

Timelines – They’re Not Just for Trial Anymore

By Jeffrey S. Lisson, Esq.

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. Timelines can be a decisive factor in obtaining a favorable verdict or ruling.

Timelines are the most effective way to give a judge or jury a sense of who did what, when, and to whom. Just as bar charts and graphs help the uninitiated make sense out of a sea of facts and figures, timelines show the relationship between events.

Timelines generally show events laid out on a horizontal, constant chronological scale. Events – the writing of a memo, the reading of an x-ray, or the shooting of a gun – are listed in the order they occurred. While tables of dates and facts require effort to understand, timelines are instantly clear.

Flags containing fact paraphrasing are positioned by date along a horizontal time scale in a timeline graphs. 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 shows the temporal distance. This makes it easy to see the relationships among events.

Why are timelines so effective? Psychologists would say timelines overcome a weakness in our cognitive abilities. Our minds simply stink at calculating, or even estimating, elapsed time between events. Our minds are worse yet at comparing the elapsed time between groups of events.

Sound like the perfect tool for persuasion? A great way to analyze evidence? Absolutely. 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. Then why are they so seldom used? Because, until now, timelines have been so tough to prepare. The prohibitive cost in time and dollars of developing timeline graphs has limited them to use as trial exhibits on high stakes cases.

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 costs just a few dollars. Timelines used to be a type of demonstrative evidence reserved the big trial. Now, they've 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.

Timelines used to require lots of time and money. First, you would need to decide the amount of time to be displayed – a month, a year, five years. Next comes the scale:

Should an inch equal an hour, a day, or a year? Then, once the scale is set, the trial team would have to decide which facts to include, and hire a professional artist to draw the lines and carefully position printed boxes of typed text. God help you if a witness changed a date or a fact came out differently at trial. Hundreds or thousands of dollars down the drain.

But the advent of technology has solved these problems. There are many ways to address chronologies and, more specifically, timeline graphics, with the use of computer technology. Timelines can be created using Microsoft Excel, PowerPoint, or using a powerful graphics design application such as Quark. But these programs have a major drawback: They do not automatically create a proportional time scale, with appropriate distance between events.

A new software program even more succinctly solves these problems. It automatically plots a time scale based on the dates of events, and can change the scale for new events. You type in the facts, and the program creates a "flag" with your text perfectly positioned on the time scale. The scale can be seconds, months or years, with two, five, or a hundred events. The software does in milliseconds what previously took days for a graphic artist.

With this program, called TimeMap, I have been able to help judges and juries understand in 30 seconds what formerly would have taken 20 minutes of explanation and argument. The timeline took all of 10 minutes to create (once I decided which facts to include). And while CaseSoft (www.casesoft.com), the developers of TimeMap, say you can learn the key features and produce your first chart in 30 minutes, the basics take 15 minutes or less. And once created, any timeline can be modified instantly.

Other nifty features of this program 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 an Internet browser. Sending charts by e-mail takes three clicks and typing in an e-mail address.

A perfect example of how effective a timeline can be is a case I tried alleging fraudulent conveyance. My clients wanted to collect the nearly \$90,000.00 judgment I won for them, but couldn't reach the defendants' main assets. It seems the defendants deeded out two pieces of land to other family members just before our trial started.

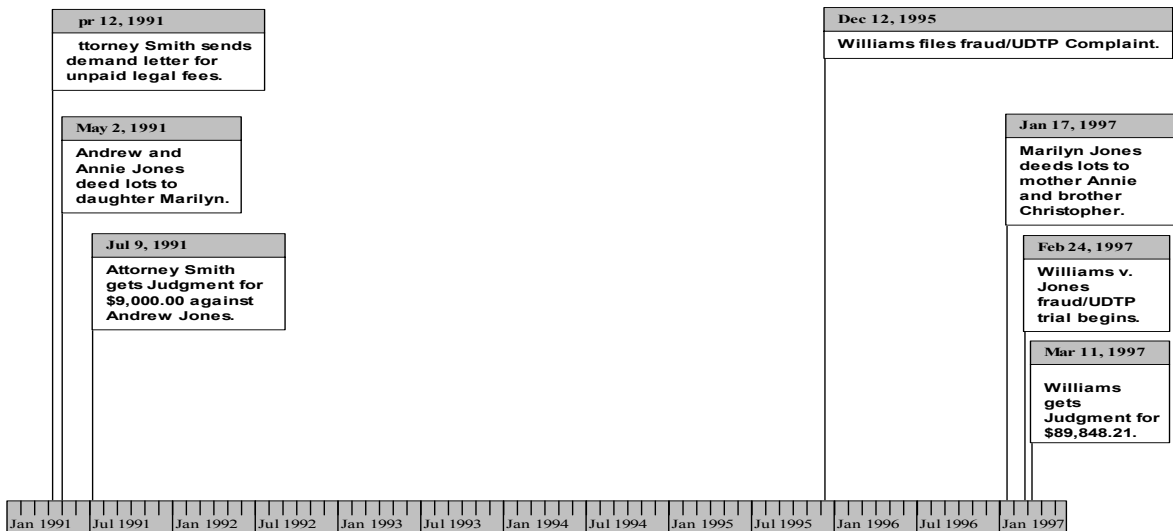
When we sued to set aside the deeds, the defendants produced documents that, if believed, showed the recipients of the property paid a fair price. But our research showed that the only times these lots were traded was when a family member who owned the lots was threatened with a lawsuit and judgment.

How did we present this evidence? We could have taken the dates of all the events and listed them in a table, like so:

April 12, 1991	Attorney Smith sends demand letter for
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	unpaid legal fees.
May 2, 1991	Andrew and Annie Jones deed lots to daughter Marilyn.
July 9, 1991	Attorney Smith gets judgment for \$9,000.00 against Andrew Jones.
December 12, 1995	Williams files fraud/UDTP Complaint.
January 17, 1997	Marilyn Jones deeds lots to mother Annie and brother Christopher.
February 24, 1997	Williams v. Jones fraud/UDTP trial begins.
March 11, 1997	Williams gets judgment for \$89,848.21.

Instead, we used TimeMap. In ten minutes, we had a visual that looked like this (names have been changed):



Note the long time scale (six years), the cluster of activity at certain points, and the long period of inactivity. This visual effectively presented to the jury three main points: 1) That every time the Jones family members who owned the property were threatened with or were sued, they deeded the property to other family members; 2) No transfers occurred unless a suit or demand was pending; and 3) The suits/demands against the defendants were successful.

Though TimeMap allows graphs up to 20 pages wide, often the important periods are much shorter and need more specificity. For those, I often make separate visuals for different times within a case. For example, in a medical malpractice case, one chart could illustrate key events before, during and after surgery, with another chart showing the patient's complete medical history.

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, and think of them instead as tools to understand relationships between events. Now that these visuals are easy to create, they should be used as thinking tools and as an everyday communication aids.

Analyzing Evidence

Most cases involve a few key facts spread over time. Time-graphing the important events makes it easier to appreciate the “hows” and “whens” of a dispute. In other words, a timeline can be used to analyze evidence, not just as demonstrative evidence. Using timeline graphs in this new way frequently leads one to see the facts in a whole new light, reveal a new theme, a better argument, or a serious flaw in the opposition's case.

Sometimes a timeline will reveal a flaw in my own case. If so, better to learn it early and cheaply, and use the timeline to convince the client of a recommended course of action.

Enhancing Client Interviews

Many of my clients (I assume they're typical) tell disjointed stories, starting and stopping and jumping from place to place. When I have a particularly hard time understanding events, I use TimeMap during a client interview.

After the client has told me their story, I turn my monitor so the client and I can see it, and begin placing events on the graph. (A projector would work as well.) We then go back over their account, and I enter key facts into TimeMap. This way, client and I know that I've gotten accurate information, and we both understand the sequence of events.

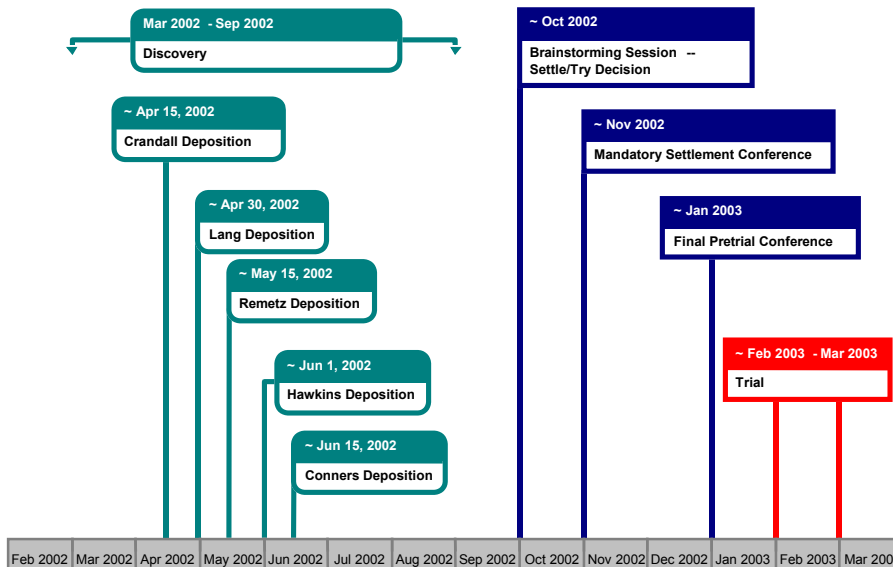
As I enter facts, TimeMap recalculates the time graph, and repositions the event flags. Order of entry doesn't matter, as the software automatically puts the events where they belong. Often, seeing the timeline grow will trigger the client to think of additional facts, or allow me to see gaps in the story, which require follow-up questions.

When you finish the interview, you can 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.

Illustrating Critical Events Leading to Trial

Timelines are perfect for detailing discovery disputes and lack of diligence on the other side. You also can use timelines to show clients key upcoming dates. For example, create a chart depicting key depositions, hearings, the mandatory settlement conference, and trial itself. Since editing the timeline in TimeMap is so easy, you can add and remove events and change the dates as needed. 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 separate charts illustrating the anticipated flow of witnesses during the trial itself.

Important Case Dates



Caption: 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.

Given all the uses of timelines, it amazes me that so few trial lawyers (and non-trial lawyers) have this software. As a thinking tool, they are invaluable. As a communication tool, they are powerful. And as an evidentiary tool, they are unparalleled.

I'm not suggesting that attorneys need to be responsible for the final editing of charts bound for the courtroom (though of course the attorney must decide the purpose and intended effect of each visual). But using timelines for their broader educational and working functions, and as a brainstorming tool, can assist, impress and persuade clients, judges and juries.

Author Bio:

Jeffrey S. Lisson is a solo practitioner in Winston-Salem, North Carolina, and received his J.D. from Wake Forest University School of Law. He is a trial lawyer and lecturer on legal technology for solos and small firms. His most recent article, "Wiring the Small Law Office for Less than \$10,000," is available at www.lissonlaw.com/articles-opinions.html.