

1 David A. Tashroudian [SBN 266718]
2 Mona Tashroudian [SBN 272387]
3 TASHROUDIAN LAW GROUP, APC
4 12400 Ventura Blvd., Suite 300
5 Studio City, California 91604
6 Telephone: (818) 561-7381
7 Facsimile: (818) 561-7381
8 Email: david@tashlawgroup.com
9 mona@tashlawgroup.com

10 Attorneys for Twin Galaxies, LLC

Electronically FILED by
Superior Court of California,
County of Los Angeles
11/01/2023 12:56 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By K. Hung, Deputy Clerk

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF LOS ANGELES

13 WILLIAM JAMES MITCHELL,

14 Plaintiff,

15 v.

16 TWIN GALAXIES, LLC; and Does 1-10,

17 Defendants.

18 AND RELATED CROSS-ACTION

Case No. 19STCV12592

Assigned to: Hon. Wendy Chang
[Dept. 36]

**DECLARATION OF DAVID A.
TASHROUDIAN**

*[Filed concurrently with: (1) Motion for Issue
Sanctions; (2) Separate Statement]*

Hearing

Date: November 28, 2023

Time: 8:30 a.m.

Place: Department 36

Reservation ID: 858911525963

Action Filed: 4/11/2019

1 6. Plaintiff owns and operates Rickey’s World Famous Hot Sauce (“Rickey’s”). At
2 the outset of this matter, Defendant sought production of all Rickey’s bank statements from 2015
3 through the present in Request No. 59 of its Demand for Inspection, Set One. Plaintiff objected
4 to the request.

5 7. The parties and the Court conducted an informal discovery conference on October
6 26, 2022 regarding, among other issues, Plaintiff’s objection to Demand for Inspection No. 59.
7 This Court issued an order after the IDC permitting Defendant to file a motion to compel Plaintiff
8 to produce documents in response to its Demand for Inspection No. 59. A true and correct copy
9 of this Court’s order after the IDC is attached to this declaration as **Exhibit C**.

10 8. Defendant filed its motion to compel on November 7, 2022. On December 6, 2022,
11 the Court heard and granted Defendant’s motion to compel production of Rickey’s bank
12 statements as requested in Demand for Inspection No. 59. Plaintiff was ordered to produce the
13 bank statements within 30 days of the date of the hearing. A true and correct copy of Plaintiff’s
14 Motion to Compel is attached to this declaration as **Exhibit D**. A true and correct copy of this
15 Court’s order granting Plaintiff’s Motion to Compel is attached to this declaration as **Exhibit E**.

16 9. On January 5, 2023, Plaintiff produced bank account statements for Rickey’s for
17 the years 2017 through 2019 pursuant to the Court’s order. The statements were from a Wells
18 Fargo Business Choice Checking account and from a Wells Fargo Business Rate Savings account.
19 Plaintiff produced a nine page account statement of a Wells Fargo Business Choice Checking
20 account for the period of March 1, 2018 through March 31, 2018 which was identified by Bates
21 stamp numbers MITCHELL 007066-007074 (the “First March 2018 Bank Statement”). The
22 account number on the First March 2018 Bank Statement was redacted by Plaintiff. A true and
23 correct copy of the First March 2018 Bank Statement is attached to this declaration **Exhibit F**.

24 10. After Walter Day testified on June 26, 2023 that he paid Plaintiff \$33,000 from the
25 asset sales proceeds, Defendant issued two document requests to Plaintiff asking Plaintiff to
26 produce all documents evidencing any payment by Walter Day or Twin Galaxies to Plaintiff or to
27 any business he owns. In response to these requests, on October 18, 2023, Plaintiff produced a 2
28 page Wells Fargo Business Choice Checking account statement for Rickey’s for the period of

1 March 1, 2018 through March 31, 2018 and marked the document with Bates stamp numbers
2 MITCHELL 007859-007860 (the “Second March 2018 Bank Statement”). The Second March
3 2018 Bank Statement was not produced on January 5, 2023 pursuant to this Court’s December 6,
4 2022 order. The Second March 2018 Bank Statement is consistent with Walter Day’s testimony
5 regarding payment of the Twin Galaxies asset sales proceeds to Plaintiff. The account number on
6 the Second March 2018 Bank Statement was redacted by Plaintiff. A true and correct copy of the
7 Second March 2018 Bank Statement is attached to this declaration **Exhibit G**.

8 I declare under penalty of perjury under the laws of the State of California that the
9 foregoing is true and correct. Executed this first day of November 2023 at Los Angeles, California.

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David A. Tashroudian

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EXHIBIT A

William James Mitchell
January 09, 2023

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Case No. 19STCV12592
HONORABLE WENDY CHANG (Dept. 36)

WILLIAM JAMES MITCHELL,

Plaintiff,

vs.

TWIN GALAXIES, LLC; and Does 1-10,

Defendants.

TWIN GALAXIES, LLC,

Cross-Complainant,

v.

WILLIAM JAMES MITCHELL; WALTER DAY;
and Roes 1-25,

Cross-Defendants.

VIDEOTAPED
DEPOSITION OF WILLIAM JAMES MITCHELL
Pages 1 through 376

Monday, January 9, 2023
10:01 a.m. - 6:32 p.m.
2440 West Cypress Creek Road
Fort Lauderdale, Florida

Stenographically Reported By:
JOYCE B. GIACOMA
Court Reporter

1 APPEARANCES:

2 ON BEHALF OF THE PLAINTIFF:

3 Manning & Kass, Ellwood, Ramirez, Trester LLP
4 801 S Figueroa Street
5 15th Floor
6 Los Angeles, CA 90017
7 213-624-6900
8 aje@manningllp.com
9 BY: ANTHONY J. ELLROD, ESQ.
10 KRISTINA P. ROSS, ESQ. (Via Zoom)

11 ON BEHALF OF THE DEFENDANTS/CROSS-COMPLAINANT:

12 Tashroudian Law Group, APC
13 4136 Saint Clair Avenue
14 Los Angeles, CA 92504
15 818-561-7381
16 david@tashlawgroup.com
17 BY: DAVID TASHROUDIAN, ESQ.

18 ALSO PRESENT: JACE HALL
19 JOSEPH LANGSAM, Videographer

20 I N D E X

21 WILLIAM JAMES MITCHELL	PAGE
22 Direct by Mr. Tashroudian	6

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1 kind of removed from the situation that he had, so I
2 was able to say, Hey Jordan, there's somebody here
3 interested, and Jace Hall was happy to have me go there
4 and open the door for communications with Jordan. Once
5 those communications opened, I did nothing.

6 Q. All right. Did you provide Jace Hall with a
7 draft agreement for the purchase of --

8 A. Not a chance, no.

9 Q. Are you sure of that?

10 A. I'm very sure of that.

11 Q. Did you provide him with a copy of the
12 original Pete Bubea (phonetic) contract?

13 A. No, Walter had that.

14 Q. Did you provide Jace Hall a copy of that?

15 A. I don't think so. I can't see why --

16 MR. ELLROD: Yes or no.

17 BY MR. TASHROUDIAN:

18 Q. Were you -- did you receive -- did you receive
19 any portion of the funds that HD Films paid for Twin
20 Galaxies?

21 A. Actually, no.

22 Q. Not at all?

23 A. Not at all.

24 Q. Did you ask Walter why not?

25 A. No, because he offered them.

CERTIFICATE OF REPORTER

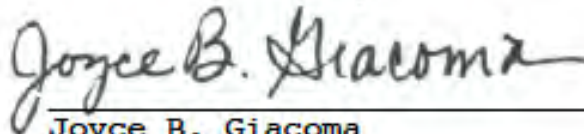
STATE OF FLORIDA

COUNTY OF BROWARD

I, Joyce B. Giacoma, Court Reporter, certify that I was authorized to and did stenographically report the deposition of WILLIAM JAMES MITCHELL, pages 5 through 371; that a review of the transcript was requested; and that the transcript is a true record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 17th day of January, 2023.



Joyce B. Giacoma
Court Reporter

EXHIBIT B

1 Anthony J. Ellrod (State Bar No. 136574)
tony.ellrod@manningkass.com

2 Kristina P. Ross (State Bar No. 325440)
kristina.ross@manningkass.com

3 **MANNING & KASS**
ELLROD, RAMIREZ, TRESTER LLP

4 801 S. Figueroa St, 15th Floor
Los Angeles, California 90017-3012
5 Telephone: (213) 624-6900
6 Facsimile: (213) 624-6999

7 Attorneys for Plaintiff, WILLIAM JAMES MITCHELL

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

10
11 WILLIAM JAMES MITCHELL,

12 Plaintiff,

13 v.

14 TWIN GALAXIES, LLC,

15 Defendants.

Case No. 19STCV12592

[Hon. Hon. Wendy Chang, Department 36]

**PLAINTIFF WILLIAM JAMES
MITCHELL'S RESPONSE TO THIRD
SET OF SPECIAL INTERROGATORIES
PROPOUNDED BY DEFENDANT TWIN
GALAXIES, LLC**

Action Filed: 4/11/2019

Trial Date: 10/27/23

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19 PROPOUNDING PARTY: Defendant TWIN GALAXIES, LLC

20 RESPONDING PARTY: Plaintiff WILLIAM JAMES MITCHELL

21 SET NO.: Three

22 Pursuant to Sections 2030.210, *et seq.*, of the California Code of Civil Procedure, Plaintiff
23 WILLIAM JAMES MITCHELL ("Responding Party") hereby submits these objections and
24 responses to the Third Set of Interrogatories propounded by Defendant TWIN GALAXIES, LLC
25 ("Propounding Party").

26 **PRELIMINARY STATEMENT**

27 Responding Party has not completed his investigation of the facts relating to this case, his
28 discovery or his preparation for trial. All responses and objections contained herein are based only

1 upon information that is presently available to and specifically known by Responding Party. It is
2 anticipated that further discovery, independent investigation, legal research and analysis will supply
3 additional facts and add meaning to known facts, as well as establish entirely new factual
4 conclusions and legal contentions, all of which may lead to substantial additions to, changes in and
5 variations from the responses set forth herein.

6 These responses, while based on diligent inquiry and investigation by Responding Party,
7 reflect only the current state of Responding Party's knowledge, understanding, and belief, based
8 upon the information reasonably available to him at this time. As this action proceeds, and further
9 investigation and discovery are conducted, additional or different facts and information could be
10 revealed to Responding Party. Moreover, Responding Party anticipates that Propounding Party may
11 make legal or factual contentions presently unknown to and unforeseen by Responding Party which
12 may require Responding Party to adduce further facts in rebuttal to such contentions. Consequently,
13 Responding Party may not yet have knowledge and may not fully understand the significance of
14 information potentially pertinent to these responses. Accordingly, these responses are provided
15 without prejudice to Responding Party's right to rely upon and use any information that he
16 subsequently discovers, or that was omitted from these responses as a result of mistake,
17 inadvertence, surprise, or excusable neglect. Without in any way obligating himself to do so,
18 Responding Party reserves the right to modify, supplement, revise, or amend these responses, and
19 to correct any inadvertent errors or omissions which may be contained herein, in light of the
20 information that Responding Party may subsequently obtain or discover.

21 Nothing in this response should be construed as an admission by Responding Party with
22 respect to the admissibility or relevance of any fact or document, or of the truth or accuracy of any
23 characterization or statement of any kind contained in Propounding Party's interrogatories.

24 Each of the following responses is made solely for the purpose of this action. Each response
25 is subject to all objections as to relevance, materiality, and admissibility, and to any and all
26 objections on any ground that would require exclusion of any response if it were introduced in court.
27 All objections and grounds are expressly reserved and may be interposed at the time of trial, hearing,
28 or otherwise. Furthermore, each of the objections contained herein is incorporated by reference as

1 vague, uncertain, overbroad, and without limitation as to time or specific subject matter;

2 5. Responding Party objects generally to the Interrogatories to the extent that they seek
3 information at least some of which is protected by the attorney-client privilege or the attorney work-
4 product doctrine, or both;

5 6. Responding Party objects generally to the Interrogatories to the extent that they seek
6 to have Responding Party furnish information that is a matter of the public record, and therefore is
7 equally available to the Propounding Party as they are to Responding Party; and

8 7. Responding Party objects generally to the Interrogatories to the extent that they seek
9 to have Responding Party furnish information that is proprietary to Responding Party and contain
10 confidential information.

11 8. Responding Party objects to the interrogatories, and to any individual interrogatory
12 set forth therein, to the extent that they are compound and constitute an impermissible effort to
13 circumvent the 35 special interrogatory limit set by Section 2030.030 of the California Code of Civil
14 Procedure.

15 9. Responding Party expressly incorporates each of the foregoing General Objections
16 into each specific response to the requests set forth below as if set forth in full therein. An answer
17 to a request is not intended to be a waiver of any applicable specific or general objection to such
18 request.

19 Without waiver of the foregoing, Responding Party further responds as follows:

20 **RESPONSES TO SPECIAL INTERROGATORIES**

21 **SPECIAL INTERROGATORY NO. 145:**

22 Have YOU (“YOU” or “PLAINTIFF” or “YOUR” shall mean Plaintiff WILLIAM JAMES
23 MITCHELL, his employees and agents, including attorneys, or other PERSONS acting on their
24 behalf) asked anyone from the International Video Game Hall of Fame in Ottumwa, Iowa to return
25 to YOU any of the awards that YOU previously donated so that YOU can produce the awards in
26 this litigation?

27 **RESPONSE TO SPECIAL INTERROGATORY NO. 145:**

28 Yes.

1 **SPECIAL INTERROGATORY NO. 156:**

2 IDENTIFY all DOCUMENTS related to any payment by Walter Day to YOU from 2014 to
3 the present.

4 **RESPONSE TO SPECIAL INTERROGATORY NO. 156:**

5 None.

6 **SPECIAL INTERROGATORY NO. 157:**

7 IDENTIFY all DOCUMENTS related to any payment by Walter Day to YOU from 2014 to
8 the present.

9 **RESPONSE TO SPECIAL INTERROGATORY NO. 157:**

10 Responding Party object to this Special Interrogatory on the grounds that it was asked and
11 answered in Special Interrogatory No. 156.

12 **SPECIAL INTERROGATORY NO. 158:**

13 IDENTIFY all DOCUMENTS related to any payment by Twin Galaxies, Inc. to YOU from
14 2014 to the present.

15 **RESPONSE TO SPECIAL INTERROGATORY NO. 158:**

16 None.

17 **SPECIAL INTERROGATORY NO. 159:**

18 IDENTIFY all DOCUMENTS related to any payment by Twin Galaxies, Inc. to YOU from
19 1999 to 2014.

20 **RESPONSE TO SPECIAL INTERROGATORY NO. 159:**

21 None.

22 **SPECIAL INTERROGATORY NO. 160:**

23 State the amount of every payment made by Walter Day to YOU.

24 **RESPONSE TO SPECIAL INTERROGATORY NO. 160:**

25 Responding Party objects to this to the extent that it assumes facts not in evidence.

26 None.


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DATED: June 9, 2023

**MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP**

By: 

Anthony J. Ellrod
Kristina Ross
Attorneys for Plaintiff
WILLIAM JAMES MITCHELL

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 801 S. Figueroa St, 15th Floor, Los Angeles, CA 90017-3012.

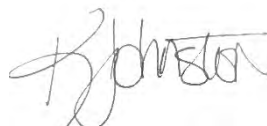
On June 9, 2023, I served true copies of the following document(s) described as **PLAINTIFF WILLIAM JAMES MITCHELL’S RESPONSE TO THIRD SET OF SPECIAL INTERROGATORIES PROPOUNDED BY DEFENDANT TWIN GALAXIES, LLC** on the interested parties in this action as follows:

David Tashroudian, Esq. Mona Tashroudian, Esq. TASHROUDIAN LAW GROUP, APC 12400 Ventura Blvd. Suite 300 Studio City, CA 91604 Telephone: (818) 561-7381 Facsimile: (818) 561-7381 Email: david@tashlawgroup.com Email: mona@tashlawgroup.com <i>Attorney for Defendants, TWIN GALAXIES</i>	Robert W. Cohen, Esq. Law Offices of Robert W. Cohen 1901 Avenue of The Stars, Suite 1910 Los Angeles, CA 90067 Telephone: (310) 282-7586 Email: rwcohen@robertwcohenlaw.com <i>Attorneys for Cross-Defendant, WALTER DAY</i>
--	--

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address kathy.johnston@manningkass.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 9, 2023, at Los Angeles, California.



Kathy Johnston

EXHIBIT C

Electronically Received 1/03/2022 02:58 PM

1 David A. Tashroudian [SBN 266718]
Mona Tashroudian [SBN 272387]
2 TASHROUDIAN LAW GROUP, APC
12400 Ventura Blvd., Suite 300
3 Studio City, California 91604
Telephone: (818) 561-7381
4 Facsimile: (818) 561-7381
Email: david@tashlawgroup.com
5 mona@tashlawgroup.com

6 Attorneys for Twin Galaxies, LLC

FILED
Superior Court of California
County of Los Angeles
11/14/2022

Sherri R. Carter, Executive Officer / Clerk of Court
By: A. Rodriguez Deputy

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES

11 WILLIAM JAMES MITCHELL,

12 Plaintiff,

13 v.

14 TWIN GALAXIES, LLC; and Does 1-10,

15 Defendants.

Case No. 19STCV12592

Assigned to: Hon. Wendy Chang
[Dept. 36]

**~~PROPOSED~~ ORDER AFTER
INFORMAL DISCOVERY CONFERENCE**

IDC Hearing

Date: October 26, 2022

Time: 10:00 a.m.

Place: Department 36

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19 AND RELATED CROSS-ACTION
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Action Filed: 4/11/2019

1 ~~PROPOSED~~ ORDER

2 The Court, having conducted an Informal Discovery Conference pursuant to California
3 Code of Civil Procedure section 2016.080 on October 26, 2022 concerning a dispute over the
4 responses of plaintiff and cross-defendant William James Mitchell (“Mitchell”) to certain
5 inspection demands of defendant and cross-complainant Twin Galaxies, LLC (“Twin Galaxies”),
6 and having considered the joint statement of the parties and the argument of counsel at the
7 conference, and finding good cause for the issuance of this Order, hereby ORDERS as follows:

- 8 1. Plaintiff shall produce copies of all documents and tangible things which were
9 promised to be produced in his written responses to Twin Galaxies’ inspection
10 demands within fourteen (14) days of the date of this Order, except that Plaintiff
11 shall produce documents relating to communications with Walter Day on a rolling
12 basis, but within a reasonable time, as those documents are collected by Plaintiff;
- 13 2. Plaintiff shall produce for inspection and testing the subject box referred to in Twin
14 Galaxies’ Demand for Inspection No. 19 on December 15, 2022 at Plaintiff’s
15 counsel’s office in Los Angeles;
- 16 3. Plaintiff shall produce in native format the electronic Quickbooks file, or electronic
17 file from an equivalent or other bookkeeping software, for Rickey’s World Famous
18 Hot Sauce for 2017, 2018, and 2019 pursuant to Twin Galaxies’ Demand for
19 Inspection No. 55;
- 20 4. Plaintiff shall produce income statements for Rickey’s World Famous Hot Sauce
21 for 2017, 2018, and 2019 as represented by Plaintiff’s counsel on page 5, lines 22-
22 23, of the parties’ October 21, 2022 Joint Informal Discovery Statement within
23 fourteen (14) days of the date of this Order;
- 24 5. The deadline for Twin Galaxies to move to compel a further response to its Demand
25 for Inspection No. 59 is tolled from October 26, 2022 to December 6, 2022 pursuant
26 to California Code of Civil Procedure section 2016.080(c)(2); and,

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6. Twin Galaxies shall be entitled to move to compel a further response to its Demand for Inspection No. 59 with the hearing on such motion to be held on December 6, 2022 at 8:30 a.m. in this Department.

IT IS SO ORDERED.

Dated: 11/14/2022



A handwritten signature in black ink, appearing to read 'Wendy Chang'.

Wendy Chang / Judge
Hon. Wendy Chang
Judge of the Superior Court

PROOF OF SERVICE
Case No. 19STCV12592

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is **TASHROUDIAN LAW GROUP, APC**, located 12400 Ventura Blvd., Suite 300, Studio City, California 91604. On November 3, 2022, I served the herein described document(s):

[PROPOSED] ORDER AFTER INFORMAL DISCOVERY CONFERENCE

by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Woodland Hills, California addressed as set forth below.

X E-File - by electronically transmitting the document(s) listed above to jeg@manningllp.com & rwc@robertwcohenlaw.com pursuant to an agreement of the parties.

by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

by overnight courier of the document(s) listed above to the person(s) at the address(es) set forth below.

Anthony J. Ellrod aje@manningllp.com
MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP
801 S. Figueroa St, 15th Floor
Los Angeles, California 90017-3012

Attorneys for Plaintiff
WILLIAM JAMES MITCHELL

Robert W. Cohen rwc@robertwcohenlaw.com
Law Offices of Robert W. Cohen, APC
1901 Avenue of the Stars, Suite 1910
Los Angeles, CA 90067

Attorneys for Cross-Defendant
WALTER DAY

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on November 3, 2022 at Woodland Hills, California.



Mona Tashroudian

EXHIBIT D

1 David A. Tashroudian [SBN 266718]
Mona Tashroudian [SBN 272387]
2 TASHROUDIAN LAW GROUP, APC
12400 Ventura Blvd., No. 300
3 Studio City, California 91604
Telephone: (818) 561-7381
4 Facsimile: (818) 561-7381
Email: david@tashlawgroup.com
5 mona@tashlawgroup.com

6 Attorneys for Twin Galaxies, LLC

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES

11 WILLIAM JAMES MITCHELL,

12 Plaintiff,

13 v.

14 TWIN GALAXIES, LLC; and Does 1-10,

15 Defendants.

17
18 TWIN GALAXIES, LLC,

19 Cross-Complainant,

20 v.

21
22 WILLIAM JAMES MITCHELL; WALTER
DAY; and Roes 1-25,

23 Cross-Defendants.

Case No. 19STCV12592

Assigned to: Hon. Wendy Chang
[Dept. 36]

**NOTICE OF MOTION AND MOTION TO
COMPEL FURTHER RESPONSES TO
DEMAND FOR INSPECTION OF TWIN
GALAXIES; DECLARATION OF DAVID
A. TASHROUDIAN IN SUPPORT**

[Filed concurrently with Separate Statement]

Hearing

Date: December 6, 2022

Time: 8:30 a.m.

Place: Department 36

Reservation ID: 409284251619

Action Filed: 4/11/2019

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28 MOTION TO COMPEL

1 **NOTICE OF MOTION**

2 **TO THE HONORABLE COURT, THE PARTIES, AND TO ALL ATTORNEYS OF**
3 **RECORD:**

4 **PLEASE TAKE NOTICE** that on December 6, 2022 at 8:30 a.m., in Department 36 of
5 the above entitled court located at 111 N. Hill Street, Los Angeles, California 90012, defendant
6 and cross-complaint Twin Galaxies, LLC (“Twin Galaxies”) will and hereby does move this Court
7 for an order compelling plaintiff and cross-defendant William James Mitchell (“Plaintiff”) to
8 produce documents and provide a further response to Demand No. 59 of Twin Galaxies’ Demand
9 for Inspection, Set One pursuant to California Code of Civil Procedure section 2031.310. Twin
10 Galaxies does not seek sanctions against Plaintiff or his counsel.

11 This motion is made on the ground that good cause exists for production of the documents
12 demanded and that Demand for Inspection No. 59 is relevant to the subject matter of the action; is
13 not overboard, burdensome, or harassing; and, on balance, does not invade Plaintiff’s right to
14 privacy. The motion will be based upon this Notice, the memorandum in support, the declaration
15 of David A. Tashroudian, the separate statement filed concurrently herewith, the arguments of
16 counsel, and the records and files in this action.

17 Respectfully submitted,

18 Dated: November 7, 2022

TASHROUDIAN LAW GROUP, APC

19
20 By: /s/ David Tashroudian, Esq.

21 David Tashroudian, Esq.
22 Mona Tashroudian, Esq.
23 Attorneys for Defendant and Cross-
24 Complainant Twin Galaxies, LLC
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Twin Galaxies respectfully moves this Court for an order after IDC compelling Plaintiff to
4 produce bank statements for the corporation Rickey’s World Famous Hot Sauce for the years 2017,
5 2018, and 2019 pursuant to Twin Galaxies’ Demand for Inspection (Set One) No. 59 as revised
6 during the parties’ meet and confer efforts. An order compelling production is appropriate under
7 the circumstances because Plaintiff has put the financial condition of the corporation at issue in
8 this case as he seeks damages for loss of the corporation’s revenue.

9 Plaintiff has asserted a privacy objection to the bank statements sought by Twin Galaxies
10 but the objection, on balance, is not meritorious and should be overruled. To the extent the Court
11 finds that Plaintiff does enjoy a privacy interest in the requested information, the information
12 should be produced regardless pursuant to the parties’ stipulated protective order thereby allowing
13 Twin Galaxies to achieve substantial justice.

14 **II. FACTS**

15 A. Twin Galaxies serves its first set of written discovery requests on June 8, 2022.

16 On June 8, 2022, Twin Galaxies served its first set of discovery requests on Plaintiff. [*See*
17 Declaration of David A. Tashroudian (“Tashroudian Decl.”), ¶ 2.] The first set of discovery
18 requests consisted of: (1) Inspection Demands, Set One; (2) Special Interrogatories, Set One; (3)
19 Form Interrogatories, Set One; (4) Form Interrogatories, Set Two; and, (5) Requests for
20 Admission, Set One. [*Id.*]

21 On June 27, 2022, Plaintiff requested an extension of time to respond to the discovery to
22 August 8, 2022 and Twin Galaxies agreed to the request. [Tashroudian Decl. ¶ 3.] On August 3,
23 2022, Plaintiff requested another extension of time to respond to August 24, 2022 and Twin
24 Galaxies again agreed to the request. [*Id.*] Plaintiff ultimately responded to the first set of
25 discovery requests on August 24, 2022. [*Id.*]

26 In his first set of special interrogatory responses, Plaintiff identified Rickey’s World
27 Famous Hot Sauce Sales by Customer Summary Reports for the years 2015 to 2019 as documents
28 that support his claim for economic damages. [Tashroudian Decl. ¶ 4; *see also* Separate Statement,

1 4:26-5:8 (SROG No. 27).] Mitchell also in his special interrogatory responses stated that his
2 economic damages are calculated by the amount of lost income to his primary business, Rickey's
3 World Famous Hot Sauce as measured by gross revenue declines in 2018 and 2019 as compared
4 to the gross revenue in 2017. [Tashroudian Decl. ¶ 4; *see also* Separate Statement, 4:16-24
5 (SROG No. 25).]

6 Twin Galaxies sought production of Rickey's World Famous Hot Sauce bank statements
7 from 2015 through the present in Request No. 59 of its Demand for Inspection, Set One.
8 [Tashroudian Decl. ¶ 5; *see also* Separate Statement, 1:6-18 (RFPD No. 59).] Plaintiff objected
9 to the requests on the grounds that it is overboard, burdensome, oppressive, harassing, and that it
10 seeks information protected by his right to privacy. [Id.]

11 B. The Parties' meet and confer efforts.

12 On August 28, 2022, Twin Galaxies issued a written meet and confer letter to Plaintiff with
13 respect to Plaintiff's responses to the first set of discovery requests. [Tashroudian Decl., ¶ 6.] On
14 September 14, 2022, counsel for the parties met and conferred by telephone regarding the issues
15 raised in Twin Galaxies' meet and confer letter. [Id.] On September 22, 2022, Plaintiff provided
16 a written response to Twin Galaxies' August 28, 2022 meet and confer letter. [Id.]

17 On October 3, 2022, Twin Galaxies further met and conferred in writing with Mitchell
18 about his responses to first set of discovery requests. [Tashroudian Decl., ¶ 7.] Plaintiff responded
19 to this correspondence on October 17, 2022. [Id.] As of October 17, 2022, Plaintiff maintained
20 his refusal to produce documents in response to Demand for Inspection No. 59. [Id.]

21 The parties and the Court conducted an informal discovery conference on October 26, 2022
22 whereupon Twin Galaxies agreed to narrow its request for bank records to the years 2017, 2018,
23 and 2019 to correspond with Plaintiff's response to Special Interrogatory No. 25. [Tashroudian
24 Decl., ¶ 8.] At the conference, the Court directed Twin Galaxies to file a motion to compel Plaintiff
25 to produce documents in response to its Demand for Inspection No. 59, with such motion to be
26 heard on December 6, 2022. [Id.]

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1 **III. ARGUMENT**

2 A. Demand for Inspection No. 59 is neither overbroad, burdensome, oppressive, nor
3 harassing.

4 Plaintiff has identified Rickey’s World Famous Hot Sauce Sales by Customer Summary
5 Report for the years 2015 to 2019 as documents that support his claims for economic damages in
6 response to Special Interrogatory No 27. In response to Special Interrogatory No. 25, Plaintiff
7 also claims that his economic damages are calculated by taking the difference between the gross
8 revenue for Rickey’s World Famous Hot Sauce in 2017 and that in 2018 and 2019

9 Twin Galaxies has, through the meet and confer process, and at the hearing of the IDC in
10 this matter, agreed to limit the scope of the bank records requested in Demand for Inspection No.
11 59 to 2017 through 2019 to comport with Plaintiff’s response to Special Interrogatory No. 27.
12 With this limitation, the request is not overboard as to time since Plaintiff put this time frame for
13 the business revenue at issue.

14 Moreover, production of these documents are appropriate because Plaintiff has put the
15 revenue and profits of Rickey’s World Famous Hot Sauce at issue. Plaintiff seeks damage based
16 on the financial impact on Rickey’s World Famous Hot Sauce from Twin Galaxies’ defamatory
17 statement and he identifies 2017, 2018, and 2019 as the relevant years to determine his damages.
18 Plaintiff must produce the bank statements for Rickey’s World Famous Hot Sauce for 2017, 2018,
19 and 2019 to determine the net profit from the years that Plaintiff claims damages for *because lost*
20 *profit, and not lost gross revenue is the appropriate measure of damages.* (See Gerwin v.
21 Southeastern Cal. Assn. of Seventh Day Adventists (1971) 14 Cal.App.3d 209, 222-223 (“To
22 allow plaintiff to recover a judgment based in part on his gross profits would result in his unjust
23 enrichment. If he is entitled to recover at all, because of his loss of profits, such recovery must be
24 confined to his net profits. Net profits are the gains made from sales after deducting the value of
25 the labor, materials, rents, and all expenses, together with the interest of the capital employed”);
26 *see also* Parlour Enterprises, Inc. v. Kirin Group, Inc. (2007) 152 Cal. App.4th 281, 287 (“Damage
27 awards in injury to business cases are based on net profits. Net profits are the gains made from
28 sales after deducting the value of the labor, materials, rents, and all expenses, together with the

1 interest of the capital employed. A plaintiff must show loss of net pecuniary gain, not just loss of
2 gross revenue.”).

3 Twin Galaxies is entitled to Rickey’s World Famous Hot Sauce bank statements to recreate
4 Rickey’s World Famous Hot Sauce’s books for its forensic accounting expert to determine
5 whether the gross and net profit information underlying Plaintiff’s damages claim is true. It is
6 Plaintiff’s obligation to prove his damages and it is Twin Galaxies’ right to defend against those
7 damages claims. The only way to definitively determine Rickey’s World Famous Hot Sauce’s
8 gross revenue and net profit for the claimed years – 2017, 2018, and 2019 – is to examine the
9 sources of revenue and expenses as they are recorded in the company’s bank statements. The bank
10 statements are infallible in the respect that they are not subject to manipulation. From these
11 records, Twin Galaxies will be able to definitively determine if the Sales by Customer Summary
12 reports for 2017, 2018 and 2019 are in-fact reflective of what went into the bank (credits). These
13 statements will also show the debits that went out of the bank account during those years thereby
14 showing exactly what the costs are against revenue to determine net profits. As such, this request
15 is neither burdensome, oppressive, nor harassing.

16 B. Demand for Inspection No. 59 does not invade Plaintiff’s privacy.

17 The burden is on “the party asserting a privacy interest to establish its extent and the
18 seriousness of the prospective invasion,” and then the court must “weigh the countervailing
19 interests the opposing party identifies.” (Williams v. Superior Court (2017) 3 Cal.5th 531, 557.)

20 The right of privacy contained in the California Constitution is limited to “people,”
21 meaning natural persons. (See Roberts v. Gulf Oil Corp. (1983) 147 Cal. App. 3d 770, 791, 796-
22 797 (“[T]he constitutional provision simply does not apply to corporations.”).) “Although
23 corporations have a lesser right to privacy than human beings and are not entitled to claim a right
24 to privacy in terms of a fundamental right, some right to privacy exists. Privacy rights accorded
25 artificial entities are not stagnant, but depend on the circumstances.” (Id. at p. 797.) “[T]he strength
26 of the privacy right being asserted by a nonhuman entity depends on the circumstances. Two
27 critical factors are the strength of the nexus between the artificial entity and human beings and the
28 context in which the controversy arises.” (Id.)

1 On balance, the discovery of Rickey’s World Famous Hot Sauce records should be
2 compelled considering the circumstances of this case. As a threshold matter, as counsel for
3 Plaintiff admitted at the IDC hearing, Rickey’s World Famous Hot Sauce is a corporation and to
4 the extent it enjoys a right to privacy, that right is limited and not protected by the California
5 Constitution.

6 Substantively, the bank records sought in Demand for Inspection No. 59 are directly
7 relevant to Plaintiff’s damages claim in this matter. Plaintiff admits in his responses to Special
8 Interrogatories Nos. 25 & 27 that the customer by sales data and revenue data for Rickey’s World
9 Famous Hot Sauce for 2017, 2018, and 2019 are documents and information that form the basis
10 for his economic damages claim. The bank records sought will substantiate or defeat Plaintiff’s
11 damages claims.

12 In addition to relevance, the nexus between Rickey’s World Famous Hot Sauce and
13 Plaintiff and the context in which the controversy arises militate in favor of discovery.
14 Contextually, Plaintiff alleges in his discovery responses that Rickey’s World Famous Hot Sauce
15 is his primary business and that he was damaged by his business losing revenue as a result of Twin
16 Galaxies’ defamatory statements. The discovery sought goes directly to Plaintiff’s damages claim
17 as it relates to Rickey’s World Famous Hot Sauce’s revenue. Allowing Plaintiff to block this
18 discovery will prevent Twin Galaxies from achieving justice on an issue that Plaintiff sued on
19 directly. On balance, the discovery should be allowed to avoid such an injustice.

20 Moreover, whatever privacy interest Plaintiff may have in Rickey’s World Famous Hot
21 Sauce’s bank records may be protected by the protective order that this Court entered on October
22 26, 2022. Plaintiff can designate these documents as highly confidential and doing so will achieve
23 the dual goal of allowing for Plaintiff to enjoy privacy in the bank statement information for
24 Rickey’s World Famous Hot Sauce while also allowing Twin Galaxies the opportunity to defend
25 against Plaintiff’s damages claim thereby promoting justice for all.

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IV. CONCLUSION

Twin Galaxies respectfully submits that Plaintiff should be compelled to provide Twin Galaxies with a further response to Demand for Inspection No. 59 and to produce the requested bank statements forthwith.

Respectfully submitted,
TASHROUDIAN LAW GROUP, APC

Dated: November 7, 2022

By: /s/ David Tashroudian, Esq.
David Tashroudian, Esq.
Mona Tashroudian, Esq.
Attorneys for Defendant and Cross-
Complainant Twin Galaxies, LLC

1 **DECLARATION OF DAVID TASHROUDIAN**

2 I, David Tashroudian, declare that:

3 1. I am an attorney duly licensed to practice law in this Court. I make this declaration
4 in support of Twin Galaxies' motion to compel further responses to its demand for inspection no.
5 59. I make this declaration based on facts known to me personally to be true and if called as a
6 witness to testify to these facts, I could and would do so.

7 2. On June 8, 2022, Twin Galaxies served its first set of discovery requests on
8 Plaintiff. The first set of discovery requests consisted of: (1) Inspection Demands, Set One; (2)
9 Special Interrogatories, Set One; (3) Form Interrogatories, Set One; (4) Form Interrogatories, Set
10 Two; and, (5) Requests for Admission, Set One.

11 3. On June 27, 2022, Plaintiff requested an extension of time to respond to the
12 discovery requests to August 8, 2022 and Twin Galaxies agreed to the request. On August 3, 2022,
13 Plaintiff requested another extension of time to respond to August 24, 2022 and Twin Galaxies
14 again agreed to the request. Plaintiff ultimately responded to the first set of discovery requested
15 on August 24, 2022.

16 4. In his first set of special interrogatory responses, Plaintiff identified Rickey's
17 World Famous Hot Sauce Sales by Customer Summary Reports for the years 2015 to 2019 as
18 documents that support his claim for economic damages. Mitchell also in his special interrogatory
19 responses stated that his economic damages are calculated by the amount of lost income to his
20 primary business, Rickey's World Famous Hot Sauce as measured by gross revenue declines in
21 2018 and 2019 as compared to the gross revenue in 2017.

22 5. Twin Galaxies originally sought production of Rickey's World Famous Hot Sauce
23 bank statements from 2015 through the present in Request No. 59 of its Demand for Inspection,
24 Set One. Plaintiff objected to the requests on the grounds that it is overboard, burdensome,
25 oppressive, harassing, and that it seeks information protected by his right to privacy.

26 6. On August 28, 2022, Twin Galaxies issued a written meet and confer letter to
27 Plaintiff with respect to Plaintiff's responses to the first set of discovery requests. On September
28 14, 2022, counsel for the parties met and conferred by telephone regarding the issues raised in

1 Twin Galaxies' meet and confer letter. On September 22, 2022, Plaintiff provided a written
2 response to Twin Galaxies' August 28, 2022 meet and confer letter.

3 7. On October 3, 2022, Twin Galaxies further met and conferred in writing with
4 Mitchell about his responses to first set of discovery requests. Plaintiff responded to this
5 correspondence on October 17, 2022. As of October 17, 2022, Plaintiff maintained his refusal to
6 produce documents in response to Demand for Inspection No. 59.

7 8. The parties and the Court conducted an informal discovery conference on October
8 26, 2022 whereupon Twin Galaxies agreed to narrow its request for bank records to the years
9 2017, 2018, and 2019 to correspond with Plaintiff's response to Special Interrogatory No. 25. At
10 the conference, the Court directed Twin Galaxies to file a motion to compel Plaintiff to produce
11 documents in response to its Demand for Inspection No. 59, with such motion to be heard on
12 December 6, 2022.

13 I declare, under penalty of perjury of the laws of the State of California, that the foregoing
14 is true and correct. Executed this 7th day of November, 2022 at Los Angeles, California.

15 /s/ David Tashroudian, Esq.
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PROOF OF SERVICE
Case No. 19STCV12592

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is **TASHROUDIAN LAW GROUP, APC**, located 12400 Ventura Blvd., No. 300, Studio City, CA 91604. On November 7, 2022, I served the herein described document(s):

NOTICE OF MOTION AND MOTION TO COMPEL FURTHER RESPONSES TO DEMAND FOR INSPECTION OF TWIN GALAXIES; DECLARATION OF DAVID A. TASHROUDIAN IN SUPPORT

by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Woodland Hills, California addressed as set forth below.

X E-File - by electronically transmitting the document(s) listed above to aje@manningllp.com & rwc@robertwcohenlaw.com pursuant to an agreement of the parties.

by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

by overnight courier of the document(s) listed above to the person(s) at the address(es) set forth below.

Anthony J. Ellrod aje@manningllp.com
MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP
801 S. Figueroa St, 15th Floor
Los Angeles, California 90017-3012

Attorneys for Plaintiff
WILLIAM JAMES MITCHELL

Robert W. Cohen rwc@robertwcohenlaw.com
Law Offices of Robert W. Cohen, APC
1901 Avenue of the Stars, Suite 1910
Los Angeles, CA 90067

Attorneys for Cross-Defendant
WALTER DAY

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on November 7, 2022 at Woodland Hills, California



Mona Tashroudian



Make a Reservation

WILLIAM JAMES MITCHELL vs TWIN GALEXIES, LLC

Case Number: 19STCV12592 Case Type: Civil Unlimited Category: Defamation (slander/libel)

Date Filed: 2019-04-11 Location: Stanley Mosk Courthouse - Department 36

Reservation

Case Name: WILLIAM JAMES MITCHELL vs TWIN GALEXIES, LLC	Case Number: 19STCV12592
Type: Motion to Compel Further Discovery Responses	Status: RESERVED
Filing Party: Twin Galaxies, LLC (Defendant)	Location: Stanley Mosk Courthouse - Department 36
Date/Time: 11/15/2022 8:30 AM	Number of Motions: 1
Reservation ID: 409284251619	Confirmation Code: CR-NTBIYPSW4PMBOFSXQ

Fees

Description	Fee	Qty	Amount
Motion to Compel Further Discovery Responses	60.00	1	60.00
Credit Card Percentage Fee (2.75%)	1.65	1	1.65
TOTAL			\$61.65

Payment

Amount: \$61.65	Type: Visa
Account Number: XXXX7361	Authorization: 011922

Print Receipt

[+ Reserve Another Hearing](#)

EXHIBIT E

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 36

19STCV12592

WILLIAM JAMES MITCHELL vs TWIN GALEXIES, LLC

December 6, 2022

8:30 AM

Judge: Honorable Wendy Chang

Judicial Assistant: A. Rodriguez

Courtroom Assistant: J. Salazar-Menjivar

CSR: None

ERM: None

Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): Anthony J. Ellrod by Kristina Ross (Via LACourtConnect)

For Defendant(s): David Ali Tashroudian (Via LACourtConnect)

NATURE OF PROCEEDINGS: Hearing on Motion to Compel Further Discovery Responses

The matter is called for hearing.

The Court has read and considered the moving papers, opposition and evidence.

The Court gives its oral tentative ruling and hears argument from counsel.

After consideration of all documents filed and oral argument, the Court adopts the tentative as the order of the Court as follows:

The Motion to Compel Further Discovery Responses filed by Twin Galaxies, LLC on 11/07/2022 is Granted.

Responses are due within 30 days.

Defendant is to give notice.

EXHIBIT F

Wells Fargo Business Choice Checking

Account number: [REDACTED] ■ March 1, 2018 - March 31, 2018 ■ Page 1 of 9

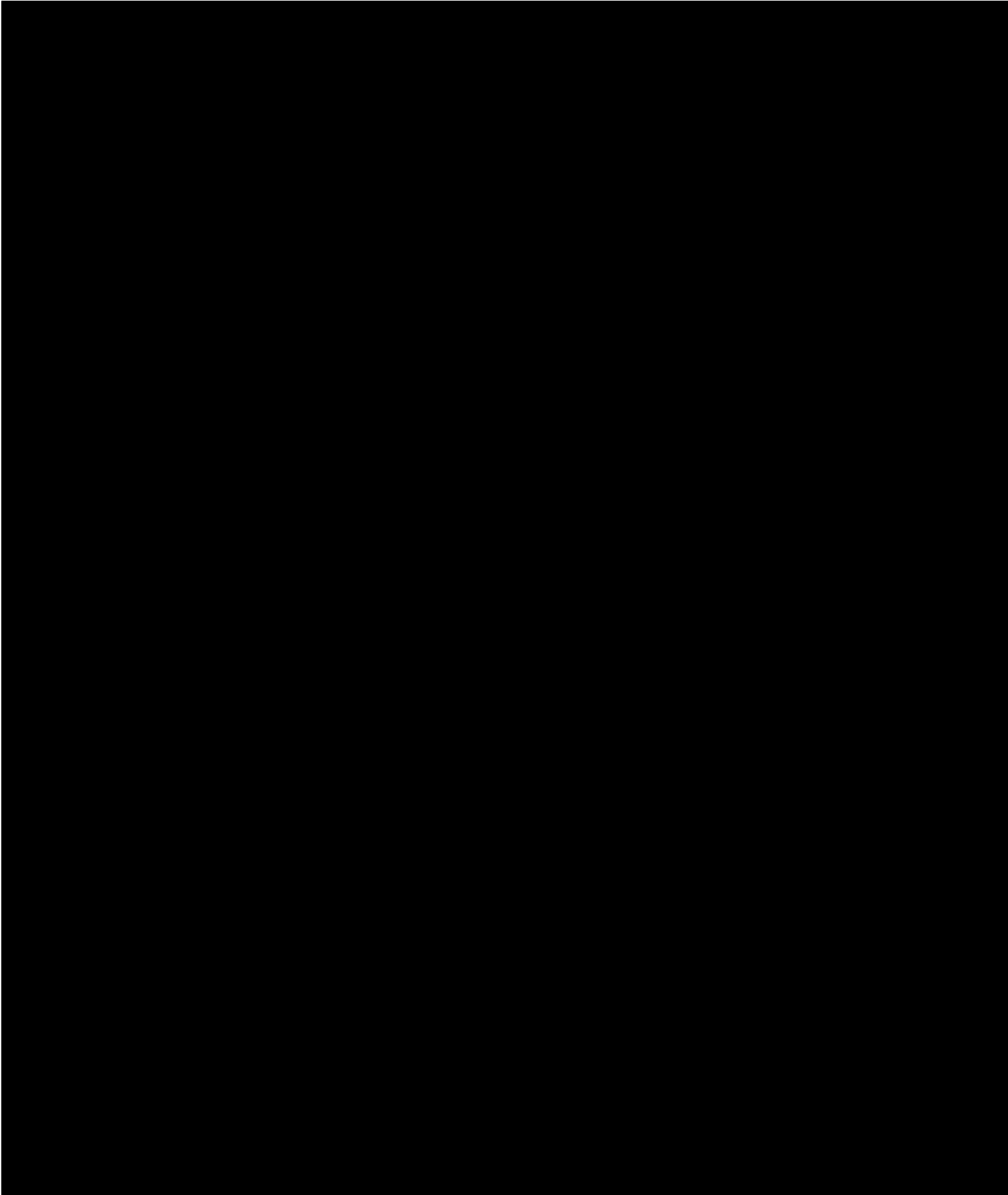


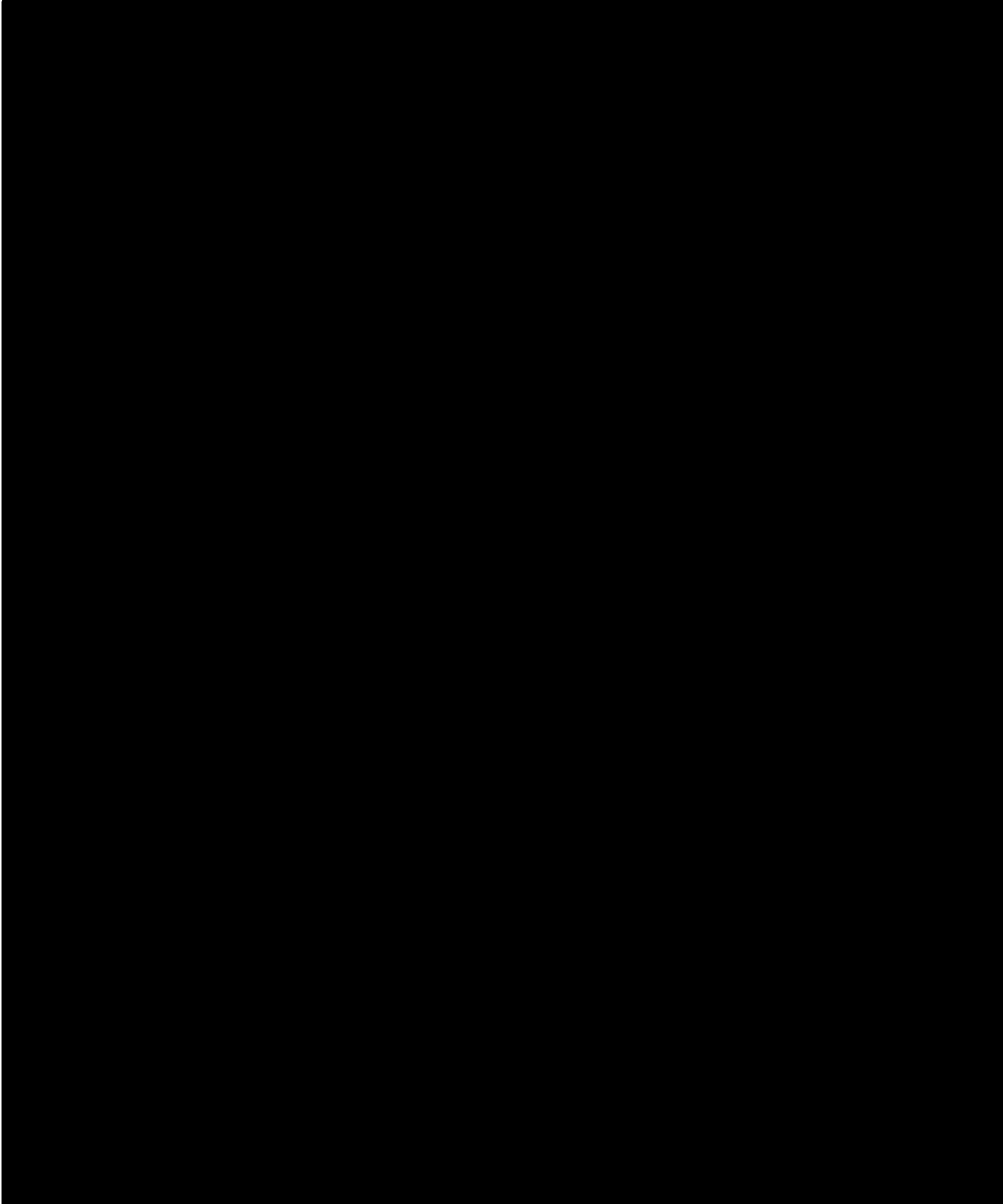
RICKEY'S

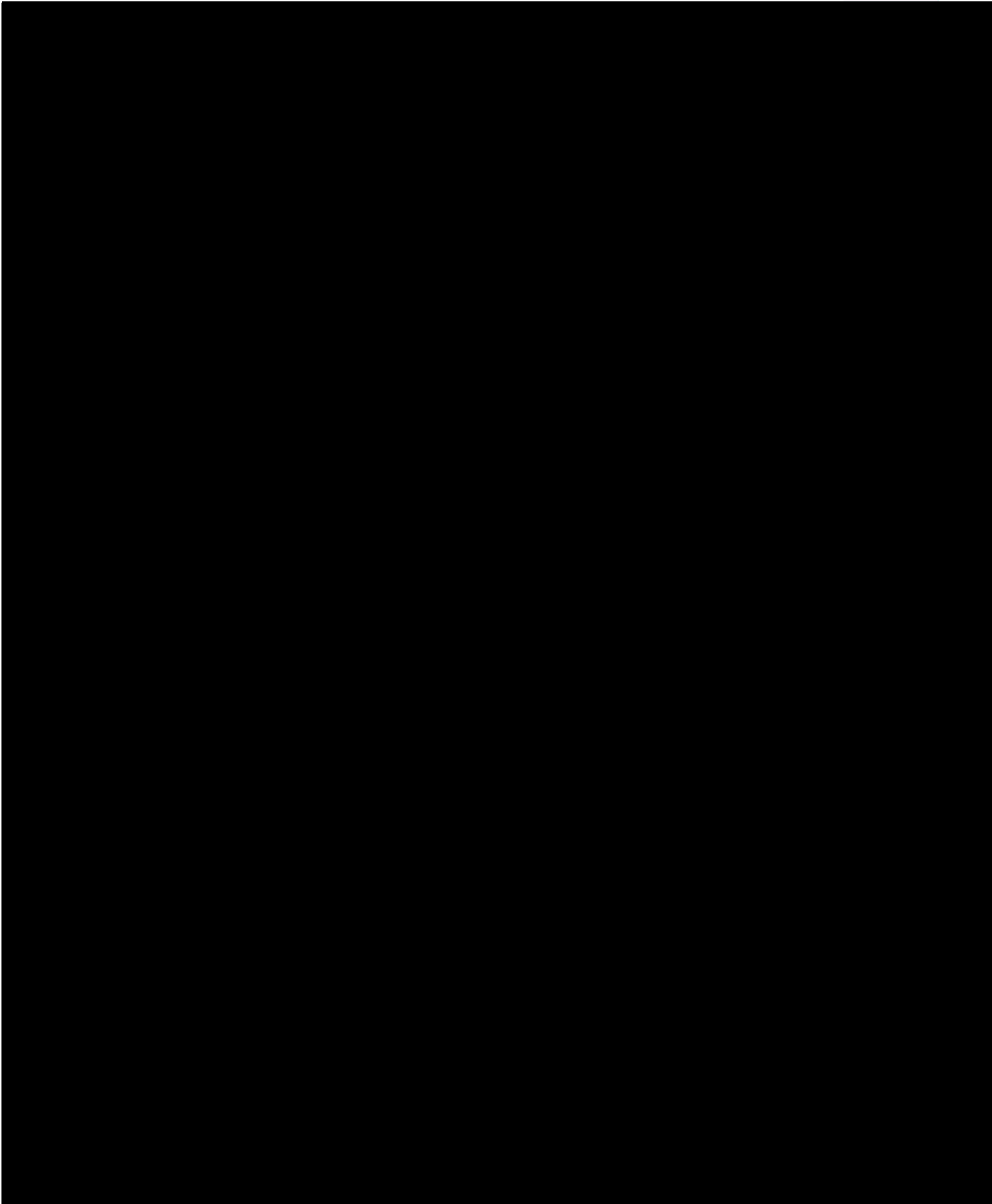
Questions?

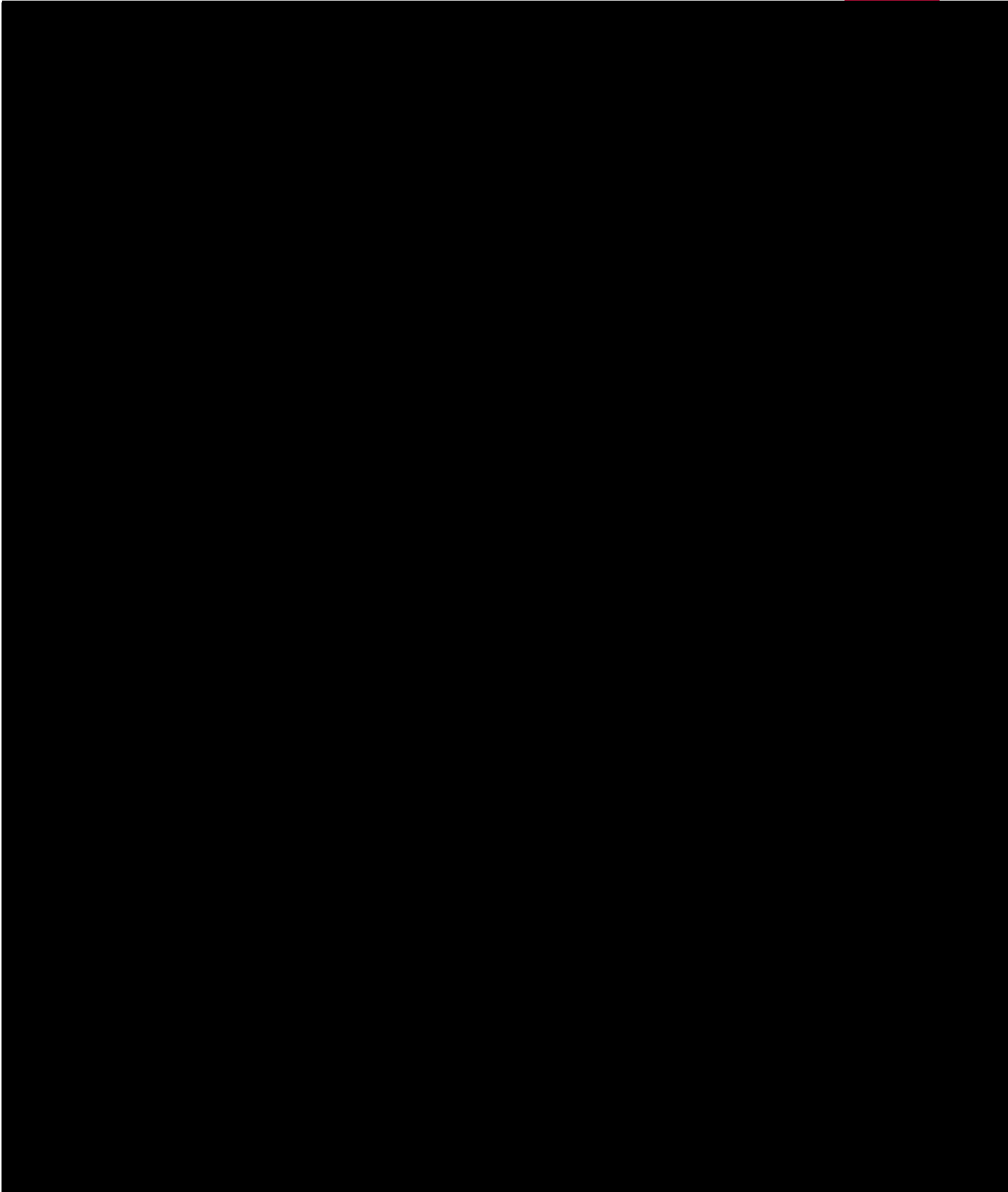
Available by phone 24 hours a day, 7 days a week:
Telecommunications Relay Service calls are not included.

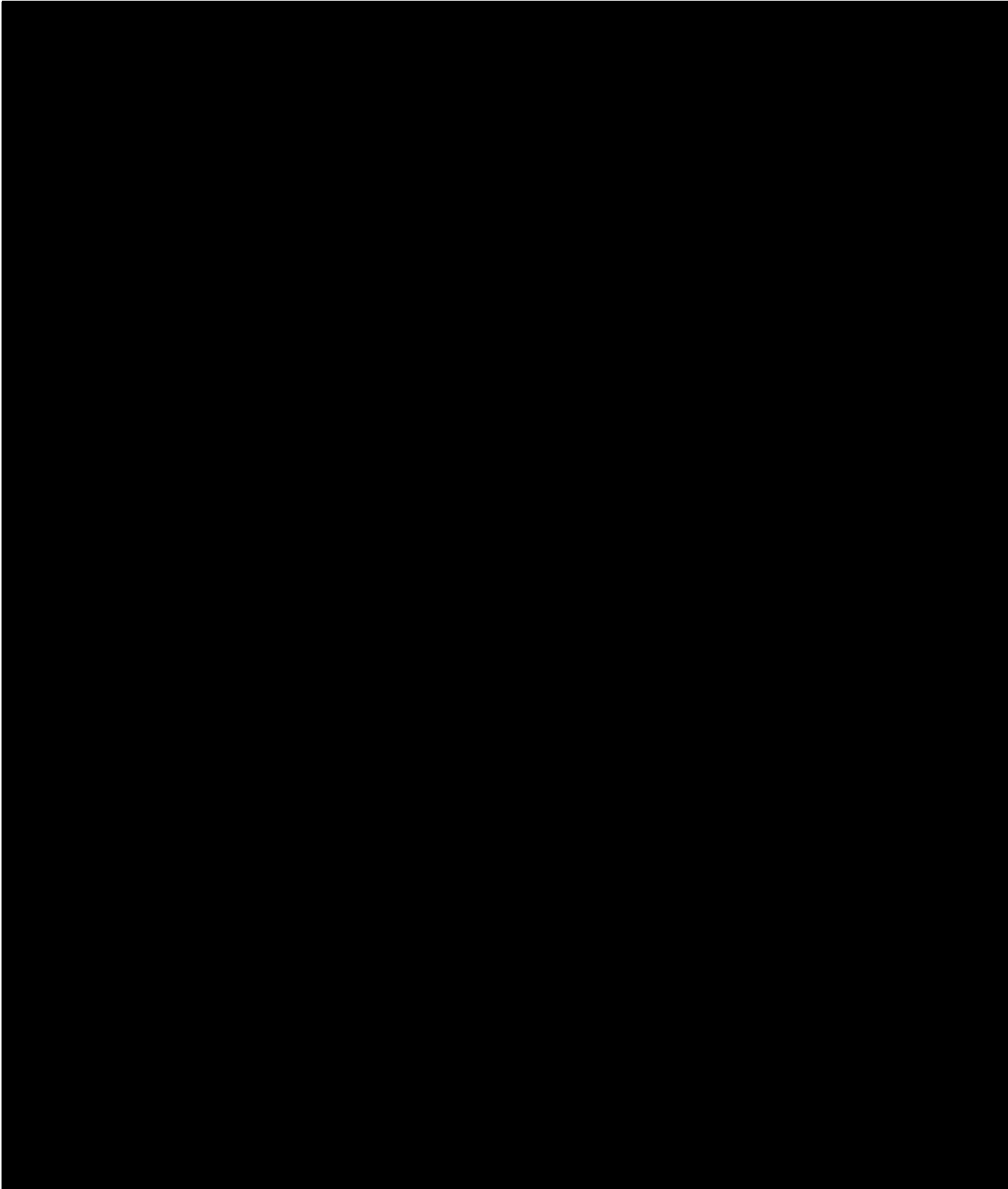


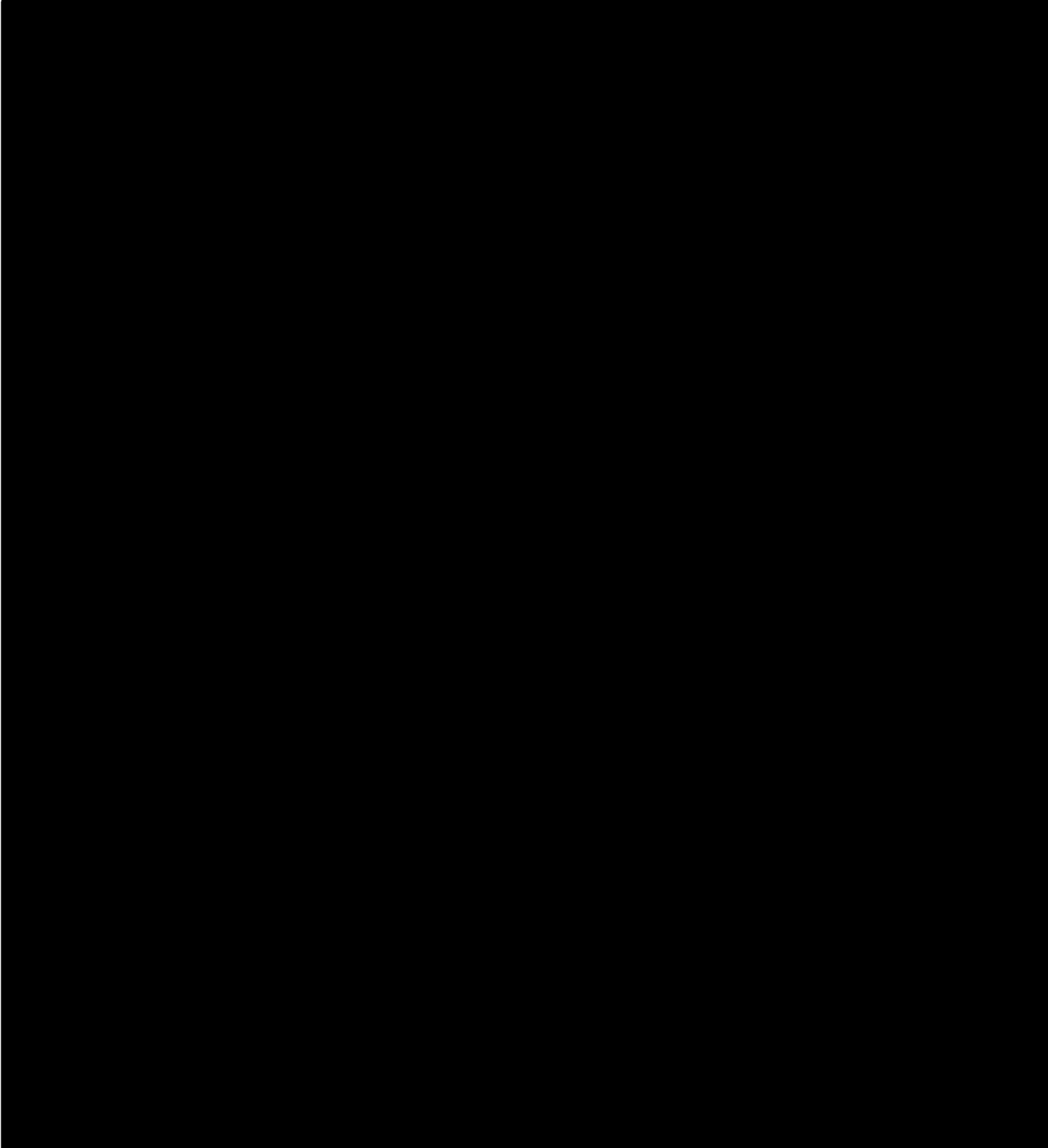


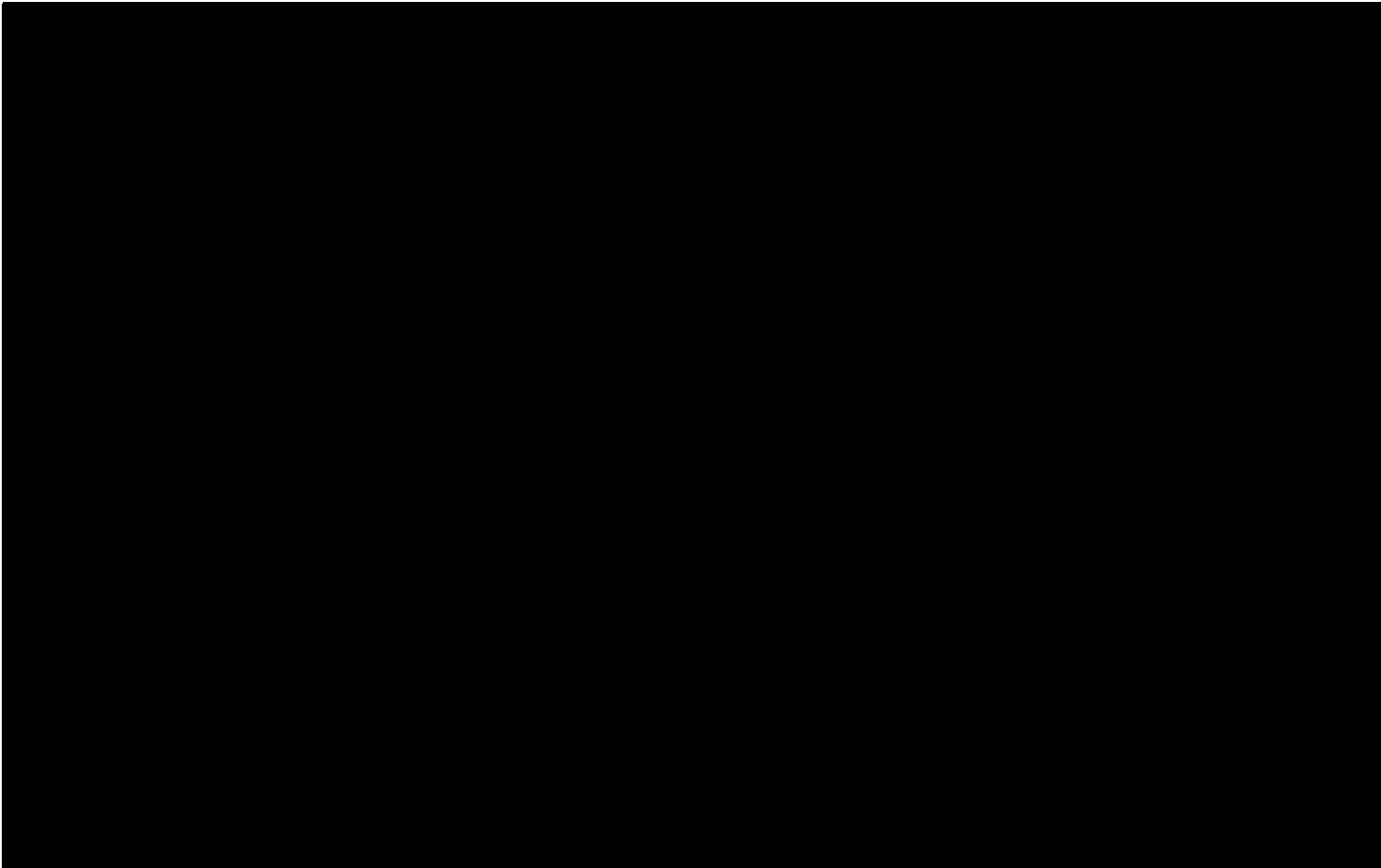












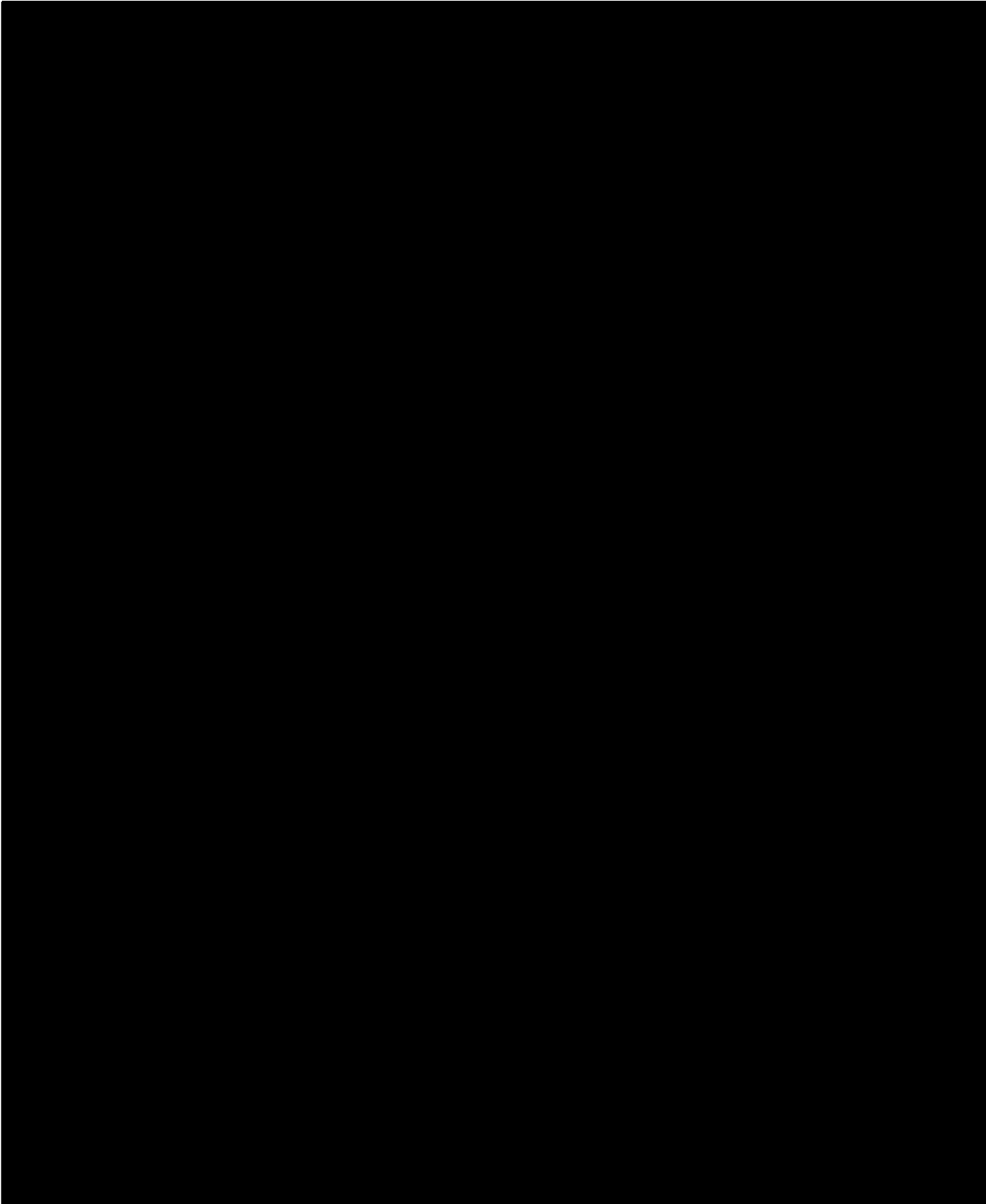


EXHIBIT G

Wells Fargo Business Choice Checking

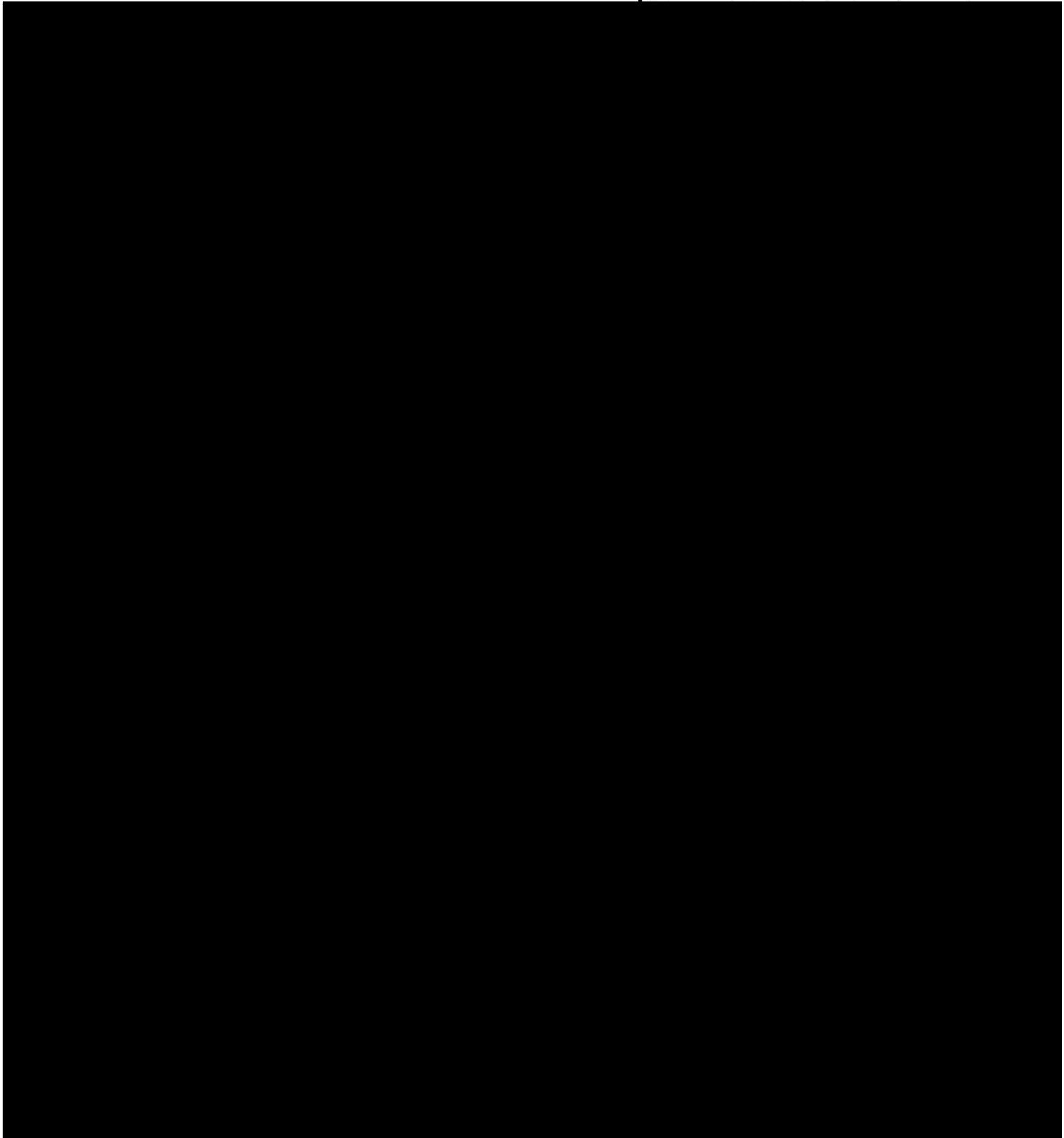
Account number: [REDACTED] ■ March 1, 2018 - March 31, 2018 ■ Page 1 of 4

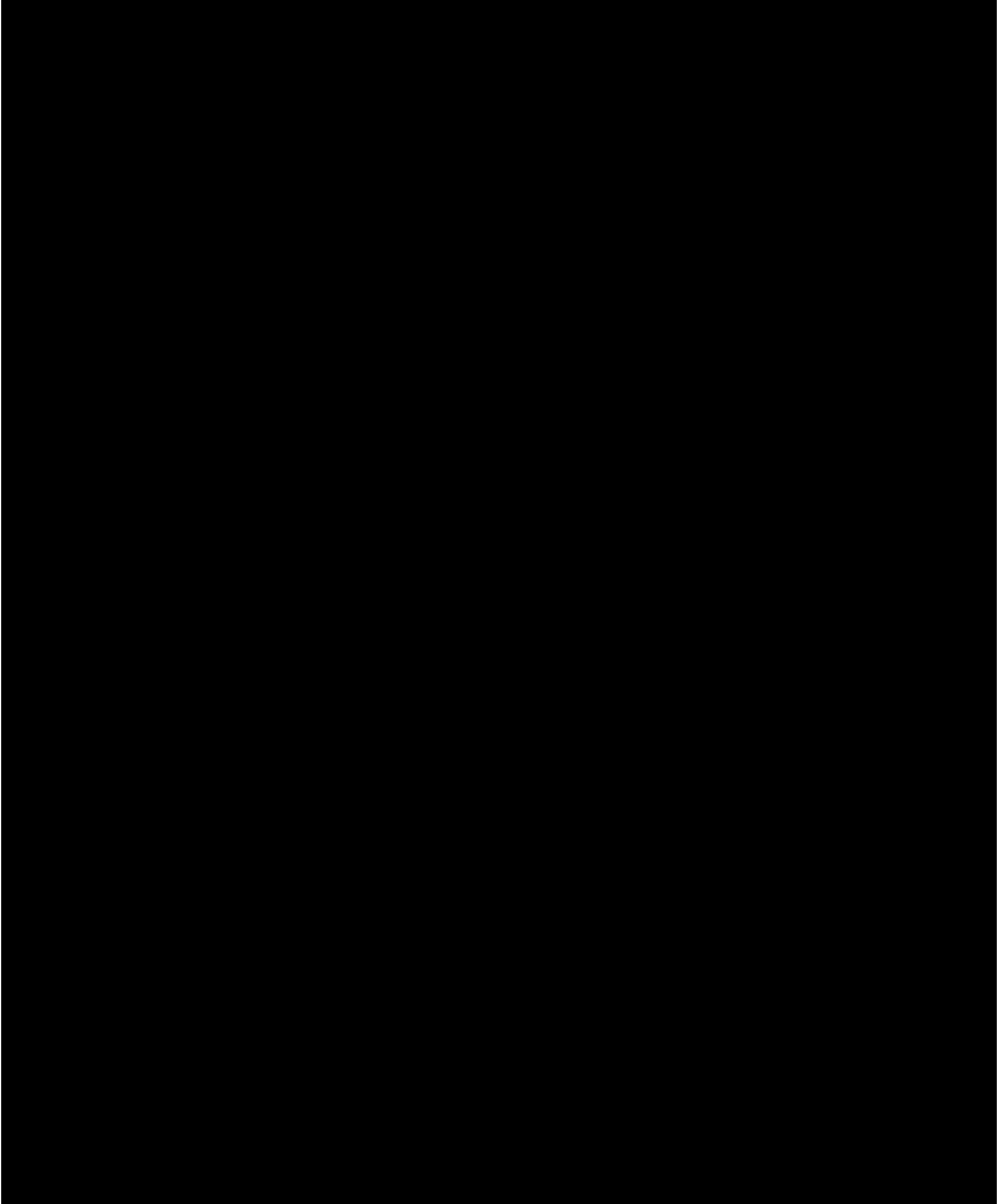


Questions?

Available by phone 24 hours a day, 7 days a week:

RICKEY'S





PROOF OF SERVICE

Case No. 19STCV12592

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is **TASHROUDIAN LAW GROUP, APC**, located 12400 Ventura Blvd., Suite 300, Studio City, California 91604. On November 1, 2023, I served the herein described document(s):

DECLARATION OF DAVID A. TASHROUDIAN

by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Woodland Hills, California addressed as set forth below.

X E-File - by electronically transmitting the document(s) listed above to tony.ellrod@manningkass.com & rwc@robertwcohenlaw.com pursuant to an agreement of the parties in lieu of personal service.

by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

by overnight courier of the document(s) listed above to the person(s) at the address(es) set forth below.

Anthony J. Ellrod tony.ellrod@manningkass.com
Kristina Ross Kristina.Ross@manningkass.com
MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP
801 S. Figueroa St, 15th Floor
Los Angeles, California 90017-3012

Attorneys for Plaintiff
WILLIAM JAMES MITCHELL

Robert W. Cohen rwc@robertwcohenlaw.com
Law Offices of Robert W. Cohen, APC
1901 Avenue of the Stars, Suite 1910
Los Angeles, CA 90067

Attorneys for Cross-Defendant
WALTER DAY

I am readily familiar with the firm’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on November 1, 2023 at Woodland Hills, California.



Mona Tashroudian