

Hamilton

Legal Services Division

**Date:** December 18, 2018

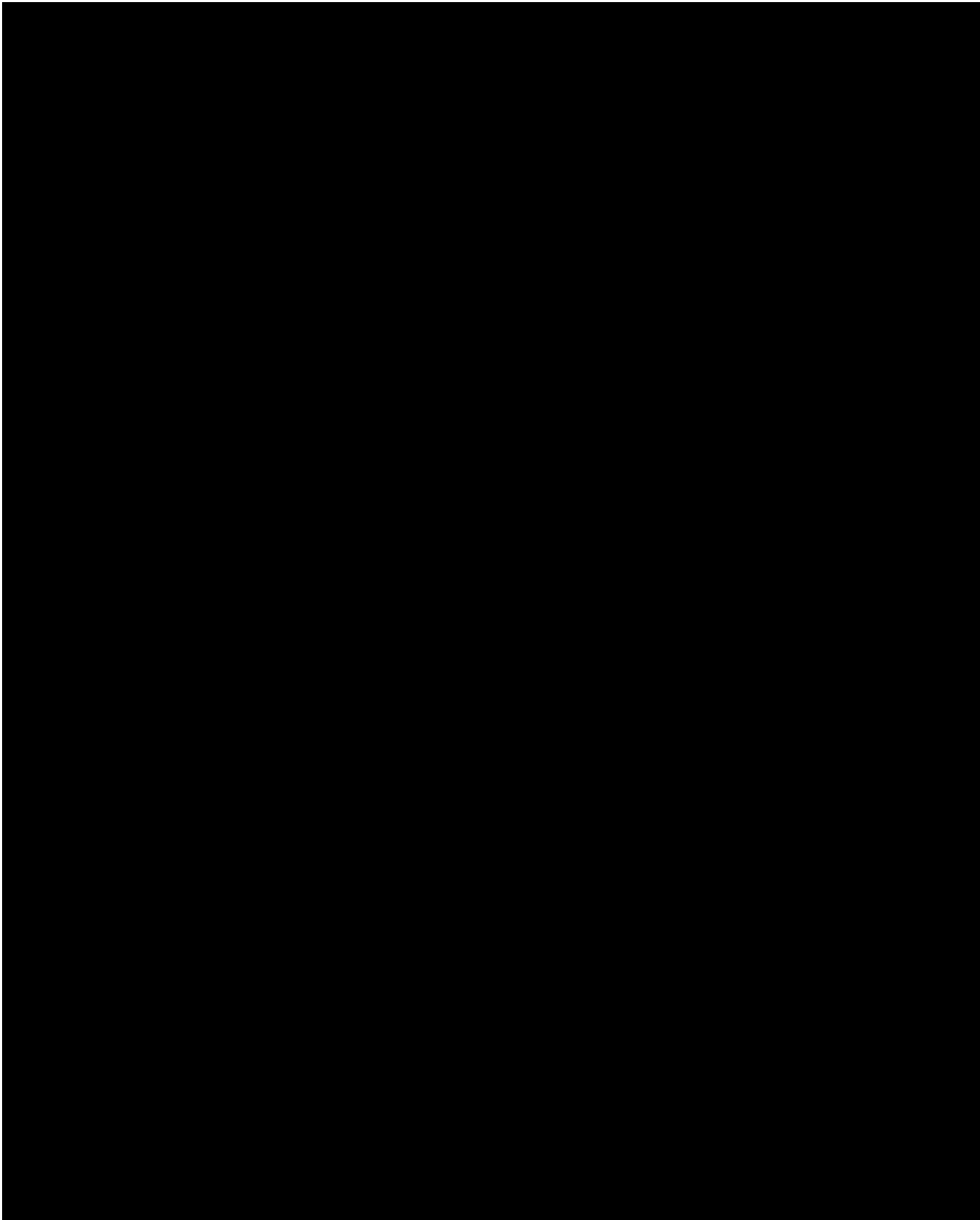
**To:** Diana Sabados, Supervisor, Claims Administration  
Risk Management Services

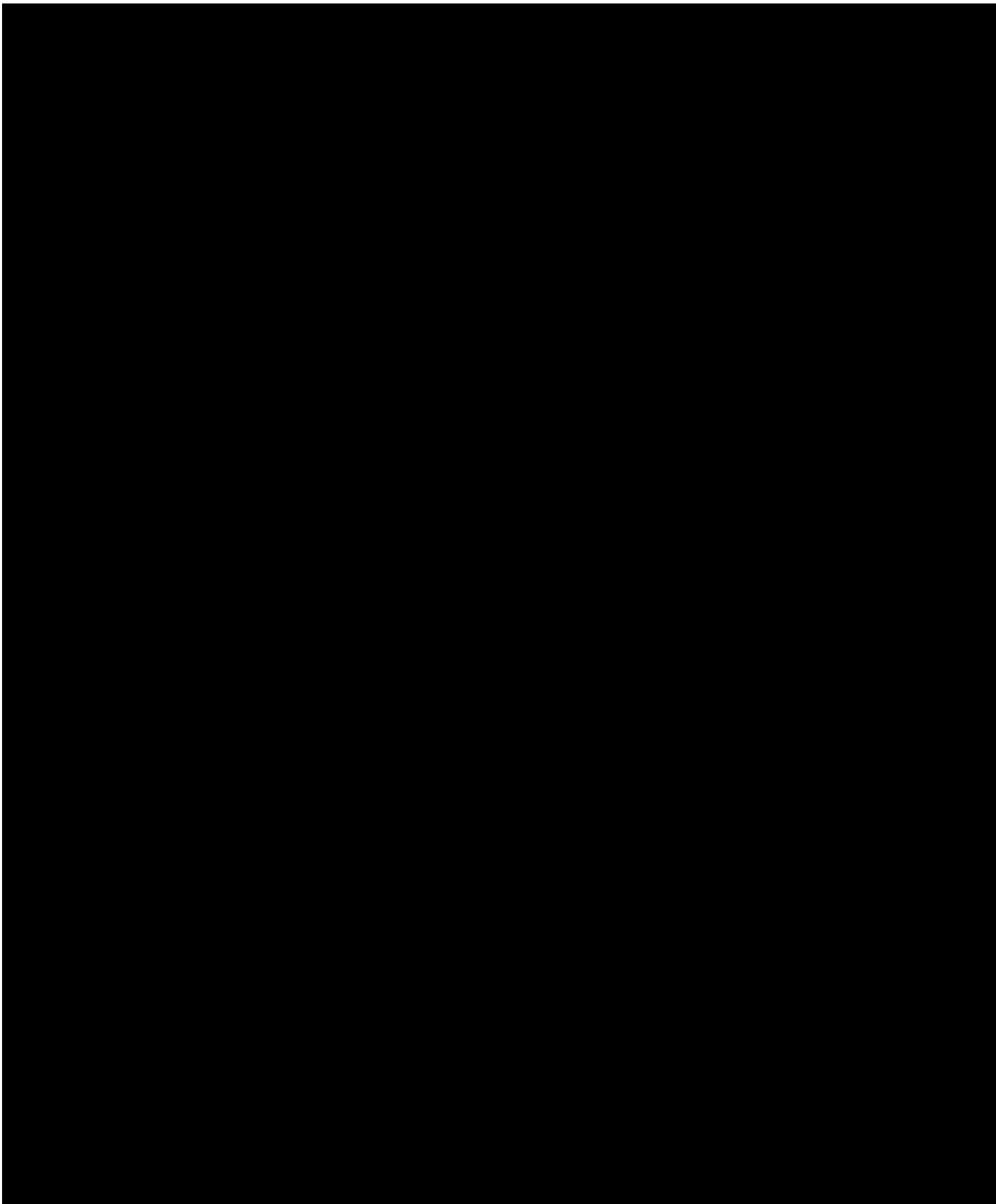
**From:** Dana-Elisabeta Lezau, Solicitor  
Legal Services

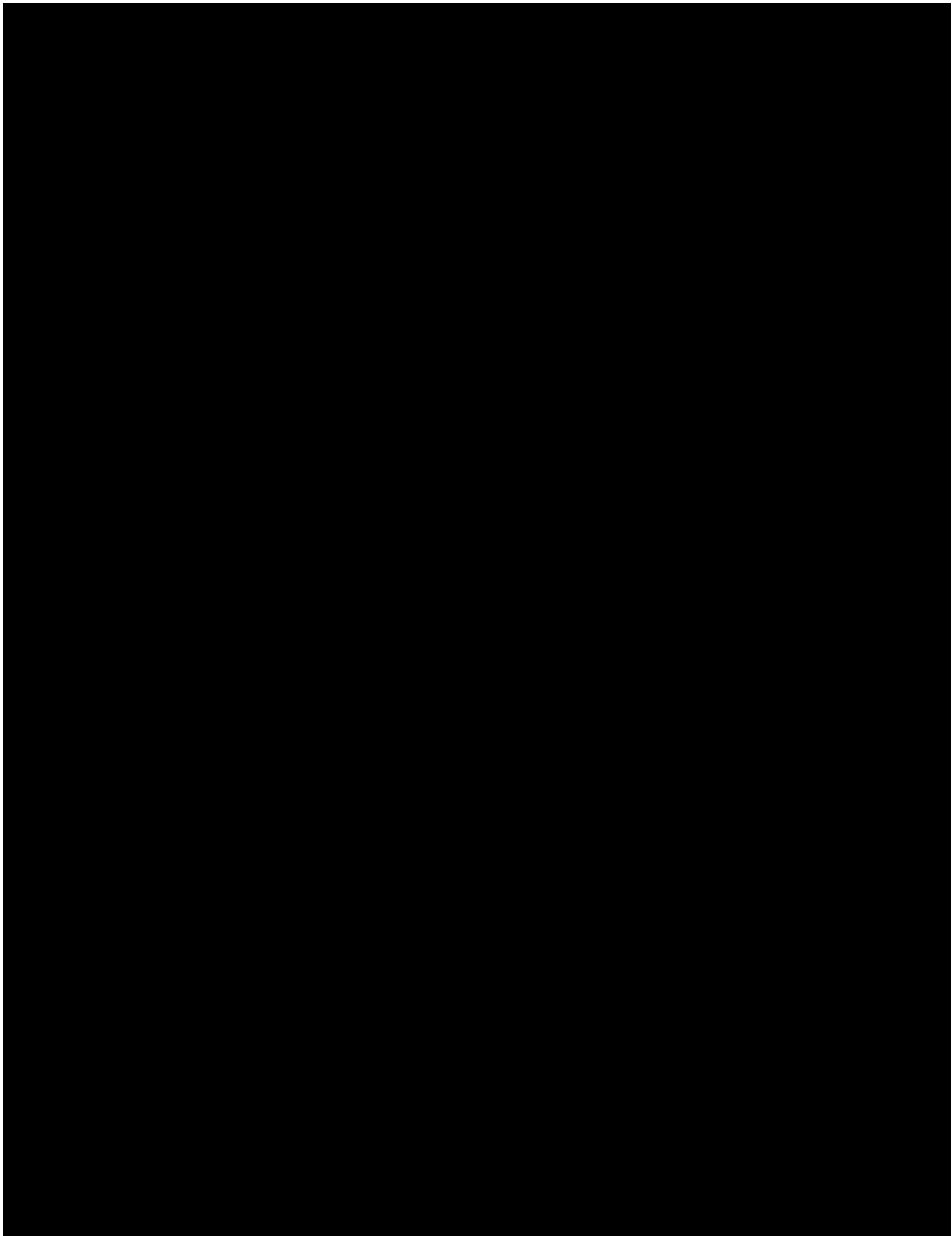
**Subject:** Hamilton et al ats. Hansen  
Bernat et. al ats. Hamilton  
Bernat ats. Hamilton  
MVA on Red Hill dated October 24, 2015  
RMS File No. 047021  
LS Files no. 17-0564, 17-0731, and 18-0366

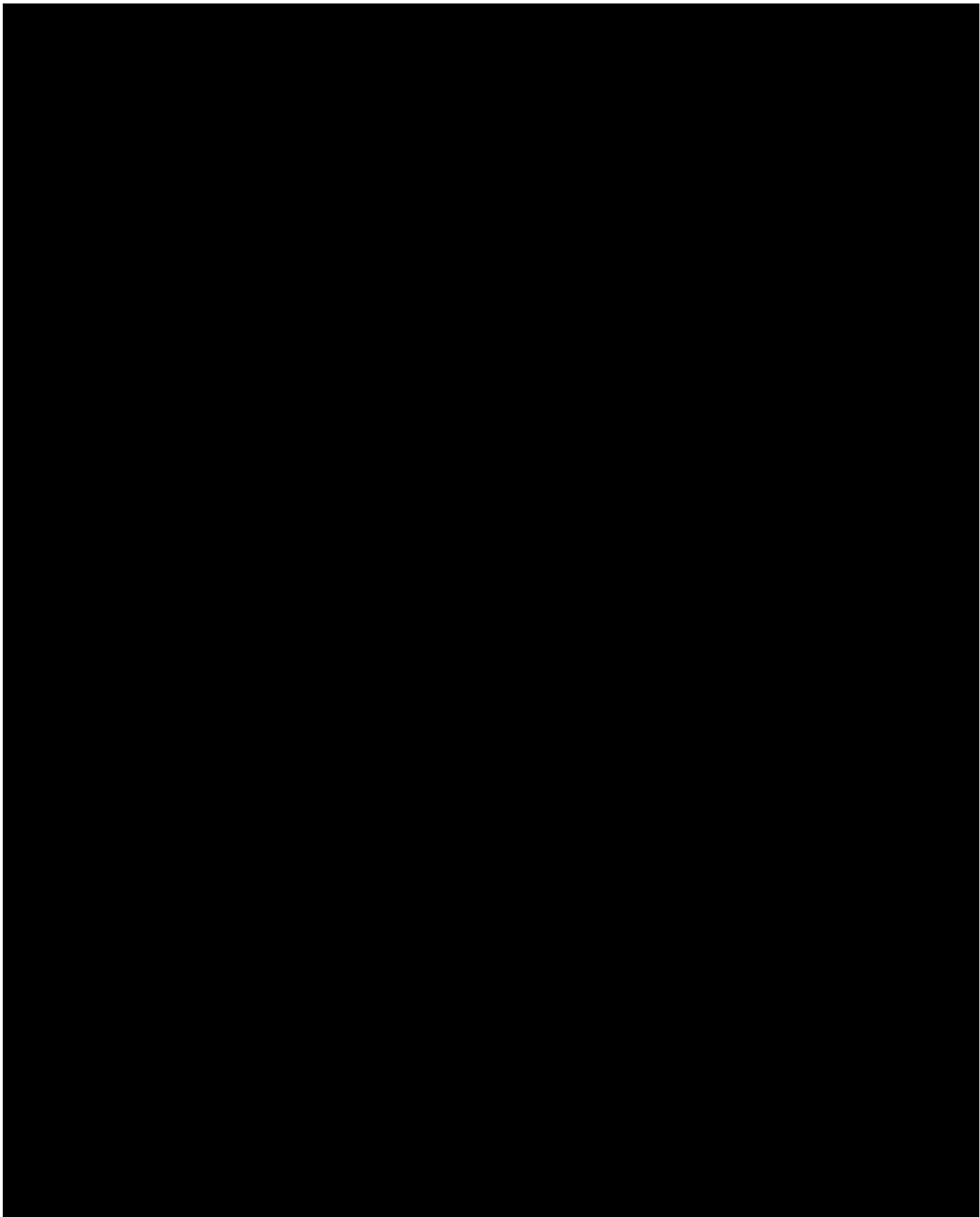
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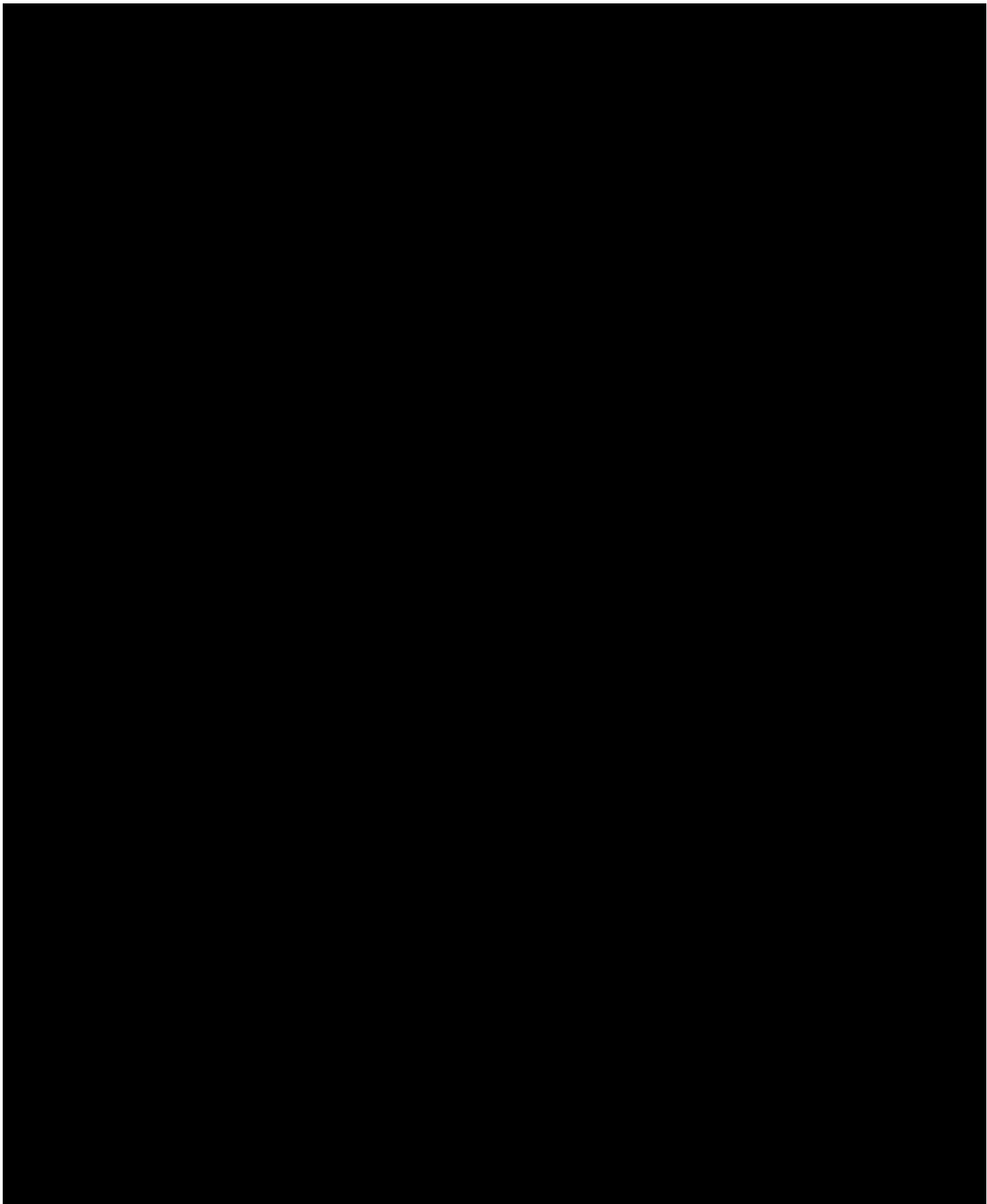
**Examinations Report**

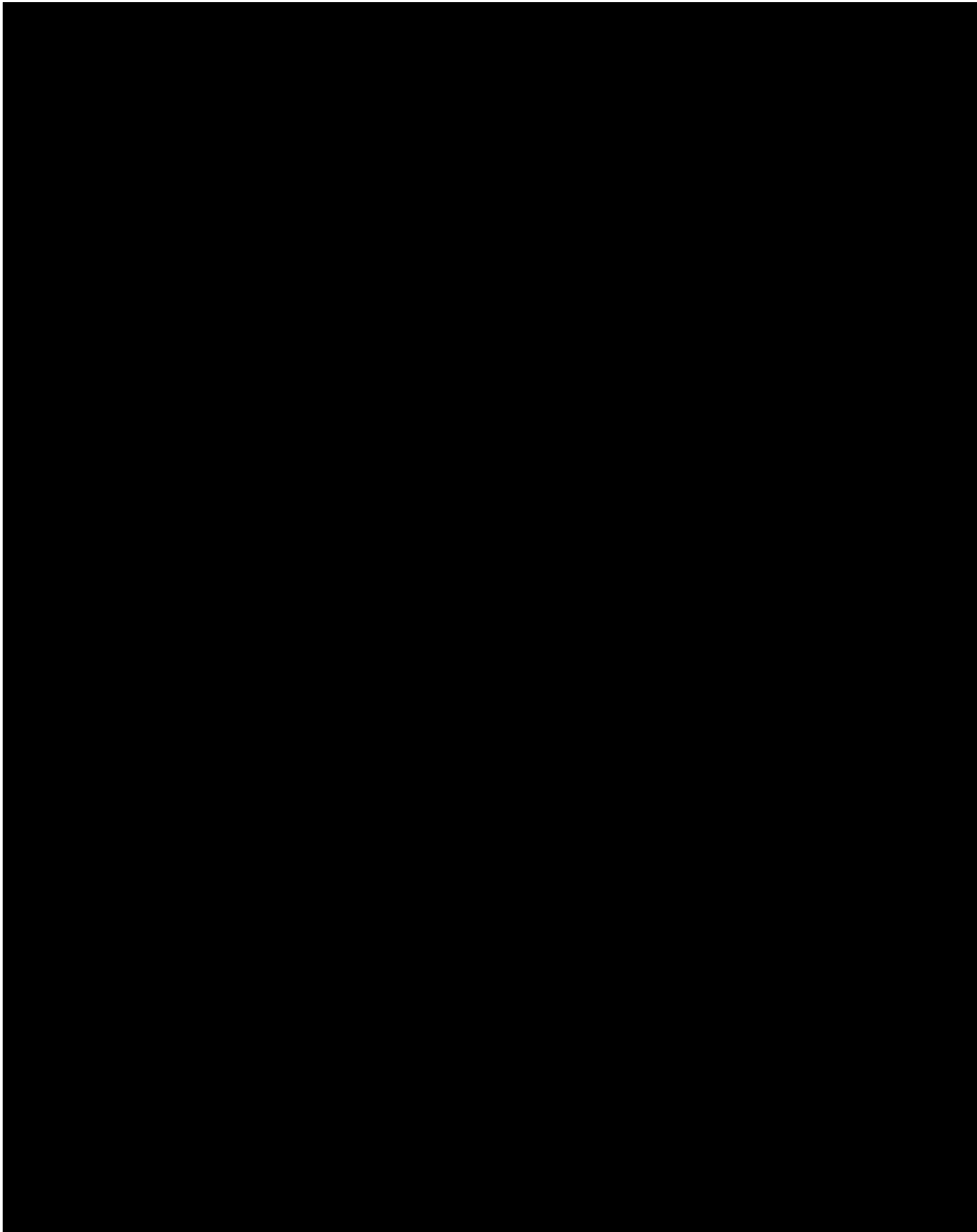


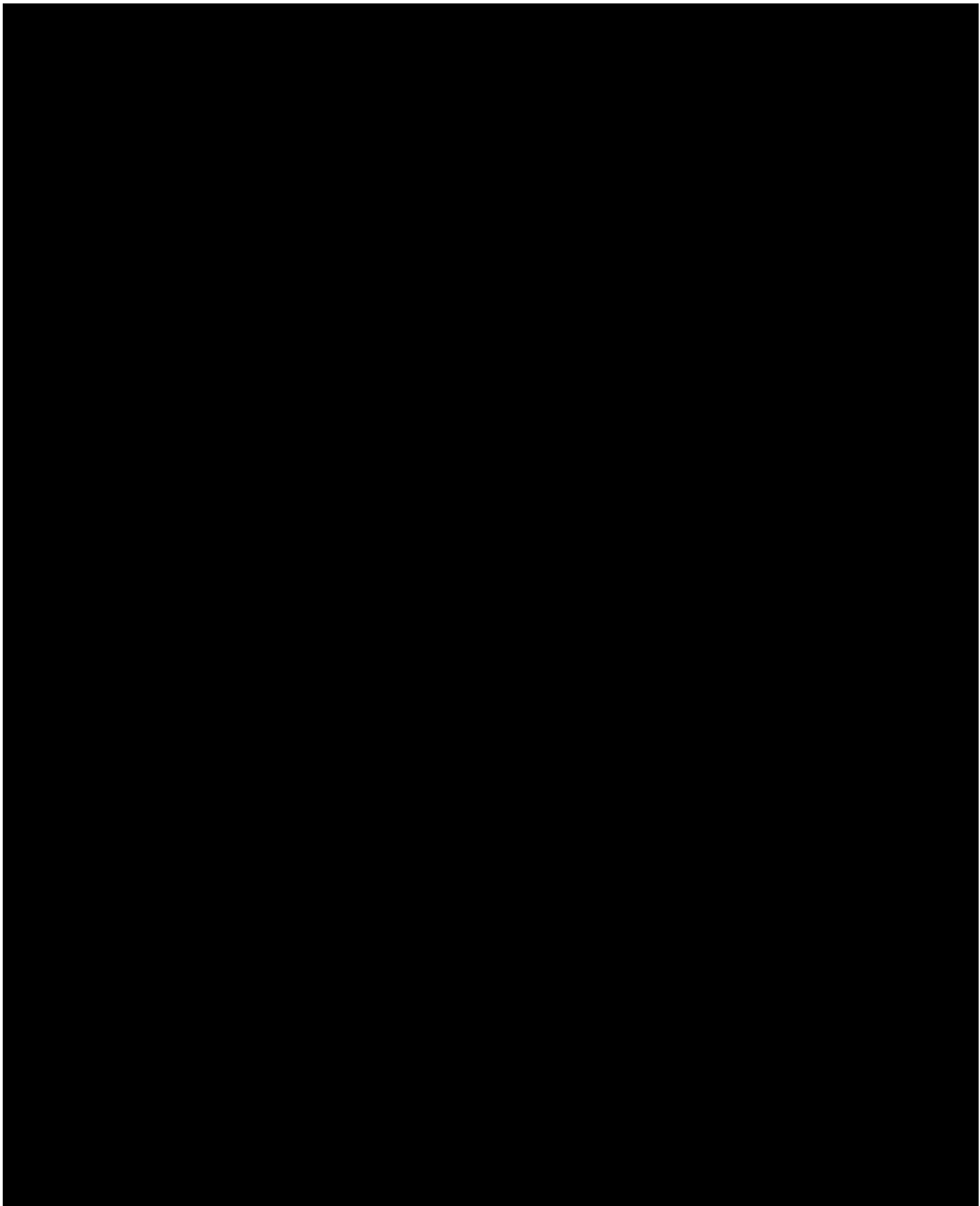




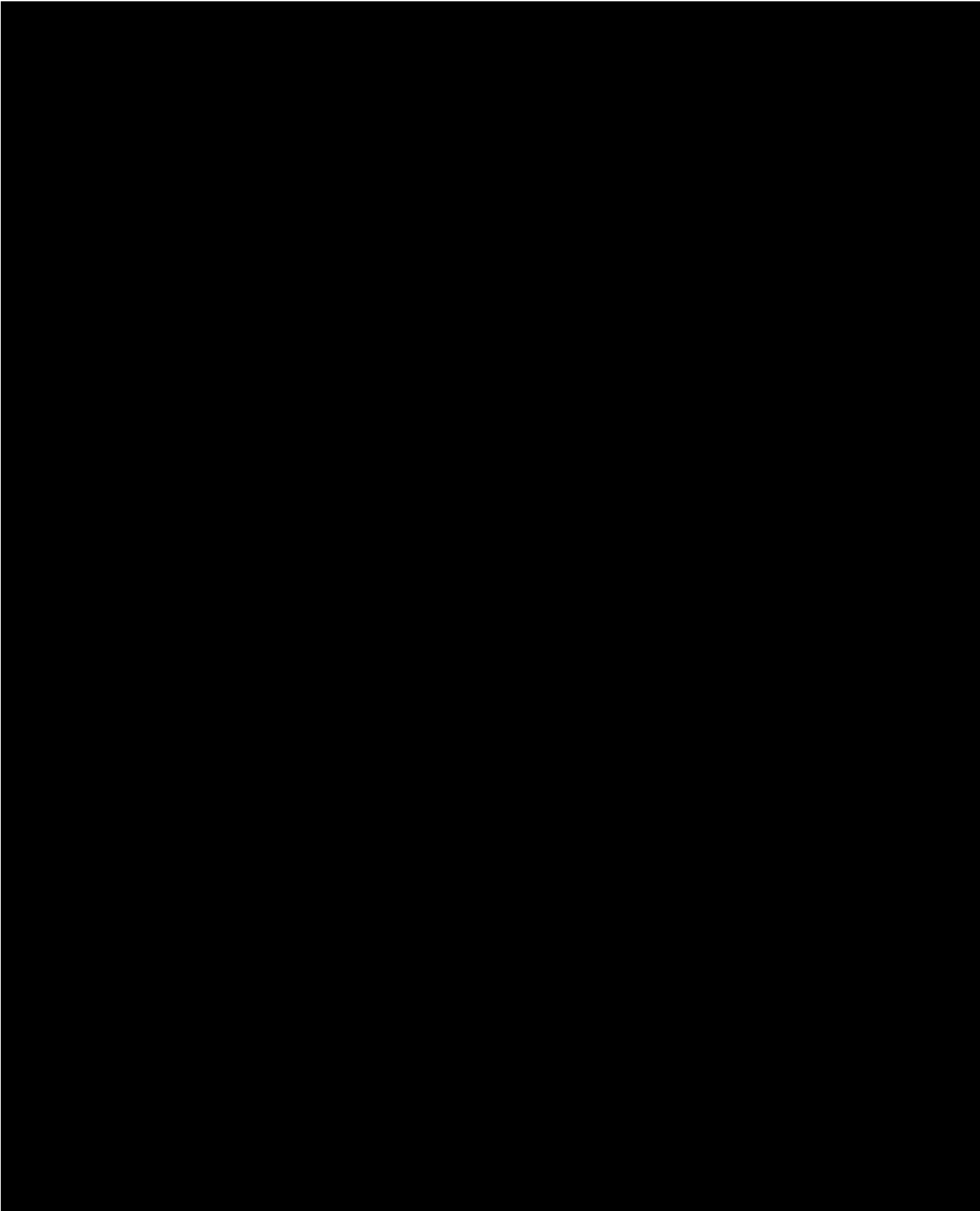














**c. City's examination – Marco Oddi, Project Manager for the Red Hill**

- The City's examination for discovery was quite instructive for counsel. Marco came across as extremely knowledgeable and answered on point. He explained why the particular asphalt was used for both the roadway and the ramps and confirmed that the City followed provincial standards in place at the time;
- He also answered the question as to why no concrete barrier or guard rail. Red Hill was designed to be a three-lane each way expressway. However, the City opted for a two-lane so that they could determine whether a three-lane was necessary depending on the traffic and the frequency of use. For a two-lane, there is no engineering requirement to either erect a concrete

barrier or guard rail. There's the posted speed of 90km/hr and the median between the NB and SB is wide enough (also in accordance with the provincial standards) to allow the vehicles to come to a full stop, assuming the driver is driving within the speed limit;

- Marco also testified that the only reason why a concrete barrier or a guard rail would be installed has nothing to do with either being required both from a physics or an engineering perspective. The reason would be what he called "social costs" – things like newspaper articles reporting on accidents – however, that leaves out the real causes of accidents: driver negligence or inexperience, things against which the City cannot protect itself against;
- On the question of friction testing, Marco testified that it is done as part of the maintenance and performance of the roadway. Overall, the roadway is functioning as it was intended. However, the City cannot prevent people from going over the speed limit and creating accidents.

