

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 13/05/2021 9:26:06 PM AEST and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

### Details of Filing

Document Lodged:	Affidavit - Form 59 - Rule 29.02(1)
File Number:	NSD426/2021
File Title:	JOANNE ELIZABETH DYER v SUE CHRYSANTHOU & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 13/05/2021 9:26:22 PM AEST

A handwritten signature in blue ink, reading "Sia Lagos".

Registrar

### Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



Form 59  
Rule 29.02(1)

### Affidavit

No. NSD426 of 2021

Federal Court of Australia  
District Registry: Sydney  
Division: General

**Joanne Elizabeth Dyer**

Applicant

**Sue Chrysanthou SC**

Respondent

Affidavit of: **Michael David Bradley**  
Address: Level 4, 343 George Street, Sydney, NSW 2000  
Occupation: Managing Partner, Marque Lawyers  
Date: 10 May 2021

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5	Annexure “MDB-4”, being a copy of Mr Bradley’s letter dated 23 April 2021.	[34]	44 - 46

Filed on behalf of (name & role of party) Joanne Elizabeth Dyer, Applicant

Prepared by (name of person/lawyer) Nathan Mattock

Law firm (if applicable) Marque Lawyers

Tel (02) 8216 3000

Tel (02) 8216 3000

Email nathanm@marquelawyers.com.au

**Address for service** Level 4, 343 George Street, Sydney NSW 2000  
(include state and postcode)

Document number	Details	Paragraph	Page
6	Confidential Annexure "MDB-5", being copies of confidential correspondence.	[21], [27] – [28], [39] – [32], [35]	47 - 130

I affirm:

- 1 I am the Managing Partner of Marque Lawyers, the solicitors on the record for Ms Joanne Dyer, the applicant in these proceedings. I am a solicitor of the Supreme Court of New South Wales.
- 2 I am not authorised to, and nothing in this affidavit is intended to, waive the applicant's confidentiality or claims to legal professional privilege over any of her communications with legal advisers.

### Background

- 3 From September 2019 until her death in June 2020, I acted as solicitor for a person I will refer to as "Kate". Kate has been identified in media as the source of serious allegations against Mr Porter in respect of his conduct in 1988.
- 4 In the course of my acting for Kate, I was made privy to a large amount of confidential information regarding her life and her allegation against Mr Porter. Some of that information has since been publicly revealed and some of it has not.

### Ms Dyer's engagement of Marque Lawyers

- 5 [REDACTED]  
[REDACTED]  
[REDACTED].
- 6 I was aware that Ms Dyer was a friend of Kate. I was also aware that Mr James Hooke was a friend of Kate.
- 7 On 17 November 2020, I met with Ms Dyer and Mr Hooke.
- 8 I was informed on or about 18 November 2020 that Ms Dyer and Mr Hooke had spoken with Mr Matthew Richardson of counsel regarding the matter on which I was instructed.




### Retainer with Sue Chrysanthou SC

9 A conference was arranged to take place in Ms Chrysanthou's chambers at 10.00am on 20 November 2020.

10 During the conference, I recall that there was a conversation to the following effect:

Ms Chrysanthou said: "Matt and I are happy to act pro bono at this point, but if Jo does decide to commence proceedings, we will need to have another conversation about the basis on which we would be able to do that".

Ms Dyer said: "Sure, I understand".

11 Ms Chrysanthou did not charge any fees for her work on behalf of Ms Dyer.

### Conference on 20 November 2020

12 I attended the conference on 20 November 2020 in Ms Chrysanthou's chambers. Ms Chrysanthou, Ms Dyer, Mr Hooke and I were present initially. Mr Richardson joined us after 10 or 15 minutes.


13 Ms Chrysanthou informed us at the outset of the conference that she [REDACTED]  
[REDACTED]  
[REDACTED]

14 When Mr Richardson joined the conference, [REDACTED]  
[REDACTED]  
[REDACTED].

15 The conference went for about an hour and a half. [REDACTED]  
[REDACTED]

16 [REDACTED]  
[REDACTED]  
[REDACTED]

17 At no time during the conference did Ms Chrysanthou (or any other legal representative) raise the prospect that they may end up representing either the ABC or Mr Porter in respect of proceedings arising out of the historical allegations made by Kate.




18 If that possibility had been raised, I would have advised Ms Dyer to retain other counsel and to terminate the conference immediately.

19 During the conference, I recall that the following topics were discussed:

- [REDACTED]  
[REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]
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[REDACTED]

[REDACTED], h  






## ABC Proceedings

23

[REDACTED]  
[REDACTED]

24

I am aware from media reports that, in February 2021, a letter was sent to a number of members of parliament including the Prime Minister, annexing a version of Kate's statement. I have not seen either the letter or the annexure sent to those members of Parliament. [REDACTED]  
[REDACTED].

25

On 15 March 2021, Mr Porter commenced proceedings against the ABC and Ms Milligan (**the ABC Proceedings**). A copy of Mr Porter's statement of claim filed in the ABC Proceedings is available on the Federal Court of Australia's website at [https://www.fedcourt.gov.au/data/assets/pdf\\_file/0011/83594/Statement-of-Claim-1532021.pdf](https://www.fedcourt.gov.au/data/assets/pdf_file/0011/83594/Statement-of-Claim-1532021.pdf) and annexed to this affidavit at **pages 13 to 34 and marked Annexure MDB-2**.

26

On 15 March 2021 I received a telephone call from Ms Chrysanthou and we had a conversation to the following effect:

She said:

"I'm letting you know that defamation proceedings are about to be filed by Christian Porter against the ABC, this is confidential for now but it'll be public shortly. I wanted to give you a heads up so you can inform Jo, I have been retained by Porter. I have carefully considered whether I have a conflict in taking the brief and concluded that I don't. The only confidential information that I recall having was [REDACTED]

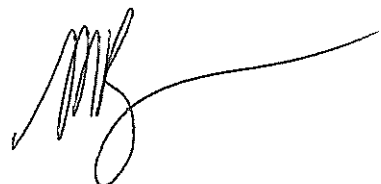
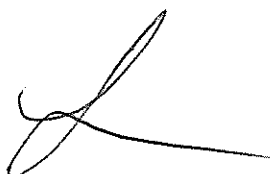
[REDACTED] and I don't recall being told anything else confidential when we met with Jo. I've checked with Matt Richardson and he agrees that I don't have any confidential information. I want you to know that I've taken this very seriously, I didn't seek out the brief, but I'm bound by the cab rank rule. I have run this past Bret Walker and two other silks, as well as Matt, and they all agree that I don't have a conflict. But I wanted you to know from me before it goes public."

I said:

"I'm not sure what Jo's view on that is going to be. I will let her know."





- 27 On 30 March 2021, I received a letter from Mr Patrick George, Senior Partner of Kennedys, advising that he was acting for Ms Chrysanthou. A copy of Mr George's letter dated 30 March 2021 appears at **pages 106 to 108 of Confidential Annexure MDB-5.**
- 28 On 31 March 2021, I sent a detailed response to Mr George. A copy of my letter dated 31 March 2021 appears at **pages 109 to 118 of Confidential Annexure MDB-5.**
- 29 My letter dated 31 March 2021 set out the details of Ms Chrysanthou's retainer, the involvement of Mr Richardson, the background circumstances, the confidential information which was discussed during the conference on 20 November 2020, the reasons why that information was confidential, elements of the confidential information discussed at the conference on 20 November 2020 that overlapped with elements of Mr Porter's statement of claim in the ABC Proceedings, and a detailed explanation as to why Ms Chrysanthou should not continue acting in the ABC Proceedings.
- 30 On 6 April 2021, I received a second letter from Mr George, seeking Ms Dyer's consent to disclose my letter of 31 March 2021 to Mr Richardson and requesting additional information. A copy of Mr George's letter dated 6 April 2021 appears at **pages 119 to 120 of Confidential Annexure MDB-5.**
- 31 On 7 April 2021, I sent a letter to Mr George responding to the requests for information made on 6 April 2021. A copy of my letter sent on 7 April 2021 appears at **pages 121 to 122 of Confidential Annexure MDB-5** (that letter mistakenly shows the date as 31 March 2021 but refers to my answer to Mr George's correspondence on 6 April 2021).
- 32 On 7 April 2021 I also enclosed a bundle of email correspondence involving Ms Chrysanthou in respect of Ms Dyer's prospective proceedings during the period 20 November 2020 to 4 March 2021. The bundle of correspondence enclosed with my letter appears in chronological order earlier in the bundle at **pages 47 to 105 of Confidential Annexure MDB-5.**
- 33 Between 13 April 2021 and 21 April 2021, I exchanged a number of emails with Mr George in relation to the timeframe for Ms Chrysanthou's response to my letter dated 7 April 2021. Copies of these emails are annexed to this affidavit at **pages 35 to 43 and marked Annexure MDB-3.**

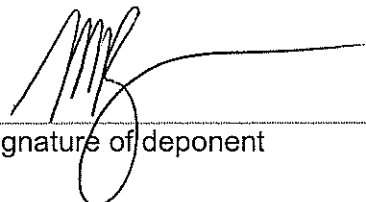




- 34 On 23 April 2021, I sent a letter to Mr George requesting a response from Ms Chrysanthou by 4:00pm on 26 April 2021. A copy of my letter dated 23 April 2021 is annexed to this affidavit at **pages 44 to 46 and marked Annexure MDB-4.**
- 35 On 26 April 2021, I received a letter from Mr George, responding to my letters dated 7 April 2021 and 23 April 2021. A copy of Mr George's letter dated 26 April 2021 appears at **pages 123 to 130 of Confidential Annexure MDB-5.**

Affirmed by the deponent  
at Sydney  
in New South Wales  
on 10 May 2021  
Before me:

  
\_\_\_\_\_  
Signature of witness  
Lauren Gasparini  
Solicitor  
Level 4, 343 George Street  
Sydney NSW 2000

)  
)  
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\_\_\_\_\_  
Signature of deponent

Rule 29.02(8)

**Certificate identifying annexure**

No. NSD      of 2021

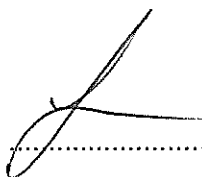
Federal Court of Australia  
District Registry: New South Wales  
Division: General

**Joanne Elizabeth Dyer**  
Applicant

**Sue Chrysanthou SC**  
Respondent

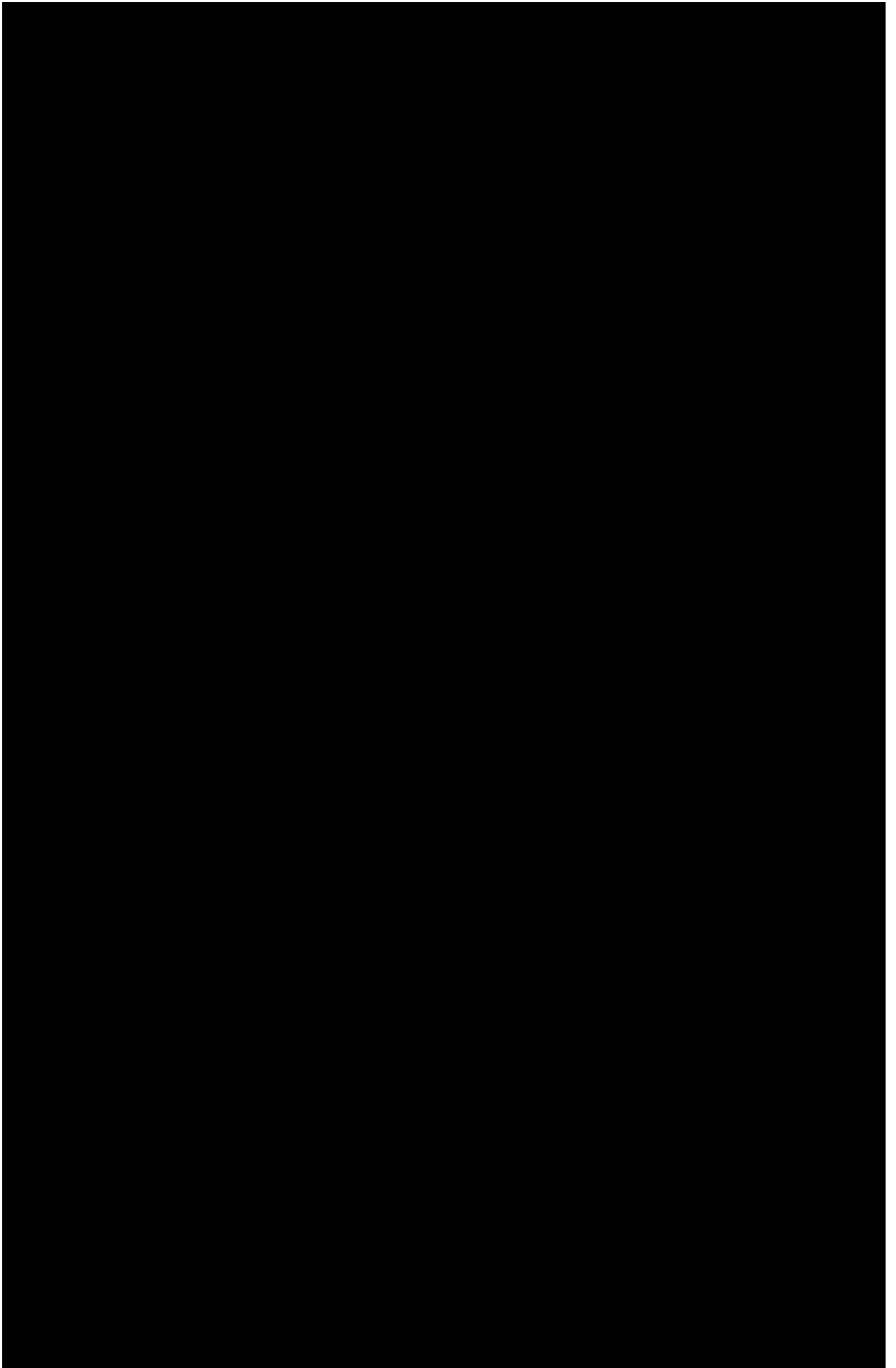
**Annexure "MDB-1"**

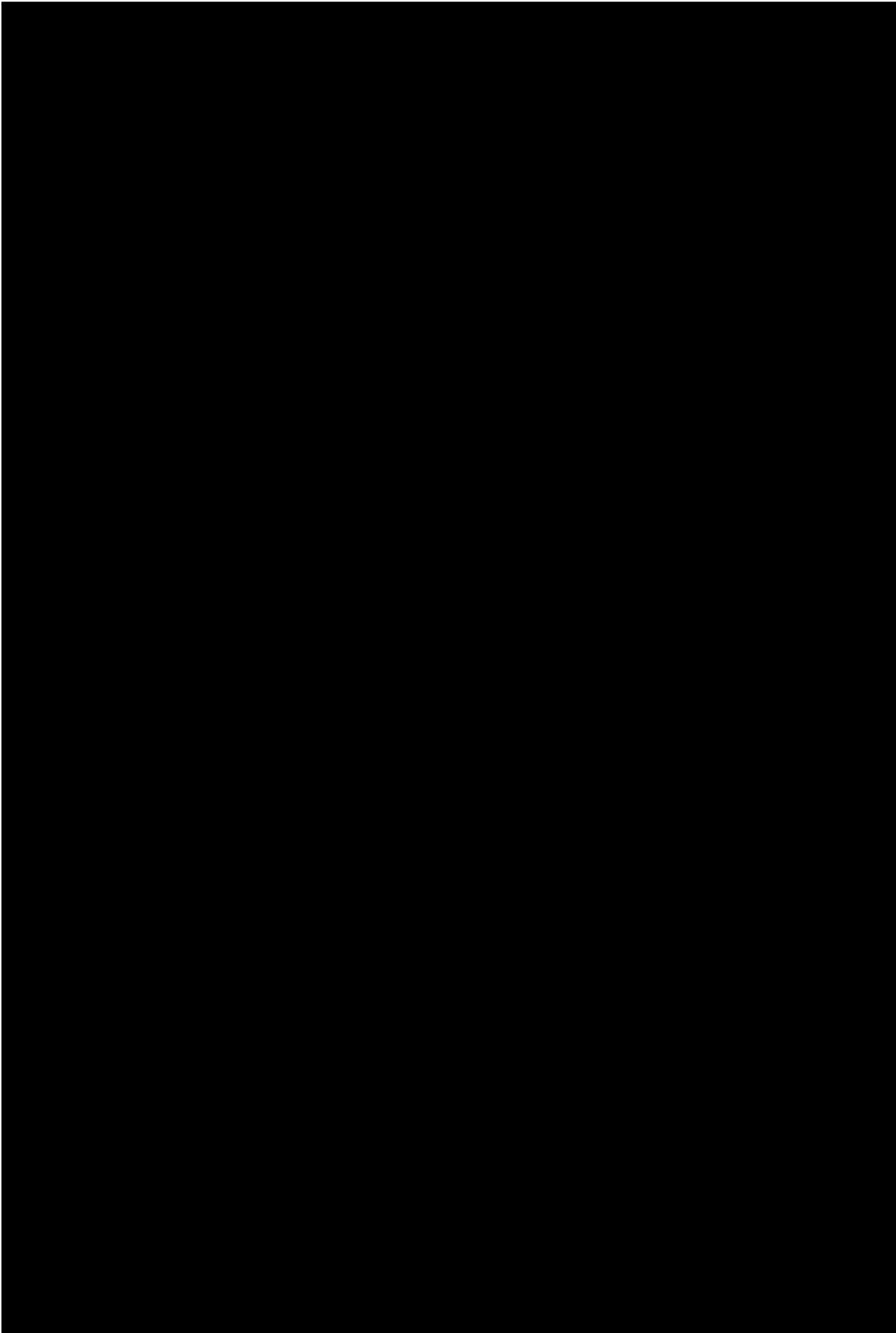
This is the annexure marked "MDB-1" to the affidavit of Michael David Bradley sworn before me on 10 May 2021.

A handwritten signature in black ink, consisting of a large, stylized 'A' or similar character, followed by a horizontal line.

Signature of Witness







Rule 29.02(8)

**Certificate identifying annexure**

No. NSD      of 2021

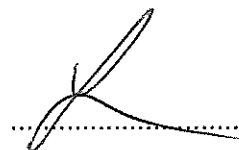
Federal Court of Australia  
District Registry: New South Wales  
Division: General

**Joanne Elizabeth Dyer**  
Applicant

**Sue Chrysanthou SC**  
Respondent

**Annexure "MDB-2"**

This is the annexure marked "MDB-2" to the affidavit of Michael David Bradley sworn before me on 10 May 2021.



.....

Signature of Witness

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 15/03/2021 9:18:00 AM AEDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

### Details of Filing

Document Lodged: Statement of Claim - Form 17 - Rule 8.06(1)(a)  
File Number: NSD206/2021  
File Title: CHARLES CHRISTIAN PORTER v AUSTRALIAN BROADCASTING CORPORATION ACN 429 278 345 & ANOR  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



*Sia Lagos*

Dated: 15/03/2021 12:40:03 PM AEDT

Registrar

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## Statement of claim

No.                      of 2021

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**Charles Christian Porter**

Applicant

**Australian Broadcasting Corporation and Anor named in the Schedule**

Respondents

### Parties

1. The Applicant (**Porter**) is and was at relevant times:
  - a) a member of the House of Representatives for the seat of Pearce, Western Australia;
  - b) the Leader of the House of Representatives;
  - c) the Commonwealth Minister for Industrial Relations;
  - d) the Commonwealth Attorney-General;
  - e) a senior member of Cabinet to Prime Minister Scott Morrison; and
  - f) 50 years old.
2. The First Respondent (**ABC**) is and was at relevant times:
  - a) a corporation able to be sued;
  - b) Australia's national broadcaster headquartered in Ultimo, Sydney;

Filed on behalf of (name & role of party)	<u>Charles Christian Porter, the Applicant</u>	
Prepared by (name of person/lawyer)	<u>Rebekah Giles</u>	
Law firm (if applicable)	<u>Company Giles</u>	
Tel	<u>1300 204 602</u>	Fax
Email	<u>rebekah@companygiles.com.au</u>	
<b>Address for service</b>	<u>Level 13, 111 Elizabeth Street</u>	
(include state and postcode)	<u>Sydney NSW 2000</u>	

[Form approved 01/08/2011]



- c) the publisher of the digital platform [www.abc.net.au](http://www.abc.net.au) which it makes available for publication throughout the State of New South Wales and the other States and the Territories of Australia on the World Wide Web (**ABC website**);
  - d) the user of the Twitter handle @abcnews;
  - e) the user of the Facebook accounts @abc and @abcnews.
3. The Second Respondent (**Milligan**) is and was at relevant times:
- a) a journalist employed by or contracted to the ABC;
  - b) a reporter for the Four Corners programme, distributed and broadcast by the ABC;
  - c) a person for whom the ABC is vicariously liable in relation to her conduct as a journalist and reporter;
  - d) the user of the Twitter handle @Milliganreports;
  - e) the user of a Facebook account @LouiseMilligan.

#### **Article**

4. On or about Friday 26 February 2021 and continuing thereafter, the ABC and Milligan published, of and concerning Porter, an article entitled '*Scott Morrison, senators and AFP told of historical rape allegation against Cabinet Minister*' on the ABC website, in the Australian Capital Territory, the Northern Territory, New South Wales and the other States of Australia, a copy of which is **Schedule A**.

#### Particulars of publication

- a) The ABC website is a mass media website viewed by tens of thousands of persons throughout Australia daily.
- b) The Article was uploaded onto the ABC website on Friday 26 February 2021 from where it was downloaded throughout Australia in each State and Territory to persons many of whom were known to Porter.
- c) The Article was republished by the ABC on its Twitter page on or about Friday 26 February 2021. As at the date of this pleading, the tweet received 95 re-tweets, 27 quote tweets and 233 likes. A copy of this tweet is annexed hereto and marked **Schedule B**.

- d) The Article was republished twice by Milligan on her Twitter page on or about Friday 26 February 2021. As at the date of this pleading, the tweets respectively received 352 comments, 2,000 re-tweets and 4,100 likes and 96 comments, 670 re-posts and 2,000 likes. A copy of these tweets are annexed hereto and marked **Schedule C**.
  - e) The Article was republished by Milligan on her Facebook page on or about Friday 26 February 2021. As at the date of this pleading, the post received 28 comments, 16 shares and 116 likes/reactions. A copy of this post is annexed hereto and marked **Schedule D**.
  - f) Porter relies on the republications in the preceding paragraphs on the question of extent of publication of the Article.
5. The Article was defamatory of Porter and carried the following defamatory imputations (or imputations that do not differ in substance):
- a) Porter brutally raped a 16-year-old girl in 1988.
  - b) Porter anally raped a 16-year-old girl in 1988.
  - c) Porter's brutal and anal rape of a 16-year-old girl contributed to her taking her own life.
  - d) Porter is reasonably suspected by police of brutally and anally raping a 16-year-old girl in 1988, warranting criminal charges being brought against him.
  - e) In 2020 Porter was reasonably suspected by NSW Police of raping a 16 year-old-girl in 1988.
  - f) There are reasonable grounds for suspecting that Porter brutally and anally raped a 16-year-old girl.
  - g) There are reasonable grounds for suspecting that Porter's brutal and anal rape of a 16-year-old girl contributed to her taking her own life.
  - h) Porter had so conducted himself that it warranted him being reasonably suspected by police of brutally and anally raping a 16-year-old girl in 1988.

Particulars of identification

- a) Porter is a public figure with:
  - i. a Wikipedia entry [www.wikipedia.org/wiki/Christian\\_Porter](http://www.wikipedia.org/wiki/Christian_Porter);

- ii. a Twitter handle @christianporterm;
  - iii. a Facebook account @ChristianPorter;
  - iv. a website [www.christianporter.com.au](http://www.christianporter.com.au); and
  - v. a profile on [www.apf.gov.au](http://www.apf.gov.au).
- b) He is well-known throughout Australia as the Commonwealth Attorney-General and senior cabinet member to the Morrison Government.
- c) Details of his personal life and history are well-known to the Australian public, are accessible on the internet and in particular, are known to politicians, political operatives, public servants, journalists and those who have personally interacted with him at school, university, in his career as a lawyer and barrister and as a politician including the facts set out below.
- d) In 1988 Porter was 17-years-old.
- e) In 1988 Porter was a champion debater and attended the World Universities Debating Championship at Sydney University as Captain of the Australian School's Debating Team.
- f) On about 9 November 2020 the ABC and Milligan published a Four Corners programme on the ABC television network about Porter in which it was alleged that Porter:
- i. is a sexist and misogynist;
  - ii. has a history of mistreating women;
  - iii. has a reputation for making unwanted sexual advances;
  - iv. has been accused of an inappropriate sexual relationship with a female Ministerial staff member
- (November 4Corners).**
- g) On 9 November 2020 the ABC and Milligan published on the ABC website an article entitled '*Christian Porter was warned over public behaviour with young female staffer by then-prime minister Malcolm Turnbull*', which accused Porter of engaging in inappropriate and unacceptable behaviour with a young female Ministerial staff

member, the said article still being available for publication on the ABC website, under Milligan's profile, as at the time of filing this pleading.

- h) On 10 November 2020 the ABC and Milligan published on the ABC website an article entitled '*Investigation reveals history of sexism and inappropriate behaviour by Attorney-General Christian Porter*', which accused Porter of engaging in inappropriate and sexist behaviour towards women, said article still being available for publication on the ABC website, under Milligan's profile, as at the time of filing this pleading.
- i) On or about 10 November 2020, Milligan and the ABC published statements on the program 'The Drum', imputing that Porter is a misogynist and a sexist.
- j) For the purpose of preparing the November 4Corners and the two articles referred to in the preceding particulars, Milligan conducted interviews with many persons who knew Porter during which she asked a range of personal questions about him including his sexual preferences and whether he forced a former partner to perform sexual acts against her will.
- k) Milligan intended to include, as part of the November 4Corners, allegations by a woman who claimed that Porter had raped her in 1988 at a debating competition when she was 16 and he was 17, being a person who committed suicide in about June 2020 (**AB**).
- l) Shortly prior to her death in June 2020, AB had informed persons, including Malcolm Turnbull, Senator Penny Wong, Daniel Mulino MP, her friends, and others unknown to Porter, that she had allegations to make about Porter's conduct in 1988, even though the details of her allegations were not specified to each of those persons.
- m) By the time the November 4Corners was aired, a number of persons including employees of the ABC, persons to whom Milligan had spoken about Porter, persons to whom AB had communicated, and other persons unknown to Porter, were aware that some sort of sexual misconduct allegation had been made about Porter in relation to his conduct when he was about 17.
- n) On about Wednesday 24 February 2021 four Members of Parliament being the Prime Minister, Ms Celia Hammond MP, Senator Penny Wong and Senator Sarah Hanson Young received by postal service a 31-page document including an anonymous letter and other materials, in which Porter was named and AB's allegations were set out (**Dossier**). Porter did not receive a copy of the Dossier.

- o) The Prime Minister received the Dossier, understood that it made allegations about Porter, but did not read it and forwarded it to the Australian Federal Police.
- p) Milligan claims to have received a copy of the Dossier from "*friends of [AB]*" on Thursday 25 February 2021.
- q) Porter was referred to throughout the Article as "*cabinet minister*", "*senior Minister*", "*senior member of government*" and "*accused perpetrator's seniority*".
- r) AB was referred to in the Article as being 50 years old.
- s) In the Article the alleged assaults were said to have taken place in Sydney in 1988 "*long before the accused man entered politics*".
- t) At the time of publication of the Article, there were 21 members of Cabinet excluding the Prime Minister.
- u) At the time of publication of the Article, 5 of those 21 members of Cabinet were female and 16 were male.
- v) At the time of publication of the Article, 6 male members of Cabinet were approximately the same age as AB in 1988. Of those, only 3 of these were Senior Cabinet Ministers, including Porter.
- w) The Article was promoted by the ABC and Milligan on the 6.00pm ABC News television programme causing the Article to be widely read throughout Australia.
- x) On the day of, and shortly after the publication of the Article, the visits to Porter's Facebook page increased significantly.
- y) On the day of, and shortly after the publication of the Article, the visits to Porter's website [www.christianporter.com.au](http://www.christianporter.com.au) increased significantly.
- z) On the day of, and shortly after the publication of the Article, Porter was identified on social media and elsewhere on the internet as the Cabinet Minister the subject of the Article.
- aa) On the day of, and shortly after the publication of the Article, on social media and elsewhere on the internet, members of the Australian public made the connection between the November 4Corners and the Cabinet Minister the subject of the Article.

- ab) On the day of, and shortly after the publication of the Article, Porter's name was trending prominently on Twitter and did so for a number of days leading up to Wednesday 3 March 2021.
- ac) On the day of, and shortly after publication of the Article, Porter was likely named as the Cabinet Minister the subject of the Article in the ABC's and Milligan's Twitter feeds in response to their promotion of the Article on those platforms. Those comments have since been deleted by the ABC and Milligan.
- ad) On the day of, and shortly after publication of the Article, Porter was named as the Cabinet Minister the subject of the Article in Tweets that tagged Milligan or used the hashtag for the 4Corners programme (#4Corners).
- ae) On the day of, and continuing from the publication of the Article, media outlets and prominent figures called for a response from Porter as the Attorney-General in respect of the allegations and questioned why he had not made any public comment about the process or the allegations.
- af) On the day of, and continuing from the publication of the Article, a large number of attempts were made to alter Porter's Wikipedia entry, compared to previous history of changes to his entry. On Sunday 28 February 2021 an unknown person attempted to amend Porter's Wikipedia entry to include the fact he was in Sydney in 1988.
- ag) On Monday 1 March 2021 the ABC and Milligan published a further article on the ABC website entitled "*Friends of woman who accused Cabinet Minister of rape call for inquiry into allegations*" in which "*friends of [AB]*" were quoted. One or more of those friends had also appeared in the November 4Corners and made allegations about Porter (**1 March article**).
- ah) The 1 March article was deleted from Milligan's profile on the ABC website on or shortly before 12 March 2021 but, as at the date of filing this pleading, still appears on her Twitter feed.
- ai) On Tuesday 2 March 2021 the ABC broadcast the 7.30 programme on ABC television in which a friend of AB gave an interview and referred to AB's participation in the State Debating Team (**7.30 story**). The same friend appeared in the November 4Corners.
- aj) On Tuesday 2 March 2021 Malcolm Turnbull gave an interview to the Sydney Morning Herald in which he stated that "*everybody knows*" who the Cabinet Minister

the subject of the Article was and he (and others in the media) called for the Cabinet Minister to identify himself.

- ak) By Wednesday 3 March 2021 Porter was obliged to identify himself as the subject of the Article because of the matters set out in the preceding particulars. He did so at approximately 3.09pm AEDT that day.
- al) On Monday 8 March 2021 the ABC broadcast an episode of the Media Watch television programme in which it made the following admissions:
  - i. The ABC and Milligan broke the story by the publication of the Article on Friday 26 February 2021.
  - ii. The allegations the subject of the Article made front page headlines in the weekend papers across Australia;
  - iii. By Monday 28 February 2021 it was widely known in Canberra that Porter was the subject of the Article.
  - iv. By Monday 28 February 2021 Porter had been identified on the internet as the subject of the Article.
  - v. By Monday 28 February 2021 Porter's name was trending on Twitter.
  - vi. Mentions of Porter's name on Twitter increased by 500 per cent on Saturday, 27 February 2021, then doubled from Sunday 28 February 2021 to Monday 1 March 2021 and doubled again on Tuesday 2 March 2021.
  - vii. By Tuesday 2 March 2021, a tweet was published every 6 seconds naming Porter.
- am) As at the date of the filing of this pleading, the Article remains on the ABC website and on the social media platforms of each of the ABC and Milligan, as set out above, where it remains available for publication throughout Australia.
- an) By reason of the matters set out in the preceding particulars, Porter was identified by readers of the Article as the subject of the Article at the time of publication or shortly after publication and he continues to be identified by readers of the Article.

The names of persons known to Porter who identified him by reason of the matters set out in preceding particulars will be provided in correspondence shortly after the filing of this pleading.

- 6. Further and in the alternative to the preceding paragraph, by reason of Porter's identity as part of a limited class of persons, namely senior male Cabinet Ministers at the time of the

publication of the Article, the Article was defamatory of Porter and carried the following defamatory imputations (or imputations that do not differ in substance):

- a) There are reasonable grounds for suspecting that Porter brutally raped a 16-year-old girl in 1988.
- b) There are reasonable grounds for suspecting that Porter anally raped a 16-year-old girl in 1988.
- c) There are reasonable grounds for suspecting that Porter's brutal and anal rape of a 16-year-old girl contributed to her taking her own life.
- d) There are reasonable grounds for suspecting that Porter is reasonably suspected by police of brutally and anally raping a 16-year-old girl in 1988, warranting criminal charges being brought against him.
- e) There are reasonable grounds for suspecting that Porter was reasonably suspected in 2020 by NSW Police of raping a 16-year-old girl in 1988.
- f) There are reasonable grounds for suspecting that Porter had so conducted himself that it warranted him being reasonably suspected by police of brutally and anally raping a 16-year-old girl in 1988.

### **Damages**

- 7. By reason of the publication and republication by the ABC and Milligan of the Article, and the grapevine effect of those publications and republications, Porter has been gravely injured in his character and reputation, and has suffered substantial hurt, distress and embarrassment and has and will continue to suffer loss and damage.
- 8. Porter's harm as a result of the publication of the Article was aggravated by his knowledge of the following matters:

#### Particulars of Aggravated Damages

- a) The ABC and Milligan knew that Porter would be readily identifiable as the subject of the Article and that he would ultimately be compelled to publicly respond.
- b) After publishing the Article that did not name Porter, Milligan re-published on Twitter comments from Malcolm Turnbull calling on the Cabinet Minister to identify himself.
- c) The ABC and Milligan knew that the allegations by AB could never be proved in any criminal or civil proceeding and despite that published the Article to harm Porter and

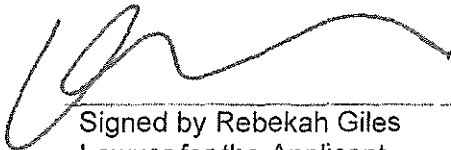


to ensure that he was publicly condemned and disgraced in the absence of any finding against him.

- d) On Friday 26 February 2021 the ABC and Milligan promoted the Article on the 6.00pm ABC News television programme to ensure that it was read by as many people as possible.
- e) The conduct of the ABC in broadcasting the 7.30 story in which it was alleged that AB was telling the truth.
- f) The ABC and Milligan were frustrated that they were unable to broadcast AB's allegations in the November 4Corners as they intended (because they were indefensible) and thus disingenuously published the Article without naming Porter, in order to give effect to their intention to harm him.
- g) Milligan engaged in a campaign against Porter in order to harm his reputation and have him removed as Attorney-General by her continued publications about him as set out in the particulars of identification, above. She has further continued to defame him including on social media by republishing assertions to the effect that:
  - i. AB should be believed;
  - ii. AB deserves justice for the brutal rape perpetrated upon her by Porter;
  - iii. Porter has committed criminal offences in other jurisdictions.
- h) The ABC and Milligan published the Article making serious allegations of criminal conduct about Porter without any warning to Porter and without any attempt to give him an opportunity to respond, despite the fact that they were aware of AB's allegations for many months prior to publication of the Article.
- i) The ABC and Milligan selected portions of the Dossier to quote in the Article for the purpose of making AB's allegations appear as credible as possible when there were other significant portions of the Dossier which demonstrated that the allegations were not credible.
- j) Milligan did not disclose in the course of reporting on these allegations her close friendship with a friend or friends of AB including persons who were named in the 1 March article and/or the November 4Corners.

- k) Milligan acted with malice knowing of the impossibility of any finding of guilt or civil liability in the circumstances and believing that a public campaign designed to damage his reputation would be a more effective substitute against Porter in replacement of the process of the justice system.

Date: 14 March 2021



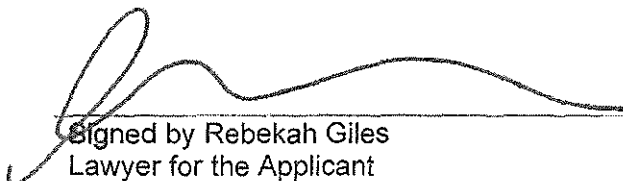
Signed by Rebekah Giles  
Lawyer for the Applicant

This pleading was prepared by Sue Chrysanthou SC and Rebekah Giles, lawyer and settled by Bret Walker SC.

#### **Certificate of lawyer**

I, Rebekah Giles, certify to the Court that, in relation to the statement of claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 14 March 2021



Signed by Rebekah Giles  
Lawyer for the Applicant

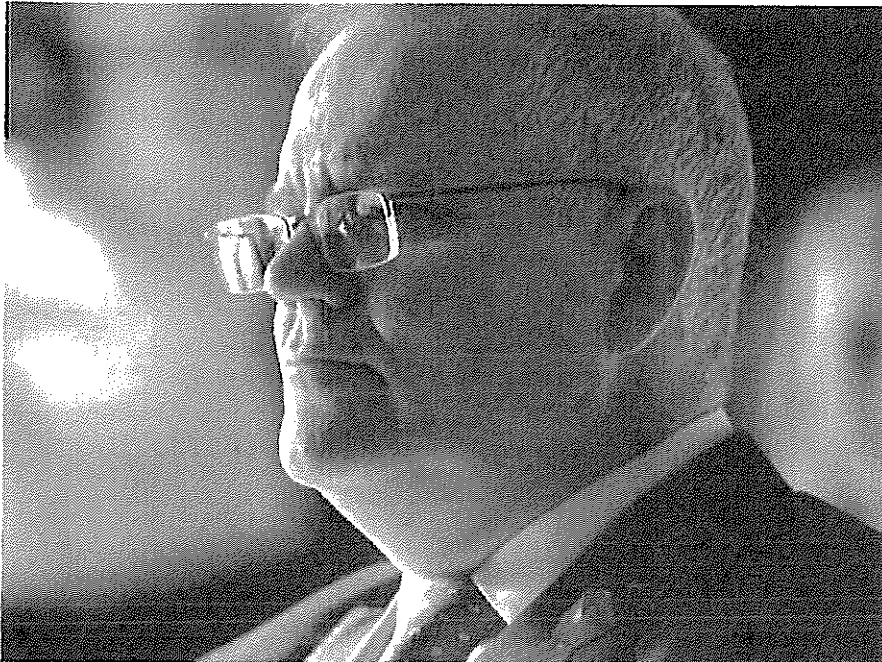
ABC NEWS

"SCHEDULE A"

## Scott Morrison, senators and AFP told of historical rape allegation against Cabinet Minister

Four Corners / By Louise Milligan

Posted Fri 26 Feb 2021 at 5:39pm, updated Sat 27 Feb 2021 at 12:21am



Scott Morrison has been sent a letter detailing an historical rape allegation against a senior Minister. (ABC News: Tamara Penniket)

Australian Federal Police have been notified of a letter sent to Prime Minister Scott Morrison detailing an alleged historical rape by a Cabinet Minister in the federal government.

The letter requests urgent action be taken by the Prime Minister to investigate the alleged rape, which occurred in 1988 before the accused man entered politics.

The matter has also been referred to the Australian Federal Police.

The letter was forwarded to AFP Commissioner Reece Kershaw by Labor's Leader in the Senate, Penny Wong, and Greens Senator Hanson-Young, who were also recipients of the letter.

### Key points:

- A letter detailing a historic rape allegation against a Cabinet Minister has been sent to the Prime Minister
- The alleged offence took place in 1988 before the man entered politics
- The matter has been referred to the AFP

Four Corners understands that Commissioner Kershaw has briefed South Australia Police and NSW Police.

The letter, shared with Four Corners by a friend of the complainant, attaches a detailed statement prepared by the complainant for her lawyer about the brutal rape she alleges took place.

## NSW Police set up strike force

Last year, NSW Police set up a strike force with a view to commencing an investigation into the historical allegations about the Cabinet Minister after the woman came forward.

Strike Force Wyndarra was established by police after she reported in Sydney in February 2020 to detectives from the NSW Police Child Abuse and Sex Crimes Squad that she had been raped by the man.

The woman had engaged a lawyer and told many friends about the allegation, but took her own life in June last year.

In a statement to Four Corners on Friday, Ms Hanson-Young said: "This morning I received information regarding a disturbing and a very serious allegation of a criminal nature against a senior member of the government.

"Following the advice given to the Prime Minister by the AFP Commissioner this week, I have spoken with the Police Commissioner today, who is now taking steps in relation to this information."

Senator Wong told Four Corners in a statement on Friday that she had notified NSW, SA Police and the AFP, and would assist in any investigations.

"I have also written to the Prime Minister and Senator Hanson-Young to outline the steps I have taken, following receipt of this anonymous letter," Senator Wong said.

"It is my hope that appropriate action is taken to examine the allegation."

A spokesperson for the Prime Minister's Office said in a statement: "As per the AFP Commissioner's instruction, any complaints or allegations of this nature made to anybody — whether they're parliamentarians or journalists — should be referred to the AFP.

"As the AFP Commissioner outlined in advice to all parliamentarians on February 25, 2021, rereporting to the police is the way to ensure any alleged crimes are properly investigated."

South Australia Police are investigating the circumstances of the woman's death for the state coroner.

### If you or anyone you know needs help:

- Lifeline on 13 11 14
- Kids Helpline on 1800 551 800
- MensLine Australia on 1300 789 978
- Suicide Call Back Service on 1300 659 467
- Beyond Blue on 1300 224 636
- Headspace on 1800 650 890
- ReachOut at [au.reachout.com](http://au.reachout.com)
- Care Leavers Australasia Network (CLAN) on 1800 008 774

Four Corners has seen the woman's statement and has spoken to many friends of the complainant whom she told about what she alleged took place and who knew her at the time of the alleged incident.

The letter urges the Prime Minister to set up an independent parliamentary investigation into the matter, similar to that commissioned by the High Court into allegations against former Justice, Dyson Heydon.

"When news of [the complainant's alleged] rape becomes widely known to the public (as it most likely will), legitimate questions will be asked as to who knew what, when they knew and what they did," the correspondent wrote.

"This is occurring today in relation to Brittany Higgins.

"In [the complainant's] case, the loss of respect for our political institutions will be exacerbated by the aggravating factor of [the accused perpetrator's seniority].

"There will be considerable damage to community perceptions of justice... and the parliament when this story becomes public if it is simultaneously revealed that senior people (like yourselves) were aware of the accusation but had done nothing...

"Failing to take parliamentary action because the NSW Police cannot take criminal action [due to the complainant's death] would seem like wilful blindness."

### **Wong, Turnbull also made aware of allegation**

Senator Wong, who was made aware of limited detail surrounding the woman's allegation last year by the complainant herself, contacted South Australia Police to offer her assistance in the coronial investigation when she discovered the complainant had died.

The woman had also written in 2019 to former prime minister Malcolm Turnbull, and he too wrote to South Australia Police with his knowledge of the allegation upon learning of her death.

South Australia Police had originally referred the woman to their NSW counterparts because she alleged the incident occurred in Sydney. SA Police are currently preparing a report into the circumstances of her death for the state's coroner, including her early release from a psychiatric institution in Melbourne.

The coroner will then determine whether to conduct a public inquest into her death.

The woman alleged the sexual assault took place in Sydney in 1988, long before the man's political career commenced.

NSW Police provided a statement to the ABC about the case:

"In February [2020], NSW Police received a report of alleged historic sexual abuse. Inquiries were commenced by officers from the Child Abuse and Sex Crimes Squad under Strike Force Wyndarra."

### **COVID-19 outbreak delays investigation**

Detectives from Strike Force Wyndarra were due to travel to Adelaide to take the woman's formal statement in March 2020 but their trip was postponed after the COVID-19 outbreak erupted and state

borders were closed.

Friends of the woman, who had years earlier been diagnosed with bipolar disorder, say her mental health deteriorated in the weeks before she took her life. She had made previous suicide attempts.

The NSW Police statement said: "On Wednesday 24 June 2020, the body of a 49-year-old woman was located at a home at Adelaide by South Australia Police (SA Pol)."

The day before she took her life, the woman informed NSW Police that she no longer wished to proceed with the investigation.

She would have turned 50 this week.

"NSW Police understand that reporting sexual assault can be distressing and traumatic for victims — and it (is) always the choice of an individual whether to proceed with an investigation or not," the statement said.

### **'This is my story, plain and simple'**

The woman's death means a criminal investigation into the politician can no longer proceed because the allegation cannot be tested.

The woman, who had been a brilliant and celebrated student at the time of the alleged incident, had prepared a long statement for her solicitor at the end of 2019.

"This is my story, plain and simple. It's not pretty, but it is mine," she wrote in the statement.

"And I stand by it, every single word and image in this document is true."

In her statement, the woman alleged she had been anally raped by the man when she was aged 16.

"All I really want, in the end, is for this to have been reported to the NSW Police Force and to know that a copy of this document, and a transcript of any interview they might do with me, is in their archives...

"If this story does become public knowledge, I hope that it will encourage other women to come forward.

"Not for me, but for themselves... I also hope that other people who have endured similar traumas, should these facts become public knowledge, will feel less alone."

The woman had told numerous friends who had become leaders in business, politics, the law and the arts and the ABC has spoken to many of them.

"She was caught on a jag, in a very specific era, around a very specific incident. That really seemed completely consuming and completely debilitating to her," one friend told the ABC.

### **Sexual assault support services:**

- Canberra Rape Crisis Centre (24 hours): 02 6247 2525
- 1800 Respect national helpline: 1800 737 732
- Lifeline (24 hour crisis line): 131 114
- Beyond Blue: 1300 224 636

"She was consumed with a trauma which she told me, deeply and consistently, was as result of an assault that had occurred, early in 1988, and her life at that point was really devoted to exploring how she could get some kind of justice, accountability and peace from that."

In the months before her death, the woman had attended a psychiatric clinic in Melbourne.

"There were many of us that were willing to support and help her carry that burden to the extent that we could. And ultimately, of course, we couldn't do everything we hoped," the friend said, crying.

Another friend, who had been helping the woman find rape support counselling and who has also come forward to NSW and South Australia Police to assist with their investigations, said the woman had been frustrated because COVID had delayed police from flying from Sydney to see her in Adelaide to carry out their investigations.

"[I feel] enormous sadness," the friend said.

A third friend told the ABC it was "such a waste".

"A beautiful, clever, young woman with so much potential has a life squandered and a life ended far too early," he said.

In a statement, South Australia Police told the ABC that a full report into the woman's death is being prepared for the coroner.

"It is not completed yet and there is no timeframe provided. SAPOL will not be making any further comment as this is a matter for the coroner."

**Go direct to the source**



Download the ABC News app for all the latest.

## "SCHEDULE B"

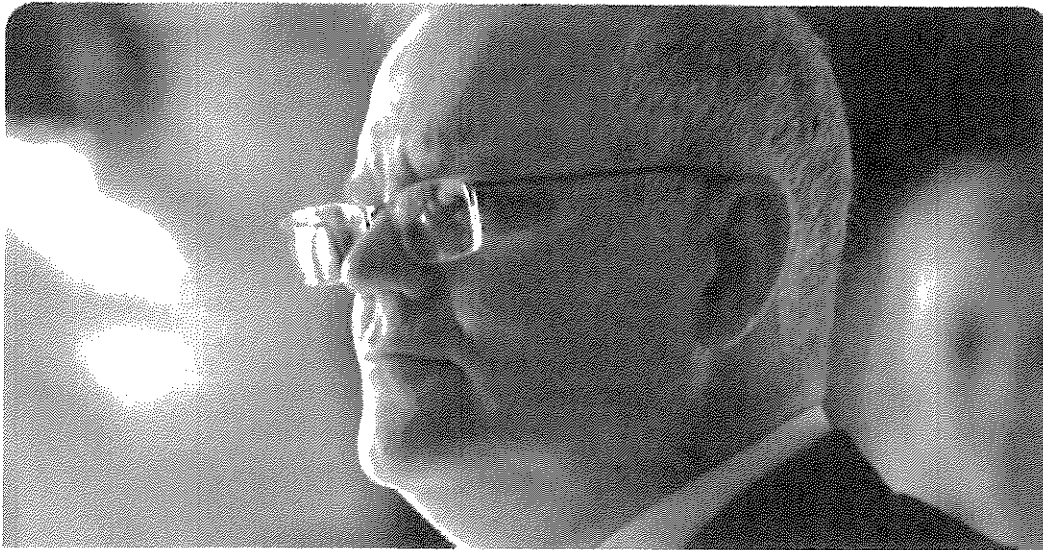
<https://twitter.com/abcnews/status/1365196552134742017>



ABC News  
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...

PM, senators and AFP told of historical rape allegation against Cabinet Minister



Cabinet Minister accused of rape in letter sent to Scott Morrison, senators  
The AFP have been notified after Prime Minister Scott Morrison and two senators received a letter detailing an allegation of historical rape against a Cabinet ...  
📍 abc.net.au

6:06 PM - Feb 26, 2021 - Microsoft Power Platform

95 Retweets 27 Quote Tweets 223 Likes



## "SCHEDULE C"

First post by @Milliganreports

<https://twitter.com/Milliganreports/status/1365191307057000453>

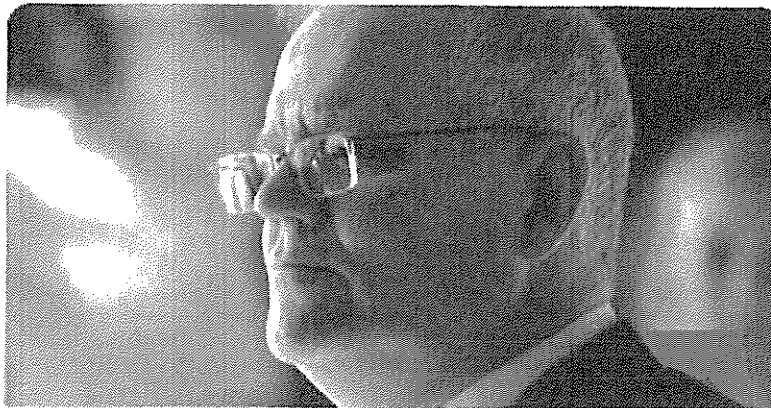
5.45PM 26 Feb 2021



**Louise Milligan** @Milliganreports · Feb 26

...

BREAKING. Exclusive from me: Australian Federal Police notified of letter sent to @ScottMorrisonMP detailing alleged historical rape by Cabinet Minister in who's now in Government. Letter requests urgent investigation like High Court's on Dyson Heydon.



Cabinet Minister accused of rape in letter sent to Scott Morrison, senators. The AFP have been notified after Prime Minister Scott Morrison and two senators received a letter detailing an allegation of historical rape. [abr.net.au](http://abr.net.au)

357

2K

4.1K



Second post by @Milliganreports

<https://twitter.com/Milliganreports/status/1365236982478114819>

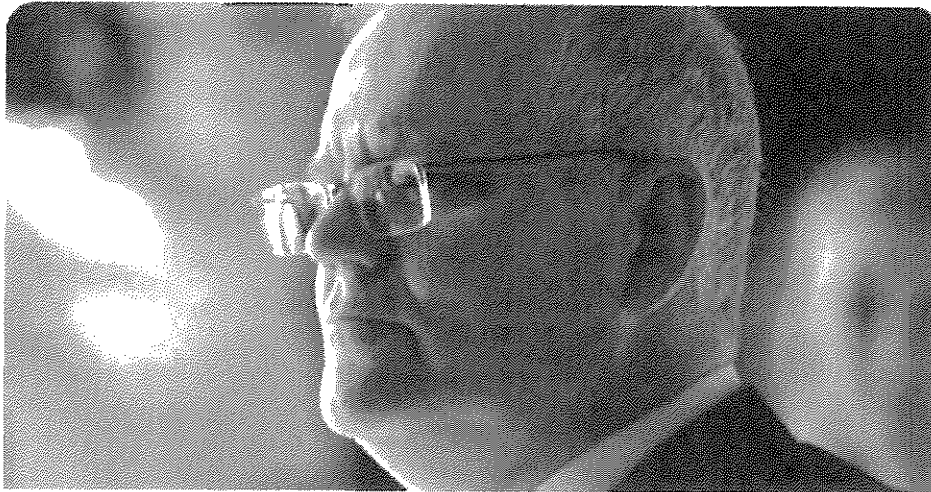
8.47PM on 26<sup>th</sup> Feb 2021



**Louise Milligan** ● @Milliganreports · Feb 26

...

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Cabinet Minister accused of rape in letter sent to Scott Morrison, senat...  
The AFP have been notified after Prime Minister Scott Morrison and two senators received a letter detailing an allegation of historical rape ...  
[abc.net.au](https://www.abc.net.au)

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1.1 670

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## "SCHEDULE D"

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Louise Milligan

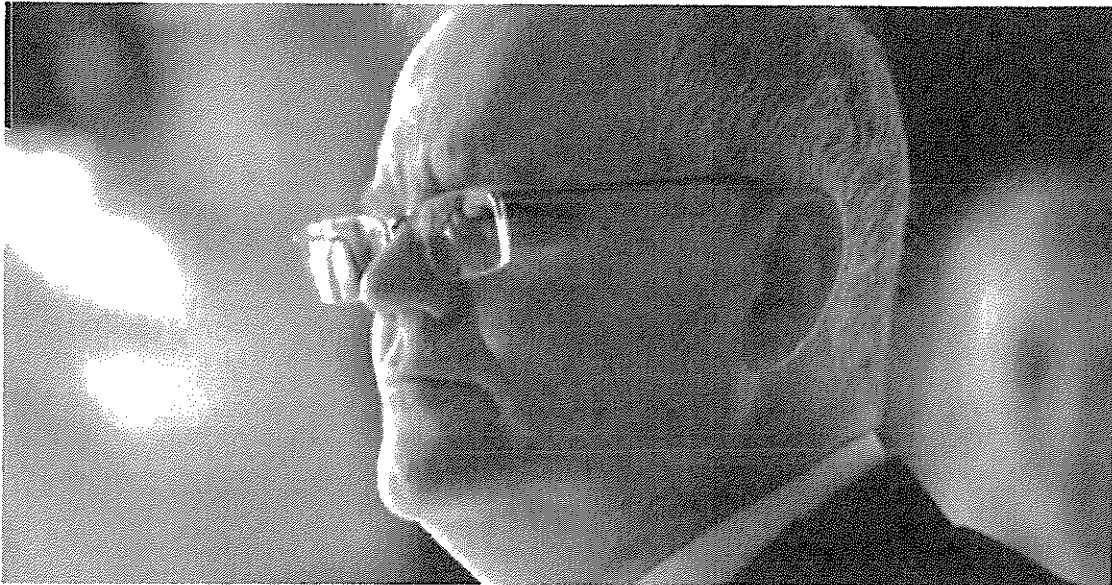
26 February at 22:04

...

The woman, who had been a brilliant and celebrated student at the time of the alleged incident, had prepared a long statement for her solicitor at the end of 2019.

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The words of a woman who took her life in June last year. Story by me today.



ABC.NET.AU

### Cabinet Minister accused of rape in letter sent to Scott Morrison, senators

The AFP have been notified after Prime Minister Scott Morrison and two senators received a le...

116

28 comments 16 shares

Rule 29.02(8)

**Certificate identifying annexure**

No. NSD      of 2021

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**Joanne Elizabeth Dyer**

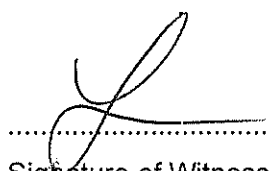
Applicant

**Sue Chrysanthou SC**

Respondent

**Annexure "MDB-3"**

This is the annexure marked "MDB-3" to the affidavit of Michael David Bradley sworn before me on 10 May 2021.



.....  
Signature of Witness

## Lauren Gasparini

---

**From:** Michael Bradley <michaelb@marquelawyers.com.au>  
**Sent:** Tuesday, 13 April 2021 9:21 AM  
**To:** Patrick George  
**Subject:** Chrysanthou [ML-Documents.FID1184906]

Dear Patrick,

When can we expect to hear back from you? Our client is obviously very concerned that it has been almost a month since we first raised the concern of conflict with Ms Chrysanthou, with no sign of a resolution. She is not prepared to wait much longer before considering formal action.

Regards  
Michael

Michael Bradley  
Managing Partner

**Certified**



**Corporation**

MARQUE Lawyers Pty Ltd

P: +61 2 8216 3006 / M: 0419 610 016

Level 4, 343 George Street, Sydney NSW 2000

[marquelawyers.com.au](http://marquelawyers.com.au) / [LinkedIn](#) / [Twitter](#) / [Instagram](#)

Official lawyers for [TEDxSydney](#)

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## Lauren Gasparini

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**From:** Patrick George <Patrick.George@kennedyslaw.com>  
**Sent:** Tuesday, 13 April 2021 2:37 PM  
**To:** Michael Bradley  
**Subject:** RE: Chrysanthou [ML-Documents.FID1184906]

Dear Michael

Richard McHugh and I are working through your letters and expect to provide a substantive response next week in the circumstances.

We are examining the asserted confidential information, and the extent to which it is or is not confidential and/or relevant to the proceedings brought by Mr Porter against the ABC.

I confirm that I have not provided your letters to Ms Chrysanthou. I note in my letter dated 30 March 2021, Ms Chrysanthou has given an undertaking in respect of Ms Dyer's apprehension about the asserted confidential information.

Ms Chrysanthou is currently preparing for a trial starting tomorrow (against Mr Richardson). We will need her instructions for the response, albeit without disclosing to her the asserted confidential information.

Regards  
Patrick

Patrick George  
Senior Partner  
for Kennedys

### Kennedys

T +61 2 8215 5901  
M +61 4 1148 1444  
F +61 2 8215 5988  
[www.kennedyslaw.com](http://www.kennedyslaw.com)

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Dear Patrick,

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## Lauren Gasparini

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**Sent:** Wednesday, 21 April 2021 3:41 PM  
**To:** Michael Bradley  
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Dear Michael

I will not be able to confirm Ms Chrysanthou's instructions today as she is on a flight to Melbourne and is starting a trial tomorrow.

I request that you and your client await the response before taking any further steps.

Given the seriousness of the issues under consideration, I need her instructions to respond to certain matters, albeit without reference to your letters.

Having regard to the trial in which she is briefed in Melbourne, I do not expect to be in a position to make the response before Friday.

Regards  
Patrick

Patrick George  
Senior Partner  
for Kennedys

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We are examining the asserted confidential information, and the extent to which it is or is not confidential and/or relevant to the proceedings brought by Mr Porter against the ABC.

I confirm that I have not provided your letters to Ms Chrysanthou. I note in my letter dated 30 March 2021, Ms Chrysanthou has given an undertaking in respect of Ms Dyer's apprehension about the asserted confidential information.

Ms Chrysanthou is currently preparing for a trial starting tomorrow (against Mr Richardson). We will need her instructions for the response, albeit without disclosing to her the asserted confidential information.

Regards  
Patrick

Patrick George  
Senior Partner  
for Kennedys

## Kennedys

T +61 2 8215 5901  
M +61 4 1148 1444  
F +61 2 8215 5988  
[www.kennedyslaw.com](http://www.kennedyslaw.com)

---

**From:** Michael Bradley <[michaelb@marquelawyers.com.au](mailto:michaelb@marquelawyers.com.au)>  
**Sent:** Tuesday, 13 April 2021 9:21 AM  
**To:** Patrick George <[Patrick.George@kennedyslaw.com](mailto:Patrick.George@kennedyslaw.com)>  
**Subject:** Chrysanthou [ML-Documents.FID1184906]

Dear Patrick,

When can we expect to hear back from you? Our client is obviously very concerned that it has been almost a month since we first raised the concern of conflict with Ms Chrysanthou, with no sign of a resolution. She is not prepared to wait much longer before considering formal action.

Regards  
Michael

Michael Bradley  
Managing Partner  
MARQUE Lawyers Pty Ltd

**Certified**



**Corporation**

P: +61 2 8216 3006 / M: 0419 610 016  
Level 4, 343 George Street, Sydney NSW 2000  
[marquelawyers.com.au](http://marquelawyers.com.au) / [LinkedIn](#) / [Twitter](#) / [Instagram](#)

Official lawyers for **TEDxSydney**

*We do not disclaim anything about this email. We're quite proud of it, really.*

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Rule 29.02(8)

**Certificate identifying annexure**

No. NSD      of 2021

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**Joanne Elizabeth Dyer**  
Applicant

**Sue Chrysanthou SC**  
Respondent

**Annexure “MDB-4”**

This is the annexure marked “MDB-4” to the affidavit of Michael David Bradley sworn before me on 10 May 2021.

  
.....  
Signature of Witness

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Our reference MB/13146  
Phone +61 2 8216 3006  
Email michaelb@marquelawyers.com.au  
Your reference PTG/AUSC211-1032875 (PTG)

23 April 2021

Patrick George  
Senior Partner  
Kennedys (Australasia) Pty Ltd  
Level 22, 85 Castlereagh Street  
Sydney NSW 2000

**By email only: Patrick.george@kennedyslaw.com**

Dear Mr George

**Jo Dyer – Sue Chrysanthou SC**

We refer to our earlier confidential communications but nothing in this correspondence should be taken to waive the confidentiality of that material.

As you know our client retained your client in about November 2020 to advise on [REDACTED]

At the time of the retainer our client was concerned that [REDACTED]

As was explained to your client in conference on 20 November 2020, [REDACTED]

As part of the conference held with your client on 20 November 2020, it was necessary for our client in conference to discuss [REDACTED]

By letters sent to your firm on 31 March 2021, and 7 April 2021 we set out detailed particulars of the confidential information which we say was received by your client as part of her retainer by our client,

MAR/  
QUE

along with other matters that our client believed made it inappropriate for your client subsequently to accept a brief in proceedings brought by Mr Porter against the ABC in respect of the same matters.

We do not propose to set out in this open correspondence the particulars of the confidential information.

One obvious concern is that to the extent that our client will be called or subpoenaed to give evidence in the ABC proceedings, your client will have had the benefit of an opportunity to assess Ms Dyer in person and form views about her credibility. That opportunity arose because our client retained your client in circumstances where she was entitled to expect that your client would not act in conflict with the duties she owed to our client.

We understand that your firm has retained Mr McHugh SC to assist your firm in reviewing the material and advising your client.

It ought to be clear from our previous confidential correspondence, and the matters set out in this letter, that our client requires that your client cease acting in the Porter v ABC proceedings. If your client does not provide an undertaking accordingly by 4.00 pm on Monday 26 April 2021, we are instructed to approach the Court without further notice to your client.

Yours sincerely



**Michael Bradley**  
Managing Partner

Rule 29.02(8)

**Certificate identifying annexure**

No. NSD      of 2021

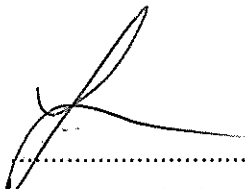
Federal Court of Australia  
District Registry: New South Wales  
Division: General

**Joanne Elizabeth Dyer**  
Applicant

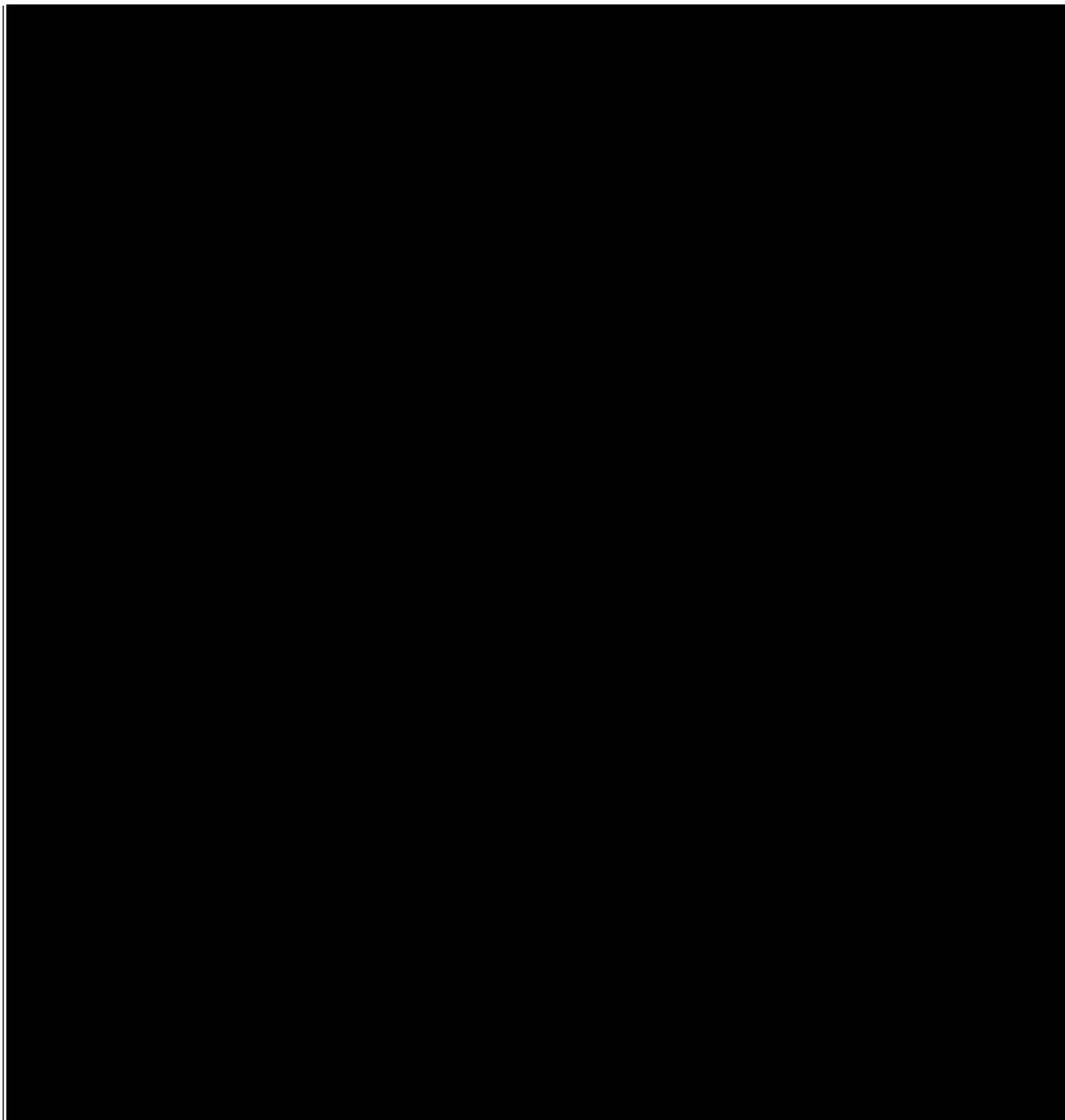
**Sue Chrysanthou SC**  
Respondent

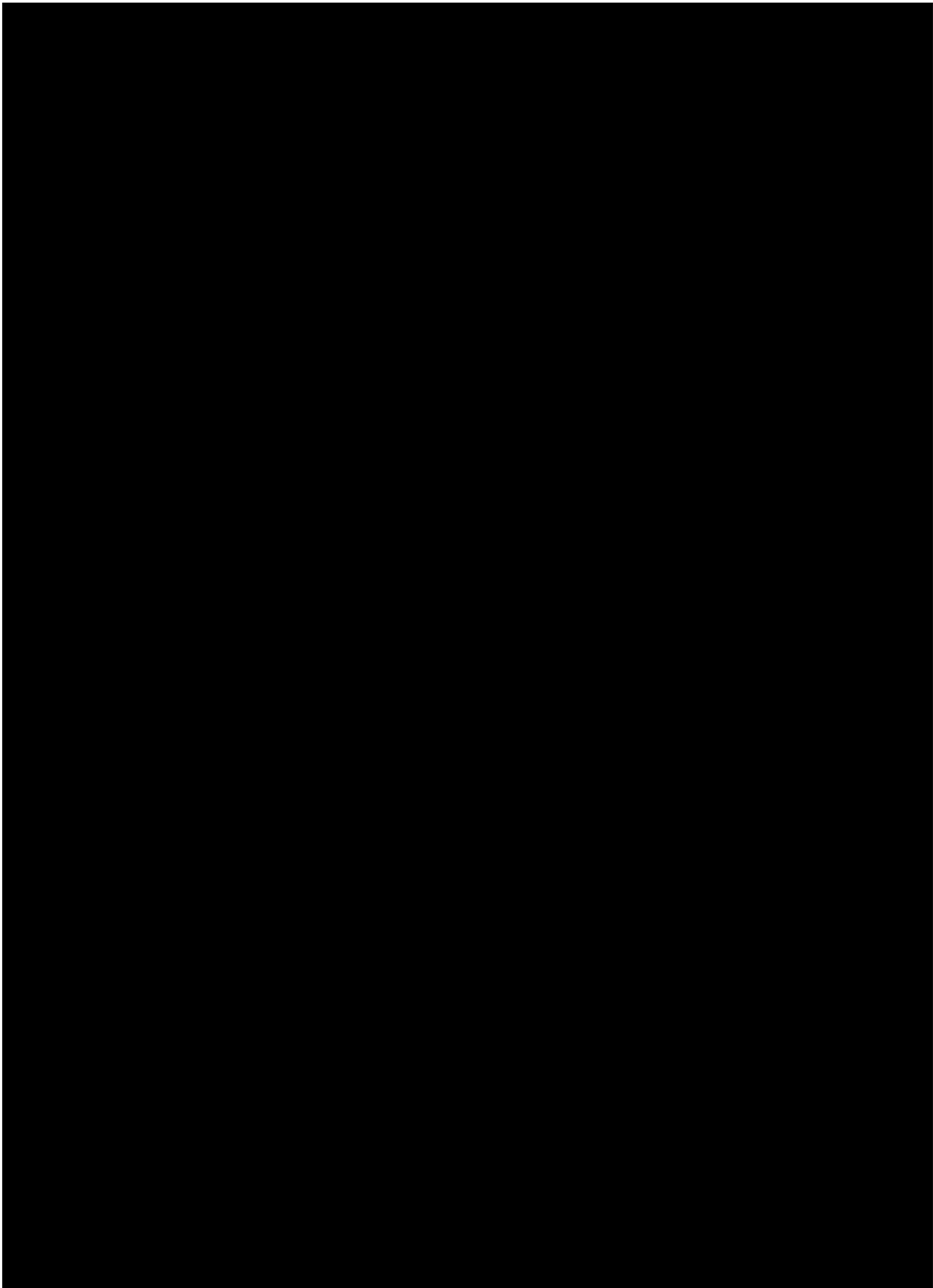
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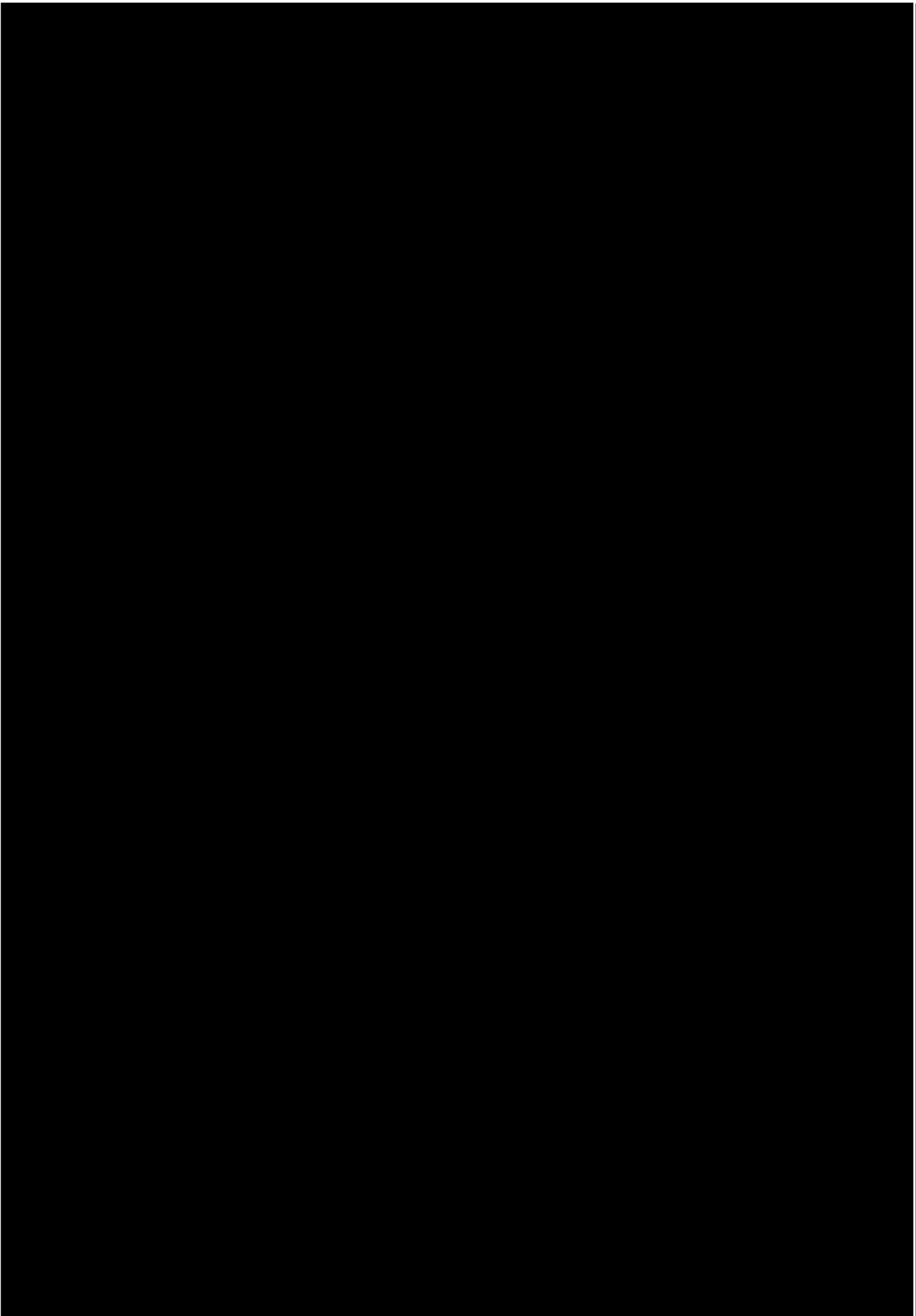
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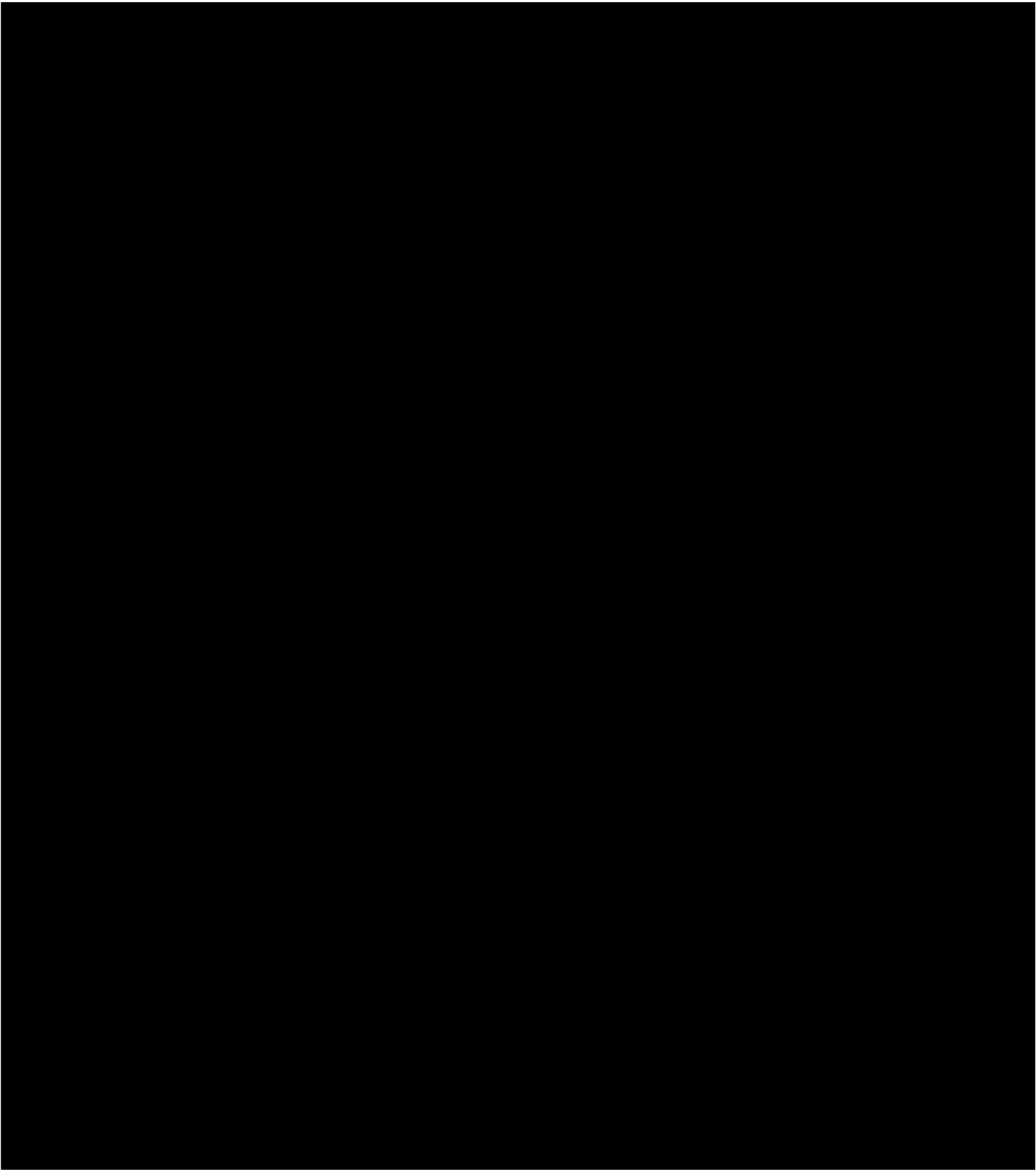
  
.....  
Signature of Witness





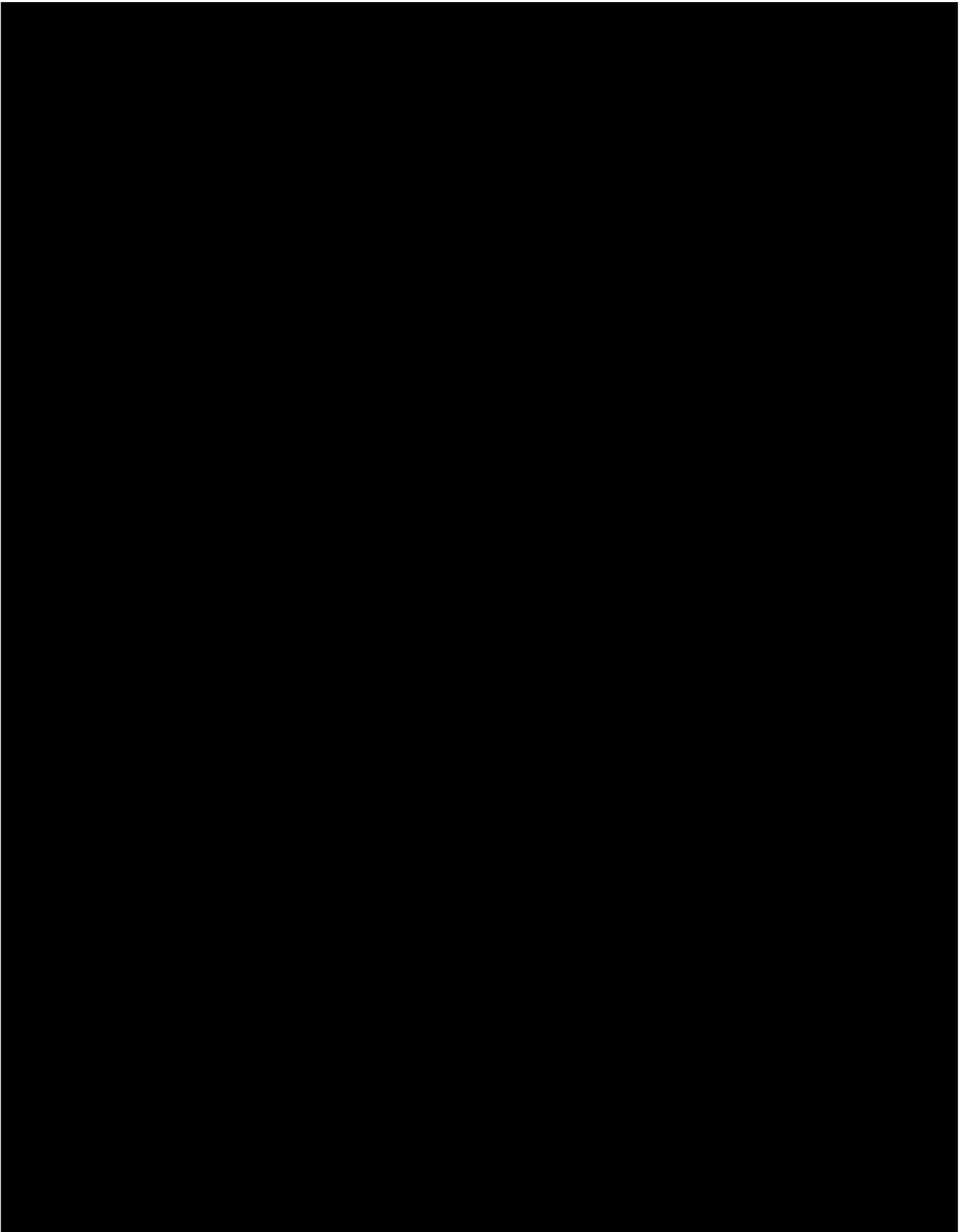


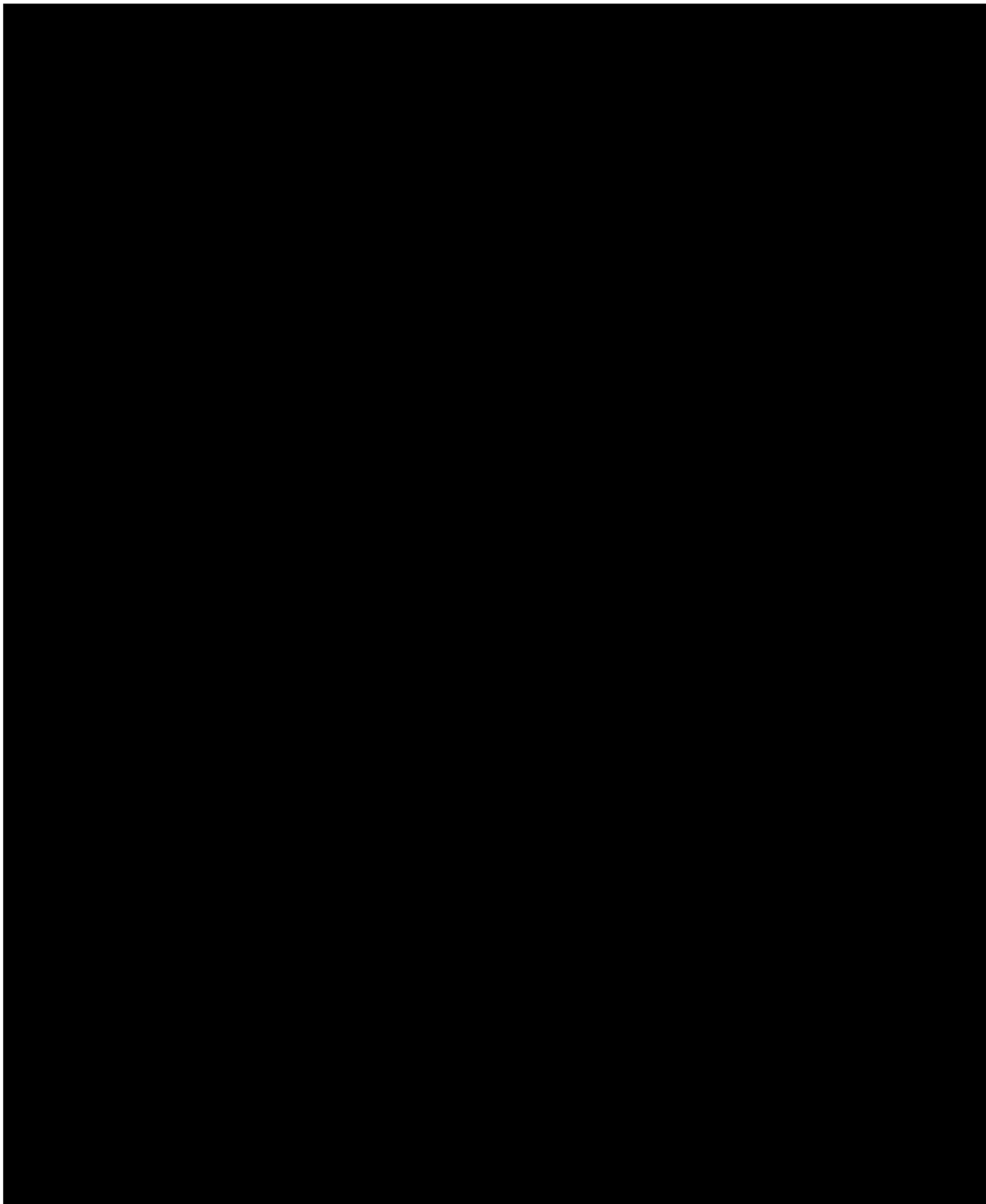




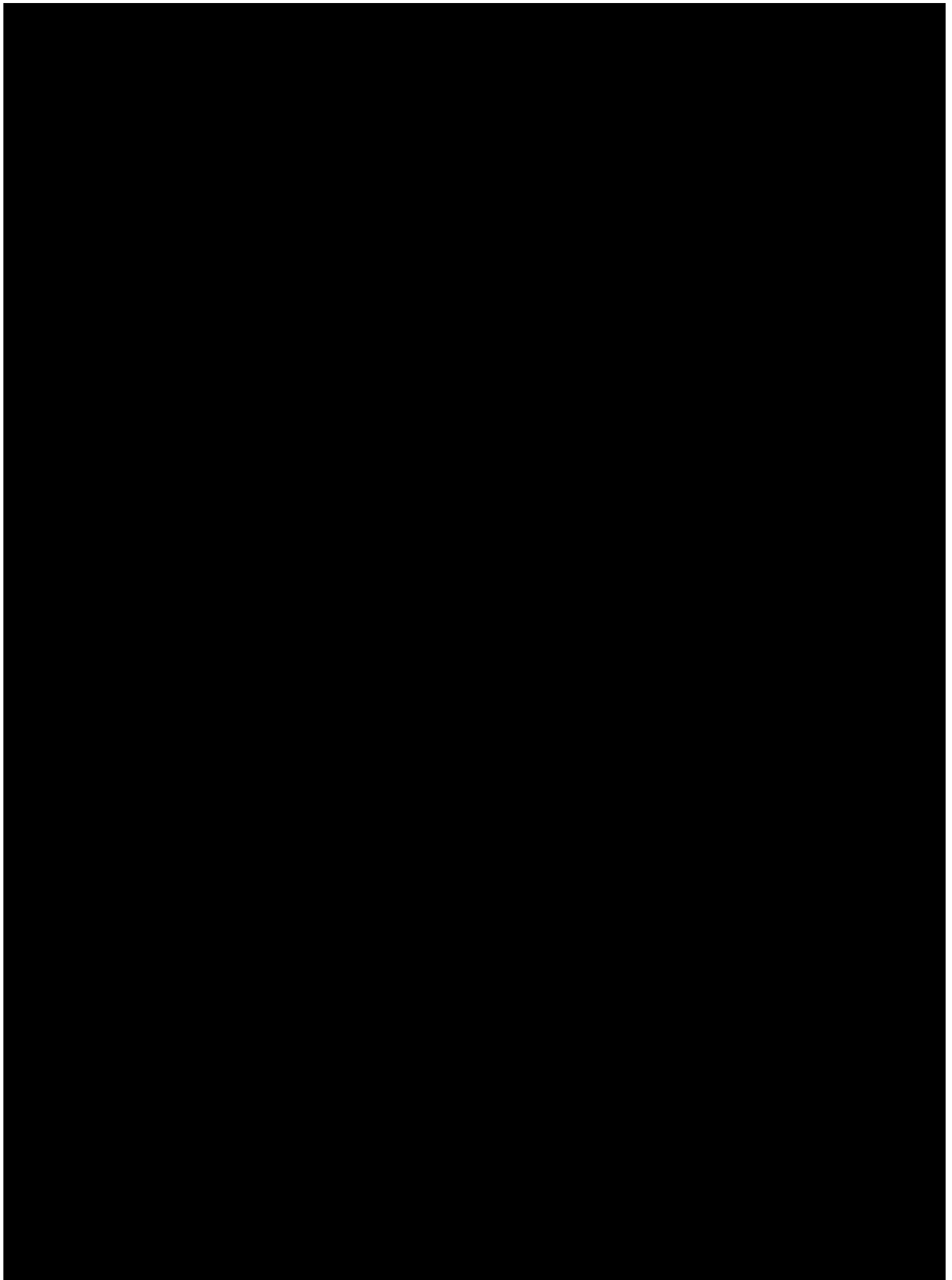






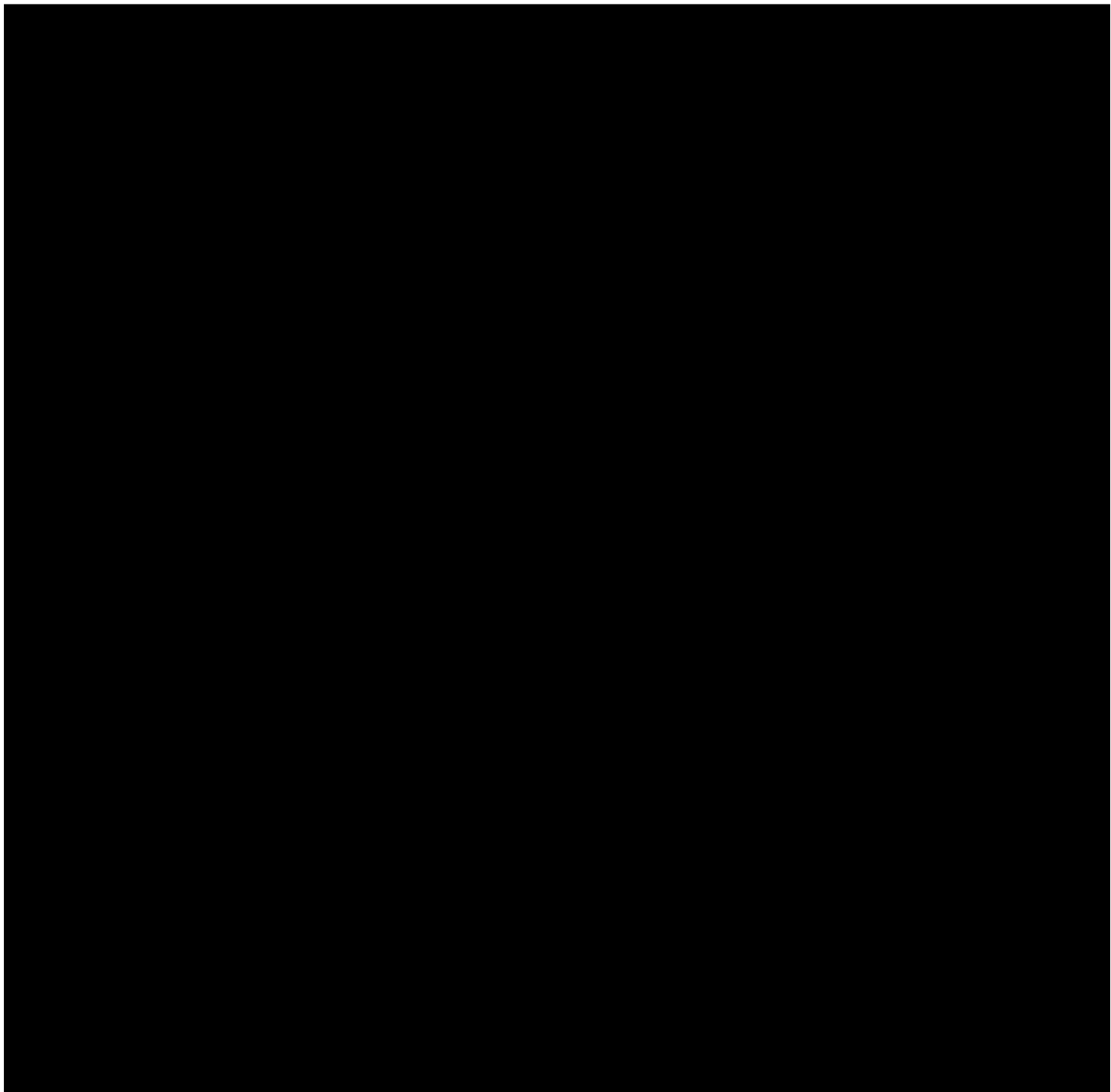


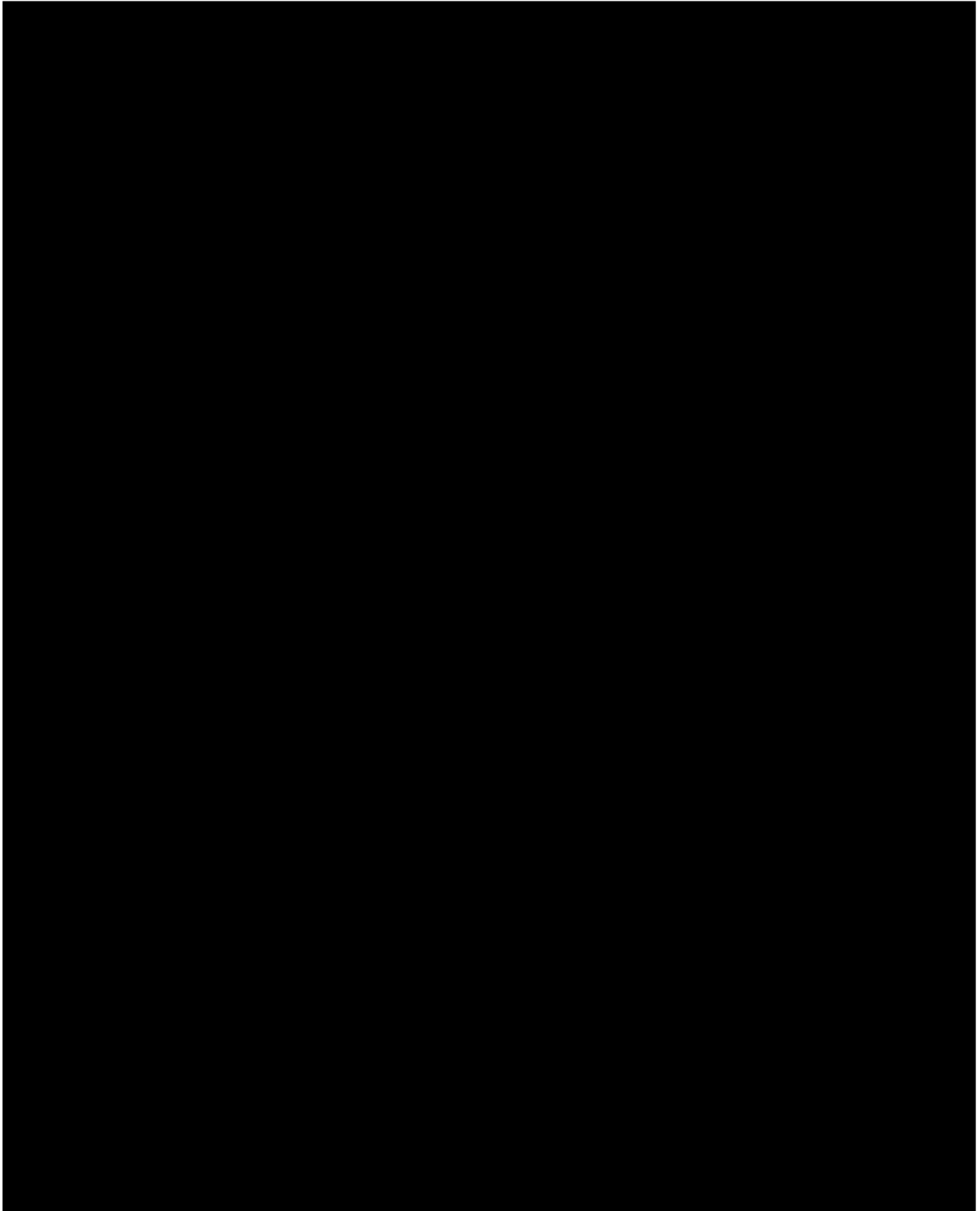


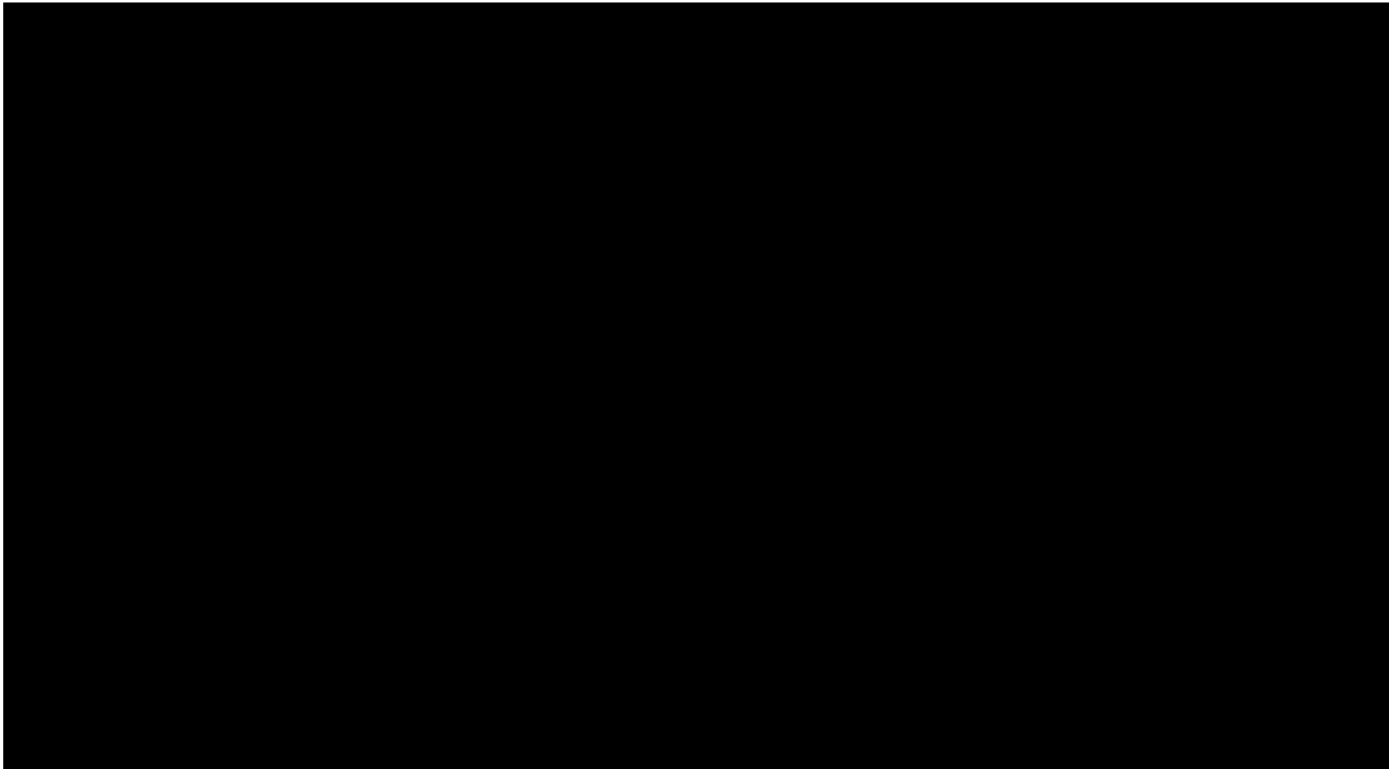




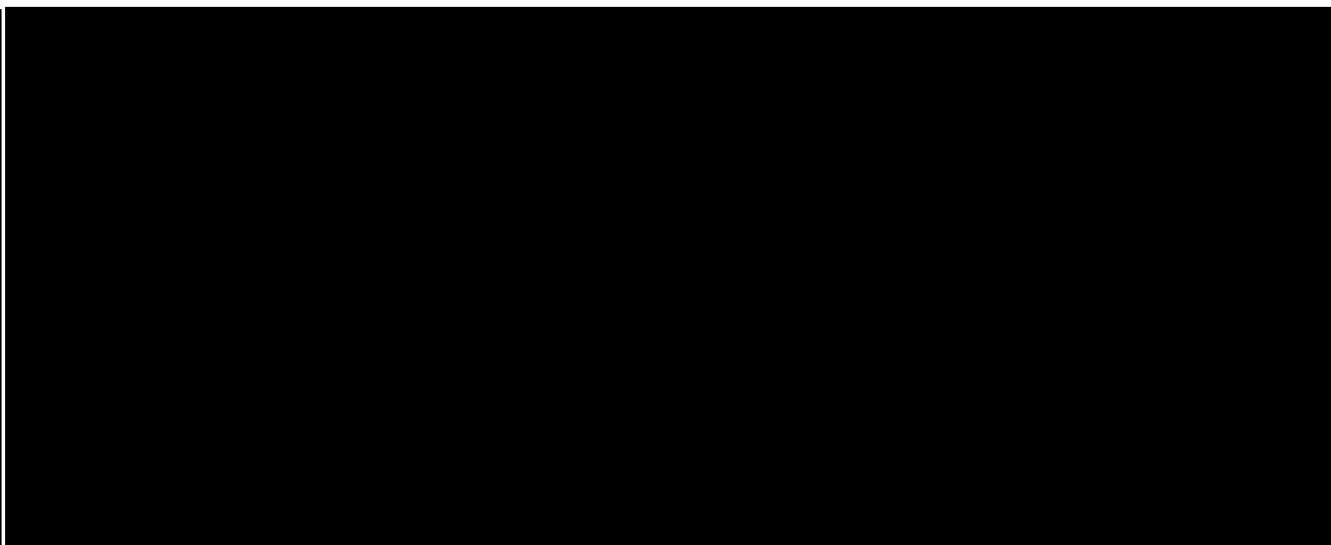




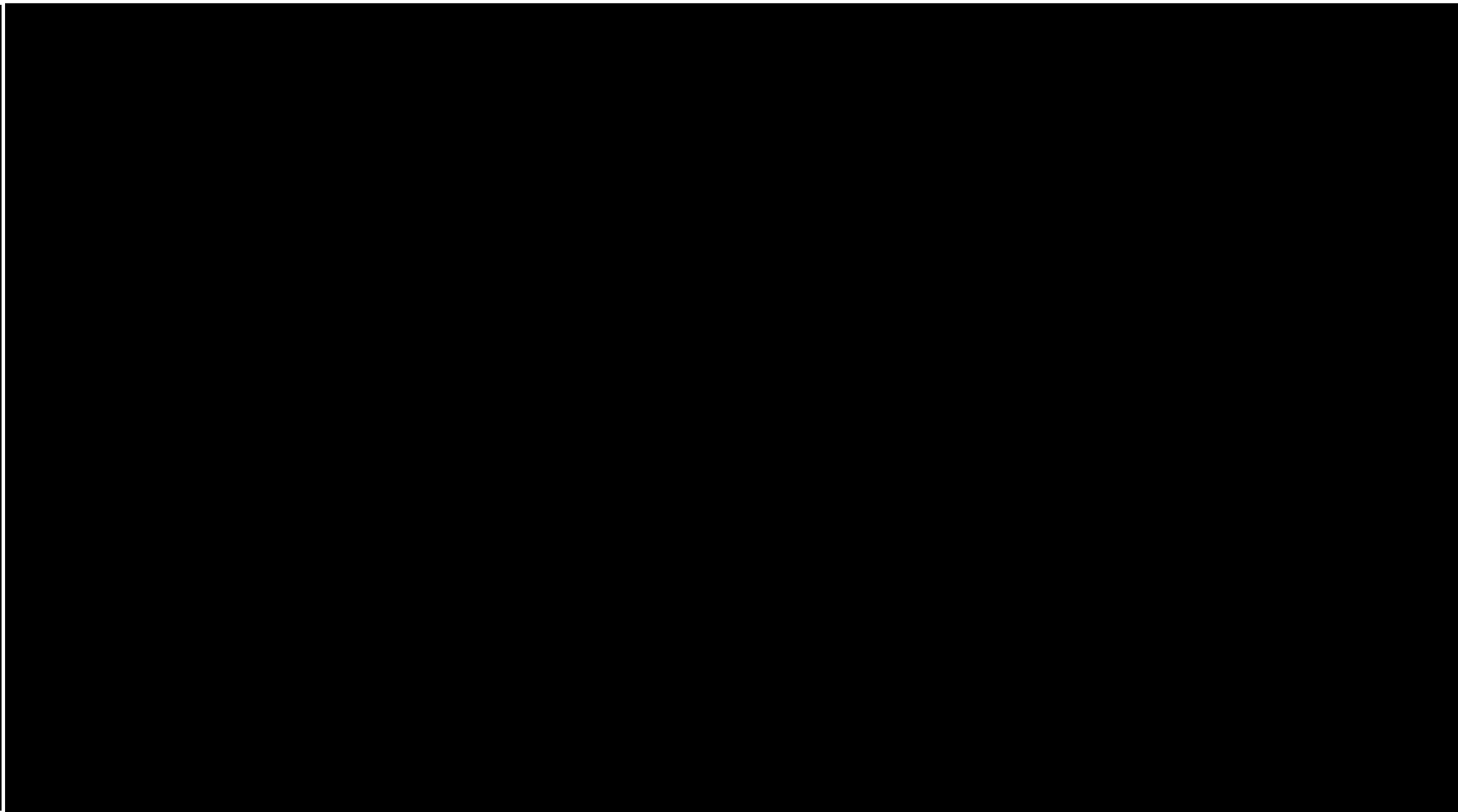






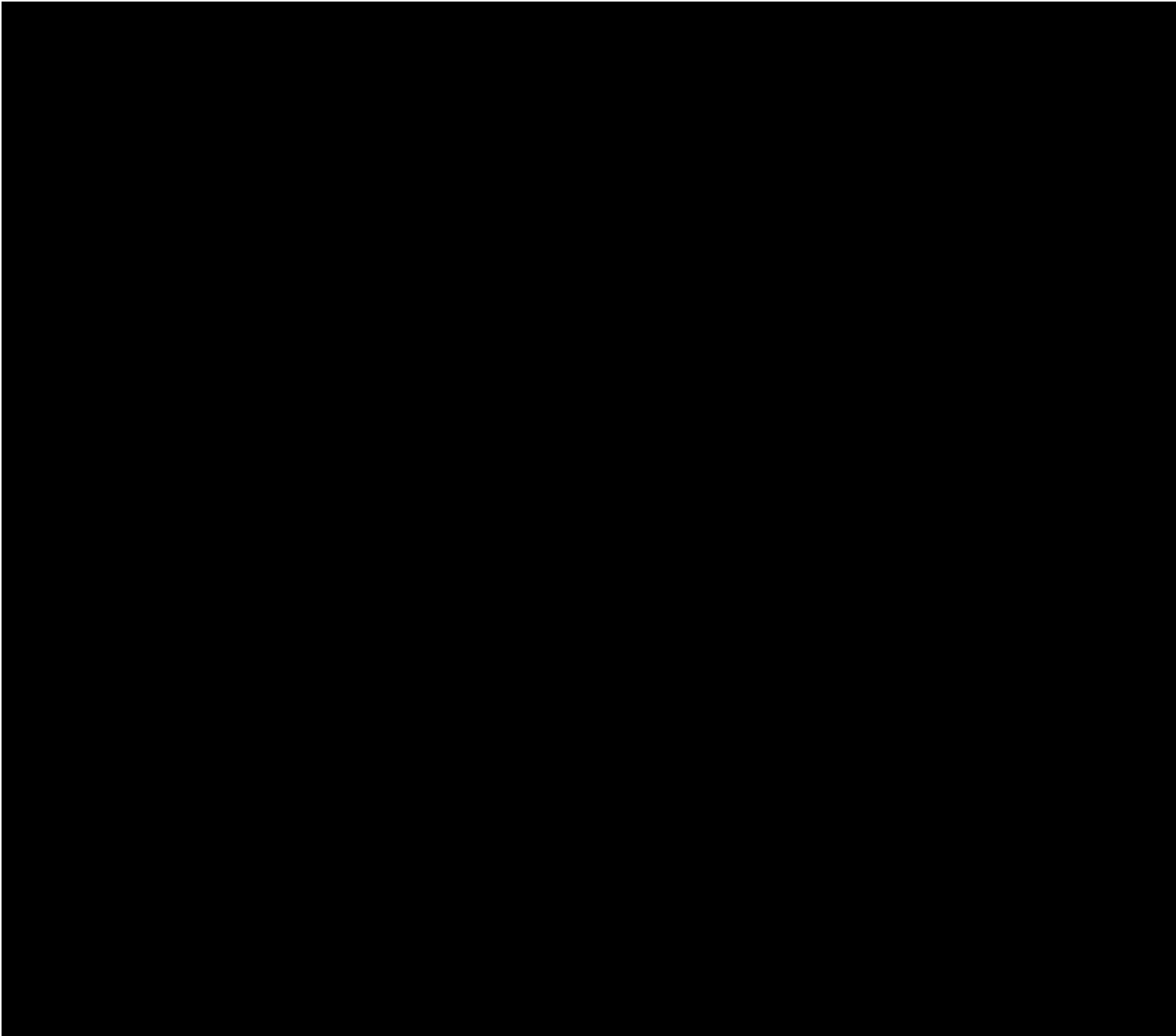


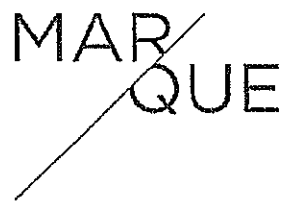






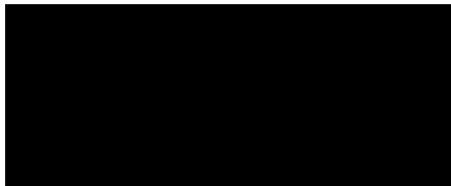






Our reference	Michael Bradley 09300
Phone	+61 2 8216 3006
Email	michaelb@marquelawyers.com.au

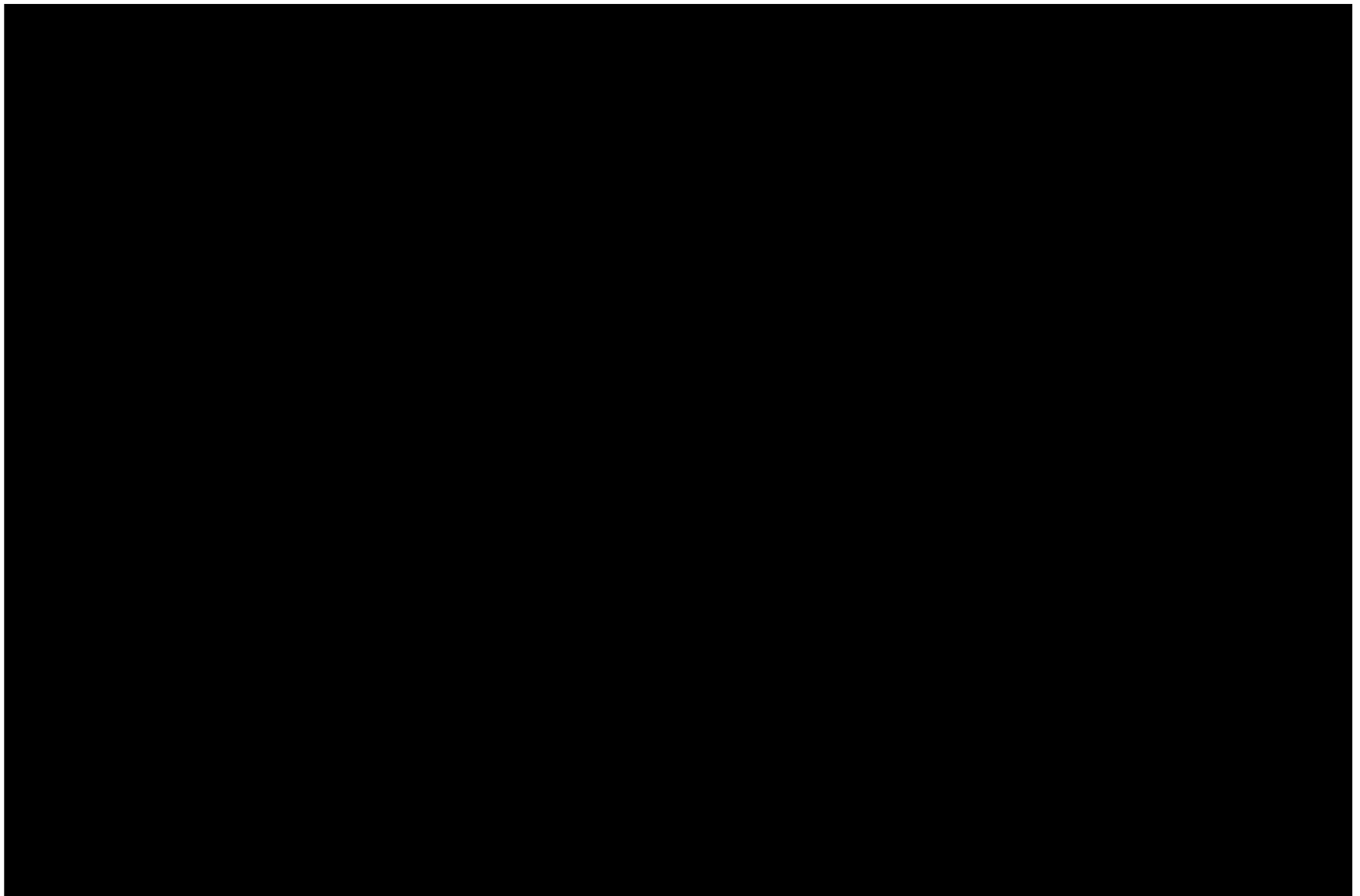
25 November 2020



By email:

Confidential and not for publication

Dear Madam



2356334/1

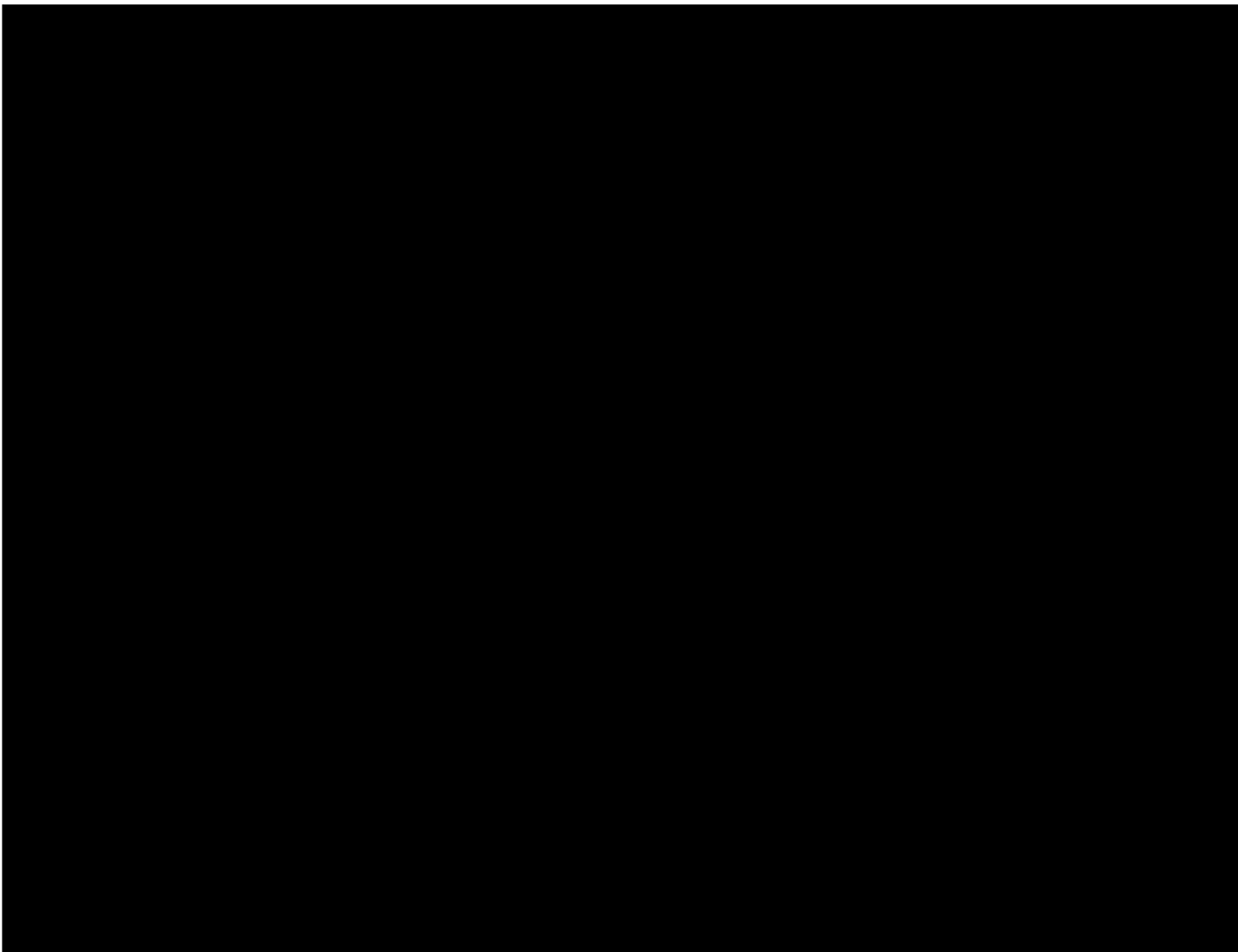
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Level 4, 343 George Street, Sydney NSW 2000  
p +61 2 8216 3000 | f +61 2 8216 3001  
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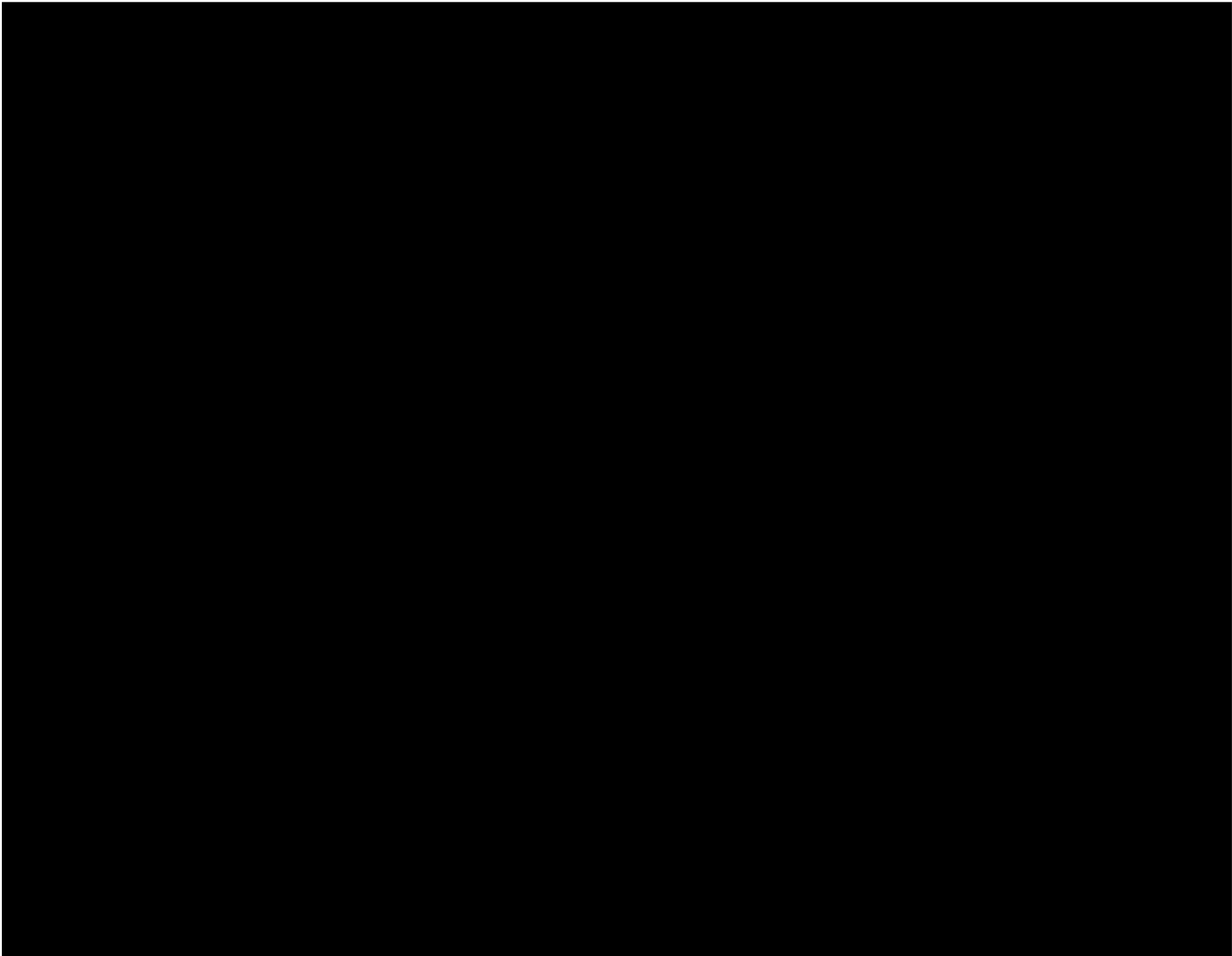
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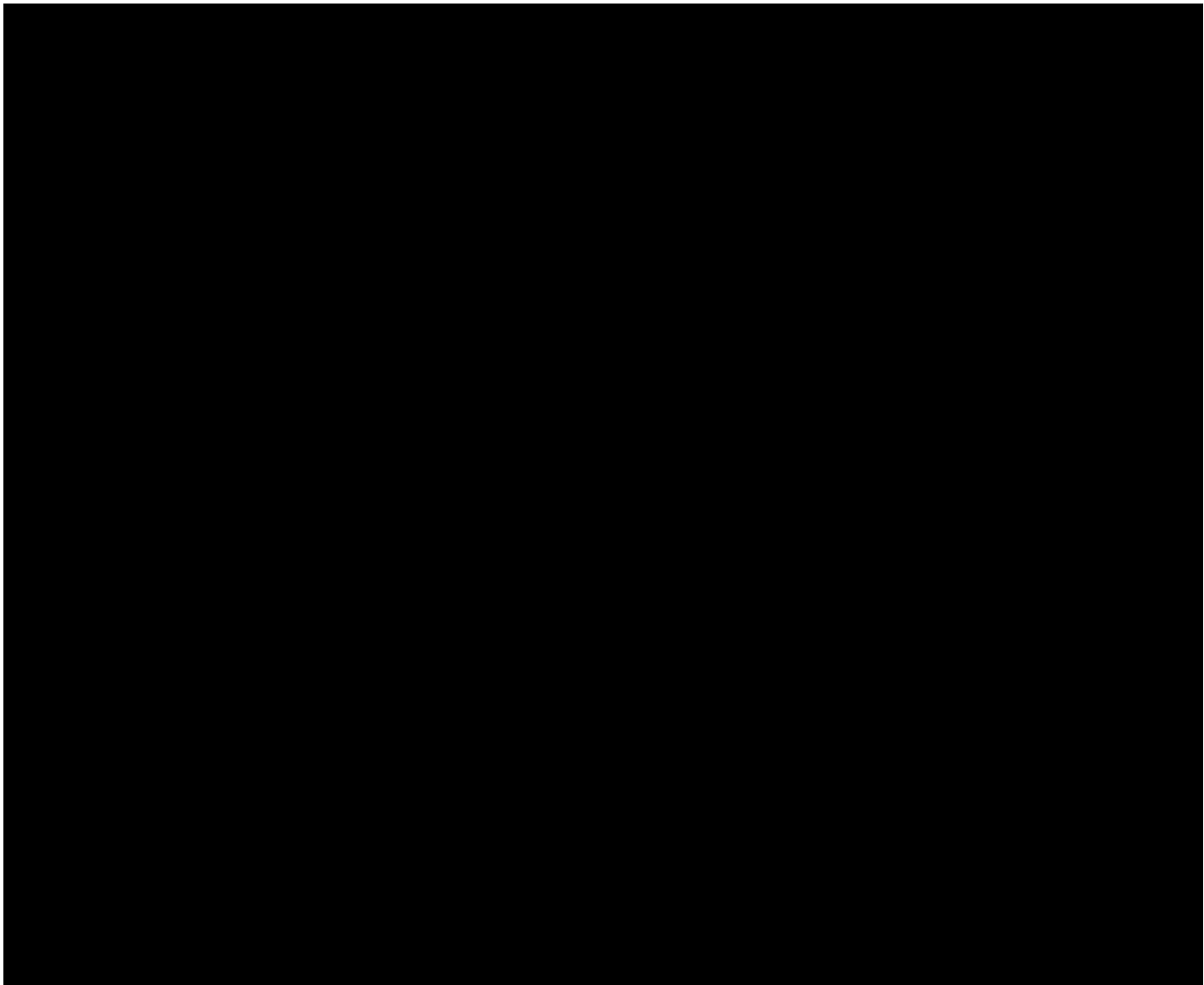
Yours sincerely

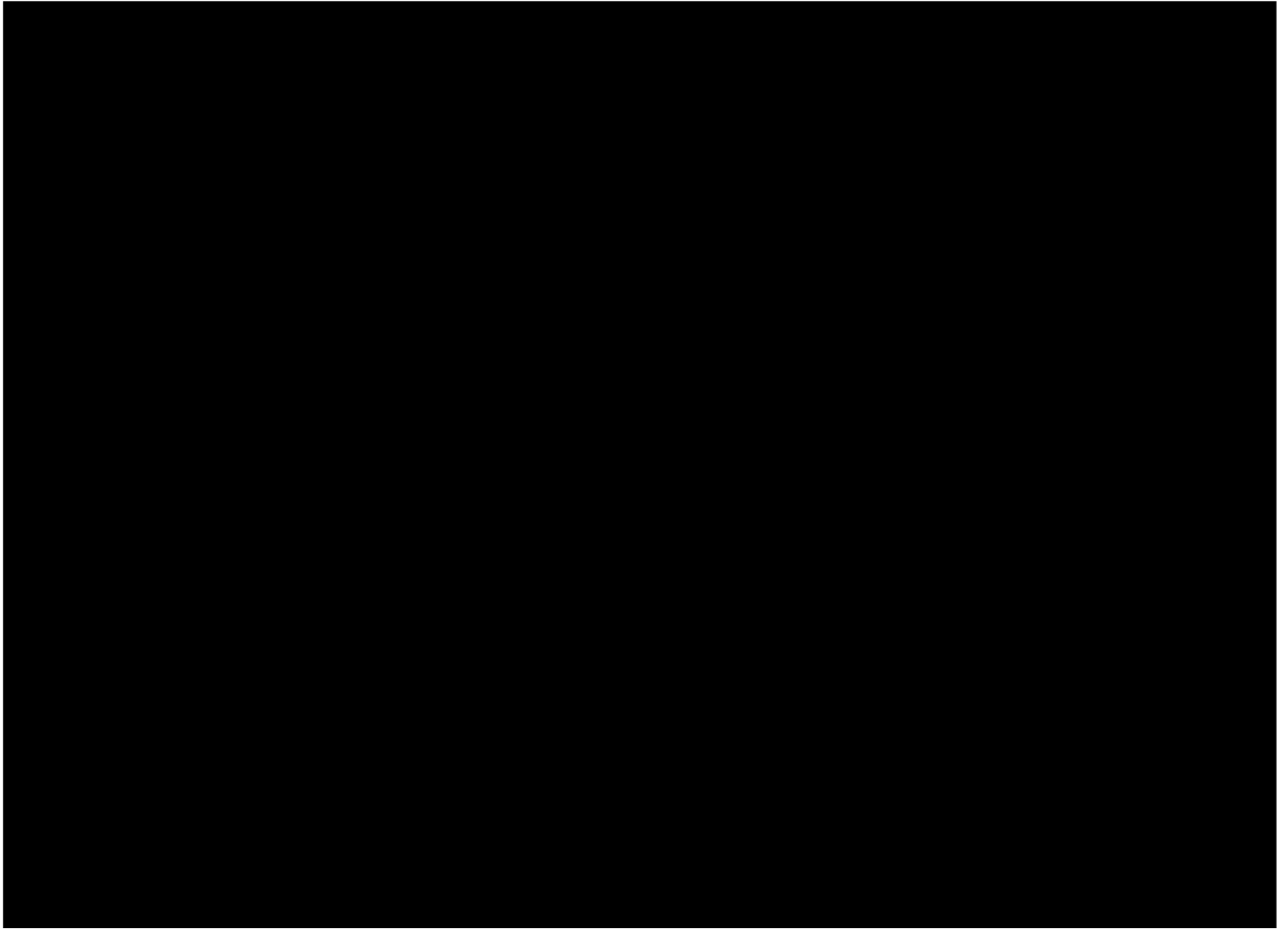
Michael Bradley  
Managing Partner

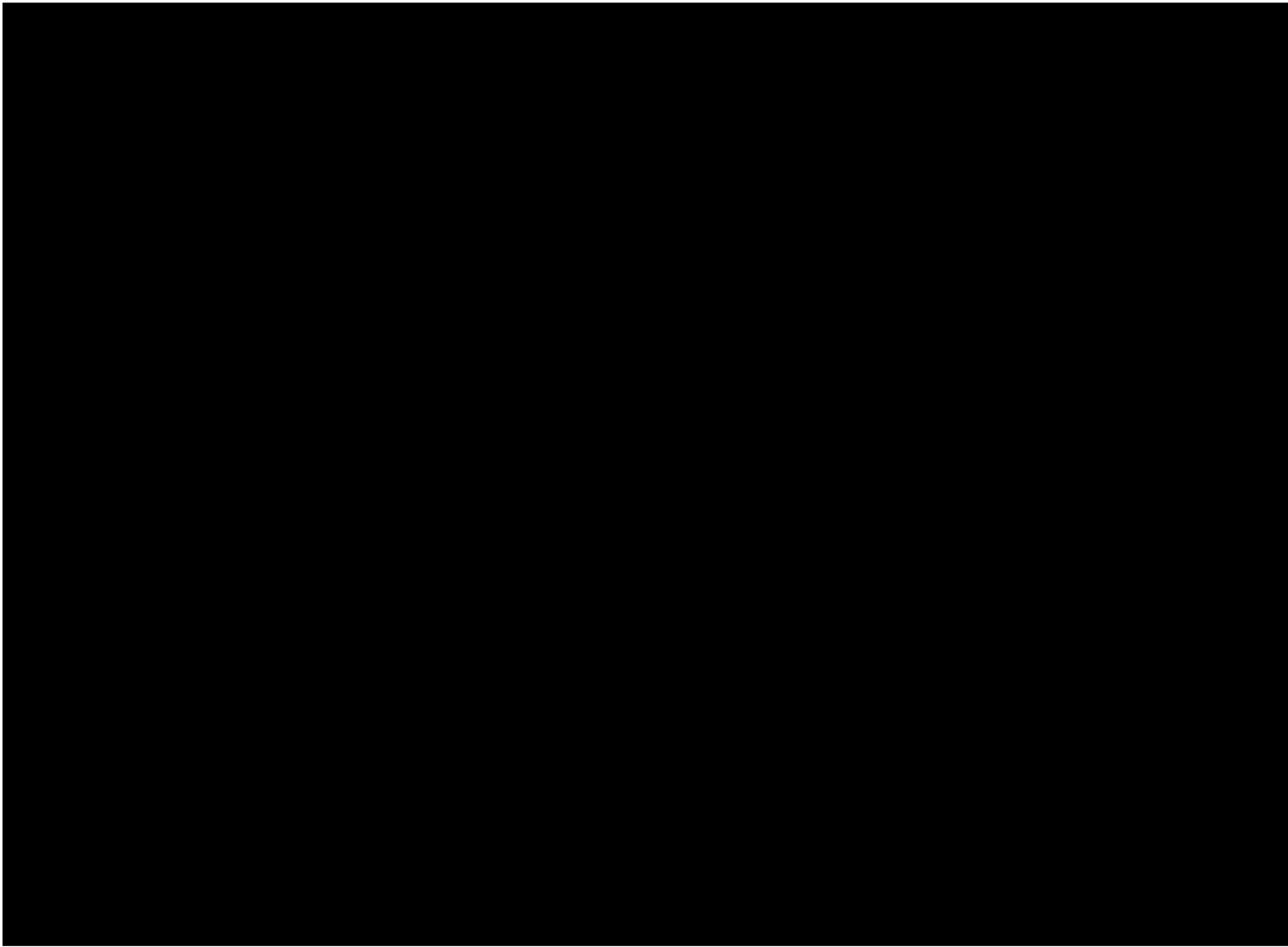




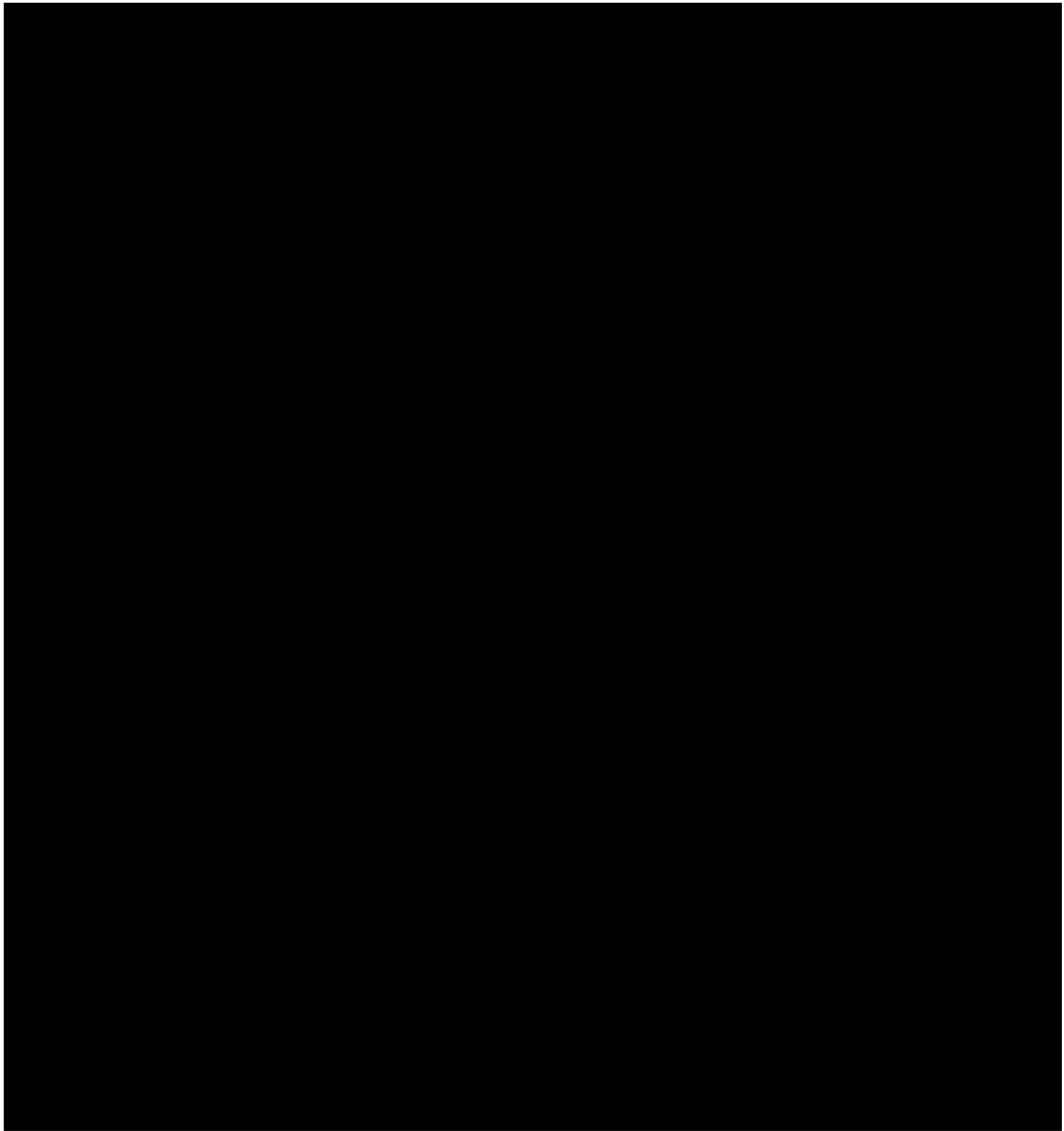




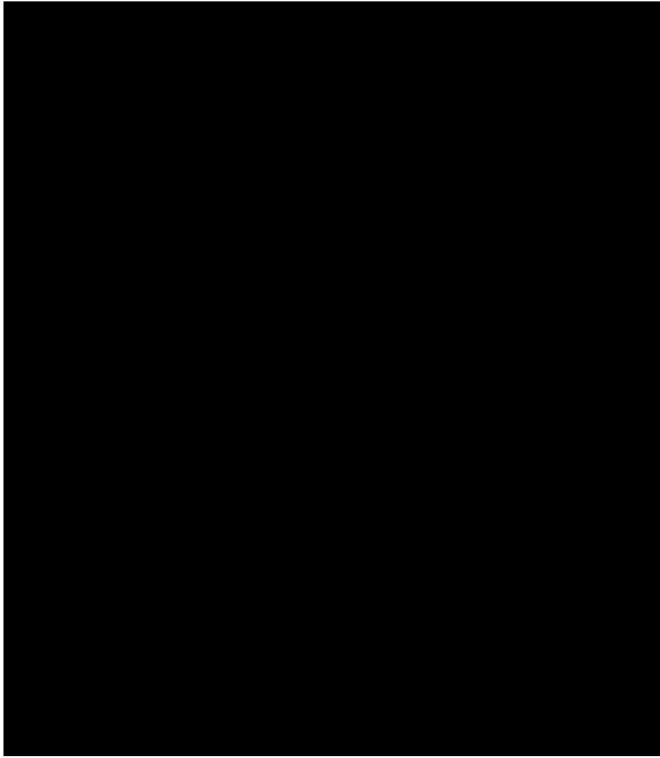




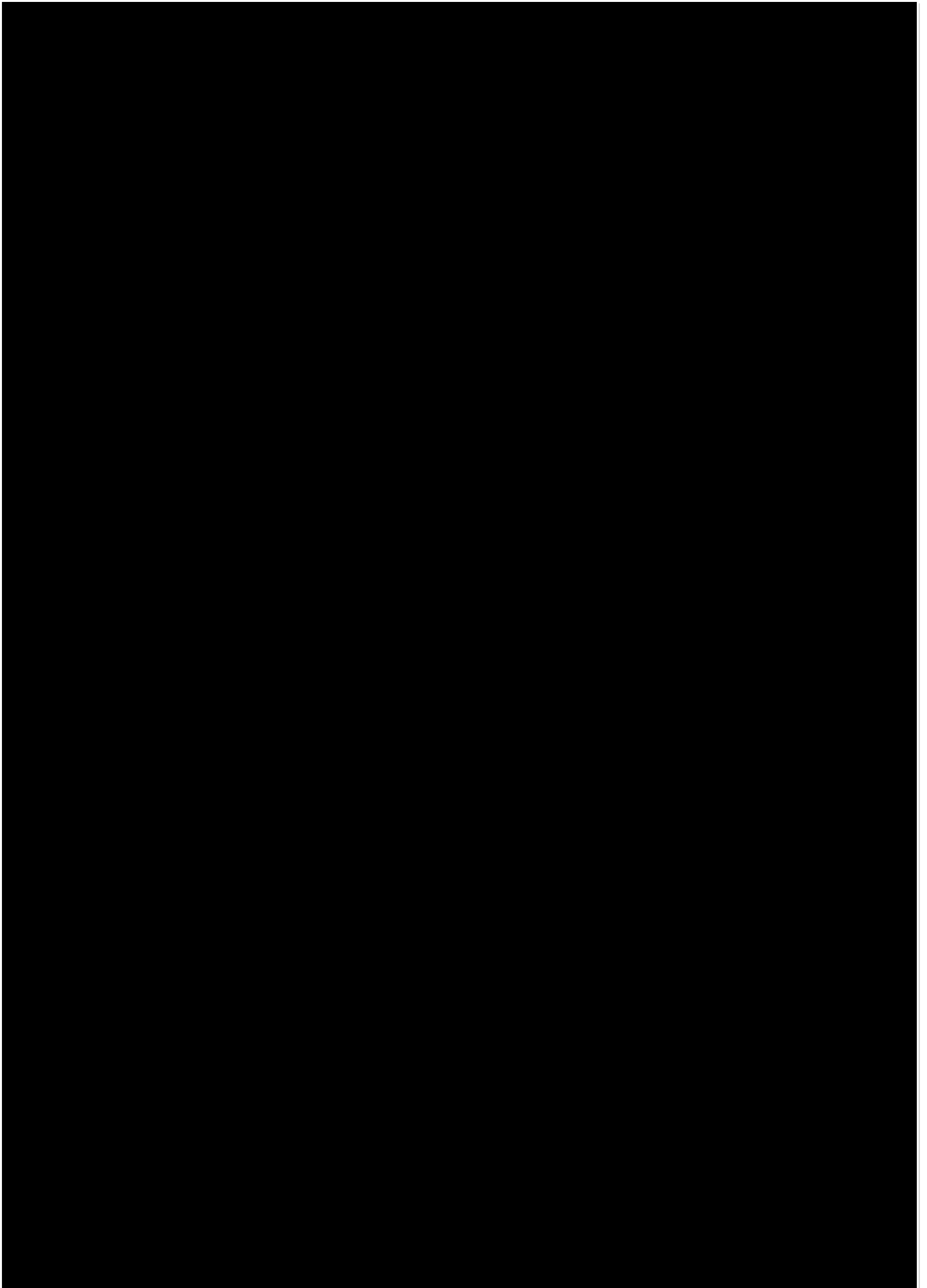


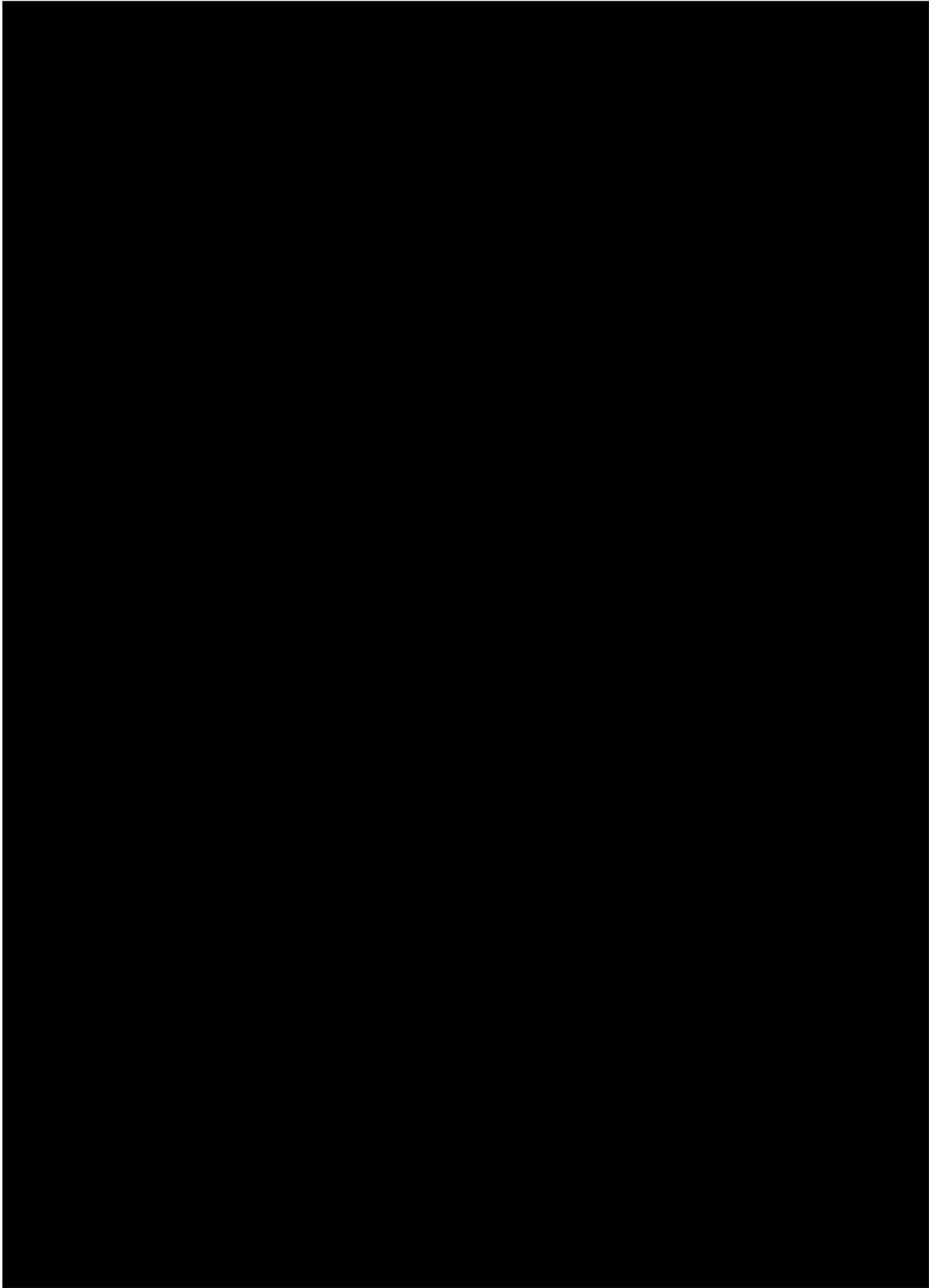












1. The first part of the document is a list of references. The references are listed in alphabetical order of the author's name. The references are as follows:

2. The second part of the document is a list of references. The references are listed in alphabetical order of the author's name. The references are as follows:

3. The third part of the document is a list of references. The references are listed in alphabetical order of the author's name. The references are as follows:

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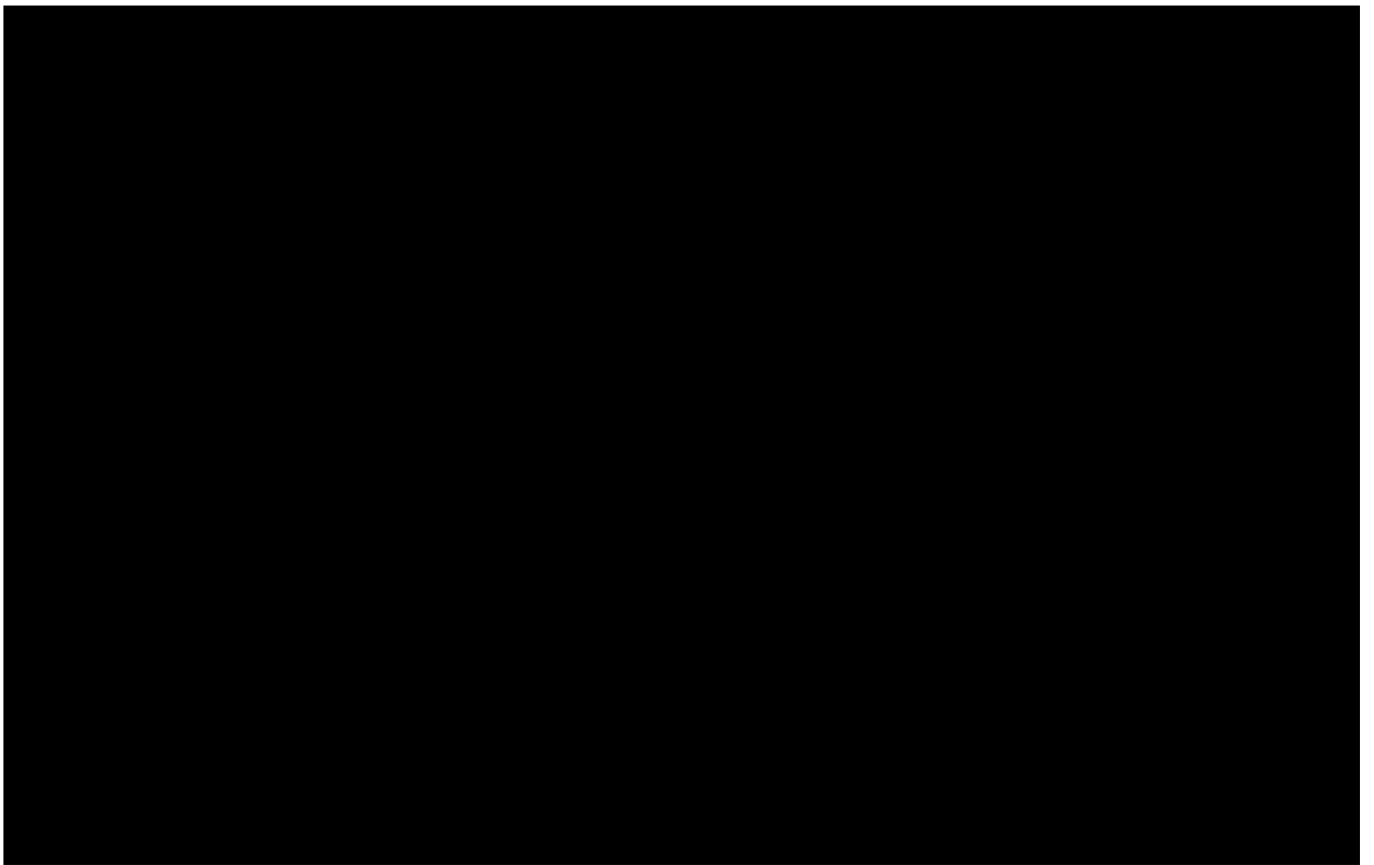
7. The seventh part of the document is a list of references. The references are listed in alphabetical order of the author's name. The references are as follows:

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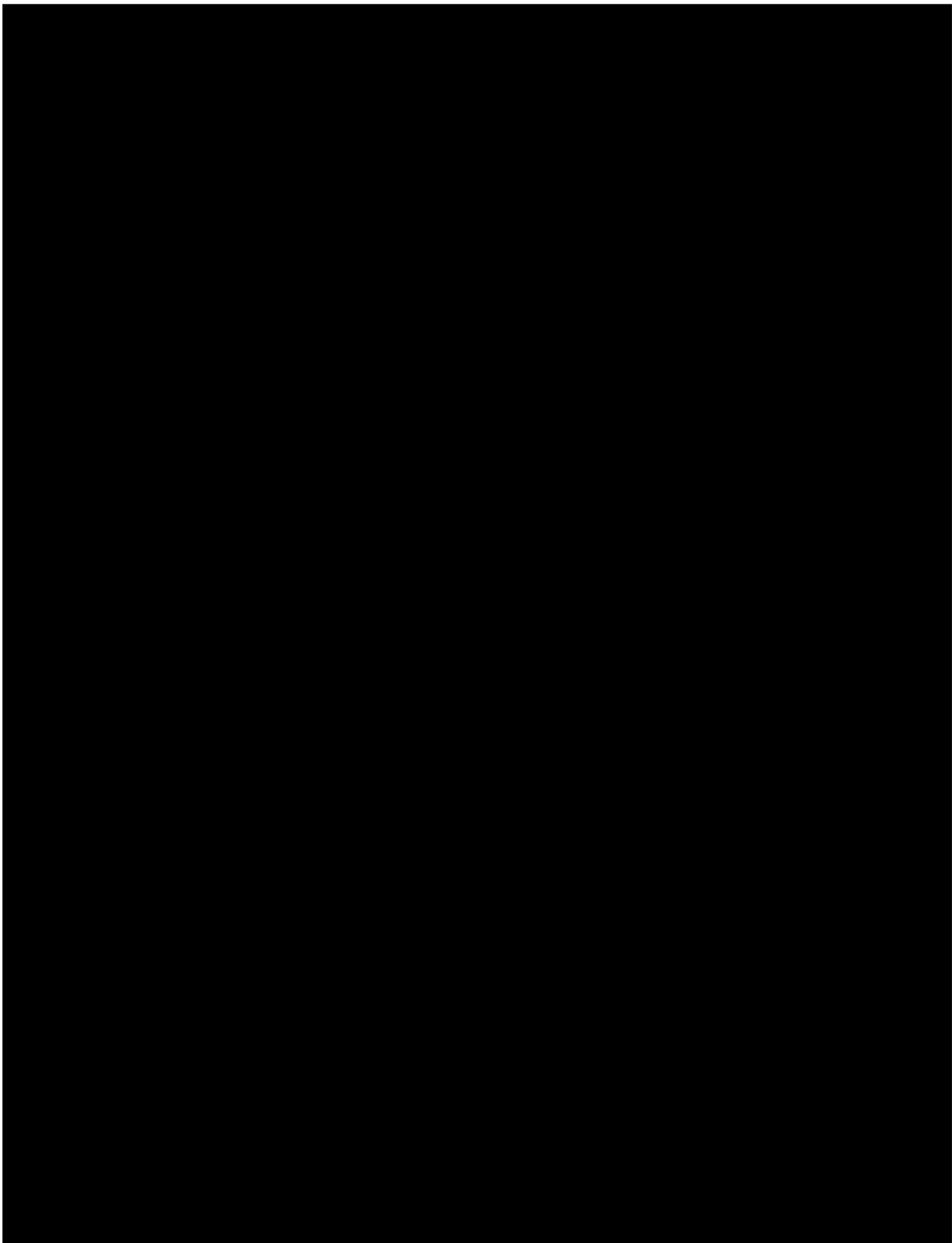
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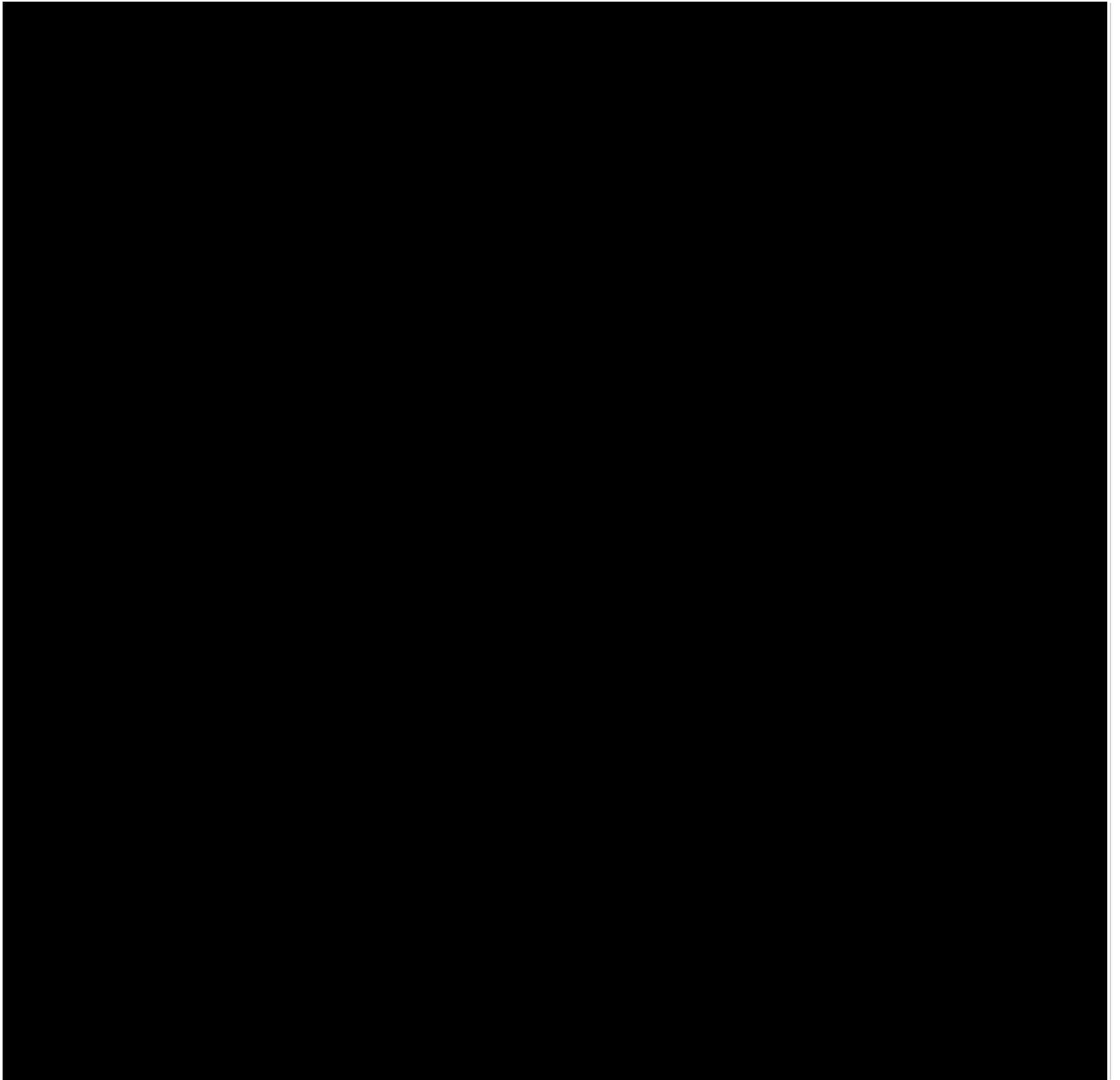
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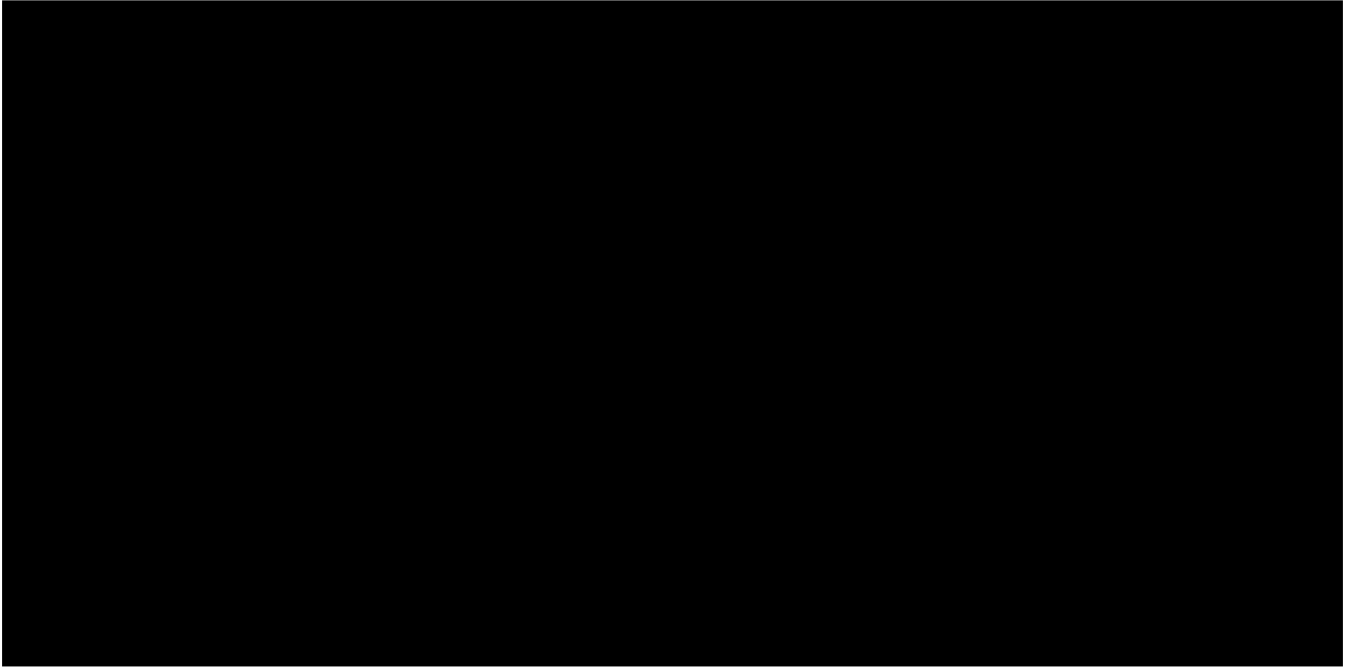




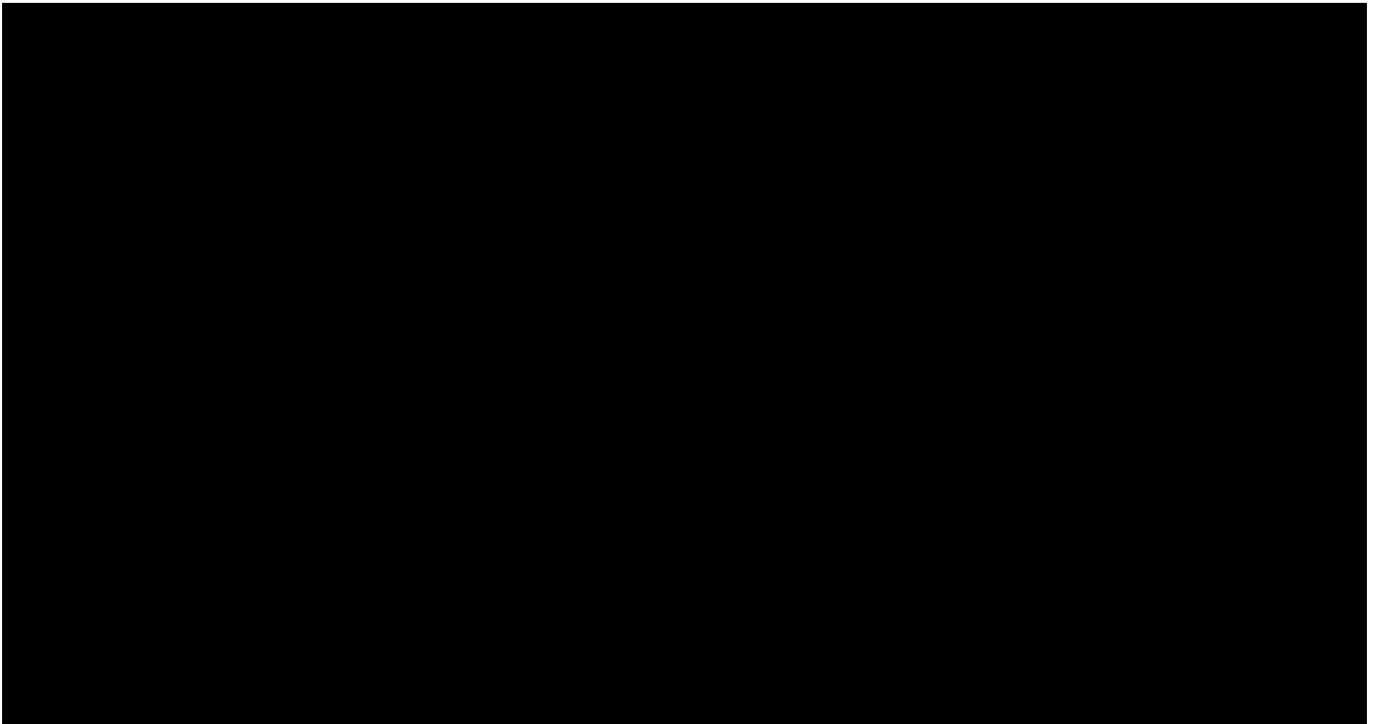










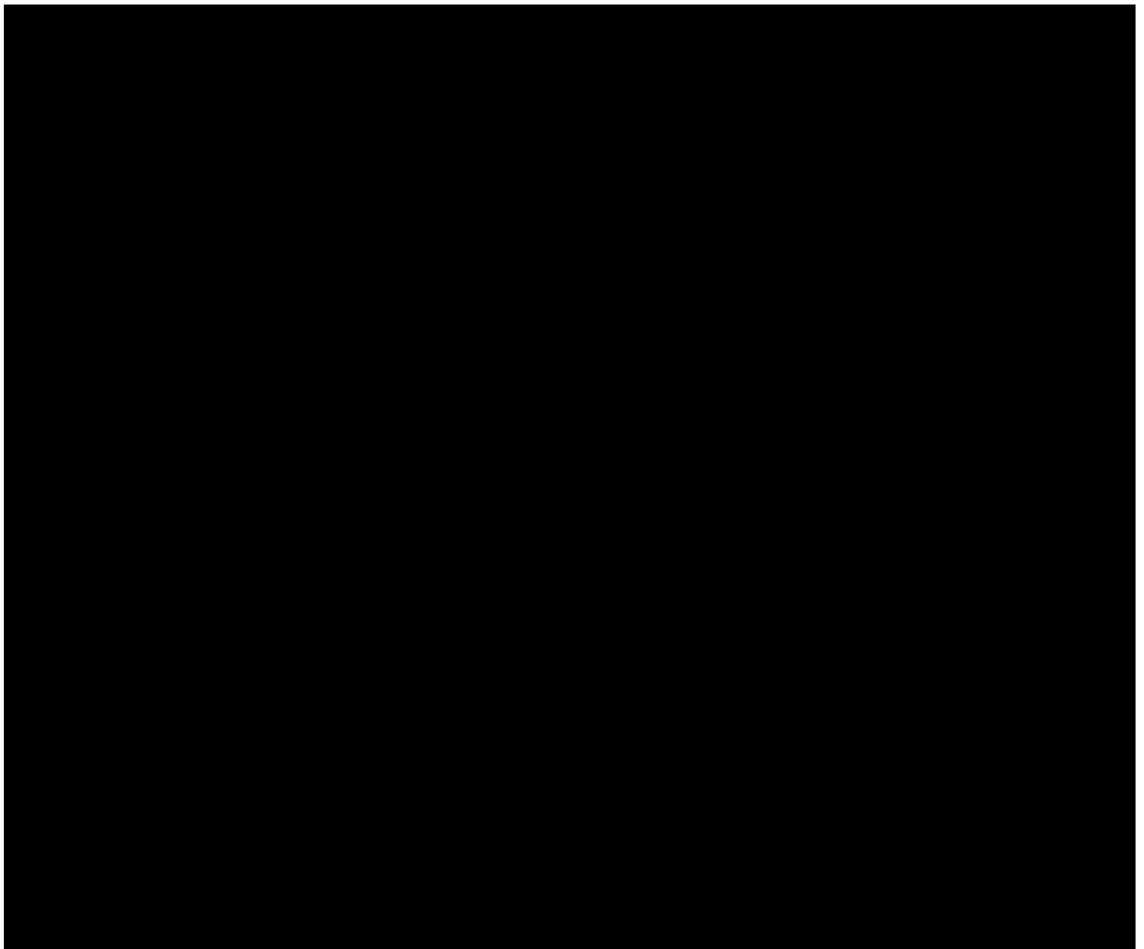




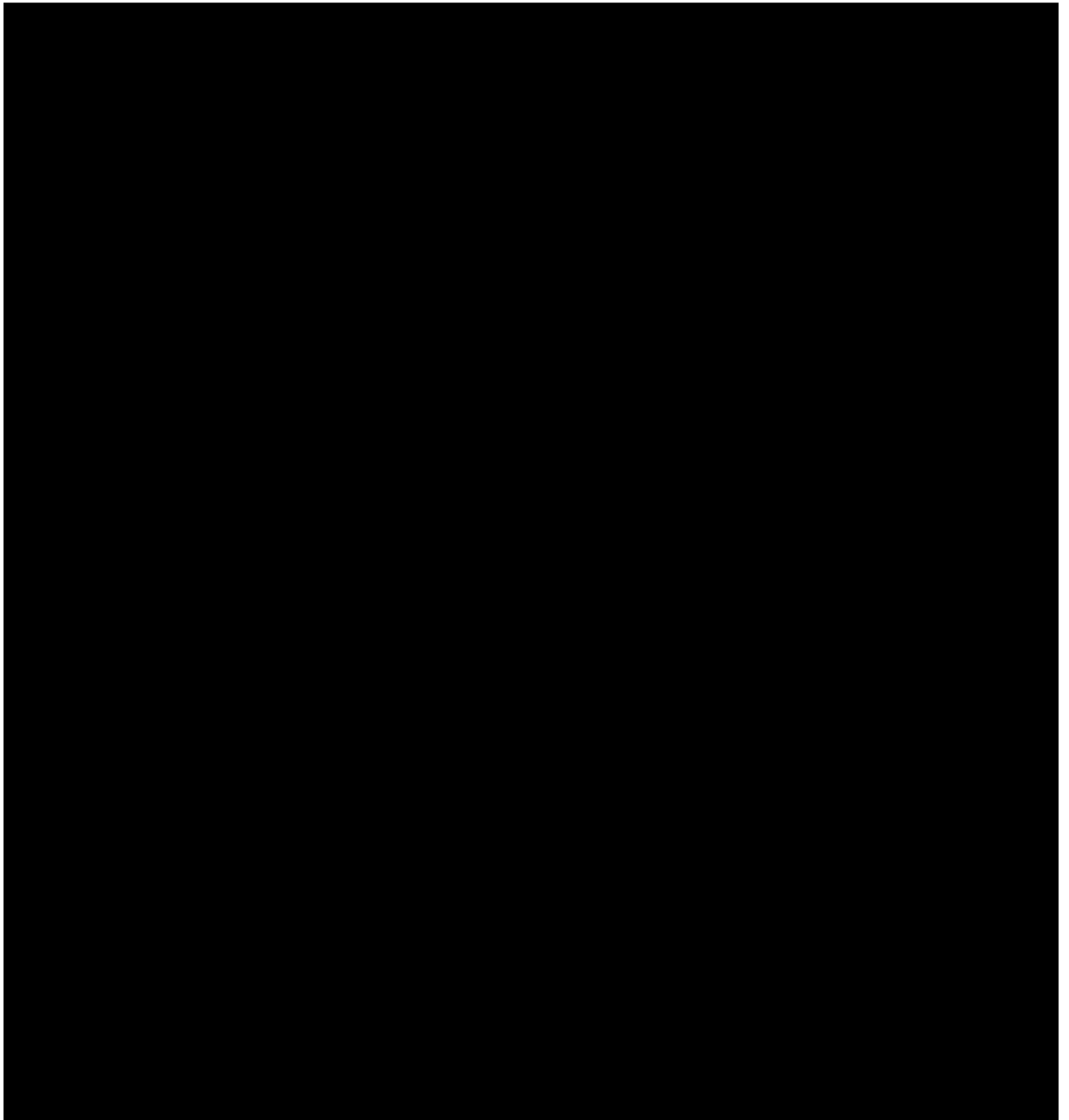












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**THOMSON GEER**  
LAWYERS

Level 39, Rialto South Tower  
525 Collins Street  
Melbourne VIC 3000 Australia

GPO Box 375 Melbourne VIC 3001

T +61 3 8080 3500  
F +61 3 8080 3599

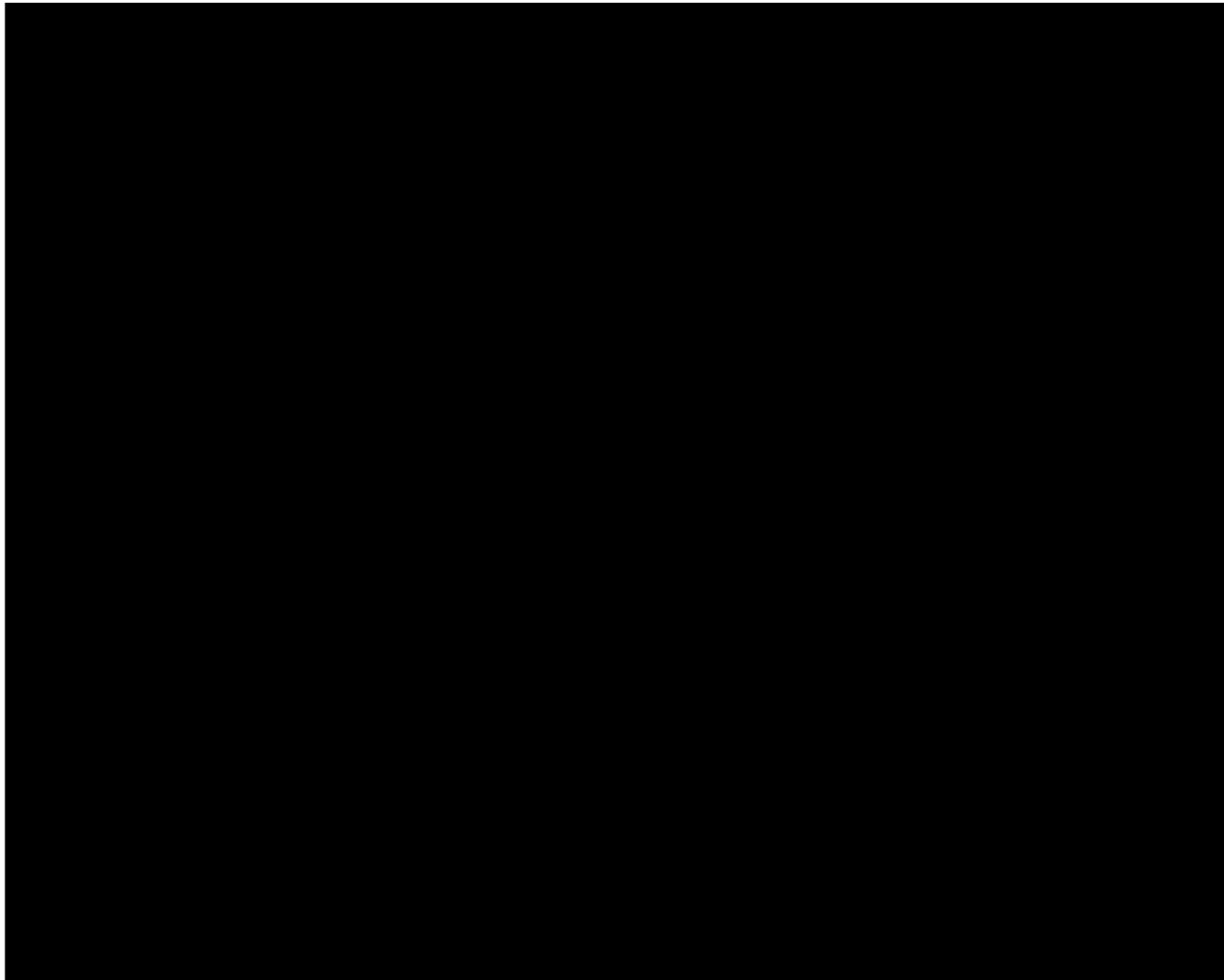
Our ref JHQ:4681230

13 January 2021

Michael Bradley  
Managing Partner  
Marque Lawyers  
Level 4  
343 George Street  
Sydney NSW 2000

By Email: [michaelb@marquelawyers.com.au](mailto:michaelb@marquelawyers.com.au)

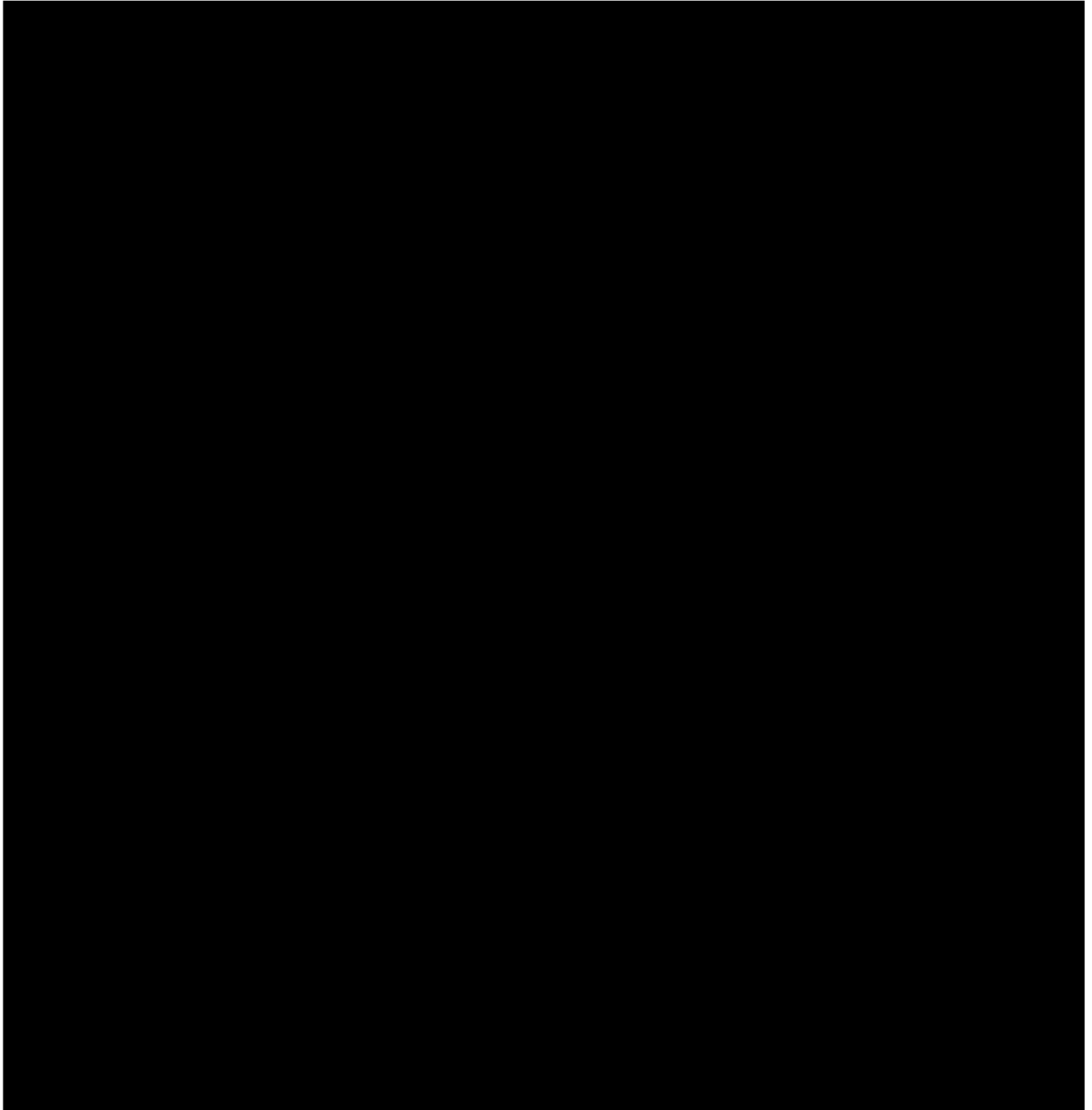
Dear Mr Bradley

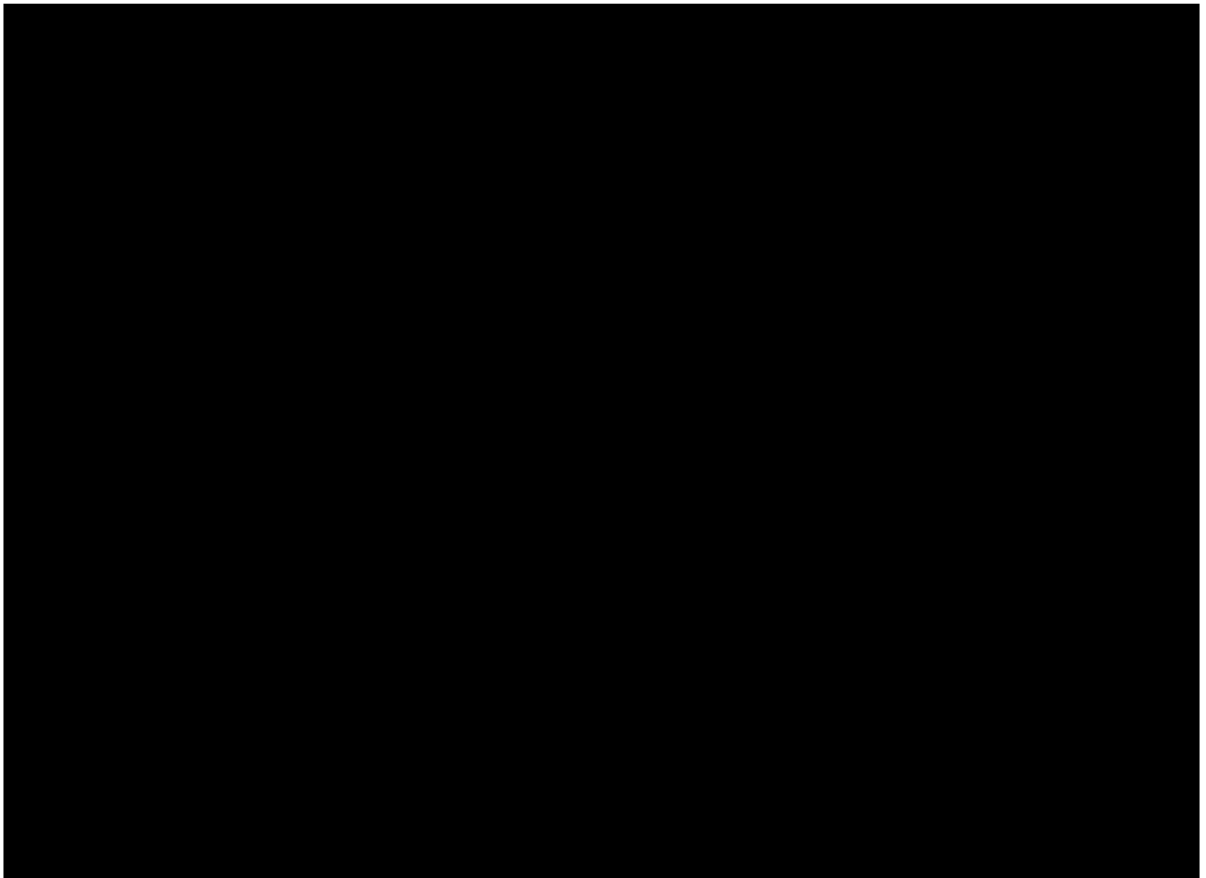


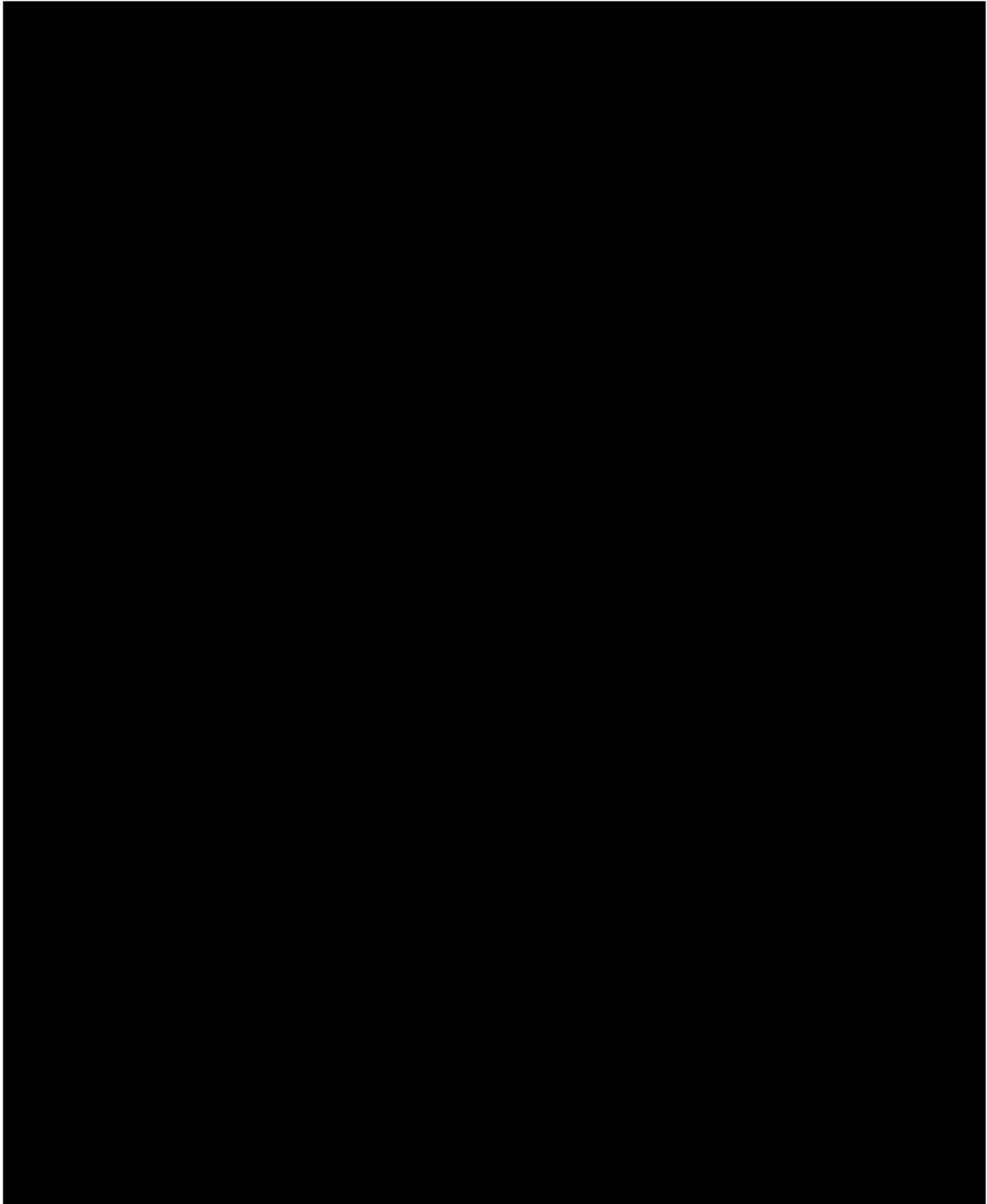
Yours faithfully  
THOMSON GEER

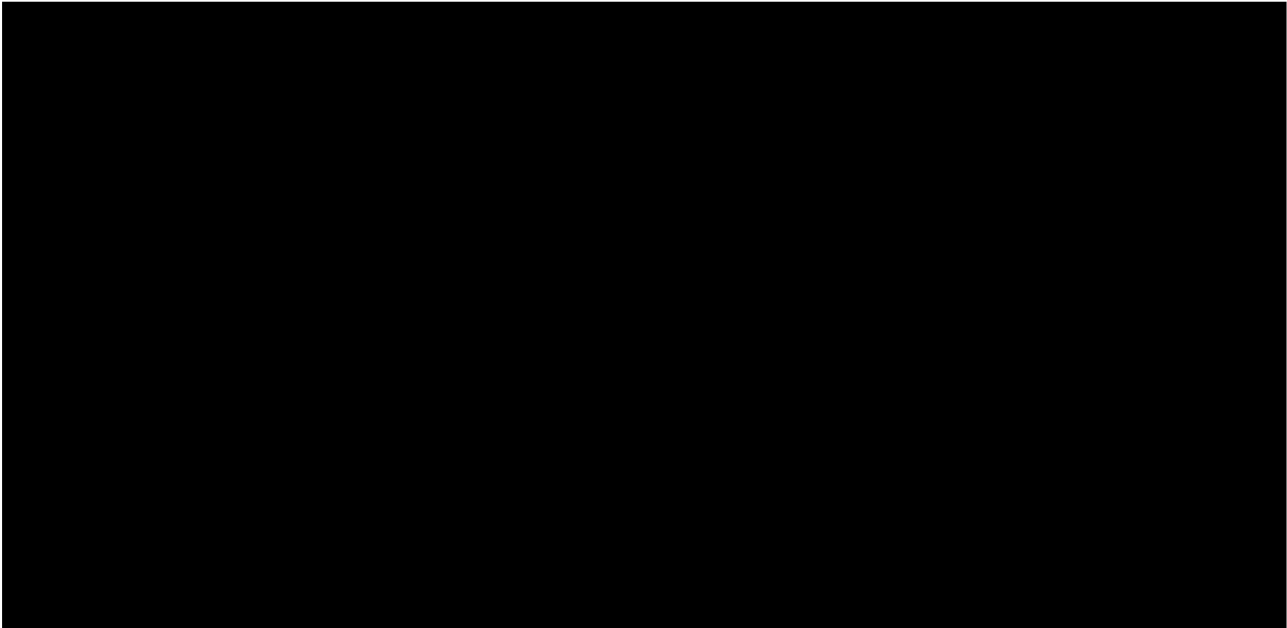


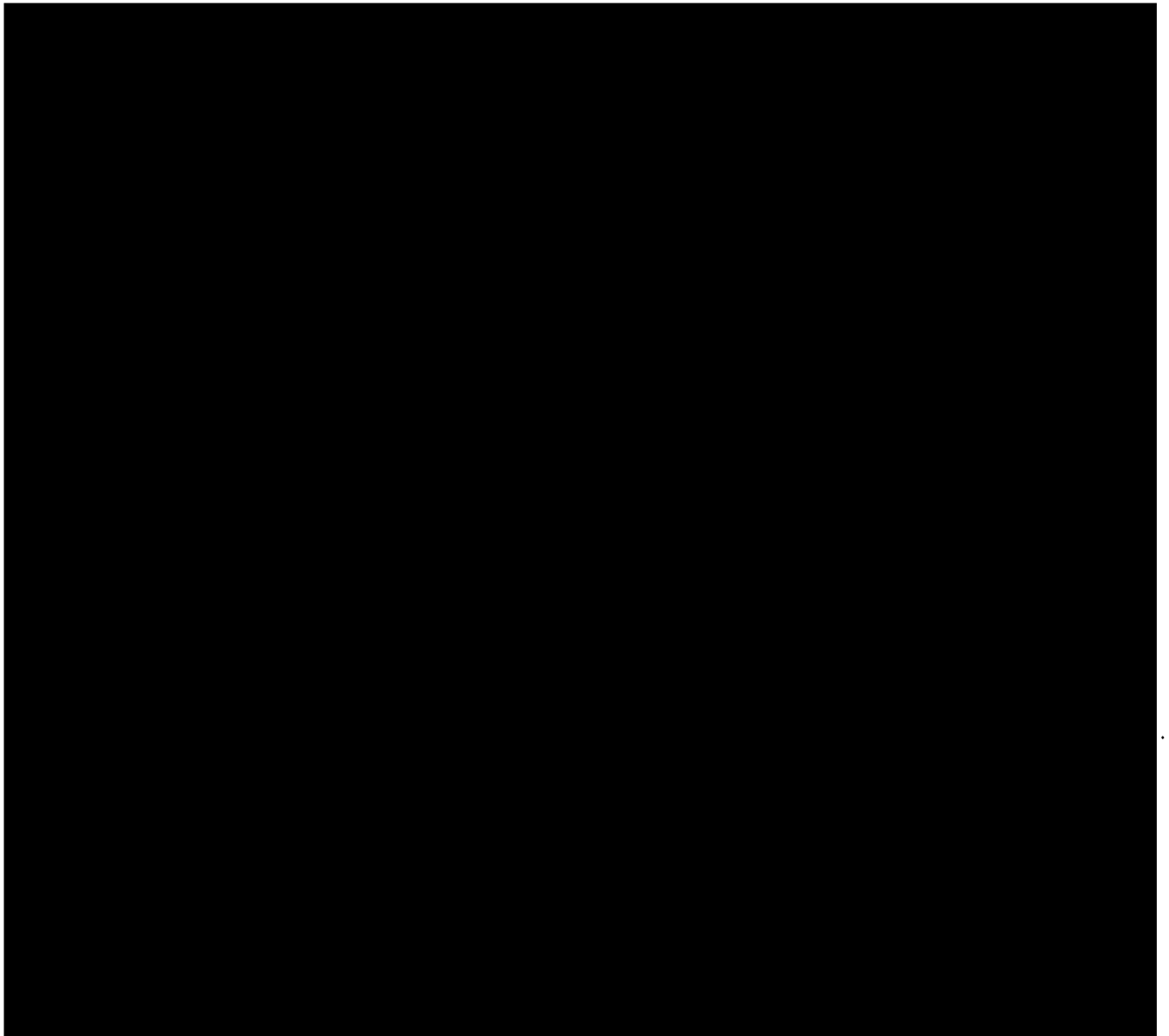
Justin Quill  
Partner  
T 03 8080 3748  
M +61 429 899 495  
E [jquill@tg|aw.com.au](mailto:jquill@tg|aw.com.au)



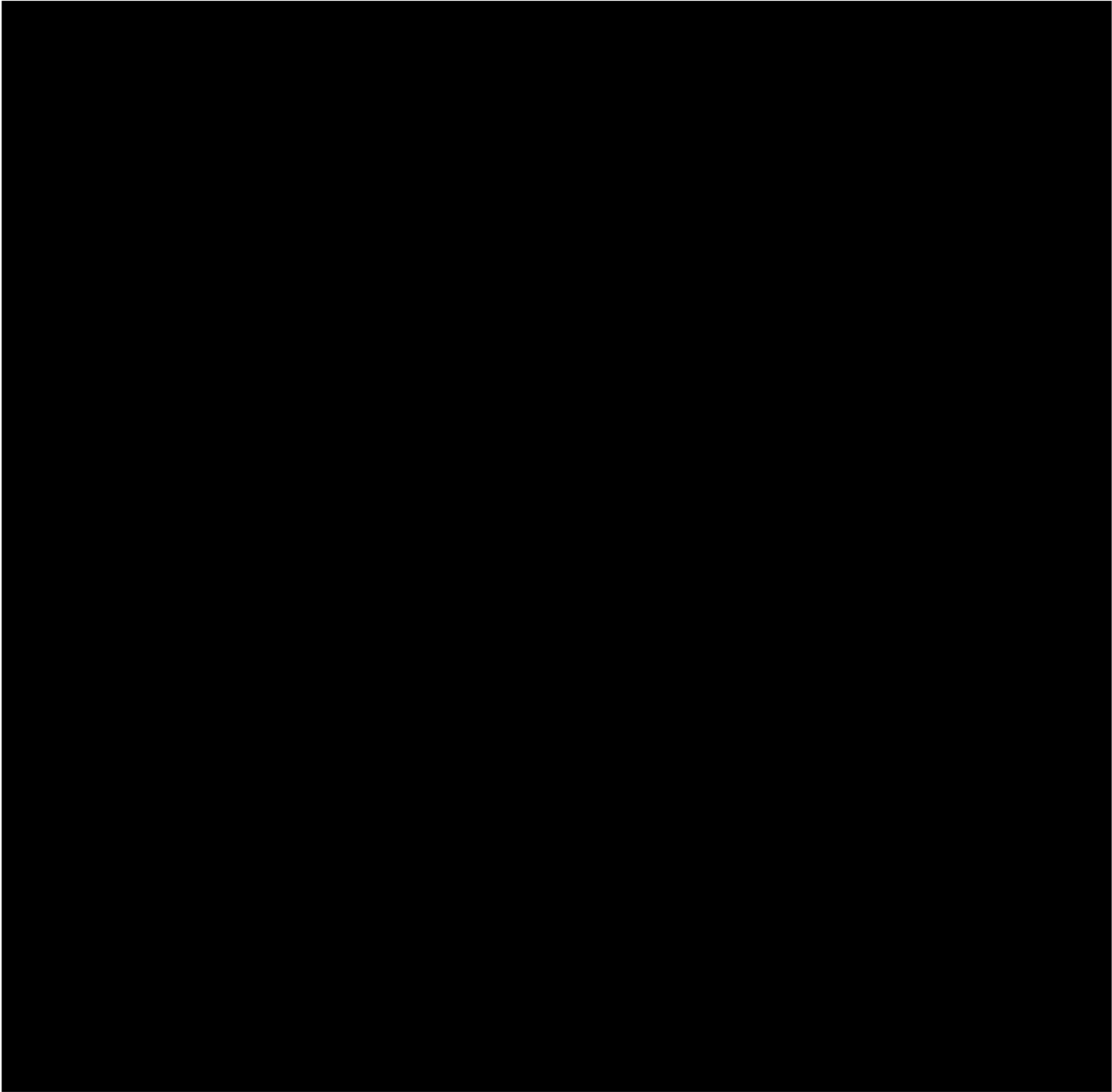


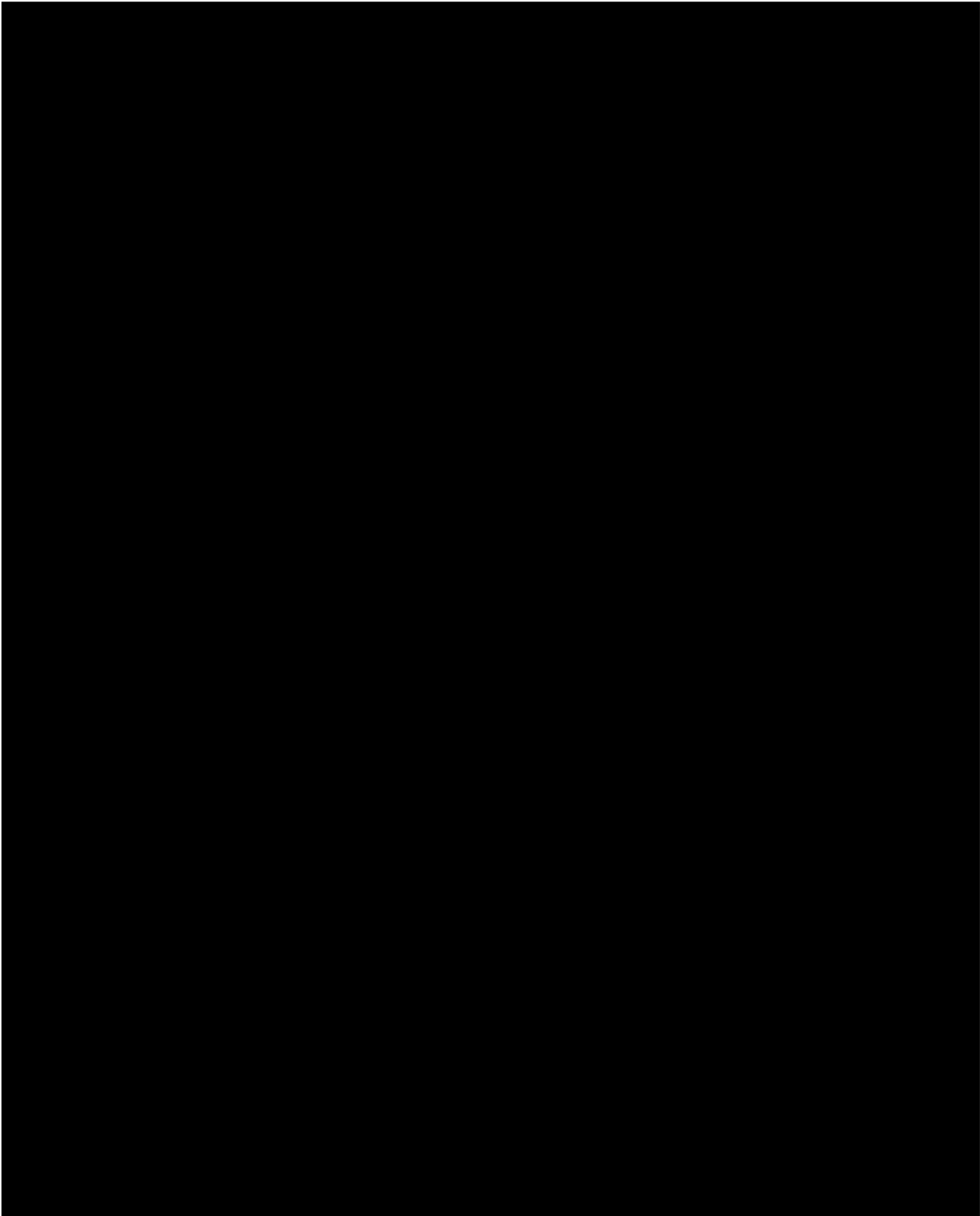












Your ref

Our ref PTG/AUSC211-1032875 (PTG)

# Kennedys

**PRIVATE AND CONFIDENTIAL**

**BY EMAIL: michaelb@marquelaywers.com.au**

Mr Michael Bradley  
Managing Partner  
Marque Lawyers Pty Ltd  
Level 4  
343 George Street  
SYDNEY NSW 2000

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Kennedys (Australasia) Pty Ltd  
Level 22  
85 Castlereagh Street  
Sydney NSW 2000  
PO Box A65  
Sydney South NSW 1235  
Australia  
ABN 31 119 302 742

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t +61 2 8215 5999

f +61 2 8215 5988

DX 239 Sydney

kennedyslaw.com

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Direct Dial+61 2 8215 5901

Patrick.George@kennedyslaw.com

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30 March 2021

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Dear Mr Bradley

**SUE CHRYSANTHOU SC**

I act on behalf of Sue Chrysanthou SC.

I am instructed that you act for Ms Jo Dyer for whom our client has previously acted [REDACTED]

[REDACTED] My client has no continuing instructions in that matter.

Ms Chrysanthou now acts for Mr Christian Porter in defamation proceedings against the ABC arising out of an article published on the ABC website on 26 February 2021.

Ms Dyer has no legal interest as a party to those proceedings and there is no conflict of interest with Ms Dyer in Ms Chrysanthou acting for Mr Porter.

You have telephoned my client and raised concerns with her about confidential information you believe or are instructed she was provided during the course of acting for Ms Dyer.

I have taken detailed instructions from Ms Chrysanthou to act on her behalf. [REDACTED]

[REDACTED] She believes she has no confidential information belonging to Ms Dyer that she might use to Ms Dyer's detriment or to Mr Porter's advantage or otherwise and has no recollection of such information. Prior to accepting the brief for Mr Porter, she spoke to Matthew Richardson, junior counsel for Ms Dyer, who arranged the conference and was present, and asked him whether to his recollection she had any confidential information as a result of her instructions from Ms Dyer. He informed her that he did not think so and that he was not aware of any such confidential information.

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Legal\_APAC4757116.1

If nevertheless you are instructed or believe that Ms Chrysanthou does hold such confidential information imparted to her in the course of acting for Ms Dyer then I request that you specify the confidential information to me on the following basis to preserve the confidential nature of the information pending resolution or determination of this issue.

I have retained Mr Richard McHugh SC to advise Ms Chrysanthou in relation to the issue and propose to communicate to him the confidential information specified by you for his consideration but not communicate it to Ms Chrysanthou so as not to prejudice her current brief.

In that way I would proceed on the basis that Mr McHugh and I would undertake to you not to disclose that information to anyone else without your consent but, to the extent that the issue may be capable of resolution or disputed, we would be in an informed position to respond, based on our current instructions and the disclosure you make. This undertaking would not prevent us from using your disclosure to defend any proceedings brought against Ms Chrysanthou. If this proposed course is not satisfactory, then please let us know.

We request that you specify:

- 1 The alleged confidential information with precision.
- 2 The legal and factual basis on which you contend that the information is confidential.
- 3 Whether it is alleged that it has already been used or disclosed by Ms Chrysanthou, and if so how.
- 4 Whether it is alleged that it appears on the Porter Statement of Claim, which we understand you obtained on 15 March 2021.
- 5 To what issue in the Porter proceedings you say it will relate or might be used.
- 6 The factual and legal basis for the contention that Ms Chrysanthou has or threatens to use the information.

In any event, given that Ms Dyer has an apprehension that Ms Chrysanthou might breach the confidence of information provided to her, I am instructed to assure you that Ms Chrysanthou does not recall any such information, and should it come to her mind, she undertakes never to disclose it to any person, particularly in relation to the Porter v ABC matter. She is happy to sign a formal undertaking to that effect.

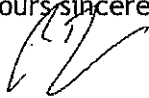
This is an open letter that can be used for the purpose of defending any proceedings against our client and in relation to costs.

Mr Michael Bradley  
Marque Lawyers Pty Ltd

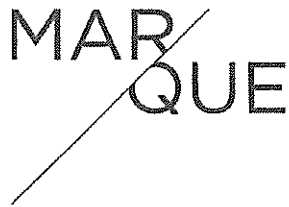
# Kennedys

We look forward to your response.

Yours sincerely

A handwritten signature in black ink, appearing to be 'P. George', written over the words 'Yours sincerely'.

**Patrick George**  
Senior Partner  
for Kennedys



Our reference MB/13146  
Phone +61 2 8216 3006  
Email michaelb@marquelawyers.com.au  
Your reference PTG/AUSC211-1032875 (PTG)

31 March 2021

Patrick George  
Kennedys

By email: [patrick.george@kennedyslaw.com](mailto:patrick.george@kennedyslaw.com)

Confidential, not to be disclosed to any person without our written consent

Dear Mr George

**Jo Dyer – Sue Chrysanthou SC**

I refer to your letter of 30 March. I am instructed to respond on the basis that you and Mr McHugh have given the undertakings referred to in your letter.

**Ms Chrysanthou's Retainer on behalf of Ms Dyer**

Ms Chrysanthou was retained by us on Ms Dyer's behalf in November 2020, [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Ms Chrysanthou's retainer was arranged orally. [REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

It follows that we also do not accept, to the extent that your letter suggests otherwise, that Ms Chrysanthou's brief for Ms Dyer has terminated. It is correct that she is not presently instructed to

perform any work in relation to the brief, but her retainer is ongoing. [REDACTED]

The conference was arranged to be held (and was in fact held) on 20 November 2020. The conference took place in Ms Chrysanthou's chambers with Ms Dyer, Mr James Hooke, Mr Richardson and Ms Chrysanthou.

Before turning to set out the nature and content of the discussion at that conference, and the remaining issues raised by your letter, it is useful to deal with one specific issue raised by your letter and then identify some relevant background circumstances.

#### **Involvement of Mr Richardson**

Your letter states that, prior to accepting her brief for Mr Porter, Ms Chrysanthou spoke to Mr Richardson "and asked him whether to his recollection she had any confidential information as a result of her instructions from Ms Dyer. He informed her that he did not think so and that he was not aware of any such confidential information."

I have spoken directly with Mr Richardson. He informed me of the following.

1. [REDACTED]
2. He is unable to identify (because his recollection is not sufficiently clear) any specific piece of confidential information, but assumes because of the nature of the discussion that it would have included confidential information and would be surprised if it did not.
3. He conveyed the above to Ms Chrysanthou when she told him she was considering the Porter brief. He expressed his disagreement with her decision to accept the brief and attempted to dissuade her from doing so.
4. He subsequently restated his disagreement with Ms Chrysanthou's decision by email to her.
5. [REDACTED]

We note in addition that Mr Richardson was not present at the 20 November conference initially, for about the first ten to fifteen minutes, [REDACTED]

**Background circumstances**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

We respond below to your specific questions, adopting your numbering. Following that, we set out in detail the legal basis for our contention that Ms Chrysanthou cannot represent Mr Porter.

**1. The confidential information**

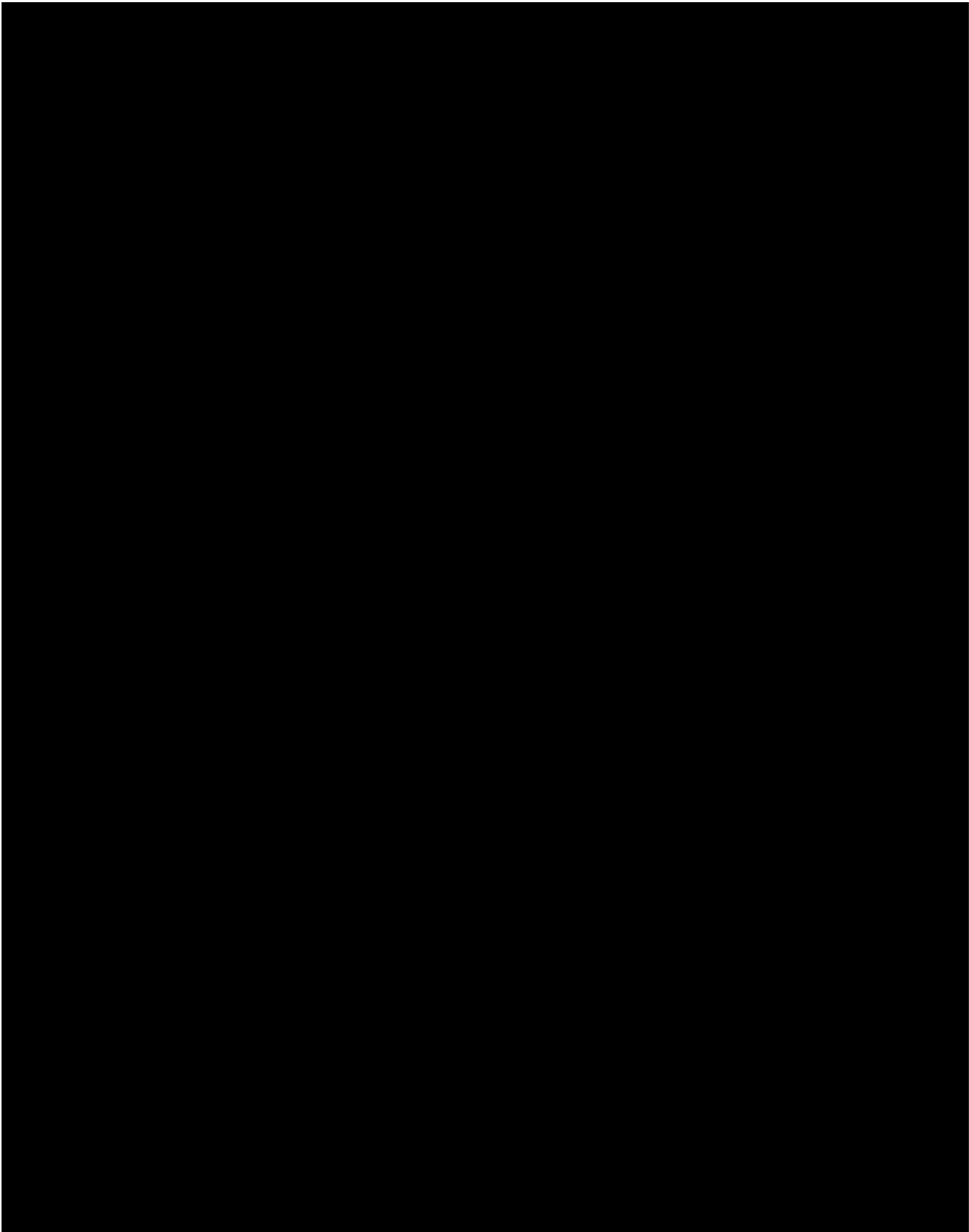
[REDACTED]

[REDACTED]

[REDACTED]







[REDACTED]

## 2. Basis of confidentiality

All of the information identified above was confidential to Ms Dyer. [REDACTED]

[REDACTED]

[REDACTED] Such an assessment also constitutes confidential information that she has obtained by reason of her retainer. In disclosing that information to Ms Chrysanthou, each of us was entitled to assume that she would also keep it confidential in accordance with her ethical obligations.

The information was all of a highly sensitive nature, [REDACTED]  
[REDACTED] It would be difficult to conceive of a class of information more obviously described as confidential.

## 3. Use or disclosure by Ms Chrysanthou

We do not and cannot know with any certainty whether Ms Chrysanthou has used or disclosed any of the confidential information. We have not challenged and do not challenge her statement that her recollection is an honest one. However, Ms Dyer should not be in a position where she can only speculate as to the answer to your question. The fact that she is being required to do so only underlines the risk of conflict. [REDACTED]

Ultimately, of course, whether Ms Chrysanthou is conscious of having used any confidential information is beside the point. The possibility of subconscious use is patent.

## 4. The Porter Statement of Claim

Whether or not Ms Chrysanthou has knowingly used or disclosed the confidential information, [REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
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 [REDACTED]  
 [REDACTED]

[illegible]

[REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]

[REDACTED]

[REDACTED]

## 5. Issues in the Porter proceedings

You have asked us to identify to what issue in the Porter proceedings the confidential information will relate or might be used. [REDACTED]

## 6. Use of or threat to use information

This question appears to us to repeat question 3 in so far as it refers to a factual basis, and we have already answered that. So far as it refers to a legal basis, we do not understand the question.

### Why Ms Chrysanthou cannot represent Mr Porter

It ought to be entirely uncontroversial that Ms Chrysanthou:

1. owed and owes an obligation to Ms Dyer to preserve all of the confidential information imparted during the course of her retainer;
2. owes an obligation to Mr Porter to inform him of everything which Ms Chrysanthou knows may be of assistance to him in relation to matters within her retainer; and
3. owes each of Ms Dyer and Mr Porter a fiduciary duty of the utmost good faith, requiring absolute loyalty and the avoidance of conflicts of interest and/or duty.

It is plain from the matters set out above that Ms Chrysanthou cannot comply with her obligations to both Ms Dyer and Mr Porter and thus that she should not have accepted the brief to advise and act for Mr Porter (and, having accepted it, should now return it immediately).

The same result follows under the *Legal Profession Uniform Conduct (Barristers) Rules 2015*.

Under rule 101(a), a barrister must refuse a brief to appear before a court if the barrister has information which is confidential to any other person in the case other than the prospective client, the information may as a real possibility be material to the prospective client's case, and the person entitled to the confidentiality has not consented to the barrister using the information as the barrister thinks fit in the case.

Under rule 101(m), a barrister must refuse a brief to appear before a court if the barrister has already discussed in any detail (even on an informal basis) with another party with an adverse interest in the matter the facts out of which the matter arises.

Rule 103 replicates the terms of rule 101(a), applying the same proviso to a brief to advise.

Rules 101(a) and 103 are engaged in relation to confidential information which we say was disclosed to Ms Chrysanthou and discussed during the conference. Rule 101(m) is engaged in relation to the interests of Ms Dyer, which are adverse to Mr Porter's interests in the matter.

Fundamentally, Ms Chrysanthou was placed in a position of irreconcilable conflict between her duty to Mr Porter (to use all the information and skill at her disposal to advance his interests) and her duty to Ms Dyer (to not use the information and opportunity she had gained for any purpose other than that for which she had been retained by Ms Dyer). Ms Dyer was never asked for, nor ever gave, her informed consent to Ms Chrysanthou acting for Mr Porter.

That was the most direct and obvious feature of the conflict. [REDACTED]


It is a fact that, had Ms Chrysanthou at the outset of her retainer, informed Ms Dyer that she may at a future time act for Mr Porter in respect of the allegations against Mr Porter [REDACTED] then Ms Chrysanthou would never have been retained. It cannot be stated too strongly that Ms Dyer would never have considered retaining Ms Chrysanthou under such a condition.

It is also a fact that Ms Dyer, to her knowledge, will almost certainly be called on by the ABC to give evidence in the Porter proceedings. For the reasons stated earlier, she will inevitably be a key witness.

What Ms Chrysanthou presently does or does not recollect about what she was told during the 20 November conference does not assist in resolving her conflict. Ms Dyer asserts (with the support of corroborating witnesses) that she disclosed a great deal of confidential information to Ms Chrysanthou, of direct relevance to the Porter proceedings. Apart from that, the advantage gained by Ms Chrysanthou from meeting with Ms Dyer [REDACTED] is alone a sufficient basis for her to be unable to act for Mr Porter and does not depend on her accepting that she received the confidential information Ms Dyer asserts she did.

We await your early response.

Yours sincerely



Michael Bradley  
Managing Partner

Your ref

Our ref PTG/AUSC211-1032875 (PTG)

# Kennedys

BY EMAIL: michaelb@marquelawyers.com.au

Mr Michael Bradley  
Managing Partner  
Marque Lawyers Pty Ltd  
Level 4  
343 George Street  
SYDNEY NSW 2000

Kennedys (Australasia) Pty Ltd  
Level 22  
85 Castlereagh Street  
Sydney NSW 2000  
PO Box A65  
Sydney South NSW 1235  
Australia  
ABN 31 119 302 742

t +61 2 8215 5999

f +61 2 8215 5988

DX 239 Sydney

kennedyslaw.com

Direct Dial+61 2 8215 5901

Patrick.George@kennedyslaw.com

6 April 2021

Dear Mr Bradley

**SUE CHRYSANTHOU SC**

We refer to your letter dated 31 March 2021.

We seek your client's consent to disclose the letter to Matthew Richardson, given his reported statements to you and his knowledge of the information provided in the conference of 20 November 2020.

We also seek the following additional information in order to respond to your letter:

- 1 To the extent that you assert that "*Ms Chrysanthou's retainer was arranged orally*" and that her [REDACTED], (a) when was the retainer arranged, (b) by whom was it arranged, (c) what was the substance of what was said by each such person as to payment of Ms Chrysanthou's fees, and (d) what was the substance of what was said by each such person so as to create a retainer to advise and act generally for Ms Dyer in relation to [REDACTED];
- 2 The written communications provided to or by Ms Chrysanthou in the course of her brief;
- 3 Any communication with Ms Chrysanthou after the conference on 20 November 2020;
- 4 Any advice given by Ms Chrysanthou after the conference on 20 November 2020;
- 5 Any fees charged by Ms Chrysanthou for the brief;

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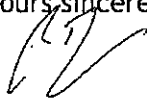
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- 6 Any information as to who represents the estate of [REDACTED] and whether that representative has authorised the use or release of any documents or statements on her behalf.

We also note that in addressing our request that you specify the confidential information, your letter in many cases identifies the nature of that information by reference to a topic at some level of generality (see, eg, the first two sentences of numbered paragraph 1 on p 4), and then sometimes gives a specific example. The examples themselves sometimes involve a level of generality (e.g. the last sentence of that paragraph, which does not identify the sources). It is difficult to see how the disclosure to Ms Chrysanthou of information described in that way could practically prejudice your client (even putting to one side your client's assertion that this is all information that Ms Chrysanthou already has, which is the essence of Ms Dyer's complaint). We request whether it is possible for you to redact at least parts of the confidential information section of your letter and any other confidential parts of the letter subject to your client's consent, in order for us to provide the redacted letter to Ms Chrysanthou for her instructions.

Yours sincerely



**Patrick George**  
Senior Partner  
for Kennedys

Our reference MB/13146  
Phone +61 2 8216 3006  
Email michaelb@marquelawyers.com.au  
Your reference PTG/AUSC211-1032875 (PTG)

31 March 2021

Patrick George  
Kennedys

By email: [patrick.george@kennedyslaw.com](mailto:patrick.george@kennedyslaw.com)

**Confidential, not to be disclosed to any person without our written consent**

Dear Mr George

**Jo Dyer – Sue Chrysanthou SC**

I refer to your letter of 6 April 2021. You may disclose our letter of 31 March to Mr Richardson. We respond to your numbered questions below.

1. Ms Chrysanthou's retainer was arranged by me, a day or two before the conference on 20 November 2020. It was agreed between us that she would act pro bono in relation to the advice and correspondence [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
2. We attach copies of our written communications with Ms Chrysanthou, although we do not understand why you are unable to obtain the same from her.
3. Following the conference on 20 November, I participated in a telephone conference with Ms Chrysanthou and Mr Richardson on 23 November, the subject matter of which is explained by the emails exchanges before and afterwards.

On 1 December 2020, there was a further exchange of emails between our client, us and counsel, the subject matter of which is self-explanatory from their content.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

- [REDACTED]  
[REDACTED]
4. Ms Chrysanthou advised further on 23 November 2020 regarding [REDACTED]  
[REDACTED]; on 28 January 2021 during the telephone conference; and on 29 January 2021 by email.
  5. Ms Chrysanthou did not charge any fees, as she knows.
  6. I do not know who represents the estate of [REDACTED] nor whether they have authorised the use or release of any material belonging to the estate.

As will be apparent from the material provided with this letter and our responses above, the confidential information disclosed to Ms Chrysanthou in the course of her retainer for Ms Dyer goes beyond what was disclosed to her during the conference on 20 November 2020. The correspondence, in particular the emails of 1 December 2020, speaks for itself. We do not understand how Ms Chrysanthou can continue to maintain that she has no conflict.

We have no objection to your providing our letter of 31 March or this letter to Ms Chrysanthou. It was her decision to engage you, not ours. There is no information in our letters to which Ms Chrysanthou has not previously been made privy. Whether or not she recalls receiving it is irrelevant to the question of her conflict.

So that there is no doubt, our consent to Ms Chrysanthou seeing our letters is given subject to her obligations of confidence to our client, and under no circumstances is she permitted to disclose their content to any other person.

Yours sincerely



**Michael Bradley**  
Managing Partner

Your ref

Our ref PTG/AUSC211-1032875 (PTG)

# Kennedys

**PRIVATE AND CONFIDENTIAL**

**BY EMAIL: michaelb@marquelawyers.com.au**

Mr Michael Bradley  
Managing Partner  
Marque Lawyers Pty Ltd  
Level 4  
343 George Street  
SYDNEY NSW 2000

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Kennedys (Australasia) Pty Ltd  
Level 22  
85 Castlereagh Street  
Sydney NSW 2000  
PO Box A65  
Sydney South NSW 1235  
Australia  
ABN 31 119 302 742

---

t +61 2 8215 5999

f +61 2 8215 5988

DX 239 Sydney

kennedyslaw.com

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Direct Dial+61 2 8215 5901

Patrick.George@kennedyslaw.com

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26 April 2021

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Dear Mr Bradley

**SUE CHRYSANTHOU SC**

I refer to your (two) letters dated 31 March 2021 (the second received on 7 April 2021 which appears to be misdated).

I confirm that I have not provided these letters to Ms Chrysanthou or disclosed the content of the alleged confidential information to her, so as to preserve the status quo pending resolution or determination of Ms Dyer's concerns.

I do have Ms Chrysanthou's detailed instructions however in relation to the substance of the matters raised, but without her knowledge of the information asserted to be confidential in your letters.

Ms Chrysanthou does not recollect or believe she holds any confidential information of Ms Dyer's that could be used to Ms Dyer's disadvantage or Mr Porter's advantage, in the proceedings which he has brought against the ABC and Louise Milligan. I note that Ms Dyer is not a party to those proceedings or a person in the case. As yet, no defence has been filed such that the issues in dispute are, at present, unknown.

I also refer to your letter dated 23 April 2021 foreshadowing an application to the court if Ms Chrysanthou does not cease to act for Mr Porter and return the brief. It is said that that application may be made without further notice.

I confirm I have Ms Chrysanthou's instructions to accept service of any proceedings. Given the current status of the information, and the undertaking previously given by Ms Chrysanthou, I do not understand that there is any need for an ex parte application or interim

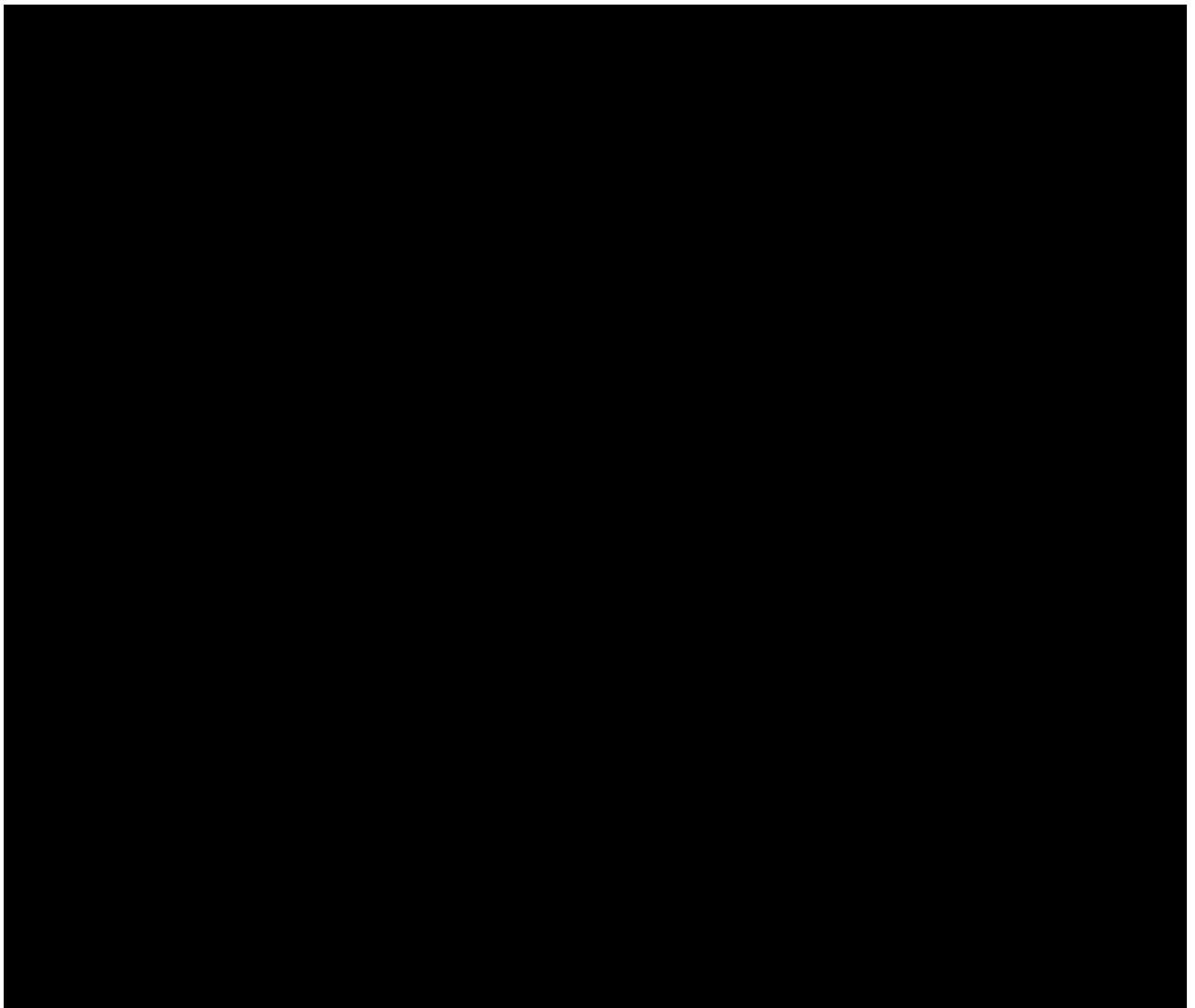
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order from the court. The status quo is reasonably preserved and if it were otherwise, your client would have approached the court on 15 March 2021.

I do not propose to respond in detail to your assertions in your letters but will give a brief explanation of Ms Chrysanthou's position.

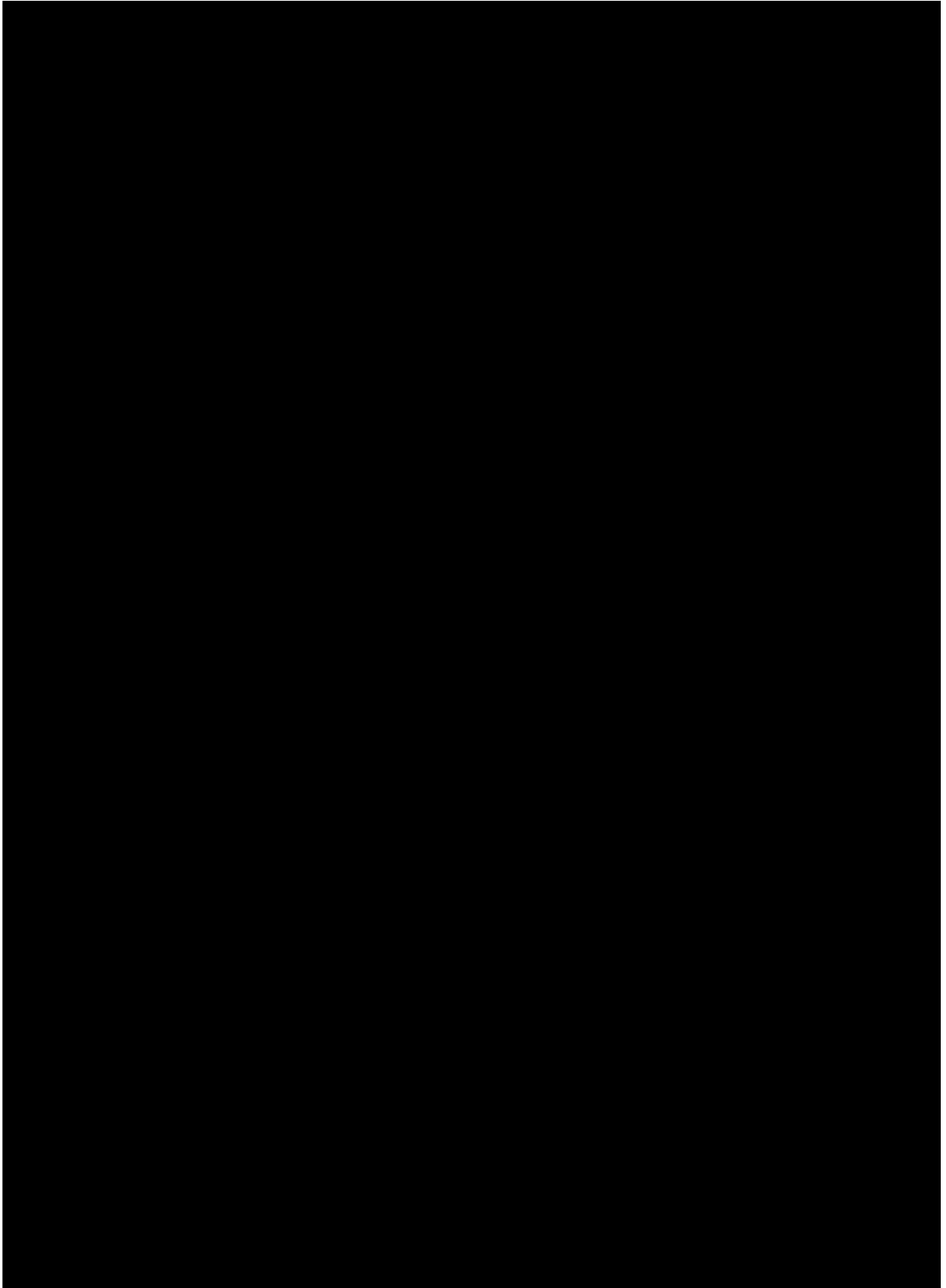
Mr Richardson

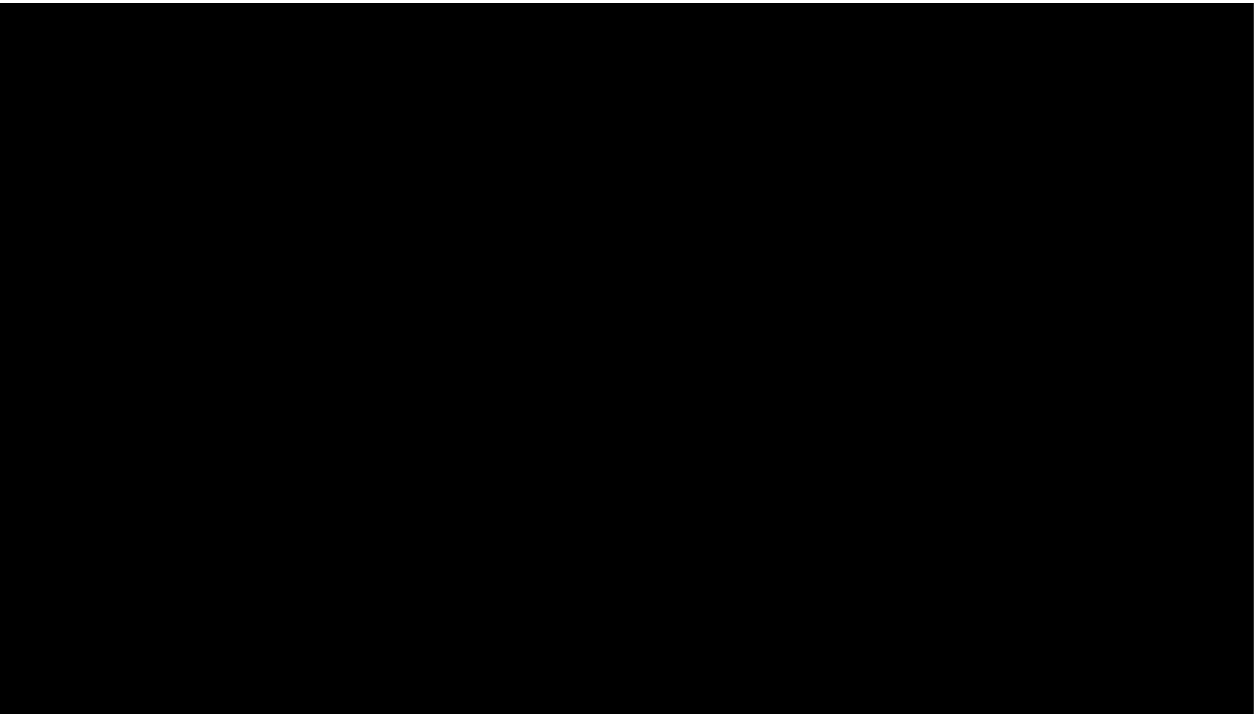


## The Conference

[Redacted text block]

[Redacted text block]





#### Mr Hooke

On 4 March 2021, Mr Hooke attempted to telephone Ms Chrysanthou in chambers. She did not return the call or make any attempt to speak to him. As far as she was concerned, the matter was at an end.

On 5 March 2021, Mr Hooke reportedly telephoned NSW police concerning the investigation into the rape allegation, which investigators had closed after the woman's death, and said he understood why the investigation had been closed and thanked them. On 12 March 2021, he made a public statement that he had had communications with the deceased woman and Mr Porter relating to the allegation. On 17 and 22 March 2021, he reportedly made a formal statement to the police.

According to a NSW police statement given at the NSW Parliament Estimates hearing on 8 April 2021, *"This statement provided by Mr Hooke does not change the position of the NSW police force. The investigation remains closed. On 23 June 2020, the victim clearly communicated to investigators that she no longer felt able to proceed with the report... Investigators will continue to respect this request."*

On 8 March 2021, the interview Ms Dyer gave in November 2020 was more fully aired on Four Corners in which the allegations by the deceased woman were explored.

#### The Porter Retainer

On 10 March 2021, Ms Chrysanthou was briefed by solicitors Company (Giles) to appear for and advise Mr Porter in relation to a claim against the ABC for the publication of the ABC

article. When she was offered that brief, she considered whether any conflict arose because of her interactions with Ms Dyer.

She also considered whether she had any confidential information. She searched her computer, including for emails to see if she had any documents containing any information and only found [REDACTED]. She formed the view that there was no conflict and she had no confidential information.

## Ms Dyer objects

Ms Chrysanthou spoke to you on the morning of 15 March 2021 to inform you as a courtesy that she had accepted the brief. She told you that she had formed the view that there was no conflict and no confidential information and had checked with Mr Richardson that she had no confidential information and he had agreed. You raised no issue at that point but said you would speak to Ms Dyer.

You telephoned Ms Chrysanthou that afternoon and told her that Ms Dyer and Mr Hooke had a problem that she had accepted the Porter brief. Ms Chrysanthou reminded you that she never advised Mr Hooke. She told you that she had no file note of the November conference and no documents. The only record of it was [REDACTED]. She told you what she remembered from the conference and she recalls specifically that you agreed that none of that material that she remembered was confidential.

You informed her that you, Mr Hooke and Ms Dyer believed that she had been told something else that could help Mr Porter against the ABC. You agreed that you should not disclose it to her. She asked you if you had read the Porter pleading which she had drafted and asked if the confidential information was in that pleading. You said it was not. She told you that everything in her mind that helps Mr Porter against the ABC appears in the pleading, particularly in the material relating to aggravated damages. You said that the confidential material concerned [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED] She told you that you had not identified anything that gave rise to a conflict or satisfied her that she actually possesses any confidential information. Anything relevant would be disclosed in the Porter proceedings in the ordinary course.

You then telephoned Ms Chrysanthou again on 24 March 2021. You informed her that she was in conflict and asked her to withdraw from the Porter case and that [REDACTED]. You said that during the conference in her chambers, there were discussions and disclosures of confidential information in relation to [REDACTED] and in relation to [REDACTED]



You also said it is “*highly likely she is going to become a central witness*” in that case. Ms Chrysanthou queried how that could be the case given no defences have been filed and no one knew what the issues would be until that occurs in May.

She asked you if the confidential information was the material that she did not remember because in your earlier conversation you agreed that the matters that she recalled were not confidential. You said yes. She reminded you that before she accepted the Porter brief, she said she checked with Mr Richardson and he confirmed to her at that time that she had not been told anything confidential. You agreed that you understood that but that you and Ms Dyer and Mr Hooke recalled more information. Ms Chrysanthou asked you to articulate the conflict of interest and you were unable to do so and agreed that she could speak to Mr Owens about it. Bret Walker SC spoke to Mr Owens the following day on Ms Chrysanthou’s behalf, but given that he too could not be told the alleged confidential information (also holding a brief to advise Mr Porter), the matter could not progress.

Ms Chrysanthou believes she has no confidential information. To the extent that any information that was disclosed to her was confidential at that time, she does not recall it.

[REDACTED]

[REDACTED]

## Retainer

Ms Chrysanthou considers that she was not retained by you or Ms Dyer. She met with Ms Dyer at the request of Mr Richardson as a favour. It was certainly not for a fee and the terms or scope of the retainer (if it existed) were [REDACTED]

You assert in your letter that Ms Chrysanthou is subject to an ongoing retainer to act on behalf of Ms Dyer as a client. Ms Chrysanthou does not accept that she has any such obligation. She was assisting Mr Richardson as a favour.

However if the communications amount to a retainer, [REDACTED]  
[REDACTED] The retainer if it existed had already come to an

end at that point but in late January, she agreed to assist with one further request and that was [REDACTED]  
[REDACTED]

For the avoidance of doubt, Ms Chrysanthou made clear to you in the telephone conversations of 15 March 2021, that her assistance had come to an end and you did not challenge that position at that time.

## The ABC proceedings

It is not clear how the information asserted to be confidential is material to the defamation proceedings brought by Mr Porter against the ABC. At this stage the ABC has not filed a Defence which would disclose the issues in dispute and the extent to which the information asserted might be relevant or of 'use' to any issue to be determined.

On that basis it would appear that the complaint is premature.

However, Ms Dyer is not a party to the proceedings or a person in the case and therefore Ms Chrysanthou could not be held to be acting against Ms Dyer's interests in acting for Mr Porter in the proceedings. Their interests as 'parties' are not in conflict.

The Defence for the ABC and Ms Milligan has not yet been filed. Assuming however that Ms Dyer is to be a witness for the defence, that does not give her standing to restrain Ms Chrysanthou from acting for Mr Porter in proceedings in which Ms Dyer may have to give evidence.

## Bar Rules

Ms Chrysanthou denies any breach of the Legal Profession Uniform Conduct (Barristers) Rules 2015 ("Bar Rules").

She disputes that when she accepted the Porter brief to appear before the court and even now that under Bar Rule 101(a) she 'has information which is confidential to any other person in the case' other than Mr Porter or that any such information 'may as a real possibility be material' to Mr Porter's case.

Ms Dyer is not a person 'in the case' (as the word 'case' is defined under the Bar Rules) which Mr Porter has brought against the ABC and Ms Milligan and there is no information that Ms Chrysanthou 'has' that 'may as a real possibility be material' to Mr Porter's case.

Likewise, she disputes in respect of the retainer to appear before the court that under Bar Rule 101(m) Ms Dyer is 'another party with an adverse interest in the matter'. Ms Dyer is not a party.

She disputes that under Bar Rule 103 she 'has' information which is confidential which may as a real possibility affect Mr Porter's interests in the matter or may be detrimental to Ms Dyer's interests.

## Undertaking

Ms Chrysanthou has already undertaken to you, for and on behalf of Ms Dyer, in our letter dated 26 March 2021 not to use any confidential information of Ms Dyer for the benefit of Mr Porter.

As a sensible approach to resolve Ms Dyer's concerns, Ms Chrysanthou also undertakes to you that, beyond what she has disclosed to you is her recollection of that meeting, she does not recall any other topic or information, confidential or otherwise.

She now further undertakes to you to inform me, for the purpose of immediately passing on to you, if she recalls at any time, anything else that she was told by Ms Dyer or Mr Hooke.

She also undertakes to you not to cross-examine Ms Dyer or Mr Hooke should they become witnesses in the Porter matter.

All of these undertakings and the undertaking not to cross-examine are given without any admission.

If your instructions are to make the application to the court, please serve the court documents upon me on Ms Chrysanthou's behalf and provide us with adequate notice of any urgent application Ms Dyer wishes to make. We see no need for an ex parte application without notice in the circumstances.

Yours sincerely



**Patrick George**  
Senior Partner  
for Kennedys