

Technology Solutions

PRODUCT REVIEWS & MANAGEMENT INSIGHTS

Reprinted with Permission

A New Edge for Trial Lawyers

BY DENNIS KENNEDY

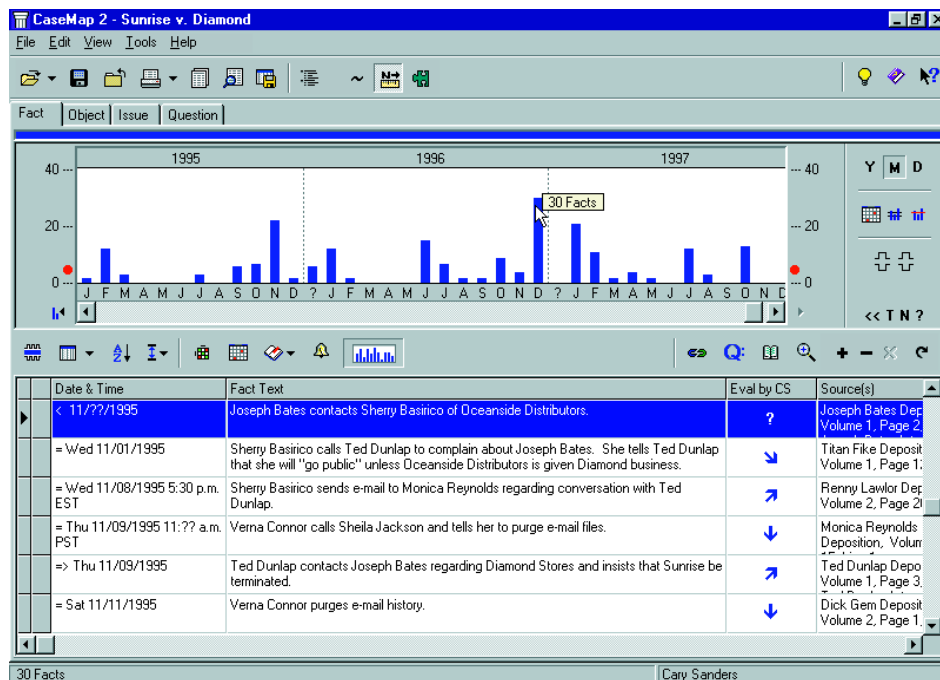
Trial lawyers looking for a new edge have been taking a close look at computer technology. A new software product called CaseMap (www.casesoft.com) might be just the ticket to give you that edge in your next trial.

The sheer volume of information in complex cases often makes it difficult for an attorney to prepare a coherent strategy or to organize arguments and present them in an effective manner. Too often the information involved in your case is buried in banker's boxes of files or on a multitude of legal pads where you've made questions or notes which you might not find again.

CaseMap creates a new software niche. It is a "litigation knowledge management" product that can help you create chronologies and timelines, organize and analyze your case and develop strategies. It is a "thinking tool." And it has the potential to revolutionize the way that lawyers think about and organize their cases.

I first learned of the program at the ABA's TechShow in Chicago, where I spoke with Bob Wiss, president of CaseSoft, the maker of CaseMap. I was intrigued by Bob's comment that "our goal is to replace the legal pad."

Wiss has worked as a litigation consultant for more than 10 years, assisting on over 350 cases. He



In less than 30 seconds, you can filter the master chronology down to just those facts that are undisputed, that mention a particular witness, or are particularly good or bad. The optionally-displayed CaseWide bar graph automatically counts and displays when facts occur over time.

noticed that when he asked for timelines, chronologies and a list of what facts were good and bad for his party's side, he generally found that attorneys usually only had anecdotal information, if they had any at all.

"If you had ten people in a room ready to work on the epidemiology issues in a case," Wiss says, "it always seemed that the epidemiology lawyer was out of town and that all the information on the epidemiology issues was either in that lawyer's head or legal pad and nothing could get done until that lawyer returned."

Bob and his partner, Greg Krehel,

decided that there must be a way to make an attorney's legal pad and thoughts accessible to everybody working on the case. CaseSoft has been working on CaseMap for the last few years, initially starting as a database application to prepare timelines and chronologies, especially chronologies related to witnesses.

During the development process, the program grew to include powerful ways to organize, analyze and assess facts, witnesses and questions, and link related information.

CaseMap arranges your trial information into tables with rows and

columns and then organizes the information into four categories: facts, objects (witnesses, evidence and the like), issues of the case and your questions.

“[CaseMap] takes you from fact gathering to strategic analysis.”

Under each of these categories are a number of columns by which you can enter different types of information. For example, if you have a witness, you can enter information in such categories as role in case, credentials, demographic information and then link that information to specific facts. You can add new categories as you wish or customize categories.

Mike Yoder, who has a complex litigation practice at the Newport Beach, California office of O’Melveny and Myers, LLP, has used CaseMap since it was in beta testing and says that the ease of customization is an attractive feature of CaseMap.

As an example, you can enter the name of a witness and list in tabular format every item of information involved in the case that applies to that witness. You could also identify every issue raised in the case to which that witness had relevance. Yoder notes that CaseMap allows you “to pull all the facts you need to establish with a particular witness.” Then use CaseMap to help you prepare the questions you will ask the witness. Yoder says that sometimes the CaseMap chart is all he needs to use as a witness outline.

CaseMap organizes your evidence. You can designate whether each item of evidence is in dispute or undisputed, giving you a powerful method

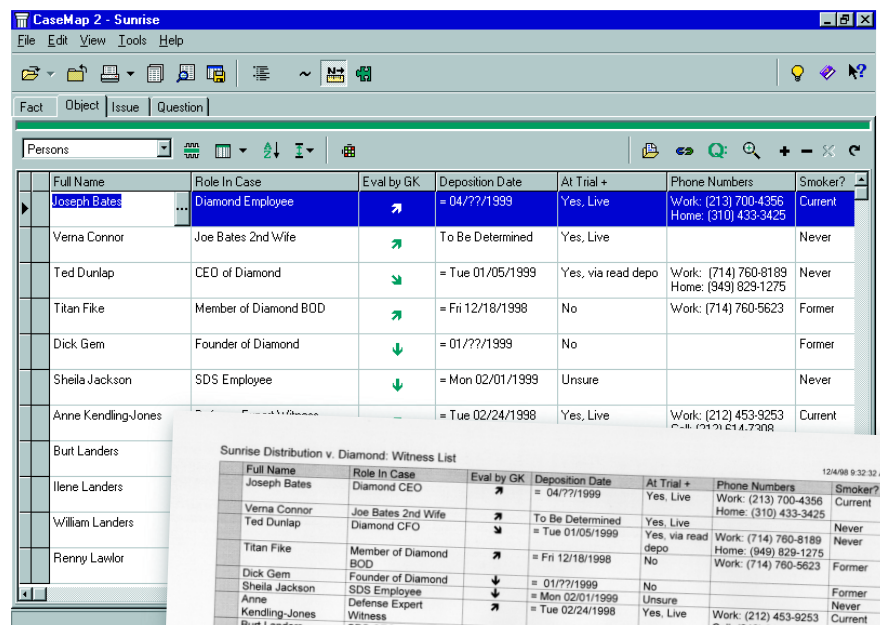
to assess many aspects of your case. Since you can divide evidence into issue categories, you can easily generate a list of all disputed evidence on the issue of causation and print that out for reference.

Carol Foster, of the five-person Newport Beach firm of Waldron & Olson which does a lot of business litigation, second-chaired a bench trial with Gary Waldron in

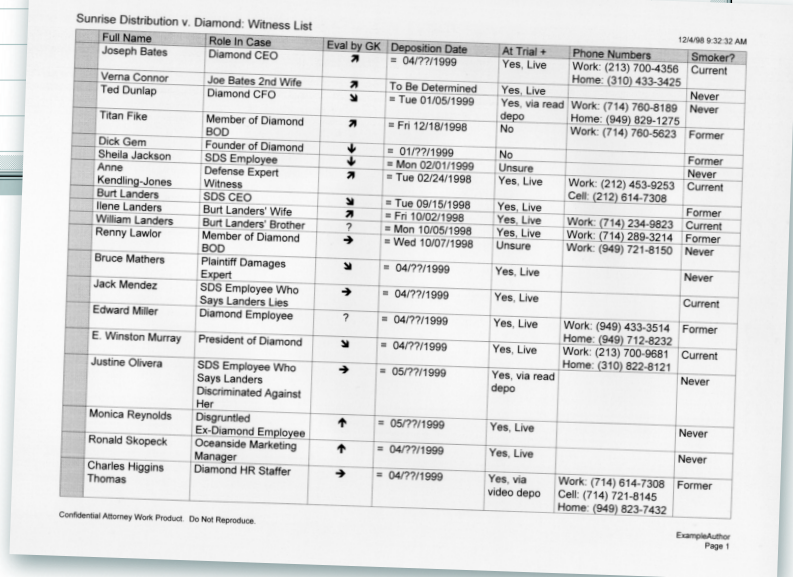
potential impeachment and areas to question in more depth.” CaseMap “really augmented witness questioning,” she adds.

Foster also organized evidence by the elements of the cause of action in order to be sure that each element was proved. She also liked the “rapid access to the information.”

Consider the preparation of a motion for summary judgment. Typically, you will have one or more associates sift through mountains of



CaseMap makes it easy to generate custom reports of your case information. As you adjust your onscreen table view, you simultaneously adjust your printed report.



which they used CaseMap to organize closing arguments, help with strategy and question witnesses. They used CaseMap while a witness was on the stand to see all the evidence associated with a witness and a timeline. “We were able to identify areas of

evidence trying to decide which facts are not at issue. If you enter your facts in CaseMap and mark them as “undisputed,” you can, in a matter of seconds, print out a list of all undisputed facts, categorized by legal issue, and hand that list to your

associate drafting the motion, along with a chronology of these facts.

CaseMap also allows you to assess evidence. You can rate each fact in evidence as highly favorable to your case, somewhat favorable, neutral, somewhat unfavorable or highly unfavorable. You can make that assessment, then record it in CaseMap. Others working on the case can also record their own assessments.

For example, you could create a list

knowing process.” It allows CaseMap to filter out everything but what is important to you at the time. The data refinery allows you to sort information on the criteria you wish in any number of different ways.

For example, you might take the deposition of a

the impact of seeing that only 80 of 400 facts in your case are favorable to your client.

“Trial lawyers, at crunch time, counseling clients about the strengths and weaknesses of the case, will find CaseMap very useful,” says Anderson.

...other types of programs deal with data management while CaseMap focuses on knowledge management.

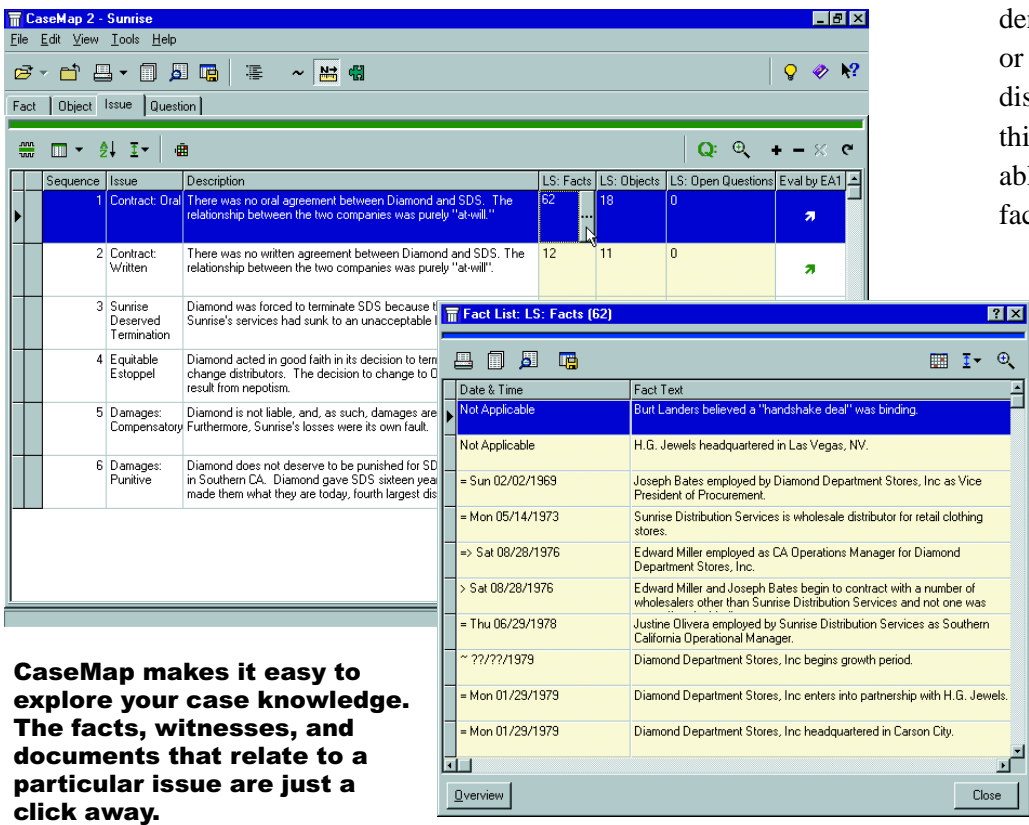
CaseMap will also generate a table comparing your rating of the evidence with the rating of your partners or your client. You might then discuss with your partner why you think three facts are “highly unfavorable” while he or she thinks the same facts are “somewhat favorable.” That discussion might be the key to determining your case strategy.

The ability to analyze facts in a variety of ways can greatly assist your work on case strategies and approaches. Yoder laughingly suggested that his main criticism of the program was that “it’s so fascinating to analyze information in so many different ways that sometimes I lose track of time.”

In addition, a single mouse click can create timelines and chronologies by witness, by

issue or for the whole case. Having an accurate chronology can be a great advantage. Anderson also says that “getting facts into chronological order allows you to see themes and trends in your case.”

CaseMap is easy to learn. Wiss talked me through a demo of the program over the telephone in about an hour. Yoder said that CaseMap was “as easy to use as any litigation program I’ve ever used.” I also had an excellent experience with



CaseMap makes it easy to explore your case knowledge. The facts, witnesses, and documents that relate to a particular issue are just a click away.

of all facts relating to the issue of causation and see at a glance whether they were favorable or unfavorable. Kimball Anderson, a partner at Winston & Strawn in Chicago and a fellow of the American College of Trial Lawyers, has used CaseMap for several trials and notes that the program “takes you from fact gathering to strategic analysis.”

At the heart of CaseMap is its “data refinery.” Wiss calls this the “win-

key defendant.

Once you enter the facts and information into CaseMap from that deposition, you might provide your client with lists of the evidence from that deposition that you consider favorable and unfavorable.

You might also print out a list of all evidence that is undisputed and either favorable or unfavorable to help your client or the opposing party weigh the benefits of settling the case. Imagine

CaseMap's technical support department as did Foster.

The product is reasonably priced for all attorneys. At \$495.00, it is attractive to small firms and solos as well as larger firms. Wiss says that the program has "a lot of utility for solo practitioners." Foster concurs and says that for small firms CaseMap "is a good replacement for

and users of the program agree. It might be possible, with a lot of work, to create a custom database application that could do some of the things that CaseMap can. Other "thinking tools" like Inspiration (www.inspiration.com), a "mindmapping" program that allows you to organize your thoughts visually, and Trellix (www.trellix.com), a program that

What sets CaseMap apart is that other types of programs deal with data management while CaseMap focuses on knowledge management. Yoder uses CaseMap in conjunction with Summation and similar programs. Anderson uses CaseMap alongside JFS's Litigator's Notebook.

Using CaseMap, Anderson recently won a trial even though he became involved in the case in its very late stages. He says, "It allowed me to cull the critical facts." CaseMap, he adds, is great for "the trial lawyer trying to separate the wheat from the chaff and get down to the nuggets to use, and to organize and analyze those nuggets."

Using CaseMap to assist you with the trial of your case can level the playing field for a small firm or solo against a large firm, or increase the advantages that you might have over your opponent. It may even let you take the high ground and outflank your opponent. Yoder, however, says that the real value of CaseMap may be how it helps you become efficient and cost-effective in handling a case. For trial lawyers looking for an edge, CaseMap is a great place to start your search. **END**

Question Text	Due Date	Assigned To +	Eval by EA1
Who will be our expert witness for damages?	= Fri 06/27/1997	EA1	• Unevaluated
Will the deposition of Justice Olivera refute accounts of Bates/Landers Dinner Meeting as testified by Charles Higgins	= Tue 11/18/1997	EA1	A Extremely Critical
Has Ted Dunlap been deposed?	= Wed 09/17/1997	EA1	B Very Critical
Will we be running jury research?	To Be Determined	EA1	C Critical
Do we have records documenting Sunrise Distribution Services growth following business dealings with Diamond Department	= Thu 09/25/1997	Researcher1	D Not Very Critical
Will Ted Dunlap testify against Burt Landers legitimacy of Oral Diamond/SDS Service Agreement for Southern California Stores?	= Mon 07/28/1997	EA2	? Unsure
Can we hire additional expert witnesses?	= Thu 01/05/1995	EA2	• Unevaluated
Has William Landers been subpoenaed?	= Sat 10/18/1997	EA1	A
What is the extent of Green Light Distributors, Inc. relationship with Diamond Department Stores, Inc?	= Sat 01/03/1998	EA1	A
When will the photo enlargements of Diamond Feasibility Study and Diamond 2nd Feasibility Study be produced?	To Be Determined	Researcher1	A
Are there any additional corroborating witnesses (co-workers, family, or friends) Joseph Bates may have confided in re	= Tue 08/26/1997	Researcher2	A

In addition to helping you organize case knowledge, CaseMap helps you organize the questions to which you need to get answers before trial. Organize your questions by due date, by criticality, and by the trial team member to whom they're assigned.

fourteen associates who can be called in at midnight."

Like any database program, your results are only as good as the information you put into the program. Foster feels that inputting data into CaseMap "takes about the same time as preparing deposition summaries," while eliminating the need for those summaries.

Wiss tells me that there is no other product like CaseMap on the market

allows you to organize documents visually, might also be used effectively to help you plan your trial strategy. They are not, however, as clearly designed to match the needs of the trial lawyer nor do they have the same power and features of CaseMap. Foster also tried Inspiration, but felt that CaseMap is more geared to the trial lawyer.

CaseMap also differs from case management and document manage-

DENNIS KENNEDY

is a legal technology and Internet consultant in St. Louis, Missouri. His Web page of legal technology resources can be found at www.denniskennedy.com/lawtech.htm and his e-mail address is dmk@denniskennedy.com.