

Demonstrative Evidence to Visual Persuasion



8th Annual Advanced Trial Strategies

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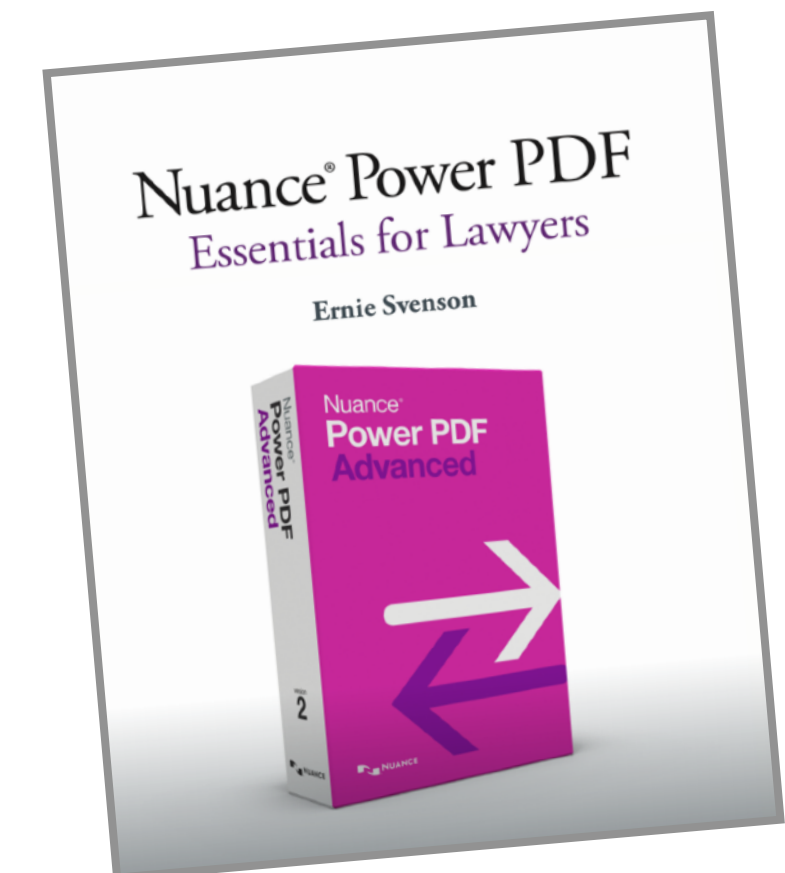
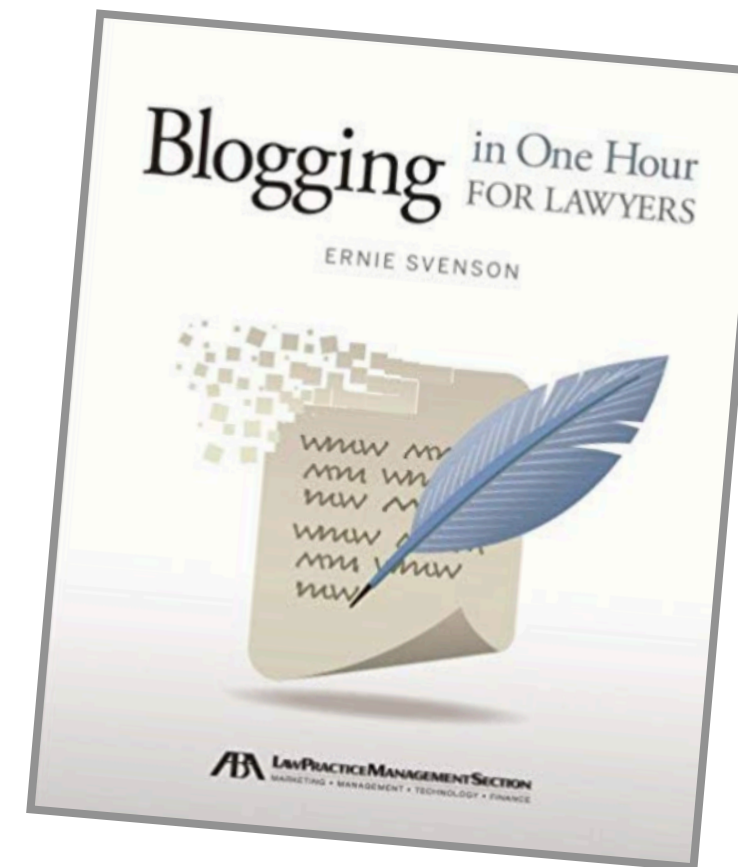
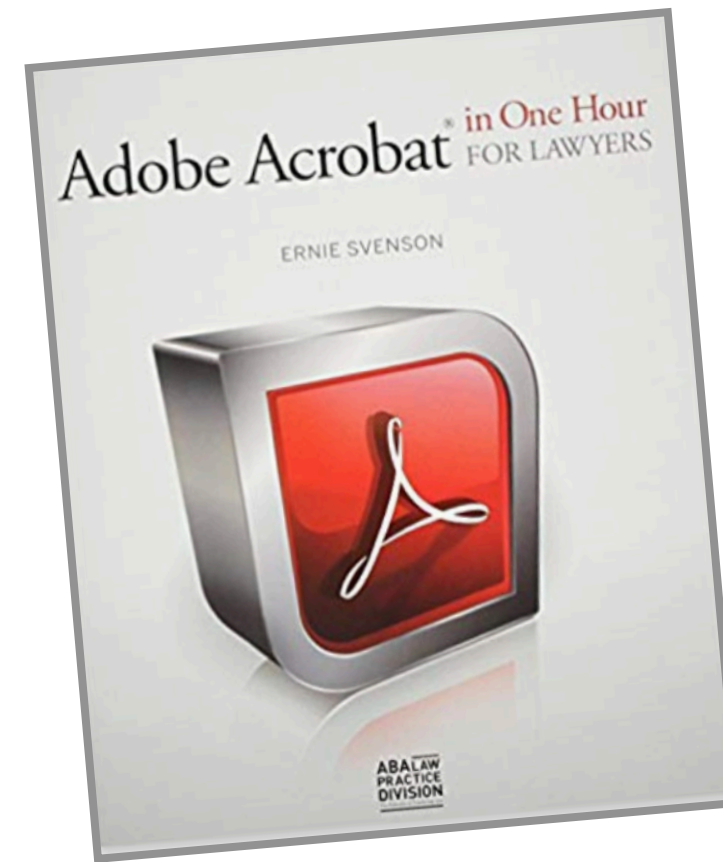
Speaker

ABA TechShow - Chicago
Florida Solo & Small Conf
Missouri Bar Solo & Small Conf
Indiana Solo & Small Conf
Clio, MyCase, ARMA, LSBA



Author

Blogging for Lawyers (ABA)
Acrobat in One Hour (ABA)
PDF Essentials for Lawyers
Nuance PowerPDF Essentials



Awards

ABA GPSOLO
Solo & Small Firm
Trainer of the Year 2018
FastCase 50 2011





You will forget
90% of
what I cover
today

But you will
remember

10%



Only if...

Focus





Attention



What I want you to remember...

You should use visuals
as much as possible
in trials, arbitration,
and in mediation.

Why?



Visuals are more persuasive

Persuasion

point of view.

Definition [, d
signification of
essential to the

Persuasion

Effective communication
that moves people to the
decisions that you want
them to make

That's why...

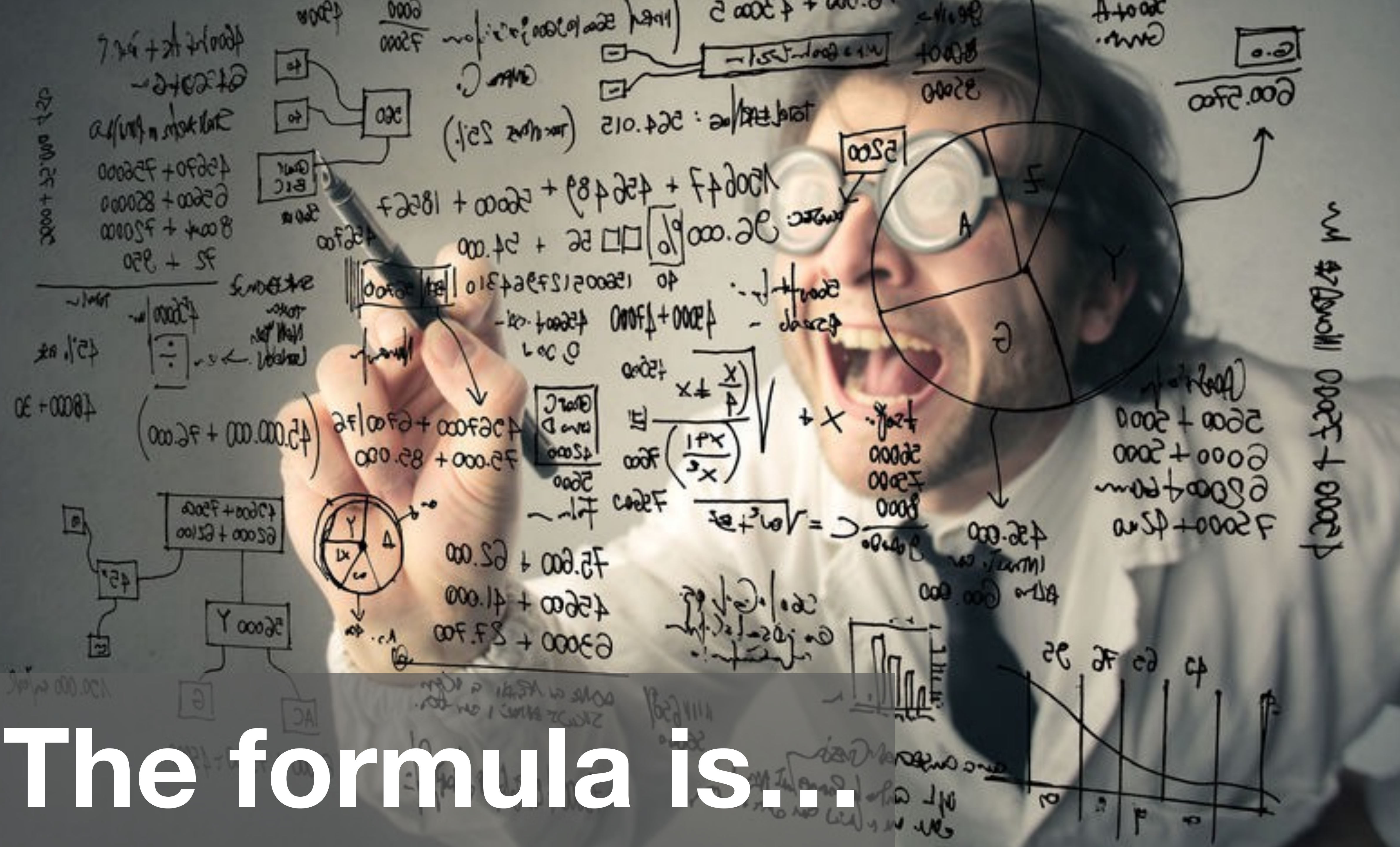
You should use visuals
as much as possible
in trials, arbitration,
and in mediation.



But the
key to
this is...

An effective presentation

The formula is...

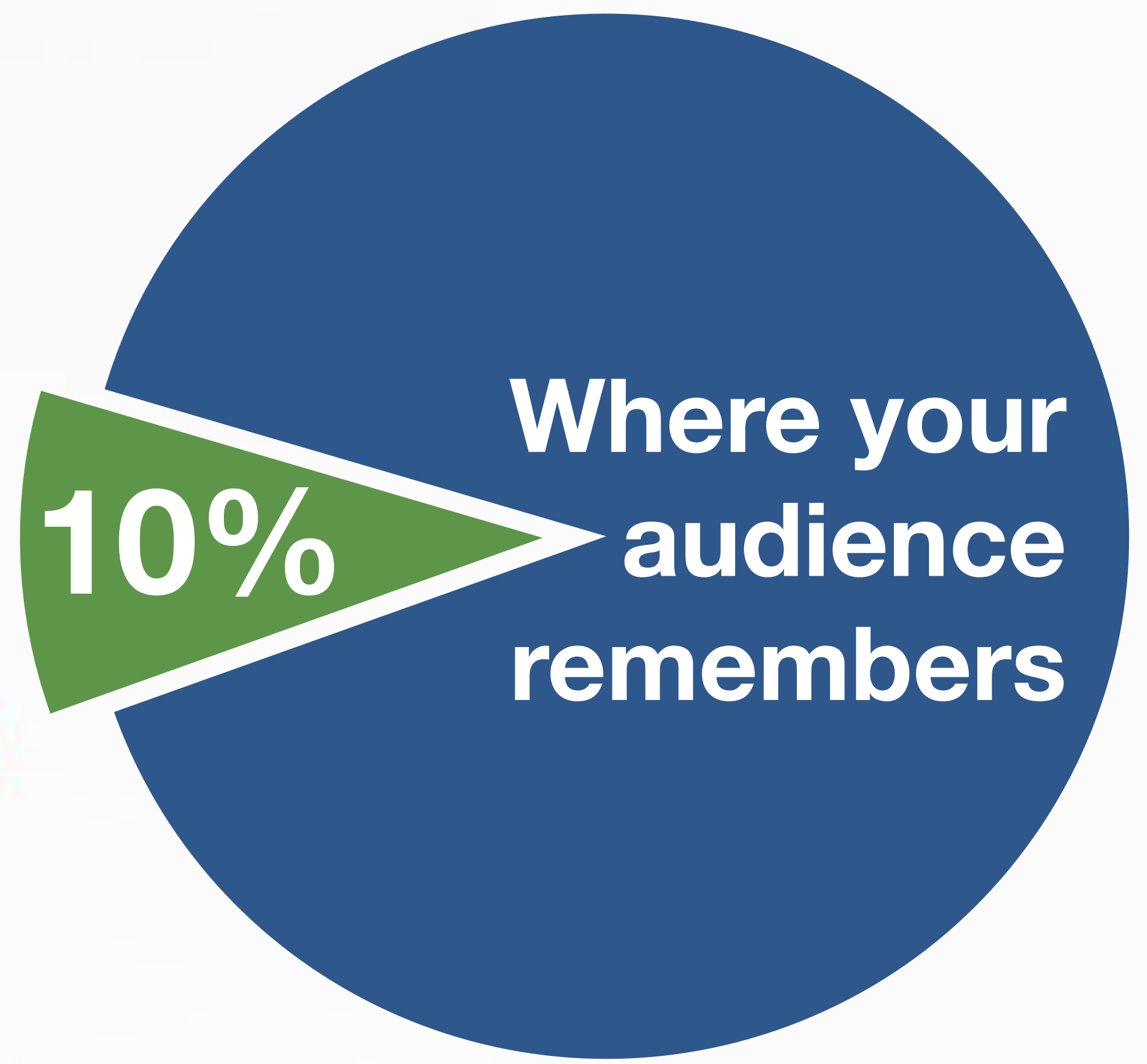


Effective Presentation

+

Strong Visuals

= PERSUASION



Effective presentation requires

1. A clear, easily understandable message
2. A focused “brain friendly” message
3. Captures & holds attention (*i.e. not boring*)
4. Quick explanation (*i.e. not tedious*)
5. Exceptionally memorable (*content and/or presentation*)



Visuals help tremendously

HOW
DOES IT
WORK



Science



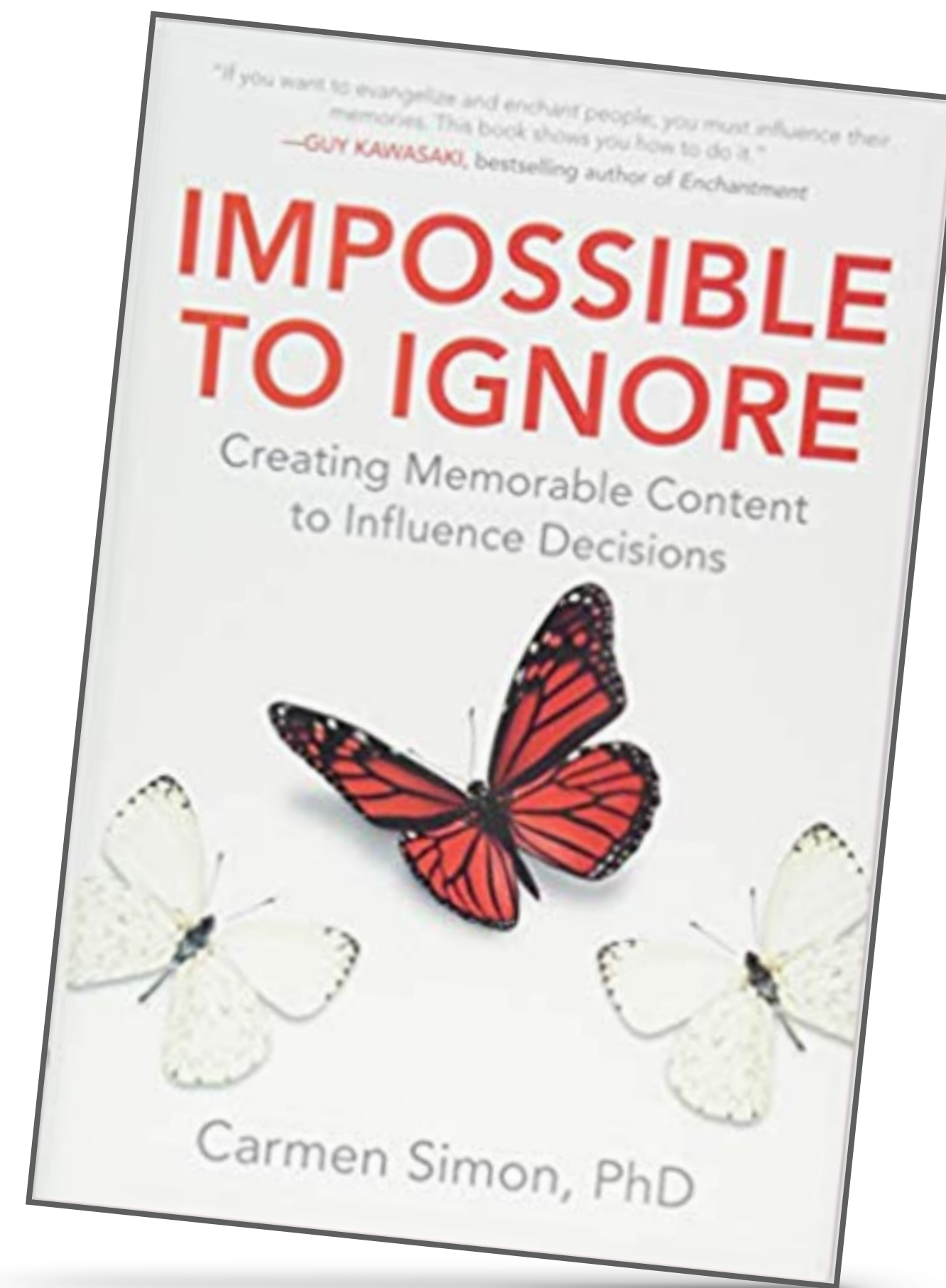
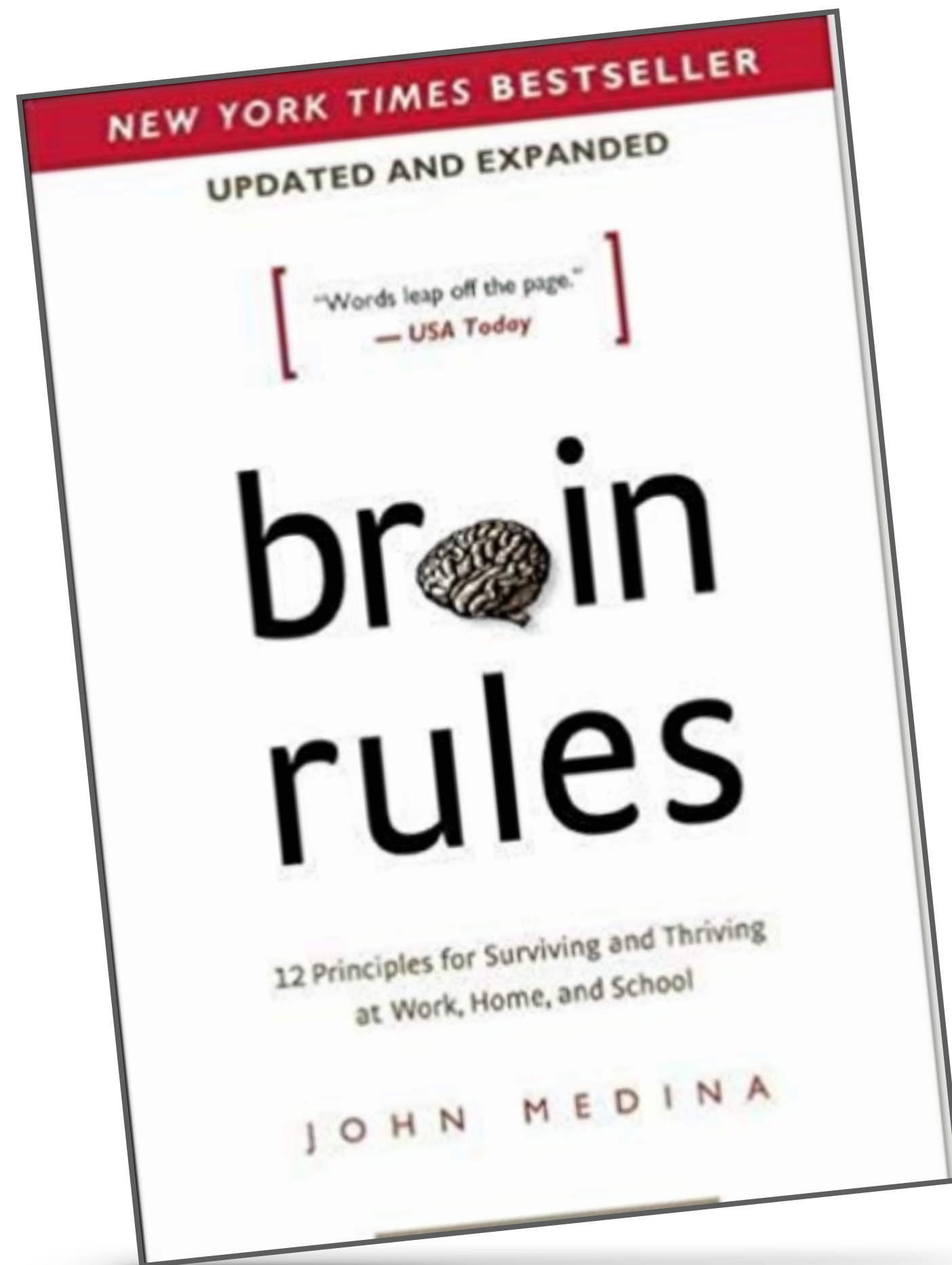


Brain Science

What we'll cover

1. Why visuals are more memorable
2. Why visuals help explain more quickly
3. How visuals can be used effectively

Scientific Study

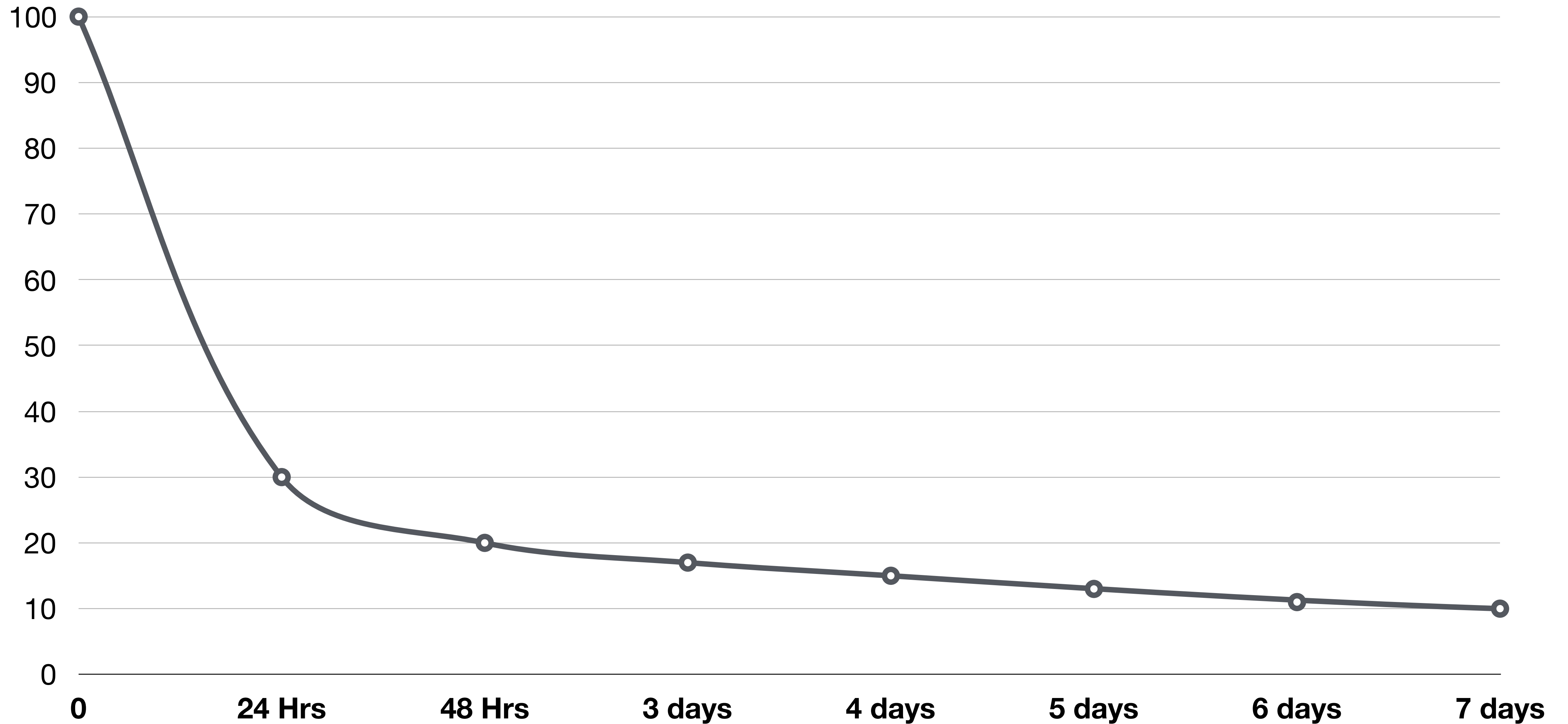


1. Sweet Memory



**How quickly does
our memory fade?**

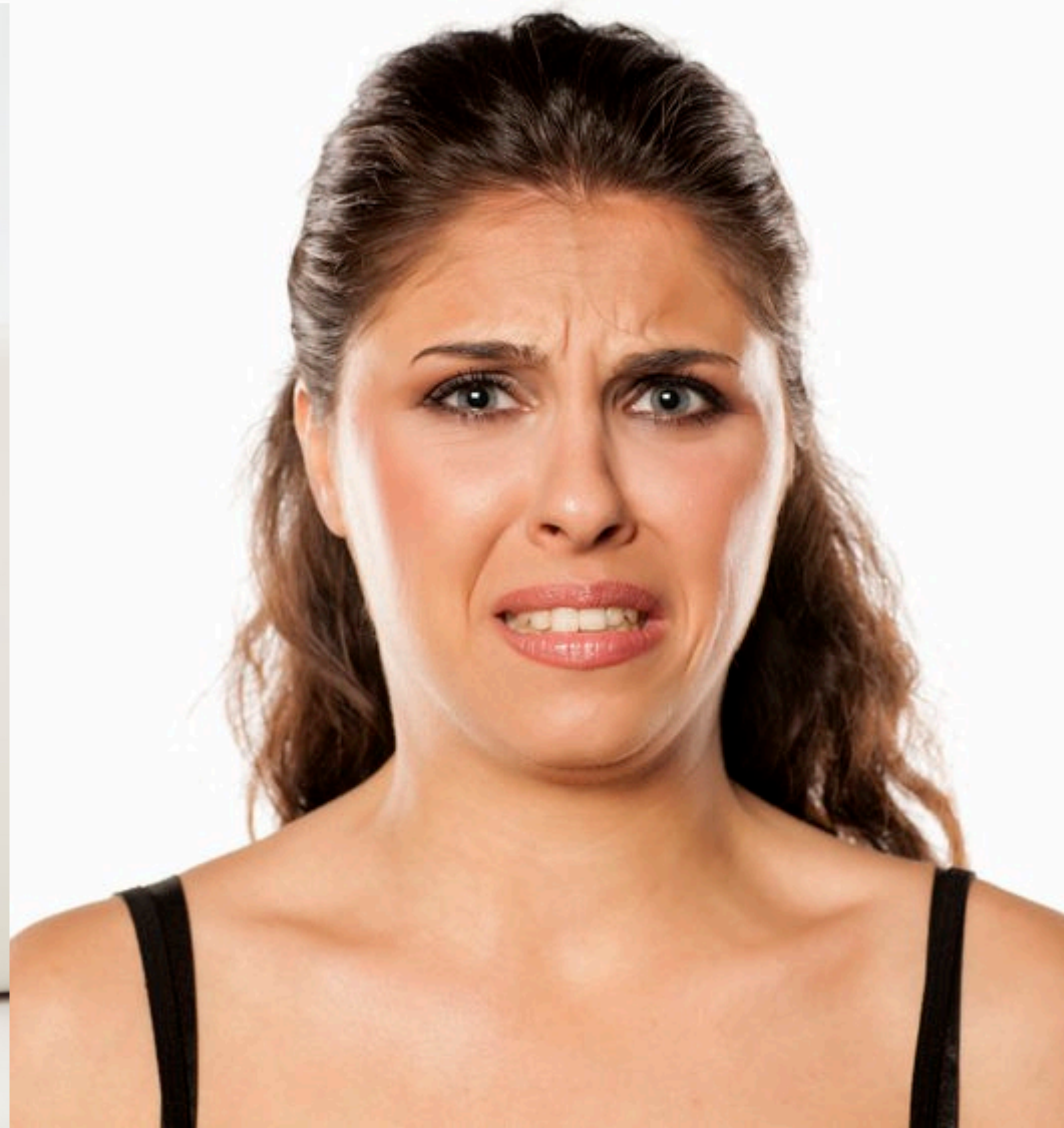
The Forgetting Curve



Why People Forget

- 1. Don't pay attention in the first place**
- 2. Memory isn't "locked in"**
- 3. Memory can't be retrieved**

Boring = Not Paying Attention



Random Lists of Words

1. Gallows

2. Beach Ball

3. Scooter

4. Microscope

5. Gorilla

6. Coffee cup

7. Sword

8. Luggage

9. Candle

10. Popcorn

What Makes It More Memorable?

- ▶ **Interesting, unusual, surprising**
- ▶ **Repeated exposure**
- ▶ **Rhymes, or cliché patterns**
- ▶ **Visuals** (*if congruent to the message*)

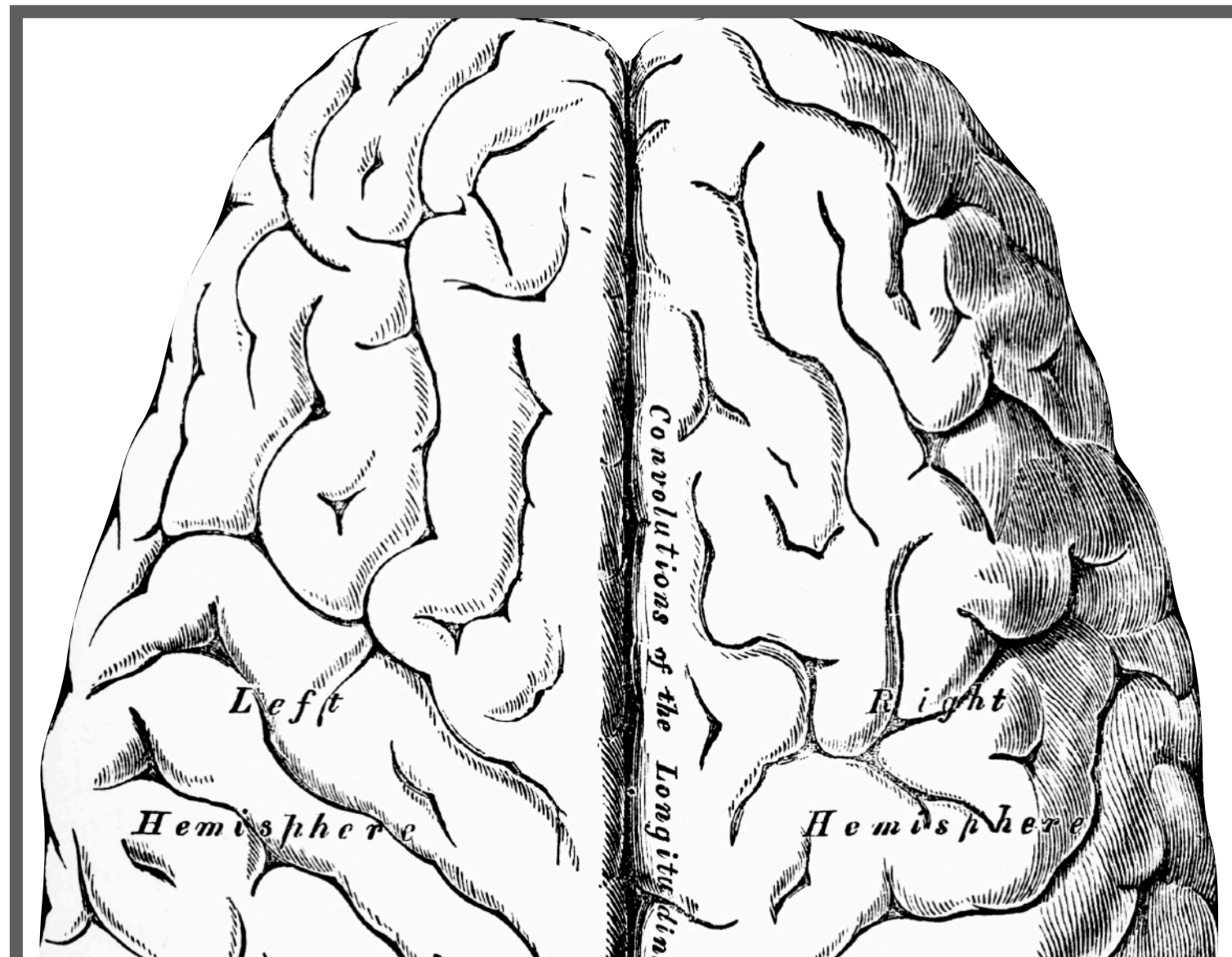
The practical effect is clear...

A study of juror memory found there was a 100% increase in retention of visual presentations over oral presentations, and a 650% increase in retention when jurors were exposed to BOTH visual and oral presentations.

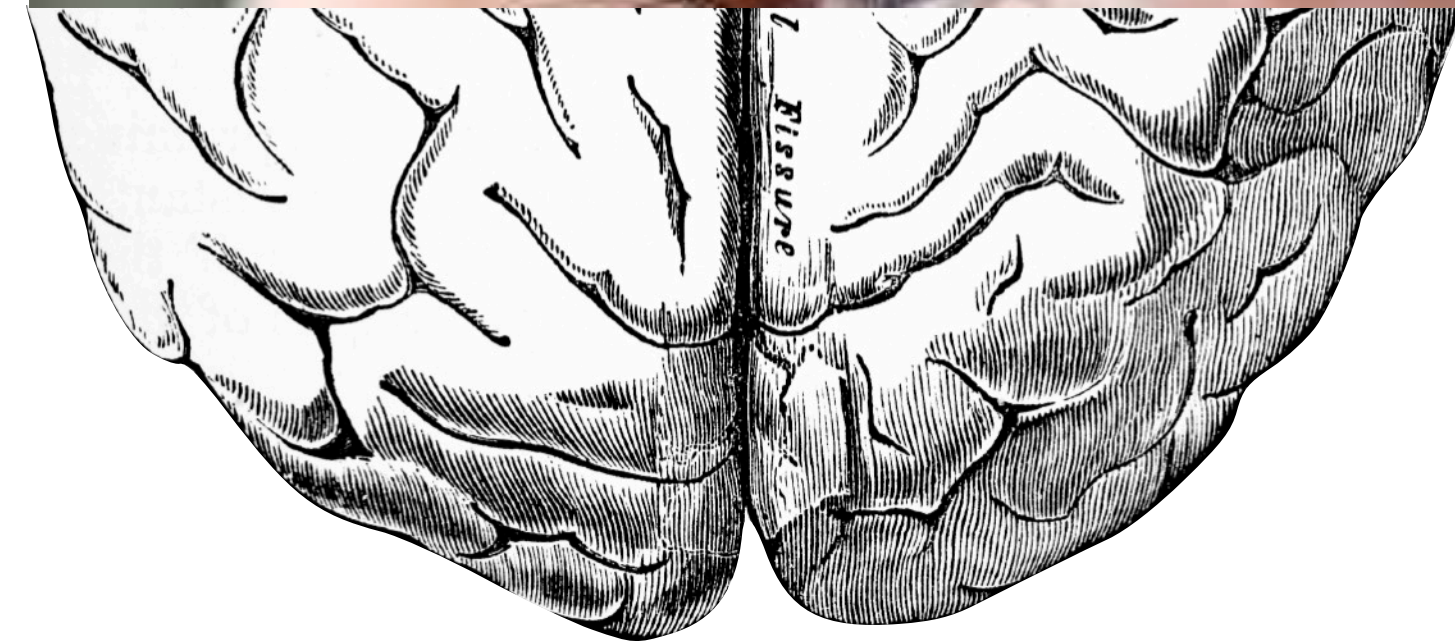
—Lynch & Eytan (2016)

Why?

33% dedicated to visuals



**Everything
Else**



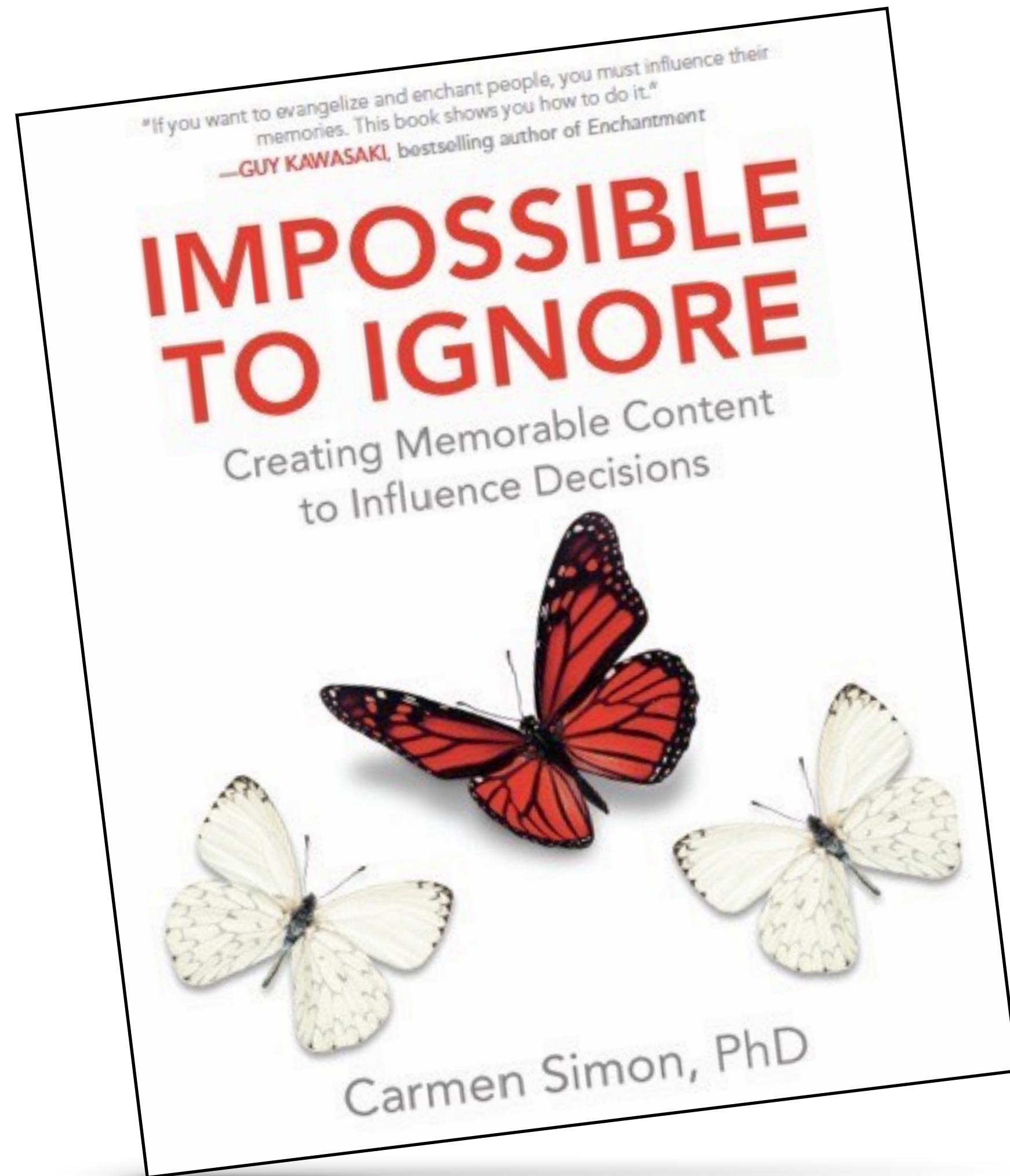
Visuals

Persuasion Tip #1

**“People act on what they remember,
not what they forget.”**

—Carmen Simon, Ph.D

Remember this book!



Carmen Simon, Ph.D

Persuasion Tip #2

You must be ruthless about selection of information you will present to fact-finder.

Hollywood Oscar Awards



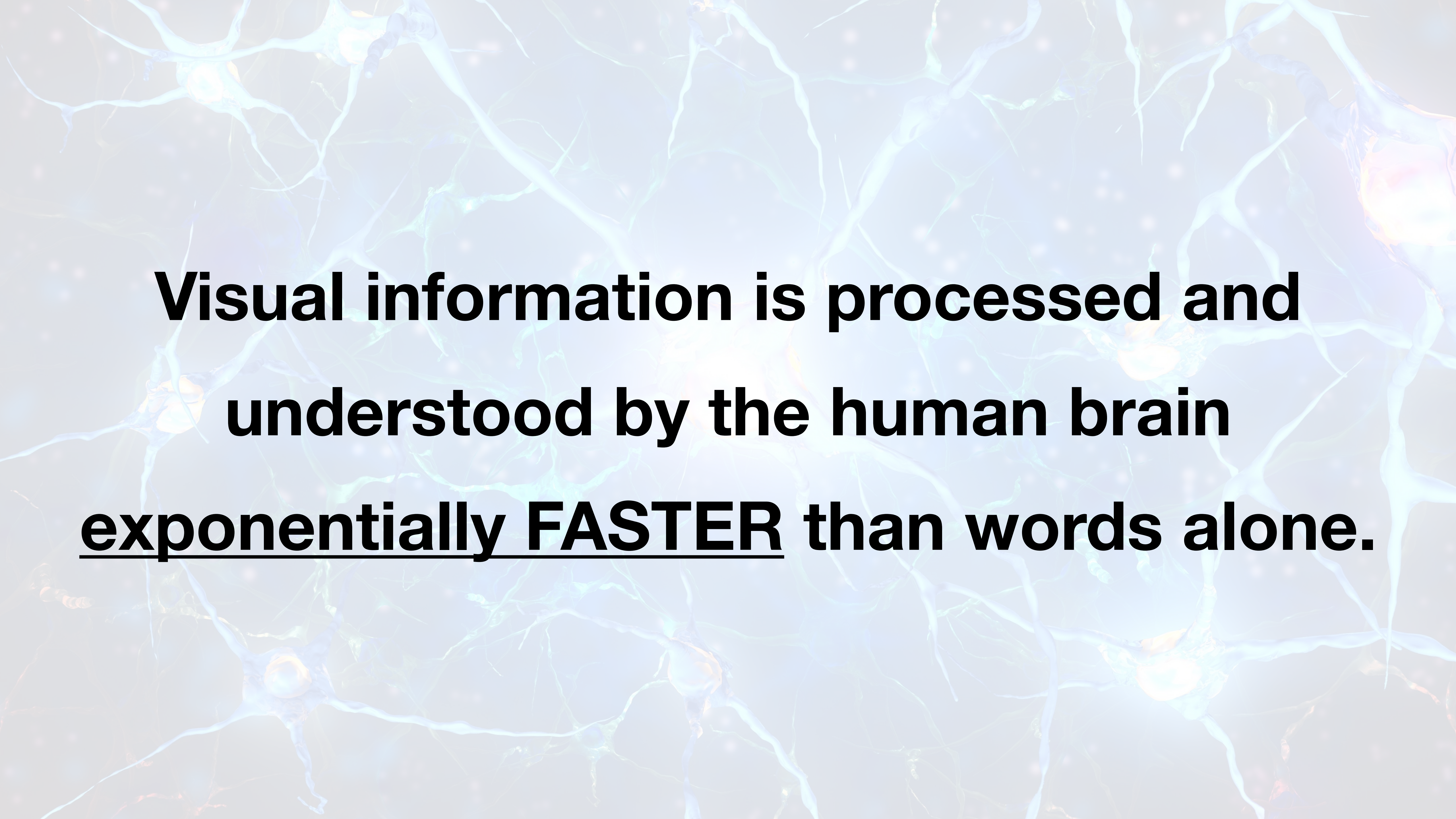
Editing Improves Message



Since 1981 all movies nominated for Best Picture were also nominated for Best Editing. And two-thirds of those that won the award for Best Editing went on to win for Best Picture

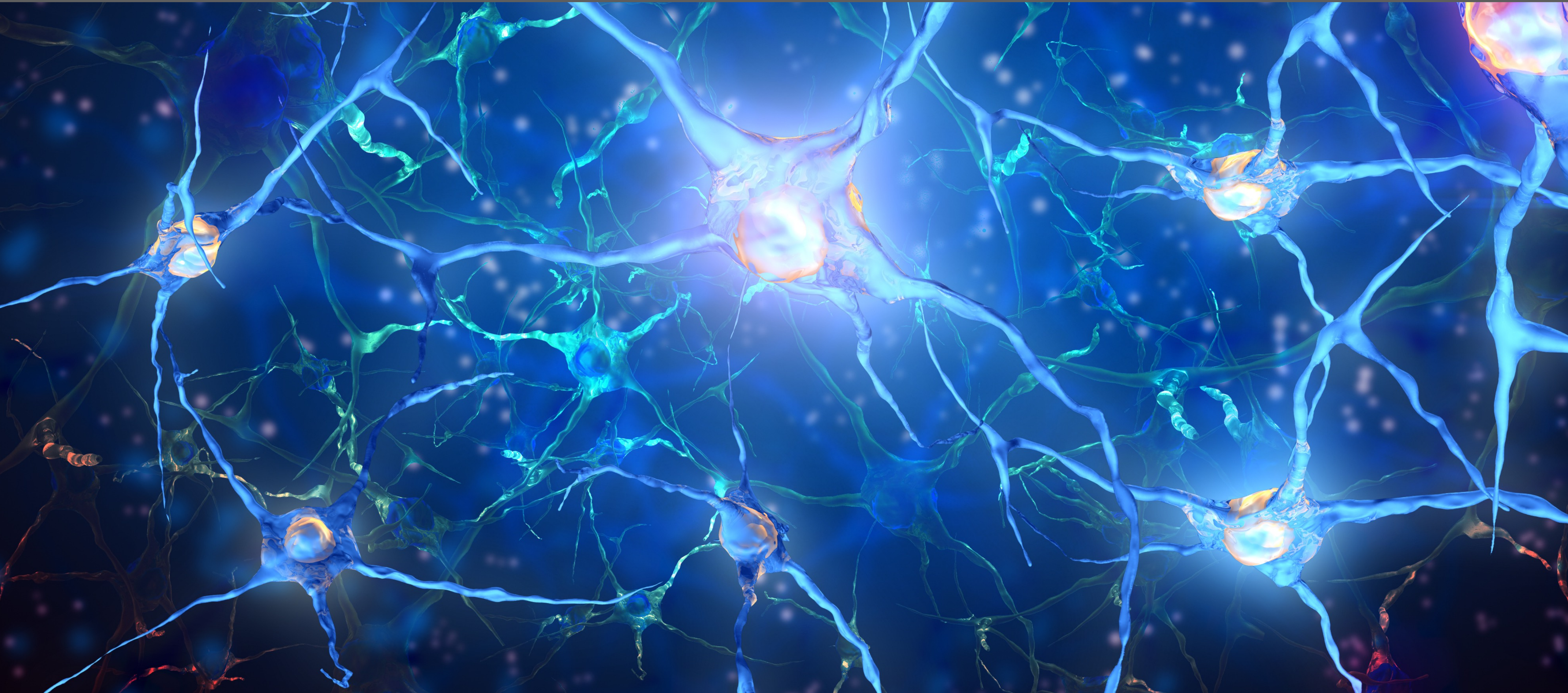
2. Rapid Cognition



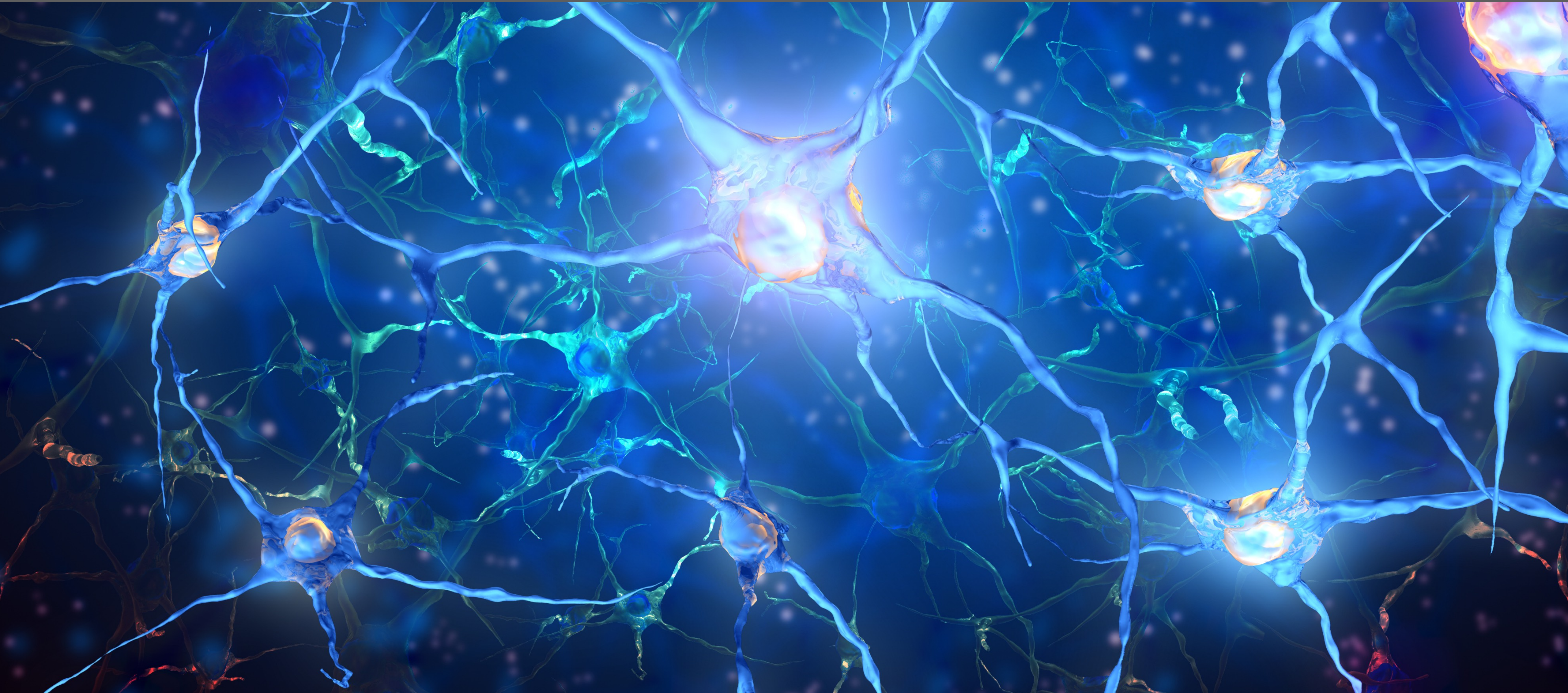


**Visual information is processed and
understood by the human brain
exponentially FASTER than words alone.**

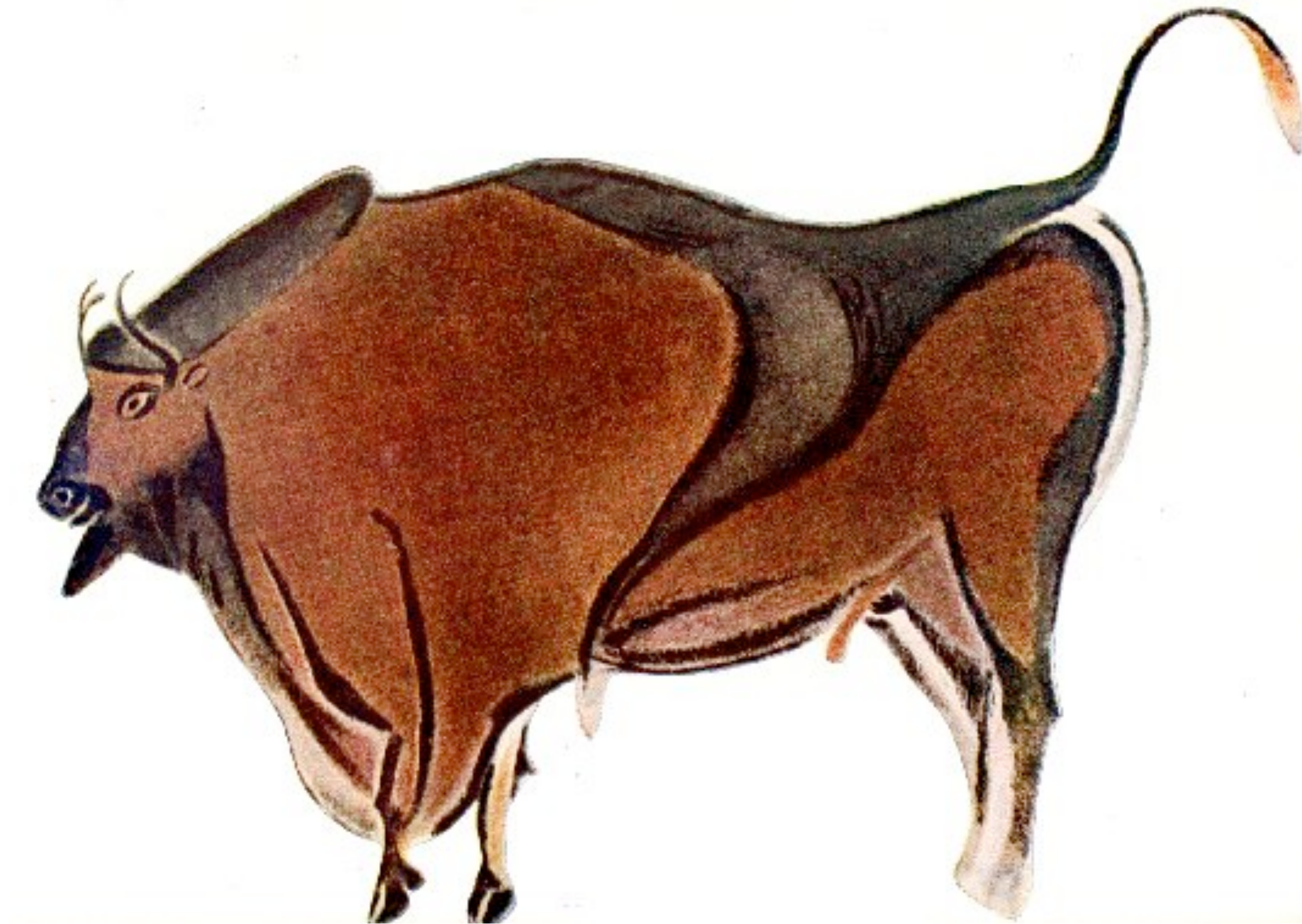
60,000 times faster than text



13 milliseconds on average



Visuals are primary



Altamira Cave (cir. 25,000 B.C.)

A person with short brown hair, wearing a blue denim shirt and glasses, is shown in profile from the back, looking towards a chalkboard. The chalkboard is filled with faint, handwritten mathematical formulas and equations in white chalk. The text is overlaid in large, bold, white font.

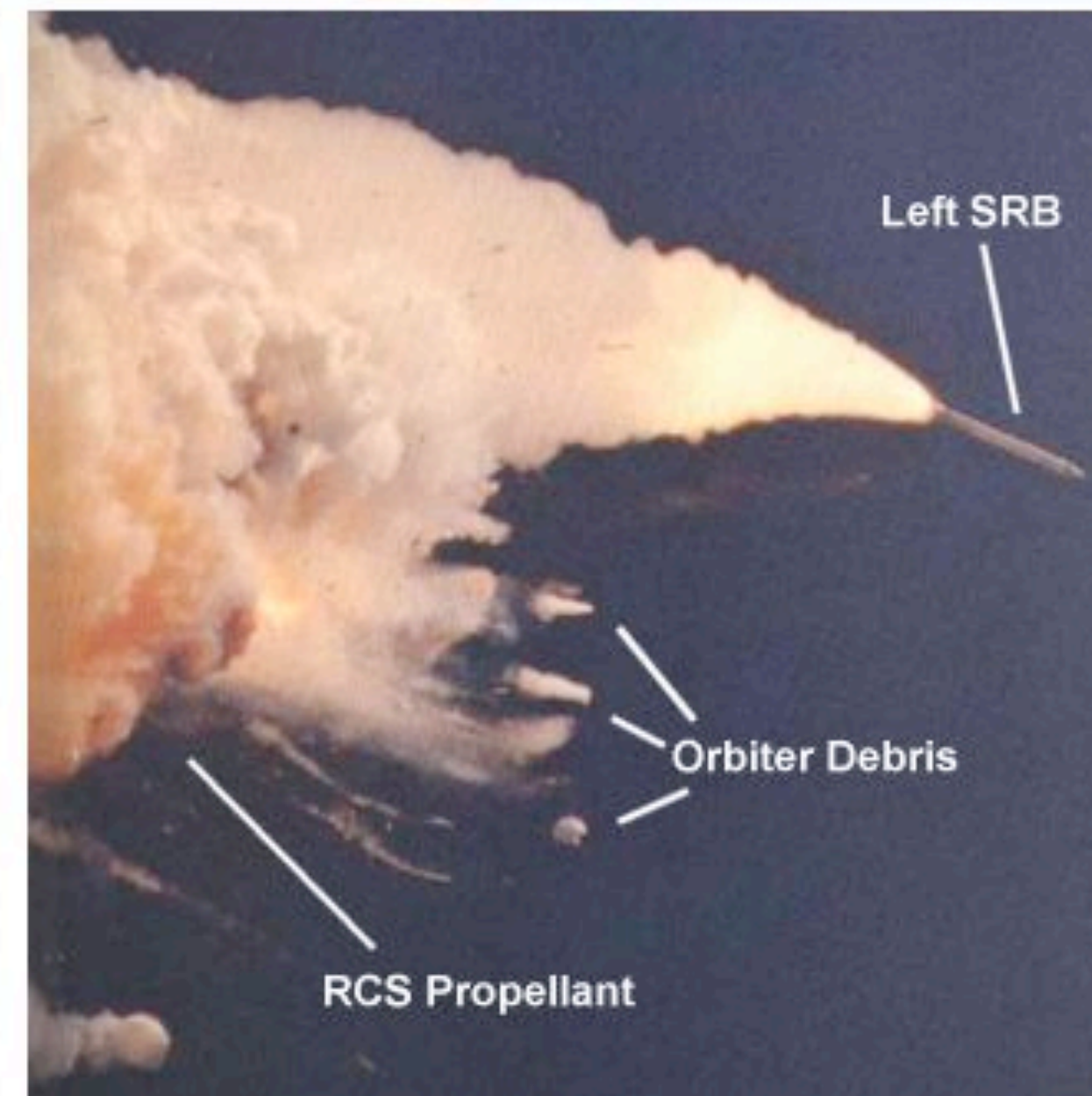
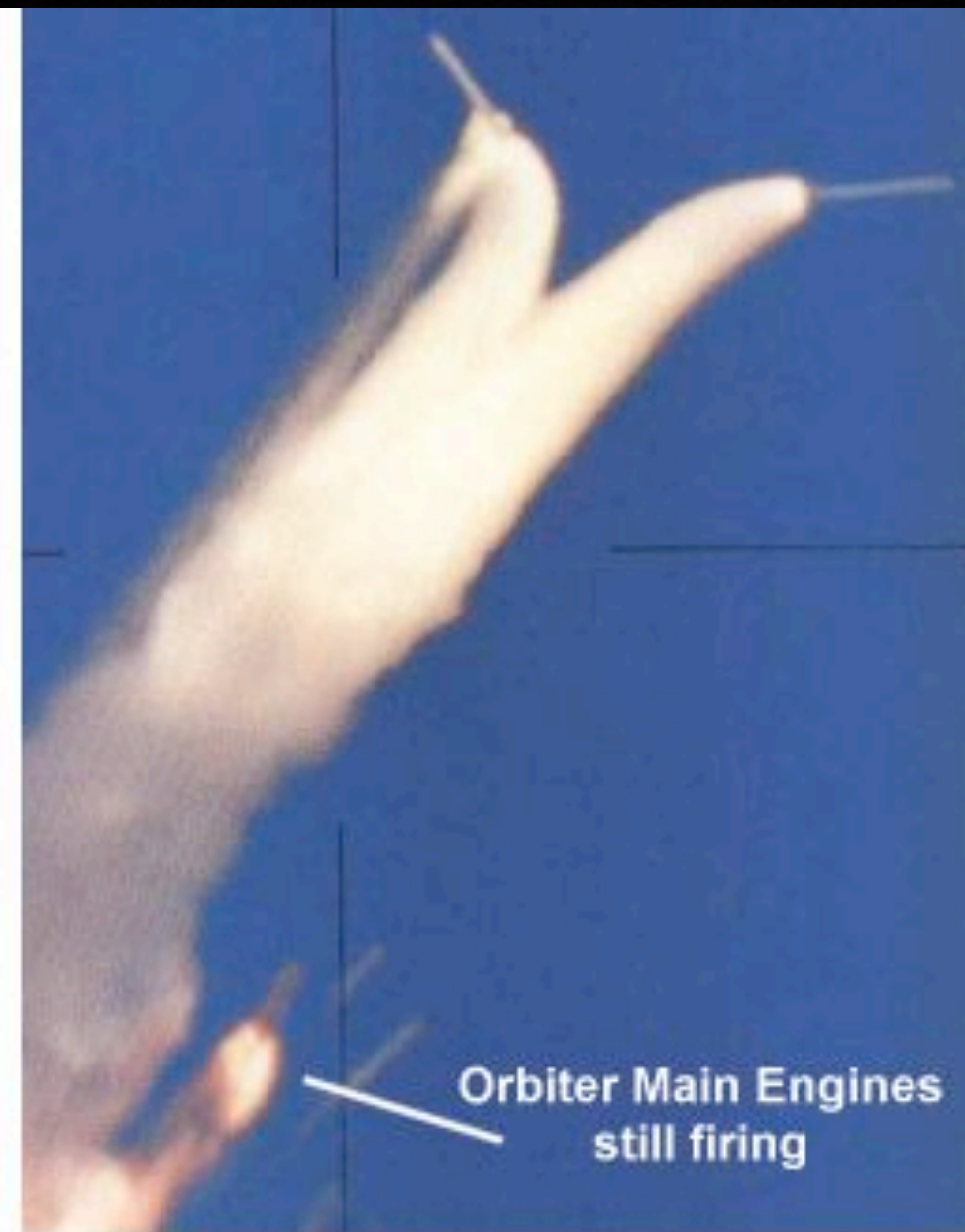
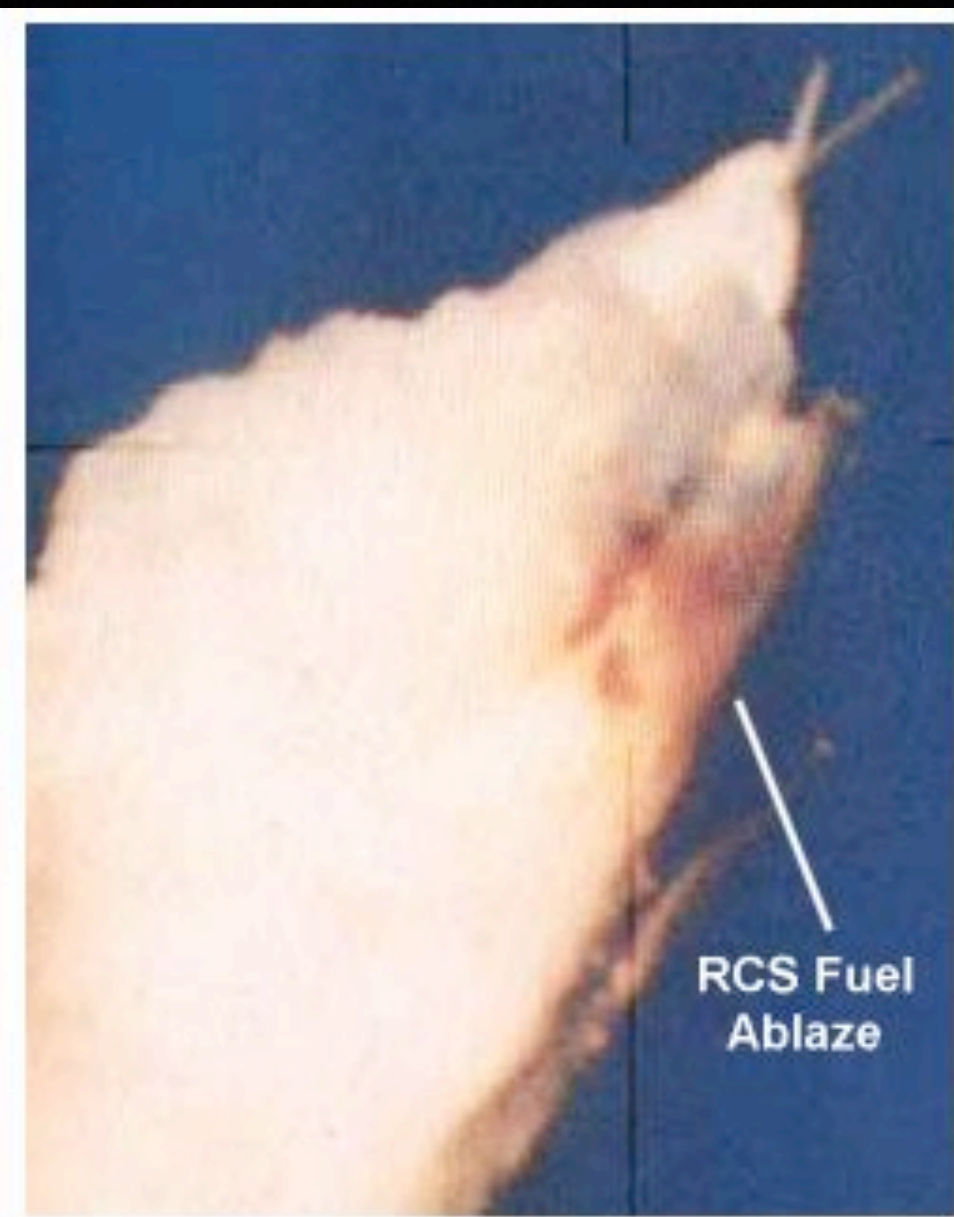
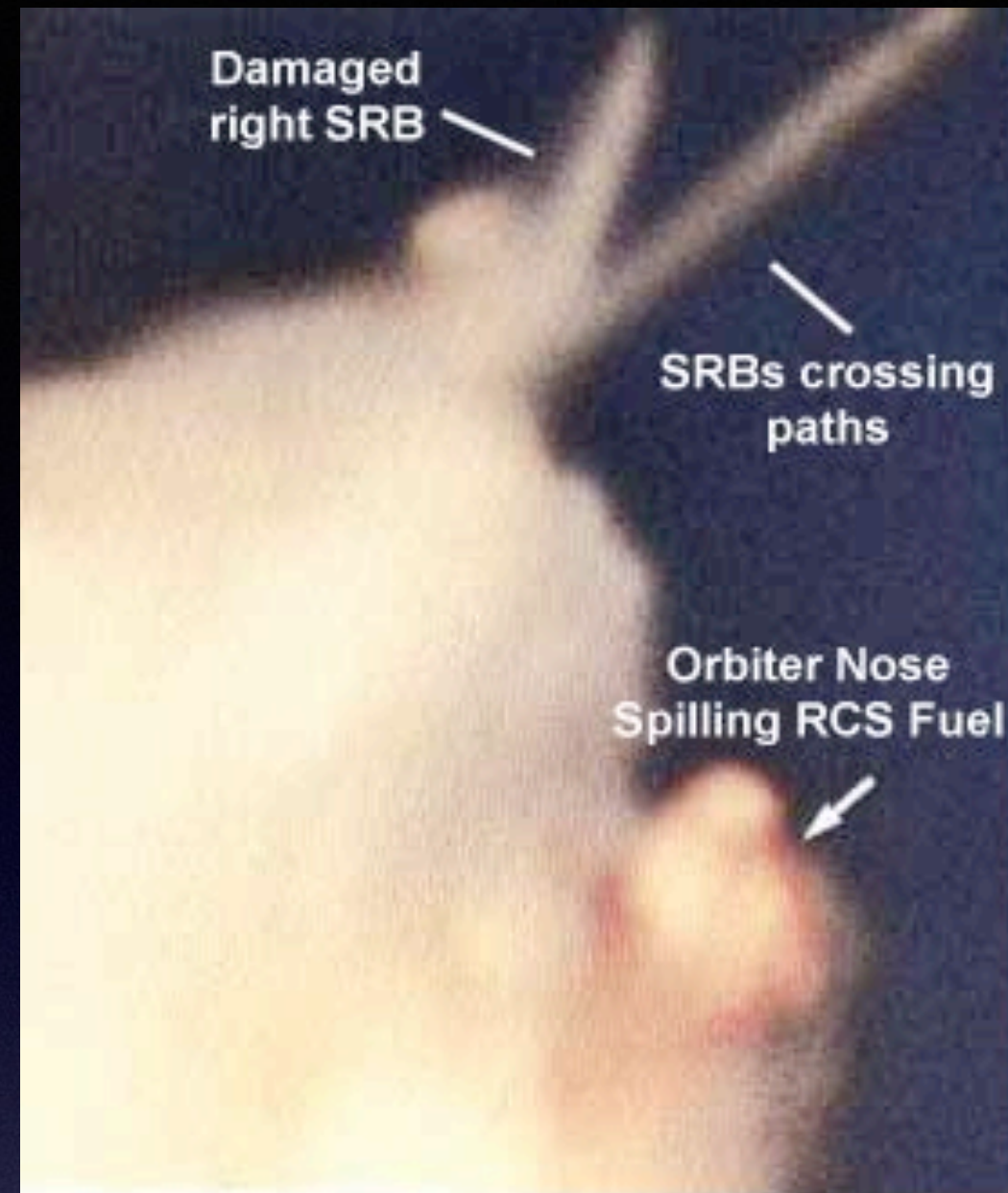
Real World Example of the need for Rapid Cognition

**Well-educated people also need help
to quickly understand information**





Challenger



HISTORY OF O-RING DAMAGE ON SRM FIELD JOINTS

1161
 OCT 30, 1985
 85
 85

SRM No.	Cross Sectional View			Top View		Clocking Location (deg)	
	Erosion Depth (in.)	Perimeter Affected (deg)	Nominal Dia. (in.)	Length Of Max Erosion (in.)	Total Heat Affected Length (in.)		
61A LH Center Field**	22A	None	None	0.280	None	None	36° -- 66°
61A LH CENTER FIELD**	22A	NONE	NONE	0.280	NONE	NONE	338° - 18°
51C LH Forward Field**	15A	0.010	154.0	0.280	4.25	5.25	163
51C RH Center Field (prim)***	15B	0.038	130.0	0.280	12.50	58.75	354
51C RH Center Field (sec)***	15B	None	45.0	0.280	None	29.50	354
41D RH Forward Field	13B	0.028	110.0	0.280	3.00	None	275
41C LH Aft Field*	11A	None	None	0.280	None	None	--
41B LH Forward Field	10A	0.040	217.0	0.280	3.00	14.50	351
STS-2 RH Aft Field	2B	0.053	116.0	0.280	--	--	90

*Hot gas path detected in putty. Indication of heat on O-ring, but no damage.
 **Soot behind primary O-ring.
 ***Soot behind primary O-ring, heat affected secondary O-ring.

Clocking location of leak check port - 0 deg.


OTHER SRM-15 FIELD JOINTS HAD NO BLOWHOLES IN PUTTY AND NO SOOT NEAR OR BEYOND THE PRIMARY O-RING.

SRM-22 FORWARD FIELD JOINT HAD PUTTY PATH TO PRIMARY O-RING, BUT NO O-RING EROSION AND NO SOOT BLOWBY. OTHER SRM-22 FIELD JOINTS HAD NO BLOWHOLES IN PUTTY.

NASA engineers notes re: O ring problems

MTI ASSESSMENT OF TEMPERATURE CONCERN ON SRM-25 (51L) LAUNCH

- 0 CALCULATIONS SHOW THAT SRM-25 O-RINGS WILL BE 20° COLDER THAN SRM-15 O-RINGS
- 0 TEMPERATURE DATA NOT CONCLUSIVE ON PREDICTING PRIMARY O-RING BLOW-BY
- 0 ENGINEERING ASSESSMENT IS THAT:
 - 0 COLDER O-RINGS WILL HAVE INCREASED EFFECTIVE DUROMETER ("HARDER")
 - 0 "HARDER" O-RINGS WILL TAKE LONGER TO "SEAT"
 - 0 MORE GAS MAY PASS PRIMARY O-RING BEFORE THE PRIMARY SEAL SEATS (RELATIVE TO SRM-15)
 - 0 DEMONSTRATED SEALING THRESHOLD IS 3 TIMES GREATER THAN 0.038" EROSION EXPERIENCED ON SRM-15
 - 0 IF THE PRIMARY SEAL DOES NOT SEAT, THE SECONDARY SEAL WILL SEAT
 - 0 PRESSURE WILL GET TO SECONDARY SEAL BEFORE THE METAL PARTS ROTATE
 - 0 O-RING PRESSURE LEAK CHECK PLACES SECONDARY SEAL IN OUTBOARD POSITION WHICH MINIMIZES SEALING TIME
- 0 MTI RECOMMENDS STS-51L LAUNCH PROCEED ON 28 JANUARY 1986
 - 0 SRM-25 WILL NOT BE SIGNIFICANTLY DIFFERENT FROM SRM-15


JOE C. KILMINSTER, VICE PRESIDENT
SPACE BOOSTER PROGRAMS

'O' Ring Problems

Flight	Date	Temp °F	Erosion	Blow-by	Damage Index
1	Apr. 1981	66°			0
2	Nov. 1981	70°	1		4
3	Mar. 1982	69°			0
5	Nov. 1982	68°			0
6	Apr. 1983	67°			0
41-B	Feb. 1984	57°	1		4
41-C	Apr. 1984	63°	1		2
51-A	Nov. 1984	67°			0
51-C	Jan. 1985	53°	3	2	11
51-D	Apr. 1985	67°			0
61-C	Jan. 1986	58°	1		4

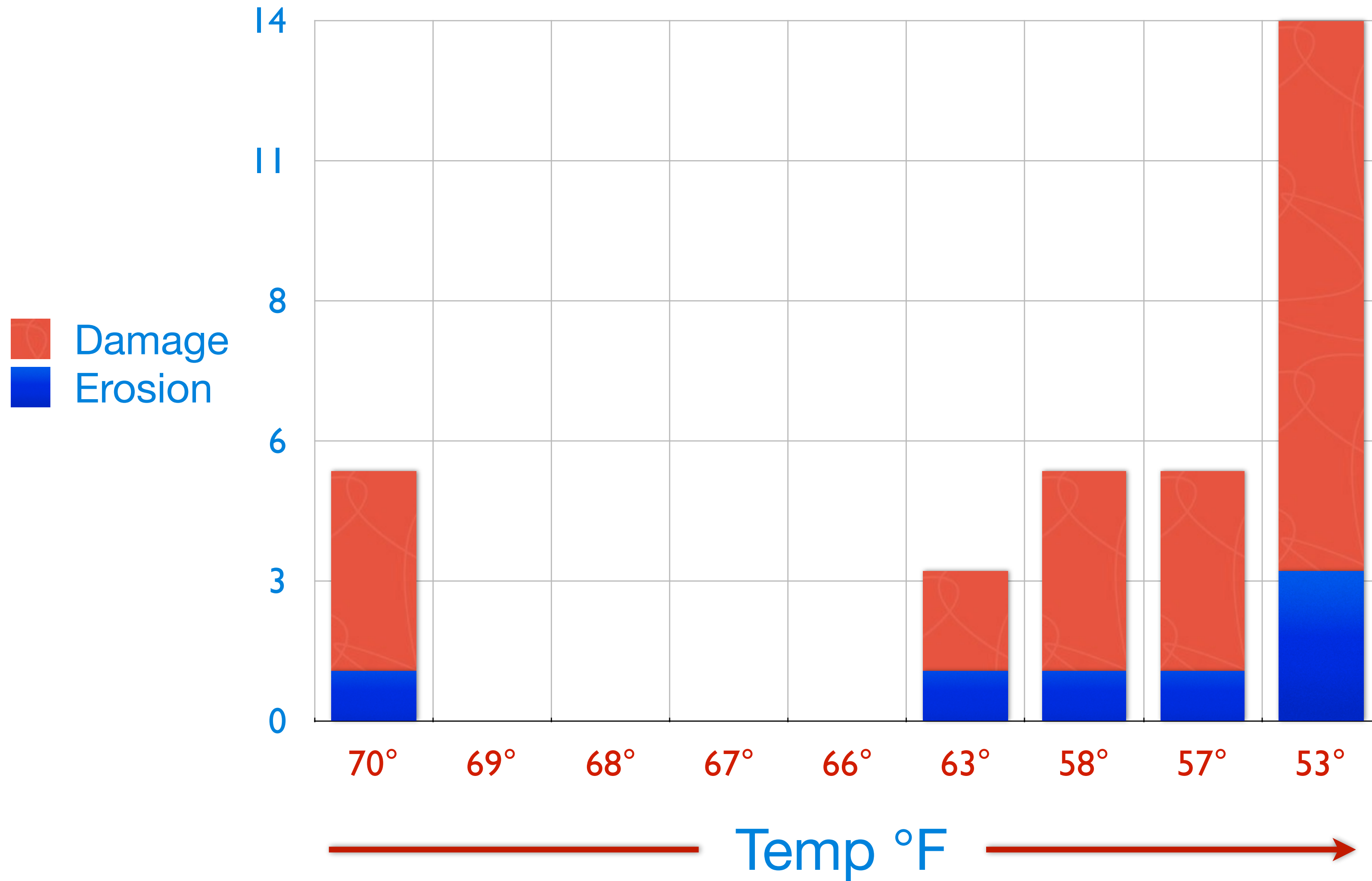
sort by date

'O' Ring Problems

Flight	Date	Temp °F	Erosion	Blow-by	Damage Index
2	Nov. 1981	70°	1		4
3	Mar. 1982	69°			0
5	Nov. 1982	68°			0
6	Apr. 1983	67°			0
51-A	Nov. 1984	67°			0
51-D	Apr. 1985	67°			0
1	Apr. 1981	66°			0
41-C	Apr. 1984	63°	1		2
61-C	Jan. 1986	58°	1		4
41-B	Feb. 1984	57°	1		4
51-C	Jan. 1985	53°	3	2	11

sort by temperature

'O' Ring Problems



But visuals aren't always pictures



I write this sitting in the kitchen sink. That is, my feet are in it; the rest of me is on the draining board, which I have padded with our dog's blanket and the tea cosy. I can't say that I am really comfortable, but this is the only part of the kitchen where there is any daylight left.

A six word story

For sale, baby shoes.

Never worn.

Random words?

1. Gallows

2. Beach Ball

3. Scooter

4. Microscope

5. Gorilla

6. Coffee cup

7. Sword

8. Luggage

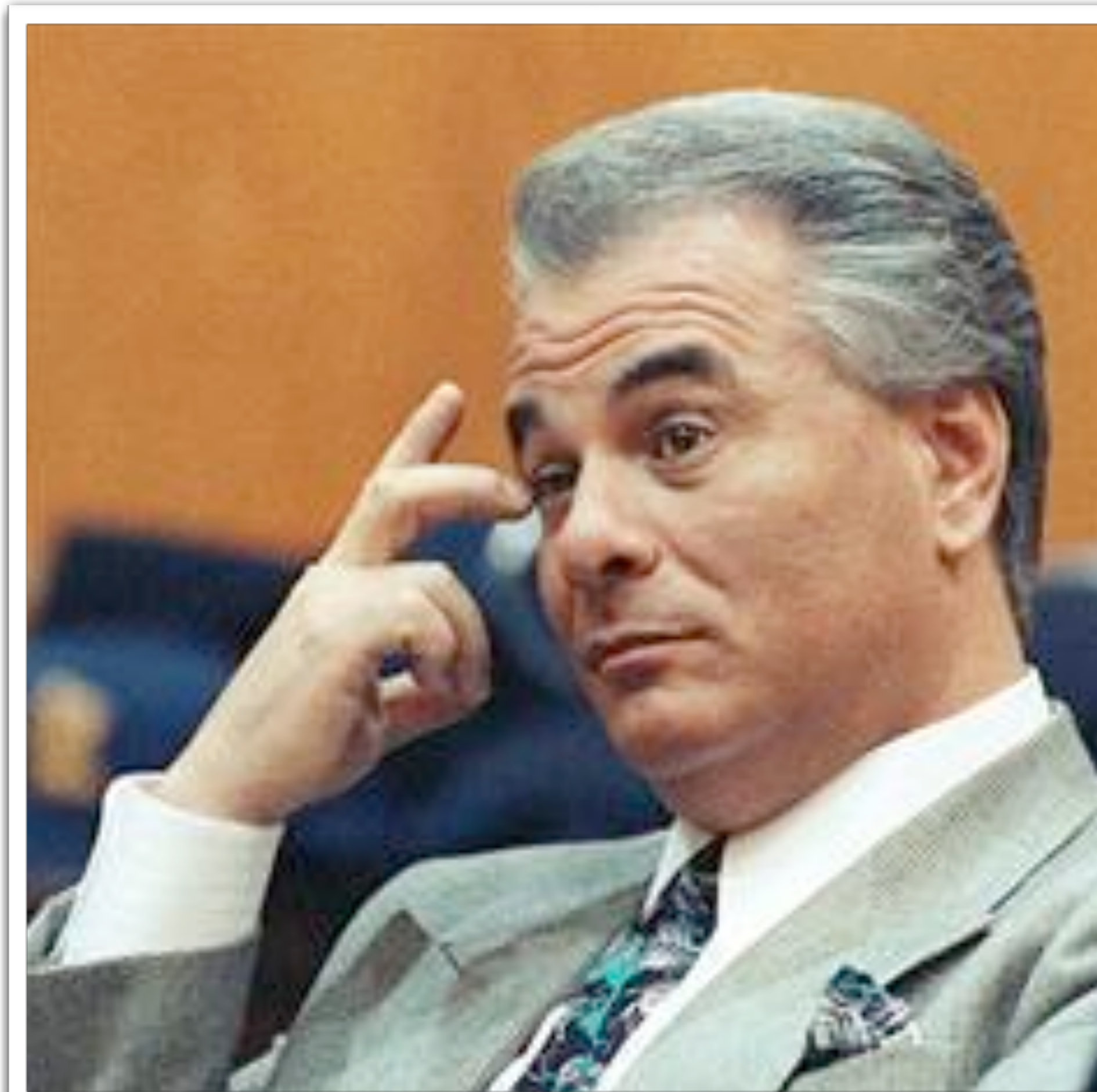
9. Candle

10. Popcorn

3. Using Visuals



John Gotti Trial



John Gotti Trial

GOTTI IS ACQUITTED BY A FEDERAL JURY IN CONSPIRACY CASE

NEW CHARGES ARE LIKELY

Verdict is the First Setback in
Recent Government Drive
Against Mafia Leaders

By LEONARD BUDER

John Gotti was acquitted of Federal racketeering and conspiracy charges yesterday in the Government's first major setback in its recent assault on organized crime.

Mr. Gotti, who the Government says is the leader of the nation's most powerful Mafia family, and six co-defendants were found not guilty of charges they took part in a criminal en-

Until yesterday, Federal prosecutors in the Southern and Eastern Districts of New York had recorded a string of successes in major organized-crime cases.

Within the last six months, the heads of the city's four other Mafia families have been convicted after trials in Manhattan and Brooklyn. They, like Mr. Gotti and his co-defendants, had been charged under the Federal Racketeer Influenced and Corrupt Organizations Act, or RICO.

Key Witnesses Were Criminals

"Obviously they perceived there was something wrong with the evidence," said Andrew J. Maloney, the United States Attorney in Brooklyn, referring to the jury.

Many of the Government's key witnesses were criminals who testified for the prosecution under grants of immunity or in return for payments and other benefits.

The last piece of evidence requested by the jury for re-examination was a chart introduced by the defense that showed the criminal backgrounds of seven prosecution witnesses. It listed 69 crimes, including murder, drug possession and sales and kidnapping.

Mr. Gotti's lawyer, Bruce Cutler, said the jury showed "courage" be-



The New York Times

John Gotti

A Weakness In Gotti Case

Major U.S. Witnesses
Viewed as Unreliable



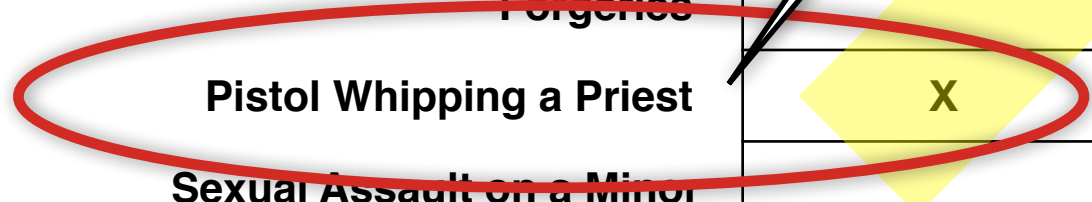
“jury requested a chart that showed the criminal backgrounds of seven prosecution witnesses.”

Informants

Crimes

	CARDINALE	LOFARO	MALONEY	POLISI	SENATORE	FORONJY	CURRO
Murder	X	X					
Attempted Murder		X	X				
Heroin Possession & Sale	X	X		X			X
Cocaine Possession & Sale	X		X	X			
Marijuana Possession & Sale							X
Gambling Business		X		X		X	
Armed Robberies	X		X	X	X		X
Loansharking		X		X			
Kidnapping							
Extortion							
Assault	X						
Possession of Dangerous Weapons	X						X
Perjury							
Counterfeiting							
Bank Robbery							
Armed Hijacking							
Stolen Financial Documents			X	X	X		
Tax Evasion				X		X	
Burglaries	X	X		X	X		
Bribery		X		X			
Theft: Auto, Money, Other			X	X	X	X	X
Bail Jumping & Escape			X	X			
Insurance Frauds					X	X	
Forgeries				X	X		
Pistol Whipping a Priest	X						
Sexual Assault on a Minor							X
Reckless Endangerment							X

**Pistol Whipping
a Priest**



Want to learn more?



Conclusion

You should use visuals
as much as possible
in trials, arbitration,
and in mediation.

One Last Proof

$$\varphi = \begin{pmatrix} \mathbf{E} \\ \mathbf{H} \end{pmatrix}, \quad \mathbf{E} = (\nabla \times \mathbf{H}) \times \boldsymbol{\eta}, \quad \mathbf{H} = \mu_0^{-1} \nabla \times \mathbf{A},$$

and

$$A_x = A_y = 0,$$

$$A_z = \begin{cases} \left(\cos \frac{\pi x}{l} \right)^4 \left(\cos \frac{\pi y}{l} \right)^4 \left(\cos \frac{\pi z}{l} \right)^4 & \text{for } |x| \leq \frac{l}{2}, \quad |y| \leq \frac{l}{2}, \quad |z| \leq \frac{l}{2} \\ 0 & \text{otherwise;} \end{cases}$$

Improving YOUR Memory!



Random words

1. Gallows

2. Beach Ball

3. Scooter

4. Microscope

5. Gorilla

6. Coffee cup

7. Sword

8. Luggage

9. Candle

10. Popcorn

Memory Peg System

1. Run

2. Zoo

3. Tree

4. Door

5. Hive

6. Sticks

7. Heaven

8. Gate

9. Vine

10. Hen

Apply visualization



1. Run



2. Zoo



3. Tree



4. Door



5. Hive



6. Sticks



7. Heaven



8. Gate



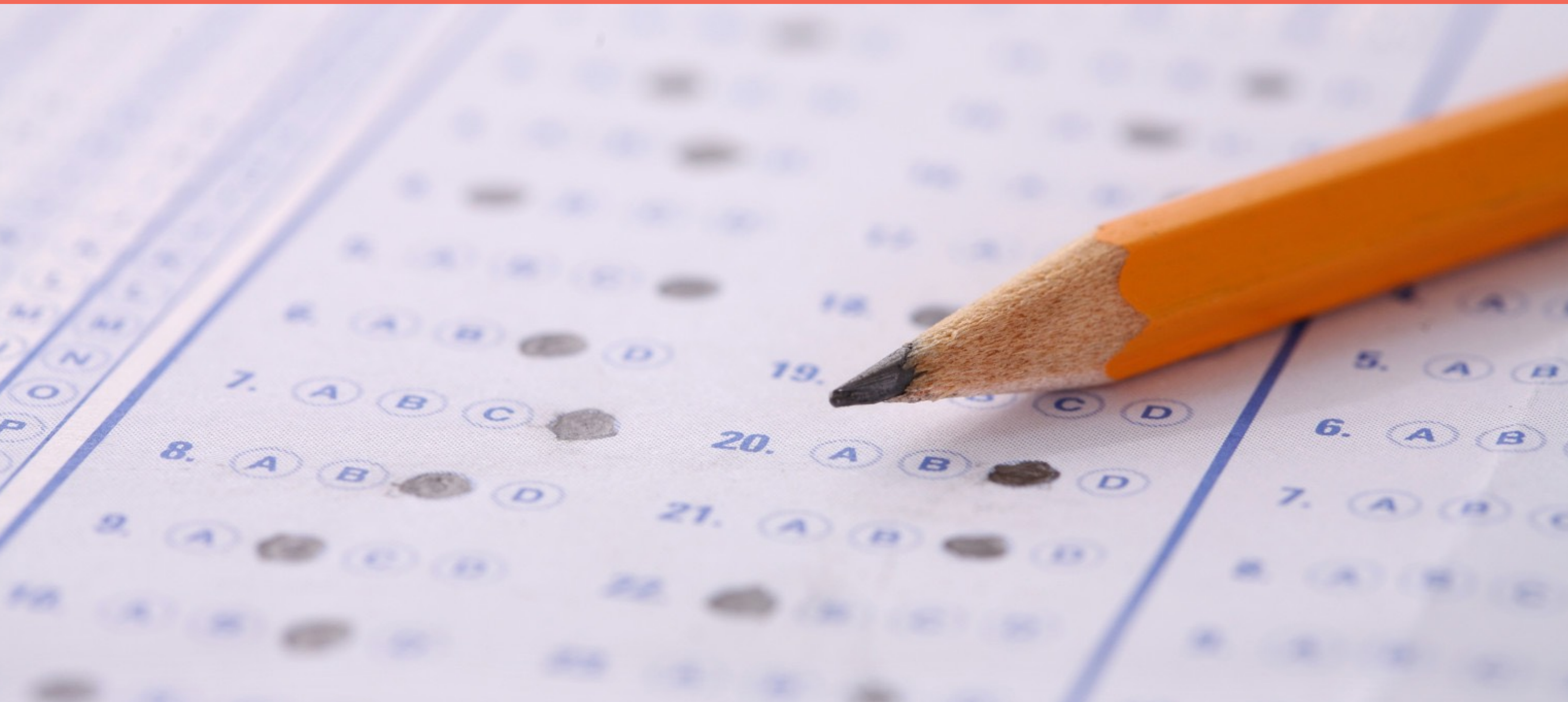
9. Vine



10. Hen



Now let's test



7. Heaven



5. Hive



2. Zoo



1. Run



8. Gate



3. Tree



10. Hen



6. Sticks



9. Vine



4. Door



You should use visuals
as much as possible
in trials, arbitration,
and in mediation.



Visuals are more persuasive

**You should use visuals
as much as possible**

PERIOD!

They help you explain faster



They help you remember



Even random words

1. Gallows

2. Beach Ball

3. Scooter

4. Microscope

5. Gorilla

6. Coffee cup

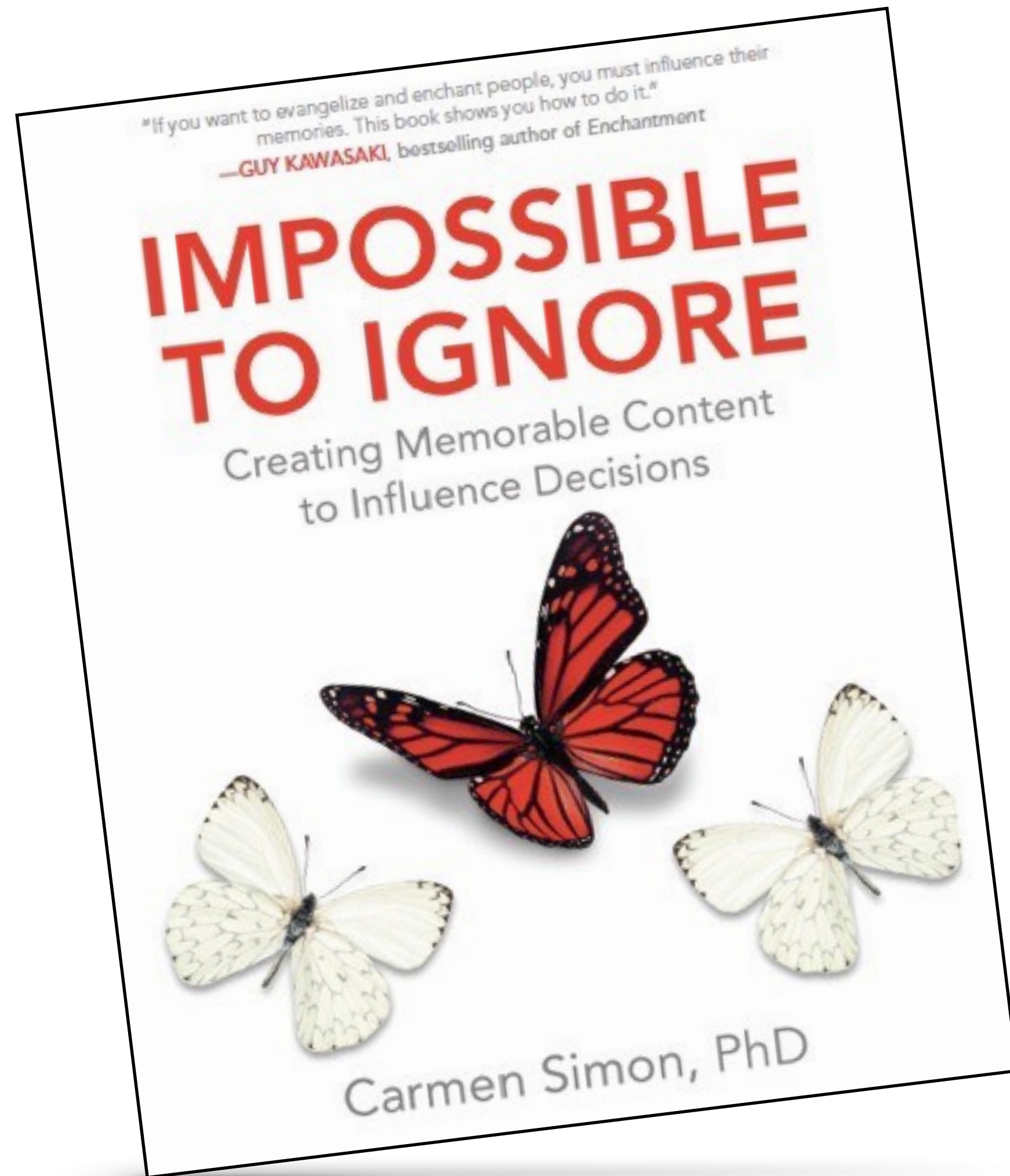
7. Sword

8. Luggage

9. Candle

10. Popcorn

And remember this book!



Carmen Simon, Ph.D