

What today's lawyers are doing wrong and how to stop them.



AHMAD
ZAVITSANOS
MENSING

AZA







Problem





What is it like to be a juror?

What lawyers think jurors hear



What lawyers think jurors see



What do jurors really do?



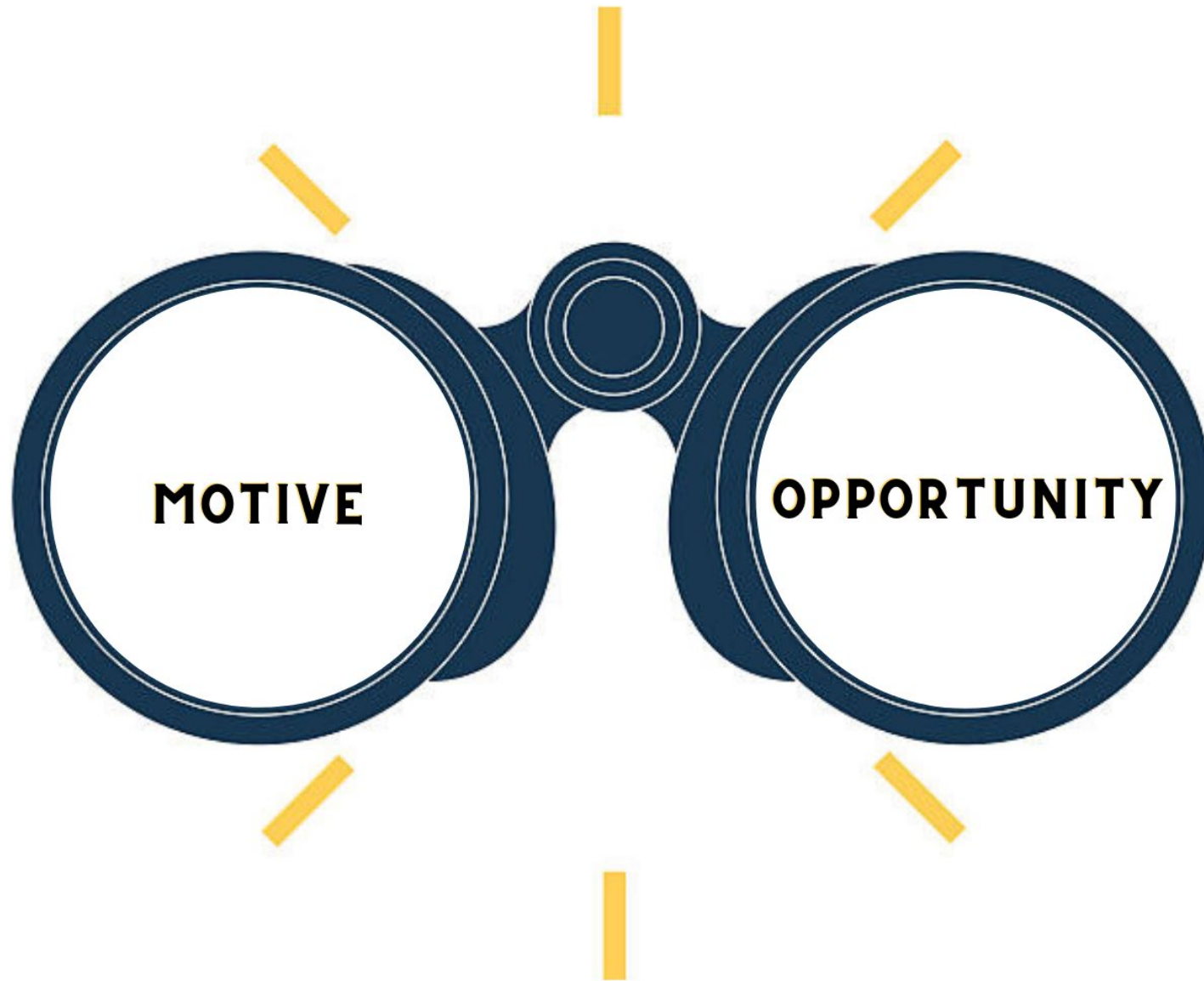
What really happened?



“What really happened?”



- Jurors: “What is the real **story** here?”
- Whose story **rings true**?
- Makes **common sense**?





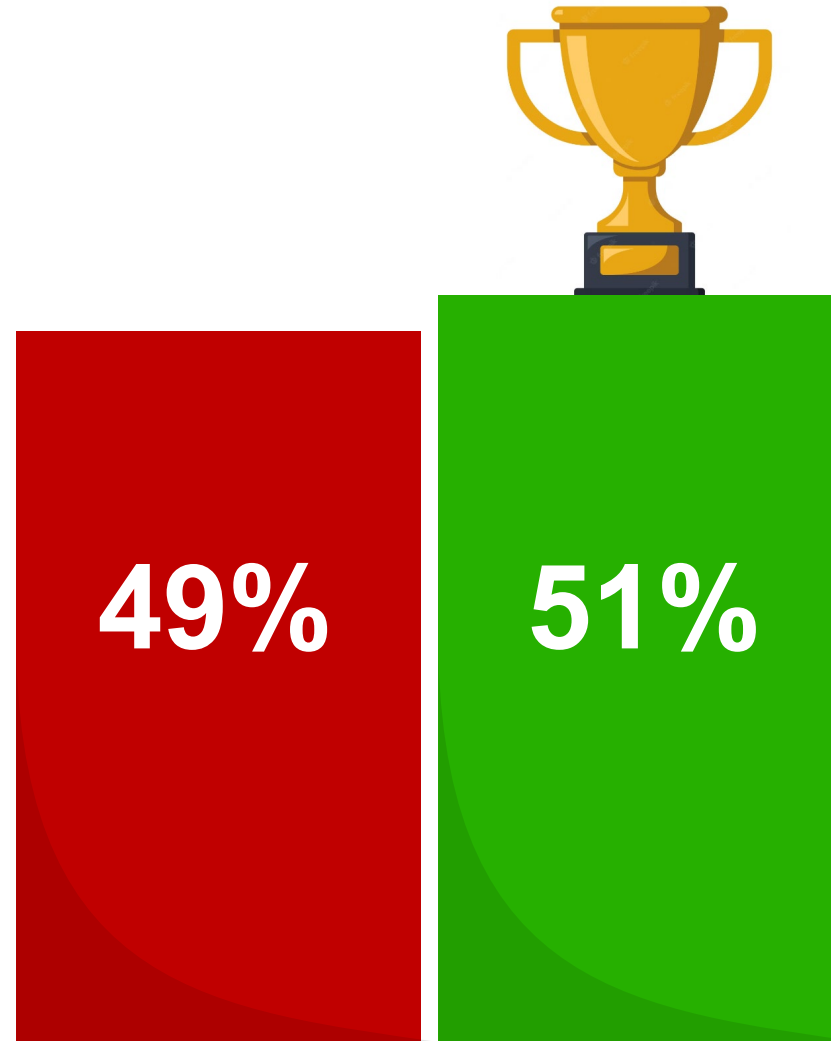


No





No



A wooden gavel is positioned diagonally on the right side of a document. A silver paperclip is attached to the top left corner of the document. The document is placed on a light brown, textured surface.

**CHARGE
to JURY**

Justice





Do we have a story?



**Or are we treating this like
a debate or a point contest?**



What is our story?

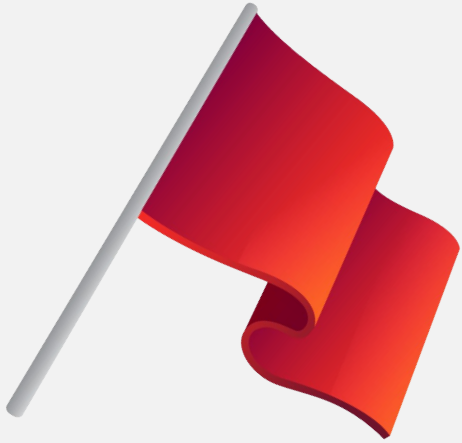


Is motive part of our story?



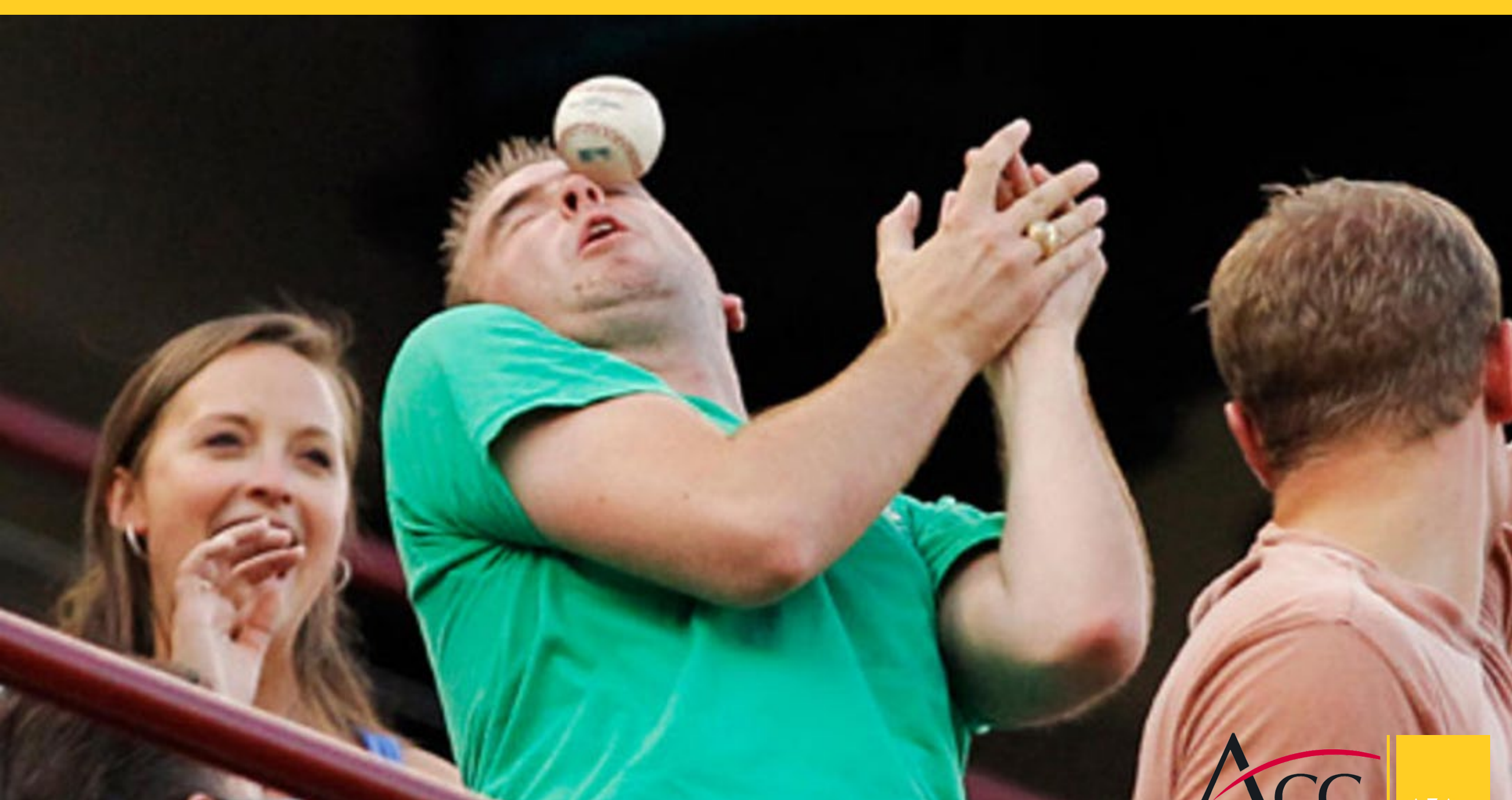
**Does it ring true based on
common sense and experience?**

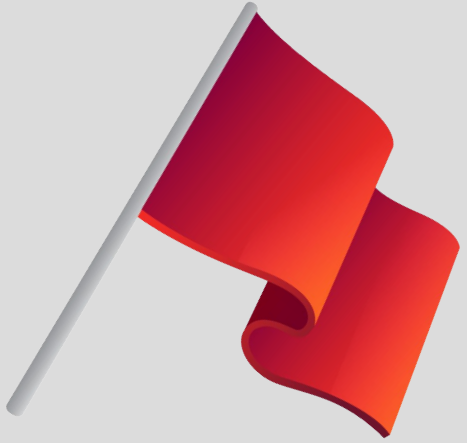
How do you build your story?



**Drink
this much
every
day!**







Stronger
facts!



Get Real

Facts the jury **will believe**, good **and bad**?

What do jurors **already believe** about our case?

What do jurors already believe **about the parties**?



Play it out

- What is their story?
- Opening statement?
- Theme?
- Best facts?
- Our worst?
- **Repeat.**





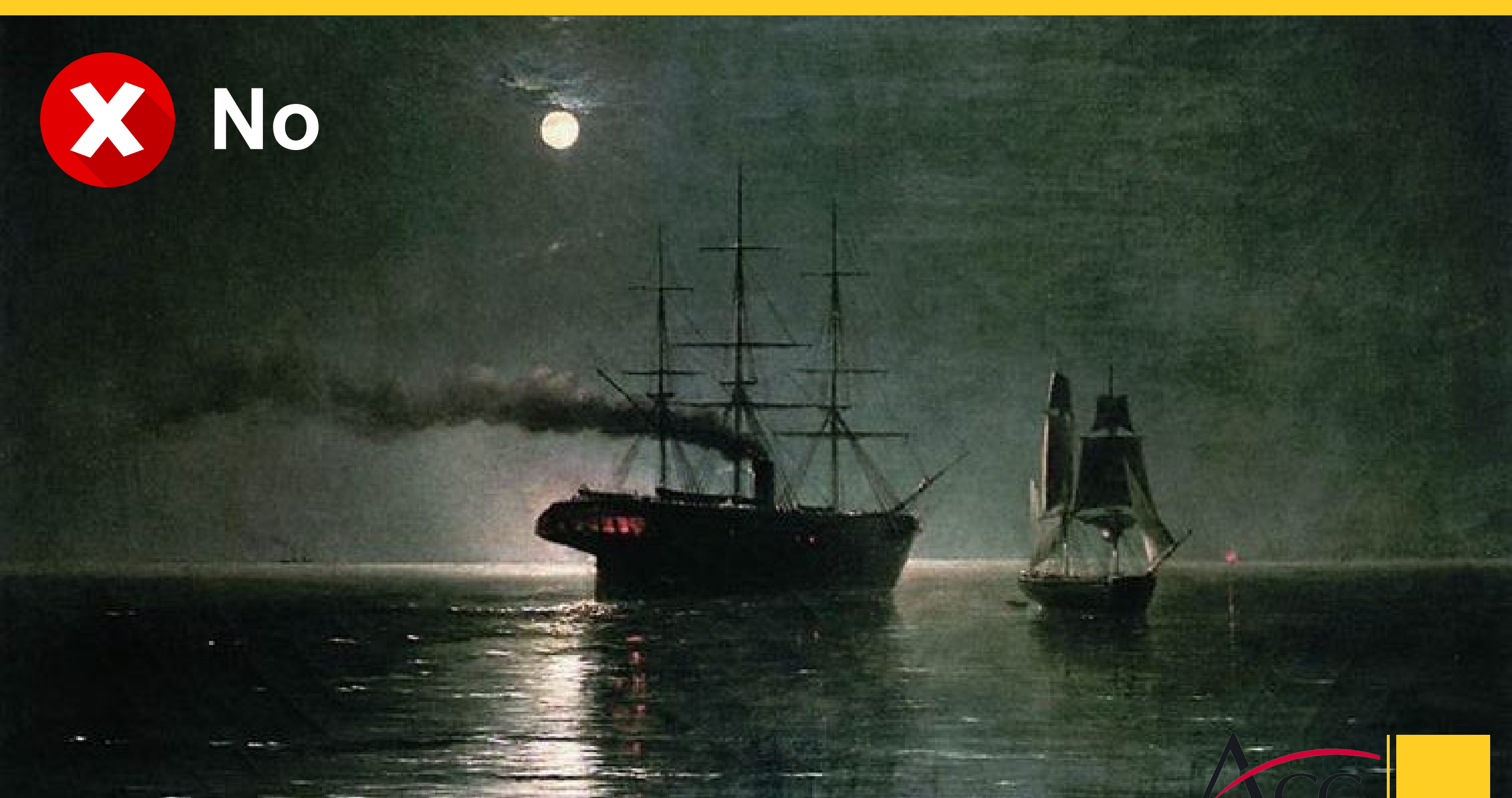
Make their case yours

- See it coming; co-opt their case
- Their strengths become yours
- Their story becomes part of yours





No





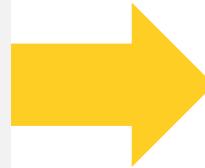
Yes



Non-Compete

Defense

“You can stop my client from using what’s in my client’s head?”



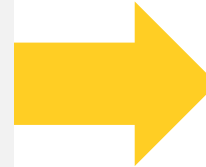
Plaintiff

“We can stop them from hurting us with what we **gave them** that’s in their head. We trusted them. We trained them in X, introduced them to Y, provided them with Z.”

Trade Secret

Defense

“Look at all this internal criticism of the technology. How is this valuable?”



Plaintiff

“Healthy debate is good. We debated the technology to make sure it is safe. This process improved it. That’s why you stole it.”

Plaintiff's Opening: Co-opt the Defense Opening

Jury: “Why are we hearing this? This doesn't matter. We heard it already. It helps the plaintiff.”



Defense Opening: Punish

- Provide the “full story.”
- Plaintiff was not honest.
- **Jury:** “Well, we didn’t hear that part. That changes everything.”



DO



“What are our **ten best facts** that the jury will believe?”



“What are our **ten worst facts** that the jury will believe?”



“What are our **ten hardest questions** and how do we answer them?”

DO



“What is our **opponent’s story**?
Their **opening**? Their **theme**?”



“How are we making our bad facts
and their story **work for us** in ours?”

REPEAT.

DON'T



Try to drown out or overwhelm bad facts.



Think identifying bad facts is a sign of weakness.

**What if you can't
make it work for you?**

When you can't fight it, own it...



...and redirect the focus.



Make them defend their weakest point



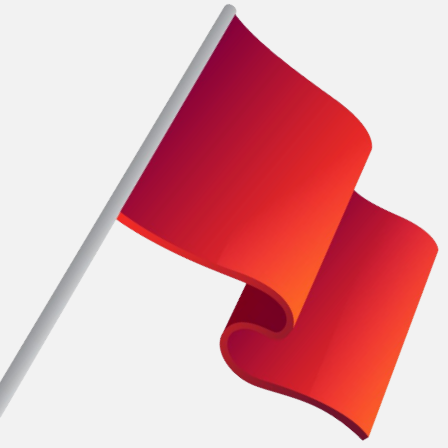
Make them defend their weakest point





How are we redirecting to our strengths, and their weaknesses?

**How do you build a story
that motivates a jury?**



Verdict for you stands for something bigger. It:

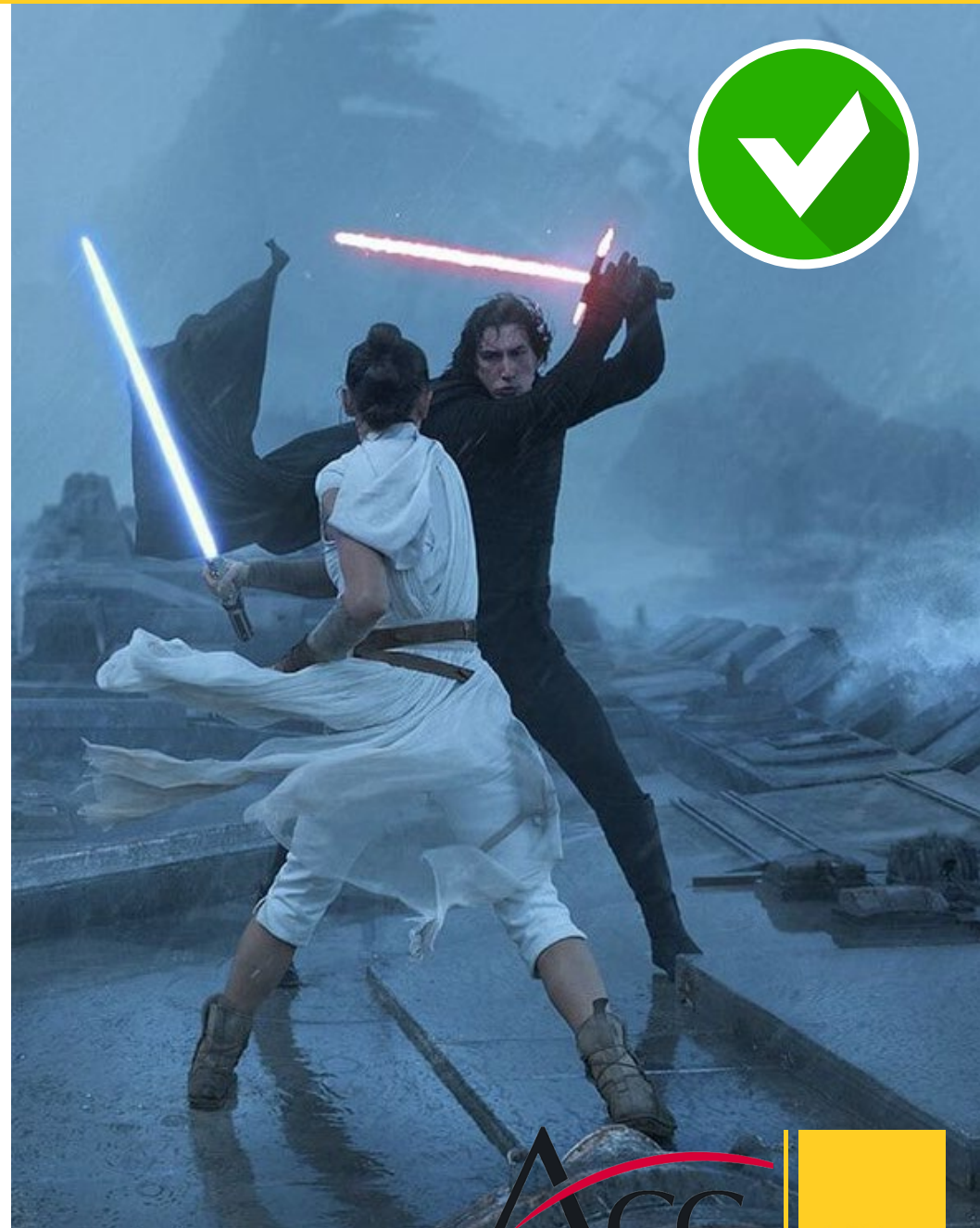


- Rights a wrong.
- Stops bad behavior.
- Preserves an important value.
- Protects the community.



Defeats something bad or supports something good.

- Personal responsibility
- Scapegoating
- Trust
- Betrayal
- Greed
- Abuse of power
- Keeping your promises



The defendant is on trial



- The story is about the defendant's ***choices***.
- It is the antagonist.
- And a *threat*.



Rules of the Road and Reptile Theory

- Simple
- Easy to understand
- Can't argue with it
- Other party violated it



“A corporation should do everything it can to protect the public’s safety.

The defendant violated this rule and is a threat.”



The plaintiff can be a threat too

- Wrongful accuser
- The “corporation” are real people the plaintiff is wrongfully accusing
- An opportunist exaggerating damages
- Not taking responsibility for own choices
- Scapegoating



Dealing with Reptile Theory

- Not an absolute
- Not black and white.
- Not that simple.
- It depends on the circumstances.
- Each situation is different.
- We were reasonable under these circumstances here.





**What values does a
verdict for us protect?**



**What values does a verdict
for the other side endanger?**

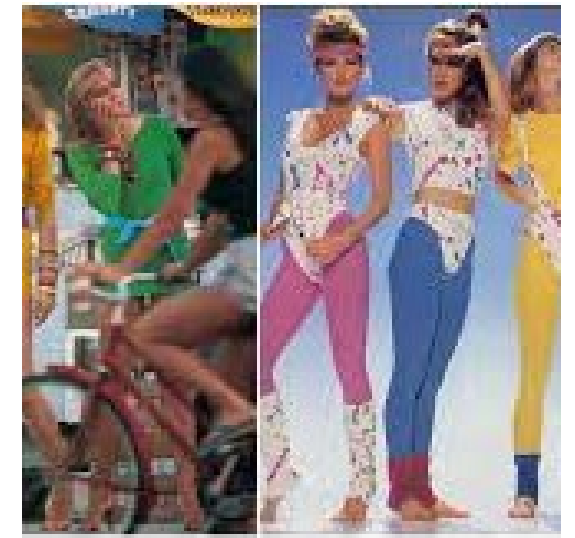


**How are we making the
other side a threat?**



**How does a verdict for us protect
against that threat?**

**How do you use visuals
to tell your story?**



It's not 1985



Signs of trouble

- No graphics
- No animations
- No powerful imagery
- No timelines
- Wordy PowerPoints
- Making it hard and boring



Today's juries think **visually** and **through analogies**





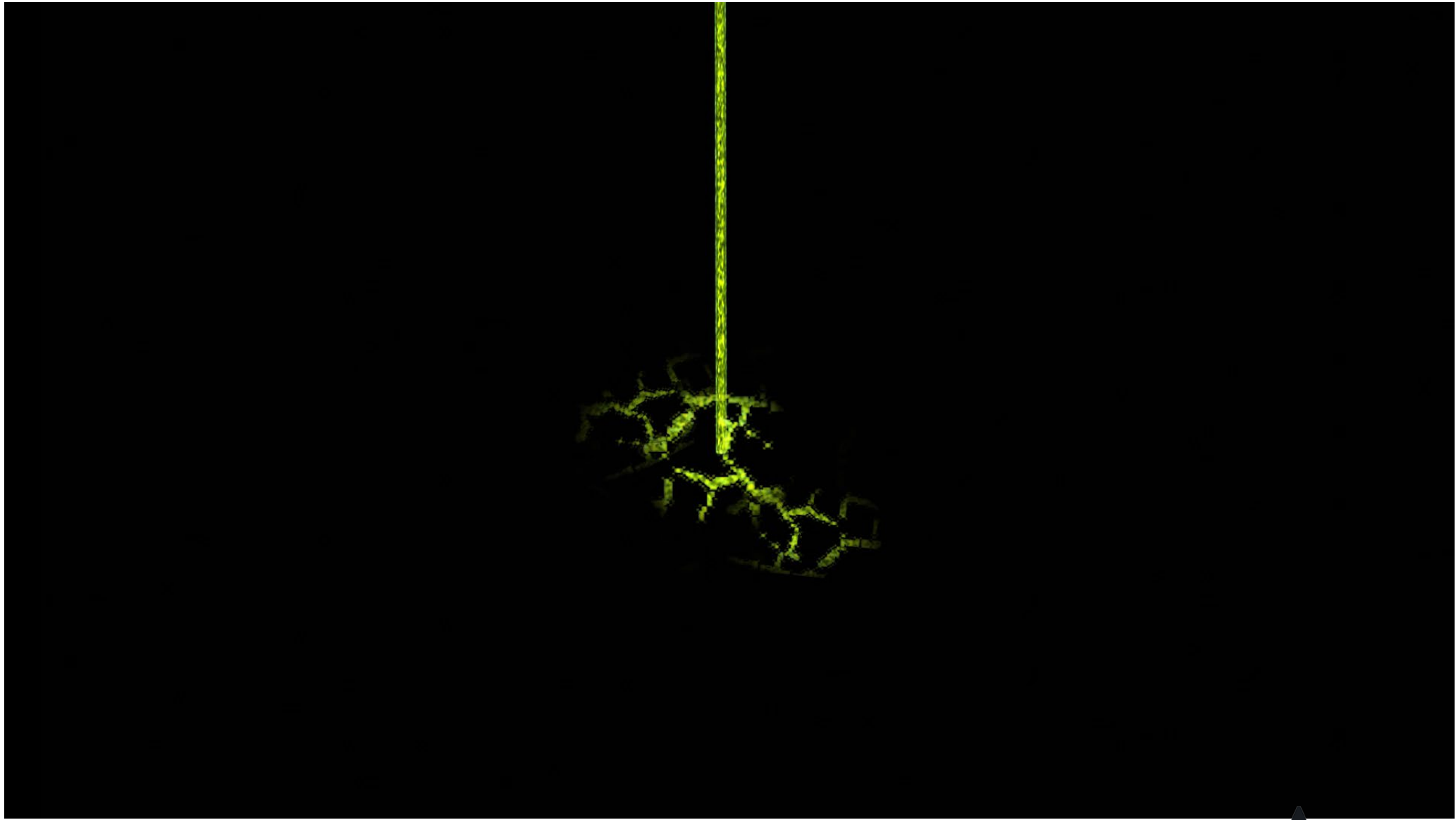
Anchor Ideas and Unlock Feelings

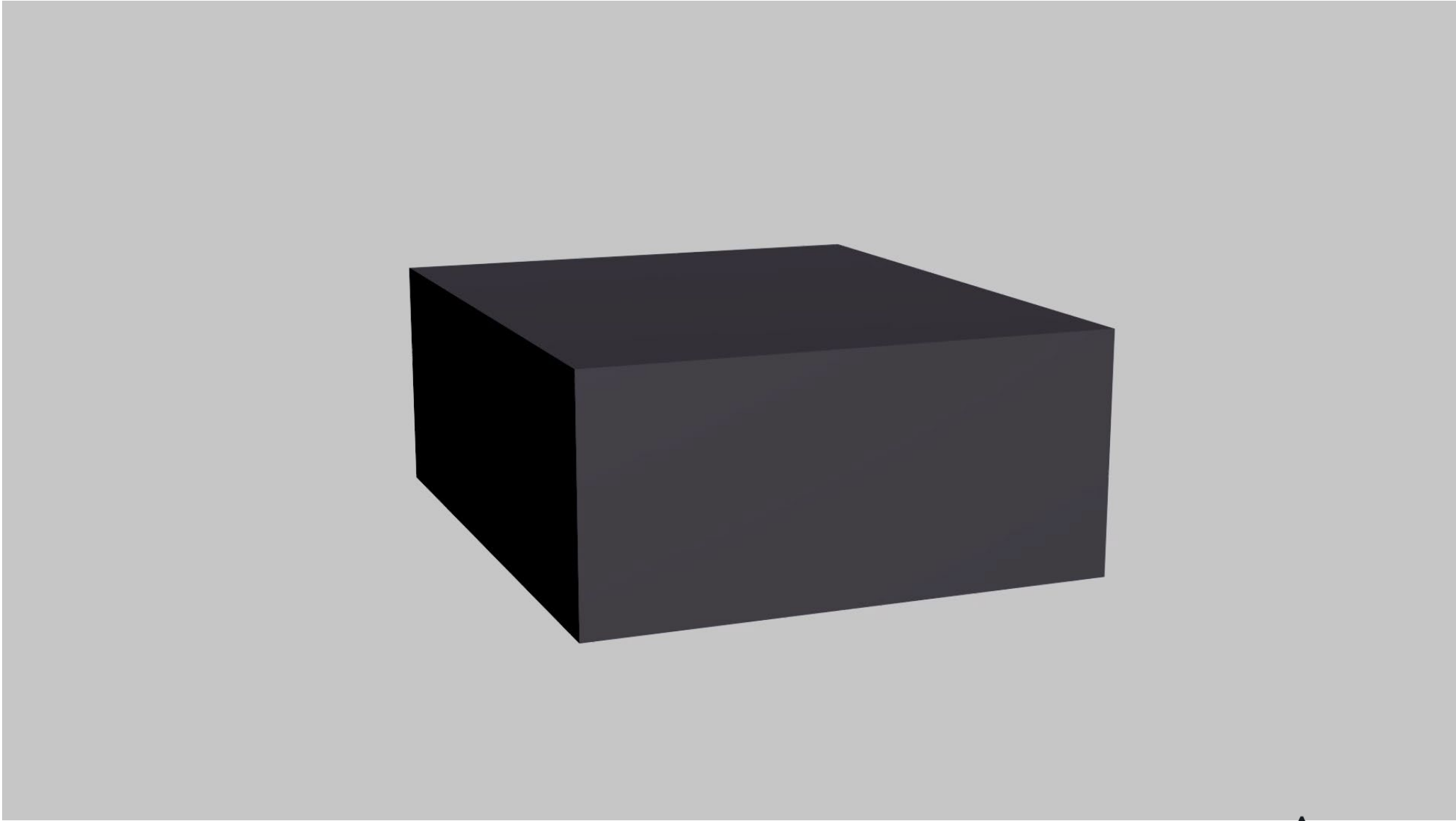




Anchor Ideas and Unlock Feelings









The Enemy: PowerPoint

Exactly What Not To Do...

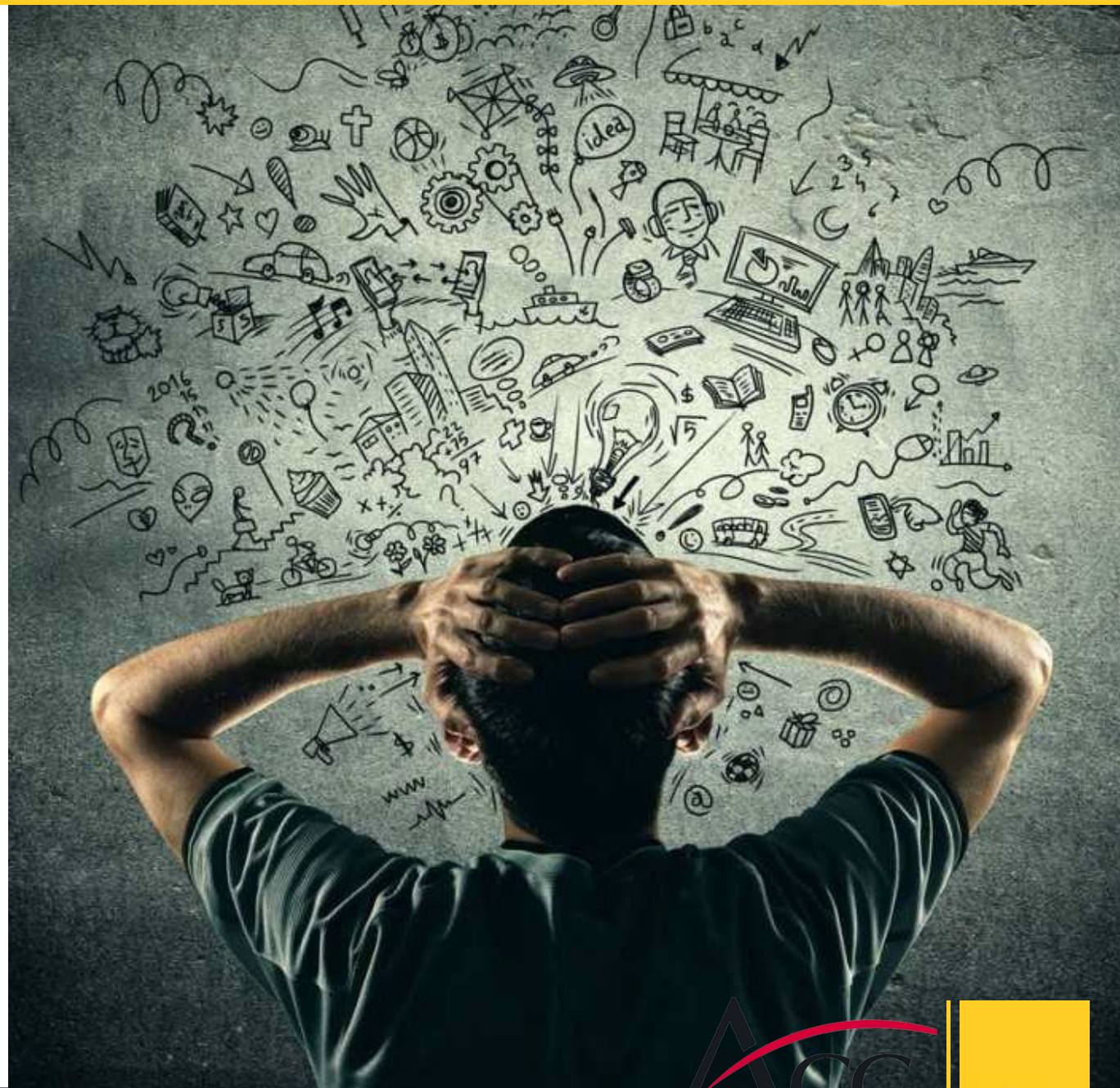
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Section 1.10.32 of "de Finibus Bonorum et Malorum", written by Cicero in 45 BC

"Sed ut perspiciatis unde omnis iste natus error sit voluptatem accusantium doloremque laudantium, totam rem aperiam, eaque ipsa quae ab illo inventore veritatis et quasi architecto beatae vitae dicta sunt explicabo. Nemo enim ipsam voluptatem quia voluptas sit aspernatur aut odit aut fugit, sed quia consequuntur magni dolores eos qui ratione voluptatem sequi nesciunt. Neque porro quisquam est, qui dolorem ipsum quia dolor sit amet, consectetur, adipisci velit, sed quia non numquam eius modi tempora incidunt ut labore et dolore magnam aliquam quaerat voluptatem. Ut enim ad minima veniam, quis nostrum exercitationem ullam corporis suscipit laboriosam, nisi ut aliquid ex ea commodi consequatur? Quis autem vel eum iure reprehenderit qui in ea voluptate velit esse quam nihil molestiae consequatur, vel illum qui dolorem eum fugiat quo voluptas nulla pariatur?"

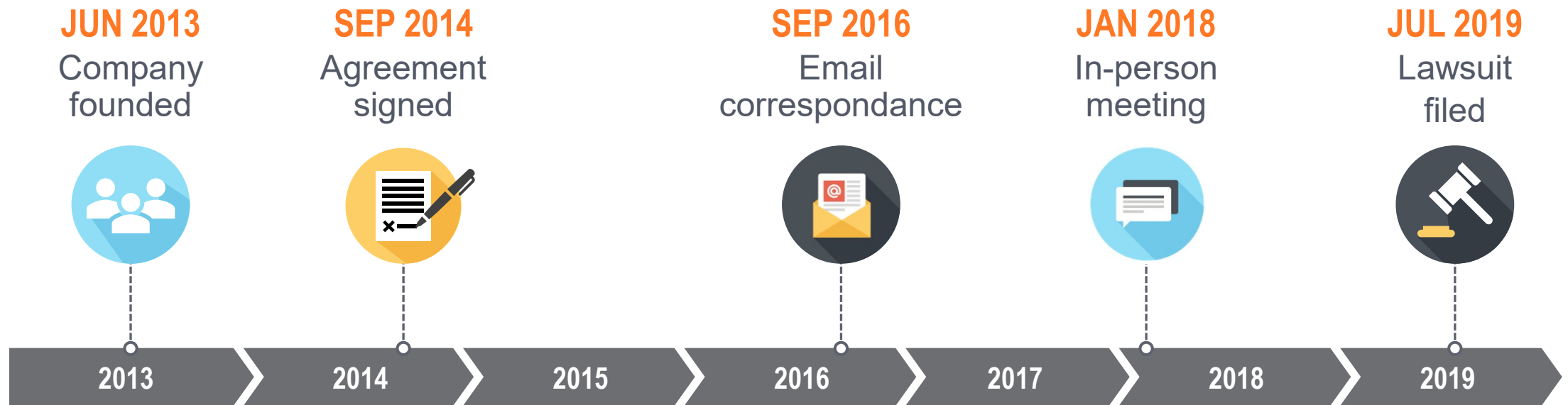
Avoid Visual Noise

- Six words per line
- Three lines maximum
- Large font
- One font
- One idea per image



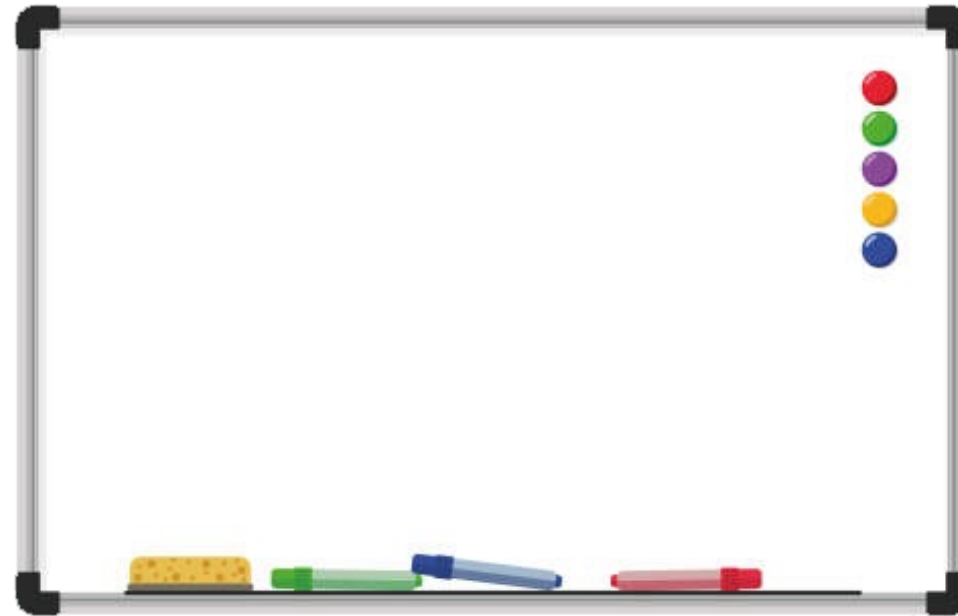
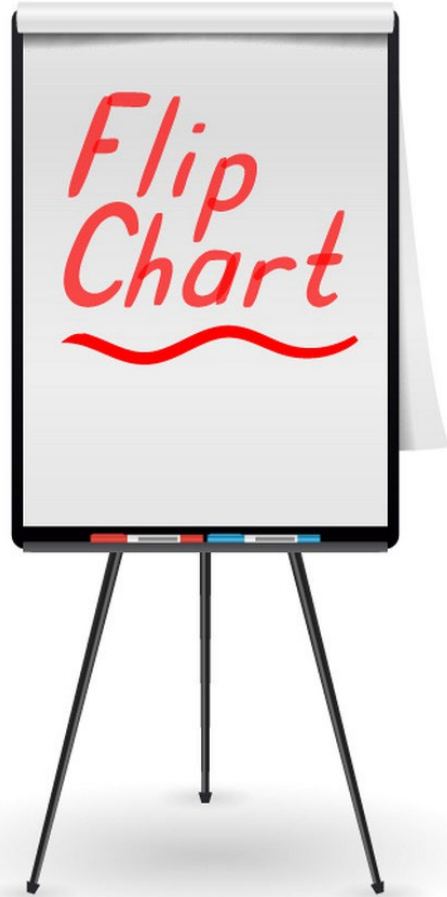


Simple Timelines





Go Live



Recap



Recap

- Your story must win.
- It must co-opt theirs.
It cannot ignore theirs.





Recap

- Incorporate all the facts the jury will believe.
- Ring true.





Recap

- Have the moral high ground.
- And make the other side a threat.





Recap

- Anchor themes with powerful imagery and analogies.





Recap

- Avoid noise and clutter.
- Make it easy for the jury.



Questions?