# Sipping From the Fire Hose

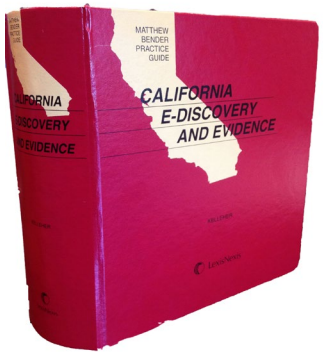
## Techniques for Managing E-discovery and Evidence in Litigation

Presented by Michael F. Kelleher, Esq.

# Goals

- Find the evidence
- Organize the evidence
- Tell your story

# E-Discovery Checklist In Handouts



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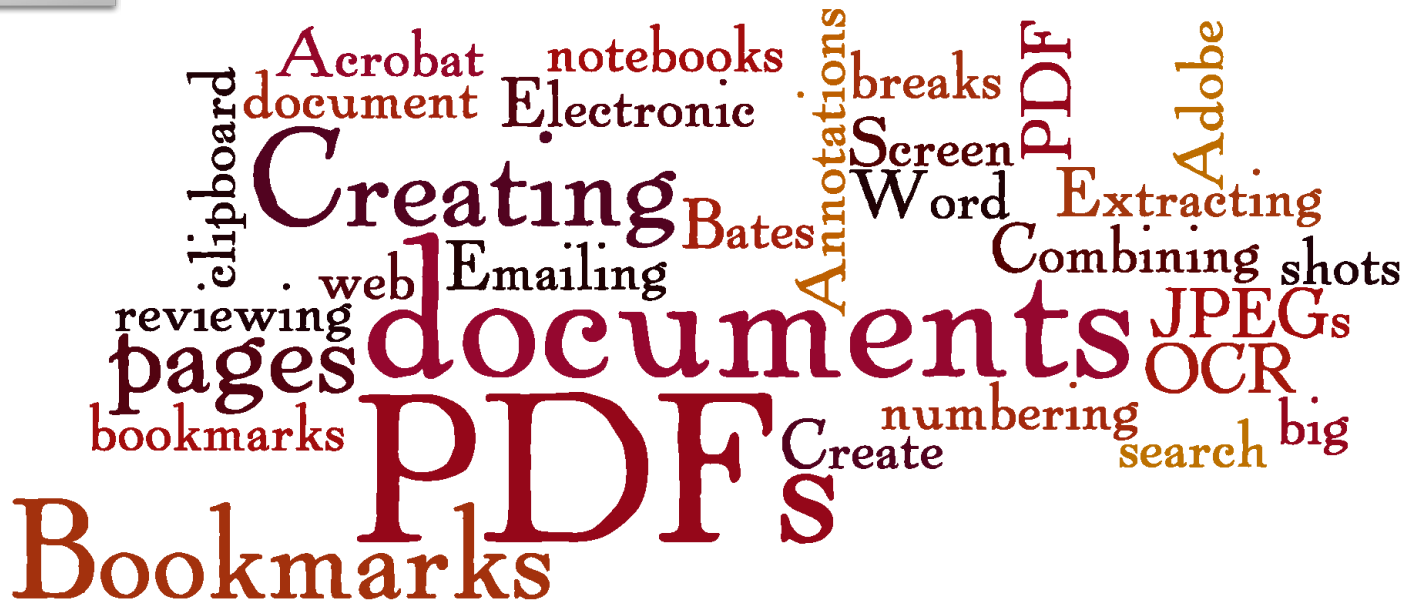
# Adobe Acrobat

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## Skip Unitizing

Box001_File001.pdf

Box001_File002.pdf

Box002_File001.pdf

Key Docs Notebook_001.pdf

# Acrobat to Organize It

## Date Prefixed Names of Key Documents

2004-12-14 Lawsuit Q and A.pdf.pdf

2004-12-15 Smith to Simmons re foreclosure.pdf

2004-12-23 Titus Letter to Smith.pdf

# Acrobat to Organize It

## Deposition Exhibits

DEX0001-Jan 1993 Contract.pdf

DEX0002-Smith To Kelleher Letter.pdf

DEX0003-Signature Page.pdf

# Acrobat to Organize It

## Name PDFs by bates number

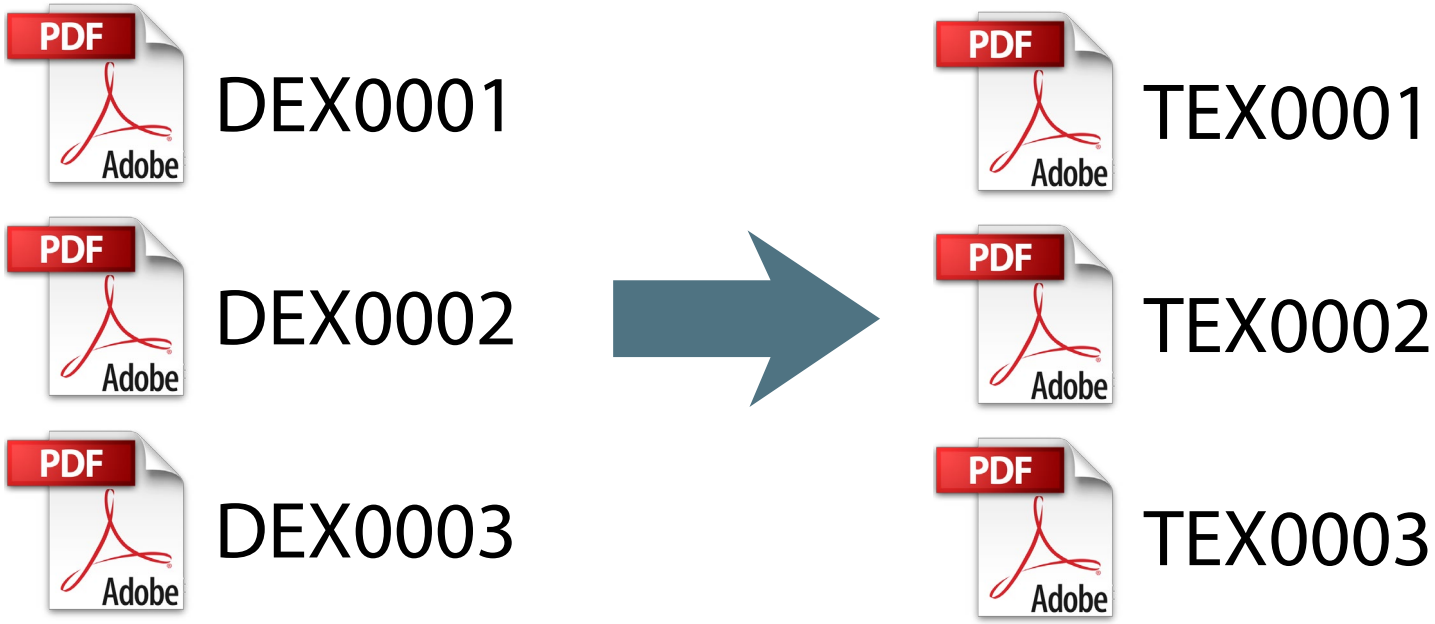
CT0001.pdf

CT0002.pdf

CT0003.pdf

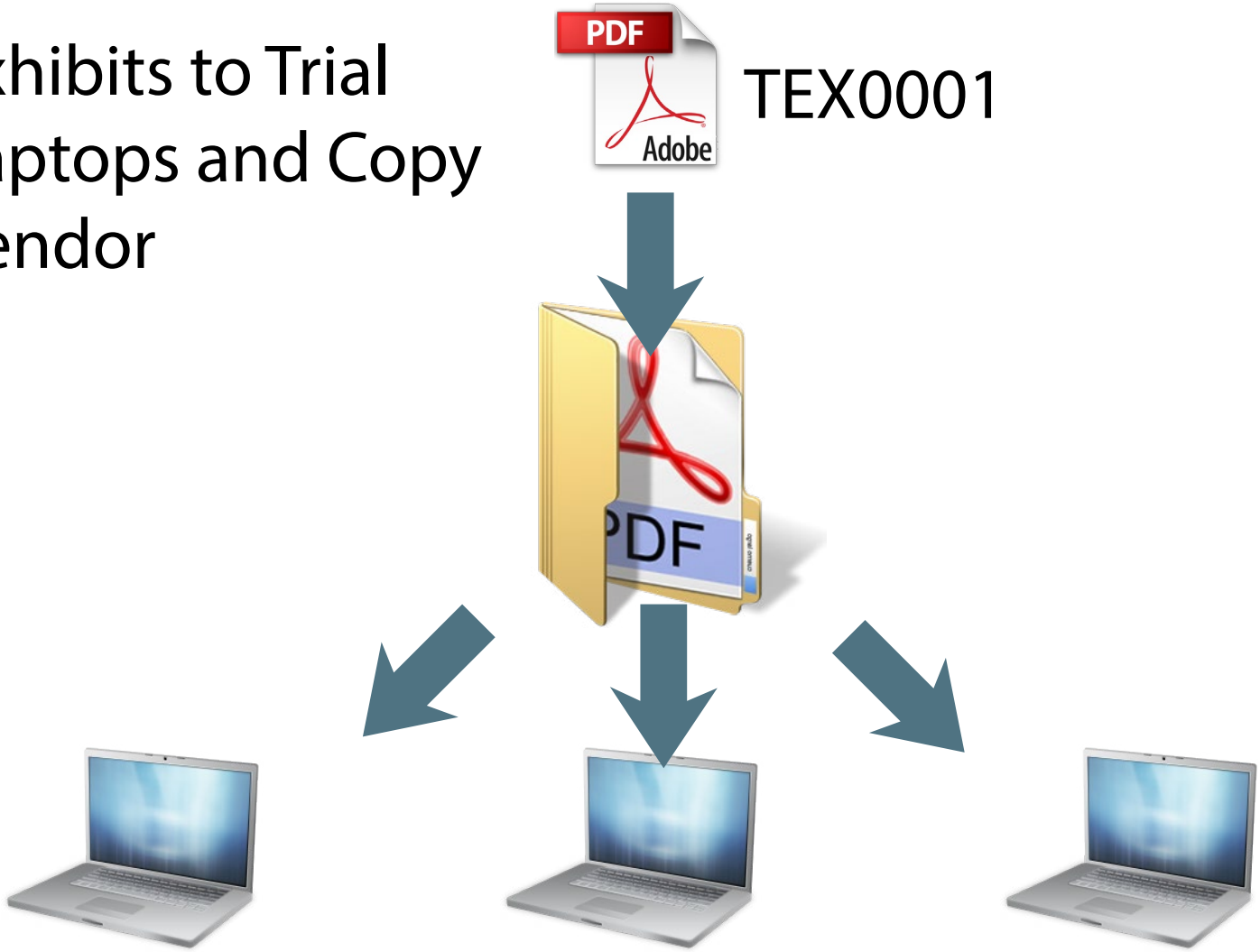
# Acrobat to Organize It

## Trial Exhibits



# Acrobat to Organize It

Exhibits to Trial Laptops and Copy Vendor

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# CaseMap

CaseMap

*Case Analysis Tool*

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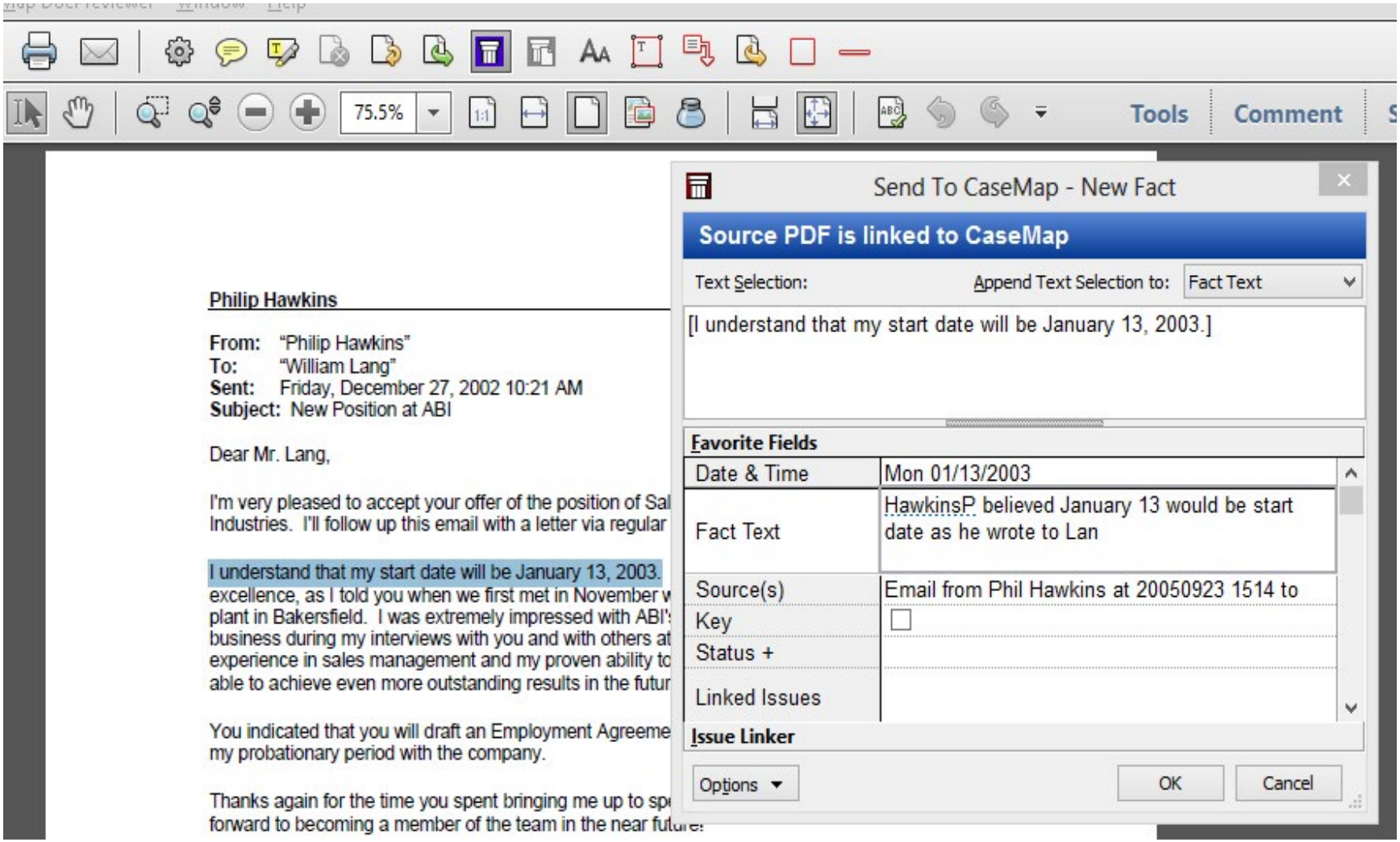
# Send to CaseMap from Acrobat

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# Persons

**Objects - Persons**

| Full Name | Short Name | Role In Case | Type + | Key | # Facts |
|---|---|---|---|---|---|
| Hon. Julian Coffman | CoffmanJ | Judge in California State Court - Orange | Judge | ☐ | 0 |
| Linda Collins | CollinsL | Anstar Biotech Industries Sales | Fact Witness | ☑ | 2 |
| Randy Fosheim | FosheimR | Anstar Biotech Industries plant | Fact Witness | ☐ | 1 |
| Anne Freeman | FreemanA | Plaintiff damage expert | Expert Witness | ☐ | 0 |
| Philip Hawkins | HawkinsP | Plaintiff - Former Vice President of Sales at | Fact Witness | ☑ | 25 |
| Robert Kalinski | KalinskiR | Defense age discrimination expert | Expert Witness | ☐ | 0 |
| William Lang | LangW | CEO of Anstar Biotech Industries | Fact Witness | ☑ | 14 |
| George Ny | NyG | Anstar Biotech Industries accounts | Fact Witness | ☐ | 1 |

# Issues

| Full Name | Short Name | # Facts |
|---|---|---|
| 1 Wrongful Termination | WrongfulTermination | 6 |
| 2 Age Discrimination | AgeDiscrimination | 8 |
| 2.1 Hawkins Specific | HawkinsSpecific | 6 |
| 2.2 Pattern & Practice | Pattern&Practice | 1 |
| 3 Retaliation | Retaliation | 7 |
| 3.1 Transfer | Transfer | 2 |
| 3.2 Demotion | Demotion | 3 |
| 4 Deserved Termination | DeservedTermination | 4 |
| 5 Damages | Damages | 5 |
| 5.1 Failure to Mitigate | FailureToMitigate | 4 |
| 5.2 Lost Wages | LostWages | 1 |
| 5.3 Mental Anguish | MentalAnguish | 3 |

# Facts/Chronology

**Facts**

| Date & Time | Fact Text | Source(s) | Material + | Status + |
|---|---|---|---|---|
| Mon 11/25/2002 | William Lang meets Philip Hawkins while touring Converse Chemical Labs plant in Bakersfield. | Deposition of William Lang, 25:14; InterviewNotes, Email from Phil Hawkins at | Yes | Disputed by: Us |
| 12/??/2002 | William Lang invites Philip Hawkins to visit Anstar Biotech Industries facilities in Irvine. | InterviewNotes | No | Prospective |
| 01/??/2003 | William Lang offers Philip Hawkins **Sales Manager** position at Anstar Biotech Industries. | InterviewNotes, Email from Phil Hawkins at 20050923 1514 to William Lang | Yes | Undisputed |
| Mon 01/13/2003 | **Philip Hawkins joins Anstar Biotech Industries as a Sales Manager.** | Anstar Biotech Industries Employment Records | Yes | Undisputed |
| Mon 01/13/2003 | HawkinsP believed January 13 would be start date as he wrote to LangW. | Email from Phil Hawkins at 20050923 1514 to | | |

# Documents

Objects - Documents 37 Records

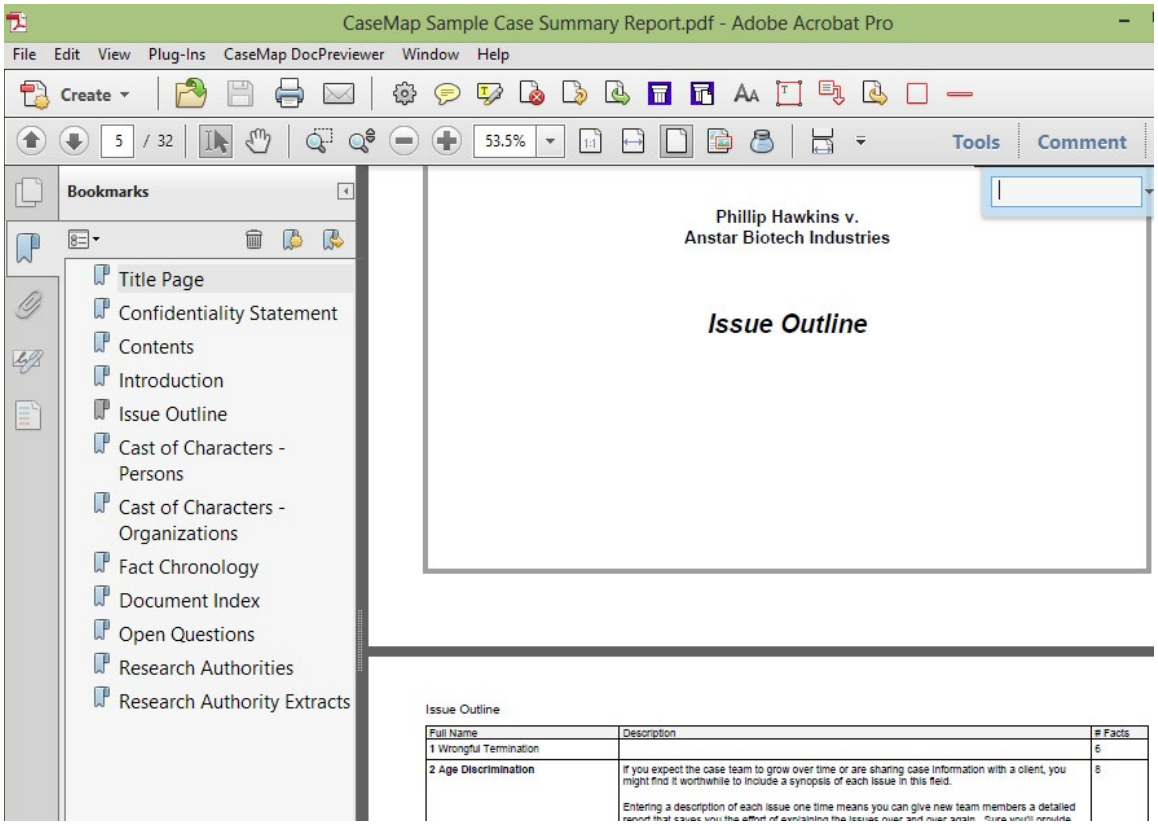
| Bates - Begin | Full Name | Date | Author(s) | Type + | Short Name |
|---|---|---|---|---|---|
| P001232 | Email from Phil Hawkins at 20021010 to William Lang | Sat 12/28/2002 10:10 a.m. ET | Philip Hawkins | E-mail | P001232 |
| P001233 | Hawkins Letter of 8/2/2005 | Tue 08/02/2005 | Philip Hawkins | Letter | P001233 |
| P001234 | Hawkins Letter of 9/19/2005 | Mon 09/19/2005 | Philip Hawkins | Letter | P001234 |
| P001235 | Lang Letter of 11/11/2005 | Fri 11/11/2005 | LangW. | Letter | P001235 |
| P001267 | Letter from William Lang to Carol Sander, Esq. | Tue 09/27/2005 | William Lang | Letter | P001267 |
| P001269 | Reduction In Force Announcement | Thu 11/10/2005 | William Lang | Internal memo | P001278 |
| P001279 | Lang Memo to Regan | Fri 11/11/2005 | William Lang | Internal memo | P001279 |
| P001284 | Varvaro Tip Letter | Tue 05/03/2005 | Frank Varvaro | Letter | P001284 |
| P001334 | Hawkins Employment Agreement | 06/??/2004 | William Lang, Philip | Contract | P001334 |

# Authorities

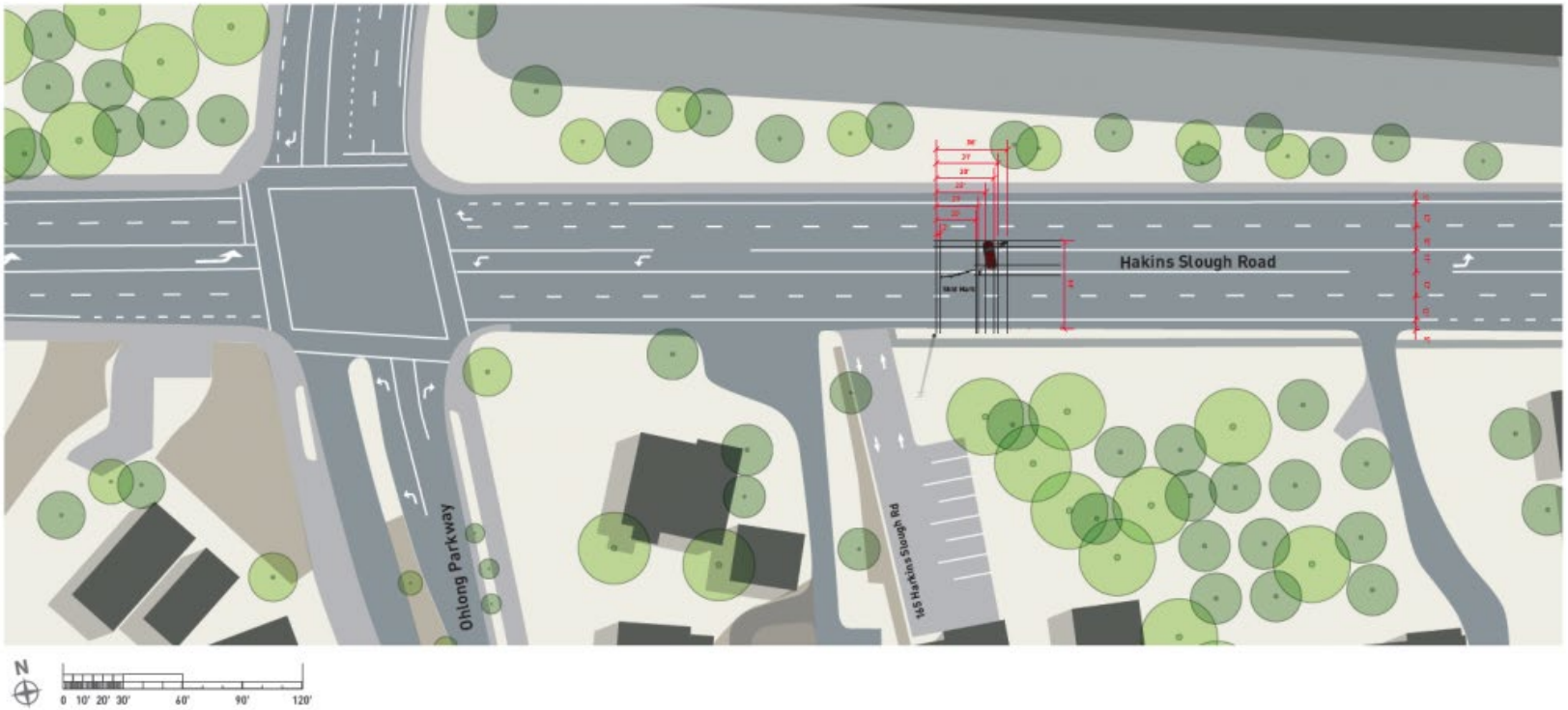
**Research - Authorities** 5 Records

| Name | Citation | Linked Issues | Description | Notes |
|---|---|---|---|---|
| Americans with Disabilities Act of 1990, 42 USCS § 12102 | 42 USCS § 12102 - No Signal [8/22/13] | Wrongful Termination, Damages | The Americans with Disabilities Act (ADA) is a Federal civil rights law that ***prohibits*** the exclusion of people with disabilities from everyday activities. To meet the goals of the ADA, the law established requirements for private businesses of all sizes. These requirements first went into effect on January 26, 1992, and continue for | |
| Bell v. Farmers Ins. Exchange, 87 Cal. App. 4th 805 (Cal. App. 1st Dist. 2001) | 87 Cal. App. 4th 805 - Caution: Possible negative treatment [8/22/13] | Retaliation | On July 10, 2001 a California Jury gave insurance adjusters $90 million for ***uncompensated overtime***. Some 2,400 current and former Farmers Insurance Exchange adjusters more than $90 million on their class action claims they were denied overtime pay | |
| Ragsdale v. Wolverine Worldwide, Inc., 218 F.3d 933 (8th Cir. Ark. 2000) | 218 F.3d 933 - Questioned: Validity questioned by citing refs. [8/22/13] | Age Discrimination, Retaliation | The Family and Medical Leave Act of 1993 (FMLA) guarantees ***qualifying*** employees 12 weeks of unpaid leave each year and encourages businesses to adopt more generous policies. Respondent Wolverine World Wide, Inc., granted petitioner Ragsdale 30 weeks of medical leave under its more generous policy in 1996. It | |
| Walia v. Aetna, Inc., 93 Cal. App. | 93 Cal. App. 4th | Damages | Aetna had merged with U.S. Healthcare which is | |

# Powerful Reports



# Use the Data to Tell Your Story




http://cogentlegal.com/blog/2013/01/surveillance-video

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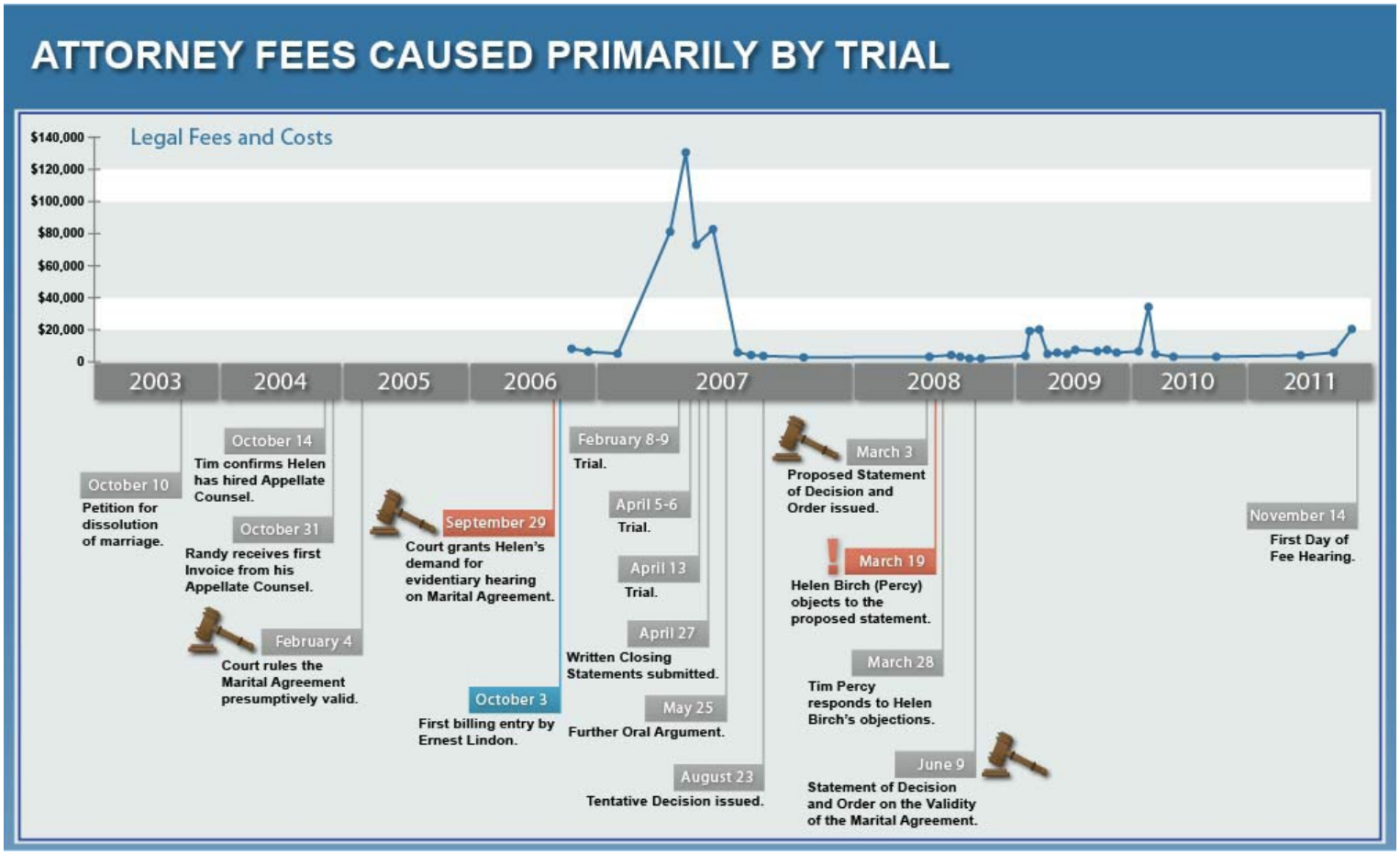


http://cogentlegal.com/blog/2011/11/three-tips-for-attorneys-to-present-economic-data/

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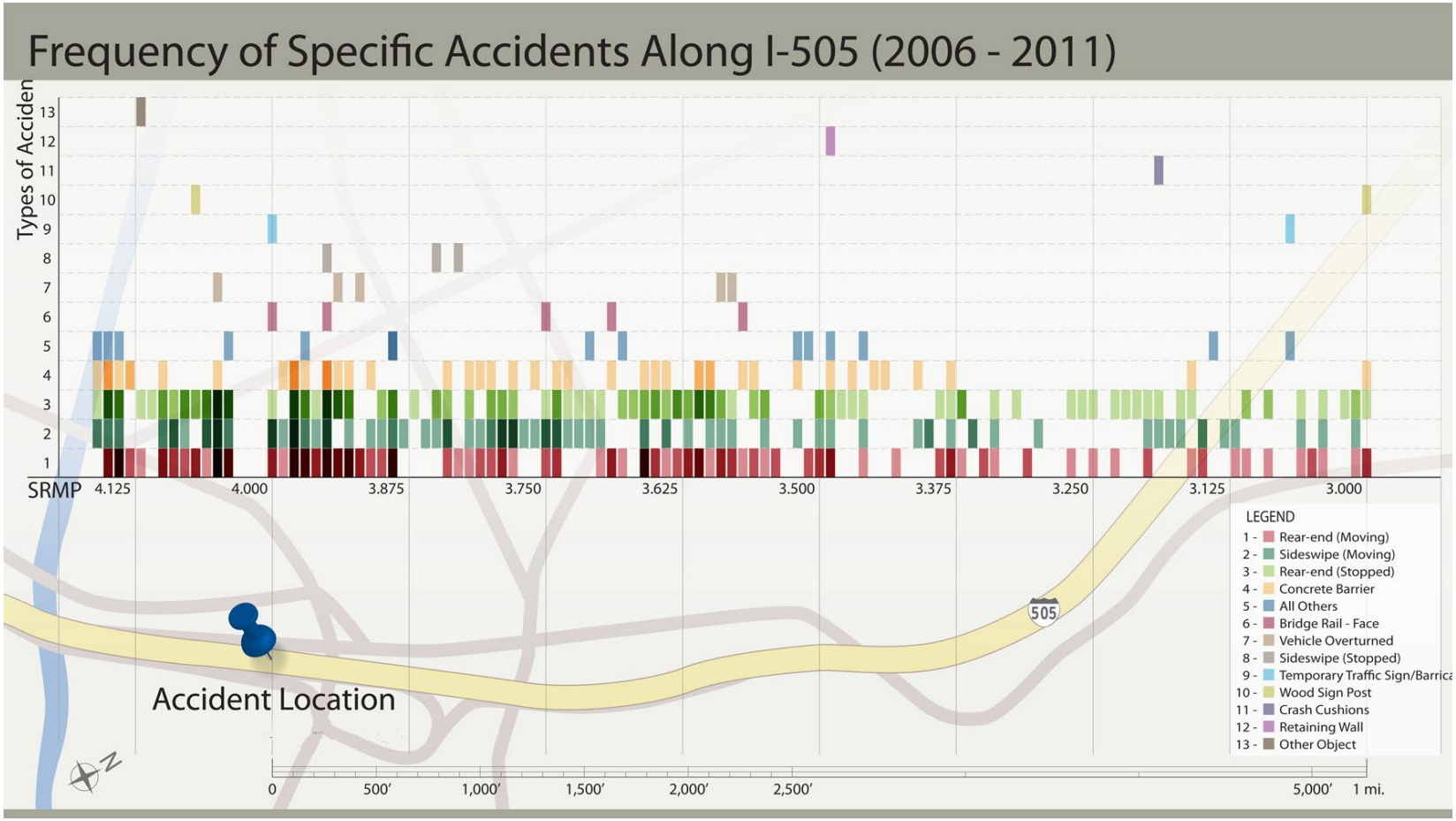


http://cogentlegal.com/blog/2012/07/the-beauty-of-data/

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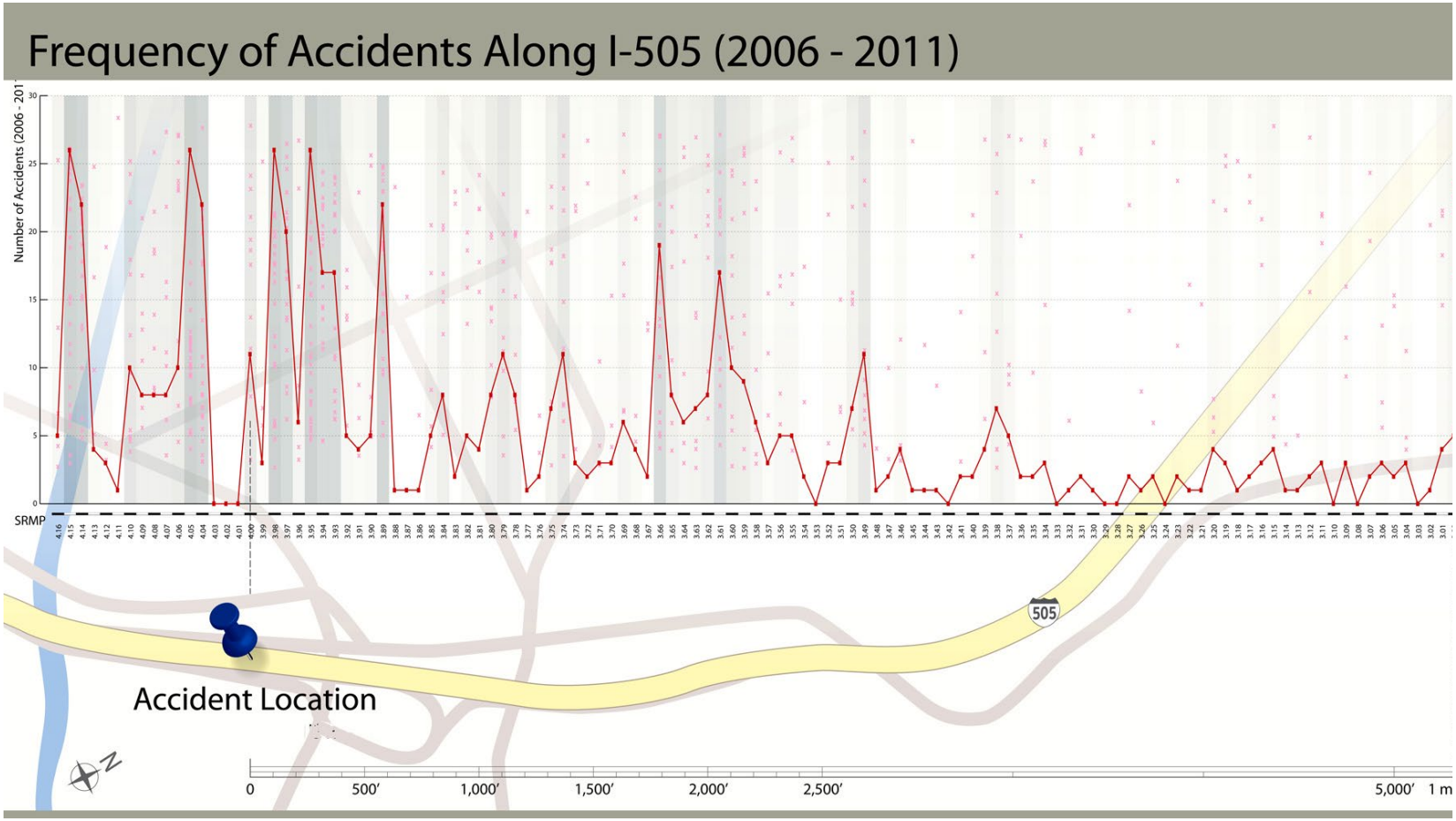


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At Cogent Legal, Mike consults on trial strategy and litigation graphics for IP cases and other complex litigation. Mike also practices law at the Law Office of Michael Kelleher, focusing on helping law firms with intellectual property and electronic discovery issues.

Previously, Mike was the general counsel from 2009 to 2012 for DS-IQ, a software startup in Bellevue, Washington. Before that he litigated for 16 years at Folger Levin & Kahn in San Francisco where he was a partner and the head of the intellectual property group. Representative matters include PeopleSoft v. Oracle (unfair competition claims against Oracle arising from takeover attempts), and Cisco v. Apple (iPhone trademark). Before law school, Mike served in the United States Navy as a nuclear submarine officer on board USS Grayling (SSN 646).

Mike is the consulting author of the Matthew Bender Practice Guide: California E-Discovery and Evidence (http://bit.ly/PMvuD4). Mike is a registered patent attorney and a member of the California Bar.
Mike received his J.D. degree from the University of California at Berkeley, and a B.A. from the University of Utah with a major in Chemistry.

Away from work, Mike enjoys running, bicycling, photography, podcasts of music and economics, and reading the New Yorker and Tech Crunch.