

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WENDY B. DOLIN, Individually and as
Independent Executor of the Estate of
STEWART DOLIN, deceased,

Plaintiffs,

vs.

SMITHKLINE BEECHAM CORPORATION,
d/b/a GLAXOSMITHKLINE, a Pennsylvania
Corporation,

Defendant.

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) No. 12 CV 6403
)
) Chicago, Illinois
)
)
) March 30, 2017
) 1:35 p.m.

VOLUME 11-B

TRANSCRIPT OF PROCEEDINGS - Trial

BEFORE THE HONORABLE WILLIAM T. HART, and a Jury

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1 (Proceedings heard in open court. Jury in.)

2 THE COURT: Thank you very much, ladies and
3 gentlemen. Please be seated. We will resume.

4 You may proceed, sir.

5 MR. DAVIS: Thank you, your Honor.

6 JOSEPH GLENMULLEN, PLAINTIFF'S WITNESS, PREVIOUSLY SWORN

7 CROSS-EXAMINATION (Resumed)

8 BY MR. DAVIS:

9 Q. Dr. Glenmullen, I want to turn our attention now to the
10 second client problem that Mr. Dolin was having the week of
11 July 12th. Okay?

12 A. Sure.

13 Q. And the other client that you mentioned was Ed Miniatt, the
14 meat packing company, correct?

15 A. Right.

16 Q. That client of Mr. Dolin's was a family-owned business,
17 right?

18 A. Right.

19 Q. And there was a particular shareholder, a family member by
20 the name of Kevin Miniatt that had caused problems in the past
21 with the family business, right?

22 A. Yes.

23 Q. He had even sued the family business at one time, right?

24 A. Right.

25 Q. And he was characterized as someone that was kind of a

1 malcontent or an obstructionist and problematic and
2 disruptive, right?

3 A. Yes.

4 Q. And there was a special meeting with the shareholders that
5 was scheduled for Friday, July 16th, the day after Mr. Dolin's
6 death, right?

7 A. Correct.

8 Q. Mr. Dolin had been asked by his client contact at Ed
9 Miniat, a lady by the name of Susan Kolavo, to give her and
10 the shareholders some information that they needed to have in
11 order to go forward with that special vote that was scheduled
12 for that Friday, right?

13 A. Exactly right.

14 Q. And there were people at the Ed Miniat that were concerned
15 that Kevin Miniat was going to cause a problem at the meeting
16 and that it would be a challenge at the meeting, correct?

17 A. Yeah. Again, as you said, there was a long history of him
18 being a nuisance. He was not a controlling shareholder, they
19 were. So I think it was more on the level of, it's going to
20 be a nuisance but not a real big threat.

21 Q. But one of the things that Ms. Kolavo asked Mr. Dolin
22 about was could Kevin Miniat and another family member, a
23 sister, block the approval of the vote that was going to
24 happen on Friday, correct?

25 A. Block the vote as opposed to --

1 Q. Block the measure carrying -- did they have enough votes
2 to stop the measure that was going to be presented.

3 A. Right. That was the issue, but as we know, a month later
4 or I think roughly a month later when it took place, he did
5 not.

6 Q. But there were questions that Ms. Kolavo had that she
7 posed to Mr. Dolin, correct?

8 A. Correct.

9 Q. And these questions had been outstanding for some time
10 before the week of July 12th, right?

11 A. These were the routine legal matters that he couldn't do
12 that week.

13 Q. Right. And he -- Ms. Kolavo called him up that week, and
14 she spoke to him about why he had not sent in the answers to
15 her questions, correct?

16 A. Right. That's the conversation we went over yesterday.

17 Q. And while you say that the meeting was no big deal, I
18 think that's what you described yesterday in your testimony,
19 Ms. Kolavo was, in her words, perturbed and said to Mr. Dolin,
20 "I thought you were supposed to send it. I didn't get it."
21 True?

22 A. Yeah. The "no big deal" was a separate thing. She -- she
23 was distressed that he had not done basic kind of things, and
24 this is one of the things that's completely new, completely
25 out of the ordinary. He did -- I think I did mention that he

1 didn't email her stuff that she was expecting. He had to
2 apologize for that in that conversation.

3 Q. Mr. Dolin, she told Mr. Dolin, "We need this information.
4 These questions have to be answered. I thought you were going
5 to send them the day before." Right?

6 A. Right.

7 Q. And, in fact, if you look at, when she spoke to him, this
8 is one of the documents you showed the jury yesterday, you
9 went through that phone conversation that Ms. Kolavo had,
10 right?

11 A. Right.

12 Q. And one of the things that Ms. Kolavo was asked was, did
13 Mr. Dolin seem agitated, right?

14 A. Right. She's on the phone with him.

15 Q. Right. And her word was, "that's not a word I'd use to
16 characterize it," correct?

17 A. Right.

18 Q. And you also agree, and you mentioned and you pointed out
19 to the jury that Mr. Dolin sounded distracted and he seemed
20 off and he seemed despairing, right?

21 A. Yes, unlike anything she had ever encountered including
22 four other phone calls in the weeks before, just before he
23 went on Paxil.

24 Q. People who are not on any kind of antidepressant or
25 paroxetine, if they're depressed, they can be despairing, they

1 can be distracted, and they can sound off, true?

2 A. But here's the key. What you just said is a range of
3 possibilities for all patients. We're talking about a
4 specific case. And we have a long history going back to the
5 '80s that Mr. Dolin's depression and anxiety never made him
6 sound like this. That's what she said. So she's known him
7 for years including the 2007-2008 period when he was under
8 even more stress, and he'd never been anything like this.
9 This was off the charts.

10 Q. Can we just come back to my question, which is that
11 patients who are depressed and not on any antidepressant or --
12 including paroxetine can sound preoccupied, they can sound
13 despairing or hopeless, and they can also sound distracted,
14 true?

15 A. That could be true of other depressed patients, yes.

16 Q. In fact, you've written in your book *The Antidepressant*
17 *Solution* that depressed patients are preoccupied with guilt,
18 self-loathing, and hopelessness, true?

19 A. Can be, sure.

20 Q. And you say in your book, "the guilt, self-loathing and
21 hopelessness are what they seek to escape by suicide," true?

22 A. If they commit suicide due to their underlying condition.

23 Q. And you understand that the meeting did not go forward
24 because Mr. Dolin didn't answer the questions, correct?

25 A. I'm pretty sure that the plan was to have the meet -- I

1 think it was all in flux and that I think she and maybe one of
2 her sisters had decided to go forward with the meeting but not
3 the vote.

4 Q. You're correct. The meeting went forward but the vote
5 didn't happen because Mr. Dolin hadn't answered the questions,
6 correct?

7 A. I don't know if it was just that, but I think they were
8 going to wait to do the vote.

9 Q. Right. And so, in fact, you know that there's an email
10 that had been sent to Kevin Miniat by Susan Kolavo announcing
11 that the vote -- the meeting would go forward but the vote
12 would be postponed, right?

13 A. I don't recall that specific email, but it's consistent
14 with my recollection --

15 Q. Okay.

16 A. -- that the meeting was going forward but not the vote.

17 MR. DAVIS: Your Honor, permission to publish 3209,
18 Defendant's Exhibit 3209.

19 MR. RAPOPORT: Your Honor, we would need a tab to
20 find that.

21 MR. DAVIS: That's Tab 26 of the exhibit notebook.

22 THE WITNESS: Yes.

23 THE COURT: Let me see. What is this?

24 MR. DAVIS: It's the email that I mentioned.

25 THE COURT: Why do that? He's already agreed with

1 you about it.

2 MR. DAVIS: Well, there's a next step on that, your
3 Honor. This is actually another email.

4 MR. RAPOPORT: The exhibit that I'm looking at is two
5 different emails. I'm not sure what's being offered here.

6 MR. DAVIS: It's the email from Kevin Miniati, your
7 Honor, which I haven't asked Mr. -- Dr. Glenmullen about.

8 MR. RAPOPORT: I object because there's no evidence
9 that the deceased ever saw it.

10 THE COURT: Who is this -- is it addressed to him?

11 MR. DAVIS: It is. He's copied on it, your Honor.
12 Mr. Dolin is copied on it.

13 THE COURT: Is it the top email or the bottom email?

14 MR. DAVIS: It is, I believe it's the top email from
15 Kevin Miniati.

16 MR. RAPOPORT: 12:11:32 on July 15th of 2010.

17 THE COURT: Is there an objection? If there is no
18 objection, it may be received.

19 MR. RAPOPORT: Yes, there was an objection. We
20 believe it's hearsay, but also we're pointing out that there's
21 no evidence that it was ever seen by the deceased.

22 MR. DAVIS: It's not being offered for the truth of
23 the matter asserted, your Honor.

24 THE COURT: The hearsay objection is overruled. As
25 to whether or not he saw it, didn't he respond to it?

1 MR. DAVIS: Your Honor, this takes -- I think I can
2 clear that up with the witness, your Honor.

3 THE COURT: All right. Proceed.

4 MR. DAVIS: Okay. Thank you.

5 MR. RAPOPORT: The answer to your question was, there
6 was no response.

7 MR. DAVIS: Permission to publish 32 -- DX 32 --

8 THE COURT: Yes, yes.

9 MR. DAVIS: Thank you. We move for admission.

10 THE COURT: Yes.

11 (Defendant's Exhibit 3209 received in evidence.)

12 BY MR. DAVIS:

13 Q. Okay. This is the email we're talking about from Kevin
14 Miniat that is sent on Thursday, July 15, at 12:11 p.m. the
15 day of Mr. Dolin's death, correct?

16 THE COURT: What's your question, sir?

17 BY MR. DAVIS:

18 Q. Yes. Kevin Miniat received the notice that the vote would
19 be postponed, and his response was, "This is not acceptable.
20 I have scheduled two days out of my office to vote on this
21 proposal. I expect a vote at 8:00 as scheduled." Correct?

22 A. Yeah. This is what they said he was like.

23 Q. And, in fact, Mr. Dolin was also -- would have to be
24 prepared to answer questions about the vote and the
25 shareholder issues at that meeting, correct?

1 A. Sure.

2 Q. Yes. And so and Mr. Dolin is, of course, copied on this
3 email, is he not?

4 THE COURT: Yes. Go ahead.

5 BY MR. DAVIS:

6 Q. And you know that this email was sent at the time that
7 Mr. Dolin was at lunch with Terry Schwartz?

8 A. That looks about right.

9 Q. Yes. And so -- and after the lunch with Terry Schwartz,
10 Mr. Dolin returned to his office, did he not?

11 A. Yep.

12 Q. And, in fact, Mr. Dolin did not leave his office until
13 around 1:15 to head to the train platform, correct?

14 MR. RAPOPORT: I object to the reference that he left
15 with the intention of going to the train platform. It's not
16 known.

17 THE COURT: Yes. Sustained.

18 BY MR. DAVIS:

19 Q. I'll rephrase it. Mr. Dolin left his office around 1:15,
20 correct?

21 A. I think that's right.

22 Q. Sure.

23 A. I don't remember exactly.

24 Q. So that would be about, if he gets back from the lunch
25 with Terry Schwartz around 12:45 or 1:00, about 25 minutes

1 after getting back to his office, right?

2 A. Right. And this is what Mr. Lovallo said would have been
3 a totally routine thing if he was functioning fine like he
4 always did with just his anxiety and depression.

5 Q. Now, these --

6 THE COURT: I see your point. Is the point that you
7 don't know whether he read his email, is that the basis of
8 your --

9 MR. RAPOPORT: It is, your Honor, and also it's being
10 sent from Eastern time -- excuse me, Mountain time. So we
11 actually don't know whether that 12:11 reference is 1:11
12 Central. There's a lot unknown about this.

13 THE COURT: Well, you can bring that out, but that's
14 kind of a...

15 BY MR. DAVIS:

16 Q. Now, that, those two client problems were not the only
17 problems that Mr. Dolin was having in 2010, were they?

18 A. Correct.

19 Q. And, in fact, there was -- he had just completed --
20 earlier in the year, he had completed a performance evaluation
21 for himself for Reed Smith, right?

22 A. Right.

23 Q. Every year, the partners at the end of the year at Reed
24 Smith, they're required to do a self-evaluation about how they
25 did?

1 A. Yep.

2 Q. And Mr. Dolin completed that in early 2010, right?

3 A. Yep.

4 Q. And, in fact, he described -- if we can call up DX 3037
5 which has been admitted. You can blow that up.

6 Mr. Dolin described 2009 as without a doubt the --
7 "my most challenging year ever in my professional career,"
8 right?

9 A. I think he used very similar language about 2007, 2008
10 year, too.

11 Q. These self-appraisals are considered as part of the
12 compensation process, correct?

13 A. Right.

14 Q. I think you mentioned on direct how Mr. Dolin's, as a
15 result of his evaluation process, he had a reduction in
16 salary, correct?

17 A. Yeah. His salary had actually gone up and down by about
18 100, \$130,000 kind of every other year for about five years,
19 so this wasn't even anything new.

20 Q. Well, his compensation had never been reduced before by
21 the firm, had it?

22 A. It hadn't been projected to be reduced, but the point is
23 that it had gone up and down for, I think it's at least five
24 years, there were records including, I think, the first year
25 that I'm thinking of was at the earlier smaller law firm. He

1 had been making similar money there.

2 Q. My point simply is that the firm, Reed Smith, had never
3 made the decision to consciously reduce the budgeted
4 compensation for Mr. Dolin, right?

5 A. Right. And a key word is "budgeted." It's not yet
6 finalized. And his bonus, he already knew by now that the
7 bonus for having done so much more in 2010 than he'd done in
8 2009 was likely to more than make up for that, and his pay had
9 been going up and down like that for years.

10 Q. We also know that as part of this evaluation process that
11 other partners at Reed Smith also put in their comments about
12 partners being evaluated, correct?

13 A. Yeah.

14 Q. Mr. -- and you reviewed those evaluations for purposes of
15 your opinions in this case, correct?

16 A. Right.

17 Q. In fact, you say that a few of the term -- of the
18 attorneys who submitted reviews were critical of Mr. Dolin,
19 true?

20 A. Right. He supervised a whole lot of attorneys all across
21 the country so, of course, some of them were going to be more
22 happy, some of them are going to be less happy.

23 Q. Mr. Dolin had previously expressed concerns about how he
24 did not go to Harvard or Yale and whether he could succeed at
25 Reed Smith, correct?

1 A. That's back in 2007, 2008.

2 Q. Yes.

3 A. And then by of that year he was feeling like, "Wow, I'm
4 getting all this positive feedback. I'm doing great."

5 MR. DAVIS: And let's talk about some feedback he got
6 in 2010. Permission to publish DX 3055, your Honor, which are
7 his reviews.

8 THE COURT: All right. You may proceed.

9 MR. DAVIS: Thank you. And also move it into
10 evidence, your Honor.

11 THE COURT: All right. It may be received.

12 MR. DAVIS: Thank you.

13 (Defendant's Exhibit 3055 received in evidence.)

14 BY MR. DAVIS:

15 Q. This is one of the reviews that he received in 2009, right?

16 A. I don't see a date on it, but I'll take your word for it.

17 Q. Okay. And if you can call up, there was one review he got
18 where he was described as a terrible practice group leader,
19 right?

20 A. Yeah. One out of the dozens and dozens of people that he
21 supervised gave him a bad review.

22 Q. And somebody also put in a review that, "not motivational.
23 Doesn't know the people in the group. Not a particularly
24 solid group speaker. Utter lack of knowledge of the C & S
25 practice at RS," which is Reed Smith. "Plays favorites.

1 Arrogant. Non-responsive. Deceitful. That enough?" Right?

2 MR. RAPOPORT: Objection, your Honor. There is no
3 foundation that this is a different person voicing these
4 complaints.

5 MR. DAVIS: I just said "somebody." I didn't say
6 there was more than one. I just said "somebody."

7 MR. RAPOPORT: You said "somebody else."

8 THE COURT: Okay. Proceed.

9 BY MR. DAVIS:

10 Q. That's what's -- that's what was written in this review,
11 right?

12 A. Yeah.

13 Q. Okay. And another review said at one point that, "better
14 communication and a more consistent presence would be helpful
15 in 2010," right?

16 A. Yes. Again, put it in timeframe, please. This is early
17 2010, months before the July period that we're talking about.

18 THE COURT: What's the date of this review?

19 MR. DAVIS: It's in 2010, your Honor.

20 THE WITNESS: When?

21 THE COURT: When?

22 MR. DAVIS: The early part of the year.

23 MR. RAPOPORT: February.

24 BY MR. DAVIS:

25 Q. And so another review, somebody -- somebody made the

1 comment, "middle market lawyer from middle market firm leads
2 global C & S group, question mark. Enough said," right?

3 A. Yes. So maybe that's some New Yorker who resents that
4 somebody in Chicago is running things and doing a good job.

5 Q. And shortly after -- I'm sorry. That you think this is a
6 positive review?

7 A. No. I said -- I didn't say that. I said maybe it's
8 someone in New York who is resentful that somebody in Chicago
9 is running things and doing a good job. We don't know
10 these -- we don't know if this is all one person who's just
11 got an axe to grind.

12 Q. We know that after these reviews were received, Mr. Dolin
13 got a chance to look at these, right?

14 A. Sure.

15 Q. He, in fact, sent them to another one of his partners,
16 John Iino, who was the head of the business -- the business
17 and finance group at Reed Smith, right?

18 A. Yeah.

19 Q. And he said, "somebody out there doesn't like me," right?

20 A. Yeah, that sounds familiar.

21 Q. We also know that after he received this review and after
22 he got his reduction in compensation, he also went to -- back
23 into therapy with Sydney Reed in May of 2010, right?

24 A. Yeah. I think they're fairly separate. This is -- we're
25 talking the 2009 review in January, February. I also think

1 they're two separate issues. I don't believe that the
2 projected pay decrease had anything to do with this. The
3 projected \$135,000 pay decrease was strictly based on billable
4 hours, that he was spending so much time shoring up the
5 firm -- by the way, this is during the huge economic
6 recession. He's in a secure, kind of corporate and securities
7 group. Their work is particularly hard hit.

8 But Mr. Lovallo testified that they generated a lot
9 of work for other parts of the law firm which he got some
10 indirect credit for. And again, these were just the ups and
11 downs he'd experienced for years making over a million dollars.

12 Q. Isn't it true that even though you say it was part of the
13 normal ups and downs of the law firm that Mr. Dolin expressly
14 said that his reduction in pay was a seismic shock to him?

15 A. So that's a really important point. I think the seismic
16 shock was that he thought that the law firm wanted him to put
17 an emphasis on administration. He thought that what they
18 wanted him to be doing was crisscrossing the country and
19 reassuring everybody in these difficult times. He thought
20 that that was valued as much or more than his billable hours.

21 I don't think the seismic shock was the \$135,000
22 because he had had those ups and downs for over five years so
23 it's -- it was a wakeup call to him that what would really
24 matter to the law firm was his billable hours and, therefore,
25 he was going to reverse this.

1 Q. You reviewed that -- Mr. Dolin's appeal about his
2 compensation as part of the materials that form your opinions
3 in this case, right?

4 A. I did. I mentioned it yesterday.

5 MR. DAVIS: Okay. And so your Honor, permission to
6 publish DX 3057.

7 MR. RAPOPORT: No objection.

8 MR. DAVIS: Thank you.

9 THE COURT: Proceed.

10 BY MR. DAVIS:

11 Q. This is the memo that Mr. Dolin wrote appealing his -- the
12 compensation reduction, correct?

13 A. Right.

14 Q. And this says, this is -- he says:

15 "As a result, I can only relate the seismic shock I
16 learn -- I felt to learn that the value that the firm
17 placed on my efforts was a \$75,000 bonus plus the
18 lowering of my compensation by one band. In other words,
19 I easily spent over 1400 hours in what was a demanding
20 role to the detriment of my own practice. Given the
21 effort I made last year, I submit that a combination of a
22 band adjustment and a relatively modest bonus was simply
23 not warranted."

24 Right?

25 A. Right. So you see right there that it's how he felt about

1 how -- what the firm valued in his work. It's not the dollars
2 per se because his pay had gone up and down between a million
3 and 1.2 for years.

4 Q. Mr. Dolin's appeal was rejected by the firm management,
5 was it not?

6 A. And that's when he realized, "Okay. They care about
7 billable hours. That's -- I'm going to reverse the balance of
8 what I do." And he knew he had accomplished that by the end
9 of the first half of the year.

10 Q. Isn't it true that Mr. Dolin's billable hours in June of
11 2010 were 50 hours which was described as below budget?

12 A. 2010?

13 Q. Yes. June of 2010, he had 50 hours in June which was
14 described as below budget.

15 A. Well, I don't remember. They had all these different
16 tiers for the hours, the hours that you actually do, the hours
17 that people do that you've referred. So I don't remember
18 exactly how it was being calculated, but there was testimony
19 that he had already re-balanced this.

20 Q. You don't remember Mr. Nicholas's testimony from Reed
21 Smith that described Mr. Dolin's hours in June as about 50
22 hours?

23 A. Well, again, you may be looking at one piece of the pie.

24 Q. And you also know that Mr. Dolin talked with one of his
25 law partners at Reed Smith, Mr. Paul Jaskot, which he stated

1 he was upset and not happy at the rejection of his appeal?

2 A. Yeah. And again, to contextualize it, there was no
3 serious threat of losing his job. He wasn't seriously
4 thinking of leaving the firm but he -- there was discussion
5 with Mrs. Reed the two years before when the merger was going
6 on that if he didn't like the big law firm, he could go down,
7 back to the medium law firm where he made the same amount of
8 money. So --

9 Q. So there was --

10 A. -- it's not the money.

11 Q. So there was some --

12 A. It's the culture and what he's valued for, and there was
13 no indication that his job was in jeopardy or that he was
14 ready to make the move and that it would in any case have
15 affected his income.

16 Q. You mentioned yesterday that Mr. Dolin had a change in
17 responsibility with being the practice group leader for the
18 corporate and securities group, right?

19 A. Right.

20 Q. That decision was not his, was it?

21 A. No, but it was -- that was an administrative decision, but
22 it was, he wanted to do less administrative work, so getting a
23 co-leader was going to help that.

24 Q. It was Mr. -- John Iino, another partner at Reed Smith,
25 made the decision to add a co-chair to Mr. Dolin's practice

1 group so that Mr. Dolin would have that co-chair and there
2 would be someone else to help out, correct?

3 A. Yeah, and he said that usually there were co-chairs. It
4 was unusual to only have one. So that was totally normal.

5 And Mr. Dolin -- Mr. Jaskot, who became that, had been
6 Mr. Dolin's assistant, and he worked very well with him.

7 Q. You understand that Mr. Iino also testified that he took
8 into consideration the performance reviews that we just went
9 over with the jury in deciding to appoint a co-chair for the
10 corporate and securities practice group with Mr. Dolin?

11 A. Sure.

12 Q. Okay. And -- all right. And so, Doctor, Mr. Dolin,
13 however, when he described what was taking place, he described
14 to others that it was his decision and not Mr. Iino's
15 decision, true?

16 A. Well, they may have had some discussion about it but --
17 meaning that he was in favor of it. He supported it. He told
18 Mrs. Reed that he was pleased about it. It worked together
19 with wanting to do less administrative work. The ultimate
20 power to make that decision may have rested with Mr. Iino, but
21 Mr. Dolin was happy with it.

22 Q. I think you missed my question. My question simply was:
23 Mr. Dolin reported to other people at the firm that he made --
24 he was the one that had requested the change, correct?

25 A. Well, all he may have meant by that was, "I was in support

1 of it."

2 Q. Well, he did tell other people that he had requested the
3 change as opposed to Mr. Iino making the decision, true?

4 A. Both could be true.

5 Q. Okay, Doctor. Doctor, before you took the stand in this
6 case, you -- as I think we've already talked about, you
7 prepared a -- two reports at least at minimum, right?

8 A. Right.

9 Q. Okay. And in your report, you opined that the reason that
10 Mr. Dolin committed suicide was because he was in the throes
11 of Paxil-induced akathisia, true?

12 A. Correct. In my deposition, we had a lot of discussion
13 about the use of that one word. I had over and over again in
14 my report said the same list that we went through yesterday,
15 so in addition, there was worse insomnia, worse depression,
16 worse anxiety, new and unusual completely out-of-character
17 behavior, everything else that we've put on the list.

18 So when that sentence and that word was taken out of
19 context in my deposition, you'll remember that I said, well,
20 it's kind of a shorthand for all of them.

21 Q. I don't think anyone took anything out of context. Let's
22 just walk through it together. All right?

23 A. Sure.

24 Q. In your report, you'll agree with me, over and over and
25 over again, you say that Mr. Dolin was suffering from

1 Paxil-induced akathisia and that's what caused his suicide,
2 true?

3 A. I -- in other places, I said over and over again that
4 Stewart experienced worsening insomnia, agitation, worsening
5 anxiety, worsening depression, out-of-character behavior,
6 severe difficulty functioning, near delusional thoughts, and
7 ultimately irresistible suicidal urges over and over, and
8 sometimes I shortened that, and I said this in the depo when
9 you pointed out the other places where I just kind of
10 shorthand captured it all with akathisia.

11 Q. Well, let's see exactly what you said.

12 A. Sure.

13 Q. All right. Turn to Page 66 and 67 of your report on
14 Mr. Dolin.

15 THE COURT: Exhibit?

16 MR. DAVIS: It is behind Tab -- it's PX 256, and it's
17 behind Tab -- it's behind Tab 3 in the notebook. I think you
18 already have it, your Honor.

19 THE COURT: Right now, I have 255. It's 256?

20 MR. DAVIS: Yes, sir.

21 THE COURT: Okay. Page?

22 MR. DAVIS: 66 at the bottom.

23 MR. RAPOPORT: Your Honor, for context, I would ask
24 that if that's going to be shown, so should the second
25 paragraph on Page 1.

1 THE COURT: Well, you can cover that on redirect.

2 MR. RAPOPORT: Okay.

3 BY MR. DAVIS:

4 Q. If you go to Page 66 down at the bottom.

5 A. Right.

6 Q. You say, and I'm quoting from you:

7 "Wendy's descriptions of Stewart's agitation, pacing,
8 distorted thinking, worsening sleep, and dramatically
9 deteriorating condition are most consistent with
10 akathisia, a form of drug-induced agitation and the side
11 effect most closely related to antidepressant-induced
12 suicidality as described in the general causation section
13 of this report."

14 Did I read that correctly?

15 A. Sure.

16 Q. You go on to say that:

17 "Akathisia causes heightened anxiety, disordered
18 thinking, and exaggerated fears that can make patients
19 have difficulty coping with circumstances they normally
20 would cope with well."

21 Did I read that correctly?

22 A. Right. So it's a perfect example. I start out, I'm
23 looking particularly at the agitation and pacing, which as we
24 discussed is the outer visible evidence of the akathisia. So
25 I'm really just trying to elaborate about the akathisia here,

1 whereas I have talked about the rest of the laundry list
2 repeatedly in the report.

3 And it's not just Wendy's testimony. It's Mrs. Reed
4 saying that he couldn't sit still on the July 14th appointment
5 the night before he died, and it's Nurse Pecoraro at the train
6 station saying that he was pacing like a polar bear. So I'm
7 looking in particular at the akathisia which could account for
8 some of the other things, but everything's on the list.

9 Q. Okay. Let's turn to Page 108 and see what you said there.

10 A. Sure.

11 Q. If you go to the first full paragraph on Page 108.

12 A. Hold on a second.

13 Q. Okay.

14 A. 108 is quotes.

15 Q. No, it's the very first paragraph underneath the first --

16 A. In the middle, the "In my opinion"?

17 Q. Yes.

18 A. Okay.

19 Q. Let me read it to you. And you said in your report, "In
20 my opinion, Paxil-induced akathisia was the 'something' that
21 caused Stewart's suicide." Did I read that correctly?

22 A. So --

23 Q. Yes, sir. Did I read that correctly?

24 A. -- I was quoting Mr. Lovallo's eulogy at the funeral. And
25 the paragraph reads: "As I sought yesterday to make some sort

1 of sense of what Stewart was going through, I came upon a
2 phrase in a play that resonated with me. The phrase was,
3 quote, something wasn't making my heart smooth and easy,
4 closed quote. I was moved to consider how for a brief moment
5 in time, something wasn't making Stewart's heart smooth and
6 easy. None of us knows, and likely we will never completely
7 understand what that, quote, something, closed quote, was."

8 And I add my commentary that I believe it's the
9 Paxil-induced side effects that are precursors to suicidality
10 that was the "something," and I summarize it with akathisia.
11 I talked yesterday about the flipped switch. In my opinion,
12 that's what the "something" was in a beautifully written
13 eulogy.

14 Q. And so the "something" that caused Stewart Dolin's
15 suicide, as you put in your report, was akathisia, right?

16 A. As a shorthand for all of them.

17 Q. And, in fact, it's not just a shorthand, that is what you
18 said specifically in your report that said "this is it," right?

19 THE COURT: All right. It's covered now, sir. Let's
20 go on.

21 BY MR. DAVIS:

22 Q. And, in fact, when we took your deposition, you also said
23 that it was Paxil-induced akathisia that caused Mr. Dolin to
24 jump in front of the train, correct?

25 A. You drilled down on this in my deposition, and I actually

1 used the phraseology, "I'm using that as shorthand." You know
2 that. I read you the list from Page 1. It recurs repeatedly
3 in my report. When you tried to do this in my deposition, I
4 explained, I'm using it as shorthand.

5 Q. Let's turn to Page 42 in your deposition. Were you asked
6 this question --

7 A. Hold on one second.

8 Q. Sure.

9 A. I don't have it.

10 Q. Page 42, Line 1 through 20.

11 A. 42, Line 1. Okay.

12 Q. "Question: And do you claim that he was incapable of
13 reason at the time he jumped in front of a train?

14 "Answer: I haven't thought of that specific
15 question. He was clearly able to reason about other
16 things. He had just had a lunch with someone shortly
17 before it who testified that there wasn't anything
18 particularly out of the ordinary about him. Earlier in
19 the day, however, one of his partners had said that he
20 wasn't thinking clearly, he wasn't processing fairly
21 routine legal matters as he normally would, and numerous
22 people had said, and you know all that testimony, how
23 different he was in the last six days and 24 hours in
24 particular. I would just stick to, he did not
25 rationally -- intentionally, rational isn't a good word,

1 he didn't form the intent to take his life. It was
2 caused by a Paxil-induced akathisia."

3 Did I read that correctly?

4 MR. RAPOPORT: Your Honor, for context, the next
5 question and answer should also be read.

6 THE COURT: All right. Read it.

7 BY MR. DAVIS:

8 Q. Okay.

9 "You don't claim that he didn't appreciate that
10 jumping in front of a train could be hazardous, do you?

11 "Answer: Well, again, it's like this. As I
12 described in this report, in this specific causation
13 report, people with akathisia can develop a preoccupation
14 with killing themselves even though another part of their
15 brain doesn't want them to do it. And they feel that
16 they can't resist these urges. You know, that's in the
17 original classic paper by Teicher and Cole. And they can
18 also develop a feeling of death would be a welcome
19 relief. So exactly when those two mechanisms or
20 combinations thereof were at work when Stewart left the
21 building, walked to the train station, and dove in the
22 words of the witness in front of a train, we don't
23 exactly know."

24 Did I read that correctly?

25 A. Right. And I --

1 Q. And that was your sworn testimony that day?

2 A. Yeah.

3 Q. Okay. And --

4 A. And we talked about that yesterday that --

5 Q. -- my next question --

6 A. -- I said that in my opinion, when people have
7 drug-induced preoccupation with killing themselves or are so
8 distraught that death would offer a welcome relief. It is not
9 the same thing as when you're clear-headed and you make a
10 conscious choice to commit suicide.

11 Q. When you were asked --

12 A. So this was the portion of the deposition where we were
13 talking about something that we actually brought up with you
14 yesterday.

15 Q. When you were asked whether Mr. Dolin was insane at the
16 time he leaped in front of the train, you stated, quote, "I
17 wouldn't use that phraseology," true?

18 A. That's -- I don't remember that specifically, but it
19 sounds like something I would say.

20 Q. Okay. So you don't dispute what I said, do you?

21 A. Well, let's look at it.

22 Q. 41, Line 41, 22 to 50 -- to 25.

23 A. Line -- Page 41?

24 Q. Yes.

25 A. Line what?

1 Q. 22.

2 A. Yes. So just above it, we're talking about whether --

3 Q. Doctor, I think --

4 A. -- this issue of accident --

5 Q. -- we're on Page 41, Line 22.

6 "Question: Do you claim that he was insane at the
7 time that" --

8 MR. RAPOPORT: Your Honor, forgive me. I think you
9 would see if you take a look at this that it's the same as the
10 answer he gave in court.

11 MR. DAVIS: I think it's a different question, your
12 Honor, and the witness has asked to look at it.

13 MR. RAPOPORT: "Asked to look at it" is not the same
14 thing as "let's read it to the jury."

15 THE COURT: Give me the citation. 41, 22?

16 MR. DAVIS: Yes, sir, through Line 25.

17 THE COURT: Well, I'll sustain the objection because
18 it's the same as he stated here. Proceed.

19 BY MR. DAVIS:

20 Q. Dr. Glenmullen, in terms of your claim that you set out in
21 your report, akathisia, you agree that akathisia occurs in
22 people who are not taking psychotropic medication, true?

23 A. We use the term akathisia for medication-induced in
24 particular.

25 Q. Well, won't you turn to Page -- I want you to look at your

1 deposition behind Tab --

2 A. Actually, people -- sometimes it's used with regard to
3 people with Parkinson's disease. We could look at the DSM-5
4 and see whether it says -- I think it says medication-induced,
5 akathisia medication-induced agitation, but I'm not sure.

6 Q. Let's look behind Tab 20.

7 A. Tab -- a different set of binders.

8 Q. In your deposition testimony notebook.

9 A. Okay.

10 Q. And go to Page 36, Lines 18 to 20.

11 A. Which tab, sir?

12 Q. It's Tab 20, Page 36.

13 MR. RAPOPORT: Your Honor, I would object. This is a
14 2006 when DSM-3 was in effect which has not been discussed at
15 all and would just confuse matters here.

16 MR. DAVIS: Your Honor, I think that's all part of
17 redirect.

18 THE COURT: What's the reference again? 36, 18 to 20.

19 MR. DAVIS: Page 36, Line 18 to 20.

20 THE COURT: And the question is?

21 MR. DAVIS: Yes. Should I read it, your Honor?

22 THE COURT: You may read it.

23 MR. DAVIS: Thank you.

24 BY MR. DAVIS:

25 Q. "Question" -- this is your testimony under oath,

1 Dr. Glenmullen: "Question: Would you agree that akathisia
2 occurs in people not taking psychotropic medications?"

3 And your answer that day was, "Correct." Did I read
4 that correctly?

5 A. Yeah. I might have heard it as, not taking antidepressant
6 medications because neuroleptics, antipsychotics actually
7 cause it more frequently. I don't -- this is a long time ago.
8 I don't remember it.

9 Q. In fact, you talked about, I think it was read to the jury
10 that you have a book called *Prozac Backlash*, right?

11 A. Right.

12 Q. And let me get that book. In that book, you describe a
13 gentleman named Ron who has akathisia, correct?

14 A. Right.

15 Q. And, in fact --

16 MR. DAVIS: Your Honor, permission to publish to the
17 jury.

18 MR. RAPOPORT: Well, I have -- it's a big book, and I
19 can't --

20 THE COURT: Can you show him what you want to
21 publish, counsel?

22 MR. DAVIS: I think they have it. At Page 46.

23 MR. RAPOPORT: We don't know what on 26.

24 MR. DAVIS: It's on Page 46, and it begins on the
25 fifth paragraph dealing with the patient Ron.

1 MR. RAPOPORT: Is it the second-from-the-last
2 paragraph you want to read?

3 MR. DAVIS: It's five down, five paragraphs down.

4 MR. RAPOPORT: And how much do you want to read? I
5 need to know where to begin.

6 MR. DAVIS: That whole paragraph.

7 MR. RAPOPORT: What's the first word and last word?
8 I'm sorry.

9 MR. DAVIS: "Ron."

10 THE WITNESS: Could -- your Honor, could I take a
11 bathroom break while they're looking at this?

12 THE COURT: Could you what, sir?

13 THE WITNESS: Could I take a bathroom break while
14 they're looking at this?

15 THE COURT: Yes, sure.

16 THE WITNESS: Thank you.

17 (Witness exits courtroom.)

18 (Pause.)

19 MR. RAPOPORT: So your Honor, we do object.

20 THE COURT: All right. Let me see it.

21 MR. DAVIS: Your Honor, can we go to sidebar?

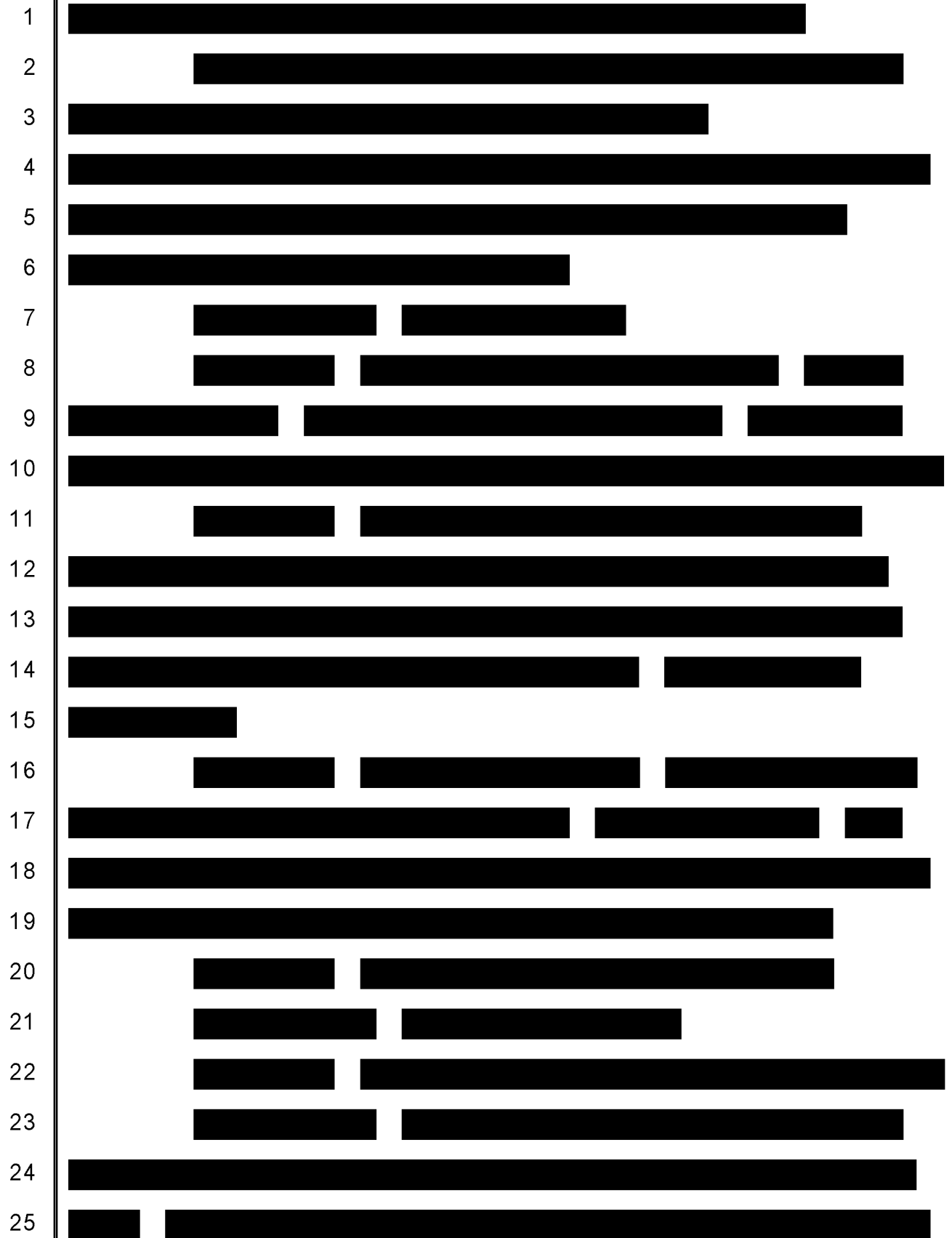
22 (Pause.)

23 MR. WISNER: Your Honor, we might have an issue that
24 we can discuss at sidebar. It's a good time since the witness
25 is in the restroom.

1 (Proceedings heard at sidebar:)

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A horizontal bar chart with 25 rows, numbered 1 to 25 on the left. Each row contains one or more black bars of varying lengths and positions. The bars are distributed across the width of the chart, with some rows having multiple bars. The bars are solid black and have no text or other markings.



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12 [REDACTED] [REDACTED]

13 (Proceedings heard in open court:)

14 (Witness re-enters courtroom.)

15 THE COURT: You'd better mark it as an exhibit, much
16 to my dismay.

17 MR. DAVIS: Okay.

18 THE COURT: Give it a number. Do you know what your
19 next number is?

20 MR. DAVIS: I don't know what my next number is.

21 THE COURT: I didn't think so.

22 (Pause.)

23 MR. RAPOPORT: Probably 20,000 or so.

24 MR. DAVIS: 27. Would you mind turning to Tab 27 in
25 your exhibit notebook, Doctor?

1 THE COURT: So he has it in front of him?

2 MR. DAVIS: Yes, he has a copy up there.

3 THE WITNESS: So this is a different binder?

4 MR. DAVIS: Yes, sir.

5 THE WITNESS: Is it binder 1 or 2 of the other set?

6 MR. DAVIS: It should be binder 1, yes.

7 THE WITNESS: Behind what tab number?

8 MR. DAVIS: 27.

9 MR. RAPOPORT: Your Honor, just to protect our
10 record, this is under Tab 27. It has no exhibit number and
11 should.

12 MR. DAVIS: Yes, we'll put DX 7- -- 7031.

13 BY MR. DAVIS:

14 Q. Are you there, Dr. Glenmullen?

15 A. Yes.

16 Q. What we're referring to, this is a book you wrote, right?

17 A. Right.

18 Q. And what you were trying to do as it said on the cover is
19 you're trying to explain the dangers of Prozac, Zoloft, Paxil,
20 and other antidepressants with safe, effective alternatives,
21 right?

22 A. Right.

23 Q. There's --

24 A. And again, it's not anti-drug. There's a lot of
25 description of when the drugs can be helpful, but yes.

1 Q. You're describing your experiences with these medications
2 and what you claim to be the side effect of those medications,
3 correct?

4 A. That completely mischaracterizes it. There's over 600
5 footnotes to the medical literature, and I'm pulling together
6 a lot of information that in 2000 -- remember, this is four
7 years before the very first warning in 2004, so I'm pulling
8 together a lot of information that doctors and patients,
9 especially primary care doctors who by now are writing 80
10 percent of the prescriptions, don't know.

11 Q. Right. And what you're trying to do is convey what you
12 claim that they should know, right, about the phenomenon that
13 you describe as Paxil-induced or paroxetine-induced akathisia
14 or suicidality, right?

15 A. Well, you keep saying me, you know. And again, there were
16 600 footnotes to the literature. You know, there was a drug
17 that said it caused sexual side effects in like 2 or 3 percent
18 of people and that studies showed 66 --

19 THE COURT: Doctor, I don't mean to interrupt you,
20 but we want to get on with your interesting testimony.

21 THE WITNESS: Thank you.

22 THE COURT: So put the question to the doctor that
23 you want to ask him --

24 MR. DAVIS: Sure.

25 THE COURT: -- about this book.

1 BY MR. DAVIS:

2 Q. Yes. And on Page 45 of the book --

3 A. So I don't have 45. And I would appreciate a copy of the
4 book.

5 Q. Yes.

6 THE COURT: Give him the book.

7 MR. DAVIS: Let me hand you --

8 THE COURT: Counsel has it.

9 THE WITNESS: Thank you.

10 MR. WISNER: I can give it to him.

11 THE COURT: Don't give up your copy.

12 MR. DAVIS: Okay. I don't know if it's the same
13 page, but if it's not, let me know, Doctor, and I can quickly
14 find it.

15 MR. RAPOPORT: It is. We just had it at the sidebar.

16 THE WITNESS: Okay.

17 BY MR. DAVIS:

18 Q. So Page 45, you're describing at the bottom a patient by
19 the name of Ron, right?

20 A. Right. So to clarify --

21 Q. Just -- I think we can go quickly through this.

22 A. His name is Ron.

23 Q. Yes. And you're describing a situation that happens to
24 Ron after he takes Paxil, right?

25 A. Right.

1 Q. Okay. And then what you're describing is, you're
2 describing the situation that happened with him and also,
3 you're also describing situations of how to distinguish
4 between agitation from psychiatric disorders versus agitation
5 that's drug-induced, right?

6 A. Right. I explained yesterday that --

7 THE COURT: Doctor, we're going to try to get through
8 this quickly.

9 THE WITNESS: Okay.

10 THE COURT: Ask him whether or not this is a parallel
11 case.

12 BY MR. DAVIS:

13 Q. Well, this case is about paroxetine, right?

14 A. Right, but Ron's case.

15 Q. And just --

16 A. -- is nothing like Stewart Dolin's.

17 Q. Let me get the questions one at a time. This case is
18 about paroxetine, right?

19 A. Right.

20 Q. And the situation in the book is about Paxil, right?

21 A. Paroxetine, yes.

22 Q. That's right. And in the book, you describe how to
23 distinguish between medication-induced anxiety and the -- or
24 agitation or akathisia versus what happens when a patient just
25 has those -- has anxiety or agitation from the underlying

1 psychiatric disorder, right?

2 A. Okay. But again, we keep in mind, inner agitation, outer
3 agitation. The outer agitation can be not at all or a little
4 bit of fidgety to, can't sit still.

5 Q. Okay.

6 A. This is a severe case of, can't sit still.

7 MR. DAVIS: I think I'm allowed to ask the questions
8 now, your Honor.

9 THE COURT: Which is? Which is a severe case?

10 THE WITNESS: The outer agitation --

11 THE COURT: No.

12 THE WITNESS: -- is this one.

13 THE COURT: Is the Ron case a severe case?

14 THE WITNESS: Severe outer agitation, the
15 restlessness.

16 THE COURT: Outer agitation.

17 THE WITNESS: Yes.

18 THE COURT: And is -- okay.

19 BY MR. DAVIS:

20 Q. And Stewart Dolin, you say, at least in your report you
21 said that it was Paxil, Paxil-induced akathisia that caused
22 him to commit suicide or jump in front of the train, right?

23 A. I thought we've been over that.

24 Q. I'm just asking what's in your report.

25 A. It was all the side effects that we went over yesterday.

1 You can use akathisia at times as a shorthand for that, but
2 you could also take akathisia out, and it's the same case.

3 MR. DAVIS: I think the foundation has been laid,
4 your Honor, for me to read it to them.

5 MR. RAPOPORT: I do not agree, your Honor, and I
6 object.

7 THE COURT: Well, you still haven't asked him whether
8 that case is instructive for our case.

9 MR. DAVIS: I think I have, your Honor, in terms of,
10 he's laid the foundation for me to describe it.

11 THE COURT: Is that case instructive for this case?

12 THE WITNESS: No, it is not, your Honor, because
13 Stewart suffered from severe inner subjective agitation. At
14 times, he had some outer visible agitation that was noticed by
15 a few people, but it waxed and waned. This is a description
16 of just the severe external, cannot sit still, so it is not a
17 parallel case.

18 THE COURT: Proceed.

19 MR. DAVIS: Excuse me, your Honor.

20 (Pause.)

21 BY MR. DAVIS:

22 Q. Dr. Glenmullen, please turn to Page 124 of your
23 deposition, and please go to Line 7.

24 A. 124?

25 Q. 124, Line 7.

1 A. Okay.

2 Q. All right. Were you asked this question, and did you give
3 this answer --

4 MR. RAPOPORT: I object, your Honor. First, I have
5 no idea from 7 how far we're going. Secondly, there's been no
6 predicate question to set up a reading from a deposition. For
7 both reasons, I object.

8 MR. DAVIS: Your Honor, the predicate has been laid
9 because he says that the situation with Mr. Dolin is different
10 than what's in the book, and I want to now impeach that opinion.

11 THE COURT: You may proceed.

12 BY MR. DAVIS:

13 Q. Thank you. Page 124, Line 7 to 21, Dr. Glenmullen, were
14 you asked these questions, and did you give this answer under
15 oath:

16 "Question: And you can't quantify, you understand
17 that the scale ranges from zero, absent, to five, extreme?

18 "Answer: Well, it's a while since I've looked at the
19 scale. Do you have a copy of it with you?

20 "Question: I don't.

21 "Answer: Okay.

22 "Question: I thought you might know it.

23 "Answer: Well, I certainly do know it. I am
24 familiar with it. It's a while since I've looked at it.
25 So, I mean, I would say his inner subjective agitation,

1 anguish, and torment were severe at the time when he
2 jumped in front of the train."

3 Did I read that correctly?

4 A. Yeah, his inner subjective agitation. And that's what I'm
5 saying was the emphasis with Stewart. And in that particular
6 case in the book, I'm trying to explain to doctors who might
7 not know about akathisia what it can look like when the outer
8 visible restlessness is so severe as it was in the case of
9 Ron. They're two -- they're totally consistent.

10 MR. DAVIS: Your Honor, I believe I'm allowed now to
11 proceed with reading the book.

12 MR. RAPOPORT: Same objection.

13 THE COURT: Well, we've gotten down this road. I'm
14 not sure where we are, but you can read that paragraph to him.

15 MR. DAVIS: Thank you, your Honor.

16 BY MR. DAVIS:

17 Q. In *Prozac Backlash* --

18 A. So where are you?

19 Q. I'm on Page 46.

20 THE COURT: Of your book.

21 THE WITNESS: Sure.

22 BY MR. DAVIS:

23 Q. You describe Ron as follows who had akathisia, quote:

24 "Ron had to hold himself down, his white-knuckled
25 hands pulling against the arms of the chair. As he did,

1 his feet displayed a telltale sign tapping and dancing
2 around the floor uncontrollably. This is a cardinal
3 feature separating medication-induced agitation from
4 psychologically-driven anxiety. While patients who are
5 anxious for psychological reasons may move around, they
6 do not experience the same compulsive, relentless
7 activity. Asked to sit still in a chair, an anxious
8 patient might curl up in a ball petrified but motionless.
9 Ron could not do this. In medication-induced agitation,
10 the patient cannot escape the urge to move, particularly
11 to move the legs."

12 Did I read that correctly?

13 A. Right. If they have the severe outer visible agitation,
14 which we only know of a couple of descriptions of that in
15 Mr. Dolin. Mrs. Dolin said that on the Monday night, and you
16 brought this up, he was in a phone call, and he was pacing
17 which she didn't really notice as anything special at the
18 time, but after his death reflecting back on it.

19 The therapist said that the night before he died, he
20 couldn't sit still, but then she clarified it that it was
21 just -- that she couldn't talk him down the way she usually
22 did and that maybe he was fidgety in the chair which is the
23 other end of that outer visible agitation, and then the polar
24 bear pacing description at the time of his death.

25 So all of it's very consistent. You know, it's the

1 inner subjective agitation which I said yesterday is the more
2 dangerous component as opposed to there may or may not. We
3 looked at the DSM-5 which says inner subjective agitation
4 often but not always --

5 MR. DAVIS: Your Honor --

6 THE WITNESS: -- accompanied by physical restlessness.

7 MR. DAVIS: Your Honor, I think I just asked if I had
8 read it correctly.

9 THE COURT: Well, it may stand. Sir, we've gone down
10 this road.

11 BY MR. DAVIS:

12 Q. Now, Doctor, you also agree that when you're describing
13 the physical and emotional sensations of akathisia, patients
14 report such things as, "I feel like I'm going to explode, like
15 the muscles inside my body are all sped up bursting against my
16 skin," or they say, "I feel like jumping out of my skin,"
17 right? Right?

18 A. Yeah. Yes.

19 Q. And in fact --

20 A. If you were --

21 Q. -- Mr. Dolin, there's no report in any of his medical
22 records of any reports of that nature, true?

23 MR. RAPOPORT: Object, your Honor. There were
24 several questions in there. He started to answer and was cut
25 off.

1 THE COURT: Well, there were several questions. You
2 may answer if you can, Doctor.

3 BY THE WITNESS:

4 A. So those are the kinds of inner subjective states that the
5 doctor, if they're informed about akathisia and how drugs can
6 cause this, can ask about, but the patient won't necessarily
7 know to volunteer them. They might not even -- you'll see in
8 the same list many patients say it's extremely difficult to
9 describe how uncomfortable it is.

10 BY MR. DAVIS:

11 Q. Doctor, my question simply was: Mr. Dolin never reported
12 to his doctors or to his therapists or to anybody else in this
13 case the statements along the lines that I read, true?

14 A. Yeah. As far as we know, no one evaluated him for
15 akathisia because there wasn't a warning that this drug could
16 cause this side -- cause this problem in his age group on the
17 label. And again, you're, like, harping on akathisia. We can
18 take it off the list. It's the same case. The case does not
19 depend on akathisia.

20 Q. Is there some reason why you want to change from it being
21 an akathisia-induced suicide as you put in your report to one
22 where you say it doesn't matter?

23 A. No, I'm --

24 MR. RAPOPORT: Objection, mischaracterization and
25 argumentative.

1 THE WITNESS: I'm just trying to respond to you
2 obsessing about it.

3 MR. DAVIS: Okay.

4 THE COURT: He answered.

5 BY MR. DAVIS:

6 Q. Okay. And you agree that agitation can be a feature of
7 depression, true?

8 A. So some people have agitated depressions, yes.

9 Q. Okay.

10 A. But again, we have a specific case here, and there's no --
11 no -- that's not how his depressions were described over years.

12 Q. I think we can just go along quickly with a yes or a no,
13 but patients --

14 MR. RAPOPORT: Objection, your Honor.

15 MR. DAVIS: Patients with --

16 MR. RAPOPORT: He should ask a question, not lecture
17 the witness.

18 BY MR. DAVIS:

19 Q. Patients with anxiety disorders can also be agitated, true?

20 A. Could be.

21 Q. Yeah. And you have said one can have agitation that
22 doesn't raise to the level of akathisia; it's difficult to
23 distinguish mild akathisia where there's not a lot of physical
24 restlessness, true?

25 A. That could be true in some cases.

1 Q. It could be true, and you've said that, right?

2 A. Sure, and again, you know, it's important for the jury to
3 know the thinking about akathisia has evolved over the years
4 and it's now, there's much more being written about this dual
5 inner subjective agitation and outer objective agitation.

6 There used to be too much emphasis on the outer objective
7 agitation. That scale that you were asking me about in the
8 deposition only looks at that, as I recall.

9 Q. We know that there are a number of people who interacted
10 with Mr. Dolin in the last week of his life that don't report
11 observing either symptoms consistent with agitation or a -- or
12 some kind of akathisia or an agitated state, right?

13 A. At least I talked about that yesterday.

14 Q. Yeah. And, for example, Mr. Schwartz -- can I have the --
15 yesterday, you put up in front of the jury a whole series of
16 deposition excerpts from some witnesses that you want to call
17 the jury's attention to, right?

18 A. Right.

19 Q. Okay. Well, there are other depositions taken in the case
20 that you didn't show, right?

21 A. I think I said that.

22 Q. Sure. And, for example --

23 MR. DAVIS: Your Honor, permission to publish 720
24 which it is a similar format of the deposition excerpts that
25 were shown to Mr. -- by Mr. Rapoport yesterday but these are

1 instead other witnesses, and I just want to quickly run
2 through them.

3 MR. RAPOPORT: Your Honor, I object because it's
4 really not a contested fact that many people observed the man
5 to look and seem fine, and I think the jurors -- the jury has
6 heard plenty of that, but that's not the point.

7 MR. DAVIS: I would say, your Honor, I can run
8 through this very quickly.

9 MR. RAPOPORT: We've got 17 pages here.

10 THE COURT: No, I'm going to sustain the objection.
11 We've heard the witnesses. We heard Mr. Schwartz. There's
12 room for your argument at the time, appropriate time, but we
13 covered that.

14 MR. DAVIS: Okay. Well, may I ask just a few
15 questions about the witnesses that interacted with him, the
16 people who interacted with Mr. Dolin then that week?

17 MR. RAPOPORT: Your Honor, I would make my objections
18 one question at a time. I can't predict the future, and I'm
19 not sure you can either.

20 MR. DAVIS: Sure. I'll just take it one question at
21 a time.

22 BY MR. DAVIS:

23 Q. Terry Schwartz had lunch with Mr. Dolin between 11:45 and
24 12:45, right?

25 A. Right.

1 Q. He observed and saw no unusual behavior in Mr. Dolin,
2 right?

3 A. He didn't notice anything.

4 Q. And you said yesterday that Mr. Dolin couldn't call
5 anybody to get an anti-anxiety medication because of what
6 paroxetine was doing to him at the time, right?

7 A. No, I didn't quite say it. What I said was that he was --
8 he was in no shape to necessarily be able to do that he --
9 because he hadn't been warned. He had no idea that there was
10 any kind of urgency.

11 I'm just saying, sure, his therapist called and said,
12 "Hey, why don't you get another medication," but it's not like
13 the fact that he hadn't made that call was responsible for his
14 death because it's not.

15 Q. And it's fair to say that Mr. Dolin was in shape to have
16 lunch with Mr. Schwartz as Mr. Schwartz described it, right?

17 THE COURT: It's covered. We all heard about
18 Mr. Schwartz at great length, so we don't need to hear about
19 that lunch again. I think I know what they ate.

20 BY MR. DAVIS:

21 Q. And Mr. Pecoraro was on the train platform --

22 A. Yes.

23 Q. -- that afternoon and observed Mr. Dolin, correct?

24 A. Yes.

25 Q. One of the things you didn't show the jury or talk about

1 was that Mr. Pecoraro was asked the question whether or not he
2 would describe Mr. Dolin's behavior as odd or unusual, and he
3 said he would not, true?

4 A. He said that, but it's important for the jury to know that
5 he was so taken with what he saw, this pacing like a polar
6 bear, that he -- whereas most people left the train station,
7 he went up to the police and said, "Here's my card. I can't
8 believe what's happened. I just observed this. He was
9 pacing."

10 When he was subpoenaed to do a deposition, he said,
11 "I don't want any part of this," and he was very clear he was
12 a reluctant witness at the time of his deposition.

13 Q. In fact, Mr. Pecoraro, a couple months after the incident
14 with Mr. Dolin at the train platform, he emailed Mrs. Dolin
15 and said that there wasn't anything that stirred out of the
16 ordinary in terms of Mr. Dolin's behavior, true?

17 A. Well, that's obviously not the case because he was so
18 taken with it, he went up and gave the police his card, but he
19 didn't want to get involved in the lawsuit. He didn't want to
20 be deposed.

21 Q. Dr. Glenmullen, are you suggesting that Mr. Pecoraro
22 somehow changed his testimony in some way?

23 A. I didn't say he -- I'm not saying he changed his
24 testimony, but when he was pushed on some things in the
25 deposition, he made it clear that he was a reluctant witness.

1 It's just important context again.

2 Q. So you have the ability to assess witnesses who are
3 deposed and to make a decision about who's being pushed in one
4 direction or another?

5 A. I didn't say that. I'm just saying, put the context in.
6 You're reading -- you know, there's another part of his
7 deposition where he says he's pacing like a polar bear.
8 You're not reading that. You're reading a statement where he
9 says it wasn't unusual. Well, something is going on there,
10 and maybe it's that he's a reluctant witness.

11 Q. You keep asking -- you keep mentioning the deposition, but
12 I was asking about the email. Can we agree that the email,
13 Mr. Pecoraro said that Mr. Dolin's behavior wasn't anything
14 that stirred out of the ordinary?

15 A. Yeah. He's also writing to the widow and like many other
16 people trying to say, you know, "I didn't think I could do
17 anything to help him." You know, everybody feels very guilty
18 after a suicide, like, "Is there anything I could have done to
19 make a difference."

20 So he's saying he didn't think, even when he saw the
21 guy pacing like a polar bear, he didn't think he was going to
22 dive like Superman in front of the train the next thing, which
23 is also his description.

24 Q. Dr. Glenmullen, do you feel it's your role as a
25 professional witness in this case to try to explain away every

1 instance of Mr. Dolin's normal behavior during that week?

2 A. I haven't explained it away at all. I said it's a very
3 important fact and corroborates my conclusion in the case.

4 Q. Okay. Now, you also realize that Mr. Dolin had several
5 phone calls that morning with a gentleman by the name of Ron
6 Spielman who was a client of his, right?

7 A. Yes.

8 Q. And Mr. Spielman testified that Mr. Dolin was acting
9 clearly and he was thinking clearly and there was nothing out
10 of the ordinary in those several phone calls, right?

11 A. That's correct, and I think they had agreed to talk later
12 in the day.

13 Q. Yes.

14 A. And that they were talking about future plans. So he
15 didn't think that the guy was planning to kill himself at that
16 time.

17 Q. And you also realize that Mr. Dolin had a conference call
18 on attorney evaluations the morning that he passed away, right?

19 A. That sounds vaguely familiar.

20 Q. That was -- that was a call that Paul Jaskot --

21 A. Oh, yes.

22 Q. -- who was deposed participated in, right?

23 A. He had a long call with Mr. Jaskot.

24 Q. Right. And also, there's about a 45-minute call that
25 Mr. Dolin participated in, and then there was a 15-minute call

1 with Mr. Jaskot, a shorter time period that he talked with
2 Mr. Jaskot, right?

3 A. Yes. Now that's coming back.

4 Q. And Mr. Jaskot described those calls as business as usual
5 with Mr. Dolin, right?

6 A. Yeah.

7 Q. Okay.

8 A. And this is the same morning that Mr. Lovallo had met with
9 him in person for 45 minutes and said he couldn't do basic
10 legal things.

11 Q. Well, you keep bringing that up, but what Mr. Lovallo said
12 is that Mr. Dolin was calm and in control. That was Mr.
13 Lovallo's description, right?

14 A. That was his description of him physically.

15 Q. Okay. And he also said he looked deliberate and
16 businesslike, right?

17 A. Yeah, the way he was dressed.

18 Q. And --

19 A. We looked at all those quotes yesterday about he'd never
20 seen him anything like this, he couldn't do basic legal things.

21 Q. And he didn't describe Mr. Dolin was agitated in any way,
22 correct?

23 A. No. We've talked about multiple people who didn't see
24 that.

25 Q. And, in fact, Mr. Dolin told Mr. Lovallo that he had had a

1 good night's sleep the night before, right?

2 A. I don't recall that specific testimony.

3 Q. You don't remember that? All right. And we also have
4 Laura Krueger who was his longtime secretary interacted with
5 Mr. Dolin throughout that last week, correct?

6 A. Yes.

7 Q. Ms. Krueger said that she didn't notice anything out of
8 the ordinary or unusual whatsoever with Mr. Dolin, true?

9 A. That's my recollection.

10 Q. And, in fact, she described him as his normal, friendly
11 self that week, right?

12 A. I don't remember that specific quote, but I believe you.

13 Q. We had the dinner with Dr. Sachman and the memorial
14 service that he and Mrs. Dolin and Mr. Dolin attended, correct?

15 A. Yes. I think we talked about that yesterday.

16 Q. And there was -- and Dr. Sachman said that Mr. Dolin only
17 had akathisia if he did, right?

18 A. Well, Dr. Sachman said that he was very upset about
19 something, and he kind of dominated the conversation at
20 dinner. I think he said Stewart was a bit quiet.

21 Q. He said that Mr. Dolin was calmer than him that night,
22 true?

23 A. Yeah. He recalls being upset about an issue with a
24 patient over the practice or something.

25 Q. He described Mr. Dolin's behavior as totally appropriate

1 for the circumstances, true?

2 A. Yeah.

3 Q. Right? And they had just come from a memorial service,
4 right?

5 A. Right.

6 Q. And you don't claim that Mr. Dolin was experiencing
7 extreme inner turmoil during this dinner with Dr. Sachman on
8 Tuesday, July 13, do you?

9 A. We don't know what was going on inside his head, but there
10 wasn't any outer visible agitation that the doctor happened to
11 notice. Was he tapping his foot under the table? We don't
12 know.

13 Q. And, in fact, when Mr. Dolin saw Dr. Salstrom on July 12
14 and he completed the questionnaire -- if you can call up
15 3139.22, or .2 -- he was asked, Mr. Dolin was asked a question
16 on the questionnaire he completed for Dr. Salstrom in which he
17 was asked in Question No. 9, "Did you feel very jumpy or
18 physically restless and have a lot of trouble sitting calmly
19 in a chair nearly every day of the past two weeks?" And
20 Mr. Dolin marked "no," right?

21 A. Right. So he's been on -- that's one of the questions
22 that specifically says nearly all the time, every day for two
23 weeks. And he's only been on the Paxil three days at that
24 point. And the physical restlessness would wax and wane --

25 Q. And --

1 A. -- so he answered that no.

2 Q. And when, the evening of July 14th in a session with
3 Ms. Reed, when she was asked to describe what she meant about
4 Mr. Dolin not sitting still, she said he didn't sit still and
5 that his anxiety continued and he didn't sort of calm down as
6 he had usually done, true?

7 A. I think that's exactly how I summarized it.

8 Q. She didn't observe any pacing --

9 THE COURT: You know, we've been through this before.

10 MR. DAVIS: You also realize that --

11 THE COURT: Move on.

12 MR. DAVIS: Thank you, your Honor.

13 BY MR. DAVIS:

14 Q. You also realize that Sheryl Sachman spoke with Mrs. Dolin
15 after Mr. Dolin passed away, right?

16 A. Sure.

17 Q. And she was asked at her dep -- and you reviewed her
18 deposition --

19 A. I did.

20 Q. -- to form your opinions, right?

21 And she was asked at her deposition if Mrs. Dolin had
22 ever told her whether Mr. Dolin was acting unusual or out of
23 the ordinary, correct?

24 A. I don't remember specifically, but most people were asked
25 that.

1 MR. DAVIS: Okay. Can I see -- can I see the
2 deposition of Dr. -- Ms. Sachman?

3 Your Honor, may I approach?

4 THE COURT: Wait. What are you -- why do you have to
5 go to her deposition?

6 MR. DAVIS: Because I'm going to ask him about
7 statements that Mrs. Dolin made.

8 THE COURT: He hasn't denied anything about that.

9 BY MR. DAVIS:

10 Q. Okay. Let me see if I can make sure -- maybe I didn't
11 hear the answer correctly, but you agree that that was -- you
12 agree that Sheryl Sachman was asked whether Mrs. Dolin said
13 that -- whether Mr. Dolin was acting unusual or out of the
14 ordinary before he died, right?

15 A. I agree that I recall most people were asked that.

16 Q. And, in fact, when she was asked that question, she said
17 that Mrs. Dolin had said that he was acting normal up until
18 Thursday, the day of his death, right?

19 A. Yes. She didn't understand initially what some of the
20 signs and symptoms might have been because she hadn't been
21 warned.

22 Q. And, in fact, Barry and Zach Dolin, Mr. and Mrs. Dolin's
23 children, were also -- also stated that they had conversations
24 with their mother about whether their father was acting
25 different or unusual the week before he died, right?

1 A. Right. Again, lots of people didn't notice anything or if
2 they did, they didn't realize until after that that might have
3 been significant.

4 Q. And also Zach Dolin said that his mother had said that his
5 father was not acting unusual or out of the ordinary, right?

6 A. Yes. There's no question that the widow did not realize
7 that any of the -- she testified that she was aware that he
8 was worse, but she had no idea that any of these could be
9 indications that he might kill himself.

10 Q. Doctor, I'm going to -- I only have a short amount of
11 questions left and see if we get through it. Okay?

12 A. Sure.

13 Q. You cannot identify any placebo-controlled studies or
14 meta-analysis of placebo-controlled studies conducted by
15 anyone showing a statistically significant increased risk of
16 akathisia in suicide, true?

17 MR. RAPOPORT: I object, your Honor. It's general
18 causation, and we could go on and on. He's got a long report
19 about it, but we didn't do any of that in the direct because
20 it was covered by Dr. Healy.

21 MR. DAVIS: He's got to have some basis for the
22 opinion that he's offered, your Honor. He's got to form it on
23 something besides just --

24 THE COURT: Well, we've heard his basis for his
25 opinion, though, haven't we?

1 MR. RAPOPORT: Absolutely.

2 MR. DAVIS: We've heard -- we've heard about
3 akathisia --

4 THE COURT: He hasn't gone into studies.

5 THE WITNESS: Yes, your Honor.

6 MR. RAPOPORT: He can, but we'll be here for a long
7 time. I mean, it's just not fair to cherry-pick studies.
8 Dr. Healy has already done all of this. And Dr. Glenmullen
9 has done that, too, and has a whole report on it, but we did
10 not duplicate, so we put him up on specific causation. We
11 split the two. And now they're trying to -- you know, they're
12 trying to cross-examine Dr. Healy indirectly now.

13 MR. DAVIS: It really informs whether he's got a
14 reliable basis to offer the opinions that he has, your Honor.

15 THE COURT: All right. You may ask the question.

16 BY MR. DAVIS:

17 Q. Okay. You cannot identify any placebo-controlled studies
18 or meta-analysis of placebo-controlled studies conducted by
19 anyone showing a statistically significant increased risk of
20 akathisia in suicide, can you?

21 A. So the point here is not statistically significant
22 increased risk of akathisia. It's statistically -- it's
23 increased risk of suicidality. We've looked at the long list.
24 I don't know why you're so hyper-focused on akathisia. It's
25 all those side effects. And the end point is the suicidality,

1 not the side effects. They are the precursors to it. And
2 this particular drug and this particular company has had an
3 increased risk for adults that they hid from the medical
4 community --

5 MR. DAVIS: Your Honor, please, this is --

6 THE WITNESS: -- and the FDA --

7 MR. DAVIS: -- not responsive to my question.

8 THE WITNESS: -- since 1991. They knew in '89 --

9 THE COURT: I think you've told us this, Doctor.
10 We've got the answer.

11 THE WITNESS: Thank you.

12 THE COURT: The question, the specific question was
13 studies, I guess.

14 THE WITNESS: Yes. The studies don't focus on
15 akathisia, sir. You know that. They focus on suicidal
16 behavior.

17 BY MR. DAVIS:

18 Q. Is it true that you have not done any analysis of the
19 paroxetine clinical trials data where you find an association
20 between akathisia or agitation on the one hand and suicidality
21 on the other?

22 THE COURT: Are we going into the other report now?

23 MR. RAPOPORT: Yes.

24 MR. DAVIS: I only have a handful of questions.

25 MR. RAPOPORT: He says no.

1 MR. DAVIS: I only have a handful of questions on
2 this, your Honor.

3 THE WITNESS: So I have eight side effects that I say
4 repeatedly in my report straight out of the list. He had one
5 of them is akathisia. You can take it off the list and seven
6 are left. I don't know why -- so what was -- so what was your
7 question, sir?

8 BY MR. DAVIS:

9 Q. Sure. If you can turn to Tab 8 of your prior testimony
10 and go to Page 119, Line 16 through 20.

11 A. I have to switch binders again.

12 THE COURT: Is that his testimony in this case?

13 MR. DAVIS: This is prior testimony, your Honor.

14 THE COURT: Tab?

15 MR. DAVIS: It's at Tab 8.

16 THE COURT: Tab 8?

17 MR. DAVIS: Yes, sir.

18 THE WITNESS: No, this was Mr. Thompson.

19 MR. DAVIS: Okay. Are you there?

20 THE COURT: Page 119, 16 through 20.

21 THE WITNESS: So this is 2009, Page 119.

22 MR. DAVIS: Yes, Lines 16 through 21.

23 THE COURT: Okay.

24 BY MR. DAVIS:

25 Q. Are you ready?

1 A. Sure.

2 Q. Were you asked this question, and did you give this answer
3 under oath:

4 "Have you done any analysis of the paroxetine
5 clinical trials data that finds an association between
6 akathisia or agitation on the one hand and suicidality on
7 the other?

8 "Answer: Not that I recall."

9 That -- did I read that correctly?

10 A. Correct.

11 Q. Okay.

12 A. The studies are not of akathisia. They're of all these
13 like 10 or 12 side effects leading up to -- they're not
14 studies of the side effects.

15 Q. You're not --

16 A. Wait a second. The end point is suicidal behavior,
17 suicidal behavior --

18 Q. You're not --

19 A. -- attempts or completed suicides, preparatory acts.

20 Q. You are not aware of any analysis done by anyone of the
21 Paxil data showing a dose-response relationship between Paxil
22 exposure and the emergence of possibly suicide-related events,
23 true?

24 MR. RAPOPORT: Same objection as stated before, your
25 Honor. It's all Dr. Healy's topic.

1 THE COURT: Well, it's new matter now. The objection
2 is sustained.

3 BY MR. DAVIS:

4 Q. You talked about Mr. Dolin having the impulse -- which you
5 claim caused by paroxetine to harm himself, right?

6 A. Right.

7 Q. And you don't know -- well, let me back up. It can
8 certainly happen that patients experiencing suicidal thoughts
9 deny that -- those thoughts to their healthcare providers,
10 true?

11 A. Yeah. We have plenty of evidence that Stewart was not
12 someone who misled his healthcare providers.

13 Q. And it's not your contention that the sudden emergence of
14 suicide thoughts followed by acting on those thoughts can only
15 occur in the context of what you claim is anti- --
16 antidepressant-induced suicidality, true?

17 A. Sure.

18 Q. Okay.

19 A. In another case, somebody could have a severe depression.

20 Q. You certainly don't say that only patients suffering from
21 what you call antidepressant suicidality have excessive
22 thoughts of suicidal behavior, correct?

23 A. Yes.

24 Q. And you agree that at approximately 1:15 p.m., Mr. Dolin
25 got on the elevator and rode it down to the bottom floor,

1 correct?

2 A. I was only referring to the timestamp on the video showing
3 him leaving the building.

4 Q. I'm referring to what you said --

5 A. Yes.

6 Q. -- in the past.

7 A. I think that's the basis for that assumption.

8 Q. And at no time when he was doing those activities did he
9 try to jump out a window due to an irresistible impulse, did
10 he?

11 A. No, sir, he didn't.

12 Q. And you don't know if he made a decision to get on that
13 elevator -- let me back up.

14 You don't claim that the reason he made the decision
15 to get on the elevator was due to behavior that was driven by
16 akathisia or due to paroxetine, do you?

17 A. No. He could have -- Mrs. Reed had told him that a good
18 thing to calm himself down would be to take a walk. So maybe
19 he left the building feeling like, "Well, maybe I should take
20 her advice and go for a walk" and then, you know, he was in
21 the pedestrian path. You know, it was very hot. It was the
22 summer. Who knows why he was where he was when the switch
23 flipped.

24 Q. For you there's no way of knowing whether he made a
25 decision not to stop at any intervening train station after he

1 left the building at Reed Smith, correct?

2 A. Yeah. We don't know if he visited -- we have no idea if
3 he visited any intervening train stations.

4 Q. You can't get inside Mr. Dolin's head in that last hour or
5 half hour before he passed away, can you?

6 A. Of course not.

7 Q. You don't have the special powers to do that, do you?

8 A. No, sir.

9 Q. And the kind of granular, what was going on in his head at
10 the time is impossible to know, true?

11 A. Well, that is true. There's a big picture here going back
12 to 1989 that we've reviewed. And this was something unlike
13 anything that had ever happened to him before. You know, I
14 was -- Dr. Cole, who was one of the pioneers in this, he said
15 that this side effect can look like pneumonia in a patient
16 with a history of dust allergies.

17 And that's the same thing I was saying, that you have
18 a history of mild to moderate depression. It's like having
19 dust allergies, and all of a sudden, wham, you've got
20 something completely unlike the past.

21 Q. Mr. Dolin had -- the relationship with Dr. Sachman was one
22 in which Dr. Sachman was available 24 hours, seven days a week
23 through his concierge practice, right?

24 A. Sure.

25 Q. And in the past, Mr. Dolin had called Dr. Sachman even if

1 it was late at night or a weekend if he had some issue,
2 whether it was with a medication or with some other medical
3 issue he was having, correct?

4 A. You just hit on it. And had Dr. Sachman been warned and
5 had he been able to warn Stewart, Stewart could have called
6 him and said, "Hey, I'm worried about this drug. I'm worried
7 about this switch you told me about." And Sachman could have
8 saved his life.

9 Q. Can we come back to my question?

10 A. I think I answered it.

11 Q. I don't think so. My question simply was: In the past,
12 Mr. Dolin had called Dr. Sachman even if it was on a weekend
13 or late at night if he had a problem with medication or
14 because of some medical issue, right?

15 A. And I'm confident --

16 Q. Yes?

17 A. -- if he knew the danger he was in, he would have called
18 again.

19 Q. Can we -- so you agree with what I said?

20 A. I do.

21 Q. Thank you. And so at no time when he had -- when he was
22 sitting down -- well, at no time during the week did he call
23 Dr. Sachman and say that, "I'm having some kind of problem
24 with the medication or the problem that I'm having with
25 paroxetine and" --

1 THE COURT: All right. That's just covered. That's
2 covered. Let's move on.

3 BY MR. DAVIS:

4 Q. While you claim that Mr. Dolin's jumping in front of a
5 train was an irresistible impulse, you don't know exactly when
6 that irresistible impulse kicked in during the last hour, true?

7 A. Correct.

8 Q. And so you don't know what other of his activities were
9 the product of an irresistible impulse, true?

10 A. True.

11 Q. We do know, however, that Mr. Dolin deliberately jumped in
12 the path of the oncoming train, true?

13 A. With the little discussion we've had about what "deliberate"
14 means in this case, yes, he dove like Superman -- it's kind of
15 a gruesome image -- in front of the train.

16 Q. Please -- please turn to Page 41 of your deposition, Page
17 41, Line 18 through Line 21. Are you there?

18 A. I am.

19 Q. Do you agree that you were asked --

20 MR. RAPOPORT: I object, your Honor. There's
21 absolutely nothing inconsistent with this.

22 THE COURT: All right. Let me see it, please.

23 MR. DAVIS: It's Page 41, Lines 17 to 21.

24 THE COURT: The objection is sustained.

25 BY MR. DAVIS:

1 Q. You agree that many people who commit suicide do not do so
2 under an irresistible impulse and instead it is the product of
3 a deliberate act, true?

4 A. Yes.

5 Q. And those individuals voluntarily -- voluntarily take
6 their life either because of depression or anxiety, correct?

7 A. Yes.

8 Q. Those individuals's evaluations of the benefits of living
9 versus the benefits of not living may be distorted by their
10 illness but they never -- but they nonetheless make a
11 voluntary decision to end their lives, true?

12 A. Yes.

13 Q. And people, when they commit suicide, do it for a number
14 of reasons which most of us never hear about, true?

15 A. True.

16 Q. It's an extremely personal decision, is it not?

17 A. Under those circumstances when it's not medication-
18 induced, yes.

19 Q. Okay. But I think you agree that when people commit
20 suicide, they do it for a number of reasons that most of us
21 never hear about because it's a personal decision, correct?

22 A. Right.

23 MR. DAVIS: Okay. Thank you, Dr. Glenmullen.

24 THE WITNESS: Thank you.

25 THE COURT: All right. We'll take a break, ladies

1 and gentlemen.

2 (Recess from 3:07 p.m. to 3:20 p.m.)

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1 (Change of reporters, Volume 11-C.)

2

3 (Jury enters courtroom.)

4 THE COURT: All right. Thank you very much, ladies
5 and gentlemen. Please be seated. We'll resume.

6 You may proceed, sir.

7 MR. WISNER: Thank you very much, your Honor.

8 REDIRECT EXAMINATION

9 BY MR. RAPOPORT:

10 Q. Doctor, I'll just try to keep this to a few minutes.

11 A. Thank you.

12 Q. Cover a number of different points.

13 One of the points that was raised on your
14 cross-examination, you were showed a provision in your report
15 talking about akathisia; and you heard this repeated
16 questioning about you said it was only akathisia somewhere.

17 So, do you have your report in front of you?

18 A. I do.

19 Q. Case-specific report? Please turn to page 1.

20 A. Okay.

21 Q. All right. In the second paragraph, right on page 1 of
22 your lengthy report talking about this case, do you see toward
23 the bottom there the topic addressed directly?

24 A. Yes.

25 MR. RAPOPORT: And, your Honor, this is Plaintiff's

1 Exhibit 256, so we'd move to display to the jury the portion
2 of the report that I'm referring to and have the doctor read
3 it into evidence.

4 MR. DAVIS: Your Honor, I believe the rules of
5 engagement were he can read it, but not show it.

6 THE COURT: It doesn't come into evidence ordinarily.

7 MR. WISNER: Yeah, so I want to bring out -- I
8 thought they showed him a part of the report that said, "Over
9 here, you said X, Y, Z."

10 MR. DAVIS: I was not allowed to put it on the
11 screen, your Honor, just asking him about it.

12 THE COURT: Yeah, just ask him about it.

13 MR. RAPOPORT: All right. Fine.

14 BY MR. RAPOPORT:

15 Q. So, anyway, on page 1 of your report, it says, quote,
16 "Unfortunately, on Paxil, Stewart developed classic side
17 effects linked to antidepressant-induced suicidality,
18 including akathisia," which in parentheses is drug-induced
19 agitation, "worsening insomnia, worsening anxiety, worsening
20 depression, out-of-character behavior, severe difficulty
21 functioning, near-delusional thoughts, and ultimately
22 irresistible suicidal urges. Stewart deteriorated
23 dramatically on Paxil."

24 And did I read that correctly?

25 A. Yes, sir.

1 Q. Now, in addition, your conclusion -- let's turn to
2 page 117.

3 A. Okay.

4 Q. All right. And the -- you have conclusions on 100 and
5 page 17 -- on 117, you're wrapping up your detailed analysis
6 of the case-specific causation, right?

7 A. Right.

8 Q. And on this, among other things, you say, quote,
9 "On July 10th, 2010, Stewart went on Paxil. Unlike any
10 depression or anxiety Stewart had ever had before, on Paxil,
11 his condition plummeted. He developed classic side effects
12 linked to antidepressant-induced suicidality:" And then you
13 write, "Severe agitation (akathisia), worsening depression,
14 worsening insomnia, worsening anxiety, inability to function,
15 out-of-character behavior, and ultimately irresistible
16 suicidal urges."

17 Did you write that?

18 A. Yes, sir.

19 Q. Did you ever say in that report that this is akathisia and
20 only akathisia?

21 A. No, sir.

22 Q. You were questioned at your deposition on the same topic,
23 correct?

24 A. Correct.

25 Q. And I have a particular reference, as soon as I get my

1 iPad. Oh, there it is. We have this fast.

2 All right. If you could turn to --

3 MR. DAVIS: Your Honor, I don't know if the
4 deposition goes up on the screen versus --

5 MR. RAPOPORT: Oh, forgive me. I had no idea it was
6 projecting, and I did not mean to put that up on the screen.
7 Hang on.

8 MR. BAYMAN: It's up again.

9 MR. WISNER: Do you want to get it off?

10 MR. RAPOPORT: Yeah, off.

11 MR. WISNER: When you're ready to go back on, let me
12 know.

13 MR. WISNER: Okay. Sorry.

14 MR. DAVIS: May I have a page and line number,
15 Mr. Rapoport?

16 MR. RAPOPORT: I'm getting there.

17 BY MR. RAPOPORT:

18 Q. So, calling your attention to -- and you should turn to it
19 as well -- page 50 from your deposition in this case.

20 A. Yeah.

21 Q. Page 49, actually, at the bottom, line 24, through
22 page 50, line 17.

23 And just let me know both when you have found it, and
24 we'll pause so everybody else can read it.

25 A. 49, line --

1 Q. 49 at the bottom, starting at 24.

2 A. Okay.

3 Q. One question and one answer.

4 A. Okay.

5 Q. All right. Did you give this testimony in this case on
6 March 16th of 2015 under maybe questioning by the same
7 attorney who questioned you here today?

8 A. Sure, I think so.

9 MR. DAVIS: Mr. Rapoport --

10 MR. RAPOPORT: Maybe it's wrong. I don't know.

11 MR. DAVIS: I think I was not the questioner in the
12 deposition.

13 THE WITNESS: You were there, right? Okay.

14 BY MR. RAPOPORT:

15 Q. This is a question by a lawyer representing GSK to you and
16 your answer, right?

17 A. Right.

18 Q. "Question: Do you claim to know that Mr. Dolin decided to
19 jump in front of that train because he was overwhelmed with
20 what you characterize as the discomfort -- extreme discomfort
21 associated with akathisia and he jumped into the path of the
22 train in order to escape that feeling?

23 "Answer: I think that misstates my earlier
24 testimony. So, first of all, it's all these classic side
25 effects linked to antidepressant-induced suicidality, which

1 even the FDA has said are linked to antidepressant-induced
2 suicidality. It's all the testimony that supports that he had
3 these, this dramatic deterioration in his condition.

4 "You know, we can use akathisia as a shorthand for
5 all of these changes, and then yes, at that point, to a
6 reasonable degree of medical certainty, the drug is
7 responsible, as opposed to him having made a choice himself
8 to do that."

9 Did I read that testimony correctly?

10 A. Yes, sir.

11 Q. And is that still your opinion today?

12 A. Yes, sir.

13 Q. And have you ever testified in this case or anywhere else
14 to anything inconsistent with that?

15 A. No, sir.

16 Q. Now, having chosen the label shorthand --

17 A. Yes.

18 Q. -- okay, instead of running through the list every time in
19 the 380 pages that you were questioned --

20 A. Right.

21 Q. -- did that ever mean that you meant akathisia to have its
22 usual meaning without the rest of the list?

23 A. No. It was one of eight.

24 Q. Let's shift to a different but related topic concerning
25 akathisia. Do you have an opinion, based on a reasonable

1 degree of medical and scientific certainty, about whether
2 akathisia is, in fact, linked to suicide?

3 A. Yes, sir.

4 Q. What is that opinion?

5 A. That it definitely is.

6 Q. Now, you were challenged in the cross-examination with an
7 argument being made about a double-blinded placebo-controlled
8 something or other. Do you remember that question?

9 A. Right, which is kind of code for pharmaceutical company
10 studies.

11 Q. And so please explain to the jury, having said -- I think
12 you said words to the effect of there weren't studies like
13 that, whatever the technical jargon was?

14 A. Correct.

15 Q. So, please explain to the jury how it is, then, that you
16 could have an opinion in this zone and what you base it on, if
17 you don't have those kind of studies that you've admitted you
18 don't have.

19 A. Well, while the pharmaceutical companies have not done the
20 kind of studies that we would really like to have, this side
21 effect actually first came to light because of smaller-scale
22 studies that psychiatrists did. And I think I mentioned
23 yesterday that they started to be published in the late
24 1990s -- late 1980s, early 1990s. And there's a whole series
25 of them. I have one -- I've got about one, two, three, four,

1 five, six, seven of them here in this.

2 One of the best known we talked a little bit about,
3 the Teischer and Cole report. Six patients became very
4 suicidal on Prozac. It listed akathisia as one of the
5 possibilities.

6 A colleague of Dr. Teischer and Cole at MacLean
7 Hospital, his name is Dr. Anthony Rothschild, he did a
8 follow-up study; and he took three patients who had developed
9 suicidal thoughts and urges on Prozac, and he actually
10 hospitalized them and gave them the drug again.

11 We talked about de-challenge is when we take people
12 off the drug. This is now rechallenge. He wrote a paper,
13 it's a classic paper --

14 THE COURT: I think we've already heard this, haven't
15 we? Dr. Rothschild's study?

16 MR. RAPOPORT: I think we can stop here.

17 THE WITNESS: Okay.

18 THE COURT: Have we heard about this?

19 MR. DAVIS: Objection, your Honor.

20 BY THE WITNESS:

21 A. I would want to mention Dr. Leahy's study, because he
22 worked at the manufacturer of Zoloft, the drug that Mr. Dolin
23 became suicidal on briefly when the dose was increased; and he
24 wrote another very important paper, and he's the one who
25 coined -- he's one of the people who coined the phrase that

1 when people get akathisia from these drugs, death can be a
2 welcome relief. And he's an executive at the pharmaceutical
3 company when he publishes that paper.

4 BY MR. RAPOPORT:

5 Q. Right. So, let me wrap this point up before we move on to
6 another one.

7 The challenge fundamentally in the cross-examination
8 was, "Hey, you have no scientific basis to say that akathisia
9 is a cause of suicide," right, in plain English, was the
10 suggestion?

11 A. Right. Trying to couch it in, "You don't have
12 double-blind, placebo-controlled trials," right.

13 Q. And from the point of view of science and medical
14 literature, is there any inadequacy in the scientific basis
15 for the opinion that you've given in this zone? I'm not
16 looking for details.

17 A. No. It's very well-established that akathisia can make
18 people suicidal.

19 Q. Okay. One of the topics that was covered had to do
20 with -- you mentioned something that you brought up that you
21 read in Sydney Reed's deposition along the lines of she didn't
22 know at the time about the possibilities of Paxil-induced
23 suicidality, but she learned that later.

24 A. Right.

25 Q. What you do not know is that while the jurors have heard

1 testimony from Sydney Reed, the parties didn't necessarily
2 designate every single thing.

3 MR. DAVIS: Your Honor, whatever the question is, I'm
4 not sure we're there. I just don't think Mr. Rapoport ought
5 to be testifying versus the witness.

6 THE COURT: You shouldn't summarize it. Just ask the
7 question.

8 MR. RAPOPORT: Yeah, here's the point, your Honor,
9 and I'm not sure how to do it. I have a portion of the Reed
10 testimony -- I'm not going to reveal the substance. I have a
11 portion of the Reed testimony that was -- that they have not
12 heard, and I'm trying to set up questions -- it wasn't
13 objected to. It simply wasn't designated, but --

14 MR. DAVIS: Your Honor, again, we're into a narrative
15 versus a Q and A.

16 THE COURT: Well, that has to be handled separately.
17 If it hasn't been put in the record yet and you want to put it
18 in, it has to be handled separately.

19 MR. RAPOPORT: He referred -- it's in the record
20 because the witness referred to it.

21 THE COURT: He can refer to it even though it's not
22 in the record under Rule 703, if he is aware of it.

23 MR. RAPOPORT: He mentioned it himself, and I just
24 want to bring out that he had a basis for what he said. So, I
25 can walk up and hand him this and --

1 THE COURT: You can ask him -- because of Rule 703,
2 you can ask him the question, if he's aware of it.

3 MR. WISNER: Great.

4 THE COURT: If he's not aware of it, you can't.

5 MR. DAVIS: I would just object because it's not in
6 evidence.

7 THE COURT: Yeah. Well, it doesn't have to be in
8 evidence for this purpose.

9 MR. DAVIS: And again --

10 THE COURT: Under Rule 703.

11 MR. DAVIS: I understand, your Honor. I'm just
12 making my preservation of hearsay as well.

13 BY THE WITNESS:

14 A. Thank you.

15 BY MR. RAPOPORT:

16 Q. All right. I want to call your attention to --

17 THE COURT: Are you aware of this material?

18 MR. RAPOPORT: He's quite aware. He brought it up.

19 THE COURT: Okay. Put your question, and then we'll
20 go from there.

21 MR. RAPOPORT: Well, there's -- so, I have to call
22 attention to what I'm talking about. There's several pages,
23 only a little bit --

24 THE COURT: Just ask your question. We'll figure it
25 out.

1 BY MR. RAPOPORT:

2 Q. Calling your attention to page 287, line 18, to page 288,
3 line 1, is that the testimony that you were referring to when
4 you talked about what Sydney Reed knew and didn't know?

5 A. Yes, that she didn't know about Paxil-induced suicidality
6 in 2010.

7 Q. Okay. Please read into the record the questions and
8 answers that you were referring to when you brought it up
9 during cross-examination.

10 MR. DAVIS: Your Honor, I think this is
11 inappropriate. It's not in evidence.

12 THE COURT: Yes, sustained.

13 MR. DAVIS: Thank you.

14 MR. RAPOPORT: Is there another way to get at it
15 or --

16 THE COURT: Well, you've got to put it in the record;
17 and it wasn't designated, so she hasn't said it.

18 Now, he can comment on it. You can ask him if he
19 relied on it. You can ask him what reliance he placed on it,
20 and that may or may not develop the testimony.

21 MR. RAPOPORT: Got it.

22 BY MR. RAPOPORT:

23 Q. So, what was it that you were relying upon when during
24 cross-examination you mentioned that part about Sydney Reed
25 knowing -- not knowing that Paxil had these characteristics

1 and learning about it after Mr. Dolin's death?

2 A. So, I think --

3 MR. DAVIS: Your Honor, just for preservation
4 purposes, same objection.

5 THE COURT: Overruled.

6 BY THE WITNESS:

7 A. So, I think the importance of it is that she, like other
8 people in 2010, did not know about Paxil-induced suicidality
9 in adults and, therefore, couldn't necessarily know that, for
10 example, when she observed him fidgety on the night of the
11 24th -- I'm sorry, on the night of the 14th, that that could
12 be due to Paxil.

13 MR. DAVIS: Excuse me, Dr. Glenmullen. Excuse me.
14 Your Honor --

15 THE COURT: Don't interrupt his answer. He hasn't
16 finished yet. Let him finish.

17 MR. DAVIS: Yes, sir.

18 THE COURT: And then we'll hear your objection.

19 MR. DAVIS: Okay. Thank you.

20 BY THE WITNESS:

21 A. She didn't know when she called him in the morning worried
22 about his anxiety that she should be worried about his
23 suicidality. That none of these people who interacted with
24 him, including the therapist, his wife, his friend who was his
25 doctor, and Mr. Dolin himself --

1 THE COURT: Now you're going a little bit too far.
2 This has already been covered. We've heard all of this
3 before.

4 MR. RAPOPORT: So --

5 MR. DAVIS: Your Honor, excuse me.

6 MR. RAPOPORT: I agree, except for only one thing,
7 and that has to do with proof that she really said it, which
8 he is relying upon, and that's what I'm trying to get out
9 because it wasn't in the movie.

10 THE COURT: No, sir. It's covered.

11 MR. WISNER: Okay.

12 MR. DAVIS: Your Honor, I would move to strike
13 Dr. Glenmullen's response because it is speculation about
14 Mrs. Reed's state of mind.

15 THE COURT: No, overruled. We've had -- we've heard
16 her testimony, and we've heard her limited knowledge, so --

17 MR. RAPOPORT: Great. Thank you.

18 BY MR. RAPOPORT:

19 Q. Okay. There was -- there were a number of questions about
20 the amount of medical-legal work that you do these days.

21 A. Right.

22 Q. And I want to come back to that just in several small
23 particulars.

24 A. Sure.

25 Q. Number one, are you still practicing medicine and seeing

1 patients at all?

2 A. Yes, I am.

3 Q. And in what -- how much, and how does that --

4 A. So, I'm still doing the teaching, which I enjoy very much.
5 It's a few hours a week. And then I see patients a half a day
6 or a day a week depending on my schedule and how busy I am and
7 how many people need to be seen.

8 Q. Did you ever imagine that you would end up finishing your
9 career doing so much medical-legal work?

10 A. No, I did not.

11 Q. Now, I just want to ask some questions solely about
12 medical-legal work tied to Paxil.

13 A. Yes.

14 Q. And really, I have only one major question about it, which
15 is: Have you ever testified in a Paxil case before a jury in
16 your life?

17 MR. DAVIS: Objection, your Honor.

18 BY THE WITNESS:

19 A. No, this is the first one that went to trial.

20 MR. DAVIS: Objection. May we be heard?

21 THE COURT: All right.

22 (Proceedings heard at sidebar:)

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16 (Proceedings heard in open court, jury present:)
17 THE COURT: Did the doctor answer?
18 MR. RAPOPORT: Well, he did, but there was an
19 objection.
20 THE COURT: So, let me see. Well --
21 MR. RAPOPORT: I could just do it again, if it's
22 easier.
23 THE COURT: All right. You may inquire.
24 MR. RAPOPORT: All right. Thanks.
25 BY MR. RAPOPORT:

1 Q. So, before that break, I was zeroing in on -- in
2 particular on the medical-legal work that you have done in
3 cases against GSK involving Paxil.

4 A. Right.

5 Q. And the question was simply: Before your experience with
6 this jury in the last two days --

7 A. Yes.

8 Q. -- have you ever testified in a jury trial against GSK
9 over Paxil?

10 A. No. None of the others went to trial.

11 MR. DAVIS: Your Honor, I'd ask that that last
12 comment be stricken. It's totally non-responsive.

13 THE COURT: Okay. That may go out. Just, "No," may
14 stand.

15 MR. RAPOPORT: Okay. All right.

16 BY MR. RAPOPORT:

17 Q. You were questioned in some length about the -- a
18 provision in your book, and it involved the outer
19 manifestations of akathisia. You've talked already about
20 inner manifestations. You've talked obviously about the Dolin
21 case at length, so I have no further questions about that
22 topic.

23 However, are there other examples? In other words,
24 you're saying that this inner thing, dominantly inner or even
25 exclusively inner, is real. Have you seen this over time in

1 the literature and other work you've done?

2 A. Sure, in my own practice.

3 Q. Can you give the jurors some example? You've heard --
4 they took an example out of your book. Are there some other
5 examples that illustrate the inner part of this --

6 THE COURT: I think we've had enough of that.

7 MR. WISNER: Okay.

8 BY MR. RAPOPORT:

9 Q. You were asked quite a few questions and talked a good bit
10 already, I think, about this general topic of quite a few
11 people who interacted with Mr. Dolin in the last few days and
12 even the day of didn't notice anything unusual. Does this
13 undermine your opinion about what caused his death?

14 A. No. I think it actually strengthens it --

15 Q. Why?

16 A. -- because it underscores how dangerous the side effect
17 is, and that you can go from being someone who appears to be
18 fine, within less than an hour, the switch being flipped and
19 dive in front of a train.

20 Q. One of the topics that you were asked about had to do with
21 other antidepressant medications as possible reasonable
22 alternative modalities of care. I think that kind of came up
23 with respect to Mr. Dolin.

24 Were there other reasonable modalities of care not
25 involving medications at all?

1 A. Oh, sure. We saw that from 1989 to 1996, he was treated
2 on and off successfully with -- by a psychiatrist with no
3 medications, just talk therapy.

4 Q. And was the possibility of proceeding without medications
5 a reasonable possibility for Stewart Dolin even in July of
6 2010?

7 A. Oh, in my opinion, absolutely, absolutely.

8 Q. Why do you say so?

9 A. Because it would have been far safer in his case.

10 Q. You were asked some -- you made some comments during
11 cross-examination about the classic time frame and pattern for
12 drug-induced akathisia -- excuse me, for drug-induced suicide.
13 Would you please explain a little bit more what you meant by
14 those comments.

15 A. Sure. What we saw in the FDA information for kids that
16 it's -- the FDA says the first few months, something like
17 that. Whenever the dose changes, when it started, if the dose
18 is increased, if it's decreased, or it's stopped.

19 I agree with that. It's very front-loaded. It's the
20 early weeks to months, early days to weeks to months. I think
21 we talked yesterday there have been cases where people have
22 this reaction on one dose.

23 Q. Now, there was mention of your two other reports in this
24 case. During your testimony, you talked about the report and
25 your opinions concerning the specific connection between

1 Mr. Dolin's death and the drugs.

2 A. Yes.

3 Q. Your other two reports dealt with general topics about
4 whether the drug, Paxil, causes suicide, either in adults --
5 one is an adult report and one is a children's report,
6 correct?

7 A. You got it.

8 Q. And those reports were prepared actually before Mr. Dolin
9 died, weren't they?

10 A. Oh, long before.

11 Q. And the -- you have been prepared, if asked, to testify
12 about all of the details about what you know about the general
13 ability of this drug to cause suicide in adults and children,
14 to the extent that you would be asked, correct?

15 A. I've --

16 MR. DAVIS: Your Honor, I don't think we're here
17 about pediatric cases.

18 MR. RAPOPORT: I'm just clarifying. I'm not going
19 into the substance.

20 MR. DAVIS: I didn't ask any questions about that,
21 either.

22 THE COURT: You're right. Objection sustained.

23 MR. RAPOPORT: Okay.

24 BY MR. RAPOPORT:

25 Q. You were asked questions about have you told the FDA what

1 you know.

2 A. Um-hum.

3 Q. And you gave answers that talked about, "I would if I
4 could, but I can't, because documents have been confidential."

5 A. Correct.

6 Q. Are certain documents becoming public because of this
7 trial?

8 A. Yes, they are.

9 Q. And what do you intend to do?

10 MR. DAVIS: Objection, your Honor.

11 MR. RAPOPORT: They brought it up.

12 MR. DAVIS: It's an inappropriate question.

13 THE COURT: Documents becoming public because of this
14 trial?

15 MR. RAPOPORT: In other words, there were -- yes.

16 THE COURT: I don't think we need to get into that.

17 MR. DAVIS: Thank you.

18 BY MR. RAPOPORT:

19 Q. What plans, if any, do you have concerning contacting the
20 FDA about things you know that they may not?

21 A. I would be happy to do that once the -- as the documents
22 become public.

23 Q. Okay. You were asked -- you were shown bits and pieces of
24 Mr. Dolin's employment files that included reviews, comments
25 on his work, his compensation, and the like. Do you remember

1 that?

2 A. I do.

3 Q. Now, I'm going to try to avoid getting into a big
4 show-and-tell about that because there will be witnesses from
5 Reed Smith here soon enough to finish up the trial.

6 A. Okay.

7 Q. But is it a fair -- well, please characterize -- kind of
8 fit in context that bad review with insulting things said
9 about Mr. Dolin with what the rest of the files show.

10 A. Right. So, I think we mentioned -- I think it's come up
11 that when Mr. Dolin died, the law firm nationally created a
12 Stewart Dolin award given out annually for the person who's
13 the most caring and the best team player. So, that's how high
14 esteem he was held in.

15 He supervised -- I'm guessing, but it's like maybe
16 50 people or 150 people. It was a huge number. Maybe it was
17 50 at Sachnoff and it's more like 150 in the big law firm, all
18 over the country. So, of course there's going to be one or
19 two people a year who are unhappy or have an axe to grind, but
20 that would have been true all along.

21 And I don't -- you know, he was held in extremely
22 high esteem in the law firm.

23 Q. This last question, I'm just going to give you a
24 generality to save the hours of questioning that we might
25 otherwise have.

1 If we had two baskets here and one of them had all of
2 the great things that people said in those employment files at
3 Reed Smith about Stu Dolin and the other one had everything
4 bad that people said about him, how full would the one basket
5 be?

6 A. One basket of accolades, compliments, praise, would be
7 very, very full; and the basket with criticisms would have
8 very little in it.

9 Q. Counsel for GSK didn't show you any of the good things
10 that people said at all, did he?

11 A. No, sir.

12 MR. RAPOPORT: Thank you, sir. No further questions.

13 MR. DAVIS: I have a handful of questions on recross,
14 your Honor.

15 THE COURT: Very narrow.

16 MR. DAVIS: Yes. I have three. Is that narrow
17 enough? Three.

18 RE CROSS-EXAMINATION

19 BY MR. DAVIS:

20 Q. Okay. You mentioned placebo-controlled studies --

21 A. Yes.

22 Q. -- in response to some of Mr. Rapoport's questions.

23 You understand that the FDA's analysis in 2006 was
24 directed solely at placebo-controlled trials for adults, true?

25 A. The 2.67?

1 Q. The analysis that FDA did in 2006, the FDA asked solely
2 for placebo-controlled trials, right?

3 MR. RAPOPORT: Your Honor, completely beyond the
4 scope. I didn't touch this with a 10-foot pole.

5 MR. DAVIS: He suggested that it was pharmaceutical
6 companies only that were interested in placebo-controlled
7 trials, and I'm addressing that point.

8 BY THE WITNESS:

9 A. No. I said that placebo-controlled trials are what the
10 companies do, and that's all you asked about.

11 BY MR. DAVIS:

12 Q. And FDA, in 2006 when it analyzed the issue of adult
13 suicidality, it asked for only placebo-controlled studies,
14 correct?

15 A. Given that analysis, the FDA obviously knows about the
16 link between these side effects and suicidality because they
17 put it in the warning for kids.

18 Q. We've been over that ground, Doctor, and I'm not going to
19 rehash it. All right?

20 A. Glad of that.

21 Q. And now, you also know that -- you mentioned challenge,
22 de-challenge, and rechallenge in your response to
23 Mr. Rapoport, correct?

24 A. Yes.

25 Q. You are unable to identify any suicide-related event in

1 the body of Paxil clinical trials data where there was a
2 challenge, de-challenge, and rechallenge, true?

3 A. Well, it just so happens that, as I'm sure you know,
4 another thing that I quote in my report is multiple cases of
5 people getting akathisia in the original Paxil trials that
6 GlaxoSmithKline did. And they actually had the researchers
7 rate whether or not they thought that the agitation was
8 related to the drug so they could say no or unlikely or
9 probably or definitely.

10 And you know I have a whole long list of quotes of
11 people developing severe agitation, sometimes labeled
12 explicitly akathisia, and GSK's own researchers say, "related
13 to the drug."

14 Q. Let's turn to your -- behind Tab 8 of your prior
15 testimony, if we could. And turn to page 173, lines 2 to 17.

16 A. Hold on one second. I'm sorry. Which tab? 8, did you
17 say?

18 Q. It is behind Tab 8. Lines 2 through 17.

19 A. Which page?

20 Q. 173.

21 A. 173. Okay. Which line?

22 Q. 2.

23 A. Okay.

24 Q. You were asked this question, and you gave this answer
25 under oath.

1 "Question: As you sit here today, you are unable to
2 identify any suicide-related event in the body of Paxil
3 clinical trials data where there was a challenge,
4 de-challenge, and rechallenge, is that correct?

5 "Answer: You know, I thought that there were cases
6 like that, and I'll have to look more closely, and I will. As
7 I say, it was actually on my mind to double-check that
8 sentence in my own Bradford Hill section; and, you know, I've
9 revised other things, and I'll revise that if I need to.

10 "Question: Well, as you sit here today, you can't
11 show me one, can you?

12 "Answer: Not in my adult general causation report,
13 no."

14 Did I read that correctly?

15 A. Yeah. So --

16 Q. I think one more question, and I'm done.

17 A. Well, they don't do rechallenge in clinical trials, so --

18 Q. Is it not true that if we expand from the Paxil clinical
19 trials data that we're referring to there to the worldwide
20 peer-reviewed scientific literature, you can't cite a single
21 example of Paxil involving challenge, de-challenge, and
22 rechallenge with suicidality, true?

23 A. There are many published cases with a variety of different
24 drugs. I can think -- so, I don't know if any of those
25 specific cases were Paxil or other SSRIs.

1 Q. Let's look at what you said in the very next lines of that
2 deposition, Doctor, page 173, line 8, through page 174,
3 line 4. Were you asked this question, and did you give this
4 answer under oath?

5 "Question: And if we expand from the Paxil clinical
6 trials data that you're referring to there to the worldwide
7 peer-reviewed scientific literature, can you cite me a single
8 example of Paxil involving challenge, de-challenge, and
9 rechallenge with suicidality?"

10 And your answer was, "I don't think there are
11 published Paxil cases. The published cases are Prozac, and
12 I'm not sure if there's another antidepressant."

13 Did I read that sworn testimony correctly?

14 A. Right. So, to contextualize it again --

15 Q. Did I read that sworn testimony correctly?

16 A. Yes, sir.

17 MR. DAVIS: Thank you. No further questions.

18 THE WITNESS: And that's more or less the same today.

19 MR. DAVIS: Thank you, your Honor.

20 THE COURT: Did you want to say something else?

21 THE WITNESS: I would -- yes, thank you, your Honor.

22 I think it's an important part of the history of this
23 that GlaxoSmithKline in 1989 had the data --

24 MR. DAVIS: Your Honor --

25 THE COURT: Wait, wait, Doctor. Doctor, excuse me.

1 THE WITNESS: I'm going to say something new then.

2 THE COURT: I don't want to get involved with any
3 other issues. We've got enough here already.

4 THE WITNESS: Okay. All of these case reports are
5 doctors like myself struggling to try and figure it out.

6 THE COURT: Doctor --

7 THE WITNESS: Thank you.

8 THE COURT: I'm going to cut you off.

9 THE WITNESS: No problem.

10 THE COURT: Only because life is short.

11 THE WITNESS: I agree. I've got a flight to catch.

12 MR. RAPOPORT: What if I had a tight question that
13 was a one-word answer? Would you allow that?

14 THE COURT: You've got one more question.

15 MR. DAVIS: No, I'm done, your Honor. I promised you
16 three, and I gave you three.

17 MR. RAPOPORT: And I'm asking for one short one that
18 has a tight answer.

19 THE COURT: All right.

20 FURTHER REDIRECT EXAMINATION

21 BY MR. RAPOPORT:

22 Q. Has GSK ever done those challenge, de-challenge,
23 challenge, however you say it, tests?

24 A. No, they have not.

25 MR. RAPOPORT: Thank you, Doctor.

1 THE COURT: All right. Thank you, Doctor. You're
2 excused.

3 THE WITNESS: Thank you so much.

4 (Witness excused.)

5 THE COURT: What's next?

6 MR. RAPOPORT: Okay. Our next witness is Laura
7 Krueger. She's here, and I see that movement is taking place
8 to bring her in.

9 THE COURT: Clear it out.
10 What is her position?

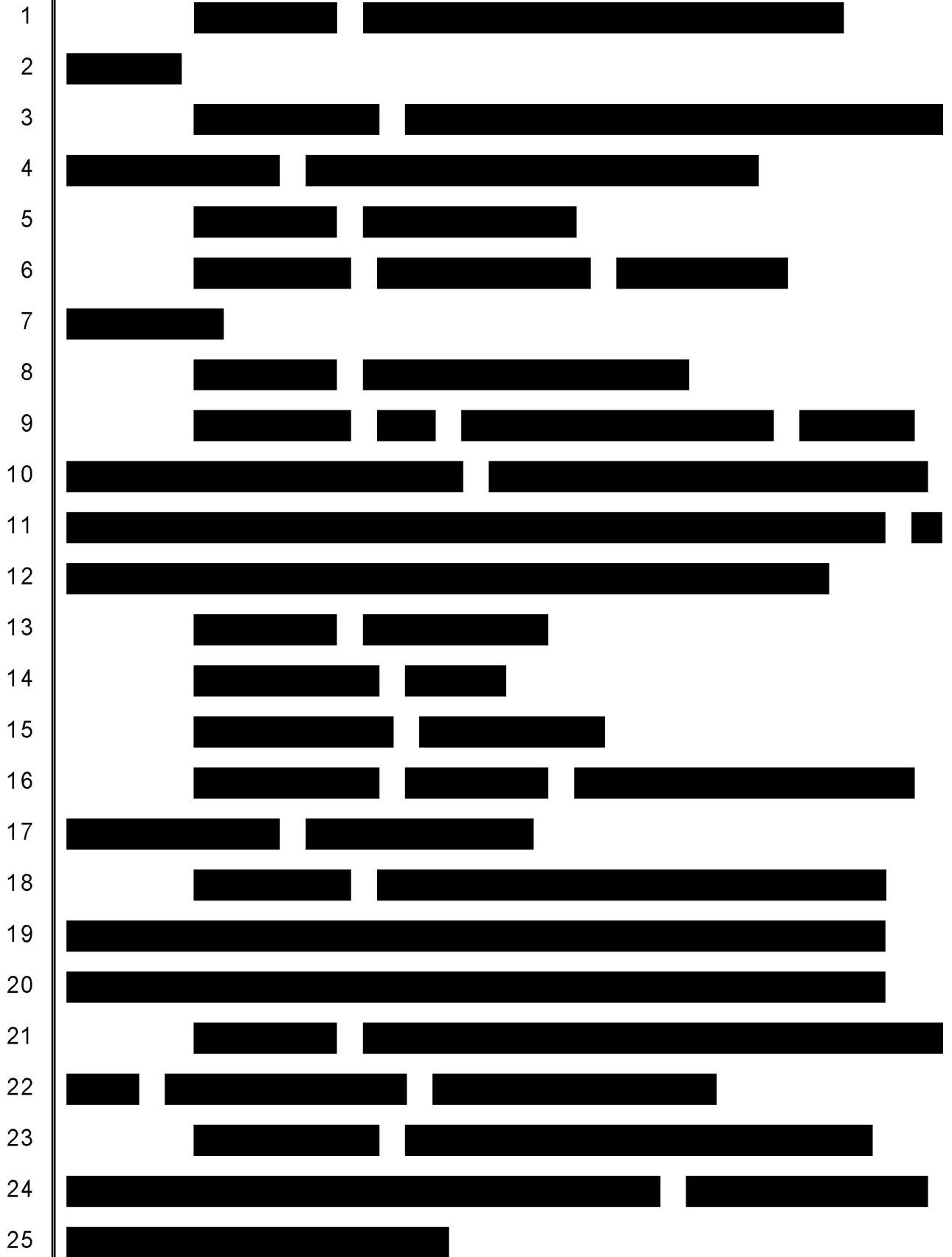
11 MR. RAPOPORT: Well, Laura Krueger would be
12 Mr. Dolin's legal assistant for many years, would have been
13 would be a better way to put it.

14 THE COURT: Let's have a sidebar.

15 MR. WISNER: Okay.

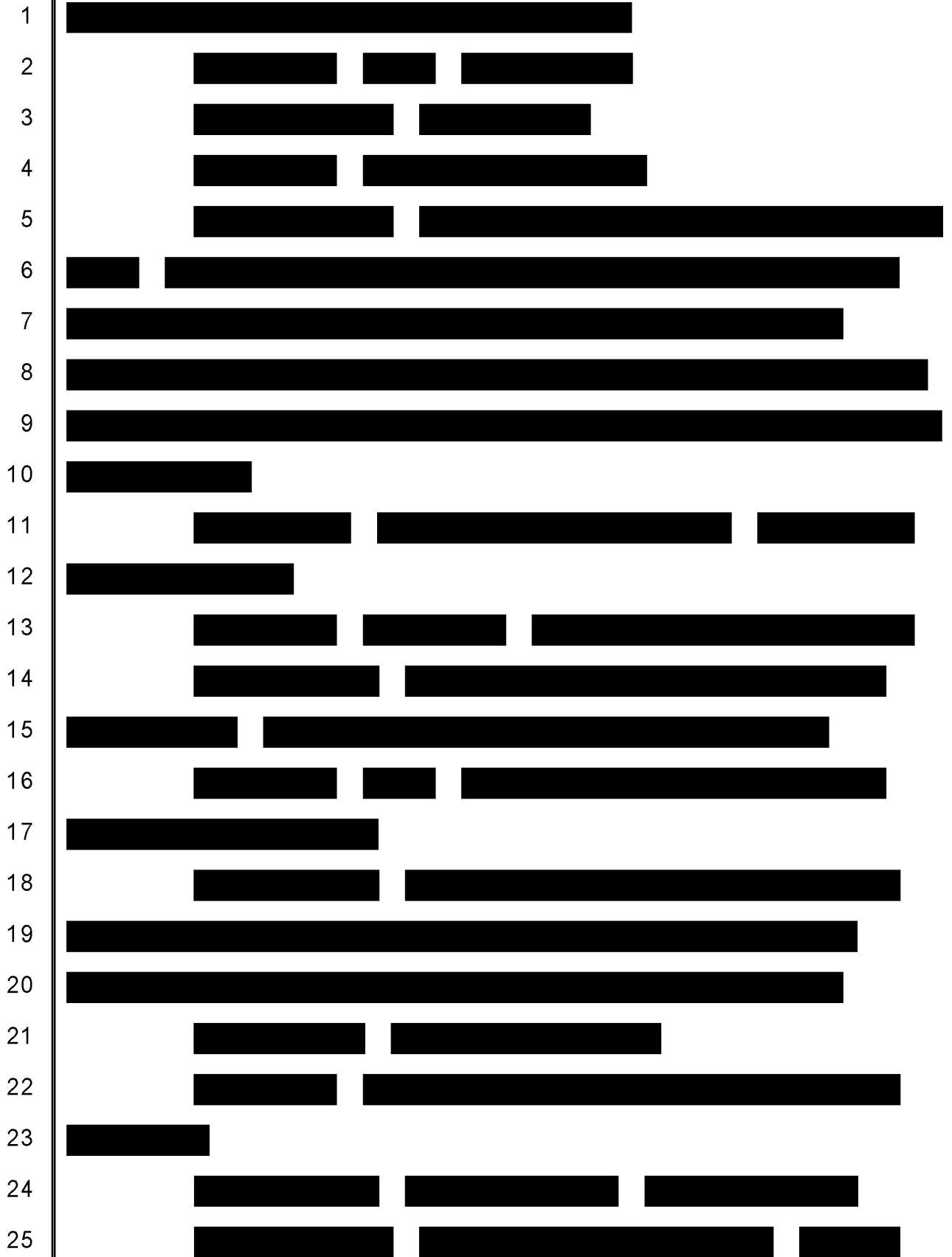
16 (Proceedings heard at sidebar:)

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13 (Proceedings heard in open court, jury present:)

14 THE COURT: Ladies and gentlemen, I'm very sorry to
15 tell you we're going to send you home now for the weekend. I
16 thank you for your patience. You've been very --

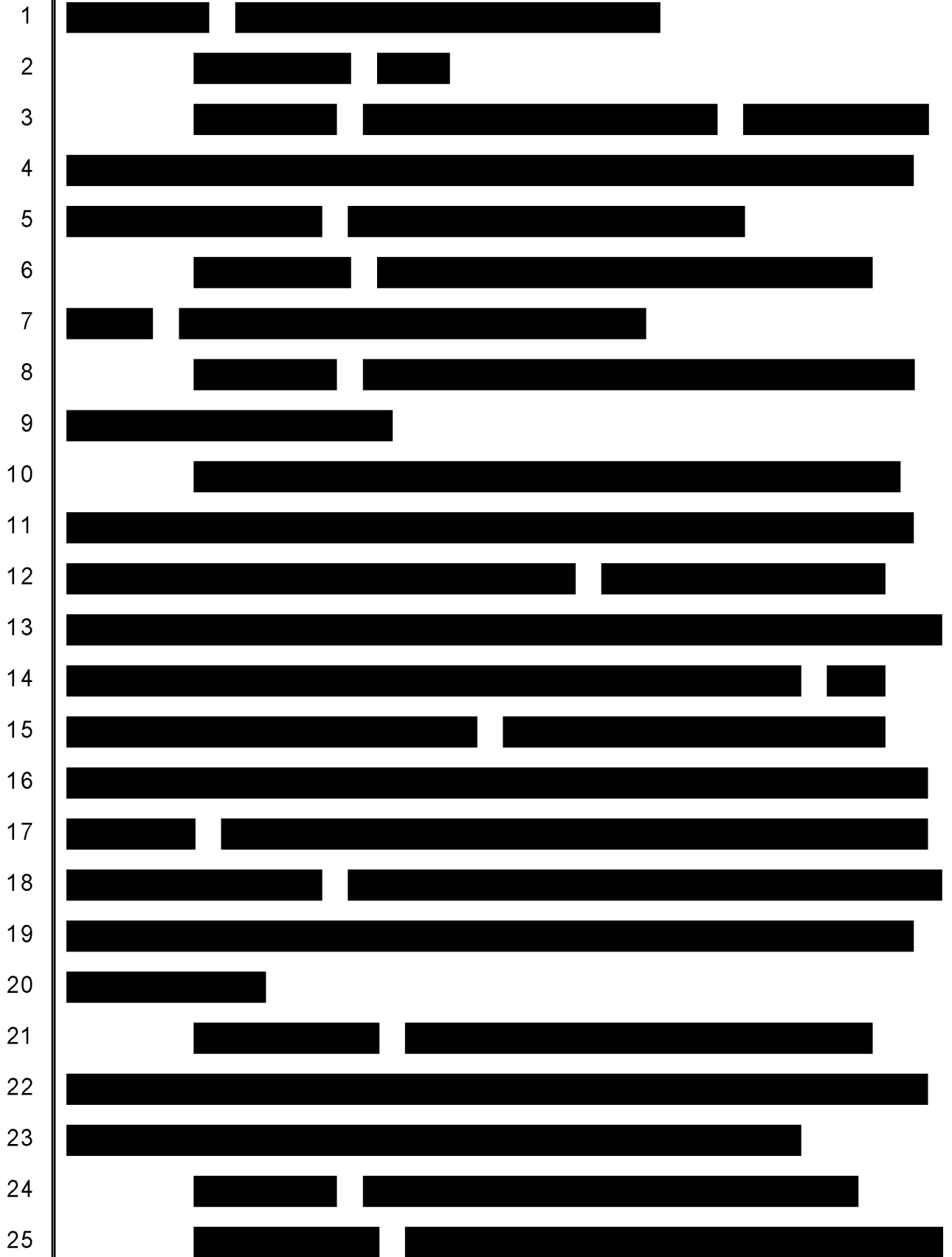
17 A JUROR: We can go home now?

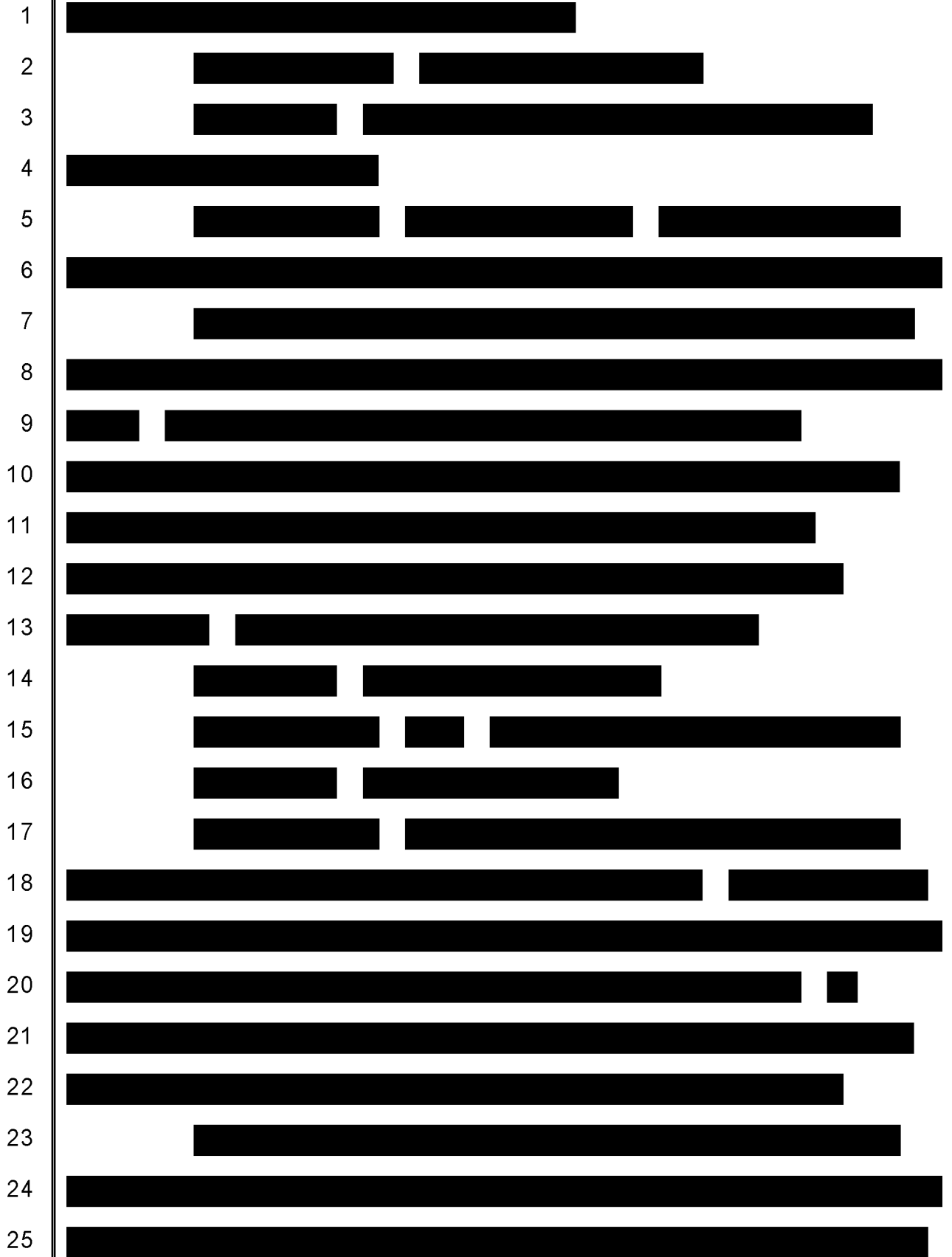
18 THE COURT: You're allowed to go home now, and we'll
19 see you on Monday morning. Remember all I've said about -- I
20 know it's tempting to talk about the case, but don't talk
21 about it.

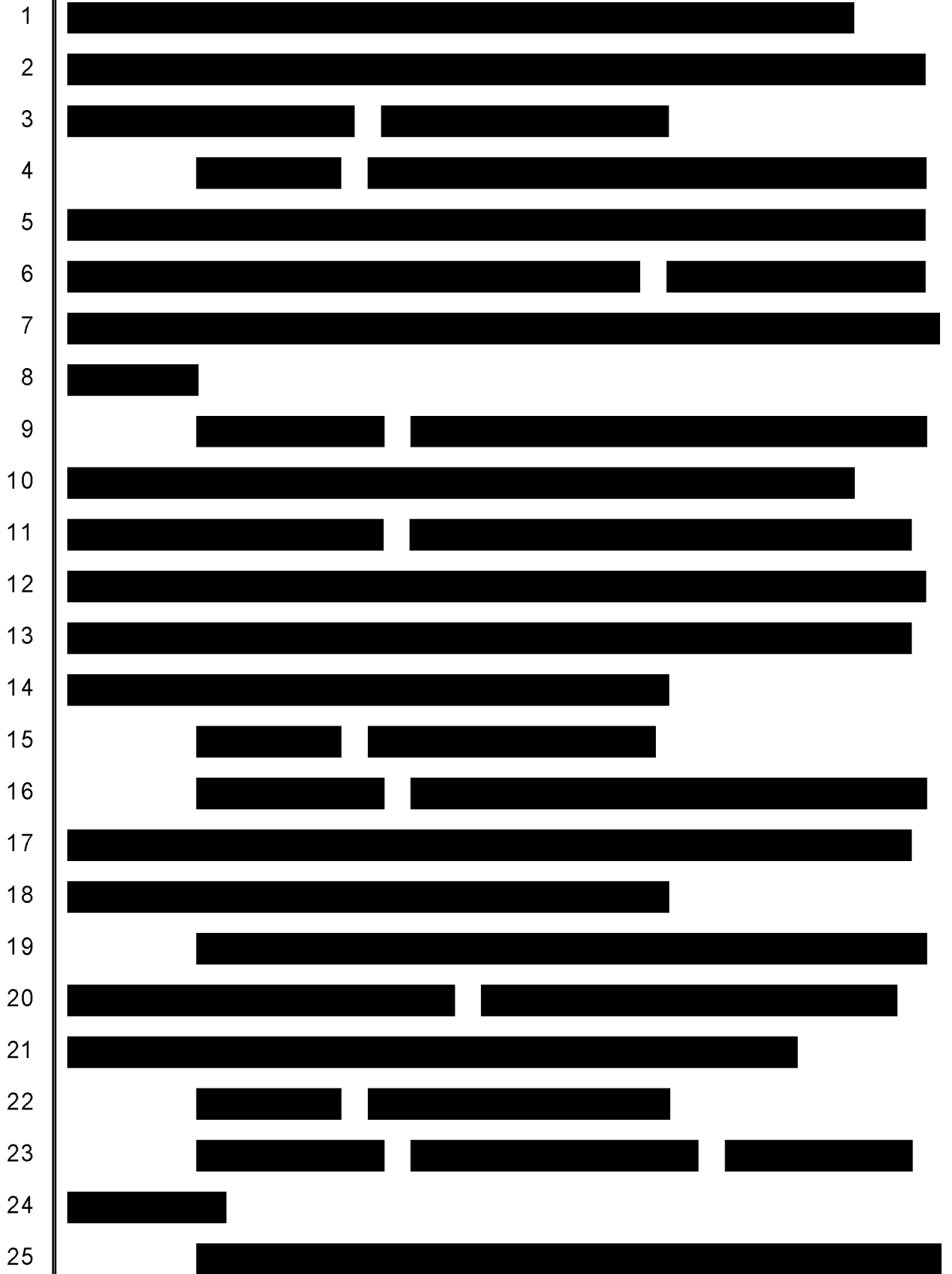
22 Thank you very much. We'll see you on Monday
23 morning, and coffee will be here Monday morning, I promise.

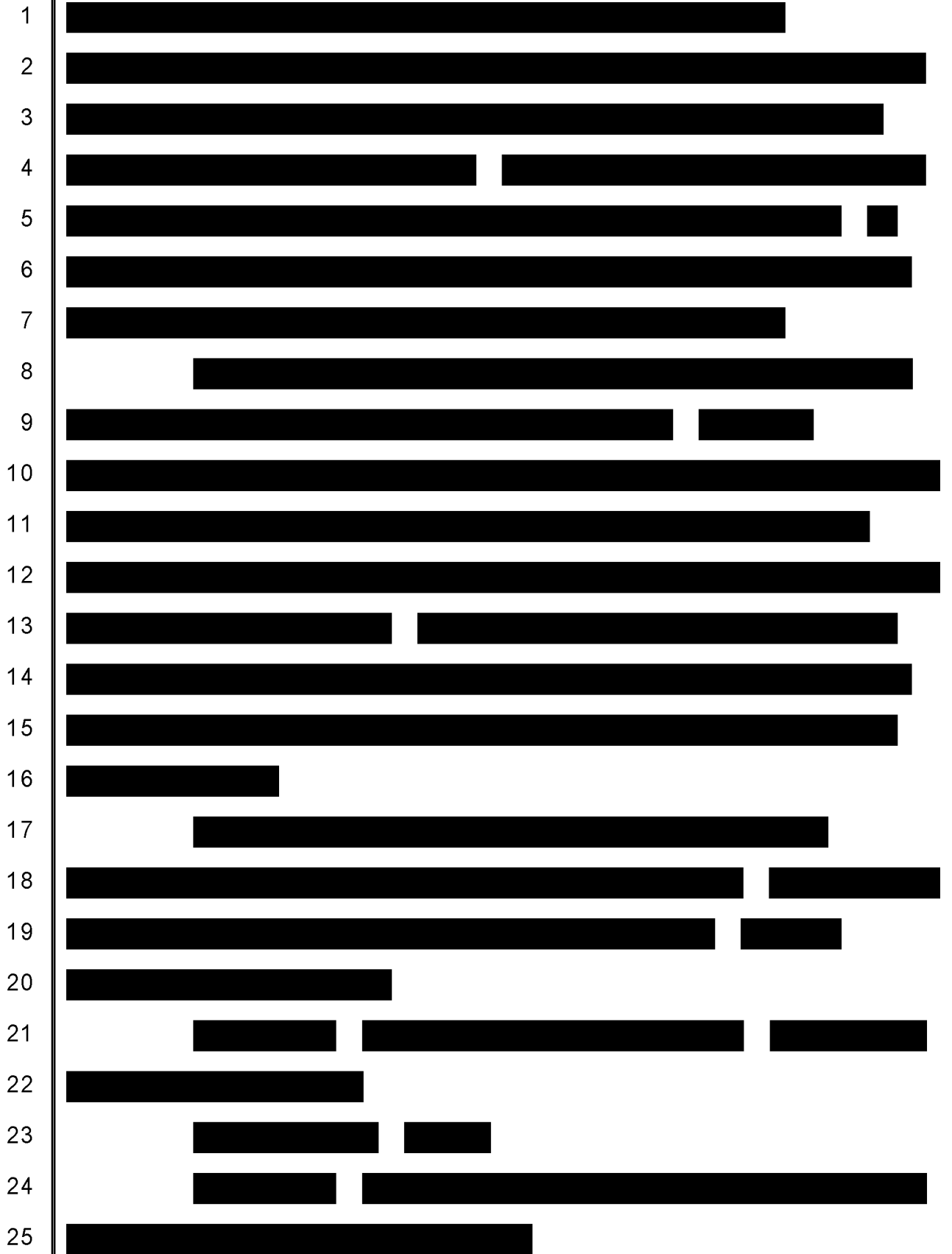
24 (Jury exits courtroom.)

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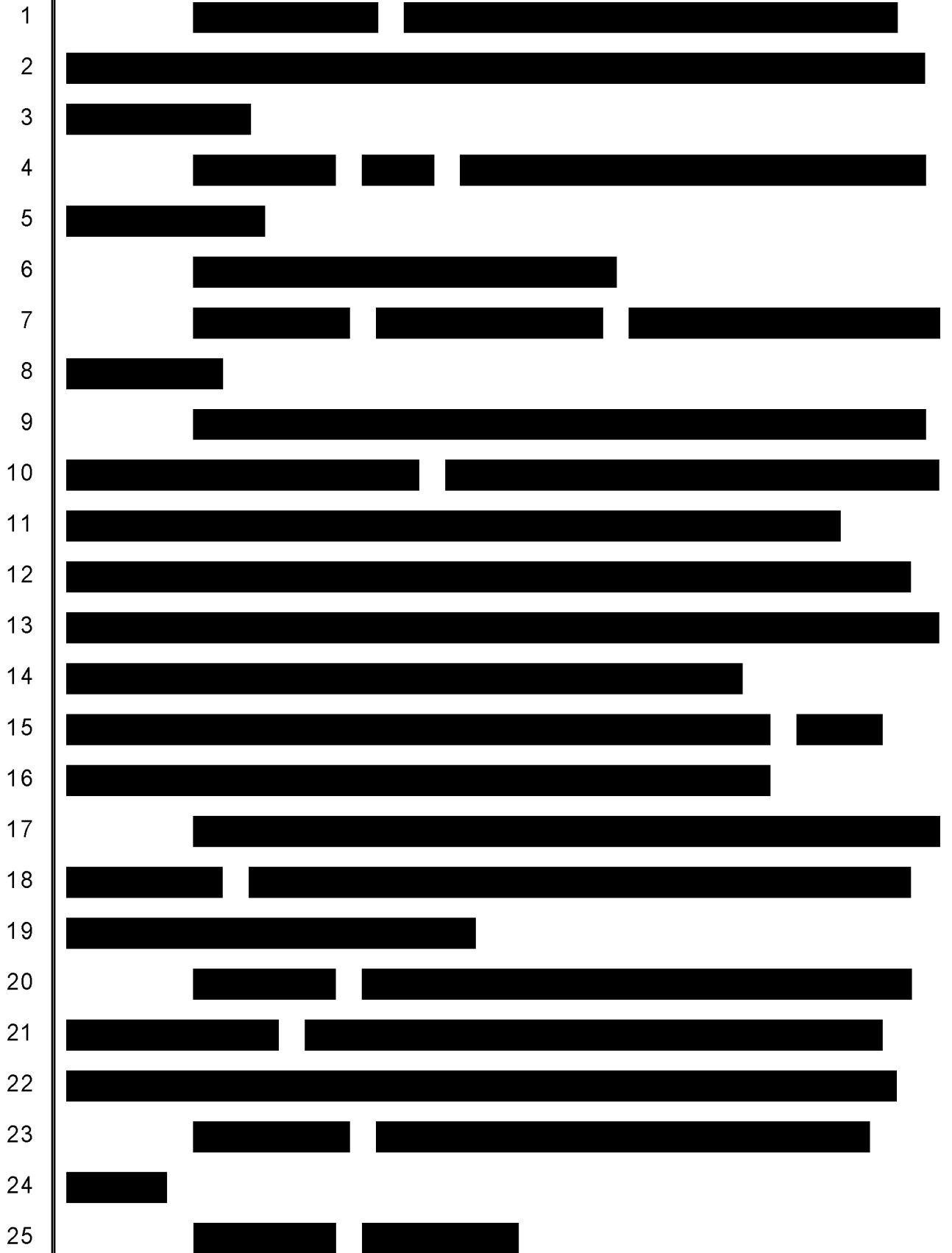


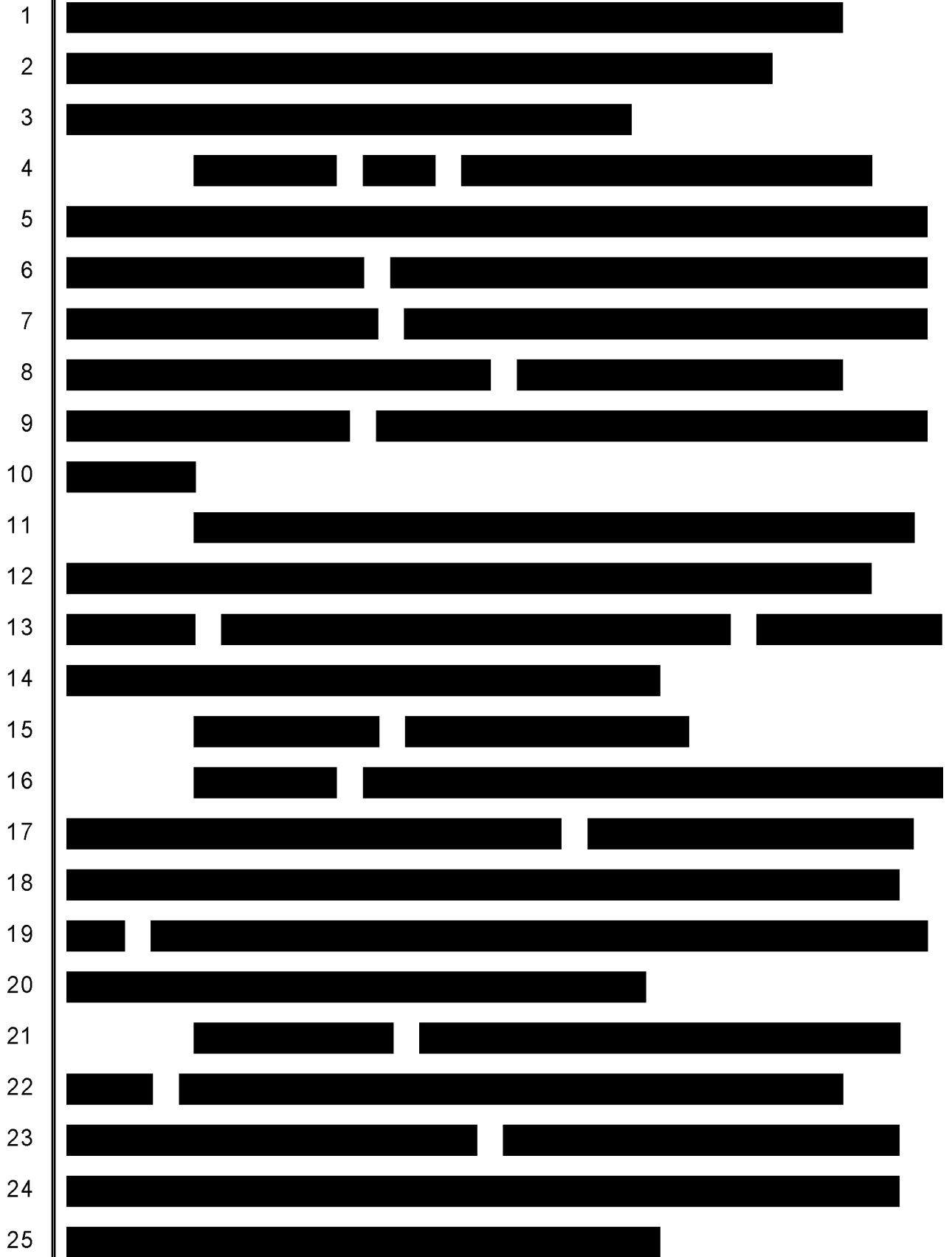


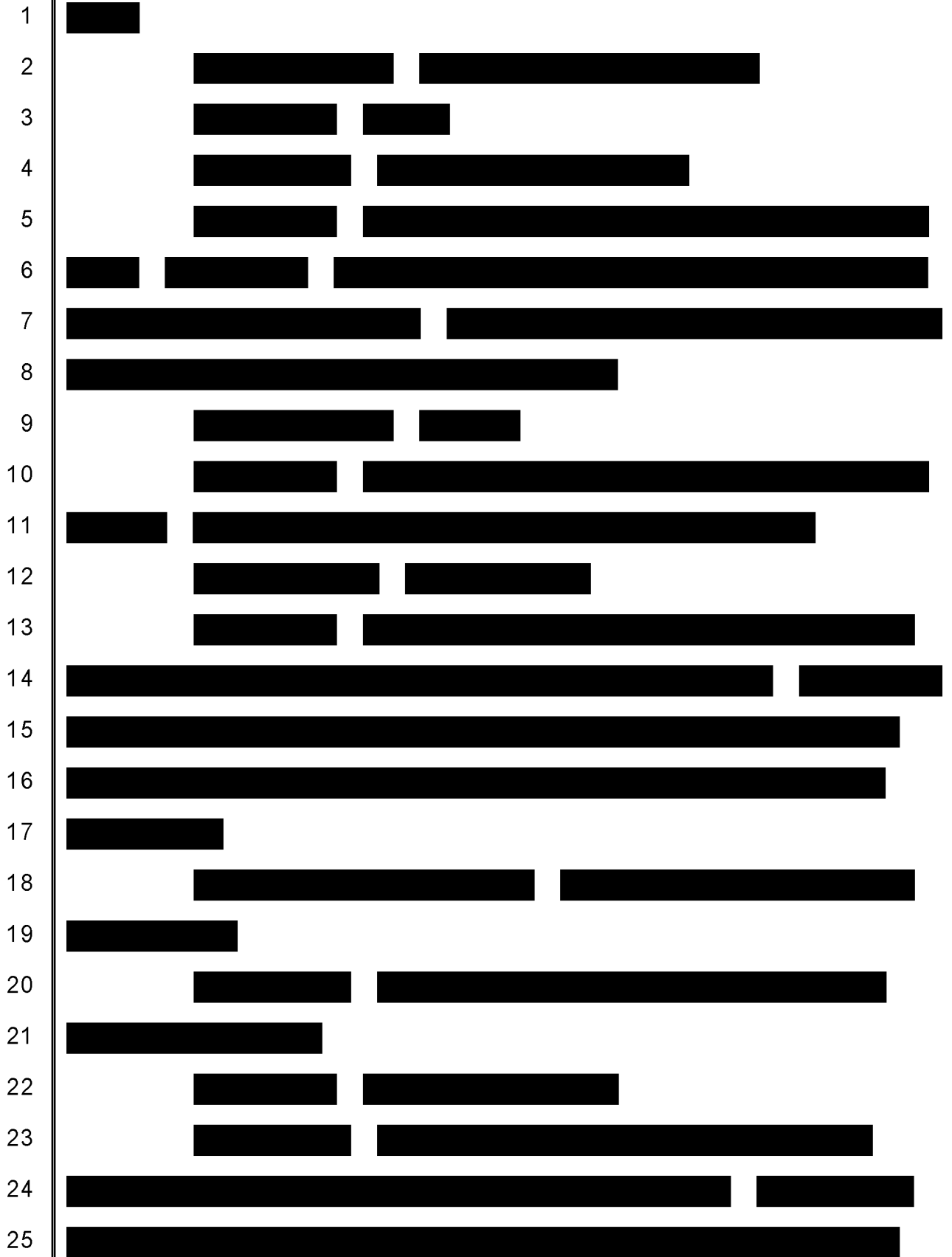


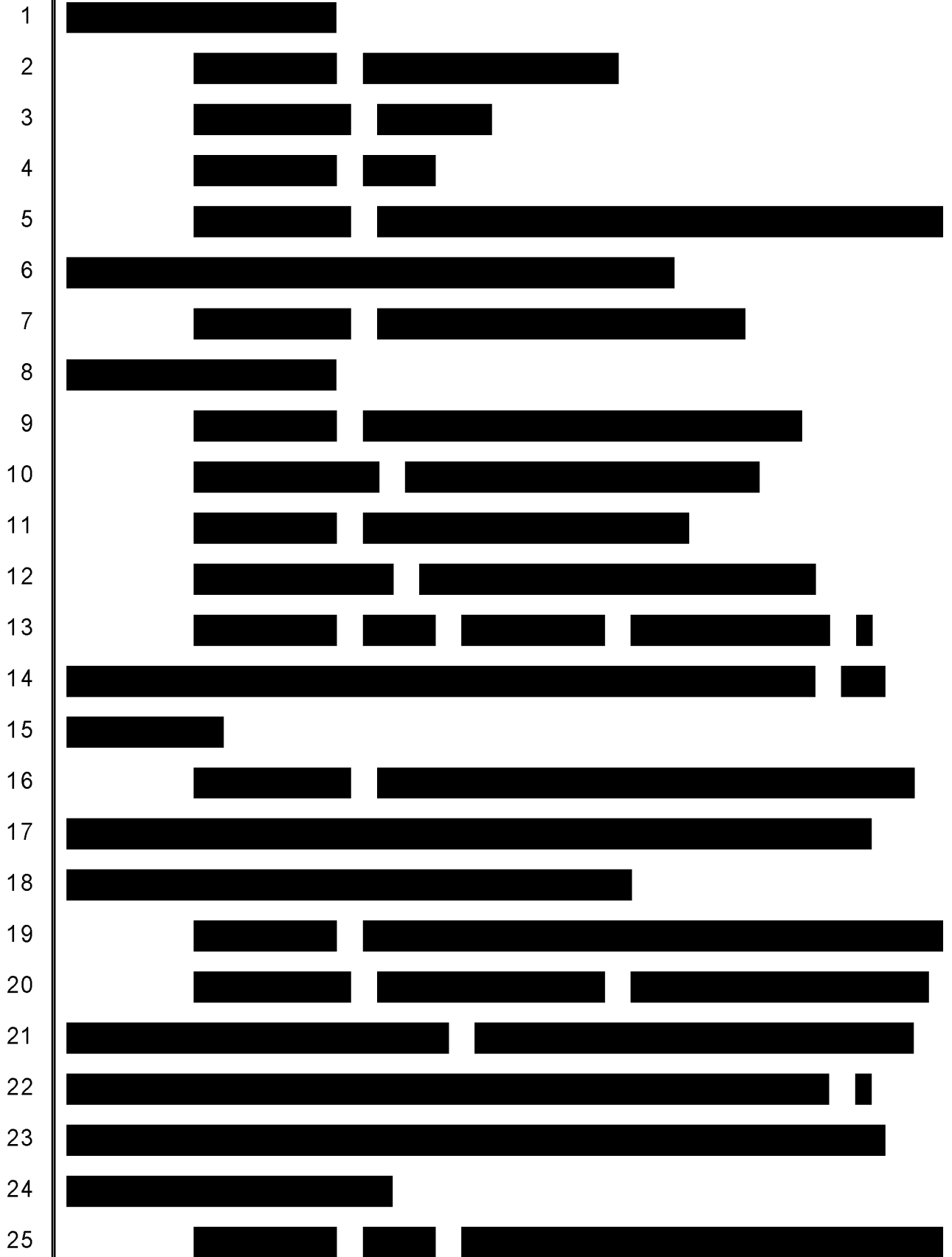


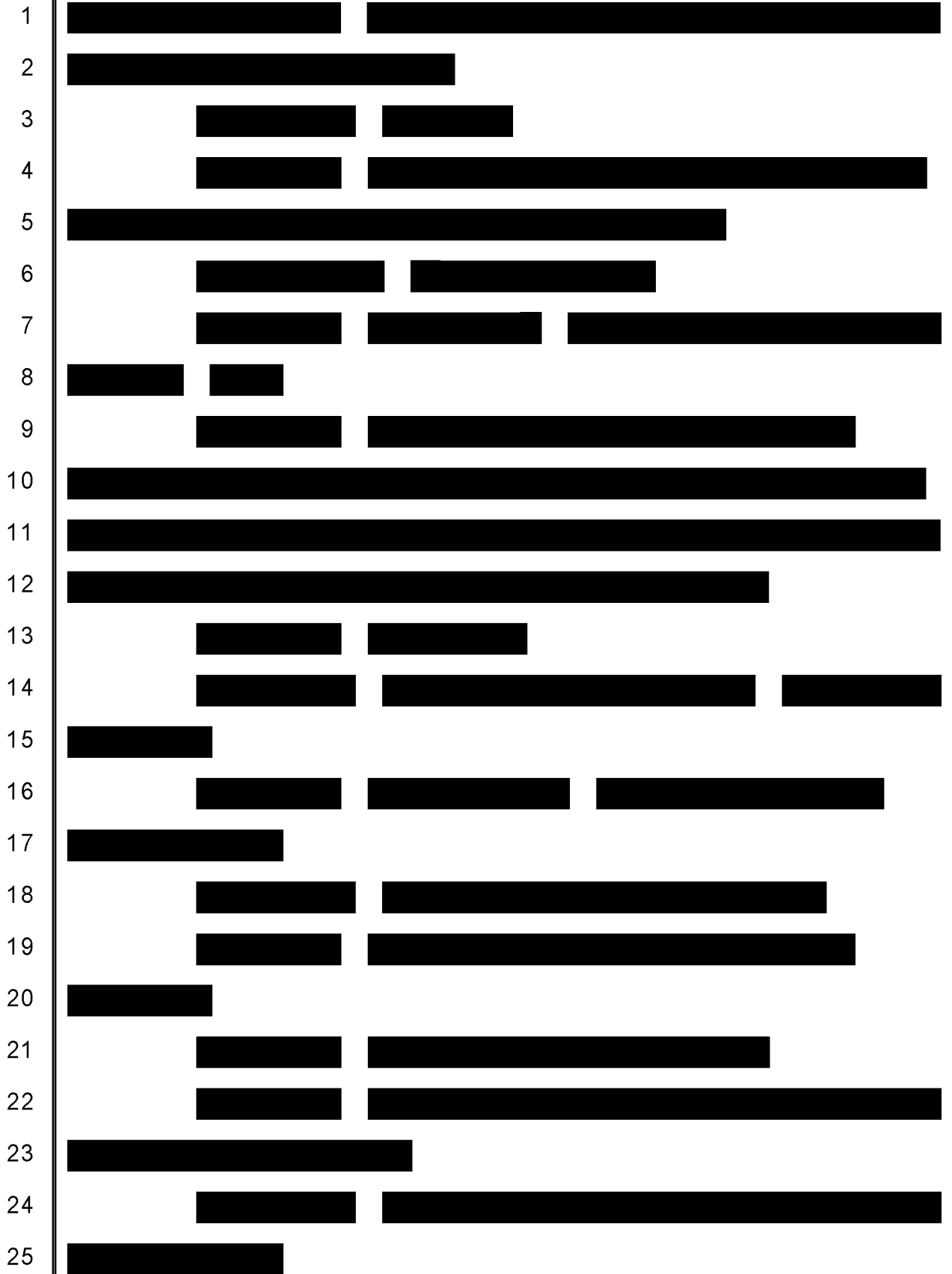


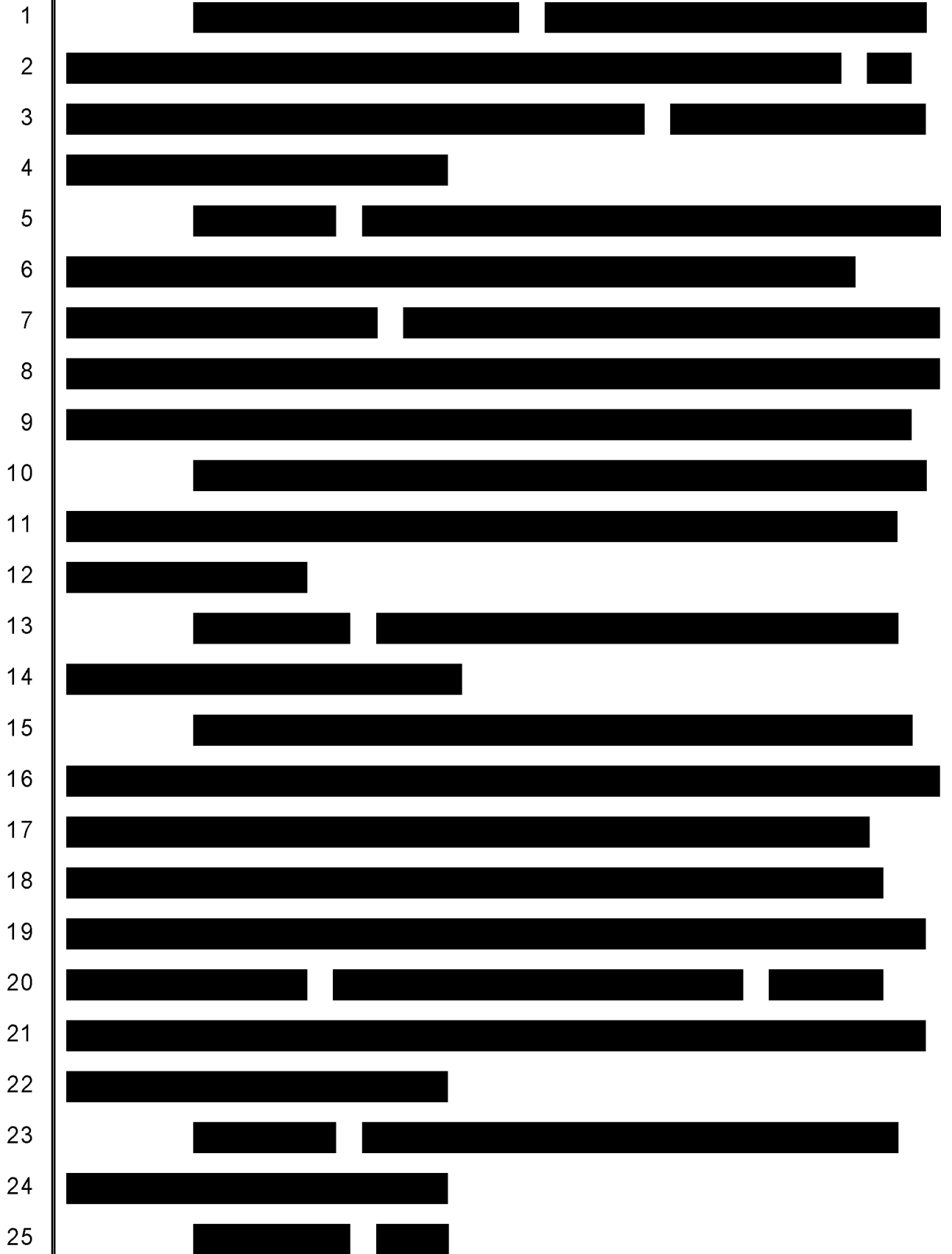


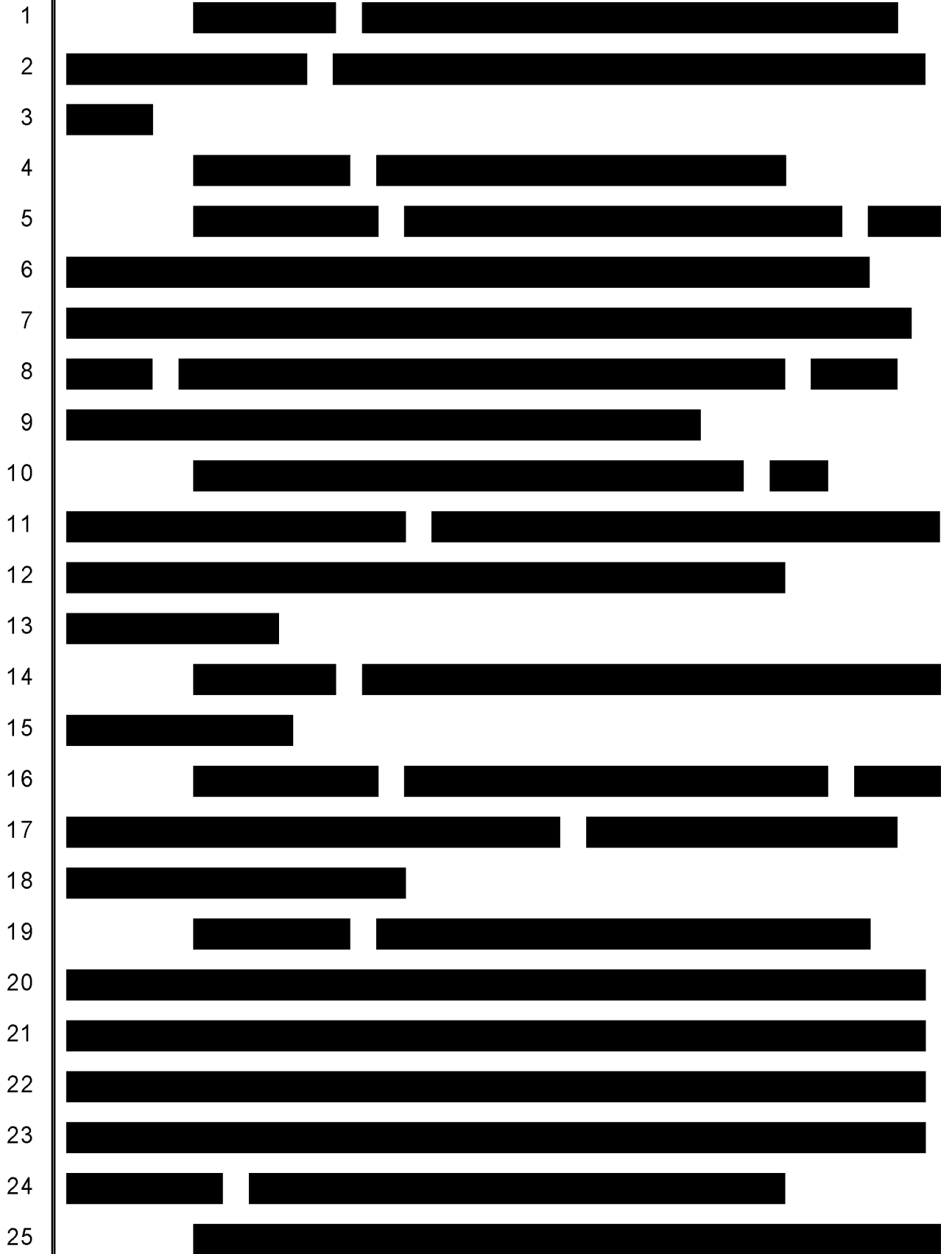




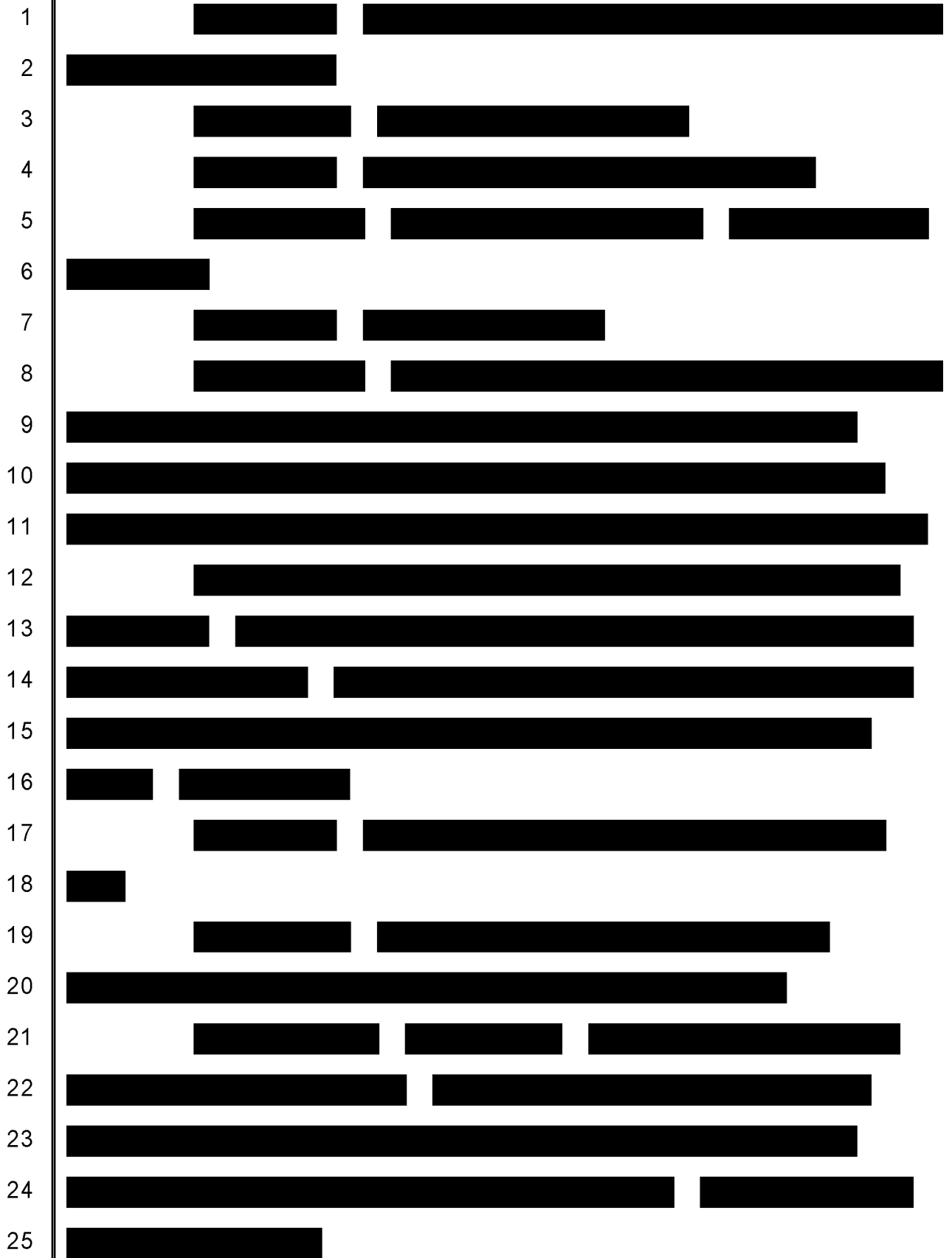


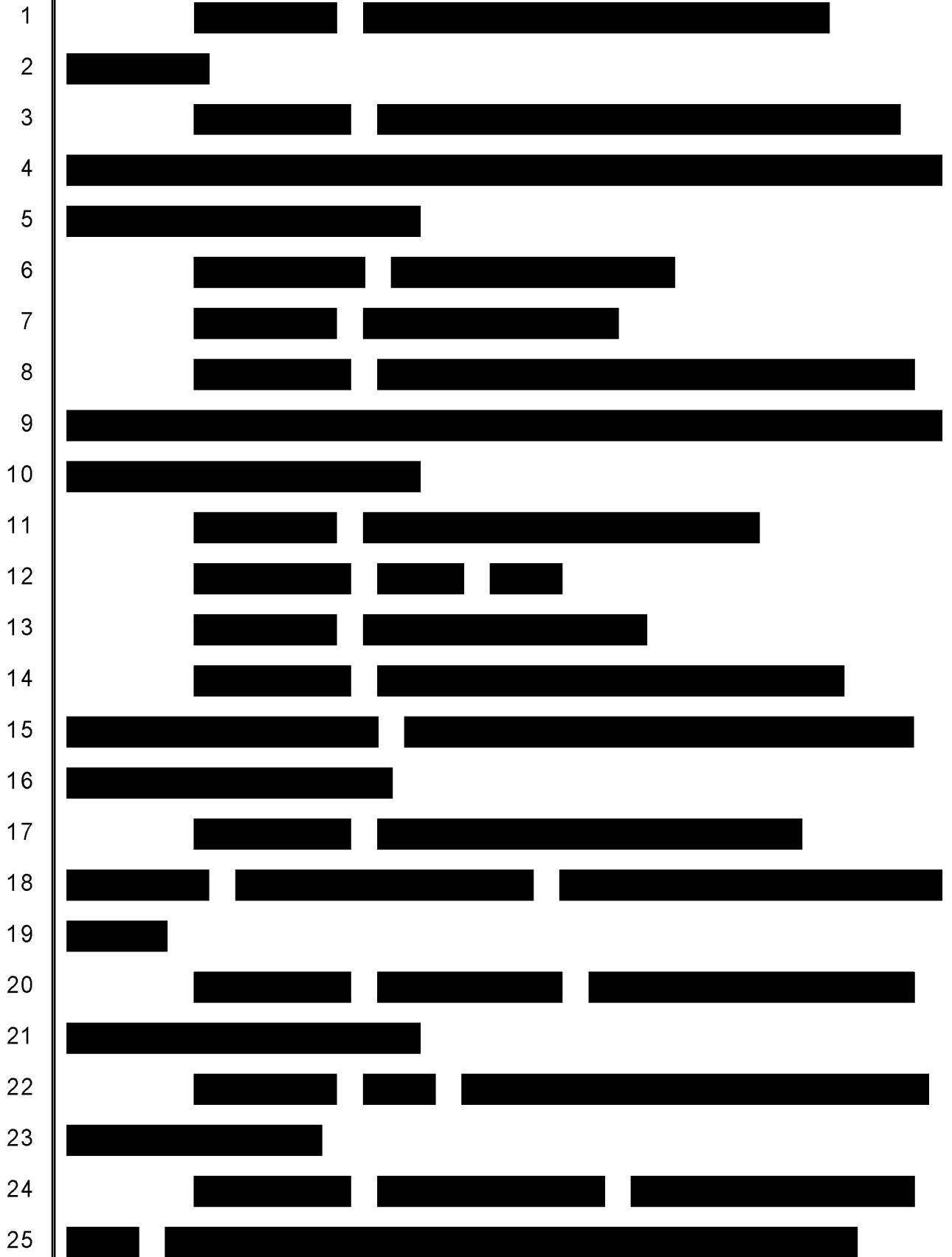






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(Court adjourned, to reconvene 4/3/17 at 9:30 a.m.)

CERTIFICATE

We certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

/s/Judith A. Walsh

March 30, 2017

Judith A. Walsh
Official Court Reporter

Date

/s/Charles R. Zandi

March 30, 2017

Charles R. Zandi
Official Court Reporter

Date