

CRIMINAL DIVISION BI-WEEKLY UPDATE REPORT

Compiled August 2, 2019

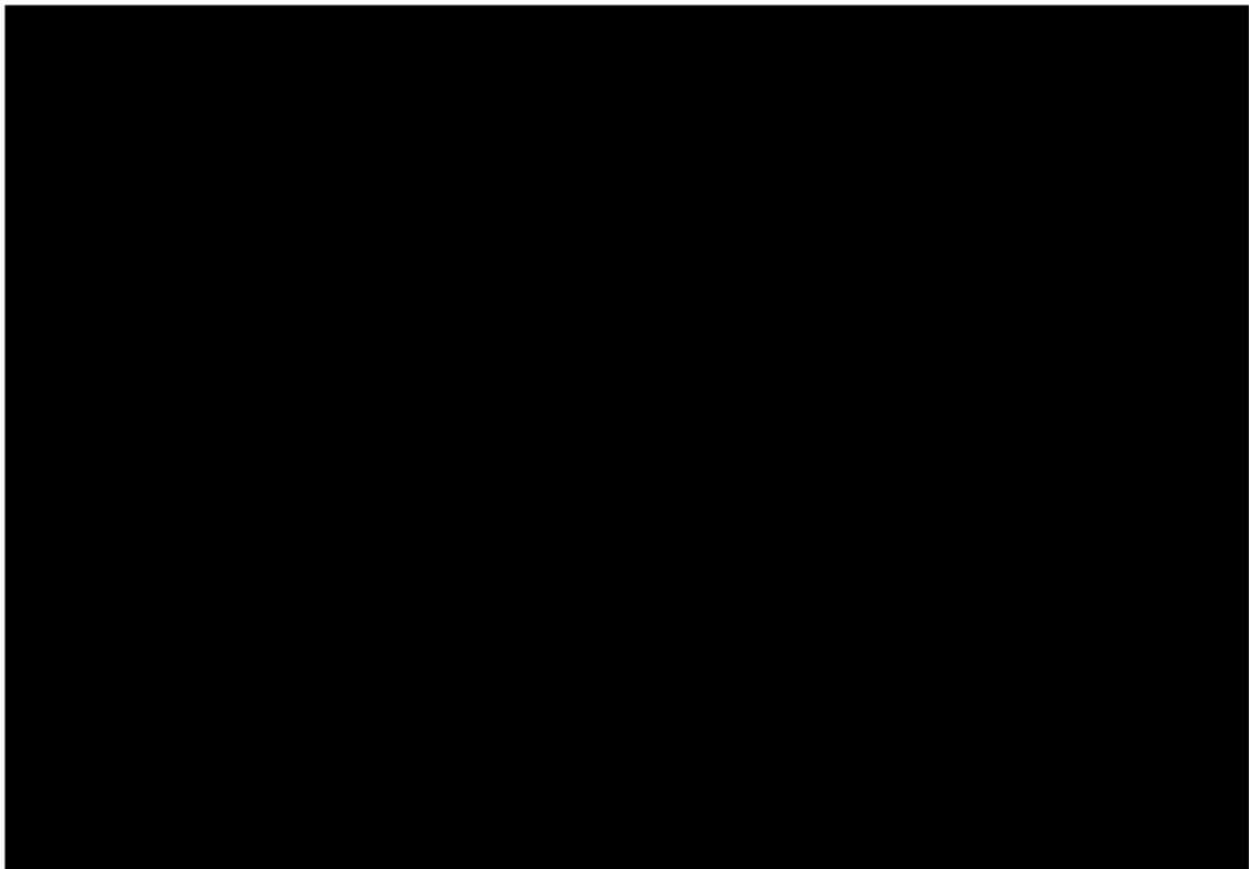
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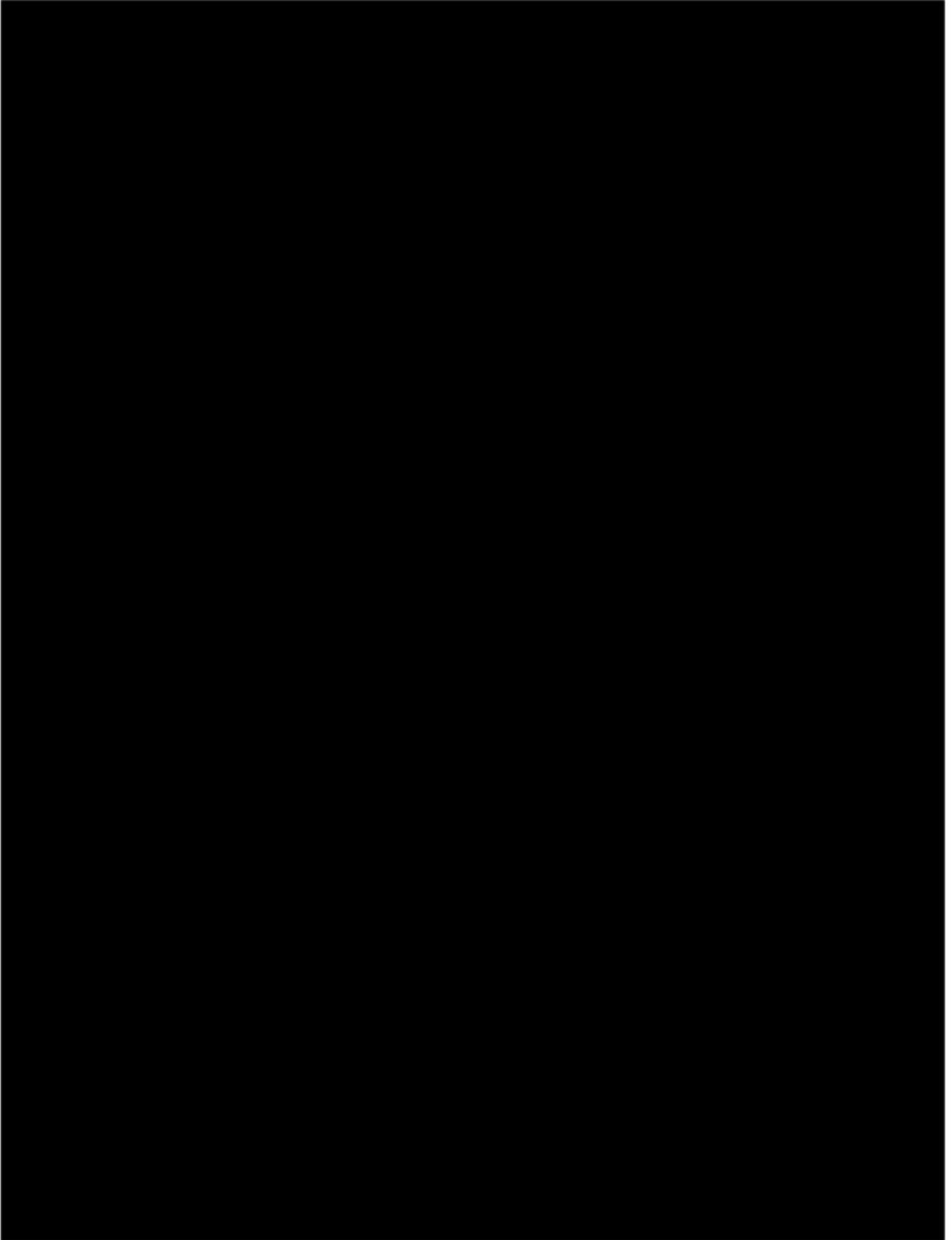
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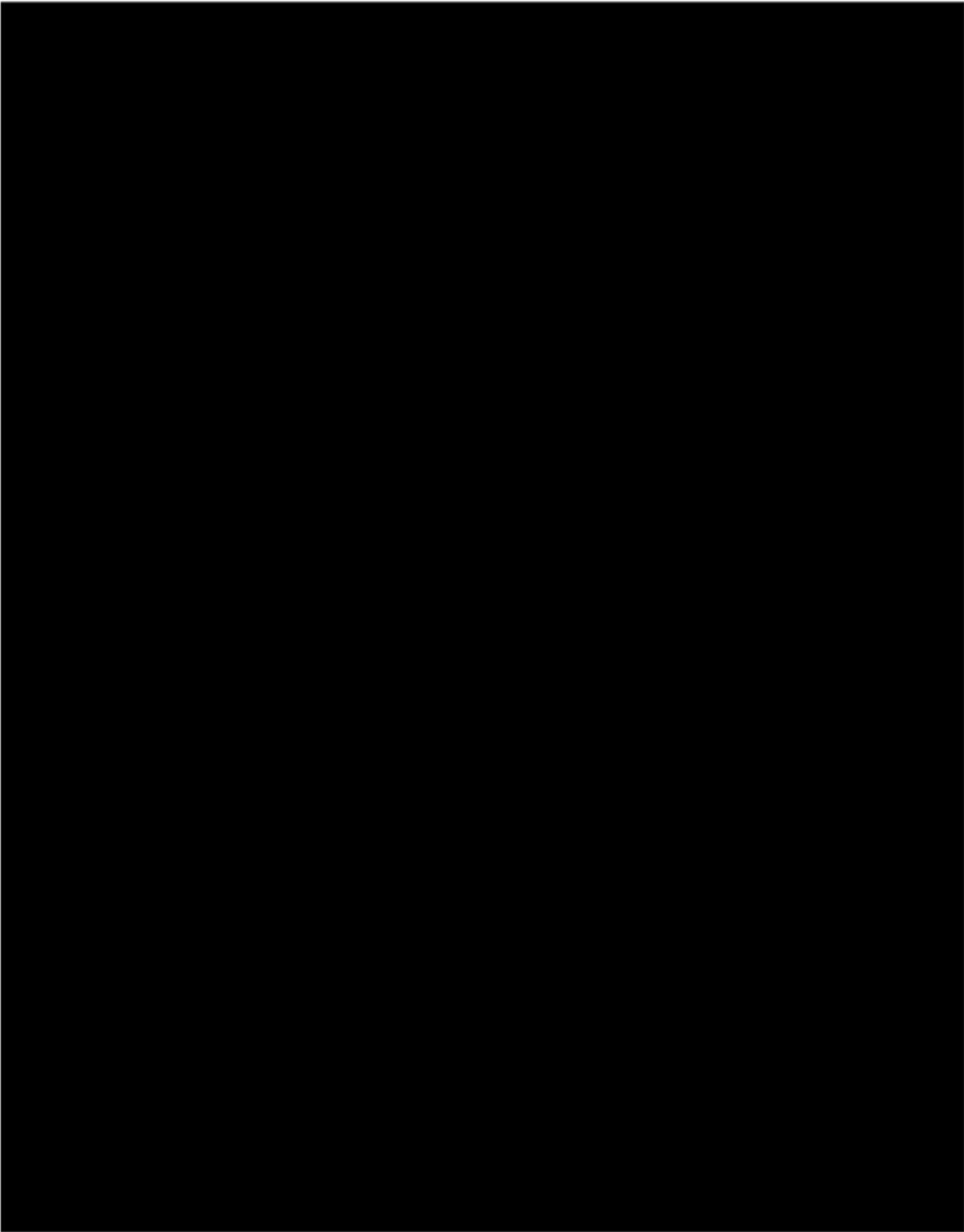
Summaries

I. Terrorism and International Narcotics



B. Additional Significant Cases







C. Upcoming Trials

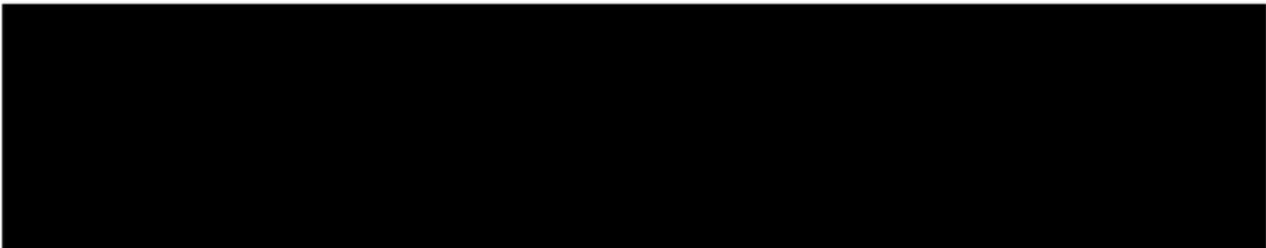
- 9/30/19 U.S. v. Hernandez (Bove/Houle/Richman) (Castel, J.) (USAO # 2008R02282): Drug-trafficking and firearms trial of a Honduran Congressman (and brother of the Honduran President).
- 10/21/19 U.S. v. Sadr (DeFilippis/Kim/Krouse) (Carter, J.) (USAO # 2018R00486 CAS!): Trial of Iranian sanctions violator.
- 11/4/19 U.S. v. Schulte (Laroche/Kamaraju) (Crotty, J.) (USAO # 2017R01073): Trial of former CIA employee for espionage offenses.

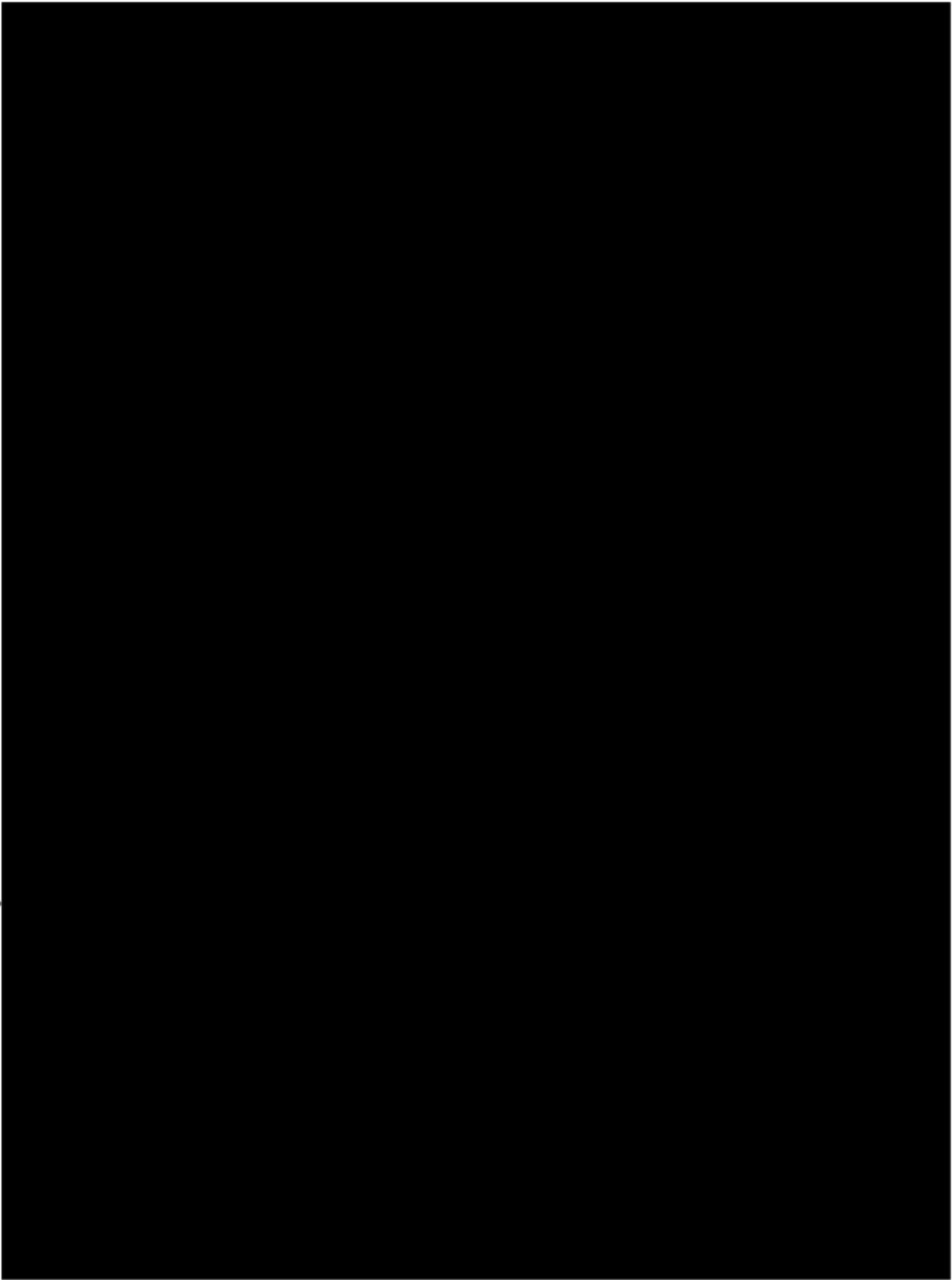
D. Other Developments and Issues

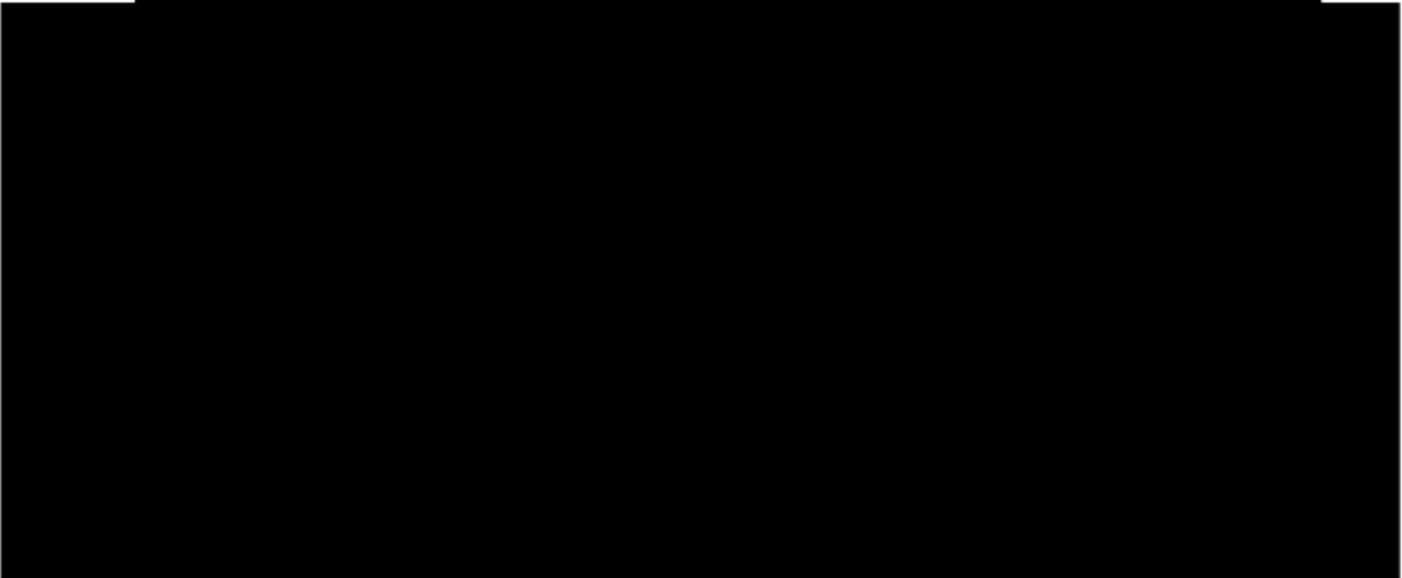
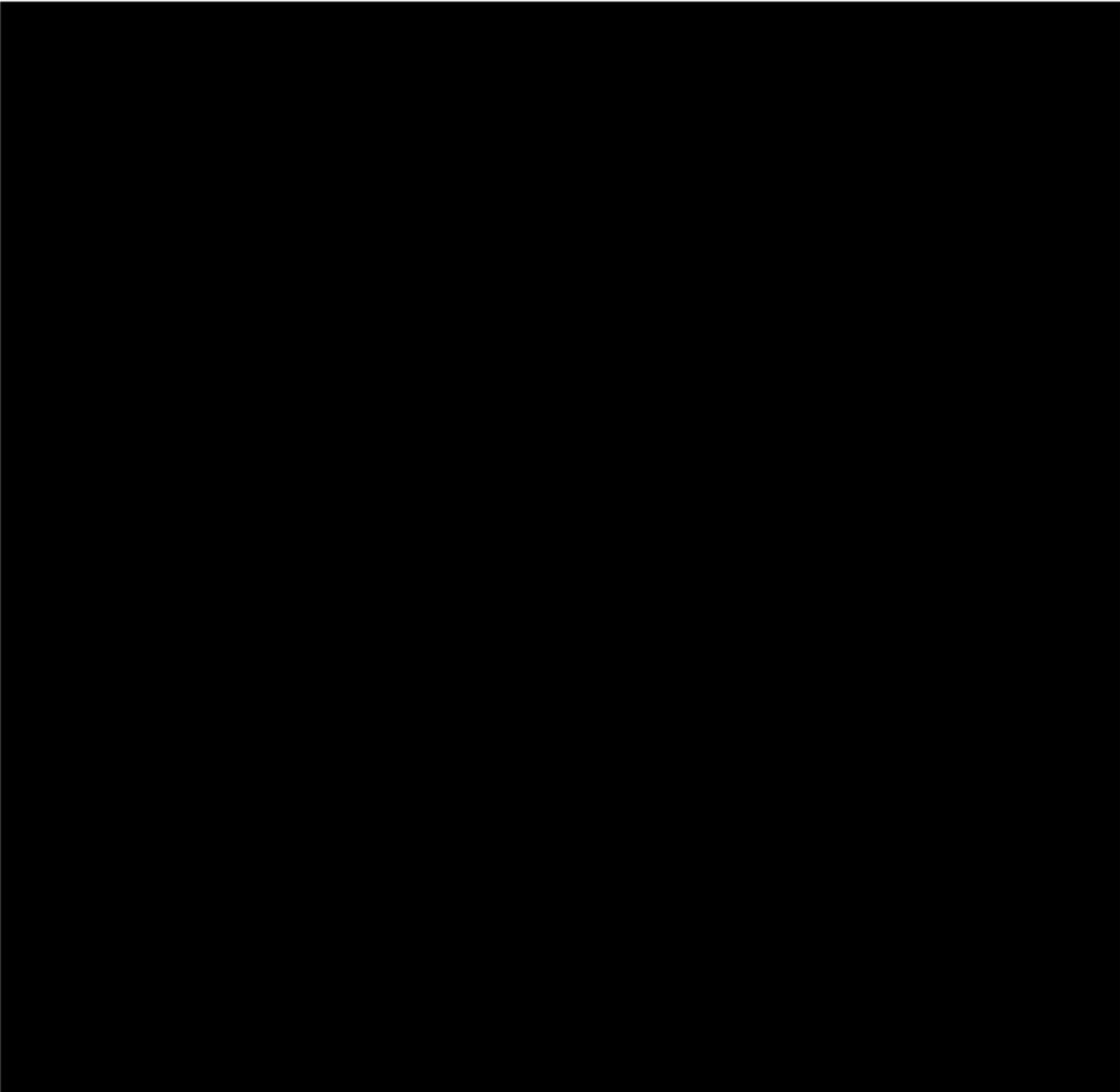


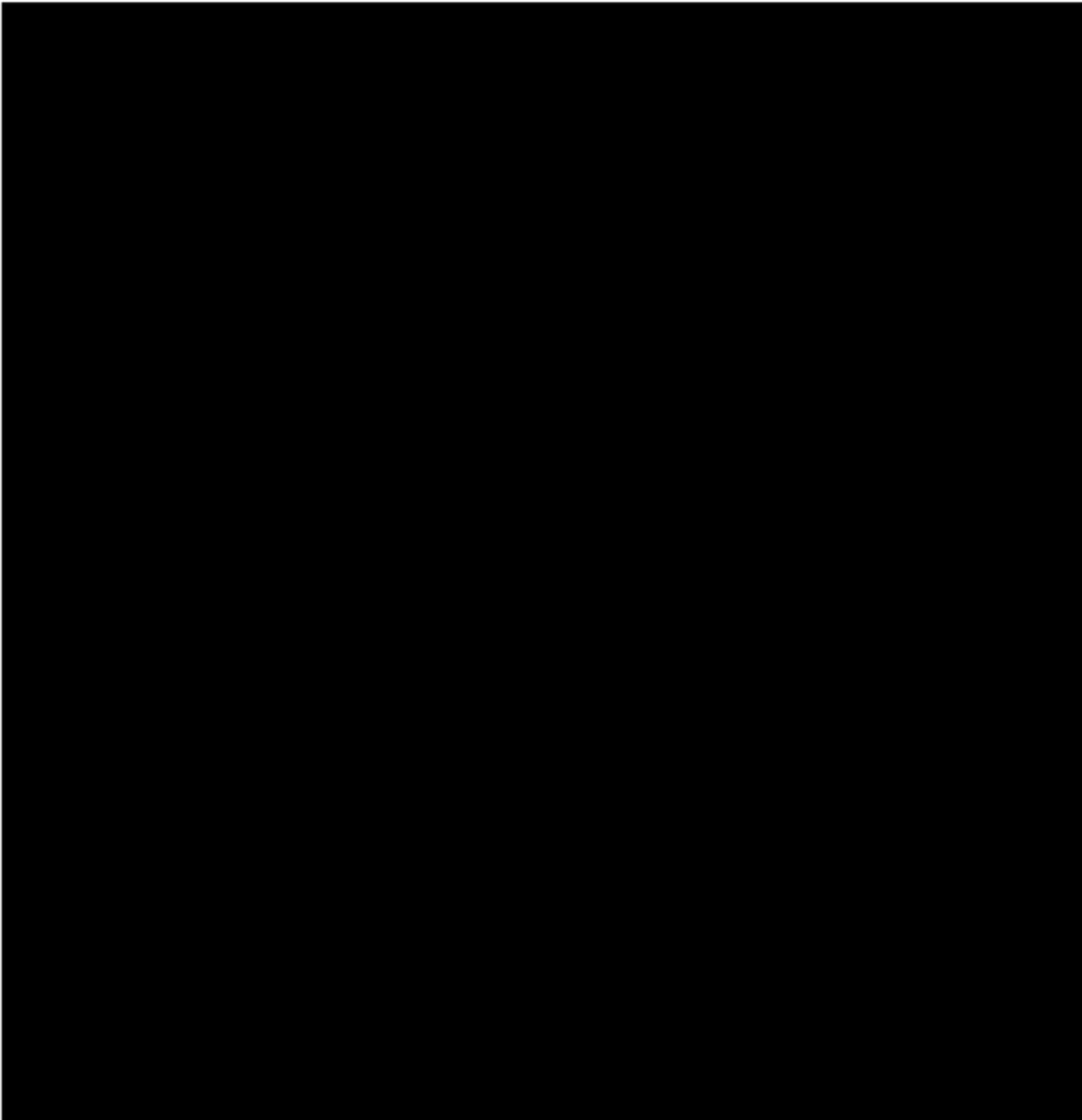
II. Complex Frauds and Cybercrime

A. Top Developments









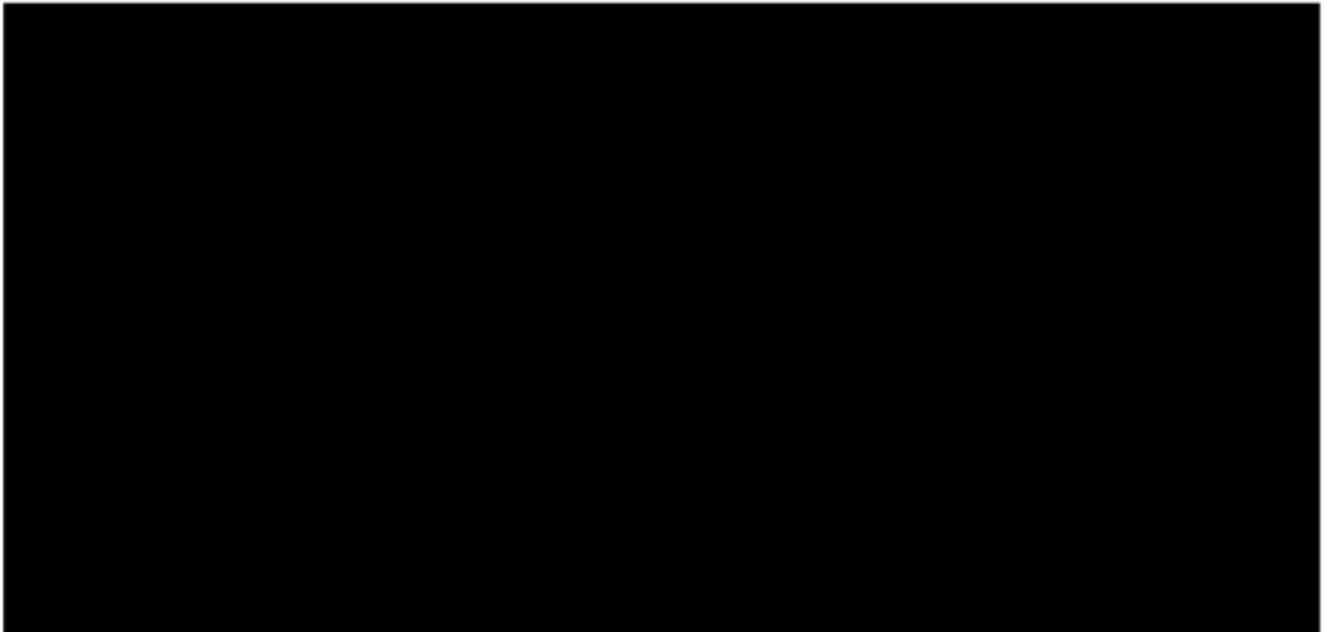
B. Trials

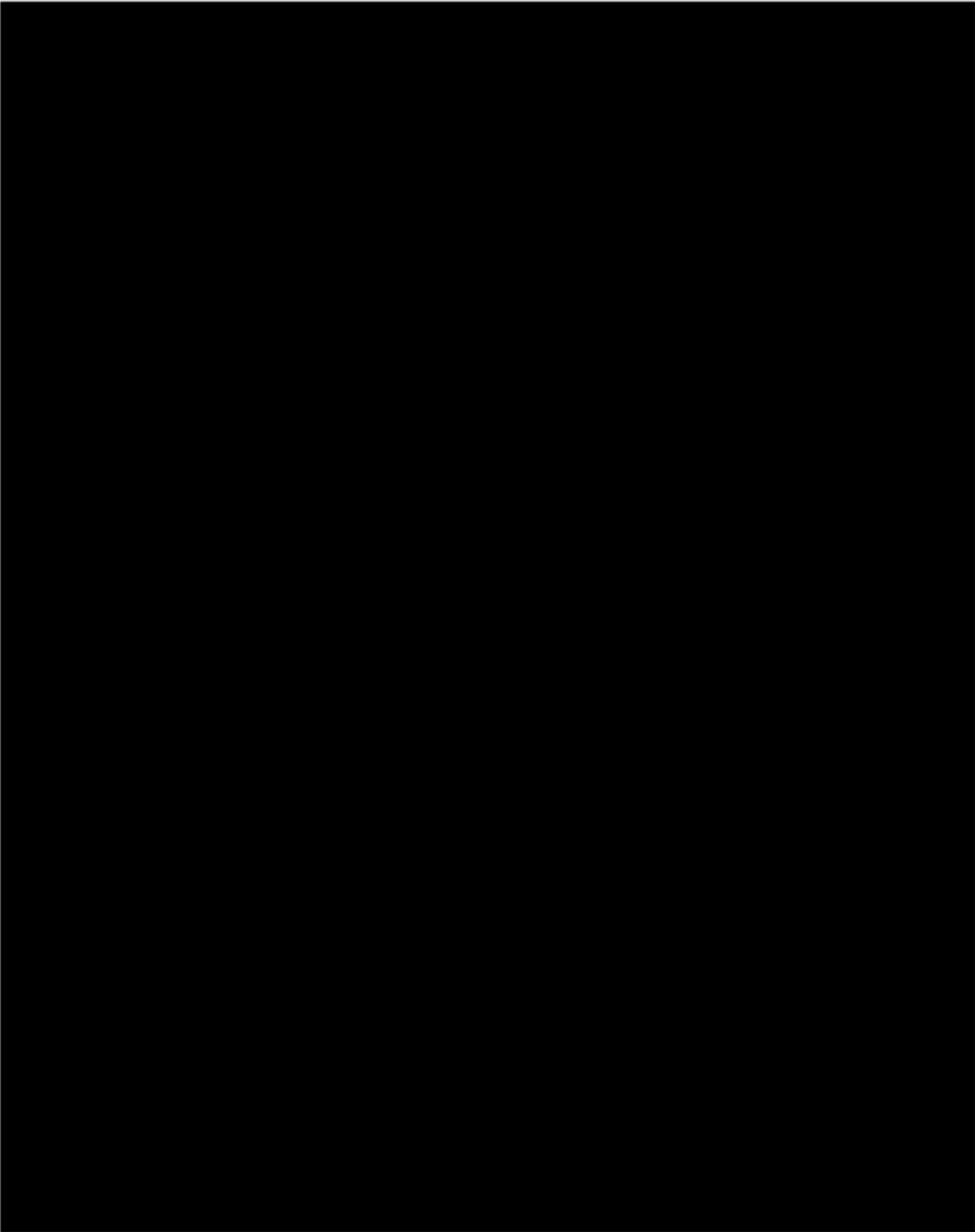
- **U.S. v. Mark Scott (DiMase/Folly/SAUSA Lozano) (USAO # 2016R01183)**: Former Locke Lorde partner charged with laundering hundreds of millions of dollars of OneCoin proceeds for the benefit of the leaders of the scheme. **Trial is scheduled for October 7 before Judge Ramos. In a huge victory, Judge Ramos recently rejected all of Scott's substantive pretrial motions, and granted in full our crime-fraud motion and motion to compel responses to several pending grand jury subpoenas (served on**

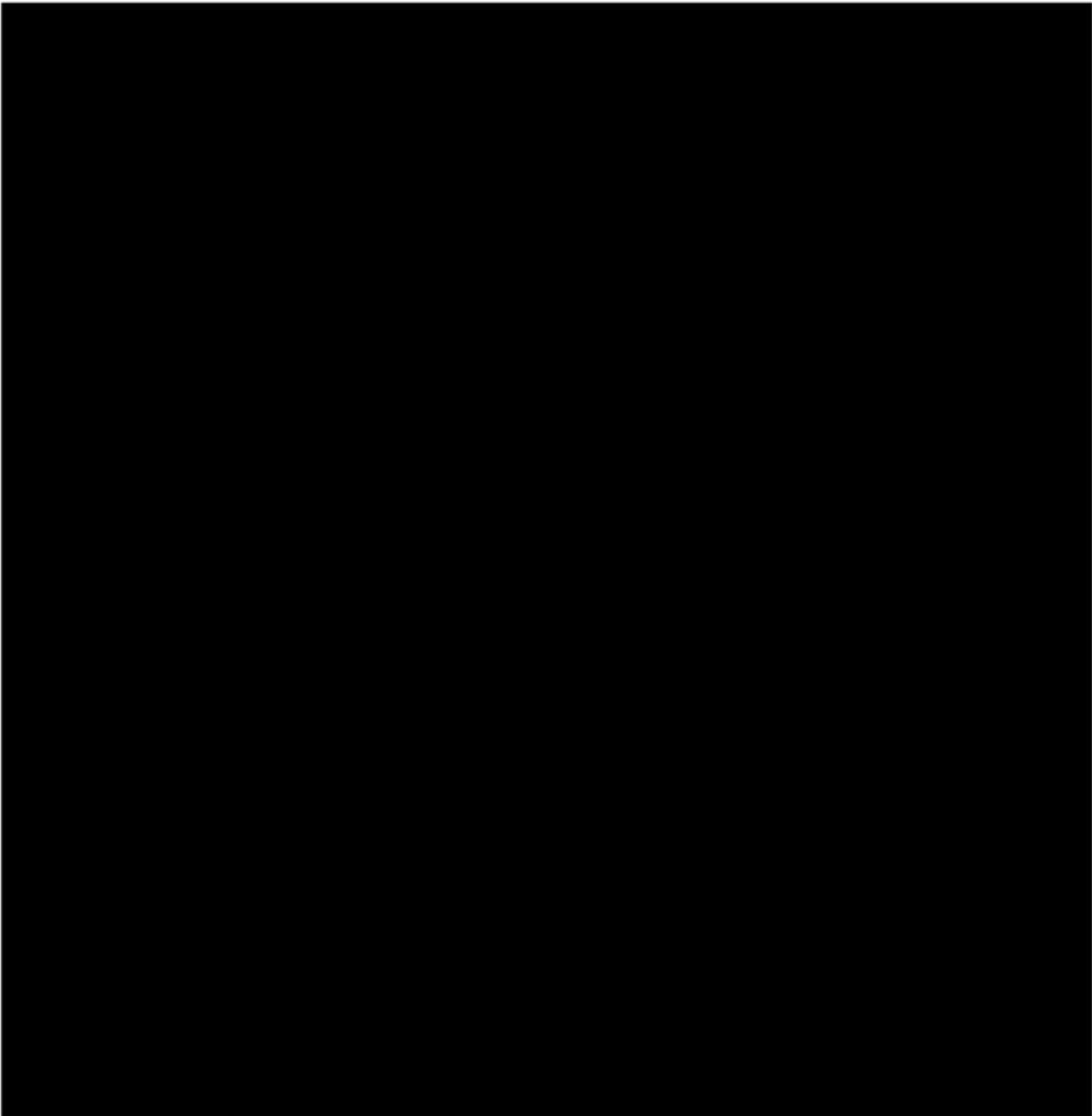
Scott and his business associate back in Feb/March 2019). We are working quickly to ensure that the privilege team can review our electronic data to efficiently identify materials subject to the Court's crime-fraud order. We are also preparing for an interview of the managing director of DMS Bank in the Cayman Islands on August 13-14; DMS Bank hosted many of the bank account used by Scott to launder \$400 million of OneCoin proceeds.

- **Panama Papers (Choi/Rehn/SAUSA Parker) (USAO # 2016R00393 CAS!)** (CFU & MLTCE): Trial against U.S.-based taxpayer (Harald Joachim von der Goltz) and accountant (Richard Gaffey) for their involvement to conceal Goltz's assets and income from the IRS by hiding them in a set of offshore entities. **Trial is scheduled for October 28 before Judge Berman. During the last month, we participated in an interview of Dirk Brauer, a co-defendant who is in German prosecutors, alongside German authorities. Given the constraints under German law (mainly that we were not able to question Brauer directly, or to ask follow up questions), we are planning on returning to Germany over Labor Day weekend to have a standard proffer in English. We have also recently learned that one of Harald von der Goltz's children may seek to proffer with the Government and testify against his father at trial, and we hope to proffer him in the coming weeks.**
- **Insys (Solowiejczyk/Abramowicz) (USAO # 2015R01751):** Insys Therapeutics paid kickbacks to induce doctors to prescribe a fentanyl-based painkiller called Subsys. We indicted five doctors in March 2018, **two of whom have since pled. One more, Dr. Voudouris, is expected to plead on Friday, August 2. The remaining two doctors are scheduled for trial in November 2019 before Judge Wood, although we expect one of the two to plead guilty within the next couple of weeks, which would leave us with only one defendant for trial.**

C. Developments in Charged Cases

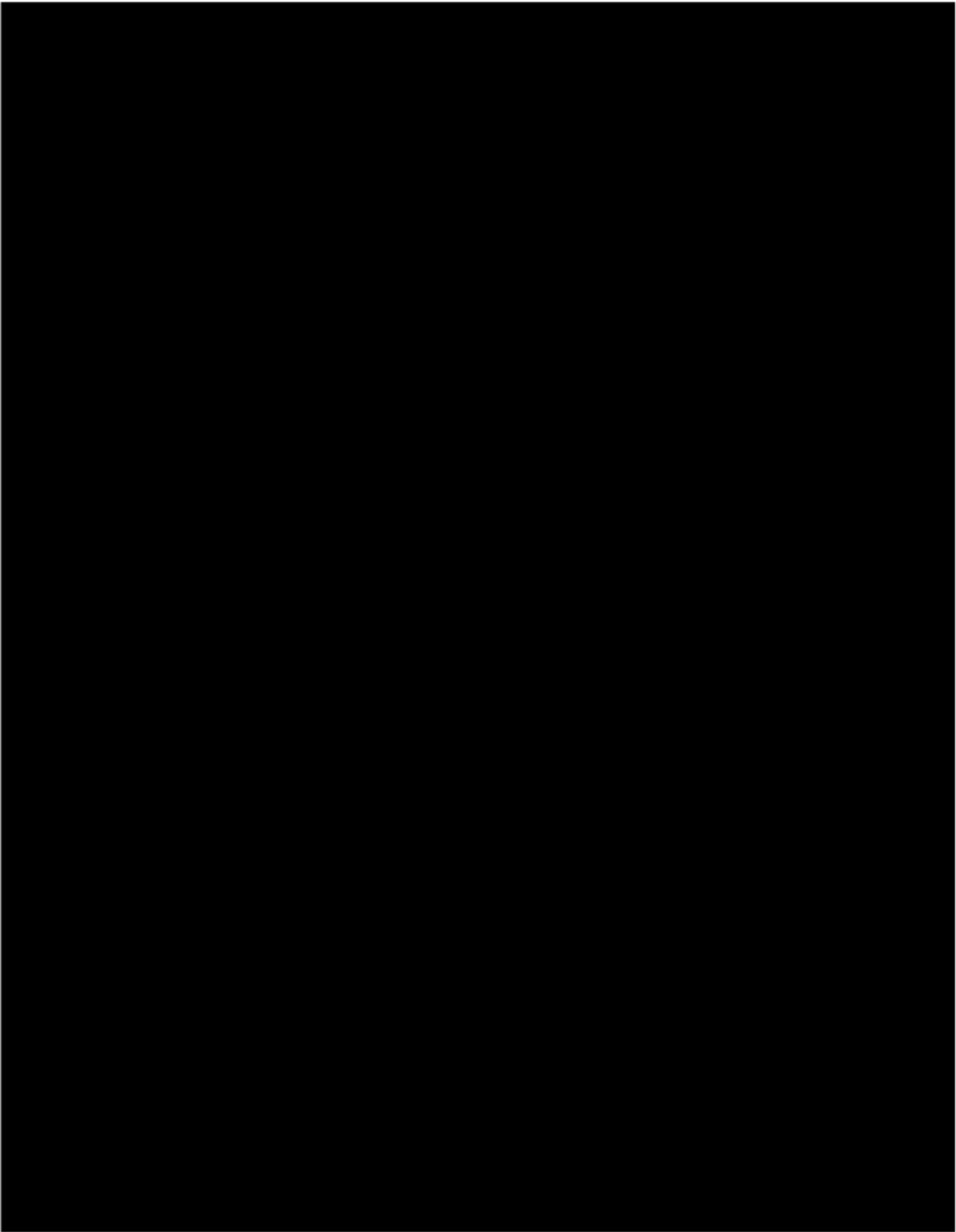






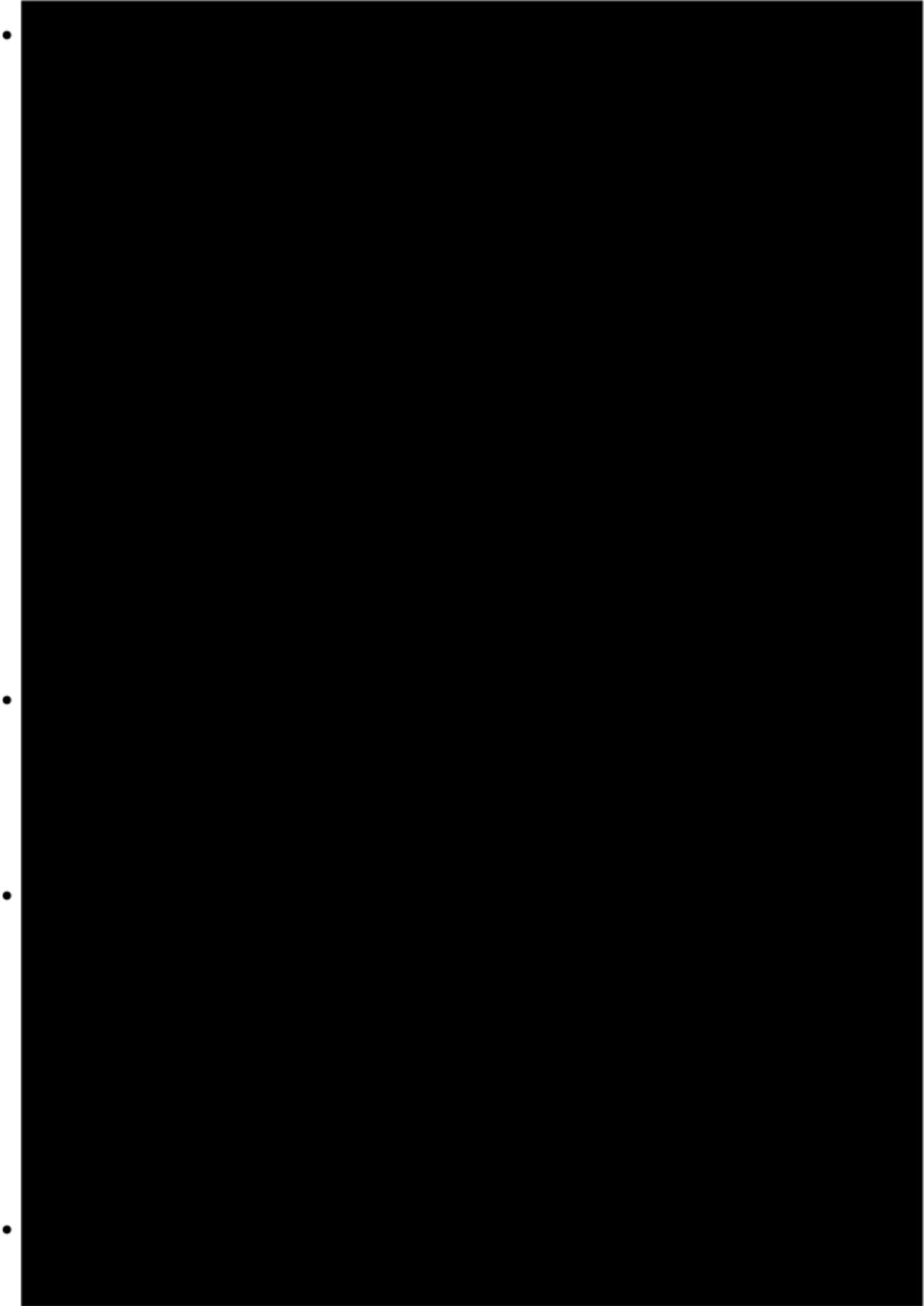
D. Developments in Investigations

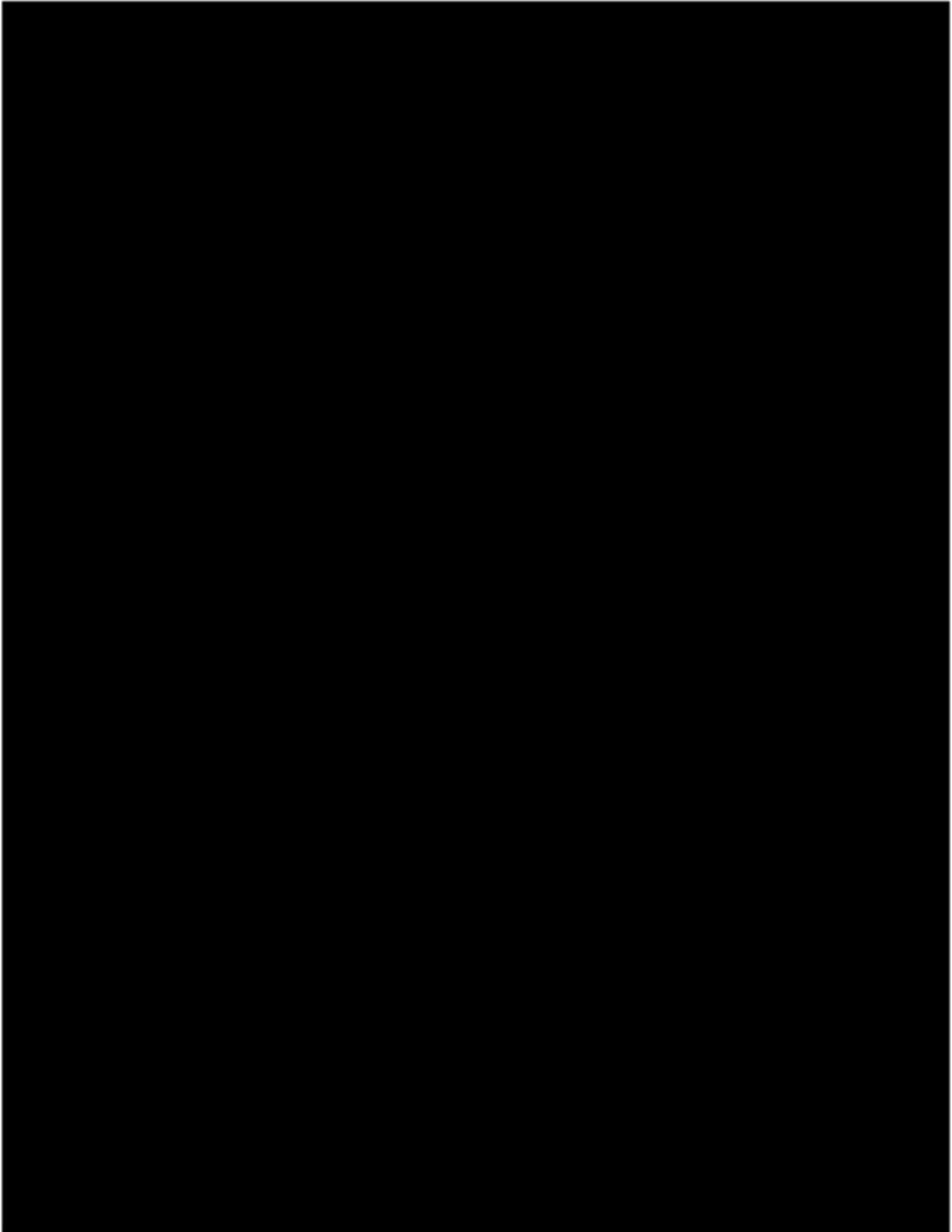


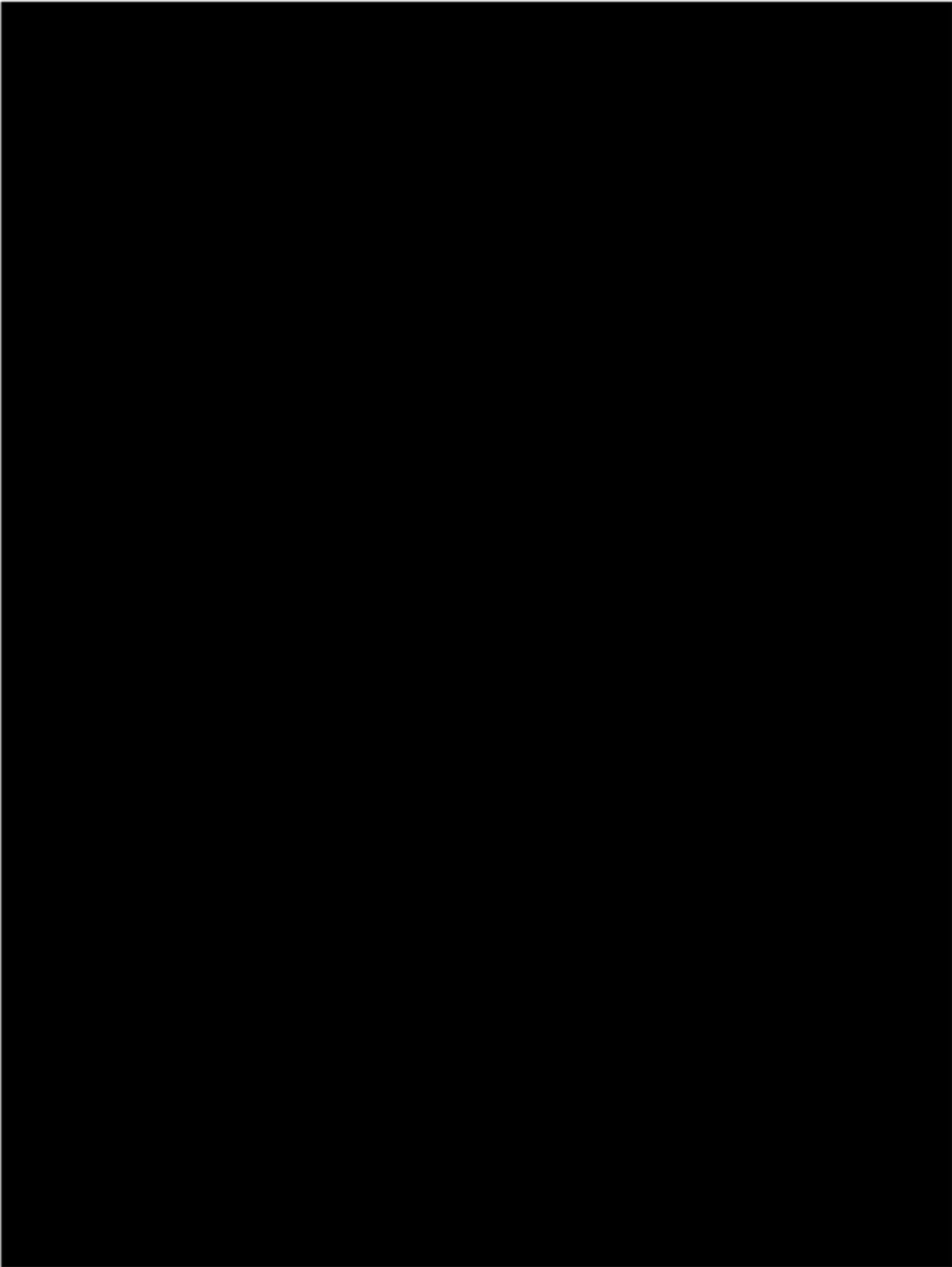


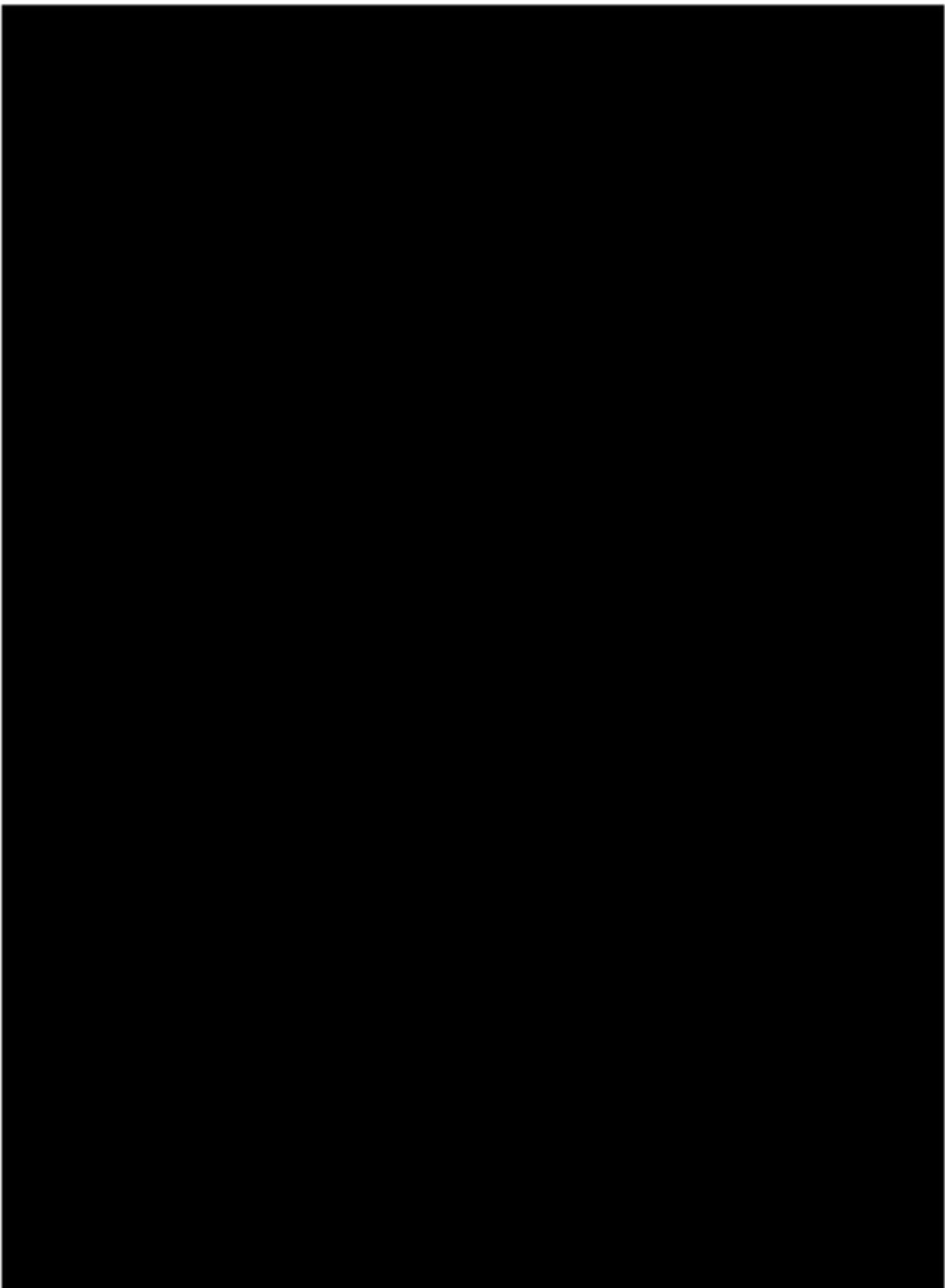
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III. Securities and Commodities Fraud

A. Trials

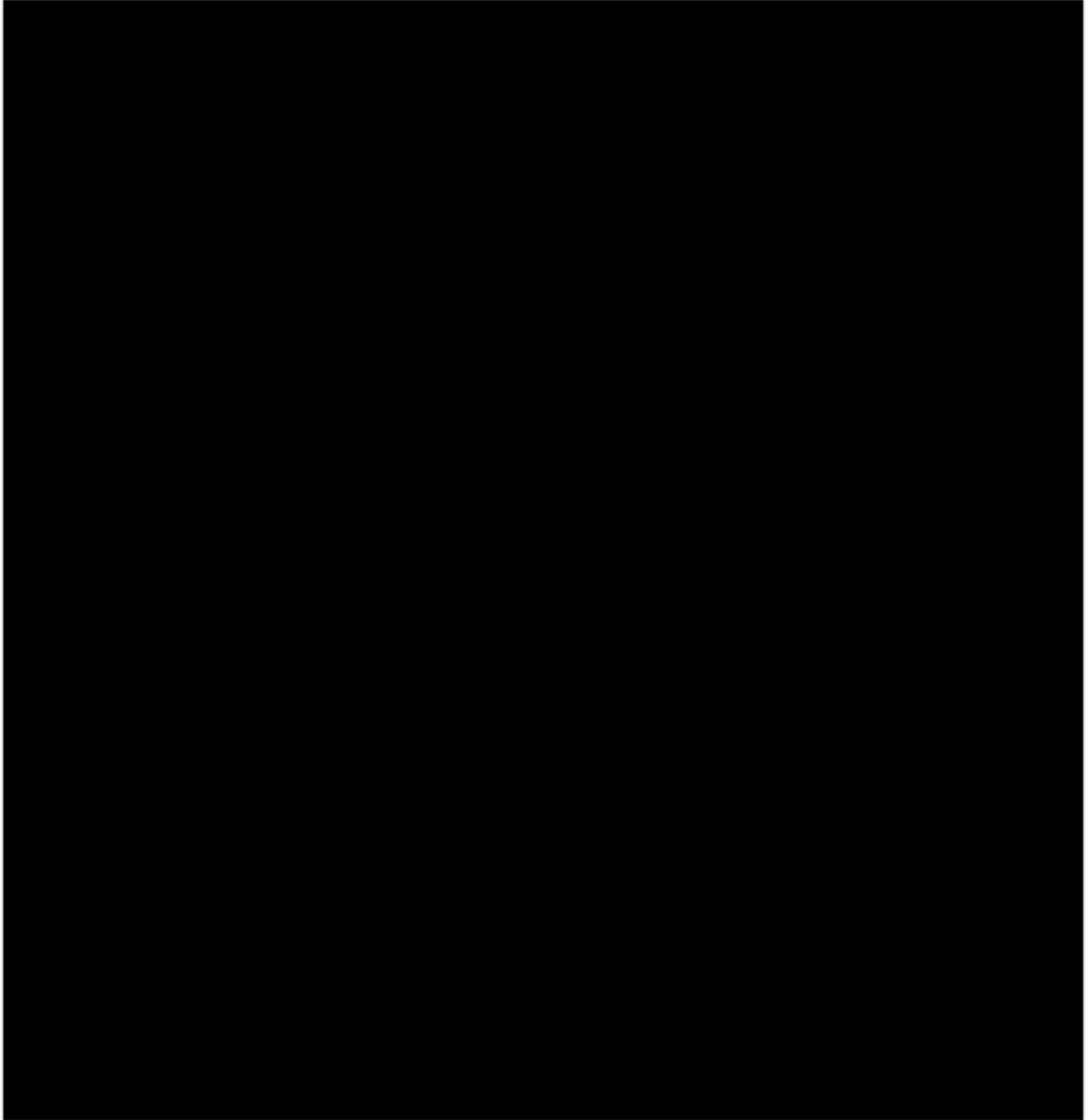
- 8/5/19 **U.S. v. Margulies** 17 Cr. 638 (JSR) (USAO # 2017R00996) (Tekeei/Magdo). Securities fraud scheme involving several companies run by Lisa Bershan, the creator of Incredible Edibles, her husband Barry Schwartz, and another individual named Joel Margulies. Bershan, Schwartz, and Margulies created a company called Starship Snacks that purported to be in the business of developing a caffeinated chocolate. Approximately \$2 million was raised to support operations, but the majority appears to have been misappropriated. Schwartz has pleaded guilty, Bershan plead guilty pursuant to a cooperation agreement, and Margulies is going to trial. With respect to Bershan, we discovered that Bershan has been tacitly participating in a new investor scheme and lied to us when confronted about it, so we are not calling her as a witness. **The matter was transferred to Judge Rakoff for trial.**
- 9/9/19 **U.S. v. Sean Stewart**, 15 Cr. 287 (JSR) (Enzer/Cooper) (USAO # 2015R001626): In the wake of a recent Second Circuit decision reversing the trial conviction of Sean Stewart, a former managing director at the investment banking firm Perella Weinberg Partners, for tipping his father (and co-defendant Robert Stewart) with material nonpublic information about five health care company acquisitions before they were publicly announced, we have given notice of our intent to retry Sean Stewart. Stewart has retained new counsel at Fried, Frank for the retrial.
- 10/21/19 **U.S. v. Britt**, 18 Cr. 36 (JPO) (Estes/Graham/Bell) (USAO # 2017R00493): This matter relates to the conversion and use of confidential inspection information from the PCAOB by KPMG insiders to facilitate improved performance by KPMG in PCAOB inspections, the results of which are passed on to the SEC. We recently tried and convicted two defendants David Middendorf and Jeff Wada. Britt was severed from the February trial for health reasons.
- 11/5/19 **U.S. v. Ziskind, et al.**, 18 Cr. 375 (VSB) (USAO # 2017R00773) (Thomas/Boone): This investment fraud case with the FBI involves a group of individuals using the shares of a do-nothing, but legally formed, corporation called Digital Donations to solicit investments from folks around the country. Trial appears likely for at least two defendants. One defendant has begun proffering in hopes of receiving a cooperation agreement.

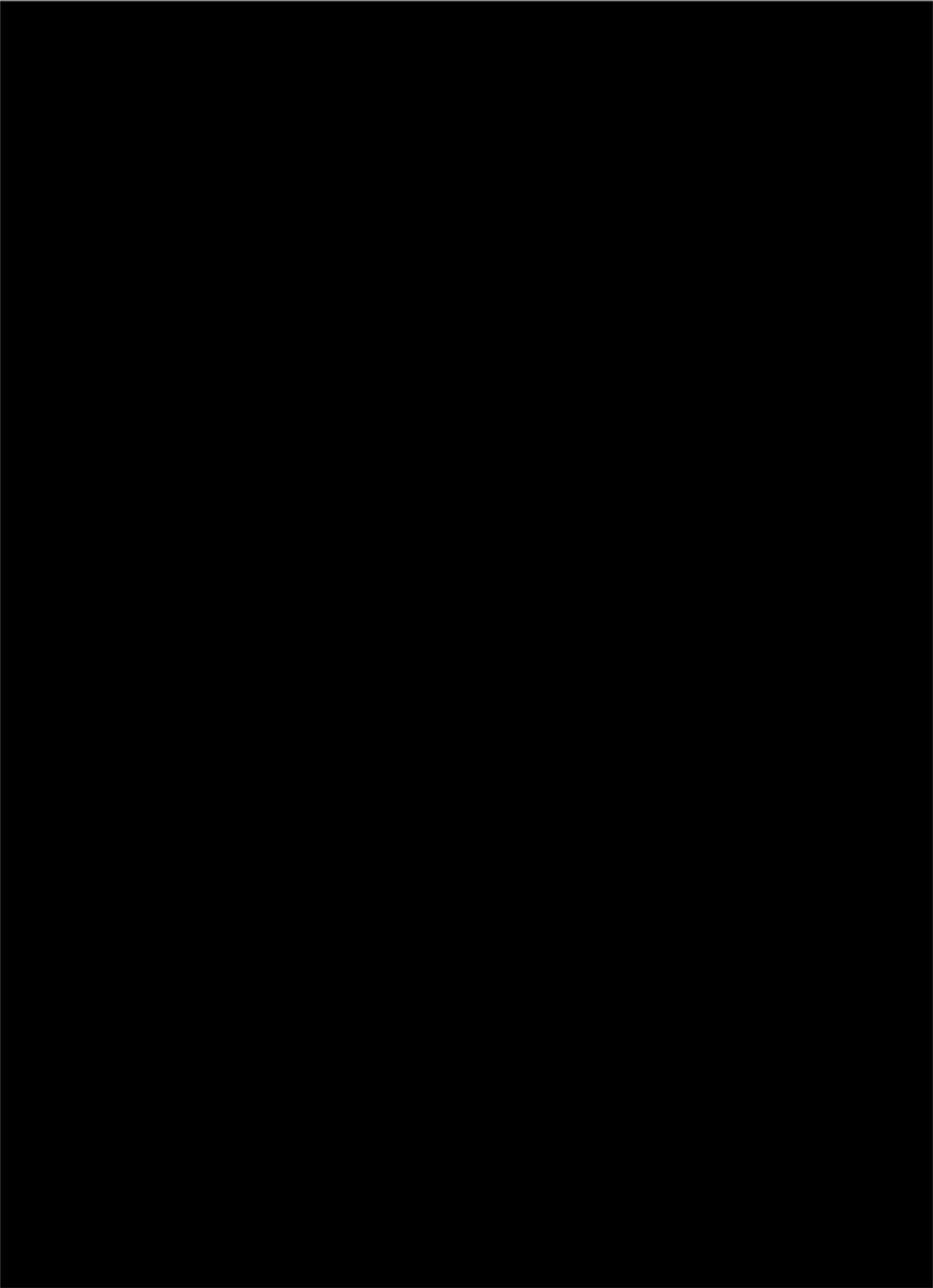
- 12/9/19 U.S. v. John Geraci, 18 Cr. 715 (AJN) (Lenow/Skinner) (USAO # 2016R00593): In August 2015, the defendant advised a married couple to invest more than \$2 million in a fund jointly created by the defendant and Nicholas Mitsakos, based in part on Mitsakos's claimed past trading performance. In December 2015, the defendant learned that Mitsakos had taken hundreds of thousands of dollars of the victims' money for his own personal use. The defendant also learned shortly thereafter that Mitsakos never had any other assets under management and that his past trading performance was entirely fictional. The defendant did not inform the victims of this; instead, he continued to send statements and updates as if their \$2 million investment was earning substantial returns. The defendant continued lying to the victims while the defendant recovered more than \$1 million of the victims' money, which he used for his own personal and business expenses and never returned to the victims. Mitsakos has pleaded guilty to his role in the offense. We recently learned that the victims of the fraud are subjects in a health care fraud investigation being conducted by another district, and we have been reviewing materials from that other investigation to assess whether our victims were in fact involved in unlawful conduct.
- 2/3/20 U.S. v. Collins et al., 18 Cr. 567 (VSB) (USAO # 2017R01052) (Hartman/Williams/Nicholas): Congressman Christopher Collins, his son Cameron Collins, and his son's future father-in-law Stephen Zarsky have been indicted for insider

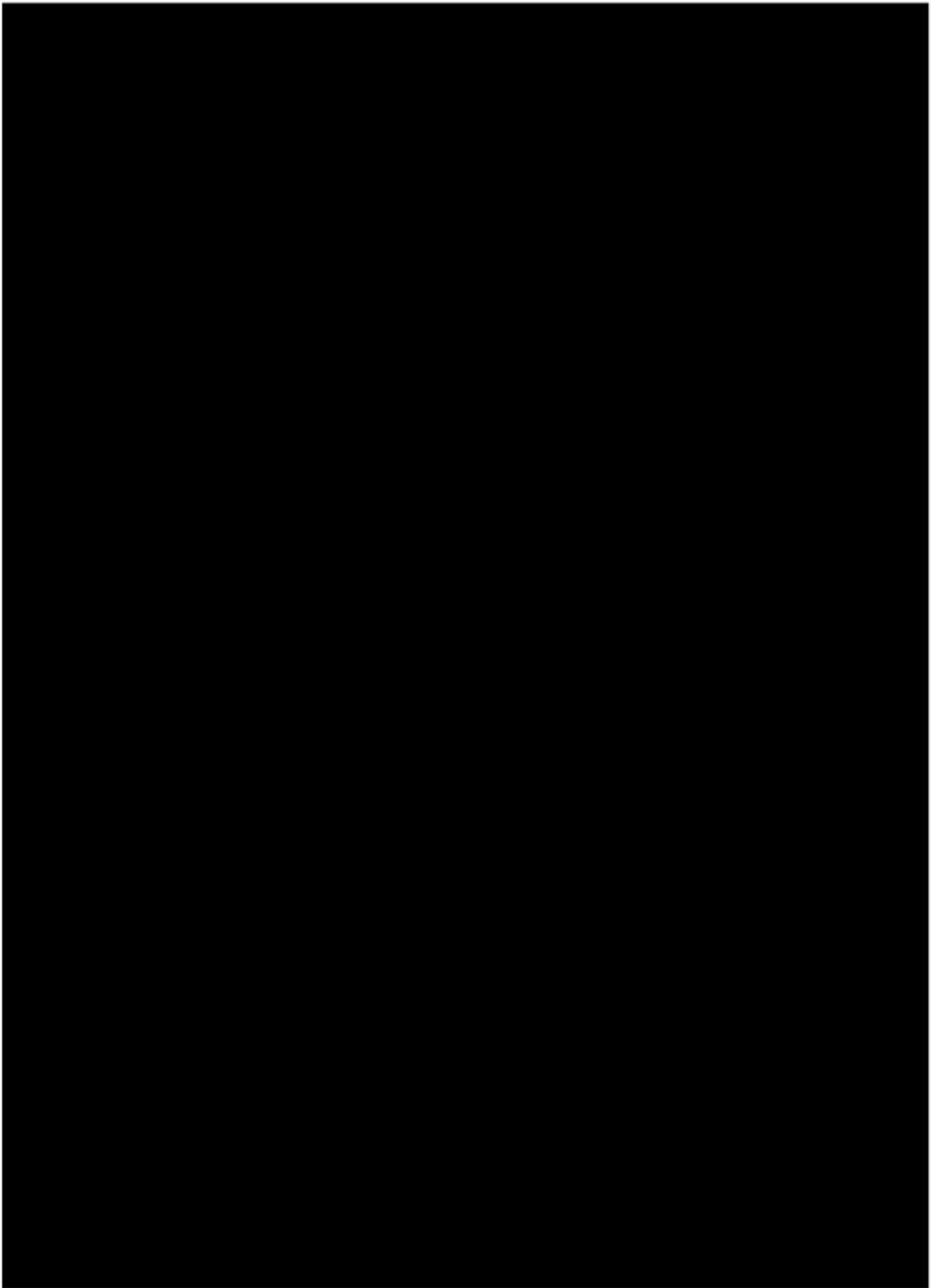
trading. We have produced discovery and Judge Failla has stayed the parallel SEC action. We responded to an initial round of defense motions, which are now *sub judice*. We plan on superseding next week to eliminate (a) any speech or debate issues at this stage of the case in order to avoid a lengthy interlocutory appeal (b) any multiple conspiracies arguments down the line. The remaining motions are to be filed in summer 2019. Trial is scheduled for February 2020.

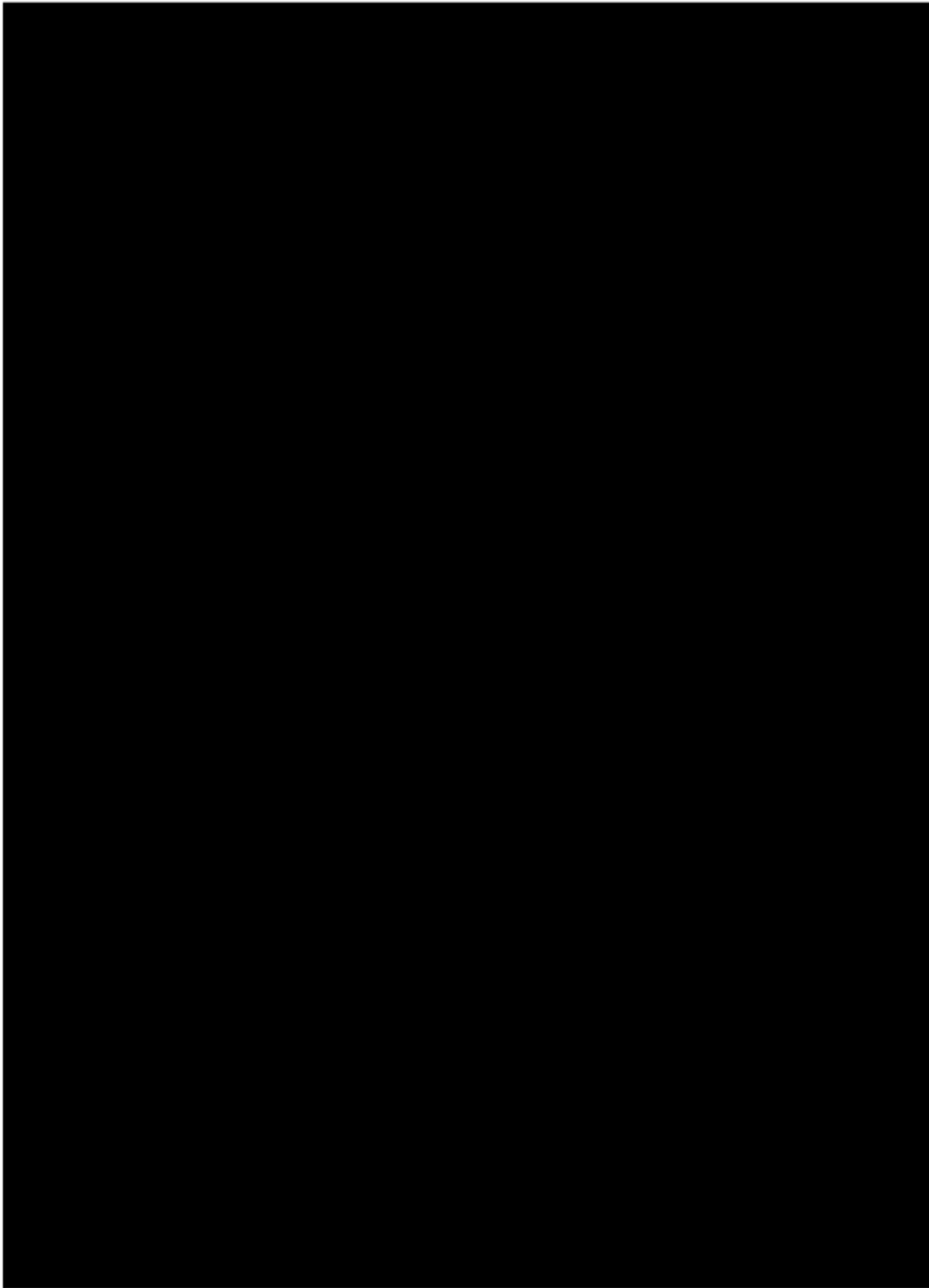
B. Significant Developments in Cases

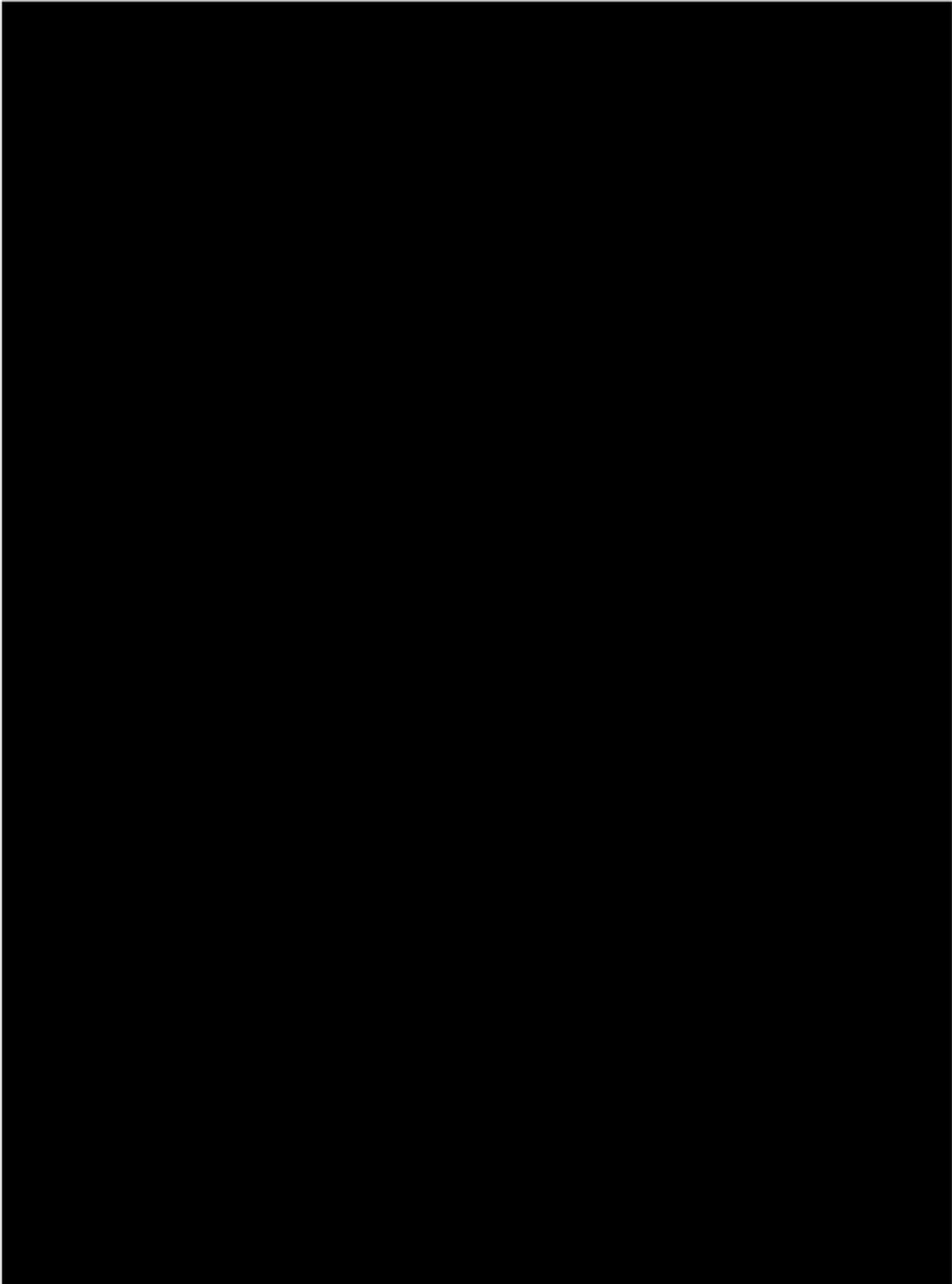
1. Market Manipulation/Spoofing Cases

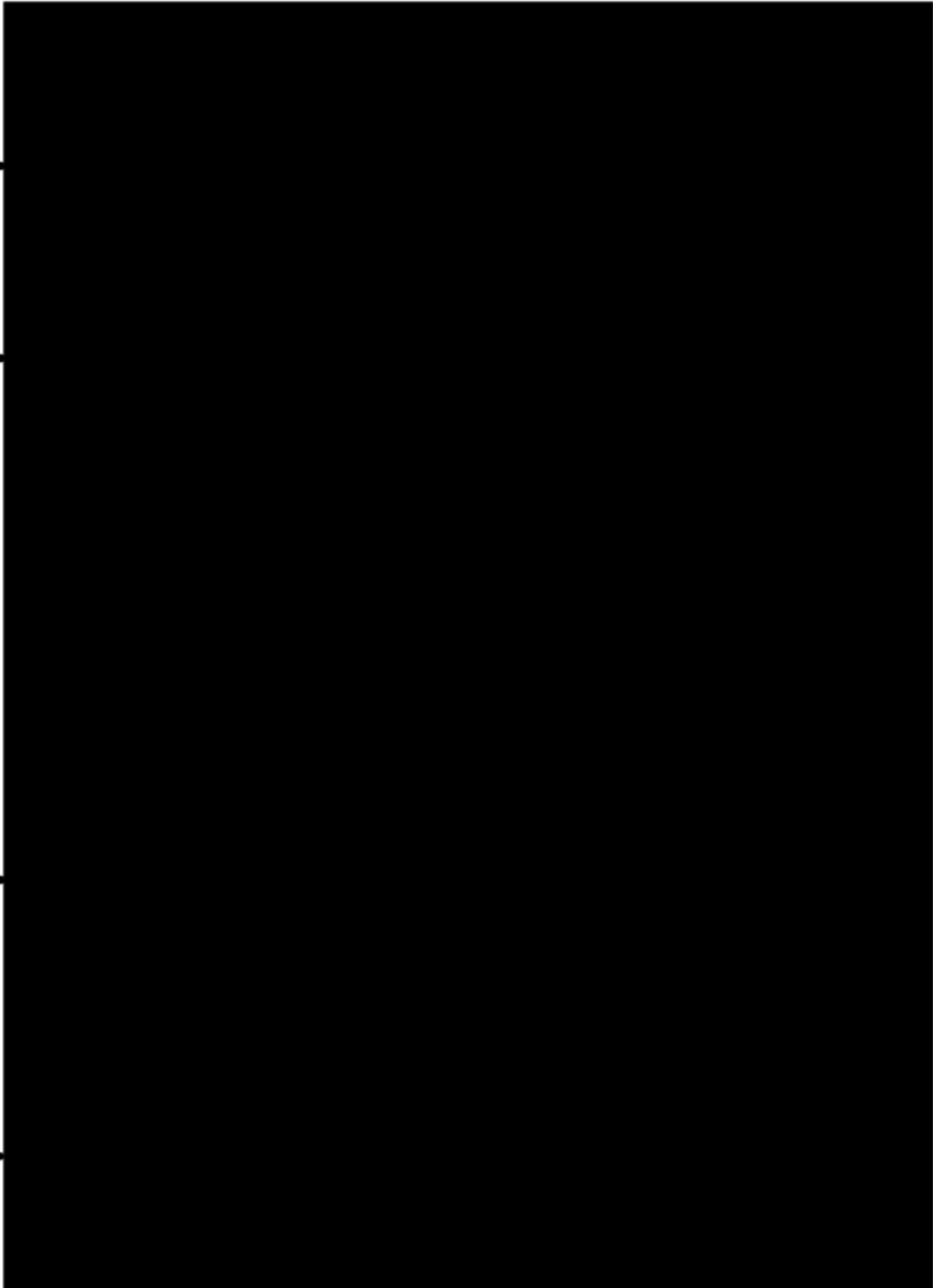


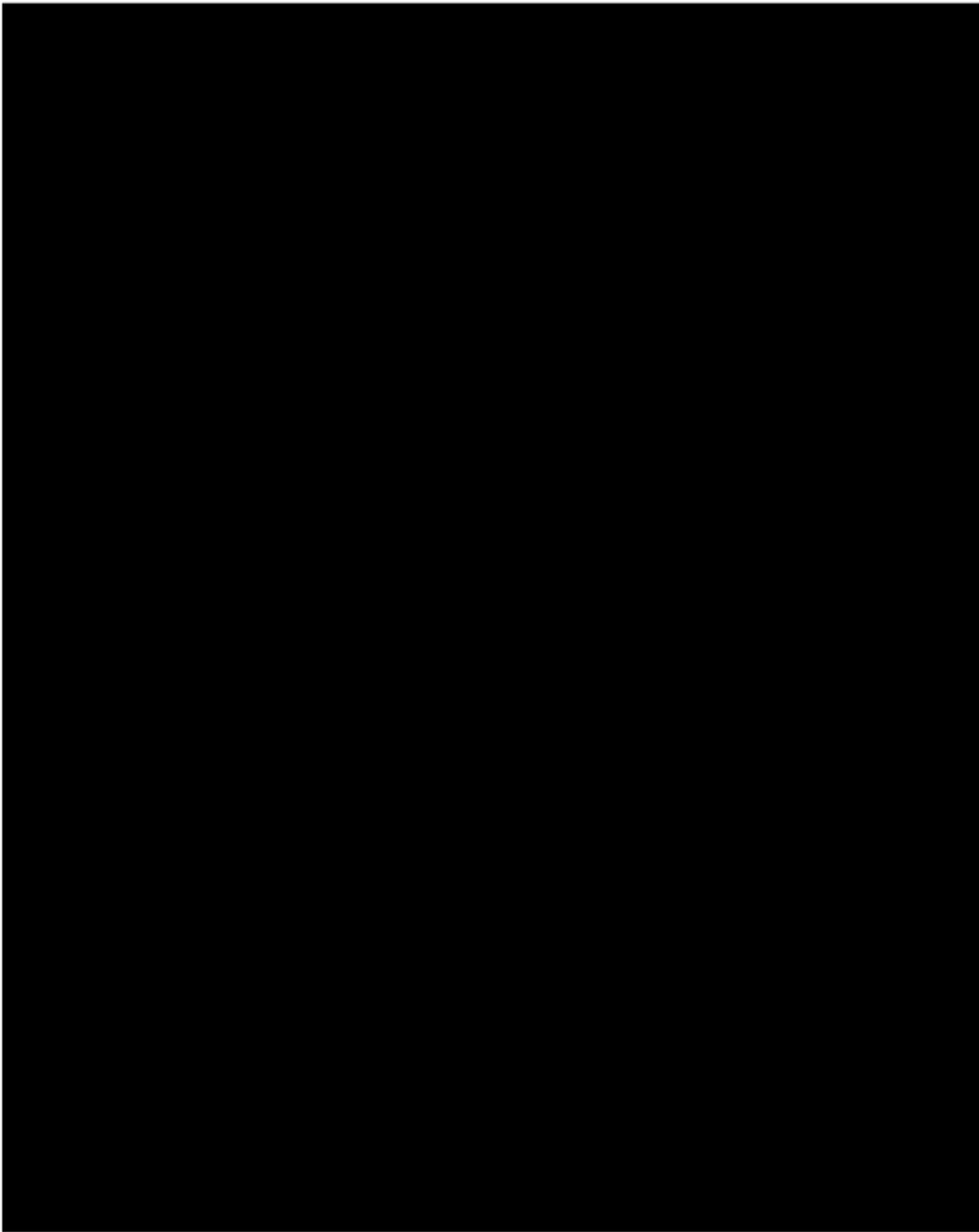


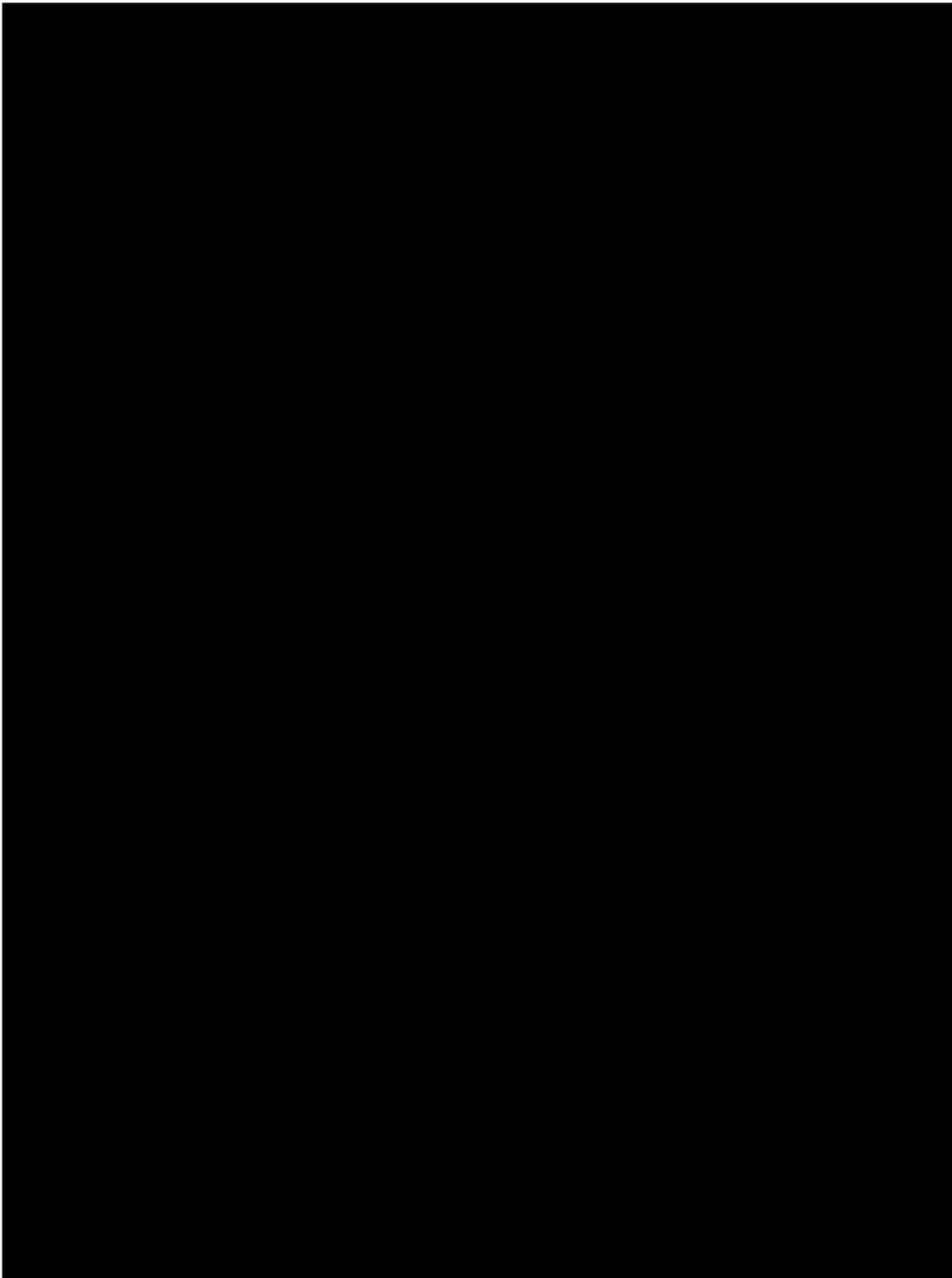


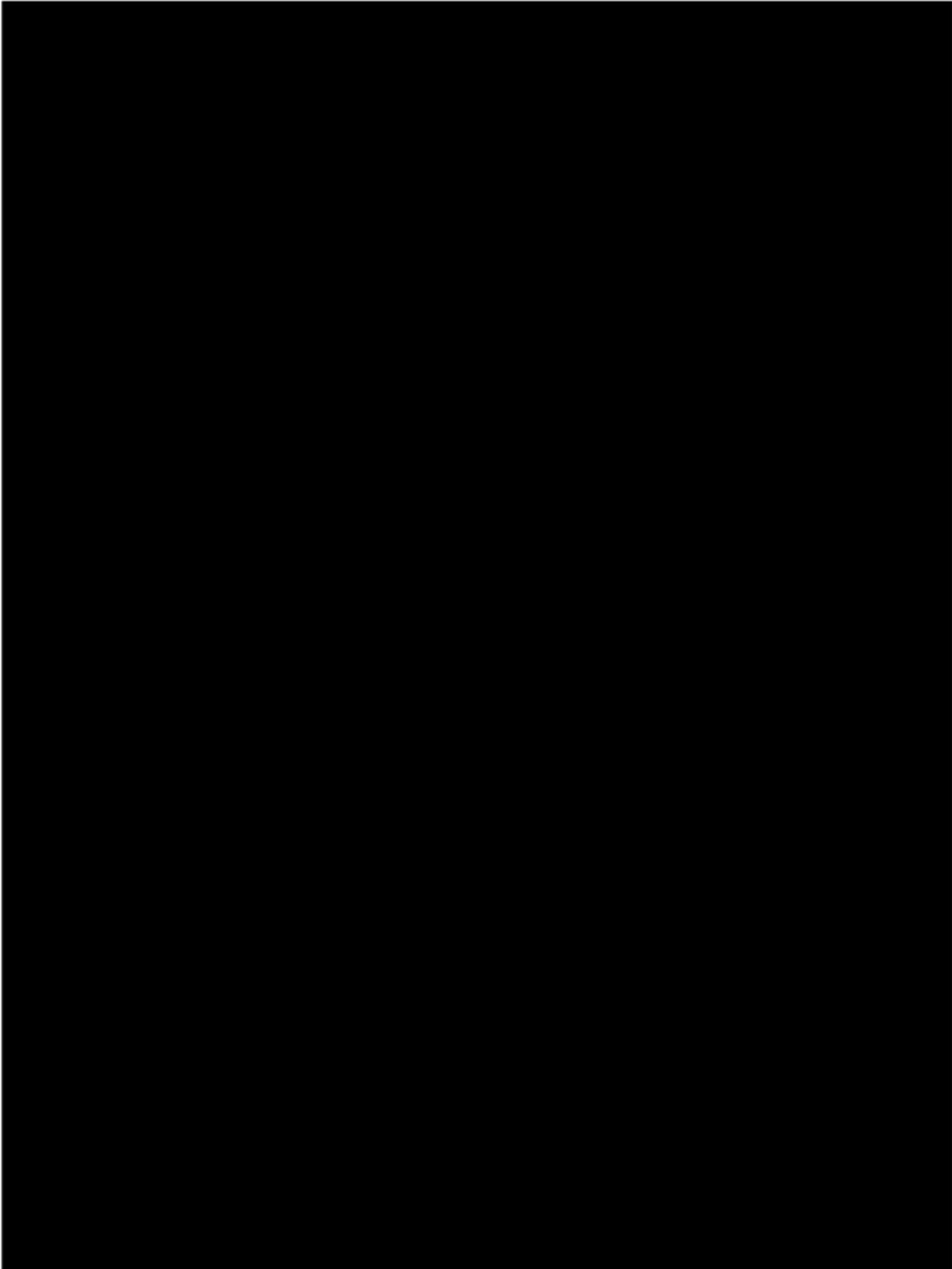


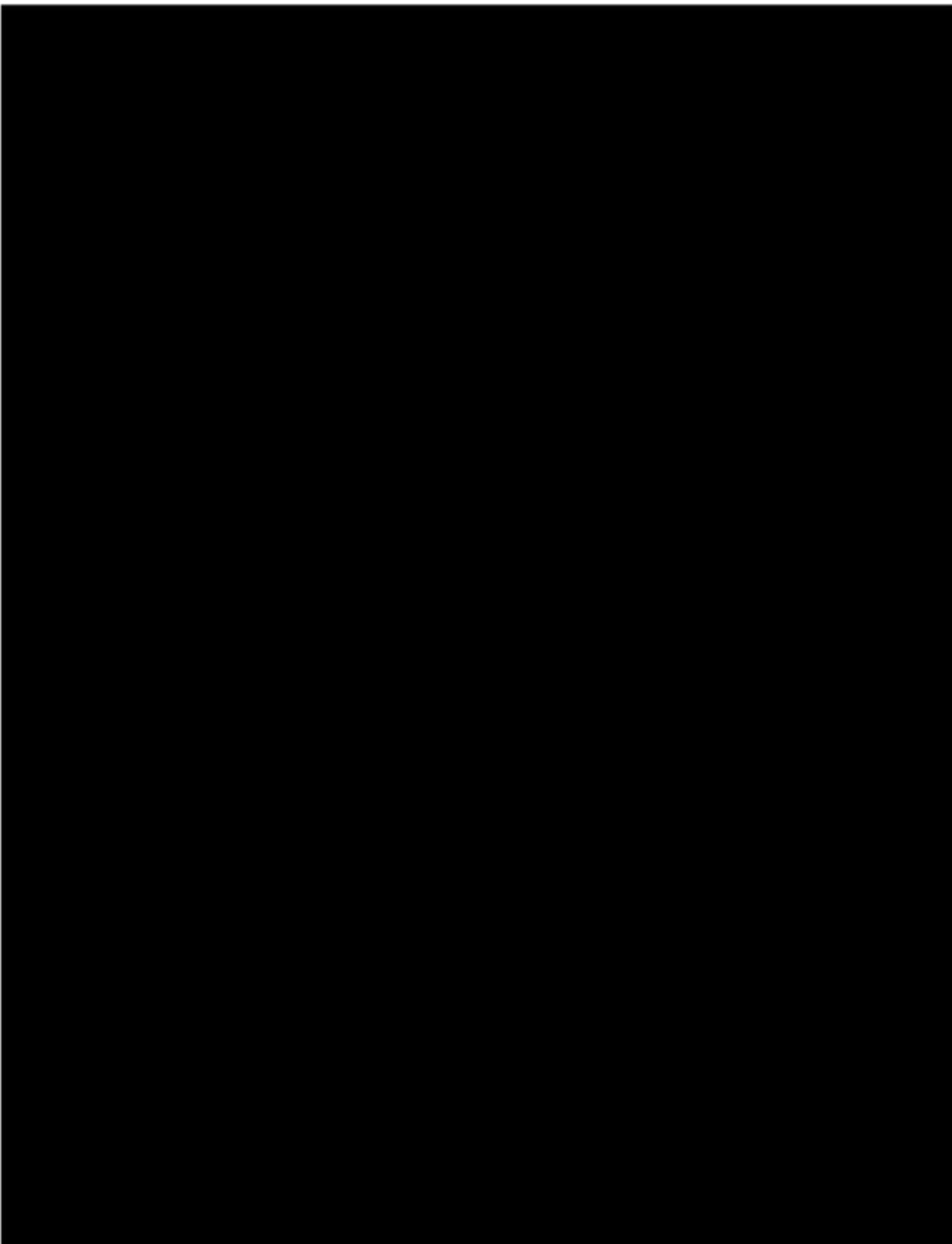


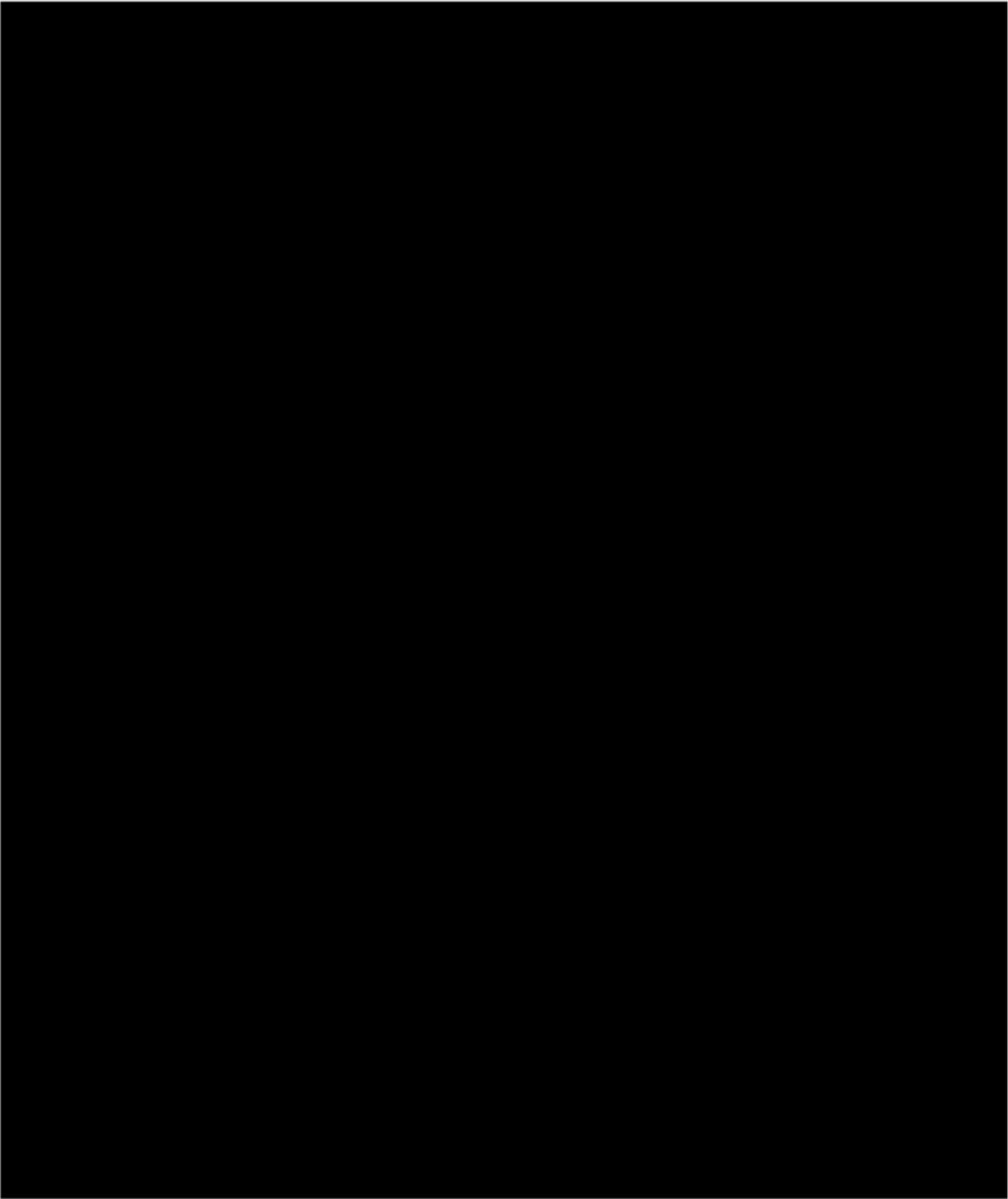




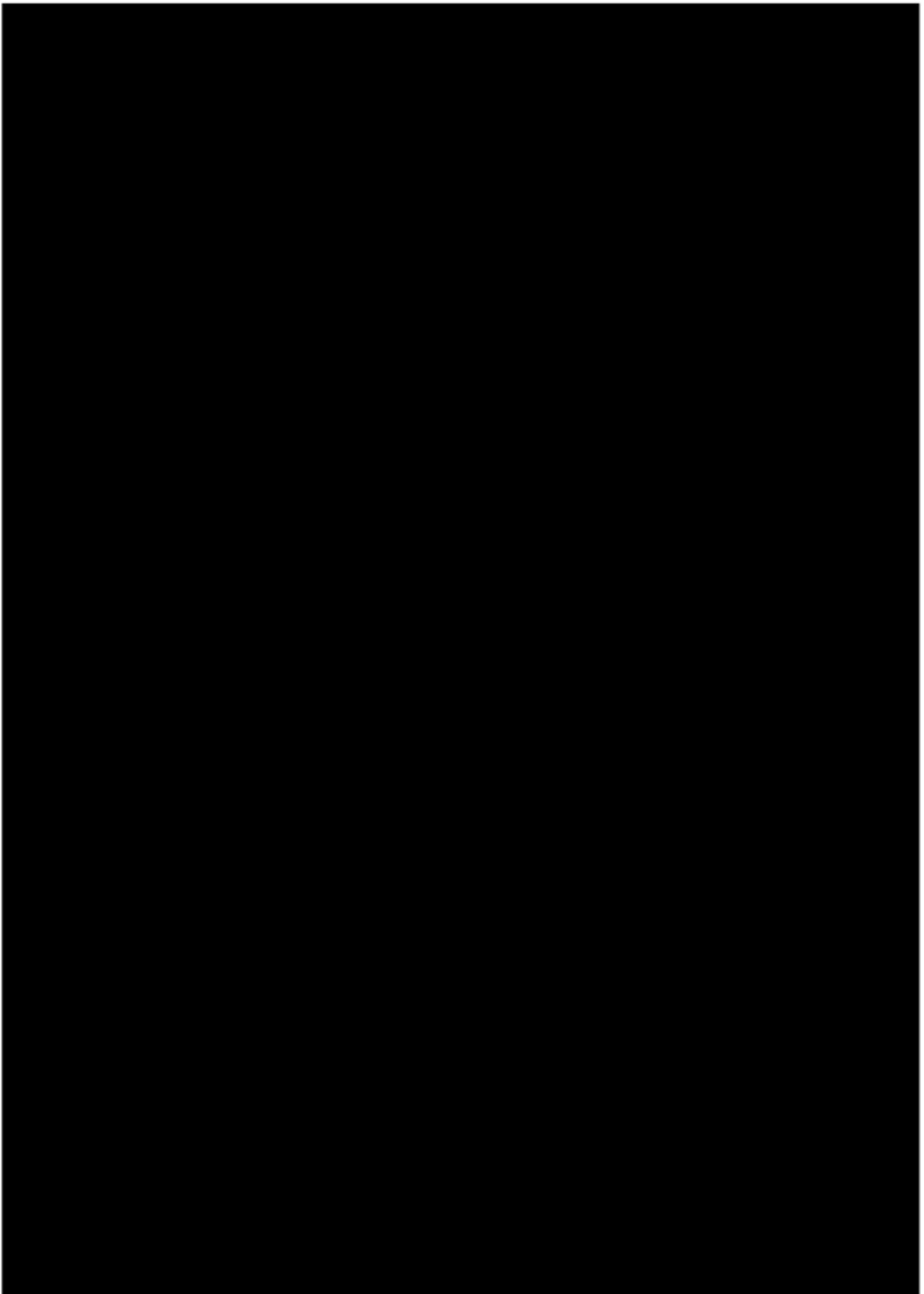


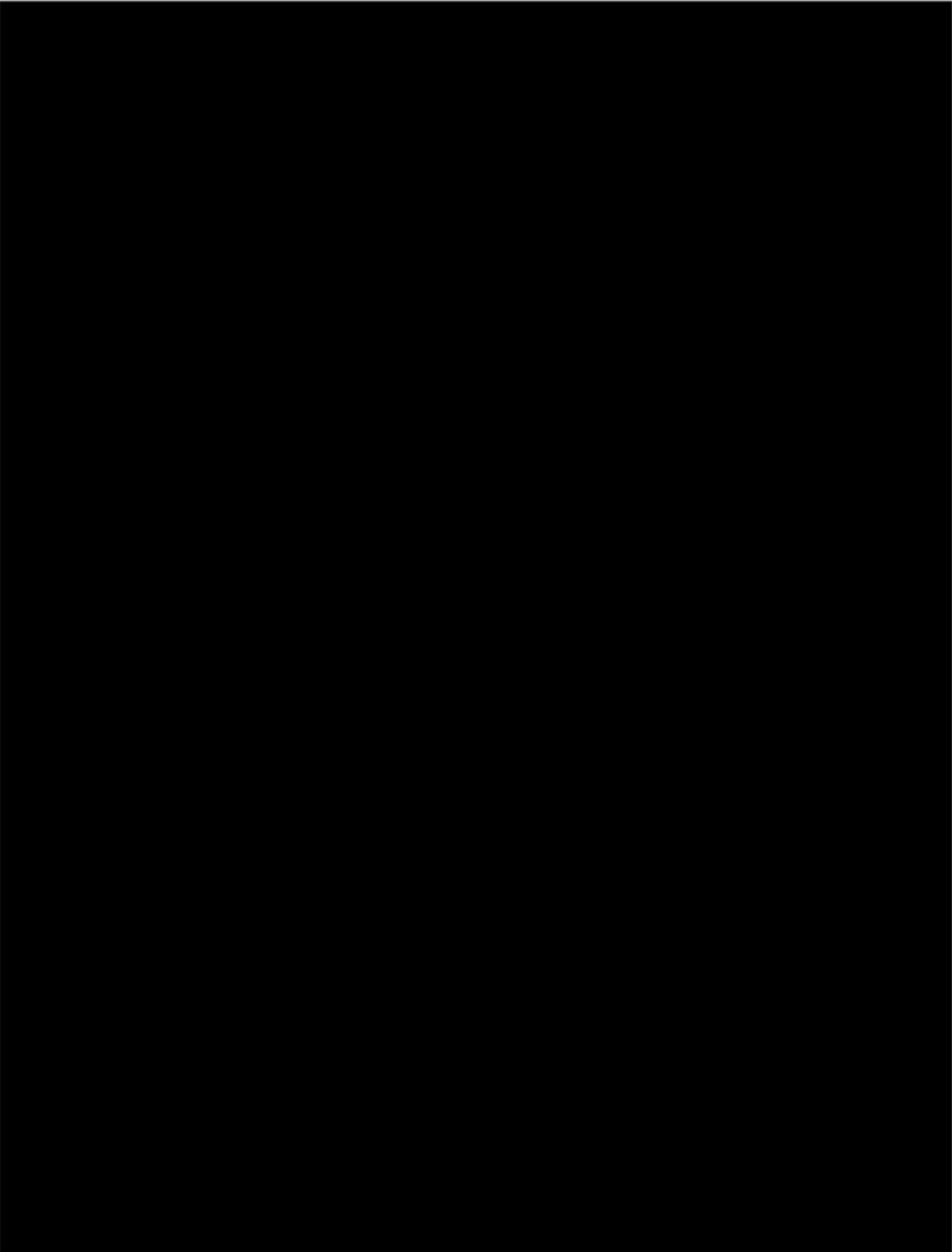






5. Crypto





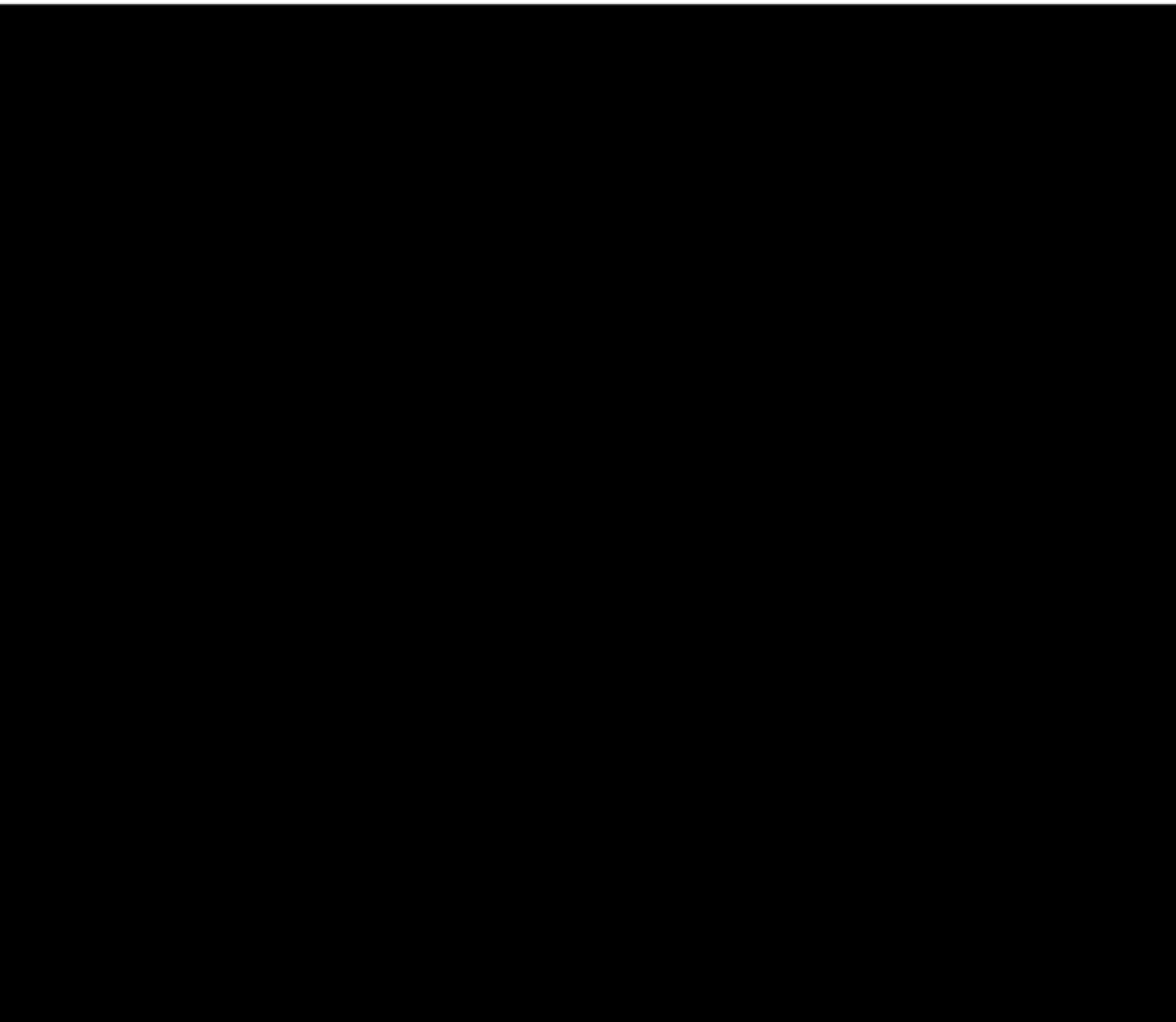


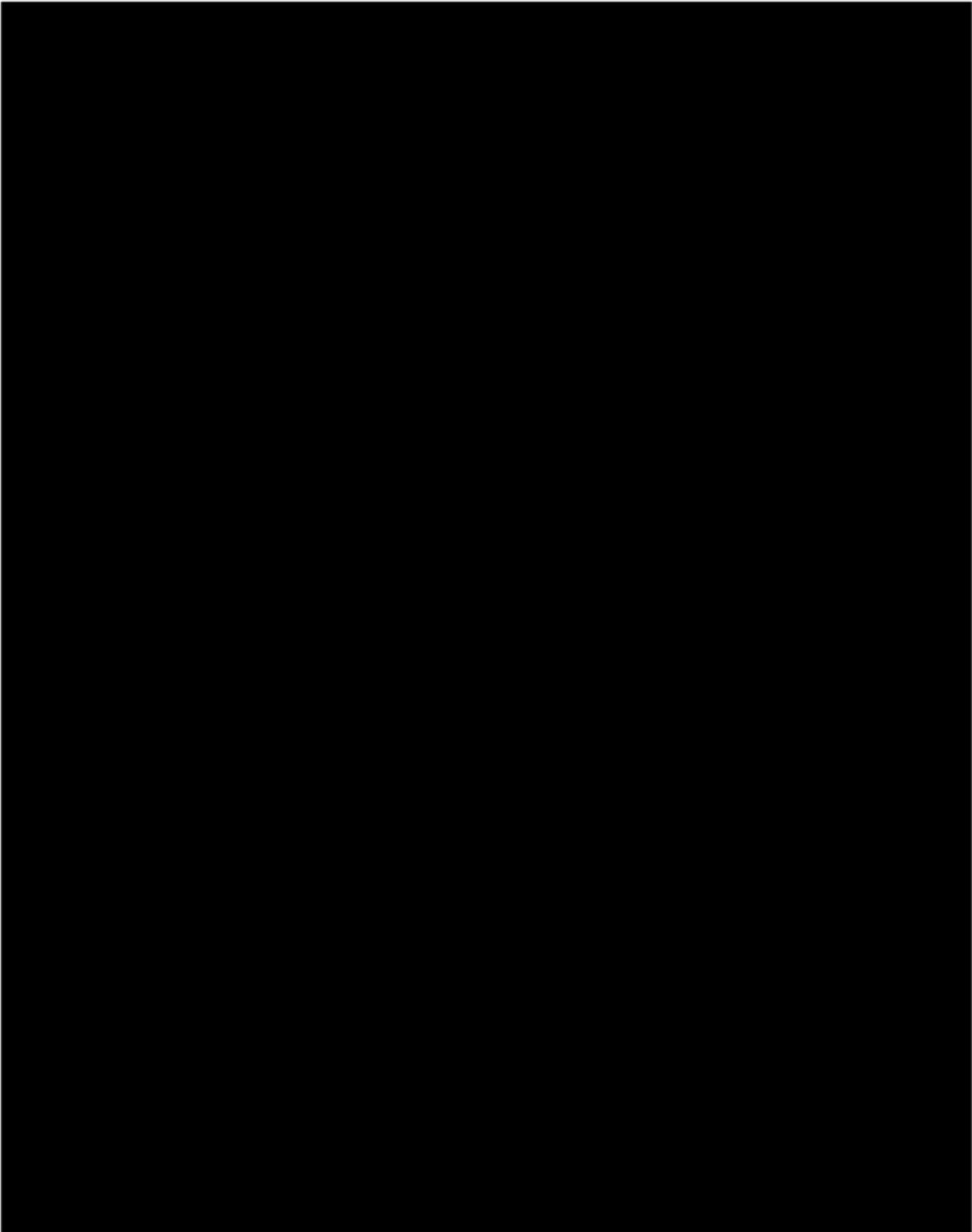
C. Cases We Monitor

- **U.S. v. Tanner and Davenport** (USAO # **2015R00526 LGB**) (Cooper/Kramer): In a May 2018 trial, defendants Gary Tanner and Andrew Davenport were convicted of committing honest-services wire fraud and money laundering in connection with a bribery scheme that defrauded pharmaceutical company Valeant. **Oral argument was held on June 24.**

IV. Public Corruption

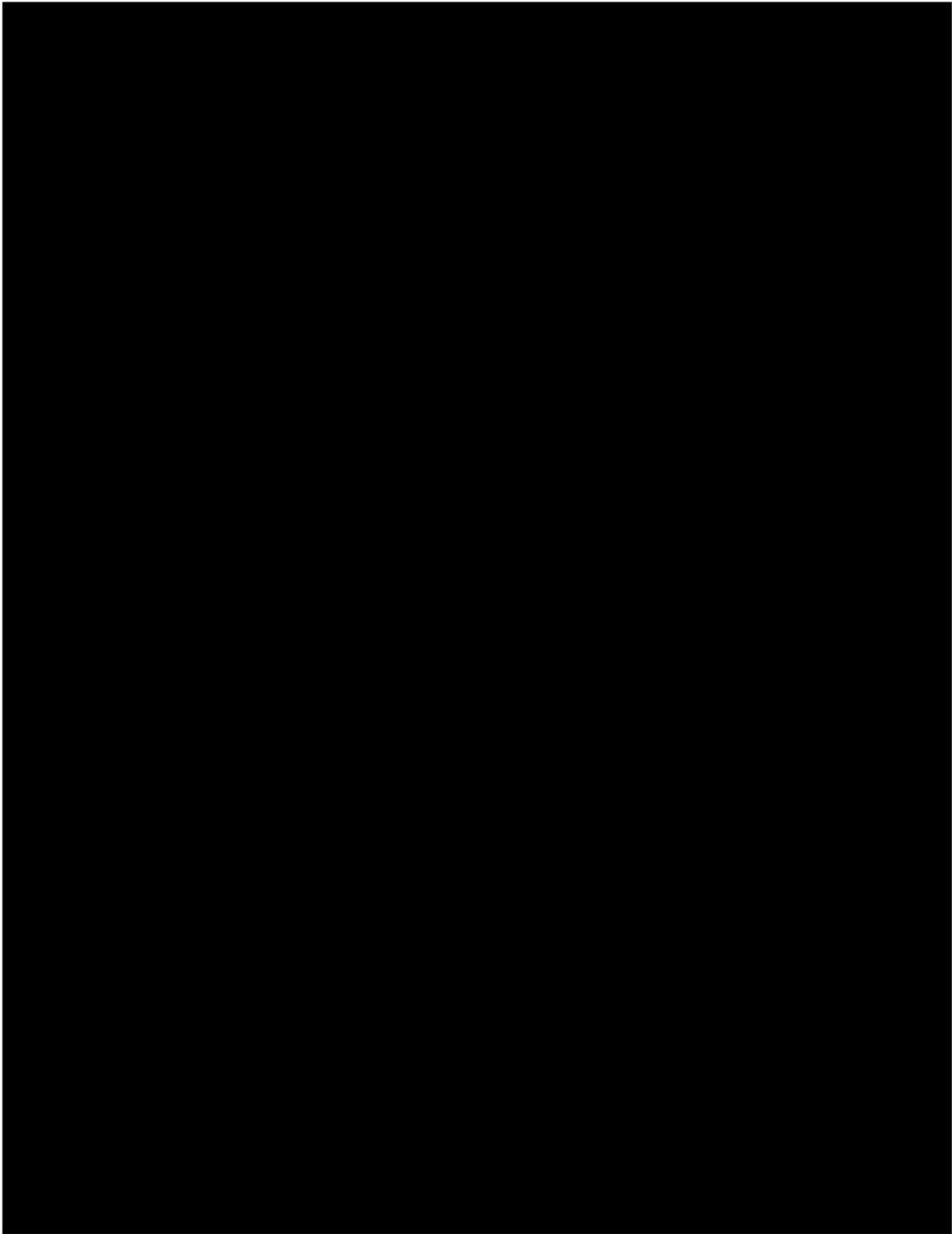
A. Significant Developments in Cases

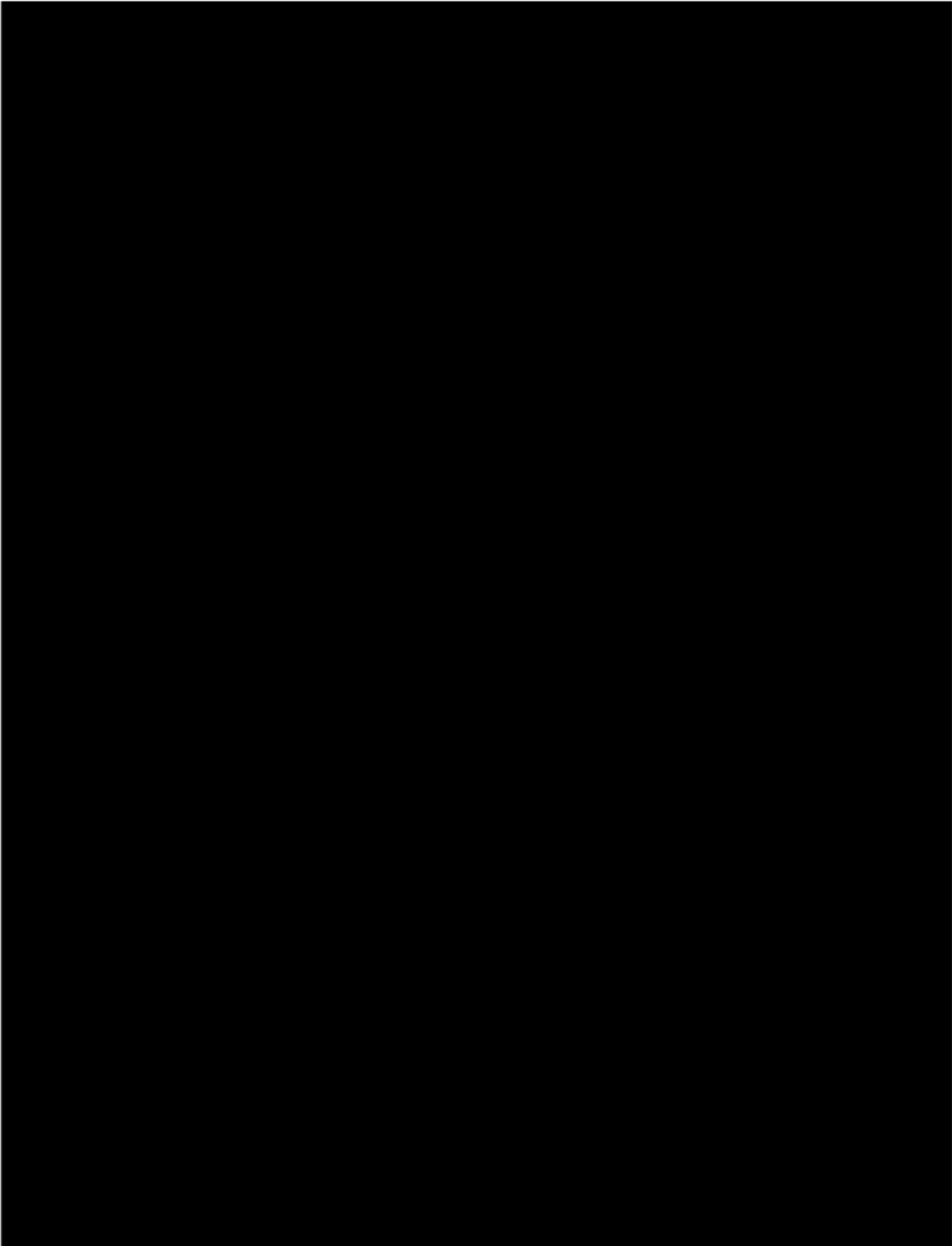


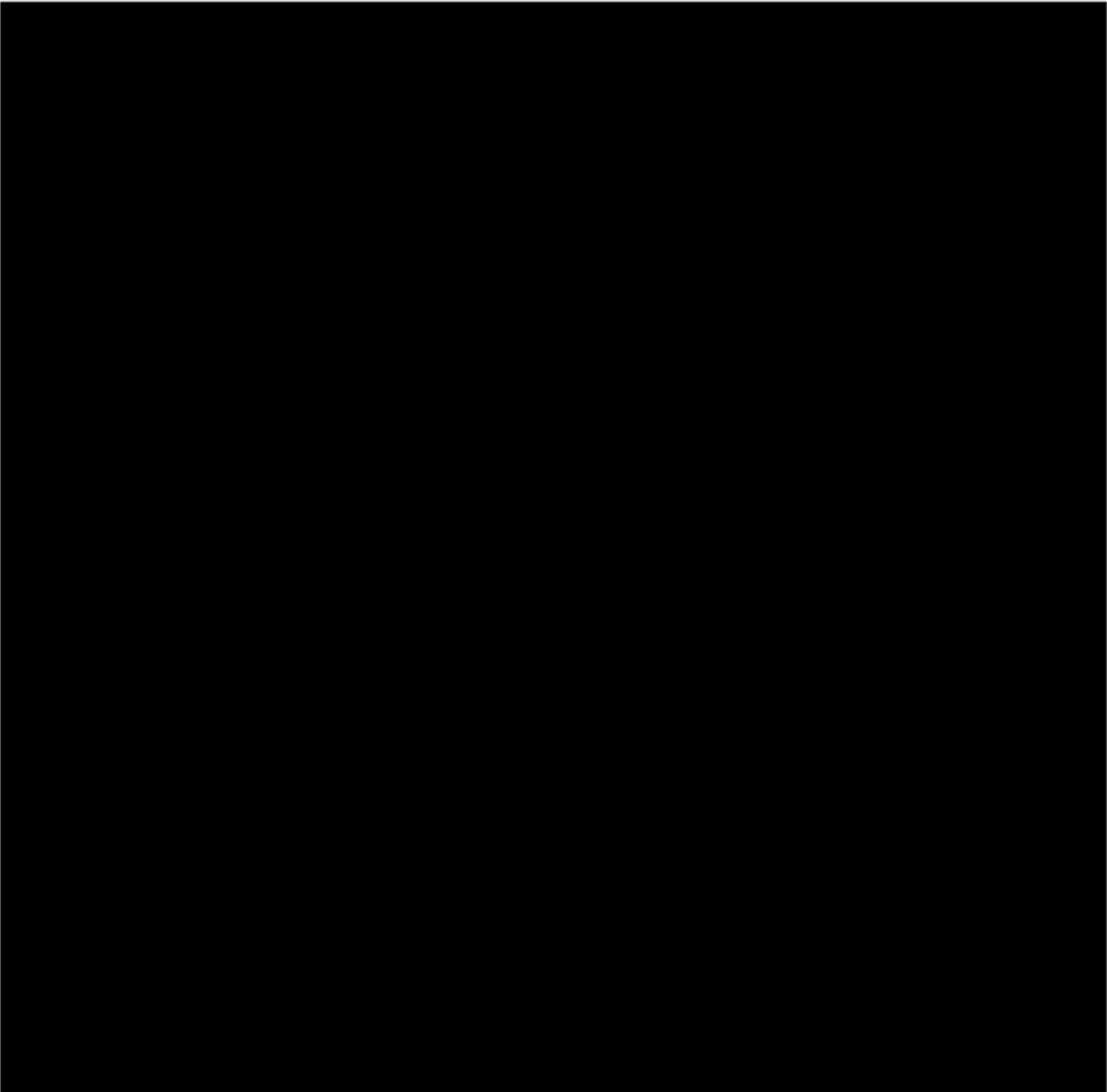


- In re: Jeffrey Epstein (USAO # 2018R01618) ([REDACTED]): Along with the FBI, we are investigating allegations that, over the course of a decade or more, Jeffrey Epstein sexually abused dozens of minors, including minors who were transported to/from New York for the purpose of being sexually abused. In 2008, Epstein resolved a then-pending federal investigation being run by the U.S. Attorney’s Office for the Southern District of Florida with a Non-Prosecution Agreement (the “Florida NPA”). The Florida NPA, which is by its terms binding on only that office, purported to immunize not only Epstein, but a number of his alleged co-conspirators, including “bookers” (one of whom was based in New York) responsible for scheduling Epstein’s “massages” with under-aged girls. **Earlier this month, we indicted Epstein on one count of conspiracy to commit sex trafficking and one substantive count of sex trafficking. The substantive count targets exclusively abuse that occurred in Manhattan – predicated principally on the testimony of one victim, who recruited dozens of additional victims for Epstein – whereas the conspiracy count captures conduct in both Manhattan and Florida. Epstein was arrested upon arriving at Teterboro airport from Paris, France, and was detained by Judge Berman pending trial. [Information from conference]. We are continuing our investigation, and since the charges have interviewed numerous additional victims, several of whom will likely serve as witnesses. We have also engaged with counsel for several of his accomplices and/or employees, and conducted an initial proffer with one such former employee, [REDACTED], who herself was young (though not underage) and abused by Epstein while at the same time scheduling “massages” for him. We have interviewed other victims who Epstein affirmatively sexually assaulted, including a minor New York victim and a Florida (non-minor) victim who was assaulted by Epstein in his office *while* serving his state sentence on the original charges.**









B. Upcoming Trials

- 8/26/19 U.S. v. Cordell Fitts (USAO # 2018R01253) (Rossmiller/Jude) (J. Abrams) (**PC**): Civil rights trial against NYC Department of Homeless Services police officer for engaging in excessive force against a homeless patient at a DHS facility.
- 11/18/19 U.S. v. Michael Avenatti (USAO # 2019R00279) (Podolsky/Boone/Sobelman) (J. Gardephe) (**PC**): Charges of extortion against Avenatti.

1/21/20 U.S. v. Edwards (USAO # 2018R00675) (Richenthal/Ravener) (J. Woods) (**PC**): Charges of unlawfully disseminating suspicious activity reports (SARs) against a high-level FINCEN employee. Judge Woods has set a January 2020 trial date.

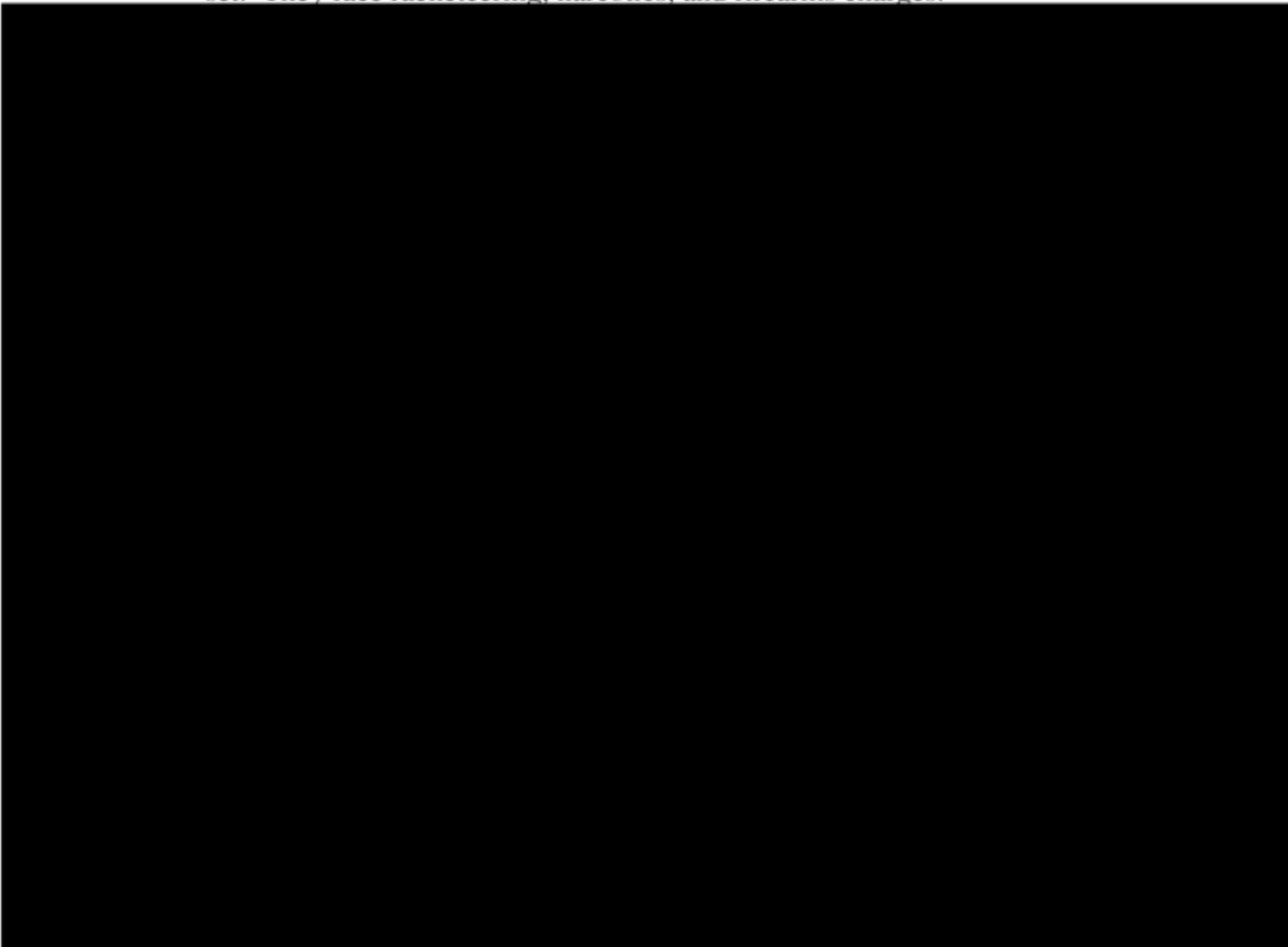
V. Violent & Organized Crime

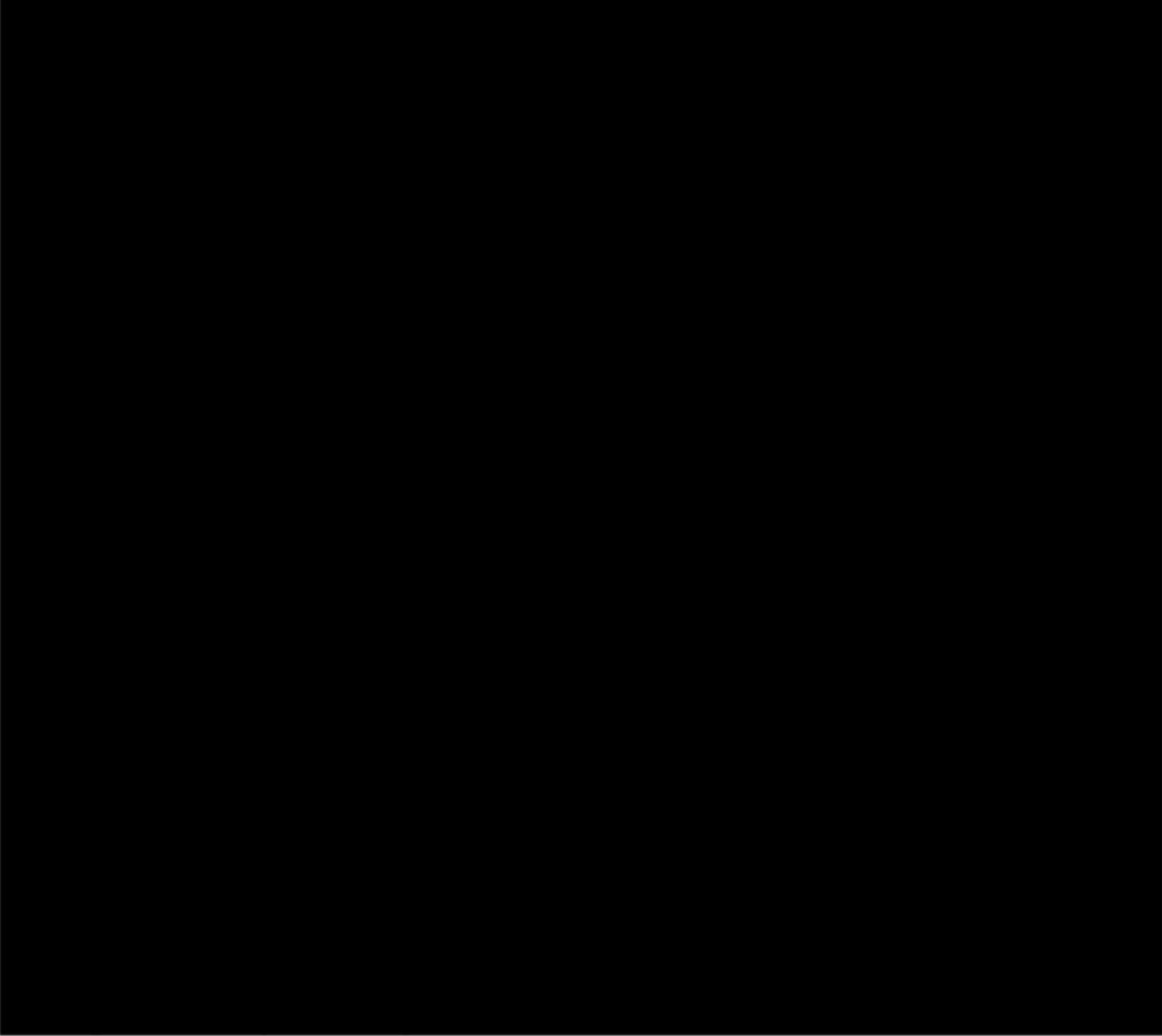
A. Upcoming Trials

9/3/19 U.S. v. Hall (DLC) (USAO # 2018R01728) (Qian) (**VOC**). The defendant is charged with crack cocaine distribution.

9/3/19 U.S. v. Mack & Ellison (PAE) (USAO # 2018R00810 CAS!) (Warren/Longyear/Rebold) (**VOC**). The two remaining Nine Trey defendants face charges for racketeering conspiracy and other offenses.

9/9/19 U.S. v. Owen, et al. (VM) (USAO # 2015R00928) (Fender/Chow/Kelly) (**VOC**). The defendants are charged in connection with their membership in the Rollin 30s set of the Crips. Four defendants remain in the case, including the leader of the set. They face racketeering, narcotics, and firearms charges.





VI. Money Laundering and Transnational Criminal Enterprises

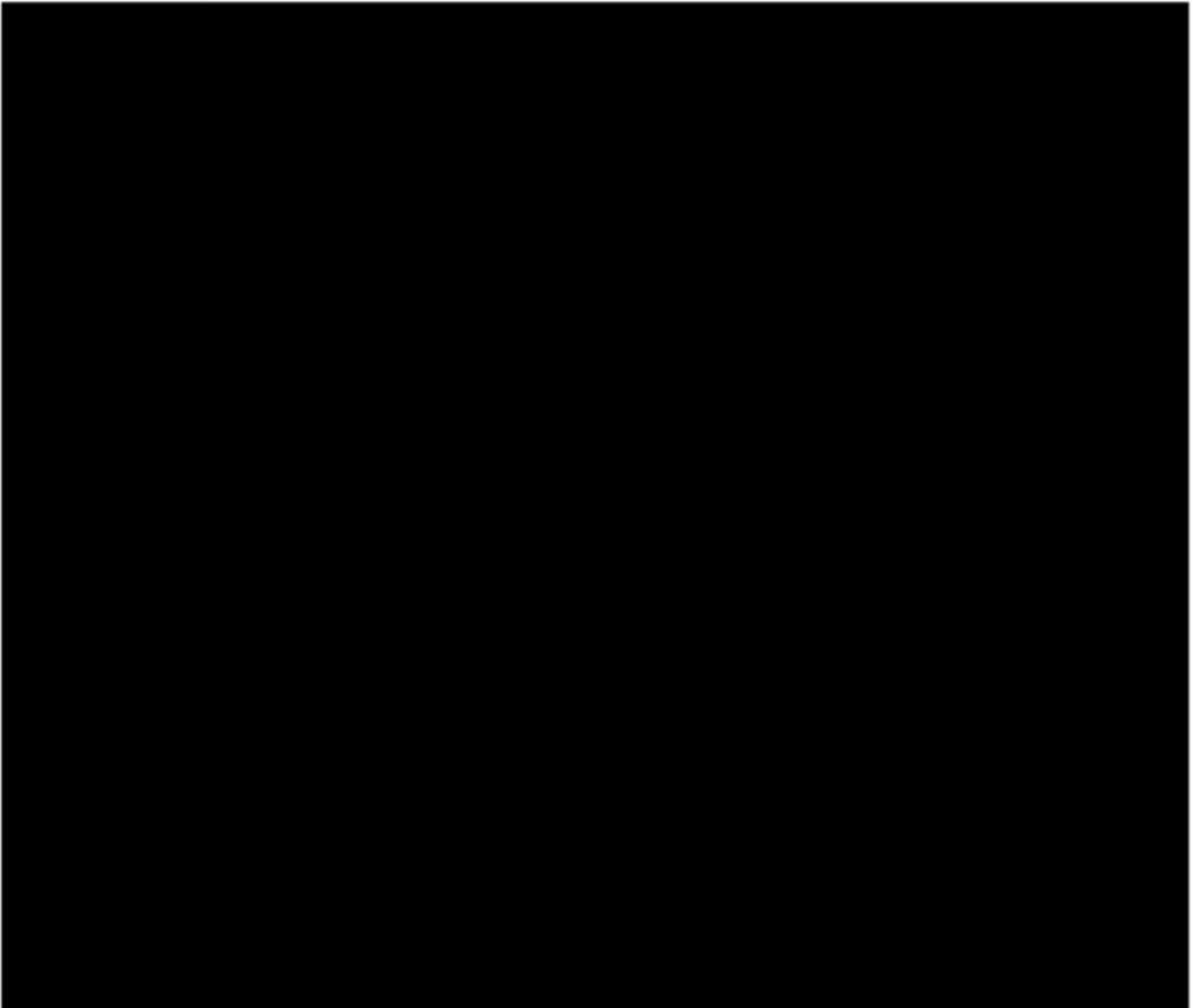
A. Upcoming Trial Update

- U.S. v. DiMarco and Von Ditmar (Falk/LaMorte) (USAO # 2018R00570): This is a trial against Antonio DiMarco and Joakim Von Ditmar, who are charged with wire fraud and aggravated identity theft for their participation in an ultimately unsuccessful scheme to defraud art galleries around the world, including Sotheby's Gallery in Manhattan, out of over \$150 million worth of fine art. In or about November 2017, DiMarco and Von Ditmar appropriated the identity of a Victim and attempted to purchase two works, a Rothko and a Reinhardt painting, for a purchase price in excess of \$7 million from Sotheby's. DiMarco and Von Ditmar entered into, or attempted to enter into, dozens of similar transactions with galleries worldwide, using the identities of multiple victims. Von Ditmar, the less culpable of the two, is actively proffering and we currently expect to

sign him up as a cooperator. Trial has been re-scheduled for October 24, to allow time for DiMarco to review new voluminous materials produced to the Government by Von Ditmar as part of his attempted cooperation.

- U.S. v. Von der Goltz and Gaffey (Panama Papers), 18 Cr. 693 (RMB) (Rehn/Choi) (USAO # **2016R00393 CAS!**): This is a joint MLAF/CFU investigation (with MLARS) into Mossack Fonseca (“MF”) and its principals and employees for money laundering, tax, and economic sanctions violations, among other potential offenses, arising out of their creation of shell corporations for the purpose of concealing ownership of assets for clients engaged in a wide range of criminal conduct. Trial of U.S. taxpayer Von der Goltz (who was extradited from the UK in late March) and U.S. accountant Gaffey, has been set for October 28. **See CFU update for the latest.**

B. Other Updates

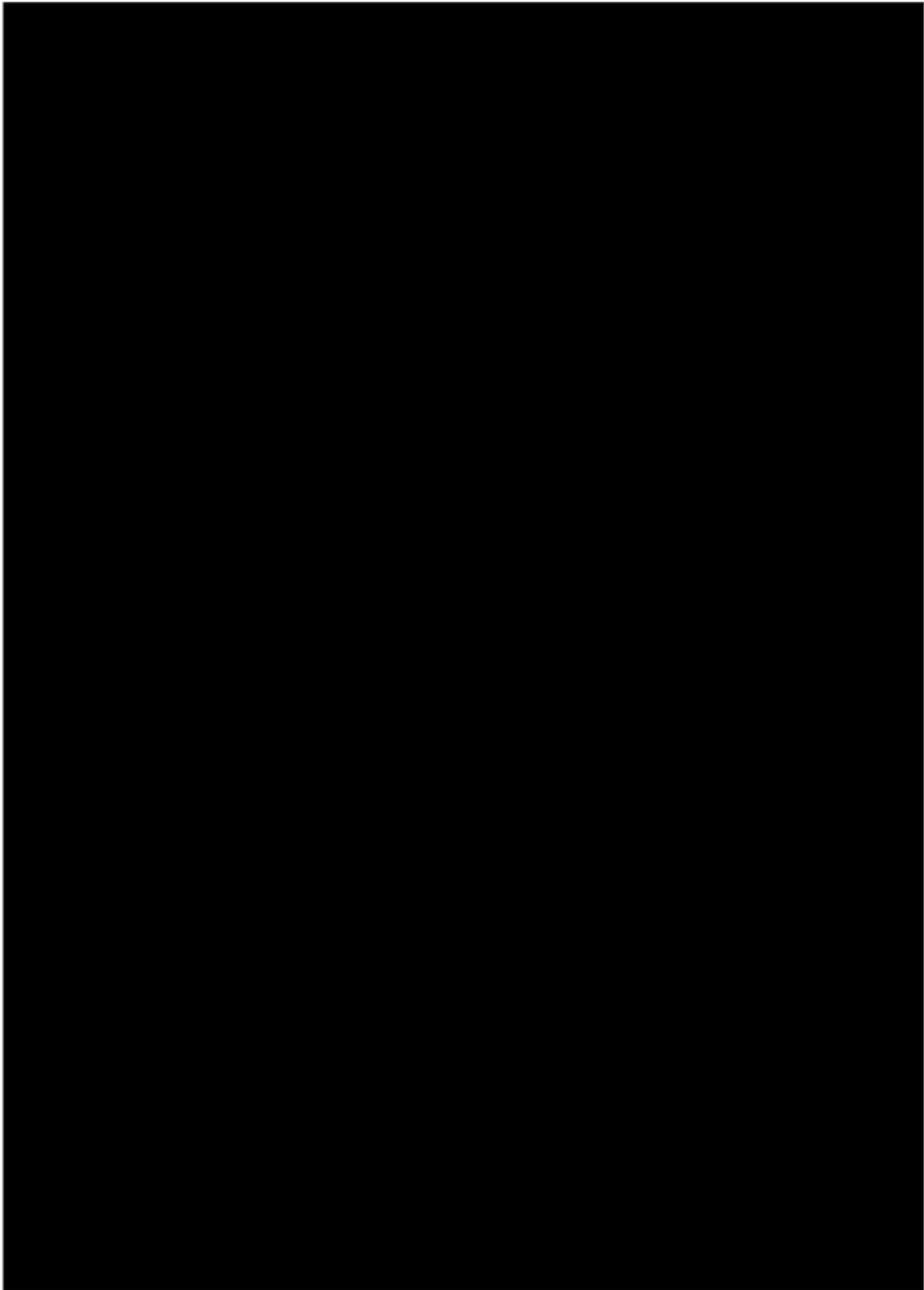


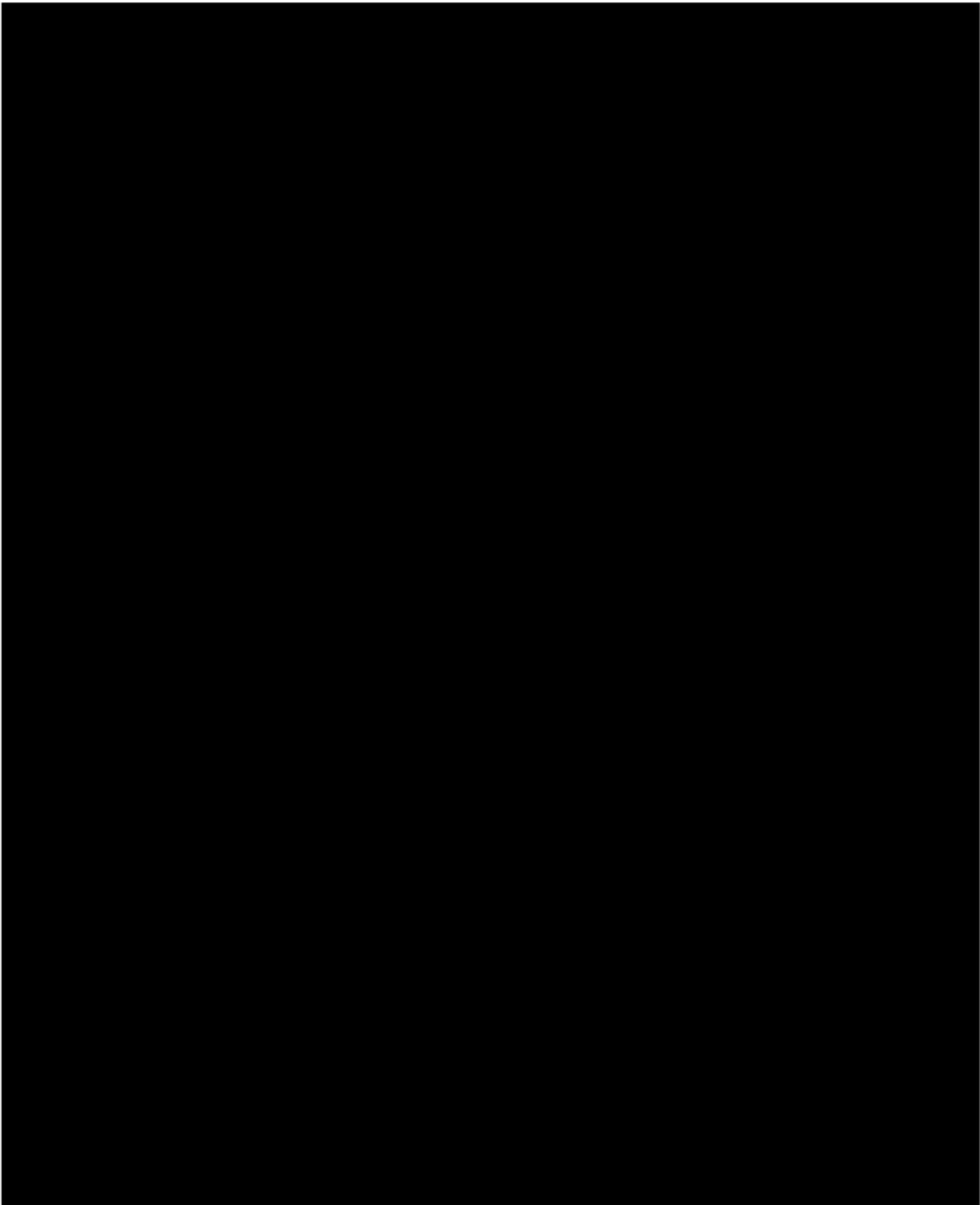


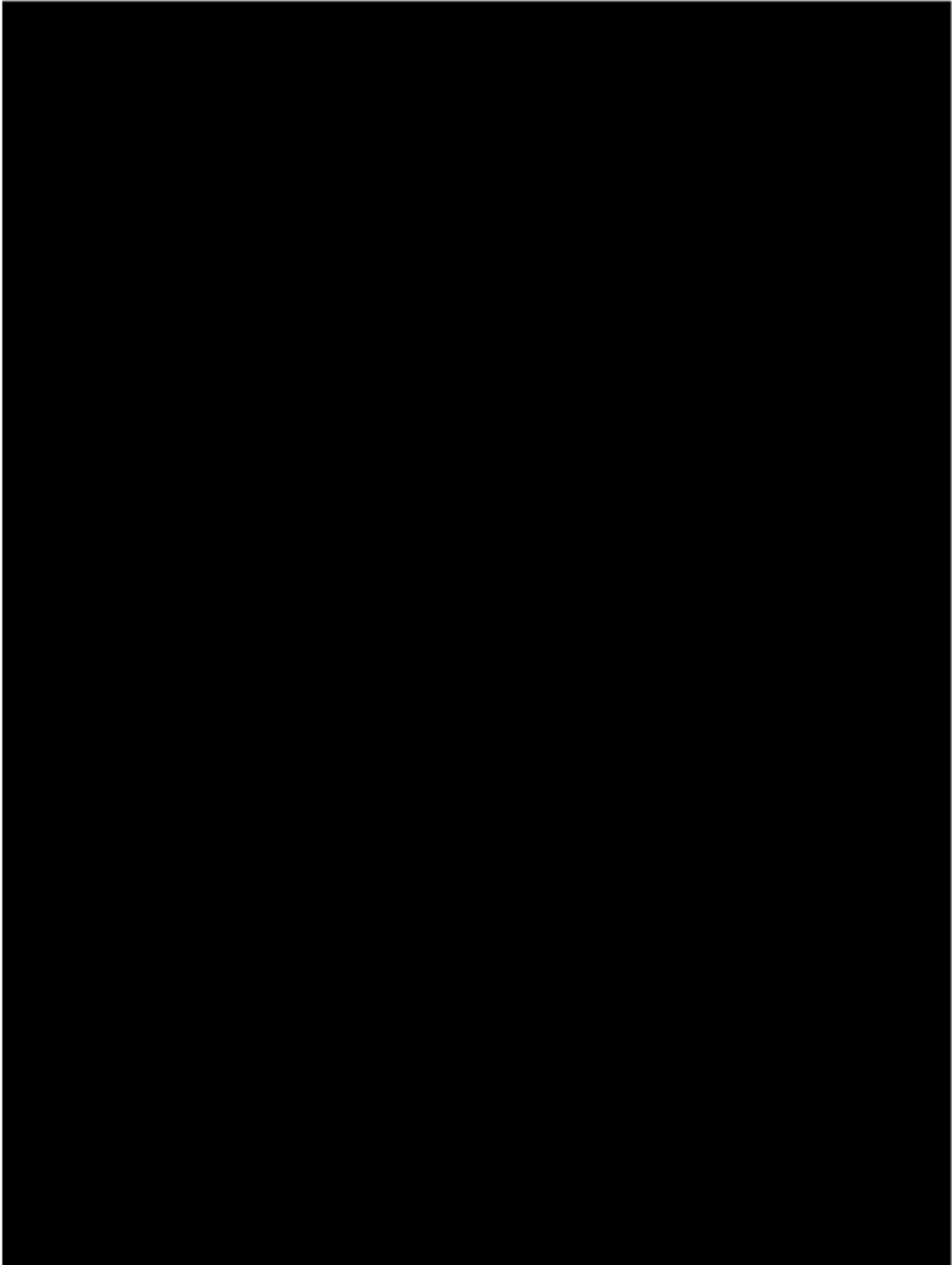
VII. White Plains

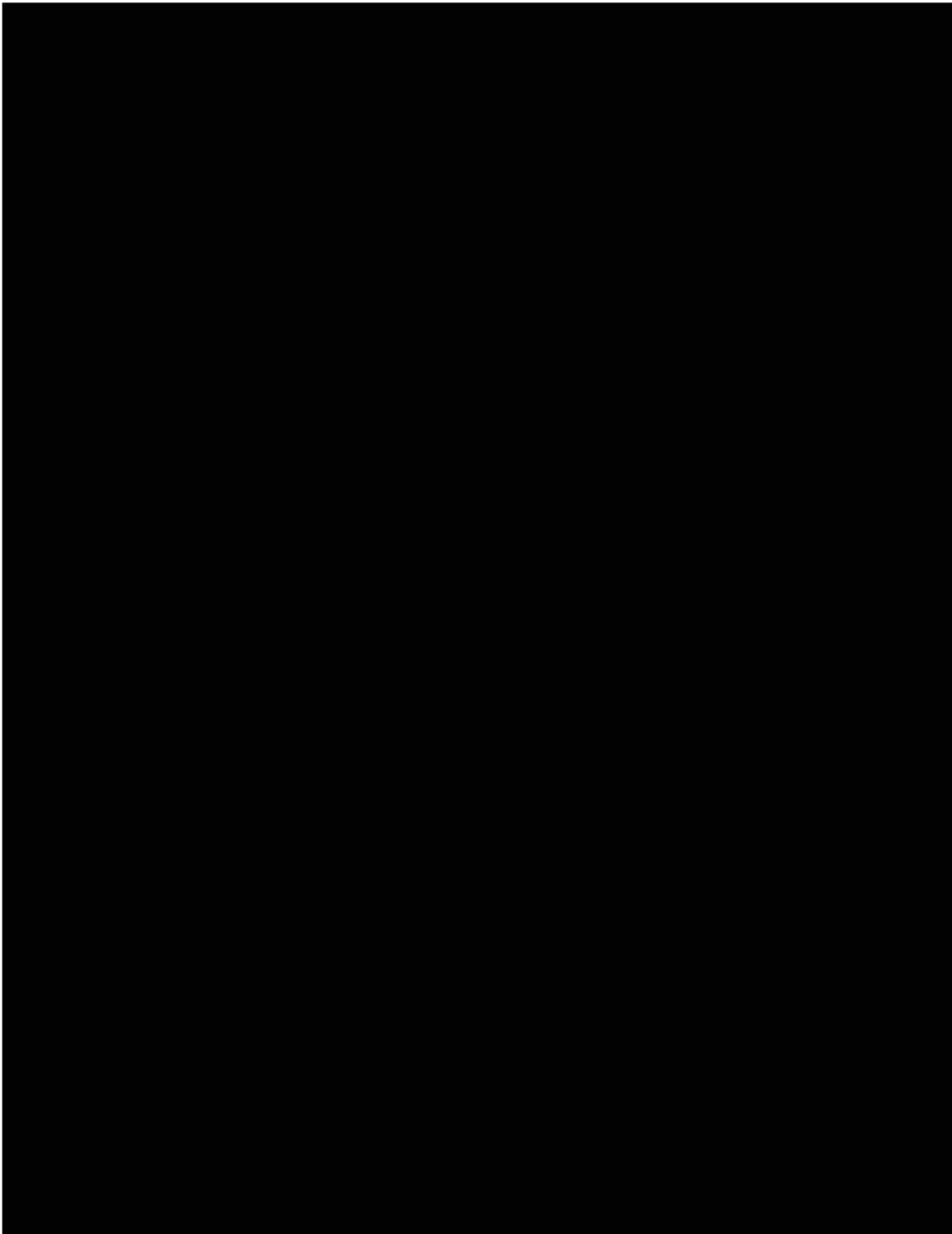
A. Significant Developments in Cases





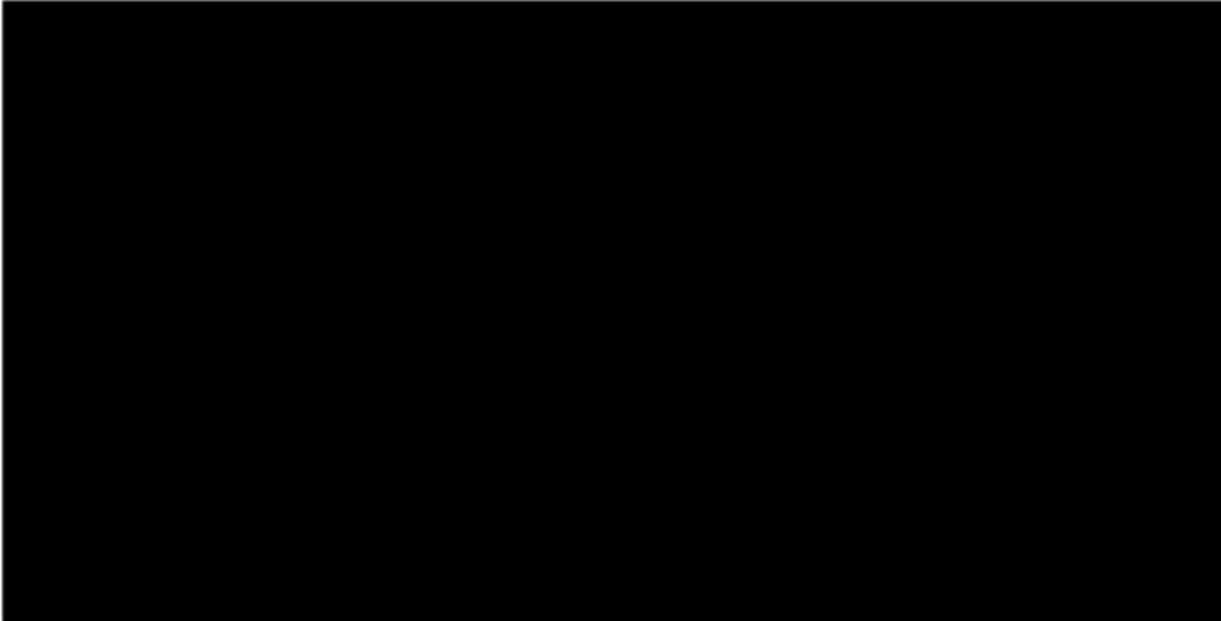








C. Takedowns





D. Trials/Hearings (through April 2020)

- 9/3/19** **U.S. v. Jhoan Adames, et al.**, (USAO # 2017R01467): Trial against a narcotics defendant before Judge Seibel. (AUSAs Raymond/Comey).

- 9/16/19** **U.S. v. Justin Patterson**, (USAO # 2019R00265): Suppression hearing in a triggerlock case before Judge Seibel. (AUSA Ligtenberg).

- 9/18/19** **U.S. v. Philjon Eisom** (USAO # 2017R00304): VOSR hearing relating to assault/domestic abuse charges. (AUSAs Keenan/Cohen second seat).

- 10/2/19** **U.S. v. Matthew Madonna, et al.** (USAO # 2017R00313): Trial against the murder defendants is expected to proceed on this date before Judge Seibel (AUSAs Scotten/Cohen/Rothman).

- 10/15/19** **U.S. v. Chukwuenmeka Okparaekwe** (USAO # 2017R00326): Trial against an international dark web fentanyl dealer before Judge Roman. (AUSAs Grossman/Zverovich).

- 10/15/19** **U.S. v. Latrell Murray** (USAO # 2018R01403): Triggerlock trial before Judge Karas. (AUSA Coffman).

- 12/9/19** **U.S. v. Justin Patterson** (USAO # 2019R00265): Triggerlock trial before Judge Seibel. (AUSA Ligtenberg).

- 1/06/20** **U.S. v. Edwin Guerrier** (USAO # 2017R01172): Narcotics trial before Judge Karas. (AUSA Raymond).

- 4/27/20** **U.S. v. Bowen** (USAO # 2017R1117): Trial in a triggerlock set before Judge Roman. (AUSA Raymond).

VIII. Narcotics

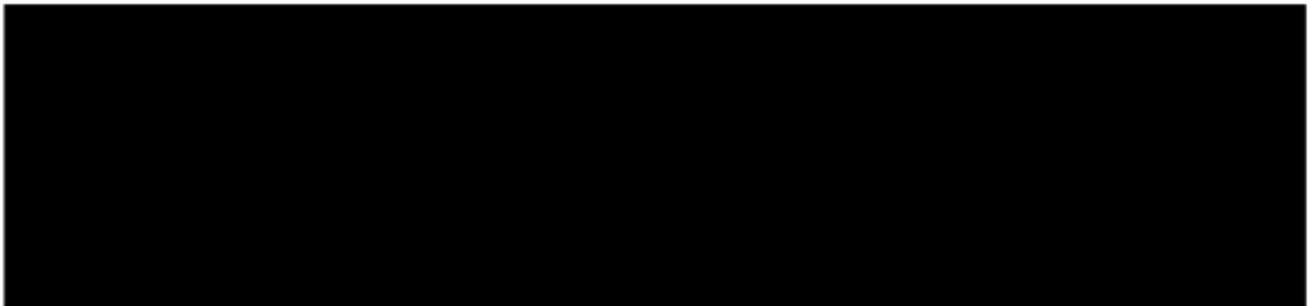
A. Upcoming Trials

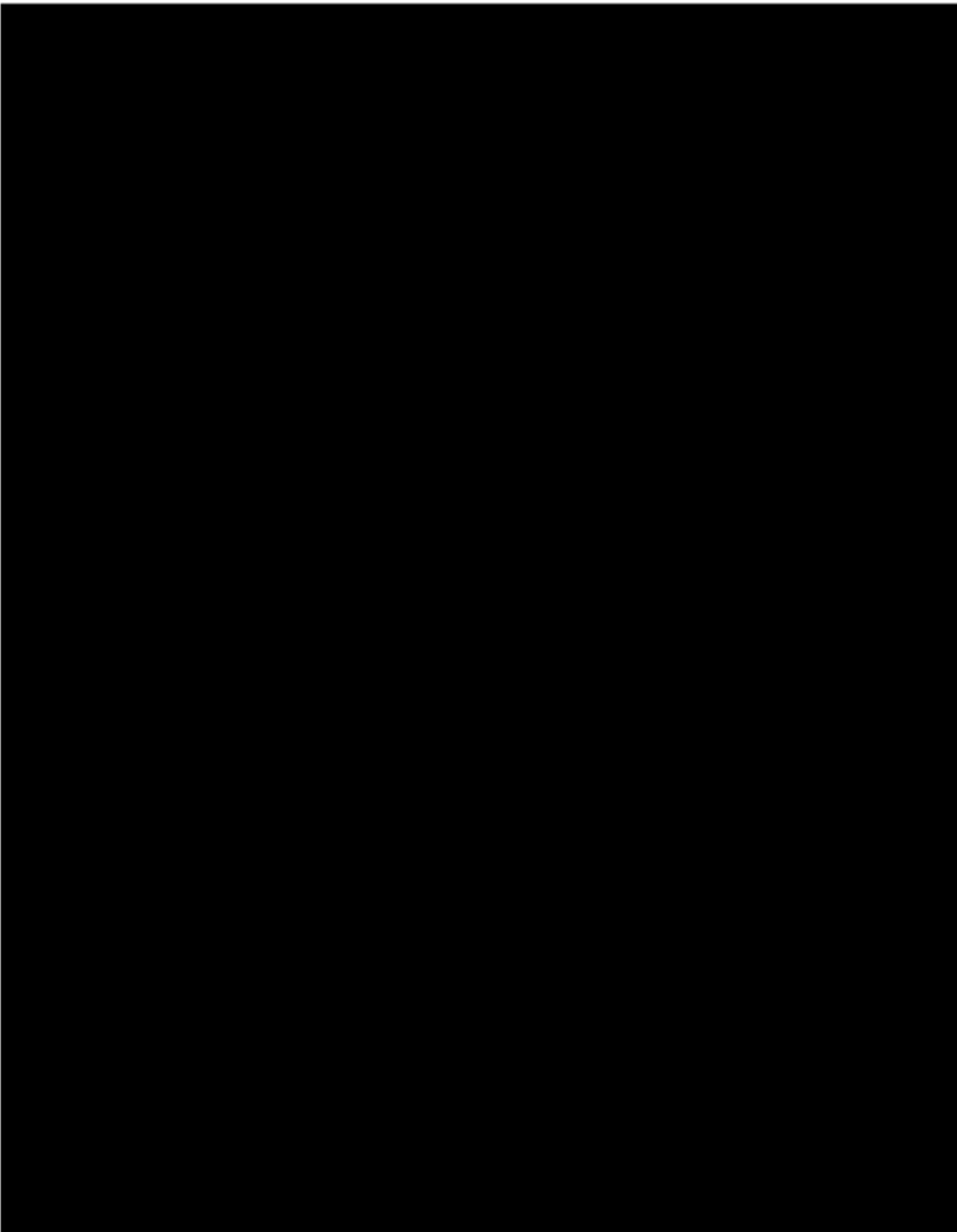
- 8/12/19** **U.S. v. Tyshawn Burgess, et al.**, 18 Cr. 737 (RJS) (Portlock/Tarlow/Hellman) (USAO # 2017R01204) (NYPD/ATF): Violent crack and heroin crew from Bed-Stuy neighborhood in Brooklyn charged with conspiring to distribute narcotics and related firearms offenses. Since March, the team has identified at least six shootings associated with the group, expanded the timeframe of the conspiracy,

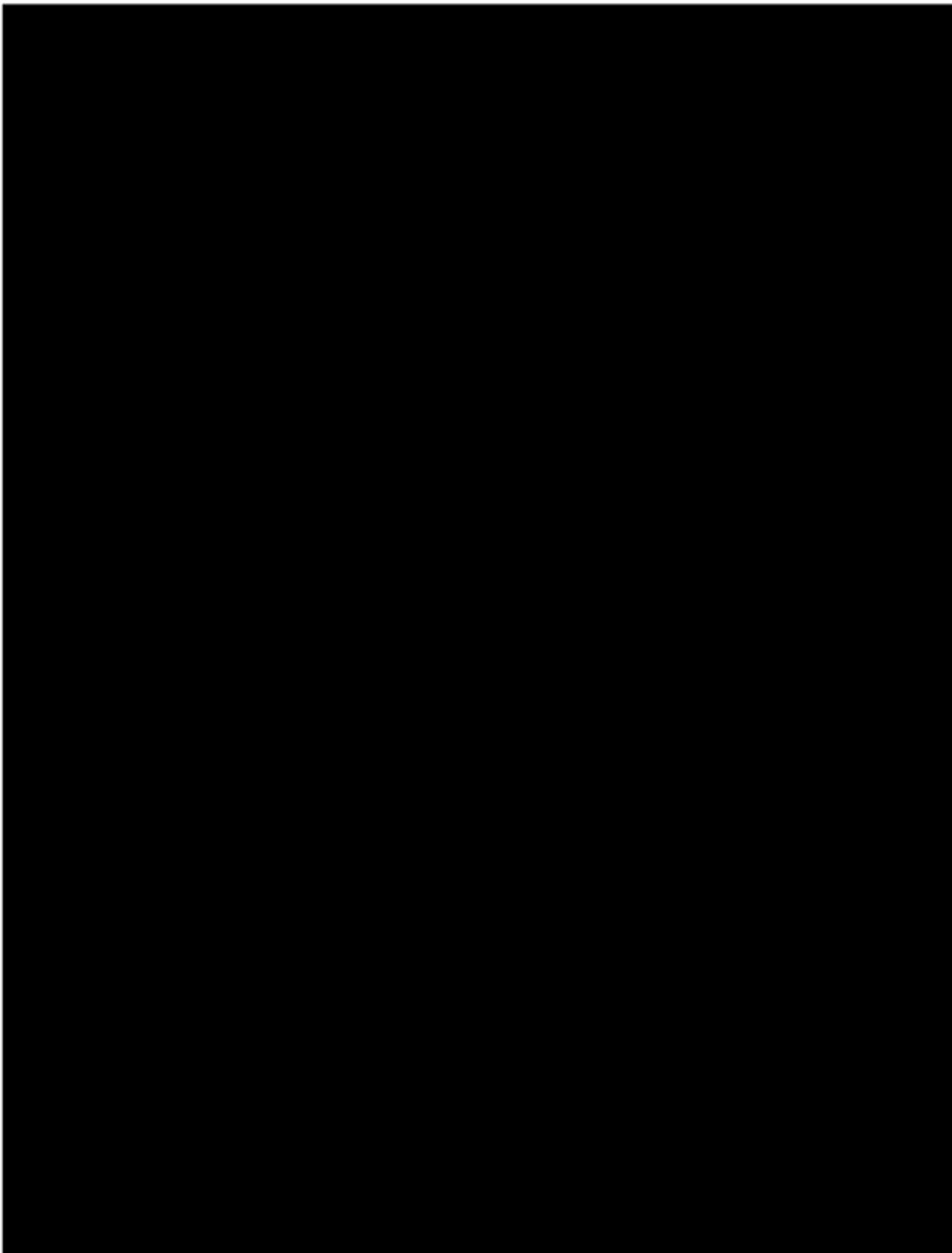
identified robberies committed by conspiracy members, and identified numerous additional seizures of firearms linked to the group. One defendant remains and is scheduled to begin trial on August 12. The team recently learned of another shooting involving that defendant, and plans to supersede with additional firearms charges.

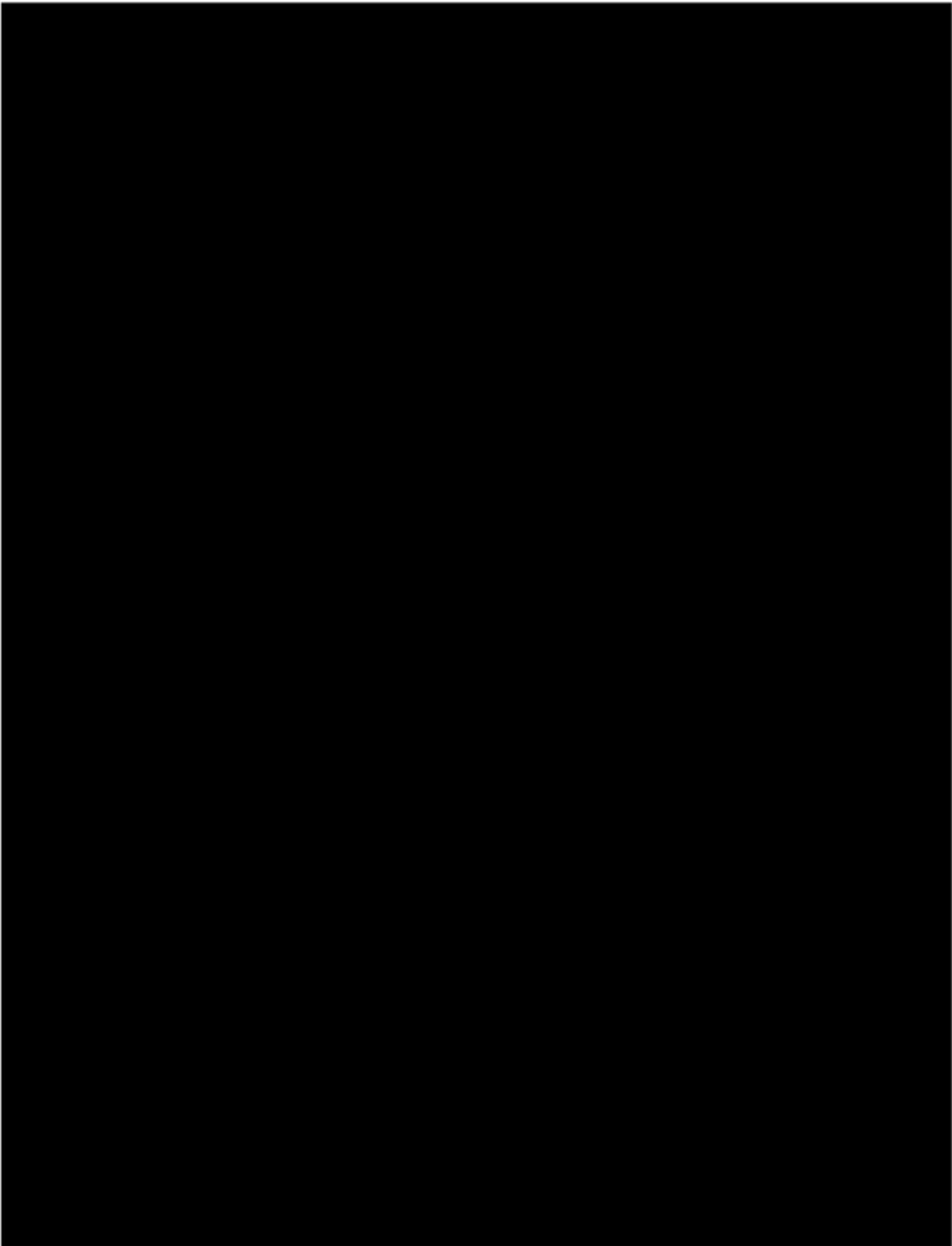
- 9/4/19** **U.S. v. Michael Jones, 18 Cr. 662 (JGK) (Rehn/Mortazavi/Wolf) (DEA) (USAO # 2018R0033)**: This is an investigation of the overdose death of Diana Haikova on December 5, 2017, at her apartment in Manhattan. Haikova died after a night out partying with several rappers. Michael Jones was identified as the person who delivered the fatal dose to Haikova. DEA conducted a controlled buy from Jones and have a recorded call between a witness and Jones in which he admits to providing Haikova with heroin right before her death. Following Jones's arrest in October 2018, he made a startling post-arrest confession, including that he saw Haikova lose consciousness and left her in that position in the apartment. Jones recently rejected a plea offer and will go to trial on September 4.
- 9/9/19** **U.S. v. Jose Caraballo, 18 Cr. 37 (PGG) (Fletcher/LaMorte) (USAO # 2016R000830)**: One defendant trial against a long-time cocaine trafficker and money launderer.
- 9/10/19** **U.S. v. Rafael Espino, 18 Cr. 553 (RMB) (Pellegrino/Gentile) (DEA) (USAO # 2018R00885)**: Two defendants were arrested after a 20 kilogram heroin rip last spring. One of the defendants has pled guilty and is cooperating. The other, Rafael Espino, who delivered the drugs to a DEA CI, will go to trial on September 10.
- 10/15/19** **U.S. v. Dante Cubangbang et al. 18 Cr. 723 (PGG) (DEA) (Krouse/Pellegrino/Murray) (USAO # 2018R00493)**: In October 2018, we indicted Dr. Cubangbang, Nurse Practitioner Gargan, office manager Kellerman, and crew chief Loren Piquant as part of the Dirty Doctor Takedown. From 2013 through 2017, Cubangbang and Gargan prescribed more than 5 million oxycodone pills in exchange for more than \$5 million in cash, and were among the highest oxycodone prescribers in New York. Cubangbang has proffered twice and will likely plead. Gargan has said that he is going to trial.

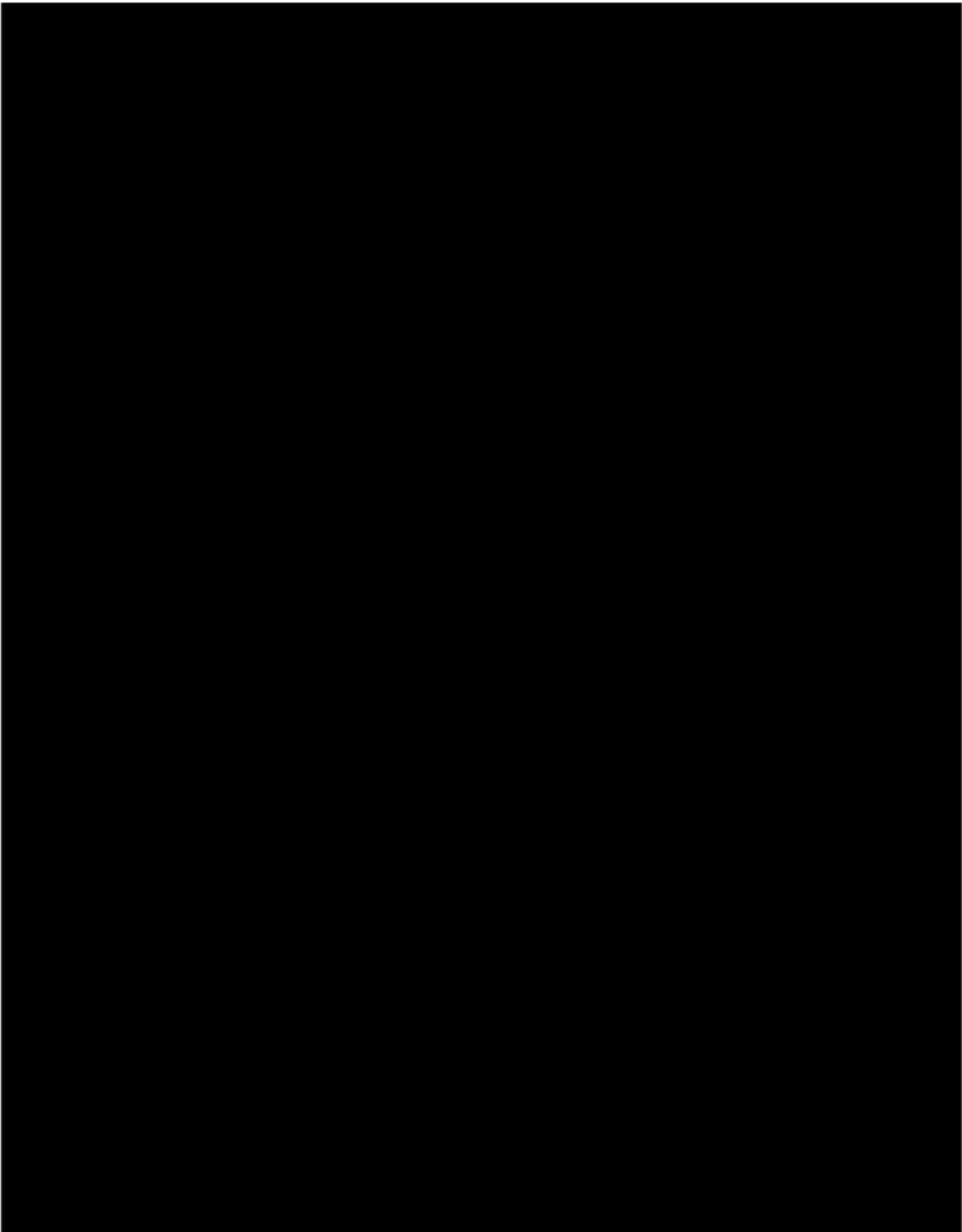
B. Notable Cases













IX. General Crimes

A. Trial and Hearing Update

1. Completed Trials and Hearings

- **U.S. v. Kidd (Bracewell/Tarlow/Gutwillig/Ravi (second seat)) (FBI/NYPD) (USAO # 2017R1550) (VM):** Kidd was convicted of two of five counts (sex trafficking of a minor and production of child pornography) in this trial in the Hard Knocks matter. Kidd faces a mandatory minimum sentence of 15 years.
- **U.S. v. Rubano and Maharaj (Podolsky/Flodr) (USPIS) (USAO # 2015R01486) (JGK):** Maharaj was convicted of four counts following a two-week trial. Rubano pled guilty shortly before trial. Maharaj, through three corporate entities, submitted hundreds of questionable invoices for IT work to a non-profit at which Rubano was the director of IT. Rubano approved all the invoices and then received cash payments from Maharaj immediately following the payment of each invoice.
- **U.S. v. Jaquez (Herman/Tehrani (second seat)) (USAO # 2013R00228) (PAE):** Jaquez was on supervised release when he left the judicial district without permission to travel to Hempstead, Long Island and was arrested by Hempstead PD for illegally possessing and possessing with intent to sell cocaine. He then failed to appear for drug testing as directed by his probation officer. Jaquez pleaded guilty to leaving the judicial district and failing to appear for drug testing while contesting the drug charges. We called three witnesses at the hearing and, after deliberation, Judge Engelmayer found Jaquez guilty on both contested specifications. Sentencing is scheduled for August 8.

2. Upcoming Trials and Hearings:

8/26/19 **U.S. v. Sanchez (Brumwell/Abramowicz (second seat)) (NYPD) (USAO # 2018R01283) (VSB):** One defendant ammolock trial. The defendant here shot himself in the leg following a dispute with another individual. The judge previously suppressed the defendant’s bloody clothing that was recovered from the hospital.

8/27/19 **U.S. v. Rodriguez (Kalikow/McLeod (second seat)) (USAO # 2018V01833) (LAP):** Coram nobis hearing where petitioner is claiming ineffective assistance of counsel based on affirmative misadvice regarding the possibility of denaturalization proceedings following guilty plea/conviction for criminal conduct that preceded naturalization, and is seeking to vacate her plea and plea colloquy.

■ **B. Significant Cases and Investigations**

