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IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

MAJID KHAN and RABIA KHAN,
as Next Friend,

Petitioners,

v.

ROBERT M. GATES,
Secretary of Defense,

Respondent.

No. 07-1324

DECLARATION OF GITANJALI S. GUTIERREZ

I, GITANJALI S. GUTIERREZ, pursuant to 28 U.S.C. § 1746, de

1. I am an attorney at the Center for Constitutio , 666
Broadway, 7th floor, New York, New York, 10012 ("CCR"). CCR represents
Majid Khan ("Petitioner Khan" or "Majid"), petitioner in the above-captioned
matter and a U.S. asylee who was abducted, imprisoned and tortured by and at the
behest of U.S. personnel for more than three years at secret overseas prisons
operated by the Central Intelligence Agency ("CIA"). On September 6, 2006, the
CIA transferred Petitioner Khan from secret detention to the custody of military
authorities at Guantánamo Bay Naval Station, Guantánamo Bay, Cuba

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("Guantánamo"), where he remains imprisoned without charge or trial. I respectfully submit this declaration in support of Petitioner Khan's Motion for Preservation of Torture Evidence.

2. Petitioner Khan is a 27-year-old resident of the United States. In 1996, when Majid was sixteen-years-old, he moved to the United States from Pakistan with his mother and three sisters to join his father and two older brothers in Owings Mills, Maryland near Baltimore. On July 14, 1998, Majid's application for asylum in the United States was granted and he presently has a pending application for permanent residency. All of his immediate family apart from one brother still live outside Maryland and are citizens or permanent residents with citizenship applications pending.

3. Majid graduated from Owings Mills High School in 1999 and began working for the State of Maryland as a database administrator. He eventually purchased a home, toyed with becoming a disk jockey and took a new job with Electronic Data Systems Technology & Engineering in March 2001. His only residence is in the United States.

4. Majid and his eldest brother traveled to Pakistan in February 2002 to get married. Majid returned to the United States after a month to continue working to support his new wife and to comply with the terms of his Immigration and Naturalization Services travel document. At the end of 2002, he returned again to

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Pakistan to visit his wife for several months. It was during this trip that he was kidnapped from his brother's home and disappeared until September 6, 2006 when President George W. Bush announced Majid's transferred to Guantánamo.

5. Majid, through his wife and next friend Rabia Khan, filed a petition for a writ of habeas corpus in the U.S. District Court for the District of Columbia on September 29, 2006, challenging his indefinite detention in military custody. *See Khan v. Bush*, No. 06-1690 (RBW) (D.D.C.). He also filed a petition under the Detainee Treatment Act of 2005 ("DTA") in this Court on August 14, 2007, challenging his "enemy combatant" designation and preserving all other legal claims, including his right to habeas relief. Apart from denying Majid's initial requests for counsel access without prejudice, the District Court has not ruled on any pending motions or scheduled a hearing or status conference in his habeas case. This Court has likewise suspended briefing on the merits of Majid's DTA case.

3. Although Majid has been imprisoned by U.S. officials for nearly five years, he has never been charged with a crime or appeared before any court. The government has also refused to provide a factual return to Khan's habeas petition, the record on review in his DTA case or any other evidence to support his indefinite detention. In addition, government officials refused to allow Khan access to his security-cleared counsel for more than a year because they were

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afraid that Majid would disclose details to us about his detention and interrogation in secret CIA facilities.

4. On October 12, 2007, this Court entered an interim protective order in Majid's DTA case that established counsel access procedures and procedures for the handling of "Top Secret//Sensitive Compartmented Information" ("TS//SCI").

5. I met with Majid at Guantánamo in Camp Echo 2 from October 16-19 and 22-24, 2007. I was accompanied during my meetings with Majid by CCR attorney J. Wells Dixon and/or CCR paralegal Jessica Baen. This declaration was drafted at a secure facility in Washington, DC, and the remaining paragraphs set forth my recollections and notes of my meetings with Majid.

6. On March 5, 2003 Majid was

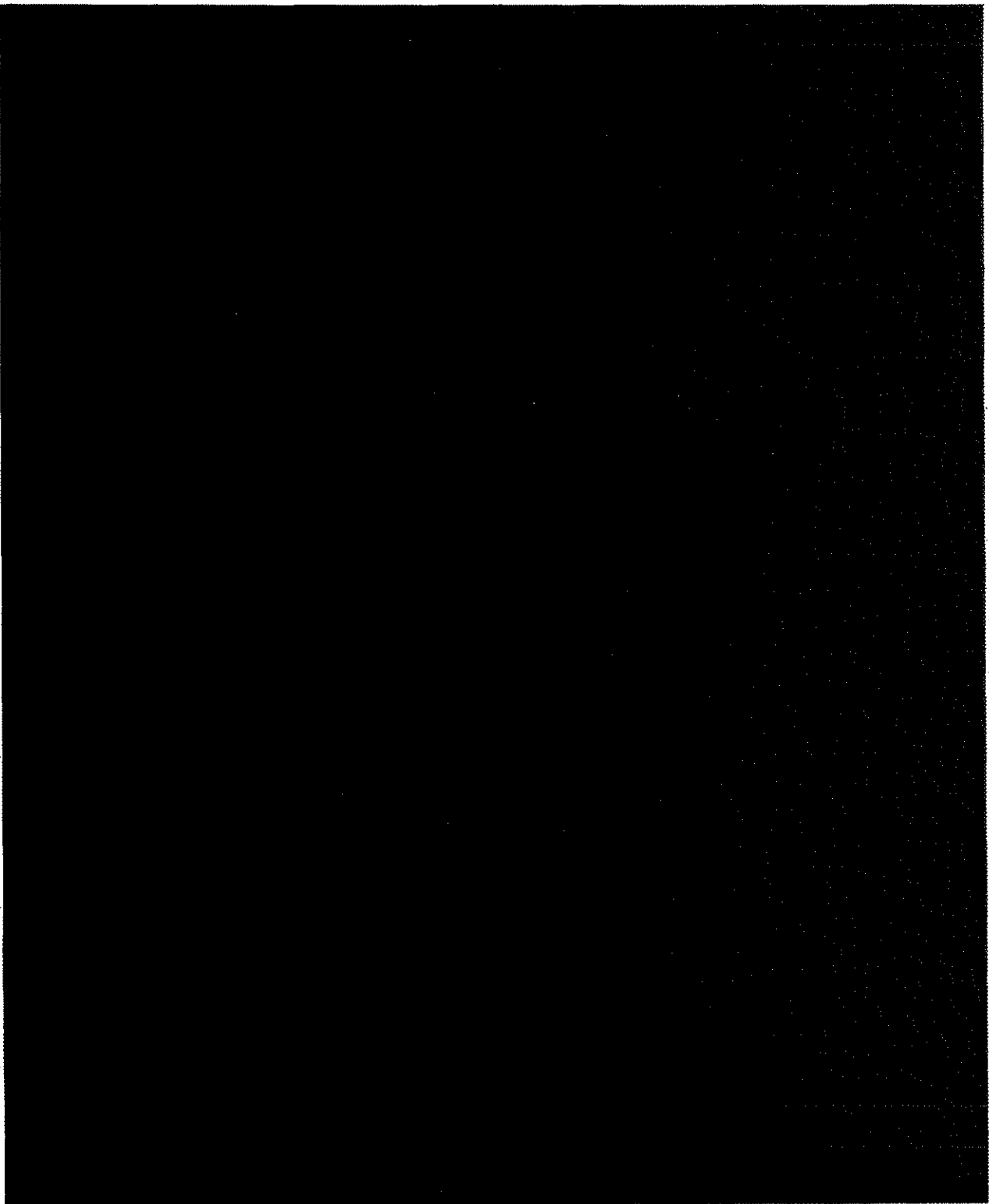
in Karachi, Pakistan

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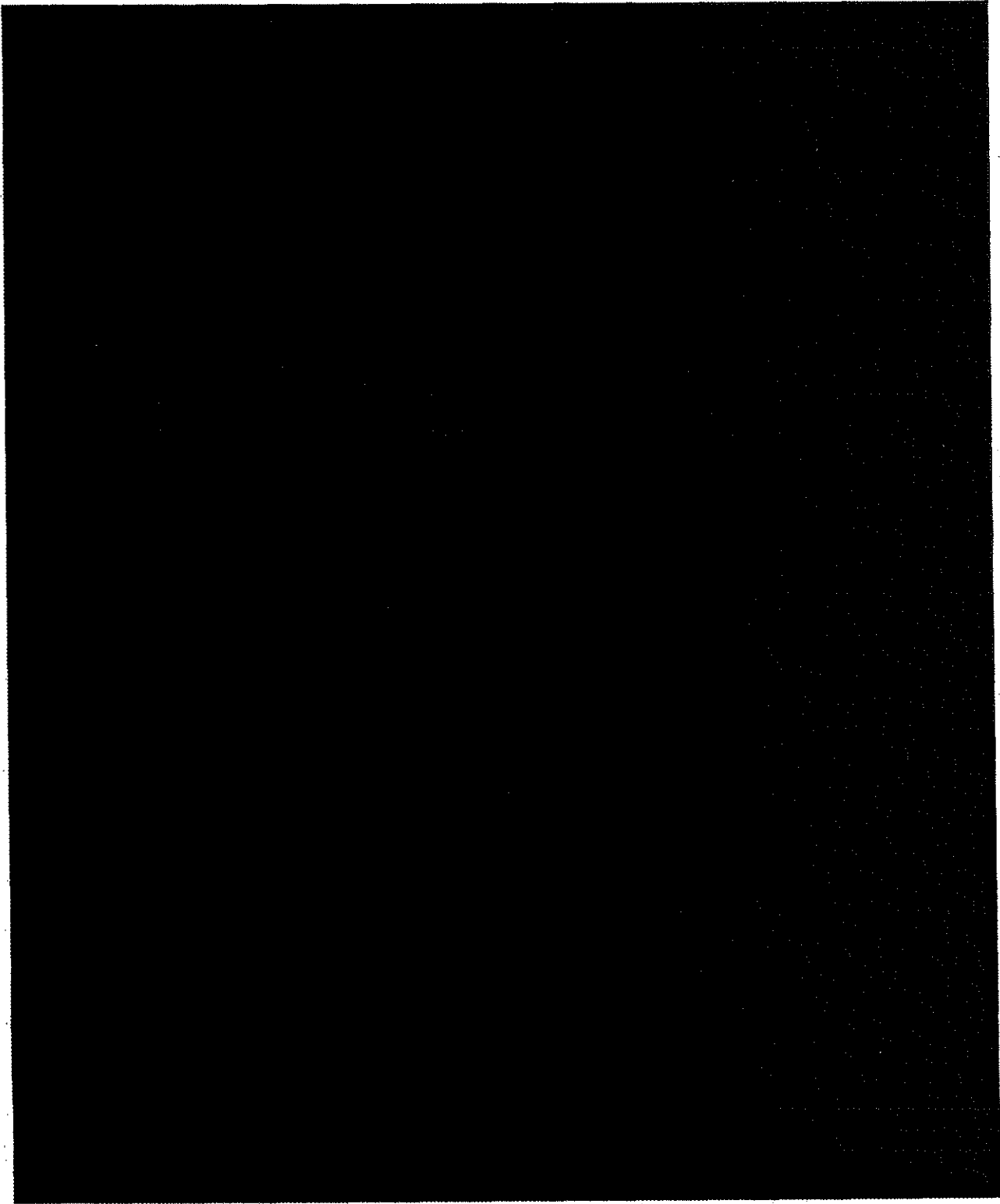


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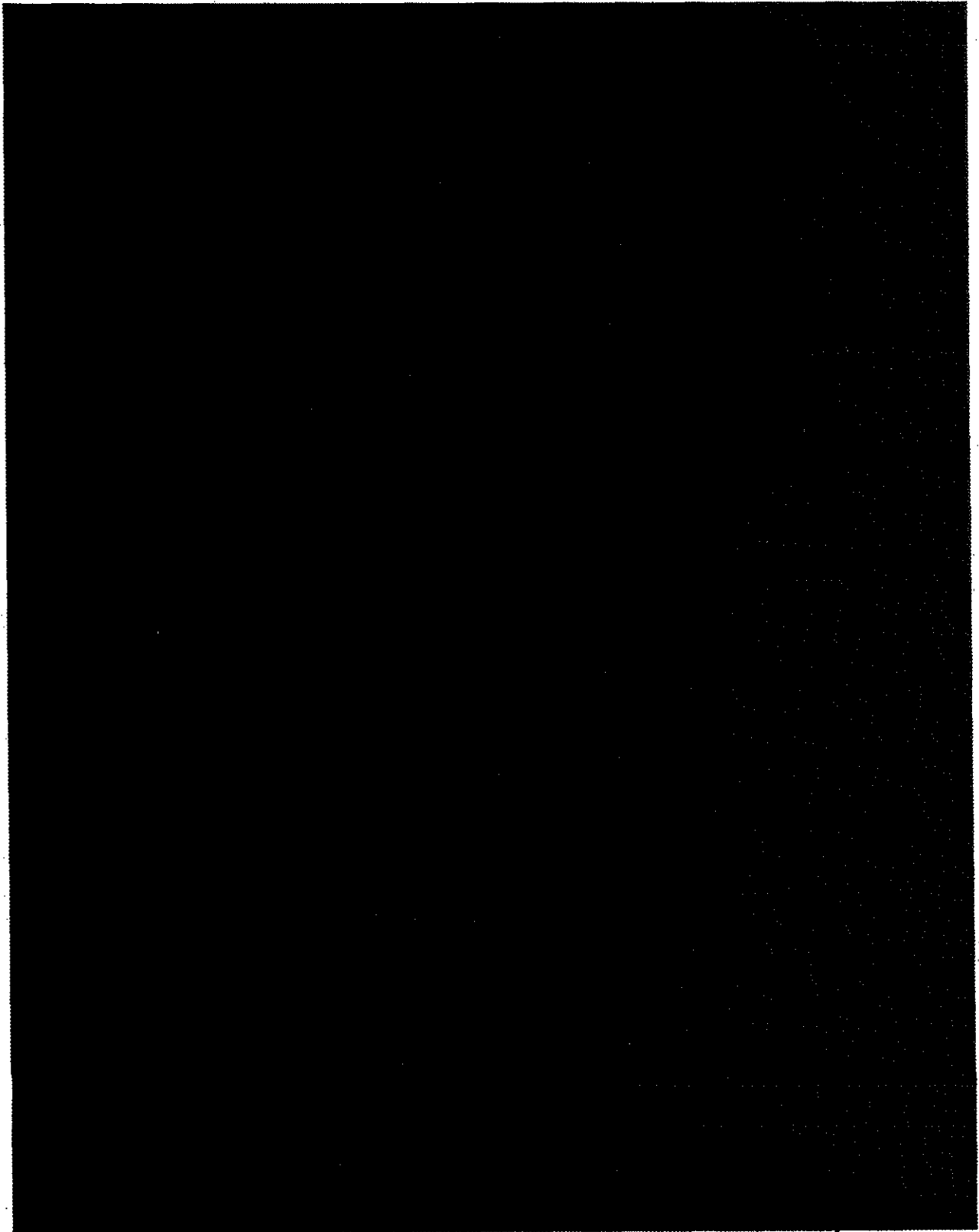


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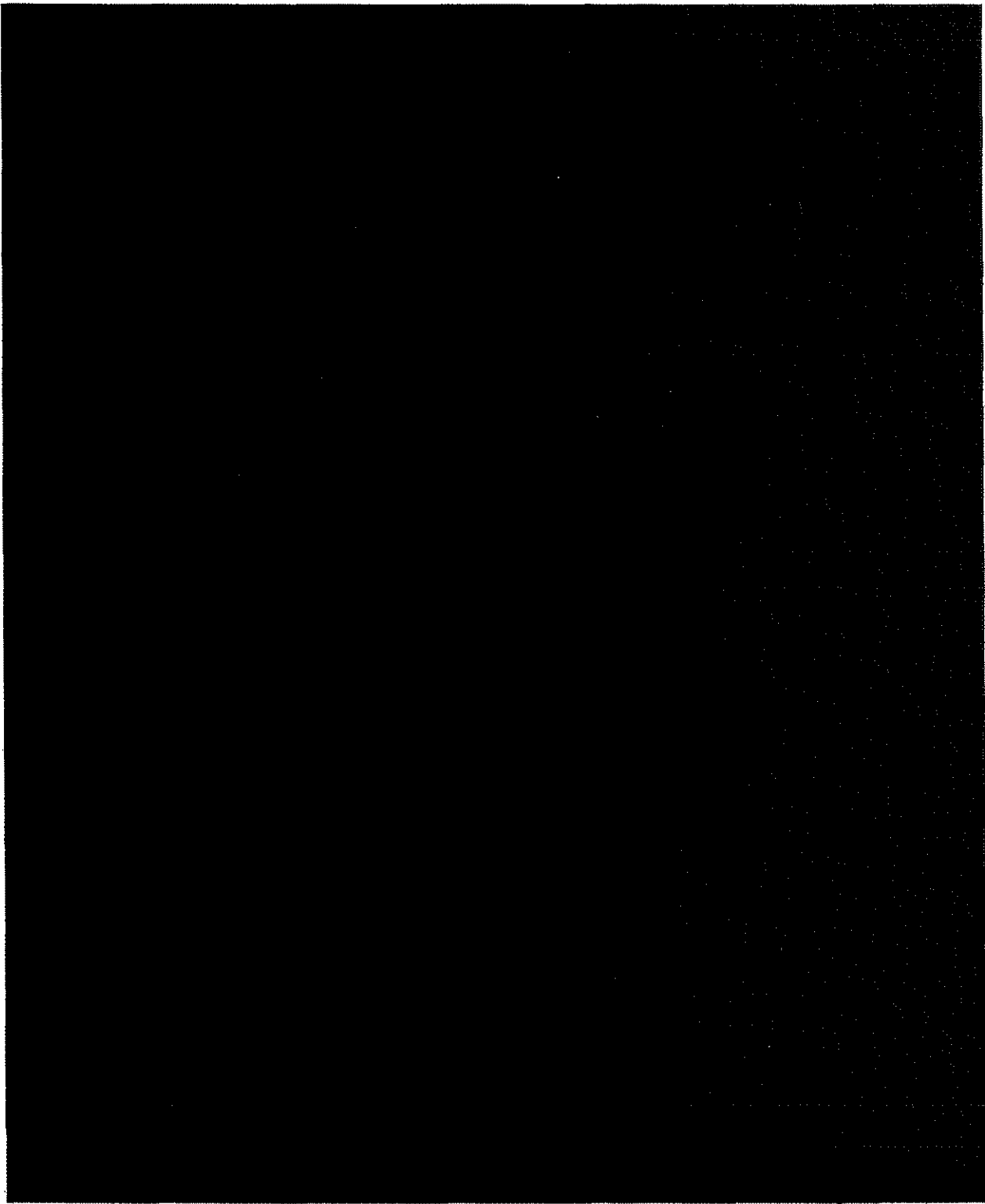


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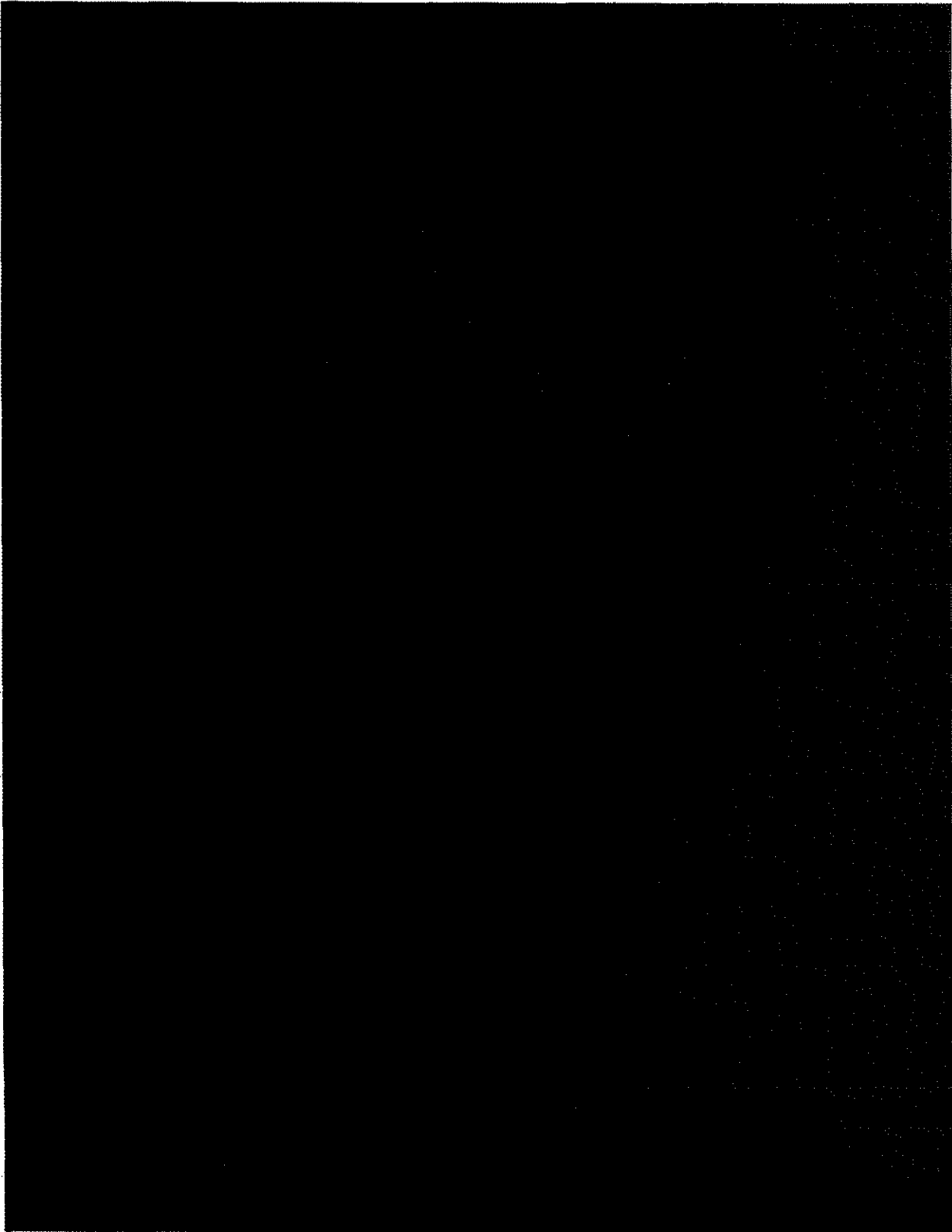


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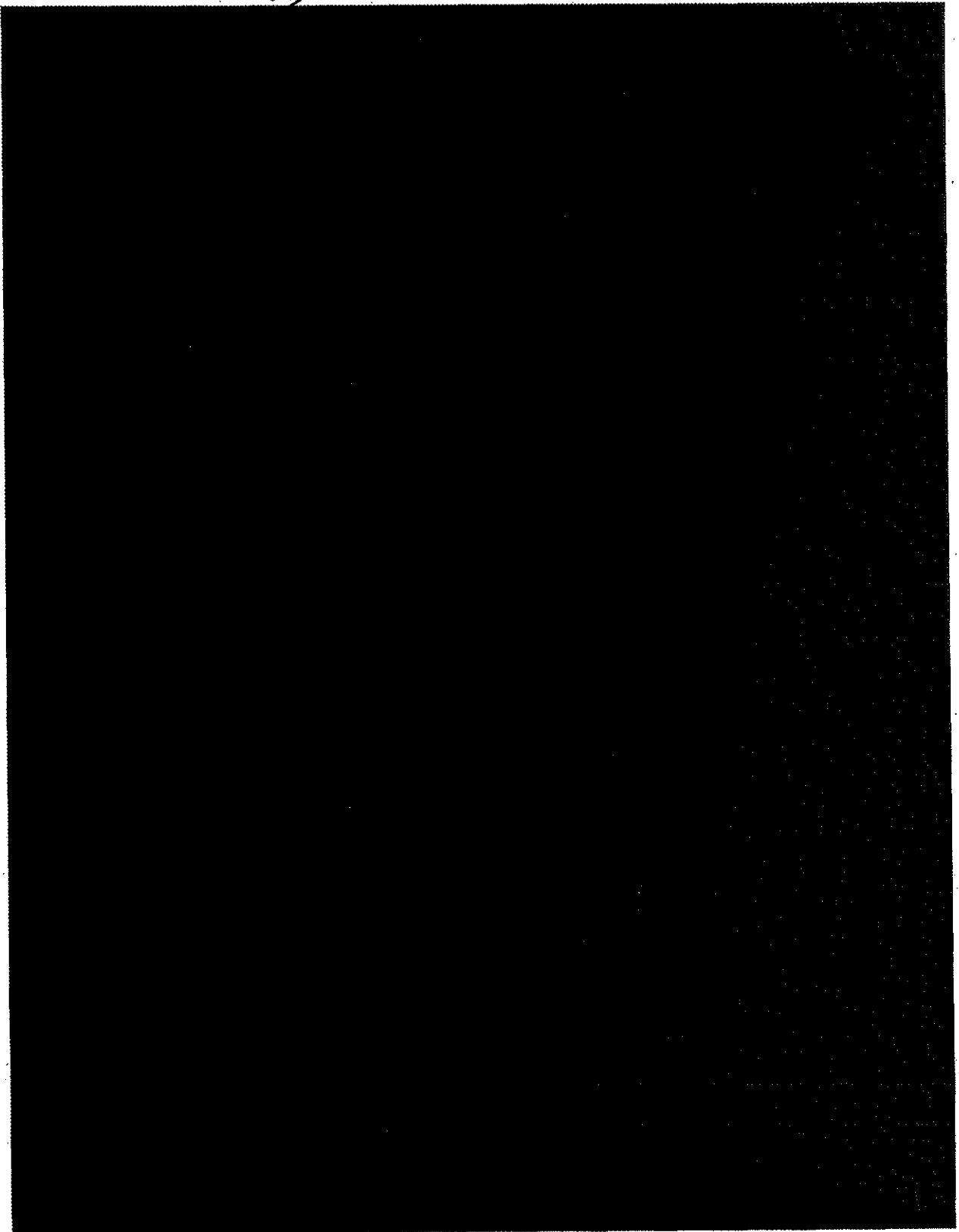


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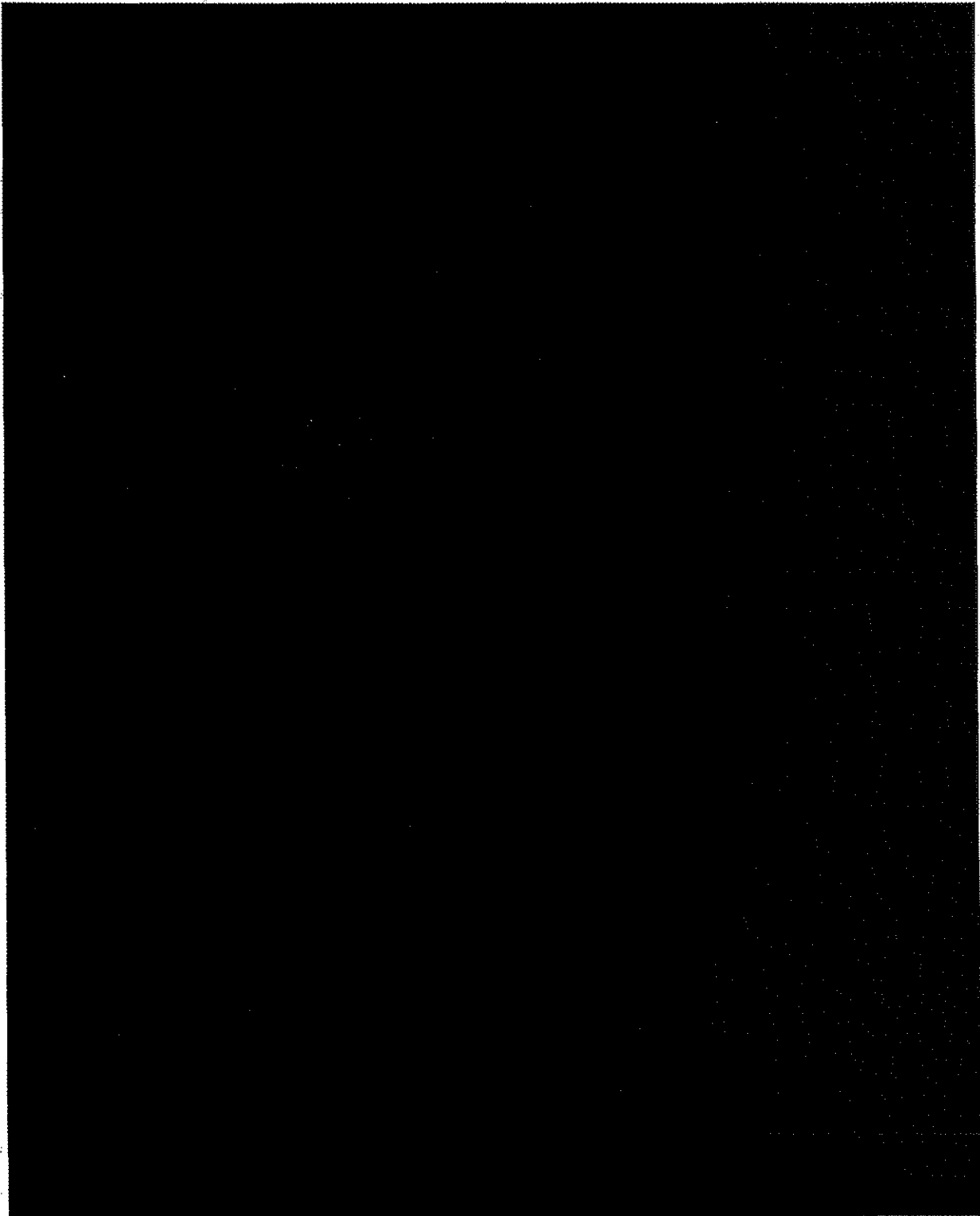


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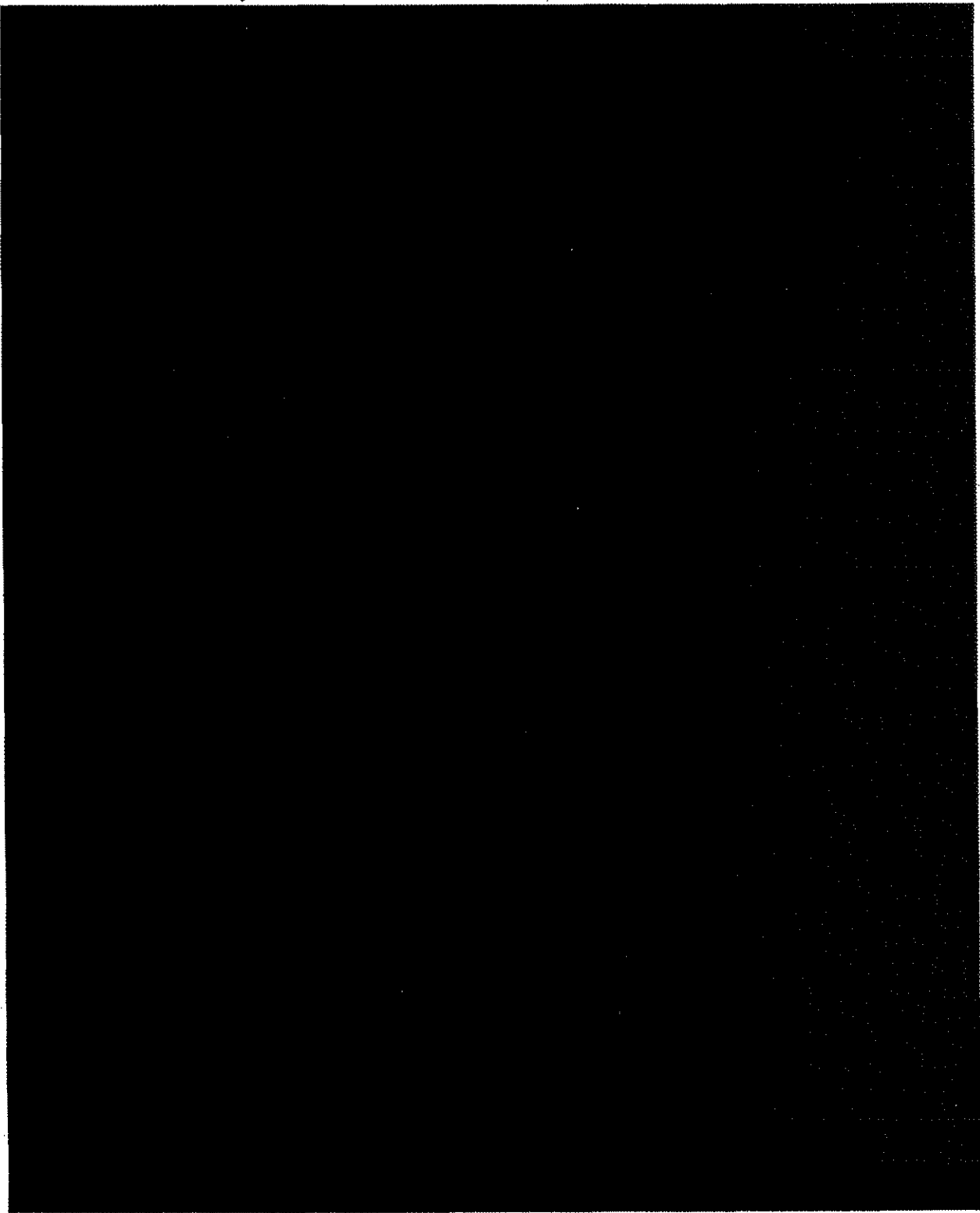


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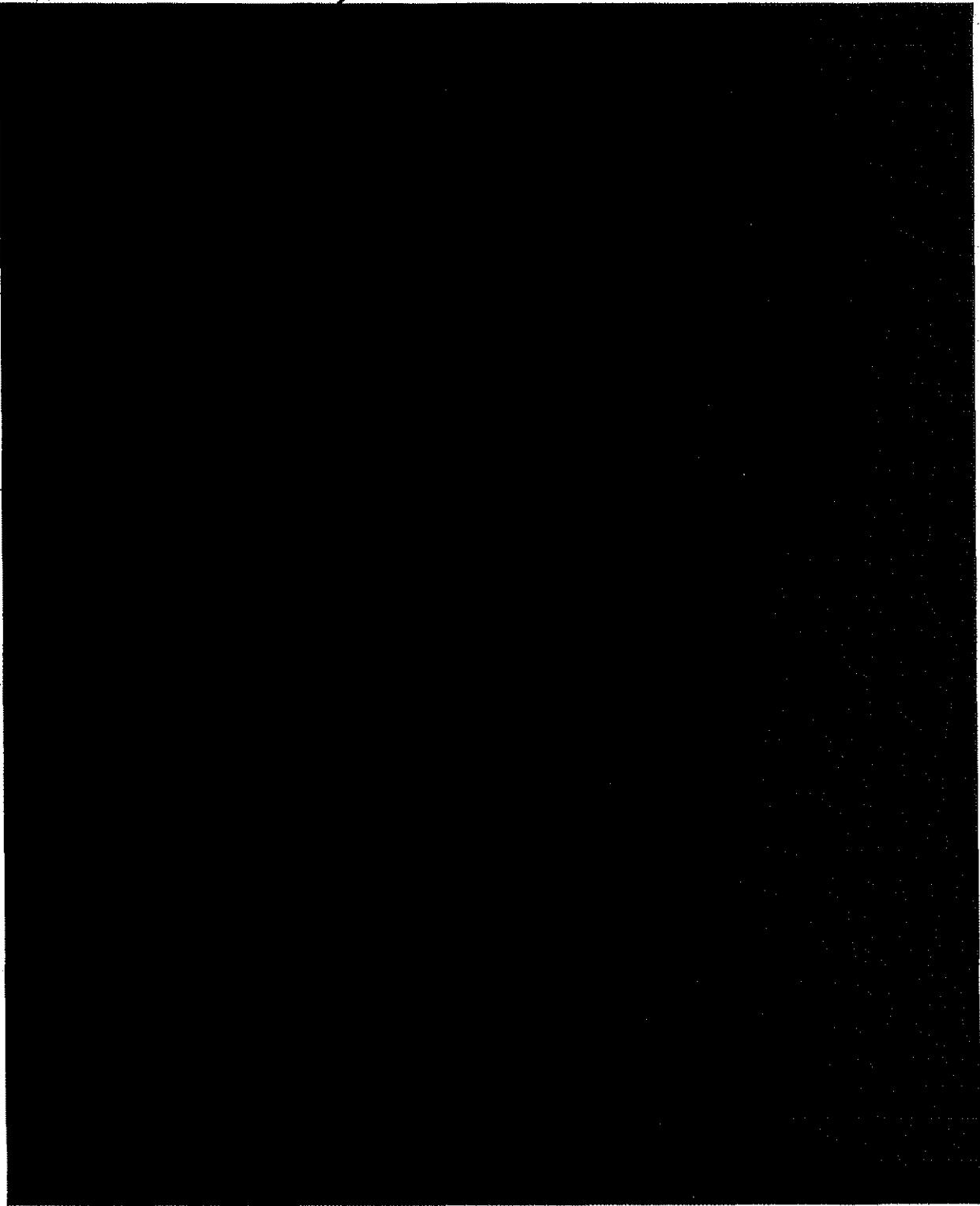


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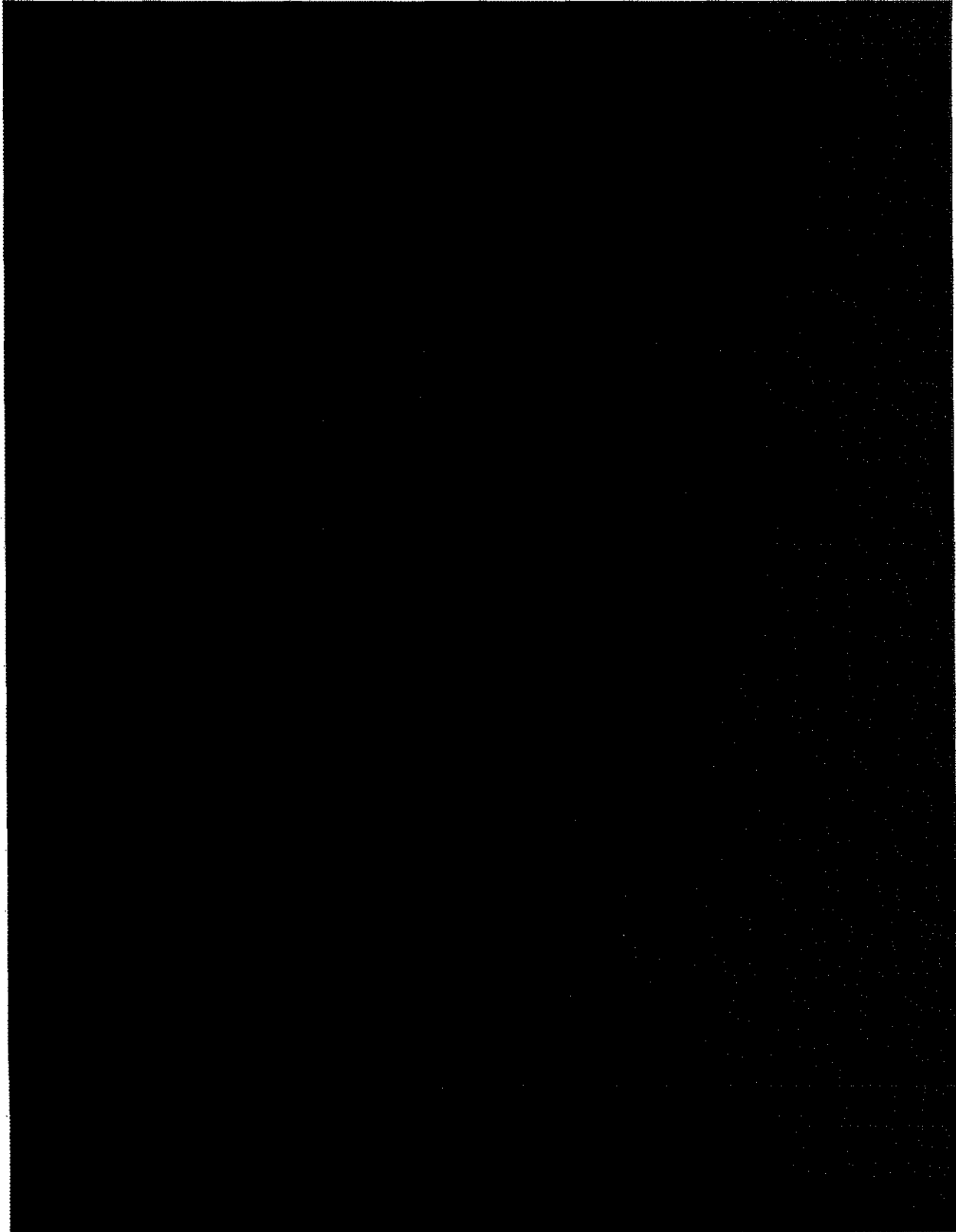


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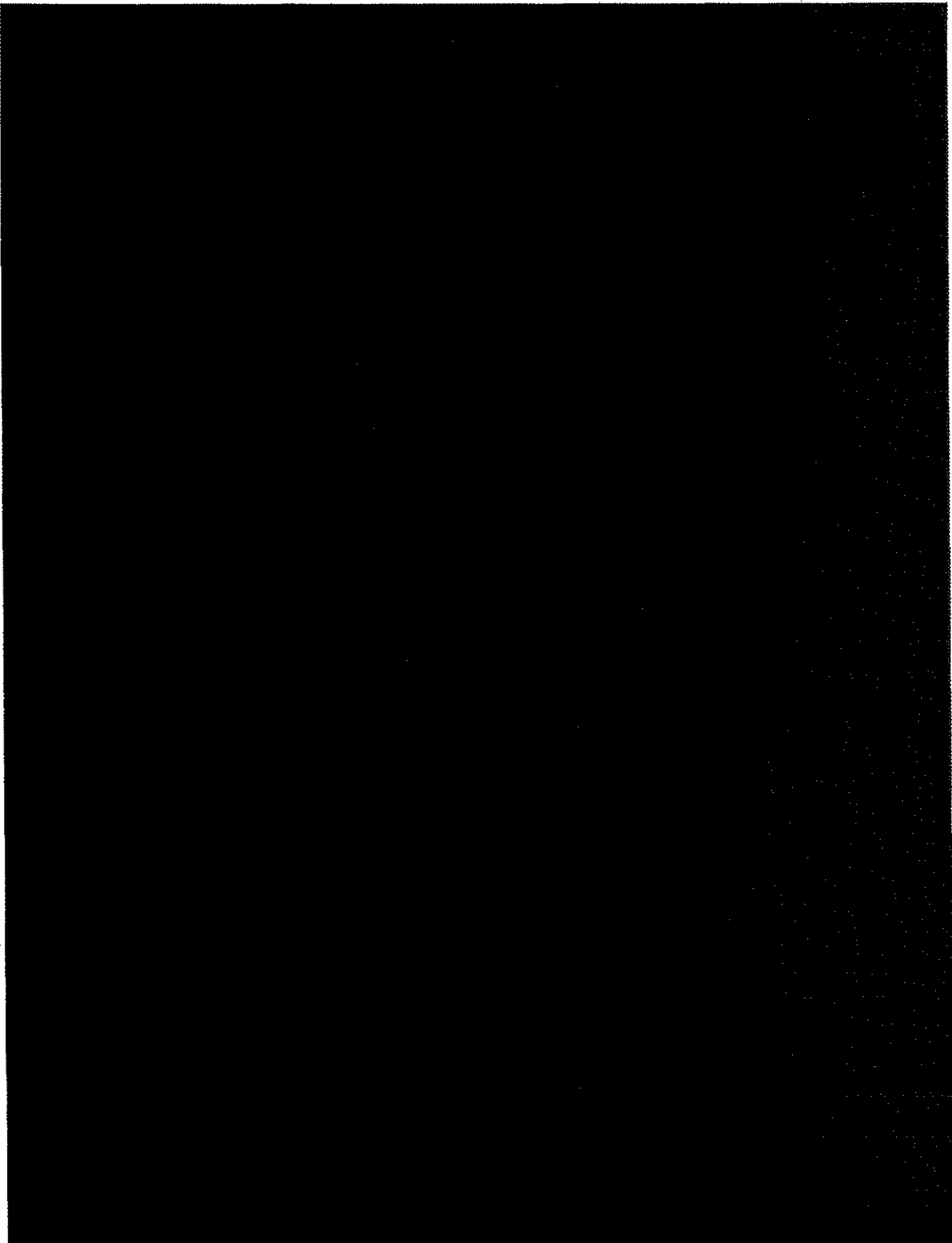


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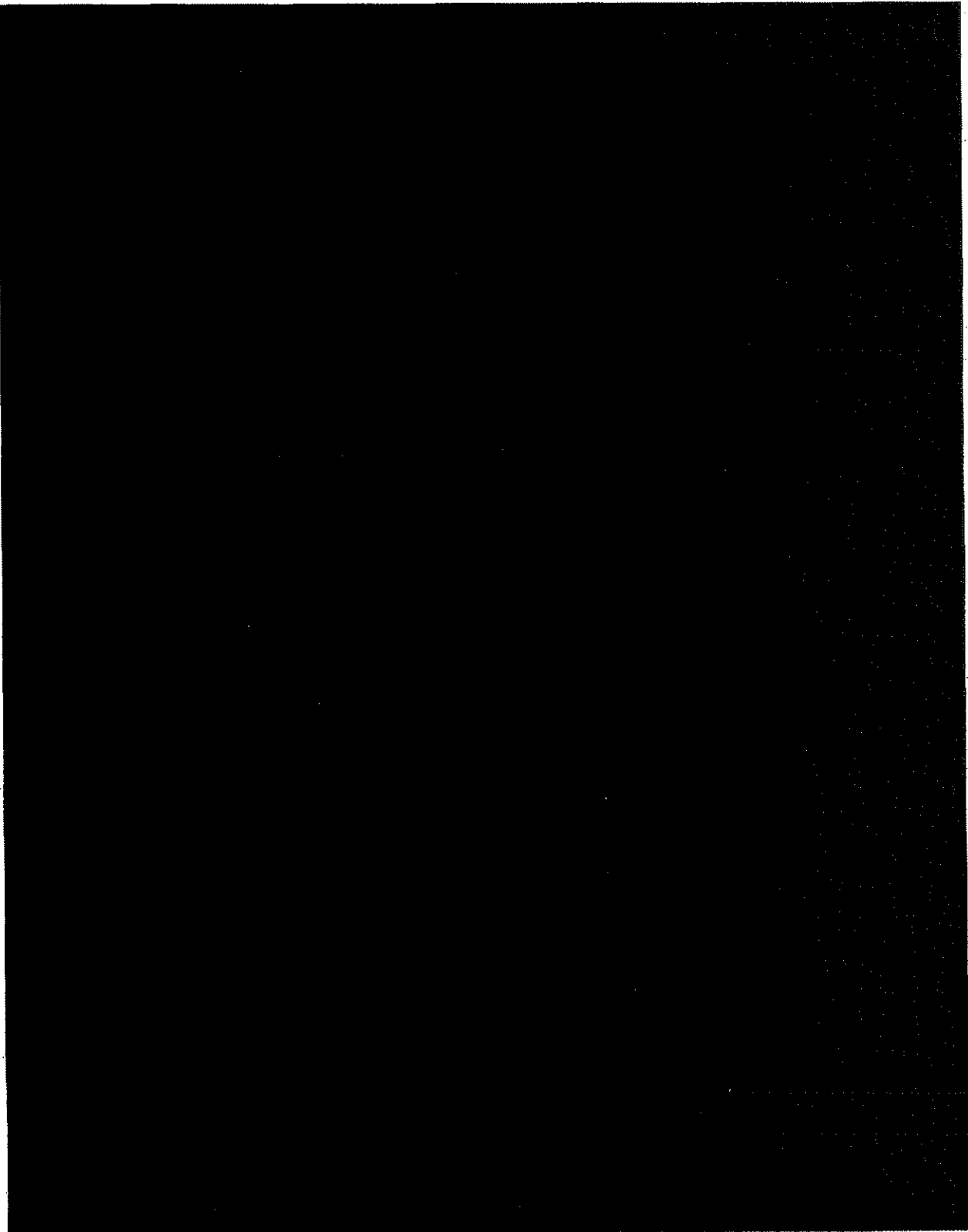


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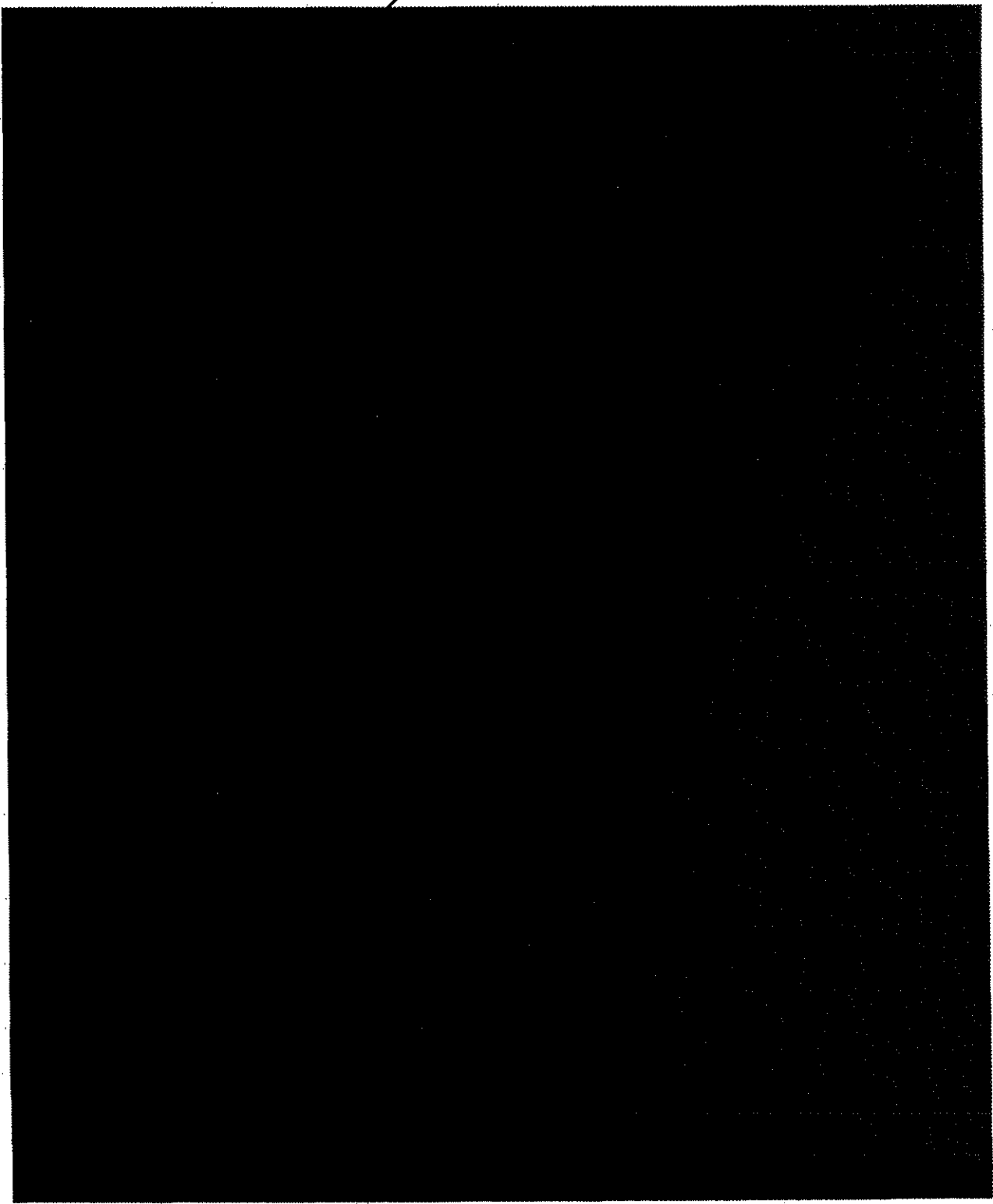


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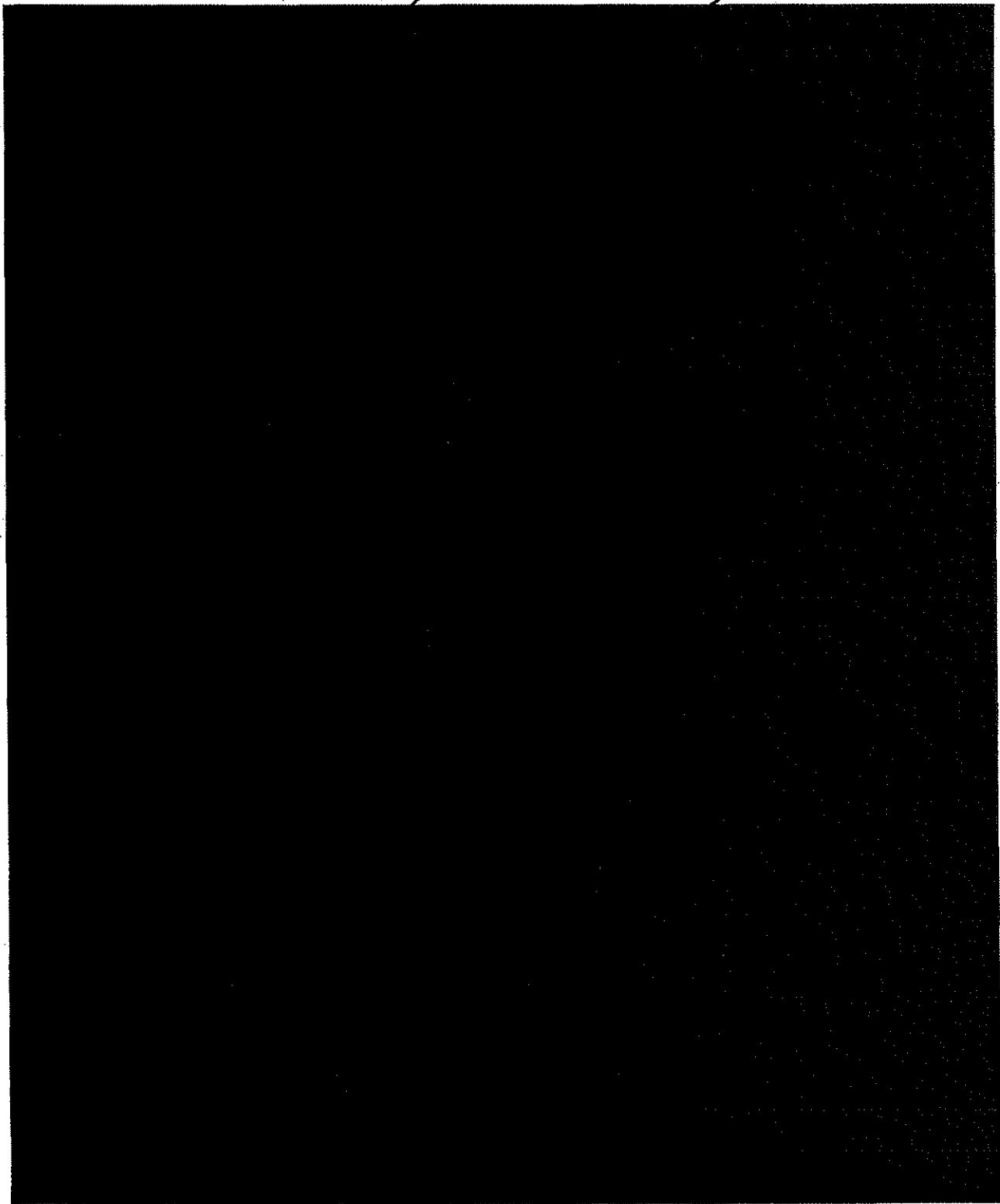


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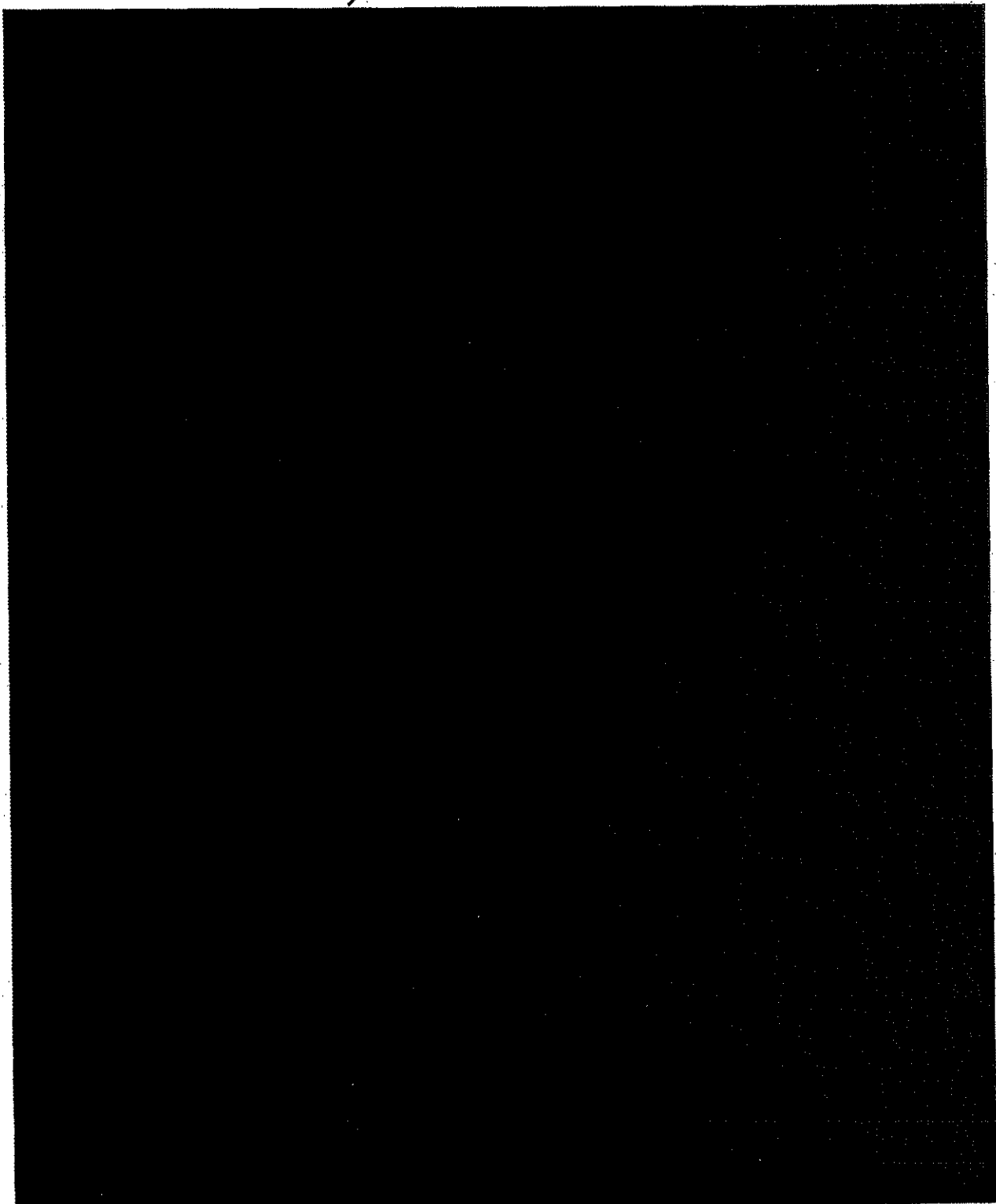


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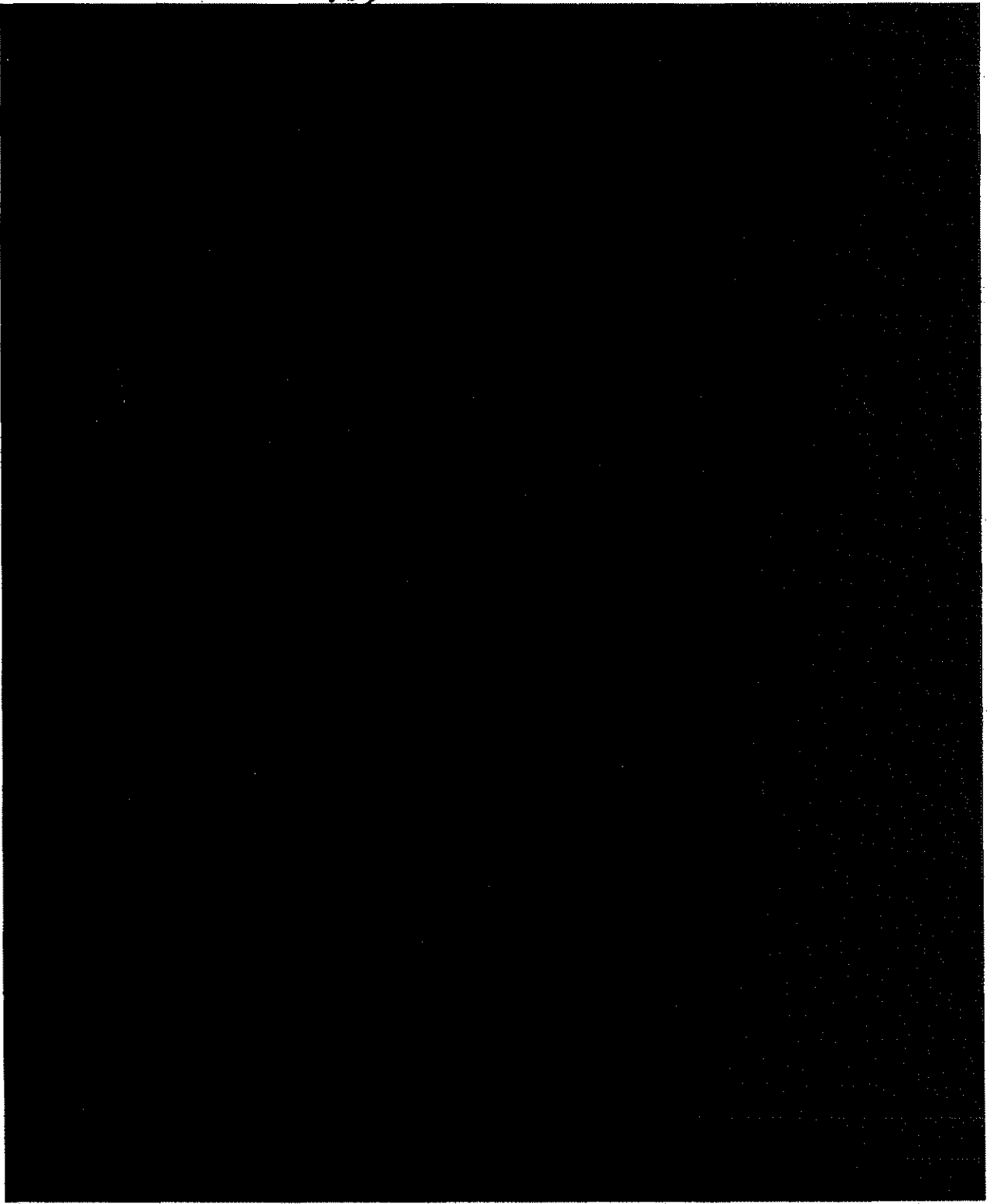


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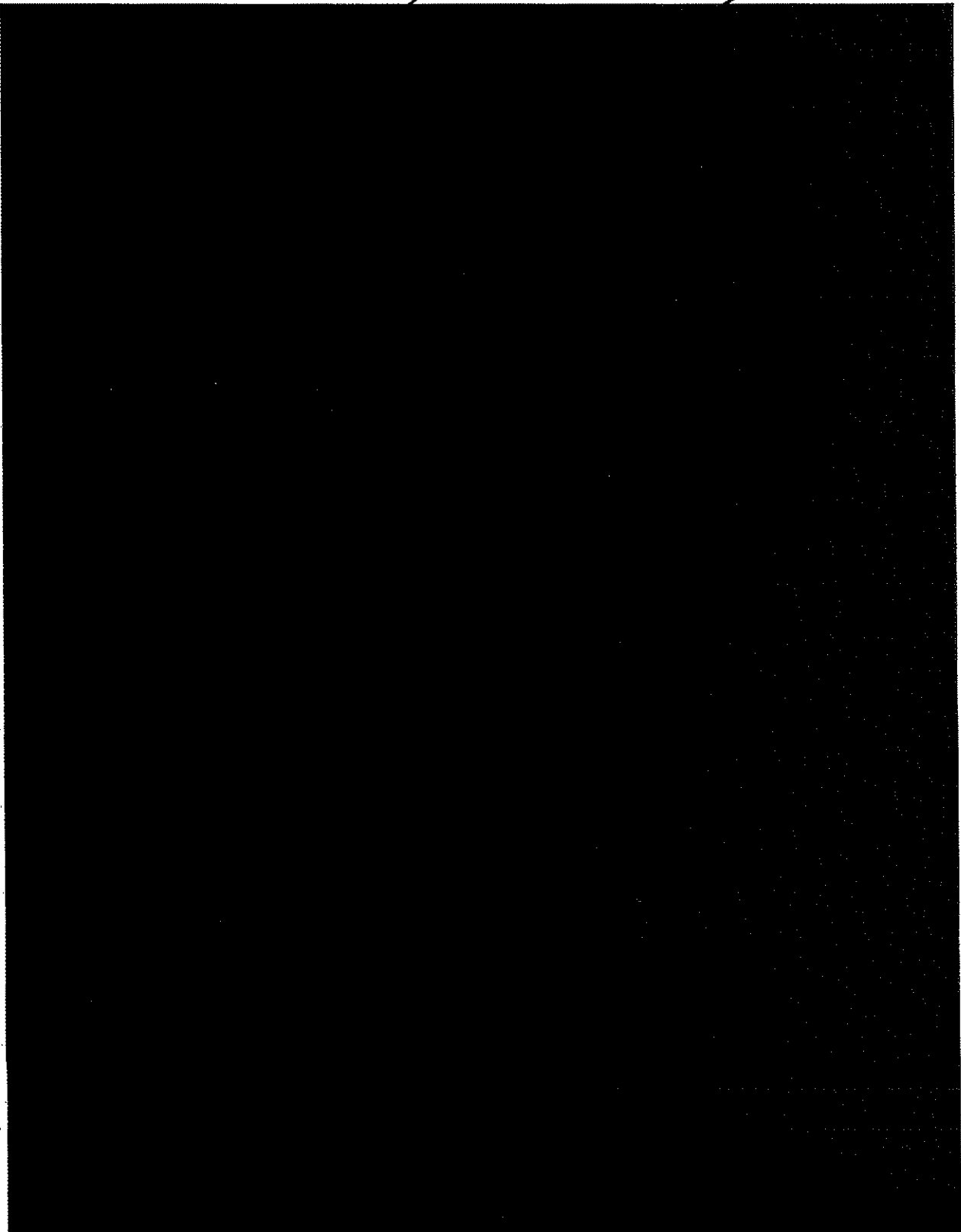


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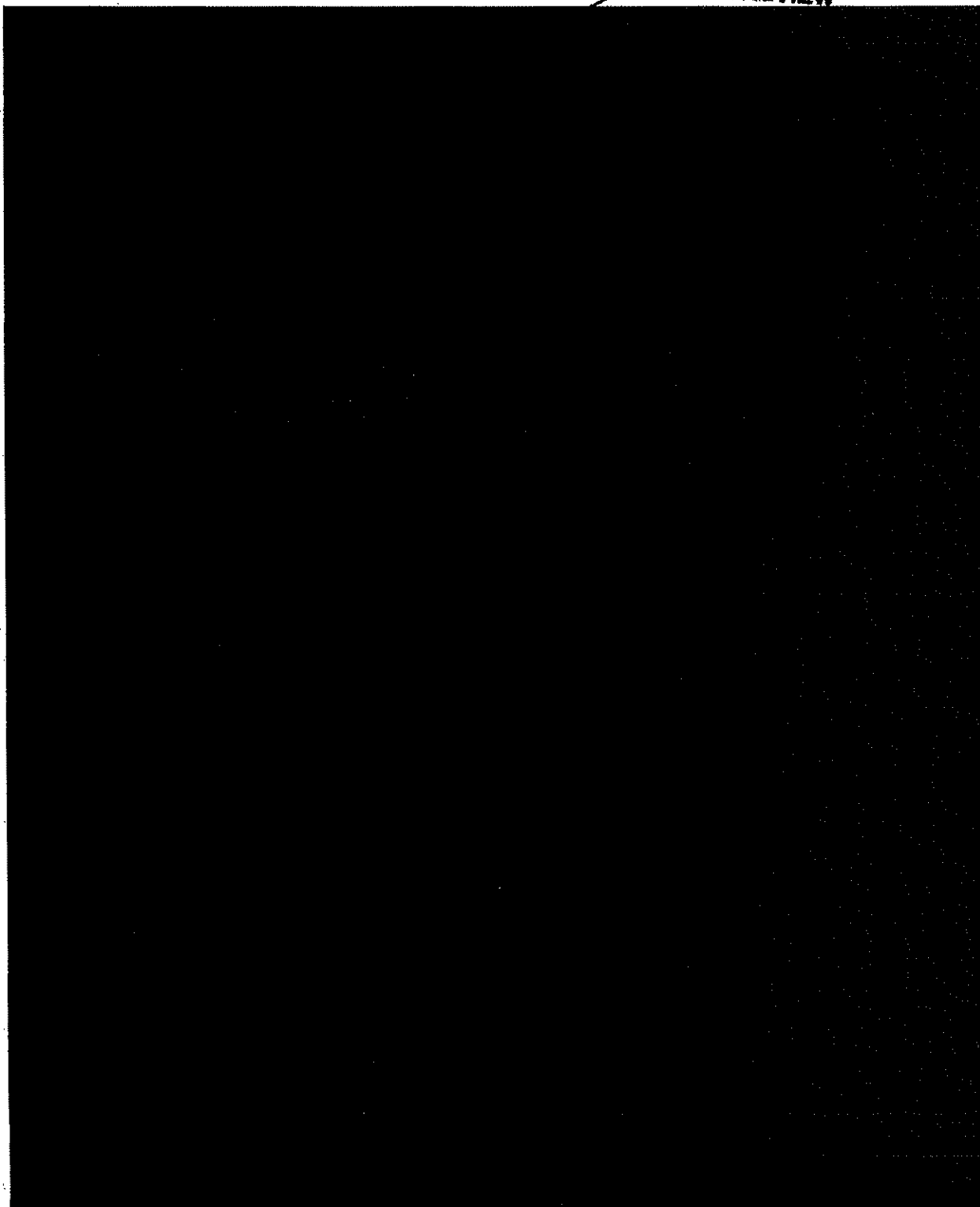


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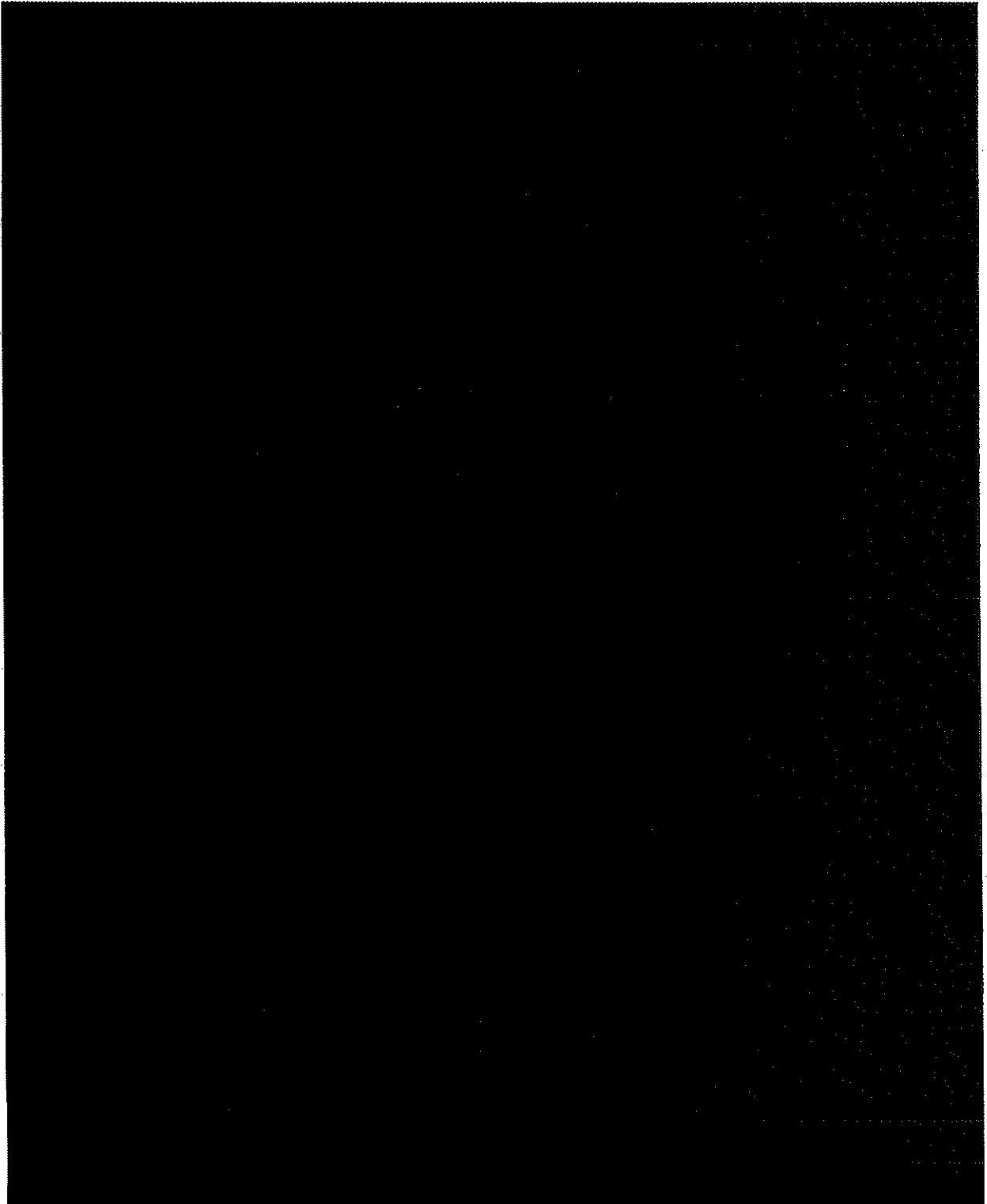


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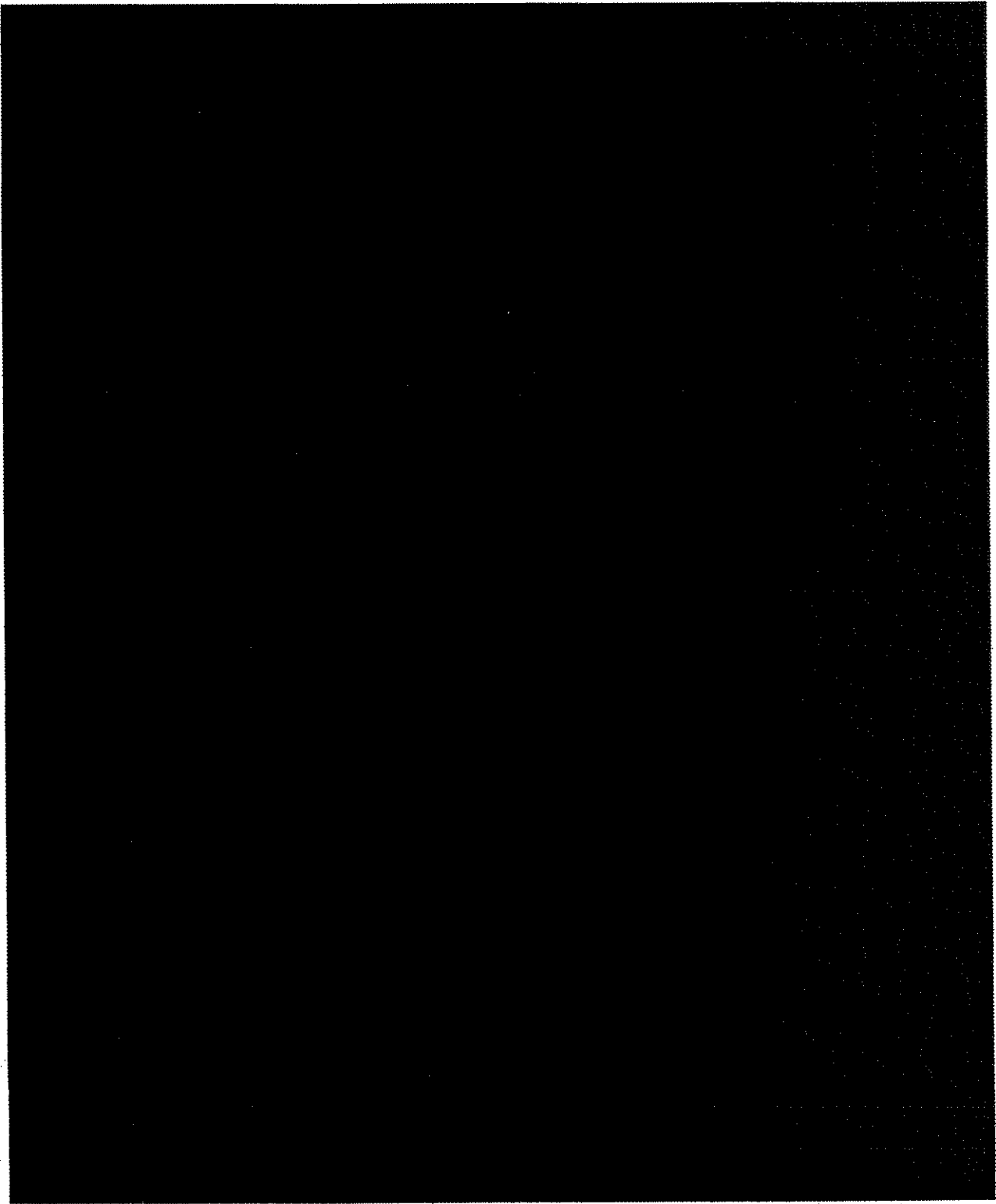


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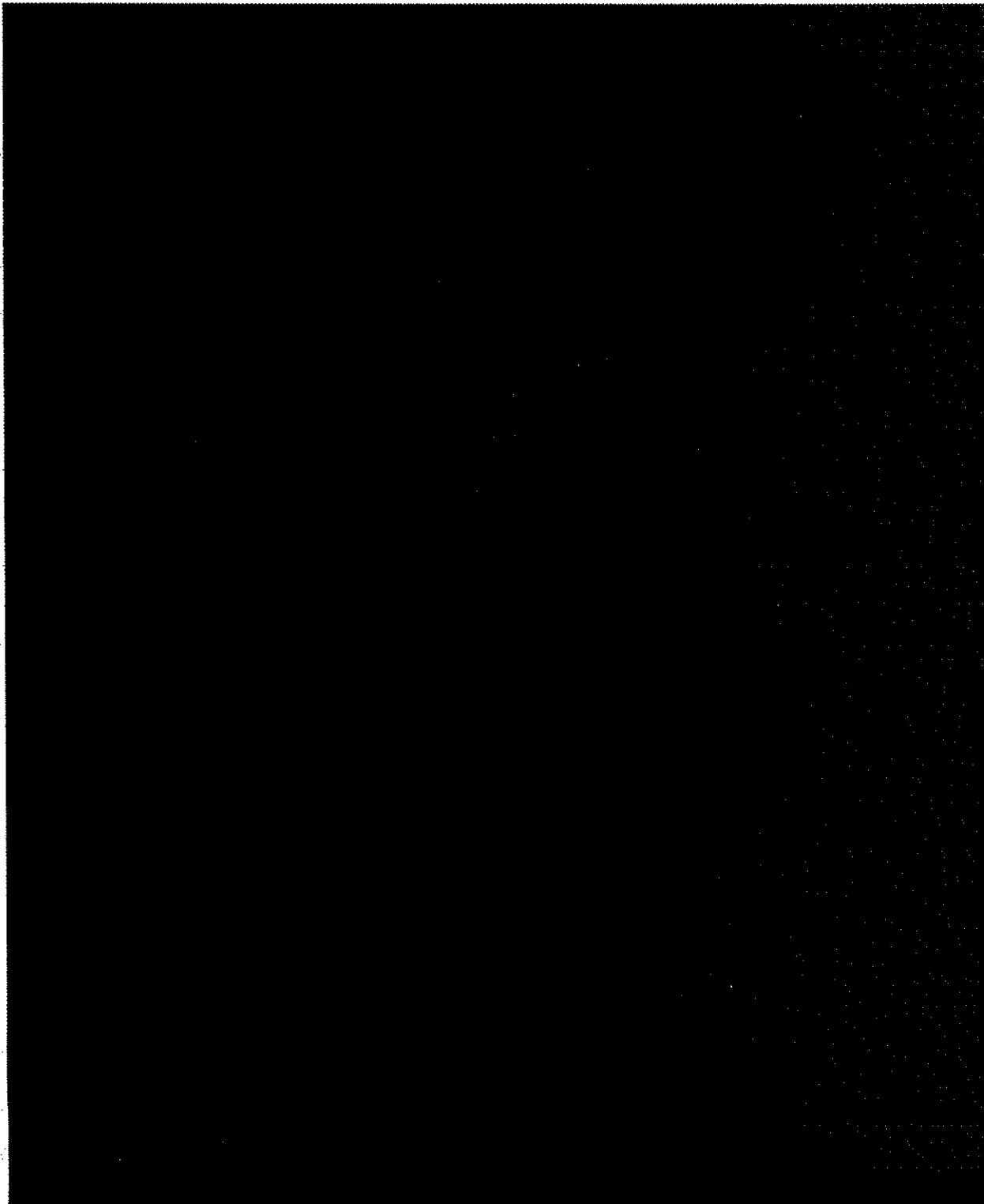
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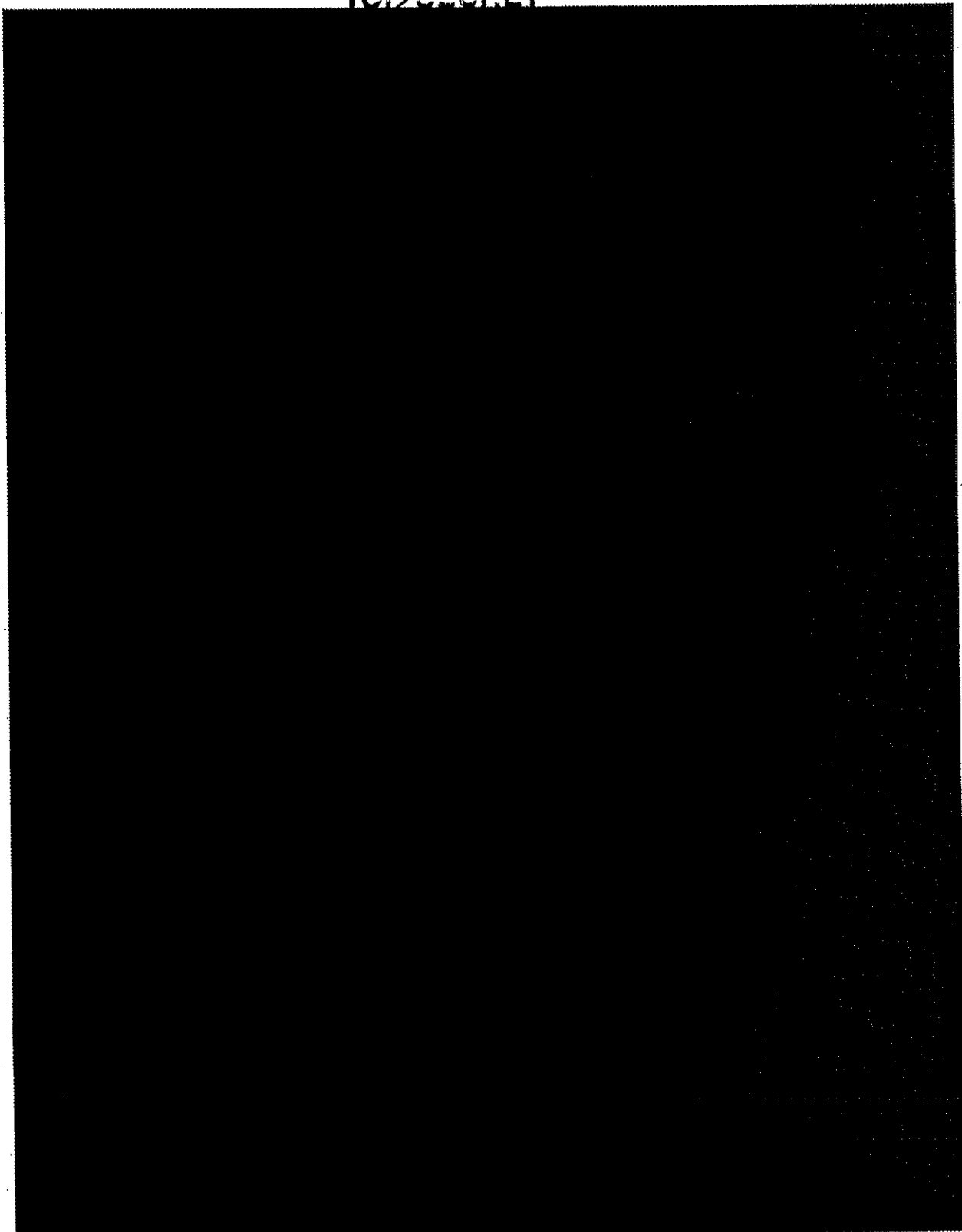


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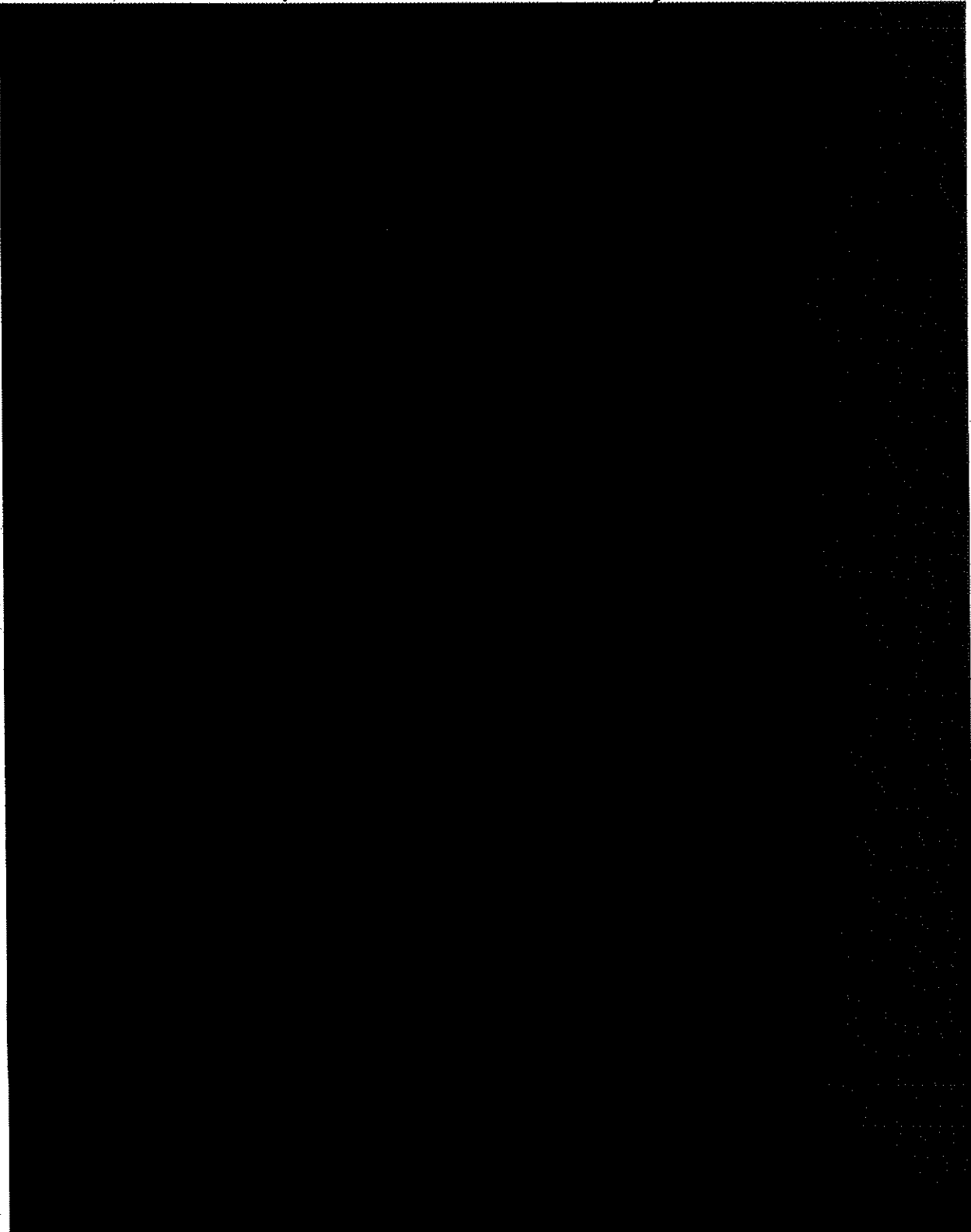


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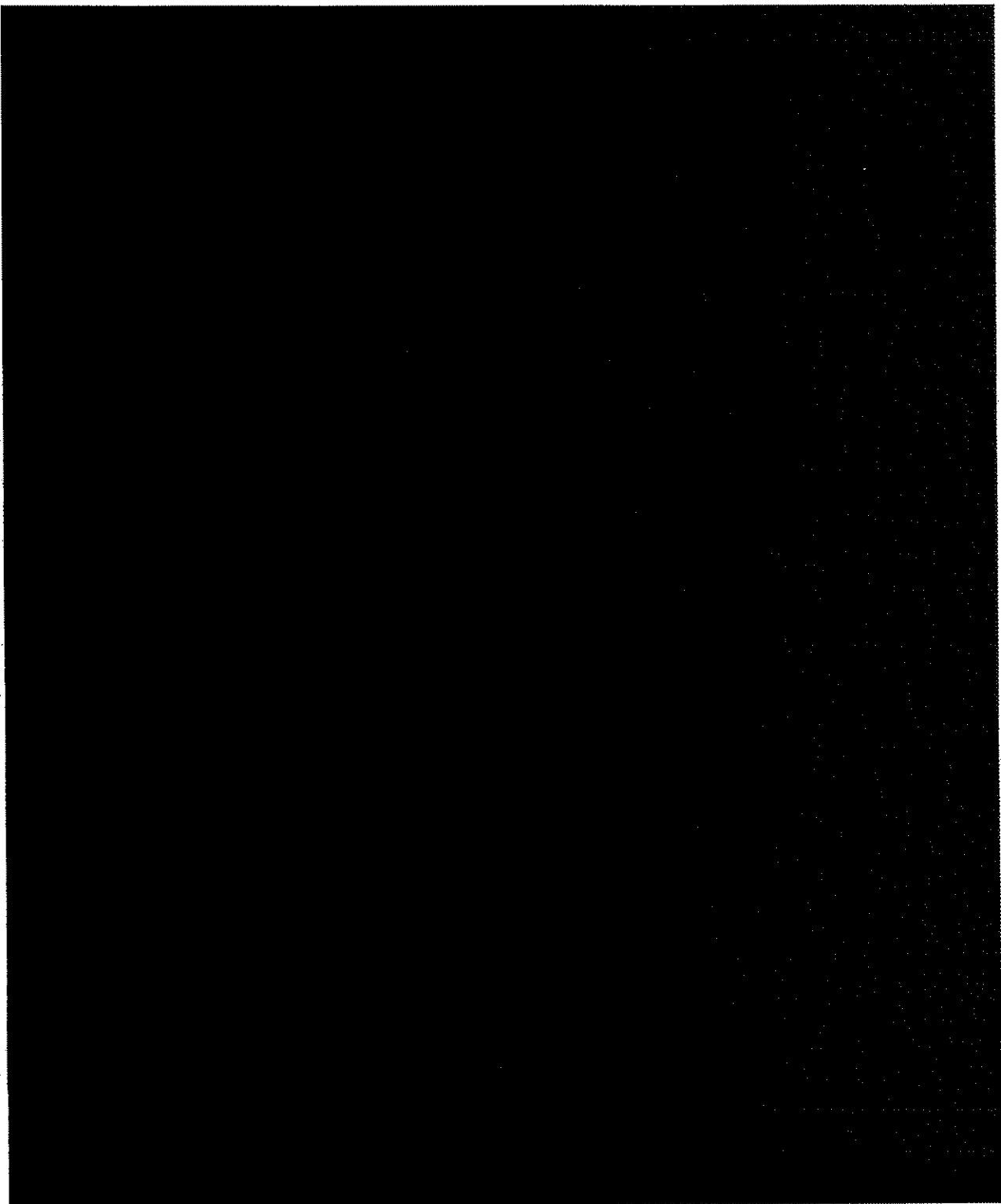


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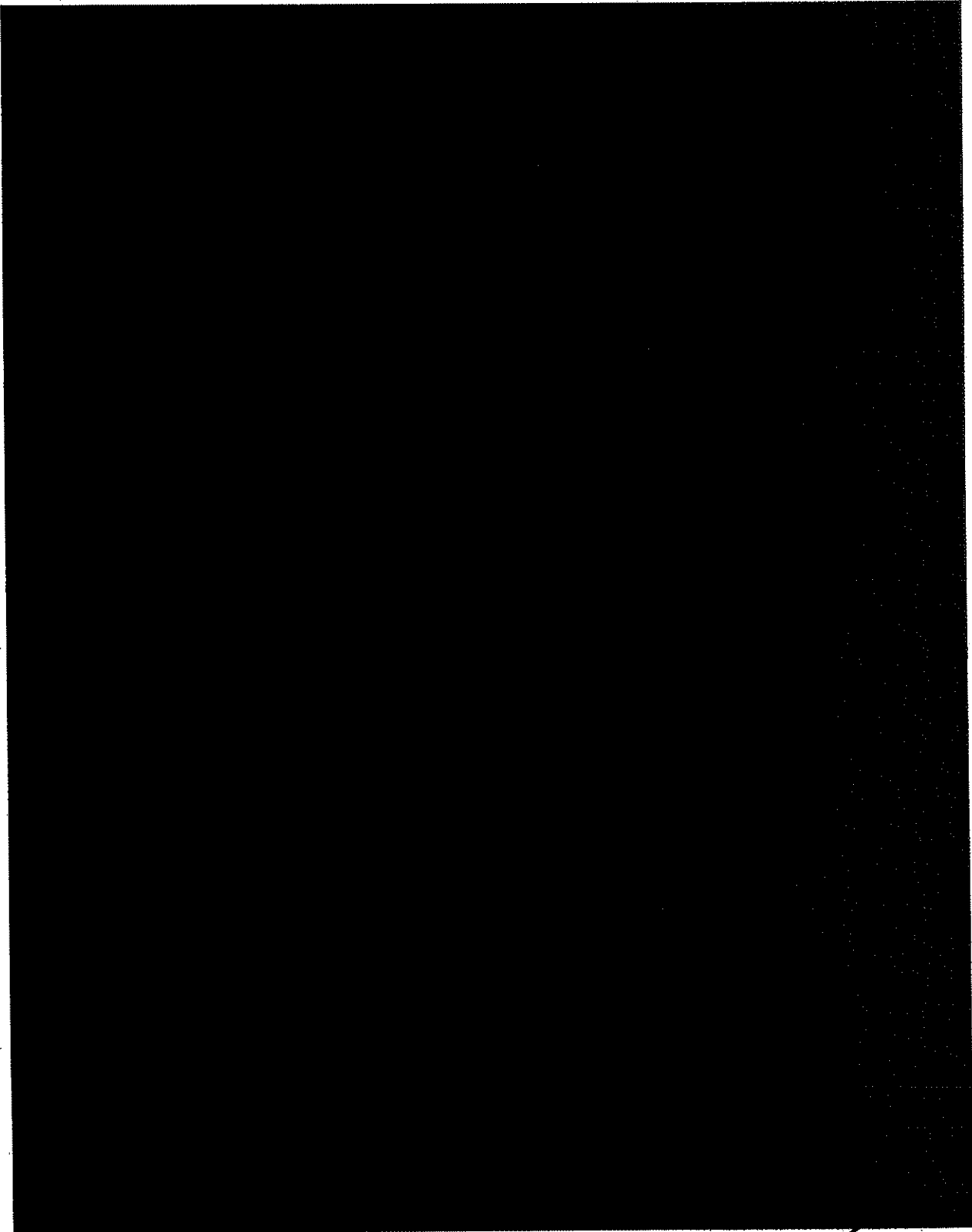


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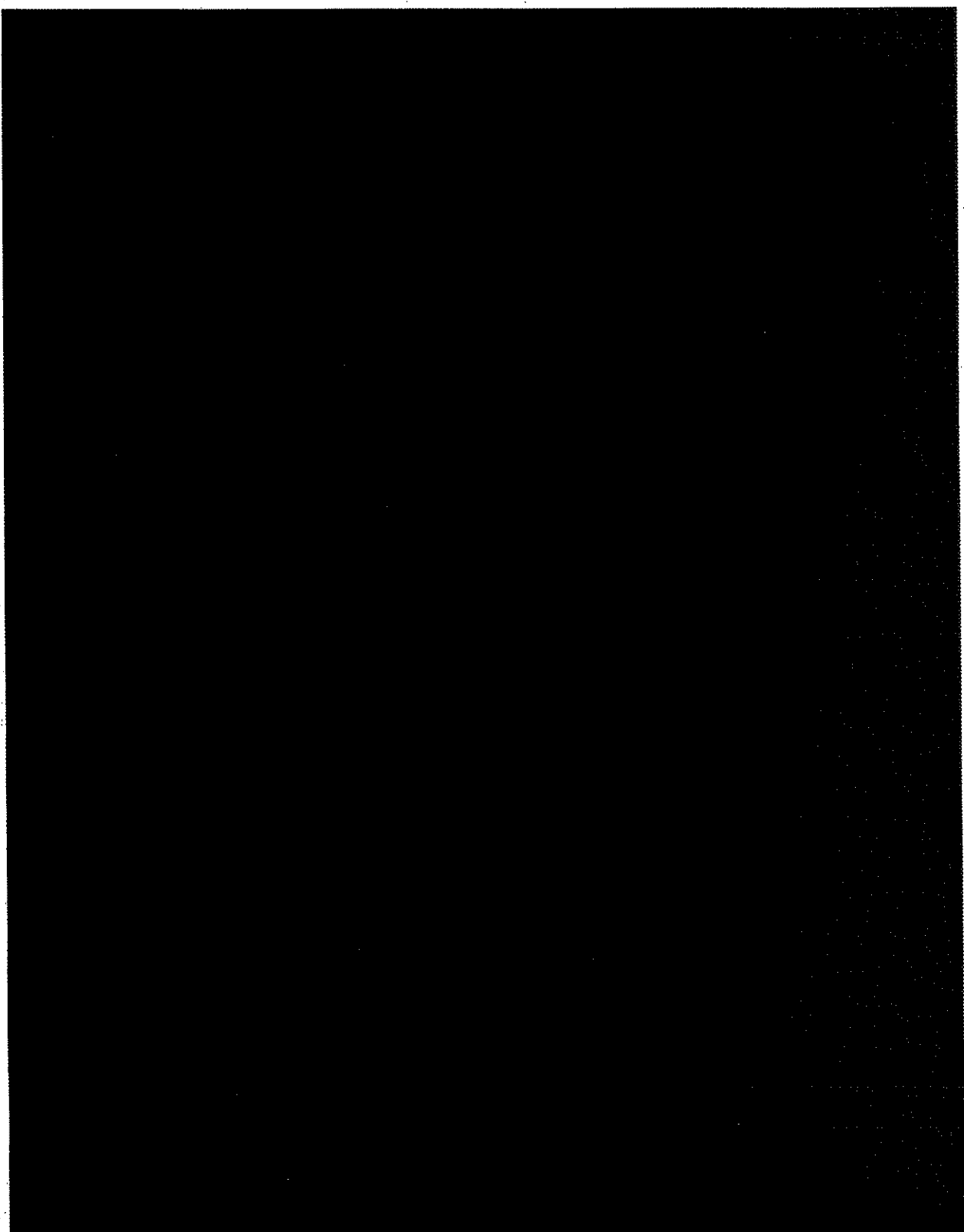


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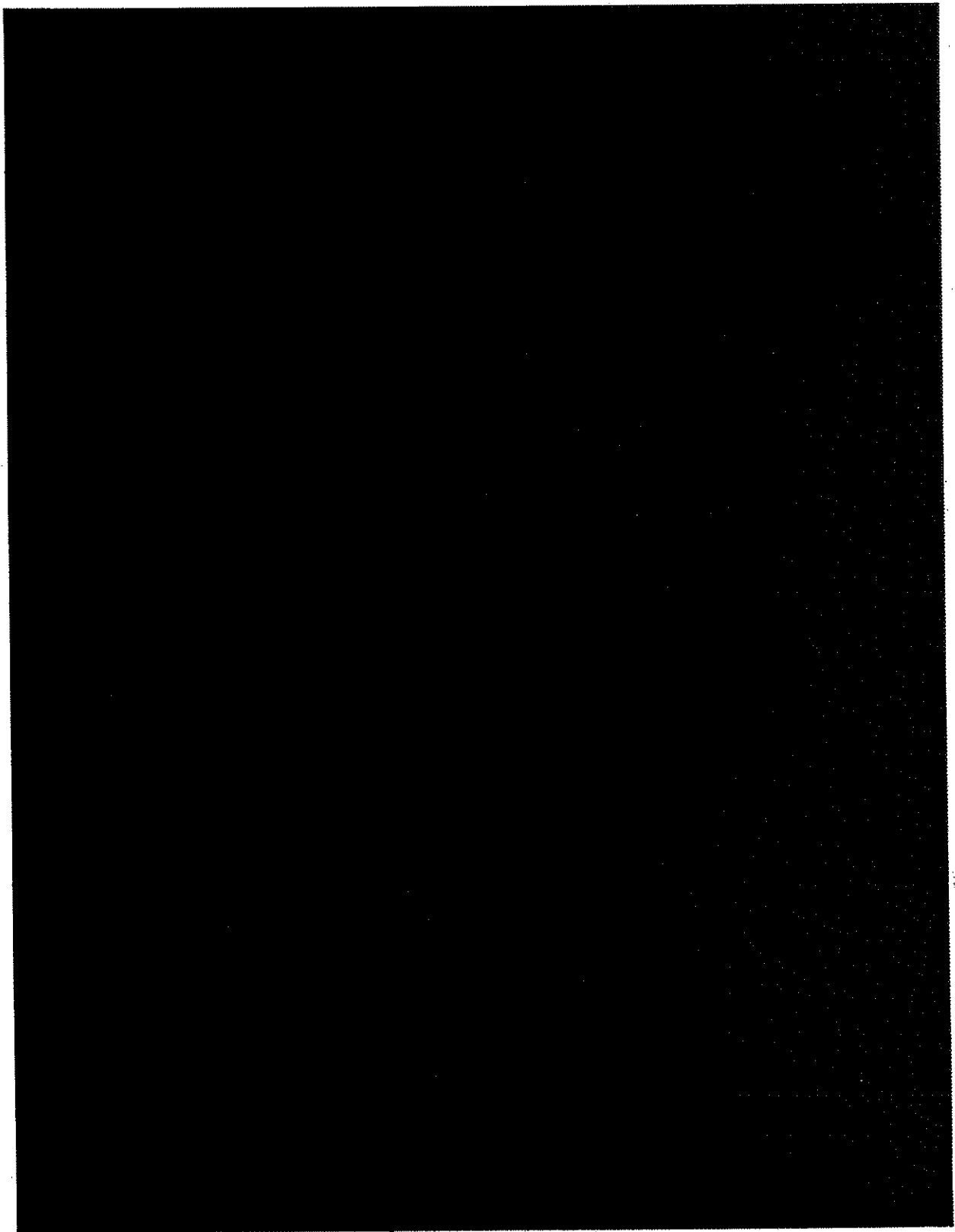


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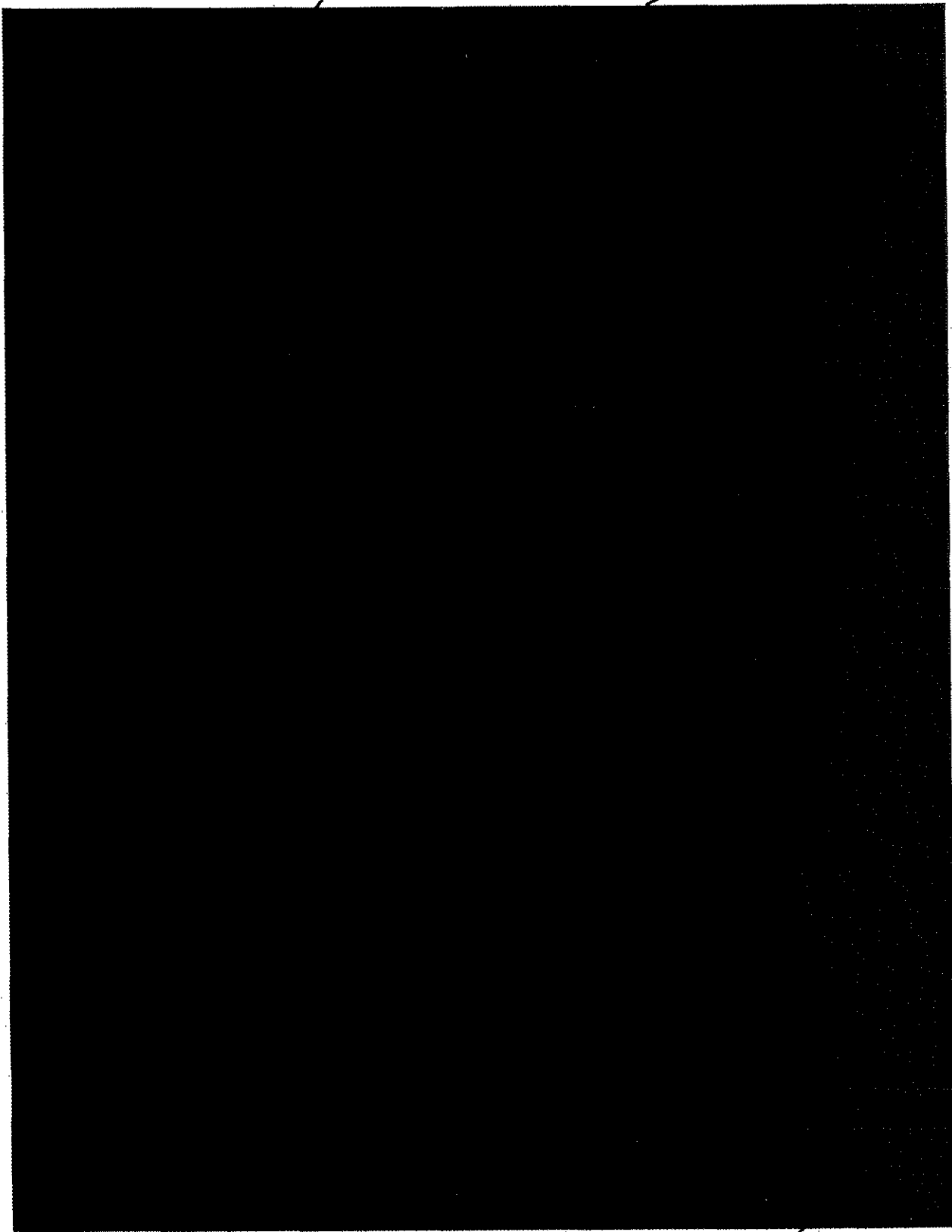


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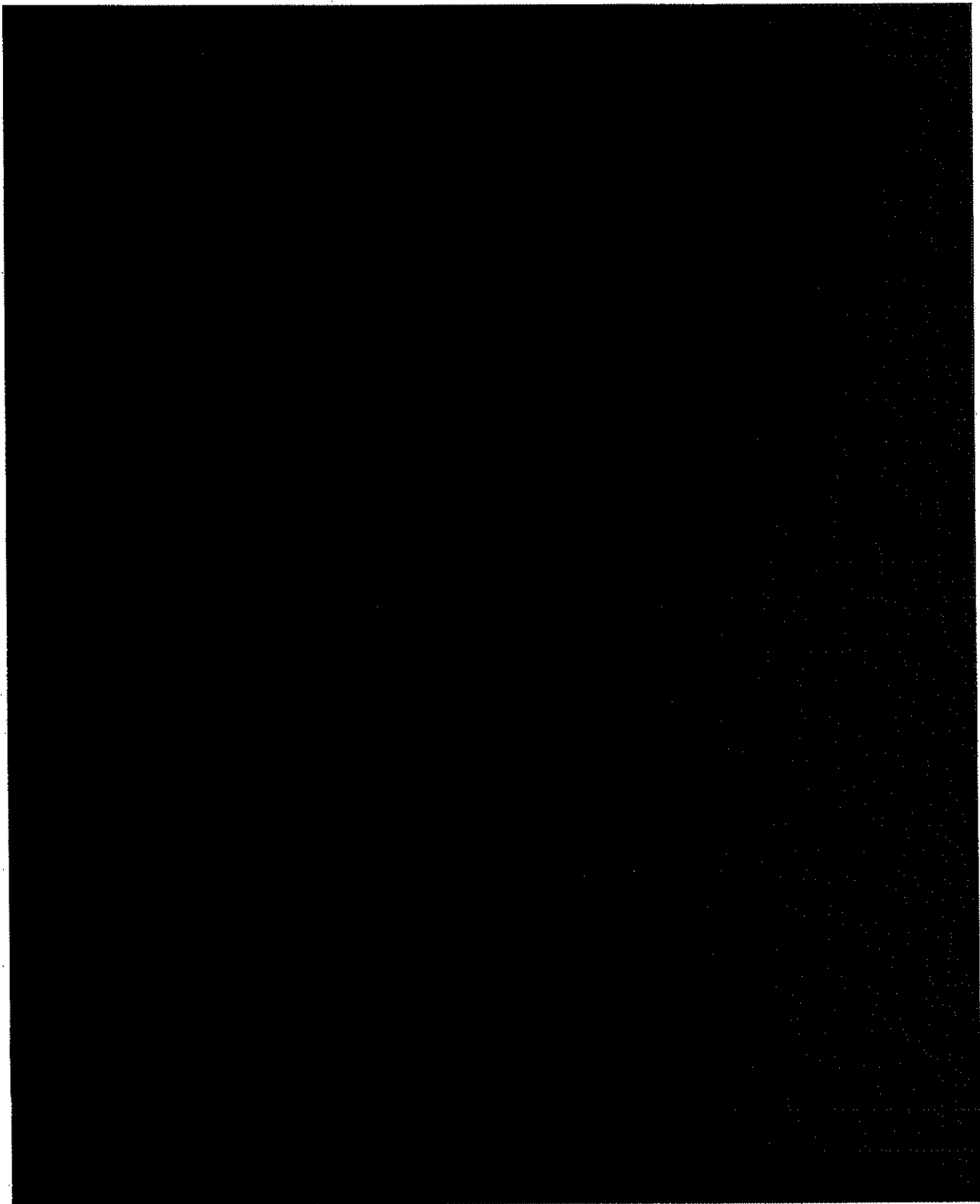


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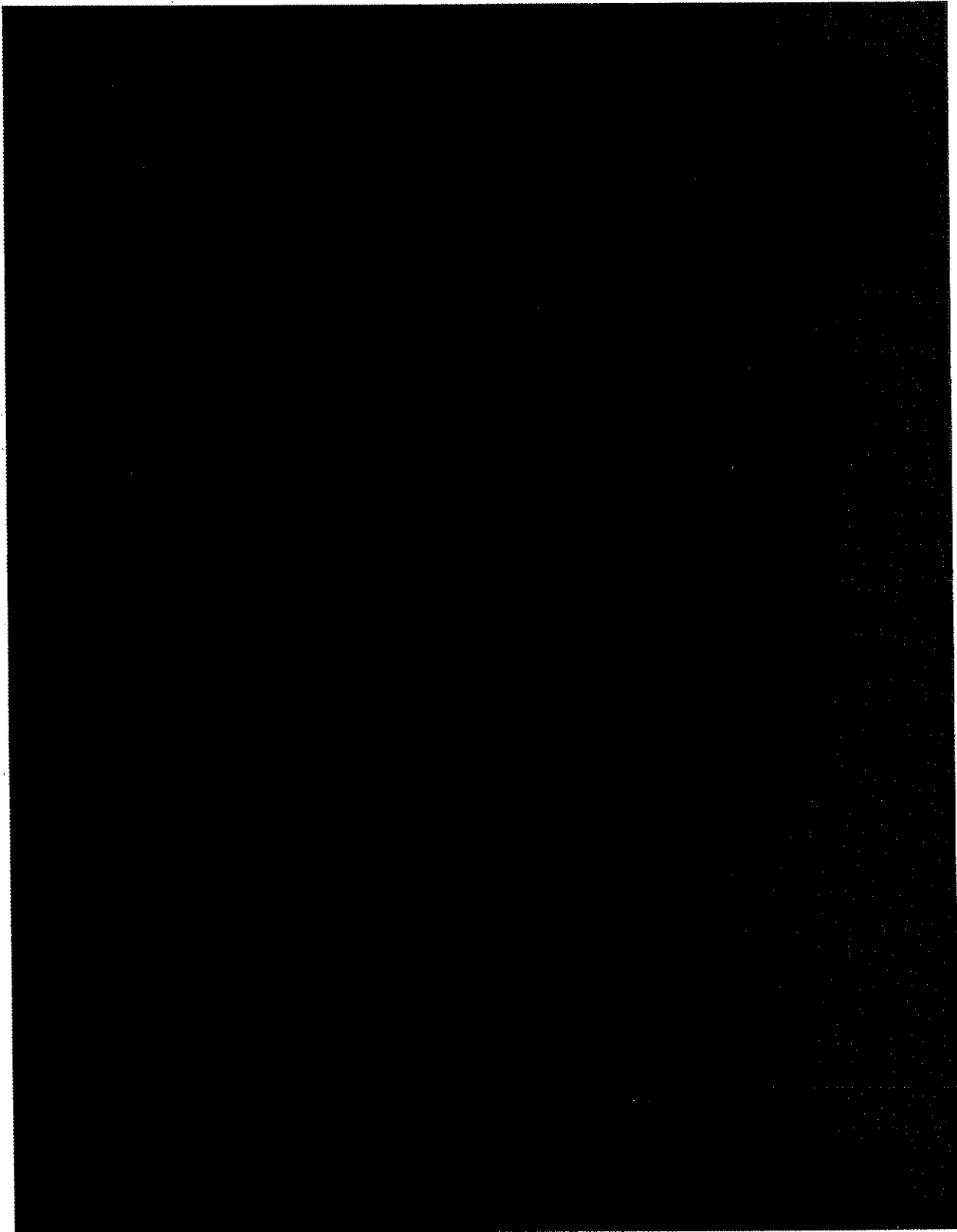


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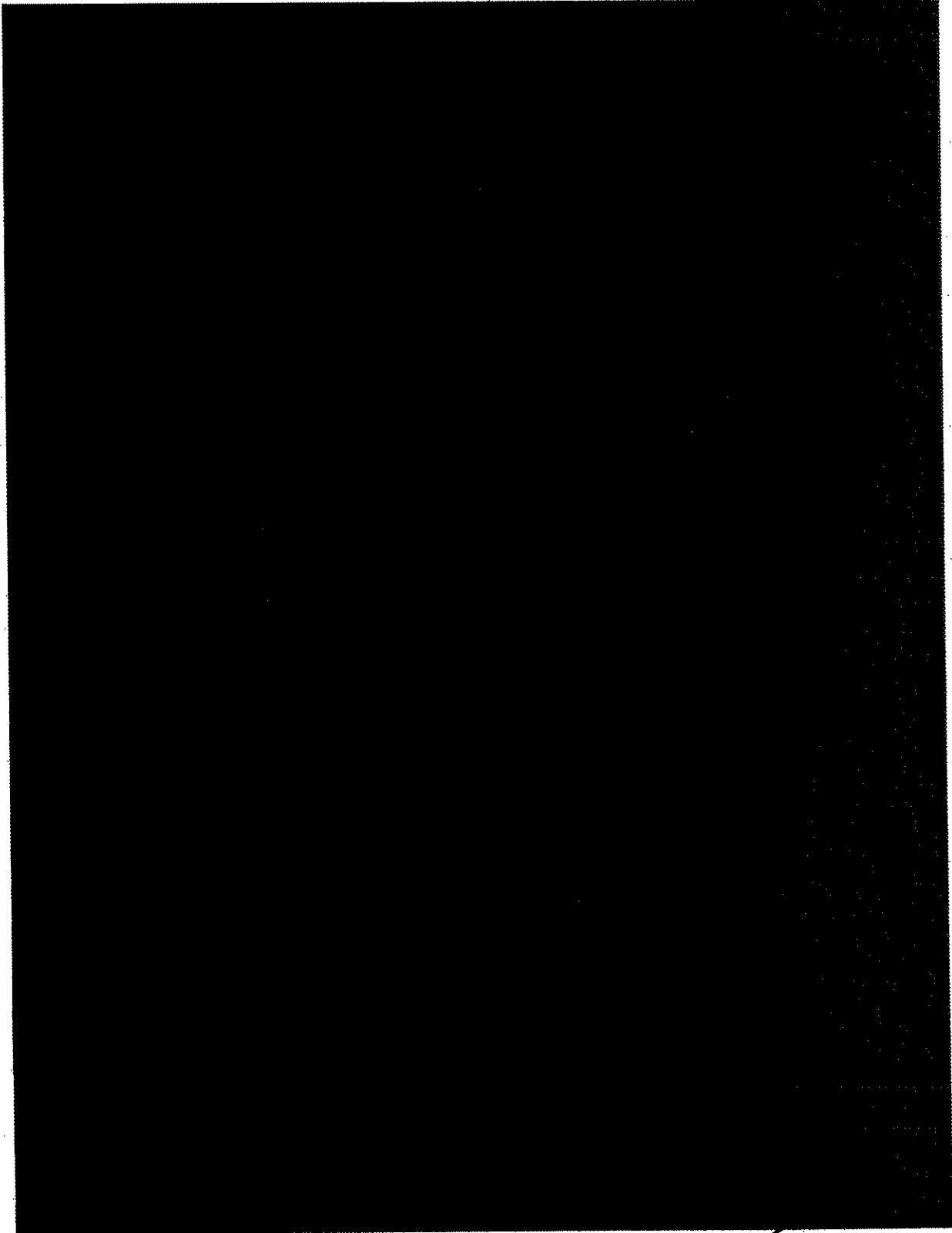


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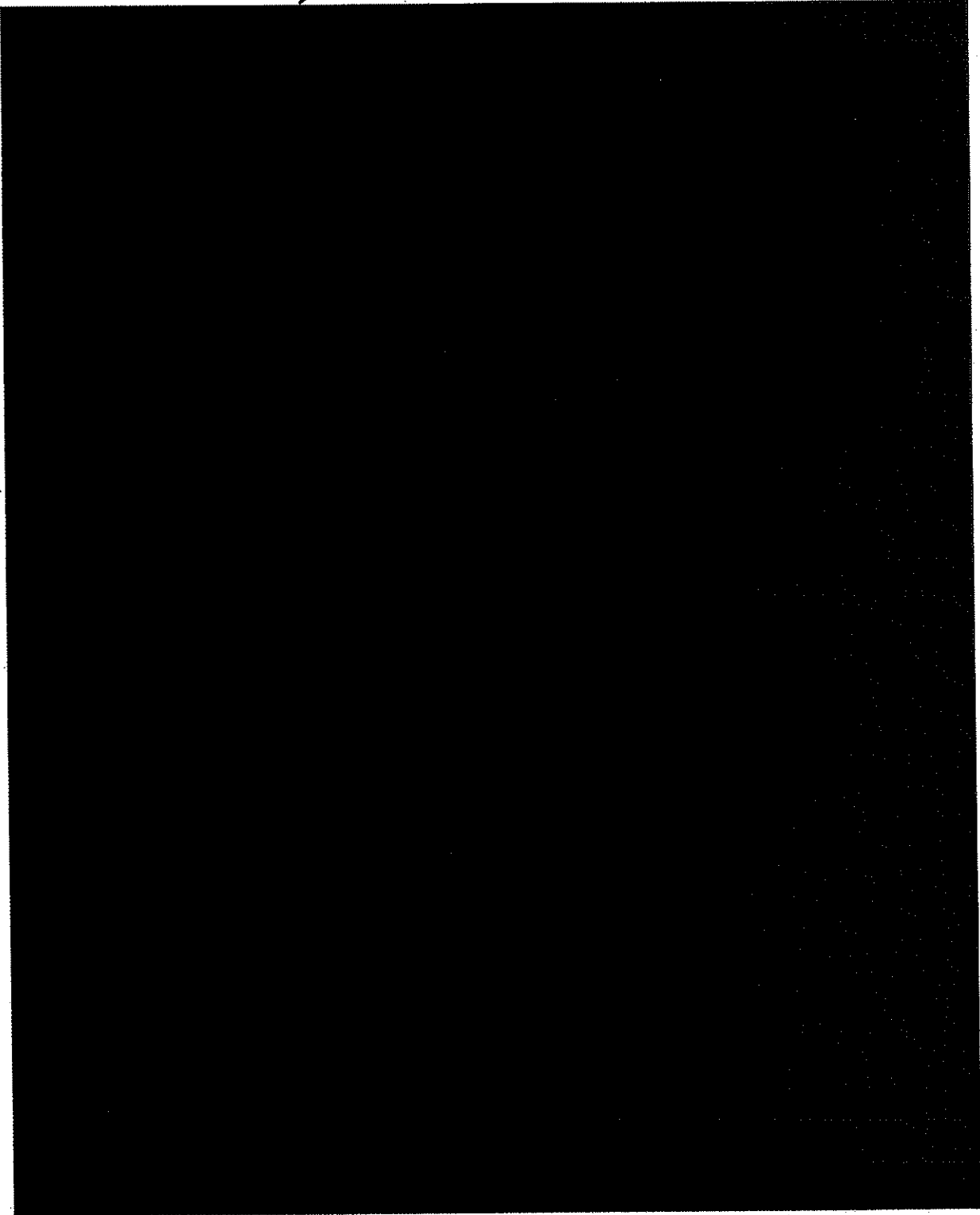


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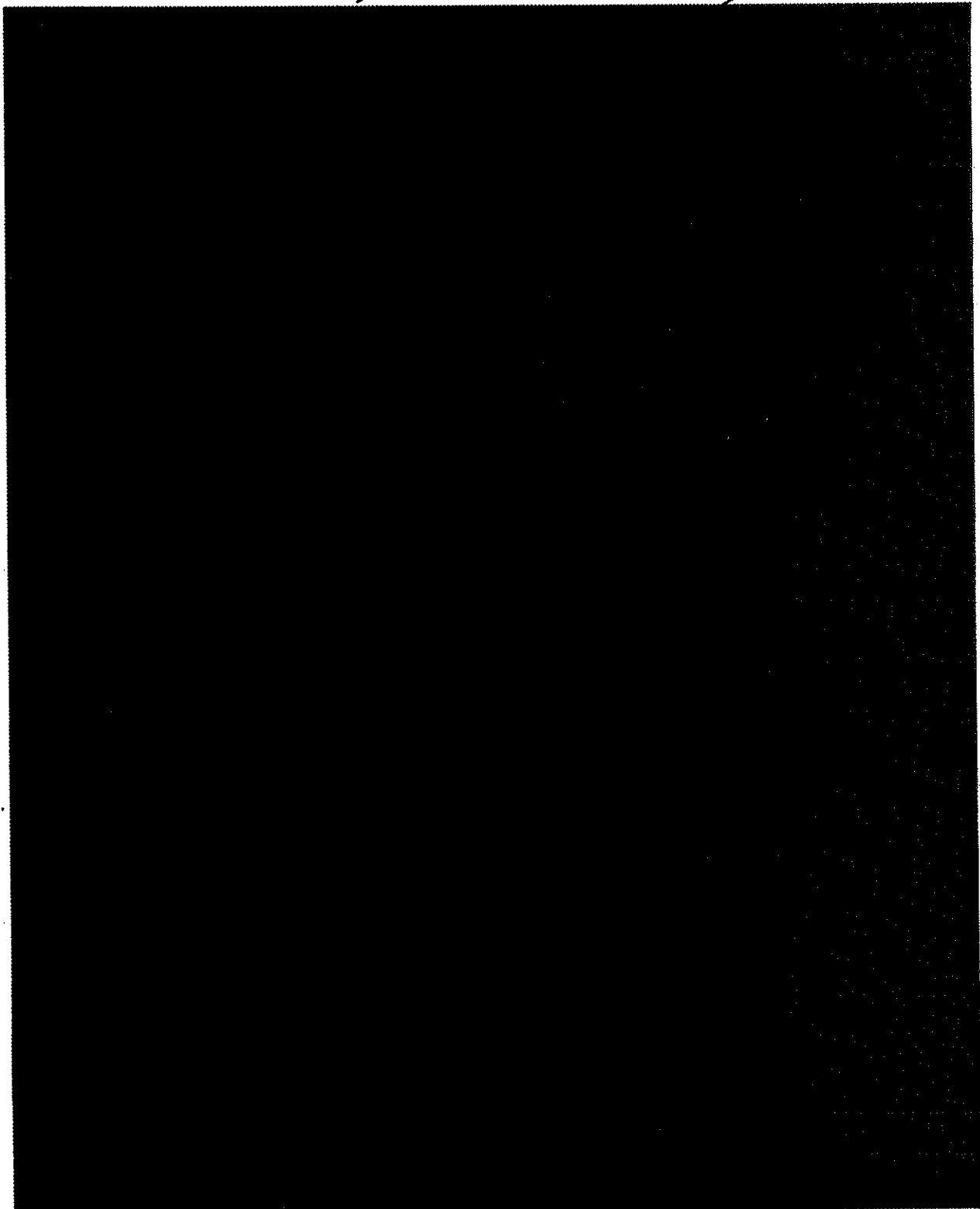


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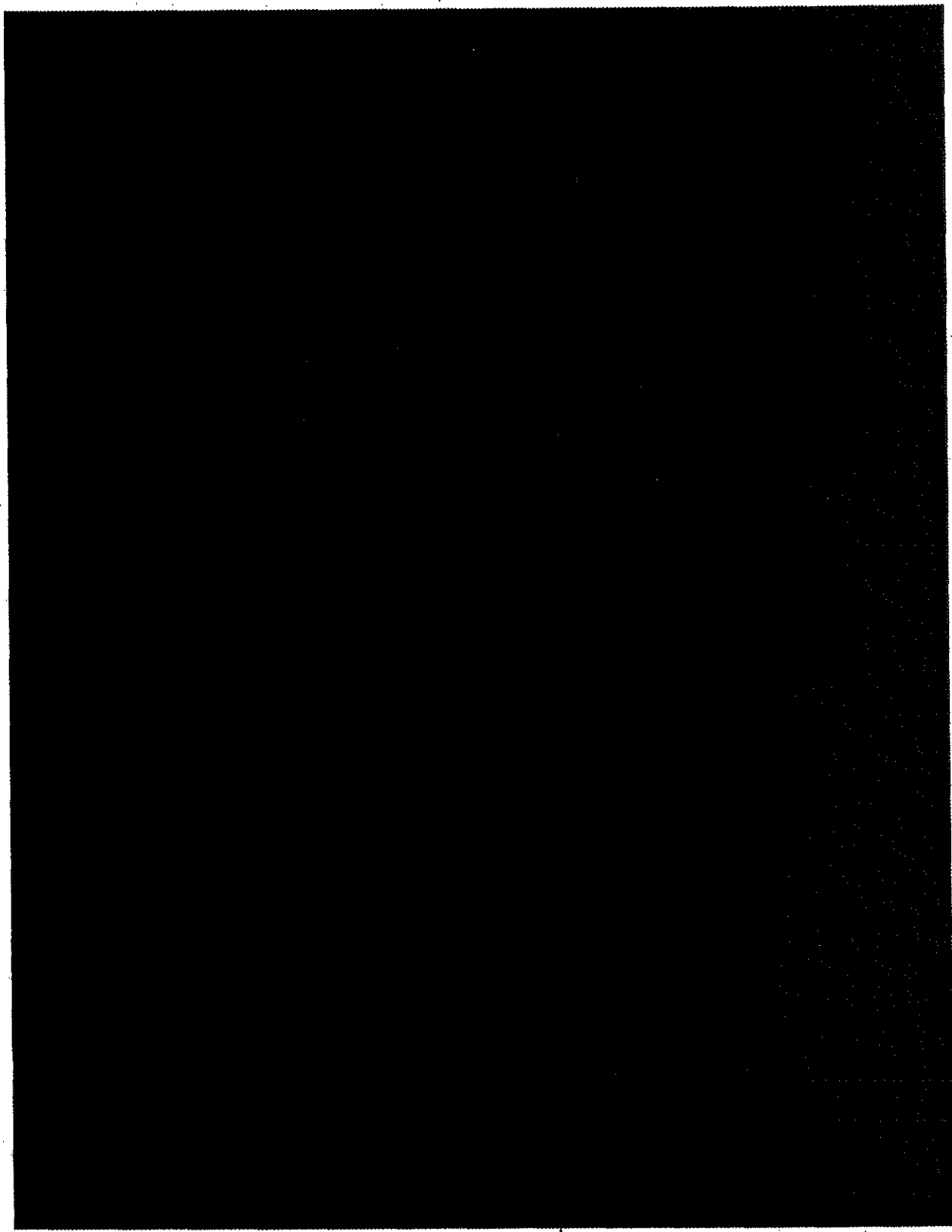


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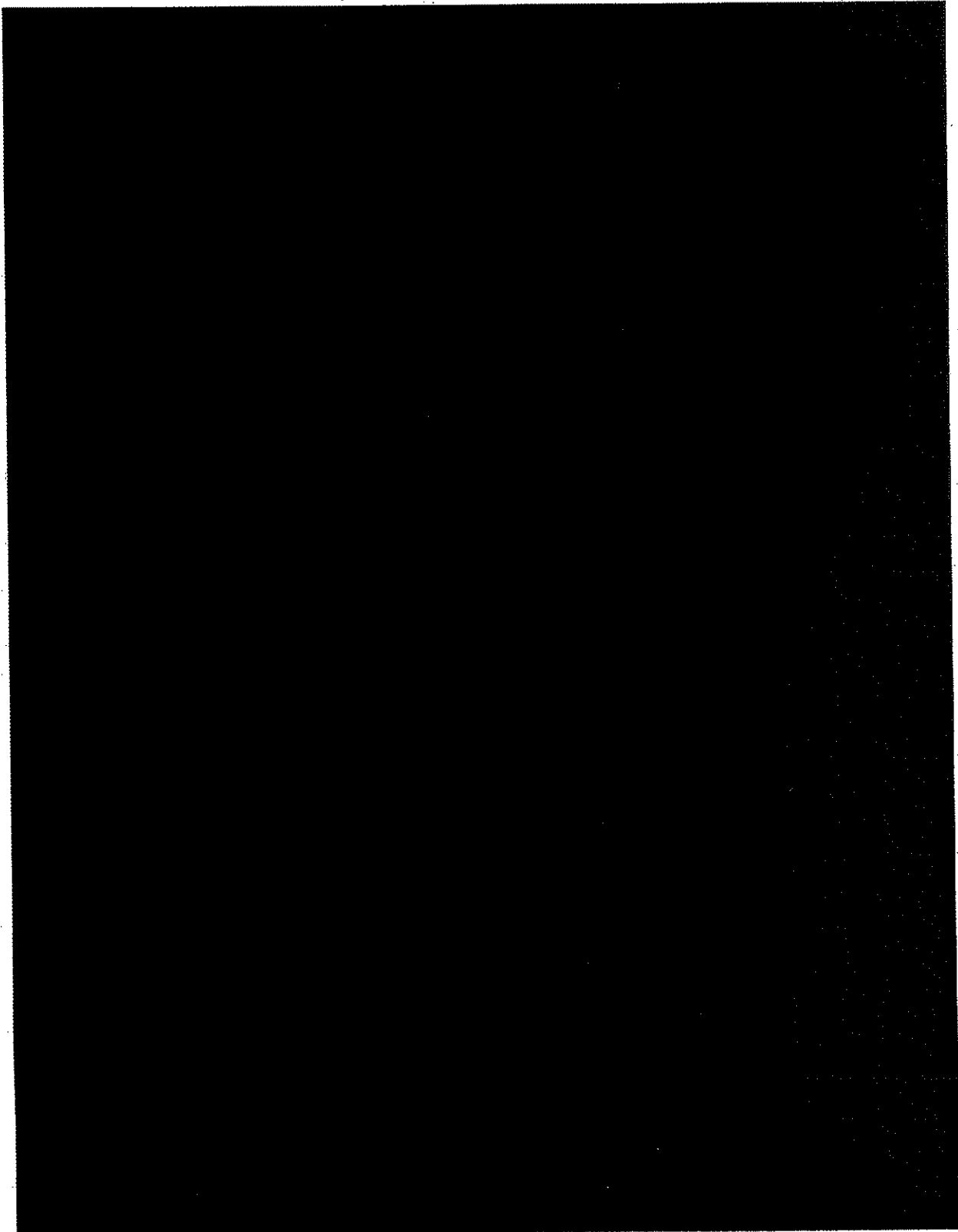


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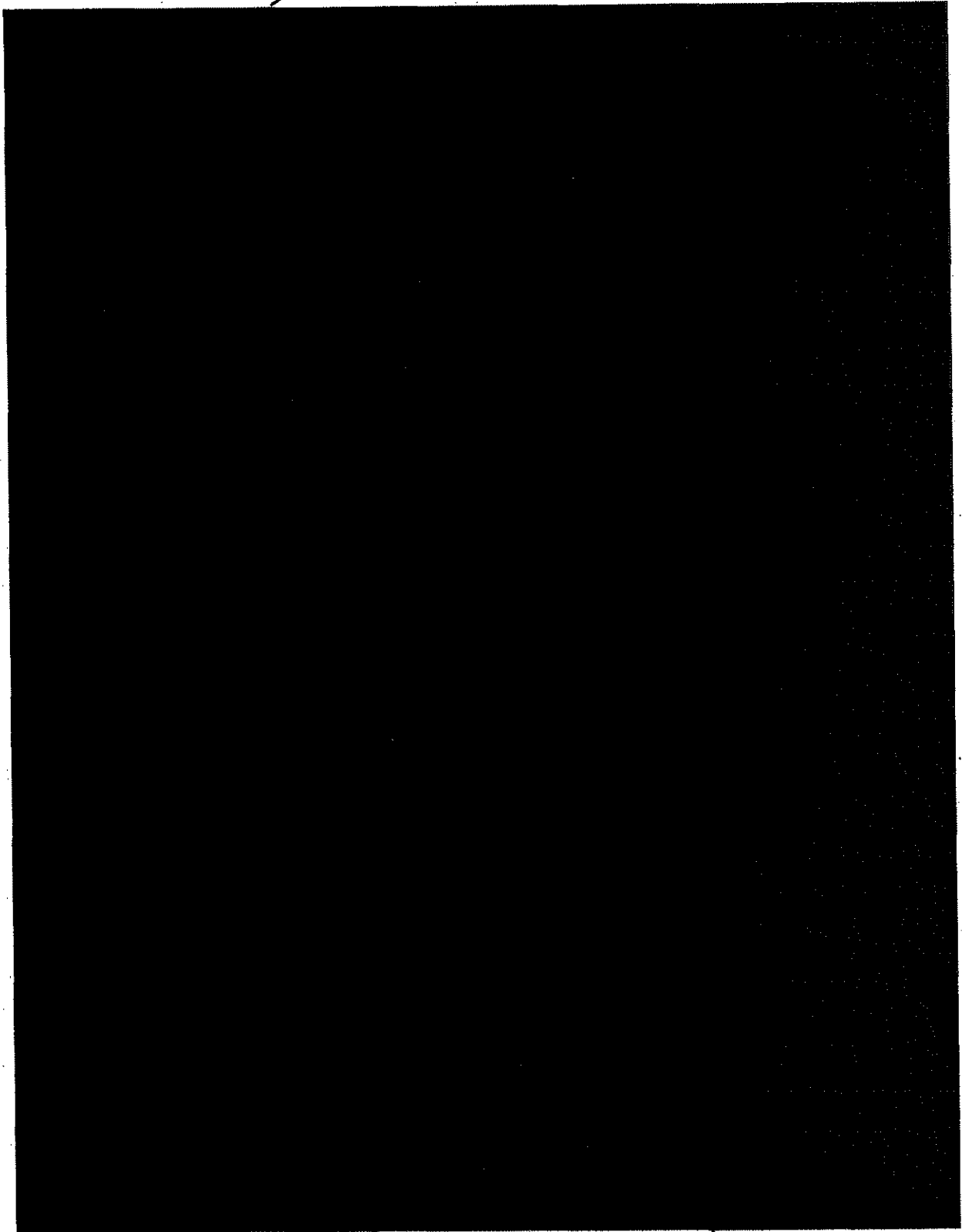


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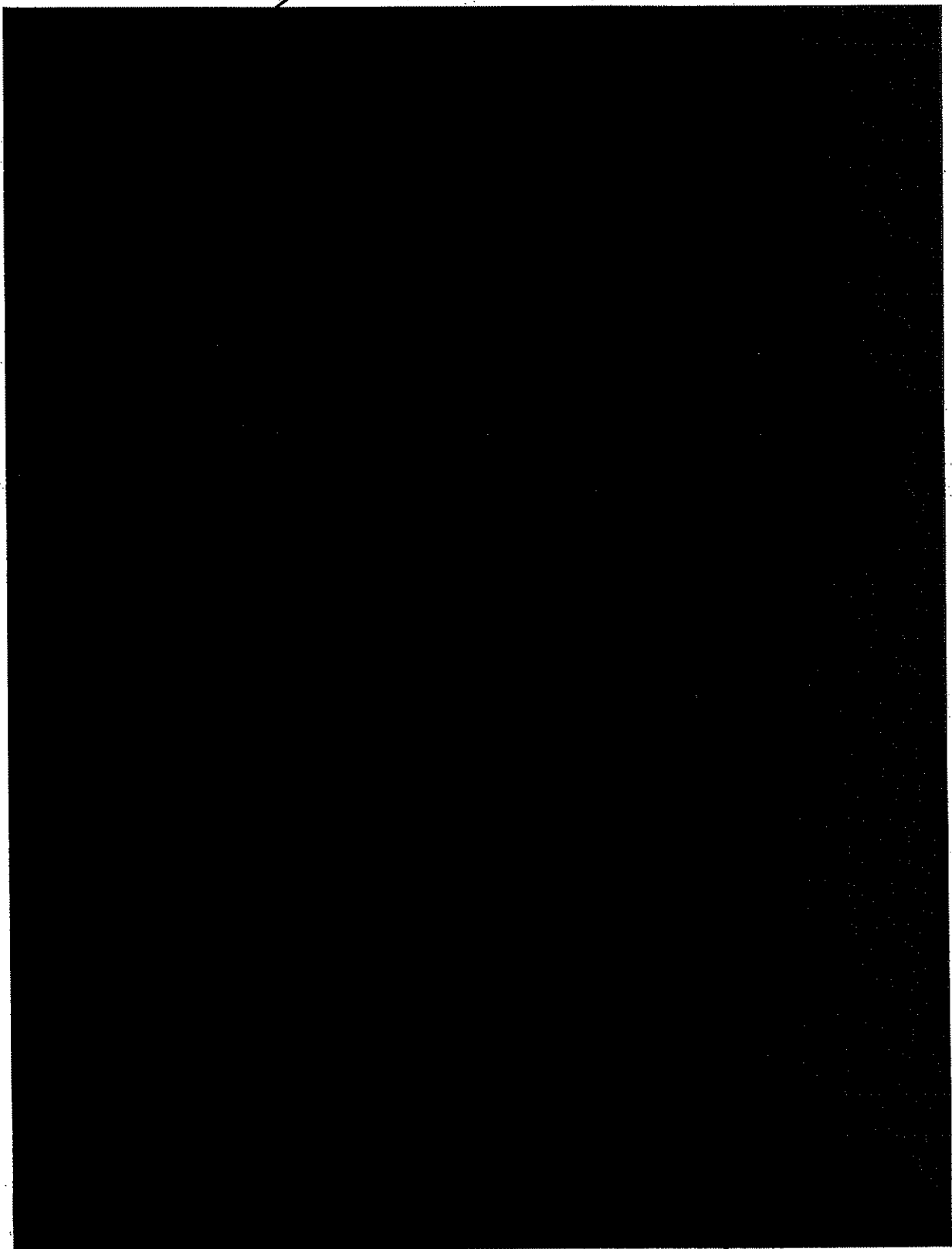


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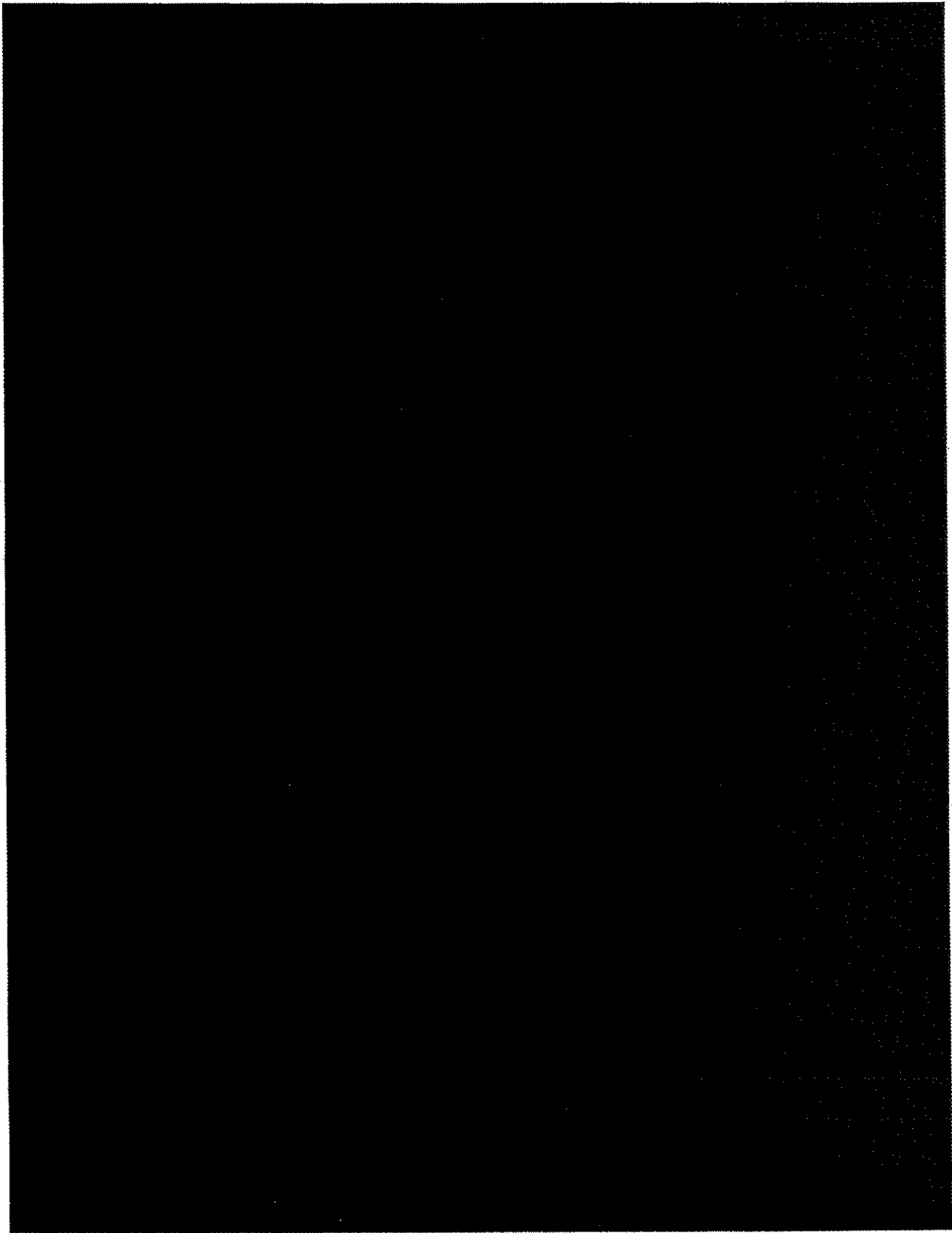


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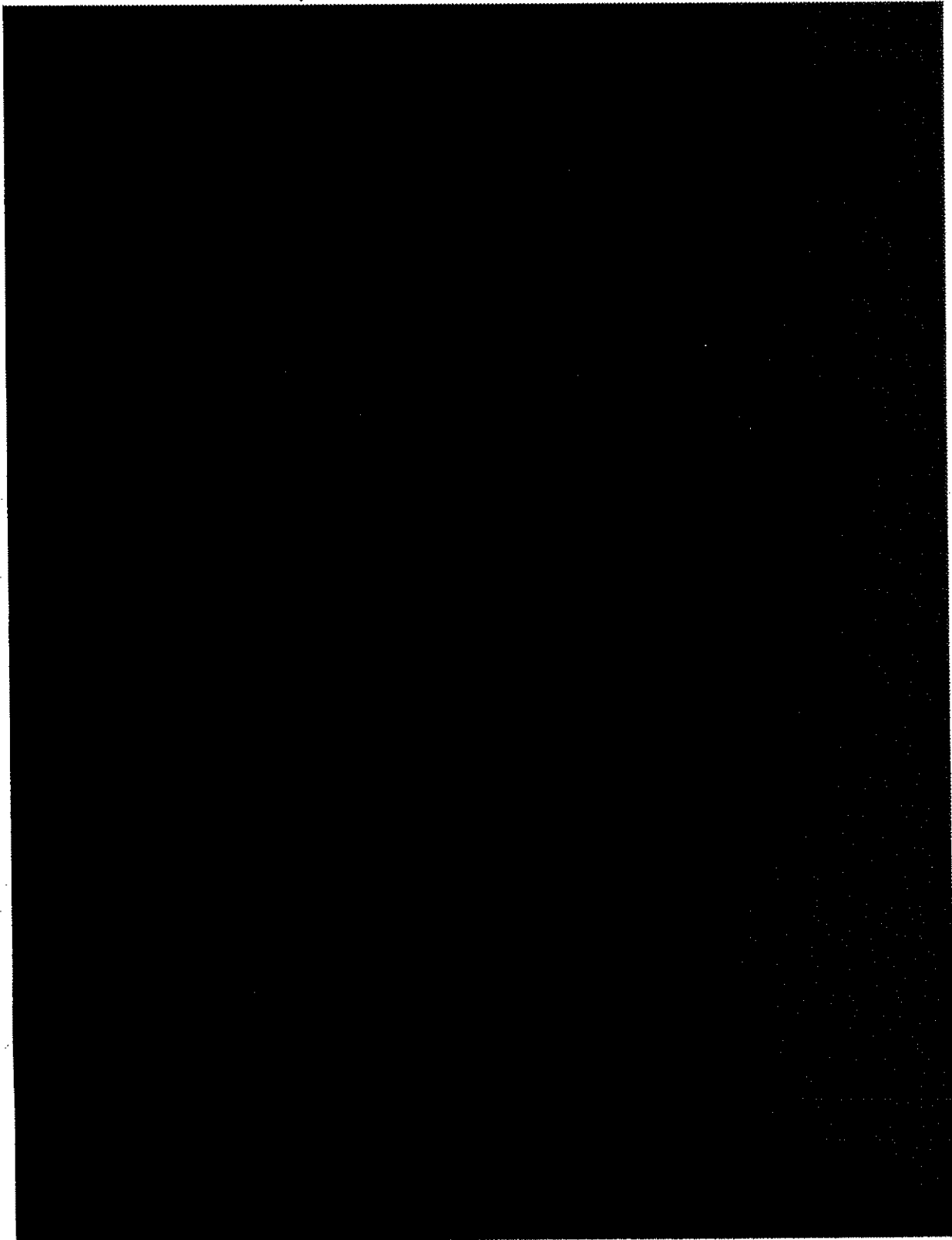


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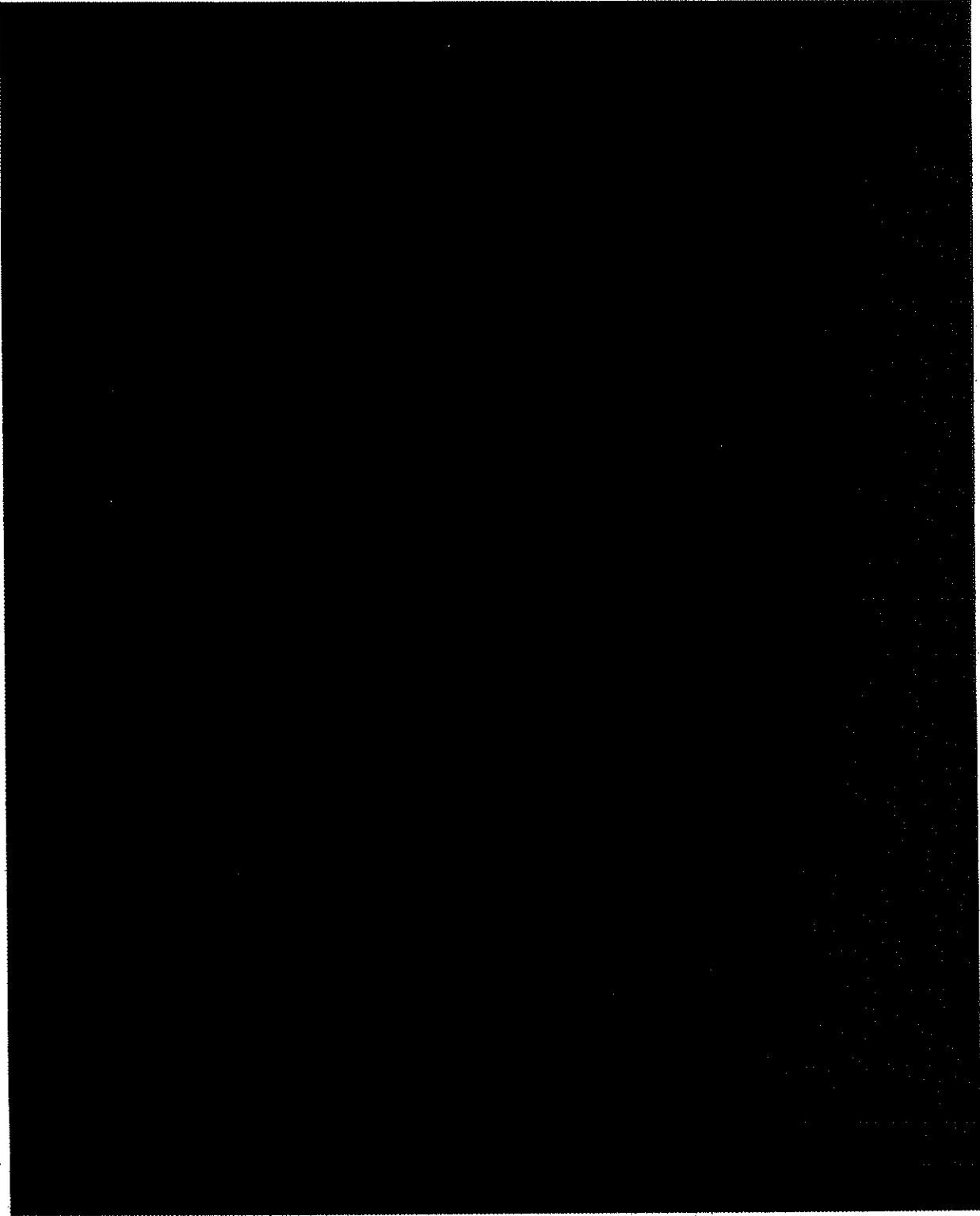
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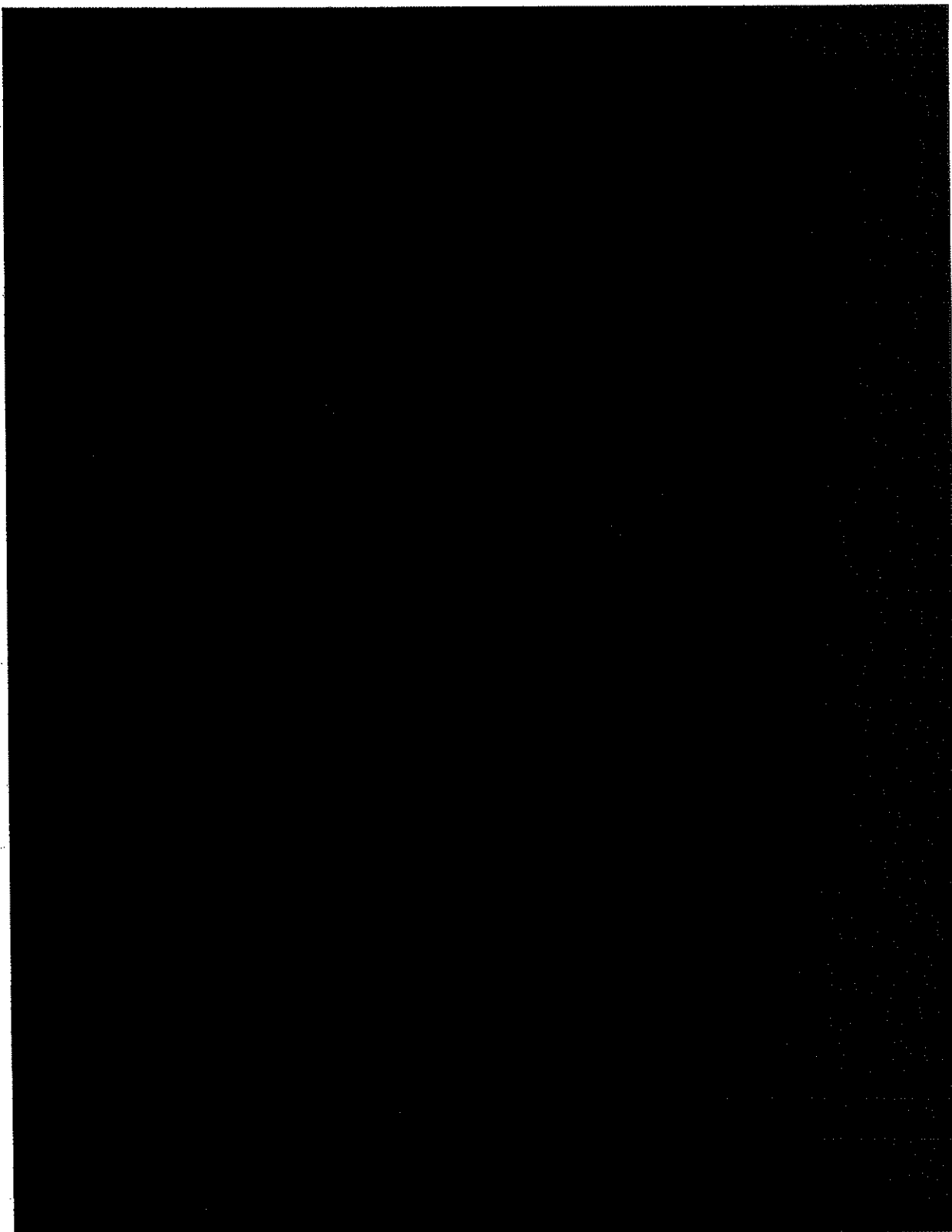


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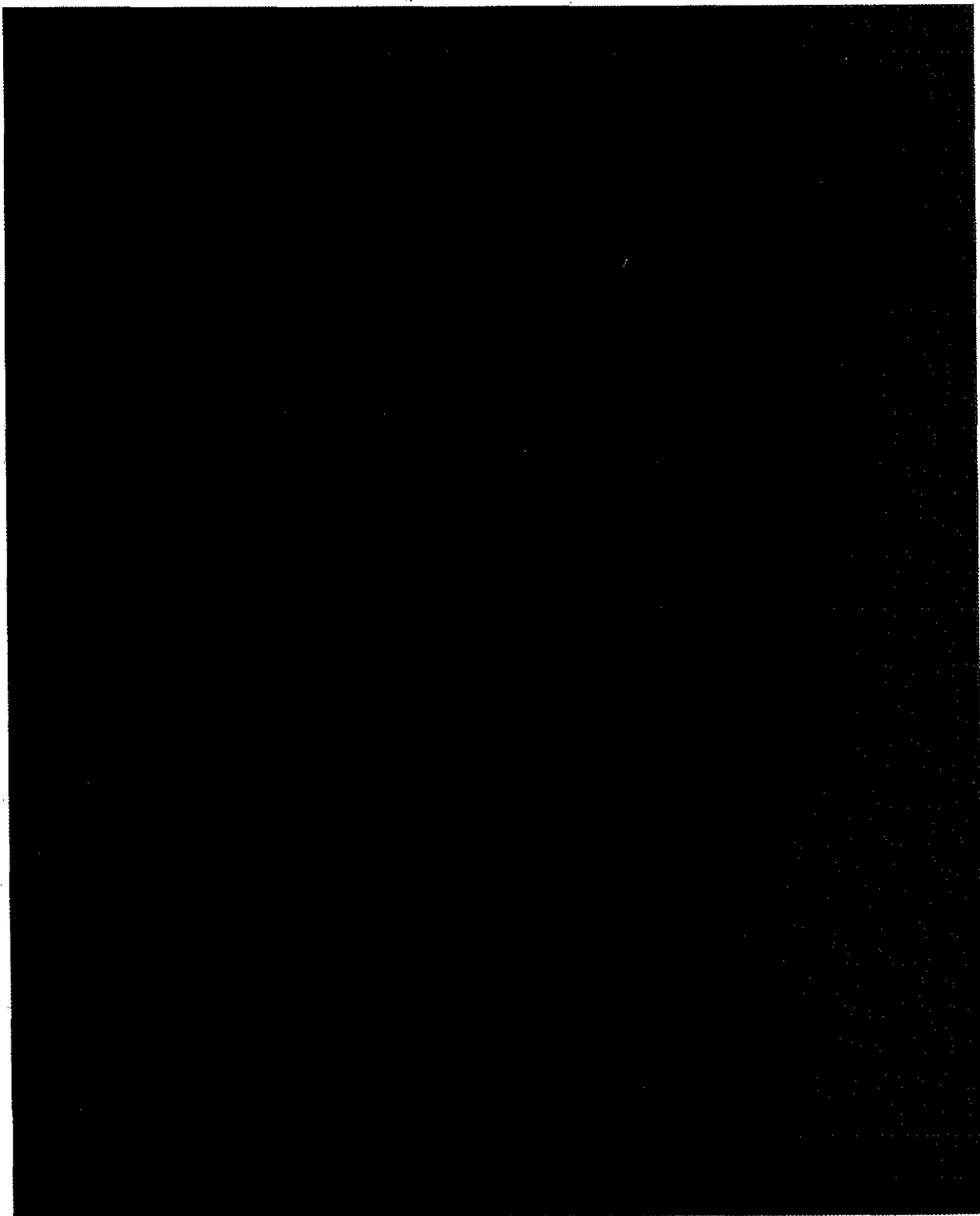


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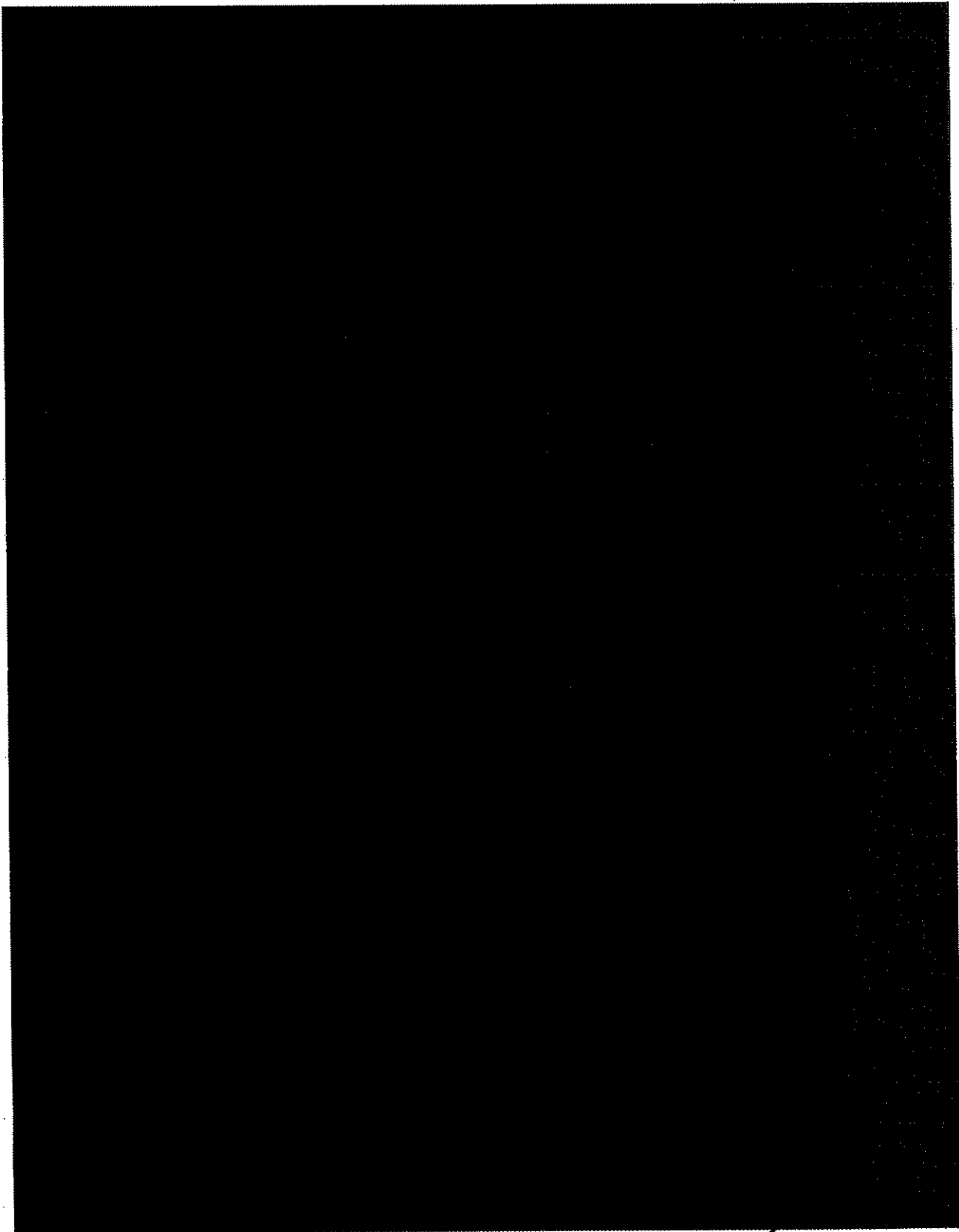


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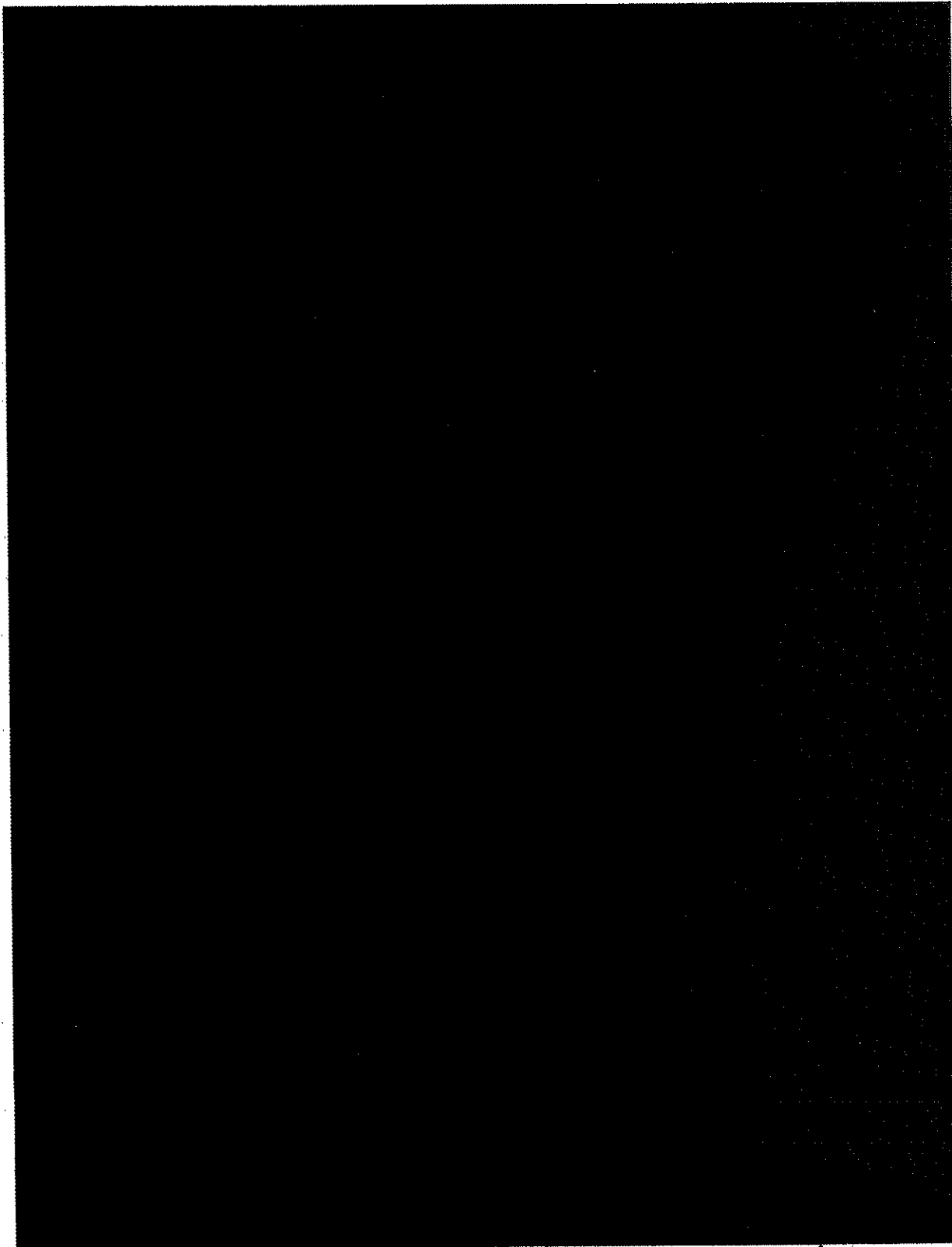


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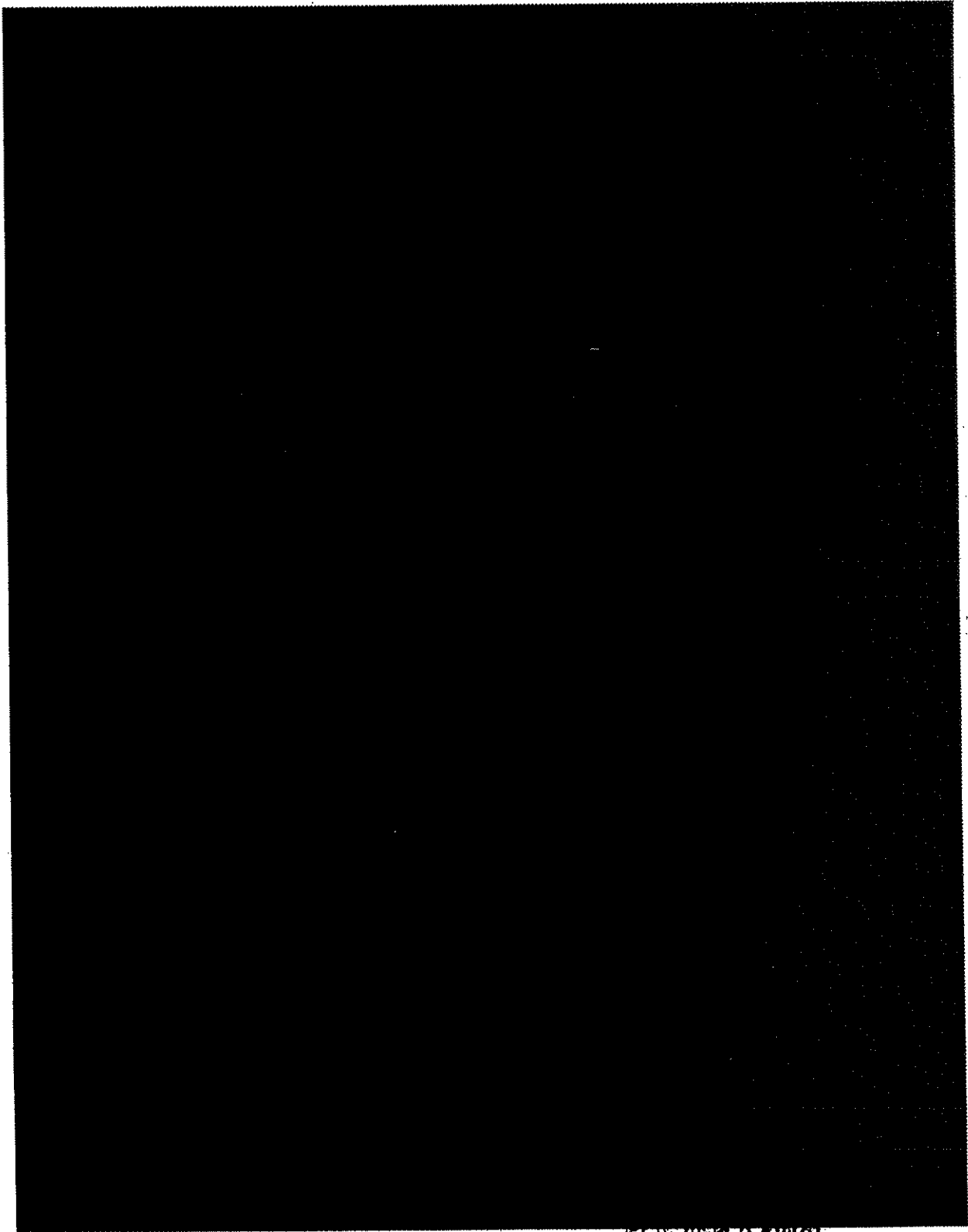


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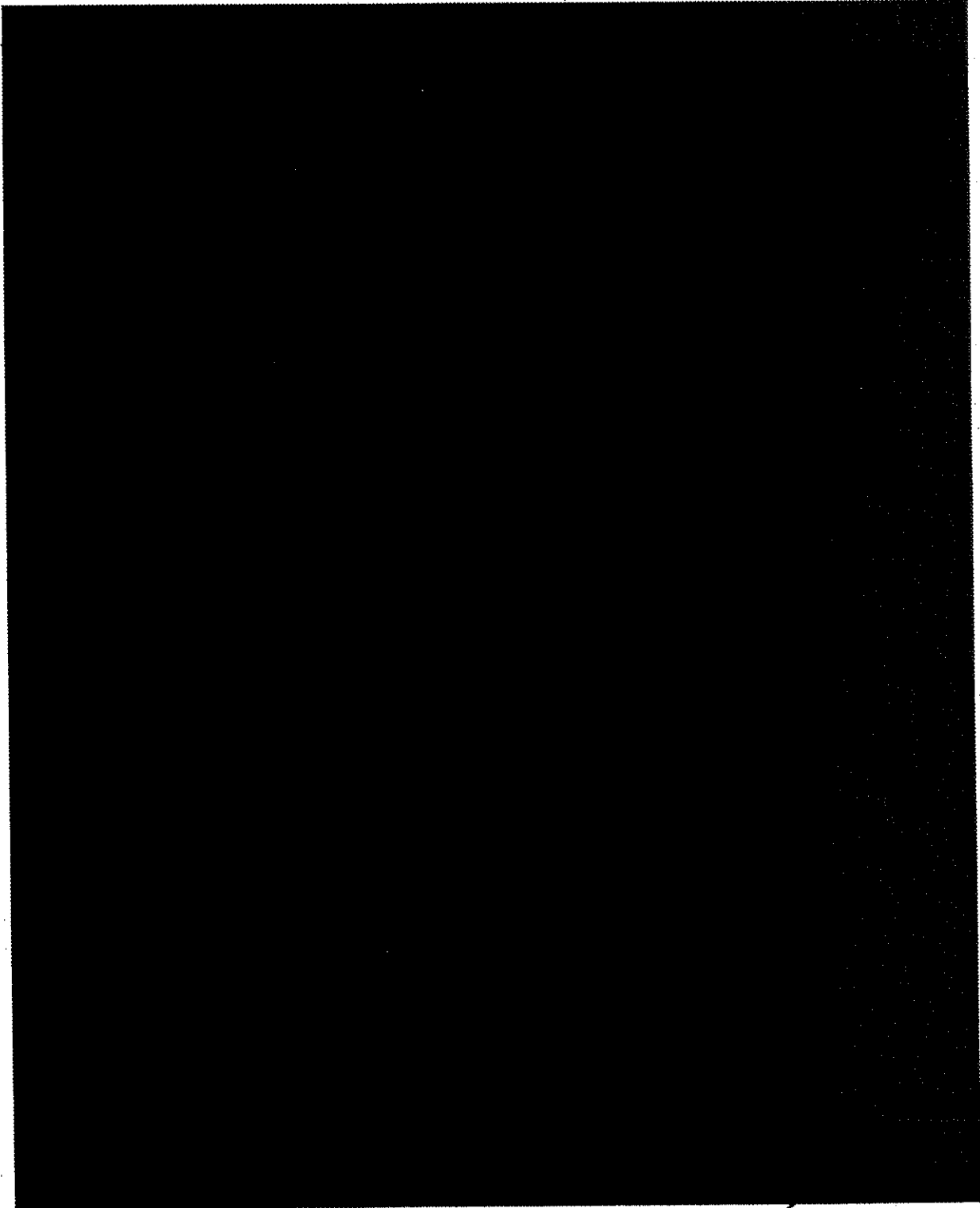


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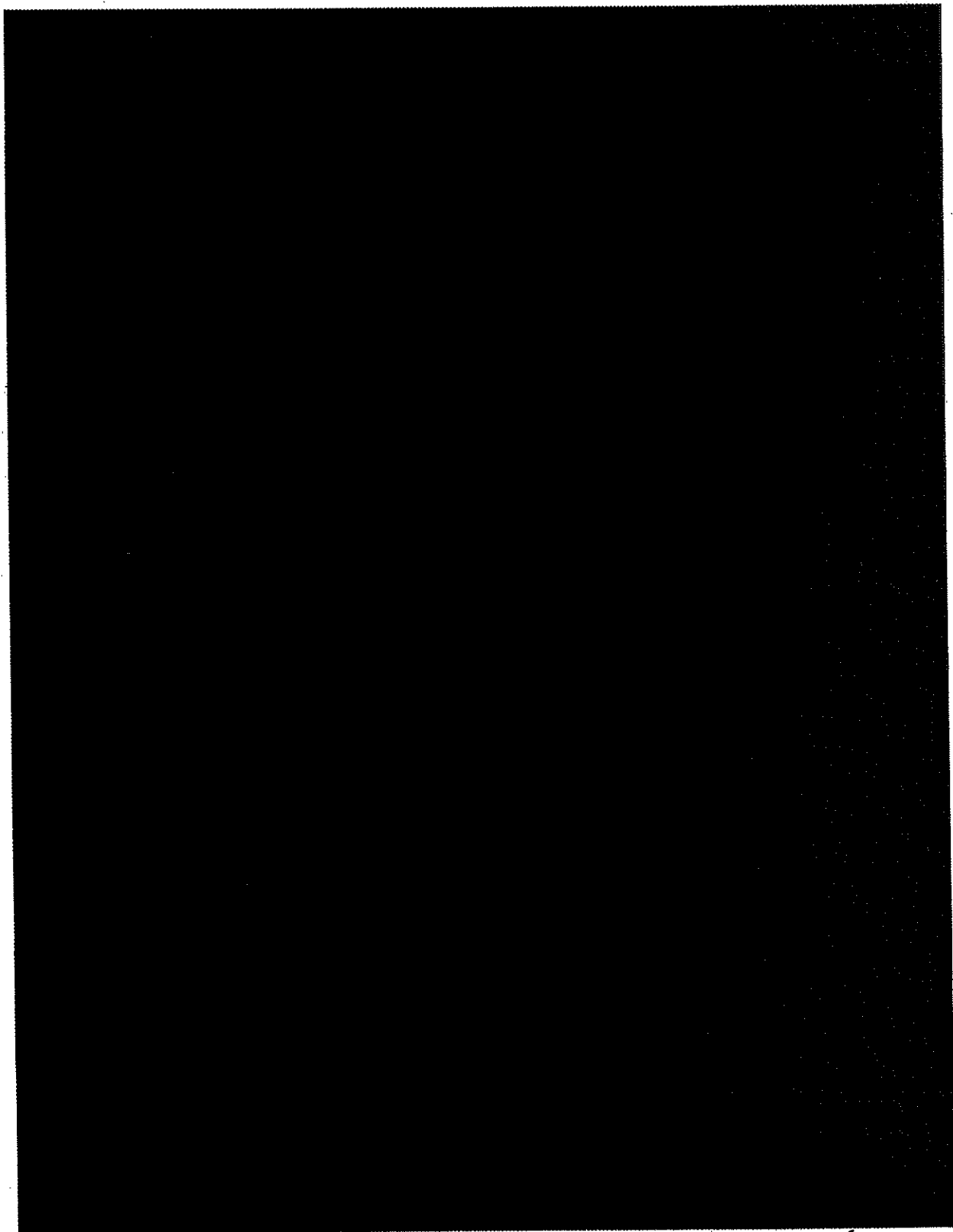


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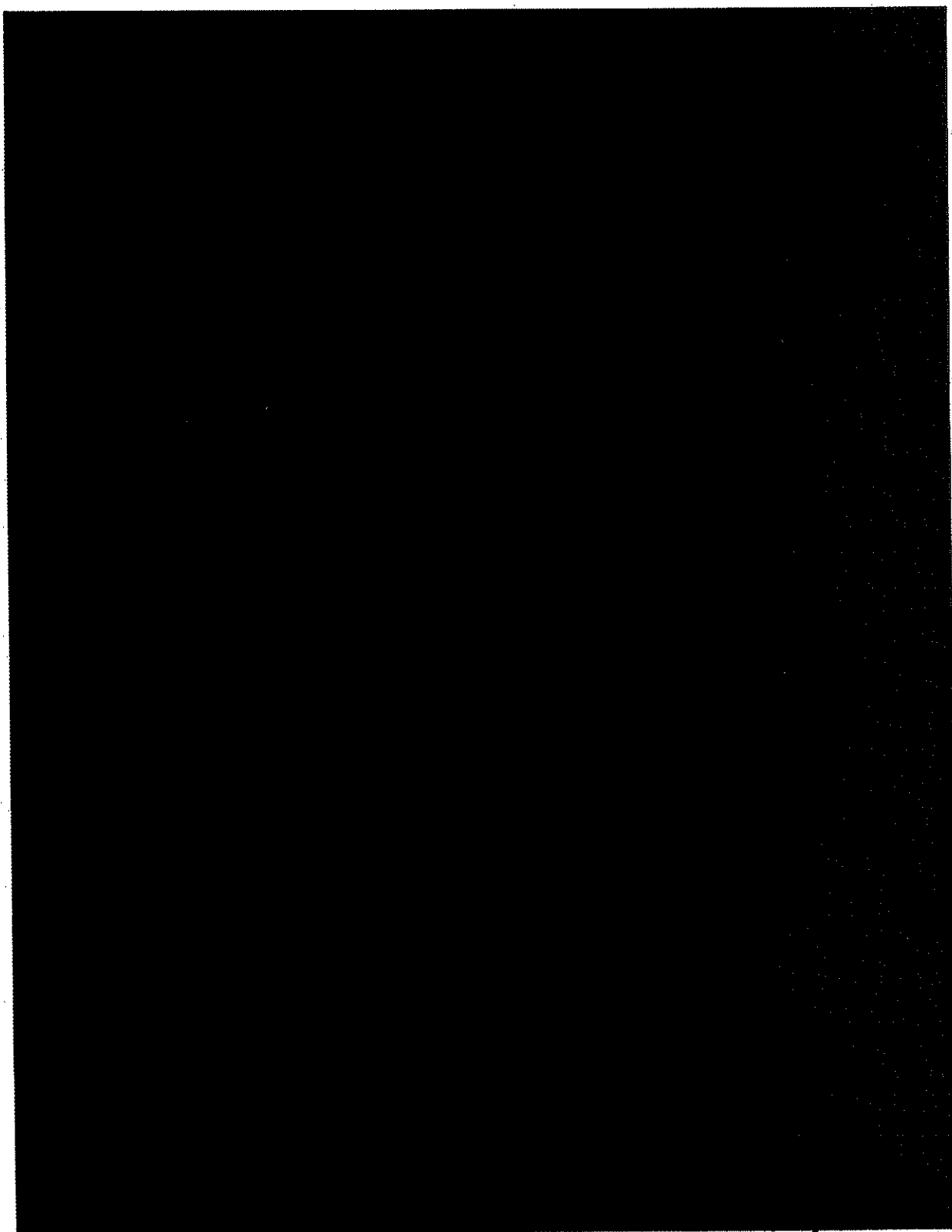


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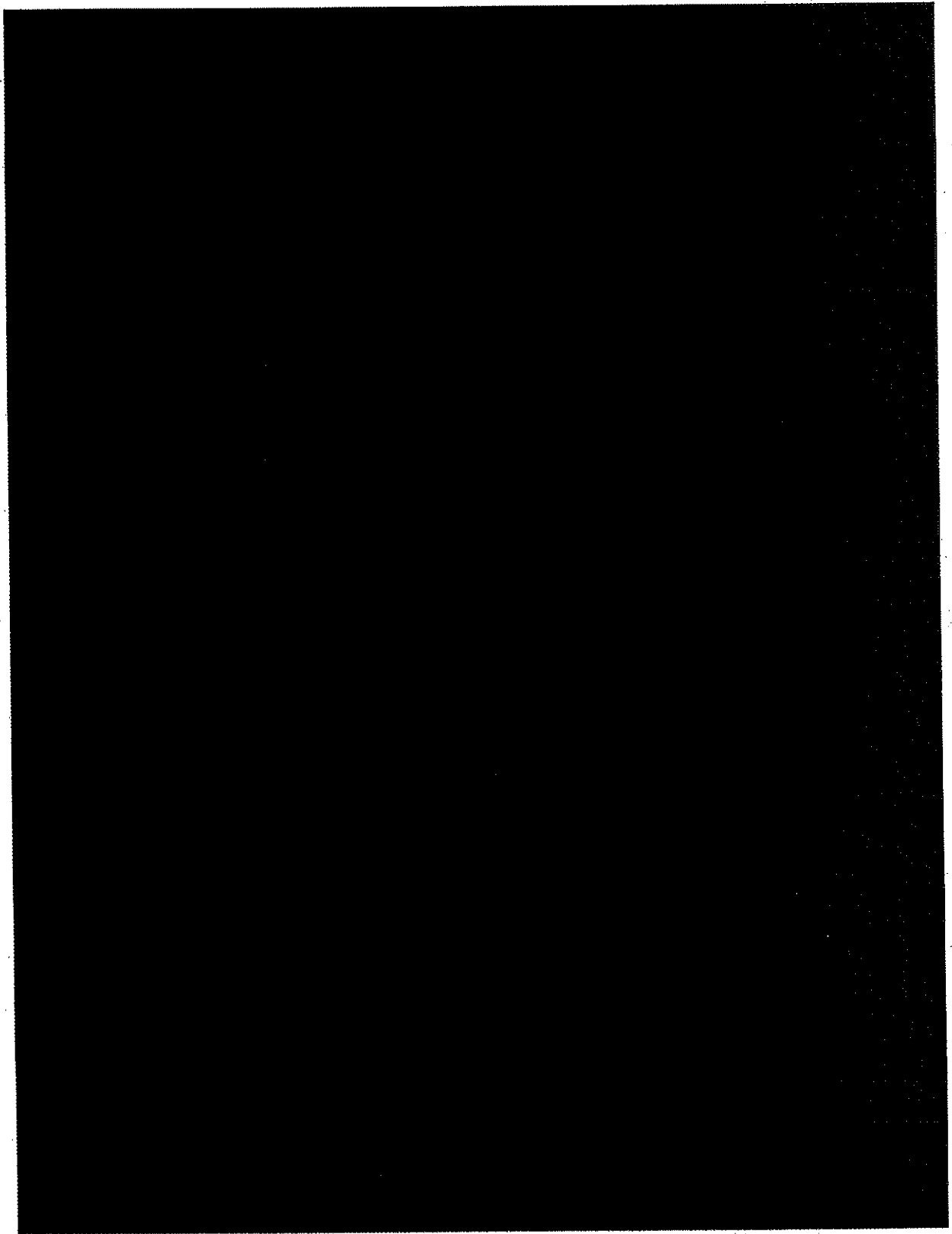


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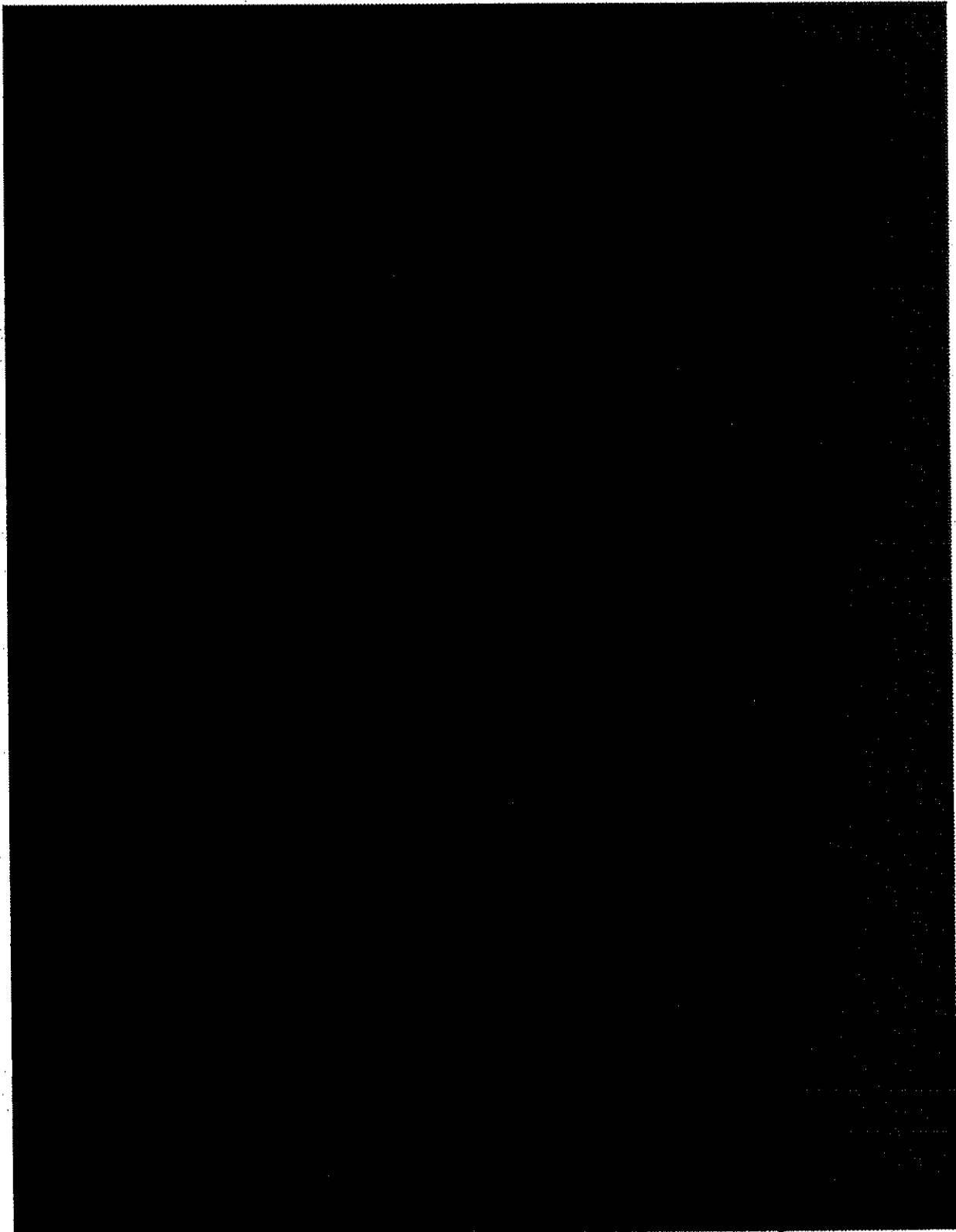


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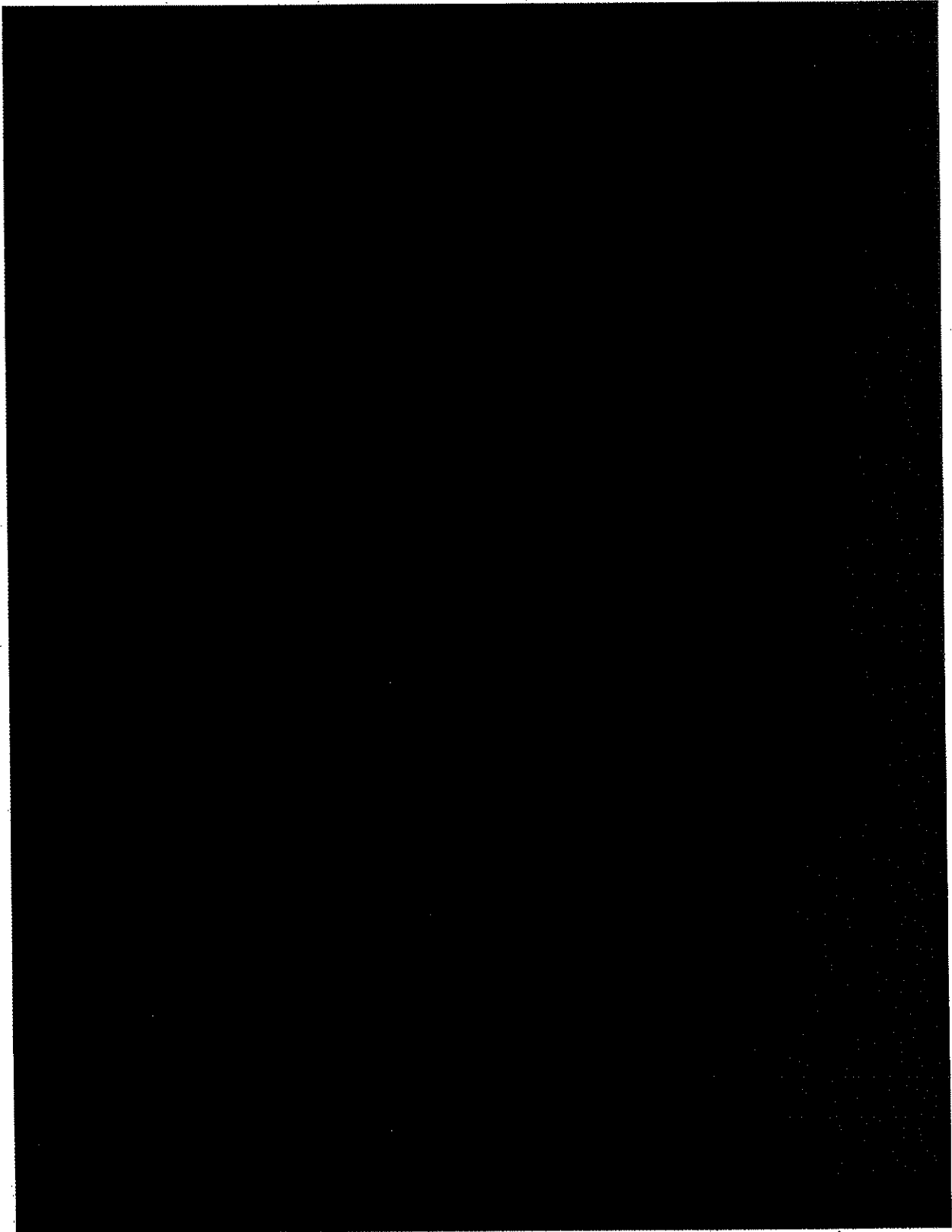


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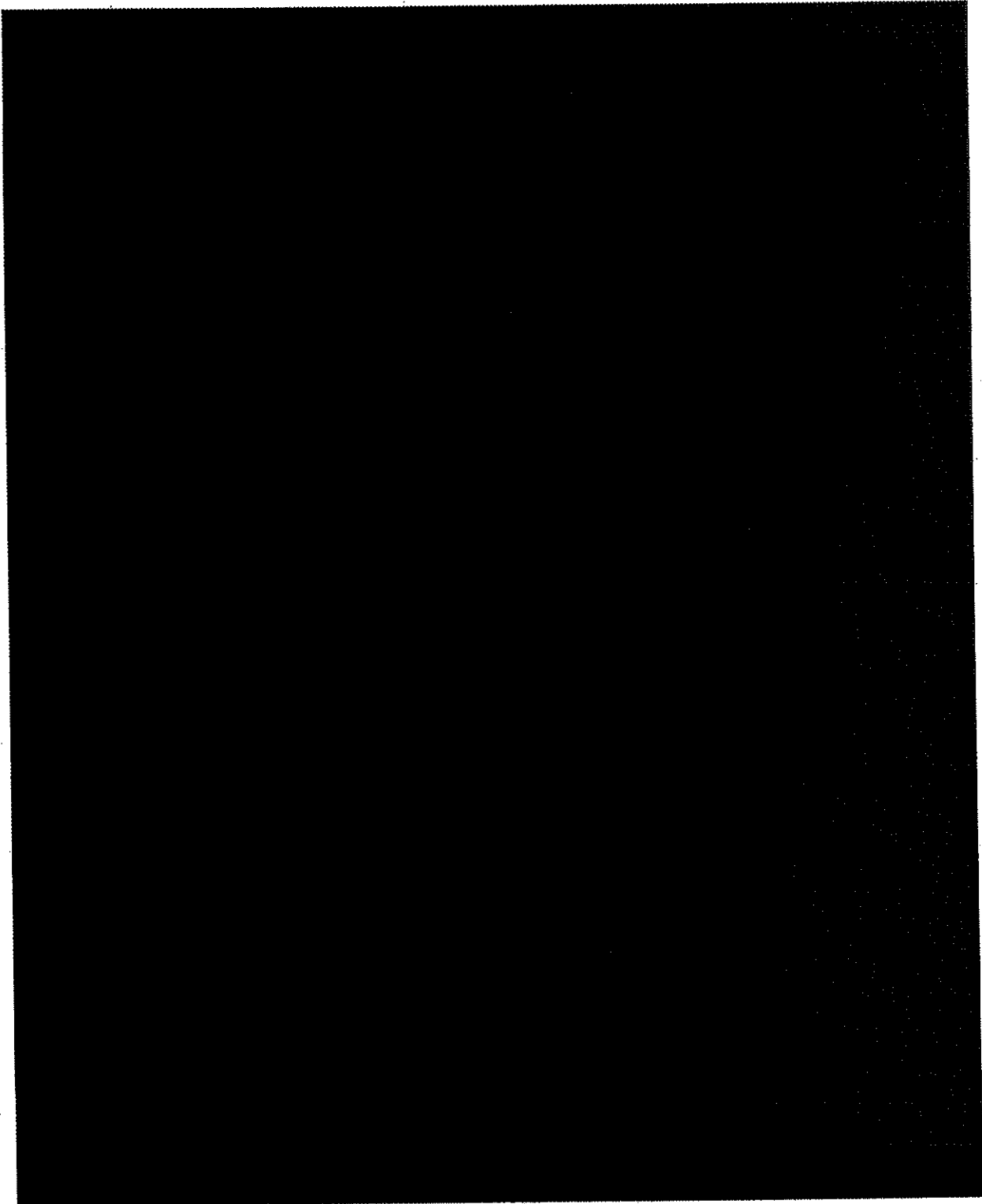


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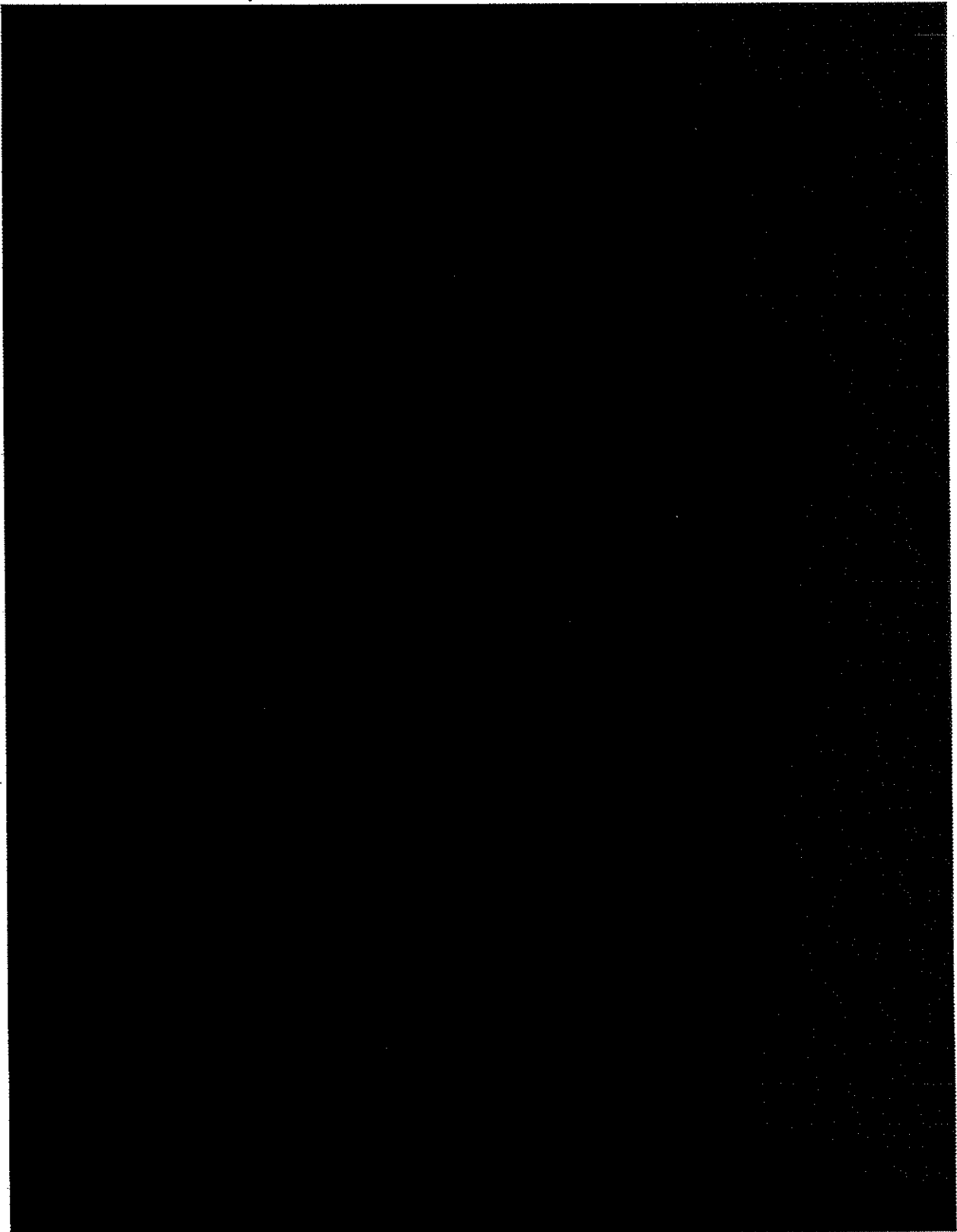


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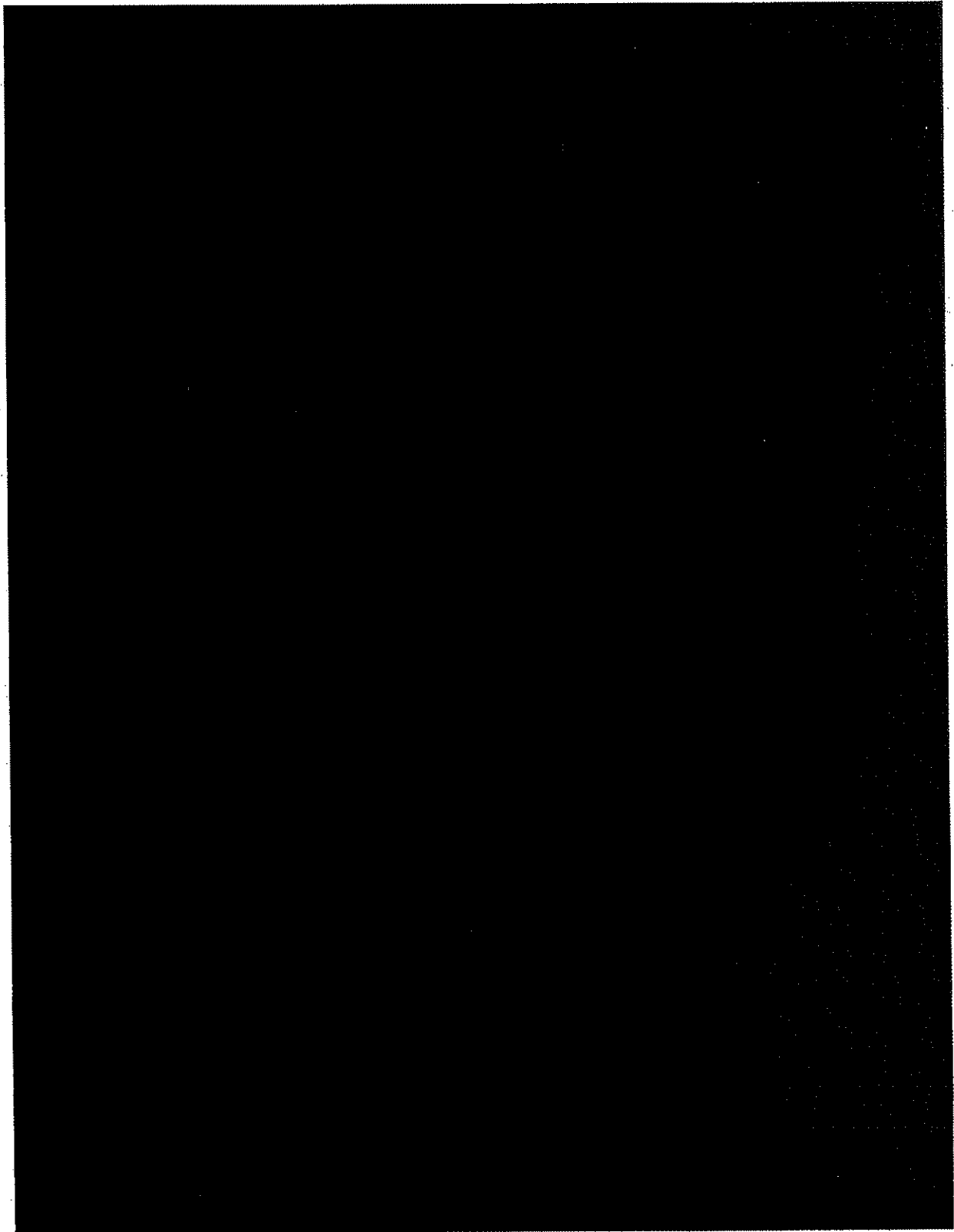


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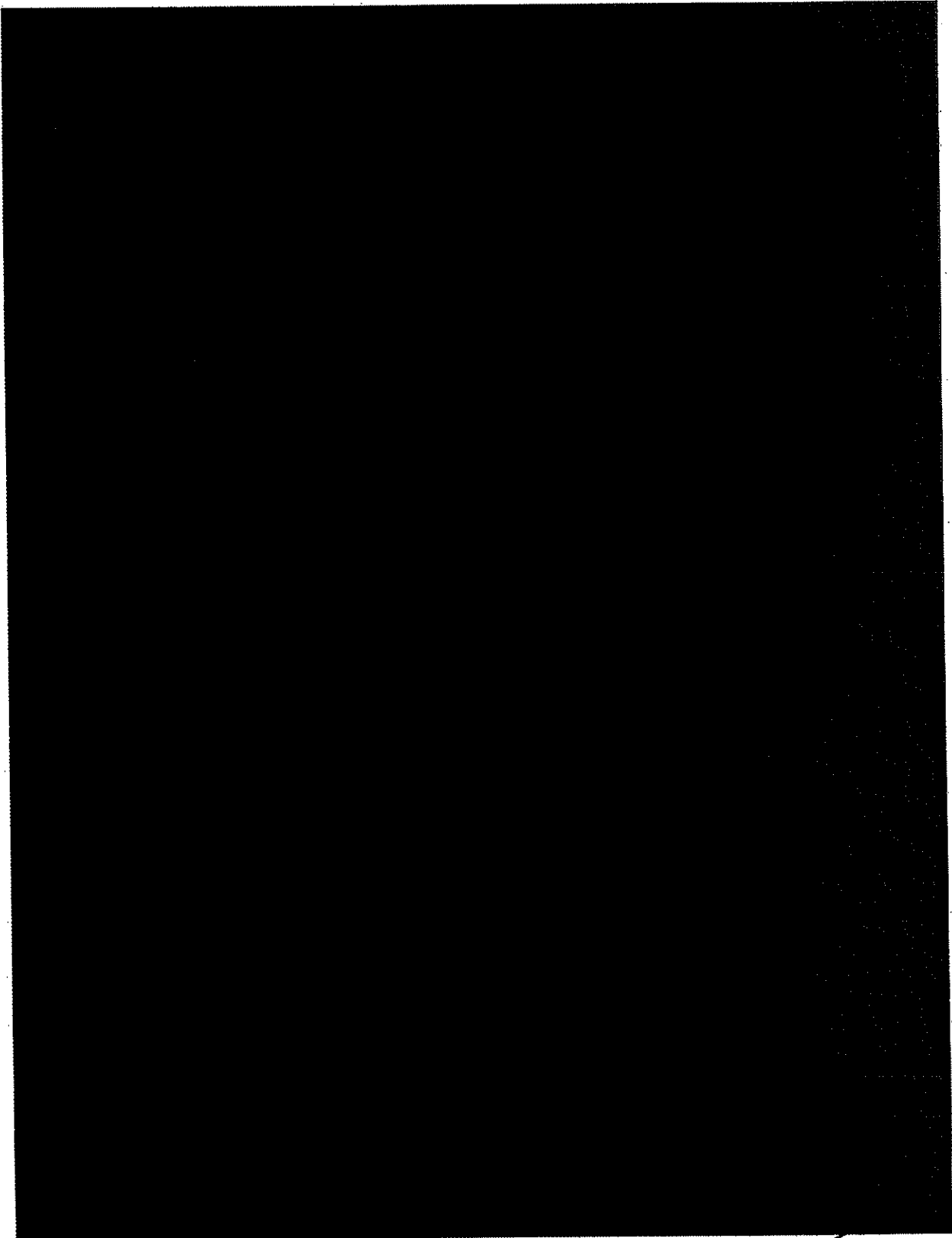


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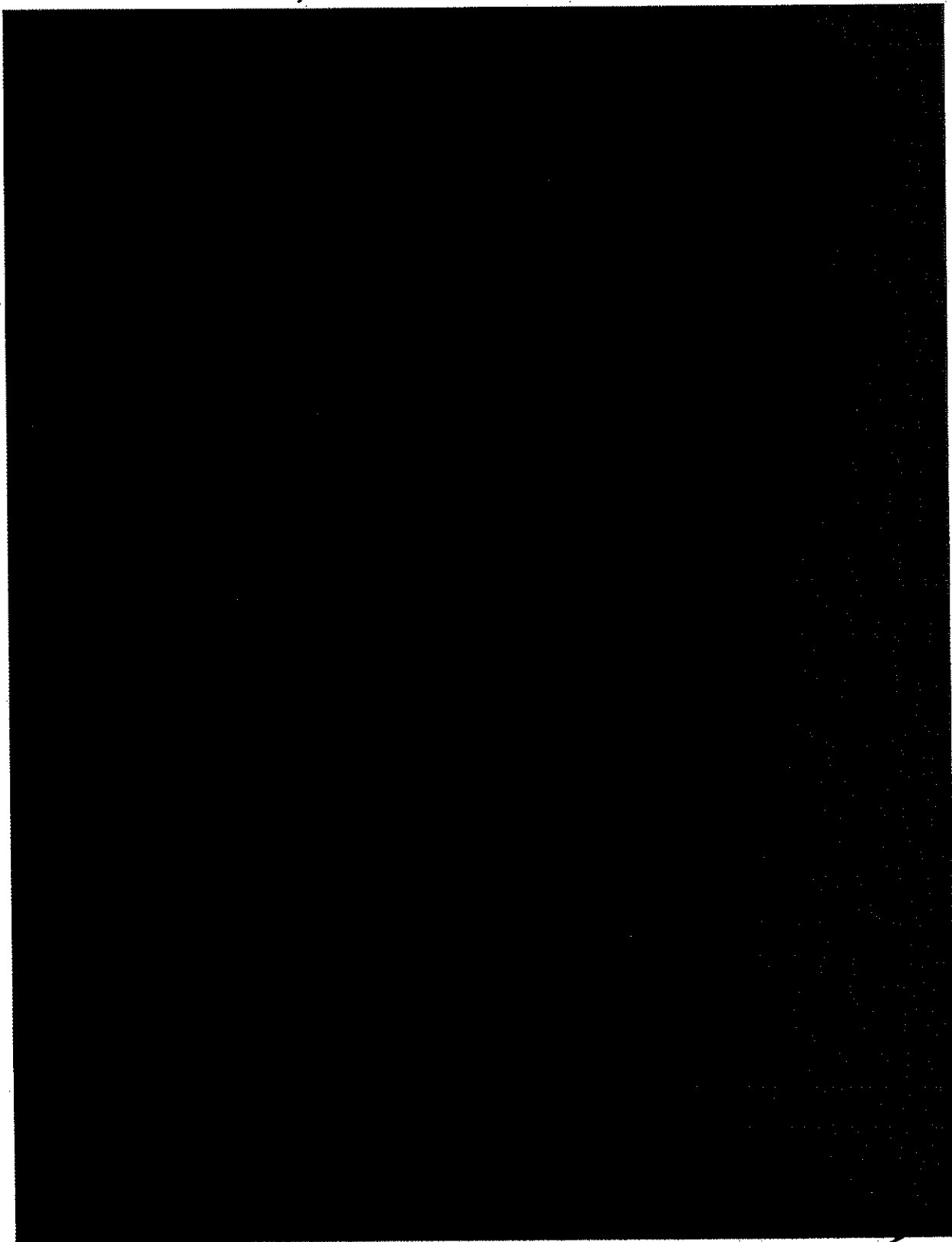


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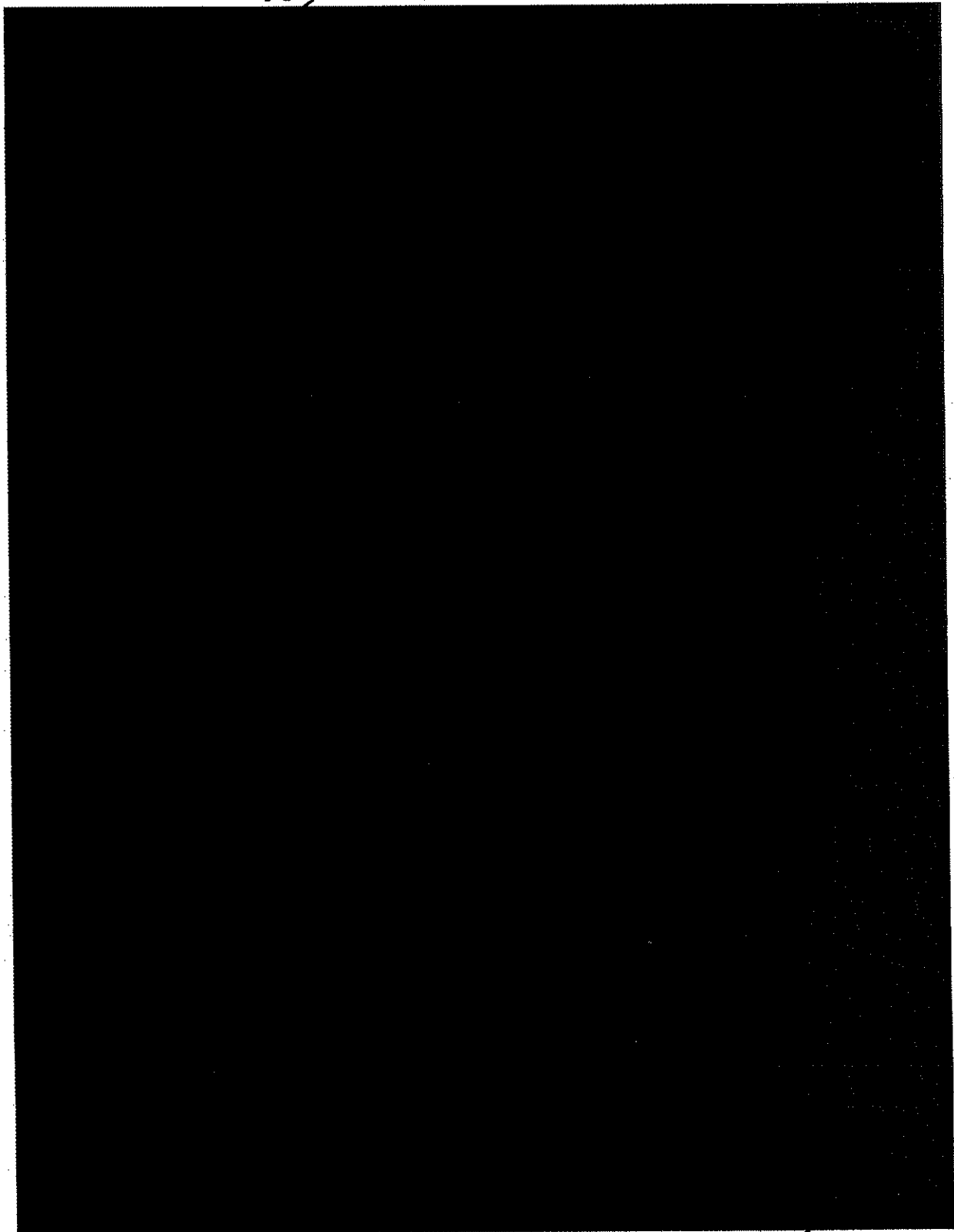


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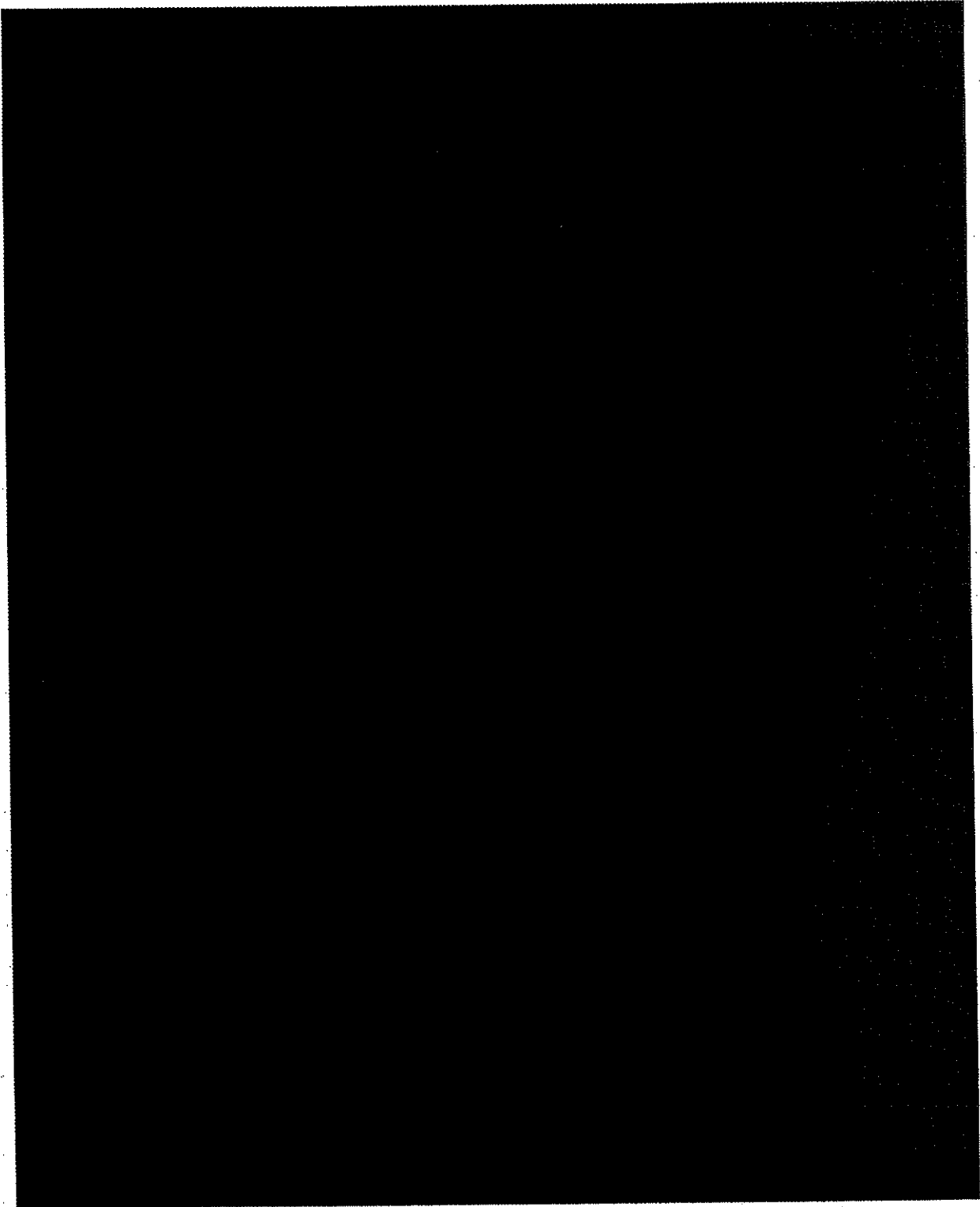


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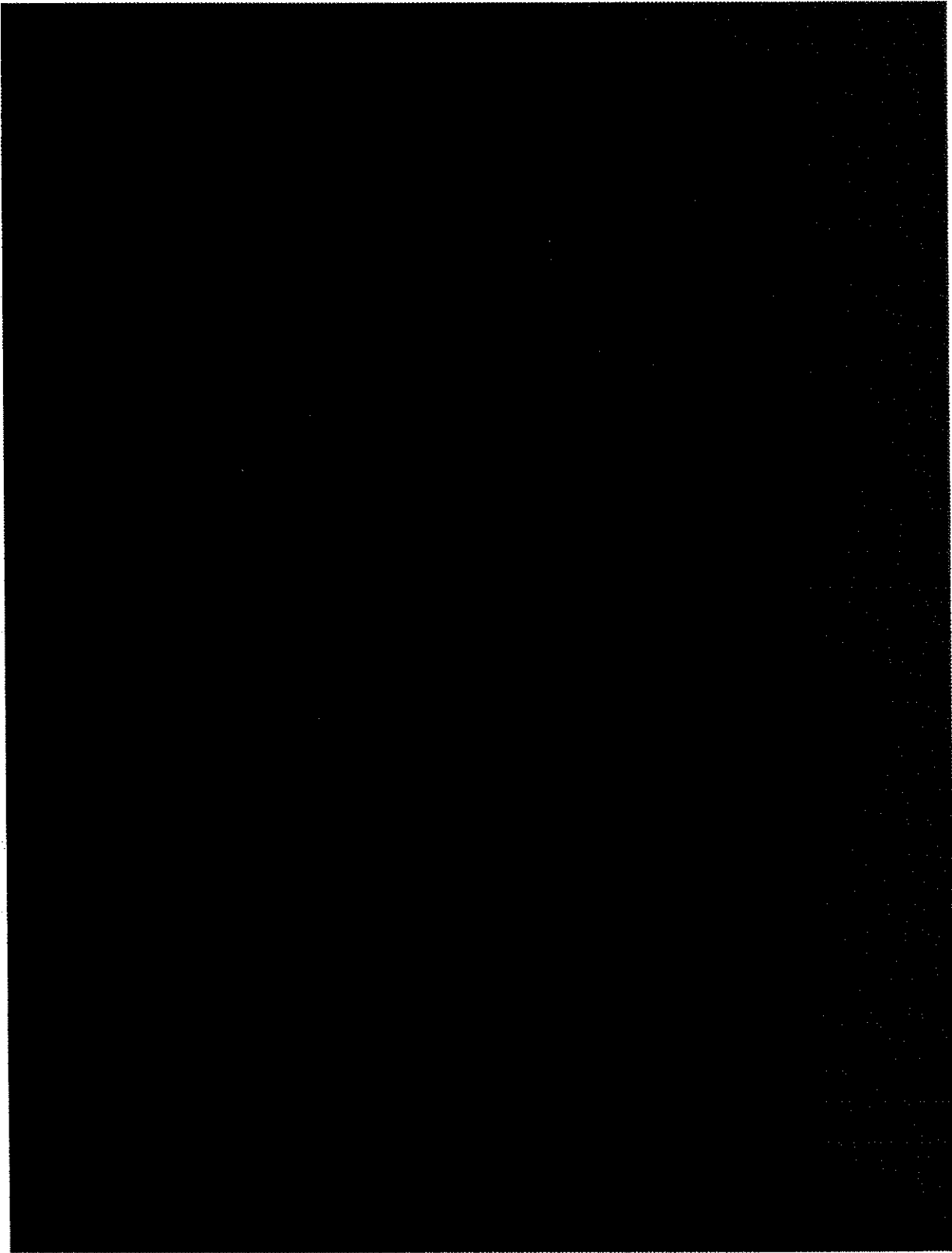


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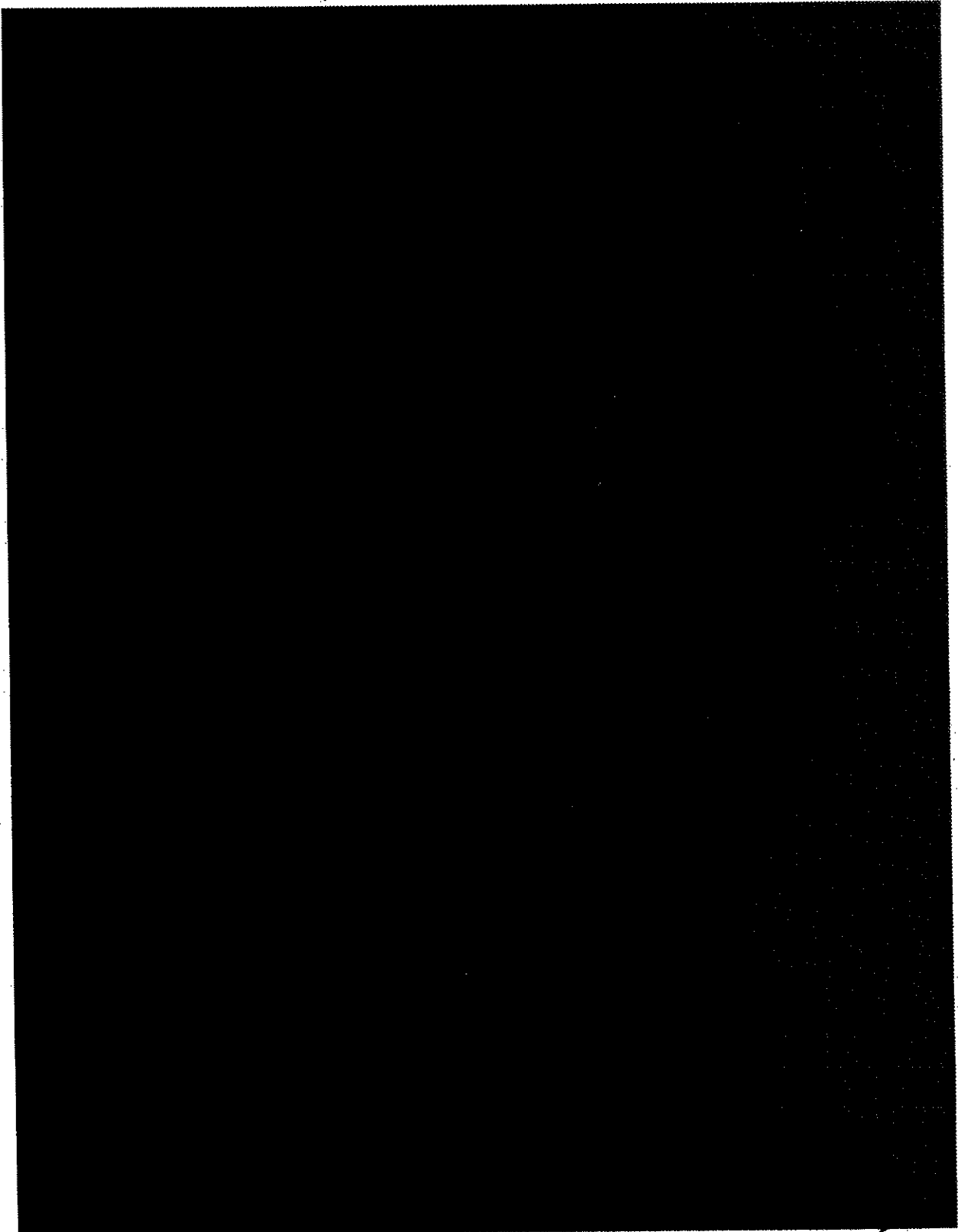


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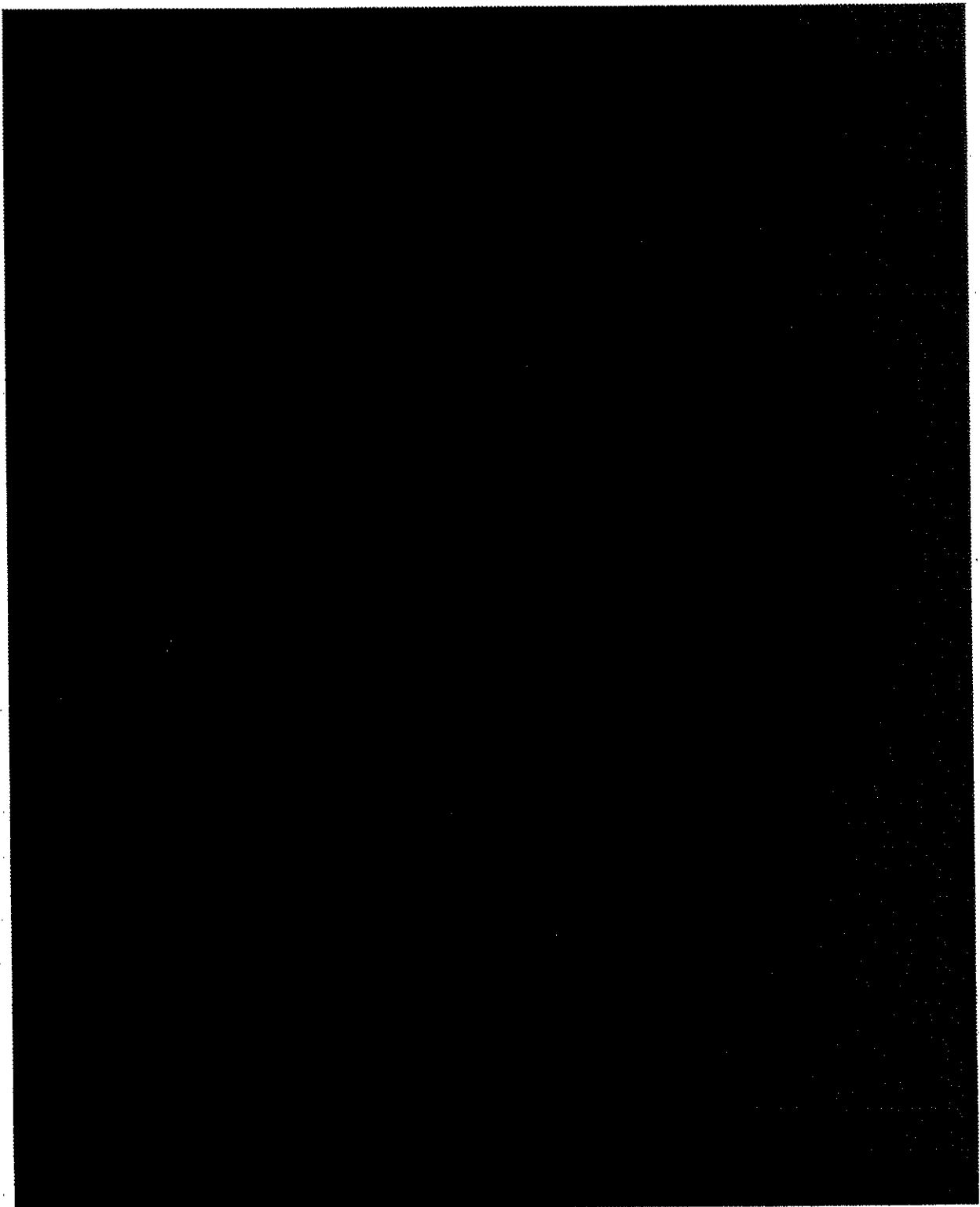


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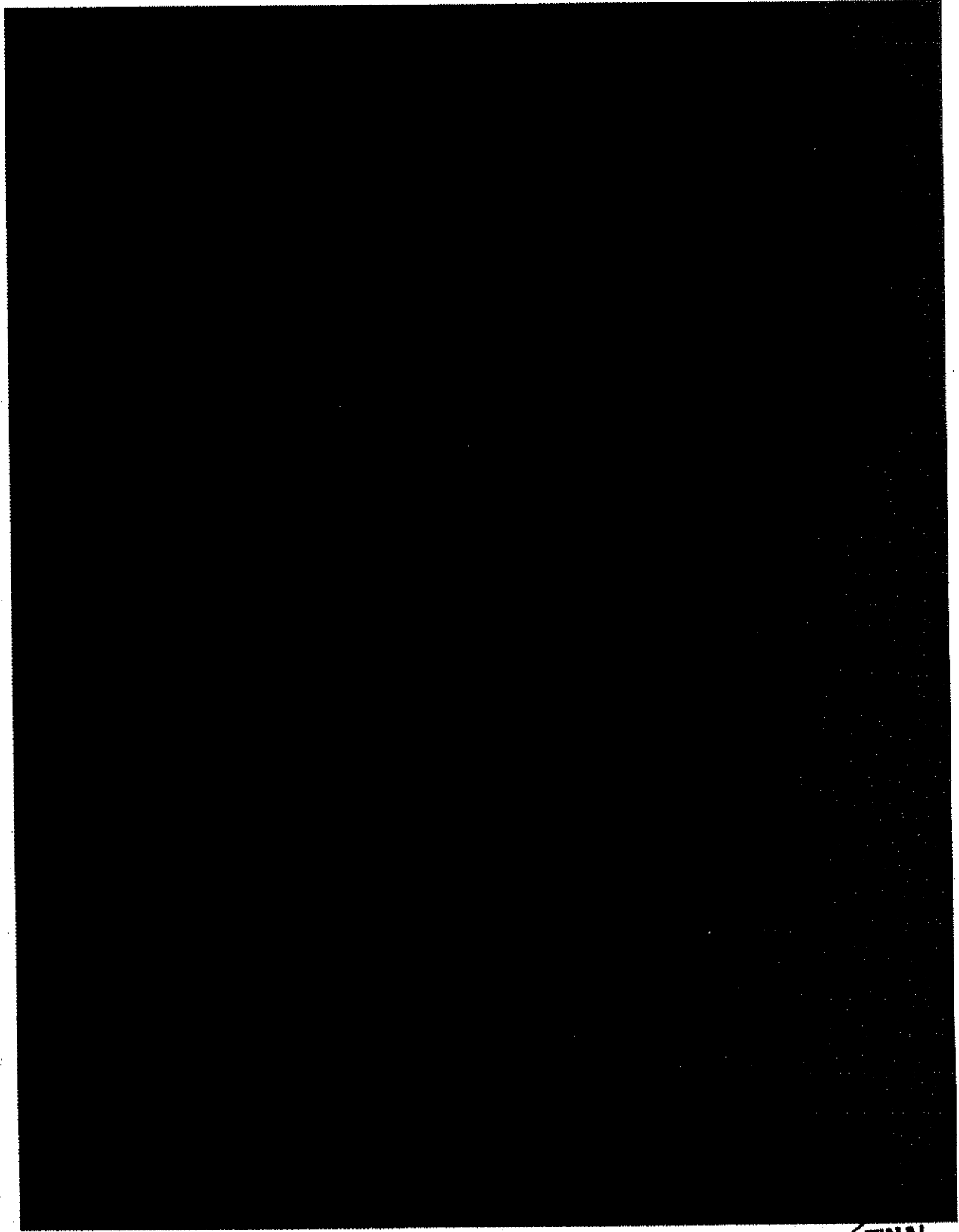


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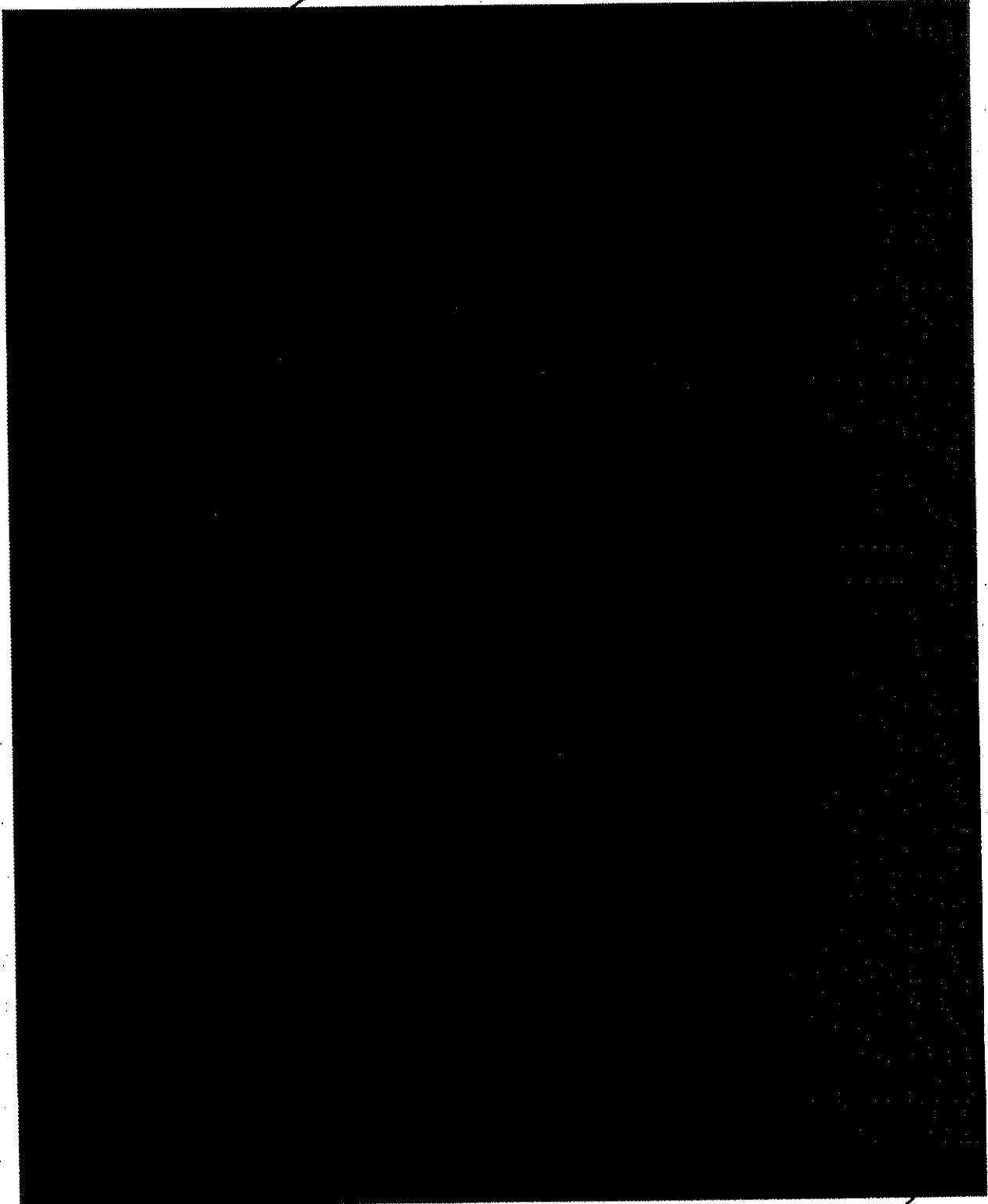
2006, Majid was transferred from the

long-term CIA prison to Guantánamo.



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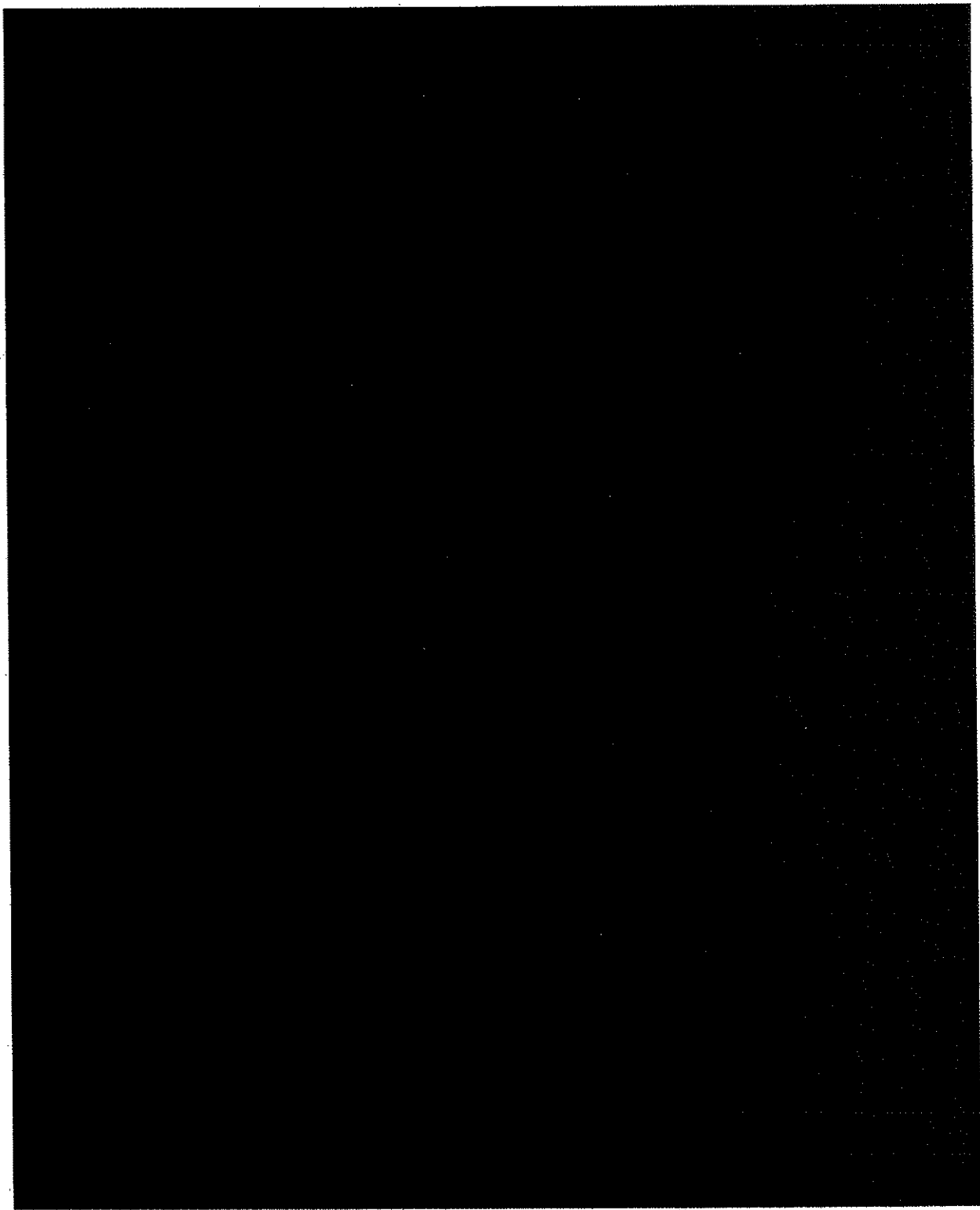


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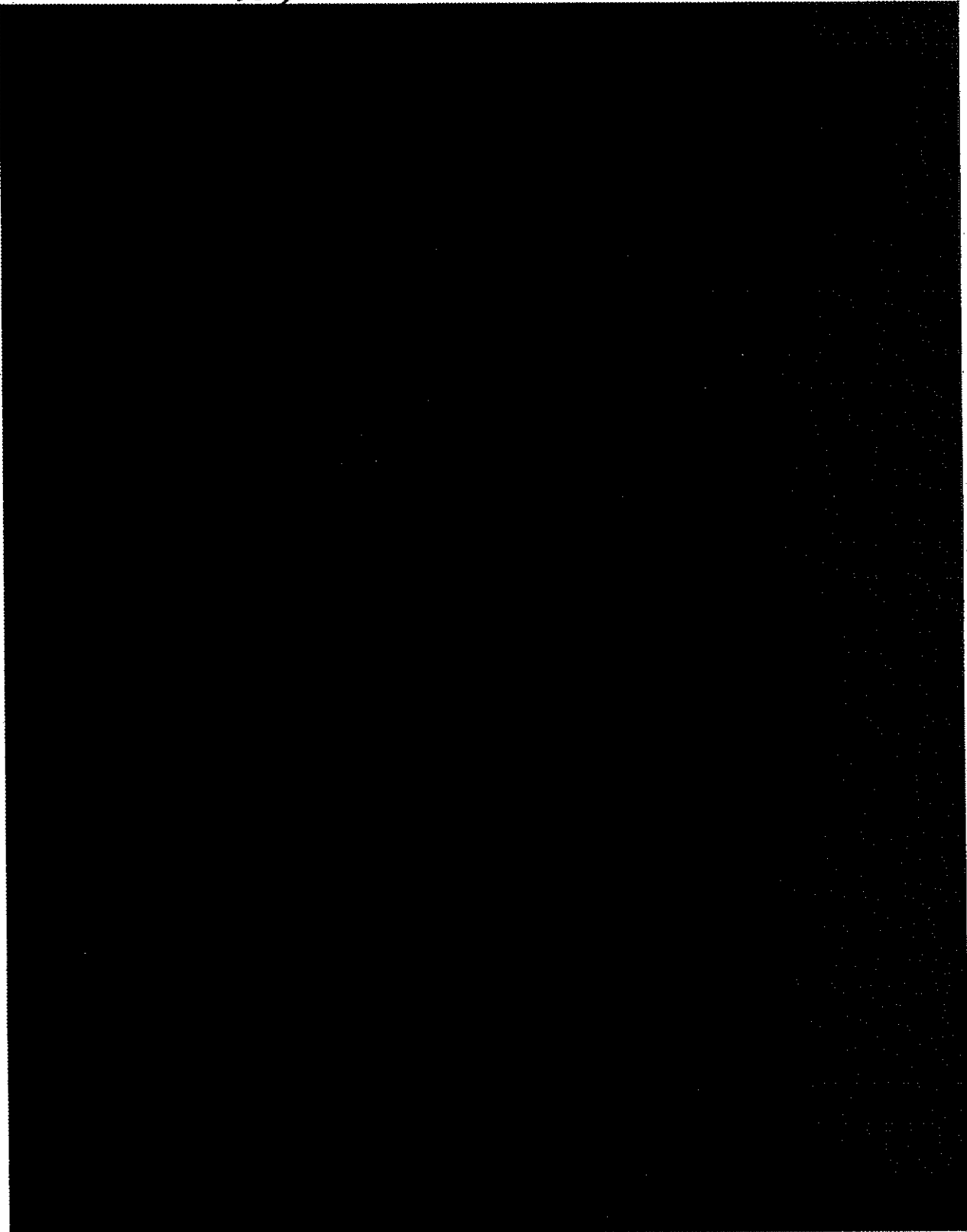


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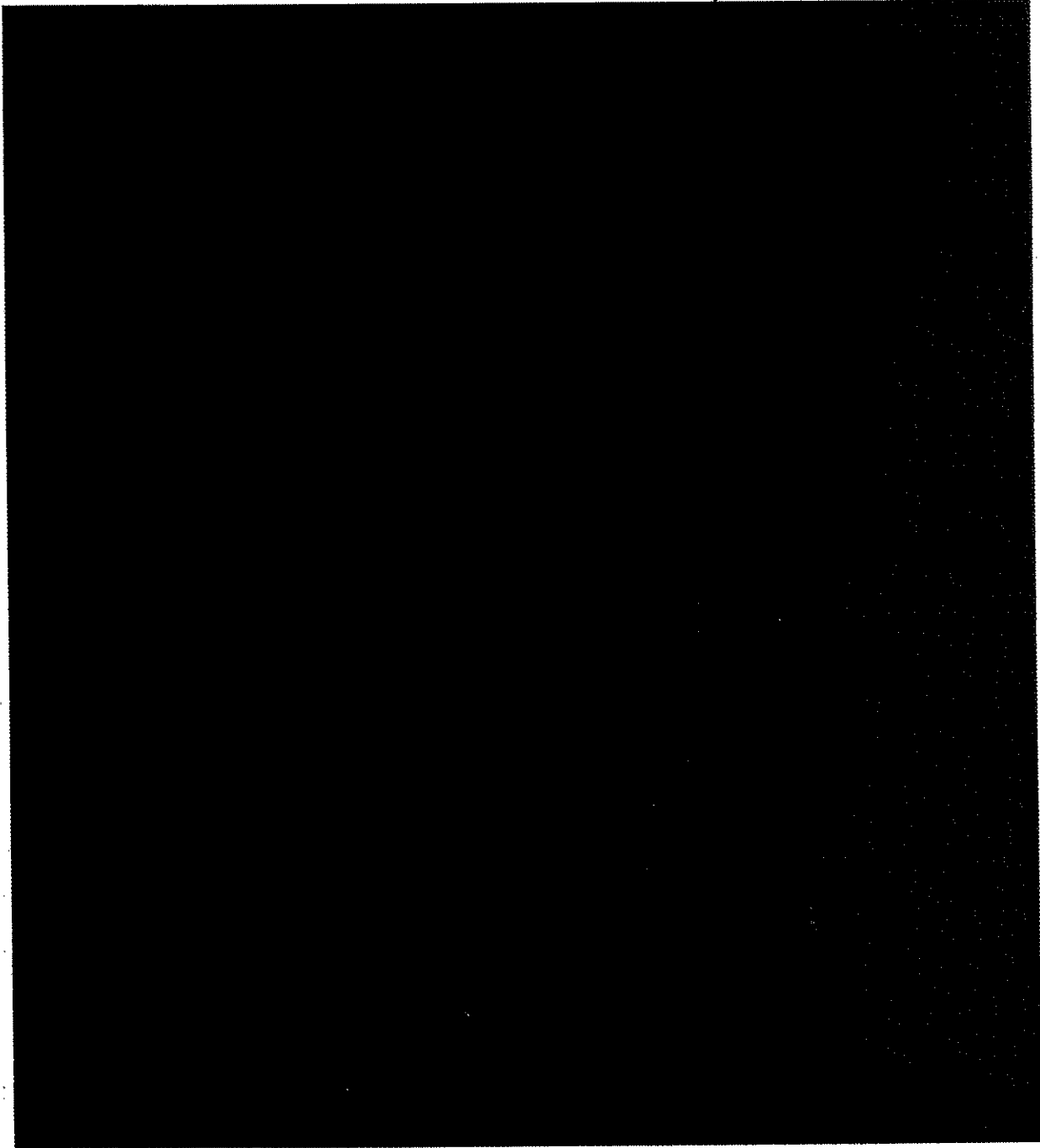


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231. During breakfast, Majid saw the U.S. guards speaking English and asked where he was. He learned that he was in Guantánamo. He was initially relieved to be in Guantánamo because he thought it meant he was going to get a

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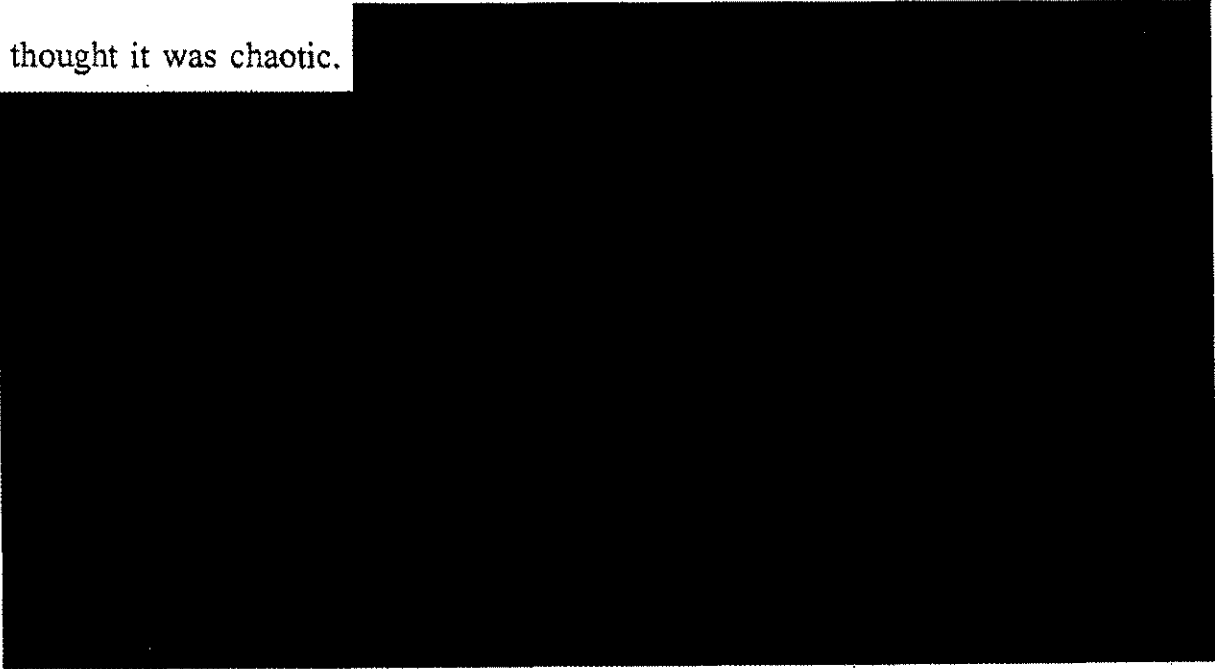
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lawyer, have prayer time, etc. The guards did not know what was going to happen to any of the new transferees. Later, Majid found out he was not going to get a watch for prayer times and was not going to be permitted to meet with a lawyer.

232. On the second day at Guantánamo, Majid did not have a Koran or a watch. Eventually, Majid stated that if he was not given a Koran and watch, he would kill himself by standing on his head and falling to break his neck. Majid described what happen next as, "Whoosh! The psychologist came immediately."

233. In Guantánamo, Majid lives in "Camp 7." Camp 7 is not new. But no rules were in place when the fourteen former CIA detainees arrived and Majid thought it was chaotic.



235. He is allowed to keep twenty loose sheets of paper in his room at any time. He can also keep a "notebook." His comfort items are two books and his basic amenities include a Koran.

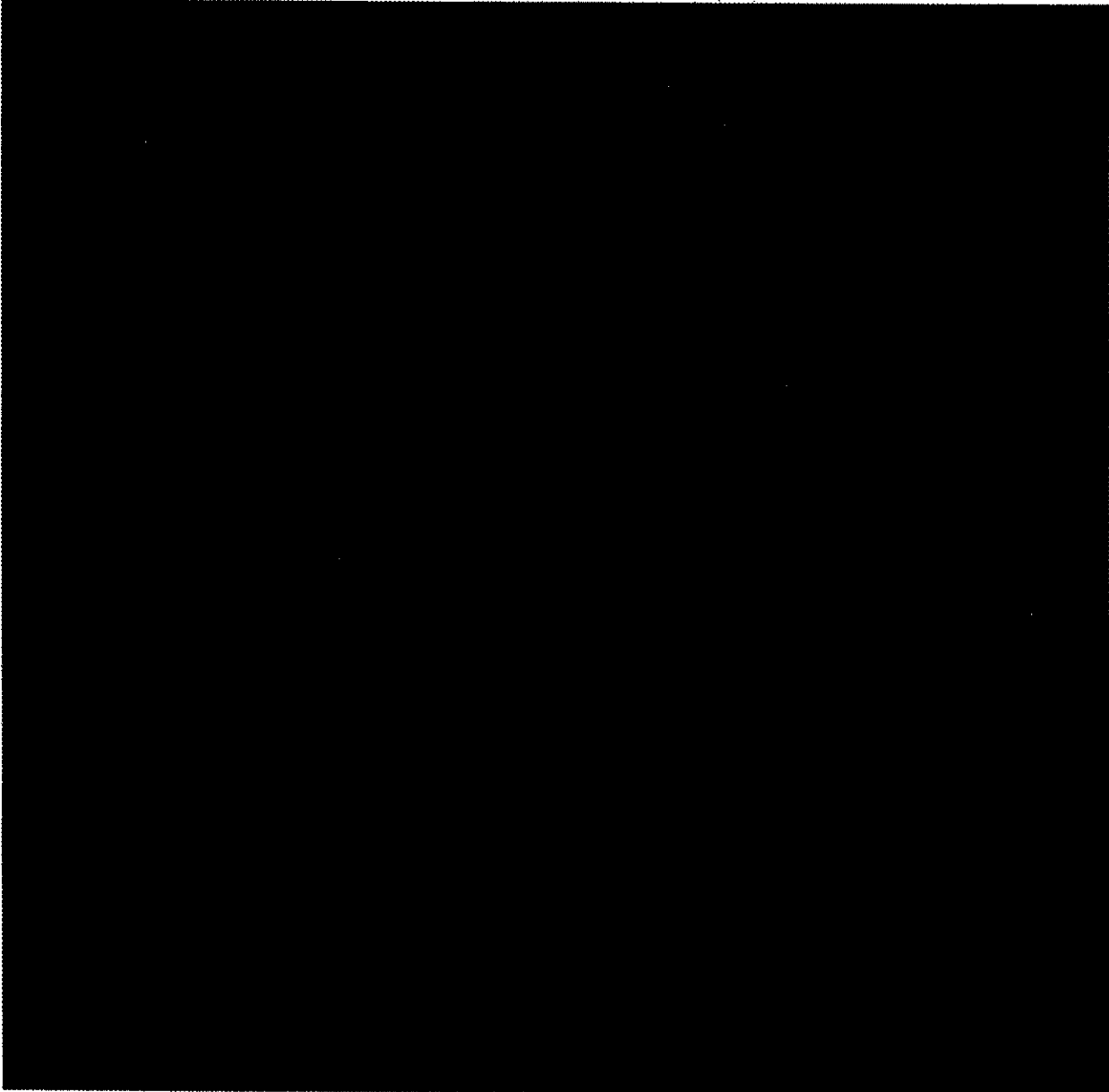
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236. There is a space called "C-rec" attached to his cell – a small outdoor, deck area. He is allowed out for C-rec at designated times. When he is outside for C-rec, he can see his neighbor, Abu Zubaydah, whom he first met at Guantánamo, through the mirrors they each have. Majid also goes out alone for "Main Rec" in a larger recreation area at the end of the cell block.



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239. Through September 2006 to December 2006, Majid was interviewed by medics and "psychtechs." The psychtechs offered Majid prozac and Zoloft, and Majid declined. Every time Majid acted out, a psychtech would show up. Majid engaged in suicide attempts and hunger strikes as a means of protest because he still was not getting access to his lawyer or recognition of his legal rights. The last time a medic opened his door to check on him, Majid kicked on the door and yelled after the medic left. They have stopped questioning him now.

240. The first time Majid met with the SJA was when the SJA brought over the official CSRT notice.

241. On November 15, 2006, Majid had his first attack from the Emergency Reaction Force ("ERF") team. It was also the first time he had his beard shaved at Guantánamo. He has been ERF'd a total of three times at Guantánamo (November 15, 2006; February 12, 2007; and February 13, 2007).

242. In the morning of November 15, 2006, Majid refused to give the MP his food tray in protest. He was living in [REDACTED] Camp 7. Because of his refusal, the ERF team came and Majid was taken to have his beard shaved as a disciplinary measure and he was placed on six days disciplinary status 2, explained below. As the ERF team entered, they were yelling "lay down on your back!" "hand on your back!" Majid did as told and was lifted and taken outside. This was all recorded by camera. The ERF team placed him in a chair in the main rec area

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CLASSIFICATION REVIEW~~

and another guard shaved him. The head psychologist, a female, was present. One guard kept two fingers dug painfully into the side of Majid's neck. Majid kept saying, "I have freedom of religion!" and "I want to see my lawyer!"

243. From Majid's experience, on disciplinary status 1 and 2, a detainee must wear orange. When he is on status 2, the MPs take his basic amenities, such as toilet paper and the blanket, his beard is shaved to 1-inch and the maximum period for this status is two weeks. On disciplinary status 1, a detainee has most of his basic amenities and only one or two things are taken away. This is also for a maximum period of one week and a man's beard is not shaved. When a man is on disciplinary status, he eats "finger foods," which consists of beans or dal and bread cooked into a cake. The man gets two pieces of this cake or a cheese sandwich.

244. On November 28, 2006, Majid wrote on his cell wall, "Stop torturing me. I need my lawyer, access to a paper, etc." He was disciplined for this.

245. On November 30, 2006, U.S. civilian personnel came to his cell and took 3D pictures again and electronic fingerprints. These people did not ask any questions and were wearing civilian clothing. [REDACTED]

246. On January 2, 2007, Majid began another hunger strike and the MPs took everything away. Majid remained on the strike and the doctor came to see him on January 7, 2007. Majid stated that the main reasons he went on a hunger

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CLASSIFICATION REVIEW~~

strike were to meet with his lawyer and receive his legal rights in a fair legal process. He thought that if he engaged in a hunger strike, the military leadership would take notice -- as he had felt they had in some respects in the other facilities where the U.S. imprisoned him -- and would meet with him to discuss his rights. When he told the doctor that he wanted a lawyer, the doctor ignored the request and said, "My job is to make you healthy." Majid never got a response to his request for a lawyer.

247. Early in this strike, Majid covered the camera and did not receive any disciplinary action. He was trying to figure out what would provoke the guards so he could get a response to his protest and have a discussion about his right to meet with a lawyer and be placed in a legal process. When Majid protested the disregard of his legal rights and demanded to meet with his lawyer, he was threatened with being placed in the "Emergency Restraint Chair" for ten days and force-fed if he went on hunger strikes.

248. On January 12, 2007, Majid refused to let the medic take his vital signs. The MPs were going to shackle him and allow the medic to take them. Majid stated again that he did not want his vital signs taken. The ERF team came in and placed him on a stretcher with Velcro straps restraining him. He was not given any disciplinary status, though.

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CLASSIFICATION REVIEW~~

249. On January 13, 2007, Majid had severe back pain from his ERF'ing the day before. He intentionally refused to be shackled. He also chewed into the artery in his left arm until it bled. He has a scar from where he bit and chewed his arm.

250. The doctor came and administered two IVs and said Majid was becoming dehydrated. The doctor recorded Majid's weight as well. Majid declined any psychiatric medication (prozac) and tried to refuse the IVs. Majid was taken to what is now the medic room and was placed in a restraining chair with wheels so he could be rolled around while shackled down. He was not force-fed, but he was given forced IVs. He remained on this hunger strike until January 28, 2007 and lost approximately 30lbs. He was only given IVs during this strike and never received force-feeding.

251. Majid engaged in hunger strikes and protests because it was the only way he knew how to assert his rights. He was invoking his right to meet with his lawyer and he was protesting his isolation and lack of mental stimulation in the prison. His civic teacher at Owings Mills High School taught him about checks and balances. He learned that if you do not assert and protect your rights, you do not deserve to be in the United States. So, he always protests for his rights.

252. At the end of January, he was told by personnel at Guantánamo that "people from Washington are coming here" to meet with him. Majid thought it

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CLASSIFICATION REVIEW~~

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CLASSIFICATION REVIEW~~

would be his lawyers so he stopped striking. He also wrote letters to DOD asking for his lawyers and enforcement of his rights, as well as protesting his living conditions.

253. The "people from Washington" came on or around February 6, 2007. They were not Majid's lawyers, but Baltimore-based FBI agents coming to interrogate him without his lawyer's prior knowledge or authorization. Majid was very shocked and frustrated. He met with them for about three hours.

254. Majid thinks these were same FBI agents who had interviewed his family in Baltimore. "Ted" and Nancy were from the FBI and Majid thought the third interrogator, John, was from DOD, but he was wearing civilian clothing. They brought Majid's "profile" and tried to get him to confirm everything DOD claimed against him. They asked Majid's opinion about jihad, Palestine and what Muslims should do. They also asked him about Arabs, science and technology.

255. Majid asked them, "What if the CSRT makes me an NEC [Not an Enemy Combatant]?" Jon responded, "We have other ways to keep you here," and the FBI agents agreed. When he asked the FBI and Jon for a lawyer, they told him he did not have a right to a lawyer because he had not been charged.

256. The same FBI agents, Ted and Nancy, returned to question Majid on June 20, 2007. Majid remained silent this time. They pressured Majid to talk, but he refused. They tried to interrogate him the next day, June 21, 2007, but he

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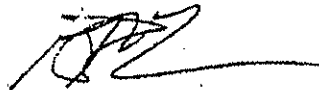
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refused to meet with them. Majid has not been interrogated or visited any other time while at Guantánamo.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed: Washington, DC
November 29, 2007



Gitanjali S. Gutierrez

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