

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

BELRON US INC.,

Plaintiff,

v.

MICHELLE LEVESQUE,

Defendant.

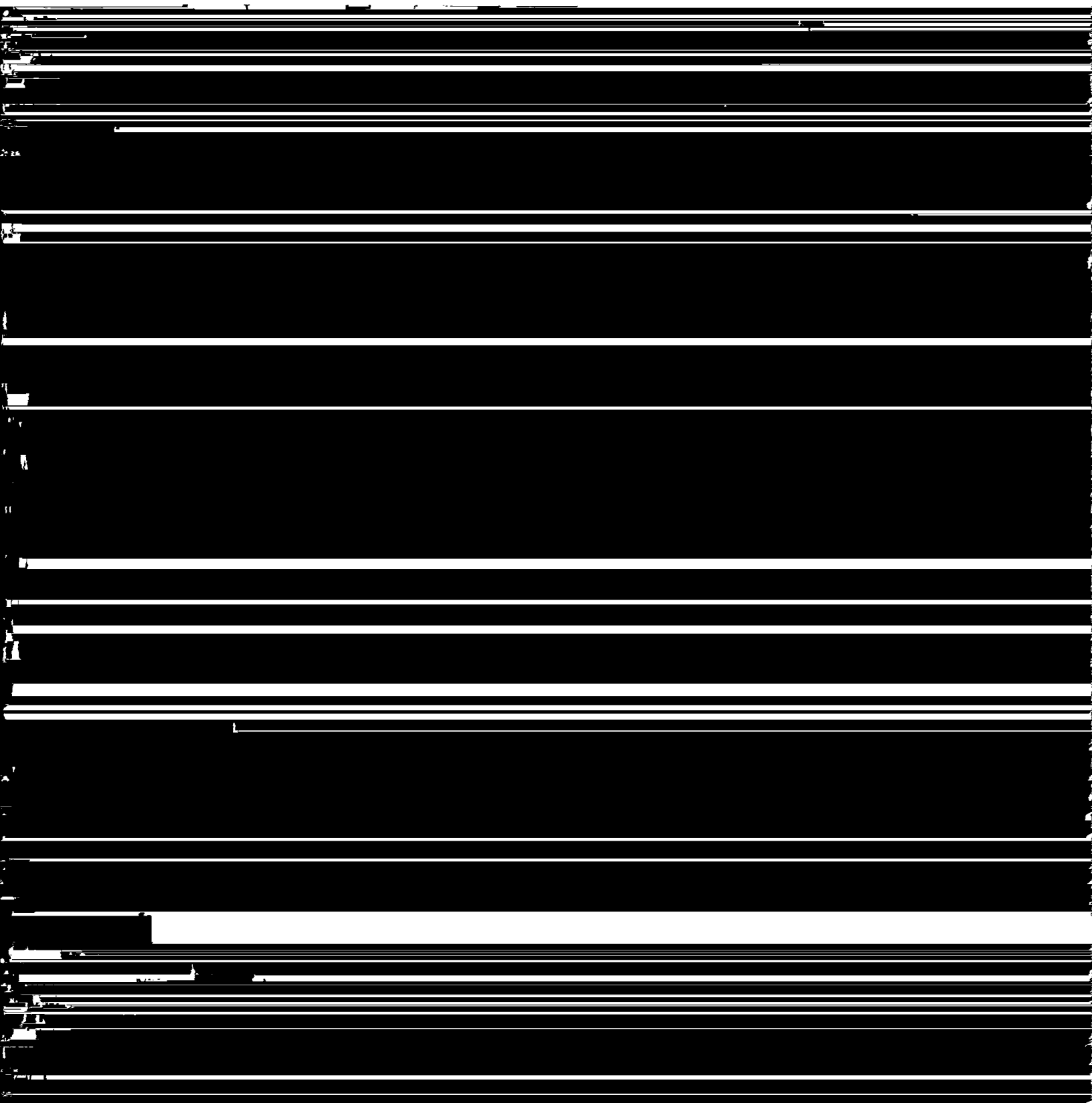
CIVIL ACTION NO. 08-11417-NMG

**DEFENDANT MICHELLE LEVESQUE'S ANSWER TO PLAINTIFF'S VERIFIED
COMPLAINT, COUNTERCLAIMS AND JURY DEMAND**



3. Levesque lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 3 of Plaintiff's Complaint.

4. Levesque denies the allegations set forth in paragraph 4 of Plaintiff's Complaint.



13. Levesque admits the allegations set forth in paragraph 13 of Plaintiff's Complaint, except to state that she lacks knowledge or information as to Belron's characterization of the term "direct competitor."

14. Levesque admits only that her responsibilities as District Manager of Massachusetts included overseeing Diamond's operations in Massachusetts and otherwise denies the allegations set forth in paragraph 14 of Plaintiff's Complaint.

15. Levesque admits the allegations set forth in the first sentence of paragraph 15 of Plaintiff's Complaint. Levesque neither admits nor denies the allegations set forth in the second

21. [REDACTED]

[REDACTED]

27. Levesque lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 27 of Plaintiff's Complaint.

28. Levesque lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 28 of Plaintiff's Complaint.

29. Levesque denies that she was in the position and was performing the duties and responsibilities of Director of Best Practices – Operations at the time that Belron purchased Diamond's assets, and otherwise admits the allegations set forth in paragraph 29 of Plaintiff's Complaint.

30. Levesque lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 30 of Plaintiff's Complaint.

31. As to the allegations set forth in paragraph 31 of Plaintiff's

34. Levesque lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 34 of Plaintiff's Complaint, except that Levesque neither admits nor denies the allegations from the agreement as the referenced document speaks for itself.

35. Levesque lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 35 of Plaintiff's Complaint, except that Levesque neither admits nor denies the allegations from the agreement as the referenced document speaks for itself.

36. Levesque lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 36 of Plaintiff's Complaint, except that Levesque

45. Levesque denies the allegations set forth in paragraph 45 of Plaintiff's Complaint, except that she lacks knowledge or information sufficient to form a belief as to what Lee knew.

46. Levesque denies the allegations set forth in paragraph 46 of Plaintiff's Complaint.

47. Levesque lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 47 of Plaintiff's Complaint, except to deny that she has conspired with Lee.

48. Levesque lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 48 of Plaintiff's Complaint.

COUNT TWO

**Misappropriation of Trade Secrets and Confidential Business Information in violation of
Common Law and M.G.L. ch. 93, §42**

56. Levesque repeats and incorporates herein by reference her responses to paragraphs 1-55 above.

57. Levesque denies the allegations set forth in paragraph 57 of Plaintiff's Complaint.

58. Levesque denies the allegations set forth in paragraph 58 of Plaintiff's Complaint.

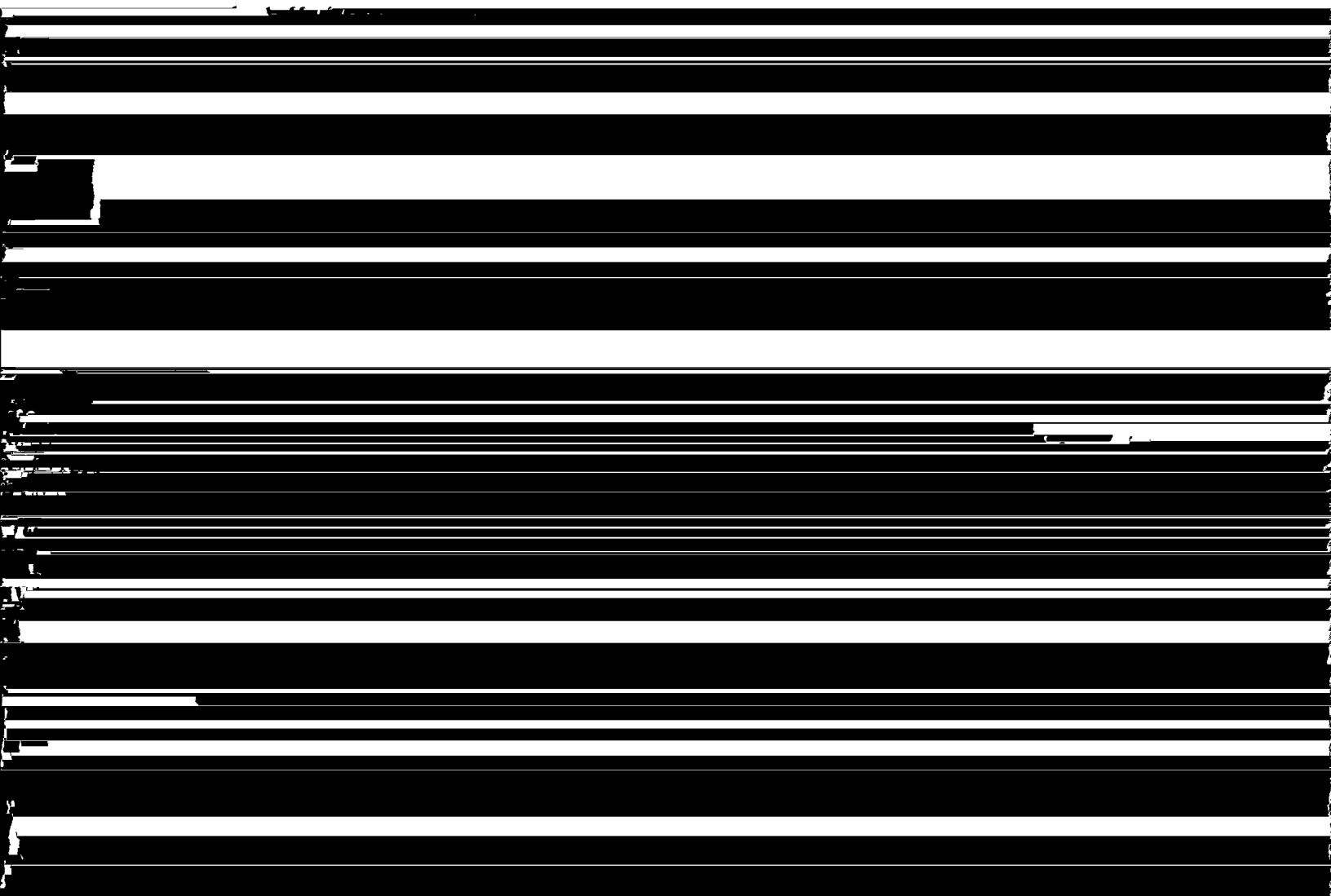
59. Levesque denies the allegations set forth in paragraph 59 of Plaintiff's Complaint.

60. Levesque denies the allegations set forth in paragraph 60 of Plaintiff's Complaint.

COUNT THREE

Tortious Interference with Contractual Relations

61. Levesque repeats and incorporates herein by reference her responses to



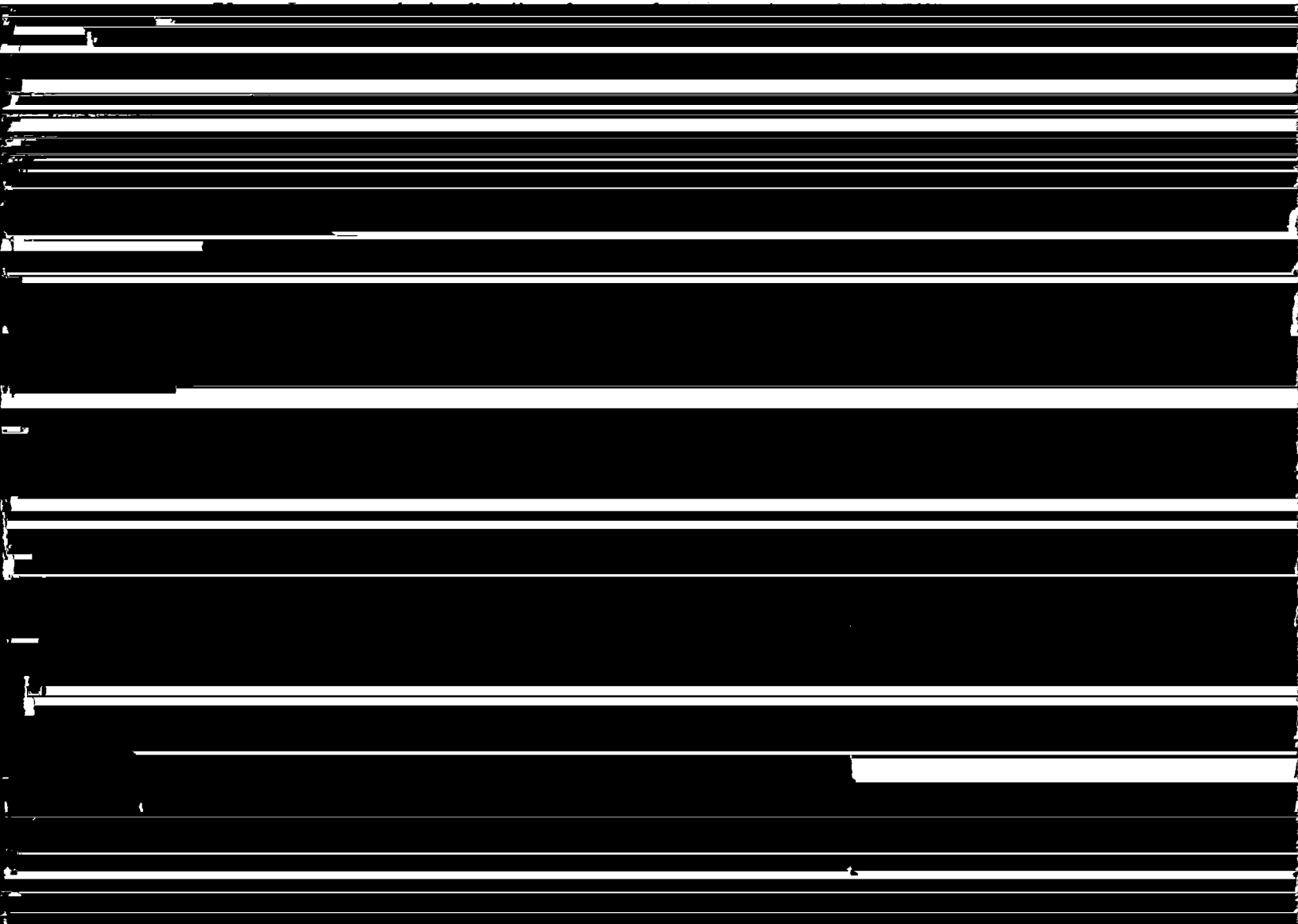
COUNT FOUR

Breach of Duty of Loyalty

70. Levesque repeats and incorporates herein by reference her responses to paragraphs 1-69 above.

71. Levesque denies that paragraph 71 requires a response as it states conclusions of law. To the extent that paragraph 71 alleges any facts, Levesque denies those allegations.

72. Levesque admits only that, at times, she had District Manager responsibilities while employed by Diamond Triumph and Belron and that she had nationwide responsibilities as Director of Best Practices – Operations, while employed by Diamond Triumph, and otherwise denies the allegations set forth in paragraph 72 of Plaintiff’s Complaint.



COUNT SIX

Aiding and Abetting Breach of Fiduciary Duty/ Duty of Loyalty

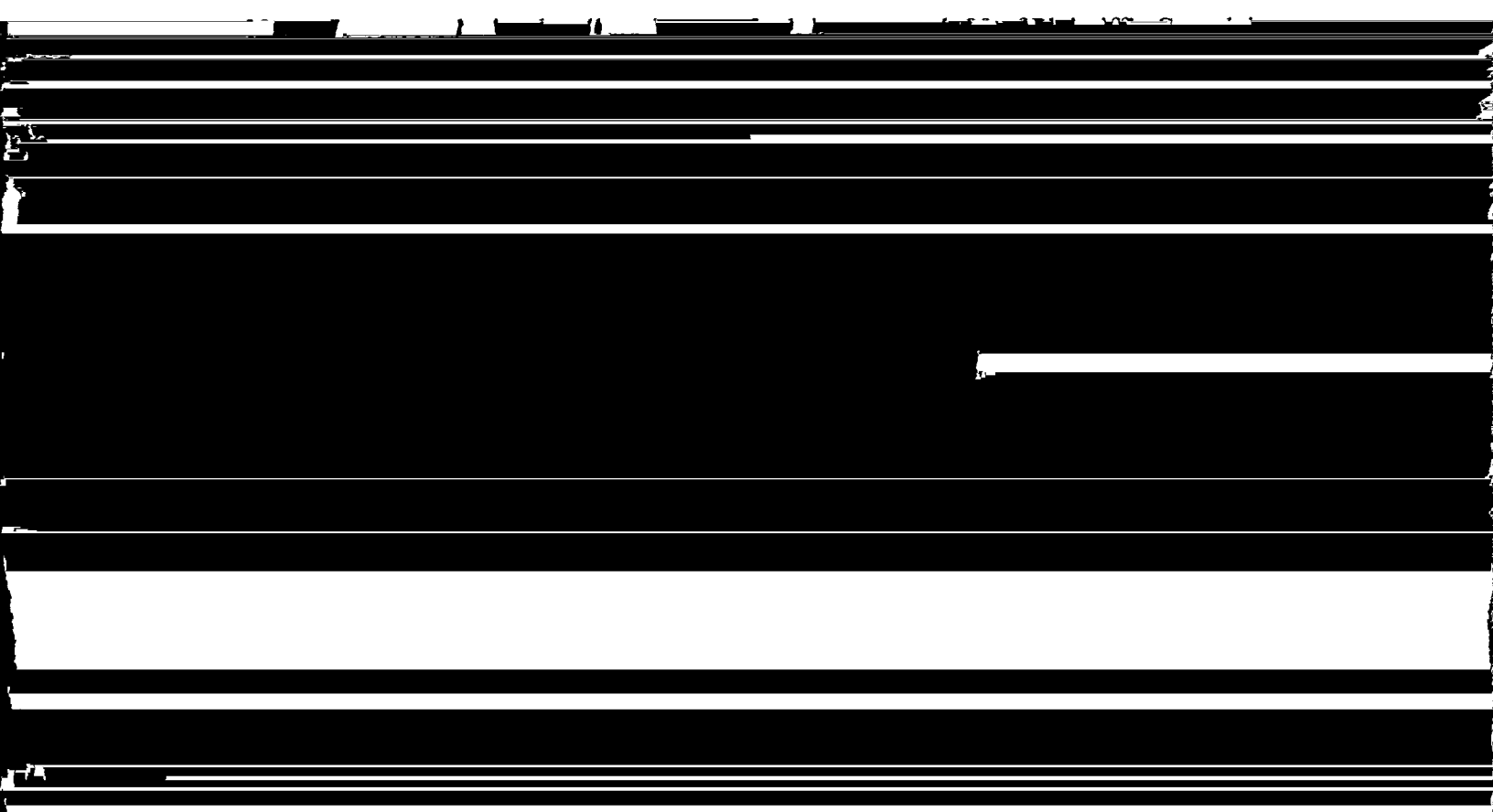
83. Levesque repeats and incorporates herein by reference her responses to paragraphs 1-82 above.

84. Levesque neither admits nor denies the allegations set forth in paragraph 84 of Plaintiff's Complaint as it states conclusions of law. To the extent that paragraph 84 asserts any facts, Levesque is without knowledge or information sufficient to form a belief as to the truth of the allegations.

85. Levesque neither admits nor denies the allegations set forth in paragraph 85 of Plaintiff's Complaint as it states conclusions of law. To the extent that paragraph 85 asserts any facts, Levesque is without knowledge or information sufficient to form a belief as to the truth of the allegations.

86. Levesque denies the allegations set forth in paragraph 86 of Plaintiff's Complaint.

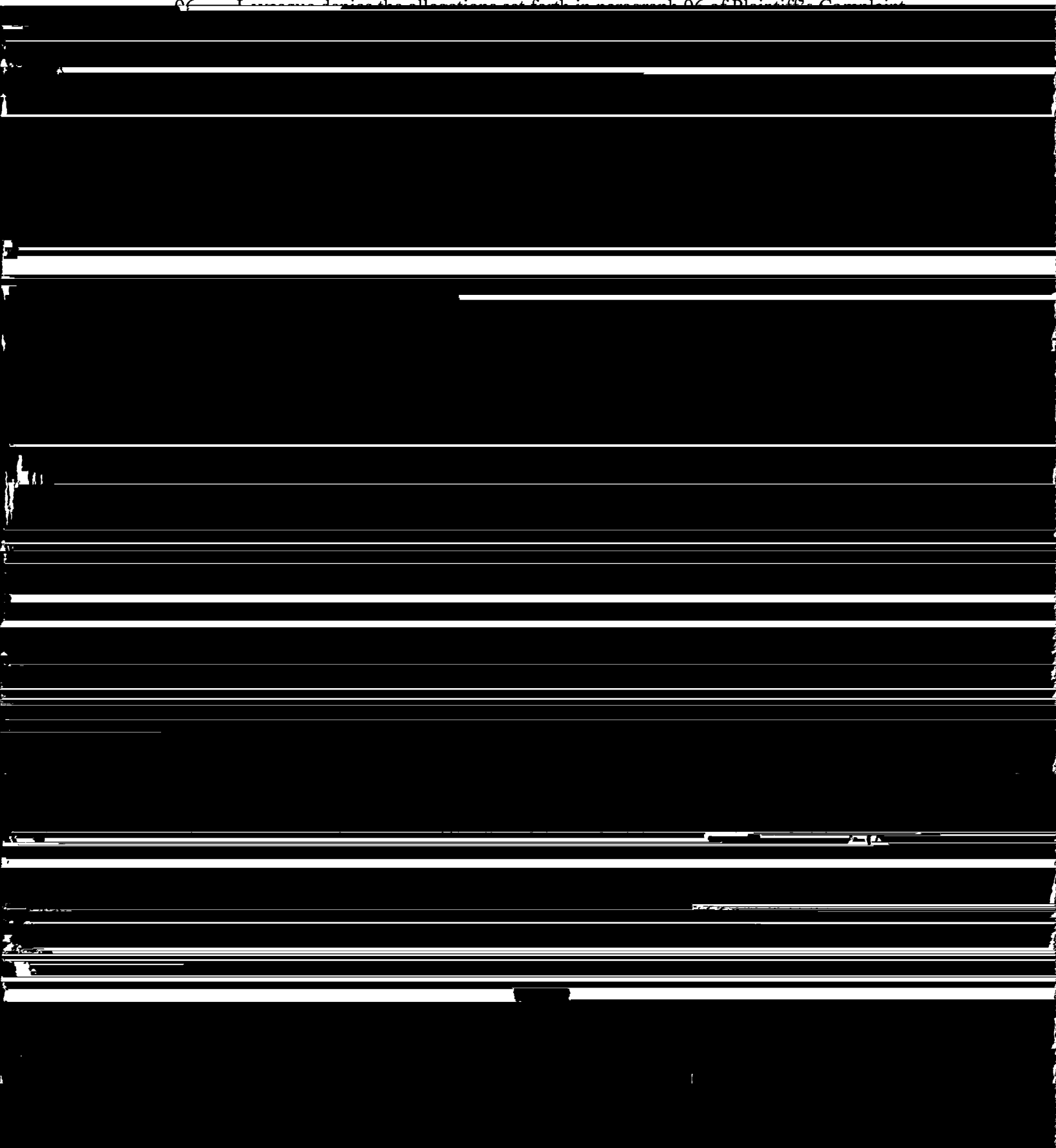
87. Levesque denies the allegations set forth in paragraph 87 of Plaintiff's Complaint.



94. Levesque denies the allegations set forth in paragraph 94 of Plaintiff's Complaint.

95. Levesque denies the allegations set forth in paragraph 95 of Plaintiff's Complaint.

96. Levesque denies the allegations set forth in paragraph 96 of Plaintiff's Complaint.



3. Levesque's initial position with Diamond Triumph was Sales Representative and she was responsible for selling auto glass to commercial accounts and insurance agencies.

4. In connection with her hire, Levesque was required to sign an agreement entitled "Employment Compensation Agreement and Agreement Not to Disclose Confidential Information" with Triumph Auto Glass, Inc. ("First Agreement"). Although the First Agreement states that it was made "on May 1, 1996," Levesque signed it in July, 1996. The agreement included a covenant not to compete and restrictions on solicitation for 18 months after the termination of her employment.

5. On April 14, 1998, Levesque signed a "2nd Amendment dated February 25, 1998" to the 1996 Employment Compensation Agreement and Agreement Not to Disclose Confidential Information with Triumph Auto Glass, Inc., which amended the First Agreement ("Second Agreement"). There was no "first amendment" to the First Agreement. The Second Agreement was substantially the same as the 1996 agreement, containing an identical 18-month covenant not to compete or solicit employees.

6. Levesque's job duties, responsibilities and compensation changed significantly

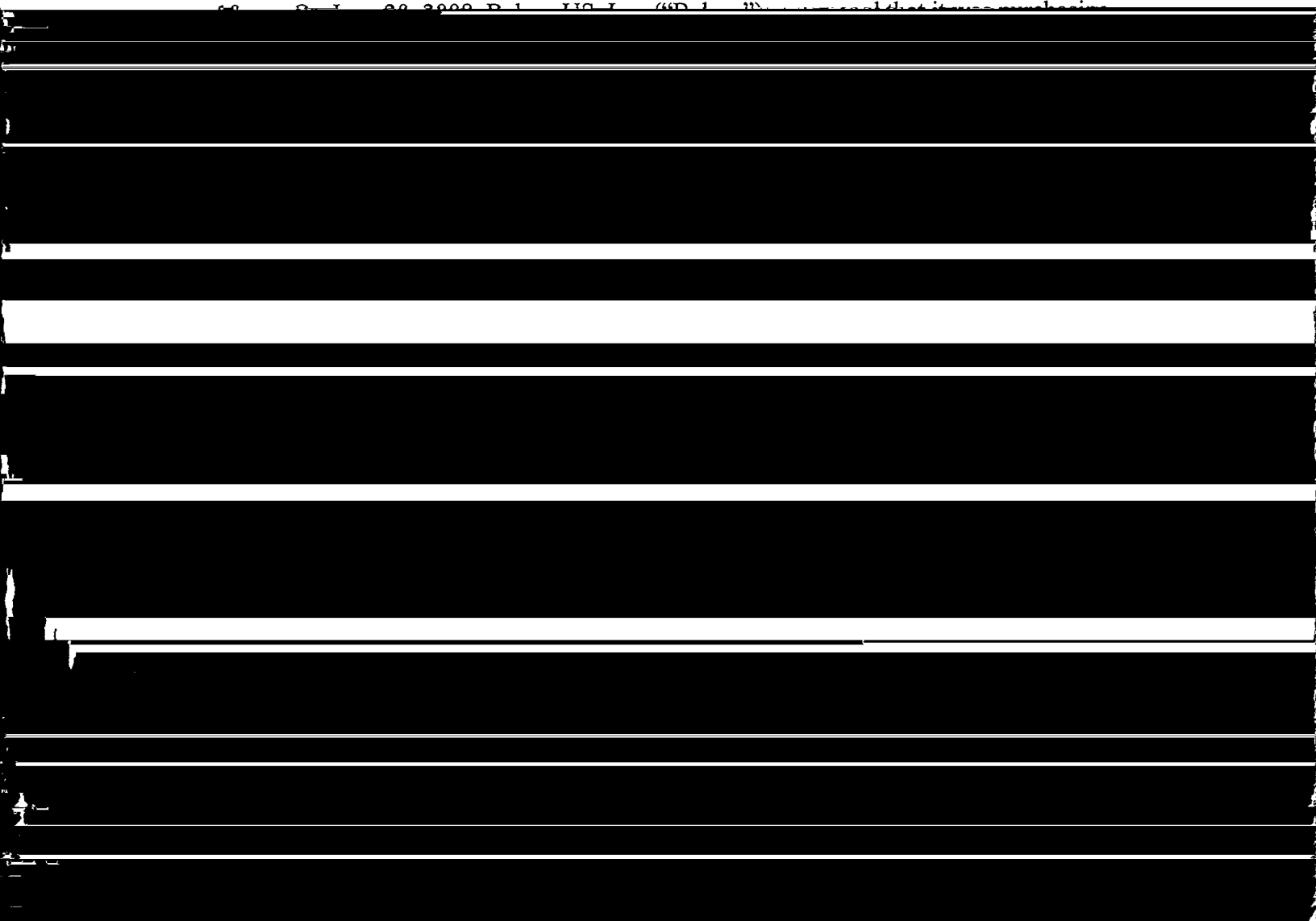
between 1998 and the termination of her employment in July 2008. In September 2005, she

countersigning. Levesque never received, nor did she sign, a non-solicitation agreement or covenant not to compete in connection with this new position.

8. In July, 2007, Levesque became the District Manager for Massachusetts. Levesque never received, nor did she sign, a new employment agreement, non-solicitation agreement, or covenant not to compete in connection with this new position.

9. The changes in Levesque's position, managerial status, compensation, and duties and responsibilities vitiated the prior agreements with Diamond Triumph.

Belron's Acquisition of Diamond Triumph.



Levesque to work.

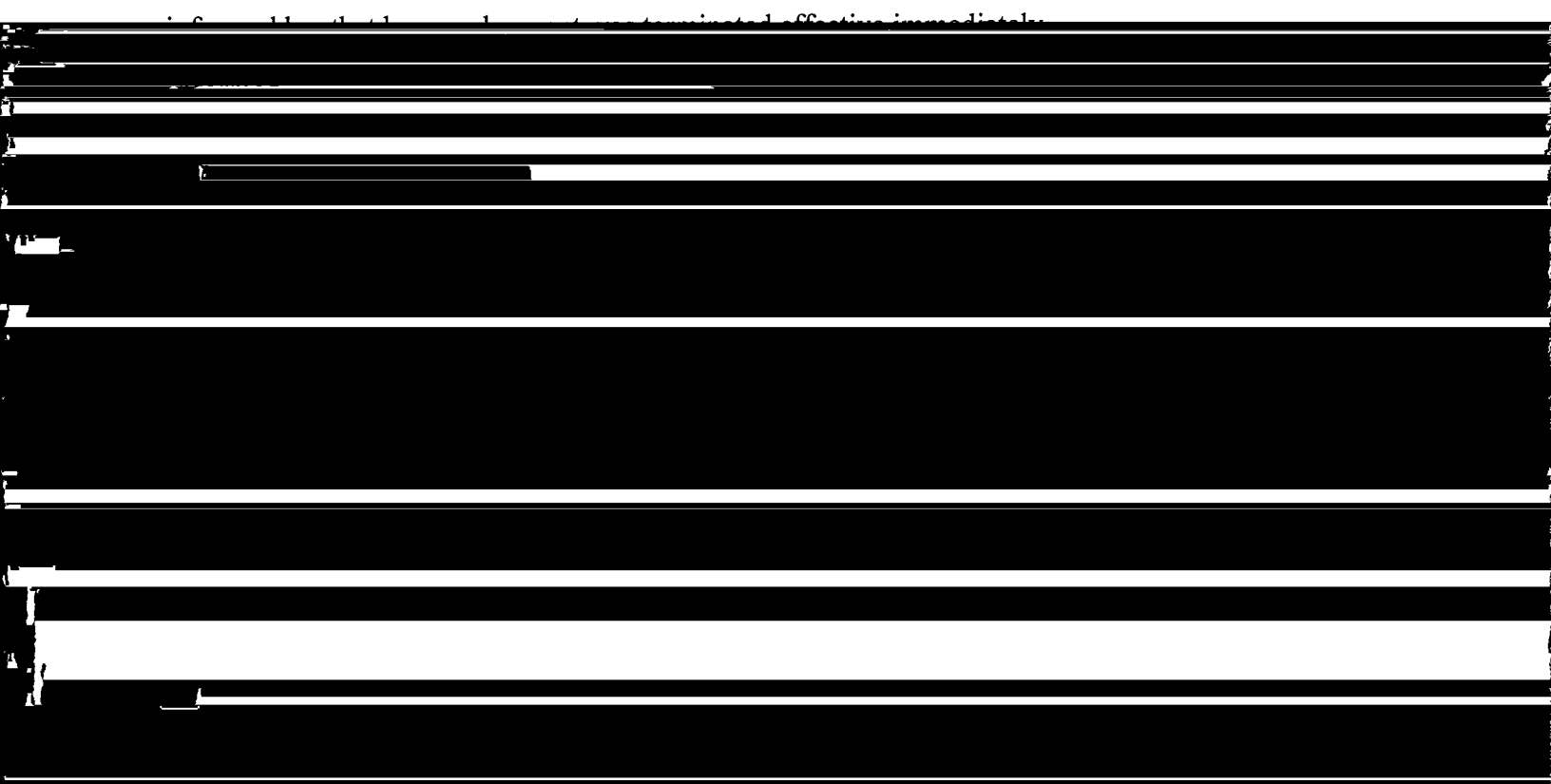
16. While Levesque was on a medical leave of absence from May through July, 2008.

20. On July 23, 2008, Levesque called David Dunn and asked if she was supposed to meet him and other Belron representatives at a branch. He replied yes, and instructed her to go to the New Bedford branch after lunch. Levesque went to that branch and waited for over 1 1/2 hours. Levesque then called Mr. Dunn, who told her that they had changed their minds and would not be coming.

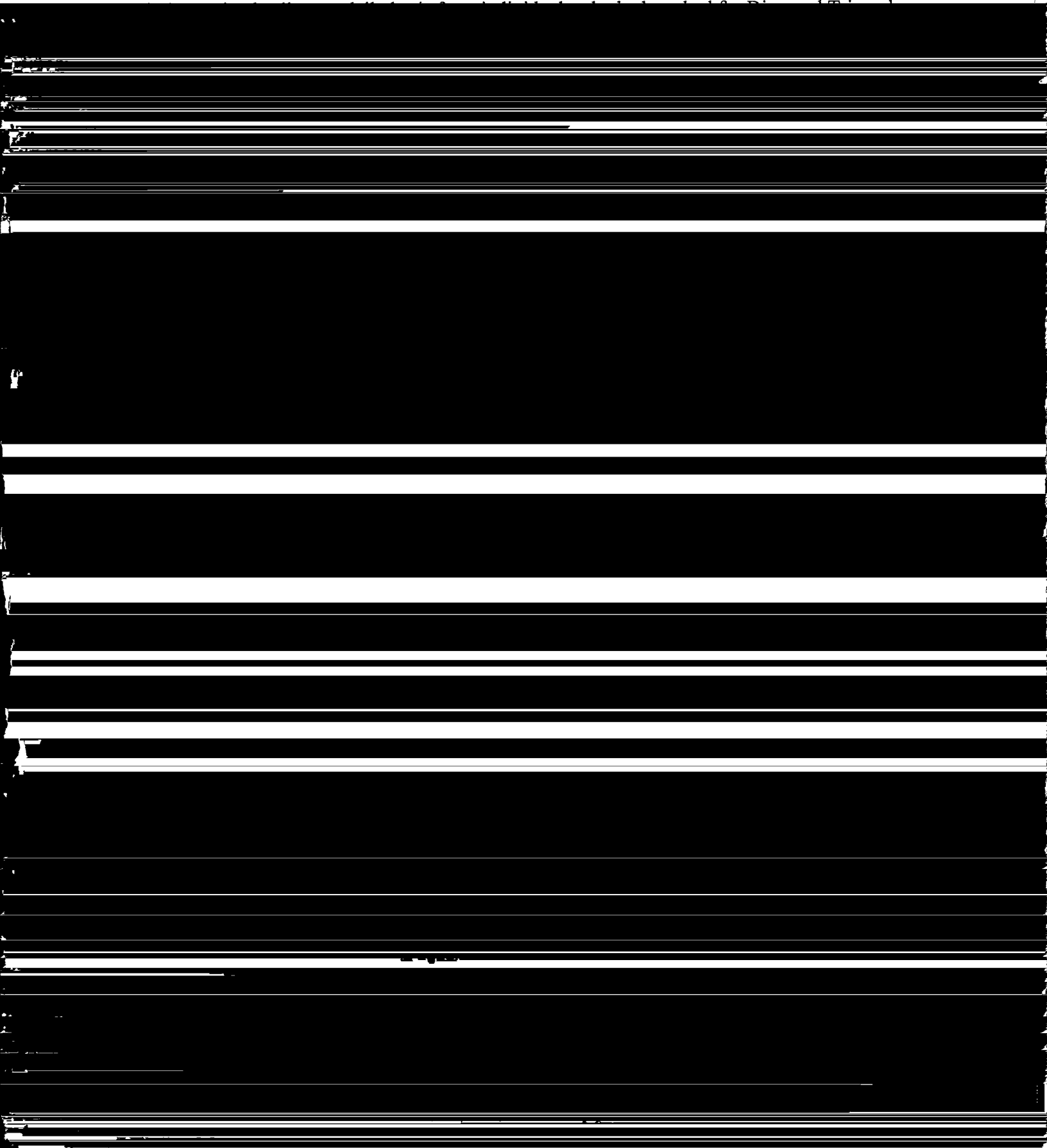
21. Belron did not pay Levesque in accordance with the requirements of Mass. Gen. L. ch. 149 §148 for the work she performed during her leave of absence, and she has not been paid to date.

Belron Terminated Levesque.

22. On July 30, 2008, Levesque received a call from Regional Operations Manager David Dunn telling her that Jim Napale, North East Division Manger, wanted to meet with her. Levesque met Mr. Napale and Mr. Dunn that same day in Raynham, Massachusetts. Mr. Napale stated that Levesque had solicited employees in violation of a non-competition agreement. He



the company's future plans soon. While she was out of work on her leave of absence, Levesque



29. On information and belief, Belron either did not investigate the basis for its claims against Levesque, or it willfully ignored the results of such investigation. As even a cursory review of Massachusetts law and her personnel file would have revealed, Belron had no current non-solicitation agreement with Levesque.

30. On the same day, below-signed counsel sent a letter to counsel for Belron explaining that Levesque had not solicited employees, explaining that Belron was mistaken in asserting that she had a non-solicitation agreement, outlining affirmative claims Levesque had against Belron, and stating that Levesque was willing to engage in a discussion with Belron to resolve the situation amicably. Belron's counsel did not respond.

Belron Filed Lawsuits Against Levesque and Lee.

31. Belron's next action was to file a Complaint against Levesque, on August 15, 2008, in the United States District Court for the District of Massachusetts.

32. Seemingly in recognition of the fact that Levesque is not subject to an agreement containing restrictive covenants, Belron has only asserted claims against Levesque for violations of general fiduciary duties and other common law claims.

33. On the same day that Belron filed its Complaint against Levesque, it filed an identical complaint against Edward Lee in the United States District Court for the District of New York.

Belron's Concerns Regarding Kenneth Levine.

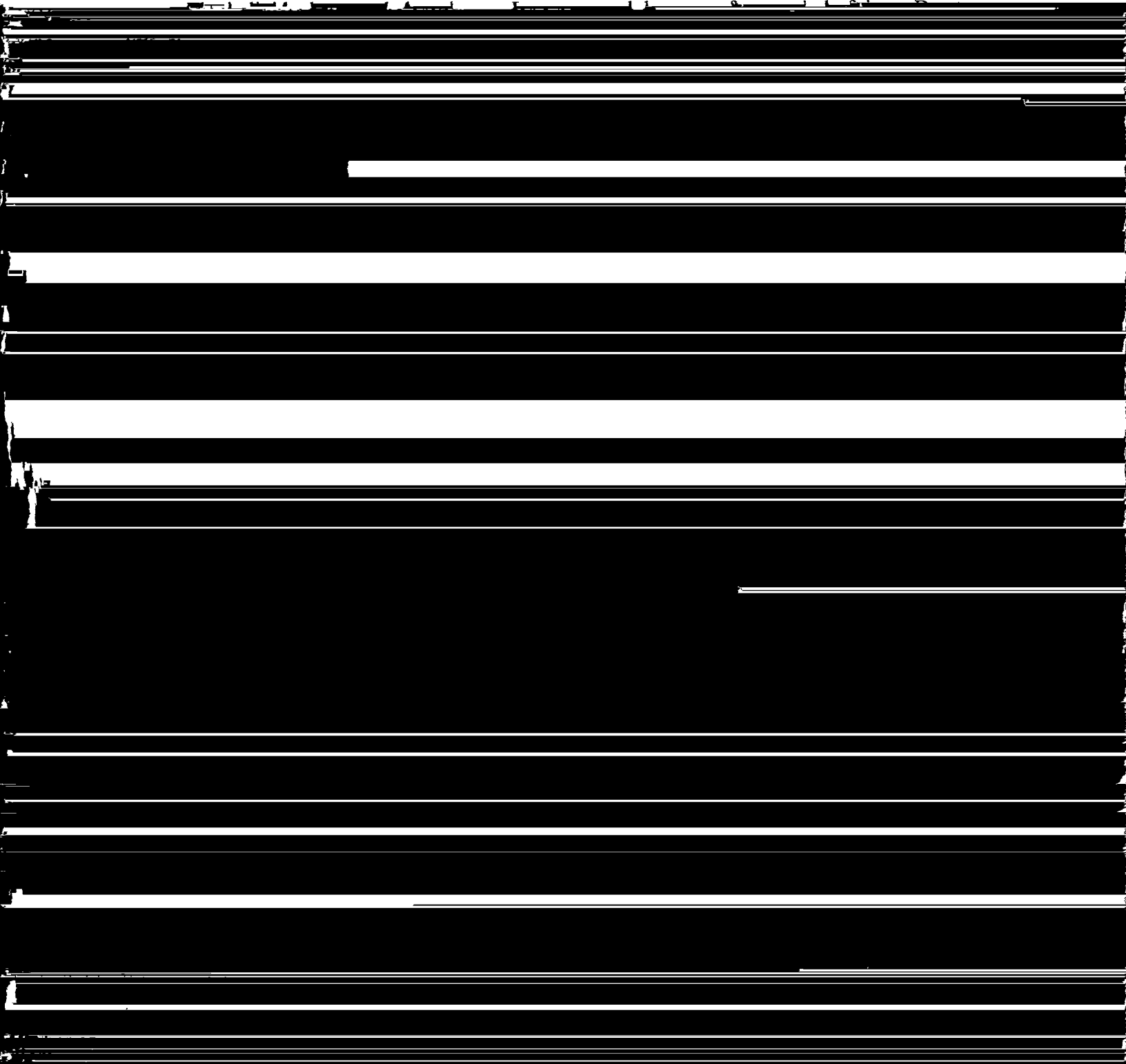
34. Diamond Triumph was formerly owned by Kenneth Levine. Mr. Levine remains well known as a successful executive in the auto glass industry.

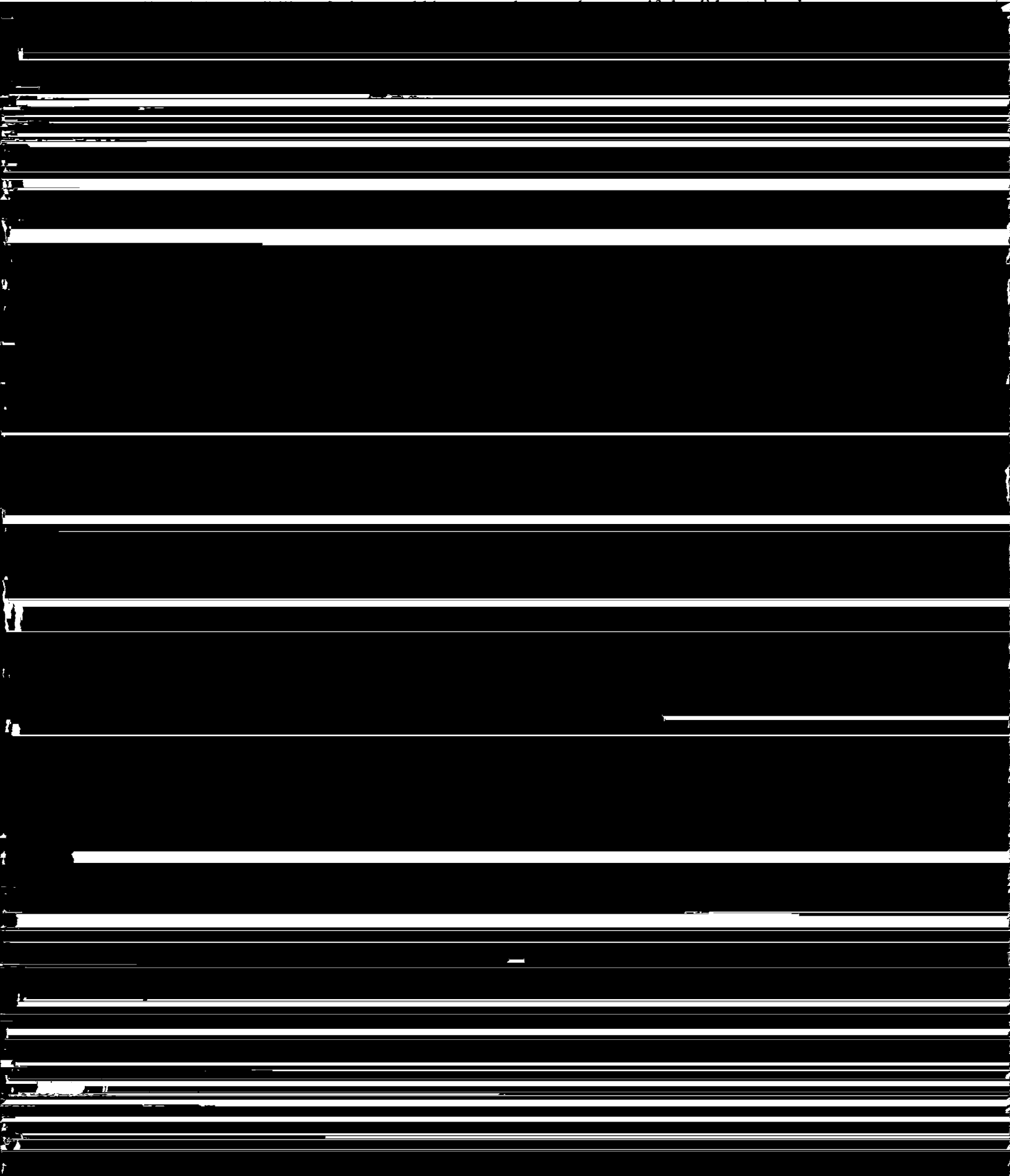
35. Levesque and Mr. Levine are personal friends. On information and belief, Belron is aware of this friendship.

cc: [Redacted]

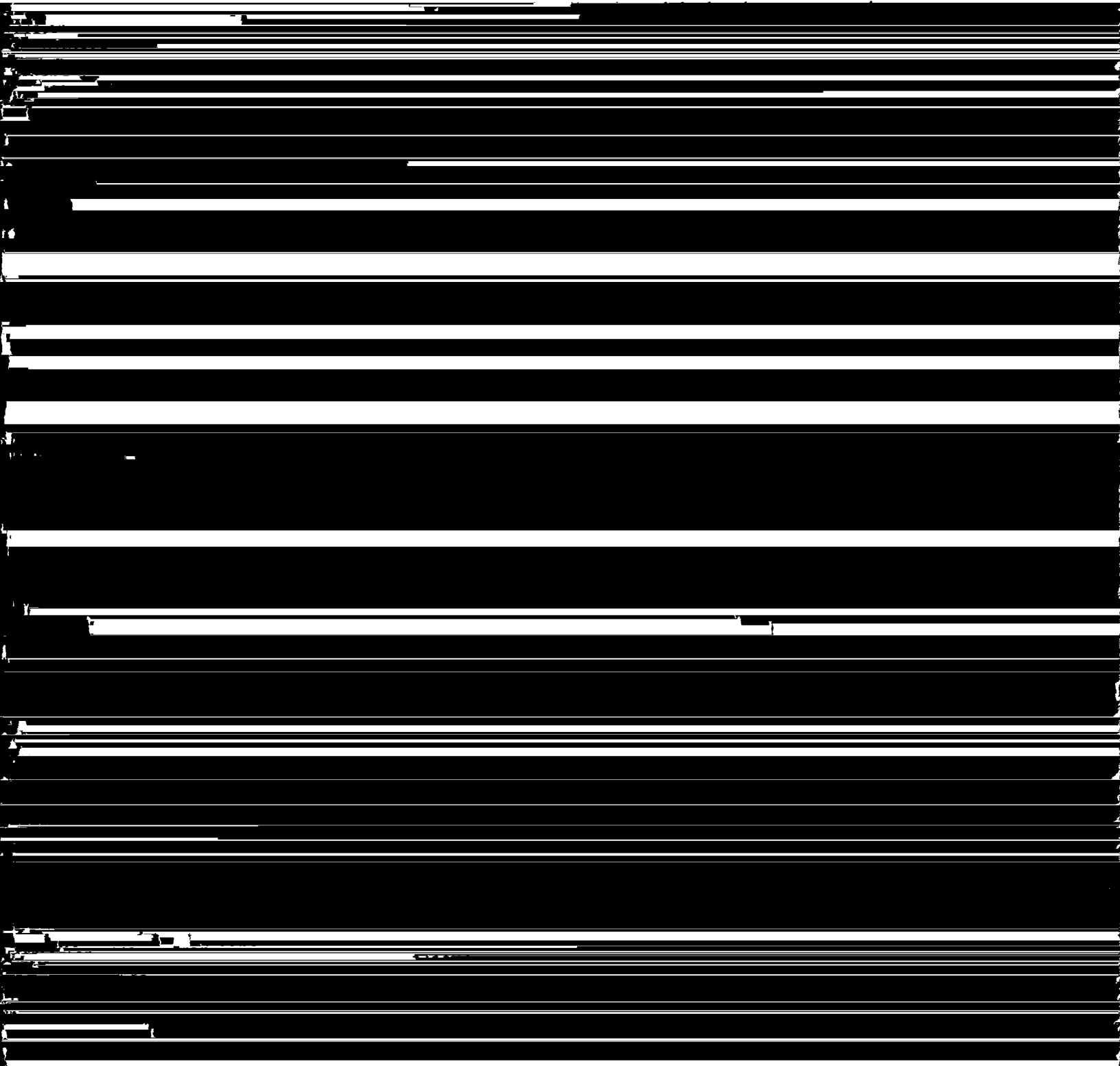
[Redacted]

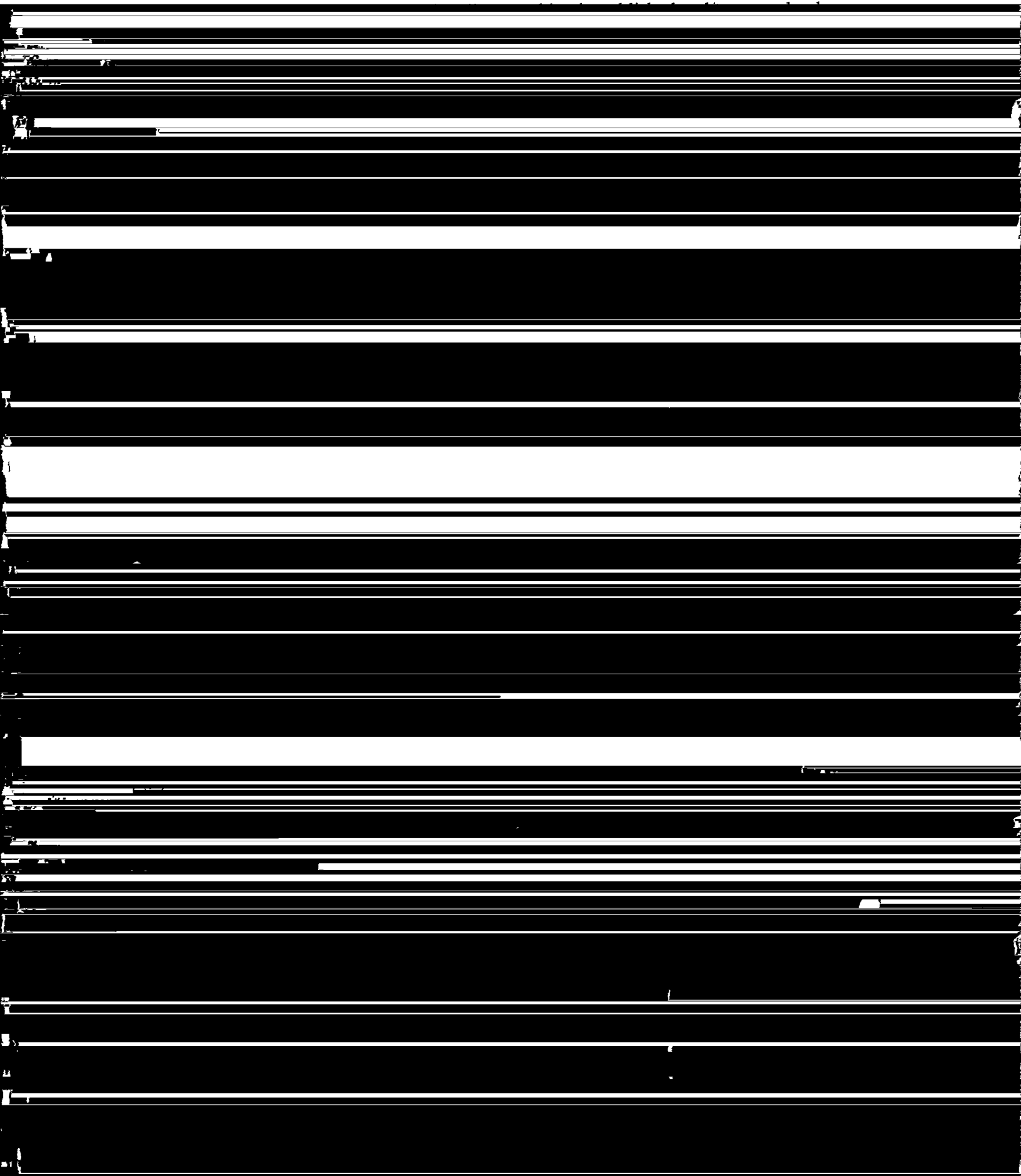
43. On information and belief, Belron has recently caused someone to follow Levesque and observe her whereabouts. In particular, during Levesque's recent visit to New York City, while she and others were in a parking lot where they were meeting Mr. Levine, Levesque observed an unknown individual in a vehicle pull into the parking lot and observe the





54. Belron has willfully engaged in these tactics, including asserting bad faith claims in a Complaint against Levesque, primarily and substantially in Massachusetts, with the ulterior motive of seeking to pressure Mr. Levine not to operate a competing business.





73. By requiring Levesque to perform work during her FMLA leave, Belron interfered with or restrained her rights under the FMLA.

74. Levesque is entitled to damages, including attorneys' fees and costs.

WHEREFORE, Michelle Levesque requests that the Court dismiss Belron US Inc.'s

Complaint, and that appropriate Judgment be entered in favor of Michelle Levesque on her



Certificate of Service

I, Sheila O'Leary, counsel for Michelle Levesque do hereby certify that a copy of this document was served on counsel for Belron US Inc. through the Court's ECF system.

/s/ Sheila O'Leary

Sheila O'Leary