

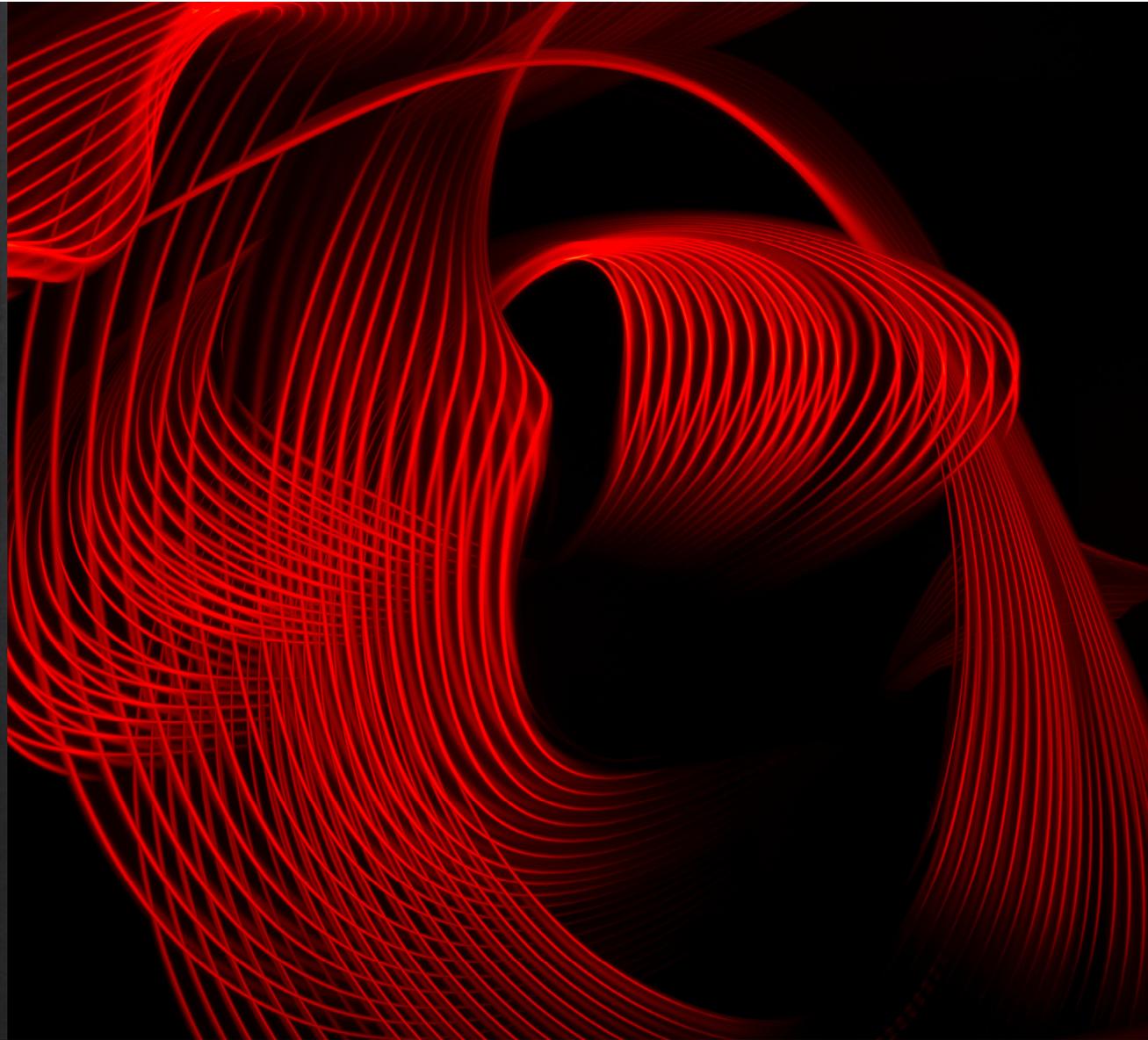
The background of the slide is a dark, almost black, field filled with a complex, abstract pattern of glowing red lines. These lines are thin and numerous, creating a sense of depth and movement as they swirl and curve across the frame. The lines vary in brightness, with some appearing as sharp, bright red streaks and others as softer, more diffuse glows. The overall effect is reminiscent of a digital or light-based sculpture, with the lines forming a dense, interconnected web of light.

Race...it's not a dirty word

Joshua Hargrove, Esq.

Bringing Race to the fore, in a competent, comprehensive and efficacious manner.

Voir dire, a derivative connotatively of *verum dicere*- to utter that which is true, be it objectively established, or subjectively honest.

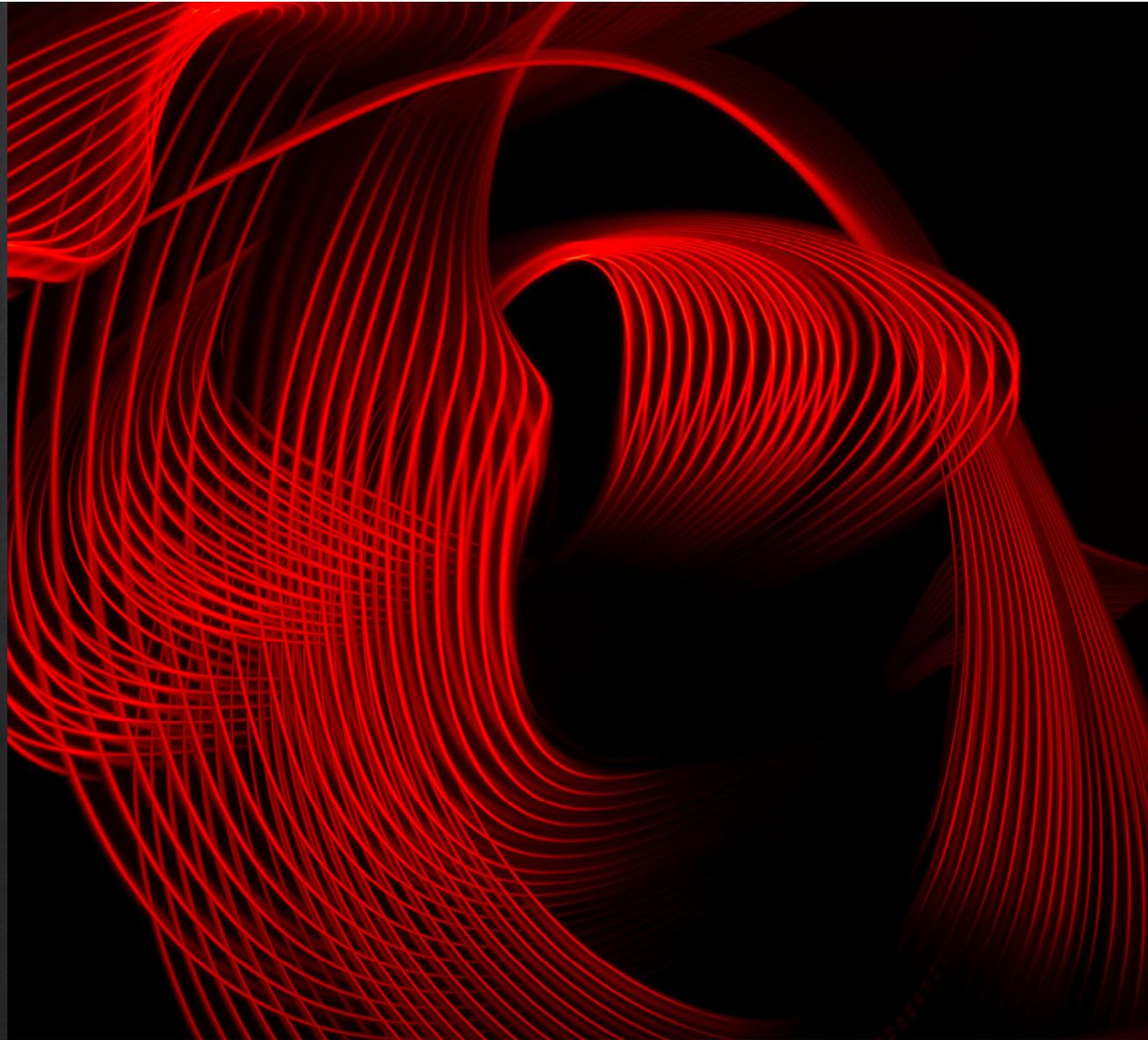


Judicial Examination

Voir dire is under the auspice of the Court's discretion – which is subject to “the essential demands of fairness.” *State v. Koch*, 144 Wis. 2d 838, 847 (1988). (See Wis Stat. 805.08(1))

The standard employed is an abuse of discretion, meaning that a higher court will sustain unless the discretion is abused or a rule of law violated—**HIGHLY deferential** (*State v. Moats*, 156 Wis. 2d 74, 99 (1990) (Citing *Ristaino v. Ross* (U.S. 589, 594 (1976))

** Push now, push hard because a trial court's decision is unlikely to be overturned*



Attorney Examination

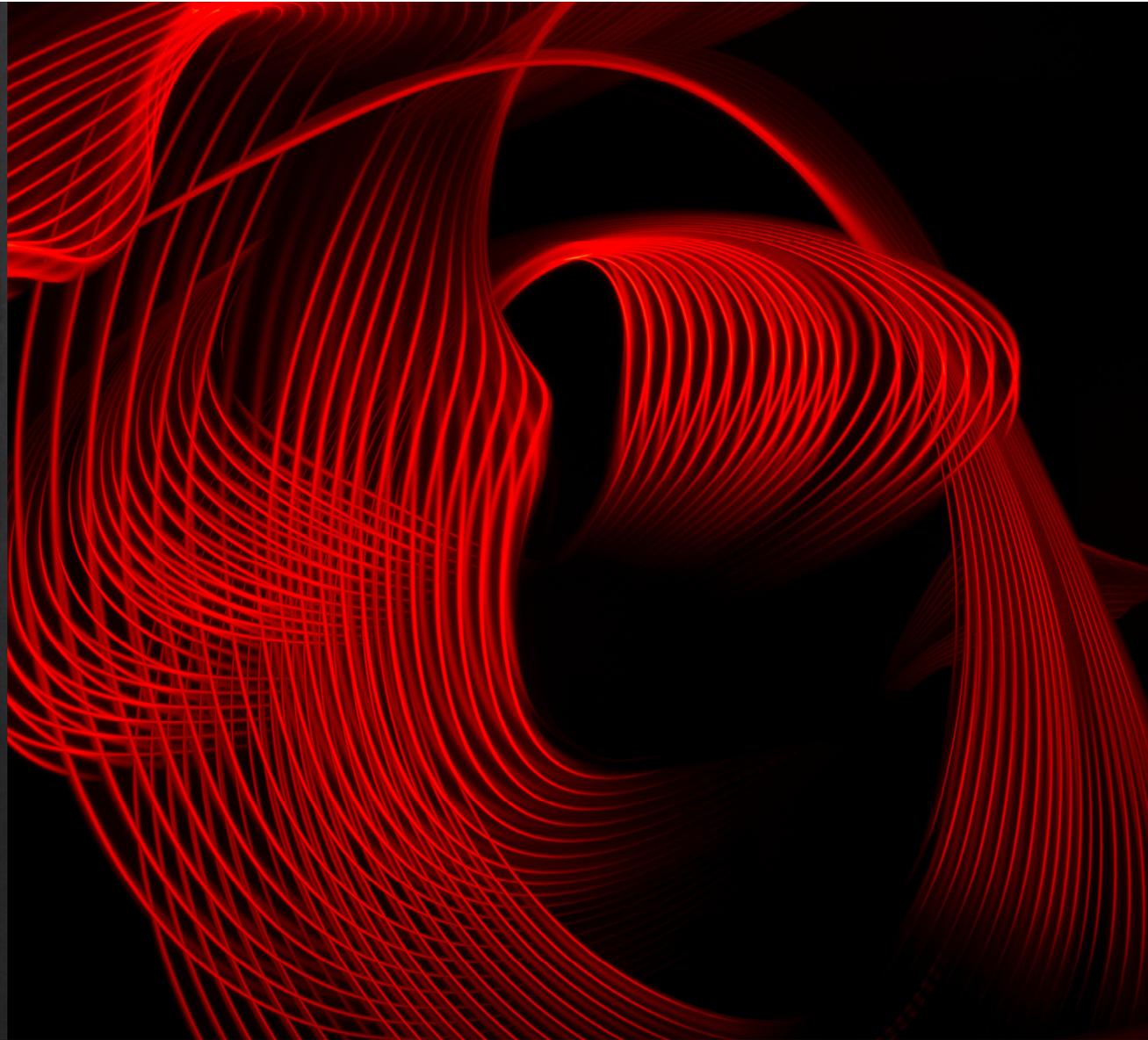
Wis. Stat. 805.08(1)

-Supplement the Court's examination

-Should not be repetitious (*You're last, you **don't** warm up, you **show up**...and **show out***).

-attorneys should be allowed to put forth individual questions to jurors covering matters not included in the Court's examination. *Filipiak v. Plombon, 15 Wis. 2d 484 (1962)*

“**Judge wont let me**” is usually the lie you tell yourself, or the excuse you give yourself to remain **SAFE**



What is your Purpose

Considerations:

Locate the stench and Remove

As opposed to find the fragrance and spread (also referred to as polluting)

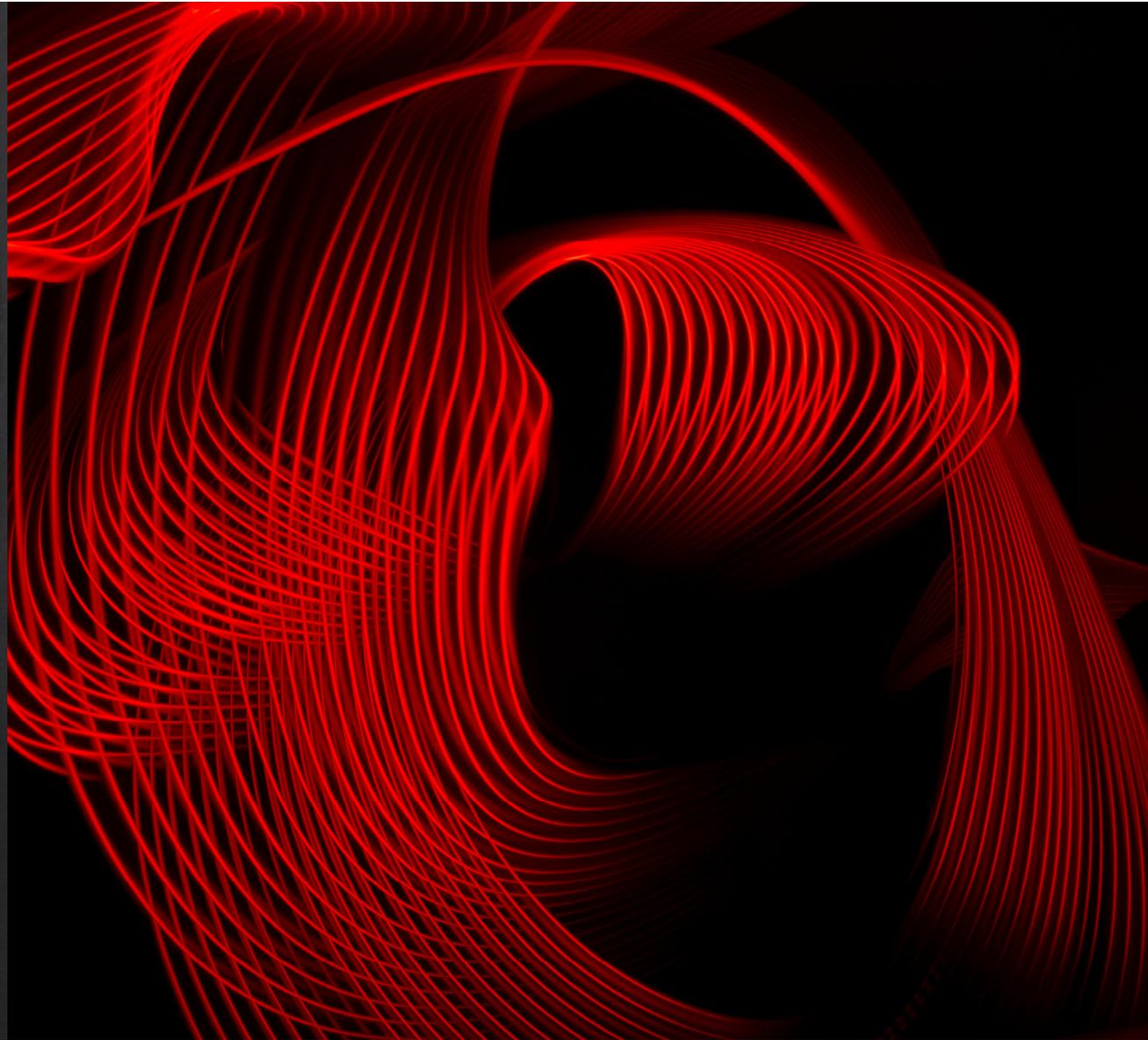
“A man convinced against his will is of the same opinion still”

-Dale Carnegie

**To allow the venire to gain respect for the client, who is not simply a defendant*

**To challenge the panel in a way that encourages critical consciousness*

**To put forth the case, theme and sew the seeds of doubt*



What is your Technique

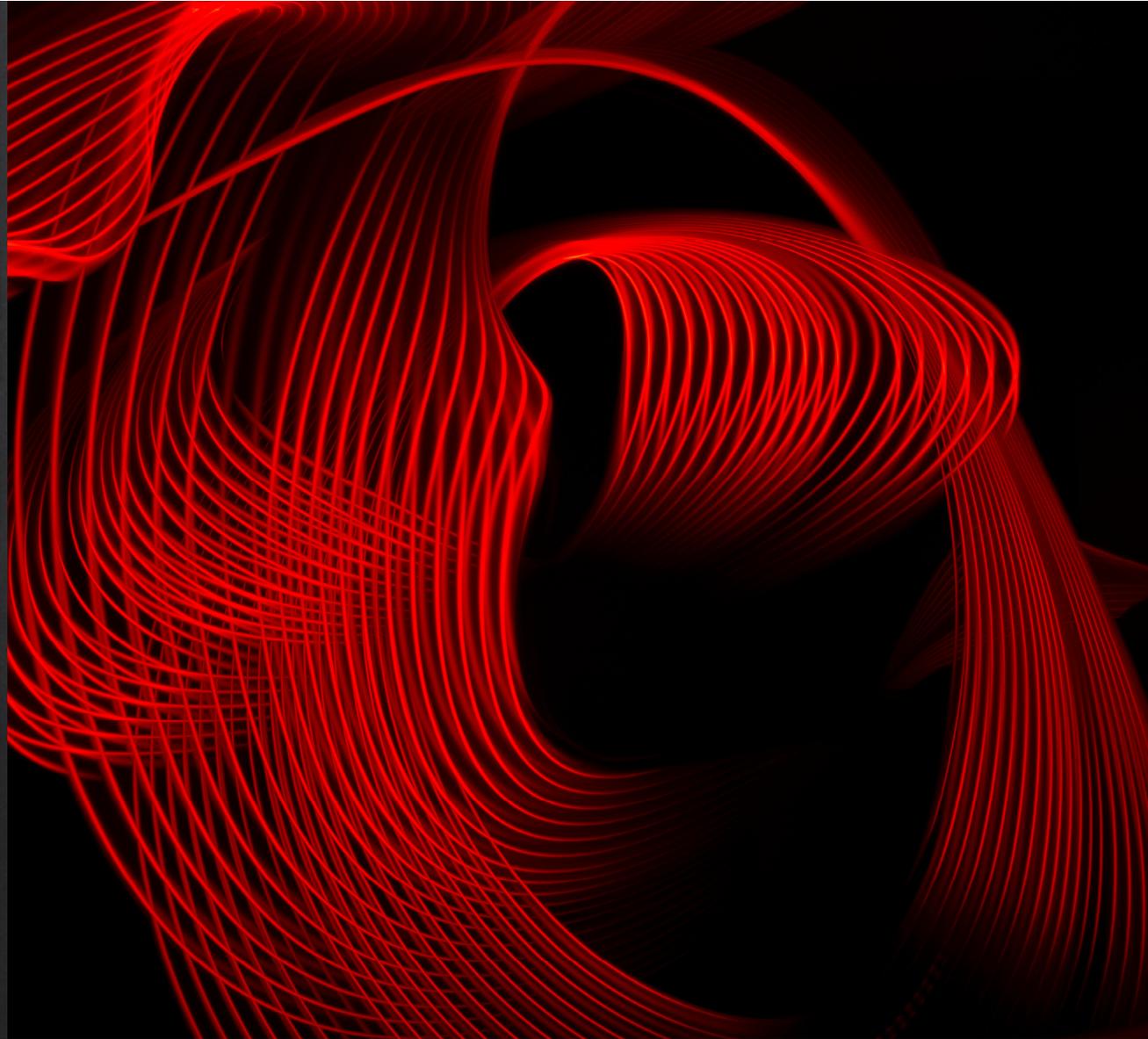
SHOW- what is right

DEMONSTRATE- sensitivity, the struggle and the discomfort

HONOR- Every answer

PRIMACY: the tendency to continue to believe that which one first believes—once something is believed it colors how all subsequent information is received

PERSISTENCE: Mechanism by which primacy works—processing new information in a way that supports that which we believe—the stories we tell ourselves about the information we receive

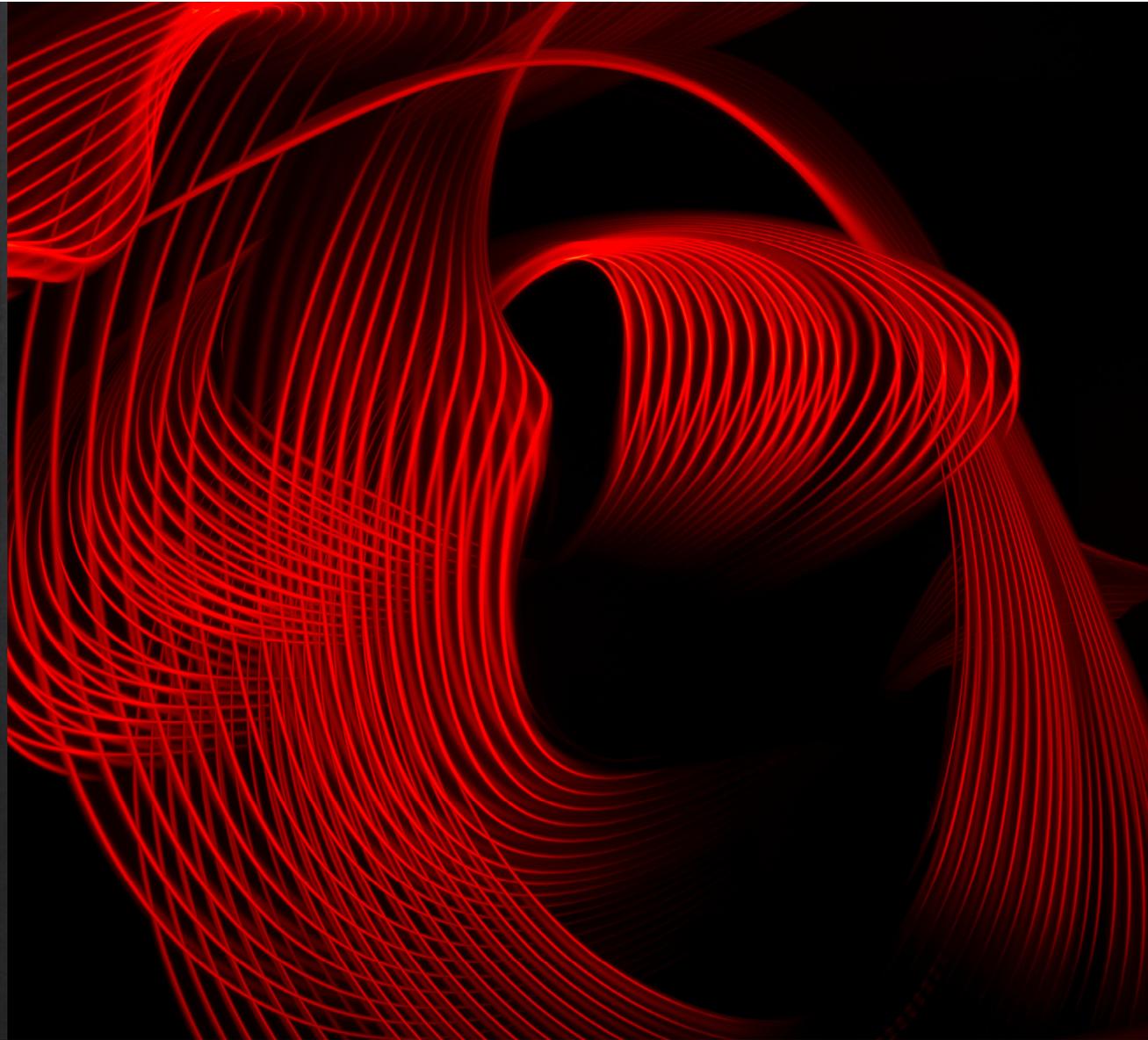


Time to **FOCUS**

Focusing on one's ability to do something will depreciate their candor This increases pressure to look good (A bias we want to avoid)

*Alternatively, interrogate and welcome their **difficulties** and **reservations**.*

This causes self reflection and not self aggrandizement.



THINK about what
you have them
THINKING

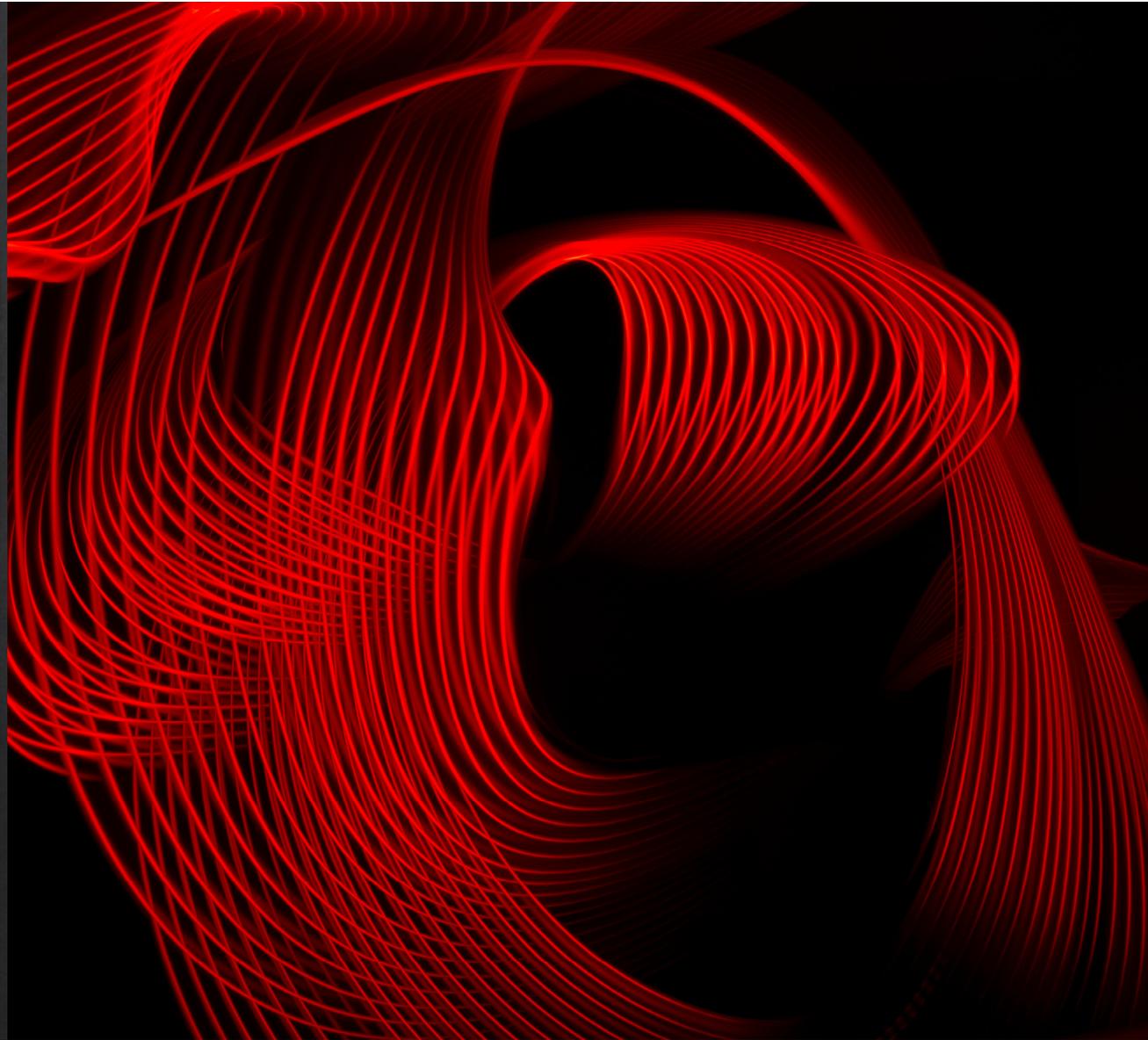
WHY WE FAIL

People who come to jury duty bring with them their **prejudices, biases** and **preconceived** notions about Clients

Their reliance on the aforementioned is how they come to a conclusion in the case—**regardless of caveats, curative instructions** and judicial imperatives!

Therefore, we must do our **BEST** to root it out (**deselection**), and coerce, compel (**examination**) a critical analysis of the **OTHER**... People see in others what they cannot in themselves. Make them hold one another accountable

When your ***Voir Dire*** is abridged, abrupt, unfocused and absent **race** despite your client's identity—win or lose—you **FAIL**



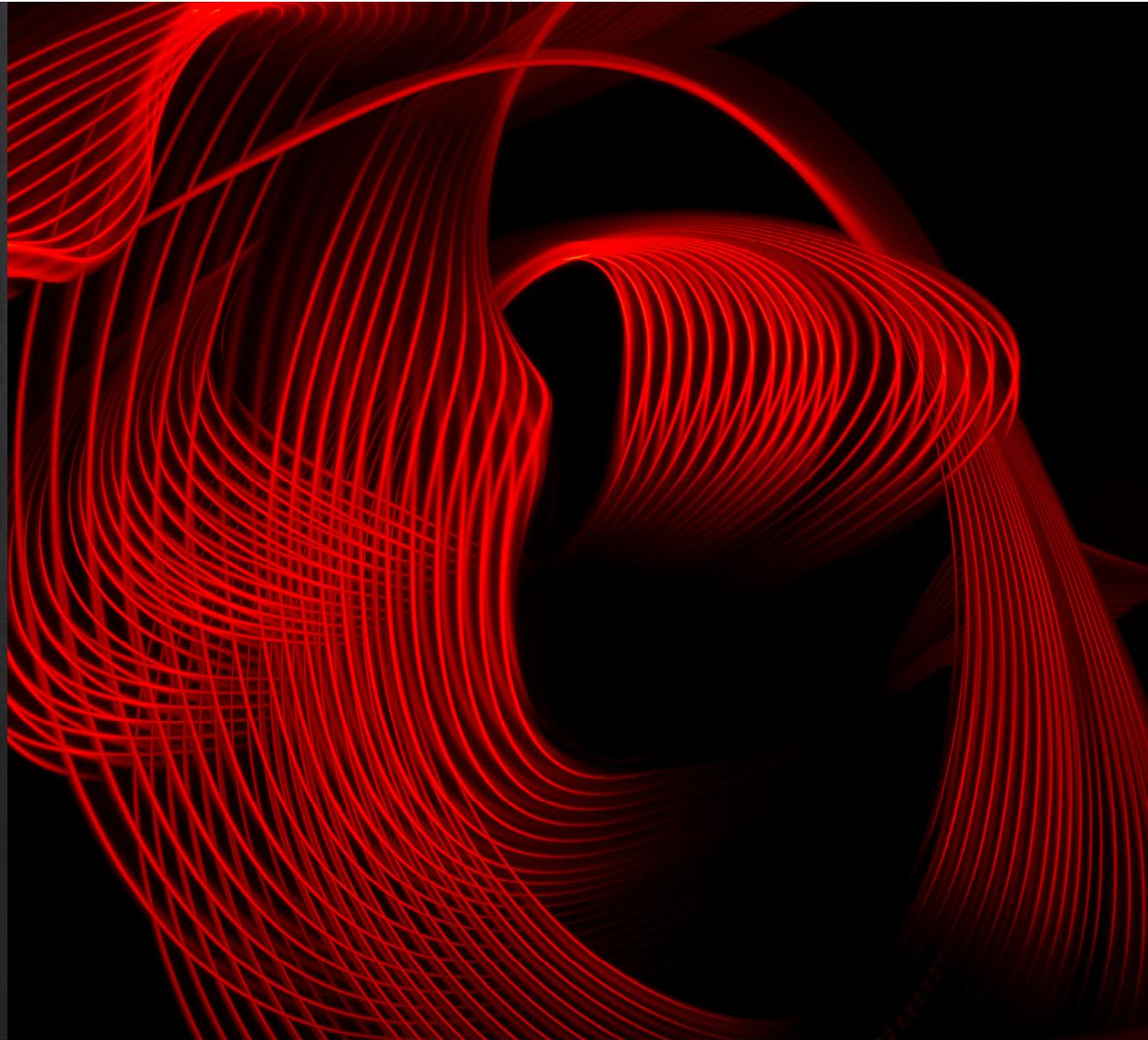
FEELINGS AINT FAIR

A common Barrier to *Voir Dire* on
(or even talk about) Race is
FEELINGS

“I do not want someone or myself
to *FEEL* attacked.”

*(I'm less concerned with that you are
FEELING and more concerned with
what you are *DOING*)*

REMOVE yourself from the
equation; to make your feelings
more important than the detriment
and injustice your client has and
will experience in the courtroom,
however much attributed to her/his
RACE, is confounding
ARROGANCE!



ABC's of *Voir Dire*

Events don't cause emotions, our BELIEFS regarding the event elicits the emotion.

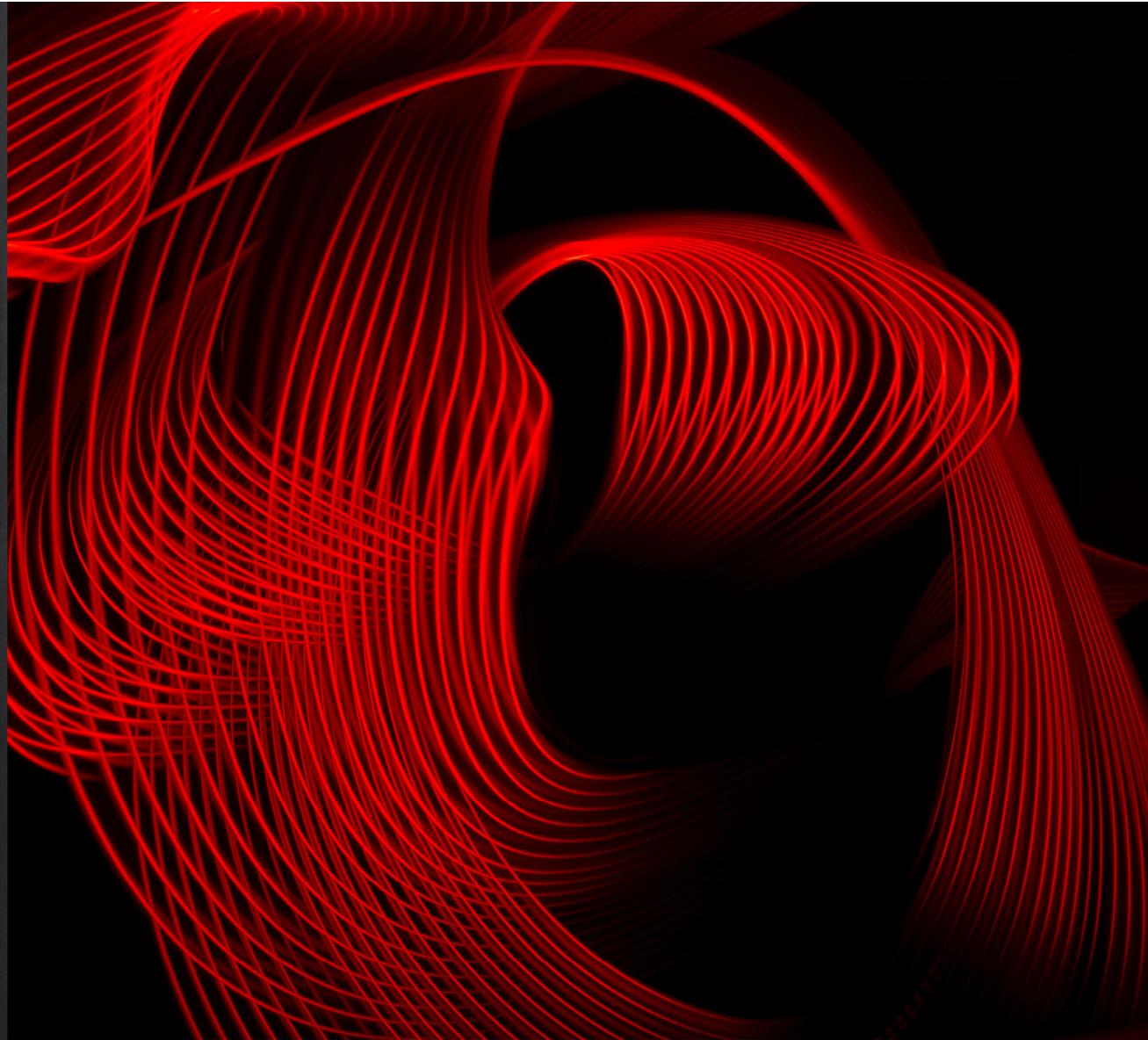
Activating Event

Belief System

Emotional Response

The story that the juror tells herself about the case is the basis on which the juror reaches a verdict

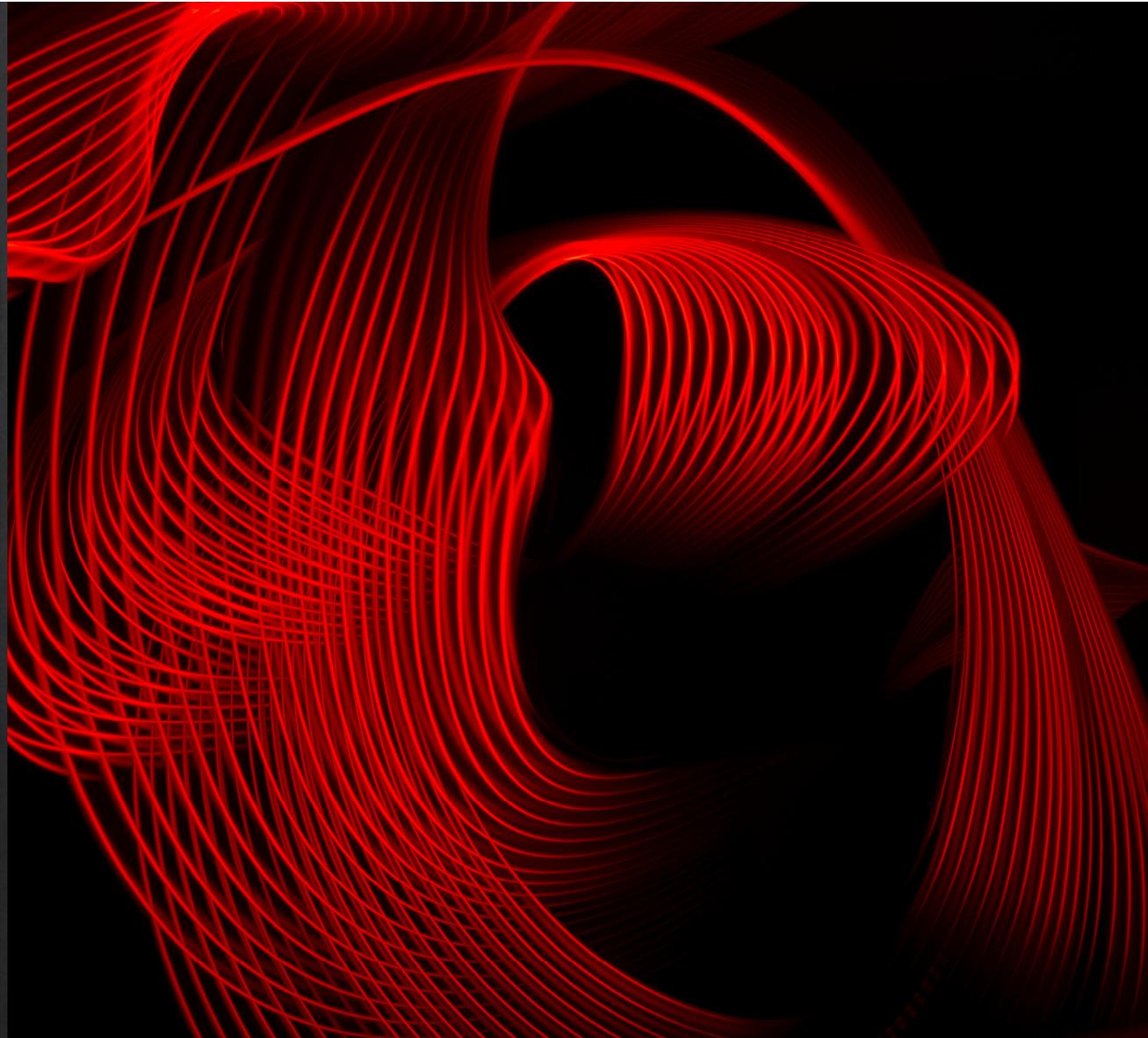
Thus, your process is to identify jurors with beliefs that prevent them from a fair hearing of your case—You have to talk about RACE



What Am I To Do...

1. ***VOIR DIRE*** on **Key Evidence** and **THEMES**
(which means you should know and have these)
2. Develop questions to uncover **beliefs**
3. Develop questions regarding **life experiences**

Be intentional about what emotions and thoughts you want the venire to have when you sit down –THIS IS THE OPENING



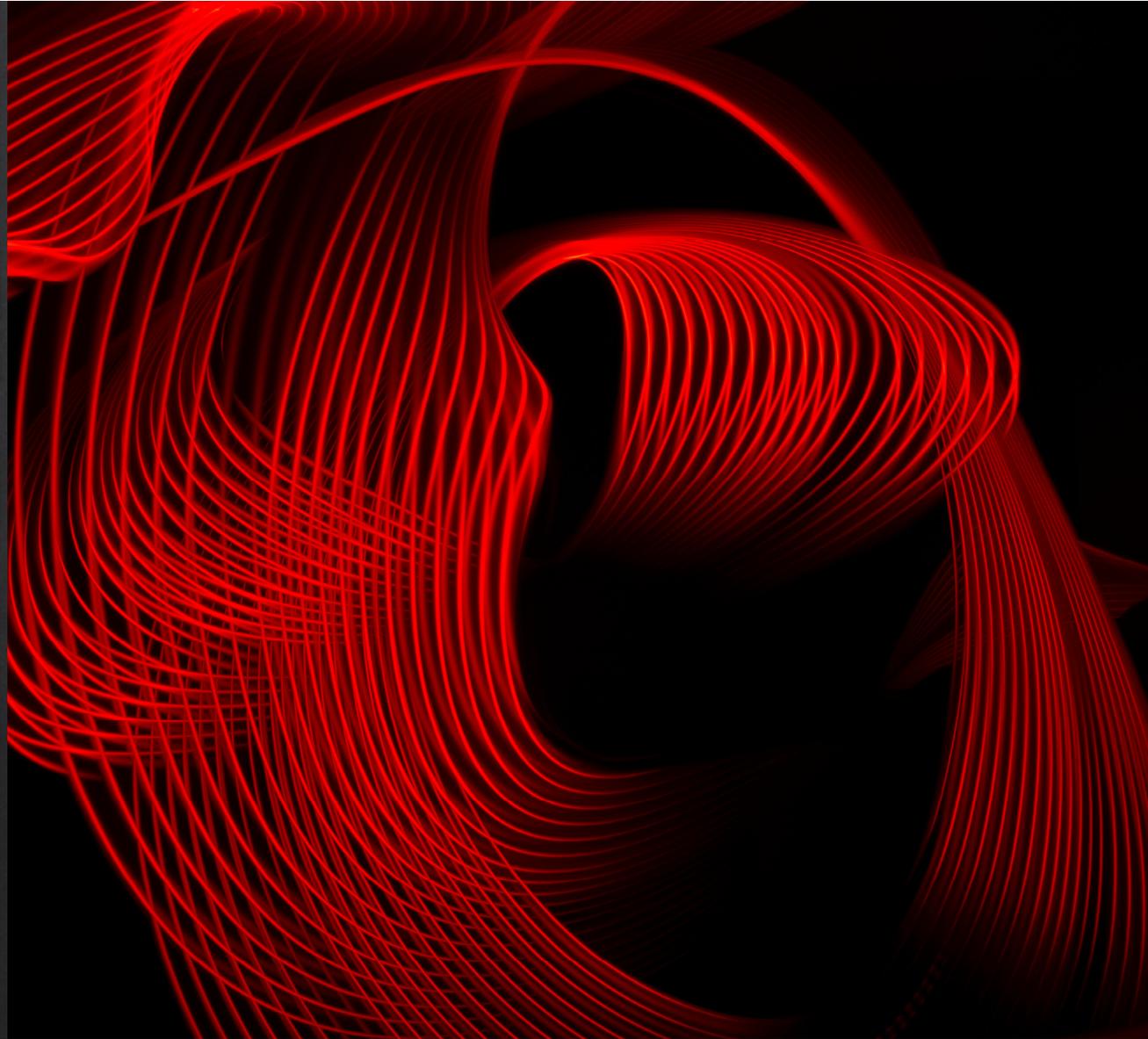
– Thoughts of the
High Court...

*“A juror who believes that blacks are violence prone or morally inferior might well be influenced by that belief in deciding...and **might be less favorably inclined toward petitioner’s evidence.**”*

...More subtle less consciously held racial attitudes could also influence a juror’s decision in this case...

...Fear of blacks, which could be easily stirred up...Turner v. Murray, 476 U.S. 28, 29-30(1986)

**Not simply a matter of over-confidence in the State’s case but a dismissal of any case you put on!*



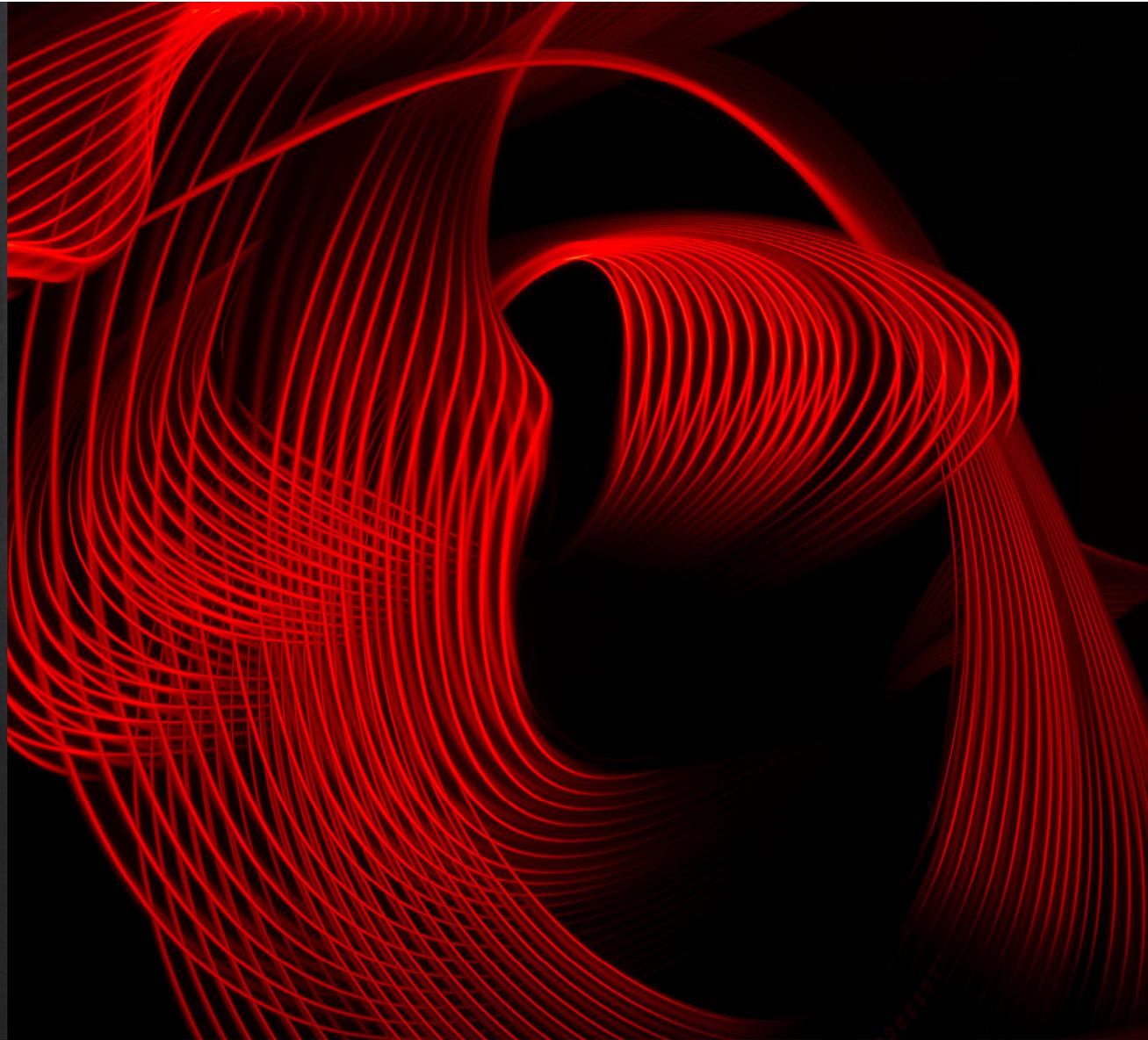
RACE SALIENCE

Making **SALIENT**, **APPARENT**
and **IMPORTANT** the
POTENTIAL for Racial Bias

This is not simply an
illumination of the Race of your
client (“he is black, you are
white.”)

It is the examination of the
venire in a way that highlights
and compels them **to explore
potential bias in them, and the
case!**

Let’s do some examples...

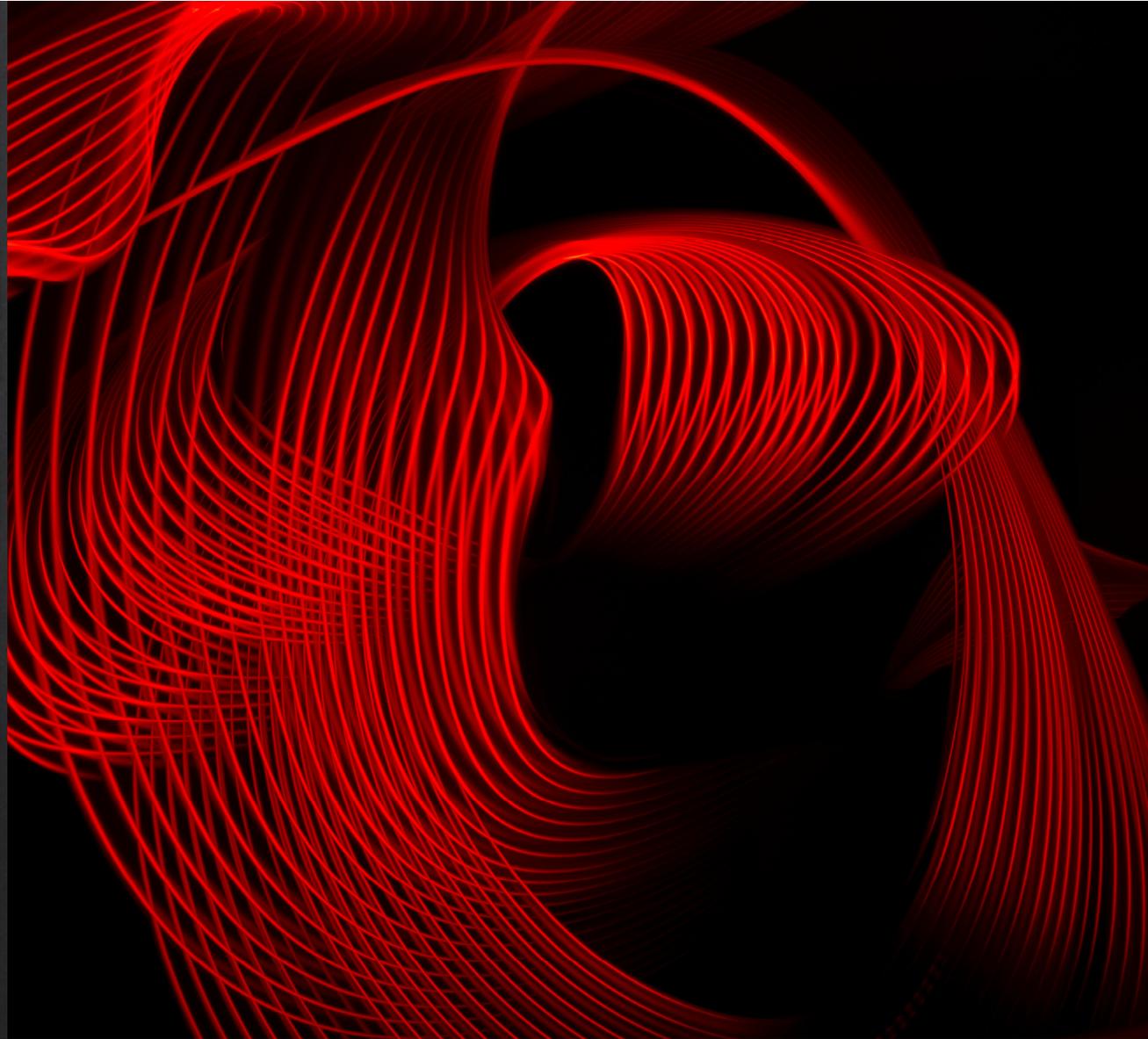


State of Wisconsin
v.
Quintez R. Cephus
(Jury Selection Excerpts)

*Attorneys Stephen J. Meyer &
Kathleen B. Stilling*

**This took time, consideration and
an in-depth analysis of their case
and RACE*

*A few examples of how to introduce
the RACE and interrogate on it*



Cephus Excerpts:

Bringing up Race:

Line 14, p82 & Line(s) 5-10, p84

Give them the Ask (*what are you going to do about it*)

Line(s) 12-21, p83; Line(s) 7-10 p85

Be Direct- Speak Plainly

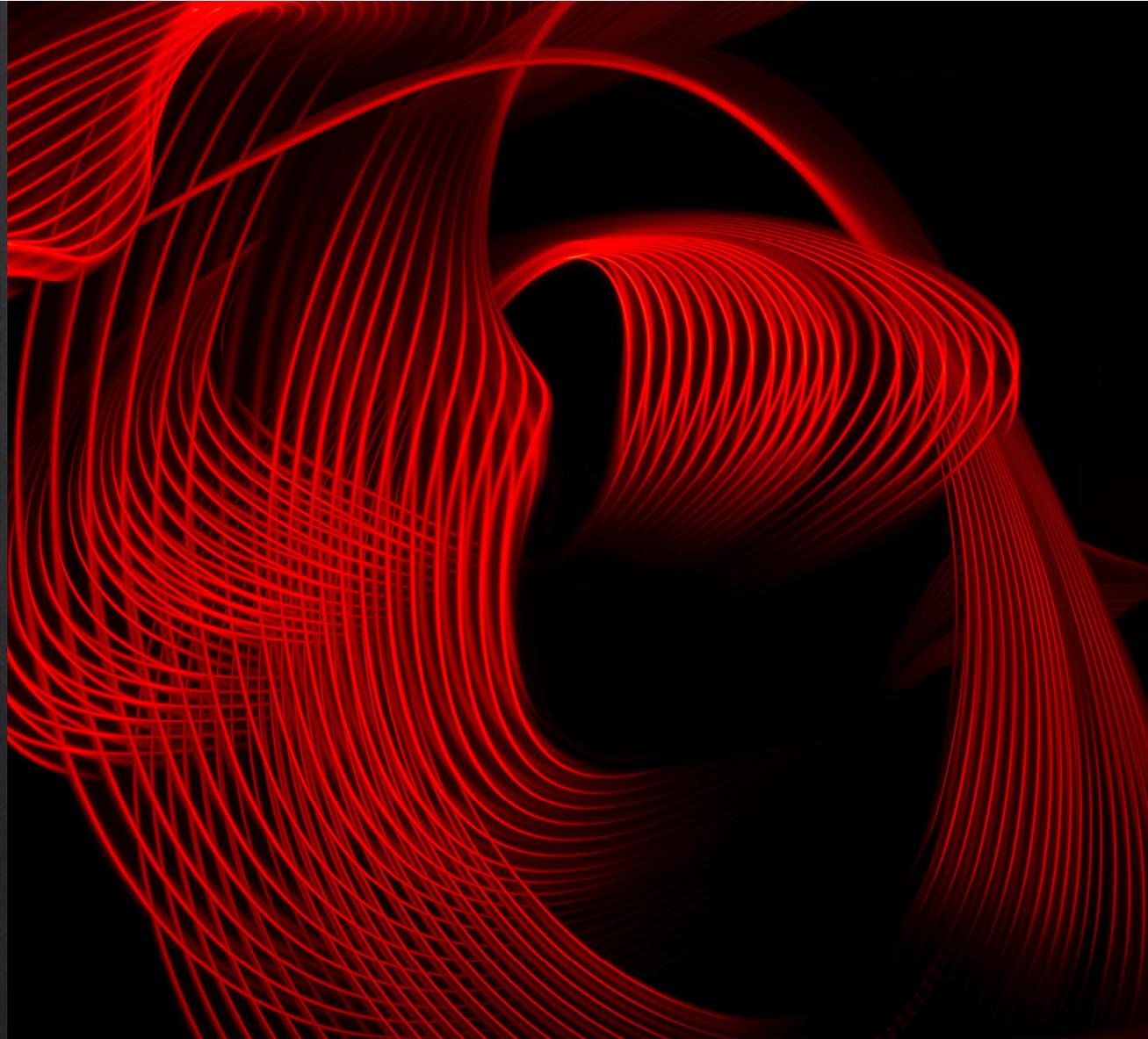
Line(s) 21-25, p87

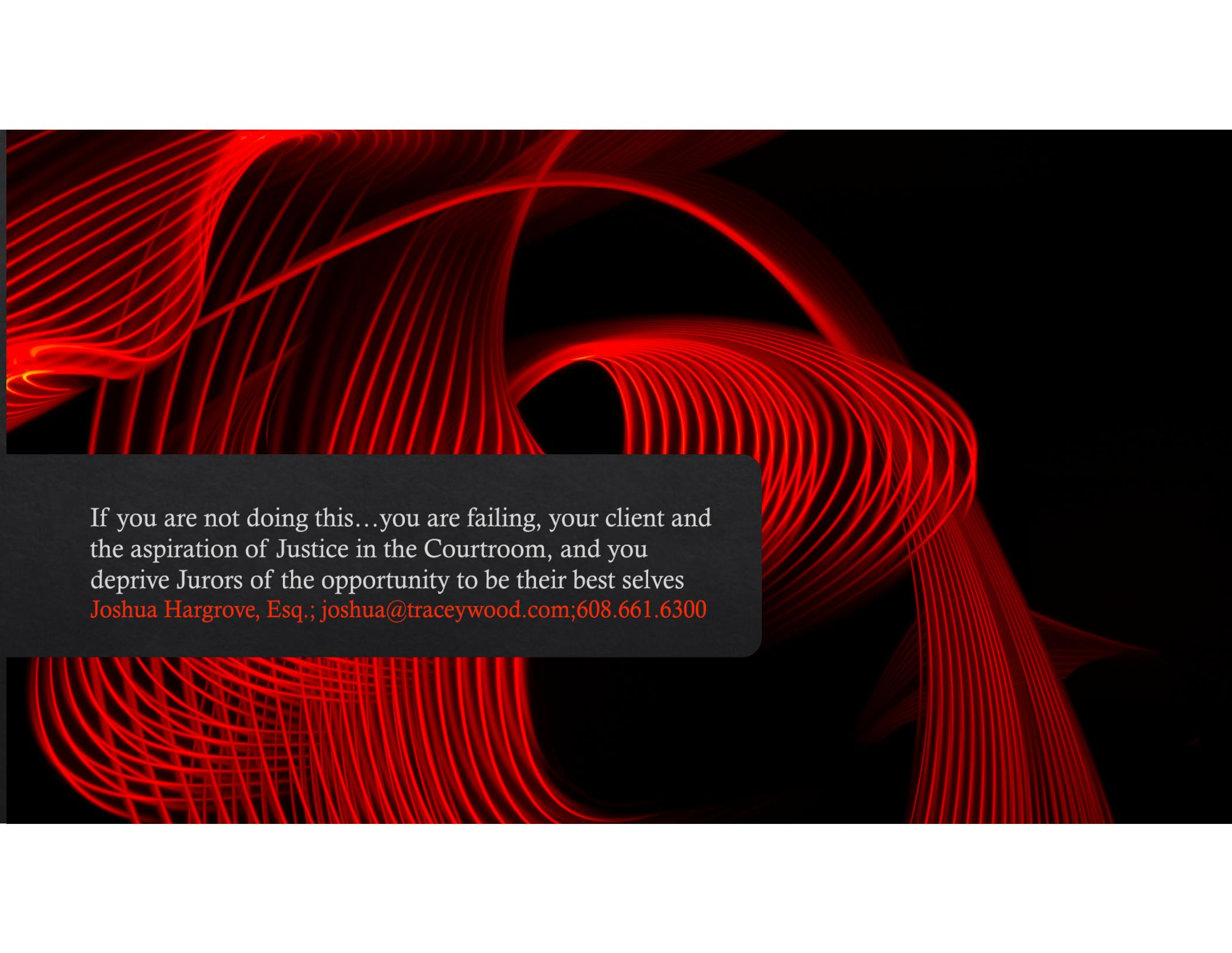
Critically Listen and challenge

Line(s) 1-6, p83

Judge's Rebuke—So What

Line(s) 5-14, p77-78



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If you are not doing this...you are failing, your client and
the aspiration of Justice in the Courtroom, and you
deprive Jurors of the opportunity to be their best selves
[Joshua Hargrove, Esq.;](mailto:joshua@traceywood.com) joshua@traceywood.com;608.661.6300