

# Timelines — They're Not Just for Trial Anymore



*By Greg Krehel*

Timelines are a particularly powerful form of demonstrative evidence. In many cases, timeline graphs have been a decisive factor in obtaining a favorable trial outcome. And now, a new type of software lets you instantly create timelines so that you can use them every day as a thinking tool and as a communication aid.



[www.casesoft.com](http://www.casesoft.com)

## About Timelines

Timelines are a particularly powerful form of demonstrative evidence. They make it easy for judge and jury to understand critical case facts and the relationships among them. In many cases, timelines have been a decisive factor in obtaining a favorable trial outcome.

In a timeline graph, flags containing fact paraphrasing are positioned by date along a horizontal time scale. The time scale is displayed in constant units. One inch equals a year, a month, a day, or some other time period. Thus, physical distance among flags acts as a surrogate for temporal distance. This makes it easy to see the relationships among events.

What makes this type of visual so effective? They overcome a weakness in our cognitive abilities. While remarkable at many tasks, our minds simply stink at calculating, even estimating, elapsed time between events. And they're worse still at comparing the elapsed time between one pair of events to the time that's elapsed between other event pairs.

Wouldn't the very attributes that make these timelines so powerful at trial also make them a terrific tool for communicating with others on the trial team and for analyzing case evidence? Definitely. However, these graphs have been extremely difficult to create. The prohibitive cost in time and dollars of developing timeline graphs has limited them to use as trial exhibits on high stakes cases.

Until now, that is. Now, all that has changed. Timeline graphs used to take hours to create, even for those with specialized skills. No longer. Can you type? If so, you can create a timeline in a matter of minutes.

And timelines used to cost thousands to produce. But now, timeline graphs cost just a few dollars. Timelines used to be a type of demonstrative evidence reserved for big trials. Now, they have been transformed into a terrific evidence analysis tool — a thinking aid that can help you see case facts in new ways.

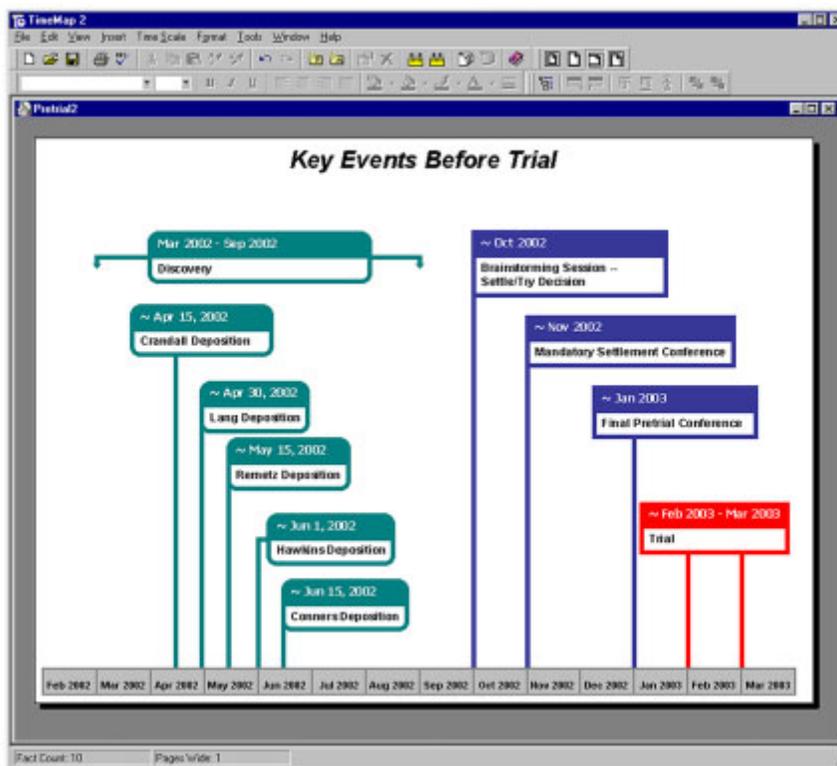
Why are timeline graphs so difficult to create the old-fashioned way? Because constructing the proper time scale is a grueling task — even for the professional artists who have traditionally designed these visuals. Calculating and drawing the initial time scale can take hours of work. And consider what happens when new facts need to be added to the chart or the dates of existing facts need to be modified: the original

scale typically goes out the window. A different scale must be developed from scratch.

## New Software

But now a new type of software solves these problems. The software automatically plots a time scale based on the dates of the events being graphed. It doesn't matter whether the events take place over years, months, days, hours, minutes, or seconds. You type in the facts. Your software instantly creates a scale and positions the fact flags appropriately. Want to add more facts or insert a time scale break during a period of inactivity? No sweat. It's not another day of work for your artist, it's another nanosecond of work for your software.

Producing the time scale used to be 95% of the effort expended to create a timeline graph. Now it's 0%. The scale is simply a byproduct of entering the facts.



*Now that timelines cost pennies to develop, why not use them to create visuals that depict critical pretrial events. Clients love this type of visual.*

It's by effectively eliminating the scale creation process that we're able to perform a jujitsu move on the old logic of when and why to create timeline graphs.

Timeline graphing software is not only easy to use; it's easy to learn. In 30 minutes, you can learn the key features and produce a first chart. In the words of one reviewer, timeline-graphing software "... is so easy to use that I would recommend it as the first litigation-support type product to present to any techno-phobic attorney in your firm."

Other nifty features of this new type of software make it easy to put timelines to work. For example, in addition to printing timeline graphs and possibly having them enlarged, you can pop them into word-processing documents and into Corel Presentation or MS PowerPoint presentations. This process takes a grand total of four mouse clicks. You can also e-mail charts off to clients, experts, and others on the trial team right from within your timeline-graphing software. If the recipients don't have their own timeline-graphing software (yet), you can send charts in a jpeg or gif format that can be viewed in the ubiquitous Internet browser. Sending charts by e-mail takes three clicks and typing in an e-mail address.

Here's how easy creating timeline graphs has become: Chicago attorney Mark C. Metzger is representing the plaintiff at a trial being held in Federal Court. In this courtroom, the judge's practice is to instruct the jury prior to closing arguments. As the judge begins to read, Mark is struck by an idea for a timeline graph that would enhance his closing. He powers up his notebook computer, creates the timeline, and sends it to PowerPoint. When the judge finishes, our hero stands and delivers his argument aided by a timeline graph that didn't exist 15 minutes before. Result? Plaintiff verdict. True!

The following are but a few examples of the many new ways timelines can be put to work. The key to imagining new uses is to break the habit of thinking of

timeline graphs as a special form of demonstrative evidence. Now that these visuals are a cinch to create, they should be used as thinking tools and as an everyday communication aid.

## Analyzing Evidence

As you work up a case, the critical task is to develop a deep appreciation of the facts. Time graphing seminal periods in the history of the dispute makes it easy to achieve this goal. Here the mission of the graphing process is simply to analyze the evidence, not to create a demonstrative. Using timeline graphs in this new way frequently leads one to see the facts in a whole new light.

I've spoken to any number of attorneys, paralegals, and investigators who tell of Eureka moments they've experienced when working with their new timeline graphing software. Using timeline graphs to explore case facts has revealed a new theme, a better argument, or a serious flaw in the opposition's case.

Using timeline graphs to analyze case evidence always leads to a deeper understanding of the facts. Sometimes, however, it's a deeper but very unpleasant understanding. Many attorneys have reported that, upon timeline graphing key case time periods, they were surprised to realize that the factual relationships end up undercutting their positions on key issues. Again, our minds are not well-equipped to comprehend time-based relationships among facts without the aid of a timeline graph. Therefore, it isn't surprising to be surprised by the picture that develops when the facts are time graphed.

## Enhancing Client Interviews

Here's a special case of using timeline graphs to brainstorm a case: Create one in real time as you interview your clients (or anyone else). This is not only

*Eureka Moments:  
Using timeline graphs  
to explore case facts has  
revealed a new theme,  
a better argument,  
or a serious flaw in  
the opposition's case.*

a terrific way to get up to speed on the matter, it's sure to impress the heck out of your new benefactor.

Use an LCD projector to display your timeline graphing software on a screen or blank wall. If you don't have one, simply turn your computer monitor so your clients can watch the graph grow.

Don't try to create the timeline graph right from the beginning of the interview. Rather, let your client tell their story uninterrupted and take notes. Once they finish, read back through your notes and start entering the key facts into a timeline graph. Confirm your understanding and capture additional details as you go. Each time you enter a fact, your software recalculates the appropriate time scale and repositions the fact flags along it. There's no need to worry about entering the facts in logical order; the software automatically sorts them into proper sequence.

As clients watch their case timeline grow, they'll think of additional facts that would not have occurred to them otherwise. Likewise, you'll see the gaps in their story (literally) about which you'll want to ask follow-up questions.

A single timeline graph can be 20 pages wide and easily accommodates 160 facts. However, if there are important periods within the larger case, consider creating a separate visual based on each of them. For example, in a medical malpractice case, you would probably create one chart to illustrate key events before, during and post-operative and another to illustrate the complete medical history of the patient.

When you complete the interview, print copies of the visuals for your clients. Ask them to wait a week

and then pull out a copy to review, mark up, and return to you with additions and changes.

## Winning New Engagements

Why even wait until your first client meeting to start creating timeline graphs? Make them a standard part of

the way you market your firm. You get hired because you're good at thinking, not for your good looks. Timeline visuals make it easy to demonstrate your thinking abilities and differentiate your services from those of others firms being considered.

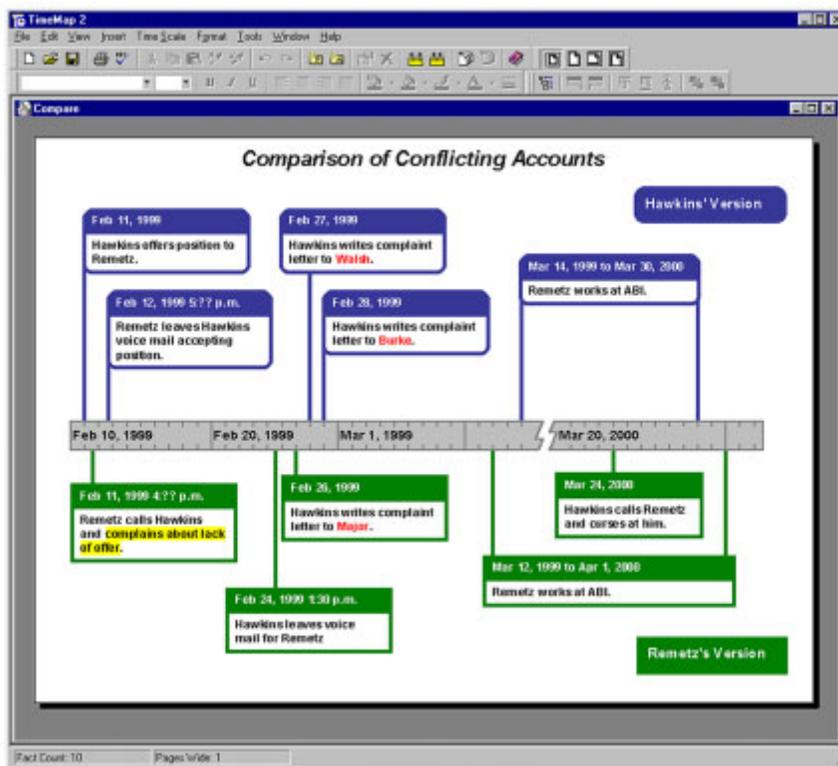
When a prospective client contacts you, get a thumbnail sketch of the facts in the case and create a timeline based on them. Use this visual at the first fact-to-face meeting — ask a

few insightful questions based on it.

Also take along some of the timelines you've created for other similar matters. They make great props for telling war stories.

## Illustrating Critical Events Leading to Trial

Why not use a timeline graph to illustrate the critical events between now and trial? For example, create a chart depicting key depositions, hearings, the mandatory settlement conference, and trial itself. Since editing visuals is a piece of cake, you can add and remove events and change the dates as need be. For example, if a continuance is granted, move the flag for the trial to the new anticipated date. That's 10 seconds of work. Send your clients an updated chart each month or each quarter. Some users also create



*As you enter facts, timeline software automatically creates an appropriate timescale. This chart compares two versions of the facts regarding a construction dispute.*

separate charts illustrating the anticipated flow of witnesses during the trial itself.

You would never invest \$1500 in creating this type of visual. But now that they're a penny a piece, why not? I have it on authority from numerous attorneys that these charts are a big hit with clients.

Before your firm can take advantage of the new possibilities for timeline graphs, there's one important hurdle that must be cleared. The software that creates these graphs must be made ubiquitous. If everyone on the trial team has the software, everyone can create graphs at the drop of a hat. Conversely, if timeline-graphing software is given to a select few, you'll realize only a tiny percentage of the possible benefits.

I'm not suggesting that attorneys be responsible for the final editing of charts bound for the courtroom. Again, timelines are no longer a form of demonstrative evidence used once a year. Timelines are a thinking tool used on a daily or weekly basis as you work your cases. Attorneys need to be able to rough out charts and see

the results whenever they want. If it's later determined that a chart an attorney created while brainstorming should serve as a demonstrative, it can be sent to others for polishing and final production.

I'd love your feedback on this article and to hear your ideas regarding other great ways to put timeline graphs to work. Please e-mail me at [gkrehel@casesoft.com](mailto:gkrehel@casesoft.com) with your comments, describing your ideas, and/or attaching copies of timelines based on your ideas. Thanks!

## About the Author

Greg Krehel is co-founder of the CaseSoft Division of DecisionQuest. CaseSoft ([www.casesoft.com](http://www.casesoft.com)) is the developer of three software products for trial teams: CaseMap, TimeMap, and NoteMap. DecisionQuest ([www.decisionquest.com](http://www.decisionquest.com)) is the nation's leading provider of trial consulting and litigation graphics services.

