

interview.²³ You also have the discretion to have the attorney suggest questions for you to ask rather than allowing the attorney to question the interviewee directly.

7.3 Oath

Interviewees and witnesses must be placed under oath before testifying. You must place all interviewees under oath before asking any questions related to the claim or application. You, the interviewee, and the interpreter should stand during the administration of the oath unless physically unable to do so.

The oath should be administered in a way that impresses upon the interviewee the importance of the occasion and the testimony he or she is about to give. A suggested explanation of the oath follows:

“I am now going to place you under oath. This means that I am going to ask you to vow or promise to tell the truth. Once you are placed under oath, I will expect that what you tell me will be the truth to the best of your knowledge.”

The Refugee Affairs Division has developed specific language for the oath [RAD Supplement – Oaths].

The fact that the interview is being conducted under oath or affirmation should be recorded in the interview notes. If a verbatim question-and-answer statement is taken, the exact wording of the oath or affirmation should be included in the statement [ASM Supplement – Oath].

If an interpreter is present, you must administer a separate oath to the interpreter.

7.4 Verification of Basic Biographic Information

You must verify with the interviewee all of the biographical information on the application form. Techniques for gathering this information are elaborated in RAIO Training module, *Interviewing – Eliciting Testimony*.

Review the Form

You must verify and, if necessary, update or correct information on the form. Someone other than the interviewee may have completed the form, or information about the interviewee may have changed since the form was filed. As a result, some of the information on the form may not be correct [RAD Supplement – Review the Application Form]. Please keep in mind that the interviewee may not be aware of all of the information that has been submitted on his or her behalf. Any corrections must be made in red ink and numbered. At the end of the interview, the interviewee must provide a signature to confirm all changes made to the form.

²³ 8 C.F.R. §208.9(d).

You must be certain that the form contains the interviewee's full and correct name, plus any aliases (RAD, see Standard Operating Procedure for Form I-590). Aliases are any other names the interviewee has used, including maiden names, nicknames, hyphenated names, abbreviated names, baptismal names, and alternate order of first and last names. You must also note any variation in birth date that the interviewee has used. Different calendars and cultural practices can lead to confusion about dates of birth. You must confirm all dates in addition to places of birth, address, and entry information, and you must confirm that all other biographical information on the form is current and correct.

You must also compare information on the form with other documentation in the file and documents presented by the interviewee at the interview, such as birth certificates, marriage and divorce certificates, death certificates, school records, baptismal certificates, and passports. If the interviewee has dependents, verify that the biographical information for each is also correct.

Review Documents

The interviewee may submit documents with his or her application or petition and may bring additional documents to the interview.

Although interviewees are not always required to submit identity documents, you must ask the interviewee and dependents if they have such documents. Examples include identity documents from the interviewee's country, the United Nations High Commissioner for Refugees (UNHCR), the United States, or other governmental sources.

If the interviewee does not have identity documents, and he or she is from a population that ordinarily possesses identity documents, you should ask the interviewee to explain why he or she does not have these documents.

If the interviewee submits an original document with copies of the document, you should retain the copies for the file, write or stamp on the copies "original seen and returned," and sign and date each copy below this statement.²⁴

Similarly, if the interviewee presents an original document for which there are copies in the file, you should write or stamp on the file copies that the "original was seen and returned" and sign and date the file copies. If the interviewee has only photocopies of a document, you should write on the copies retained for the file "from photocopy," and sign and date each one. You should also inquire as to why the applicant does not possess the original document.

Guidance on how to proceed if you encounter a document that appears to be fraudulent is provided in RAIO Training module, *Fraud*.

²⁴ For additional information, see RAIO Training modules, *Evidence* and *Fraud*.

Correct the Form

Any corrections to the form must be made in red ink on the record copy of the form, crossing out the original information so that it is still legible. This includes corrections to a personal statement attached to the Form I-589 in asylum processing and the Resettlement Support Center (RSC) case history attached to the Form I-590 in overseas refugee processing.

At the beginning of the interview, you should ask the interviewee and the interviewee's representative, if any, if they would like to make any corrections on the personal statement or RSC Case History.

The corrections must be numbered so that they can be explained to the interviewee before he or she signs the form at the end of the interview to verify that the application form is accurate. If the interviewee does not alert you to any corrections before the interview begins, and his or her testimony is inconsistent with information on the form, you must address material credibility concerns with the interviewee. However, it is important to remember that the applicant may not have prepared this form and may not be fully aware of its contents.²⁵

7.5 Testimony

Because this is a non-adversarial proceeding and you are the fact-finder in the case, you are responsible for eliciting all relevant information from the interviewee.²⁶ Although you must cover all of the information requested in the application form, you should not simply ask the interviewee the same questions as those on the form. Instead, you should use a variety of techniques that provide the interviewee an opportunity to speak in his or her own words.²⁷

Allow Applicant to Clarify Inconsistencies

If any of the information in the form conflicts with the interviewee's interview testimony, or if you notice inconsistencies within the interviewee's interview testimony, you must give him or her an opportunity to explain the discrepancies. You must correct the application form when necessary, advising the interviewee of the corrections.

You must pursue all relevant lines of questioning, until you are certain that you have sufficient pertinent information to make a determination on the interviewee's claim. You must also allow the interviewee to ask questions as appropriate and to submit additional documents at the interview in support of his or her claim.

²⁵ For additional information, see RAIO Training modules, *Credibility and Evidence*.

²⁶ 8 C.F.R. § 208.9(b); UNHCR Handbook, para. 196.

²⁷ For additional information on methods and issues related to eliciting testimony, see RAIO Training module *Interviewing – Eliciting Testimony*.

You must learn to distinguish between the likelihood that the interviewee is confused and the possibility that his or her non-responsiveness is an attempt to receive a benefit by fraud. If the interviewee does not appear to understand your question, you should ascertain whether there is a problem with the interpretation or with your phrasing of the question. However, if the interviewee appears to understand your question and is being evasive or non-responsive, or presents inconsistent or implausible testimony, you must confront the interviewee and give him or her an opportunity to explain. Proper confrontation of an interviewee is not hostile or challenging. By confronting an interviewee, you merely make the interviewee aware of your concerns, and provide the opportunity to address them.²⁸

7.6 Closing Statement/Comment/Questions by Interviewee and/or Representative

As noted above, at the end of the interview, you should allow the interviewee and, if present, the representative, to make final comments or ask questions after you have finished asking your questions.

Signatures on Form

You and the interviewee must sign the record copy of the form. You must note the corrections made to the form, explain them to the interviewee, and inform the interviewee that, by signing the application, he or she is affirming that all the information in the form is true and correct as of the date of the interview.

Requests to Submit Additional Documents

In certain cases, you may request that the interviewee submit additional documentation as evidence in support of his or her claim.²⁹

Explanation of the Next Steps in the Process

In most cases, you will not inform the interviewee of the decision at the end of the interview. Instead, you will advise the interviewee as to how he or she will receive the decision. These procedures vary, depending on the form type and interview location.

Exit Procedures

At every interview location, you must follow local exit procedures at the conclusion of the interview. Before beginning your first interview, you should be familiar with the local procedures. For example, in most locations a waiting area is set apart from the interview spaces and other offices. You may be required to escort the interviewee back to the waiting area rather than allow the interviewee to find his or her own way back

²⁸ For additional information, see RAIO Training modules, *Credibility and Evidence*.

²⁹ For additional information, see RAIO Training module, *Evidence*.

unescorted. In other locations it may be standard procedure to allow the interpreter, when present, to escort the interviewee back to the waiting area.

8 OUTSIDE FACTORS THAT CAN AFFECT THE INTERVIEW

Multiple factors may interfere with your ability to conduct the interview or may affect the interviewee's ability to testify.

8.1 Stress

An immigration interview, no matter what type, can be a stressful situation for all of the individuals involved. People respond to stress in different ways and develop personal mechanisms for handling stress. These factors can affect both you and the interviewee during an interview.

You, as the interviewing officer, may have days when you are distracted by personal issues or other professional issues. You must recognize your own distractions and minimize their effect on the interview.

The interviewee may find the interview stressful for a number of reasons. He or she may be:

- Anxious because his or her future may depend on the outcome
- Anxious about the unknown (not knowing what will happen during the interview)
- Concerned that he or she will not be able to answer the questions asked
- Fearful of dealing with a government official or being in an unfamiliar environment
- Concerned about communicating through an interpreter
- Worried about forgetting important information
- Concerned that his or her application or request may be denied
- Apprehensive about retelling painful or humiliating experiences
- Suffering from a physical ailment such as dementia, or a trauma-related condition such as Post-Traumatic Stress Disorder (PTSD)³⁰

All of these factors have the potential to increase the interviewee's level of stress or otherwise impede the smooth flow of the interview.

³⁰ For additional information, see RAIO Training module, *Interviewing Survivors of Torture and Other Severe Trauma*.

The interpreter, representative, witness, or other participants in the interview may have their own concerns, such as their ability to interpret correctly, or to represent or testify on behalf of the interviewee in such a way as to assist the interviewee most effectively. In some cases, those accompanying the interviewee may have an ulterior motive to commit fraud on behalf of the interviewee.

You are responsible for monitoring your stress level as well as identifying and mitigating the stressors that may affect all other participants at the interview.

8.2 Time Constraints

As the interviewing officer, you are obligated to collect as much relevant information as possible within the time period allocated by your division or local office to conduct an interview. The tasks and time involved in completing a particular interview may increase when:

- A complicated story takes additional time to fully elicit
- A potential bar or ground of inadmissibility needs to be explored
- Several dependents on the case require interview and processing, and/or
- A dependent must be added or deleted

To accomplish all of the required tasks successfully, you must work expeditiously within predetermined time constraints. Always be mindful of the need to gather enough information to make a legally sufficient adjudication.

8.3 Your Personal Experiences

During the interview, you should not allow your personal life experiences and biases to influence you either in favor of or against the interviewee. You should never approach the interview with a preconceived notion of the outcome.

9 INTERVIEWING BEST PRACTICES

The following tips may help you to maintain control and elicit all necessary information at the interview.³¹

9.1 Be Organized

³¹ For additional information, see RAIO Training Modules, *Cross-cultural Communication and Interviewing – Working with an Interpreter*.

As you prepare for the interview, create an organized environment that will help you capture all of the information you need. You and the interviewee must remember a significant amount of information; the fewer distractions, the easier it will be.

Your desk should be clean and free of clutter, including papers from other files, with only those items that are necessary for processing the case visible to the applicant. Have all supplies and necessary papers (notepad, checklists/outlines) within easy access during the interview. This will remove unnecessary distractions and allow you and the interviewee to concentrate on the interview. It is also helpful to have a box of tissues nearby in case the interviewee becomes emotional during the interview.

Use an Outline or Checklist

Before you begin conducting interviews, ask your supervisor if he or she recommends an outline or checklist that other officers have used. Another option is to prepare your own outline or checklist based on Standard Operating Procedures (SOP) for different form types. For example, for protection interviews, your outline or checklist might include background, past harm, possession of a protected characteristic, awareness, capability, inclination, military service, firm resettlement, and whether mandatory bars or grounds of inadmissibility apply. Using an outline or checklist may prevent omissions of important lines of questioning. Even experienced officers sometimes forget to ask certain questions. You should review the outline or checklist before the interview and look at it again before ending the interview to ensure that everything has been covered.

Outlines or checklists are merely the starting point for the information you must elicit during the interview. They should not be used as a substitute for all necessary lines of questioning and follow-up questions during your adjudication. Do not let an outline or checklist distract you from asking necessary follow-up questions during the interview or from actively listening to and evaluating the interviewee's responses or questions.

Develop Time Management Skills

Before adjudicating a new form type, you should learn about the adjudication, both from procedures manuals and from experienced colleagues who are able to adjudicate the same form efficiently. You can learn methods that streamline the process without negatively affecting the quality of the adjudication. Your colleagues can help you to develop interviewing skills that will allow you to quickly and efficiently gather all relevant information needed for a legally sufficient adjudication.

Record Questions as They Arise as a Reminder to Ask Them Later in Interview

During the interview, jot down questions that arise but are not appropriate to ask at that moment, as a reminder to ask those questions when it is appropriate. This allows you to

focus on what the interviewee is saying, rather than on the question you plan to ask later. Use a notepad or piece of paper at the side of the desk, or create a place on your computer document to jot down any specific questions or lines of questioning that come to mind that you want to ask later. Refer to these notes later in the interview to be reminded of the additional questions that you need to ask.³²

Have a Map or Atlas at Hand

The interviewee may be able to identify important locations on a map, such as where he or she lived, moved, or traveled. Keep in mind, however, that some interviewees may never have seen a map and may not know how to read one. In addition, some interviewees may never have traveled beyond their villages or towns. Their view of “distance” may be confined to the distance between their home and their field or the market. Furthermore, such interviewees may not measure distance in terms of miles or linear measurements, but rather according to another form of measurement, such as the length of time it takes to arrive at a destination, or landmarks along the way.

9.2 Interview, Don’t Interrogate

Your questioning must be done in a professional, non-threatening, and non-accusatory manner.

Treat the Interviewee with Respect

As an officer in the RAIO Directorate, you should treat the interviewee with respect regardless of his or her eligibility for the benefit being sought. Similarly, you must treat the interviewee with respect even if he or she is not forthcoming with information during the interview, or does not seem to understand the process. You cannot know all of the factors that motivated the interviewee to apply for the benefit he or she is seeking, or what events have transpired in the interviewee’s life before this moment. For these reasons, you should treat every interviewee with respect and consideration.

You must not show impatience or incredulity, even though you may have heard similar stories from many interviewees or you find the interviewee’s testimony implausible.

Even the most self-possessed officer may feel annoyed if it appears that an interviewee is not being truthful during an interview, but you must refrain from expressing emotions such as annoyance either verbally or non-verbally.

Maintain a Neutral Tone throughout the Interview

It is important that you always maintain a neutral tone, even when frustrated. You occasionally may be frustrated with interviewees who are long-winded, discuss issues

³² For additional information, see RAIO Training module, *Interviewing - Note Taking*.

irrelevant to the claim, are confused by your questions, or appear to be fabricating a claim.

Be Non-Judgmental and Non-Moralistic

Some information you gather during an interview may shed a negative light on the interviewee. How an interviewee reacts to or handles a particular situation may differ from how you think the situation should have been handled. The interviewee may have left family members behind in difficult or dangerous circumstances, or the interviewee may belong to an organization for which you have little respect.

Although you may feel offended by some interviewees' actions, you must put personal feelings aside and avoid passing moral judgments on interviewees in order to make neutral, legally sound decisions.

Create a Comfortable Atmosphere

Create an atmosphere in which the interviewee can freely express his or her claim. You should attempt to put the interviewee at ease at the beginning of the interview and continue to do so throughout the interview. Physical discomfort may also impede communication. If the interviewee has been testifying for an extended period of time, it may be appropriate to suggest that you take a break to use the restroom or get a drink of water.

Treat Each Interviewee as an Individual

Although many claims may be similar, each claim must be evaluated on its own merits, and each interviewee must be treated as an individual. You must approach each interviewee without any predisposition to grant or deny the benefit sought.

Be Mindful of Potential Biases

Everyone develops individual preferences, biases, and prejudices based on personal life experiences. This influences how you view others and how you perceive circumstances, either negatively or positively. You must make continual efforts to become aware of instances in which this can influence your approach to interviews, either positively or negatively, such that it becomes "personal baggage."

The following types of biases encountered in other interview settings, such as job applicant interviews, may also apply in a RAIO interview setting.

- **Halo effect:** The interviewee's strength in one area causes you to view the other areas positively without fully considering or exploring them.
- **First impression:** The interviewee is judged before having a fair chance to respond to your questions.

- **Stereotype:** Because you perceive the interviewee as fitting into a certain category, you believe that he or she is not qualified for the benefit.
- **Similarity:** Your decision on eligibility is muddled after confusing the interviewee's personal similarity to yourself with his or her qualifications for the benefit.
- **Contrast:** Your judgment in the interviewee's case is based on how well others answered questions in previous interviews.
- **Excessive harshness:** You focus unfairly only on the negative factors in the interviewee's case, disregarding all strengths in his or her claim.

Being aware will allow you to recognize how your biases may interfere with the interview process. You must make an effort to prevent "personal baggage" from negatively affecting your ability to interview in a non-adversarial and neutral manner.

Have Patience

Remember that although the interview process may become routine for you, it is not routine for the interviewee and may not be routine for others present. You should take time to explain the process and allow time for the interviewee to gather his or her thoughts.

Ensure That All Parties to the Interview Remain Non-Adversarial

If, during the course of the interview, the interviewee or any other party to the interview becomes agitated, shouts, or otherwise loses composure, you must re-establish order. Calmly and in a moderate tone of voice remind the parties that this is a non-adversarial interview, and that this applies to all parties. If this does not defuse the situation, you should not continue the interview until the problem can be resolved. You may need to ask a colleague or supervisor to intercede. Under no circumstances should you respond in kind to anger or frustration from the interviewee, representative, interpreter, or other participant at the interview, as this will only exacerbate the problem.

Do Not Intimidate, Harass, or Embarrass the Interviewee

Your tone of voice and facial expressions must remain neutral throughout the interview process. You must not argue against the interviewee's statements, raise your voice, use rapid-fire questioning, roll your eyes, or use a hostile, deprecating, or incredulous tone with any interviewee.

You may be tempted to do all of these with some interviewees if you notice serious credibility problems during an interview. If the interviewee does not appear to understand your question, you should ascertain whether there is a problem with the interpretation or with the way in which you articulated the question. However, if the interviewee appears to understand your question and is evasive or non-responsive, or presents inconsistent or implausible testimony, you must probe the interviewee's credibility by confronting him

or her with the specific credibility problem and by giving him or her an opportunity to explain.

Confronting an interviewee does not require you to challenge or become hostile toward the interviewee. Rather, confronting an interviewee merely makes him or her aware of your specific concerns and gives the interviewee the opportunity to address the concerns.³³

The non-adversarial nature of the interview allows the interviewee to present a claim in as unrestricted a manner as possible, within the inherent constraints of an interview before a government official. An interview with a government official may be intimidating to an interviewee. Interviewees may feel vulnerable and threatened during an interview with you, as a representative of the U.S. Government, because of:

- Negative experiences with authority figures
- Differences between the interviewee's culture and yours
- Fear of exposing highly personal or sensitive information
- Trauma due to a variety of reasons, including sudden flight from the country of persecution
- Fear of an agent or trafficker who smuggled the interviewee, if the interviewee was trafficked

9.3 Maintain Control of the Interview

During the entire interview, you must not only remain alert to information from the interviewee, but must also be aware of more general factors affecting the flow of communication.

Promote Effective Exchange of Information

To the extent that it is possible, try to eliminate factors that limit or prevent an effective exchange of information during the interview. If the interviewee appears to be uncomfortable disclosing part of the claim in front of family members, you may ask family members to wait in the waiting room. If the interpreter is having difficulty interpreting a question, think of a different way to ask the question or obtain the information. Always be on the lookout for anything you can do that can facilitate the flow of information.

Keep the Interview Focused

³³ For additional information, see RAIO Training module, *Evaluating Evidence*.

In order to conduct efficient interviews, you should limit questions to topics that are relevant to the purpose of the interview.

9.4 Practices to Avoid

- Do not over-empathize with the interviewee.
- Do not ask questions that are not relevant to the adjudication in question.
- Do not eat, drink, answer the phone, or engage in other personal behavior during the interview.

10 CONCLUSION

You play multiple roles in the adjudication process. As both the fact finder and neutral decision-maker, you must elicit testimony from the applicant, maintain a neutral tone throughout the process, and create an atmosphere in which the interviewee can freely express his or her claim. The interview is your opportunity to probe into all material elements of the interviewee's claim to determine eligibility for the benefit sought. You must develop strong interviewing skills that allow you to elicit expeditiously and efficiently all necessary testimony to make a decision.

Although you will develop your own style over time, for each interview you must:

- Thoroughly prepare, including file review, country of origin research, security checks, and electronic data base searches, before inviting the interviewee into your office
- Greet the parties and establish rapport
- Explain the interview process
- Place parties under oath, as necessary
- Verify identity, address, contact, and all biographical information on the forms
- Correct errors or update information that may have changed since the form was completed
- Elicit testimony regarding the claim and ask all relevant follow-up questions
- Confront the interviewee with material credibility issues and allow him or her an opportunity to explain
- Allow the interviewee and representative to make final comments and ask questions to provide information not already covered during interview

- Sign the application form and obtain all necessary signatures
- Advise the interviewee of the decision notification process

11 SUMMARY

11.1 Authority

The following authorizes USCIS officers to conduct interviews:

- 8 C.F.R. § 103.2(b)(9) gives the authority to USCIS to require that an applicant, petitioner, sponsor, beneficiary, or other individual appear for an interview.
- 8 C.F.R. § 208.9(b) requires that Asylum Officers conduct interviews in a non-adversarial manner. Although this regulation applies only to Asylum Officers, as a matter of policy, officers in the RAIO Directorate must conduct interviews in a non-adversarial manner.
- 8 C.F.R. § 207.2(b) gives the authority to USCIS to require that each applicant 14 years and older appear in person before an Immigration Officer for an inquiry under oath to determine his or her eligibility for admission as a refugee.
- INA § 287(b) gives the authority to USCIS officers to administer oaths and to take and consider evidence concerning the privilege of any person to enter, reenter, pass through or reside in the United States.

11.2 The Purpose of the Interview

11.2.1 To Gather Information

At an interview you elicit information to:

- Verify the identity of those present at the interview
- Determine whether to proceed with the interview, based on factors such as jurisdiction and availability of accurate interpretation
- Evaluate credibility and determine eligibility for the benefit being sought
- Determine whether the interviewee is subject to any bars or grounds of inadmissibility

11.2.2 To Provide Information

At an interview you provide information to the interviewee about:

- The purpose of the interview and the interview process
- The roles and responsibilities of all persons involved in the interview
- What the interviewee can expect to happen during and after the interview

11.3 Importance of the Interview

- The interview, as the basis for your determination, may be the only opportunity for you to obtain accurate and complete information from the interviewee.
- The interview may be the only opportunity for you to elicit and clarify information upon which to base a decision.
- The decision you make, based on the information you gather at the interview, may have serious consequences.
- Interviewees may shape their opinion of the U.S. Government based on their interactions with you.

11.4 The Participants and Their Roles

The Officer

You are a representative of the U.S. Government and must project a competent, professional, and courteous image, and uphold the integrity of the U.S. immigration system.

The Interviewee

The interviewee may be a principal applicant, a derivative family member, or a witness in the case.

The Interpreter

The interpreter's role is to accurately interpret between the language of the interviewee and English.

Other Parties

Other parties may be present at the interview, depending on the circumstances. For example, some children or applicants with disabilities may need the assistance of a relative or guardian to present their claim.

11.5 The Components of an Interview

- Pre-Interview Preparation

- Introduction
- Oath
- Verification of Basic Biographical Information
- Testimony
- Closing Statement/Comments/Questions by Interviewee and/or Representative
- Conclusion

11.6 Interviewing Tips

- **Be organized**
 - Use an outline or checklist to ensure that all necessary information is covered.
 - Develop time-management skills.
 - Record questions as they arise as a reminder to ask them later in interview.
 - Have a map or atlas at hand.
- **Interview, don't interrogate**
 - Treat the interviewee with respect.
 - Maintain a neutral tone throughout the interview.
 - Be non-judgmental and non-moralistic.
 - Create a comfortable atmosphere.
 - Treat each interviewee as an individual.
 - Be mindful of potential biases.
 - Have patience.
 - Ensure that all parties to the interview remain non-adversarial.
 - Do not intimidate, harass, or embarrass the interviewee.
- **Maintain control of the interview**
 - Promote effective exchange of information.
 - Keep the interview focused.
 - Treat the applicant with respect.
 - Maintain a neutral tone throughout the interview.
 - Be non-judgmental and non-moralistic.
 - Create an atmosphere in which the interviewee can freely express his or her claim.

- Treat each interviewee as an individual.
- Be mindful of potential biases.
- Have patience.
- Practices to avoid
 - Do not over-empathize with the interviewee.
 - Do not ask questions that are not relevant to the adjudication in question.
 - Do not eat, drink, answer the phone, or engage in other personal behavior during the interview.

PRACTICAL EXERCISES

There are no Practical Exercises for this module.

OTHER MATERIALS

There are no Other Materials for this module.

SUPPLEMENT A – REFUGEE AFFAIRS DIVISION

The following information is specific to the Refugee Affairs Division. Information in each text box contains division-specific procedures and guidelines related to the section from the Training Module referenced in the subheading of the supplement text box.

REQUIRED READING

None

ADDITIONAL RESOURCES

None

SUPPLEMENTS

RAD Supplement – Interpreters for Refugee Interviews

The Resettlement Support Centers (RSCs) provide interpreters for most USCIS Refugee Interviews and I-730 interviews. The RSC seeks to recruit dispassionate interpreters who have no interest in U.S. resettlement. The RSC provides an orientation for the interpreters used at USCIS interviews, including the requirement to interpret accurately and completely and maintain the confidential nature of the interview. The RSC makes every effort not to use interpreters from the same refugee camp population or urban refugee population as the population being interviewed; however, this may not be possible at times in particular locations or in certain circumstances. For example, an interpreter may be used from the refugee camp population or urban refugee population if the interview site is very remote and there are no interpreters available in the local population, or if the interviewee's language is not spoken widely outside the interviewee's ethnic group. For these same reasons, it may not be possible to find an interpreter in the local population who is not interested in resettlement to the United States, and at some interview locations, the interpreters themselves may be applicants to the United States Refugee Admissions Program (USRAP).

Interpreter's Oath

The interpreter must be placed under oath ("Do you solemnly swear or affirm that you will interpret all statements made during the interview completely and truthfully and that you will keep all information confidential?") If the same interpreter is used for more than one interview, the interpreter needs to be placed

under oath only prior to the first interview. The interviewee should be told during the introduction or at the time of his or her oath that the interpreter has already taken an oath to interpret completely and keep all information confidential.

The interpreter should generally stand and raise his or her right hand when taking the oath. However, some interpreters may have objections to using the term “swear” or object to raising their right hands. The officer should adapt the oath to accommodate such objections, ensuring that the interpreter understands that he or she is promising, under the law, to interpret completely and truthfully and to keep the information in the interview confidential (e.g., using “affirm” rather than “solemnly swear” in the following: “Do you affirm that you will interpret all statements made during the interview completely and truthfully and that you will keep all information confidential?”). USCIS Refugee Affairs Division, Standard Operating Procedures: Introduction, Section 8 “Administer the Oath,” 19 August 2009.

RAD Supplement – Oaths

The Refugee Affairs Division has instituted several requirements for administering the oath to an applicant, including standard language. Applicants must stand and raise their right hand for the administration of the oath. An exception may be made if the applicant is elderly or incapacitated. The officer administering the oath should also stand and raise his or her right hand. As some applicants may have religious objections to using the term “swear” or “so help me God,” the required oath for applicants is:

“Do you solemnly swear or affirm that the statements you are about to make will be the truth, the whole truth, and nothing but the truth?”

Some applicants may have objections to using the term “swear” or object to raising their right hands. The officer should adapt the oath to accommodate such objections, ensuring that the applicant understands that he or she is promising, under the law, to tell the truth. USCIS Refugee Affairs Division, Standard Operating Procedures: Introduction, Section 8 “Administer the Oath,” 19 August 2009.

RAD Supplement – Review the Application Form

See Pilot Standard Operating Procedure for Form I-590: Registration for

Classification as a Refugee (October 30, 2015).

SUPPLEMENT B – ASYLUM DIVISION

The following information is specific to the Asylum Division. Information in each text box contains division-specific procedures and guidelines related to the section from the Training Module referenced in the subheading of the supplement text box.

REQUIRED READING

1. Memorandum from Bo Cooper, INS Office of the General Counsel, to Jeffrey Weiss, Director, Office of International Affairs, *Confidentiality of Asylum Applications and Overseas Verification of Documents and Application Information*, HQCOU 120/12.8 (Jun. 21, 2001).
2. Memorandum from Joseph E. Langlois, Director, Asylum Division, to Asylum Office Directors and Deputy Directors, *Fact Sheet on Confidentiality*, HQASM 120/12.8 (Jun. 15, 2005).

ADDITIONAL RESOURCES

None

SUPPLEMENTS

ASM Supplement – Purpose of the Interview

In this lesson, students will learn about the purpose, components, and non-adversarial nature of the asylum interview, as well as the roles of the representative and the applicant. The lesson will also cover eliciting the basic biographical information on the I-589, such as date and place of birth and information pertaining to entry into the United States.

Definition

At asylum interviews (unlike defensive proceedings before an immigration judge, the Board of Immigration Appeals, or the Federal courts) there is no government official present arguing in opposition to the asylum applicant. Neither the Asylum Officer nor the representative cross-examines the applicant and witnesses (if any), as in defensive proceedings. The Asylum Officer is not an advocate for either side; rather, the Asylum Officer is a neutral decision-maker.

ASM Supplement -Pre-Interview Preparation

• Review file and DHS computer systems to:

- Determine **who** is included in the application
- Determine **which** version of the I-589 the applicant submitted
- Ascertain **whether** the file is complete

If the file is missing any documents, such as photographs or photocopies of documents, the Asylum Officer should request that the applicant provide the missing documents.

The Asylum Officer should also determine whether there is a “Notice of Entry of Appearance as Attorney or Representative” (Form G-28) in the file and whether it is properly completed.

If there is no G-28 in the file, but if it appears that the applicant is represented, the Asylum Officer should ask the representative and applicant to complete a G-28 during the interview.

- Determine **whether** there is any indication that the application is not within the jurisdiction of the Asylum Office.
- Determine **when** the applicant claims to have entered the United States and when he or she filed the asylum application.

The Asylum Officer should be prepared to inquire into whether the applicant’s I-589 was filed in timely fashion, i.e., within one year of the last arrival into the United States, and whether an exception to that filing requirement may apply.

- Become familiar with the applicant’s background and claim.

The Asylum Officer must read the information on the I-589 and review any supporting documents.

An applicant may have submitted extensive background information on country of origin information. It is not necessary to review all of the information prior to the interview, as this can be very time-consuming. However, the Asylum Officer must look through the information and read any information that specifically pertains to the applicant or his or her claim.

- Identify issues to cover during the interview.

A review of the file allows the Asylum Officer to identify lines of questioning and

specific questions to ask during the interview.

- Determine whether the applicant may be in any “special status” (e.g., ABC, Mendez).

The procedures for handling certain cases, such as cases involving ABC class members, are different from other cases. Asylum Officers must be aware at the outset of the interview whether the case is governed by special procedures, in order to follow correct procedures.

- **Review country of origin information**

If the Asylum Officer is unfamiliar with country of origin information relevant to the applicant’s claim, the Asylum Officer should quickly look up basic conditions in that country, referring to the electronic database Refworld, annual Department of State human rights reports, or information in the office library. A review of country of origin information can assist the Asylum Officer to focus on relevant elements of a claim and disregard that which is irrelevant.

- **Review procedures, if necessary**

The Asylum Officer may find it necessary to review specific procedures prior to interviewing some applicants (e.g., ABC cases, sensitive cases), if he or she is unfamiliar with the particular procedures involved in interviewing these applicants.

ASM Supplement – Oath

Applicants and any witnesses must be placed under oath prior to giving testimony. Some applicants may have religious objections to using the term “swear.” Other applicants may object to the phrase “so help me God.” The Asylum Officer must adapt the oath to accommodate the applicant, ensuring that the applicant understands that he or she is promising, under the law, to tell the truth.

The applicant must also sign a statement acknowledging that he or she swears or affirms to tell the truth and understands the penalties for misrepresentation. The applicant should not be made to sign the form without a brief explanation of the significance of the oath and the acknowledgement of the penalties for misrepresentation.

The interpreter must sign a statement (interpreter’s oath), which puts the interpreter under oath. At the Asylum Officer’s discretion, he or she may administer the oath to the interpreter in addition to having him or her sign the interpreter’s oath.

The interpreter monitor must also be placed under oath. The oath given to the interpreter monitor should be translated for the applicant by the applicant’s

interpreter.

- **Oaths if you suspect a national security risk**

If you have identified an individual who may be a national security risk, you must use Q&A format and take his or her testimony as a sworn statement [see RAIO Training module, *Interviewing – Note Taking*; AOBTC Lesson Plan, *Mandatory Bars to Asylum and Discretion*].

SUPPLEMENT C – INTERNATIONAL OPERATIONS DIVISION

The following information is specific to the International Operations Division. Information in each text box contains division-specific procedures and guidelines related to the section from the Training Module referenced in the subheading of the supplement text box.

REQUIRED READING

None

ADDITIONAL RESOURCES

None

SUPPLEMENTS

IO Supplement - Pre-Interview Preparation

The following are examples of tools used in the interview process:

- Revised NCTC Check Requirements for Visas 92/93
- Naturalization NQP5 Checklists



U.S. Citizenship
and Immigration
Services

RAIO DIRECTORATE – OFFICER TRAINING

RAIO Combined Training Course

**GUIDANCE FOR ADJUDICATING
LESBIAN, GAY, BISEXUAL,
TRANSGENDER, AND INTERSEX
(LGBTI) REFUGEE AND ASYLUM
CLAIMS**

TRAINING MODULE

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RAIO Directorate – Officer Training / *RAIO Combined Training Course*

**GUIDANCE FOR ADJUDICATING LESBIAN, GAY, BISEXUAL,
TRANSGENDER, AND INTERSEX (LGBTI) REFUGEE AND
ASYLUM CLAIMS**

Training Module

MODULE DESCRIPTION:

This module provides guidelines for adjudicating and considering immigration benefits, petitions, protections, or other immigration-related requests by lesbian, gay, bisexual, transgender, and intersex, (LGBTI) individuals. The module addresses the legal analysis of claims that involve LGBTI applicants as well as related interviewing considerations.

FIELD PERFORMANCE OBJECTIVE(S)

When interviewing in the field, you (the Officer) will elicit all relevant information from an LGBTI applicant to properly adjudicate and consider the immigration benefit, petition, protection, or other immigration-related request before you.

INTERIM PERFORMANCE OBJECTIVES

1. Summarize the developments in U.S. law that focus on LGBTI applicants.
2. Describe the types of harm that may be present in refugee and asylum claims involving LGBTI issues.
3. Describe how membership in a particular social group is analyzed when looking at the refugee or asylum claims involving LGBTI issues.
4. Identify factors to consider when evaluating evidence presented by LGBTI applicants.
5. Identify factors that may hinder an interview of an LGBTI applicant.
6. Identify methods and techniques to put an LGBTI applicant at ease during an interview.

7. Use sensitive questioning and listening techniques that aid in eliciting information from LGBTI applicants.

INSTRUCTIONAL METHODS

- Interactive presentation
- Discussion
- Practical exercises

METHOD(S) OF EVALUATION

- Multiple-choice exam
- Observed practical exercises

REQUIRED READING

1. *Matter of Toboso-Alfonso*, 20 I. & N. Dec. 819, 822 - 23 (1990).
2. *UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity*. United Nations High Commissioner for Refugees (UNHCR), Protection, Policy, and Legal Advice Section. Division of International Protection Services. Geneva, November 21, 2008, *available at* <http://www.unhcr.org/refworld/docid/48abd5660.html>.
3. Memorandum from Don Neufeld, Acting Associate Director, Domestic Operations and Lori Scialabba, Associate Director, Refugee, Asylum, and International Operations, *Adjudication of Petitions and Applications Filed by or on Behalf of Transsexual Individuals* (January 14, 2009).
4. Memorandum from William R. Yates, Associate Director for Operations, USCIS, *Adjudication of Petitions and Applications Filed by or On Behalf Of, or Document Requests by, Transsexual Individuals* (April 16, 2004).

Division-Specific Required Reading - Refugee Division

Division-Specific Required Reading - Asylum Division

Division-Specific Required Reading - International Operations Division

ADDITIONAL RESOURCES

1. LGBTI-related Case Law

2. Immigration Equality, *Immigration Equality Asylum Manual*, available at <http://www.immigrationequality.org/issues/law-library/lgbth-asylum-manual/>.
3. Immigration Equality, *Immigration Equality Draft Model LGBT Asylum Guidance*, (2010), available at <http://www.immigrationequality.org/wp-content/uploads/2011/07/ImEq-Draft-Model-LGBT-Asylum-Guidance-2010.pdf>.
4. Human Rights Watch, *They Wanted Us Exterminated: Murder, Torture, Sexual Orientation, and Gender in Iraq*, August 17, 2009, available at <http://www.hrw.org/node/85050>.
5. Matt McAllester, "The Hunted," *New York Magazine*, October 4, 2009, available at <http://nymag.com/news/features/59695>.
6. Jason Burke and Afif Sarhan, "How Islamist Gangs Use Internet to Track, Torture and Kill Iraqi Gays," *The Guardian*, September 13, 2009, available at <http://www.guardian.co.uk/world/2009/sep/13/iraq-gays-murdered-militias>.
7. *Statement by the President on the UN Human Rights Council Resolution on Human Rights, Sexual Orientation, and Gender Identity*. The White House, Office of the Press Secretary, June 17, 2011, available at <http://www.whitehouse.gov/the-press-office/2011/06/17/statement-president-un-human-rights-council-resolution-human-rights-sexu>.
8. Memorandum from David A. Martin, INS General Counsel, *Seropositivity for HIV and Relief From Deportation*, (Feb. 16, 1996).
9. International Gay and Lesbian Human Rights Commission (IGLHRC) *Nowhere to Turn: Blackmail and Extortion of LGBT People in Sub-Saharan Africa* (2011), available at <http://www.iglhrc.org/binary-data/ATTACHMENT/file/000/000/484-1.pdf>.
10. Daniel Ottoson, The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), *State Sponsored Homophobia: A World Survey of Laws Prohibiting Same-Sex Activity between Consenting Adults* (2010), available at http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2010.pdf.
11. American Psychiatric Association, *Therapies Focused on Attempts to Change Sexual Orientation: Reparative or Conversion Therapies Position Statement*, March 2000, available at <http://www.psych.org/Departments/EDU/Library/APAOfficialDocumentsandRelated/PositionStatements/200001.aspx>.
12. Victoria Neilson, *Applying Gender-Based Asylum Jurisprudence to Lesbian Asylum Claims*, 16 *Stanford Law & Policy Review* 417 (2005), available at <http://www.immigrationequality.org/wp-content/uploads/2011/08/Neilson-Website-Version-Lesbian-article.pdf>.

13. Ellen A. Jenkins, *Taking the Square Peg Out of the Round Hole: Addressing the Misclassification of Transgender Asylum Seekers*, 40 Golden Gate U.L. Rev. (2009), available at <http://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=2008&context=ggulre> v.

Division-Specific Additional Resources - Refugee Division

Division-Specific Additional Resources - Asylum Division

Division-Specific Additional Resources - International Operations Division

CRITICAL TASKS

SOURCE: The Tasks listed below are from the Asylum Division's 2001 Revalidation. These tasks will need to be modified to reflect the results of the RAIO Directorate – Officer Training Validation study.

Task/ Skill #	Task Description
ILR6	Knowledge of U.S. case law that impacts RAIO (3)
ILR9	Knowledge of policies and procedures for processing lesbian, gay, bisexual and transgender (LGBT) claims (3)
ILR14	Knowledge of nexus to a protected characteristic (4)
ILR15	Knowledge of the elements of each protected characteristic (4)
ILR20	Knowledge of the criteria for refugee classification (4)
ILR21	Knowledge of the criteria for establishing a well-founded fear (WFF) (4)
ILR22	Knowledge of the criteria for establishing credibility (4)
ITK4	Knowledge of strategies and techniques for conducting non-adversarial interviews (e.g., question style, organization, active listening) (4)
ITK5	Knowledge of strategies and techniques for communicating with survivors of torture and other severe trauma (4)
ITK6	Knowledge of principles of cross-cultural communication (e.g., obstacles, sensitivity, techniques for communication) (4)
ITK8	Knowledge of policies, procedures and guidelines for working with an interpreter (4)
RI1	Skill in identifying issues of claim (4)
RI2	Skill in identifying the information required to establish eligibility (4)
RI3	Skill in conducting research (e.g., legal, background, country conditions) (4)
ITS3	Skill in framing interview questions and requests for information (4)
ITS4	Skill in asking appropriate follow-up questions (4)
ITS6	Skill in conducting non-adversarial interviews (4)
ITS8	Skill in confronting applicant with credibility issues (4)

SCHEDULE OF REVISIONS

Date	Section (Number and Name)	Brief Description of Changes	Made By

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Throughout this training module you will come across references to division-specific supplemental information located at the end of the module, as well as links to documents that contain division-specific, detailed information. You are responsible for knowing the information in the referenced material that pertains to your division. Officers in the International Operations Division who will be conducting refugee interviews are also responsible for knowing the information in the referenced material that pertains to the Refugee Affairs Division.

For easy reference, each division's supplements are color-coded: Refugee Affairs Division (RAD) in pink; Asylum Division (ASM) in yellow; and International Operations Division (IO) in purple.

1 INTRODUCTION

It has been over 20 years since Fidel Armando Toboso Alfonso, a gay man from Cuba, was granted withholding of deportation in the United States based on his sexual orientation.¹ The *Toboso-Alfonso* decision paved the way for hundreds of lesbian, gay, bisexual, and transgender individuals as well as individuals with intersex conditions (LGBTI) to obtain refugee and asylum status in the United States. Recently, the United Nations marked another "significant milestone in the long struggle for equality, and the beginning of a universal recognition that LGBT[I] persons are endowed with the same inalienable rights – and entitled to the same protections – as all human beings"² by passing a Resolution on Human Rights, Sexual Orientation, and Gender Identity. The increasing number of refugee and asylum (protection) claims related to LGBTI and HIV-positive status has resulted in the need for greater awareness of the issues involved in these claims and training on their adjudication.³

Interviews with LGBTI or HIV-positive refugee and asylum applicants require the individual "to discuss some of the most sensitive and private aspects of human identity and behavior"⁴ – sexual orientation, gender identity, and life-threatening illness. These topics may be particularly difficult for applicants to discuss with government officials and may also be uncomfortable for the interviewer to discuss.⁵

¹ *Matter of Toboso-Alfonso*, 20 I. & N. Dec. 819, 822 - 23 (1990).

² *Statement by the President on the UN Human Rights Council Resolution on Human Rights, Sexual Orientation, and Gender Identity*. The White House, Office of the Press Secretary, June 17, 2011.

³ *UNHCR Guidance Note On Refugee Claims Relating to Sexual Orientation and Gender Identity*, paragraph 12, UNHCR, Geneva, 20 November 2008.

⁴ *Immigration Equality Draft Model LGBT Asylum Guidance*, Immigration Equality 2010.

⁵ *See Immigration Equality Draft Model LGBT Asylum Guidance*, 2010.

All Officers in the RAIO Directorate should be familiar with the contents of this training module as it constitutes primary field guidance for interviewing LGBTI applicants and analyzing their claims. This module seeks to: 1) increase awareness about the issues sexual minorities face; 2) foster discussion about LGBTI issues; and, 3) provide consistent legal and interview guidance regarding these issues.

The RAIO LGBTI Training Module is the result of a collaborative effort between USCIS and non-governmental organizations (NGOs).

The module first addresses the legal issues you, the Interviewing Officer, must consider when analyzing cases and making protection determinations. Second, because establishing eligibility for refugee and asylum status presents its own challenges, the module covers the factors you must take into account when interviewing LGBTI individuals. Third, the module addresses proper techniques for assessing credibility.

A Note about Terminology

The terminology involving LGBTI issues is still evolving. For purposes of this module, the term "sexual minorities" and the acronym "LGBTI" are used interchangeably as umbrella terms to refer to issues involving sexual orientation, gender identity, and intersex conditions. The following are some essential LGBTI definitions. For a more comprehensive set of definitions, please click the hyperlink to the [LGBTI Glossary](#) located in the "Other Materials" section of this module.

The use of the term homosexual is limited in this module. It has a somewhat derogatory connotation within the LGBTI community as it has historically been used in a medical context to describe being gay or lesbian as an illness.⁶

Sexual orientation is the emotional, physical, and romantic attraction a person feels towards another person.⁷ The term gay is used to mean men who are attracted to men. The term lesbian is used to mean women who are attracted to women, although homosexual women also sometimes use the term gay to describe themselves. The term heterosexual or straight is used to mean men or women who are attracted to the opposite sex. The term bisexual is used to mean men or women who are attracted to both sexes.

Gender is what society values as the roles and identities of being male or female. Sex is the assignment of one's maleness or femaleness on the basis of anatomy and reproductive organs. Gender and sex are assigned to every individual at birth. Gender identity is an individual's internal sense of being male, female, or something else. Since gender

⁶ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2010.

⁷ For more information about sexual orientation, see American Psychological Association (APA), *Answers to Your Questions: A Better Understanding of Sexual Orientation and Homosexuality*, (2008), available at <http://www.apa.org/pubinfo/answers.html>.

identity is internal, one's gender identity is not necessarily visible to others. Gender expression is how a person expresses one's gender identity to others, often through behavior, clothing, hairstyles, voice, or body characteristics.⁸ Transgender is a term used for people whose gender identity, expression, or behavior is different from those typically associated with their assigned sex at birth. Some transgender people dress in the clothes of the opposite gender; others undergo medical treatment, which may include taking hormones and/or having surgery to alter their gender characteristics.

Intersex refers to a condition in which an individual is born with a reproductive or sexual anatomy and/or chromosome pattern that does not seem to fit typical definitions of male or female. The conditions that cause these variations are sometimes grouped under the terms "intersex" or "DSD" (Differences of Sex Development). Individuals with these conditions were previously referred to as "hermaphrodites," but this term is considered outmoded and should not be used unless the applicant uses it. These conditions may be apparent at birth, may appear at puberty, or may be discovered in a medical examination. Intersex is not the same as transgender, although an intersex person may identify themselves as transgender. Keep in mind that an intersex person may identify as male or female, and as lesbian, gay, bisexual, or heterosexual.⁹

Transgender is a gender identity, not a sexual orientation. Thus, like any other man or woman, a transgender person may have a heterosexual, bisexual or homosexual sexual orientation.

It is also important to be familiar with the issues and terminology related to the Human Immunodeficiency Virus (HIV) and AIDS. USCIS has encountered claims from applicants who fear persecution because they were incorrectly perceived as gay, based on the fact that they were HIV-positive. We have also encountered claims where the persecutor incorrectly assumed that the applicant was HIV-positive based on the fact that the applicant was gay or was perceived to be gay. Because such claims involve overlapping and related issues, they are being addressed within the same module.

A person who was exposed to HIV and developed anti-bodies to the virus is HIV-positive.¹⁰ AIDS, or Acquired Immunodeficiency Syndrome, describes people with HIV who have either experienced certain infections or whose T-cells (infection fighting blood cells) have dropped below 200. Not everyone who is HIV-positive has AIDS, but everyone who has AIDS is HIV-positive.¹¹ HIV is not spread by casual contact. It is

⁸ For more information on transgender identity, see http://transequality.org/Resources/NCTE_TransTerminology.pdf and http://transequality.org/Resources/NCTE_UnderstandingTrans.pdf (National Center for Transgender Equality.)

⁹ For more information on intersex conditions, see the Advocates for Informed Choice website at www.aiclegal.org.

¹⁰ For more information about HIV see <http://www.gmhc.org/learn/hivaids-basics>, (Gay Men's Health Crisis website).

¹¹ See *Immigration Equality Draft Model LGBT Asylum Guidance*, Immigration Equality 2004.

only spread through contact with bodily fluids primarily through sex or sharing intravenous needles.

2 LEGAL ANALYSIS – OVERVIEW

This module does not expand the statutory definition of a refugee. The legal criteria used to evaluate an LGBTI applicant's eligibility for asylum or refugee status are the same criteria used in all other protection adjudications. However, because LGBTI applicants' experiences are often different from those of others, it is useful to discuss how these experiences fit into the legal framework of established refugee and asylum law.

3 LEGAL ANALYSIS – NEXUS AND THE FIVE PROTECTED GROUNDS

As explained in greater detail in the RAIO training module, *Nexus and the Five Protected Grounds*, to be eligible for asylum or refugee status, the applicant must establish that the persecution suffered or feared was or will be motivated "on account of" his or her actual or imputed possession of a protected characteristic. This is known as the nexus requirement and it applies equally to LGBTI applicants. The type of harm that may constitute persecution in the context of LGBTI claims will be discussed later in this module.

Depending on the facts of the case, claims relating to sexual orientation and gender identity are primarily recognized under membership in a particular social group (PSG) but may overlap with other grounds, in particular religion and political opinion.¹²

The nexus analysis first requires consideration of whether the persecutor perceives the applicant as possessing a protected characteristic (either because the applicant does possess it or because the persecutor imputes it to the applicant); then whether the persecutor acted or would act against the applicant because of the persecutor's perception of that protected characteristic.

3.1 Membership in a Particular Social Group – Defining the Group

When deciding if the persecutor perceives in an applicant an actual or imputed characteristic that can define a cognizable PSG, you must first identify the characteristics that the persecutor perceives; then explain why individuals with those characteristics form a PSG within the meaning of the refugee definition. This is often referred to as "framing the PSG."

3.1.1 Possession or Imputed Possession of a Protected Characteristic

¹² See *Matter of S-A-*, 21 I & N Dec. 1050; *Pitcherskaia v. INS*, 118 F.3d 641 (9th Cir. 1997).

To determine whether a group to which the applicant belongs may be considered a PSG, first determine whether there are any precedent decisions that analyze similar facts and rely on any such decisions to reach a conclusion. As mentioned previously, in 1990, the Board of Immigration Appeals (BIA) in *Matter of Toboso-Alfonso*, recognized persons identified as homosexuals by the Cuban Government as a PSG.¹³ Toboso-Alfonso was a gay man who was subjected to detention and forced labor by the Cuban government for being gay.

Four years later, the U.S. Attorney General designated *Toboso-Alfonso* "as precedent in all proceedings involving the same issue or issues."¹⁴

While the BIA has not specifically ruled on claims by other sexual minorities, many U.S. Circuit Courts of Appeals have. Claims involving actual or imputed sexual minority status may qualify under the PSG category and may involve applicants who:

- identify as gay or lesbian¹⁵
- are viewed as a sexual minority, regardless of whether the persecutor or society involved distinguishes between sexual orientation, gender, and sex.
- are transgender¹⁶ (note that even if a transgender applicant identifies as heterosexual, he or she may be perceived as gay or lesbian)
- are "closeted" gays and lesbians
- test positive for HIV, regardless of their sexual orientation¹⁷
- are viewed as "effeminate" or "masculine" but identify as heterosexual
- are not actually gay but are thought to be gay by others¹⁸
- are from throughout the world, not just Cuba¹⁹

For a comprehensive list of court cases involving LGBTI asylum and refugee issues, click LGBTI-Related Case Law found in the "Other Materials" section of this module.

3.1.2 Particular Social Group – Immutable or Fundamental Characteristic

To determine if an applicant is a member of a PSG, you must decide whether:

¹³ See *Toboso-Alfonso*.

¹⁴ Attorney General, Order number 1895 (June 19, 1994).

¹⁵ See, e.g., *Karouni v. Gonzales*, 399 F.3d 1163 (9th Cir. 2005); *Picherskaia v. INS*, 118 F.3d 641 (9th Cir. 1997); *Nabulawala v. Gonzales*, 481 F.3d 1115 (8th Cir. 2007).

¹⁶ *Hernandez-Montiel v. INS*, 225 F.3d 1088 (9th Cir. 2000).

¹⁷ *Seropositivity for HIV and Relief From Deportation*, Memorandum. David A. Martin, INS General Counsel. (Feb. 16, 1996).

¹⁸ *Amanfi v. Ashcroft*, 328 F.3d 719 (3rd Cir. 2003).

¹⁹ This will depend on country of origin information. LGBTI claims are put forward from all over the world.

the group is comprised of individuals who share a common, innate characteristic – such as sex, color, kinship ties, or past experience – that members cannot change,

or

whether the group is comprised of individuals who share a characteristic that is so fundamental to the members' identity or conscience that they should not be required to change it.²⁰

Sexual orientation, gender identity, and having an intersex condition can be classified as either innate or fundamental. They are characteristics that an individual cannot change about him or herself or should not be required to change.²¹ Most experts agree that sexual orientation - whether heterosexual, lesbian, or gay - is set in place early in life and is highly resistant to change. Also keep in mind that it has been over 30 years since the American Psychiatric Association (APA) revised its Diagnostic and Statistical Manual (DSM) to remove any references to homosexuality being an illness or a diagnosable mental disorder.²² In the case of a transgender person, he or she either cannot change or should not be required to ignore the inner feelings that his or her gender identity does not match his or her biological sex at birth. Even if these traits could somehow be changed, they are traits that are so fundamental to a person's identity that he or she should not be required to change them.

Harm imposed because an applicant was mistakenly perceived as belonging to a sexual minority may also qualify as "on account of" a protected ground.

3.1.3 Particular Social Group – Visibility

When analyzing the PSG issue, you must not only make a finding regarding immutability or fundamentality, you must also determine social visibility or social distinction, i.e., whether the actual or imputed characteristic is "easily recognizable and understood by others to constitute a social group."²³ Some adjudicators mistakenly believe that social visibility or distinction requires that the applicant "look gay or act gay." See *Burden of Proof and Evidence, Credibility-Plausibility* section below. In this context, social visibility or distinction does not mean visible to the eye. Rather, this means that the society in question distinguishes individuals who share this trait from individuals who do not.

²⁰ *Matter of Acosta*, 19 I&N Dec. 211 (BIA 1985).

²¹ See *Matter of Toboso-Alfonso* at 822.

²² *Homosexuality and Sexual Orientation Disturbance: Proposed Change in DSM-II*, 6th Printing, page 44, Position Statement (retired). American Psychiatric Association, 1973.

²³ *Matter of C-A-*, 23 I&N Dec. 951 (BIA 2006).

In *Matter of C-A-*, the BIA lists men recognized as homosexuals by the government as an example of a social group that involves a characteristic that is "highly visible and recognizable by others in the country in question."²⁴ Although *C-A-* was discussing the PSG as formulated in *Toboso-Alfonso*, which involved the applicant's registration as a homosexual by the Cuban government, formal registration or recognition by a government is not required for a PSG.

For purposes of the "social visibility" analysis, you must examine the evidence, including country conditions, to determine whether the society in question distinguishes sexual minorities from other individuals in a meaningful way. While government registration of individuals as homosexuals would establish social visibility, it would not be required. Information about discriminatory attitudes or behavior toward sexual minorities would also be an example of evidence of social visibility.

Possible PSG Formulations

It is important to remember that, in order to conduct an accurate assessment of nexus, a PSG should not be formulated too broadly or too narrowly. Rather, it should refer to the trait that the persecutor perceives the applicant to possess.

Because LGBTI claims involve individuals with a variety of characteristics, and because the persecutors in given cases may perceive the applicants' traits in a variety of ways, the appropriate PSG formulation will depend on the facts of the case, including evidence about how the persecutor and the society in question view the applicant and people like the applicant.

Consider the following as possible ways to formulate the PSG:

- Sexual minorities in Country X. This may be an appropriate PSG in cases where the persecutor in question perceives any sexual minority as "outside the norm" but does not necessarily distinguish between orientation, gender, and sex. It might also be appropriate where there are a variety of traits involved in the claim, but the persecutor's animus toward those different traits stems from a more general animus toward all sexual minorities. This might be the case, for example, in a situation where an applicant has an intersex condition or has undergone Sex Reassignment Surgery (SRS) in the United States after having been harmed in the past for simply being perceived as gay. This prevents the need to analyze past and future harm for two separate PSGs when past and future harm are both based on the applicant's sexual minority status. (Example: "sexual minorities in Mexico" in lieu of "transgender Mexican women perceived as homosexual Mexican men cross dressing as women.");
- Gay, lesbian, transgender, or HIV-positive (choose one) / men or women

²⁴ *Matter of C-A-* at 960.

(choose one) / from Country X (choose one) (Example: “Lesbian women from Uganda.”); or

- Men or women (choose one) / from Country X (choose one) / imputed to be gay, lesbian, transgender, or HIV-positive (choose one) (Example: “men from Ghana imputed to be gay.”)

3.2 “On Account Of”/Nexus

3.2.1 The Persecutor’s Motive and the Applicant’s Experience

The “on account of” requirement focuses on the motivation of the persecutor. The persecutor in most LGBTI cases seeks to harm the individual based on the individual’s perceived or actual sexual orientation, on the persecutor’s belief that the applicant transgresses traditional gender boundaries, or on the persecutor’s more general animus toward sexual minorities of any kind. In some situations, the persecutor may have been trying to “cure” the applicant of his or her sexual orientation or gender identity.²⁵ Most persecutors may not have been making the distinction between gay, lesbian, bisexual, transgender, intersex, or HIV-positive. They may simply have harmed or want to harm the applicant based on their perception that the applicant is gay or a sexual minority that is “outside the norm.”

The applicant must provide some evidence, direct or circumstantial, that the persecutor is motivated to act against the applicant because he or she possesses or is believed to possess one or more of the protected characteristics in the refugee definition.²⁶ For example, in an LGBTI claim, you would consider evidence that the persecutor harmed or tried to correct the applicant because the persecutor knows or believes the applicant belongs to a sexual minority.

This evidence may include the applicant’s testimony regarding:

- what the persecutor said or did to the applicant
- what the persecutor said or did to others similar to the applicant
- the context of the act of persecution (for example, if the applicant was attacked in a gay bar or while holding hands with a same-sex partner)
- reliable Country of Origin Information (COI) that corroborates such testimony

It is critical that you ask the applicant questions about what the persecutor may

²⁵ *Matter of Kasinga*, 21 I&N Dec. 357 (BIA 1996); *Pitcherskaia v. INS*.

²⁶ *Elias-Zacarias*, 502 U.S. 478 (1992).

have said to him or her when the harm was inflicted or when the threats were made.

As with other types of refugee or asylum claims, there is no malignant intent required on the part of the persecutor, as long as the applicant experiences the abuse as harm.²⁷ State and non-state actors may inflict harm on LGBTI persons with the intention of curing or treating them, for example, through what is effectively medical abuse or forced marriage.²⁸ (See *Types of Harm That May Befall Sexual Minorities, Forced Psychiatric or Other Efforts to "Cure" Homosexuality* below.)

3.2.2 Prosecution vs. Persecution

The U.S. Supreme Court has made it clear that intimate sexual activity between consenting adults is a constitutionally protected activity.²⁹ This Constitutional principle, while not directly applicable to the analysis of an asylum claim, is consistent with the recognition that punishing conduct or sexual activity between consenting adults of the same sex is tantamount to punishing a person simply for being gay. If a law exists in another country that prohibits intimate sexual activity between consenting adults, enforcement of the law itself may constitute persecution and not simply prosecution.

4 LEGAL ANALYSIS – PERSECUTION AND ELIGIBILITY BASED ON PAST PERSECUTION

In evaluating whether harm constitutes persecution in an LGBTI-related case, you should consider the same factors as in any other protection case. The relevant considerations are: 1) does the harm rise to the level of persecution; and 2) is the persecutor the government or an individual or entity from which the government is unable or unwilling to provide reasonable protection?

Because the amount of harm that rises to the level of persecution is discussed in detail in the RAIO training module, *Refugee Definition, Definition of Persecution, and Eligibility Based on Past Persecution*, this section focuses on the types of harm directed at sexual minorities.

In asylum processing, if the applicant establishes past persecution on account of one of the five protected grounds, he or she is presumed to have a well-founded fear of persecution in the future. The burden then shifts to USCIS to show that there has been a fundamental change in circumstances or that the applicant can reasonably relocate within the country of origin. If USCIS does not meet this

²⁷ *Matter of Kasinga*, 21 I&N Dec. 357 (BIA 1996).

²⁸ *Pitcherskaia v. INS*.

²⁹ *Lawrence v. Texas*, 539 U.S. 558 (2003).

burden, it must be concluded that the applicant's fear is well-founded.

To be eligible for resettlement as a refugee in the United States, an applicant must establish either past persecution or well-founded fear of persecution on account of a protected ground.³⁰ Therefore, in general, a refugee applicant who is found to have suffered past persecution but who does not have a well-founded fear of future persecution is still able to establish that he or she meets the refugee definition. There is no rebuttable presumption or burden shifting as there is in asylum processing.

4.1 Types of Harm That May Befall Sexual Minorities

The types of harm directed at LGBTI applicants vary and include the same types of harm that are directed at other applicants. LGBTI individuals, however, may be more vulnerable to some types of harm than other applicants and may be subject to harm unique to them.³¹

When considering whether harm will amount to persecution, you must not only consider the objective degree of harm or whether the harm rises to the level of persecution, but also whether the applicant personally experienced or would experience the act(s) as serious harm.³² You must evaluate the opinions and feelings of each applicant individually. Because each case is unique and each applicant has his or her own psychological makeup, interpretations of what amounts to persecution vary widely.³³

While discrimination is often a fundamental part of claims made by LGBTI individuals, applicants also frequently reveal having experienced serious physical and sexual violence. These incidents of harm must be assessed in their totality. They must be analyzed in light of prevailing attitudes with regard to sexual orientation and gender identity in the country of origin.³⁴

Violation of Fundamental Rights

³⁰ INA § 101(a)(42)

³¹ UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity.

³² See RAO training module, *Refugee Definition, Definition of Persecution, and Eligibility Based on Past Persecution*, "Whether the Harm Experienced Amounts to Persecution, General Considerations, Individual Circumstances."

³³ *Id.* and UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status*, paragraphs 40, 51, and 52, reedited Geneva, January 1992.

³⁴ UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity, paragraph 12.

Being compelled to abandon or conceal one's sexual orientation or gender identity, where this is instigated or condoned by the state, may amount to persecution.³⁵ LGBTI persons who live in fear of being publicly identified often conceal their sexual orientation in order to avoid the severe consequences of such exposure - including the risk of incurring harsh criminal penalties, arbitrary arrests, physical and sexual violence, dismissal from employment, and societal disapproval.

Criminal Penalties

In some countries, homosexuality is criminalized and, "if discovered by the authorities, a lesbian or gay man may be arrested or imprisoned based on her or his sexual orientation."³⁶

In some countries, individuals accused of consensual sex with a member of the same sex may be subject to prosecution and even death.³⁷ For example, in Mauritania any Muslim male who engages in a sexual act with another male is subject to death by stoning; in Kenya, the Penal Code explicitly states that engaging in a consensual sexual act between two men is a felony and punishable by up to imprisonment for five years.³⁸

In other countries, there may not be laws that actually prohibit homosexuality, but authorities may still persecute people because of their sexual orientation.³⁹ Thus, applicants have been arrested, detained, beaten, sexually assaulted, and/or forced to pay bribes by police or army officials because of their sexual orientation, even if a non-discriminatory legal basis is used as a pretext for the action.⁴⁰

Rape and Sexual Violence

Because LGBTI people are often perceived as undermining gender norms, they are at heightened risk for sexual violence in many countries.⁴¹ Rape and sexual assault are types of harm that rise to the level of persecution.⁴² Other types of sexual violence, for example being forced to perform sexual acts upon another, may also constitute

³⁵ *Fatin v. INS*, 12 F.3d 1233, 1242 (3d Cir. 1993); See also, *Karouni v. Gonzales* (9th Cir. 2005) and UNHCR *Sexual Orientation Guide Note*, paragraph 12.

³⁶ See *Immigration Equality Draft Model LGBT Asylum Guidance*, Immigration Equality 2004.

³⁷ <http://www.state.gov/g/drl/rls/hrrpt/2008/nea/119115.htm>

³⁸ *State Sponsored Homophobia: A World Survey of Laws Prohibiting Same-Sex Activity between Consenting Adults*. Daniel Ottoson. The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 2010.

³⁹ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2004.

⁴⁰ *Maldonado v. Attorney General*, 188 Fed. Appx. 101, 103 (3d Cir. 2006). See also *Nowhere to Turn: Blackmail and Extortion Of LGBT People in Sub-Saharan Africa*. International Gay and Lesbian Human Rights Commission IGLHRC.

⁴¹ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2004.

⁴² *Nabulwala v. Gonzales*.

persecution.⁴³ Some applicants may have been raped as a measure to “correct” their behavior or status or as a means of punishing them for being gay or “outside the norm.”

Beatings, Torture, and Inhumane Treatment

Many LGBTI people are subjected to severe forms of physical violence. An applicant may have been the victim of repeated physical violence that the police never investigated or that the police themselves perpetrated.⁴⁴ Many applicants have been seriously harmed by members of their own family.⁴⁵

Claims made by LGBTI persons often reveal exposure to physical and sexual violence, extended periods of detention, medical abuse, the threat of execution, and honor killing. Generally, these are acts of harm that would rise to the level of persecution.

LGBTI individuals can also experience other forms of physical and psychological harm, including harassment, threats of harm, vilification, intimidation, and psychological violence that can rise to the level of persecution, depending on the individual circumstances of the case and the impact on the particular applicant.

Forced Medical Treatment

The case of an individual with an intersex condition may involve the applicant's fear or history of non-consensual surgery and other non-consensual medical treatment. In other cases, the applicant's fear may involve the lack of medical care in their home country.

Forced Psychiatric Treatment or Other Efforts to “Cure” Homosexuality

Many cultures see homosexuality as a disease, a mental illness, or a severe moral failing. Forced efforts to change an individual's fundamental sexual orientation or gender identity would generally rise to the level of persecution.⁴⁶ The American Psychiatric Association (APA) has stated that efforts to “convert” gay people to being heterosexual are unethical and ineffective.⁴⁷ Forced institutionalization, electroshock, and forced drug injections could constitute persecution. It is important to remember that there is no requirement that harm be inflicted with the intent to harm the victim.⁴⁸ Rather, you should assess whether it is objectively serious harm and was experienced as serious harm by the applicant.

⁴³ *Ayala v. U.S. Atty Gen.*, 605 F.3d 941 (11 Cir. 2010).

⁴⁴ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2010.

⁴⁵ *Ixtlilco-Morales v. Keisler*, 507 F.3d 651 (8th Cir. 2007). See also *Nabulwala v. Gonzales*

⁴⁶ *Pitcherskaia v. INS*.

⁴⁷ *Therapies Focused on Attempts to Change Sexual Orientation: Reparative or Conversion Therapies Position Statement*. American Psychiatric Association, March 2000.

⁴⁸ See *Matter of Kasinga* and *Pitcherskaia v. INS*.

Discrimination, Harassment, and Economic Harm

Many LGBTI people are disowned by their families if their sexual orientation or transgender identity becomes known.⁴⁹ It is important to consider such mistreatment within the context of the applicant's culture. In many countries it is virtually impossible for an unmarried person to find housing outside of his or her family home. Likewise, in many cultures it would be impossible for a woman to find employment on her own. In such cultures, being disowned by one's family in and of itself could be found to rise to the level of persecution, since it would have such severe consequences.

Some applicants may have been threatened by neighbors or had their property vandalized. Others may have been repeatedly fired from jobs and found it impossible to engage in any form of employment once their sexual orientation became known. While being fired from a job generally is not considered persecution, if an individual can demonstrate that his or her LGBTI status would make it impossible to engage in any kind of gainful employment, this may constitute persecution. For example, in many countries transgender people face such severe discrimination that the only way they can survive is by engaging in prostitution.

Discrimination and harassment may amount to persecution if cumulatively they are sufficiently severe.⁵⁰ This may be the case, for example, where an LGBTI person is consistently denied access to normally available services in his or her private life or workplace, such as education, welfare, health, and access to the courts.

Forced Marriage

LGBTI persons may be unable to engage in meaningful relationships, be forced into arranged marriages, or experience extreme pressure to marry.⁵¹ They may fear that failure to marry will reveal them to be LGBTI to their family and to the public at large. Societal and cultural restrictions that require them to marry individuals in contravention of their sexual orientation may violate their fundamental right to marry and may rise to the level of persecution.⁵² For instance, a lesbian who has no physical or emotional attraction to men and is forced to marry a man may experience this as persecution. Likewise, a gay man who is in no way attracted to women who is forced to marry a woman may experience this as persecution.

Gender-Based Mistreatment

⁴⁹ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2010.

⁵⁰ *Kadri v. Mukasey*, 543 F.3d 16 (1st Cir. 2008); *Matter of T-Z*, 24 I&N Dec. 163, 169-71 (BIA 2007) (adopting the standard applied in *Matter of Laipenieks*, 18 I&N Dec. 433 (BIA 1983), rev'd on other grounds, 750 F.2d 1427 (9th Cir. 1985).

⁵¹ *UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity* at paragraph 13.

⁵² *Id.*

Lesbians often experience harm as a result of their gender as well as their sexual orientation. The types of harm that a lesbian may suffer will frequently parallel the harms in claims filed by women in general more closely than the harms in gay male asylum claims.⁵³ Likewise, before “coming out,” transgender men are generally raised as girls and may experience the same types of harm. In many parts of the world persecution faced by lesbians may be less visible than that encountered by gay men. Lesbians and transgender women may be particularly vulnerable to rape by attackers who wish to punish them for their sexual identity. This can include retaliation by former partners or husbands.

Transgender individuals may be more visible and may be viewed as transgressing societal norms more than gay men or lesbians. Therefore, they may be subject to increased discrimination and persecution.⁵⁴

4.2 Agents of Persecution

The second step in the analysis of whether harm constitutes persecution is to determine if the agent of persecution is the government or a nongovernment actor. It is well established that an applicant can qualify for refugee or asylum status whether the persecutor is the government or an individual or entity from whom the government is unable or unwilling to provide reasonable protection. In LGBTI cases this may include governmental agents of persecution such as the police, military, or militias. Family, relatives, neighbors, and other community members are examples of non-governmental agents of persecution.

4.3 Internal Relocation

The issue of internal relocation arises when determining whether an applicant has established a well-founded fear or, in the context of asylum, whether the presumption of a well-founded fear is rebutted by the reasonable possibility of internal relocation. In the asylum context, once an applicant has established past persecution, the burden then shifts to the Government to show that internal relocation is reasonable. In cases where the persecutor is a government or government sponsored, there is a presumption that internal relocation is not reasonable. In some cases there may be evidence to rebut that presumption, such as, for example, evidence that the government's authority is limited to certain parts of the country.⁵⁵ Homophobia, “whether expressed in laws or people’s attitudes and behavior, often tends to exist nationwide.”⁵⁶ A law of general application, such as a penal code that criminalizes homosexual conduct, which is enforceable in the

⁵³ See Victoria Neilson, *Applying Gender-Based Asylum Jurisprudence to Lesbian Asylum Claims*, 16 Stanford Law & Policy Review 417 (2005).

⁵⁴ Ellen A. Jenkins, *Taking the Square Peg Out of the Round Hole: Addressing the Misclassification of Transgender Asylum Seekers*, 40 Golden Gate U.L. Rev. (2009).

⁵⁵ *Id.*

⁵⁶ UNHCR *Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity* at paragraph 33.

place of persecution, would normally also be enforceable in other parts of the country of origin.⁵⁷

Where a nongovernmental actor is the persecutor, the government's inability or unwillingness to protect the applicant in one part of the country may also be evidence that it is unwilling or unable to do so in other parts of the country.⁵⁸ It is not reasonable to expect an applicant to suppress his or her sexual orientation or gender identity through internal relocation. He or she should not have to depend on anonymity to avoid the reach of the persecutor. While a major capital city "in some cases may offer a more tolerant and anonymous environment, the place of relocation must be more than a 'safe haven.'" The applicant must also be able to access a minimum level of political, civil, and socioeconomic rights.⁵⁹ Thus, he or she must be able to access the protection in a genuine and meaningful way. The existence of LGBTI-related nongovernmental organizations does not in itself provide protection from persecution.

5 LEGAL ANALYSIS – WELL-FOUNDED FEAR

LGBTI-specific issues may also arise in cases where the applicant has not experienced past persecution but may nevertheless have a well-founded fear of persecution. Because well-founded fear is discussed in detail in the AOTC and ROTC *Well-Founded Fear* lessons, this section focuses on common well-founded fear issues raised in LGBTI claims.

5.1 Objective Elements

An applicant may qualify for asylum or refugee status even if he or she was not persecuted in the past but has a well-founded fear of future persecution. To establish well-founded fear, the applicant must have a subjectively genuine fear and an objectively reasonable fear of return.

The existence of certain objective elements in a particular claim will not necessarily undermine the applicant's subjective fear or credibility. For example, just because a country permits an LGBTI organization to exist or allows an annual public LGBTI event does not mean that LGBTI people are free from ongoing violence and harm in that country.

Some countries with laws that state that their citizens and nationals are guaranteed religious, political, or other freedoms often do not enforce these protections. Similarly some countries have anti-discrimination laws that seemingly protect LGBTI individuals, but in reality the laws are not enforced or are openly flouted.

⁵⁷ *Id.*

⁵⁸ UNHCR *Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity* at paragraph 34.

⁵⁹ *Id.*

5.2 Fear of Future Persecution

LGBTI applicants who were forced to conceal their sexual orientation in their home countries in order to avoid harm might not have experienced injuries that rise to the level of persecution.⁶⁰ These applicants need not show that the persecutor knew about their sexual orientation before leaving, only that the persecutor may become aware of it if they return.

5.3 Refugees *Sur Place*

A *sur place* claim for refugee status may arise as a consequence of events that have occurred in the applicant's country of origin since his or her departure, or as a consequence of the applicant's activities since leaving his or her country of origin. This may also occur where he or she has been "outed" to members of his or her family back home or where his or her LGBTI status or views on sexual orientation have been publicly expressed, for example by taking part in advocacy campaigns, demonstrations, or other human rights activism on behalf of LGBTI individuals.

Additionally, LGBTI applicants might have left the country of origin for a reason other than their sexual orientation, for example to pursue employment and educational opportunities in the United States and have "come out" after arrival in the country of asylum or first asylum. These applicants may qualify for refugee or asylum status if they can demonstrate a well-founded fear of future persecution.

You should carefully consider whether the applicant's sexual orientation or gender identity may come to the attention of the authorities or relatives in the country of origin and the ensuing risk of persecution. Keep in mind that in making this analysis, it is not appropriate to assume that an individual who is lesbian, gay, or bisexual could "go back in the closet" or that a transgender individual who is living in their "corrected gender" could go back to "passing."⁶¹

As with all claims based solely on a fear of future persecution, the claim must meet the four elements in the *Mogharrabi* test. See *RAIO training module Well-Founded Fear*.

In the asylum context, there are some one-year filing deadline issues that may arise specifically in the context of LGBTI *sur place* claims. See *Asylum Supplement - One-Year Filing Deadline* below.

6 INTERVIEW CONSIDERATIONS

It is important to create an interview environment that allows applicants to freely discuss the elements and details of their claims and to identify issues that may be related to

⁶⁰ UNHCR *Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity* at paragraph 23.

⁶¹ *Id.*

sexual orientation or imputed sexual orientation. Like most gender-based claims, LGBTI claims involve very private topics that are difficult for applicants to talk about openly. LGBTI applicants may hesitate to talk about past experiences and may be afraid they will be harmed again because of their actual or perceived sexual orientation or gender identity. For many, it will be very difficult to talk about something as private as sexual orientation, gender identity, or HIV-positive status. Furthermore, you, yourself may feel uncomfortable discussing some of these issues. It is therefore especially important for you to create an interview environment that is open and non-judgmental.⁶²

This section should be considered along with the guidance contained in the RAIIO *Interviewing* modules, which also address issues related to sexual minorities.

The following may help you interact more meaningfully with LGBTI applicants during an interview.

6.1 Pre-Interview Considerations

6.1.1 File Review

Before the interview, when you review each file, be mindful of any LGBTI-related issues in the claim. Due to the delicate and personal issues that surround sexual abuse, sexual orientation, and gender identity, some applicants may have inhibitions about disclosing past experiences to an interviewer of a particular sex. Some LGBTI applicants may be more comfortable discussing their experiences with Officers of a particular gender, particularly in cases involving rape, sexual abuse, or other sexual violence.

To the extent that personnel resources permit, an applicant's request for an interviewer of a particular sex should be honored. If a pre-interview review of the file indicates that the case may involve sensitive LGBTI-related issues, you may consult with your supervisor or team leader prior to the interview to evaluate whether it would be more appropriate for an Officer of a different sex to conduct the interview.

6.1.2 How the Presence of Family and Relatives May Affect the Interview

For a variety of reasons, the presence of relatives may help or impede an applicant's willingness to discuss LGBTI-related persecutory acts or fears. For example:

- The applicant's relatives may not be aware of the harm he or she experienced. He or she may wish that the relative remain unaware of those experiences or may be ashamed to say what he or she has experienced or fears in front of a relative. In addition, the applicant's claim may be based, in part, on fear of the relative who is present.

⁶² See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2010.

- Or, the applicant may want a family member or significant other present during the interview. Sometimes having a loved one present can provide support to the applicant when recounting traumatic events.⁶³

Therefore, to the extent possible, the choice of whether to be interviewed alone or with a relative present should be left to the applicant. The applicant should be asked his or her preference, when possible, in private, prior to the interview.

If the applicant elects for the relative to be present at the interview, you should exercise sound judgment during the interview, determining whether the presence of the relative is impeding communication. If it appears that relative's presence is interfering with open communication, the relative should be asked to wait in the waiting room.

In some cases, an applicant will bring a partner to the interview to testify as corroboration of the applicant's sexual orientation or gender identity. If you feel that this corroboration would be helpful, the partner should be permitted to testify. Note: in the Asylum context, an Officer may exercise discretion and request that the witness's testimony be submitted in writing.

6.1.3 How the Presence of Interpreters May Affect the Interview

Interpreters play a critical role in ensuring clear communication between you and an LGBTI applicant. The actions of an interpreter can affect the interview as much as those of the interviewing Officer. As in all interviews, you should confirm that the applicant and the interpreter fully understand each other.

As explained in greater detail in the RAIO training module *Working with an Interpreter*, an applicant's testimony on sensitive issues such as sexual abuse may be diluted when received through the filter of an interpreter. The applicant may not feel comfortable discussing such LGBTI issues with an interpreter of the same nationality, ethnicity, or clan, etc.

The same holds true for the interpreter; even if the applicant feels comfortable using a particular interpreter, the interpreter may be inhibited about discussing LGBTI-related issues or using certain terms. For example, the interpreter may substitute the word "harm" for "rape" because the interpreter is not comfortable discussing rape due to cultural taboos.⁶⁴

6.1.4 Reviewing Biographical Information with the Applicant

For transgender applicants, it is best to ask at the beginning of the interview what pronoun the applicant feels more comfortable with and to ask if there is a name he or she prefers using. For example, if an individual with a female appearance, who has described

⁶³ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2010.

⁶⁴ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2010.

her claim as based on transgender identity, has filled in the biographical information of the application form with an obviously male name, you should ask if there is a name she would prefer that you use.

One of the biographical information questions on the forms is “gender.” Since this issue may be sensitive and go to the heart of the applicant’s claim, it may be better to come back to this question at the end of the interview after the applicant has described the steps he or she has taken to “transition,” rather than at the beginning of the interview. The early part of the interview should be devoted, in part, to putting the applicant at ease. If you immediately question the legitimacy of the “gender” box that he or she has checked off, the applicant may be uncomfortable for the rest of the interview.

When going through the biographical information on the application form at the beginning of the interview, it is appropriate for you to inquire whether the applicant has legally changed his or her name. If yes, you can request the legal name change documents. If no, you should explain why it is necessary to use the legal name on the form, but that during the interview you will refer to the applicant by the name that the applicant feels most comfortable using.⁶⁵

Note: If the applicant provides any new name or gender information, additional database systems may need to be updated and further security checks may be required. Please refer to USCIS and division procedures for updating name and gender information.

6.2 Suggested Techniques for Eliciting Testimony

6.2.1 Setting the Tone and Putting the Applicant at Ease

While you must conduct all of your interviews in a non-adversarial manner, it is crucial when interviewing LGBTI applicants that you set a tone that allows the applicant to testify comfortably and that promotes a full discussion of the applicant’s past experiences. You must conduct the interview in an open and nonjudgmental atmosphere designed to elicit the most information from the applicant.

You should be mindful that for many people there is no topic more difficult to discuss with a stranger than matters relating to sexual orientation, gender identity, and serious illness.⁶⁶ Furthermore, many applicants have been physically and sexually abused, harassed, tormented, and humiliated over many years because of their actual or perceived sexual orientation or gender identity.

Asking questions about difficult or private issues is a sensitive balancing act you

⁶⁵ *Adjudication of Petitions and Applications Filed by or On Behalf Of, or Document Requests by, Transsexual Individuals.* William R. Yates, Associate Director for Operations. U.S. Citizenship and Immigration Services. Washington DC, 16 April 2004.

⁶⁶ *See Immigration Equality Draft Model LGBT Asylum Guidance, 2004.*

face in all interviews. On the one hand, you need to obtain detailed testimony from the applicant. On the other hand, you do not want to badger or traumatize the applicant. The most important thing to understand is that this may be a difficult topic for the applicant to talk about and to be respectful in discussing sexual orientation, gender identity, and serious illness.⁶⁷

You can help alleviate some of the applicant's reluctance to discuss some of these issues by incorporating the following suggestions into your interviews:

Remind the applicant that the interview is confidential. It can also help to ease the applicant's nervousness if you explain confidentiality to the interpreter in the presence of the applicant.

Be particularly sensitive when questioning the applicant about past sexual assault. Applicants may be reluctant to talk about actual or perceived sexual orientation or to disclose experiences of sexual violence. This may be especially true for LGBTI applicants who are not "out of the closet" or where the applicant was sexually assaulted. In many societies, sexual assault is seen as a violation of community or family morality for which the victim is held responsible. The combination of shame and feelings of responsibility and blame for having been victimized in this way can seriously limit an LGBTI applicant's ability to discuss or even to mention such experiences.⁶⁸

Explore all relevant aspects of the claim, even if they make you particularly uncomfortable. While you must be sensitive as you interview an applicant regarding such delicate topics, at the same time you must not shy away from your duty to elicit sufficient testimony to make an informed adjudication. This may include instances involving sexual violence. It is critical that you ask all necessary and relevant follow-up questions to help the applicant develop his or her claim.⁶⁹

It is important to remember that in the PSG analysis, the relevant inquiry is not whether the applicant actually possesses the protected trait. Rather, it is whether the persecutor believes the applicant possesses the trait (either because the applicant does possess it or because the persecutor imputes it to the applicant). Thus, the issue is not whether the applicant actually is LGBTI, but whether the persecutor believes that he or she is, either because the applicant is or because the persecutor imputes it to the applicant.

It is not necessary to probe the details of the applicant's personal life beyond what is necessary to make this specific determination. So, once you have established

⁶⁷ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2010.

⁶⁸ See RAO Training Module, *Gender Related Claims*.

⁶⁹ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2004.

that the persecutor perceives the applicant to have a protected trait, further inquiry into the specific nature of the applicant's LGBTI status is not necessary to establish inclusion in a PSG.

Try to use the same language that the applicant has used in his or her own application. If an applicant refers to himself as "gay," you should use this term, rather than "homosexual" and vice versa. The most important thing is to understand what a difficult topic this may be for the applicant to discuss and to be respectful.⁷⁰

Do not assume that being a sexual minority is a lifestyle or a choice. This will help you avoid asking questions in a way that may put the applicant on the defensive and result in the applicant holding back information rather than imparting it.⁷¹

Become familiar with the legal issues, terminology, and questioning techniques specific to the LGBTI community. You can use this information to help the applicant tell his or her own story.

Be mindful that the applicant and the interpreter may not be familiar with many of these issues or terms. While many LGBTI individuals in the United States embrace their LGBTI identity and have a language to talk about these issues, for many LGBTI individuals who come from countries where topics of sexuality are taboo, the way that applicants express themselves may be different from what an interviewer would expect from an LGBTI person in the United States.⁷²

The fact that an applicant may be uncomfortable with these terms may be a result of the fact that he or she comes from a culture where there is no word for homosexuality or transgender identity. It may be a result of his or her own ingrained homophobia from growing up in a culture where such terms were the equivalent of insults.⁷³

Become well-versed in country of origin information. This allows you to ask relevant follow-up questions. The more you know about the applicant's country of origin, the less likely you will be to miss important facts. Additionally, awareness of country conditions may also assist you in conducting the interview with cultural sensitivity and may help you put the applicant at ease during the interview. If the applicant notices that you took the time to try to understand the situation he or she faces in the country of origin as an LGBTI individual, he or she may be more inclined to talk in detail about his or her experiences and fears.

6.2.2 Explore all possible grounds

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2004.

Many LGBTI applicants may not know that their sexual orientation, gender identity, HIV-positive status, or intersex condition is the basis for a protection claim and may be reluctant to talk about these topics because they are so private. This is especially true where applicants are not represented. They may only put forward the elements of their past experiences that their family or members of their communities recommend.

For example, an applicant from Colombia appears before you for an interview. The majority of claims you have adjudicated from Colombia involve fear of the FARC. The applicant tells you about all of the instances when he has had contact with the FARC. At the end of the interview you have already begun to analyze the case and despite being credible, your assessment is that the applicant has not established nexus, past persecution, or well-founded fear.

When you ask the applicant if there is any other reason he fears returning to Colombia, he appears to have something more to say, but hesitates. You suspect that there may be an issue that the applicant has not put forward. In this situation it would be appropriate to try to explain to the applicant that there is more than one ground for asylum or refugee status.

“Refugee (or Asylum) status is a case-by-case determination made based on an individual's unique circumstances and is not just for people fleeing because of political opinion. Individuals who are afraid to return because of their religion, sexual orientation, clan membership, or because of domestic violence may also be eligible. Are there any other circumstances affecting you that you would like to tell me about?”

It is important to remember that the applicant would still be required to provide credible testimony regarding past harm and/or fear of future harm on account of one of the five protected grounds.

6.2.3 Sample Questions

The following are appropriate types of questions to elicit testimony and assess credibility in LGBTI cases. Please note that these questions are intended as starting points and should not be used as a substitute for all necessary lines of inquiry and follow-up questions during your adjudication. In other words, it is good to have a general outline of questions you need to ask or questions you need the answers to, but not a script. Remember, credible testimony alone may be enough and, other than reliable country of origin information, is often the only other evidence the applicant submits to you.

Sexual Orientation

Appropriate Lines of Inquiry

The most common LGBTI claims are based on sexual orientation and involve gay men, and to a lesser extent lesbian women. If the applicant was aware that he or she was lesbian, gay, or bisexual while in the country of origin, he or she should be able to describe his or her personal experiences as well as the lives of gay people in general.⁷⁴ The applicant should be able to describe what it was like coming to terms with his or her sexual orientation. Likewise, the applicant should be able to describe his or her first relationship, and the harm he or she suffered or fears in the home country. Keep in mind that this might only be true if the person is "out."

Ask the applicant about his or her experiences in the home country and his or her awareness of the lives of other lesbian, gay, or bisexual people there.⁷⁵ These questions focus on the possession or perceived possession of a protected characteristic. You must also ask about past harm and fear of future harm.

The following are some suggested questions when adjudicating claims that involve the applicant's sexual orientation:⁷⁶

- When did you first realize you were gay (or lesbian or bisexual)?
- Did you tell anyone?
- Why/why not?
- If yes, when?
- How did they react?
- Did you know other gay people in your home country?
- If yes, how were they treated?
- Did you hear about other gay people in your home country?
- If yes, how were they treated?
- Have you met any other gay people?
- Where?
- Does your family know you're gay?
- If yes, what was their reaction when you told them?
- Have you ever been in a relationship?
- How did you and your partner meet?
- Are you still together/ in touch?

⁷⁴ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2004.

⁷⁵ *Id.*

⁷⁶ *Id.*

- How do lesbian [or gay, or bisexual] people meet one another in your country?
- Were you involved in any LGBTI organizations in your country?
- Are you involved in any LGBTI organizations here?
- When you say people in your country want to kill people like you, can you explain what you mean by “people like you?”

Inappropriate Lines of Inquiry

The applicant's specific sexual practices are not relevant to the claim for asylum or refugee status. Therefore, asking questions about "what he or she does in bed" is never appropriate.⁷⁷ If the applicant begins to volunteer such information, you should politely tell him or her that you do not need to hear these intimate details in order to fairly evaluate the claim.

Transgender Identity⁷⁸

Appropriate Lines of Inquiry

A transgender applicant may identify as straight, lesbian, gay, or bisexual and that gender identity has to do with the person's inner feelings about his or her sexual identity.⁷⁹ Most transgender people consider themselves to be male or female. Therefore do not think of "transgender" as a gender. Male to female (M to F) transgender individuals were assigned the male gender at birth and consider themselves to be female. They are called transgender women.⁸⁰

Female to male (F to M) transgender individuals were assigned the female gender at birth and consider themselves to be male. They are called transgender men.⁸¹

Start off with easy questions and gradually ease into asking the more sensitive ones; be cognizant not to put words in the applicant's mouth. It is important to remember that being transgender involves an overall dissatisfaction with the gender assigned at birth; it is not about having one particular surgery. In many cases it will be appropriate to ask the applicant about the steps he or she has taken to transition gender.⁸² This question should be framed as one question among many that elicits the applicant's expression of his or

⁷⁷ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2010.

⁷⁸ For further reading see *Immigration Law and the Transgender Client*, available at <http://www.immigrationequality.org/issues/law-library/trans-manual/>

⁷⁹ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2004.

⁸⁰ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2010.

⁸¹ *Id.*

⁸² See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2004.

her transgender identity, such that it is perceived by the persecutor and the society in which the applicant lived.⁸³

The most important thing to remember is to be respectful and nonjudgmental. If you feel that it is necessary to ask a question that the applicant may perceive as intrusive, you should explain why the answer to the question is legally necessary. If you are confused about the applicant's self-identification, you should respectfully admit to feeling confused and ask the applicant to explain in his or her own words.⁸⁴

The following are some suggested questions that, depending on the facts, may be appropriate when adjudicating a claim that involves the applicant's gender identity:⁸⁵

- When did you first realize you were transgender? Or: When did you first realize that although you were born as a male (female) you felt more like a female (male)?
- How did you realize this?
- Did you know other transgender people in your country? Or: Did you know other people who felt like you in your country?
- If yes, how were they treated?
- Did you hear about other transgender people in your country?
- If yes, how were they treated?
- When did you begin to transition from a man to a woman or woman to a man?
- What steps have you taken to transition?
- Do you now live full-time as a man (or woman?) When did you begin to live full-time as a man (or woman)?
- Does your family know you're transgender?
- If yes, how did they react when they found out?

Many transgender applicants will not have begun to live full-time in their corrected gender until they have come to the United States.⁸⁶ In many cases, a person may discuss past mistreatment in terms of perceived sexual orientation. In these cases, it is appropriate to ask questions that pertain to sexual orientation as well as gender identity.

Inappropriate Lines of Inquiry

If an applicant testifies that he or she was not accepted in his or her home country because "people think I look like a girl, but I'm a guy," do not follow up by asking "So,

⁸³ *Id.*

⁸⁴ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2010.

⁸⁵ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2004.

⁸⁶ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2010.

what are you?" Furthermore, do not put words in the applicant's mouth by asking such questions as: "You haven't had any surgery or anything like that, right? So you're a male who looks effeminate?"⁸⁷

If the applicant has not indicated that he or she was harmed or fears being harmed for being gay, do not begin by asking the applicant if he or she is homosexual. It is important to remember that gender identity and sexual orientation are two different issues. A transgender applicant may also be gay, lesbian, or bisexual, but that is not necessarily the case. It is also important to remember that even if the applicant is heterosexual, he or she may be perceived as homosexual because he or she does not fit the societal norms for his or her gender. Instead, focus on the problems the applicant experienced in the country of origin and address the issue of sexual orientation later, if necessary.

This approach also ensures that your questioning is tailored to eliciting information that allows you to determine what trait the persecutor, and the society in question, perceives in the applicant. Since this is the evidence required to analyze the nexus requirement and the social distinction of the relevant social group, lines of questioning that focus on what the applicant experienced and how he or she was or would be viewed will likely be the most effective.

HIV Status

Appropriate Lines of Questioning

You should be mindful that HIV is a very serious illness and that many individuals, especially those from countries with fewer treatment options, see an HIV diagnosis as a death sentence. It is therefore imperative for you to be extremely sensitive in asking about the applicant's HIV status.⁸⁸

If an applicant's case is based in whole or in part on his or her HIV-positive status, you will need to ask questions about this. It is appropriate to ask about the applicant's state of health, current treatment regimen, and the availability of treatment in the home country.⁸⁹

In some cases, the applicant's HIV status may be directly related to the persecution, for example, where a lesbian was raped and believes this was her only possible risk for HIV exposure. If the applicant's HIV status is related to the harm the applicant suffered, it will be relevant for you to ask questions about this as well.

Many cases involve an applicant's fear of harm based on the fact that his or her HIV-positive status may lead community members to assume, whether correctly or not,

⁸⁷ *Id.*

⁸⁸ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2004.

⁸⁹ *Id.*

that he or she is gay.⁹⁰ If a claim is not based on the applicant's sexual orientation or gender identity and HIV status is not mentioned, it is not appropriate for you to ask the applicant if he or she is HIV-positive.

Some cases will involve an applicant's fear of violence, stigma, and extreme discrimination based on his or her HIV-positive status. In other instances, the applicant's primary fear may be the lack of medical care in his or her home country.

It is important to keep in mind that if an applicant's case is based on sexual orientation or gender identity and is not based on his or her HIV status, that you should not presume that he or she is HIV-positive.

Inappropriate Lines of Questioning

Generally, the risk factor for HIV infection is not relevant to the applicant's claim, so it is not appropriate to ask the applicant how he or she thinks that he or she contracted HIV.⁹¹

In some asylum cases, an applicant's HIV status may also be relevant to a one-year filing deadline exception, for example, if the applicant was extremely ill during his or her first year in the United States or the applicant may not have been diagnosed until several years after entering the United States. (*See Asylum Supplement One-Year Filing Deadline*, below).

Intersex Conditions

Appropriate Lines of Inquiry

When questioning applicants with intersex conditions, use the same type of sensitive questioning techniques suggested for sexual orientation, transgender identity, and HIV-positive status claims.

Some intersex people will never have heard of anyone else like themselves, but others will. There are some intersex conditions that run in families or are more common in certain populations. Where the condition is known in a given culture, an applicant should be able to describe how people like them are treated. Where the condition is known to run in a family (but not throughout the culture), the entire family may face stigma, or family members may be on the lookout for signs of the condition in order to keep the family secret. For example, Androgen Insensitivity Syndrome (AIS) is an inherited condition. People with this condition will have a typical-looking female body, but will be infertile and will have only a shallow vaginal opening or none at all. Female relatives of an affected woman may be carriers and can pass it on to their children. Normally it is not discovered until puberty when the girl does not menstruate.

⁹⁰ *Id.*

⁹¹ *Id.*

Many persons with intersex conditions may have difficulty understanding and articulating their own physical conditions and medical history. Therefore, some of these questions may be more appropriate for parents or families of young intersex children who face persecution.

The following are some suggested questions that, depending on the facts, may be appropriate when adjudicating a claim that involves the applicant's intersex condition:

- When did you first learn about your condition?
- How did you learn about it?
- Did you tell anyone?
- Why/why not?
- If yes, when?
- How did they react?
- Does your family know about your condition?
- If yes, how did they react when they found out?
- Did you go to a doctor or other medical professional?
- Have you ever received medical treatment for your condition?
- What were you told about your condition?
- How much do you understand about your condition?
- Did you know other people with similar conditions in your country? Or did you know other people like you in your country?
- If yes, how were they treated?

7 EVIDENCE ASSESSMENT

As explained in greater detail in the RAIO training modules *Eliciting Testimony* and *Evidence Assessment*, while the burden of proof is on the applicant to establish eligibility, equally important is your duty to elicit all relevant testimony. Establishing eligibility means the applicant must establish past persecution or a well-founded fear of future persecution based on actual or imputed (perceived) sexual orientation or gender identity. Your duty includes always recognizing the non-adversarial nature of the adjudication, applying interviewing techniques that best allow you to elicit detailed testimony from an LGBTI applicant, and diligently conducting relevant country of origin information research.

In addition to the applicant's testimony, reliable country of origin information may be the only other type of evidence available to you when you make your decision in a case involving LGBTI applicants. It is important to remember that reliable information

regarding the treatment of LGBTI individuals may sometimes be difficult to obtain and that the absence of such information should not lead you to presume that LGBTI individuals are not at risk of mistreatment.

7.1 Credibility Considerations During the Interview

If an applicant is seeking refugee or asylum status based on his or her sexual orientation, gender identity, intersex condition, or HIV-positive status, he or she will be expected to establish that the persecutor views the applicant as a sexual minority or HIV-positive, either because the applicant actually has such status or because the persecutor imputes it to him or her. Under either basis, the critical point to establish is what trait the persecutor perceived in the applicant.

Credible testimony alone may be enough to satisfy the applicant's burden. Sexual minority or imputed sexual minority claims tend to rely heavily on the applicant's own testimony to establish all of the elements of the claim. Therefore, your job will be to fully and fairly elicit all testimony with regard to the harm the applicant suffered or fears based on his or her actual status as a sexual minority or perceived status as a sexual minority.

7.1.1 Plausibility

The fact that an applicant testifies about events that may appear unlikely or unreasonable does not mean it is implausible that the events actually occurred. You must take care not to rely on your views of what is plausible based on your own experiences, which are likely to be quite different from the applicant's.

What if the Applicant is Married or Has Children?

An applicant may have gotten married in his/her home country and/or have children.⁹² This, by itself, does not mean that the applicant is not gay. "Many applicants describe enormous social pressure to marry and being forced into a marriage by their family or society. Other applicants, while grappling with their sexual identity, have tried to lead a heterosexual life and 'fit in' within their society."⁹³

Even in the United States, it is not uncommon for lesbians or gay men to marry people of the opposite sex in an effort to conform to societal norms.⁹⁴ While some lesbians and gay men may feel that they have always known their sexual orientation, many others do not come to terms with their sexual identity until much later in life.

⁹² See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2004.

⁹³ *Id.*

⁹⁴ *Id.*

If you have concerns about the credibility of an LGBTI applicant who is married, it may be appropriate to ask the applicant a few questions surrounding the reasons for marriage. If the applicant is able to provide a consistent and reasonable explanation of why he or she is married and/or has children, that portion of the testimony should be found credible.

What if the Applicant Does Not Appear to be Familiar With LGBTI Terminology?

While most Americans are accustomed to reading and hearing about LGBTI issues in the news, these terms may be unfamiliar to applicants from other cultures. “Some countries do not even have words for different sexual orientations other than homophobic slurs. The fact that an applicant may be uncomfortable with these terms may be a result of his or her own ingrained homophobia from growing up in a country where such terms were the equivalent of vile curses.”⁹⁵ Therefore, you should not assume that it is implausible for an applicant to be gay, lesbian, or transgender if he or she is not familiar with LGBTI terms.

What if The Applicant Does Not “Look” or “Act” Gay?

Some applicants with LGBTI-related claims will not “look” or “act” gay.⁹⁶ If an applicant provides detailed testimony about his or her experiences in the country of origin,⁹⁷ it would be inappropriate for you hold against the applicant the fact that he or she does not fit your notion for how LGBTI people should look or behave.

While there are some individuals who identify as gay who may also consider themselves effeminate and some individuals who identify as lesbian who may also consider themselves masculine, many men who identify as gay will not appear effeminate and many women who identify as lesbians will not appear masculine⁹⁸

For some LGBTI people, the harm they suffer, especially in their youth before accepting their LGBTI identity, may be related to their feminine characteristics (for males) or their masculine characteristics (for females). Regardless of whether the applicant was “out” at the time he or she was harmed, this harm should be considered related to their LGBTI status.⁹⁹

⁹⁵ *Id.*

⁹⁶ *Shahinaj v. Gonzales*, 481 F.3d 1027 (8th Cir. 2007), remanding case to new Immigration Judge in part because IJ had improperly relied on his own stereotypes and found an Albanian applicant’s claim to be gay not credible because he did not exhibit gay “mannerisms”, “dress” or “speech.”; *Razkane v. Holder*, 562 F.3d 128 (10th Cir. 2008), rejecting IJ’s finding that applicant’s appearance was not gay enough for persecution to be likely to occur; See also *Ali v. Mukasey*, 529 F.3d 478 (2nd Cir. 2008), rejecting IJ’s conclusion that a “dangerous criminal” could not be identified as a “feminine . . . homosexual” in his native Guyana.

⁹⁷ (See Credibility-Detail below for appropriate credibility considerations).

⁹⁸ See *Hernandez-Montiel v. INS*, 225 F.3d 1088 (9th Cir. 2000).

⁹⁹ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2010.

In some cases, an applicant will testify that he or she was harmed or fears future harm because his or her appearance makes his or her LGBTI identity apparent, that is, he or she fits the accepted stereotype for LGBTI people in his or her culture. Cultural signals about a person's sexual orientation or gender identity may vary between individuals from other countries and your own. Thus, an applicant may tell you that he or she appears obviously LGBTI, but the applicant may not fit stereotypes you have formed of LGBTI people according to your own cultural norms.

Whether or not an applicant claims that his or her LGBTI identity is apparent, it is appropriate for you to elicit testimony about why the applicant fears harm. For example, in many countries, the fact that a person is unmarried or childless after young adulthood may make him or her suspect. In other countries, the only way for LGBTI people to meet other LGBTI people is to go to gay clubs, or parks, which may put them at risk of exposure. For transgender applicants, having identity documents that do not match their name or outward gender appearance, may put them at risk. (See *Interviewing Considerations* above for appropriate lines of questioning to determine credibility.)

As discussed above, it is important to remember that transgender identity and sexual orientation are distinct concepts. While it may be obvious from the appearance of some transgender individuals that they are transgender, other transgender individuals may "pass," or blend in quite well as their corrected gender. By way of contrast, transgender people who are at the beginning of their transition also may not "look transgender."¹⁰⁰ In these cases, as in other categories of protection cases, you should not base your decision on the applicant's outward appearance. Instead, you should elicit relevant testimony about the applicant's identity and, if appropriate, request corroborating evidence.

What if Country of Origin Information Does Not Address LGBTI Issues?

The fact that little or no corroboration of mistreatment against LGBTI individuals is included in reports that generally address human rights violations does not render the applicant's claim of past harm or fear of future harm implausible in light of country of or inconsistent with country of origin information.¹⁰¹ The weight to be given to the fact that country conditions information fails to corroborate a claim will depend on the specific allegations, the country, and the context of the claim.

7.12 Consistency

Claims Not Initially Put Forth

An LGBTI individual may initially assert a claim based on another protected ground such as political opinion or religion and later reveal that he or she was harmed or fears harm based on his or her sexual orientation. This may be because the applicant was reluctant

¹⁰⁰ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2010.

¹⁰¹ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2010.

to talk about his or her sexual orientation or gender identity or because he or she was unable to articulate a connection to a particular protected ground.

There may be situations where the applicant does not initially put forward a claim based on sexual orientation or gender identity but does so later on. For example, a newly arrived applicant may not feel comfortable or safe revealing his or her sexual orientation or gender identity to an Immigration Officer during primary or secondary inspection or an Asylum Officer during a Credible Fear interview at the Port of Entry. Then, he or she may subsequently reveal this information on his or her asylum application.

In the case of Dominic Moab, a gay asylum seeker from Sierra Leone, the IJ denied the case and the BIA affirmed, in part because Mr. Moab “failed to mention his homosexuality to the immigration officers at the airport or to the examining official during his credible fear interview.”¹⁰² The Seventh Circuit remanded the case, finding that the BIA had not considered the fact that, for several reasons, “airport interviews are not always reliable indicators of credibility.”

In overseas refugee processing, an applicant may not initially tell the referring agency, such as UNHCR or the Resettlement Support Center (RSC) about being gay or transgender, but then subsequently tell the USCIS Interviewing Officer about his or her LGBTI status. If you are confronted with such a scenario, do not automatically assume the applicant is not credible but follow the guidance above about what information the application should generally be able to relay.

It is important to take into account all of the factors mentioned in this module in assessing the applicant's ability to articulate his or her claim. When exploring these claims, remember that the applicant may have other grounds upon which he or she may qualify for refugee status or asylum. If a claim can clearly be established on another ground, that may form the basis for the decision.

As with all other credibility determinations, you must give the applicant the opportunity to explain any inconsistencies or omissions in his or her case. In a situation where an applicant does not initially mention his or her sexual orientation or gender identity and later does as a basis for protection, you would ask for an explanation:

“Help me understand. Why do you tell me this now, but did not mention it to the Officer at the airport? Or to UNHCR or the RSC?”

Seemingly Inconsistent Use of LGBTI Terms

If the application form states in one place that the applicant is bisexual, but he or she testifies that he or she is homosexual, do not assume this is a contradiction and do not

¹⁰² *Moab v. Gonzales*, 500 F. 3d 656, 657 (7th Cir. 2007).

pursue a line of questioning such as: “Homosexual? Your application says bisexual. Well, which is it homosexual or bisexual?”

7.1.3 Detail

An essential component of an LGBTI claim is that the applicant must establish that the persecutor perceived him or her to be a sexual minority. This perception can be based on the applicant’s actual status, or on a status imputed to the applicant. Where the persecutor’s perception is based on a status that the applicant in fact has, appropriate details about the applicant’s experience as LGBTI may help to substantiate the claim.

It is important to remember however, that the ultimate legal question is whether the persecutor targets the victim because the persecutor perceives a protected trait in the victim. Questions about the applicant’s sexual orientation should be filtered through that lens. The purpose of establishing LGBTI is to show why the persecutor perceived this trait in the individual. In a claim based on imputation of the protected trait, the reasons why the persecutor viewed the applicant as having that trait will be different, and it would be those different reasons that the applicant would have to establish.

As with any other type of refugee or asylum case, an applicant’s detailed, consistent, credible testimony may be sufficient to prove his or her sexual orientation.

The applicant should be able to describe his or her “coming out” experience. He or she should be able to explain when he or she first began to feel attracted to members of the same sex, if and when he or she first engaged in a romantic or sexual relationship with a member of the same sex, how this made him or her feel, whether he or she told other people or kept this aspect of his or her identity secret, etc.¹⁰³

Acceptable lines of questioning to develop the applicant’s claim and to test credibility are listed above in *Sample Questions*.

7.2 Country of Origin Information

Country of origin information on LGBTI issues can sometimes be more difficult to find than on other issues.¹⁰⁴ You should not conclude that if these issues are not mentioned that no problems exist. Many organizations that report on human rights issues lack sufficient contacts within local LGBTI communities to know what LGBTI individuals experience in their countries, or do not have the resources to investigate and/or monitor all types of human rights violations in a particular country.

Often the countries where homosexuality is most taboo have the least country conditions information available. In many countries, for example those with conservative, religious

¹⁰³ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2004.

¹⁰⁴ See *Id.*

governments, there is little or no mention of the existence of LGBTI citizens in any media. This may also be true in countries with antidemocratic, authoritarian governments, where LGBTI groups may not be allowed to exist.

Where there is a lack of sufficiently specific country of origin information, you may have to rely on the applicant's testimony alone to make your decision.¹⁰⁵

Useful resources in gathering information LGBTI claims include:

- The AsylumLaw.org Sexual Minorities and HIV status website at http://www.asylumlaw.org/legal_tools/index.cfm?category=116&countryID=233
- The *International Gay and Lesbian Human Rights Commission* at <http://www.iglhrc.org/cgi-bin/iowa/home/index.html>
- The Amnesty International *Out Front* program at www.amnestyusa.org/outfront
- The International Lesbian and Gay Association (<http://ilga.org/>) website, which contains a legal survey where you can search legal codes and country conditions.
- The Human Rights Watch LGBT division and HIV division at www.hrw.org/en/category/topic/lgbt-rights
- Refugee, Asylum, and International Operations Directorate (RAIO) Virtual Library at <http://raiovl/docushare/dsweb/HomePage>
- Council on Global Equality at <http://www.globalequality.org/>
- UNHCR's Ref World at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain>

7.3 Corroborating Evidence

In some situations, where it is necessary to establish that the persecutor perceived a protected trait in the applicant, you may ask the applicant to provide evidence that corroborates his or her sexual orientation, gender identity, or HIV-positive status. Pursuant to amendments to INA section 208 made by the REAL ID Act of 2005, an applicant for asylum must provide this evidence unless he or she does not have the evidence and cannot reasonably obtain the evidence. Although the REAL ID Act amendments to INA section 208 do not directly apply to overseas refugee processing, which is governed by INA section 207, you may ask the applicant to produce corroborating evidence if it is reasonably available and is necessary for the adjudication of the claim.

¹⁰⁵ UNHCR *Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity*.

It is very important to remember, however, that because of the different ways overseas refugee and asylum applicants obtain interviews with USCIS, the evidence that refugee applicants can reasonably obtain compared with the corroborating evidence some asylum seekers can reasonably obtain varies greatly.

Corroborating Sexual Orientation

You may ask the applicant to provide evidence that corroborates his or her sexual orientation as a means of establishing that the persecutor perceived or would perceive the protected trait in the applicant. The applicant must provide this evidence unless he or she does not have the evidence and cannot reasonably obtain the evidence. Again, it is important to remember that the evidence refugee applicants can reasonably obtain varies greatly compared with the evidence some asylum applicants can reasonably obtain. Examples include a letter from a current or ex-partner; a letter from a friend with whom the applicant has discussed his or her sexual orientation; a letter from a family member; proof that he or she is involved in an LGBTI political or social organization; or a psychological evaluation, etc.¹⁰⁶

There may be situations where the applicant will not be able to provide any corroboration, for example, if he or she is no longer in contact with an ex-partner in his or her country, where his or her family has disowned him or her, and where he or she does not yet know any LGBTI people in the United States or the country of first asylum. As in any other case, the applicant should not automatically be denied for lack of corroboration. Rather, it is reasonable for you to question the applicant about why corroboration is unavailable, and factor this explanation into your decision-making process.

Corroborating Transgender Identity

Again you may ask the applicant to provide evidence that corroborates his or her transgender identity as a means of establishing that the persecutor perceived or would perceive the protected trait in the applicant. The applicant's detailed, consistent, credible testimony may be sufficient to establish this status. The applicant should be able to describe his or her "coming out" process as a transgender individual. That is he or she should be able to explain when he or she first started to feel "different" or uncomfortable with the gender he or she was assigned at birth; ways in which his or her behavior and feelings differed from gender norms; steps he or she has taken to express the gender that he or she feels comfortable with, etc.

It may be appropriate to elicit information about what steps the applicant has taken in his or her transition but remember how personal and difficult it will be for the applicant to talk about these issues.

¹⁰⁶ See *Immigration Equality Draft Model LGBT Asylum Guidance*, 2010.

A number of transgender individuals receive necessary medical treatment to help their outward appearance correspond with their internal identity. Bear in mind, however, that the treatment plan for every transgender person is different. There is not a single surgery which transforms a transsexual from one gender to another. If a transgender applicant is receiving treatment from a medical doctor or mental health professional (such as counseling, hormones, implants, or other surgeries), it is reasonable to expect corroboration of this treatment.¹⁰⁷

Many transgender individuals do not receive ongoing treatment, however. Some transgender individuals self-administer hormones, while others identify with their chosen gender without undergoing any medical treatment as part of their transition. Many others would like to access transition-related medical care but cannot, because of immigration status or lack of financial resources. In any event, an applicant should be able to corroborate any treatment he or she has received from a medical professional or explain why such corroboration is not available.¹⁰⁸

Corroborating HIV-Positive Status

An applicant who is requesting refugee or asylum status in whole or in part based on being HIV-positive, should generally be able to provide some external corroboration that he or she is HIV-positive, such as a letter from a doctor or the results of an HIV test. You may ask for such corroboration as a means of determining that the persecutor did or would perceive this trait in the applicant. Again, this expectation may vary in the context of overseas refugee processing.

8 CONCLUSION

Adjudicating LGBTI refugee and asylum claims presents certain unique challenges. It is important to remember to be sensitive to the issues, familiar with the terminology, and familiar with relevant country of origin information. By definition, these claims involve the most private of matters – sexual orientation, gender identity, and sometimes serious illness. Always remain respectful and nonjudgmental, don't be afraid to acknowledge your discomfort to yourself and to the applicant. Familiarize yourself with the legal nuances involved in these types of cases and do your best to elicit all relevant details without re-traumatizing the applicant or being insensitive.

9 SUMMARY

9.1 LGBTI and HIV Terminology

¹⁰⁷ See *Immigration Equality Draft Model LGBT Asylum Guidance, 2010*.

¹⁰⁸ *Id.*

Becoming familiar with relevant terminology helps you become more aware of the nuances involved in adjudicating LGBTI refugee and asylum claims. It is important to be familiar with the terminology but also to keep in mind that the applicant may come from a culture where sensitivity to these issues is not as high as in other countries and may not be familiar with the terms himself or herself. The terms "sexual minorities" and LGBTI are used in this module interchangeably to refer to issues that involve sexual orientation and gender identity.

9.2 Legal Analysis – Nexus and the Five Protected Characteristics

LGBTI refugee and asylum claims are primarily analyzed under the ground membership in a PSG. Sexual orientation, gender identity (or the right to live in one's "corrected gender"), and having an intersex condition can be classified as either innate or so fundamental to an individual's identity that the individual should not be required to change them. Social visibility does not require that the trait be literally visible to the eye.

Ways to formulate the PSG have included "sexual minority from Russia," "gay man from Columbia," "lesbian from Iran," or "transgender female from Mexico." Ask questions about what the persecutor may have said to him or her and about the circumstances surrounding the harm inflicted on or threats made against the applicant.

9.3 Legal Analysis – Types of Persecution

The two questions you must ask yourself to determine whether the applicant suffered or fears persecution are: 1) did the harm rise to the level of persecution; and, 2) did the applicant experience the incident as harm? Examples of harm that LGBTI applicants may have faced or fear and that may rise to level of persecution include: physical and sexual violence; execution; imprisonment; forced marriage; long-term, systemic discrimination; threats of violence and to "out" the applicant; and forced psychiatric treatment.

Lesbians may have suffered the harms that befall many women in addition to harms that befall members of the LGBTI community. Transgender individuals may be more visible and may be more commonly viewed as transgressing societal norms than gay men or lesbians. They may be subjected to increased discrimination and persecution.

9.4 Legal Analysis – Well-Founded Fear

The fact that LGBTI organizations are permitted to hold a parade once a year or the mere existence of LGBTI organizations does not mean that LGBTI people are free from ongoing violence and harm in that country.

An applicant who was forced to conceal his or her sexual orientation or gender identity in the home country in order to avoid harm and did not suffer harm that rose to the level of persecution may still qualify for refugee or asylum status if he or she has a well-founded fear of future persecution. In some cases, the experience of having to conceal sexual

orientation or gender identity may itself result in suffering severe enough to constitute persecution. Some LGBTI applicants come to the United States for work or study and subsequently "come out" to themselves and to others.

9.5 Legal Analysis – One-Year Filing Deadline (asylum only)

In many instances an individual does not "come out" as lesbian, gay, bisexual, or transgender until he or she is in the country where he or she sees that it is possible to live an open life as an LGBTI person. If an individual has recently "come out" this may qualify as an exception to the one-year filing deadline based on changed circumstances.

An individual may qualify for a one-year exception based upon serious illness, for example being diagnosed as HIV-positive.

LGBTI individuals who suffer from internalized homophobia and transphobia or who may have been subjected to coercive mental health treatment to "cure" them in their home countries may find it especially difficult to access the mental health treatment they may need to proceed with their applications. Also many LGBTI asylum seekers in the United States live with extended family members or with members of the very community they fear.

9.6 Interviewing Considerations

It is important to create an interview environment that allows applicants to freely discuss the elements and details of their claims. LGBTI claims involve very private topics that are difficult for the applicants to talk openly about and may sometimes make you uncomfortable.

You may help to set the applicant at ease by reminding him or her that the interview is confidential. You may also specifically remind the interpreter, in the presence of the applicant, that the interpreter must also keep all information confidential.

The early part of the interview should be devoted, in part, to putting the applicant at ease, while reviewing the biographical information on the application. For transgender applicants, it may be better to come back to the question about "gender" at the end of the interview as this issue may be sensitive and go to the heart of the claim.

It is important to conduct the interview in an open and nonjudgmental atmosphere. Try to use the same language that the applicant has used. For example if the applicant refers to himself as gay, you should use this term rather than homosexual and vice versa. Become familiar with the legal issues, terminology, and country of origin information to help the applicant to his or her own story.

Keep in mind that while you have familiarized yourself with LGBTI-related terms neither the applicant nor the interpreter may be as familiar with them as you are. You may then have to adjust the formulation of your questions accordingly.

It is never appropriate to ask questions about the applicant's specific sexual practices or about "what he or she does in bed." If the applicant begins to testify graphically about sexual practices, you should politely tell him or her that you do not need to hear these intimate details in order to fairly evaluate the claim.

If the applicant was "out" as lesbian, gay, or bisexual in the home country, he or she should be able to provide details about his or her experiences there; his or her awareness of the lives of other gay people there; what it was like coming to terms with his or her sexual orientation; and, if relevant, to describe his or her first relationship.

Keep in mind that sexual orientation and gender identity are two different concepts. A transgender applicant may identify as straight, lesbian, gay, or bisexual. Being transgender involves an overall dissatisfaction with the gender assigned at birth; it is not about having one particular surgery. If you were confused about an applicant's self identification, you should respectfully admit to feeling confused and asked the applicant to explain in his or her own words.

When interviewing an applicant who is HIV-positive be mindful that it may be appropriate to ask about the applicant's state of health, current treatment regimen, and the availability of treatment in the home country. DO NOT ask the applicant where he or she may have contracted HIV.

9.7 Burden of Proof and Evidence – Credibility

An applicant's credible testimony may be the only evidence available for you to take into consideration when adjudicating LGBTI-related refugee and asylum claims. If the applicant is seeking refugee status or asylum based on his or her sexual orientation, gender identity, or HIV-positive status, he or she will be expected to establish that the persecutor perceived this protected trait in him or her. In some cases, the reason for the persecutor's perception is that the applicant is actually gay, lesbian, or bisexual, transgender, or HIV-positive. In other cases, where the applicant does not identify as gay, lesbian, or bisexual but is only imputed to be, he or she will need to establish the other reasons why he or she was perceived that way.

The fact that an applicant was married or has children does not mean that it is impossible that the applicant is gay. Even in the United States, it is not uncommon for lesbians or gay men to marry people of the opposite sex in an effort to conform to societal norms.

Do not assume that an applicant must conform to a particular stereotype in order to be lesbian or gay. A man may identify as gay and not appear or consider himself effeminate. A woman may identify as lesbian and not appear or consider herself masculine. This does not mean that it is not plausible that he or she is gay or lesbian.

If an applicant does not initially tell the first official he or she comes into contact with about his or her sexual orientation or gender identity and subsequently reveals this in his

or her claim, do not automatically assume that the applicant is not credible. Instead follow the guidance about what testimony such an applicant should reasonably be expected to provide and try to elicit that information.

9.8 Burden of Proof and Evidence – Country of Origin Information

For various reasons, detailed, reliable country of origin information may be difficult to obtain. This does not render the applicant's claim of past harm or fear future harm implausible in light of or inconsistent with country of origin information.

PRACTICAL EXERCISES

NOTE: Practical Exercises will be added at a later date.

Practical Exercise # 1

- **Title:**
- **Student Materials:**

OTHER MATERIALS

LGBTI Terminology/Glossary¹⁰⁹

There are a number of terms that may be used by LGBTI applicants in their protection claims. Although not all LGBTI applicants will use these terms, it will be important for you to be familiar with these terms prior to conducting an interview. The glossary is divided into sections that distinguish between sexual orientation terms and gender identity terms, and also includes medical and legal terms. This glossary is comprised of terms generally used by the LGBTI community and others in the United States.

Please note: The definition of the term intersex sometimes overlaps with sexual orientation, gender identity, and medical issues and is therefore found in its own separate section.

Sexual Orientation Terms¹¹⁰

Bisexual – (noun or adjective) a man or woman who has an enduring emotional and/or physical attraction to both sexes. It is important to understand that although bisexual individuals may feel attraction to members of either sex, they cannot “choose” whom (or which gender) to feel attracted to any more so than a heterosexual or homosexual individual can.

“Closeted” – (adjective) describes a person who keeps his or her sexual orientation secret. Also, “living in the closet.”

“Come Out” – (verb) the process by which an individual comes to terms with his or her sexual orientation. For most people this process first involves self-acceptance (“coming out” to one’s self) and then may involve telling other people (“coming out” to others.) It is important to remember, however, that some people choose not to “come out” to others for fear of their safety. Some people realize as children that they are lesbian or gay, whereas others may not come out to themselves until they are adults. Many lesbian and gay people enter into opposite sex marriages before coming to terms with their sexual orientation.

Gay – (adjective) a man who has an enduring emotional and/or physical attraction to men. Some women who are attracted to women use the term gay to describe themselves as well.

¹⁰⁹ Immigration Equality and HIAS Refugee Trust of Kenya.

¹¹⁰ For more general information about sexual orientation, see <http://www.apa.org/pubinfo/answers.html> on the American Psychological Association website.

Heterosexual – see “Straight” below

Homosexual – (noun or adjective) an individual who has an enduring emotional or physical attraction to members of the same sex. This term is often considered clinical with a slightly derogatory connotation within the LGBTI community.

Homophobia – (noun) deeply ingrained feelings of prejudice toward lesbian, gay and bisexual people; the irrational fear, based upon myths and stereotypes, of homosexuals or those perceived to be homosexual.

Lesbian – (noun or adjective) a woman who has an enduring emotional or physical attraction to women; homosexual women also sometimes use the term “gay” to describe themselves.

“Out” – (verb) the involuntary disclosure of a person’s lesbian or gay sexual orientation. For example, an applicant may say, “My cousin saw me with my partner and then he ‘outed’ me to the whole community.”

Sexual Orientation – (noun) an umbrella term that describes an individual’s enduring romantic and/or physical attraction to those of a particular sex; an aspect of human identity developed in the early stages of a person’s life that is highly resistant to change.

Straight – (noun) (also heterosexual) or an individual’s enduring romantic and/or physical attraction to individuals of the opposite sex.

Gender Identity Terms¹¹¹

Birth Sex – (noun) the gender that an individual was assigned at birth which is usually indicated on his or her original birth certificate.

“Corrected Gender” – (noun) the gender with which a transgender individual identifies. For example, for an MTF transgender woman, female would be her “corrected gender.”

FTM – (noun) a female to male transsexual; that is, an individual assigned the female gender at birth who now identifies as male. Also referred to as a transgender man or transman.

Gender – (noun) the social construction of what society values as the roles and identities of being male or female; assigned at birth to every person; does not always align with gender identity.

¹¹¹ For more information about transition see the World Professional Association for Transgender Health website <http://www.wpath.org/documents/Med%20Nec%20on%202008%20Letterhead.pdf>

Gender Identity – (noun) a person’s inner sense of being male or female, both, or neither, resulting from a combination of genetic and environmental influences.

Gender Roles – (noun) what a given society considers “masculine” or “feminine” behaviors and attitudes; how individuals express their assigned gender or the gender they identify with. For example, a traditional gender role for a man is to be competitive, athletic, and aggressive. A traditional gender role for a woman is to want to have and take care of children. Gender roles in many societies have expanded in recent years for both men and women.

Heterosexism – (noun) the assumption that everyone is or ought to be heterosexual and that a person’s gender identity will be fixed at birth in accordance to his or her birth sex.

Hormone Therapy – (noun) one medical step that a transgender person may take to transition. For transgender men this involves taking testosterone. For transgender women this involves taking estrogen.

MTF – (noun) a male to female transsexual, that is an individual assigned the male gender at birth who now identifies as female. Also referred to as a transgender woman or transwoman.

“Passing” – (verb) a transgender person living in his or her corrected gender without it being readily apparent that he or she is transgender.

Sex (noun) – biological maleness or femaleness; the division of male and female on the basis of reproductive organs.

Sex Reassignment Surgery (SRS) – (noun) refers to any of more than two dozen potential surgeries that a transgender person may undergo. Not all transsexuals choose or can afford SRS. This is a preferred term to “sex change operation.”

Transgender¹¹² – (noun) an umbrella term for people whose gender identity and/or gender expression differs from the sex they were assigned at birth or the stereotypes associated with that sex. The term may include transsexuals and others who do not conform to gender stereotypes. Many people who fit the definition of “transsexual” below, continue to refer to themselves as transgender. Transgender is a gender identity, not a sexual orientation. Thus, like any other man or woman, a transgender person may have a heterosexual, bisexual, or homosexual orientation.

Transition – (verb) the process of changing a gender expression from one gender to another. This process may be very different for different people. It may involve “coming

¹¹² National Center for Transgender Equality, *Teaching Transgender*, January 2009, available at http://transequality.org/Resources/NCTE_Teaching_Transgender.pdf.

out” as transgender to one’s self and to others; living in one’s chosen gender; changing legal documents; and/or accessing necessary medical treatment.

The medical treatment that transgender people receive is specific to each individual. There is no one specific procedure that changes a person’s gender. Rather, medical transition is a process which may include any number of possible treatments such as: hormone therapy, electrolysis, and surgeries such as, hysterectomy, mastectomy, and genital reconstruction.

Transsexual – (noun) is a term used for people who seek to live in a gender different from the one assigned to them at birth. They may seek medical treatment to “transition.” It is important to note, however, that being “transsexual” does not necessarily mean that a person has undergone any particular surgery or treatment.

Transvestite or “Cross-Dresser” (noun) - means an individual who chooses to wear clothes generally associated with the opposite sex. Sometimes this is related to transgender identity, and sometimes it is not. Note, however, that Spanish language articles often refer to transgender people as “travestis” which translates to “transvestites.” “Transvestite” is considered an outmoded term and should not be used by the interviewer unless the applicant himself or herself uses it.

Transphobia (noun) – deeply ingrained feelings of prejudice toward transgender people; the irrational fear, based on myths and stereotypes, of people who are transgender or are perceived to be a transgender person.

Intersex Terms

Intersex¹¹³ (noun, adjective) – Intersex refers to a condition in which an individual is born with a reproductive or sexual anatomy and/or chromosome pattern that does not seem to fit typical definitions of male or female. The conditions that cause these variations are sometimes grouped under the terms “intersex” or “DSD” (Differences of Sex Development). These conditions include androgen insensitivity syndrome, some forms of congenital adrenal hyperplasia, Klinefelter’s syndrome, Turner’s syndrome, hypospadias, and many others. Individuals with this condition were previously referred to as “hermaphrodites,” but this term is considered outmoded and should not be used unless the applicant uses it.

Legal Terms

Civil Union – formal recognition of committed same-sex relationships recognized by some states and foreign countries. Similar to but not the same as marriage. Civil unions confer many of the same rights, benefits, and privileges enjoyed by opposite sex marriages such as estate planning or medical decisions.

¹¹³ For more information on intersex issues, see the Advocates for Informed Choice website, www.aiclegal.org

Domestic Partnership – A civil or legal contract recognizing a partnership or a relationship between two people which confers limited benefits to them by their employer.

Sodomy Laws – laws that prohibit consensual, adult, private, noncommercial sex. Used mostly against gays and lesbians.

Medical Terms Related to HIV

AIDS or Acquired Immunodeficiency Syndrome - is the medical term used for people with the HIV virus who have either experienced certain opportunistic infections (such as PCP pneumonia or Kaposi's Sarcoma), or whose T-cells (infection fighting blood cells) have dropped below 200.

CD4 Count or T-Cell Count – this is a test used to measure the well-being of the immune system of an individual who is HIV-positive. People with healthy immune systems generally have between 800-1200 T-cells. If T-cells drop below 200, a person is considered to have AIDS.

HIV-Positive ¹¹⁴ – means that a person has been exposed to the Human Immunodeficiency Virus (HIV) and developed anti-bodies to the virus. Once a person has tested positive for HIV, he or she will always test positive for HIV, regardless of his or her health.

Not everyone who is HIV-positive has AIDS, but everyone who has AIDS is HIV-positive. HIV is transmitted through the transfer of bodily fluids from an infected individual to an uninfected individual. People are primarily infected with HIV through sexual contact which involves the exchange of bodily fluids; from sharing intravenous drug paraphernalia; during childbirth and breast-feeding; and from receiving contaminated blood transfusions. There is no risk of HIV transmission from casual contact, such as shaking hands or sharing a drinking glass.

¹¹⁴ For more information about HIV see <http://www.gmhc.org/> on the Gay Men's Health Crisis website.

LGBTI-Related Case Law¹¹⁵**2011**

Castro – Martinez v. Holder, 641 F.3d 1103 (9th Cir. 2011) (amended by Castro – Martinez v. Holder, WL 6016162, Dec. 5, 2011 (9th Cir. 2011) (gay man from Mexico)

2010

Todorovic v. Att’y Gen. of the U.S., 621 F.3d 1318 (11th Cir. 2010) (gay man from Serbia)

Ayala v. Att’y Gen. of the U.S., 605 F.3d 941 (11th Cir. 2010) (gay, HIV+ man from Venezuela)

Eneh v. Holder, 601 F.3d 943 (9th Cir. 2010) (man living with AIDS from Nigeria)

Aguilar-Mejia v. Holder, 616 F.3d 699 (7th Cir. August 6, 2010) (HIV+ man from Mex./Guatemala)

2009

N-A-M- v. Holder, 587 F.3d 1052 (10th Cir. 2009) (M to F transsexual woman from El Salvador)

Martinez v. Holder, 557 F.3d 1059 (9th Cir. 2009) (gay man from Guatemala)

Pangilinan v Holder, 568 F.3d 708 (9th Cir. 2009) (transsexual woman from the Philippines)

Manani v. Filip, 552 F.3d 894 (8th Cir. 2009) (HIV+ woman from Kenya)

2008

Razkane v. Holder, 562 F.3d 1283 (10th Cir. 2008) (gay man from Morocco)

Bromfield v. Mukasey, 543 F.3d 1071 (9th Cir. 2008) (gay man from Jamaica)

Eke v. Mukasey, 512 F.3d 372 (7th Cir. 2008) (gay man from Nigeria)

Bosede v. Mukasey, 512 F.3d 946 (7th Cir. 2008) (HIV+ man from Nigeria)

Ali v. Mukasey, 529 F.3d 478 (2nd Cir. 2008) (gay man from Guyana)

Kadri v. Mukasey, 543 F.3d 16 (1st Cir. 2008) (gay man from Indonesia)

¹¹⁵ In descending order by year.

2007

Jean-Pierre v. Att'y Gen. of the U.S., 500 F.3d 1315 (11th Cir. 2007) (HIV+ man from Haiti)

Morales v. Gonzales, 478 F.3d 972 (9th Cir. 2007) (transgender woman from Mexico)

Nabulwala v. Gonzales, 481 F.3d 1115 (8th Cir. 2007) (lesbian woman from Uganda)

Shahinaj v. Gonzales, 481 F.3d 1027 (8th Cir. 2007) (gay man from Albania)

Ixtlilco-Morales v. Keisler, 507 F.3d 651 (8th Cir. 2007) (gay man from Mexico)

Moab v. Gonzales, 500 F.3d 656 (7th Cir. 2007) (gay man from Liberia)

Lavira v. Att'y Gen. of the U.S., 478 F.3d 158 (3d Cir. 2007) (HIV+ man from Haiti)

Joaquin-Porras v. Gonzales, 435 F.3d 172 (2d Cir. 2006) (gay man from Costa Rica)

2006

Ornelas Chavez v. Gonzalez, 458 F.3d 1052 (9th Cir. 2006) (transgender woman from Mexico)

Maldonado v. Att'y Gen. of the U.S., 188 Fed. Appx. 101, 103 (3d Cir. 2006) (unpublished)(gay man from Argentina)

2005

Salkeld v. Gonzales, 420 F.3d 804 (8th Cir. 2005) (gay man from Peru)

Boer-Sedano v. Gonzales, 418 F.3d 1082 (9th Cir. 2005) (gay man with AIDS from Mexico)

Karouni v. Gonzales, 399 F.3d 1163 (9th Cir. 2005) (gay, HIV+ man from Lebanon)

Kimumwe v. Gonzales, 431 F.3d 319 (8th Cir. 2005) (gay man from Zimbabwe)

Galicia v. Ashcroft, 396 F.3d 446 (1st Cir. 2005) (gay man from Guatemala)

2004

Reyes-Reyes v. Ashcroft, 384 F.3d 782 (9th Cir. 2004) (gay man with female sexual identity from El Salvador)

Gebremaria v. Ashcroft, 378 F.3d 734 (8th Cir. 2004) (HIV+ woman from Ethiopia)

Molathwa v. Ashcroft, 390 F.3d 551 (8th Cir. 2004) (gay man Botswana)

2003

Amanfi v. Ashcroft, 328 F.3d 719 (3rd Cir. 2003) (man imputed to be gay from Ghana)

1990-2000

Hernandez-Montiel v. INS, 225 F.3d 1084 (9th Cir. 2000) (gay man with female sexual identity from Mexico)

Pitcherskaia v. INS, 118 F.3d 641 (9th Cir. 1997) (lesbian woman from Russia)

Matter of Toboso-Alfonso, 20 I&N Dec. 819 (BIA 1990) (gay man from Cuba)

SUPPLEMENT A – REFUGEE AFFAIRS DIVISION

The following information is specific to the Refugee Affairs Division. Information in each text box contains division-specific procedures and guidelines related to the section from the Training Module referenced in the subheading of the supplement text box.

REQUIRED READING

Medical Examination of Aliens – Removal of Human Immunodeficiency Virus (HIV) Infection from Definition of Communicable Disease of Public Health Significance.

Centers for Disease Control and Prevention (CDC) and U.S. Department of Health and Human Services (HHS). 74 FR 56547-62 (Nov. 2, 2009). Final rule, January 4, 2010, available at <http://www.cdc.gov/immigrantrefugeehealth/laws-regs/hiv-ban-removal/final-rule.html>.

ADDITIONAL RESOURCES

See Additional Resources listed at the beginning of this module.

SUPPLEMENTS

There are no RAD supplements for this training module.

SUPPLEMENT B – ASYLUM DIVISION

The following information is specific to the Asylum Division. Information in each text box contains division-specific procedures and guidelines related to the section from the Training Module referenced in the subheading of the supplement text box.

REQUIRED READING

See Required Reading listed at the beginning of this module.

ADDITIONAL RESOURCES

See Additional Resources listed at the beginning of this module.

SUPPLEMENTS

ASM Supplement – 1

Legal Analysis – One-Year Filing Deadline

This module does not alter the legal criteria used to evaluate the one-year filing deadline. There are, however, some factual scenarios that may arise specifically in the context of LGBTI claims that are useful to discuss within the legal framework of established guidance on the one-year filing deadline.

Changed Circumstances Specific to LGBTI Applicants

Changed Country Conditions

As with any other type of asylum claim, if conditions in the applicant's country of origin have changed substantially, this may form the basis for an exception to the one year filing deadline.¹¹⁶ For example, a fundamentalist government may have just come to power and instituted criminal sanctions for consensual homosexual activity.

“Coming Out” as LGBTI

¹¹⁶ See Victoria Neilson and Aaron Morris, *The Gay Bar: The Effect of the One-Year Filing Deadline on Lesbian, Gay, Bisexual, Transgender, and HIV-Positive Foreign Nationals Seeking Asylum or Withholding of Removal*, 8 *New York City Law Review* 233 (Summer 2005), available at <http://www.asylumlaw.org/docs/sexualminorities/GayBar091798.pdf>.

In many instances an individual does not feel comfortable accepting himself or herself as LGBTI until he or she is in a country where the applicant can see that it is possible to live an open life as an LGBTI person. If an individual has recently “come out” as lesbian, gay, bisexual, or transgender, this may qualify as an exception based on changed circumstances.

Recent Steps in Gender Transitioning

As noted above, transitioning from the gender assigned at birth to the gender with which the applicant identifies is a process which may involve many steps. At some point during this process, the applicant may realize that he or she could no longer “pass” as his or her birth gender and therefore may become more fearful of returning to his or her country of origin. For example, a transgender woman (MTF) may have recently had breast implants which would now make it impossible to “pass” as male.

Recent HIV Diagnosis

Some individuals will apply for asylum **only** after they have been diagnosed with HIV. For some applicants, the claim will be based wholly on his or her HIV status and the fear of persecution upon return to the country of origin. For other individuals who may also be LGBT, the HIV diagnosis may be “the last straw,” causing the applicant to realize that returning to the country of origin would be a “death sentence.” Many countries do not have confidentiality laws protecting HIV status, so some LGBT people fear that their HIV status could become widely known. In many countries, being HIV-positive is equated with being LGBT, and so their LGBT identity would become known.

In *Manini v. Filip* 552 F.3d 894, (8th Cir. 2009), a Kenyan woman entered the U.S. in October 2001; was diagnosed with HIV in January 2003, and filed affirmatively for asylum in May 2004. The Asylum Office accepted her recent HIV diagnosis as a “changed circumstance,” but found that the 16 month delay in filing after the diagnosis fell outside the “reasonable period of time” required by law. The BIA upheld the decision and the Eight Circuit found that it lacked jurisdiction to review the one year issue. See also *Ixtlilco-Morales v. Keisler*, 507 F.3d 651 (8th Cir. 2007), where the Eight Circuit also accepted the applicant’s recent HIV diagnosis as a changed circumstance but upheld the BIA and IJ decisions to deny the case on other grounds.

The following are some suggested lines of questioning when adjudicating a claim that involves the applicant’s HIV status:¹¹⁷

- When did you learn that you are HIV-positive?

¹¹⁷ *Id.*

- How did you feel when you received your diagnosis?
- Does your family know that you're HIV-positive?
- How did they react?
- Have you experienced any HIV-related symptoms?
- Have you ever been hospitalized because of HIV?
- Are you taking any HIV-related illnesses?
- When did you begin taking them?
- Do you experience any side effects from the medications?
- Have you ever seen a mental health provider, because of your diagnosis?

Extraordinary Circumstances Specific to LGBTI

HIV-Positive Status

Applicants who are HIV-positive may exhibit life-threatening symptoms and require hospitalization. An individual may qualify for a one year exception based upon serious illness. Additionally, many individuals living with HIV experience extreme depression and other mental health issues as a result of their diagnosis which may affect the applicant's ability to timely file and/or may affect what period of time is "reasonable" to file after an HIV diagnosis.

PTSD or Other Mental Health Issues

As with any other asylum seekers, LGBTI applicants may suffer from Post Traumatic Stress Disorder (PTSD) or other mental health issues which make it difficult to file within a year of entry into the United States. LGBTI individuals who suffer from internalized homophobia and transphobia, or who have been subjected to coercive mental health treatment to "cure" them in their home countries, may find it especially difficult to access the mental health treatment that they may need to proceed with their applications.

Many LGBTI individuals will have fled to the United States leaving behind a partner. Under current immigration law, there is no way for a refugee or asylee to sponsor a same-sex partner for immigration benefits, so the applicant may also be dealing with the possible permanent loss of a partner by coming to the United States.

Example: The applicant, a transgender male from Honduras, suffered severe and continuous sexual and other physical abuse for many years as well as familial and societal discrimination and ostracism on account of his sexual orientation. He last entered the US in 2003 but did not file for asylum until 2009. The applicant credibly explained that he felt isolated and was afraid to come forward sooner.

because he was ashamed and fearful of ostracism by friends and colleagues and society in general. According to medical reports he submitted, he suffered from PTSD as a result of the years of trauma he suffered in Honduras. His PTSD can be seen as an extraordinary circumstance related to the delay in filing during the year after he arrived; the 5-year delay afterwards may also be considered reasonable based on that medical condition.¹¹⁸

Severe Family or Community Opposition or Isolation

Many LGBTI people who arrive in the United States stay with extended family members or with other members of their community. Being surrounded by family or community members may make it impossible for the LGBTI applicant to timely file for fear that if the family member learns of the applicant's LGBTI identity, he or she will be thrown out of the home, the applicant's family at home will be told, and/or the applicant and his or her family will be disgraced.

Extreme isolation within a particular immigrant community may qualify as an exception. It is common for foreign nationals who have newly arrived in the United States to be steered to immigration attorneys from within their own cultural community. While some applicants may be aware that they can seek asylum in the United States based on their political beliefs or religion, many foreign nationals (and, indeed, many U.S. immigration attorneys) are not aware that sexual orientation or transgender identity might form the basis of an asylum claim.¹¹⁹ This problem may be compounded for LGBTI individuals who come to the U.S. and immediately take up residence in an immigrant community with people from their own country. Often an LGBTI applicant would be fearful of disclosing his or her LGBTI status to any community member, and so might be informed by an immigration attorney that his or her only option to legalize would be to marry.

For example, a gay Tunisian man who was admitted to the United States on a non-immigrant visa is helped by men from Egypt and other Arab immigrant communities to find housing and employment. These men are not aware that the applicant is gay and tell him that asylum is generally not a means for legalizing one's status in the United States. It is not until the applicant meets a gay man from the United States that he becomes aware that he may be a refugee under U.S. law.

¹¹⁸ See *AOBTC One-Year Filing Deadline lesson plan, Section VII, Credibility, Subsection B, Totality of the Circumstances, Subsection c, Extraordinary Circumstances.*

¹¹⁹ See *Explore All Possible Grounds in Section 6, Interview Considerations, and Claims Not Initially Put Forward in Section 7, Burden of Proof and Evidence above.*

SUPPLEMENT C – INTERNATIONAL OPERATIONS DIVISION

The following information is specific to the Refugee Affairs Division. Information in each text box contains division-specific procedures and guidelines related to the section from the Training Module referenced in the subheading of the supplement text box.

REQUIRED READING

See Required Reading listed at the beginning of this module and Required Reading in the RAD Supplement.

ADDITIONAL RESOURCES

See Additional Resources listed at the beginning of this module.

SUPPLEMENTS

There are no IO supplements for this module.

Overview of Refugee Inadmissibility Grounds – Supplement to I-602 Refugee Waiver Training

International Operations Division Training
December 2014



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Field Performance Objectives

- Officers will be able to identify the grounds of inadmissibility in INA § 212(a) that apply to principal and derivative refugee applicants, including I-730 derivative refugee beneficiaries.
- Officers will be able to recognize the inadmissibility grounds that:
 - do not apply to refugees and their derivatives;
 - Are non-waivable, mandatory bars to refugee admissibility;
 - May be waived on humanitarian grounds, family unity reasons, OR in the public interest of the United States (INA § 207(c)(3). See accompanying Form I-602 training presentation.



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Please Note:

This presentation is only an Overview of the refugee inadmissibility grounds and should be reviewed in conjunction with the other training materials on principal refugee and derivative refugee adjudications generally.



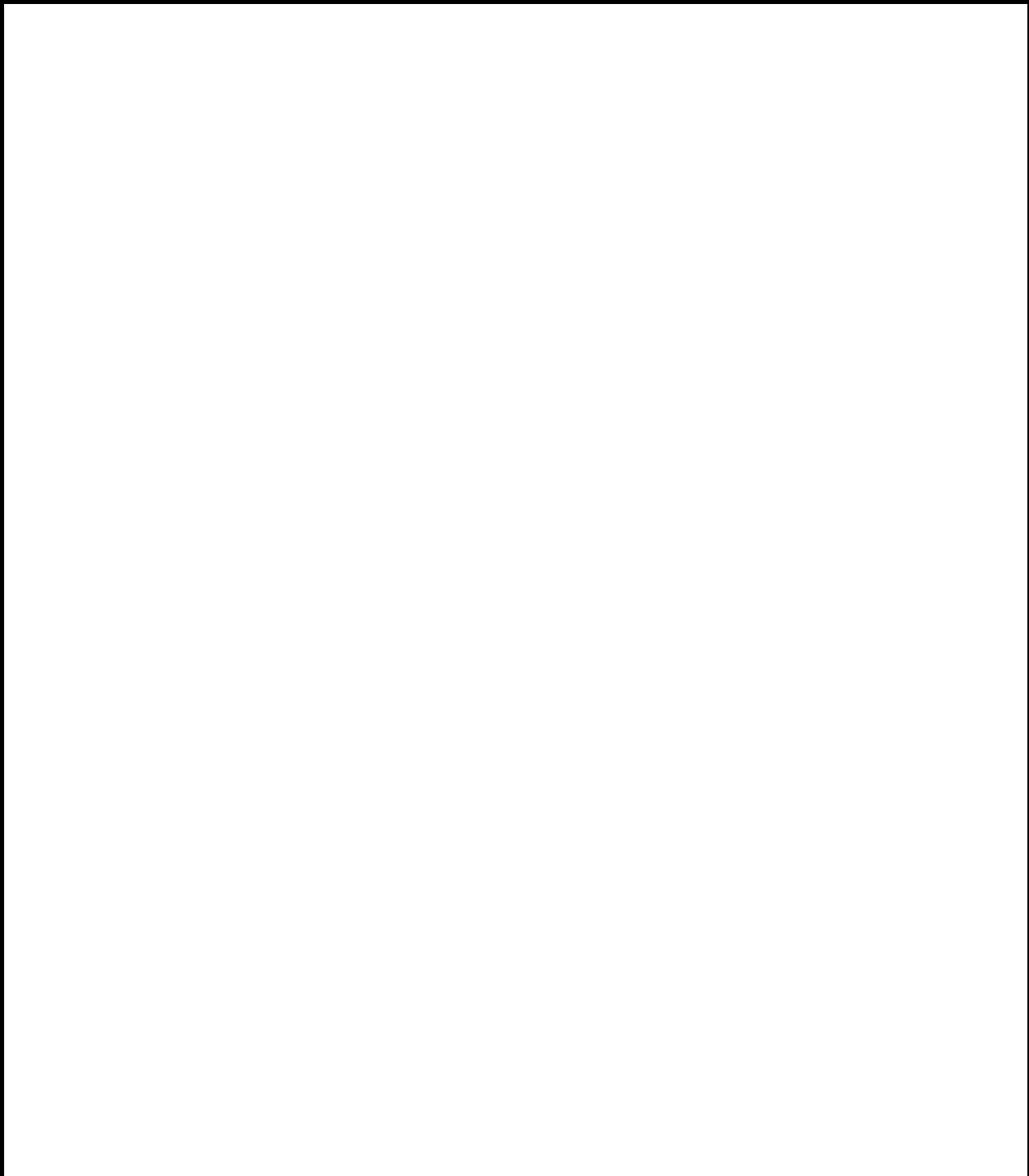
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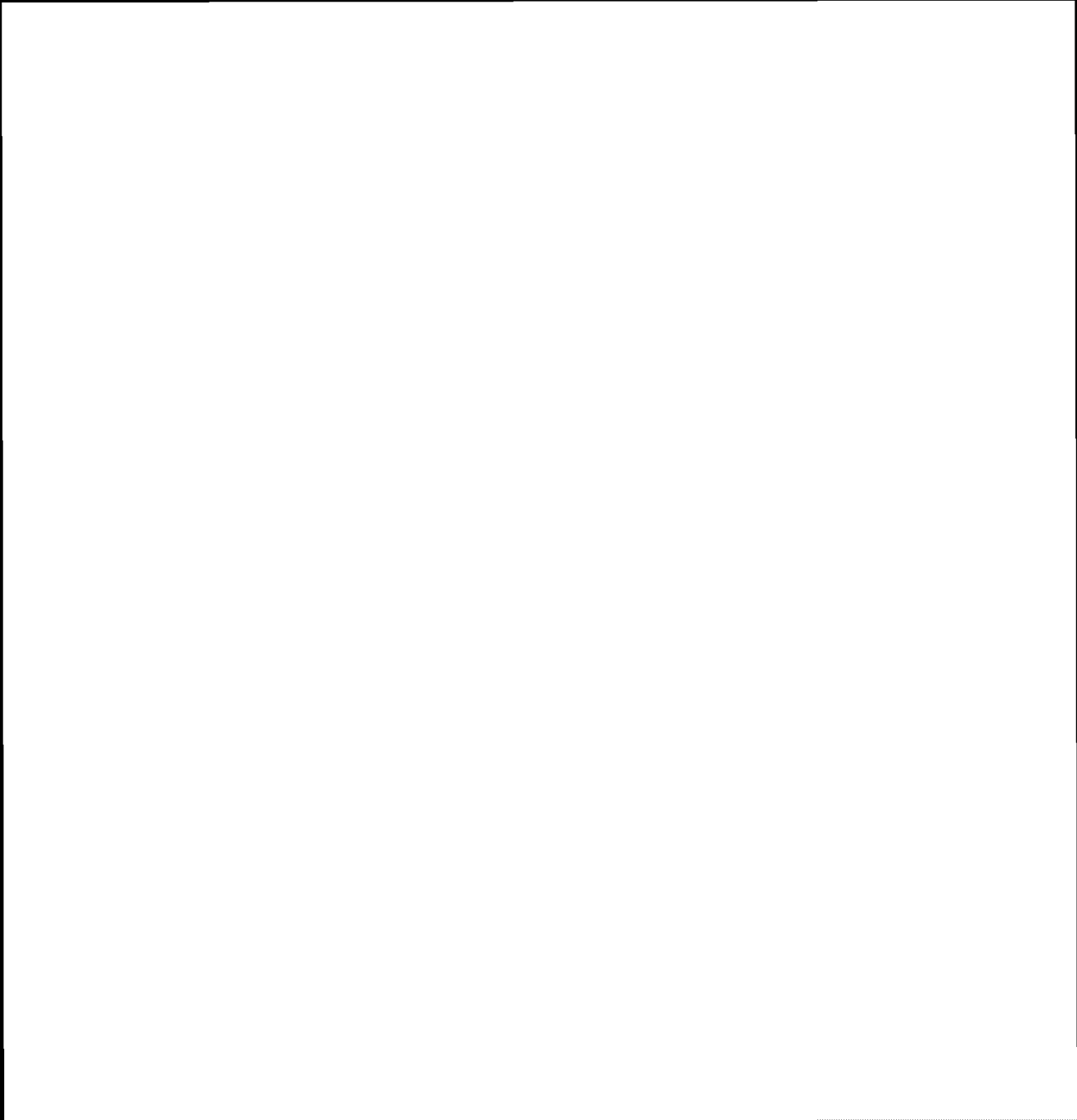
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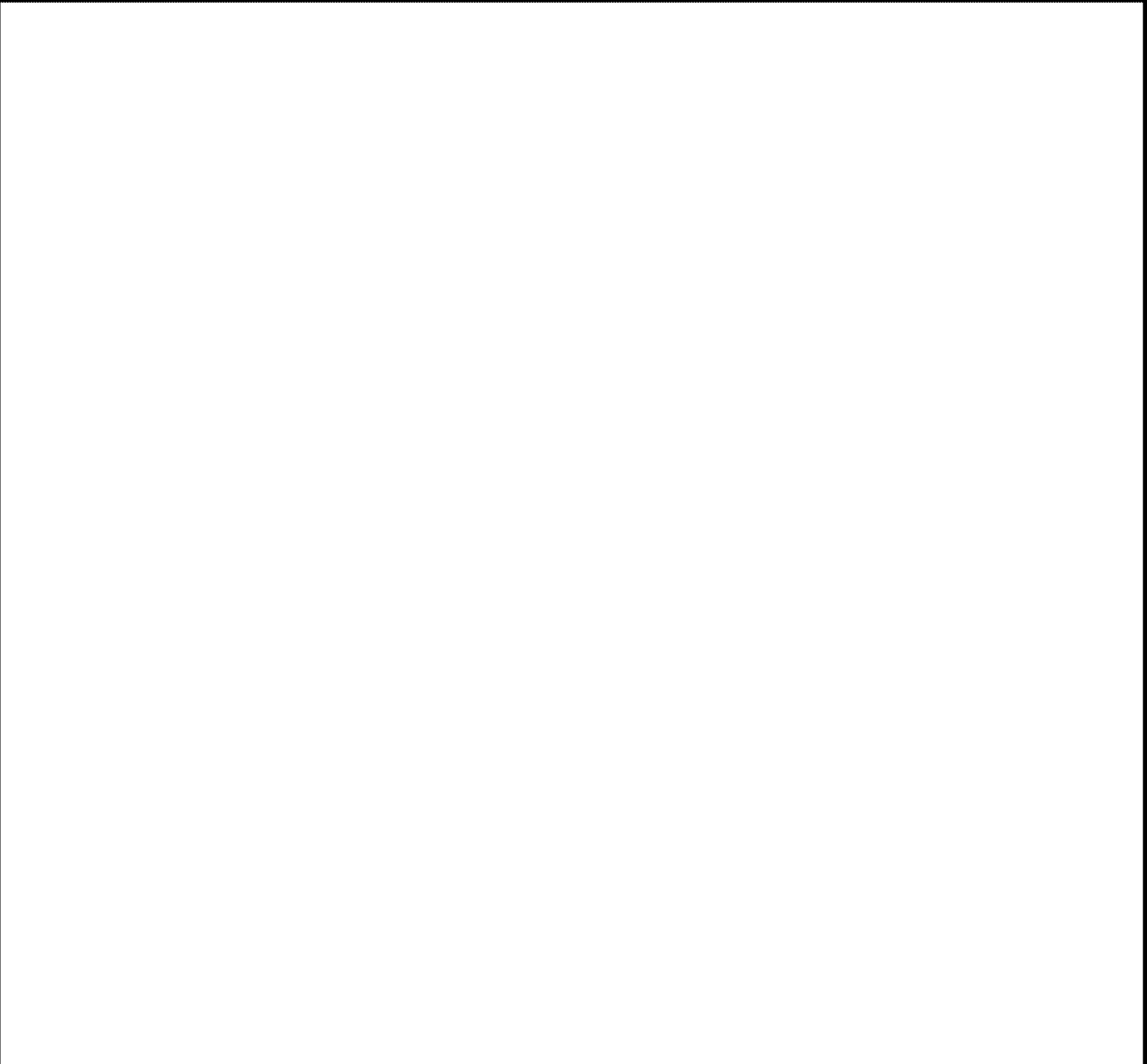
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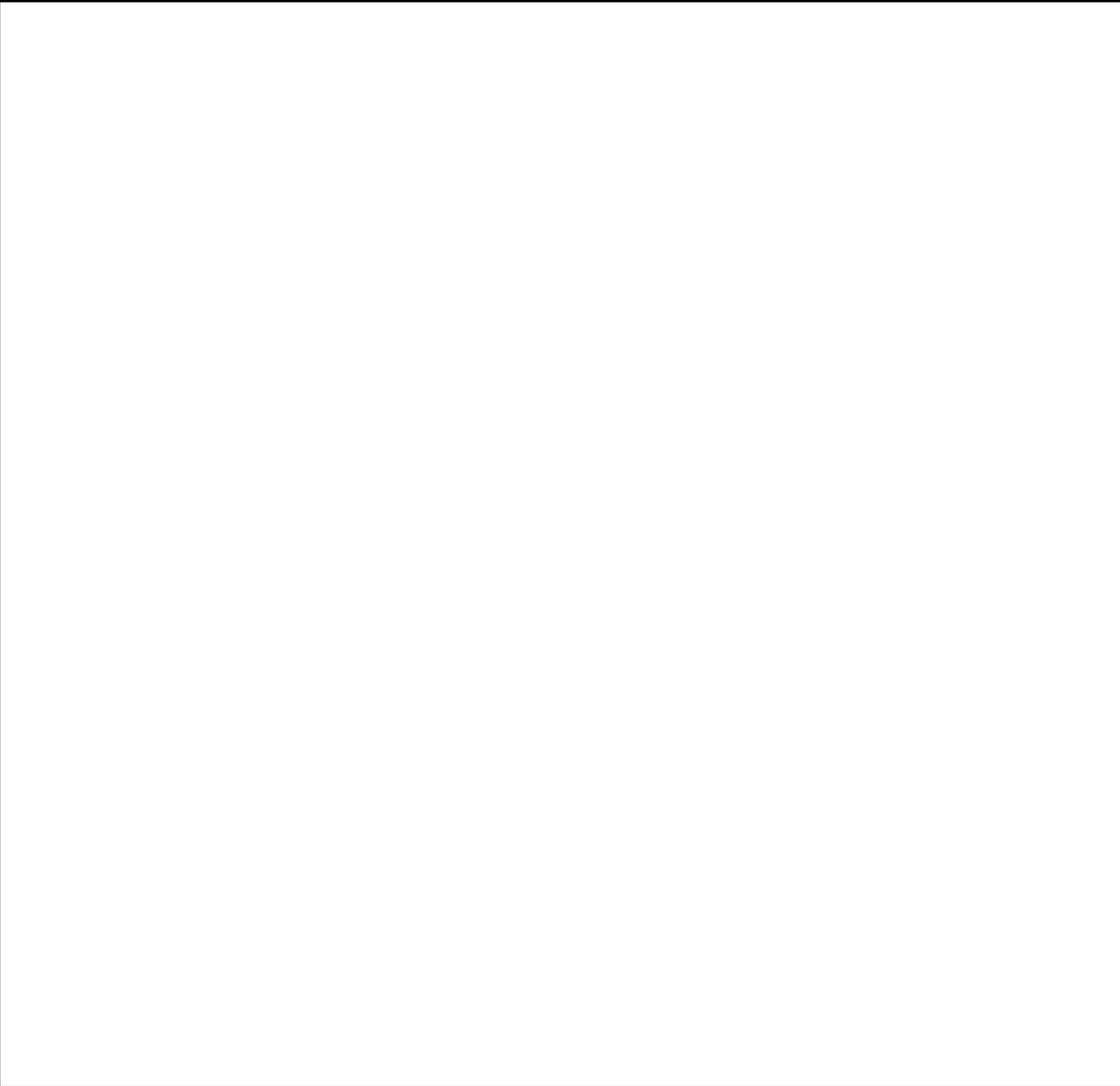
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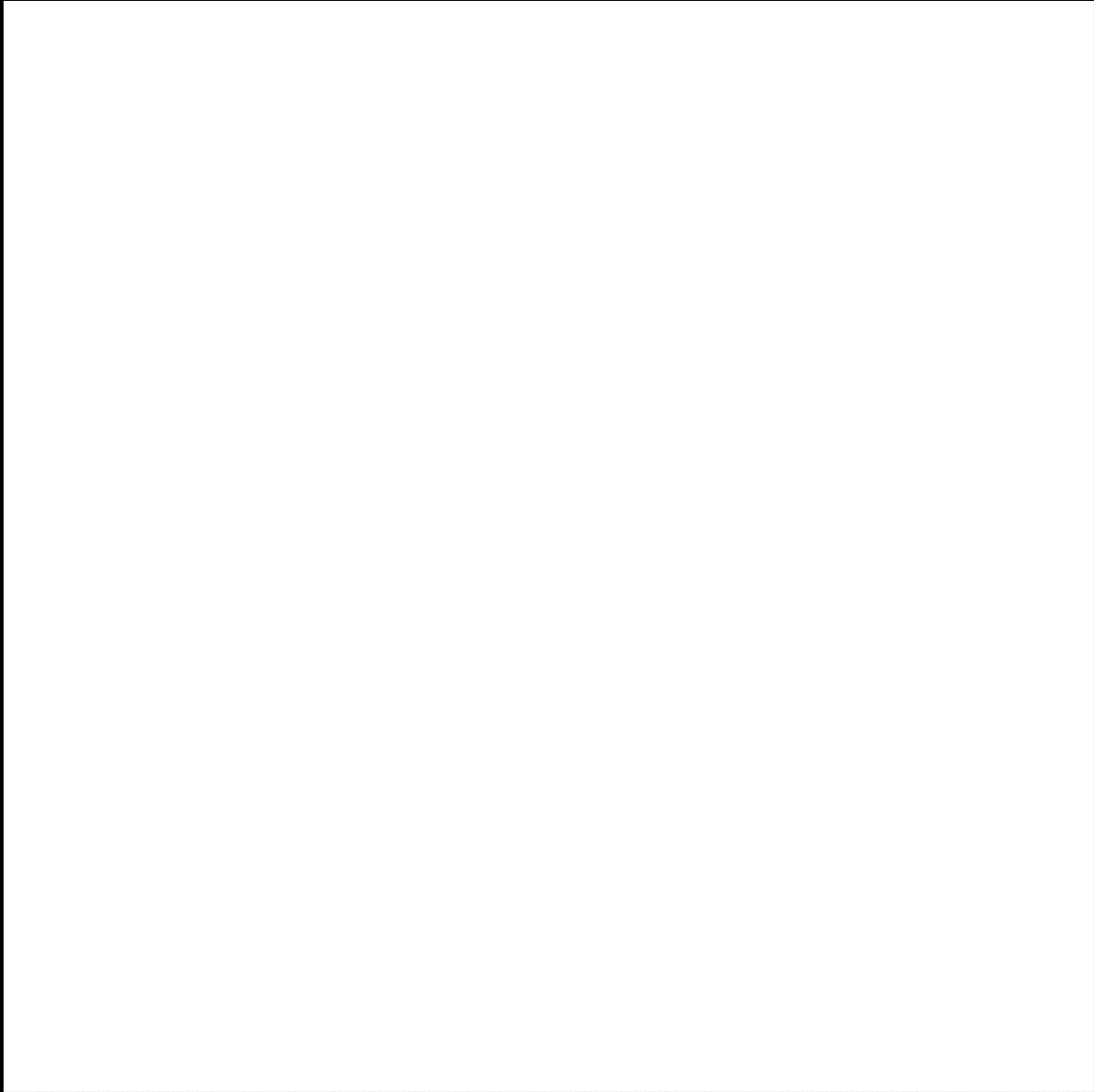
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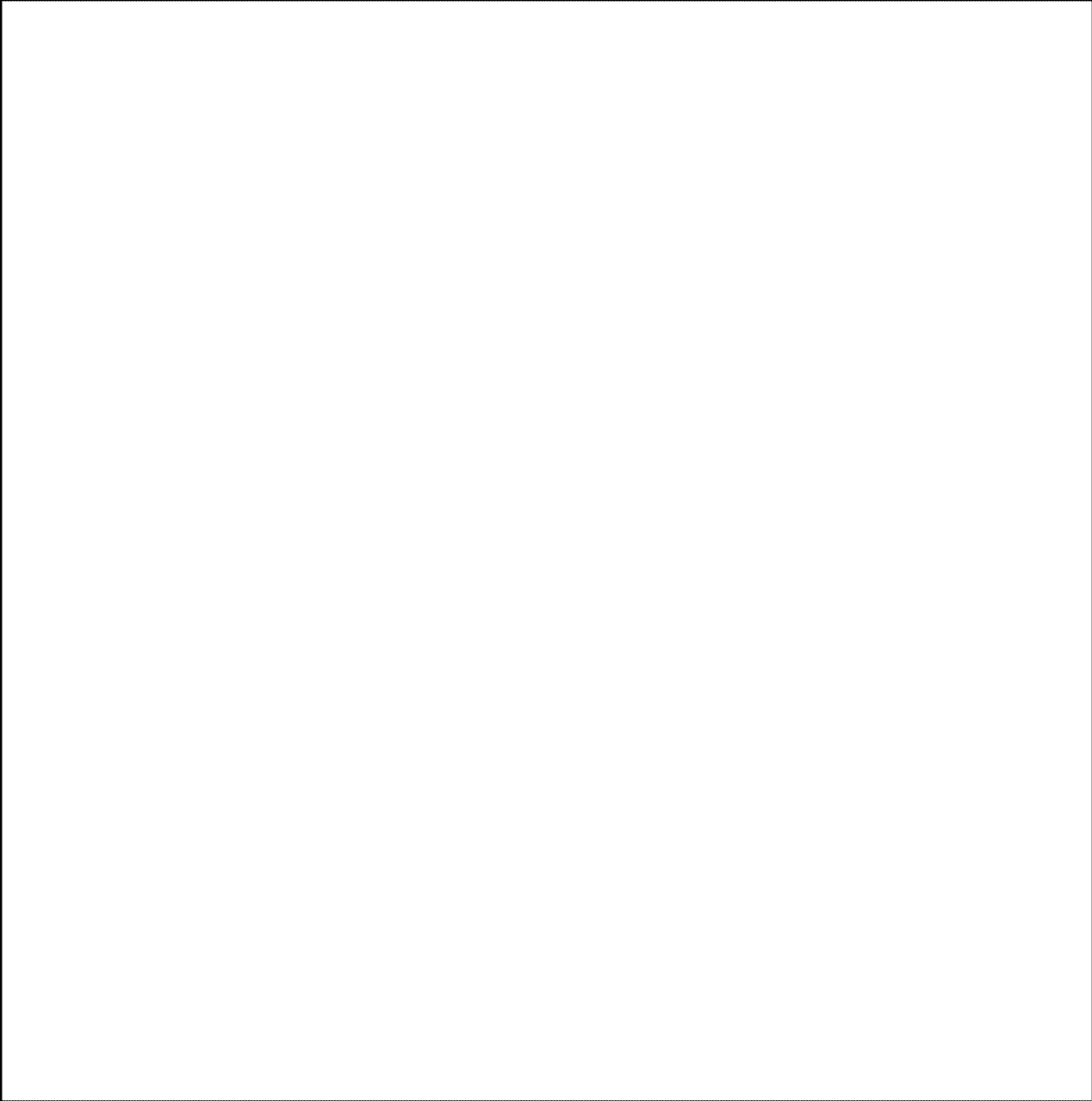


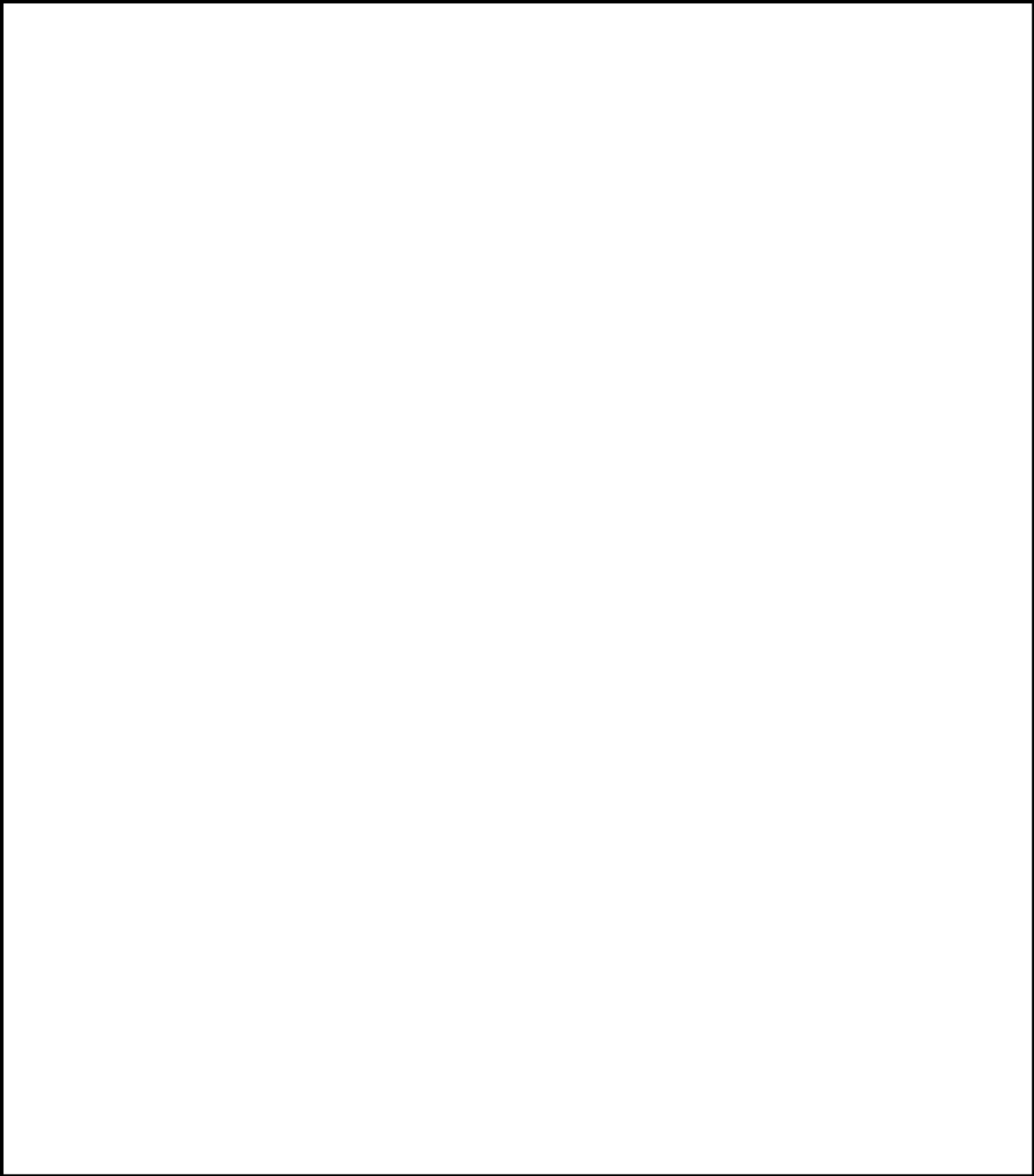
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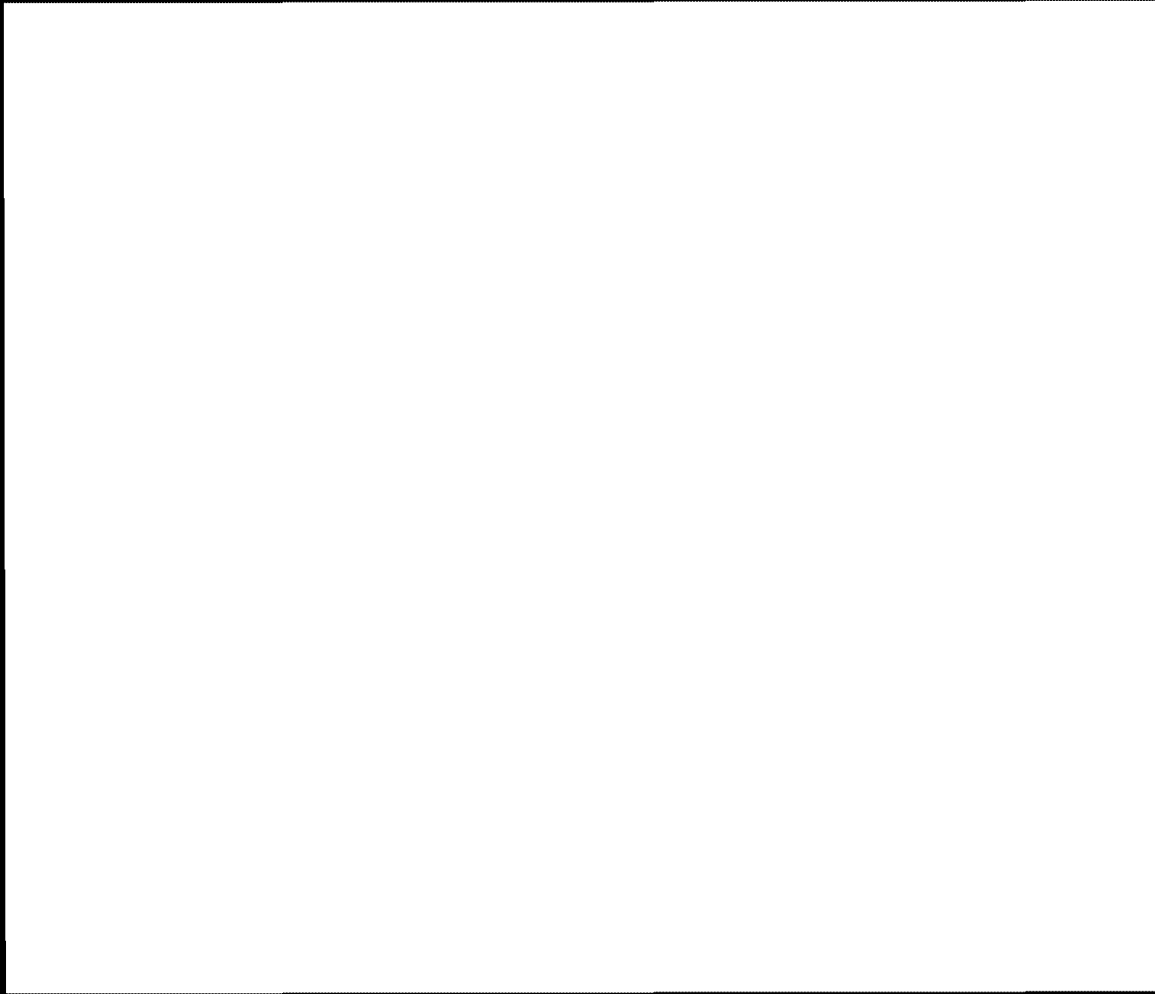
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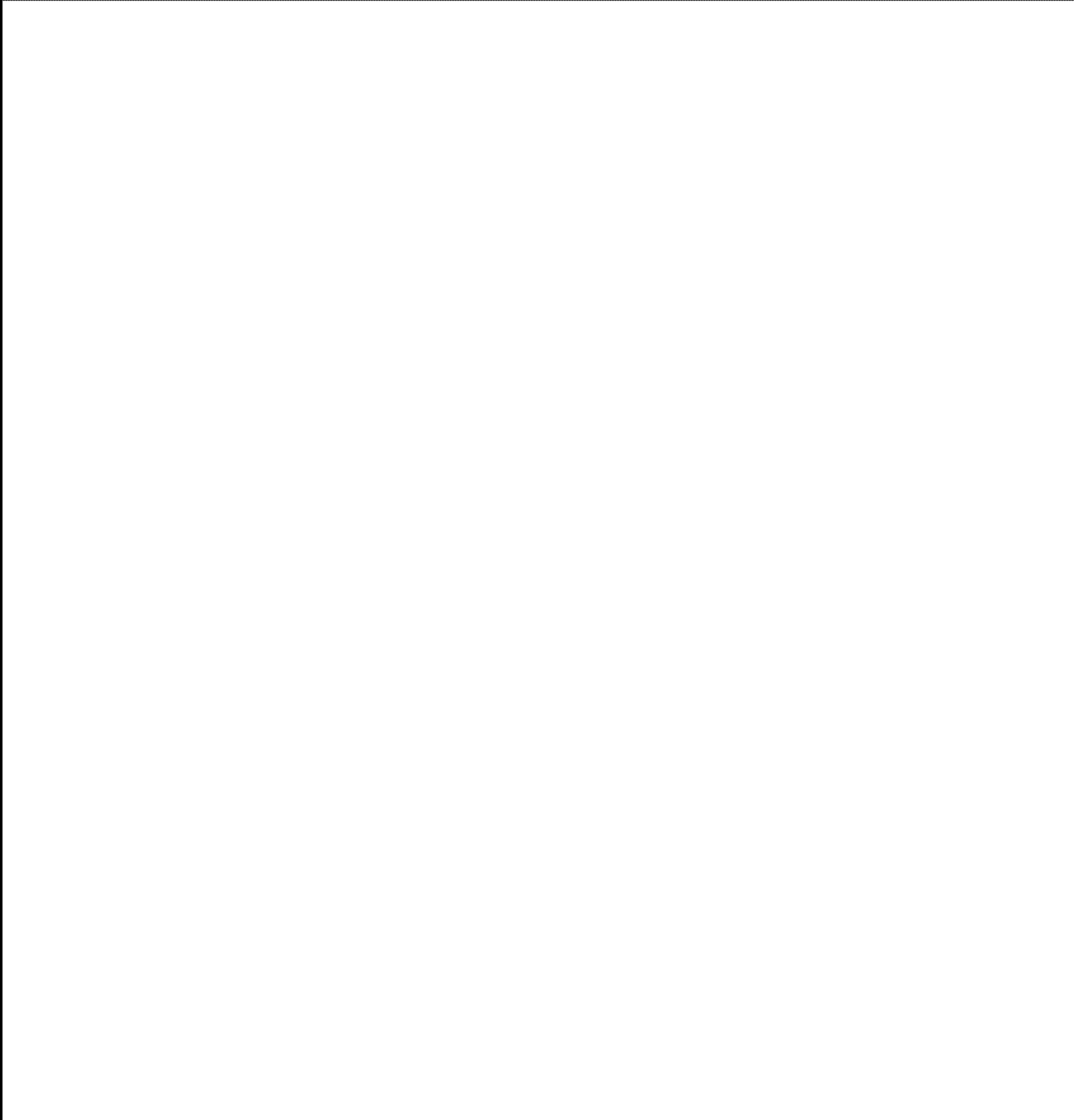




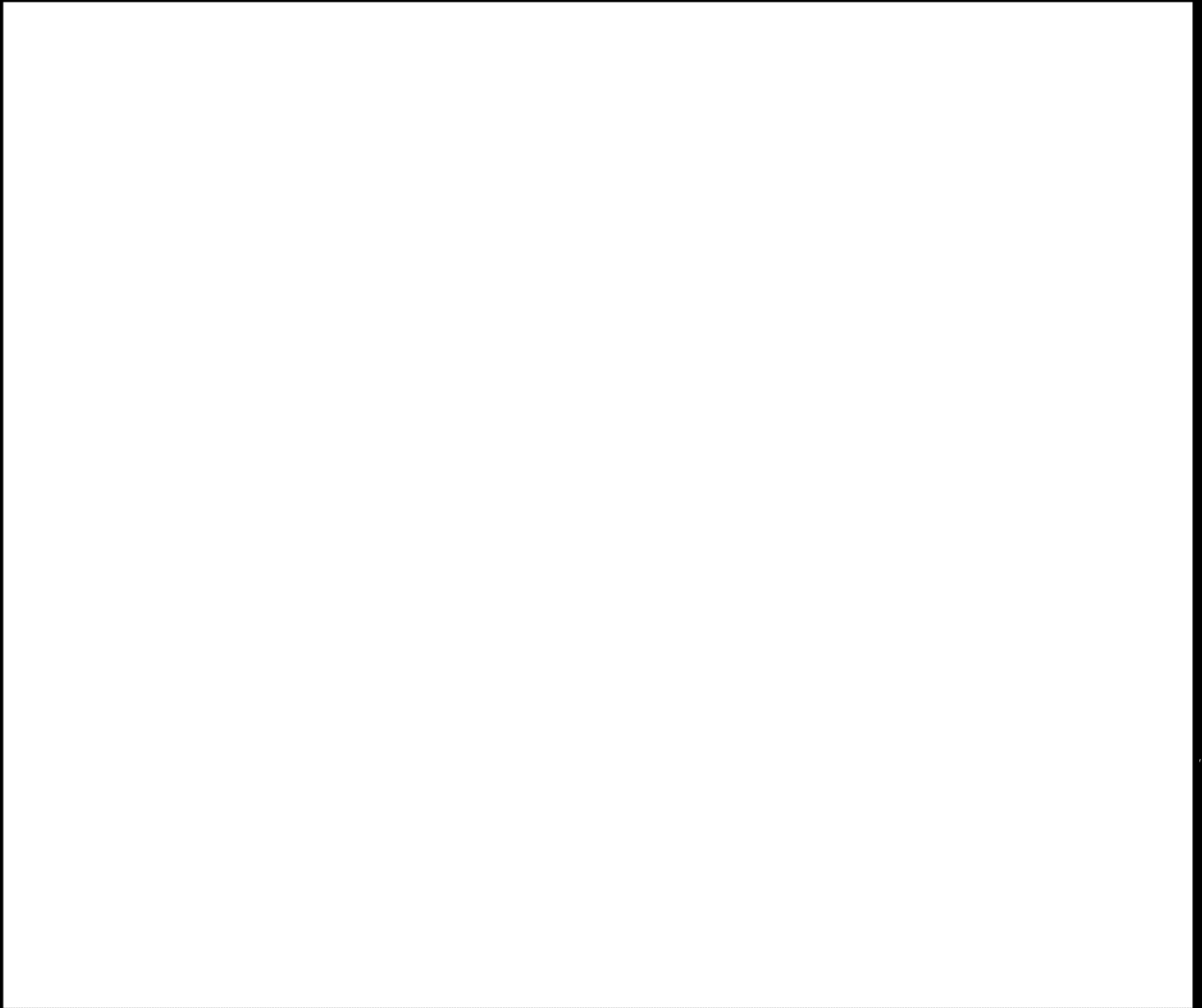
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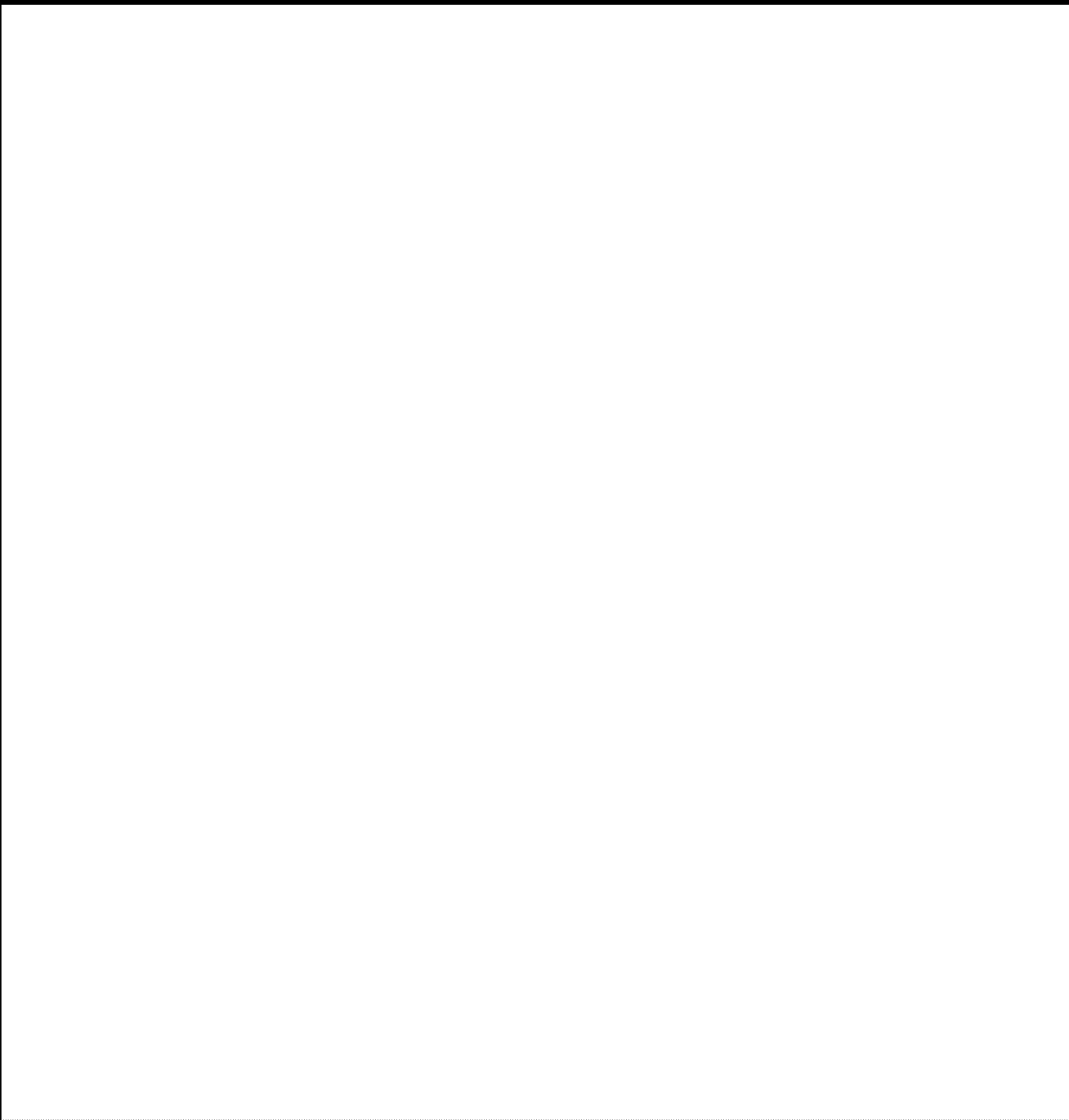
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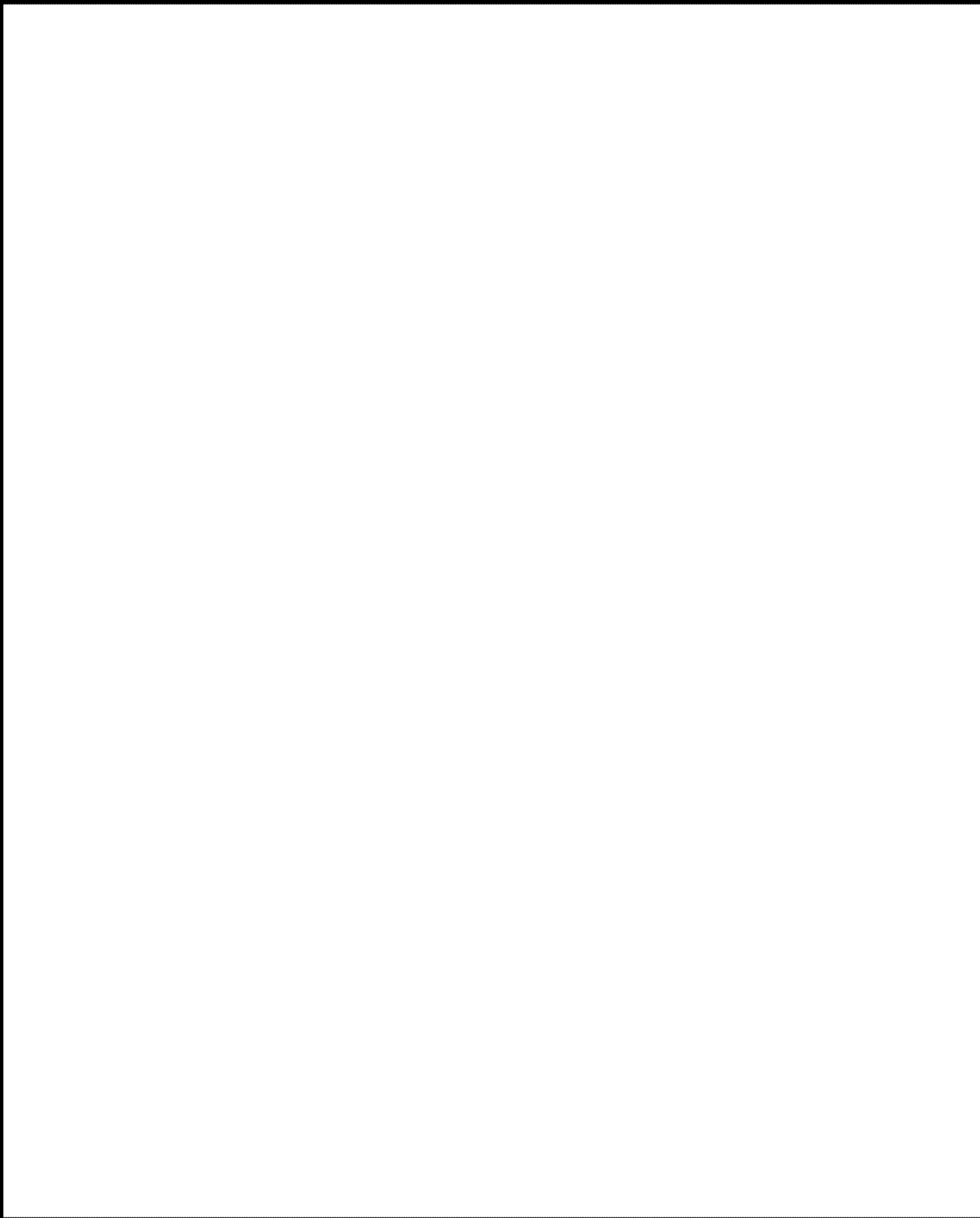


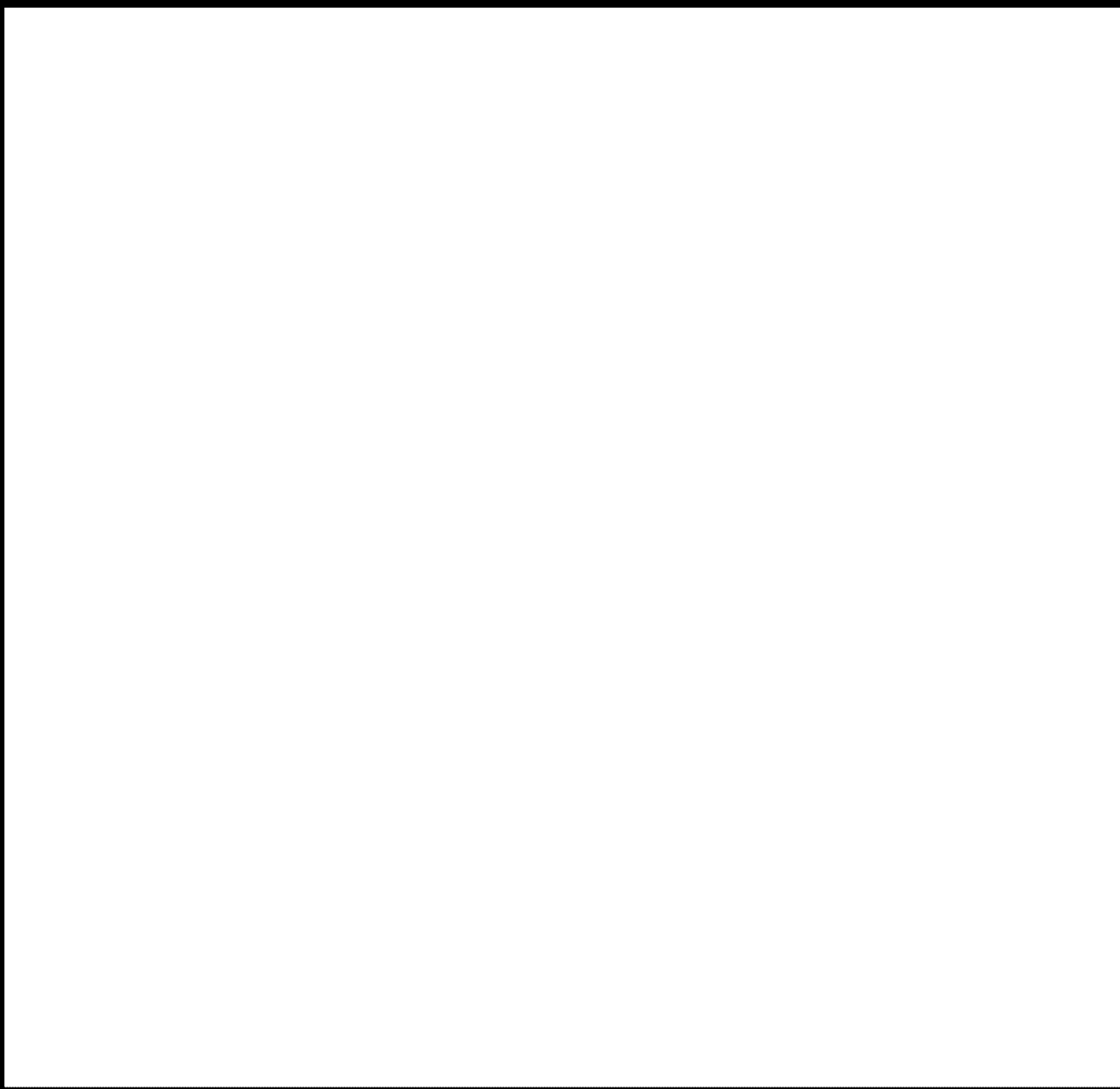
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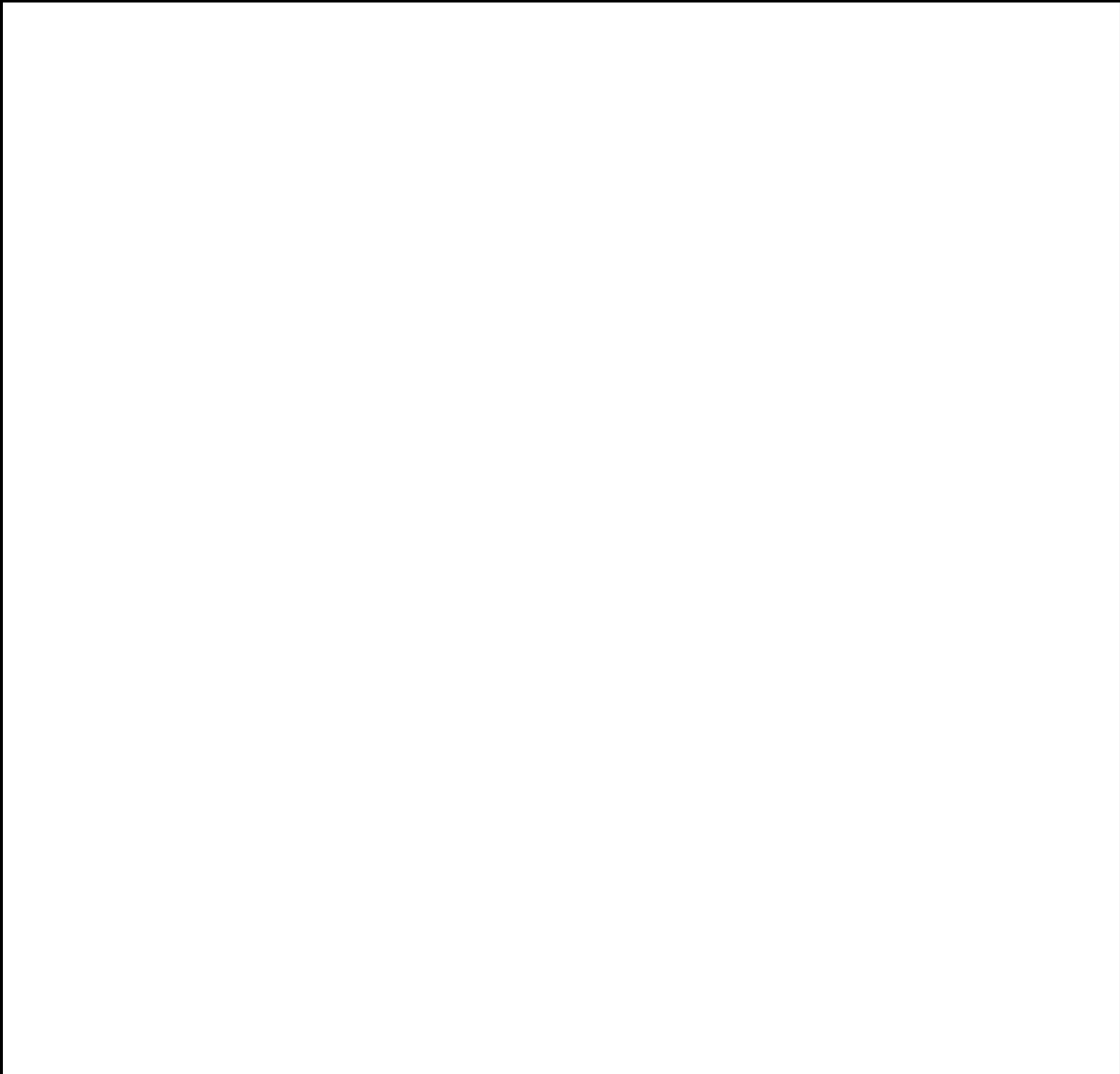


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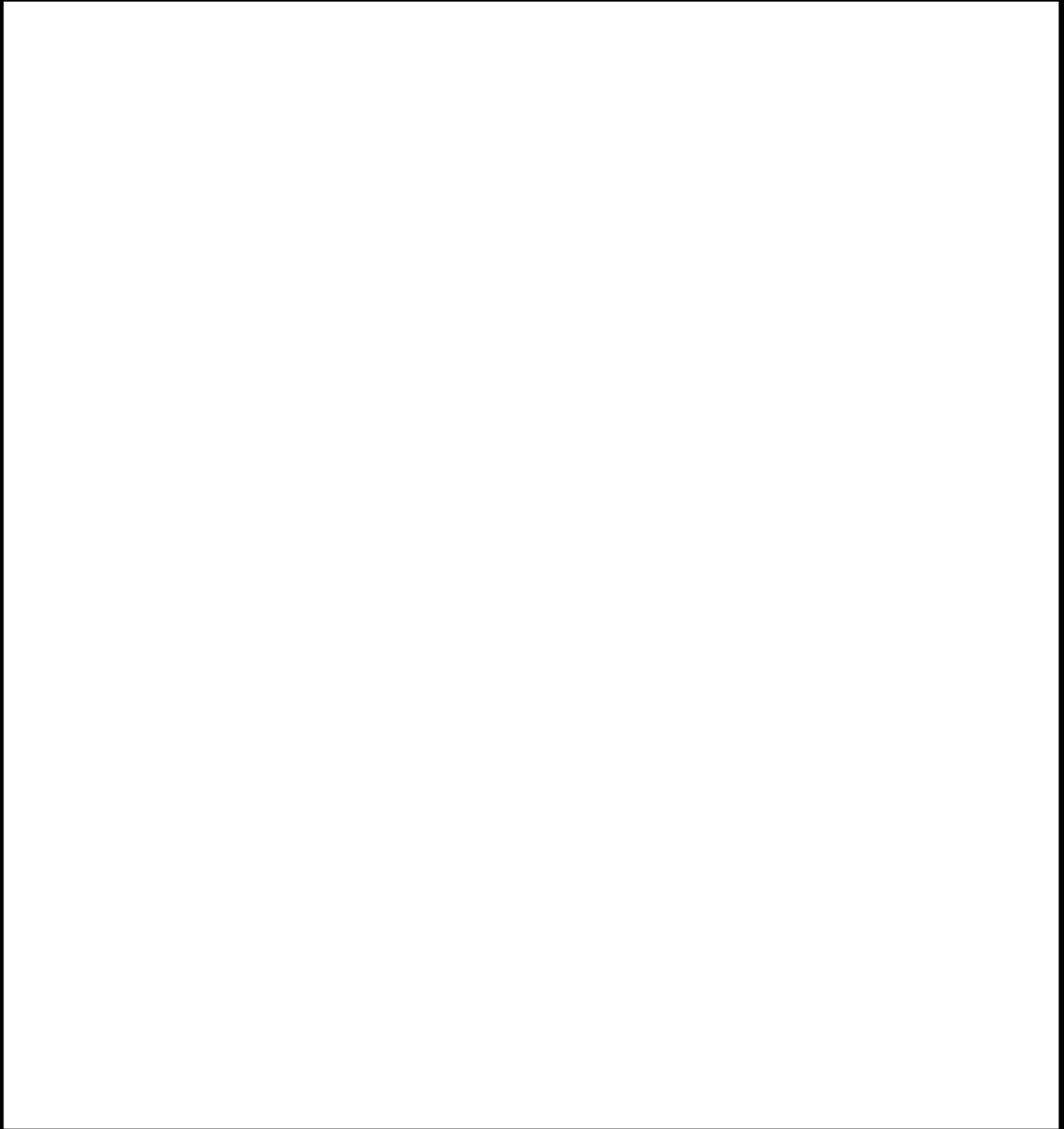
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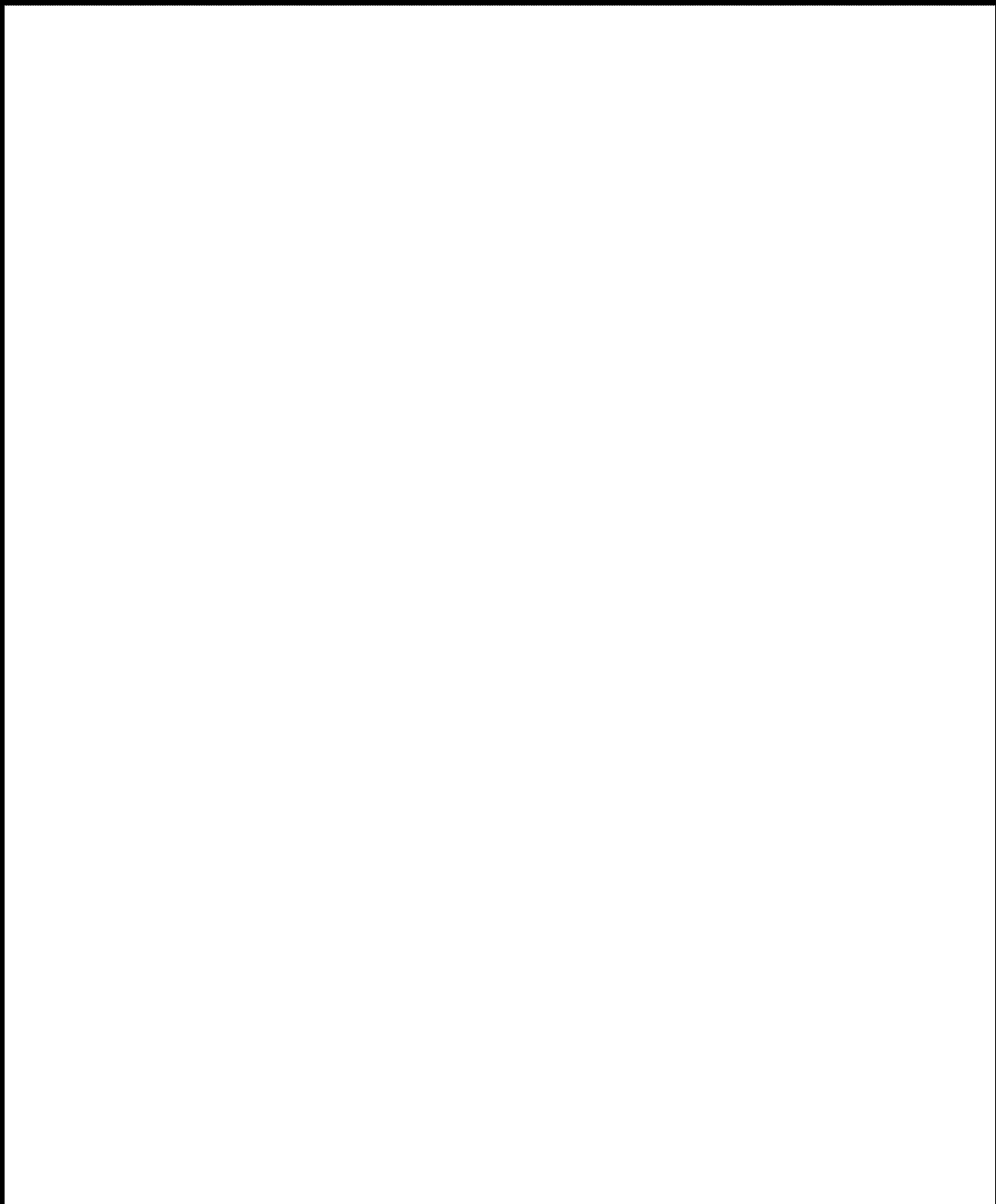


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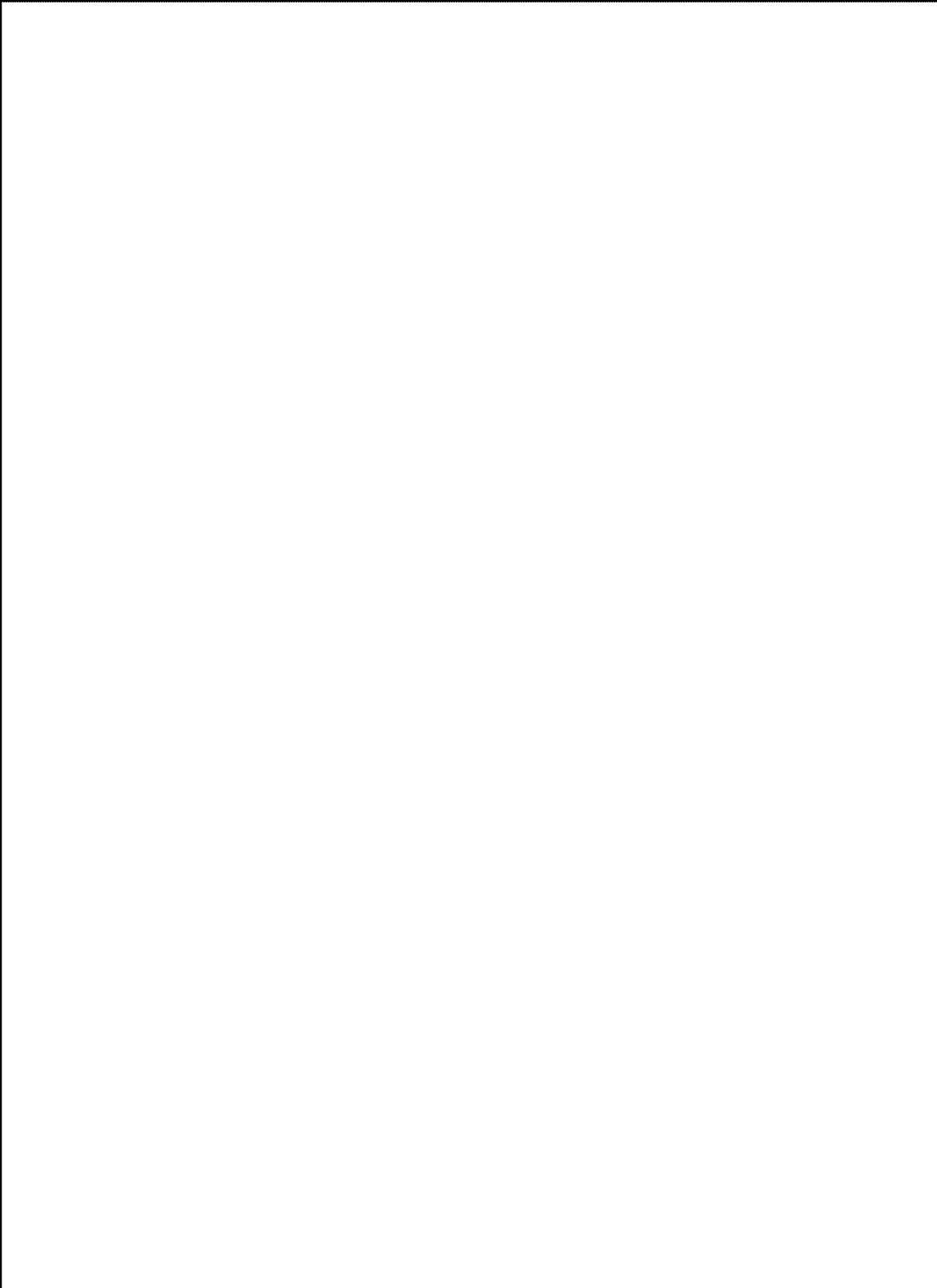


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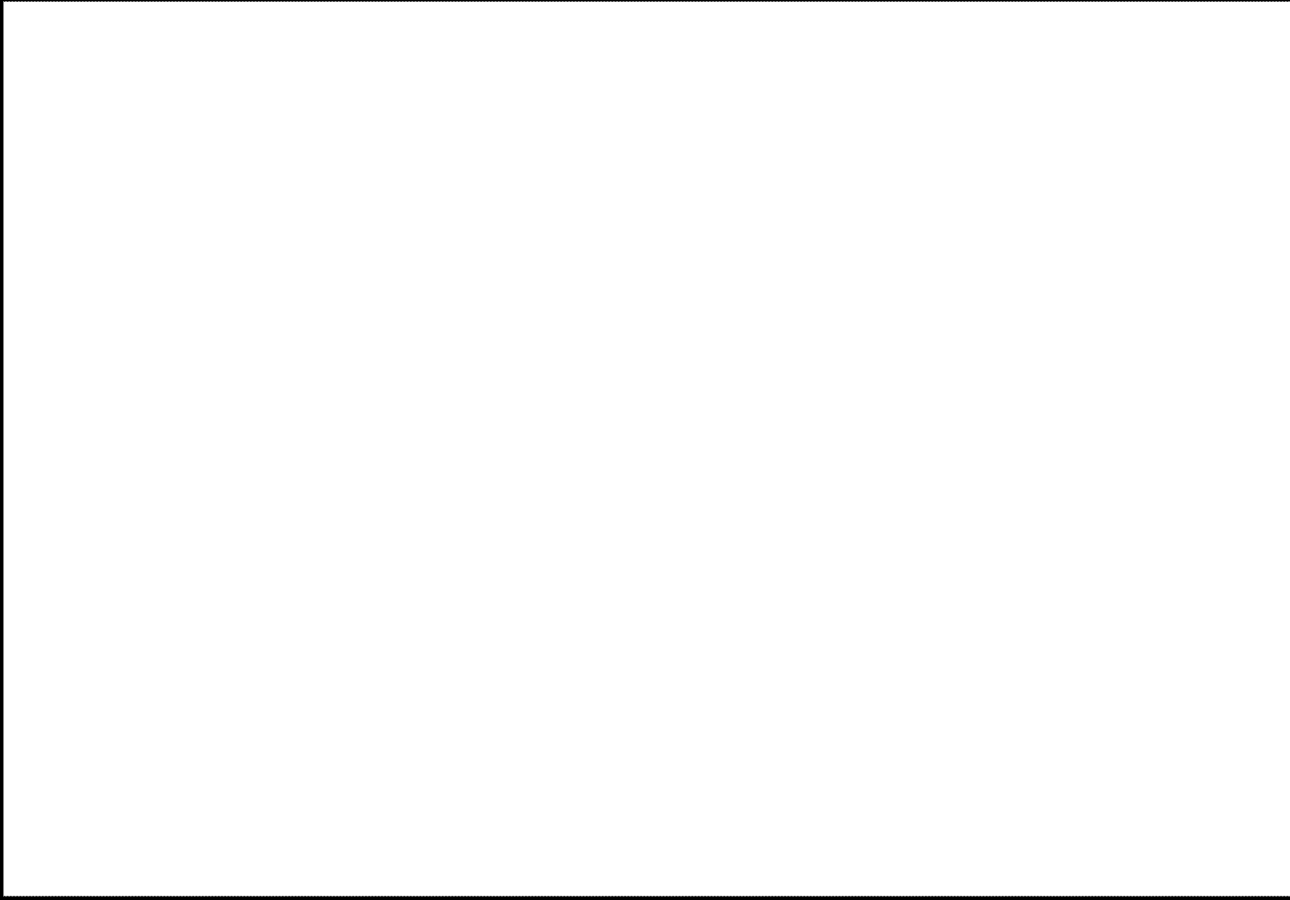
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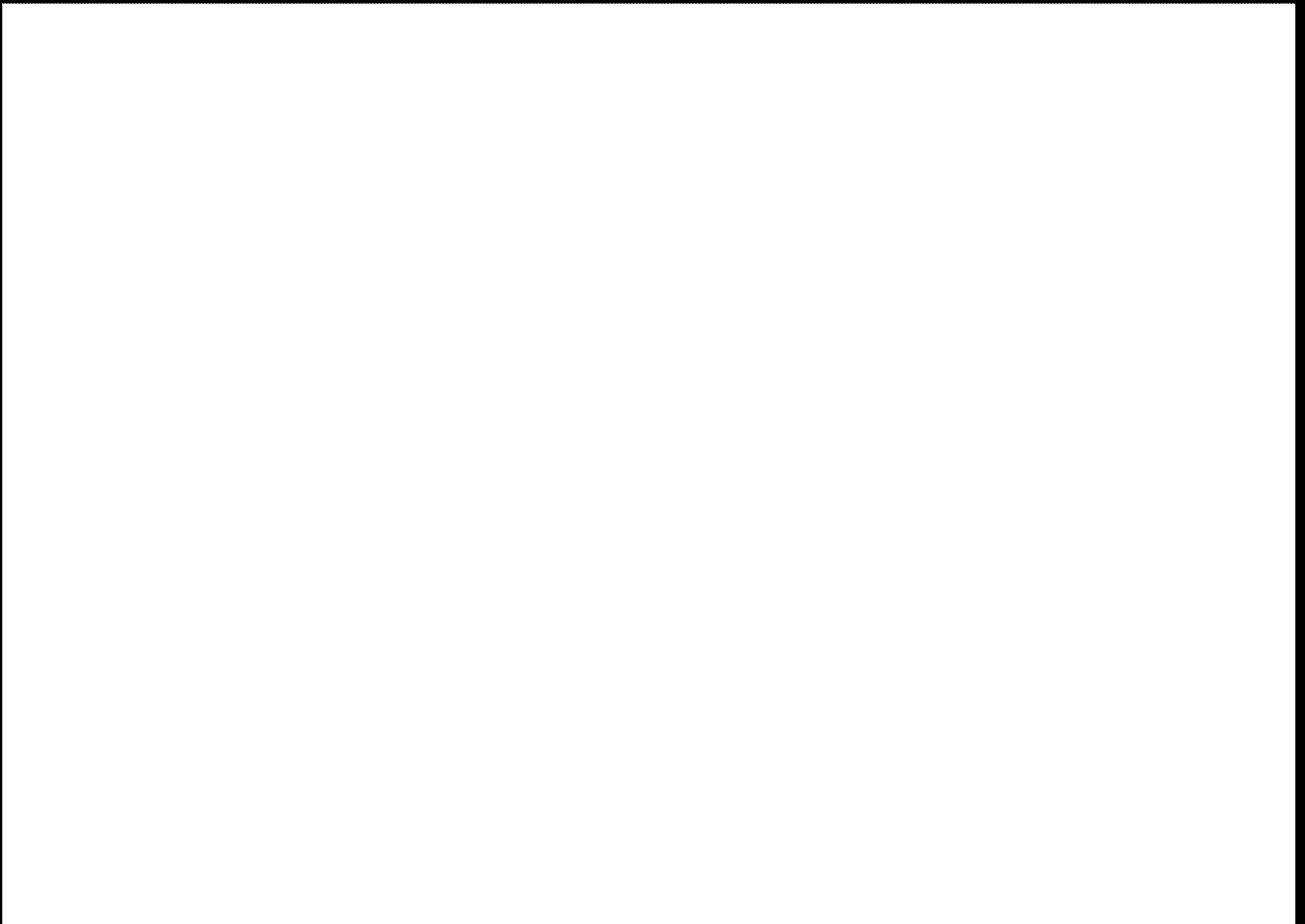
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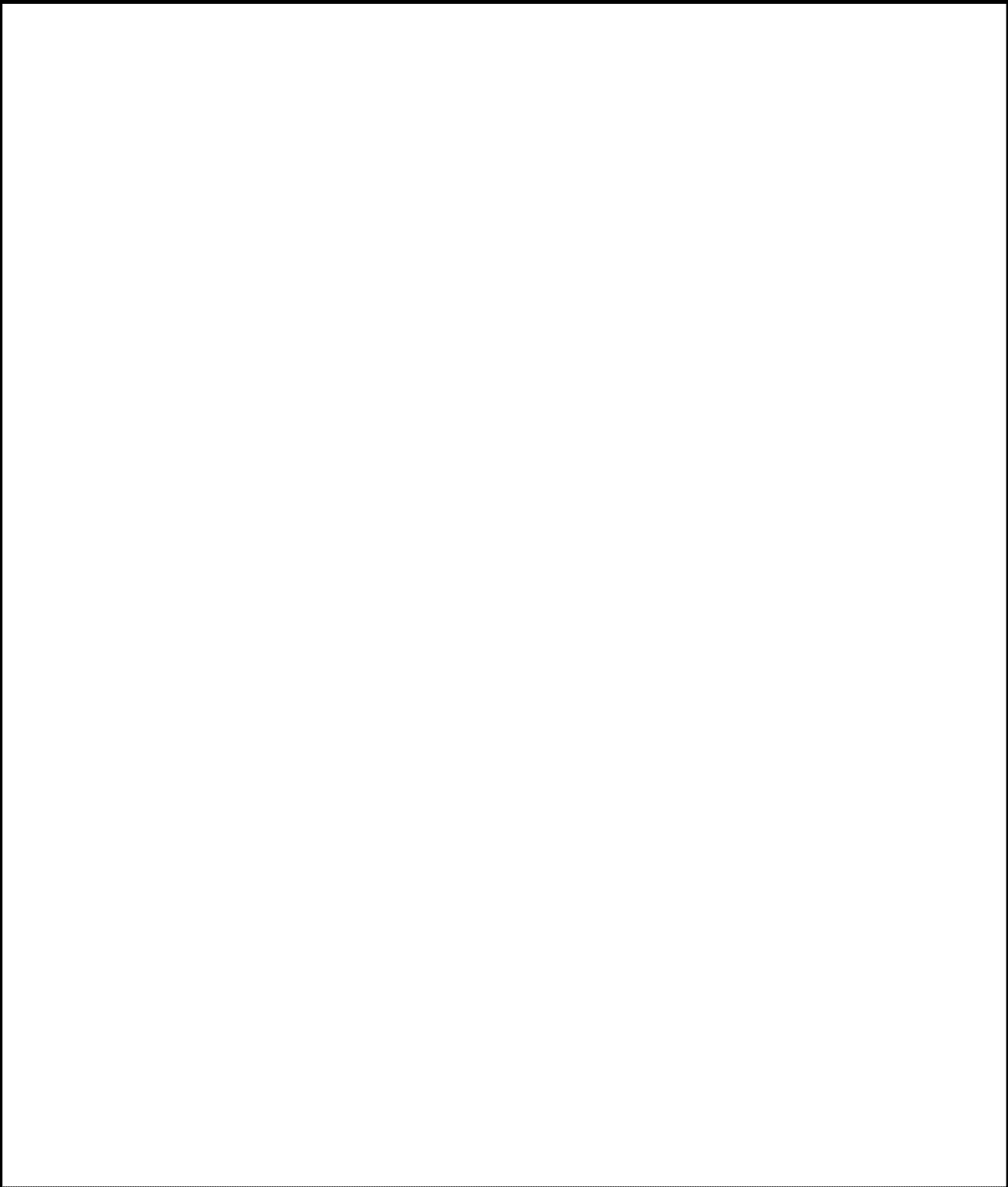
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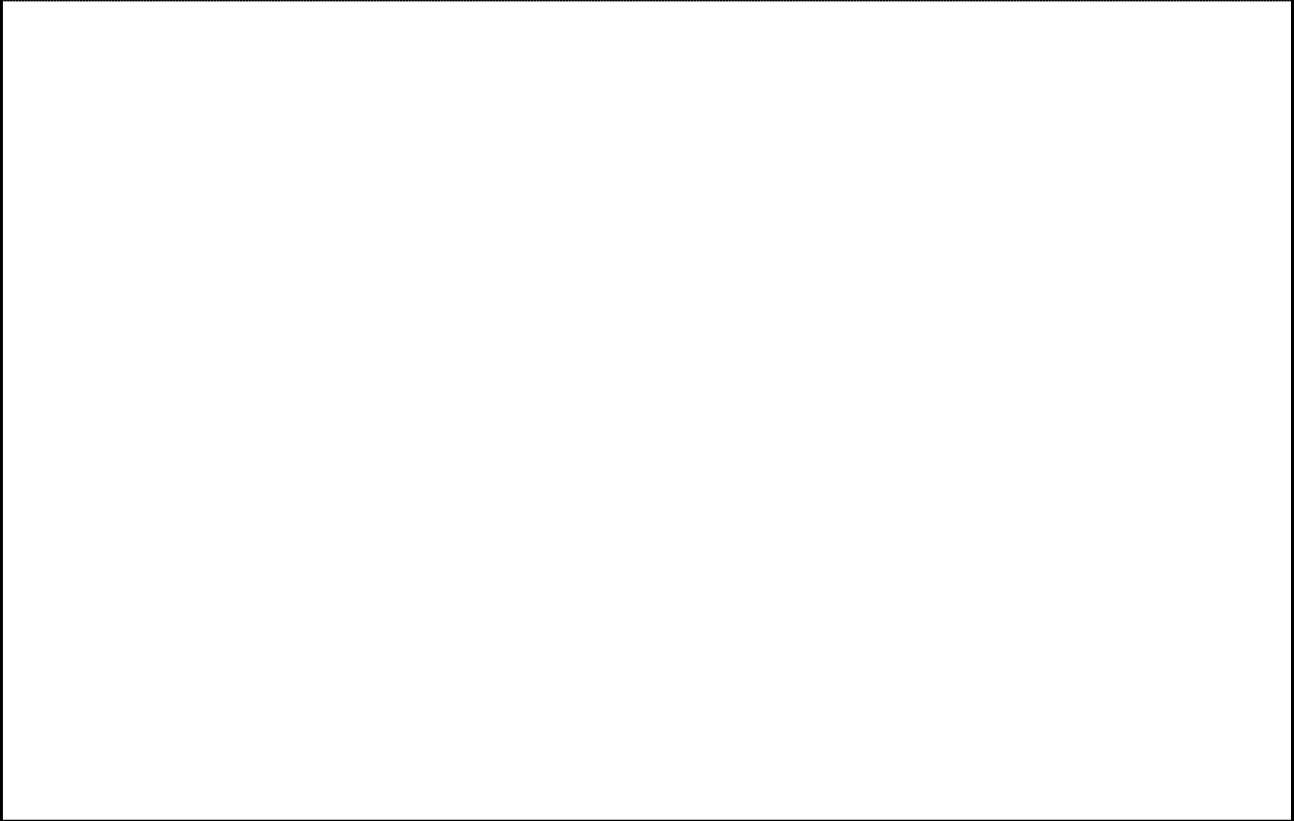
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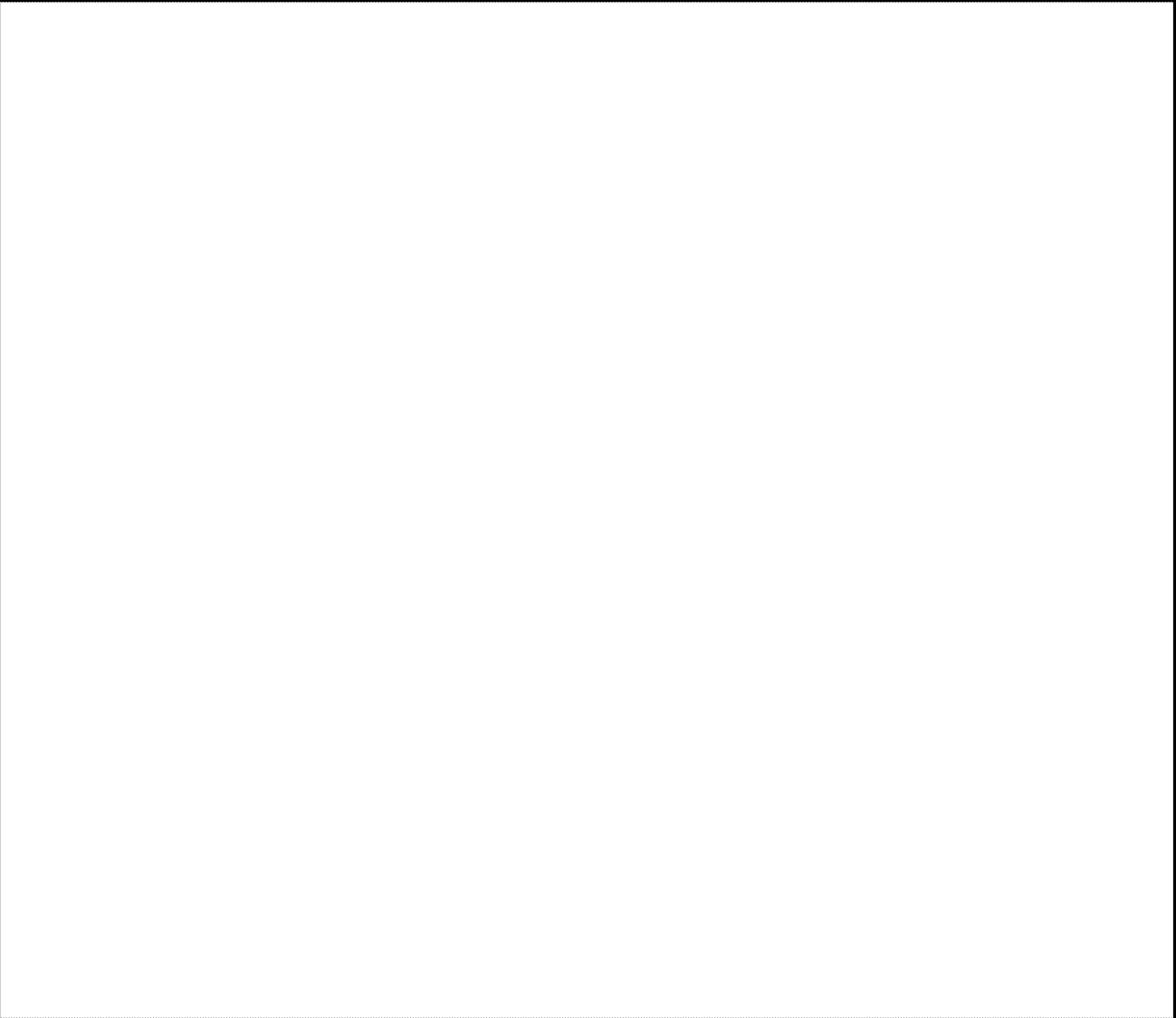
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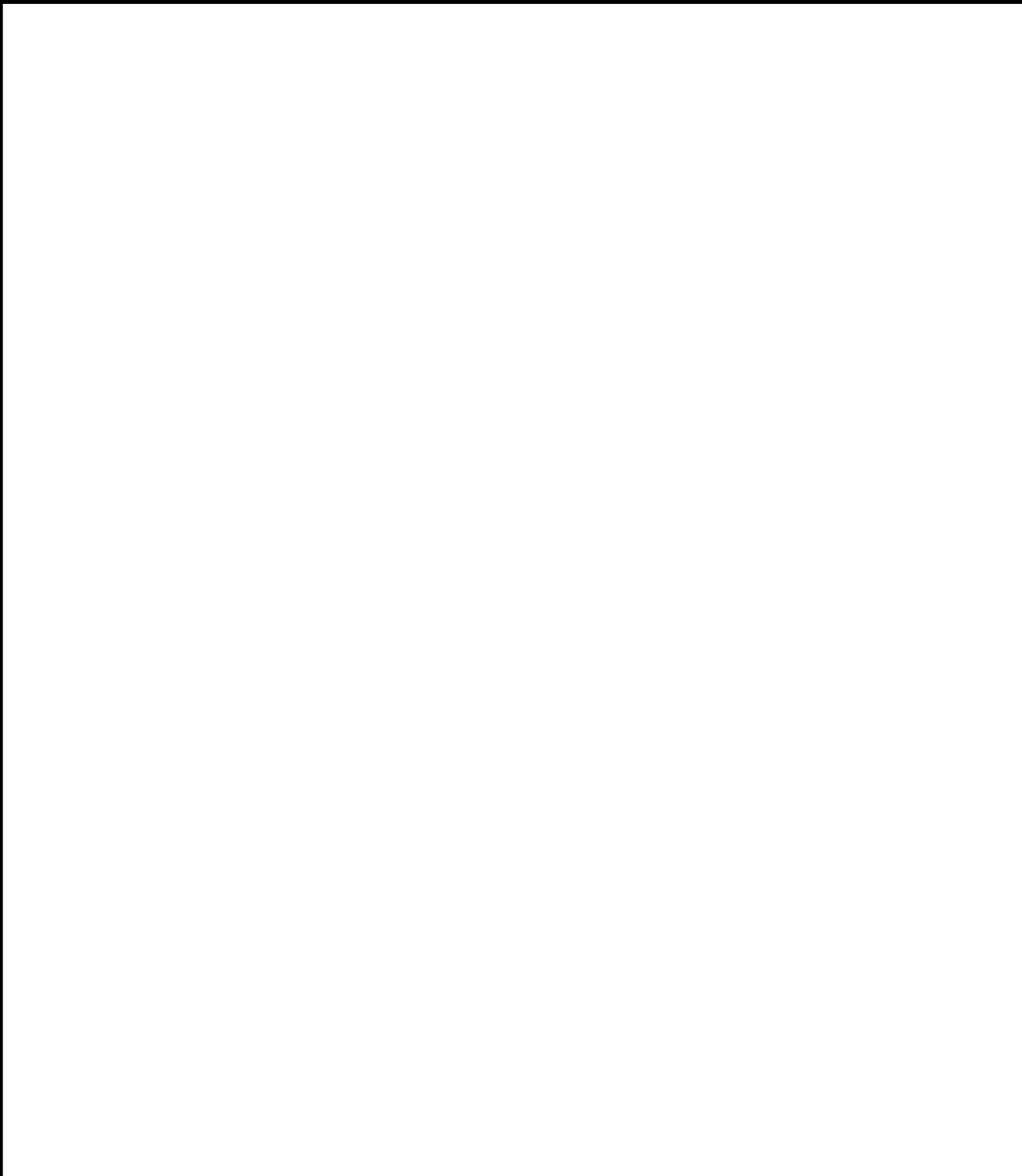
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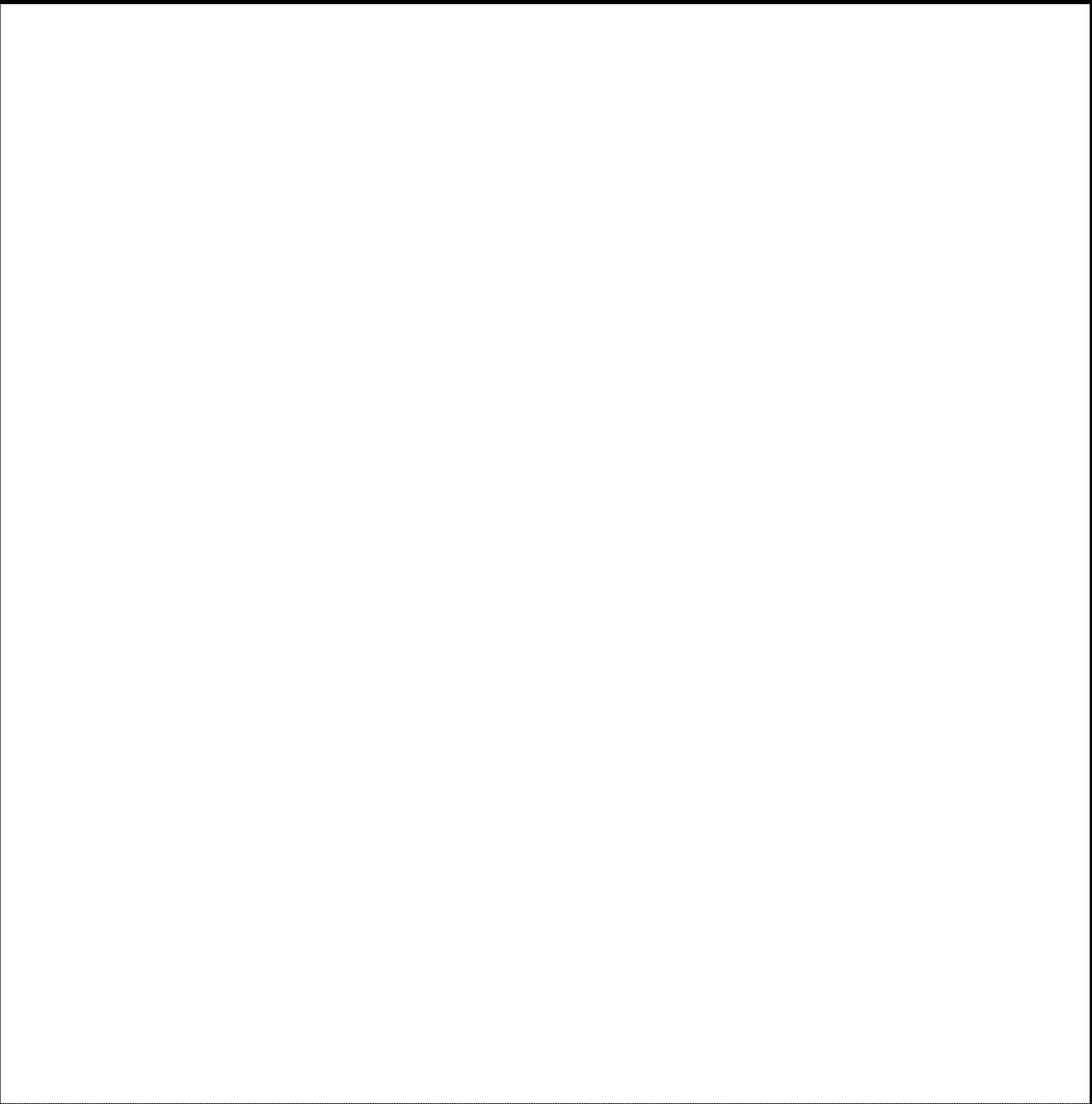
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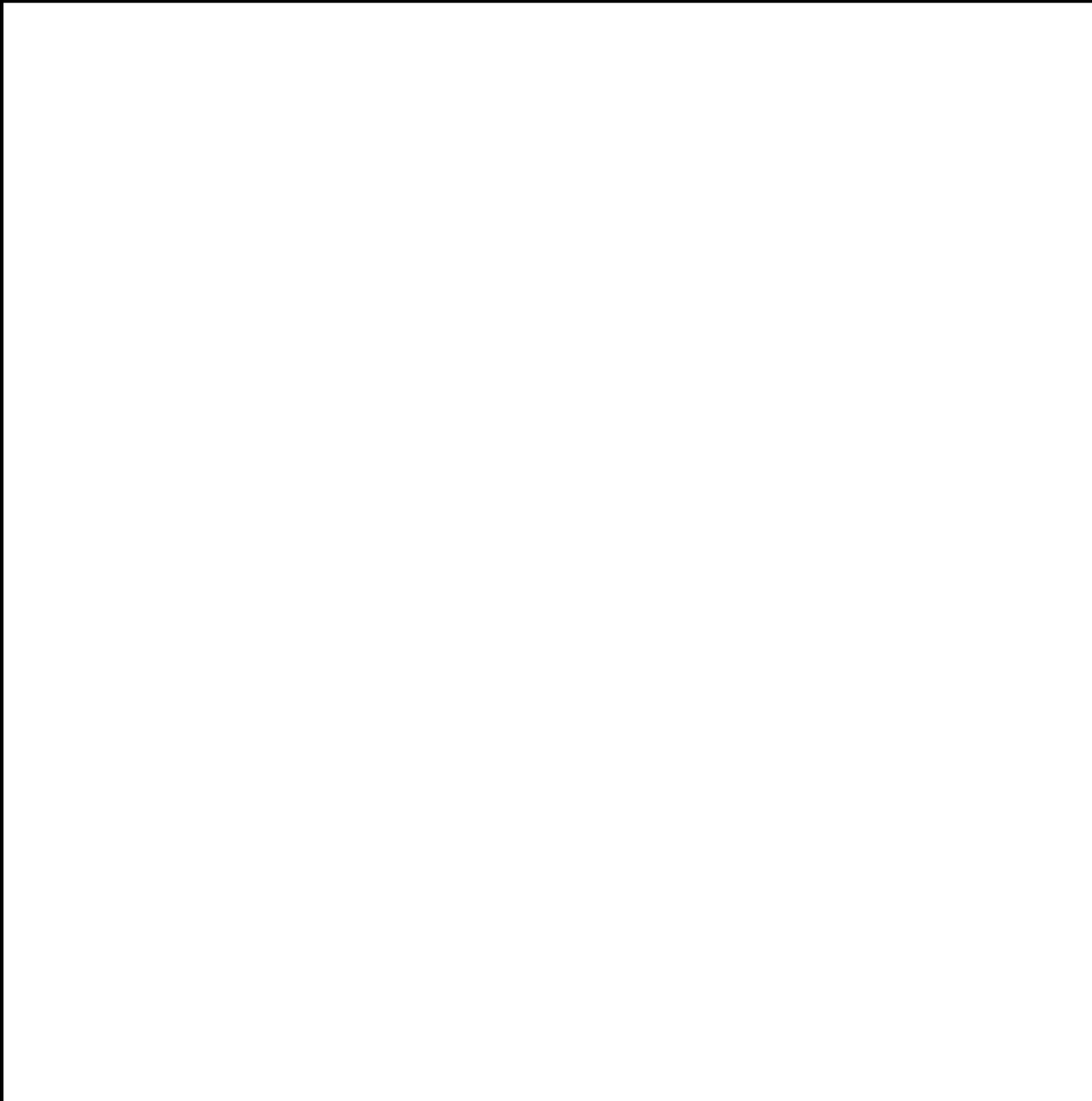


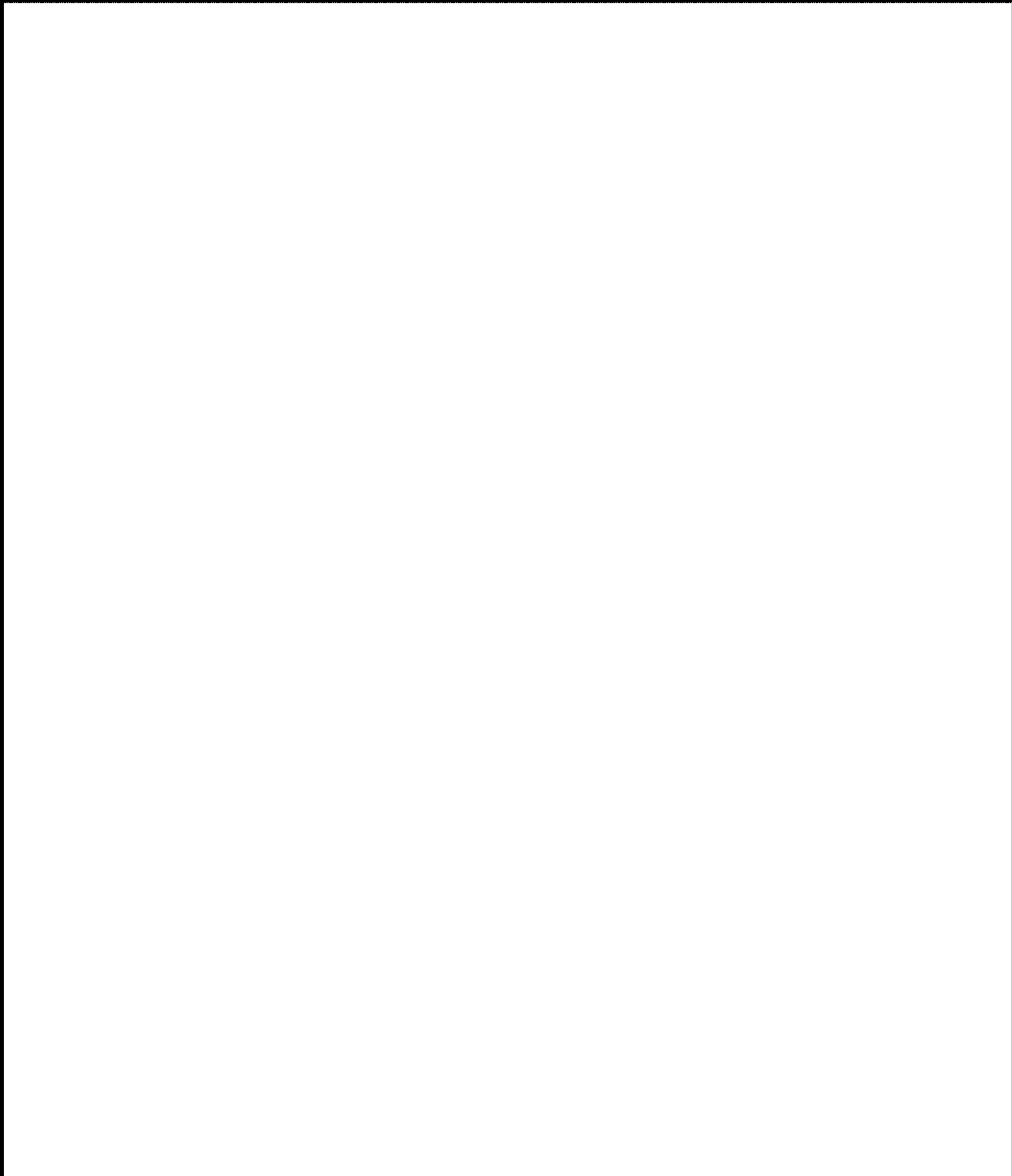
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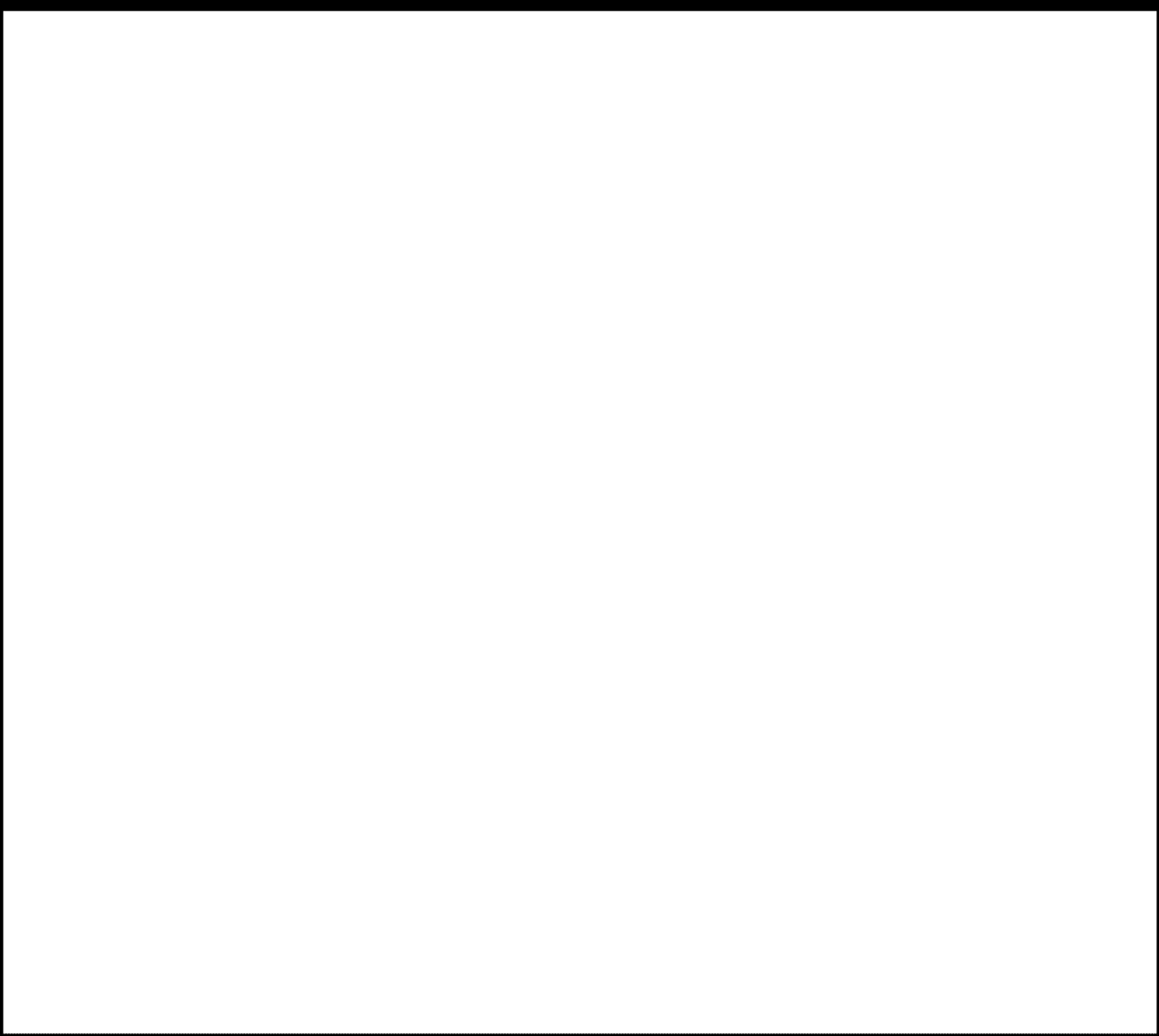
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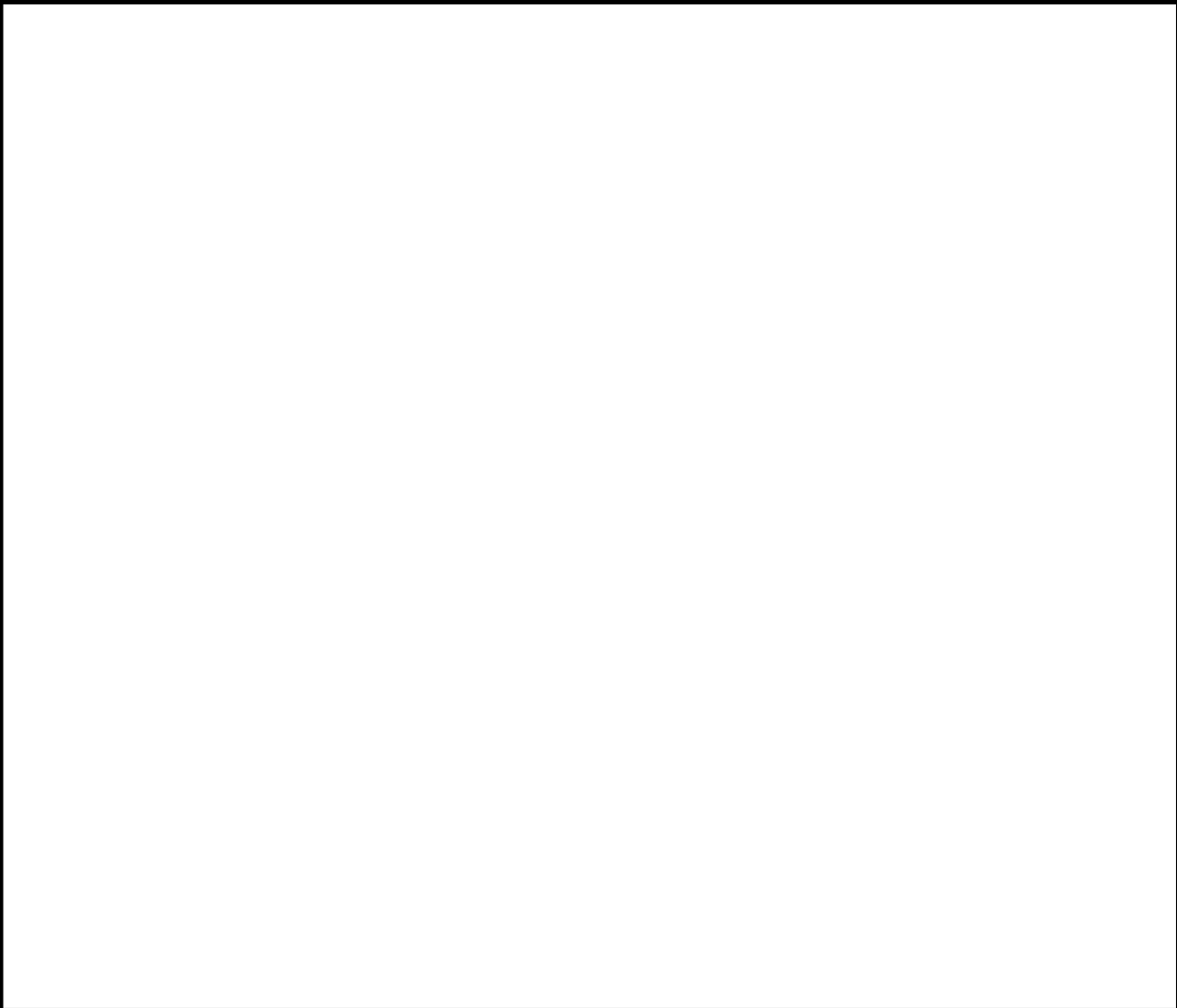
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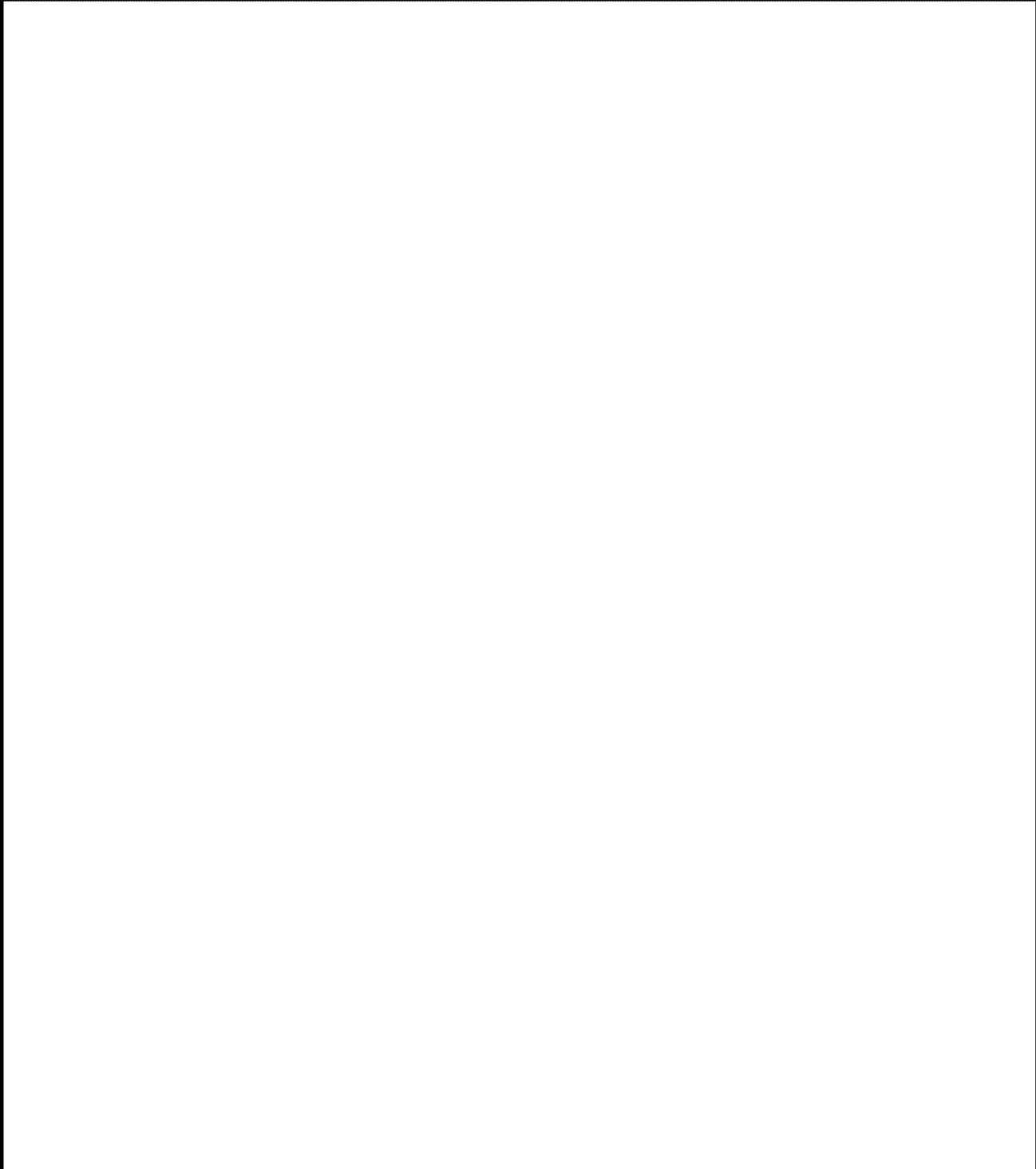
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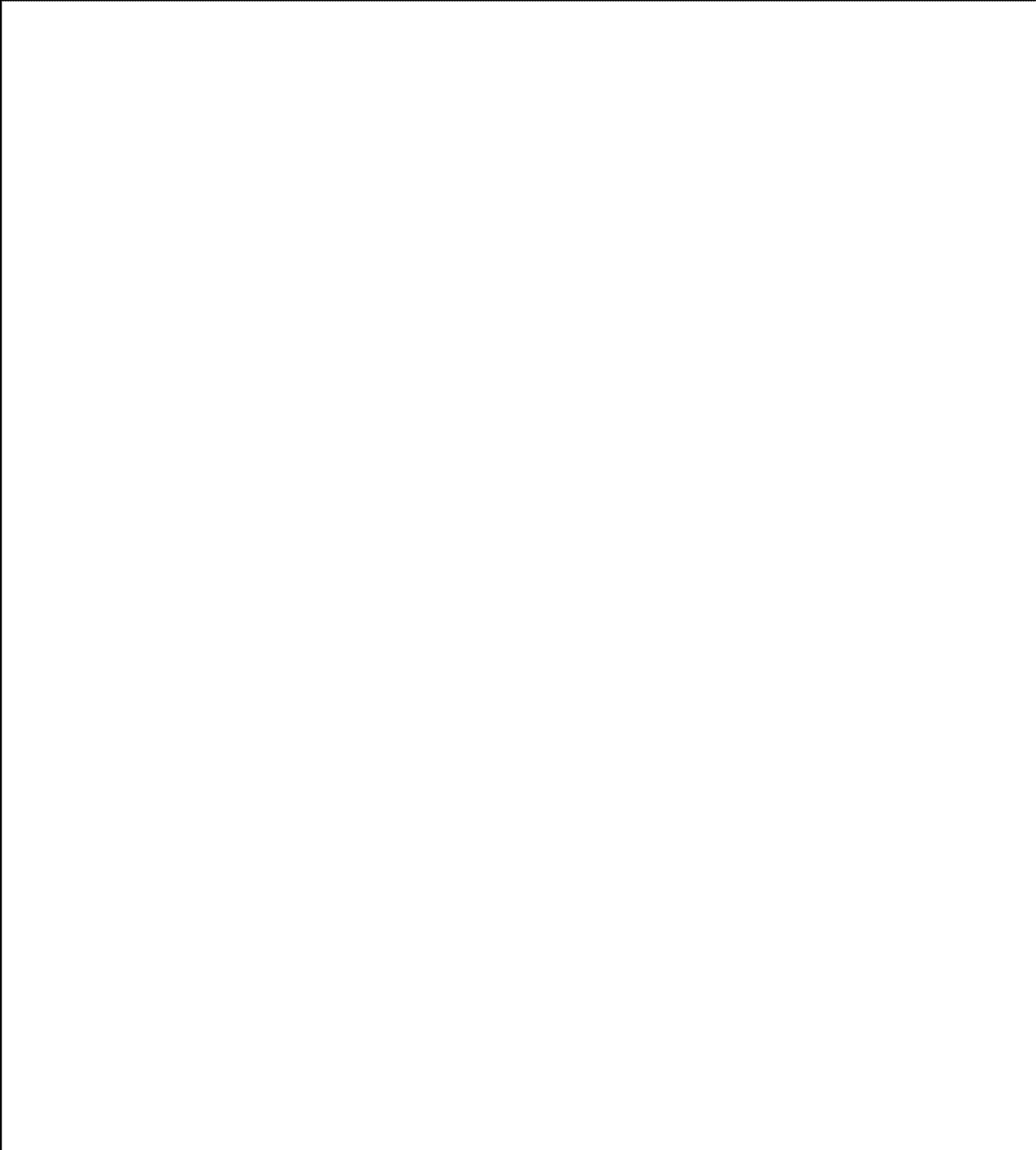
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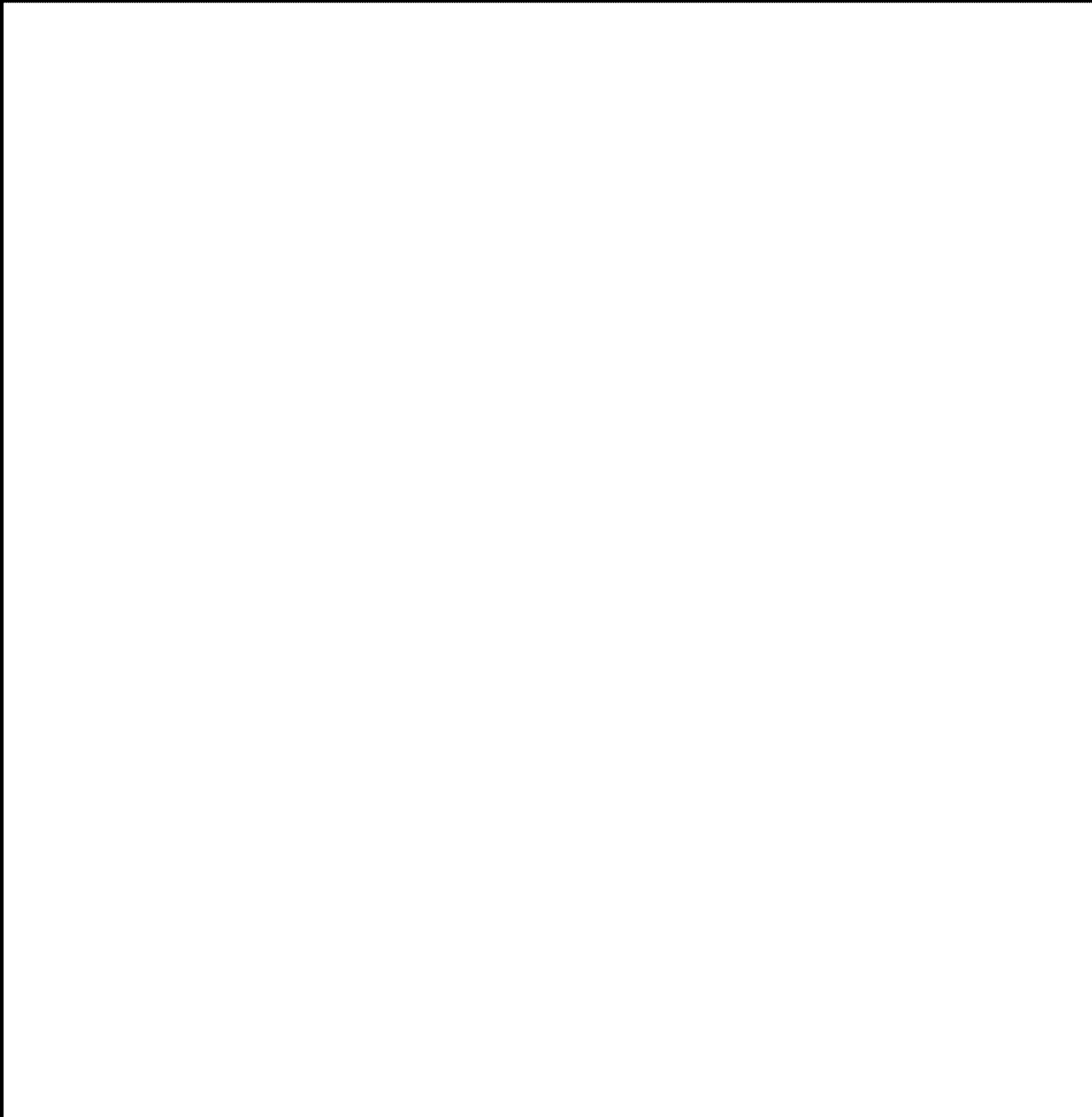
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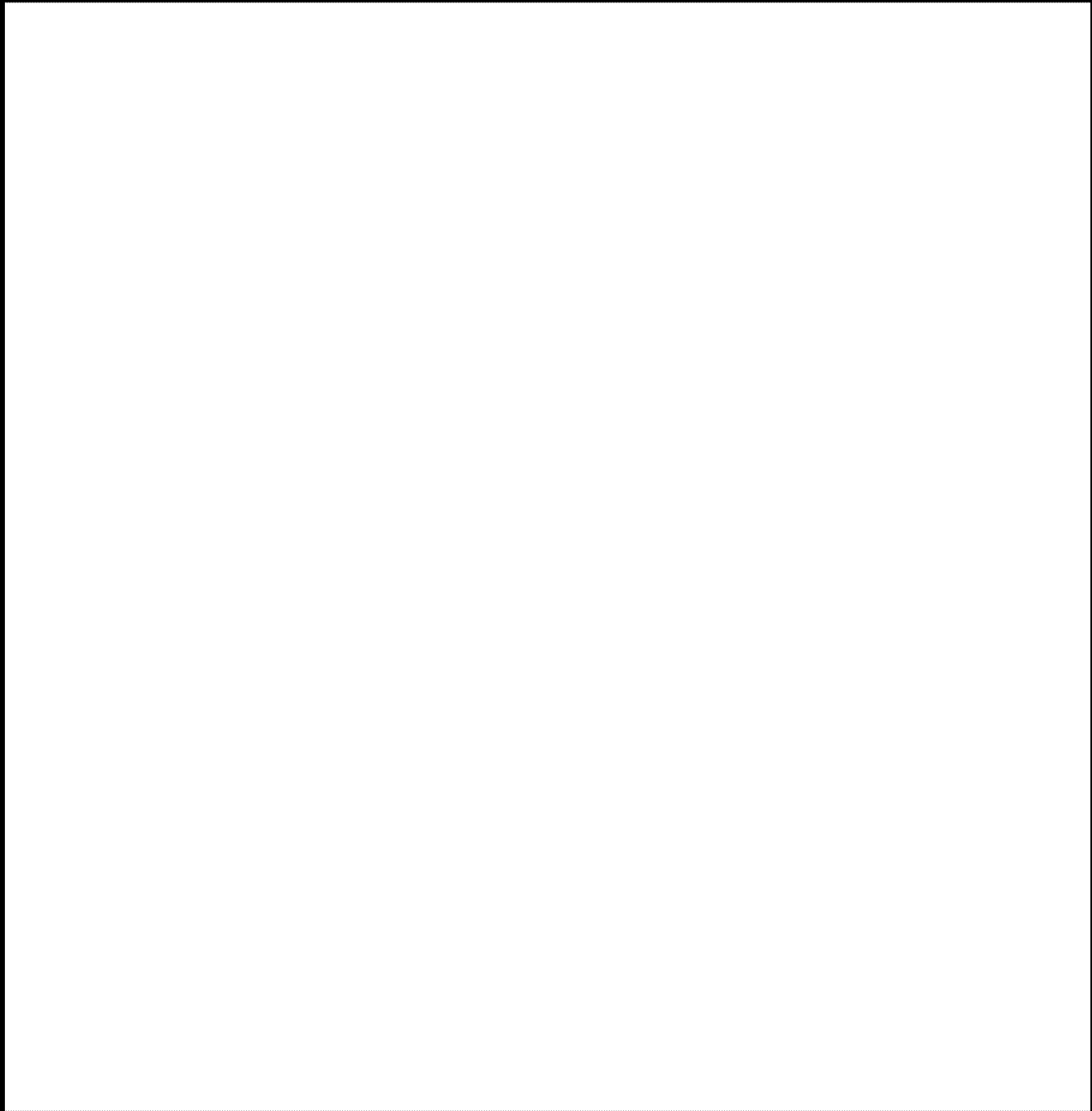
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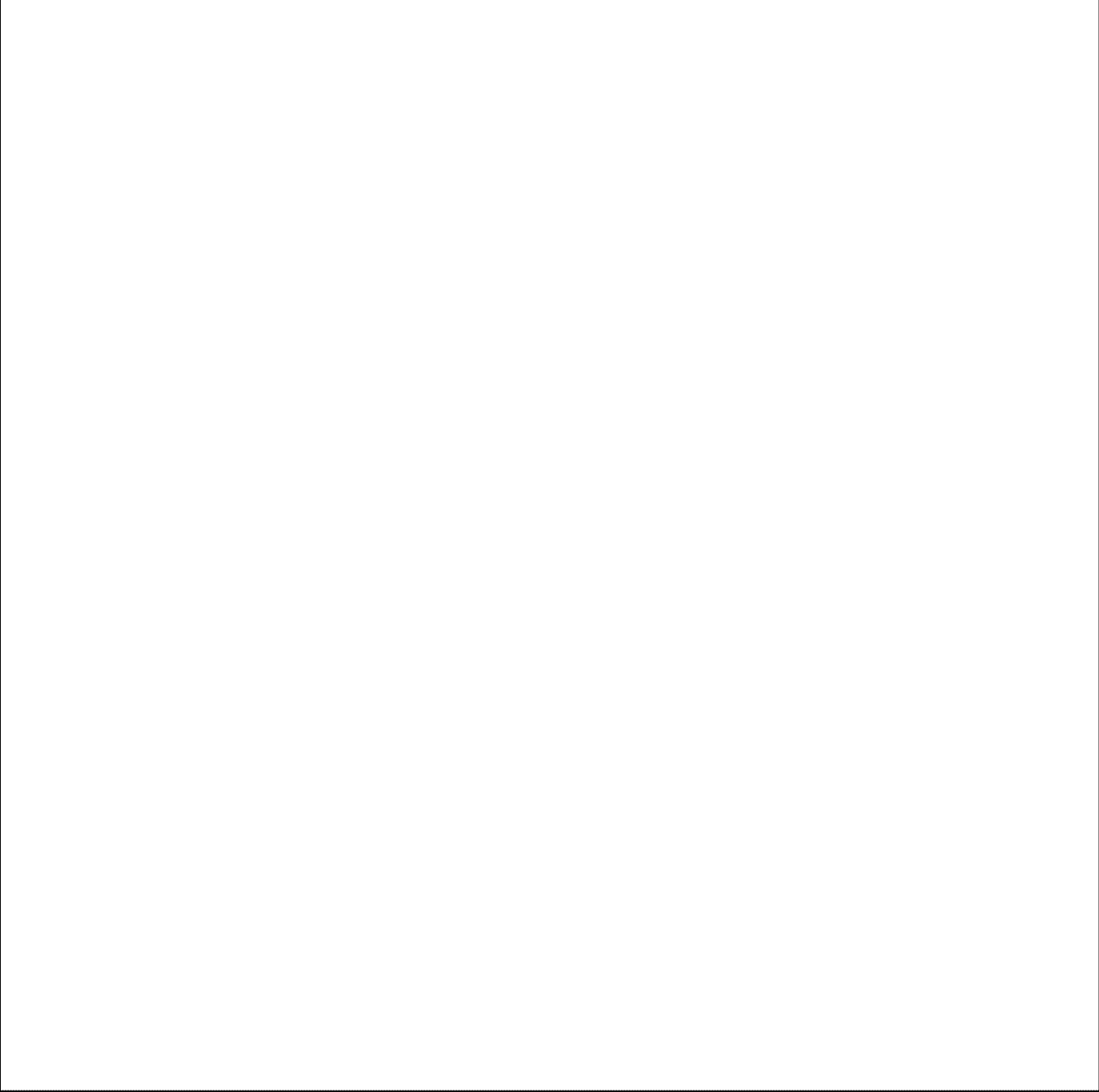
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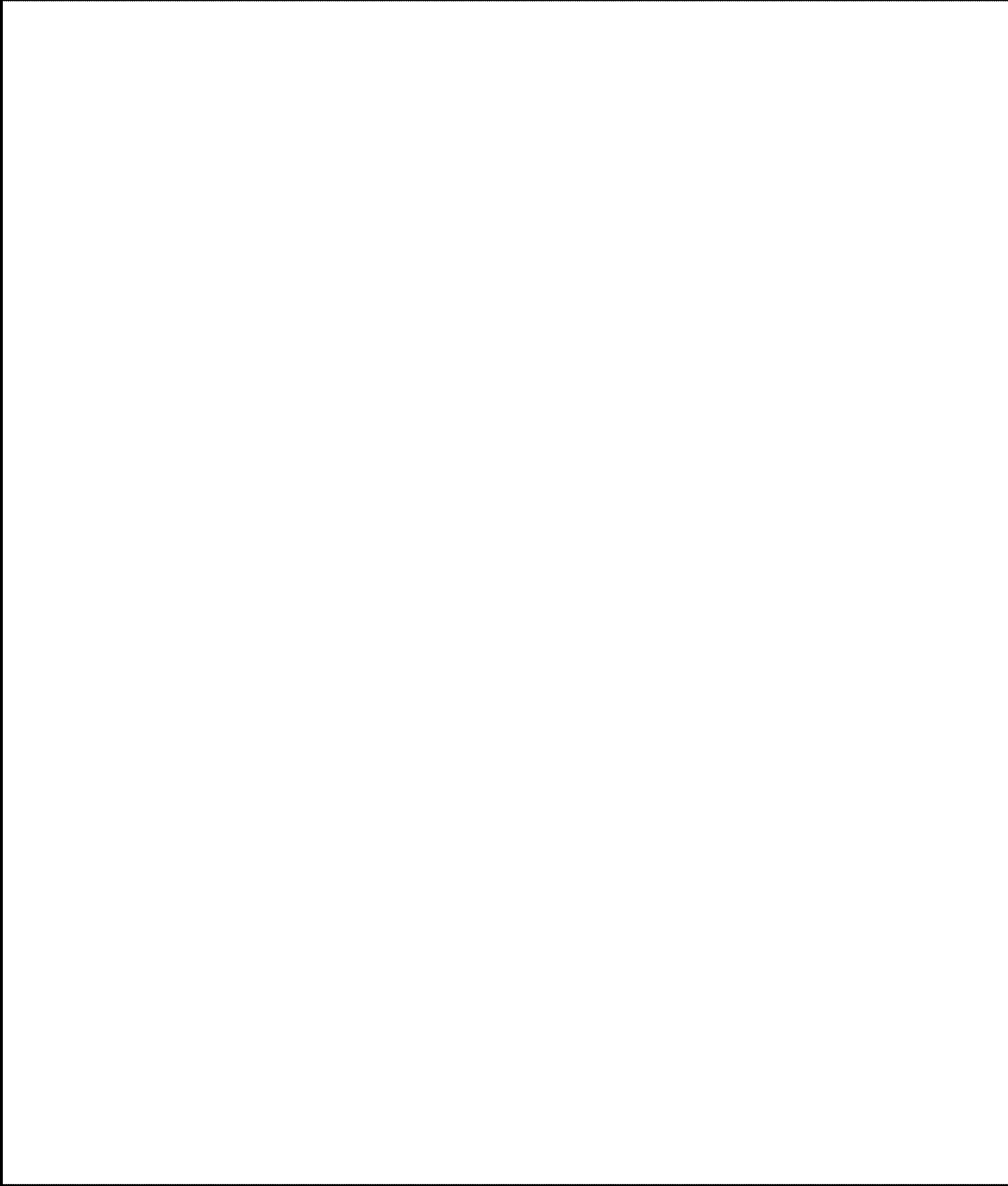


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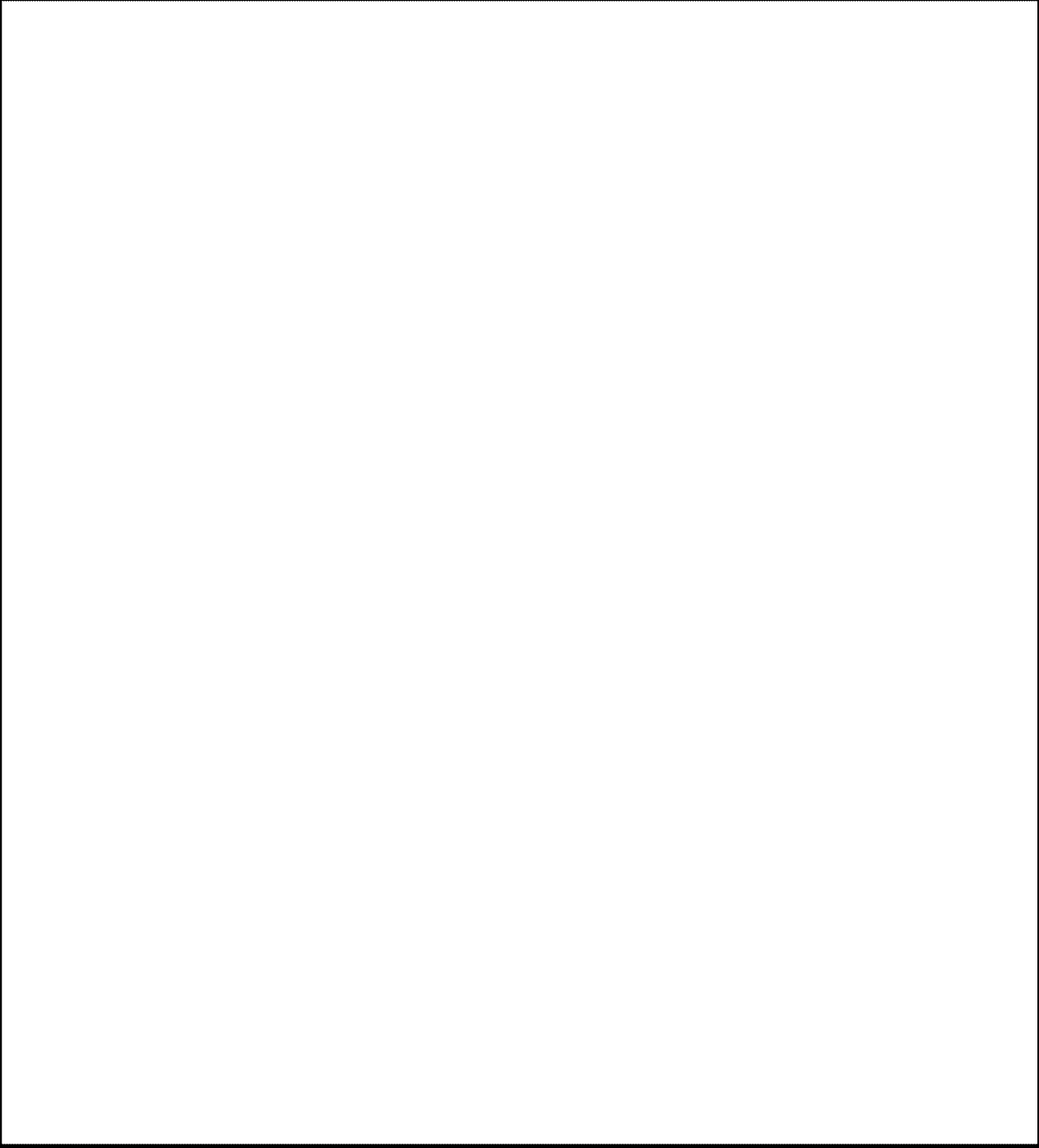
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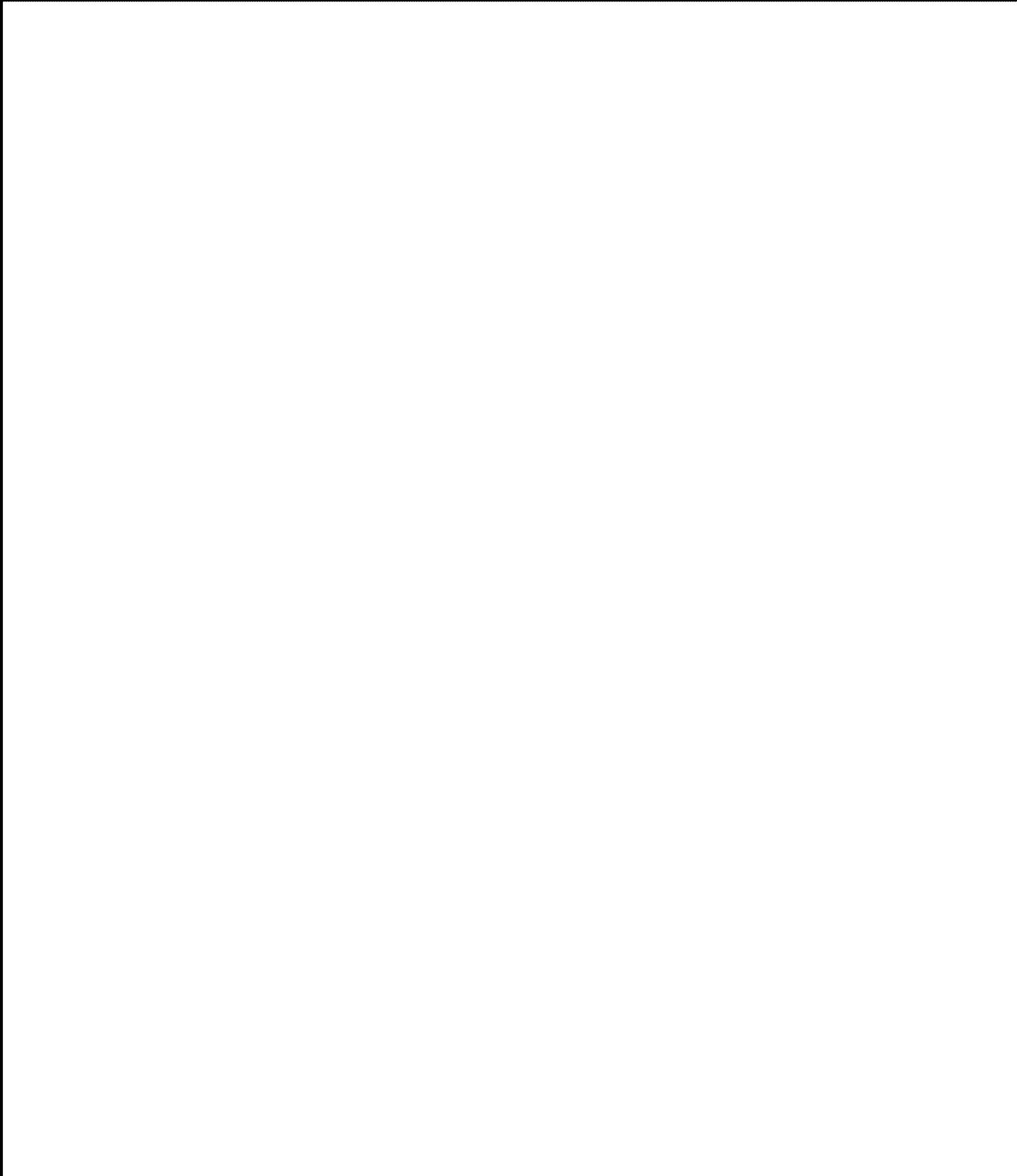
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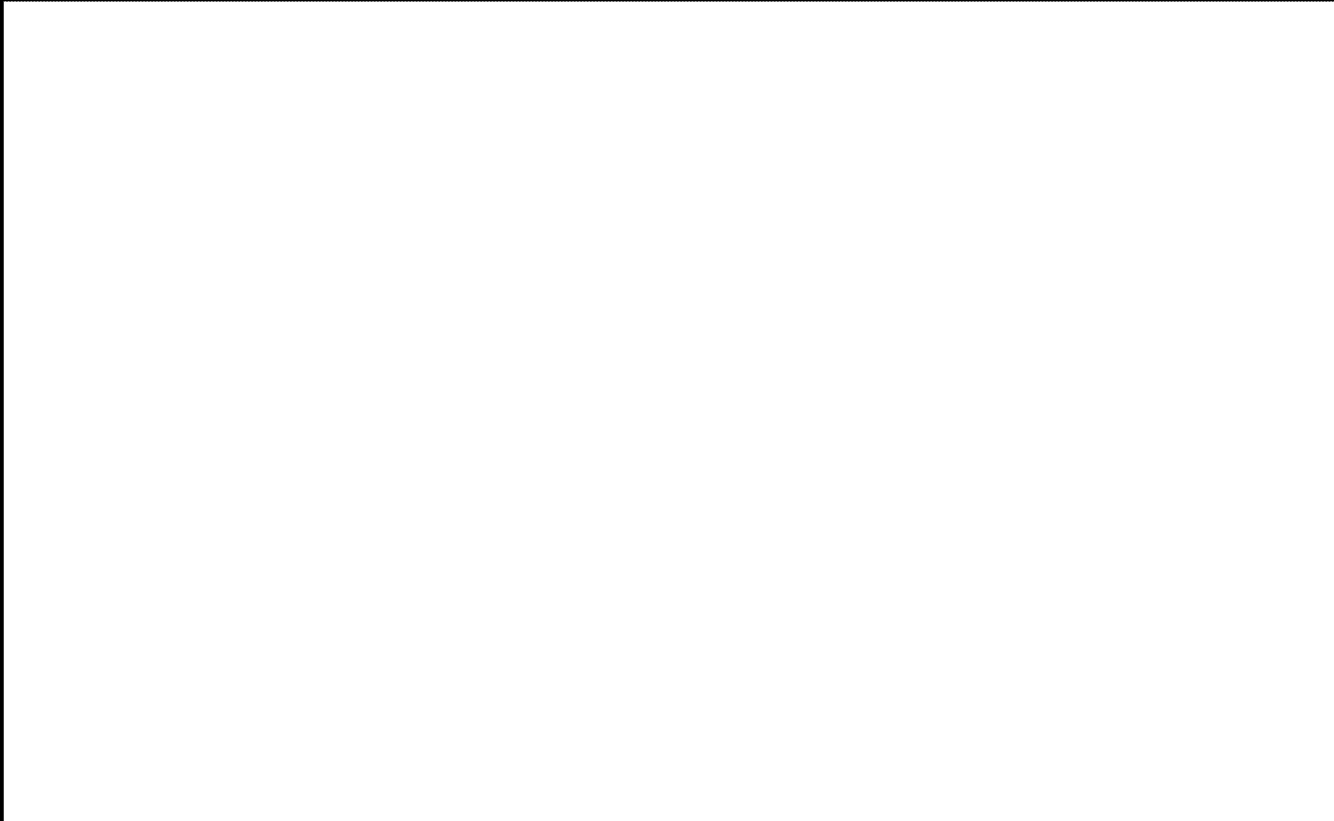
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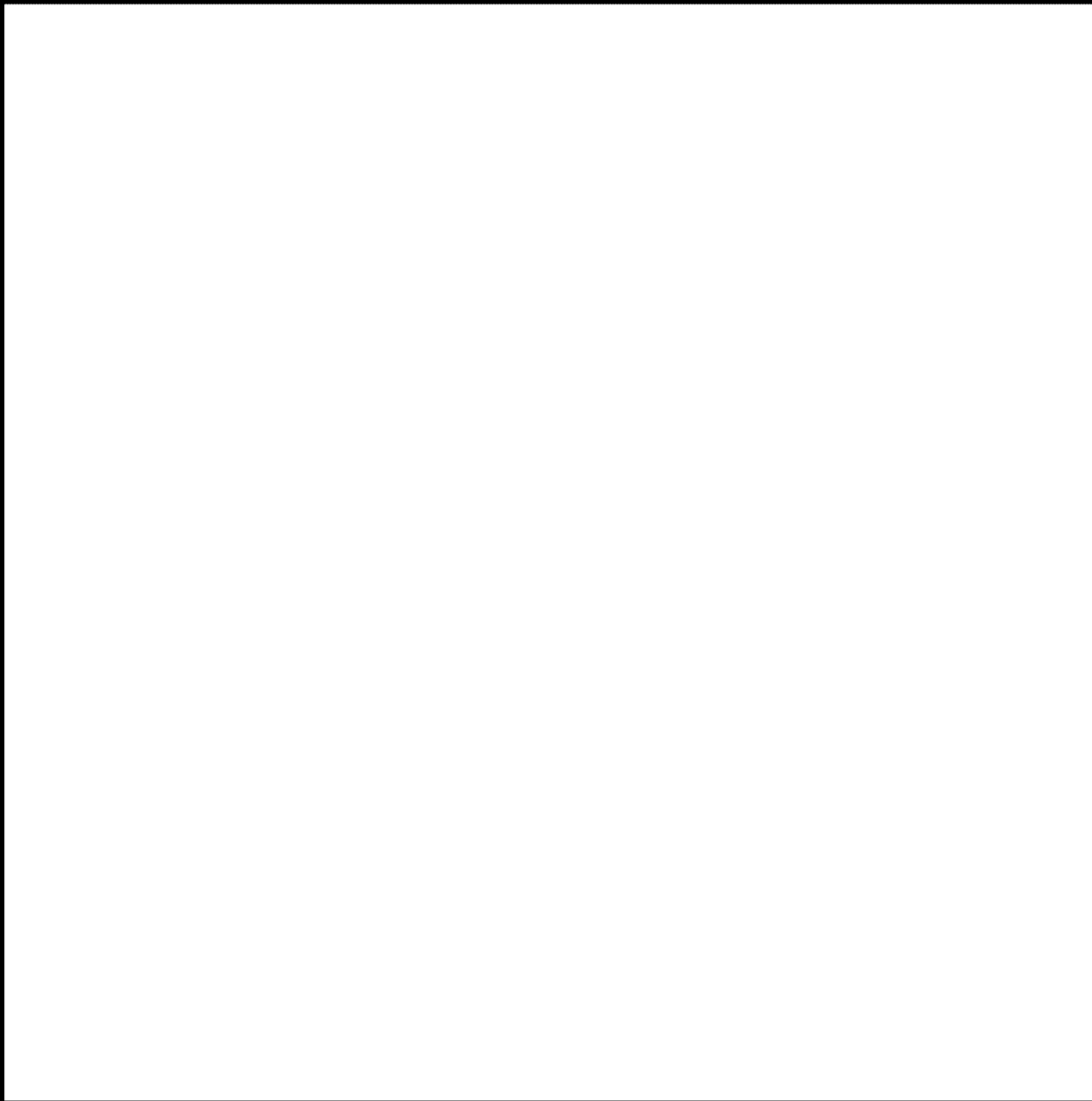
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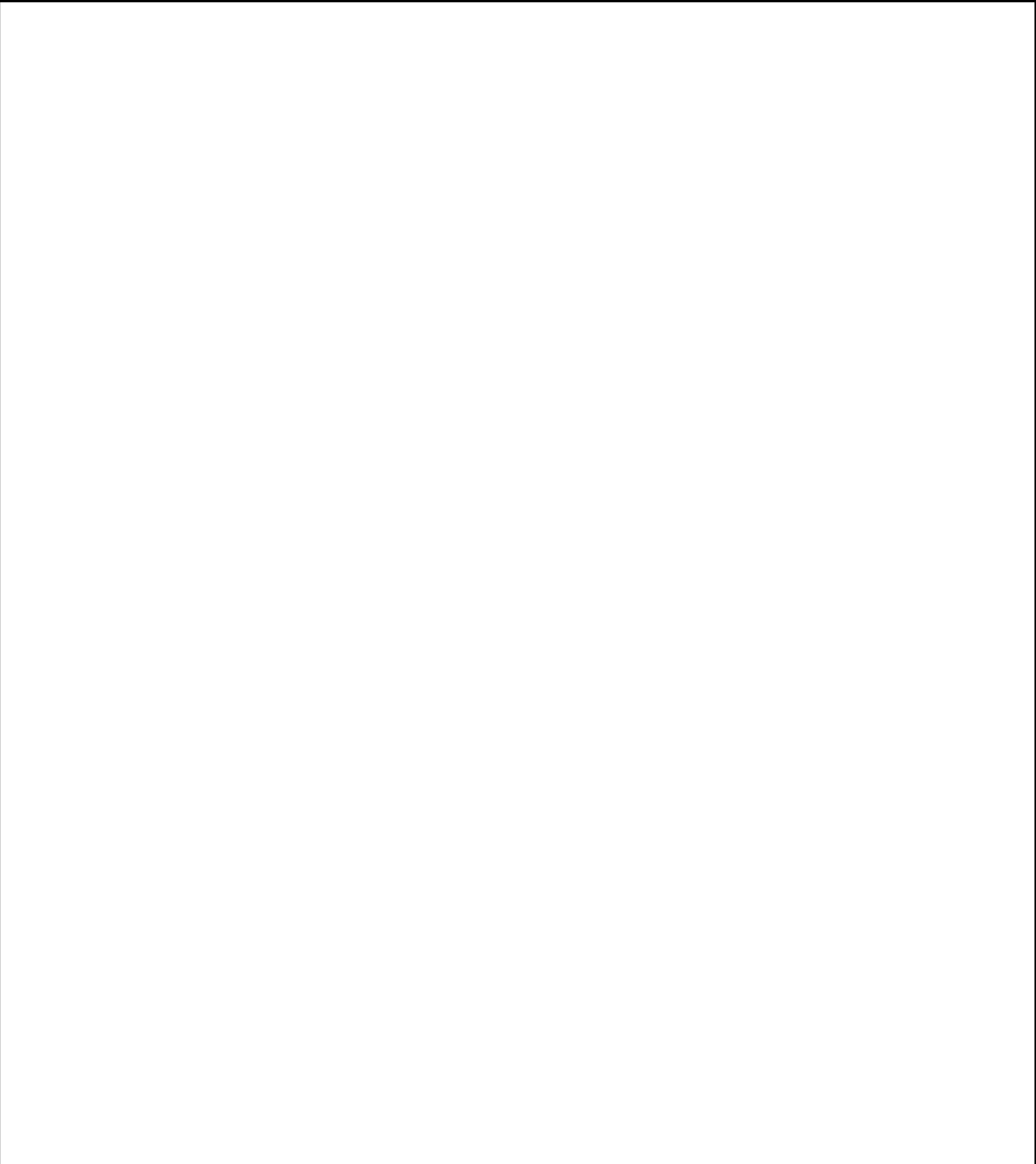
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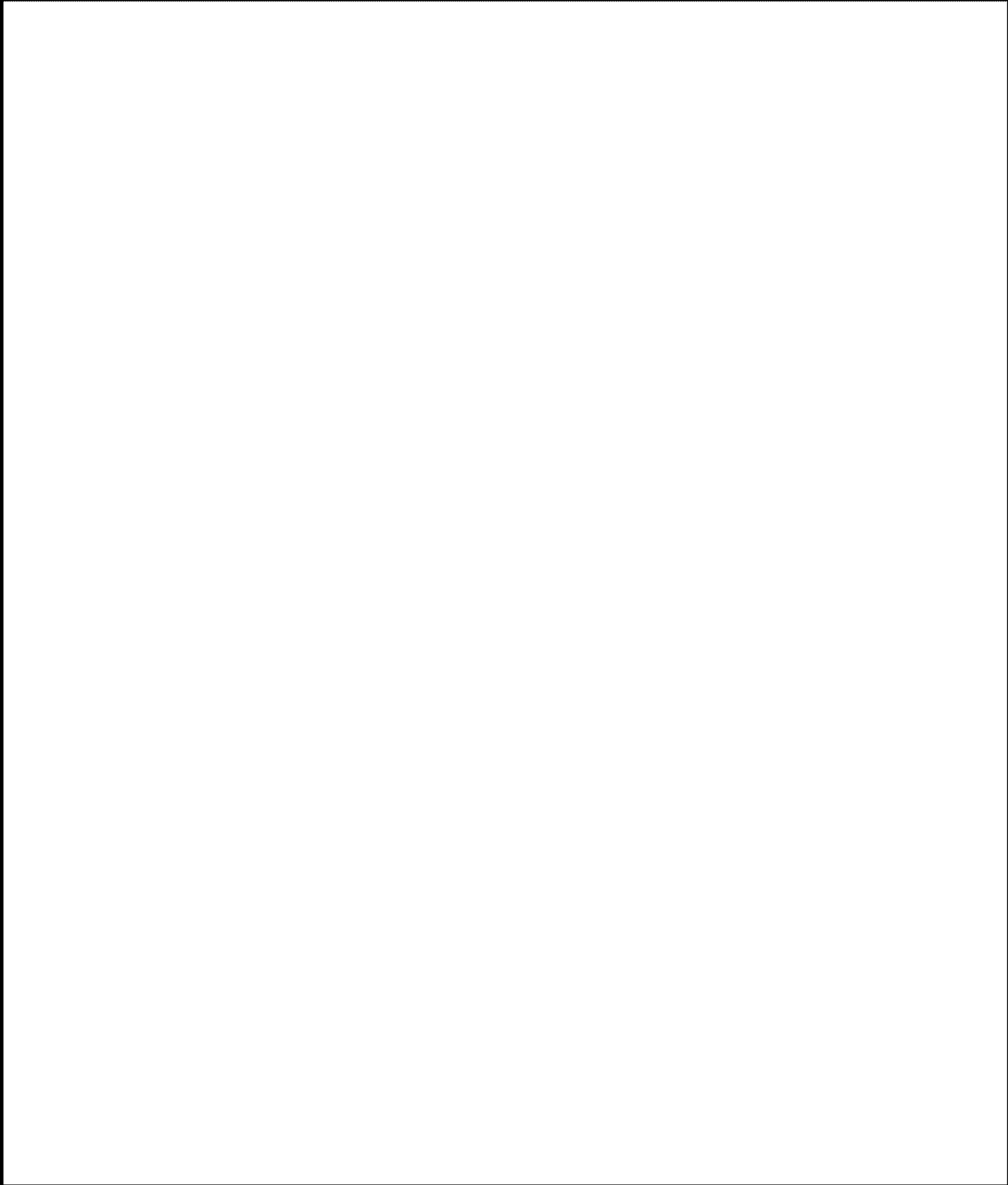


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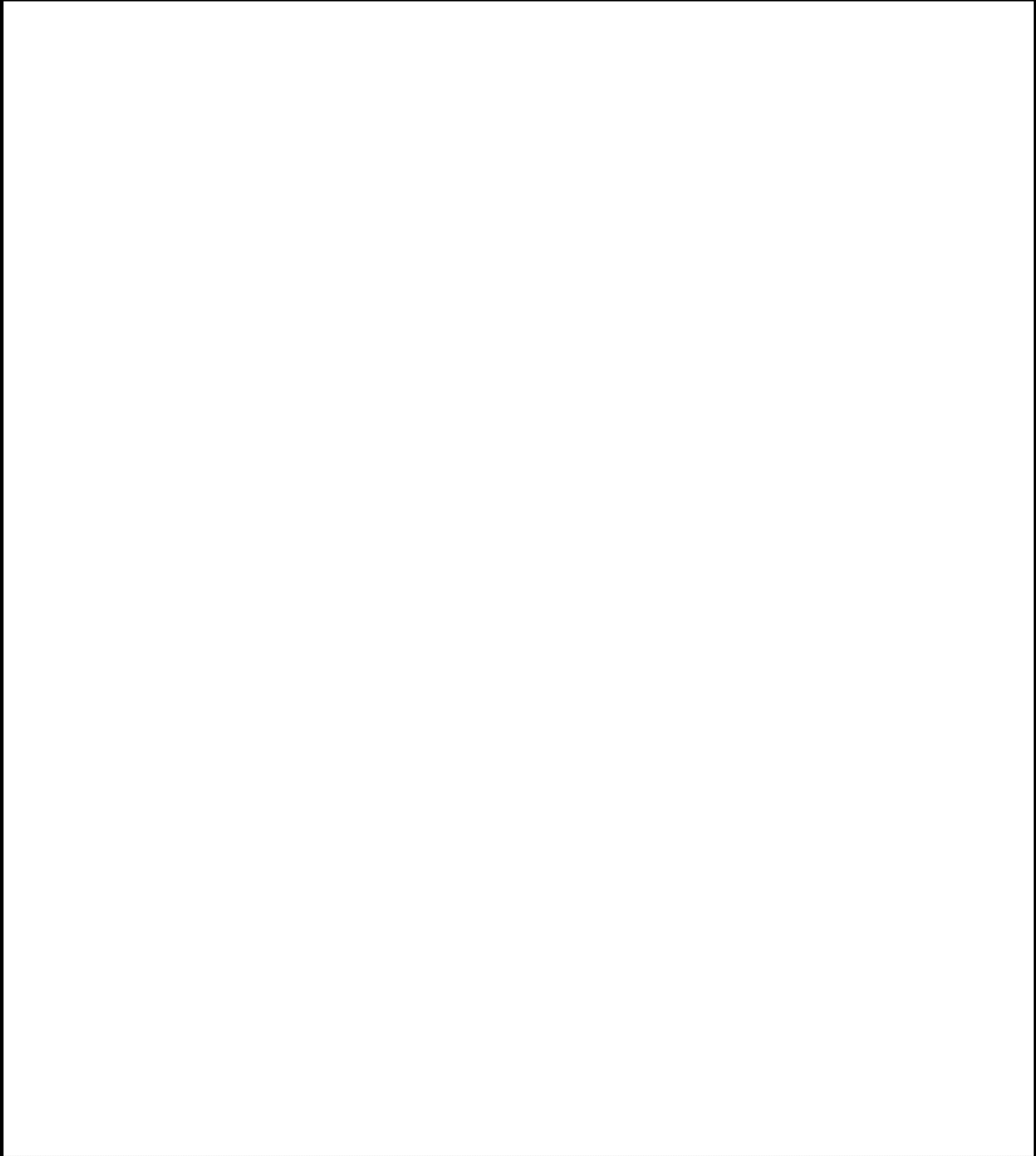
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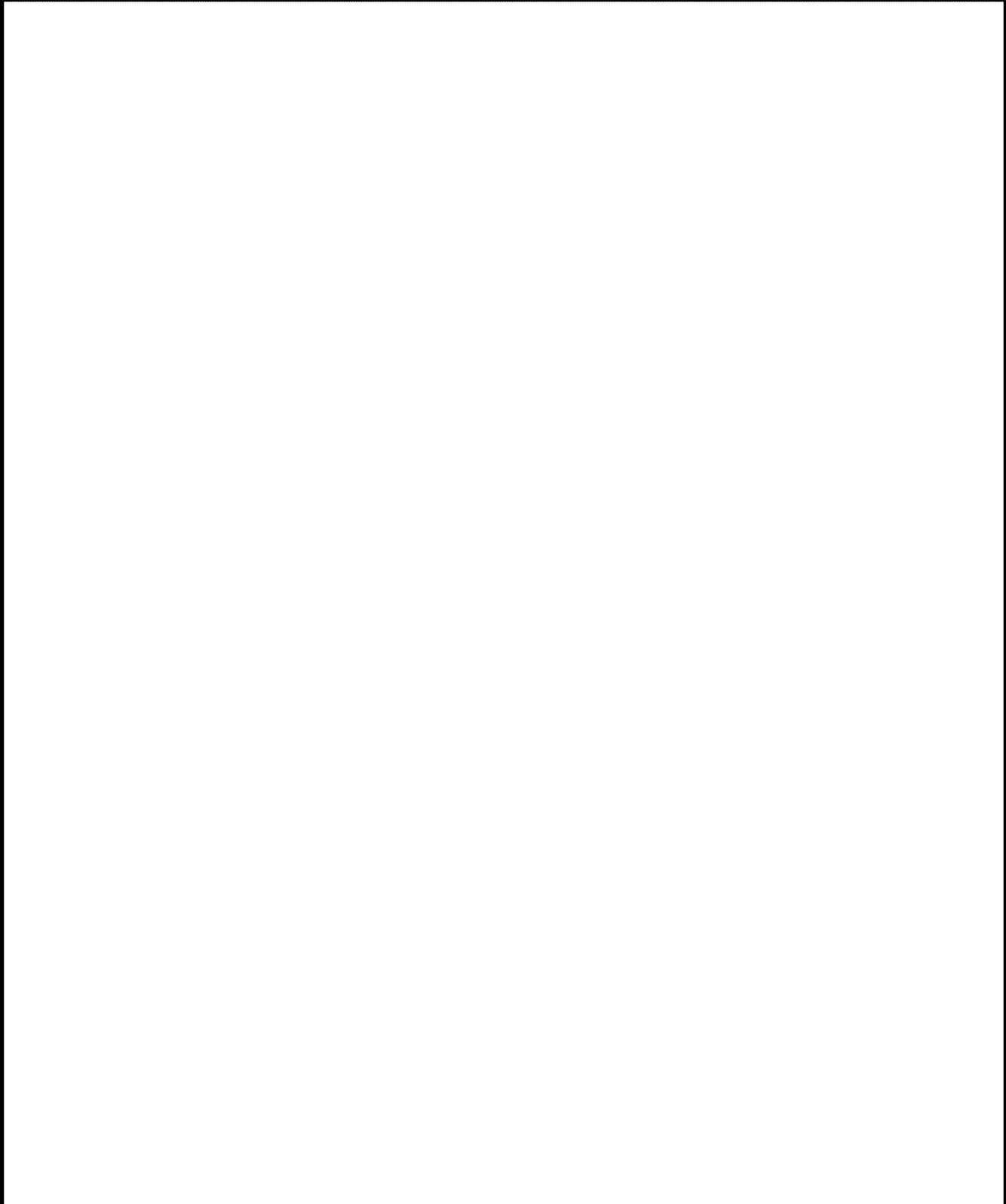


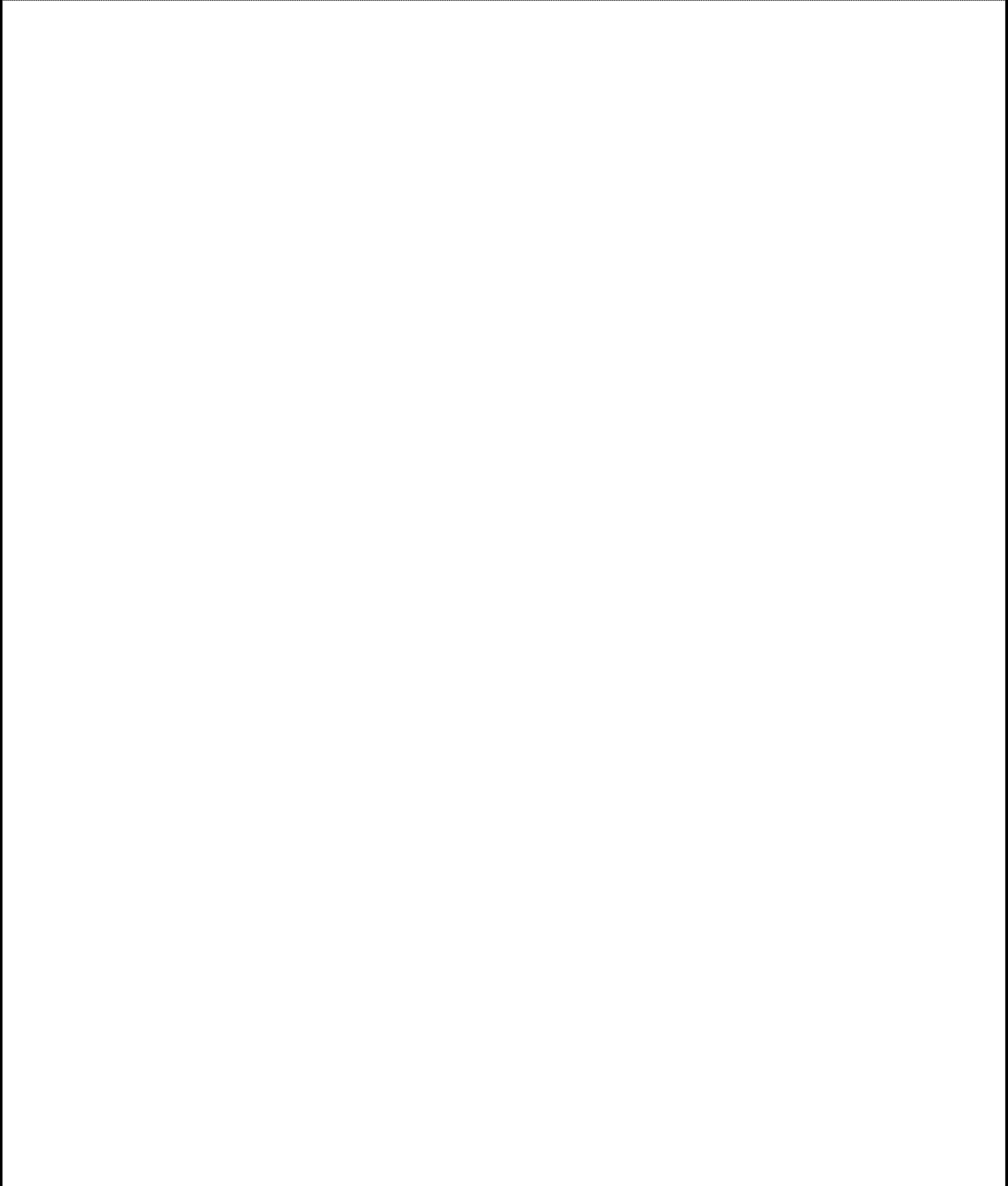


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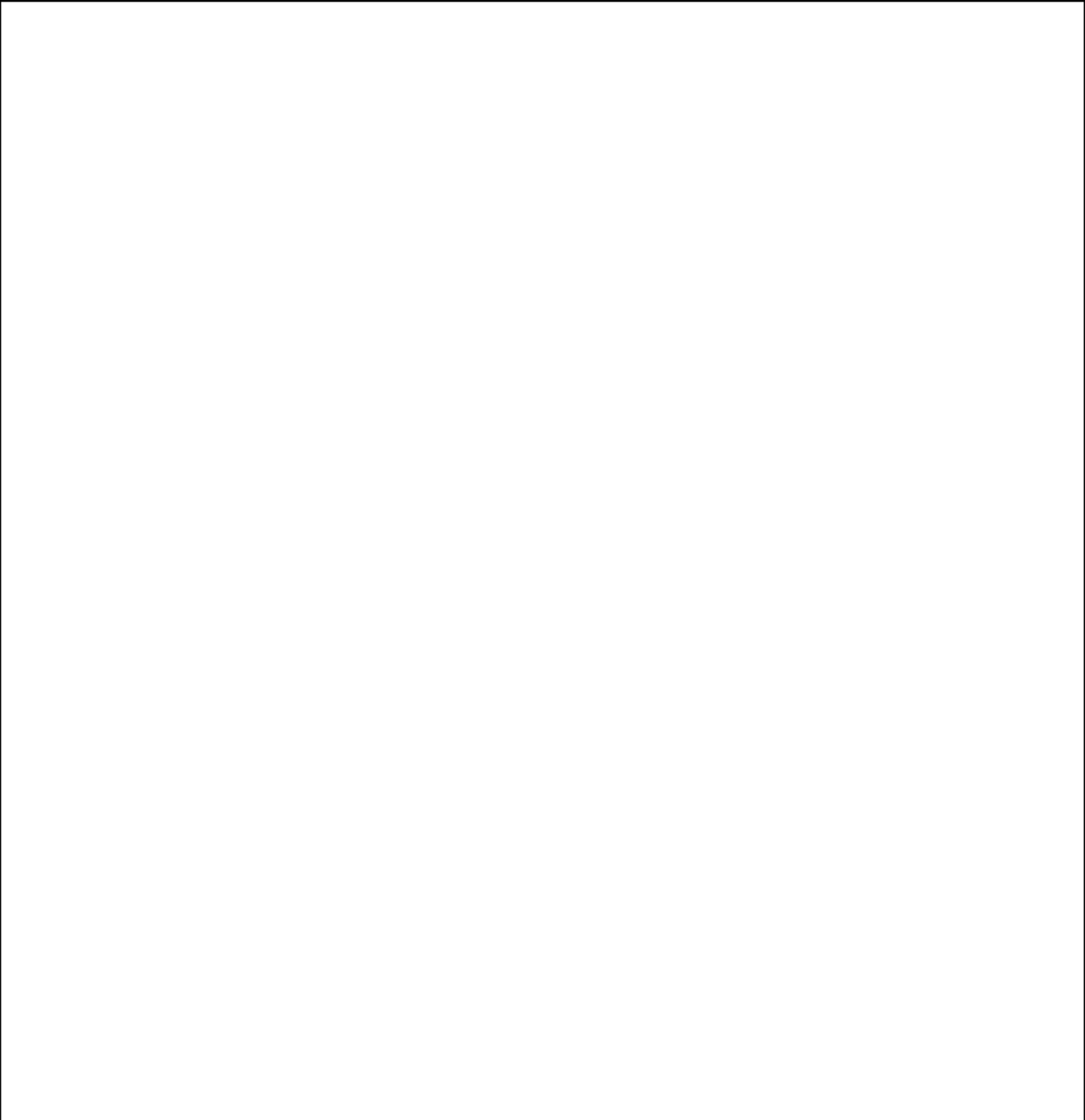


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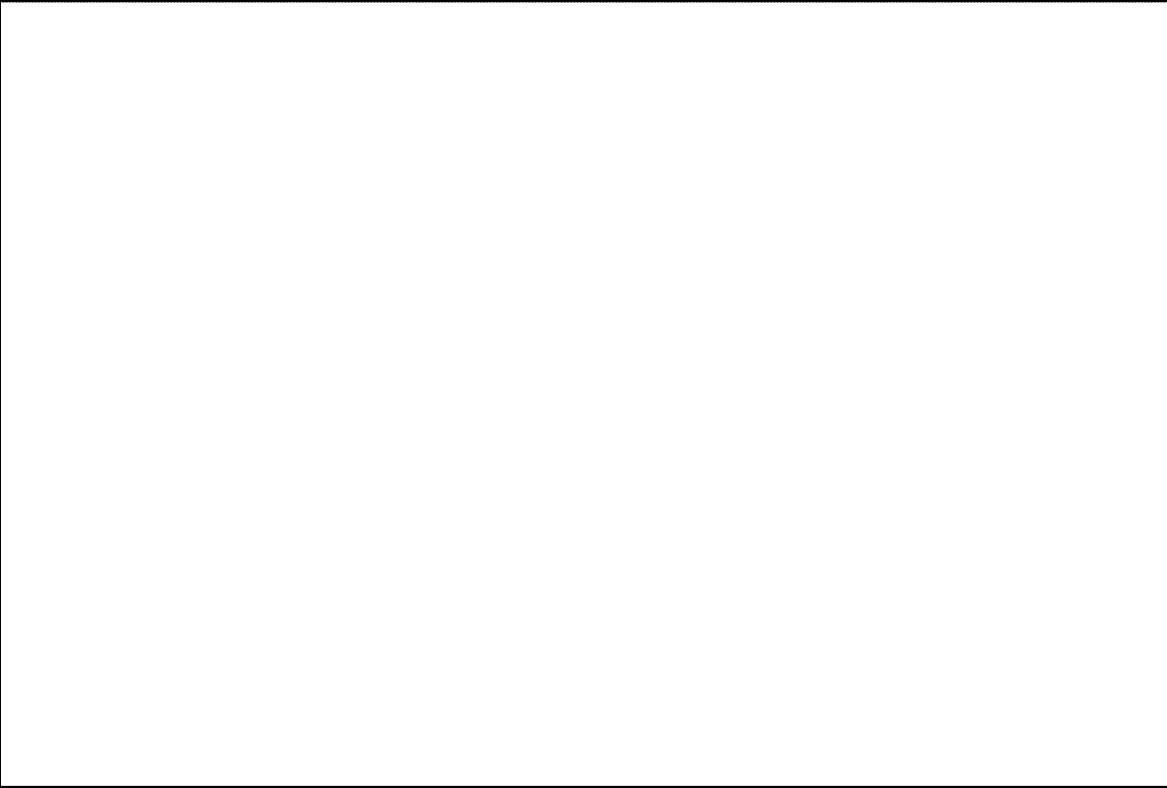




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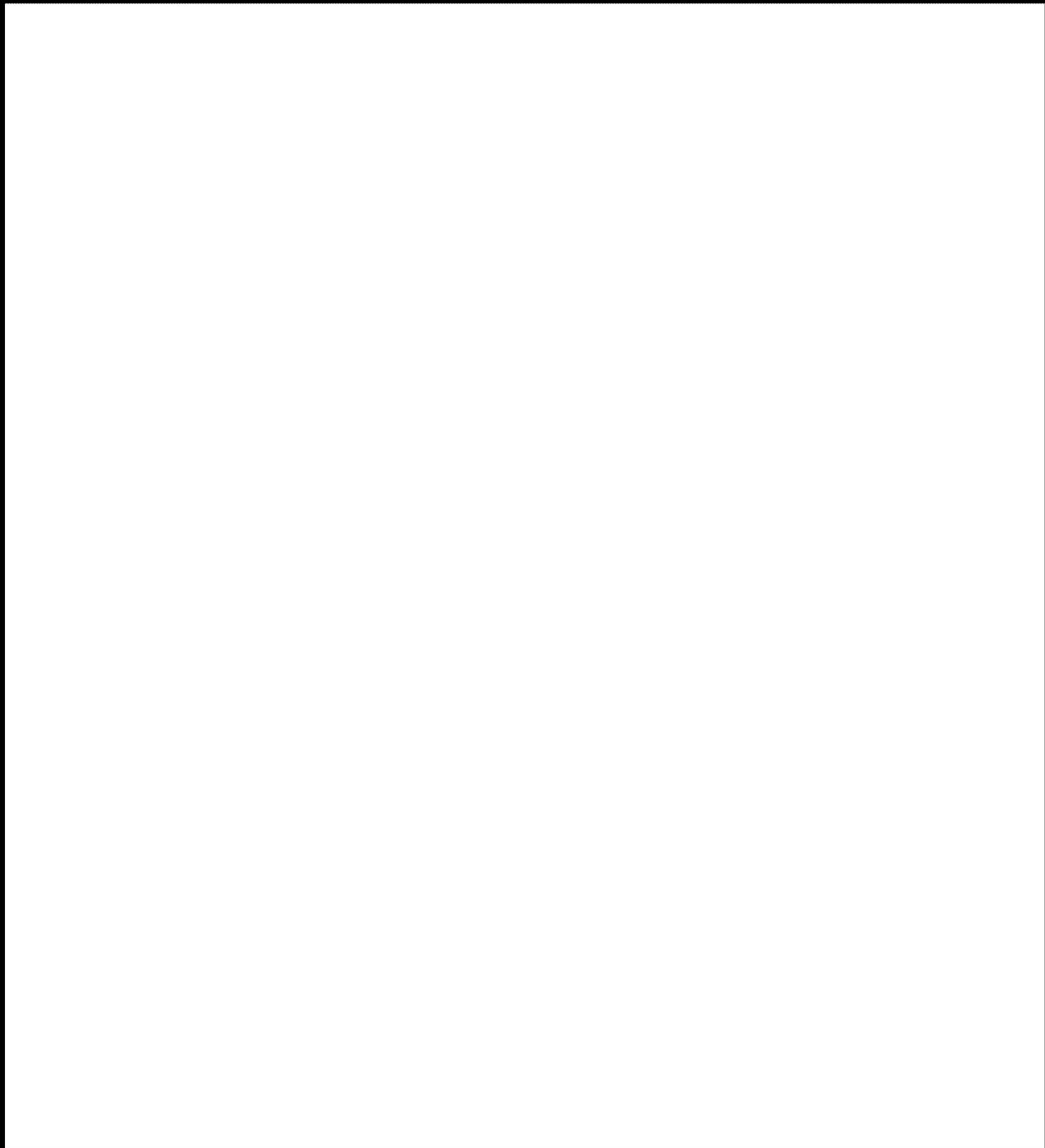
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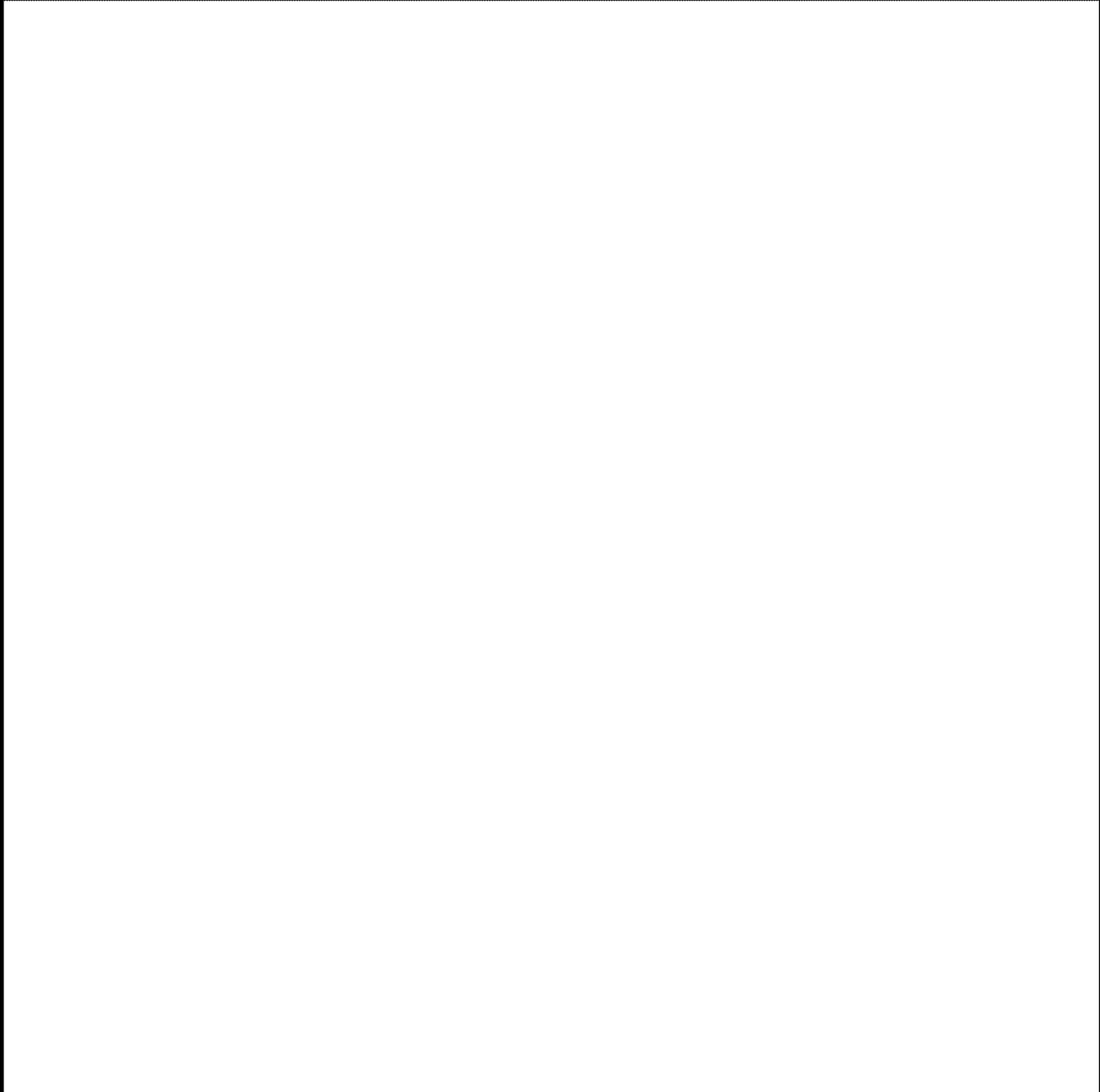
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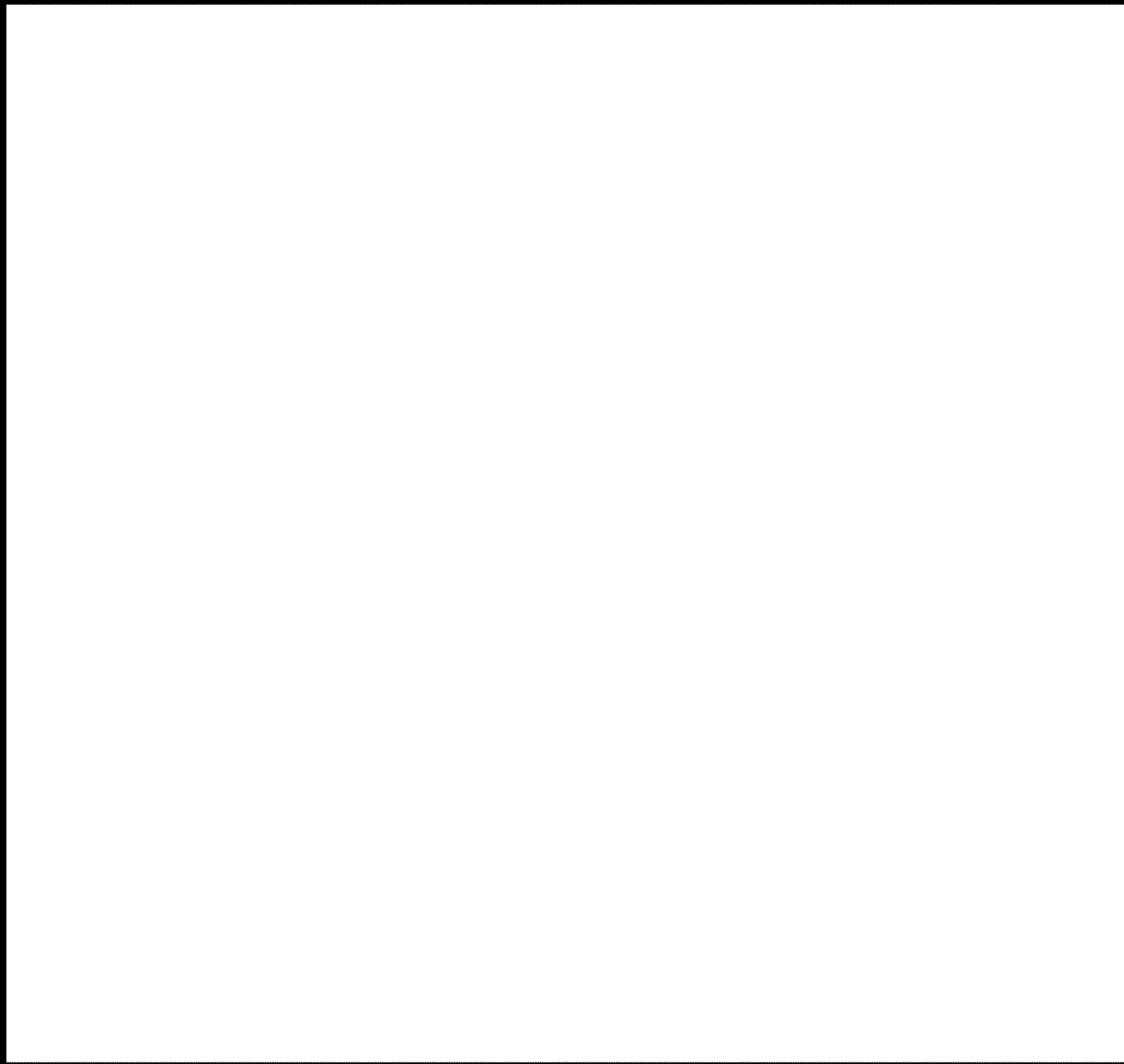
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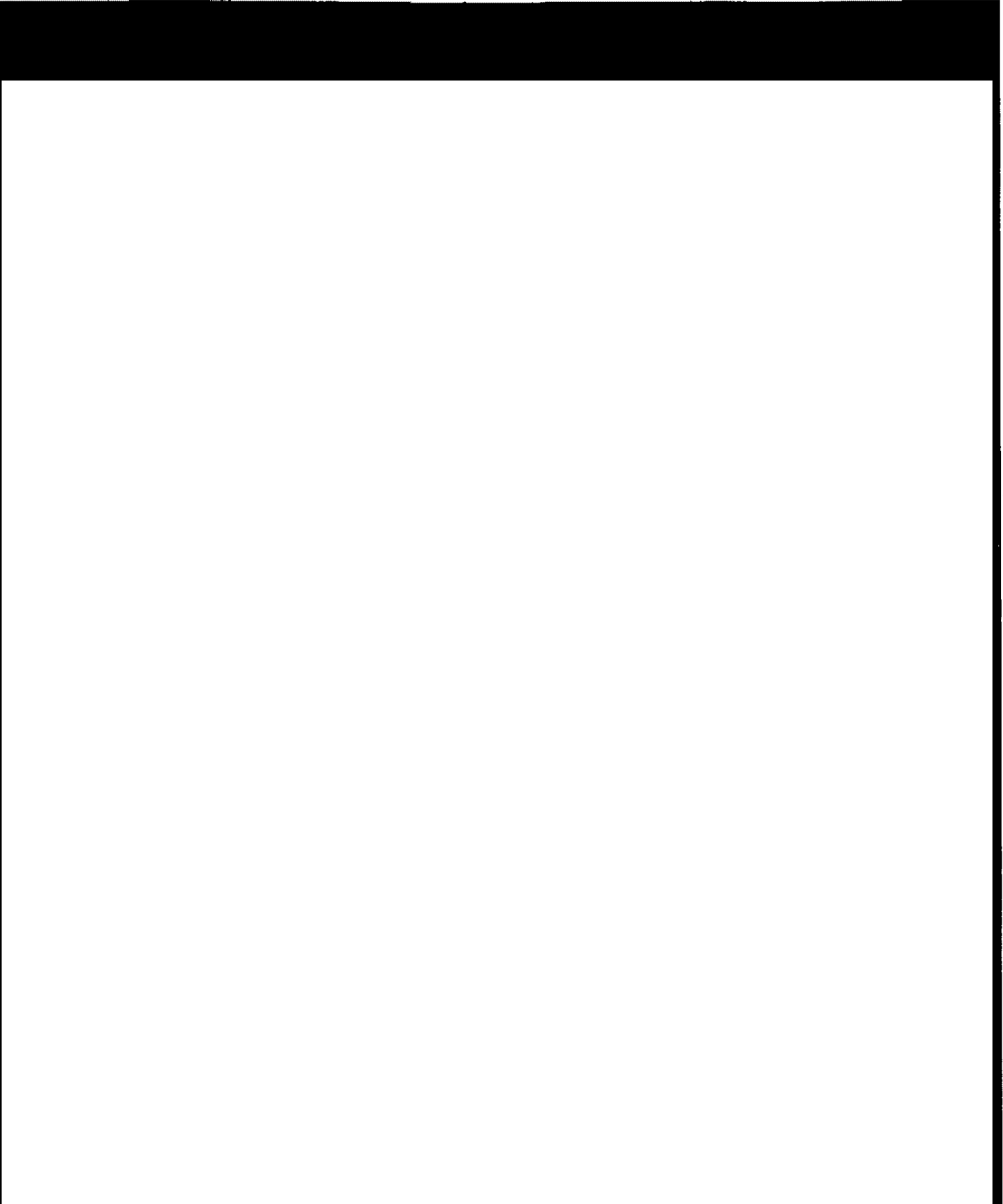
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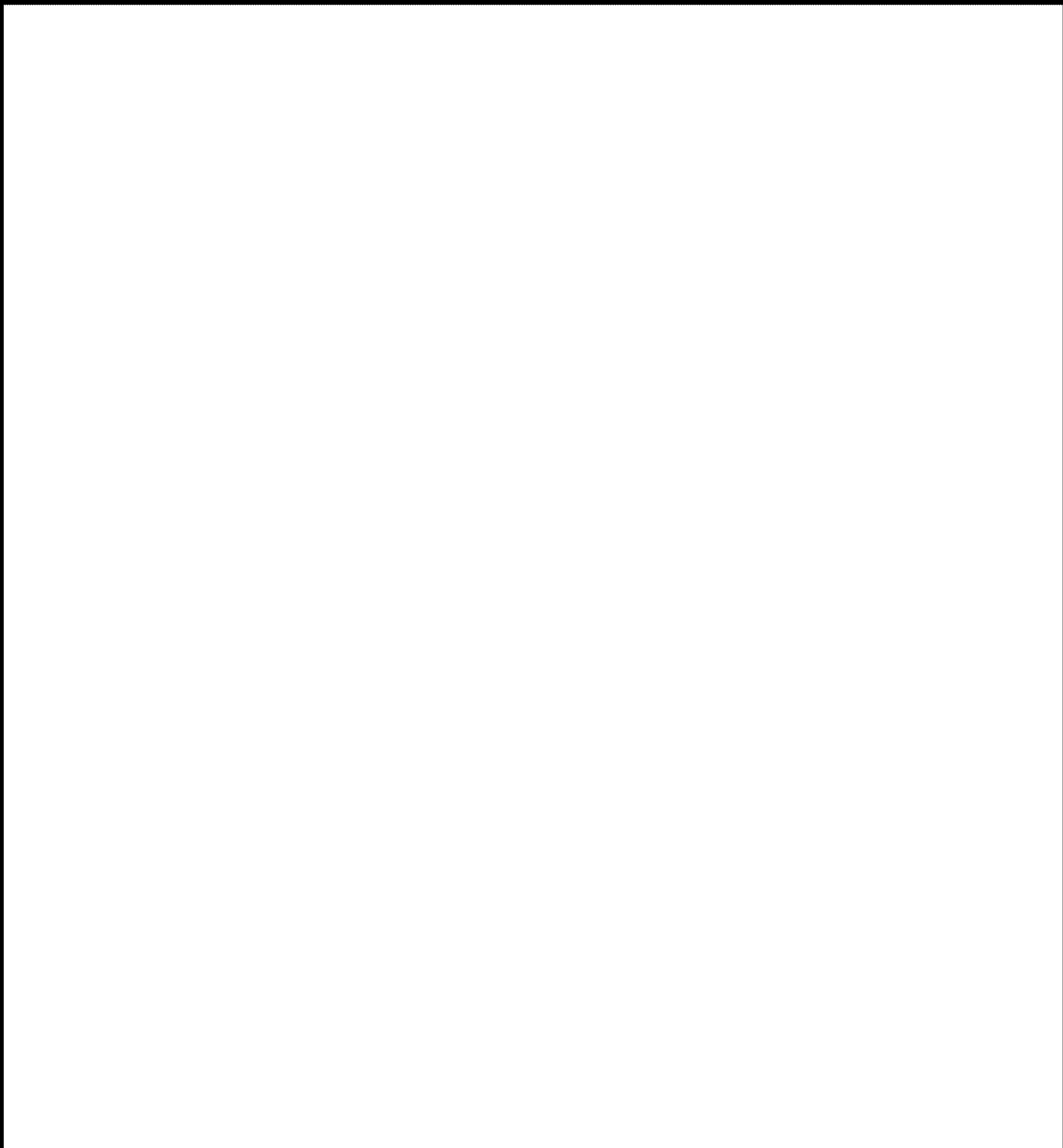


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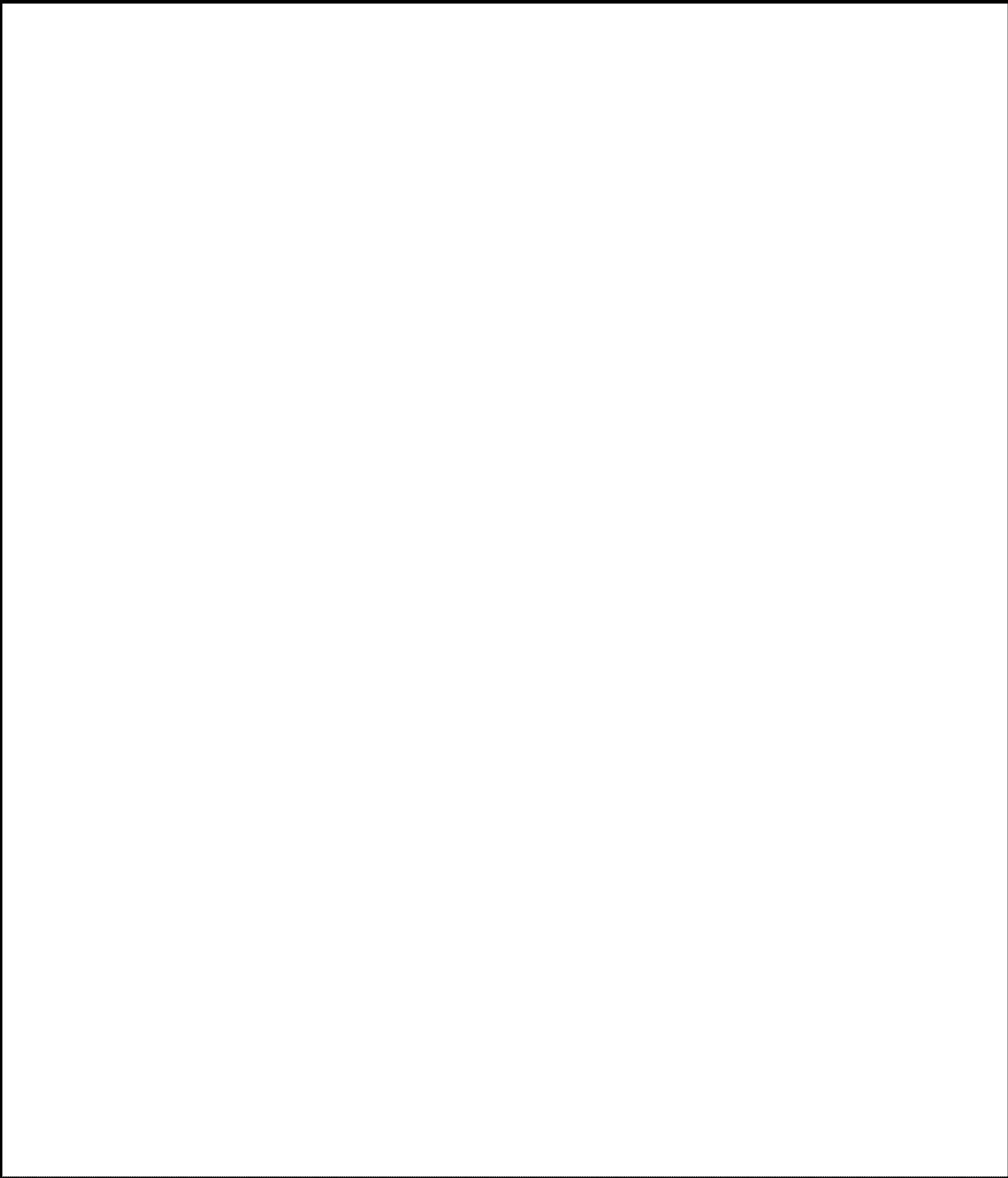




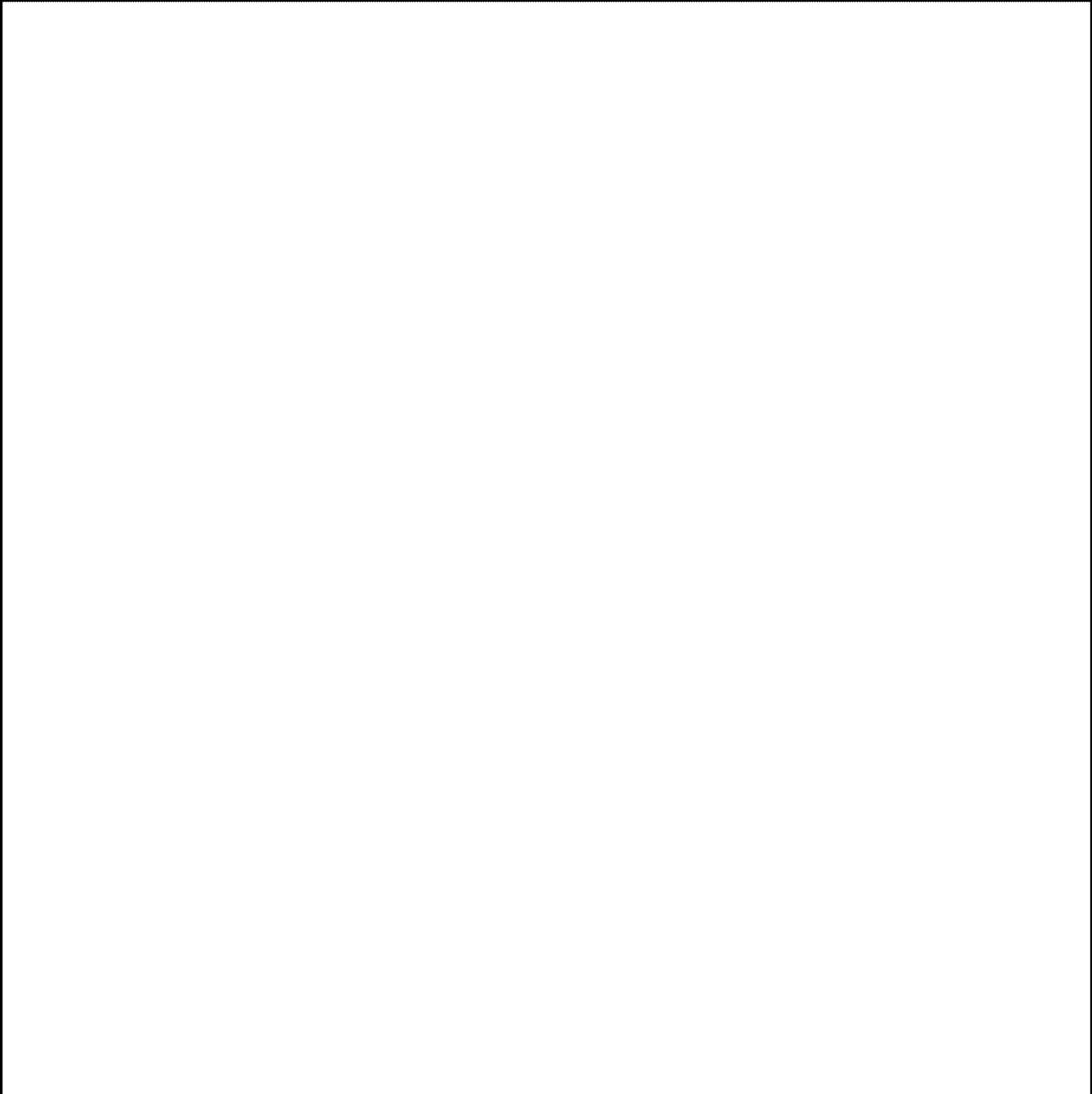
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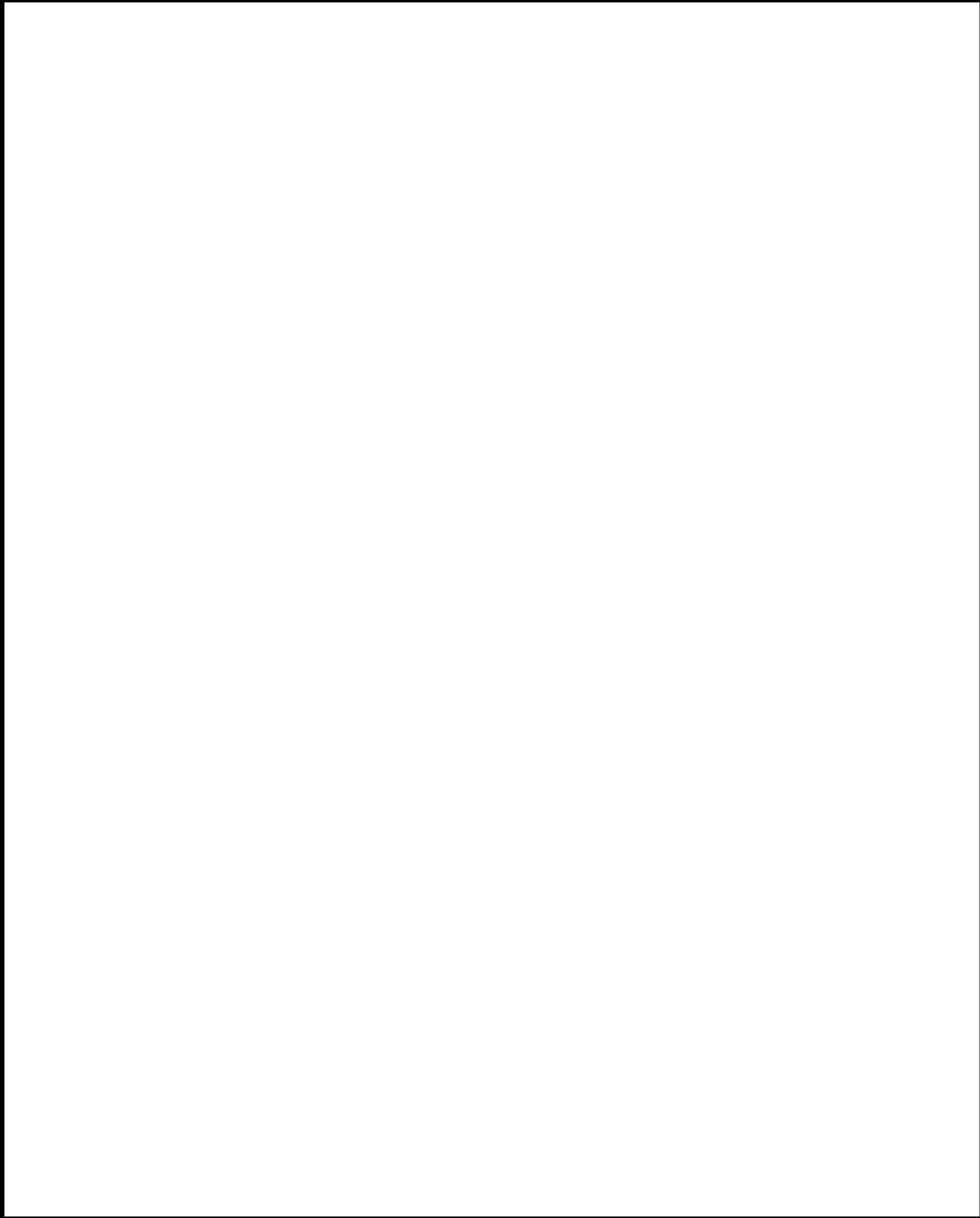
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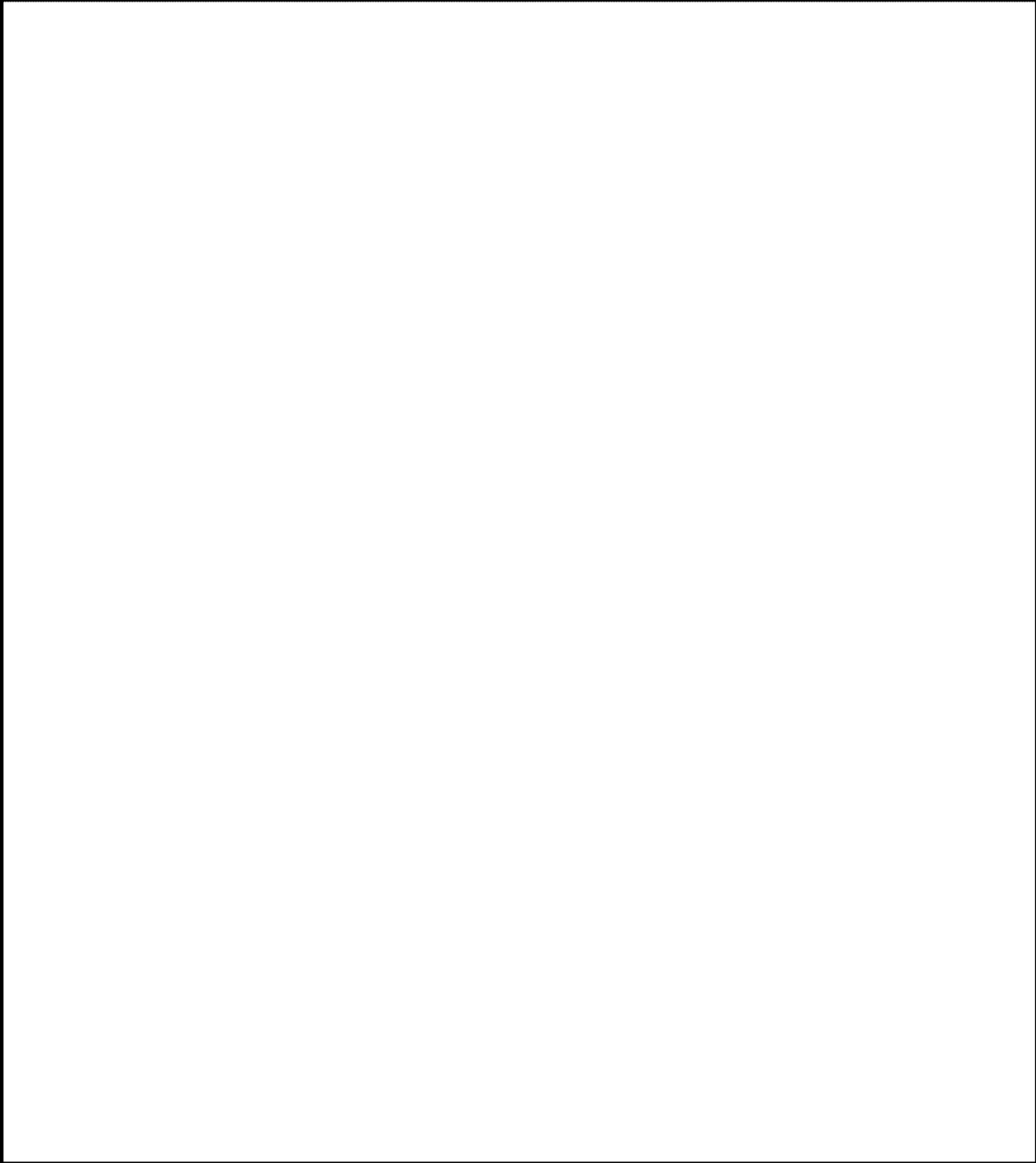
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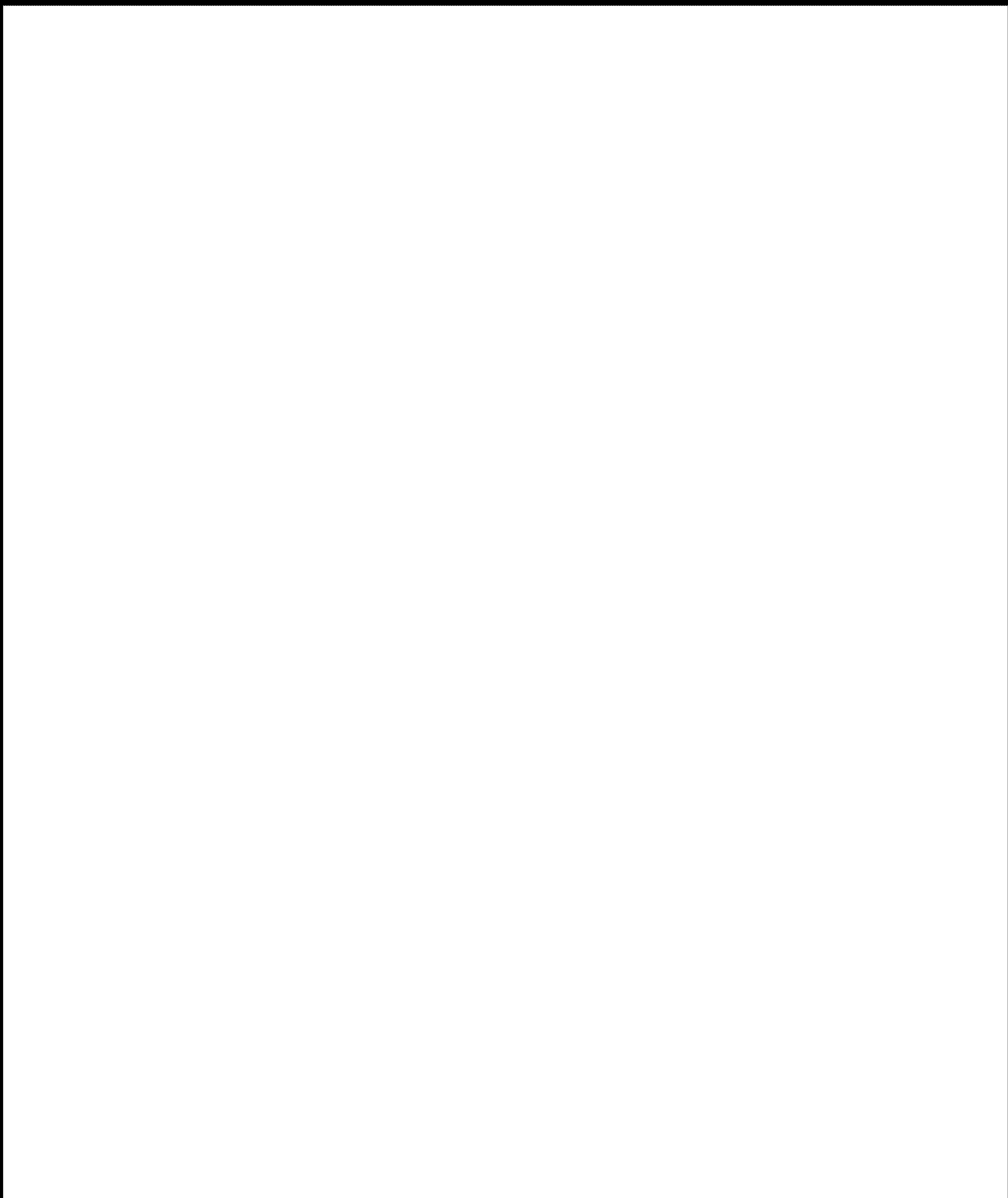


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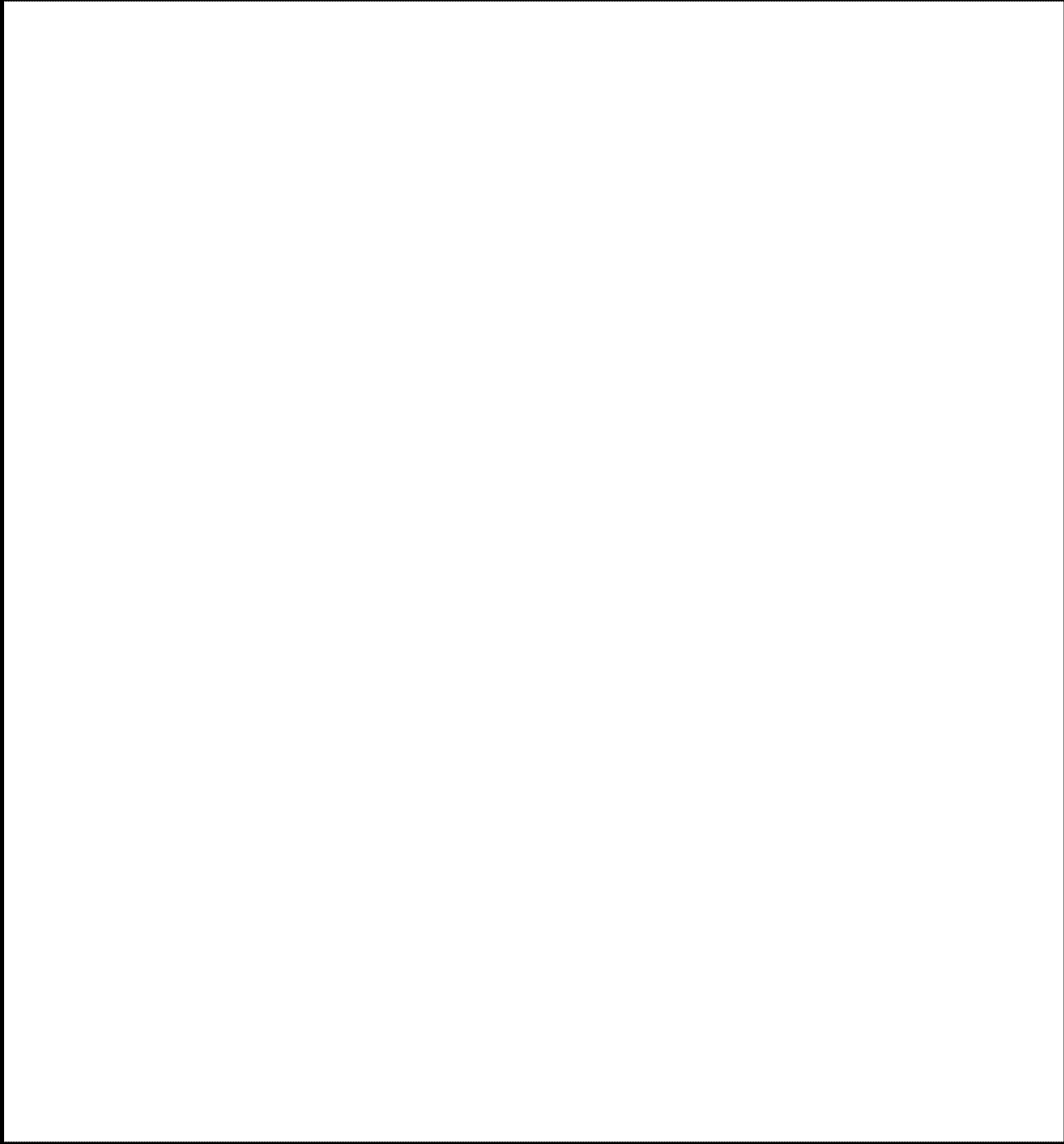
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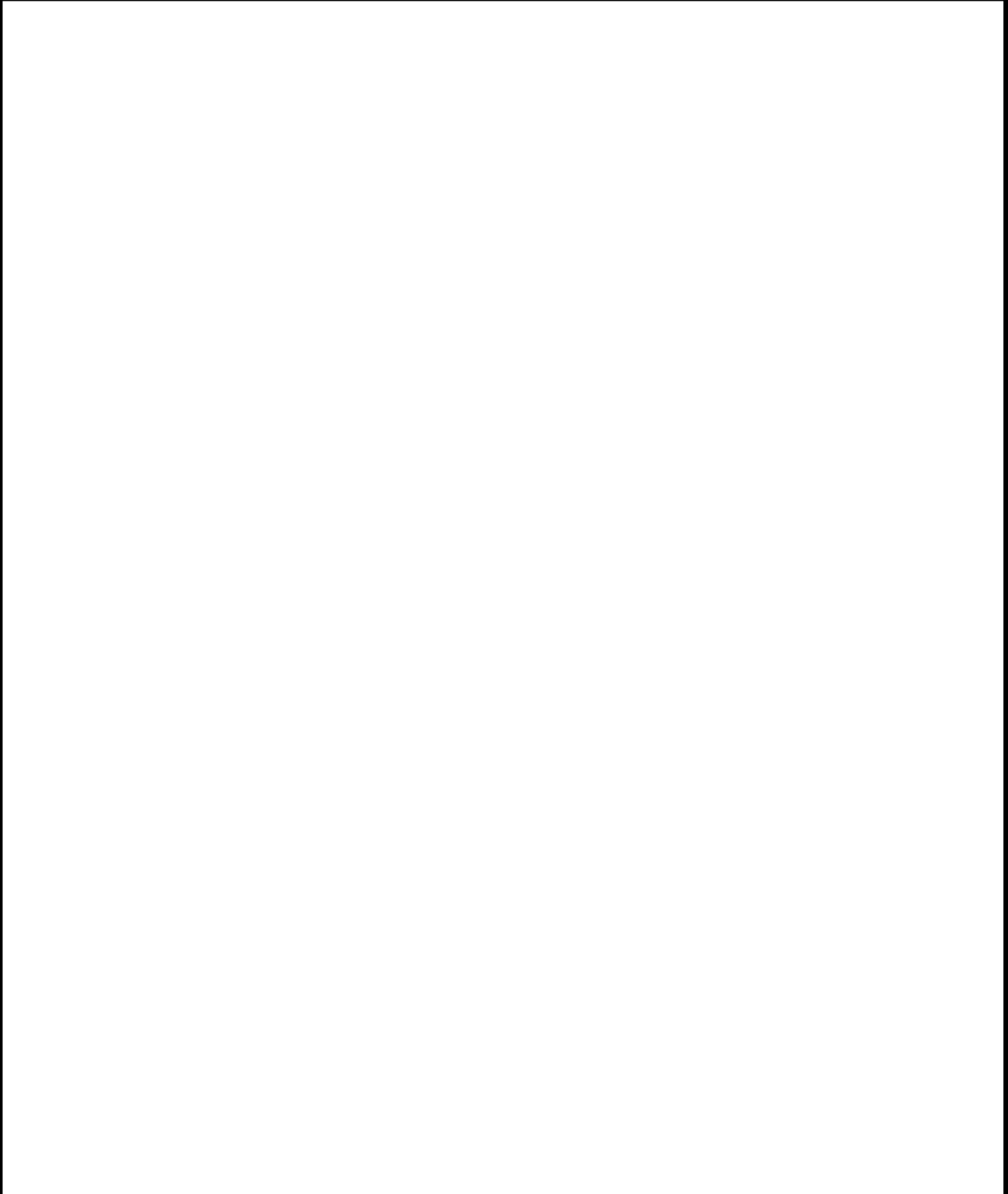
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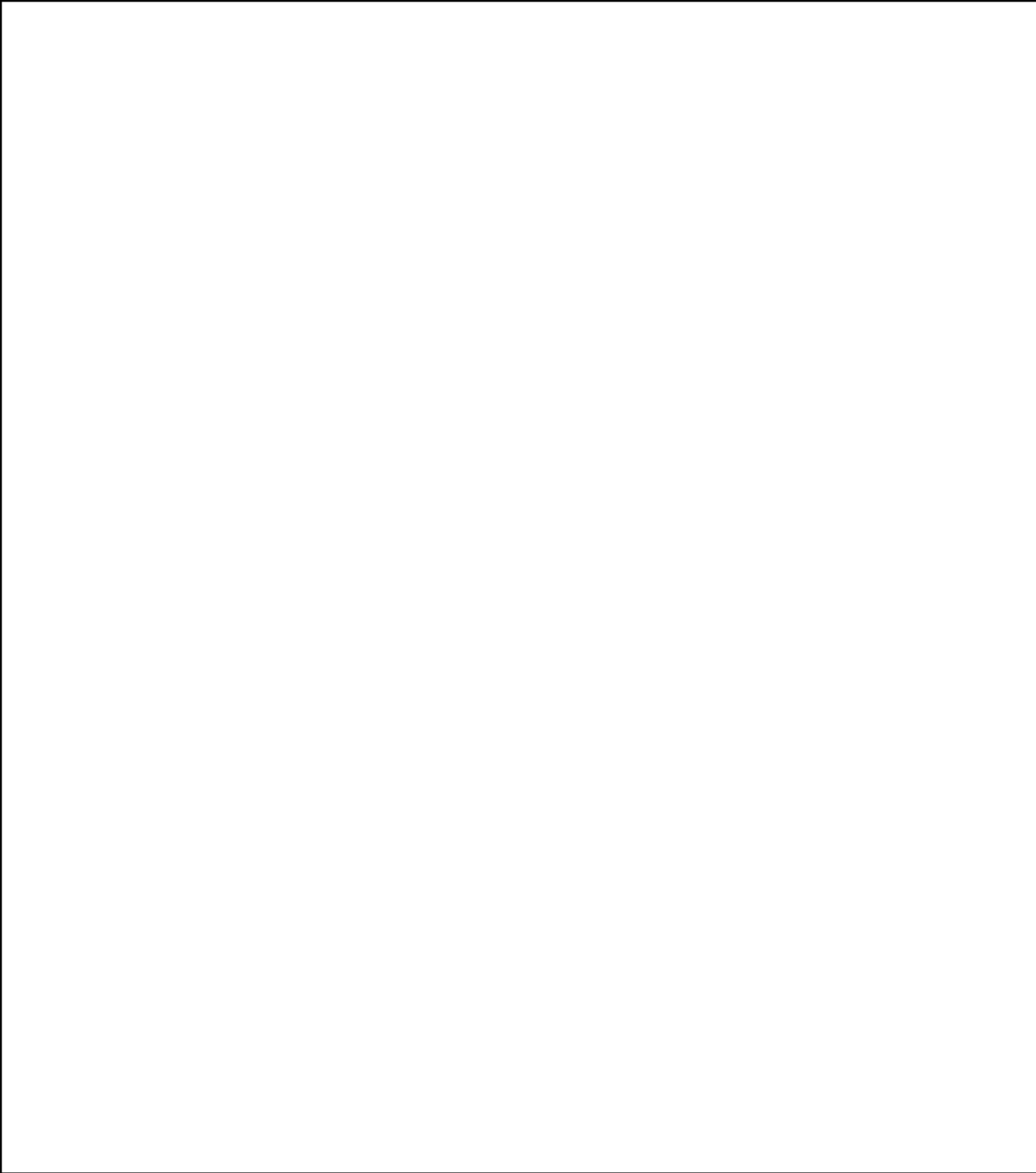
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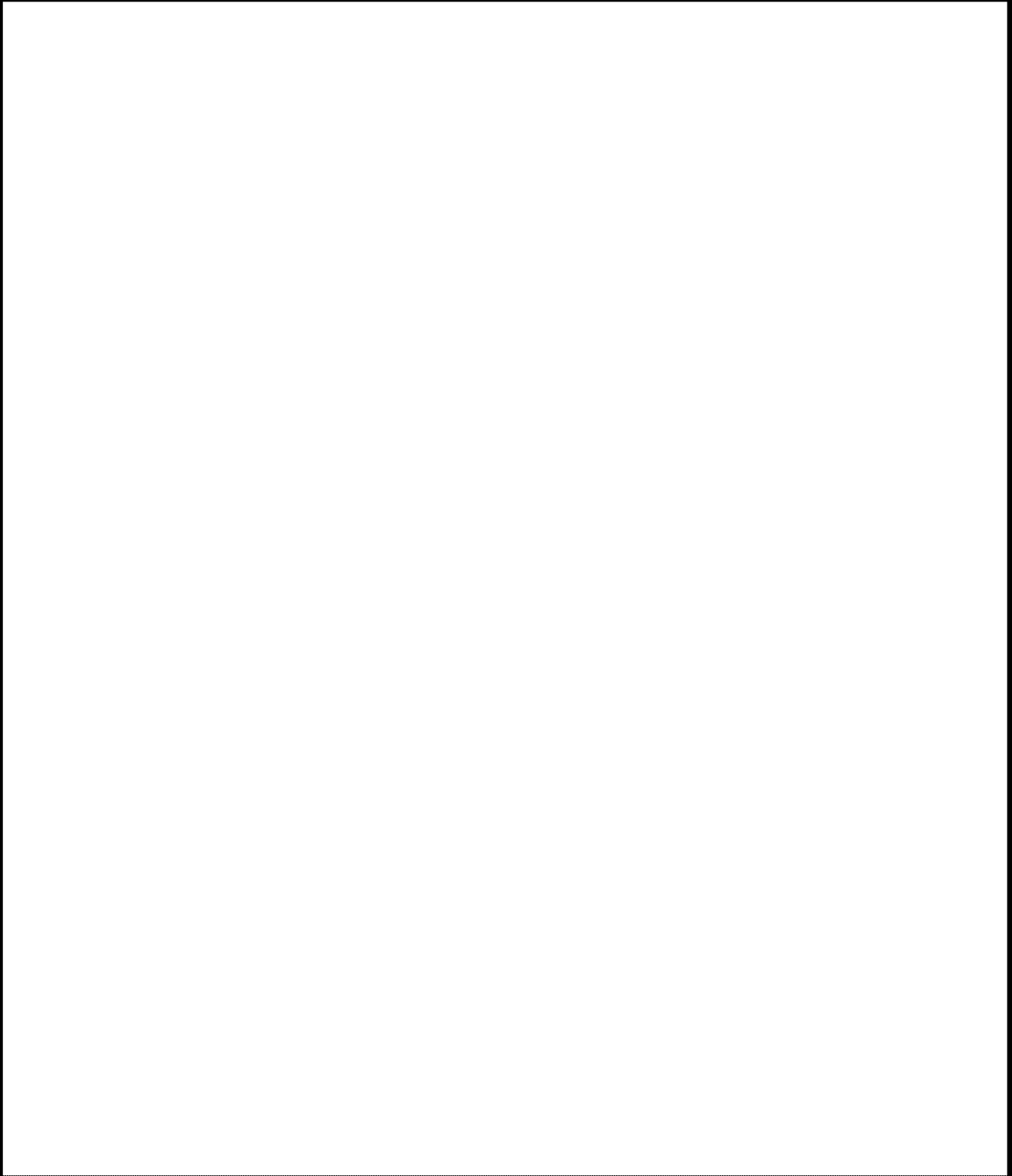
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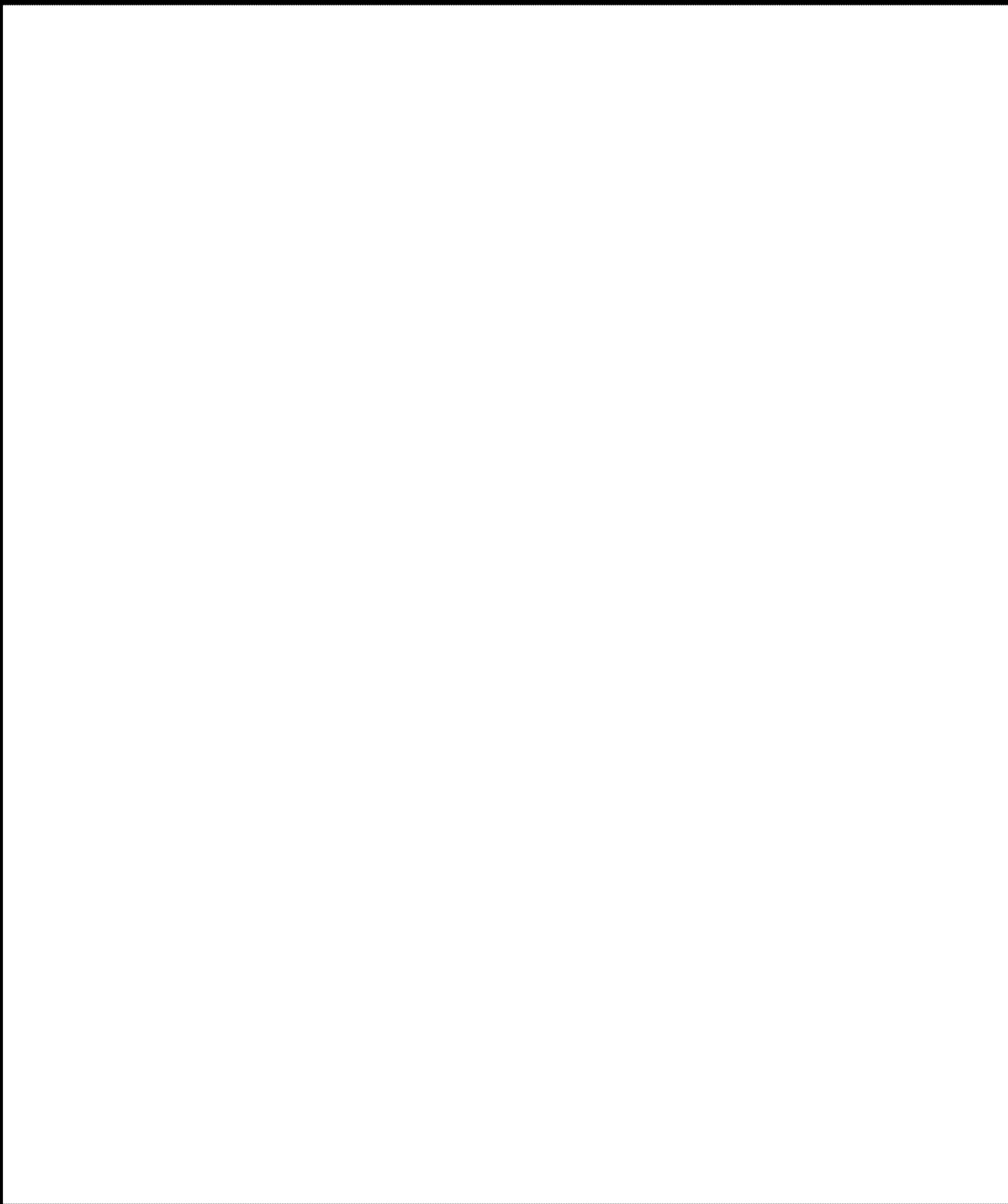
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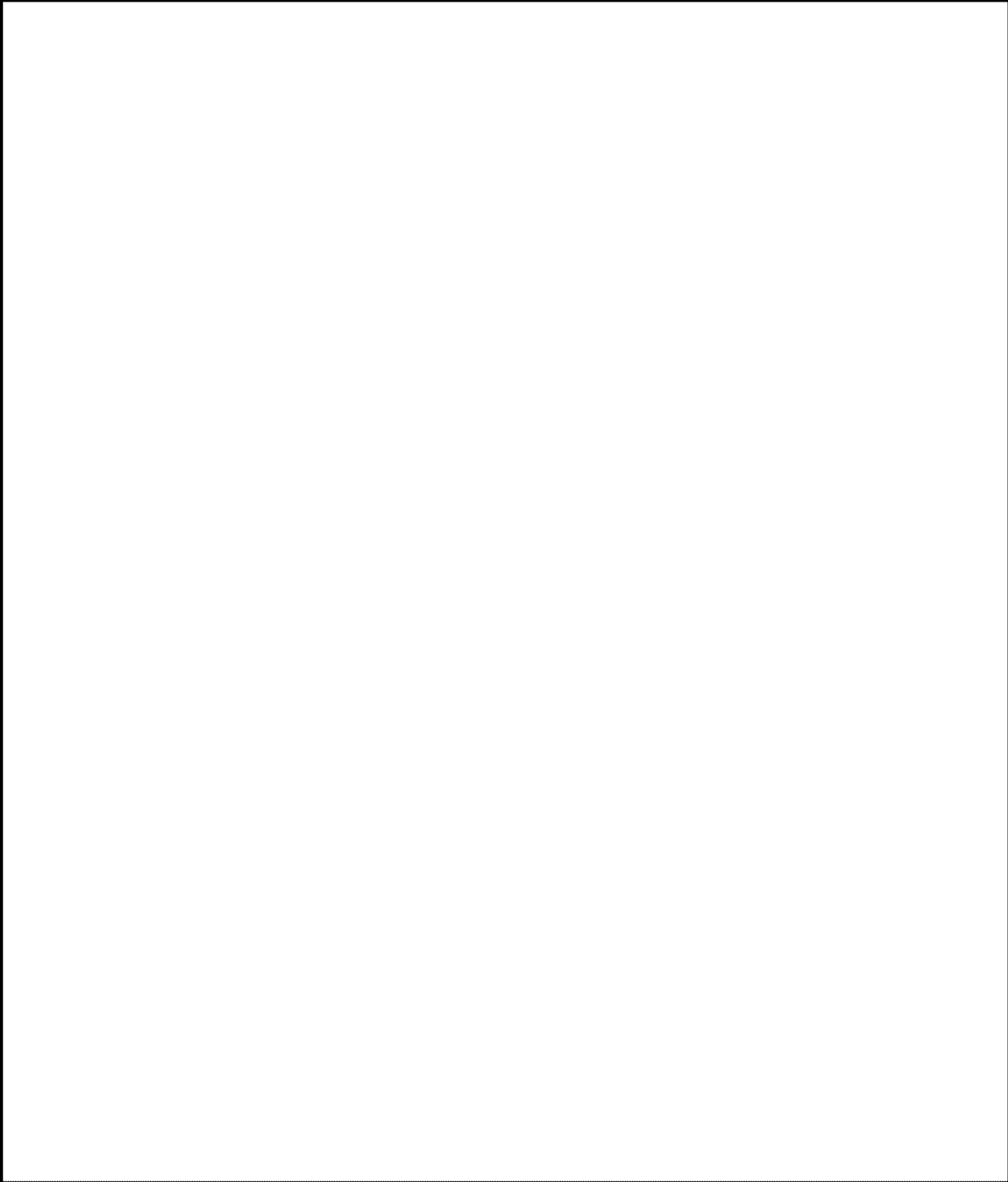
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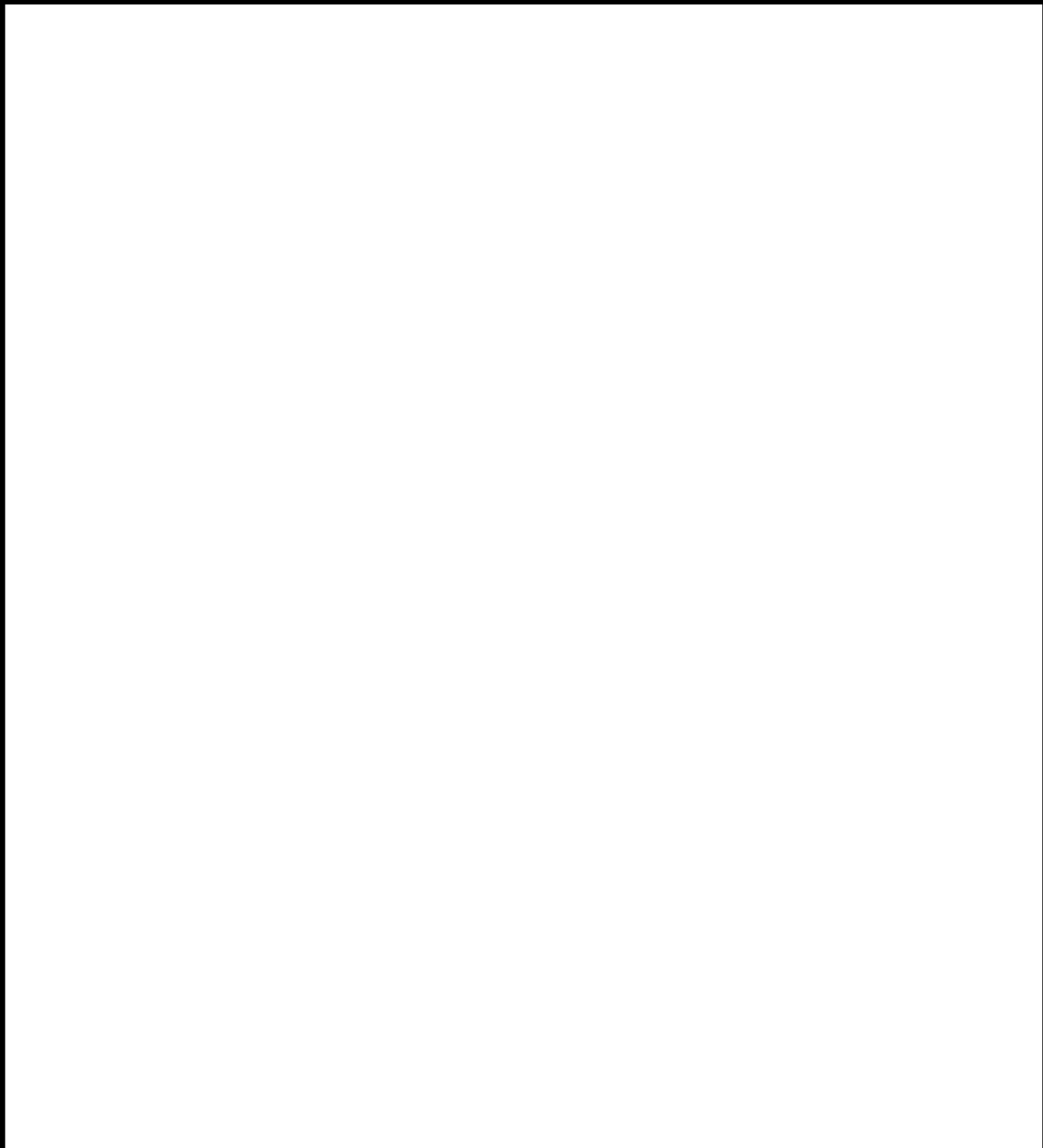
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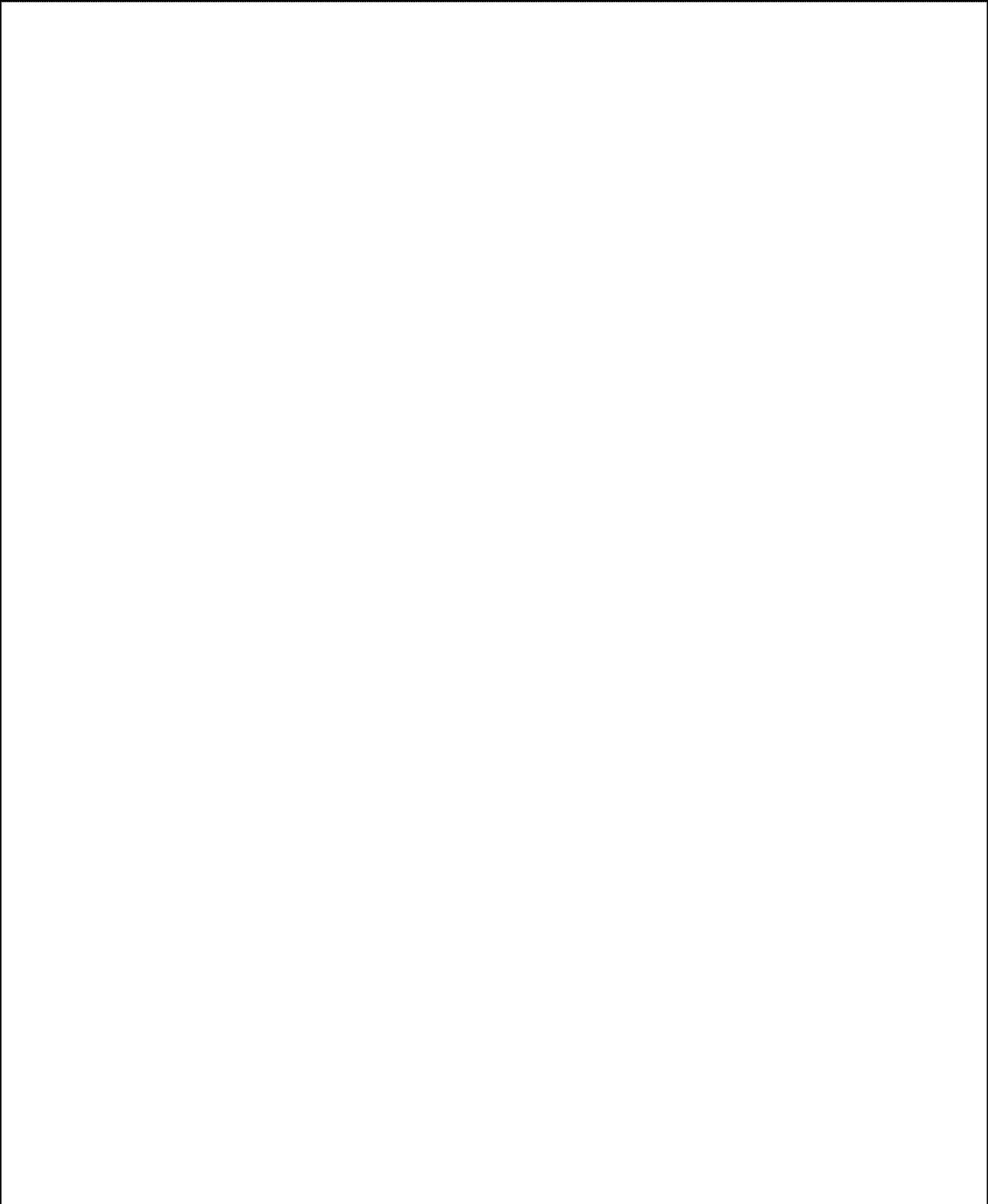


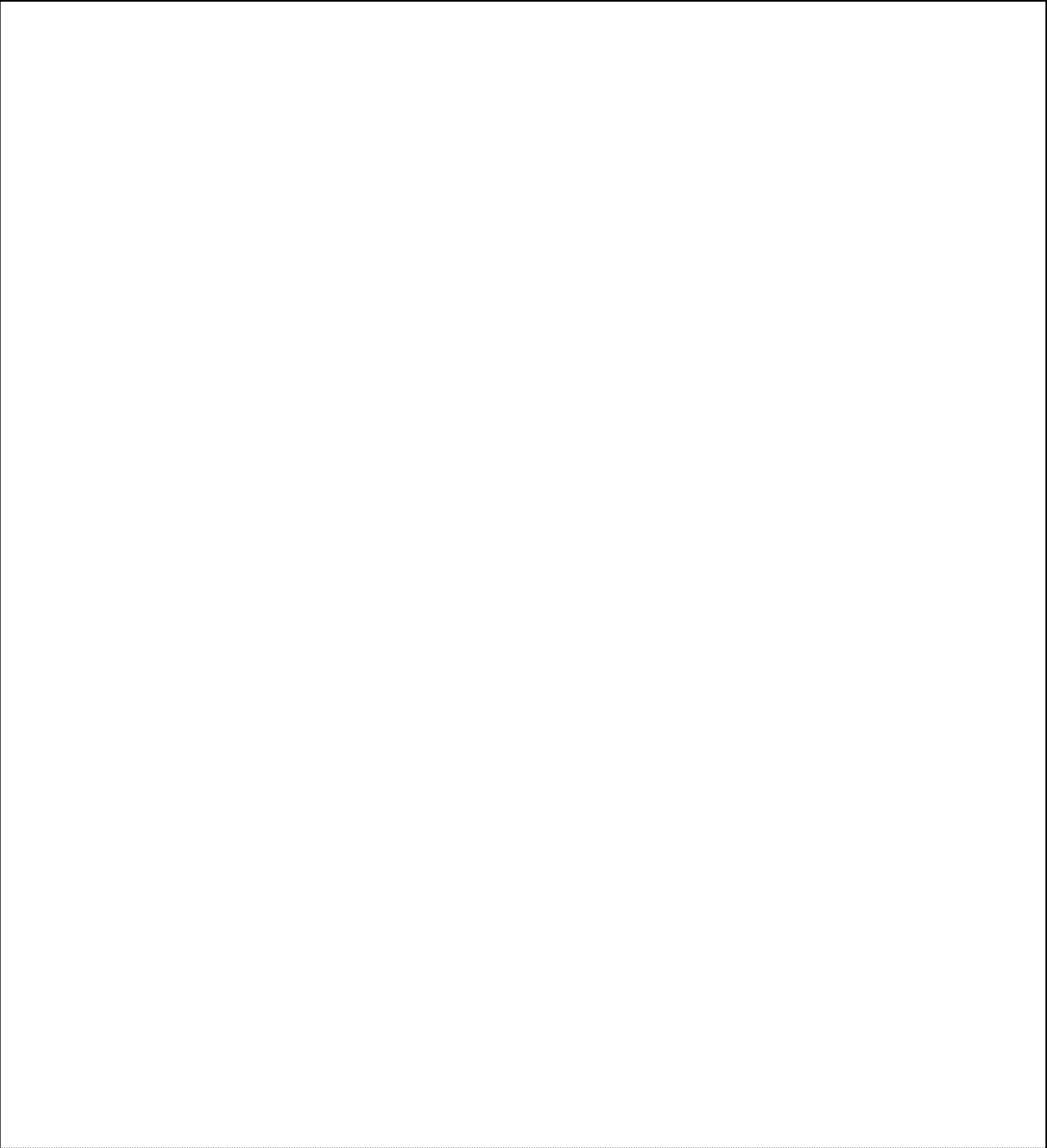
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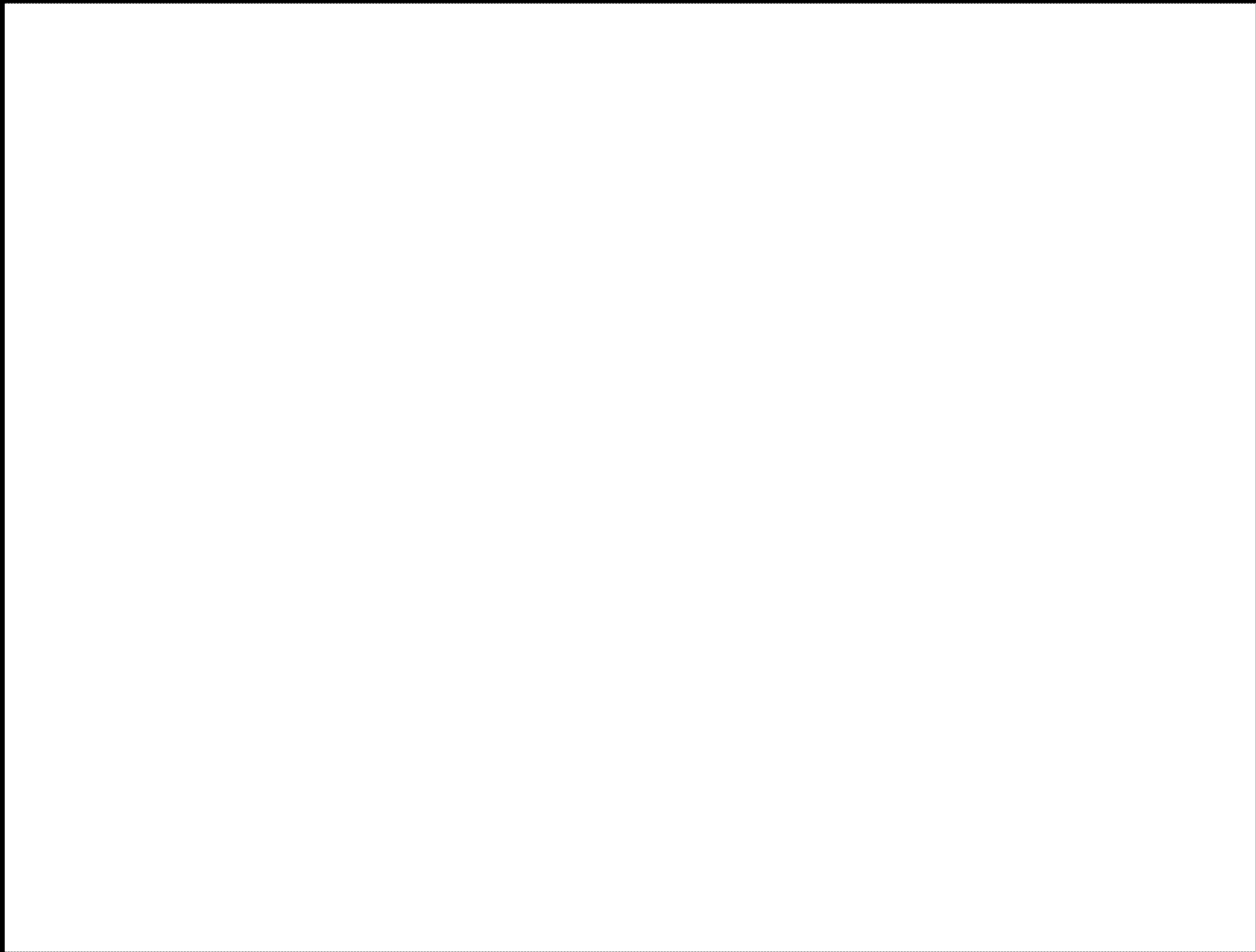




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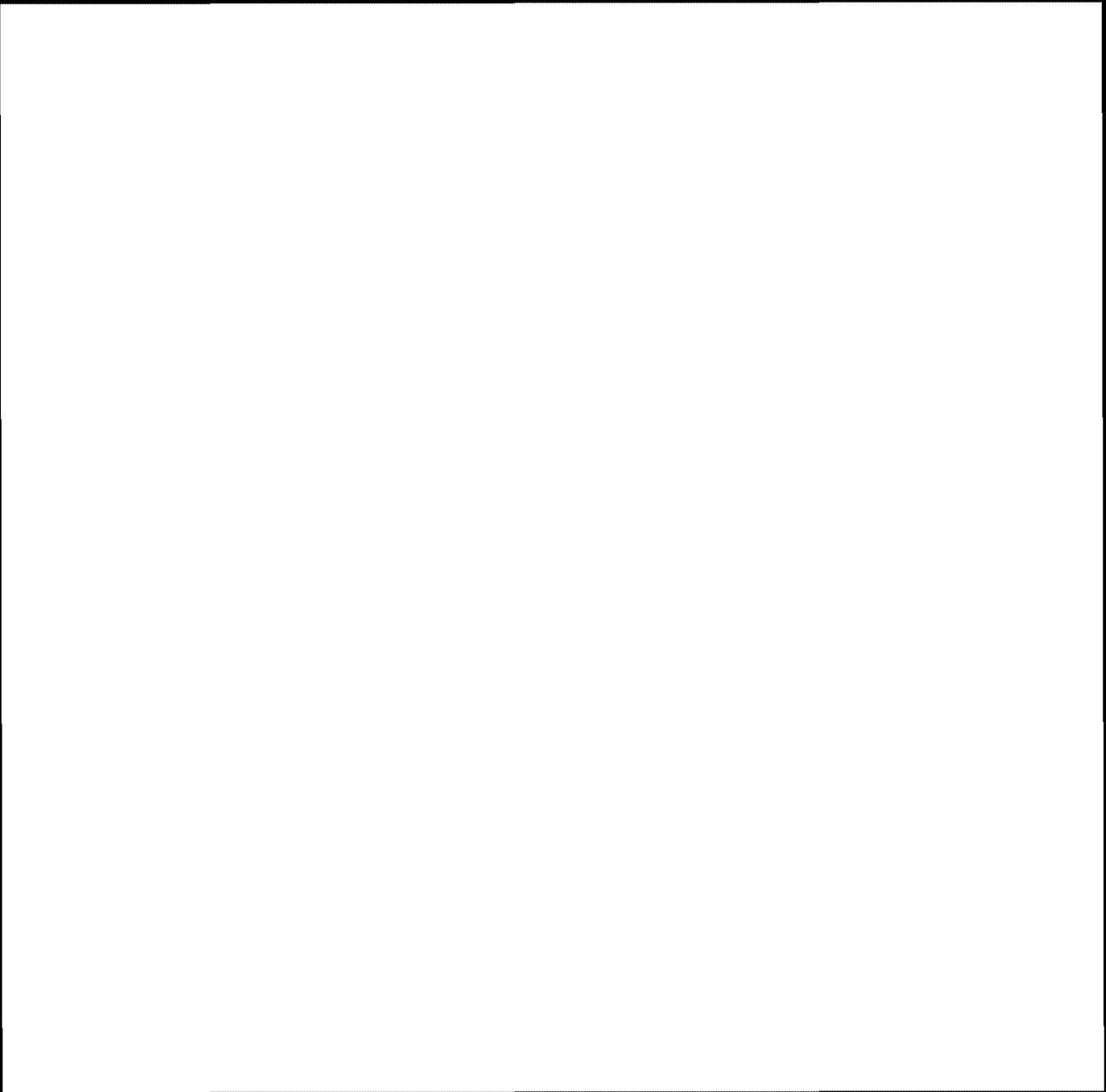


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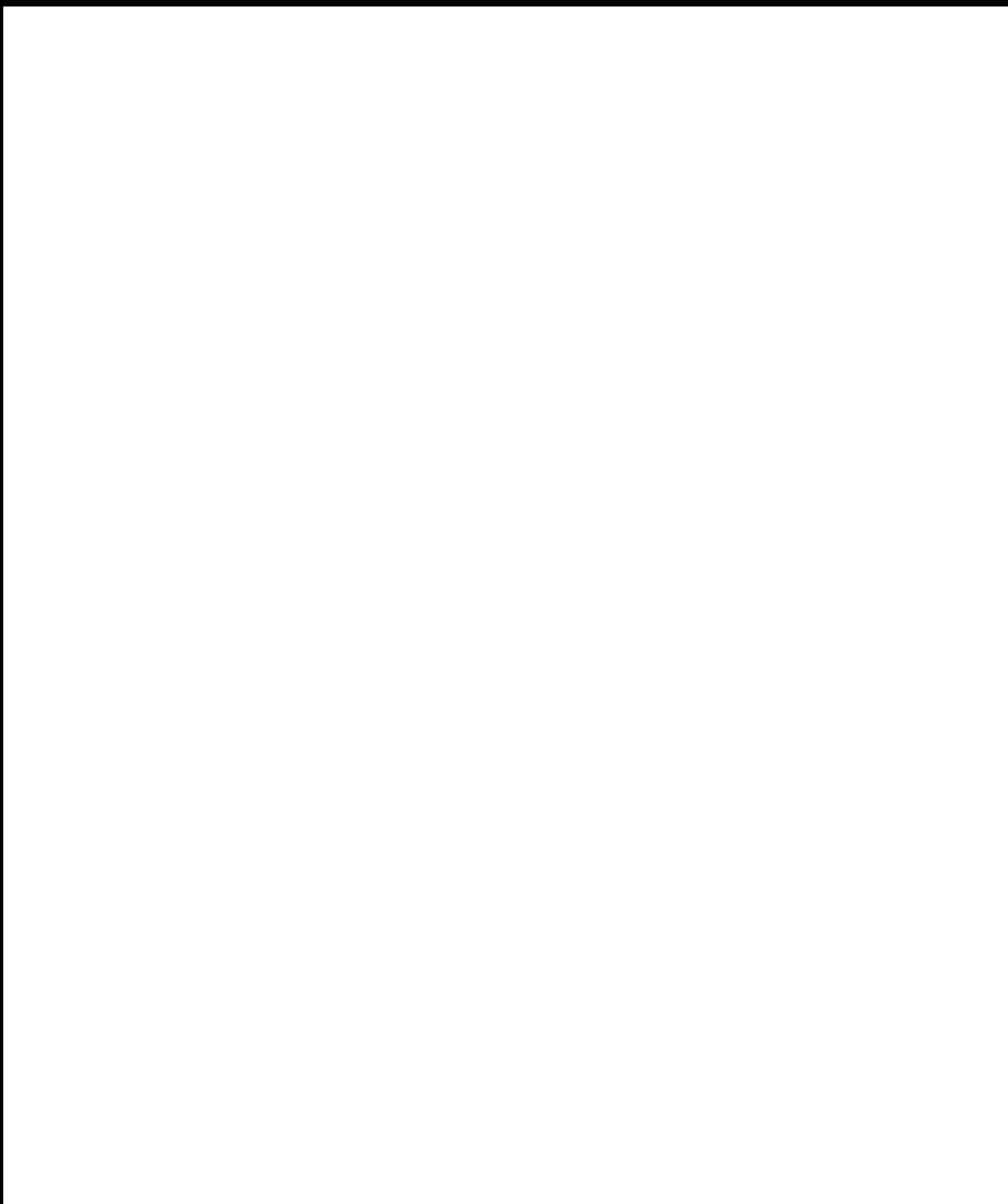


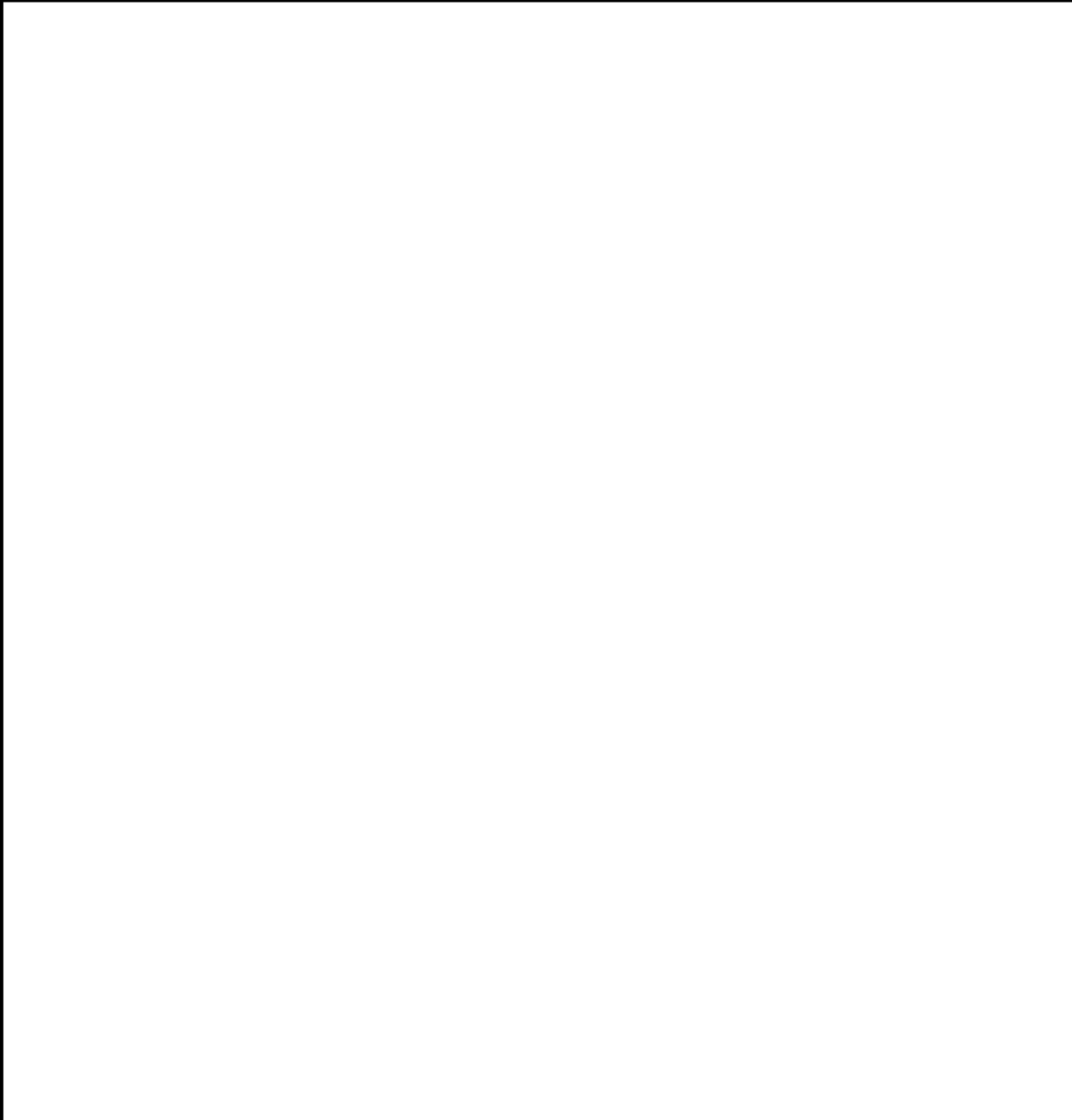


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About this Presentation

- Authors: OCC, Training and Knowledge Management Division; Alice Smith, Associate Counsel, Refugee and Asylum Law Division
- Date of last revision: December 2014
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- OCC Cleared 12/12/2014
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REFUGEE AND ASYLUM OVERVIEW

Course 210/211

Terminal Performance Objective

Given field situations involving persons requesting information regarding benefits related to asylum or refugee status, the officer will provide information to such persons, referring them for processing according to INA, 8 CFR, Policy Guidance .



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Enabling Performance Objectives (EPO)

- EPO #1** Identify applicable sections of the Immigration and Nationality Act (INA) and Title 8, Code of Federal Regulations (8 CFR) that relate to refugees (INA § 207) and asylum (INA § 208).
- EPO #2** Identify the eligibility requirements for asylum and refugee applications.
- EPO #3** Identify the differences between the “asylee” and “refugee” classifications.
- EPO #4** Identify ancillary benefits available to aliens classified as an asylee or refugee.



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Statistics

As referenced from the United Nations Commissioner of Refugees (UNHCR) and the Worldwide Refugee Admissions Processing Systems (WRAPS):

At the end of 2008:

- forcibly displaced individuals worldwide totaled approx. 42 million
- Total refugees accepted for resettlement worldwide was 88,800.
- Pakistan hosts the largest number of un-resettled refugees with 1.8 million individuals



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Between FY 08- FY 09, US allocated 80,000 refugee entries

In FY 08 -60,108 refugees were allowed entry and resettlement into the U.S.

Top three countries:

- Burma- 18,139
- Iraq- 13, 823
- Bhutan- 5,320



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Top Three states with resettlement of refugees include:

- California- 9,472
- Texas- 5,113
- Florida-3,715



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There is no limit or cap, for the granting of Asylum status in the U.S. FY 08-09 22, 930 individuals granted asylum.

Top three countries:

- China 5, 459
- Columbia, 1,646
- Haiti, 1,237



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Refugee Definition

INA §101(a)(42) Core Components *

Unable or unwilling to return to country of nationality (or if without a country of nationality, the country of last habitual residence) because of:

▪ Past Persecution

OR

▪ Fear of Future Persecution

On Account of:

- Race
- Religion
- Nationality
- Membership in Particular Social Group
- Political Opinion

* NOTE: See INA §101(a)(42) for additional exceptions



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Definition of Persecution

- No precise definition of persecution --we only have guidance
- Generally, serious harm or suffering
- May be mental or physical harm
- May be cumulative (series of discriminatory acts that rise to the level of persecution)
- Must be on account of one of the 5 protected grounds



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WHO is the PERSECUTOR?

- Government

OR

- Entity the government cannot or will not control



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Refugee Admissions Program

INA § 207 --

(special humanitarian concerns /admissible
/not firmly resettled)

8 C.F.R. Part 207



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Refugee Admissions Program

- Who is eligible for consideration?
- How is this determined?

HOW MANY refugees to be admitted, **WHERE** these refugees are from, and **WHO** can be interviewed is jointly decided by the President and Congress.



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Refugee Admissions Program

Annual Consultation Process:

The President determines, after consultation with Congress:

--Admissions Ceiling

FY2008: 80,000

--Groups of Special Humanitarian Concern

--Family-Based



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Application, Interview & Processing

- What to file

 - I-590 (Registration for Classification as a Refugee)
(if 14 years & older—additional requirements)

- How to file

 - Overseas Processing Entities (OPEs) assist refugees

- Confidentiality

- Interview by USCIS



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Application, Interview & Processing

▫ Eligibility

- must meet definition of "Refugee"
- cannot be "Firmly Resettled"
- must be admissible

▫ Travel to U.S.

- sponsorship assurance
- admitted as "refugee"

▫ Termination

- If found not to be a refugee at time of admission



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Asylum Process

- INA & Regulations

INA § 208 / 8 C.F.R. Part 208

- Who can apply?

- Any asylum seeker – while physically present in the U.S. or port of entry
- regardless of immigration status
- no limit to number who can apply annually



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Asylum Process (cont'd)

Restrictions on Filing:

- 1-Year Filing Deadline (some exceptions)
- Prior Denial by IJ or BIA
- Safe 3rd Country

Filing an I-589:

- Affirmative vs. Defensive



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Asylum Eligibility

▫ Eligibility

must meet definition of “Refugee”

discretionary benefit

-- precedent case law

-- mandatory bars

▫ If Not Eligible

If applicant in lawful status – Denial

If applicant Not in lawful status – Referral to IJ



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Confidentiality

Federal regulations at 8 C.F.R § 208.6 generally prohibit disclosure of information about an asylum applicant or application to a third party, with the exception of other U.S. government officials or contractors in certain situations.

- No disclosure without written consent
- Even the fact that an individual applied is confidential



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What Are Some Differences Between Asylum & Refugee Processing?



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Asylum vs. Refugee Processing

1. The Office of the United Nations High Commissioner for Refugees (UNHCR) was established in 1951. The major international instruments that form the basis for international refugee protection are:
 - The 1951 UN Convention relating to the Status of Refugees;
 - The 1967 UN Protocol relating to the Status of Refugees.



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Asylum vs. Refugee Processing (cont'd)

2. The Refugee Act of 1980 defined the term “refugee” in U.S. law and brought the United States law into compliance with international law. It established politically and geographically neutral adjudication standards for refugees and asylees.

3. Congress created 2 programs:

- U.S. Refugee Admission (USRAP) for refugees outside the U.S.;

and

- U.S. Asylum Program for refugees inside the U.S.



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Asylum vs. Refugee Processing (cont'd)

4. INA section 101(a)(42) defines the term "refugee" under U.S. law as any person unable or unwilling to return to his or her country of nationality or last habitual residence because of persecution or a well-founded fear of persecution on account of:

Race

Religion

Nationality

Membership in a particular social group or

Political opinion



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Asylum vs. Refugee Processing (cont'd)

5. Two Programs

A. Refugee Admissions Program – refugees outside the U.S.

- INA section 207
- Refugees file on Form I-590

To be eligible, the individual must:

- fall within a processing priority
- meet the definition of refugee
- be admissible to the U.S.
- not be firmly resettled
- and cannot be someone who qualifies as the immediate relative of a U.S. citizen or qualifies as a special immigrant, unless in public interest



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Asylum vs. Refugee Processing (cont'd)

B. Asylum Program – refugees inside the U.S. or at POE

- INA section 208
- File on Form I-589
- Can apply despite immigration status
- Certain restrictions on filing



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Asylum vs. Refugee Processing (cont'd)

- Asylum may be granted in the exercise of discretion to any such alien who meets the definition of "refugee," except where a statutory ground for mandatory denial applies.
- Asylum Officers adjudicate applications filed affirmatively
- Immigration Judges adjudicate applications filed defensively



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Asylum vs. Refugee Processing (cont'd)

6. Both programs provide protection to aliens who meet the definition of a refugee, but there are significant differences in the location and identification of the applicants, the number of individuals authorized to receive such protection each year, and the requirements for adjustment to lawful permanent resident status.



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Accompanying / Follow to Join Derivatives

- Aliens granted asylum or refugee status may petition for accompanying or follow-to-join derivative spouse and/or unmarried children under 21
- Form I-730, Refugee/Asylee Relative Petition is filed with Nebraska Service Center or Texas Service Center, depending on the petitioner's residence
- No filing fee



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Accompanying / Follow to Join Derivatives (cont'd)

- Must be filed by principal alien within appropriate time limit
 - Within two years of being admitted as a refugee or granted asylum
 - The 2 year filing period can be waived at the discretion of the Service for humanitarian reasons

Considerations for waiver:

- Acceptable: petitioner's mental incapacity or medical condition (with corroborating evidence), petitioner was recently made known of family's appearance, petitioner thought beneficiary was deceased.
- Unacceptable: petitioner's financial situation, family living in hostile conditions, means to immigrate.



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Accompanying / Follow to Join Derivatives (cont'd)

- Evidence of petitioner's status must be submitted.
- Evidence of the claimed relationship and the beneficiary's photograph must be submitted.
- The beneficiary must be eligible for asylum or refugee status
 - The beneficiary cannot have been previously granted asylum or refugee status.
 - Asylees: the beneficiary must not be barred from receiving asylum.
 - Refugees: the beneficiary must be admissible to the U.S.



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Accompanying / Follow to Join Derivatives (cont'd)

- The beneficiary must be eligible to be classified as a spouse or child and relationship must have existed at the time the petitioner was granted asylum or was admitted as a refugee
 - CSPA protection applies
 - If the beneficiary was not previously claimed by the petitioner, the burden of proof is on the petitioner to explain why the beneficiary was not previously claimed, and submit clear and convincing evidence of relationship.
- Once the beneficiary's petition is approved, the beneficiary becomes eligible to apply for ancillary benefits



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Ancillary Benefits – Employment

- Refugees or Asylees filing for Adjustment of Status under 8 C.F.R 209
 - Not eligible for work authorization under 8 C.F.R. 274a.12 (c)(9) – only for applicants applying for adjustment of status under 8 C.F.R. 245



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Ancillary Benefits – Employment (cont'd)

Refugees

- Authorized employment incident to status
- I-94 stamped upon entry to indicate employment authorized
- May apply for a document evidencing employment authorization (EAD)
- File I-765 under 8 C.F.R. 274a.12(a)(3)
 - Filing fee not required for initial Employment Authorization Document (EAD)
 - Application processed by the Nebraska Service Center



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Ancillary Benefits – Employment (cont'd)

Asylees (Asylum Granted)

- Authorized employment incident to status
- EAD issuance differs depending on granting authority for asylum application (Immigration Judge vs. Asylum Officer)
- May apply for a document evidencing employment authorization (EAD)
- File I-765 under 8 C.F.R. 274a.12(a)(5)
 - Filing fee not required for initial Employment Authorization Document (EAD)
 - Application processed by the Nebraska Service Center



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Ancillary Benefits – Employment (cont'd)

Pending Asylum Application

- Eligible while I-589 is pending final decision
- Must apply for employment authorization
- Form I-589 must be pending at least 180 days prior to EAD approval – aliens may file for consideration after 150 days
- File I-765 under 8 C.F.R. 274a.12(c)(8)
 - Filing fee not required for initial Employment Authorization Document (EAD)
 - Application processed by the Service Center having jurisdiction over the applicant's state of residence



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Ancillary Benefits – Travel Abroad

- Refugee Travel Document
 - Authorized under 8 C.F.R. 223.2(b)(2) for an alien in valid Refugee or Asylee Status
 - Also authorized under this section if the alien is a lawful permanent resident as a direct result of asylee or refugee status
 - Travel may not exceed one year



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Ancillary Benefits – Travel Abroad (cont'd)

- Refugee Travel Document - continued
 - Must file Form I-131, Application for Travel Document to the Nebraska Service Center
 - Special Consideration: asylum status may be terminated if the Government determines the alien voluntarily returned to the protection of the country of claimed persecution.
 - Revocation is not automatic
 - May call into question entitlement to protection



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Ancillary Benefits – Adjustment of Status

- Refugees

- Required to file to the Service one year after entry to determine admissibility under Section 212 of the Act.

- 8 C.F.R. 209.1(a)

- No fee for filing Form I-485
 - Medical examination may be required
 - Application is adjudicated by the Nebraska Service Center



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Ancillary Benefits – Adjustment of Status cont'd

▫ Asylees

- May file to the Service one year after having been granted asylum in the U.S. - 8 C.F.R. 209.2(a)
- Filing fee required
- Medical examination may be required
- Application is adjudicated by the Nebraska Service Center or Texas Service Center, depending on applicant's residence



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Ancillary Benefits – Adjustment of Status cont'd

▫ Interview Requirement

The Service director having jurisdiction over the application will determine, on a case-by-case basis, whether an interview by an immigration officer is necessary to determine the applicant's admissibility for permanent resident status.

8 C.F.R. 209.1(d) ; 209.2(e)



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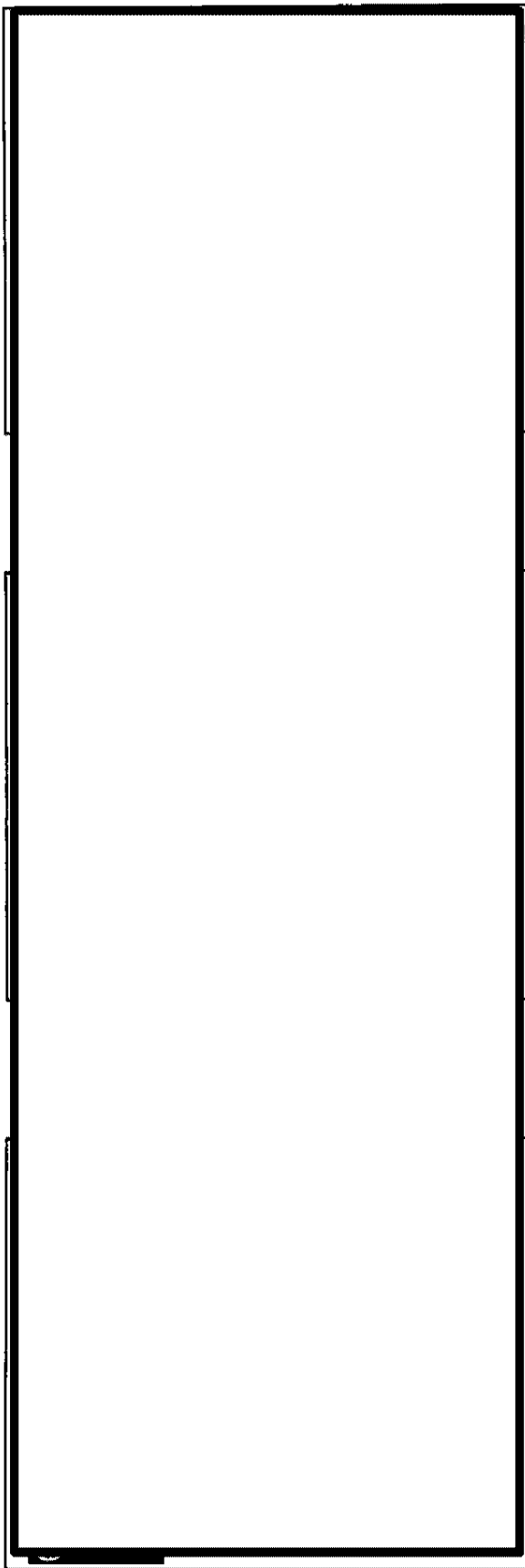
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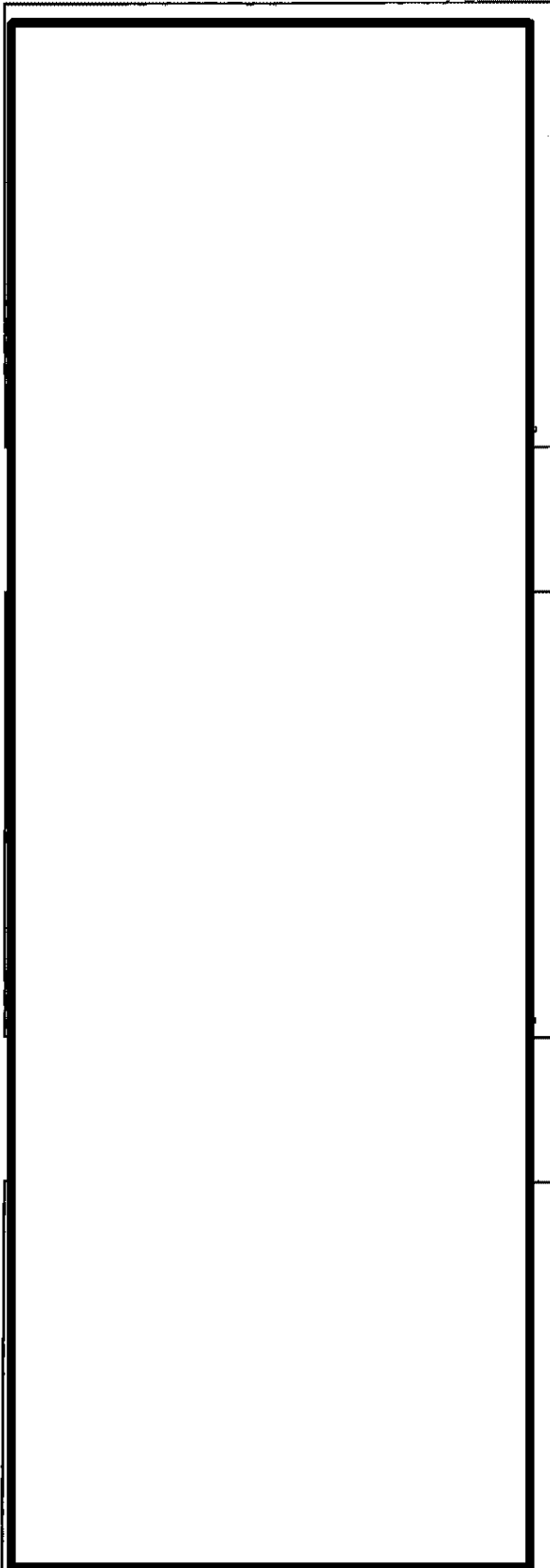
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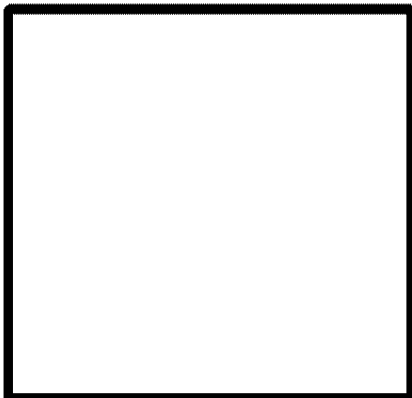


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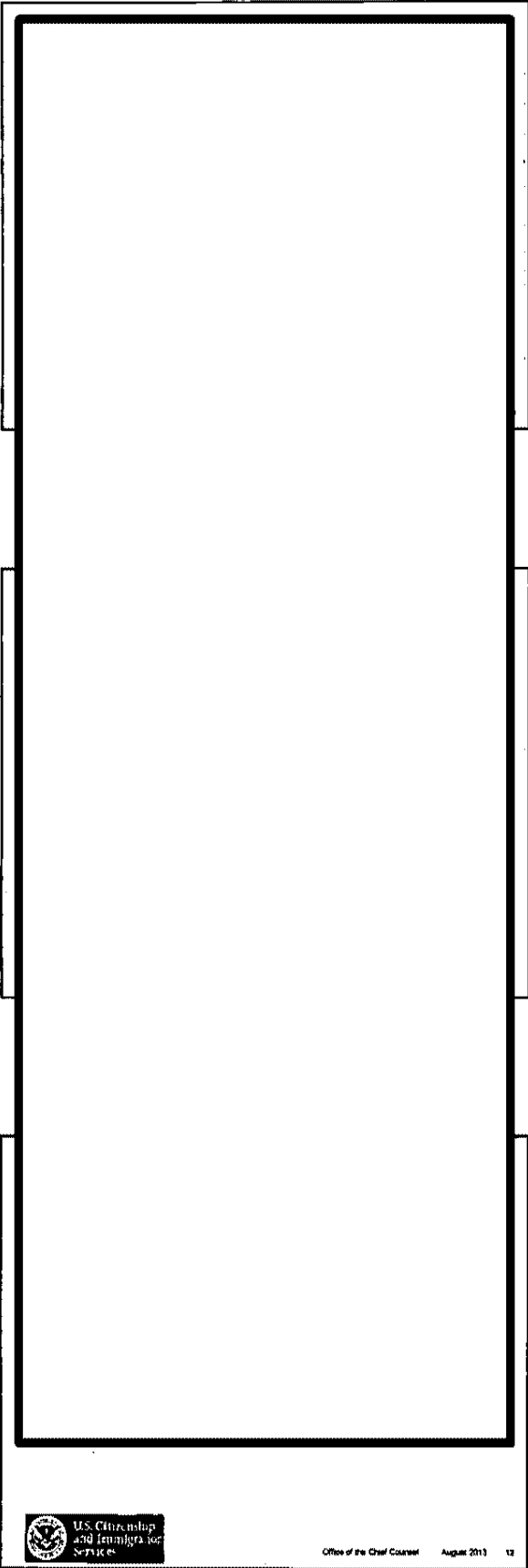
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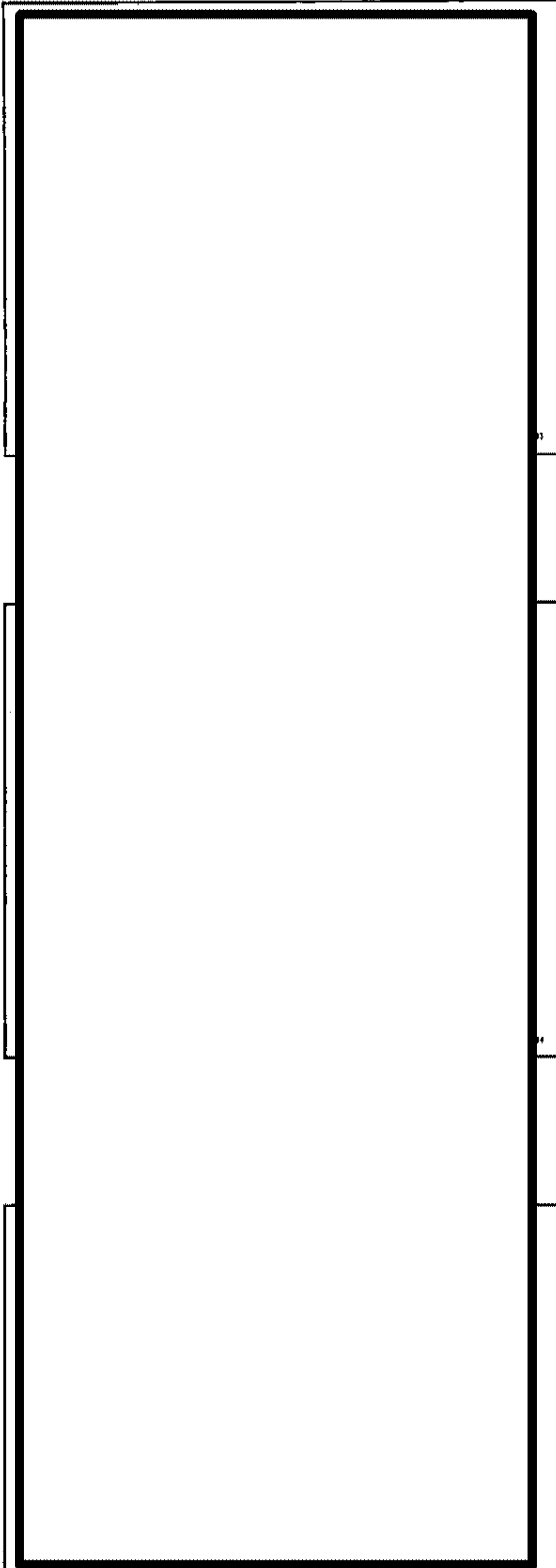


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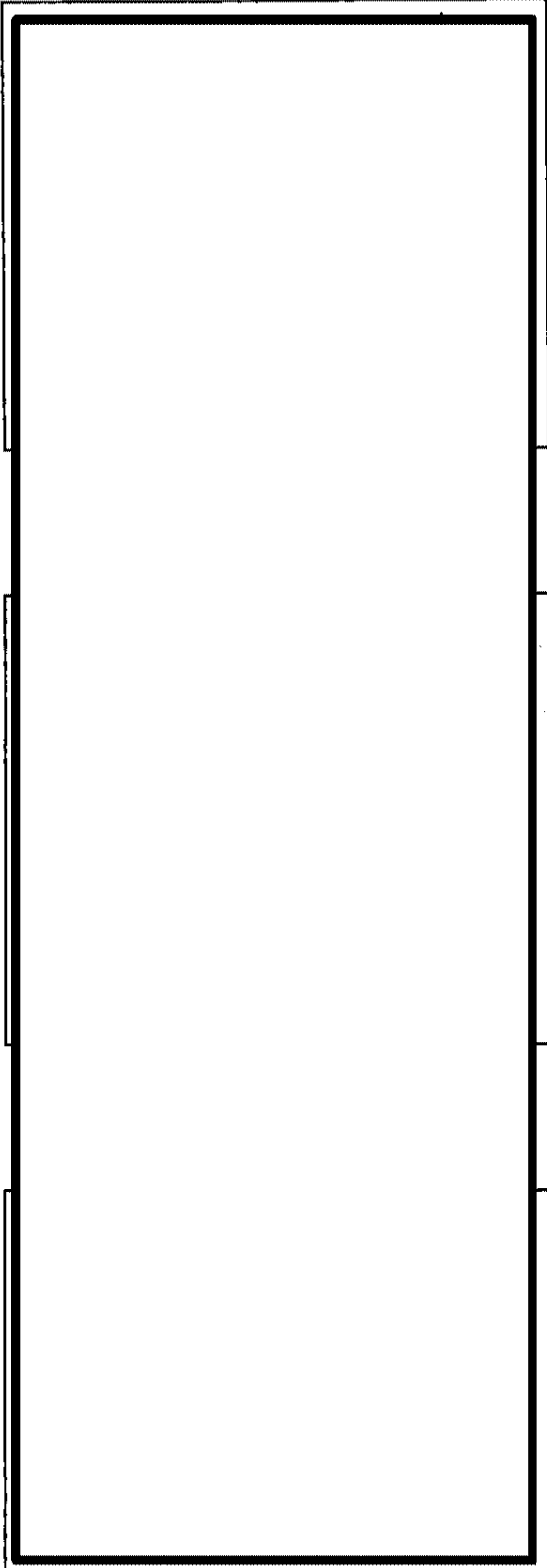


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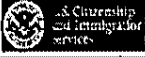
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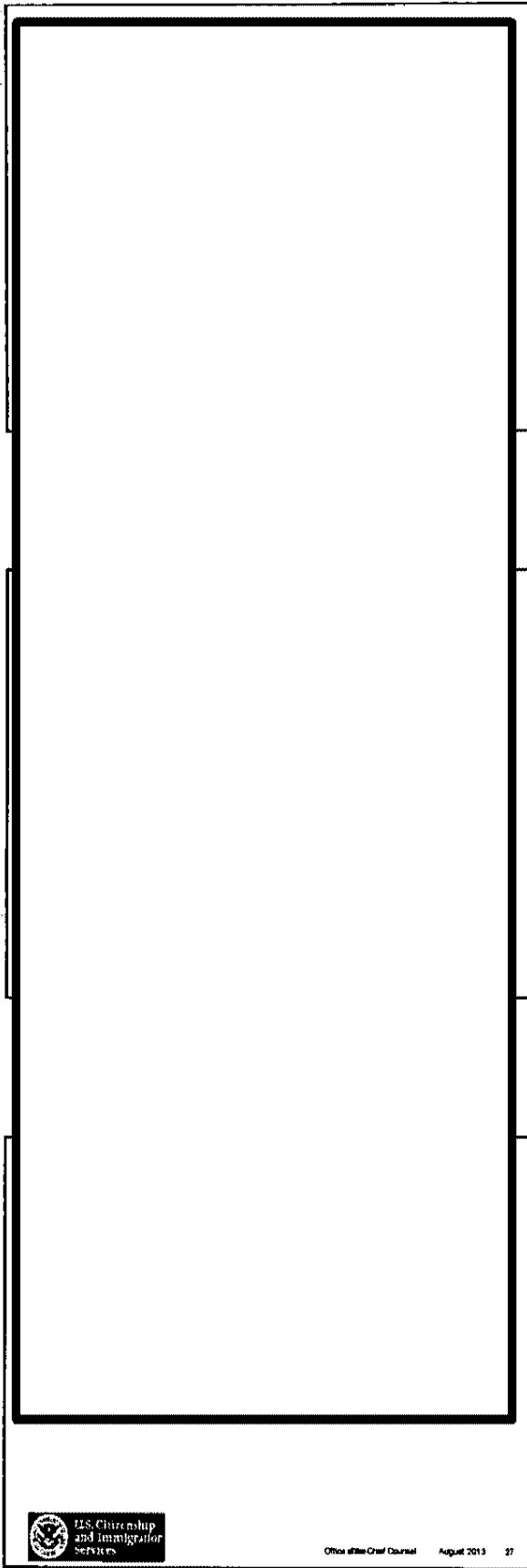
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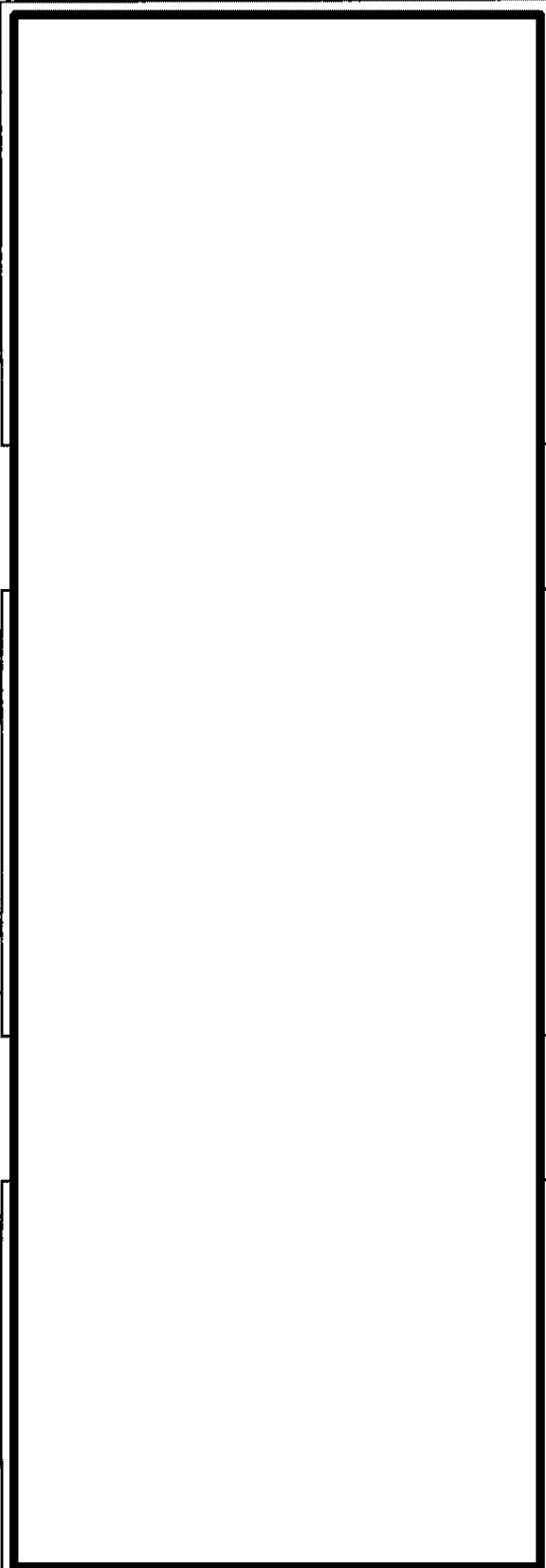


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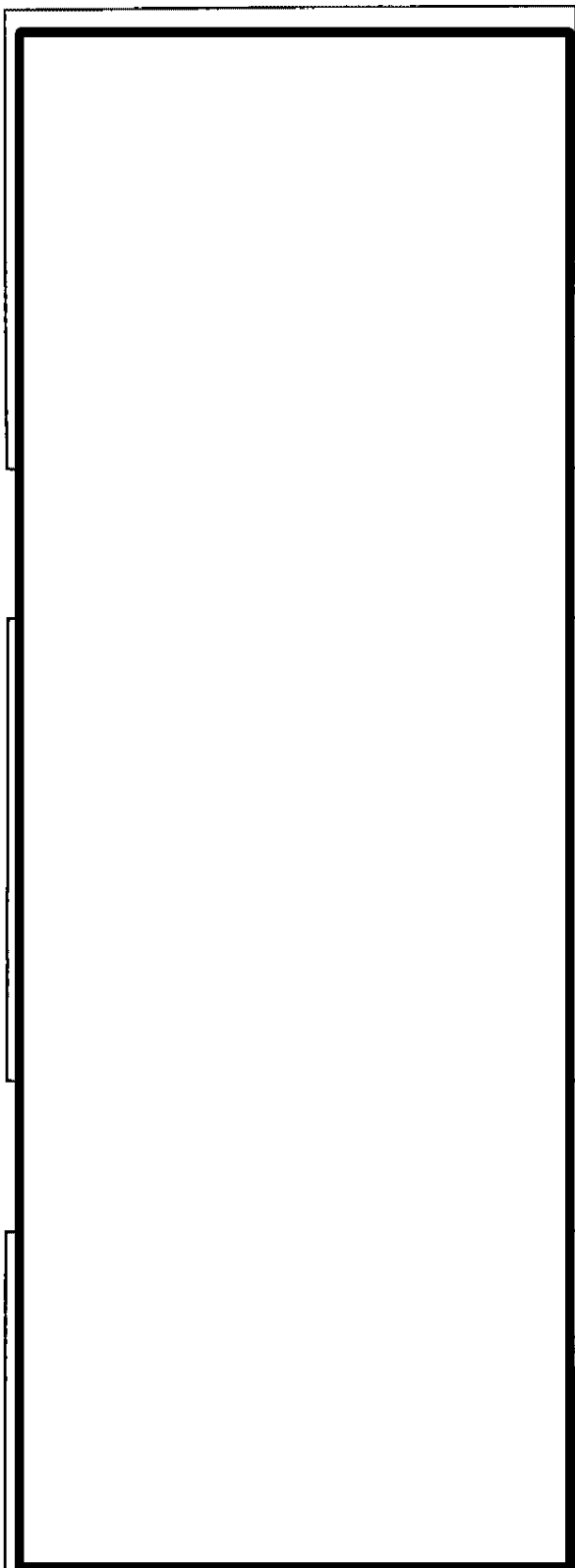
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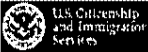
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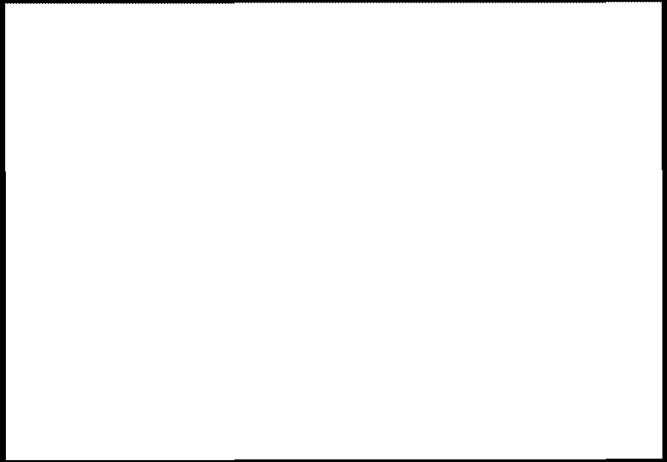


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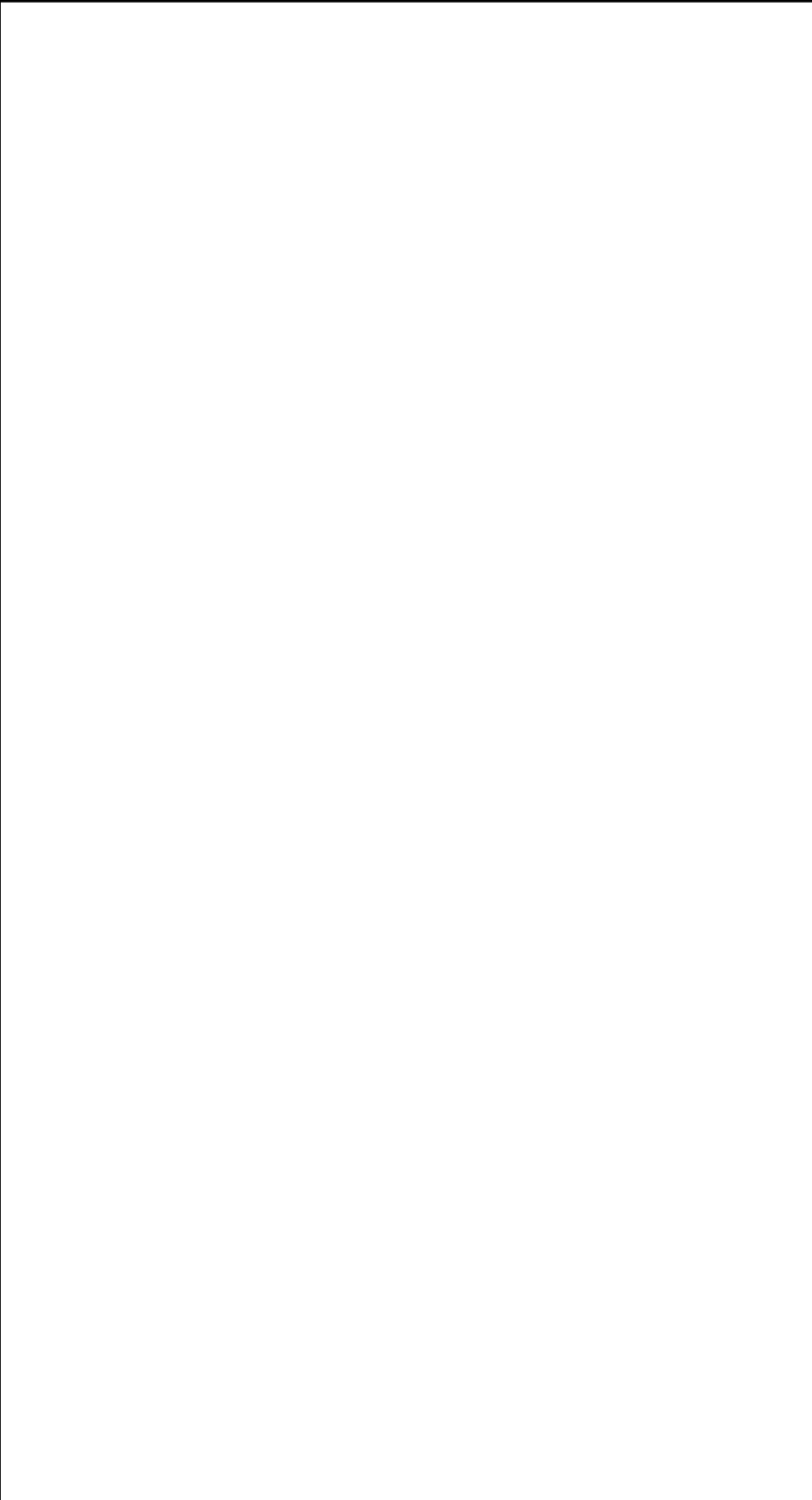
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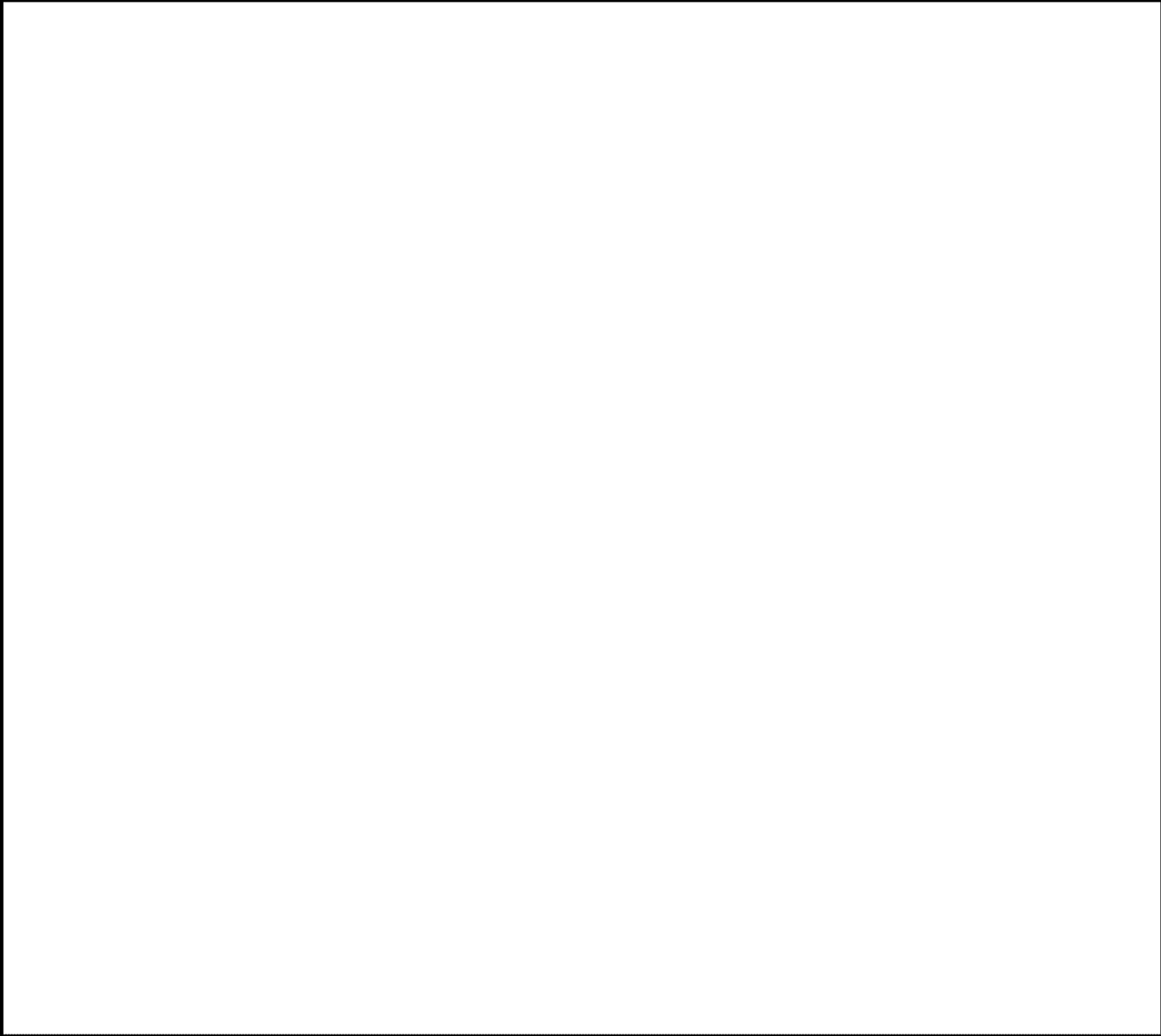
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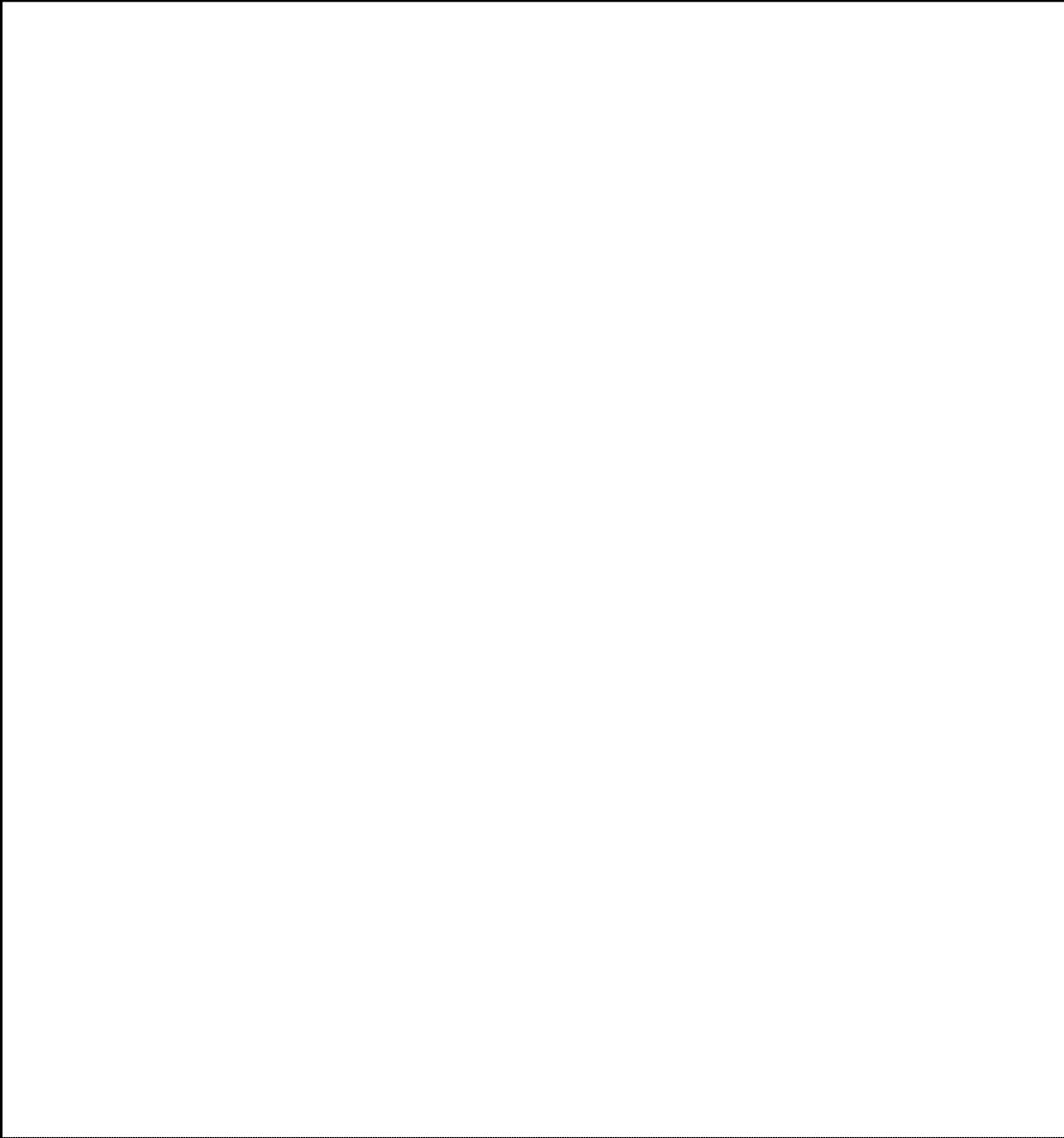
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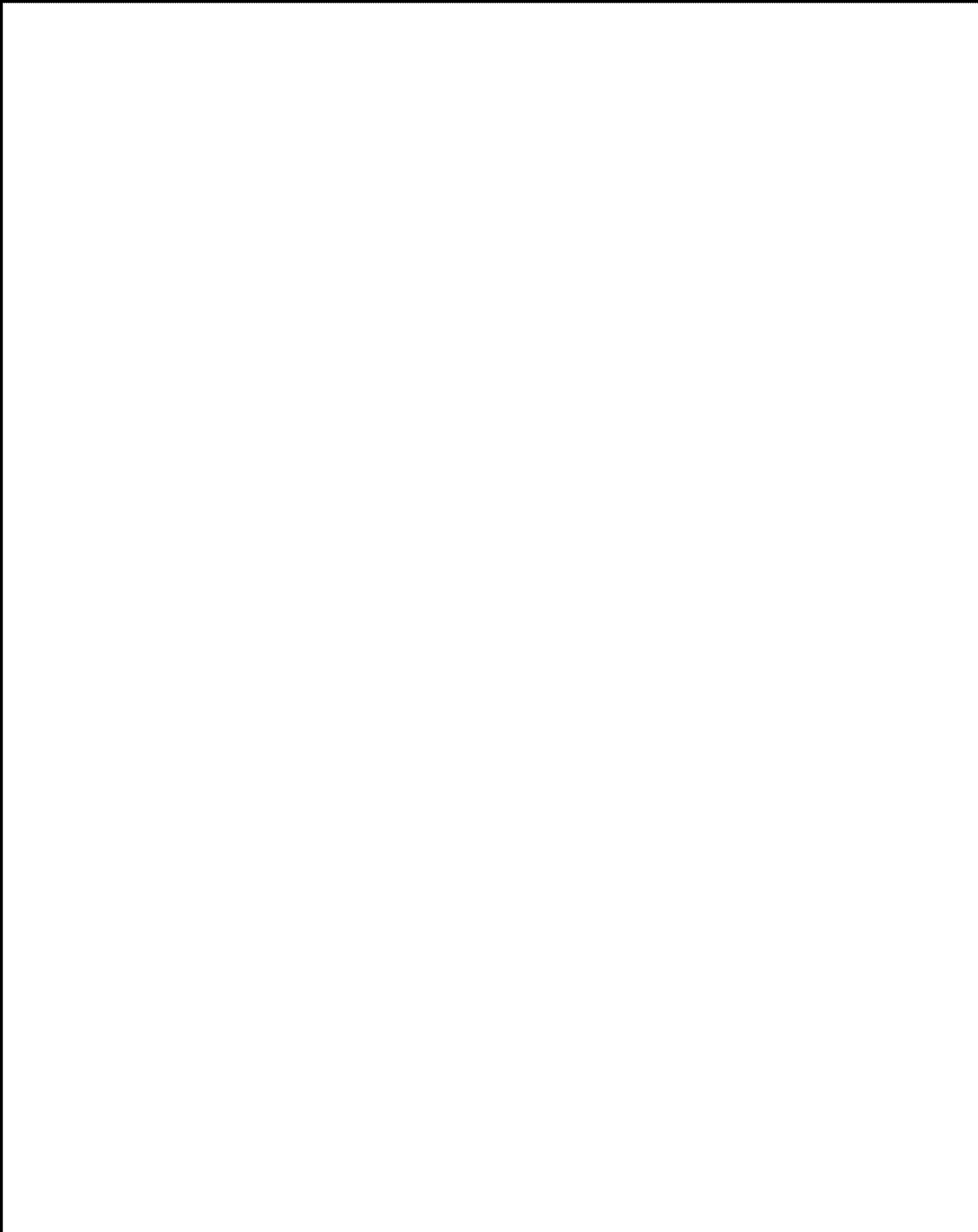




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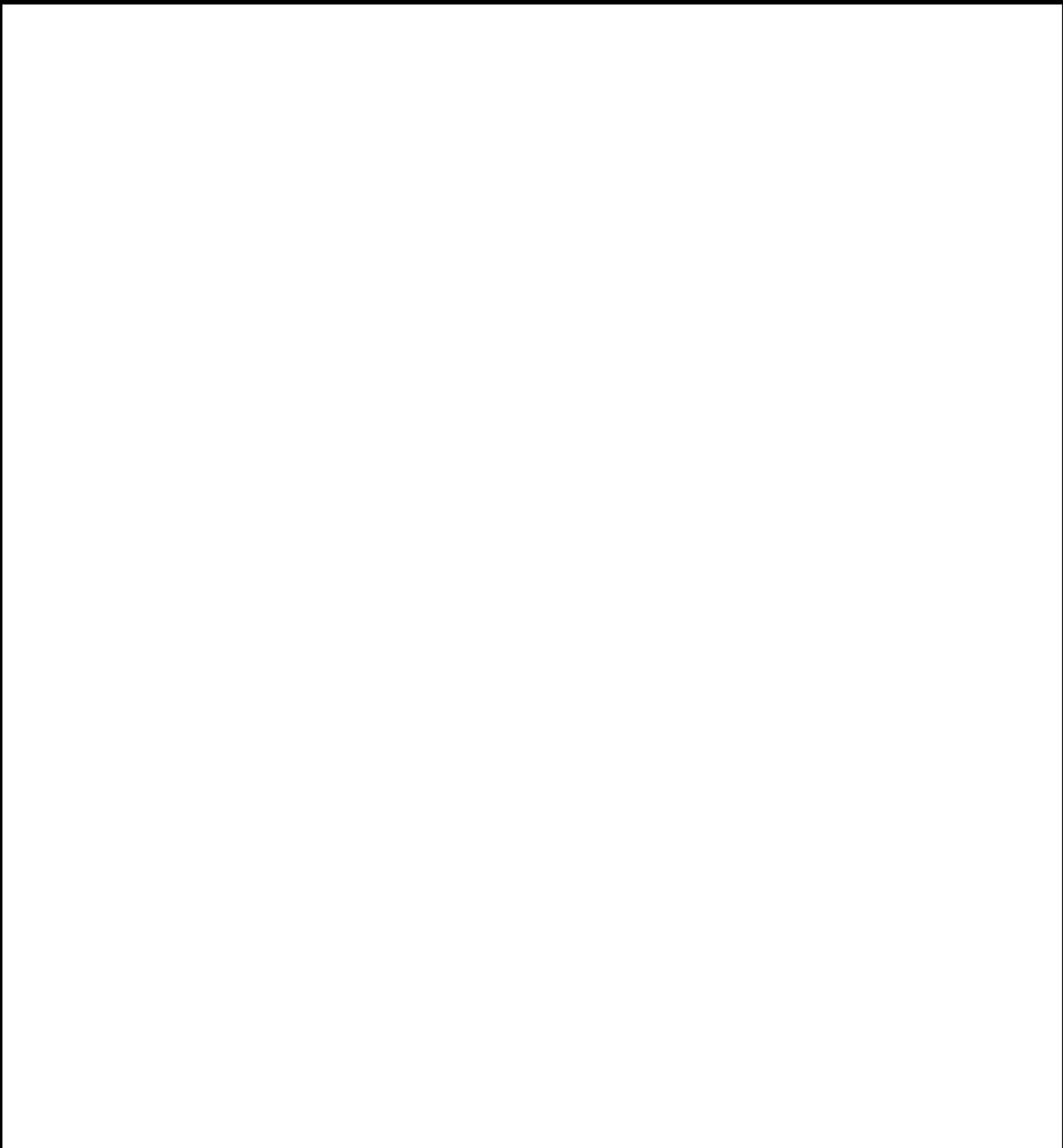
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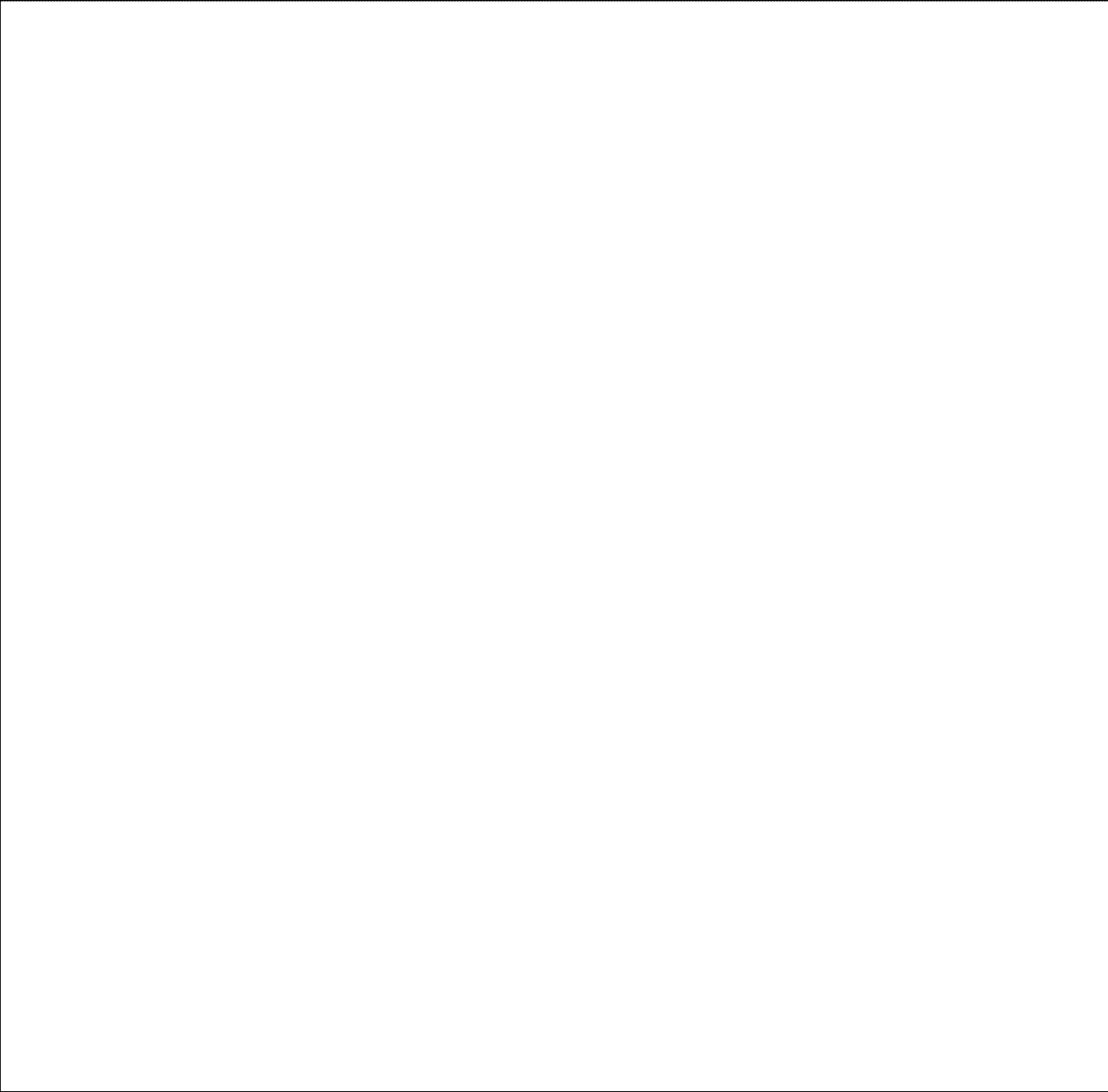


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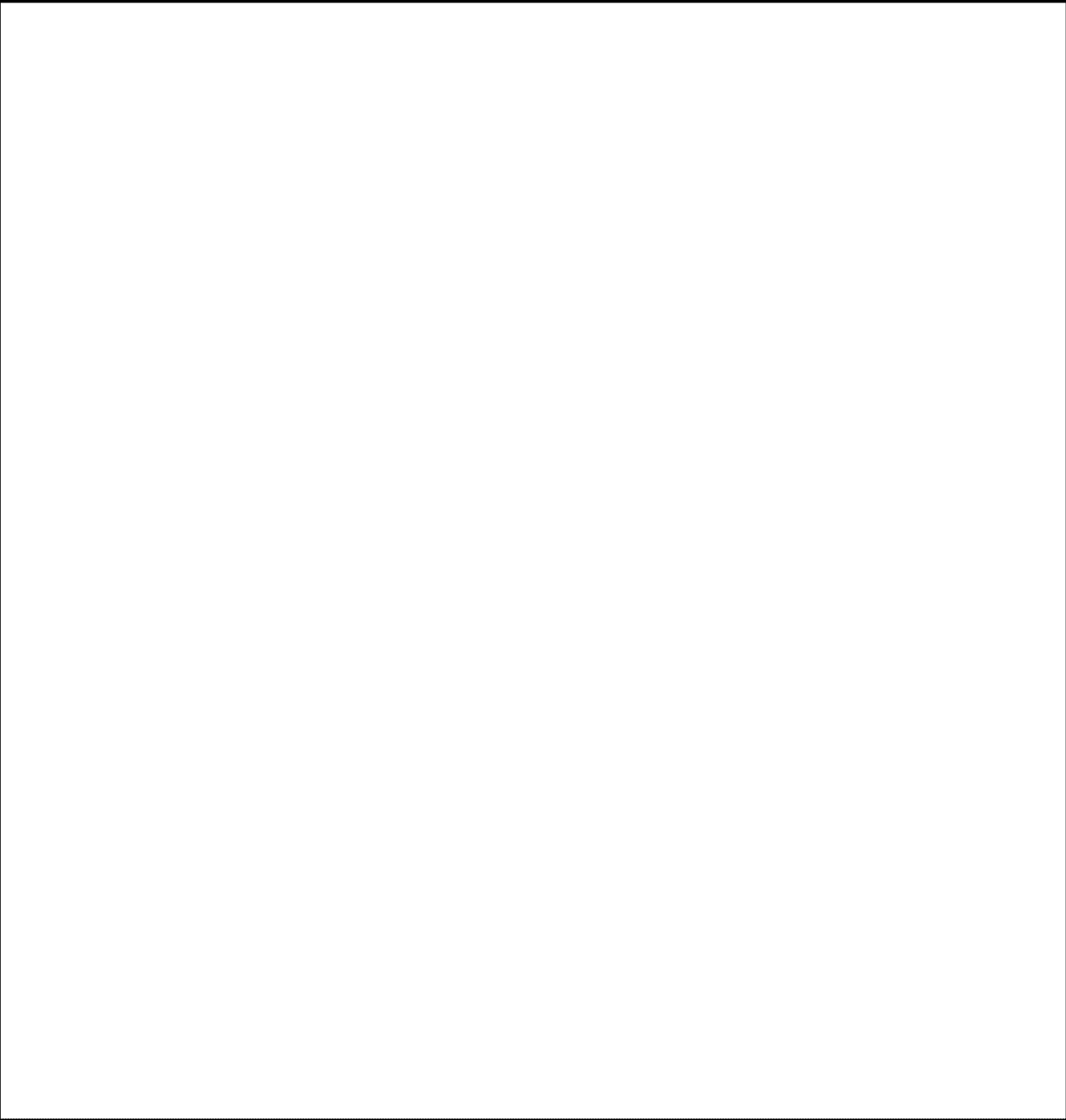
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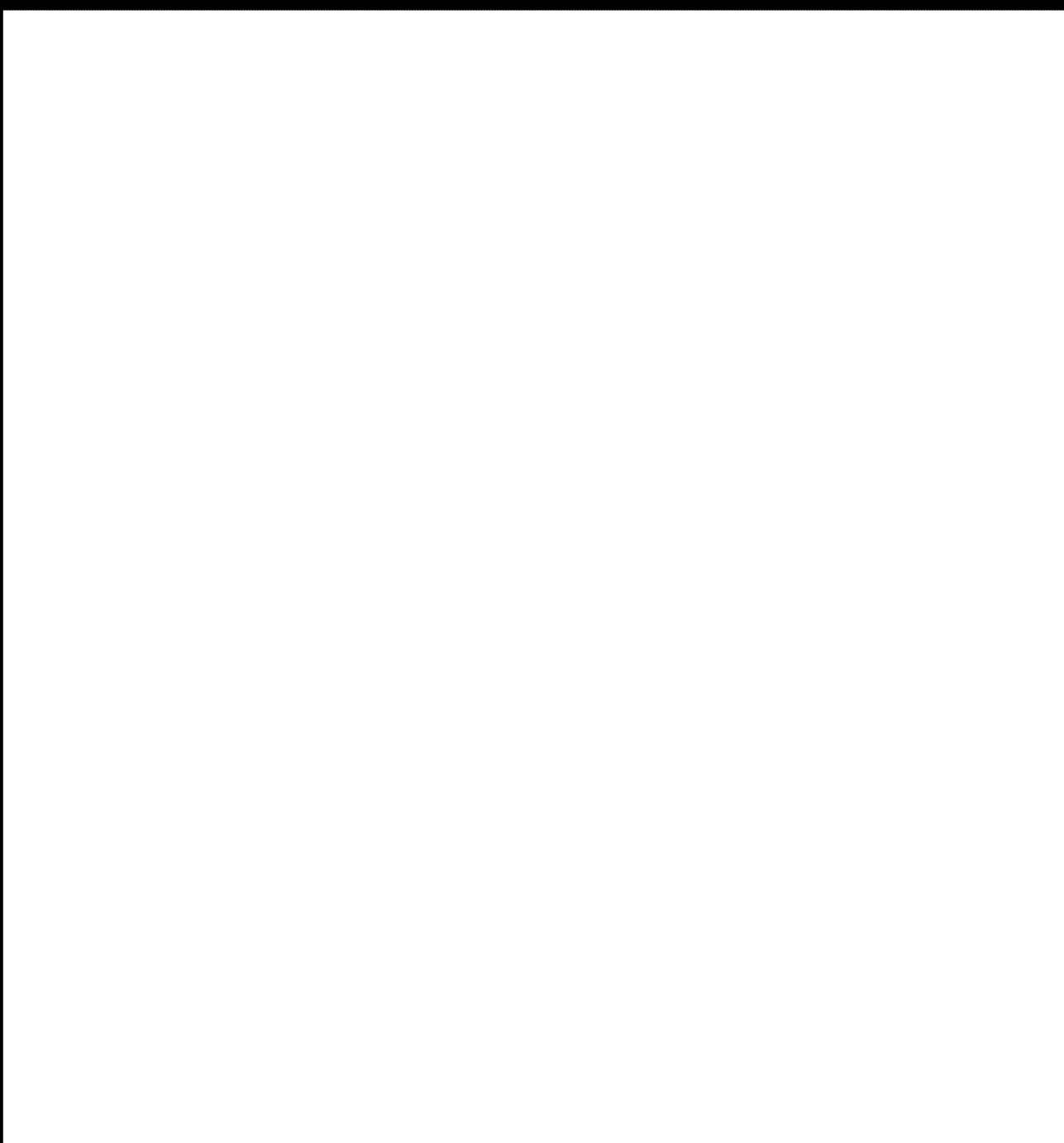
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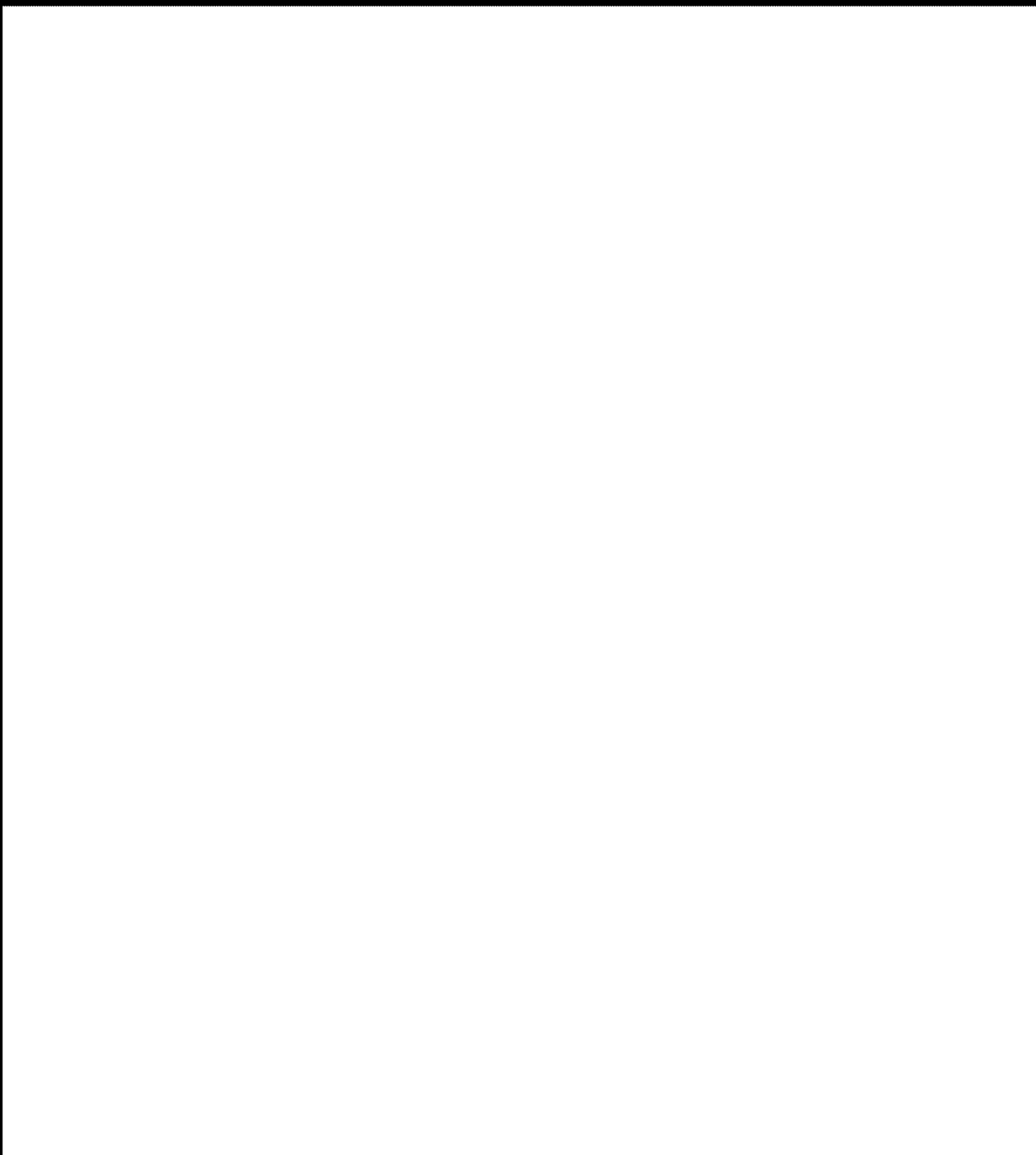


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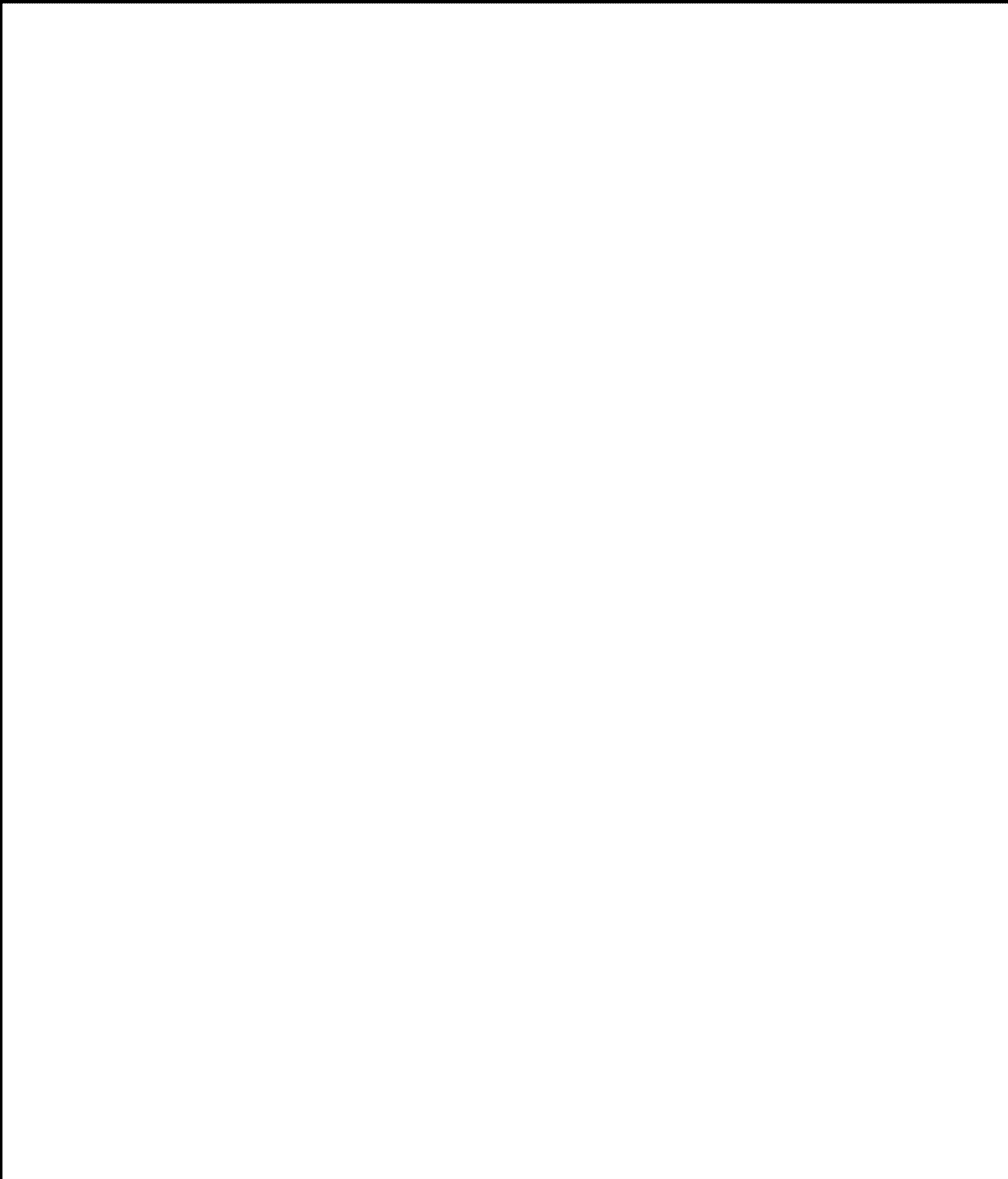


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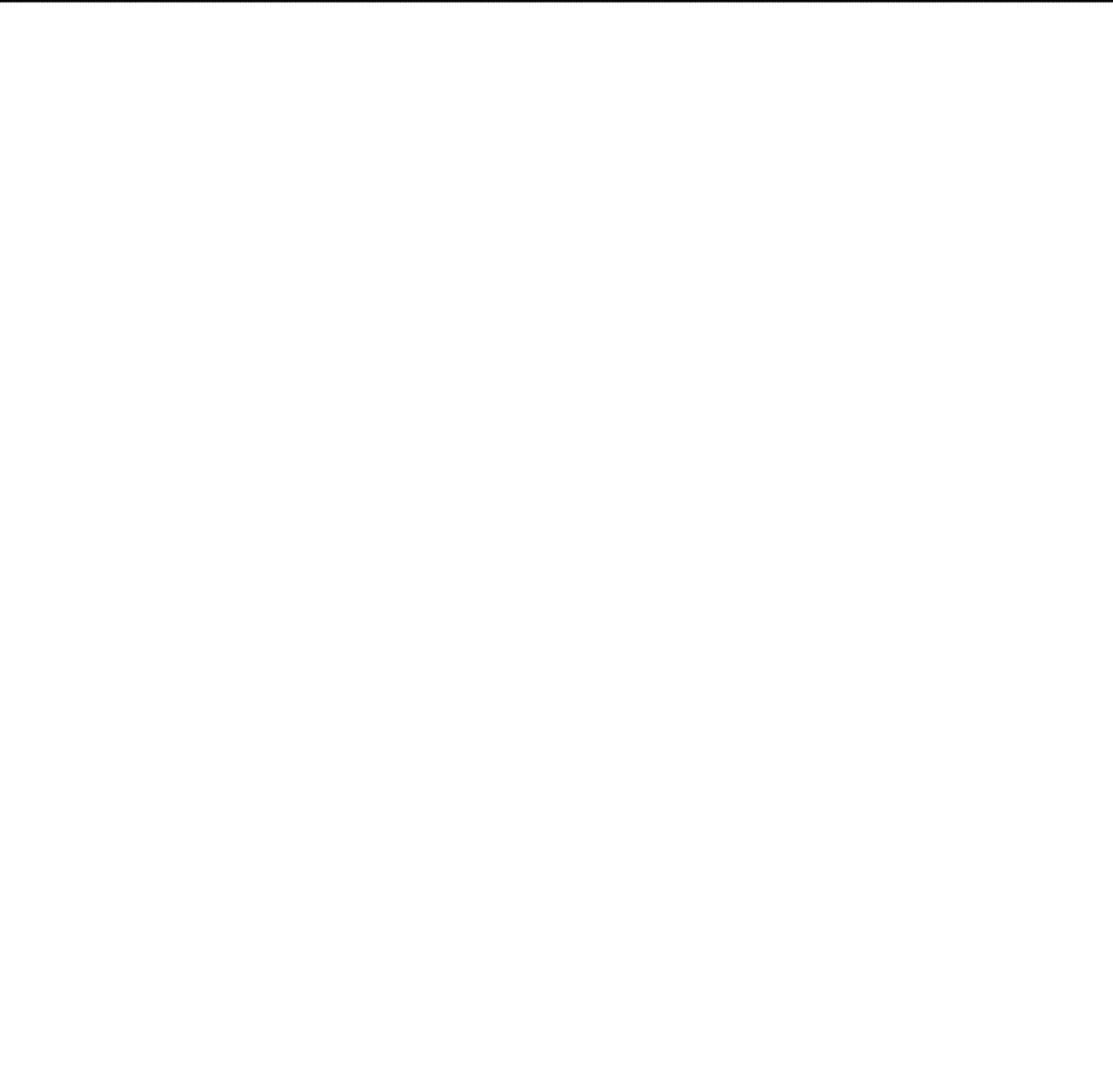
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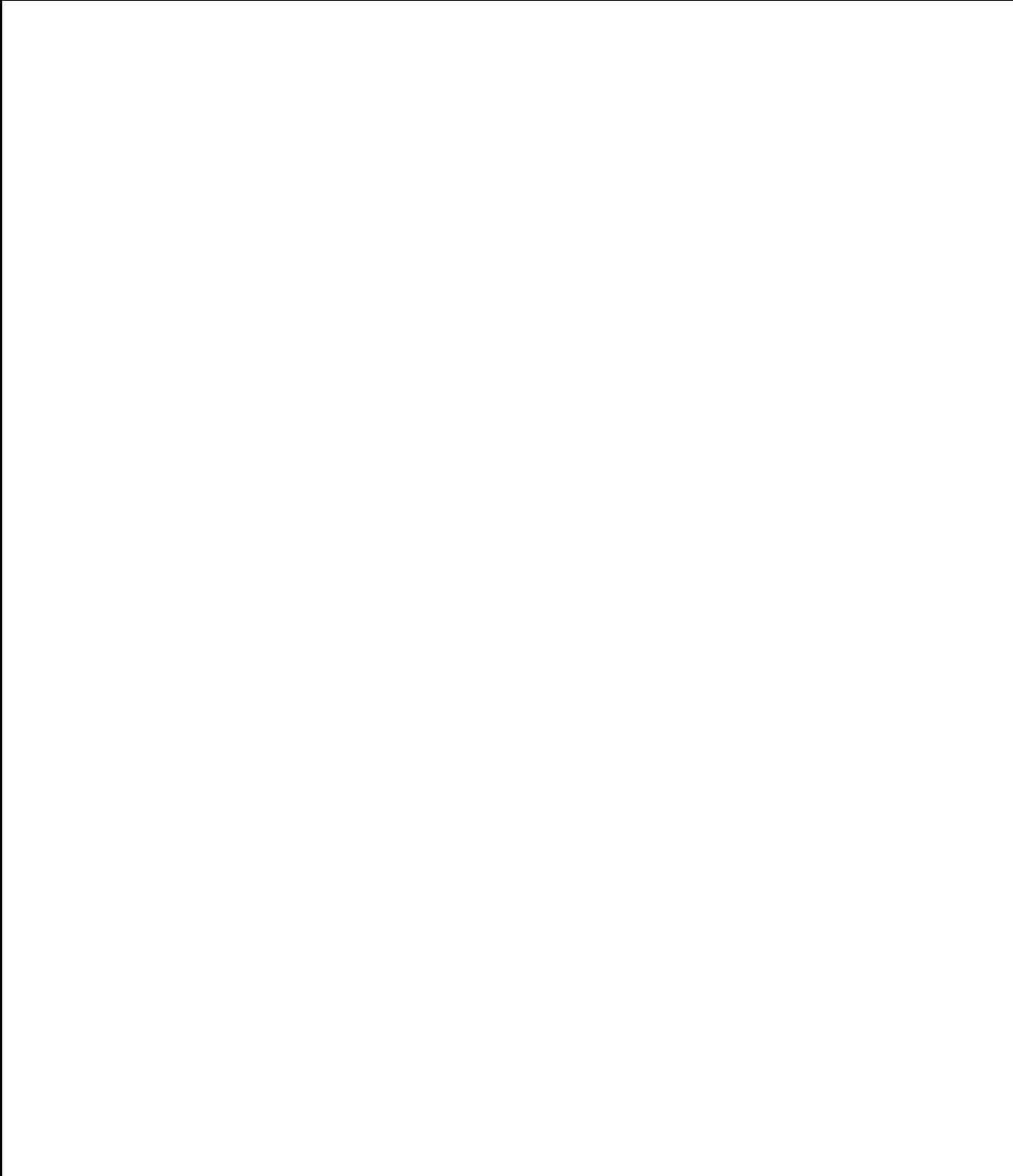


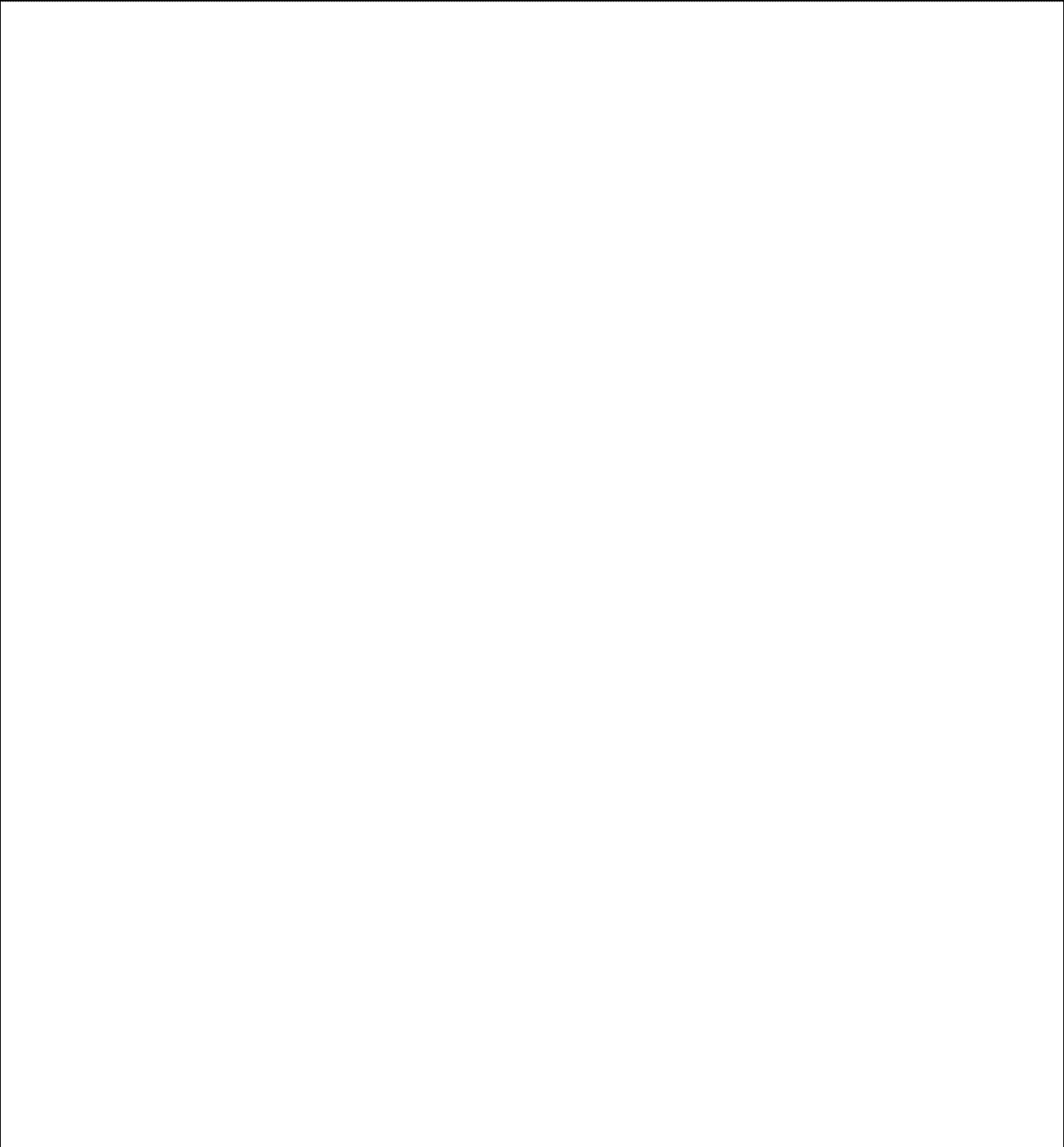




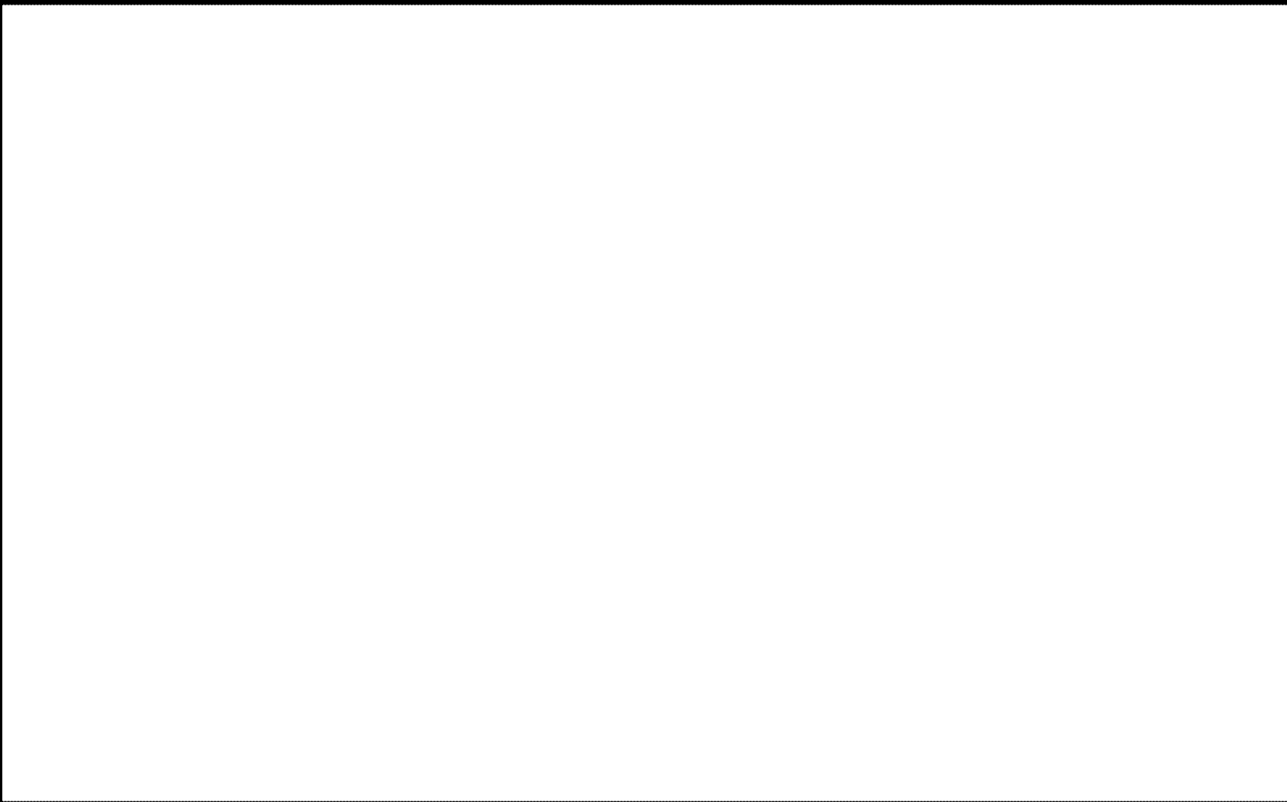
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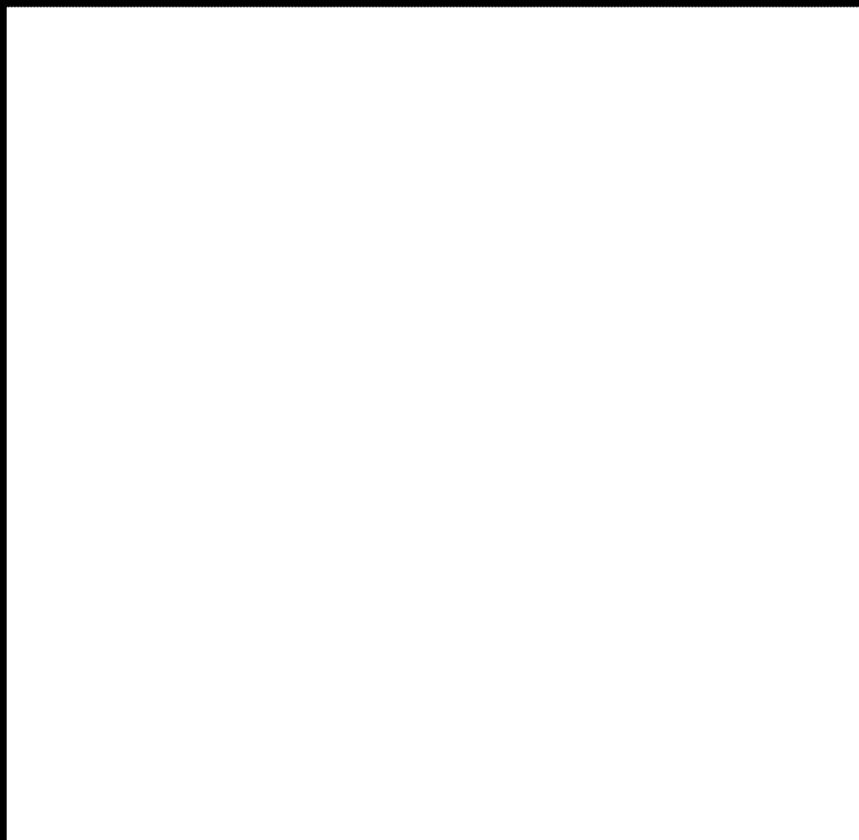




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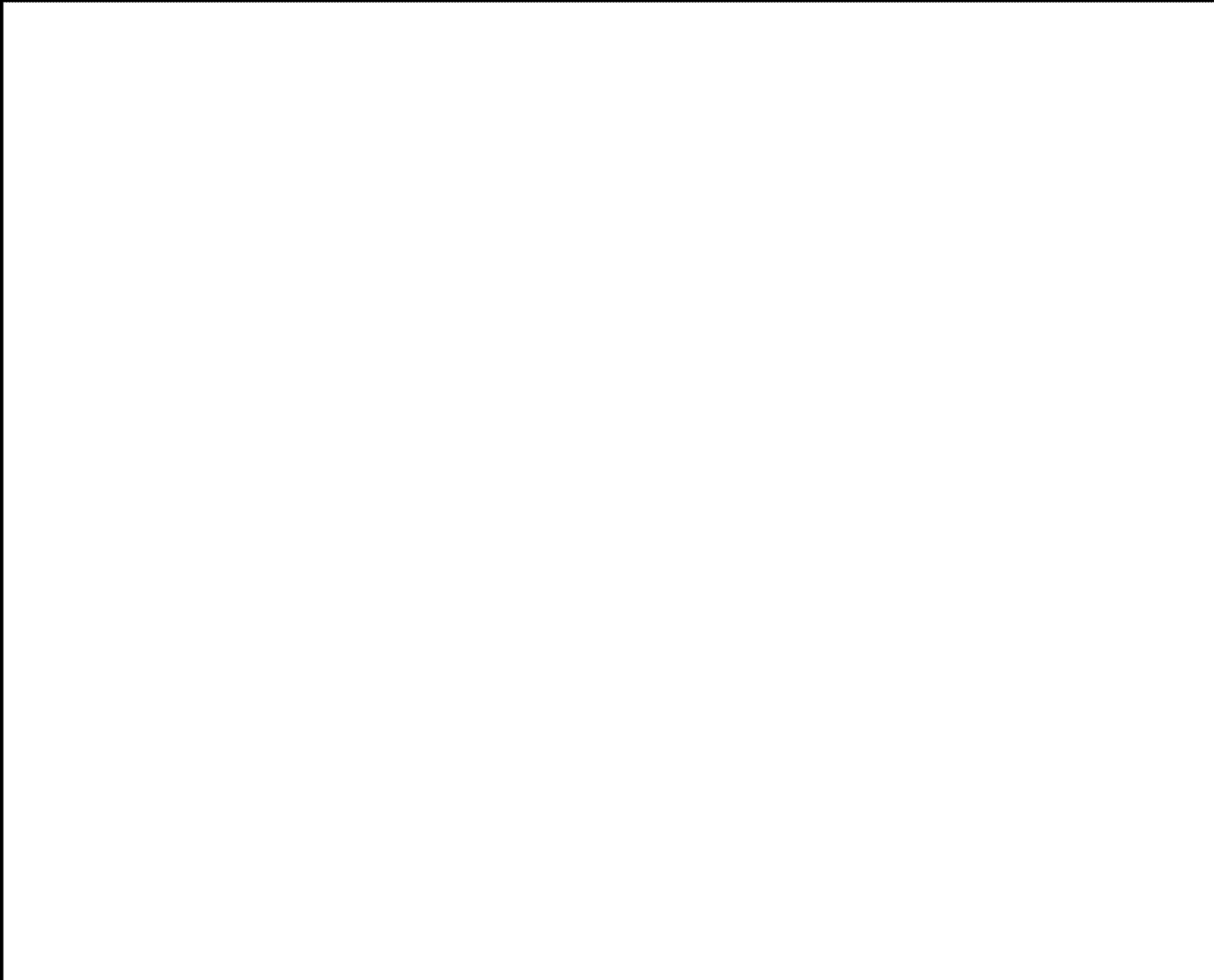
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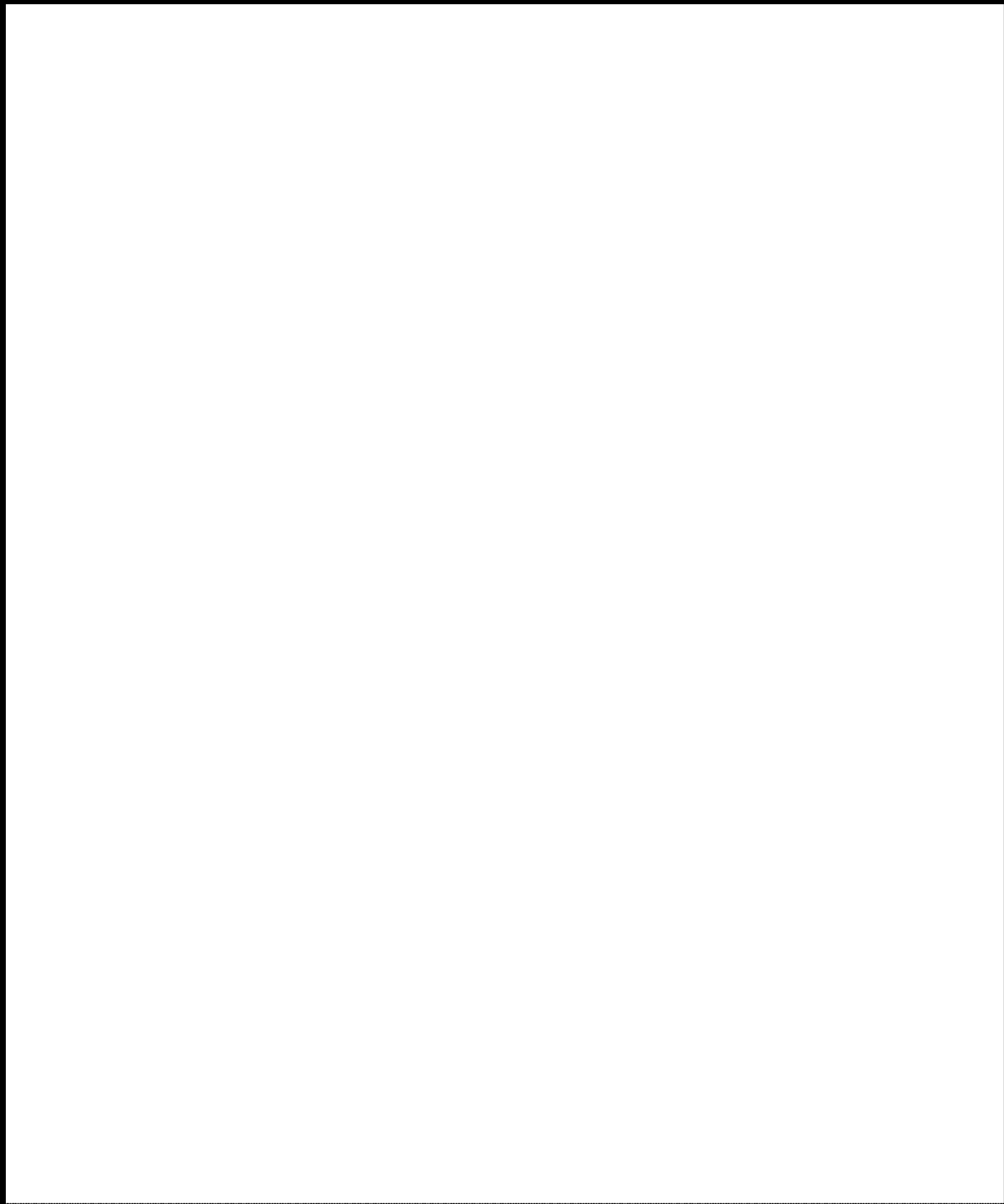
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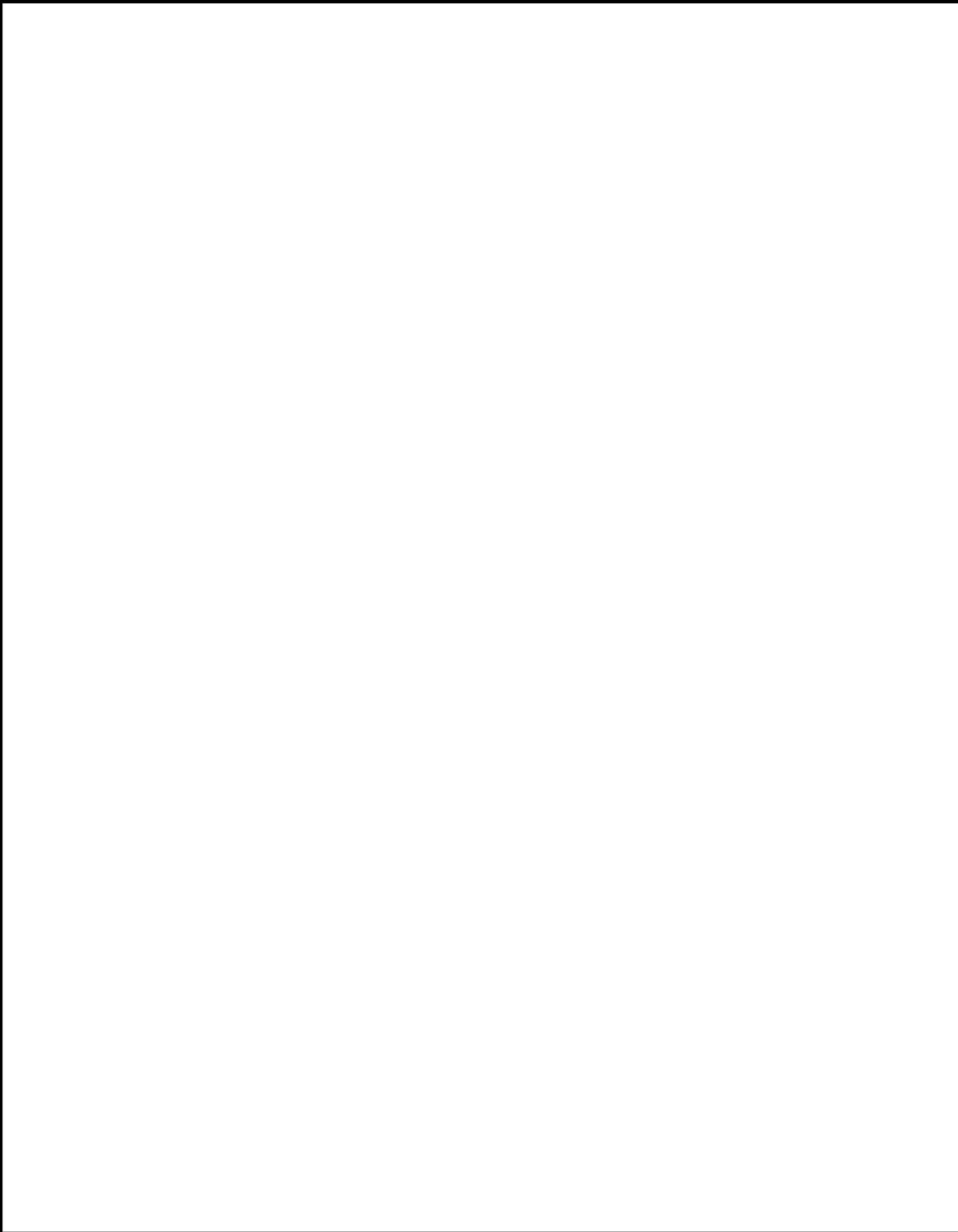
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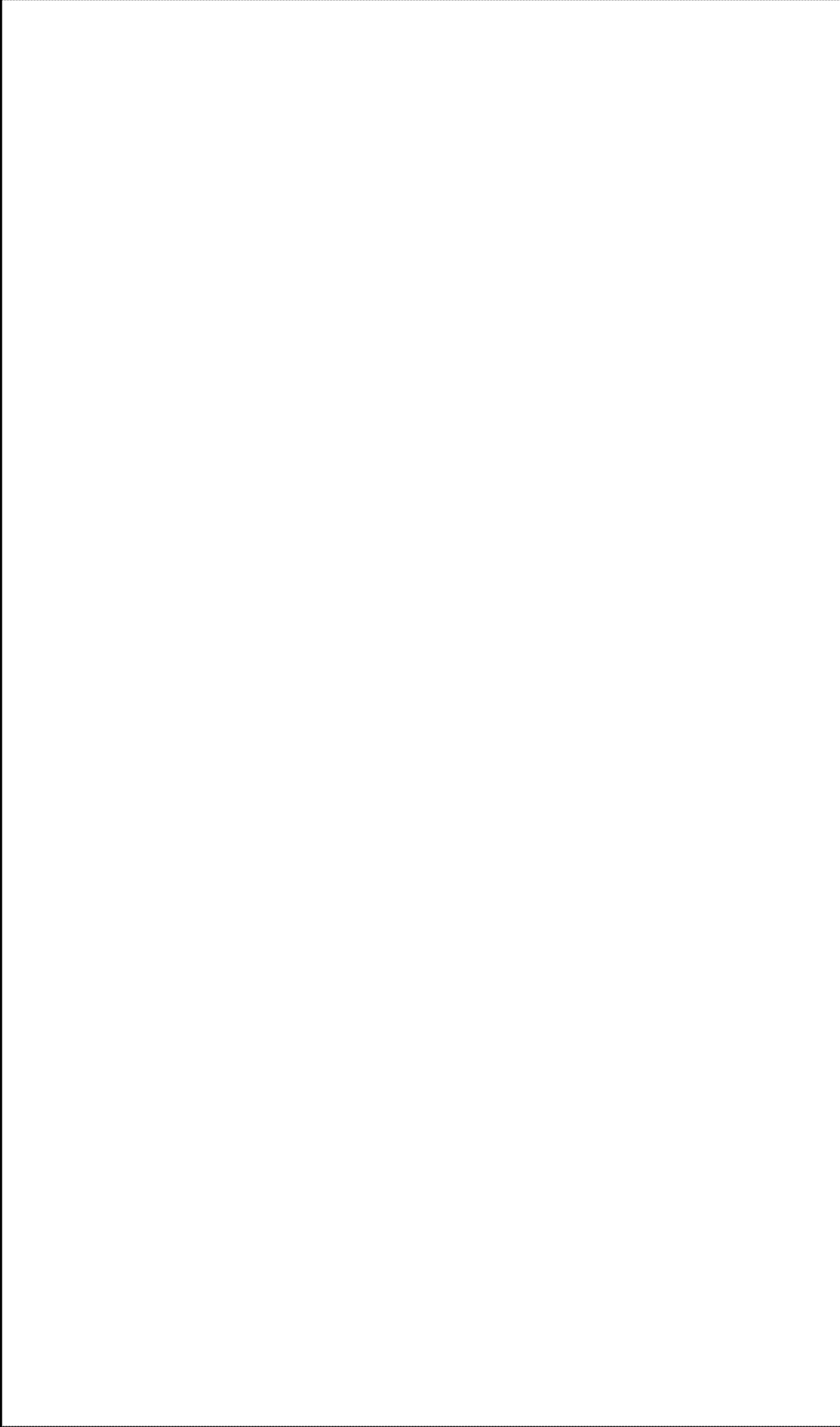
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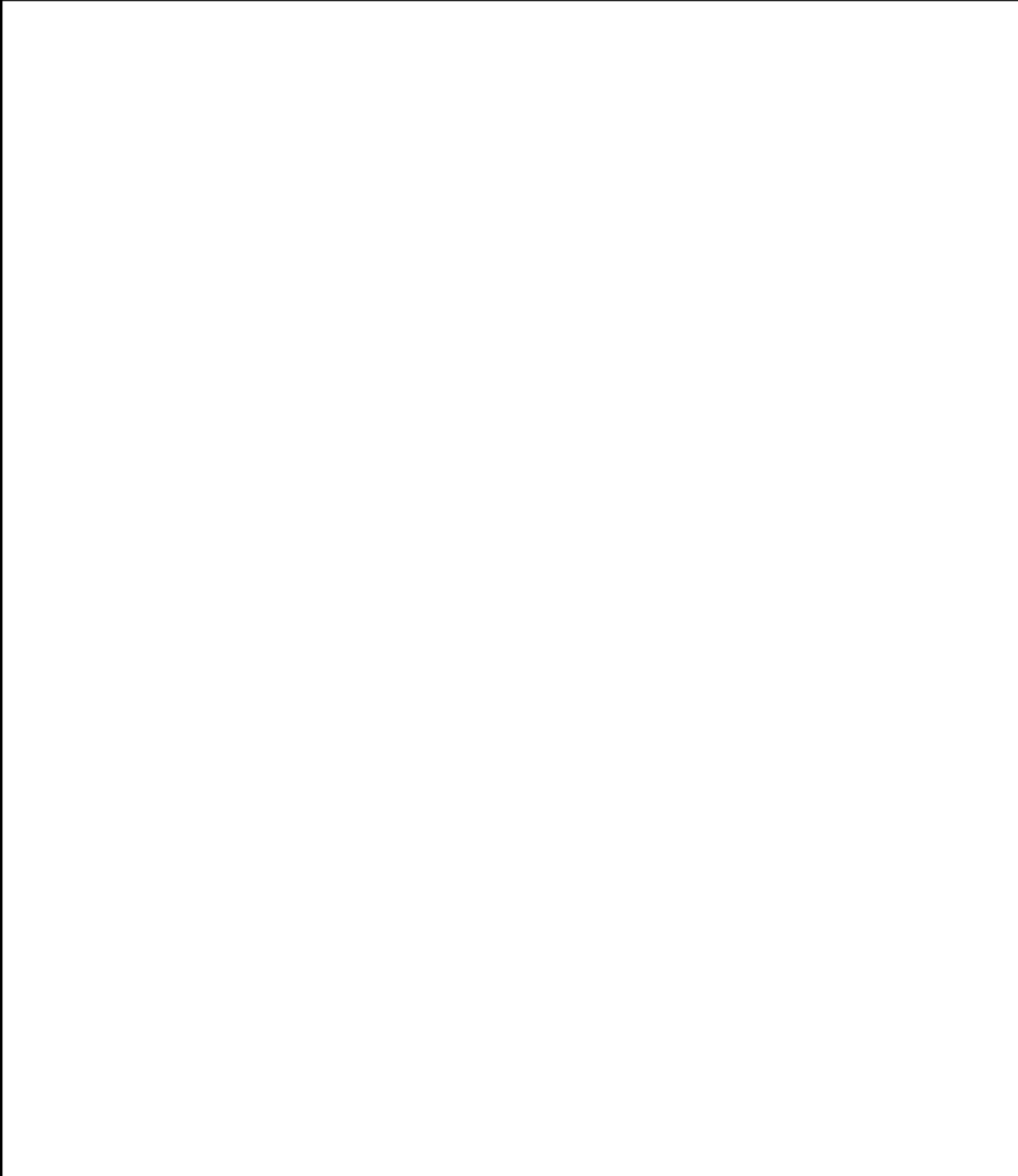
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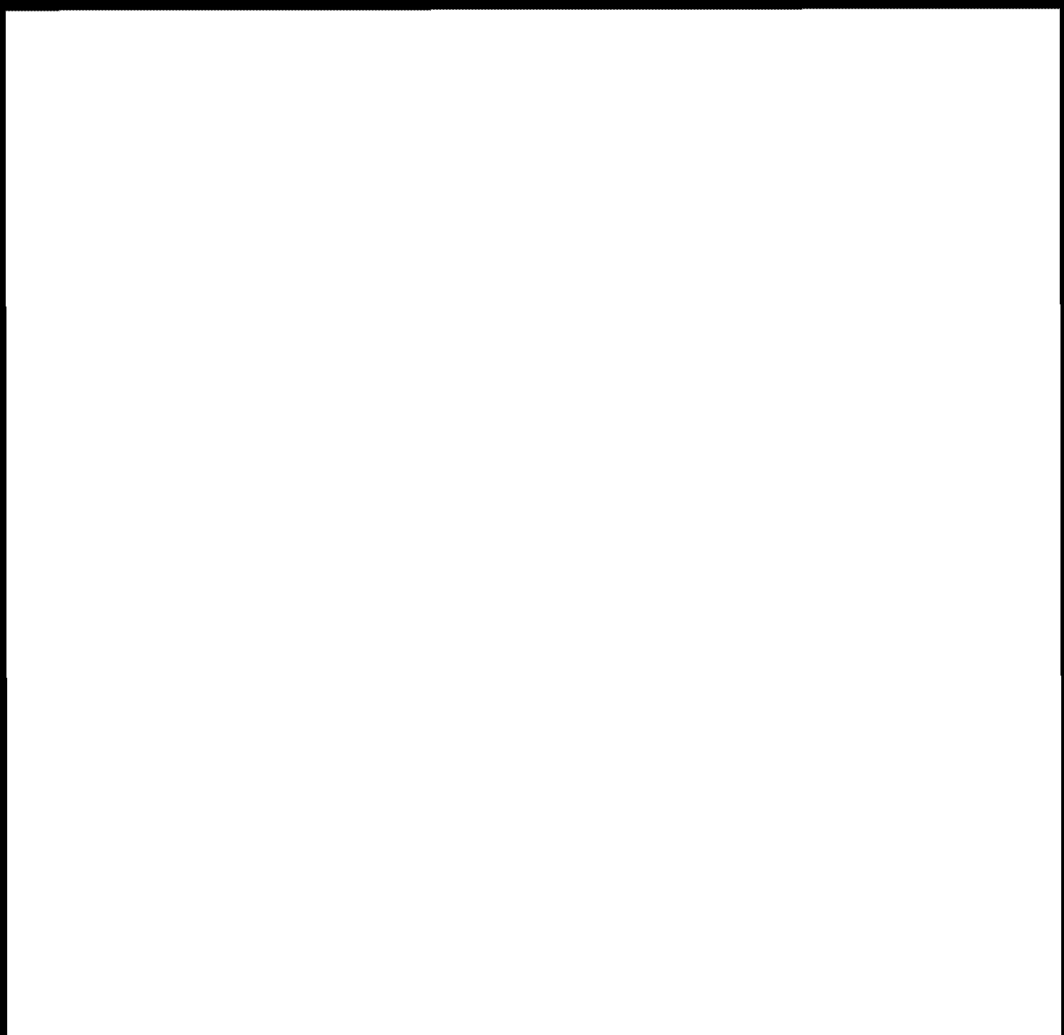


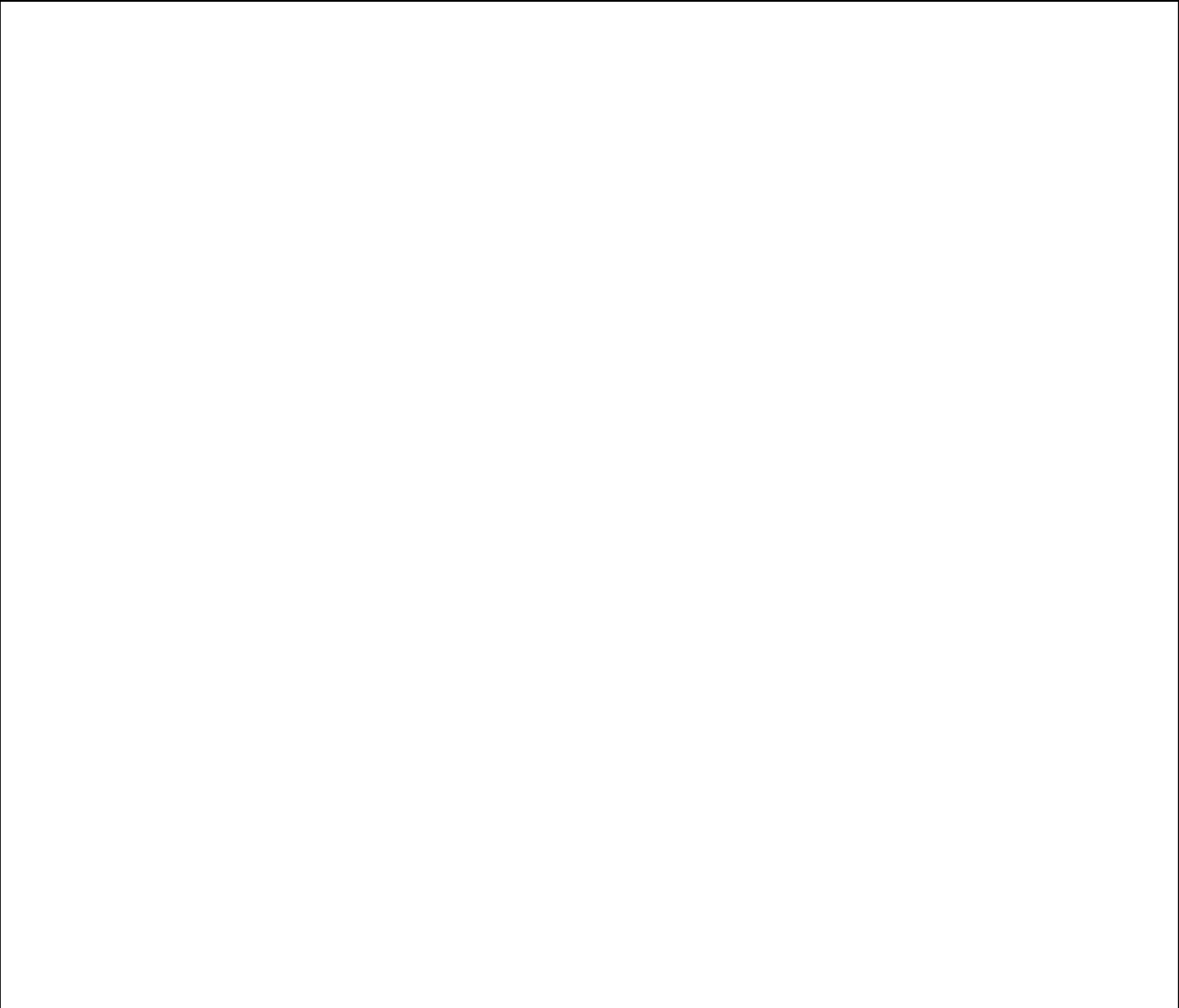
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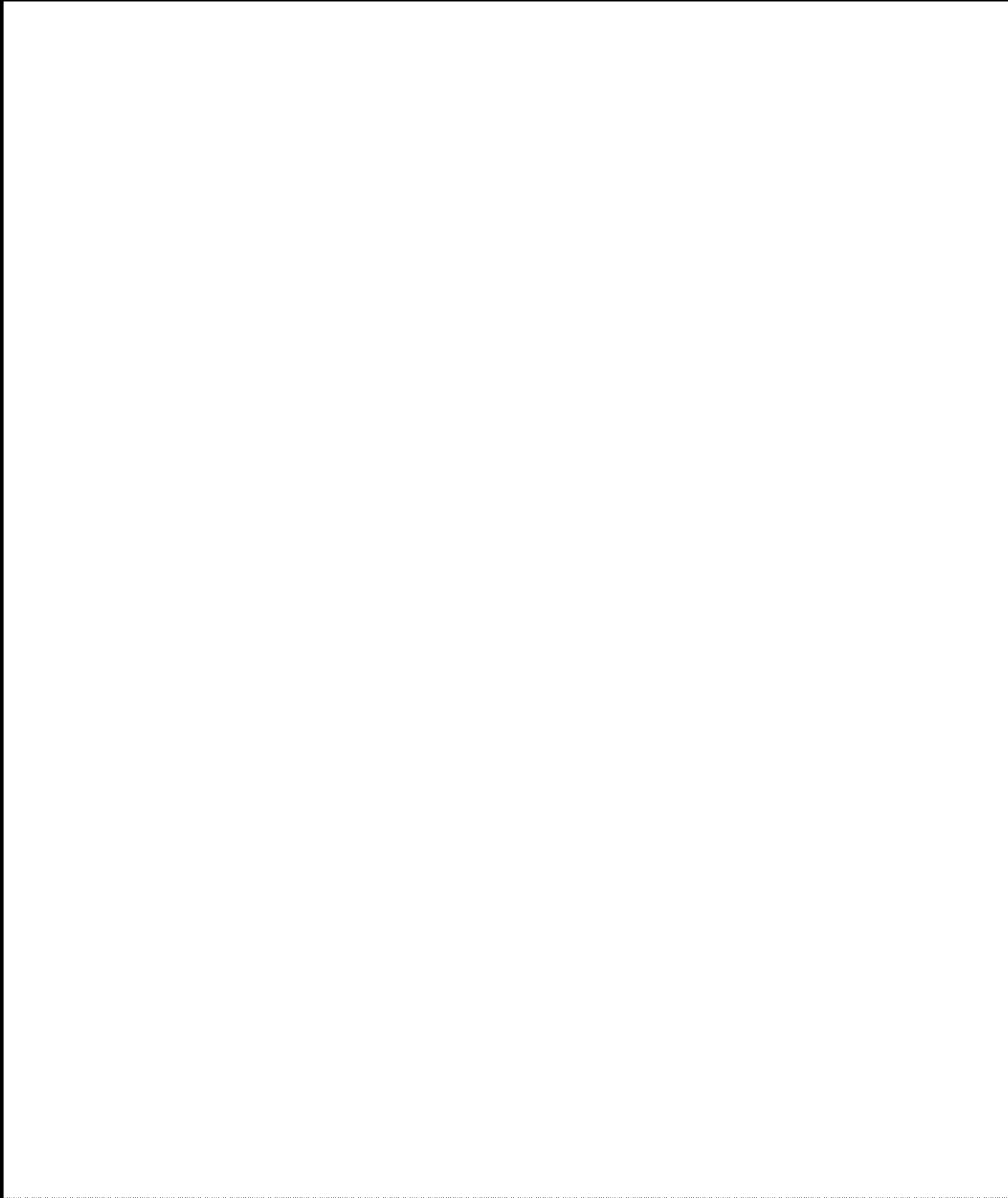


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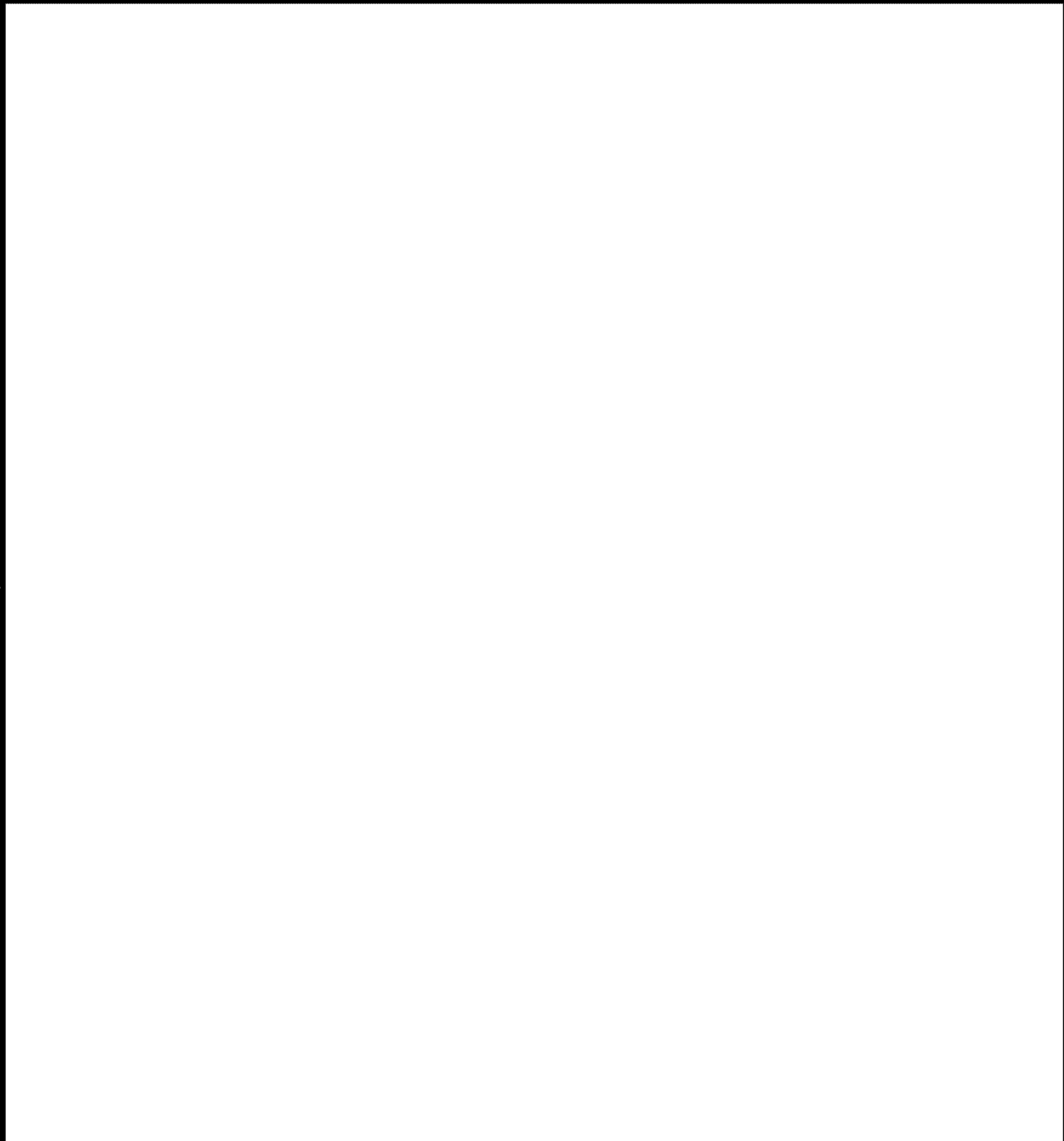


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Orphan Adoption Adjudications

Advanced Training

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- This presentation provides a general overview of key elements of the immigration process for adopted children. It is not a substitute for the actual U.S. immigration laws and regulations, nor is it a comprehensive summary of these laws and regulations. In the case of any inconsistencies between this presentation and the laws and regulations, the language of the laws and regulations governs.



Course Objectives

To provide training to adjudicators on advanced orphan processing related issues as well as adoption law updates



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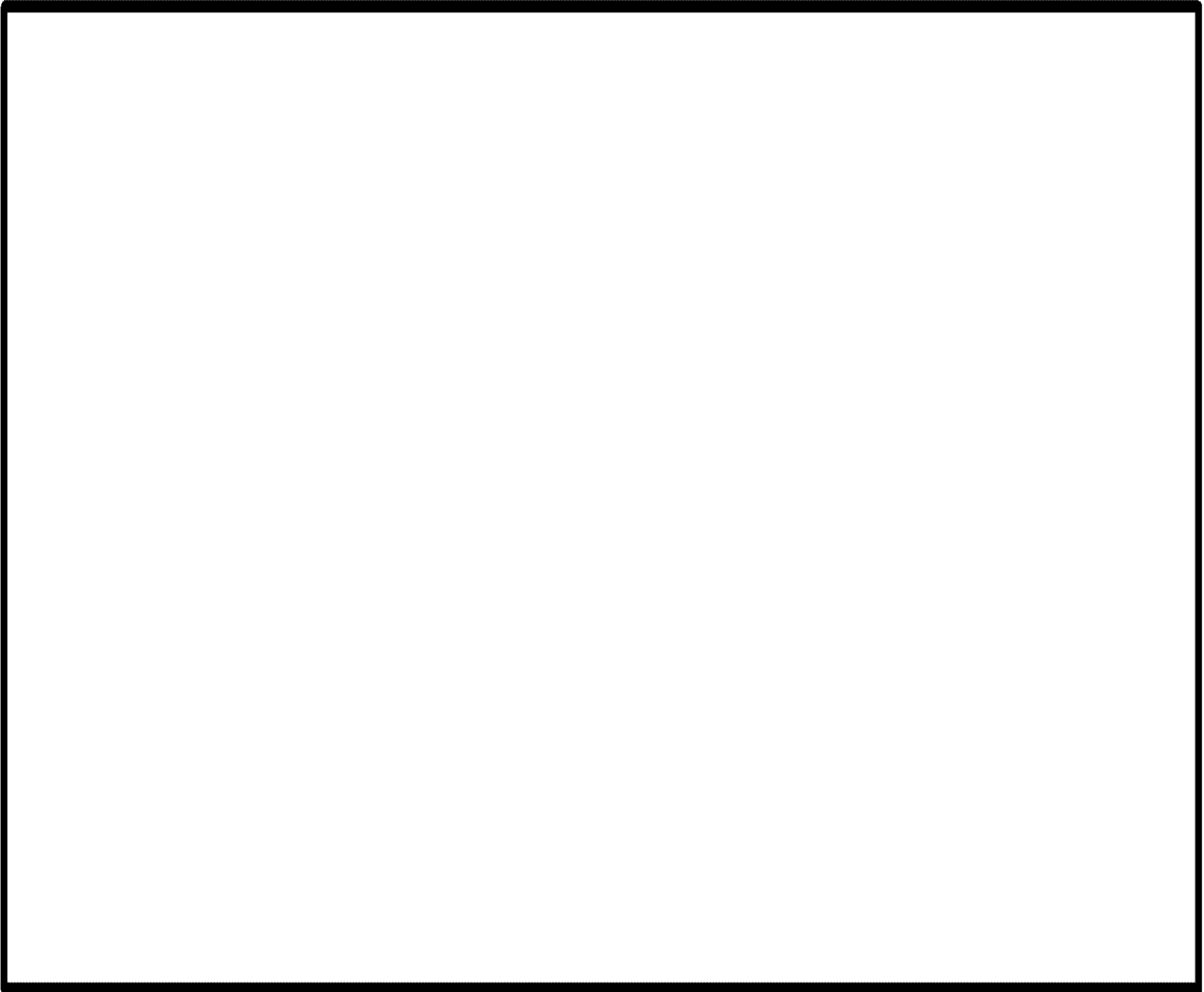
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Relevant Authorities

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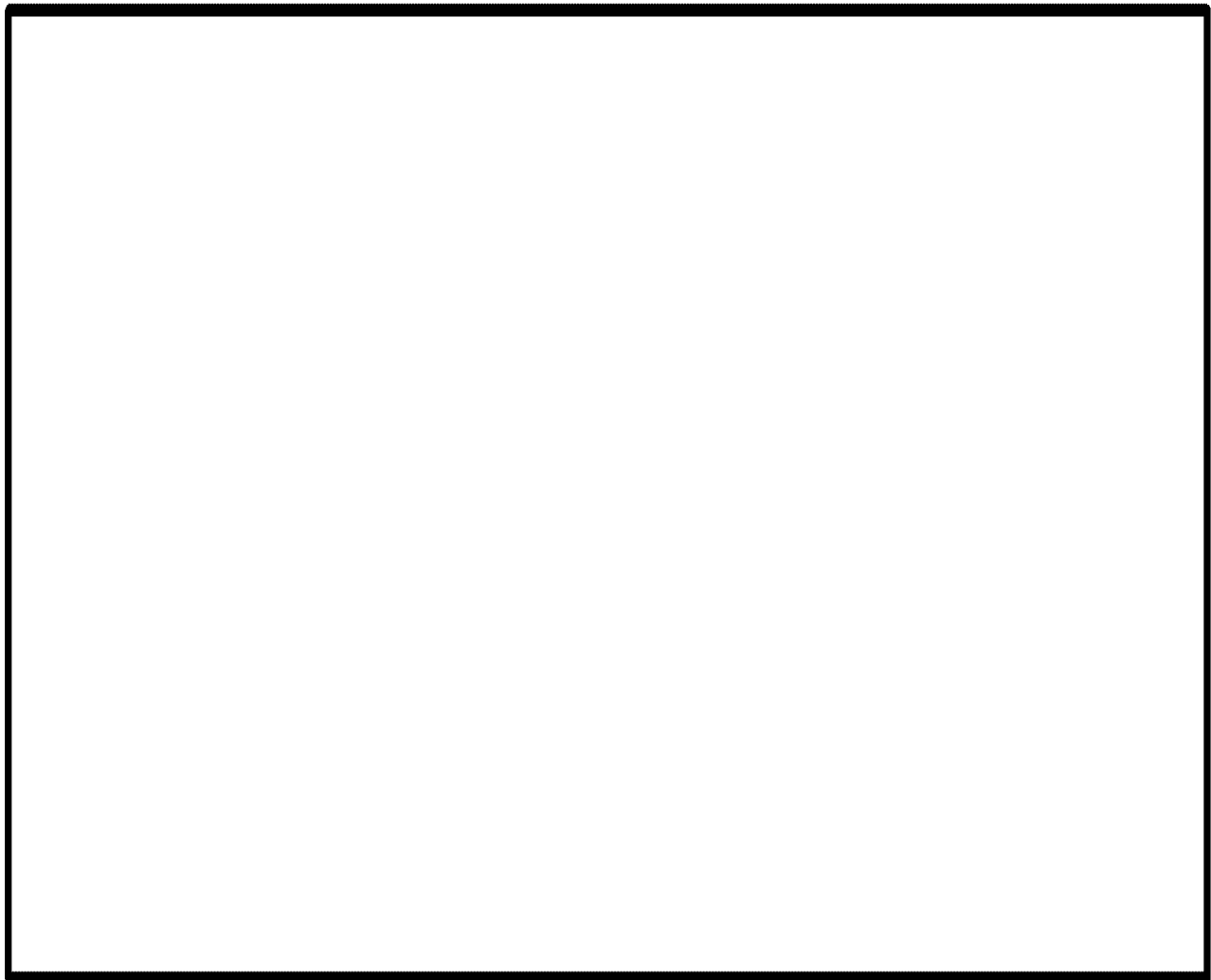
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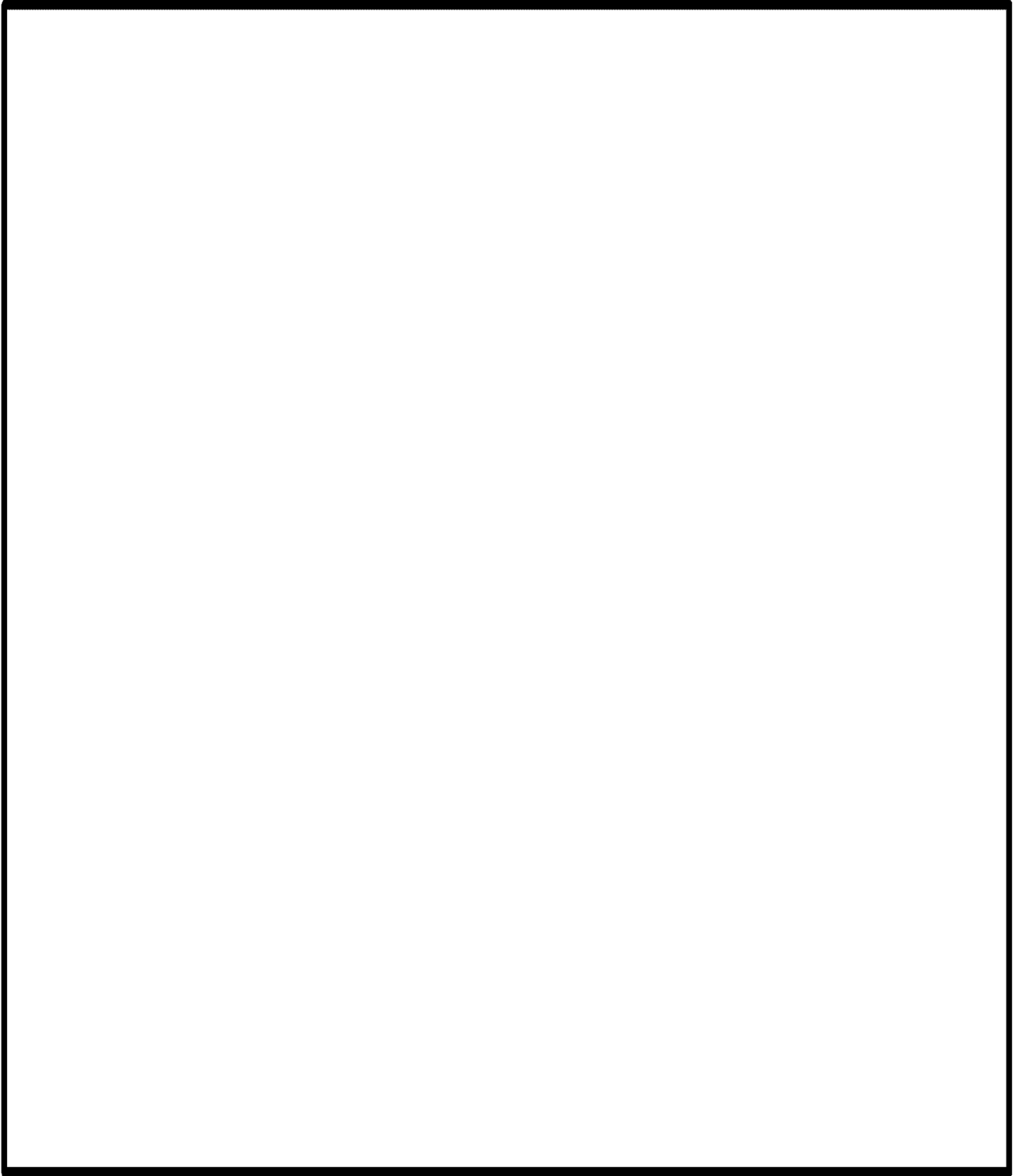
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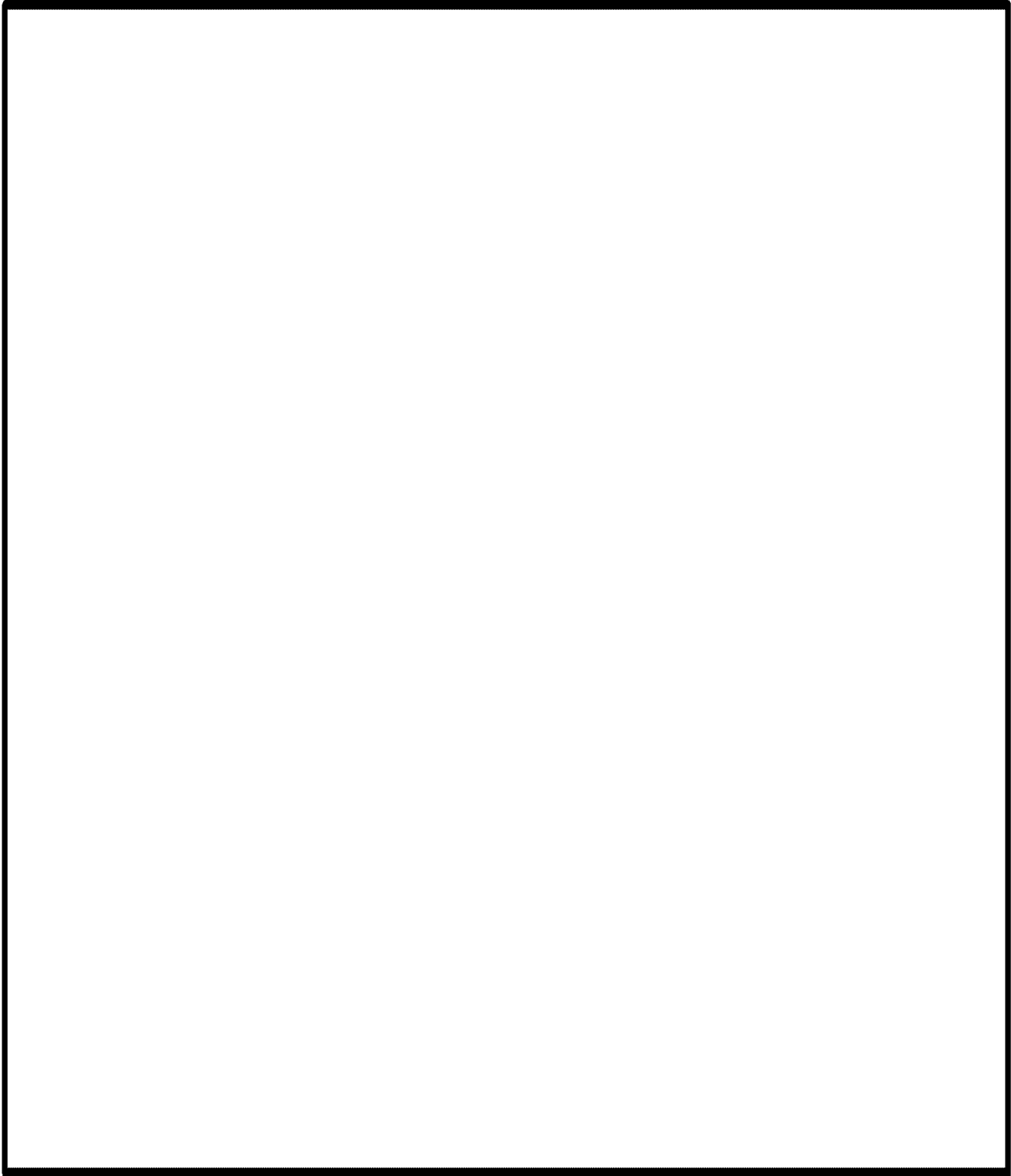
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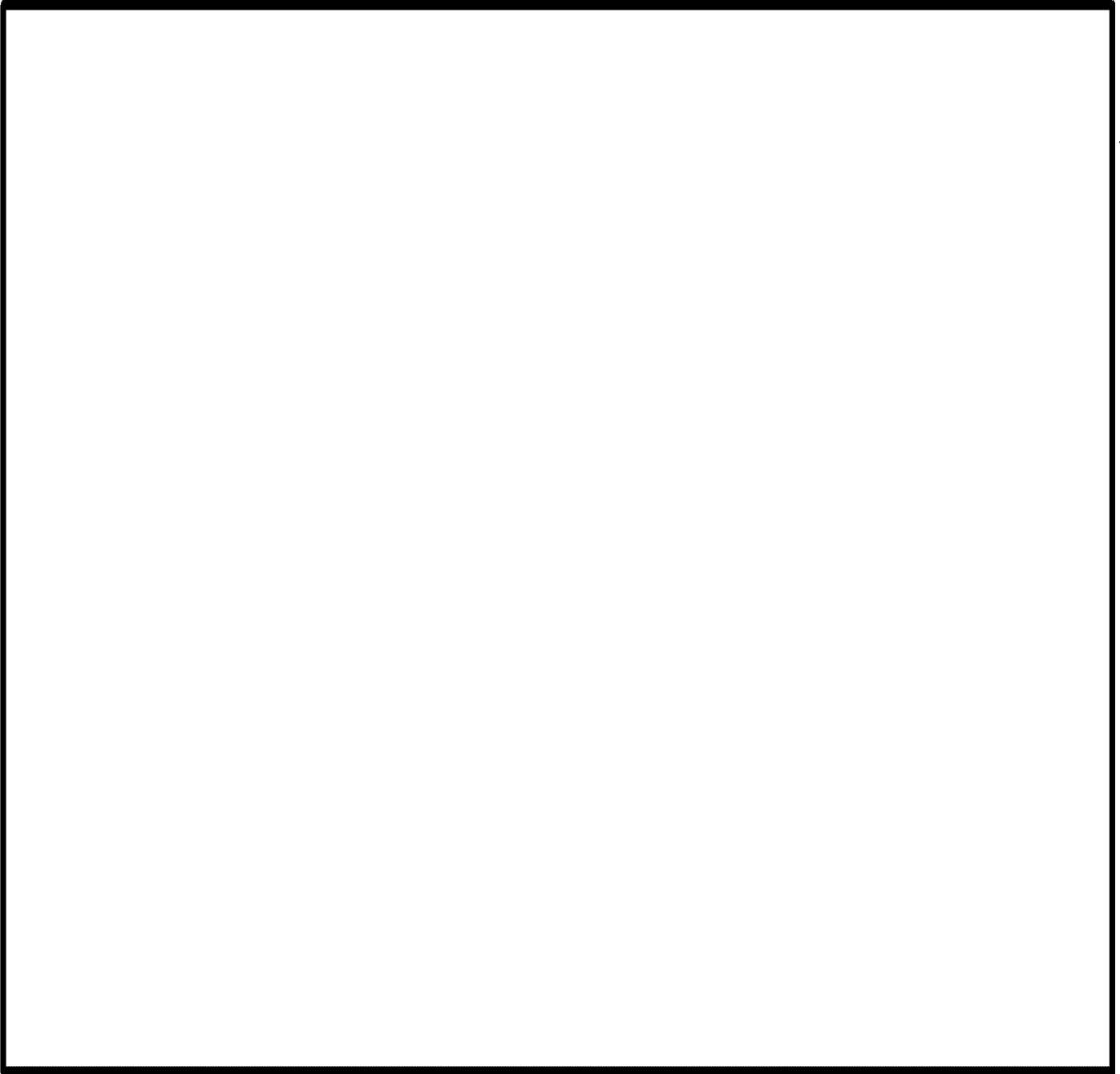
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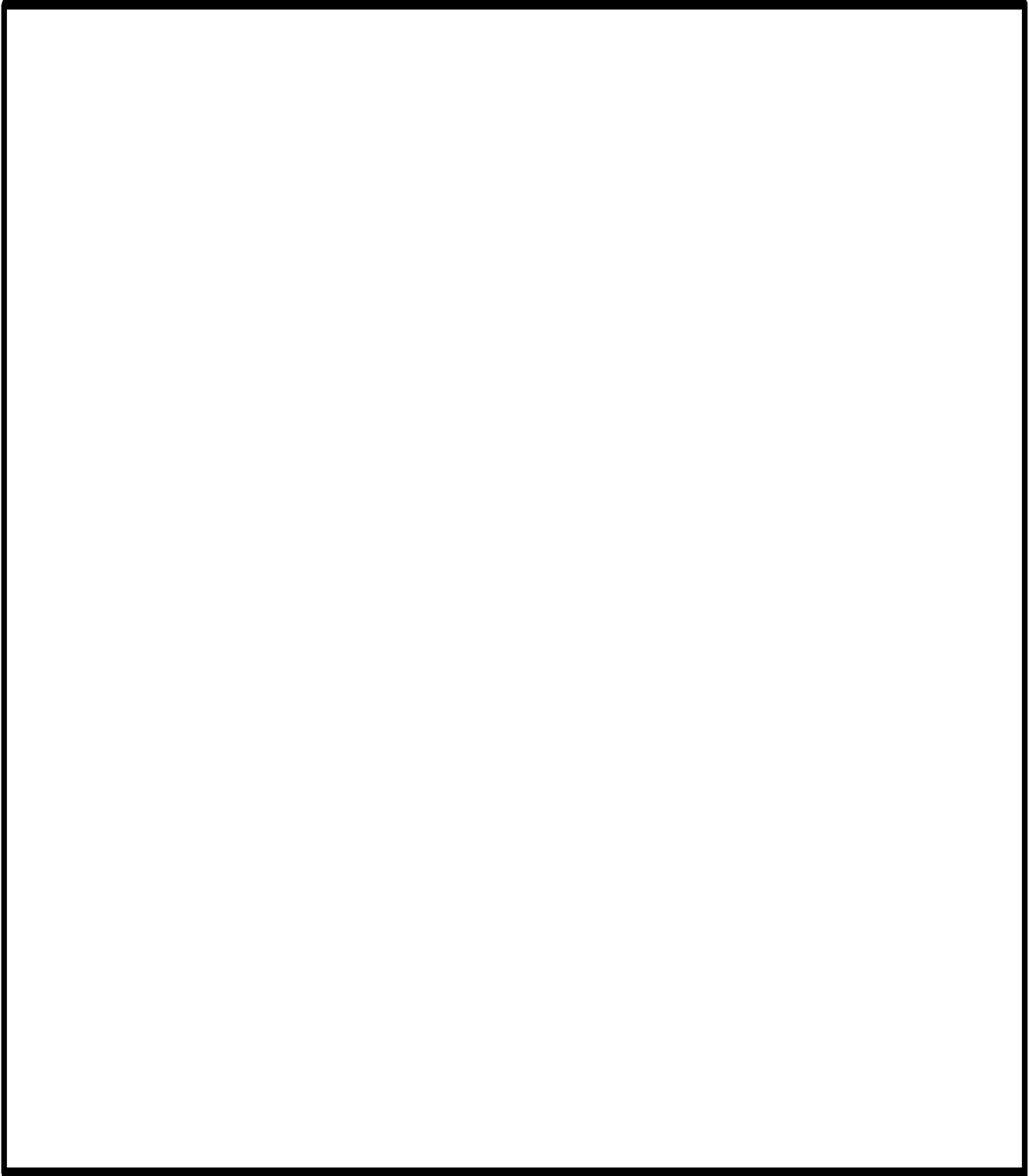


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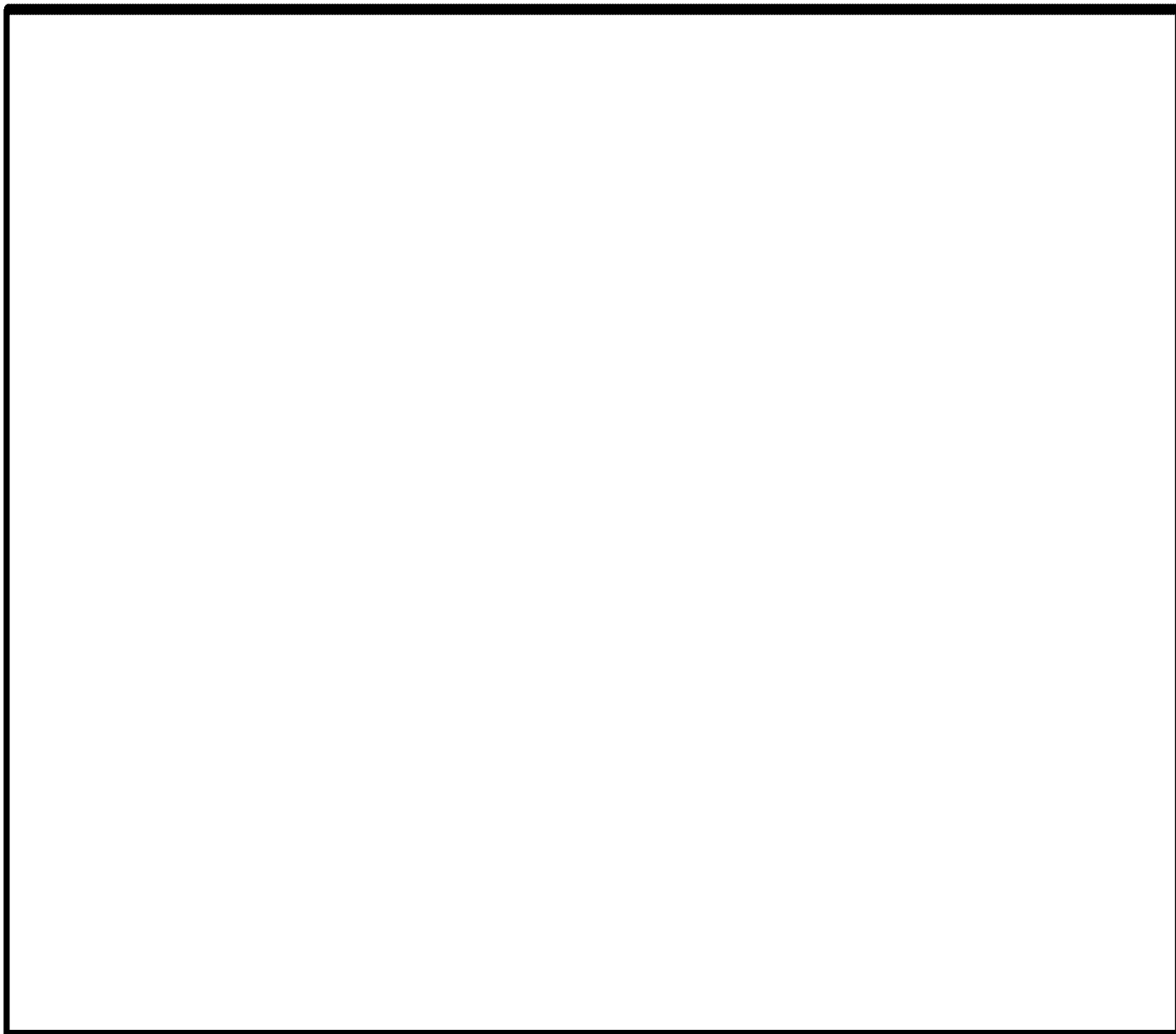
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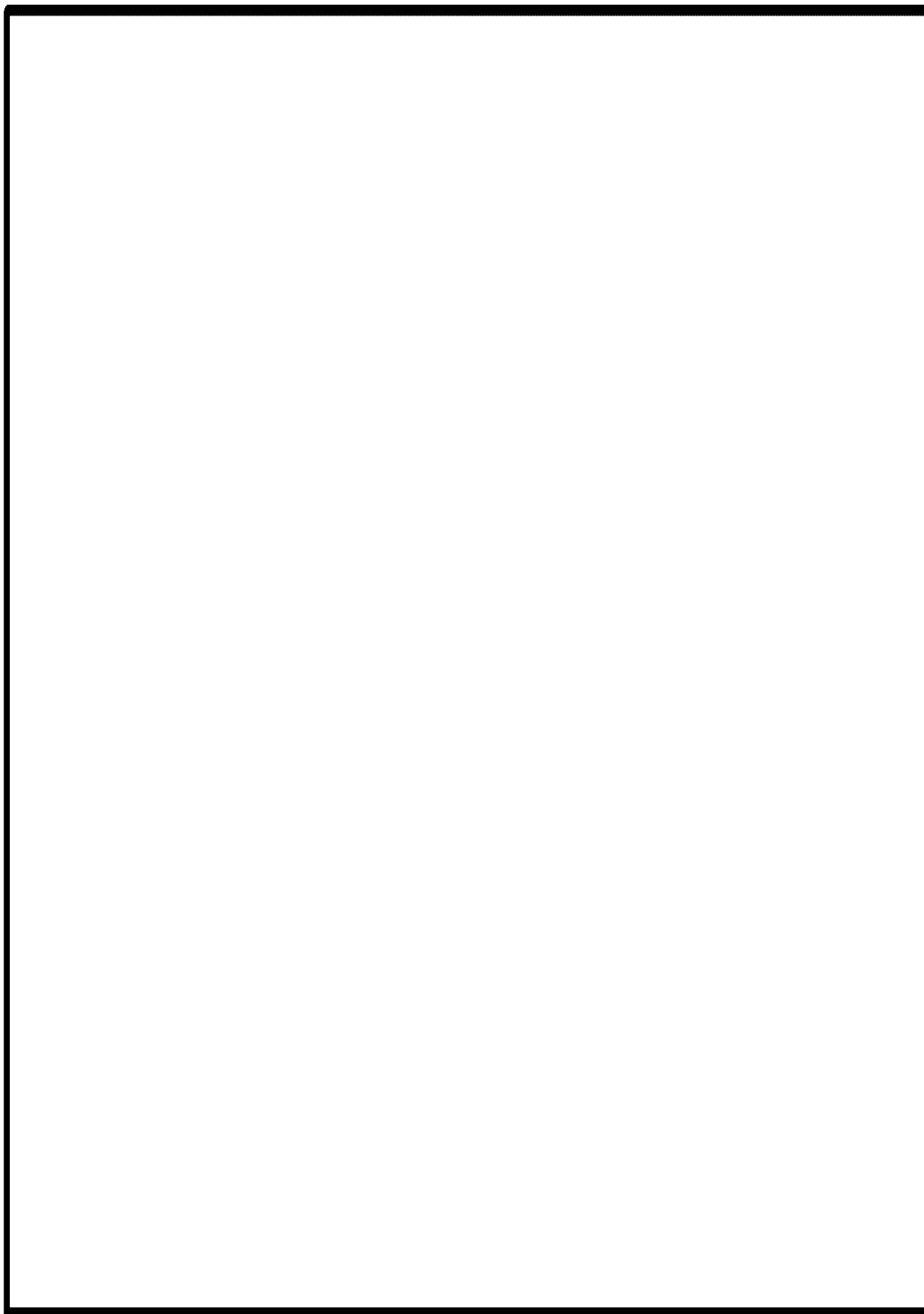
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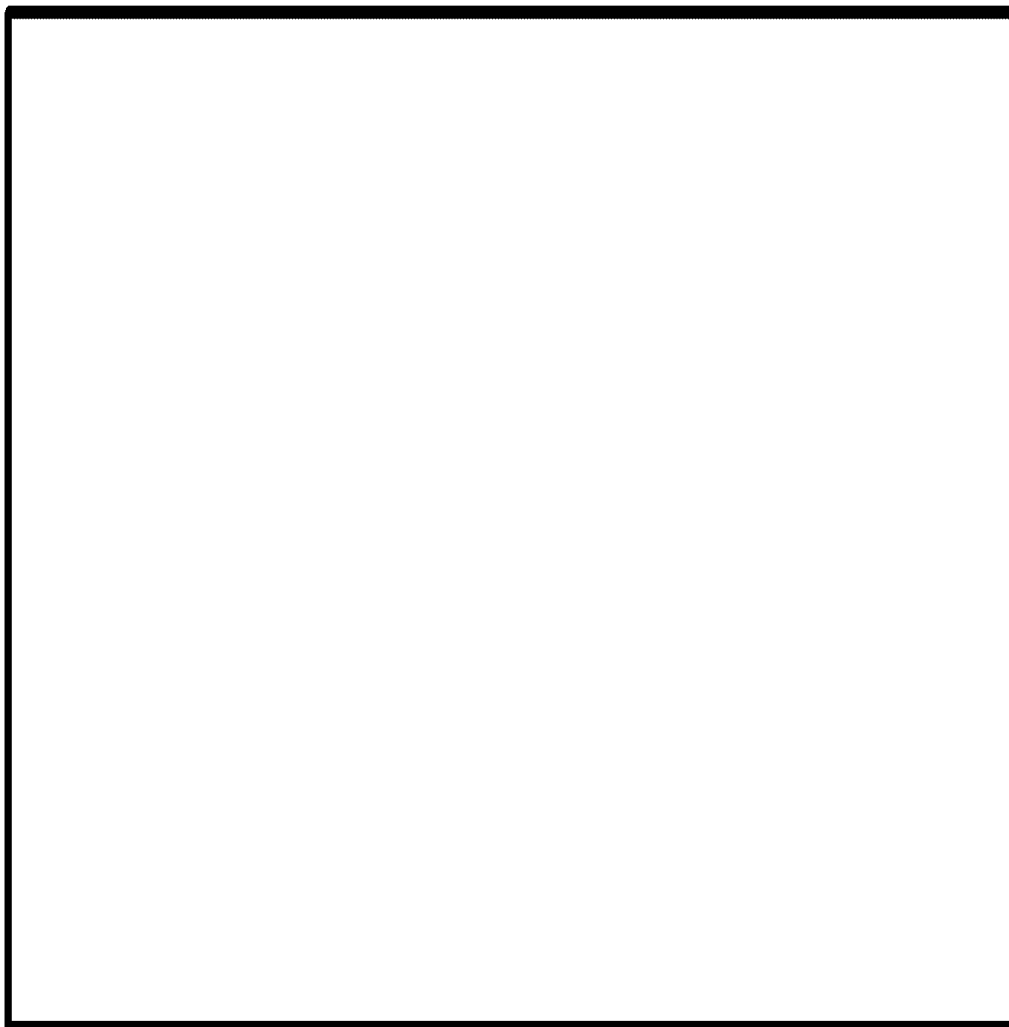
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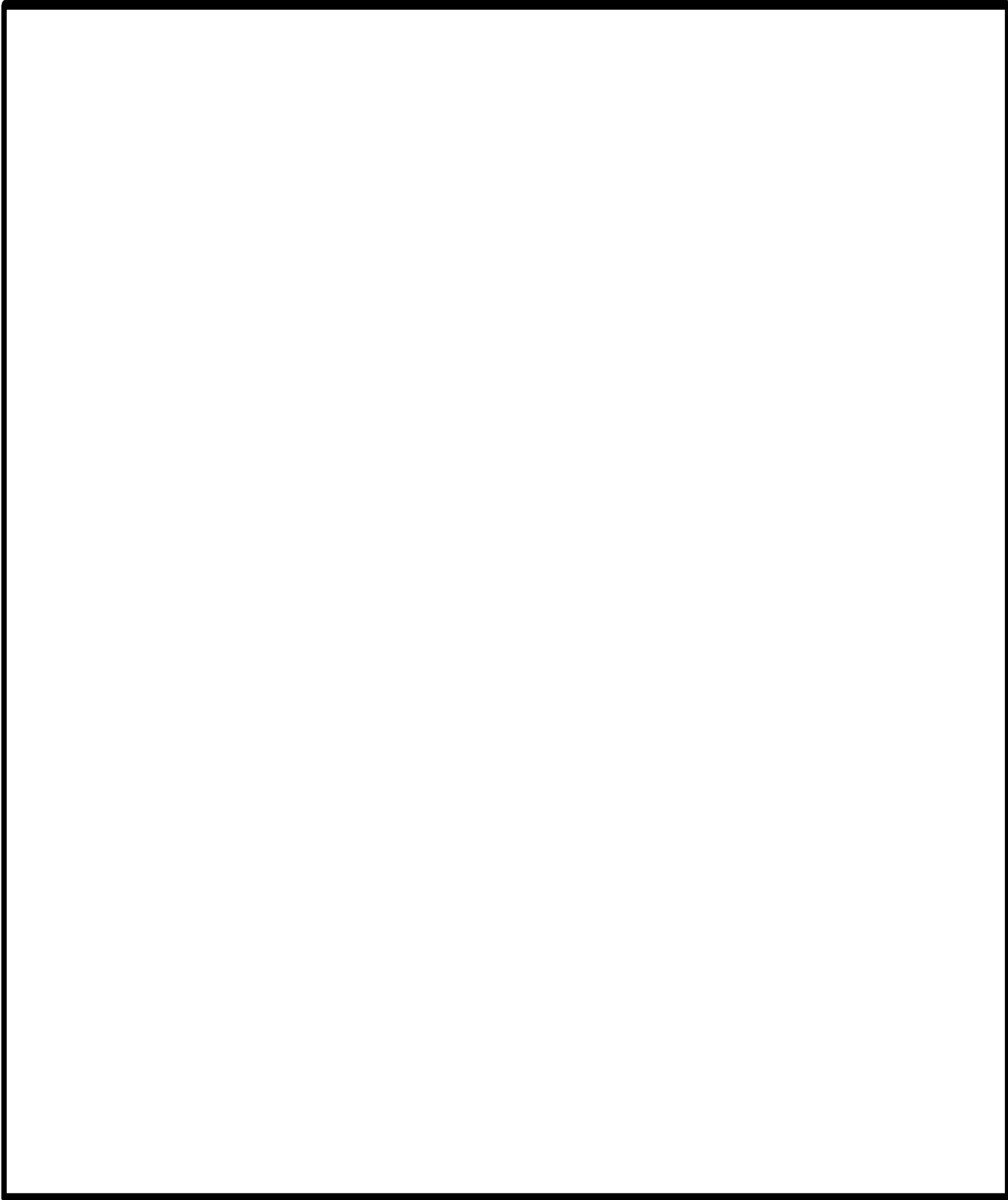


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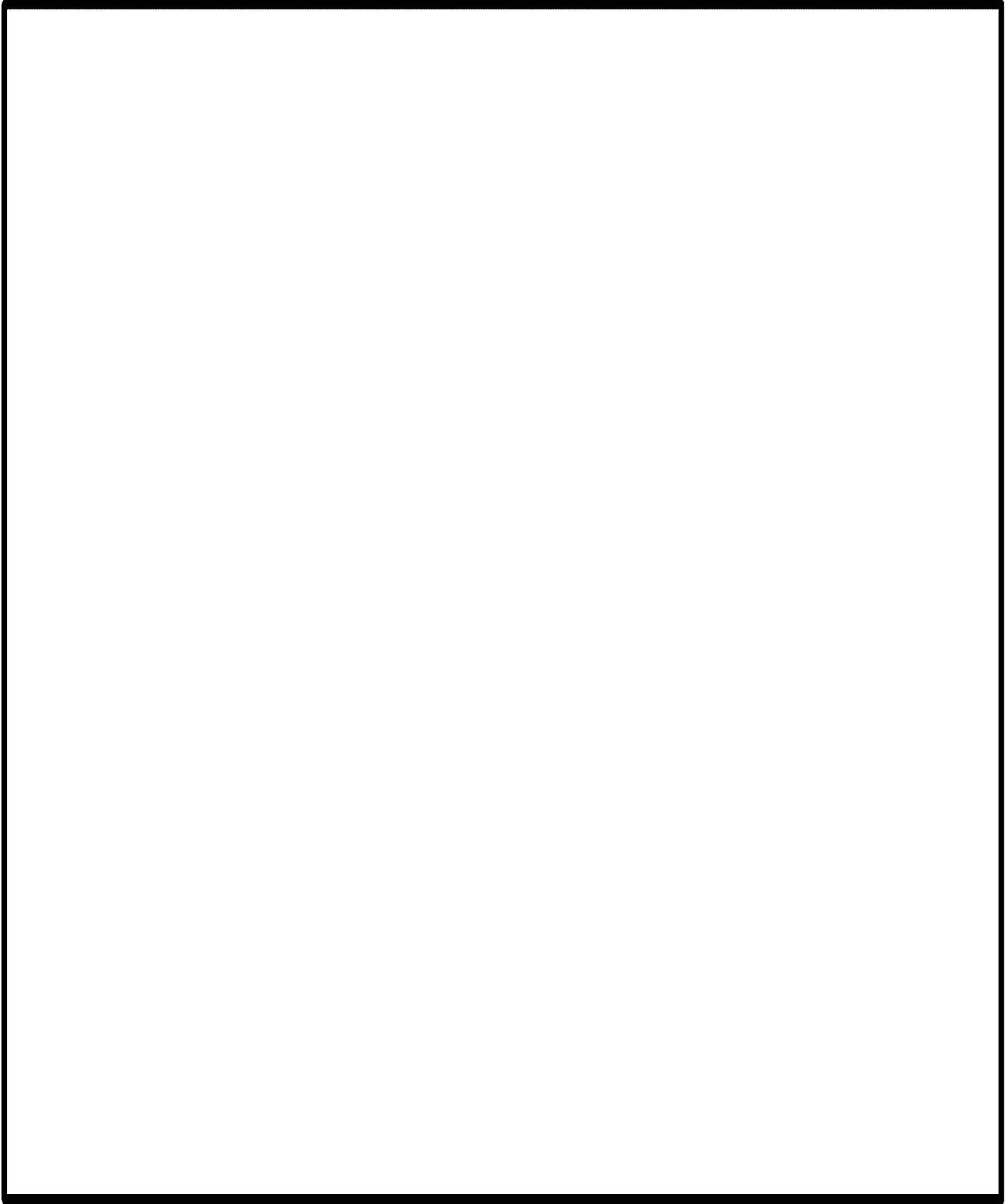
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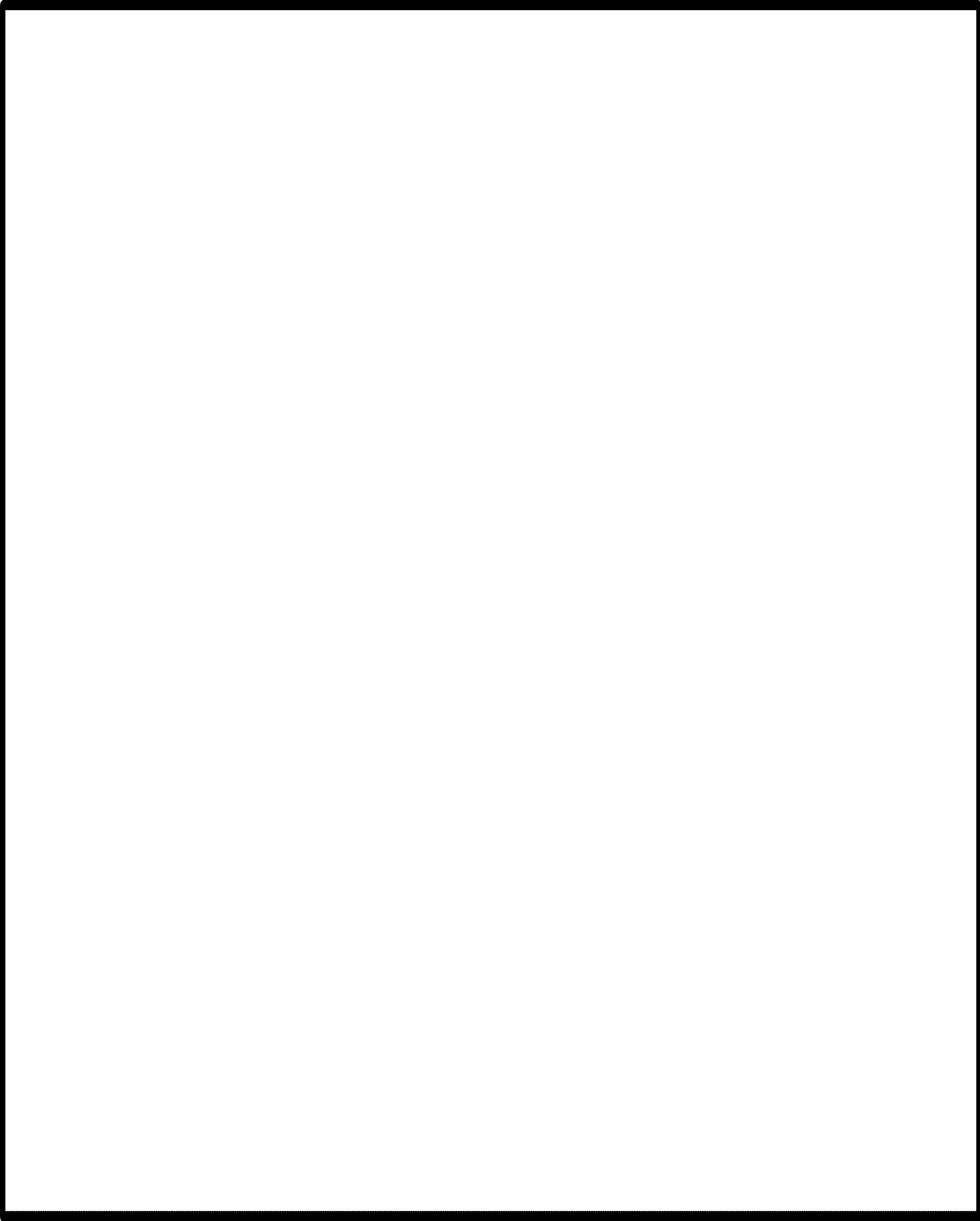
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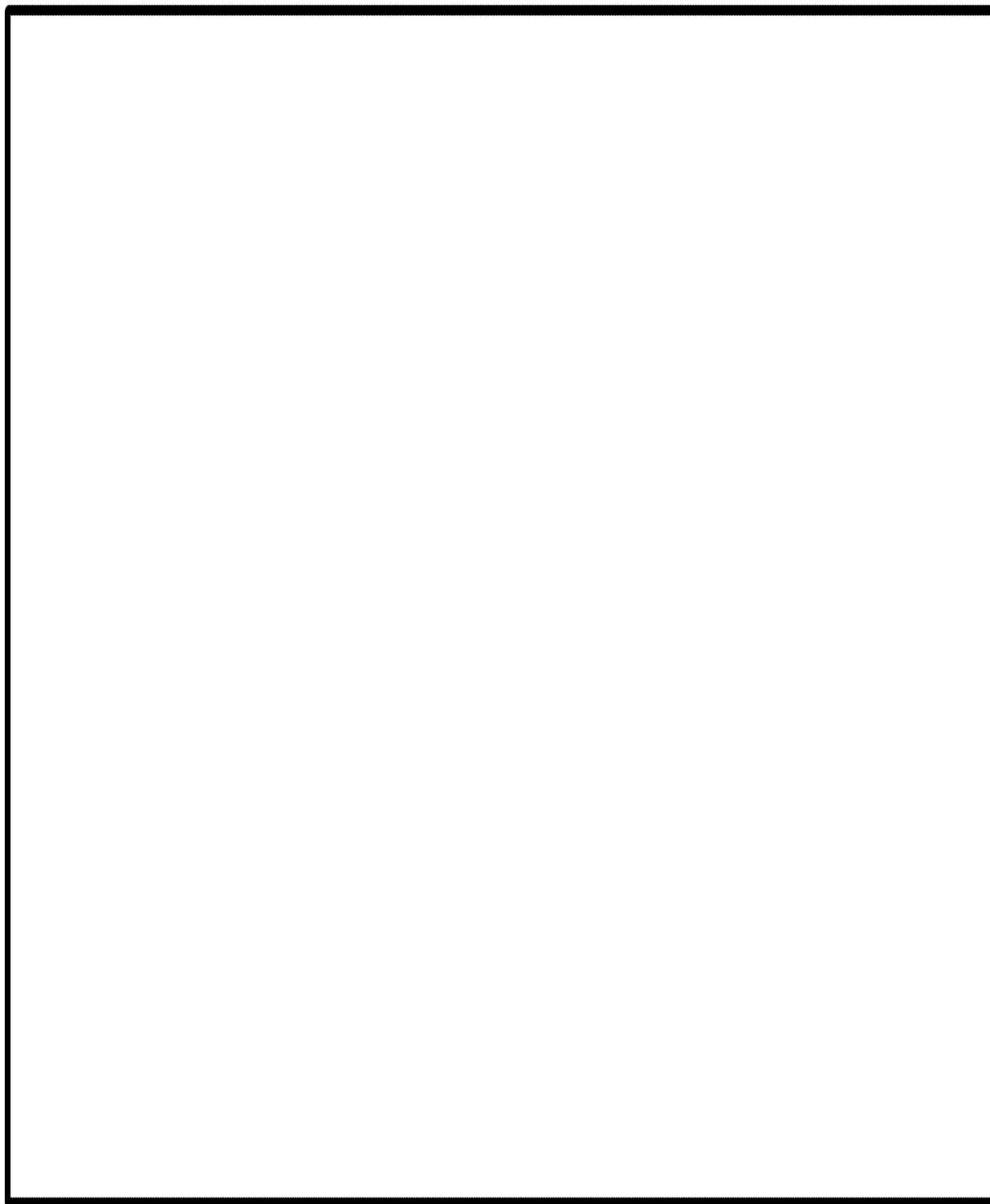
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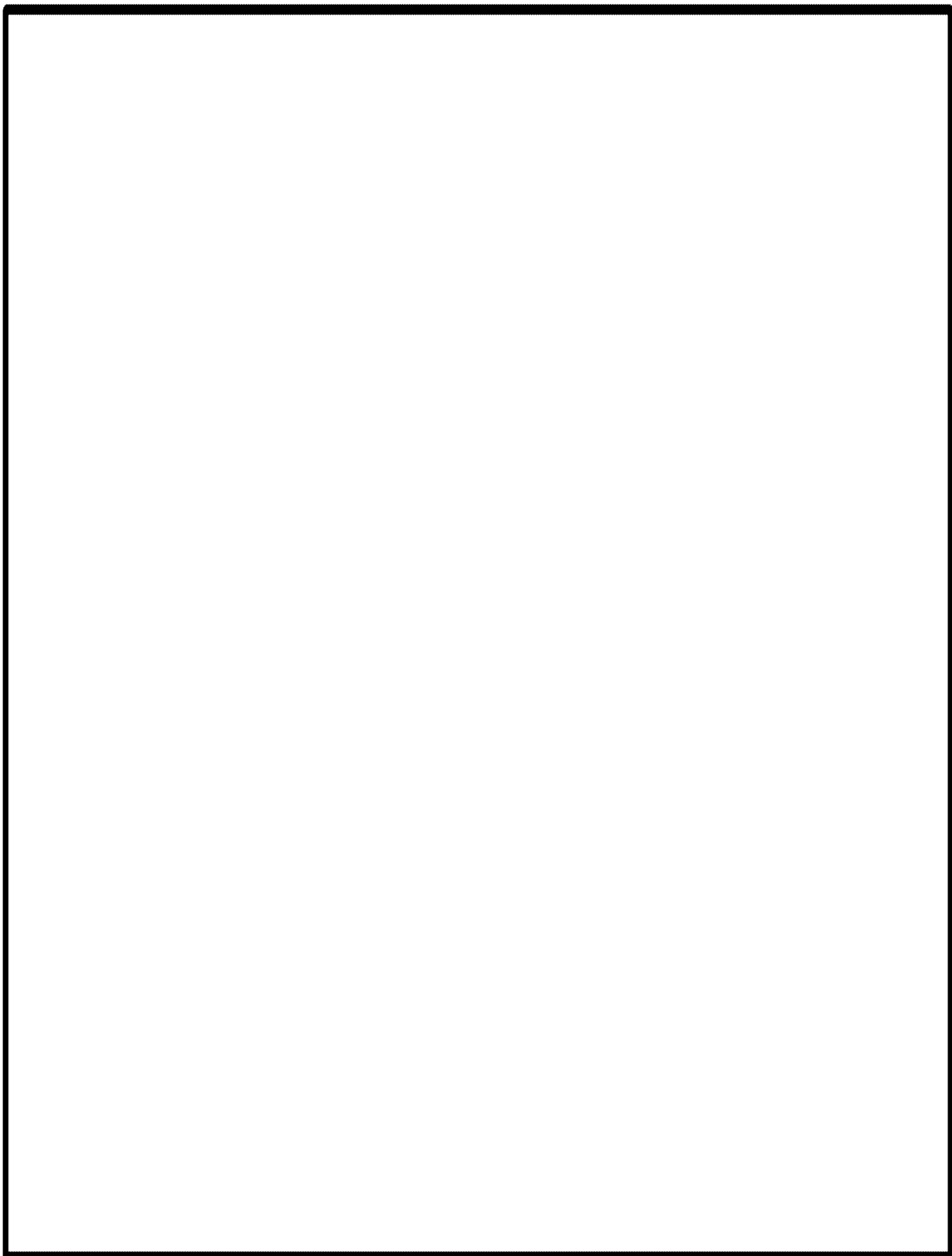


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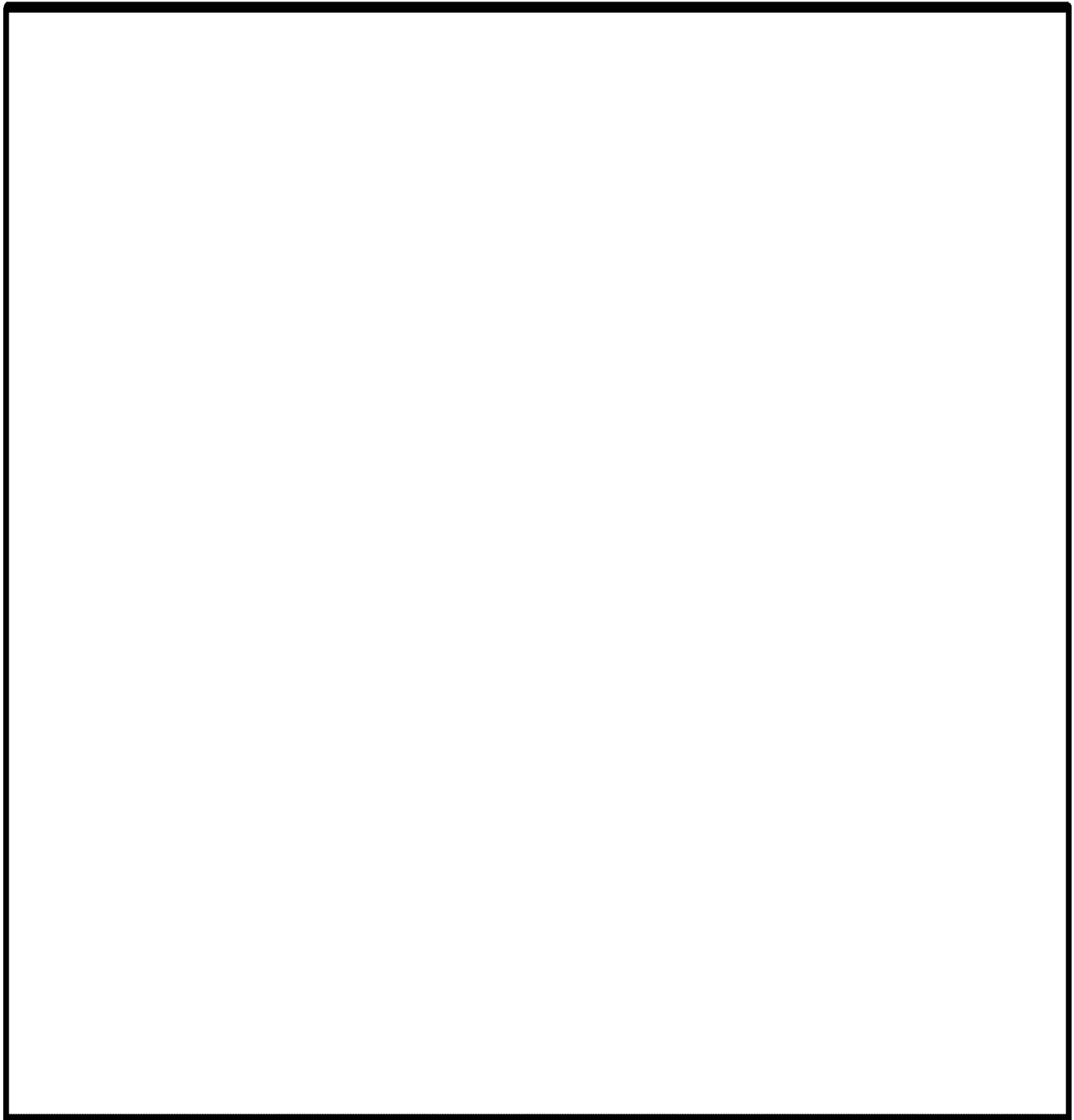
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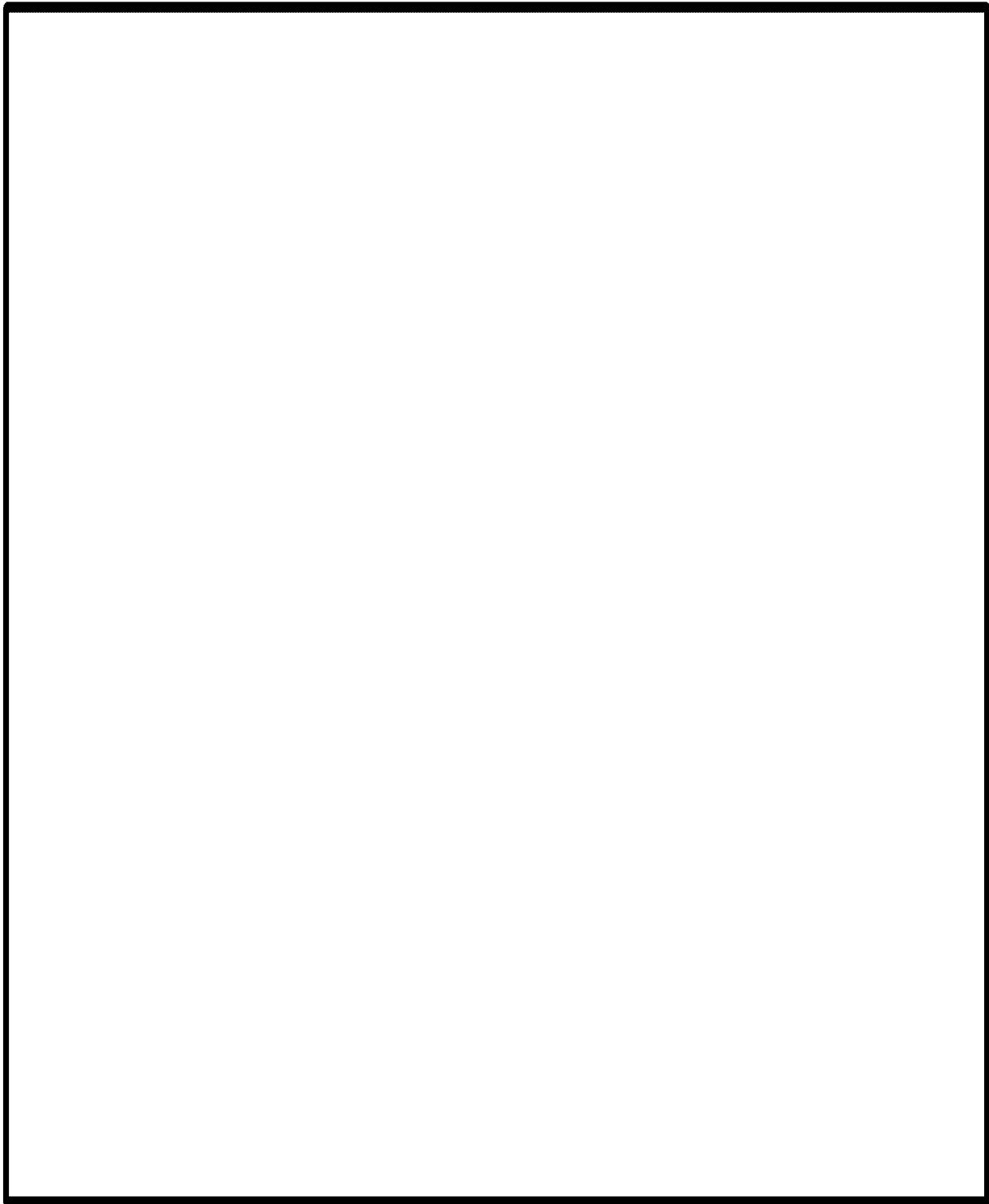
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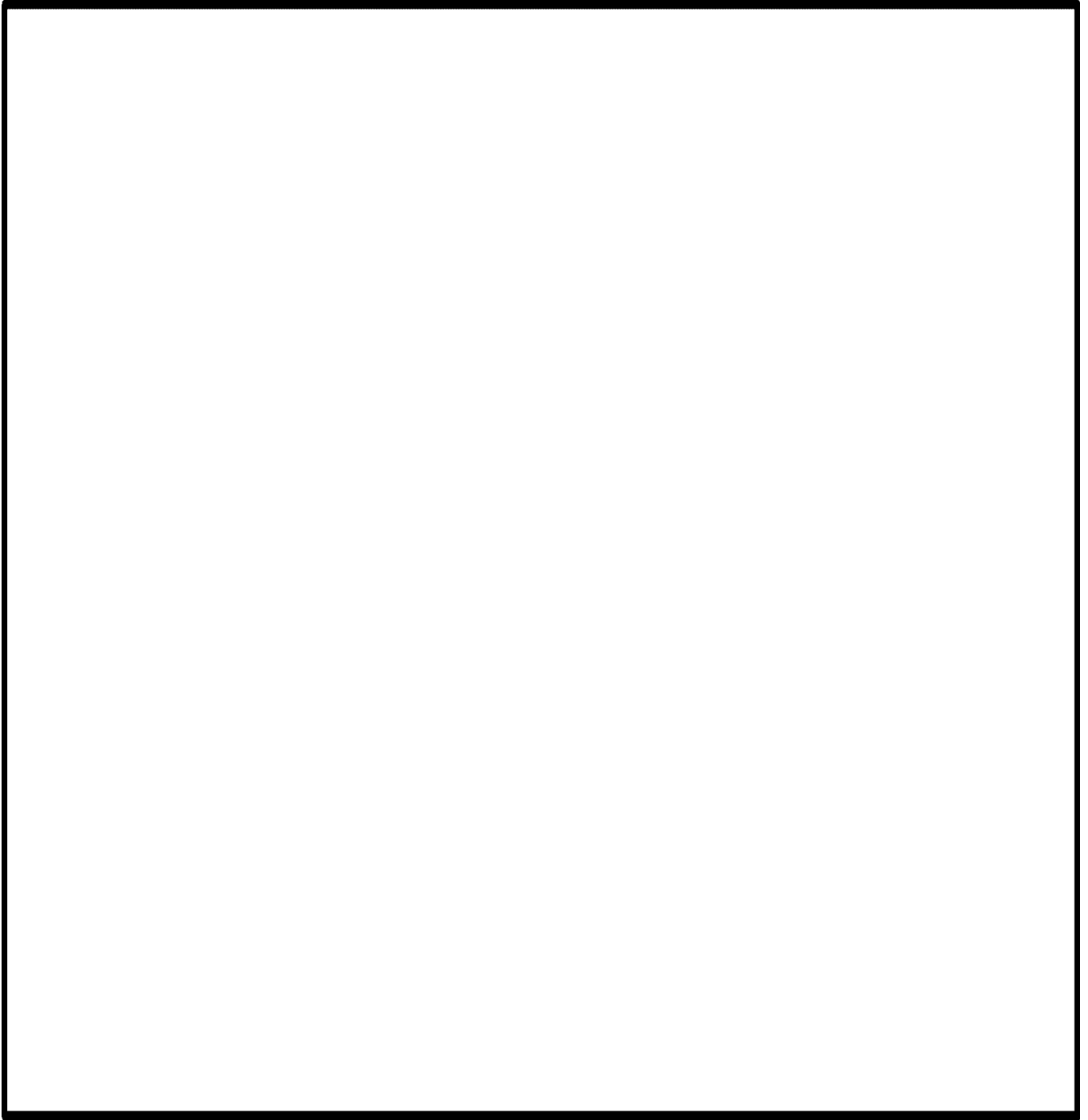


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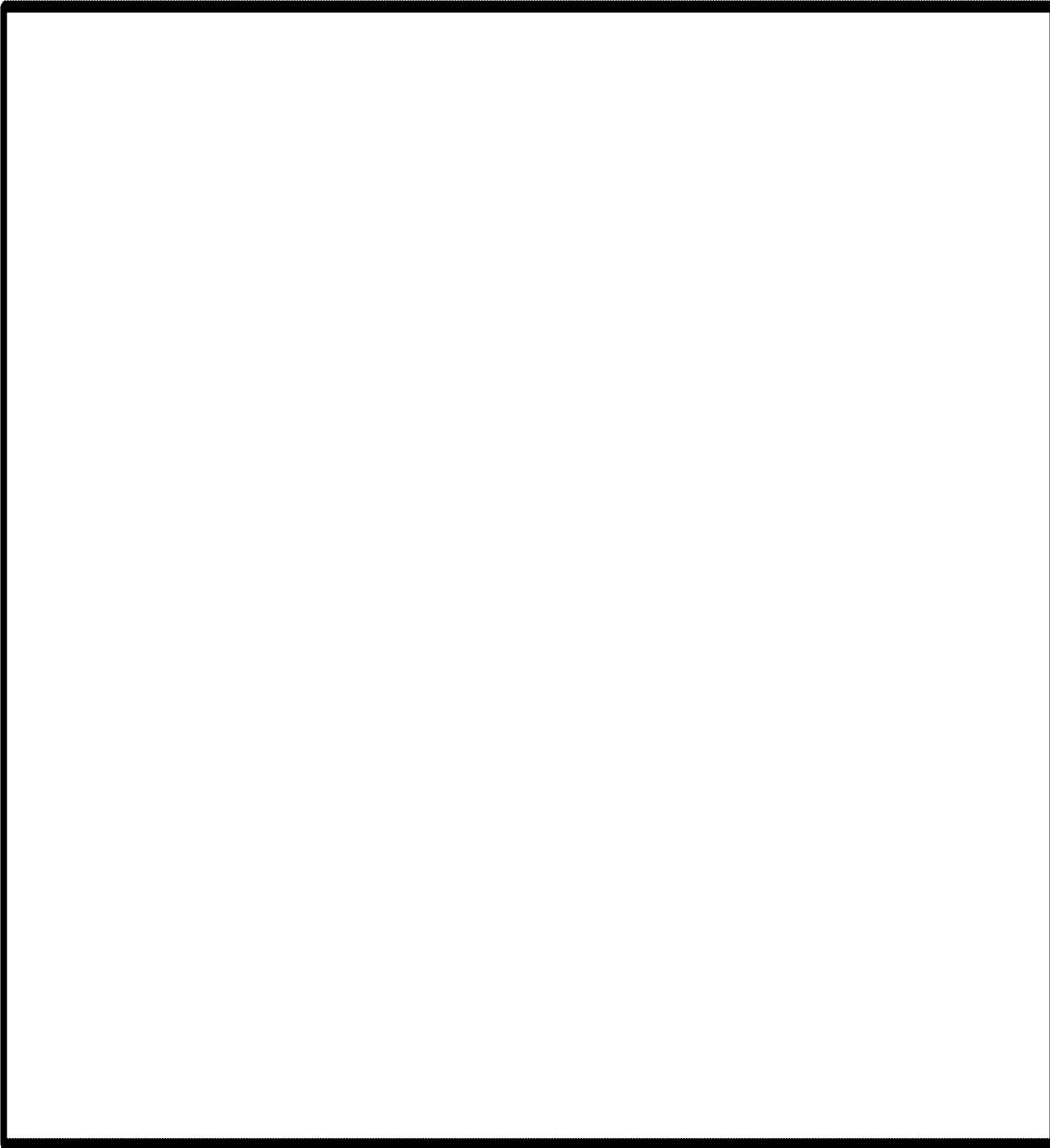
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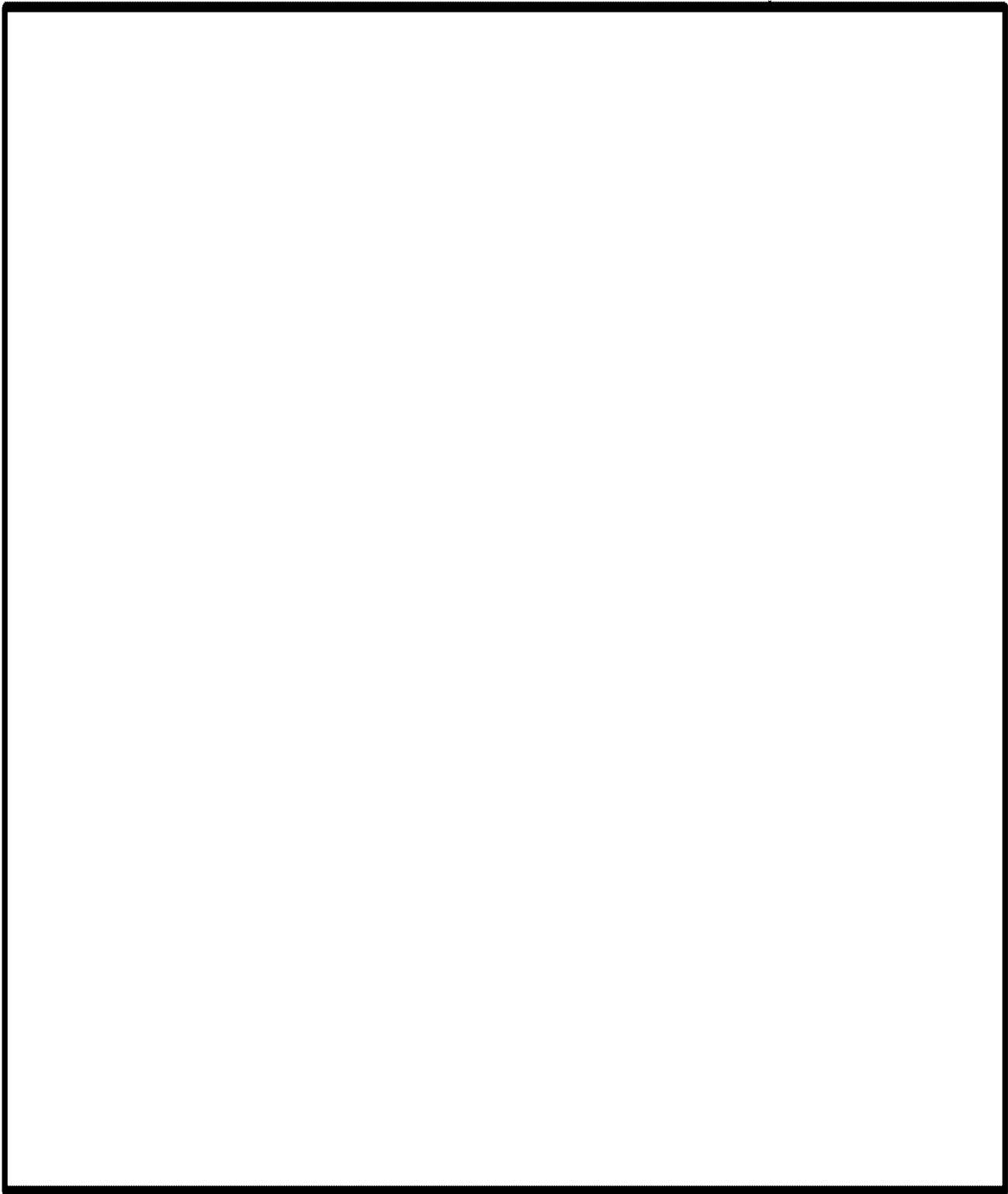
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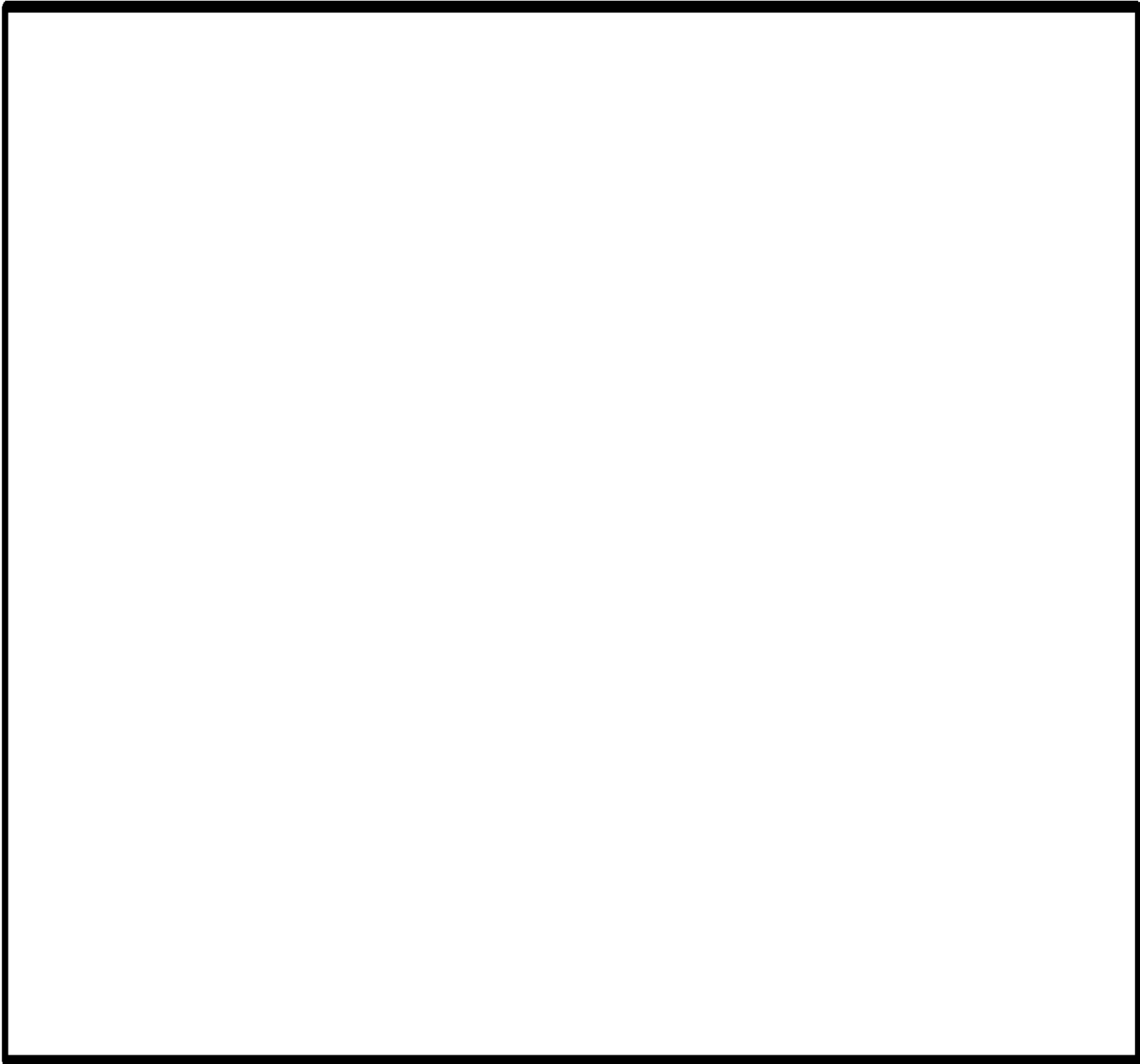


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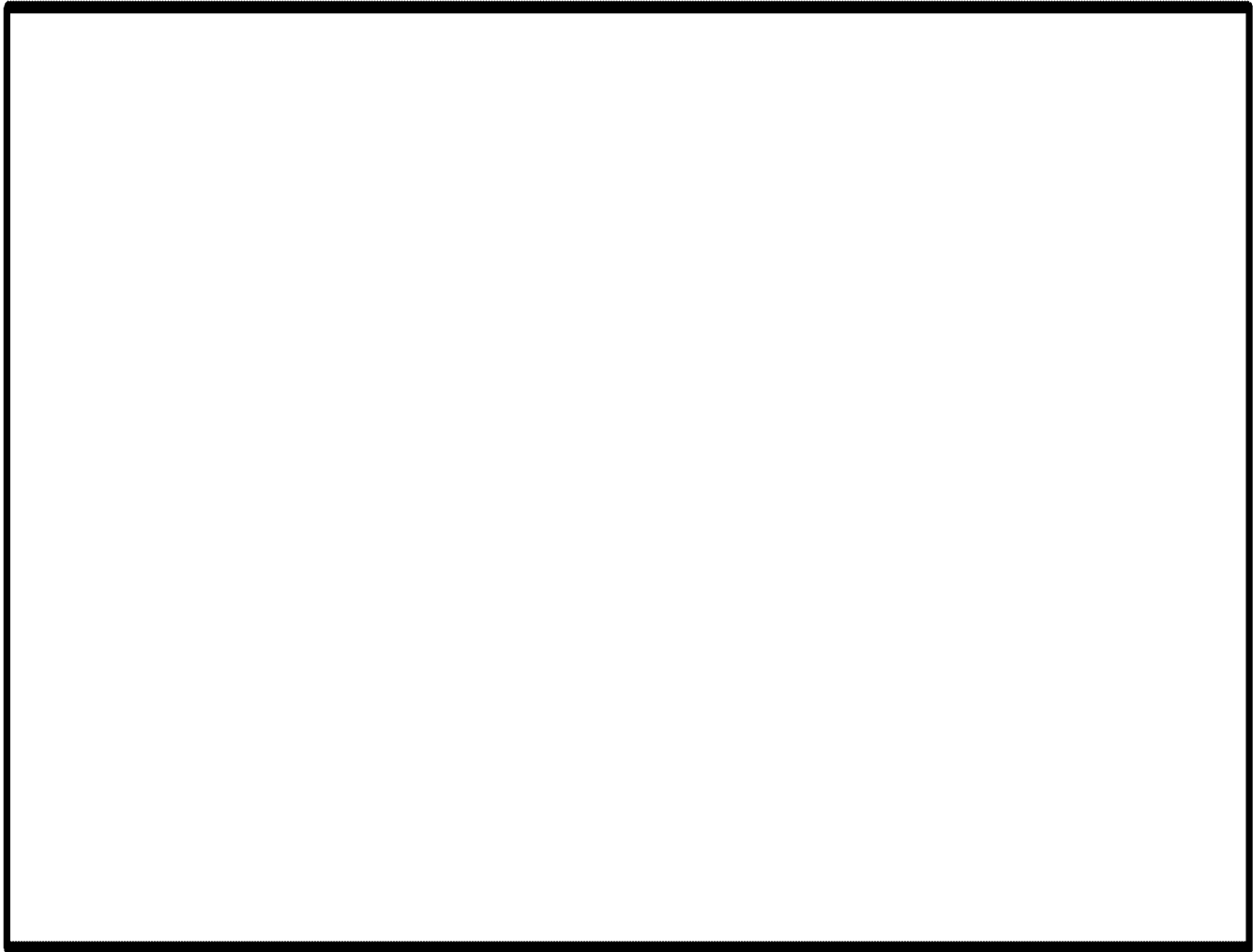
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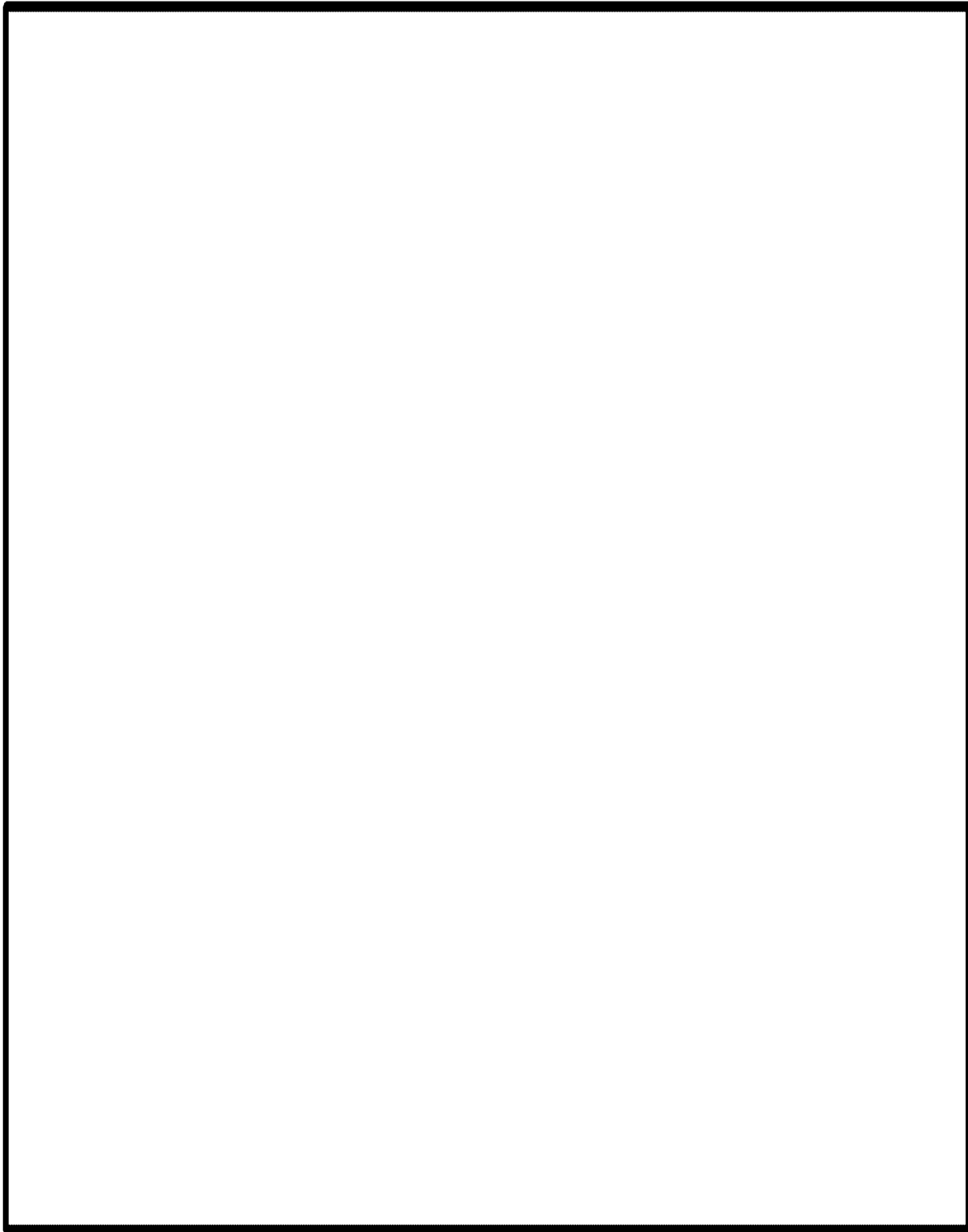


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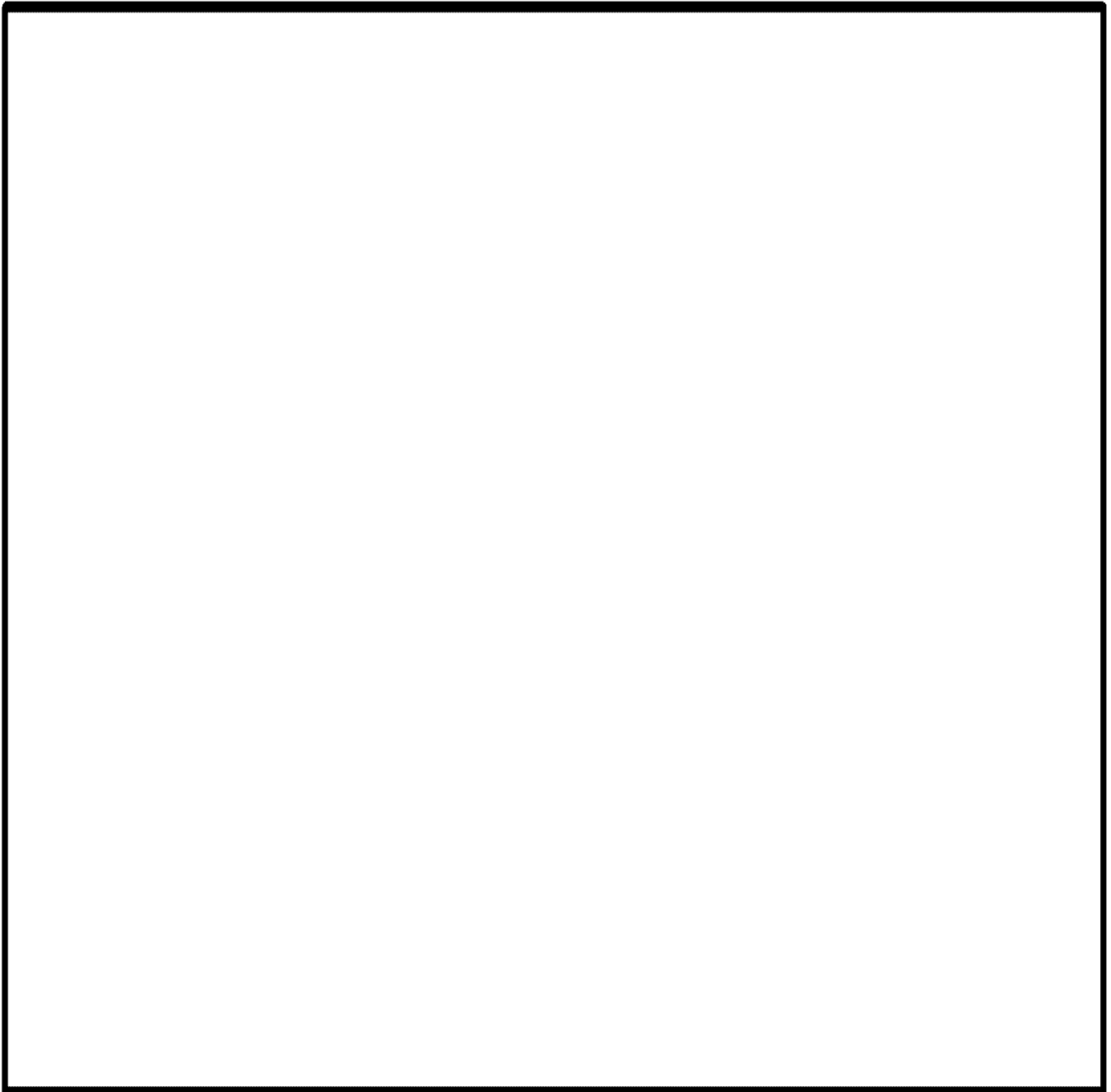


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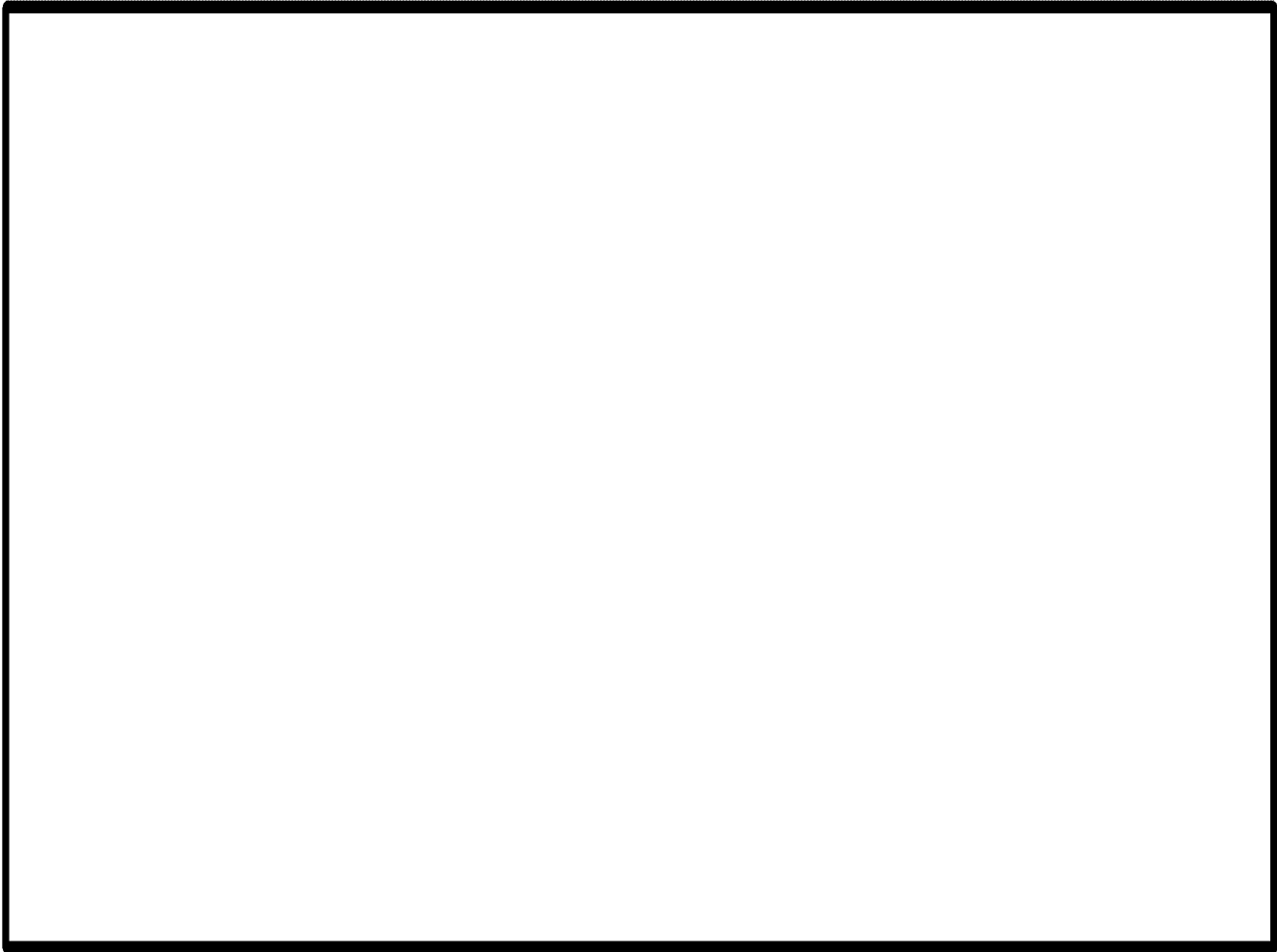
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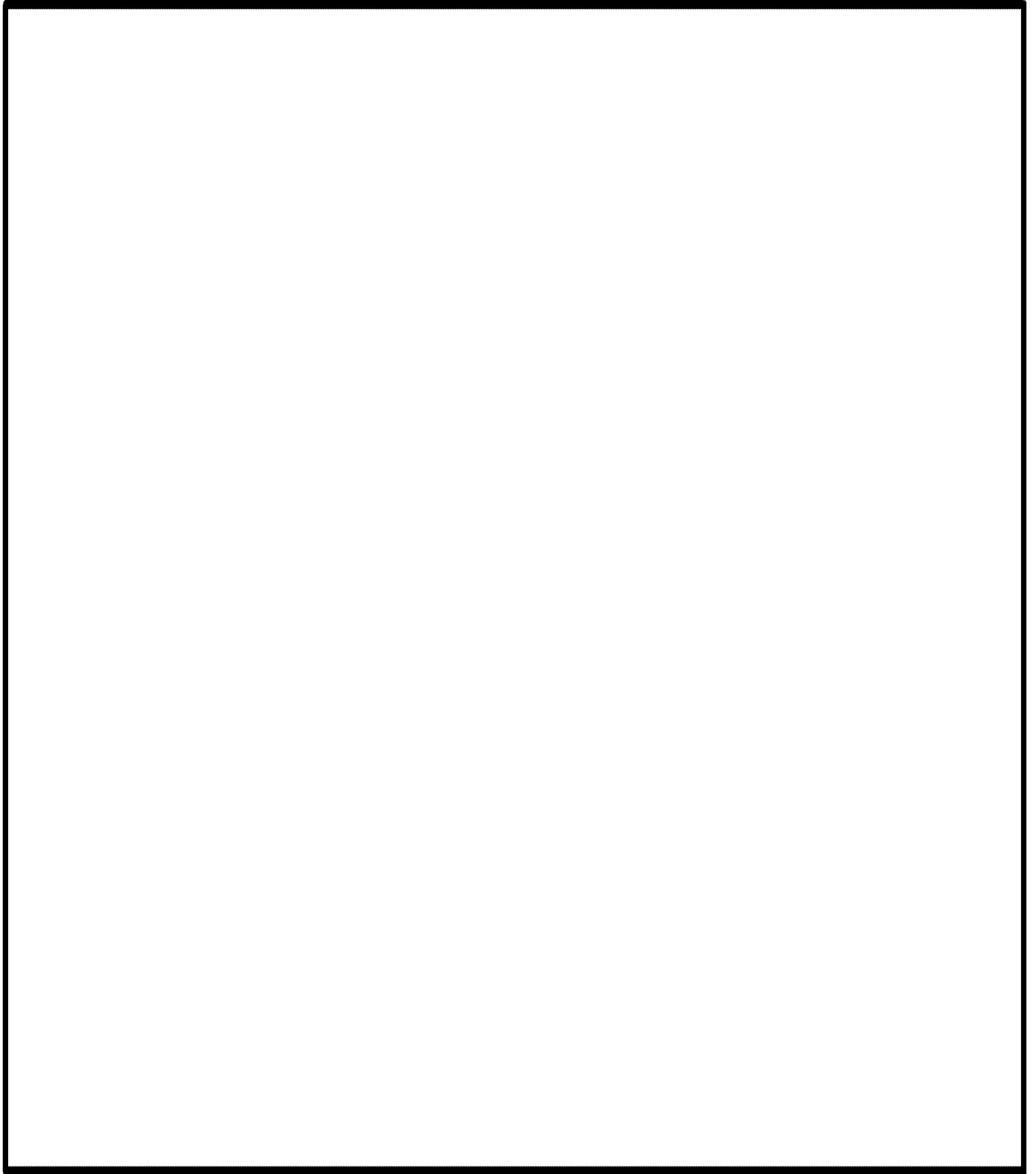
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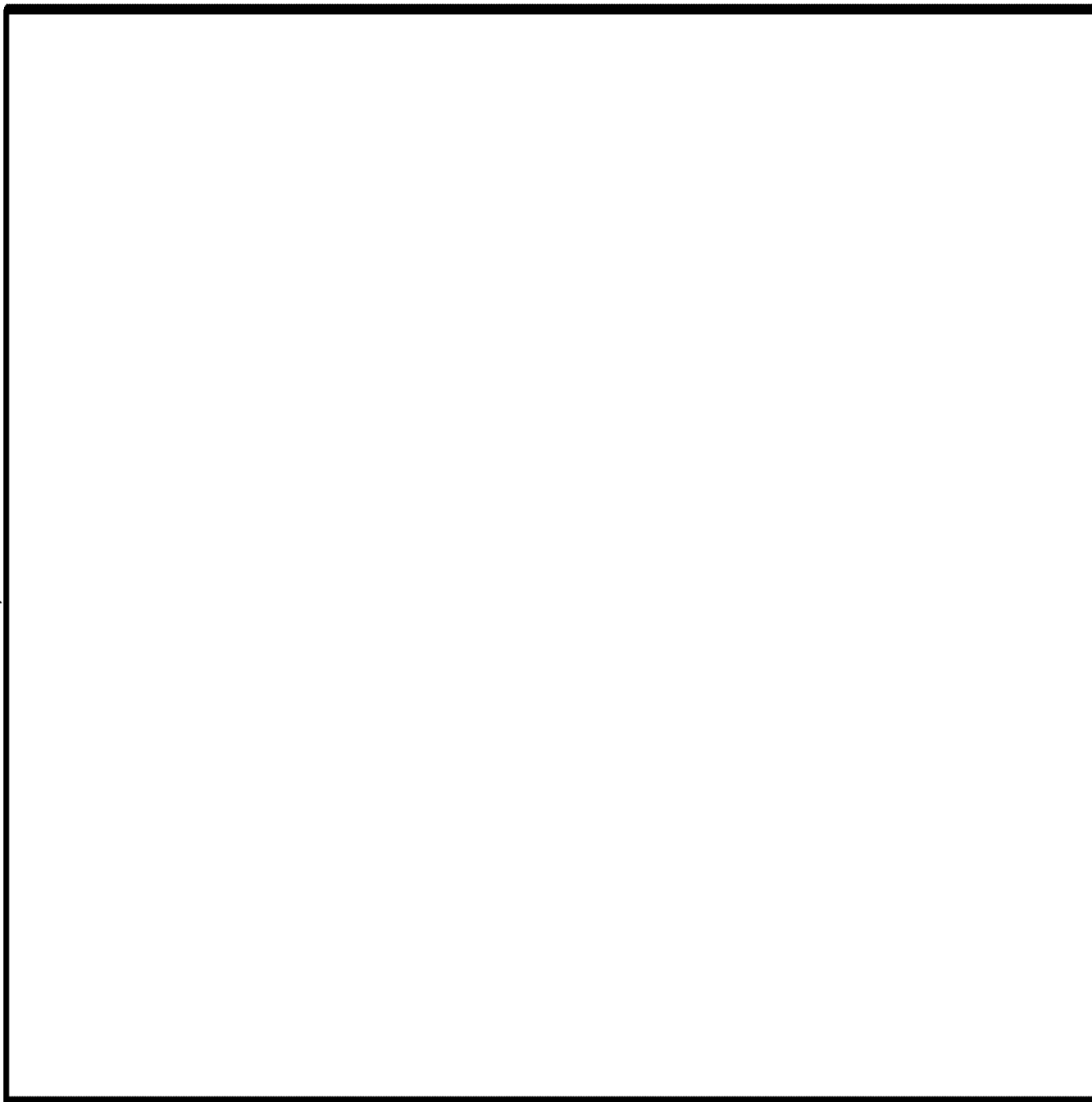
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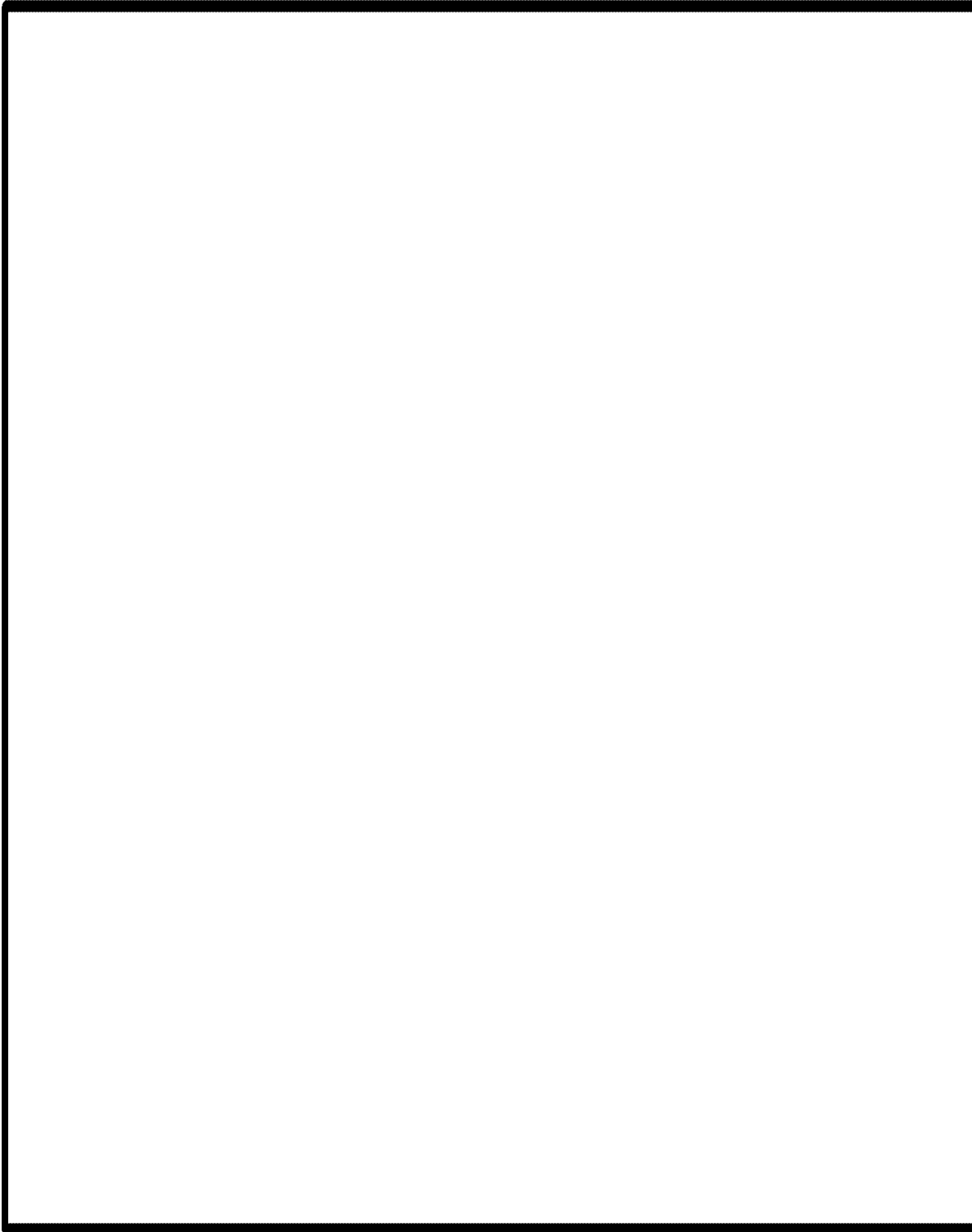
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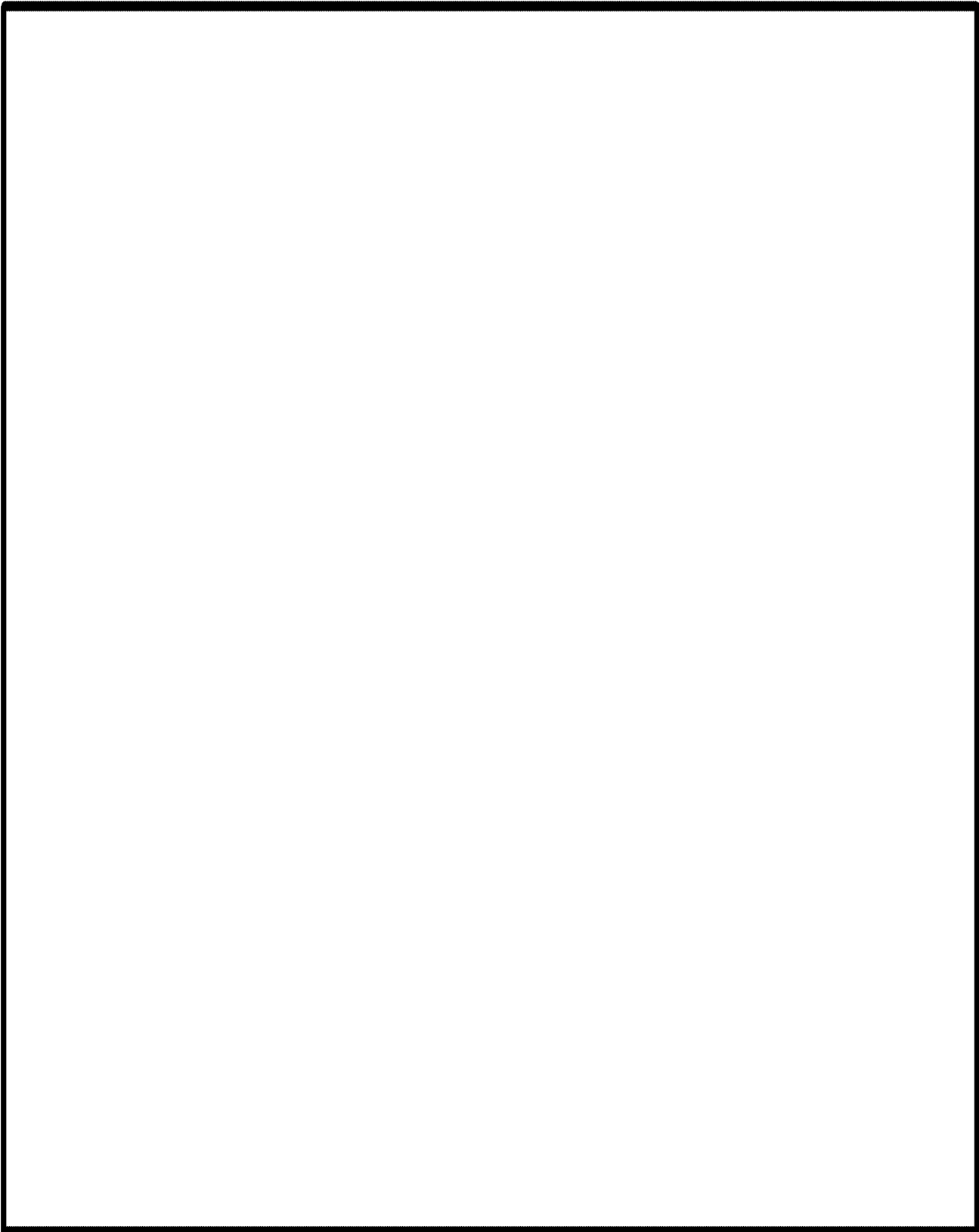
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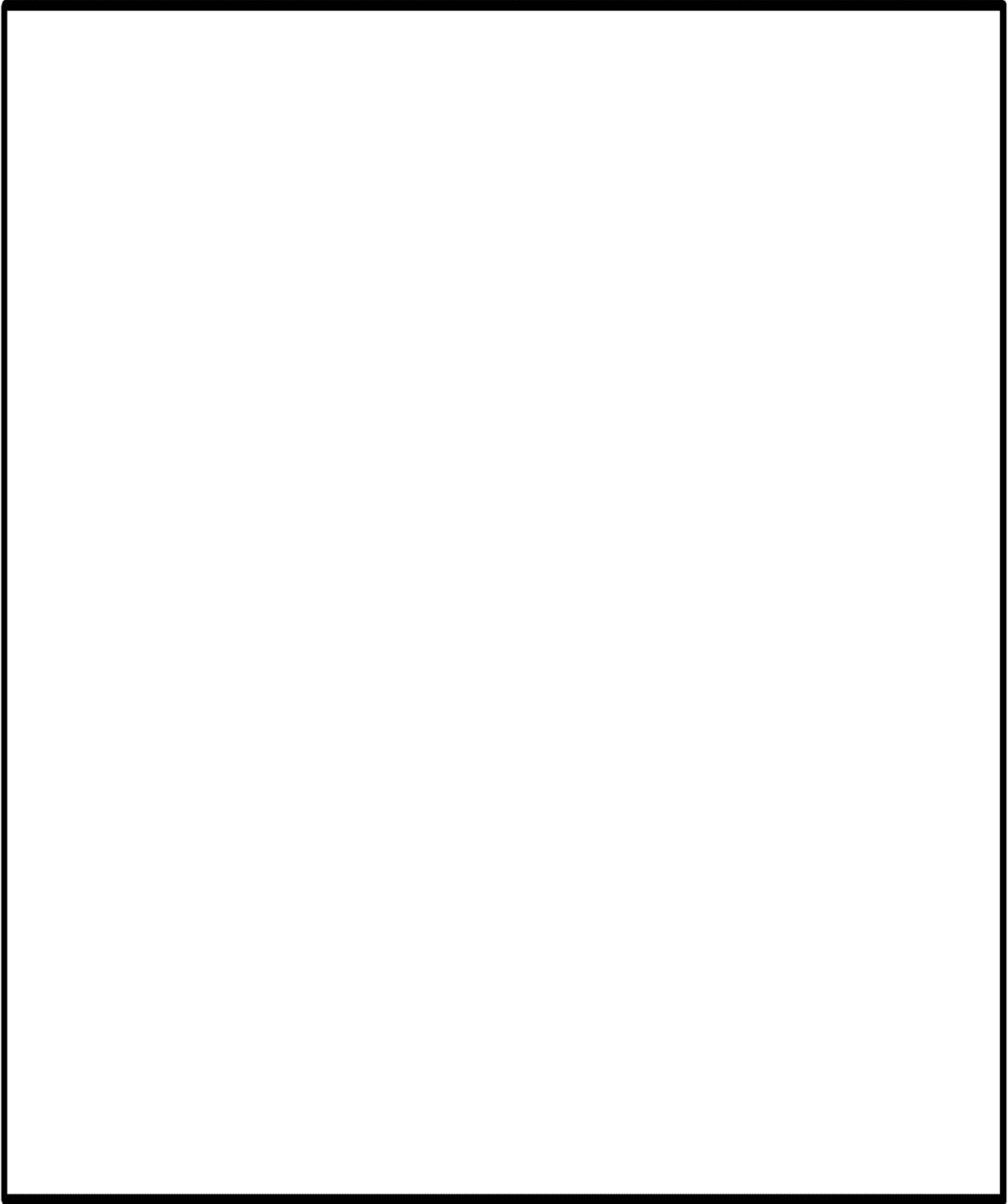
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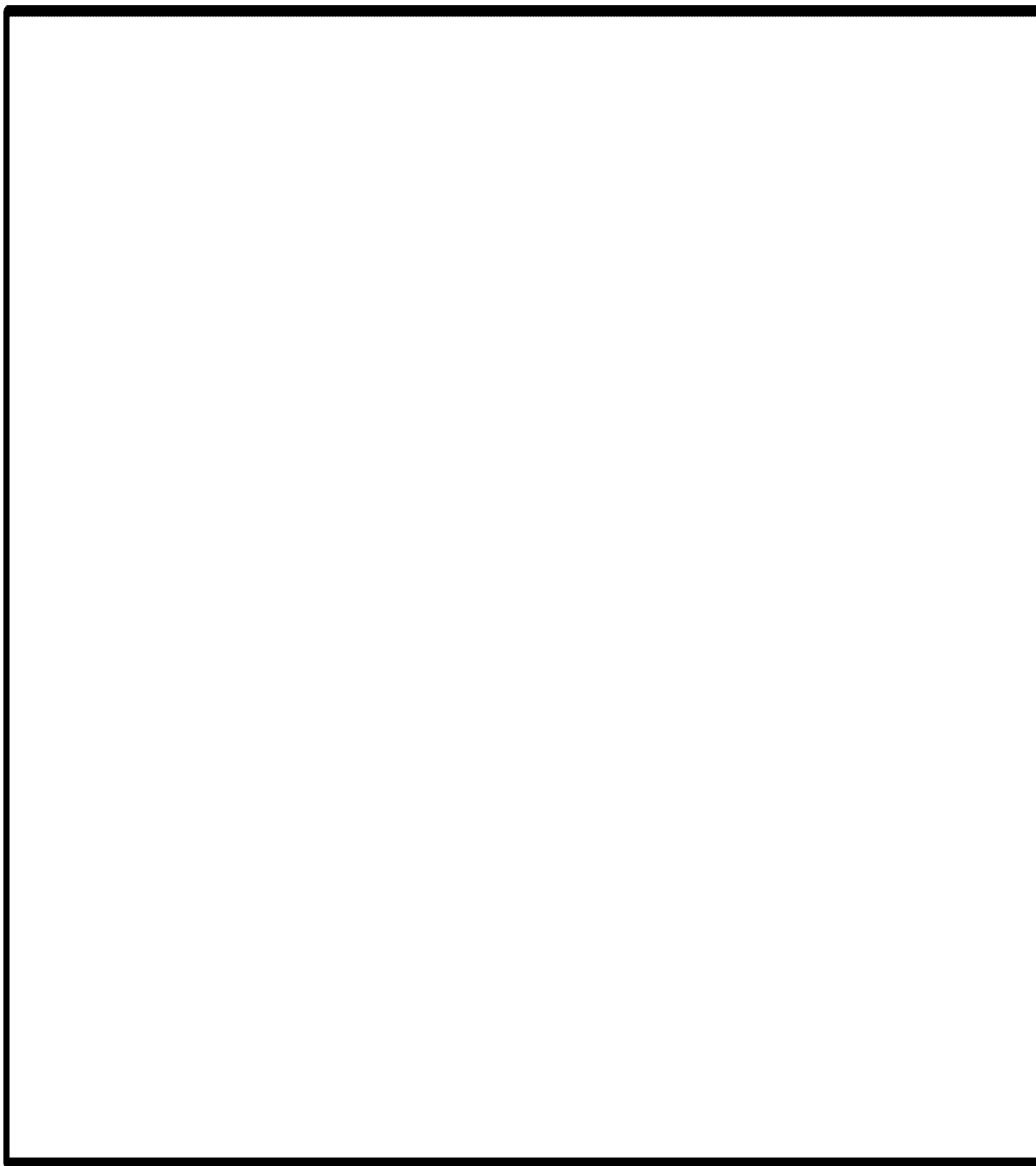
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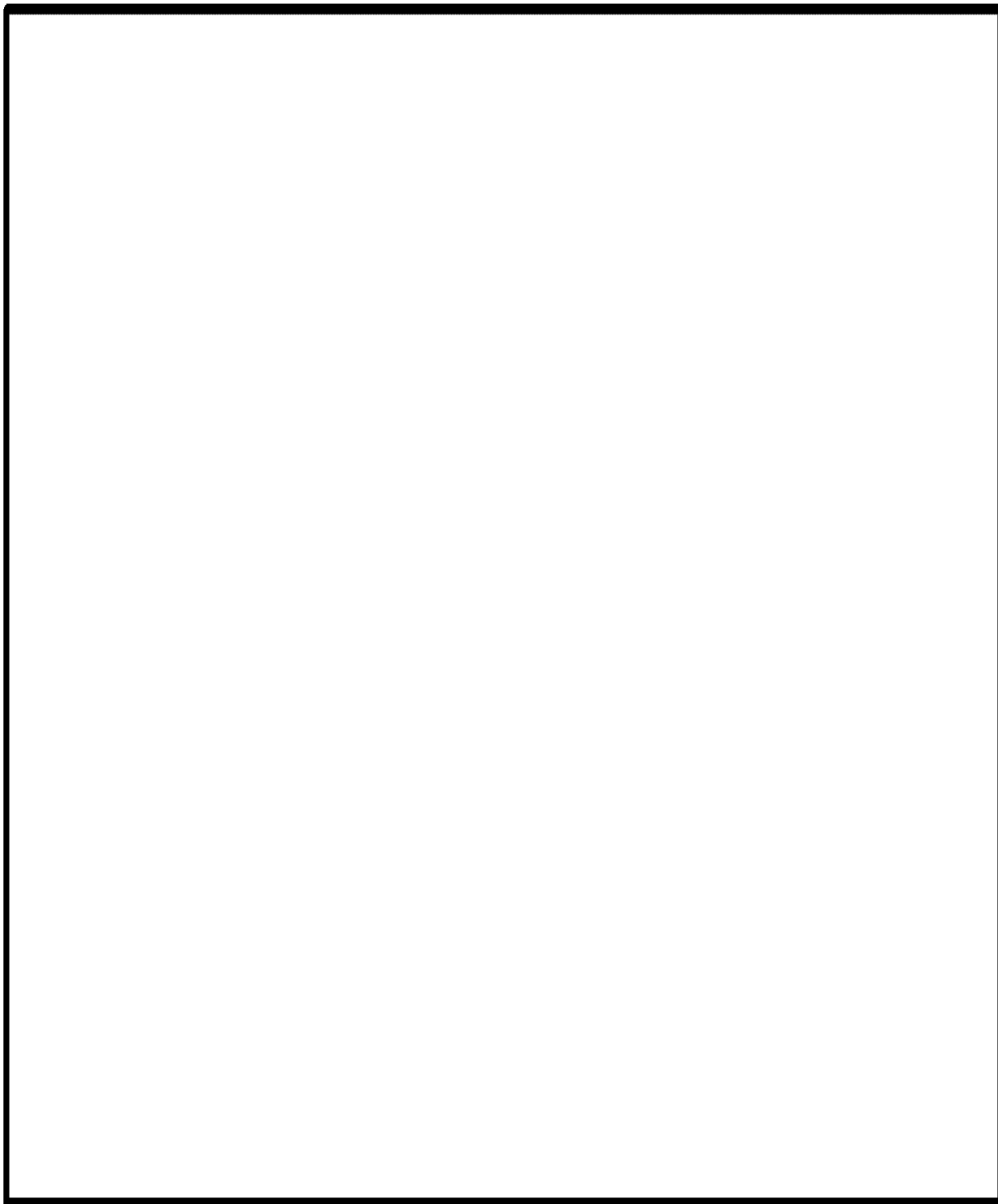
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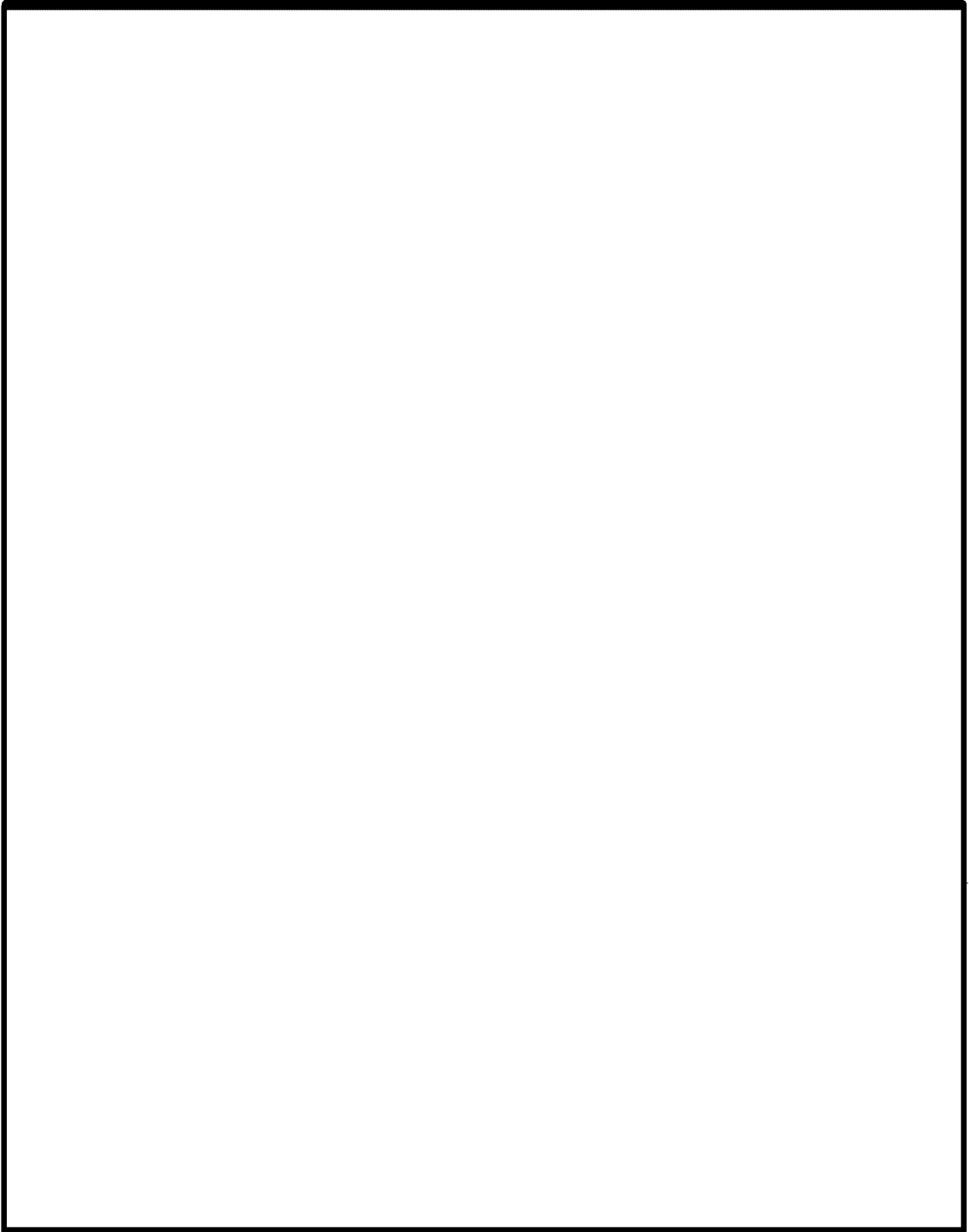
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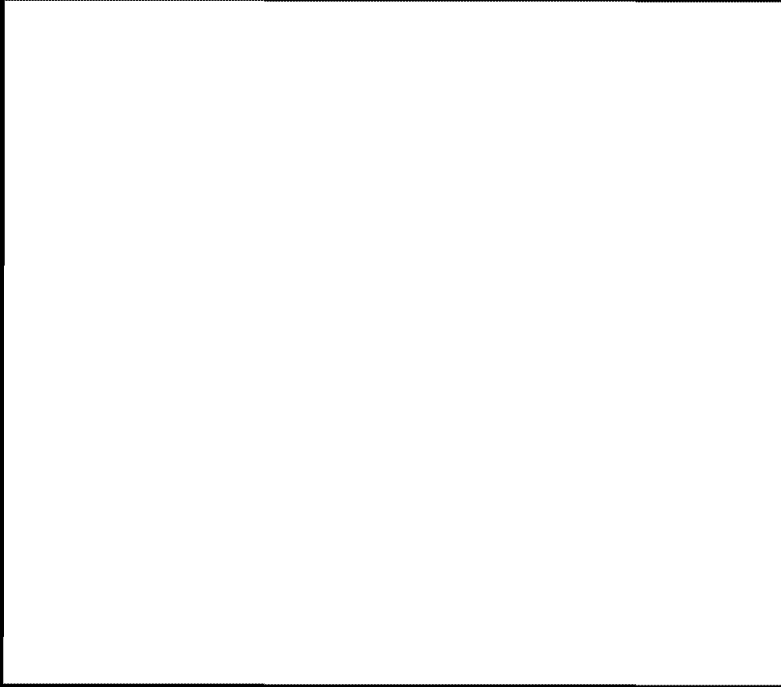
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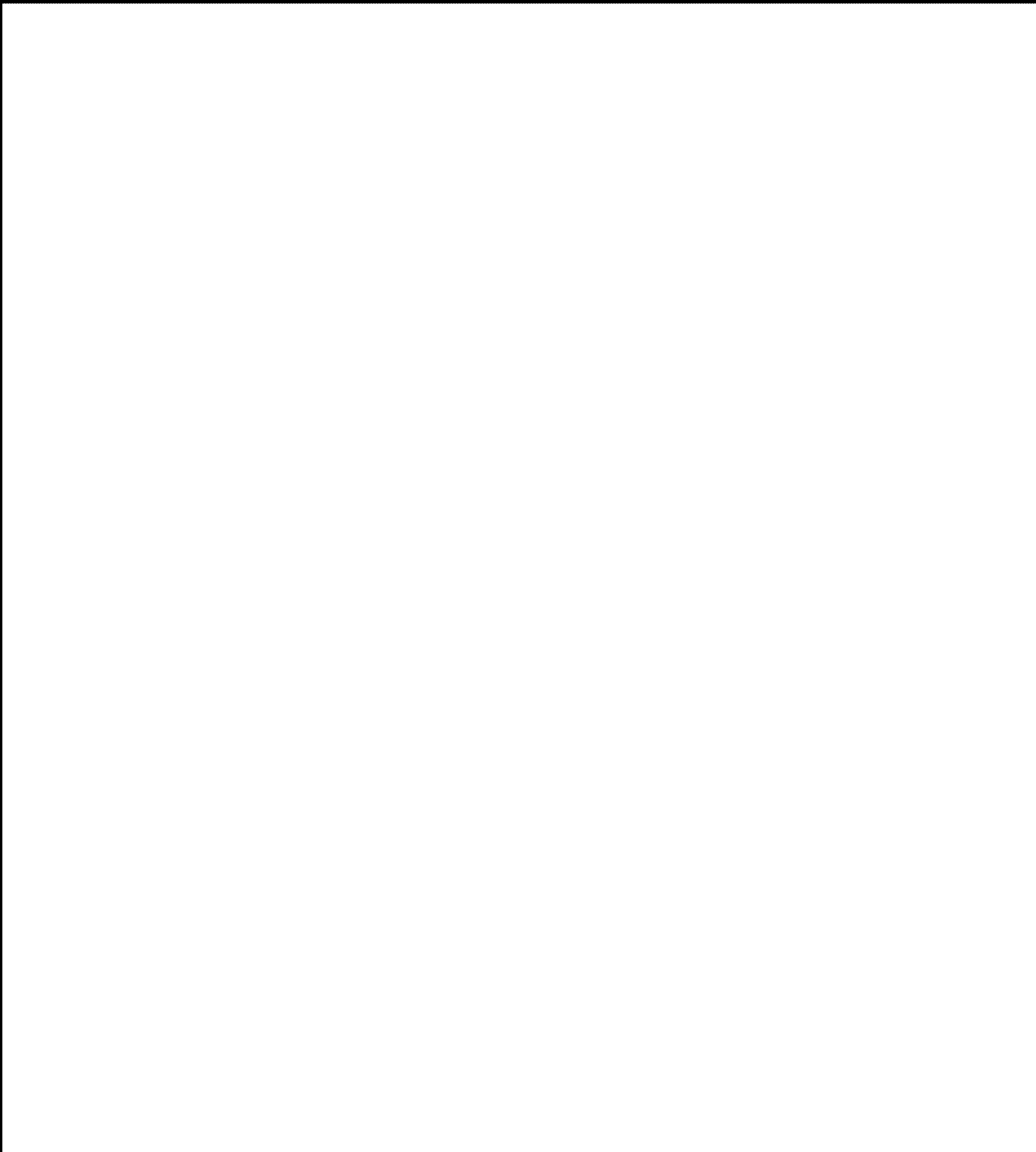
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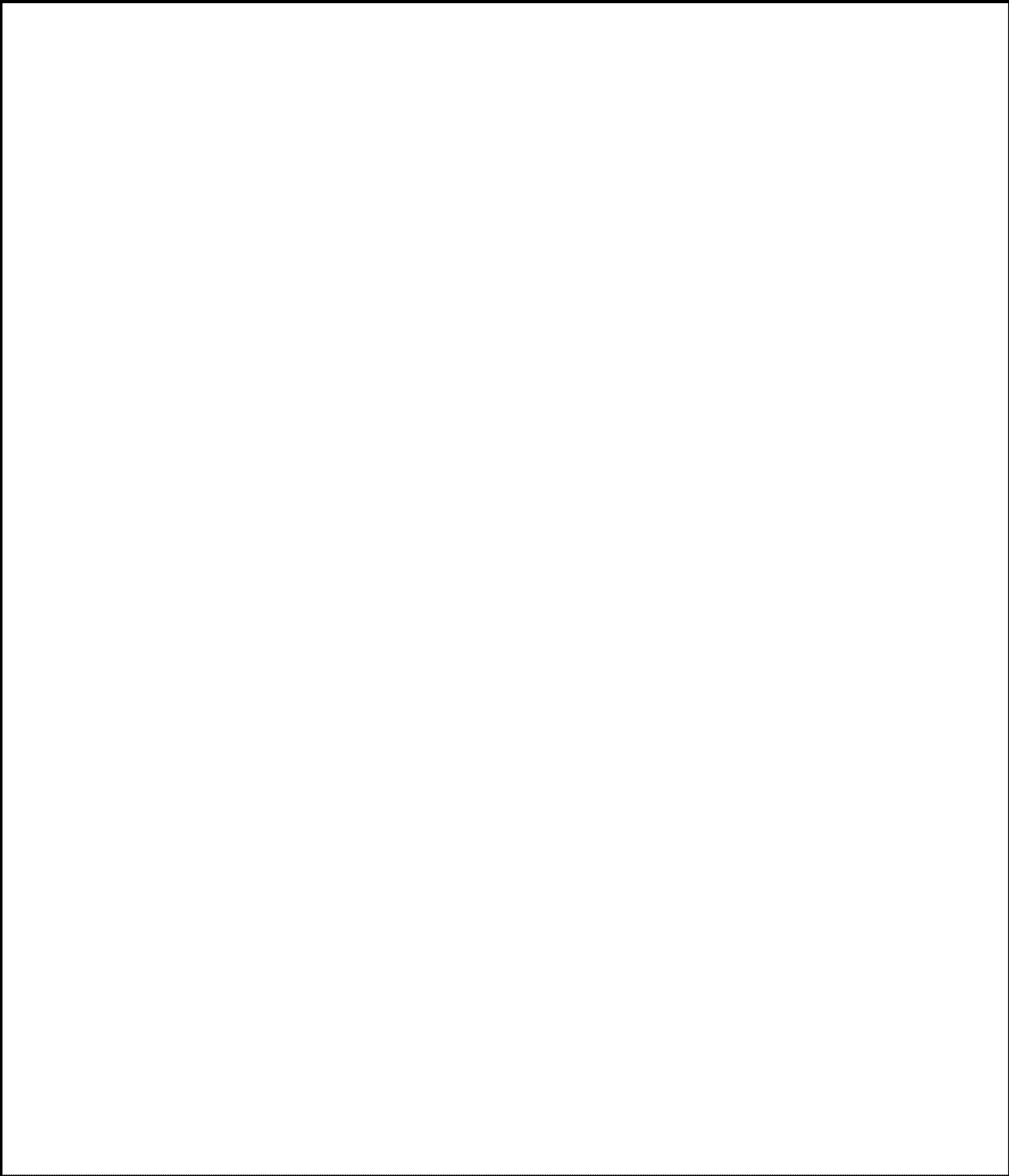
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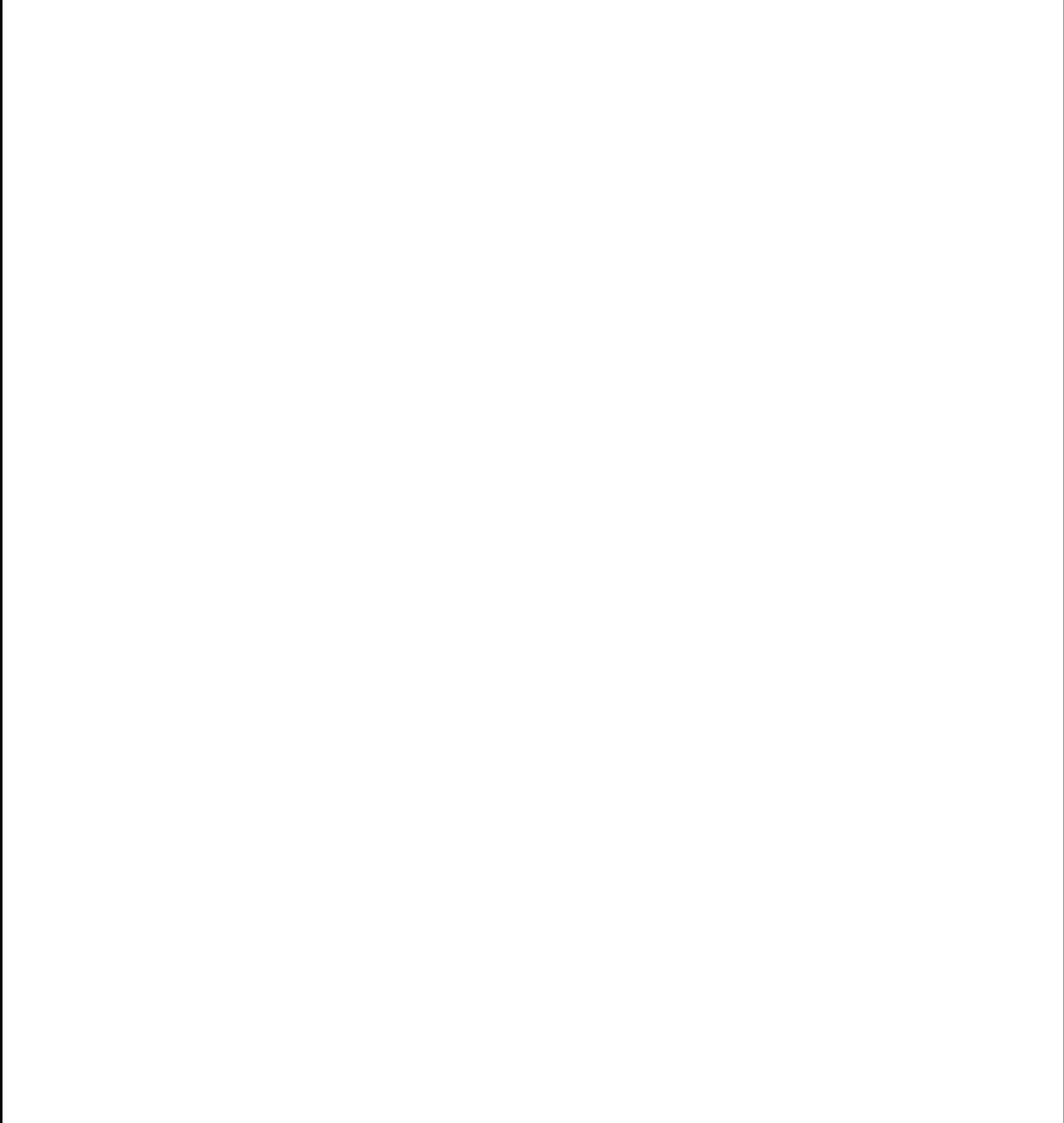
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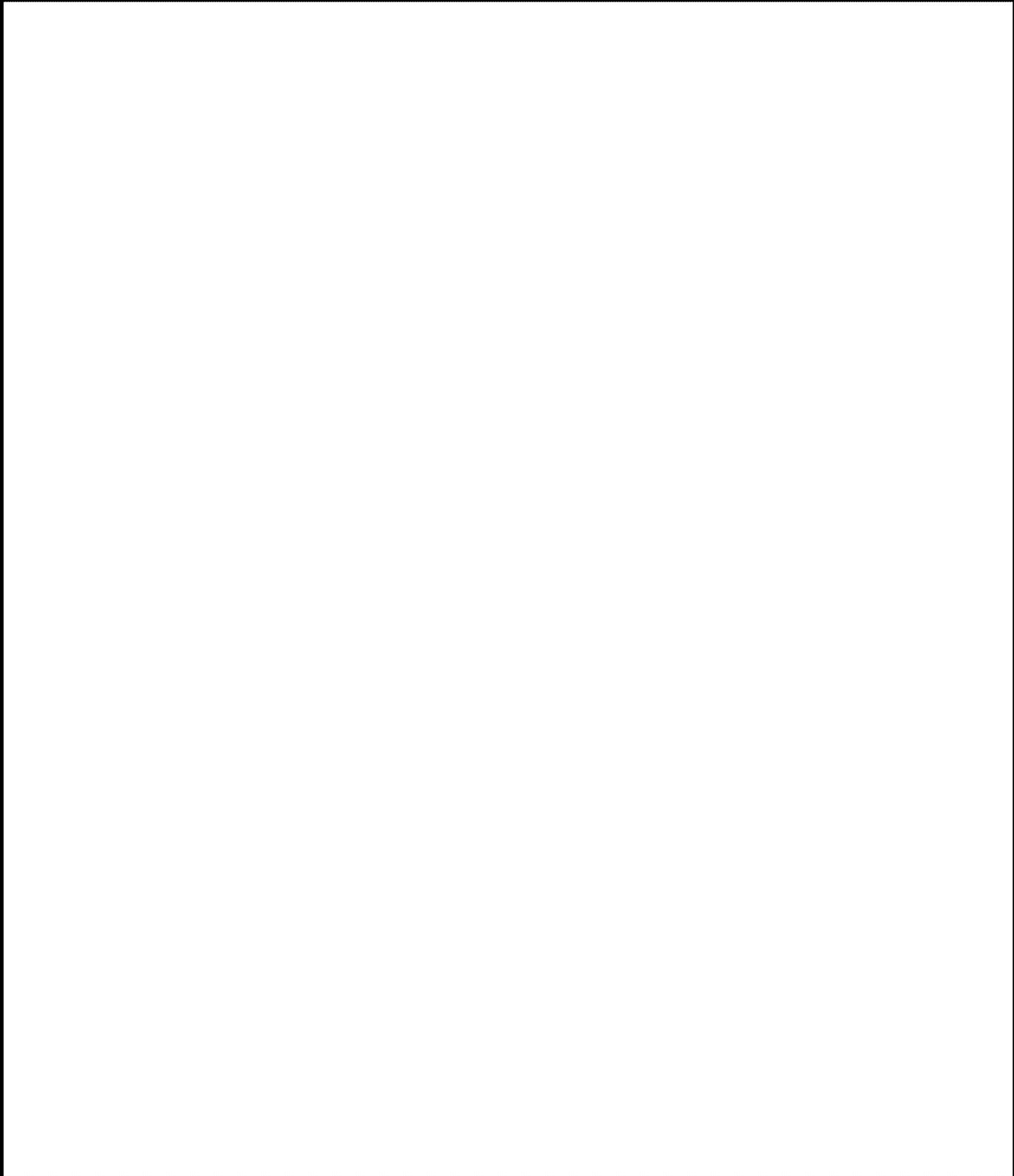
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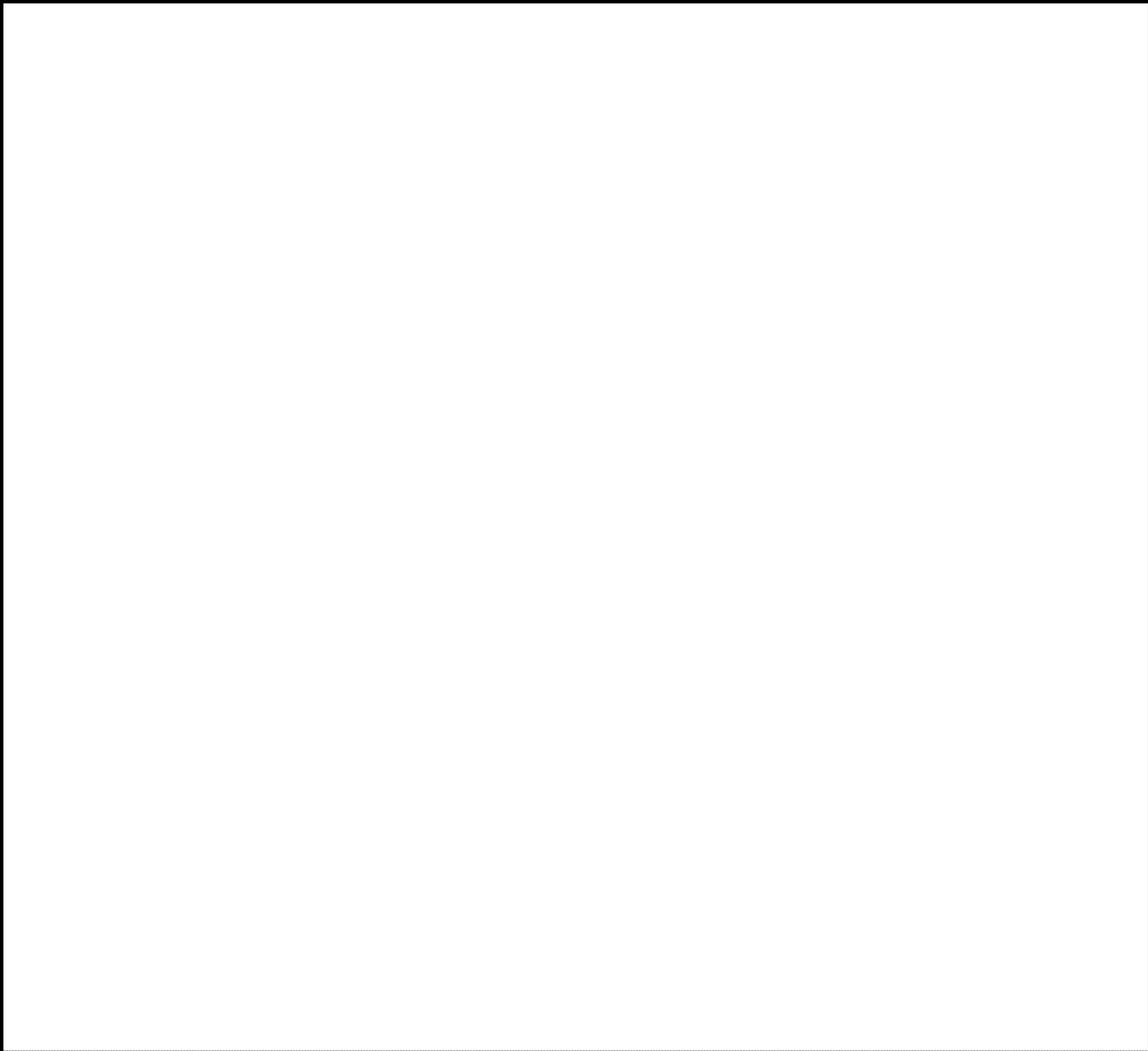
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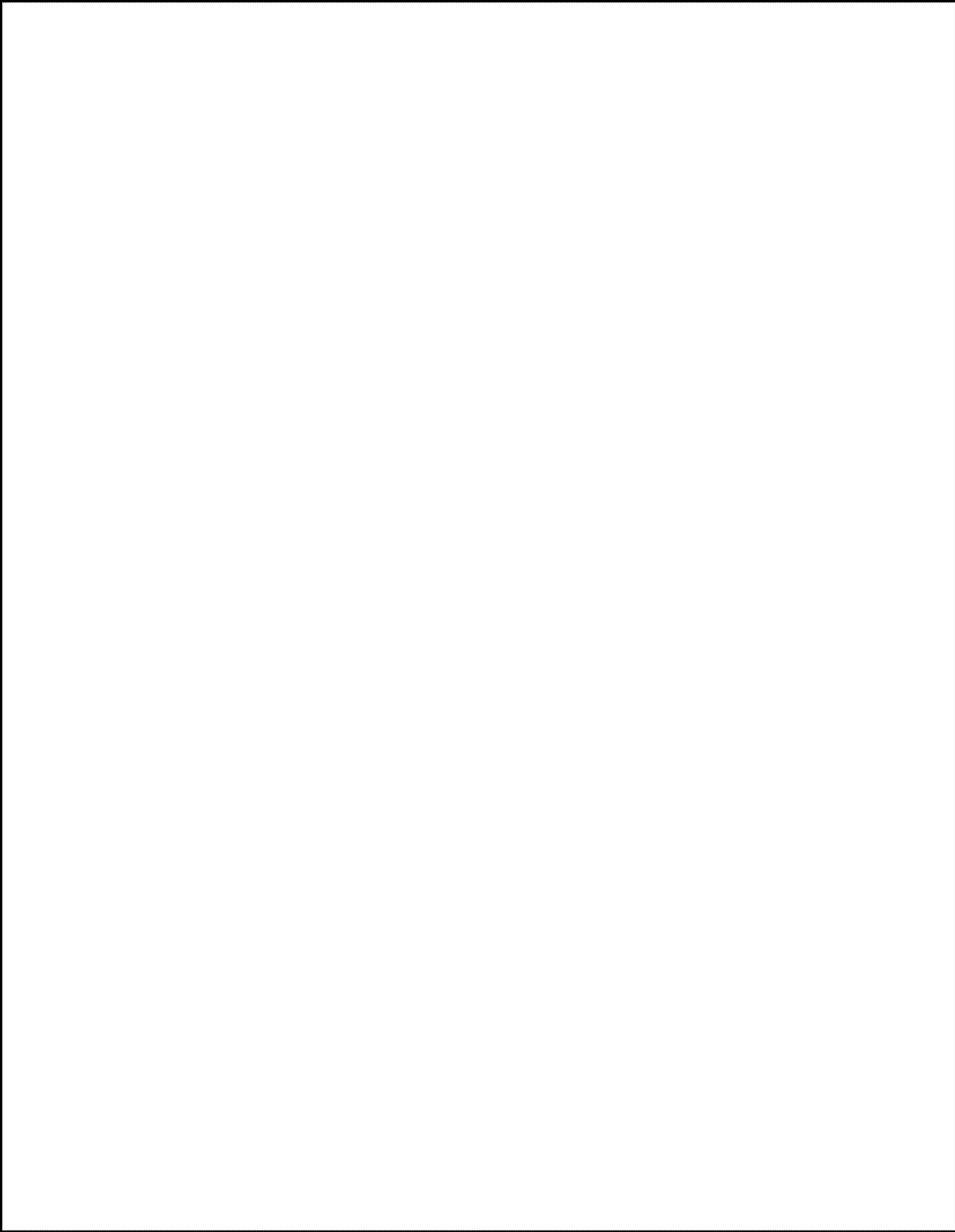


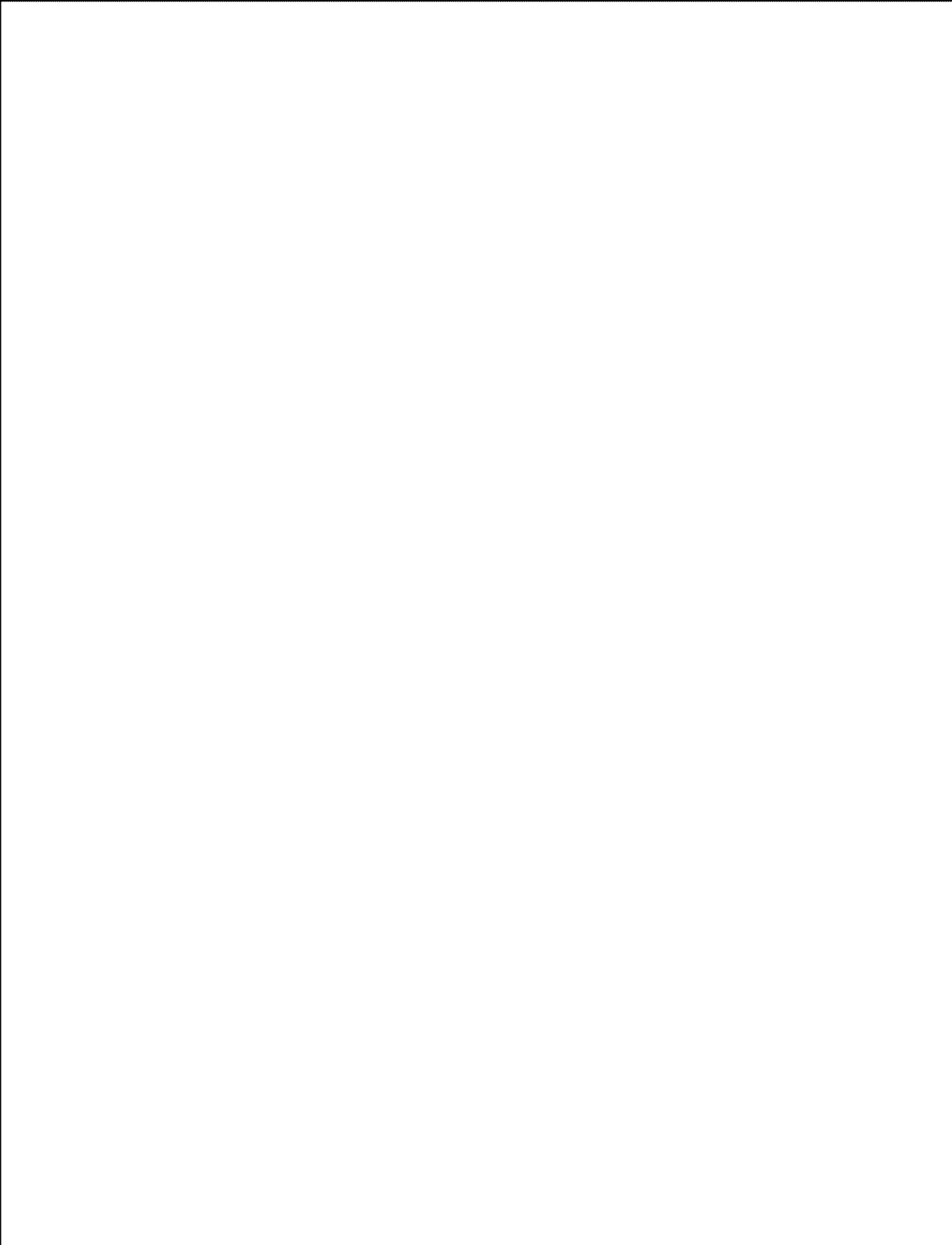
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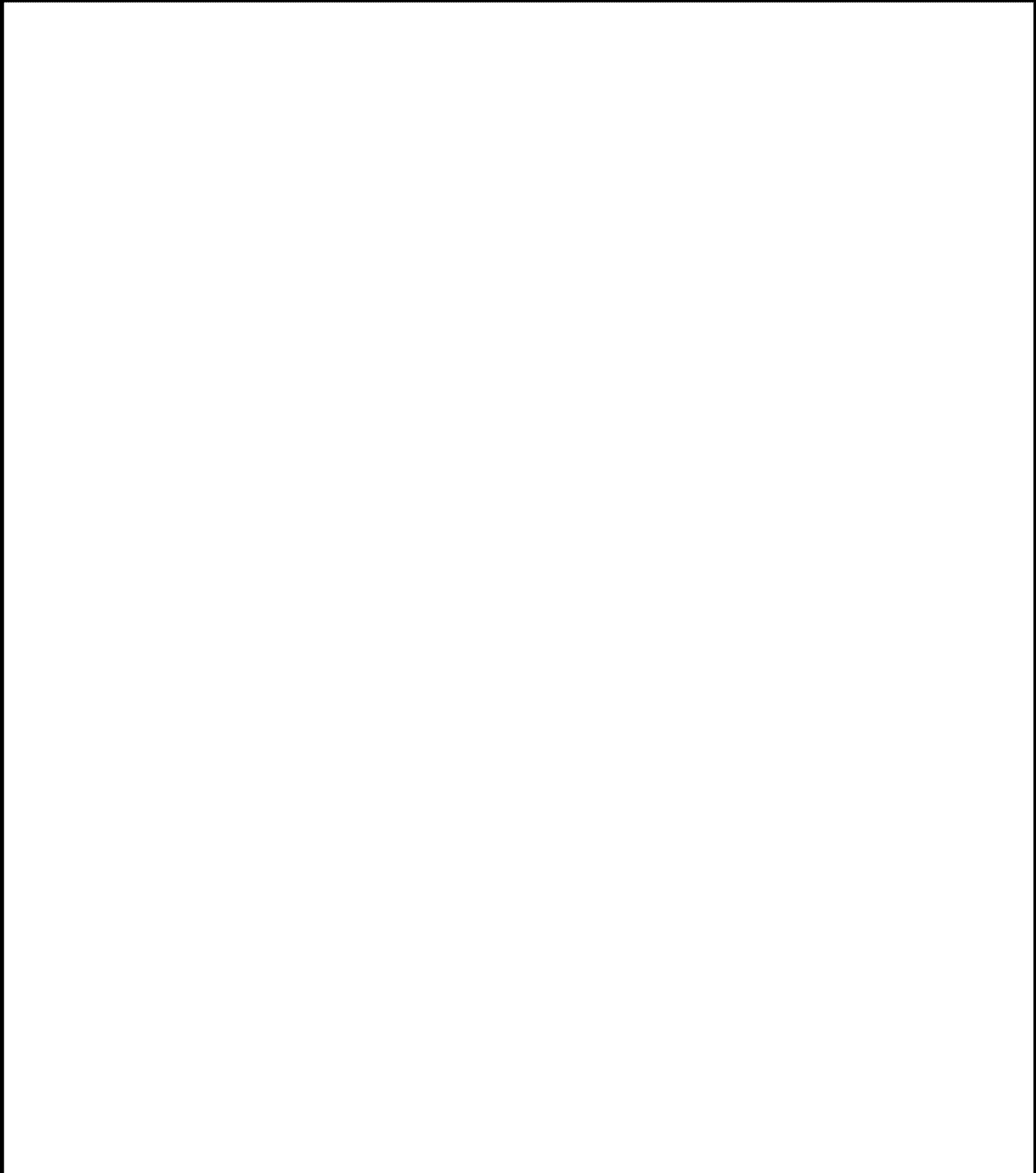
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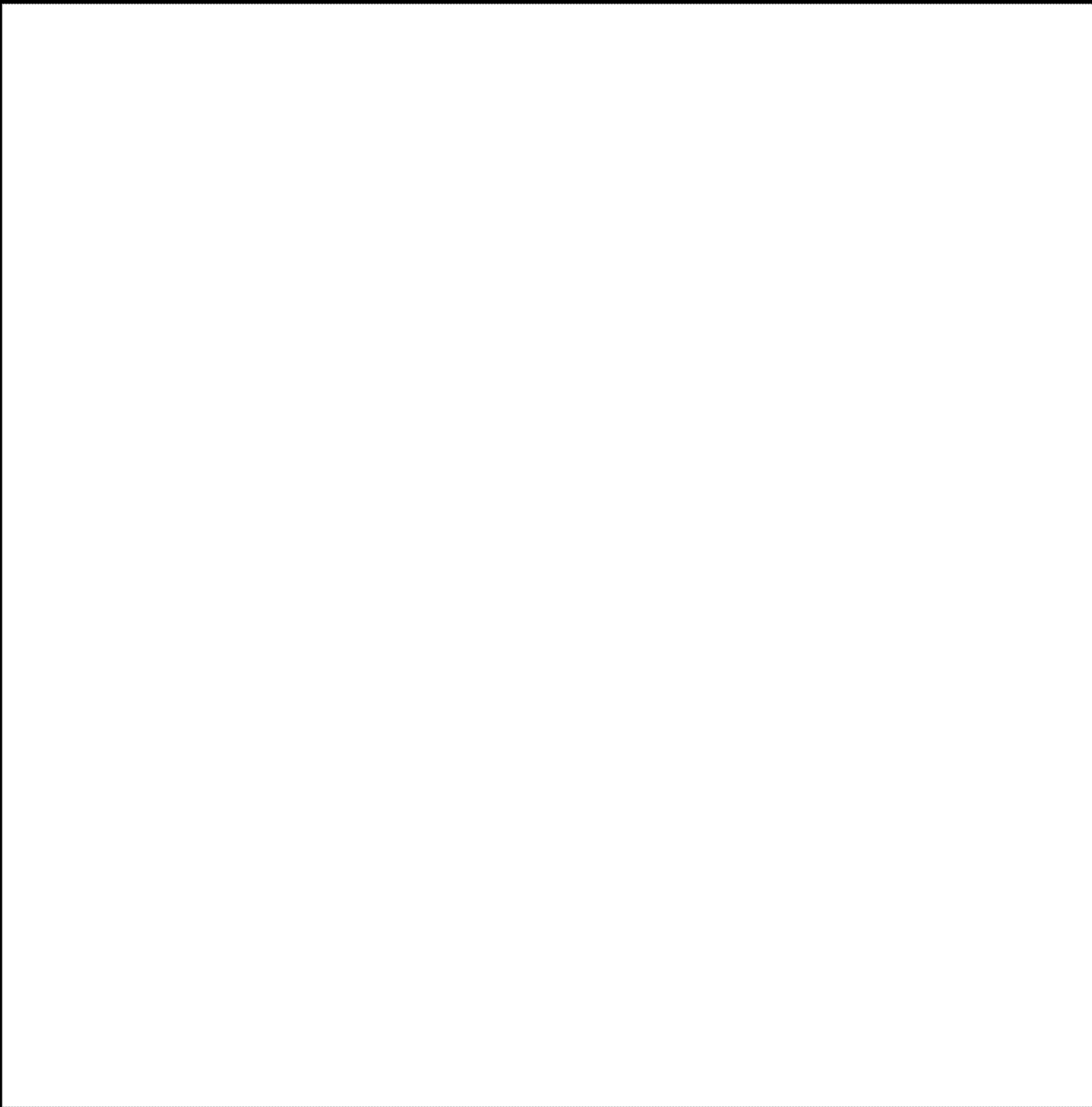








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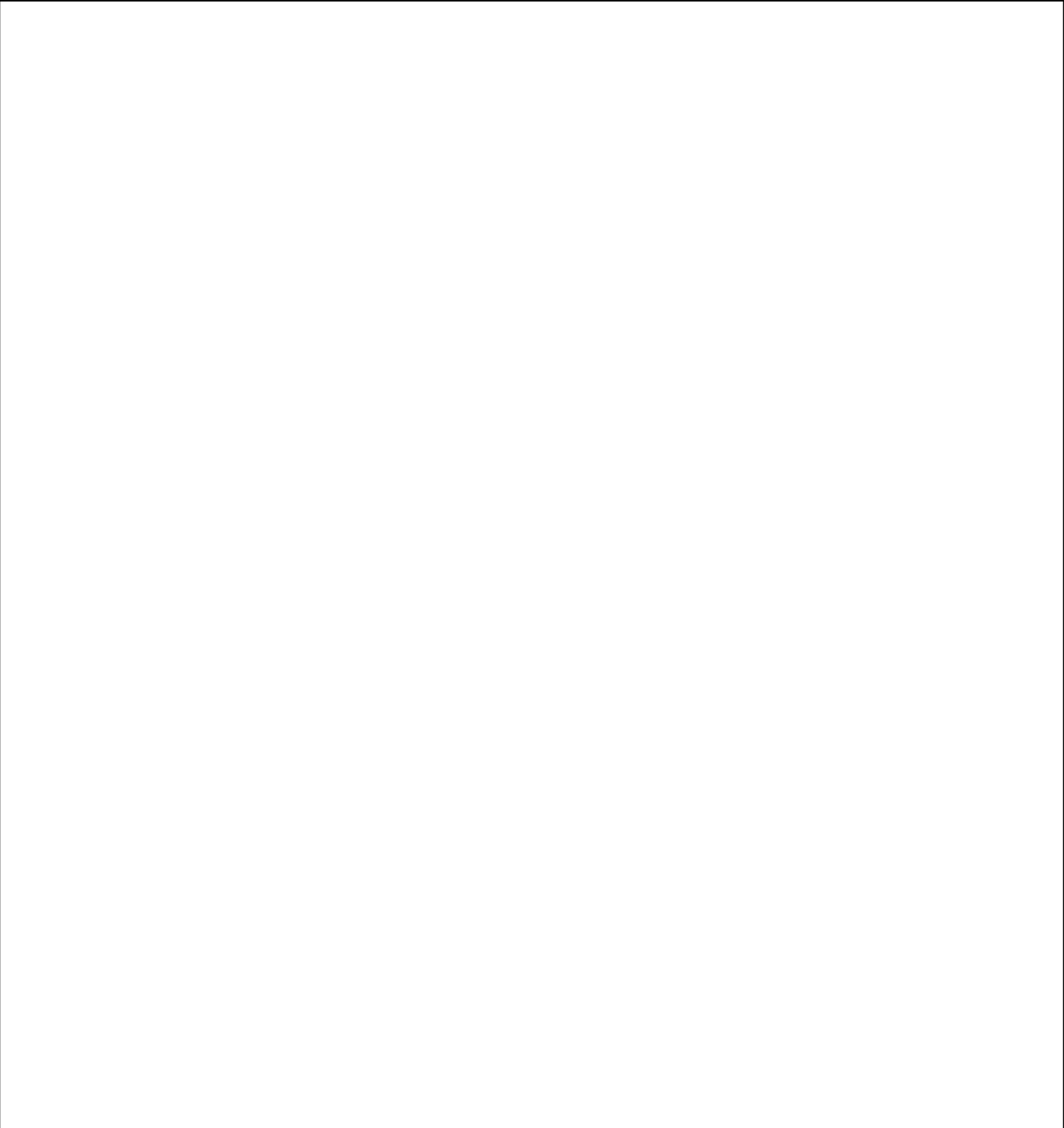


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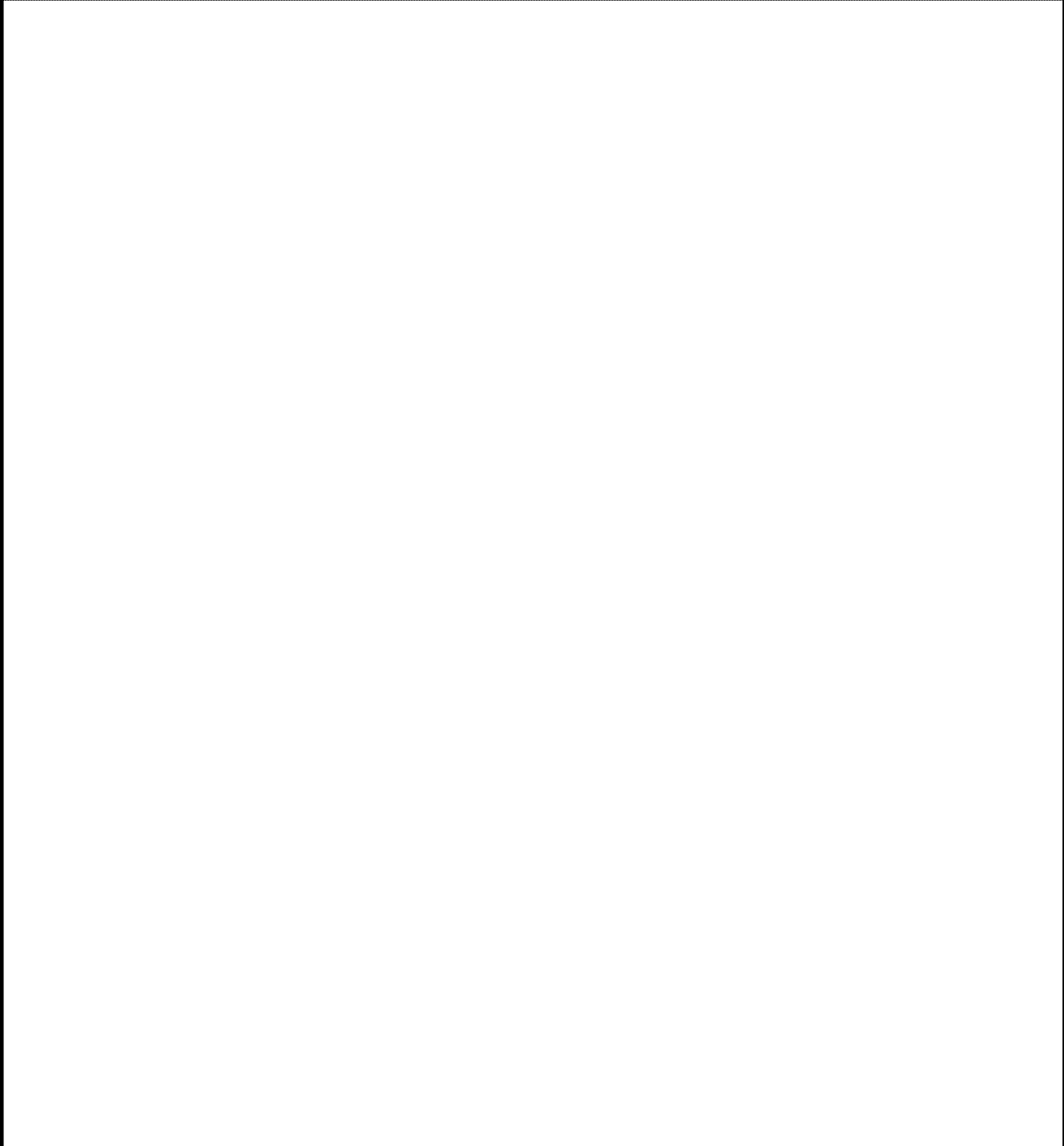
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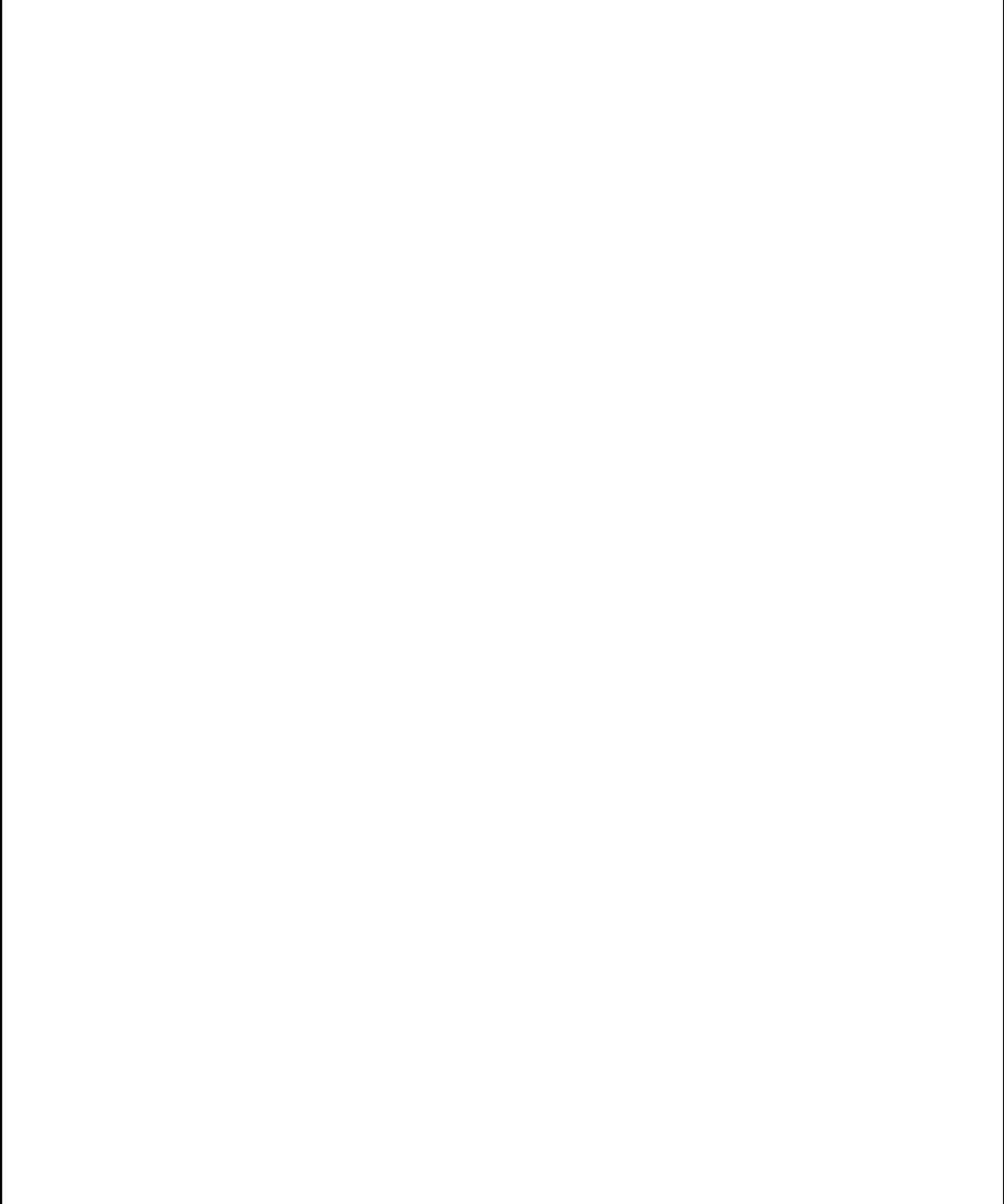
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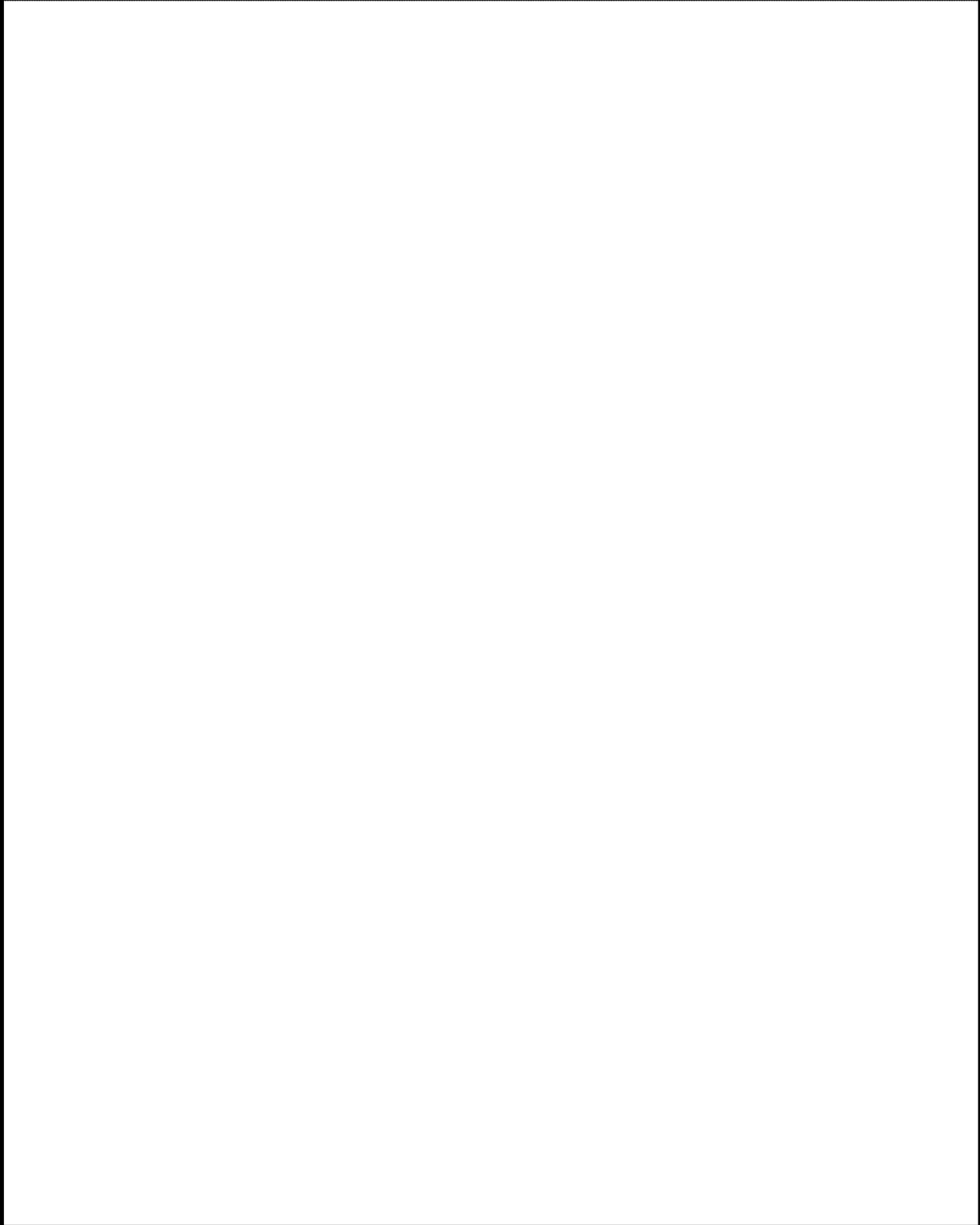


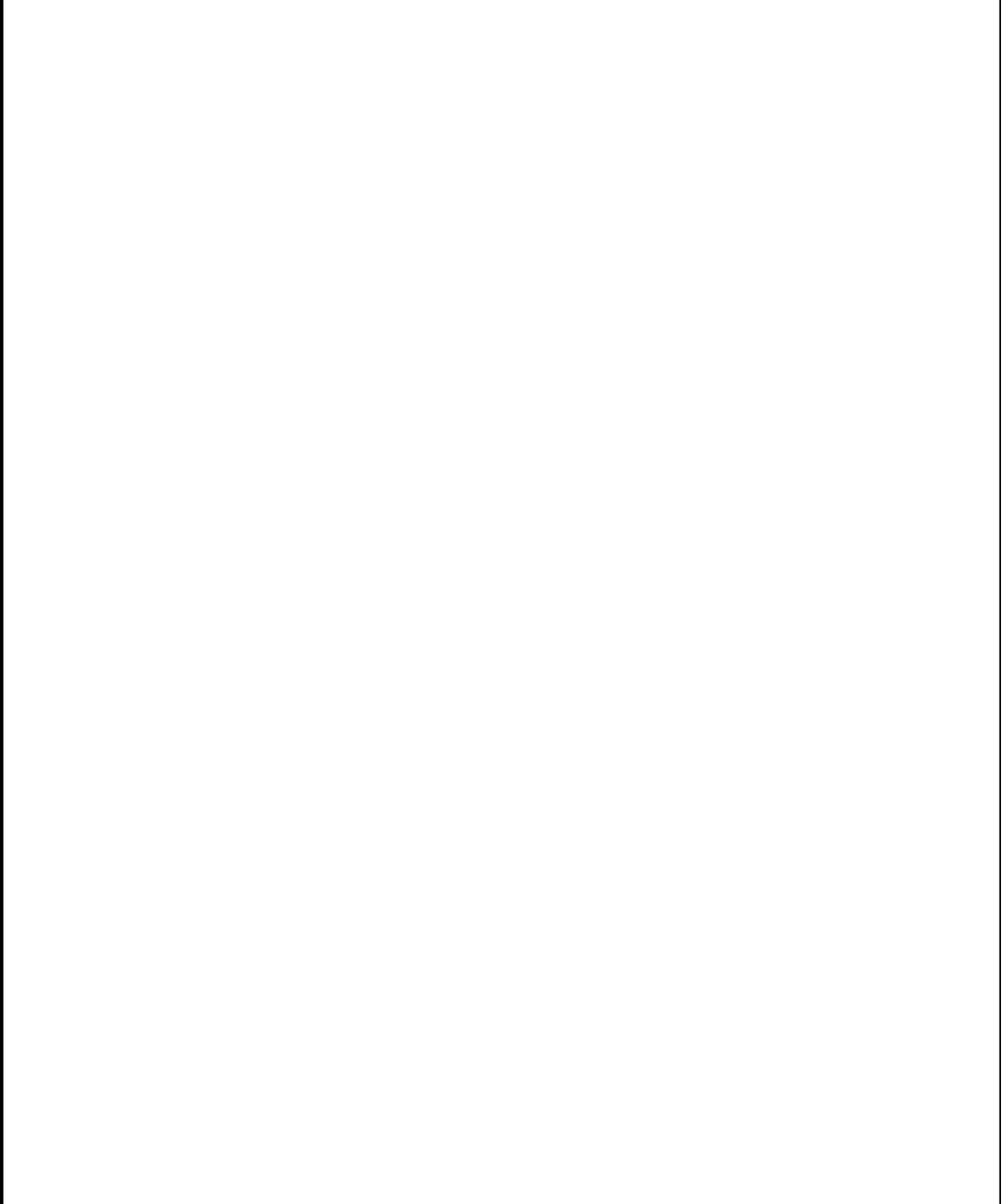
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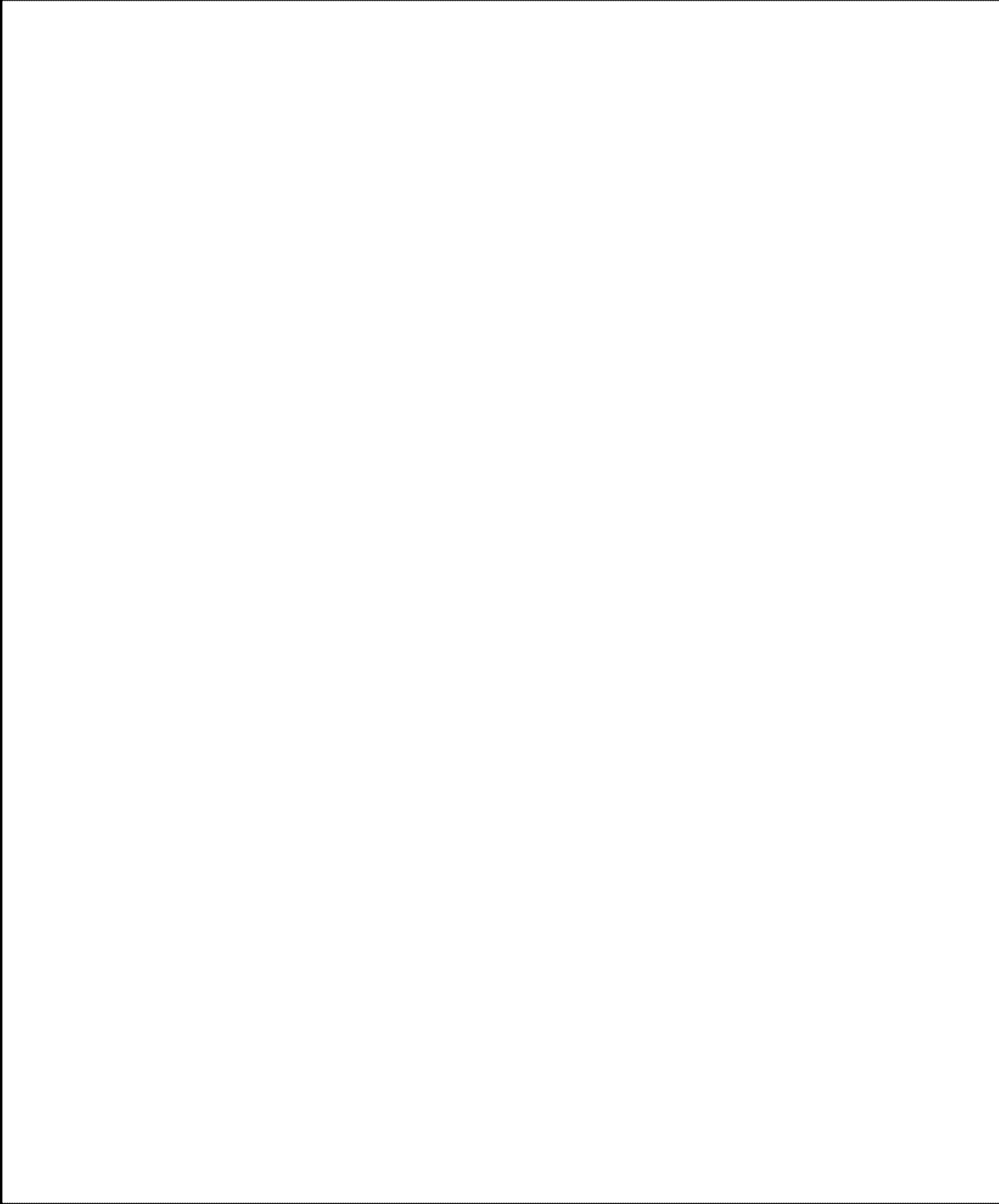
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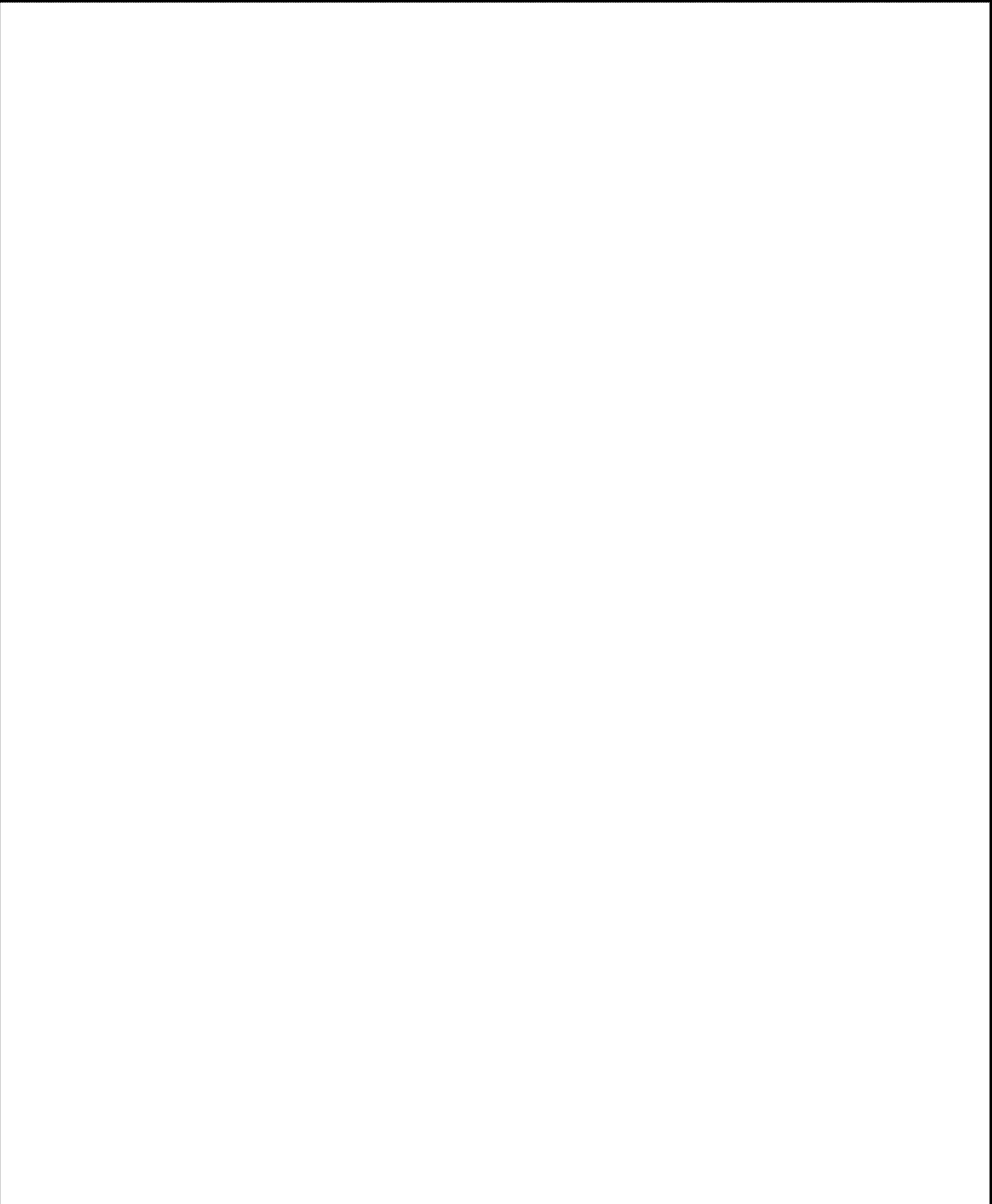


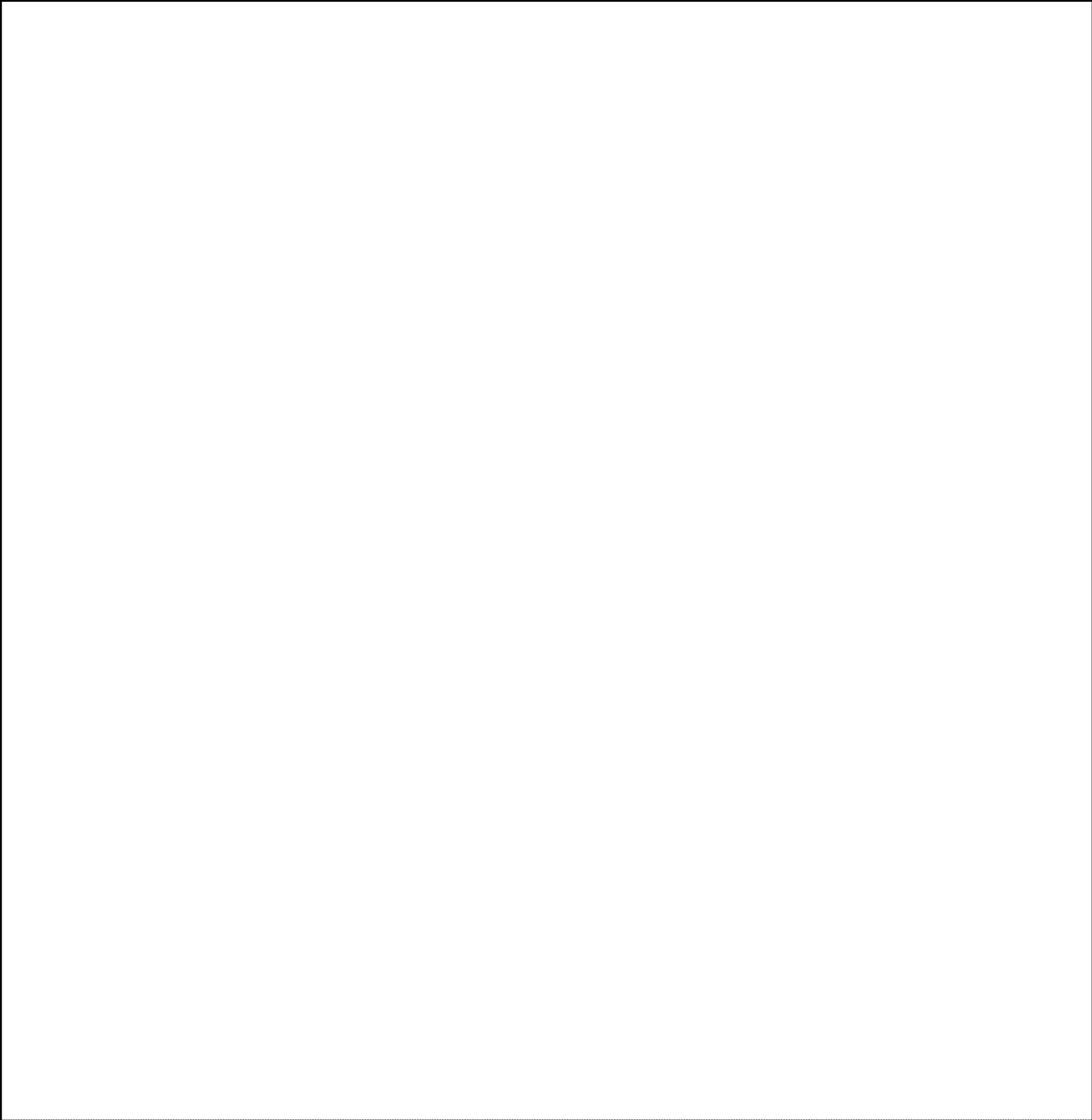
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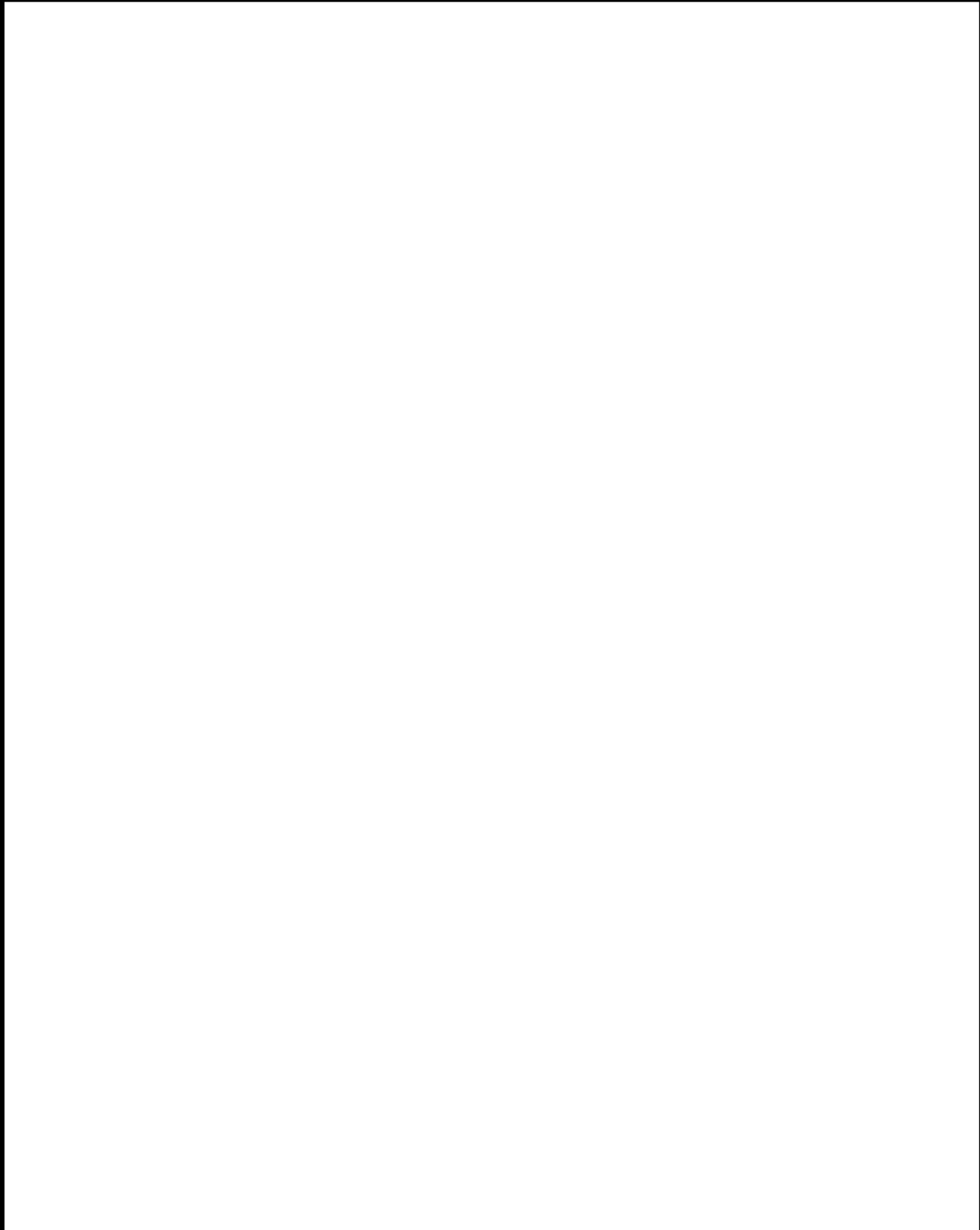
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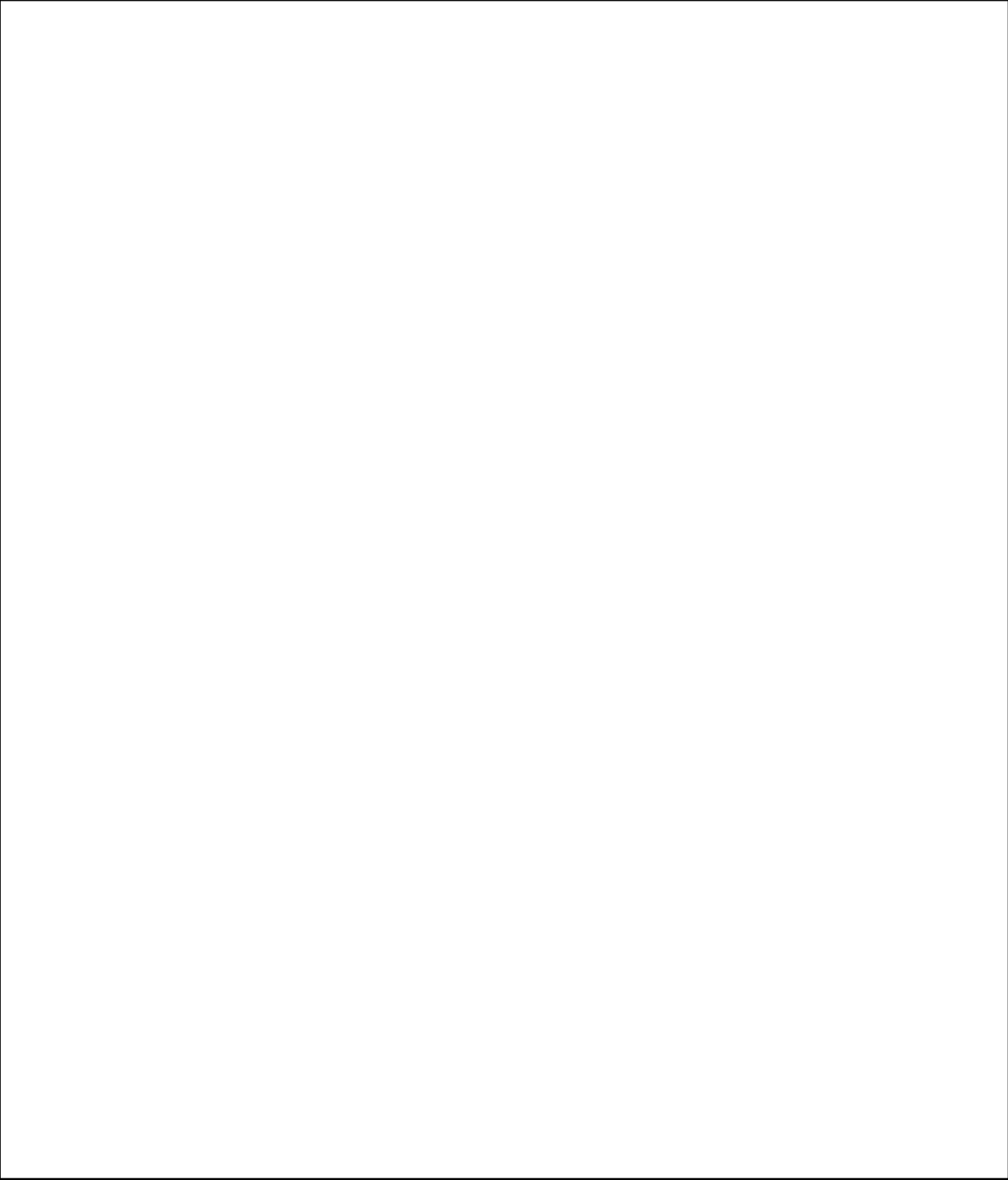
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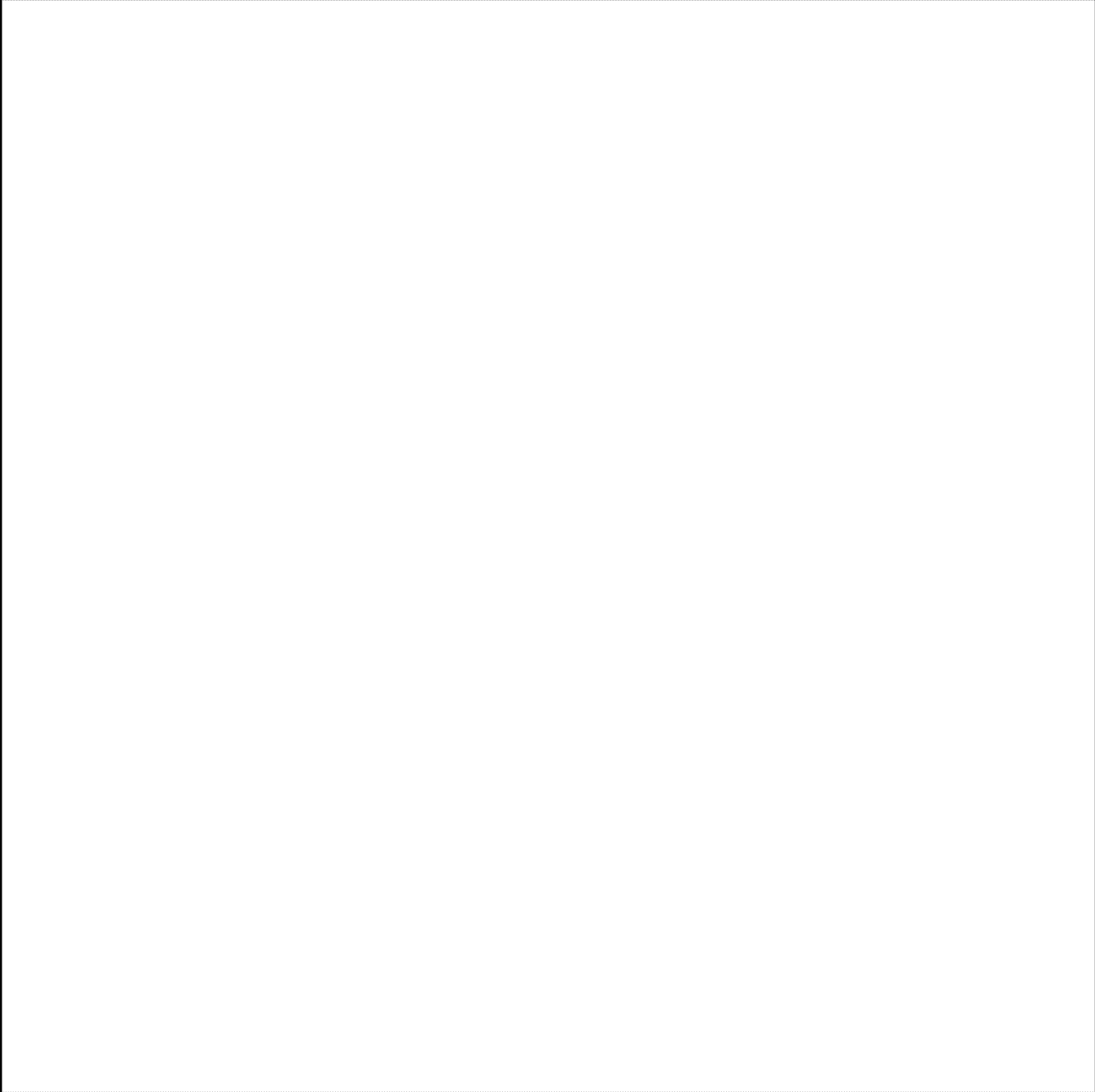




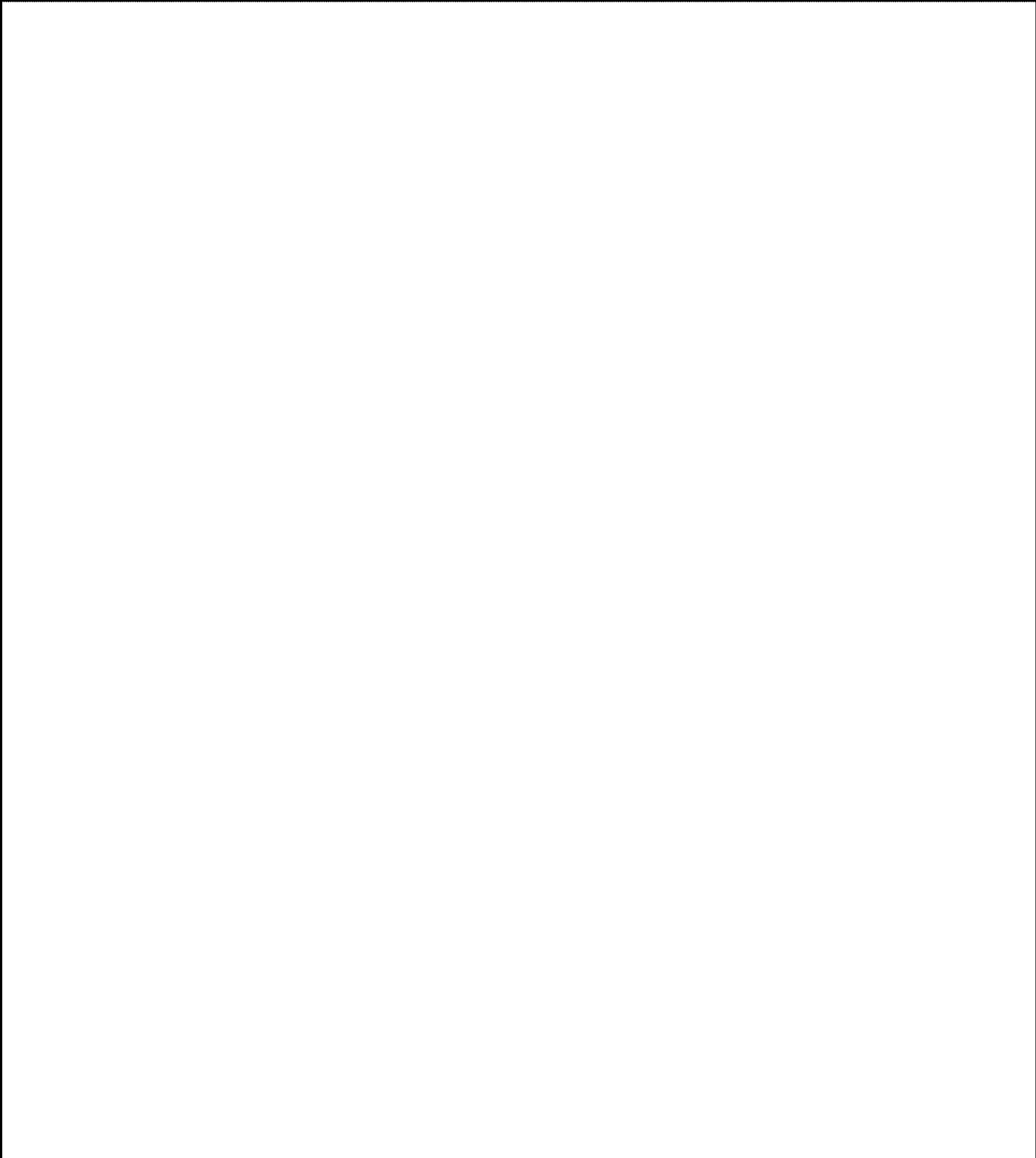




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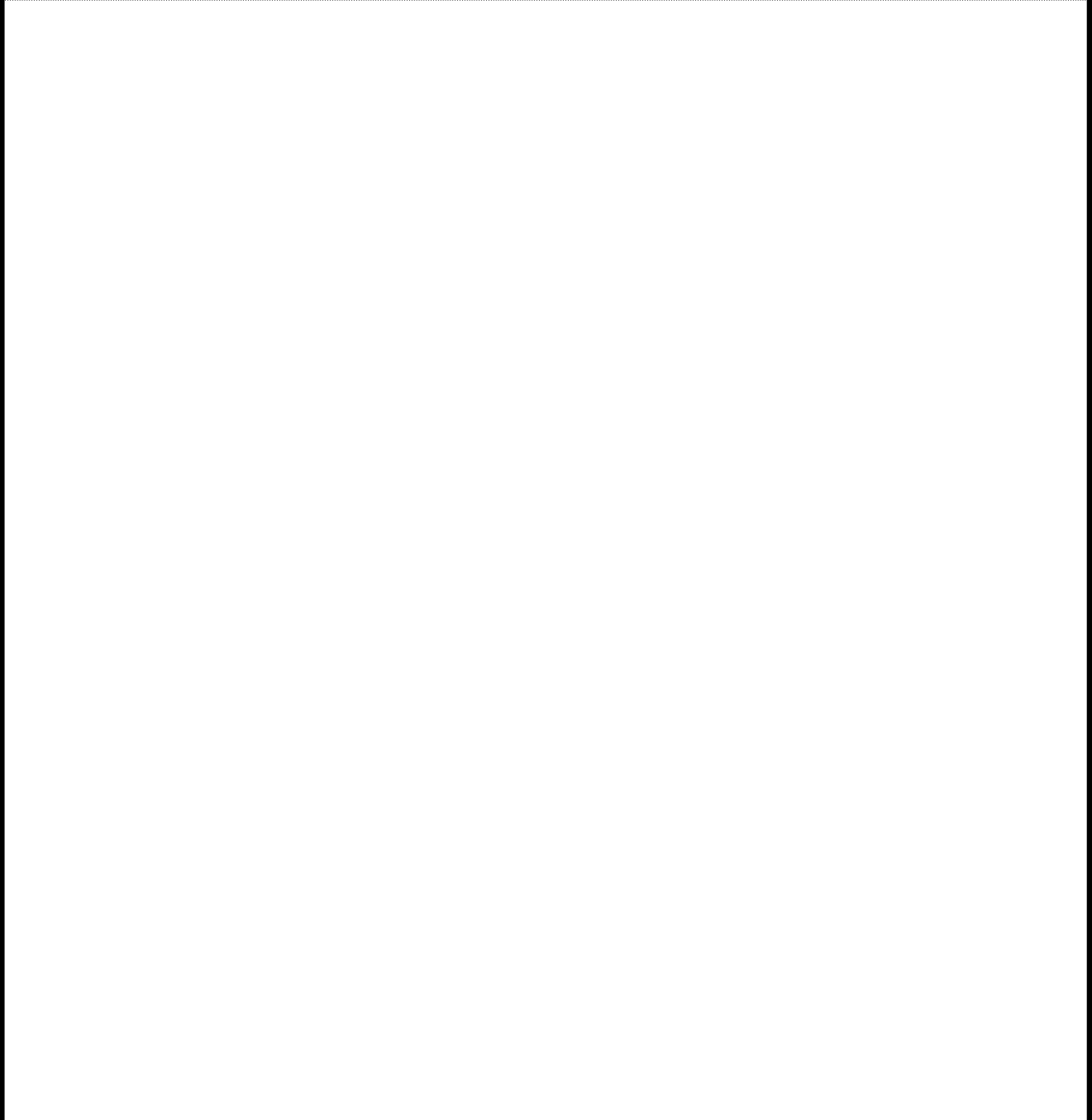
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Conclusion



About this Presentation

- Author(s): Ethan Nasr, Associate Counsel, OCC/RALD
- Date of last revision: October 04, 2013
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U.S. Citizenship and Immigration Services



U.S. Citizenship and Immigration Services

BASIC

REFUGEE AND ASYLUM OVERVIEW

INSTRUCTOR GUIDE

July 2010

SYLLABUS

COURSE TITLE: Refugee and Asylum Overview

COURSE NUMBER: 210/211

COURSE DATE: July 2010

LENGTH AND METHOD OF PRESENTATION:

Lecture	Lab	P.E.	Total	Program
2:00	0:00	0:00	2:00	BASIC

DESCRIPTION:

This lesson provides an overview of the laws, regulations, and eligibility requirements pertaining to the overseas refugee program and the affirmative asylum adjudication process. The lesson explains the procedures for processing asylum and refugee applications and discusses the jurisdictional distinctions between these two programs. The lesson provides an overview of ancillary benefits available in conjunction with asylum and refugee processing.

TERMINAL PERFORMANCE OBJECTIVE (TPO):

Given field situations involving persons requesting information regarding benefits related to asylum or refugee status, the officer will provide information to such persons, referring them for processing according to regulations, policy and operational instructions.

ENABLING PERFORMANCE OBJECTIVE (EPOs):

EPO #1: Identify applicable sections of the Immigration and Nationality Act (INA) and Title 8 Code of Federal Regulations (8 C.F.R.) that relate to refugees and asylum.

EPO #2: Identify the eligibility requirements for asylum and refugee applications.

EPO #3: Identify the differences between the "asylee" and "refugee" classifications.

EPO #4: Identify ancillary benefits available to aliens classified as an asylee or refugee.

STUDENT SPECIAL REQUIREMENTS: None.

METHOD OF EVALUATION: Written examination/Multiple choice - open book

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OUTLINE OF INSTRUCTION

I. INTRODUCTION

The purpose of this lesson is to provide an overview of the laws, regulations and eligibility requirements pertaining to asylum and refugee status. This lesson also explains the procedures for processing asylum and refugee applications and discusses the jurisdictional distinctions between these two programs. Ancillary benefits associated with refugee aliens are also discussed.

The overarching mission of both the Asylum Division and the Refugee Affairs Division is to provide protection to refugees, while combating fraud and protecting national security. To achieve that goal, the divisions enhance program integrity by ensuring legally sound and timely decisions, and preventing fraud and abuse of the system.

II. PRESENTATION

A. EPO #1: Identify applicable sections of the Immigration and Nationality Act (INA) and Title 8 Code of Federal Regulations (8 C.F.R.) that relate to refugees and asylum.

1. Statistics

According to the Office of the United Nations High Commissioner for Refugees (UNHCR) there are approximately 11.4 million refugees worldwide under the care of UNHCR.

2. The definition of "Refugee"

To be eligible for refugee or asylum status, an individual must meet the statutory definition of "refugee," found in § 101(a)(42) of the INA.

3. INA § 101(a)(42) states the following:

"The term 'refugee' means (A) any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, or

"(B) in such circumstances as the President after appropriate consultation (as defined in section 207(e) of this Act) may specify, any person who is within the country of such person's nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing, and who is persecuted or who has

a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

“The term ‘refugee’ does not include any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.

“For purposes of determinations under this Act, a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion, and a person who has a well-founded fear that he or she will be forced to undergo such a procedure or subject to persecution for such failure, refusal, or resistance shall be deemed to have a well-founded fear of persecution on account of political opinion.”

4. The definition of persecution.

a. A person may be a refugee based on past persecution or a well-founded fear of future persecution. To show well-founded fear, the applicant must establish a reasonable possibility of persecution.

b. Persecution is not defined by treaty, statute, or regulation.

1) There is no universally accepted definition of persecution, only guidelines from various sources, including the UNHCR Handbook, precedent decisions, and international human rights law.

c. The persecution must be on account of one of the five protected grounds:

1) Race,

2) Religion,

3) Nationality,

4) Membership in a particular social group, or

5) Political opinion

B. EPO #2: Identify the eligibility requirements for asylum and refugee applicants.

1. Refugee Processing – INA § 207

a. Overview

- 1) INA § 207 gives the Attorney General (now the Secretary of Homeland Security) the statutory authority to admit, in his or her discretion, any refugee who is not firmly resettled in a third country, who is determined by the President to be of special humanitarian concern, and who is admissible as an immigrant.
 - a) This authority has been delegated to USCIS.
- 2) There is an annual admissions ceiling, determined by the President after consultations with Congress, on the number of persons who may be admitted to the U.S. as refugees during a fiscal year.
- 3) The consultation process also determines who may be eligible for consideration under the U.S. Refugee Admissions Program (USRAP) by designating nationalities of special humanitarian concern and by establishing processing priorities. Admissions under INA § 207(a) shall be allocated among refugees of special humanitarian concern to the United States in accordance with a determination made by the President after appropriate consultation.
- 4) Special legislation alters the refugee adjudication process in certain areas. The Lautenberg Amendment reduced the evidentiary standard for certain categories of individuals processed overseas.
 - a) The Lautenberg Amendment mandated that the Attorney General identify categories of Vietnamese, Laotian, Cambodian, and former Soviet (specifically Jews, Evangelical Christians, Ukrainian Catholics and Orthodox) individuals, who are likely targets of persecution.

Application and Interview Process

After proper referral to the USRAP, refugee applicants are pre-screened by Overseas Processing Entities (OPEs), who assist the applicant in preparing a Form I-590 (Registration for Classification as Refugee). Every case member requires a Form I-590. 8 CFR 207.2(a)

Each applicant shall submit to a medical examination as required by sections 221(d) and 234 of the Act. 8 CFR 207.2(c)

Each applicant must be sponsored by a responsible person or organization. 8 CFR 207.2(d)

- b) Applicants 14 years of age and older must also submit a Form G-325C (Biographical Information), are required to provide answers under oath to

the Form G-646 (Sworn Statement of Refugee Applying for Entry into the United States), and must also be fingerprinted. 8 CFR 207.2(a)

2 Overseas Processing Entities (OPEs) usually assist in prescreening applicants, preparing forms, and presenting cases to USCIS for adjudication.

- c) These OPEs are under contract to the Department of State (DOS).
- d) The role of the OPE varies in locations where the U.S. operates in-country programs.

Confidentiality

- e) As a matter of policy, the regulations under 8 C.F.R. 208.6 prohibiting disclosure of information pertaining to an alien's application for asylum, credible fear determination, or reasonable fear determination are likewise applied to an alien's application or status as a refugee. This provision contains certain enumerated exceptions.
- 5) The applicant is interviewed by a USCIS officer, in a non-adversarial setting, under oath. The burden of proof for establishing a claim to refugee status rests with the applicant.
- 6) Applicants found eligible for refugee status must be medically cleared and must receive a sponsorship assurance prior to traveling to the United States. A sponsorship assurance ensures that a refugee will receive resettlement assistance during the first 30 days after his or her arrival.
- 7) The spouse and unmarried minor children of a refugee shall be entitled to the same status if accompanying or following to join the refugee, provided they are admissible to the United States as immigrants under INA §212, and are not otherwise ineligible under INA §101(a)(42), as persecutors. There is no requirement that they establish an independent refugee claim.

b. Access to the U.S. Refugee Admission Program

- 1) Access to the U.S. Refugee Admission program (the ability to be interviewed and considered for admission as a refugee) is determined through the processing priorities.
- 2) Unless it is in the public interest, regulations prohibit refugee processing for individuals who qualify as immediate relatives of a U.S. Citizen or as a special immigrant.

c. Ineligibility for Approval

1) Firm resettlement in a Third Country

- a) Aliens who are firmly resettled in a third country may not be granted refugee status under INA §207.
- b) A refugee is considered to be 'firmly resettled if he or she has been "offered resident status, citizenship, or some other type of permanent resettlement by a country other than the United States and has traveled to and entered that country as a consequence of his/her flight from persecution."

2) Inadmissibility grounds

- a) Refugees must be admissible as immigrants, or granted a waiver of inadmissibility, to be granted refugee status under INA §207.
- b) However, not all inadmissibility grounds found in INA § 212(a) apply to refugees. The following grounds do not apply to refugees:
 - 1. INA § 212(a)(4) [public charge];
 - 2. INA § 212(a)(5) [labor certification]; and
 - 3. INA § 212(a)(7)(A) [documentary requirements].
- c) Refugees may file for a waiver of an inadmissibility ground on Form I-602. Waivers may be granted for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. The Attorney General may waive all other exclusion grounds except for:
 - 1. INA § 212(a)(2)(C) [drug trafficking];
 - 2. INA § 212(a)(3)(A) [national security];
 - 3. INA § 212(a)(3)(B) [terrorist activity];
 - 4. INA § 212(a)(3)(C) [adverse foreign policy consequences]; and
 - 5. INA § 212(a)(3)(E) [participants in Nazi persecution or genocide].

d. Refugee Admission to the U.S.

- 1) Refugees typically enter the United States within 4 months from the approval date of Form I-590.

- 2) At the port of entry, the refugee's I-94 is endorsed with the following:
"Admitted as a Refugee pursuant to § 207 of the Act for an indefinite period of time. If you depart the U.S. you will need prior permission to return. Employment authorized."
- 3) From the port of entry, the refugee's travel packet is forwarded to the Files Control Office (FCO) with jurisdiction over the refugee's place of residence.
- 4) A refugee (or asylee) who wishes to temporarily travel abroad must be in possession of a valid Refugee Travel Document (Form I-571) to return to the U.S.

Applicants need to complete Form I-131 (Application for Travel Document) for this purpose.

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e. Termination of Refugee Status

- 1) Refugee may be terminated by the Attorney General if it is determined that the alien was not in fact a refugee within the meaning of the INA § 101(a)(42) at the time of the alien's admission. See 8 C.F.R. 207.9.
- 2) The district director under whose jurisdiction the alien is found shall have the authority to terminate refugee status of such an alien.
- 3) If a final determination to terminate refugee status is made, the alien may not appeal the decision and the district director shall place the alien in removal proceedings.

2. Asylum Processing – INA § 208

a. Overview

- 1) Statutory Authority. Under the Immigration and Nationality Act (INA), the Department of Homeland Security (DHS) has the authority to grant asylum to aliens who meet the definition of a refugee.

a) A refugee is:

...any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to avail himself or herself of the protection of that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion... [forced abortion, involuntary sterilization, or persecution for

resistance to coercive population control programs constitute persecution on account of political opinion].

- b) An alien who meets the definition of a refugee may not be granted asylum if he or she:
 - 1. Ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;
 - 2. has been convicted of a particularly serious crime;
 - 3. has committed a serious nonpolitical crime outside the United States;
 - 4. poses a danger to the security of the United States;
 - 5. is described in particular inadmissibility or removability grounds relating to terrorism; or
 - 6. was firmly resettled in another country prior to arriving in the United States.

2) Regulatory Framework

- a) Asylum is a discretionary benefit. DHS is **not** required to grant an alien, even if the alien meets the definition of a refugee and is otherwise eligible for asylum.
- b) The Attorney General (AG) may grant asylum in the exercise of discretion to an applicant who meets the definition of "refugee" in §101(a)(42). This authority has been delegated to the DHS for purposes of the affirmative asylum program.
- c) The administrative regulations that establish the procedure for an alien present in the U.S. or at a land border or port of entry to apply for asylum are found at Title 8 of the Code of Federal Regulations (8 C.F.R.) § 208. These regulations govern not only basic asylum procedures, but also substantive eligibility issues such as burden of proof, standard of proof, and mandatory grounds for denial.
- d) The regulations delineate how DHS will exercise its discretion to grant asylum to refugees. For example, an asylum applicant who meets the definition of a refugee based on past persecution, but no longer has a well-founded fear of persecution or can avoid persecution by relocating internally in the country of nationality will generally not be granted asylum, unless the applicant demonstrates compelling reasons for being

unwilling or unable to return to the country arising out of the severity of the past persecution; or the applicant establishes that there is a reasonable possibility that he or she may suffer other serious harm upon removal to that country

- e) Unlike refugee adjudications, there is no yearly limit on the number of persons who can be granted asylum status.

b. Application and Interview Process

1) Jurisdiction

- a) Regulations provide that an asylum seeker may apply for asylum any time while physically present in the United States or at a port of entry, regardless of the individual's immigration status. However, asylum applications must be filed within one year after the alien's arrival into the United States, unless the applicant can demonstrate "changed circumstances" that materially affect eligibility for asylum or "extraordinary circumstances" that are directly related to the failure to timely file for asylum within one year.
- b) Affirmative applications for asylum are filed with the appropriate USCIS Service Center by mail. Asylum Officers either grant affirmatively filed applications or refer them to the Office of the Immigration Judge, Executive Office of Immigration Review (EOIR).
- c) Defensive applications. An alien may file an application for asylum in defensive proceedings before an Immigration Judge after institution of removal, deportation or exclusion proceedings.

2) Jurisdiction of Asylum Offices

- a) The jurisdiction of an asylum office to adjudicate a particular asylum application is determined by the place of residence of the asylum applicant.
- b) Most applicants within an asylum office's jurisdiction are interviewed at the asylum office's home office.
- c) However, those applicants who live far from the home office are scheduled to be interviewed at a USCIS field office closer to the applicant's residence. These locations are called "circuit ride" locations.

3) Who May Be Included in the Asylum Application

- a) Principal applicant.

1. Any alien physically present in the United States or who arrives in the United States, irrespective of immigration status may apply for asylum.
2. The principal applicant is the individual within the case who is claiming to be a refugee eligible for asylum.

b) Dependents

1. The applicant's spouse and children who are physically present in the United States may be included in the request for asylum.
2. To be included, a child must be under 21 years of age and unmarried at the time of filing and at all times prior to final adjudication of the claim.
3. The spouse and children of an alien granted asylum may be granted the same status, even if the spouse and children do not appear to meet the eligibility requirements on their own.
4. However, a spouse or child cannot be granted asylum if he or she is subject to one of the mandatory bars listed above, with the exception of firm resettlement.

c) Even the fact that an applicant has applied for asylum is confidential.

4) What to File and Where

- a) Completed Form I-589 (Application for Asylum and for Withholding of Deportation), with any additional supporting material and evidence of relationship to any dependents included in the application, in triplicate (original plus two copies).
 1. Documents that are not in English must be accompanied by a certified translation into English.
 2. Form G-28, Notice of Entry of Appearance as Attorney or Representative for Principal Applicant and each dependent, if the Applicant is represented by an attorney or representative.
- b) The Form I-589 must be filed, in most cases, by mail with the appropriate USCIS Service Center. Certain applications, however, may be filed with the Asylum Office, the Immigration Judge, the Board of Immigration Appeals, or the District Director.

1. The Service Center is responsible for receiving and receipting the Form I-589; creating new Alien-file (A-file) and/or matching with existing A-files where they exist; entering the biographical information from the Form I-589 into the Refugee Asylum and Parole System (RAPS) and; forwarding the A-file to the appropriate asylum office within 21-days of receipt of the complete Form I-589.
- c) The Service Center schedules all applicants for biometrics (signature and photograph) collection at a USCIS Application Support Center (ASC).
 - d) Asylum Offices schedule interview. Most interviews are scheduled automatically by RAPS according to established priorities. Interviews can be manually scheduled at the discretion of the Asylum Office Director.
 1. After an interview is scheduled in RAPS, the system automatically generates an interview notice, which will be mailed to the applicant (and the representative of record, if applicable), no less than 18 days before the scheduled interview date.
 2. The majority of cases are interviewed within 43 days after the filing date. Applicants interviewed at a circuit ride location are generally interviewed more than 43-days after filing.
- c. Restrictions on Filing
- 1) Only an asylum officer, immigration judge, or the Board of Immigration Appeals (BIA) can make a determination on whether a restriction to filing applies.
 - 2) One-year filing deadline
 - a) Asylum applications must be filed within one year after the alien's arrival in the U.S., unless the applicant can demonstrate "changed circumstances" that materially affect eligibility for asylum or "extraordinary circumstances" for failing to apply for asylum within one year.
 - b) The one-year deadline is calculated from the date of the alien's last arrival in the U.S. or April 1, 1997, whichever is later.
 - 3) Prior denial of an asylum application makes an alien ineligible to apply for asylum, unless the applicant demonstrates "changed circumstances" that materially affect eligibility for asylum.
 - a) The denial must have been made by an immigration judge or the BIA. Therefore, an applicant who received a final denial from an asylum office

is not precluded from filing a subsequent asylum application, even if there have been no changed circumstances.

4) Safe Third Country

- a) An asylum applicant who may be returned to a “safe third country,” other than the country of nationality (or last habitual residence, if the applicant is stateless) is ineligible to apply for asylum.
- b) A “safe” country is one that has entered into a bilateral or multilateral agreement with the United States so that an applicant will not be returned to a country where his or her life or freedom would be threatened on account of one of the five grounds and where the applicant will have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection. At this time there is only one bilateral agreement in effect, between the US and Canada. That agreement is limited in scope and generally will not cover affirmative asylum applications from individuals who have transited through Canada.

d. Adjudication Process

- 1) Asylum Officers are responsible for adjudicating (affirmatively filed) Form I-589 applications after conducting a non-adversarial interview and researching any relevant legal issues and country conditions information necessary to properly evaluate eligibility for asylum.
- 2) Grant of Asylum – If the applicant establishes eligibility for asylum, the Asylum officer prepares a written assessment (decision) and either:
 - a) A recommended approval letter when the results of identity and security checks for the principal applicant and all dependents are incomplete, or when the asylum office has only a working file or temporary file (not the A-file). (An applicant who is recommended for approval is eligible for employment authorization.); or
 - b) Final approval letter and Form I-94 (Arrival Record/Departure Record) when the results of all identity or security checks for the principal applicant and all dependents are current and complete. After final approval, the asylee may petition for his or her spouse and children not already included in the asylum application to join him or her by filing Form I-730 (Refugee/Asylee Relative Petition).

3) Referrals

- a) If the decision is not to grant asylum and the applicant is not in lawful status, the officer prepares:

1. an assessment to refer;
 2. a referral notice; and
 3. charging documents (Form I-862 - Notice to Appear).
- b) If an asylum applicant is referred to an Immigration Judge, the applicant shall have an opportunity to present his or her claim anew (de novo), as well as request other forms of relief.
- 4) Denials – Notice of Intent to Deny (NOID)
- a) If the decision is not to grant asylum and the applicant is maintaining valid immigrant, nonimmigrant or Temporary Protected States (“in-status”), then the asylum officer prepares a NOID, which the applicant will have an opportunity to rebut in writing.
 - b) The applicant may not appeal the Asylum Officer’s final decision.
- 5) In most cases, the applicant returns to the Asylum Office to pick up the final decision to grant or the referral.
- a) In more than 75% of the cases, a decision is served on the applicant within 60-days after filing.
 - b) If the determination is to refer, the applicant is also served with documents initiating removal proceedings.
- e. Termination of Asylum Status
- 1) Asylum does not convey a right to remain permanently in the United States and may be terminated under certain circumstances.
 - 2) Any grant of asylum can be terminated if there is a showing of fraud in the alien’s application such that he or she was not eligible for asylum at the time it was granted.
 - 3) For an application filed on or after April 1, 1997, asylum may be terminated if the alien:
 - a) no longer meets the definition of a refugee due to a fundamental change in circumstances;
 - b) meets the conditions of one of the mandatory bars for asylum under INA § 208(b)(2);

- c) may be removed pursuant to a safe third country agreement; or
 - d) has acquired a new nationality and enjoys the protection of that country.
- 4) For an application filed before April 1, 1997, asylum may be terminated if the alien:
- a) no longer has a well-founded fear of persecution due to a change of country conditions in the alien's country of nationality or last habitual residence; or
 - b) has committed any act that would have been grounds for a mandatory denial of asylum under 8 C.F.R. § 208.13(c)(2).

f. Confidentiality

Federal regulations at 8 C.F.R § 208.6 generally prohibit disclosure of information about an asylum applicant or application, to a third party with the exception of other U.S. government officials or contractors in certain situations.

- 1.) No disclosure without written consent
- 2) Even the fact that an individual applied is confidential

C. EPO #3: Identify the differences between the “asylee” and “refugee” classifications.

1. The UNHCR was established in 1951. The major international instruments which form the basis of international refugee protection are:
 - a. the 1951 UN Convention relating to the Status of Refugees;
 - b. the 1967 UN Protocol relating to the Status of Refugees.
2. The Refugee Act of 1980 defined the term “refugee” in U.S. law and established politically and geographically neutral adjudication standards for refugees and asylees.
3. Congress created two programs:
 - a. U.S. Refugee Admission (USRAP) for refugees outside the U.S.
 - b. the Asylum Program for refugees inside the
4. U.S. INA § 101(a)(42) defines the term refugee under U.S. law as any person unable or unwilling to return to his or her country of nationality or last habitual residence...because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion. Forced abortion or sterilization, or persecution for refusal to submit to such, or for other resistance to a

coercive population control program is persecution on account of political opinion (nexus).

5. Two Programs

- a. INA § 207 governs the application process of refugees outside the U.S. Refugee applications are filed on Form I-590. To apply, an individual must fall within a processing priority and cannot be someone who qualifies as the immediate relative of a U.S. citizen or qualifies as a special immigrant, unless it is in the public interest to process him or her as a refugee. To be eligible, an individual must establish that he or she is of special humanitarian concern to the U.S., meet the definition of "refugee", must be admissible to the U.S., and must not be firmly resettled.
 - b. INA § 208 governs the application process of refugees inside the U.S. Asylum applications are filed on Form I-589 with the USCIS Service Center by mail. Any alien who is in the U.S. or who arrives in the U.S. may apply for asylum despite his or her immigration status. There are certain restrictions on filing an asylum application. Asylum may be granted in the exercise of discretion to any such alien who meets the definition of "refugee", except where a statutory ground for mandatory denial applies. Asylum Officers adjudicate affirmative applications for asylum. Immigration Judges adjudicate defensive asylum applications.
6. Though both the asylum process and U.S. Refugee Admissions Program provide protection to aliens who meet the definition of a refugee, there are significant differences in the location and identification for each, the number of individuals authorized to receive such protection each year, and the requirements for permanent resident status.

D. EPO #4: Identify ancillary benefits available to aliens classified as an asylee or refugee

1. Accompanying / Following to Join Derivatives

Aliens granted asylum or refugee status may petition for accompanying or follow-to-join derivative spouse and/or unmarried children under 21

- a. Form I-730, Refugee/Asylee Relative Petition is filed with Nebraska Service Center or Texas Service Center, depending on the petitioner's residence
- b. No filing fee
- c. Must be filed by principal alien within appropriate time limit
 - 1) Within two years of being admitted as a refugee or granted asylum

- 1) Aliens will mistakenly apply for employment authorization under 8 C.F.R. 274a.12(c)(9) because they have filed Form I-485, Application to Register Permanent Residence or Adjust Status.
- 2) "C9" category is only for those with a pending I-485 filed pursuant to 8 C.F.R. 245

b. Employment authorization for refugees

- 1) Refugees are authorized to hold employment incident to their status as a refugee.
- 2) Upon arrival at a designated POE, the alien's Form I-94, Arrival/Departure Record is stamped "Employment Authorized" and serves as immediate proof of the alien's eligibility to work.
- 3) Refugees may apply for an Employment Authorization Document (EAD) as evidence of employment by submitting Form I-765, Application for Employment Authorization pursuant to 8 C.F.R. § 274a.12 (a)(3)
 - a. There is no filing fee required for the initial EAD.
 - b. Applications for this category are processed by the Nebraska Service Center

c. Employment authorization for asylees

- 1) Asylees are authorized to hold employment incident to their status as an asylee.
- 2) EAD issuance differs depending on the granting authority for the asylum application
 - a. An Asylum Office will generate an EAD through an automated process upon approval of asylum.
 - b. Asylees granted asylum by an Immigration Judge are provided instructions how to appear before USCIS.
- 3) Asylees may apply for an Employment Authorization Document (EAD) as evidence of employment by submitting Form I-765, Application for Employment Authorization pursuant to 8 C.F.R. § 274a.12 (a)(5)
 - a. There is no filing fee required for the initial EAD.

- b. Applications for this category are processed by the Nebraska Service Center
- d. Employment authorization for aliens with a pending Form I-589, Application for Asylum and Withholding of Removal
 - 1) Aliens awaiting a final decision on their request for asylum in the United States are eligible to receive employment authorization once /their Form I-589 has been pending at least 180 days.
 - 2) Aliens may submit a Form I-765 for consideration once 150 have lapsed since filing Form I-589
 - 3) Since the alien's status as an asylee has not yet been decided, employment authorization is not automatic and an alien must apply for authorization by submitting Form I-765, Application for Employment Authorization pursuant to 8 C.F.R. § 274a.12 (c)(8)
 - a. There is no filing fee required for the initial Employment Authorization Document (EAD).
 - b. Applications for this category are processed by the Service Center having jurisdiction over the applicant's residence.

3. Refugee Travel Document

- a. Unless they have a valid, unexpired Advance Parole document, aliens in a valid refugee or asylee status wishing to travel abroad must apply for and receive a Refugee Travel Document under 8 C.F.R. § 223 in order to return to the United States. An alien shall be accorded the immigration status endorsed in his or her refugee travel document unless he or she is no longer eligible for that status, or he or she applies for and is found eligible for some other immigration status.
- b. Lawful Permanent Residents (LPRs) who gained their permanent residence status as a result of first being an asylee or refugee may also apply for a Refugee Travel Document.
- c. Approval of an application is solely at the discretion of USCIS. Refugee Travel Documents are valid for only one year and may not be extended.
- d. Must submit Form I-131, Application for Travel Document to the Nebraska Service Center, accompanied by supporting evidence to establish the alien is in a valid refugee or asylee status.

- 1) The application **must** be filed prior to departing the United States. Departure from **the** U.S. before a decision is made on an application for a reentry **permit** or refugee travel document shall not **affect** the application.
 - 2) Procedures set **forth** in 8 C.F.R. § 223.2(b)(2)(ii) allow an individual to apply for a **discretionary** grant of a refugee travel document outside the United States or at a Port of Entry if the individual did not **know** about the requirement or **had** to depart due to urgent humanitarian need.
- e. Special Consideration: **Return** to a country of feared persecution **may** affect the alien's entitlement to **protection** under U.S. and international **law**; however, such actions **do not** result in automatic revocation of **asylum** or refugee status.
- 1) Alien may be **found** to have returned to the protection of **his** or her country of **nationality**.
 - 2) Travel patterns **could** suggest a fundamental change in **circumstances** in the country the **alien** fled.

4. Registering permanent residence **by** refugees

- a. Every alien in the U.S. **who** is classified as a refugee under 8 CFR 207 must submit an application for **permanent** residence 1 year after entry to determine admissibility under **Section** 212 of the Act. (8 C.F.R. § 209.1)
- b. There is no filing fee for **refugees** to file Form I-485.
- c. Form I-485, Application **to** Register Permanent Residence or **Adjust** Status is submitted to the **Nebraska** Service Center, along with the following required initial evidence.
 - 1) Proof of physical **presence** in the United States for one **year** after refugee admission
 - 2) Birth certificate **or** acceptable secondary evidence
 - 3) Fingerprint fee (**ages** 14 and older)
 - 4) A Form I-693, **Report** of Medical Examination and **Vaccination** Record may be **required** if there were previous medical **grounds** of inadmissibility **noted** at the time of arrival in the United **States** or if refugee status **was** gained by an approved I-730, Refugee/**Asylee** Relative Petition.

5) The Vaccination Supplement to Form I-693 is required of all applicants.

5. Adjustment of status to permanent resident by asylees

- a. Asylees may file for adjustment of status one year after asylum in the United States was approved. (8 C.F.R. § 209.2(a))
- b. All applicable filing fees must be submitted with the application
- c. Form I-485, Application to Register Permanent Residence or Adjust Status is submitted to the Nebraska Service Center or Texas Service Center, depending on the applicant's residence, along with required initial evidence.
 - 1) Proof of physical presence in the United States for one year after grant of asylum
 - 2) Birth certificate or acceptable secondary evidence
 - 3) Fingerprint fee (ages 14 and older)
 - 4) A Form I-693, Report of Medical Examination and Vaccination Record Supplemental are required to determine whether any grounds of inadmissibility under section 212 of the Act apply.

6. Interview Requirement for adjustment of status by refugees or asylees

The Service director having jurisdiction over the application will determine, on a case-by-case basis, whether an interview by an immigration officer is necessary to determine the applicant's admissibility for permanent resident status.

8 C.F.R. 209.1(d); 209.2(e)

III. REFERENCES

- A. INA §§ 207 – 209, § 245, §274A
- B. 8 C.F.R. Parts 207 – 209, Part 223, Part 245, Part 274a.12

IV. APPLICATION

- A. Practical Exercise

V. TRAINING AID PACKET

- A. Refugee Flowchart
- B. Practical Exercise Key

**BASIC 210/211 REFUGEE AND ASYLUM
PRACTICAL EXERCISE KEY**

Note : There are two practical exercises for this module. One attached to the PG and one can be found in the TAP. Instructor should become familiar with both and determine which would be most beneficial to the class.

Divide the class into four groups, and inform each group that they will be the “subject matter experts” in the following areas:

1. Asylum Eligibility
2. Refugee Eligibility
3. Refugee/Asylee Adjustment of Status
4. Refugee/Asylee Ancillary Benefits (travel docs, I-730s, I-765s)

Allow ten to fifteen minutes for the groups to study the materials. Write “Group 1”, “Group 2,” etc. on the board, and explain that each group of subject matter experts starts out with ten points. Each team will be asked the same number of questions. An incorrect or incomplete answer will result in one point being deducted from that group’s total. The goal is to end with the most points.

Ask the following questions:

1. (Group 1) Amadou, a native and citizen of Ghana, testifies in his asylum interview that he came into the U.S. without inspection from Canada and applied for asylum three months later. He testifies credibly that he was jailed and beaten repeatedly by the military in Ghana because of his support for a political party that opposes the current President of Ghana.

Is Amadou eligible for a grant of asylum? Why or why not?

Answer: Amadou may be eligible for asylum. U.S. has a “safe third country” bilateral agreement with Canada that applies in certain limited situations that arise in the context of expedited removal actions. Since Amadou entered the U.S. without inspection it does not appear based on the fact pattern above that he would be covered by the safe third country agreement with Canada.

2. (Group 2) Amina, a Somali woman who had suffered terrible persecution in Somalia, was residing in a UNHCR refugee camp in Kenya for two years when she met and married Arturo, a young Italian man who had been assigned to the camp as an international relief worker. She moved with him to Rome where she lived and worked for several years as a permanent resident. The marriage did not work out, and following her divorce from Arturo she returned to Kenya and submitted an I-590 with all required documents requesting refugee status in the U.S.

Is Amina firmly resettled in Italy?

Answer: Amina may or may not be eligible for refugee status but further inquiry would be need to be made into whether Amina was firmly resettled in Italy. The Refugee Officer would need to explore whether Amina entered Rome, Italy “as a consequence of flight” as required under 8 CFR 207.1(b). The exact laws of Italy for permanent residence for spouses of Italian citizens would need to be identified to make a determination of firm resettlement. Amina’s divorce may effectively terminate the residence status.

3. (Group 3) Abubacar, a native of Sierra Leone, was admitted to the U.S. as a refugee on February 9, 1999. In violation of INA Section 209(a)(1), he did not present himself for examination for admission to the United States as an immigrant until November 25, 2008, when his I-485 packet was received at the Nebraska Service Center.

Is Abubacar ineligible for permanent residence based on his failure to comply with INA 209(a)(1)? If he is eligible, what is the effective date of his permanent residence?

Answer: INA 209(a)(1) states that refugees “shall, at the end of such year period [following admission as a refugee], return or be returned to the custody of the Department of Homeland Security for inspection and examination for admission to the United States as an immigrant . . .” However, there are no enforcement mechanisms for this provision. If otherwise eligible, his date of permanent residence will be February 9, 1999 (the date of his admission as a refugee).

4. (Group 4) Endah, an Indonesian citizen of Chinese ethnicity, has been in the U.S. for three years maintaining F-1 student status at Harvard University, where she has a 3.9

grade point average. Two years ago, she applied for asylum and was denied by the Asylum Office because she was found not to have a well-founded fear of persecution in Indonesia. Recently, there have been anti-Chinese riots in Jakarta, her home town, and she has re-applied for asylum.

Is Endah ineligible for asylum based on her previous denial?

Answer: Endah's previous denial does not preclude her from applying for or being granted asylum, since the previous denial was issued by the asylum office and not by an IJ or the BIA. Also, the recent anti-Chinese riots might constitute changed circumstances affecting her eligibility.

5. (Group 1) Kalungi, a native and citizen of Uganda, applied for asylum on March 1, 2008. On April 15, 2008, he married Katarina, a Danish citizen who was in the U.S. and had overstayed her B-2 status. At his asylum interview on June 1, Kalungi added his spouse Katarina to his asylum application. Kalungi was granted asylum on June 6, 2008.

Is Katarina eligible for asylum status?

Answer: Yes. As long as the spousal relationship existed on the date of approval, a spouse who is physically present in the U.S. is eligible for derivative asylum regardless of citizenship.

6. (Group 2) Bratislav, a Serbian man, was residing in a refugee camp in Croatia with his wife and children, who were granted refugee status. During his refugee interview, Bratislav informs the refugee officer that he had been involuntarily inducted into the Serbian army in the early 1990s and had been a member of a Serbian army unit that was sent to Kosovo. His unit was ordered to "eliminate" a number of unarmed ethnic Albanian men who were suspected of advocating independence for Kosovo.

Should Bratislav be granted refugee status along with his family?

Answer: If Bratislav is the principle applicant then the entire family would be denied asylum. INA 207(c)(2)(A) excludes spouses and children from derivative refugee eligibility if the spouse or child is a persecutor. If Bratislav is a dependent on his wife's asylum application then Bratislav would be ineligible but the family may be approved.

7. (Group 3) Maria, a native and citizen of Farlandia, was granted asylum ten years ago because the Dictator for Life Gonkilya of Farlandia had begun a campaign to identify

and kill all members of Maria's ethnic group. Two years ago the Gonkilya was overthrown and a new, democratic government which respects the rights of all Farlandia citizens is now in power. Maria recently applied for adjustment of status under INA Section 209.

Is Maria eligible to adjust status?

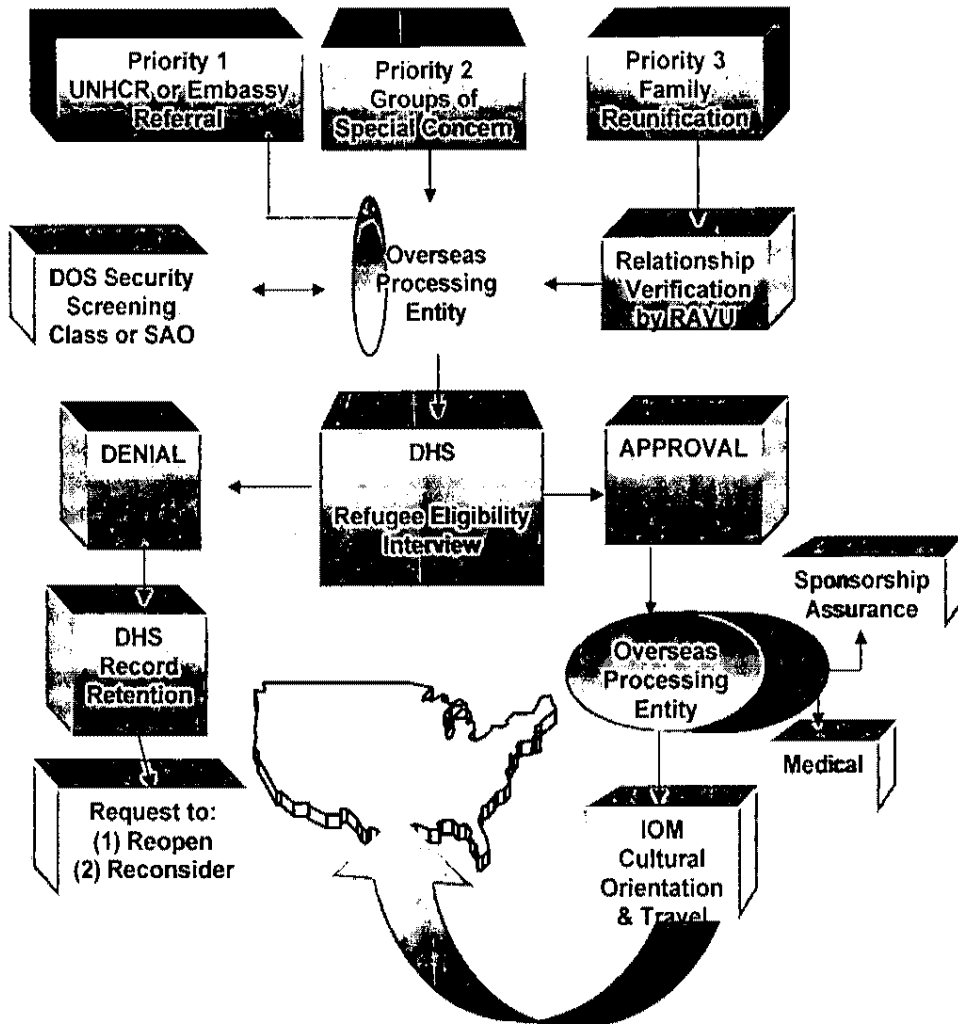
Answer: In this case the nexus would be nationality or particular social group. Societal attitudes towards Maria's ethnic group are pivotal to whether she is eligible for asylum or not. After only two years the laws may or may not be providing adequate protection to Maria's ethnic group. If there have been multiple elections with peaceful transfer of power in Farlandia with government made up of mixed ethnic groups, then Maria no longer has a well-founded fear of persecution in Farlandia and thus no longer satisfies the definition of "refugee" as required by INA Section 209(b)(3). If the Farlandia government is unable to control factions targeting Maria's ethnic group than her well-founded fear of persecution in Farlandia continues to be relevant.

8. (Group 4) Mya, a native of Burma, resided in a refugee camp in Thailand for several years. She had never been married, and she was finally granted refugee status on September 13, 2008. On September 26, 2008, she married Than, a young Burmese man she had met in the refugee camp. On November 3, 2008, she arrived in New York where she was admitted as a refugee. On January 18, 2009, Mya submitted an I-730 for Than with proof of the marriage.

Can the I-730 be approved?

Answer: Yes. Spouses and children of refugees are eligible for derivative following to join status if the relationship existed prior to the principal refugee's admission to the U.S. 8 C.F.R. 207.7(c).

A. Refugee Flowchart



Asylum/Refugee Law - Eligibility

August 2013

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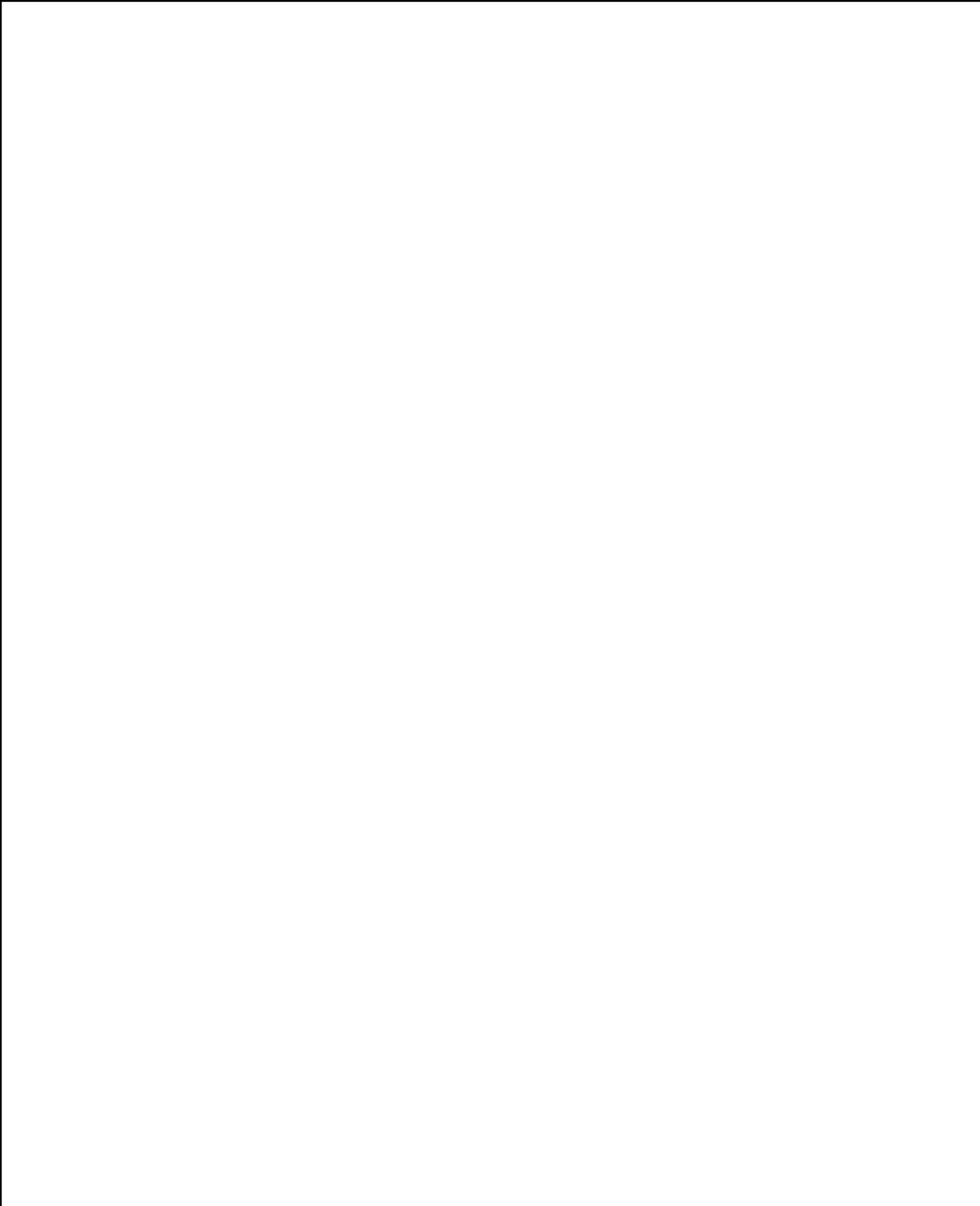
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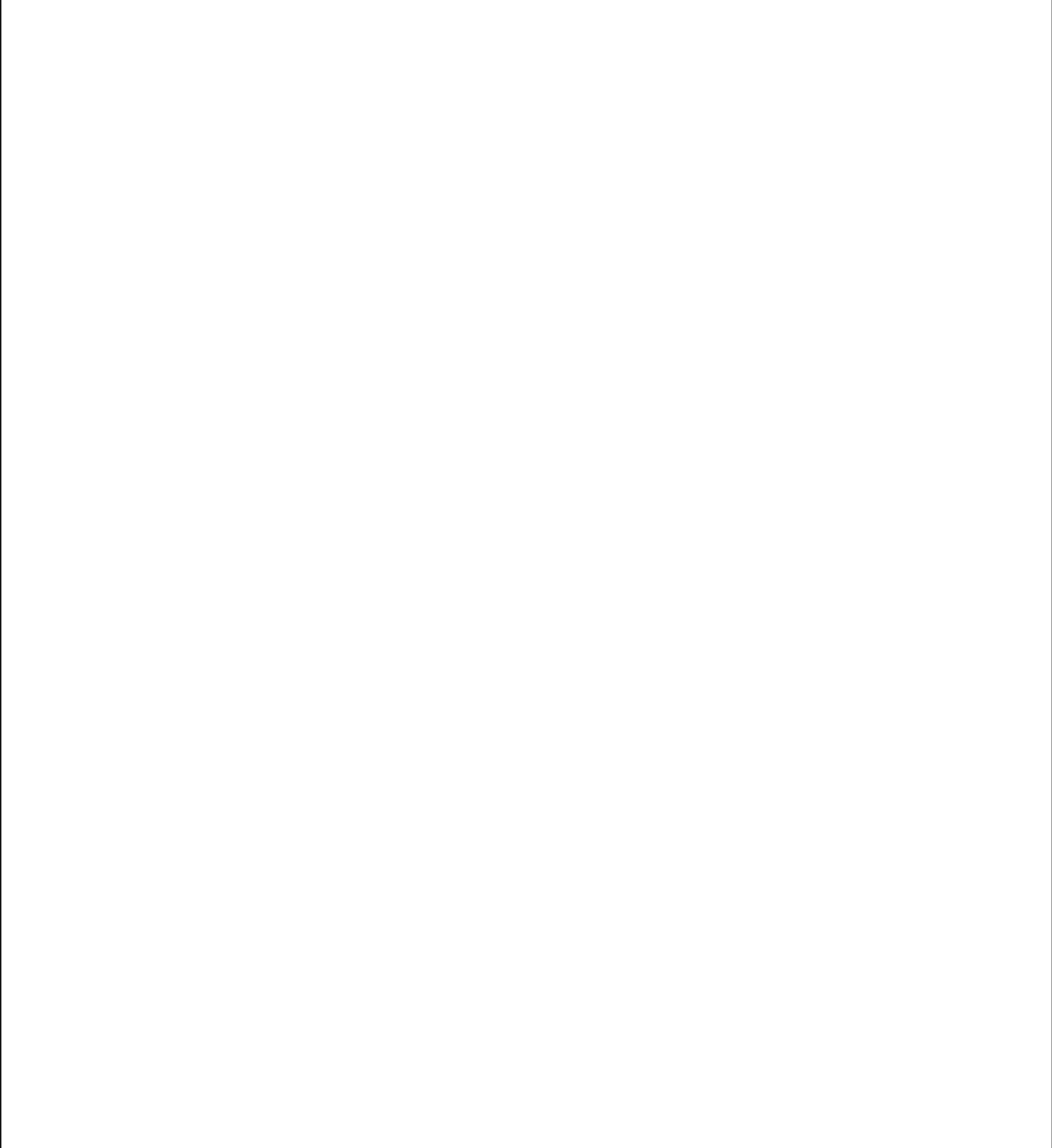
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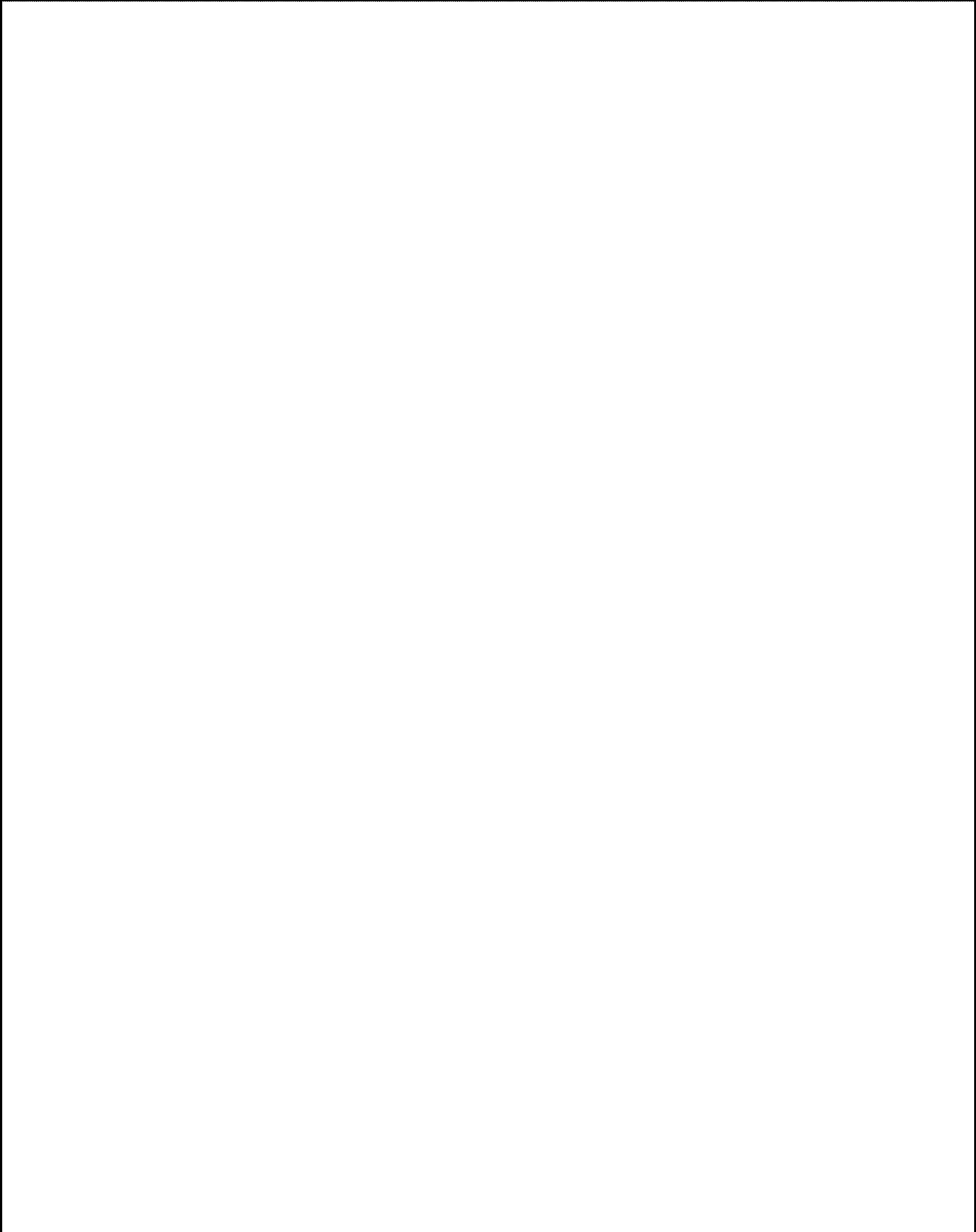
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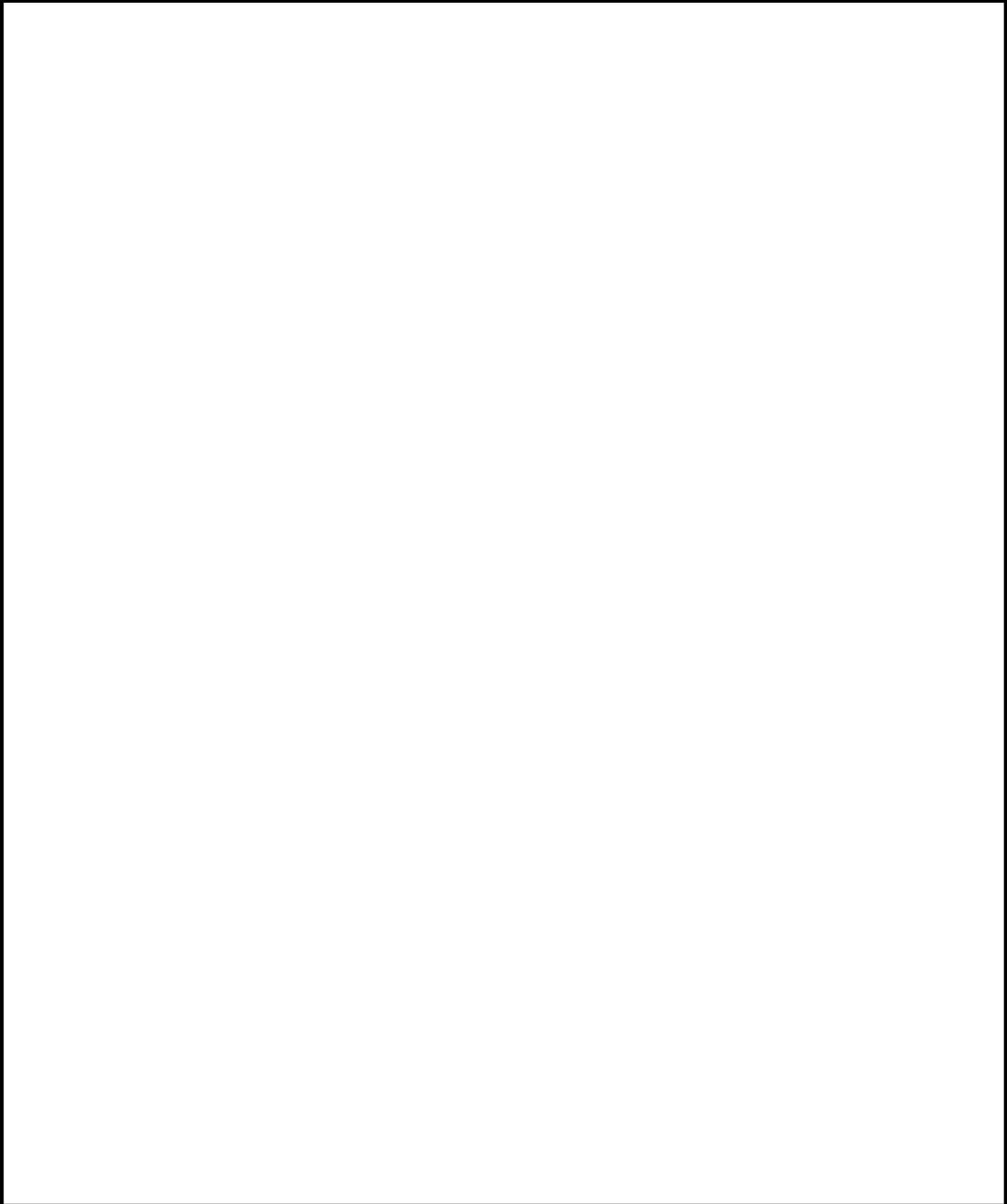


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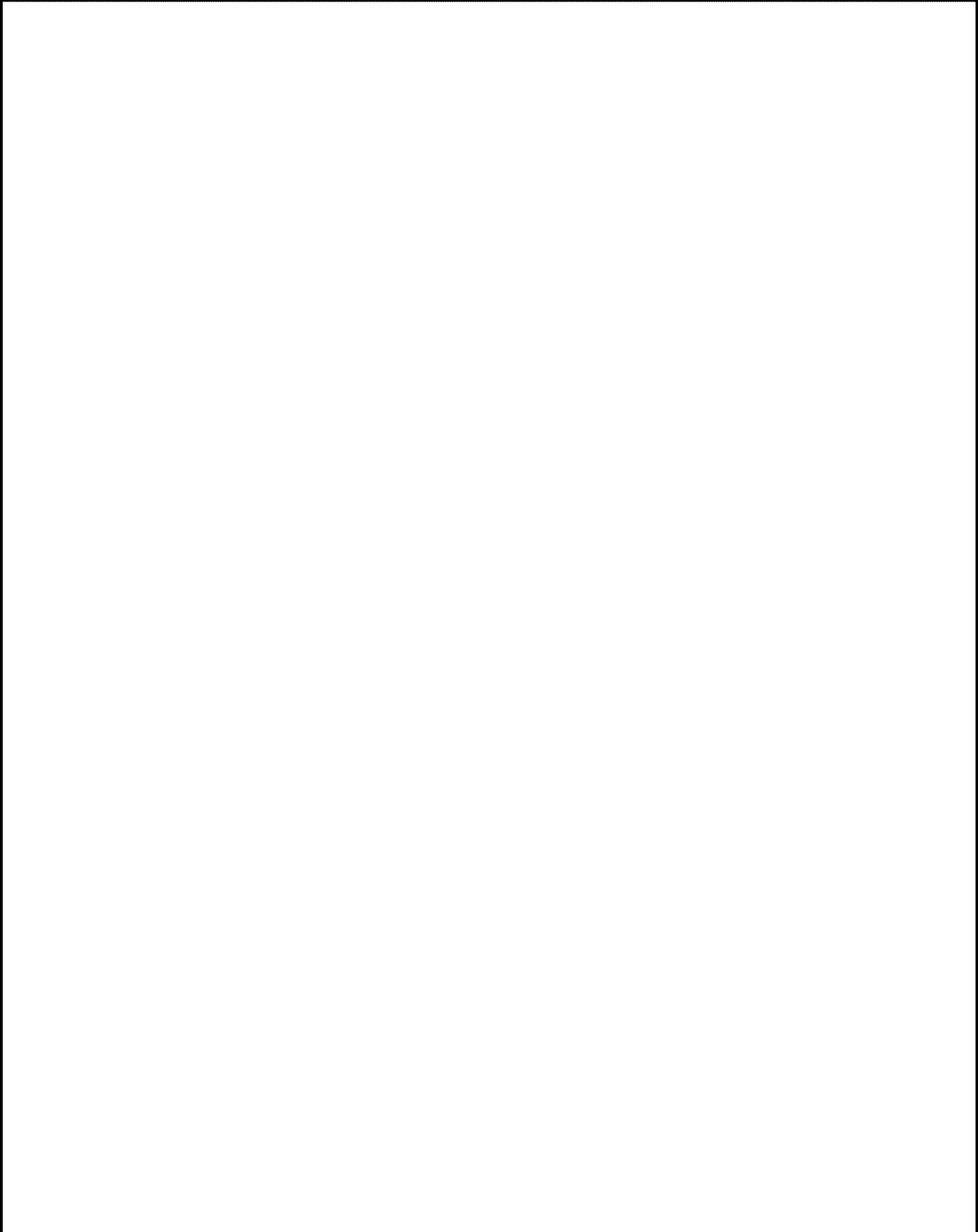
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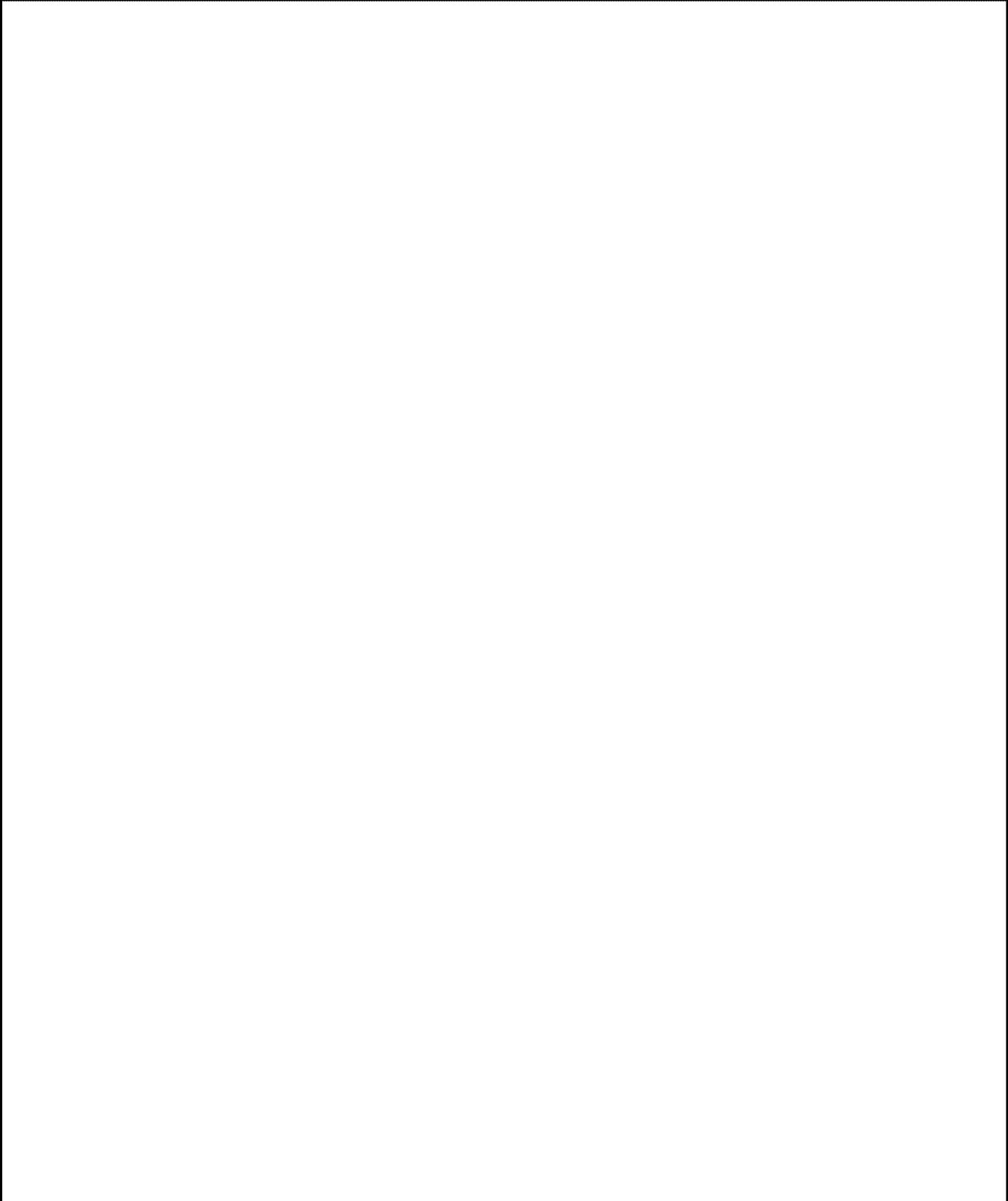


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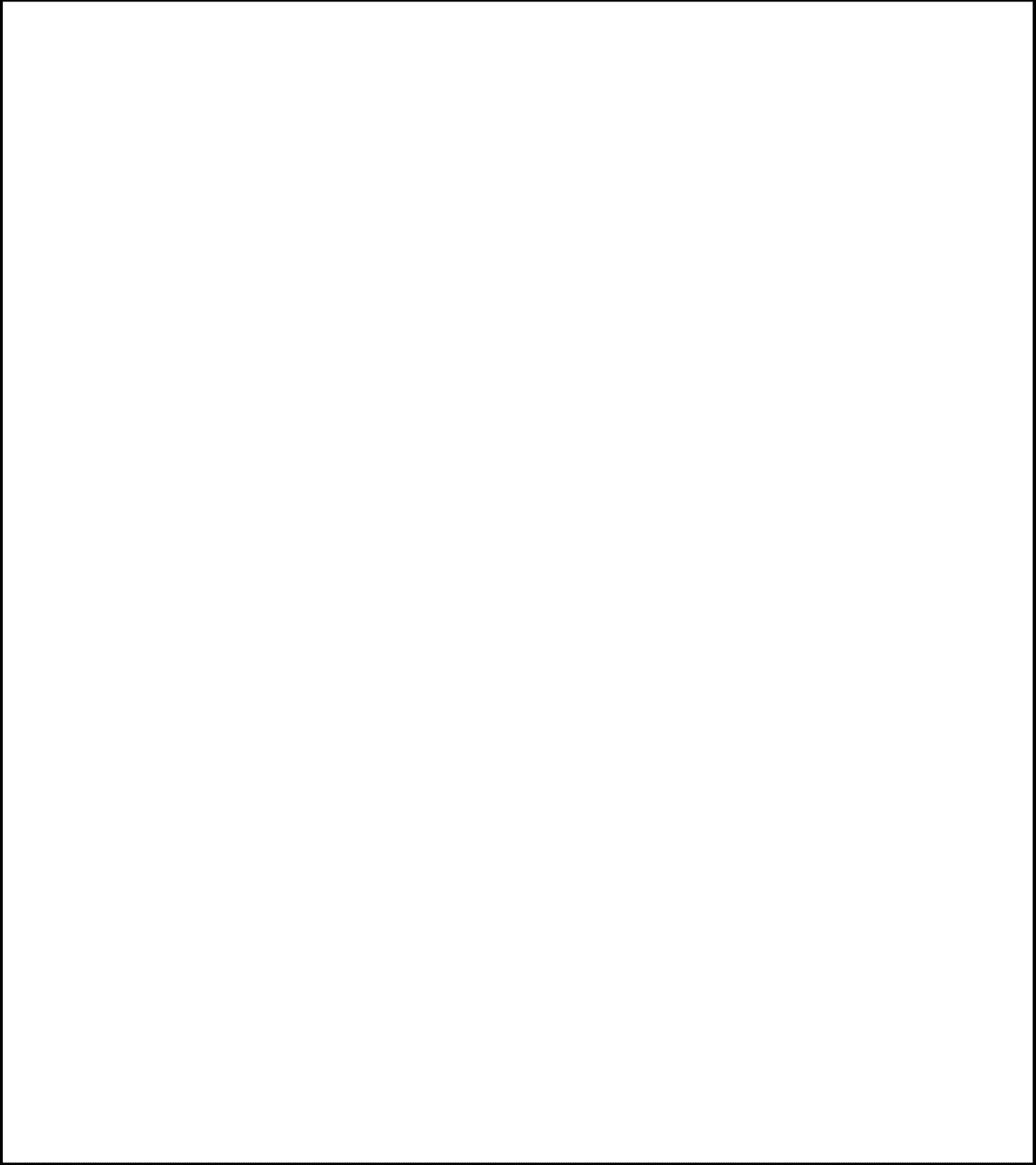
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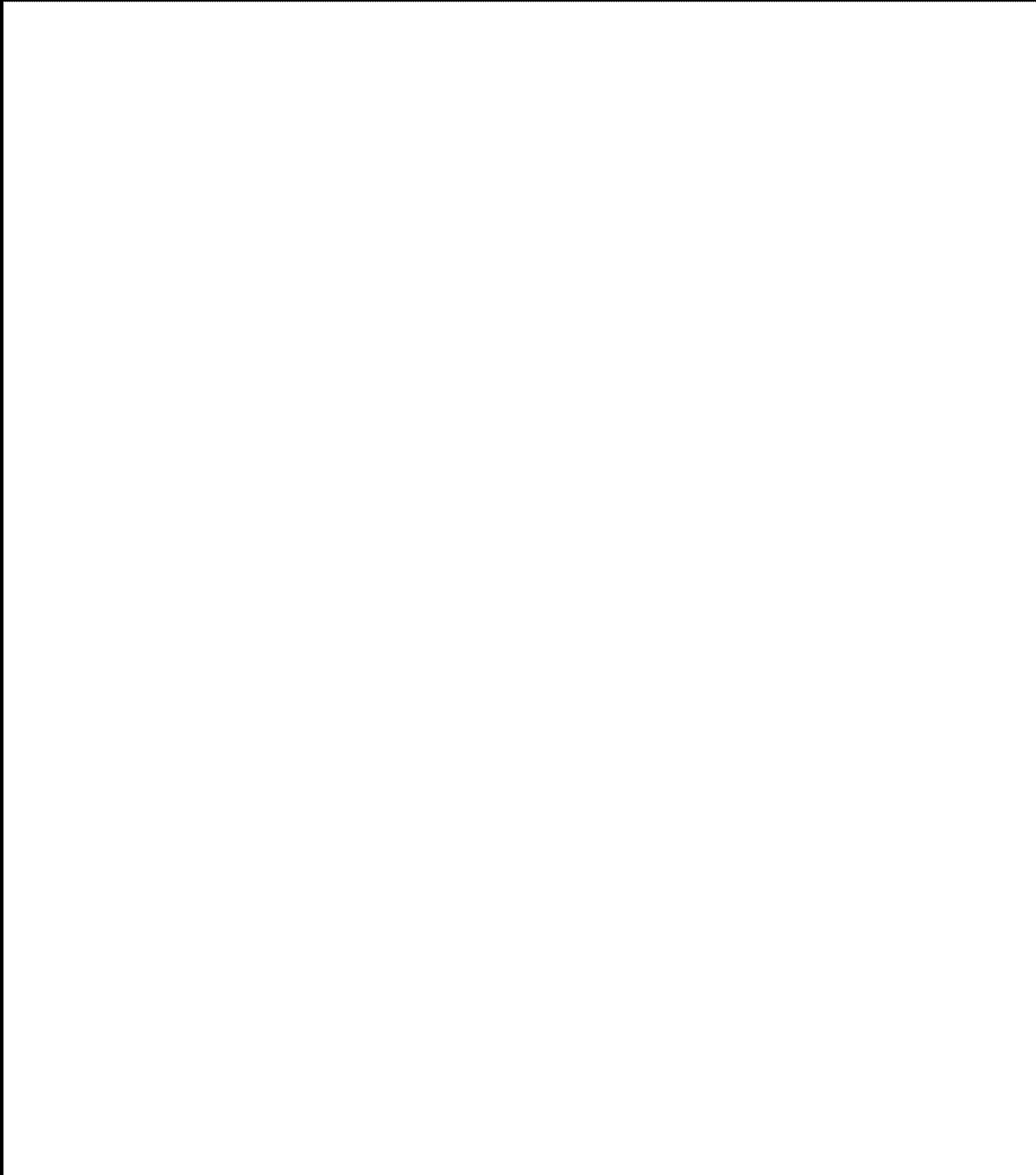


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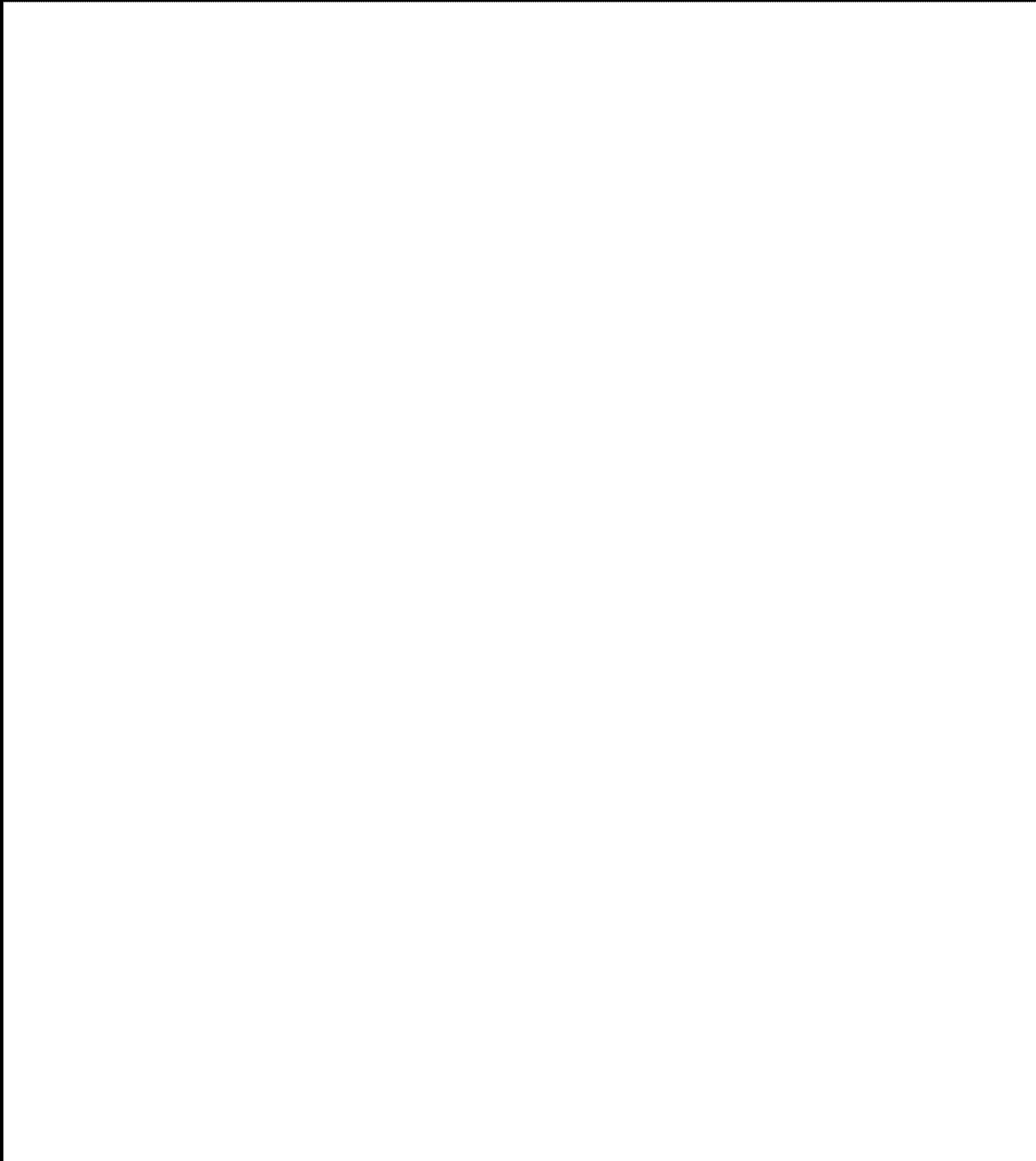




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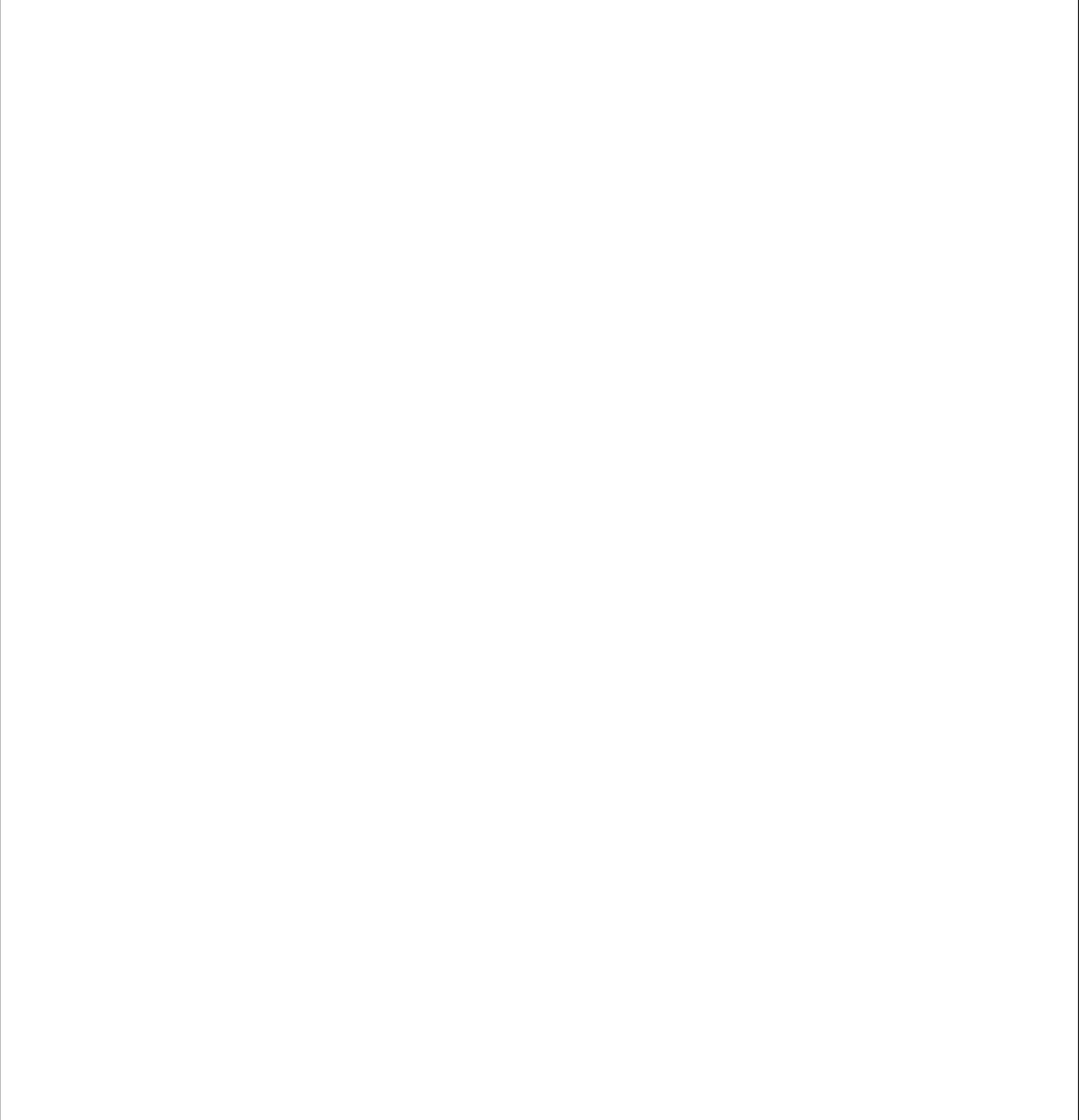


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grounds of inadmissibility
regarding I-730s



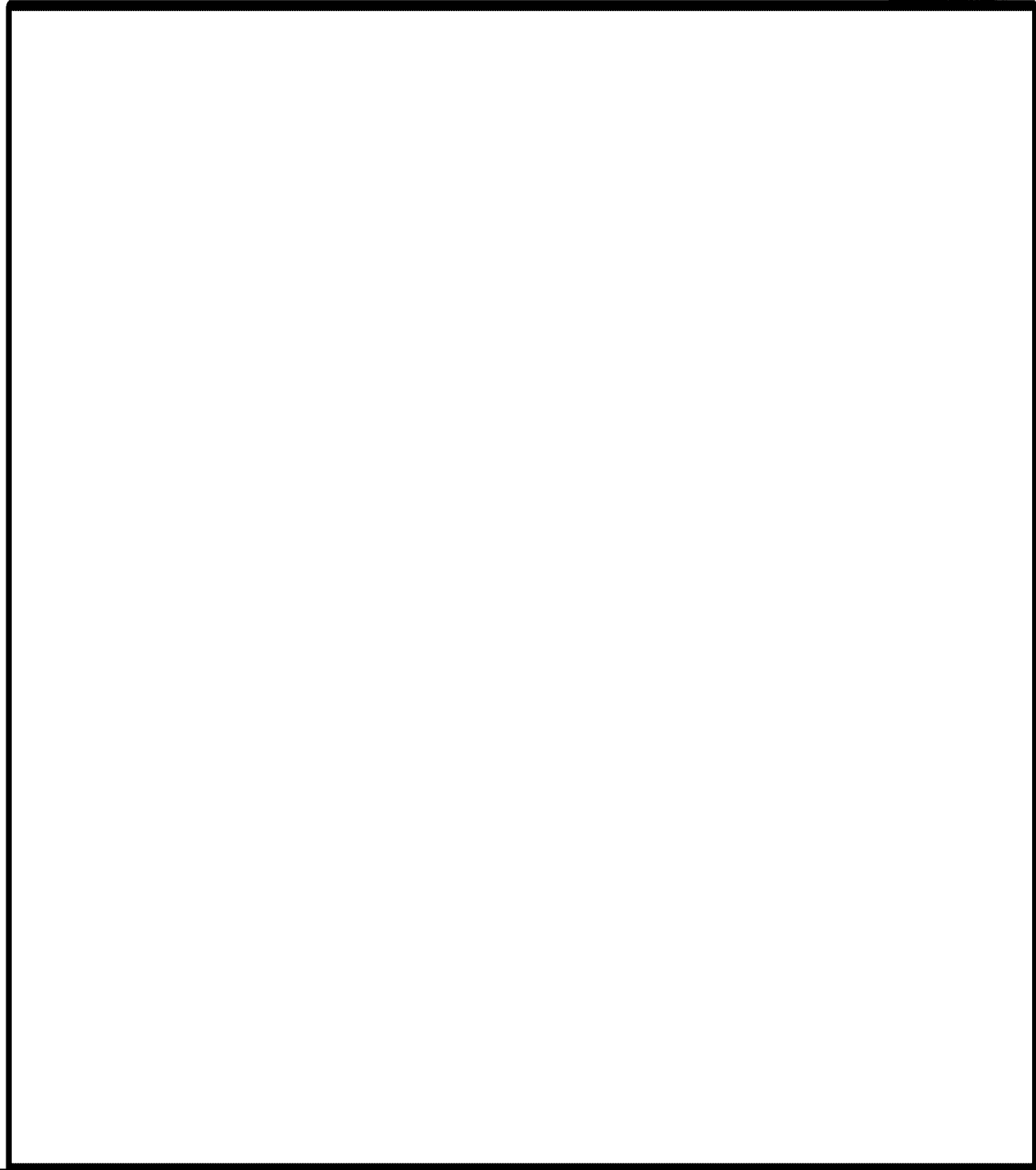
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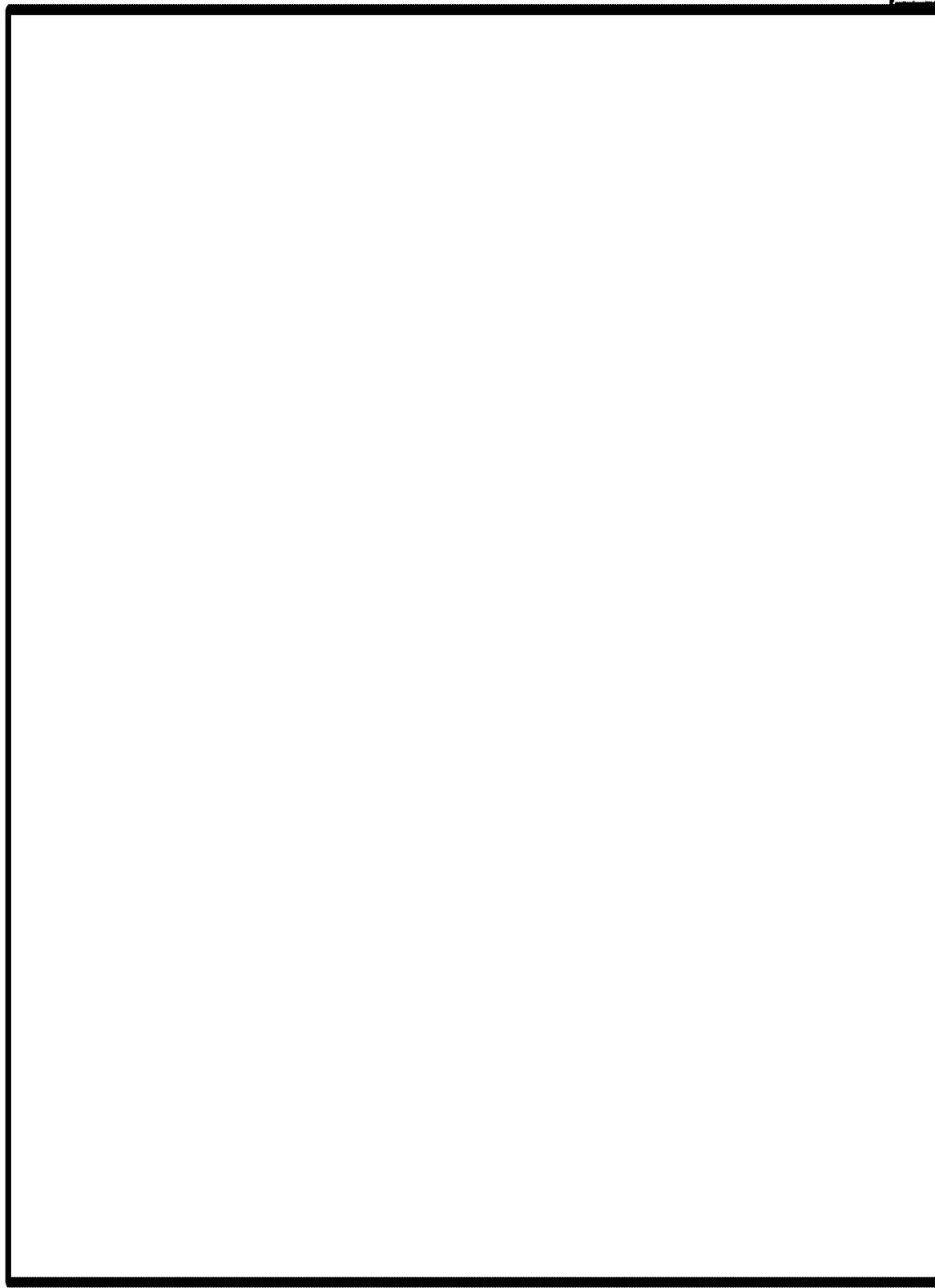


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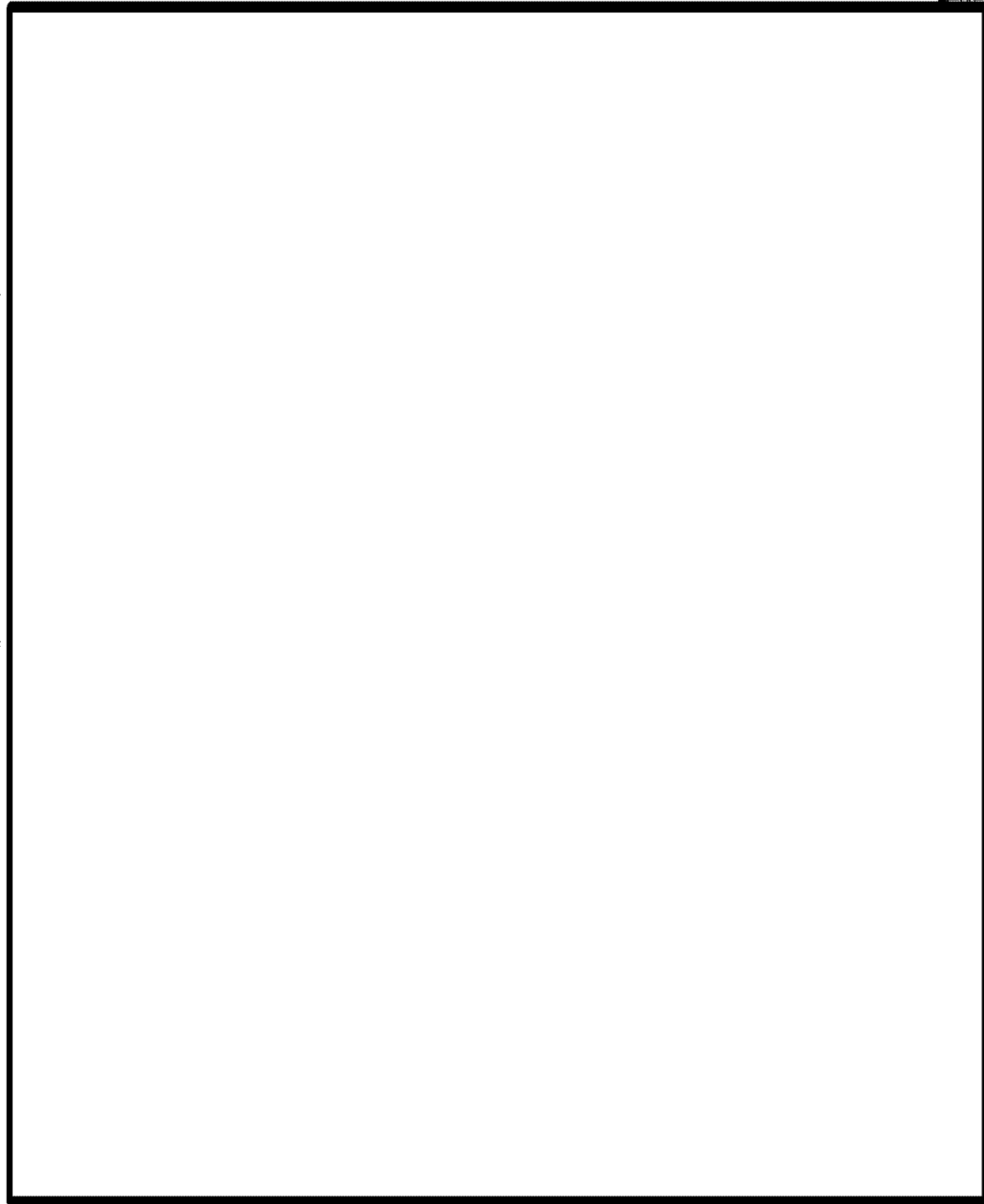
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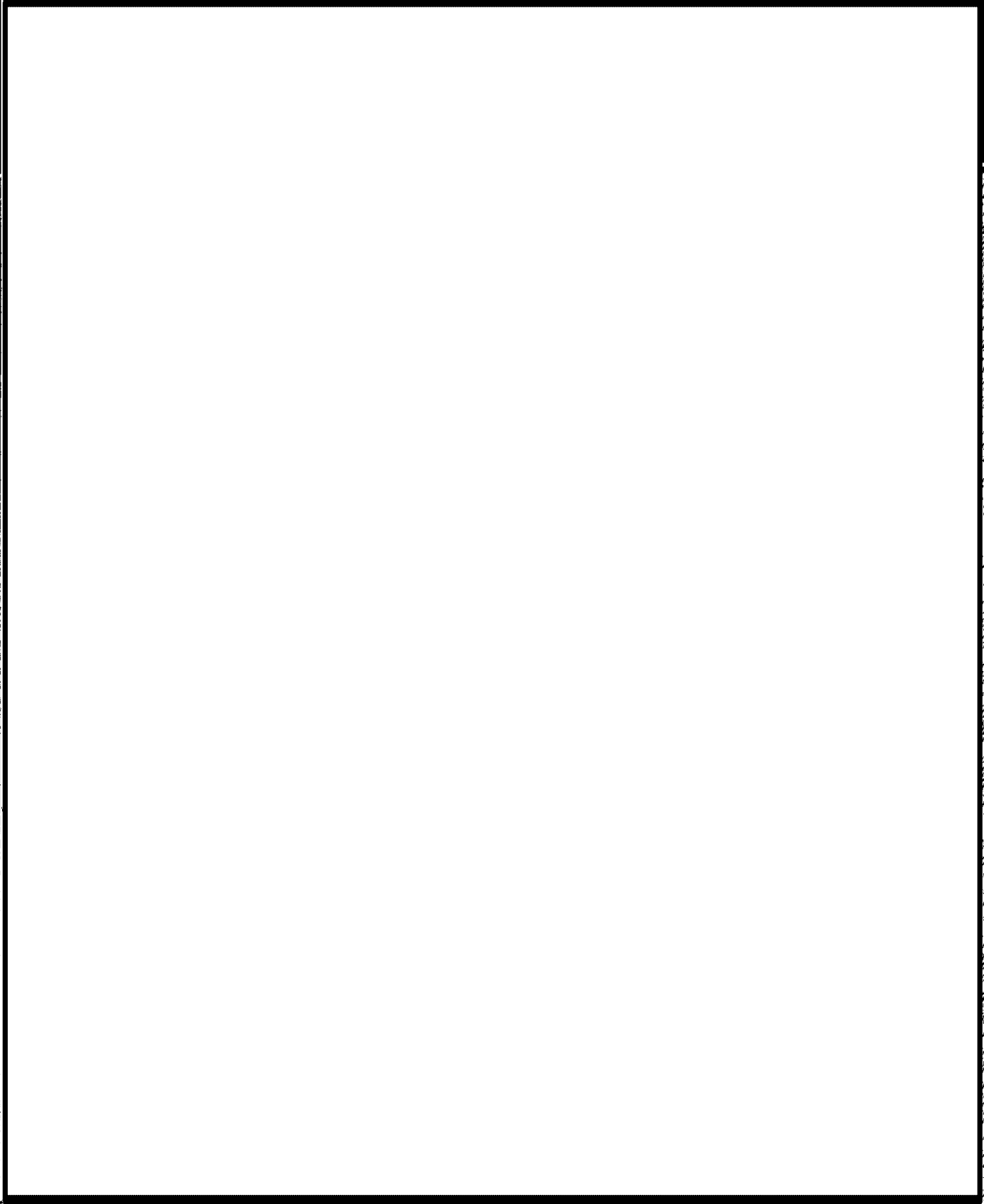
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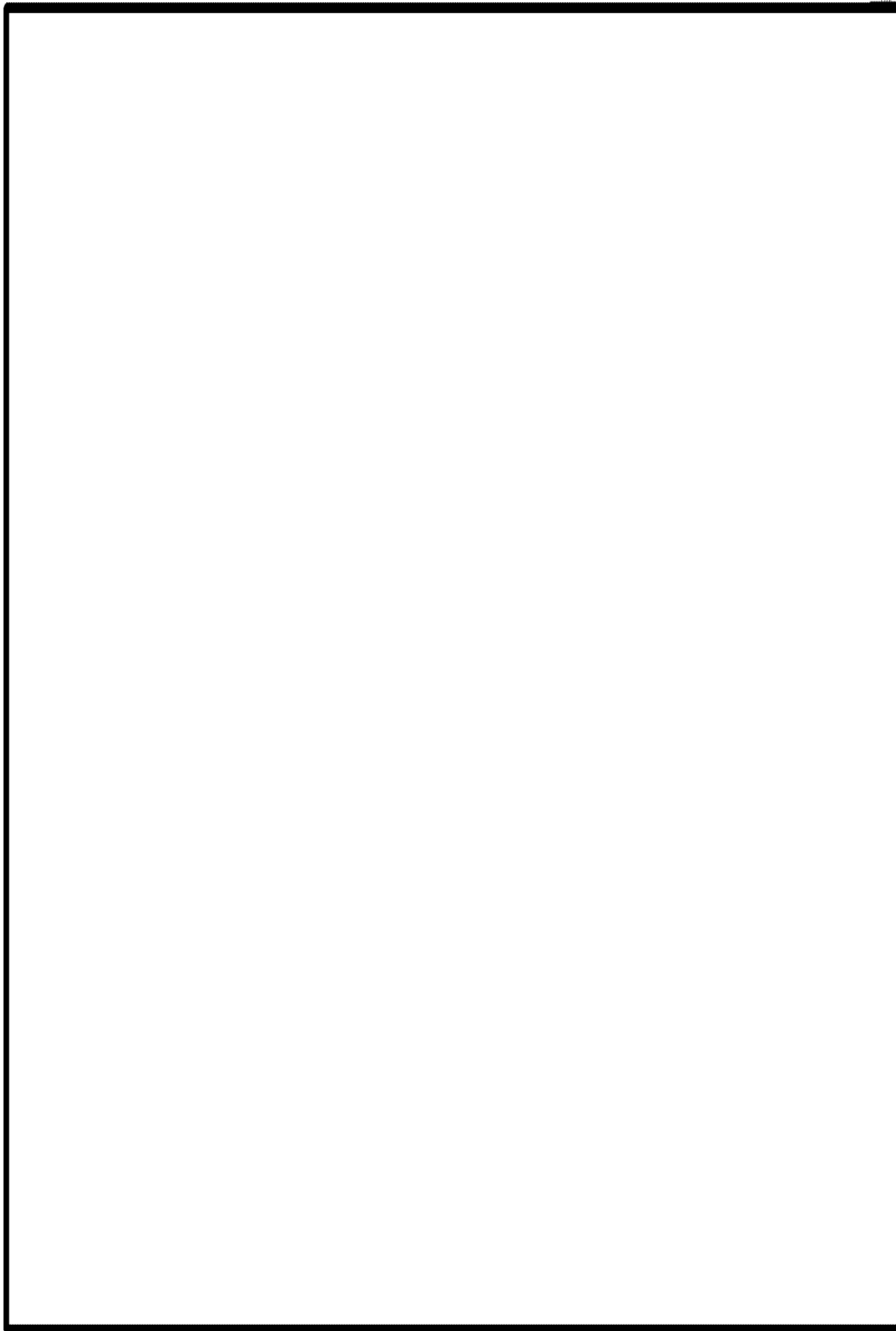
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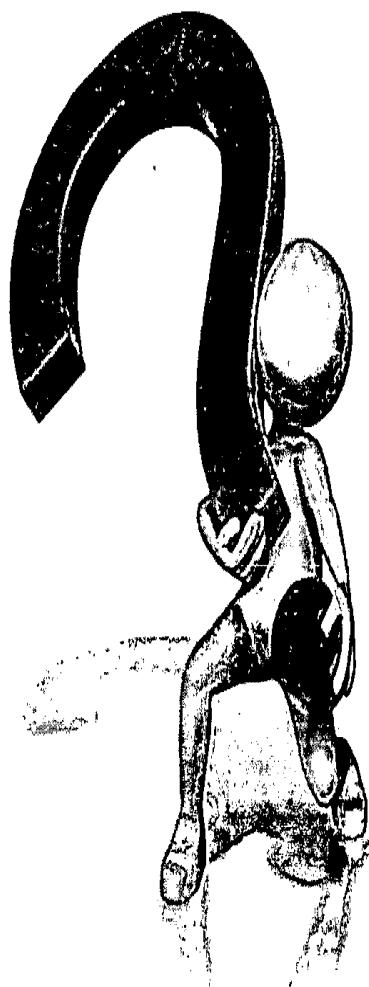
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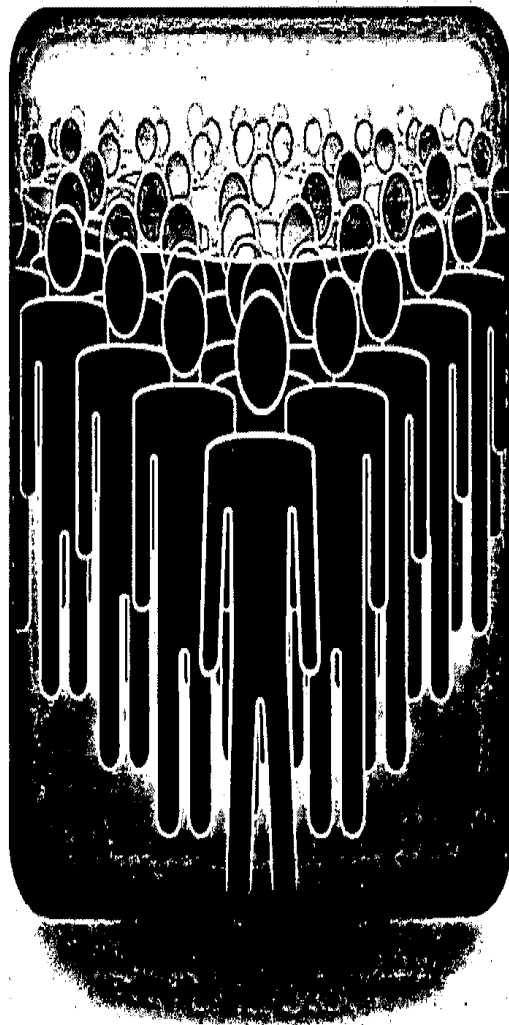
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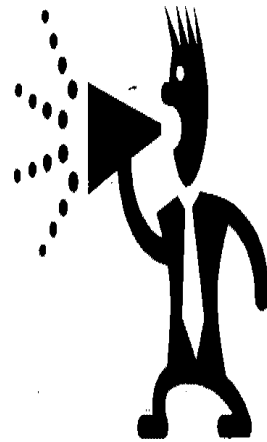
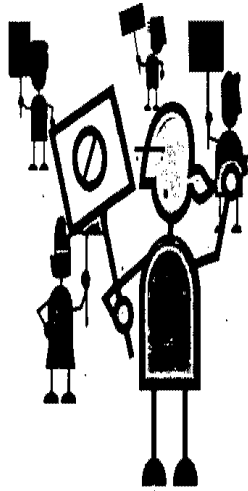
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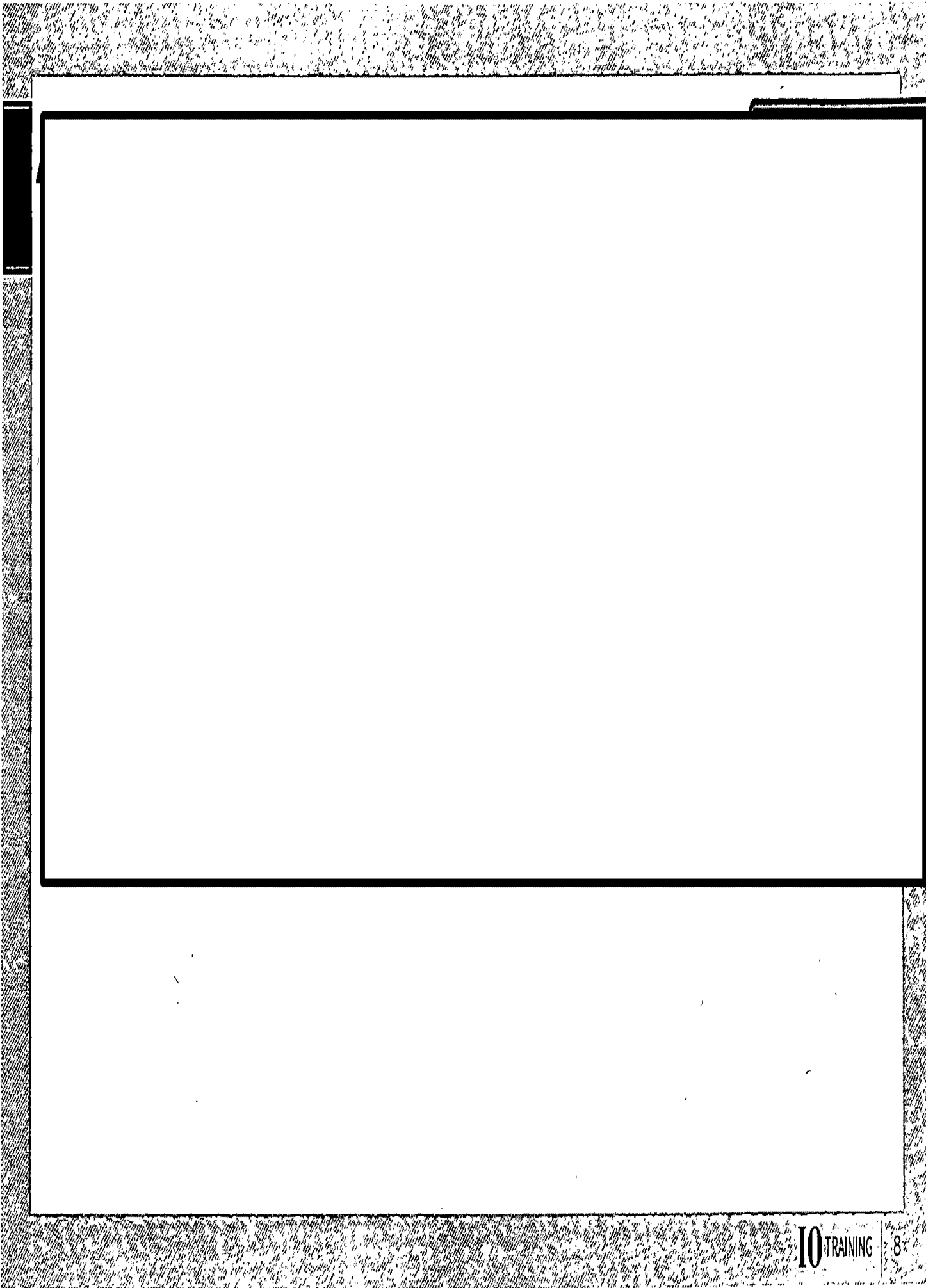
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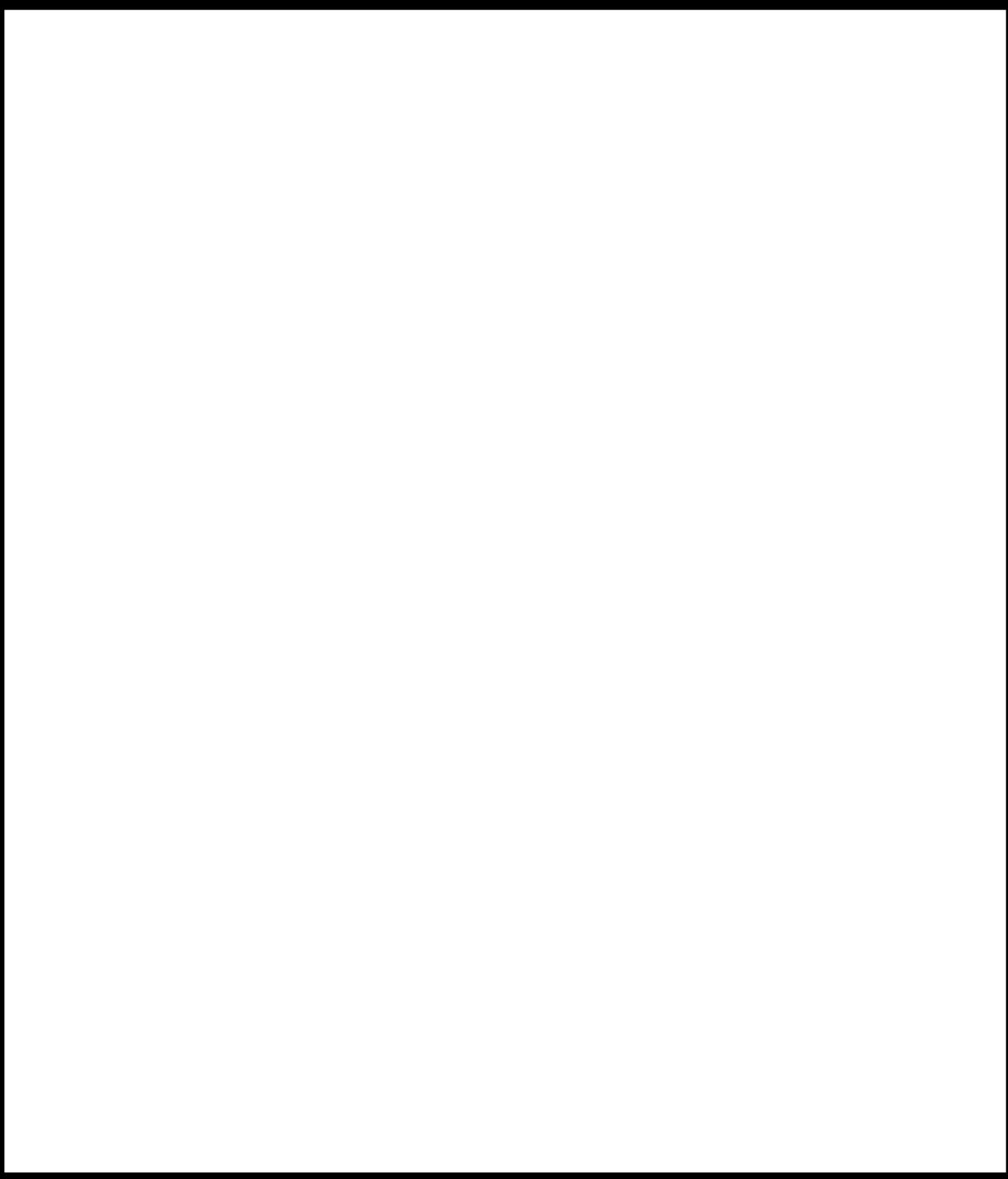


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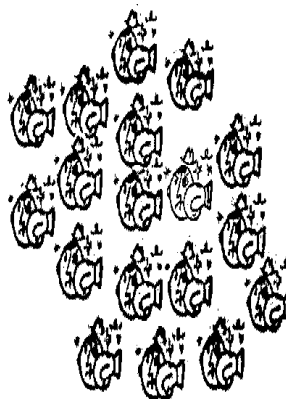
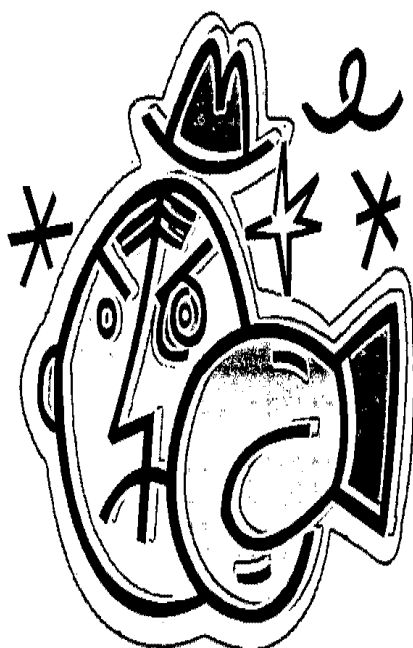
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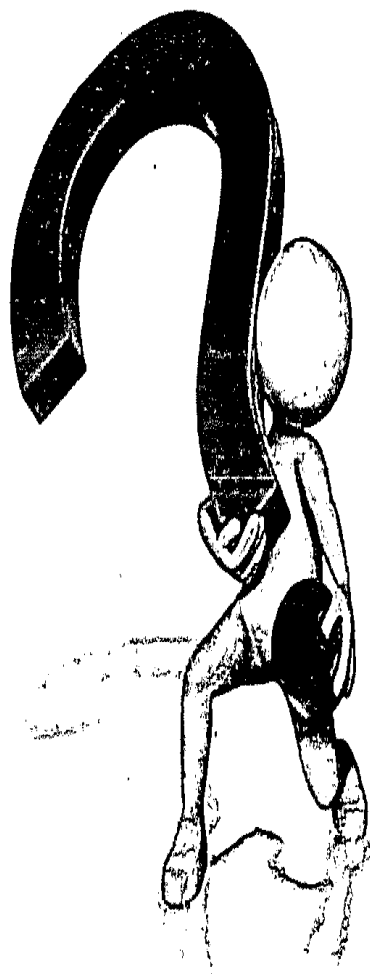
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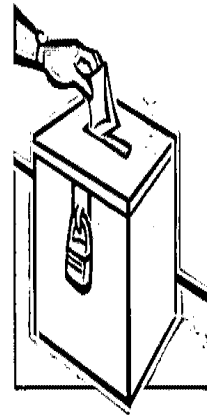
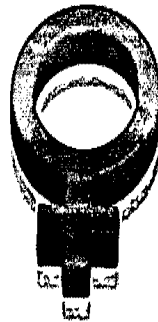
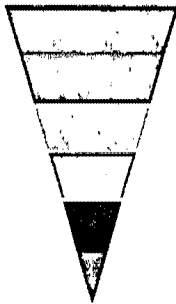
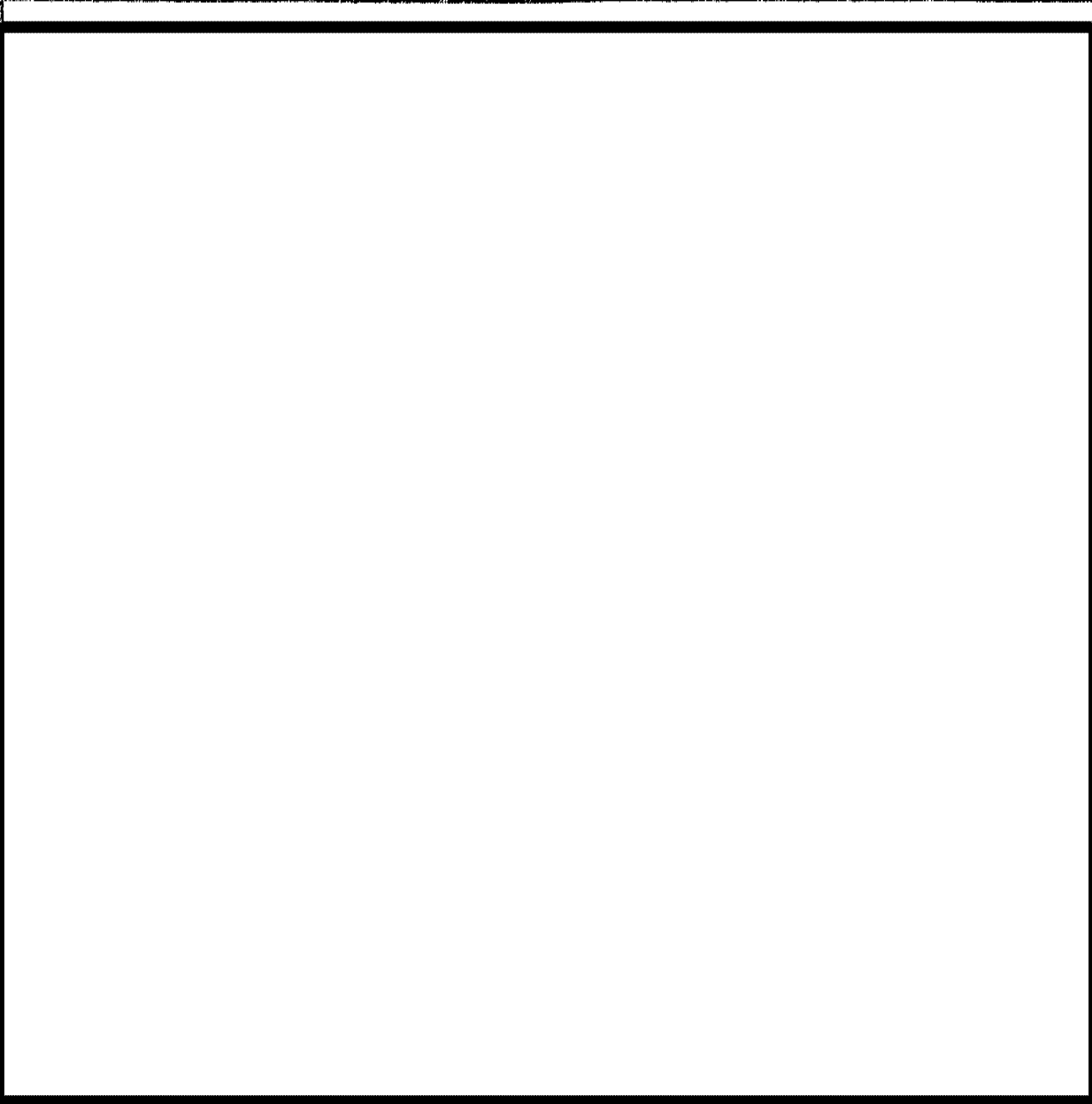


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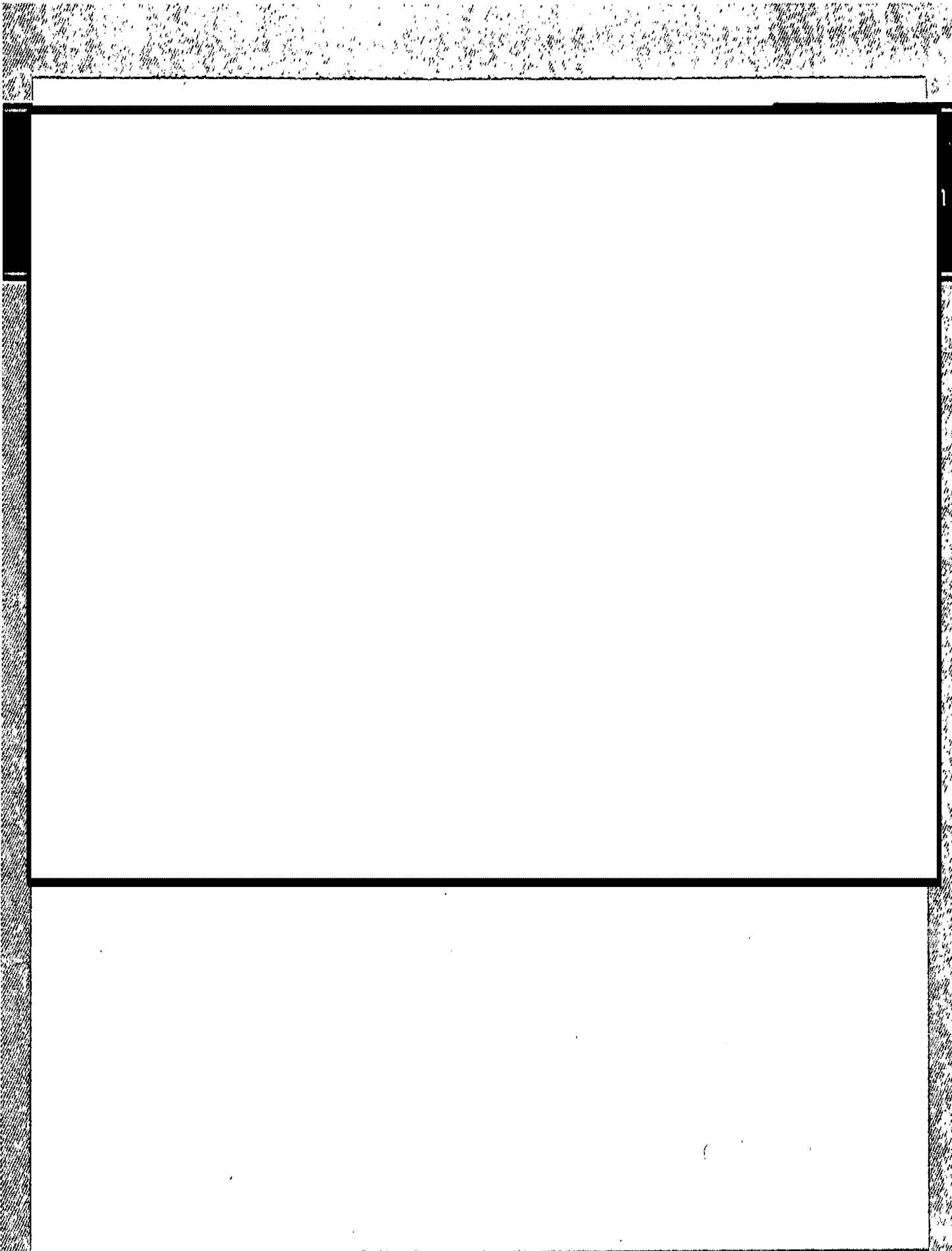


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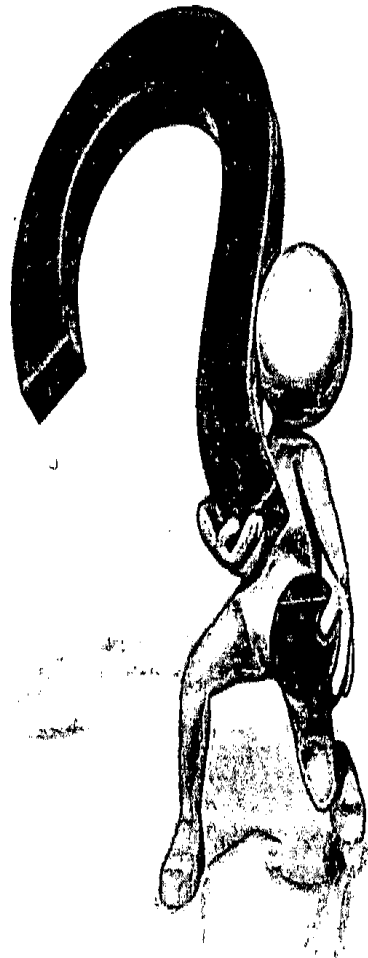
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About this Presentation



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- Ⓢ Date of last revision: August 8, 2014
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Student Interviewing Exercise: Persecution

Handout for the beginning of small group interview

INSTRUCTIONS:

Review the attached fact pattern and begin to formulate a plan for the questions you will ask the applicant regarding past harm. You will have about 15 minutes to ask the applicant questions to:

1. Identify any claimed harm (or lack of harm) experienced.
2. Identify the perpetrator(s)/actor(s)/entity that harmed the applicant, if any.
3. Determine if the claimed harm rises to the level of persecution.

Please Note

For the purposes of this particular exercise, focus on determining whether the harm was serious enough to rise to the level of persecution. Assume the applicant is credible.

Legal Standard(s)

To establish persecution, an applicant must show that the harm that the applicant experienced ... is sufficiently serious to amount to persecution. ... The term "persecution" encompasses more than physical harm or the threat of physical harm so long as the harm inflicted ... rises to the level of persecution. Non-physical harm may include severe economic or psychological harm and the deprivation of liberty or other essentials of life, such as food, housing, and employment... Acts that do not amount to persecution when considered separately can amount to persecution when considered cumulatively.

- RAIO Lesson Plan, *Definition of Persecution and Eligibility Based on Past Persecution*

The Application

The application before you indicates that the applicant is a 22 year-old student, native and citizen of Cameroon, who fled Cameroon about six months ago.

The applicant has been an active member of the UFDC opposition party for several years. As a member of the UFDC, the applicant distributed flyers, attended weekly meetings, helped fundraise for the party, and tried to help sensitize the youth.

The police arrested the applicant twice. The first time was about two years ago at a rally outside the main stadium in Yaoundé. The second time was about a year later while the applicant distributed flyers in a suburb of Yaoundé. During each period of detention, the police interrogated the applicant about the applicant's activities. The first arrest resulted in a detention that lasted about three days. The second time the applicant was arrested the applicant was detained for about one week before escaping.

After escaping, the applicant went into hiding and fled Cameroon about three months later.

The Supporting Documentation

The applicant submitted the following documents in support of the application:

- A Cameroonian passport.
- A membership card from the Yaoundé branch of the UFDC.
- A U.S. State Department Human Rights Report that indicates that the Cameroonian government jails opposition party members for their activism and that the police arrested dozens of protesters at a rally in Yaoundé two years ago.

Student Decision Making Exercise: Persecution

Writing exercise to be handed out after the small group interview

INSTRUCTIONS:

Read through the applicant's information below and complete the questions. This was the information given to the person role-playing the applicant. The information should be similar to what your group elicited from the applicant during the interview.

BIOGRAPHIC INFORMATION

You are a 22 year-old (male or female, you choose) student from Cameroon.

MEMBERSHIP IN THE UFDC (L'UNION DES FORCES DEMOCRATIQUES DU CAMEROUN) AND ACTIVITIES

You joined the UFDC because a cute classmate in college invited you to your first meeting on campus. You became caught up in further activities of the party in part because of your youthful idealism, and in part to impress the classmate. As such, you are not terribly knowledgeable about the structure or platform of the party.

THE ARRESTS

You were arrested by the police on two occasions.

The First Arrest

About two years ago, you were arrested at a rally outside the main stadium in Yaoundé. While you were being arrested, you resisted and tried to run away. The police grabbed you, pushed you to the ground, and treated you roughly as you struggled with them. Others were arrested but you did not know them. They dragged you to a police car and took you to a jail, where you were held in a crowded cell with about 20 others. The cell was approximately 20' x 30'. You were given bread and water twice a day. You were not charged with a crime and were not permitted contact with anyone outside of the jail.

You were interrogated once a day for about 30 minutes. Two armed guards were present during the interrogations; one sitting at a table and one standing next to you. They yelled at you and asked you questions about your activities with the party. They slapped you one or two times in the face with an open palm during each interrogation. They did not physically harm you in any other way. After three days they released you with a warning to cease your activities.

You were sufficiently scared to stop your activities for a few months. But after a while you decided it was safe to attend meetings again.

The Second Arrest

About a year after your first arrest, you were passing out flyers in a suburb of Yaounde. The vice-president of your student chapter at school had given you about 200 flyers at a meeting the previous week. You don't really recall what the flyers said exactly, but it was something about how change is necessary and that corruption must be stopped. Two uniformed officers began questioning you and placed you under arrest. You did not resist, and they did not physically harm you.

During the second period of detention, you were placed in a smaller cell with about four or five others; you didn't know them. Again you were given bread and water twice a day. You were not officially charged and you were not permitted to contact anyone outside the jail.

You were taken for interrogation twice in the same type of room with the same amount of guards. The interrogating officers knew who you were and became increasingly agitated with you. The questions were much more pointed about the people you worked with and what the plans of the party were. They asked you for and you gave them the names of the local leaders of the student chapter, but beyond that you were able to tell them little about the party's plans and activities.

The Escape

After about a week, a uniformed guard came to your cell in the middle of the night and woke you. He led you through a series of corridors. He opened the door, and there was a car waiting for you. Your uncle, a wealthy and well-connected businessman, had arranged for your escape. For the next three months, you stayed in about three or four different locations until you were able to leave Cameroon. You think your uncle arranged for your passport, visa, and flight.

Exercise:

Please answer the following questions using the information provided as well as the information elicited in the interview:

1. What harm, if any, did the applicant suffer?
2. Did the harm suffered in any single incident rise to the level of persecution? – explain your answer with reference to what evidence establishes the facts and how those facts relate to the severity of harm requirement.
3. Do all the incidents, taken together, rise to the level of persecution? – explain your answer with reference to what evidence establishes the facts and how those facts relate to the severity of harm requirement.
4. What is the significance of the fact that the police were the agents of harm?

Name:

Group Color:

Persecution Small Group Writing Exercise

Please answer the following four questions using the information provided as well as the information elicited in the interview.

When you are finished, please upload this exercise to your student dropbox on the ECN using the naming convention: **Last Name, First Name_Persecution Sm Grp**

1. What harm, if any, did the applicant suffer?
2. Did the harm suffered in any single incident rise to the level of persecution? – explain your answer with reference to what evidence establishes the facts and how those facts relate to the severity of harm requirement.
3. Do all the incidents, taken together, rise to the level of persecution? – explain your answer with reference to what evidence establishes the facts and how those facts relate to the severity of harm requirement.
4. What is the significance of the fact that the police were the agents of harm?

Egyptian Coptic Christian

The applicant indicated that he is a 71-year-old male native and citizen of Egypt. The applicant's parents and grandparents were also Coptic Christians. He is identifiable in Egyptian society as a Christian because his religion is listed on his national identification card and birth and marriage certificates; by his gold wedding band (the wedding bands of married Islamic men are silver); through his association with his wife who is also a Christian and does not wear a veil; and by his paternal surname. The applicant and his family were the only Christian residents in their 13-unit apartment building. His Muslim neighbors called him infidel, left trash at his door, threw dirty water on his laundry, encouraged their children to throw rocks at him, and marked a black x on the wall near his door, a known signifier to Islamic extremists that a Christian resides there. The applicant was also warned by Muslim neighbors that if he did not leave the neighborhood they would burn his house down. In late 2014, on four occasions while parked near his home, the tires of his car were slashed and the body of the car was scratched. Although he does not know the identity of the perpetrators, he believes them to be Islamic extremists who targeted his car because there was a cross hanging from the rearview mirror, and because in his neighborhood it is well known he is a Christian and that this was his car. After the third incident he removed the cross because he feared extremists would place a bomb under his car. He specifically feared this because once in 2014 he was attending church and the car of a church member that was parked on the street behind the church exploded. No one was injured. When the applicant reported the repeated damage of his vehicle to police and told them he believed Islamic extremists were to blame, the police told him they have more important things than him to worry about.

In April 2015, on his way home from shopping, the applicant was attacked by a Muslim extremist, a 17-year-old male who lived near him. His attacker said to him, "the infidel has arrived, you don't know anything about God," and punched him in the face. The applicant did not report the attack to the police because he believes the police fear the extremists and would not help him, as they had failed to help him when he sought police help when his car was vandalized.

DISCUSSION:

1. Does the harm experienced by the applicant constitute persecution?
2. Was the harm suffered by the applicant on account of a protected ground in the refugee definition, and if so, which one (s)?
3. What facts support your conclusion?
4. What additional information, if any, would help evaluate this claim?

Student Interviewing Exercise: Nexus

Handout for the beginning of small group interview

Instructions

Review the attached fact pattern and begin to formulate a plan for the questions you will ask the applicant regarding nexus to a protected ground. You will have about 15 minutes to ask the applicant questions to:

1. Identify whether a protected ground is at issue in this case.
2. Determine whether the harm inflicted on the applicant was on account of a protected ground.

Please Note

For the purposes of this particular exercise, focus on determining whether the harm the applicant suffered and the harm he or she fears was inflicted on any of the five protected grounds. Assume the applicant is credible. Your questions and analysis must be based solely on the testimony elicited during today's session.

Relevant Legal Standard(s)

The persecution the applicant suffered in the past, or fears in the future, must be “on account of” at least one of the five protected grounds. This means the applicant must establish that the persecutor was, or will be, motivated to target the applicant because of his or her race, religion, nationality, membership in a particular social group, or political opinion. The persecutor may be motivated to target the applicant because the applicant actually possesses a protected belief or characteristic, or because the persecutor wrongly believes that the applicant possesses a protected belief or characteristic.

- RAIO Lesson Plan, *Nexus and the Five Protected Grounds*

The Application

The application before you indicates that the applicant is a 33-year-old native and citizen of Guatemala who left Guatemala in 2013.

The applicant is married and has two daughters. He or she lived in the United States from 2006 to 2011. After returning to Guatemala, the applicant operated a corner store.

According to the application, two armed, masked gang members attacked the applicant at home on December 11, 2012. The applicant was beaten and threatened with death. The applicant was also robbed of 200 *quetzales*.

The applicant later found out that his or her young niece was shot and killed at her home on the same day. He or she fled Guatemala two months later.

The Supporting Documentation

The applicant submitted the following documents in support of his or her application:

- A Guatemalan national ID card.
- A death certificate indicating that an 18-year-old woman who shares one of the applicant's surnames died from a gunshot wound in Santa Rosa de Lima, Guatemala on December 11, 2012.
- A U.S. State Department Human Rights Report that indicates that there is a high level of violent crime in Guatemala, often attributed to organized criminal gangs, and that journalists, trade unionists, members of indigenous groups, and environmental activists are frequently targeted.

Student Decision Making Exercise: Nexus

Writing exercise to be handed out after the small group interview

INSTRUCTIONS:

Read through the applicant's information below and complete the questions. This was the information given to the person role-playing the applicant. The information should be similar to what your group elicited from the applicant during the interview.

BIOGRAPHIC INFORMATION

You are a thirty-three-year-old (male or female, you choose) native and citizen of Guatemala. You are ethnically Ladino, a practicing Catholic, and you speak only Spanish. You are married, and you have two daughters: a twelve-year-old and a ten-year-old. You and your spouse came to the United States for work in 2006, leaving your children in Guatemala with your parents. In 2011, you returned to your hometown of Santa Rosa de Lima, Guatemala, where you operated a small corner store.

YOUR INVOLVEMENT WITH THE ANTI-MINING COMMITTEE

You returned to Guatemala because your mother told you that your younger daughter was frequently ill with gastrointestinal problems, and you wanted to be home to help take care of her. After you arrived, you began hearing that many children in your neighborhood were experiencing health problems because the water supply had been contaminated by a new silver mine, operated by a Canadian company and subsidized by the national and local governments, in the nearby town of San Rafael las Flores.

You heard that many people in nearby communities had begun protesting the mining company's activities, and you started talking to your neighbors about ways you might be able to get involved. In May 2012, you and five of your neighbors (including your seventeen-year-old niece and the junior priest at your church) formed a committee to oppose the mining projects in your area.

The committee had regular meetings at members' houses, encouraged other members of the community to support it, and participated in several protests in San Rafael and the departmental capital, Cuilapa, against the mining company and the local government's support of its activities. On one occasion in September 2012, you and about thirty other people blocked a road, and the police forced you to move by threatening you with arrest. Otherwise, though, you had no problems during the protests themselves. Your niece was especially active, making connections with national environmentalist youth organizations and encouraging them to support you.

THE ATTACK

On the evening of December 11, 2012, before a scheduled meeting of your committee, you were attacked at your home by two armed, masked men. They rode up to your house on motorcycles and kicked in your door. One of the men pointed his gun at you and threatened to shoot you if you resisted or tried to run away, and the other one punched you in the face, knocked you to the ground, and began kicking you. They demanded that you tell them the names of all the people in your committee and that you stop causing trouble. You agreed to their demands, but you were very afraid that you would be killed. The attack lasted for ten minutes, and the attackers fled when three of the other committee members arrived at your house to pick you up. They took your wallet containing 200 quetzales.

Although the attackers did not identify themselves and you do not know who they were, you believe they were connected to the mining company or its supporters. You have heard rumors that some of the security guards employed by the company have connections with violent criminal gangs.

You later found out that your niece had been shot and killed on the same evening. A neighbor had witnessed two masked men on motorcycles riding up to her house, and you believe that these were probably the same people who attacked you.

THE AFTERMATH

Although you were not seriously injured in the attack, your face was bruised, and you went to the doctor because you found it very painful to open and close your mouth. The doctor told you that the nerves in your face had been damaged and prescribed you painkillers. Now, over a year later, you continue to experience some jaw pain.

Your sister reported both attacks to the police, but as far as you know, they did not investigate either attack. No one was ever arrested for your niece's murder, and you believe that the police did not do anything both because they are generally ineffective and because the local government supports the mining projects.

You stopped participating in the committee and the protests against the mining company after the attack because you were afraid of what would happen to you. Two months later, your priest received a written death threat from an anonymous source. You became even more afraid, and you decided to leave Guatemala on February 27, 2013.

Exercise:

Please answer the following questions using the information provided above and the information you elicited during your interview:

1. Which of the five protected grounds is **most** likely to be the basis of this applicant's claim for asylum or refugee status? What, specifically, are the protected characteristics or beliefs?
2. Does the applicant actually possess the protected characteristic identified above? Explain your answer with reference to the facts established by the evidence in this scenario.
3. Is there a nexus between the harm the applicant suffered and the protected characteristic (actual or imputed) you have identified? Explain your answer with reference to the evidence, both direct and circumstantial, that supports your conclusion regarding the claimed persecutor's motive.
4. Is it possible that the claimed persecutor in this case was motivated to harm the applicant by factors other than the protected ground you have identified? If so, what factors? Explain your answer with reference to the evidence that would support finding a different or additional motive and/or additional evidence that you would want to gather to make a determination.

Practical Exercise #1

The applicant is a 28-year-old male who was born and raised in Iran. He is married and has two very young children. He is Baha'i as is his whole family. As a result of government prohibitions on the practice of his faith, he has been unable to openly practice his religion since birth. Because religious instruction in the Baha'i faith is not allowed, the applicant has only been able to receive religious instructions from his parents. He believes that if he stays in Iran he will never be able to become a true practitioner of his religion.

The applicant testified that his inability to openly practice his religion is a source of significant emotional distress for him because he does not have a community of believers with whom to share his beliefs and from whom he can learn. He feels like a "fake" because he has not had the courage to openly practice his religion for fear of being arrested, tortured, or executed. He also cannot share his religion with others and teach them about his religion as it is forbidden to do so. The applicant is particularly concerned that his two children, aged 3 and 5 years, will never be able to have religious training except for the imperfect religious training that he can give them. He wants his children to grow up as Baha'i and have a much better knowledge of the Baha'i religion than he has; most importantly, he wants them to grow up openly practicing their religion.

Questions:

1. Name some of the religious freedom violations this applicant has encountered.
2. Has the applicant suffered past persecution? Why? Why not?
3. Does the applicant have a WFF of future persecution?

Practical Exercise

The applicant, a 55-year-old male from China, testified that he is a practicing Buddhist; he never had any difficulty practicing his religion except that the nearest temple was quite far from his home. He decided that he wanted to build a temple in his neighborhood. He had never had difficulties with the government until he started building the temple. He applied for a permit to build the temple in May 2004, as required for all new construction, but learned that he could not get the permit because there was a year's delay in issuing building permits. He decided to proceed with construction without a permit because a temple was needed in the neighborhood. Nearly four weeks after he started construction, authorities from the New Building Construction Bureau showed up at the work site and told him that he had to cease construction immediately and explained why having a building permit was important. At first he thought that he would comply with the order but changed his mind as he thought that religious buildings should not be subjected to the permit requirement. He therefore decided to proceed with the construction. When government officials learned that he was continuing with the construction, he was arrested at the worksite and taken to the local police department. He was asked why he was persisting in building without a permit. He told them that it was important for Buddhists in his area to have a new temple, that the permit requirement should not apply to the building of such an important building as a temple, and that the wait for the permit was just too long. He told the police officers questioning him that he would continue building regardless of what he was told, whereupon he was slapped and thrown to the floor. The officers told him that he would "find out what it meant not to follow an official directive" and punched him on his arms and legs. After he was struck, he was asked once again if he was going to persist in building and he told them that he would think about it. The police officers lost patience with him and began to strike him with a strap and had him kneel on the ground for several hours while intermittently beating him or striking him with the strap. The applicant was detained for two weeks until he agreed to cease building the temple. He believes that the reason why he was arrested was because he did not have a permit.

Country conditions for China show that Buddhism is one of five religions recognized by the government, and that Buddhists who are not Tibetan Buddhists are largely able to practice their religion without government interference. The applicant is not a Tibetan Buddhist.

Questions:

1. Has the applicant suffered harm on account of religion?
2. How do you analyze religious persecution claims involving laws of general applicability?
3. Would your analysis change if the applicant testified that the police officers told him that religious believers are insolent, and always try to get away with breaking the law?
4. What appears to be the primary motivation for harm?

Practical Exercise

Applicant is a 21 year-old native and citizen of Morocco. She was schooled for 3 years and knows how to write her name, but she is otherwise illiterate.

The applicant claims that she was a victim of her father's escalating physical and emotional abuse, which arose primarily out of differences between her and her father, i.e., the father's beliefs, particularly pertaining to women, and her more modern views. Her father beat her at least once a week using his hands, his feet, or a belt. She notes that her father did not mistreat her two brothers.

On one occasion, when she was 14 years old, the applicant wore a short skirt outside her home. When she returned home, her father verbally reprimanded her, heated a straight razor, and burned those portions of her thighs that had been exposed while she was wearing the skirt. He told her that he was taking this action to scar her thighs so that, in the future, she would not be tempted to wear what he considered improper attire. The applicant stated that she and her mother were afraid to go to the hospital after the incident, so her mother went to the local pharmacy and procured an ointment to treat the burns.

On another occasion, the applicant went to a pay phone to make a call. On her way to the telephone, a young man stopped her to ask for directions and they engaged in a short conversation. Upon observing this interchange, her father came into the street, shouted at her and the individual with whom she was conversing, and beat both of them. He used a ring he was wearing to beat the applicant in the face, particularly her forehead, the area between her eyebrows, and the bridge and top of her nose. She testified that she bled from the beating. Thereafter, the applicant's father compelled her to remain in the house in order to prevent subsequent casual conversations with strangers. She was forbidden to attend school and was prohibited from other activities physically located outside her home. The applicant stated that her father believes that "a girl should stay at home and should be covered or veiled all the time."

One evening in 1997 the applicant sneaked out of the house to visit some girl friends. That night while she was asleep, her father entered her bedroom and asked whether she had gone out that day. Knowing that he had forbidden her to leave the house, the respondent lied about her outing. Her father showed her that, unbeknownst to her, he had been marking the soles of her shoes with chalk and was thereby monitoring her activities. He said that he knew she had left the house and had lied about it. He then slapped, punched, and kicked her and pulled her hair.

The applicant stated that she did not consider requesting police protection or seeking any other kind of governmental intervention because her mother's previous efforts in that regard had proven unproductive. According to the applicant, she twice attempted to commit suicide in Morocco, and on two other occasions she attempted to run away in an

effort to escape her circumstances. After at least one of the suicide attempts, she had her stomach pumped in a hospital and was unconscious for 3 days.

The report of the United States Department of State that is contained in the record confirms that "few women report abuse to authorities" because the judicial procedure is skewed against them, as even medical documentation is considered insufficient evidence of physical abuse, and women who do not prevail in court are returned to the abusive home.

Questions:

1. Did the applicant's mistreatment rise to the level of persecution?
2. Can mistreatment by a family member provide a basis for refugee status?
3. Would your analysis change if you were told the father was Muslim?
4. Can mistreatment by a person with the same protected characteristic provide a basis for refugee status?
5. Is there a nexus between the harm and a protected ground?

AO: _____

Name of Applicant:

Name of Interpreter:

Date: October 2009

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Preparer

Did an attorney help you prepare your application?

No.

Did someone help you?

Yes.

Who helped you?

Who is this person?

It's a sister at my church.

Did someone read the application to you in your language?

Yes.

When you reviewed your application, was everything correct and true?

No.

Which parts of the application are incorrect?

She failed to fill out the fact that my wife was persecuted in our country.

Are there any other parts of the application that are incorrect?

No.

Is this the English version of your written statement?

Did you review the English version of your written statement?

When you reviewed your written statement, was everything correct and true?

Reason(s) for Claim

Does your wife live at this apartment also?

Yes.

When did you start living at this apartment?

Since June 2.

Of which year?

This year.

When did your wife start living at this apartment?
Since this year, June 2.

You started living at Broad Street together?
Yes.

(During I-589 review)
Where did you live after 10/2008? I
lived at Broad Street

Earlier you told me that you started living on Broad Street in June 2009?
No, that's my wife's arrival date. Since September 1, 2008, I started living on Broad
Street

Earlier you told me that you started living on Broad Street in June 2009. Then you told me
that you started living on Broad Street on September 1, 2008. Then you told me that you
lived at the address on Main Street until October 2008. Can you explain?
I lived at the Main Street address until October 31, 2008. Then, I moved and started to live
at Broad Street starting September 1, 2008.

Until when did you live on Main Street? 2008
August 31.

Did you tell me earlier that you lived on Main Street until October 2008?
I remember I stayed on Main Street until August 2008 and then I moved to the Broad
Street address until September 2008.

Why did you tell me earlier that you started living on Broad Street in June 2009?
My understanding was that June 2, was the date my wife came to the states. As I
remember the question since when my wife and I started living together.

Can you explain to me why you said June 2, when I asked when you started living at the
apartment on Broad Street?
Could you ask the question again one more time?

When I asked you when you started living at the apartment you said June 2. Can you
explain why you said you started living there on June 2, 2009 when you claim that you
started living there August 2008?
As I recall, the question was since when my wife and I started living together at this
address. I didn't know the question was for me to start living at that address. (strange)

You stated that you left China in October 2007, is this correct?

Yes.

Why did you leave China in October 2007? I came to the states for research work.

Were there any other reasons why you left China?

No.

And you filed for asylum on September 11, 2009, is this correct?

Yes.

Why did you wait until September 2009 to file your asylum application?

Because I was afraid to return to China to get persecuted there.

Why did you wait until September 2009 to file your asylum application?

Because before, I did not wish to stay in the United States, I wanted to go back to China.

Why do you believe that you will be harmed if you returned to China?

Because I joined a Christian church in the United States and this church is considered a cult or evil religion in China.

When did you join this church?

May 2008.

May 2008 was the first time you attended this church?

Yes.

How often did you attend this church since May 2008? I attended the church regularly every Sunday.

When did you start realizing that you would be harmed in China if you returned because of your participation in this church?

Approximately in February or March 2009.

How did you realize that you might be harmed if you returned to China?

Because this year, I started to search the locations of my church in China so that I can attend the church there.

How did you realize that you might be harmed if you returned to China?

Because I found on the internet that some of the brothers and sisters of my church in China were arrested.

Approximately when did you find this news on the internet?
This year, month of February.

Where on the internet did you find this news?
Chinaaid.org. Boxun.com

When had you planned to return to China?
Since I came to the United States, I planned to go back to China.

Approximately when did you plan to go back to China? If
February this year, I planned to go back to China.

Why did you plan to return February of this year?
My original plan was to stay here for two years and then go back to China. By February of this year, my contract was almost terminated. At that time, I planned to go back to China.

What do you mean that your contract was almost terminated?
My contract was until September of this year.

Why did you plan to return to China in February of this year if your contract was not terminated until September?
Oh, I need to go back six months prior to the termination of my contract to go back to my old school or university to discuss the future plan.

Why did you have to go back six months prior to the termination of your contract?
I needed to discuss with the university about my future work there with them. I cannot just go back and all of a sudden get back to my work there.

Was it agreed in the contract that you had to go back to China six months prior to the termination?
I think you, interpreter, did not translate clearly my thoughts. Can I repeat what I just said?

Yes.
I needed to go back six months prior to the termination so that I could discuss with my original university about my work in the future.

If you returned to China six months prior, did you plan on returning to the United States? It all depends. I might come back. I might not come back.

So it was important for you to return six months prior to termination of your contract?

I only planned only to get back to the original university so we could both plan for my future work. It's not that I wanted to go back. I must go back six months prior so I could plan ahead of time, or make plans for the next semester.

Did you ever go back to China?

No.

What about the articles that you read on the internet made you afraid to return to China? The most frightening was that in the year 2008, there were four hundred students arrested in Beijing and Hwangjo at university campus. I worked at university environment and I was so afraid.

Why were the students arrested at these universities?

Because these students were the sisters and brothers of my church.

What do you mean "of your church"?

My church is called local church and these students were all the sisters and brothers of local church.

What is the name of your church?

It's called Local Church.

Local Church is the name of the church?

Yes. In the United States, it's called Local Church.

Does it have the same name in China?

The discriminating name by the Chinese government is Shouters.

What is the official name of the church in China?

The official name of our church there is also Local Church.

Can you tell me more about the Shouters? - How it is this church in China and the United States?

In the United States, there are a lot of local churches. The local church was established in 1930 in China. The founders were Ni Twa Shung and Li Chang Sho. By 1949, when China was liberated and this church was named anti-government church. Then Ni Twa Shung was arrested and put in jail. He died in jail in the 1970s. Li Chang Sho came to the United States through Hong Kong and Taiwan.

This church was considered anti-government since 1949?

Since 1949, the church was considered anti-government and 1980s, it was considered a cult.

Is the church well-known in China?

Whether it is well-known, I don't know. I just found that there were a lot of arrests made by my brothers and sisters.

If this church was considered anti-government since 1949, were you aware that the government opposed this church at the time you started participating?

I didn't know that when I joined the church. However, in February this year, I started to know.

When you joined the church in May 2008, no one told you about the church's reputation in China?

Nobody told me anything. The brothers and sisters are mostly from Taiwan and Hong Kong but very few are from mainland China.

Wouldn't members of the church know that the church was considered a cult in China?

Could you repeat your question please?

If you were able to know that shouters were being arrested and harmed in China through the internet, isn't this public knowledge?

Before I joined this church, during the first period, I was approached by a person who was named Tan. He was a preacher. I thought all Christians religion was the same, one church.

What is the difference between Shouters and other Christians?

The Bible used at our church was edited by Ni and Li, and it's called additional recovery version. When we pray, we pray out loud calling our Lord Jesus Christ. And this calling out loud way of praying makes me feel good because I feel the Holy Spirit is entering my body and makes me very excited.

Are there any other differences between Shouters and other Christians?

I hadn't been to any other churches so I don't know the facts about other churches. I only know these two main differences.

I am aware that even certain Christians are being arrested and harmed in China. You weren't aware of the Shouters' reputation in China?

When I was in China, I had never approached any church. And I thought the Chinese government did not persecute churches.

Did you ever tell your church members in the United States that you planned to return to China?

When I first joined the church, I very seldom talked about myself. I was approached by various people there to preach and give me the gospel.

How many members here in the United States have?
Altogether, there are over 300 people.

But you attended this church every week?

At the beginning, it's not every week. Sometimes, weekly and sometimes once every other week. But after I was baptized, I went there almost every week.

Earlier when I asked you how often you attended the church, you told me you attended regularly every Sunday. Why are you telling me now that you went there almost every week?

After I was awakened, then I went to church every Sunday regularly.

But you also told me that after you went there almost every week even after you were baptized. Can you explain?

Without specific reason, I will go every week. Unless I was so sick that I could get up, then I did go. (strange)

Did you meet any people while you attended the church?

Yes.

Did you make any good friends while you attended the church?

There are a lot of good friends.

Did you tell any of your church friends at any time that you planned to return to China?

Yes.

When did you tell your friends that you planned on returning to China?

January of this year.

How did they respond?

They told me that you go back to China, you have to be careful.

Why did they say that you had to be careful?

They said that this church in China is not registered. It's kind of a house church.

What does it mean if the church is not registered?

The registration process is needed for the church. Churches need to do this with the Chinese government.

If the church is not registered with the Chinese government, what happens?

If it's not registered, it's considered not recognized. Then, sometimes the gathering will be considered illegal.

Were you aware in January 2009 that the church was not registered or considered illegal in China?

I did not quite believe at that time.

What do you mean that you did not believe?

Because the church is good and the people at the church are good and it should have been recognized by the government.

But the church members here told you to be careful if you returned to China, is this correct?

Yes.

When they told you to be careful in January, were you afraid to return to China at that time?

No, I wasn't afraid.

Why weren't you afraid?

Because I thought the church was good and the Chinese government shouldn't be bad to this church, so I wasn't afraid at that time.

If people were telling you to be careful, why weren't you afraid?

Because I felt that the Chinese government did recognize Christian religion.

Why did you feel that the Chinese government recognized Christian religion?

Because according to the Constitution, the religious belief is free. It has freedom.

When your church members told you to be careful in January, did you do any research then?

Not that time, but since February I started to search the internet.

In February, was that when you started to become afraid of returning to China?

At first, I was halfway believe and halfway disbelieve.

Why didn't you completely believe if you read it on the news?

I didn't see many articles Christians- the churches being persecuted there.

When did you become afraid of returning to China?

When I see more and more articles, I started to become more and more concerned or afraid.

At what point did you realize that you were afraid of returning to China?

Around April of this year.

How many articles did you read regarding your local church?

I found that there are over 20 articles about Shouters being persecuted. I also ran into an article between Ye Shao Wen and a US ambassador. After I read this article, I became a firm believer that my church was being persecuted by the government in China.

You stated that you had planned to return to China in February 2009, is this correct? At the beginning of my trip to the states I planned to stay 2 years. In February 2009, I planned to prepare for future work. This February, I did preparation work, for future work. Only preparation.

You told me earlier that you planned on returning to China in February 2009 to prepare for future work in China?

When I came to the States, I planned to stay two years.

But you told me earlier that you had to return to China six months prior in order to prepare for your future work?

I did not plan on returning to China six months prior to my contract termination. I only said that I planned on returning to China. The interpreter misinterpreted my thoughts. My wording. (review)

Were you harmed or threatened in any way in China before you came to the United States in October 2007?

No.

When did you become a Christian?

August 2008.

Why August 2008?

At the beginning, I did not believe.

You stated that you were baptized?

Yes.

When were you baptized?

October 12, 2008.

Why did you wait two months to be baptized?

Even though I became a believer, but still, it's not a hundred percent. Still half doubt and half believe.

What did you doubt at the time?

My education received in China was no God.

How did you come to believe that there was a God?

I read the Holy Bible. There are a lot of things- a lot of things are unexplainable using the no God philosophy approach.

What do you mean?

According to the old belief I received in China, everything was being evolved or developed. However, how come the heaven and earth and all the creatures are so wonderful, I could not figure it out.

As someone who studied biology, biochemistry, science, did you study evolution?

Well, I did believe in evolution. And also I taught evolution in China. However, there are still a lot of things unexplainable and they were based on hypotheses principle only.

Can you describe what problems you had with evolution?

Human beings, according to evolution, evolved from apes. However, there is no proof to that and it was only based on hypothesis. And there is no way to explain that.

As someone who taught and studied evolution, can you give me a more in depth explanation of the problems you had with evolution?

The main problem with evolution is that there are a lot of theories are based on hypothesis, there is no proof or evidence and sometimes it is far from truth than we know. This is the major problem with evolution.

I understand, but can you tell me with more detail what problems you had with evolution?

For instance, according to evolution, the formation of the earth was a huge explosion. This huge explosion is only a hypothesis, there is no proof or evidence at all. Another problem for instance with the creatures or biology, the creatures were originated from water and then later on developed on land base. And then from simple entity to complex entity, however, there are a lot of fossils proving that these creatures are from land only. Not evolved from water type.

Can you give me an example?

On Himalaya Mountain in China, there was a kind of fossil evidencing the origin to be land base not from water.

Can you give me more detail about this fossil?

The discovery of this fossil at this time was a challenge to the theory of evolution.

Anything else?

The entire universe is running in a very systematic way and it couldn't be explained by the theory of evolution. For instance, the movement of the stars must have been made by God, it couldn't have come out of the evolution.

ASSESSMENT TO REFER

NAME: COUNTRY: China DATE:
FILE NUMBER: ASYLUM OFFICER:
LOCATION: REVIEWING SAO:

The applicant indicated that he is a 42-year-old male native and citizen of China who entered the United States at New York, NY on October 18, 2007, and was admitted as a nonimmigrant J-1 exchange visitor with authorization to remain until September 30, 2009.

The applicant fears that he will be harmed by Chinese authorities on account of his Christian religion as a "shouter."

The applicant has filed his asylum application on September 11, 2009, more than one year after he entered the United States. However, the applicant qualifies under an extraordinary circumstance exception: maintaining lawful status. The applicant testified that he worked as a post-doctorate research associate from October 2007 until September 30, 2009. The applicant filed his asylum application on September 11, 2009 while in lawful status, but failed to maintain such status before he appeared at his asylum interview on October 27, 2009. Because the applicant filed his asylum application while he maintained lawful status, he has established an extraordinary circumstance exception that exempts him from the one-year filing deadline. Thus, the applicant is eligible to apply for asylum.

The applicant testified that he became a "shouter" Christian in August 2008, while residing in the United States. The applicant stated he started attending the "Local Church" since May 2008 and continued to attend church meetings every week. The applicant stated that he began to share the gospel with his wife, who remained in China. The applicant testified that on one occasion, he shipped a Bible to his wife in May 2008. The applicant also attempted to share the gospel with his colleagues in China in June 2008. The applicant stated that due to his influence, his wife became a Christian in August 2008. The applicant testified that he was baptized on October 12, 2008. The applicant indicated that his wife was arrested and detained by Chinese government officials in October 2008 while she was reading the Bible and evangelizing to others. However, the applicant did not become aware of her arrest and detention until February 2009. The applicant stated that in February 2009, he began to prepare for his return to China because his employment contract was to expire in September 2009. At this time, the applicant found internet articles that described the arrests of "shouter" Christians by the Chinese government. The applicant testified that in April 2009, he became convinced that he would be arrested and harmed by the Chinese government on account of his Christian religion if he were to return to China. The applicant's wife entered the

United States on June 2, 2009. The applicant and his wife applied for asylum on September 11, 2009. The applicant testified that he was not harmed or threatened by the Chinese government prior to his departure on October 18, 2007.

The applicant's testimony was found not credible for the following reasons:

- His testimony regarding how often he attended the Local Church in the United States was internally inconsistent and lacked sufficient detail. The applicant testified that since May 2008, he attended the Local Church "regularly, every Sunday." However, the applicant subsequently testified that he attended the church "sometimes, weekly and sometimes, once every other week. But after [he] was baptized, [he] went there almost every week." When given an opportunity to explain the inconsistency, the applicant answered, "After I was awakened, then I went to church every Sunday regularly." The applicant's explanation is not reasonable in light of the fact that he testified that he attended church "almost every week" after he was baptized. This inconsistency is relevant for it calls into question whether the applicant attended the Local Church in the United States and is a "shouter" Christian.
- His testimony regarding how he became a Christian lacked sufficient detail. The applicant testified that he became a Christian after he recognized that there were certain problems with the theory of evolution. Although the applicant was able to provide examples of the problems he had observed, he was unable to articulate why he deemed the theory of evolution as insufficient. For example, the applicant indicated that "a kind of fossil [was found] on the Himalaya mountain in China, evidencing the origin to be land base and not from water." When asked to provide a detailed explanation regarding the fossil, the applicant was unable to provide supplemental information and simply stated: "The discovery of this fossil at this time was a challenge to the theory of evolution." The applicant's explanation is not reasonable in light of the fact that the applicant: 1) has taught the theory of evolution as an associate professor at Shanghai University and Shanghai Jiao Tong University in China for approximately ten years; and 2) has a Ph.D. degree in biology. This lack of detail is relevant for it calls into question whether the applicant is a "shouter" Christian.

As the applicant's testimony was not credible in material respects, he has failed to meet his burden of establishing that he is a refugee as required by 8 CFR § 208.13.

For the foregoing reasons, the applicant is not eligible for asylum status in the United States.

Assessment is to refer to the Immigration Judge.

Gender Related Claims: Hypo #2

The applicant indicated that he is a 37-year-old male native and citizen of Bulgaria who entered the United States at Washington DC on April 15, 2011 and was admitted on a B-2 visa valid until April 4, 2012.

The applicant credibly testified that he knew that he felt he was not born with the right gender when he was three years old; the boys didn't want to play with him and the girls also didn't want to play with him because he felt that he was different and he ended up playing by himself. However, applicant didn't fully know he was transgender into he was 25 years old.

Applicant tried to speak to his parents about his identity at the age of 12 but he was mocked and insulted. Applicant wasn't aware of hormone replacement therapy until his mid-twenties but he knew that testosterone was for men and he started abusing steroids to achieve a masculine effect.

Applicant's non-conformance between his identity documents and his gender appearance was the source of various incidents of public humiliation in school, including being called out and mocked in front of an auditorium of law school classmates by the dean. Applicant was also detained by police briefly during a practical law school training exercise at a police station because the police kept insisting he was using his wife's passport, even though the passport said he was single.

In 1993, applicant was dating a woman, Aysehel, who later got romantically involved and married a powerful politician named Ahmed, founder and leader of the Movement for Rights and Freedoms in Bulgaria. Aysehel divorced Ahmed two months after the wedding. In Ahmed's resulting anger, he paid a journalist to write articles about applicant and Aysehel labeling them both as lesbians. Ahmed also phoned applicant and threatened to kill him and that he was capable of kidnapping him to sell him as a prostitute in Western Europe.

Applicant visited the U.S. on business in March 2010 for a weeklong business trip but he did not apply for asylum during this trip because he didn't know asylum was available based on his transgender identity and he didn't attempt to stay in the U.S. because he had ten employees for his graphic/web company and wasn't financially prepared to leave Bulgaria before closing/selling his business.

- 1. *Why has the persecutor targeted the applicant?***
- 2. *Do any of the reasons relate to traits possessed or attributed to the applicant?***
- 3. *Do those traits form a PSG?***

FACT PATTERN PSG - 1

The applicant is a Tanzanian national who suffers from severe bi-polar disorder. He suffered a mental breakdown when his mother died while he was attending the University of Dar es Salaam. He was forced to leave school as a result. During his manic episodes, the applicant believes he has super-human powers. He is visibly erratic and often walks into busy intersections to direct traffic because he believes he has the ability to prevent traffic accidents. In 2003, Tanzanian officials who witnessed his erratic behavior took him to a hospital in Dar es Salaam. The admission to this hospital was the beginning of the applicant's many years of violent abuse and torture in Tanzanian asylums and prisons. His hands and feet were tied by nurses for five to seven hours a day four days per week. As the applicant's condition worsened, his treatment became more inhumane. He was bound and beaten with leather straps for eight hours per day five to six days per week. In prison, guards beat him with a club on his elbows and feet four days per week. The beatings were so severe he could not walk. In prison he was treated worse than the other prisoners, but similar to other mentally ill prisoners.

In Tanzanian culture, severe mental illness with visibly erratic behavior is seen as a manifestation of demonic possession. Tanzanians label people with visibly severe mental illness as "mwenda wazimu," which means demon-possessed. An expert witness who testified in the applicant's case stated that even medical professionals in Tanzania believe that severe mental illness accompanied by erratic behavior is caused by demonic possession. The nurses and prison guards who violently abused the applicant referred to the applicant as "mwenda wazimu."

The applicant fears similar violent abuse if he is returned to Tanzania.

DISCUSSION:

1. What is the harm the applicant fears? Does it constitute persecution?
2. Is the harm the applicant fears on account of membership in a particular social group?

Explain.

3. What other information would you like to know? What questions would you ask the applicant?

Student Interviewing Exercise: Credibility

Handout for the beginning of small group interview

INSTRUCTIONS:

Review the attached fact pattern and begin to formulate a plan for the questions you will ask the applicant regarding his claim. You will have about 20 minutes to ask the applicant questions to determine if, taking into account all factors as a whole, the applicant's testimony is detailed, consistent, and plausible in light of logic.

Remember the required steps for assessing credibility:

1. Identify whether there are flaws in consistency, detail, and/or plausibility in the applicant's testimony.
2. Determine if the flaws are material to the claim; if so, determine to which specific elements of the claim, *e.g.*, past harm or possession of a protected characteristic.
3. If the flaws are material to the claim, you must confront the applicant with your concern(s).
4. Ask the applicant to explain.
5. Assess whether the response is reasonable.

Also, your questions and analysis must be based **solely** on the testimony elicited during today's session, not on any answers provided by the applicant in other small group exercises.

Relevant Legal Standard(s)

An applicant's testimony is credible if it is detailed, consistent, and plausible. Therefore, a clear and well-articulated basis for a negative credibility finding should accurately describe significant material flaws in consistency, detail, and/or plausibility.

- RAIO Lesson Plan, *Credibility*

The Application

The applicant is a forty year-old (male) native and citizen of Iraq.

The applicant is a Sunni Muslim, who speaks Arabic, finished 9 years of formal education and worked as a contractor on different construction projects in association with U.S. military forces and foreign organizations including the United Nations.

The applicant did not serve in the Iraqi military, avoiding the draft in the 1990s. Due to the applicant's employment and affiliation with the Americans, Al-Qaeda in Iraq sent him a letter in 2005 threatening his life. The applicant received three threats between 2005 and 2009. On December 20, 2009, four men in a vehicle approached the applicant and his wife where they tried to kidnap him.

The applicant later moved to a different neighborhood, a Shiite neighborhood, to remain safe until he was kidnapped on January 23, 2011. His family paid a ransom of \$53,000 for his release. After being released, the applicant stayed in hiding until his departure.

The Supporting Documentation

The applicant submitted the following documents in support of the application:

- An Iraqi passport, issued on September 5, 2009.
- A letter from Al-Qaeda in Iraq dated December 2005.
- A letter from the Department of Defense attesting to applicant's employment as a contractor with the U.S. Government and other international organizations.

You conducted Country of Origin Information Research and found:

- A U.S. Department of State Human Rights Report that indicates the area in Northern Iraq is primarily controlled by the Kurdish government, a people who are primarily Sunni Muslims who speak Kurdish dialects, a language related to Persian.

- A report, *Saddam Hussein's Baath Party, Inside an Authoritative Regime*, Joseph Sassoon (2012), indicates the Iraqi Government (the Baath Party) were actively seeking deserters, would offer rewards for information about deserters and punish families in lieu of deserters during the 1990s. The report also stated:
 - During the regime of former Iraqi leader Saddam Hussein, conscription was linked to the educational level of the conscripts. Holders of a high school diploma or lower were forced to spend three years in the army whereas university students only had to spend half that time (18 months) in military service. Holders of higher degrees, such as a masters or a doctorate, only had to do six months. Most of Saddam Hussein's army was composed of conscripts.
 - It was also possible to avoid military service in Hussein's era by paying for exemption – although usually this cost a lot and it was only very wealthy Iraqis who could avoid conscription.

Student Decision Making Exercise: Credibility

Writing exercise to be handed out after the small group interview

INSTRUCTIONS:

Read through the applicant's information below and complete the questions. This was the information given to the person role-playing the applicant. The information should be similar to what your group elicited from the applicant during the interview.

BIOGRAPHIC INFORMATION

You are a forty year-old (male) native and citizen of Iraq. You were born on December 15 in Baghdad. You are a Sunni Muslim. You finished 9 years of formal education and worked as a contractor on different construction projects in association with U.S. military forces and foreign organizations including the United Nations.

YOUR INVOLVEMENT WITH THE IRAQI MILITARY

You avoided the military draft by not registering your name at a military recruitment center when you were living in Baghdad. As a student you did not have to complete your military service. You avoided your mandatory military service by living with a relative in Northern Iraq near Erbil in 1992. You returned to your neighborhood in Baghdad after two years.

YOUR FEAR OF RETURNING TO IRAQ

Due to your employment and your affiliation with Americans, Al-Qaeda in Iraq sent you a letter in December 2005. The letter contained a bullet and stated that you should quit your job with the Americans, that you are a spy, that you are a traitor and that you should leave Iraq. You received these threats three times between 2005 and 2009, although you don't remember the exact dates. You received another threat on December 15, 2009 with the same message. On December 20, 2009, four men in an Opel approached you and your wife, where they told you to get out of your vehicle and to get into their car. You refused and sped away. They chased you until you reached your house and shot you in the hand. You suspect that these men were members of Al-Qaeda in Iraq because they were yelling at you about your work with the Americans. Four days later, on Christmas Eve, your brother who worked with you was kidnapped and hasn't been seen since. No ransom was called for your brother. You believe he has been killed.

As a result of the threats and your brother's kidnapping, you moved from a Sunni neighborhood to a Shiite neighborhood. You claimed to be Shiite to your neighbors. Eventually, you were discovered to be Sunni and that you work as a contractor for the Americans. You are unsure how your past was learned. Members of the Jaish al-Mahdi (JAM)

kidnapped you on January 23, 2011 while you were near your home. The JAM militia members identified themselves as members of JAM and accused you of being Sunni and working with the Americans. The JAM found \$3000 on you and ransomed you to your family for an additional \$50,000.

YOUR ESCAPE

Your mother was able to secure the money as she was worried that her only remaining son would be killed. You were detained for about 10 hours for one day. During your detention you were slapped on your face and your identification was taken. You believe they confirmed that you are Sunni from your name.

Exercise:

Please answer the following questions using the information provided as well as the information elicited in the interview:

1. What credibility concerns, if any, are found in the application?
2. For each of the credibility concern(s), what type of credibility concern(s) was presented, if any?
3. For each of the credibility concern(s), was the credibility concern(s) material (relevant) to the claim? Give a brief explanation of your response.
4. During the course of the interview, did you inform the applicant of your credibility concern(s) and ask the applicant to explain your credibility concern(s)?
5. Was the applicant's explanation(s) reasonable to overcome the credibility concern(s)? Give a brief explanation of your response.
6. Considering all the factors, do you find the applicant credible?

Name:

Group Color:

Credibility Small Group Writing Exercise

Please answer the following six questions using the information provided as well as the information elicited in the interview.

When you are finished, please upload this exercise to your student dropbox on the ECN using the naming convention: **Last Name, First Name_Credibility Sm Grp**

1. What credibility concerns, if any, are found in the application?
2. For each of the credibility concern(s), what type of credibility concern(s) was presented, if any?
3. For each of the credibility concern(s), was the credibility concern(s) material (relevant) to the claim? Give a brief explanation of your response.
4. During the course of the interview, did you inform the applicant of your credibility concern(s) and ask the applicant to explain your credibility concern(s)?
5. Was the applicant's explanation(s) reasonable to overcome the credibility concern(s)? Give a brief explanation of your response.
6. Considering all the factors, do you find the applicant credible?

Student Interviewing Exercise: Well-Founded Fear

Handout for the beginning of small group interview

INSTRUCTIONS:

Review the attached fact pattern and begin to formulate a plan for the questions you will ask the applicant regarding whether the applicant has a well-founded fear of persecution. You will have about 15 minutes to ask the applicant questions to determine if the:

1. applicant possesses, or is believed to possess a protected characteristic;
2. persecutor is aware or could become aware that the applicant possesses the characteristic;
3. persecutor has the capability of harming the applicant; and,
4. persecutor has the inclination to target the applicant.

PLEASE NOTE:

For the purposes of this particular exercise, **assume that the applicant did not establish past persecution**, and focus on determining whether the applicant has met the four elements of the *Mogharrabi* test (listed above). Assume the applicant is credible. Also, your questions and analysis must be based **solely** on the testimony elicited during today's session.

Relevant Legal Standard

To establish a well-founded fear of future persecution, the applicant must establish the following elements (also known as the *Mogharrabi* test):

1. Possession, or imputed possession, of a protected characteristic;
2. Awareness -- the persecutor is aware or could become aware the applicant possesses the characteristic;
3. Capability – the persecutor has the capability of harming the applicant; and,
4. Inclination – the persecutor has the inclination to target the applicant.

RAIO Lesson Plan, *Well-Founded Fear*

The Application

The application before you indicates that the applicant is a 24-year old male/female, native and citizen of Burma, who fled Burma in 2009, and has been living in Malaysia ever since.

The applicant is a member of the Chin ethnic group and practices Christianity. The applicant has never personally interacted with the Burmese military but on multiple occasions s/he was forced to hide in the jungle with their family because the village was alerted that the military was coming.

In November 2009, the applicant heard that the military was arresting villagers in nearby villages and forcing them to porter. The applicant and other villagers in their community were afraid that their village would be targeted next, so the applicant and the other villagers – about 100 people in total – all decided to leave. They slept in the jungle, trying to travel in such a way that they would avoid being discovered by military patrols. The applicant left Burma on November 18, 2009 and has never returned since his/her departure.

The Supporting Documentation

The applicant submitted the following documents in support of the application:

- UNHCR registration document

Student Decision Making Exercise: Well-Founded Fear

Writing exercise to be handed out after the small group interview

INSTRUCTIONS:

Read through the applicant's information below and complete the questions. This was the information given to the person role-playing the applicant. The information should be similar to what your group elicited from the applicant during the interview.

BIOGRAPHIC INFORMATION

You are a twenty-four year old (male or female, you choose) native and citizen of Burma. You are single and have no children. You are a member of the Chin ethnic group and practice Christianity. In 2009, your father died of malaria. You continued living on the family farm in a village that is entirely Chin and Christian with your mother.

YOUR KNOWLEDGE OF THE MISTREATMENT OF CHIN PEOPLE

You know that the Burmese government has oppressed the Chin people for many years. The government is controlled by Burmese Buddhists, and it is difficult for people who are not Burmese or Buddhist to get jobs. In your area, the Burmese military takes the Chin people and puts them to work either building roads (forced labor) or carrying goods between villages (this practice is known as portering). You have never personally interacted with the Burmese military but on multiple occasions you were forced to hide in the jungle with your family because the village was alerted that the Burmese military were coming. You hid four or five times during this time with other members of your village who were of portering age (anyone over age 14).

The Chin National Army (CNA) formed many years ago to fight for the rights of the Chin people. You never had contact with the CNA before you decided to leave Burma and do not know much about what they do, but you know that the Burmese military destroys entire villages where they think that people support the CNA and confiscates the villagers' land. Your father was not a CNA member, but people in his village did support the CNA, and you have heard that many years ago, he and his family frequently gave CNA members rice and shelter. A couple of years before you were born, the Burmese military destroyed your father's village because the CNA had attacked a nearby checkpoint. Your father and his fellow villagers ran into the bush and escaped during that incident.

YOUR ESCAPE

In November 2009, you heard that the military was arresting villagers in nearby villages and forcing them to porter. You and other members of your village were afraid that your village would be targeted next, so you and the other villagers – about 100 people in total – all decided to leave. You slept in the jungle, trying to travel in such a way that you would avoid being discovered by military patrols. You ended up breaking from the larger group and met a smuggler who arranged for you to go Rangoon where you were later smuggled across the Burmese border at Kawthoung into Thailand on November 18, 2009. The smuggler later took you in Malaysia where you arrived on November 20, 2009.

YOUR FEAR OF RETURNING TO BURMA

Based on rumors you have heard from your friends in Malaysia, you think that the Burmese government probably burned down your village and confiscated your land. You have also heard that in another village, a few kilometers away, the military came in, burned down the church and all the Bibles, and raped Christian women.

You believe that the Burmese military would recognize you as Chin because your main language is Chin Hakha language and although you speak Burmese, you have an accent. You cannot go back to Burma because you would have no place to live and you do not have your identification card. You think the Burmese military might hurt you, but you do not know what they might do.

Exercise:

Please answer the following questions using the information provided above and the information you elicited during your interview. If you feel like you need country conditions information to fully answer these questions, please conduct COI research and refer to the sources you find in your response.

1. Evaluate the subjective element of the well-founded fear analysis. How does the applicant's background impact on your assessment of the subjective element?
2. Does the applicant pass the Mogharrabi test? Write an analysis of each of the 4 factors.
3. Can the applicant reasonably relocate to a different part of the country to avoid future persecution? Please explain your answer.

FACT PATTERN #1 – FIRM RESETTLEMENT

The applicant is a thirty-five-year-old native and citizen of the Comoros, a small country whose population is 98% Sunni Muslim. She is an active member of the small Shia Muslim community. Although she is aware that Shia Muslims have suffered some historical discrimination, the applicant never personally experienced discrimination or other harm because of her religion when she was growing up in the Comoros.

In 1997, the applicant left the Comoros to attend university in France. She remained there on a student visa for thirteen years, ultimately obtaining several advanced degrees. After she obtained a doctorate in engineering, she was offered a job at a top engineering firm in Canada, which admitted her as a permanent resident in December 2010. She remained in Canada for a year before accepting a job as a researcher at the University of New Hampshire and coming to the United States on a J-1 nonimmigrant visa in January 2012.

In January 2013, the Comorian government banned the practice of any religion other than Sunni Islam. A few Shia Muslims were arrested, and Shia mosques and cultural institutions were closed.

The applicant travelled to Canada for a few days in February 2013 to renew her U.S. visa. Canadian immigration officials warned her that she had to physically reside in Canada for at least one more year before June 2014, or her residence would be terminated. She returned to the United States to resume her job. Her Canadian status was revoked in July 2013, when it became impossible for her to fulfill the residency requirement.

In April 2013, a coup attempt against the Comorian government failed. The Comorian government, blaming the coup attempt on Iranian-funded mercenaries, arrested several Shia religious leaders. The applicant called into a popular Internet radio program, criticized the Comorian government's actions, and encouraged members the Shia community to continue practicing their religion. The applicant's mother and brother were summoned to the police station the next day and threatened with arrest if they did not tell the applicant to stop "inciting rebellion." In August 2013, after the applicant called into the same radio program to criticize the Comorian government again, her nephew was arrested and charged with illegal religious practice, and her brother was given a warrant for her arrest.

The applicant applied for asylum in the United States in October 2013. She fears that she will be harmed because of her religion or her political beliefs if she returns to Comoros, and she cannot return to Canada or France because she no longer has any status there.

1. Is the applicant firmly resettled in France?
2. Is the applicant firmly resettled in Canada?
3. Would your determination be different if the applicant were applying for refugee status outside the US?
4. If you feel you do not have enough information to make these determinations, what other information would you need? What questions would you ask the applicant?

FACT PATTERN #2 – FIRM RESETTLEMENT

The applicant is a 46-year-old native and citizen of Iraq. He was raised in a Sunni Muslim family in Baghdad, though he does not practice his religion and identifies as agnostic. He owned a store selling construction materials, and after the U.S. invasion of Iraq in 2003, he did a lot of business with American contractors in Iraq.

In November 2004, the applicant received a phone call from an anonymous individual who demanded that the applicant "cease his support of the Americans" and pay them \$50,000 to "fight the invading troops." The applicant refused and hung up the phone. Two days later, he received a letter from "the people of Fallujah" again demanding \$50,000 and threatening to kill him or kidnap his children if he did not comply with their demands. The applicant recognized this group as one that had been responsible for the murders of two other Iraqis who had worked with American contractors.

A few weeks later, the applicant and his family travelled to Cairo, Egypt, on a business visa, because he was afraid of remaining in Iraq and because he already had significant business contacts in Egypt. The applicant renewed this visa a few times, but because he was concerned about losing his status if his business failed and the situation in Iraq was continuing to deteriorate, he applied for refugee status with UNHCR Cairo in June 2006. He was given a positive refugee status determination in December 2007 and a "blue card," valid for three years, authorizing him to remain in Egypt. He renewed the "blue card" once and remained in Egypt until June 2012, when he entered the United States on an L-1 nonimmigrant visa. He applied for asylum in the United States in February 2013.

Country conditions evidence indicates that Egypt does not return UNHCR-recognized refugees to Iraq and that the "blue card" is indefinitely renewable. Refugees are provided with monetary assistance and may access basic social services, such as education and health care. However, they may not apply for permanent resident status or own land in Egypt, and they forfeit their access to social services if they leave Egypt. It is difficult for them work legally; in order to obtain work permits, they must demonstrate that no Egyptian is available to do the job for which they have been hired. The applicant testifies that he has not been able to obtain a work permit and has only been able to make money to support his family by continuing to run his business in Iraq.

The applicant remains afraid to return to Iraq because of his imputed political opinion as a supporter of the U.S. invasion and because he believes his agnostic religious beliefs will make him the target of Muslim extremists.

1. Is the applicant firmly resettled in Egypt?
2. Would your determination be different if the applicant were applying for refugee status outside the US?
3. If you feel you do not have enough information to make this determination, what other information would you need? What questions would you ask the applicant?

Name:

Group Color:

Well Founded Fear Small Group Writing Exercise

Please answer the following questions using the information provided above and the information you elicited during your interview. If you feel like you need country conditions information to fully answer these questions, please conduct COI research and refer to the sources you find in your response.

When you are finished, please upload this exercise to your student dropbox on the ECN using the naming convention: **Last Name, First Name_WFF Sm Grp**

1. Evaluate the subjective element of the well-founded fear analysis. How does the applicant's background impact on your assessment of the subjective element?
2. Does the applicant pass the Mogharrabi test? Write an analysis of each of the 4 factors

P –

A –

C –

I –

3. Can the applicant reasonably relocate to a different part of the country to avoid future persecution? Please explain your answer.
4. (OPTIONAL) Do any of the terrorism-related grounds of inadmissibility apply to this applicant? Please explain your answer.

From: [Asylum Officer]
Sent: April 2016
To: [Research Unit]
Subject: China COI on LGBT issues

Hey [RU]

[...] I'm writing from there with a question about a case I have. The applicant has a pretty strong past persecution claim on account of his sexual orientation, but I am having a bit of trouble tracking down good COI to use in support of a presumption not rebutted/fear still well-founded analysis. Does anything come to mind that you've seen that might be a good source to use? Any help will be much appreciated.

Thanks in advance,
[AO]

From: [Research Unit]
Sent: April 2016
To: [Asylum Officer]
Subject: Re: China COI on LGBT issues

Hi [AO]

[...]

I think that this source quoted below is a fair and typical summary of human rights reporting on the situation for LGBT persons in China, the quoted text being the gist of a longer, China-specific section.

Being LGBT in Asia: China Country Report from the U.N. Development Program (2014):

While LGBT people in China face stigma and discrimination in China, this does not tend to lead to hate-based violence. In China, stigma and discrimination are expressed in seemingly mild but pervasive ways, such as in close surveillance of activities or behaviour, and the rigorous disapproval of non-conforming sexual or gender practices from one's parents, relatives, friends, colleagues and acquaintances.

[...]

The development of the LGBT community and organizations is relatively mature in major cities, especially regional hubs, such as Beijing, Shanghai, Guangzhou and Chengdu. In these locations, there are more opportunities for LGBT individuals to have active social interaction, engage in a variety of activities, and have easier ways of contacting each other. Such locations also witness a more tolerant social environment, more organizational resources and less risk involved in public advocacy. Nowadays, a few LGBT organizations exist also in second and third-tier cities but they are of a smaller scale. However, the fewer number of openly LGBT organizations and a lack of social tolerance in these cities, still mean that the exposure of one's sexual orientation could bring about severe consequences including discrimination, ostracism and persecution from one's families and social networks. As a result, in such places LGBT activities are primarily limited to the Internet, where anonymity is ensured. There is

still no systematic data on LGBT organizations and communities in rural areas and in the western parts of China (such as in the provinces or autonomous regions of Tibet, Qinghai, Gansu, Xinjiang).

[...]

Criminal affairs related to LGBT people

Lack of proper legal protections leads to the majority of discrimination cases to go unreported and unnoticed. This relates especially to cases of extortion and violence towards members of the LGBT community (especially transgender sex workers) and between intimate sexual partners, as well as from public authorities, such as the security department. Victims of violence and extortion often do not report these cases to the police for fear of being further victimized.

Hong Kong's South China Morning Post devotes quite a bit of coverage to LGBT issues in Hong Kong and elsewhere in Asia, for example lack of protection from domestic violence. I might suggest making a Google Custom Search for SCMP and seeing if you can find anything discussing the situation in mainland PRC, although I'm confident in light of the quote above that the situation is not (generally speaking) better there than in Hong Kong.

Also, there was an article in today's NYT about a gay marriage court case in China, although this probably does not relate to your applicant's claim.

I hope this helps.

[RU]

Using Country Conditions Information in RAIO Adjudications

Practical Exercises (Face-to-Face Training: CT 16/17)

These are possible answers to the questions presented in the three practical exercises used in our training. They are not intended as “perfect answers” or even “the right answers” for these scenarios (which, after all, are hypothetical and made up). But they do illustrate the skills that the exercises are meant to help you develop as RAIO Officers.

Practical Exercise 4:

Sample questions:

- (a) Are you a member of any political party in Indonesia? COI indicates that there is currently fighting between political parties in Aceh, in particular between two parties supported by former Free Aceh Movement participants. (“In Aceh, a power struggle between two political parties whose members were once part of the Free Aceh Movement led to shootings, grenade attacks, and destruction of property.” – Freedom House, *Freedom in the World 2015 – Indonesia*) **Issue Addressed:** Well-founded fear
- (b) You said that you were attacked by Aceh’s police and the Indonesian military last April because you support the Free Aceh Movement. What is the role, if any, of the Movement in Aceh’s politics today? COI indicates that after the Helsinki Peace Agreement of 2005 the Free Aceh Movement (formerly a militant movement fighting the government of Indonesia) transitioned to party politics (initially primarily the Aceh party). See *From Insurgency to Bureaucracy: Free Aceh Movement, Aceh Party, and the New Face of Conflict*, *Stability: International Journal of Security and Development* (2012). This source and others indicate that the Free Aceh Movement ceased to exist after the HPA, so it is necessary to assess what, if any, political views and affiliations the Applicant actually possesses in 2015. **Issue Addressed:** Primarily credibility. The assertion that Applicant was a supporter (in 2015) of the Free Aceh Movement would appear, at least initially, to be inconsistent with the fact that the Movement no longer exists. Other concerns may also be raised if the Applicant considers himself to be part of an insurgent movement that ended over a decade ago.
- (c) When did you begin to be a supporter of the Free Aceh Movement? What activities did you engage in as a supporter during the period during which the Free Aceh Movement existed? The Free Aceh Movement was involved in acts of violence during its insurgency, which lasted almost 30 years. Amnesty International in its 2015/2016 report indicated that “the [2005 Helsinki Peace Agreement] ended a 29-year conflict during which between 10,000 and 30,000 people were killed, many of them civilians.” In the 2005 Country Reports on Human Rights Practices, the Department of State said that, “in Aceh, prior to the August 15 peace agreement, rebels

committed killings and kidnappings. **Issues Addressed:** Terrorism-Related Inadmissibility Grounds. Persecutor Bar.

- (d) In our research we were unable to find documentation of a protest that took place on the date and in the place you mentioned? Also, while police have intervened in demonstrations, for example attempting to prevent the display of the banned Free Aceh Movement flag, we could not find evidence recent attacks by the Aceh security forces or the Indonesian military on supporters of the former-Free Aceh Movement. Do you have any evidence that the demonstration you mentioned took place or that there have been attacks on former GAM supporters by government forces? *Thousands Rally in Indonesia for Separatist Flag*, South China Morning Post, April 4, 2013; *Rebel Flag Flies Over a Province, and Indonesia Wants It Torn Down*, New York Times, April 14, 2013; *Islands in focus: Aceh students protest web blocking*, Jakarta Post, April 7, 2015
Issues Addressed: Credibility and well-founded fear.

Practical Exercise 5:

Sample analyses:

- (a) A preponderance of the evidence establishes a reasonable possibility that the government of China would be *inclined* (within the PACI framework) to persecute the Applicant. She testified that her local authorities are sensitive to matters involving religion and that word of her conversion to an unfamiliar religion (Christianity) would raise suspicions against her as an individual. That this could well result in her persecution is established by country conditions indicating that local officials do with unknown frequency detain or even sentence worshippers and leaders of unregistered house churches. *See, Sources: Protestant 'House Churches' in China*, RAIIO Research Unit, Sept. 4, 2014; International Religious Freedom Report for 2014 – China, U.S. Department of State (“Other religious groups, such as Protestant groups unaffiliated with the official patriotic religious association or Catholics professing loyalty to the Vatican, are not permitted to register as legal entities.”). The Applicant credibly testified that she would not be willing to attend “state churches”, as she refers to churches affiliated with institutions sanctioned by China’s State Association for Religious Affairs (*see* DOS above). Therefore, there is a reasonable possibility that the government will be inclined to persecute her.
- (b) A preponderance of the evidence does not establish a reasonable possibility that the government of China would be *inclined* (within the PACI framework) to persecute the Applicant. Since the Applicant converted to Christianity in the U.S., there can be no evidence of how the local authorities in her home city in Xinjiang Province would be inclined to treat her. While participants in unregistered house churches are sometimes detained or even sentenced – and likely more often than reported (there were 1470 detentions and 10 sentences of longer than one year in 2013-14 according to the International Religious Freedom Report for 2014 – China, U.S. Department of State), still with an estimated 45 million Protestants and over 3 million Catholics associating with or worshipping in unregistered churches (Pew Research, 2012, *see* DOS above) it cannot be found that someone in Applicant’s position faces a reasonable possibility of confronting a government inclined to persecute them. Furthermore, Applicant’s testimony reveals a sensitivity on her part to factors that could put her at risk for drawing the ire of local authorities and expresses (albeit in a different context) a disposition to “not push things too far.”

Using Country Conditions Information in RAIO Adjudications

Practical Exercises (Face-to-Face Training: CT 16/17)

These practical exercises will be completed during today's session. You will work in groups of 3-5 and have approximately 10 minutes to complete each exercise. These exercises will build on the country conditions research that you conducted during the Distance Training, so you will need to be able to refer to your previous work. After you have completed the exercise, you will be asked to report on your conclusions, so it may be helpful to designate one member of your group to take notes on your discussion and to record your findings.

Practical Exercise 3: Refer to the scenario used in Distance Training Exercise 1 (Bangladesh). Read/skim the two sources of pertinent information identified in the presentation. Consider: What biases, if any, do you detect in each source? Identify parts of the text that suggest bias or lack thereof. What use could appropriately be made of each source in an adjudication, taking into account possible biases?

Practical Exercise 4: Refer to the scenario used in Distance Training Exercise 2 (Indonesia). Based on the country conditions information you found during Distance Training, come up with 3 or 4 questions that you would ask the Applicant during a RAIO interview. For each question:

- (a) Identify the legal issue(s) that the testimony would help you address (WFF, credibility, TRIG, etc.)
- (b) Explain how specific sources of country conditions information led you to formulate the question as you did.

Practical Exercise 5: Refer to the scenario used in Distance Training Exercise 3 (China). Refer also to the excerpted interview notes provided on the following page. Based on the interview notes *and* the country conditions information that you identified, analyze whether or not a preponderance of the evidence establishes that the government would be *inclined* (within the PACI framework) to persecute the applicant. Be sure to explain how *both forms of evidence* figure into your analysis.

Practical Exercise 5: Excerpted interview notes

AO: Who exactly are you afraid would persecute you in China?

Applicant: The local police in my city in Xinjiang.

AO: Why?

Applicant: Because I have become a Christian.

AO: How would they know you are a Christian?

Applicant: I will feel the need to tell those close to me about my religion and word will get out.

AO: Why will those close to you reveal your religion to the police?

Applicant: I'm not saying they will do it on purpose. But there are no Christians in my city (or hardly any) so people will talk about what I say just because it's unusual.

AO: But you said that you would participate in a house-church. How are you going to do that if there are hardly any Christians in your city?

Applicant: Well, there might be enough Christians for a house-church in the whole city. I don't know. But if there is no house church, I would try to start one if I found any interest at all.

AO: Are you afraid of other persecutors besides the government?

Applicant: No. All the people close to me are Muslims, but not overly strict. I would share my faith but not push things too far.

AO: What makes you think the police would persecute you then?

Applicant: They are sensitive to anything that involves religion. They are not familiar with Christianity and unfamiliar things make the police especially nervous. They don't want any incidents. They might not do anything to me, but it would be a great risk for me to go back home.

AO: Could you live safely elsewhere in China?

Applicant: I really don't know about that. But I think that house-church Christians are persecuted all over China. And I have been convinced that I should not worship in the state churches.

FACT PATTERN 2 – Asylum Case - I-589, Application for Asylum and for Withholding of Removal

The applicant was born in Muqdadiah, Iraq, in 1979. He entered the Iraqi military academy in November 1997. He was trained in infantry skills, tank and helicopter operation, and explosives. Then, in his third year, he decided to pursue further training in order to become a member of the Republican Guard. After his graduation in November 2000, he was assigned to the Special Forces Academy in Baghdad, where he spent another year. While in Baghdad, he received further training in explosives work, including arming and disassembling bombs, sniper skills, parachuting, and other weapons training.

After completing his training, the applicant testified that he was "handpicked to join Saddam's Republican Guard as a personal bodyguard to Saddam and his family." He was sworn to secrecy for seven years while he "traveled the country protecting Saddam and the dictator's family." The applicant stated that he "spent long days on guard inside Saddam's palaces," chatted with Saddam," and "when Saddam ordered him to restrict someone's entry, he did it." The applicant stated that he had nothing to do with intelligence or the killing of Saddam's enemies.

The applicant remained at the Mosul base until March 2003, when the United States invaded Iraq. A few weeks before coalition forces entered into the country, he was ordered to move to a neighborhood called Hayy at-Tahrir in the north of Baghdad, where he was ordered to secure the area and clear it in the event that Saddam Hussein arrived. He was subsequently injured by U.S. forces during a firefight in which his entire platoon was killed. He was then taken to a neighborhood resident's home to recover and returned to his family home. Approximately three months later, after spending some time working in a friend's electronics store, he saw a poster produced by the coalition forces recruiting soldiers for the newly-formed Iraqi Army. He decided to volunteer in June 2003. During this time, he fought alongside Special Forces soldiers as a captain in the newly organized Iraqi Army and was stationed at a forward operating base in Muqdadiah. Other Iraqi soldiers working with U.S. coalition forces wore black masks to hide their identities, but he did not because he was proud of the good job they were doing.

Several months later, the applicant began to receive threatening notes and phone calls. Then, on December 15, 2005, the applicant's brother was confronted by individuals he believed to be anti-U.S. insurgents who told him to tell the applicant that he should stop collaborating with U.S. forces or he would be killed. Ten days later, on December 25, 2005, the applicant was ambushed while driving to his family home. Four men blocked the road and opened fire on the applicant, hitting him several times. The applicant testified that two of his assailants wore Iraqi Army uniforms and masks, and the other two were dressed in black uniforms associated with anti-U.S. insurgents operating in the area.

While in the hospital following the ambush, the applicant was told that threatening notes had been left at his home, stating that the writers would continue trying to kill him. The notes stated that al-Tawhid wal-Jihad, an insurgent group in Iraq, was responsible for the attack. The applicant had been responsible for the capture of several well-known insurgent figures in Iraq, including some who were associated with al-Tawhid wal-Jihad. After several months in the hospital, he was transported by the U.S. Army to Germany and then on to the United States for further medical treatment. Since arriving in the U.S., he has received an additional threatening note on the doorstep of his home in Georgia. Also, after he left Iraq, the applicant's uncle and 8 cousins were beheaded in late August 2007 after receiving threats that they should disavow the applicant because the Koran stated bad guys like him should be killed.

The applicant believes that if he returns to Iraq, he will be targeted by insurgent forces who view him as a collaborator with the U.S. and coalition forces.

Tier III definition and individuals who have engaged in activities on behalf of a listed entity would likely have engaged in terrorist activity.

List 3 - Terrorist Activity Defined, INA § 212(a)(3)(B)(iii)

Terrorist Activity is unlawful activity that involves any of the following:

- (I) The hijacking or sabotaging of any conveyance (including an aircraft, vessel or other vehicle);
- (II) The seizing or detaining and threatening to kill, injure or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained;
- (III) A violent attack on an internationally protected person as defined in 18 U.S.C. § 1116(b)(4); or upon the liberty of such a person;
- (IV) An assassination;
- (V) The use of any—
 - (a) biological agent, chemical agent, or nuclear weapon or device, or
 - (b) explosive, firearm or other weapon or dangerous device (other than for personal monetary gain), with intent to endanger the safety of one or more individuals or to cause substantial damage to property;
- (VI) A threat, attempt, or conspiracy to do any of the foregoing.

List 4 - Engaging in Terrorist Activity Defined, INA § 212(a)(3)(B)(iv). Note that aliens who “engage in terrorist activity” are inadmissible (see List 1).

Section 212(a)(3)(B)(iv) defines engaging in terrorist activity. “Engage in terrorist activity” means, in an individual capacity or as a member of an organization—

- (I) to commit or incite to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity (see List 3);
- (II) to prepare or plan a terrorist activity (see List 3);
- (III) to gather information on potential targets for terrorist activity (see List 3);
- (IV) to solicit money or other things of value for:
 - (aa) a terrorist activity (see List 3);
 - (bb) a designated terrorist organization (see List 2 (I) and (II));
 - (cc) an undesignated terrorist organization (see List 2 (III)) unless “the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization.”
- (V) to solicit any individual to:
 - (aa) engage in terrorist activity (“to engage in conduct otherwise described in this subsection”) (see List 4).
 - (bb) become members of a designated terrorist organization (see List 2 (I) and (II));
 - (cc) become members of an undesignated terrorist organization (see List 2 (III)) unless “the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization;”
- (VI) to commit an act which the person knows or reasonably should know affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological or radiological weapons), explosives, or training:
 - (aa) for the commission of a terrorist activity (see List 3);
 - (bb) to any individual who the actor knows or reasonably should know has committed or plans to commit a terrorist activity (see List 3);
 - (cc) to a designated terrorist organization (see List 2 (I) and (II)) or a member of such an organization;
 - (dd) to an undesignated terrorist organization (see List 2 (III)) or to a member of such an organization unless “the actor can demonstrate by clear and convincing evidence that the actor did not know, and should not reasonably have known, that the organization was a terrorist organization.”

List 5 - Association with Terrorist Organizations, INA § 212(a)(3)(F)

INA § 212(a)(3)(F) makes inadmissible an alien who either the Secretary of State or Attorney General (in consultation with the other) determines meets **both** of the following criteria:

- (a) the alien has been associated with a terrorist organization (see List 2); **and**
- (b) while in the U.S., intends to engage in activities which could endanger the welfare, safety, or security of the U.S.

This rarely used section requires both an association with a terrorist organization and an **intention to cause harm**. The harm need not occur in the United States, but it must endanger the welfare, safety or security of **the United States**. The authority to find an alien inadmissible under this section can only be exercised by the Secretary of State or the Secretary of Homeland Security.

Does harm rise to the level of persecution?

(1) Narciso was born in the mountains several weeks premature, shortly after his pregnant mother fled from Guatemalan government forces that had attacked her ancestral village, burned the village to the ground, and massacred its inhabitants, including several of Narciso's close relatives. The newborn child was severely malnourished throughout the first few months of his life because his mother was too malnourished to breastfeed. Fearing more attacks by government forces, the family, just months after the massacre, fled to Mexico. They did not have lawful status there. As a result Narciso was unable to attend school and had difficulty obtaining employment. In addition, he was often sick and frequently had nightmares.

(2) Juan's family and other families were targeted by the Guatemalan army's campaign against Mayan Indians. When he was seven years old, Juan's sister, her husband, and her mother-in-law were fatally shot by Guatemalan soldiers. While Juan did not witness any murders, he saw many corpses, including the bullet-ridden body of his cousin lying on the ground. The army's campaign resulted in his father selling their land and the family's relocation to a one-room home in a nearby town where they struggled to survive. When the family returned to the village after a year away, they found that the house was full of bullet holes and the family's animals were unrecoverable.

(3) Kolya was subjected to regular "discrimination and harassment [that] pervaded his neighborhood" and his school. The harm included being regularly mocked and urinated on by other school children for being Jewish, being forced by his teachers to stand up and identify himself as a Jew on a quarterly basis, and being called slurs and being physically abused in his neighborhood.

(4) Two Mayan Indian brothers from Guatemala fled to Mexico in 1982 at the ages of seven and nine due to the Guatemalan army's arrival in their village. They witnessed the beating of their father by soldiers in front of their mother, and the flight of their brother who was later killed by the army on suspicion of being a guerilla sympathizer.

(5) Lucy, a Chinese national, had been forcibly taken to the Village Committee Office and interrogated by police and pressured to confess involvement in Falun Gong. She was 16 years old. On two occasions, police and guards pulled her hair, causing her to cry, and pushed her to the ground. She was detained for two days. The police reported Lucy's arrest to her school and she was expelled. One month later, the police searched Lucy's home and questioned her and her mother, pushing her mother to the floor.

Use the Step-by-Step Persecutor Bar Checklist to analyze the highlighted scenario. Is the applicant subject to the persecutor bar? What else would you want to know before making a decision?

Scenario 1

The applicant assisted with ultrasounds and other prenatal examinations, participated in live-birth deliveries, cared for newborns, and provided recovery care to women who had undergone forced abortions. She did not participate in the abortion procedure itself, but she did participate in examinations that were sometimes used to determine the position of the fetus so that a forced abortion could be performed without threatening the life of the mother.

Scenario 2

The applicant worked voluntarily, was paid, and fully understood the forced abortion policy. She was responsible for watching over detained, pregnant women locked in rooms before their scheduled forced abortions. She monitored confined women to ensure they did not escape. She was provided with a rod or baton that she did not use. She thought that forced abortions were limited to women who were one or two months pregnant and released a woman who was eight months pregnant.

Scenario 3

For 10 years, the applicant provided the Marcos regime with intelligence about the leftist New People's Army and other anti-Marcos communist groups. The applicant testified that the information he gathered on these individuals led to their torture, imprisonment, and death. He testified that he never actually tortured or harmed any person.

Scenario 4

The applicant gathered intelligence information and passed it up the chain of command. For example, she gathered information on whether a particular professor at a university had communist tendencies. She also listened to and transcribed telephone conversations of designated individuals. When she heard that other factions of the military engaged in human rights violations, she reported her concerns to superiors.

Scenario 5

The applicant was head constable in the local police department in Punjab during a period when considerable violence erupted between Sikh separatist militants and the authorities. The department engaged in legitimate police activities but also systematically arresting without cause Sikhs accused of being militants. The applicant admits that he brought suspects into the police station where they were wrongfully beaten by others. He also went on nighttime raids that led to false charges and beatings of innocent Sikhs.

Scenario 6

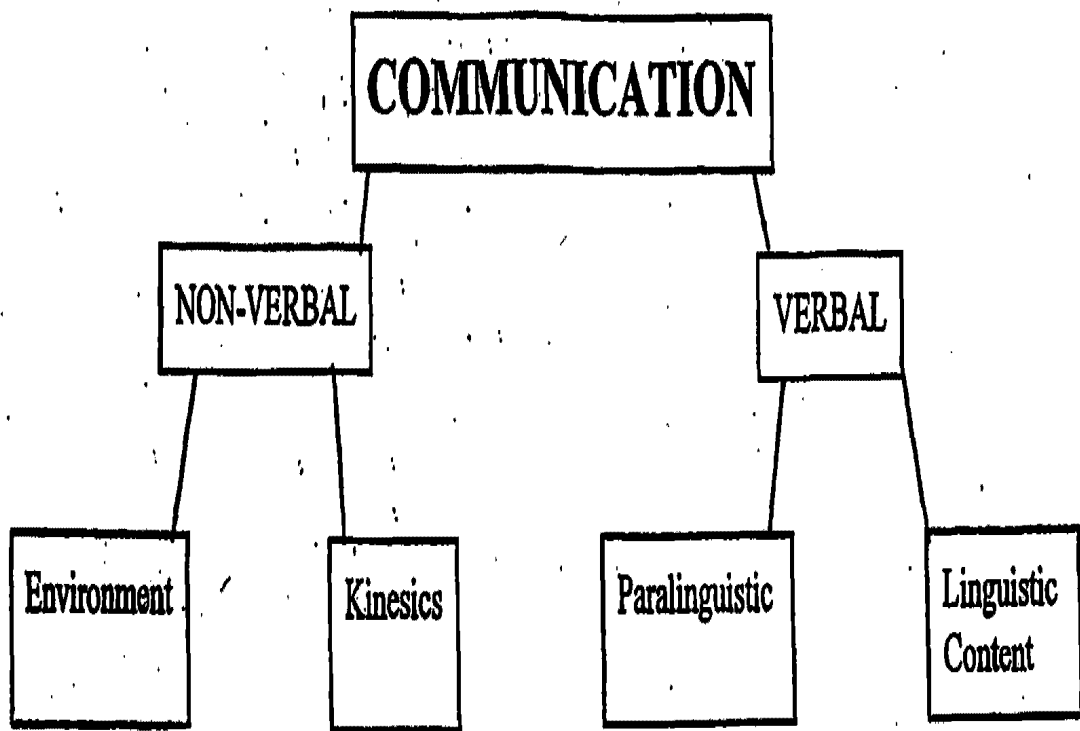
During his military service, the applicant was stationed as a soldier along the border of his country. From country of origin information (COI), you know that civilian members of an ethnic minority were shot in mass executions in a group of nearby villages during the exact time period when the applicant was serving. You also know from COI that a larger war was taking place along the border at that time in which the applicant's army was defending itself against incursions from a neighboring country's army. The applicant's duties were purely administrative, and although he had had weapons training and was stationed close to the front, he never carried or handled a weapon at any time throughout his military service.

Separating Fact from Assumption

A college teacher had just completed making up the final examination and had turned off the lights in the office. Just then, a tall, dark, broad figure appeared and demanded the examination. The professor opened the drawer. Everything in the drawer was picked up and the individual sped away. The Dean was notified.

Check the appropriate answer (F = fact; A = assumption)

1. A figure appeared after the professor turned off his office lights.
 F A
2. The thief was tall, dark, and broad.
 F A
3. The tall, dark man demanded the examination.
 F A
4. The man who opened the desk drawer was the professor.
 F A
5. The figure picked up the contents of the drawer and sped away.
 F A
6. Someone opened a drawer.
 F A
7. Someone took the examination.
 F A
8. Although the exam was taken, the story does not state what else was also included in the drawer.
 F A
9. The thief demanded the exam from the professor.
 F A
10. The following events were included in the story: someone demanded the exam, a desk drawer was opened, its contents were picked up, and a man sped out of the building.
 F A



props
setting

facial expressions
movement
timing/silence
eye contact
posture
gestures
proxemics

manipulation
"extra-speech"

grammar
vocabulary

I-589, Application for Asylum and for Withholding of Removal

START HERE - Type or print in black ink. See the instructions for information about eligibility and how to complete and file this application. There is NO filing fee for this application.

NOTE: Check this box if you also want to apply for withholding of removal under the Convention Against Torture.

Part A: Information About You

1. Alien Registration Number(s) (A-Number) (if any) 7X XXX XX3	2. U.S. Social Security Number (if any)
---	---

3. Complete Last Name Ebai	4. First Name Elisabeth	5. Middle Name
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6. What other names have you used (include maiden name and aliases)?
None

7. Residence in the U.S. (where you physically reside) 123 Oak St	Telephone Number ()
Street Number and Name	Apt. Number
City Bethesda	State MD
Zip Code	

8. Mailing Address in the U.S. (if different than the address in No. 7) In Care Of (if applicable):	Telephone Number ()
Street Number and Name	Apt. Number
City	State
Zip Code	

9. Gender: Male Female 10. Marital Status: Single Married Divorced Widowed

11. Date of Birth (mm/dd/yyyy) 01/01/1984	12. City and Country of Birth Cameroon
--	---

13. Present Nationality (Citizenship) Cameroon	14. Nationality at Birth Cameroon	15. Race, Ethnic, or Tribal Group Bassa	16. Religion Christian
---	--------------------------------------	--	---------------------------

17. Check the box, a through c, that applies: a. I have never been in Immigration Court proceedings.
b. I am now in Immigration Court proceedings. c. I am not now in Immigration Court proceedings, but I have been in the past.

18. Complete 18 a through c.
a. When did you last leave your country? (mmm/dd/yyyy) 01/01/2011 b. What is your current I-94 Number, if any? _____
c. List each entry into the U.S. beginning with your most recent entry.
List date (mm/dd/yyyy), place, and your status for each entry. (Attach additional sheets as needed.)

Date	01/01/2011	Place	Washington, D.C.	Status	B-2	Date Status Expires:	06/30/2011
Date	_____	Place	_____	Status	_____		
Date	_____	Place	_____	Status	_____		

19. What country issued your last passport or travel document? Cameroon	20. Passport # N 1234567 Travel Document #	21. Expiration Date (mm/dd/yyyy) 09/01/2015
--	--	--

22. What is your native language (include dialect, if applicable)? Bassa	23. Are you fluent in English? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	24. What other languages do you speak fluently?
---	---	---

For EOIR use only.	For USCIS use only. Decision:
	Interview Date: _____ Approval Date: _____
	Asylum Officer ID#: _____ Denial Date: _____
	Referral Date: _____



Part A: II: Information About Your Spouse and Children

Your spouse I am not married. (Skip to **Your Children** below.)

1. Alien Registration Number (A-Number) <i>(if any)</i>		2. Passport/ID Card No. <i>(if any)</i>		3. Date of Birth <i>(mm/dd/yyyy)</i>		4. U.S. Social Security No. <i>(if any)</i>	
5. Complete Last Name			6. First Name		7. Middle Name		8. Maiden Name
9. Date of Marriage <i>(mm/dd/yyyy)</i>			10. Place of Marriage			11. City and Country of Birth	
12. Nationality <i>(Citizenship)</i>			13. Race, Ethnic, or Tribal Group			14. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	
15. Is this person in the U.S.? <input type="checkbox"/> Yes <i>(Complete Blocks 16 to 24.)</i> <input type="checkbox"/> No <i>(Specify location):</i> _____							
16. Place of last entry into the U.S.		17. Date of last entry into the U.S. <i>(mm/dd/yyyy)</i>		18. I-94 No. <i>(if any)</i>		19. Status when last admitted <i>(Visa type, if any)</i>	
20. What is your spouse's current status?		21. What is the expiration date of his/her authorized stay, if any? <i>(mm/dd/yyyy)</i>		22. Is your spouse in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No		23. If previously in the U.S., date of previous arrival <i>(mm/dd/yyyy)</i>	
24. If in the U.S., is your spouse to be included in this application? <i>(Check the appropriate box.)</i> <input type="checkbox"/> Yes <i>(Attach one photograph of your spouse in the upper right corner of Page 9 on the extra copy of the application submitted for this person.)</i> <input type="checkbox"/> No							

Your Children. List all of your children, regardless of age, location, or marital status.

I do not have any children. *(Skip to Part A. III., Information about your background.)*

I have children. Total number of children: _____

(NOTE: Use Form I-589 Supplement A or attach additional sheets of paper and documentation if you have more than four children.)

1. Alien Registration Number (A-Number) <i>(if any)</i>		2. Passport/ID Card No. <i>(if any)</i>		3. Marital Status <i>(Married, Single, Divorced, Widowed)</i>		4. U.S. Social Security No. <i>(if any)</i>	
5. Complete Last Name			6. First Name		7. Middle Name		8. Date of Birth <i>(mm/dd/yyyy)</i>
9. City and Country of Birth			10. Nationality <i>(Citizenship)</i>		11. Race, Ethnic, or Tribal Group		12. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
13. Is this child in the U.S. ? <input type="checkbox"/> Yes <i>(Complete Blocks 14 to 21.)</i> <input type="checkbox"/> No <i>(Specify location):</i> _____							
14. Place of last entry in the U.S.		15. Date of last entry in the U.S. <i>(mm/dd/yyyy)</i>		16. I-94 No. <i>(if any)</i>		17. Status when last admitted <i>(Visa type, if any)</i>	
18. What is your child's current status?		19. What is the expiration date of his/her authorized stay, if any? <i>(mm/dd/yyyy)</i>		20. Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No			
21. If in the U.S., is this child to be included in this application? <i>(Check the appropriate box.)</i> <input type="checkbox"/> Yes <i>(Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.)</i> <input type="checkbox"/> No							



Part A. II: Information About Your Spouse and Children (Continued)

1. Alien Registration Number (A-Number) (if any)		2. Passport/ID Card No. (if any)		3. Marital Status (Married, Single, Divorced, Widowed)		4. U.S. Social Security No. (if any)	
5. Complete Last Name		6. First Name		7. Middle Name		8. Date of Birth (mm/dd/yyyy)	
9. City and Country of Birth		10. Nationality (Citizenship)		11. Race, Ethnic, or Tribal Group		12. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	
13. Is this child in the U.S.? <input type="checkbox"/> Yes (Complete Blocks 14 to 21.) <input type="checkbox"/> No (Specify location.)							
14. Place of last entry into the U.S.		15. Date of last entry into the U.S. (mm/dd/yyyy)		16. I-94 No. (if any)		17. Status when last admitted (Visa type, if any)	
18. What is your child's current status?		19. What is the expiration date of his/her authorized stay, if any? (mm/dd/yyyy)		20. Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No			
21. If in the U.S., is this child to be included in this application? (Check the appropriate box.) <input type="checkbox"/> Yes (Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.) <input type="checkbox"/> No							

1. Alien Registration Number (A-Number) (if any)		2. Passport/ID Card No. (if any)		3. Marital Status (Married, Single, Divorced, Widowed)		4. U.S. Social Security No. (if any)	
5. Complete Last Name		6. First Name		7. Middle Name		8. Date of Birth (mm/dd/yyyy)	
9. City and Country of Birth		10. Nationality (Citizenship)		11. Race, Ethnic, or Tribal Group		12. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	
13. Is this child in the U.S.? <input type="checkbox"/> Yes (Complete Blocks 14 to 21.) <input type="checkbox"/> No (Specify location.)							
14. Place of last entry into the U.S.		15. Date of last entry into the U.S. (mm/dd/yyyy)		16. I-94 No. (if any)		17. Status when last admitted (Visa type, if any)	
18. What is your child's current status?		19. What is the expiration date of his/her authorized stay, if any? (mm/dd/yyyy)		20. Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No			
21. If in the U.S., is this child to be included in this application? (Check the appropriate box.) <input type="checkbox"/> Yes (Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.) <input type="checkbox"/> No							

1. Alien Registration Number (A-Number) (if any)		2. Passport/ID Card No. (if any)		3. Marital Status (Married, Single, Divorced, Widowed)		4. U.S. Social Security No. (if any)	
5. Complete Last Name		6. First Name		7. Middle Name		8. Date of Birth (mm/dd/yyyy)	
9. City and Country of Birth		10. Nationality (Citizenship)		11. Race, Ethnic, or Tribal Group		12. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	
13. Is this child in the U.S.? <input type="checkbox"/> Yes (Complete Blocks 14 to 21.) <input type="checkbox"/> No (Specify location.)							
14. Place of last entry into the U.S.		15. Date of last entry into the U.S. (mm/dd/yyyy)		16. I-94 No. (if any)		17. Status when last admitted (Visa type, if any)	
18. What is your child's current status?		19. What is the expiration date of his/her authorized stay, if any? (mm/dd/yyyy)		20. Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No			
21. If in the U.S., is this child to be included in this application? (Check the appropriate box.) <input type="checkbox"/> Yes (Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.) <input type="checkbox"/> No							



Part A-III. Information About Your Background

1. List your last address where you lived before coming to the United States. If this is not the country where you fear persecution, also list the last address in the country where you fear persecution. (List Address, City/Town, Department, Province, or State and Country.)
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Number and Street (Provide if available)	City/Town	Department, Province, or State	Country	Dates	
				From (Mo/Yr)	To (Mo/Yr)
BP 222	Buea	Southwest Region	Cameroon	9/84	1/11

2. Provide the following information about your residences during the past 5 years. List your present address first.
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Number and Street	City/Town	Department, Province, or State	Country	Dates	
				From (Mo/Yr)	To (Mo/Yr)
123 Oak St	Bethesda	MD	USA	1/11	present
BP 222	Buea	Southwest Region	Cameroon	9/84	1/11

3. Provide the following information about your education, beginning with the most recent.
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Name of School	Type of School	Location (Address)	Attended	
			From (Mo/Yr)	To (Mo/Yr)
University of Buea	University	Buea, Cameroon	9/01	6/06

4. Provide the following information about your employment during the past 5 years. List your present employment first.
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Name and Address of Employer	Your Occupation	Dates	
		From (Mo/Yr)	To (Mo/Yr)

5. Provide the following information about your parents and siblings (brothers and sisters). Check the box if the person is deceased.
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Full Name	City/Town and Country of Birth	Current Location
Mother Atangu, Miriam	Buea, Cameroon	<input type="checkbox"/> Deceased Buea, Cameroon
Father Ebai, Lawrence	Buea, Cameroon	<input type="checkbox"/> Deceased Buea, Cameroon
Sibling Ebai, Rita	Buea, Cameroon	<input type="checkbox"/> Deceased Buea, Cameroon
Sibling		<input type="checkbox"/> Deceased
Sibling		<input type="checkbox"/> Deceased
Sibling		<input type="checkbox"/> Deceased



Part B: Information About Your Application

(NOTE: Use Form I-589 Supplement B, or attach additional sheets of paper as needed to complete your responses to the questions contained in Part B.)

When answering the following questions about your asylum or other protection claim (withholding of removal under 241(b)(3) of the INA or withholding of removal under the Convention Against Torture), you must provide a detailed and specific account of the basis of your claim to asylum or other protection. To the best of your ability, provide specific dates, places, and descriptions about each event or action described. You must attach documents evidencing the general conditions in the country from which you are seeking asylum or other protection and the specific facts on which you are relying to support your claim. If this documentation is unavailable or you are not providing this documentation with your application, explain why in your responses to the following questions.

Refer to Instructions, Part I: Filing Instructions, Section II, "Basis of Eligibility," Parts A - D, Section V, "Completing the Form," Part B, and Section VII, "Additional Evidence That You Should Submit," for more information on completing this section of the form.

1. Why are you applying for asylum or withholding of removal under section 241(b)(3) of the INA, or for withholding of removal under the Convention Against Torture? Check the appropriate box(es) below and then provide detailed answers to questions A and B below:

I am seeking asylum or withholding of removal based on:

- | | |
|--------------------------------------|--|
| <input type="checkbox"/> Race | <input checked="" type="checkbox"/> Political opinion |
| <input type="checkbox"/> Religion | <input type="checkbox"/> Membership in a particular social group |
| <input type="checkbox"/> Nationality | <input checked="" type="checkbox"/> Torture Convention |

- A. Have you, your family, or close friends or colleagues ever experienced harm or mistreatment or threats in the past by anyone?

No Yes

If "Yes," explain in detail:

1. What happened;
2. When the harm or mistreatment or threats occurred;
3. Who caused the harm or mistreatment or threats; and
4. Why you believe the harm or mistreatment or threats occurred.

The police arrested me because of my activities with and support of the SCNC. I was beaten and chained up. The government does not want activists like me to have a voice.

- B. Do you fear harm or mistreatment if you return to your home country?

No Yes

If "Yes," explain in detail:

1. What harm or mistreatment you fear;
2. Who you believe would harm or mistreat you; and
3. Why you believe you would or could be harmed or mistreated.

The government headed by President Biya will continue to arrest and torture me due to my involvement with the SCNC and its secessionist cause.



Part B. Information About Your Application (Continued)

2. Have you or your family members ever been accused, charged, arrested, detained, interrogated, convicted and sentenced, or imprisoned in any country other than the United States?

No Yes

If "Yes," explain the circumstances and reasons for the action.

3.A. Have you or your family members ever belonged to or been associated with any organizations or groups in your home country, such as, but not limited to, a political party, student group, labor union, religious organization, military or paramilitary group, civil patrol, guerrilla organization, ethnic group, human rights group, or the press or media?

No Yes

If "Yes," describe for each person the level of participation, any leadership or other positions held, and the length of time you or your family members were involved in each organization or activity.

I have been a member of SCNC since I was at University. I am still a member.

B. Do you or your family members continue to participate in any way in these organizations or groups?

No Yes

If "Yes," describe for each person your or your family members' current level of participation, any leadership or other positions currently held, and the length of time you or your family members have been involved in each organization or group.

I have been a member of SCNC since I was at University. I am still a member.

4. Are you afraid of being subjected to torture in your home country or any other country to which you may be returned?

No Yes

If "Yes," explain why you are afraid and describe the nature of torture you fear, by whom, and why it would be inflicted.

The police and government in Cameroon torture political prisoners; some do not come out alive. I would be arrested and tortured if I returned to Cameroon, because I am a known supporter of the SCNC's agenda.



Part C: Additional Information About Your Application

(NOTE: Use Form I-589 Supplement B, or attach additional sheets of paper as needed to complete your responses to the questions contained in Part C.)

1. Have you, your spouse, your child(ren), your parents or your siblings ever applied to the U.S. Government for refugee status, asylum, or withholding of removal?

No Yes

If "Yes," explain the decision and what happened to any status you, your spouse, your child(ren), your parents, or your siblings received as a result of that decision. Indicate whether or not you were included in a parent or spouse's application. If so, include your parent or spouse's A-number in your response. If you have been denied asylum by an immigration judge or the Board of Immigration Appeals, describe any change(s) in conditions in your country or your own personal circumstances since the date of the denial that may affect your eligibility for asylum.

[Empty response box for question 1]

2. A. After leaving the country from which you are claiming asylum, did you or your spouse or child(ren) who are now in the United States travel through or reside in any other country before entering the United States? No Yes

B. Have you, your spouse, your child(ren), or other family members, such as your parents or siblings, ever applied for or received any lawful status in any country other than the one from which you are now claiming asylum?

No Yes

If "Yes" to either or both questions (2A and/or 2B), provide for each person the following: the name of each country and the length of stay, the person's status while there, the reasons for leaving, whether or not the person is entitled to return for lawful residence purposes, and whether the person applied for refugee status or for asylum while there, and if not, why he or she did not do so.

I had a transit stop in Brussels for approximately four hours.

3. Have you, your spouse or your child(ren) ever ordered, incited, assisted or otherwise participated in causing harm or suffering to any person because of his or her race, religion, nationality, membership in a particular social group or belief in a particular political opinion?

No Yes

If "Yes," describe in detail each such incident and your own, your spouse's, or your child(ren)'s involvement.

[Empty response box for question 3]



Part C: Additional Information About Your Application (Continued)

4. After you left the country where you were harmed or fear harm, did you return to that country?

- No Yes

If "Yes," describe in detail the circumstances of your visit(s) (for example, the date(s) of the trip(s), the purpose(s) of the trip(s), and the length of time you remained in that country for the visit(s).)

5. Are you filing this application more than 1 year after your last arrival in the United States?

- No Yes

If "Yes," explain why you did not file within the first year after you arrived. You must be prepared to explain at your interview or hearing why you did not file your asylum application within the first year after you arrived. For guidance in answering this question, see Instructions, Part 1: Filing Instructions, Section V. "Completing the Form," Part C.

6. Have you or any member of your family included in the application ever committed any crime and/or been arrested, charged, convicted, or sentenced for any crimes in the United States?

- No Yes

If "Yes," for each instance, specify in your response: what occurred and the circumstances, dates, length of sentence received, location, the duration of the detention or imprisonment, reason(s) for the detention or conviction, any formal charges that were lodged against you or your relatives included in your application, and the reason(s) for release. Attach documents referring to these incidents, if they are available, or an explanation of why documents are not available.



Part D. Your Signature

I certify, under penalty of perjury under the laws of the United States of America, that this application and the evidence submitted with it are all true and correct. Title 18, United States Code, Section 1546(a), provides in part: Whoever knowingly makes under oath, or as permitted under penalty of perjury under Section 1746 of Title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement or which fails to contain any reasonable basis in law or fact - shall be fined in accordance with this title or imprisoned for up to 25 years. I authorize the release of any information from my immigration record that U.S. Citizenship and Immigration Services (USCIS) needs to determine eligibility for the benefit I am seeking.

Staple your photograph here or the photograph of the family member to be included on the extra copy of the application submitted for that person.

WARNING: Applicants who are in the United States illegally are subject to removal if their asylum or withholding claims are not granted by an asylum officer or an immigration judge. Any information provided in completing this application may be used as a basis for the institution of, or as evidence in, removal proceedings even if the application is later withdrawn. Applicants determined to have knowingly made a frivolous application for asylum will be permanently ineligible for any benefits under the Immigration and Nationality Act. You may not avoid a frivolous finding simply because someone advised you to provide false information in your asylum application. If filing with USCIS, unexcused failure to appear for an appointment to provide biometrics (such as fingerprints) and your biographical information within the time allowed may result in an asylum officer dismissing your asylum application or referring it to an immigration judge. Failure without good cause to provide DHS with biometrics or other biographical information while in removal proceedings may result in your application being found abandoned by the immigration judge. See sections 208(d)(5)(A) and 208(d)(6) of the INA and 8 CFR sections 208.10, 1208.10, 208.20, 1003.47(d) and 1208.20.

Print your complete name. Elisabeth Ebai	Write your name in your native alphabet.
---	--

Did your spouse, parent, or child(ren) assist you in completing this application? No Yes (If "Yes," list the name and relationship.)

(Name)	(Relationship)	(Name)	(Relationship)
Did someone other than your spouse, parent, or child(ren) prepare this application?	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes (If "Yes," complete Part E.)	
Asylum applicants may be represented by counsel. Have you been provided with a list of persons who may be available to assist you, at little or no cost, with your asylum claim?	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	

Signature of Applicant (The person in Part A.1.)

[_____]

Sign your name so it all appears within the brackets

_____ Date (mm/dd/yyyy)

Part E. Declaration of Person Preparing Form, if Other Than Applicant, Spouse, Parent, or Child

I declare that I have prepared this application at the request of the person named in Part D, that the responses provided are based on all information of which I have knowledge, or which was provided to me by the applicant, and that the completed application was read to the applicant in his or her native language or a language he or she understands for verification before he or she signed the application in my presence. I am aware that the knowing placement of false information on the Form I-589 may also subject me to civil penalties under 8 U.S.C. 1324c and/or criminal penalties under 18 U.S.C. 1546(a).

Signature of Preparer		Print Complete Name of Preparer Daniel Taku	
Daytime Telephone Number (301) 555-5555		Address of Preparer: Street Number and Name 4321 Marina Dr	
Apt. No.	City Silver Spring	State MD	Zip Code



Part F: To Be Completed at Asylum Interview, if Applicable

NOTE: You will be asked to complete this part when you appear for examination before an asylum officer of the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS).

I swear (affirm) that I know the contents of this application that I am signing, including the attached documents and supplements, that they are all true or not all true to the best of my knowledge and that correction(s) numbered ____ to ____ were made by me or at my request. Furthermore, I am aware that if I am determined to have knowingly made a frivolous application for asylum I will be permanently ineligible for any benefits under the Immigration and Nationality Act, and that I may not avoid a frivolous finding simply because someone advised me to provide false information in my asylum application.

Signed and sworn to before me by the above named applicant on:

Signature of Applicant

Date (mm/dd/yyyy)

Write Your Name in Your Native Alphabet

Signature of Asylum Officer

Part G: To Be Completed at Removal Hearing, if Applicable

NOTE: You will be asked to complete this Part when you appear before an immigration judge of the U.S. Department of Justice, Executive Office for Immigration Review (EOIR), for a hearing.

I swear (affirm) that I know the contents of this application that I am signing, including the attached documents and supplements, that they are all true or not all true to the best of my knowledge and that correction(s) numbered ____ to ____ were made by me or at my request. Furthermore, I am aware that if I am determined to have knowingly made a frivolous application for asylum I will be permanently ineligible for any benefits under the Immigration and Nationality Act, and that I may not avoid a frivolous finding simply because someone advised me to provide false information in my asylum application.

Signed and sworn to before me by the above named applicant on:

Signature of Applicant

Date (mm/dd/yyyy)

Write Your Name in Your Native Alphabet

Signature of Immigration Judge



A-Number (If available)	Date
Applicant's Name	Applicant's Signature

List All of Your Children, Regardless of Age or Marital Status
 (NOTE: Use this form and attach additional pages and documentation as needed. If you have more than four children)

1. Alien Registration Number (A-Number) (if any)	2. Passport/ID Card Number (if any)	3. Marital Status (Married, Single, Divorced, Widowed)	4. U.S. Social Security Number (if any)
5. Complete Last Name	6. First Name	7. Middle Name	8. Date of Birth (mm/dd/yyyy)
9. City and Country of Birth	10. Nationality (Citizenship)	11. Race, Ethnic, or Tribal Group	12. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
13. Is this child in the U.S.? <input type="checkbox"/> Yes (Complete blocks 14 to 21.) <input type="checkbox"/> No (Specify location.) _____			
14. Place of last entry into the U.S.	15. Date of last entry into the U.S. (mm/dd/yyyy)	16. I-94 Number (if any)	17. Status when last admitted (Visa type, if any)
18. What is your child's current status?	19. What is the expiration date of his/her authorized stay, if any? (mm/dd/yyyy)	20. Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No	
21. If in the U.S., is this child to be included in this application? (Check the appropriate box.) <input type="checkbox"/> Yes (Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.) <input type="checkbox"/> No			

1. Alien Registration Number (A-Number) (if any)	2. Passport/ID Card Number (if any)	3. Marital Status (Married, Single, Divorced, Widowed)	4. U.S. Social Security Number (if any)
5. Complete Last Name	6. First Name	7. Middle Name	8. Date of Birth (mm/dd/yyyy)
9. City and Country of Birth	10. Nationality (Citizenship)	11. Race, Ethnic, or Tribal Group	12. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
13. Is this child in the U.S.? <input type="checkbox"/> Yes (Complete blocks 14 to 21.) <input type="checkbox"/> No (Specify location.) _____			
14. Place of last entry into the U.S.	15. Date of last entry into the U.S. (mm/dd/yyyy)	16. I-94 Number (if any)	17. Status when last admitted (Visa type, if any)
18. What is your child's current status?	19. What is the expiration date of his/her authorized stay, if any? (mm/dd/yyyy)	20. Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No	
21. If in the U.S., is this child to be included in this application? (Check the appropriate box.) <input type="checkbox"/> Yes (Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.) <input type="checkbox"/> No			



Additional Information About Your Claim to Asylum

A-Number (if available)

Date

Applicant's Name

Applicant's Signature

NOTE: Use this as a continuation page for any additional information requested. Copy and complete as needed.

Part _____

Question _____

Large empty rectangular box for providing additional information.



I-589, Application for Asylum and for Withholding of Removal

START HERE - Type or print in black ink. See the instructions for information about eligibility and how to complete and file this application. There is NO filing fee for this application.

NOTE: Check this box if you also want to apply for withholding of removal under the Convention Against Torture.

Part A: Information About You

1. Alien Registration Number(s) (A-Number) (if any) 7X XXX XX3		2. U.S. Social Security Number (if any)	
3. Complete Last Name Ebai		4. First Name Emmanuel	5. Middle Name
6. What other names have you used (include maiden name and aliases)? None			
7. Residence in the U.S. (where you physically reside) 123 Oak St		Telephone Number ()	
Street Number and Name		Apt. Number	
City Bethesda	State MD	Zip Code	
8. Mailing Address in the U.S. (if different than the address in No. 7) In Care Of (if applicable):		Telephone Number ()	
Street Number and Name		Apt. Number	
City	State	Zip Code	
9. Gender: <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	10. Marital Status: <input checked="" type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed		
11. Date of Birth (mm/dd/yyyy) 01/01/1984	12. City and Country of Birth Cameroon		
13. Present Nationality (Citizenship) Cameroon	14. Nationality at Birth Cameroon	15. Race, Ethnic, or Tribal Group Bassa	16. Religion Christian
17. Check the box, a through c, that applies: a. <input checked="" type="checkbox"/> I have never been in Immigration Court proceedings. b. <input type="checkbox"/> I am now in Immigration Court proceedings. c. <input type="checkbox"/> I am not now in Immigration Court proceedings, but I have been in the past.			
18. Complete 18 a through c. a. When did you last leave your country? (mmm/dd/yyyy) <u>01/01/2011</u> b. What is your current I-94 Number, if any? _____ c. List each entry into the U.S. beginning with your most recent entry. <i>List date (mm/dd/yyyy), place, and your status for each entry. (Attach additional sheets as needed.)</i> Date <u>01/01/2011</u> Place <u>Washington, D.C.</u> Status <u>B-2</u> Date Status Expires: <u>06/30/2011</u> Date _____ Place _____ Status _____ Date _____ Place _____ Status _____			
19. What country issued your last passport or travel document? Cameroon	20. Passport # <u>N 1234567</u>	21. Expiration Date (mm/dd/yyyy) <u>09/01/2015</u>	
22. What is your native language (include dialect, if applicable)? Bassa	23. Are you fluent in English? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	24. What other languages do you speak fluently?	
For EOIR use only.	For USCIS use only. Decision:		
	Interview Date: _____	Approval Date: _____	
	Asylum Officer ID#: _____	Denial Date: _____	
	Referral Date: _____		



Part A. II. Information About Your Spouse and Children

Your spouse I am not married. (Skip to Your Children below.)

1. Alien Registration Number (A-Number) <i>(if any)</i>		2. Passport/ID Card No. <i>(if any)</i>		3. Date of Birth <i>(mm/dd/yyyy)</i>		4. U.S. Social Security No. <i>(if any)</i>	
5. Complete Last Name			6. First Name		7. Middle Name		8. Maiden Name
9. Date of Marriage <i>(mm/dd/yyyy)</i>			10. Place of Marriage			11. City and Country of Birth	
12. Nationality <i>(Citizenship)</i>			13. Race, Ethnic, or Tribal Group			14. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	
15. Is this person in the U.S.? <input type="checkbox"/> Yes <i>(Complete Blocks 16 to 24.)</i> <input type="checkbox"/> No <i>(Specify location):</i> _____							
16. Place of last entry into the U.S.		17. Date of last entry into the U.S. <i>(mm/dd/yyyy)</i>		18. I-94 No. <i>(if any)</i>		19. Status when last admitted <i>(Visa type, if any)</i>	
20. What is your spouse's current status?		21. What is the expiration date of his/her authorized stay, if any? <i>(mm/dd/yyyy)</i>		22. Is your spouse in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No		23. If previously in the U.S., date of previous arrival <i>(mm/dd/yyyy)</i>	
24. If in the U.S., is your spouse to be included in this application? <i>(Check the appropriate box.)</i> <input type="checkbox"/> Yes <i>(Attach one photograph of your spouse in the upper right corner of Page 9 on the extra copy of the application submitted for this person.)</i> <input type="checkbox"/> No							

Your Children. List all of your children, regardless of age, location, or marital status.

I do not have any children. *(Skip to Part A. III., Information about your background.)*

I have children. Total number of children: _____

(NOTE: Use Form I-589 Supplement A or attach additional sheets of paper and documentation if you have more than four children.)

1. Alien Registration Number (A-Number) <i>(if any)</i>		2. Passport/ID Card No. <i>(if any)</i>		3. Marital Status <i>(Married, Single, Divorced, Widowed)</i>		4. U.S. Social Security No. <i>(if any)</i>	
5. Complete Last Name			6. First Name		7. Middle Name		8. Date of Birth <i>(mm/dd/yyyy)</i>
9. City and Country of Birth			10. Nationality <i>(Citizenship)</i>		11. Race, Ethnic, or Tribal Group		12. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
13. Is this child in the U.S. ? <input type="checkbox"/> Yes <i>(Complete Blocks 14 to 21.)</i> <input type="checkbox"/> No <i>(Specify location.)</i> _____							
14. Place of last entry in the U.S.		15. Date of last entry in the U.S. <i>(mm/dd/yyyy)</i>		16. I-94 No. <i>(if any)</i>		17. Status when last admitted <i>(Visa type, if any)</i>	
18. What is your child's current status?		19. What is the expiration date of his/her authorized stay, if any? <i>(mm/dd/yyyy)</i>		20. Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No			
21. If in the U.S., is this child to be included in this application? <i>(Check the appropriate box.)</i> <input type="checkbox"/> Yes <i>(Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.)</i> <input type="checkbox"/> No							



Part A - II: Information About Your Spouse and Children (Continued)

1. Alien Registration Number (A-Number) (if any)		2. Passport/ID Card No. (if any)		3. Marital Status (Married, Single, Divorced, Widowed)		4. U.S. Social Security No. (if any)	
5. Complete Last Name		6. First Name		7. Middle Name		8. Date of Birth (mm/dd/yyyy)	
9. City and Country of Birth		10. Nationality (Citizenship)		11. Race, Ethnic, or Tribal Group		12. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	
13. Is this child in the U.S.? <input type="checkbox"/> Yes (Complete Blocks 14 to 21.) <input type="checkbox"/> No (Specify location.)							
14. Place of last entry into the U.S.		15. Date of last entry into the U.S. (mm/dd/yyyy)		16. I-94 No. (if any)		17. Status when last admitted (Visa type, if any)	
18. What is your child's current status?		19. What is the expiration date of his/her authorized stay, if any? (mm/dd/yyyy)		20. Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No			
21. If in the U.S., is this child to be included in this application? (Check the appropriate box.) <input type="checkbox"/> Yes (Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.) <input type="checkbox"/> No							

1. Alien Registration Number (A-Number) (if any)		2. Passport/ID Card No. (if any)		3. Marital Status (Married, Single, Divorced, Widowed)		4. U.S. Social Security No. (if any)	
5. Complete Last Name		6. First Name		7. Middle Name		8. Date of Birth (mm/dd/yyyy)	
9. City and Country of Birth		10. Nationality (Citizenship)		11. Race, Ethnic, or Tribal Group		12. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	
13. Is this child in the U.S.? <input type="checkbox"/> Yes (Complete Blocks 14 to 21.) <input type="checkbox"/> No (Specify location.)							
14. Place of last entry into the U.S.		15. Date of last entry into the U.S. (mm/dd/yyyy)		16. I-94 No. (if any)		17. Status when last admitted (Visa type, if any)	
18. What is your child's current status?		19. What is the expiration date of his/her authorized stay, if any? (mm/dd/yyyy)		20. Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No			
21. If in the U.S., is this child to be included in this application? (Check the appropriate box.) <input type="checkbox"/> Yes (Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.) <input type="checkbox"/> No							

1. Alien Registration Number (A-Number) (if any)		2. Passport/ID Card No. (if any)		3. Marital Status (Married, Single, Divorced, Widowed)		4. U.S. Social Security No. (if any)	
5. Complete Last Name		6. First Name		7. Middle Name		8. Date of Birth (mm/dd/yyyy)	
9. City and Country of Birth		10. Nationality (Citizenship)		11. Race, Ethnic, or Tribal Group		12. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	
13. Is this child in the U.S.? <input type="checkbox"/> Yes (Complete Blocks 14 to 21.) <input type="checkbox"/> No (Specify location.)							
14. Place of last entry into the U.S.		15. Date of last entry into the U.S. (mm/dd/yyyy)		16. I-94 No. (if any)		17. Status when last admitted (Visa type, if any)	
18. What is your child's current status?		19. What is the expiration date of his/her authorized stay, if any? (mm/dd/yyyy)		20. Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No			
21. If in the U.S., is this child to be included in this application? (Check the appropriate box.) <input type="checkbox"/> Yes (Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.) <input type="checkbox"/> No							



Part A, III, Information About Your Background

1. List your last address where you lived before coming to the United States. If this is not the country where you fear persecution, also list the last address in the country where you fear persecution. (List Address, City/Town, Department, Province, or State and Country.)
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Number and Street (Provide if available)	City/Town	Department, Province, or State	Country	Dates	
				From (Mo/Yr)	To (Mo/Yr)
BP 222	Buea	Southwest Region	Cameroon	9/84	1/11

2. Provide the following information about your residences during the past 5 years. List your present address first.
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Number and Street	City/Town	Department, Province, or State	Country	Dates	
				From (Mo/Yr)	To (Mo/Yr)
123 Oak St	Bethesda	MD	USA	1/11	present
BP 222	Buea	Southwest Region	Cameroon	9/84	1/11

3. Provide the following information about your education, beginning with the most recent.
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Name of School	Type of School	Location (Address)	Attended	
			From (Mo/Yr)	To (Mo/Yr)
University of Buea	University	Buea, Cameroon	9/01	6/06

4. Provide the following information about your employment during the past 5 years. List your present employment first.
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Name and Address of Employer	Your Occupation	Dates	
		From (Mo/Yr)	To (Mo/Yr)

5. Provide the following information about your parents and siblings (brothers and sisters). Check the box if the person is deceased.
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Full Name	City/Town and Country of Birth	Current Location
Mother Atangu, Miriam	Buea, Cameroon	<input type="checkbox"/> Deceased Buea, Cameroon
Father Ebai, Lawrence	Buea, Cameroon	<input type="checkbox"/> Deceased Buea, Cameroon
Sibling Ebai, Rita	Buea, Cameroon	<input type="checkbox"/> Deceased Buea, Cameroon
Sibling		<input type="checkbox"/> Deceased
Sibling		<input type="checkbox"/> Deceased
Sibling		<input type="checkbox"/> Deceased



Part B: Information About Your Application

(NOTE: Use Form I-589 Supplement B, or attach additional sheets of paper as needed to complete your responses to the questions contained in Part B.)

When answering the following questions about your asylum or other protection claim (withholding of removal under 241(b)(3) of the INA or withholding of removal under the Convention Against Torture), you must provide a detailed and specific account of the basis of your claim to asylum or other protection. To the best of your ability, provide specific dates, places, and descriptions about each event or action described. You must attach documents evidencing the general conditions in the country from which you are seeking asylum or other protection and the specific facts on which you are relying to support your claim. If this documentation is unavailable or you are not providing this documentation with your application, explain why in your responses to the following questions.

Refer to Instructions, Part I: Filing Instructions, Section II, "Basis of Eligibility," Parts A - D, Section V, "Completing the Form," Part B, and Section VII, "Additional Evidence That You Should Submit," for more information on completing this section of the form.

1. Why are you applying for asylum or withholding of removal under section 241(b)(3) of the INA, or for withholding of removal under the Convention Against Torture? Check the appropriate box(es) below and then provide detailed answers to questions A and B below:

I am seeking asylum or withholding of removal based on:

- | | |
|--------------------------------------|--|
| <input type="checkbox"/> Race | <input checked="" type="checkbox"/> Political opinion |
| <input type="checkbox"/> Religion | <input type="checkbox"/> Membership in a particular social group |
| <input type="checkbox"/> Nationality | <input checked="" type="checkbox"/> Torture Convention |

A. Have you, your family, or close friends or colleagues ever experienced harm or mistreatment or threats in the past by anyone?

- No Yes

If "Yes," explain in detail:

1. What happened;
2. When the harm or mistreatment or threats occurred;
3. Who caused the harm or mistreatment or threats; and
4. Why you believe the harm or mistreatment or threats occurred.

The police arrested me because of my activities with and support of the SCNC. I was beaten and chained up. The government does not want activists like me to have a voice.

B. Do you fear harm or mistreatment if you return to your home country?

- No Yes

If "Yes," explain in detail:

1. What harm or mistreatment you fear;
2. Who you believe would harm or mistreat you; and
3. Why you believe you would or could be harmed or mistreated.

The government headed by President Biya will continue to arrest and torture me due to my involvement with the SCNC and its secessionist cause.



Part B. Information About Your Application (Continued)

2. Have you or your family members ever been accused, charged, arrested, detained, interrogated, convicted and sentenced, or imprisoned in any country other than the United States?

No Yes

If "Yes," explain the circumstances and reasons for the action.

3.A. Have you or your family members ever belonged to or been associated with any organizations or groups in your home country, such as, but not limited to, a political party, student group, labor union, religious organization, military or paramilitary group, civil patrol, guerrilla organization, ethnic group, human rights group, or the press or media?

No Yes

If "Yes," describe for each person the level of participation, any leadership or other positions held, and the length of time you or your family members were involved in each organization or activity.

I have been a member of SCNC since I was at University. I am still a member.

B. Do you or your family members continue to participate in any way in these organizations or groups?

No Yes

If "Yes," describe for each person your or your family members' current level of participation, any leadership or other positions currently held, and the length of time you or your family members have been involved in each organization or group.

I have been a member of SCNC since I was at University. I am still a member.

4. Are you afraid of being subjected to torture in your home country or any other country to which you may be returned?

No Yes

If "Yes," explain why you are afraid and describe the nature of torture you fear, by whom, and why it would be inflicted.

The police and government in Cameroon torture political prisoners; some do not come out alive. I would be arrested and tortured if I returned to Cameroon, because I am a known supporter of the SCNC's agenda.



Part C. Additional Information About Your Application

(NOTE: Use Form I-589 Supplement B, or attach additional sheets of paper as needed to complete your responses to the questions contained in Part C.)

1. Have you, your spouse, your child(ren), your parents or your siblings ever applied to the U.S. Government for refugee status, asylum, or withholding of removal?

No Yes

If "Yes," explain the decision and what happened to any status you, your spouse, your child(ren), your parents, or your siblings received as a result of that decision. Indicate whether or not you were included in a parent or spouse's application. If so, include your parent or spouse's A-number in your response. If you have been denied asylum by an immigration judge or the Board of Immigration Appeals, describe any change(s) in conditions in your country or your own personal circumstances since the date of the denial that may affect your eligibility for asylum.

2. A. After leaving the country from which you are claiming asylum, did you or your spouse or child(ren) who are now in the United States travel through or reside in any other country before entering the United States? No Yes

B. Have you, your spouse, your child(ren), or other family members, such as your parents or siblings, ever applied for or received any lawful status in any country other than the one from which you are now claiming asylum?

No Yes

If "Yes" to either or both questions (2A and/or 2B), provide for each person the following: the name of each country and the length of stay, the person's status while there, the reasons for leaving, whether or not the person is entitled to return for lawful residence purposes, and whether the person applied for refugee status or for asylum while there, and if not, why he or she did not do so.

I had a transit stop in Brussels for approximately four hours.

3. Have you, your spouse or your child(ren) ever ordered, incited, assisted or otherwise participated in causing harm or suffering to any person because of his or her race, religion, nationality, membership in a particular social group or belief in a particular political opinion?

No Yes

If "Yes," describe in detail each such incident and your own, your spouse's, or your child(ren)'s involvement.



Part C: Additional Information About Your Application (Continued)

4. After you left the country where you were harmed or fear harm, did you return to that country?

- No Yes

If "Yes," describe in detail the circumstances of your visit(s) (for example, the date(s) of the trip(s), the purpose(s) of the trip(s), and the length of time you remained in that country for the visit(s).)

5. Are you filing this application more than 1 year after your last arrival in the United States?

- No Yes

If "Yes," explain why you did not file within the first year after you arrived. You must be prepared to explain at your interview or hearing why you did not file your asylum application within the first year after you arrived. For guidance in answering this question, see Instructions, Part 1: Filing Instructions, Section V. "Completing the Form," Part C.

6. Have you or any member of your family included in the application ever committed any crime and/or been arrested, charged, convicted, or sentenced for any crimes in the United States?

- No Yes

If "Yes," for each instance, specify in your response: what occurred and the circumstances, dates, length of sentence received, location, the duration of the detention or imprisonment, reason(s) for the detention or conviction, any formal charges that were lodged against you or your relatives included in your application, and the reason(s) for release. Attach documents referring to these incidents, if they are available, or an explanation of why documents are not available.



Part D. Your Signature

I certify, under penalty of perjury under the laws of the United States of America, that this application and the evidence submitted with it are all true and correct. Title 18, United States Code, Section 1546(a), provides in part: Whoever knowingly makes under oath, or as permitted under penalty of perjury under Section 1746 of Title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement or which fails to contain any reasonable basis in law or fact - shall be fined in accordance with this title or imprisoned for up to 25 years. I authorize the release of any information from my immigration record that U.S. Citizenship and Immigration Services (USCIS) needs to determine eligibility for the benefit I am seeking.

Staple your photograph here or the photograph of the family member to be included on the extra copy of the application submitted for that person.

WARNING: Applicants who are in the United States illegally are subject to removal if their asylum or withholding claims are not granted by an asylum officer or an immigration judge. Any information provided in completing this application may be used as a basis for the institution of, or as evidence in, removal proceedings even if the application is later withdrawn. Applicants determined to have knowingly made a frivolous application for asylum will be permanently ineligible for any benefits under the Immigration and Nationality Act. You may not avoid a frivolous finding simply because someone advised you to provide false information in your asylum application. If filing with USCIS, unexcused failure to appear for an appointment to provide biometrics (such as fingerprints) and your biographical information within the time allowed may result in an asylum officer dismissing your asylum application or referring it to an immigration judge. Failure without good cause to provide DHS with biometrics or other biographical information while in removal proceedings may result in your application being found abandoned by the immigration judge. See sections 208(d)(5)(A) and 208(d)(6) of the INA and 8 CFR sections 208.10, 1208.10, 208.20, 1003.47(d) and 1208.20.

Print your complete name. Emmanuel Ebai	Write your name in your native alphabet. (
--	---

Did your spouse, parent, or child(ren) assist you in completing this application? No Yes (If "Yes," list the name and relationship.)

(Name)	(Relationship)	(Name)	(Relationship)
Did someone other than your spouse, parent, or child(ren) prepare this application? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If "Yes," complete Part E.)			
Asylum applicants may be represented by counsel. Have you been provided with a list of persons who may be available to assist you, at little or no cost, with your asylum claim? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			

Signature of Applicant (The person in Part A.I.)

[_____]

Sign your name so it all appears within the brackets

_____ Date (mm/dd/yyyy)

Part E. Declaration of Person Preparing Form, if Other Than Applicant, Spouse, Parent, or Child

I declare that I have prepared this application at the request of the person named in Part D, that the responses provided are based on all information of which I have knowledge, or which was provided to me by the applicant, and that the completed application was read to the applicant in his or her native language or a language he or she understands for verification before he or she signed the application in my presence. I am aware that the knowing placement of false information on the Form I-589 may also subject me to civil penalties under 8 U.S.C. 1324c and/or criminal penalties under 18 U.S.C. 1546(a).

Signature of Preparer		Print Complete Name of Preparer Daniel Taku	
Daytime Telephone Number (301) 555-5555		Address of Preparer: Street Number and Name 4321 Marina Dr	
Apt. No.	City Silver Spring	State MD	Zip Code



Part E: To Be Completed at Asylum Interview, if Applicable

NOTE: You will be asked to complete this part when you appear for examination before an asylum officer of the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS).

I swear (affirm) that I know the contents of this application that I am signing, including the attached documents and supplements, that they are all true or not all true to the best of my knowledge and that correction(s) numbered ____ to ____ were made by me or at my request. Furthermore, I am aware that if I am determined to have knowingly made a frivolous application for asylum I will be permanently ineligible for any benefits under the Immigration and Nationality Act, and that I may not avoid a frivolous finding simply because someone advised me to provide false information in my asylum application.

Signed and sworn to before me by the above named applicant on:

Signature of Applicant

Date (mm/dd/yyyy)

Write Your Name in Your Native Alphabet

Signature of Asylum Officer

Part G: To Be Completed at Removal Hearing, if Applicable

NOTE: You will be asked to complete this Part when you appear before an immigration judge of the U.S. Department of Justice, Executive Office for Immigration Review (EOIR), for a hearing.

I swear (affirm) that I know the contents of this application that I am signing, including the attached documents and supplements, that they are all true or not all true to the best of my knowledge and that correction(s) numbered ____ to ____ were made by me or at my request. Furthermore, I am aware that if I am determined to have knowingly made a frivolous application for asylum I will be permanently ineligible for any benefits under the Immigration and Nationality Act, and that I may not avoid a frivolous finding simply because someone advised me to provide false information in my asylum application.

Signed and sworn to before me by the above named applicant on:

Signature of Applicant

Date (mm/dd/yyyy)

Write Your Name in Your Native Alphabet

Signature of Immigration Judge



A-Number (If available)	Date
Applicant's Name	Applicant's Signature

List All of Your Children, Regardless of Age or Marital Status
 (NOTE: Use this form and attach additional pages and documentation as needed, if you have more than four children)

1. Alien Registration Number (A-Number) (if any)	2. Passport/ID Card Number (if any)	3. Marital Status (Married, Single, Divorced, Widowed)	4. U.S. Social Security Number (if any)
5. Complete Last Name	6. First Name	7. Middle Name	8. Date of Birth (mm/dd/yyyy)
9. City and Country of Birth	10. Nationality (Citizenship)	11. Race, Ethnic, or Tribal Group	12. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
13. Is this child in the U.S.? <input type="checkbox"/> Yes (Complete blocks 14 to 21.) <input type="checkbox"/> No (Specify location.) _____			
14. Place of last entry into the U.S.	15. Date of last entry into the U.S. (mm/dd/yyyy)	16. I-94 Number (if any)	17. Status when last admitted (Visa type, if any)
18. What is your child's current status?	19. What is the expiration date of his/her authorized stay, if any? (mm/dd/yyyy)	20. Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No	
21. If in the U.S., is this child to be included in this application? (Check the appropriate box.) <input type="checkbox"/> Yes (Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.) <input type="checkbox"/> No			

1. Alien Registration Number (A-Number) (if any)	2. Passport/ID Card Number (if any)	3. Marital Status (Married, Single, Divorced, Widowed)	4. U.S. Social Security Number (if any)
5. Complete Last Name	6. First Name	7. Middle Name	8. Date of Birth (mm/dd/yyyy)
9. City and Country of Birth	10. Nationality (Citizenship)	11. Race, Ethnic, or Tribal Group	12. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
13. Is this child in the U.S.? <input type="checkbox"/> Yes (Complete blocks 14 to 21.) <input type="checkbox"/> No (Specify location.) _____			
14. Place of last entry into the U.S.	15. Date of last entry into the U.S. (mm/dd/yyyy)	16. I-94 Number (if any)	17. Status when last admitted (Visa type, if any)
18. What is your child's current status?	19. What is the expiration date of his/her authorized stay, if any? (mm/dd/yyyy)	20. Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No	
21. If in the U.S., is this child to be included in this application? (Check the appropriate box.) <input type="checkbox"/> Yes (Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.) <input type="checkbox"/> No			



Additional Information About Your Claim to Asylum

A-Number (if available)

Date

Applicant's Name

Applicant's Signature

NOTE: Use this as a continuation page for any additional information requested. Copy and complete as needed.

Part _____

Question _____

[Large empty rectangular box for providing additional information]



INFORMATION ON EMMANUEL EBAI

My name is Emmanuel Ebai. I am 28 years old. I am an Anglophone from Southwest Region (formerly Southwest Province).

I became a member of the Southern Cameroons National Council (SCNC) in 2004 when I was a university student. SCNC is a non-violent group that advocates for self-determination and secession of the southern Anglophone region of Cameroon. I have been an SCNC Coordinator in my zone since 2007. I made and distributed flyers and posters, acted as one of the liaisons between the central committee and my zone, and prepared rally sites and speakers.

Shortly after becoming Coordinator, I was arrested while at a rally. Many at the rally were arrested with me. I was detained seven days, beaten, and on one occasion I was forced to jump onto small stones with my bare feet. After my release I continued with my activities as Zone Coordinator, but was very careful so that I would not be detected.

On April 1, 2008 six police entered and searched my home, finding SCNC flyers and documents. I was arrested and detained for five weeks. During that time they beat my feet with a baton, and chained me to the wall of my cell. After I was released I spent one week in the hospital.

In 2009, while I was traveling home from a peace march in Bamenda, police boarded and searched the bus on which I was riding. They found and confiscated the SCNC T-shirts that I had been carrying and attempting to sell at the march for fundraising. I was arrested and detained for two weeks. I was beaten on the feet with a rubber stick and forced to lie chained up in the sun for two hours every day.

In November 2010, I was served with convocation from the local police, requesting my presence at the station. No reason was given. I was afraid what would happen to me, so I did not go to the station. However, the police must have issued a warrant for me, because in December 2010 I was arrested when three gendarmes appeared at my home. They confiscated SCNC materials and they beat me in front of my little sister. At the station, they beat my legs. For four days I was locked in a cell with bright lights and water on the floor. When an officer came to check on me, I was unable to stand up as my legs were extremely swollen and painful. I was taken to the hospital. After a few days I escaped from the hospital and went to Douala and made arrangements to leave Cameroon with the assistance of SCNC lawyers. On January 1, 2011....

[RAD version – ...I escaped to Lagos Nigeria, where I have an uncle, and registered with UNHCR. I have been in Nigeria since then.]

[ASY version – ...I entered the United States as a B-2 visitor.]

I am very afraid to return to Cameroon. It is not safe for me as long as the government continues to arrest and torture SCNC supporters working to secure our independence.

INFORMATION ON ELISABETH EBAI

My name is Elisabeth Ebai. I am 28 years old. I am an Anglophone from Southwest Region (formerly Southwest Province).

I became a member of the Southern Cameroons National Council (SCNC) in 2004 when I was a university student. SCNC is a non-violent group that advocates for self-determination and secession of the southern Anglophone region of Cameroon. I have been an SCNC Coordinator in my zone since 2007. I made and distributed flyers and posters, acted as one of the liaisons between the central committee and my zone, and prepared rally sites and speakers.

Shortly after becoming Coordinator, I was arrested while at a rally. Many at the rally were arrested with me. I was detained seven days, beaten, and on one occasion I was forced to jump onto small stones with my bare feet. After my release I continued with my activities as Zone Coordinator, but was very careful so that I would not be detected.

On April 1, 2008 six police entered and searched my home, finding SCNC flyers and documents. I was arrested and detained for five weeks. During that time they beat my feet with a baton, and chained me to the wall of my cell. After I was released I spent one week in the hospital.

In 2009, while I was traveling home from a peace march in Bamenda, police boarded and searched the bus on which I was riding. They found and confiscated the SCNC T-shirts that I had been carrying and attempting to sell at the march for fundraising. I was arrested and detained for two weeks. I was beaten on the feet with a rubber stick and forced to lie chained up in the sun for two hours every day.

In November 2010, I was served with convocation from the local police, requesting my presence at the station. No reason was given. I was afraid what would happen to me, so I did not go to the station. However, the police must have issued a warrant for me, because in December 2010 I was arrested when three gendarmes appeared at my home. They confiscated SCNC materials and they beat me in front of my little sister. At the station, they beat my legs. For four days I was locked in a cell with bright lights and water on the floor. When an officer came to check on me, I was unable to stand up as my legs were extremely swollen and painful. I was taken to the hospital. After a few days I escaped from the hospital and went to Douala and made arrangements to leave Cameroon with the assistance of SCNC lawyers. On January 1, 2011....

[RAD version – ...I escaped to Lagos Nigeria, where I have an uncle, and registered with UNHCR. I have been in Nigeria since then.]

[ASY version – ...I entered the United States as a B-2 visitor.]

I am very afraid to return to Cameroon. It is not safe for me as long as the government continues to arrest and torture SCNC supporters working to secure our independence.

RAIO Combined Training

MINI MOCK

Student #1

MINI MOCK INTERVIEWS

STUDENT #1 – General Instructions

The packet of information you will receive contains materials for an interviewing exercise. All of the students in the class will be organized into pairs. You and your partner will interview each other. You may talk with other students who have the same role as you, but do not talk about your role with your partner or anyone else who has the opposite role.

1st INTERVIEW:

You are an asylum or refugee applicant/role-player. You'll play the role of an applicant from Cameroon. Your partner will interview you. You will receive the following documents and information for this applicant:

- (If you are female, use the following):
 - Information sheet about female Cameroonian applicant, Elisabeth Ebai
 - I-589 or I-590 for female Cameroonian applicant, Elisabeth Ebai
- (If you are male, use the following):
 - Information sheet about male Cameroonian applicant, Emmanuel Ebai
 - I-589 or I-590 for male Cameroonian applicant, Emmanuel Ebai
- Country conditions information on Cameroon

Please read the "Ground Rules for Applicants/Role-players" provided in the packet.

2nd INTERVIEW:

You will interview an applicant from Iraq. Your partner will portray the applicant. You will receive the following documents and information for this applicant:

- I-589 or I-590 for female Iraqi Applicant, Maria Matti Yaqub (will be used by female student/role-player)
- I-589 or I-590 for male Iraqi applicant, Behnam Matti Yaqub (will be used by male student/role-player)
- Country conditions information on Iraq

Please read the "Ground Rules for Officers" provided in the packet.

Conduct a complete interview, taking notes according to your Division's requirements and the guidance in the RAIO Lesson Plan on Interviewing – Note Taking. Your notes will be evaluated by an instructor. Keep your notes and the packet and bring them to class; they will be used in a later session.

MINI MOCK INTERVIEWS

GROUND RULES FOR OFFICERS/INTERVIEWERS

- **Documents:** Applicant will not have pre-prepared documents such as birth certificates, passports, driver's licenses, social security cards, etc. Ask for documents as you normally would in an interview, but the role-player will improvise his or her response. If you are presented with any documents, for the purpose of this exercise, accept them as complete and valid.
- **Applicant "Cheat Sheet":** Please ignore the fact that during the interview, your partner playing the role of the applicant may refer to their I-589 or I-590 and an information "cheat sheet" for answers to certain questions.
- **Eliciting Testimony:** The goal of this exercise is to practice the use of interviewing techniques to elicit all material evidence during the interview. Because you will be interviewing someone playing the role of an applicant, there may be many questions to which the "applicant" does not know the answer. Do not let this minimize the experience that you can gain in asking creative questions and following up on important lines of questioning.
- **Credibility:** For the purposes of this exercise, please assume that the applicant is credible.
- **Persecutors/Fraud/Bars:** If you encounter an issue that you believe may constitute a mandatory bar for persecutors that may require a sworn statement, Q&A note-taking, or other special procedure done in your office, you may disregard that procedure for this exercise. Take regular notes, covering all issues. An examination of the bars is not the focus of this interview.
- **Discussions with other Officers:** In conversations with other asylum officers who interviewed students playing the same role as your applicant, you may discover that the facts of the case were presented differently in other interviews. Do not let this concern you. We anticipate that each student role-player will play the role of the applicant differently and, thus, variations in the facts of the case are inevitable.

MINI MOCK INTERVIEWS

GROUND RULES FOR APPLICANTS/ROLE-PLAYERS

- **Stay in role as much as possible.** You may improvise if necessary, within the character. Because the goal of this exercise is to provide experience in eliciting testimony, some careful improvisation will provide the student conducting the interview an opportunity to develop follow-up questions. Please review your role and prepare for it as much as possible in order to make the case as realistic an experience as possible for your partner. Try to remain in role; this is the first time that you and your partner will have to conduct a complete interview during the training, so please give the "officer" a good opportunity to practice his or her interviewing skills.
- The interviewing officer has the duty to elicit from you the details of your claim. Although you should testify as naturally as possible, pace yourself with pauses that force the officer to use his or her interviewing skills to get you to open up. Remember, though, the officer may be somewhat inexperienced and the idea is not to make it unnaturally difficult or tricky.
- **Documents:** If you are asked for documents, you may improvise your response as to whether you have the document or not. Officers are instructed to accept as valid any prop document or identification you present.
- **Credibility:** The scenario is to be done in a credible manner, i.e., the applicant is supposed to be telling the truth. It is therefore important for the role-player to review the application form and the information about the country in order to portray as credible an applicant as possible. You may, however, have your papers with you during the interview and refer to them when necessary.

If there are any discrepancies on the application and the officer asks why there is a mistake, explain that the preparer must have written it down incorrectly, but that you are now giving the officer the true and correct information.

- **Country conditions information** is provided in the packet. Please review this information, as it provides background information relevant to the role you will be playing.

I-589, Application for Asylum and for Withholding of Removal

START HERE - Type or print in black ink. See the instructions for information about eligibility and how to complete and file this application. There is NO filing fee for this application.

NOTE: Check this box if you also want to apply for withholding of removal under the Convention Against Torture.

Part A. I. Information About You

1. Alien Registration Number(s) (A-Number) (if any) 7X XXX XX3	2. U.S. Social Security Number (if any)
---	---

3. Complete Last Name Yaqub	4. First Name Behnam	5. Middle Name Matti
--------------------------------	-------------------------	-------------------------

6. What other names have you used (include maiden name and aliases)?
None

7. Residence in the U.S. (where you physically reside) 123 Elm St	Telephone Number ()
--	-------------------------

Street Number and Name	Apt. Number
------------------------	-------------

City El Cajon	State CA	Zip Code
------------------	-------------	----------

8. Mailing Address in the U.S. (if different than the address in No. 7) In Care Of (if applicable):	Telephone Number ()
--	-------------------------

Street Number and Name	Apt. Number
------------------------	-------------

City	State	Zip Code
------	-------	----------

9. Gender: <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	10. Marital Status: <input checked="" type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed
---	--

11. Date of Birth (mm/dd/yyyy) 01/01/1988	12. City and Country of Birth Baghdad, Iraq
--	--

13. Present Nationality (Citizenship) Iraq	14. Nationality at Birth Iraq	15. Race, Ethnic, or Tribal Group Chaldean	16. Religion Christian
---	----------------------------------	---	---------------------------

17. Check the box, a through c, that applies: a. I have never been in Immigration Court proceedings.
b. I am now in Immigration Court proceedings. c. I am not now in Immigration Court proceedings, but I have been in the past.

18. Complete 18 a through c.
a. When did you last leave your country? (mmm/dd/yyyy) 01/01/2011 b. What is your current I-94 Number, if any? _____

c. List each entry into the U.S. beginning with your most recent entry.
List date (mm/dd/yyyy), place, and your status for each entry. (Attach additional sheets as needed.)

Date <u>01/01/2011</u>	Place <u>Los Angeles CA</u>	Status <u>B-2</u>	Date Status Expires: <u>06/30/2011</u>
------------------------	-----------------------------	-------------------	--

Date _____	Place _____	Status _____	
------------	-------------	--------------	--

19. What country issued your last passport or travel document? Iraq	20. Passport # <u>N 1234567</u>	21. Expiration Date (mm/dd/yyyy) <u>01/01/2015</u>
--	---------------------------------	---

22. What is your native language (include dialect, if applicable)? Arabic	23. Are you fluent in English? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	24. What other languages do you speak fluently? Chaldean Neo-Aramaic
--	---	---

For EOIR use only.	Action: For USCIS use only. Decision:	
	Interview Date: _____	Approval Date: _____
	Asylum Officer ID#: _____	Denial Date: _____
		Referral Date: _____



Part A. II: Information About Your Spouse and Children

Your spouse

I am not married. (Skip to Your Children below.)

1. Alien Registration Number (A-Number) <i>(if any)</i>		2. Passport/ID Card No. <i>(if any)</i>		3. Date of Birth <i>(mm/dd/yyyy)</i>		4. U.S. Social Security No. <i>(if any)</i>	
5. Complete Last Name			6. First Name		7. Middle Name		8. Maiden Name
9. Date of Marriage <i>(mm/dd/yyyy)</i>			10. Place of Marriage			11. City and Country of Birth	
12. Nationality <i>(Citizenship)</i>			13. Race, Ethnic, or Tribal Group			14. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	
15. Is this person in the U.S.? <input type="checkbox"/> Yes <i>(Complete Blocks 16 to 24.)</i> <input type="checkbox"/> No <i>(Specify location):</i>							
16. Place of last entry into the U.S.		17. Date of last entry into the U.S. <i>(mm/dd/yyyy)</i>		18. I-94 No. <i>(if any)</i>		19. Status when last admitted <i>(Visa type, if any)</i>	
20. What is your spouse's current status?		21. What is the expiration date of his/her authorized stay, if any? <i>(mm/dd/yyyy)</i>		22. Is your spouse in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No		23. If previously in the U.S., date of previous arrival <i>(mm/dd/yyyy)</i>	
24. If in the U.S., is your spouse to be included in this application? <i>(Check the appropriate box.)</i> <input type="checkbox"/> Yes <i>(Attach one photograph of your spouse in the upper right corner of Page 9 on the extra copy of the application submitted for this person.)</i> <input type="checkbox"/> No							

Your Children. List all of your children, regardless of age, location, or marital status.

I do not have any children. *(Skip to Part A. III., Information about your background.)*

I have children. Total number of children: _____

(NOTE: Use Form I-589 Supplement A or attach additional sheets of paper and documentation if you have more than four children.)

1. Alien Registration Number (A-Number) <i>(if any)</i>		2. Passport/ID Card No. <i>(if any)</i>		3. Marital Status <i>(Married, Single, Divorced, Widowed)</i>		4. U.S. Social Security No. <i>(if any)</i>	
5. Complete Last Name			6. First Name		7. Middle Name		8. Date of Birth <i>(mm/dd/yyyy)</i>
9. City and Country of Birth			10. Nationality <i>(Citizenship)</i>		11. Race, Ethnic, or Tribal Group		12. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
13. Is this child in the U.S. ? <input type="checkbox"/> Yes <i>(Complete Blocks 14 to 21.)</i> <input type="checkbox"/> No <i>(Specify location.)</i>							
14. Place of last entry in the U.S.		15. Date of last entry in the U.S. <i>(mm/dd/yyyy)</i>		16. I-94 No. <i>(if any)</i>		17. Status when last admitted <i>(Visa type, if any)</i>	
18. What is your child's current status?		19. What is the expiration date of his/her authorized stay, if any? <i>(mm/dd/yyyy)</i>		20. Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No			
21. If in the U.S., is this child to be included in this application? <i>(Check the appropriate box.)</i> <input type="checkbox"/> Yes <i>(Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.)</i> <input type="checkbox"/> No							



Part A: II. Information About Your Spouse and Children (Continued)

1. Alien Registration Number (A-Number) (if any)		2. Passport/ID Card No. (if any)		3. Marital Status (Married, Single, Divorced, Widowed)		4. U.S. Social Security No. (if any)	
5. Complete Last Name			6. First Name		7. Middle Name		8. Date of Birth (mm/dd/yyyy)
9. City and Country of Birth			10. Nationality (Citizenship)		11. Race, Ethnic, or Tribal Group		12. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
13. Is this child in the U.S.? <input type="checkbox"/> Yes (Complete Blocks 14 to 21.) <input type="checkbox"/> No (Specify location.)							
14. Place of last entry into the U.S.		15. Date of last entry into the U.S. (mm/dd/yyyy)		16. I-94 No. (if any)		17. Status when last admitted (Visa type, if any)	
18. What is your child's current status?		19. What is the expiration date of his/her authorized stay, if any? (mm/dd/yyyy)		20. Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No			
21. If in the U.S., is this child to be included in this application? (Check the appropriate box.) <input type="checkbox"/> Yes (Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.) <input type="checkbox"/> No							

1. Alien Registration Number (A-Number) (if any)		2. Passport/ID Card No. (if any)		3. Marital Status (Married, Single, Divorced, Widowed)		4. U.S. Social Security No. (if any)	
5. Complete Last Name			6. First Name		7. Middle Name		8. Date of Birth (mm/dd/yyyy)
9. City and Country of Birth			10. Nationality (Citizenship)		11. Race, Ethnic, or Tribal Group		12. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
13. Is this child in the U.S.? <input type="checkbox"/> Yes (Complete Blocks 14 to 21.) <input type="checkbox"/> No (Specify location.)							
14. Place of last entry into the U.S.		15. Date of last entry into the U.S. (mm/dd/yyyy)		16. I-94 No. (if any)		17. Status when last admitted (Visa type, if any)	
18. What is your child's current status?		19. What is the expiration date of his/her authorized stay, if any? (mm/dd/yyyy)		20. Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No			
21. If in the U.S., is this child to be included in this application? (Check the appropriate box.) <input type="checkbox"/> Yes (Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.) <input type="checkbox"/> No							

1. Alien Registration Number (A-Number) (if any)		2. Passport/ID Card No. (if any)		3. Marital Status (Married, Single, Divorced, Widowed)		4. U.S. Social Security No. (if any)	
5. Complete Last Name			6. First Name		7. Middle Name		8. Date of Birth (mm/dd/yyyy)
9. City and Country of Birth			10. Nationality (Citizenship)		11. Race, Ethnic, or Tribal Group		12. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
13. Is this child in the U.S.? <input type="checkbox"/> Yes (Complete Blocks 14 to 21.) <input type="checkbox"/> No (Specify location.)							
14. Place of last entry into the U.S.		15. Date of last entry into the U.S. (mm/dd/yyyy)		16. I-94 No. (if any)		17. Status when last admitted (Visa type, if any)	
18. What is your child's current status?		19. What is the expiration date of his/her authorized stay, if any? (mm/dd/yyyy)		20. Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No			
21. If in the U.S., is this child to be included in this application? (Check the appropriate box.) <input type="checkbox"/> Yes (Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.) <input type="checkbox"/> No							



Part A, III, Information About Your Background

1. List your last address where you lived before coming to the United States. If this is not the country where you fear persecution, also list the last address in the country where you fear persecution. (List Address, City/Town, Department, Province, or State and Country.)
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Number and Street (Provide if available)	City/Town	Department, Province, or State	Country	Dates	
				From (Mo/Yr)	To (Mo/Yr)
Hayy al Ghadeer, Str. #22, Bld 22	Baghdad		Iraq	1/88	1/11

2. Provide the following information about your residences during the past 5 years. List your present address first.
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Number and Street	City/Town	Department, Province, or State	Country	Dates	
				From (Mo/Yr)	To (Mo/Yr)
123 Elm Way	El Cajon	CA	USA	1/11	present
Hayy al Ghadeer, Str. #22, Bld 22	Baghdad		Iraq	1/88	1/11

3. Provide the following information about your education, beginning with the most recent.
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Name of School	Type of School	Location (Address)	Attended	
			From (Mo/Yr)	To (Mo/Yr)
St. Elia Catholic School for Boys	Secondary	Baghdad, Iraq	9/03	6/07

4. Provide the following information about your employment during the past 5 years. List your present employment first.
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Name and Address of Employer	Your Occupation	Dates	
		From (Mo/Yr)	To (Mo/Yr)
Arabic Children's Hospital	accounts assistant	01/09	01/11

5. Provide the following information about your parents and siblings (brothers and sisters). Check the box if the person is deceased.
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Full Name	City/Town and Country of Birth	Current Location
Mother Gorgees, Wassan	Baghdad, Iraq	<input type="checkbox"/> Deceased El Cajon, CA
Father Yaqub, Basim	Baghdad, Iraq	<input type="checkbox"/> Deceased El Cajon, CA
Sibling		<input type="checkbox"/> Deceased
Sibling		<input type="checkbox"/> Deceased
Sibling		<input type="checkbox"/> Deceased
Sibling		<input type="checkbox"/> Deceased



Part B: Information About Your Application

(NOTE: Use Form I-589 Supplement B, or attach additional sheets of paper as needed to complete your responses to the questions contained in Part B.)

When answering the following questions about your asylum or other protection claim (withholding of removal under 241(b)(3) of the INA or withholding of removal under the Convention Against Torture), you must provide a detailed and specific account of the basis of your claim to asylum or other protection. To the best of your ability, provide specific dates, places, and descriptions about each event or action described. You must attach documents evidencing the general conditions in the country from which you are seeking asylum or other protection and the specific facts on which you are relying to support your claim. If this documentation is unavailable or you are not providing this documentation with your application, explain why in your responses to the following questions.

Refer to Instructions, Part I: Filing Instructions, Section II, "Basis of Eligibility," Parts A - D, Section V, "Completing the Form," Part B, and Section VII, "Additional Evidence That You Should Submit," for more information on completing this section of the form.

1. Why are you applying for asylum or withholding of removal under section 241(b)(3) of the INA, or for withholding of removal under the Convention Against Torture? Check the appropriate box(es) below and then provide detailed answers to questions A and B below:

I am seeking asylum or withholding of removal based on:

- | | |
|--|--|
| <input type="checkbox"/> Race | <input type="checkbox"/> Political opinion |
| <input checked="" type="checkbox"/> Religion | <input type="checkbox"/> Membership in a particular social group |
| <input type="checkbox"/> Nationality | <input checked="" type="checkbox"/> Torture Convention |

A. Have you, your family, or close friends or colleagues ever experienced harm or mistreatment or threats in the past by anyone?

- No Yes

If "Yes," explain in detail:

1. What happened;
2. When the harm or mistreatment or threats occurred;
3. Who caused the harm or mistreatment or threats; and
4. Why you believe the harm or mistreatment or threats occurred.

Members of the group known as The Islamic State of Iraq threatened me by phone and in person, and accused me of being a traitor. They threatened me, telling me to leave or convert or I would be killed. I was almost killed when they shot at me.

B. Do you fear harm or mistreatment if you return to your home country?

- No Yes

If "Yes," explain in detail:

1. What harm or mistreatment you fear;
2. Who you believe would harm or mistreat you; and
3. Why you believe you would or could be harmed or mistreated.

Muslim extremists including The Islamic State of Iraq will kidnap or kill me, because I am a Christian, and they believe we are traitors and infidels.



Part B. Information About Your Application (Continued)

2. Have you or your family members ever been accused, charged, arrested, detained, interrogated, convicted and sentenced, or imprisoned in any country other than the United States?

No Yes

If "Yes," explain the circumstances and reasons for the action.

3.A. Have you or your family members ever belonged to or been associated with any organizations or groups in your home country, such as, but not limited to, a political party, student group, labor union, religious organization, military or paramilitary group, civil patrol, guerrilla organization, ethnic group, human rights group, or the press or media?

No Yes

If "Yes," describe for each person the level of participation, any leadership or other positions held, and the length of time you or your family members were involved in each organization or activity.

I am a Chaldean Christian. I have been an active member in my church until approximately a year ago when it became too dangerous to attend.

B. Do you or your family members continue to participate in any way in these organizations or groups?

No Yes

If "Yes," describe for each person your or your family members' current level of participation, any leadership or other positions currently held, and the length of time you or your family members have been involved in each organization or group.

I am still a Chaldean Christian, and I attend the St. Peter Chaldean Cathedral in El Cajon, CA.

4. Are you afraid of being subjected to torture in your home country or any other country to which you may be returned?

No Yes

If "Yes," explain why you are afraid and describe the nature of torture you fear, by whom, and why it would be inflicted.

Muslim extremists including The Islamic State of Iraq will kill or torture me, because I am a Christian, and they believe we are traitors and infidels.



Part C. Additional Information About Your Application

(NOTE: Use Form I-589 Supplement B, or attach additional sheets of paper as needed to complete your responses to the questions contained in Part C.)

1. Have you, your spouse, your child(ren), your parents or your siblings ever applied to the U.S. Government for refugee status, asylum, or withholding of removal?

No Yes

If "Yes," explain the decision and what happened to any status you, your spouse, your child(ren), your parents, or your siblings received as a result of that decision. Indicate whether or not you were included in a parent or spouse's application. If so, include your parent or spouse's A-number in your response. If you have been denied asylum by an immigration judge or the Board of Immigration Appeals, describe any change(s) in conditions in your country or your own personal circumstances since the date of the denial that may affect your eligibility for asylum.

2. A. After leaving the country from which you are claiming asylum, did you or your spouse or child(ren) who are now in the United States travel through or reside in any other country before entering the United States? No Yes

B. Have you, your spouse, your child(ren), or other family members, such as your parents or siblings, ever applied for or received any lawful status in any country other than the one from which you are now claiming asylum?

No Yes

If "Yes" to either or both questions (2A and/or 2B), provide for each person the following: the name of each country and the length of stay, the person's status while there, the reasons for leaving, whether or not the person is entitled to return for lawful residence purposes, and whether the person applied for refugee status or for asylum while there, and if not, why he or she did not do so.

We had a transit stop in Dubai for approximately four hours.

3. Have you, your spouse or your child(ren) ever ordered, incited, assisted or otherwise participated in causing harm or suffering to any person because of his or her race, religion, nationality, membership in a particular social group or belief in a particular political opinion?

No Yes

If "Yes," describe in detail each such incident and your own, your spouse's, or your child(ren)'s involvement.



Part C: Additional Information About Your Application (Continued)

4. After you left the country where you were harmed or fear harm, did you return to that country?

No Yes

If "Yes," describe in detail the circumstances of your visit(s) (for example, the date(s) of the trip(s), the purpose(s) of the trip(s), and the length of time you remained in that country for the visit(s).)

5. Are you filing this application more than 1 year after your last arrival in the United States?

No Yes

If "Yes," explain why you did not file within the first year after you arrived. You must be prepared to explain at your interview or hearing why you did not file your asylum application within the first year after you arrived. For guidance in answering this question, see Instructions, Part 1: Filing Instructions, Section V. "Completing the Form," Part C.

6. Have you or any member of your family included in the application ever committed any crime and/or been arrested, charged, convicted, or sentenced for any crimes in the United States?

No Yes

If "Yes," for each instance, specify in your response: what occurred and the circumstances, dates, length of sentence received, location, the duration of the detention or imprisonment, reason(s) for the detention or conviction, any formal charges that were lodged against you or your relatives included in your application, and the reason(s) for release. Attach documents referring to these incidents, if they are available, or an explanation of why documents are not available.



Part D. Your Signature

I certify, under penalty of perjury under the laws of the United States of America, that this application and the evidence submitted with it are all true and correct. Title 18, United States Code, Section 1546(a), provides in part: Whoever knowingly makes under oath, or as permitted under penalty of perjury under Section 1746 of Title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement or which fails to contain any reasonable basis in law or fact - shall be fined in accordance with this title or imprisoned for up to 25 years. I authorize the release of any information from my immigration record that U.S. Citizenship and Immigration Services (USCIS) needs to determine eligibility for the benefit I am seeking.

Staple your photograph here or the photograph of the family member to be included on the extra copy of the application submitted for that person.

WARNING: Applicants who are in the United States illegally are subject to removal if their asylum or withholding claims are not granted by an asylum officer or an immigration judge. Any information provided in completing this application may be used as a basis for the institution of, or as evidence in, removal proceedings even if the application is later withdrawn. Applicants determined to have knowingly made a frivolous application for asylum will be permanently ineligible for any benefits under the Immigration and Nationality Act. You may not avoid a frivolous finding simply because someone advised you to provide false information in your asylum application. If filing with USCIS, unexcused failure to appear for an appointment to provide biometrics (such as fingerprints) and your biographical information within the time allowed may result in an asylum officer dismissing your asylum application or referring it to an immigration judge. Failure without good cause to provide DHS with biometrics or other biographical information while in removal proceedings may result in your application being found abandoned by the immigration judge. See sections 208(d)(5)(A) and 208(d)(6) of the INA and 8 CFR sections 208.10, 1208.10, 208.20, 1003.47(d) and 1208.20.

Print your complete name. Behnam Yaqub	Write your name in your native alphabet.
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Did your spouse, parent, or child(ren) assist you in completing this application? No Yes (If "Yes," list the name and relationship.)

(Name)	(Relationship)	(Name)	(Relationship)
Did someone other than your spouse, parent, or child(ren) prepare this application? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If "Yes," complete Part E.)			
Asylum applicants may be represented by counsel. Have you been provided with a list of persons who may be available to assist you, at little or no cost, with your asylum claim? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			

Signature of Applicant (The person in Part A.I.)

[_____] _____

Sign your name so it all appears within the brackets Date (mm/dd/yyyy)

Part E. Declaration of Person Preparing Form, if Other Than Applicant, Spouse, Parent, or Child

I declare that I have prepared this application at the request of the person named in Part D, that the responses provided are based on all information of which I have knowledge, or which was provided to me by the applicant, and that the completed application was read to the applicant in his or her native language or a language he or she understands for verification before he or she signed the application in my presence. I am aware that the knowing placement of false information on the Form I-589 may also subject me to civil penalties under 8 U.S.C. 1324c and/or criminal penalties under 18 U.S.C. 1546(a).

Signature of Preparer		Print Complete Name of Preparer Daniel Sadik	
Daytime Telephone Number (619) 555-5555		Address of Preparer: Street Number and Name 1234 Bay Drive	
Apt. No.	City San Diego	State CA	Zip Code



Part F: To Be Completed at Asylum Interview, if Applicable

NOTE: You will be asked to complete this part when you appear for examination before an asylum officer of the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS).

I swear (affirm) that I know the contents of this application that I am signing, including the attached documents and supplements, that they are all true or not all true to the best of my knowledge and that correction(s) numbered ____ to ____ were made by me or at my request. Furthermore, I am aware that if I am determined to have knowingly made a frivolous application for asylum I will be permanently ineligible for any benefits under the Immigration and Nationality Act, and that I may not avoid a frivolous finding simply because someone advised me to provide false information in my asylum application.

Signed and sworn to before me by the above named applicant on:

Signature of Applicant

Date (mm/dd/yyyy)

Write Your Name in Your Native Alphabet

Signature of Asylum Officer

Part G: To Be Completed at Removal Hearing, if Applicable

NOTE: You will be asked to complete this Part when you appear before an immigration judge of the U.S. Department of Justice, Executive Office for Immigration Review (EOIR), for a hearing.

I swear (affirm) that I know the contents of this application that I am signing, including the attached documents and supplements, that they are all true or not all true to the best of my knowledge and that correction(s) numbered ____ to ____ were made by me or at my request. Furthermore, I am aware that if I am determined to have knowingly made a frivolous application for asylum I will be permanently ineligible for any benefits under the Immigration and Nationality Act, and that I may not avoid a frivolous finding simply because someone advised me to provide false information in my asylum application.

Signed and sworn to before me by the above named applicant on:

Signature of Applicant

Date (mm/dd/yyyy)

Write Your Name in Your Native Alphabet

Signature of Immigration Judge



A-Number (If available)	Date
Applicant's Name	Applicant's Signature

List All of Your Children, Regardless of Age or Marital Status
 (NOTE: Use this form and attach additional pages and documentation as needed, if you have more than four children)

1. Alien Registration Number (A-Number) (if any)	2. Passport/ID Card Number (if any)	3. Marital Status (Married, Single, Divorced, Widowed)	4. U.S. Social Security Number (if any)
5. Complete Last Name	6. First Name	7. Middle Name	8. Date of Birth (mm/dd/yyyy)
9. City and Country of Birth	10. Nationality (Citizenship)	11. Race, Ethnic, or Tribal Group	12. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
13. Is this child in the U.S.? <input type="checkbox"/> Yes (Complete blocks 14 to 21.) <input type="checkbox"/> No (Specify location.) _____			
14. Place of last entry into the U.S.	15. Date of last entry into the U.S. (mm/dd/yyyy)	16. I-94 Number (if any)	17. Status when last admitted (Visa type, if any)
18. What is your child's current status?	19. What is the expiration date of his/her authorized stay, if any? (mm/dd/yyyy)	20. Is your child in Immigration Court proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No	
21. If in the U.S., is this child to be included in this application? (Check the appropriate box.) <input type="checkbox"/> Yes (Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.) <input type="checkbox"/> No			

1. Alien Registration Number (A-Number) (if any)	2. Passport/ID Card Number (if any)	3. Marital Status (Married, Single, Divorced, Widowed)	4. U.S. Social Security Number (if any)
5. Complete Last Name	6. First Name	7. Middle Name	8. Date of Birth (mm/dd/yyyy)
9. City and Country of Birth	10. Nationality (Citizenship)	11. Race, Ethnic, or Tribal Group	12. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
13. Is this child in the U.S.? <input type="checkbox"/> Yes (Complete blocks 14 to 21.) <input type="checkbox"/> No (Specify location.) _____			
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21. If in the U.S., is this child to be included in this application? (Check the appropriate box.) <input type="checkbox"/> Yes (Attach one photograph of your child in the upper right corner of Page 9 on the extra copy of the application submitted for this person.) <input type="checkbox"/> No			



Additional Information About Your Claim to Asylum

A-Number (if available)

Date

Applicant's Name

Applicant's Signature

NOTE: Use this as a continuation page for any additional information requested. Copy and complete as needed.

Part _____

Question _____

[Large empty rectangular box for providing additional information]



RAIO Combined Training

MINI MOCK

Student #2

MINI MOCK INTERVIEWS

STUDENT #2 – General Instructions

The packet of information you will receive contains materials for an interviewing exercise. All of the students in the class will be organized into pairs. You and your partner will interview each other. You may talk with other students who have the same role as you, but do not talk about your role with your partner or anyone else who has the opposite role.

1st INTERVIEW:

You will interview an applicant from Cameroon. Your partner will portray the applicant. You will receive the following documents and information for this applicant:

- I-589 or I-590 for female Cameroonian Applicant, Elisabeth Ebai (will be used by female student/role-player)
- I-589 or I-590 for male Cameroonian applicant, Emmanuel Ebai (will be used by male student/role-player)
- Country conditions information on Cameroon

Please read the “Ground Rules for Officers” provided in the packet.

Conduct a complete interview, taking notes according to your Division’s requirements and the guidance in the RAIO Lesson Plan on Interviewing – Note Taking. Your notes will be evaluated by an instructor. Keep your notes and the packet and bring them to class; they will be used in a later session.

2nd INTERVIEW:

You are an asylum or refugee applicant/role-player. You’ll play the role of an applicant from Iraq. Your partner will interview you. You will receive the following documents and information for this applicant:

- (If you are female, use the following):
 - Information sheet about female Iraqi applicant, Maria Matti Yaqub
 - I-589 or I-590 for female Iraqi applicant, Maria Matti Yaqub
- (If you are male, use the following):
 - Information sheet about male Iraqi applicant, Behnam Matti Yaqub
 - I-589 or I-590 for male Iraqi applicant, Behnam Matti Yaqub
- Country conditions information on Iraq

Please read the “Ground Rules for Applicants/Role-players” provided in the packet.

MINI MOCK INTERVIEWS

GROUND RULES FOR OFFICERS/INTERVIEWERS

- **Documents:** Applicant will not have pre-prepared documents such as birth certificates, passports, driver's licenses, social security cards, etc. Ask for documents as you normally would in an interview, but the role-player will improvise his or her response. If you are presented with any documents, for the purpose of this exercise, accept them as complete and valid.
- **Applicant "Cheat Sheet":** Please ignore the fact that during the interview, your partner playing the role of the applicant may refer to their I-589 or I-590 and an information "cheat sheet" for answers to certain questions.
- **Eliciting Testimony:** The goal of this exercise is to practice the use of interviewing techniques to elicit all material evidence during the interview. Because you will be interviewing someone playing the role of an applicant, there may be many questions to which the "applicant" does not know the answer. Do not let this minimize the experience that you can gain in asking creative questions and following up on important lines of questioning.
- **Credibility:** For the purposes of this exercise, please assume that the applicant is credible.
- **Persecutors/Fraud/Bars:** If you encounter an issue that you believe may constitute a mandatory bar for persecutors that may require a sworn statement, Q&A note-taking, or other special procedure done in your office, you may disregard that procedure for this exercise. Take regular notes, covering all issues. An examination of the bars is not the focus of this interview.
- **Discussions with other Officers:** In conversations with other officers who interviewed students playing the same role as your applicant, you may discover that the facts of the case were presented differently in other interviews. Do not let this concern you. We anticipate that each student role-player will play the role of the applicant differently and, thus, variations in the facts of the case are inevitable.

MINI MOCK INTERVIEWS

GROUND RULES FOR APPLICANTS/ROLE-PLAYERS

- **Stay in role as much as possible.** You may improvise if necessary, within the character. Because the goal of this exercise is to provide experience in eliciting testimony, some careful improvisation will provide the student conducting the interview an opportunity to develop follow-up questions. Please review your role and prepare for it as much as possible in order to make the case as realistic an experience as possible for your partner. Try to remain in role; this is the first time that you and your partner will have to conduct a complete interview during the training, so please give the "officer" a good opportunity to practice his or her interviewing skills.
- The interviewing officer has the duty to elicit from you the details of your claim. Although you should testify as naturally as possible, pace yourself with pauses that force the officer to use his or her interviewing skills to get you to open up. Remember, though, the officer may be somewhat inexperienced and the idea is not to make it unnaturally difficult or tricky.
- **Documents:** If you are asked for documents, you may improvise your response as to whether you have the document or not. Officers are instructed to accept as valid any prop document or identification you present.
- **Credibility:** The scenario is to be done in a credible manner, i.e., the applicant is supposed to be telling the truth. It is therefore important for the role-player to review the application form and the information about the country in order to portray as credible an applicant as possible. You may, however, have your papers with you during the interview and refer to them when necessary.

If there are any discrepancies on the application and the officer asks why there is a mistake, explain that the preparer must have written it down incorrectly, but that you are now giving the officer the true and correct information.

- **Country conditions information** is provided in the packet. Please review this information, as it provides background information relevant to the role you will be playing.

INFORMATION ON BEHNAM MATTI YAQUB

My name is Behnam Matti Yaqub. I am a 23-year old Chaldean Christian. In Baghdad, my father and uncle co-owned and operated a liquor store. I worked as an accounts assistant at the Arabic Children's Hospital. We lived in the Hayy al Ghadeer area of Baghdad that used to be predominantly Christian.

After the U.S. forces arrived in 2003, we began to hear reports of physical attacks on Christians by Muslim extremists. Several of our neighbors left Iraq after receiving such treatment. After they left, Muslims moved into the places that had been vacated. Some were said to be members of the group Islamic State of Iraq. However, we stayed in the area because our family business was there and we did not have any family in other countries. At the time we finally left Iraq, we were one of ten remaining Christian families in the neighborhood.

In 2006 our family began receiving threatening phone calls at the store, demanding that we stop selling liquor because it was an insult to Islam. On one occasion my father found a note under the door of the store that said "you dirty Christians go to hell, leave Iraq because your loyalty is to the Americans." My father and uncle reported the incidents to the local police. The police made a formal report but we never heard from them again.

After that, I began receiving threats from members of the Islamic State of Iraq. They knew of me through people I worked with at the Hospital. They told me all Christians are traitors and do not deserve to live in Iraq because they are aligned with America. They demanded on several occasions that I convert to Islam or leave the country. Once, they said I would either be a Muslim, or dead. I stopped attending church because Muslim extremists often gathered near the church and threatened to kill those who entered for worship.

In October 2010 I was followed by a car and was shot at by a passenger in the vehicle. I thought I saw in the car one of the Islamic State of Iraq members whom I knew from the hospital. I was not hit by the gunshot but I lost control of my vehicle and got into a single car accident. The same week, my father was shot at/kidnapped while he was at the liquor store. Fortunately my father was not harmed, but it was frightening for us all. In the store, we found a ransom note stating that we had to pay \$10,000 for our father's return. The note was signed Islamic State of Iraq. Fortunately, my mother and I had some savings and we were able to pay the ransom when a masked man came to get it the next night. My father who had been badly beaten was released after we paid the ransom.

That same month, the Islamic State of Iraq seized a Catholic church in Baghdad and killed 58 people. After that, they announced that all Christians were targets. We realized that as Christians we would never be safe in Iraq. Our family fled Iraq on January 1, 2011...

[RAD version – ...and entered Turkey on tourist visas. We registered with UNHCR and have lived in Turkey since then.]

[ASY version – ...and entered the United States as B-2 visitors.]

I am very afraid to return to Iraq. It is not safe for me or my family. The extremists are not afraid to carry out their threats; many Christians have died at their hands and many more have fled. The violence against Christians continues, and the Iraqi government cannot help us.

INFORMATION ON BEHNAM MATTI YAQUB

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