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# CaseMap, Assisting Litigation

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Anyone can eat an elephant. You just have to eat it one bite at a time.

**Introduction** – As a trial attorney, organization is one of the keys to successfully running a civil litigation practice. So far in my lifetime there have been only a few inventions that as systematically complimented my work habits as CaseMap has done. CaseMap as a litigation tool has dramatically increased my productivity. Everyone has a way of doing things that they like and find some comfort in. For me it's being organized. I like to organize the organization. I might have a list or a list of lists. So for me anything that can help me stay organized while keeping track of the facts in each case is worth evaluating.

My first job as a lawyer was working for a law firm that performed predominantly defense work and had about eighty active plaintiff cases. I was assigned to work with one attorney whose filing system was like many at that time. We would open a manila file and stuff everything into it until it was time to move that file into an expandable. My first task was to organize the eighty files we were together handling. And that I did.

From that experience I developed a litigation filing system that proposes to organize information by administration, correspondence, medicals, investigation, pleadings and discovery. Looking at it another way, from the initial interview we are preparing for trial. With the trial team being composed of several people it's important everyone is using the same filing system so information can be quickly identified by any one member. At one time I had two hundred and twenty five active litigation files. That was when I was a lot younger and my mind a lot sharper. Over time human capital wears out and I'm no exception. That's where CaseMap is so helpful. CaseMap is a software program that is designed to do many things associated with litigation management. It is an electronic case file of all relevant facts, people, organizations and issues. It does many other things but these four are the basic building blocks from which those other functions depend.

I have used CaseMap now for four years. Initially, when it was demonstrated for me, I was more than a little interested in playing with it to see if it could be adapted as part of our office litigation management system. As I began to use it as a tool to manage litigation an odd thing happened; I started seeing other ways in which it would make organizing my life easier. And so, it has become an indispensable tool in managing information in my practice, my business life and, believe it or not, in my personal life.

## Law Office Activities

**Law office case list progress with staff input** – Every litigator must have



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a current case list. Case lists should contain information that identifies the case and the appropriate limitation dates. A case list should also provide direction to the trial team. My staff utilizes CaseMap for this purpose. First, let me explain how CaseMap is organized. CaseMap allows individual electronic case files to be set up and then maintained. Multiple staff can access the data base simultaneously. In addition copies of the master electronic file can be made and stored on a lap top where the "replica" of the data base can be worked on off-site. Afterwards the replica can be synched to the master file. There are really four basic spread sheets of information that CaseMap utilizes. These include spread sheets for names, facts, issues and questions. Each spread sheet, or tab, can be modified to add columns. You can add columns for any sort of information you wish to include. Columns may include dates/times, fact content, expense charges, sources, billable time, check boxes, pull-down lists and many other ‘sorts' of information.

For our case list we use only the name spread sheet. In it we include a column for each case name, and columns for date of injury, statute of limitations date and then several columns for case progression information. For every person working on the case there is a column with their name at the top. The case names are listed in the first column. The staff columns set forth what tasks they are working on. The attorney is able to take home the case list, consider each case and then to assign tasks on an ongoing basis. The CaseMap case list is a document that continues to evolve. It takes shape and moves the case along while keeping the staff busy. For me it provides a master list for reviewing case progress at staff/attorney case review meetings.

It should be mentioned that each case has a Questions tab where assignments are also recorded.

**Multiple Client Cases** – It's not unusual in litigation to have one particular type of case that has multiple clients. It may be an automobile accident involving several family members who were injured while riding in the same car. Or it may be business litigation involving a contract common to multiple clients who all are being sued by the same business for a breach. In these types of cases it is helpful to record telephone conversation memos, email messages, billable time, settlement progressions, client communications and case facts in one location that would enable the lawyer to manage the information and while having the ability to sort for a single client. CaseMap allows you to do just that. The fact tab is turned into a spreadsheet of information anchored by dates and times with the ability to sort and to hide non-relevant information.

Next, I will list several practice pointers in general categories which may assist you in your practice.

**Tracking billable time in legal cases** – We handle very few hourly cases so when it is necessary we need an method to record billable time. In hourly cases we have a column added to the fact text spread sheet where we enter the number of minutes taken for the task. The fact column is where we record the actual work performed. A billing report is easily and quickly generated to substantiate a bill for services.

**Communications** – Our CaseMapping fact tab includes entries for all client communications. If a client speaks to a member of the trial team an entry is made for the date, time and substance of the conversation. The same type of entry is made for insurance adjusters, attorneys or any other personal contacts. Normally these entries involve three columns: date/time, facts and source. The source column is really pretty useful for classifying communications and can later be used to filter for just those types of communication. So if you should end up with three hundred rows of information (not unusual) you place the cursor over the source box with a description of what type of information you seek, right click and press the "sort" button. As an example if the source box has "SETTLMENT" inscribed and I sort for that entry, I will have only those rows of information having to do with settlement discussions. I am then able to quickly review all entries or the last few entries having to do with settlement discussions. If consistently added this will allow the trial team member to later filter the report down to just those entries and quickly review the history of negotiations or any other "type" of entry.

**Insurance company contact** – Have you experienced adjusters or their support personnel who seem to change positions from the last telephone call? I record all discussion in the fact text column and in the source column enter "INSURANCE" so that I am able to later filter the report down to just those entries and quickly review the history of discussions with the adjusters. I am then able to quote the date, time and what was said in our latest conversation.

**Medical datelines** – In the time BC (Before CaseMap) we would create datelines using WordPerfect and later Word. While it was much better than trying to remember every medical record, these software systems required a mechanical type of chronological sorting. With CaseMap the person entering data has a much easier time creating the list because CaseMap automatically sorts by date and time. In fact it's so easy even attorneys are capable of creating one. It doesn't matter in which order you have entered the information so long as each event is entered in a new row. CaseMap will automatically sort by date and time. Multiple entries on the same date (collision, police officer notification, enroute time, arrived at the scene, ambulance arrival and departure, etc) are automatically sorted by time as well as the date of the event.

Attorneys hire support staff to create medical datelines. Smaller law firms are not always capable of affording support staff with the skills needed to create reliable medical datelines. By outsourcing tasks a lawyer saves on support staff expense and it is usually money well spent. Staff time is not a recoverable expense in contingent fee cases. But like other expert support service fees, charges for nursing support to create a medical dateline are a recoverable cost of litigation. My office has worked with an independent contractor who has agreed to use CaseMap to perform the medical dateline construction. We forward to them a replica along with the medical records and then upon completion we synchronize their replica with our master. The replica has instructions built into the fact text advising them of the type of case and injuries to look for as well as the mechanism of injury. This alerts them of the basic type of case and what to focus on in the medical record entries. It provides some continuity between their task and what we are trying to accomplish. Before sending them a replica my staff adds the persons and organizations who performed the medical services. To make inputting of the information easier we use a convention for entering persons names by a method I call "type and tag" people into categories. We this because every time you type three letters of a name, a drop-down list of potential persons names appears. A name from the list is selected by highlighting that name and pushing the enter key. This later allows searches for all entries that include that name. As an example all doctors will have as a prefix to their names "DRSmith", adjuster start with "AdjSmith", attorneys with "AttySmith", physical therapists with "PTSmith" and nurses with "RNSmith". The convention you use can be personalized depending upon what you're practice requires.

Medical records often contain names of procedures and diagnosis codes that provide key information about the injuries, conditions and diseases. I surf the Internet for definitions, descriptions and drug information and in the CaseMap open add medical information in a separate column or in the next dated entry (row). It's not unusual for me to make the time one minute after the previous entry to "peg" that entry to follow with a relevant definition, description or thought. That way it makes the information readily available and allows the reader a better understanding of the previous entry. Attorneys and staff are encouraged to enter definitions and explanations culled from the Internet that define terms, words, medical procedures, diseases, diagnoses and other information entered in the fact text.

**Settlement / Mediation** – At the time BC, I use to procrastinate assembling the necessary information to educate the mediator. With CaseMap it's so simple and easily done that this part of my practice has become one of my most enjoyed activities. By the time a case is ready for mediation our CaseMap has fairly well developed tabs for name, organization, issue and facts. To prepare the mediator I first create a name and also an organization list report. That is followed by the fact report. At the end of the fact report, as the last dated entry, usually dated the day before the mediation, I outline my position on each element of the case. In more complicated cases I will also include the issues report with the issues and sub issues forming the outline and then two additional columns: one for the law and another for the facts.

This I did in Federal Court in Jefferson City, Missouri involving a multiple car collision in which I represented four family members, all seriously injured. I used one CaseMap case file for all four family members. We entered all of their medical records into one fact tab. One column was devoted to a pull down list of the family member names, thereby identifying the entry for that family member who received the medical care. We added another column for medical expenses and pegged those expenses to the individual medical service being performed. (Think of how easy it is to see what medical expenses you're missing. If there is not a medical expense next to the service you're missing the expense for that service.) During the course of representing this family the husband had another accident in a different state, Iowa. So we added those medical service events to the CaseMap and in another column created a pull down menu for selecting either "Missouri" or "Iowa" or "Both" and could sort for either depending upon how the report was intended to be used. The Magistrate ordered us into mediation before him in his courtroom. Ahead of schedule I created one persons report, one organizations report, one liability report, a medical dateline for each injured plaintiff that included medical expenses and lastly a separate wage loss report for the mother and father. The Magistrate read each report ahead of the mediation session, thanked me advising how useful they were, then turned to the Defendant's attorney and adjuster saying, "Well Mrs. X is getting the limits so we need not discuss her case. Does anyone not agree?" There was silence in the room as the defense side of the table looked down at the CaseMap Reports.

My preparation for that mediation session was quite thorough and yet quite simple. Those reports include the persons report, organizations report and fact report by medical dateline, wage or occupational issues and damages/evaluation. At the mediation we had digital images of significant injuries to the people, the cars, the accident location and other relevant evidence. I turned the laptop around facing the Federal Magistrate and defense team. As I described the facts and laid out the plaintiffs' position, a slide show of images scrolled through mangled metal and bloody bodies. The Magistrate's only comment after the slide show was, "Well I guess it's safe to assume Mr. Lombardi has the digital age figured out." While that comment made me feel good what really impressed me was watching the fifth injured plaintiff, one I did not represent ask her attorney, "Why don't we have those kinds of reports?" To which he responded, "It's not our turn to talk."

Obviously I'm quite impressed with CaseMap and its utility for litigation. The reports are jewels and any mediator that has dealt with my office waits for our person, organization and fact reports before spending a lot of time reviewing other documents. That's because the chronological outline makes for easy reading and a quick understanding of the case. The person report tells a lot about what is involved. The fact reports are boiled down to really four areas. One is the liability report that lists all liability related entries in chronological order and the source for the information. Second is the medical dateline with all medical entries verbatim from the written documents. Third is the vocational or wage loss report with all wage related entries including an entry for December 31 or each year with the W2 wage information for the injured person. Last, our evaluation boiled down to its very essence is the last entry. We add the meat at the mediation.

**Answering Interrogatories** – Any way I can figure out how to save time I'm going to try and adopt that method. CaseMap allows you to create witness lists to answer interrogatories. It's as easy as creating separate lists for experts and for lay witnesses and then answering the interrogatory by referring to the "attached CaseMap report".

**Medical Evaluations** – Personal injury cases, including workers compensation all require medical evaluations. In many cases there are hundreds of pages of documents for the doctors to read. Litigation teams can save these hired professionals' time if when your office sends the medical records you also provide an accurate medical date line. The fact text in the CaseMap case file is perfect for producing a report quickly sorted by ‘medical records'. In two of our cases involving malpractice the reviewing physicians independent of one another returned checks in the amount of $125.00 pointing out their review did not take as much time as they anticipated due to the CaseMap Medical Dateline Report.

**Litigation Toolbox** – Are you a member of a list serve? Have your read questions and answers providing what could be rather critical information at some later date in some later case? I have and have developed what I call a Litigator's Toolbox for that purpose. Instead of a client's name the CaseMap name is Litigator's Toolbox. The persons tab is used to list expert names, then a column for area of expertise, and then a column for contact information. Using the fact tab I paste email messages sorted by date and titled by area of experts in a particular area. As an example let's say there is a string discussion between three attorneys concerning a black box case. In the string of email messages they discuss experts and how to extract the necessary digital information from a vehicles black box. In the discussion one attorney describes how the digital evidence may be lost, damage or destroyed if not done properly. One attorney discusses a case in which after the black box information was improperly downloaded the district court excludes the use of the data from evidence. Even though you may not currently have such a case, the likelihood that you will have a black box case is pretty good. To preserve this free education and valuable sources of information I would cut and paste these email messages into the fact tab of the Litigators Toolbox. In the future that information is preserved for me in one location. I can peg the data by inserting in the source column "Black Box". Then even if there were a thousand event entries in the litigators' toolbox I could within seconds filter them to just those few entries having to do with "Black Box" cases.

There are many other types of information I try to collect in the litigators' toolbox. These include websites for helpful information for area of practice. Or an explanation of physical principles relevant to a personal injury practice. I maintain the Master copy of the litigator's toolbox on my laptop and keep a replica on the office server. That way it is always with me even when I'm in court.

**CASEMAP TEMPLATES** – This has to be the most exciting and useful tool of the CaseMapping system. Had I had this twenty-years ago I'd be minus four metal filing cabinets with pages and pages of cases that fill individual files of different litigation theories that outline the relevant case law for each theory. A CaseMap template does the same thing except it allows you do it on your laptop and take it with you where ever you go. Evidentiary issues can form a template and how useful would that be in Court? The template allows the busy litigator to do several things that can prepare him for the next client's case involving the same cause of action.

First consider specialization in litigation. I litigate civil cases having to do with personal injury. That area of practice encompasses cases whose origin may include auto collisions, premise liability, pharmaceuticals, malpractice, workers compensation, social security or many other areas. Each of these areas has different elements that must be proven. The template allows the lawyer to outline all the current case law under the separate issues/elements and to store that information until the next case that utilizes the same issues comes along the attorney is also able to list the facts the trial team needs to get from the client in the initial interview. What you are able to create is a menu of what those types of cases require. The beauty of this is that you are never reinventing the wheel. I mean this I'm not just spouting prose.

You can approach creating a template from two different angles. First you open a new CaseMap "case" using the "Create a Template" menu. You're not just opening a new case you are actually creating a template for later use. If you don't have a case you can outline the case law under the issues tab for that template. Or if you already have a case where the issues is pretty well outlined you can create a template by using that already opened case. The template menu, when creating a new template, will allow you to upload as much or as little from an existing case. The utility of the template has to do with new clients. Say a new client comes into the office and his case is an auto accident. You can tell everyone else but me that after a hundred auto accident cases you're still thrilled outlining and researching the issues of negligence, breach of duty and proximate cause. Yawn!!! Okay I'm awake again. With the CaseMap template after you've outlined one negligence case you no longer have to do it ever again. Here let me repeat that: With the CaseMap template after you've outlined one negligence case you no longer have to do it ever again. And here's why. Say you've got the CaseMap template created and sitting on your laptop drive. A new client comes in and it's time to create a CaseMap for his case, which is a personal injury soft tissue injury from a car accident. When opening the menu to create a new case you use the CaseMap Template for Auto Accidents. That particular template has the issues of duty, breach of duty and proximate case all outlined under the issues tab. In the fact tab it has the fact anchors you need in every case: (DOB, SS#, date of marriage, number of and names of children, spouses name, etc.) As you interview the client you are simultaneously typing in the answers to questions in the fact tab, the identities of person and organizations, etc. And guess what? The basic issues are already outlined and include ready references to the relevant case law. That way you always have a ready reference to the current outline of the law and the individual issues. You keep the template up to date by cutting and pasting the actual language from advanced sheet cases into a column where the law is stated and the citation. This is enormous in terms of what this allows you to specialize in and to practice competently.

I have templates for several areas of the law. These include: personal injury workers compensation, family law, product liability, contract types of cases, falling tree limb cases, those involving excessive force during an arrest, defamation, collection actions, breast implants, animal related torts, drugs and devices, first party bad faith, premise liability, ski injury, slander of title, removal to federal court, personal injury auto collisions, medical malpractice, traumatic brain injury, workers' compensation for non-scheduled injuries, workers' compensation for scheduled injuries, workers compensation Medicare set-aside arrangements, wrongful death, wrongful employment discharge, toxic mold and whistleblower torts to name a few. Pharmaceutical case templates have been created for the drugs Vioxx, Vasotec, Bextra, Baycol, breast implants and others.

**Commercial Real Estate** – The practice of law is a challenge. Earning money in the practice of law requires you be in the trial mode or the litigation machine shuts down. We have considered the options and it's unlikely I will live forever or that I will be able to try cases until the day I die. As a retirement vehicle we have invested in commercial real estate. A part of what the law office duties we function as a commercial real estate management firm. CaseMap can and does assist with this function.

For every commercial property we own or manage we open a CaseMap electronic file. Using the persons tab we organize the list of all characters having to do with that project. A column is created for "typing" the person by their role in that project. Those roles include tenants, vendors, lenders, attorneys, government officials and potential tenants. We do the same under the organizations tab. Using the facts tab we enter events. A telephone call is an event. An email message, a telephone call, a person-to-person contact, and letters are all events. Each are entered separately with the appropriate date and time stamp. In a third column we "type" the message from the pull down list that CaseMap easily allows the user to create. As previously outlined it is very easy to filter down to the types of events that support your immediate needs.

For real estate projects we use the issues tab to list tasks by priority and to monitor who is assigned what part of the task and to set deadlines if applicable.

**Real Estate Tool Box** – Once again the toolbox is a valuable part of our organization. Using one in the real estate business allows us to track whatever helps you find answers to common and reoccurring questions that will lead us to a satisfactory solution. The issues tab can be developed to include a section on due diligence requirements. When you make an offer to purchase it's very easy to filter for only those requirements applicable to this particular purchase, there to print a report that is attached to the purchase agreement, while maintaining a complete list of possible provisions that can be modified over time.

Tracking website user names and passwords – We are back to the human capital wearing out. If you are able remember every user name and password you've created you're a much smarter person than I. I have no ability to recall every one I've created. I created a CaseMap just for storing user names and passwords. For this type of information storage there must be some level of security. CaseMap is there to lend a helping hand. CaseMap allows the use of password protected entry. I have password protected a CaseMap file called "Website Passwords Membership Numbers" and in the fact tab I copy and paste all emails with that information. You can use the date and time function if necessary although I find that information unnecessary. When confronted with a web request for user name and password this file is very helpful. I open the website password file and then do a search for the website name which usually brings up the correct entry so I can then determine the user name and password previously assigned. Examples include travel related websites, credit card information, music, legal research sites and many others.

**Personal Life – Family** – CaseMap can create a list of family members and in the date and time column enter the people's date of birth. The fact tab entries may include their name and social security number. The persons tab entries when properly filled acts as an up-to-date address and phone book. This can be printed as a pdf and emailed to family members who can then assist in filling in any blanks.

**NOTEMAP** – A companion program by CaseSoft is NoteMap. It too has become a staple in our quest to remain organized. NoteMap is used to create a flow chart of tasks for the law firm, the commercial real estate properties and my own personal life. Nothing gets lost and it is quickly reviewed on weekends for planning the week's jobs. Priorities can be rearranged as I see fit and demands change. My personal task list is called "Mondays Job List" and includes sections for Lombardi Law Firm, Commercial Real Estate by location and a section for "Purely Personal things to do". The law firm case section is divided into subsections for "Cases in the Can", "Immediate Action", "Intermediate Action" and "Long Range Action". We create a "Hit List" for cases that are priority.

I find NoteMap very helpful for freewheel thinking. Notes are jotted down in any order. They are easily rearranged allowing priorities to be set and the ideas further developed. That's because simple buttons allow moving any note up, down, left or right (children). That way reorganizing the individual notes is a breeze. The ease of reorganizing your notes aids in creative thinking.

**CONCLUSION** - CaseMap and NoteMap are flexible organizational tools indispensable to any active litigation practice. After using these programs you will find other uses for both business and in your personal life. An African guide once said to me, "Anyone can eat an elephant, you just have to eat it one bite at a time." What these programs have done for me is to break down the steps of running these businesses into easily digested bites.

About the Author:

Stephen D. Lombardi heads the Lombardi Law Firm in West Des Moines, Iowa. He is a sole practitioner practicing primarily in trials with an emphasis on personal injury, professional negligence, product liability, defamation and worker's compensation cases. Mr. Lombardi also owns and manages commercial real estate and is knowledgeable about the fundamentals of investment real estate and valuing commercial property.