <https://www.taxact.com/individual-taxes/online/deluxe>, accessed October 26, 2022, INTUIT-FTC-PART3-000612760.
- TaxAct, "TaxAct Express™ for iPhone®," <https://www.taxact.com/mobile-taxes>, accessed November 3, 2022, INTUIT-FTC-PART3-000611920.
- TaxAct, "TaxAct Free," <https://www.taxact.com/individual-taxes/online/free>, accessed October 26, 2022, INTUIT-FTC-PART3-000612850.
- TaxAct, "TaxAct Premier," <https://www.taxact.com/individual-taxes/online/premier>, accessed October 26, 2022, INTUIT-FTC-PART3-000610219.
- TaxAct, "TaxAct Self-Employed," <https://www.taxact.com/individual-taxes/online/self-employed>, accessed October 26, 2022, INTUIT-FTC-PART3-000610721.
- TaxAct, "TaxAct® Guarantees," <https://www.taxact.com/company/guarantees>, accessed November 4, 2022, INTUIT-FTC-PART3-000611921.
- TaxAct, "We're Here to Help," <https://www.taxact.com/support/request>, accessed November 4, 2022, INTUIT-FTC-PART3-000611510.
- TaxAct, "xpertAssist," <https://www.taxact.com/tax-xpert-assist>, accessed October 28, 2022, INTUIT-FTC-PART3-000610488.
- TaxHawk, "Deluxe & Pro Support," <https://www.taxhawk.com/deluxe.jsp>, accessed November 4, 2022, INTUIT-FTC-PART3-000610128.
- TaxHawk, "File Federal Taxes Free!," <https://www.taxhawk.com/>, accessed October 11, 2022, INTUIT-FTC-PART3-000610031.
- TaxHawk, "File with Help from a Pro," <https://www.taxhawk.com/pro.jsp>, accessed November 4, 2022, INTUIT-FTC-PART3-000613031.
- TaxHawk, "Free Import," <https://www.taxhawk.com/software.jsp>, accessed September 28, 2022, INTUIT-FTC-PART3-000611881.
- TaxHawk, "Free Tax Software," <https://www.taxhawk.com/software.jsp?gclid=EAIaIQobChMIuqOE1bWT->

- wIVvTizAB33kQHGEAAYASABEgIdofD_BwE, accessed November 3, 2022, INTUIT-FTC-PART3-000611679.
- TaxHawk, “Supported Federal Tax Forms,” <https://www.taxhawk.com/federal-forms.jsp>, accessed October 27, 2022, INTUIT-FTC-PART3-000612520.
- TaxHawk, “TaxHawk® Safe and Secure,” <https://www.taxhawk.com/secure.jsp>, accessed October 27, 2022, INTUIT-FTC-PART3-000612859.
- TaxHawk, “Terms of Use for TaxHawk®,” <https://www.taxhawk.com/terms-of-use.jsp>, accessed November 4, 2022, INTUIT-FTC-PART3-000610258.
- TaxHawk, “We’re Here to Help,” https://www.taxhawk.com/search_faq.jsp, accessed November 4, 2022, INTUIT-FTC-PART3-000611096.
- TaxSlayer, “4 Low-Cost Ways to File Your Taxes Online in 2022,” March 28, 2022, <https://www.taxslayer.com/blog/cheapest-way-to-file-taxes-online/>, accessed October 27, 2022, INTUIT-FTC-PART3-000611399.
- TaxSlayer, “Audit Assistance,” <https://www.taxslayer.com/supportcenter/auditassistance>, accessed October 27, 2022, INTUIT-FTC-PART3-000611236.
- TaxSlayer, “Commonly-Used IRS Tax Forms and Schedules,” <https://www.taxslayer.com/tax-tools/federal-forms-for-taxes>, accessed October 27, 2022, INTUIT-FTC-PART3-000613250.
- TaxSlayer, “Compare Our Online Tax Software,” <https://www.taxslayer.com/tax-tools/compare-tax-software/>, accessed October 11, 2022, INTUIT-FTC-PART3-000612470.
- TaxSlayer, “File on the Go with Our Free Tax App,” <https://www.taxslayer.com/tax-tools/mobile-apps/>, accessed October 27, 2022, INTUIT-FTC-PART3-000611389.
- TaxSlayer, “How Do I Amend My Federal/State Tax Return?,” <https://support.taxslayer.com/hc/en-us/articles/360015909411-How-do-I-amend-my-federal-state-tax-return->, accessed October 27, 2022, INTUIT-FTC-PART3-000611350.
- TaxSlayer, “How Do I File a Part Year New York Return?,” <https://support.taxslayer.com/hc/en-us/articles/4408870111245-How-do-I-file-a-Part-Year-New-York-return->, accessed November 4, 2022, INTUIT-FTC-PART3-000610042.
- TaxSlayer, “How Do I File My Taxes for Free in 2022?,” December 6, 2021, <https://web.archive.org/web/20211223002120/https://www.taxslayer.com/blog/how-to-file-taxes-for-free/>, accessed October 27, 2022, INTUIT-FTC-PART3-000611618.
- TaxSlayer, “How Do I File My Taxes for Free in 2023?,” September 26, 2022, <https://www.taxslayer.com/blog/how-to-file-taxes-for-free/>, accessed October 27, 2022, INTUIT-FTC-PART3-000613243.
- TaxSlayer, “How Do I Pull My Prior Year Information to the Current Year?,” <https://support.taxslayer.com/hc/en-us/articles/360015899211-How-do-I-pull-my-prior-year-information-to-the-current-year->, accessed October 27, 2022, INTUIT-FTC-PART3-000610576.
- TaxSlayer, “How Do I Report My Business Income or Loss on My Tax Return?,” <https://support.taxslayer.com/hc/en-us/articles/360015713872-How-do-I-report-my-business-income-or-loss-on-my-tax-return->, accessed October 27, 2022, INTUIT-FTC-PART3-000610024.
- TaxSlayer, “Is TaxSlayer Simply Free Really Free?,” <https://www.taxslayer.com/products/taxslayer-free-tax-filing#simply-free-info>, accessed October 27, 2022, INTUIT-FTC-PART3-000610695.

- TaxSlayer, “Our Guarantees,” <https://www.taxslayer.com/policies/guarantees>, accessed October 27, 2022, INTUIT-FTC-PART3-000610552.
- TaxSlayer, “Our Maximum Refund Guarantee,” <https://www.taxslayer.com/links/maxrefundguarantee>, accessed October 27, 2022, INTUIT-FTC-PART3-000610173.
- TaxSlayer, “Ready to get your biggest refund?,” <https://www.taxslayer.com/homev3/>, accessed January 10, 2023, INTUIT-FTC-PART3-000616981.
- TaxSlayer, “Tax Identity Theft: How It Happens and Ways to Prevent It,” February 1, 2022, <https://www.taxslayer.com/blog/how-to-prevent-or-report-tax-identity-theft/>, accessed December 12, 2022, INTUIT-FTC-PART3-000611922.
- TaxSlayer, “TaxSlayer Premium,” <https://www.taxslayer.com/products/taxslayer-premium/>, accessed October 27, 2022, INTUIT-FTC-PART3-000612986.
- TaxSlayer, “TaxSlayer Pro Support Knowledgebase,” <https://support.taxslayerpro.com/hc/en-us/articles/360009168894-SecurelyID>, accessed December 12, 2022, INTUIT-FTC-PART3-000610949.
- TaxSlayer, “TaxSlayer Self-Employed,” <https://www.taxslayer.com/products/taxslayer-self-employment-taxes/>, accessed November 4, 2022, INTUIT-FTC-PART3-000610684.
- TaxSlayer, “TaxSlayer Unmasks All New Brand Strategy, Putting the Customer at the Center,” December 12, 2017, <https://www.taxslayer.com/media-room/prdetails?articleID=122488>, accessed October 27, 2022, INTUIT-FTC-PART3-000611512.
- TaxSlayer, “What is My State Residency Status?,” September 11, 2019, <https://www.taxslayer.com/blog/what-is-my-state-residency-status/>, accessed October 27, 2022, INTUIT-FTC-PART3-000612754.
- TaxSlayer, “Where’s My Refund?,” <https://www.taxslayer.com/tax-tools/refund-status/>, accessed October 27, 2022, INTUIT-FTC-PART3-000611901.
- TaxSlayer, “Who Claims a Child of Divorced or Separated Parents?,” <https://support.taxslayer.com/hc/en-us/articles/360015701492-Who-claims-a-child-of-divorced-or-separated-parents->, accessed October 27, 2022, INTUIT-FTC-PART3-000610481.
- TaxSlayer, “Your Security Is Our Priority,” <https://www.taxslayer.com/policies/security>, accessed October 27, 2022, INTUIT-FTC-PART3-000611505.
- The MITRE Corporation, “Corporate Overview,” <https://www.mitre.org/about/corporate-overview>, accessed July 25, 2022, INTUIT-FTC-PART3-000610111.
- The MITRE Corporation, “Independent Assessment of the Free File Program, Appendix A: The Economics of IRS Free File,” September 13, 2019, <https://www.irs.gov/pub/newsroom/02-appendix-a-economics-of-irs-free-file.pdf>, INTUIT-FTC-PART3-000610063.
- Van Bloom, Chelsea, and Ed Oswald, “Best Mobile Tax Apps of 2022,” *U.S. News*, February 2, 2022, <https://www.usnews.com/360-reviews/technology/tax-software/best-mobile-tax-apps>, accessed September 29, 2022, INTUIT-FTC-PART3-000613189.
- Washington, Kemberley, “Best Tax Software of September 2022,” *Forbes*, September 19, 2022, <https://www.forbes.com/advisor/taxes/best-tax-software/>, accessed September 29, 2022, INTUIT-FTC-PART3-000611623.
- Washington, Kemberley, “When Should I File in Multiple States?,” *Forbes*, April 14, 2021, <https://www.forbes.com/advisor/taxes/when-should-i-file-taxes-in-multiple-states/>, accessed January 10, 2023, INTUIT-FTC-PART3-000616806.



APPENDIX C

Digital DIY Tax Preparation Products Overview

1. This appendix details characteristics of various tax preparation services that were offered during TY21. The focus is on Intuit’s TurboTax products and other direct-to-consumer digital DIY tax preparation services provided by the private sector corporations which, according to its recent 10-K filings, Intuit itself identified as key competitors.^{1,2} These are (i) H&R Block, (ii) Blucora’s TaxAct, (iii) TaxHawk’s FreeTaxUSA, (iv) TaxSlayer, and (v) Block’s Cash App Taxes.³
 - I. **OVERVIEW OF INTUIT AND COMPETITOR DIGITAL DIY PRODUCT OFFERINGS**
2. **Figure C.1** below lists products offered by Intuit and its competitors for TY21.⁴ The figure shows whether a product offers “Free Federal Returns” and “Free State Returns” based on

¹ Intuit Inc., “Form 10-K for the Fiscal Year Ended July 31, 2021,” September 8, 2021, https://s23.q4cdn.com/935127502/files/doc_financials/2021/ar/72fb2688-540b-4d4a-abe6-e3c5c3aa0683.pdf, INTUIT-FTC-PART3-000613040, p. 11 (“In the U.S. private sector we face intense competition from H&R Block, which provides tax preparation services in its stores and a competing software offering. We also face competition from several other large tax preparation service providers, from a myriad of small tax preparers, and from numerous online self-preparation offerings, including Blucora’s TaxAct, Free Tax USA, TaxSlayer, and Square. Some of these competitors are offering electronic tax preparation and filing services at no cost to individual taxpayers.”). See also Intuit Inc., “Form 10-K for the Fiscal Year Ended July 31, 2020,” August 31, 2020, <https://d18rn0p25nwr6d.cloudfront.net/CIK-0000896878/476c5038-90d1-40f4-b916-ed16fb6c3311.pdf>, INTUIT-FTC-PART3-000612614, p. 10 (“In the U.S. private sector we face intense competition from H&R Block, which provides tax preparation services in its stores and a competing software offering. We also face competition from several other large tax preparation service providers, from a myriad of small tax preparers, and from numerous online self-preparation offerings, including Free Tax USA, TaxSlayer, Blucora’s TaxAct and Credit Karma.”); Intuit Inc., “Form 10-K for the Fiscal Year Ended July 31, 2022,” September 2, 2022, <https://d18rn0p25nwr6d.cloudfront.net/CIK-0000896878/e04ed275-64f6-4662-a383-a1e01829677b.pdf>, INTUIT-FTC-PART3-000611692, p. 10 (“Given the breadth of the products and services that we offer as a global technology company and the customer problems that we aim to serve, we compete with the offerings from a variety of companies across a range of industries, including large global companies, smaller geographically focused companies, startups and professional services. Our current global competitors include Blucora (TaxAct), Block, H&R Block, The Sage Group, Microsoft (Dynamics), Oracle (NetSuite) and Xero.”).

² As discussed in Section IV.B.2, companies other than digital DIY tax preparation service providers compete for taxpayers’ business. Such companies include providers of offline and online assisted tax preparation services, for example.

³ Square, Inc. changed its name to Block on December 1, 2021. See Block, Inc., “Square, Inc. Changes Name to Block,” December 1, 2021, <https://squareup.com/us/en/press/square-changes-name-to-block>, INTUIT-FTC-PART3-000610232.

⁴ Some tax preparation companies, including Intuit, also offer offline versions of their tax preparation software that can be downloaded or installed using a CD, referred to as “desktop” products. I focus on online products since I understand these to be the subject of the Complaint. See Complaint, ¶ 4 (“As used in this Complaint, ‘TurboTax’ only refers to online products and services.”).

the federal and state prices listed on the company website.⁵ “Free” products are referred to as those that have both free federal return and one free state return and “Paid” products are referred to as those that require payment for either federal or state returns (or both).

⁵ The price listed on the company website for each product is the standard price for TY21 as of November 7, 2022. Subject to discounts, promotions, or special deals, customers may be able to use a given product at a different price. For instance, in TY21 TurboTax Live Basic was offered for free until March 31, 2022 for simple tax returns. Intuit, “File Your Simple Tax Return for \$0 Any Way – Even When Handing it off to a TurboTax Live Tax Expert!,” July 27, 2022, <https://blog.turbotax.intuit.com/turbotax-news/file-your-simple-tax-return-for-0-any-way-even-when-handing-it-off-to-a-turbotax-live-tax-expert-50635/>, INTUIT-FTC-PART3-000613227.

Figure C.1
Free Products Among Intuit's and Competitors' Digital DIY Offerings in TY21^{6,7}

Product	Free Federal Returns	Free State Returns
Intuit		
TurboTax Free Edition	✓	✓
TurboTax Deluxe		
TurboTax Premier		
TurboTax Self-Employed		
TurboTax Live Basic		
TurboTax Live Deluxe		
TurboTax Live Premier		
TurboTax Live Self-Employed		
H&R Block		
H&R Block Free Online	✓	✓
H&R Block Deluxe		
H&R Block Premium		
H&R Block Self-Employed		
H&R Block Basic Online Assist		
H&R Block Deluxe Online Assist		
H&R Block Premium Online Assist		
H&R Block Self-Employed Online Assist		
Blucora		
TaxAct Free	✓	
TaxAct Deluxe		
TaxAct Premier		
TaxAct Self-Employed		
TaxHawk		
Tax Hawk Free Edition	✓	
Tax Hawk Deluxe Edition		
Tax Hawk Pro Support		
TaxSlayer		
TaxSlayer Simply Free	✓	✓
TaxSlayer Classic		
TaxSlayer Premium		
TaxSlayer Self-Employed		
Block, Inc.		
Cash App Taxes (requires opening a Cash App account)	✓	✓ Except Montana

3. Before its acquisition by Block (at the time named Square) in November 2020, Cash App Taxes was known as Credit Karma Taxes.⁸ Until TY19, its underlying business model had

been to generate revenue by requiring users to provide access to their personal information for advertising purposes.⁹

4. Currently, Cash App Taxes is offered within Cash App, a mobile application providing banking, money transfer, and financial investing services. Using Cash App Taxes requires downloading the Cash App application and accepting Cash App’s terms and conditions.¹⁰ As described in its 2021 10-K filing, Block considers the free services offered through Cash App Taxes as a “marketing initiative aimed at attracting new customers and encouraging the usage of Cash App.”¹¹ In fact, Cash App generates revenues by charging businesses that

⁶ TaxHawk, Inc. owns the TaxHawk, FreeTaxUSA, and 1040Express labels. Under these different brands, TaxHawk offers the same software. See Rounds, Hannah, “TaxHawk 2022 Review,” *The College Investor*, January 10, 2022, <https://thecollegeinvestor.com/20857/taxhawk-review/>, INTUIT-FTC-PART3-000610467.

⁷ Intuit, “Getting Your Maximum Refund Starts Here, Choose Your Product,” <https://turbotax.intuit.com/personal-taxes/compare/online/>, accessed October 11, 2022, INTUIT-FTC-PART3-000612408; Intuit, “File Your Simple Tax Return for \$0 Any Way – Even When Handing it off to a TurboTax Live Tax Expert!,” July 27, 2022, <https://blog.turbotax.intuit.com/turbotax-news/file-your-simple-tax-return-for-0-any-way-even-when-handing-it-off-to-a-turbotax-live-tax-expert-50635/>, INTUIT-FTC-PART3-000613227; H&R Block, “File Online,” <https://web.archive.org/web/20221109234846/https://www.hrblock.com/online-tax-filing/free-online-tax-filing/>, accessed January 9, 2023, INTUIT-FTC-PART3-000610275; TaxAct, “Expert Tax Advice on All Returns for \$0!,” <https://www.taxact.com/?version=091522gl&ref=none>, accessed October 20, 2022, INTUIT-FTC-PART3-000612465; TaxHawk, “File Federal Taxes Free!,” <https://www.taxhawk.com/>, accessed October 11, 2022, INTUIT-FTC-PART3-000610031; TaxSlayer, “Compare Our Online Tax Software,” <https://www.taxslayer.com/tax-tools/compare-tax-software/>, accessed October 11, 2022, INTUIT-FTC-PART3-000612470; Cash App Taxes, “Get Your Taxes Done in Minutes from Your Computer,” <https://api.taxes.cash.app/auth>, accessed October 11, 2022, INTUIT-FTC-PART3-000611084; Cash App Taxes, “Getting Started with Cash App Taxes,” October 18, 2021, <https://taxeshelp.cash.app/s/article/Getting-started-with-Cash-App-Taxes>, INTUIT-FTC-PART3-000613234 (“You will need to sign up for a Cash App account to use and file your taxes with Cash App Taxes. [...] Cash App is free. You can use Cash App to pay anyone instantly, order a customized Cash Card that matches your style, invest in stocks or bitcoin, and now file your tax returns through Cash App Taxes.”); Cash App Taxes, “5 Things You Should Know about Filing State Income Taxes,” March 22, 2022, <https://taxeshelp.cash.app/s/article/5-things-you-should-know-about-filing-state-income-taxes>, INTUIT-FTC-PART3-000611515.

⁸ Square, “Cash App Announces Definitive Agreement to Acquire Credit Karma Tax,” November 25, 2020, <https://squareup.com/us/en/press/credit-karma-tax>, INTUIT-FTC-PART3-000610122.

⁹ Fowler, Geoffrey A., “When Tax Prep Is Free, You May Be Paying with Your Privacy,” *Post*, March 7, 2019, <https://www.washingtonpost.com/technology/2019/03/07/when-tax-prep-is-free-you-may-be-paying-with-your-privacy/>, INTUIT-FTC-PART3-000610134.

¹⁰ Cash App Taxes, “Cash App Taxes - 100% Free Tax Filing for Federal & State,” <https://cash.app/taxes>, accessed July 29, 2022, INTUIT-FTC-PART3-000610569 (“You’ll need to download Cash App to log in and use Cash App Taxes. If you don’t already have it, download Cash App and create an account to get started.”).

¹¹ Block, Inc., “Form 10-K for the fiscal year ended December 31, 2021,” February 24, 2022, <https://d18rn0p25nwr6d.cloudfront.net/CIK-0001512673/13386837-50ba-466f-b8ff-81824f066c1e.pdf>, INTUIT-FTC-PART3-000611971, p. 62 (“We consider the free services such as stock investing, Cash App Tax [sic], and certain Cash Card and peer-to-peer services offered Cash App customers to be marketing initiatives aimed at attracting new customers and encouraging the usage of Cash App.”); Block, Inc., “Form 8-K,” February 24, 2022, <https://d18rn0p25nwr6d.cloudfront.net/CIK-0001512673/0f73afbc-595a-418b-a74c-c723c0c9a460.pdf>, INTUIT-FTC-PART3-000610178, p. 6 (“Historically, Cash App gross profit growth has

accept Cash App payments.¹² In addition, Cash App collects fees from individual users for specific services, including expedited transfers,¹³ payments made using a credit card instead of the in-app cash balance,¹⁴ ATM withdrawals,¹⁵ transactions involving virtual currencies (e.g., Bitcoin).¹⁶

5. Among the companies reviewed, there are providers that, like Block, sell services other than tax preparation. For example, Intuit offers Mint (a personal financial management app) and QuickBooks (an accounting software package), among other products.¹⁷ In no instance other than Cash App Taxes, however, creating accounts for these other services is required for the customer to file a tax return.

II. FREE DIGITAL DIY PRODUCT OFFERINGS

6. **Figure C.2.A** and **Figure C.2.B** list the free product offerings of Intuit and its key digital

benefited from the seasonal impact of tax refunds as customers bring more money into Cash App—both directly and indirectly—benefiting from greater spending power. Cash App Taxes is completely free for customers and easy enough to file in minutes from a phone or computer. Approximately 60% of Americans cannot comfortably afford a \$1,000 emergency expense, while the average tax refund is \$2,700, which means millions depend on their tax refund. By offering customers their tax refund up to two days early if they choose to receive it in Cash App, we are creating an opportunity to attract more inflows and increase engagement.”)

¹² Cash App Taxes, “What is Cash for Business?,” <https://cash.app/help/us/en-us/6502-what-is-cash-for-business>, accessed November 21, 2022, INTUIT-FTC-PART3-000612498, at § 1 (“With your business account, you’ll have a 2.75% processing fee automatically deducted on each payment you receive.”).

¹³ Cash App Taxes, “Cash App Terms of Service,” November 14, 2022, <https://cash.app/legal/us/en-us/tos>, INTUIT-FTC-PART3-000610327, at § 1 (“Fee for expedited transfer from your Cash App account to a linked account. Funds are typically available within minutes. The applicable fee amount is disclosed at the time of the transaction. 0.5%-1.75% (\$0.25 min).”).

¹⁴ Cash App Taxes, “Cash App Terms of Service,” November 14, 2022, <https://cash.app/legal/us/en-us/tos>, INTUIT-FTC-PART3-000610327, at § 1 (“Send from Credit Card: 3%.”).

¹⁵ Cash App Taxes, “Cash App Terms of Service,” November 14, 2022, <https://cash.app/legal/us/en-us/tos>, INTUIT-FTC-PART3-000610327, at § 1 (“Our ATM withdrawal fee is \$2.50.”).

¹⁶ Cash App Taxes, “Cash App Terms of Service,” November 14, 2022, <https://cash.app/legal/us/en-us/tos>, INTUIT-FTC-PART3-000610327, at § 7 (“We may charge fees for Virtual Currency transactions within Cash App, including any purchase, sale, transfer, or transaction on any Supported Network. For any transaction you initiate, you agree to pay the fees shown to you at or prior to you confirming the transaction. We may change the fees at any time, with or without notice to you.”) See also § 8 (“You may buy or sell Virtual Currency through the Virtual Currency Services. Any such buy or sell transaction is subject to the Block “Conversion Rate” for the given transaction. ‘Conversion Rate’ means the price of Virtual Currency in terms of Fiat Currency as displayed in the Cash App once you have selected ‘Buy’ or ‘Sell’ and such Conversion Rate is the price in terms of Fiat Currency at which you may buy Virtual Currency from or sell Virtual Currency to Block. You acknowledge that Block may add a margin or ‘spread’ between the quoted mid market price displayed on the Virtual Currency dashboard and the quoted buy or sell price and, as such, that the quoted buy price Conversion Rate may not be the same as the sell price Conversion Rate at any given time.”).

¹⁷ Intuit, “Intuit Mint,” <https://mint.intuit.com/>, accessed November 22, 2022, INTUIT-FTC-PART3-000613238; Intuit, “Intuit QuickBooks,” <https://quickbooks.intuit.com/>, accessed November 22, 2022, INTUIT-FTC-PART3-000610673.

DIY competitors. As discussed above, only products that offer free federal return and one free state return are considered as *free* product offerings. Despite their name, TaxAct Free and TaxHawk Free Edition are excluded from this section because they offer free federal returns but do not offer state returns for free.

7. These products are compared along several dimensions. **Figure C.2.A** and **Figure C.2.B** show whether each product supports the handling of different common tax situations and includes different features, respectively. The tax situations and features summarized here are not comprehensive but include information publicly available across product webpages and product comparison websites.¹⁸
8. Each characteristic (i.e., tax situation or feature) reported in the figure can be available for free within the free product (indicated as a “Yes” in the figure), available within the free product subject to payment (“Add-On”), available only as an upgrade to a paid product (“Upgrade”), or not available at all (“No”).

¹⁸ See, e.g., Rounds, Hannah, “The Best Tax Software 2022: What’s the Best Tax Program For Me?,” *The College Investor*, June 29, 2022, <https://thecollegeinvestor.com/21156/the-best-tax-software/>, INTUIT-FTC-PART3-000612421; Benson, Alana et al., “Best Tax Software for 2022,” *NerdWallet*, March 28, 2022, <https://www.nerdwallet.com/article/taxes/best-tax-software>, INTUIT-FTC-PART3-000610501; Yakal, Kathy, “The Best Tax Software for 2022,” *PCMag*, August 24, 2022, <https://www.pcmag.com/picks/the-best-tax-software>, INTUIT-FTC-PART3-000610735; Pinola, Melanie, “The Best Online Tax Filing Software,” *Wirecutter*, April 18, 2022, <https://www.nytimes.com/wirecutter/reviews/best-tax-software/>, INTUIT-FTC-PART3-000611941; Van Bloom, Chelsea and Ed Oswald, “Best Mobile Tax Apps of 2022,” *U.S. News*, February 2, 2022, <https://www.usnews.com/360-reviews/technology/tax-software/best-mobile-tax-apps>, INTUIT-FTC-PART3-000613189; Washington, Kemberley, “Best Tax Software of September 2022,” *Forbes*, September 19, 2022, <https://www.forbes.com/advisor/taxes/best-tax-software/>, INTUIT-FTC-PART3-000611623; Johnston, Courtney and Joe Van Brussel, “Best Tax Software for 2022: Late or Not, TurboTax, H&R Block and More Can Help You File,” *CNET*, May 4, 2022, <https://www.cnet.com/personal-finance/taxes/best-tax-software/>, INTUIT-FTC-PART3-000610534.

Figure C.2.A
Comparison of Tax Situation Coverage Across Free Digital DIY Tax Product Offerings
in TY21

	<u>Intuit, Inc.</u>	<u>H&R Block</u>	<u>TaxSlayer</u>	<u>Block, Inc.</u>	
	<u>TurboTax</u>	<u>H&R Block</u>	<u>TaxSlayer</u>	<u>CashApp</u>	
	<u>Free Edition</u>	<u>Free Online</u>	<u>Simply Free</u>	<u>Taxes</u>	<u>Source(s)</u>
<i>Income</i>					
W-2 Income	Yes	Yes	Limited to taxable income < \$100,000	Yes	C-1, C-4, C-9, C-20
Non Employee Compensation (1099-NEC)	Upgrade	Upgrade	Upgrade	Yes	C-1, C-4, C-5, C-10, C-11, C-20
Profit or Loss from Business - Income (Schedule C)	Upgrade	Upgrade	Upgrade	Yes	C-1, C-4, C-5, C-10, C-20
Profit or Loss from Business - Expense (Schedule C)	Upgrade	Upgrade	Upgrade	Yes	C-1, C-4, C-5, C-10, C-20
Rental Income & Deductions (Schedule E)	Upgrade	Upgrade	Upgrade	Yes	C-1, C-4, C-5, C-12, C-20
Retirement Income (1099-R)	Yes	Yes	Upgrade	Yes	C-1, C-4, C-13, C-20
Foreign Earned Income (Form 2555)	Upgrade	Upgrade	Upgrade	No	C-1, C-4, C-5, C-13, C-14, C-21
Limited Interest Income (1099-INT) ^A	Yes	Yes	Upgrade	Yes	C-1, C-4, C-5, C-13, C-20
Unlimited Interest Income (1099-INT)	Upgrade	Upgrade	Upgrade	Yes	C-1, C-4, C-5, C-15, C-20
Limited Dividend Income (1099-DIV) ^B	Yes	Yes	Upgrade	Yes	C-1, C-4, C-5, C-13, C-20
Unlimited Dividend Income (1099-DIV)	Upgrade	Upgrade	Upgrade	Yes	C-1, C-4, C-5, C-15, C-20
Capital Gains and Losses (Schedule D)	Limited ^C	Upgrade	Upgrade	Yes	C-1, C-4, C-5, C-12, C-20
Cryptocurrency Sales (1099-MISC)	Upgrade	Upgrade	Upgrade	Yes	C-1, C-4, C-5, C-12, C-20
Partnership and S Corporation Income (Schedule K-1 Forms 1065 & 1120S)	Upgrade	Upgrade	Upgrade	Yes	C-1, C-4, C-5, C-13, C-14, C-20
Estate and Trust Income (Schedule K-1 Form 1041)	Upgrade	Upgrade	Upgrade	No	C-1, C-4, C-5, C-13, C-14, C-21
Unemployment Income (1099-G)	Upgrade	Yes	Yes	Yes	C-1, C-4, C-9, C-20
<i>Deductions, Tax Credits, and Other Situations</i>					
Itemized Deductions (Schedule A)	Upgrade	Upgrade	Upgrade	Yes	C-1, C-4, C-5, C-12, C-21
Earned Income Credit (Schedule EIC)	Yes	Yes	Upgrade	Yes	C-1, C-7, C-12, C-20
Non Dependent EIC (Release of Claim to Exemption for Child by Custodial Parent - Form 8332)	Yes	Yes	Upgrade	No	C-1, C-4, C-16, C-21
Child Tax Credit (Schedule 8812)	Yes	Yes	Upgrade	Yes	C-1, C-7, C-17, C-20
Foreign Tax Credit (Form 1116)	Upgrade	Upgrade	Upgrade	No	C-1, C-5, C-7, C-13, C-14, C-21
Mortgage Interest Statement (1098)	Upgrade	Upgrade	Upgrade	Yes	C-1, C-7, C-13, C-14, C-20
Student Loan Interest and Education Expenses (1098-E)	Yes	Yes	Yes	Yes	C-2, C-4, C-12, C-20
Health Savings Account (1099-SA)	Upgrade	Upgrade	Upgrade	Yes	C-1, C-7, C-13, C-14, C-20
Underpayment Penalty Calculations and Payments (Form 2210)	Yes	Yes	Upgrade	No	C-1, C-4, C-15, C-21
<i>State Filing</i>					
Multiple State Returns Filing	Add-On	Yes	Add-On	No	C-2, C-7, C-13, C-18, C-21
Part-Year/Non-Resident State Return Filing ^D	Add-On	Yes	Add-On	No	C-3, C-8, C-13, C-18, C-19, C-21

Notes:

[A] Interest income lower than \$1,500 for TurboTax and H&R Block.

[B] Dividend income lower than \$1,500 for TurboTax and H&R Block.

[C] Limited use of schedule to report personal item sales income reported on 1099-K.

[D] Taxpayers living in states without income taxes may be able to file one non-resident state return using a free product.

Sources: See Table C.4 for an index of sources.

9. As shown by **Figure C.2.A**, none of these products cover all tax situations.
10. Each tax situation included in the figure is identified with either forms that taxpayers receive (e.g., W-2, 1099-INT) or forms that taxpayers file (e.g., Schedule A, Form 2210). In general, since taxpayers might not know in advance which tax forms they will file, digital DIY products are designed precisely to complete the task through an interview-like process. Whether a product covers a given tax situation depends on whether the product’s question-and-answer session enables taxpayers to file their taxes with the specific form/schedule listed in the figure.
11. TurboTax Free Edition and H&R Block Free Online are comparable in terms of supported tax forms and schedules. TaxSlayer Simply Free presents more limitations. For example, to file with TaxSlayer Simply Free, filers are required to have taxable income less than \$100,000 and only claim standard deductions.¹⁹ Earned income tax credit, child tax credit, and retirement income, which are supported by TurboTax Free Edition and H&R Block Free Online, are not covered by TaxSlayer Simply Free.
12. Compared to the other competitors’ products, Cash App Taxes has a wider set of tax situations covered. Still, although its website claims that users “[p]ay \$0 to file, no matter [their] tax situation,”²⁰ Cash App Taxes does not support situations such as filing multiple state returns, filing non-resident state returns, or reporting foreign earned income, among other situations.²¹

¹⁹ TaxSlayer, “How Do I File My Taxes for Free in 2022?,” December 6, 2021, <https://web.archive.org/web/20211223002120/https://www.taxslayer.com/blog/how-to-file-taxes-for-free/>, INTUIT-FTC-PART3-000611618.

²⁰ Cash App Taxes, “Cash App Taxes - 100% Free Tax Filing for Federal & State,” <https://cash.app/taxes>, accessed July 29, 2022, INTUIT-FTC-PART3-000610569.

²¹ For example, Cash App Taxes also does not cover married individuals filing separately in community property states (“If you live in a community property state [Arizona, California, Idaho, Louisiana, New Mexico, or Wisconsin] and you’re filing as married filing separately, we won’t be able to help prepare your state tax return.”). See Cash App Taxes, “Forms and Situations Cash App Taxes Does Not Support,” February 18, 2022, <https://taxeshelp.cash.app/s/article/Forms-and-situations-Cash-App-Taxes-does-not-support>, INTUIT-FTC-PART3-000610558.

Figure C.2.B
Comparison of Features Across Free Digital DIY Tax Product Offerings in TY21

	Intuit, Inc.	H&R Block	TaxSlayer	Block, Inc.	
	TurboTax Free Edition	H&R Block Free Online	TaxSlayer Simply Free	CashApp Taxes	Source(s)
Available as App on Google Play/Apple App Store	Yes	Yes	Yes	Yes	C-2, C-27, C-35, C-36, C-48
W-2/1099 Upload/Auto Import	Yes	Yes	Upgrade	No	C-3, C-7, C-17, C-49
W-2 Import through Taking a Picture	Yes	Yes	Upgrade	No	C-2, C-7, C-17, C-37, C-49
Prior Year Return Import	Yes ^A	From a PDF From Any Source	Yes	From Credit Karma, TurboTax, H&R Block, and Tax Act	C-10, C-22, C-28, C-50
Live Phone or Chat Tech Support	Yes	Upgrade	Yes	Yes	C-3, C-7, C-17, C-49, C-51
Access to Searchable Knowledge Base	Yes	Yes	Yes	Yes	C-3, C-17, C-100, C-102
Tax Expert/Pro Assist and Final Review	Upgrade	Upgrade	Upgrade	No	C-7, C-23, C-39, C-52
Audit Defense/Audit Support	Add-On	Yes	Upgrade	Yes	C-7, C-24, C-40, C-53
Data Security Promise	Yes	Yes	Yes	Yes	C-1, C-29, C-41, C-54
Identity Theft Restoration	Add-On	Add-On	No	Yes	C-24, C-30, C-42, C-43, C-53, C-55
Identity Theft Insurance	Add-On	No	No	No	C-24, C-31, C-42, C-43, C-53, C-55
Updated “Real-Time” Refund Display	Yes	Yes	Yes	Yes	C-2, C-7, C-44, C-51
Maximum Refund Guarantee	Yes; Customers are entitled to payment of \$30	Yes; free online amend	Upgrade	Yes; difference in the refund or tax amount owed up to \$100 (minimum \$25) in the form of a gift card	C-7, C-45, C-46, C-56, C-59
Accuracy Guarantee	Yes; federal or state penalties and interest charges	Yes; maximum of \$10,000	Yes; federal or state penalties and interest charges	Yes; up to a maximum of \$1,000 in the form of gift card	C-1, C-32, C-45, C-57
Refund Advance ^B	Yes	Limited	No	No	C-13, C-25, C-33, C-49
Online Amend	Add-On	Upgrade	Add-On	No	C-26, C-34, C-47, C-58

Notes:

[A] Prior Year Return Import accepts PDFs from tax providers, such as H&R Block, Credit Karma, TaxAct, ezTaxReturn, TaxSlayer, or Liberty Tax/Tax Brain, and more.

[B] The Refund Advance loan was available at participating H&R Block offices Jan. 4 – Feb. 28, 2022.

Sources: See Table C.4 for an index of sources.

13. Similar to the overview of tax situations, **Figure C.2.B** describes the features available in each of these products.
14. As seen in the figure, TurboTax Free Edition and H&R Block Free Online present similarities in a set of basic attributes, including features such as Form W-2, Form 1099 auto import, and previous year tax return import. For those attributes that are not included by default in either product, some can be purchased within the free version, including features such as filing in multiple states, while others are available by upgrading to paid products, as in the case of many complex tax situations. In contrast, TaxSlayer Simply Free has a more limited set of attributes among the ones presented, as important features such as Form W-2 and Form 1099 auto-import and prior return import are only available as upgrades to paid products.
15. Cash App Taxes has many important differences. Unlike the other competitors' products, Cash App Taxes does not provide customers the option of receiving additional features or services by paying for them separately or by upgrading to a paid product. For example, Cash App Taxes does not offer on-call support by tax professionals or the option to upload documents (other than last year's return).²² Moreover, product reviewers note that taxpayers find the lack of access to tax expert support a critical limitation.²³ In addition, some

²² Cash App Taxes only allow last year's tax return import from the following services: Credit Karma, TurboTax, H&R Block, and TaxAct. See Cash App Taxes, "How to Import Last Year's Tax Return into Cash App Taxes," October 18, 2021, <https://taxeshelp.cash.app/s/article/How-to-import-last-year-s-tax-return-into-Cash-App-Taxes/>, INTUIT-FTC-PART3-000610021.

²³ Butler, Peter, "Cash App Taxes Review 2022: Online Tax Software with No Fees Ever," *CNET*, April 16, 2022, <https://www.cnet.com/personal-finance/taxes/cash-app-taxes-review-2022-online-tax-software-with-no-fees-ever/>, INTUIT-FTC-PART3-000610462 ("Those wanting tax support should look elsewhere. Cash App Taxes has an adequate help section and live chat for simple technical and tax questions, but no support by tax professionals."). See also Yakal, Kathy, "Cash App Taxes 2022 (Tax Year 2021) Review," *PCMag*, March 3, 2022, <https://www.pcmag.com/reviews/cash-app-taxes>, INTUIT-FTC-PART3-000610138 ("Anyone who has ever prepared his or her own taxes knows that questions always arise and that getting quality help is absolutely critical. Cash App Taxes hasn't had many years to build up the support resources that its competitors have, so the guidance it offers is still sparse in comparison. It does a fairly good job of letting you know what it's looking for on every screen, but it doesn't hyperlink complex terms the way TurboTax does, for example. The site often doesn't even fully explain the current question or concept.").

reviewers noted a further limitation, namely that Cash App Taxes is more difficult to set up because it requires the Cash App mobile application to get started.²⁴

16. There are several other examples of features that vary significantly across free digital DIY tax preparation products in TY21:

- Filing an online amended return is available as add-on for TurboTax Free Edition and TaxSlayer Simply Free. H&R Block requires its Free Online customers to upgrade to a paid product (H&R Block Deluxe). Cash App Taxes does not offer the option to file an online amended return.
- Refund advances are not available for Cash App Taxes and TaxSlayer Simply Free customers. H&R Block’s Refund Advances are available only at its participating stores.²⁵ In contrast, Intuit offers a Refund Advance program to its customers, including the ones who used TurboTax Free Edition to file their taxes.²⁶
- With the exception of TaxSlayer Simply Free,²⁷ all free DIY tax preparation offerings include a “maximum refund guarantee.” Such a guarantee applies whenever a customer could obtain a larger refund or smaller tax due using another tax preparation method. The terms of the guarantee differ significantly across providers. TurboTax Free Edition customers are entitled to a fixed payment of \$30, even if they filed for

²⁴ Rounds, Hannah, “Cash App Taxes Review 2022 (Formerly Credit Karma Tax),” *The College Investor*, June 29, 2022, <https://thecollegeinvestor.com/39045/cash-app-taxes-review/>, INTUIT-FTC-PART3-000610516. Customers are required to “go to cash.app/taxes” on their computer and click log in, scan a QR code, and are then required to type their PII information such as name, date of birth, and the last 4-digit SSN before being directed to the filing screen on the computer. See Cash App Taxes, “Cash App Taxes - 100% Free Tax Filing for Federal & State,” <https://cash.app/taxes>, accessed July 29, 2022, INTUIT-FTC-PART3-000610569.

²⁵ H&R Block, “Refund Advance,” <https://www.hrblock.com/offers/refund-advance/>, accessed October 27, 2022, INTUIT-FTC-PART3-000612387 (“The Refund Advance loan was available at participating H&R Block offices Jan. 4 – Feb. 28, 2022.”).

²⁶ Intuit, “Offer Details and Disclosures for the Refund Advance Program,” April 15, 2022, https://ttlc.intuit.com/turbotax-support/en-us/help-article/tax-refund/offer-details-disclosures-refund-advance-program/L4ljXp6TI_US_en_US?uid=15jqhavn, INTUIT-FTC-PART3-000610215 (“If you’re receiving a federal refund of \$500 or more, you could be eligible for a Refund Advance, a loan provided by First Century Bank, N.A., Member FDIC not affiliated with MVB Bank, Inc. Member FDIC Refund Advance is a loan based upon your anticipated refund (minus any stimulus payment credit, also known as a Recovery Rebate Credit) and isn’t the refund itself. The Refund Advance loan has a 0% APR and zero loan fees. [...] This Refund Advance offer expires February 15, 2022, or until available funds have been exhausted, whichever comes first. Offer and availability subject to change without further notice.”).

²⁷ TaxSlayer, “Our Guarantees,” <https://www.taxslayer.com/policies/guarantees>, accessed October 27, 2022, INTUIT-FTC-PART3-000610552 (“Guaranteed maximum refund. [...] TaxSlayer Simply Free is excluded from this guarantee.”).

free.²⁸ H&R Block Free Online customers may be able to “amend [the return] at no additional charge.”²⁹ Cash App Taxes customers “may be eligible to receive the difference in the refund or tax amount owed up to \$100 (minimum \$25) in the form of a gift card.”³⁰

- Similarly, providers offer a variety of Accuracy Guarantees that protect their customers from issues due to calculation errors. In fact, if calculation errors arise, Intuit and TaxSlayer offer to refund their customers any resulting penalty or interest charge paid to the IRS or the state. H&R Block offers reimbursements up to a maximum \$10,000.³¹ Cash App Taxes customers can receive a refund “up to a maximum of \$1,000 in the form of a gift card(s).”³²

III. PAID DIGITAL DIY PRODUCT OFFERINGS

17. Other than Cash App Taxes, Intuit and its key digital competitors all offer paid products.

Figures C.3.A.i–C.3.E.ii list these paid product offerings. For each provider, information on price, tax situations that are covered, and features offered are included in the figures. These figures demonstrate that product offerings vary along many different dimensions, and that these providers do not compete exclusively on price. As shown in these figures, consumers can choose among a wide spectrum of services which differ in terms of tax situations covered and features included.³³

18. Digital DIY tax preparation providers use similar categories to label the products within their paid portfolios. For example, “Deluxe,” “Premium” or “Premier,” and “Self-Employed” are the most common labels for products with progressively increasing tiers of features as tax

²⁸ Intuit, “Intuit Terms of Service for TurboTax Online Tax Preparation Services,” July 2022, <https://turbotax.intuit.com/corp/license/online>, INTUIT-FTC-PART3-000610673.

²⁹ H&R Block, “File Online,” <https://web.archive.org/web/20221109234846/https://www.hrblock.com/online-tax-filing/free-online-tax-filing/>, accessed January 9, 2023, INTUIT-FTC-PART3-000610275.

³⁰ Cash App Taxes, “About Our Maximum Refund Guarantee,” January 5, 2022, <https://taxeshelp.cash.app/s/article/About-our-Maximum-Refund-Guarantee>, INTUIT-FTC-PART3-000611524.

³¹ H&R Block, “H&R Block Accuracy of Tax Return Calculations,” <https://www.hrblock.com/online-tax-filing/guarantees/accuracy-of-calculations/>, accessed October 27, 2022, INTUIT-FTC-PART3-000611906.

³² Cash App Taxes, “About Our Accurate Calculations Guarantee,” <https://taxeshelp.cash.app/s/article/About-our-Accurate-Calculations-Guarantee>, accessed November 3, 2022, INTUIT-FTC-PART3-000610457.

³³ See Sections IV.B.2 and IV.B.3.

situations become more complex.³⁴ Irrespective of the common labels, providers diversify their product offerings along different dimensions.

19. TaxHawk and TaxSlayer, for example, offer the same tax situation coverage across all their products.³⁵ Higher tier products differ from lower tier in terms of the level of tax expert assistance provided. On the contrary, all offerings in Blucora’s TaxAct product line include the same features (e.g., tax expert assistance). Higher tier products cover more tax situations than lower tier products. Intuit and H&R Block differentiate their products along both dimensions: higher tier services cover more tax situations and include more features.
20. As another example, Blucora (“TaxAct Free”) and TaxHawk (“TaxHawk Free Edition”) combine the offering of free federal return filing with paid state return filing. Note that federal and state return filings are offered separately. Therefore, customers can use a software allowing free federal return filing and choose other ways to file their state returns (if needed).³⁶

³⁴ TaxSlayer uses the label “Classic” instead of “Deluxe” to represent the first tier of its paid product. TaxHawk only has one paid-tier product labeled “Deluxe.” See Intuit, “Getting Your Maximum Refund Starts Here, Choose Your Product,” <https://turbotax.intuit.com/personal-taxes/compare/online/>, accessed October 11, 2022, INTUIT-FTC-PART3-000612408; Intuit, “File Your Simple Tax Return for \$0 Any Way – Even When Handing it off to a TurboTax Live Tax Expert!,” July 27, 2022, <https://blog.turbotax.intuit.com/turbotax-news/file-your-simple-tax-return-for-0-any-way-even-when-handing-it-off-to-a-turbotax-live-tax-expert-50635/>, INTUIT-FTC-PART3-000613227; H&R Block, “File the Way You Want with Our Tax Software,” <https://www.hrblock.com/tax-software/>, accessed October 11, 2022, INTUIT-FTC-PART3-000612791; TaxAct, “Import Last Year’s Return,” <https://www.taxact.com/support/425/2021/import-last-years-return/>, accessed September 28, 2022, INTUIT-FTC-PART3-000611669; TaxHawk, “File Federal Taxes Free!,” <https://www.taxhawk.com/>, accessed October 11, 2022, INTUIT-FTC-PART3-000610031; TaxSlayer, “Compare Our Online Tax Software,” <https://www.taxslayer.com/tax-tools/compare-tax-software/>, accessed October 11, 2022, INTUIT-FTC-PART3-000612470; Cash App Taxes, “Get Your Taxes Done in Minutes from Your Computer,” <https://api.taxes.cash.app/auth>, accessed October 11, 2022, INTUIT-FTC-PART3-000611084; Cash App Taxes, “Getting Started with Cash App Taxes,” October 18, 2021, <https://taxeshelp.cash.app/s/article/Getting-started-with-Cash-App-Taxes>, INTUIT-FTC-PART3-000613234; Cash App Taxes, “5 Things You Should Know about Filing State Income Taxes,” March 22, 2022, <https://taxeshelp.cash.app/s/article/5-things-you-should-know-about-filing-state-income-taxes>, INTUIT-FTC-PART3-000611515.

³⁵ The only exception is TaxSlayer Self-Employed that support more business tax situations (Profit or Loss from Business- Expense, Schedule C) than TaxSlayer Classic or TaxSlayer Premium. See TaxHawk, “File Federal Taxes Free!,” <https://www.taxhawk.com/>, accessed October 11, 2022, INTUIT-FTC-PART3-000610031; TaxSlayer, “Compare Our Online Tax Software,” <https://www.taxslayer.com/tax-tools/compare-tax-software/>, accessed October 11, 2022, INTUIT-FTC-PART3-000612470.

³⁶ See, e.g., FreeTaxUSA, “State Availability and E-file Support,” <https://www.freetaxusa.com/states/>, accessed October 13, 2022, INTUIT-FTC-PART3-000610241. E-file is also available for states that do not require an individual state income tax return. TaxAct, “State Program Release Dates,” <https://www.taxact.com/support/516/2021/state-program-release-dates?hideLayout=False>, accessed October 13,

21. As another example, tax expert assistance varies across paid product offerings. In TY21, Intuit and H&R Block offered full lines of products, “Live” and “Online Assist,” that added tax expert assistance to the specifications of the DIY offerings (e.g., TurboTax Deluxe and TurboTax Live Deluxe, H&R Block Deluxe and H&R Block Deluxe Online Assist).
22. Just as the products themselves vary, the variety of features that providers include in their product offerings testify to a high level of differentiation. For example:
- H&R Block includes Audit Support in all its products. TaxHawk and TaxSlayer offer it only within their higher tier offerings. Intuit and Blucora sell it separately as an add-on.
 - Intuit and TaxSlayer are the only companies among the ones reviewed offering their customers the option to purchase Identity Theft Insurance.
 - Although all products include both a maximum refund and an accuracy guarantee, the terms of such programs differ across providers. Intuit, TaxAct, and TaxSlayer commit to refund all federal or state penalties and interest charges. Blucora offers refunds up to a maximum of \$100,000. H&R Block sets its maximum refund at \$10,000.
23. These and other differences across products can be seen in the figures below. Each characteristic (i.e., tax situation or feature) reported in the figure can be available for free within the product (indicated as a “Yes” in the figure), available within the product subject to payment (“Add-On”), available only as an upgrade to another paid product (“Upgrade”), or not available at all (“No”).

2022, INTUIT-FTC-PART3-000610309; FreeTaxUSA, “Can I File Just a State Return?,” https://www.freetaxusa.com/help/display_faq.jsp?filing-state-return-only&faq_id=1725, accessed November 22, 2022, INTUIT-FTC-PART3-000611889.

1. Intuit

Figure C.3.A.i
Intuit Paid Tax Product Offering Tax Situations in TY21

	TurboTax Deluxe	TurboTax Premier	TurboTax Self- Employed	TurboTax Live Basic	TurboTax Live Deluxe	TurboTax Live Premier	TurboTax Live Self- Employed	Source(s)
<i>Income</i>								
W-2 Income	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-1
Non Employee Compensation (1099-NEC)	Yes	Yes	Yes	Upgrade	Yes	Yes	Yes	C-1
Profit or Loss from Business - Income (Schedule C)	Yes	Yes	Yes	Upgrade	Yes	Yes	Yes	C-1
Profit or Loss from Business - Expense (Schedule C)	Upgrade	Upgrade	Yes	Upgrade	Upgrade	Upgrade	Yes	C-1
Rental Income & Deductions (Schedule E)	Upgrade	Yes	Yes	Upgrade	Upgrade	Yes	Yes	C-1
Retirement Income (1099-R)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-1
Foreign Earned Income (Form 2555)	Yes	Yes	Yes	Upgrade	Yes	Yes	Yes	C-1
Interest Income (1099-INT)	Yes	Yes	Yes	Limited ^A	Yes	Yes	Yes	C-1
Dividend Income (1099-DIV)	Yes	Yes	Yes	Limited ^B	Yes	Yes	Yes	C-1
Capital Gains and Losses (Schedule D)	Limited ^C	Yes	Yes	Limited ^C	Limited ^C	Yes	Yes	C-1
Cryptocurrency Sales (1099-MISC)	Yes	Yes	Yes	Upgrade	Yes	Yes	Yes	C-1
Partnership and S Corporation Income (Schedule K-1 Forms 1065 & 1120S)	Upgrade	Yes	Yes	Upgrade	Upgrade	Yes	Yes	C-1
Estate and Trust Income (Schedule K-1 Form 1041)	Upgrade	Yes	Yes	Upgrade	Upgrade	Yes	Yes	C-1
Unemployment Income (1099-G)	Yes	Yes	Yes	Upgrade	Yes	Yes	Yes	C-1
<i>Deductions, Tax Credits, and Other Situations</i>								
Itemized Deductions (Schedule A)	Yes	Yes	Yes	Upgrade	Yes	Yes	Yes	C-1
Earned Income Credit (Schedule EIC)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-1
Non Dependent EIC (Release of Claim to Exemption for Child by Custodial Parent - Form 8332)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-1
Child Tax Credit (Schedule 8812)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-1
Foreign Tax Credit (Form 1116)	Yes	Yes	Yes	Upgrade	Yes	Yes	Yes	C-1
Mortgage Interest Statement (1098)	Yes	Yes	Yes	Upgrade	Yes	Yes	Yes	C-1
Student Loan Interest and Education Expenses (1098-E)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-1
Health Savings Account (1099-SA)	Yes	Yes	Yes	Upgrade	Yes	Yes	Yes	C-1
Underpayment Penalty Calculations and Payments (Form 2210)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-1
<i>State Filing</i>								
Multiple State Returns Filing	Add-On	Add-On	Add-On	Add-On	Add-On	Add-On	Add-On	C-23, C-59
Part-Year/Non-Resident State Return Filing	Add-On	Add-On	Add-On	Add-On	Add-On	Add-On	Add-On	C-3

Notes:

[A] Interest income lower than \$1,500.

[B] Dividend income lower than \$1,500.

[C] Limited use of schedule to report personal item sales income reported on 1099-K.

Sources: See Table C.4 for an index of sources.

Figure C.3.A.ii
Intuit Paid Tax Product Offering Features in TY21

	TurboTax Deluxe	TurboTax Premier	TurboTax Self- Employed	TurboTax Live Basic	TurboTax Live Deluxe	TurboTax Live Premier	TurboTax Live Self- Employed	Source(s)
Features								
Available as App on Google Play/Apple App Store	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-59
W2/1099 Upload/Auto Import	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-59
W-2 Import through Taking a Picture	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-59
Prior Year Return Import	Yes ^A	Yes ^A	Yes ^A	Yes ^A	Yes ^A	Yes ^A	Yes ^A	C-22
Live Phone or Chat Tech Support	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-59
Access to Searchable Knowledge Base	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-59
Tax Expert/Pro Assist and Final Review	Upgrade	Upgrade	Upgrade	Yes	Yes	Yes	Yes	C-23, C-59
Audit Defense/Audit Support ^B	Add-On	Add-On	Add-On	Add-On	Add-On	Add-On	Add-On	C-61, C-73, C-74, C-75, C-76, C-77
Data Security Promise	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-59
Identity Theft Restoration	Add-On	Add-On	Add-On	Add-On	Add-On	Add-On	Add-On	C-73
Identity Theft Insurance	Add-On	Add-On	Add-On	Add-On	Add-On	Add-On	Add-On	C-73
Updated “Real-Time” Refund Display	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-1
Maximum Refund Guarantee	Yes ^C	Yes ^C	Yes ^C	Yes ^C	Yes ^C	Yes ^C	Yes ^C	C-59
Accuracy Guarantee	Yes ^D	Yes ^D	Yes ^D	Yes ^D	Yes ^D	Yes ^D	Yes ^D	C-59
Refund Advance	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-25
Online Amend	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-59
Prices^E								
Federal Return	\$59	\$89	\$119	\$79	\$119	\$169	\$199	C-98, C-99
State Return (per state)	\$49	\$49	\$49	\$44	\$54	\$54	\$54	C-98, C-99

Notes:

[A] Prior Year Return Import accepts PDFs from tax providers, such as H&R Block, Credit Karma, TaxAct, ezTaxReturn, TaxSlayer, or Liberty Tax/Tax Brain, and more.

[B] Audit Defense available as Add-On for all products; Audit Support available for all products.

[C] Customers will receive a refund of the purchase price paid for federal and/or state TurboTax services if larger refund amount is received or if customer pays a smaller tax due amount using other tax providers.

[D] TurboTax will cover the IRS or state penalty and interest if incurred because of a TurboTax miscalculation.

[E] Prices reflect those listed on November 7, 2022.

Sources: See Table C.4 for an index of sources.

2. H&R Block

Figure C.3.B.i
H&R Block Paid Tax Product Offering Tax Situations in TY21

	H&R Block Deluxe	H&R Block Premium	H&R Block Self- Employed	H&R Block Basic Online Assist	H&R Block Deluxe Online Assist	H&R Block Premium Online Assist	H&R Block Self- Employed Online Assist	Source(s)
<i>Income</i>								
W-2 Income	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-4, C-80
Non Employee Compensation (1099-NEC)	Yes	Yes	Yes	Upgrade	Yes	Yes	Yes	C-4, C-5, C-60, C-80, C-101
Profit or Loss from Business - Income (Schedule C)	Yes	Yes	Yes	Upgrade	Yes	Yes	Yes	C-4, C-5, C-60, C-80, C-101
Profit or Loss from Business - Expense (Schedule C)	Upgrade	Upgrade	Yes	Upgrade	Upgrade	Upgrade	Yes	C-4, C-5, C-60, C-80, C-101
Rental Income & Deductions (Schedule E)	Upgrade	Yes	Yes	Upgrade	Upgrade	Yes	Yes	C-4, C-5, C-7, C-80, C-101
Retirement Income (1099-R)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-4, C-80
Foreign Earned Income (Form 2555)	Yes	Yes	Yes	Upgrade	Yes	Yes	Yes	C-4, C-5, C-7, C-80, C-101
Interest Income (1099-INT)	Yes	Yes	Yes	Limited ^A	Yes	Yes	Yes	C-4, C-5, C-7, C-80, C-101
Dividend Income (1099-DIV)	Yes	Yes	Yes	Limited ^B	Yes	Yes	Yes	C-4, C-5, C-7, C-80, C-101
Capital Gains and Losses (Schedule D)	Upgrade	Yes	Yes	Upgrade	Upgrade	Yes	Yes	C-4, C-5, C-7, C-80, C-101
Cryptocurrency Sales (1099-MISC)	Upgrade	Yes	Yes	Upgrade	Upgrade	Yes	Yes	C-4, C-5, C-7, C-80, C-101
Partnership and S Corporation Income (Schedule K-1 Forms - 1065 & 1120S)	Upgrade	Yes	Yes	Upgrade	Upgrade	Yes	Yes	C-4, C-5, C-60, C-80, C-101
Estate and Trust Income (Schedule K-1 Form 1041)	Upgrade	Yes	Yes	Upgrade	Upgrade	Yes	Yes	C-4, C-5, C-7, C-80, C-101
Unemployment Income (1099-G)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-4, C-80
<i>Deductions, Tax Credits, and Other Situations</i>								
Itemized Deductions (Schedule A)	Yes	Yes	Yes	Upgrade	Yes	Yes	Yes	C-4, C-5, C-7, C-80, C-101
Earned Income Credit (Schedule EIC)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-7
Non Dependent EIC (Release of Claim to Exemption for Child by Custodial Parent - Form 8332)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-4, C-80
Child Tax Credit (Schedule 8812)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-7
Foreign Tax Credit (Form 1116)	Yes	Yes	Yes	Upgrade	Yes	Yes	Yes	C-7, C-60
Mortgage Interest Statement (1098)	Yes	Yes	Yes	Upgrade	Yes	Yes	Yes	C-7
Student Loan Interest and Education Expenses (1098-E)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-4, C-80
Health Savings Account (1099-SA)	Yes	Yes	Yes	Upgrade	Yes	Yes	Yes	C-7
Underpayment Penalty Calculations and Payments (Form 2210)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-4, C-80
<i>State Filing</i>								
Multiple State Returns Filing	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-7
Part-Year/Non-Resident State Return Filing	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-8

Notes:

[A] Interest income lower than \$1,500.

[B] Dividend income lower than \$1,500.

Sources: See Table C.4 for an index of sources.

Figure C.3.B.ii
H&R Block Paid Tax Product Offering Features in TY21

Features	H&R Block	H&R Block	H&R Block	H&R Block	H&R Block	H&R Block	H&R Block	Source(s)
	Deluxe	Premium	Self-Employed	Basic Online Assist	Deluxe Online Assist	Premium Online Assist	Self-Employed Online Assist	
Available as App on Google Play/App Store	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-27
W2/1099 Upload/Auto Import	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-7
W-2 Import through Taking a Picture	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-7
Prior Year Return Import	From a PDF From Any Source	From a PDF From Any Source	From a PDF From Any Source	From a PDF From Any Source	From a PDF From Any Source	From a PDF From Any Source	From a PDF From Any Source	C-28
Live Phone or Chat Tech Support	Yes	Yes	Yes	Upgrade	Yes	Yes	Yes	C-78
Access to Searchable Knowledge Base	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-102
Tax Expert/Pro Assist and Final Review	Upgrade	Upgrade	Upgrade	Yes	Yes	Yes	Yes	C-7, C-79
Audit Defense/Audit Support	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-7, C-78
Data Security Promise	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-29
Identity Theft Restoration	Add-On	Add-On	Add-On	Add-On	Add-On	Add-On	Add-On	C-30
Identity Theft Insurance	No	No	No	No	No	No	No	C-31
Updated “Real-Time” Refund Display	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-7
Maximum Refund Guarantee	Yes; refund product price and free online amend	Yes; refund product price and free online amend	Yes; refund product price and free online amend	Yes; refund product price and free online amend	Yes; refund product price and free online amend	Yes; refund product price and free online amend	Yes; refund product price and free online amend	C-7
Accuracy Guarantee	Yes; maximum of \$10,000	Yes; maximum of \$10,000	Yes; maximum of \$10,000	Yes; maximum of \$10,000	Yes; maximum of \$10,000	Yes; maximum of \$10,000	Yes; maximum of \$10,000	C-32
Refund Advance ^A	Limited	Limited	Limited	Limited	Limited	Limited	Limited	C-33
Online Amend	Yes	Yes	Yes	Yes	Yes	Yes	Yes	C-34
Prices^B								
Federal Return	\$54.99	\$74.99	\$114.99	\$69.99	\$109.99	\$159.99	\$194.99	C-7, C-80
State Return (per state)	\$44.99	\$44.99	\$44.99	\$39.99	\$49.99	\$49.99	\$49.99	C-7, C-80

Notes:

[A] The Refund Advance loan was available at participating H&R Block offices Jan. 4 – Feb. 28, 2022.

[B] Prices reflect those listed on November 7, 2022.

Sources: See Table C.4 for an index of sources.

3. Blucora

Figure C.3.C.i
Blucora Paid Tax Product Offering Tax Situations in TY21

	TaxAct Free	TaxAct Deluxe	TaxAct Premier	TaxAct Self-Employed	Source(s)
<i>Income</i>					
W-2 Income	Yes	Yes	Yes	Yes	C-62, C-63, C-64, C-65
Non Employee Compensation (1099-NEC)	Upgrade	Upgrade	Upgrade	Yes	C-62, C-63, C-64, C-65
Profit or Loss from Business - Income (Schedule C)	Upgrade	Upgrade	Upgrade	Yes	C-62, C-63, C-64, C-65
Profit or Loss from Business - Expense (Schedule C)	Upgrade	Upgrade	Upgrade	Yes	C-62, C-63, C-64, C-65
Rental Income & Deductions (Schedule E)	Upgrade	Upgrade	Yes	Yes	C-62, C-63, C-64, C-65
Retirement Income (1099-R)	Yes	Yes	Yes	Yes	C-62, C-63, C-64, C-65
Foreign Earned Income (Form 2555)	Upgrade	Yes	Yes	Yes	C-62, C-63, C-64, C-65
Interest Income (1099-INT)	Upgrade	Yes	Yes	Yes	C-62, C-63, C-64, C-65
Dividend Income (1099-DIV)	Upgrade	Yes	Yes	Yes	C-62, C-63, C-64, C-65
Capital Gains and Losses (Schedule D)	Upgrade	Upgrade	Yes	Yes	C-62, C-63, C-64, C-65
Cryptocurrency Sales (1099-MISC)	Upgrade	Upgrade	Upgrade	Yes	C-62, C-63, C-64, C-65
Partnership and S Corporation Income (Schedule K-1 Forms 1065 & 1120S)	No Information	No Information	No Information	No Information	
Estate and Trust Income (Schedule K-1 Form 1041)	No Information	No Information	No Information	No Information	
Unemployment Income (1099-G)	Yes	Yes	Yes	Yes	C-62, C-63, C-64, C-65
<i>Deductions, Tax Credits, and Other Situations</i>					
Itemized Deductions (Schedule A)	Upgrade	Yes	Yes	Yes	C-62, C-63, C-64, C-65
Earned Income Credit (Schedule EIC)	Yes	Yes	Yes	Yes	C-62, C-63, C-64, C-65
Non Dependent EIC (Release of Claim to Exemption for Child by Custodial Parent - Form 8332)	Yes	Yes	Yes	Yes	C-62, C-63, C-64, C-65
Child Tax Credit (Schedule 8812)	Yes	Yes	Yes	Yes	C-62, C-63, C-64, C-65
Foreign Tax Credit (Form 1116)	Upgrade	Yes	Yes	Yes	C-62, C-63, C-64, C-65
Mortgage Interest Statement (1098)	Upgrade	Yes	Yes	Yes	C-62, C-63, C-64, C-65
Student Loan Interest and Education Expenses (1098-E)	Upgrade	Yes	Yes	Yes	C-62, C-63, C-64, C-65
Health Savings Account (1099-SA)	Upgrade	Yes	Yes	Yes	C-62, C-63, C-64, C-65
Underpayment Penalty Calculations and Payments (Form 2210)	Yes	Yes	Yes	Yes	C-62, C-63, C-64, C-65
<i>State Filing</i>					
Multiple State Returns Filing	Yes	Yes	Yes	Yes	C-66
Part-Year/Non-Resident State Return Filing	Yes	Yes	Yes	Yes	C-67

Sources: See Table C.4 for an index of sources.

Figure C.3.C.ii
Blucora Paid Tax Product Offering Features in TY21

	TaxAct Free	TaxAct Deluxe	TaxAct Premier	TaxAct Self-Employed	Source(s)
Features					
Available as App on Google Play/Apple App Store	Yes	Yes	Yes	Yes	C-81
W2/1099 Upload/Auto Import ^A	Yes	Yes	Yes	Yes	C-62, C-63, C-64, C-65
W-2 Import through Taking a Picture ^A	Yes	Yes	Yes	Yes	C-62, C-63, C-64, C-65
Prior Year Return Import	Yes	Yes	Yes	Yes	C-62, C-63, C-64, C-65
Live Phone or Chat Tech Support	Yes	Yes	Yes	Yes	C-82
Access to Searchable Knowledge Base	Yes	Yes	Yes	Yes	C-83
Tax Expert/Pro Assist and Final Review	Yes	Yes	Yes	Yes	C-84
Audit Defense/Audit Support	Add-On	Add-On	Add-On	Add-On	C-85
Data Security Promise	Yes	Yes	Yes	Yes	C-62, C-63, C-64, C-65
Identity Theft Restoration	No Information	No Information	No Information	No Information	
Identity Theft Insurance	No Information	No Information	No Information	No Information	
Updated “Real-Time” Refund Display	Yes	Yes	Yes	Yes	C-62, C-63, C-64, C-65
Maximum Refund Guarantee	Yes; refund product price and free online amend	Yes; refund product price and free online amend	Yes; refund product price and free online amend	Yes; refund product price and free online amend	C-62, C-63, C-64, C-65
Accuracy Guarantee	Yes; maximum of \$100,000	Yes; maximum of \$100,000	Yes; maximum of \$100,000	Yes; maximum of \$100,000	C-86
Refund Advance	Add-On	Add-On	Add-On	Add-On	C-62, C-63, C-64, C-65
Online Amend	Yes	Yes	Yes	Yes	C-87
Prices^B					
Federal Return	\$0.00	\$46.95	\$69.95	\$94.95	C-88
State Return (per state)	\$39.95	\$54.95	\$54.95	\$54.95	C-88

Notes:

[A] Quick start options include PDF import, prior year import, and W-2 photo capture. To import your prior year return, you must either have a PDF copy of a return available or have led your return the previous year with TaxAct. To capture your W-2 with a camera with your phone, you must be able to download and install TaxAct's mobile app and grant it the necessary camera and image privileges. To ensure accuracy, we will ask you to review any information we're able to import (either through PDF import, prior year import, or W-2 photo capture) and review it for accuracy. These quick start options save time by not requiring you to enter some of your information manually.

[B] Prices reflect those listed on November 7, 2022.

Sources: See Table C.4 for an index of sources.

4. TaxHawk

Figure C.3.D.i
TaxHawk Paid Tax Product Offering Tax Situations in TY21

	TaxHawk Free Edition	TaxHawk Deluxe Edition	TaxHawk Pro Support	Source(s)
<i>Income</i>				
W-2 Income	Yes	Yes	Yes	C-68
Non Employee Compensation (1099-NEC)	Yes	Yes	Yes	C-68
Profit or Loss from Business - Income (Schedule C)	Yes	Yes	Yes	C-68
Profit or Loss from Business - Expense (Schedule C)	Yes	Yes	Yes	C-68
Rental Income & Deductions (Schedule E)	Yes	Yes	Yes	C-68
Retirement Income (1099-R)	Yes	Yes	Yes	C-68
Foreign Earned Income (Form 2555)	No	No	No	C-68
Interest Income (1099-INT)	Yes	Yes	Yes	C-68
Dividend Income (1099-DIV)	Yes	Yes	Yes	C-68
Capital Gains and Losses (Schedule D)	Yes	Yes	Yes	C-68
Cryptocurrency Sales (1099-MISC)	Yes	Yes	Yes	C-68, C-69
Partnership and S Corporation Income (Schedule K-1 Forms 1065 & 1120S)	Yes	Yes	Yes	C-68
Estate and Trust Income (Schedule K-1 Form 1041)	Yes	Yes	Yes	C-68
Unemployment Income (1099-G)	Yes	Yes	Yes	C-68
<i>Deductions, Tax Credits, and Other Situations</i>				C-68
Itemized Deductions (Schedule A)	Yes	Yes	Yes	C-68
Earned Income Credit (Schedule EIC)	Yes	Yes	Yes	C-68
Non Dependent EIC (Release of Claim to Exemption for Child by Custodial Parent - Form 8332)	No Information	No Information	No Information	
Child Tax Credit (Schedule 8812)	Yes	Yes	Yes	C-68
Foreign Tax Credit (Form 1116)	Yes	Yes	Yes	C-68
Mortgage Interest Statement (1098)	Yes	Yes	Yes	C-68
Student Loan Interest and Education Expenses (1098-E)	Yes	Yes	Yes	C-68
Health Savings Account (1099-SA)	Yes	Yes	Yes	C-68
Underpayment Penalty Calculations and Payments (Form 2210)	Yes	Yes	Yes	C-68
<i>State Filing</i>				
Multiple State Returns Filing	Add-On	Add-On	Add-On	C-89
Part-Year/Non-Resident State Return Filing	No	No	No	C-71

Sources: See Table C.4 for an index of sources.

Figure C.3.D.ii
TaxHawk Paid Tax Product Offering Features in TY21

	TaxHawk Free Edition	TaxHawk Deluxe Edition	TaxHawk Pro Support	Source(s)
Features				
Available as App on Google Play/Apple App Store	No	No	No	C-70
W2/1099 Upload/Auto Import	No	No	No	C-94
W-2 Import through Taking a Picture	No	No	No	C-94
Prior Year Return Import	From TurboTax, H&R Block, and Tax Act	From TurboTax, H&R Block, and Tax Act	From TurboTax, H&R Block, and Tax Act	C-89
Live Phone or Chat Tech Support	Low priority	High Priority	High Priority	C-89, C-90
Access to Searchable Knowledge Base	Yes	Yes	Yes	C-91
Tax Expert/Pro Assist and Final Review	Upgrade	Upgrade	Yes	C-90, C-92
Audit Defense/Audit Support	Upgrade	Yes	Yes	C-70, C-90, C-92
Data Security Promise	Yes	Yes	Yes	C-93
Identity Theft Restoration	No Information	No Information	No Information	
Identity Theft Insurance	No Information	No Information	No Information	
Updated “Real-Time” Refund Display	Yes	Yes	Yes	C-94
Maximum Refund Guarantee	Yes; refund product price and free online amend	Yes; refund product price and free online amend	Yes; refund product price and free online amend	C-95
Accuracy Guarantee	Yes; federal or state penalties and interest charges	Yes; federal or state penalties and interest charges	Yes; federal or state penalties and interest charges	C-95
Refund Advance	No	No	No	C-70
Online Amend	Add-On	Yes	Yes	C-89
Prices^A				
Federal Return	\$0.00	\$6.99	\$24.99	C-89
State Return (per state)	\$14.99	\$14.99	\$14.99	C-89

Note:

[A] Prices reflect those listed on November 3, 2022.

Sources: See Table C.4 for an index of sources.

5. TaxSlayer

Figure C.3.E.i
TaxSlayer Paid Tax Product Offering Tax Situations in TY21

	TaxSlayer Classic	TaxSlayer Premium	TaxSlayer Self- Employed	Source(s)
<i>Income</i>				
W-2 Income	Yes	Yes	Yes	C-17
Non Employee Compensation (1099-NEC)	Yes	Yes	Yes	C-10, C-17
Profit or Loss from Business - Income (Schedule C)	Yes	Yes	Yes	C-10, C-17
Profit or Loss from Business - Expense (Schedule C)	Upgrade	Upgrade	Yes	C-10, C-17, C-72
Rental Income & Deductions (Schedule E)	Yes	Yes	Yes	C-10, C-17
Retirement Income (1099-R)	Yes	Yes	Yes	C-13
Foreign Earned Income (Form 2555)	Yes	Yes	Yes	C-10, C-17
Interest Income (1099-INT)	Yes	Yes	Yes	C-10, C-17
Dividend Income (1099-DIV)	Yes	Yes	Yes	C-10, C-17
Capital Gains and Losses (Schedule D)	Yes	Yes	Yes	C-10, C-17
Cryptocurrency Sales (1099-MISC)	Yes	Yes	Yes	C-10, C-17
Partnership and S Corporation Income (Schedule K-1 Forms 1065 & 1120S)	Yes	Yes	Yes	C-10, C-17
Estate and Trust Income (Schedule K-1 Form 1041)	Yes	Yes	Yes	C-10, C-17
Unemployment Income (1099-G)	Yes	Yes	Yes	C-10, C-17
<i>Deductions, Tax Credits, and Other Situations</i>				
Itemized Deductions (Schedule A)	Yes	Yes	Yes	C-10, C-17
Earned Income Credit (Schedule EIC)	Yes	Yes	Yes	C-10, C-17
Non Dependent EIC (Release of Claim to Exemption for Child by Custodial Parent - Form 8332)	Yes	Yes	Yes	C-10, C-17
Child Tax Credit (Schedule 8812)	Yes	Yes	Yes	C-10, C-17
Foreign Tax Credit (Form 1116)	Yes	Yes	Yes	C-10, C-17
Mortgage Interest Statement (1098)	Yes	Yes	Yes	C-10, C-17
Student Loan Interest and Education Expenses (1098-E)	Yes	Yes	Yes	C-10, C-17
Health Savings Account (1099-SA)	Yes	Yes	Yes	C-10, C-17
Underpayment Penalty Calculations and Payments (Form 2210)	Yes	Yes	Yes	C-10, C-17
<i>State Filing</i>				
Multiple State Returns Filing	Add-On	Add-On	Add-On	C-13, C-18
Part-Year/Non-Resident State Return Filing	Add-On	Add-On	Add-On	C-13, C-18, C-19

Sources: See Table C.4 for an index of sources.

Figure C.3.E.ii
TaxSlayer Paid Tax Product Offering Features in TY21

	TaxSlayer Classic	TaxSlayer Premium	TaxSlayer Self-Employed	Source(s)
Features				
Available as App on Google Play/Apple App Store	Yes	Yes	Yes	C-35, C-36
W2/1099 Upload/Auto Import	Yes	Yes	Yes	C-17
W-2 Import through Taking a Picture	Yes	Yes	Yes	C-17, C-37
Prior Year Return Import	Form 1040 PDF From Any Source	Form 1040 PDF From Any Source	Form 1040 PDF From Any Source	C-17, C-38, C-96
Live Phone or Chat Tech Support	Yes	Yes	Yes	C-17
Access to Searchable Knowledge Base	Yes	Yes	Yes	C-17
Tax Expert/Pro Assist and Final Review	Upgrade	Yes	Yes, Self-Employed Expertise	C-17, C-39
Audit Defense/Audit Support	Upgrade	Yes	Yes	C-40
Data Security Promise	Yes	Yes	Yes	C-41
Identity Theft Restoration	No	No	No	C-42, C-43
Identity Theft Insurance	No	No	No	C-42, C-43
Updated “Real-Time” Refund Display	Yes	Yes	Yes	C-44
Maximum Refund Guarantee ^A	Yes	Yes	Yes	C-45, C-46
Accuracy Guarantee ^B	Yes; federal or state penalties and interest charges	Yes; federal or state penalties and interest charges	Yes; federal or state penalties and interest charges	C-45
Refund Advance	No	No	No	C-13
Online Amend	Add-On	Add-On	Add-On	C-47
Prices^C				
Federal Return	\$29.95	\$49.95	\$59.95	C-97
State Return (per state)	\$39.95	\$39.95	\$39.95	C-97

Notes:

[A] Maximum Refund Guarantee ensures a reimbursement of the purchase price if customer receives a larger refund or pays a smaller tax through a different tax preparer.

[B] Accuracy Guarantee ensures a reimbursement of federal or state penalties and interest charges.

[C] Prices reflect those listed on October 31, 2022.

Sources: See Table C.4 for an index of sources.

IV. INDEX OF DIGITAL DIY PRODUCT OFFERINGS TABLE SOURCES

Table C.4
Digital DIY Product Offerings Table Sources

Source	Citation
C-1	Intuit, TurboTax Free Edition Tax Forms, https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp#tax-forms , accessed July 25, 2022, INTUIT-FTC-PART3-000610436.
C-2	Intuit, Why Use TurboTax Free Edition?, https://web.archive.org/web/20221221181628/https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp , accessed January 5, 2023, INTUIT-FTC-PART3-000610301.
C-3	Intuit, How Do I File a Part-Year State Return?, https://ttlc.intuit.com/turbotax-support/en-us/help-article/printers-printing/file-part-year-state-return/L82I8dCHS_US_en_US , accessed November 4, 2022, INTUIT-FTC-PART3-000610548.
C-4	H&R Block, H&R Block Online Free Federal Forms, https://www.hrblock.com/pdf/HRB-Online-Fed-Forms/free.pdf , accessed January 5, 2023, INTUIT-FTC-PART3-000611528.
C-5	H&R Block, H&R Block Online Premium Federal Forms, https://www.hrblock.com/pdf/HRB-Online-Fed-Forms/premium.pdf , accessed January 5, 2023, INTUIT-FTC-PART3-000610922.
C-6	Johnston and Van Brussel, Best Tax Software for 2022: Late or Not, TurboTax, H&R Block and More Can Help You File, https://www.cnet.com/personal-finance/taxes/best-tax-software/ , accessed September 29, 2022, INTUIT-FTC-PART3-000610534.
C-7	H&R Block, File Online, https://web.archive.org/web/20221109234846/https://www.hrblock.com/online-tax-filing/free-online-tax-filing/ , accessed January 9, 2023, INTUIT-FTC-PART3-000610275.
C-8	H&R Block, Does H&R Block Online Support Nonresident or Part-Year Resident State Taxes?, https://www.hrblock.com/tax-center/support/online/online-tax-filing/prepare-to-file-taxes-online/non-resident-part-year-taxes/ , accessed November 4, 2022, INTUIT-FTC-PART3-000610008.
C-9	TaxSlayer, How Do I File My Taxes for Free in 2022?, https://web.archive.org/web/20211223002120/https://www.taxslayer.com/blog/how

	-to-file-taxes-for-free/, accessed October 27, 2022, INTUIT-FTC-PART3-000611618.
C-10	TaxSlayer, Is TaxSlayer Simply Free Really Free?, https://www.taxslayer.com/products/taxslayer-free-tax-filing#simply-free-info , accessed October 27, 2022, INTUIT-FTC-PART3-000610695.
C-11	TaxSlayer, How Do I Report My Business Income or Loss on My Tax Return?, https://support.taxslayer.com/hc/en-us/articles/360015713872-How-do-I-report-my-business-income-or-loss-on-my-tax-return- , accessed October 27, 2022, INTUIT-FTC-PART3-000610024.
C-12	TaxSlayer, How Do I File My Taxes for Free in 2023?, https://www.taxslayer.com/blog/how-to-file-taxes-for-free/ , accessed October 27, 2022, INTUIT-FTC-PART3-000613243.
C-13	Farrington, TaxSlayer Review 2022, https://thecollegeinvestor.com/20925/taxslayer-review/ , accessed October 27, 2022, INTUIT-FTC-PART3-000610657.
C-14	TaxSlayer, Commonly-Used IRS Tax Forms and Schedules, https://www.taxslayer.com/tax-tools/federal-forms-for-taxes , accessed October 27, 2022, INTUIT-FTC-PART3-000613250.
C-15	TaxSlayer, 4 Low-Cost Ways to File Your Taxes Online in 2022, https://www.taxslayer.com/blog/cheapest-way-to-file-taxes-online/ , accessed October 27, 2022, INTUIT-FTC-PART3-000611399.
C-16	TaxSlayer, Who Claims a Child of Divorced or Separated Parents?, https://support.taxslayer.com/hc/en-us/articles/360015701492-Who-claims-a-child-of-divorced-or-separated-parents- , accessed October 27, 2022, INTUIT-FTC-PART3-000610481.
C-17	TaxSlayer, Compare Our Online Tax Software, https://www.taxslayer.com/tax-tools/compare-tax-software/ , accessed October 11, 2022, INTUIT-FTC-PART3-000612470.
C-18	TaxSlayer, What is My State Residency Status?, https://www.taxslayer.com/blog/what-is-my-state-residency-status/ , accessed October 27, 2022, INTUIT-FTC-PART3-000612754.
C-19	TaxSlayer, How Do I File a Part Year New York Return?, https://support.taxslayer.com/hc/en-us/articles/4408870111245-How-do-I-file-a-Part-Year-New-York-return- , accessed November 4, 2022, INTUIT-FTC-PART3-000610042.

C-20	Cash App Taxes, What Forms and Situations does Cash App Taxes Support?, https://taxeshelp.cash.app/s/article/What-forms-and-situations-does-Cash-App-Taxes-support , accessed October 26, 2022, INTUIT-FTC-PART3-000610652.
C-21	Cash App Taxes, Forms and Situations Cash App Taxes Does Not Support, https://taxeshelp.cash.app/s/article/Forms-and-situations-Cash-App-Taxes-does-not-support , accessed August 10, 2022, INTUIT-FTC-PART3-000610558.
C-22	Intuit, How Do I Transfer Last Year's Return into TurboTax Online?, https://ttlc.intuit.com/turbotax-support/en-us/help-article/import-export-data-files/transfer-last-year-return-turbotax-online/L279eUvY2_US_en_US , accessed October 21, 2022, INTUIT-FTC-PART3-000613223.
C-23	Intuit, Get Expert Advice as You Do Your Taxes with a Final Review, https://turbotax.intuit.com/personal-taxes/online/live/ , accessed October 21, 2022, INTUIT-FTC-PART3-000611122.
C-24	Intuit, What's Included in PLUS Help & Support?, https://ttlc.intuit.com/turbotax-support/en-us/help-article/intuit-product-orders/included-plus-help-support/L9YbRiw0c_US_en_US?uid=163pvp5h , accessed October 13, 2022, INTUIT-FTC-PART3-000610484.
C-25	Intuit, Offer Details and Disclosures for the Refund Advance Program, https://ttlc.intuit.com/turbotax-support/en-us/help-article/tax-refund/offer-details-disclosures-refund-advance-program/L4ljXp6TI_US_en_US?uid=15jqhavn , accessed November 4, 2022, INTUIT-FTC-PART3-000610215.
C-26	Intuit, How to Correct Federal Tax Returns, https://turbotax.intuit.com/tax-tips/amend-return/how-to-correct-federal-tax-returns/L67t0F7il , accessed December 12, 2022, INTUIT-FTC-PART3-000611392.
C-27	H&R Block, Put Block in Your Pocket with Our Tax Filing Apps, https://www.hrblock.com/mobile-apps/ , accessed October 12, 2022, INTUIT-FTC-PART3-000610248.
C-28	H&R Block, How Do I Import Last Year's Return Into My H&R Block Tax Software?, https://www.hrblock.com/tax-center/support/software/software-tax-filing/while-filing-software-return/importing-last-years-return/ , accessed July 22, 2022, INTUIT-FTC-PART3-000610014.
C-29	H&R Block, Your Security is Our Priority, https://www.hrblock.com/data-security/ , accessed October 13, 2022, INTUIT-FTC-PART3-000611913.
C-30	H&R Block, H&R Block Tax Identity Shield® Helps Protect Tax Identities, https://investors.hrblock.com/news-releases/news-release-details/hr-block-tax-

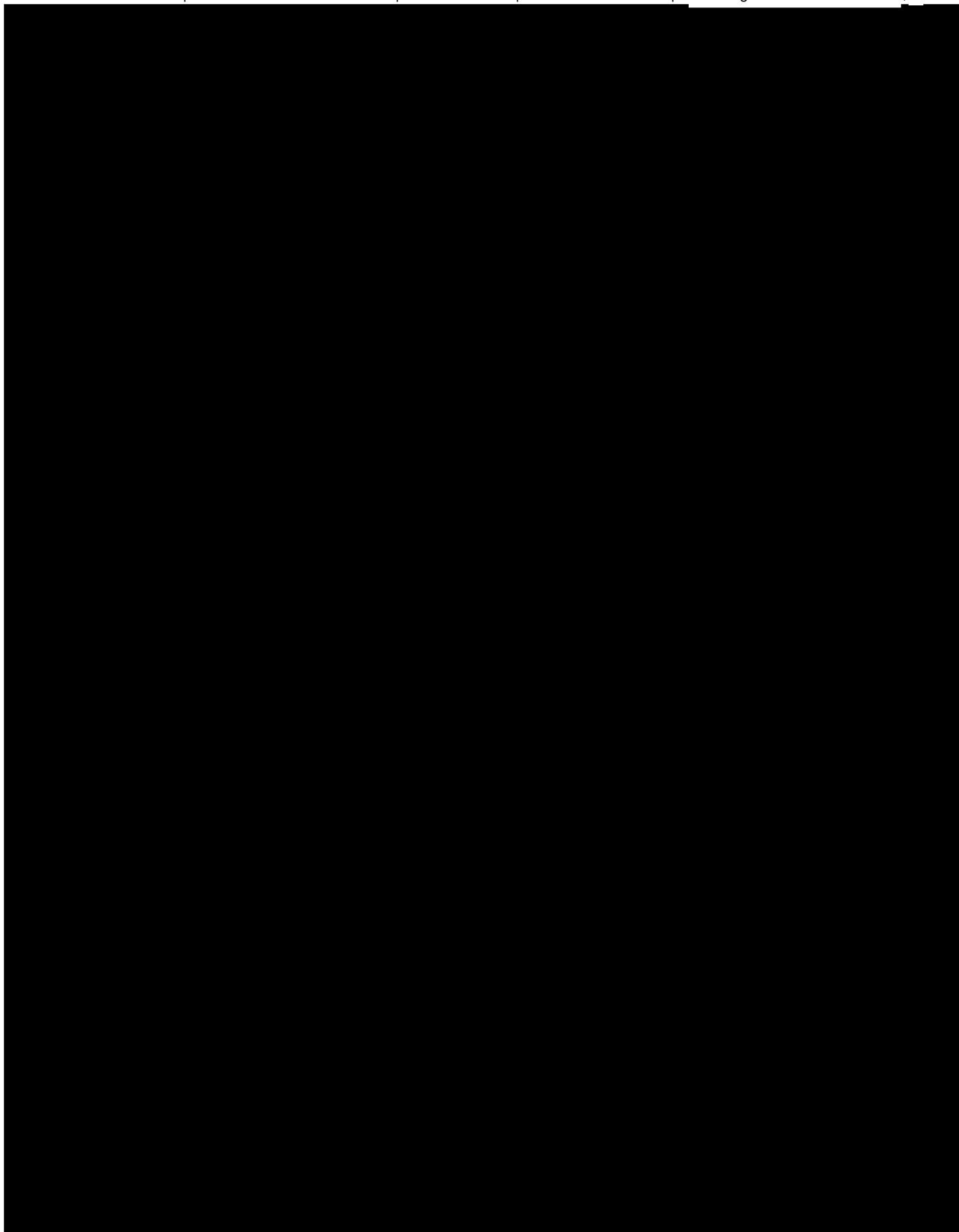
	identity-shieldr-helps-protect-tax-identities, accessed October 27, 2022, INTUIT-FTC-PART3-000612862.
C-31	H&R Block, Tax Identity Shield® Terms & Conditions, https://www.hrblock.com/tax-offices/product-services/pdf/tax-identity-shield-terms.pdf , accessed January 5, 2023, INTUIT-FTC-PART3-000612564.
C-32	H&R Block, H&R Block Accuracy of Tax Return Calculations, https://www.hrblock.com/online-tax-filing/guarantees/accuracy-of-calculations/ , accessed October 27, 2022, INTUIT-FTC-PART3-000611906.
C-33	H&R Block, Refund Advance, https://www.hrblock.com/offers/refund-advance/ , accessed October 27, 2022, INTUIT-FTC-PART3-000612387.
C-34	H&R Block, File an Amended Return Online with H&R Block, https://www.hrblock.com/tax-center/support/online/online-tax-filing/after-filing-online-return/amend-tax-return/ , accessed October 27, 2022, INTUIT-FTC-PART3-000610702.
C-35	Google Play, TaxSlayer: File Your Taxes, https://play.google.com/store/apps/details?id=com.taxslayerRFC&hl=en_US&gl=US , accessed October 27, 2022, INTUIT-FTC-PART3-000611463.
C-36	TaxSlayer, File on the Go with Our Free Tax App, https://www.taxslayer.com/tax-tools/mobile-apps/ , accessed October 27, 2022, INTUIT-FTC-PART3-000611389.
C-37	TaxSlayer, TaxSlayer Unmasks All New Brand Strategy, Putting the Customer at the Center, https://www.taxslayer.com/media-room/prdetails?articleID=122488 , accessed October 27, 2022, INTUIT-FTC-PART3-000611512.
C-38	TaxSlayer, How Do I Pull My Prior Year Information to the Current Year?, https://support.taxslayer.com/hc/en-us/articles/360015899211-How-do-I-pull-my-prior-year-information-to-the-current-year- , accessed October 27, 2022, INTUIT-FTC-PART3-000610576.
C-39	TaxSlayer, TaxSlayer Premium, https://www.taxslayer.com/products/taxslayer-premium/ , accessed October 27, 2022, INTUIT-FTC-PART3-000612986.
C-40	TaxSlayer, Audit Assistance, https://www.taxslayer.com/supportcenter/auditassistance , accessed October 27, 2022, INTUIT-FTC-PART3-000611236.
C-41	TaxSlayer, Your Security Is Our Priority, https://www.taxslayer.com/policies/security , accessed October 27, 2022, INTUIT-FTC-PART3-000611505.

C-42	TaxSlayer, TaxSlayer Pro Support Knowledgebase, https://support.taxslayerpro.com/hc/en-us/articles/360009168894-SecurelyID , accessed December 12, 2022, INTUIT-FTC-PART3-000610949.
C-43	TaxSlayer, Tax Identity Theft: How It Happens and Ways to Prevent It, https://www.taxslayer.com/blog/how-to-prevent-or-report-tax-identity-theft/ , accessed December 12, 2022, INTUIT-FTC-PART3-000611922.
C-44	TaxSlayer, Where's My Refund?, https://www.taxslayer.com/tax-tools/refund-status/ , accessed October 27, 2022, INTUIT-FTC-PART3-000611901.
C-45	TaxSlayer, Our Guarantees, https://www.taxslayer.com/policies/guarantees , accessed October 27, 2022, INTUIT-FTC-PART3-000610552.
C-46	TaxSlayer, Our Maximum Refund Guarantee, https://www.taxslayer.com/links/maxrefundguarantee , accessed October 27, 2022, INTUIT-FTC-PART3-000610173.
C-47	TaxSlayer, How Do I Amend My Federal/State Tax Return?, https://support.taxslayer.com/hc/en-us/articles/360015909411-How-do-I-amend-my-federal-state-tax-return- , accessed October 27, 2022, INTUIT-FTC-PART3-000611350.
C-48	Cash App Taxes, Credit Karma Tax is now Cash App Taxes, https://taxeshelp.cash.app/s/article/Cash-App-Taxes , accessed November 3, 2022, INTUIT-FTC-PART3-000613027.
C-49	Rounds, Cash App Taxes Review 2022 (Formerly Credit Karma Tax), https://thecollegeinvestor.com/39045/cash-app-taxes-review/ , accessed October 20, 2022, INTUIT-FTC-PART3-000610516.
C-50	Cash App Taxes, How to Import Last Year's Tax Return into Cash App Taxes, https://taxeshelp.cash.app/s/article/How-to-import-last-year-s-tax-return-into-Cash-App-Taxes/ , accessed September 28, 2022, INTUIT-FTC-PART3-000610021.
C-51	Martucci, Cash App Taxes Review - Prepare and File Your Taxes Online 100% Free, https://www.moneycrashers.com/cash-app-taxes-review/ , accessed November 3, 2022, INTUIT-FTC-PART3-000610707.
C-52	Acevedo, Cash App Taxes Review: Free, Simple Tax Prep for a Variety of Situations, https://www.businessinsider.com/personal-finance/cash-app-taxes-review , accessed November 3, 2022, INTUIT-FTC-PART3-000610930.
C-53	Cash App Taxes, Audit Defense When You File with Cash App Taxes, https://taxeshelp.cash.app/s/article/Audit-Defense-when-you-file-with-Cash-App-Taxes , accessed November 3, 2022, INTUIT-FTC-PART3-000610554.

C-54	Cash App Taxes, What are Your Security Practices?, https://taxeshelp.cash.app/s/article/What-are-your-security-practices , accessed November 3, 2022, INTUIT-FTC-PART3-000610228.
C-55	Cash App Taxes, \$1 Million Tax Audit Defense Membership Program Agreement, https://taxprotectionplus.com/sites/default/files_xvdb/TPP.CashApp.Taxes_.Membership.Agreement.TY2021.pdf , accessed January 5, 2023, INTUIT-FTC-PART3-000612589.
C-56	Cash App Taxes, About Our Maximum Refund Guarantee, https://taxeshelp.cash.app/s/article/About-our-Maximum-Refund-Guarantee , accessed November 3, 2022, INTUIT-FTC-PART3-000611524.
C-57	Cash App Taxes, About Our Accurate Calculations Guarantee, https://taxeshelp.cash.app/s/article/About-our-Accurate-Calculations-Guarantee , accessed November 3, 2022, INTUIT-FTC-PART3-000610457.
C-58	Cash App Taxes, How Do I File an Amended Federal Return? Form 1040X, https://taxeshelp.cash.app/s/article/How-do-I-file-an-amended-federal-return-Form-1040X , accessed November 3, 2022, INTUIT-FTC-PART3-000612401.
C-59	Intuit, TurboTax 2021-2022 Online Tax Software, https://turbotax.intuit.com/personal-taxes/online/ , accessed August 1, 2022, INTUIT-FTC-PART3-000612599.
C-60	H&R Block, H&R Block Online Deluxe Federal Forms, https://www.hrblock.com/pdf/HRB-Online-Fed-Forms/deluxe.pdf , accessed January 5, 2023, INTUIT-FTC-PART3-000612993.
C-61	Intuit, Why Use TurboTax Live Self-Employed?, https://web.archive.org/web/20221118205338/https://turbotax.intuit.com/personal-taxes/online/live/self-employed.jsp , accessed January 5, 2023, INTUIT-FTC-PART3-000611455.
C-62	TaxAct, TaxAct Free, https://www.taxact.com/individual-taxes/online/free , accessed October 26, 2022, INTUIT-FTC-PART3-000612850.
C-63	TaxAct, TaxAct Deluxe, https://www.taxact.com/individual-taxes/online/deluxe , accessed October 26, 2022, INTUIT-FTC-PART3-000612760.
C-64	TaxAct, TaxAct Premier, https://www.taxact.com/individual-taxes/online/premier , accessed October 26, 2022, INTUIT-FTC-PART3-000610219.
C-65	TaxAct, TaxAct Self-Employed, https://www.taxact.com/individual-taxes/online/self-employed , accessed October 26, 2022, INTUIT-FTC-PART3-000610721.

C-66	TaxAct, Preparing Your State Return, https://www.taxact.com/support/521/2021/preparing-your-state-return?hideLayout=False , accessed November 4, 2022, INTUIT-FTC-PART3-000611631.
C-67	TaxAct, State Part-Year/Non-Resident Form Availability, https://www.taxact.com/support/436/2016/state-part-year-non-resident-form-availability , accessed October 28, 2022, INTUIT-FTC-PART3-000610938.
C-68	TaxHawk, Supported Federal Tax Forms, https://www.taxhawk.com/federal-forms.jsp , accessed October 27, 2022, INTUIT-FTC-PART3-000612520.
C-69	FreeTaxUSA, Where Do I Enter Cryptocurrency Held for Investment?, https://www.freetaxusa.com/help/display_faq.jsp?faq_id=8535 , accessed October 27, 2022, INTUIT-FTC-PART3-000610027.
C-70	Rounds, TaxHawk 2022 Review, https://thecollegeinvestor.com/20857/taxhawk-review/ , accessed November 4, 2022, INTUIT-FTC-PART3-000610467.
C-71	ScamRisk, FreeTaxUSA Review, https://www.scamrisk.com/freetaxusa/ , accessed October 27, 2022, INTUIT-FTC-PART3-000612535.
C-72	TaxSlayer, TaxSlayer Self-Employed, https://www.taxslayer.com/products/taxslayer-self-employment-taxes/ , accessed November 4, 2022, INTUIT-FTC-PART3-000610684.
C-73	Intuit, What is MAX?, https://ttlc.intuit.com/turbotax-support/en-us/help-article/intuit-product-orders/max/L0Bc4Ve2l_US_en_US , accessed July 8, 2022, INTUIT-FTC-PART3-000612595.
C-74	Parys and Orem, TurboTax Review 2022, https://www.nerdwallet.com/article/taxes/turbotax-review , accessed January 9, 2023, INTUIT-FTC-PART3-000610939.
C-75	Intuit, Why Use TurboTax Live Basic?, https://web.archive.org/web/20221009154729/https://turbotax.intuit.com/personal-taxes/online/live/basic.jsp , accessed January 5, 2023, INTUIT-FTC-PART3-000613009.
C-76	Intuit, Why Use TurboTax Live Deluxe?, https://web.archive.org/web/20221015024518/https://turbotax.intuit.com/personal-taxes/online/live/deluxe.jsp , accessed January 5, 2023, INTUIT-FTC-PART3-000610645.
C-77	Intuit, Why Use TurboTax Live Premier?, https://web.archive.org/web/20221010055634/https://turbotax.intuit.com/personal-

	taxes/online/live/premier.jsp, accessed January 5, 2023, INTUIT-FTC-PART3-000612411.
C-78	H&R Block, File Online. Basic Online Assist, https://www.hrblock.com/online-tax-filing/basic-online-assist-tax-filing/# , accessed November 4, 2022, INTUIT-FTC-PART3-000613199.
C-79	H&R Block, File Online. Premium Online Assist, https://web.archive.org/web/20220524121833/https://www.hrblock.com/online-tax-filing/premium-online-assist-tax-filing/ , accessed January 5, 2023, INTUIT-FTC-PART3-000612483.
C-80	H&R Block, When Filing Online, Expert Help is Here, https://www.hrblock.com/online-assist/ , accessed October 27, 2022, INTUIT-FTC-PART3-000612501.
C-81	TaxAct, TaxAct Express™ for iPhone®, https://www.taxact.com/mobile-taxes , accessed November 3, 2022, INTUIT-FTC-PART3-000611920.
C-82	TaxAct, We're Here to Help, https://www.taxact.com/support/request , accessed November 4, 2022, INTUIT-FTC-PART3-000611510.
C-83	TaxAct, Most Popular Help Topics, https://www.taxact.com/support , accessed November 3, 2022, INTUIT-FTC-PART3-000616979.
C-84	TaxAct, xpertAssist, https://www.taxact.com/tax-xpert-assist , accessed October 28, 2022, INTUIT-FTC-PART3-000610488.
C-85	TaxAct, ProtectionPlus Audit Defense, https://www.taxact.com/support/24912/2021/protectionplus-audit-defense , accessed November 3, 2022, INTUIT-FTC-PART3-000610514.
C-86	TaxAct, TaxAct® Guarantees, https://www.taxact.com/company/guarantees , accessed November 4, 2022, INTUIT-FTC-PART3-000611921.
C-87	TaxAct, Form 1041 - Amending, https://www.taxact.com/support/24691/2021/form-1041-amending?hideLayout=False , accessed January 5, 2023, INTUIT-FTC-PART3-000610928.
C-88	TaxAct, Expert Tax Advice on All Returns for \$0!, https://www.taxact.com/?version=091522gl&ref=none , accessed October 20, 2022, INTUIT-FTC-PART3-000612465.
C-89	TaxHawk, Free Tax Software, https://www.taxhawk.com/software.jsp?gclid=EAIaIQobChMIuqOE1bWT-



	Online-Fed-Forms/self-employed.pdf, accessed January 6, 2023, INTUIT-FTC-PART3-000611410.
C-102	H&R Block, Support, https://www.hrblock.com/tax-center/support/ , accessed January 7, 2023, INTUIT-FTC-PART3-000616848.

APPENDIX D
Technical Appendix

In this Technical Appendix, I provide notes and sources for the figures and analyses presented in my expert report. This appendix is structured in the following way. **Section I** provides the notes and sources to each Figure and **Section II** describes the underlying datasets used in these analyses.

Table of Contents

I. Figures.....2

II. Data Summary.....27

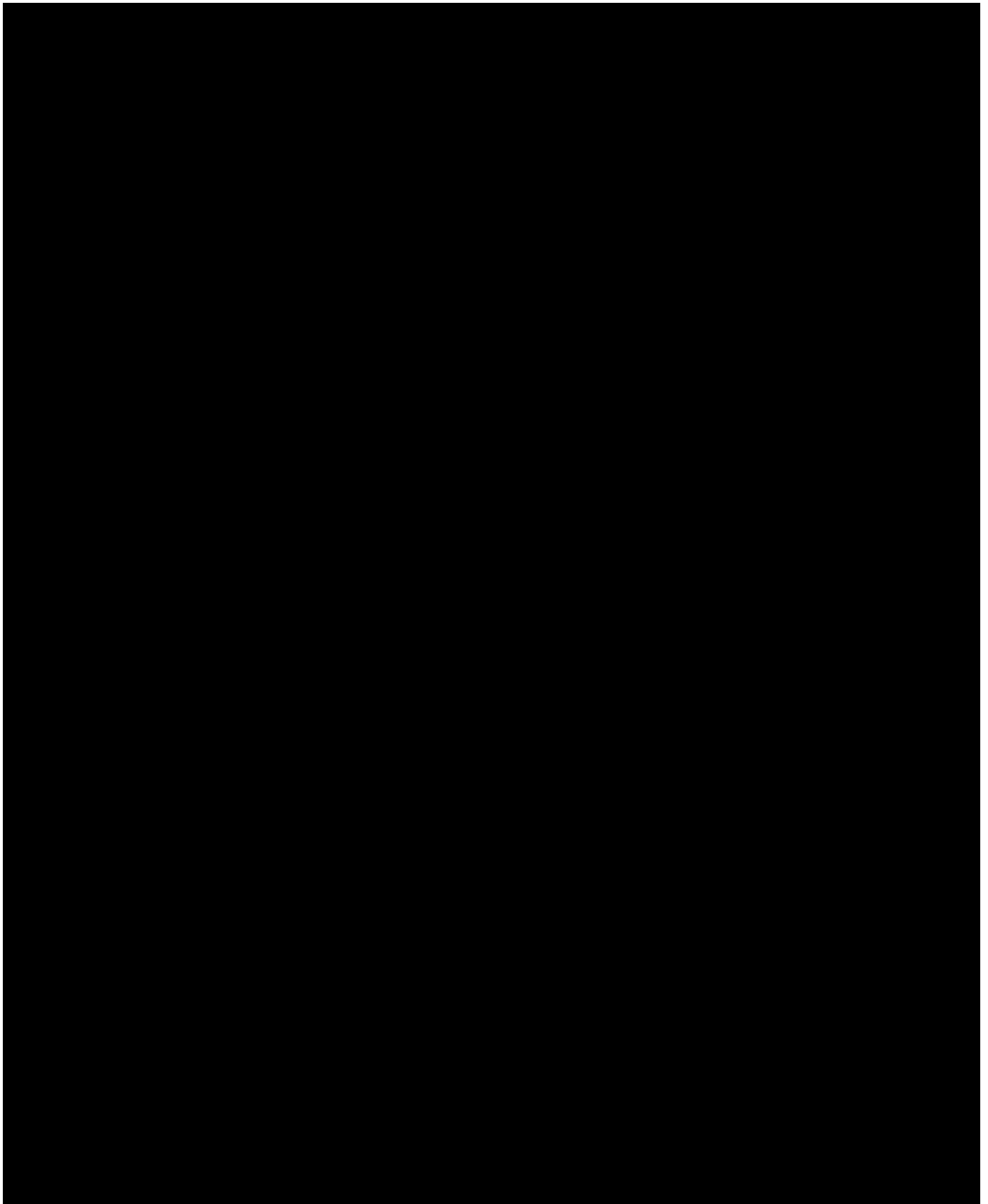
 A. Customer-Level Data 27

 B. Upgrade Screen Data 33

 C. Customer Review Data 36

 D. Paid Search Data..... 37

 E. Complainant Tax History Data 38



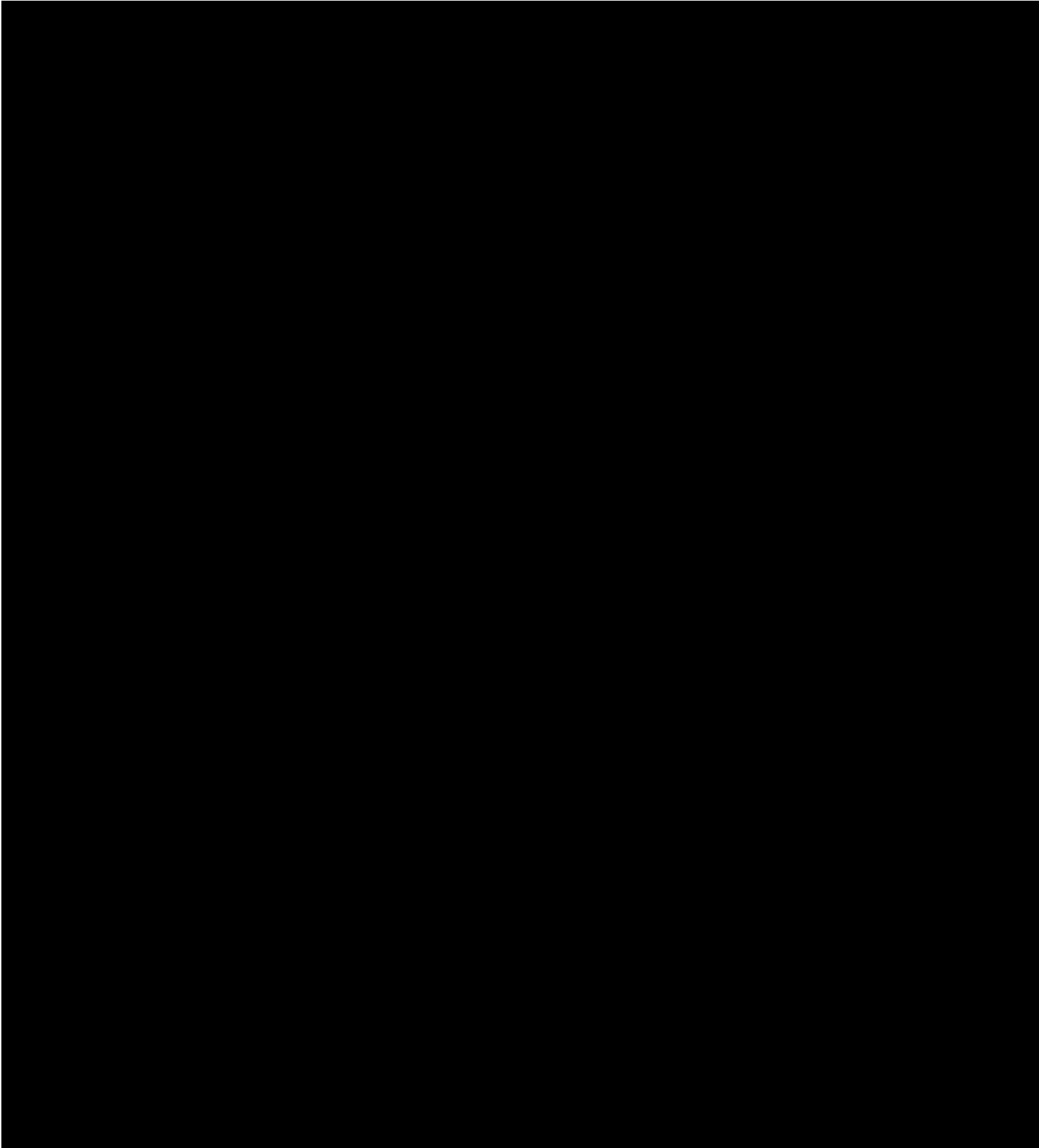



Figure 2
TurboTax Product Lineup, TY21

You can do it




Real experts help or do it for you



America's #1 brand of tax software

Free Edition	Deluxe	Premier	Self-Employed
Simple tax returns only See if you qualify	Maximize tax deductions and credits	Investments and rental property	Personal & business income and expenses
\$0 Fed. \$0 State. \$0 to File.	\$59* <small>State additional</small>	\$89* <small>State additional</small>	\$119* <small>State additional</small>
File for \$0	Start for free <small>Pay only when you file</small>	Start for free <small>Pay only when you file</small>	Start for free <small>Pay only when you file</small>
★★★★★ <small>(4.9 68,837 reviews)</small>	★★★★★ <small>(4.5 63,252 reviews)</small>	★★★★★ <small>(4.4 16,466 reviews)</small>	★★★★★ <small>(4.7 18,490 reviews)</small>

You can do it



Real experts help or do it for you

<p>Get expert advice as you do your taxes, with a final review</p> <p>Learn more about TurboTax Live</p> <div style="display: flex; align-items: center;"> <div style="border: 1px solid black; border-radius: 50%; padding: 5px; text-align: center; width: 30px; height: 30px; margin-right: 5px;"> <p style="font-size: 8px; margin: 0;">EXPERT APPROVED GUARANTEE</p> </div> <div> <p>Claudell, Tax Expert 23yrs</p>  </div> </div> <p>Compare these products ></p>	<p>LIVE Basic</p> <p>Simple tax returns only See if you qualify</p> <p>\$79* <small>State additional</small></p> <p style="text-align: center;">Start for free <small>Pay only when you file</small></p> <p style="text-align: center;">★★★★★ <small>(4.9 26,064 reviews)</small></p>	<p>LIVE Deluxe</p> <p>Maximize deductions & credits</p> <p>\$119* <small>State additional</small></p> <p style="text-align: center;">Start for free <small>Pay only when you file</small></p> <p style="text-align: center;">★★★★★ <small>(4.7 38,345 reviews)</small></p>	<p>LIVE Premier</p> <p>Investments & rental property</p> <p>\$169* <small>State additional</small></p> <p style="text-align: center;">Start for free <small>Pay only when you file</small></p> <p style="text-align: center;">★★★★★ <small>(4.6 8,847 reviews)</small></p>	<p>LIVE Self-Employed</p> <p>Personal & business income/expenses</p> <p>\$199* <small>State additional</small></p> <p style="text-align: center;">Start for free <small>Pay only when you file</small></p> <p style="text-align: center;">★★★★★ <small>(4.7 12,692 reviews)</small></p>	
	UPGRADE TO FULL SERVICE				
	<p>LIVE Full Service</p> <p>Upgrade and let a tax expert do your taxes for you</p> <p>Learn more about Full Service</p> <div style="display: flex; align-items: center;"> <div style="border: 1px solid black; border-radius: 50%; padding: 5px; text-align: center; width: 30px; height: 30px; margin-right: 5px;"> <p style="font-size: 8px; margin: 0;">EXPERT APPROVED GUARANTEE</p> </div> <div style="margin-left: 10px;"> <p><i>Neil</i> Neil, CPA 16yrs</p>  </div> </div> <p>Compare these products ></p>	<p>LIVE Basic</p> <p>Simple tax returns only See if you qualify</p> <p>Full Service \$199* <small>State additional</small></p> <p style="text-align: center;">Start Full Service</p> <p style="text-align: center;">★★★★★ <small>(4.8 6,530 reviews)</small></p>	<p>LIVE Deluxe</p> <p>Maximize deductions & credits</p> <p>Full Service \$249* <small>State additional</small></p> <p style="text-align: center;">Start Full Service</p> <p style="text-align: center;">★★★★★ <small>(4.7 3,757 reviews)</small></p>	<p>LIVE Premier</p> <p>Investments & rental property</p> <p>Full Service \$359* <small>State additional</small></p> <p style="text-align: center;">Start Full Service</p> <p style="text-align: center;">★★★★★ <small>(4.6 2,572 reviews)</small></p>	<p>LIVE Self-Employed</p> <p>Personal & business income/expenses</p> <p>Full Service \$389* <small>State additional</small></p> <p style="text-align: center;">Start Full Service</p> <p style="text-align: center;">★★★★★ <small>(4.7 1,475 reviews)</small></p>

Source:

[1] Intuit, TurboTax 2021-2022 Online Tax Software, <https://turbotax.intuit.com/personal-taxes/online/>, accessed August 1, 2022, INTUIT-FTC-PART3-000612599.

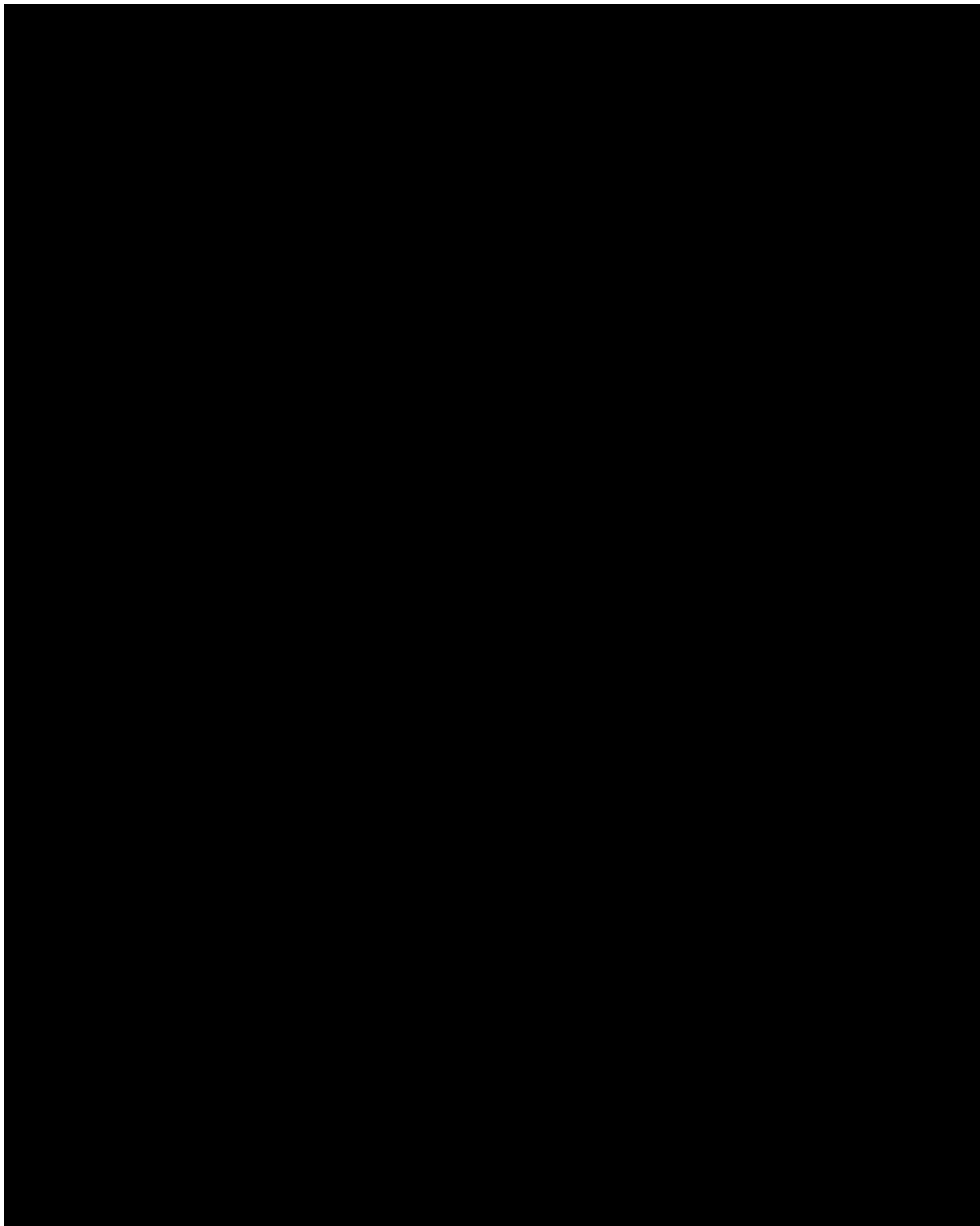


Figure 4
List of 128 Tax Forms and Schedules Supported by TurboTax
Self-Employed Products as of July 2022

Form 1040	Form 4852	Form 8936
Form 1040-ES	Form 4868	Form 8938
Form 1040-V	Form 4952/AMT	Form 8941
Form 1040X	Form 4972	Form 8949
Form 1095-A	Form 5329	Form 8958
Form 1098	Form 5405	Form 8959
Form 1098-C	Form 5695	Form 8960
Form 1098-E	Form 6198	Form 8962
Form 1098-T	Form 6251	Form 8994
Form 1099-A	Form 6252	Form 8995
Form 1099-B	Form 6781	Form 8995-A
Form 1099-C	Form 8283	Form 8995-A Sch A
Form 1099-DIV	Form 8332	Form 8995-A Sch B
Form 1099-G	Form 8379	Form 8995-A Sch C
Form 1099-INT	Form 8396	Form 8995-A Sch D
Form 1099-K	Form 8453	Form 9465
Form 1099-MISC	Form 8582/AMT/CR	Form 982
Form 1099-NEC	Form 8586	Form SS-4
Form 1099-OID	Form 8606	Form W-2
Form 1099-Q	Form 8615	Form W-2G
Form 1099-R	Form 8801	Form W-4
Form 1099-SA	Form 8814	Schedule 1
Form 1116/AMT	Form 8815	Schedule 2
Form 1310	Form 8822	Schedule 3
Form 14039	Form 8824	Schedule 8812
Form 2106	Form 8829	Schedule A
Form 2120	Form 8834	Schedule B
Form 2210-F	Form 8839	Schedule C
Form 2210/2210AI	Form 8853	Schedule D
Form 2439	Form 8857	Schedule E
Form 2441	Form 8859	Schedule EIC
Form 2555	Form 8862	Schedule F
Form 3468	Form 8863	Schedule H
Form 3800	Form 8880	Schedule J
Form 3903	Form 8881	Schedule LEP
Form 4136	Form 8885	Schedule R
Form 4137	Form 8888	Schedule SE
Form 4255	Form 8889	Schedules K-1 (Form 1041)
Form 4506	Form 8910	Schedules K-1 (Form 1065)
Form 4562	Form 8911	Schedules K-1 (Form 1120S)
Form 4684	Form 8915A	Schedules K-3 (Form 1065)
Form 4797	Form 8915B	Schedules K-3 (Form 1120S)
Form 4835	Form 8919	

Source:

[1] Intuit, TurboTax Free Edition Tax Forms, <https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp#tax-forms>, accessed July 25, 2022, INTUIT-FTC-PART3-000610436.

Figure 5
TurboTax TY21 Products & Pricing Page

Let's find the right tax solution for you

Select all that apply for a recommendation:

I want to maximize deductions and credits

I want a tax expert to do my taxes for me

I have a job (received W-2)

I paid rent

I own a home

I have children or dependents

I want a tax expert to review my return

I donated over \$300 to charity

I'm paying off student loans

I sold stock, crypto, or own rental property

I'm self-employed/an independent contractor

I own a small business

Am I self-employed?

You can do it

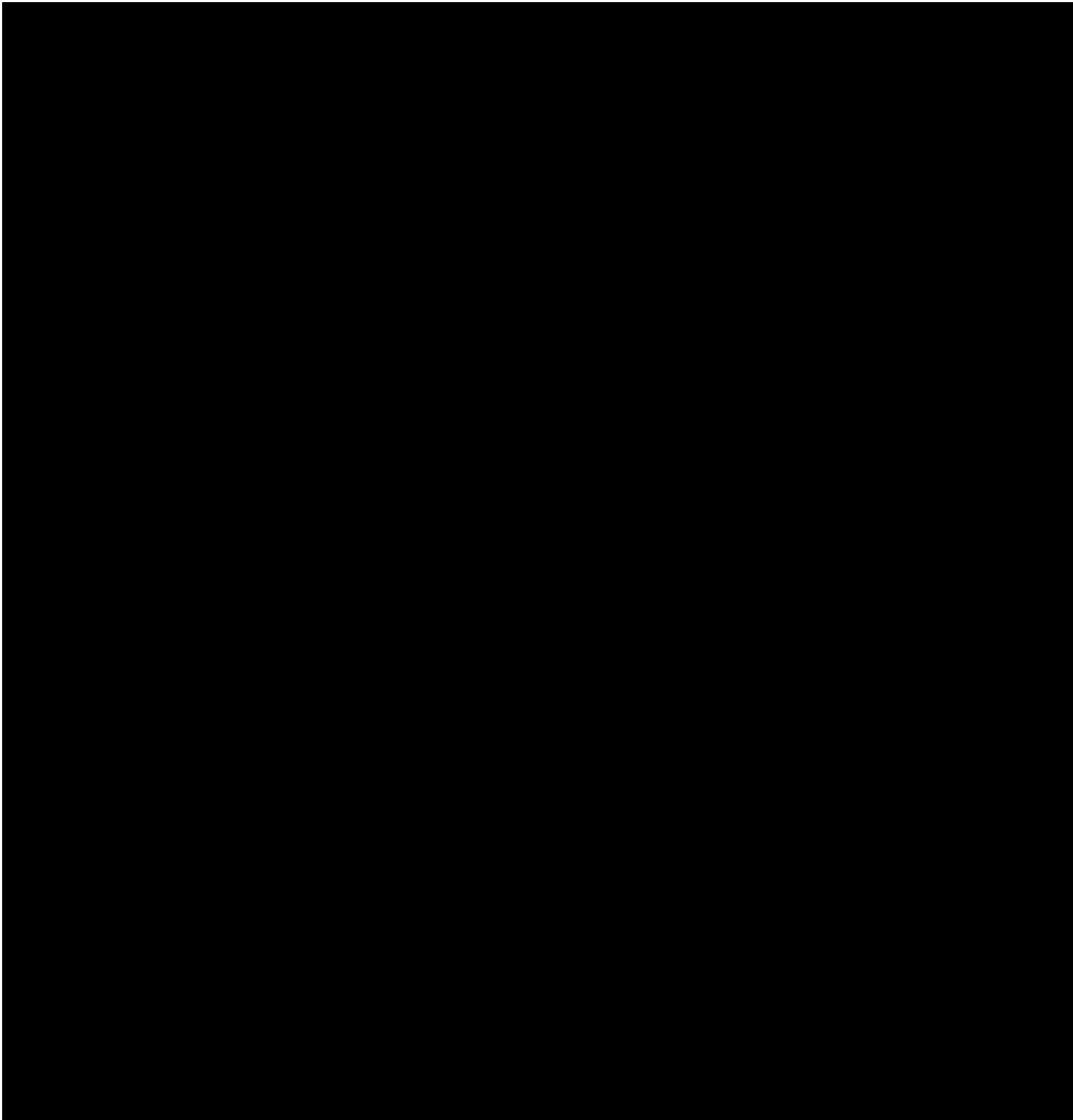
Real experts help or do it for you

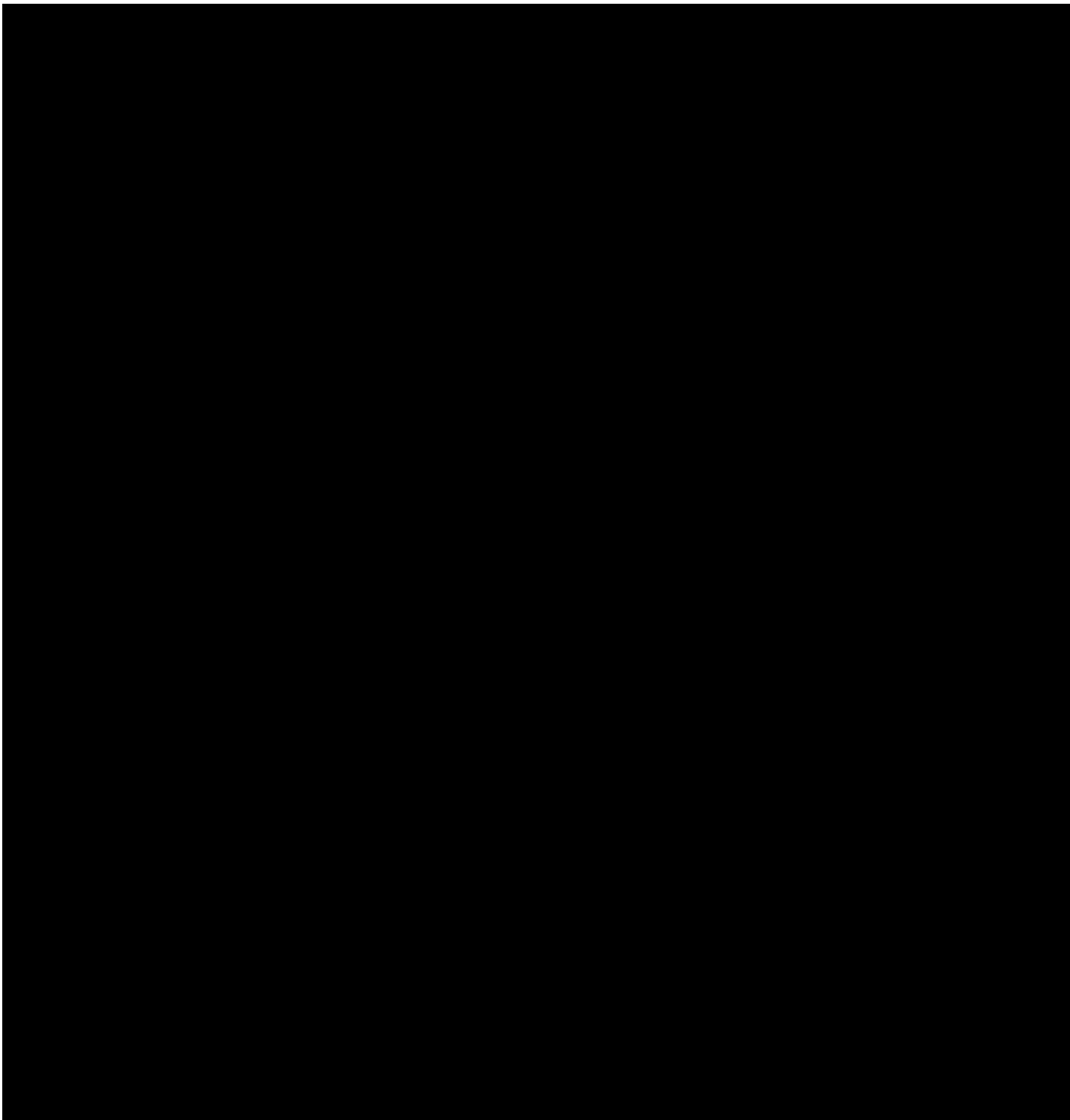
America's #1 brand of tax software

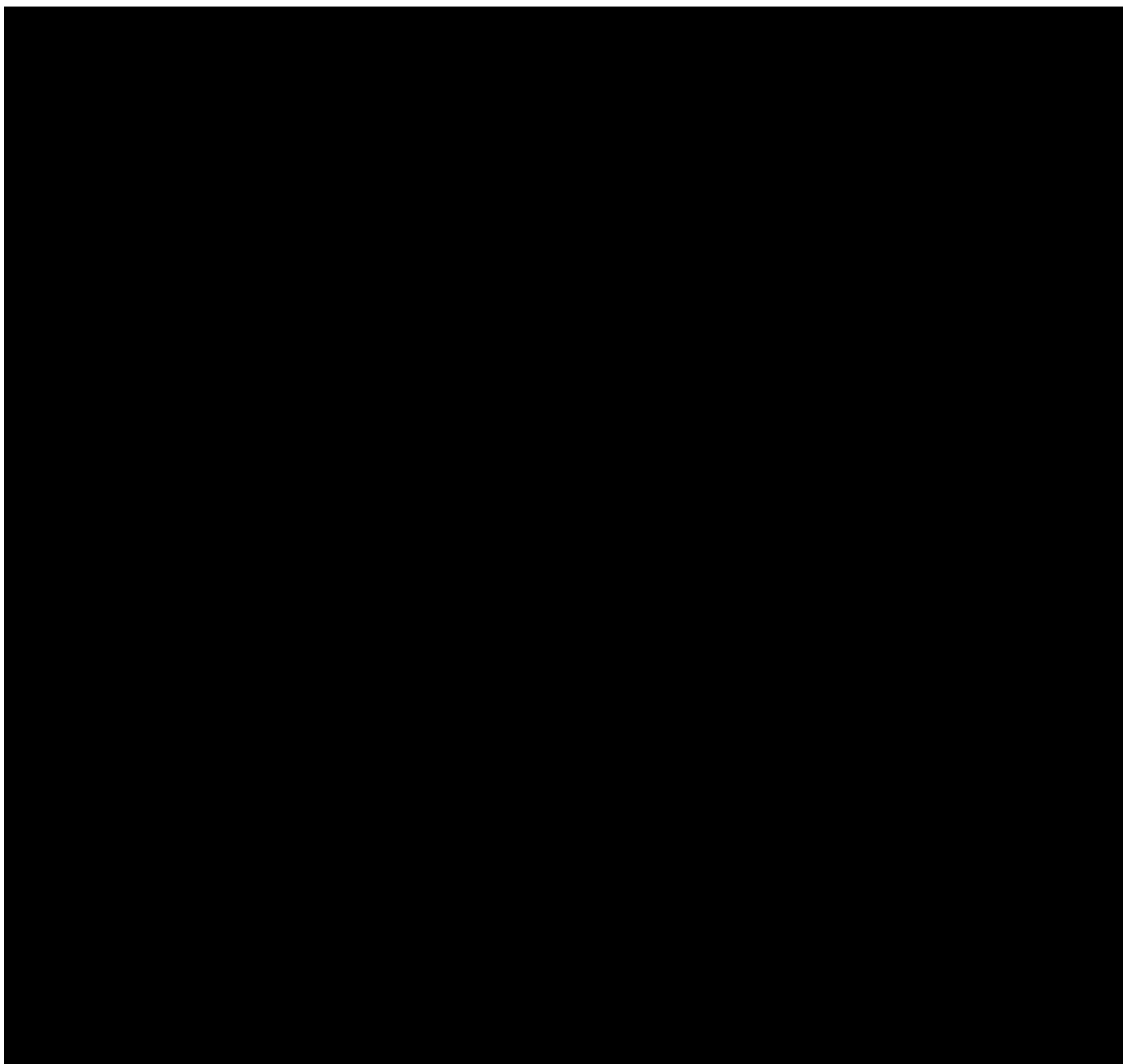
Free Edition	Deluxe	Premier	Self-Employed
Simple tax returns only See if you qualify	Maximize tax deductions and credits	Investments and rental property	Personal & business income and expenses
\$0 Fed. \$0 State. \$0 to File.	\$59* <small>State additional</small>	\$89* <small>State additional</small>	\$119* <small>State additional</small>
File for \$0	Start for free Pay only when you file	Start for free Pay only when you file	Start for free Pay only when you file
★★★★★ (4.9 68,837 reviews)	★★★★★ (4.5 63,252 reviews)	★★★★★ (4.4 16,466 reviews)	★★★★★ (4.7 18,490 reviews)

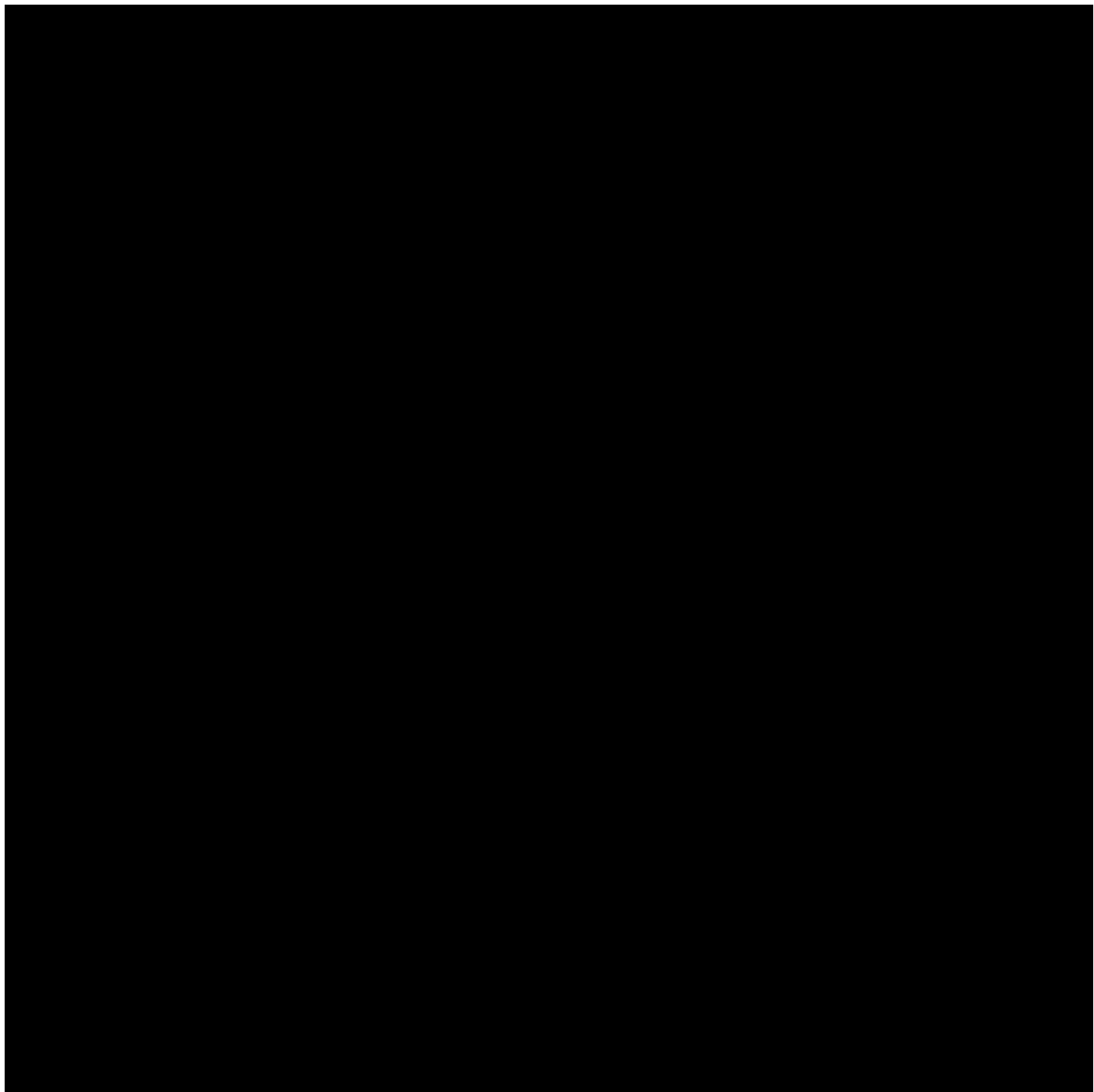
Source:

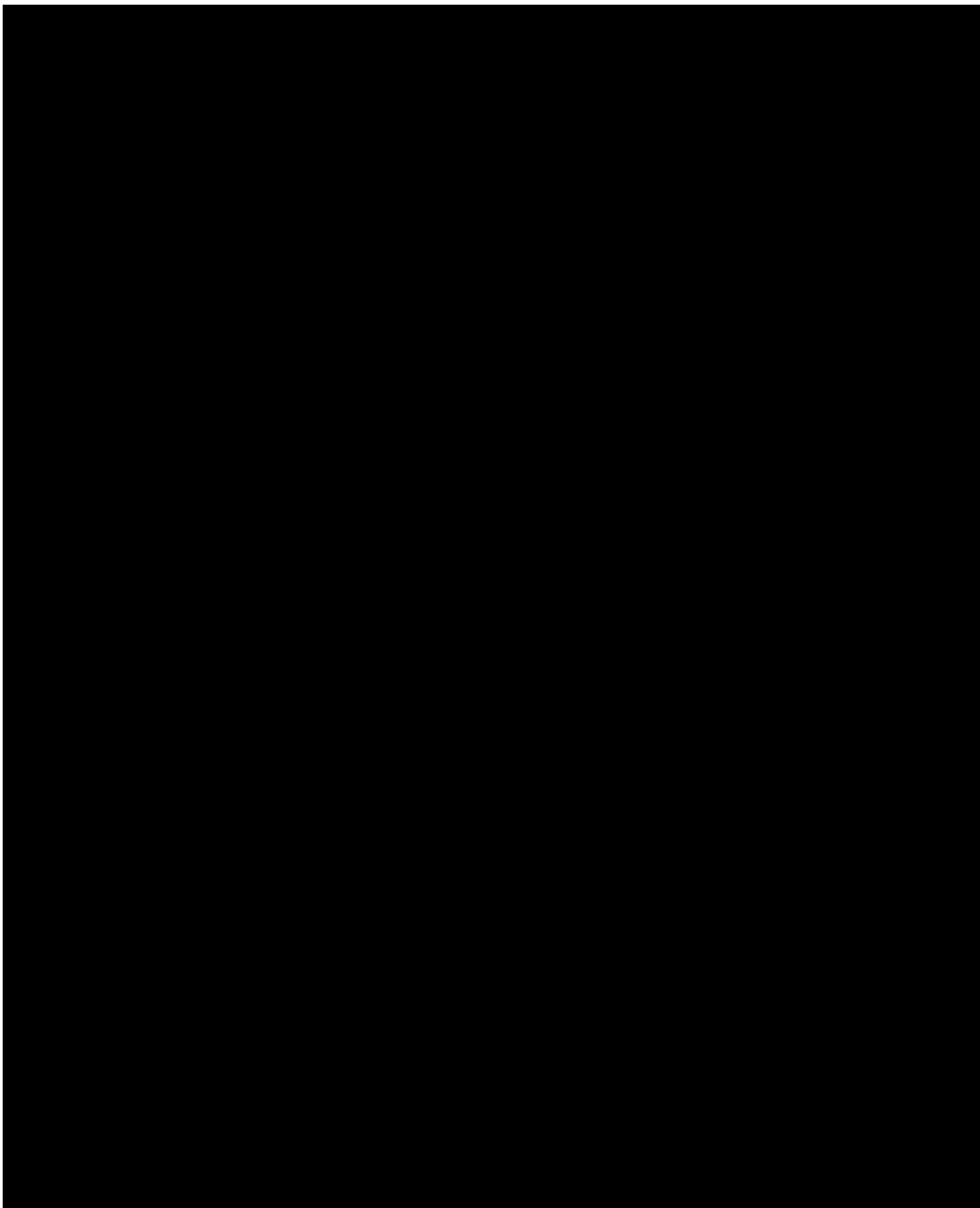
[1] Intuit, TurboTax 2021-2022 Online Tax Software, <https://turbotax.intuit.com/personal-taxes/online/>, accessed August 1, 2022, INTUIT-FTC-PART3-000612599.



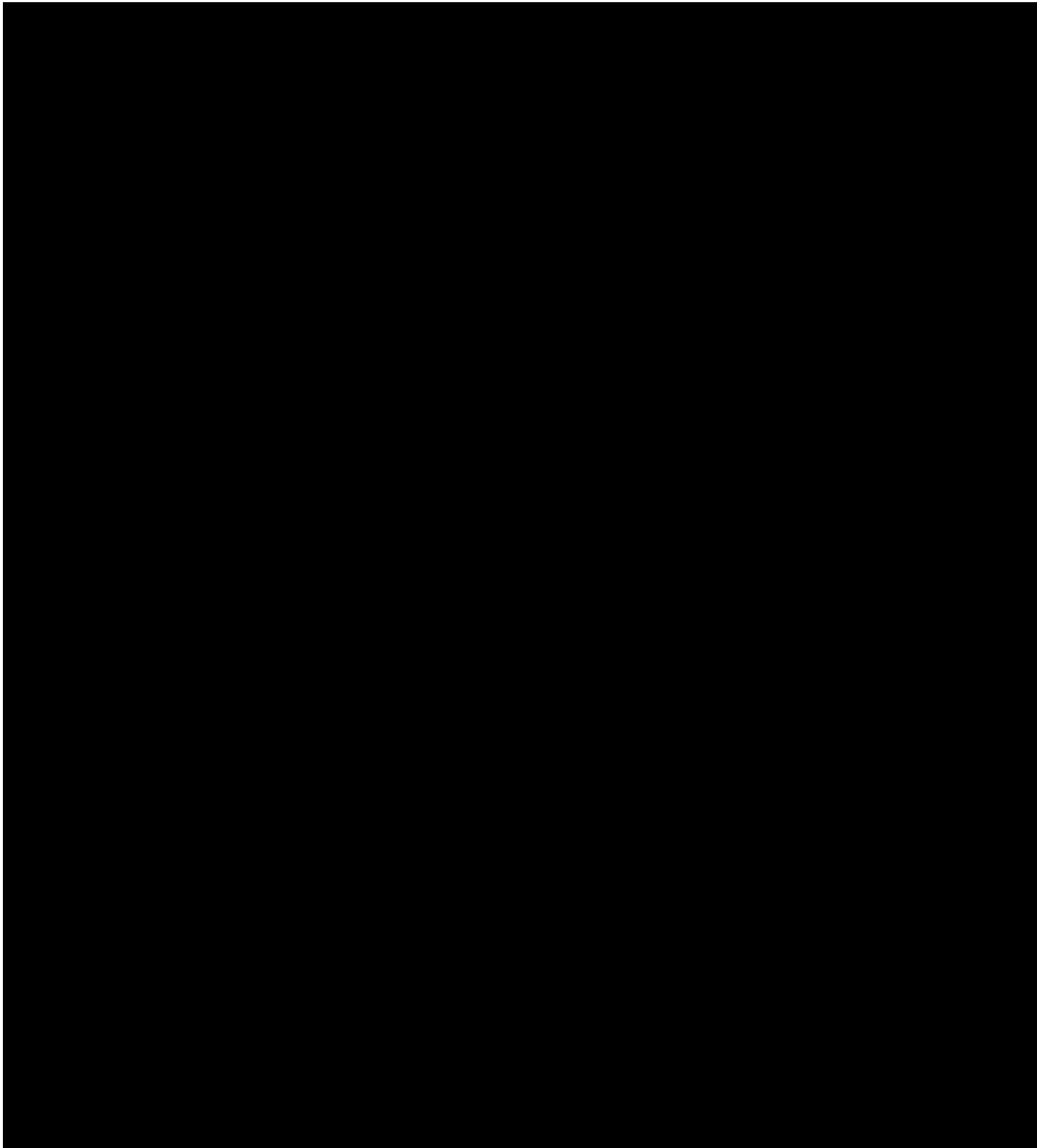


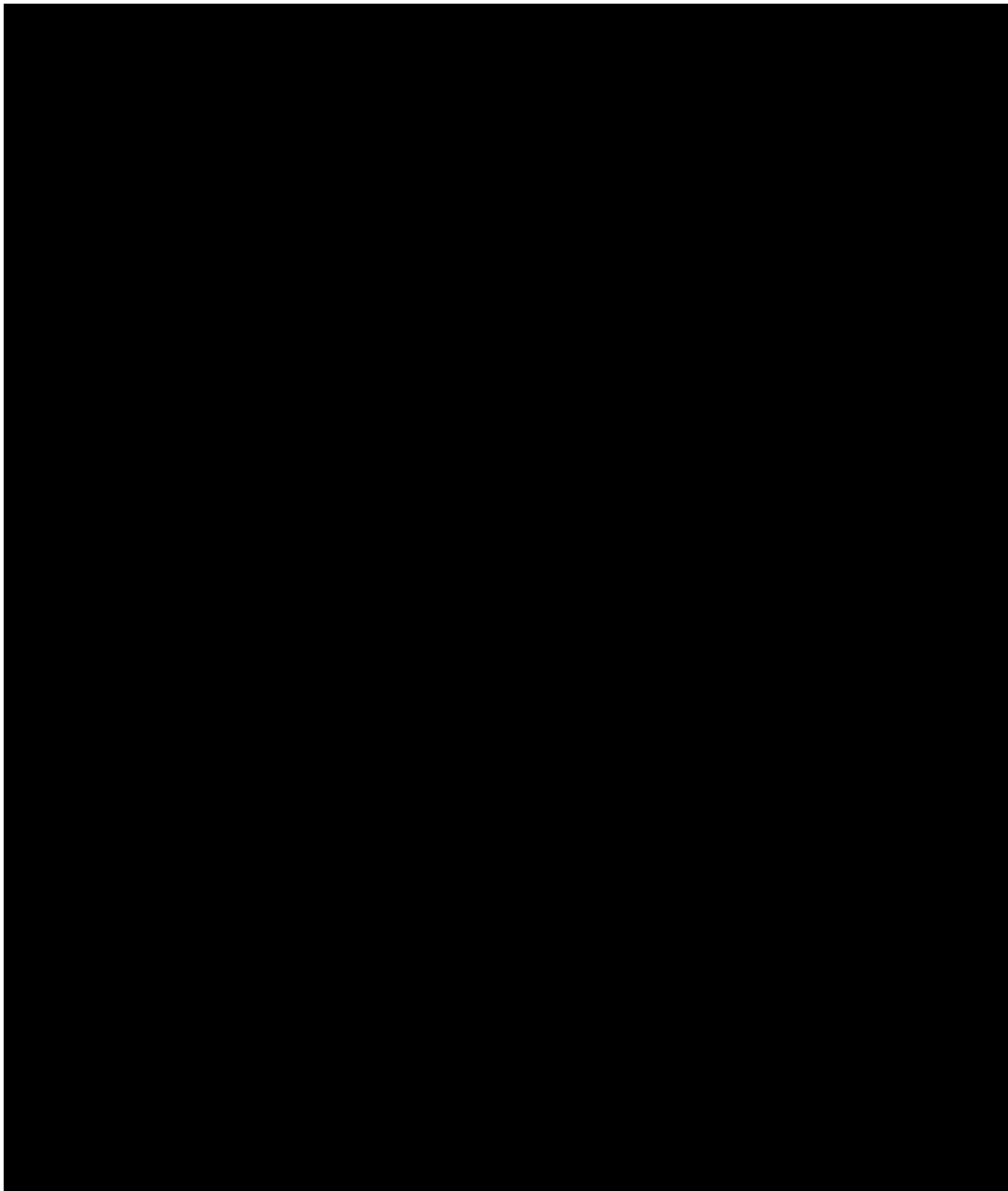


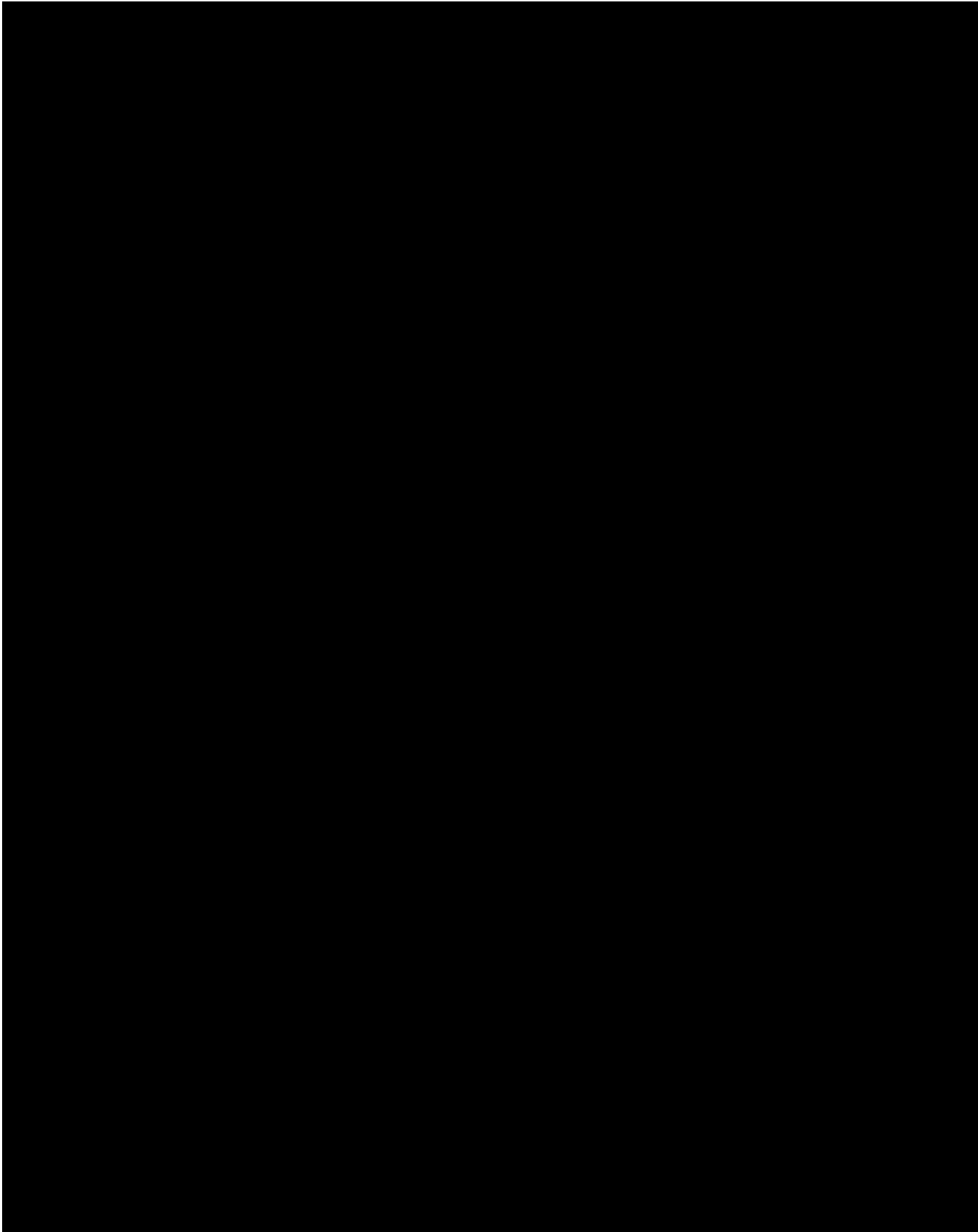


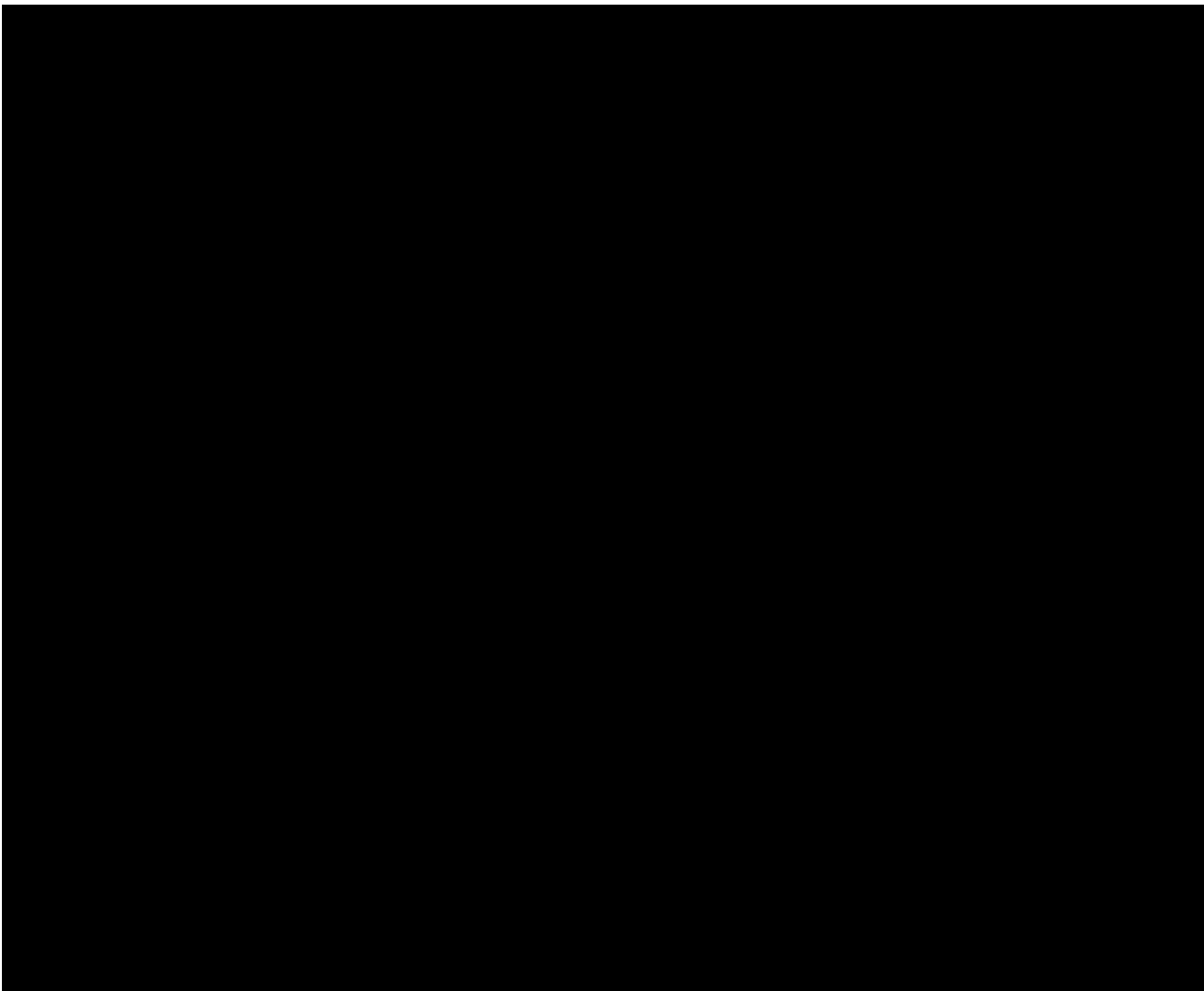


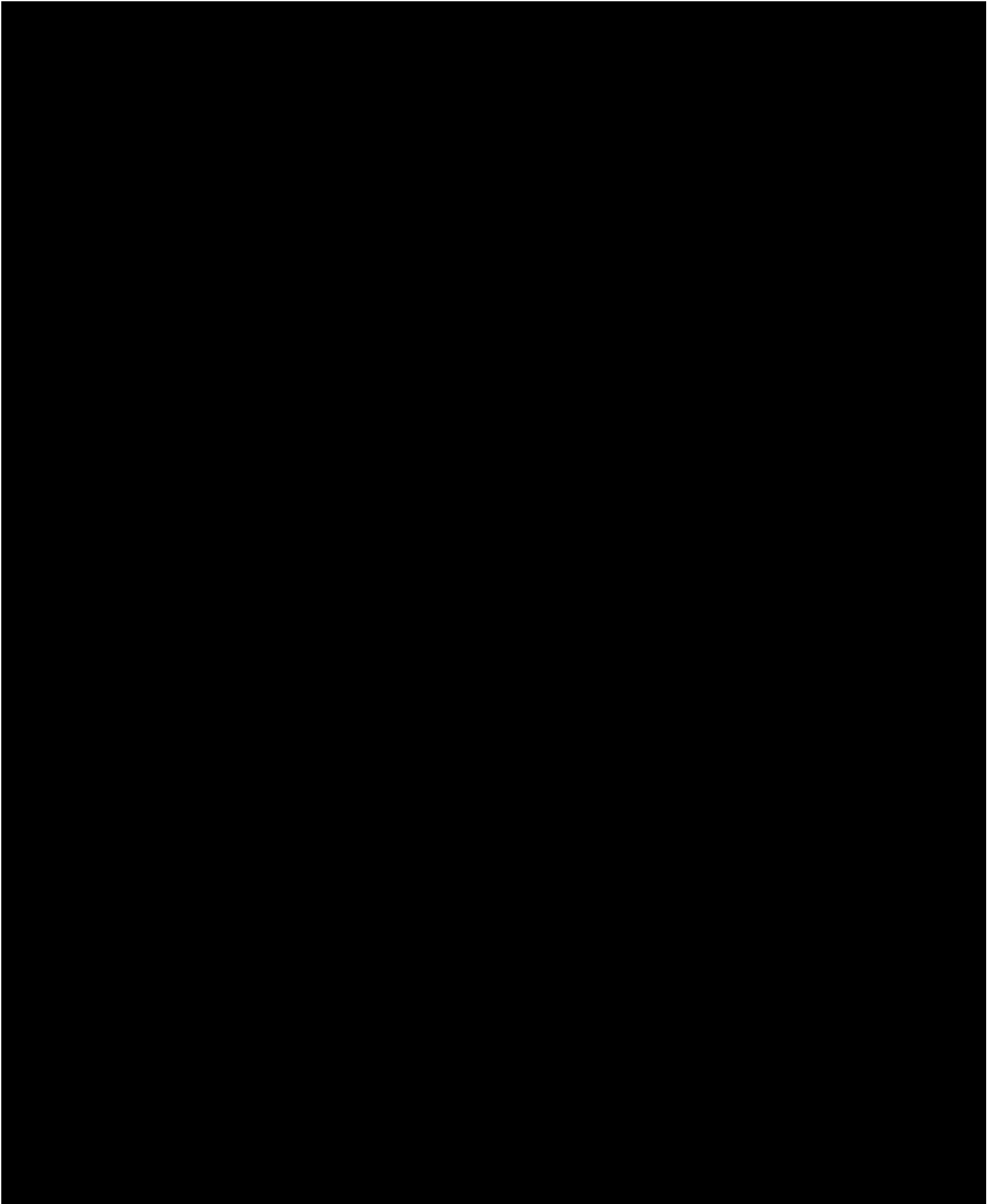


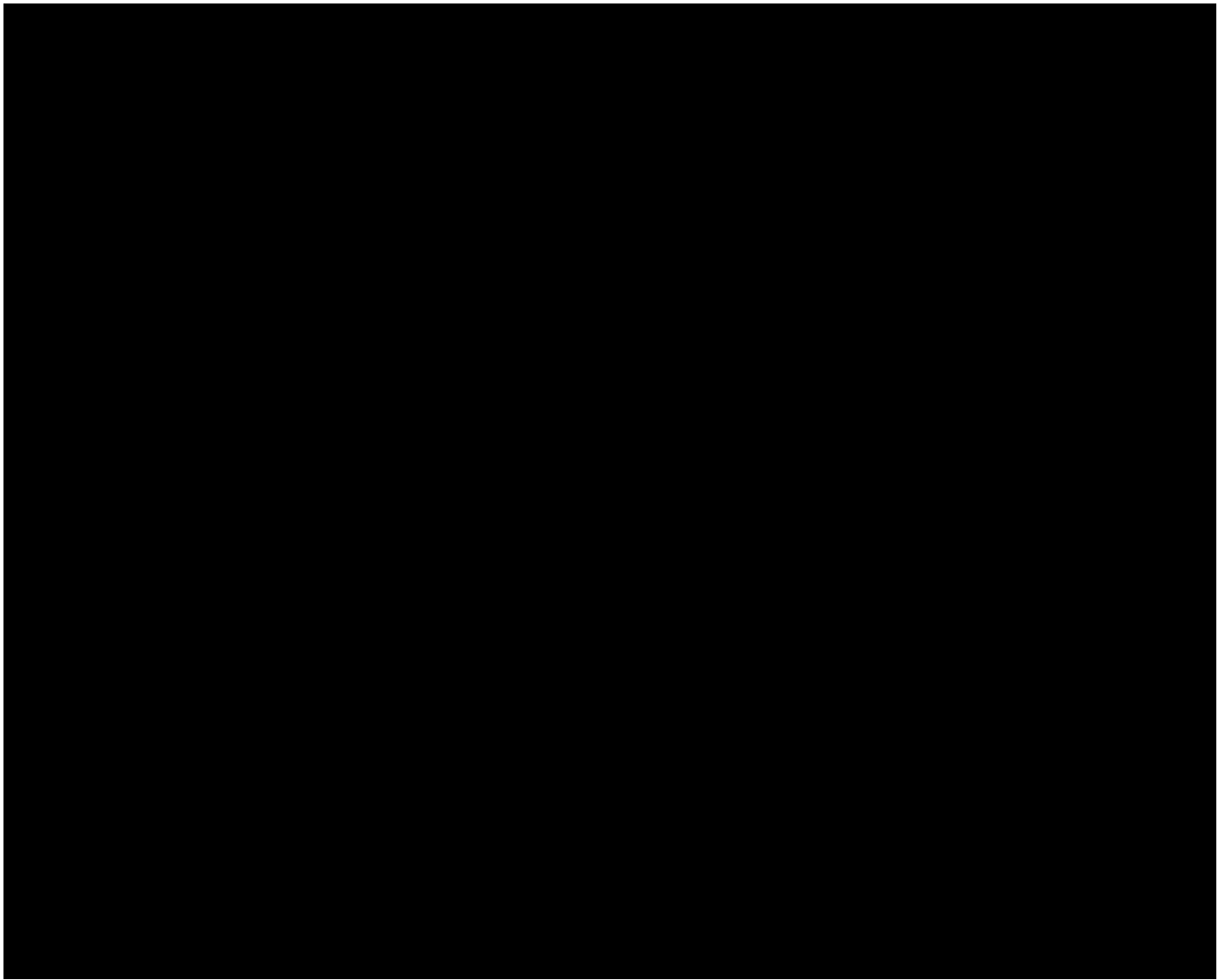


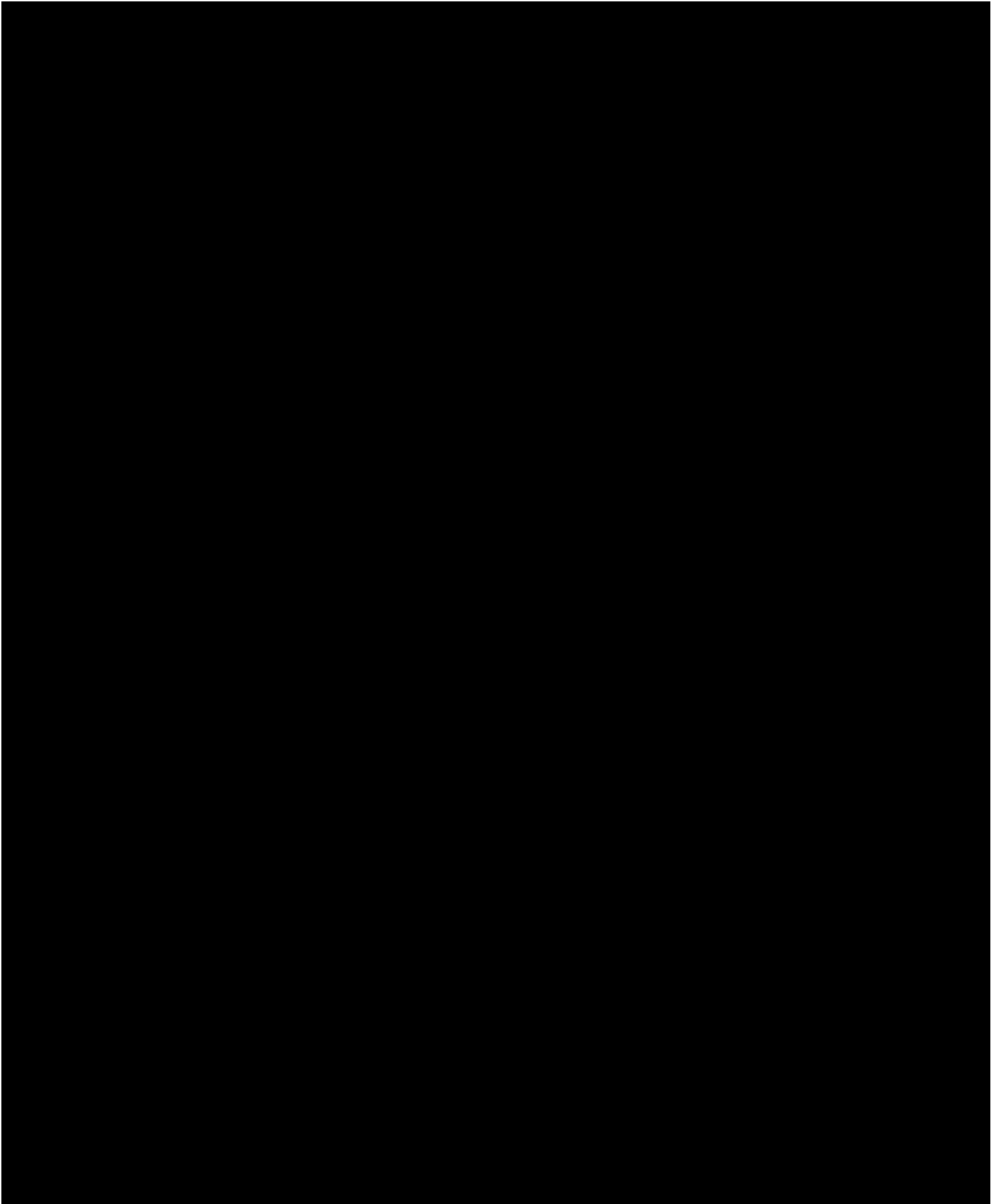


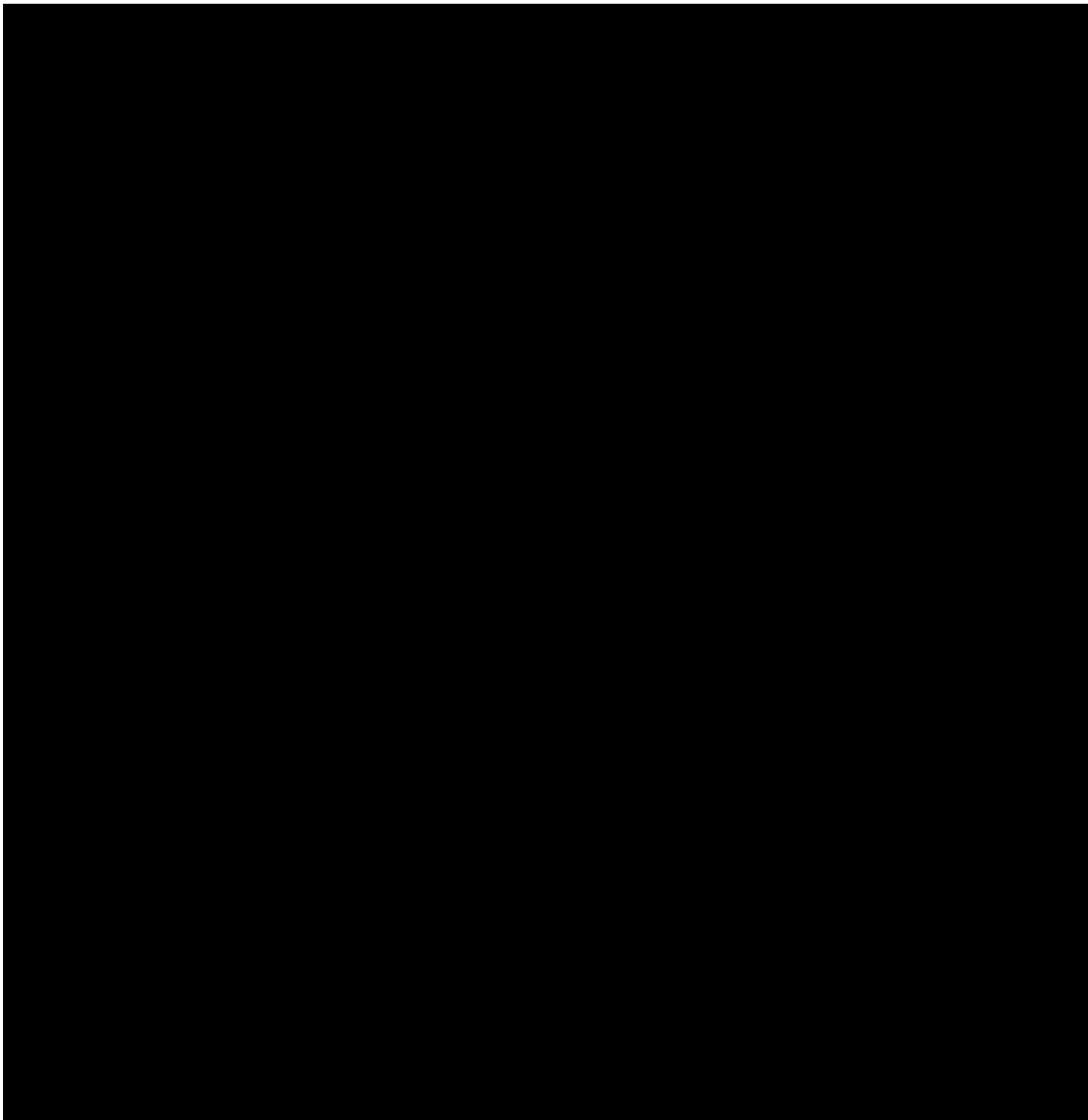


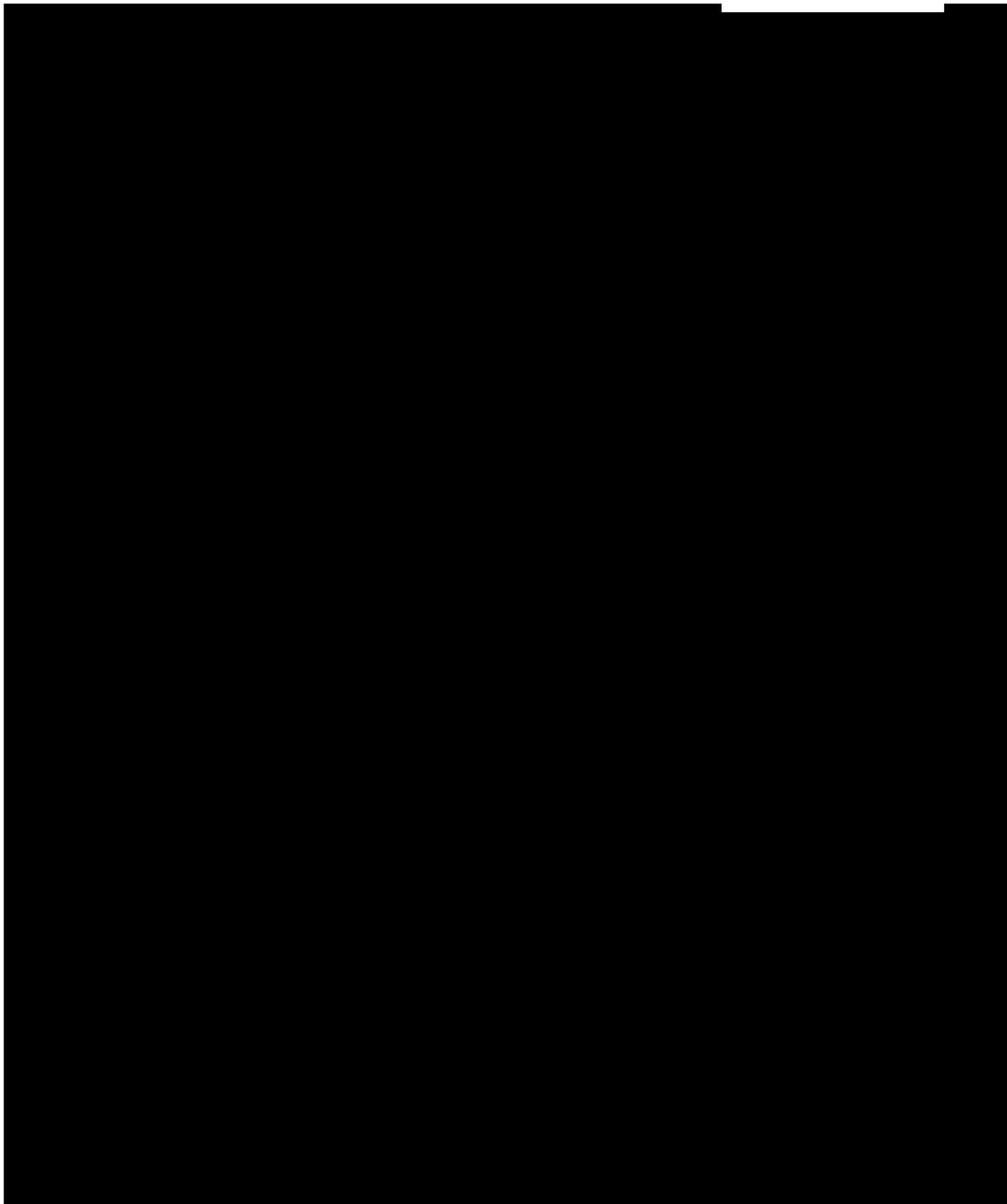


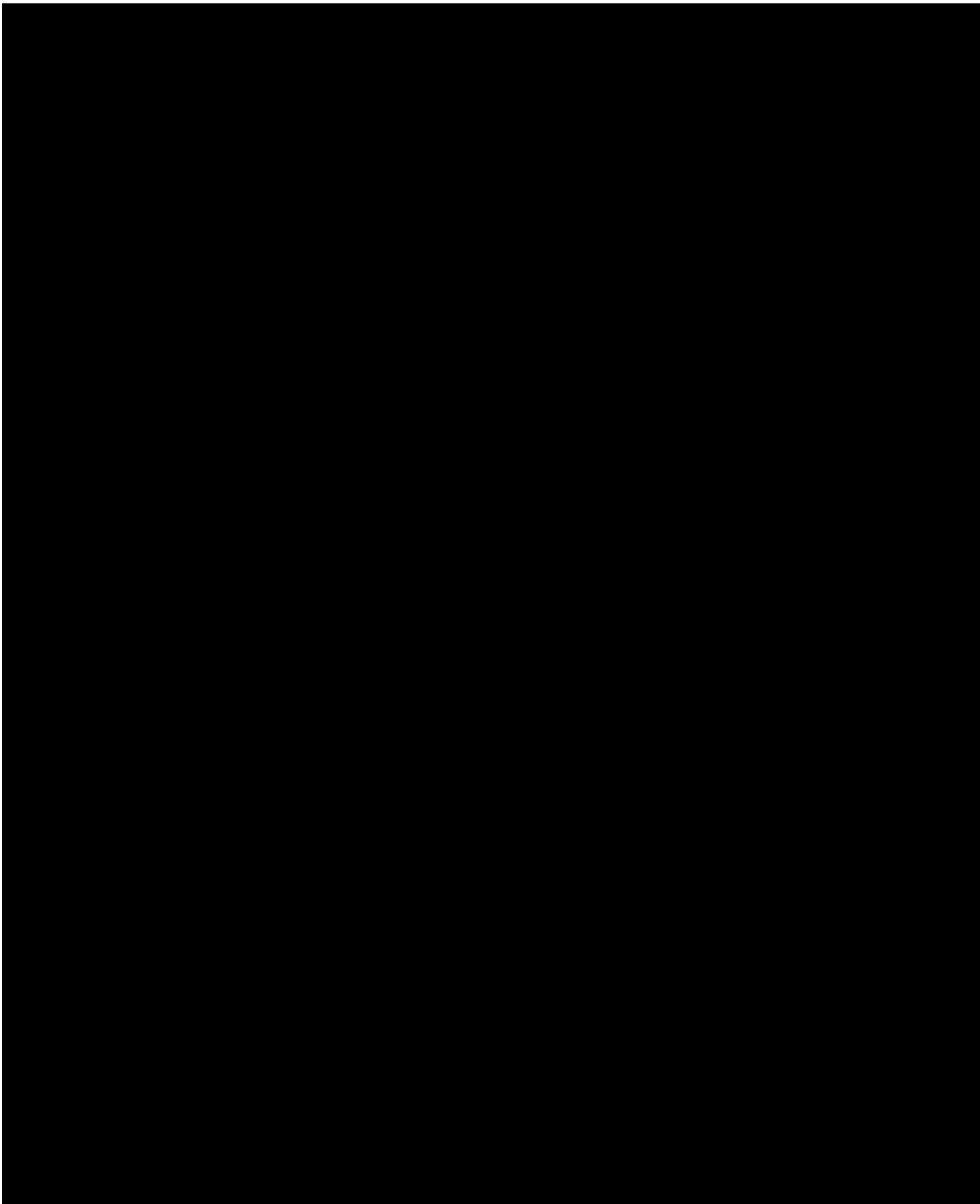


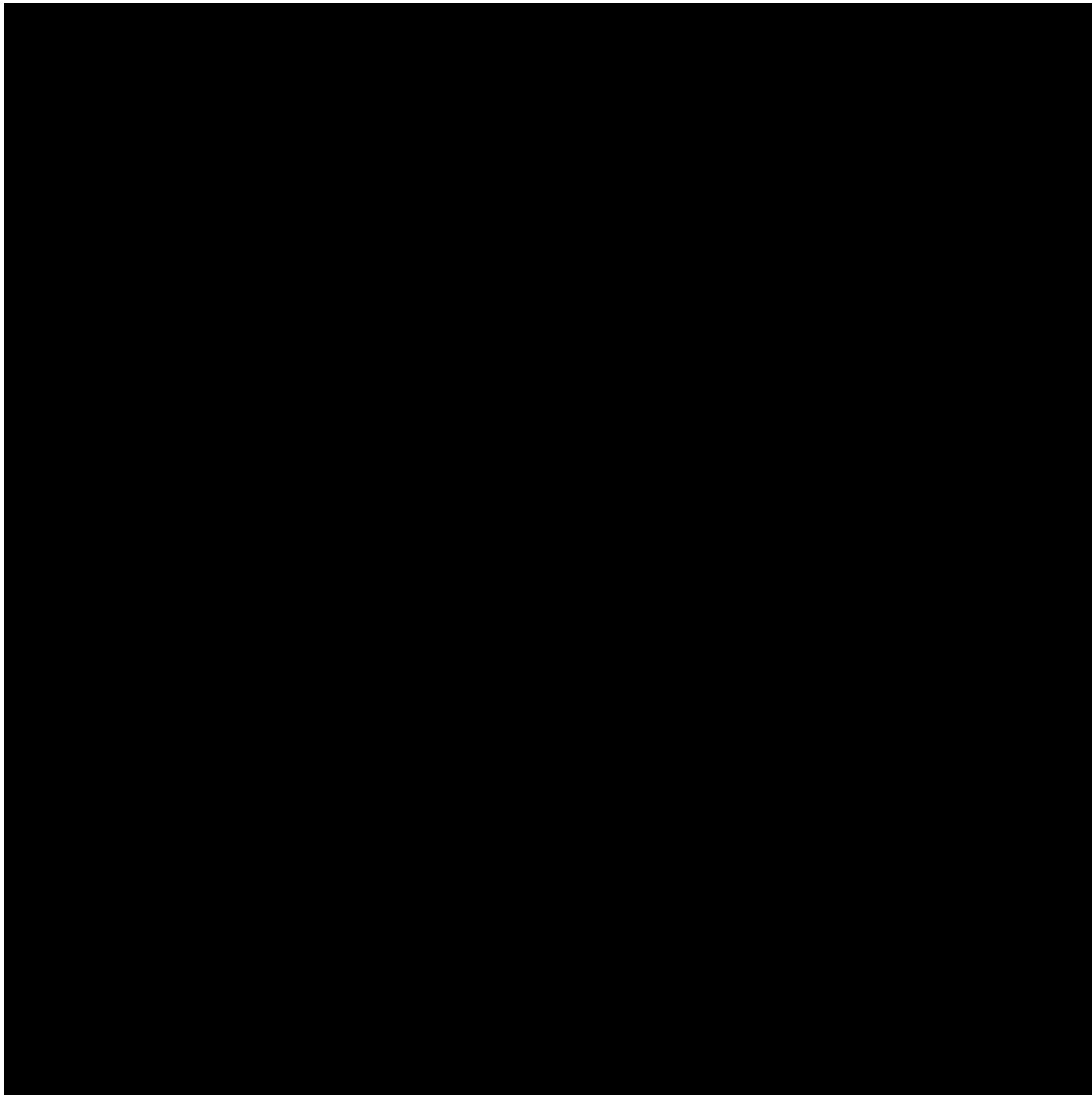


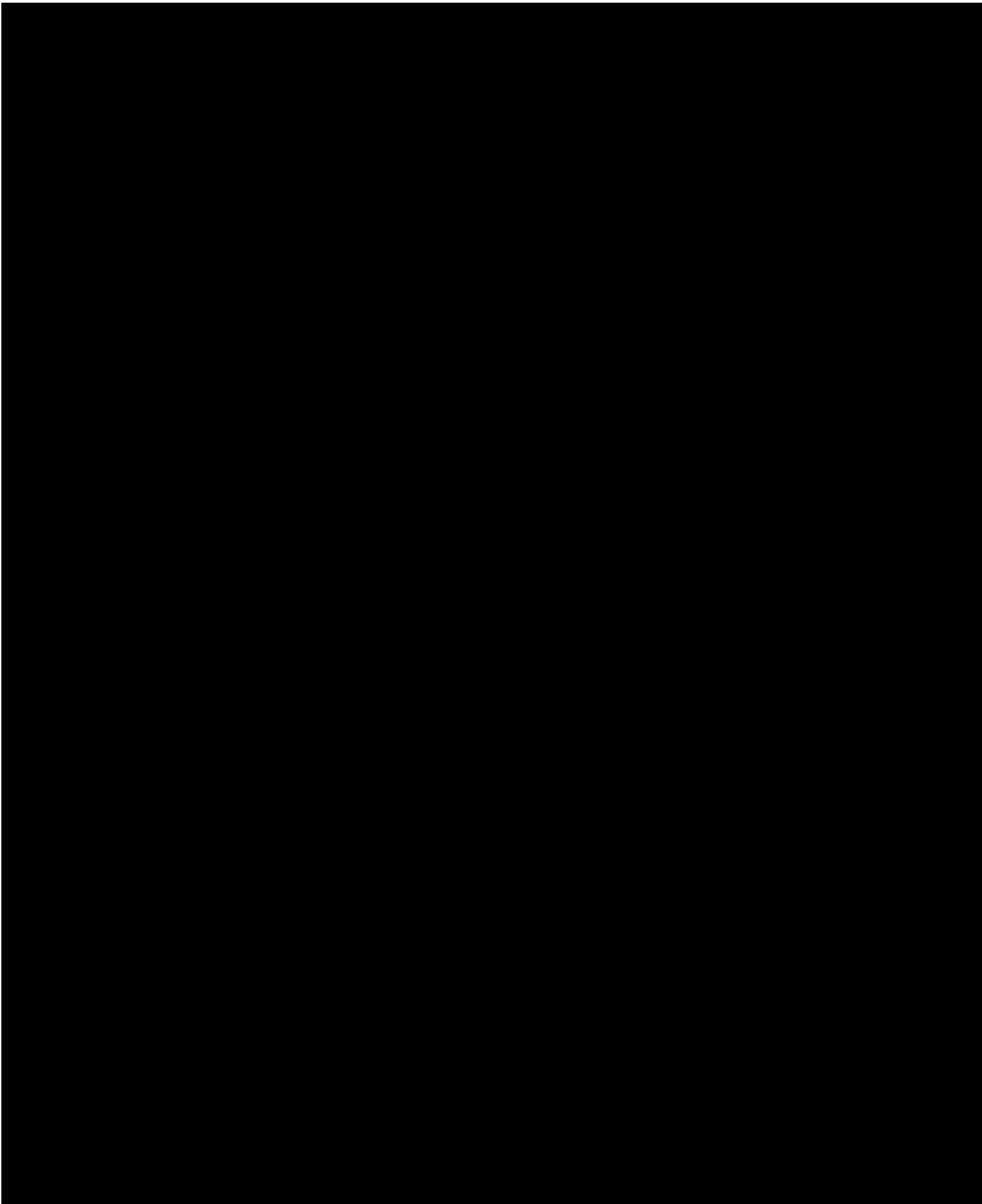








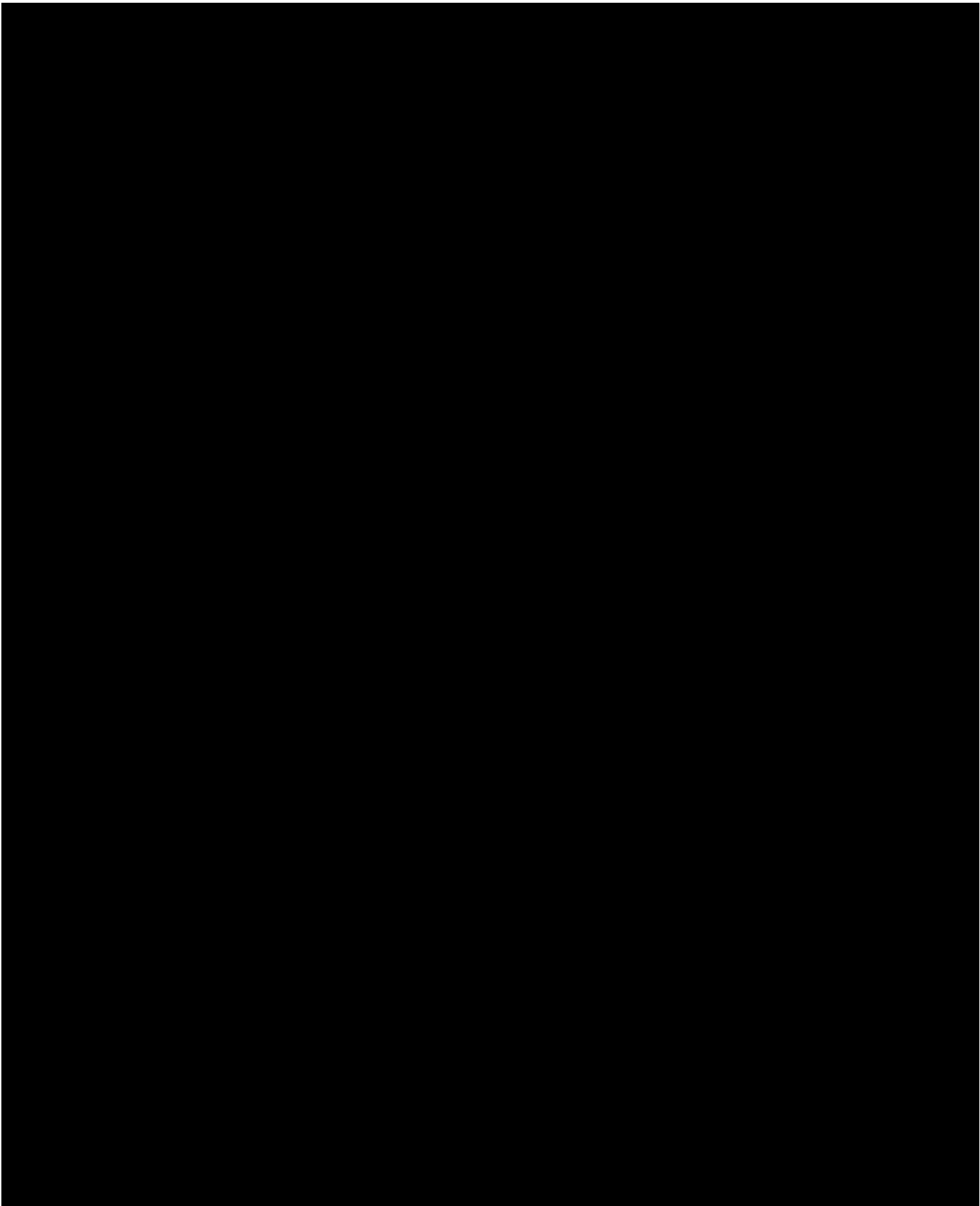


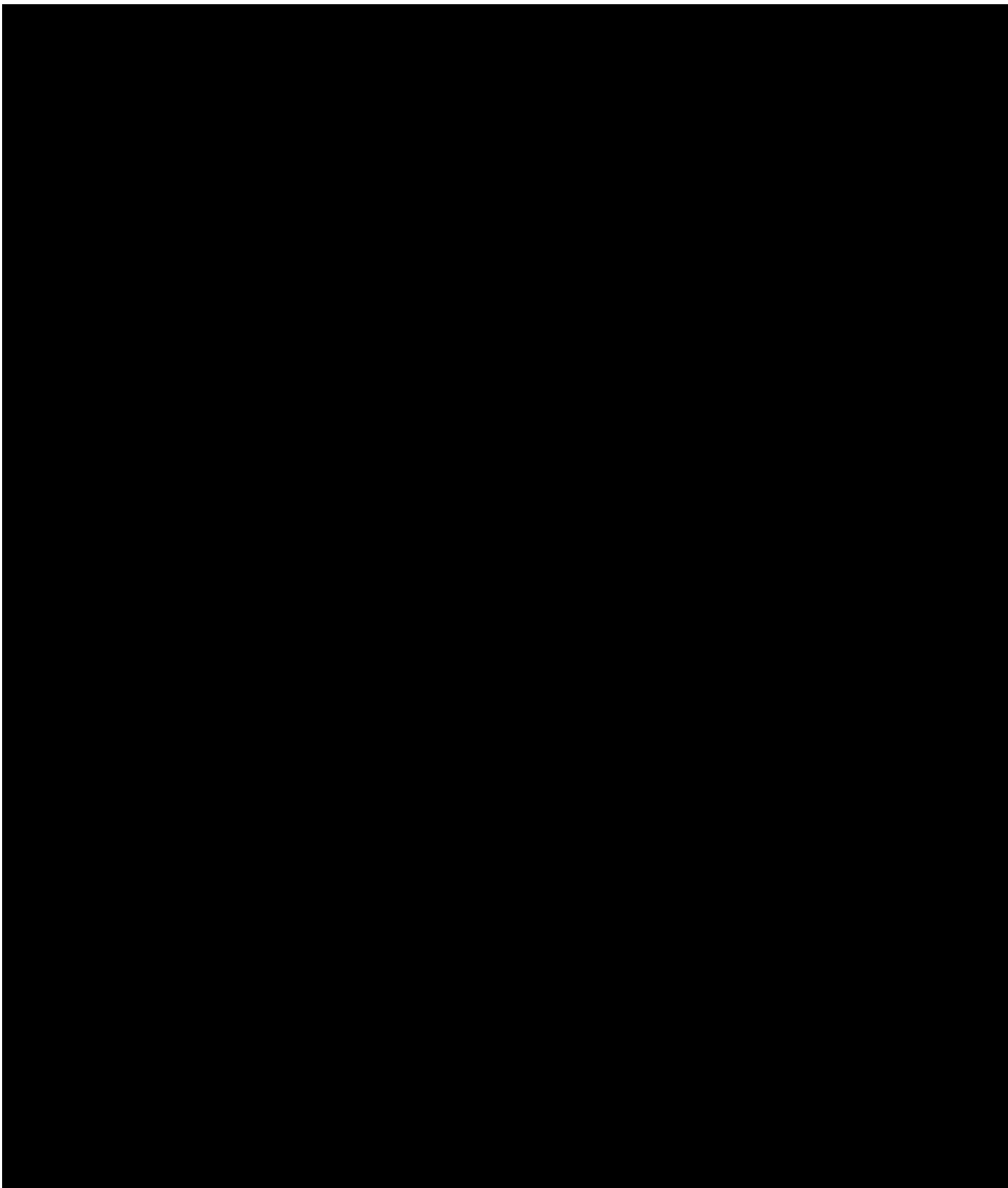


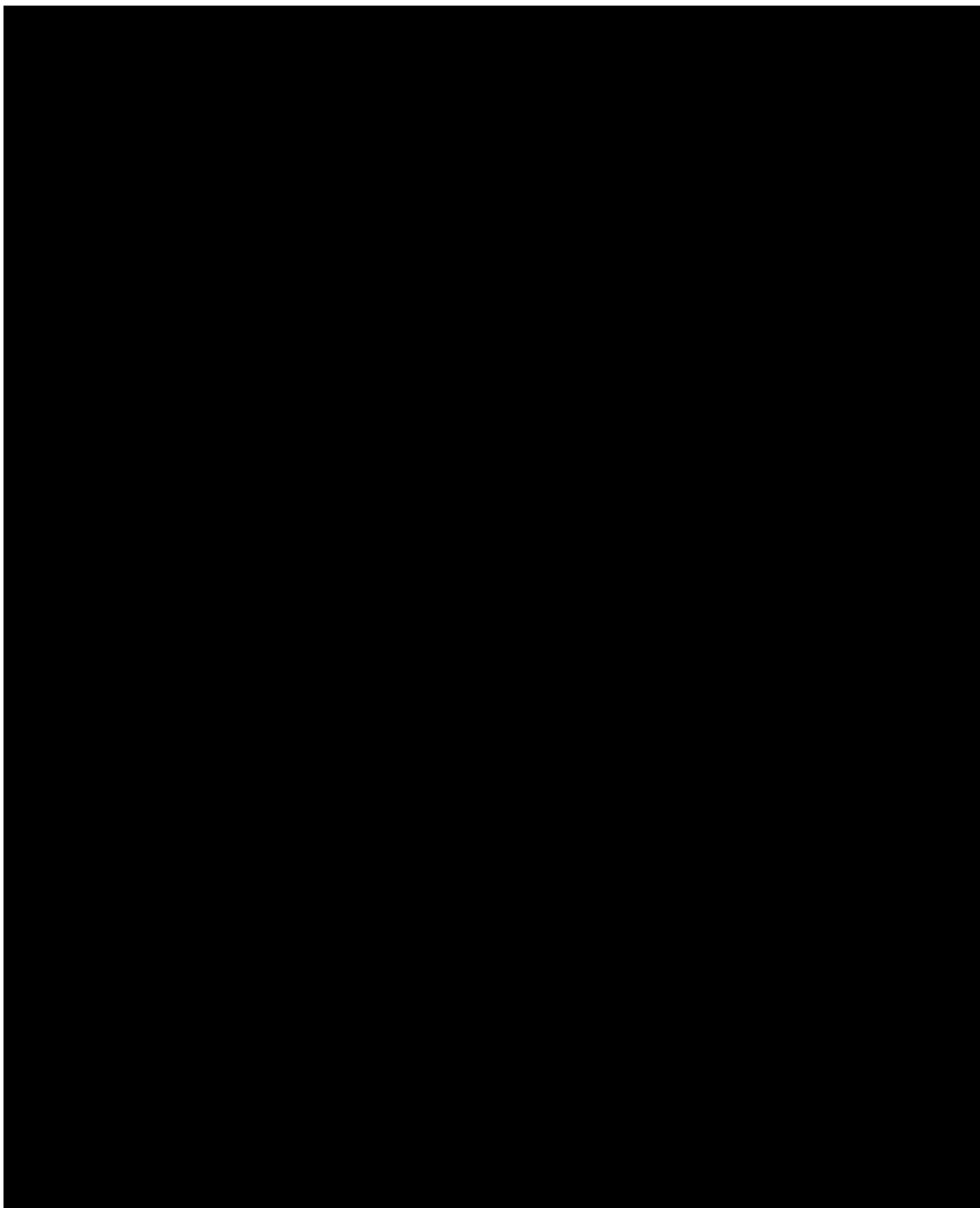
[4] Each column in the dataset represents a variable that describes information associated with a particular return as seen in the figures below. The dataset contains information on:

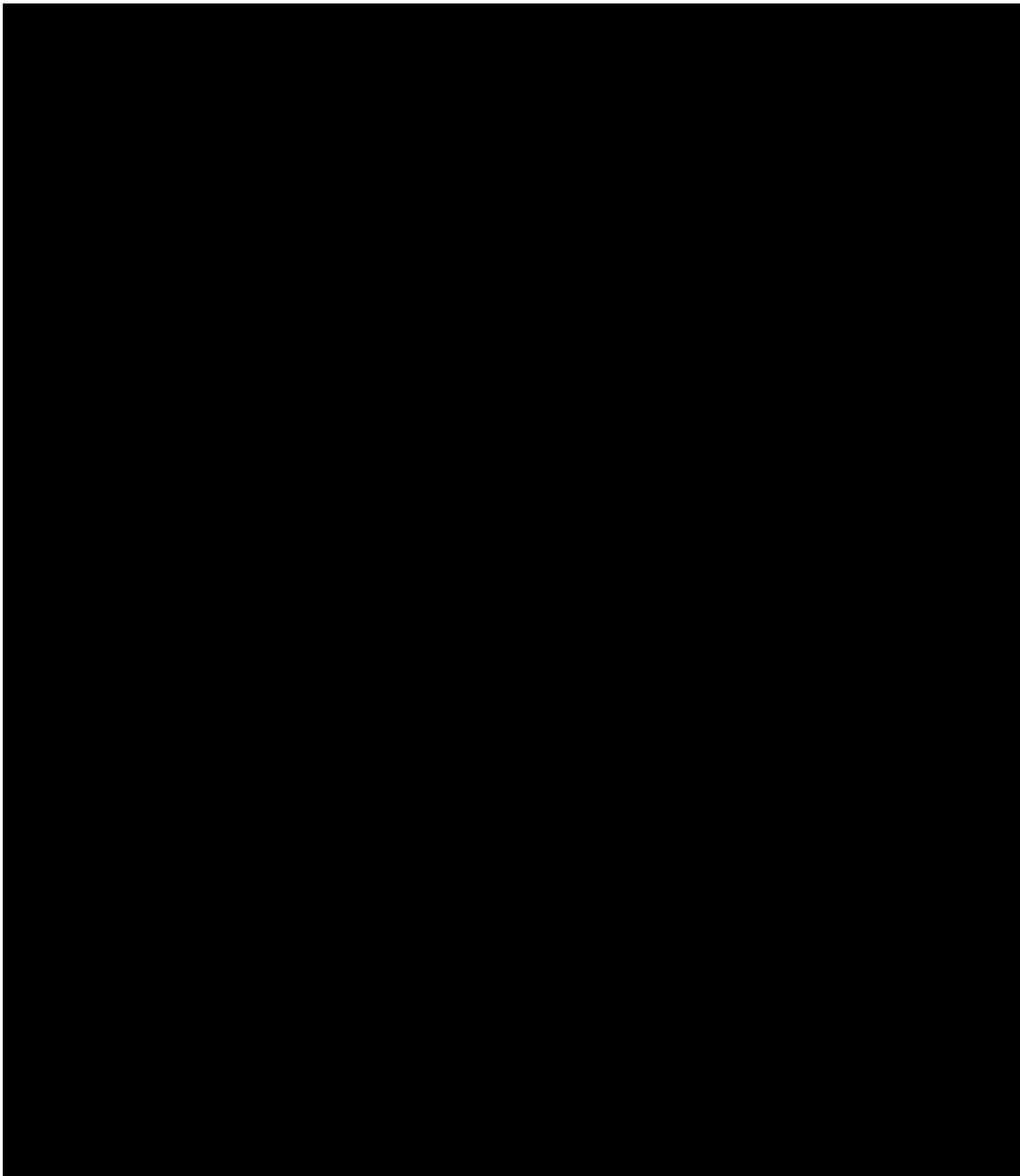
- Whether the return was completed or not: *completed_flag*;
- Revenue received by Intuit from the customer: *total_revenue*, *total_federal_revenue*, *total_state_revenue*, *total_max_revenue*, *total_premium_services_revenue*, *total_plus_revenue*, and *total_refund_transfer_revenue*;
- Products recommended, accessed, and purchased: *start_sku*, *product_purchased*, *paid_sku_recommended*, and *free_sku_recommended*;
- Tax forms and schedules: *f1040_CHARAMT_line10b_charity_un*, *f1040_adjinc_income_adjustments*, *f1040_f8863_american_opportunity*, *f1040_fs_filing_status*, *f1040_111_tax_amount*, *f1040_114_other_taxes*, *f1040_133_adjusted_gross_income*, *f1040_135a1_taxpayer_born_before*, *f1040_135a3_spouse_born_before_1*, *f1040_136_deduction_amount*, *f1040_139_taxable_income*, *f1040_147_child_tax_credit*, *f1040_157_total_tax*, *f1040_16_total_income*, *f1040_otherinc_other_income*, *f1040_sched5_schedule3_line14*, *f1040_state*, *f1040s1_124_student_load_interes*, *f1040s1_por_schedule_1_part_of_r*, *f1040s2_por_schedule_2_part_of_r*, *f1040s3_por_schedule_3_part_of_r*, *f1040s4_por_schedule_4_part_of_r*, *f1040s5_por_schedule_5_part_of_r*, *f1040s6_por_schedule_6_part_of_r*, *fk1_por_schedule_K1_part_of_retu*, *fperwks_yml_active_military_in*, *fperwks_age_taxpayer_age*, *fscha_por_schedule_A_part_of_ret*, *fschb_por_schedule_B_part_of_ret*, *fschc_por_schedule_C_part_of_ret*, *fschd_por_schedule_D_part_of_ret*, *fsche_por_schedule_E_part_of_ret*, *fschf_por_schedule_F_part_of_ret*, and *fschse_por_schedule_SE_part_of_r*;
- How the customer arrived at the TurboTax website: *channel_group*;
- Date the return was started and completed: *first_start_date*, and *completed_date*;
- PRS score if customer filled post filing survey: *prs_score*.

For observations associated with *auth_id*'s of customers who did not start a return, only the variables *auth_id*, *tax_year*, and *completed_flag* are populated. For observations associated with *auth_ids* of customers who abandoned a return, only the variables *auth_id*, *tax_year*, *first_start_date*, *start_sku*, and *completed_flag* are populated. Similarly, for observations associated with TY14–20, only the variables *auth_id*, *tax_year*, *first_start_date*, *start_sku*, *product_purchased*, *completed_flag*, *total_federal_revenue*, and *total_state_revenue*, are populated.









B. Upgrade Screen Data

1. **Data files: INTUIT-FTC-PART3-000608573 for TY19-20, INTUIT-FTC-PART3-000608574 for TY21, and INTUIT-FTC-PART3-000608570 for categorization crosswalk**
2. **Data Description**

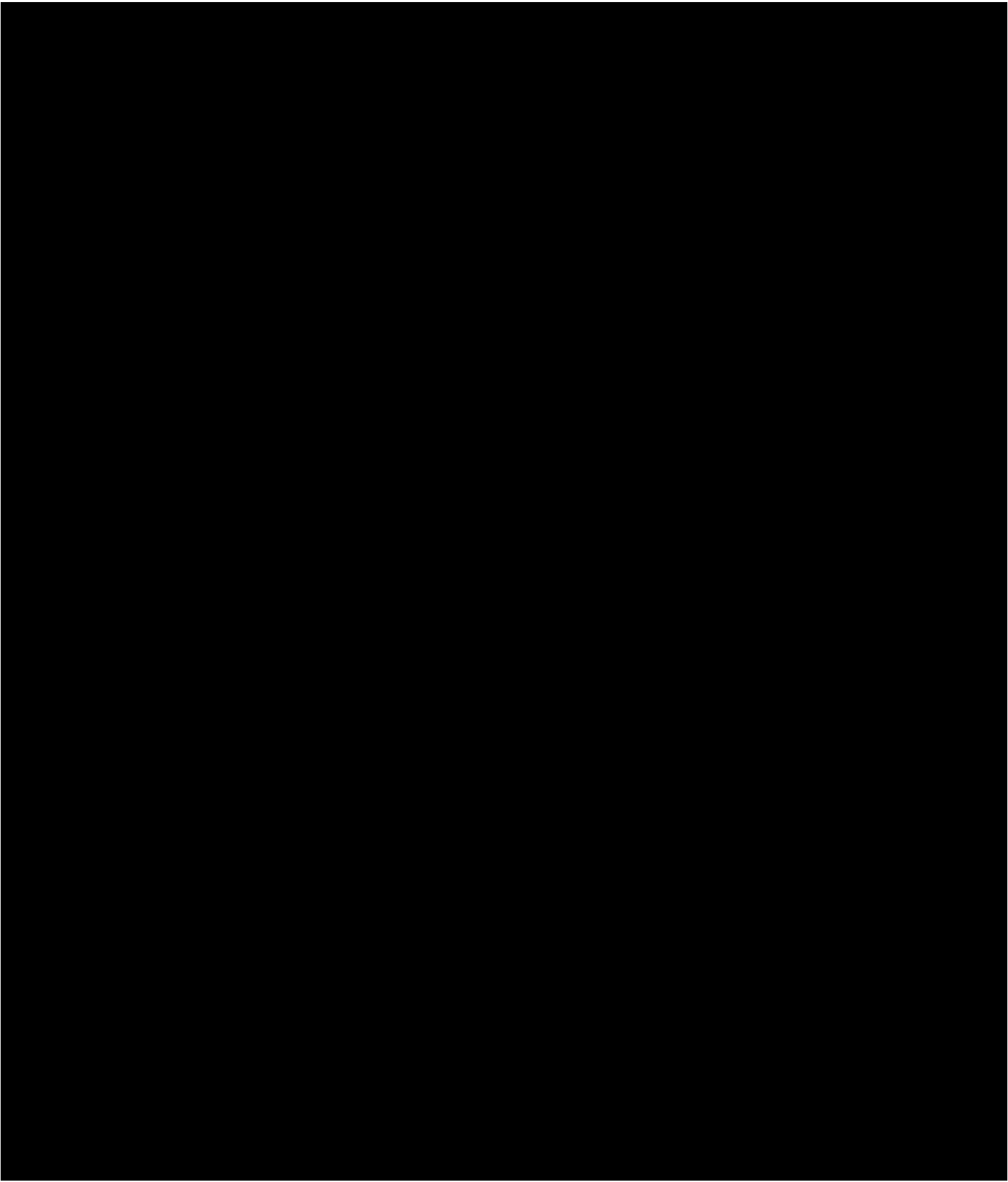
[1] The Upgrade Screen Data contain information on the upgrade screen(s) customers were shown and whether these upgrade offers were accepted. The data are provided at the level of tax year and at the upgrade screen displayed or taken, which means that for a given *auth_id* and *tax_year* combination, there may be multiple upgrade screens presented, resulting in multiple observations.

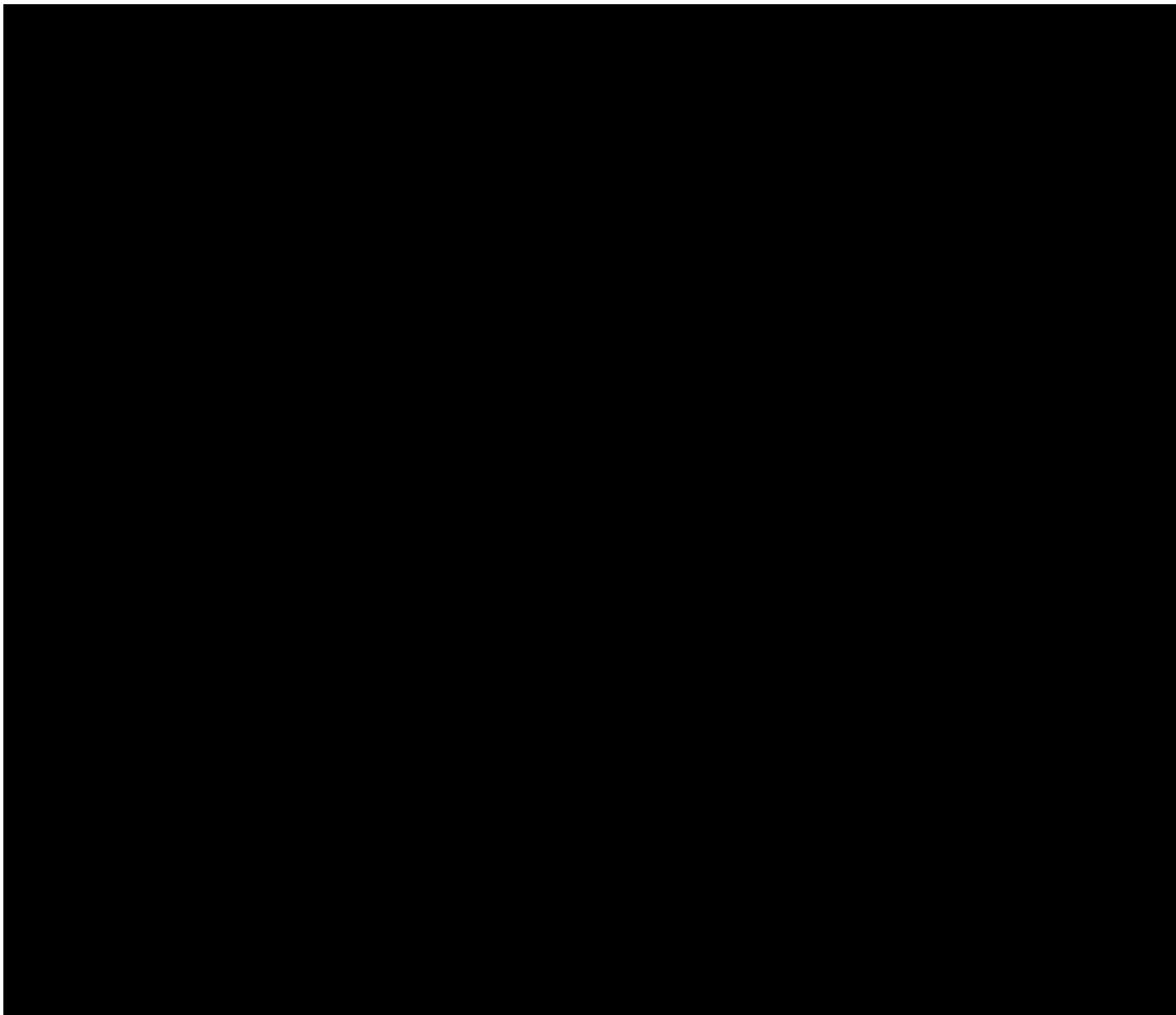
[2] The Upgrade Screen Data consist of two files, one that covers TY19–20 and one that covers TY21. The TY21 Upgrade Screen Data only contain required upgrade screens seen or taken by customers through June 10, 2022. Customers who interacted with a TurboTax Online product and may have seen or taken an upgrade offer between June 11, 2022 and the October 17, 2022 extension deadline are not included in these data.

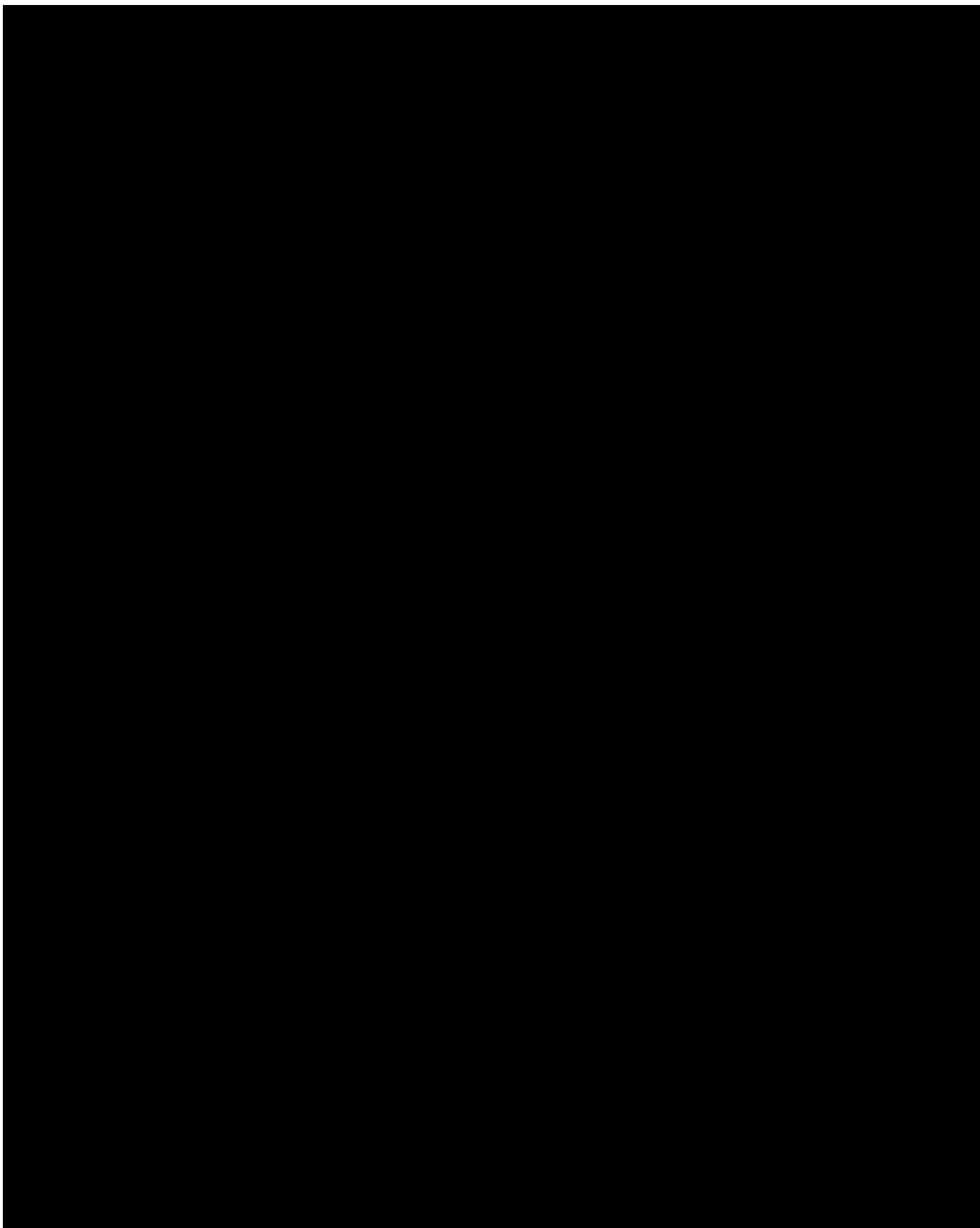
[3] The Upgrade Screen Data consist of upgrade screens encountered or accepted by customers during the tax preparation process in instances such as when a customer entered information which would require an IRS form not supported by the TurboTax product that the customer was using at the time. Reporting such information would therefore require an upgrade to another TurboTax product. Examples of such upgrade screens include screens shown to customers seeking to claim a deduction or credit and screens shown to customers who report having earned certain types of income.

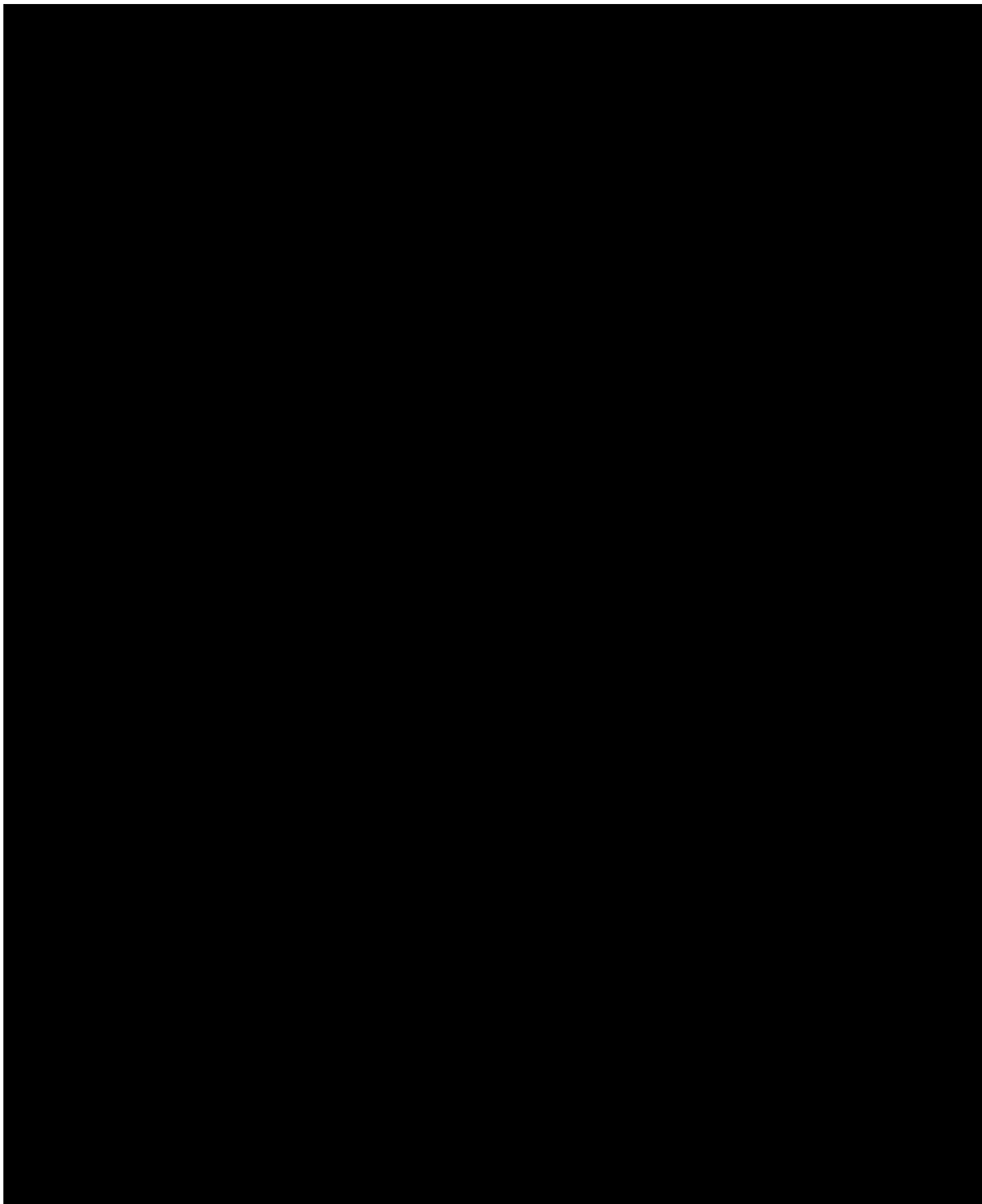
[4] In total, when combining the Upgrade Screen Data files covering TY19–20 and TY21, there are 33,162,167 observations, containing 21,197,381 unique *auth_id* and *tax_year* combinations, and 18,515,470 unique *auth_id* values.

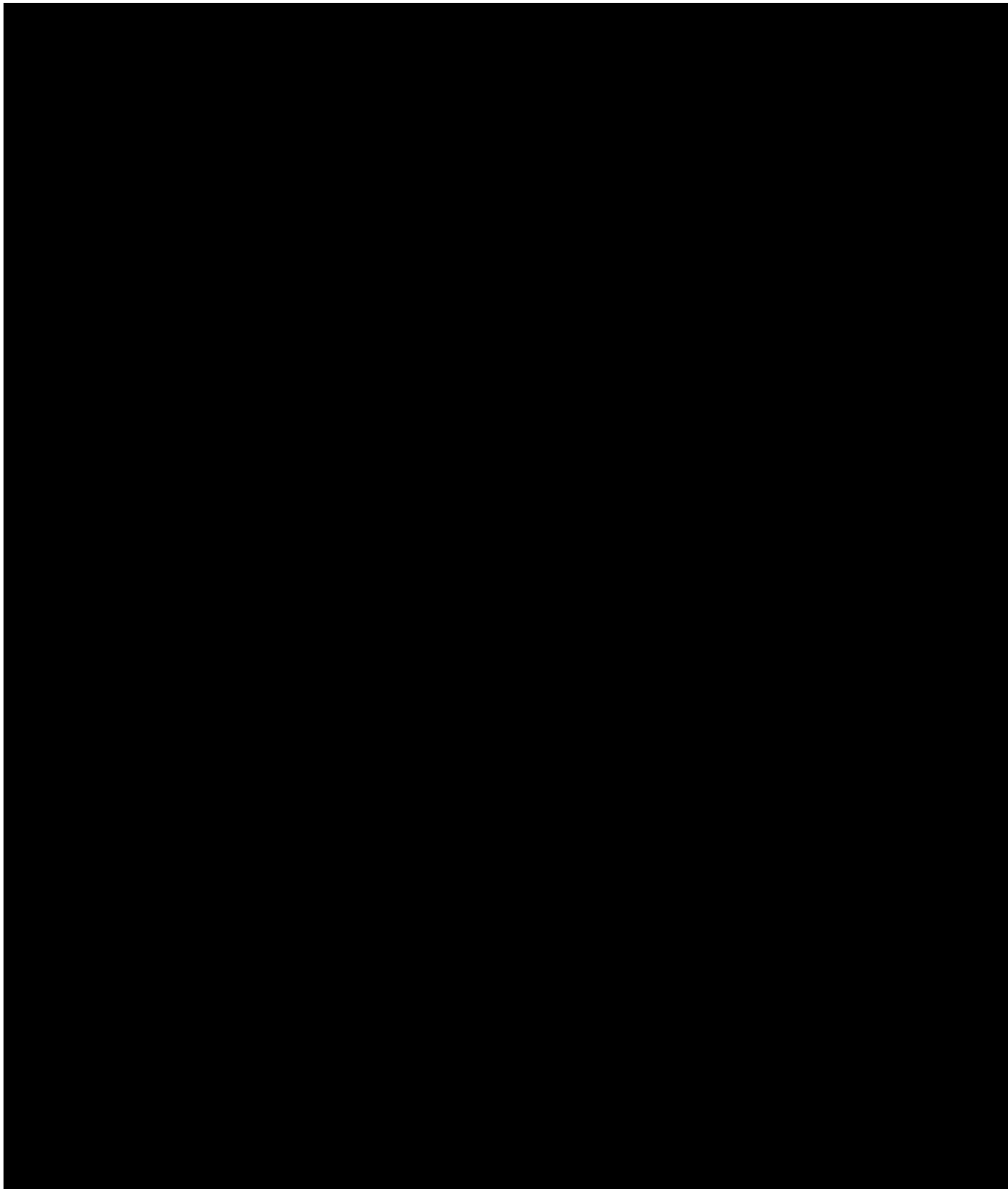
[5] Upgrade screen data for TY21 include details on the offer presented (*offer_see* and *offer_see_category*), whether the offer was seen or accepted (*offer_event_type*), and when the offer was encountered (*offer_timestamp*). A crosswalk is also provided that maps *offer_see* and *offer_see_category* combinations to broader categories (*offer_type*) and includes the following *offer_types*: “wages and income,” “deductions and credits,” and “other” (which includes, for example, offers related to foreign assets and foreign trust). Upon reviewing of this crosswalk, I have modified the type of two upgrade offers. Offers associated with *offer_see* of “FUS_Business_Income|tto/alias/fus-business-income-16-64/deluxe-confirm 512 TTO” and *offer_see_category* of “FUS_Business_Income” are labeled as “Wages and Income” upgrade offers, and those associated with *offer_see* of “FUS_Itemized_Refund|tto/alias/fus-itemized-refund/offer 512 TTO-FUS_Itemized_Refund” and *offer_see_category* of “FUS_Itemized_Refund” are labeled as “Deductions and Credits” upgrade offers.

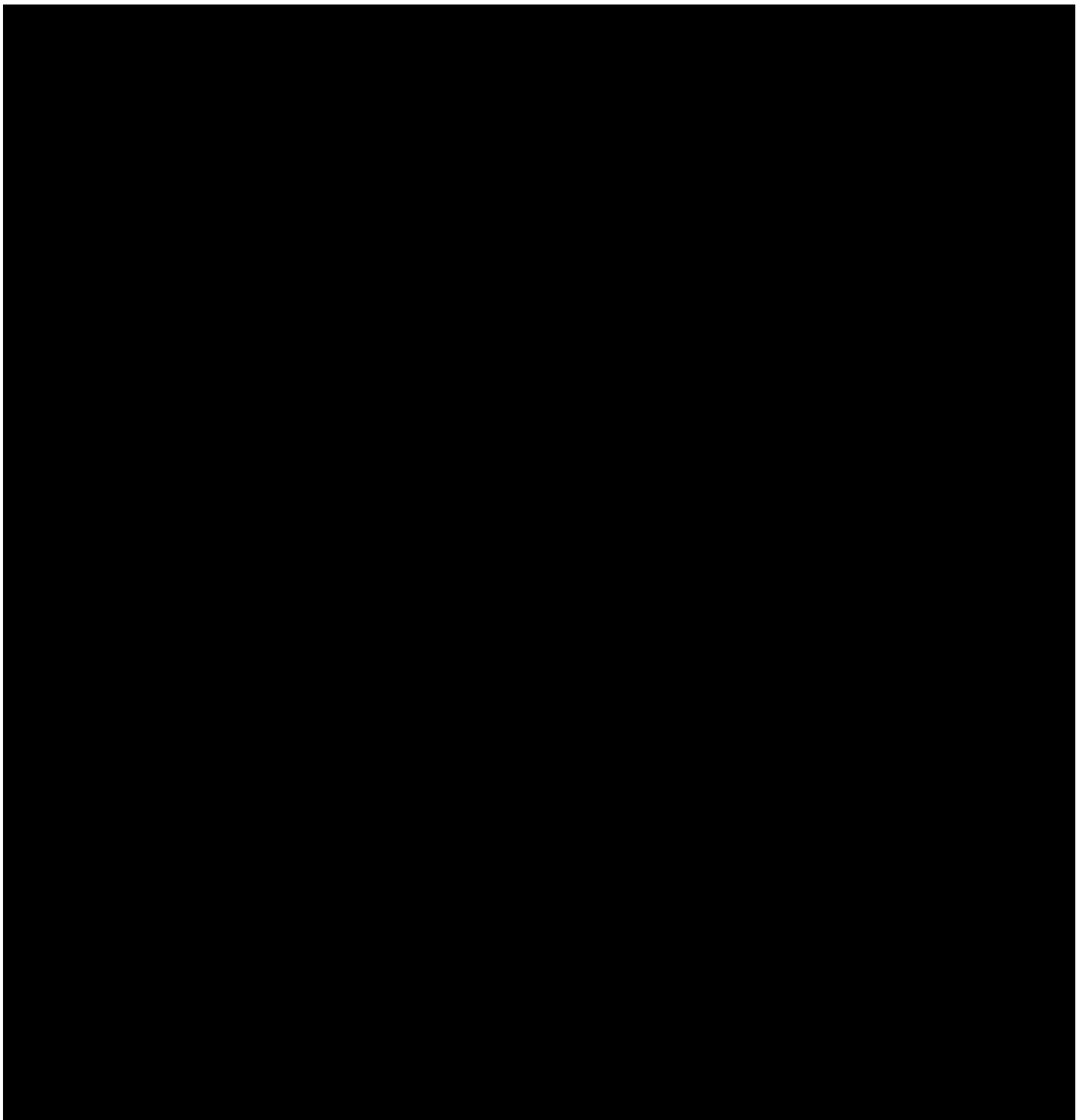












Attachment B

1 it's a reference to, you know, kind of in the recent
2 past, what did I do to get ready for the deposition?

3 Is that how you intend that question?

4 Q. Sure. I guess since submitting your report on
5 January 13th, what have you done to prepare?

6 A. Yeah. So, largely, sort of what you might call
7 self-study, if you will. So I, you know, read my
8 report a couple times. I've read some of the other
9 reports. I reviewed some of the documents that I had
10 included. You know, met with counsel a couple times.
11 Those are the primary things.

12 Q. Do you have any notes here with you today?

13 A. No. I have -- I have a pad of paper that -- I
14 have so far just written a couple of names on it. It's
15 just a blank piece of paper.

16 Q. Whose names are on it?

17 A. Oh, the people sitting here. So Early, Sara,
18 Shastri, Jake.

19 Q. Smart. I can see you've been around the block.

20 A. Not my first -- not my first deposition, so --
21 yeah.

22 Q. Okay. Let's talk a little bit about how you
23 became involved in this matter. When did you first
24 become involved in the Intuit case?

25 MR. CHAPIN: Object to form.

1 THE WITNESS: I don't remember the exact date,
2 but probably something like a year ago, maybe a little
3 more than that. So it's been more than a year.

4 BY MS. TONNESEN:

5 Q. Okay. Who first contacted you regarding the
6 Intuit case?

7 A. My recollection is probably initially, it was
8 an internal Analysis Group person. Probably Kris
9 Comeaux.

10 Q. And then when did you first become engaged by
11 Intuit?

12 MR. CHAPIN: Object to form.

13 THE WITNESS: The short answer is, I don't
14 know. I don't recall exactly. But, again, something
15 like a year ago or thereabouts, to the best of my
16 recollection, but I honestly don't really remember
17 exactly.

18 BY MS. TONNESEN:

19 Q. Sure. Around that time, when you first began
20 working on the Intuit matter, what did you understand
21 your assignment to be?

22 A. You know, largely, what it ended up in my
23 report, which is to say, you know, some kind of
24 background review and framing of the industry,
25 description of kind of incentives and the type of

1 Broadly speaking, yes, I -- but the way I would
2 phrase it is, I use Intuit's data to sort of test the
3 hypothesis of, is there evidence in the data of
4 deception? Which I clearly find the answer to be no to
5 that.

6 So what I am using the data for is to test that
7 theory, effectively.

8 BY MS. TONNESEN:

9 Q. And we mentioned that that data you looked at
10 is on B-2 in the "Materials Considered" under the
11 heading "Data"?

12 A. Yes.

13 Q. Did you ever ask for other datasets or other
14 data fields that you didn't get access to?

15 A. No.

16 Q. And is there any data that you looked at that's
17 not listed there?

18 MR. CHAPIN: Object to form.

19 THE WITNESS: No.

20 BY MS. TONNESEN:

21 Q. I guess I can ask that a little more precisely.
22 Of the data you had access to in forming your
23 opinions at page B-2 -- strike that.

24 In B-2, the data identified as TY14 through 20
25 customer-level data, do you know what database that

1 Q. Did you ever -- do you have that data for
2 Intuit?

3 MR. CHAPIN: Object to form.

4 THE WITNESS: I don't. I mean, the only thing
5 I know is that -- just at a high level, I know there's
6 been some back-and-forth between the FTC and Intuit
7 about the CRM data. I don't have it. I haven't
8 analyzed it. But if at some point --

9 It wasn't necessary for any of my analyses,
10 so --

11 BY MS. TONNESEN:

12 Q. That's what I am asking about. I'm not -- I'm
13 not asking for the purposes of any back-and-forth
14 between counsel.

15 I guess I'm asking, if you would have
16 expected -- and it sounds like this is the case --
17 based on your experience, a company big like Intuit
18 would have some sort of CRM data that could contain
19 complaints both about Free but any myriad of things and
20 part of your report focuses on complaints, why you
21 didn't look at it?

22 MR. CHAPIN: Object to form. Asked and
23 answered. And move to strike counsel's testimony.

24 THE WITNESS: Well, as I said before, I didn't
25 need it for my analysis. So what I focus on in my

1 Q. Uh-huh.

2 And is it fair to assume that you didn't look
3 at these -- or didn't ask for CRM data because it's
4 messy?

5 MR. CHAPIN: Object to form.

6 BY MS. TONNESEN:

7 Q. I think that's what I understood from you
8 earlier today.

9 Let me step back, then, and say, would CRM
10 data, in your experience, potentially be another place
11 that you could find evidence of consumer negative
12 feedback?

13 MR. CHAPIN: Object to form.

14 THE WITNESS: I think we've had this discussion
15 already.

16 You know, the typical CRM database is sort of
17 basically tracking -- think about every customer
18 service agent you've ever talked to. They are typing
19 in some notes. So it's the customer service agent
20 typing in notes into some kind of a CRM, saying, oh, I
21 just talked to Bruce, and, you know, he loved his cable
22 TV show, or whatever.

23 So I certainly agree it's very messy data.

24 And, you know, I think before, we were talking about,
25 is it possible that in that data, there could be

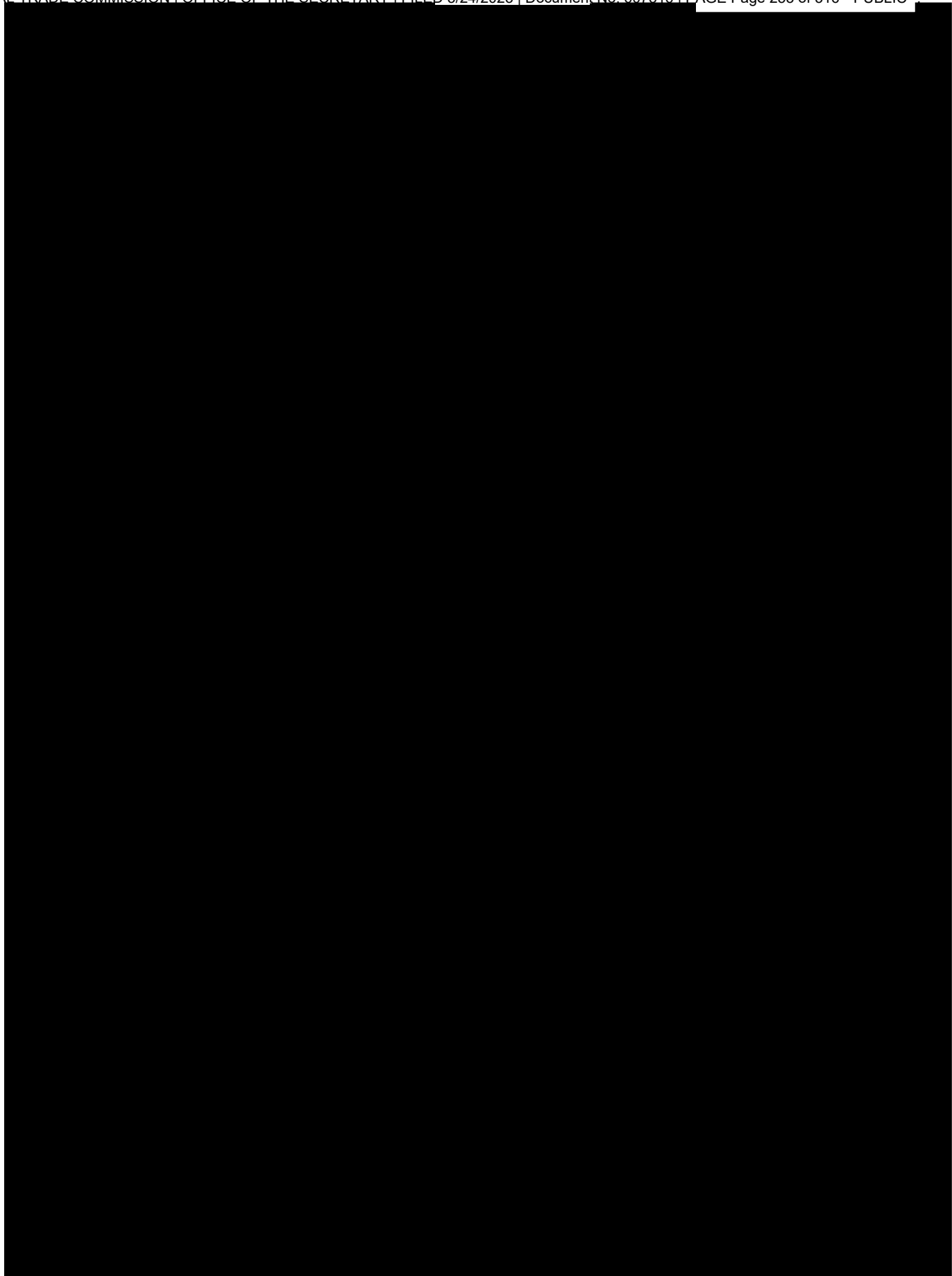
1 someone typing in, Customer XYZ is upset about -- you
2 know, thought it was free, and it's not -- in any kind
3 of context; cable TV, whatever.

4 You know, that's a very common sort of generic
5 complaint you see across a lot of things; I didn't
6 think I was paying for this, and why do I have this; I
7 was told it was free. Things like that.

8 So it's certainly -- you know, within this
9 data, there can be that information. For the analysis
10 I was doing, I had a set of complaints the FTC had
11 identified, and I had these actual customer reviews,
12 which are kind of systematic and numeric and, you know,
13 represent the actual experience that they had at the
14 time, so I didn't -- excuse me -- I didn't have any
15 need for the CRM data.

16 It's messy. If CRM becomes available in some
17 form that can be used and produced in this matter, one
18 can certainly, you know, use it.

19 But my experience is, it would be -- it would
20 be a big challenge to try and separate out any --
21 again, there's just so much in there and it's so all
22 over the place and it's sort of moderated through
23 whatever the customer service person typed in, things
24 like that. So there's a lot of challenges and problems
25 with using the data.



Attachment C

From: [Chapin, Benjamin](#)
To: [Plett, Rebecca](#); [Anquizola, Roberto](#); [Tonnesen, Sara](#); [Evans, James](#)
Cc: [Perkins, Vinecia](#); [Salinas, Andres C.](#); [Gringer, David](#); [Todd, Spencer L.](#); [Berteaud, Joss](#); [Chapin, Benjamin](#); [Dillaway, Molly](#); [Jacob, Reade](#); [Mackey, Katherine](#); [Martin, Shelby L.](#); [Silos, Phoebe](#); [Bridge, Charles](#); [Milici, Jennifer](#); [Paikin, Jonathan](#); [Shapiro, Howard](#)
Subject: Docket No. 9408 - Supplemental Expert Report of Bruce Deal
Date: Thursday, March 9, 2023 11:53:52 PM
Attachments: [Supplemental Expert Report of Bruce Deal \(20230309\) - CONFIDENTIAL.pdf](#)
[Supplemental Expert Report of Bruce Deal \(20230309\) - PUBLIC.pdf](#)

Counsel,

Pursuant to the Court's Order Granting Complaint Counsel's Motion to Compel Production of Documents, dated December 30, 2022, and my emails of February 7 and 9, 2023, attached please find confidential and public versions of the Supplemental Expert Report of Bruce F. Deal analyzing the CRM Data produced by Intuit pursuant to the Court's December 30 Order. The supporting materials will be transmitted separately via SFTP and are designated as Confidential.

Benjamin Chapin | WilmerHale

1875 Pennsylvania Avenue NW

Washington, DC 20006 USA

+1 202 663 6443 (t)

+1 202 663 6363 (f)

benjamin.chapin@wilmerhale.com

Please consider the environment before printing this email.

This email message and any attachments are being sent by Wilmer Cutler Pickering Hale and Dorr LLP, are confidential, and may be privileged. If you are not the intended recipient, please notify us immediately—by replying to this message or by sending an email to postmaster@wilmerhale.com—and destroy all copies of this message and any attachments. Thank you.

For more information about WilmerHale, please visit us at <http://www.wilmerhale.com>.

Attachment D

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Lina M. Khan, Chair**
Rebecca Kelly Slaughter
Christine S. Wilson
Alvaro M. Bedoya

IN THE MATTER OF:

INTUIT INC., A CORPORATION.

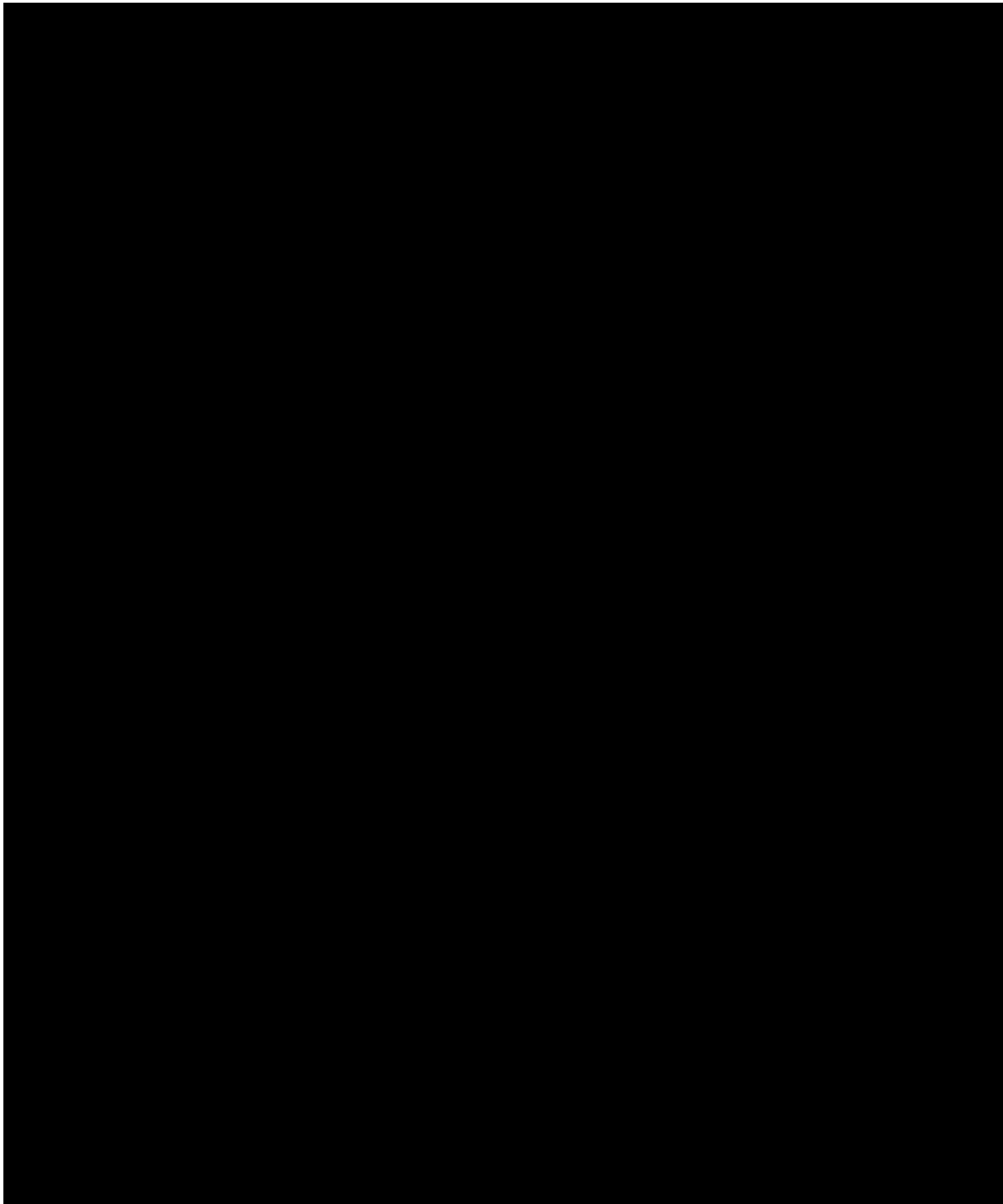
Docket No. 9408

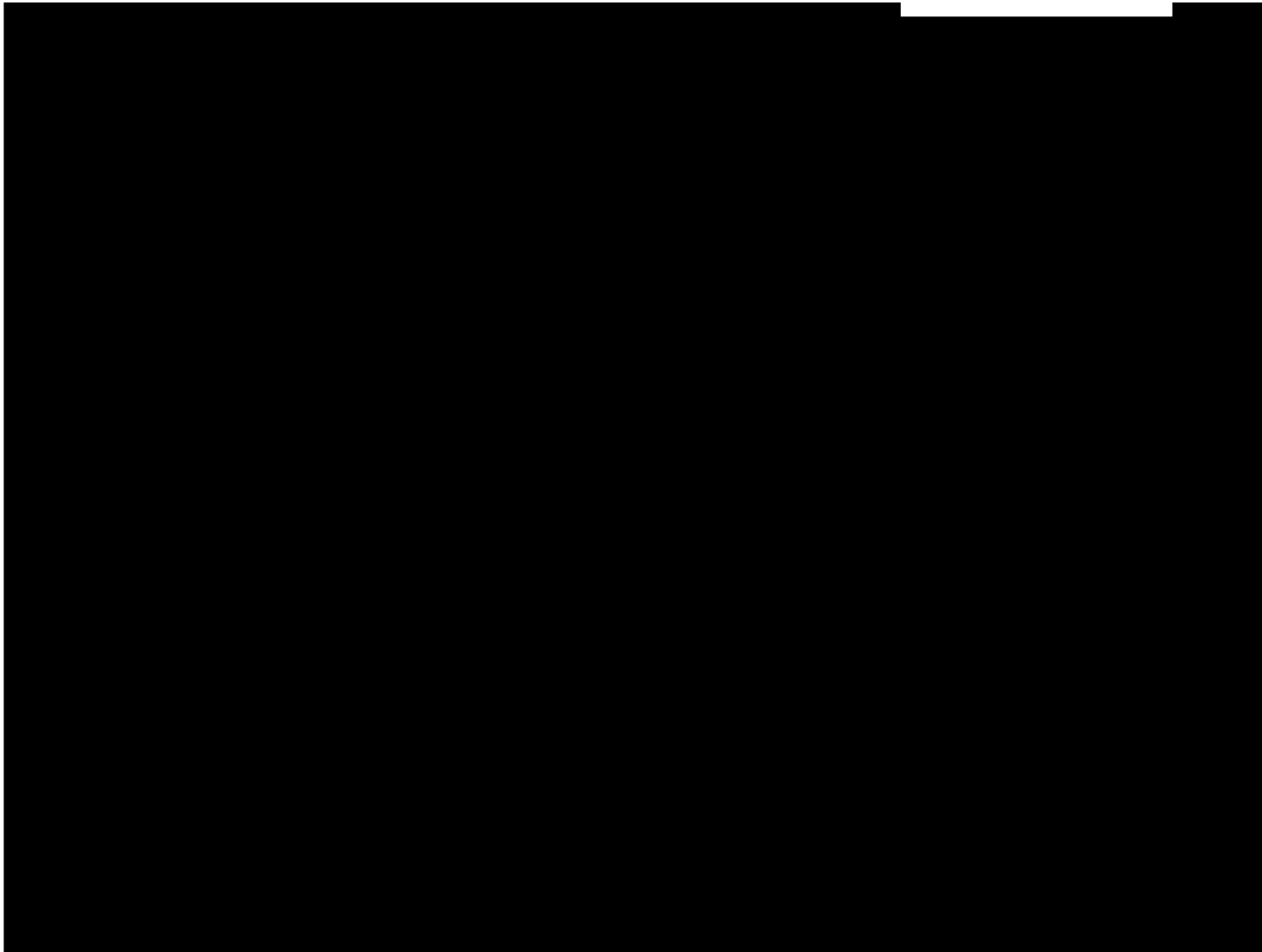
EXPERT REBUTTAL REPORT OF

EREZ YOELI, PH.D.



1/27/2023





I. Qualifications

1. I am a research scientist at the Massachusetts Institute of Technology (MIT)'s Sloan School of Management, and the founder and co-director of its Applied Cooperation Team. I received my A.B. in economics from Stanford University in 2003, and my M.B.A. in 2008 and Ph.D. in 2009 in economics from University of Chicago Booth School of Business.
2. I am also currently a lecturer at Harvard University's Economics Department since 2016, and an external graduate faculty at the University of Maine since 2021.
3. Prior to joining MIT's Sloan School of Management in 2018, I held academic and research positions at Harvard and Yale: I was a research scientist at Yale University's Human Cooperation Laboratory from 2017 to 2018, and a research scientist at the Harvard University's Program for Evolutionary Dynamics from 2015 to 2017.
4. For over ten years, I have taught courses to undergraduate and graduate students on economics topics at the Harvard University, the Stanford Graduate School of Business, MIT, Boston College, University of California San Diego, Johns Hopkins University, and Technion. The economics topics covered in my courses include, among other things, game theory, prosocial behavior, microeconomics, statistics, and survey design. In addition to teaching, I have served as an academic advisor for startup companies such as Culdesac, Stepchange, Activote, and Keheala, with whom I normally focus on the use behavioral science tools to promote prosocial behaviors.
5. My published research has focused on understanding people's preferences and beliefs, as well as how to affect their decisions. On these subjects and others I have published numerous articles in peer reviewed scientific and economics journals, including Nature, the Proceedings of the National Academy of Sciences, the New England Journal of Medicine, British Medical Journal Global Health, Journal of Economic Behavior and Organization, Behavioral Public Policy, and Journal of Behavioral Public Administration. My research employs economic models, as well as surveys, survey experiments, and field experiments. I have also published a game theory book in 2022, coauthored with Moshe Hoffman, titled

“Hidden Games: The Surprising Power of Game Theory to Explain Irrational Human Behavior.”

6. Prior to working at academic institutions, I was an economist at the U.S. Federal Trade Commission (“FTC”) from 2009 to 2015. While at the FTC, I served as an expert witness in cases against companies in matters related to consumer deception and do not call list violations; most recently, I served as an expert witness in *United States v. Dish Network L.L.C.*, Case No. 09-3073 (C.D. Ill. filed Mar. 25, 2009)..
7. A copy of my curriculum vitae, including a list of the publications I have authored and a list of prior testimony are attached hereto as Appendix A. I have previously qualified as an expert and provided expert testimony.

II. Assignment

8. Counsel supporting the FTC’s complaint in this matter (“Complaint Counsel”) asked me to evaluate and rebut the Expert Report of Mr. Bruce Deal dated January 13, 2023 (the “Deal Report”). I understand that Mr. Deal was asked to evaluate the competitive dynamics of the tax preparation industry, including that of Intuit Inc., (“Intuit”), and respond to the Expert Report of Dr. Nathan Novemsky dated December 9, 2022 (the “Novemsky Report”).¹ As part of my rebuttal, I have also been asked to consider reports submitted by other experts on behalf of Intuit, including the Expert Report of Dr. Peter N. Golder (the “Golder Report”) dated January 13, 2023, the Expert Report of Rebecca Kirk Fair (the “Kirk Fair Report”) dated January 13, 2023, and the Expert Report of Sc.D. John R. Hauser (the “Hauser Report”) dated January 13, 2023.
9. I understand that, in its March 28, 2022 Complaint, the FTC alleges Intuit violated provisions of the Federal Trade Commission Act through deceptive advertisements,²

¹ Expert Report of Nathan Novemsky, Ph.D., In the Matter of Intuit Inc., a corporation, Docket No. 9408, December 9, 2022 (“Novemsky Report”), CC-00006504-635.

² Complaint, Before the Federal Trade Commission, In the Matter of: Intuit Inc., a corporation, March 28, 2022, FTC Docket No. 9408 (“Complaint”).

namely, that Intuit deceptively advertised that consumers could file their taxes for free using the online version of TurboTax.³

10. Complaint Counsel asked me to specifically review and respond to the evidence presented by Mr. Deal to the allegation of widespread deception and theories of harm. In the Deal Report, Mr. Deal concludes: (a) that Intuit had no economic incentives to engage in widespread deception; (b) that Intuit's business strategy is not consistent with deception; and (c) that, of consumers who logged into TurboTax's website, almost none could have been deceived. As I will explain in this report, I disagree with all three of these conclusions.
11. A list of the documents I have relied upon in forming my opinions is attached hereto as Appendix B. The opinions presented in this report are based on the information available to me as of the date of this report, and they could be supplemented or modified if new information becomes available, or any additional report(s) or opinions are offered by experts for the defendants.
12. I am being compensated for my work in this matter at an hourly rate of \$750. Consulting staff at The Brattle Group have assisted me by performing work at my direction, and they are also compensated on an hourly basis. All the opinions and conclusions stated in this report are my own. My compensation and The Brattle Group's compensation are not affected by the outcome of this matter.

III. Summary of Opinions

13. My opinions are based on my knowledge and expertise gained during my academic and professional career and the materials that I have reviewed in this matter.
14. Mr. Deal's report includes three primary bases on which he believes "Complaint Counsel's claims of widespread deception and theories of harm are unsupported and inconsistent."⁴

³ See Complaint ¶¶ 4–8.

⁴ Expert Report of Bruce F. Deal, January 13, 2023, ("Deal Report"), ¶ 9.

My report will rebut each of these three bases, one at a time, following the basic structure of Mr. Deal's arguments.

First, I disagree that “Intuit has substantial *economic incentives* not to engage in deception.”⁵

15. **Mr. Deal's Contentions:** In Section IV of his report, Mr. Deal argues that Intuit's economic incentives are inconsistent with deception. I disagree.
16. To arrive at this conclusion, Mr. Deal argues that the market for tax preparation services has certain characteristics which are inconsistent with firms being able to profit from deception. Specifically, Mr. Deal cites the following three characteristics which he claims act as incentives “*not to engage in deception*”: (1) competition and the pursuit of repeated customer interactions act as a “self-correcting mechanism against a firm deceiving its customers;”⁶ (2) a largely fixed set of consumers who must choose among many competing solutions cause “Intuit and its competitors [to] derive greater value from exceeding customer expectations and repeated patronage of their customers;”⁷ and (3) a tax preparation industry characterized by “intense competition, investment of firms focused on multi-year customer retention programs, and lowering switching costs.”⁸
17. **Rebuttal:** In drawing his conclusions about TurboTax's market, Mr. Deal employs a rhetorical trick that conflates ‘less’ with ‘none.’ Market conditions can make it less likely that deception will be in firms' best interest, but that's not the same as establishing that these conditions preclude deception from ever being in any firm's best interest.
18. Instead, as I detail in **Section IV**, it is quite straightforward to see why deception could be in Intuit's best interest, even, and perhaps especially, in a market with TurboTax's market's characteristics. If, for instance, consumers who were deceived into visiting turbotax.com have some tendency towards using a tax preparation solution that is in front of them, have some tendency towards preparing their taxes using the same service they

⁵ Deal Report, ¶ 10 [emphasis in original].

⁶ Deal Report, ¶ 10.

⁷ Deal Report, ¶ 10.

⁸ Deal Report, ¶ 10.

used in the previous year, prefer not to start afresh in another solution, and/or if consumers tend to discount other firms' advertising claims after encountering Intuit's deception, then Intuit's deception could have led it to grow its paying consumer base in a given year, keep those consumers from year to year, made it less likely that consumers would search for alternatives, and made it harder for competitors to compete with Intuit—all of which are in Intuit's economic interest.

Second, I disagree that “Intuit’s *business strategy* is inconsistent with Complaint Counsel’s claims.”⁹

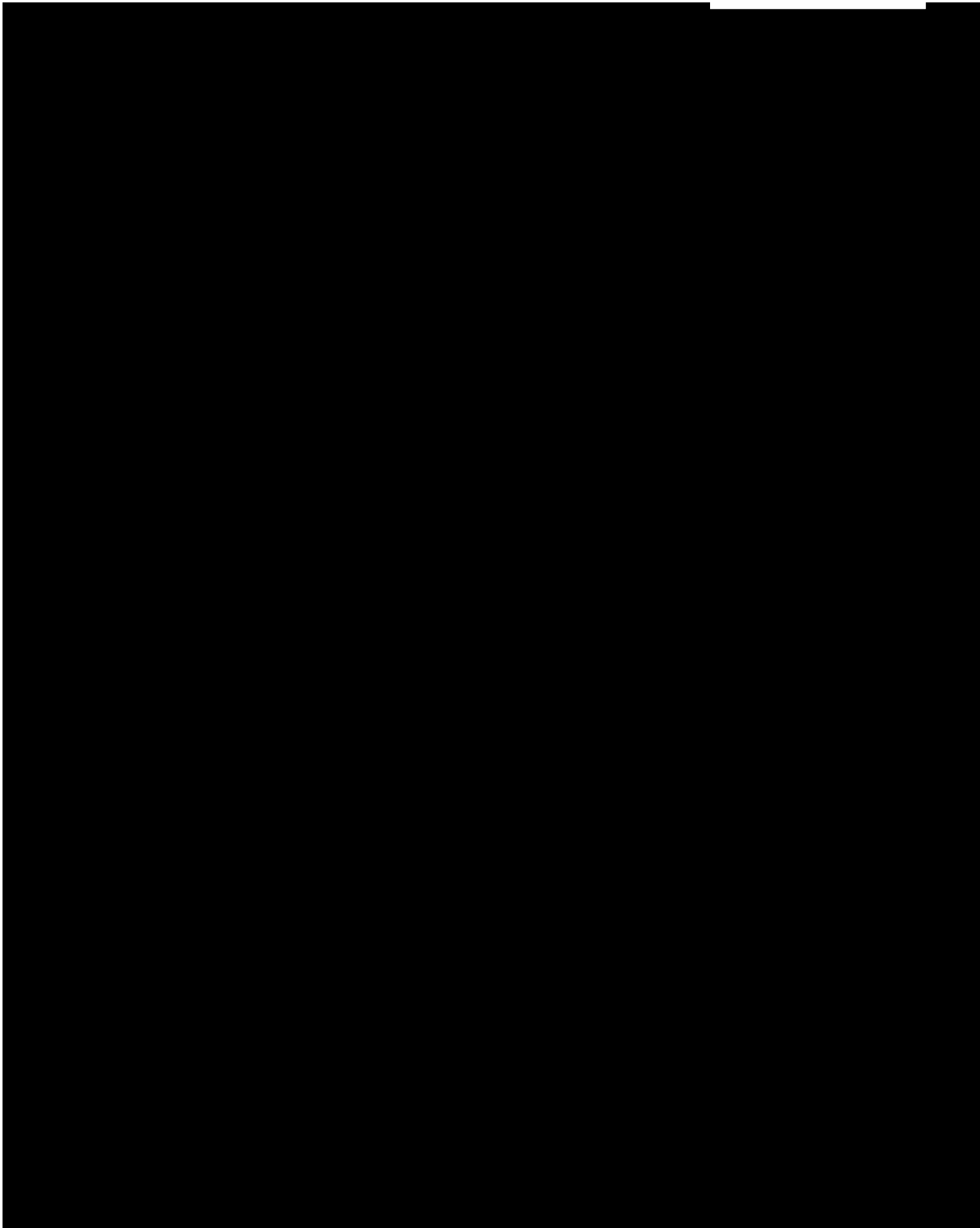
19. **Mr. Deal’s Contentions:** In Section V of his report, Mr. Deal concludes that Intuit’s business practices are inconsistent with deception. I disagree with this conclusion.
20. To arrive at this conclusion, Mr. Deal presents the following characteristics of Intuit’s business model: (1) customer retention is essential to Intuit’s business model; (2) the TurboTax website is designed to funnel customers to the appropriate product; (3) Intuit has made effort to improve customer experience by reducing the time and effort to file taxes with TurboTax; and (4) Intuit does not have any means to prevent customer defection.¹⁰
21. **Rebuttal:** As I will explain in **Section V**, none of these characteristics precludes the possibility of deception. First, a business model prioritizing customer retention does not prevent, and might increase, the benefits of deception. Second, neither Intuit’s funneling of customers to appropriate products, nor its efforts to improve customer experience, preclude deception. And third, the fact that Intuit does not have the “means to prevent customer defection” does not mean that customers who have started their taxes in TurboTax are not disincentivized to switch.

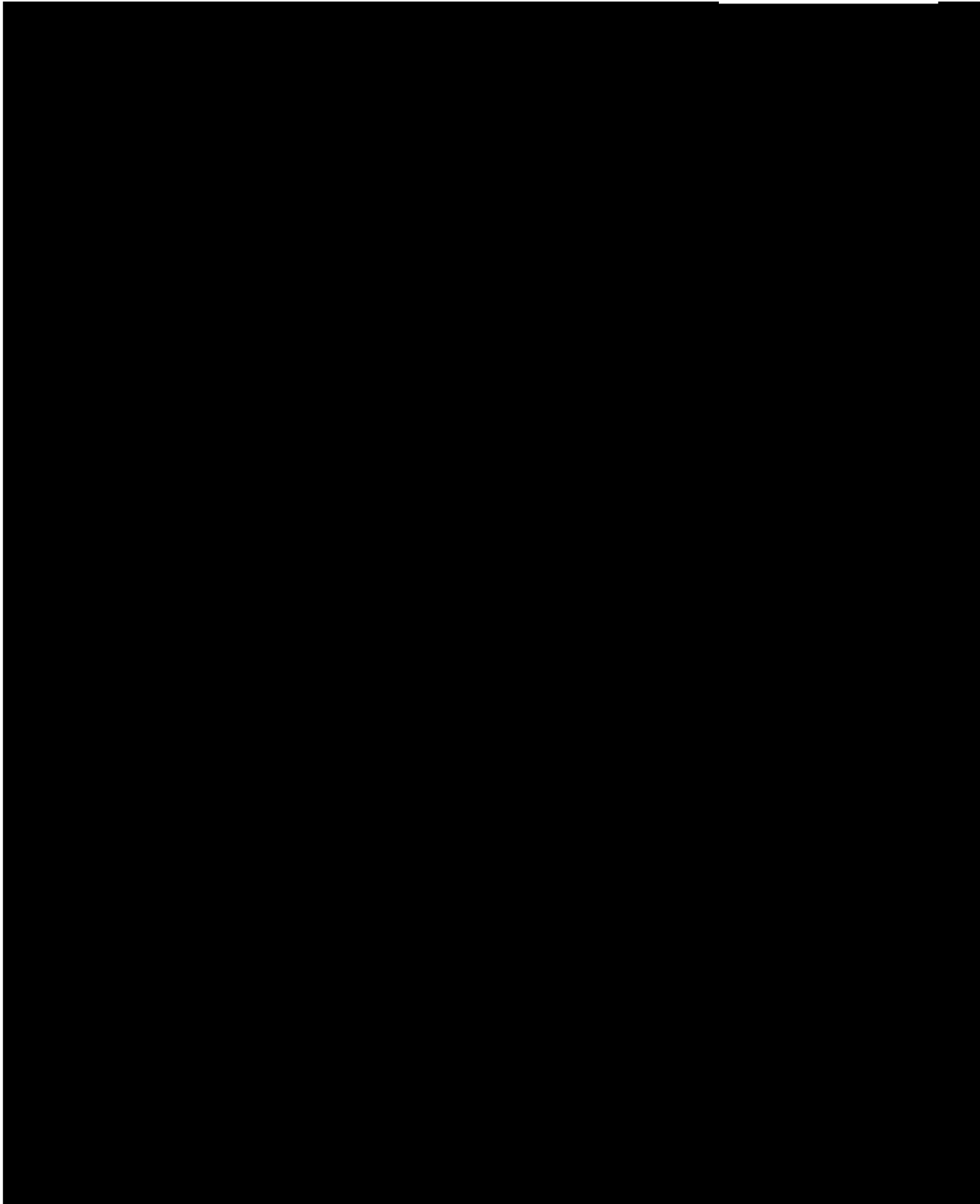
Third, I disagree that “the *actual evidence* from Intuit’s customer-level data is not consistent with a “bait and switch” strategy as alleged by Complaint Counsel.”¹¹

⁹ Deal Report, ¶ 11 [emphasis in original].

¹⁰ See, Deal Report, ¶ 11.

¹¹ Deal Report, ¶ 12 [emphasis in original].





IV. In contrast to Mr. Deal's claim, economic analysis shows deception can be in Intuit's best interest

29. Mr. Deal argues in Section IV of his report that economic analysis suggests deception is not in Intuit's best interest. He summarizes the argument as follows: "I find that economic theory is inconsistent with a firm maximizing firm value by 'bait and switch'-style deception of its customers in situations where (i) the firm relies on the customers' continued patronage, (ii) customers can detect deception early on, and (iii) customers can easily switch to competitors."¹⁷
30. Before I rebut Mr. Deal's economic analysis, I emphasize that it possible for firms to act against their best interest and, in doing so, break the law. Intuit's deceptive ads may well not have been in its long-term best interest. This would not make the actual ads at issue in this case any less deceptive.
31. That said, I disagree with Mr. Deal's economic analysis for the following reasons:
32. First, his description of Intuit's economic incentives—what he calls the 'structural factors' of the market for tax preparation services—are flawed. Starting in Section IV and continuing throughout his report, Mr. Deal presumes the discovery of deception would preclude a user from using TurboTax; however, he does not establish this empirically, and his position is at odds with the academic literature, which (a) identifies that the nature of Intuit's deception would make it so that many consumers would not feel compelled to walk away, and (b) provides many examples—including some canonical ones—in which deceived parties do not break off an interaction.
33. In Section IV.B.4. of his report, Mr. Deal argues that consumers in the Do It Yourself ("DIY") tax preparation market face "low switching costs".¹⁸ While I will argue that switching costs can be low for Intuit to benefit from its deception, Mr. Deal's own numbers show that, in practice, switching costs are non-trivial.

¹⁷ Deal Report, ¶ 23.

¹⁸ Deal Report, ¶¶ 51–54.

34. In Sections IV.B.3. and IV.C. of his report, Mr. Deal argues that the market for tax preparation services is competitive,¹⁹ but, in fact, the market is relatively concentrated, and Intuit holds more market share than all of its competitors combined.
35. Second, even taking as given Mr. Deal's assertions about the 'structural factors' of the market in which Intuit operates, I disagree that economic analysis of these factors leads to the conclusion that deception was not in Intuit's best interest:
- a. Mr. Deal claims in Section IV.A. of his report that repeated interactions are inconsistent with deception. However, the vast literature on repeated games finds that repeated interactions can sometimes lead parties to act in others' interests, not that parties will always act in others' interest, or, in particular, that they will not deceive others. Repeated interactions do not preclude deception.
 - b. Mr. Deal claims in Sections IV.A., IV.B.2., and IV.B.3. of his report that competition and product differentiation will reduce the incentive to deceive, but he gets the analysis wrong. Their effects on the incentive to deceive are ambiguous, and depend on the weights of various countervailing forces.
 - c. Mr. Deal claims in Sections IV.A. and IV.B.4. that low switching costs preclude deception. However, he conflates low switching costs with no switching costs. Crucially, even low switching costs make it possible to benefit from deception. The intuition is straightforward: if a consumer who is deceived into using TurboTax prefers nonetheless to continue using it over starting afresh with a competing product, Intuit can benefit from the deception.
 - d. In his discussion of whether a competitive marketplace incentivizes honesty in Sections IV.A., IV.B.2., and IV.C of his report, Mr. Deal omits the anticompetitive benefits of cheating. If deception makes it harder for competitors to advertise, for instance because it leads consumers to place less trust in claims about the price of tax preparation services in general or to search less for competing products, then deception can benefit Intuit by making it harder for competitors to attract users.

¹⁹ Deal Report, ¶¶ 37–41. (“Industry reports describe the tax preparation industry as “highly competitive.”).

36. To summarize: (1) Mr. Deal’s economic analysis is largely beside the point as firms can deceive consumers even if it is not in the firms’ economic best interest; (2) Mr. Deal does not correctly characterize Intuit’s economic incentives; and (3) Mr. Deal is incorrect: economic analysis of Intuit’s economic incentives can be consistent with deception.
37. I now discuss points (2) and (3) in more detail: in **Section A**, I discuss how Mr. Deal mischaracterizes Intuit’s economic incentives, and in **Section B**, I discuss why economic analysis can lead one to conclude that there could be an incentive to deceive.

A. Mr. Deal’s description of Intuit’s economic incentives is flawed

1. Contrary to Mr. Deal’s presumptions, deception would not preclude a user from using TurboTax

38. A core presumption in Mr. Deal’s analysis in Section IV.A. of his report is that consumers cease using TurboTax upon discovering that they have been deceived. He argues that

At each interaction with a customer, a selling vendor has to choose between two strategies: (i) deceive the customer by misrepresenting the characteristics of the good or service on sale, earn higher immediate returns, and potentially lose any future business from her; or (ii) behave honestly, earning lower immediate returns, and build a trusted relationship that leads to repeated future interactions with the same customer... If a vendor does try to cheat and the cheating can be detected during or after the interaction, the customer will abandon the cheater and bring her business to the competitors.²⁰

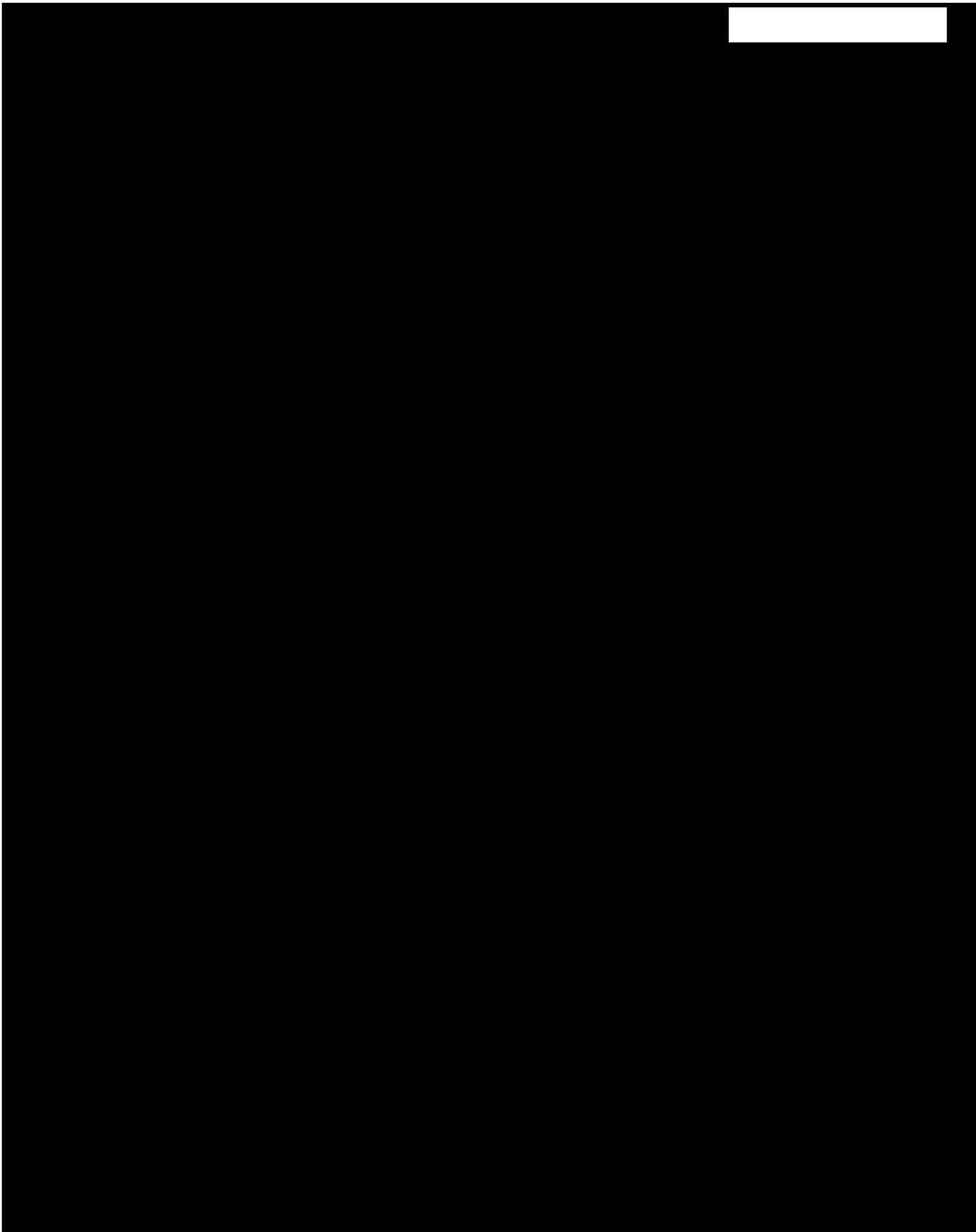
39. I first note that Mr. Deal provides no empirical evidence to support this presumption that consumers will abandon the TurboTax software on learning that they were deceived.
40. However, there are some reasons why one might expect that consumers would not cease using TurboTax.

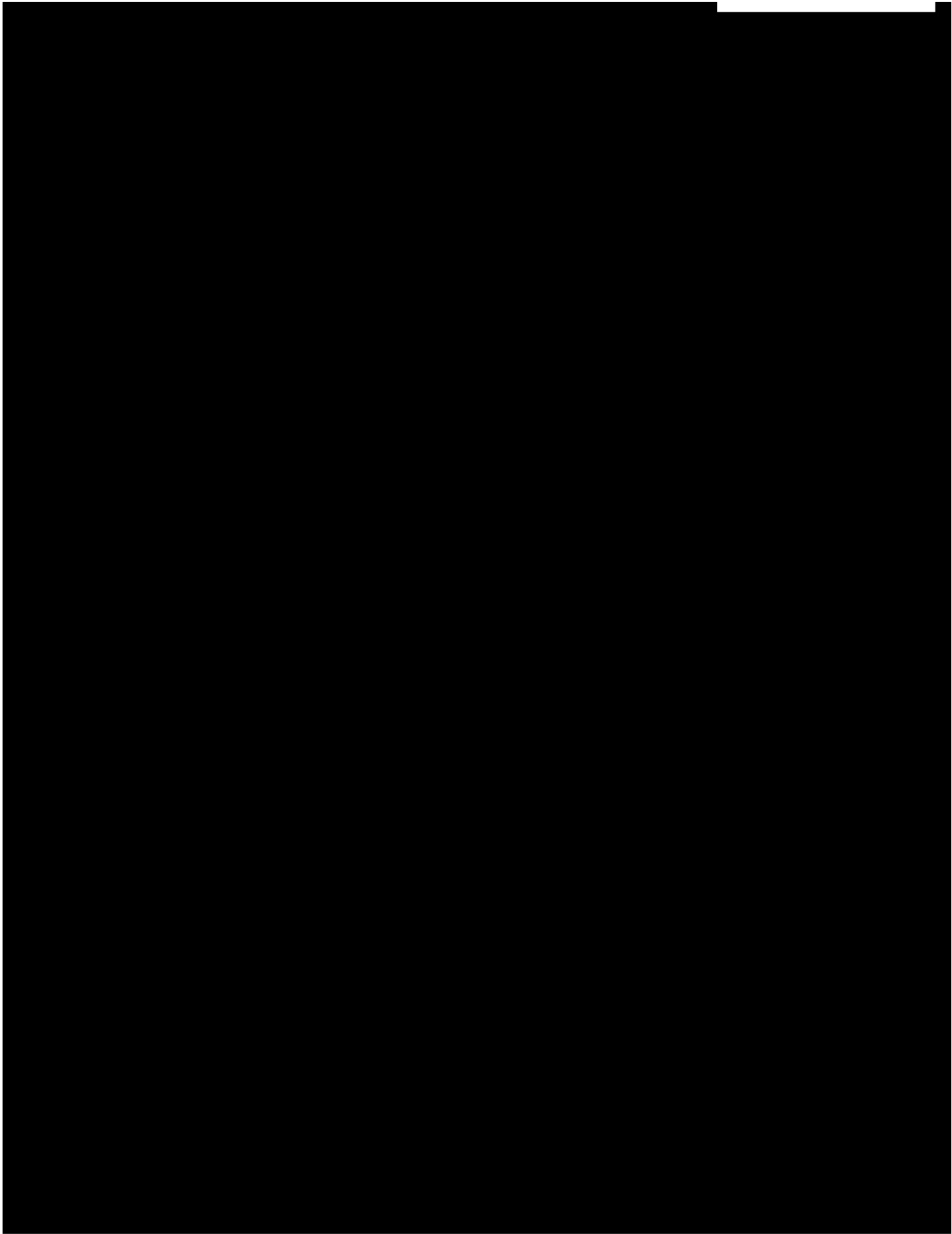
²⁰ See Deal Report, ¶ 24; see also, Deal Report, ¶ 26 (“low switching costs allow customers to carry out their punishment (switching to another supplier either immediately or on the subsequent transaction) against disreputable vendors. As a result, sellers considering taking dishonest actions face a credible threat of losing their customers after being exposed.”); and Deal Report, ¶ 41 (“Regardless of the tax preparation method, a consumer deceived by a provider would easily find an alternative, comparably suitable solution offered by a competitor.”).

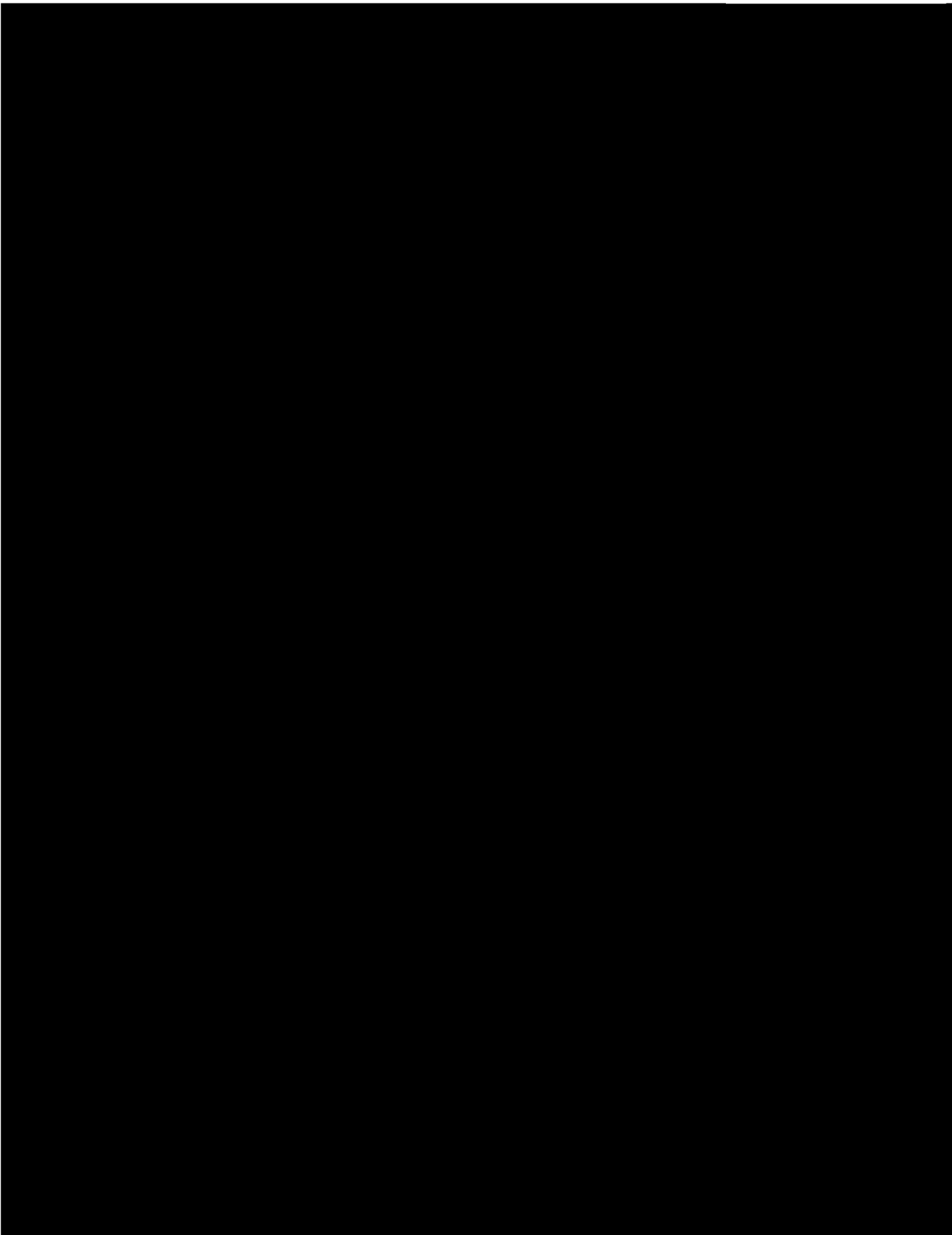
41. Some of these reasons have to do with consumers' perceptions of the deception. For instance, the consumer may lack certainty about whether they were deceived. This could be because they are uncertain either whether what they received was in fact what they were promised, or whether they understood the promise correctly. A firm might even leverage the customer's ignorance to create uncertainty about whether there was a deception or merely a misunderstanding. The initial promise could be framed through the use of industry-specific jargon which can be explained in the course of the upsell. This is consistent with the FTC's complaint: Intuit is accused of having promised free preparation of "simple" returns to a consumer base that is largely unequipped to know intuitively what that means. In the absence of clarity about whether, in fact, a deception occurred, the consumer may be surprised by the price they paid, but would not feel justified in punishing the seller.²¹
42. A third possibility is that the consumer perceives the deception as 'sunk' and not especially informative about the relationship going forward.
- *Consider the vegetable vendor Mr. Deal discusses in his report (Section IV). The vendor seeking to establish ongoing relationships with repeat customers may certainly be deterred from outright cheating them. However, this does not restrict them from gaining their initial attention by advertising a sale on a particular species of potato even long after they've run out of that particular inventory. The excuse will usually be accepted, and if their other offerings are competitive enough, it is easier to maintain buyer interest given they've already arrived at the vendor stall, and, if they leave, would have to start their search afresh. In fact, precisely such a deception is the subject of well published paper by Edward Lazear, titled "Bait and Switch", in which it is shown that deception can persist in equilibrium, so long as the "bait" (Free Edition) is more popular than the "switch" (paid versions of TurboTax).²²*

²¹ See Gillespie *et al.* "A Tangled Web: Views of Deception from the Customer's Perspective," *Business Ethics. A European Review* (2016) Vol. 25, No. 2.

²² Edward P. Lazear, "Bait and Switch," *Journal of Political Economy*, Vol 103. No. 4 (1995).

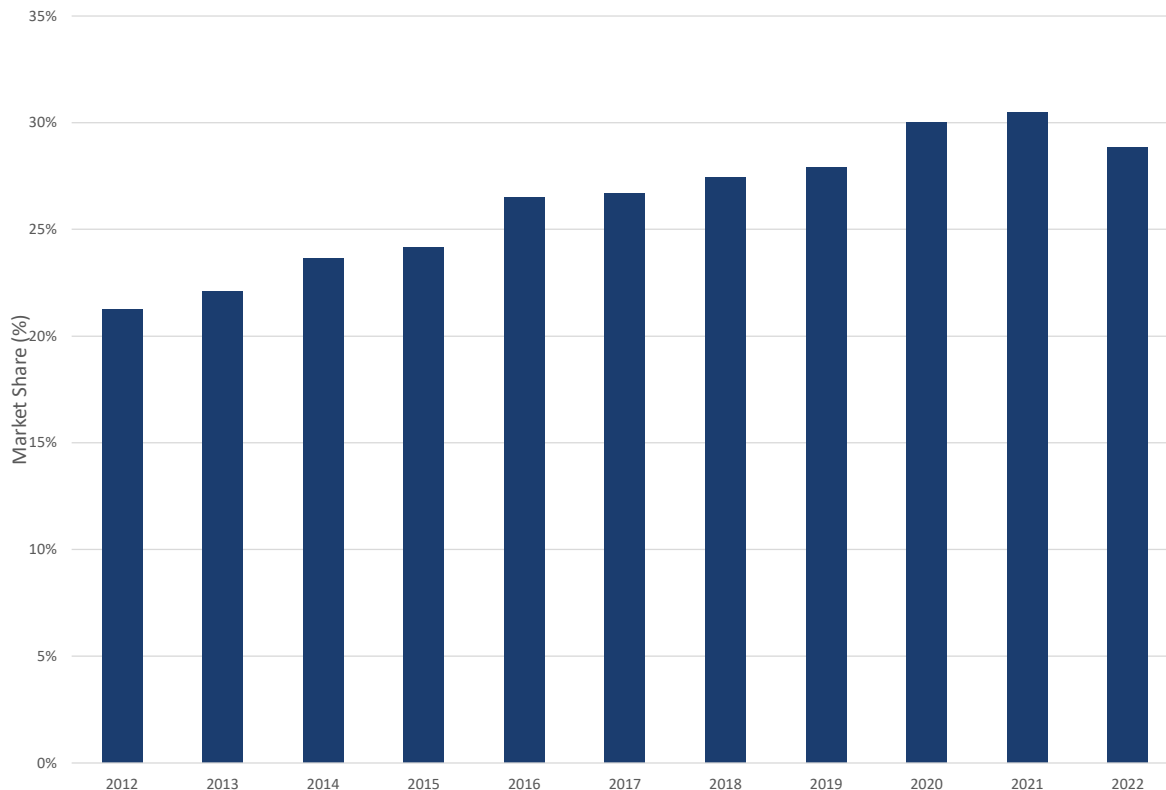






significant TurboTax is in the tax preparation industry, **Figure 2** shows TurboTax’s market share among all tax preparation options. Since 2016, over 25% of all the IRS tax returns were filed with TurboTax.

FIGURE 2: TURBOTAX MARKET SHARE OF TOTAL TAX PREPARATION MARKET



Source: Deal Report, Figure 1. *See* Workpaper 2 – TurboTax Market Share.

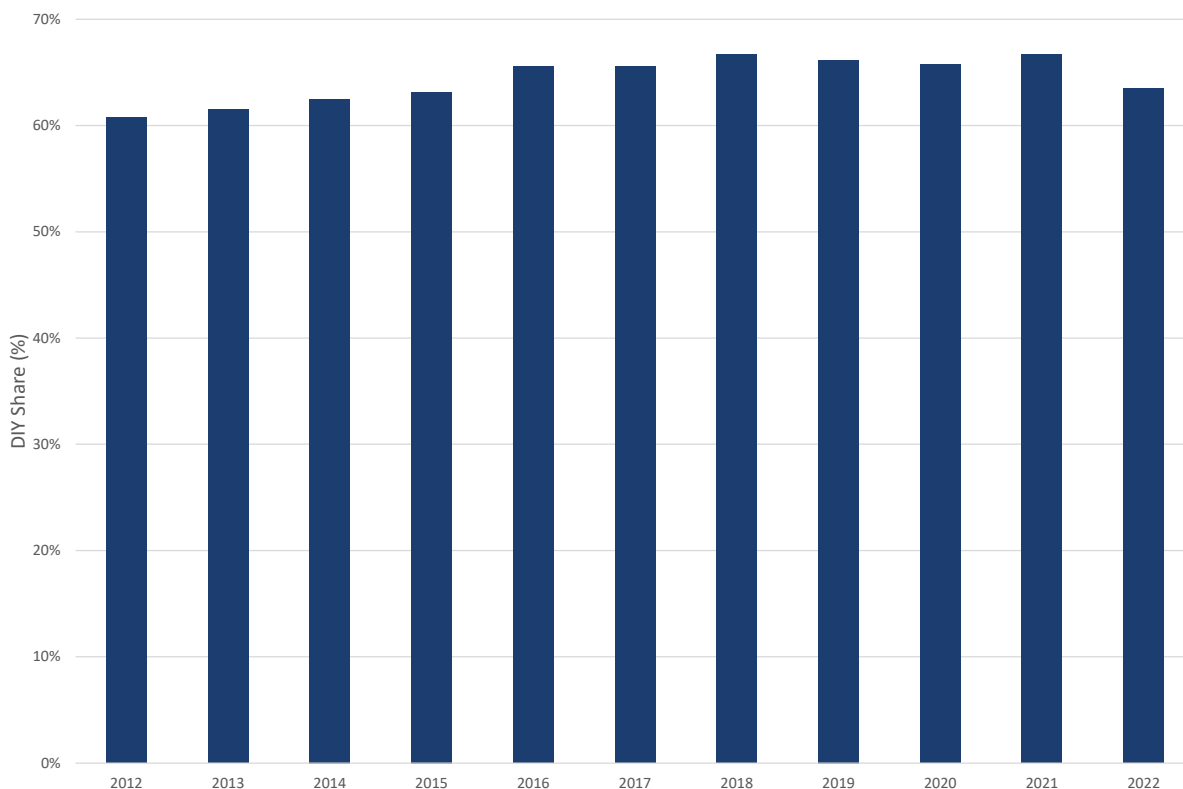
50. Figure 3 also examines TurboTax’s market share, but this time among the DIY tax preparation industry.³⁴ For the last ten years, TurboTax has had over 60% of the DIY tax preparation market. If one were to calculate the Herfindahl–Hirschman Index (“HHI”) measure of market concentration for the DIY tax preparation sector, TurboTax’s contribution to the HHI alone would be greater than 3,600. Competition agencies typically consider HHIs in excess of 2,500 to be “highly concentrated.”³⁵ Thus, contrary to Mr.

³⁴ I do not include manual tax filers in the DIY sector as Mr. Deal differentiates manual from DIY tax preparers, “the popularity of DIY and other online tax preparation products—including TurboTax online and desktop products—has grown in recent years. Very few consumers complete their taxes manually.” Deal Report, ¶14.

³⁵ *See* “Herfindahl-Hirschman Index,” The United States Department of Justice, accessed January 26, 2023, <https://www.justice.gov/atr/herfindahl-hirschman-index> for discussion of Herfindahl–Hirschman Index. (“The

Deal’s claims, the DIY tax preparation market should be viewed as a highly concentrated market due to TurboTax’s presence.³⁶

FIGURE 3: TURBOTAX DIY SHARE OF DIY TAX PREPARATION MARKET



Source: Deal Report, Figure 1; Assuming entire TurboTax share is DIY. *See* Workpaper 2 – TurboTax Market Share.

B. Contrary to Mr. Deal’s conclusion, economic analysis can lead one to conclude that deception was in Intuit’s best interest

51. In the last section, I discussed that I disagree with Mr. Deal’s characterization of Intuit’s economic incentives. In this section, I argue that, even taking as given his description of Intuit’s economic incentives, economic analyses do lead to the conclusion that these incentives are inconsistent with deception.

HHI is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers.”) TurboTax’s contribution to the HHI is greater than 60² which works out to be greater than 3,600.

³⁶ “Herfindahl-Hirschman Index,” The United States Department of Justice, accessed January 26, 2023, <https://www.justice.gov/atr/herfindahl-hirschman-index> for discussion of Herfindahl–Hirschman Index. (“The agencies generally consider markets in which the HHI is between 1,500 and 2,500 points to be moderately concentrated, and consider markets in which the HHI is in excess of 2,500 points to be highly concentrated.”).

1. Contrary to Mr. Deal’s claim, repeated interactions are not inconsistent with deception

52. Mr. Deal says in Section IV.A. of his report that his “main economic intuition... comes from the analysis of *repeated games* in game theory.”³⁷ However, repeated games do not preclude deception or otherwise guarantee that parties behave in others’ best interest:

- *In empirical studies of repeated games, it is common to observe that parties do not behave in others’ interests. This is, for instance, true in virtually every ‘laboratory’ experiment involving repeated games.*³⁸
- *In computer simulations of repeated games, parties often do not behave in others’ interest, either because they are not behaving according to any equilibrium, or because they have arrived at one in which they do not behave in others’ best interest.*³⁹
- *Theoretical models of repeated games typically have equilibria in which parties do not behave in others’ best interest.*⁴⁰ *In addition, there is theoretical literature that focuses on deception by firms, and finds deception is possible even when there are repeated interactions, or reputations are otherwise important.*⁴¹
- *Finally, I note that deception has often been perpetrated by firms that interact with consumers repeatedly.*⁴²

³⁷ Deal Report, ¶ 24.

³⁸ See, e.g., Anna Dreber, David G. Rand, Drew Fudenberg, and Martin A. Nowak. “Winners Don’t Punish.” *Nature*, Vol. 452, No. 7185 (2008): 348-351.

³⁹ See Matthijs van Veelen, Julian Garcia, David G. Rand, and Martin A. Nowak, “Direct Reciprocity in Structured Populations,” *PNAS* Vol. 109, No. 25 (2012): 9929-34 (“Our simulations also suggest that in a well-mixed population, paths out of cooperation are more likely than paths into cooperation.”) pp. 9930-9933. <https://www.pnas.org/doi/full/10.1073/pnas.1206694109>.

⁴⁰ See, e.g., Martin J. Osborne and Ariel Rubinstein, *A Course in Game Theory*, Cambridge, Massachusetts, The MIT Press (1994); Johannes Horner, “Reputation and Competition,” *The American Economic Review*, Vol. 92, No.3 (June 2002): 644-663.

⁴¹ See Benjamin Klein and Keith B. Leffler, “The Role of Market Forces in Assuring Contractual Performance,” *Journal of Political Economy*, Vol 89. No. 41 (1981): 615-641.

⁴² For example, in 2016, the Consumer Financial Protection Bureau fined Wells Fargo Bank \$100 million for its widespread practice of opening unauthorized deposit and credit card accounts “by transferring funds from consumers’ authorized accounts without their knowledge or consent.” Consumer Financial Protection Bureau, “Consumer Financial Protection Bureau Fines Wells Fargo \$100 Million for Widespread Illegal Practice of

53. In fact, the literature on repeated interactions does not just fail to preclude deception, it also explores ways in which this structural factor facilitates deception. For instance, the Nobel Laureates George Akerlof and Robert Shiller argue that firms that interact repeatedly with consumers and, over time have developed good reputation can, under the right conditions, benefit by engaging in “reputation mining” and deceive consumers at some cost to their reputations.⁴³ All that is needed for this strategy to be profitable is for it to take some time for the firm’s reputation to reflect the deception.⁴⁴

2. Contrary to Mr. Deal’s claims, structural factors such as competition and product differentiation can increase the incentive to deceive

54. Mr. Deal claims in Section IV.A. of his report that competition will reduce the incentive to deceive. Specifically, he writes: “The presence of competing offerings is critical for consumers who have been deceived to be able to punish a dishonest seller by switching to rival vendors.”⁴⁵

55. In fact, the effect of competition on the incentive to deceive is ambiguous. Competition can increase the benefits from deceiving on price because, for instance, such deception could attract more customers from a product that competes more intensely with one’s own. Additionally, in more competitive markets, while the benefits to deception accrue solely to the deceiving firm, the costs of deception in terms of reduced consumer confidence is

Secretly Opening Unauthorized Accounts,” September 8, 2016, <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-fines-wells-fargo-100-million-widespread-illegal-practice-secretly-opening-unauthorized-accounts/>. Another example is in 2014, the Federal Trade Commission filed a complaint alleging AT&T advertised and sold unlimited data plans to its customers, but would reduce or “throttle” data speeds once a certain amount of data was used and in 2019 AT&T was required to pay \$60 million into a fund to provide refunds to customers in order to settle the litigation. Federal Trade Commission Press Release, “AT&T to Pay \$60 Million to Resolve FTC Allegations It Misled Consumers with ‘Unlimited Data’ Promises,” November 5, 2019, <https://www.ftc.gov/news-events/news/press-releases/2019/11/att-pay-60-million-resolve-ftc-allegations-it-misled-consumers-unlimited-data-promises>.

⁴³ See George A. Akerlof, and Robert J. Shiller, “*Phishing for Phools: The Economics of Manipulation and Deception*,” Princeton University Press, 2015, pp. 9-10 and pp. 23-25.

⁴⁴ See George A. Akerlof, and Robert J. Shiller, “*Phishing for Phools: The Economics of Manipulation and Deception*,” Princeton University Press, 2015, pp 31-34.

⁴⁵ Deal Report, ¶ 26.

shared with more firms. This is a direct consequence of George Akerlof’s Nobel Prize winning analysis of so-called ‘markets for lemons’.⁴⁶

56. Likewise, Mr. Deal claims, again in Section IV.A. of his report, that product differentiation reduces the incentive to deceive: “When competition is not only on price but entails offering goods and services that are sufficiently differentiated (although still perceived as viable alternatives), [honest] sellers can earn a stream of positive profits over time.”⁴⁷
57. In fact, product differentiation and market competition are not distinct: one way in which markets become less competitive is if there is more product differentiation, which makes it so that firms’ offerings compete less with another’s.
58. When one recognizes this, one also recognizes that the effect of product differentiation, like that of competition, is ambiguous. I believe the source of Mr. Deal’s confusion might be the paper he cites in support of his conclusion, which assumes that, upon any consumer being deceived, all consumers cease using the product.⁴⁸ This assumption excludes the very realistic case where product differentiation makes it harder to cease using a product upon discovering deception and switch to another in its stead. (Note, however, that even in this very extreme case, firms can benefit from deception, providing further evidence for my conclusion in paragraph 61).
59. Finally, **low switching costs** do not preclude deception. Mr. Deal claims in Section IV.A. of his report that low switching costs are inconsistent with deception. Specifically, he argues that because “low switching costs allow customers to carry out their punishment

⁴⁶ Akerlof, George. 1970. “The Market for ‘Lemons’: Quality Uncertainty and the Market Mechanism,” *The Quarterly Journal of Economics*, Vol.84, No. 3, pp. 488-500 at 495 (“The cost of dishonesty, therefore, lies not only in the amount by which the purchaser is cheated; the cost also must include the loss incurred from driving legitimate business out of existence.”).

⁴⁷ Deal Report, ¶ 26.

⁴⁸ Benjamin Klein, Keith B. Leffler, “The Role of Market Forces in Assuring Contractual Performance,” *Journal of Political Economy*, Vol. 89, No. 4 (1981): 615-641, at 617 (“[our model] assumes that consumers costlessly communicate among one another. Therefore, if a firm cheats... all consumers in the market learn this and all future sales are lost.”). This appears to be a simplifying assumption made to intentionally make the environment in the model more extreme than in real life—a common modeling tactic used to isolate what is driving the results.

(switching to another supplier either immediately or on the subsequent transaction) against disreputable vendors... sellers considering taking dishonest actions face a credible threat of losing their customers.... The conditions in the tax preparation industry are [therefore] *not* consistent with conditions for deceptions.”⁴⁹

60. However, so long as there are some switching costs—as I have argued there are, in **Section IV.A.A.2.**—then there can be a benefit to deception. The logic is simply that a consumer who discovers deception and is deciding whether to switch compares two options:

- *Option A (switch): search for an alternative, familiarize themselves with this new product, re-enter their information, and continue their taxes.*
- *Option B (stay): continue their taxes.*

61. The costs included in option A are ‘sunk’ in option B—they’ve already been paid.⁵⁰ So long as the benefits of switching to the tax preparation service in A do not outweigh the extra costs of using A, the consumer won’t switch, and Intuit can profit from them. As I will explain in the next section, a deception may also deter consumers from searching for alternatives if their trust in similar advertisements is *generally* undermined.

3. Mr. Deal omits the anticompetitive benefits of deception from his analysis

62. Mr. Deal omits from his discussions in Sections IV.A., IV.B.2., and IV.C of his report the anticompetitive benefits of deception from his analysis. One ‘side effect’—though it may well be the most important effect—of deception is that it makes it more difficult for consumers to rely on ads, which can incur a cost on all firms in the industry—not just the deceiving firm. This is a canonical application of models of “adverse selection”—situations in which undesirable behavior drives out desirable behavior, because it is hard to distinguish one from the other:

⁴⁹ Deal Report, ¶¶ 26-27.

⁵⁰ Edward Lazear, “Bait and Switch,” *Journal of Political Economy*, The University of Chicago, Vol. 103, No. 4 (1995): 813-830.

There are many markets in which buyers use some market statistic to judge the quality of prospective purchases. In this case there is incentive for sellers to market poor quality merchandise since the returns for good quality accrue mainly to the entire group whose statistic is affected rather than to the individual seller. ... Consider a market in which... quality may be represented, or it may be misrepresented. The purchaser's problem, of course, is to identify quality. The presence of... dishonest dealings tend to drive honest dealings out of the market. ...The cost of dishonesty, therefore, lies not only in the amount by which the purchaser is cheated; the cost also must include the loss incurred from driving legitimate business out of existence.⁵¹

It is also a result of canonical models of deception in the ‘cheap talk’ literature. In these models, deception can persist in equilibrium, but it makes communication less effective.⁵²

63. This means the deceiving firm can benefit not only because it unfairly acquires consumers, but also because it makes it harder for its competitors to acquire consumers. Specifically, Intuit’s free claims would have made it harder for competitors to advertise their own free products, because, after encountering Intuit’s deception, consumers would have come to doubt that those products are, in fact, free. It might have likewise made it harder for them to advertise other product features.
64. Deal’s failure to consider the negative consequences of deception on consumers’ ability to understand and rely on ads also leads him to fail to consider an important burden imposed on consumers of tax preparation software by Intuit’s deception: that its deception made it harder for consumers to understand and rely upon ads for tax preparation services. This

⁵¹ George Akerlof, “The Market for ‘Lemons’: Quality Uncertainty and the Market Mechanism,” *The Quarterly Journal of Economics*, Vol. 84, No. 3 (1970): 488-500, at pp. 488 and 495.

⁵² See George Akerlof, “The Market for ‘Lemons’: Quality Uncertainty and the Market Mechanism,” *The Quarterly Journal of Economics*, Vol. 84, No. 3 (1970): 488-500, at p. 495 (“The Lemons model can be used to make some comments on the costs of dishonesty. Consider a market in which goods are sold honestly or dishonestly; quality may be represented, or it may be misrepresented. The purchaser's problem, of course, is to identify quality. The presence of people in the market who are willing to offer inferior goods tends to drive the market out of existence –as in the case of our automobile ‘lemons.’ It is this possibility that represents the major costs of dishonesty -for dishonest dealings tend to drive honest dealings out of the market. There may be potential buyers of good quality products and there may be potential sellers of such products in the appropriate price range; however, the presence of people who wish to pawn bad wares as good wares tends to drive out the legitimate business. The cost of dishonesty, therefore, lies not only in the amount by which the purchaser is cheated; the cost also must include the loss incurred from driving legitimate business out of existence.”).

would not only disincentivize TurboTax customers from searching for alternatives as we just discussed, but also impact consumers who don't use TurboTax. For all of these consumers, they would, likewise be less likely to search, and thus end up in a product that does not suit their needs as well. It could also lead consumers to distrust DIY services and, thus, pay more for 'live' ones. In other words, deception does not just lead to ill-gotten gains, it also harms all consumers by making it harder to make well-informed decisions in the marketplace, which has implications for the products they purchase, and the gains they obtain from engaging in the marketplace.

V. Mr. Deal's analysis of Intuit's business strategy is largely irrelevant, and consistent with deception

65. In this section, I address Mr. Deal's arguments regarding Intuit's "actual business strategy." In my view, Mr. Deal's analysis in Section V of his report is unpersuasive because: (1) none of his points about Intuit's business model preclude that Intuit engaged in deception; and (2) his analysis ignores large swaths of consumers who were or could have been deceived by Intuit's advertisements. Below, I will address each of his primary arguments.

A. Contrary to Mr. Deal's conclusion, Intuit's strategy of retaining customers for the long term can increase benefits to deception

66. Mr. Deal emphasizes in Section V.A. of his report that Intuit derives value from retaining customers over the long term.⁵³ Although his support is limited,⁵⁴ my primary response is that this does not preclude deceiving consumers into showing up in the first place. In fact, I

⁵³ Deal Report, ¶ 59 ("Intuit's long-term business strategy, as observed in its public statements, internal documents, and behavior, is based on retaining existing customers by improving customer experiences and expanding its market share at both "ends" of the tax preparation market."); ¶ 63 ("Intuit is incentivized to retain customers who might otherwise leave for assisted tax preparation products."); ¶ 65 ("Intuit is further incentivized to retain customers over the long term due to high customer acquisition costs (approximately \$40 for DIY but \$120 for TurboTax Live customers in TY18.).").

⁵⁴ For example, Mr. Deal's footnote for the statement that "Intuit's long-term business strategy, as observed in its public statements, internal documents, and behavior, is based on retaining existing customers by improving customer experiences and expanding its market share at both "ends" of the tax preparation market" is a cite to a single document. Deal Report, ¶ 59.

find that some of the evidence Mr. Deal cites in his explanation actually support that Intuit could have benefitted by deceiving its customers.

67. Mr. Deal argues in Section V.A. of his report that, for Intuit, offering a free tax preparation product for simple returns is a key driver of Intuit’s growth, and that it was designed to drive consideration of “not just customers with simple tax situations but of all customers.”⁵⁵ Specifically, he states:

*Getting customers to try out TurboTax and retaining these customers over the long term, including when their taxes become more complicated, is an essential part of Intuit’s business strategy, not an attempt to deceive them into believing that TurboTax is free for all customers, that all TurboTax products are free, or that TurboTax is always free for them as Complaint Counsel allege at varying times.*⁵⁶

68. Mr. Deal also provides a number of quotes emphasizing the importance of retention.⁵⁷ For example, Mr. Deal references Greg Johnson, Intuit’s former General Manager of the Consumer Group as saying that “Intuit’s strategy of ‘winning in free’ means getting consumers to consider TurboTax.”⁵⁸ Mr. Deal concludes that this desire to get consumers to consider TurboTax is inconsistent with deception.⁵⁹ The problem with this logic is the same problem that I have already highlighted: Mr. Deal presumes that deceived consumers would not use TurboTax. However, as already discussed in **Section IV**, there is neither theoretical nor empirical evidence for this. If consumers were more likely to use TurboTax following a deception, then the deception would have aided Intuit in the described strategy.
69. Mr. Deal also explains in Section V.A. of his report that internal documents estimate that the “5-year lifetime value of new customers in 2019 was \$292 for customers using paid

⁵⁵ See Deal Report, ¶¶ 60–61.

⁵⁶ Deal Report, ¶ 61 [emphasis in original].

⁵⁷ Deal Report, ¶ 59 (“Intuit’s long-term business strategy, as observed in its public statements, internal documents, and behavior, is based on retaining existing customers by improving customer experiences and expanding its market share at both “ends” of the tax preparation market.”).

⁵⁸ Deal Report, ¶ 61.

⁵⁹ See, Deal Report, ¶ 63.

DIY TurboTax products and \$511 for TurboTax Live customers.”⁶⁰ He points out that “These values far exceed the one-time revenue that might be derived from a strategy that would—at least hypothetically—extract payment in the year of deception but lose the customer thereafter.”⁶¹ Again, the problem with this logic is that Mr. Deal presumes, for instance, in Section IV.B. of his report, that deceived consumers would not use or return to TurboTax, and, again, I emphasize that if (and I’ve argued can be the case in **Section IV**)—this is not true, and the deceived consumer was more likely to become a 5-year lifetime user, then the deception was especially beneficial to Intuit.

70. To summarize, contrary to Mr. Deal’s conclusion, a strategy of consumer retention does not preclude—and can even increase the benefit from—deception.

B. Mr. Deal’s claims about the TurboTax website’s design do not preclude deception

71. Mr. Deal’s discussion in Section V.B. of his report about the TurboTax website and its design to funnel users to the ‘right’ products does not nullify the deception in Intuit’s advertisements. Mr. Deal begins by discussing the fact that internet advertisements are intended to “target consumers who are likely to have simple tax returns.”⁶² First, this creates an unduly limited consumer set that ignores all of the customers who reached TurboTax’s website from means other than targeted ads, including through Intuit’s widely disseminated television ads that ran,⁶³ for example, during the Super Bowl. Mr. Deal justifies this exclusion by saying that there are not data connecting exposure to TV advertisements to specific customer data, and that consumer purchase decisions are not determined solely through exposure to TV advertising.⁶⁴ The fact that Mr. Deal does not have data linking TV advertisements to consumers does not mean these advertisements did

⁶⁰ Deal Report, ¶ 63.

⁶¹ Deal Report, ¶ 63.

⁶² Deal Report, ¶ 66.

⁶³ *See, e.g.*, Remote Deposition of Connor T. Benbrook, *in the matter of Intuit, Inc., a corporation*, No. 9408, 53: 3-25, October 25, 2022 (“Q...What kinds of ads had you seen for TurboTax? A. Television ads, online ads and physical ads via, you know, bus stop whatchamacallits and benches and the such...The words ‘free’ and the ‘zero dollar’ repeated numerous times across all ads...occasionally the word ‘guaranteed’ as well.”).

⁶⁴ Deal Report, ¶ 150 and note 312.

not deceive consumers. Likewise, the fact that consumers do not make decisions solely based on TV advertisements does not mean these advertisements did not deceive consumers.

72. Second, the fact that internet advertisements are targeted fails to address whether Intuit's targeted internet advertisements for its Free Edition actually attracted a meaningful number of consumers who could not file for free. Regarding this second point, it is common practice for companies to track which advertisements users clicked on to arrive at their website. In its response to an FTC Civil Investigative Demand, Intuit has demonstrated that it has data⁶⁵ that would reveal whether a meaningful number of consumers who could not file for free clicked on advertisements for Free Edition. That Mr. Deal relied upon quotes from Intuit executives rather than relying on such data makes me place more weight on the possibility that such data would be consistent with substantial deception.
73. Mr. Deal continues by discussing features of turbotax.com's landing page which he claims are designed to elicit more information from consumers so as to funnel customers to "the expected appropriate product." I have two criticisms of this argument. First, it is irrelevant: the Complaint focuses on whether consumers were deceived by Intuit's advertisements, which would have occurred prior to consumers seeing the claims on TurboTax's website.⁶⁶ Regardless of what happened on the website, Intuit's advertisements could have been deceptive with the goal of bringing consumers to the site in the first place. Second, it is unclear to me that Mr. Deal is right that the TurboTax's landing page reflects Intuit's strategy to funnel consumers to the right product. As Deal's Fig. 5 shows, Intuit presented consumers with the option "I want to maximize deductions and credits", in the (most prominent)⁶⁷ top-left position. Given that all consumers would want this, the fact that a

⁶⁵ See, e.g., GX 80, at INTUIT_FFA_FTC_C013.09 to .012 (CC-00000844 to 847).

⁶⁶ Videoconference Deposition of Joseph Walter *In the matter of Intuit, Inc., a corporation*, No. 9408, 33:2-6, November 30, 2022 ("Q. And where did you see advertisements that said 'free'? A. Websites and on TV. Q. What website? A. TurboTax website.")

⁶⁷ William Lidwell, Kritina Holden, and Jill Butler, *Universal Principles of Design*, (Rockport Publishers, 2010), 118 ("The Gutenberg diagram divides a display medium into four quadrants: the primary optimal area at the left, the terminal area at the bottom right, the strong fallow area at the top right, and the weak fallow area at the bottom left. According to the diagram, Western readers naturally begin at the primary optical area and move across and down the display medium in a series of sweeps in the terminal area."); Jakob Nielsen, "F-Shaped

consumer clicks on this button should not provide Intuit with any information that would aid it in funneling customers to the appropriate product. The design of the website therefore reflects other considerations, and importantly, there is the possibility that this button was included to funnel people into paid products, rather than the “appropriate” product.⁶⁸

74. Mr. Deal continues by arguing, in the same section of his report, that some customers “start in Free Edition despite knowing [they] likely [have] a more complex tax return”⁶⁹ or “may disregard a recommendation to start in paid product and decide to try Free Edition with the knowledge that they may have to upgrade to a paid product.”⁷⁰ This does not rule out that many started in Free Edition without knowing they had a more complex tax return.⁷¹ Moreover, I note that, the only evidence Mr. Deal provides for the theory that people who know they are likely to have to pay might still start in the Free Edition comes from a single *Wirecutter* article which recommends “most people should start with Free Edition.... And upgrade to Deluxe only if you’re required to.”⁷²

Pattern For Reading Web Content (original study),” Nielsen Norman Group, accessed January 27, 2023. (“In our new eyetracking study, we recorded how 232 users looked at thousands of Web pages. We found that users’ main reading behavior was fairly consistent across many different sites and tasks. The dominant reading pattern looks somewhat like an F and the following three components: Users read in a horizontal movement, usually across the upper part of the content area.”).

⁶⁸ See, e.g., Zoom Examination of Benjamin T. Dukatz, *In the Matter of Intuit, Inc., a corporation*, No. 9408, 63:16-24, September 29, 2022 (“Q And then going back to the top where there are four headings that read "Free Edition," "Deluxe," "Premier" and "Self-Employed," do you see the Free Edition option? A I do. Yes. Q And having looked at this page, do you have an understanding of who would be eligible to use the Free Edition? A No.”).

⁶⁹ Deal Report, ¶ 72.

⁷⁰ Deal Report, ¶ 73 *citing* Melanie Pinola, “The Best Online Tax Filing Software,” *Wirecutter*, April 18, 2022, INTUIT-FTC-PART3-000611941.

⁷¹ See, e.g., Oral Deposition of Shaun Ryan Dougher, *In the Matter of Intuit, Inc., a corporation*, No. 9408 33:12-19, November 9, 2022 (“Q. Under Free Edition, it also says, "For simple tax returns only." ... Q. Do you know what that means? A. "For simple"? I don't know. What does it mean? For, like, simple tax returns? I don't know.”); *see also*, Oral Deposition of Denise Robinson, *In the Matter of Intuit, Inc., a corporation*, No 9408, 59:10-21, November 29, 2022 (“A...Yes, it says “Free Edition”. It’s always switching you into deluxe. No matter what you do, you cannot back out of the deluxe...I attempted to file free for every tax year you have on here. It pushed me into the deluxe edition and would not let me do anything, otherwise.”)

⁷² Deal Report, ¶ 73 and note 171, *quoting* Melanie Pinola, “The Best Online Tax Filing Software,” *Wirecutter*, April 18, 2022, <https://www.nytimes.com/wirecutter/reviews/best-tax-software/>, INTUIT-FTC-PART3-000611941.

75. Mr. Deal concludes that, “Given this strategy, it would be inaccurate to assume that starting a tax return in TurboTax Free Edition and later having to upgrade to a different product should be interpreted as an initial expectation of being able to file for free.”⁷³ This is a strawman. The FTC has not claimed this, nor is it a prerequisite for there to have been deception.

C. Contrary to Mr. Deal’s claims, Intuit’s efforts to improve customer experience and reduce time and effort to file taxes do not preclude deception

76. In Section V.C. of his report, Mr. Deal sets up a straw man, asserting that the Complaint alleges that Intuit intentionally makes it “more difficult and time consuming to complete one’s tax return” before informing users of the need to pay.⁷⁴ He argues that such a “bait and switch” strategy is unlikely because “[c]ontrary to Complaint Counsel’s allegations, most TurboTax customers with complex tax needs do *not* invest significant time and effort filling in their taxes before they are notified of the need to pay,”⁷⁵ and that Intuit has introduced many features “that *reduce* the amount of manual entry required by TurboTax customers, making it easier, more efficient, and ultimately faster for customers to complete their taxes.”⁷⁶

77. I disagree with Deal’s conclusion for three key reasons. First, as I said in the previous section, the question of whether deception occurred relates to consumers’ beliefs prior to arriving at the website. Whether they could then switch easily can be relevant for whether Intuit could profit from the deception, and how much harm consumers experienced from the deception, but does not determine whether deception occurred.

⁷³ Deal Report, ¶73.

⁷⁴ Deal Report, ¶ 78.

⁷⁵ Deal Report, ¶ 78 [emphasis in original].

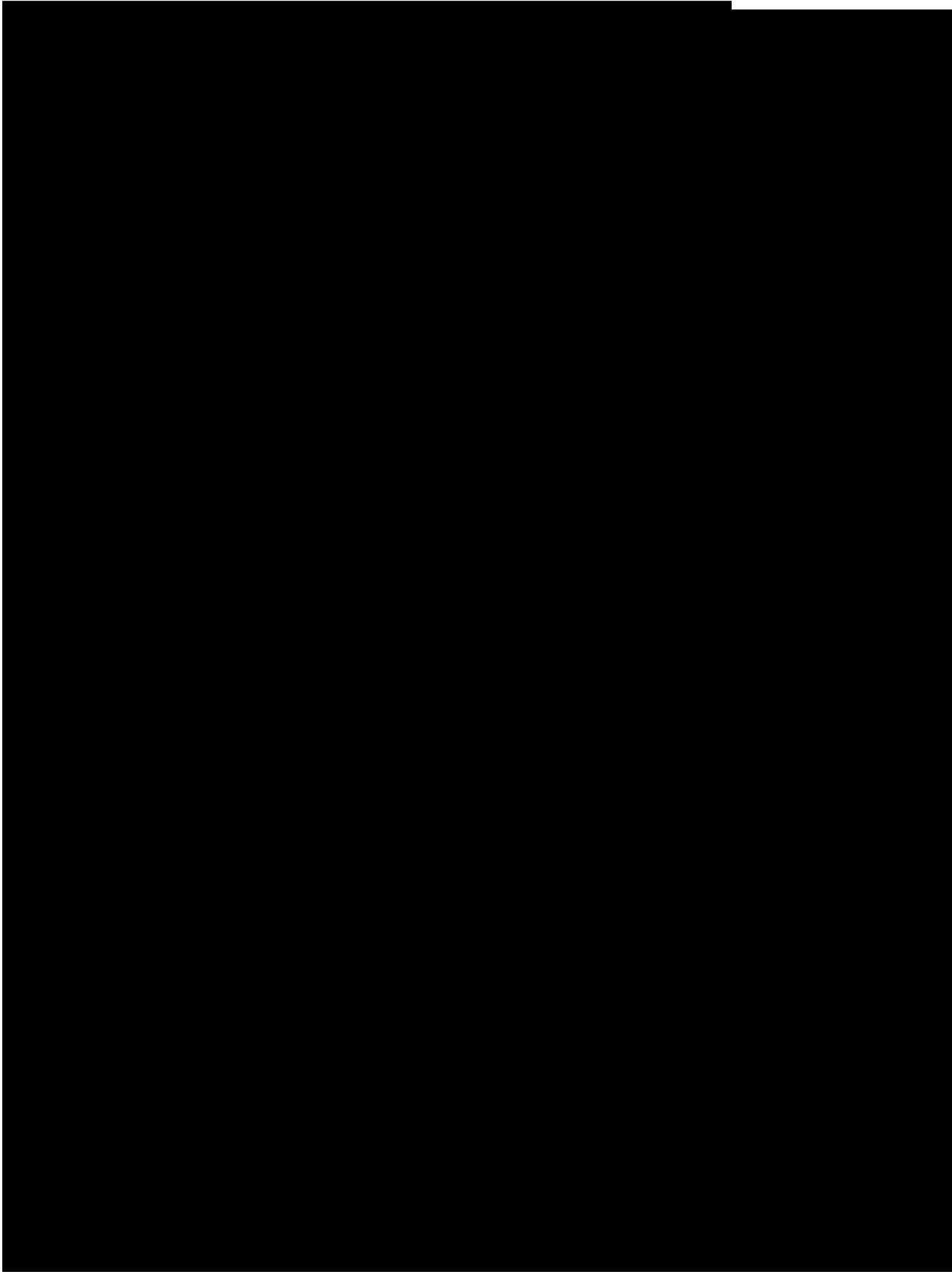
⁷⁶ Deal Report, ¶ 78 [emphasis in original].

78. Second, the same is true for whether Intuit made entering tax information more efficient. This, too, could impact the harm from the deception, but it could not impact whether deception occurred.
79. Third, the introduction of features that reduce time spent on manual entry, does not preclude deception. Intuit likely faces competitive pressures that lead it to invest in reducing the amount of manual entry required by TurboTax customers. These pressures exist regardless of deception, and the fact that Intuit makes these investments tells us nothing about whether they are motivated to deceive in theory, much less whether they actually deceived in practice.
80. In sum, I find this section does not change my opinion on whether Intuit engaged in deception.

D. Mr. Deal’s contention that Intuit employs a “try before you buy” business model and does not have any means to prevent customer defection again ignores the fact that consumers who have begun filling out their taxes have a disincentive to switch services

81. In Section V.D. of his report, Mr. Deal points out that Intuit employs a “try before you buy” business model and does “not have any means to prevent customer defection.” Based on this, Mr. Deal precludes that consumers can be “locked-in” in to TurboTax: “Contrary to Complaint Counsel’s allegations that Intuit requires its customers to invest significant time and effort filling out their taxes (thus implying they will inevitably file using TurboTax), many customers do abandon their returns before completion.”⁷⁷ Before responding to this argument, I emphasize that it does not inform us as to whether deception occurred. As discussed in the preceding sections, deception occurs prior to, and regardless of, switching.
82. As for Mr. Deal’s argument, I highlight that it conflates the colloquial use of “locked-in” with the economic term of art, which just means that once customers have begun filling out

⁷⁷ Deal Report, ¶ 87.

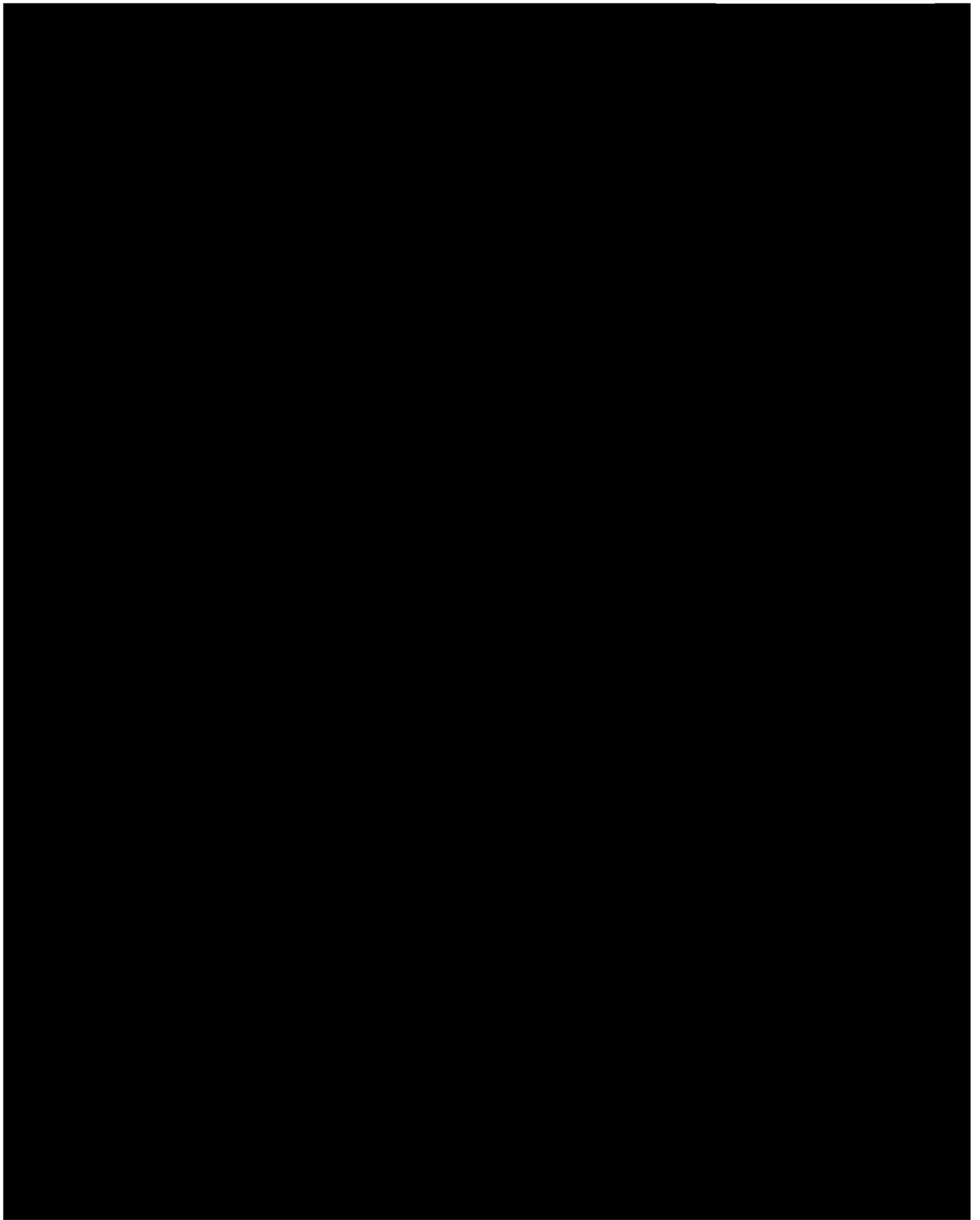


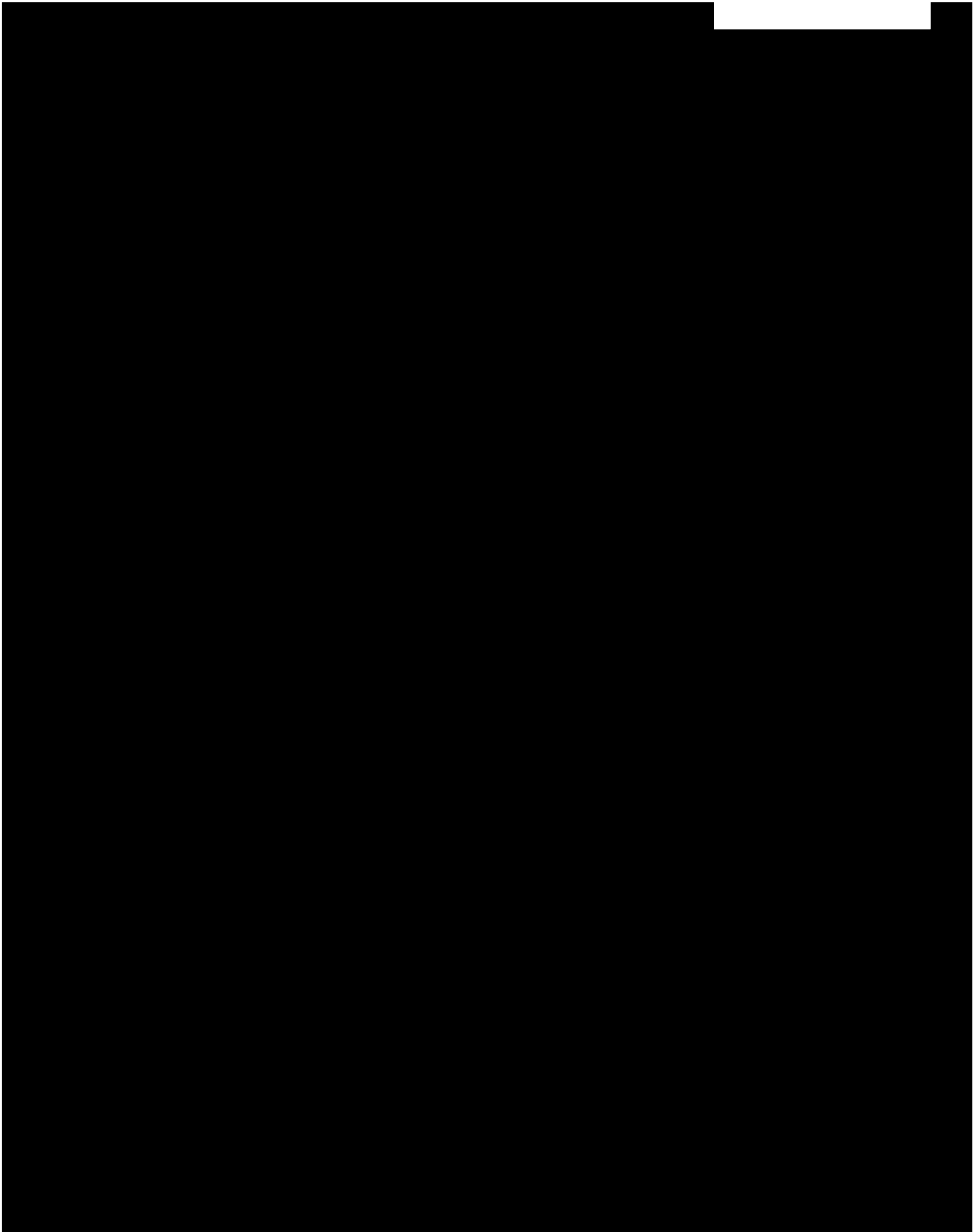
85. I reply to this in the same way I replied in **Section IV**. First, the number of consumers who defect is not a function of switching costs alone—it reflect costs and benefits of switching. Second, the fact that consumers can defect does not inform us as to the advantage gained by Intuit prior to this defection, as a consequence of the fact that the consumer has ‘sunk’ time and energy into entering their taxes into TurboTax, and, in deciding to switch, is comparing a product for which they would not have to put in this time and energy again (TurboTax) to one in which the consumer would need to expend additional time and energy to, for example, create an account, familiarize themselves with the product, and either manually reenter their information or transfer it.
86. Finally, in this section, Mr. Deal brings up what he says is TurboTax’s strategy of pursuing customer satisfaction: “Intuit’s business model is based on customer lifetime value, meaning retaining customers for multiple years and generating revenue across multiple years from the possibility of their repeated patronage. Offering a free version of TurboTax is a core component of Intuit’s business strategy to build customer satisfaction and loyalty.”⁸⁵ Towards this aim, Mr. Deal brings up TurboTax customer reviews, as well as quotes from executives. I respond that TurboTax’s customer reviews are highly skewed because one cannot leave a review without completing one’s filing with TurboTax. This means that consumers who did not file because they were dissatisfied with TurboTax would not be eligible to leave a review. Likewise, any review of the TurboTax Free Edition product is necessarily from a consumer who *completed* filing their taxes in the free product. Additionally, consumers may be deceived into using TurboTax, but still end up being satisfied with the product.

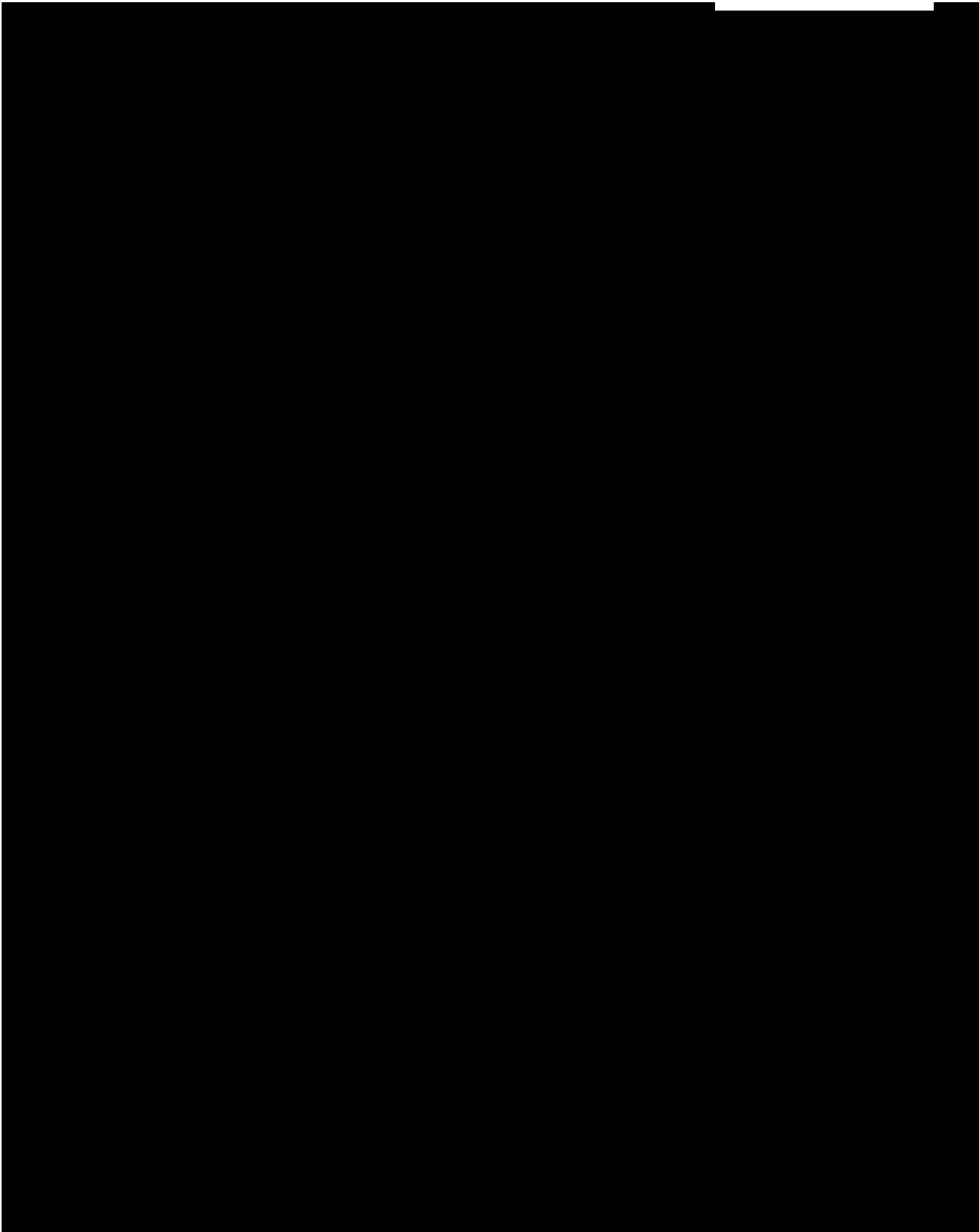
VI. Contrary to the conclusion Mr. Deal reaches with his empirical analysis, a large number of consumers could have been deceived by Intuit’s claims

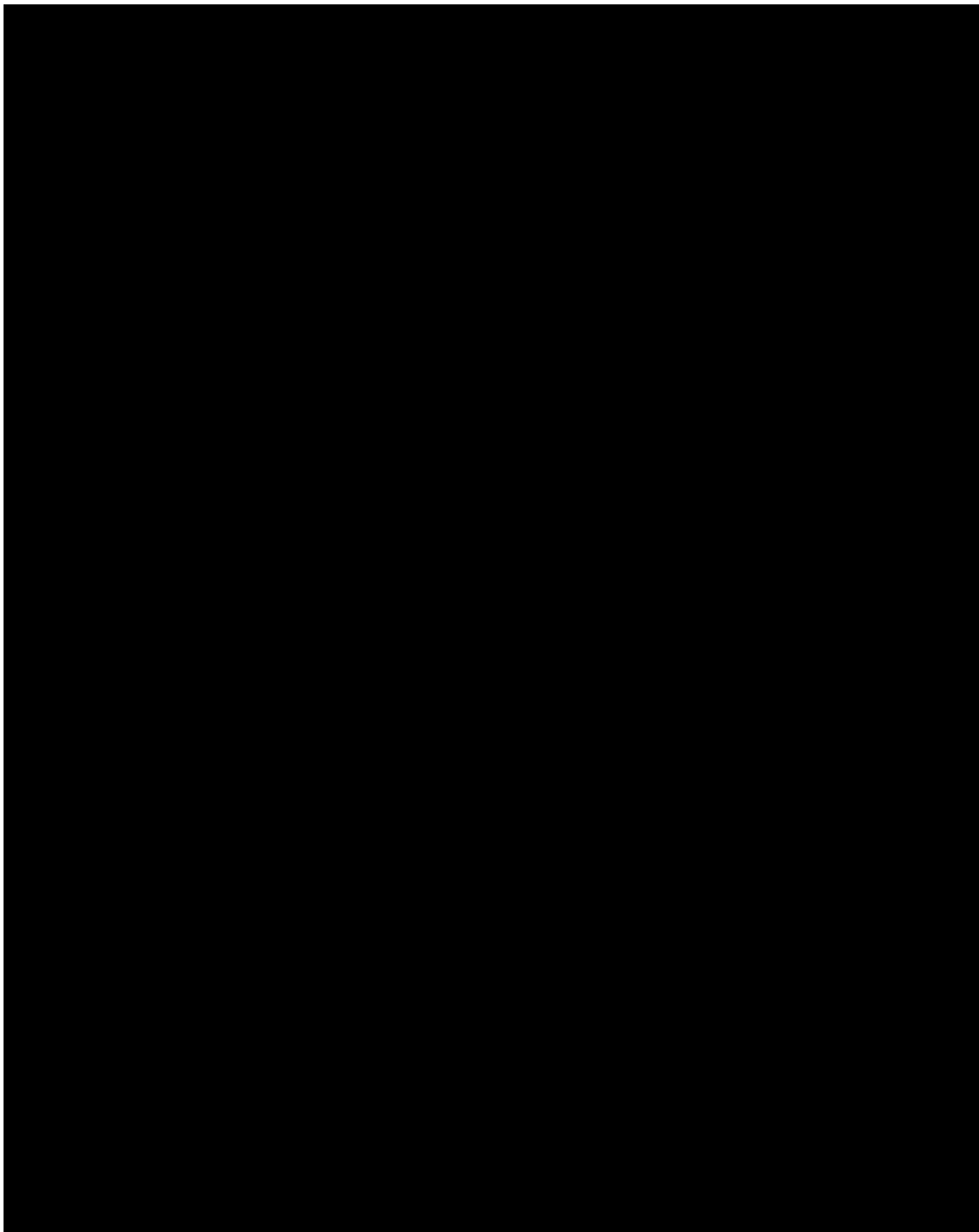
87. In this section, I respond to the data analysis in Section VI and Section VII of the Deal Report. In these sections, Mr. Deal considers TurboTax customers in FY21. He organizes these customers into three main categories: “Filed Federal and State Tax Returns for Free;” “Explored TurboTax and Pursued Other Options;” and “Paid to File and Expressed

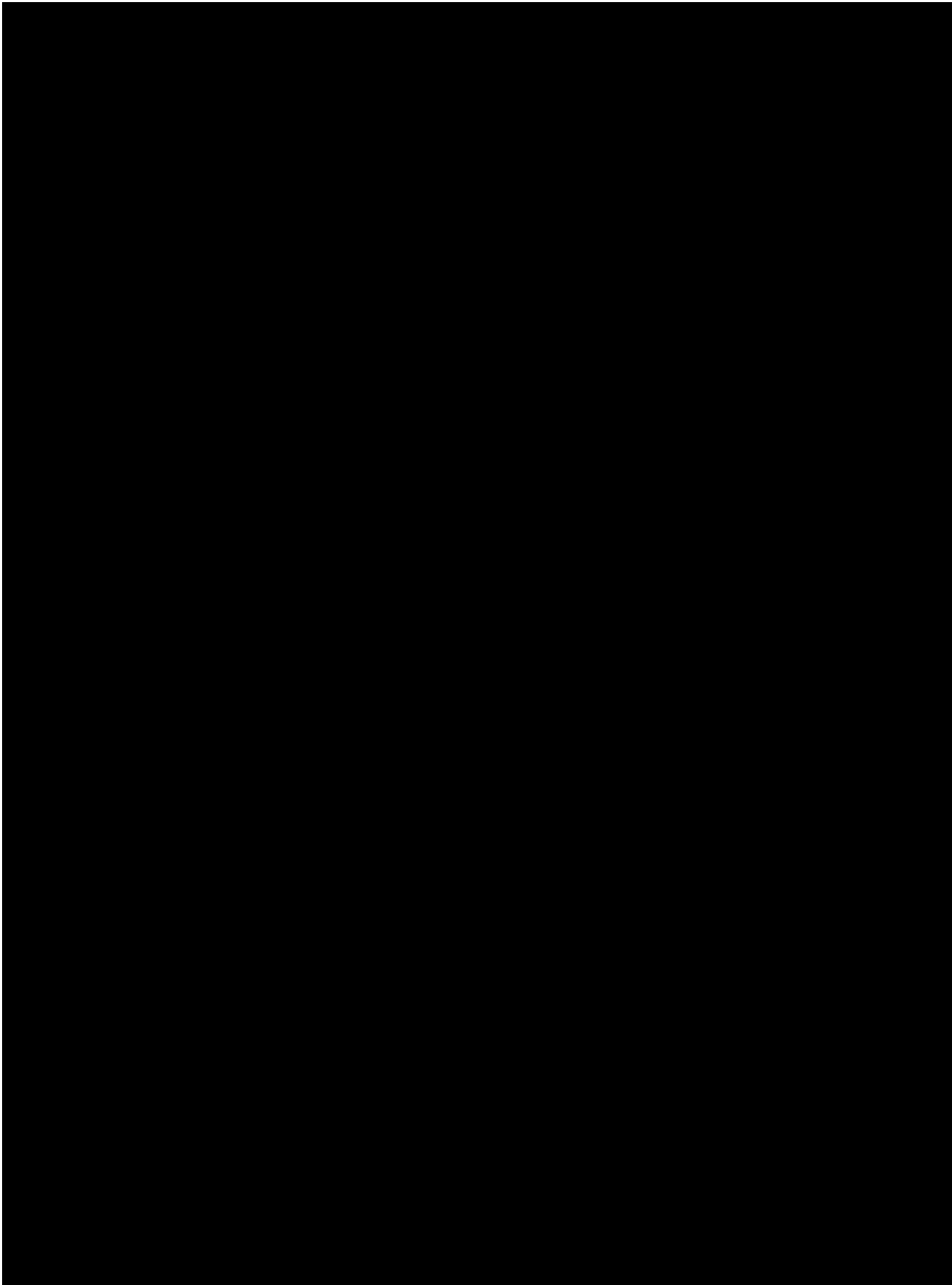
⁸⁵ Deal Report, ¶ 11.

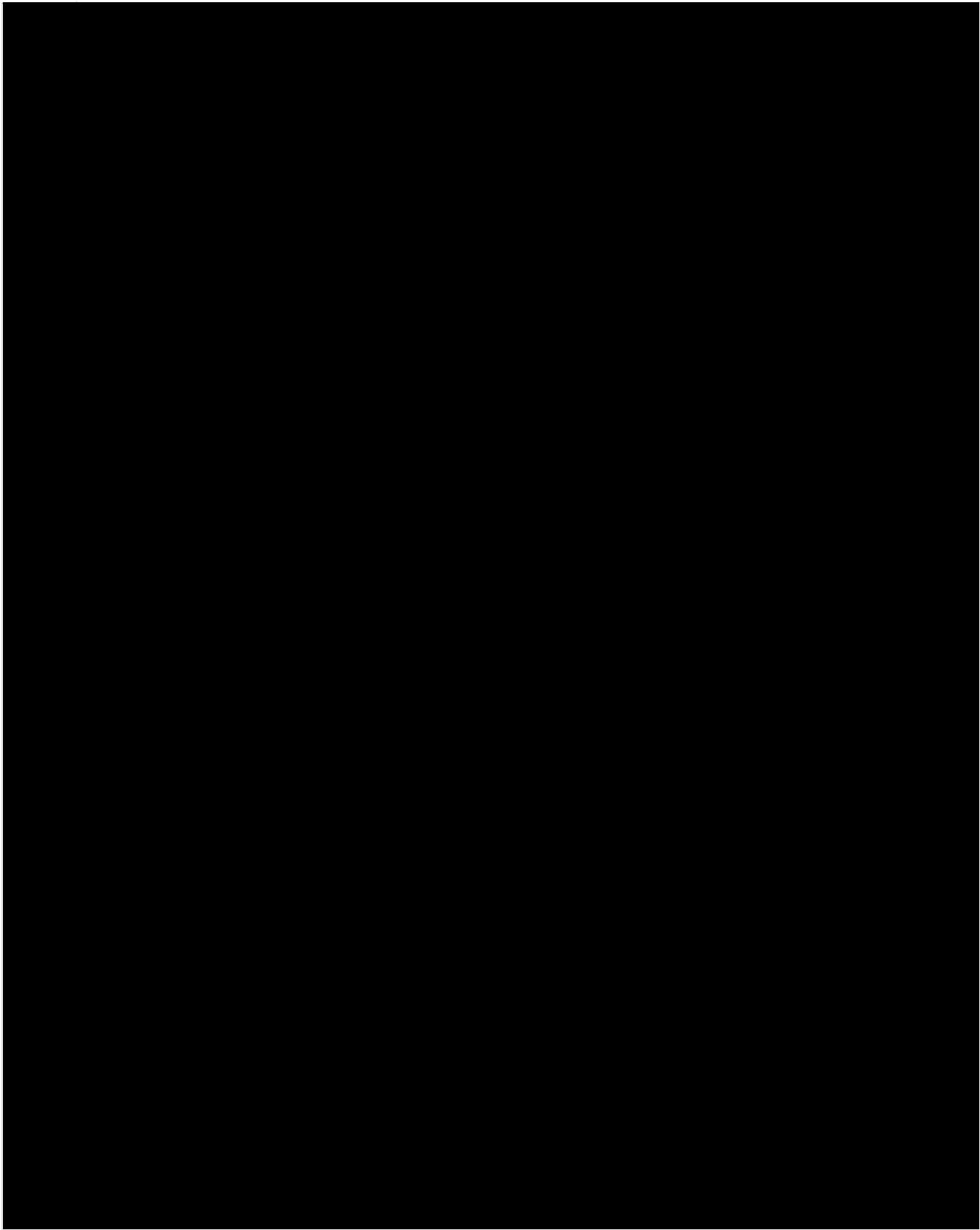


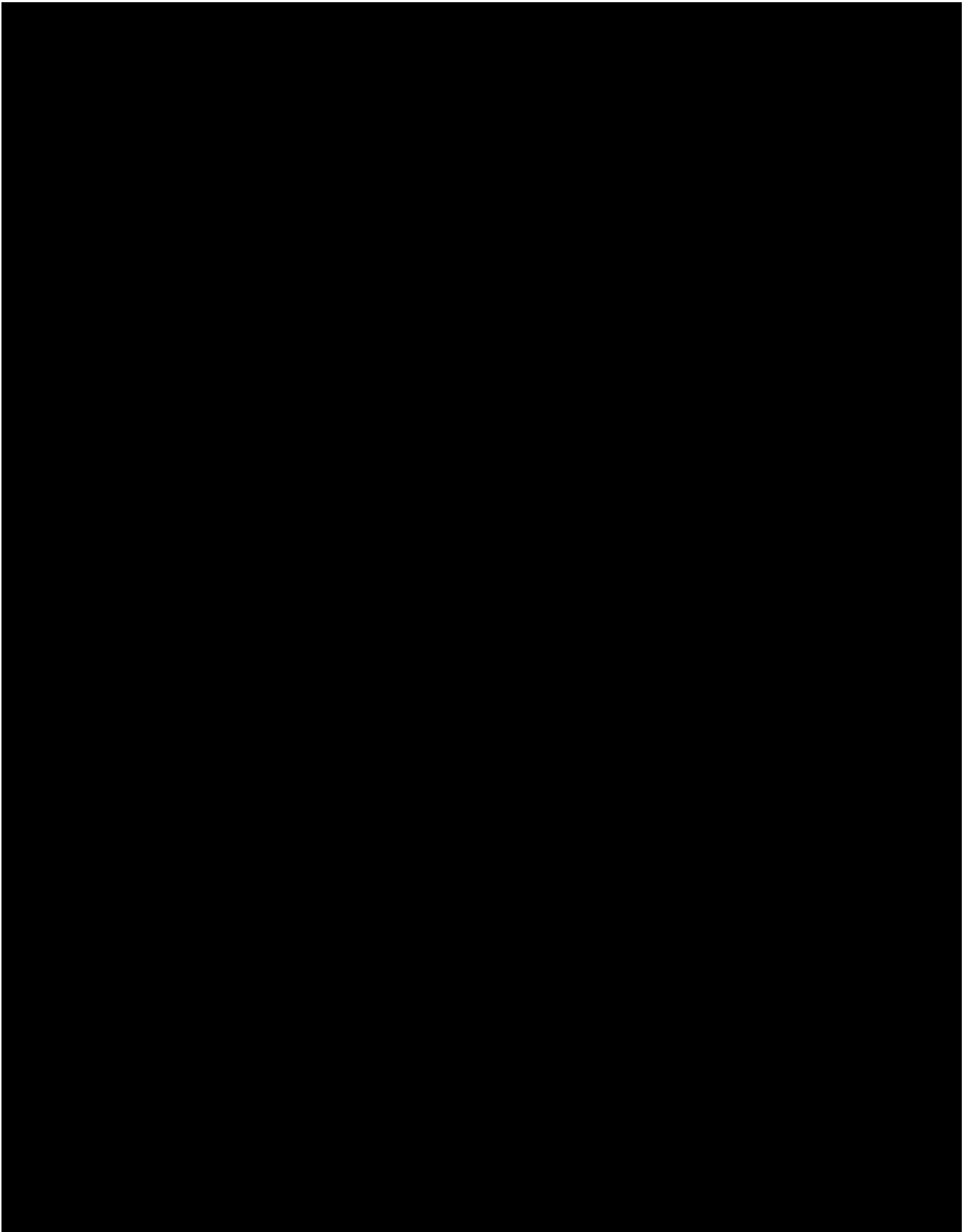


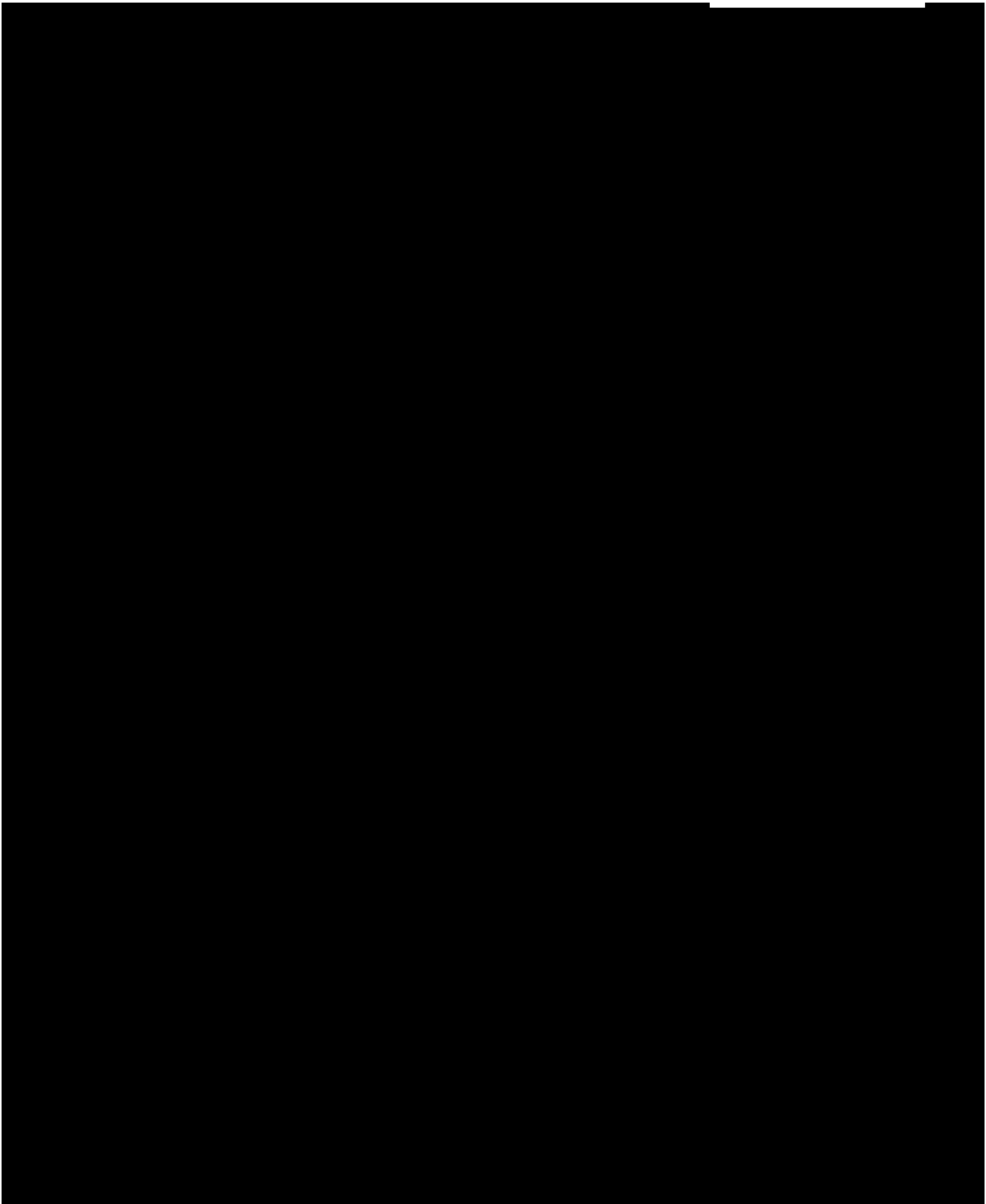


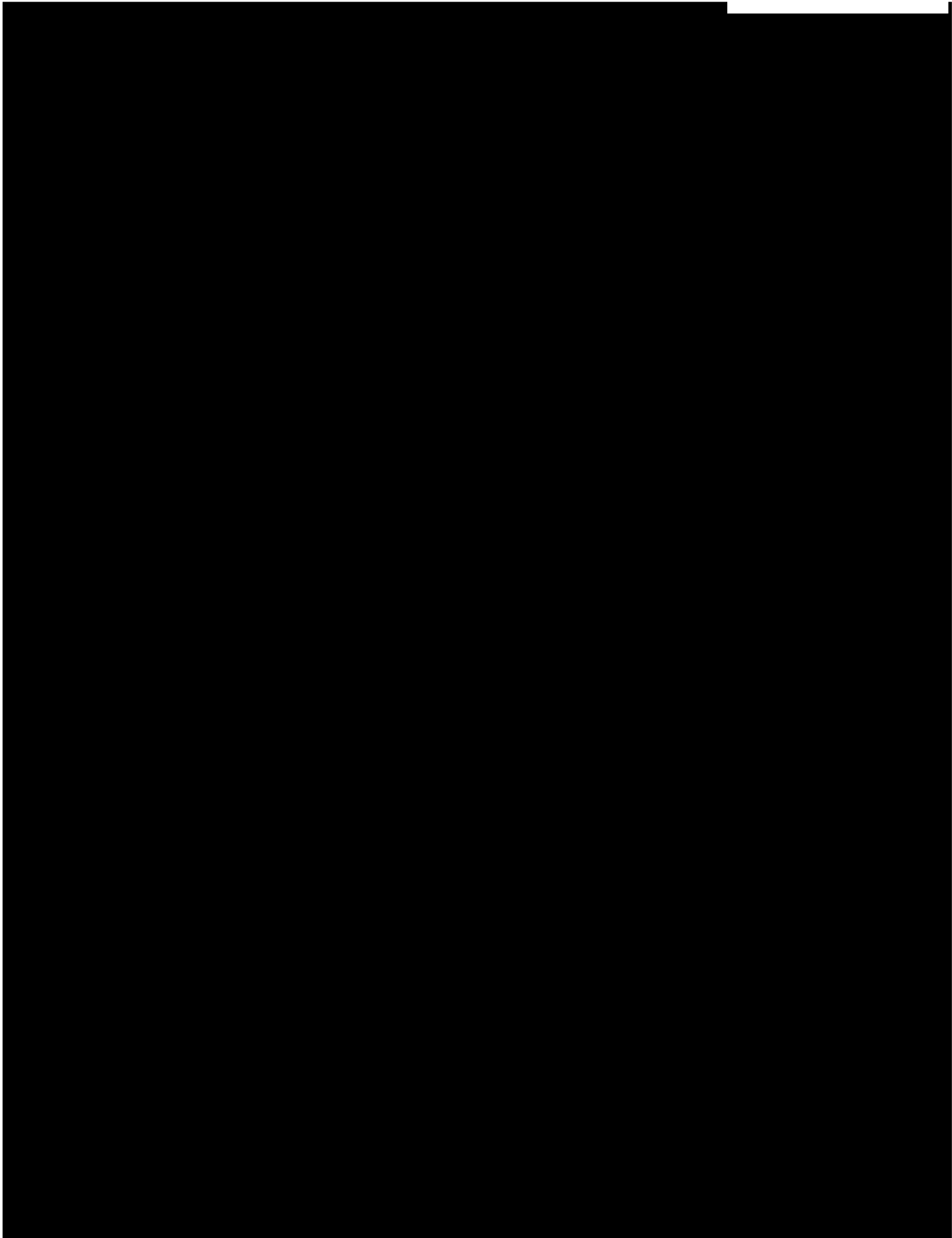


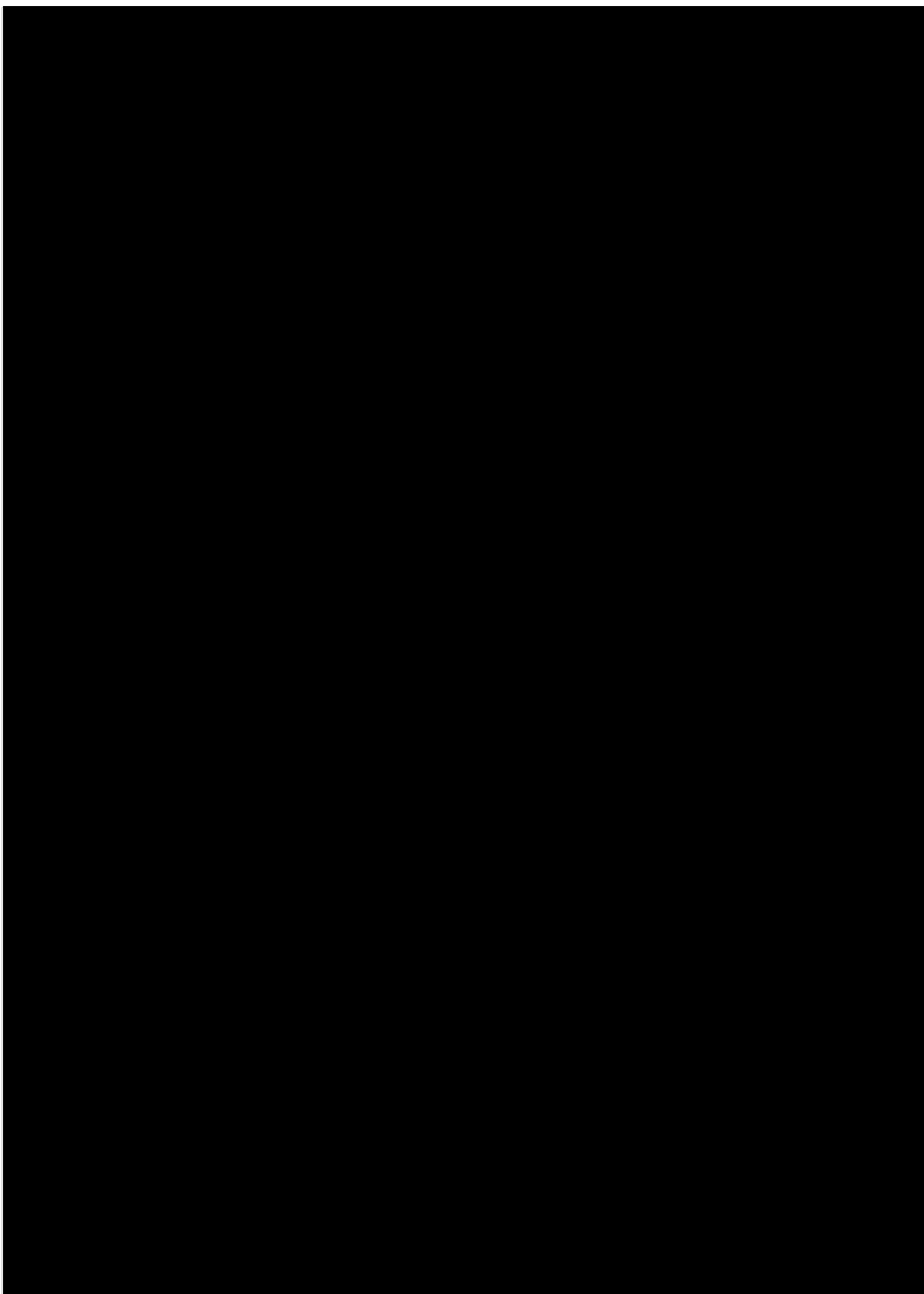


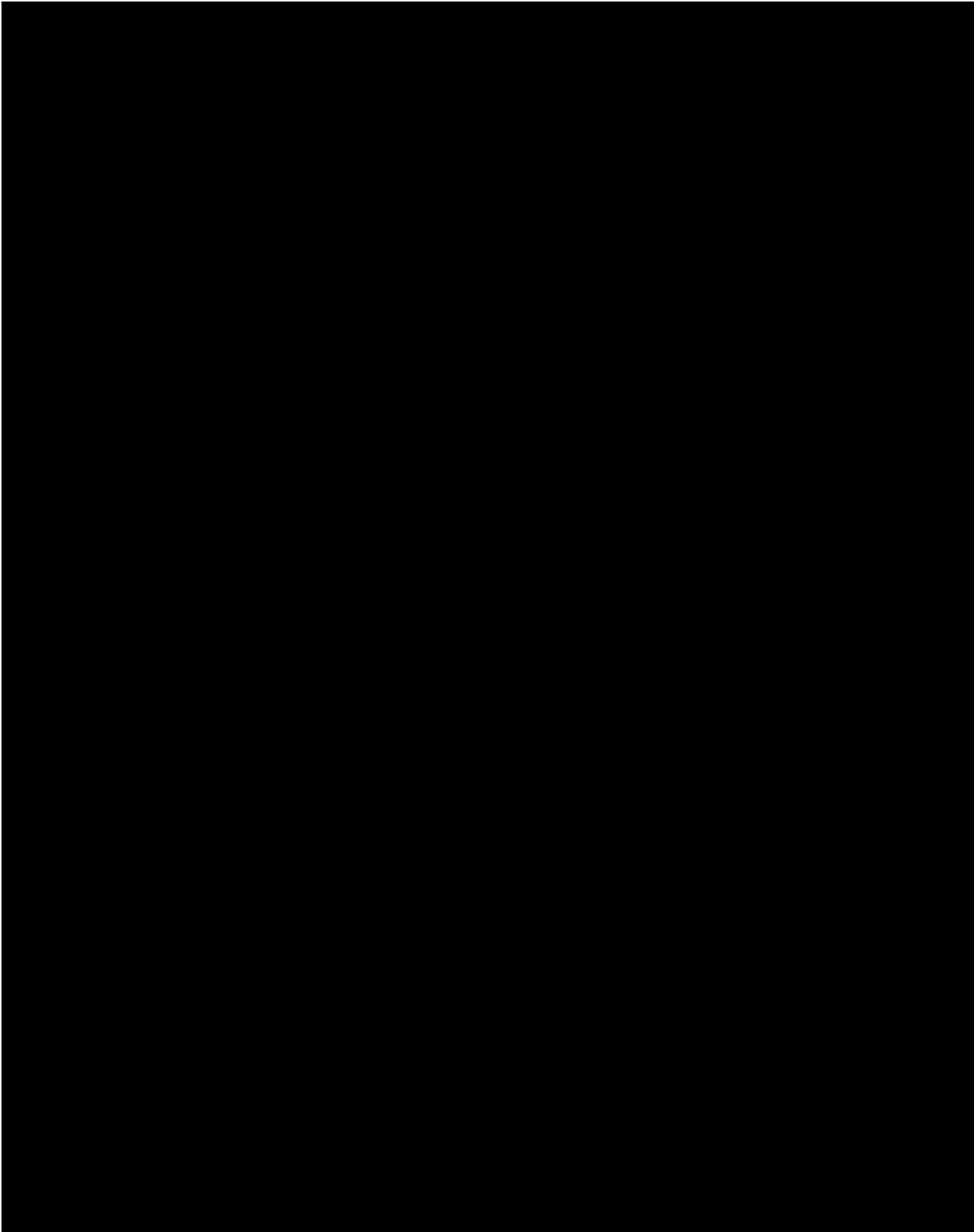


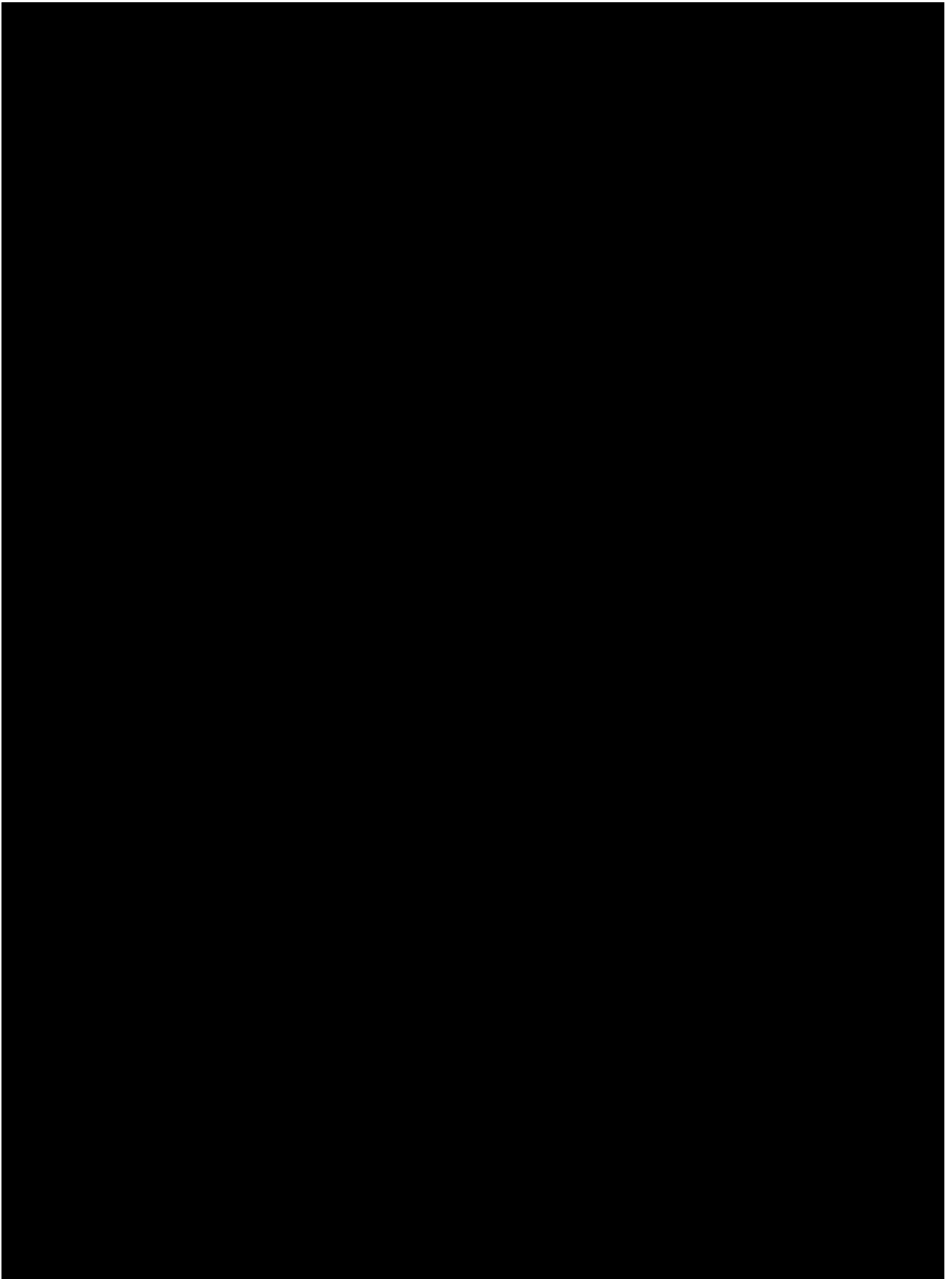


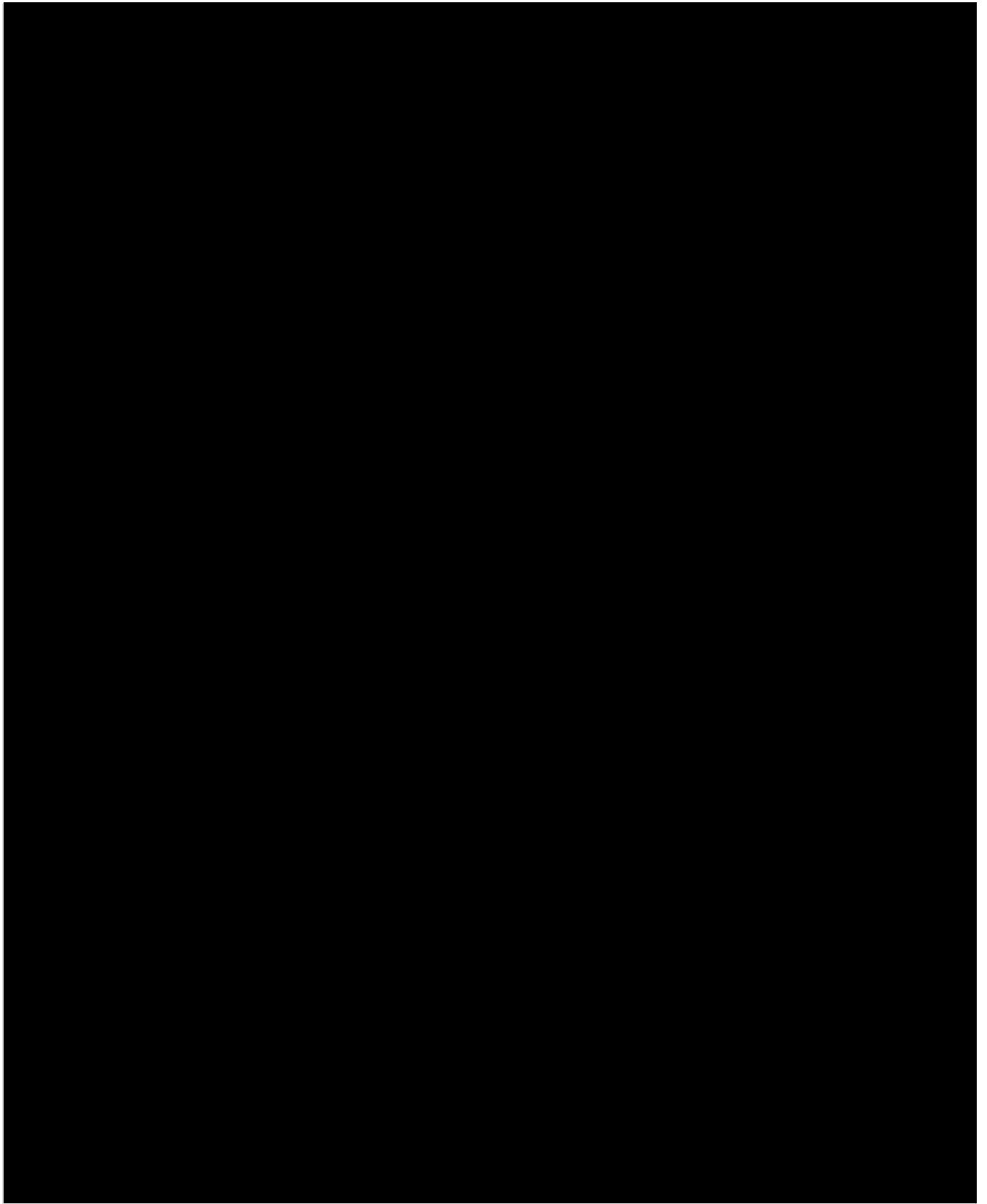


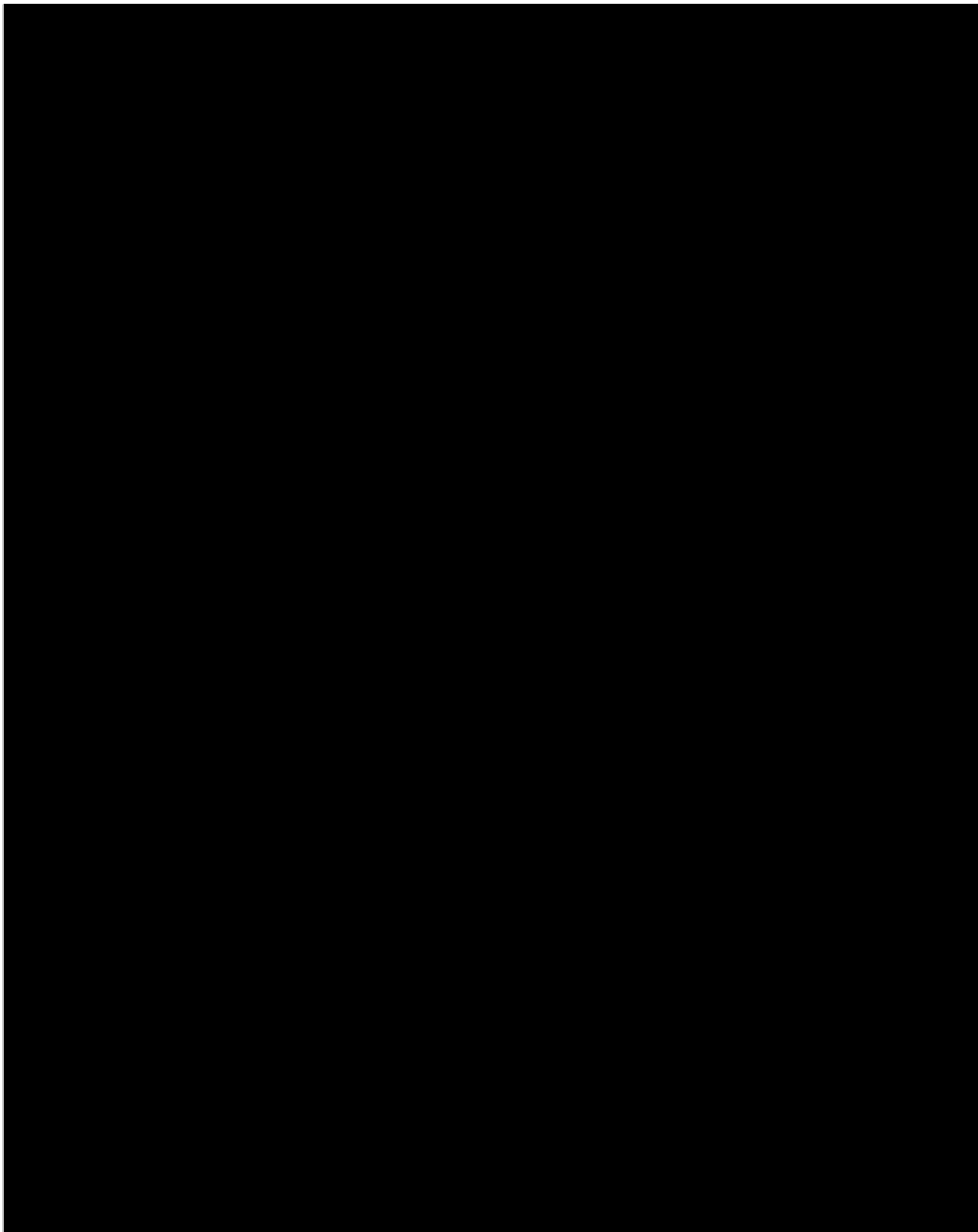


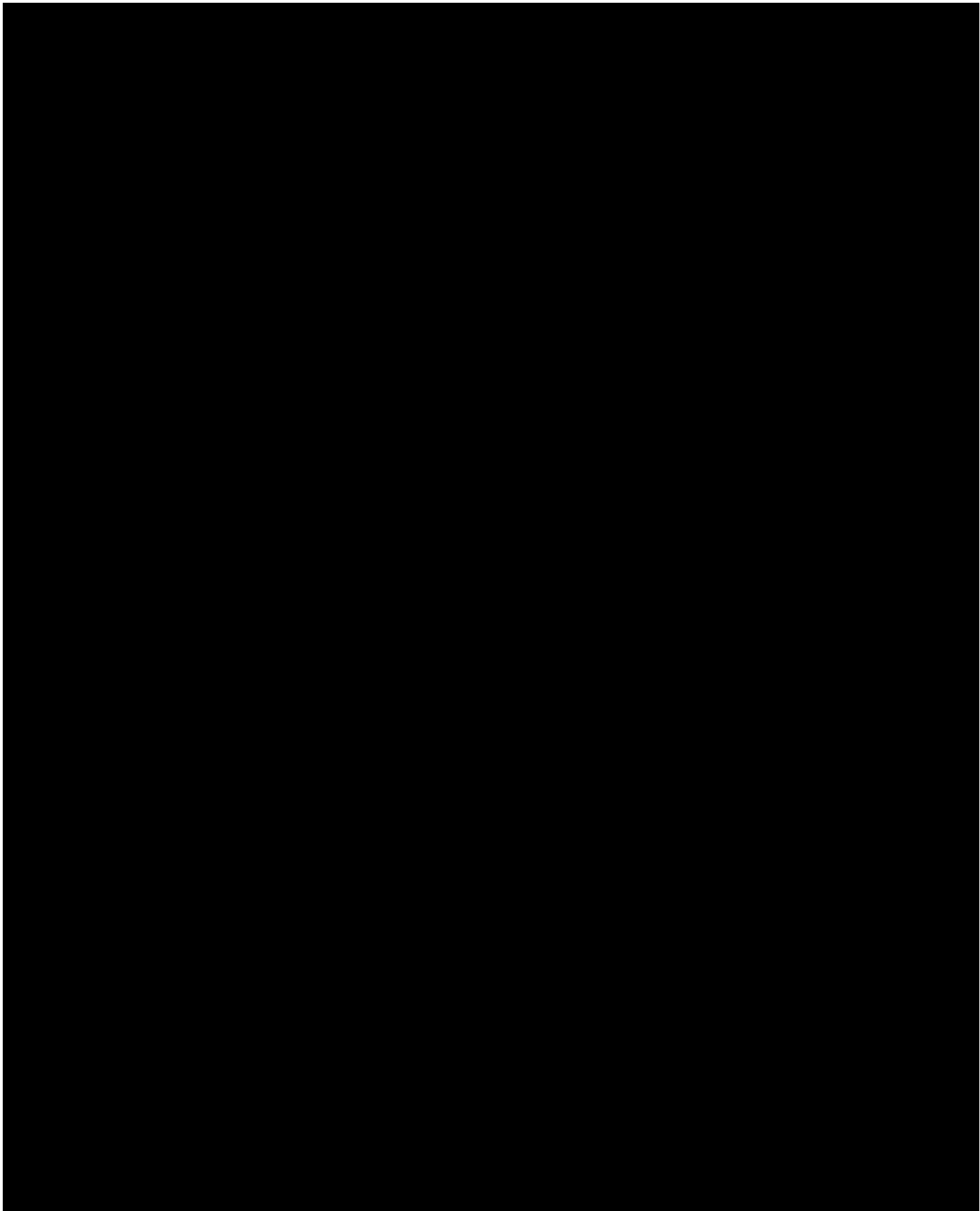


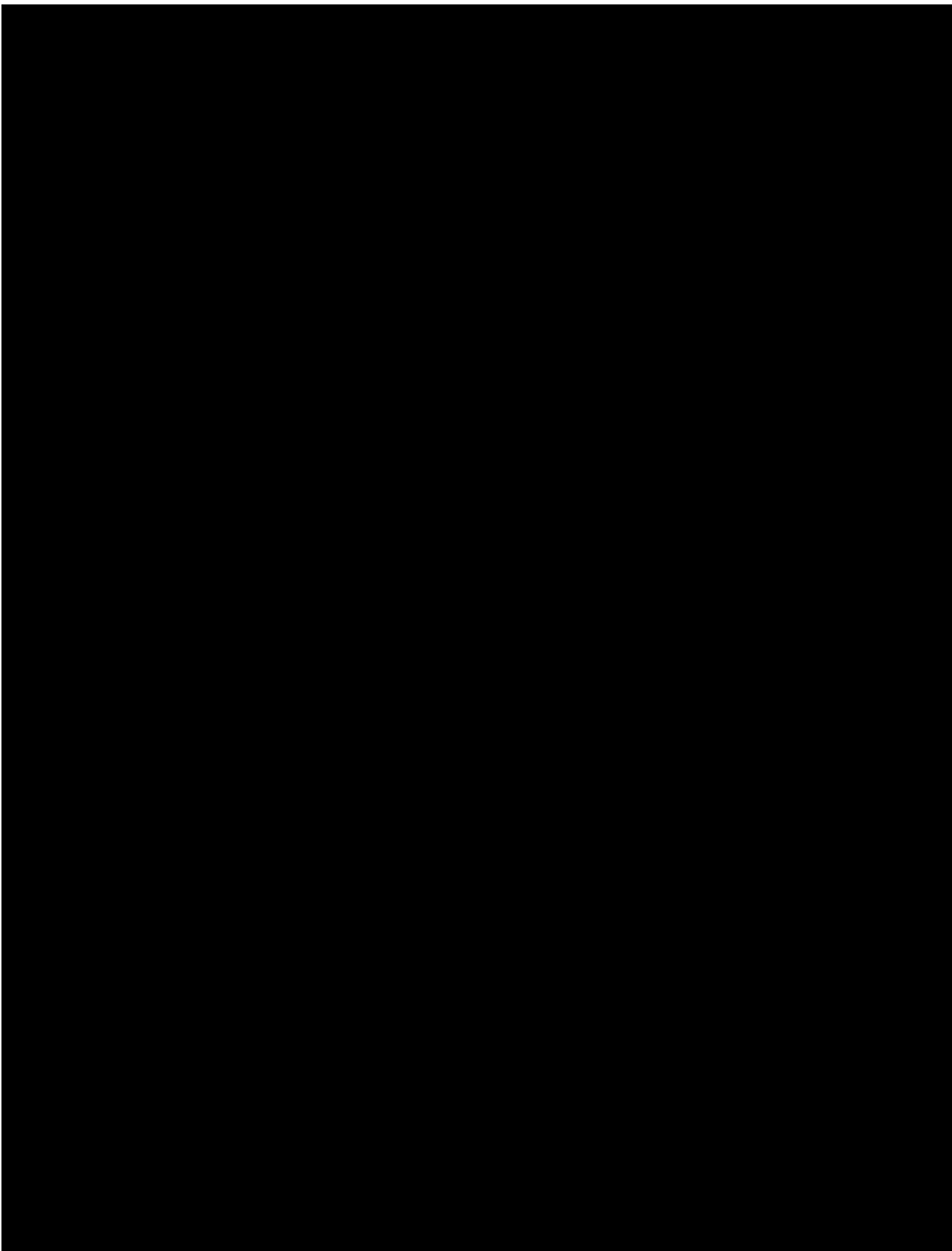


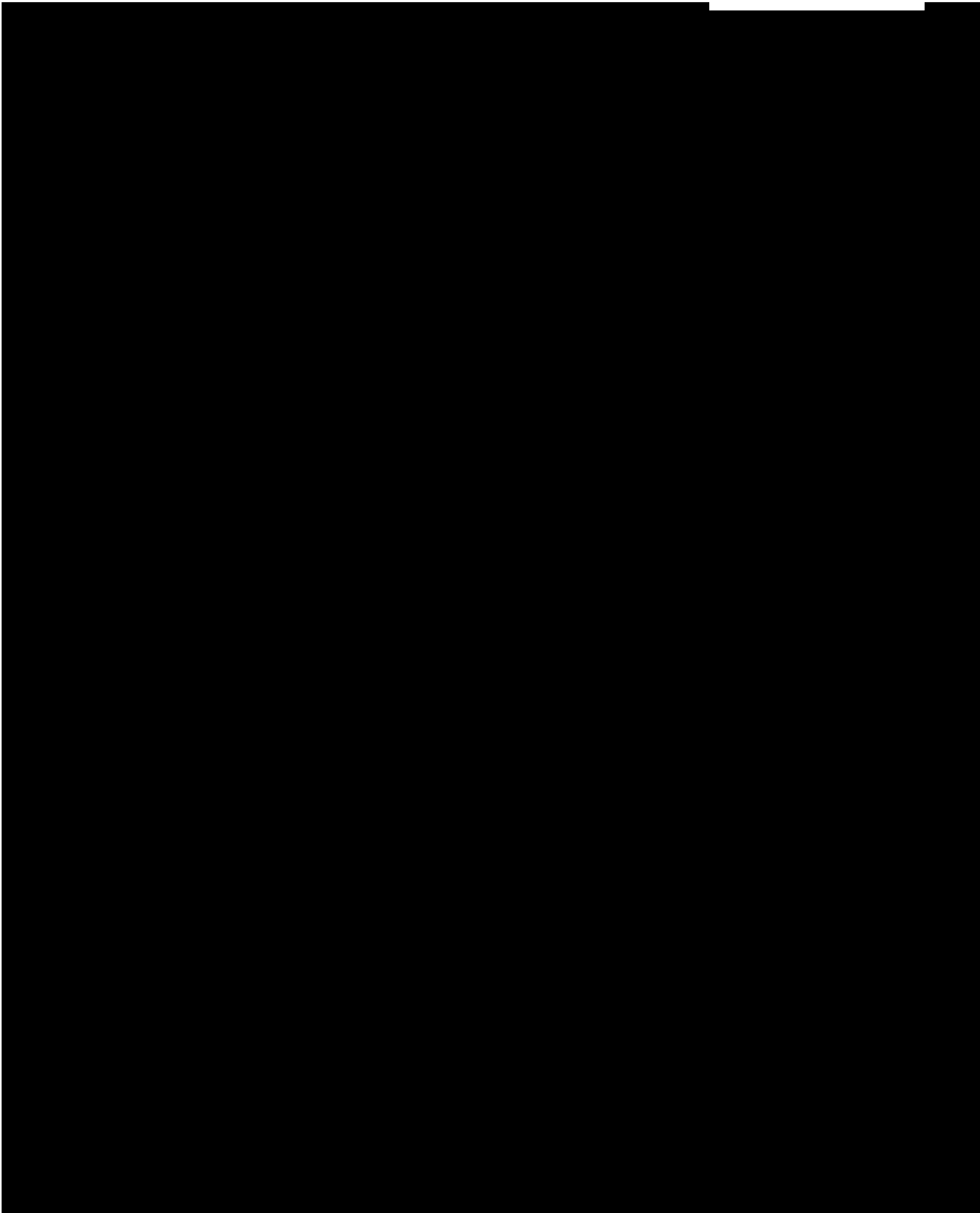


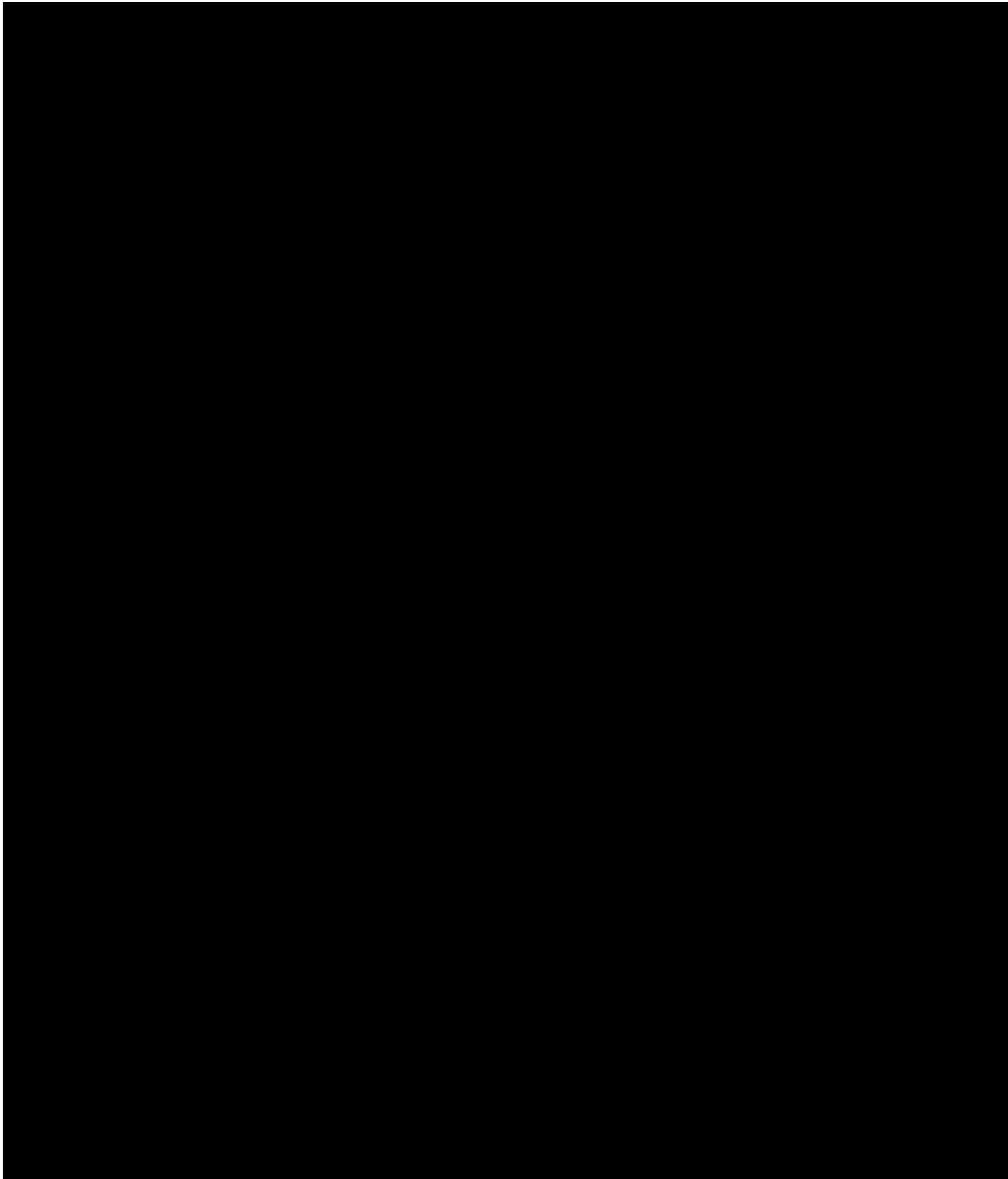


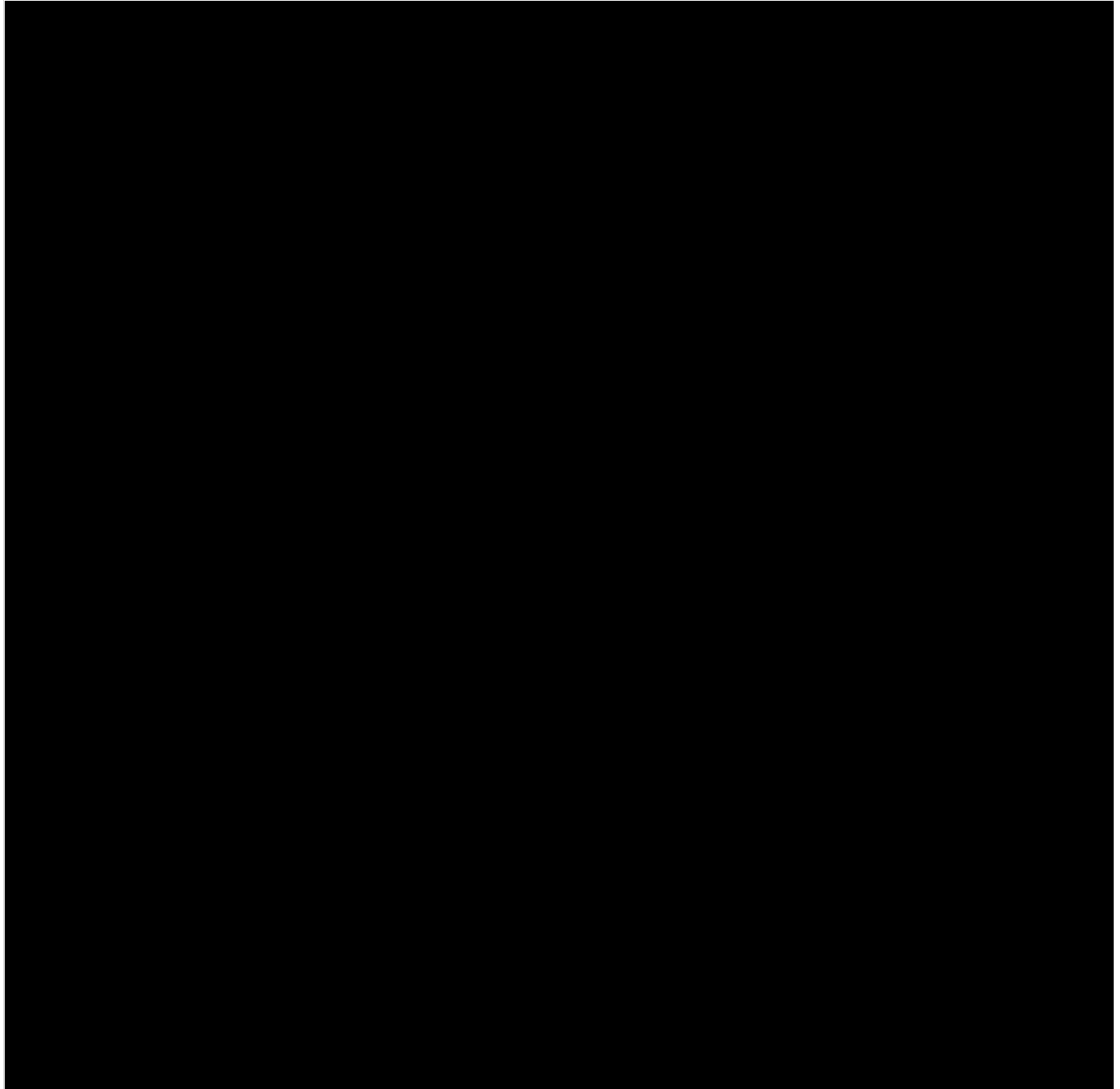


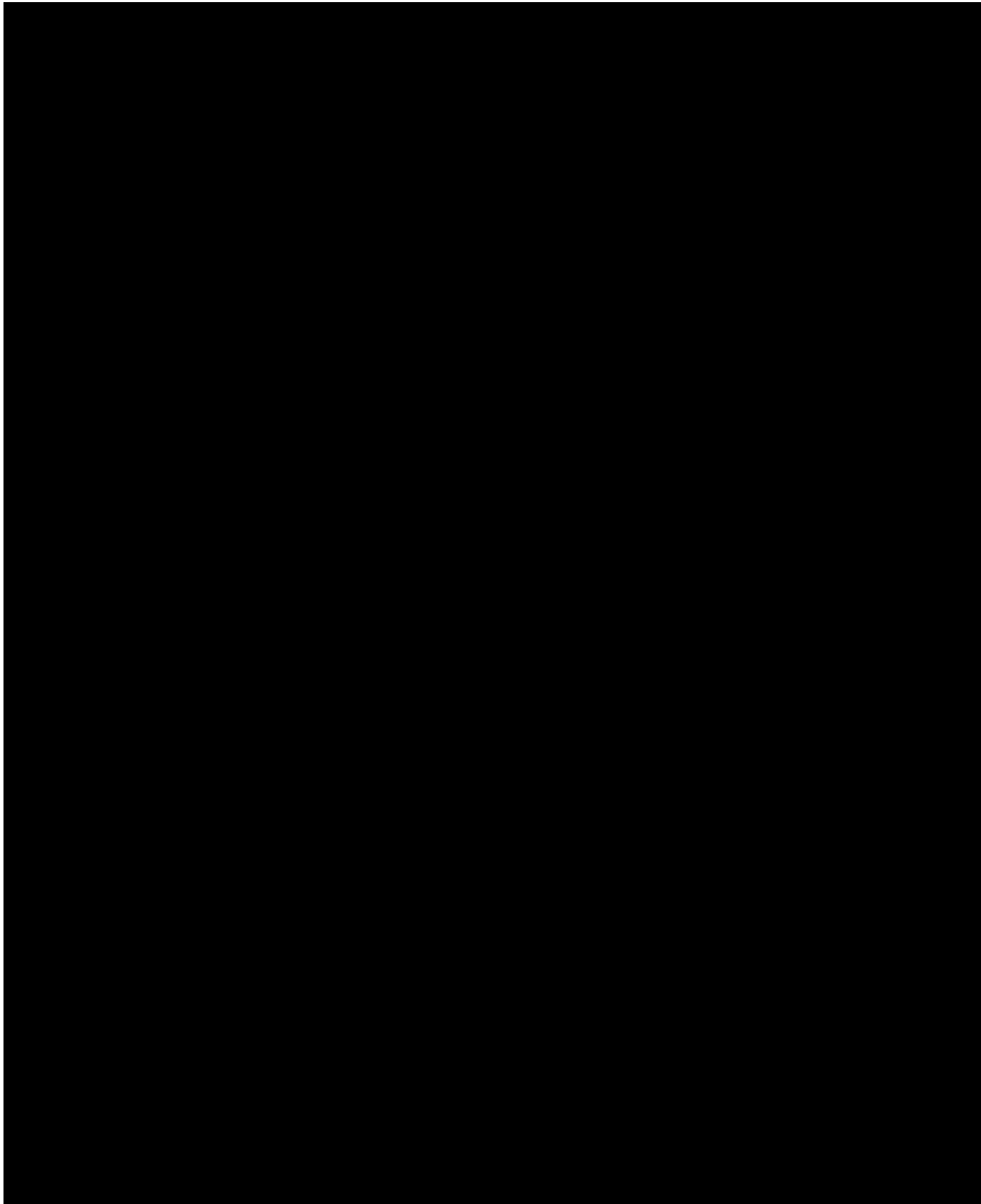


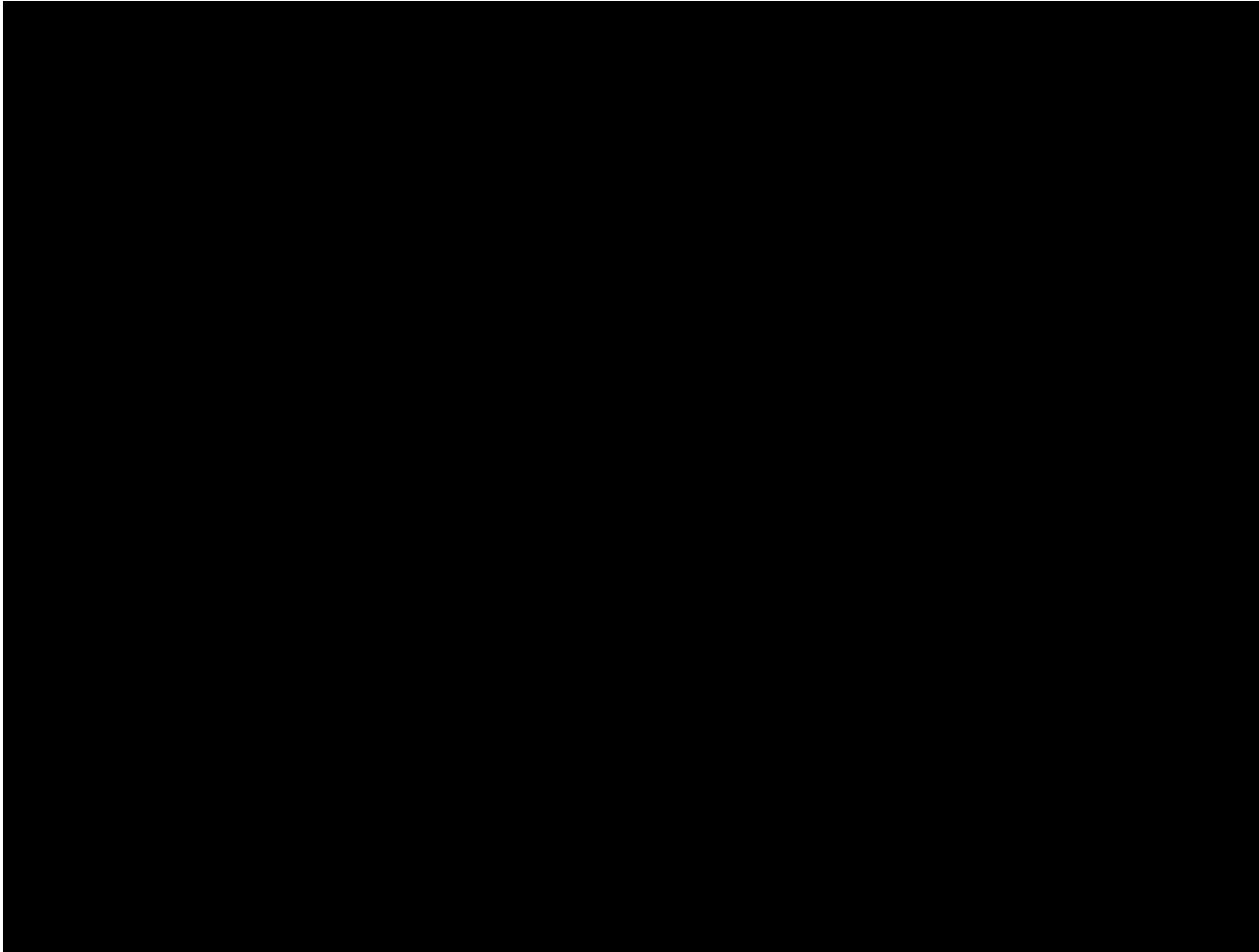












VII. Conclusion

135. As set forth in my rebuttal report at **Sections III to V**, and contrary to the arguments of Mr. Deal's, Intuit's economic incentives and business strategy are not inconsistent with deception. Moreover, and as set forth in my rebuttal report at **Section VI**, Mr. Deal's data analysis does not disprove complaint counsel's theory of deception. In sum, the Deal Report fails to support for Intuit's position that deception did not occur.

A. Appendix - Qualifications of Erez Yoeli

PROFESSIONAL EXPERIENCE

- Director, Applied Cooperation Team (2015–present)
- Research Scientist, MIT Sloan Human Cooperation Lab (2018–present)
- Visiting Faculty, Harvard University Department of Economics (2016–present)
- External Graduate Faculty, University of Maine School of Marine Sciences (2021–present)
- Affiliated Researcher, Harvard University Program for Evolutionary Dynamics (2017–2020)
- Research Scientist, Yale Human Cooperation Lab (2017–2018)
- Research Scientist, Harvard University Program for Evolutionary Dynamics (2015–2017)
- Affiliated Researcher, Yale Human Cooperation Lab (2015–2017)
- Visiting Scholar, Harvard University Program for Evolutionary Dynamics (2012–2015)
- Economist, Federal Trade Commission (2009–2015)

EDUCATION

- University of Chicago Booth School of Business, MBA (2008) and PhD in Economics (2009)
- Stanford University, AB in Economics with Departmental Honors (2003)
- Columbia University (1999–2000)
- Manhattan School of Music (1999)

BOOKS

- Moshe Hoffman and Erez Yoeli. 2022. *Hidden Games: The Surprising Power of Game Theory to Explain Irrational Human Behavior*. Basic Books

ACADEMIC PUBLICATIONS

- Justin Boutilier, Erez Yoeli, Jon Rathausser, Philip Owiti, Ramnath Subbaraman, and Jonas Oddur Jonasson. 2022. “Can digital adherence technologies reduce inequity in tuberculosis treatment success? Evidence from a randomised controlled trial.” *British Medical Journal*

Global Health, 7

- Lukas Hensel, Marc Witte, Stefano Caria, Thiemo Fetzner, Stefano Fiorin, Friedrich M. Goetz, Margarita Gomez, Johannes Haushofer, Andriy Ivchenko, Gordon Kraft-Todd, Elena Reutskaja, Christopher Roth, Erez Yoeli, and Jon M. Jachimowicz. 2021. “Global Behaviors, Perceptions, and the Emergence of Social Norms at the Onset of the COVID-19 Pandemic.” *Journal of Economic Behavior and Organization*, 193
- Justin Boutilier, Jonas Jonasson, and Erez Yoeli. 2021. “Improving TB Treatment Adherence Support: The Case for Targeted Behavioral Interventions.” *Manufacturing and Service Operations Management*. Finalist, the *INFORMS* William Pierskalla Best Paper Competition.
- Juan Palacios, Yichun Fan, Erez Yoeli, Jianghao Wang, Yuchen Chai, Weizeng Sun, David Rand, and Siqi Zheng. 2022. “Encouraging the resumption of economic activity after COVID-19: Evidence from a large scale field experiment in China.” *Proceedings of the National Academy of Sciences*, 119(5)
- Jillian Jordan, Erez Yoeli, and David Rand. 2021. “Don’t get it or don’t spread it: Comparing self- interested versus prosocial motivations for COVID-19 prevention behaviors.” *Nature Scientific Reports*, 11
- Zoe Rahwan, Erez Yoeli, and Barbara Fasolo. 2019. “Heterogeneity in Banker Culture and its Influence on Dishonesty.” *Nature*, 575(7782), 345-349
- Erez Yoeli, Jon Rathauer, Syon Bhanot, Maureen Kimenye, Eunice Mailu, Enos Masini, Philip Owiti, and David Rand. 2019. “Digital Health Support in Treatment for Tuberculosis.” *The New England Journal of Medicine*, 381: 986-987
- Syon Bhanot, Gordon Kraft-Todd, David Rand, and Erez Yoeli. 2018. “Putting Social Rewards and Identity Salience to the Test: Evidence from a Field Experiment on Teachers in Philadelphia.” *Journal of Behavioral Public Administration*, 1(1): 1-16
- Erez Yoeli, David Budescu, Amanda Carrico, Magali Delmas, Paul Ferraro, Hale Forster, Carol Heller, Howard Kunreuther, Ezra Markowitz, Bruce Tonn, Michael Vandenberg, Rick Larrick, Mark Lubell, and Elke Weber. 2017. “Behavioral Science Tools for Energy and Environmental Policy.” *Behavioral Science & Policy*, 3(1): 69-79
- Todd Rogers, John Ternovski, and Erez Yoeli. 2016. “Potential Follow-up Increases Private Contributions to Public Goods.” *The Proceedings of the National Academy of Sciences*, 113 (19): 5218-5220
- Moshe Hoffman, Erez Yoeli, and Martin Nowak. 2015. “Cooperate Without Looking.” *The Proceedings of the National Academy of Sciences*, 112.6: 1727-1732
- Gordon Kraft-Todd, Erez Yoeli, Syon Bhanot, and David Rand. 2015. “Promoting Cooperation in the Field.” *Current Opinions in Behavioral Sciences* 3: 96-101
- Dave Rand, Erez Yoeli, and Moshe Hoffman. 2014. “Harnessing Reciprocity to Promote

Cooperation and the Provisioning of Public Goods.” *Policy Insights from Behavioral and Brain Sciences*, 1.1: 263-269

- Erez Yoeli, Moshe Hoffman, David Rand, and Martin Nowak. 2013. “Powering Up With Indirect Reciprocity in a Large-Scale Field Experiment.” *The Proceedings of the National Academy of Sciences* 110 (Supplement 2): 10424-10429

PUBLICATIONS IN THE POPULAR PRESS

- “Nudging Consumers to Purchase More Sustainably,” *Harvard Business Review*, August 11, 2022
- “How Game Theory Explains Why We Have to Sanction Putin—Even If It’s Costly,” *Politico*, April 21, 2022, with Moshe Hoffman
- “The Resurgence of Tuberculosis is Behavioral, not Medical. Nudges Can Fix It,” *STAT*, October 25, 2019, with Dave Rand
- “Is the Key to Successful Prosocial Nudges Reputation?” *Behavioral Scientist*, July 31, 2018
- “Feeling helpless about the US election? Five things you can do to get out the vote in 2016,” *Quartz*, November 2, 2016, with Moshe Hoffman and Dave Rand
- “The Trick to Acting Heroically,” *The New York Times*, August 28, 2015, with Dave Rand
- “How to Get People to Pitch In,” *The New York Times*, May 15, 2015, with Gordon Kraft-Todd, Syon Bhanot, and Dave Rand
- “How to Prevent Summer Blackouts,” *The New York Times*, July 5, 2014, with Moshe Hoffman and Dave Rand
- “Effective Red Lines,” *The Economist*, September 14-20 2013, with Moshe Hoffman
- “Assigning Property Rights to Human Tissue,” *Rady Business Journal*, Winter 2013, with Marcella Bothwell
- “The Risks of Avoiding a Debate on Gender Differences,” *Rady Business Journal*, Winter 2013, with Moshe Hoffman

B. Appendix - Documents Relied Upon

	Legal Pleadings	Document Date
[1]	Complaint. Before the Federal Trade Commission. <i>In the Matter of Intuit Inc., a corporation</i> . March 28, 2022. FTC Docket No. 9408.	3/28/2022
[2]	Complaint Counsel's Motion for Summary Decision, <i>In the Matter of Intuit Inc., a corporation</i> , FTC Docket No. 9408, August 22, 2022.	
	Expert Reports and Related Exhibits	
[3]	Expert Report of Bruce F. Deal. <i>In the Matter of Intuit Inc., a corporation</i> . Docket No. 9408. January 13, 2023.	1/13/2023
[4]	Expert Report of Professor John R. Hauser, SC.D. <i>In the Matter of Intuit Inc., a corporation</i> . Docket No. 9408. January 13, 2023.	1/13/2023
[5]	Expert Report of Nathan Novemsky, Ph.D. <i>In the Matter of Intuit Inc., a corporation</i> . Docket No. 9408. December 9, 2022.	12/9/2022
[6]	Expert Report of Peter N. Golder, Ph.D. <i>In the Matter of Intuit Inc., a corporation</i> . Docket No. 9408. January 13, 2023.	1/13/2023
[7]	Expert Report of Rebecca Kirk Fair. <i>In the Matter of Intuit Inc., a corporation</i> . Docket No. 9408. January 13, 2023.	1/13/2023
	Depositions	
[8]	Remote Deposition of Caitlyn Beck. <i>In the Matter of Intuit, Inc., a corporation</i> . No. 9408, October 13, 2022	10/13/2022
[9]	Remote Deposition of Connor T. Benbrook. <i>In the Matter of Intuit, Inc., a corporation</i> . No. 9408. October 25, 2022.	10/25/2022
[10]	Videotaped Deposition of Angela R. Derscha. <i>In the Matter of Intuit, Inc., a corporation</i> . No. 9408. November 29, 2022.	11/29/2022
[11]	Oral Deposition of Shaun Ryan Dougher. <i>In the Matter of Intuit, Inc., a corporation</i> . No. 9408. November 9, 2022.	11/9/2022
[12]	Zoom Examination of Benjamin T. DuKatz. <i>In the Matter of Intuit, Inc., a corporation</i> . No. 9408. September 29, 2022.	9/29/2022
[13]	Oral Deposition of Denise Robinson. <i>In the Matter of Intuit, Inc., a corporation</i> . No 9408. November 29, 2022.	11/29/2022
[14]	Videoconference Deposition of Joseph Walter. <i>In the Matter of Intuit, Inc., a corporation</i> . No. 9408. November 30, 2022.	11/30/2022

Governance and Regulatory

- [15] Consumer Financial Protection Bureau, “Consumer Financial Protection Bureau Fines Wells Fargo \$100 Million for Widespread Illegal Practice of Secretly Opening Unauthorized Accounts,” September 8, 2016, <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-fines-wells-fargo-100-million-widespread-illegal-practice-secretly-opening-unauthorized-accounts/>. 9/8/2016
- [16] Federal Trade Commission Press Release, “AT&T to Pay \$60 Million to Resolve FTC Allegations It Misled Consumers with ‘Unlimited Data’ Promises,” November 5, 2019, <https://www.ftc.gov/news-events/news/press-releases/2019/11/att-pay-60-million-resolve-ftc-allegations-it-misled-consumers-unlimited-data-promises>. 11/5/2019
- [17] The United States Department of Justice. "Herfindahl-Hirschman Index." Accessed January 26, 2023. <https://www.justice.gov/atr/herfindahl-hirschman-index>. 7/26/2023

Academic Literature

- [18] Akerlof, George A. and Shiller, Robert J. “*Phishing for Phools: The Economics of Manipulation and Deception*.” Princeton University Press (2015). 2015
- [19] Akerlof, George. “The Market for ‘Lemons’: Quality Uncertainty and the Market Mechanism.” *The Quarterly Journal of Economics*. Vol. 84, No. 3 (1970): 488-500. 1970
- [20] Dreber, Anna, Rand, David G., Fudenberg, Drew, and Nowak, Martin, A. "Winners Don't Punish." *Nature*. Vol 452, No. 7185 (2008): 348-351. 2008
- [21] Farrell, Joseph and Rabin, Matthew. “Cheap Talk,” *Journal of Economic Perspectives*. Vol. 10, No. 3 (1996): 103-118. 1996
- [22] Foad, Hisham. *Behavioral Finance: Investors, Corporations, and Market*. John Wiley & Sons, Inc. (2010). 2010
- [23] Gillespie *et al.* "A Tangled Web: Views of Deception from the Customer's Perspective." *Business Ethics. A European Review*. Vol. 25, No. 2 (2016). 2016
- [24] Horner, Johannes. “Reputation and Competition.” *The American Economic Review*. Vol. 92, No. 3 (June 2002): 644-663. 2002
- [25] Klein, Benjamin and Leffler, Keith B. “The Role of Market Forces in Assuring Contractual Performance.” *Journal of Political Economy*. Vol. 89. No. 41 (1981): 615-641. 1981
- [26] Lazear, Edward P. “Bait and Switch.” *Journal of Political Economy*. Vol. 103, No. 4 (1995): 813-830. 1995
- [27] Lidwell, William, Kritina Holden, and Jill Butler. *Universal Principles of Design*. (Rockport Publishers, 2010). 2010

- [28] Nielsen, Jakob. "F-Shaped Pattern For Reading Web Content (original study)." Neilsen Norman Group, <https://www.nngroup.com/articles/f-shaped-pattern-reading-web-content-discovered/>. 2006
- [29] Raval, Devesh. "Whose Voice Do We Hear in the Marketplace? Evidence from Consumer Complaining Behavior." *Marketing Science*. Vol. 39, No. 1 (2020): 168-187. 2020
- [30] Veelen, Matthijs V., García, Julián, Rand, David G., Nowak, Martin A. "Direct Reciprocity in Structured Populations." *PNAS*. Vol. 109, No. 25 (2012). 2012
- [31] Osborne, Martin J. and Rubinstein, Ariel. *A Course in Game Theory*. Cambridge, Massachusetts. The MIT Press (1994). 1994
- [32] Zajonc, Robert B. "Attitudinal Effects of Mere Exposure." *Journal of Personality and Social Psychology*. Vol. 9, No. 2 (1968). 1968

Websites

- [33] CNBC. "Tesla Breaks into America's Bestselling Cars List for 2022, but Trucks Still Dominate." January 7, 2023. <https://www.cnbc.com/2023/01/07/americas-top-10-best-selling-cars-of-2022-tesla-makes-the-cut.html>. 1/26/2023

Produced Documents

- [34] INTUIT_FFA_FTC_C01.
- [35] INTUIT_FFA_FTC_C013.
- [36] INTUIT-FTC-PART3-000593208.
- [37] INTUIT-FTC-PART3-000602376.
- [38] INTUIT-FTC-PART3-000611941.

*Note: I also considered any other documents specifically cited in the report, but not listed in this appendix.